Davis, Michael R.

From: Davis, Michael R.
Sent: Tuesday, May 24, 2005 11:37 AM
To: Gorsuch, Neil M.
Cc: mrdavis@gwb43.com
Subject: RE: New Contact Information

Excellent. Look forward to working with you. Also, please start using mrdavis@gwb43.com, as I do not often check my White House email address (who.eop.gov).

Mike Davis, Associate Political Director
The White House Office of Political Affairs
202-456-7016 (direct)
202-456-6521 (fax)
[redacted] (cell)
mrdavis@gwb43.com (Blackberry)

-----Original Message-----
From: Gorsuch, Neil M. [mailto:ngorsuch@khhte.com]
Sent: Tuesday, May 24, 2005 11:30 AM
To: Gorsuch, Neil M.
Subject: New Contact Information

As some of you know, after many happy years at Kellogg, Huber, I've signed up for a stint in public service at the Justice Department, effective the middle of next month. I will be serving as the principal Deputy Associate Attorney General. The Associate Attorney General's office oversees the Department's civil litigating functions (including the civil, antitrust, tax, civil rights, and environment units). Some of you may know my recent predecessors, Brian Boyle, Peter Keisler, and Joe Onek. My immediate predecessor, Brian Boyle, oversaw and litigated a number of terrorism-related cases.

I very much hope to stay in touch and, toward that end, my new office contact information (effective as of mid-June) follows below, along with my home address and phone.

Office:
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 5706
Washington, D.C. 20530
Phone: (202) 305-1434
Fax: (202) 514-0238
neil.gorsuch@usdoj.gov
Home:
[redacted]

Warmest regards,
Neil Gorsuch

Neil M. Gorsuch
Kellogg, Huber, Hansen, Todd,
Evans & Figel, P.L.L.C.
Sumner Square
1615 M Street, N.W.
Suite 400
Washington, D.C. 20036
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McCallum, Robert (SMO)

From:	McCallum, Robert (SMO)
Sent:	Tuesday, June 14, 2005 12:40 PM
To:	Gorsuch, Neil M
Subject:	FW: 6/14 CIV Weekly Report to the AG
Attachments:	CivDivWkly0614.wpd

-----Original Message-----
From: McKenzie, Peggy (CIV)
Sent: Tuesday, June 14, 2005 10:09 AM
To: Allen, Gary (CIV); Bahr, Dorothy (CIV); Baxter, Felix (CIV); Bordeaux, JoAnn (CIV); Bucholtz, Jeffrey (CIV); Calvert, Chris (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davis, Deborah J; Eubanks, Sharon (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Fishback, David (CIV); Fisher, Barbara (CIV); Flentje, August (CIV); Fowler, Liane (SMO); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Goldberg, Arthur (CIV); Gray, Towanda (CIV); Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jennings, Geraldine (CIV); Katsas, Gregory (CIV); Keener, Donald (CIV); Kent, Alexander (CIV); Kohl, Christine (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Liner, Linda (CIV); Lloyd, Shirley (CIV); Lucas, Regina (CIV); Lynch, Carol (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Schiffer, Stuart (CIV); Shaw, Aloma A; Thirolf, Eugene; Williams, Angela (CIV); Williams, Toni (CIV); Willis, Kerry (CIV); Zwick, Ken (CIV)
Subject: 6/14 CIV Weekly Report to the AG

U.S. Department of Justice

Civil Division

Assistant Attorney General *Washington, D.C. 20530*

June 14, 2005

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Peter D. Keisler
Assistant Attorney General
Civil Division

SUBJECT: Civil Division Weekly Report to the Attorney General

A. NEXT WEEK

· ***En Banc* Ninth Circuit To Hear Oral Argument In Two Immigration Cases:** *Membreno v. Gonzales*; *Abebe v. Gonzales* [9th Cir.]. On June 21, the *en banc* Ninth Circuit will hear oral argument in two immigration cases. *Membreno v. Gonzales* addresses the circumstances under which an alien's conviction under a California "wobbler" statute is a felony or a misdemeanor for immigration purposes. In *Abebe v. Gonzales*, the Court will consider whether alien parents may be eligible for asylum based on their fear that, if they are removed, their United States citizen daughter would be threatened with female genital mutilation in their home country.

B. THIS WEEK

· **Unanimous Supreme Court Agrees With The Government That The Use Of Patented Compounds In Preclinical Studies Is Exempt From Infringement By 35 U.S.C. § 271(e)(1):** *Merck KGaa v. Integra Lifesciences I, Ltd.* [S. Ct.; Fed. Cir.; S.D. CA]. On June 13, the Supreme Court (Scalia, J.) unanimously vacated and remanded a decision by the Federal Circuit concerning the scope of the "drug research exception" to patent infringement. Under 35 U.S.C. §

271(e)(1), it is not an act of patent infringement to use a patented invention "solely for uses reasonably related to the development and submission of information under a Federal law which regulates the * * * use * * * of drugs." Under the Federal Food, Drug, and Cosmetic Act, a drug maker must submit research data to the Federal Drug Administration in an investigational new drug application (IND) when seeking authorization to conduct clinical trials and in a new drug application (NDA) when seeking authorization to market a new drug. The Supreme Court "agree[d] with the Government that the use of patented compounds in preclinical studies is protected under § 271(e)(1) as long as there is a reasonable basis for believing that the experiments will produce 'the types of information that are relevant to an IND or NDA.' Brief of United States as *Amicus Curiae* 23."

· **Federal Defendants To File Appellees' Brief On June 16, 2005, In *Bivens* Action Challenging The Response Of The Postal Service To The 2001 Anthrax Contamination At The Brentwood Postal Facility:** *Briscoe v. Potter* [D.C. Cir.; D. DC]. On June 16, the federal defendants will file their appelees' brief in this case, where employees of the Brentwood postal facility seek damages from the Postmaster General and other high-
ranking Postal Service officials, alleging that the officials violated the employees' due process rights by providing inaccurate information in the wake of the discovery of an anthrax-
contaminated letter in 2001. The district court dismissed the complaint, holding that the *Bivens* action was precluded by the exclusive remedy available under the Federal Employees' Compensation Act.

· **Government Opposes GTMO Detainee's Motions For Summary Reversal, Preliminary Injunction:** *Paracha v. Bush* [D.C. Cir.; D. DC]. On June 17, the government will oppose Saifullah Paracha's motions for summary reversal and a preliminary injunction barring the government's release of Paracha from Guantanamo Naval Base to a country other than Pakistan or the United States, at least without advance notice to Paracha and his counsel. Paracha is one of numerous enemy combatants detained at GTMO whose habeas petitions have been stayed pending appeals in related cases.

C. LAST WEEK

· **Court Upholds Medical Disqualification Of Court Security Officers:** *Wilson, et al. v. MVM, Inc., et al.*, (E.D. Pa.). On May 24, Judge Harvey Bartle granted the government's motion for summary judgment. The plaintiffs are three former Court Security Officers (CSOs) who were employed by *MVM, Inc*., a company that contracts with the United States Marshals Service (USMS) to provide security at federal courthouses. The USMS medically disqualified them from working as CSOs, and their employer terminated them. The court previously had dismissed the plaintiffs' Rehabilitation Act claim, leaving only a procedural due process claim. In granting summary judgment, Judge Bartle held that, even assuming plaintiffs had a property interest in their jobs, the USMS did not substantially impair that interest. Furthermore, the USMS's medical review procedures provided due process. More than 200 CSOs have been disqualified since new medical standards were implemented in 2001, and we are handling or monitoring a number of

similar cases, including a putative class action in the District of Columbia.

- **Court Holds That The Postal Service's Use Of Stamp Borders On Greetings Cards Does Not Infringe Trademark:** *International Stamp Art, Inc. v. United States Postal Service*, No. 1:02-CV-2459-TWT (Thrash, J.) [N.D.Ga]. On May 27, the District Court for the Northern District of Georgia granted summary judgment in favor of the Postal Service in a trademark infringement action. International Stamp Art (ISA), a small greeting card manufacturer and a former licensee of the Postal Service, obtained federal trademark registration for a "perforated" border design in 1996. After its trademark registration achieved "incontestible" status in 2001, ISA filed suit against the Postal Service, claiming that the Postal Service had infringed ISA's trademark by depicting postage stamp images with perforated borders on greeting cards, note cards, and post cards. The parties each filed for summary judgment on several different grounds. The district court held that the Postal Service displayed perforated borders only as an inherent part of its stamp images, and not as a trademark; thus, the use was fair and non-infringing.

- **District Court Certifies Class In Suit Against TSP Management:** *Mehle v. Saul et al.*, No. 03-111 (D.D.C.). On May 27, Judge Kessler certified a Rule 23(b)(2) class of participants and beneficiaries of the Thrift Savings Plan (TSP), a case alleging breaches of fiduciary duty against four Board Members, the Executive Director, and the General Counsel of the Federal Retirement Thrift Investment Board (FRTIB), the federal agency responsible for administering the TSP. The lawsuit was brought by a former FRTIB Executive Director who challenges two decisions made by the defendants and seeks to have these defendants removed from their current positions. In certifying the class, the judge rejected the defendants' argument that a class action was unnecessary because the suit sought injunctive-type relief only, as well as defendants' many arguments that proposed class counsel had conflicts of interest with both the proposed class representative and the putative class members.

- **Court Of Federal Claims Finds That Information Contained In Unsolicited Proposal Is Not Protectable:** *Edward B. Block v. United States*, No. 03-1766 (Firestone, J.) [Fed. Cl.]. On June 1, 2005, the Court of Federal Claims dismissed plaintiff's implied contract and takings claims arising from the government's alleged use of trade secret information submitted in an unsolicited proposal to the Federal Aviation Administration (FAA). Specifically, the court found that the plaintiff's failure to use restrictive markings on his proposal or otherwise identify his alleged trade secrets was fatal to those claims. The court similarly rejected plaintiff's argument that the FAA procurement regulations required the government to protect unmarked proposals.

- **District Court Upholds Fines For Violations Cuban Assets Control Regulations:** *Calcagni v. Snow* (D.D.C.). On June 1, Judge Urbina granted the Secretary of the Treasury's motion for summary judgment. The plaintiffs challenged the imposition of civil penalties upon them by the Office of Foreign Assets Control (OFAC) for violations of the Cuban Assets Control Regulations (CACR), 31 C.F.R. pt. 515. They asserted claims under the Administrative Procedure Act (APA); the First and Fifth Amendments; and the Excessive Fines Clause of the Eighth Amendment. The court found that the defendant is not responsible for the failures of the plaintiffs' lawyers to file timely

requests for a hearing, that the defendant's refusal to extend the applicable deadline for hearing requests was neither arbitrary nor capricious, and that the government acted within its discretion in refusing to reconsider imposition of the fines or engage in settlement discussions with the plaintiffs.

- **D.C. Circuit Holds That Title VII Plaintiff Who Prevailed On Discrimination Claims In Administrative Proceedings, But Is Dissatisfied With His Remedy, May Not Challenge Only The Remedy In A District Court Action:** *Connor-Scott v. Johanns* [D.C. Cir.; D. DC]. On June 3, the D.C. Circuit (Ginsburg, Tatel, Garland) joined the Tenth Circuit in holding that a federal employee who prevailed on discrimination claims in the administrative process required under Title VII may not seek "de novo" review in district court limited solely to the remedy but instead must litigate both liability and remedy from scratch. The court accepted our arguments that the plain language of Title VII requires district courts to make liability findings in order to award any relief, and that the Supreme Court's decision in *Chandler v. Roudebush*, 425 U.S. 840 (1976), reinforces this conclusion by emphasizing that prior administrative findings of liability are not binding but may simply "be admitted as evidence" in later district court actions. Rejecting decisions in the Fourth and the Ninth Circuit that appeared to allow "fragmented" review limited solely to damages, the court explained that relitigation of liability in district court was fully consistent with Title VII's goal of encouraging the resolution of discrimination complaints at the administrative level. By clarifying the risks associated with filing Title VII suits in district court seeking to obtain greater damages than those awarded in the administrative process (*e.g.*, the need to prove liability), this decision should be useful in resolving Title VII claims prior to district court litigation.

- **District Court Rules For DOJ in FOIA Case Concerning Abortion Clinic Violence:** *Judicial Watch v. DOJ (D.D.C.)*. On June 5, Judge Kessler granted the DOJ Civil Rights Division's motion for summary judgment, involving a 1999 FOIA request for information from the FBI and DOJ concerning abortion clinic violence. Judge Kessler granted the FBI's motion for summary judgment in 2001, but she denied the Civil Rights Division's motion for summary judgment without prejudice. The government moved for reconsideration of this decision, and Judge Kessler agreed to reconsider the merits of the Civil Right's Division's summary judgment motion in 2001. Today, Judge Kessler finally ruled on the motion (which was briefed in February 2000), concluding that information was properly withheld under FOIA Exemptions 5, 6, and 7.

- **Federal Circuit Upholds Agency's Past Practice Of Closing Stale Grievances:** *Cruz-Martinez v. Department of Homeland Security*, No. 04-3271 [Fed. Cir.] (Newman, Bryson, Prost). On June 7, the United States Court of Appeals for the Federal Circuit affirmed an arbitrator's decision finding that the Department of Homeland Security had a "past practice" of closing grievance proceedings when, after invoking the right to arbitration, the grievant and/or his union did nothing to advance the matter to arbitration for at least 12 months. In the case before the court, the appellant invoked arbitration to grieve his removal from federal service. Over two years later, the appellant attempted to schedule a hearing. The agency contended that it had an established past practice that barred arbitrations if they were not advanced for

over a year. The court rejected a claim that the agency's practice was a violation of the Due Process clause.

- **Florida Court Enters Judgment In Favor Of United States Following Adulterated Drug Trial:** *United States v. Pharmakon Laboratories, et al.* [M.D. FL] (Lazarra). On June 7, the court entered judgment in favor of the government following trial, holding that defendants violated the Federal Food, Drug, and Cosmetic Act by distributing adulterated and unapproved drugs. The court found that defendants had violated the Food and Drug Administration (FDA) Current Good Manufacturing Practices regulations in manufacturing drug products, thereby rendering these drugs adulterated. The court also found that defendants had illegally distributed drugs that were "new drugs" under the statute and that had not received pre-market approval from FDA. The court held that a permanent injunction was warranted and asked the parties for proposed orders.

- **Statute Of Limitations Bars Wrongful Death Claim Based On Murder Committed By A Boston FBI Informant:** *Catherine Deegan Patterson, et al. v. United States, et al.* [D. Mass.] (Judge Tauro). On June 8, the district court dismissed this FTCA action for failure to file a timely administrative claim. Plaintiffs, the daughters of Edward "Teddy" Deegan, filed an administrative claim in December 2003 seeking damages for his wrongful death in 1965 and their ensuing emotional distress. The Complaint alleged that FBI agents had actual knowledge that their informant planned to kill Deegan, yet failed to warn Deegan or take any actions to prevent the murder. The court held that, more than two years before the administrative claim was filed, every material fact alleged in the Complaint had become public knowledge based on extensive national media coverage: in December 2000, the Department of Justice produced secret documents that revealed FBI knowledge of the planned murder. Applying the First Circuit's objective standard for determining accrual, the court held that both plaintiffs, one of whom lived out of state, should have had sufficient information to start a reasonably diligent investigation and to file a timely claim.

D. LONG RANGE EVENTS

- No items to report.

Contact: August Flentje, Acting Counsel, 514-3309.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, June 14, 2005 1:05 PM
To: McCallum, Robert (SMO)
Subject: RE: 6/14 CIV Weekly Report to the AG

Got them; thank you.
-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, June 14, 2005 12:40 PM
To: Gorsuch, Neil M
Subject: FW: 6/14 CIV Weekly Report to the AG

-----Original Message-----
From: McKenzie, Peggy (CIV)
Sent: Tuesday, June 14, 2005 10:09 AM
To: Allen, Gary (CIV); Bahr, Dorothy (CIV); Baxter, Felix (CIV); Bordeaux, JoAnn (CIV); Bucholtz, Jeffrey (CIV); Calvert, Chris (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davis, Deborah J; Eubanks, Sharon (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Fishback, David (CIV); Fisher, Barbara (CIV); Flentje, August (CIV); Fowler, Liane (SMO); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Goldberg, Arthur (CIV); Gray, Towanda (CIV); Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jennings, Geraldine (CIV); Katsas, Gregory (CIV); Keener, Donald (CIV); Kent, Alexander (CIV); Kohl, Christine (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Liner, Linda (CIV); Lloyd, Shirley (CIV); Lucas, Regina (CIV); Lynch, Carol (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Pyles, Phyllis (CIV); Rivera, Jennifer (CIV); Schiffer, Stuart (CIV); Shaw, Aloma A; Thirolf, Eugene; Williams, Angela (CIV); Williams, Toni (CIV); Willis, Kerry (CIV); Zwick, Ken (CIV)
Subject: 6/14 CIV Weekly Report to the AG

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, June 16, 2005 8:56 AM
To: Gorsuch, Neil M; Wiggins, Mike
Subject: FW: Senate Judiciary Committee Hearing on Detainees 6/15/05 - Transcripts
Attachments: SJC-DetaineeHearing-Panel2-061505.txt;
SJC-DetaineeHearing-Panel1-061505.txt

For your ref.

-----Original Message-----
From: Wade, Jill C
Sent: Thursday, June 16, 2005 8:54 AM
To: Owen, Peter B; Reyes, Luis (SMO); Frank, Michael
Subject: Senate Judiciary Committee Hearing on Detainees 6/15/05 - Transcripts

Good morning.

Attached please find transcripts from both panels of the SJC Detainee hearings on 6/15/05. I hope these are helpful.

Thank you,
~J~

Jill C. Wade
Office of Legislative Affairs
U.S. DEPARTMENT OF JUSTICE
(202) 514-3597

PANEL I OF A HEARING OF THE SENATE JUDICIARY COMMITTEE SUBJECT: DETAINEES CHAIRED BY: SENATOR ARLEN SPECTER (R-PA) WITNESSES: BRIGADIER GENERAL THOMAS L. HEMINGWAY, DOD OFFICE OF MILITARY COMMISSIONS; REAR ADMIRAL JAMES M. MCGARRAH, DIRECTOR, ADMINISTRATIVE REVIEW OF THE DETENTION OF ENEMY COMBATANTS, NAVY; J. MICHAEL WIGGINS, DEPUTY ASSOCIATE ATTORNEY GENERAL; GLENN A. FINE, DOJ INSPECTOR GENERAL LOCATION: 226 DIRKSEN SENATE OFFICE BUILDING, WASHINGTON, D.C. TIME: 9:30 A.M. EDT DATE: WEDNESDAY, JUNE 15, 2005

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SEN. SPECTER: Good morning, ladies and gentlemen. It's 9:30 on the button. We will proceed the Judiciary Committee hearing on the question of detainees.

The starting point on this issue is the Constitution of the United States. Under Article I, Section 8, Clauses 10 and 11, the Constitution explicitly confers upon Congress the power, quote, "to define and punish offenses against the laws of nations," close quote, and, quote, "to make rules concerning captures on land and water." The executive branch issued, on November 13th, 2001, under the caption "Presidential Executive Military Order," rules oromulgated for detention, treatment and trial of certain non-citizens in the war against terrorism. And then on July 7th, 2004, seven days -- nine days after a trilogy of Supreme Court cases, the Department of Defense issued -- created combat status review tribunals.

The focus of today's hearing is going to be on the procedures used with detainees. We do not have within the scope of this hearing the issues of torture or mistreatment. The subject we have today is very, very complicated in and of itself, and there will be sufficient time for later hearings on other related matters.

The Supreme Court of the United States, on June 28th of 2004, came down with a complex series of opinions in three cases, one of which only has a plurality opinion -- which means four justices agreed on an opinion, so there isn't an opinion of the court; the two others were five-person majority opinions; and a total of some 13 opinions were issued in all. And I think any fair analysis would say that we have a "crazy quilt" which we're dealing with here.

And that's been supplemented by three opinions in the United States District Court for the District of Columbia, two of which have said detainees' rights are being violated, one opinion saying detainees' rights are being upheld. They've been sitting in the Court of Appeals for a very long period of time. They were decided one before 2004 ended, and the other two in early 2005.

And the Judiciary Committee is going to consider a touchy subject, but we're going to consider putting time limits on the disposition of these highly sensitive cases. Judges don't like that. We don't want to interfere with their judicial independence, but the Congress does have the authority to establish time parameters, which we have done in a number of situations.

The only unifying factor coming out of the multitude of opinions by the Supreme Court of the United States was that it's really the job of the Congress. And I think they made a pretty good case for that. Senator Durbin and I introduced legislation in 2002, and Congressman Frank introduced legislation, but none of it has gone anywhere. And there's a real question as to why Congress hasn't handled it. It may be that it's too hot to handle for Congress, it may be that it's too complex to handle for Congress, or it may be that Congress wants to sit back -- as we, Congress, customarily do -- awaiting some action by the

court no matter how long it takes, from Plessy versus Ferguson in 1896, to Brown versus Board of Education in 1954. But at any rate, Congress hasn't acted, and that's really what the focus of our hearing is today, is to what ought to be done.

Justice Scalia wrote in an opinion, joined by Chief Justice -- the chief justice and Justice Thomas, quote, "Congress is in session. If it had wished to change federal judges' habeas jurisdiction from what this court held that to be, it could have done so." Which is certainly true.

Then Justice Scalia turned his wrath on his colleagues in the Supreme Court of the United States, saying, quote, "And it could have done so by intelligent revision of the statutes, instead of today's clumsy countertextual interpretation that confers upon wartime prisoners greater rights than domestic detainees."

I ordinarily stop at five minutes, but this is a complex subject. I'm going to take a very small amount of extra time, my colleagues.

Then Justice Scalia went on to say, in certainly not subdued language, quote, "For this court to create such a monstrous scheme in time of war and in frustration of our military commanders' reliance upon clearly stated prior law is judicial adventurism of the worst sort," close quote. We constantly complain that the court makes the law, and here we are, having sat back, with our constitutional mandate pretty clear.

In more circumspect language, Justice Stevens (sic) went on to make a point which is worth emphasizing here this morning. This opinion was joined in by Justice Stevens (sic), which -- in dissent in Hamdi, which may account for Justice Scalia's more temperate language. He wrote that he could not determine the, quote, "government security needs," close quote, or the necessity to, quote, "obtain intelligence through interrogation," concluding, quote, "It is far beyond my competence or the court's competence to determine that, but it is not beyond Congress's. If civil rights are to be curtailed during wartime, it must be done openly and democratically, as the Constitution requires, rather than by silent erosion through an opinion of the court."

As noted in the Congressional Research Service, the Supreme Court decisions leave many questions unanswered for lower courts: the definition of the term "enemy combatant," the scope of legal procedures due persons designated as such. Would habeas corpus be foreclosed if a detainee is convicted by a military commission? Would a detainee have access to United States courts where held abroad by the United States military in locations where the United States does not exercise full jurisdiction and control?

And then in Judge Green's opinion -- and I won't take much more time -- Judge Green puts on the line many, many other critical issues which have yet to be defined, so that it seems to me that the Congress has its work cut out for -- as we look at a very, very tough issue on how we handle detainees.

That's a very abbreviated statement of what I'd like to say.

Senator Leahy.

SEN. PATRICK LEAHY (D-VT): Well, Mr. Chairman, I think it's a valuable one, because it's been well over three years since the administration began to hold detainees at Guantanamo. First batch of 20 arrived January 2002, and there's now more than 500 there, although nobody seems to be able to tell us what the exact number is.

So this is a welcome hearing for us to decide what we should do and I commend the chairman for holding it. I think the amount of interest around the country in the hearing shows how the American people feel. This policy on detainees is clearly not working. We seem to have a difficulty getting a coherent theory from the administration on how to proceed.

In 2001, military commissions were defended by the then-attorney general as tribunals that, quote,

"can dispense justice swiftly close to where our forces may be fighting without years of pre-trial proceedings or post-trial appeals," close quote.

Now that was three years ago. But far from assuring swift justice, we haven't seen any justice. There hasn't been a single military commission complete a hearing or convict a suspected terrorist in those three years.

Until a year ago, the administration seemed to hold tight to the notion that by detaining prisoners at Guantanamo Bay, a location where it was sure the prisoners had no right of access to the courts, it could shield itself from judicial challenge. But the Supreme Court, in Rasul versus Bush, rejected that legal theory.

Now, we hold to the theory -- well, they'll be there to the end of the war on terror. All of us know that war will not end in our lifetime.

What has become clear is that policies were poorly reasoned and, apparently, extremely short-sighted. The administration's insistence on unilateralism, a tendency and a problem that has colored and undermined so many of the policies, has led to poor decisions and poor practices in detention policies as well.

What they've said to us from the start is, "Trust us." "Trust us that we know the law and that we'll comply with it. Trust us to treat detainees humanely in accordance with our laws and treaties. Trust us that Guantanamo is going to make Americans safer."

Now, three years later, about the only thing we know for certain is that trust may well have been misplaced. Guantanamo Bay is an international embarrassment to our nation, to our ideals, and it remains a festering threat to our security.

Our great country, America, was once viewed as a leader in human rights and the rule of law, and justly so. But Guantanamo has underlined our leadership, has damaged our credibility, has drained the world's good will for America at alarming rates. I've talked -- I was recently in a meeting of NATO parliamentarians -- these are countries that are most closely allied with America, that have been our strongest supporters. First question each of them asked is, "What about Guantanamo? What about Afghanistan and Iraq?" And they tell us -- and I must agree -- that these are not the policies of a great and just nation, they're not the American system of justice.

Now, the administration didn't want to have Congress as a partner on the war on terror; it insisted on acting unilaterally following the start of combat in Afghanistan.

In October 2001, I urged President Bush to work with Congress to fashion appropriate rules and procedures for detaining and punishing suspected terrorists. That was not a partisan thing. Our chairman, Senator Specter, did the same. We both noted at the time that our government is at its strongest when executive and legislative branches of government act in concert. That was rejected.

So now I say, what is the administration's plan for Guantanamo Bay, assuming there is a plan; what does the administration intend to do with more than 500 detainees still imprisoned there; how many are going to be released and when; how many are going to be charged and tried and when. The administration says that these detainees pose a threat to the safety of Americans -- the vice president said that the other day. If that's true, if they pose a threat to us, then there has to be evidence to support that or our administration would not tell the world that. If there's evidence, then let's prosecute them; let's bring the evidence forward.

But we also know that some of these detainees have been wrongly detained, and I suspect that there are others who have not been released that have weak evidence at best. If they are being detained in accordance with Geneva Conventions, that's one thing. But that's not.

You know, and this idea of changing, changing the focus, producing props of chicken dinners and such, seeming to argue this is more a Club Med than a prison -- let's get real! These people have been locked up for three years, no end in sight, and no process to lead us out of there. Guantanamo Bay is causing immeasurable damage to our reputation as a defender of democracy and a beacon of human rights around the world. I'm proud of what our nation has accomplished. I want us to be that beacon of human rights, but we're not being it with Guantanamo. We don't have a plan to repair the damage. Congress has abdicated its oversight responsibilities for too long. I think it's time for Congress to demand a way out.

Mr. Chairman, I applaud you for holding these hearings.

SEN. SPECTER: Thank you very much, Senator Leahy.

We turn now to our first witness, who is Rear Admiral James McGarrah. He has a very, very distinguished record, which will be incorporated into our hearing record. But suffice it to say for these purposes, he has been designated by the secretary of the Navy as director of the administrative review of the detention of enemy combatants, going right to the heart of our subject.

Admiral, we have a standard policy of five minutes for opening statements. All of the statements will be made a part of the record, but that leaves us the maximum amount of time for questions and answers by the members of the committee. And you can see today that this is a hearing where there is a lot of interest, and there'll be a lot of questions.

Thank you for joining us, Admiral McGarrah. We appreciate the Department of Defense providing you and General Hemingway as experts, and the other witnesses who are here today, and we look forward to your testimony.

ADM. MCGARRAH: Senator Specter, Senator Leahy, members of the committee, I am Admiral Jim McGarrah, Civil Engineer Corps, United States Navy. And I really do appreciate the opportunity to be here today.

In May of last year, Deputy Secretary of Defense Paul Wolfowitz named Secretary of the Navy Gordon England the designated civilian official, or DCO, to supervise the process to review annually the cases of all detainees held under DOD control at Naval Base Guantanamo Bay Cuba.

Secretary England, in turn, appointed me as the director of the Office for the Administrative Review for the Detention of Enemy Combatants -- the organization that he charged with carrying out this review process.

At the time, we solicited input from the International Committee of the Red Cross, from nongovernmental organizations, and from ambassadors of the countries with detainees at Guantanamo Bay, and then worked across all U.S. government agencies to develop a rigorous and fair review process called the Administrative Review Board or ARB. The purpose of the ARB process is to assess annually whether each enemy combatant at Guantanamo continues to pose a threat to the United States or its allies, or whether there are other factors that would support the need for continued detention. Based on this assessment, the ARB panel can recommend to Secretary England, in his role as DCO, that individual detainees be released, continue to be detained, or be transferred, with conditions, to their country of nationality. Secretary England, as the DCO, is the final decision-maker for this process.

While the ARB procedures were being developed last summer, the U.S. Supreme Court issued three rulings related to detained enemy combatants. Among other things, the court in one of those cases held that federal courts have jurisdiction under the federal habeas corpus statute to hear challenges to the legality of the detention of Guantanamo Bay detainees. In another one of those cases, a plurality of the court cited Section 1-6 of Army Regulation 190-8 as an example of military regulations that might suffice to satisfy the due process requirements that the plurality indicated would apply to a U.S. citizen held as an enemy combatant in the United States.

In light of those decisions, the deputy secretary of Defense established the Combatant Status Review Tribunals, or CSRT process, to assess formally whether each detainee was properly detained as an enemy combatant, and to permit each detainee the opportunity to contest their enemy combatant designation. The CSRT process was based on Army Regulation 190-8, which provides the policy procedures and responsibilities for handling of prisoners of war and other detainees. Specifically, it outlines provisions for tribunals that exceed the requirements of tribunals that implement Article 5 of the 1949 Geneva Convention, which requires a competent tribunal to determine the status of belligerents in cases where any doubt arises as to whether a belligerent satisfies the requirements for enemy prisoner of war status. The CSRT is a one-time process for each detainee and provides them opportunities: the opportunity for review and consideration by a neutral decision-making panel composed of three commissioned military officers sworn to execute their duties faithfully and impartially. Tribunals make their decisions by majority vote based on preponderance of evidence. The opportunity to attend all open portions of the proceedings. The opportunity to call witnesses on his behalf, if those witnesses are relevant and reasonably available. The opportunity to question witnesses called by the tribunal. The opportunity to testify on his own behalf, if he desires. The opportunity to receive assistance of an interpreter, when necessary. And the opportunity freely to decline to testify.

The CSRT process also provides more process and protections than Army Regulation 190-8. The detainee is given an opportunity to receive assistance from a military officer to ensure he understands the process and the opportunities available, and to prepare for the hearing. The CSRT contained express qualifications to ensure the independence and lack of prejudgment of the tribunal members. The CSRT recorder is obligated to search government files for evidence suggesting the detainee is not an enemy combatant. In advance of the hearing, the detainee is provided with an unclassified summary of the evidence supporting his enemy combatant designation. And the result of every CSRT is automatically reviewed by a higher authority who is empowered to return the record to the tribunal for further proceedings, if appropriate.

Secretary England appointed me as the convening authority for this process. The tribunal panels were the decision-makers in this process. In my convening authority review, I could either approve the panel's decision or I could return it for further deliberation. In less than six months, tribunal hearings were conducted on all 558 detainees under Department of Defense control at Guantanamo Bay. Of those 558 cases heard, the CSRT panels determined that 520 of those detainees were properly classified as enemy combatants, and that 38 detainees no longer met the criteria for enemy combatant designation. Those found to no longer meet the criteria were processed for release. Twenty-three have been released, and the Department of Defense continues to work closely with the Department of State to effect the release of the remaining 15.

The first ARB was conducted in December of 2004. The ARB process is ongoing, with the expectation that we will complete the first annual review for all eligible detainees by the end of this calendar year. It provides each eligible detainee with opportunities --

SEN. SPECTER: Admiral McGarrah, could you summarize, please?

ADM. MCGARRAH: I will.

Sir, the ARB process is intended to be similar to the CSRT process in that it is rigorous and fair and will assess on an annual basis whether or not the detainees continue to pose a threat to the U.S. or its allies. The DCO is the decision-maker in that process and can continue to decide to continue to detain, to release, or to transfer. Because of the highly unusual nature of the global war on terror, and because we do not want to detain any person longer than is necessary, we've taken this unprecedented and historic action to establish this process to permit enemy combatants to be heard while a conflict is ongoing.

Mr. Chairman, thank you again for the opportunity to provide this information. I would ask that the remainder of my remarks be submitted to the record. And I'm happy to answer any questions that you or the committee members might have regarding the CSRT process or the ARB process.

SEN. SPECTER: All of your statement will be made a part of the record, as well the full statements of all of the witnesses.

We turn now to General Thomas L. Hemingway. He's the legal adviser to the appointing authority in the Department of Defense Office of Military Commissions. General Hemingway's responsibility covers providing legal advice to the appointing authority on referral of charges, questions that arise during trial, and other legal matters concerning military commissions.

Thank you for coming in this morning, General, and we look forward to your testimony.

GEN. HEMINGWAY: Thank you, Mr. Chairman, members of the committee. I'm pleased to discuss the operations of our Office of Military Commissions.

America is at war. It is not a metaphorical war.

It is as tangible as the blood, the rubble that littered the streets of Manhattan on September 11th, 2001. The reality of this war could be seen in the faces of those who stood in stark horror as they saw hopeless innocent people fall and jump to their deaths from the twin towers.

In response to the attacks on the United States on September 11, 2001, the president established military commissions to try those non- citizen members of al Qaeda and other persons engaged in specified terrorist activities who are alleged to have committed violations of the laws of war and related offenses.

The use of military commissions predates the formation of our republic. Since the Revolutionary War, the United States has used military commissions to try enemy combatants for the law of war violations. In the Mexican-American War, during the Civil War, following the Civil War, during and after World War II, military commissions were used to try enemy combatants for violations of the laws of war.

In the president's military order establishing military commissions, he mandated that the accused shall be afforded a full and fair trial. The president also determined that the federal rules of evidence are not practicable for military commissions, given the nature of this conflict. This determination is based on the unique factors present in conducting judicial proceedings against suspected war criminals at a time when the United States is actively engaged in an ongoing armed conflict.

Instead of the federal rules of evidence, military commissions have adopted the international accepted standard of admissibility of evidence, probative value. The military -- the president's military order focuses on the unique factors of the current ongoing hostilities and affirms the national security interests require the continued application of U.S. national security laws in developing commission instructions and orders, consistent with the accused (sic) right of a fair trial.

These orders, instructions and regulations afford an accused the following rights: the presumption of innocence; trial before an impartial and independent panel of three to seven officers; notification of charges in a language understood by the accused; call witnesses and present evidence; cross-examine witnesses and examine evidence; election not to testify, with no adverse interest; appointment of military counsel at no cost to the defendant and the right to hire a civilian counsel at no expense to the government; privileged communications with defense counsel; adequate support and resources to defense counsel; appointment of interpreters and translators; open proceedings, except as absolutely necessary to protect national security; proof of guilt beyond a reasonable doubt; review of the record of trial by a three-member review panel.

The rules of evidence and procedure established for trials by military commission compare favorably to those being used in the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia. These rules are consistent with our national commitment to adhere to the rule of law.

The Office of Military Commissions has taken key steps in moving the commission process forward. To date, the president has determined that 12 detainees currently at Guantanamo are subject to his order. The appointing authority, Mr. John D. Altenburg, has approved charges against four accused and referred these charges to military commissions for trial.

Those trials commenced late in the summer of 2004.

The Office of Military Commissions has been working diligently to convene military commissions; however, the trials are stayed pending an appellate court decision in the case of Mr. Hamdan. Military and civilian counsel for Mr. Hamdan brought an action in the United States District Court to review the legality of trial by military commissions. The District Court affirmed the legality of military commissions to try violators of the law of war and a review panel as an appeals mechanism; however, the court raised concerns about the commission process whereby an accused may be excluded from the hearing to protect classified and protected information. Because this protection is essential to the continued effectiveness in our current war on terror, the government has appealed this ruling.

The delays to the commission process are directly attributable to the exercise of the accused's ability to challenge that process in federal courts. While the appeal is pending, investigations and submission of charges against additional accused continue.

This is the first time since World War II that the United States has had a need to convene military commissions. While it's important to move quickly back to trial, the Office of Military Commissions' movement forward is measured with full awareness and consideration of the rights of an accused and the needs of our nation.

The ongoing global war on terrorism continues to impose many unique challenges in this asymmetrical battlefield. Neither the United States nor the international community contemplated a non-state organization having the capability to wage war on a global scale. Military commissions are the appropriate forum to preserve safety, protect national security and provide for full and fair trials consistent with our standards and those of the international community.

Thank you, Mr. Chairman.

SEN. SPECTER: Thank you very much, General Hemingway.

Our next witness is Mr. J. Michael Wiggins, deputy associate attorney general having the responsibility for overseeing the Department of Justice Civil Division, civil rights and criminal matters within the civil litigating divisions covering the areas of concern here. His full resume, a very distinguished record, will be included in our record overall. But we appreciate you coming in, Mr. Wiggins, and look forward to your testimony. The floor is now yours.

MR. WIGGINS: Mr. Chairman, members of the committee, I'm a deputy associate general at the Department of Justice, and I'm pleased to discuss the work of the department and the current status of litigation involving the U.S. government's detention of enemy combatants at Guantanamo Bay, Cuba, as part of the ongoing war on terror.

In response to the terrorist attacks of September 11, 2001, the president dispatched the U.S. armed forces to seek out and subdue the al Qaeda terrorist network and the Taliban regime and others that had supported it. In the course of those hostilities, the U.S. captured or took custody of a number of enemy combatants.

As in virtually every other armed conflict in the nation's history, the military has determined that many of those individuals should be detained during the conflict as enemy combatants. Such detention is not for criminal justice purposes and is not part of our nation's criminal justice system. Rather the detention of enemy combatants serves the vital military objectives of preventing captured combatants

from rejoining the conflict and gathering intelligence to further the overall war effort and to prevent additional attacks against our country. Some of those individuals are being held at Guantanamo Bay, Cuba.

Each Guantanamo Bay detainee has received a formal hearing before a Combatant Status Review Tribunal, a CSRT, tasked with determining whether that individual remains properly classified as an enemy combatant. During a CSRT proceedings, each detainee has received substantial procedural protections.

In addition, a subset of combatants have been designated for trial by military commission. Since the founding of our nation, the United States military has used military commissions during wartime to try offenses against the laws of war. The Supreme Court has repeatedly upheld the use of these military commissions.

Against this backdrop of legal authority and historic practice, on November 13th, 2001, the president ordered the establishment of military commissions to try a subset of the detainees for violations of the laws of war and other applicable laws. Under the order, a military commission may not exercise jurisdiction over a detainee unless certain preconditions have been met, always including status as an alien and generally including a determination of connection to the violent enemies of the United States, and a specific violation of the laws of war.

On June 28th of '04, the Supreme Court issued a trio of decisions that defined the landscape for future litigation involving military detention of enemy combatants: Rasul, Hamdi, and Padilla. In the aftermath of the decision in Rasul, a large number of habeas petitions have been filed on behalf of Guantanamo Bay detainees. As of today, approximately 95 cases have been filed on behalf of 200 detainees.

While the government has taken the unprecedented steps to allow private lawyers to access these detainees and has produced factual returns consisting of the records of the CSRTs, including classified information, it has moved to dismiss the Guantanamo Bay habeas cases on the grounds that alien enemy combatants detained abroad lack rights under the United States Constitution. And even if Guantanamo Bay detainees do enjoy some rights under the Constitution -- the due process clause -- the CSRTs provide all the processes required.

Litigation in this area presents a number of important issues. The first is whether the due process clause or the Fifth Amendment is applicable to aliens captured abroad and detained at Guantanamo Bay. The government believes that a long line of Supreme Court and D.C. Circuit precedents foreclose such an application.

A second issue is that assuming the aliens detained by the military at Guantanamo Bay enjoy some constitutional rights, what is the scope of those rights, and how are they to be implemented in a judicial proceeding in the United States courts? Again, it's crucial to remember that preventative detention of enemy combatants has never been thought of as a criminal matter in which a full-blown trial would be held. The CSRTs exceed the procedural requirements that were laid out in Hamdi for detention of citizens. It surely cannot be the case that non-citizen enemy combatants, whose only connection to the United States is membership in a terrorist organization dedicating to destroying it, are entitled to more process than that which the Constitution requires for citizens.

As for the military commissions, the government believes the judge who enjoined them committed several legal errors, and we hope that the trials before military commissions for detainees will be permitted to proceed after the appeal is resolved. The president's military order is fully consistent with the Constitution, treaties, and laws of the United States, and the regulations established to govern the commission reflect proper balancing of the twin objectives of protecting the security of the U.S. and providing captured fighters a full and fair trial.

In sum, the unprecedented situation created by Rasul, in which enemy combatants detained at

Guantanamo Bay by the military have been permitted to pursue habeas claims against their custodians in the United States courts, has posed a number of challenges and a number of substantial legal issues that await resolution by the courts.

At this time, Mr. Chairman, I would be happy to address any questions you or the members of the committee may have.

SEN. SPECTER: Thank you. Thank you very much, Mr. Wiggins. Our final witness on this panel is inspector general of the Department of Justice.

Mr. Glenn A. Fine has had that position since the year 2000. We'll include in the record his distinguished resume. We have asked Mr. Fine to come in today, although not directly related to Guantanamo, it does relate to detainees, and there is a concern about the 723 aliens who were detained right after September 11th with respect to the basis for their detention.

And here again, the committee is fully aware that you don't have to have the evidence to proceed with probable cause for a prosecution or any necessarily high standard, but some reason for detention which has some overlapping import with respect to the detainee issue generally. Again, very flexible standards for what you need depending upon the risk involved, and we know what those risks are for terrorism. But we asked Mr. Fine to come in on that subject where we did have a hearing in 2003. But the Bureau of Prisons has been investigating the matter for a year and a half, and we thought this would be a good occasion for this committee to be informed as to what's happening now.

Thank you for joining us, Mr. Fine, and we look forward to your testimony.

MR. FINE: Mr. Chairman, Senator Leahy and members of the committee, thank you for inviting me to testify at this morning's hearing regarding two Office of the Inspector General reports which examine the treatment of aliens detained on immigration charges in connection with the terrorism investigations after the September 11th attacks.

My written statement summarizes the findings and recommendations from the OIG's June 2003 detainee report, as well as our December 2003 supplemental report on the treatment of detainees at the Metropolitan Detention Center in Brooklyn, New York. Given the focus of today's hearing, my testimony will highlight the major findings from these reports that relate to due process issues for these immigration detainees.

The OIG determined that the Department of Justice detained 762 aliens on immigration charges in connection with its terrorism investigation in the first 11 months after the September 11th attacks. Although our report recognized the difficulties and challenges that confronted the department in investigating the attacks, we found significant problems in how these detainees were treated. The FBI pursued thousands of leads in the terrorism investigation, ranging from information obtained from a search of the hijackers' cars to anonymous tips called in by people who were suspicious of Muslim or Arab neighbors who kept odd schedules.

Outside of New York, the FBI attempted to screen out cases in which aliens showed no indication of any connection to terrorism. We found that in contrast, the FBI in New York did not attempt to distinguish between aliens who were suspected of having a connection to the September 11th attacks or terrorism in general from aliens who were simply encountered coincidental to a terrorism lead. We also found that after their arrest, many of these September 11th detainees did not receive timely notice of the charges against them. These delays affected the detainees' ability to understand why they were being held or to obtain legal counsel.

With regard to the detainees' conditions of confinement, our review found serious problems in their treatment at the Metropolitan Detention Center in Brooklyn. We found that the Bureau of Prisons imposed a total communications blackout on the detainees from several weeks -- for several weeks after their initial detention, and then designated them as witness security inmates, which frustrated efforts by the

detainees' attorneys, families and even law enforcement officials to determine where they were being held.

The MDC's restrictive and inconsistent policies on telephone access also prevented many detainees from obtaining legal counsel in a timely manner. The MDC permitted detainees only one legal call per week, and calls that resulted in a busy signal or calls answered by voice mail counted as their single call. We found that many detainees could not obtain counsel for months after their arrests. We also found that MDC staff videotaped and audiotaped some detainees' meetings with their attorneys.

In addition, we found that some correctional officers physically and verbally abused some September 11th detainees at the MDC. While the detainees were not brutally beaten, some officers slammed detainees against the wall, twisted their arms and hands in painful ways, punished them by keeping them restrained for long periods, and made slurs and verbal threats against them.

We recommended that the BOP consider taking disciplinary action against approximately 15 MDC employees, yet more than 18 months after our report, the BOP still has not imposed discipline on any individual for any action we described in our report. In my view, this delay is inappropriate and unacceptable.

While I am told that the BOP's review of these matters is now in its final stages, I urge the BOP to complete its review expeditiously and take appropriate action.

In addition to recommending discipline for individuals, our two reports made a series of recommendations to address systemic problems in how the department, the FBI and the BOP handle immigration detainees. We are pleased that the department, the FBI and the BOP have agreed with most of our recommendations and have taken steps to implement them.

However, two recommendations still have not been sufficiently addressed. The first is the BOP's delay in implementing discipline for any MDC employees, which I've discussed. The second involves our recommendation the Department of Justice and the Department of Homeland Security enter into a memorandum of understanding to formalize policies, responsibilities and procedures for managing a national emergency that involves alien detainees.

Finally, one other matter that I wanted to note for the committee is the ongoing OIG review that is examining FBI employees' observations and actions regarding alleged abuse of military detainees in Guantanamo Bay, Abu Ghraib and Afghanistan. The OIG is examining whether FBI employees participated in any incident of detainee abuse in military facilities at these locations, whether FBI employees witnessed incidents of abuse, how FBI employees reported any observations of abuse, and how these reports were handled by the FBI. We recognize these are critical issues, and we have allocated substantial resources to conducting this important ongoing review.

I thank the committee for inviting me to testify about these OIG reviews, and I would be pleased to answer any questions.

SEN. SPECTER: Thank you very much, Mr. Fine.

We now turn to the questioning by members of the committee, which, in accordance with our tradition, is five minutes. Before proceeding to the first question, just a comment or two about some consideration which had been by the committee to using the Foreign Intelligence Surveillance Court as the court to consolidate these cases. Regrettably, an early draft was circulated and has led to a lot of speculation as to what might be done on that, and we are not going to proceed with the FISA Court. The initial thought had been that the Foreign Intelligence Surveillance Court had a lot of experience with classified information. And had we gone in that direction, it would not have been a secret court, but there's such an overtone of secrecy about FISA that it sounds too much like the Star Chamber. But we are going to take a look at consolidating these matters, so we don't have a proliferation of opinions by the district court and the very long delays to the circuit court and the very long delays to the Supreme Court as

well.

Turning now to the first question, I note, Admiral McGarrah, that among those who have been released from Guantanamo, that custody has been given up after the detainees signed pledges renouncing violence and promising not to bear arms against the United States forces or its allies.

I note that Vice President Cheney made a speech earlier this week identifying some 10 Guantanamo detainees who had been found in combat. Other estimates have gone as high as 25, and I think we really don't know the number. And while procedural due process is obviously important, we ought to be as sure as we can what steps are being taken so that we do not release detainees from Guantanamo who turn up on battlefields killing Americans. And what's the value of a promise not to bear arms against the United States or its allies?

ADM. MCGARRAH: Senator, my -- the process that I oversee, the CSRT process, is a rigorous process to look at all the evidence in the government's possession, and to make a determination as to enemy combatant status. It's the most recent and the most formalized review process, and follows a number of prior processes that made prior determinations. The releases that you refer to were made under the prior processes, and so I am not aware of the --

SEN. SPECTER: Are we not now releasing detainees on their promise not to go back to war. Doesn't seem to me that kind of a promise is worth anything. Is it?

ADM. MCGARRAH: I believe that that is one of the considerations that is in the decision-making process. Once these decisions are made --

SEN. SPECTER: But why? Why? What's the value of a detainee's promise not to go back to war? What indicators do we have -- this goes to the point which a number of the opinions -- especially Judge Green -- picks out as to what -- what is the information that these people are connected with al Qaeda? And she cites in her opinion a dialogue in the court where there is an assertion that this person is a member of al Qaeda, and the person comes back and says, "Well, who says I'm a member of al Qaeda? I'm not."

And I think you have to have the tribunal make that decisions beyond any question, and you can't accept a blanket denial. And the question is, what you know -- and we'll obviously get into that in some detail -- but where you have these detainees, there's presumptively some basis for having them to start with. And I'm at a loss to say why there would be any weight attached to a promise not to go back to war.

ADM. MCGARRAH: Yes, sir. The process examines all the evidence and information available within the U.S. government, in the government's possession. And it makes a determination based on the preponderance of that evidence. A statement of that sort in and of itself would not necessarily be sufficient for a determination of --

SEN. SPECTER: Admiral, would you supplement your answer with the other factors? I want to come to General Hemingway with a question and my time is almost up, and I intend to observe my time limit here.

General Hemingway, the Article V of the Third Geneva Convention provides that, quote, "should any doubt arise as to whether persons having committed a belligerent act and having fallen into the hands of the enemy, such a person shall enjoy the protection of the present convention until such time as their status has been determined by a competent tribunal."

The court then concluded that the Combat Status Review Tribunal was not established for that purpose, and the government said, well, the president has decided that these are al Qaeda; are not prisoners of war under Geneva. And the court came back and said, quote, "The president is not a tribunal," close quote. Which obviously, the president isn't.

So where you have the president's conclusion, weighty as it is, under our view -- what do you anticipate with respect to compliance with the Geneva tribunal requirement?

GEN. HEMINGWAY: Senator, I think that's a question that's more appropriately addressed to the Department of Justice.

But as far as the Military Commissions are concerned, I think that we are in full compliance with the Geneva Convention and the manners in which we are conducting them. We are holding people who have been caught on the battlefield -- given a broad definition of battlefield -- and we are holding them humanely.

SEN. SPECTER: Well, my time has expired and I'm going to yield to Senator Leahy. They've started a vote. I'm going to excuse myself and go vote, but I will be back as promptly as I can. So let's retain the witnesses in place and we're going to try to proceed even through the votes we have this morning.

SEN. LEAHY: Tell them I'm on my way over. I going to finish mine first.

SEN. SPECTER: Okay, I'll tell them you're on your way.

SEN. LEAHY: Let me ask, General, the Department of Defense says there are approximately 520 detainees currently at Guantanamo. How many are there? I don't want an approximate number; give me the actual number.

GEN. HEMINGWAY: Senator, that's outside my scope of responsibility.

SEN. LEAHY: It seems to be outside the scope of everybody's responsibility at the DOD. We asked that question of everybody from the secretary on down. Is there anybody who knows? Give me the name of the person who knows how many are being detained.

GEN. HEMINGWAY: Well, I would suggest that you direct your question to the secretary of Defense.

SEN. LEAHY: The secretary of Defense doesn't seem -- we get approximate from the secretary of Defense.

Is there anybody else, other than the secretary of Defense, because he won't give us an answer, you won't give us an answer, is there anybody who knows the number?

GEN. HEMINGWAY: I've given you my best answer, Senator. SEN. LEAHY: Give me your best answer.

GEN. HEMINGWAY: I have.

SEN. LEAHY: How many do you think are there?

GEN. HEMINGWAY: In excess of 500.

SEN. LEAHY: Are any detainees being held at Guantanamo in the custody of government agencies other than the DOD?

GEN. HEMINGWAY: Not to my knowledge.

SEN. LEAHY: None being held at the custody of government agencies such as the CIA?

GEN. HEMINGWAY: Senator, not to my knowledge. You'd have to direct your questions in that

regard to some other agency.

SEN. LEAHY: How many of the detainees were not captured during combat in Afghanistan and Iraq, but were picked up from other battlefields, such as Bosnia?

GEN. HEMINGWAY: As I say, that's outside the scope of my responsibility. I haven't been given that information.

SEN. LEAHY: Admiral, can you answer any of these questions I've asked?

ADM. MCGARRAH: Sir, I don't have the specific numbers, but there were some that were picked up outside Afghanistan.

SEN. LEAHY: Where?

ADM. MCGARRAH: I don't have the locations at my fingertips, but I can get back to you on that, sir.

SEN. LEAHY: Other than Afghanistan or Iraq?

ADM. MCGARRAH: Sir, the Guantanamo detainees do not include detainees from Iraq. We're talking about the global war on terror.

SEN. LEAHY: That's what I'm trying to ask.

ADM. MCGARRAH: Yes, sir.

SEN. LEAHY: Do you have any idea what these other countries are? You will supply it for the record?

ADM. MCGARRAH: Yes, sir, we will get back to you.

SEN. LEAHY: The countries other than Afghanistan. ADM. MCGARRAH: We will get back to you, sir.

SEN. LEAHY: But there were countries other than Afghanistan?

ADM. MCGARRAH: Yes, sir, there were.

SEN. LEAHY: Do you know if there's anybody behind held there in custody by a government agency other than DOD?

ADM. MCGARRAH: No, sir, I'm not aware of any held outside DOD control.

SEN. LEAHY: Mr. Wiggins? (Pause.) You can't answer because you don't know?

MR. WIGGINS: Excuse me. I do not know, Senator.

SEN. LEAHY: Okay.

Mr. Fine?

MR. FINE: I don't know, Senator Leahy.

SEN. LEAHY: Okay.

General Hemingway said earlier the attorney general defended military commissions on the ground

they could deliver swift justice. That was back in 2001. Of course, now it's been nearly four years since 9/11; there hasn't been a single trial that's been completed. I realize three years after that, in November 2004, a federal court declared the current regulations for military commissions unlawful, and you're seeking to overrule that.

Why weren't any prosecutions begun for nearly three years? I mean, we were told that this was for -- swift and it would be the quickest way to go; but for three years, nothing.

GEN. HEMINGWAY: Senator, I think that we've moved with considerable dispatch. A lot of people think that all we did was dust off World War II procedures. We --

SEN. LEAHY: (That's not ?) my question. Why wasn't anything done for three years?

GEN. HEMINGWAY: We have built a whole judicial system to try these cases. And the appointing authority, John Altenburg, came on in the spring of 2004, and by August, we were in trial. And the only reason we're not in trial today is because of the exercise of the defense counsel and the detainees' rights in federal courts. We are under a restraining order, or we would be trying cases right now down at Guantanamo.

SEN. LEAHY: Oh, those pesky rights. And they -- (laughter) -- GEN. HEMINGWAY: Well, you asked -- Senator, you asked me about delay, and that's the reason for the delay.

SEN. LEAHY: I was a prosecutor, General, and I have some idea of what's involved. And a three-year delay does seem rather strange when so many people are being held because it's vital to our security that they be held.

Now do we have a plan? I mean, do we have a plan of how much longer these people could be held without any charge?

GEN. HEMINGWAY: Senator, we have charges against four people. I can't tell you how long an unprivileged belligerent is going to be held, because I don't know how long this war is going to last. I do know that we are in compliance with the law by holding them.

SEN. LEAHY: Well, most say that the war will last for throughout our lifetime. Does that mean -- that we'll always face, as most other countries have faced, terrorist actions as long as you and I live -- does that mean we could hold them that long without any charges?

GEN. HEMINGWAY: I think that we can hold them as long as the conflict endures. But we have, as Admiral McGarrah has already pointed out, a very detailed process for releasing them if they no longer present a threat.

SEN. LEAHY: Well, we now have a government in Afghanistan, yet the conflict continues. Is that what you're saying?

GEN. HEMINGWAY: The conflict is not with the government of Afghanistan. The conflict is with a non-state organization.

SEN. LEAHY: The prisoners are from there, though.

GEN. HEMINGWAY: Well, they're from all over the place.

You know, we have citizens of 40 different countries, I think, has been publicly released --

SEN. LEAHY: Can you give me the list, then, of what other countries they're from?

GEN. HEMINGWAY: I don't have that --

SEN. LEAHY: The same question I asked Admiral McGarrah.

GEN. HEMINGWAY: Oh, the citizenship to the countries? We'll get back to you for the record.

SEN. LEAHY: Please. Thank you.

Senator Kyl.

SEN. JON KYL (R-AZ): Thank you. I think, in view of the fact that the vote is now about half over, and probably Senator Leahy and I should both go to vote, that on behalf of the chairman, I'm going to recess the committee until Chairman Specter returns, in which case, then, he can reconvene the hearing. So for the moment, the hearing is recessed.

(Recess.)

SEN. SPECTER: The hearing will resume. And we will, in accordance with our custom, alternate. If I could have the attention of Senator Cornyn, if I could have the attention of Senator Cornyn, we're alternating, and all of these empty chairs for people who are out voting mean you're next.

SEN. JOHN CORNYN (R-TX): Thank you very much. (Off mike) -- an unexpected pleasure, Mr. Chairman. Thank you for letting me ask a few questions.

And we've concluded all the statements of the panel. I was out for part of it, but I caught most of it. I just want to ask -- maybe I'd start with Mr. Wiggins. You know, time after time after 9/11, we heard experts talk about how we needed to change our framework, our -- to adopt to a post-9/11 environment. We heard in the intelligence arena that we needed to do more information sharing. We remember testimony -- former Attorney General Janet Reno and others -- about bringing down the wall that separated the ability to share certain critical intelligence between our counterterrorism officials and law enforcement officials.

And I wanted to ask you in particular -- a lot of the concerns that I hear expressed about detention and interrogation start from the perspective of a law enforcement framework. In other words, the framework, the procedures, the constitutional requirements for someone who's accused of a crime are pretty clearly spelled out over 200 years of decisions by the Supreme Court and other courts, and spelled out by federal statute.

But could you explain to us how this is a different paradigm, based on the president's authority under Article II, Section 2, of the Constitution, as commander in chief, and why it's important for us to understand that we have a new post-9/11 paradigm that we need to deal with?

MR. WIGGINS: I'll try, Senator. The Supreme Court has made plain that the president's commander in chief powers include all those powers necessary and proper to conduct war, to win war and to defend the country. Not only does he have the power, he has the duty to do that. And incident -- a necessary and important incident of that power, also confirmed by the Supreme Court, is the power to detain enemy combatants for the duration of hostilities, most recently confirmed by the Hamdi decision, including those enemy combatants who are United States citizens, and as commander in chief of the military, the necessary and proper and essential authority to hold for trial those combatants who are unlawful belligerents or unprivileged belligerents, for those crimes that violate the laws of war or other crimes that are regularly tried before military commissions.

That power is not only resident in the Constitution; it's been confirmed by this body in the Uniform Code of Military Justice, which expressly recognizes and approves the military commission aspect of that authority. And it's been recognized and confirmed by the court.

SEN. CORNYN: Let me interject. In other words, the people who are currently detained at

Guantanamo Bay are not accused of a crime per se, but are enemy combatants, unlawful combatants, most who don't wear a uniform, recognize the laws of war, aren't a representative of a nation -- nation's military. So they fall into a unique category under Article II, Section 2, of the Constitution and the president's power as commander of (sic) chief to conduct military operations. Is that a rough summary?

MR. WIGGINS: That's correct, Senator.

SEN. CORNYN: Okay. Thank you.

Well, let me ask maybe both Admiral McGarrah and General Hemingway to respond to this question.

The people who are at Guantanamo now are -- have been categorized as terrorist trainers, bomb-makers, recruiters and facilitators, terrorist financiers, bodyguards of Osama bin Laden and would-be suicide bombers. And I've been apprised that the U.S. has actually learned through interrogating these terrorists that -- the organizational structure of al Qaeda and other terrorist groups; the extent of terrorist presence in Europe, the U.S. and the Middle East; al Qaeda's pursuit of weapons of mass destruction; methods of recruitment and location of recruitment centers; terrorist skill sets; general and specialized operative training, and how legitimate financial activities are used to hide terrorist operations.

I'd like, perhaps, for you to comment on to what extent has using every lawful means available to the United States to secure actionable intelligence from detainees at Guantanamo Bay made America safer and saved American lives.

ADM. MCGARRAH: Sir, I think the primary basis for detaining individuals, whether it be at Guantanamo or elsewhere, is their determination as enemy combatant and the authorization under the law of armed conflict and the acceptable laws of war to keep those combatants from returning to the battlefield. In addition to that, the interrogation that might provide us information to avoid future attacks and to understand our enemy is important, but the primary basis is to detain the combatants and to prevent them from returning to the conflict.

GEN. HEMINGWAY: Senator, I can't comment on what the intelligence community has gained in this particular process, but I can tell you that -- and I'm somewhat limited, since I'm on the government side of the house, in discussing evidence of cases that haven't been brought to trial yet. But I think it's safe to say that the evidence that the government will present in each trials by military commission will be consistent with the statements that you've made.

SEN. SPECTER: Thank you very much, Senator Cornyn.

Senator Graham has commented that he's due in the chair at 11:00, and I'm going go to Senator Biden next on our alternate approach. But I just wanted to ask Senator Kyl, who's been here at the very start, and Senator DeWine, if they would mind yielding to Senator Graham, so that he can question next and then fulfill his obligation to the chair. Senator Biden.

SEN. BIDEN: Thank you, Mr. Chairman. Thank you for holding this hearing, and thank you for the way you characterized the purpose of the hearing; I think it's overdue. And I can't think of anybody be in better hands to try to work out -- I mean it sincerely -- the Congress's responsibility and role in dealing with these issues, and I'm glad you're in the chair; and I'm glad you've called the hearings. And the only thing I can say that I don't miss about being in the majority is having to sit in another chair on the floor of the Senate.

But, gentlemen, we have a legitimate need for a facility to deal with enemy combatants, and there's no question about that in my mind. We also have a real problem though, guys. We have a war, as you said, General, but we have two wars going on.

We have a war that actually relates to people who are trying to do bad things to us and strapping

bombs on themselves, and planning on how to run planes into buildings, et cetera. But we also have a war for the hearts and minds of those folks, because you know at your Staff College they point out you cannot win that war by a military response alone. We have to dry up those pools where they recruit. We have to deal with the 1.2 billion Muslims in the world. And guess what, General, we're doing real badly. We're doing real badly on that part of the war. Matter of fact, it's a disaster.

And my concern -- and I know it's broad and we'll get back to it in another -- hopefully, another context -- my concern relates to the fact that rightly, wrongly, good, bad or indifferent, the reality is that the vast majority of the rest of the world, and particularly the Muslim world, thinks what we're doing at Guantanamo is very bad. All you had to do was hear an article written in a thing called Periscope about the treatment of the Koran and you got 100,000 people in our allies' streets -- in our allies' street -- in Pakistan.

We got ourselves a problem, as they say in those old movies -- we got ourselves a communications problem. So we better figure something out, whether or not it is totally appropriate under every international law and constitutional prescription that we do exactly what we're doing in Guantanamo. We've got a problem. And if -- I realize it's above each of your pay grades. In a sense, it's above my pay grade; I'm not the president. None of us here are. Not much you can do about it.

But that's why I've called for an independent commission. The first bill introduced, S. 12, we called for an independent commission to be set up so we take it out of the partisan realm, move it into a realm where we have a group like the 9/11 commission give us some real live recommendations about how we should proceed from here, what we should do. Because anybody who thinks it's not causing us some difficulty around the world I think is not reading the press or traveling around the world, as I have been, and many of us up here have been.

So I want to let you know that's the backdrop of my questions here. It's not -- I'm not going to spend the remaining four minutes, or whatever I have, on the detail that we're going to have to go into in terms of how to rewrite legislation consistent with our desires, as the court has suggested. But the first question I have -- and as briefly as you can answer, I'd appreciate it -- this is an ongoing conflict. What is the definition of when the conflict ends? Because if there is no definition as to when the conflict ends, that means forever, forever, forever these folks get held at Guantanamo Bay. That's part of the problem here. And I realize it's difficult, General. You point out this is not the same kind of war. Before, you'd end a war with an armistice; there's an agreement, the war is over, detainees go home.

Has anybody at Justice defined when there's the end of conflict?

MR. WIGGINS (?): (No, Senator ?).

SEN. BIDEN: Now, does that mean that it is the administration's position that the folks who we consider a danger, 550 or so folks at Guantanamo, will be held in perpetuity?

MR. WIGGINS: It's our position that legally they could be held in perpetuity. What in fact is happening is the annual review boards, the CSRT process. In fact, many have been released, and prior to the institution of those proceedings.

SEN. BIDEN: Well, I think for the record it would be useful -- my time is up -- that, if not in this committee, through the Intelligence Committee if they tell us we can't do it here, is we should know what the criteria of a threat is. The admiral answered the question absolutely accurately when asked by my colleague from Texas what is the reason we're holding these people. They're enemy combatants. Not that they're terrorists, not that they present an extraordinary danger. The rationale is they're enemy combatants. (Pause.) And -- I thought my colleague was telling me to stop, but I should stop anyway.

At any rate, so I would like to know at some point, if it means even in a classified context, what the definition applied for the criteria as to why we're keeping these folks if it is anything beyond the fact that they're designated as enemy combatants. Because there's a lot of rhetoric, that gets the American people

all juiced up, that they are terrorists who are going to do these horrible things to us. You don't have to get to that point, I don't think, to hold them. I think all you got to do is determine they're enemy combatants. So I'd like to know what the criteria is.

And I thank the chair. My time's up.

SEN. SPECTER: Thank you very much, Senator Biden.

Senator Graham?

SEN. LINDSEY GRAHAM (R-SC): Thank you, Mr. Chairman.

Sort of building on what Senator Biden said, one thing we've learned in this war is that what happens at Gitmo and Abu Ghraib doesn't stay at Gitmo or Abu Ghraib. It's kind of like the old rule, "What happens TDY, stays TDY." We've learned that if Newsweek gets it wrong, people can get killed. So image is very important. And there's a side to Gitmo that you probably can't tell us about. I do believe we're safer by having a Gitmo.

There's three goals that I would like to articulate here and see how we can come up with a legislative buy-in.

Number one, it should be a place where you can gather good intelligence to make this country safer. And I think you've done a pretty good job of doing that, but some of the techniques have seeped out and created problems. The idea of physical or psychological stress to get good information, to me, is acceptable under international norms. And we need to look at a way to standardize that because I worry about some of our own troops getting prosecuted under our own laws if we don't have standardization.

Accountability. An enemy combatant in this war, almost there's a per se assumption that you're involved in terrorist activity. So once a determination that an enemy combatant status has been conferred upon someone, to me it is almost impossible not to envision that some form of prosecution would follow.

I think it is very important for the people who join up with these terrorist organizations to know that their day of reckoning is coming, either on the battlefield, as a casualty, or in some courtroom somewhere; that they can't do this without some accountability.

So I do hope that we don't lose sight that accountability is very important. And there's some information down there that would be good for the world to hear about who we have, and the best way to hear it is through an open process called a military tribunal.

And the third is that we can do this and be a rule-of-law nation. We can prove to the world that even among the worst people in the world, the rule of law is not an inconsistent concept.

So my question basically goes to this proposition. There is not enough buy-in by the Congress to what's going on at Gitmo. There is a buy-in on my part and, I think, many others that we need this place desperately to protect us in this war on terror, to hold people accountable, to get good intelligence. And the rule-of-law aspects of how it's working is not well known or is not hitting on all cylinders, because we're in court arguing about this.

Do you believe, each of you, that if the Congress developed some statutory provisions defining enemy combatant status and standardizing intelligence-gathering techniques and detention policy, it would help our cause, it would help what you're doing?

What is your view of the Congress's involvement in this?

SEN. GRAHAM: (Off mike) -- why don't we just do it by rank? Starting with the admiral, go to the general, and all the way down.

ADM. MCGARRAH: Sir, I have no idea what you meant about TDY -- about TDY.

SEN. GRAHAM: Good answer. (Light laughter.)

ADM. MCGARRAH: Sir, I do think we need a internationally accepted definition of enemy combatant. And I think the definition we're using has precedent. I was not involved in -- (off mike) --

SEN. GRAHAM: Think if the Congress got involved to write a statute defining enemy combatant -- that if the Congress bought into this whole concept -- it would help your effort or not?

ADM. MCGARRAH: I think the concept already exists in international law. I think anything that can be done to help clarify this would help.

SEN. GRAHAM: General?

GEN. HEMINGWAY: Senator, I think --

SEN. GRAHAM: For disclosure, he was my first boss in the Air Force.

(Chuckling.)

GEN. HEMINGWAY: Senator, I think it's fair to say that the Department of Defense is always willing to consider anything that Congress wants to propose.

SEN. GRAHAM: Thank you, sir.

ADM. MCGARRAH: (Off mike) -- I concur with General Hemingway on --

SEN. : (Off mike.)

MR. WIGGINS: Excuse me. I agree with General Hemingway. We're happy, as always, the Justice Department would be to review any proposed legislation, sir. MR. FINE: I don't have a position on that. I'm going to have to defer to the Department of Justice on that. That's not really within my jurisdiction, Senator.

SEN. GRAHAM: Well, I'm going to yield back my 50 seconds by concluding with this. I think it would be tremendously helpful if the Congress and the administration came together with some general statutory language to help define what's going on at Guantanamo Bay; to better define what an enemy combatant is, to make sure that due process is affordable.

But the main goal of this war is to protect Americans, and it's not inconsistent with the rule of law -- the more buy-in, the better. So that would be my recommendation to this panel and to the committee, that we jointly work on this problem. Because if we don't have the buy-in across the country and all three branches of government, we're going to lose this war if we don't watch it.

SEN. SPECTER: Thank you, Senator Graham.

Senator Kennedy?

SEN. EDWARD KENNEDY (D-MA): Thank you very much, Mr. Chairman. I'm going to make a brief comment, then just have a question or two for my time.

I first of all want to commend you, Mr. Chairman, for having -- calling this hearing. For too long, we've had no genuine inquiry into the abuses of Guantanamo and how they happened. And those abuses have shamed the nation in the eyes of the world, and made the war on terror harder to win. And in many

parts of the world, we're no longer viewed as the nation of Jefferson, Hamilton and Madison. Instead, we are seen as a country that imprisons people without trial, and degrades and tortures them. Our moral authority went into a free-fall.

The FBI has reported the use of torture as an interrogation tool at Guantanamo, and complained to the Justice Department and the Defense Department about its use. And the Red Cross has documented scores of abuses at Guantanamo and elsewhere. Top officials in the administrations have endorsed and defended interrogation that we've condemned in other countries, including forcing prisoners into painful stress position for hours, threatening them with dogs, depriving them of sleep, using so-called water boarding to simulate drowning.

We've degraded and exploited our own female military personnel by encouraging them to use sexually degrading methods of interrogation.

We've locked people away without creating an adequate process to distinguish who belongs and who should be released. Detainees have been held for year after year under the worst possible conditions, and we fail to provide any to determine whether they're guilty or -- of anything. The endless detention without safeguards is an additional shameful abuse that has to be corrected.

There is no question that Guantanamo has undermined our efforts in the war on terrorism. It's stained our reputation on human rights. It's inflamed the Muslim world and became a powerful recruiting tool for terrorists. Its continued existence only makes it more likely that Americans will be attacked by terrorists at home or in other nations throughout the world.

Closing Guantanamo makes sense. It's become a symbol of U.S. hypocrisy on human rights. But merely emptying the prison and bulldozing its walls will not cure the illegality. We need a thorough investigation what happened there and in other detention and interrogation facilities around the world. And particularly we need to know whether it was approved at the highest levels of our government.

Closing the facility without a full investigation only makes it easier to pretend that the executive branch is above the law. We also need to make sure that the administration doesn't send these and future detainees to places unknown that are even more difficult to monitor.

Guantanamo was conceived and created to be a place beyond judicial review, and the administration tried to ensure that it would be accountable to no one in deciding who should be detained and how they would be interrogated. The resulting physical abuses and denial of due process were the direct result of this misguided policy that thumbed its nose at the rule of law.

One of the great tragedies of Guantanamo is that the consequences were so foreseeable and avoidable if the administration had simply chosen to use the existing legal framework already in place both to protect our security and to grant due process. William Taft, the State Department's legal adviser in President Bush's first term, recently called it a source of amazement and disappointment that the Justice Department severely limited the applicability of the Geneva Conventions to the detainees. In an address at American University, he said the decision to do so unhinged those responsible for the treatment of detainees from the legal guidelines for interrogation embodied in the Army Field Manual for decades.

Set adrift in uncharted waters and under pressure from their leaders to develop information on the plans and practices of al Qaeda, it was predictable that those managing the interrogation would eventually go too far. That's why we have checks and balances in our democracy. What happened at Guantanamo is proof of the famous truth that power corrupts and absolute power corrupts absolutely.

Laws enacted long before 9/11 tragedy authorized effective interrogation and legitimate detention of prisoners. The Geneva Convention permits interrogation. The criminal laws permit interrogation. The Army Field Manual provides long-standing guidelines for interrogation. But indefinite and unreviewable detention to interrogate prisoners is not permissible, and we have learned how danger (sic) it is our ideals and our respect in the world.

Administration tried to redefine torture to make many abuses permissible. They rejected the Geneva Convention over the objections of the secretary of State, Colin Powell. They abandoned traditional military justice in favor of a system that experts warned would be unworkable and unjust. We can't stay silent while the administration prosecutes a few lower-level soldiers and tell us that no one else bears responsibility for the abuses, or while CIA plans -- planes fly detainees in secret to other countries that we know engage in torture.

It's wrong to hold detainees indefinitely, deny them the same rights that we would want for our own captured servicemen and -women. Guantanamo symbolizes reprehensible policies and a set of values that are unacceptable and un-American. It reflects the standards of behavior well below what we have tried to achieve for 200 years, and those who are responsible for designing this system must be held accountable.

So I'll -- realize my time is up, Mr. Chairman. I'll wait till the next round.

Thank you.

SEN. SPECTER: Thank you, Senator Kennedy.

Senator Kyl.

SEN. JON KYL (R-AZ): Thank you, Mr. Chairman.

I would like to, before I pose a question, get back to a couple of basics. We're talking, first of all, about people who have been captured on the battlefield right after they've been shooting at our soldiers. And, you know, we all like to immediately join in healthy applause when someone mentions our young men and women that we've sent into battle. It's the thing to do. It's heartfelt. And yet, for some reason, immediately after doing that, we are prepared to jump to conclusions that U.S. officials, including people in the military, are prone to violate people's human rights. Now, they've been shot at, people have been captured on the battlefield, and you got to have a place to hold them. There has to be some place to do two key things: prevent them from causing further damage -- killing American service people, among other people; and secondly, to use the appropriate interrogation techniques to learn everything you can in order to save additional lives. And so that's the basic thing we're talking about here.

I want to ask a question based upon a declaration of Vice Admiral Lowell Jacoby, who's the director of the Defense Intelligence Agency, and ask unanimous consent, Mr. Chairman, to put this entire declaration into the record.

SEN. SPECTER: Without objection, it will be made a part of the record.

SEN. KYL: Thank you, sir.

Just a couple of provisions of it. He says, "Interrogation is a fundamental tool used in the gathering of intelligence. Interrogations are vital in all combat operations, regardless of the intensity of the conflict. When done effectively, interrogation provides information that likely could not be gained from other source." He points out that after World War II that 43 percent of all the intelligence produced in the European theater was from human intelligence, and 84 percent of that was from interrogation, and that the majority of everyone surveyed agreed that interrogation was the most valuable of the collection techniques.

He points out that insertion of things which disrupt the trust and reliance which the captors need to establish with regard to detainees, prevents the effective gathering of intelligence, a process that he notes can take a long period of time. And just one quotation. He says, "Anything that threatens the perceived dependency and trust between the subject and interrogator directly threatens the value of interrogation as an intelligence-gathering tool. Even seemingly minor interruptions can have profound psychological

impacts on the delicate subject-interrogator relationship. Any insertion of counsel into the subject-interrogator relationship, for example, even if only for a limited duration or for a specific purpose, can undo months of work and may permanently shut down the interrogation process."

There's much more in this declaration. But he concludes by saying, "In summary, the war on terrorism cannot be won without timely, reliable and abundant intelligence. That intelligence cannot be obtained without robust interrogation efforts. Impairment of the interrogation tool, especially with respect to enemy combatants associated with al Qaeda, would undermine our nation's intelligence- gathering efforts, thus jeopardizing the national security of the United States."

Now, colleagues have talked about other aspects of the war on terror, how it's important to win hearts and minds, and we all agree that that's important too. It's important to win on the battlefield. There are a lot of things that are important.

But Admiral Jacoby points out that the war cannot be won without good intelligence, much of which comes from these very combatants that have been captured on the battlefield.

My question is, beginning with you, Admiral, and then, General, and Mr. Wiggins, if you'd like to respond, is whether you agree or disagree with what Admiral Jacoby has said with respect to interrogation and the problems that interruption of that interrogation can cause.

ADM. MCGARRAH: Senator, I think it's always important for operational commanders to have a situational awareness of their enemy and of their battlefield. And anything that can provide the kind of intelligence that we need to do the right thing is important.

SEN. KYL: General?

GEN. HEMINGWAY: Senator, the admiral is far more capable of making that point than I, and I agree with everything he said.

SEN. KYL: Thank you, sir.

Mr. Wiggins?

MR. WIGGINS: Senator, I have no basis -- no legal basis to judge the admiral's declaration. I will point out, however, that it was a part of the record in the Padilla case --

SEN. KYL: I'm sorry?

MR. WIGGINS: It was a part of the record in the Padilla case --

SEN. KYL: Yes indeed. And in fact, he specifically noted the problems that would arise in the Padilla case itself, were this interrogation system to be disrupted.

I gather, Mr. Fine, this is not something you want to discuss, based on your responsibilities? MR. FINE: No, sir.

SEN. KYL: And I understand that very much.

Mr. Chairman, I just think it's important to establish that you've got to keep the people off the battlefield if they're going to go right back and kill you, as approximately 5 percent of these folks have when they've been released -- to your important question, what makes you think that their promise of not wanting to kill you again is going to be kept.

And secondly, that this interrogation process is very important to saving American lives, both on the battlefield and here at home, and that we have to be mindful of the situations in which we can preserve

that kind of legitimate interrogation technique.

SEN. SPECTER: Thank you very much, Senator Kyl.

Senator Feinstein.

SEN. BARBARA FEINSTEIN (D-CA): Thank you very much, Mr. Chairman. Thank you also for holding this hearing.

I'd just like to respond to Senator Kyl's analysis of the battlefield and prisoners after shooting -- all of whom are shooting at our soldiers. I would submit that the battlefield is a very varied place in this war on terror. And I would also submit that people can be swept into the battlefield and be arrested and detainees who are not necessarily terrorists.

In any event, I've written a letter to the Department of Defense; asked 12 questions; have a response to four. I'd like to submit that for the record with an additional letter sent to the Intelligence Committee.

SEN. SPECTER: Without objection, they will be made a part of the record.

SEN. FEINSTEIN: Thanks, Mr. Chairman.

This letter says there are approximately 520 detainees at Guantanamo; 750 have been processed through the facility. As of April of '05, Defense has released 167 and transferred 67 to other governments, subject to conditions, and there have been no detainee deaths at Guantanamo.

I also asked questions about other places, about Guam -- everywhere that we have detainees sequestered. I have not had answers to these questions. I hope they will be forthcoming.

I'd like to call everybody's attention to the testimony about to come from Lieutenant Commander Swift. It is very brave testimony. And let me preface my remarks with the hope that there is no reprisal against Lieutenant Commander Swift. I think his testimony in writing is eloquent. It points out what's wrong, and it also points out what a remedy has to be. I'm going to try to very briefly synthesize his testimony, and I'd like to ask General Hemingway to respond.

Lieutenant Commander Swift is a 17-year Navy veteran, 11-years member of the JAG Corps. He was assigned to represent a Salim Ahmed Hamdan, a Yemeni national facing trial before this Military Commission. Let me quote from his remarks, "At the onset of my representation, I was deeply troubled by the fact that to ensure that Mr. Hamdan would plead guilty as planned, the chief prosecutor's request came with a critical condition, that the defense counsel was for the limited purpose of negotiating a guilty plea to an unspecified offense and that Mr. Hamdan's access to counsel was conditioned on his willingness to negotiate such a plea."

Now, I'm skipping around, but it's all in the record here, and everyone can read it.

"I knew that I had to tell Mr. Hamdan that if he decided not to plead guilty he may never see me again. Upon meeting with him, I was confronted with the fact of the realities of his pretrial confinement. They did not live up to promises of humane conditions. Mr. Hamdan was held in isolation for more than seven months in violation of the Geneva Convention. His cell lacked both natural light and ventilation. For the first 60 days of pretrial detention, he was only permitted a half hour of exercise and only at night. He was not permitted any reading material," et cetera, "beyond the Koran or free exercise of religion."

"Despite Attorney General Ashcroft's assurances to Senator Edwards that the president's military order would not be used to detain a person for an unlimited period of time, General Hemingway rejected Mr. Hamdan's request for a speedy trial finding that he had no right to a speedy trial and could be held indefinitely. Mr. Hamdan's request for independent medical evaluation was rejected in favor of a cursory

20 minute psychiatric examination. The extent of damage done to Mr. Hamdan by the conditions of his confinement and the message utilized in his interrogation was able to be determined. Mr. Hamdan suffered from post-traumatic stress disorder as a result of the abuse he had suffered during his detention and had experienced major depression during his solitary confinement.

After four months in solitary, he was on the verge of being coerced into a guilty plea or deteriorating mentally to the point that he would be unable to assist in his defense if he ever came to trial."

The attorney goes on to say that he's filed a petition for writ of mandamus and habeas challenging both the lawfulness of procedures and the jurisdiction of the proceeding.

After the Supreme Court determined that detention in Guantanamo Bay was not a bar to habeas corpus, the prosecution hastily referred a single charge of conspiracy against Mr. Hamdan. And then it goes on to show the deterioration. The Department of Justice maintains that three military officers, two of whom had no legal training or experience, are better suited to determine a commission's lawful jurisdiction than a federal court. And it goes on and on.

I'd like to ask General Hemingway -- since you were mentioned, I'd like to ask for your response.

GEN. HEMINGWAY: Well, we could be here all afternoon. It's a fairly lengthy statement on Lieutenant Commander Swift's part.

In the first place, the chief defense counsel is the individual who appointed Lieutenant Commander Swift to defend Mr. Hamdan, not the prosecutor. And I am unaware of any threats whatsoever that were ever made through Mr. Swift to Mr. Hamdan of the nature that he recounts in his statement.

As far as the demand for speedy trial is concerned, he sent a letter to me last fall invoking Article X of the UCMJ. And I responded by informing him that Mr. Hamdan was held as an unprivileged belligerent and that Article X did not apply under those circumstances.

As far as his mental health is concerned, he was seen by a mental health professional, a psychiatrist, at Guantanamo Bay, and he accepted weekly mental health visits. And the information that's been provided to me by those people is that his mental health is satisfactory.

As far as referral is concerned, I can guarantee you that that was not done hastily in response to any federal court decision. The timing might have been coincidental, but the office of the chief prosecutor had been working that for quite some time. He also asserts that he was not given the names of the people who had interrogated or interviewed Mr. Hamdan. He signed a receipt on the 27th of September last year acknowledging receipt of the names of all of those people.

My time is up.

SEN. FEINSTEIN: Was his representation conditioned on pleading guilty?

GEN. HEMINGWAY: No.

SEN. FEINSTEIN: Thank you very much, Mr. Chairman.

SEN. SPECTER: Senator Feinstein, if you want to pursue this, you may.

SEN. FEINSTEIN: Well, what you've said to me, General, is that this man has no rights at all, essentially. He's charged with conspiracy. That's it. He's been there four months in isolation, contrary to Geneva Convention, and he could be there, essentially, forever.

That's what -- how I interpreter what you've said. If it's different, please tell me.

GEN. HEMINGWAY: Well, he is not being held contrary to the Geneva Convention. He's being held humanely --

SEN. FEINSTEIN: The isolation -- (inaudible) --

GEN. HEMINGWAY: -- and it's my understanding that he is in the general population at Guantanamo Bay. As far as his rights are concerned, I've mentioned in some detail the rights that all of these people would have available before a military commission: the presumption of innocence, the appointment of an attorney free of charge, proof beyond a reasonable doubt, the right to call witnesses, the right to cross-examine, the right to review. And as far as resources are concerned, we have provided extraordinary resources to both Lieutenant Commander Swift and to the Office of the Chief Counsel -- Chief Defense Counsel.

SEN. FEINSTEIN: Well, that's not what this statement says.

GEN. HEMINGWAY: Oh, I understand that's not what it says. But his recollection of these events, in my view -- of the procedures, are considerably different than what he represents in that statement.

SEN. FEINSTEIN: Let me ask you this. So pre-commission, housing in solitary for seven months is not a violation of the Geneva Convention?

GEN. HEMINGWAY: I wouldn't consider the conditions under which he was held to be solitary confinement. I've seen the facilities. From what the people at Guantanamo Bay have told me about the conditions and the treatment he received, I wouldn't call it solitary confinement. He was removed from the general population, but I would not call what he was in solitary confinement.

SEN. FEINSTEIN: Would you call it isolation?

GEN. HEMINGWAY: I would call it segregation.

(Light laughter.)

SEN. FEINSTEIN: Well, I think, Mr. Chairman, if I might -- Lieutenant Commander Swift is going to come before us. I mean, this is a case study -- in everything that we've read, (it's ?) a case study in what Time magazine has just written about. If I understand the Supreme Court decision correctly, detainees do have habeas corpus rights. They do have a right to be brought before a process. And I would be rather surprised that Lieutenant Commander Swift would say that he had to plead guilty to get counsel if he did not, because that's a rather dramatic statement -- (inaudible) --

SEN. SPECTER: Senator Feinstein, as you noted, Lieutenant Commander Charles Swift will be on the second panel. And if it's not inconvenient, General Hemingway, we'd appreciate it if you would stay there, maybe follow up.

I've allowed you more time; it took --

SEN. FEINSTEIN: I appreciate that. Thank you.

SEN. SPECTER: -- your full amount of time to pose the question --

SEN. FEINSTEIN: You're very generous.

SEN. SPECTER: -- and then this panel waited because she went through a very detailed record.

SEN. FEINSTEIN: Thank you.

SEN. SPECTER: One of the difficulties of the whole hearing process is that we have many

witnesses, we have a second panel, and we have a lot of interest by members. And in five minutes, you don't get a whole lot done.

But when you raised the issue and those details, it seemed to me appropriate to have that extra latitude. But Lieutenant Commander Swift will be present. General Hemingway, would your schedule permit you staying through his testimony?

GEN. HEMINGWAY: Yes, senator.

SEN. SPECTER: Thank you. Okay, Senator DeWine.

SEN. MIKE DEWINE (R-OH): Thank you, Mr. Chairman.

Admiral and General, I have just one question for each one of you. Maybe you can clarify something for me. Admiral, I don't quite understand. How does a detainee go from being an enemy combatant to not being an enemy combatant? I mean, presumably this person has been detained all this time. What changes? I mean, how does the status change? I mean, was a mistake made originally? What changes the status?

ADM. MCGARRAH: Senator, my process is the latest and most formalized of the determinations of enemy-combatant status. Prior determinations were made based on the information that were available at the time that determined that these detainees were enemy combatants.

There are a variety of things that might change. There could be some additional information that is made available. These cases, for the most part, are not black and white. There are ambiguous facts. And the panels take the information, all the information available to the government at the time, and make the best determination that they can at the time. That doesn't mean that prior determinations were wrong. It means that, based on the information available to us, our panels made the determination.

SEN. DEWINE: Well, I appreciate that. I heard you say two things. I want to make sure I got it correctly, and you can tell me if I'm wrong. You indicated that your process was different. You also indicated that in some cases the facts were different. Now, is that correct? We have a different process; we have new facts.

ADM. MCGARRAH: I'm not familiar with the details of the prior processes, but my understanding is that ours is the most formalized of the determinations that have been made. The different facts would be due to additional information that might have been obtained subsequent to the original apprehension.
SEN. DEWINE: So your answer is that it could be because we have new facts; it could be because we have a new process -- could be.

ADM. MCGARRAH: Yes, sir, those are all factors. And the members of the tribunal look at all the information available and make the best determination they can at the time.

SEN. DEWINE: And you're not familiar with the previous process?

ADM. MCGARRAH: No, sir, I'm not familiar with the detailed mechanics of the previous processes.

SEN. DEWINE: General, you said that, I believe, 12 of the 520 detainees have been referred for trial before a military commission. Obviously that leaves the question about what about the other detainees? And I may have missed this in your testimony; I was voting. I apologize. But what happens to the other ones, and what's the process?

GEN. HEMINGWAY: Well, the --

SEN. DEWINE: And what can we expect?

GEN. HEMINGWAY: Well, you can expect that the office of the chief prosecutor will be sending more information forward for presidential determinations as to whether or not there's a reason to believe that there are people subject to trial by military commission. There are three currently in movement, and I know that the office of the chief prosecutor will be sending more information forward for presidential determinations as to whether or not there's a reason to believe that there are people subject to trial by military commission.

There are three currently in movement, and I know that the office of the chief prosecutor is working on more. And as the investigators present more and more evidence to the office of the prosecutors, they evaluate them to determine whether or not charges can be brought for violations of the law of war.

SEN. DEWINE: General, is this a case of not being able to process them fast enough? In other words, you don't have enough people? What is the situation?

GEN. HEMINGWAY: Currently --

SEN. DEWINE: It's kind of hard for a layperson sitting here to understand what's going on.

GEN. HEMINGWAY: Well --

SEN. DEWINE: Now, let me just finish, if I could, sir. You know, this is the Judiciary Committee. We're lawyers here. I'm a former prosecutor. We've got other former prosecutors up here. And, you know, our whole training, our whole system, is to get people to determine what the facts are, to charge them, and you move ahead.

Now, I understand that your life is not that simple. I appreciate that. But explain to me, you know, what's going on here. This seems to be a horribly slow process.

GEN. HEMINGWAY: Well, in the first place, the primary reason that we hold people is to get them off the battlefield, and secondarily to gain intelligence.

SEN. DEWINE: I understand that.

GEN. HEMINGWAY: Until the intelligence effort has concluded on any particular detainee, the law enforcement effort really doesn't commence. Once we know that the intelligence people have finished in their analysis of the individual, we look at what they have collected and make a determination whether or not this individual is a candidate for trial by military commission. As far as the current status is concerned, we're under a restraining order.

SEN. DEWINE: Oh, I understand that. But should we assume that in most of these cases you'd be telling us that the intelligence- gathering is continuing on most of these 500-and-some individuals?

GEN. HEMINGWAY: I'd have to say that's probably correct. When we get --

SEN. DEWINE: I don't want to --

GEN. HEMINGWAY: When we get files from --

SEN. DEWINE: Excuse me, sir. Is it probably or is it? I mean, do you know? If you don't know, that's fine.

GEN. HEMINGWAY: I don't know.

SEN. DEWINE: You don't know. GEN. HEMINGWAY: I don't know exactly how many people that they're done with. But I do know that the office of the chief prosecutor aggressively collects information to develop cases.

SEN. DEWINE: But as far as the question of how many of them, they've actually gotten all the intelligence they think they can get. You don't know what that figure is.

GEN. HEMINGWAY: I couldn't give you a good figure.

SEN. DEWINE: Well, my time is up, Mr. Chairman.

SEN. SPECTER: Thank you very much, Senator DeWine. Senator Durbin.

SEN. DICK DURBIN (D-IL): Mr. Chairman, let me thank you personally for holding this hearing. I've been hoping for such a hearing for a long time, and I think you show extraordinary courage in holding it. I appreciate it very much.

And let me say at the outset here that I'm troubled by what's happened at Guantanamo and I'm troubled by the recent debates about whether we need to close this piece of real estate. I don't think this hearing should be about a piece of real estate or where it's located. It should be about the conduct of the United States wherever prisoners are in our control. And I think that really gets to the heart of the issue, whether it's in Guantanamo, in Iraq, Afghanistan, or in undisclosed locations.

Before 9/11, we had signed on with the rest of the world to certain standards of conduct. We said civilized nations, even in the course of war, will play by certain rules to a certain level. And then, of course, we know what happened after 9/11. Without consulting Congress, this administration unilaterally set aside many of the provisions of these treaties that we had said were part of the law of the land. And it created a detention policy that violates many of those treaties. They claimed the right to seize anyone, including an American citizen, anywhere in the world, including the United States, and to hold them until the end of the war on terrorism, whenever that may be.

There were dissenters to that point of view, and it wasn't from civil libertarians. The dissent came first from Colin Powell, former chairman of the Joint Chiefs of Staff, who warned this administration this was a bad idea. Colin Powell said to the administration, "It will reverse over a century of U.S. policy and practice in support of the Geneva Conventions and undermine the protections of law of war for our troops, both in this specific conflict and in general."

But the administration persisted in this new approach, persisted until it reached the point where it came to the Supreme Court, and the Supreme Court ruled that the administration is wrong.

The question I'd like to ask Mr. Wiggins is this. Last year, in two landmark decisions, the Supreme Court rejected the administration's detention policy. The court held detainees at Guantanamo had the right to challenge their detention in federal court.

I'm troubled by your response -- the administration's response to these decisions. Your approach seems to be to interpret them as narrowly as possible, even when the interpretation doesn't withstand close scrutiny.

Let me give you an example. The administration now acknowledges that Guantanamo detainees can challenge their detention in federal court. But you still claim that once the detainees get to court, they have no legal rights. In other words, you believe a detainee can go to the courthouse but can't come inside. One federal court has already rejected your position.

Mr. Wiggins, the Supreme Court held that Guantanamo detainees' claims that they were detained for over two years without charge and without access to counsel, and I quote, "unquestionably describes custody in violation of the Constitution or laws or treaties of the United States," closed quote.

If the administration's position is that detainees have no legal rights, as you claim, how could the court say that the claims of detainees described violations of their rights?

MR. WIGGINS: Senator, the text that you quoted is from a footnote, footnote 15 of the Rosulo (sp) decision. The Supreme Court said numerous times during the course of this decision, including at the end, that the only issue they were deciding was the jurisdiction of United States courts to hear habeas petitions.

That footnote says what it says. It's appended to a paragraph that talks about facts pled for jurisdictional purposes. We think, and we've told the court in our pleadings, that we think that the most logical reading of that footnote is that it describes jurisdictional facts and it makes sense in that context.

It would not make sense in the context of an ambiguous paragraph overruling years of precedent in the --

SEN. DURBIN: Mr. Wiggins --

MR. WIGGINS: -- (inaudible) -- case, the Verdugo (sp) case, the Zaivadas (sp) case, all of which said that the --

SEN. DURBIN: Mr. Wiggins, I'm not carping on a trifle. I'm not sitting on a footnote here. How can you have a habeas right if you don't acknowledge that the detainee has some rights? I mean, that's what it boils down to. And I can't understand the administration's position of ignoring what the Supreme Court has said, even if it's from a jurisdictional viewpoint.

Let me go to another example. You claim that you're complying with Supreme Court decisions because you've created military tribunals -- the CSRTs. These tribunals are supposed to determine whether a detainee has been accurately designed as an enemy combatant. The detainee is not entitled to an attorney.

The CSRTs rely upon secret evidence that the detainee is not allowed to review. That doesn't seem like due process by any stretch. In fact, two federal courts have already held CSRTs failed to comply with Supreme Court rulings. One court concluded they deprived the detainees of sufficient notice of the factual basis for their detention and denied them a fair opportunity to challenge their incarceration.

How can a detainee challenge the grounds of his enemy-combatant designation if he does not have access to the evidence supporting that designation?

MR. WIGGINS: Senator, he does have access to the information. The procedures that are set up for the CSRT are procedures that the Supreme Court, in Hamdi, the plurality, expressed the view that those procedures would be sufficient; more than sufficiently, actually. They expressed the view that an Article V type hearing or a hearing set forward in the military regulations that provided very basic due process rights was all that was required.

The CSRT procedures, as established by the military order, provide that detainee will have the factual basis for his detention disclosed to him before the tribunal. SEN. DURBIN: Mr. Wiggins, my time is running out and I'd like to read to you from the decision so you understand what you just said is not true.

SEN. SPECTER: Senator Durbin, would you make this brief, please.

SEN. DURBIN: I'd be happy to, Mr. Chairman. Thank you. And I quote: "In sum, the CSRT's extensive reliance on classified information in its resolution of enemy-combatant status, the detainees' inability to review that information, and the prohibition of assistance by counsel jointly deprive the detainees of sufficient notice of the factual basis of their detention and deny them a fair opportunity to challenge their incarceration." And what I just read to you is not in a footnote.

Thank you, Mr. Chairman.

SEN. SPECTER: Thank you very much, Senator Durbin.

Senator Feingold, I think I erred in not calling on you earlier. It's a little hard. We go by the early-bird rule about people who come and leave, and you were on the earlier list, so you'll be recognized next --

SEN. FEINGOLD: Thank you, Mr. Chairman.

SEN. COBURN: -- after we turn to Senator Coburn, who I think has early-bird --

SEN. LEAHY: I should also apologize to Senator Feingold. I didn't have the list until after --

SEN. : (Off mike.)

SEN. SPECTER: It's a juggling act under the early-bird rule and seniority and people who come and go. But I think you should have been recognized earlier.

Senator Coburn, you were here earlier.

SEN. COBURN: Thank you, Mr. Chairman.

SEN. SPECTER: Senator Sessions came a little later, and both of you have been in and out. Senator Sessions, will you yield to Senator Coburn?

SEN. SESSIONS: I would be pleased to.

SEN. TOM COBURN (R-OK): I just want to clarify for the record a couple things on the IG report in terms of the Manhattan detention center.

Mr. Fine, all these individuals were illegal aliens; is that correct?

MR. FINE: All but one had violated immigration law in some context, either by overstaying their visa or entering the country illegally, that's correct.

SEN. COBURN: And some of them had not come back for detention hearings; is that correct?

MR. FINE: Some of them had not been -- had absconded from detention -- (inaudible) -- SEN. COBURN: So they were twice violators of law.

MR. FINE: They were violators of law, that's correct.

SEN. COBURN: Multiple times.

MR. FINE: I don't know how many of them were in that category, but I believe there were some in that category.

SEN. COBURN: But the fact is, is they had already proven a disdain for the law. Is that true?

MR. FINE: They had violated immigration law, that's correct.

SEN. COBURN: Okay. Well, I don't see that any different than any other law. They had demonstrated disdain for the law because they had, in fact, violated the law; is that correct?

MR. FINE: They had -- that's correct, they had violated immigration law.

SEN. COBURN: I don't have any other questions, Mr. Chairman.

SEN. SPECTER: I was talking to Senator Kyl about asbestos. Every now and then we have another matter we have to consider.

SEN. COBURN: I have no additional questions.

SEN. SPECTER: No additional questions.

SEN. : Boy, do I miss those hearings, Mr. Chairman. (Laughter.)

SEN. SPECTER: Well, it's been a busy committee. Senator Kyl and I were coming to grips with one of the tough issues on asbestos, and pardon me for taking 10 seconds out.

Senator Feingold?

SEN. RUSSELL FEINGOLD: (D-WI): Thank you, Mr. Chairman. And thank you for holding this hearing.

I believe that the long-term detention of so-called enemy combatants at Guantanamo Bay is one of the most important national security and civil liberties issues facing us today. I've been concerned for a long time that Congress has not done as much oversight on this issue as it should, so I do appreciate hearing from these witnesses.

Mr. Chairman, the situation at Guantanamo Bay has become so troubling that a growing chorus of people are calling for that facility to be shut down entirely. It may be that the word "Guantanamo" has become so synonymous in the Arab and Muslim world with American abuses that we must close the prison down, but we did not have to reach this point.

If the administration had not argued that these detainees were not subject to the Geneva Conventions, if this administration had not argued that these detainees had no right to counsel or to make their case in federal court, if this administration had not insisted on trying a few of these detainees who are charged with crimes in military commissions lacking basic due process, if this administration had not sought to exploit every single ambiguity in the law to justify its unprecedented actions, we would not be where we are today. We would not be even talking about closing Guantanamo.

So when we talk about closing down this facility, let us remember that the problem is not just Guantanamo. The problem is an administration that thinks it does not have to play by the rules. Wherever these detainees are held, they must be accorded basic due process rights and treated humanely pursuant to universally respected standards.

And I would ask, Mr. Chairman, that my complete statement be included in the record.

SEN. SPECTER: Without objection, it will be made a part of the record.

SEN. FEINGOLD: Admiral McGarrah, many of the prisoners at Guantanamo Bay were first detained by the United States government three years or more ago on the theory that they are enemy combatants subject to indefinite detention. In Judge Joyce Hens Green's recent decision finding the procedures of the Combatant Status Review Tribunals unconstitutional, she noted that the government did not formally define the term "enemy combatant" until July 2004.

If the U.S. government did not formally define who is an enemy combatant until 2004, on what basis did it detain the hundreds of individuals picked up and transferred to Guantanamo Bay prior to that time?

ADM. MCGARRAH: Senator, I can't comment on the definitions that were used in prior reviews. I can only comment on the process for which I was responsible for. I would defer to Department of Justice for legal definitions.

SEN. FEINGOLD: General, do you have an answer to what basis these folks were held on, if the term wasn't defined until later?

GEN. HEMINGWAY: Senator, I wasn't responsible for making that. As far as my view at the present time, they are held because they are unprivileged belligerents who have been removed from the battlefield.

SEN. FEINGOLD: Mr. Wiggins, could you answer?

MR. WIGGINS: Could you repeat the question, please?

SEN. FEINGOLD: Yeah. Given the fact that the term "enemy combatant" was not defined until years later, on what basis were the hundreds of detainees held prior to that time? What was the basis?

MR. WIGGINS: I don't know the answer to that question, Senator.

SEN. FEINGOLD: Thank you.

Admiral, Judge Green's decision also stated that the government attorney in her case conceded that under the U.S. government's definition of enemy combatant, a, quote, "little old lady in Switzerland who writes checks to what she thinks is a charity that helps orphans in Afghanistan but what really is a front to finance al Qaeda activities," unquote, could be considered an enemy combatant. Do you agree with that?

ADM. MCGARRAH: Sir, that was extracted from the body of evidence in that particular case and was not the sole factor in that determination. Our panels looked at all the information available in the government's possession and made the determination based on a preponderance of evidence standard.

SEN. FEINGOLD: But do you agree with the conclusion that a person could be categorized in that way?

ADM. MCGARRAH: Sir, I agree with the conclusion that an enemy combatant status designation could be made based on a view of all the evidence if the preponderance of the evidence indicated that that classification was appropriate.

SEN. FEINGOLD: Right.

Mr. Wiggins, several witnesses on the second panel have submitted written testimony raising concerns that in the tribunals set up to try or evaluate the status of detainees at Guantanamo Bay, that the government may rely on evidence obtained through torture or coercive means. As assistant attorney general for Civil Rights at the Justice Department, doesn't that give you pause?

(Pause.) MR. WIGGINS: Senator, the president and the attorney general have made clear that the United States does not condone or commit torture, and that we will seek out and punish those who commit such acts. Beyond that, I --

SEN. FEINGOLD: But what about the reliance on evidence obtained through torture or coercive means? As a Justice Department official, doesn't it give you pause that we might use such evidence?

MR. WIGGINS: The training manual for al Qaeda encourages them to allege mistreatment. We take every -- the military, at least, as do we, take every allegation seriously. They look into it. But the tribunals are free to test the weight of that evidence, to -- they make the decision based on the weight of all the evidence that they have. And it would include perhaps, in some cases, evidence where a detainee has alleged that it was a product of mistreatment. But it's up to the tribunal to determine whether to accept that evidence or not.

Admiral McGarrah is more familiar with the details of the cases. But it's not uncommon.

SEN. FEINGOLD: I think the question's fairly straightforward. I don't think that's much of an answer. The question is whether evidence obtained through torture is something that ought to give somebody in our United States Justice Department pause. I would think it would give you pause.

Thank you, Mr. Chairman.

SEN. SPECTER: Thank you, Senator Feingold.

Senator Sessions.

SEN. JEFF SESSIONS (R-AL): Mr. Chairman, the thing that troubles me most about this hearing is that I believe it conveys a completely incorrect vision of how prisoners are being handled who are apprehended by the United States armed forces. And we're focusing on problems in due processes and things that suggest that these prisoners are being tortured, that they're being abused in unconscionable ways, and suggesting to our enemies around the world that this is occurring. And they're using that information to promote their own agenda to kill American soldiers. And we're adding -- we're placing them at greater risk, and we're making it more difficult for our policy to be successful.

So I feel very strongly that this is a legitimate hearing to find out how people are being held. But to suggest that our activities, as one member of the new left that compared it to -- or the left compared it to the gulag of our time, where, as the chairman notes, 30 million people were killed in Soviet prisons, and we had 700 in Guantanamo -- not a single one has died, not a single one has been shown to be seriously injured. And so I think we need some perspective here. We have high standards. We prosecuted people who violated prisons (sic). We cashiered out a fine Army colonel who fired a gun near somebody's head in combat to try to get information to save his life. We've prosecuted one officer who was found to be innocent. We prosecuted the people at Abu Ghraib, and they said the higher-ups were involved. And they had their trial, and they never showed any higher- ups ordered them to do that, just like the evidence was from the beginning.

Now I'm concerned about the tone of this hearing. First of all, our policy has been to treat detainees humanely, consistent with the principles of Geneva Convention, even though they are unlawful combatants or, as General Hemingway used the phrase, unprivileged belligerents. You know what that means? That means because they did not conduct their warfare against the United States consistent with the rules of war, they are not entitled to the protections of the Geneva Convention. They do not apply to them.

Is that not right, General Hemingway, that if they -- people come into this country surreptitiously or conduct activities to bomb civilians against the rules of war, they're not entitled to the protections of the Geneva Convention?

GEN. HEMINGWAY: That's precisely my position.

SEN. SESSIONS: And we have not violated a treaty, therefore, if we don't treat each one of these prisoners precisely in accordance with all the language in the Geneva Conventions that provides for libraries and things of that nature. I think that's important for us to know.

They are provided more due process than required, but the most important point here for us to remember -- these are not people charged with bank fraud in the Southern district of New York, American citizens entitled to a federal court trial. They are unlawful combatants, and they may be detained under the rules of war until the war is over.

And we know that they present a danger to us. We know at least 12 who have been released have been reapprehended for attacking the United States of America. We've spent $109 million building a new facility in Guantanamo. I visited the old, temporary facility. And they showed me the site where the new

one would be. It would make a magnificent resort. It's a level land; it sits right out on the water. It's a beautiful site. They spent a lot of money on it; $42 million more is going to be spent to upgrade it. We're spending $140 million to improve housing and detention facilities in Iraq and Afghanistan.

Now, this country is not systematically abusing prisoners. We have no policy to do so. And it's wrong to suggest that. And it puts our soldiers at risk who are in this battle because we sent them there. And we have an obligation to them not to make this situation worse than it is.

If we made errors, we'll bring them up and we'll prosecute the people. But to suggest that we are in a wholesale violation of the rules of war, I suggest, is wrong.

Mr. Chairman, there are 520 individuals in Guantanamo today; 234 have been transferred out, 164 have been released outright, and 67 have been handed over to another government.

My time has expired. But I would just say that we have heard today that these individuals were screened before they were brought to Guantanamo. Ten thousand have been detained. Only, five, six, 700 have been brought to Guantanamo. They were screened before they were sent there to make sure that they were dangerous. We don't have any interest in bringing somebody of frivolous nature to house in Guantanamo. It's a burden on our military. They don't want that.

So I think some of them are entitled to be prosecuted, as they were an ex parte Quirin case, approved by President Franklin Roosevelt and the United States Supreme Court, for violations of rules of war. And some of them need to be executed. And I assume that when this dust settles on some of these court hearings, we'll be moving forward with that, if they deserve it. If they don't, so be it.

Thank you, Mr. Chairman.

SEN. SPECTER: Well, thank you very much, Senator Sessions. As I said at the outset on the parameter, we're looking at the procedures here. The committee is taking up about 15 Supreme Court opinions. One plurality, two five-person opinions and a bunch of concurring opinions, and a bunch of dissenting opinions. And then three District Court opinions. And it's a genuine crazy quilt to try to figure out where the due process rights lie. The Supreme Court has said there are due process rights.

And I think we've done a fair job today in staying away from the questions of torture, the questions of mistreatment. We've been pretty much within the parameter. There have been some comments --

SEN. SESSIONS: Well, these fine men in uniform here today and those out there at risk in these prisons are, I think, have been maligned. And frankly, I think, unfairly.

SEN. SPECTER: Well, and we're looking to try and keep some more that were questioned as to why they released some on a promise that they wouldn't go back to war, and what good that kind of a promise was. And I think that some congressional input is salutary. Because we're going to have a lot of work to do following this hearing, with the military commissions and with the Department of Justice and the parameters and the definitions and the procedures.

And we're going to have a second panel which will get into some of these questions in some greater detail.

There's no doubt that when you talk about evidence, you're not talking about evidence in a criminal trial or something in a United States District Court. But the question is how much and right to counsel. We've heard testimony about right to counsel, and these are issues which the Constitution says are for the Congress. And to read the opinions of the Supreme Court justices and the way we've left them hanging, trying to figure out where to go piece by piece, it's our responsibility and to make these judgments. We have to know much more about the facts.

SEN. SESSIONS (?): Mr. Chairman, I would just agree that it's fine for us to inquire into this, but I

would note in the history of warfare, we've not provided trials to prisoners who've been seized on the battlefield. That's been left to the military to handle.

SEN. SPECTER: Senator Kohl.

SEN. HERBERT KOHL (D-WI): Thank you, Mr. Chairman, for holding this hearing.

The stories coming out of the detention center at Guantanamo Bay continue to harm our image around the world. Guantanamo does not represent the America we know. Instead, it stands in stark contrast to the values that our nation symbolizes. Since the first prisoners were wheeled off the plane in 2002 of January, the detention center in Guantanamo has been on trial in two courts, our federal courts and the court of public opinion. It has not faired very well in either.

Indefinite detention of prisoners in Guantanamo has failed the test of fundamental fairness in our federal courts. Of great importance also is the fact that Guantanamo has proved to be a failure in the court of world opinion. To be sure, the goal is not to win a popularity contest. Of course, the goal is to defeat terrorism.

Yet to win the war on terrorism, we must engage in and win the battle of ideas in the Muslim world. Guantanamo is impeding our efforts to win this war of ideas. Shortly after 9/11, hundreds of people gathered in the streets of Iran and other countries around the world to honor the victims of those horrific attacks. Support for the United States at that time was at an all-time high. Yet today, less than four years later, we see a much different picture. Instead, it is anti-Americanism that has never been higher. The alleged abuses and incommunicado detentions at Guantanamo, which have come to define the United States around the world, eroded that support, adding fuel to the fire of anti-Americanism and making it easier for those seeking to do us harm to enlist recruits for their cause.

We believe that security and adherence to the rule of law are not mutually exclusive principles. We have the best justice system in the world, and I believe that we can find a way to make this work. Nobody is advocating the release of suspected terrorist, in fact, quite the opposite. They must be detained or prosecuted, but this must be done in a way that is consistent with our values and there is growing realizing that the policies Guantanamo has come to represent should not continue.

It is important to remember that Guantanamo is in large part a symbol. It is a symbol of bad acts and misguided policies that must be reviewed immediately. So I commend Senator Biden for calling for an independent commission to take a close look at Guantanamo and make recommendations on how to move forward. I believe this will lead us on a path towards fixing what is wrong with Guantanamo and moving us toward a system that can withstand international scrutiny as well as keep us safe from terrorist threats.

Thank you, Mr. Chairman.

SEN. SPECTER: Thank you very much, Senator Kohl. Thank you very much. It's been a lengthy panel.

SEN. LEAHY: Chairman?

SEN. SPECTER: Senator Leahy.

SEN. LEAHY: I just want to do a couple of quick --

SEN. SPECTER: Sure.

SEN. LEAHY: We've talked about these people being held as being captured on the battlefield. Admiral, you said this a very broad definition of a battlefield. Am I correct that some of the detainees were captured outside Afghanistan? Is that correct?

ADM. MCGARRAH: Yes, sir, that's correct.

SEN. LEAHY: And you're going to supply, for the record, the places they were captured.

ADM. MCGARRAH: We will follow up with you on that issue, sir.

SEN. LEAHY: But you will supply the places where they were captured? ADM. MCGARRAH: That's outside my responsibility, but I'll make sure that that gets referred to the right people, sir.

SEN. LEAHY: I appreciate that. We had three people arrested in the United States who are designated as enemy combatants by the president. I mention that because the battlefield is not somebody who's out there, necessarily in immediate armed combat with us. It seems to be the whole globe is the battlefield. Not all the detainees were captured during active combat. Am I correct in that, General Hemingway?

GEN. HEMINGWAY: I couldn't give you an accurate statement on that, Senator, because I haven't reviewed the files of every single one. The only ones I've looked at are those who've been referred for trial by military commission.

SEN. LEAHY: Is it your understanding that all the people there were in active combat?

GEN. HEMINGWAY: It's not my understanding, and I can't give you an accurate assessment of that because I haven't looked at those files and I wouldn't want to speculate.

SEN. LEAHY: Thank you.

Inspector General Fine, I want to thank you for your efforts over the past year to produce a declassified version of your investigation of FBI steps, many would say failures, leading up to September 11th. I know you originally produced a report last year. I think your efforts to declassify it prior to the elections had failed, but Senator Grassley and I, among others, requested a public version be released as released last week. I just wanted to publicly thank you. I know you worked hard to have that happened. I know both Senator Grassley and I appreciate it.

And you're currently conducting an investigation in the FBI's action at Guantanamo, what steps the FBI agents took to prevent the mistreatment of prisoners report misconduct. Does your investigation cover the question of the FBI's reporting of complaints to DOJ, Department of Justice lawyers? And then what Department of Justice reported to the Department of Defense?

MR. FINE: Yes, Senator. Our investigation is looking into what the FBI did, what they observed and what reports they made and how they were handled.

SEN. LEAHY: Have you interviewed the four Department of Justice lawyers who, according to the FBI e-mail, received the FBI complaints?

MR. FINE: We've interviewed some Department of Justice officials. We're in the middle of our investigation, so I don't believe we've interviewed all the people we need to. SEN. LEAHY: Do you know when a preliminary result of the inquiry might be available?

MR. FINE: It'd be impossible for me to predict that. We're going to do it as expeditiously as we can, and we've allocated substantial resources to it.

SEN. LEAHY: Thank you, Mr. Chairman. And I will count on Admiral McGarrah and General Hemingway to follow up with answers to the questions I've asked. We will refine those for you more if you'd like. Thank you. Thank you, Mr. Chairman.

SEN. SPECTER: Senator Biden asked me to say publicly that he has some questions for the record, and there may be some other Senators who will submit questions for the record.

SEN. JOHN CORNYN (R-TX): Mr. Chairman, may I be permitted just a couple of very quick questions for this --

SEN. SPECTER: Yes, Senator Cornyn.

SEN. CORNYN: I very much appreciate it. Thank you very much.

Mr. Chairman, I'm advised that we've had 11 members of the United States Senate visit Guantanamo Bay. And I was privileged to be one of those Senators who had a chance to actually see with my own eyes and to talk to the people in charge there as well as to observe the detainees and talk to some of the teams that conduct interrogations. It was a very edifying experience for me, and I would think, of course, any of us who have not yet had an opportunity to do that would benefit from that personal trip to Guantanamo Bay.

I would just agree with the Chairman when you say that the Supreme Court opinions and the federal court opinions in this area are a crazy quilt. And that we are struggling on this committee to try to figure out exactly what the rules are and what the parameters should be, what the court has said.

I would just suggest that we ought to provide the same opportunity for both the Department of Defense and the administration in tying to deal with in what in many ways is an unprecedented set of circumstances. We ought to engage in a presumption of innocence rather than the presumption of guilt, which our enemies seem to apply whenever a charge is made against the United States as regards Guantanamo Bay and our treatment of detainees.

There have been 10 different investigations conducted by the Department of Defense into interrogation practices and the alleged abuses and some factual instances of abuses at Abu Ghraib, but this has been extensively reviewed by impartial tribunals. And I think that, in the main, our Department of Defense and the people in charge of this facility have conducted themselves admirably under difficult circumstances. Thank you for giving me a couple of minutes.

SEN. SPECTER: Thank you, Senator Cornyn. There's no doubt about the need for inputs very heavily and very substantial from the Department of Defense, from the attorney general. There's one quotation that I did not start with, but I think it's worth just a moment of the committee's time even though it's late. And this is Justice Scalia's urging us to deal with this issue. And he puts it this way.

"There is a certain harmony of approach in the pluralities making up for Congress' failure to invoke the suspension clause and making up for the executive's failure to apply what it says are needed procedures, an approach that reflects on what might be called a Mr. Fix-It mentality. The plurality seems to view it as a mission to make everything come out right rather than merely to decree the consequences, as far as individual rights are concerned, of the other two branches' actions and omissions."

"As the legislature failed to suspend the writ in the current dire emergency, well, we will remedy that failure by prescribing the regional conditions that a suspension should have been included. And as the executive failed to live up to those reasonable conditions, well, we will ourselves make up for that failure so that this dangerous fellow, is dangerous, need not be set free. The problem with this approach is not only that it steps out of the court's modest and limited role in a democratic society, but that by repeatedly doing what it thinks the political branches ought to do, it encourages their lassitude and saps the vitality of government by the people."

Lassitude's not a word too often used by the Congress. Probably ought to be used more often. But that's what we're confronting with the DOD and the military and the Department of Justice, grappling with these issues, and the court proliferating all over the place. Crazy quilt's the best word for it.

So we have our work cut out for us among a number of other subjects. Thank you for agreeing to stay, General Hemingway. Admiral McGarrah, to the extent you could stay, too, would be helpful.

END.

PANEL II OF A HEARING OF THE SENATE JUDICIARY COMMITTEE SUBJECT: DETAINEES CHAIRED BY: SENATOR ARLEN SPECTER (R-PA) WITNESSES: LT. COMMANDER CHARLES SWIFT, DEFENSE COUNSEL, OFFICE OF CHIEF JUSTICE COUNSEL, DEPARTMENT OF DEFENSE; WILLIAM BARR, EXECUTIVE VICE PRESIDENT AND GENERAL COUNSEL, VERIZON CORPORATION; JOSEPH MARGULIES, PRINCIPAL, MARGULIES & RICHMAN; STEPHEN SCHULHOFER, PROFESSOR, NEW YORK UNIVERSITY OF LAW LOCATION: 226 DIRKSEN SENATE OFFICE BUILDING, WASHINGTON, D.C. TIME: 11:58 A.M. EDT DATE: WEDNESDAY, JUNE 15, 2005

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SEN. SPECTER: And we turn now, finally, to the second panel. Our first witness is Mr. Joseph Margulies, Senior in the firm of Margulies & Richman, and a trial attorney with the McArthur Justice Center at the University of Chicago. He's the lead counsel in Rasul versus Bush involving the Guantanomo detainees. He has a very distinguished academic and professional record which will be included in the record in full. Mr. Margulies if you would step forward along with former Attorney General William P. Barr, and Lieutenant Commander Charles D. Swift, and Professor Stephen Schulhofer, we will begin the second panel.

Mr. Margulies, thank you for joining us. As soon as your seated, the clocks going to start.

MR. MARGULIES: Senator Specter, Senator Leahy, members of the committee.

The prisoners at Guantanomo can be divided into two categories. One is very small, one is very large. One category has four people. That is, as we heard this morning, the group of people who have been charged by military commission. That category also includes another seven who have been designated as potential candidates for prosecution but we are talking about a total universe, in the military commission context, of about a dozen people.

Lieutenant Commander Swift is going to talk about that group. But the rest and the overwhelming majority of the people at Guantanomo Bay have never been charged with any wrong doing. They have never appeared before any court of law. The have received nothing but a hearing before the CSRT that you heard about this morning, or the Combatant Status Review Tribunal.

The position of the administration is that this is all the process that they get and that now they may be held for as long as the president sees fit, under any conditions the military may devise. You heard this morning how the CSRT operates in theory, that is how it is written to operate. I want to talk about the reality. I want to talk about the reality because while my written testimony addresses the deficiencies of the CSRTs in some detail, what was absent from the discussion this morning and from the written testimony is a focus on an individual. And there are real people at Guantanomo and I'd like to turn our attention to them.

One of my clients is a man named Mamdouh Habib. Mr. Habib is Australian. In October of 2001, he was arrested not on the battlefield, not in Afghanistan but in Pakistan by Pakistani police. They turned him over to the United States who after a period of a couple of weeks, bundled him onto a U.S. military plane in Pakistan and flew him to Cairo, Egypt, where he was held for six months. There are no disputes about the facts that I'm relating in that regard.

During that six months, Mr. Habib was subject to ingenious tortures. I realize that there are some

reservations about making this into a hearing about torture.

I say this only as it bears on the CSRT proceeding, however. Let me describe just one of the techniques that was used during that six weeks. Mr. Habib's captives would bring him to small, windowless room. He was brought there handcuffed behind his back, the room was dark. And water starts to pour into the room. And he watches as the water starts to rise up past his knees, past his waist, rising above his chest, past his shoulders, finally past his neck.

Mr. Habib held there had no idea when or if this water will stop. When it finally stops it is past his chin, and Mr. Habib can keep his mouth above the water only if he stands on the tips of toes, and his Egyptian captors left him there for hours. Other tortures that Mr. Habib endured were considerably less creative. They beat him, they kicked him, they shocked him with something that would be fairly described as a cattle prod.

Over the course of six months, Mr. Habib, as any of us would have expected, confessed to all manner of allegations. He told me his signed everything -- oh, and I learned this from him when I went down to talk to him at Guantanamo -- he told me he signed everything that they put in front of him. Some of the papers he in fact signed were blank. He has no idea what was later written down on them. The United States government, Senators, has never denied Mr. Habib's allegations in this regard, which are now a matter of public record.

In fact, quite the contrary, the State Department has protested repeatedly and for years, including post-9/11 against state-sponsored torture in Egypt. And many of the things that happened to Mr. Habib have been documented to have happened to other people, as well. Senators, my point is simply this: the CSRT relied on Mr. Habib's statements given in Egypt to support his conclusion that he was an enemy combatant. In fact, I have reviewed the allegations against Mr. Habib, and as far as I can tell, and as far as the government has disclosed in court, the CSRT had nothing except Mr. Habib's own, uncorroborated statements made during interrogations.

And my point would just be this: any process that relies on information secured in this way is just not worthy of American justice. It's as simple as that. So, I am here to tell you three things in addition to try to answer whatever questions may be posed to me. I want to impart to you only three things: one, if you look at them fairly, the CSRTs are a sham. As a said to Judge Green (sp), and she agreed with me in the argument December 1, 2004, they mock this nation's commitment to due process. And it is past time for this mockery to end.

Second, these prisoners must have their day in court. In response to questions, I can address the difference between these prisoners and those 400,000-plus who were held in World War II and given the benefits of the Geneva Conventions. It is past time for them to be held simply on the undifferentiated characterization of them as the worst of the worst.

If the administration can prove in a federal habeas hearing that these people belong in custody, then so be it, but bring that proof on. And they have been there more than three years and it is time to put up or shut up.

And third, respectfully, Congress must get to the bottom of this. The American people simply have to know what it is that's going on. We cannot tolerate any more black holes, and we have a model for what we should do. We need an independent, bipartisan inquiry to figure out just what the administration's detention policy is. What is it all about? What has been done to whom on who's authority, and at what facilities?

I would close with these brief comments. Mr. Habib, senators, is now out of custody. And let me tell you how that happened. When I learned the information I have related to you today, I filed it in court. I filed it in the district court in the District of Columbia, and those papers became public the first week of January. And next day, they appeared in a front page article in The Washington Post, and after the front page coverage, it became apparent that Mr. Habib's rendition would become a subject of inquiry within the

federal court.

Five days later, after having described Mr. Habib as they describe all of them, as the worst of the worst and a dangerous terrorist, five days after the account of his rendition became public, the Department of Defense announced that Mr. Habib would be released. I flew home with him. So far as I know, I am the only attorney who has been allowed to accompany his clients home from Guantanamo. At the request of the Australian government, I went from Miami to Guantanamo, where we picked up Mr. Habib and we flew to Sydney.

And I had the privilege, senators, to be with Mr. Habib when he was reunited with his wife, whom he had not seen for more than three years, at the airport in Sydney. And when he saw her, he almost collapsed on the tarmac. I will never forget it. It is an experience I will never forget, and one of the most memorable I have ever had as a lawyer. And I think about it again today in this hearing. Thank you for your time.

SEN. SPECTER: We have had another vote, so we will excuse ourselves for as brief a period of time as we can go and (pound ?) the -- those, for those of you who don't know, occur when the Senate is ready to vote. We're up on the Energy bill, and we will return as soon as we can. SEN. LEAHY: With as much energy as we can muster. (Chuckles.)

(Recess.)

SEN. SPECTER: The hearing will resume.

Our next witness is the Honorable William Barr. He has a very distinguished record, most specifically as attorney general of the United States from 1991 through 1993, and is now executive vice president and general counsel for Verizon.

When the Department of Defense suggested former Attorney General Barr, I said, "Excellent, he's got a lot of experience."

Thank you for joining us, Mr. Attorney General, and we look forward to your testimony.

MR. BARR: Thank you, Mr. Chairman. It's good to see you and members of the committee.

Rarely have I seen a controversy that has less substance behind it. And, frankly, I think the various criticisms that have been leveled at the administration's detention policies are totally without foundation and unjustified.

I'd like to distinguish between three different kinds of activity that are underway in Guantanamo. First, Guantanamo is a facility for holding enemy combatants that are captured in the battle theater. We've been fighting wars for 230 years. As the Supreme Court recognized, fighting wars is about destroying the enemy's forces either by killing them or capturing them. And when you capture them, you detain them.

And we've been holding enemy combatants, as I say, for 230 years in various facilities. There is nothing punitive about it. This is not a legal proceeding. There is no need to bring charges. They're being held because they were identified on the battlefield as threats to our forces and to our military mission.

That determination has always been treated as a military determination, and it is not one that gives foreigners who encounter our troops on the battlefield due process rights to hearings and evidentiary hearings as to whether they were, in fact, or not enemy combatants. There has never been a case to suggest that. In fact, the Supreme Court cases say that foreigners outside the United States with no connection to the United States do not have due process rights. Now I'd like to analogize to World War II. We held over two million access prisoners during World War II. Over 400,000 were here in the United States in camps, in Utah, Texas, Arkansas. And it wasn't cut and dried. As a matter of fact, there was a

lot of confusion about who was who, because we seized a lot of Eastern Europeans and Asians who had been fighting in the Soviet army, captured by the Germans, and conscripted into forced labor battalions, who were claiming, hey, I'm a Soviet citizen. I'm not an enemy combatant.

They didn't get into U.S. courts. They didn't get lawyers. They didn't get hearings as to whether, are you a member of the Wehrmacht or not? They were detained until the end of hostilities.

So there are no due process rights for foreigners encountered on the battlefield. However, this should be a moot issue, because the administration has provided, the first time in history I'm aware of -- in United States history, is providing an adversarial process to each of these individuals to contest whether or not they are, in fact, enemy combatants.

This is the CSRT process. And that comports with the process, alluded by the Supreme Court in Hamdi, that should be followed for American citizens here in the United States. So they are getting whatever due process rights could theoretically exist. And, I submit, that none do. They're getting more than ample process.

The second issue goes to the Geneva Convention. You know, I hear a lot of pontificating about the Geneva Convention, but I don't see what the issue is. The Geneva Convention applies to signatory powers. Al Qaeda hasn't signed it. They're not covered by the Geneva Convention, period. With all this pontificating, I haven't heard anyone allege any set of facts that would change that.

And the president was absolutely correct in saying that they are not entitled to protection. Does this mean they are without rights? No, if you're not covered by the Geneva Convention, then you're held in detention under the common law of war and you are treated humanely.

But say that terrorists like al Qaeda are entitled to the protections of the Geneva Convention demeans international law, the Geneva Convention and our troops.

The third point I want to make is about military tribunals. I guess we've come a long way, because when the president first put out his order on military tribunals there was all this sturm und drang about, gee, this is a big-end run about Article III courts and that the world is coming to an end and this is unprecedented, and this is a big deal.

Well, the debate seems to have re-centered a bit. I haven't heard any serious argument that these cases belong anywhere else than military tribunals. Now, military tribunals are different than this issue of whether you're an enemy combatant. As to some set of people in our custody, we will choose to bring prosecutions. That is a punitive action, and we will try them for violations of the laws of war. And historically that has always been done by military courts.

So, for example, in World War II, when we tried German soldiers for atrocity like the massacre at Malmedy, they were tried, not in Article III courts here in the United States -- they were tried by military courts. And president has quite rightly, consistent with 230 years of history, set up military courts to try violations of the laws of war.

Part of what's going on here, I think, in this debate, is a fundamental misapprehension between two different kinds of constitutional activity. One is law enforcement, and the other is waging war. They are different, and it is fundamentally incompatible with our constitution and constitutional principles to try to take the strictures on executive power that exist in the law enforcement arena and carry them over and try to apply them when the country is waging war against foreign foe.

Thank you, Mr. Chairman.

SEN. SPECTER: Thank you very much, Mr. Barr.

Our next witness is Lieutenant Commander Charles Swift. He is defense counsel in the office of

Department of Defense military commissions. He is currently detailed to represent Salim Hamdan, facing trial by the military commission.

Lieutenant Commander Swift is a graduate of the United States Naval Academy and has a law degree from the University of Puget Sound, and graduating cum laude, then, he has been affiliated with the Navy's judge advocate general corps after returning to active service in 1994.

Thank you for your service, Commander Swift, and we look forward to your testimony.

MR. SWIFT: Thank you, Mr. Chairman.

Mr. Chairman, members of the committee, as the chairman stated, my name is Lieutenant Commander Charles Swift, and I'm with the office of military commissions for the past two years, and I represent Salim Achmed Hamdan. I also was in line to represent Mr. Habib until the press releases regarding his treatment caused his -- charges were not approved against him following those press releases.

My testimony today is made in my capacity as Mr. Hamdan's attorney, and as such it does not represent -- necessarily represent the opinions of the Department of Defense or the Department of the Navy.

I first got military commissions in March of 2003. Prior to coming to the commissions, I had absolute respect for military justice. I had worked in it. I'm extremely proud of our military justice system. So it was surprising to me to get to the military commissions, and, during my in brief, be told by Mr. Haynes, the general counsel, that Mr. Lloyd Cutler, who had participated in the Queren (ph) commission as a prosecutor, one of the junior people on it, considered that commission the only thing in his distinguished legal career of which he was not proud.

I really couldn't put those two things together, military justice and not being proud.

After two years at the military commissions, I regret to say, I can. I met Mr. Hamdan in December of 2003. I was detailed pursuant to an order or a request by the chief prosecutor. That request said that the purpose in detailing me was to negotiate a guilty plea.

It also said that my access to Mr. Hamdan was contingent upon the fact that he engage in those negotiations toward a guilty plea, and if he didn't, then we wouldn't have access any more.

In my military career as an attorney I'd never been detailed to represent somebody under those circumstances. When I met him, he'd already been in solitary confinement for more than 30 days -- or 45 days. I call it solitary confinement because Mr. Hamdan was by himself. He was in a windowless room where ventilation was provided only by an air conditioner, and where there was no natural lighting.

He exercised, and the guards confirmed this, only at night for about 30 minutes. He didn't see any other detainees at any other time. And he was already, in my observation -- I'm not a physician, but in my observation, under extreme mental stress.

I had to tell him that we -- that the only way I could guarantee that I would see him again was that if he agreed that we were going to plead guilty to something. To do that ethically I decided that the only way to do that was to tell him that I can't guarantee you, I don't know what the Supreme Court is going to say, but if I'm not allowed to see you --

SEN. SPECTER: This is a guilty plea to what?

MR. SWIFT: War crime, unspecified, sir.

That if I'm not allowed to see you, I'll file a habeas and a mandamus writ in federal court on your

behalf. I don't know that that would work, but that's what I'll do.

I subsequently requested speedy trial. I'd requested that in February of 2004. General Hemingway responded in March of the same month, saying I've requested it under the UCMJ, because Congress had said, in passing Article 36 for commissions, that the standards would never be less than the UCMJ. So I felt that surely a speedy trial would be available. I was told no -- (audio break) -- only when the Supreme Court guaranteed that that option existed.

The problem with military commissions ultimately, sir, comes somewhat in what General Hemingway said, and I have the most respect for him. He said I'm here on behalf of the government. The problem is that General Hemingway advises General Altenburg, who is the ultimate judge. The military commission under the rules doesn't have the ability to make any final ruling. They have to send it to General Hemingway for legal review. But he's also here as the prosecutor. He's already made up his mind. We can't say that this is an independent and fair process. It's not befitting of America. If we had the judge also be the prosecutor, would that be an American process, sirs and ma'am?

Thank you. I yield the rest of my time, and I ask that you consider my written testimony.

SEN. SPECTER: Thank you. Your statement will be made part of the record.

Our next witness and final witness on the panel --

(Comes on mike.) Our next witness and final witness on this panel is Professor Stephen Schulhofer, professor of law at New York University, has authored some 50 scholarly articles and books, six books, and recent published works goes to the core of the issues we have here today called, quote, "The Enemy Within: Intelligence Gathering, Law Enforcement and Civil Liberties in the Wake of 9/11." Thank you very much for coming in today, Professor Schulhofer, and we look forward to your testimony.

MR. SCHULHOFER: Thank you, Senator Specter, members of the committee.

The issues arising out of the Guantanamo detentions are enormously important to our national security because it's essential that we be able to convince the world that America is fighting for freedom and for human dignity. We can't defeat terrorism if we win battles at Tora Bora but lose the cooperation and respect of the world's one billion law-abiding Muslim citizens.

So Guantanamo is hurting us very badly. Senator Cornyn, nobody wants to turn lose the dangerous terrorists that you described. Nobody does. Nobody wants to miss the chance to get life-saving intelligence. But we can't let our actions create dozens of new terrorists for every terrorist we capture, and that's what now seems to be happening.

I've been asked to focus on solutions to this dilemma. That's a problem we've been studying carefully at the Brennan Center for the past two years. Global terrorism poses unique challenges, but when it comes to detention, interrogation and trial, we've found no reason to think that the traditional institutions used in all prior wars aren't up to the task. I should say that again because it's obviously not conventional wisdom. In matters of interrogation, detention and trial, we have found no reason to think that traditional institutions aren't up to the task.

The principles that should guide our response to Guantanamo are basically three.

First, we should stick closely to the pre-9/11 procedures. Doing that will minimize startup costs, and most important it will give us the legitimacy that's been disastrously missing from our detentions at Guantanamo.

Second, our aim should not be to see how many safeguards we can avoid. That's the thinking that has brought us to where we are today. We must maximize transparency and accountability. We must do that, even if the lawyers convince you that it's not legally required.

Third, Congress and the administration need to address these issues quickly. But there's no point in doing that in a way that will simply re-inflame world opinion. The point of acting quickly is to show that we're ready to embrace accountability and accept the rule of law, openly administered by independent tribunals. Courts and courts martial already can do that effectively, particularly with the tools provided by the Classified Information Procedures Act.

With that straightforward solution right at our fingertips, it's simply tragic that we're letting ourselves lose this propaganda war. It's tragic that we're letting hardened terrorists paint themselves as victims and elude the punishments that are long overdue. And it's not because defense counsel have had the audacity to file motions -- that's not the cause of this delay -- it's because the administration is trying to build an entirely new system from scratch.

In terms of intelligence, Admiral Jacoby has one view that you heard read into the record this morning, but let's be clear about this: No other country in the western world claims that successful interrogation requires keeping terrorism suspects in isolation for years on end.

Britain, when it faced a grave emergency in Northern Ireland, extended incommunicado detention from its normal period, which was 48 hours, to a maximum of five days. Five days, Mr. Chairman. For the Israelis, even in areas under military occupation, the detention of suspected terrorists before their first court hearing is limited to a maximum of eight days. How can we be surprised that the world doesn't buy into Admiral Jacoby's view? How can we be surprised that the world recoils at incommunicado detentions that are lasting for more than three years?

Congress and the administration should move quickly to start cutting our losses. As I mentioned, there's no reason to think that traditional, wartime procedures can't handle the issues. The details are in my written statement. That said, some of the key facts are still obscure, and "trust us" is just not an answer that works beyond our own borders.

So as Senator Biden said, we do need a bipartisan study, this one focused on detention, interrogation and trials. I know Washington doesn't want another study commission, but there may be no other way to demonstrate our commitment to the rule of law. And I think what's equally important, there may be no other way to be sure that our tough-minded practices aren't helping the enemy more than they're helping us. The stakes are very high, and we have to get this right.

Thank you for your attention.

SEN. SPECTER: Thank you very much, Professor Schulhofer.

We now come to the questioning of the panel. And we let me begin with you, Commander Swift.

When your instructions to obtain a guilty plea did not work out, you then represented Mr. Hamdan in the habeas corpus proceedings in the United States District Court for the District of Columbia, is that correct?

MR. SWIFT: Yes, sir. SEN. SPECTER: And was there any limitation placed upon your representation of him there?

MR. SWIFT: No, sir, there wasn't.

SEN. SPECTER: Okay.

MR. SWIFT: During this entire proceeding, I want to assure this panel -- this committee that I have never felt any pressure from my seniors or from my bosses or anyone in the military to --

SEN. SPECTER: So you just proceeded to do a lawyer's job?

MR. SWIFT: Sir?

SEN. SPECTER: You just proceeded to do a lawyer's job?

MR. SWIFT: Sir, I proceeded to do the job I believe to be, as a lawyer and an officer, in that situation required.

SEN. SPECTER: Okay. Is it customary or are there many other cases where a detainee like Mr. Hamdan is provided counsel like you, well-trained and versed in the field with experience and expertise?

MR. SWIFT: To my knowledge, two of the cases that were cited for commission's proposition are the Yamashita case and the Quirin case. In both of those, Colonel Royale (sp), who was -- brought that case to the Supreme Court; and the defense counsel, who will go unnamed in the Yamashita case, but went so far as to fly their petition for habeas -- petition for habeas to the Supreme Court out on an airplane from the Philippines. Both represented the same type of capacity.

SEN. SPECTER: There has been testimony here today that counsel is available in these proceedings before the military commission. To what extent have you found that to be true?

MR. SWIFT: Well, there was counsel available at one time, sir. The problem is that that time has passed fairly -- at its height, the office of the military commissions, the defense counsel office, was six full-time attorneys. It's now -- as of July 22nd, it will be down to one unless reliefs are identified. I am no longer attached directly to the office in that I went on to under orders. I continue to represent Mr. Hamdan.

SEN. SPECTER: Would the availability of defense counsel impede what Senator Kyl had spoken about here earlier today, as the interrogation process, which needs to be a continuum?

MR. SWIFT: I don't agree that it would, sir. After an immediate position -- my experience, and I can only speak from my experience here sir, is that more times out of not, that when my client has valuable information, and there is an opportunity to benefit the government and benefit himself, my immediate advice is let's give the information and get the benefit of it.

SEN. SPECTER: Let me turn to former Attorney General Barr.

In the opinion which Judge Green handed down on a series of Guantanamo cases, she found deficiencies in the CSRTs' failure to provide detainees with access to material evidence upon which the tribunal affirmed their, quote, "enemy combatant status," and the failure to permit the assistance of counsel to compensate for the government's refusal to disclose classified information directly to the detainees.

Mr. Barr, to what extent is it realistic to give detainees access to classified information so that they are able to defend themselves? You made a comment about this is not an adversarial proceeding, the rights are limited. How do you -- how do you balance that out, or is there no balance?

MR. BARR: In my mind, it's a prudential judgment by the chief executive, the commander in chief, because it is preposterous to say that there is some kind of constitutional right that foreign persons seized on the battlefield have to look into American intelligence during a war.

I mean, just think about the enormity of that. We pick -- you know, our troops made a judgment, someone's a hostile, and then we have to have an adversary proceeding and then they get free reign to looking into classified material? It's ridiculous.

SEN. SPECTER: Let me turn to Mr. Margulies. My time is nearly expired.

Your representation of Mr. Habib certainly was successful. Was there any evidence to the extent that you feel free to comment about the substance of the government's charges?

MR. MARGULIES: What I can say is that the -- I have reviewed the classified and the unclassified portion of the returns. I can only discuss the classified portions to the extent that other parts -- that has become public. And, for instance, portions of it are discussed in Judge Green's decision.

If the allegations against him were true, he wouldn't be home. If there were an atom's weight worth of truth to them, he'd still be in custody. All I can -- the Department of Defense does not disclose why it is it releases people. What it does is puts them on a plane and sends them home. I'm the only person that actually got to go home with him, and so we had advance notice of it. But all we know is that they made very strong allegations against him, and then the facts came out that it appears that those allegations were based on statements taken when he was in Egypt. And when that fact came out, he was released.

SEN. SPECTER: I'm past time, which I don't like to be. But we're not going to have another round, so I want to follow-up with you, just on one further area, Mr. Margulies.

Your job as defense counsel is obviously to represent your client, to secure his release if you can. But you've heard the testimony and you know the circumstances of the problems of a terrorist attack, and you know the difficulties of producing competent evidence and giving detainees access to confidential information because of the security problems. Can you take a step backward and give us a view as to how to would reconcile these differences?

MR. MARGULIES: I can try.

SEN. SPECTER: If that's too broad a question for now, I will ask you to respond to it. But I'd just like to ask you to respond further when we work through these issues after this hearing is over today. This is just the start of a lot of hard work on the part of the committee and trying to figure out what our constitutional duty is to establish these rules. MR. MARGULIES: Senator --

SEN. SPECTER: What would you say on this tough issue of balance?

MR. MARGULIES: Two things, Senator.

One, my colleagues and I -- and when I say my colleagues, that is the lawyers that I've been working with, and there's now a substantial number, and I have to give a particular nod to the lawyers at the Center for Constitutional Rights who have been my colleagues in Rasul since the case began; and at Sherman and Sterling here in D.C., who have represented the companion case of al Oda. We stand ready to work with you and your colleagues as -- in whatever capacity you want. And I know Professor Schulhofer can address this as well.

Regarding your other question, the federal courts of the United States are steeped in the procedures and statues governing the use and dissemination of classified information. We have dealt with this problem for decades, and dealt with it successfully. In terrorism trials, we know how to create a process that both comports with the requirements of the law and protects national security, classified information. We have an entire body of statutes of Classified Information Protection Act, or CIPA, that can imported into either by legislation or by the habeas rules to control the flow of information in habeas proceedings for the 540 people who are not going to be subject to military commissions.

The problem is that the CSRTs not only rely on classified information that is not shared with the prisoner, but do not share it with counsel. So he must rebut -- in fact, the burden is on him to rebut secret information that is not shared with him that he doesn't know about. That's what -- collectively is what makes it an invalid process.

SEN. SPECTER: Okay. Thank you very much, Mr. Margulies.

Senator Leahy?

SEN. PATRICK LEAHY (D-VT): Thank you, Mr. Chairman.

Thank you, all four of you, for being here.

Professor, let me ask you a question. Something -- I was thinking about this this morning. General Hemingway said one of the reasons it took three years to begin commissions was because they had to build a whole new judicial system. Was it necessary to build a whole new judicial system?

MR. SCHULHOFER: Senator, it was absolutely not necessary. Senator, it was not necessary. For people who have been captured overseas on the battlefield, we have procedures, army regulation 190- 8, for prompt determinations right on the battlefield of their status. We have procedures. If they're claimed to be unprivileged combatants as General Barr claimed a minute ago, our own procedures require further process because treating them as unprivileged means that they don't have the rights to communicate with their families and other principles under the Geneva Convention.

SEN. LEAHY: Let me follow that just a little bit further because you said they're picked up on the battlefield. Have you heard, as I have, that some of the individuals picked up were not captured during combat, or were picked up far from any battlefield, I've been told, in countries such as Bosnia? Does that raise a concern for you? Is that so?

MR. SCHULHOFER: Absolutely. We know for a fact, even though the government has simply refused to give a direct answer to questions about this, but we know for a fact that many of the people, even people seized in Afghanistan, were not seized by our own troops, which was the formulation General Barr mentioned. These are people who were seized by warlords in Afghanistan and literally sold to us under the claim that they had been fighting. That's just Afghanistan for a starter. Then we know for a fact that some people were picked up in Bosnia.

We know for a fact that some of the enemy combatants were arrested right here in the United States. One of them was arrested at O'Hare Airport in Chicago, one of them was arrested by the FBI in Peoria, Illinois.

And these people have been determined to be enemy combatants on the theory that the entire world is a metaphorical battlefield. So we know for a fact that that's going on.

SEN. LEAHY: It's interesting, and I'm not looking for an answer, you said, the entire world is a metaphorical battlefield. And we know that we'll be facing terrorists as long as anybody in this room lives. So it gives you an awful lot of leeway if you follow these rules.

Lieutenant Commander Swift, let me ask you. You've been in the military for 18 years. You're obviously, therefore, as career military officer -- defending suspected terrorists probably doesn't make you the most popular person at the Officer's Club, if I'm correct.

MR. SWIFT: One, I was concerned about that sir.

SEN. LEAHY: Yeah.

MR. SWIFT: To relate though, I think that this is incredibly important to the military. I went back to my 20th reunion at the Naval Academy. One of the people I was kind of worried about seeing is a Marine Corps Lieutenant Colonel, who has had an awful lot of combat time; he's been in every campaign. And he came up to me at the reunion and he looked at me and he said, "I go out there everyday to fight for our freedom on the battlefields and -- (inaudible). Don't you dare stop fighting in the courts.

SEN. LEAHY: I'm glad -- as the proud father of a former Marine, I'm delighted to hear that response. And I mean, when I was a prosecutor, I recall always arguing that we get the best defense attorney

possible. The system works better.

Brigadier General Hemingway's testimony this morning about the military commissions, anything you'd like to add to his testimony or disagree with his testimony?

MR. SWIFT: I would start principally with the idea of rights.

The first thing we do with is list rights, but they don't read you the last paragraph. The last paragraph says that nothing in the instructions that supposedly creates these rights actually create a right in any court. Moreover, they're subject to change at any time and cannot be enforced by the accused. Now, to me, a right is something you get to keep, you get to have unless due process of law takes it away from you. Not a change in the instructions, and it can be enforced.

So I think one of the -- when we start with the entire process is when these have been lifted as rights to you, they don't actually -- they are not actually rights. They are the current processes, and they can be changed at any time, and they are unenforceable by the accused.

SEN. LEAHY: I think I referred to this morning those pesky rights, and, again, when I was a prosecutor -- and Senator Specter had far more experience as a prosecutor -- those rights often times made our life more difficult, but I don't think either one of us would ever suggest we not have them.

Now the administration's argued that if the Geneva Convention's applied to the war on terror, the members of al Qaeda would receive prisoner of war protections, and we'd not be able to interrogate them.

One, is that correct? And, secondly, what advantages would there be for the U.S. to apply the Geneva Conventions to the war on terror?

MR. SWIFT: There would be, one -- just to relate from history sir, the Japanese were certainly considered during World War II to be fanatical, willing to die rather than surrender, and in fact they had the precursor of suicide bombers, the Kamikaze pilot.

SEN. LEAHY: Battles of Mount Suribachi show that.

MR. SWIFT: Yes, sir. The most effective interrogations of the Japanese who were captured were conducted in accordance with the Geneva Convention. They were conducted by Marine colonels, who was steeped in the Japanese language, their philosophy and understanding. By treating them kindly and humanely, he undercut the propaganda that they'd been fed, that the Americans were out to simply annihilate the Japanese. When they found that not to be true, the cooperated.

I would also say that as far as applying the Geneva Conventions to al Qaeda, I would hearken back to what the Milliken Court said. At the end of the court, it said it makes no sense to apply the pains of the law of war to those who cannot claim its protections. Milliken was a terrorist, presumably, of his day. He was supposed to be insurrecting -- supporting and insurrection in the North against -- overthrow of the army and against -- behind enemy lines. It said if you're not going to apply the protections of the military to him, you can't apply the military law to him. If we apply the Geneva Conventions, say we're holding ourselves under the accountability, then we can say, and we're going to hold you accountable, too. We cannot start this process by saying, well, the Geneva Conventions don't apply to you. You have no protections, and we don't have to follow them, and now we're going to hold you accountable for violating them. SEN. LEAHY: Thank you, Commander. I am proud of your response, and I think you reflect the feelings of many in the military, and I think you're fighting to make sure we have all of those rights. All of the military are, and I applaud you for upholding them.

I wonder, Mr. Chairman, could I ask Attorney General Barr one question?

SEN. SPECTER: Sure. Go ahead, Senator Leahy.

SEN. LEAHY: One, it's always a pleasure to see Attorney General Barr here. He's no stranger to this committee in good times and bad. I hope they were mostly good times.

Let me ask you, John Walker Lindh was a U.S. citizen who fought alongside the Taliban. I'm not holding any -- (inaudible) -- for Mr. Lindh, but he was prosecuted in federal court; he's now serving a 20-year sentence. Yasir Hamdi was another U.S. citizen. He was captured in Afghanistan, American citizen. He was designated an enemy combatant. He was held in a Navy brig for more than two years. He was not allowed either access to a lawyer or family. The Supreme Court then said he's entitled to a fair hearing, highly radical ruling from highly radical Supreme Court. But the administration said, Well, rather than give him a hearing we'll release him. So one minute he's too dangerous to be allowed access to a lawyer, the next minute all the sudden he's free to go.

Quite a bit different treatment between Lindh and Hamdi. Which, case had a better result?

MR. BARR: Well, obviously, the Lindh case had a better result. But I think you're mixing up two different things here.

One is the legal regime that applies to American citizens, and I think the administration is always taken the position and recognized that in any war you will find American citizens fighting in enemy forces. That's been the case. That was the case in World War II. There were Americans fighting in the Wehrmacht. And we had captured some. And the administration took the position that they were always entitled to habeas corpus; they can get habeas corpus review of their detention. And the question is what standard applies? What is the showing that has to be made in habeas corpus review to justify continued detention of an American citizen? It didn't address foreigners who do not have a connection with the United States. Now I don't know why the administration -- and the court laid out very roughly what the procedures are. And those are essentially the procedures that are being given to the foreign detainees at Guantanamo.

But I don't know why the administration dropped the case, although I've heard Mr. Margulies talk about all this great way we have of handling classified information. That's nonsense. I had to make the decision to drop many prosecutions, precisely because, at the end of the day, there was no way of protecting that classified information in a criminal prosecution if it was material to the --

SEN. LEAHY: So Hamdi got a free pass?

MR. BARR: I don't know why they dropped.

SEN. LEAHY: Thank you.

SEN. SPECTER: Thank you very much, Senator Leahy.

Senator Cornyn?

SEN. CORNYN: Thank you, Mr. Chairman.

I was thinking about the subject matter of today's hearing and thought about the rules by which enemy combatants are detained, interrogated and the like, and it struck me as somewhat ironic when I considered what sort of rules and facilities that are provided by our enemy for Americans and our allies who are captured during hostilities. And, of course, it occurred to me also that our enemy doesn't capture any Americans or allies; they kill them. They blow them up, which I think, again, demonstrates that we are engaged in a different kind of conflict and a different kind of war, but it is, nonetheless, a war, but with an enemy that does not respect or observe the law of war or the conventions that we think of when we think about two countries fighting each other through uniformed forces.

And as the 9/11 commission and others have observed, we can't rely strictly on a law enforcement paradigm that, it seems, has infused so much of the comments here today. We've got to

adopt a new paradigm, both to share intelligence and to deal with the need to get actual intelligence from these detainees and, yes, to even detain them, these dangerous individuals who are likely to go back and kill more Americans, if released, until the end of the hostilities, as peculiar as that may seem to our modern sensibilities.

I certainly understand and endorse the work that Commander Swift and Mr. Margulies are doing as lawyers. As lawyers in an adversary system, their job is to present the best arguments that they can think of for their client, and I understand and respect that role that lawyers play. But I do believe, and I think we all would agree, that the court's ultimately the ones who are going to have to make the decision on this, and, in fact, the courts have. And indeed, in some cases, the administration has prevailed; in some cases, they have not prevailed.

But let me just ask you, Mr. Barr, with regard to the Geneva Convention issue, hasn't the administration's position that al Qaeda fighters do not have privileges of POW been upheld by federal courts? Matter of fact, according to my count, at least three federal courts -- it's been endorsed by the 9/11 commission and by the Schlessinger Report. Is that your understanding, sir?

MR. BARR: Yes, Senator, that is my understanding, and, as I said earlier, I have not heard any allegation or contention that could possibly bring al Qaeda under the protections of the Geneva Convention.

SEN. CORNYN: Now with regard to the Supreme Court's recent decisions, which we're talking about here during this hearing, Mr. Barr, didn't the Court agree with the administration's position that the president has the power to detain enemy combatants and reject legal challenges to that position?

MR. BARR: Yes, I think -- one of the things that's been missed by the media in reporting those decisions is -- or the core positions of the administration that were sustained, the court specifically said, Yes, you can detain enemy combatants. It's not punitive; it's not a trial-type situation where you're trying to punish them.

Number two, it said you could even detain American citizens as enemy combatants. It was in that context that they said -- that they elaborated on the standard you need for keeping an American citizen in the United States. They also seemingly endorsed use of military tribunals, and they pointed out that one of the -- that military tribunals are inherently flexible, and they talked about the need for flexibility in dealing with these kinds of procedures in the national security arena and how the flexibility of military tribunals permits that.

And, in fact, notwithstanding the good professor's comments that we sort of have things on the shelf we can use, that's simply not true. These kinds of situations always involved unique circumstances, which is why we have generally constituted military commissions directed at specific conflicts. And I think that the president's order did exactly what we needed for this particular conflict.

SEN. CORNYN: Thank you very much.

Well in the end, I at least hope we can all agree that, notwithstanding the arguments people may make in court or people of good faith who are trying to advance the cause of actually getting the decision on this, that we will ultimately at least agree that the courts are going to be the ones who are ultimately going to decide the parameters of the rights accorded to these detainees, as they have already largely, through the Supreme Court's decisions in Hamdi and Padilla and others.

Thank you very much, Mr. Chairman.

SEN. SPECTER: Thank you very much, Senator Cornyn.

Senator Feinstein?

SEN. DIANNE FEINSTEIN (D-CA): Thank you very much, Mr. Chairman. Mr. Chairman, I just want to committee to know that today Attorney General Gonzalez, I gather in Brussels, has said, and I quote -- and this is about Guantanamo -- "We've been thinking about and continue to think about whether or not this is the right approach. Is this the right place? Is this the right manner in which to deal with unlawful combatants?" he told reporters in Brussels and I must commend him for that open view.

Mr. Chairman, I'd also like to put in the record something we downloaded from the White House Fact sheet yesterday, and that's a statement on detainees, and it says, "The United States is treating, and will continue to treat, all of the individuals detained at Guantanamo humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of the Third Geneva Convention 1949."

Then the fact sheet goes on to discern, Taliban are entitled to POW status, but al Qaeda detainees are not. And I think, it a way, that's the -- I think in a way, it's a determination of who is who, guilty of what, that's a real problem here. And I've just about reached the conclusion that this special military commission is not a positive thing, but the Uniform Military Code of Justice really is. And -- could I ask this question of anybody that knows? How many cases have come before the military commission?

MR. : Certainly, ma'am.

Tod date, there are four. Two cases actually had commissions convened in them. The other two cases did not get that far. So there are four people identified at present. Two of the individuals who are to be tried by military commissions requested to represent themselves. Excuse me, one did. And then the other one, there was a question regarding counsel, so they never started. And so there are a total of four.

SEN. FEINSTEIN: Thank you. Commander Swift, if I might, you mentioned that you had been told you could only represent Mr. Hamdan, as long as it was to negotiate a guilty plea. Did you receive any document to that effect?

MR. SWIFT: Yes, ma'am, I did.

SEN. FEINSTEIN: And, could you tell us about that document, please?

MR. SWIFT: Ma'am, it was a target letter received to the acting chief defense counsel, who at that time was Colonel Will Gunn (sp). He's now the chief defense counsel. On December 15, 2003, it requested Colonel Gunn (sp), who was the detailing authority, to make counsel available for Mr. Hamdan. It was from the chief prosecutor, Colonel Fred Bork (sp), who was at that time the acting chief prosecutor for the military commissions. And he said they were considering preparing charges, and they desired to have a defense counsel detailed. He said put some limitations on that.

SEN. FEINSTEIN: And what were those limitations?

MR. SWIFT: Specifically, ma'am, he said that he was authorized to detail a military defense counsel to advice Mr. Hamdan on how he might engage in pretrial discussions with view toward resolving the allegations against him. The prosecutor's office would make arrangements with commander, Task Force -- Joint Task Force Guantanamo for such detailed military counsel to have access to Mr. Hamdan. SEN. FEINSTEIN: Now how do you interpret that?

MR. SWIFT: Well, I interpret it most on those last lines, ma'am: "such access shall continue so long as we are engaged in pretrial negotiations. I interpreted that, ma'am, to mean when I was detailed, that the only way I could see Mr. Hamdan was we were negotiating for a guilty plea. There are no negotiations in a not guilty plea.

SEN. FEINSTEIN: Mr. Chairman, may I enter that memo into the record, please?

SEN. SPECTER: Without objection, it will be made part of the record.

SEN. FEINSTEIN: Thank you.

And, I'd like to ask Professor Schulhofer a question. In your written testimony, you refer to Congress' lawmaking power under Article I, Section 8 of the Constitution. And, it's been my view that Congress has both the power and the responsibility to take on the issue of detentions and interrogations, specifically pursuant to two clauses of Section 8, to make rules concerning captures on land and water, and to make rules for the government and regulation of the land and naval forces. Do you agree, and are these the particular sources you're referring to?

MR. SCHULHOFER: Senator, I believe that those --

SEN. SPECTER: Microphone.

MR. SCHULHOFER: Thank you, Senator.

Yes, I believe that those two clauses are as explicit and clear as anything could be, and they're not in footnotes. They say that Congress shall have the power to make rules concerning captures and to make rules concerning the regulation of the armed forces. In the absence of congressional action, unquestionably the president must take action as commander-in-chief. But there is absolutely no room for doubt that this is an appropriate responsibility for Congress.

SEN. FEINSTEIN: I think, Mr. Chairman, at best what we have is a very confused situation, depending on interpretation -- how commanders interpret, how orders are given -- and I think we've seen this over and over again. What is clear to me is that we have the legal responsibility to make the rules, and I think we ought to do that. And I think we ought to see that they are consistent with the Geneva Conventions.

And I'd like to ask you this question. How would you recommend that the question of habeas corpus be handled?

MR. SCHULHOFER: Thank you, Senator.

I've tried to spell out some of the details in my written testimony. I think one place to start, just to be very clear about this, we are not talking about a law enforcement paradigm. I think when -- it's quite misleading to think that those like myself who have concerns about this process are simply saying you should follow a law enforcement paradigm. What we are saying is that we should follow the normal military procedure for people who are captured in battle.

And that -- the normal procedure would have been a prompt battlefield determination of status. Three years later, it's very difficult to do that when the president and the secretary of Defense and right down the chain of command have already announced that these people are the worst of the worst. So in that context, there needs to be another process.

With respect to people accused of committing war crimes, there is as well a process already in place in terms of military courts martial. We're not talking about ordinary law enforcement; we're talking about military courts martial under the Uniform Military Code of Justice. So that would be the beginning framework.

I think there's room for Congress to make refinements of the Classified Information Procedures Act. If Congress is not able to act, the courts have residual authority to address new situations. But that would be the basic approach.

And then I think the last thing that I would want to say about that is I've said this is a question of the war paradigm, but there is one important limit to that. The war analogy -- if we accept the idea that the entire world is a battlefield -- and I understand that. My office is less than a mile from Ground Zero. I

understand that extremely well. And September 11th for us was not a day, it was months -- months -- that we had the smoke and the National Guard. It was months that we could smell human flesh burning at Ground Zero. So I know what that means. But if we accept the analogy, the conclusion is that the president then has unlimited discretion to swallow up the law enforcement paradigm --

SEN. SPECTER: Mr. Schulhofer, could you summarize this answer? We're trying to -- MS. SCHULHOFER: Yes.

SEN. SPECTER: -- at least conclude by 1:30.

MR. SCHULHOFER: I apologize, Senator. I think I've actually reached the conclusion of my answer, and I will be happy to elaborate further after the hearing.

SEN. SPECTER: That sounds like a good idea.

Anything further, Senator Feinstein?

SEN. FEINSTEIN: Thank you.

SEN. SPECTER: Senator Sessions.

SEN. JEFF SESSIONS (R-AL): Mr. Chairman, this has been a good and interesting discussion. I wish I'd been able to hear all of it since the second panel had come. I think in general the tone of this hearing has suggested widespread abuses on the part of our military, whereas what really is at stake here is academic -- not an academic, but a legal debate over exactly what procedures ought to be utilized. And if someone has violated the procedures, they ought to be disciplined.

Commander Swift, with regard to your appointment, isn't it true that you were appointed as counsel for Mr. Hamdan for all matters relating to military commission proceedings involving him?

MR. SWIFT: That was --

SEN. SESSIONS: Not just for solely to take a guilty plea.

MR. SWIFT: Sir, when I was appointed, my access to Mr. Hamdan was not controlled by the office of the chief defense counsel. It was controlled by the prosecutor. And the prosecutor told me at the time of my appointment that my access was controlled contingent upon him pleading guilty. In fact, he told me further that I had to give him an answer in 30 days, and if I didn't give him an answer in 30 days, that I would have to request extensions.

He was in control of whether I saw my client or not. I believed as a lawyer that once I have an attorney-client relationship, that I have a duty to represent him no matter what. But the truth of the matter was that I had to advise Mr. Hamdan of the real practicalities, and that was that if he wasn't going to plead guilty, he might not see me again.

SEN. SESSIONS: Well, Lieutenant Commander Swift, you are a Lieutenant Commander, a JAG officer. Prosecutors don't order around JAG defense counsel. I know that and you know that. At least in the little time I had as a JAG officer -- and I would note that the order directing you to represent him said "all matters to military commission proceedings," close quote.

MR. BARR: Senator, can I add something there?

SEN. SESSIONS: Yes.

MR. BARR: You know, let's put something in perspective here. The United States has a lot of people that they could charge with war crimes. We're not under any obligation to try these people when

they want to be tried. We can try them when we want to try them. And you know, Rudolph Hess was captured in 1939 and he was tried in 1946. These people are in detention anyway as combatants, so we can take our time and judge who we want to do. And it doesn't surprise me that as an initial matter, in terms of allocating our resources, the United States wanted to see if anyone was ready to plead guilty.

And, if they're ready to plead guilty, we'll provide them with counsel. If they're not ready to plead guilty, they can stand in line and wait to be prosecuted down the road. That's not a surprising thing.

SEN. SESSIONS: I would also, Mr. Barr, that the --

SEN. LEAHY: Can we hear the Lieutenant Commander's answer, though?

SEN. SESSIONS: I thought he answered.

MR. SWIFT: Sir, I would like to respond to that.

As you said, this was extraordinary circumstances, though. I can't see my client without permission of JTF. I have to write a message every single time and be approved --

SEN. SESSIONS: Well, you're unhappy that you have to write a message to see the client. That's one thing. It's another thing to say that you weren't commissioned to represent him on anything but a guilty plea.

MR. SWIFT: My access was contingent upon it, sir. Also, he differed from the situation that Mr. Barr described in that he was in solitary confinement. Had he been among the general detainee population, I would have -- I would be more willing to agree.

MR. BARR: Another point on that. Anyone who's gone into a federal maximum security prison -- you know, these violin strings about people being held in segregation, getting out of their cell, 20 minutes a day, I'm sorry. That's our system in our maximum security prisons in the United States for American citizens.

SEN. SESSIONS: I couldn't agree more, Attorney General Barr. I would just like to point out that we have regular visits by the Red Cross. Two hundred of these detainees now have habeas corpus petitions pending in federal courts. A thorough investigation of all procedures has been undertaken as part of ten major reviews, assessments, inspections and investigations, and we've had hearings on that repeatedly. Seventeen hundred interviews have been conducted, 16,000 pages of documents have been delivered to Congress. Detention operations, enhancements, improvements, having involved increased oversight and expanded training of the guards and interrogators to improve facilities and new doctrine. Three-hundred-and-ninety-plus criminal investigations have been completed or are ongoing. More than 29 congressional hearings have addressed this issue -- 29 congressional hearings.

Those responsible are being held accountable. In the Army, one general officer has been relieved of command, 35 soldiers have been referred to trial by court martial, 68 soldiers have received non-judicial punishment, 22 memoranda of reprimand have been issued, 18 soldiers have been administratively separated. The Navy has had nine receive non-judicial punishment. The Marines, 15 convicted by court martial, seven received non-judicial punishment and four reprimanded.

So I think it's important for the people who are listening to this hearing today to know that our United States military takes his issue seriously. They brought up the Abu Ghraib matter before the press did. They announced it. They commenced their own investigation. People have been prosecuted and convicted. And we are not going to tolerate the kind of behavior that we've seen in certain of these instances.

But the fact is these are not American criminals, Mr. Barr -- I think you've indicated that -- and they're not entitled to the same due process rights that an American citizen does who expects to be tried in

federal district court somewhere.

And when -- if my time -- could I ask Mr. Barr one more thing?

As Attorney General of United States, you understand there is a -- executive has certain powers, the courts have certain powers and the legislative branch has certain powers. Speaking as an attorney general who would be representing a president of the United States, do you have concerns about what could be an erosion of the executive's power to conduct a war on behalf of the citizens of the United States?

MR. BARR: Absolutely, Senator. And what we're seeing I think today is really a perversion of the Constitution. The Constitution sets up a body politic, members of a political community. And in that body politic we have rules that govern us. And what the Constitution is all about is to say that when the government acts against a member of the body politic to enforce our own domestic laws -- that is, the government acting against one of the people -- the judicial branch backs off and acts as a neutral arbiter, and various standards are imposed on the executive.

And those standards sacrifice efficiency in order to be perfect. We don't want to make a mistake. We'd rather let guilty people go and pay that price because we want to get it absolutely right, okay? That's not what's going on here. What's going on here is our body politic, the people, are under attack from foreigners, a different people. They're trying to impose their will on us and kill us.

In that situation the very notion of the judiciary backing off and playing some role as a neutral arbiter between the people of the United States and a foreign adversary is ludicrous and perverse. And the idea that we can fight a war with the same degree of perfection we try to impose on our law enforcement system, which is to say we will not tolerate any collateral damage in law enforcement; we have to be absolutely mistake free. And to try to use those rules and impose them on a war-fighting machine, to say it has to be absolutely perfect, and we can't hold anyone in detention after all kinds of due process.

The idea that someone is going to be -- a foreign person that our troops believe is a combatant is going to be held -- we're going to turn the earth upside down and turn our army into detectives to figure out whether it's true or not is ridiculous. We'll lose wars. We'll lose our freedom.

SEN. SPECTER: Commander Swift, do you have a final comment? I note you straining to be recognized, so you are.

MR. SWIFT: Thank you, sir.

Just a couple in response to what I've heard here today. I would point out that where Mr. Hamdan is held is equivalent of the maximum security prisons of the United States. The difference is, it's called administrative vice criminal sanction. I agree that we need every tool available as a military officer to fight and win wars and that they are not the same things.

I would point out, though, that when we go to hold accountability, when you hold a trial, sir, it says as much as about the man who's being accused, it says as much about the society that holds the trial, as it does about the individual before it. Our trials in the United States reflect who we are. They're the models of the world.

We heard statistics from Senator Sessions, and I couldn't agree more. What they demonstrated was that the Uniform Code of Military Justice works. It was able to try people who had been inside those prisons. It was -- al of those trials are done. It worked great. Why don't we use it and start holding the people who attacked us accountable? Thank you for your time, sirs.

SEN. SPECTER: Thank you very much.

Senator Leahy has one more comment, and then we're going to conclude.

SEN. LEAHY: Mr. Chairman, I would note that, with all due respect to the administration, coming forward on Abu Ghraib and Afghanistan, a lot of us, a lot of people had asked questions about what was going on there long before anything was said by the administration, and it was said only after it became public. Well, we'll go back --

SEN. GRAHAM: The general in his press briefing announced that they were conducting an investigation of abuses in Abu Ghraib before anybody raised it.

SEN. SPECTER: We'll continue this debate at tomorrow's executive session. It starts at 9:30. Do you have a final statement, Senator Leahy?

SEN. LEAHY: Just that Attorney General Barr, whom I have a great deal of respect for, made a strong statement about how people are held in maximum security allowing them only a few minutes out and everything else.

I'd just remind him of something that he's well aware of. Those are people who had been convicted and then sentenced. They weren't just being held under charges.

Thank you, Mr. Chairman.

SEN. SPECTER: Well, thank you, Senator Leahy, and thank the panels, the first panel. We have a great deal of work to do beyond what we have done here today. And we're going to be following up on some of the specifics for ideas as to how to implement the kinds of approaches which have been articulated here today.

I want to thank the staffer -- (inaudible) -- especially for wading through that extraordinarily difficult series of judicial opinions. It's worthwhile to go back to some of the basics. And this has been as lively a Judiciary Committee hearing as we've had in a long time, absent a Supreme Court nomination. And we have a lot more work to do to follow up.

So thank you all.

END.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, June 16, 2005 8:57 AM
To: Reyes, Luis (SMO)
Subject: RE: Senate Judiciary Committee Hearing on Detainees 6/15/05 - Transcripts

thanks

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, June 16, 2005 8:56 AM
To: Gorsuch, Neil M; Wiggins, Mike
Subject: FW: Senate Judiciary Committee Hearing on Detainees 6/15/05 - Transcripts

For your ref.

-----Original Message-----
From: Wade, Jill C
Sent: Thursday, June 16, 2005 8:54 AM
To: Owen, Peter B; Reyes, Luis (SMO); Frank, Michael
Subject: Senate Judiciary Committee Hearing on Detainees 6/15/05 - Transcripts

Good morning.

Attached please find transcripts from both panels of the SJC Detainee hearings on 6/15/05. I hope these are helpful.

<< File: SJC-DetaineeHearing-Panel2-061505.txt >> << File: SJC-DetaineeHearing-Panel1-061505.txt >>

Thank you,
~J~

Jill C. Wade
Office of Legislative Affairs
U.S. DEPARTMENT OF JUSTICE
(202) 514-3597

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Friday, June 24, 2005 11:00 AM
To: Gorsuch, Neil M; Swenson, Lily F
Subject: Fw: 6/24/05 Civil Division News

Fyi

-----Original Message-----
From: Magnuson, Cynthia <Cynthia.Magnuson@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Fri Jun 24 10:56:39 2005
Subject: RE: 6/24/05 Civil Division News

Sure thing, Luis.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, June 24, 2005 10:54 AM
To: Magnuson, Cynthia
Subject: Re: 6/24/05 Civil Division News

Thanks for these Cynthia. Please add Neil Gorsuch and Lily Swenson of our office to the list. Thanks so very much.

-----Original Message-----
From: Magnuson, Cynthia <Cynthia.Magnuson@SMOJMD.USDOJ.gov>
To: Allen, Gary (CIV) <GAllen@CIV.USDOJ.GOV>; Apisson, Elizabeth M <Elizabeth.M.Apisson@SMO JMD.USDOJ.gov>; Baxter, Felix (CIV) <FBaxter@CIV.USDOJ.GOV>; Boyle, Brian D <Brian.D.Boyle@USDOJ.gov>; Branda, Joyce (CIV) <JBranda@CIV.USDOJ.GOV>; Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; Bukvics, Jennifer (CIV) <JBukvics@CIV.USDOJ.GOV>; Claterbos, Barbara (CIV) <BClaterb@CIV.USDOJ.GOV>; Cohen, David M. (CIV) <DCohen@CIV.USDOJ.GOV>; Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>; Davidson, Jeanne (CIV) <JDavidso@CIV.USDOJ.GOV>; Eubanks, Sharon (CIV) <SEubanks@CIV.USDOJ.GOV>; Fargo, John (CIV) <JFargo@CIV.USDOJ.GOV>; Fielding, Gabrielle (CIV) <GFieldin@CIV.USDOJ.GOV>; Figley, Paul (CIV) <PFigley@CIV.USDOJ.GOV>; Flentje, August (CIV) <AFlentje@CIV.USDOJ.GOV>; Garren, Timothy (CIV) <TGarren@CIV.USDOJ.GOV>; Glynn, J.Patrick (CIV) <JGlynn@CIV.USDOJ.GOV>; Hertz, Michael (CIV) <MHertz@CIV.USDOJ.GOV>; Hollis, Robert (CIV) <RHollis@CIV.USDOJ.GOV>; Hunt, Jody (CIV) <JHunt@CIV.USDOJ.GOV>; Hussey, Thom (CIV) <THussey@CIV.USDOJ.GOV>; Jeweler, James (CIV) <JJeweler@CIV.USDOJ.GOV>; Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>; Keisler, Peter D. (CIV) <PKeisler@CIV.USDOJ.GOV>; Kohn, Chris (CIV) <CKohn@CIV.USDOJ.GOV>; Kopp, Robert (CIV) <RKopp@CIV.USDOJ.GOV>; Letter, Douglas

Chris (CIV) <Ckohn@CIV.USDOJ.GOV>; Kopp, Robert (CIV) <RKopp@CIV.USDOJ.GOV>; Letter, Douglas (CIV) <DLetter@CIV.USDOJ.GOV>; Levine, Larry (EOIR) <Larry.Levine@EOIR.USDOJ.GOV>; Lindemann, Michael (CIV) <MLindema@CIV.USDOJ.GOV>; Madden, Kevin <Kevin.Madden@SMOJMD.USDOJ.gov>; Magnuson, Cynthia <Cynthia.Magnuson@SMOJMD.USDOJ.gov>; McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Meron, Daniel (CIV) <DMeron@CIV.USDOJ.GOV>; Miller, Charles S <Charles.S.Miller@SMOJMD.USDOJ.gov>; Morgan, Julian (CIV) <JMorgan@CIV.USDOJ.GOV>; Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>; Nowacki, John <John.Nowacki@SMOJMD.USDOJ.gov>; Pyles, Phyllis (CIV) <PPyles@CIV.USDOJ.GOV>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Rivera, Jennifer (CIV) <JRivera@CIV.USDOJ.GOV>; Schiffer, Stuart (CIV) <sschiffe@CIV.USDOJ.GOV>; Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>; Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; Senger, Jeffrey M <Jeffrey.M.Senger@SMOJMD.USDOJ.gov>; Sierra, Bryan <Bryan.Sierra@usdoj.gov>; Thirolf, Eugene <ethirolf@CIV.USDOJ.GOV>; Wiggins, Mike <Mike.Wiggins@SMOJMD.USDOJ.gov>; Wilson, Karen L <Karen.L.Wilson@SMOJMD.USDOJ.gov>; Zwick, Ken (CIV) <kzwick@CIV.USDOJ.GOV>
Sent: Fri Jun 24 10:50:42 2005
Subject: 6/24/05 Civil Division News

Federal Hawaii, Alaska workers file lawsuit for equal pay

Porn industry strikes temporary deal over new rules

LDS Church can join Martin's Cove defense

Opinion: Snuff out this silly suit

Opinion: Tobacco case money goes up in smoke

Editorial: U.S. should quickly fix Indian Trust Fund

Editorial: Cobell and Indian leaders propose $27.5 billion IIM settlement to end lawsuit.

AP
June 23, 2005

Federal Hawaii, Alaska workers file lawsuit for equal pay

HONOLULU_A federal lawsuit is challenging a 1990 law that has meant less retirement pay for federal workers in Hawaii and Alaska than their counterparts in the contiguous 48 states.

Mainland retirees could get 10 to 25 percent more in retirement pay than island residents because of something called "locality pay," which is added on to their base federal salary.

The purpose of locality pay was to give federal workers pay comparable to private-industry peers in their particular city, said Rex Fujichaku, a lawyer for residents named in the lawsuit.

Workers in Hawaii and Alaska do receive a cost-of-living allowance to compensate for living costs substantially higher than areas other than the District of Columbia or for working conditions substantially different from the continental U.S.

But that extra pay is not included in retirement benefit calculations, and Hawaii and Alaska are not

included in the locality pay provision.

The lawsuit filed in U.S. District Court in Honolulu Wednesday names 10 plaintiffs, including three Hawaii residents, but seeks class action status on behalf of 22,000 federal employees in the two states.

"Where it really hurts these people is when they retire," said Honolulu attorney Margery Bronster. "Some of the plaintiffs have picked up and moved to the mainland in order to build that bump into the highest rate for retirement."

The lawsuit claims the exclusion of Hawaii and Alaska in the locality pay law is unconstitutional and asks that the workers be given locality pay, back pay and compensation for the alleged constitutional violations. It also seeks to include the workers' allowances in retiree benefit calculations.

A telephone message left Thursday by The Associated Press with the U.S. Department of Justice in Washington was not immediately returned.

The reason that Hawaii and Alaska are excluded from locality pay is not addressed in either the law or legislative history of the measure, Fujichaku said.

"That is a big mystery," he said.

Fujichaku said he did not know the total amount of money the lawsuit would be seeking.

Joyce Matsuo retired last year as an Internal Revenue Service auditor and is among the Hawaii residents named in the lawsuit.

She said she would receive about $400 more per month in benefits under the locality law.

"Now that I'm retired, I feel the harm that's been done to federal employees in Hawaii and Alaska," she said.

END

AP
June 23, 2005

Porn industry strikes temporary deal over new rules

By JON SARCHE
Associated Press Writer

DENVER_Representatives of the multibillion-dollar pornography industry announced a deal Thursday with the federal government to temporarily avoid records inspections under new child-porn regulations until a judge decides whether they are constitutional.

The Woodland Hills, Calif.-based Free Speech Coalition, which represents about 750 actors, producers and others involved in the adult entertainment industry, had asked a federal judge in Denver to temporarily block the new rules, which went into effect Thursday and require producers to verify each

temporarily block the new rules, which went into effect Thursday and require producers to verify each performer's identity and age.

Under the agreement, the government will not inspect records held by members of the coalition until at least 30 days after U.S. District Judge Walker Miller holds an Aug. 8 hearing on the group's request. Prosecutors still could file charges against coalition members suspected of violating the rules during the agreement.

Producers have 30 days to comply with the new regulations, approved last month by Attorney General Alberto Gonzales. After that, violations carry a penalty of up to five years in prison; subsequent violations could be punished by up to 10 years in prison.

The coalition, its Colorado chapter, and California-based pornography producers David Connors and Lenjo Inc. said in their request for a restraining order that the regulations could prohibit the distribution of pornographic material produced since the mid-1990s.

In written arguments, Justice Department attorneys said federal courts have upheld previous versions of the rules in free-speech challenges, and said any burden imposed by new record-keeping requirements was far outweighed by the government's interest in fighting child pornography.

Since 1990, pornography producers have been required to keep records on performers involved in depictions of sexual conduct. The law was changed in 2003 to toughen penalties, broaden the requirements and clarify that Internet-based producers also had to keep records.

Free Speech Coalition lawyers said in their lawsuit that the new regulations could block the distribution of huge amounts of material made in the mid-1990s because producers who had complied with the old version of the law would have to apply strict new standards to verify the ages and identities of performers in material dating to July 1995.

They also said the new regulations cover producers who had been exempt from the record-keeping requirements under a 1998 ruling by the Denver-based 10th U.S. Circuit Court of Appeals because they re-issue others' material rather than produce original material.

Estimates of the scope of the porn industry range from $4 billion to $13 billion.

END

Deseret Morning News
June 24, 2005

LDS Church can join Martin's Cove defense

Leigh Dethman, Deseret Morning News

The Church of Jesus Christ of Latter-day Saints can join the federal government's defense against a lawsuit protesting the church's lease of Martin's Cove in Wyoming, a federal magistrate has ruled.

In a lawsuit filed in March, the ACLU charges that the October lease of Martin's Cove, made possible

through legislation sponsored by former Utah Congressman Jim Hansen, violates the establishment and free-speech clauses of the First Amendment.

The ACLU argues the lease agreement unfairly gives the LDS Church too much control over the Martin's Cove site, which is about 60 miles southwest of Casper, and that visitors are subjected to proselytizing or restricted from some areas if they're not LDS.

U.S. Magistrate Judge William Beaman on Tuesday granted the church's motion to join the lawsuit.

In its motion to intervene in the case, the LDS Church argued it is doing a public service by maintaining and preserving the site and saving the Bureau of Land Management the expense of doing so.

It contends that, although a visitors center on church-owned property near the cove does contain information about the church, visitors are not forced to go there.

Martin's Cove, which is on BLM land, is the site along the historic Mormon trail where a group of LDS handcart pioneers took refuge in 1856 after they were caught in a fierce snowstorm on their journey to Salt Lake City. More than 100 died in the storm.

LDS missionaries serve as trail and museum guides, and Martin's Cove is accessible only through a private piece of property purchased by the church in 1996 and turned into a visitors center.

The ACLU's lawsuit asks that the lease be terminated and that future leases to the church be prohibited.

The suit was filed in Cheyenne's federal court on behalf of the Seattle-based Western Land Exchange Project and four Wyoming residents who claim to have been offended by an overriding LDS theme while visiting Martin's Cove. It names Interior Secretary Gale Norton and BLM Director Kathleen Clarke as defendants.

Congress authorized the lease in 2003. It gives the church control over the 933-acre area for 25 years.

In its motion, the church disputes the ACLU's contention that American pioneers traveled on historic trails on the Martin's Cove property during westward migration.

END

The Washington Times
June 23, 2005

Opinion: Snuff out this silly suit

By Michael I. Krauss

First, my disclaimer: I hate tobacco. I have never smoked, do not allow smoking in my home, and think I would disown one of my children if he or she started. I believe states have the constitutional right to ban tobacco (though they would be very foolish and cruel to do so, as many Americans legally use the product and wish to continue doing so). I have never taken a cent from a tobacco company in consulting fees

consulting fees.

That said, the ongoing federal lawsuit against tobacco companies is an outrage against the Rule of Law and against the very idea of limited federal government. This amount demanded in the suit, inherited by the Bush administration from the Clintonistas, was last week whittled down from its original $280 billion to a "mere" $10 billion. It is past time for the administration to administer the coup de grace to this lawsuit, for it makes a mockery of our tort system.

As I indicated in my 2002 book, "Fire and Smoke: Government Lawsuits and the Rule of Law," in 1997 Attorney General Janet Reno testified before the Senate that the federal government had no legal basis to recover health-care expenditures from tobacco companies. That's why she left this task to the states, which recovered a whopping $246 billion from the industry in 1998. Yet in 1999, under pressure from a White House that had failed to enact its desired 55-cent per pack federal cigarette tax increase, Miss Reno shamelessly filed the very same suit she had explicitly admitted was groundless.

The federal suit was a legal shambles. Consider:

* Overwhelming evidence reveals tobacco manufacturers never duped the federal government. Washington has known for decades that smoking is dangerous. Since 1964, every pack of cigarettes sold in the United States has carried a federally mandated warning of the health risks of smoking. So Washington has no fraud suit against Big Tobacco.

c Nor can Washington claim it has somehow acquired individual smokers' rights to sue. For one thing, the federal government long denied such rights exist. In 1997, the Veterans' Affairs Department rejected, on the grounds veterans assumed the risks of smoking, a claim by former soldiers allegedly sickened by cigarettes the department furnished at no cost. Washington, it turns out, distributed free cigarettes to servicemen until 1974, a full decade after it required health warnings.

c Virtually every serious expert who has studied the issue has concluded that, while smoking is dangerous for smokers, it causes no financial loss to the federal government. This is because smoking affects the timing of government health-care costs. Smokers on average die earlier than nonsmokers, so costs paid by government to treat tobacco-related diseases are more than offset by savings on other diseases and retirement benefits. The billions in federal excise taxes each year generate a net gain to federal coffers. Washington would suffer fiscally if all Americans stopped smoking.

In a tacit acknowledgement of the weakness of its legal case, the federal lawsuit's "Hail Mary pass," and the only cause of action to have survived judicial scrutiny, is a RICO (Racketeer Influenced and Corrupt Organizations Act) claim. Under RICO, someone harmed by a "pattern of criminal activity" can bring a civil claim against the offending mobster.

But civil RICO damages accrue to individuals. During the debate preceding the RICO law's enactment, a proposed amendment that would have allowed the United States to sue was withdrawn. And Washington's examples of "racketeering" are laughable. One representative RICO charge was that the "Joe Camel" ads in Sports Illustrated constitute a pattern of criminal activity. Yet these ads were both legal and arguably constitutionally protected.

At any rate, since a February 2005 ruling by the District of Columbia Circuit U.S. Court of Appeals, it has become obvious the feds cannot recover for these RICO claims. Because of this ruling, the administration has grossly pared down its suit. Its pathetic new claim: $10 billion is still due as damages because of the risk of "future violations" of RICO by tobacco companies.

The federal tobacco suit is reported to have cost more than $135 million to prepare and prosecute. From the beginning, it was never more than a thinly veiled quest for billions in federal revenue President Clinton was unable to obtain through constitutional taxation. It epitomizes regulation by litigation, which President Bush campaigned to dismantle.

Attorney General Gonzales, please kill this suit.

Michael I. Krauss is a professor at George Mason University School of Law and a fellow of the Independent Institute.

END

WISCONSIN STATE JOURNAL
6/24/2005

Opinion: Tobacco case money goes up in smoke

If the federal government ends up with a hollow victory in its case against the tobacco industry, or if it loses the case altogether, an important part of the blame should go to what the Justice Department did or, rather, failed to do in its closing argument last week.

When department lawyers summed up their racketeering case against tobacco companies, they appeared set to demand $130 billion from the industry over 25 years to fund a national campaign to help people quit smoking. The $130 billion was the recommendation from their own key witness UW-Madison Professor Michael Fiore.

Instead, the department made a last-minute about- face and decided to ask only for $10 billion over five years.

In effect, the prosecution declared: We decided to let the defense off the hook.

The development was reminiscent of a scene from the 1982 movie "The Verdict," in which Paul Newman's character, lawyer Frank Galvin, becomes frustrated with a judge and says: "Your honor, with all due respect, if you're going to try my case for me, I wish you wouldn't lose it."

In this case, it was the judge who could have asked the Justice Department: With all due respect, if you're going to decide this case for me, why are you deciding against yourself?

The Justice Department's retreat was the latest turn in government efforts to sue the tobacco industry for fraud and deception to minimize tobacco's addictive nature and health risks. The tobacco industry previously settled a suit brought by the states for $246 billion. Wisconsin used most of its share of that settlement to plug budget gaps.

The idea of demanding $130 billion from the tobacco industry for a national quit-smoking program has an important Wisconsin connection. The determination that it would take $130 billion over 25 years to fund an effective national quit-smoking campaign came from a subcommittee appointed by former Health and Human Services Secretary Tommy Thompson, a former Wisconsin governor. Fiore, of the UW-Madison Medical School, was chairman of the subcommittee. Fiore testified in court for the government on behalf of forcing the tobacco industry to provide the $130 billion

government on behalf of forcing the tobacco industry to provide the $130 billion.

Whether the federal lawsuit deserves to prevail is for the courts to decide. But if the government wins, the establishment of a $130-billion national quit-smoking program would be a good way to make the victory pay off for the public.

A $10 billion program will be inadequate.

The Justice Department may have backed down because of an appeals court ruling earlier this year. In that earlier ruling, the court barred the department from seeking $280 billion in past tobacco profits as a penalty. But that decision was based in part on the fact that the penalty would have gone back in time to take past profits.

The department could have made the case that requiring $130 billion for quit-smoking efforts is different because it is a forward-looking remedy.

The Justice Department has undermined its own case. For that, it deserves the public's rebuke.

END

The Albuquerque Tribune
Editorial: U.S. should quickly fix Indian Trust Fund

June 23, 2005

America's inspiring history also has its list of shameful events, and topping it is certainly the country's inexcusable and despicable treatment of American Indians.

The nation now has a chance to fix one of those wrongs - the abused federal Indian Trust Fund, from which hundreds of millions of dollars have been misappropriated, stolen or are otherwise missing.

Congress should rectify this bungled accounting, by appropriating a reasonable - even generous - settlement. The first proposed amount was advanced this week, in the sum of $27.5 billion.
It's a lot of money. But the abuses have gone on for decades, and a lawsuit seeking restitution and correct distribution of the funds has languished in the federal courts for nearly a decade.
The trust fund is a collection of accounts for more than 500,000 American Indians, including many from New Mexico, filled with mineral royalties and revenues from the sale of land belonging to Indian individuals, families or tribes.

New Mexico's congressional delegation, led by Republican and senior Sen. Pete Domenici of Albuquerque, should take the lead in negotiating a fair settlement of the suit against the government by trust-fund members.

Domenici, whose office said this week that he is studying the settlement proposal, is a key member of the Indian Affairs Committee.

The committee's chairman, Republican Sen. John McCain of Arizona, and House Resources Committee Chairman Richard Pombo, a California Republican, had asked the plaintiffs for a settlement plan and dollar figure.

Elouise Cobell, the lead plaintiff and a banker and member of the Montana Blackfeet Tribe, detailed the struggle for justice in an article for the Tribune last year year ("A trust issue," Insight & Opinion, Sept. 14).

The opening paragraphs of that article are telling:

"Imagine a bank that took your money on regular basis, never gave you a statement, had no idea how much was supposed to be in your account and argued it has no responsibility to return your money to you or provide any information about your money.

"Now imagine that same financial institution destroying the documents; routinely defying court orders; and lying in sworn statements and in court."

There no longer is any debate about the total failure of federal trust-fund officials at the U.S. Department of the Interior to properly care for this fund. Federal judges repeatedly have ruled for the plaintiffs in their efforts to get even a basic accounting of the fund and have slammed the government for its dismal performance.

While the abuses apparently have been going on since the fund was established in 1887, both the Clinton and George W. Bush administrations share in failing to find an honest and equitable solution. They have shamelessly fought the lawsuit, instead of acknowledging the failures and attempting to rectify them.

Considering that the government's own experts have estimated up to $40 billion may be owed trust-fund beneficiaries, the proposed settlement could be construed as a bargain for American taxpayers.

It is appropriate now that this legal confrontation stop and a bipartisan settlement be crafted and approved by Congress and the White House - as quickly as possible.

It is time to end a century-long nightmare and restore some of the dreams and the promise that the trust fund was intended to be for American Indians.

This is the decent and honorable thing to do.

END

Editorial: Cobell and Indian leaders propose $27.5 billion IIM settlement to end lawsuit.
Glacier Reporter - Editorial

6/23/05

National Congress of American Indians President Tex G. Hall and Inter-Tribal Monitoring Association Chairman Jim Gray of the Osage Nation joined lead plaintiff Elouise Cobell and other Indian leaders Monday at the National Press Club in Washington, D.C. The group was there to announce a proposed settlement of the nine-year lawsuit seeking an accounting and compensation for the mishandling of funds sent through the Individual Indian Money accounts since the system's inauguration in the 1800s.

Cobell, Hall and Gray formed a national working group to develop a set of principles that the Indian

Cobell, Hall and Gray formed a national working group to develop a set of principles that the Indian nations would accept as compensation for the Department of Interior's mistakes, and Monday announce a list of 50 items, including a payment of $27.5 billion, to be split among the tribes by the federal court hearing the case. Such a payment, along with incorporation of the 50 principles into the legislation authorizing it, would settle the case out of court.

Plaintiffs estimate as much as $170 billion went missing over the course of 118 years, but Interior Department spokesman Dan DuBray argued no evidence for such a figure has been found and joined department officials in agreeing the Indians are asking too much.

A request for such a settlement offer came from Sen. John McCain (R-AZ), chairman of the Senate Indian Affairs Committee; Senator Byron Dorgan (D-ND), vice-chairman of the Senate Indian Affairs Committee; Rep. Richard Pombo (R-CA), chairman of the House Resources Committee; and Rep. Nick Rahall (D-WV), ranking member of the House Resources Committee. The group noted the amount of time and money already spent litigating the case over the past nine years, and asked if Indian country could speak with a united voice and develop a set of principles that could be developed into legislation to resolve the issue once and for all. The group has said it would introduce such legislation this summer.

Interior officials have said a complete accounting of the program could cost as much as $14 billion, a cost potentially saved by an out-of-court settlement. While DuBray balked at the total asked by the Indian coalition, real cost to the government mounts with every day the accounts remain unsettled. And time is running out for many of the estimated 500,000 Indians who have aged nine years since litigation began.

END

Reyes, Luis (SMO)

From:	Reyes, Luis (SMO)
Sent:	Friday, June 24, 2005 5:31 PM
To:	[redacted]@cgood.org'
Cc:	Gorsuch, Neil M
Subject:	FW: Lawsuits & Liberty Conference papers
Attachments:	tmp.htm; Presser FINAL.doc; Priest FINAL.doc; Elliott FINAL.doc; 06.23.05 Memorandum to Participants.pdf; Howard (06.24.05).DOC

[redacted] thanks for this, I will pass on to Neil. Do you happen to have the presentations for Kagan, Brennan, and Pendell who will be on his panel? Didn't see them below. Thanks. --Lou

-----Original Message-----
From: [redacted]@cgood.org [mailto[redacted]@cgood.org]
Sent: Friday, June 24, 2005 5:11 PM
To: Reyes, Luis (SMO)
Subject: Lawsuits & Liberty Conference papers

Mr. Reyes,

Attached you will find the following papers that will be presented at the upcoming "Lawsuits and Liberty" conference at the National Constitution Center:

The Modern Transformation of Civil Law

George L. Priest, Professor, Yale Law School

How Did We Get Here? What Litigation Was, What It Is Now, What It Might Be

Stephen B. Presser, Professor, Northwestern University School of Law and

Kellogg School of Management

The Administrative Advantage in Civil Procedure: Tort Reform through Consistent

and Intelligent Policies Applied by Administrative Tribunals

E. Donald Elliott, Professor, Yale Law School;

Partner, Willkie Farr & Gallagher LLP

The Forgotten Goal of Civil Justice: A Foundation for Common Sense in Daily Life

Philip K. Howard, Chair, Common Good

A package of these materials has been FedExed to Mr. Gorsuch and the papers will be provided at the conference itself as well. Also attached is an update to the agenda that was sent, via memorandum, last week - as well as some logistical information, which has not changed. As always, should you have any questions or concerns, please do not hesitate to contact me, Andy, or Sara via the following contact information:

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We look forward to seeing Mr. Gorsuch in Philadelphia

We look forward to seeing Mr. Gorsuch in Philadelphia.

COMMON GOOD℠
RESTORING COMMON SENSE TO AMERICAN LAW
WWW.CGOOD.ORG

DATE: Thursday, June 23, 2005

TO: "Lawsuits and Liberty" Participants

FROM: [redacted]

RE: Conference Papers

Enclosed are the following papers that will be presented at the upcoming "Lawsuits and Liberty" conference at the National Constitution Center:

The Modern Transformation of Civil Law
George L. Priest, Professor, Yale Law School

How Did We Get Here? What Litigation Was, What It Is Now, What It Might Be
Stephen B. Presser, Professor, Northwestern University School of Law and Kellogg School of Management

The Administrative Advantage in Civil Procedure: Tort Reform through Consistent and Intelligent Policies Applied by Administrative Tribunals
E. Donald Elliott, Professor, Yale Law School;
Partner, Willkie Farr & Gallagher LLP

The Forgotten Goal of Civil Justice: A Foundation for Common Sense in Daily Life
Philip K. Howard, Chair, Common Good

The papers will be provided at the conference itself as well. Enclosed below is an update to the agenda that was sent to most of you, via memorandum, last week – as well as some logistical information, which has not changed. As always, should you have any questions or concerns, please do not hesitate to contact either me (phoward@cov.com; 212.841.1068) or Andy, Eric, or Sara via the following contact information:

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Thank you again, and I look forward to seeing all of you at the National Constitution Center.

Enclosures

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TENTATIVE AGENDA

Monday, June 27

6:00 Cocktail Reception at the National Constitution Center.

7:00 – 7:20 Overview of Conference and Introduction of Lord Hoffmann.

7:20 *The Social Cost of Tort Liability*, Keynote Address by Lord Hoffmann, Member of the Appellate Committee of the House of Lords.

8:00 Dinner at the National Constitution Center.

Tuesday, June 28

8:00 – 8:45 Informal Breakfast at the National Constitution Center.

8:45 – 10:15 **Panel 1: The Historical Role of the Civil Justice System in American Society**

Moderator: John M. Walker, Jr., Chief Judge, U.S. Court of Appeals for the Second Circuit

Presentations: *The Modern Transformation of Civil Law*
George L. Priest, Professor, Yale Law School

How Did We Get Here? What Litigation Was, What It Is Now, What It Might Be
Stephen B. Presser, Professor, Northwestern University School of Law and Kellogg School of Management

Panelists: Geoffrey C. Hazard, Jr., Professor, University of Pennsylvania Law School

Edward L. Rubin, Professor, University of Pennsylvania Law School; Dean-Elect, Vanderbilt University Law School

10:30 – 12:00 **Panel 2: Has Distrust of the Civil Justice System Affected Daily Choices in Modern Society?**

Moderator: Robert E. Litan, Vice President for Research and Policy, Kauffman Foundation; Senior Fellow, The Brookings Institution

Presentations: *How Adversarial Legalism Affects Behavior*
Robert A. Kagan, Professor, University of California, Berkeley

Effects of Law on Healthcare
Troyen A. Brennan, M.D., Professor, Harvard Medical School and Harvard School of Public Health

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		The Public's Perceptions: Presentation of Harris Poll Results and Other Polling Results Judyth W. Pendell, Senior Fellow, AEI-Brookings Joint Center for Regulatory Studies
	Panelists:	Neil M. Gorsuch, Principal Deputy Associate Attorney General
		Stephanie L. Franklin-Suber, Partner, Ballard Spahr Andrews & Ingersoll, LLP; Former Chief of Staff to Mayor John F. Street and City Solicitor for the City of Philadelphia
12:00 – 1:00	Lunch – Informal Discussion.	
1:00 – 2:30	**Panel 3: Law and Fact: The Role of Policy in Civil Justice**	
	Moderator:	Walter E. Dellinger III, Professor, Duke University School of Law; Partner, O'Melveny & Myers LLP; Former Acting Solicitor General
	Presentation:	*The Administrative Advantage in Civil Procedure: Tort Reform through Consistent and Intelligent Policies Applied by Administrative Tribunals* E. Donald Elliott, Professor, Yale Law School; Partner, Willkie Farr & Gallagher LLP
	Panelists:	Lord Hoffmann, Member of the Appellate Committee of the House of Lords
		George L. Priest, Professor, Yale Law School
2:45 – 4:15	**Panel 4: The Responsibility of Judges Versus Juries**	
	Moderator:	Edith H. Jones, Judge, U.S. Court of Appeals for the Fifth Circuit
	Presentation:	*The Forgotten Goal of Civil Justice: A Foundation for Common Sense in Daily Life* Philip K. Howard, Chair, Common Good
	Panelists:	Larry D. Thompson, Senior Vice President for Government Affairs and General Counsel, PepsiCo, Inc.; Former U.S. Deputy Attorney General
		Walter E. Dellinger III, Professor, Duke University School of Law; Partner, O'Melveny & Myers LLP; Former Acting Solicitor General

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Geoffrey C. Hazard, Jr., Professor, University of Pennsylvania Law School

Dolores K. Sloviter, Judge, U.S. Court of Appeals for the Third Circuit

Robert A. Kagan, Professor, University of California, Berkeley

LOGISTICAL INFORMATION

Event Information

All conference events will be at the National Constitution Center. The first event is a cocktail reception beginning at 6:00 PM on Monday evening and will take place on the second floor of the Constitution Center. Common Good staff will be on hand to direct you to all events. Also, for your convenience, you will have access to a green room adjacent to the auditorium on Tuesday to store your belongings or to take a break from the proceedings. The address for the National Constitution Center, and information regarding parking is as follows:

Address and Telephone

National Constitution Center
525 Arch Street, Independence Mall, Philadelphia, PA 19106
Toll Free: 866.917.1787

Parking

Convenient parking for cars is available at the underground lots below the National Constitution Center (enter from Race Street) and at the Independence Visitor Center (enter from 5th or 6th Streets, between Arch and Market Streets).

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Map of the National Constitution Center Area

Hotel Information

For those coming in from out of town, we have arranged for a hotel room in your name for the night of Monday, June 27th at The Omni Hotel at Independence Park. Check-in time is 4:00 PM, but rooms are guaranteed for later arrivals. The Omni is just three blocks south of the National Constitution Center. The address for The Omni and information regarding arrival by taxi is as follows:

Address and Telephone

The Omni Hotel at Independence Park, 401 Chestnut Street, Philadelphia, PA 19106
215.925.0000

Taxi Information

It is a flat fee of $25.00 for cab fare from the Philadelphia International Airport. Cab fare from 30th Street Station (Philadelphia's train station) is roughly $10.00.

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Map of The Omni Hotel Area

Reimbursement of Expenses

Upon the conference's completion, we will send you reimbursement forms for expenses you incur in attending the conference, as well as forms for your respective honorariums.

Common Good Staff Contact Information

If you have any questions or concerns at any time, please do not hesitate to bring them to our attention – particularly to Andrew Park, Sara Berg, or Eric Hauser, whose contact information is as follows:

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Common Good, AEI-Brookings, National Constitution Center Conference on "Lawsuits and Liberty"

THE ADMINISTRATIVE ADVANTAGE IN CIVIL PROCEDURE: TORT REFORM THROUGH CONSISTENT AND INTELLIGENT POLICIES APPLIED BY ADMINISTRATIVE TRIBUNALS

E. Donald Elliott[1]

--- Substantive law is "secreted in the interstices of procedure"[2]

Most of the energy that has gone into "tort reform" in the United States to date has been misdirected. The features that create frivolous, abusive litigation in the U.S. are largely institutional and procedural in nature.[3] They inhere in the incentives created by our judicial institutions and procedures, and yet most of the energy of reformers to date has gone into modest reforms in substantive tort law – such as caps on punitive damages or on pain and suffering. These reforms may be symbolically satisfying to their proponents, but they leave untouched the basic institutions of our civil justice system and the perverse incentives that they create. Indeed, this misguided focus on changing substantive law is arguably even built into the generally-accepted term "tort reform," which seems to presume that the basic institutional and procedural structure of tort litigation should remain unchanged and that a few reforms of substantive tort law will be sufficient to deal with any problems.

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[1] Professor (adj) of Law, Yale Law School and Georgetown University Law Center; Partner, Willkie Farr & Gallagher LLP, Washington, DC.
[2] Henry Maine, Dissertations on Early Law and Custom 389 (1883).
[3] Richard A. Posner, *The Economics of Justice* (1981); Richard A. Posner, An Economic Approach to Legal Procedure and Judicial Administration 2 J.LEGAL Stud. 399 (1972); E. Donald Elliott, Toward Incentive-Based Procedure: Three Approaches for Regulating Scientific Evidence, 69 BOSTON U. L. REV. 487 (1989).

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One notable exception is the work of Professor John Langbein. In 1985, Professor Langbein wrote a much-cited article called "The German Advantage in Civil Procedure."[4] Langbein reviewed several salient aspect of German civil procedure including professional judges, the absence of juries and contingent fees, and greater use of independent experts and concluded that these procedural "advantages" contributed to the German system of civil litigation functioning better than the U.S. civil litigation system.

In the twenty years since Langbein wrote, however, there have been only a few modest efforts to address any of the underlying procedural and institutional aspects of U.S. civil litigation that he identified.[5] Ironically, our constitutional law and legal traditions, which are sometimes instruments of change in other areas, are one of the key impediments to modernizing the institutional and procedural aspects of our civil litigation system. Constitutional law as well as the even broader "unwritten constitution" of our legal traditions make it difficult to adopt innovations for processing damage claims that have proven successful elsewhere. Many of the problematic features of adversary civil litigation before courts and juries are so deeply ingrained into our constitutional law and legal traditions that it would be virtually impossible to change them. While the issue of whether constitutional law should "change with the times" is increasingly controversial in every area, the constitutional law relating to civil procedure is remarkably backward-looking and static. The avowed purpose of the 7th Amendment, for example, is to

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[4] John Langbein, The German Advantage in Civil Procedure, 52 U.CHI.L.REV. 823 (1985).
[5] One exception (in which the author was personally involved) was the effort to increase the use of independent experts recommended by professional societies which was recommended first by the Carnegie Commission for Science, Technology and Government and then picked up and implemented as a pilot program by the American Association for the Advancement of Science.

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"preserve" unchanged the functions of the civil jury as they existed at common law as understood in 1791. More generally, when an innovation in civil litigation is challenged on procedural due process grounds, courts generally look backward to our history and traditions to determine whether it is constitutional. And even if a reform to the civil litigation system might conceivably be upheld in court against a formal constitutional challenge, there is an even broader "unwritten constitution" of political support that renders it virtually impossible to conceive of any legislature making material changes to the way that civil litigation is traditionally conducted before courts and juries.[6] Even relatively recent innovations such as broad civil discovery have proved very difficult to curtail once implemented.

There is, however, an alternative route by which American law could conceivably address some of more problematic aspects of the ways that we currently do civil litigation. That is through the legal fiction that "administrative tribunals" are not "courts."[7] Throughout our history, one of the main reasons for replacing traditional adversary civil litigation before courts and juries with administrative remedies before non-court courts (*a.k.a.* "quasi-judicial" administrative tribunals) is an enhanced ability by lawmakers to re-design the institutional and procedural features of the tribunals that apply the law as well as to change substantive law. One useful definition of an "administrative agency" is an institution of government that is not a court or legislature

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[6] See, e.g. Peter Schuck, How to Respond to the Problems of the Civil Jury, 77 JUDICATURE 236, 239 (1994)("The politics of jury reform are daunting. Virtually all of the important groups with stakes in the system of civil litigation favor retaining the jury. Trial lawyers' veneration of the jury is almost religious in its fervor, and their missionary zeal appears to have won many converts among the general public. When queried about the value of the jury, judges almost invariably praise it.")

[7] For a general argument about the role of legal fictions in promoting legal change, see Lon Fuller, Legal Fictions (1969).

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but is created and designed by statute.[8] Whereas the institutional aspects of "courts" are relatively fixed by constitutional law and tradition, administrative tribunals are by definition plastic and capable of being designed in many different forms. Administrative agencies are not one thing, but come in a dizzying variety of shape and sizes, with different institutional arrangements and procedures designed by statute or regulation to fit the particular task at hand. Indeed, the key defining feature of administrative institutions is that they are not "courts," and therefore their features can be custom-designed in ways that are not permissible for courts. Virtually every procedural innovation identified by Langbein, including professional judges, the elimination of juries and the enhanced role for independent expertise, currently exists in America, but in litigation before "administrative tribunals" rather than before "courts."

As a consequence, a major trend in U.S. civil law during the 20th century has been, and will continue to be, the removal of certain subject matter areas of law in which institutional features of litigation before traditional courts have proved particularly troublesome from the traditional litigation system and the substitution of alternative remedies before administrative tribunals in their place. This long-term trend to substitute administrative remedies for common law litigation has occurred in the past with regulation of workplace safety, labor relations, securities regulation and environmental pollution, and is likely to occur next with exposure to toxic substances such as asbestos, and then in medical malpractice and product liability. Medical malpractice, product liability and mass toxic tort litigation are particularly good candidates for "The

[8] *Compare* Administrative Procedure Act, 5 U.S.C. §551(1), which defines an "agency" as "each authority of the Government of the United States, … but does not include the Congress; the courts of the United States" and other exceptions not relevant here.

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Administrative Advantage in Civil Procedure" because defining a consistent and intelligent standard of care is particularly important in these fields. Administrative law offers particular advantages when implementing a consistent standard of care across a large number of claims is important, and administrative bodies are also particularly good at up-dating a technical standard of care based on expertise and experience – or what I call an "intelligent" standard of care, because it learns over time.

It is impossible in a short article to discuss all of the institutional and procedural features of U.S. civil litigation that might be improved in administrative forums. In what follows I will therefore attempt to illustrate "The Administrative Advantage in Civil Procedure" with one specific illustration: the claim by some reformers, including Phillip Howard, that verdicts by civil juries are unpredictable and inconsistent. In what follows, I will briefly outline the claim that civil jury verdicts with regard to the standard of care in medical malpractice cases are unpredictable and inconsistent, and then explain why this tendency is difficult to correct in the context of ordinary civil litigation before courts but much easier to address before administrative tribunals. Examples of such administrative tribunals would include the administrative "health courts" proposed by Common Good for medical malpractice reform[9] or the administrative compensation

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[9] For more details, see Common Good, An Urgent Call for Special Health Courts, http://cgood.org/brochure-hcare-4.html

The essence of the Common Good proposal is as follows: "Health courts would have judges dedicated full-time to resolving healthcare disputes. The judges would make written rulings in every case to provide guidance on proper standards of care. Their rulings would set precedents on which both patients and doctors could rely. As with similar administrative courts that exist in other areas of law—for tax disputes, workers' compensation, and vaccine liability, among others—there would be no juries. To assure uniformity and predictability, each ruling could be appealed to a new Medical Appellate Court." *Ibid.*

Other features of the Common Good proposal are:

"Full-Time Judges.
The hallmark of the health courts would be full-time judges, dedicated solely to addressing healthcare cases. The judges would be appointed through a nonpartisan

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system for asbestos proposed in S.852 (the so-called FAIR Act), which recently was voted out of committee in the Senate.[10]

The purpose of this paper is not to defend the specifics of these reform proposals as either necessary or sufficient, a task that has been performed elsewhere by others.[11] (It should be acknowledged, however, that the author was an early advocate of administrative compensation funds like the asbestos proposal[12] and serves as a consultant to Common Good.) Rather, the point of the present paper is that most if not all of the reforms in these proposals cannot be accomplished within the existing court-based litigation system, but can be implemented through administrative tribunals.

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screening commission.
Neutral Experts.
Those judges would be able to choose from a panel of experts in each area of medicine, avoiding the dueling "hired gun" experts that confuse and prolong disputes today.
Speedy Proceedings; Lower Costs.
Most cases would be resolved within months. Except in exceptional cases, legal fees would be held to 20 percent, reducing current costs by almost half.
Liberalized Recovery for Injured Patients.
Once a mistake is verified, recovery would be automatic without the need to prove precisely how it happened.
Damages.
Patients would be reimbursed for all of their medical costs and lost income, plus a fixed sum that would be pre-determined according to a schedule addressing specific types of injuries. The schedule would be established by a panel of experts and updated periodically to reflect changing costs."

[10] The text of the FAIR Act as reported out by the Senate Judiciary Committee is available at http://documents.nam.org/IS/S852asreportedfromcmte061705.pdf The bill is 393 pages in length, so it is impossible to summarize its provisions in detail here. For present purposes, one pertinent feature is that the bill would replace case-by-case litigation in asbestos cases with "tiers" developed by a combination of statute and administrative rulemaking for determining both compensation payments to claimants and payments by defendants into the system.

[11] See. e.g. Nancy Udell and David Kendall, Health Courts: Fair and Reliable Justice for Injured Patients, *Progressive Policy Institute Report* (Feb. 17, 2005). *See also* David M. Studdert, Michelle M. Mello, and Troyen A. Brennan, Medical Malpractice, 350 New England J. Med. 283 (Jan. 15, 2004).

[12] E. Donald Elliott, Goal Analysis vs. Institutional Analysis of Toxic Compensation Systems, 73 GEORGETOWN L. J. 1357 (1985); E. Donald Elliott, Why Courts? Comment on Robinson, 14 J. LEGAL STUD. 799 (1985).

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II.

In a 2003 op-ed in The New York Times, Phillip K. Howard succinctly stated the case that existing court procedures in medical malpractice cases create a highly undesirable element of unpredictability.[13] Howard argues that "Studies about jury awards in health care confirm what every doctor fears – and every victim should fear: justice is random."[14] He goes on to argue that "in a civil case, where citizens can use the justice system as an offensive weapon, the most important social value is predictability."[15] Howard's proposed solution (about which we will have more to say later) is that judges, not juries should decide the standard of care:

> "Creating a reliable system of medical justice, however, requires changing one aspect of the system that is so ingrained it is hardly even part of the debate: the jury. Expert judges, not juries, must decide what is a valid claim. … The role of juries in civil cases is to decide disputed facts, like whether someone is telling the truth. It is not to declare standards of care that affect society as a whole."[16]

Proponents of asbestos reform make similar claims: that verdicts in asbestos cases are inherently capricious, and as a result, some people who are not really sick get huge windfalls, while others who are much sicker get little or nothing.[17] One of the major justifications advanced for the pending bills to replace traditional tort litigation in asbestos cases with an administrative compensation system is that it would give greater

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[13] Phillip K. Howard, The Best Course of Treatment, The New York Times (July 21, 2003).
[14] *Ibid.*
[15] *Ibid.*
[16] *Ibid.*
17 Statement of Sen. Arlen Specter Introducing S.852, Congressional Record, April 19,2005 p. S3905 et seq. http://thomas.loc.gov/cgi-bin/query/D?r109:6:./temp/~r109iBZptj:e87725: ("All of us are mindful of the very substantial factor when a claimant gives up a constitutional right to jury trial, but in a program structured largely along lines of workmen's compensation, it is our conclusion that it is a fair exchange. When you find that there are many people who are suffering deadly ailments from asbestos , mesothelioma and other deadly injuries, who are not being compensated, this is a way to compensate those individuals whose companies have gone bankrupt.").

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predictability and horizontal fairness to both claimants and defendants than the current system of case-by-case litigation.

Speaking more generally, Yale Law School Professor Peter H. Schuck has identified as one of the recurrent "major objections" to the civil jury to be the contention that jury verdicts are inherently unpredictable and produce a "noisy" or unclear liability signal:

> "These objections do not claim that juries are biased or prone to error, but rather than jury decisions by their very nature emit liability signals that are confusing, inconsistent, and arbitrary. In this view, the jury's signals convey little useful information about actual legal norms. Coupled with the largely unregulated, generous system of damage awards, jury decisions generate widespread uncertainty, anxiety, and risk avoidance."[18]

Defenders of the civil jury do not generally deny that juries "march to a different drummer," but argue instead that juries are able to reflect a number of situational and community norms that are not always fully captured in the formal law. For example, in a 1988 article, Professor E. Donald Elliott stated that toxic tort cases are "morality plays" rather than based on a strict application of law and science.[19] While this statement was intended as descriptive rather than normative or prescriptive, it has been strongly criticized as countenancing the right of juries to decide toxic tort cases based on factors that would be considered irrelevant as a matter of formal law.[20] Similarly, then-professor, now-judge Guido Calabresi and his co-author, Professor Phillip Bobbitt, glory in the ability of a civil jury, which they call an "aresponsible agency," to decide cases

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[18] Schuck, *supra* note 6, at p.236.
[19] E. Donald Elliott, The Future of Toxic Torts: Of Chemophobia, Risk as a Compensable Injury and Hybrid Compensation Systems, 25 HOUSTON L. REV. 781 (July, 1988).
[20] Jeffrey Bossert Clark, Colloquium: Junk Science, the Courts, and the Regulatory State, http://www.fed-soc.org/Publications/practicegroupnewsletters/environmentallaw/el020105.htm (reporting comments of Professor David Bernstein that the remarks quoted above are "particularly irksome" because "Redefining our public morality" "is a bit much to ask of our tort system").

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without giving any reasons for its decision, particularly in certain categories of cases involving what they call "tragic choices" in which they believe that it is desirable for society to violate in practice the norms that it nonetheless affirms in theory. [21]

III.

In contrast to the civil jury, which is either praised or condemned for its inconsistency, inscrutability and unpredictability, consistency of application and transparency in giving reasons for outcomes are two of the most highly-valued norms for administrative tribunals. As Justice Scalia recently wrote for a unanimous Supreme Court, "It is hard to imagine a more violent breach of [the requirement of reasoned decision-making by administrative tribunals] than applying a rule of primary conduct … which is in fact different than the rule or standard formally announced."[22] Indeed, a central focus of judicial review of decisions by administrative tribunals is to police against "arbitrary and capricious" decisions that do not treat like cases alike or are not adequately justified.[23] Administrative tribunals must generally follow strict rules requiring them to state reasons for their decisions, and if they apply a different rule of decision in one case that they do in another, they must state a rational basis for the difference in treatment or provide a reasoned basis for changing the rule that will be applied in future cases.[24] In administrative law, "There may not be a rule for Monday,

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[21] G. CALABRESI & P. BOBBITT, TRAGIC CHOICES (1976).
[22] *Allentown Mack Sales and Service Inc. v. NLRB*, 522 U.S. 359 (1998).
[23] See 5 U.S.C. §706(a)(2)(under federal Administrative Procedure Act, courts set aside administrative decisions found to be "arbitrary" or "capricious.")
[24] *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto Ins. Co,* 463 U.S. 29 (1983); *Arizona Grocery Co. v. Atchison, Topeka & Santa Fe RR*, 284 U.S. 370 (1932).

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another for Tuesday, a rule for general application, but denied outright in a specific case."[25]

Administrative law also provides a useful conceptual resource for dealing with standard of care issues that is generally lacking in civil litigation: the concept of a generic "policy." Court generally deploy only two conceptual categories to describe the allocation of roles between judges and juries: questions of "law," and questions of "fact." Everything has to be one or the other. But before an administrative tribunal, there is an important third category: called "policy."[26] A "policy" is not a fixed requirement established by law, nor is it a "fact" that may change from case to case; rather, a "policy" is a contingent or prudential judgment that must be applied consistently while it remains in effect but may be changed from time to time in the light of experience. The standard of care in a medical malpractice case, or the showing required to qualify for compensating persons exposed to asbestos, are good examples of "policies," that are neither purely matters of law nor purely matters of fact.

Administrative agencies make policy in a variety of ways, including generic notice-and-comment rules, guidance documents and announcing rules of decision through case-by-case litigation. [27] However, the strong trend in administrative law since the early 1970's is to constrain case-by-case litigation of "facts" by developing generic "policies" through rulemaking that reflect the agency's general expertise as to how individual cases should be treated. The intellectual leader in promoting the use of rulemaking to reduce

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[25] *Marriott In-Flite Servs. Div. v. NLRB,* 417 F.2d 563, 566 (5th Cir. 1969)*; Shell Oil Co. v. FERC,* 664 F.2d 79, 83 (5th Cir. 1981)*; Shaw's Supermarkets, Inc. v. NLRB,* 884 F.2d 34, 37 (1st Cir. 1989)*; Roadway Express, Inc. v. NLRB,* 647 F.2d 415, 419 (4th Cir. 1981)*; Basic Media, Ltd. v. FCC,* 559 F.2d 830, 833 (D.C. Cir. 1977)*; Marco Sales Co. v. FTC,* 453 F.2d 1, 7 (2d Cir. 1971).
[26] See State Farm, *supra* note 24.
[27] See generally Peter Strauss, The Rulemaking Continuum, 41 DUKE L.J. 1463 (1992).

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arbitrariness and promote consistency was Professor Kenneth Culp Davis, who spent most of his career at the University of Chicago Law School.[28] Uniform generic policies are then applied in individual cases, but can change and evolve in the light of experience. A good example is the Social Security medical disability grid regulations that were upheld by a unanimous Supreme Court in *Heckler v. Campbell*, 461 U.S. 458 (1983). Confronted with an unacceptable diversity of results in similar cases, the Reagan Administration first attempted to achieve a greater uniformity through management controls and a "Quality Assurance Program," but this approach was challenged in court as infringing on the independence of Administrative Law Judges, who varied widely in how they decided cases.[29] That approach having proven inadequate, the Administration then promulgated a generic rule setting specific, relatively objective criteria for when a person is or is not considered "disabled."

In 1999, the Social Security disability system provided $51 billion in payments to 6.5 million beneficiaries at an administrative cost of $1.5 billion, or about 3%,[30] which compares very favorably with the transaction costs of the torts system which run as high as 50% in some studies. The system generates about 600,000 disputed claims a year, and 200,000 appeals to the Appeals Council. "The volume of Appeals Council decisions precludes the development of any "common law" of administrative review; rather, if the review process uncovers needs for new policy or clarification, that policy or clarification is supplied by regulation or similar directives to all decisionmakers in the system."[31]

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[28] See, e.g. Kenneth Culp Davis, Discretionary Justice: A Preliminary Inquiry (1970).
[29] See *Nash v. Bowen*, 869 F.2d 675 (2d Cir. 1989).
[30] Peter L. Strauss, Todd. D. Rakoff and Cynthia R. Farina, Gellhorn and Byse's Administrative Law: Cases and Comments 384 (Foundation Press 10th ed, 2003).
[31] *Ibid.,* p. 385.

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Thus, policy decisions across the system are supplied not by a common law process of deciding appeals, but by relatively specific generic rules of policy that are developed by experts and apply across the system until updated in the light of experience.

Many other administrative systems also use a process of generic rulemaking based on expert policy decisions to guide and constrain the issues to be decided in individual adjudicatory hearings. For example, at one time, the Food and Drug Administration decided on a case by case basis in adjudicatory hearings on individual new drug application whether the particular scientific studies presented were adequate to prove safety and efficacy, and those judgments were both time-consuming and frequently litigated. Beginning in the late 1960's, however, FDA promulgated generic policy standards for what constitutes "well-controlled clinical studies" and in a precedent-setting decision in 1973, the Supreme Court ruled that generic policymaking by the agency could constrain the issues in individual adjudicatory hearings.[32] Or to pick another example, when the Environmental Protection Agency holds hearings on cleaning up an individual Superfund site, the assessment of risks by the decisionmaker is guided and constrained by a detailed generic rule called the "National Contingency Plan" which outlines EPA's policies and procedures for how a site should be cleaned up.[33]

Questions of standard of care that are currently decided by a case by case basis by juries in the tort system could be regulated and made more uniform by generic policies promulgated at the administrative level and updated from time to time in the light of

[32] *Weinberger v. Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973)(FDA generic rulemaking eliminates factual issues for adjudicatory hearing).
[33] 40 CFR - Part 300, 47 Fed.Reg 31180 (July 6, 1982), amended, 55 Fed. Reg. 8666 (1990). See also

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experience.[34] In fact, the pending asbestos trust legislation would utilize administrative rulemaking to determine the levels of contributions by defendants into the system, and also to set criteria to determine levels of payouts, within broad ranges set by the legislature,.

Generic policy judgments are not only applied relatively consistently by administrative agencies, but they can also be designed to be intelligent, in the sense that procedures can be designed to bring technical expertise to bear, to analyze collateral consequences and to update policies in the light of experience. These complex multi-faceted technical issues of regulatory policy are currently made in a haphazard, uncoordinated and inept fashion in the distorting context of individual claims by injured people by lay juries that do not understand (and often prohibited from even hearing evidence about) the broader implications of their decisions. That is because these issues are incorrectly conceived to be "questions of fact," when in truth they are neither questions of law for a judge nor questions of fact for a jury, but rather they are questions of regulatory *policy* (a conceptual category that is sadly missing from traditional judicial thinking about tort law, but is alive and well in administrative law). As policy questions, they should be made in a more centralized way by more specialized institutions that can weigh the pro's and con's of proposed policy decisions in a more systematic way after due deliberation and consideration of relevant technical expertise (such as costs and benefits, substitution risks and incentive effects). Moreover, institutions making important decisions of regulatory and compensation policy should be designed to study

[34] See E. Donald Elliott, Re-Inventing Defenses/Enforcing Standards: The Next Stage of the Tort Revolution?, 23 RUTGERS L. REV. 1069 (1991)(The Pfizer Distinguished Lecture in Tort Law)(advocating expert standards of care set administratively to give greater predictability to tort system).

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the actual results of particular policies over time and to change them in the light of experience.[35] The current tort system of case-by-case litigation before lay judges and juries has none of these features, in large part because it is incapable of separating the regulatory policy decisions from the compensation decisions in cases brought by individual claimants who are often suffering and are therefore sympathetic.[36]

IV.

It would be difficult, if not impossible, for Constitutional reasons to bring greater predictability to jury verdicts involving the standard of care. Unlike administrative law, which uses three conceptual categories (law, fact and policy), the 7th Amendment has been construed as creating only two realms, "law" and "fact," and traditionally questions of the standard of care have been seen as falling on the "fact" side of the line.

The fundamental purpose of the 7th Amendment, according to an unbroken line of Supreme Court cases, is to preserve inviolate the allocation of issues of "law" to the judge and of "fact" to the jury as those concepts existed and were applied in 1791. The 7th Amendment has for its primary purposes the preservation of "the common law distinction between the province of the court and that of the jury, whereby, in the absence of express or implied consent to the contrary, issues of law are resolved by the court and

[35] E. Donald Elliott, Re-Inventing Defenses/Enforcing Standards: The Next Stage of the Tort Revolution?, 23 RUTGERS L. REV. 1069 (1991)(The Pfizer Distinguished Lecture in Tort Law).
[36] *Cf.* Peter Schuck, The New Ideology of Tort Law, THE PUBLIC INTEREST, No. 92, Summer, 1988, p. 93, 94. ("In tort law, however, courts almost always have the last word, and that word has usually been compensate.")

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issues of fact are to be determined by the jury under appropriate instructions by the court." [37]

The question of whether the meaning of our Constitution should evolve and change with the times is, of course, one of the central, enduring controversies in Constitutional law and judicial philosophy. Almost uniquely, however, the specific content of established 7th Amendment law is to "preserve," unchanged and unchanging, the allocation of responsibilities between judge and jury as they existed in 1791. In other words, the content of the rule of decision that the Supreme Court has traditionally applied in construing the 7th Amendment is explicitly historical: how were these allocations of responsibility made in 1791? "Those matters which were tried to a jury in England in 1791 are to be so tried today and those matters which, as in equity, were tried to a judge in England in 1791 are to be so tried today…."[38]

It is well-established under a long line of Supreme Court's cases under the Jones Act and elsewhere that under the 7th Amendment, the issue of the reasonableness of conduct is considered an issue of "fact" that (1) is constitutionally required to be decided by a jury and (2) cannot be re-examined by a judge or appellate court – provided of course that there is at least some minimal evidence upon which a jury could reasonably base a finding of liability. A good example is *International Co. v. Nederl. Amerik*, 393 U.S. 74 (1968), a unanimous *per curiam* decision of the Supreme Court. In that case, the

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[37] Congressional Research Service, The Constitution of the United States of America: Analysis and Interpretation p.1232 (Lester S. Jayson, ed., 1978), *citing Baltimore & Carolina Line. v. Redman*, 295 U.S. 654, 657 (1935); *Walker v. New Mexico & S.P.R. Co.,* 105 U.S. 593, 596 (1897).
[38] *Ibid.,* p.1233, *citing* Parsons v. Bedford, 3 Pet. (28 U.S. 433, 446-447 (1830); Slocum v. New York Life Ins. Co., 228 U.S. 377-78 (1913); Baltimore & Carolina Line. v. Redman, 295 U.S. 654, 657 (1935); Dimick v. Schiedt, 293 U.S. 474, 476 (1935). p.1233.

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evidence showed that a longshoreman had remained below decks where carbon monoxide was building up because a supervisor had promised to turn on the ship's ventilating system. As explained by the Supreme Court, "The Court of Appeals said that the hatch boss should have ceased work when he first learned that the ship's ventilating system was not operating, despite the officer's promise to turn on the system. Alternatively, he should have used the stevedore's blowers, which had been left on the pier, to ventilate the hold. The jury, however, in response to a special interrogatory, found that the stevedore had acted reasonably in continuing to work for a brief period in reliance on the officer's promise. We cannot agree with the Court of Appeals that the stevedore acted unreasonably as a matter of law. *Under the Seventh Amendment, that issue should have been left to the jury's determination*."[39]

One can of course distinguish the level of precaution taken against carbon monoxide poisoning on a ship from the level of care that a surgeon uses in conducting an operation, or a physician uses in prescribing a drug with known side effects, but the courts have generally held that the question of whether particular conduct is reasonable under all the circumstances is prototypically a question of fact for the jury, not a question of law for the court.

To be sure, judges could conceivably become more aggressive in granting directed verdicts or judgments n.o.v. on the grounds that the facts would not permit a reasonable jury to find the defendant liable, but this is likely to be of only marginal benefit in improving the consistency of jury verdicts. In the first place, the capacity of non-specialized judges without medical training to second-guess juries on technical

[39] 393 U.S. at p.75.

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questions can easily be over-rated; without expert guidance, how is a lay judge to say that a jury verdict on standard of care is "unreasonable"? A more promising approach might be for the judge to rely on a neutral expert, or panels of neutral experts.[40] But while these approaches may be marginal improvements, they are inherently case-specific and *ad hoc* and therefore do not capture and build intelligence in the system over time in the way that development of administrative policy guidance does.

It is of course theoretically possible to imagine that any existing body of legal doctrine might be abandoned or re-worked by the Supreme Court. But absent an outright repeal of the language of the 7th Amendment, it seems exceedingly unlikely that the Court will abandon its historical approach to determining the allocation of responsibilities between judge and jury in civil case. The most promising development that might persuade the Supreme Court to re-think the role of the civil jury in determining the standard of care is historical research showing that in actuality, some standard of care issues were decided historically at common law by judges rather than juries. For example, the Court's "reasoning" in one of its most recent 7th Amendment cases consisted of the following: "After the adoption of the Seventh Amendment, federal courts followed this English common law in treating the civil penalty suit as a particular type of an action in debt, requiring a jury trial. See, e. g., United States v. Mundell, 27 F. Cas. 23 (No. 15,834) (CC Va. 1795)."[41] Absent new historical research, however, it seems

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[40] E. Donald Elliott, Toward Incentive-Based Procedure: Three Approaches for Regulating Scientific Evidence, 69 BOSTON U. L. REV. 487 (1989). *See also* the Becker-Posner Blog, http://www.becker-posner-blog.com/archives/2005/01/tort_reformposn_1.html (January 23, 2005)("An alternative, mentioned in one comment and already in force in a number of states, is to require the malpractice plaintiff before suing to submit his claim to a panel of physicians, whose findings, if unanimous, are admissible in court should the claim result in a lawsuit.")

[41] *Tull v. United States*, 481 U.S. 412, 418 (1987).

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unlikely that that Supreme Court will abandon its well-established and often-reiterated jurisprudence that standard of care issues are prototypical issues of "fact" for the jury, not issues of "law" for the judge.

The clear trend throughout the last half century has been to expand, rather than contract the role of the jury. For example, in 1970 when the Supreme Court was presented with the question of the role of juries in stockholders derivative actions, to which the closest historical analogy was a suit in equity in which no jury was required, the Court nonetheless held that a jury was required under the 7th Amendment if similar issues could have been raised in jury cases.[42] Moreover, in a series of cases, the Court held that the right to a jury trial cannot be abridged by trying factual issues first in an equitable proceeding and then using collateral estoppel to preclude re-litigation in a subsequent proceeding at law.[43] And in what is perhaps the most far-reaching precedent expanding the role of the common law jury, in 1974, the court held in *Curtis v. Loether*, 415 U.S. 189 (1974), that even new statutory causes of action that clearly did not exist in 1791 also required jury trials if the relief sought could be analogized to that available historically in common law causes of action.[44] This holding was followed again in *Tull v. United States*, 481 U.S. 412 (1987), although a ray of light may have emerged in that the Court held that a jury was required only for the liability phase of a Clean Water Act enforcement action, not to determine relief. The Supreme Court recently reiterated these principles again in *Great-West Life & Annuity Insurance Co. v. Knudson*, 534 U.S. 204 (2002), holding that a suit for money damages under ERISA is not equitable relief, but

[42] *Ross v. Bernhard*, 396 U.S. 531 (1970).
[43] *Dairy Queen, Inc. v. Wood*, 369 U.S. 469, 477 (1962).
[44] *Curtis v. Loether*, 415 U.S. 189, 193 (1974).

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"at law," and therefore requires a jury. In short, the clear trend in 7th Amendment jurisprudence for the last century has not been to constrain but to expand the role of civil juries.

While it is true that the 7th Amendment is not "incorporated" as binding on the states through the 14th Amendment, nonetheless jury trials are guaranteed in similar if not identical terms in virtually all 50 state constitutions. There is no perceptible trend at the state level to re-allocate standard of care issues to judges rather than juries, and any movement to do so would confront similar problems at the level of state constitutional law.

It would require a major abandonment of the Supreme Court's 7th Amendment jurisprudence, and analogous bodies of law at the state level, to hold that questions of negligence or standard of care are questions of law for the court, rather than questions of fact for the jury.

V.

One reason that American constitutional law has been able to permit itself the luxury of preserving "inviolate" the right to a civil jury as it existed in 1791 is that there is an escape valve by which Congress may re-assign many, if not most, controversies to a non-jury forum if it so chooses. As discussed above, a broad right to a civil jury trial attaches even to new statutory causes of action unknown at common law if, *but only if,* Congress chooses to create rights enforceable in a traditional court by a damage action (or other "legal" relief). But Congress also has the alternative option of creating new statutory schemes to replace traditional ones and making them enforceable through *administrative* tribunals that do not utilize juries instead of courts – at least if the nature

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of the right in question is deemed "public" rather than "private"[45] (a distinction of some complexity, which is discussed in more detail below).

A major trend in U.S. law over the last century is for many areas of law that were traditionally the province of common law courts and juries to be re-assigned to administrative mechanisms. For example, the Occupational Safety and Health Act now regulates issues of safety in the workplace that were formerly the subject of common law suits, and the Supreme Court has specifically upheld non-jury OSHA proceedings against a claim that they violate the 7th Amendment.[46] In the same way that in a previous generation, both state and federal governments replaced a system of private lawsuits in courts over workplace injuries with a comprehensive administrative schemes of workers compensation laws,[47] a comprehensive administrative scheme could be designed today for re-adjusting remedies for those suffering injuries during medical treatment, or from defective products or exposure to toxic substances such as asbestos, to replace litigation before traditional courts. For example, Common Good has proposed a system of administrative "health courts" at either the state or federal level.[48] While not entirely free from doubt, federal administrative tribunals to adjudicate medical malpractice cases would probably be constitutional (at least if one assumes that Congress has the right under the Commerce Clause to regulate medical malpractice litigation because its

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[45] *Crowell v. Benson*, 285 U.S. 22 (1932).
[46] *Atlas Roofing Co., Inc. v. OSHA*, 430 U.S. (1977).
[47] See, e.g. *New York Central RR v. White*, 243 U.S. 188, 200 (1917*); Arizona Employers' Liability Cases,* 250 U.S. 400, 419-422 (1919).
[48] See *supra* note 9.

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involves economic activity that is "in" and "affects" interstate commerce, an independent issue of some complexity which is outside the scope of this paper[49]).

Assuming that Congress has the power to regulate medical malpractice litigation under the Commerce Clause, Congress could probably replace litigation before traditional courts and lay juries with a comprehensive administrative system for dealing with medical injuries, including expert administrative tribunals without juries. It should be emphasized, however, that the result would be heavily dependent upon the specific provisions of a particular statutory scheme, including whether it was a comprehensive package of reforms of the medical care delivery safety system and whether it included benefits for injured parties as well as defendants.

There are two separate federal constitutional issues that would be raised by assigning malpractice claims to an administrative agency (or to a specialized Article I court, which would raise essentially the same constitutional issues): (1) an argument that the statute impermissibly assigns a "judicial" function to a tribunal that does not comply with Article III requirements, *Northern Pipeline Construction Co. v. Marathon Pipe Line Co.*, 458 U.S. 50 (1982), and (2) an argument that the administrative tribunals violate 7th Amendment rights to a jury trial. *Atlas Roofing Co., Inc. v. OSHA*, 430 U.S. (1977).

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[49] The power of the federal government to legislate under the Commerce Clause on subjects such as medical malpractice is no longer as clear as it seemed only a few years ago. *United States v. Lopez*, 514 U.S. 549 (1995); *United States v. Morrison*, 529 U.S. 598 (2000). In *Morrison*, the Court invalidated a federal criminal statute punishing violence against women. Even though conceding that there was evidence that violence against women did have an effect on commerce, the Court nonetheless held that what it characterized as an "incidental effect" on commerce does not justify the federal government in regulating areas that have "traditionally" been regulated by the states. On the other hand, the recent "medical marijuana" case would seem to support federal legislation to regulate the safety of medical care, in part because it is economic activity. *Gonzales v. Raich*, 545 U. S. -- (No. 03–1454 June 6, 2005).

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In the modern analysis, both questions turn on whether the Supreme Court would characterize the reforms as involving "public" or "private" rights. An early case, *Crowell v. Benson*, 285 U.S. 22 (1932), held that "private rights" "that is, of the liability of one individual to another under the law as defined" must be reserved to Article III courts. Although never over-ruled, subsequent cases have significantly eroded the bright-line, conceptual test for "private rights" seemingly laid down in *Crowell*. In the Supreme Court's most recent venture into the thicket of distinguishing "private" and "public" rights, the Court wrote:

> "whether the 7th Amendment confers .. a right to a jury trial in the face of Congress's decision to assign adjudication of that action to a non-Article III tribunal [turns on the public/private rights distinction]. Congress may only deny trials by jury in actions at law … in cases where 'public rights' are litigated. … [t]he federal Government need not be a party for a case to revolve around public rights. *The crucial question ... is whether Congress ... has created a seemingly 'private' right that is so closely integrated into a public regulatory scheme as to be a matter appropriate for agency resolution with limited involvement by the Article III judiciary*." *Granfinanciera SA v. Paul C. Nordberg, Creditor Trustee*, 492 U.S. 33 (1989)(emphasis supplied).

Another recent case opined that the issue is not so much whether the affected rights are conceptualized as "private" or "public," but rather whether the re-assignment of certain categories of cases to administrative tribunals would undermine the traditional role of the federal courts in our scheme of government.[50] It seems unlikely that many federal judges view hearing medical malpractice cases under their diversity jurisdiction as central to preserving the role of the federal courts in our constitutional order.

Perhaps the decision that is most analogous to medical malpractice is *Thomas v. Union Carbide Agricultural Prod. Co.*, 473 U.S. 568 (1985). There as part of a

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[50] *Commodity Futures Trading Comm. v. Schor*, 478 U.S. 833 (1986)("the congressional scheme does not impermissibly intrude on the province of the judiciary" because "limited CFTC jurisdiction over a narrow class of common law claims as an incident of CFTC's primary and unchallenged adjudicative function does not create a substantial threat to the separation of powers.")

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comprehensive re-working of the federal pesticide law (FIFRA), Congress provided for "me too" registrations of pesticides based on private test data developed by other manufacturers and set up a scheme of compulsory arbitration by the EPA of the value of data. Union Carbide sued, claiming that its right to sue under state law for violations of its common law trade secrets was a prototypical "private right" that could not be re-assigned to an administrative scheme under *Crowell*. The Supreme Court rejected the claim in an opinion by Justice O'Connor (also the author of *Schor, supra*):

> "[T]he right created by FIFRA is not a purely 'private' right, but bears many of the characteristics of a 'public' right. Use of a registrant's data to support a follow-on registration serves a public purpose as in integral part of a program safeguarding public health. Congress has the power, under Article I, to authorize an agency administering a complex regulatory scheme to allocate costs and benefits among voluntary participants in the program without providing an Article III adjudication."

Like the state law claim for violation of trade secrets at issue in *Thomas*, medical malpractice claims should not be viewed in isolation, but rather as part of a comprehensive and intertwined system for funding medical care and regulating patient safety.

To be sure, the examples of formerly-private common law rights that have re-assigned to administrative tribunals without juries in *Schor* and *Thomas* are much narrower than reform of medical malpractice law. Moreover, participation in both of the regulatory programs upheld in *Schor* and *Thomas* was arguably "voluntary." Certainly the case for the constitutionality of administrative "health courts" would be stronger if patients were given the option of opting into a voluntary pilot program which included an administrative system for processing medical injury claims as well as other features.

Many traditionalists will assert that tort claims for medical malpractice are prototypical "private rights" that have historically been assigned to courts and juries and

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cannot be changed under *Crowell*. However, a statutory scheme that creates federal administrative tribunals for adjudicating medical malpractice claims would be probably upheld if the administrative tribunals were part of a comprehensive regulatory scheme for reforming the medical care system, particularly if the system were limited at least initially to Medicare or Medicaid recipients where the federal interest in reform is strongest. The system would also be more likely to be upheld if it were part of a comprehensive package of reforms including other measures to improve the quality and safety of the medical care delivery system, such as enhanced disclosure, and "experienced-based" mechanisms to monitor and improve patient safety.

Similarly, while the constitutionality of substituting a federal trust fund administered in part through administrative rulemaking for case-by-case litigation of asbestos cases in state courts is also not entirely free from doubt, if the system is enacted, most of it will also probably be upheld.

It seems unlikely that today's Supreme Court believes that the "traditional role of the federal courts in our scheme of government" (to quote the test from *Schor, supra*) is to adjudicate private claims for damages between individuals. While these claims were admittedly once conceived as prototypical "private rights" to which *Crowell* applied and forever guaranteed a judicial forum, the public policy consequences are increasingly apparent to litigation which has a major effect of regulating important economic activity. The power of government to regulate has typically followed from the perception that an activity that was formerly thought of solely private has important externalities or public

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consequences.[51] Mass torts and medical malpractice litigation are no different, and ultimately Congress will not be found to lack power to address the problems of frivolous litigation any more than it has lacked the power to deal with other serious economic and social problems in the past.

VI.

It is regrettable that most American lawyers are either "court people" or 'agency people" but not both. The American "civil justice system" actually consists of both courts and administrative tribunals and it is important to bring both sets of tools to bear as we consider strategies for civil justice reform. This paper has argued that there are distinctive advantages to administrative as opposed to judicial tribunals for developing and applying consistent and intelligent standards of care.

[51] *Cf. Munn v. Illinois*, 94 U.S. 113 (1876)(rates charged by a grain elevator [private property] may be regulated because "affected with a public interest").

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DRAFT 5: NOT FOR PUBLICATION

The Forgotten Goal of Civil Justice: A Foundation for Common Sense in Daily Life

by Philip K. Howard

The debate over civil justice in recent decades has focused on its fairness. Tort reformers complain of "lawsuit abuse" and "judicial hell-holes."[1] Defenders of the current system talk of the need to protect the little guy against corporate abuses, and extol the jury system as "Democracy in Action."[2]

In this paper I argue that civil justice has a broader goal than fairness: to provide a foundation for reasonable choices in a free society. The main defect in the current system is not that juries are unfair or that there is an avalanche of litigation -- about which there is sharp disagreement[3] -- but that law does not offer predictable guidelines of who can sue for what. The system of justice offers recourse not only against abusive and negligent conduct, but also against conduct that most people consider reasonable. Civil justice tolerates, and arguably encourages,

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[1] *See* American Tort Reform Association, *Judicial Hellholes: 2004*, December 15, 2004, available at http://www.atra.org/reports/hellholes/report.pdf.

[2] Senator John Edwards, "Juries: Democracy in Action," *Newsweek*, December 15, 2003, p. 53.

[3] *See* Marc S. Galanter, *The Day After the Litigation Explosion*, 46 Md. L. Rev. 3, 4 (1986); *See also*, John A. Siliciano, *Mass Torts and the Rhetoric of Crisis*, 80 Cornell L. Rev. 990 (1995), Arthur R. Miller, *Maybe Light at the End of the Tunnel: is the Litigation Explosion Imploding?*, 61 Def. Couns. J. 378 (1994), Marc S. Galanter, *News From Nowhere: The Debased Debate on Civil Justice*, 71 Denv. U. L. Rev. 77 (1993), Theodore Eisenberg & Stewart Schwab, *The Reality of Constitutional Tort Litigation*, 72 Cornell L. Rev. 641 (1987). For descriptions of the increase in litigation see Walter Olson, The Litigation Explosion: What Happened When America Unleashed the Lawsuit (1991); Brian J. Ostrom, Neal B. Kauder, and Robert C. LaFountain, eds., *Examining the Work of State Courts, 2002: A National Perspective from the Court Statistics Project* (National Center for State Courts, 2003) (All civil claims increased 23% between 1987 and 2001. Tort claims, a subset of civil claims, declined 9% since 1992 because traffic claims, which make up the bulk of tort claims, declined 14% during that period. The decline in traffic claims is attributable to the rise of no-fault insurance and other reforms designed to reduce the volume of those claims. Between 1975 and 2002, all tort claims increased a total of 38%, including the 9% decrease since 1992.)

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inconsistent verdicts for similar disputes. The law offers few guidelines on standards of care or on the potential exposure when there is a dispute.

Civil justice has changed markedly in the last 40 years.[4] These changes can be traced in part to a shift in judicial philosophy: whatever authority judges believed they held withered with the rise of the "legal process" movement in the 1960s, in which their role was reconceived as one of a neutral referee.[5] The effect was not to achieve neutrality, however, but to leave a vacuum. That vacuum has been filled by an ever-broadening range of private legal claims and threats, giving rise to a lawsuit culture in which ordinary interaction is now weighed down by legal considerations.

The main harm to society is not the total cost of verdicts, but that Americans no longer feel free to act reasonably. Legal fear has infected the culture. Paranoid doctors focus on avoiding lawsuits. [6] Recreational activities are cancelled. [7] Teachers have trouble maintaining

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[4] *See* PHILIP K. HOWARD, THE COLLAPSE OF THE COMMON GOOD at 3-70 (2001); *See also* George L. Priest, *The Culture of Modern Tort Law*, 34 VAL. U. L. REV. 573 (2000) (discussion of the recent changes in tort law), George L. Priest, *The Invention of Enterprise Liability: A Critical History of the Intellectual Foundations of Modern Tort Law*, 14 J. LEGAL STUD. 461 (1985) , LAWRENCE FRIEDMAN, TOTAL JUSTICE (1985)

[5] *See* Charles E. Wyzanski, Jr., *Equal Justice Through Law*, 47 TULANE L. REV. 951, 959 (1973) (Representative of the prevailing opinion in the 1970s, Federal judge Wyzanski stated "Choosing among values is much too important a business for judges to do the choosing. That is something the citizens must keep for themselves"), MICHAEL SANDEL, DEMOCRACY'S DISCONTENT: AMERICA IN SEARCH OF A PUBLIC PHILOSOPHY 77 (1996) (Describing that the point of justice became to "respect people's freedom to choose their own values."); *See also* ERIC FONER, THE STORY OF AMERICAN FREEDOM 293 (1998) (Describing "a massive redefinition of freedom as a rejection of all authority", a contributing factor to the doctrinal shift).

[6] See e.g. David M. Studdert, Michelle M. Mello, William M. Sage, et al., *Defensive Medicine Among High-Risk Specialist Physicians in a Volatile Malpractice Environment*, 293 J. AM. MED. ASS'N 2609 (2005); Louis Harris and Associates, *Fear of Litigation Study: The Impact on Medicine*, New York, NY: Common Good (2002), available at http://cgood.org/assets/attachments/57.pdf.

[7] See e.g. Louv, Richard, *Last Child in the Woods: Saving Our Children from Nature-Deficit Disorder* (Algonquin Books) April 15, 2005; "More Green, Less Screen," Interview with Richard Louv, *People Magazine*, June 13, 2005; "For All Who Have Never Climbed a Tree," Marilyn Gardner, *Christian Science Monitor*, May 24, 2005; "Nature Deficit," Kevin O'Connor, *Rutland Herald*, May 1, 2005; "Playtime is Over," *Dallas Morning News*, March 3, 2005; "Old Rockets Fate is Up in the Air," Doug Grow, *Minneapolis Star Tribune*, November 29, 2004 ("[S]wings don't

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order.[8] Volunteerism is chilled. [9] Because of legal threats, and fear of possible claims, common institutions such as hospitals and schools are increasingly difficult to manage. [10]

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reach the sky as they once did. Slides, too, have changed in height and slope. Teeter-totters are gone."); "Playground Safety Left Up to Schools," Bob Kasarda, *The Northwest Indiana Times*, September 24, 2004 ("The wooden equipment that was popular a couple of decades ago has been replaced by a variety of low-lying metal equipment covered in rubber. ... Slides are now shorter and covered, gaps in the equipment have been narrowed to prevent children from placing their heads into openings and all swings have been removed."); "Cannonball!" Field Maloney, *The New Yorker*, August 30, 2004 ("After a golden age in the seventies--a decadent, late-Roman last hurrah--the American pool has suffered a gradual decline: thanks, for the most part, to concerns about safety and liability, diving boards have been removed and deep ends undeepened. At municipal pools across the country, the once-ubiquitous one-metre springboard has become an endangered species; and the three-metre high dive--the T. rex of the community pool--is now virtually extinct."); "Recess Gets Regulated," Sandy Louey, *Sacramento Bee*, August 22, 2004; "Extreme Cheerleading: How Schools Grapple with New Risks," Kris Axtman, *Christian Science Monitor*, June 24, 2004.

[8] See Arum, Richard, *Judging School* Discipline (Harvard, 2003); Public Agenda, "Teaching Interrupted: Do Discipline Policies in Today's Public Schools Foster the Common Good?" New York, NY: Common Good (May 2004), available at http://cgood.org/assets/attachments/22.pdf; Public Agenda, "'I'm Calling My Lawyer': How Litigation, Due Process and Other Regulatory Requirements Are Affecting Public Education," New York, NY: Common Good (November 1, 2003), available at http://cgood.org/assets/attachments/96.pdf.

[9] See e.g. "$17 Million Verdict Has Many Concerned," Derrick Nunnally, *Milwaukee Journal-Sentinel*, February 23, 2005; "Charity Case," Philip K. Howard, *The Wall Street Journal*, March 17, 2005; "Teams Offer Help on Parks," Rachel Gordon, *San Francisco Chronicle*, April 29, 2005 (The City of San Francisco is afraid to use volunteers to help fix softball fields because of "liability concerns—liability concerns—what happens if someone throws out their back patching the gopher holes in the outfield and decides to sue the city?"); "County Tells Bicyclist Thanks, but Stop Plowing Trail," Garrett Ordower, *Daily Herald (IL)*, February 21, 2004. On doctors volunteering, see e.g. Kapp, Marshall B., *Our Hands Are Tied: Legal Tension and Medical Ethics* (Westport: Auburn House, 1998), p. 43 ("Other examples of fear of malpractice litigation include 'physicians failing to stop and render aid in emergency situations despite the existence of Good Samaritan statutes in every jurisdiction that immunize physicians against liability, and the fact that no physician in the United States has ever been successfully sued for rendering emergency aid as a Good Samaritan."); "Report: Aid Needed for Clinics," Kerra L. Bolton, *The Asheville Citizen-Times*, April 27, 2005; "Paving the Way for Good Samaritans," Andy Miller, *The Atlanta Journal-Constitution*, March 12, 2005.

[10] For hospitals see e.g., Louis Harris and Associates, *Fear of Litigation Study: The Impact on Medicine*, New York, NY: Common Good (2002), available at http://cgood.org/assets/attachments/57.pdf; Linda T. Kohn, Janet Corrigan, et al., eds., *To Err is Human: Building a Safer Health System* (Washington, DC: National Academy Press, 2000) p. 43, http://www.nap.edu/books/0309068371/html/ ("Patient safety is also hindered through the liability system and the threat of malpractice, which discourages the disclosure of errors. The discoverability of data under legal proceedings encourages silence about errors committed or observed. Most errors and safety issues go undetected and unreported, both externally and within health care organizations."); "Two-Thirds of Emergency Departments Report On-call Specialty Coverage Problems," American College of Emergency Physicians, *Press Release*, September 28, 2004; "Emergency Departments Face Shortage of Specialty Care," Mary Ellen Schneider, *eObGyn News*, June 16, 2005 ("Obstetricians are among the specialists who are reluctant to take call because of the liability risks involved. … Even if physicians are compensated for taking call, it's not enough to cover the related malpractice insurance costs. The risks incurred far exceed any payment provided."). For schools see e.g., Public (continued…)

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The solution I propose is not to set arbitrary limits on lawsuits but to shift responsibility back to judges to decide, as a matter of law, the boundaries of reasonable claims. To re-instill the public trust in civil justice, judges need to provide people with a sense of who can sue for what.

The authority of judges to assert social norms, although rarely discussed today, is well-established in common law jurisprudence, and was the central theme of those we hold up as lions of the common law, such as Oliver Wendell Holmes, Jr. and Benjamin Cardozo. [11]

The question of what should be decided by a judge versus a jury, in truth, did not matter much until recent decades. Under prevailing social mores, it didn't occur to people to sue for ordinary accidents or workplace disagreements. But now that perception has radically changed: any disagreement or accident is a potential lawsuit.

The need to reassert judicial authority is not a matter of abstract preference for a particular judicial philosophy. The need to reassert judicial authority is profoundly practical: Because Americans no longer trust civil justice, they have lost their freedom to make reasonable daily choices.

Agenda, "Teaching Interrupted: Do Discipline Policies in Today's Public Schools Foster the Common Good?" New York, NY: Common Good (May 2004), available at http://cgood.org/assets/attachments/22.pdf; Louis Harris and Associates, "Evaluating Attitudes Toward the Threat of Legal Challenges in Public Schools," New York, NY: Common Good (March 10, 2004), available at http://cgood.org/assets/attachments/11.pdf; Public Agenda, "'I'm Calling My Lawyer': How Litigation, Due Process and Other Regulatory Requirements Are Affecting Public Education," New York, NY: Common Good (November 1, 2003), available at http://cgood.org/assets/attachments/96.pdf; Common Good, "The Effects of Law on Public Schools," Washington, DC, compiled for a forum entitled "Is Law Undermining Public Education?" (November 5, 2003), available at http://cgood.org/assets/attachments/10.pdf; Arum, Richard, *Judging School Discipline* (Harvard, January 2003) ; Gerald Grant, *The World We Created at Hamilton High* (Harvard, April 1998).

[11] See, Oliver Wendell Holmes, Jr., The Path of Law, 10 HARV. L. REV. 457 (1897). *Quoted* at nt. 69; BENJAMIN CARDOZO, THE NATURE OF JUDICIAL PROCESS 134 (Yale University Press 1921). "What really matters is this, that the judge is under a duty… to maintain a relation between law and morals, between the precepts of jurisprudence and those of reason and good conscience."

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Civil Justice as the Foundation for Reasonable Choices

Civil justice is conceived today primarily as a dispute resolution mechanism. But civil justice also has a broader goal -- as the foundation for reasonable choices in a free society. Holmes stated that, "the first requirement of a sound body of law" is to uphold reasonable community norms. [12]

Derek Bok, former Harvard President and Law School Dean, observed that lawsuits "often have their greatest effect on people who are neither parties to the litigation nor even aware that it is going on." [13] The news last year that someone received a large verdict in a sledding accident had the natural effect of causing other towns to declare that they no would no longer permit winter sports on town property. [14] No court, however, made a ruling that sledding is an unreasonable risk. Who is representing the interests of the citizens who want to enjoy winter sports?

Law is considered the foundation of a free society not because it seeks to maximize possible legal claims -- as one observer noted, "America did not sue its way to greatness" [15] -- but because it sets forth legal guideposts defining the scope of our freedom. People feel free to interact reasonably with others because the system of law will put criminals in

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[12] *Quoted in* HOWARD, *supra* note ___ at 54 (2001)

[13] Derek Bok, *Law and Its Discontents: A Critical Look at Our Legal System*, 37th Annual Benjamin N. Cardozo Lecture, November 9, 1982, reprinted in *The Record*, January/February 1983, at 21. See Prosser and Keeton on *The Law of Torts* (5th ed. 1984): [T]he twentieth century has brought an increasing realization of the fact that the interests of society in general may be involved in disputes in which the parties are private litigants."

[14] See "Town's Downhill Pastime May Face an Uphill Fight," Patrick Healy, *The New York Times*, April 26, 2004; "Sledders Are Finding it Tough to Hit the Slopes," Christine Schiavo, *Philadelphia Inquirer*, January 26, 2005; "Where Sledders Head," Mark Shaffer, *Arizona Republic*, January 9, 2005; "This Winter, Sledders Finding it a Tough Go," David Rattigan, *Boston Globe*, January 6, 2005; "Citing Risk, Golf Clubs Look to Ban Sledding," Emily Sweeney and Douglas Belkin," Boston Globe, January 2, 2005; "Column: Liability, Litigation Make Sled Tracks Disappear," Taylor Armerding, *Gloucester Daily Times*, December 28, 2004.

[15] Discussion with Daniel Popeo, President, Washington Legal Foundation.

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jail, enforce contracts by their terms, and require a negligent person to compensate the person injured. Civil law protects the good as well as prosecutes the bad: citizens in a free society should be confident that if they act reasonably, their freedom to do so will be defended. As long as you act within those guideposts, you are free: free to follow your instincts simply because you choose to.[16] "The end of law," John Locke said, "is not to abolish or restrain, but to preserve freedom." [17]

Today, at least in areas such as tort law, America's civil justice system is not providing these guideposts of right and wrong. There exists a widespread perception, generally accurate, that any injured or angry person can haul another person into court over any accident or disagreement and put that claim to a jury. There is also a perception that the amounts for which people may sue, if not unlimited, are subject to amorphous guidelines and few limits.

Current legal orthodoxy is that the availability of a lawsuit encourages people to act reasonably. Indeed, by making people potentially liable for their negligence, law provides incentives for reasonable conduct. What people seem to have forgotten is that the converse is

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[16] Prosser and Keeton note that an essential aspect of freedom is being free from "restraint and …undue consideration for the interests and claims of others." See Prosser and Keeton, supra:

> Individuals have many interests for which they claim protection from the law, and which the law will recognize as worthy of protection…Individuals wish to be secure in their persons against harm and interference, not only as to their physical integrity, but as to their freedom to move about and their peace of mind. They want food and clothing, homes and land and goods, money, automobiles and entertainment, and they want to be secure and free from disturbance in the right to have these things, or to acquire them if they can. They want freedom to work and deal with others, and protection against interference with their private lives, their family relations, and their honor and reputation. They are concerned with freedom of thought and action, with opportunities for economic gain, and with pleasant and advantageous relations with others. The catalogue of their interests might be as long as the list of legitimate human desires; and not the least of them is the desire to do what they please without restraint and without undue consideration for the interests and claims of others.

[17] JOHN LOCKE, SECOND TREATISE OF CIVIL GOVERNMENT § 57 (Peter Laslett ed., 1967)(1690).

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also true: Allow lawsuits against reasonable behavior and pretty soon people no longer feel free to act reasonably.

An "open season" conception of justice has enormous appeal if people are thinking of getting back at others or looking for comfort in blaming others, but it also has infected daily interaction in society with distrust. People understand, as Professor Robert Kagan observed, that easy justice "can be used against the trustworthy, too. An equal opportunity weapon, it can be invoked by the misguided, the mendacious, and the malevolent, as well as by the mistreated."[18]

The ultimate test of a system of justice, Justice Cardozo suggested, is how people feel about it.[19] By that standard, civil justice is not only a failure, but is actively tearing at the fabric of our society.

Distrust of Justice and Social Decline

In almost every area of social interaction, Americans no longer feel free to act reasonably. The effects of this distrust have been the subject of extensive studies in healthcare, which have concluded that the legal system is a prime contributor to the crisis of cost and quality. Doctors and nurses no longer feel comfortable acting on their best judgment or being candid with each other.

- It is the ubiquitous practice of physicians to order tests that they do not believe are medically necessary, driving up the costs of healthcare.[20] In a 2002 Harris Poll,

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[18] *See* ROBERT A. KAGAN, ADVERSARIAL LEGALISM: THE AMERICAN WAY OF LAW (2003)

[19] *See* BENJAMIN CARDOZO, THE NATURE OF JUDICIAL PROCESS 89 (Yale University Press 1921). Asserting that justice is, "not what I believe to be right. It is what I may reasonably believe that some other man of normal intellect and conscience might reasonably look upon as right."; *See also,* ARCHIBALD COX, THE ROLE OF THE SUPREME COURT IN AMERICAN GOVERNMENT 110 (New York: Oxford University Press, 1976), Observing that, for law to be effective, it "must meet the needs of men and match their ethical sensibilities."

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78% of physicians admitted ordering unnecessary tests and 94% said that other physicians did.[21] A recent survey in Pennsylvania found that 93% reported practicing defensive medicine, and 92% reported ordering unneeded tests and diagnostic procedures and making unnecessary referrals.[22] Defenders of this practice say that more tests mean better healthcare, but 45 million Americans lack health insurance in part because individuals and small businesses cannot afford healthcare premiums that have skyrocketed.[23]

- The Institute of Medicine has concluded that "patient safety is also hindered through the liability system and the threat of malpractice." [24] Doctors are scared to be candid with each other, leading to unnecessary and often tragic errors. They avoid using e-mail because it leaves a written record. They are reluctant to admit fault even in cases of near misses, where no harm is done to the patient.

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[20] Health care expenditures per person are projected to reach $6,477 per person in 2005. Sager, Alan and Deborah Socolar, "Health Costs Absorb One Quarter of Economic Growth, 2000-2005," Boston University School of Public Health: Health Reform Program Data Brief No. 8, February 9, 2005, pp. 11, 14, available at http://dcc2.bumc.bu.edu/hs/Health. U.S. spending per person is "just over" double that of persons in Canada, France, Germany, Italy, Japan, and the United Kingdom.The United States spends a greater percent of gross domestic product on health care than any other major industrialized nation. American healthcare now costs almost twice as much as that in other Western countries. In 2001, the United States spent 14.1 percent of the GDP on health care. This translates to $1.4 trillion, up 8.7 percent from 2000. ("Highlights from Health Tables and Chartbook," Health, United States 2003, National Center for Health Statistics, Centers for Disease Control, http://www.cdc.gov/nchs/products/pubs/pubd/hus/highlits.pdf.) More tests do not correlate positively with better outcomes. See "Should You Be Tested for Cancer___"

[21] Louis Harris and Associates, *Fear of Litigation Study: The Impact on Medicine*, New York, NY: Common Good (2002), available at http://cgood.org/assets/attachments/57.pdf

[22] David M. Studdert, Michelle M. Mello, William M. Sage, et al., *Defensive Medicine Among High-Risk Specialist Physicians in a Volatile Malpractice Environment*, 293 J. AM. MED. ASS'N 2609 (2005)

[23] U.S. Census Bureau, "Income, Poverty, and Health Insurance Coverage in the United States: 2003," August 2004, http://www.census.gov/prod/2004pubs/p60-226.pdf

[24] Linda T. Kohn, Janet Corrigan, et al., eds., *To Err is Human: Building a Safer Health System* (Washington, DC: National Academy Press, 2000) p. 43, http://www.nap.edu/books/0309068371/html/

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- The legal system makes it difficult to hold bad doctors accountable. Doctors who make mistakes can drag out litigation for years, often compelling an unfair settlement. Inept doctors often successfully avoid efforts to revoke their licenses by hiring a lawyer and threatening to sue for defamation.

Distrust of the legal system has transformed public schools. Teachers struggle to maintain order in the classroom because they face threats of being dragged into hearings. The degradation of the school culture, as described by Prof. Richard Arum in his book, *Judging School Discipline*, is linked to requirements to "prove" the correctness of decisions in an adversarial proceeding.[25] The disrespect accorded teachers is shocking. Polls and focus groups show that educators will do almost anything to avoid the unpleasantness of legal hearings. In America today, teachers will not put an arm around a crying child for fear of being sued for an unwanted sexual touching.

Recreation has been transformed. Playgrounds have been stripped of anything athletic—for example, jungle gyms and seesaws. Playgrounds are so boring, according to some experts, that no child over the age of four wants to go in them. [26] I was on a panel convened by

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[25] *See generally* ARUM *supra* note ___; *See also* Public Agenda, "Teaching Interrupted: Do Discipline Policies in Today's Public Schools Foster the Common Good?" New York, NY: Common Good (May 2004), available at http://cgood.org/assets/attachments/22.pdf; Public Agenda, "'I'm Calling My Lawyer': How Litigation, Due Process and Other Regulatory Requirements Are Affecting Public Education," New York, NY: Common Good (November 1, 2003), available at http://cgood.org/assets/attachments/96.pdf.

[26] See e.g., HOWARD *supra* note ___ at 3-4 ("The new equipment is so boring, according to Lauri Macmillan Johnson, a professor of landscape architecture at the University of Arizona, that children make up dangerous games, like crashing into the equipment with their bicycles."); "More Green, Less Screen," *People Magazine,* June 13, 2005 (Child and nature advocate Richard Louv says playgrounds are "being designed to avoid lawsuits, so many of them are quite boring to kids."); "Playtime is Over," *Dallas Morning News*, March 3, 2005; "Old Rockets Fate is Up in the Air," Doug Grow, *Minneapolis Star Tribune*, November 29, 2004 ("[S]wings don't reach the sky as they once did. Slides, too, have changed in height and slope. Teeter-totters are gone."); "Playground Safety Left Up to Schools," Bob Kasarda, *The Northwest Indiana Times*, September 24, 2004 ("The wooden equipment that was popular a couple of decades ago has been replaced by a variety of low-lying metal equipment covered in rubber. ... (continued…)

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Health Secretary Tommy Thompson in 2002, at which a group of experts concluded that re-instilling a culture of physical fitness was essential in order to address the surge in childhood obesity. Forty years ago, JFK's President's Council on Youth Fitness, with the same goal, called for installing monkey bars and other athletic equipment in playgrounds. Now, because of fear of liability, they've largely been ripped out.

Many other ordinary aspects of growing-up have disappeared. Lakes were closed to swimming as the word got out that you might get sued. Field trips are cancelled.[27] 'Recently, a school in Brooklyn had their beach day near Coney Island—the children were prohibited from going in the water for fear that someone might be liable if there were an accident. [28] A new book, Last Child in the Woods, addresses the cost to society when children lose the experience of spontaneous play and exploration.[29]

Business life has been transformed in many ways. "Foreign businessmen express amazement," Derek Bok observed, at "a system that exposes the entrepreneur to legal challenge so easily and on so many fronts, a system that lends itself so readily to harassment, obstruction, and delay." It is the regular practice of firms, including my own law firm, not to give references for fear of liability. Last year, a nurse admitted to killing 42 people in a string of hospitals in New Jersey and Pennsylvania. He was recognized as a troubled and ineffective nurse and would

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Slides are now shorter and covered, gaps in the equipment have been narrowed to prevent children from placing their heads into openings and all swings have been removed.").

[27] See e.g. "Safety Always an Issue on School Trips," Martha Irvine, *The Associated Press*, June 11, 2005; "Dealing with the Dresden Deficit a Challenge," Lynne Jeter, *Mississippi Business Journal*, March 7, 2005 ("[S]ome schools were not taking as many field trips due to discipline problems or liability concerns."); Gerald S. Cohen, "Schools Cancel Field Trips — Fear of Suits, *San Francisco Chronicle*, August 30, 1989.

[28] Conversation with Franklin Stone.

[29] Louv, Richard (Algonquin Books) April 15, 2005

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soon be fired, but would get rehired at another hospital because no one would give him a bad reference. As one hospital administrator admitted, "we're prevented from telling one another what we know out of fear, quite frankly, of being sued." [30]

Symptoms of the distrust of justice are all around us. Warning labels are found on virtually every product. Billions of coffee cups contain the helpful legend "Caution: Contents are Hot." A recent winner of the annual "wacky warning" contest was a 5-inch fishing lure with the following legend: "Harmful if Swallowed."[31] The warnings cost little or nothing, apologists say. But that's not correct either. When every product has a warning, the effect is a version of the child crying wolf -- consumers are less likely to pay attention to the warnings that really matter.

In almost all areas of social interaction -- hospitals, schools, recreation, child-rearing activities, even churches and synagogues -- Americans no longer feel comfortable acting on their reasonable judgment. The reason, polls confirm, is distrust of American Justice. A new Harris Poll, commissioned for this conference, found the following:

- 76% of Americans strongly or somewhat agree that people have become so fearful of frivolous lawsuits that they are discouraged from performing normal activities. [32]
- 83% of Americans strongly or somewhat agree that the system of justice makes it too easy to make invalid claims. [33]

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[30] "Hospitals Didn't Share Records of a Nurse Accused in Killings," Richard Perez-Pena, *The New York Times*, December 17, 2003; see also "Would You Hire this Man?," *Christian Science Monitor*, March 1, 2004

[31] M-LAW, "Past Winners of M-Law's 'Wacky Warning Label' Contest," http://www.mlaw.org/wwl/pastwinners.html

[32] Louis Harris and Associates, *Public Attitudes Toward the Civil Justice System*, New York, NY: Common Good (2005)

[33] *Id.*

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- 94% strongly or somewhat agree that there is a tendency for people to threaten legal action when something goes wrong.[34]
- 16% trust the legal system if someone makes a baseless claim against them.[35]
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The lack of confidence in civil justice is echoed in numerous other polls. [36]

Defenders of our system of justice say that Americans are irrational, and that the crisis has been manufactured (i) by irresponsible media that makes headlines of occasional rogue jury verdicts and (ii) by a calculated scare campaign of tort reformers. It's correct that the media emphasizes anything that might shock or titillate the public. [37] This bad habit has been observed in the media since colonial days, and, in the land of the First Amendment, it is hard to know what to do about it. It is correct also that reformers have gone of the stump to tell the public that the

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[34] *Id.*

[35] *Id.*

[36] In a 1999 public opinion survey commissioned by the National Center for State Courts, for example, only 23% of the respondents had a great deal of trust in the court system. American courts were ranked below most institutions. Only the media and the state legislature were ranked worse. *See* Stephen S. Meinhold & David W. Neubauer, *Exploring Attitudes About the Litigation Explosion*, 22 JUST. SYS. J. 105 (2001); Indiana University Public Opinion Laboratory, *How the Public Views the State Courts: a 1999 National Survey*, Williamsburg, VA: National Center for State Courts & The Hearst Corporation, presented at the National Conference on Public Trust and Confidence in the Justice System (1999); David Neubauer & Stephen S. Meinhold, *Too Quick to Sue? Public Perceptions of the Litigation Explosion*, 16:3 JUST. SYS. J. 1 (1994); Gary A. Hengstler, *The Public Perception of Lawyers: ABA Poll*, 79-SEP A.B.A. J. 60 (1993); Valerie P. Hans & William S. Lofquist, *Jurors' Judgments of Business Liability in Tort Cases: Implications for the Litigation Explosion Debate*, 26 LAW & SOC'Y REV. 85 (1992); TOM R. TYLER, WHY PEOPLE OBEY THE LAW (1990); Louis Harris and Associates, *Public Attitudes Toward the Civil Justice System and Tort Law Reform*, Hartford, CT: Aetna Life and Casualty Company (1987); Darlene Walker et al., *Contact and Support: An Empirical Assessment of Public Attitudes Toward the Police and the Courts*, 51 N.C. L. REV. 44 (1972-1973)

[37] *Cf.* James Fallows, *Why Americans Hate the Media*, THE ATLANTIC MONTHLY, Feb. 1996 (criticism of the media's tendency to sensationalize), H. L. MENCKEN, A GANG OF PECKSNIFFS: AND OTHER COMMENTS ON NEWSPAPER PUBLISHERS, EDITORS, AND REPORTERS (1975)

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litigation system is unfair. [38] Probably the biggest promoters of "jackpot justice," however, are the plaintiffs' lawyers. One need only look through the Yellow Pages, or look at billboards, or listen to AM radio, to be barraged by lawyer advertisements encouraging Americans to believe that they can sue for anything.[39] The unavoidable message of those ads is that you might be on the receiving end of one of those lawsuits.

The data on the amount of litigation and the trend in verdicts are notoriously unreliable because fewer than 3% of all cases ever get resolved at trial, and the overwhelming number of claims are settled or disposed of in some other way. [40] Legal threats don't show up in the numbers at all. The best data appear to confirm that the amounts awarded by juries have increased and that the number of claims—at least of certain types— is also up. [41]

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[38] See e.g.; American Tort Reform Association (ATRA), "About" ATRA website at http://www.atra.org/about/ ("Some astonishing decisions come out of the courts these days. Hundreds of millions in punitive damages piled on top of relatively minor actual damages. Meritless cases settled because defendants fear the outcome of an emotion-filled jury trial or a lawless court. That's why the [ATRA] leads the fight for a better civil justice system--one that's fair, efficient and predictable," says ATRA President Sherman Joyce.); U.S. Chamber of Commerce Institute for Legal Reform (ILR), "About ILR—Who We Are," ILR website at http://www.instituteforlegalreform.com/about/index.html ("Many plaintiffs' lawyers are exploiting flaws in our legal system in search of jackpot justice."). See also Common Good, "Is the Legal System Broken?" *The New York Times* and *The Washington Post*, December 26, 2005 ("[S]tandards today are changeable from jury to jury. With uncertain legal boundaries, it seems that anyone can sue for almost anything.… Reform must restore reliability to law.")

[39] A full 77 pages (pp. 535-612) of the 2004-2005 District of Columbia yellow pages are devoted to lawyer advertisements, many with provocative headings like "Whoever said justice had to be fair?", "Injured? Get the money you deserve", and "Millions Recovered". Lawyers do not limit themselves to ads in print; see, for example, a current (June, 2005) ad campaign targeting Washington, D.C. metro riders and internet surfers; available at www.milkmakesmesick.org

[40] Patrick E. Higginbotham, *So Why do we Call them Trial Courts?,* 55 SMU L. Rev. 1405, 1408 (2002) (Noting that although the number of federal civil cases filed rose by 152% between 1970 and 1999, that the number of claims reaching the jury fell by 20%, leaving only 3% of all claims reaching a jury).

[41] *Id. at* 1408., Brian J. Ostrom, Neal B. Kauder, and Robert C. LaFountain, eds., *Examining the Work of State Courts, 2002: A National Perspective from the Court Statistics Project* (National Center for State Courts, 2003) (All civil claims increased 23% between 1987 and 2001. Tort claims (a subset of civil claims) declined 9% since 1992 because traffic claims (which make up the bulk of tort claims) declined 14% during that period. The decline in traffic claims is attributable to the rise of no-fault insurance and other reforms designed to reduce the volume of (continued…)

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As a matter of probabilities, however, the odds of being sued and then losing before a jury are remote for most Americans.[42] Studies also indicate that, in most cases, juries tend to do a reasonable job.[43] But there is contrary evidence –in tragic circumstances, such as a child injured in an accident or a baby born with birth defects, studies show that juries tend to award huge sums irrespective of fault.[44]

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those claims. Between 1975 and 2002, all tort claims increased a total of 38% (including the 9% decrease since 1992).); Stuart Taylor Jr. and Evan Thomas, "Civil Wars," *Newsweek*, December 13, 2003, p. 48 (Mean jury awards now exceed $1.2 million, up from approximately $600,000 in 1996); Seth A. Seabury, Nicholas M. Pace, and Robert T. Reville, "Forty Years of Civil Jury Verdicts," *Journal of Empirical Legal Studies* Vol. 1 (March 2004), available at http://www.blackwell-synergy.com/links/doi/10.1111/j.1740-1461.2004.00001.x/abs/?cookieSet=1 (Average jury awards tend to be highly variable from year to year, making it difficult to distinguish trends over relatively short periods of time. We use the longest time series of data on jury verdicts ever assembled: 40 years of data on tort cases in San Francisco County, CA and Cook County, IL collected by the RAND Institute for Civil Justice. We find that while there has been a substantial increase in the average award amount in real dollars, much of this trend is explained by changes in the mix of cases, particularly a decreasing fraction of automobile cases and an increase in medical malpractice. Claimed economic losses, in particular claimed medical losses, also explain a great deal of the increase. Although there appears to be some unexplained growth in awards for certain types of cases, this growth is cancelled out on average by declines in awards in other types of cases); On medical malpractice specifically, see Physician Insurers Association of America, *PIAA Claim Trend Analysis: 2003 ed.* (2004), cited in American Medical Association, "Medical Liability Reform—NOW," June 14, 2005, available at http://www.ama-assn.org/ama1/pub/upload/mm/-1/mlrnowjune142005.pdf (The median medical liability jury award in medical liability cases nearly doubled from 1997 to 2003, increasing from $157,000 to $300,000. The average award increased from $347,134 in 1997 to $430,727 in 2002. The growth in settlements has mirrored that of jury awards. Median and average settlements increased from $100,000 to $200,000, and from $212,861 to $322,544 between 1997 and 2002, respectively.); Jury Verdict Research, "Medical Malpractice Jury Award Median Up Slightly," Press Release, April 1, 2004, available at http://www.juryverdictresearch.com/Press_Room/Press_releases/Verdict_study/verdict_study8.html (Median award in medical malpractice cases was $1,010858 in 2002, up from $473,055 in 1996.)

[42] The chances of being sued are significant for physicians in certain specialties: [facts]

[43] *Cf.,* Thomas Munsterman, *How Judges View Civil Juries,* 48 Depaul L. Rev. 247, 249-253 (1998).

[44] In birth-injury cases, juries sided with plaintiffs 60% of the time in 2002, up 34 percent from two years earlier. The median award for childbirth-negligence cases in 2002 was $2.2 million. (Jury Verdict Research, cited in "Doctors Spell Out Risks of Childbirth on Consent Forms," Carol M. Ostrom, *The Seattle Times*, August 9, 2004.) When all malpractice claims are considered, however, plaintiffs win just 1% at trial and lose 4% at trial—with the remaining 95% being settled, dropped or dismissed. (Presentation of Lawrence E. Smarr , Physicians Insurers Association of America, to American College of Surgeons, June 23, 2003, at http://www.facs.org/about/chapters/smarr.pdf.) In large counties in 2001, plaintiffs prevailed in 27 percent of medical malpractice cases. (Bureau of Justice Statistics, "Civil Trial Cases and Verdicts in Large Counties, 2001," April 2004, available at http://www.ojp.usdoj.gov/bjs/pub/pdf/ctcvlc01.pdf.) The median award for all malpractice (continued…)

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Arguing about probabilities of being sued does not take into account the reality of human nature. To feel free to act on their reasonable judgment, people seem to need clarity[45] -- for example, that the system of justice will affirmatively protect them if a baseless claim is brought. In the face of uncertainty, individuals often give disproportionate weight to risk— Nobel laureate Daniel Kahneman famously explained this phenomenon as the "overweighting of low probabilities," which helps explain why people think about sharks before swimming in the ocean, even though chances of being attacked are negligible.[46]

Being sued also is also an unlikely but horrifying event, and there are many more potential plaintiffs in our daily lives than there are sharks. Many doctors say that they view every patient as a potential plaintiff. Nothing could be easier, when something goes wrong, than to come up with a theory of what someone might have done differently. Once people learn that someone was exposed to a lawsuit for some ordinary life activity, that activity becomes a risk to

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cases was $425,000 in 2001. (Bureau of Justice Statistics, "Medical Malpractice Trials and Verdicts in Large Counties, 2001," April 2004, p. 1, available at http://www.ojp.usdoj.gov/bjs/pub/pdf/mmtvlc01.pdf) On the correlation between the adverse events, negligence and jury awards, a study of malpractice claims published in the *New England Journal of Medicine* found "no association between the occurrence of an adverse event due to negligence or an adverse event of any type and payment. ... Among the malpractice claims we studied, the severity of the patient's disability, not the occurrence of an adverse event or an adverse event due to negligence, was predictive of payment to the plaintiff." (Troyen A. Brennan, M.D., J.D., M.P.H., Colin M. Sox, B.A., and Helen R. Burstin, M.D., M.P.H., "Relation between Negligent Adverse Events and the Outcomes of Medical Malpractice Litigation," *The New England Journal of Medicine*, Volume 335: 1963-1967, December 26, 1996, Number 26, available at http://content.nejm.org/cgi/content/short/335/26/1963.)

[45] Indeed, researchers have found that people value "decorum, fairness, and *finality* in decision-making". David B. Rottman, *Public Perceptions of the State Courts: A Primer*, 15:3 CT. MANAGER 1, 3 (2000) (emphasis added).

[46] Daniel Kahneman & Amos Tversky, *Prospect Theory: An Analysis of Decision Under Risk,* 47 ECONOMETRICS 263, 263 (1979). *See also* Cass R. Sunstein, *What's Available? Social Influences and Behavioral Economics*, 97 Nw. U. L. Rev. 1295 (2003) (discussing the widespread fear and panic resulting from sniper killings in the Washington, D.C. area in the fall of 2002, even though the statistical probability of falling victim to the snipers was quite low.)

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avoid.[47] I could find no court that held that a seesaw was unreasonably dangerous, or that putting suntan lotion on children at camp would subject you to liability, but those are endangered activities because Americans understand that one injured or disappointed person could unilaterally drag them through years of legal process.

"An act is illegal," Professor Donald Black once observed, "if it is vulnerable to legal action." [48] By that standard almost any accident or dispute today is illegal. That's why people are fearful.

Getting Beyond Tort Reform

The debate over "tort reform" in the last two decades has focused not on the effectiveness of justice as the foundation for reasonable daily choices, but whether civil justice achieves fairness in particular cases.[49] As Derek Bok noted 20 years ago, there is a tendency to concentrate on the "plight of individual litigants and ignore[] the effects on the system as a whole."[50]

Tort reformers talk about the "lawsuit lottery," and point to jurisdictions that are notoriously tilted toward claimants and characterize them as "judicial hell-holes" and "magic jurisdictions" where plaintiffs' lawyers can bring baseless or excessive claims with a high

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[47] Chief Justice Warren Burger noted almost twenty years ago a "litigation neurosis" developing in "otherwise normal, well-adjusted people". Chief Justice Warren E. Burger, *Isn't There a Bettter Way?*, 68 A.B.A. J. 275 (1982)

[48] Donald J. Black, The Mobilization of Law, 2 J. Legal Studies 125,131 n.24 (1973).

[49] Those engaged in the current tort reform debate would do well to heed Geoffrey Hazard's advice that "In all law reform it is important to be circumspect about the nature and magnitude of the problems to which reform is to be addressed." Geoffrey C. Hazard, Jr., *Individual Justice in a Bureaucratic World*, 7 TUL. J. INT'L & COMP. L. 73 (1999). To properly tackle the problems in the current system, it is important to take a broader view of the effect of civil justice on society.

[50] BOK, *supra* note ____ at 27.

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probability of success.[51] The focus throughout is fairness. "Is it fair to get a couple of million dollars from a restaurant because you spilled a cup of hot coffee on yourself?"[52] As the Chamber of Commerce asks on its website, "How fair are your courts?"[53]

Actual reform proposals have not questioned the basic functioning of the system, however. As Professor Robert Kagan put it, tort reform has only "nibbled at the edges."[54] Indeed, many tort reformers have gone out of their way to suggest that the problem can be fixed with a few tweaks: "all it takes is a few of those magic jurisdictions to distort the whole system,"[55] said a representative of the National Association of Manufacturers. "A minor change in procedures—the class action bill now pending before Congress—can make that impossible by driving those kinds of mass claims into federal court."[56] (That legislation—the Class Action Fairness Act of 2005—was passed earlier this year.)

The medical profession has thrown its energy into an effort to "cap" non-economic damages at $250,000. If ever enacted, this would certainly moderate malpractice insurance premiums. But most doctors acknowledge that "caps" do little to alleviate the extreme distrust that doctors harbor towards the system. For example, limiting damages awarded for pain

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[51] AMERICAN TORT REFORM ASSOCIATION, *supra* note 1.

[52] "Politicians, pundits, and industry leaders replayed endless variations on [this] theme summarized by the national Chamber of Commerce." Deborah L. Rhode, *Frivolous Litigation and Civil Justice Reform: Miscasting the Problem, Recasting the Solution*, 54 DUKE L.J. 447, 454 (2004) (citing Ralph Nader & Wesley J. Smith, No Contest: Corporate Lawyers and the Perversion of Justice in America 267 (1996)).

[53] See the main page of the U.S. Chamber of Commerce's Institute for Legal Reform (as viewed on June 21, 2005) at http://www.instituteforlegalreform.com/

[54] Robert A. Kagan, *How Much do Conservative Tort Tales Matter? On Haltom and McCann's Distorting the Law*. 33 (6/25/05) (*Unpublished manuscript)*

[55] Wallstreet Week with Fortune, Scruggs/Baroody Debate, aired Jan. 28, 2005, *available at* http://www.pbs.org/wsw/tvprogram/20050128.html.

[56] That class action legislation was passed earlier this year. *Id. [CITATION]*

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and suffering is of little help to an obstetrician who could not have caused a baby's birth defects but is nonetheless found liable for millions of dollars of "economic" damages representing a lifetime of care.[57]

Where tort reformers see the system as rigged by trial lawyers, opponents of reform portray tort reformers as special interests trying to rig the system their way. Joanne Doroshow, a founder of the Center for Justice and Democracy, put it this way: "there has been an increase in efforts to eviscerate the civil justice system and make sure corporations do not get sued for anything they do wrong." [58]

Opponents of tort reform also focus on fairness, which they define as the right to have every case decided by a jury. Robert S. Peck, the head of the Center for Constitutional Litigation, extols the virtues of modern civil justice this way:

> There, an individual, neither wealthy nor well-connected, can haul a huge multinational conglomerate into court and hold it accountable for its wrongful and harmful actions.[59]

"I trust the jury system and I trust the American people and their common sense," as trial lawyer Richard Scruggs put it, "far more than the National Association of Manufacturers to protect the American public."[60]

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[57] A majority of states have passed laws that limit defendant's exposure in personal injury actions; for example, by limiting non-economic damages or joint and several liability. But these citizens in take states still seem to distrust the system of justice.

[58] Justice For all: Speaking Truth to Power, 40-JUL Trial 20 (2004).

[59] Robert S. Peck, *Tort Reform's Threat to an Independent Judiciary*, 33 RUTGERS L.J. 835, 838 (2002).

[60] Wallstreet Week with Fortune, Scruggs/Baroody Debate, aired Jan. 28, 2005, *available at* http://www.pbs.org/wsw/tvprogram/20050128.html. The populist rhetoric by trial lawyers about "trusting the American people" doesn't seem quite accurate. As Walter Olson recounts in detail in "The Rule of Lawyers" (Truman Talley/St. Martin's 2003) jury selection is a highly manipulated process (by lawyers for both sides). Manuals explain that Mexican Americans are "passive" and "Orientals tend to go along with the majority." Lawyers use focus groups to figure out which juries would be most sympathetic to their arguments. In the silicone (continued…)

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The impact of justice on the workings of a society is only touched on tangentially. Plaintiffs' lawyers often assert that lawsuits serve a "regulatory function," but when the results vary from case to case, it's hard to find the regulatory rule.[61]

The focus on fairness has proved unproductive on many levels. In any given case, the question of fairness can easily be argued either way. Take the McDonald's hot coffee case, the poster child of "lawsuit abuse." There, an elderly woman was badly burned when she put her coffee cup between her legs, and it spilled as her daughter drove away from the drive-through window. That's her fault, it's easy to say. On the other hand, McDonald's coffee was brewed 20 degrees hotter than other restaurants. Why should the drive-in window sell coffee that's so hot? Why not, aren't drivers grown up?

Arguing about fairness quickly turns into a version of a playground spat. Tort reformers talk about the need to limit frivolous lawsuits. Who can be against that? Defenders of the system talk about protecting the little guy against corporate wrongdoers. Who can be against that? Any functional system of civil justice, of course, should accomplish both goals: it should reliably get rid of frivolous lawsuits, and it should also effectively protect the little guy against a corporate wrongdoer.

What's missing in the debate is any coherent vision of how a system of justice should accomplish these goals.

The Responsibility of Judges vs. Juries.

Ad questionem facti non respondent judices . . .

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breast implant cases, for example, they discovered that blue collar men would be most likely to return verdicts for the plaintiffs. cite.

[61] The trial lawyers seem to assume,,contrary to substantial evidence, that the more exposure to liability, the better people will behave. Cites to health care studies, note __supra.

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"Judges do not answer questions of fact…"

…ad questionem juris non respondent juratores.
"…jurors do not answer questions of law."

Sir Edward Coke, Commentary on Littleton 460 (J. H. Thomas ed., 1818).

Just as both sides to the tort reform debate have focused on fairness rather than the broader effects of civil justice on society, so too have they assumed that juries, not judges, have the responsibility of deciding whether conduct constitutes negligence or an unreasonable risk. Under current judicial orthodoxy, judges believe they should lean over backwards to put every case to a jury. One standard often quoted is *Conley v. Gibson*, 355 U.S. 41 (1957) admonishing lower courts not to dismiss any claim unless "it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to recover."[62]

Any effort at legal reform is routinely resisted as trespassing on the constitutional right of trial by jury. But the role of the civil jury is generally misunderstood and, to the public, probably confused with the jury's role in criminal cases. In criminal prosecutions, juries play a critical role as our protection against the abuse of government power. Juries are our defense against state coercion: no one can be convicted to jail unless a jury decides they're guilty. But in a civil case, where citizens can use the justice system as an offensive weapon, the role of the jury depends upon whether the issues should be determined as a matter of law or as a matter of disputed fact.

The Seventh Amendment, which states that the "right of trial by jury shall be preserved," underscores this fact-law distinction. It defines the civil jury right as applying to "suits in common law" and ends by saying that "no fact tried by a jury shall be otherwise

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[62] Conley v. Gibson, 355 U.S. 41, 45 (1957).

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reexamined…than according to the rules of the common law." [63] Judges declare the standards of law that affect all of society; juries find disputed facts in the particular case.[64]

While most lawyers assume today that the Seventh Amendment is an automatic pass to the jury, what constituted a "suit at common law" in 1791 was sharply limited. There was no cause of action for negligence, for example, until judges in the 19th century made rulings creating this new cause of action. Some issues -- say, interpretation of a statute -- are clearly law. Others are clearly issues of fact: "credibility determinations, the weighing of evidence and the drawing of legitimate inferences from the facts are jury functions, not those of a judge."[65]

Determining whether someone acted reasonably involves mixed questions of law and fact. Any claim for negligence, for example, usually involves what is reasonable conduct in the circumstances. The almost universal practice in tort cases is to give the claim to the jury. One study found that courts show "extreme vigilance against treading on contested fact issues or mixes questions of law and fact - even arguable ones - reserving them for evidentiary hearings . . . This was especially true in cases applying indeterminate legal standards, such as

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[63] U.S. CONST. amend. VII. "In suits in common law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law."

[64] Arthur Miller, *The Pretrial Rush to Judgment: are the "Litigation Explosion," "Liability Crisis," and Efficiency Clichés Eroding our Day in Court and Jury Trial Commitments?,* 78 N.Y.U. L. REV. 982, 1083 (2003). (Positing that an issue that "involves the resolution of principles generally applicable to a class of cases" is a question of law for the judge). *See also* Walter Dellinger & H. Jefferson Powell, *Marshall's Questions*, 2 GREEN BAG 367 (1999) (Commenting that "Marshall the judge seems memorable for his insistence that the courts deal only and impartially with questions of law")

[65] Anderson v. Liberty Lobby, 477 U.S. 242, 255 (1986)

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reasonableness."[66] Most courts do not even pay attention to the question of what should be decided as a matter of fact or law.

> There has been … a strong tendency to let all issues go to the jury without discriminating among them. Judges may see this not only as conventional, but also as convenient, because it reduces judicial effort and the risk of reversal.[67]

The general practice of American courts is summed up by a sign that once hung over the federal courtroom door in New Orleans: "No spitting. No summary judgment."[68]

There is a different tradition of civil justice, however, that, at least in tort law, would dramatically increase the responsibility of judges. In this tradition, articulated most notably by Oliver Wendell Holmes, Jr., the overriding goal of civil justice is to provide guidance and protection to society as a whole. Instead of acting as referees over a neutral process, judges have the obligation to make rulings of law on legal duty and standards of care. Whether seesaws are a reasonable risk would be determined by the judge as a matter of law.

This approach has been largely lost to our generation and, to most, probably seems like heresy. But the jurists that we hold up as our leading common law thinkers considered this an essential responsibility of judges. To Holmes, what constitutes reasonable conduct was a question that required a ruling of law:

> Negligence … [is] a standard of conduct, a standard we hold the parties bound to know before-hand, and which in theory is always

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[66] Paul W. Mollica, *Federal Summary Judgment at High Tide*, 84 MARQ. L. REV. 141, 147 (2000), *Quoted* in Miller, *supra* nt. 50 at 1027.

[67] Schwarzer, Hirsch & Barrans, *supra* note 41, at 460.

[68] Steven A. Childress, *A New Era for Summary Judgments: Recent Shifts at the Supreme Court*, 6 REV. LITIG. 263, 264 (1987).

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> the same fact and not a matter dependent upon the whim of a particular jury nor the eloquence of the particular advocate.[69]

Benjamin Cardozo devoted his famous lectures in 1923 to the importance of this type of "judicial legislation":

> The judge is under a duty…to maintain a relation between law and morals, between precepts of jurisprudence and those of reason and good conscience. "it is the function of courts to keep doctrines up to date with the *mores* by continued restatement…This is judicial legislation, and the judge legislates at his peril. Nevertheless, it is the necessity and duty of such legislation that gives to judicial office its highest honor; and no brave and honest judge shirks the duty or fears the peril."[70]

Chief Justice Roger Traynor of the California Supreme Court, a famous liberal innovator -- he created the doctrine of strict liability for manufacturers whose products fail[71] -- emphasized the need for judges to declare rulings even in the simplest accident, and not leave standards to the "oscillating verdicts of juries."[72] When a woman hit her head on an angled ceiling while walking down a staircase, Traynor insisted that the judge determine whether it was an unreasonable hazard; in that case, "the danger is so apparent that visitors could reasonably be expected to notice it."[73]

Judges in tort cases today assume that they lack this power, but they need only look to commercial law to see the philosophy in action. In commercial law, the focus is predictability and efficiency. It is a well-established principle that judges, not juries, have the obligation to interpret standard language of contracts.[74] The Uniform Commercial Code was a

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[69] Oliver Wendell Holmes, Jr., *Law in Science and Science in Law,* 12 HARVARD L. REV. 443, 458 (1899)
[70] CARDOZO *Supra,* note 3 at 133-135.
[71] *See* Escola v. Coca-Cola Bottling Co. of Fresno, 24 Cal.2d 453 (1944).
[72] *Quoted* in G. EDWARD WHITE, TORT LAW IN AMERICA, 185 (Oxford University Press 1980).
[73] *Id.* at 190-191.
[74] *See e.g.* Joseph M. Perillo, *Comments on William Whitford's Paper on the Role of the Jury (and the Fact/Law Distinction) in the Interpretation of Written Contracts*, 2001 Wis. L. Rev. 965, 965 (2001) (Explaining the limited (continued…)

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legislative effort to achieve consistency.[75] Its core concepts, including ones that look very much like those of tort, including reasonableness, are often decided as a matter of law in situations where the fact patterns are likely to be repeated. America's system of commercial law, generally considered the most consistent and predictable in the world, is the bedrock of America's economic strength.

The Supreme Court in recent years has begun to emphasize the goal of legal consistency. Several important decisions, for example, emphasized the desirability of judges using summary judgment to make rulings as a matter of law. In *Celotex v. Caltrett*, a wrongful death asbestos case, the court starkly shifted direction from the presumption that summary dismissal should be avoided if there was a "scintilla of evidence."[76] Thus,

> Summary judgment procedure is properly regarded not as a disfavored procedural shortcut, but rather as an integral part of the

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instances in which juries interpret contracts: "Courts which follow the more traditional approach permit the jury to determine the proper interpretation of a contract only if the judge without the aid of parol evidence deems the contract to be ambiguous and parol evidence is then admitted to clarify the parties' intentions. A wider role is permitted by courts that follow the Pacific Gas & Electric Co. v. G.W. Thomas Drayage & Rigging Co., approach, which essentially allows the court to hear parol evidence to determine whether the writing is susceptible to more than one interpretation. If the court finds that the writing is susceptible to more than one interpretation, and parol evidence is admitted in the hearing of the jury, the jury is charged with determining the meaning of the writing"); *Cf.* Richard A. Posner, *The Law and Economics of Contract Interpretation*, 83 TEX. L. REV. 1581 (2005) (Stating that "contract interpretation is, of course, a judicial staple."), The Hon. Justice Michael Kirby AC CMG, *Towards a Grand Theory of Interpretation: The Case of Statutes and Contracts*, 24 STATUTE L. REV. 95 (2003) (Observing that a large part of the work of judges is composed of interpreting contracts and statutes); *But see* William C. Whitford, *The Role of the Jury (and the Fact/Law Distinction) in the Interpretation of Written Contracts*, 2001 Wis. L. Rev. 931 (2001) (Stating that a significant proportion of cases involving contract interpretation are actually decided by juries).

[75] U.C.C. § 1-102(2)(c) (one of the main purposes of the U.C.C. is "to make uniform the law among the various jurisdictions.")

[76] *Supra* note 42 at 251. "Formerly it was held that if there was what is called a *scintilla* of evidence in support of a case the judge was bound to leave it to the jury, but recent decisions of high authority [referring to Celotex and Matsushita 516 U.S. 367] have established a more reasonable rule, that in every case, before the evidence is left to the jury, there is a preliminary question for the judge, not whether there is literally no evidence, but whether there is any upon which a jury could properly proceed to find a verdict for the party producing it, upon whom the *onus* of proof is imposed."

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> federal rules as a whole, which are designed "to secure the just, speedy and inexpensive determination of every action." (quoting Fed. Rules Civ. Proc. 1.)[77]

In *Markman v. Westview Instruments*, Justice Souter explained the importance of consistency in patent cases:

> "…we see the importance of uniformity in the treatment of a given patent as an independent reason to allocate all issues of construction to the court. As we noted in *General Elec. Co. v. Wabash Appliance Corp.*, "[t]he limits of a patent must be known for the protection of the patentee, the encouragement of the inventive genius of others and the assurance that the subject of the patent will be dedicated ultimately to the public."[78]

What discourages economic energy, Justice Souter cautioned, was a legal system that created a "zone of uncertainty:"

> "[A] zone of uncertainty which enterprise and experimentation may enter only at the risk of infringement claims would discourage invention only a little less than unequivocal foreclosure of the field," *United Carbon Co. v. Binney & Smith Co.*, 317 U.S. 228, 236, 63 S.Ct. 165, 170, 87 L.Ed. 232 (1942), and "[t]he public [would] be deprived of rights supposed to belong to it, without being clearly told what it is that limits these rights.""" *Merrill v. Yeomans*, 94 U.S. 568, 573, 24 L.Ed. 235 (1877).[79]

In *Cooper v. Leatherman*, the court held that the boundaries of punitive damages should be decided as a matter of law: "Requiring the application of law, rather than a decisionmaker's caprice, does more than simply provide citizens notice of what actions may subject them to

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[77] Celotex v. Caltrett, 477 U.S. 317, 327 (1986).

[78] Markman v. Westview Instruments, 570 U.S. 370, 390 (1996).

[79] *Id.*

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punishment; it also helps to assure the uniform general treatment of similarly situated persons that is the essence of law itself."[80]

In *State Farm v. Campbell*, the Court went further on punitive damages, suggesting clear guidelines so that claims of punitive damages could not be used to extort settlements.[81]

> Elementary notions of fairness enshrined in our constitutional jurisprudence dictate that a person receive fair notice not only of the conduct that will subject him to punishment, but also of the severity of the penalty that a State may impose..[82]

In *Daubert v. Merrell Dow*, the court shifted the responsibility of what constitutes credible expert testimony from jury to judge:

> …the Rules of Evidence -- especially Rule 702 -- do assign to the trial judge the task of ensuring that an expert's testimony both rests on a reliable foundation and is relevant to the task at hand.[83]

Professor Arthur Miller, in a thorough article on the history of the fact-law distinction, is critical of what he sees as this new trend to make decisions as a matter of law on summary judgment. His main point, it seems, is that judges should not be allowed to draw on their values:

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[80] Cooper Industries Inc. v. Leatherman Tool Group, 532 U.S. 424, 436 (2001), *Quoting* Justice Breyer in BMW of N. Am. v. Gore, 517 U.S. 559, 587.

[81] For further discussion of the value of punitive damages in the context of tort law, see E. Donald Elliott, *Why Punitive Damages Don't Deter Corporate Misconduct Effectively*, 40 ALA. L. REV. 1053 (1989)

[82] State Farm Mut. Auto Ins. Co. v. Campbell 538 U.S. 408, 416-17 (2003). *Citations omitted*.

[83] Daubert v. Merrell Dow Pharms., 509 U.S. 579, 597 (Note that Federal Rule 702 was modified in Dec. 2000, and now reads: "If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case," thereby essentially codifying Daubert.)

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> Judges are human, and their personal sense of whether a plaintiffs' claim seems "implausible" can subconsciously infiltrate even the most careful analysis.[84]

The idea of "result-oriented" decisions based on considerations of policy strikes Professor Miller as basically unlawful because "lower courts may curtail litigants' access to trials - and obviously a jury - through arbitrary, result-oriented, or efficiency-motivated determinants at the pretrial motion stage."[85]

At bottom, Professor Miller trusts juries more than judges. But Holmes and Cardozo did not necessarily think that judges are wiser than juries. Their point is that juries can't make consistent rulings. Juries have no authority make rulings at all. Every case is a blank slate. The idea that juries are "Democracy in Action," a kind of mini-election with decisions made on an ad hoc basis, has populist appeal. But the effect is that civil law offers no predictability or guidance.

It is correct that, in making rulings of law, judges will necessarily have to draw on their sense of community values. Cardozo agreed that a judge can never "eliminate altogether the personal measure of the interpreter," but explained that society can't function without a ruling by someone:

> You may say there is no assurance that judges will interpret the mores of their day more wisely and truly than other men. I am not disposed to deny this, but in my view it is quite beside the point. The point is rather that this power of interpretation must be lodged somewhere…[86]

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[84] *Supra* note 50 at 1071.

[85] *Id* at 1076.

[86] CARDOZO *Supra* nt. 9 at 136.

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"The basic moral principle, acknowledged by every legal system we know anything about," Yale Professor Eugene Rostow once observed, "is that similar cases should be decided alike."[87] To accomplish that goal, judges must take the responsibility to draw the boundaries of reasonable lawsuits.

Restoring Reliability to Civil Justice:

Times have changed.

In many ways, the changes have been for the better. The shift in legal philosophy that began in the 1960s opened doors for broad segments of society. In our efforts to avoid abuses of authority, however, we undermined the authority needed to make common choices and to run the institutions of society, including the system of civil justice.

We have created a society obsessed with law. Legal threat, once a rare event in anyone's life, is now commonplace. A recent Public Agency survey found that 78% of middle and high-school teachers in American had been threatened by their students with possible violation of their legal rights.[88] The debate over civil justice cannot take place by putting a magnifying glass over a particular dispute. Arguments about fairness, or homilies about the common sense of juries,[89] do nothing to confront the reality that legal fear has become a defining feature of our culture.

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[87] *Quoted in* Ken Greenwalt, *The Enduring Significance of Neutral Principles*, 78 COLUM. L. REV. 982, 1001, nt. 65 (1978).

[88] Public Agenda, "Teaching Interrupted: Do Discipline Policies in Today's Public Schools Foster the Common Good?" New York, NY: Common Good (May 2004), available at http://cgood.org/assets/attachments/22.pdf

[89] "People who are entrusted to choose the leader of the free world are capable of weighing evidence in a courtroom—and they do, every day across America. I found again and again that they take their service seriously, and follow the law even when the law is at odds with what they personally believe." John Edwards *supra* nt. 2, "One suspects that some judges are simply selling the good faith and collective wisdom of juries short." Arthur Miller, *supra* nt. 67 at 1024.; *See e.g.*, R.R. Co. v. Stout, 84 U.S. 657, 664 (1874).

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Other countries are beginning to have a similar problem of legal fear (perhaps influenced by American culture) and are proposing solutions. British Prime Minister Tony Blair recently gave a speech pointing to how fear of possible lawsuits has resulted in counterproductive behavior in England: "something is seriously awry when teachers feel unable to take children on school trips, for fear of being sued" or when a town "remove[d] hanging baskets for fear that they might fall on someone's head, even though no such accident has occurred in the 18 years they had been hanging there."[90]

The problem in the UK occurs not because of erratic juries -- the UK long ago abolished juries in most civil cases[91]-- but because judges are not focusing on the social policy implications of allowing certain claims. In an important decision in 2003, the Appellate Committee of the House of Lords took this issue on, and discussed the responsibility of judges to consider policy when deciding whether to permit claims.[92]

The case before the House of Lords could have been picked from many courts in America. On a hot day in the Cheshire region of England, an 18 year-old named John Tomlinson went for a swim in the lake of a local park.[93] Racing into the water from the beach, he dived too sharply and broke his neck on the sandy bottom. He was paralyzed for life.[94]

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[90] Tony Blair, British Prime Minister, Remarks at the Institute of Public Policy Research (May 26, 2005) *available at* http://www.number-10.gov.uk/output/page7562.asp.

[91] STEPHEN ADLER, THE JURY: TRIAL AND ERROR IN THE AMERICAN COURTROOM xv-xvi (Random House 1994). (Noting that while Britain technically maintains a jury system, only 1 percent of civil trials are decided before a jury).

[92] Tomlinson v. Congleton BC, [2003] UKHL 47.

[93] *Id.* at [2].

[94] *Id.* at [3].

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Mr. Tomlinson sued the Cheshire County Council for not doing more to protect against the accident. The Council, he discovered, knew about the risk. There were three or four near drownings every year. "No swimming" signs had been posted and widely ignored for over a decade. The popularity of the park—more than 160,000 visitors every year—made effective policing almost impossible. Fearful of liability, the Cheshire Council had decided to close off the lake by dumping mud on the beaches and planting reeds. But before the reeds could be planted Mr. Tomlinson had his accident. The Cheshire Council should have acted sooner, as his lawyer argued, to prevent "luring people into a deathtrap"[95] and to protect against a "siren sound strong enough to turn stout men's hearts."[96] The lower court accepted this argument because the County obviously knew the danger.

The Law Lords took the appeal and ordered the case to be dismissed. The lead opinion by Lord Hoffmann declared that whether a claim should be allowed hinged not just on whether an accident is foreseeable, but "also the social value of the activity which gave rise to the risk."[97] Permitting Mr. Tomlinson's claim, the Law Lords held, means that hundreds of thousands of people would not be able to enjoy the park: "[T]here is an important question of freedom at stake. It is unjust that the harmless recreation of responsible parents and children with buckets and spades on the beaches should be prohibited in order to comply with what is thought to be a legal duty."[98]

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[95] *Id.* at [28].

[96] *Id.*

[97] *Id.* at [34].

[98] *Id.* at [46].

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The County's ineffective effort to prevent swimming, instead of establishing negligence, the Lords held, demonstrated how a misguided conception of justice hurts the public. "Does the law require that all trees be cut down," Lord Hobhouse asked, "because some youth may climb them and fall?"[99] Lord Scott added, "Of course there is some risk of accidents…. But that is no reason for imposing a grey and dull safety regime on everyone."[100]

The Tomlinson decision exposes the forgotten goal in American justice. Judges have lost sight of the fact that lawsuits concern not only the particular parties to the dispute, but everyone in society.[101] The mere possibility of a lawsuit changes people's behavior.

Protecting the freedom of everyone in society requires a basic shift in responsibility. Judges must delineate the boundaries of claims that implicate social policy. Judges must act as gatekeepers, as Holmes and Cardozo advocated, giving legal substance to general standards.[102]

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[99] *Id.* at [81].

[100] *Id.* at [94].

[101] In recent years, several state Supreme Courts have emphasized the importance of public policy in making rulings of law in tort cases. In a case involving a mugging on a town beach at night, the California Supreme Court ruled that the town should not be liable because, imposing tort liability "admonishes against any use of the property whatever, thus effectively closing the area." Hayes v. State of California, 11 Cal. 3d. 469, 473 (1974). The California Supreme Court also dismissed a claim that a touch football participant was too rough because "imposition of legal liability for such conduct might well alter fundamentally, the nature of the sport." Knight v. Jewett, 3 Cal. 4th 296, 319 (1992). *See* generally Stephen D. Sugarman, *Judges as Tort Law Unmakers: Recent California Experience with "New" Torts*, 49 DEPAUL L. REV. 455, 461 (1999). The New Jersey Supreme Court recently held that an accident involving 2 toddlers at a block party should be dismissed because, otherwise, people would stop having block parties. Commentators note that courts wanting to dismiss negligence claims based on policy often use the language of duty. See Dobbs, The Law of Torts, cite, "When courts say the defendant owed no duty that was relevant on the facts….To cast the issue in terms of duty is to provide another subliminal sugeestion --namely that the decision is to be made by judges rather than juries.": Id at 578.

[102] *See* Sheldon M. Novick, *The Collected Works of Justice Holmes*, Vol. 3, Holmes, *The Common Law*, 1881 at 109-304 (University of Chicago Press 1995) "…when standards of conduct are left to the jury, it is a temporary surrender of a judicial function which may be resumed at any moment in any case when the court feels competent to do so. Were this not so the almost universal acceptance of the first proposition in this Lecture, that the general foundation of liability for unintentional wrongs is conduct different from that of a prudent man under the (continued…)

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This shift in responsibility is intended to accomplish two goals. It will spawn a body of legal opinions on standards of care and scope of duty that will begin to establish the contours of reasonable dispute. Most citizens don't eagerly await judicial slip opinions, of course, to learn how to behave. The more immediate benefit will be that the public will know that judges now see it as their job affirmatively to defend reasonable conduct.

The rule of thumb for when a legal ruling is needed should probably be this: if allowing a claim (or defense) to proceed to a jury would affect people not in the courtroom, by chilling their reasonable choices, then the judge should make a ruling of law as to the contours of the claim. Are the risks inherent in a public lake ones that society should take? Avoiding this ruling is not neutral. Not ruling, in effect, is a decision to close the lake. It doesn't matter if the jury finds no liability, because the next jury may feel differently.

Shifting this responsibility to judges to make these rulings does not implicate serious concerns of judicial authority, at least if we accept that judges in civil cases are empowered to make rulings of law based on legal policy considerations. The precedents are numerous and several state supreme courts have begun to limit tort claims on this basis. [103] Nor is there any obvious need for procedural tools other than those that already exist, such as summary judgment.[104]

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circumstances, would leave all our rights and duties throughout a great part of the law to the necessarily more or less accidental feelings of the jury."; CARDOZO, Supra nt. 9 at 106. "It is the customary morality of right-minded men and women which he is to enforce by his decree. A jurisprudence that is not constantly brought into relation to objective or external standards incurs the risk of denigrating into what the Germans call "Die Gerfuhlsjurisprudenz," a jurisprudence of mere sentiment or feeling."; *Supra* nt. 103.; *But see,* Stephen B. Presser, *The Development and Application of Common Law*, 8 TEX. REV. L. & POL. 291 (2004) (discussing the importance of following prior doctrine, criticizing Holmes, and admonishing judges who "make it up as they go along")

[103] *See,* Cooper v. Leatherman *Supra* nt. 84; Markman v. Westview *Supra* nt. 79; State Farm v. Campell, *Supra* nt. 84; Hayes v. State of California and Knight v. Jewett *Supra* nt. 103.

[104] FED. R. CIV. P., 56(c). "The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to (continued…)

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But it will take years of important judicial rulings, even from the Supreme Court, to effect a change in the way most courts handle cases.[105] The power of inertia is always underestimated, and the Supreme Court has learned many times that doctrinal shift does not necessarily occur because it says it should.

Legislation would send a clearer signal. Prime Minister Blair recently announced that he will propose a new Compensation Bill that will "clarify the existing law on negligence to make clear that there is no liability in negligence for untoward incidents that could not be avoided by taking reasonable care or exercising reasonable skill."[106] Such a bill, Prime Minister Blair proposed, "will send a strong signal and…reduce risk-averse behavior by providing reassurance to those who may be concerned about possible litigation, such as volunteers, teachers and local authorities."[107]

The significance of the proposed legislation in the UK will probably not be to provide clear legislative answers, but to shift the *goal* of civil justice. [108] Instead of focusing only on fairness and foreseeability in a particular case, judges will likely be called upon to make

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any material fact and that the moving party is entitled to a judgment as a matter of law."; *See also,* FED. R. CIV. P. 50, FED. R. CIV. P. 12(b)(6), FED. R. CIV. P. 16(1).

[105]-One example is the recognition by courts of a journalistic privilege akin to those acknowledged for lawyers, doctors, and psychologists. Although the Supreme Court ostensibly rejected such a privilege in Branzburg v. Hayes, 408 U.S. 665 (1972), there remains disagreement among lower courts, with some following the dissenting opinions filed in the case (recognizing a privilege) and others following Justice Powell's concurrence (narrow interpretation of the holding, privilege should be recognized in some cases).

[106] BLAIR, *supra* note ___.

[107] *Id.*

[108] Judicial interpretation of traditional concepts like reasonableness seems inevitable--no statute or rulebook can account for the infinite range of possible accidents.

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rulings, as both Holmes and Lord Hoffmann suggested, based on "considerations of social advantage."[109]

Legislation to restore judicial authority in America could be in the form of a general principle, along the following lines:

> Judges shall take the responsibility of drawing the boundaries of reasonable dispute as a matter of law, applying common law principles and statutory guidelines. In making these rulings, judges should consider the impact of allowing such claims (or defenses) on the conduct of broader society.

Legislation could also address specific areas of crisis. Congress has already introduced a bill to authorize pilot projects for administrative health courts, with hearings in the Senate expected over the summer. [110]

Law is a conservative institution, as it should be. The shift towards judicial responsibility will only occur after leaders of bench and bar, exercising their considerable powers of skepticism, reach their own understanding of why this change is essential. Some of the concerns, however, can be predicted.

All citizens are entitled to their day in court, many will observe. I would go further: the courthouse doors should never be barred, even to frivolous claims. The pertinent question is how far the claim goes, i.e., whether it is subject to dismissal by motion with a legal

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[109] Holmes, *Supra* nt. 4. "I think that judges themselves have failed adequately to recognize their duty of weighing considerations of social advantage. The duty is inevitable, and the result of the often claimed aversion to deal with such considerations is simply to leave the very ground and foundations of judgments inarticulate, and often unconscious…"

[110] Cite to Enzi bill A broad coalition of healthcare providers, patient advocates and consumer groups has come together behind the bill, cites, and Common Good is in a joint venture with the Harvard School of Public Health to design the system.

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ruling.[111] What I advocate is not taking away the right to sue, but giving substance to the right to sue. The doctrines developed by judicial rulings will also, of course, be subject to oversight by the legislature.

Conservatives may object that this is "judicial activism." But there is a difference between a judge assuming legislative functions, such as taking control of a school system, and a judge dismissing an unreasonable private claim. A kind of defensive activism, where judges act as gatekeepers, is essential to keep private parties from using justice unilaterally to undermine the freedom of others in society.

The main concern, I suspect, will focus on what is called "the right to sue." The mischief caused by civil justice in the last 40 years has sustained itself so long, in my view, because of a false assumption about the nature of civil justice. Pretty much everyone seems to believe there is a constitutional right to sue for almost everything.

Suing is not an act of freedom, however. The rights of freedom that our founders gave us, such as freedom of speech, were rights *against* state power. Suing *invokes* the state's coercive power against another private citizen--if you lose, the marshal may come and take your home away. Suing is just like indicting someone, except that it is an indictment for money. We would never tolerate a prosecutor bringing a baseless charge. Nor would we allow a prosecutor to threaten the death penalty for a misdemeanor.[112] That would be using state power for extortion. Why, then, do we tolerate allowing self-interested private parties to invoke legal power for whatever they want against other free citizens?

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[111] Sanctions footnote

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An "open season" philosophy of justice does not enhance our constitutional rights. The point of freedom is almost exactly the opposite--that we can live our lives without being cowed by state power. When private parties use the threat of state power for their private benefit, without any moderating judicial authority, justice becomes a tool for extortion.

Holmes famously defined law as "The prophecies of what the courts will do."[113] Today in America, in areas such as tort law, no one has any idea of what a court will do. What that means, I submit, is that in these areas Americans have lost the protection of law. That's why Americans are fearful.

Shifting the responsibility to judges to draw the boundaries of claims is a major doctrinal change, comparable in scope to the shifts that occurred in the 1960s. But a bold change is required to restore public trust, and to revive the authority needed to nurture America's common institutions back to health. Sooner or later, as Derek Bok observed, "our legal system [must] empower someone to keep watch and make sure that the process as a whole is meeting the needs of those whom it purportedly serves."[114]

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[113] HOLMES, *Supra* note 4*; See, eg.,* CARDOZO, *Supra* nt. 4 at 112. "One of the most fundamental social interests is that law shall be uniform and impartial."
[114] Bok, *supra* note___ at 23.

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How Did We Get Here? What Litigation Was, What It is Now, What It Might Be

By Stephen B. Presser[1]

Introduction: Law and Litigation on a Pernicious Precipice

In America, litigation is now a multi-billion dollar business.[2] This country has more lawyers as a percentage of the population than any other – a fact which is now notorious[3] – but less well understood is that our current civil justice system is not at all the way it used to be. We hardly blink at multi-billion dollar verdicts in class actions against corporations, and it is now common place for state attorneys general to seek million or billion dollar settlements against whole industries, an undertaking that New York Attorney General Spitzer, for example, has perfected to a high art. The suggestion that I will make here is that this is a departure from our heritage, and a marked change in the perception of what civil justice was supposed to be all about. Our English common

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[1] Raoul Berger Professor of Legal History, Northwestern University School of Law, Professor of Business Law, Kellogg School of Management, Legal Affairs Editor, Chronicles: A Magazine of American Culture, Member, Common Good Advisory Board.

[2] See, e.g. http://www.insurancejournal.com/news/national/2004/09/13/45775.htm: "Today, the average family of four pays a $3,236 annual "tort tax," a cost added to the price of products and services needed to cover the costs of litigation. No other industrialized country reportedly pays more as a percentage of its Gross Domestic Product." (American Tort Reform Association's estimate, quoted on September 13, 2004). With the United States Population estimated at about 300, 000,000, this would work out to be 242.7 Billion dollars.

[3] See, e.g., http://www.answers.com/topic/lawyer:

> The United States Department of Labor's Bureau of Labor Statistics estimates that in 2001, there were 490,000 practicing lawyers in the U.S.
> It is frequently said that there are more lawyers per capita in the US than in any other country in the world.. . . .

law heritage was that lawsuits were supposed to be about settling intractable disputes between private parties about private rights, but the lawsuit, and particularly the class action, has now become more of an effort for wholesale vindication of purported constitutional or statutory policies.[4]

Our boast used to be that ours was a government of laws not men,[5] but the prejudices of particular litigants, the cooperation of complacent judges, and the misunderstandings of regulators and legislators have undermined what we used to have. Instead of a government of laws designed to protect the property and civil rights of individual citizens we may now have institutionalized lawsuit oppression and redistribution through the civil justice system. Instead of a civil justice system concerned with the preservation of individual liberty, and, in particular the liberty of entrepreneurs who furthered the economic well-being of society, we now have a civil justice system in which entrepreneurial actors can never be certain that they can avoid ending up as defendants in unpredictable lawsuits.[6]

How we got to the pernicious precipice on which we now stand is not an easy thing to discern, as it happened slowly and almost imperceptively as a part of a broader cultural change. Having no monarchy, no aristocracy, and no established church, we

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[4] For the classic piece discovering a change in the conception of litigation in the twentieth century, see Abram Chayes, The Role of the Judge in Public Law Litigation, 89 Harv. L. Rev. 1281, 1282,1284 (1976) (Contrasting the traditional view of lawsuits as settling private rights with the recent conception of lawsuits as policy-vindicating devices.) See also William Wiecek, The Lost World of Classical Legal Thought: Law and Ideology in America 1886-1937 8 (1998) ("In nineteenth-century law . . . the individual was the exclusive focus of concern in legal, moral, and political reasoning. Lawyers of the time did not think of society as a congeries of groups, which is the assumption of interest-group pluralism that dominates twentieth-century political analysis.")

[5] See, e.g. John Marshall's famous opinion in Marbury v. Madison, 5 U.S. 137, 163 (1803) ("The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right.")

[6] On this lawsuit unpredictability, see, e.g. Philip Howard, The Death of Common Sense: How Law is Suffocating America (1996), and, on related developments in criminal law see, e.g. Gene Healy, ed., Go Directly to Jail: The Criminalization of Almost Everything (2004).

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Americans have had only our law to bind us together, and, from the beginning, as Toqueville famously observed, the law was a vulgar tongue in this country.[7] Legislation and enlightened judges were early relied on to transform our English common law heritage into a body of doctrines and rules suitable for a young republic,[8] and the constitutional system of checks and balances, federalism, and judicial review in particular were supposed to ensure that the work of legislatures and trial courts did not undermine the protection of life, liberty, and property for which our revolution was fought and our Constitution ratified.[9] It does not go too far to say that the American Revolution ought to be conceived of as Englishmen fighting Englishmen for the rights of Englishmen, for the preservation of the rule of law and the English Common Law's protection of individuals against arbitrary power. The post-revolutionary institutions, and, in particular the federal Constitution ratified in 1789 had as its aim the preservation of the rule of law in general, and of individual liberty and private ownership of property in particular.[10]

Somehow, however, in the second half of the Twentieth Century, these checks and balances, that system of federalism, and the institution of judicial review came loose from their original moorings. The federal government, which had been set up as a means of protecting the rights of Americans, began instead seriously to encroach on them. It had been the early theory of the framers that the state and local governments ought to be the primary regulators, since the notion was that the government closest to the people would

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[7] I Alexis de Toqueville, Democracy in America (1840, Reeve, tr.) , Chapter 31 ("The language of the law thus becomes, in some measure, a vulgar tongue; the spirit of the law, which is produced in the schools and courts of justice, gradually penetrates beyond their walls into the bosom of society, where it descends to the lowest classes, so that the whole people contracts the habits and the tastes of the magistrate.")

[8] See, e.g. William Nelson, The Americanization of the Common Law: The Impact of Legal Change on Massachusetts Society 1760-1830 (1975).

[9] Probably the best introduction to understanding this conception of the federal constitution is Gordon Wood, The Creation of the American Republic 1776-1787 (reprint ed. 1998).

[10] See generally, Wood, supra, and for a recent brief treatment of this theme see, e.g. John Philllip Reid, Rule of Law: The Jurisprudence of Liberty in the Seventeenth and Eighteenth Centuries (2004).

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be most responsive to it.[11] From the fourth decade of the twentieth century, however, the administrative agencies spawned in the New Deal, and the federal courts combined to set national policy in a manner that began more seriously to restrict what state and local governments could do, and which rendered private property and individual liberty more precarious.

Expansively interpreting the Fourteenth Amendment and the bill of Rights, the federal courts decided that state legislatures had failed substantially to deliver justice to all, and the federal legislature, federal agencies,[12] and the federal courts subsequently emerged as major policy-makers for the nation.[13] Simultaneously, a significant part of the legal profession, which had formerly seen its role primarily as the preservers of property and the guardians of the civil rights of the citizenry now tended to become advocates against those running publicly-held corporations. Taking advantage of the contingency fee system unavailable in other industrialized nations, plaintiffs' lawyers

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[11] See, e.g. the Tenth Amendment, which provides that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," giving rise to the notion that the federal government is one of limited and enumerated powers, reserving the others to the state and local governments, those closest to the people. The idea that the government closest to the people was best appears to have been early associated with Jeffersonian Republicans, but most recently it has been embraced by the modern Republican party. See e.g. the remarks of Senator Fred Thompson, made on May 3, 1995:

> I would remind many of my Republican brethren that we ran for office and were elected last year on the basis of our strong belief that the government that is closest to the people is the best government; that Washington does not always know best; that more responsibility should be given to the States because that is where most of the creative ideas and innovations are happening. Whether it be unfunded mandates, welfare reform, or regulations that are strangling productivity, we took the stand that the States and local government should have a greater say about how people's lives are going to be run, and the Federal government less.

141 CONG. REC. S6047 (1995). Quoted in Robert M. Ackerman, "Tort Law and Federalism: Whatever Happened to Devolution?," 14 Yale L. & Pol'y Rev. 429, n.4 (1996).

[12] On the manner in which federal agencies and their regulations can stifle American business, see, e.g. Philip Howard, The Death of Common Sense: How Law is Suffocating America (1994).

[13] There are dozens of works telling the tale of what the federal courts have done since the New Deal to change the nature of the allocation of legal powers among the local, state, and federal governments. My own attempt is Stephen B. Presser, Recapturing the Constitution: Race, Religion, and Abortion Reconsidered (1994). See also Stephen B. Presser & Jamil S. Zainaldin, Law and Jurisprudence in American History (5th ed. 2003).

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proceeded to transform the nature of litigation.[14] In order to understand the magnitude of the change it is important to understand what litigation once was, and what it might perhaps once again become.

What Litigation Once Was

Litigation as we now know it did not exist in our colonial past nor in our mother country. It is true that seeking redress through the courts is as old as the beginnings of British North America. The Massachusetts body of liberties agreed to by the colonists of Massachusetts Bay in 1641 provided that there was a "right of every citizen with a grievance to have some court adjudicate it," but the focus was very much on the individual rights of citizens,[15] and not on any group of similarly situated litigants. The common law, our English heritage of following precedents previously laid down, evolved a system of "common law" pleading whereby causes of action were clearly defined, and each one had a designated "writ" that would begin proceedings, and each one had particular pleadings that were to be filed as the proceedings were contested and litigated. It was a maxim that for every wrong there was a remedy at law, but the truth was that

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[14] Walter Olson, The Litigation Explosion 38 (1991) (indicating that contingency fees first arose as a means of ensuring that worthy and impecunious plaintiffs might still be able to gain redress, but that eventually contingency fees encouraged litigation that might well be meritless, but was driven by the possibility that lawyers might make more money.)

[15] To similar effect see III William Blackstone, commentaries on the Laws of England 2 (1768) ("The more effectually to accomplish the redress of private injuries, courts of justice are instituted in every civilized society, in order to protect the weak from the insults of the stronger, by expounding and enforcing those laws, by which rights are defined, and wrongs prohibited."), and Id, at 23 "it is a general and indisputable rule, that where there is a legal right, there is also a legal remedy, but suit or action at law, whenever that right is invaded." See also the Massachusetts Constitution of 1780, Declaration of Rights, Article XI, "Every subject of the Commonwealth ought to find a certain remedy by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property or character. He ought to obtain right and justice freely, and without being obliged to purchase it; compleatly, and without any denial; promptly, and without delay; conformably to the laws."

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there were a myriad of matters that simply were outside the court system. Acts of God, inevitable accidents, sickness, death, and many other matters simply did not give rise to private causes of action. If one's case did not fit in the narrow definitions of trespass, trespass on the case, trover, replevin, assumpsit or the rest, one was simply out of luck.

Rather than seeking to eliminate this specialized system of redress for some, but clearly not all grievances, Americans as diverse as Alexander Hamilton, Thomas Jefferson, Joseph Story, and Abraham Lincoln all praised the wisdom of the common law and wished to preserve it for America, although abandoning the elements of the common law that sustained the English Aristocracy and Monarchy. Those parts of the common law that dealt with what we would now call contracts, property, torts, and civil rights, however, were preserved entire and intact. Thus, in a famous passage in Thomas Jefferson's Notes on Virginia, he reports that when, in 1776, he was assigned the task of suggesting revisions to the law of the new state of Virginia, he wanted to abolish slavery, to diminish the number of crimes that were punished capitally, and to set up an hierarchical public school system, but he wanted to preserve wholesale these parts of the common law of contracts, property, torts, and civil rights[16] (although he objected to the English practice of wearing of wigs in court).

It probably does not go too far to say that the old common law system of pleading, through specialized writs and arcane practices, because it required the assistance of lawyers, was designed to preserve and protect that class, and the obfuscatory character of common law pleading led some Americans even to suggest that

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[16] Jefferson describes these as "The Common law of England, by which is meant, that part of the English law which was anterior to the date of the oldest statutes extant," which Jefferson stated was "the basis" of the 1776 revisal of the laws of Virginia. Thomas Jefferson, Notes on the State of Virginia (1781), excerpted in Stephen B. Presser and Jamil S. Zainaldin, Law and Jurisprudence in American History 123 (5th ed. 2003).

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lawyers ought not to be a necessary class in our republic.[17] Nevertheless, common law pleading, in some form, persisted until the first third of the twentieth century. One suspects that not only did common law pleading protect and advance the interest of lawyers, but this specialized system, by raising the costs of litigation, and by narrowing the bases for it, actually discouraged going to court. It was originally a mainstay of the Anglo-American legal culture that one should try one's best to resolve disputes out of court, that litigation was something of an evil, [18] and that it ought to be resorted to only if all other means failed. A litigious society was a fractured society, and many Americans valued community enough to erect roadblocks to discourage recourse to the courts. Common law pleading was a part of that, as were the old common law doctrines of champerty and maintenance that punished lawyers who actively stirred up litigation.[19] Indeed, Sir William Blackstone, the greatest Eighteenth Century commentator on the English Common Law, railed against those who promoted litigation, seeking to bargain for what we would now label contingency fees, calling them "the pests of civil society, that are perpetually endeavoring to disturb the repose of their neighbors, and officiously interfering in other men's quarrels."[20]

One of America's greatest lawyer-presidents made a similar point when he wrote, in an apparently undelivered law lecture, that good lawyers should

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[17] The most famous such assertion is Honestus [pseud. of Benjamin Austin], Observations on the Pernicious Practice of the Law (Boston, 1819), reprinted in 13 Am. J. Legal Hist. 241 (1969) (Arguing that lawyers are simply not a "necessary order" in a republic.)

[18] See, e.g. Olson, supra note __, at 2, where he observes that litigation in America was originally seen as an evil.

[19] Olson, supra note ___ , at 17 observes that "ambulance chasing," was punished by a 1-3 year jail term as late as 1954.

[20] IV William Blackstone, Commentaries on the Laws of England 135-136 (1769), discussing champerty, "being a bargain with a plaintiff or defendant . . . to divide the land or other matter sued for between them, if they prevail at law," as a species of "maintenance," "an offence [that consists of] officious intermeddling in a suit that no way belongs to one, by maintaining or assisting either party with money or otherwise to prosecute or defend it."

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> [d]iscourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser -- in fees, expenses, and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough.
>
> Never stir up litigation. A worse man can scarcely be found than one who does this. Who can be more nearly a fiend than he who habitually overhauls the register of deeds in search of defects in titles, whereon to stir up strife, and put money in his pocket? A moral tone ought to be infused into the profession which should drive such men out of it.[21]

Code Pleading and Other Changes in Litigation

Somehow all of that began to change in the twentieth century, if not before. As early as the middle of the nineteenth century David Dudley Field (the lawyer who founded the first modern great law firm, Sherman and Sterling) successfully convinced New York legislators to replace the system of common law pleading with "code pleading."[22] This was a simplified procedure, dictated by statute rather than the common law, whereby litigants were no longer bound by the forms of action, but could much more simply state their cases and reply to their adversary's charges. The Field Code of Civil Procedure was adopted in whole or in part in twenty-four other states (and also in England and Ireland),[23] but common law pleading lingered well into the twentieth

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[21] From a document fragment dated July 1, 1850 by Lincoln's White House secretaries and later biographers, John Nicolay and John Hay, available on the web at http://www.hatwhite.com/lincoln.html.
[22] On Field see, e.g. Henry M. Field, The Life of David Dudley Field (Originally published 1898, reprint ed. 1995), Alison Reppy, ed. David Dudley Field: Centenary Essays Celebrating One Hundred Years of Legal Reform (1949), Daun Van Ee, David Dudley Field and the Reconstruction of the Law (1986).
[23] David Ray Papke, "Codification," in Kermit L. Hall, et.al. eds., The Oxford Companion to American Law 121 (2002).

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century, and, oddly enough, was still being taught to first-year law students in one civil procedure classes at Harvard in the fall of 1968.[24]

By 1937, however, the pressure to do away with common law pleading was irresistible, and in that year rules were promulgated for the federal courts that obliterated the writ system.[25] These new federal rules, or something like them, were soon adopted by many state courts as well, and the foundation for what Walter Olson has called "the litigation explosion"[26] was beginning to be erected. The notion that lawyers shouldn't encourage litigation was dealt a fatal blow by two key decisions, Bates v. State Bar of Arizona (1977),[27] in which the United States Supreme Court, in an opinion by justice Blackmun, who apparently wanted to encourage lawsuits and deplored the "underutilization" of lawyers' services,[28] held that the First Amendment protected lawyers "commercial speech" rights to advertise the availability and price of routine legal services, and Zauderer v. Office of Disciplinary Counsel (1985)[29], in which the Court permitted lawyers to solicit specific legal business against particular manufacturing defendants.[30]

Decisions such as Bates and Zauderer, and the increased availability of class actions, created a situation in which it was open season on assorted purported corporate wrongdoers. Litigation, in effect, became a pro-active means of redistribution, if not

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[24] I know, it was mine, and taught by the great evidence scholar James Chadbourne. His method was to compare the common law forms of action to code pleading and to the federal rules of civil procedure. Contrary to what is implicitly argued in this essay, Chadbourne thought code pleading was a huge advance for the law.
[25] See generally, Stephen N. Subrin, "How Equity Conquered Common Law: The Federal Rules of Civil Procedure in Historical Perspective," 135 U. PA. L. REV. 909 (1987).
[26] Walter Olson, The Litigation Explosion: What Happened When America Unleashed the Lawsuit (1991).
[27] 433 U.S. 350.
[28] Olson, supra note ___, at 29.
[29] 471 U.S. 626.
[30] See generally Olson, supra note ___, at 21, 23-24.

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class warfare. With the rise of "public interest" lawfirms, or private or publicly-funded "legal aid" clinics, groups of lawyers were subsidized not by their potential clients, but by taxpayer or charitable contributions, and, as a result, even more litigation against particularly unfavored corporate or institutional defendants became possible.[31] Lawyers, rather than clients often came to control and encourage litigation. Blackstone and the old common lawyers would have been horrified.

Cultural Change led to Litigation Change

The changes in the nature of litigation undoubtedly were part of much broader cultural changes in this country, cultural changes which accelerated during the sixties and seventies. The story is a familiar one to those of us who lived through it, but since Americans tend to have little appreciation for their history, even their recent history, it may not be amiss to review some of those developments. Probably as a result of the deeply unpopular Vietnam conflict and the nearly contemporaneous Watergate affair (which still captures the imagination of many, as the recent revelation of "Deep Throat" shows) most Americans, and certainly most of what we now call the "mainstream media," appear to have come to believe that government could not be trusted, and that this was also true generally of large purportedly impersonal corporations. Perhaps as a result of the culture becoming increasingly dominated by the "baby boom" generation,

[31] Cf. Chayes, supra note ___, at 1291, observing that the class action "responds to the proliferation of more or less well-organized groups in our society and the tendency to perceive interests as group interest, at least in very important aspects." See, to similar effect, Olson, supra note ___, at 52-53, concluding that lawsuits were originally understood to be a dispute between two private citizens over private rights, but came to be understood as a tool to liberate people whose rights had been taken away, and to prevent such rights from being taken away in the future.

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and because that generation was characterized by much less religious and civic commitment than prior generations, and by a rather hedonistic individualism, it is not surprising that the law and legal institutions changed as well. As Americans searched for "self-actualization," as the conservative aspects of the legal profession which discouraged litigation began to erode, and as "public interest" law firms arose to become, as it were, professional plaintiffs, the law itself was eventually dramatically altered.

In particular, it became more and more difficult to argue that those who suffered any kind of harm, especially from use of commercially-manufactured products, were not entitled to compensation from the corporations who manufactured those items. Thus it was that "strict products liability" replaced negligence as the basis for manufacturer's liability to consumers, tenants became more easily able to look to landlords for any injury suffered by renters, and consumers found it easier to escape from contracts by arguing that businesses had taken "unconscionable" advantage of them.[32]

In the nineteenth century, in a period dominated by a culture of self-sacrifice and religious obligation, it may have been believed that limiting the liability of active individuals and organizations eventually redounded to the benefit of all, and by limiting such liability there would be more investment in productive enterprise, which would eventually result in greater overall wealth for the citizenry.[33] These were the days of "laissez-faire" when law and lawyers apparently believed that it was best to leave entrepreneurs substantially alone, and to let the market rather than the state or federal

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[32] For these developments See generally, Presser and Zainaldin, supra note ___, Chapter VII.

[33] For some classic accounts of the story of how Nineteenth Century American law favored the active individual and limited his or her liability, see, e.g. Roscoe Pound, The Formative Era of American Law (1938), James Willard Hurst, Law and the Conditions of Freedom in the Nineteenth-Century United States (1956) , Morton J. Horwitz, The Transformation of American Law, 1780-1860 (1977).

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governments regulate enterprise.[34] New private law doctrines, however, seemed to have been spawned by a legal culture that favored regulation over acquiescence, and redistribution over private enterprise.

These private law developments, principally in the state courts, were the analogues of the public law developments, primarily in the federal courts, which also signaled major cultural change. Thus the Warren Court struck down school prayer and bible riding in the public schools in the states, mandated an end to racial segregation, declared that population was the only permissible basis for elections to either branches of the state legislature (even though the United States Senate itself furnished a glaring argument to the contrary), and dictated the reformation of state criminal procedure in order to prevent police abuse of criminal defendants, many of whom were believed to be members of disadvantaged minorities. Much of this was accomplished through the work of organizations formed at least in part to promote litigation, such as the American Civil Liberties Union (ACLU), and the National Association for the Advancement of Colored People (NAACP). Litigation, formerly a tool of last resort for individuals, now became a first choice method of social transformation for groups. None of this is necessarily to suggest that many or most of these individual decisions did not advance the cause of justice in their particular cases, but, taken together they contributed to a culture in which many more actors were subject to lawsuits, and in which bureaucracy could (even unintentionally) stifle enterprise.[35]

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[34] For some important studies of this period see Morton J. Horwitz, The Transformation of American Law, 1870-1960: The Crisis of Legal Orthodoxy (1994); Arnold M. Paul, Conservative Crisis and the Rule of Law: Attitudes of Bar and Bench 1887-1895 (Peter Smith ed., 1965); William M. Wiecek, The Lost World of Classical Legal Though: Law and Ideology in America 1886-1937 (1998).

[35] For the manner in which adherence to regulations promulgated by state and federal bureaucrats paralyze entrepreneurs, see generally Philip Howard, The Death of Common Sense: How Law is Suffocating America (1995), and for further evidence that the current lawsuit culture has lost its way, see Philip

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Where We Are Now

The last few years have seen the culmination of many of these efforts in even more daring judicial decisions, such as those that have found prohibitions in the Constitution against restricting abortions[36] and against punishing consensual homosexual acts,[37] or those that have read the Fourteenth Amendment to require mandatory busing of students to achieve racial balance in the schools,[38] or to permit affirmative action on the basis of race, at least in college and graduate school admissions.[39] All of these were United States Supreme Court decisions, but dramatic decisions in the state courts, such as that of the Supreme Judicial Court of Massachusetts which found in the Massachusetts state constitution a right to gay marriage,[40] were similar in spirit. In the Massachusetts gay marriage case, in fact, the Court relied heavily on the so-called "mystery passage" from one of the United States Supreme Court's abortion decisions, which stated that "At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not

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Howard: The Collapse of the Common Good: How America's Lawsuit Culture Undermines our Freedom (2001).

[36] See, e.g. Roe v. Wade, 410 U.S. 113 (1973) (Finding a Fourteenth Amendment right for women to terminate pregnancies, particularly in the first trimester of pregnancy), Planned Parenthood v. Casey, 505 US 833 (1992) (Redifining the constitution's protection for abortions in a manner that prohibited regulations which impose an "undue burden" on a woman's right to terminate pregnancy), Stenberg v. Carhart, 530 US 914 (2000) (In effect removing all abortion regulation, even as to "partial birth" abortions, which did not allow abortions to preserve the "health" of the mother.)

[37] Lawrence and Garner v. Texas. 539 US 558 (2003).

[38] Swann v. Charlotte-Mecklenburg Bd. of Ed. 402 US 1 (1971).

[39] Grutter v. Bollinger, 123 S. Ct. 2325 (2003) and Gratz v. Bollinger, 123 S. Ct. 2411 (2003), read together indicated that while racial quotas were impermissible, considering race as one of many factors used to achieve "diversity" in the classroom was permissible. This was widely perceived as a green light for affirmative action based on race in college and law school admissions. For a critique of the decisions see, e.g. Stephen B. Presser, "A conservative comment on Professor Crump," 56 Fla. L. Rev. 789-817 (2004) (Arguing the arbitrariness and disingenuousness of these decisions).

[40] Goodridge v. Dept. of Public Health, 798 NE2d 941 (Mass. 2003).

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define the attributes of personhood were they formed under the compulsion of the state."[41] A more naïve or more extreme statement of hedonistic individualism would be difficult to articulate, and it summed up in few words the legal ethos of the age.

Again, however, it should be noted that the wisdom of the policies favoring abortion, the legalization of consensual homosexual acts, or gay marriage are not the issue addressed here. Instead it is the attitude of the Supreme Court that it should be the ultimate authority on these matters, guided by the philosophy encapsulated in the "mystery passage," and by a sense that it should authoritatively expand and alter the meaning of the Constitution in order to keep it in tune with the times. The mystery passage's philosophy leads to a view of society in which there is little common purpose, and an invitation to litigate against all traditional practices, instead of leaving matters to be worked out on a state-by-state basis through the emergence of a consensus among the people.

The reforms of Rule 23 which led to the class action as we know it were undoubtedly instituted because of a belief that an approach to litigation that enabled groups that had formerly been the subject of discrimination to join in seeking remedies would result in a more just society. Unfortunately, because of all the other cultural factors suggested here, the net effect of current class action practice may be to produce more harm than good.

Once the restrictive characteristics of the forms of action had been abandoned, and once an individualistic philosophy of the kind expressed in the mystery passage had taken hold, it might have been expected that a plethora of new causes of action would be created, and it was only a matter of time before the lawsuit as political tool could come

[41] Planned Parenthood v. Casey, 505 U.S. 833, 851 (1992).

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into being. All that was needed was the abandonment of traditional institutional and cultural restraints on litigating.

This came when the individualistic philosophy of the mystery passage, for most purposes, obliterated an older Athenian or Judeo-Christian ethos, still dominant in the Nineteenth Century, which understood reversals of fortune or accidental bereavement as occasions for spiritual growth, rather than opportunities for seeking redress in the courts. As the federal courts continued to render decisions which all but obliterated the legitimacy of religious expressions in the public square,[42] the restraining character of religion eroded, and the "litigation explosion" occurred.

And thus we have the current situation where plaintiffs' lawyers, in effect, manufacture classes suffering injury, often in an effort to seek settlements for their "nuisance value," rather than actually to recover compensation for purported victims. Similarly, as indicated earlier, we have state attorneys general pursuing actions against whole industries, as has been done, for example, against the tobacco industry, seeking to enhance state revenues through spectacular recoveries, or, as New York Attorney General Eliot Spitzer has done against the Insurance and Mutual Fund industries, to reinforce his political standing and solidify a possible bit for higher office (or so his critics suggest).[43]

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[42] See, e.g., Lee v. Weisman. 505 US 577 (1992) (Holding, by a 5-4 majority, that middle-school graduations could not include a prayer delivered by a clergyman selected by the school), Santa Fe Independent School Dist. v. Doe. 530 US 290 (2000) (Prohibiting, in a 6-3 ruling, school-endorsed student-led prayer at high school football games. Chief Justice William H. Rehnquist, in his dissenting opinion, joined by Justices Antonin Scalia and Clarence Thomas, observed that "even more disturbing than its holding is the tone of the Court's opinion; it bristles with hostility to all things religious in public life. Neither the holding nor the tone of the opinion is faithful to the meaning of the Establishment Clause, when it is recalled that George Washington himself, at the request of the very Congress which passed the Bill of Rights, proclaimed a day of "public thanksgiving and prayer, to be observed by acknowledging with grateful hearts the many and signal favors of Almighty God." 530 U.S., at 318.

[43] Attorney General Spitzer recently lost a high-profile case brought against a former Bank of America Corporation broker whom Spitzer accused of improperly trading mutual funds. The Wall Street Journal observed:

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In short, litigation conceived as a remedy for the redress of individual grievances has become a political device to be used by ambitious office-holders as well as an instrument of intimidation by ambitious private lawyers.

Some Ameliorative Efforts

There have been some successes in reigning in the bringing of lawsuits and the activities of professional plaintiffs in the securities fraud area, in medical malpractice awards, and in other areas of civil justice reform, but there are still difficulties unique to the American legal system at the moment, and utterly unknown to the common law.

The most prominent of these has already been mentioned; the ability of plaintiffs' lawyers to take on cases on a contingent fee basis, and to advertise for clients, thus generating litigation on their own. Another is that we have not yet adopted the English "loser pays" rule, requiring that successful litigants have their counsel fees reimbursed by the unsuccessful party. Still another difficulty is our extraordinary system of pre-trial discovery, in which depositions, interrogatories, requests for document production, and other means of obtaining evidence from adversaries can easily run the costs of litigation

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> The acquittal is a high-profile setback for Mr. Spitzer, who has made a name for himself while largely avoiding the courtroom. He has extracted multi-million dollar settlements from corporate defendants, forced executives to resign and launched sweeping changes of practices on Wall Street and in the mutual fund and insurance industries. Buoyed by his victories and the cheers of supporters, Mr. Spitzer has announced plans to run for governor in 2006.
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> But critics have complained that he uses tough and headline-grabing tactics to damage businesses, charges he vigorously disputes. . . .

Kara Scannell and Arden Dale, Sihpol Verdict Deals a Blow to Spitzer: In Crucial Courtroom Test, Jury Spurns Prosecutors on Claims of Criminal Acts, The Wall Street Journal, Friday June 10, 2005, page A1. For another fine description of Spitzer and his tactics, see, e.g. Daniel Gross, Eliot Spitzer: How New York's attorney general became the most powerful man on Wall Street, Slate, October 21, 2004, http://slate.msn.com/id/2108509/.

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for large publicly-held corporations into the millions, and can serve as powerful incentives to settle even meritless cases.

The United States Supreme Court, and some state legislatures have begun to take steps to reduce the colossal punitive damage verdicts we have seen in recent years,[44] but these efforts, especially by the state legislatures have sometimes been frustrated by state courts.[45] For the time being it is likely that the possibility of colossal punitive damages will continue to threaten corporate defendants, and, when the threat of punitive damages is combined with adverse inferences to be drawn from a failure to produce items for discovery, as recently occurred in the Morgan Stanley case,[46] it can be understood what a distance we have traveled from the time when litigation was about compensation, and compensation to individuals, not punishment of purported corporate miscreants.

Conclusion: What Ought to be Done

The organization that has sponsored this conference, Common Good, is devoted to reminding us of what our American ancestors understood, that social problems can be exacerbated rather than ameliorated by excessive litigation. As Philip Howard has recently demonstrated, for example, the encouragement of litigation by school children and their parents has resulted in a situation where order simply cannot be maintained in

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[44] See, e.g. BMW of North America v. Gore, 517 U.S. 559 (1996) (Holding that excessive punitive damages can amount to a violation of due process).

[45] See, e.g., State ex rel. Ohio Academy of Trial Lawyers v. Sheward, 86 Ohio St.3d 451 (1999), and Best v. Taylor Machine Works, 179 Ill. 2d 267, 689 NE2d 1057 (1997), in which the Supreme Courts of Ohio and Illinois, respectively, overturned legislative civil justice reform efforts on the basis of questionable interpretations of their states' constitutions.

[46] The Supreme Court does seem to have begun to understand that adverse inferences because of failures to produce may have gone too far, or at least this is one interpretation of the recent decision the Arthur Andersen case, where a unanimous court threw out a criminal prosecution based on jury instructions which condemned a possibly lawful document destruction policy.

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the classroom – where it is necessary to bring in the police to handcuff and cart away young miscreants lest some teacher be sued for an attempt physically to restrain an unruly child.[47] The lack of order in classrooms, of course, impedes their educational mission, and while encouraging litigation against educators was suppose to improve education, it has had the opposite effect.

Similarly, to the extent that class action litigation against corporations, along with its attendant evils of contingency fees, excessive discovery expenses, the threat of punitive damages, the capricious behavior of juries, and the bringing of class-action lawsuits with the aim of settlement for their nuisance value,[48] continues, the competitive position of American corporations in the global economy will be undermined, and those who depend on such corporations for their livelihood, employees, creditors, consumers and stockholders will suffer. There will continue to be a few spectacular winners in the "lawsuit lottery," but most Americans may be worse, rather than better off.

Congress may have begun to travel the appropriate road to recovery with the recent reform regarding class actions,[49] but this has yet to be tested in the courts, and

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[47] Phillip K. Howard, "Class War," The Wall Street Journal, Page A12, May 24, 2005.

[48] As one of the leading civil procedure scholars, my colleague Martin Redish has observed "Though on its face the class action appears to be nothing more than an elaborate procedural joinder device, in recent years it has become the focal point of much political and legal debate. Courts have noted 'the intense presser to settle' caused by the very filing of a class action, while others believe the procedure amounts to 'judicial blackmail.'" Martin H. Redish, "Class Actions and the Democratic Difficulty: Rethinking the Intersection of Private Litigation and Public Goals," 2003 The University of Chicago Legal Forum 71. (footnotes omitted). Redish does go on to observe, however, that "Those who take a more positive view of the class action consider it to be an effective means of policing corporate behavior and an assurance that injured victims will be compensated in the most efficient manner." Id. (footnote omitted). Redish's own view is that current class action practice is inconsistent with popular sovereignty, or "the essential democratic precepts of accountability and representation." Id., at 137.

[49] The Class Action Fairness Act of 2005, which passed the House in a 279-149 vote and the Senate by a vote of 72-26, would move lawsuits seeking over $5 million, and thus "shift most large class-action lawsuits involving parties from different states to federal courts." The goal of the measure is to lessen the perceived arbitrary behavior of state court judges and juries. See generally William Branigin, "Congress Changes Class Action Rules," Washington Post, February 17, 2005. The new law does not, however, prevent the bringing of any class actions in federal courts, nor did it have any retroactive effect. In addition to shifting some class action lawsuits to federal courts the new law also should have the effect of

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other Congressional measures, such as Sarbanes-Oxley, suggest that our legislators may still be imposing measures whose costs far exceed their benefits.[50] One recent estimate "puts investors' loss in stock value on passage of that act at around $1.4 trillion, an expensive bit of retribution for a few multi-million dollar defalcations."[51] There is no denying that transparency in American entrepreneurial activity is a worthy goal, and the disclosure mandated by our securities laws and the efforts of the SEC and the courts to ferret out and punish securities fraud are certainly laudable. Nevertheless, it is time for intelligent leaders in and out of the Congress boldly to seek to change not only the pernicious practices and rules that have encouraged lawsuit abuse, but perhaps the very culture that has spawned them.[52]

As indicated above, there was a time when lawsuits were discouraged, and when the legal rules clearly favored the American active entrepreneur. There has always been some uncertainty to American law, dictated by its need simultaneously to implement

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reducing the recovery of counsel's contingency fees in class action litigation that results in coupons being distributed to members of the class. The contingency fees are to be figured on the basis of the value of the coupons redeemed rather than on the aggregate value of the coupons issued. "The Class Action Fairness Act was drafted and ultimately passed into law in response to a growing belief that class action lawsuits were nothing but vehicles for attorney abuse and large fees." Ruth Bahe-Jachna, Frank Citera and Collin Williams, "GT Alert:New Federal Legislation: The Class Action Fairness Act of 2005 (March 2005), available on the web at http://www.gtlaw.com/pub/alerts/2005/0302.asp.

[50] For this line of criticism against Sarbanes/Oxley see, e.g. Thomas J. Donohue, "Opening Keynote Address," Securities Industry Association, March 3, 2005, http://www.uschamber.com/press/speeches/2005/050303tjd_securities.htm ("When CEOs spend more time on regulatory compliance than they do strategizing, expanding, developing new product lines, and hiring new workers, the pendulum has swung too far . . .When qualified and responsible board directors are resigning their posts for fear of being held liable for a bad outcome, the pendulum has swung too far. . . When board members become overly concerned with protecting themselves and have less time and incentive to aggressively pursue the interests of the company and its shareholders, the pendulum has swung too far."), and Henry Manne, "Life After Donaldson," Wall Street Journal, June 6, 2005, Page A10 (Decrying the former Chairman of the SEC's championing of strick enforcement of Sarbanes/Oxley "in spite of mounting evidence that it is costly beyond any conceivable benefits.")

[51] Manne, supra note ___, referring to "The most widely discussed of these new estimates, a careful and scholarly work by Ivy Xiying Zhang of the University of Rochester."

[52] See, to similar effect, Redish, supra note ___, who argues that "it is important to keep in mind a central fact often ignored in modern procedural scholarship: the class action was never designed to serve as a free-standing legal device for the purpose of 'doing justice,' nor is it a mechanism intended to serve as a roving policeman of corporate misdeeds or as a mechanism by which to redistribute wealth." 2003 The University of Chicago Legal Forum, at 74.

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popular sovereignty, economic development, restraints on arbitrary power, and the securing of a maximum amount of freedom from government regulation.[53] Before the middle of the twentieth century our legal and cultural regime discouraged litigation, and entrepreneurs had the freedom successfully to develop our economy to the point where it became the envy of the world.

That economy still flourishes, but it now does so in a climate in which no entrepreneur, and perhaps no American can be confident that he or she will not find themselves the subject of a lawsuit brought by a disgruntled competitor, an ambitious politician, or misguided government regulators. Surely at some point this climate will discourage the kinds of activities that Americans must engage in if we are to remain competitive in an increasingly-global economy. It is time for a change. We Americans tend to believe that one can't turn back the clock, but, as C.S. Lewis reminded us, when the clock fails to give you the correct time, that is precisely the move one should make.[54] If we really do want to alter a culture in which entrepreneurial actors and ordinary Americans, instead of being protected by law may too often end up its victims, there are lessons we could surely learn from our past.

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[53] On these four aims as dominating American law, see generally, Stephen B. Presser, "Legal History" or The History of Law: A Primer on Bringing the Law's Past into the Present, 35 Vanderbilt Law Review 849 (1982).

[54] see C.S. LEWIS, We have Cause to Be Uneasy, in MERE CHRISTIANITY (1952), excerpted in THE ESSENTIAL C.S. LEWIS 309 (Lyle W. Dorset er., 1988) ("First, as to putting the clock back. Would you think I was joking if I said that you can put a clock back, and that if the clock is wrong it is often a very sensible thing to do? But I would rather get away from that whole idea of clocks. We all want progress. But progress means getting nearer to the place where you want to be. And if your have taken a wrong turning, then to go forward does not get you any nearer. If you are on the wrong road, progress means doing an about-turn and walking back to the right road . . . .").

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The Modern Transformation of Civil Law

George L. Priest*

This paper addresses the transformation of civil law that began in this country roughly around the mid-1960s changing a legal system that intervened in the lives of citizens only on occasions of serious moral dereliction into the most extensive and powerful regulatory mechanism of modern society. Prior to the 1960s, civil law served a modest role in U.S. affairs. It enforced property rights and policed boundary disputes through property law, enforced promises as well as disclaimers of liability through contract law, and provided damages for personal injury through negligence law (tort law) where an individual was injured by an egregious breach of standards of normal behavior. Though the negligence standard proved loose enough to allow substantial subsequent expansion, prior to the 1960s courts employed that standard only where a party had shown clear moral culpability substantially antagonistic to social norms. Standards determined by private contract were far more significant with respect to the determination of the obligations of citizens.

Since the 1960s, however, our civil law has changed dramatically. Contract law, property law, and especially personal injury law have been transformed both in function and effect. The transformation occurred neither through some sudden change in legal doctrine nor through legislative statute or popular referendum. Instead, it occurred through the triumph of a set of ideas: the acceptance by the judiciary of the proposition that civil damage judgments can serve as the most effective public policy instrument for regulating the level of harm suffered by citizens in the society.

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It is surely not coincidental that the outset of the transformation of civil law was roughly contemporaneous with the creation of various federal regulatory agencies charged with controlling levels of harm, such as the Occupational Health and Safety Administration (created in 1971), the Environmental Protection Agency (1970), the National Highway Traffic Safety Administration (1970), and the Consumer Product Safety Commission (1972). In many respects, however, the transformation of civil law developed in ways that gave it a far more ambitious and extensive regulatory authority than any of these agencies. All regulatory agencies have limited budgets and, as a consequence, are constrained to thresholds of concern. Thus, even agencies with broad authority—such as OSHA or EPA—can effectively regulate the decisions of only a limited number of corporations. Other regulatory agencies—such as NHTSA—possess jurisdiction over only a single industry (auto manufacture).

Our modern civil justice system, in contrast, aspires to regulate the sources of harm with respect to all activities of the society. Our civil courts can entertain the question of whether a victim should receive compensation from the party that caused it harm as long as it is economically worthwhile for a person feeling victimized to initiate litigation. And all of such claims will be entertained. Indeed, to perfect the system, the incentives for initiating litigation have themselves been enhanced by various statutes awarding attorneys' fees and shifting litigation costs as well as by expansive notions of "harm", for example by awarding damages for medical monitoring to individuals who only suspect or fear that they have been harmed. As a result, our courts today employ civil damage judgments to regulate all activities implicating harm, made within every industry, indeed, by every citizen. Through the daily aggregation of civil damage judgments (or the settlement of lawsuits informed by expected judgments), our courts provide fine-tuned control of all societal behavior.

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How did this transformation of civil law come about?[1] In the 19th and early 20th Centuries, the basic doctrines of civil law remained generally stable. Yet, there was serious debate in the legal academy as well as in the public policy community generally over the role of civil law with respect to harms suffered in the society. An important initial step in the transformation of civil law occurred in the early years of the 20th Century when civil law was abandoned as a mechanism for dealing with injuries suffered by workers during the course of their employment. The adoption by state legislatures of worker compensation statutes during the period roughly 1907-1915—creating mandatory employer insurance programs—represented the rejection of both tort law and contract law as means of regulating the sources of worker injuries.

Prior to the establishment of workers' compensation insurance, injured workers could seek recovery against their employers in tort law where they could show employer negligence as a cause of the injury. Employers could defend such claims, however, by showing that the worker had been contributorily negligent, that the worker had assumed the risk of injury, or that the worker's injury resulted from the negligence of a fellow worker, according to what is called the fellow-servant doctrine. Workers could sue their fellow workers for negligence, but recovery was not likely to be substantial given workers' limited resources. Thus, it became widely accepted that tort law was largely ineffective in providing recovery to injured workers, and tort law was rejected as a mechanism for recovery. In its place, workers' compensation statutes compelled employers to provide insurance for worker injuries and, at the same time, prohibited workers from suing employers in tort.

Though somewhat less sharply, workers' compensation insurance also represented a rejection of contract law as a mechanism for dealing with injuries. Few believed that workers, individually, were able to negotiate safer working conditions, and only a small portion of the

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[1] For a more thorough account of this history, see Priest, The Invention of Enterprise Liability: A Critical History of the Intellectual Foundations of Modern Tort Law, 14 J. Legal Studies 461 (1985) (hereafter, "Priest, Invention"). Priest, Strict Products Liability: The Original Intent, 10 Cardozo L. Rev. 2301 (1989).

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working class was unionized. In addition, the concept of compensating wage differentials was not widely understood. Contract law, therefore, was not an answer. To the contrary, employer-provided insurance was necessary if workers were to receive compensation for injuries.

Besides serving the ambition of increasing payments to injured workers, workers' compensation insurance came to be justified by a concept that derived from economics: the concept of internalizing costs.[2] According to this concept, if a party engaging in some activity fails to take into account the full costs that the activity generates, the party is likely to engage in more of the activity than is appropriate for the society. Where the costs are injury costs, there will result higher levels of injurious activities and thus larger numbers of injuries than societally appropriate. If injury costs are internalized, however, the party causing the harm will be led to prevent losses where possible and otherwise to readjust its activity level to reduce the aggregate number of injuries. Compelling employers to provide insurance for all injuries suffered by workers during the course of employment serves to internalize the costs of worker injuries to employers.[3]

The adoption of workers' compensation programs was widely praised in the legal academy. Indeed, some academics thought the concept so meritorious that they sought to extend such insurance programs more broadly, to provide compensation for all injuries suffered in the society. Fleming James was a prominent promoter of this idea.[4] The ambition of James and others to have enacted general societal accident insurance, however, never found success. First, a general social insurance program is a program, basically, of socialism, to which there was deep

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[2] See A. C. Pigou, Wealth and Welfare (1912); Pigou, The Economics of Welfare (1920).

[3] By contrast, failing to compensate workers for their injuries, say, by enforcement of the common law tort defenses of contributory negligence, assumption of risk or the fellow-servant doctrine, serves to internalize worker injury costs to the workers themselves. Many years later, Ronald Coase would show that, with respect to activity levels, internalizing injury costs to workers will have economic effects equivalent to internalizing those costs to employers. This profound idea, however, remains foreign to the debate today. Ronald H. Coase, The Problem of Social Cost, 3 J. Law & Economics 1 (1960).

[4] James' work is described in more detail in Priest, Invention, supra.

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political opposition. (Note that even during the New Deal, insurance programs were established only with respect to particular risks—such as crop insurance, savings and loan insurance, and Social Security.[5]) Secondly, general social insurance is at heart inconsistent with the internalizing costs rationale. General social insurance is not self-contained as is insurance for workplace injuries. To provide general insurance for injuries does not serve to internalize costs to the specific activities that generated the injuries. General social insurance would provide compensation to injured parties—sufficient grounds for support to James and others—but it would not serve to create incentives for reducing the accident rate.

Faced with the failure of their social insurance proposals and with no serious prospect of future success, many academics pressed for the expansion of civil law as a means of providing broader compensation to injured parties. James, again, was the most prominent toward this end. In a set of roughly fifty articles, James urged the expansion of tort liability in all of its forms and the restriction of available defenses, moving toward a standard of absolute liability.

For many years, James' advocacy had little effect. An opening wedge appeared, however, in the early 1960s with regard to the subject of manufacturer liability. Until the 1960s, recovery for injuries resulting from product use was chiefly determined by contract law. Contract law allowed the specific purchaser of the product to recover according to the terms of the express product warranty or of the implied warranty of merchantability. Recovery was available to the specific purchaser and, generally, only to the specific purchaser, because that person was the only party to the contract of sale (a legal doctrine known as privity of contract). Virtually all product warranties at the time, however, disclaimed liability for any personal injury associated with use of the product.[6] Thus, according to contract law and the terms of product contracts, there was no recovery for personal injury.

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[5] Franklin Roosevelt justified Social Security as providing protection for the "risk of old age".

[6] The central warranty remedy then (as now) was repair and replacement if a product were found to be defective. There are good economic reasons for manufacturers to disclaim liability for personal injury—

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There had been some concern about the operation of these contract doctrines prior to the 1960s, but it remained chiefly academic. Some few jurisdictions recognized an action in negligence by a victim not a party to the contract. MacPherson v. Buick[7] was decided in 1916, but it extended negligence liability only to manufacturers of products regarded as "imminently dangerous", and only where it could be shown that the purchaser or an intermediate dealer would not inspect the product for defects. Over the four decades that followed MacPherson, some jurisdictions extended the scope of the negligence doctrine, in particular to cases involving spoiled foodstuffs, although the jurisdictions were far from unanimous. Thus, through the late 1950s and early 1960s, defective product cases were controlled by contract law with its privity requirement and, to a substantially lesser extent, by negligence law.

This was to change, however, and change dramatically in the early 1960s and 1970s first in the then-limited field of product liability. In my judgment, there were two conceptual forces leading to this change. The first was the delegitimation of contract law—in particular, warranty law—as a means for dealing with product injuries. The second was the growing belief that the expansion of tort liability in the context of personal injuries could have beneficial effects on the society.

The delegitimation of contract law followed from the work of another law professor, Friedrich Kessler.[8] Kessler was a German scholar who had fled the Hitler regime to the United States. Kessler had no specific interest in product-related injuries. His attack on contract law was far more expansive. Kessler believed that fundamental changes had occurred in the character of Western economies that deeply threatened democratic societies and the individual freedoms that had been achieved in modern times. Kessler attributed these social changes to the "decline of the

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chiefly because manufacturer-provided insurance is a very poor insurance mechanism—though these reasons were never articulated at the time. See Priest, A Theory of the Consumer Product Warranty, 90 Yale L. J. 1297 (1981).

[7] MacPherson v. Buick Motor Co., 217 N.Y. 382, 111 N.E. 1050 (Ct. App. 1916).

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free market system,"[9] which he saw as a consequence of "the innate trend of competitive capitalism toward monopoly."[10] Kessler's criticism of the capitalistic world was quite pointed. He described the modern industrial culture as a form of fascism. "The rise of fascism in our industrial world has made us realize that democratic freedom is not inevitable."[11] According to Kessler, single firms are now able "to control and regulate the distribution of goods from producer all the way down to the ultimate consumer."[12]

Quite curiously, Kessler saw the principal mechanism for this new means of fascist control to be contract law. The formation of "large industrial empires" had been made possible by contract and by standardized contracts in particular.[13] Standardized contracts—such as insurance policies or consumer product warranties—were the equivalent of the forms of bondage typical of the feudal era. According to Kessler, "[s]tandard contracts . . . [have] become effective instruments in the hands of powerful industrial and commercial overlords enabling them to impose a new feudal order of their own making upon a vast host of vassals."[14]

Kessler's most influential article with respect to the transformation of modern civil law is the classic "Contracts of Adhesion—Some Thoughts about Freedom of Contract". The article presents a moral narrative that contrasts the ancient to the modern, the good to the evil, the redeemable to the unredeemable that possesses a persuasive power that continues to command acceptance today. Kessler contrasts a "society of small enterprisers, individual merchants and

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[8] Kessler's work is described in detail in Priest, Invention, supra.

[9] Friedrich Kessler, Natural Law, Justice and Democracy—Some Reflections on Three Types of Thinking about Law and Justice, 19 Tulane L. Rev. 32, 33 (1944) (hereafter, "Kessler Natural Law").

[10] Friedrich Kessler, Contracts of Adhesion—Some Thoughts about Freedom of Contract, 43 Colum. L. Rev. 629, 641 (1943) (hereafter, "Kessler, Contracts of Adhesion").

[11] Kessler, Natural Law at 33.

[12] Kessler, Contracts of Adhesion, at p. 632.

[13] Id.

[14] Id. at 640.

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independent craftsmen" for whom 19th Century contract law was designed, with large-scale enterprise and monopoly capitalism characteristic of modern times. Freedom of contract may have had meaning in the earlier world. Today, however, the prototypical modern contract is a standardized form employed by enterprises with strong bargaining power against weaker parties—consumers—in need of necessary goods and services. Modern contracts are contracts of adhesion that consumers must take or leave without ever understanding their terms at all. In this context, the enforcement of contract terms according to the principle of freedom of contract serves only to protect "the unequal distribution of property."[15]

The second principal conceptual force toward the transformation of civil law was the insistence by James and others that an expansion of tort liability would substantially improve social welfare. James, as mentioned, was principally concerned with providing compensation to injured parties. He supported general social insurance and, in its absence, the expansion of tort liability to achieve that end. His ambition was valuably aided, however, by judicial opinions that focused more sharply on the positive societal gains from expanded tort liability.

Judicial acceptance of the broader role of tort law toward these ends first appeared in 1944 in California Supreme Court Justice Roger Traynor's concurring opinion in Escola v. Coca Cola Bottling Co.[16] Traynor's opinion sets forth the grounds for the strict liability standard for product defects that later was adopted by the California Supreme Court and virtually all other states. The case was simple. A waitress at a restaurant was moving some bottles of soda pop when one of them exploded, injuring her. (The context of the incident was never made clear. The California Supreme Court, and Traynor, approached the issue as if the bottle exploded spontaneously. Whether the waitress dropped the bottle, hit the bottle against something, or stumbled and fell was not present before the Court.) The majority of the California Supreme

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[15] Id. at 640, 632.

[16] 24 Cal. 2d 453, 150 P.2d 436 (1944).

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Court also found the case simple: they invoked the tort doctrine of res ipsa loquitur (roughly, the event speaks for itself) to hold that, despite the terms of any contractual arrangement between the distributor and the restaurant (in fact, the Court did not even discuss the contractual arrangement), the manufacturer should be liable because Coke bottles should not explode.

Justice Traynor's concurrence was more subtle and more policy oriented. He concurred with the Court's finding of liability, but provided deeper grounds for the appropriateness of shifting the costs of the waitress's injury to Coca-Cola. Traynor embraced a theory of strict liability in tort of the manufacturer. Strict liability was to be distinguished from negligence liability—in which the victim has to show that the defendant committed some negligent act. Traynor analogized the strict liability standard to the standard of res ipsa loquitor: if there is something defective with respect to the product, the manufacturer is to blame. That analogy, however, important for many courts in the future, was not Traynor's principal point. Traynor argued that there were important social grounds to extend liability to manufacturers for product-related injuries. First, such liability would lead manufacturers to invest to prevent product-related injuries in the future. Second, tort liability, resulting in the payment of compensatory damages to injured consumers, would provide a form of insurance to the injured that could be passed along in the product prices paid by all consumers. The expansion of tort liability, thus, would—like workers' compensation insurance—serve to internalize injury costs to the firms that generated them. In 1944, however, Traynor's concurrence was only a concurrence, and received little notice, though that would later change.

These ideas—contract law is perverted by market power, and tort law is a means of encouraging investments in accident prevention and insurance for resulting losses—transformed modern civil law. The first applications, again, were in the products liability field. In 1960, in the case Henningsen v. Bloomfield Motors, Inc., the New Jersey Supreme Court marked the effective end of the relevance of contract law in defective product actions involving personal

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injury.[17] The decision repudiates the basic principles of contract law applicable to product defect cases. Henningsen involved an action brought by the wife of the purchaser of a car, injured when the car veered off the road without an adequate explanation, though there was testimony suggesting a mechanical defect. Even putting aside the privity of contract problem, the automobile manufacturer's warranty provided only for repair or replacement of any defective part and disclaimed implied warranties that might extend liability further, including to personal injury damages. The New Jersey Supreme Court held that the privity doctrine as well as the express disclaimer of implied warranties were invalid as a matter of law—quoting from and relying heavily on Kessler's "Contracts of Adhesion". According to the Court, contract law should not be read to "authorize the automobile manufacturer to use its grossly disproportionate bargaining power to relieve itself from liability . . . An instinctively felt sense of justice cries out against such a sharp bargain."[18] The Court held that Mrs. Henningsen could recover under the Court's interpretation of the implied warranty of merchantabilty.

The permanent shift from contract to an expanded tort law as the basis for the resolution of product defect claims occurred in 1963 in the California Supreme Court decision in Greenman v. Yuba Power Products.[19] The case involved personal injury from an allegedly defectively designed machine tool.[20] The manufacturer-defendant believed that its strongest defense was the failure of the victim to provide notice of the alleged breach of warranty within a reasonable time. The strict notice requirement of contract law, however, had been flagged as illustrative of the outdated character of warranty law in many treatments of the product defect question, including those by James and a scholar writing in a similar vein, William Prosser. In Greenman, it seemed

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[17] 32 N.J. 358, 161 A. 2d 69 (1960).

[18] 32 N.J. at 404, 388, 161 A. 2d at 95, 85.

[19] 59 Cal. 2d 57, 377 P. 2d 897, 27 Cal. Rptr. 697 (1963).

[20] The product was a wood lathe in which a piece of wood being turned had detached and injured the plaintiff. The Court gave no attention as to whether Mr. Greenman had fastened the piece of wood adequately prior to turning on the lathe.

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to trigger the final acceptance by a majority of the California Supreme Court of Traynor's strict liability argument first presented nearly two decades earlier in Escola.

In Greenman, the court, in a Traynor opinion, announced the standard of strict liability in tort, applicable to a manufacturer whenever "an article he places on the market, knowing that it is to be used without inspection for defects, proves to have a defect that causes injury to a human being." The purpose of strict liability, according to the court, "is to insure that the costs of injuries resulting from defective products are borne by the manufacturers that put such products on the market rather than by the injured persons who are powerless to protect themselves."[21] For a further elaboration of justifications of strict liability, the reader was referred to James, Prosser and Traynor's concurring opinion in Escola.

Henningsen and Greenman were important moments in the transformation of civil law. One further event, however, vastly accelerated the transformation by jurisdictions skittish of the cutting edge. In 1964, the American Law Institute adopted Section 402A of its second Restatement of Torts, which extended strict liability to sellers of all products defective and unreasonably dangerous without regard to the seller's fault. The Reporter of the Restatement, William Prosser,[22] represented to the Institute that 16 separate jurisdictions had adopted strict liability or some standard resembling it, citing 40 different cases. This was blatant exaggeration. A rereading today shows that there were only three cases actually supporting Prosser's recommendation: Henningsen, Greenman, and a 1963 New York decision, Goldberg v. Kollsman Instrument Co.[23] But Prosser's recommendation was sufficient for the Institute, and the Institute's adoption of the strict liability standard was sufficient for the various states to adopt the

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[21] 59 Cal. 2d. at 62, 63, 377 P. 2d 900, 901, citing Henningsen.

[22] James and Traynor, among others, were Advisers to Prosser on the Restatement project.

[23] 12 N.Y. 2d 432, 191 N.E. 2d 81 (N.Y. 1963).

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standard as well. Within a little more than a decade following the Institute's adoption of the strict liability standard, forty-one of fifty jurisdictions had adopted the rule.

As mentioned, the change in the legal standards regarding product liability was only an opening wedge in the more general transformation of modern civil law though, surely, a significant wedge. The broader transformation of the law resulted from the extension of the underlying ideas that had motivated the change in products liability, first, to all other areas of civil law and, second, conceptually by the acceptance of the proposition that civil law could serve as a mechanism for regulating all risks faced by the society.

First, although the strict liability standard itself has been limited to the products field, the concept of cost internalization that underlies it has been extended across the various fields of civil law. Thus, the internalization policy has been extended to justify awarding damages in pollution cases,[24] in sexual harassment cases,[25] and in false arrest, malicious prosecution and Section 1983 civil rights violation cases,[26] among others. In these various contexts, as with product manufacture, it appears evident to which party costs should be internalized: to the manufacturer rather than the consumer; similarly, to the polluter, to the party harassing the victim, and to the official committing misconduct.

The second extension of the concept involved its application to contexts in which it is less clear to which party costs should be internalized. In contexts such as these, extension of the

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[24] E.g., Atlas Chem. Indus., Inc. v. M.P. Anderson, 514 S.W. 2d 309, 316 (Tex. Civ. App. 1974) ("the costs of injuries resulting from pollution must be internalized by industry as a cost of production and borne by consumers or shareholders, or both, and not by the injured individual.")

[25] Horn v. Duke Homes, 755 F.2d 599, 605 (7th Cir. 1985) ("[G]oods produced by the entrepreneurs who do not assume the costs of remedying a tort (in this case sexism) are artificially cheap; forcing them to internalize the costs of the tort regardless of fault, eliminates incentives to be sexist and insures proper allocation of societal resources.")

[26] Dobson v. Camden, 705 F.2d 759, 765 (5th Cir. 1983) ("If the person contemplating an action will reap the benefits but will not pay the costs, we have no assurance that the socially correct decision will be made. . . . Cost internalization provides us with a mechanism for reaching the correct level of deterrence for official misconduct. If people acting under color of state law know that they will bear the consequences of their actions, they will be deterred from violating a person's federal rights, but will not be over-deterred. The 'correct' level of deterrence will be established.")

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cost internalization concept requires consideration of losses viewed as risks attending the activity in question. Thus, all losses suffered in the society represent the outcome of some probabilistic process. The actions of one party or another can be viewed as contributing to the probability of occurrence of a loss, arrayed upon a continuum from losses the probability of which is 100 percent—intentionally caused harms—to losses the probability of which is zero.

With this extension, the basic foundation of civil law is transformed into controlling risks through cost internalization. The question before the court becomes which party to the litigation is in the best position to control the risk of loss. Again, in many contexts—such as product manufacture—it may seem obvious which party is in the superior position to control risks.[27] In other contexts, however, determining which party is in the superior position to bear the risk of loss from the activity is more complicated and requires a seemingly more sophisticated analysis of the relative abilities of the parties before the court to prevent or to bear those risks.

The adoption of risk control as the central purpose of civil law shifts sharply the focus of legal controversy in each of its various subfields. In the field of contract law, for example, contract litigation only a few decades ago turned chiefly on differing interpretations in terms of standard English of the provisions of underlying written contracts. In modern contract litigation, in contrast, the issues have been completely reoriented around the question of risk. The fact that some change in underlying conditions led one of the parties to breach the contract is only the beginning of the inquiry. The issue before the court is which party should bear the risk of the change in conditions that impelled the breach. Today, courts summon sophisticated theories of economics and risk bearing to determine whether it is more consistent with the long-term interests of the parties to assign the risk of the specific change of conditions that animated the breach to the breaching party or to the victim of the breach itself.

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[27] In fact, from an economic point of view, this conclusion—though embraced in modern civil law—is not so obvious. See, Priest, The Modern Expansion of Tort Liability: Its Sources, Its Effects, and Its Reform, 5 J.Econ. Perspectives 31 (1991).

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Similarly, in earlier years the law of corporations and of mergers and acquisitions was defined almost exclusively by the terms of corporate documents. Today, the papers of incorporation are often treated as only other obstacles that must be surpassed as part of the analysis of how to allocate risks that affect corporate ownership and structure. In recent highly publicized litigation involving mergers and acquisitions, for example, the issue before the court is whether the market for corporate control will be facilitated by assigning the risk and the commensurate benefits of some novel method of hostile takeover to current shareholders, to current management, or to the corporate raiders who have initiated the struggle.

The development of risk control as the central function of civil law has been most prominent in fields involving personal injury. As in other fields, this development has led to an extensive redefinition of legal issues. In cases involving claims of medical malpractice, for example, modern litigation extends far beyond the earlier relatively simple inquiry into whether the doctor was morally culpable for breaching standards of community practice. In the most sophisticated malpractice litigation today, the issue is one of risk and its control: Did the attending surgeon have sufficient control over the determinants of the risk of the medical maloccurrence to justify liability, or should that risk be assigned to supporting physicians or to the hospital vicariously through a judgment against its staff?

An important implication of the adoption of risk control as the principal function of civil law is that issues of motive and volition central to the legal regime that prevailed until the 1960s are rendered largely irrelevant. In modern contract law, for example, the decision of a party to intentionally breach a contract has little legal significance. It is acknowledged that the risks are omnipresent that changes in conditions will occur that might unsettle contracts and, thus, that it is inevitable that some contracts will be breached. The role of a court, as a result, is no longer to punish breach of contract, but to allocate between the parties the risks of such changes in underlying conditions. Similarly, though in earlier years it was necessary to demonstrate that a manufacturer had acted with bad motives or had behaved recklessly or negligently, such issues

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today are largely ignored. The concern of the courts has extended beyond specific bad motives to the broader risks of product injury. Thus, a manufacturer may have organized its production process with deep humanitarian concern for the welfare of its consumers, but if the company has miscalculated the risks and benefits of safety design, liability will follow immediately.

Many believe the derogation in civil law of issues of motive and volition as indicating a decline in commitment to individual responsibility or, perhaps, a shift of expectations toward an impersonal or a collective responsibility. The shift in standards of law may indirectly have that effect as citizens revise their expectations of the ultimate consequences of misoccurrences that afflict them. But I believe that the stimulus for the shift toward risk control as the central purpose of civil law is different and that it did not derive from a diminished conviction of the importance of individual responsibility.

The legal regime that prevailed from the 19th Century through the mid-1960s functioned chiefly by categorizing certain actions that generated loss as so particularly extreme or egregious as to deserve liability for any harm that resulted. Actions subject to legal liability were those for which there was a dramatically greater chance than normal that loss would result. According to this regime, prototypical candidates for liability were harms caused intentionally and those close to the intentional because of the high likelihood of injury.

Resolving disputes according to the standards of risk control is entirely different and implies vastly different methods of legal analysis. A property law whose focus is boundary disputes, a contract law whose focus is breach of promise, and a personal injury law whose focus is serious moral dereliction are each regimes in which the law defines a clear demarcation between acts subject to liability and acts immune from it. If the property line is transgressed, a trespass action will follow. If the contract is not performed, or if the injurer is morally culpable, damages will follow.

According to this earlier conception of the role of civil law, there are certain clear actions for which liability will apply, but equally clear sets for which liability is unavailable. Indeed,

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there are large sets of injuries suffered by property owners, parties to contracts, and injured victims that not only do not justify liability, but do not justify even judicial scrutiny. For example, under such a regime, a consumer injured by a product who cannot show that the product was intentionally or recklessly mis-manufactured or who cannot show clear moral negligence in the manufacturing process cannot recover damages. From the standpoint of the law, the product-related injury remains one of life's hazards to be suffered as best as possible according to the victim's resources, but without reference to the legal system. As another example, if a farmer promised to provide a broker 1,000 bushels of corn but because of drought can only provide 500, the farmer has breached the contract and must pay damages to the broker for the remainder. According to the law, the farmer must suffer the loss because it was the farmer, not the broker, who promised to deliver the corn.

This is not to suggest that the earlier regime was totally indifferent to conditions generating losses. If the probability of injury from product use were exceptionally high, the law could conclude that the manufacturer should have known of the product danger and find the manufacturer liable despite its claim of ignorance. Similarly, if the drought itself were so extreme that it prevented the farmer from delivering any of the 1,000 bushels, the law could relieve the farmer by rescinding the contract by finding it impossible to perform. Nevertheless, the method of analysis under the regime, even in these examples, was one of comparing the extremity of the factual context of the loss to some standard of normal or expected behavior.

According to this approach, some actions differ so dramatically from the normal—reckless manufacture or breach of contract—that legal liability is justified. Legal analysis under such a regime consisted of categorizing acts as either qualifying as sufficiently abnormal to justify liability or not. Obviously, intentional harm-causing actions justified liability. Beyond the intentional, unusually egregious actions may have justified liability. In almost all other cases, however, liability was unavailable, and the law allowed the loss to lie where it had fallen.

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The adoption of risk control as the central goal of civil law rejects this categorical method of legal analysis. A law concerned with risk perceives losses as occurring probabilistically, with greater or lesser likelihood. Actions become subject to potential legal liability if they increase the occurrence of loss by some sufficient amount.

This shift does not reject, but builds upon, the liability of the previous regime. Losses caused intentionally or that are especially egregious remain subject to liability *a fortiori*. The frontier of liability, instead, is extended to disputes involving actions that increase the probability of loss by some dimension, though they may not make the loss inevitable or even highly likely. Thus, a manufacturer is made responsible for avoiding more than recklessly or egregiously negligent production methods; the manufacturer must monitor all potential sources of product risk and will be held liable whenever a risk eventuates that the manufacturer could readily have controlled. Thus, manufacturers of automobiles are routinely held liable for failing to design safety features in autos that would protect even drunk drivers from injuries resulting from the accidents they cause.

Similarly, liability for breach of contract induced by a drought will turn not on the simple issue of whether it was the farmer or the broker who breached the promise. Rather, the breach of promise is viewed as a probabilistic outcome of the drought. The issue in the case shifts to the question of the appropriate assignment of the risk of drought: Is it better to allocate the risk of drought to the individual farmer, locked into the specific climatic position of the farm, or to the broker, who can diversify drought risk by entering contracts with geographically disparate farmers?

A law concerned with risk control rejects a discrete demarcation between actions regarded as extreme and those regarded as normal. All actions can be arrayed on a continuum of contribution toward loss. Thus, central concepts of causation are changed dramatically. The earlier regime that imposed a sharp distinction between particularly extreme sources of harm and all others was necessarily committed to a very strict conception of causation. Actions were

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subject to liability for causing harm chiefly if they constituted the sole or exclusive source of the harm. In contrast, our modern civil law, devoted to risk control, focuses less upon strict causation than upon contribution to the occurrence of the harm. Some action may generate liability because of its contribution to the risk of occurrence, though it was only one of many simultaneously contributing sources of the loss.

The new regime of risk control thus vastly expands the opportunity for the attachment of legal liability as well as the importance of civil law as an instrument of social control. Many decry what they perceive as the increased litigiousness of modern society. But the level of litigiousness is only a function of the underlying legal rules in force. Our modern civil law encourages litigation as an instrument for internalizing costs to control risks. Because in our society intentionally or egregiously caused harms are infrequent, the earlier legal regime that focused only upon such harms was a regime of very limited scope. In contrast, our modern legal regime, focused upon every contribution to risk, is a regime of dramatically greater dimension. Such a regime aspires to impose legal controls on all activities in the society that contribute to risk in any way. Thus, virtually every action by every citizen becomes subject to potential legal review because every action will increase the risk of some loss in some way.

To my mind, far from incorporating a diminished view of individual responsibility, the shift of the law's purpose toward risk control represents a vastly expanded commitment to standards of individual liability, though expanded liability is somewhat different than enhanced individual responsibility. Under the new regime, an individual may be held liable not only for intentionally or maliciously harmful behavior, but for all behavior that increases the risk of loss, though the loss itself may be remote. Under earlier law, an individual needed to make certain only that his or her actions caused no direct injury to another individual. Under modern law, in contrast, an individual must make certain that his or her actions do not increase the risk of loss in any way. Thus, for each citizen, the potential of civil liability is vastly increased. The law charges each citizen to carefully monitor every action for its potential contribution to risk of loss.

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From the standpoint of the control of risk, it is difficult to define a truly solitary act—an act that does not in some way implicate risks to others. The gardener spraying plants or the recluse reading silently before the fireplace may not be subject to liability personally for the increase in the collective social risk from pesticides or particulates, but will suffer the attachment of liability as pesticide or firewood prices rise or as the society proscribes such enjoyments directly. It is equally difficult in a society concerned with risk to truly shield or isolate oneself from others. The gardener's yield will be affected by the acidity of the rain, just as book prices will reflect the shift to acid-free paper. The centrality of risk effectively prevents all efforts of social escape.

Beyond increasing the scope of individual responsibility, the regime of risk control dramatically changes the substantive content of that responsibility. The focus of modern law on risk control diminishes the importance of moral standards in the evaluation of harm-causing activities. It is no longer useful in such a regime to distinguish between the guilty and the innocent or the culpable and the blameless. Almost every human action will increase the probability of some loss by some amount; empirically, it would be extremely rare for an action to contribute zero toward the probability of occurrence of all losses in all contexts. It follows, therefore, that under the modern conception of risk, no action is ever truly innocent. Each of us must recognize that all of our actions are likely to harm others in the society in some way. As a consequence, every citizen stands in a position of continuous potential interaction with the law since every action is potentially subject to liability. Indeed, each of us must be aware that many of our specific actions may well lie close to the point on the risk continuum at which the attachment of legal liability becomes socially worthwhile.

Once it is accepted that all actions can be arrayed at some point upon the risk-contribution continuum, sharp moral distinctions lose moment. It is no longer possible to clearly separate the moral quality of one's personal actions from the quality of the actions of others. On the risk-contribution continuum, there are no clear qualitative differences between actions

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whatsoever; all actions contribute something to risk. The only question is the extent of the contribution.

The decline in the importance of moral standards as grounds for comparing loss-contributing actions, however, should not be interpreted to suggest that our new legal regime of risk control lacks moral foundation. The moral foundation of the new regime is relentlessly utilitarian. The objective of controlling risk as effectively as possible prevails over all else. Civil law serves to internalize costs, first, to create incentives to reduce the risk level as much as is practicable placing liability on that party in the relatively better position to prevent it. Second, if the injury could not have been practicably prevented, liability will be placed on that party in the relatively better position to spread the risks of the injury as if an insurer.

The adoption of these two utilitarian principles of risk control has subtly changed the nature of modern adjudication. Modern trials have been transformed from disputes between individuals to occasions for judicial social engineering. In earlier days, the function of adjudication was to resolve specific controversies between often embittered parties. In such cases, the particular moral qualities of the parties or of their actions were of central importance, as issues of motive and goodwill were crucial. In modern litigation, in contrast, the court must evaluate, not how one individual or another behaved in a moment of crisis, but whether one party or another, as representatives of generic categories of actors, was in a better position to prevent injuries or to spread the costs of them. In litigation of this nature, the qualities of the actual litigants become irrelevant because the issue before the court is how best to fashion incentives for parties in such positions in the future. An obstetrician and a nurse-midwife may have dedicated their lives to serving others; in the incident before the court, they may have exerted great effort to help the injured child and suffered as deeply as the parents over the subsequent injury. But if the court determines that the risk of injury was within their control, that it was affected in any way by some technical decision made or ignored, or that the two professionals or their insurers were in

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the best position to spread such injury costs, liability for a lifetime of losses may be placed upon them.

In modern adjudication, the dispute between the specific litigants is of secondary, even trivial, importance to the exercise. The concern of the courts is how best to fashion broader incentives to maximize social welfare. The parties themselves and the loss one of them has suffered become mere informational inputs to the process of judicial revision of controlling rules of law. The legal claim serves only as an empirical example of a social problem for which a more specific legal rule defining behavior is needed. Frequently in modern litigation, the parties are unwitting instruments of this broader judicial purpose. But increasingly in recent years, the adversarial character of litigation has become pretended rather than real. The requirements of procedure compel the parties to defend contesting positions. Yet often the litigants and their attorneys play out their roles, not as hostile adversaries, but as characters, knowing that the drama being staged serves only to determine which of their insurers should foot the bill.

The new purpose of the law has led courts to adopt many novel and interesting rules that seem bizarre from the vantage point of earlier years. An example is the 1982 decision of the New Jersey Supreme Court in Beshada v. Johns-Manville, a relatively early case in the transformation of civil law.[28] The case involved a claim by a worker that an asbestos manufacturer should be liable for damages because the manufacturer had failed to warn the worker that asbestos could cause cancer. The manufacturer sought to defend the claim by proving that, at the time the worker contracted cancer, it was not known and could not have been known scientifically that asbestos causes cancer. More perceptive of the contours of our modern regime, the plaintiffs challenged the defense as irrelevant as a matter of law. The court concurred, holding that the manufacturer was liable for breaching its duty to warn the worker that asbestos causes cancer

[28] 90 N.J. 191, 447 A. 2d 539 (1982).

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though the court accepted that, at the time of the breach, it was impossible scientifically to have known that asbestos causes cancer

The notion of liability for breach of a duty with which it was impossible to comply seems to strain the most basic notions of responsibility. But responsibility in a regime of risk control has a very unusual meaning. According to the court, the manufacturer should be liable for the loss for two reasons. First, the decision improved incentives for accident avoidance: "By imposing on manufacturers the costs of failure to discover hazards, we create an incentive for them to invest more actively in safety research." Second, regardless of the information available at the time of injury, holding the manufacturer liable will serve to distribute the risks of product injuries broadly, because manufacturers can include expected injury costs in the prices of their products. Responsibility under the regime of risk control, thus, can mean a responsibility imposed ex post facto to reduce or to spread the risks of injuries.[29]

Many disapprove of the contours of modern civil law. But can those contours be changed? In my judgment, it is fanciful to imagine a return to the categorical analysis of civil law that prevailed until the 1960s. In retrospect, that legal regime was simplistic. There is a probabilistic character to all societal losses. All societal activities do implicate risks that some individuals will be harmed in some way.

The concept of internalizing costs to address those losses, however, can be substantially sharpened. As suggested earlier, Ronald Coase explained now forty years ago that, with respect to activity levels, injury costs are always internalized. Civil law is not needed to achieve the

[29] The Beshada opinion generate substantial criticism, and the New Jersey Supreme Court limited its scope to asbestos cases in Feldman v. Lederle Labs, 97 N.J. 429, 479 A. 2d 374 (1984). Several other jurisdictions, however, have adopted the approach.

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economic effect.[30] The question that remains is whether and how aggregate social welfare can be enhanced by shifting injury costs, which is to say, by changing the method of cost internalization.

Many have shown that employing civil law to provide insurance is counterproductive. Civil law may continue to possess a role, however, in creating incentives to directly reduce accident rates. Perhaps oddly, despite over forty years of experience with the expanded liability created by modern civil law, there are no empirical studies that have demonstrated that the expansion of liability has reduced the level of harm. Of course, there are strong market forces that generate greater levels of safety. No one has been able to show that legal liability serves to increase safety further.

Still, it remains possible that expanded liability enhances safety and thus that civil law can serve a regulatory role. It is an entirely separate question whether that regulation is sensibly administered through our adversarial process with the final decision delegated to lay juries, selected intentionally because their members know nothing about the subject before them. Put differently, we cannot imagine a regulatory agency such as, say, NHTSA setting standards for auto safety based upon the presentation of a claim by a single seriously injured individual with respect to that person's single accident, delegating the ultimate decision to laypersons.

Our modern regime of civil law, nevertheless, remains deeply entrenched both in terms of economic interests (note the to-date successful efforts of the trial bar and the unions to thwart the rejection of civil law with respect to asbestos-related injuries) and in popular conception. To change that legal regime in a serious way will require a substantial demonstration of the harms that it causes.

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[30] Although Coase's article is widely known and universally accepted, this point remains not fully understood even among economists. For a prominent example, see Steven Shavell, Strict Liability Versus Negligence, 9 J. Legal Studies 1 (1980), discussed in Priest, Internalizing Costs (forthcoming).

DOJ_NMG_0000192

Mr. Reyes,

Attached you will find the following papers that will be presented at the upcoming "Lawsuits and Liberty" conference at the National Constitution Center:

The Modern Transformation of Civil Law
George L. Priest, Professor, Yale Law School

How Did We Get Here? What Litigation Was, What It Is Now, What It Might Be
Stephen B. Presser, Professor, Northwestern University School of Law and
Kellogg School of Management

The Administrative Advantage in Civil Procedure: Tort Reform through Consistent and Intelligent Policies Applied by Administrative Tribunals
E. Donald Elliott, Professor, Yale Law School;
Partner, Willkie Farr & Gallagher LLP

The Forgotten Goal of Civil Justice: A Foundation for Common Sense in Daily Life
Philip K. Howard, Chair, Common Good

A package of these materials has been FedExed to Mr. Gorsuch and the papers will be provided at the conference itself as well. Also attached is an update to the agenda that was sent, via memorandum, last week – as well as some logistical information, which has not changed. As always, should you have any questions or concerns, please do not hesitate to contact me, Andy, or Sara via the following contact information:

Andrew T. Park
Office Phone: [redacted]
Cell Phone: [redacted]
E-Mail: [redacted]@cgood.org

Eric Hauser
Office Phone: [redacted]
Cell Phone: [redacted]
E-Mail: [redacted]@cgood.org

Sara A. Berg
Office Phone: [redacted]
Cell Phone: [redacted]
E-Mail: [redacted]@cgood.org

We look forward to seeing Mr. Gorsuch in Philadelphia.

[redacted]@cgood.org

From: [redacted]@cgood.org
Sent: Friday, June 24, 2005 5:40 PM
To: Reyes, Luis (SMO)
Cc: Gorsuch, Neil M
Subject: RE: Lawsuits & Liberty Conference papers

Actually, the folks you mention are only giving presentations(ie PowerPoints, and/or speeches) - not papers - and those presentations are not being distributed beforehand.

-----Original Message-----
From: Luis.A.Reyes@usdoj.gov [mailto:Luis.A.Reyes@usdoj.gov]
Sent: Friday, June 24, 2005 5:31 PM
To: [redacted]
Cc: Neil.Gorsuch@usdoj.gov
Subject: FW: Lawsuits & Liberty Conference papers

Eric, thanks for this, I will pass on to Neil. Do you happen to have the presentations for Kagan, Brennan, and Pendell who will be on his panel? Didn't see them below. Thanks. --Lou

-----Original Message-----
From: [redacted]@cgood.org [mailto:[redacted]@cgood.org]
Sent: Friday, June 24, 2005 5:11 PM
To: Reyes, Luis (SMO)
Subject: Lawsuits & Liberty Conference papers

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[redacted]

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[redacted]

Office Phone: [redacted]

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E-Mail: [redacted]@cgood.org

[redacted]

Office Phone: [redacted]

Cell Phone: [redacted]

E-Mail: [redacted]@cgood.org

We look forward to seeing Mr. Gorsuch in Philadelphia.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 24, 2005 6:41 PM
To: Reyes, Luis (SMO)
Subject: RE: Lawsuits & Liberty Conference papers

Thanks so much for gathering these materials

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, June 24, 2005 5:31 PM
To: [redacted]@cgood.org'
Cc: Gorsuch, Neil M
Subject: FW: Lawsuits & Liberty Conference papers

Eric, thanks for this, I will pass on to Neil. Do you happen to have the presentations for Kagan, Brennan, and Pendell who will be on his panel? Didn't see them below. Thanks. --Lou

-----Original Message-----
From: [redacted]@cgood.org [mailto[redacted]@cgood.org]
Sent: Friday, June 24, 2005 5:11 PM
To: Reyes, Luis (SMO)
Subject: Lawsuits & Liberty Conference papers

Mr. Reyes,

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The Forgotten Goal of Civil Justice: A Foundation for Common Sense in Daily Life

Philip K. Howard, Chair, Common Good

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[redacted]

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[redacted]

Office Phone: [redacted]

Cell Phone: [redacted]

E-Mail [redacted]@cgood.org

[redacted]

Office Phone: [redacted]

Cell Phone: [redacted]

E-Mail: [redacted]@cgood.org

We look forward to seeing Mr. Gorsuch in Philadelphia.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, June 24, 2005 6:49 PM
To: Gunn, Currie (SMO)
Subject: monday
Attachments: FW: Lawsuits & Liberty Conference papers.msg; Statement of Administration's Position on Class Action Bill.msg; Tort Reform AG Talking Points.msg

Would you mind printing the attachments in these for me on Monday? I'd like to take them for train reading.

Reyes, Luis (SMO)

From:	Reyes, Luis (SMO)
Sent:	Friday, June 24, 2005 5:31 PM
To:	'Ehauser@cgood.org'
Cc:	Gorsuch, Neil M
Subject:	FW: Lawsuits & Liberty Conference papers
Attachments:	tmp.htm; Presser FINAL.doc; Priest FINAL.doc; Elliott FINAL.doc; 06.23.05 Memorandum to Participants.pdf; Howard (06.24.05).DOC

Eric, thanks for this, I will pass on to Neil. Do you happen to have the presentations for Kagan, Brennan, and Pendell who will be on his panel? Didn't see them below. Thanks. --Lou

-----Original Message-----
From: ehauser@cgood.org [mailto:ehauser@cgood.org]
Sent: Friday, June 24, 2005 5:11 PM
To: Reyes, Luis (SMO)
Subject: Lawsuits & Liberty Conference papers

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Attached you will find the following papers that will be presented at the upcoming "Lawsuits and Liberty" conference at the National Constitution Center:

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Andrew T. Park

Office Phone: 202.483.3760 x 13

Cell Phone: 202.431.4252

E-Mail: apark@cgood.org

Eric Hauser

Office Phone: 212.681.8199 x15

Cell Phone: 646.320.9458

E-Mail: ehauser@cgood.org

Sara A. Berg

Office Phone: 212.681.8199 x 12

Cell Phone: 917.692.6240

E-Mail: sberg@cgood.org

We look forward to seeing Mr. Gorsuch in Philadelphia

We look forward to seeing Mr. Gorsuch in Philadelphia.

COMMON GOOD℠
RESTORING COMMON SENSE TO AMERICAN LAW
WWW.CGOOD.ORG

DATE: Thursday, June 23, 2005

TO: "Lawsuits and Liberty" Participants

FROM: Philip K. Howard

RE: Conference Papers

Enclosed are the following papers that will be presented at the upcoming "Lawsuits and Liberty" conference at the National Constitution Center:

The Modern Transformation of Civil Law
George L. Priest, Professor, Yale Law School

How Did We Get Here? What Litigation Was, What It Is Now, What It Might Be
Stephen B. Presser, Professor, Northwestern University School of Law and Kellogg School of Management

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The Forgotten Goal of Civil Justice: A Foundation for Common Sense in Daily Life
Philip K. Howard, Chair, Common Good

The papers will be provided at the conference itself as well. Enclosed below is an update to the agenda that was sent to most of you, via memorandum, last week – as well as some logistical information, which has not changed. As always, should you have any questions or concerns, please do not hesitate to contact either me (phoward@cov.com; 212.841.1068) or Andy, Eric, or Sara via the following contact information:

Andrew T. Park
Office Phone: 202.483.3760 x 13
Cell Phone: 202.431.4252
E-Mail: apark@cgood.org

Eric Hauser
Office Phone: 212.681.8199 x 15
Cell Phone: 646.320.9458
E-Mail: ehauser@cgood.org

Sara A. Berg
Office Phone: 212.681.8199 x 12
Cell Phone: 917.692.6240
E-Mail: sberg@cgood.org

Thank you again, and I look forward to seeing all of you at the National Constitution Center.

Enclosures

TENTATIVE AGENDA

Monday, June 27

6:00 Cocktail Reception at the National Constitution Center.

7:00 – 7:20 Overview of Conference and Introduction of Lord Hoffmann.

7:20 *The Social Cost of Tort Liability*, Keynote Address by Lord Hoffmann, Member of the Appellate Committee of the House of Lords.

8:00 Dinner at the National Constitution Center.

Tuesday, June 28

8:00 – 8:45 Informal Breakfast at the National Constitution Center.

8:45 – 10:15 **Panel 1: The Historical Role of the Civil Justice System in American Society**

Moderator: John M. Walker, Jr., Chief Judge, U.S. Court of Appeals for the Second Circuit

Presentations: *The Modern Transformation of Civil Law*
George L. Priest, Professor, Yale Law School

How Did We Get Here? What Litigation Was, What It Is Now, What It Might Be
Stephen B. Presser, Professor, Northwestern University School of Law and Kellogg School of Management

Panelists: Geoffrey C. Hazard, Jr., Professor, University of Pennsylvania Law School

Edward L. Rubin, Professor, University of Pennsylvania Law School; Dean-Elect, Vanderbilt University Law School

10:30 – 12:00 **Panel 2: Has Distrust of the Civil Justice System Affected Daily Choices in Modern Society?**

Moderator: Robert E. Litan, Vice President for Research and Policy, Kauffman Foundation; Senior Fellow, The Brookings Institution

Presentations: *How Adversarial Legalism Affects Behavior*
Robert A. Kagan, Professor, University of California, Berkeley

Effects of Law on Healthcare
Troyen A. Brennan, M.D., Professor, Harvard Medical School and Harvard School of Public Health

DOJ_NMG_0000205

		The Public's Perceptions: Presentation of Harris Poll Results and Other Polling Results Judyth W. Pendell, Senior Fellow, AEI-Brookings Joint Center for Regulatory Studies
	Panelists:	Neil M. Gorsuch, Principal Deputy Associate Attorney General
		Stephanie L. Franklin-Suber, Partner, Ballard Spahr Andrews & Ingersoll, LLP; Former Chief of Staff to Mayor John F. Street and City Solicitor for the City of Philadelphia
12:00 – 1:00	Lunch – Informal Discussion.	
1:00 – 2:30	**Panel 3: Law and Fact: The Role of Policy in Civil Justice**	
	Moderator:	Walter E. Dellinger III, Professor, Duke University School of Law; Partner, O'Melveny & Myers LLP; Former Acting Solicitor General
	Presentation:	*The Administrative Advantage in Civil Procedure: Tort Reform through Consistent and Intelligent Policies Applied by Administrative Tribunals* E. Donald Elliott, Professor, Yale Law School; Partner, Willkie Farr & Gallagher LLP
	Panelists:	Lord Hoffmann, Member of the Appellate Committee of the House of Lords
		George L. Priest, Professor, Yale Law School
2:45 – 4:15	**Panel 4: The Responsibility of Judges Versus Juries**	
	Moderator:	Edith H. Jones, Judge, U.S. Court of Appeals for the Fifth Circuit
	Presentation:	*The Forgotten Goal of Civil Justice: A Foundation for Common Sense in Daily Life* Philip K. Howard, Chair, Common Good
	Panelists:	Larry D. Thompson, Senior Vice President for Government Affairs and General Counsel, PepsiCo, Inc.; Former U.S. Deputy Attorney General
		Walter E. Dellinger III, Professor, Duke University School of Law; Partner, O'Melveny & Myers LLP; Former Acting Solicitor General

DOJ_NMG_0000206

Geoffrey C. Hazard, Jr., Professor, University of Pennsylvania Law School

Dolores K. Sloviter, Judge, U.S. Court of Appeals for the Third Circuit

Robert A. Kagan, Professor, University of California, Berkeley

LOGISTICAL INFORMATION

Event Information

All conference events will be at the National Constitution Center. The first event is a cocktail reception beginning at 6:00 PM on Monday evening and will take place on the second floor of the Constitution Center. Common Good staff will be on hand to direct you to all events. Also, for your convenience, you will have access to a green room adjacent to the auditorium on Tuesday to store your belongings or to take a break from the proceedings. The address for the National Constitution Center, and information regarding parking is as follows:

Address and Telephone

National Constitution Center
525 Arch Street, Independence Mall, Philadelphia, PA 19106
Toll Free: 866.917.1787

Parking

Convenient parking for cars is available at the underground lots below the National Constitution Center (enter from Race Street) and at the Independence Visitor Center (enter from 5th or 6th Streets, between Arch and Market Streets).

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Map of the National Constitution Center Area

Hotel Information

For those coming in from out of town, we have arranged for a hotel room in your name for the night of Monday, June 27th at The Omni Hotel at Independence Park. Check-in time is 4:00 PM, but rooms are guaranteed for later arrivals. The Omni is just three blocks south of the National Constitution Center. The address for The Omni and information regarding arrival by taxi is as follows:

Address and Telephone

The Omni Hotel at Independence Park, 401 Chestnut Street, Philadelphia, PA 19106
215.925.0000

Taxi Information

It is a flat fee of $25.00 for cab fare from the Philadelphia International Airport. Cab fare from 30th Street Station (Philadelphia's train station) is roughly $10.00.

DOJ_NMG_0000208

Map of The Omni Hotel Area

Reimbursement of Expenses

Upon the conference's completion, we will send you reimbursement forms for expenses you incur in attending the conference, as well as forms for your respective honorariums.

Common Good Staff Contact Information

If you have any questions or concerns at any time, please do not hesitate to bring them to our attention – particularly to Andrew Park, Sara Berg, or Eric Hauser, whose contact information is as follows:

Andrew T. Park
Office Phone: 202.483.3760 x 13
Cell Phone: 202.431.4252
E-Mail: apark@cgood.org

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DOJ_NMG_0000209

Common Good, AEI-Brookings, National Constitution Center Conference on "Lawsuits and Liberty"

THE ADMINISTRATIVE ADVANTAGE IN CIVIL PROCEDURE: TORT REFORM THROUGH CONSISTENT AND INTELLIGENT POLICIES APPLIED BY ADMINISTRATIVE TRIBUNALS

E. Donald Elliott[1]

--- Substantive law is "secreted in the interstices of procedure"[2]

Most of the energy that has gone into "tort reform" in the United States to date has been misdirected. The features that create frivolous, abusive litigation in the U.S. are largely institutional and procedural in nature.[3] They inhere in the incentives created by our judicial institutions and procedures, and yet most of the energy of reformers to date has gone into modest reforms in substantive tort law – such as caps on punitive damages or on pain and suffering. These reforms may be symbolically satisfying to their proponents, but they leave untouched the basic institutions of our civil justice system and the perverse incentives that they create. Indeed, this misguided focus on changing substantive law is arguably even built into the generally-accepted term "tort reform," which seems to presume that the basic institutional and procedural structure of tort litigation should remain unchanged and that a few reforms of substantive tort law will be sufficient to deal with any problems.

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[1] Professor (adj) of Law, Yale Law School and Georgetown University Law Center; Partner, Willkie Farr & Gallagher LLP, Washington, DC.
[2] Henry Maine, Dissertations on Early Law and Custom 389 (1883).
[3] Richard A. Posner, *The Economics of Justice* (1981); Richard A. Posner, An Economic Approach to Legal Procedure and Judicial Administration 2 J.LEGAL Stud. 399 (1972); E. Donald Elliott, Toward Incentive-Based Procedure: Three Approaches for Regulating Scientific Evidence, 69 BOSTON U. L. REV. 487 (1989).

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One notable exception is the work of Professor John Langbein. In 1985, Professor Langbein wrote a much-cited article called "The German Advantage in Civil Procedure."[4] Langbein reviewed several salient aspect of German civil procedure including professional judges, the absence of juries and contingent fees, and greater use of independent experts and concluded that these procedural "advantages" contributed to the German system of civil litigation functioning better than the U.S. civil litigation system.

In the twenty years since Langbein wrote, however, there have been only a few modest efforts to address any of the underlying procedural and institutional aspects of U.S. civil litigation that he identified.[5] Ironically, our constitutional law and legal traditions, which are sometimes instruments of change in other areas, are one of the key impediments to modernizing the institutional and procedural aspects of our civil litigation system. Constitutional law as well as the even broader "unwritten constitution" of our legal traditions make it difficult to adopt innovations for processing damage claims that have proven successful elsewhere. Many of the problematic features of adversary civil litigation before courts and juries are so deeply ingrained into our constitutional law and legal traditions that it would be virtually impossible to change them. While the issue of whether constitutional law should "change with the times" is increasingly controversial in every area, the constitutional law relating to civil procedure is remarkably backward-looking and static. The avowed purpose of the 7th Amendment, for example, is to

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[4] John Langbein, The German Advantage in Civil Procedure, 52 U.CHI.L.REV. 823 (1985).
[5] One exception (in which the author was personally involved) was the effort to increase the use of independent experts recommended by professional societies which was recommended first by the Carnegie Commission for Science, Technology and Government and then picked up and implemented as a pilot program by the American Association for the Advancement of Science.

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"preserve" unchanged the functions of the civil jury as they existed at common law as understood in 1791. More generally, when an innovation in civil litigation is challenged on procedural due process grounds, courts generally look backward to our history and traditions to determine whether it is constitutional. And even if a reform to the civil litigation system might conceivably be upheld in court against a formal constitutional challenge, there is an even broader "unwritten constitution" of political support that renders it virtually impossible to conceive of any legislature making material changes to the way that civil litigation is traditionally conducted before courts and juries.[6] Even relatively recent innovations such as broad civil discovery have proved very difficult to curtail once implemented.

There is, however, an alternative route by which American law could conceivably address some of more problematic aspects of the ways that we currently do civil litigation. That is through the legal fiction that "administrative tribunals" are not "courts."[7] Throughout our history, one of the main reasons for replacing traditional adversary civil litigation before courts and juries with administrative remedies before non-court courts (*a.k.a.* "quasi-judicial" administrative tribunals) is an enhanced ability by lawmakers to re-design the institutional and procedural features of the tribunals that apply the law as well as to change substantive law. One useful definition of an "administrative agency" is an institution of government that is not a court or legislature

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[6] See, e.g. Peter Schuck, How to Respond to the Problems of the Civil Jury, 77 JUDICATURE 236, 239 (1994)("The politics of jury reform are daunting. Virtually all of the important groups with stakes in the system of civil litigation favor retaining the jury. Trial lawyers' veneration of the jury is almost religious in its fervor, and their missionary zeal appears to have won many converts among the general public. When queried about the value of the jury, judges almost invariably praise it.")

[7] For a general argument about the role of legal fictions in promoting legal change, see Lon Fuller, Legal Fictions (1969).

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but is created and designed by statute.[8] Whereas the institutional aspects of "courts" are relatively fixed by constitutional law and tradition, administrative tribunals are by definition plastic and capable of being designed in many different forms. Administrative agencies are not one thing, but come in a dizzying variety of shape and sizes, with different institutional arrangements and procedures designed by statute or regulation to fit the particular task at hand. Indeed, the key defining feature of administrative institutions is that they are not "courts," and therefore their features can be custom-designed in ways that are not permissible for courts. Virtually every procedural innovation identified by Langbein, including professional judges, the elimination of juries and the enhanced role for independent expertise, currently exists in America, but in litigation before "administrative tribunals" rather than before "courts."

As a consequence, a major trend in U.S. civil law during the 20th century has been, and will continue to be, the removal of certain subject matter areas of law in which institutional features of litigation before traditional courts have proved particularly troublesome from the traditional litigation system and the substitution of alternative remedies before administrative tribunals in their place. This long-term trend to substitute administrative remedies for common law litigation has occurred in the past with regulation of workplace safety, labor relations, securities regulation and environmental pollution, and is likely to occur next with exposure to toxic substances such as asbestos, and then in medical malpractice and product liability. Medical malpractice, product liability and mass toxic tort litigation are particularly good candidates for "The

[8] *Compare* Administrative Procedure Act, 5 U.S.C. §551(1), which defines an "agency" as "each authority of the Government of the United States, … but does not include the Congress; the courts of the United States" and other exceptions not relevant here.

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Administrative Advantage in Civil Procedure" because defining a consistent and intelligent standard of care is particularly important in these fields. Administrative law offers particular advantages when implementing a consistent standard of care across a large number of claims is important, and administrative bodies are also particularly good at up-dating a technical standard of care based on expertise and experience – or what I call an "intelligent" standard of care, because it learns over time.

It is impossible in a short article to discuss all of the institutional and procedural features of U.S. civil litigation that might be improved in administrative forums. In what follows I will therefore attempt to illustrate "The Administrative Advantage in Civil Procedure" with one specific illustration: the claim by some reformers, including Phillip Howard, that verdicts by civil juries are unpredictable and inconsistent. In what follows, I will briefly outline the claim that civil jury verdicts with regard to the standard of care in medical malpractice cases are unpredictable and inconsistent, and then explain why this tendency is difficult to correct in the context of ordinary civil litigation before courts but much easier to address before administrative tribunals. Examples of such administrative tribunals would include the administrative "health courts" proposed by Common Good for medical malpractice reform[9] or the administrative compensation

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[9] For more details, see Common Good, An Urgent Call for Special Health Courts, http://cgood.org/brochure-hcare-4.html

The essence of the Common Good proposal is as follows: "Health courts would have judges dedicated full-time to resolving healthcare disputes. The judges would make written rulings in every case to provide guidance on proper standards of care. Their rulings would set precedents on which both patients and doctors could rely. As with similar administrative courts that exist in other areas of law—for tax disputes, workers' compensation, and vaccine liability, among others—there would be no juries. To assure uniformity and predictability, each ruling could be appealed to a new Medical Appellate Court." *Ibid.*

Other features of the Common Good proposal are:

"Full-Time Judges.
The hallmark of the health courts would be full-time judges, dedicated solely to addressing healthcare cases. The judges would be appointed through a nonpartisan

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system for asbestos proposed in S.852 (the so-called FAIR Act), which recently was voted out of committee in the Senate.[10]

The purpose of this paper is not to defend the specifics of these reform proposals as either necessary or sufficient, a task that has been performed elsewhere by others.[11] (It should be acknowledged, however, that the author was an early advocate of administrative compensation funds like the asbestos proposal[12] and serves as a consultant to Common Good.) Rather, the point of the present paper is that most if not all of the reforms in these proposals cannot be accomplished within the existing court-based litigation system, but can be implemented through administrative tribunals.

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screening commission.
Neutral Experts.
Those judges would be able to choose from a panel of experts in each area of medicine, avoiding the dueling "hired gun" experts that confuse and prolong disputes today.
Speedy Proceedings; Lower Costs.
Most cases would be resolved within months. Except in exceptional cases, legal fees would be held to 20 percent, reducing current costs by almost half.
Liberalized Recovery for Injured Patients.
Once a mistake is verified, recovery would be automatic without the need to prove precisely how it happened.
Damages.
Patients would be reimbursed for all of their medical costs and lost income, plus a fixed sum that would be pre-determined according to a schedule addressing specific types of injuries. The schedule would be established by a panel of experts and updated periodically to reflect changing costs."

[10] The text of the FAIR Act as reported out by the Senate Judiciary Committee is available at http://documents.nam.org/IS/S852asreportedfromcmte061705.pdf The bill is 393 pages in length, so it is impossible to summarize its provisions in detail here. For present purposes, one pertinent feature is that the bill would replace case-by-case litigation in asbestos cases with "tiers" developed by a combination of statute and administrative rulemaking for determining both compensation payments to claimants and payments by defendants into the system.

[11] See. e.g. Nancy Udell and David Kendall, Health Courts: Fair and Reliable Justice for Injured Patients, *Progressive Policy Institute Report* (Feb. 17, 2005). *See also* David M. Studdert, Michelle M. Mello, and Troyen A. Brennan, Medical Malpractice, 350 New England J. Med. 283 (Jan. 15, 2004).

[12] E. Donald Elliott, Goal Analysis vs. Institutional Analysis of Toxic Compensation Systems, 73 GEORGETOWN L. J. 1357 (1985); E. Donald Elliott, Why Courts? Comment on Robinson, 14 J. LEGAL STUD. 799 (1985).

DOJ_NMG_0000215

II.

In a 2003 op-ed in The New York Times, Phillip K. Howard succinctly stated the case that existing court procedures in medical malpractice cases create a highly undesirable element of unpredictability.[13] Howard argues that "Studies about jury awards in health care confirm what every doctor fears – and every victim should fear: justice is random."[14] He goes on to argue that "in a civil case, where citizens can use the justice system as an offensive weapon, the most important social value is predictability."[15] Howard's proposed solution (about which we will have more to say later) is that judges, not juries should decide the standard of care:

> "Creating a reliable system of medical justice, however, requires changing one aspect of the system that is so ingrained it is hardly even part of the debate: the jury. Expert judges, not juries, must decide what is a valid claim. … The role of juries in civil cases is to decide disputed facts, like whether someone is telling the truth. It is not to declare standards of care that affect society as a whole."[16]

Proponents of asbestos reform make similar claims: that verdicts in asbestos cases are inherently capricious, and as a result, some people who are not really sick get huge windfalls, while others who are much sicker get little or nothing.[17] One of the major justifications advanced for the pending bills to replace traditional tort litigation in asbestos cases with an administrative compensation system is that it would give greater

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[13] Phillip K. Howard, The Best Course of Treatment, The New York Times (July 21, 2003).
[14] *Ibid.*
[15] *Ibid.*
[16] *Ibid.*
17 Statement of Sen. Arlen Specter Introducing S.852, Congressional Record, April 19,2005 p. S3905 et seq. http://thomas.loc.gov/cgi-bin/query/D?r109:6:./temp/~r109iBZptj:e87725: ("All of us are mindful of the very substantial factor when a claimant gives up a constitutional right to jury trial, but in a program structured largely along lines of workmen's compensation, it is our conclusion that it is a fair exchange. When you find that there are many people who are suffering deadly ailments from asbestos , mesothelioma and other deadly injuries, who are not being compensated, this is a way to compensate those individuals whose companies have gone bankrupt.").

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predictability and horizontal fairness to both claimants and defendants than the current system of case-by-case litigation.

Speaking more generally, Yale Law School Professor Peter H. Schuck has identified as one of the recurrent "major objections" to the civil jury to be the contention that jury verdicts are inherently unpredictable and produce a "noisy" or unclear liability signal:

> "These objections do not claim that juries are biased or prone to error, but rather than jury decisions by their very nature emit liability signals that are confusing, inconsistent, and arbitrary. In this view, the jury's signals convey little useful information about actual legal norms. Coupled with the largely unregulated, generous system of damage awards, jury decisions generate widespread uncertainty, anxiety, and risk avoidance."[18]

Defenders of the civil jury do not generally deny that juries "march to a different drummer," but argue instead that juries are able to reflect a number of situational and community norms that are not always fully captured in the formal law. For example, in a 1988 article, Professor E. Donald Elliott stated that toxic tort cases are "morality plays" rather than based on a strict application of law and science.[19] While this statement was intended as descriptive rather than normative or prescriptive, it has been strongly criticized as countenancing the right of juries to decide toxic tort cases based on factors that would be considered irrelevant as a matter of formal law.[20] Similarly, then-professor, now-judge Guido Calabresi and his co-author, Professor Phillip Bobbitt, glory in the ability of a civil jury, which they call an "aresponsible agency," to decide cases

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[18] Schuck, *supra* note 6, at p.236.
[19] E. Donald Elliott, The Future of Toxic Torts: Of Chemophobia, Risk as a Compensable Injury and Hybrid Compensation Systems, 25 HOUSTON L. REV. 781 (July, 1988).
[20] Jeffrey Bossert Clark, Colloquium: Junk Science, the Courts, and the Regulatory State, http://www.fed-soc.org/Publications/practicegroupnewsletters/environmentallaw/el020105.htm (reporting comments of Professor David Bernstein that the remarks quoted above are "particularly irksome" because "Redefining our public morality" "is a bit much to ask of our tort system").

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without giving any reasons for its decision, particularly in certain categories of cases involving what they call "tragic choices" in which they believe that it is desirable for society to violate in practice the norms that it nonetheless affirms in theory. [21]

III.

In contrast to the civil jury, which is either praised or condemned for its inconsistency, inscrutability and unpredictability, consistency of application and transparency in giving reasons for outcomes are two of the most highly-valued norms for administrative tribunals. As Justice Scalia recently wrote for a unanimous Supreme Court, "It is hard to imagine a more violent breach of [the requirement of reasoned decision-making by administrative tribunals] than applying a rule of primary conduct … which is in fact different than the rule or standard formally announced."[22] Indeed, a central focus of judicial review of decisions by administrative tribunals is to police against "arbitrary and capricious" decisions that do not treat like cases alike or are not adequately justified.[23] Administrative tribunals must generally follow strict rules requiring them to state reasons for their decisions, and if they apply a different rule of decision in one case that they do in another, they must state a rational basis for the difference in treatment or provide a reasoned basis for changing the rule that will be applied in future cases.[24] In administrative law, "There may not be a rule for Monday,

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[21] G. CALABRESI & P. BOBBITT, TRAGIC CHOICES (1976).
[22] *Allentown Mack Sales and Service Inc. v. NLRB*, 522 U.S. 359 (1998).
[23] See 5 U.S.C. §706(a)(2)(under federal Administrative Procedure Act, courts set aside administrative decisions found to be "arbitrary" or "capricious.")
[24] *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto Ins. Co,* 463 U.S. 29 (1983); *Arizona Grocery Co. v. Atchison, Topeka & Santa Fe RR*, 284 U.S. 370 (1932).

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another for Tuesday, a rule for general application, but denied outright in a specific case."[25]

Administrative law also provides a useful conceptual resource for dealing with standard of care issues that is generally lacking in civil litigation: the concept of a generic "policy." Court generally deploy only two conceptual categories to describe the allocation of roles between judges and juries: questions of "law," and questions of "fact." Everything has to be one or the other. But before an administrative tribunal, there is an important third category: called "policy."[26] A "policy" is not a fixed requirement established by law, nor is it a "fact" that may change from case to case; rather, a "policy" is a contingent or prudential judgment that must be applied consistently while it remains in effect but may be changed from time to time in the light of experience. The standard of care in a medical malpractice case, or the showing required to qualify for compensating persons exposed to asbestos, are good examples of "policies," that are neither purely matters of law nor purely matters of fact.

Administrative agencies make policy in a variety of ways, including generic notice-and-comment rules, guidance documents and announcing rules of decision through case-by-case litigation. [27] However, the strong trend in administrative law since the early 1970's is to constrain case-by-case litigation of "facts" by developing generic "policies" through rulemaking that reflect the agency's general expertise as to how individual cases should be treated. The intellectual leader in promoting the use of rulemaking to reduce

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[25] *Marriott In-Flite Servs. Div. v. NLRB,* 417 F.2d 563, 566 (5th Cir. 1969)*; Shell Oil Co. v. FERC,* 664 F.2d 79, 83 (5th Cir. 1981)*; Shaw's Supermarkets, Inc. v. NLRB,* 884 F.2d 34, 37 (1st Cir. 1989)*; Roadway Express, Inc. v. NLRB,* 647 F.2d 415, 419 (4th Cir. 1981)*; Basic Media, Ltd. v. FCC,* 559 F.2d 830, 833 (D.C. Cir. 1977)*; Marco Sales Co. v. FTC,* 453 F.2d 1, 7 (2d Cir. 1971).
[26] See State Farm, *supra* note 24.
[27] See generally Peter Strauss, The Rulemaking Continuum, 41 DUKE L.J. 1463 (1992).

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arbitrariness and promote consistency was Professor Kenneth Culp Davis, who spent most of his career at the University of Chicago Law School.[28] Uniform generic policies are then applied in individual cases, but can change and evolve in the light of experience. A good example is the Social Security medical disability grid regulations that were upheld by a unanimous Supreme Court in *Heckler v. Campbell*, 461 U.S. 458 (1983). Confronted with an unacceptable diversity of results in similar cases, the Reagan Administration first attempted to achieve a greater uniformity through management controls and a "Quality Assurance Program," but this approach was challenged in court as infringing on the independence of Administrative Law Judges, who varied widely in how they decided cases.[29] That approach having proven inadequate, the Administration then promulgated a generic rule setting specific, relatively objective criteria for when a person is or is not considered "disabled."

In 1999, the Social Security disability system provided $51 billion in payments to 6.5 million beneficiaries at an administrative cost of $1.5 billion, or about 3%,[30] which compares very favorably with the transaction costs of the torts system which run as high as 50% in some studies. The system generates about 600,000 disputed claims a year, and 200,000 appeals to the Appeals Council. "The volume of Appeals Council decisions precludes the development of any "common law" of administrative review; rather, if the review process uncovers needs for new policy or clarification, that policy or clarification is supplied by regulation or similar directives to all decisionmakers in the system."[31]

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[28] See, e.g. Kenneth Culp Davis, Discretionary Justice: A Preliminary Inquiry (1970).
[29] See *Nash v. Bowen*, 869 F.2d 675 (2d Cir. 1989).
[30] Peter L. Strauss, Todd. D. Rakoff and Cynthia R. Farina, Gellhorn and Byse's Administrative Law: Cases and Comments 384 (Foundation Press 10th ed, 2003).
[31] *Ibid.,* p. 385.

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Thus, policy decisions across the system are supplied not by a common law process of deciding appeals, but by relatively specific generic rules of policy that are developed by experts and apply across the system until updated in the light of experience.

Many other administrative systems also use a process of generic rulemaking based on expert policy decisions to guide and constrain the issues to be decided in individual adjudicatory hearings. For example, at one time, the Food and Drug Administration decided on a case by case basis in adjudicatory hearings on individual new drug application whether the particular scientific studies presented were adequate to prove safety and efficacy, and those judgments were both time-consuming and frequently litigated. Beginning in the late 1960's, however, FDA promulgated generic policy standards for what constitutes "well-controlled clinical studies" and in a precedent-setting decision in 1973, the Supreme Court ruled that generic policymaking by the agency could constrain the issues in individual adjudicatory hearings.[32] Or to pick another example, when the Environmental Protection Agency holds hearings on cleaning up an individual Superfund site, the assessment of risks by the decisionmaker is guided and constrained by a detailed generic rule called the "National Contingency Plan" which outlines EPA's policies and procedures for how a site should be cleaned up.[33]

Questions of standard of care that are currently decided by a case by case basis by juries in the tort system could be regulated and made more uniform by generic policies promulgated at the administrative level and updated from time to time in the light of

[32] *Weinberger v. Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973)(FDA generic rulemaking eliminates factual issues for adjudicatory hearing).
[33] 40 CFR - Part 300, 47 Fed.Reg 31180 (July 6, 1982), amended, 55 Fed. Reg. 8666 (1990). See also

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experience.[34] In fact, the pending asbestos trust legislation would utilize administrative rulemaking to determine the levels of contributions by defendants into the system, and also to set criteria to determine levels of payouts, within broad ranges set by the legislature,.

Generic policy judgments are not only applied relatively consistently by administrative agencies, but they can also be designed to be intelligent, in the sense that procedures can be designed to bring technical expertise to bear, to analyze collateral consequences and to update policies in the light of experience. These complex multi-faceted technical issues of regulatory policy are currently made in a haphazard, uncoordinated and inept fashion in the distorting context of individual claims by injured people by lay juries that do not understand (and often prohibited from even hearing evidence about) the broader implications of their decisions. That is because these issues are incorrectly conceived to be "questions of fact," when in truth they are neither questions of law for a judge nor questions of fact for a jury, but rather they are questions of regulatory *policy* (a conceptual category that is sadly missing from traditional judicial thinking about tort law, but is alive and well in administrative law). As policy questions, they should be made in a more centralized way by more specialized institutions that can weigh the pro's and con's of proposed policy decisions in a more systematic way after due deliberation and consideration of relevant technical expertise (such as costs and benefits, substitution risks and incentive effects). Moreover, institutions making important decisions of regulatory and compensation policy should be designed to study

[34] See E. Donald Elliott, Re-Inventing Defenses/Enforcing Standards: The Next Stage of the Tort Revolution?, 23 RUTGERS L. REV. 1069 (1991)(The Pfizer Distinguished Lecture in Tort Law)(advocating expert standards of care set administratively to give greater predictability to tort system).

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the actual results of particular policies over time and to change them in the light of experience.[35] The current tort system of case-by-case litigation before lay judges and juries has none of these features, in large part because it is incapable of separating the regulatory policy decisions from the compensation decisions in cases brought by individual claimants who are often suffering and are therefore sympathetic.[36]

IV.

It would be difficult, if not impossible, for Constitutional reasons to bring greater predictability to jury verdicts involving the standard of care. Unlike administrative law, which uses three conceptual categories (law, fact and policy), the 7th Amendment has been construed as creating only two realms, "law" and "fact," and traditionally questions of the standard of care have been seen as falling on the "fact" side of the line.

The fundamental purpose of the 7th Amendment, according to an unbroken line of Supreme Court cases, is to preserve inviolate the allocation of issues of "law" to the judge and of "fact" to the jury as those concepts existed and were applied in 1791. The 7th Amendment has for its primary purposes the preservation of "the common law distinction between the province of the court and that of the jury, whereby, in the absence of express or implied consent to the contrary, issues of law are resolved by the court and

[35] E. Donald Elliott, Re-Inventing Defenses/Enforcing Standards: The Next Stage of the Tort Revolution?, 23 RUTGERS L. REV. 1069 (1991)(The Pfizer Distinguished Lecture in Tort Law).
[36] *Cf.* Peter Schuck, The New Ideology of Tort Law, THE PUBLIC INTEREST, No. 92, Summer, 1988, p. 93, 94. ("In tort law, however, courts almost always have the last word, and that word has usually been compensate.")

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issues of fact are to be determined by the jury under appropriate instructions by the court." [37]

The question of whether the meaning of our Constitution should evolve and change with the times is, of course, one of the central, enduring controversies in Constitutional law and judicial philosophy. Almost uniquely, however, the specific content of established 7th Amendment law is to "preserve," unchanged and unchanging, the allocation of responsibilities between judge and jury as they existed in 1791. In other words, the content of the rule of decision that the Supreme Court has traditionally applied in construing the 7th Amendment is explicitly historical: how were these allocations of responsibility made in 1791? "Those matters which were tried to a jury in England in 1791 are to be so tried today and those matters which, as in equity, were tried to a judge in England in 1791 are to be so tried today…."[38]

It is well-established under a long line of Supreme Court's cases under the Jones Act and elsewhere that under the 7th Amendment, the issue of the reasonableness of conduct is considered an issue of "fact" that (1) is constitutionally required to be decided by a jury and (2) cannot be re-examined by a judge or appellate court – provided of course that there is at least some minimal evidence upon which a jury could reasonably base a finding of liability. A good example is *International Co. v. Nederl. Amerik*, 393 U.S. 74 (1968), a unanimous *per curiam* decision of the Supreme Court. In that case, the

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[37] Congressional Research Service, The Constitution of the United States of America: Analysis and Interpretation p.1232 (Lester S. Jayson, ed., 1978), *citing Baltimore & Carolina Line. v. Redman*, 295 U.S. 654, 657 (1935); *Walker v. New Mexico & S.P.R. Co.,* 105 U.S. 593, 596 (1897).
[38] *Ibid.,* p.1233, *citing* Parsons v. Bedford, 3 Pet. (28 U.S. 433, 446-447 (1830); Slocum v. New York Life Ins. Co., 228 U.S. 377-78 (1913); Baltimore & Carolina Line. v. Redman, 295 U.S. 654, 657 (1935); Dimick v. Schiedt, 293 U.S. 474, 476 (1935). p.1233.

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evidence showed that a longshoreman had remained below decks where carbon monoxide was building up because a supervisor had promised to turn on the ship's ventilating system. As explained by the Supreme Court, "The Court of Appeals said that the hatch boss should have ceased work when he first learned that the ship's ventilating system was not operating, despite the officer's promise to turn on the system. Alternatively, he should have used the stevedore's blowers, which had been left on the pier, to ventilate the hold. The jury, however, in response to a special interrogatory, found that the stevedore had acted reasonably in continuing to work for a brief period in reliance on the officer's promise. We cannot agree with the Court of Appeals that the stevedore acted unreasonably as a matter of law. *Under the Seventh Amendment, that issue should have been left to the jury's determination*."[39]

One can of course distinguish the level of precaution taken against carbon monoxide poisoning on a ship from the level of care that a surgeon uses in conducting an operation, or a physician uses in prescribing a drug with known side effects, but the courts have generally held that the question of whether particular conduct is reasonable under all the circumstances is prototypically a question of fact for the jury, not a question of law for the court.

To be sure, judges could conceivably become more aggressive in granting directed verdicts or judgments n.o.v. on the grounds that the facts would not permit a reasonable jury to find the defendant liable, but this is likely to be of only marginal benefit in improving the consistency of jury verdicts. In the first place, the capacity of non-specialized judges without medical training to second-guess juries on technical

[39] 393 U.S. at p.75.

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questions can easily be over-rated; without expert guidance, how is a lay judge to say that a jury verdict on standard of care is "unreasonable"? A more promising approach might be for the judge to rely on a neutral expert, or panels of neutral experts.[40] But while these approaches may be marginal improvements, they are inherently case-specific and *ad hoc* and therefore do not capture and build intelligence in the system over time in the way that development of administrative policy guidance does.

It is of course theoretically possible to imagine that any existing body of legal doctrine might be abandoned or re-worked by the Supreme Court. But absent an outright repeal of the language of the 7th Amendment, it seems exceedingly unlikely that the Court will abandon its historical approach to determining the allocation of responsibilities between judge and jury in civil case. The most promising development that might persuade the Supreme Court to re-think the role of the civil jury in determining the standard of care is historical research showing that in actuality, some standard of care issues were decided historically at common law by judges rather than juries. For example, the Court's "reasoning" in one of its most recent 7th Amendment cases consisted of the following: "After the adoption of the Seventh Amendment, federal courts followed this English common law in treating the civil penalty suit as a particular type of an action in debt, requiring a jury trial. See, e. g., United States v. Mundell, 27 F. Cas. 23 (No. 15,834) (CC Va. 1795)."[41] Absent new historical research, however, it seems

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[40] E. Donald Elliott, Toward Incentive-Based Procedure: Three Approaches for Regulating Scientific Evidence, 69 BOSTON U. L. REV. 487 (1989). *See also* the Becker-Posner Blog, http://www.becker-posner-blog.com/archives/2005/01/tort_reformposn_1.html (January 23, 2005)("An alternative, mentioned in one comment and already in force in a number of states, is to require the malpractice plaintiff before suing to submit his claim to a panel of physicians, whose findings, if unanimous, are admissible in court should the claim result in a lawsuit.")

[41] *Tull v. United States*, 481 U.S. 412, 418 (1987).

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unlikely that that Supreme Court will abandon its well-established and often-reiterated jurisprudence that standard of care issues are prototypical issues of "fact" for the jury, not issues of "law" for the judge.

The clear trend throughout the last half century has been to expand, rather than contract the role of the jury. For example, in 1970 when the Supreme Court was presented with the question of the role of juries in stockholders derivative actions, to which the closest historical analogy was a suit in equity in which no jury was required, the Court nonetheless held that a jury was required under the 7th Amendment if similar issues could have been raised in jury cases.[42] Moreover, in a series of cases, the Court held that the right to a jury trial cannot be abridged by trying factual issues first in an equitable proceeding and then using collateral estoppel to preclude re-litigation in a subsequent proceeding at law.[43] And in what is perhaps the most far-reaching precedent expanding the role of the common law jury, in 1974, the court held in *Curtis v. Loether*, 415 U.S. 189 (1974), that even new statutory causes of action that clearly did not exist in 1791 also required jury trials if the relief sought could be analogized to that available historically in common law causes of action.[44] This holding was followed again in *Tull v. United States*, 481 U.S. 412 (1987), although a ray of light may have emerged in that the Court held that a jury was required only for the liability phase of a Clean Water Act enforcement action, not to determine relief. The Supreme Court recently reiterated these principles again in *Great-West Life & Annuity Insurance Co. v. Knudson*, 534 U.S. 204 (2002), holding that a suit for money damages under ERISA is not equitable relief, but

[42] *Ross v. Bernhard*, 396 U.S. 531 (1970).
[43] *Dairy Queen, Inc. v. Wood*, 369 U.S. 469, 477 (1962).
[44] *Curtis v. Loether*, 415 U.S. 189, 193 (1974).

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"at law," and therefore requires a jury. In short, the clear trend in 7th Amendment jurisprudence for the last century has not been to constrain but to expand the role of civil juries.

While it is true that the 7th Amendment is not "incorporated" as binding on the states through the 14th Amendment, nonetheless jury trials are guaranteed in similar if not identical terms in virtually all 50 state constitutions. There is no perceptible trend at the state level to re-allocate standard of care issues to judges rather than juries, and any movement to do so would confront similar problems at the level of state constitutional law.

It would require a major abandonment of the Supreme Court's 7th Amendment jurisprudence, and analogous bodies of law at the state level, to hold that questions of negligence or standard of care are questions of law for the court, rather than questions of fact for the jury.

V.

One reason that American constitutional law has been able to permit itself the luxury of preserving "inviolate" the right to a civil jury as it existed in 1791 is that there is an escape valve by which Congress may re-assign many, if not most, controversies to a non-jury forum if it so chooses. As discussed above, a broad right to a civil jury trial attaches even to new statutory causes of action unknown at common law if, *but only if,* Congress chooses to create rights enforceable in a traditional court by a damage action (or other "legal" relief). But Congress also has the alternative option of creating new statutory schemes to replace traditional ones and making them enforceable through *administrative* tribunals that do not utilize juries instead of courts – at least if the nature

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of the right in question is deemed "public" rather than "private"[45] (a distinction of some complexity, which is discussed in more detail below).

A major trend in U.S. law over the last century is for many areas of law that were traditionally the province of common law courts and juries to be re-assigned to administrative mechanisms. For example, the Occupational Safety and Health Act now regulates issues of safety in the workplace that were formerly the subject of common law suits, and the Supreme Court has specifically upheld non-jury OSHA proceedings against a claim that they violate the 7th Amendment.[46] In the same way that in a previous generation, both state and federal governments replaced a system of private lawsuits in courts over workplace injuries with a comprehensive administrative schemes of workers compensation laws,[47] a comprehensive administrative scheme could be designed today for re-adjusting remedies for those suffering injuries during medical treatment, or from defective products or exposure to toxic substances such as asbestos, to replace litigation before traditional courts. For example, Common Good has proposed a system of administrative "health courts" at either the state or federal level.[48] While not entirely free from doubt, federal administrative tribunals to adjudicate medical malpractice cases would probably be constitutional (at least if one assumes that Congress has the right under the Commerce Clause to regulate medical malpractice litigation because its

[45] *Crowell v. Benson*, 285 U.S. 22 (1932).
[46] *Atlas Roofing Co., Inc. v. OSHA*, 430 U.S. (1977).
[47] See, e.g. *New York Central RR v. White*, 243 U.S. 188, 200 (1917*); Arizona Employers' Liability Cases,* 250 U.S. 400, 419-422 (1919).
[48] See *supra* note 9.

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involves economic activity that is "in" and "affects" interstate commerce, an independent issue of some complexity which is outside the scope of this paper[49]).

Assuming that Congress has the power to regulate medical malpractice litigation under the Commerce Clause, Congress could probably replace litigation before traditional courts and lay juries with a comprehensive administrative system for dealing with medical injuries, including expert administrative tribunals without juries. It should be emphasized, however, that the result would be heavily dependent upon the specific provisions of a particular statutory scheme, including whether it was a comprehensive package of reforms of the medical care delivery safety system and whether it included benefits for injured parties as well as defendants.

There are two separate federal constitutional issues that would be raised by assigning malpractice claims to an administrative agency (or to a specialized Article I court, which would raise essentially the same constitutional issues): (1) an argument that the statute impermissibly assigns a "judicial" function to a tribunal that does not comply with Article III requirements, *Northern Pipeline Construction Co. v. Marathon Pipe Line Co.*, 458 U.S. 50 (1982), and (2) an argument that the administrative tribunals violate 7th Amendment rights to a jury trial. *Atlas Roofing Co., Inc. v. OSHA*, 430 U.S. (1977).

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[49] The power of the federal government to legislate under the Commerce Clause on subjects such as medical malpractice is no longer as clear as it seemed only a few years ago. *United States v. Lopez*, 514 U.S. 549 (1995); *United States v. Morrison*, 529 U.S. 598 (2000). In *Morrison*, the Court invalidated a federal criminal statute punishing violence against women. Even though conceding that there was evidence that violence against women did have an effect on commerce, the Court nonetheless held that what it characterized as an "incidental effect" on commerce does not justify the federal government in regulating areas that have "traditionally" been regulated by the states. On the other hand, the recent "medical marijuana" case would seem to support federal legislation to regulate the safety of medical care, in part because it is economic activity. *Gonzales v. Raich*, 545 U. S. -- (No. 03–1454 June 6, 2005).

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In the modern analysis, both questions turn on whether the Supreme Court would characterize the reforms as involving "public" or "private" rights. An early case, *Crowell v. Benson*, 285 U.S. 22 (1932), held that "private rights" "that is, of the liability of one individual to another under the law as defined" must be reserved to Article III courts. Although never over-ruled, subsequent cases have significantly eroded the bright-line, conceptual test for "private rights" seemingly laid down in *Crowell*. In the Supreme Court's most recent venture into the thicket of distinguishing "private" and "public" rights, the Court wrote:

> "whether the 7th Amendment confers .. a right to a jury trial in the face of Congress's decision to assign adjudication of that action to a non-Article III tribunal [turns on the public/private rights distinction]. Congress may only deny trials by jury in actions at law … in cases where 'public rights' are litigated. … [t]he federal Government need not be a party for a case to revolve around public rights. *The crucial question ... is whether Congress ... has created a seemingly 'private' right that is so closely integrated into a public regulatory scheme as to be a matter appropriate for agency resolution with limited involvement by the Article III judiciary*." *Granfinanciera SA v. Paul C. Nordberg, Creditor Trustee*, 492 U.S. 33 (1989)(emphasis supplied).

Another recent case opined that the issue is not so much whether the affected rights are conceptualized as "private" or "public," but rather whether the re-assignment of certain categories of cases to administrative tribunals would undermine the traditional role of the federal courts in our scheme of government.[50] It seems unlikely that many federal judges view hearing medical malpractice cases under their diversity jurisdiction as central to preserving the role of the federal courts in our constitutional order.

Perhaps the decision that is most analogous to medical malpractice is *Thomas v. Union Carbide Agricultural Prod. Co.*, 473 U.S. 568 (1985). There as part of a

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[50] *Commodity Futures Trading Comm. v. Schor*, 478 U.S. 833 (1986)("the congressional scheme does not impermissibly intrude on the province of the judiciary" because "limited CFTC jurisdiction over a narrow class of common law claims as an incident of CFTC's primary and unchallenged adjudicative function does not create a substantial threat to the separation of powers.")

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comprehensive re-working of the federal pesticide law (FIFRA), Congress provided for "me too" registrations of pesticides based on private test data developed by other manufacturers and set up a scheme of compulsory arbitration by the EPA of the value of data. Union Carbide sued, claiming that its right to sue under state law for violations of its common law trade secrets was a prototypical "private right" that could not be re-assigned to an administrative scheme under *Crowell*. The Supreme Court rejected the claim in an opinion by Justice O'Connor (also the author of *Schor, supra*):

> "[T]he right created by FIFRA is not a purely 'private' right, but bears many of the characteristics of a 'public' right. Use of a registrant's data to support a follow-on registration serves a public purpose as in integral part of a program safeguarding public health. Congress has the power, under Article I, to authorize an agency administering a complex regulatory scheme to allocate costs and benefits among voluntary participants in the program without providing an Article III adjudication."

Like the state law claim for violation of trade secrets at issue in *Thomas*, medical malpractice claims should not be viewed in isolation, but rather as part of a comprehensive and intertwined system for funding medical care and regulating patient safety.

To be sure, the examples of formerly-private common law rights that have re-assigned to administrative tribunals without juries in *Schor* and *Thomas* are much narrower than reform of medical malpractice law. Moreover, participation in both of the regulatory programs upheld in *Schor* and *Thomas* was arguably "voluntary." Certainly the case for the constitutionality of administrative "health courts" would be stronger if patients were given the option of opting into a voluntary pilot program which included an administrative system for processing medical injury claims as well as other features.

Many traditionalists will assert that tort claims for medical malpractice are prototypical "private rights" that have historically been assigned to courts and juries and

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cannot be changed under *Crowell*. However, a statutory scheme that creates federal administrative tribunals for adjudicating medical malpractice claims would be probably upheld if the administrative tribunals were part of a comprehensive regulatory scheme for reforming the medical care system, particularly if the system were limited at least initially to Medicare or Medicaid recipients where the federal interest in reform is strongest. The system would also be more likely to be upheld if it were part of a comprehensive package of reforms including other measures to improve the quality and safety of the medical care delivery system, such as enhanced disclosure, and "experienced-based" mechanisms to monitor and improve patient safety.

Similarly, while the constitutionality of substituting a federal trust fund administered in part through administrative rulemaking for case-by-case litigation of asbestos cases in state courts is also not entirely free from doubt, if the system is enacted, most of it will also probably be upheld.

It seems unlikely that today's Supreme Court believes that the "traditional role of the federal courts in our scheme of government" (to quote the test from *Schor, supra*) is to adjudicate private claims for damages between individuals. While these claims were admittedly once conceived as prototypical "private rights" to which *Crowell* applied and forever guaranteed a judicial forum, the public policy consequences are increasingly apparent to litigation which has a major effect of regulating important economic activity. The power of government to regulate has typically followed from the perception that an activity that was formerly thought of solely private has important externalities or public

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consequences.[51] Mass torts and medical malpractice litigation are no different, and ultimately Congress will not be found to lack power to address the problems of frivolous litigation any more than it has lacked the power to deal with other serious economic and social problems in the past.

VI.

It is regrettable that most American lawyers are either "court people" or 'agency people" but not both. The American "civil justice system" actually consists of both courts and administrative tribunals and it is important to bring both sets of tools to bear as we consider strategies for civil justice reform. This paper has argued that there are distinctive advantages to administrative as opposed to judicial tribunals for developing and applying consistent and intelligent standards of care.

[51] *Cf. Munn v. Illinois*, 94 U.S. 113 (1876)(rates charged by a grain elevator [private property] may be regulated because "affected with a public interest").

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DRAFT 5: NOT FOR PUBLICATION

The Forgotten Goal of Civil Justice: A Foundation for Common Sense in Daily Life

by Philip K. Howard

The debate over civil justice in recent decades has focused on its fairness. Tort reformers complain of "lawsuit abuse" and "judicial hell-holes."[1] Defenders of the current system talk of the need to protect the little guy against corporate abuses, and extol the jury system as "Democracy in Action."[2]

In this paper I argue that civil justice has a broader goal than fairness: to provide a foundation for reasonable choices in a free society. The main defect in the current system is not that juries are unfair or that there is an avalanche of litigation -- about which there is sharp disagreement[3] -- but that law does not offer predictable guidelines of who can sue for what. The system of justice offers recourse not only against abusive and negligent conduct, but also against conduct that most people consider reasonable. Civil justice tolerates, and arguably encourages,

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[1] *See* American Tort Reform Association, *Judicial Hellholes: 2004*, December 15, 2004, available at http://www.atra.org/reports/hellholes/report.pdf.

[2] Senator John Edwards, "Juries: Democracy in Action," *Newsweek*, December 15, 2003, p. 53.

[3] *See* Marc S. Galanter, *The Day After the Litigation Explosion*, 46 Md. L. Rev. 3, 4 (1986); *See also*, John A. Siliciano, *Mass Torts and the Rhetoric of Crisis*, 80 Cornell L. Rev. 990 (1995), Arthur R. Miller, *Maybe Light at the End of the Tunnel: is the Litigation Explosion Imploding?*, 61 Def. Couns. J. 378 (1994), Marc S. Galanter, *News From Nowhere: The Debased Debate on Civil Justice*, 71 Denv. U. L. Rev. 77 (1993), Theodore Eisenberg & Stewart Schwab, *The Reality of Constitutional Tort Litigation*, 72 Cornell L. Rev. 641 (1987). For descriptions of the increase in litigation see Walter Olson, The Litigation Explosion: What Happened When America Unleashed the Lawsuit (1991); Brian J. Ostrom, Neal B. Kauder, and Robert C. LaFountain, eds., *Examining the Work of State Courts, 2002: A National Perspective from the Court Statistics Project* (National Center for State Courts, 2003) (All civil claims increased 23% between 1987 and 2001. Tort claims, a subset of civil claims, declined 9% since 1992 because traffic claims, which make up the bulk of tort claims, declined 14% during that period. The decline in traffic claims is attributable to the rise of no-fault insurance and other reforms designed to reduce the volume of those claims. Between 1975 and 2002, all tort claims increased a total of 38%, including the 9% decrease since 1992.)

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inconsistent verdicts for similar disputes. The law offers few guidelines on standards of care or on the potential exposure when there is a dispute.

Civil justice has changed markedly in the last 40 years.[4] These changes can be traced in part to a shift in judicial philosophy: whatever authority judges believed they held withered with the rise of the "legal process" movement in the 1960s, in which their role was reconceived as one of a neutral referee.[5] The effect was not to achieve neutrality, however, but to leave a vacuum. That vacuum has been filled by an ever-broadening range of private legal claims and threats, giving rise to a lawsuit culture in which ordinary interaction is now weighed down by legal considerations.

The main harm to society is not the total cost of verdicts, but that Americans no longer feel free to act reasonably. Legal fear has infected the culture. Paranoid doctors focus on avoiding lawsuits. [6] Recreational activities are cancelled. [7] Teachers have trouble maintaining

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[4] *See* PHILIP K. HOWARD, THE COLLAPSE OF THE COMMON GOOD at 3-70 (2001); *See also* George L. Priest, *The Culture of Modern Tort Law*, 34 VAL. U. L. REV. 573 (2000) (discussion of the recent changes in tort law), George L. Priest, *The Invention of Enterprise Liability: A Critical History of the Intellectual Foundations of Modern Tort Law*, 14 J. LEGAL STUD. 461 (1985) , LAWRENCE FRIEDMAN, TOTAL JUSTICE (1985)

[5] *See* Charles E. Wyzanski, Jr., *Equal Justice Through Law*, 47 TULANE L. REV. 951, 959 (1973) (Representative of the prevailing opinion in the 1970s, Federal judge Wyzanski stated "Choosing among values is much too important a business for judges to do the choosing. That is something the citizens must keep for themselves"), MICHAEL SANDEL, DEMOCRACY'S DISCONTENT: AMERICA IN SEARCH OF A PUBLIC PHILOSOPHY 77 (1996) (Describing that the point of justice became to "respect people's freedom to choose their own values."); *See also* ERIC FONER, THE STORY OF AMERICAN FREEDOM 293 (1998) (Describing "a massive redefinition of freedom as a rejection of all authority", a contributing factor to the doctrinal shift).

[6] See e.g. David M. Studdert, Michelle M. Mello, William M. Sage, et al., *Defensive Medicine Among High-Risk Specialist Physicians in a Volatile Malpractice Environment*, 293 J. AM. MED. ASS'N 2609 (2005); Louis Harris and Associates, *Fear of Litigation Study: The Impact on Medicine*, New York, NY: Common Good (2002), available at http://cgood.org/assets/attachments/57.pdf.

[7] See e.g. Louv, Richard, *Last Child in the Woods: Saving Our Children from Nature-Deficit Disorder* (Algonquin Books) April 15, 2005; "More Green, Less Screen," Interview with Richard Louv, *People Magazine*, June 13, 2005; "For All Who Have Never Climbed a Tree," Marilyn Gardner, *Christian Science Monitor*, May 24, 2005; "Nature Deficit," Kevin O'Connor, *Rutland Herald*, May 1, 2005; "Playtime is Over," *Dallas Morning News*, March 3, 2005; "Old Rockets Fate is Up in the Air," Doug Grow, *Minneapolis Star Tribune*, November 29, 2004 ("[S]wings don't

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order.[8] Volunteerism is chilled. [9] Because of legal threats, and fear of possible claims, common institutions such as hospitals and schools are increasingly difficult to manage. [10]

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reach the sky as they once did. Slides, too, have changed in height and slope. Teeter-totters are gone."); "Playground Safety Left Up to Schools," Bob Kasarda, *The Northwest Indiana Times*, September 24, 2004 ("The wooden equipment that was popular a couple of decades ago has been replaced by a variety of low-lying metal equipment covered in rubber. ... Slides are now shorter and covered, gaps in the equipment have been narrowed to prevent children from placing their heads into openings and all swings have been removed."); "Cannonball!" Field Maloney, *The New Yorker*, August 30, 2004 ("After a golden age in the seventies--a decadent, late-Roman last hurrah--the American pool has suffered a gradual decline: thanks, for the most part, to concerns about safety and liability, diving boards have been removed and deep ends undeepened. At municipal pools across the country, the once-ubiquitous one-metre springboard has become an endangered species; and the three-metre high dive--the T. rex of the community pool--is now virtually extinct."); "Recess Gets Regulated," Sandy Louey, *Sacramento Bee*, August 22, 2004; "Extreme Cheerleading: How Schools Grapple with New Risks," Kris Axtman, *Christian Science Monitor*, June 24, 2004.

[8] See Arum, Richard, *Judging School* Discipline (Harvard, 2003); Public Agenda, "Teaching Interrupted: Do Discipline Policies in Today's Public Schools Foster the Common Good?" New York, NY: Common Good (May 2004), available at http://cgood.org/assets/attachments/22.pdf; Public Agenda, "'I'm Calling My Lawyer': How Litigation, Due Process and Other Regulatory Requirements Are Affecting Public Education," New York, NY: Common Good (November 1, 2003), available at http://cgood.org/assets/attachments/96.pdf.

[9] See e.g. "$17 Million Verdict Has Many Concerned," Derrick Nunnally, *Milwaukee Journal-Sentinel*, February 23, 2005; "Charity Case," Philip K. Howard, *The Wall Street Journal*, March 17, 2005; "Teams Offer Help on Parks," Rachel Gordon, *San Francisco Chronicle*, April 29, 2005 (The City of San Francisco is afraid to use volunteers to help fix softball fields because of "liability concerns—liability concerns—what happens if someone throws out their back patching the gopher holes in the outfield and decides to sue the city?"); "County Tells Bicyclist Thanks, but Stop Plowing Trail," Garrett Ordower, *Daily Herald (IL)*, February 21, 2004. On doctors volunteering, see e.g. Kapp, Marshall B., *Our Hands Are Tied: Legal Tension and Medical Ethics* (Westport: Auburn House, 1998), p. 43 ("Other examples of fear of malpractice litigation include 'physicians failing to stop and render aid in emergency situations despite the existence of Good Samaritan statutes in every jurisdiction that immunize physicians against liability, and the fact that no physician in the United States has ever been successfully sued for rendering emergency aid as a Good Samaritan."); "Report: Aid Needed for Clinics," Kerra L. Bolton, *The Asheville Citizen-Times*, April 27, 2005; "Paving the Way for Good Samaritans," Andy Miller, *The Atlanta Journal-Constitution*, March 12, 2005.

[10] For hospitals see e.g., Louis Harris and Associates, *Fear of Litigation Study: The Impact on Medicine*, New York, NY: Common Good (2002), available at http://cgood.org/assets/attachments/57.pdf; Linda T. Kohn, Janet Corrigan, et al., eds., *To Err is Human: Building a Safer Health System* (Washington, DC: National Academy Press, 2000) p. 43, http://www.nap.edu/books/0309068371/html/ ("Patient safety is also hindered through the liability system and the threat of malpractice, which discourages the disclosure of errors. The discoverability of data under legal proceedings encourages silence about errors committed or observed. Most errors and safety issues go undetected and unreported, both externally and within health care organizations."); "Two-Thirds of Emergency Departments Report On-call Specialty Coverage Problems," American College of Emergency Physicians, *Press Release*, September 28, 2004; "Emergency Departments Face Shortage of Specialty Care," Mary Ellen Schneider, *eObGyn News*, June 16, 2005 ("Obstetricians are among the specialists who are reluctant to take call because of the liability risks involved. … Even if physicians are compensated for taking call, it's not enough to cover the related malpractice insurance costs. The risks incurred far exceed any payment provided."). For schools see e.g., Public (continued…)

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The solution I propose is not to set arbitrary limits on lawsuits but to shift responsibility back to judges to decide, as a matter of law, the boundaries of reasonable claims. To re-instill the public trust in civil justice, judges need to provide people with a sense of who can sue for what.

The authority of judges to assert social norms, although rarely discussed today, is well-established in common law jurisprudence, and was the central theme of those we hold up as lions of the common law, such as Oliver Wendell Holmes, Jr. and Benjamin Cardozo. [11]

The question of what should be decided by a judge versus a jury, in truth, did not matter much until recent decades. Under prevailing social mores, it didn't occur to people to sue for ordinary accidents or workplace disagreements. But now that perception has radically changed: any disagreement or accident is a potential lawsuit.

The need to reassert judicial authority is not a matter of abstract preference for a particular judicial philosophy. The need to reassert judicial authority is profoundly practical: Because Americans no longer trust civil justice, they have lost their freedom to make reasonable daily choices.

Agenda, "Teaching Interrupted: Do Discipline Policies in Today's Public Schools Foster the Common Good?" New York, NY: Common Good (May 2004), available at http://cgood.org/assets/attachments/22.pdf; Louis Harris and Associates, "Evaluating Attitudes Toward the Threat of Legal Challenges in Public Schools," New York, NY: Common Good (March 10, 2004), available at http://cgood.org/assets/attachments/11.pdf; Public Agenda, "'I'm Calling My Lawyer': How Litigation, Due Process and Other Regulatory Requirements Are Affecting Public Education," New York, NY: Common Good (November 1, 2003), available at http://cgood.org/assets/attachments/96.pdf; Common Good, "The Effects of Law on Public Schools," Washington, DC, compiled for a forum entitled "Is Law Undermining Public Education?" (November 5, 2003), available at http://cgood.org/assets/attachments/10.pdf; Arum, Richard, *Judging School Discipline* (Harvard, January 2003) ; Gerald Grant, *The World We Created at Hamilton High* (Harvard, April 1998).

[11] See, Oliver Wendell Holmes, Jr., The Path of Law, 10 HARV. L. REV. 457 (1897). *Quoted* at nt. 69; BENJAMIN CARDOZO, THE NATURE OF JUDICIAL PROCESS 134 (Yale University Press 1921). "What really matters is this, that the judge is under a duty… to maintain a relation between law and morals, between the precepts of jurisprudence and those of reason and good conscience."

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Civil Justice as the Foundation for Reasonable Choices

Civil justice is conceived today primarily as a dispute resolution mechanism. But civil justice also has a broader goal -- as the foundation for reasonable choices in a free society. Holmes stated that, "the first requirement of a sound body of law" is to uphold reasonable community norms. [12]

Derek Bok, former Harvard President and Law School Dean, observed that lawsuits "often have their greatest effect on people who are neither parties to the litigation nor even aware that it is going on." [13] The news last year that someone received a large verdict in a sledding accident had the natural effect of causing other towns to declare that they no would no longer permit winter sports on town property. [14] No court, however, made a ruling that sledding is an unreasonable risk. Who is representing the interests of the citizens who want to enjoy winter sports?

Law is considered the foundation of a free society not because it seeks to maximize possible legal claims -- as one observer noted, "America did not sue its way to greatness" [15] -- but because it sets forth legal guideposts defining the scope of our freedom. People feel free to interact reasonably with others because the system of law will put criminals in

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[12] *Quoted in* HOWARD, *supra* note ___ at 54 (2001)

[13] Derek Bok, *Law and Its Discontents: A Critical Look at Our Legal System*, 37th Annual Benjamin N. Cardozo Lecture, November 9, 1982, reprinted in *The Record*, January/February 1983, at 21. See Prosser and Keeton on *The Law of Torts* (5th ed. 1984): [T]he twentieth century has brought an increasing realization of the fact that the interests of society in general may be involved in disputes in which the parties are private litigants."

[14] See "Town's Downhill Pastime May Face an Uphill Fight," Patrick Healy, *The New York Times*, April 26, 2004; "Sledders Are Finding it Tough to Hit the Slopes," Christine Schiavo, *Philadelphia Inquirer*, January 26, 2005; "Where Sledders Head," Mark Shaffer, *Arizona Republic*, January 9, 2005; "This Winter, Sledders Finding it a Tough Go," David Rattigan, *Boston Globe*, January 6, 2005; "Citing Risk, Golf Clubs Look to Ban Sledding," Emily Sweeney and Douglas Belkin," Boston Globe, January 2, 2005; "Column: Liability, Litigation Make Sled Tracks Disappear," Taylor Armerding, *Gloucester Daily Times*, December 28, 2004.

[15] Discussion with Daniel Popeo, President, Washington Legal Foundation.

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jail, enforce contracts by their terms, and require a negligent person to compensate the person injured. Civil law protects the good as well as prosecutes the bad: citizens in a free society should be confident that if they act reasonably, their freedom to do so will be defended. As long as you act within those guideposts, you are free: free to follow your instincts simply because you choose to.[16] "The end of law," John Locke said, "is not to abolish or restrain, but to preserve freedom." [17]

Today, at least in areas such as tort law, America's civil justice system is not providing these guideposts of right and wrong. There exists a widespread perception, generally accurate, that any injured or angry person can haul another person into court over any accident or disagreement and put that claim to a jury. There is also a perception that the amounts for which people may sue, if not unlimited, are subject to amorphous guidelines and few limits.

Current legal orthodoxy is that the availability of a lawsuit encourages people to act reasonably. Indeed, by making people potentially liable for their negligence, law provides incentives for reasonable conduct. What people seem to have forgotten is that the converse is

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[16] Prosser and Keeton note that an essential aspect of freedom is being free from "restraint and …undue consideration for the interests and claims of others." See Prosser and Keeton, supra:

> Individuals have many interests for which they claim protection from the law, and which the law will recognize as worthy of protection…Individuals wish to be secure in their persons against harm and interference, not only as to their physical integrity, but as to their freedom to move about and their peace of mind. They want food and clothing, homes and land and goods, money, automobiles and entertainment, and they want to be secure and free from disturbance in the right to have these things, or to acquire them if they can. They want freedom to work and deal with others, and protection against interference with their private lives, their family relations, and their honor and reputation. They are concerned with freedom of thought and action, with opportunities for economic gain, and with pleasant and advantageous relations with others. The catalogue of their interests might be as long as the list of legitimate human desires; and not the least of them is the desire to do what they please without restraint and without undue consideration for the interests and claims of others.

[17] JOHN LOCKE, SECOND TREATISE OF CIVIL GOVERNMENT § 57 (Peter Laslett ed., 1967)(1690).

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also true: Allow lawsuits against reasonable behavior and pretty soon people no longer feel free to act reasonably.

An "open season" conception of justice has enormous appeal if people are thinking of getting back at others or looking for comfort in blaming others, but it also has infected daily interaction in society with distrust. People understand, as Professor Robert Kagan observed, that easy justice "can be used against the trustworthy, too. An equal opportunity weapon, it can be invoked by the misguided, the mendacious, and the malevolent, as well as by the mistreated."[18]

The ultimate test of a system of justice, Justice Cardozo suggested, is how people feel about it.[19] By that standard, civil justice is not only a failure, but is actively tearing at the fabric of our society.

Distrust of Justice and Social Decline

In almost every area of social interaction, Americans no longer feel free to act reasonably. The effects of this distrust have been the subject of extensive studies in healthcare, which have concluded that the legal system is a prime contributor to the crisis of cost and quality. Doctors and nurses no longer feel comfortable acting on their best judgment or being candid with each other.

- It is the ubiquitous practice of physicians to order tests that they do not believe are medically necessary, driving up the costs of healthcare.[20] In a 2002 Harris Poll,

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[18] *See* ROBERT A. KAGAN, ADVERSARIAL LEGALISM: THE AMERICAN WAY OF LAW (2003)

[19] *See* BENJAMIN CARDOZO, THE NATURE OF JUDICIAL PROCESS 89 (Yale University Press 1921). Asserting that justice is, "not what I believe to be right. It is what I may reasonably believe that some other man of normal intellect and conscience might reasonably look upon as right."; *See also,* ARCHIBALD COX, THE ROLE OF THE SUPREME COURT IN AMERICAN GOVERNMENT 110 (New York: Oxford University Press, 1976), Observing that, for law to be effective, it "must meet the needs of men and match their ethical sensibilities."

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78% of physicians admitted ordering unnecessary tests and 94% said that other physicians did.[21] A recent survey in Pennsylvania found that 93% reported practicing defensive medicine, and 92% reported ordering unneeded tests and diagnostic procedures and making unnecessary referrals.[22] Defenders of this practice say that more tests mean better healthcare, but 45 million Americans lack health insurance in part because individuals and small businesses cannot afford healthcare premiums that have skyrocketed.[23]

- The Institute of Medicine has concluded that "patient safety is also hindered through the liability system and the threat of malpractice." [24] Doctors are scared to be candid with each other, leading to unnecessary and often tragic errors. They avoid using e-mail because it leaves a written record. They are reluctant to admit fault even in cases of near misses, where no harm is done to the patient.

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[20] Health care expenditures per person are projected to reach $6,477 per person in 2005. Sager, Alan and Deborah Socolar, "Health Costs Absorb One Quarter of Economic Growth, 2000-2005," Boston University School of Public Health: Health Reform Program Data Brief No. 8, February 9, 2005, pp. 11, 14, available at http://dcc2.bumc.bu.edu/hs/Health. U.S. spending per person is "just over" double that of persons in Canada, France, Germany, Italy, Japan, and the United Kingdom.The United States spends a greater percent of gross domestic product on health care than any other major industrialized nation. American healthcare now costs almost twice as much as that in other Western countries. In 2001, the United States spent 14.1 percent of the GDP on health care. This translates to $1.4 trillion, up 8.7 percent from 2000. ("Highlights from Health Tables and Chartbook," Health, United States 2003, National Center for Health Statistics, Centers for Disease Control, http://www.cdc.gov/nchs/products/pubs/pubd/hus/highlits.pdf.) More tests do not correlate positively with better outcomes. See "Should You Be Tested for Cancer___"

[21] Louis Harris and Associates, *Fear of Litigation Study: The Impact on Medicine*, New York, NY: Common Good (2002), available at http://cgood.org/assets/attachments/57.pdf

[22] David M. Studdert, Michelle M. Mello, William M. Sage, et al., *Defensive Medicine Among High-Risk Specialist Physicians in a Volatile Malpractice Environment*, 293 J. AM. MED. ASS'N 2609 (2005)

[23] U.S. Census Bureau, "Income, Poverty, and Health Insurance Coverage in the United States: 2003," August 2004, http://www.census.gov/prod/2004pubs/p60-226.pdf

[24] Linda T. Kohn, Janet Corrigan, et al., eds., *To Err is Human: Building a Safer Health System* (Washington, DC: National Academy Press, 2000) p. 43, http://www.nap.edu/books/0309068371/html/

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- The legal system makes it difficult to hold bad doctors accountable. Doctors who make mistakes can drag out litigation for years, often compelling an unfair settlement. Inept doctors often successfully avoid efforts to revoke their licenses by hiring a lawyer and threatening to sue for defamation.

Distrust of the legal system has transformed public schools. Teachers struggle to maintain order in the classroom because they face threats of being dragged into hearings. The degradation of the school culture, as described by Prof. Richard Arum in his book, *Judging School Discipline*, is linked to requirements to "prove" the correctness of decisions in an adversarial proceeding.[25] The disrespect accorded teachers is shocking. Polls and focus groups show that educators will do almost anything to avoid the unpleasantness of legal hearings. In America today, teachers will not put an arm around a crying child for fear of being sued for an unwanted sexual touching.

Recreation has been transformed. Playgrounds have been stripped of anything athletic—for example, jungle gyms and seesaws. Playgrounds are so boring, according to some experts, that no child over the age of four wants to go in them. [26] I was on a panel convened by

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[25] *See generally* ARUM *supra* note ___; *See also* Public Agenda, "Teaching Interrupted: Do Discipline Policies in Today's Public Schools Foster the Common Good?" New York, NY: Common Good (May 2004), available at http://cgood.org/assets/attachments/22.pdf; Public Agenda, "'I'm Calling My Lawyer': How Litigation, Due Process and Other Regulatory Requirements Are Affecting Public Education," New York, NY: Common Good (November 1, 2003), available at http://cgood.org/assets/attachments/96.pdf.

[26] See e.g., HOWARD *supra* note ___ at 3-4 ("The new equipment is so boring, according to Lauri Macmillan Johnson, a professor of landscape architecture at the University of Arizona, that children make up dangerous games, like crashing into the equipment with their bicycles."); "More Green, Less Screen," *People Magazine,* June 13, 2005 (Child and nature advocate Richard Louv says playgrounds are "being designed to avoid lawsuits, so many of them are quite boring to kids."); "Playtime is Over," *Dallas Morning News*, March 3, 2005; "Old Rockets Fate is Up in the Air," Doug Grow, *Minneapolis Star Tribune*, November 29, 2004 ("[S]wings don't reach the sky as they once did. Slides, too, have changed in height and slope. Teeter-totters are gone."); "Playground Safety Left Up to Schools," Bob Kasarda, *The Northwest Indiana Times*, September 24, 2004 ("The wooden equipment that was popular a couple of decades ago has been replaced by a variety of low-lying metal equipment covered in rubber. ... (continued…)

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Health Secretary Tommy Thompson in 2002, at which a group of experts concluded that re-instilling a culture of physical fitness was essential in order to address the surge in childhood obesity. Forty years ago, JFK's President's Council on Youth Fitness, with the same goal, called for installing monkey bars and other athletic equipment in playgrounds. Now, because of fear of liability, they've largely been ripped out.

Many other ordinary aspects of growing-up have disappeared. Lakes were closed to swimming as the word got out that you might get sued. Field trips are cancelled.[27] 'Recently, a school in Brooklyn had their beach day near Coney Island—the children were prohibited from going in the water for fear that someone might be liable if there were an accident. [28] A new book, Last Child in the Woods, addresses the cost to society when children lose the experience of spontaneous play and exploration.[29]

Business life has been transformed in many ways. "Foreign businessmen express amazement," Derek Bok observed, at "a system that exposes the entrepreneur to legal challenge so easily and on so many fronts, a system that lends itself so readily to harassment, obstruction, and delay." It is the regular practice of firms, including my own law firm, not to give references for fear of liability. Last year, a nurse admitted to killing 42 people in a string of hospitals in New Jersey and Pennsylvania. He was recognized as a troubled and ineffective nurse and would

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Slides are now shorter and covered, gaps in the equipment have been narrowed to prevent children from placing their heads into openings and all swings have been removed.").

[27] See e.g. "Safety Always an Issue on School Trips," Martha Irvine, *The Associated Press*, June 11, 2005; "Dealing with the Dresden Deficit a Challenge," Lynne Jeter, *Mississippi Business Journal*, March 7, 2005 ("[S]ome schools were not taking as many field trips due to discipline problems or liability concerns."); Gerald S. Cohen, "Schools Cancel Field Trips — Fear of Suits, *San Francisco Chronicle*, August 30, 1989.

[28] Conversation with Franklin Stone.

[29] Louv, Richard (Algonquin Books) April 15, 2005

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soon be fired, but would get rehired at another hospital because no one would give him a bad reference. As one hospital administrator admitted, "we're prevented from telling one another what we know out of fear, quite frankly, of being sued." [30]

Symptoms of the distrust of justice are all around us. Warning labels are found on virtually every product. Billions of coffee cups contain the helpful legend "Caution: Contents are Hot." A recent winner of the annual "wacky warning" contest was a 5-inch fishing lure with the following legend: "Harmful if Swallowed."[31] The warnings cost little or nothing, apologists say. But that's not correct either. When every product has a warning, the effect is a version of the child crying wolf -- consumers are less likely to pay attention to the warnings that really matter.

In almost all areas of social interaction -- hospitals, schools, recreation, child-rearing activities, even churches and synagogues -- Americans no longer feel comfortable acting on their reasonable judgment. The reason, polls confirm, is distrust of American Justice. A new Harris Poll, commissioned for this conference, found the following:

- 76% of Americans strongly or somewhat agree that people have become so fearful of frivolous lawsuits that they are discouraged from performing normal activities. [32]
- 83% of Americans strongly or somewhat agree that the system of justice makes it too easy to make invalid claims. [33]

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[30] "Hospitals Didn't Share Records of a Nurse Accused in Killings," Richard Perez-Pena, *The New York Times*, December 17, 2003; see also "Would You Hire this Man?," *Christian Science Monitor*, March 1, 2004

[31] M-LAW, "Past Winners of M-Law's 'Wacky Warning Label' Contest," http://www.mlaw.org/wwl/pastwinners.html

[32] Louis Harris and Associates, *Public Attitudes Toward the Civil Justice System*, New York, NY: Common Good (2005)

[33] *Id.*

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- 94% strongly or somewhat agree that there is a tendency for people to threaten legal action when something goes wrong.[34]
- 16% trust the legal system if someone makes a baseless claim against them.[35]
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The lack of confidence in civil justice is echoed in numerous other polls. [36]

Defenders of our system of justice say that Americans are irrational, and that the crisis has been manufactured (i) by irresponsible media that makes headlines of occasional rogue jury verdicts and (ii) by a calculated scare campaign of tort reformers. It's correct that the media emphasizes anything that might shock or titillate the public. [37] This bad habit has been observed in the media since colonial days, and, in the land of the First Amendment, it is hard to know what to do about it. It is correct also that reformers have gone of the stump to tell the public that the

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[34] *Id.*

[35] *Id.*

[36] In a 1999 public opinion survey commissioned by the National Center for State Courts, for example, only 23% of the respondents had a great deal of trust in the court system. American courts were ranked below most institutions. Only the media and the state legislature were ranked worse. *See* Stephen S. Meinhold & David W. Neubauer, *Exploring Attitudes About the Litigation Explosion*, 22 JUST. SYS. J. 105 (2001); Indiana University Public Opinion Laboratory, *How the Public Views the State Courts: a 1999 National Survey*, Williamsburg, VA: National Center for State Courts & The Hearst Corporation, presented at the National Conference on Public Trust and Confidence in the Justice System (1999); David Neubauer & Stephen S. Meinhold, *Too Quick to Sue? Public Perceptions of the Litigation Explosion*, 16:3 JUST. SYS. J. 1 (1994); Gary A. Hengstler, *The Public Perception of Lawyers: ABA Poll*, 79-SEP A.B.A. J. 60 (1993); Valerie P. Hans & William S. Lofquist, *Jurors' Judgments of Business Liability in Tort Cases: Implications for the Litigation Explosion Debate*, 26 LAW & SOC'Y REV. 85 (1992); TOM R. TYLER, WHY PEOPLE OBEY THE LAW (1990); Louis Harris and Associates, *Public Attitudes Toward the Civil Justice System and Tort Law Reform*, Hartford, CT: Aetna Life and Casualty Company (1987); Darlene Walker et al., *Contact and Support: An Empirical Assessment of Public Attitudes Toward the Police and the Courts*, 51 N.C. L. REV. 44 (1972-1973)

[37] *Cf.* James Fallows, *Why Americans Hate the Media*, THE ATLANTIC MONTHLY, Feb. 1996 (criticism of the media's tendency to sensationalize), H. L. MENCKEN, A GANG OF PECKSNIFFS: AND OTHER COMMENTS ON NEWSPAPER PUBLISHERS, EDITORS, AND REPORTERS (1975)

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litigation system is unfair. [38] Probably the biggest promoters of "jackpot justice," however, are the plaintiffs' lawyers. One need only look through the Yellow Pages, or look at billboards, or listen to AM radio, to be barraged by lawyer advertisements encouraging Americans to believe that they can sue for anything.[39] The unavoidable message of those ads is that you might be on the receiving end of one of those lawsuits.

The data on the amount of litigation and the trend in verdicts are notoriously unreliable because fewer than 3% of all cases ever get resolved at trial, and the overwhelming number of claims are settled or disposed of in some other way. [40] Legal threats don't show up in the numbers at all. The best data appear to confirm that the amounts awarded by juries have increased and that the number of claims—at least of certain types— is also up. [41]

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[38] See e.g.; American Tort Reform Association (ATRA), "About" ATRA website at http://www.atra.org/about/ ("Some astonishing decisions come out of the courts these days. Hundreds of millions in punitive damages piled on top of relatively minor actual damages. Meritless cases settled because defendants fear the outcome of an emotion-filled jury trial or a lawless court. That's why the [ATRA] leads the fight for a better civil justice system--one that's fair, efficient and predictable," says ATRA President Sherman Joyce.); U.S. Chamber of Commerce Institute for Legal Reform (ILR), "About ILR—Who We Are," ILR website at http://www.instituteforlegalreform.com/about/index.html ("Many plaintiffs' lawyers are exploiting flaws in our legal system in search of jackpot justice."). See also Common Good, "Is the Legal System Broken?" *The New York Times* and *The Washington Post*, December 26, 2005 ("[S]tandards today are changeable from jury to jury. With uncertain legal boundaries, it seems that anyone can sue for almost anything.… Reform must restore reliability to law.")

[39] A full 77 pages (pp. 535-612) of the 2004-2005 District of Columbia yellow pages are devoted to lawyer advertisements, many with provocative headings like "Whoever said justice had to be fair?", "Injured? Get the money you deserve", and "Millions Recovered". Lawyers do not limit themselves to ads in print; see, for example, a current (June, 2005) ad campaign targeting Washington, D.C. metro riders and internet surfers; available at www.milkmakesmesick.org

[40] Patrick E. Higginbotham, *So Why do we Call them Trial Courts?,* 55 SMU L. Rev. 1405, 1408 (2002) (Noting that although the number of federal civil cases filed rose by 152% between 1970 and 1999, that the number of claims reaching the jury fell by 20%, leaving only 3% of all claims reaching a jury).

[41] *Id. at* 1408., Brian J. Ostrom, Neal B. Kauder, and Robert C. LaFountain, eds., *Examining the Work of State Courts, 2002: A National Perspective from the Court Statistics Project* (National Center for State Courts, 2003) (All civil claims increased 23% between 1987 and 2001. Tort claims (a subset of civil claims) declined 9% since 1992 because traffic claims (which make up the bulk of tort claims) declined 14% during that period. The decline in traffic claims is attributable to the rise of no-fault insurance and other reforms designed to reduce the volume of (continued…)

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As a matter of probabilities, however, the odds of being sued and then losing before a jury are remote for most Americans.[42] Studies also indicate that, in most cases, juries tend to do a reasonable job.[43] But there is contrary evidence –in tragic circumstances, such as a child injured in an accident or a baby born with birth defects, studies show that juries tend to award huge sums irrespective of fault.[44]

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those claims. Between 1975 and 2002, all tort claims increased a total of 38% (including the 9% decrease since 1992).); Stuart Taylor Jr. and Evan Thomas, "Civil Wars," *Newsweek*, December 13, 2003, p. 48 (Mean jury awards now exceed $1.2 million, up from approximately $600,000 in 1996); Seth A. Seabury, Nicholas M. Pace, and Robert T. Reville, "Forty Years of Civil Jury Verdicts," *Journal of Empirical Legal Studies* Vol. 1 (March 2004), available at http://www.blackwell-synergy.com/links/doi/10.1111/j.1740-1461.2004.00001.x/abs/?cookieSet=1 (Average jury awards tend to be highly variable from year to year, making it difficult to distinguish trends over relatively short periods of time. We use the longest time series of data on jury verdicts ever assembled: 40 years of data on tort cases in San Francisco County, CA and Cook County, IL collected by the RAND Institute for Civil Justice. We find that while there has been a substantial increase in the average award amount in real dollars, much of this trend is explained by changes in the mix of cases, particularly a decreasing fraction of automobile cases and an increase in medical malpractice. Claimed economic losses, in particular claimed medical losses, also explain a great deal of the increase. Although there appears to be some unexplained growth in awards for certain types of cases, this growth is cancelled out on average by declines in awards in other types of cases); On medical malpractice specifically, see Physician Insurers Association of America, *PIAA Claim Trend Analysis: 2003 ed.* (2004), cited in American Medical Association, "Medical Liability Reform—NOW," June 14, 2005, available at http://www.ama-assn.org/ama1/pub/upload/mm/-1/mlrnowjune142005.pdf (The median medical liability jury award in medical liability cases nearly doubled from 1997 to 2003, increasing from $157,000 to $300,000. The average award increased from $347,134 in 1997 to $430,727 in 2002. The growth in settlements has mirrored that of jury awards. Median and average settlements increased from $100,000 to $200,000, and from $212,861 to $322,544 between 1997 and 2002, respectively.); Jury Verdict Research, "Medical Malpractice Jury Award Median Up Slightly," Press Release, April 1, 2004, available at http://www.juryverdictresearch.com/Press_Room/Press_releases/Verdict_study/verdict_study8.html (Median award in medical malpractice cases was $1,010858 in 2002, up from $473,055 in 1996.)

[42] The chances of being sued are significant for physicians in certain specialties: [facts]

[43] *Cf.,* Thomas Munsterman, *How Judges View Civil Juries,* 48 Depaul L. Rev. 247, 249-253 (1998).

[44] In birth-injury cases, juries sided with plaintiffs 60% of the time in 2002, up 34 percent from two years earlier. The median award for childbirth-negligence cases in 2002 was $2.2 million. (Jury Verdict Research, cited in "Doctors Spell Out Risks of Childbirth on Consent Forms," Carol M. Ostrom, *The Seattle Times*, August 9, 2004.) When all malpractice claims are considered, however, plaintiffs win just 1% at trial and lose 4% at trial—with the remaining 95% being settled, dropped or dismissed. (Presentation of Lawrence E. Smarr , Physicians Insurers Association of America, to American College of Surgeons, June 23, 2003, at http://www.facs.org/about/chapters/smarr.pdf.) In large counties in 2001, plaintiffs prevailed in 27 percent of medical malpractice cases. (Bureau of Justice Statistics, "Civil Trial Cases and Verdicts in Large Counties, 2001," April 2004, available at http://www.ojp.usdoj.gov/bjs/pub/pdf/ctcvlc01.pdf.) The median award for all malpractice (continued…)

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Arguing about probabilities of being sued does not take into account the reality of human nature. To feel free to act on their reasonable judgment, people seem to need clarity[45] -- for example, that the system of justice will affirmatively protect them if a baseless claim is brought. In the face of uncertainty, individuals often give disproportionate weight to risk— Nobel laureate Daniel Kahneman famously explained this phenomenon as the "overweighting of low probabilities," which helps explain why people think about sharks before swimming in the ocean, even though chances of being attacked are negligible.[46]

Being sued also is also an unlikely but horrifying event, and there are many more potential plaintiffs in our daily lives than there are sharks. Many doctors say that they view every patient as a potential plaintiff. Nothing could be easier, when something goes wrong, than to come up with a theory of what someone might have done differently. Once people learn that someone was exposed to a lawsuit for some ordinary life activity, that activity becomes a risk to

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cases was $425,000 in 2001. (Bureau of Justice Statistics, "Medical Malpractice Trials and Verdicts in Large Counties, 2001," April 2004, p. 1, available at http://www.ojp.usdoj.gov/bjs/pub/pdf/mmtvlc01.pdf) On the correlation between the adverse events, negligence and jury awards, a study of malpractice claims published in the *New England Journal of Medicine* found "no association between the occurrence of an adverse event due to negligence or an adverse event of any type and payment. ... Among the malpractice claims we studied, the severity of the patient's disability, not the occurrence of an adverse event or an adverse event due to negligence, was predictive of payment to the plaintiff." (Troyen A. Brennan, M.D., J.D., M.P.H., Colin M. Sox, B.A., and Helen R. Burstin, M.D., M.P.H., "Relation between Negligent Adverse Events and the Outcomes of Medical Malpractice Litigation," *The New England Journal of Medicine*, Volume 335: 1963-1967, December 26, 1996, Number 26, available at http://content.nejm.org/cgi/content/short/335/26/1963.)

[45] Indeed, researchers have found that people value "decorum, fairness, and *finality* in decision-making". David B. Rottman, *Public Perceptions of the State Courts: A Primer*, 15:3 CT. MANAGER 1, 3 (2000) (emphasis added).

[46] Daniel Kahneman & Amos Tversky, *Prospect Theory: An Analysis of Decision Under Risk,* 47 ECONOMETRICS 263, 263 (1979). *See also* Cass R. Sunstein, *What's Available? Social Influences and Behavioral Economics*, 97 Nw. U. L. Rev. 1295 (2003) (discussing the widespread fear and panic resulting from sniper killings in the Washington, D.C. area in the fall of 2002, even though the statistical probability of falling victim to the snipers was quite low.)

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avoid.[47] I could find no court that held that a seesaw was unreasonably dangerous, or that putting suntan lotion on children at camp would subject you to liability, but those are endangered activities because Americans understand that one injured or disappointed person could unilaterally drag them through years of legal process.

"An act is illegal," Professor Donald Black once observed, "if it is vulnerable to legal action." [48] By that standard almost any accident or dispute today is illegal. That's why people are fearful.

Getting Beyond Tort Reform

The debate over "tort reform" in the last two decades has focused not on the effectiveness of justice as the foundation for reasonable daily choices, but whether civil justice achieves fairness in particular cases.[49] As Derek Bok noted 20 years ago, there is a tendency to concentrate on the "plight of individual litigants and ignore[] the effects on the system as a whole."[50]

Tort reformers talk about the "lawsuit lottery," and point to jurisdictions that are notoriously tilted toward claimants and characterize them as "judicial hell-holes" and "magic jurisdictions" where plaintiffs' lawyers can bring baseless or excessive claims with a high

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[47] Chief Justice Warren Burger noted almost twenty years ago a "litigation neurosis" developing in "otherwise normal, well-adjusted people". Chief Justice Warren E. Burger, *Isn't There a Bettter Way?*, 68 A.B.A. J. 275 (1982)

[48] Donald J. Black, The Mobilization of Law, 2 J. Legal Studies 125,131 n.24 (1973).

[49] Those engaged in the current tort reform debate would do well to heed Geoffrey Hazard's advice that "In all law reform it is important to be circumspect about the nature and magnitude of the problems to which reform is to be addressed." Geoffrey C. Hazard, Jr., *Individual Justice in a Bureaucratic World*, 7 TUL. J. INT'L & COMP. L. 73 (1999). To properly tackle the problems in the current system, it is important to take a broader view of the effect of civil justice on society.

[50] BOK, *supra* note ____ at 27.

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probability of success.[51] The focus throughout is fairness. "Is it fair to get a couple of million dollars from a restaurant because you spilled a cup of hot coffee on yourself?"[52] As the Chamber of Commerce asks on its website, "How fair are your courts?"[53]

Actual reform proposals have not questioned the basic functioning of the system, however. As Professor Robert Kagan put it, tort reform has only "nibbled at the edges."[54] Indeed, many tort reformers have gone out of their way to suggest that the problem can be fixed with a few tweaks: "all it takes is a few of those magic jurisdictions to distort the whole system,"[55] said a representative of the National Association of Manufacturers. "A minor change in procedures—the class action bill now pending before Congress—can make that impossible by driving those kinds of mass claims into federal court."[56] (That legislation—the Class Action Fairness Act of 2005—was passed earlier this year.)

The medical profession has thrown its energy into an effort to "cap" non-economic damages at $250,000. If ever enacted, this would certainly moderate malpractice insurance premiums. But most doctors acknowledge that "caps" do little to alleviate the extreme distrust that doctors harbor towards the system. For example, limiting damages awarded for pain

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[51] AMERICAN TORT REFORM ASSOCIATION, *supra* note 1.

[52] "Politicians, pundits, and industry leaders replayed endless variations on [this] theme summarized by the national Chamber of Commerce." Deborah L. Rhode, *Frivolous Litigation and Civil Justice Reform: Miscasting the Problem, Recasting the Solution*, 54 DUKE L.J. 447, 454 (2004) (citing Ralph Nader & Wesley J. Smith, No Contest: Corporate Lawyers and the Perversion of Justice in America 267 (1996)).

[53] See the main page of the U.S. Chamber of Commerce's Institute for Legal Reform (as viewed on June 21, 2005) at http://www.instituteforlegalreform.com/

[54] Robert A. Kagan, *How Much do Conservative Tort Tales Matter? On Haltom and McCann's Distorting the Law*. 33 (6/25/05) (*Unpublished manuscript)*

[55] Wallstreet Week with Fortune, Scruggs/Baroody Debate, aired Jan. 28, 2005, *available at* http://www.pbs.org/wsw/tvprogram/20050128.html.

[56] That class action legislation was passed earlier this year. *Id. [CITATION]*

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and suffering is of little help to an obstetrician who could not have caused a baby's birth defects but is nonetheless found liable for millions of dollars of "economic" damages representing a lifetime of care.[57]

Where tort reformers see the system as rigged by trial lawyers, opponents of reform portray tort reformers as special interests trying to rig the system their way. Joanne Doroshow, a founder of the Center for Justice and Democracy, put it this way: "there has been an increase in efforts to eviscerate the civil justice system and make sure corporations do not get sued for anything they do wrong." [58]

Opponents of tort reform also focus on fairness, which they define as the right to have every case decided by a jury. Robert S. Peck, the head of the Center for Constitutional Litigation, extols the virtues of modern civil justice this way:

> There, an individual, neither wealthy nor well-connected, can haul a huge multinational conglomerate into court and hold it accountable for its wrongful and harmful actions.[59]

"I trust the jury system and I trust the American people and their common sense," as trial lawyer Richard Scruggs put it, "far more than the National Association of Manufacturers to protect the American public."[60]

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[57] A majority of states have passed laws that limit defendant's exposure in personal injury actions; for example, by limiting non-economic damages or joint and several liability. But these citizens in take states still seem to distrust the system of justice.

[58] Justice For all: Speaking Truth to Power, 40-JUL Trial 20 (2004).

[59] Robert S. Peck, *Tort Reform's Threat to an Independent Judiciary*, 33 RUTGERS L.J. 835, 838 (2002).

[60] Wallstreet Week with Fortune, Scruggs/Baroody Debate, aired Jan. 28, 2005, *available at* http://www.pbs.org/wsw/tvprogram/20050128.html. The populist rhetoric by trial lawyers about "trusting the American people" doesn't seem quite accurate. As Walter Olson recounts in detail in "The Rule of Lawyers" (Truman Talley/St. Martin's 2003) jury selection is a highly manipulated process (by lawyers for both sides). Manuals explain that Mexican Americans are "passive" and "Orientals tend to go along with the majority." Lawyers use focus groups to figure out which juries would be most sympathetic to their arguments. In the silicone (continued…)

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The impact of justice on the workings of a society is only touched on tangentially. Plaintiffs' lawyers often assert that lawsuits serve a "regulatory function," but when the results vary from case to case, it's hard to find the regulatory rule.[61]

The focus on fairness has proved unproductive on many levels. In any given case, the question of fairness can easily be argued either way. Take the McDonald's hot coffee case, the poster child of "lawsuit abuse." There, an elderly woman was badly burned when she put her coffee cup between her legs, and it spilled as her daughter drove away from the drive-through window. That's her fault, it's easy to say. On the other hand, McDonald's coffee was brewed 20 degrees hotter than other restaurants. Why should the drive-in window sell coffee that's so hot? Why not, aren't drivers grown up?

Arguing about fairness quickly turns into a version of a playground spat. Tort reformers talk about the need to limit frivolous lawsuits. Who can be against that? Defenders of the system talk about protecting the little guy against corporate wrongdoers. Who can be against that? Any functional system of civil justice, of course, should accomplish both goals: it should reliably get rid of frivolous lawsuits, and it should also effectively protect the little guy against a corporate wrongdoer.

What's missing in the debate is any coherent vision of how a system of justice should accomplish these goals.

The Responsibility of Judges vs. Juries.

Ad questionem facti non respondent judices . . .

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breast implant cases, for example, they discovered that blue collar men would be most likely to return verdicts for the plaintiffs. cite.

[61] The trial lawyers seem to assume,,contrary to substantial evidence, that the more exposure to liability, the better people will behave. Cites to health care studies, note __supra.

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"Judges do not answer questions of fact…"

…ad questionem juris non respondent juratores.
"…jurors do not answer questions of law."

Sir Edward Coke, Commentary on Littleton 460 (J. H. Thomas ed., 1818).

Just as both sides to the tort reform debate have focused on fairness rather than the broader effects of civil justice on society, so too have they assumed that juries, not judges, have the responsibility of deciding whether conduct constitutes negligence or an unreasonable risk. Under current judicial orthodoxy, judges believe they should lean over backwards to put every case to a jury. One standard often quoted is *Conley v. Gibson*, 355 U.S. 41 (1957) admonishing lower courts not to dismiss any claim unless "it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to recover."[62]

Any effort at legal reform is routinely resisted as trespassing on the constitutional right of trial by jury. But the role of the civil jury is generally misunderstood and, to the public, probably confused with the jury's role in criminal cases. In criminal prosecutions, juries play a critical role as our protection against the abuse of government power. Juries are our defense against state coercion: no one can be convicted to jail unless a jury decides they're guilty. But in a civil case, where citizens can use the justice system as an offensive weapon, the role of the jury depends upon whether the issues should be determined as a matter of law or as a matter of disputed fact.

The Seventh Amendment, which states that the "right of trial by jury shall be preserved," underscores this fact-law distinction. It defines the civil jury right as applying to "suits in common law" and ends by saying that "no fact tried by a jury shall be otherwise

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[62] Conley v. Gibson, 355 U.S. 41, 45 (1957).

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reexamined…than according to the rules of the common law." [63] Judges declare the standards of law that affect all of society; juries find disputed facts in the particular case.[64]

While most lawyers assume today that the Seventh Amendment is an automatic pass to the jury, what constituted a "suit at common law" in 1791 was sharply limited. There was no cause of action for negligence, for example, until judges in the 19th century made rulings creating this new cause of action. Some issues -- say, interpretation of a statute -- are clearly law. Others are clearly issues of fact: "credibility determinations, the weighing of evidence and the drawing of legitimate inferences from the facts are jury functions, not those of a judge."[65]

Determining whether someone acted reasonably involves mixed questions of law and fact. Any claim for negligence, for example, usually involves what is reasonable conduct in the circumstances. The almost universal practice in tort cases is to give the claim to the jury. One study found that courts show "extreme vigilance against treading on contested fact issues or mixes questions of law and fact - even arguable ones - reserving them for evidentiary hearings . . . This was especially true in cases applying indeterminate legal standards, such as

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[63] U.S. CONST. amend. VII. "In suits in common law, where the value in controversy shall exceed $20, the right of trial by jury shall be preserved and no fact tried by a jury shall be otherwise reexamined in any court of the United States, than according to the rules of the common law."

[64] Arthur Miller, *The Pretrial Rush to Judgment: are the "Litigation Explosion," "Liability Crisis," and Efficiency Clichés Eroding our Day in Court and Jury Trial Commitments?,* 78 N.Y.U. L. REV. 982, 1083 (2003). (Positing that an issue that "involves the resolution of principles generally applicable to a class of cases" is a question of law for the judge). *See also* Walter Dellinger & H. Jefferson Powell, *Marshall's Questions*, 2 GREEN BAG 367 (1999) (Commenting that "Marshall the judge seems memorable for his insistence that the courts deal only and impartially with questions of law")

[65] Anderson v. Liberty Lobby, 477 U.S. 242, 255 (1986)

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reasonableness."[66] Most courts do not even pay attention to the question of what should be decided as a matter of fact or law.

> There has been … a strong tendency to let all issues go to the jury without discriminating among them. Judges may see this not only as conventional, but also as convenient, because it reduces judicial effort and the risk of reversal.[67]

The general practice of American courts is summed up by a sign that once hung over the federal courtroom door in New Orleans: "No spitting. No summary judgment."[68]

There is a different tradition of civil justice, however, that, at least in tort law, would dramatically increase the responsibility of judges. In this tradition, articulated most notably by Oliver Wendell Holmes, Jr., the overriding goal of civil justice is to provide guidance and protection to society as a whole. Instead of acting as referees over a neutral process, judges have the obligation to make rulings of law on legal duty and standards of care. Whether seesaws are a reasonable risk would be determined by the judge as a matter of law.

This approach has been largely lost to our generation and, to most, probably seems like heresy. But the jurists that we hold up as our leading common law thinkers considered this an essential responsibility of judges. To Holmes, what constitutes reasonable conduct was a question that required a ruling of law:

> Negligence … [is] a standard of conduct, a standard we hold the parties bound to know before-hand, and which in theory is always

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[66] Paul W. Mollica, *Federal Summary Judgment at High Tide*, 84 MARQ. L. REV. 141, 147 (2000), *Quoted* in Miller, *supra* nt. 50 at 1027.

[67] Schwarzer, Hirsch & Barrans, *supra* note 41, at 460.

[68] Steven A. Childress, *A New Era for Summary Judgments: Recent Shifts at the Supreme Court*, 6 REV. LITIG. 263, 264 (1987).

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> the same fact and not a matter dependent upon the whim of a particular jury nor the eloquence of the particular advocate.[69]

Benjamin Cardozo devoted his famous lectures in 1923 to the importance of this type of "judicial legislation":

> The judge is under a duty…to maintain a relation between law and morals, between precepts of jurisprudence and those of reason and good conscience. "it is the function of courts to keep doctrines up to date with the *mores* by continued restatement…This is judicial legislation, and the judge legislates at his peril. Nevertheless, it is the necessity and duty of such legislation that gives to judicial office its highest honor; and no brave and honest judge shirks the duty or fears the peril."[70]

Chief Justice Roger Traynor of the California Supreme Court, a famous liberal innovator -- he created the doctrine of strict liability for manufacturers whose products fail[71] -- emphasized the need for judges to declare rulings even in the simplest accident, and not leave standards to the "oscillating verdicts of juries."[72] When a woman hit her head on an angled ceiling while walking down a staircase, Traynor insisted that the judge determine whether it was an unreasonable hazard; in that case, "the danger is so apparent that visitors could reasonably be expected to notice it."[73]

Judges in tort cases today assume that they lack this power, but they need only look to commercial law to see the philosophy in action. In commercial law, the focus is predictability and efficiency. It is a well-established principle that judges, not juries, have the obligation to interpret standard language of contracts.[74] The Uniform Commercial Code was a

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[69] Oliver Wendell Holmes, Jr., *Law in Science and Science in Law,* 12 HARVARD L. REV. 443, 458 (1899)
[70] CARDOZO *Supra,* note 3 at 133-135.
[71] *See* Escola v. Coca-Cola Bottling Co. of Fresno, 24 Cal.2d 453 (1944).
[72] *Quoted* in G. EDWARD WHITE, TORT LAW IN AMERICA, 185 (Oxford University Press 1980).
[73] *Id.* at 190-191.
[74] *See e.g.* Joseph M. Perillo, *Comments on William Whitford's Paper on the Role of the Jury (and the Fact/Law Distinction) in the Interpretation of Written Contracts*, 2001 Wis. L. Rev. 965, 965 (2001) (Explaining the limited (continued…)

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legislative effort to achieve consistency.[75] Its core concepts, including ones that look very much like those of tort, including reasonableness, are often decided as a matter of law in situations where the fact patterns are likely to be repeated. America's system of commercial law, generally considered the most consistent and predictable in the world, is the bedrock of America's economic strength.

The Supreme Court in recent years has begun to emphasize the goal of legal consistency. Several important decisions, for example, emphasized the desirability of judges using summary judgment to make rulings as a matter of law. In *Celotex v. Caltrett*, a wrongful death asbestos case, the court starkly shifted direction from the presumption that summary dismissal should be avoided if there was a "scintilla of evidence."[76] Thus,

> Summary judgment procedure is properly regarded not as a disfavored procedural shortcut, but rather as an integral part of the

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instances in which juries interpret contracts: "Courts which follow the more traditional approach permit the jury to determine the proper interpretation of a contract only if the judge without the aid of parol evidence deems the contract to be ambiguous and parol evidence is then admitted to clarify the parties' intentions. A wider role is permitted by courts that follow the Pacific Gas & Electric Co. v. G.W. Thomas Drayage & Rigging Co., approach, which essentially allows the court to hear parol evidence to determine whether the writing is susceptible to more than one interpretation. If the court finds that the writing is susceptible to more than one interpretation, and parol evidence is admitted in the hearing of the jury, the jury is charged with determining the meaning of the writing"); *Cf.* Richard A. Posner, *The Law and Economics of Contract Interpretation*, 83 TEX. L. REV. 1581 (2005) (Stating that "contract interpretation is, of course, a judicial staple."), The Hon. Justice Michael Kirby AC CMG, *Towards a Grand Theory of Interpretation: The Case of Statutes and Contracts*, 24 STATUTE L. REV. 95 (2003) (Observing that a large part of the work of judges is composed of interpreting contracts and statutes); *But see* William C. Whitford, *The Role of the Jury (and the Fact/Law Distinction) in the Interpretation of Written Contracts*, 2001 Wis. L. Rev. 931 (2001) (Stating that a significant proportion of cases involving contract interpretation are actually decided by juries).

[75] U.C.C. § 1-102(2)(c) (one of the main purposes of the U.C.C. is "to make uniform the law among the various jurisdictions.")

[76] *Supra* note 42 at 251. "Formerly it was held that if there was what is called a *scintilla* of evidence in support of a case the judge was bound to leave it to the jury, but recent decisions of high authority [referring to Celotex and Matsushita 516 U.S. 367] have established a more reasonable rule, that in every case, before the evidence is left to the jury, there is a preliminary question for the judge, not whether there is literally no evidence, but whether there is any upon which a jury could properly proceed to find a verdict for the party producing it, upon whom the *onus* of proof is imposed."

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> federal rules as a whole, which are designed "to secure the just, speedy and inexpensive determination of every action." (quoting Fed. Rules Civ. Proc. 1.)[77]

In *Markman v. Westview Instruments*, Justice Souter explained the importance of consistency in patent cases:

> "…we see the importance of uniformity in the treatment of a given patent as an independent reason to allocate all issues of construction to the court. As we noted in *General Elec. Co. v. Wabash Appliance Corp.*, "[t]he limits of a patent must be known for the protection of the patentee, the encouragement of the inventive genius of others and the assurance that the subject of the patent will be dedicated ultimately to the public."[78]

What discourages economic energy, Justice Souter cautioned, was a legal system that created a "zone of uncertainty:"

> "[A] zone of uncertainty which enterprise and experimentation may enter only at the risk of infringement claims would discourage invention only a little less than unequivocal foreclosure of the field," *United Carbon Co. v. Binney & Smith Co.*, 317 U.S. 228, 236, 63 S.Ct. 165, 170, 87 L.Ed. 232 (1942), and "[t]he public [would] be deprived of rights supposed to belong to it, without being clearly told what it is that limits these rights.""" *Merrill v. Yeomans*, 94 U.S. 568, 573, 24 L.Ed. 235 (1877).[79]

In *Cooper v. Leatherman*, the court held that the boundaries of punitive damages should be decided as a matter of law: "Requiring the application of law, rather than a decisionmaker's caprice, does more than simply provide citizens notice of what actions may subject them to

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[77] Celotex v. Caltrett, 477 U.S. 317, 327 (1986).

[78] Markman v. Westview Instruments, 570 U.S. 370, 390 (1996).

[79] *Id.*

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punishment; it also helps to assure the uniform general treatment of similarly situated persons that is the essence of law itself."[80]

In *State Farm v. Campbell*, the Court went further on punitive damages, suggesting clear guidelines so that claims of punitive damages could not be used to extort settlements.[81]

> Elementary notions of fairness enshrined in our constitutional jurisprudence dictate that a person receive fair notice not only of the conduct that will subject him to punishment, but also of the severity of the penalty that a State may impose..[82]

In *Daubert v. Merrell Dow*, the court shifted the responsibility of what constitutes credible expert testimony from jury to judge:

> …the Rules of Evidence -- especially Rule 702 -- do assign to the trial judge the task of ensuring that an expert's testimony both rests on a reliable foundation and is relevant to the task at hand.[83]

Professor Arthur Miller, in a thorough article on the history of the fact-law distinction, is critical of what he sees as this new trend to make decisions as a matter of law on summary judgment. His main point, it seems, is that judges should not be allowed to draw on their values:

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[80] Cooper Industries Inc. v. Leatherman Tool Group, 532 U.S. 424, 436 (2001), *Quoting* Justice Breyer in BMW of N. Am. v. Gore, 517 U.S. 559, 587.

[81] For further discussion of the value of punitive damages in the context of tort law, see E. Donald Elliott, *Why Punitive Damages Don't Deter Corporate Misconduct Effectively*, 40 ALA. L. REV. 1053 (1989)

[82] State Farm Mut. Auto Ins. Co. v. Campbell 538 U.S. 408, 416-17 (2003). *Citations omitted*.

[83] Daubert v. Merrell Dow Pharms., 509 U.S. 579, 597 (Note that Federal Rule 702 was modified in Dec. 2000, and now reads: "If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case," thereby essentially codifying Daubert.)

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> Judges are human, and their personal sense of whether a plaintiffs' claim seems "implausible" can subconsciously infiltrate even the most careful analysis.[84]

The idea of "result-oriented" decisions based on considerations of policy strikes Professor Miller as basically unlawful because "lower courts may curtail litigants' access to trials - and obviously a jury - through arbitrary, result-oriented, or efficiency-motivated determinants at the pretrial motion stage."[85]

At bottom, Professor Miller trusts juries more than judges. But Holmes and Cardozo did not necessarily think that judges are wiser than juries. Their point is that juries can't make consistent rulings. Juries have no authority make rulings at all. Every case is a blank slate. The idea that juries are "Democracy in Action," a kind of mini-election with decisions made on an ad hoc basis, has populist appeal. But the effect is that civil law offers no predictability or guidance.

It is correct that, in making rulings of law, judges will necessarily have to draw on their sense of community values. Cardozo agreed that a judge can never "eliminate altogether the personal measure of the interpreter," but explained that society can't function without a ruling by someone:

> You may say there is no assurance that judges will interpret the mores of their day more wisely and truly than other men. I am not disposed to deny this, but in my view it is quite beside the point. The point is rather that this power of interpretation must be lodged somewhere…[86]

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[84] *Supra* note 50 at 1071.

[85] *Id* at 1076.

[86] CARDOZO *Supra* nt. 9 at 136.

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"The basic moral principle, acknowledged by every legal system we know anything about," Yale Professor Eugene Rostow once observed, "is that similar cases should be decided alike."[87] To accomplish that goal, judges must take the responsibility to draw the boundaries of reasonable lawsuits.

Restoring Reliability to Civil Justice:

Times have changed.

In many ways, the changes have been for the better. The shift in legal philosophy that began in the 1960s opened doors for broad segments of society. In our efforts to avoid abuses of authority, however, we undermined the authority needed to make common choices and to run the institutions of society, including the system of civil justice.

We have created a society obsessed with law. Legal threat, once a rare event in anyone's life, is now commonplace. A recent Public Agency survey found that 78% of middle and high-school teachers in American had been threatened by their students with possible violation of their legal rights.[88] The debate over civil justice cannot take place by putting a magnifying glass over a particular dispute. Arguments about fairness, or homilies about the common sense of juries,[89] do nothing to confront the reality that legal fear has become a defining feature of our culture.

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[87] *Quoted in* Ken Greenwalt, *The Enduring Significance of Neutral Principles*, 78 COLUM. L. REV. 982, 1001, nt. 65 (1978).

[88] Public Agenda, "Teaching Interrupted: Do Discipline Policies in Today's Public Schools Foster the Common Good?" New York, NY: Common Good (May 2004), available at http://cgood.org/assets/attachments/22.pdf

[89] "People who are entrusted to choose the leader of the free world are capable of weighing evidence in a courtroom—and they do, every day across America. I found again and again that they take their service seriously, and follow the law even when the law is at odds with what they personally believe." John Edwards *supra* nt. 2, "One suspects that some judges are simply selling the good faith and collective wisdom of juries short." Arthur Miller, *supra* nt. 67 at 1024.; *See e.g.*, R.R. Co. v. Stout, 84 U.S. 657, 664 (1874).

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Other countries are beginning to have a similar problem of legal fear (perhaps influenced by American culture) and are proposing solutions. British Prime Minister Tony Blair recently gave a speech pointing to how fear of possible lawsuits has resulted in counterproductive behavior in England: "something is seriously awry when teachers feel unable to take children on school trips, for fear of being sued" or when a town "remove[d] hanging baskets for fear that they might fall on someone's head, even though no such accident has occurred in the 18 years they had been hanging there."[90]

The problem in the UK occurs not because of erratic juries -- the UK long ago abolished juries in most civil cases[91]-- but because judges are not focusing on the social policy implications of allowing certain claims. In an important decision in 2003, the Appellate Committee of the House of Lords took this issue on, and discussed the responsibility of judges to consider policy when deciding whether to permit claims.[92]

The case before the House of Lords could have been picked from many courts in America. On a hot day in the Cheshire region of England, an 18 year-old named John Tomlinson went for a swim in the lake of a local park.[93] Racing into the water from the beach, he dived too sharply and broke his neck on the sandy bottom. He was paralyzed for life.[94]

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[90] Tony Blair, British Prime Minister, Remarks at the Institute of Public Policy Research (May 26, 2005) *available at* http://www.number-10.gov.uk/output/page7562.asp.

[91] STEPHEN ADLER, THE JURY: TRIAL AND ERROR IN THE AMERICAN COURTROOM xv-xvi (Random House 1994). (Noting that while Britain technically maintains a jury system, only 1 percent of civil trials are decided before a jury).

[92] Tomlinson v. Congleton BC, [2003] UKHL 47.

[93] *Id.* at [2].

[94] *Id.* at [3].

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Mr. Tomlinson sued the Cheshire County Council for not doing more to protect against the accident. The Council, he discovered, knew about the risk. There were three or four near drownings every year. "No swimming" signs had been posted and widely ignored for over a decade. The popularity of the park—more than 160,000 visitors every year—made effective policing almost impossible. Fearful of liability, the Cheshire Council had decided to close off the lake by dumping mud on the beaches and planting reeds. But before the reeds could be planted Mr. Tomlinson had his accident. The Cheshire Council should have acted sooner, as his lawyer argued, to prevent "luring people into a deathtrap"[95] and to protect against a "siren sound strong enough to turn stout men's hearts."[96] The lower court accepted this argument because the County obviously knew the danger.

The Law Lords took the appeal and ordered the case to be dismissed. The lead opinion by Lord Hoffmann declared that whether a claim should be allowed hinged not just on whether an accident is foreseeable, but "also the social value of the activity which gave rise to the risk."[97] Permitting Mr. Tomlinson's claim, the Law Lords held, means that hundreds of thousands of people would not be able to enjoy the park: "[T]here is an important question of freedom at stake. It is unjust that the harmless recreation of responsible parents and children with buckets and spades on the beaches should be prohibited in order to comply with what is thought to be a legal duty."[98]

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[95] *Id.* at [28].

[96] *Id.*

[97] *Id.* at [34].

[98] *Id.* at [46].

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The County's ineffective effort to prevent swimming, instead of establishing negligence, the Lords held, demonstrated how a misguided conception of justice hurts the public. "Does the law require that all trees be cut down," Lord Hobhouse asked, "because some youth may climb them and fall?"[99] Lord Scott added, "Of course there is some risk of accidents…. But that is no reason for imposing a grey and dull safety regime on everyone."[100]

The Tomlinson decision exposes the forgotten goal in American justice. Judges have lost sight of the fact that lawsuits concern not only the particular parties to the dispute, but everyone in society.[101] The mere possibility of a lawsuit changes people's behavior.

Protecting the freedom of everyone in society requires a basic shift in responsibility. Judges must delineate the boundaries of claims that implicate social policy. Judges must act as gatekeepers, as Holmes and Cardozo advocated, giving legal substance to general standards.[102]

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[99] *Id.* at [81].

[100] *Id.* at [94].

[101] In recent years, several state Supreme Courts have emphasized the importance of public policy in making rulings of law in tort cases. In a case involving a mugging on a town beach at night, the California Supreme Court ruled that the town should not be liable because, imposing tort liability "admonishes against any use of the property whatever, thus effectively closing the area." Hayes v. State of California, 11 Cal. 3d. 469, 473 (1974). The California Supreme Court also dismissed a claim that a touch football participant was too rough because "imposition of legal liability for such conduct might well alter fundamentally, the nature of the sport." Knight v. Jewett, 3 Cal. 4th 296, 319 (1992). *See* generally Stephen D. Sugarman, *Judges as Tort Law Unmakers: Recent California Experience with "New" Torts*, 49 DEPAUL L. REV. 455, 461 (1999). The New Jersey Supreme Court recently held that an accident involving 2 toddlers at a block party should be dismissed because, otherwise, people would stop having block parties. Commentators note that courts wanting to dismiss negligence claims based on policy often use the language of duty. See Dobbs, The Law of Torts, cite, "When courts say the defendant owed no duty that was relevant on the facts….To cast the issue in terms of duty is to provide another subliminal sugeestion --namely that the decision is to be made by judges rather than juries.": Id at 578.

[102] *See* Sheldon M. Novick, *The Collected Works of Justice Holmes*, Vol. 3, Holmes, *The Common Law*, 1881 at 109-304 (University of Chicago Press 1995) "…when standards of conduct are left to the jury, it is a temporary surrender of a judicial function which may be resumed at any moment in any case when the court feels competent to do so. Were this not so the almost universal acceptance of the first proposition in this Lecture, that the general foundation of liability for unintentional wrongs is conduct different from that of a prudent man under the (continued…)

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This shift in responsibility is intended to accomplish two goals. It will spawn a body of legal opinions on standards of care and scope of duty that will begin to establish the contours of reasonable dispute. Most citizens don't eagerly await judicial slip opinions, of course, to learn how to behave. The more immediate benefit will be that the public will know that judges now see it as their job affirmatively to defend reasonable conduct.

The rule of thumb for when a legal ruling is needed should probably be this: if allowing a claim (or defense) to proceed to a jury would affect people not in the courtroom, by chilling their reasonable choices, then the judge should make a ruling of law as to the contours of the claim. Are the risks inherent in a public lake ones that society should take? Avoiding this ruling is not neutral. Not ruling, in effect, is a decision to close the lake. It doesn't matter if the jury finds no liability, because the next jury may feel differently.

Shifting this responsibility to judges to make these rulings does not implicate serious concerns of judicial authority, at least if we accept that judges in civil cases are empowered to make rulings of law based on legal policy considerations. The precedents are numerous and several state supreme courts have begun to limit tort claims on this basis. [103] Nor is there any obvious need for procedural tools other than those that already exist, such as summary judgment.[104]

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circumstances, would leave all our rights and duties throughout a great part of the law to the necessarily more or less accidental feelings of the jury."; CARDOZO, Supra nt. 9 at 106. "It is the customary morality of right-minded men and women which he is to enforce by his decree. A jurisprudence that is not constantly brought into relation to objective or external standards incurs the risk of denigrating into what the Germans call "Die Gerfuhlsjurisprudenz," a jurisprudence of mere sentiment or feeling."; *Supra* nt. 103.; *But see,* Stephen B. Presser, *The Development and Application of Common Law*, 8 TEX. REV. L. & POL. 291 (2004) (discussing the importance of following prior doctrine, criticizing Holmes, and admonishing judges who "make it up as they go along")

[103] *See,* Cooper v. Leatherman *Supra* nt. 84; Markman v. Westview *Supra* nt. 79; State Farm v. Campell, *Supra* nt. 84; Hayes v. State of California and Knight v. Jewett *Supra* nt. 103.

[104] FED. R. CIV. P., 56(c). "The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to (continued…)

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But it will take years of important judicial rulings, even from the Supreme Court, to effect a change in the way most courts handle cases.[105] The power of inertia is always underestimated, and the Supreme Court has learned many times that doctrinal shift does not necessarily occur because it says it should.

Legislation would send a clearer signal. Prime Minister Blair recently announced that he will propose a new Compensation Bill that will "clarify the existing law on negligence to make clear that there is no liability in negligence for untoward incidents that could not be avoided by taking reasonable care or exercising reasonable skill."[106] Such a bill, Prime Minister Blair proposed, "will send a strong signal and…reduce risk-averse behavior by providing reassurance to those who may be concerned about possible litigation, such as volunteers, teachers and local authorities."[107]

The significance of the proposed legislation in the UK will probably not be to provide clear legislative answers, but to shift the *goal* of civil justice. [108] Instead of focusing only on fairness and foreseeability in a particular case, judges will likely be called upon to make

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any material fact and that the moving party is entitled to a judgment as a matter of law."; *See also,* FED. R. CIV. P. 50, FED. R. CIV. P. 12(b)(6), FED. R. CIV. P. 16(1).

[105]-One example is the recognition by courts of a journalistic privilege akin to those acknowledged for lawyers, doctors, and psychologists. Although the Supreme Court ostensibly rejected such a privilege in Branzburg v. Hayes, 408 U.S. 665 (1972), there remains disagreement among lower courts, with some following the dissenting opinions filed in the case (recognizing a privilege) and others following Justice Powell's concurrence (narrow interpretation of the holding, privilege should be recognized in some cases).

[106] BLAIR, *supra* note ___.

[107] *Id.*

[108] Judicial interpretation of traditional concepts like reasonableness seems inevitable--no statute or rulebook can account for the infinite range of possible accidents.

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rulings, as both Holmes and Lord Hoffmann suggested, based on "considerations of social advantage."[109]

Legislation to restore judicial authority in America could be in the form of a general principle, along the following lines:

> Judges shall take the responsibility of drawing the boundaries of reasonable dispute as a matter of law, applying common law principles and statutory guidelines. In making these rulings, judges should consider the impact of allowing such claims (or defenses) on the conduct of broader society.

Legislation could also address specific areas of crisis. Congress has already introduced a bill to authorize pilot projects for administrative health courts, with hearings in the Senate expected over the summer. [110]

Law is a conservative institution, as it should be. The shift towards judicial responsibility will only occur after leaders of bench and bar, exercising their considerable powers of skepticism, reach their own understanding of why this change is essential. Some of the concerns, however, can be predicted.

All citizens are entitled to their day in court, many will observe. I would go further: the courthouse doors should never be barred, even to frivolous claims. The pertinent question is how far the claim goes, i.e., whether it is subject to dismissal by motion with a legal

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[109] Holmes, *Supra* nt. 4. "I think that judges themselves have failed adequately to recognize their duty of weighing considerations of social advantage. The duty is inevitable, and the result of the often claimed aversion to deal with such considerations is simply to leave the very ground and foundations of judgments inarticulate, and often unconscious…"

[110] Cite to Enzi bill A broad coalition of healthcare providers, patient advocates and consumer groups has come together behind the bill, cites, and Common Good is in a joint venture with the Harvard School of Public Health to design the system.

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ruling.[111] What I advocate is not taking away the right to sue, but giving substance to the right to sue. The doctrines developed by judicial rulings will also, of course, be subject to oversight by the legislature.

Conservatives may object that this is "judicial activism." But there is a difference between a judge assuming legislative functions, such as taking control of a school system, and a judge dismissing an unreasonable private claim. A kind of defensive activism, where judges act as gatekeepers, is essential to keep private parties from using justice unilaterally to undermine the freedom of others in society.

The main concern, I suspect, will focus on what is called "the right to sue." The mischief caused by civil justice in the last 40 years has sustained itself so long, in my view, because of a false assumption about the nature of civil justice. Pretty much everyone seems to believe there is a constitutional right to sue for almost everything.

Suing is not an act of freedom, however. The rights of freedom that our founders gave us, such as freedom of speech, were rights *against* state power. Suing *invokes* the state's coercive power against another private citizen--if you lose, the marshal may come and take your home away. Suing is just like indicting someone, except that it is an indictment for money. We would never tolerate a prosecutor bringing a baseless charge. Nor would we allow a prosecutor to threaten the death penalty for a misdemeanor.[112] That would be using state power for extortion. Why, then, do we tolerate allowing self-interested private parties to invoke legal power for whatever they want against other free citizens?

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[111] Sanctions footnote

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An "open season" philosophy of justice does not enhance our constitutional rights. The point of freedom is almost exactly the opposite--that we can live our lives without being cowed by state power. When private parties use the threat of state power for their private benefit, without any moderating judicial authority, justice becomes a tool for extortion.

Holmes famously defined law as "The prophecies of what the courts will do."[113] Today in America, in areas such as tort law, no one has any idea of what a court will do. What that means, I submit, is that in these areas Americans have lost the protection of law. That's why Americans are fearful.

Shifting the responsibility to judges to draw the boundaries of claims is a major doctrinal change, comparable in scope to the shifts that occurred in the 1960s. But a bold change is required to restore public trust, and to revive the authority needed to nurture America's common institutions back to health. Sooner or later, as Derek Bok observed, "our legal system [must] empower someone to keep watch and make sure that the process as a whole is meeting the needs of those whom it purportedly serves."[114]

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[113] HOLMES, *Supra* note 4*; See, eg.,* CARDOZO, *Supra* nt. 4 at 112. "One of the most fundamental social interests is that law shall be uniform and impartial."
[114] Bok, *supra* note___ at 23.

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How Did We Get Here? What Litigation Was, What It is Now, What It Might Be

By Stephen B. Presser[1]

Introduction: Law and Litigation on a Pernicious Precipice

In America, litigation is now a multi-billion dollar business.[2] This country has more lawyers as a percentage of the population than any other – a fact which is now notorious[3] – but less well understood is that our current civil justice system is not at all the way it used to be. We hardly blink at multi-billion dollar verdicts in class actions against corporations, and it is now common place for state attorneys general to seek million or billion dollar settlements against whole industries, an undertaking that New York Attorney General Spitzer, for example, has perfected to a high art. The suggestion that I will make here is that this is a departure from our heritage, and a marked change in the perception of what civil justice was supposed to be all about. Our English common

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[1] Raoul Berger Professor of Legal History, Northwestern University School of Law, Professor of Business Law, Kellogg School of Management, Legal Affairs Editor, Chronicles: A Magazine of American Culture, Member, Common Good Advisory Board.

[2] See, e.g. http://www.insurancejournal.com/news/national/2004/09/13/45775.htm: "Today, the average family of four pays a $3,236 annual "tort tax," a cost added to the price of products and services needed to cover the costs of litigation. No other industrialized country reportedly pays more as a percentage of its Gross Domestic Product." (American Tort Reform Association's estimate, quoted on September 13, 2004). With the United States Population estimated at about 300, 000,000, this would work out to be 242.7 Billion dollars.

[3] See, e.g., http://www.answers.com/topic/lawyer:

> The United States Department of Labor's Bureau of Labor Statistics estimates that in 2001, there were 490,000 practicing lawyers in the U.S.
> It is frequently said that there are more lawyers per capita in the US than in any other country in the world.. . . .

law heritage was that lawsuits were supposed to be about settling intractable disputes between private parties about private rights, but the lawsuit, and particularly the class action, has now become more of an effort for wholesale vindication of purported constitutional or statutory policies.[4]

Our boast used to be that ours was a government of laws not men,[5] but the prejudices of particular litigants, the cooperation of complacent judges, and the misunderstandings of regulators and legislators have undermined what we used to have. Instead of a government of laws designed to protect the property and civil rights of individual citizens we may now have institutionalized lawsuit oppression and redistribution through the civil justice system. Instead of a civil justice system concerned with the preservation of individual liberty, and, in particular the liberty of entrepreneurs who furthered the economic well-being of society, we now have a civil justice system in which entrepreneurial actors can never be certain that they can avoid ending up as defendants in unpredictable lawsuits.[6]

How we got to the pernicious precipice on which we now stand is not an easy thing to discern, as it happened slowly and almost imperceptively as a part of a broader cultural change. Having no monarchy, no aristocracy, and no established church, we

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[4] For the classic piece discovering a change in the conception of litigation in the twentieth century, see Abram Chayes, The Role of the Judge in Public Law Litigation, 89 Harv. L. Rev. 1281, 1282,1284 (1976) (Contrasting the traditional view of lawsuits as settling private rights with the recent conception of lawsuits as policy-vindicating devices.) See also William Wiecek, The Lost World of Classical Legal Thought: Law and Ideology in America 1886-1937 8 (1998) ("In nineteenth-century law . . . the individual was the exclusive focus of concern in legal, moral, and political reasoning. Lawyers of the time did not think of society as a congeries of groups, which is the assumption of interest-group pluralism that dominates twentieth-century political analysis.")

[5] See, e.g. John Marshall's famous opinion in Marbury v. Madison, 5 U.S. 137, 163 (1803) ("The government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation, if the laws furnish no remedy for the violation of a vested legal right.")

[6] On this lawsuit unpredictability, see, e.g. Philip Howard, The Death of Common Sense: How Law is Suffocating America (1996), and, on related developments in criminal law see, e.g. Gene Healy, ed., Go Directly to Jail: The Criminalization of Almost Everything (2004).

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Americans have had only our law to bind us together, and, from the beginning, as Toqueville famously observed, the law was a vulgar tongue in this country.[7] Legislation and enlightened judges were early relied on to transform our English common law heritage into a body of doctrines and rules suitable for a young republic,[8] and the constitutional system of checks and balances, federalism, and judicial review in particular were supposed to ensure that the work of legislatures and trial courts did not undermine the protection of life, liberty, and property for which our revolution was fought and our Constitution ratified.[9] It does not go too far to say that the American Revolution ought to be conceived of as Englishmen fighting Englishmen for the rights of Englishmen, for the preservation of the rule of law and the English Common Law's protection of individuals against arbitrary power. The post-revolutionary institutions, and, in particular the federal Constitution ratified in 1789 had as its aim the preservation of the rule of law in general, and of individual liberty and private ownership of property in particular.[10]

Somehow, however, in the second half of the Twentieth Century, these checks and balances, that system of federalism, and the institution of judicial review came loose from their original moorings. The federal government, which had been set up as a means of protecting the rights of Americans, began instead seriously to encroach on them. It had been the early theory of the framers that the state and local governments ought to be the primary regulators, since the notion was that the government closest to the people would

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[7] I Alexis de Toqueville, Democracy in America (1840, Reeve, tr.) , Chapter 31 ("The language of the law thus becomes, in some measure, a vulgar tongue; the spirit of the law, which is produced in the schools and courts of justice, gradually penetrates beyond their walls into the bosom of society, where it descends to the lowest classes, so that the whole people contracts the habits and the tastes of the magistrate.")

[8] See, e.g. William Nelson, The Americanization of the Common Law: The Impact of Legal Change on Massachusetts Society 1760-1830 (1975).

[9] Probably the best introduction to understanding this conception of the federal constitution is Gordon Wood, The Creation of the American Republic 1776-1787 (reprint ed. 1998).

[10] See generally, Wood, supra, and for a recent brief treatment of this theme see, e.g. John Philllip Reid, Rule of Law: The Jurisprudence of Liberty in the Seventeenth and Eighteenth Centuries (2004).

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be most responsive to it.[11] From the fourth decade of the twentieth century, however, the administrative agencies spawned in the New Deal, and the federal courts combined to set national policy in a manner that began more seriously to restrict what state and local governments could do, and which rendered private property and individual liberty more precarious.

Expansively interpreting the Fourteenth Amendment and the bill of Rights, the federal courts decided that state legislatures had failed substantially to deliver justice to all, and the federal legislature, federal agencies,[12] and the federal courts subsequently emerged as major policy-makers for the nation.[13] Simultaneously, a significant part of the legal profession, which had formerly seen its role primarily as the preservers of property and the guardians of the civil rights of the citizenry now tended to become advocates against those running publicly-held corporations. Taking advantage of the contingency fee system unavailable in other industrialized nations, plaintiffs' lawyers

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[11] See, e.g. the Tenth Amendment, which provides that "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," giving rise to the notion that the federal government is one of limited and enumerated powers, reserving the others to the state and local governments, those closest to the people. The idea that the government closest to the people was best appears to have been early associated with Jeffersonian Republicans, but most recently it has been embraced by the modern Republican party. See e.g. the remarks of Senator Fred Thompson, made on May 3, 1995:

> I would remind many of my Republican brethren that we ran for office and were elected last year on the basis of our strong belief that the government that is closest to the people is the best government; that Washington does not always know best; that more responsibility should be given to the States because that is where most of the creative ideas and innovations are happening. Whether it be unfunded mandates, welfare reform, or regulations that are strangling productivity, we took the stand that the States and local government should have a greater say about how people's lives are going to be run, and the Federal government less.

141 CONG. REC. S6047 (1995). Quoted in Robert M. Ackerman, "Tort Law and Federalism: Whatever Happened to Devolution?," 14 Yale L. & Pol'y Rev. 429, n.4 (1996).

[12] On the manner in which federal agencies and their regulations can stifle American business, see, e.g. Philip Howard, The Death of Common Sense: How Law is Suffocating America (1994).

[13] There are dozens of works telling the tale of what the federal courts have done since the New Deal to change the nature of the allocation of legal powers among the local, state, and federal governments. My own attempt is Stephen B. Presser, Recapturing the Constitution: Race, Religion, and Abortion Reconsidered (1994). See also Stephen B. Presser & Jamil S. Zainaldin, Law and Jurisprudence in American History (5th ed. 2003).

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proceeded to transform the nature of litigation.[14] In order to understand the magnitude of the change it is important to understand what litigation once was, and what it might perhaps once again become.

What Litigation Once Was

Litigation as we now know it did not exist in our colonial past nor in our mother country. It is true that seeking redress through the courts is as old as the beginnings of British North America. The Massachusetts body of liberties agreed to by the colonists of Massachusetts Bay in 1641 provided that there was a "right of every citizen with a grievance to have some court adjudicate it," but the focus was very much on the individual rights of citizens,[15] and not on any group of similarly situated litigants. The common law, our English heritage of following precedents previously laid down, evolved a system of "common law" pleading whereby causes of action were clearly defined, and each one had a designated "writ" that would begin proceedings, and each one had particular pleadings that were to be filed as the proceedings were contested and litigated. It was a maxim that for every wrong there was a remedy at law, but the truth was that

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[14] Walter Olson, The Litigation Explosion 38 (1991) (indicating that contingency fees first arose as a means of ensuring that worthy and impecunious plaintiffs might still be able to gain redress, but that eventually contingency fees encouraged litigation that might well be meritless, but was driven by the possibility that lawyers might make more money.)

[15] To similar effect see III William Blackstone, commentaries on the Laws of England 2 (1768) ("The more effectually to accomplish the redress of private injuries, courts of justice are instituted in every civilized society, in order to protect the weak from the insults of the stronger, by expounding and enforcing those laws, by which rights are defined, and wrongs prohibited."), and Id, at 23 "it is a general and indisputable rule, that where there is a legal right, there is also a legal remedy, but suit or action at law, whenever that right is invaded." See also the Massachusetts Constitution of 1780, Declaration of Rights, Article XI, "Every subject of the Commonwealth ought to find a certain remedy by having recourse to the laws, for all injuries or wrongs which he may receive in his person, property or character. He ought to obtain right and justice freely, and without being obliged to purchase it; compleatly, and without any denial; promptly, and without delay; conformably to the laws."

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there were a myriad of matters that simply were outside the court system. Acts of God, inevitable accidents, sickness, death, and many other matters simply did not give rise to private causes of action. If one's case did not fit in the narrow definitions of trespass, trespass on the case, trover, replevin, assumpsit or the rest, one was simply out of luck.

Rather than seeking to eliminate this specialized system of redress for some, but clearly not all grievances, Americans as diverse as Alexander Hamilton, Thomas Jefferson, Joseph Story, and Abraham Lincoln all praised the wisdom of the common law and wished to preserve it for America, although abandoning the elements of the common law that sustained the English Aristocracy and Monarchy. Those parts of the common law that dealt with what we would now call contracts, property, torts, and civil rights, however, were preserved entire and intact. Thus, in a famous passage in Thomas Jefferson's Notes on Virginia, he reports that when, in 1776, he was assigned the task of suggesting revisions to the law of the new state of Virginia, he wanted to abolish slavery, to diminish the number of crimes that were punished capitally, and to set up an hierarchical public school system, but he wanted to preserve wholesale these parts of the common law of contracts, property, torts, and civil rights[16] (although he objected to the English practice of wearing of wigs in court).

It probably does not go too far to say that the old common law system of pleading, through specialized writs and arcane practices, because it required the assistance of lawyers, was designed to preserve and protect that class, and the obfuscatory character of common law pleading led some Americans even to suggest that

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[16] Jefferson describes these as "The Common law of England, by which is meant, that part of the English law which was anterior to the date of the oldest statutes extant," which Jefferson stated was "the basis" of the 1776 revisal of the laws of Virginia. Thomas Jefferson, Notes on the State of Virginia (1781), excerpted in Stephen B. Presser and Jamil S. Zainaldin, Law and Jurisprudence in American History 123 (5th ed. 2003).

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lawyers ought not to be a necessary class in our republic.[17] Nevertheless, common law pleading, in some form, persisted until the first third of the twentieth century. One suspects that not only did common law pleading protect and advance the interest of lawyers, but this specialized system, by raising the costs of litigation, and by narrowing the bases for it, actually discouraged going to court. It was originally a mainstay of the Anglo-American legal culture that one should try one's best to resolve disputes out of court, that litigation was something of an evil, [18] and that it ought to be resorted to only if all other means failed. A litigious society was a fractured society, and many Americans valued community enough to erect roadblocks to discourage recourse to the courts. Common law pleading was a part of that, as were the old common law doctrines of champerty and maintenance that punished lawyers who actively stirred up litigation.[19] Indeed, Sir William Blackstone, the greatest Eighteenth Century commentator on the English Common Law, railed against those who promoted litigation, seeking to bargain for what we would now label contingency fees, calling them "the pests of civil society, that are perpetually endeavoring to disturb the repose of their neighbors, and officiously interfering in other men's quarrels."[20]

One of America's greatest lawyer-presidents made a similar point when he wrote, in an apparently undelivered law lecture, that good lawyers should

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[17] The most famous such assertion is Honestus [pseud. of Benjamin Austin], Observations on the Pernicious Practice of the Law (Boston, 1819), reprinted in 13 Am. J. Legal Hist. 241 (1969) (Arguing that lawyers are simply not a "necessary order" in a republic.)

[18] See, e.g. Olson, supra note __, at 2, where he observes that litigation in America was originally seen as an evil.

[19] Olson, supra note ___ , at 17 observes that "ambulance chasing," was punished by a 1-3 year jail term as late as 1954.

[20] IV William Blackstone, Commentaries on the Laws of England 135-136 (1769), discussing champerty, "being a bargain with a plaintiff or defendant . . . to divide the land or other matter sued for between them, if they prevail at law," as a species of "maintenance," "an offence [that consists of] officious intermeddling in a suit that no way belongs to one, by maintaining or assisting either party with money or otherwise to prosecute or defend it."

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> [d]iscourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser -- in fees, expenses, and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough.
>
> Never stir up litigation. A worse man can scarcely be found than one who does this. Who can be more nearly a fiend than he who habitually overhauls the register of deeds in search of defects in titles, whereon to stir up strife, and put money in his pocket? A moral tone ought to be infused into the profession which should drive such men out of it.[21]

Code Pleading and Other Changes in Litigation

Somehow all of that began to change in the twentieth century, if not before. As early as the middle of the nineteenth century David Dudley Field (the lawyer who founded the first modern great law firm, Sherman and Sterling) successfully convinced New York legislators to replace the system of common law pleading with "code pleading."[22] This was a simplified procedure, dictated by statute rather than the common law, whereby litigants were no longer bound by the forms of action, but could much more simply state their cases and reply to their adversary's charges. The Field Code of Civil Procedure was adopted in whole or in part in twenty-four other states (and also in England and Ireland),[23] but common law pleading lingered well into the twentieth

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[21] From a document fragment dated July 1, 1850 by Lincoln's White House secretaries and later biographers, John Nicolay and John Hay, available on the web at http://www.hatwhite.com/lincoln.html.
[22] On Field see, e.g. Henry M. Field, The Life of David Dudley Field (Originally published 1898, reprint ed. 1995), Alison Reppy, ed. David Dudley Field: Centenary Essays Celebrating One Hundred Years of Legal Reform (1949), Daun Van Ee, David Dudley Field and the Reconstruction of the Law (1986).
[23] David Ray Papke, "Codification," in Kermit L. Hall, et.al. eds., The Oxford Companion to American Law 121 (2002).

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century, and, oddly enough, was still being taught to first-year law students in one civil procedure classes at Harvard in the fall of 1968.[24]

By 1937, however, the pressure to do away with common law pleading was irresistible, and in that year rules were promulgated for the federal courts that obliterated the writ system.[25] These new federal rules, or something like them, were soon adopted by many state courts as well, and the foundation for what Walter Olson has called "the litigation explosion"[26] was beginning to be erected. The notion that lawyers shouldn't encourage litigation was dealt a fatal blow by two key decisions, Bates v. State Bar of Arizona (1977),[27] in which the United States Supreme Court, in an opinion by justice Blackmun, who apparently wanted to encourage lawsuits and deplored the "underutilization" of lawyers' services,[28] held that the First Amendment protected lawyers "commercial speech" rights to advertise the availability and price of routine legal services, and Zauderer v. Office of Disciplinary Counsel (1985)[29], in which the Court permitted lawyers to solicit specific legal business against particular manufacturing defendants.[30]

Decisions such as Bates and Zauderer, and the increased availability of class actions, created a situation in which it was open season on assorted purported corporate wrongdoers. Litigation, in effect, became a pro-active means of redistribution, if not

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[24] I know, it was mine, and taught by the great evidence scholar James Chadbourne. His method was to compare the common law forms of action to code pleading and to the federal rules of civil procedure. Contrary to what is implicitly argued in this essay, Chadbourne thought code pleading was a huge advance for the law.
[25] See generally, Stephen N. Subrin, "How Equity Conquered Common Law: The Federal Rules of Civil Procedure in Historical Perspective," 135 U. PA. L. REV. 909 (1987).
[26] Walter Olson, The Litigation Explosion: What Happened When America Unleashed the Lawsuit (1991).
[27] 433 U.S. 350.
[28] Olson, supra note ___, at 29.
[29] 471 U.S. 626.
[30] See generally Olson, supra note ___, at 21, 23-24.

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class warfare. With the rise of "public interest" lawfirms, or private or publicly-funded "legal aid" clinics, groups of lawyers were subsidized not by their potential clients, but by taxpayer or charitable contributions, and, as a result, even more litigation against particularly unfavored corporate or institutional defendants became possible.[31] Lawyers, rather than clients often came to control and encourage litigation. Blackstone and the old common lawyers would have been horrified.

Cultural Change led to Litigation Change

The changes in the nature of litigation undoubtedly were part of much broader cultural changes in this country, cultural changes which accelerated during the sixties and seventies. The story is a familiar one to those of us who lived through it, but since Americans tend to have little appreciation for their history, even their recent history, it may not be amiss to review some of those developments. Probably as a result of the deeply unpopular Vietnam conflict and the nearly contemporaneous Watergate affair (which still captures the imagination of many, as the recent revelation of "Deep Throat" shows) most Americans, and certainly most of what we now call the "mainstream media," appear to have come to believe that government could not be trusted, and that this was also true generally of large purportedly impersonal corporations. Perhaps as a result of the culture becoming increasingly dominated by the "baby boom" generation,

[31] Cf. Chayes, supra note ___, at 1291, observing that the class action "responds to the proliferation of more or less well-organized groups in our society and the tendency to perceive interests as group interest, at least in very important aspects." See, to similar effect, Olson, supra note ___, at 52-53, concluding that lawsuits were originally understood to be a dispute between two private citizens over private rights, but came to be understood as a tool to liberate people whose rights had been taken away, and to prevent such rights from being taken away in the future.

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and because that generation was characterized by much less religious and civic commitment than prior generations, and by a rather hedonistic individualism, it is not surprising that the law and legal institutions changed as well. As Americans searched for "self-actualization," as the conservative aspects of the legal profession which discouraged litigation began to erode, and as "public interest" law firms arose to become, as it were, professional plaintiffs, the law itself was eventually dramatically altered.

In particular, it became more and more difficult to argue that those who suffered any kind of harm, especially from use of commercially-manufactured products, were not entitled to compensation from the corporations who manufactured those items. Thus it was that "strict products liability" replaced negligence as the basis for manufacturer's liability to consumers, tenants became more easily able to look to landlords for any injury suffered by renters, and consumers found it easier to escape from contracts by arguing that businesses had taken "unconscionable" advantage of them.[32]

In the nineteenth century, in a period dominated by a culture of self-sacrifice and religious obligation, it may have been believed that limiting the liability of active individuals and organizations eventually redounded to the benefit of all, and by limiting such liability there would be more investment in productive enterprise, which would eventually result in greater overall wealth for the citizenry.[33] These were the days of "laissez-faire" when law and lawyers apparently believed that it was best to leave entrepreneurs substantially alone, and to let the market rather than the state or federal

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[32] For these developments See generally, Presser and Zainaldin, supra note ___, Chapter VII.

[33] For some classic accounts of the story of how Nineteenth Century American law favored the active individual and limited his or her liability, see, e.g. Roscoe Pound, The Formative Era of American Law (1938), James Willard Hurst, Law and the Conditions of Freedom in the Nineteenth-Century United States (1956) , Morton J. Horwitz, The Transformation of American Law, 1780-1860 (1977).

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governments regulate enterprise.[34] New private law doctrines, however, seemed to have been spawned by a legal culture that favored regulation over acquiescence, and redistribution over private enterprise.

These private law developments, principally in the state courts, were the analogues of the public law developments, primarily in the federal courts, which also signaled major cultural change. Thus the Warren Court struck down school prayer and bible riding in the public schools in the states, mandated an end to racial segregation, declared that population was the only permissible basis for elections to either branches of the state legislature (even though the United States Senate itself furnished a glaring argument to the contrary), and dictated the reformation of state criminal procedure in order to prevent police abuse of criminal defendants, many of whom were believed to be members of disadvantaged minorities. Much of this was accomplished through the work of organizations formed at least in part to promote litigation, such as the American Civil Liberties Union (ACLU), and the National Association for the Advancement of Colored People (NAACP). Litigation, formerly a tool of last resort for individuals, now became a first choice method of social transformation for groups. None of this is necessarily to suggest that many or most of these individual decisions did not advance the cause of justice in their particular cases, but, taken together they contributed to a culture in which many more actors were subject to lawsuits, and in which bureaucracy could (even unintentionally) stifle enterprise.[35]

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[34] For some important studies of this period see Morton J. Horwitz, The Transformation of American Law, 1870-1960: The Crisis of Legal Orthodoxy (1994); Arnold M. Paul, Conservative Crisis and the Rule of Law: Attitudes of Bar and Bench 1887-1895 (Peter Smith ed., 1965); William M. Wiecek, The Lost World of Classical Legal Though: Law and Ideology in America 1886-1937 (1998).

[35] For the manner in which adherence to regulations promulgated by state and federal bureaucrats paralyze entrepreneurs, see generally Philip Howard, The Death of Common Sense: How Law is Suffocating America (1995), and for further evidence that the current lawsuit culture has lost its way, see Philip

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Where We Are Now

The last few years have seen the culmination of many of these efforts in even more daring judicial decisions, such as those that have found prohibitions in the Constitution against restricting abortions[36] and against punishing consensual homosexual acts,[37] or those that have read the Fourteenth Amendment to require mandatory busing of students to achieve racial balance in the schools,[38] or to permit affirmative action on the basis of race, at least in college and graduate school admissions.[39] All of these were United States Supreme Court decisions, but dramatic decisions in the state courts, such as that of the Supreme Judicial Court of Massachusetts which found in the Massachusetts state constitution a right to gay marriage,[40] were similar in spirit. In the Massachusetts gay marriage case, in fact, the Court relied heavily on the so-called "mystery passage" from one of the United States Supreme Court's abortion decisions, which stated that "At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not

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Howard: The Collapse of the Common Good: How America's Lawsuit Culture Undermines our Freedom (2001).

[36] See, e.g. Roe v. Wade, 410 U.S. 113 (1973) (Finding a Fourteenth Amendment right for women to terminate pregnancies, particularly in the first trimester of pregnancy), Planned Parenthood v. Casey, 505 US 833 (1992) (Redifining the constitution's protection for abortions in a manner that prohibited regulations which impose an "undue burden" on a woman's right to terminate pregnancy), Stenberg v. Carhart, 530 US 914 (2000) (In effect removing all abortion regulation, even as to "partial birth" abortions, which did not allow abortions to preserve the "health" of the mother.)

[37] Lawrence and Garner v. Texas. 539 US 558 (2003).

[38] Swann v. Charlotte-Mecklenburg Bd. of Ed. 402 US 1 (1971).

[39] Grutter v. Bollinger, 123 S. Ct. 2325 (2003) and Gratz v. Bollinger, 123 S. Ct. 2411 (2003), read together indicated that while racial quotas were impermissible, considering race as one of many factors used to achieve "diversity" in the classroom was permissible. This was widely perceived as a green light for affirmative action based on race in college and law school admissions. For a critique of the decisions see, e.g. Stephen B. Presser, "A conservative comment on Professor Crump," 56 Fla. L. Rev. 789-817 (2004) (Arguing the arbitrariness and disingenuousness of these decisions).

[40] Goodridge v. Dept. of Public Health, 798 NE2d 941 (Mass. 2003).

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define the attributes of personhood were they formed under the compulsion of the state."[41] A more naïve or more extreme statement of hedonistic individualism would be difficult to articulate, and it summed up in few words the legal ethos of the age.

Again, however, it should be noted that the wisdom of the policies favoring abortion, the legalization of consensual homosexual acts, or gay marriage are not the issue addressed here. Instead it is the attitude of the Supreme Court that it should be the ultimate authority on these matters, guided by the philosophy encapsulated in the "mystery passage," and by a sense that it should authoritatively expand and alter the meaning of the Constitution in order to keep it in tune with the times. The mystery passage's philosophy leads to a view of society in which there is little common purpose, and an invitation to litigate against all traditional practices, instead of leaving matters to be worked out on a state-by-state basis through the emergence of a consensus among the people.

The reforms of Rule 23 which led to the class action as we know it were undoubtedly instituted because of a belief that an approach to litigation that enabled groups that had formerly been the subject of discrimination to join in seeking remedies would result in a more just society. Unfortunately, because of all the other cultural factors suggested here, the net effect of current class action practice may be to produce more harm than good.

Once the restrictive characteristics of the forms of action had been abandoned, and once an individualistic philosophy of the kind expressed in the mystery passage had taken hold, it might have been expected that a plethora of new causes of action would be created, and it was only a matter of time before the lawsuit as political tool could come

[41] Planned Parenthood v. Casey, 505 U.S. 833, 851 (1992).

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into being. All that was needed was the abandonment of traditional institutional and cultural restraints on litigating.

This came when the individualistic philosophy of the mystery passage, for most purposes, obliterated an older Athenian or Judeo-Christian ethos, still dominant in the Nineteenth Century, which understood reversals of fortune or accidental bereavement as occasions for spiritual growth, rather than opportunities for seeking redress in the courts. As the federal courts continued to render decisions which all but obliterated the legitimacy of religious expressions in the public square,[42] the restraining character of religion eroded, and the "litigation explosion" occurred.

And thus we have the current situation where plaintiffs' lawyers, in effect, manufacture classes suffering injury, often in an effort to seek settlements for their "nuisance value," rather than actually to recover compensation for purported victims. Similarly, as indicated earlier, we have state attorneys general pursuing actions against whole industries, as has been done, for example, against the tobacco industry, seeking to enhance state revenues through spectacular recoveries, or, as New York Attorney General Eliot Spitzer has done against the Insurance and Mutual Fund industries, to reinforce his political standing and solidify a possible bit for higher office (or so his critics suggest).[43]

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[42] See, e.g., Lee v. Weisman. 505 US 577 (1992) (Holding, by a 5-4 majority, that middle-school graduations could not include a prayer delivered by a clergyman selected by the school), Santa Fe Independent School Dist. v. Doe. 530 US 290 (2000) (Prohibiting, in a 6-3 ruling, school-endorsed student-led prayer at high school football games. Chief Justice William H. Rehnquist, in his dissenting opinion, joined by Justices Antonin Scalia and Clarence Thomas, observed that "even more disturbing than its holding is the tone of the Court's opinion; it bristles with hostility to all things religious in public life. Neither the holding nor the tone of the opinion is faithful to the meaning of the Establishment Clause, when it is recalled that George Washington himself, at the request of the very Congress which passed the Bill of Rights, proclaimed a day of "public thanksgiving and prayer, to be observed by acknowledging with grateful hearts the many and signal favors of Almighty God." 530 U.S., at 318.

[43] Attorney General Spitzer recently lost a high-profile case brought against a former Bank of America Corporation broker whom Spitzer accused of improperly trading mutual funds. The Wall Street Journal observed:

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In short, litigation conceived as a remedy for the redress of individual grievances has become a political device to be used by ambitious office-holders as well as an instrument of intimidation by ambitious private lawyers.

Some Ameliorative Efforts

There have been some successes in reigning in the bringing of lawsuits and the activities of professional plaintiffs in the securities fraud area, in medical malpractice awards, and in other areas of civil justice reform, but there are still difficulties unique to the American legal system at the moment, and utterly unknown to the common law.

The most prominent of these has already been mentioned; the ability of plaintiffs' lawyers to take on cases on a contingent fee basis, and to advertise for clients, thus generating litigation on their own. Another is that we have not yet adopted the English "loser pays" rule, requiring that successful litigants have their counsel fees reimbursed by the unsuccessful party. Still another difficulty is our extraordinary system of pre-trial discovery, in which depositions, interrogatories, requests for document production, and other means of obtaining evidence from adversaries can easily run the costs of litigation

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> The acquittal is a high-profile setback for Mr. Spitzer, who has made a name for himself while largely avoiding the courtroom. He has extracted multi-million dollar settlements from corporate defendants, forced executives to resign and launched sweeping changes of practices on Wall Street and in the mutual fund and insurance industries. Buoyed by his victories and the cheers of supporters, Mr. Spitzer has announced plans to run for governor in 2006.
>
> But critics have complained that he uses tough and headline-grabing tactics to damage businesses, charges he vigorously disputes. . . .

Kara Scannell and Arden Dale, Sihpol Verdict Deals a Blow to Spitzer: In Crucial Courtroom Test, Jury Spurns Prosecutors on Claims of Criminal Acts, The Wall Street Journal, Friday June 10, 2005, page A1. For another fine description of Spitzer and his tactics, see, e.g. Daniel Gross, Eliot Spitzer: How New York's attorney general became the most powerful man on Wall Street, Slate, October 21, 2004, http://slate.msn.com/id/2108509/.

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for large publicly-held corporations into the millions, and can serve as powerful incentives to settle even meritless cases.

The United States Supreme Court, and some state legislatures have begun to take steps to reduce the colossal punitive damage verdicts we have seen in recent years,[44] but these efforts, especially by the state legislatures have sometimes been frustrated by state courts.[45] For the time being it is likely that the possibility of colossal punitive damages will continue to threaten corporate defendants, and, when the threat of punitive damages is combined with adverse inferences to be drawn from a failure to produce items for discovery, as recently occurred in the Morgan Stanley case,[46] it can be understood what a distance we have traveled from the time when litigation was about compensation, and compensation to individuals, not punishment of purported corporate miscreants.

Conclusion: What Ought to be Done

The organization that has sponsored this conference, Common Good, is devoted to reminding us of what our American ancestors understood, that social problems can be exacerbated rather than ameliorated by excessive litigation. As Philip Howard has recently demonstrated, for example, the encouragement of litigation by school children and their parents has resulted in a situation where order simply cannot be maintained in

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[44] See, e.g. BMW of North America v. Gore, 517 U.S. 559 (1996) (Holding that excessive punitive damages can amount to a violation of due process).

[45] See, e.g., State ex rel. Ohio Academy of Trial Lawyers v. Sheward, 86 Ohio St.3d 451 (1999), and Best v. Taylor Machine Works, 179 Ill. 2d 267, 689 NE2d 1057 (1997), in which the Supreme Courts of Ohio and Illinois, respectively, overturned legislative civil justice reform efforts on the basis of questionable interpretations of their states' constitutions.

[46] The Supreme Court does seem to have begun to understand that adverse inferences because of failures to produce may have gone too far, or at least this is one interpretation of the recent decision the Arthur Andersen case, where a unanimous court threw out a criminal prosecution based on jury instructions which condemned a possibly lawful document destruction policy.

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the classroom – where it is necessary to bring in the police to handcuff and cart away young miscreants lest some teacher be sued for an attempt physically to restrain an unruly child.[47] The lack of order in classrooms, of course, impedes their educational mission, and while encouraging litigation against educators was suppose to improve education, it has had the opposite effect.

Similarly, to the extent that class action litigation against corporations, along with its attendant evils of contingency fees, excessive discovery expenses, the threat of punitive damages, the capricious behavior of juries, and the bringing of class-action lawsuits with the aim of settlement for their nuisance value,[48] continues, the competitive position of American corporations in the global economy will be undermined, and those who depend on such corporations for their livelihood, employees, creditors, consumers and stockholders will suffer. There will continue to be a few spectacular winners in the "lawsuit lottery," but most Americans may be worse, rather than better off.

Congress may have begun to travel the appropriate road to recovery with the recent reform regarding class actions,[49] but this has yet to be tested in the courts, and

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[47] Phillip K. Howard, "Class War," The Wall Street Journal, Page A12, May 24, 2005.

[48] As one of the leading civil procedure scholars, my colleague Martin Redish has observed "Though on its face the class action appears to be nothing more than an elaborate procedural joinder device, in recent years it has become the focal point of much political and legal debate. Courts have noted 'the intense presser to settle' caused by the very filing of a class action, while others believe the procedure amounts to 'judicial blackmail.'" Martin H. Redish, "Class Actions and the Democratic Difficulty: Rethinking the Intersection of Private Litigation and Public Goals," 2003 The University of Chicago Legal Forum 71. (footnotes omitted). Redish does go on to observe, however, that "Those who take a more positive view of the class action consider it to be an effective means of policing corporate behavior and an assurance that injured victims will be compensated in the most efficient manner." Id. (footnote omitted). Redish's own view is that current class action practice is inconsistent with popular sovereignty, or "the essential democratic precepts of accountability and representation." Id., at 137.

[49] The Class Action Fairness Act of 2005, which passed the House in a 279-149 vote and the Senate by a vote of 72-26, would move lawsuits seeking over $5 million, and thus "shift most large class-action lawsuits involving parties from different states to federal courts." The goal of the measure is to lessen the perceived arbitrary behavior of state court judges and juries. See generally William Branigin, "Congress Changes Class Action Rules," Washington Post, February 17, 2005. The new law does not, however, prevent the bringing of any class actions in federal courts, nor did it have any retroactive effect. In addition to shifting some class action lawsuits to federal courts the new law also should have the effect of

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other Congressional measures, such as Sarbanes-Oxley, suggest that our legislators may still be imposing measures whose costs far exceed their benefits.[50] One recent estimate "puts investors' loss in stock value on passage of that act at around $1.4 trillion, an expensive bit of retribution for a few multi-million dollar defalcations."[51] There is no denying that transparency in American entrepreneurial activity is a worthy goal, and the disclosure mandated by our securities laws and the efforts of the SEC and the courts to ferret out and punish securities fraud are certainly laudable. Nevertheless, it is time for intelligent leaders in and out of the Congress boldly to seek to change not only the pernicious practices and rules that have encouraged lawsuit abuse, but perhaps the very culture that has spawned them.[52]

As indicated above, there was a time when lawsuits were discouraged, and when the legal rules clearly favored the American active entrepreneur. There has always been some uncertainty to American law, dictated by its need simultaneously to implement

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reducing the recovery of counsel's contingency fees in class action litigation that results in coupons being distributed to members of the class. The contingency fees are to be figured on the basis of the value of the coupons redeemed rather than on the aggregate value of the coupons issued. "The Class Action Fairness Act was drafted and ultimately passed into law in response to a growing belief that class action lawsuits were nothing but vehicles for attorney abuse and large fees." Ruth Bahe-Jachna, Frank Citera and Collin Williams, "GT Alert:New Federal Legislation: The Class Action Fairness Act of 2005 (March 2005), available on the web at http://www.gtlaw.com/pub/alerts/2005/0302.asp.

[50] For this line of criticism against Sarbanes/Oxley see, e.g. Thomas J. Donohue, "Opening Keynote Address," Securities Industry Association, March 3, 2005, http://www.uschamber.com/press/speeches/2005/050303tjd_securities.htm ("When CEOs spend more time on regulatory compliance than they do strategizing, expanding, developing new product lines, and hiring new workers, the pendulum has swung too far . . .When qualified and responsible board directors are resigning their posts for fear of being held liable for a bad outcome, the pendulum has swung too far. . . When board members become overly concerned with protecting themselves and have less time and incentive to aggressively pursue the interests of the company and its shareholders, the pendulum has swung too far."), and Henry Manne, "Life After Donaldson," Wall Street Journal, June 6, 2005, Page A10 (Decrying the former Chairman of the SEC's championing of strick enforcement of Sarbanes/Oxley "in spite of mounting evidence that it is costly beyond any conceivable benefits.")

[51] Manne, supra note ___, referring to "The most widely discussed of these new estimates, a careful and scholarly work by Ivy Xiying Zhang of the University of Rochester."

[52] See, to similar effect, Redish, supra note ___, who argues that "it is important to keep in mind a central fact often ignored in modern procedural scholarship: the class action was never designed to serve as a free-standing legal device for the purpose of 'doing justice,' nor is it a mechanism intended to serve as a roving policeman of corporate misdeeds or as a mechanism by which to redistribute wealth." 2003 The University of Chicago Legal Forum, at 74.

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popular sovereignty, economic development, restraints on arbitrary power, and the securing of a maximum amount of freedom from government regulation.[53] Before the middle of the twentieth century our legal and cultural regime discouraged litigation, and entrepreneurs had the freedom successfully to develop our economy to the point where it became the envy of the world.

That economy still flourishes, but it now does so in a climate in which no entrepreneur, and perhaps no American can be confident that he or she will not find themselves the subject of a lawsuit brought by a disgruntled competitor, an ambitious politician, or misguided government regulators. Surely at some point this climate will discourage the kinds of activities that Americans must engage in if we are to remain competitive in an increasingly-global economy. It is time for a change. We Americans tend to believe that one can't turn back the clock, but, as C.S. Lewis reminded us, when the clock fails to give you the correct time, that is precisely the move one should make.[54] If we really do want to alter a culture in which entrepreneurial actors and ordinary Americans, instead of being protected by law may too often end up its victims, there are lessons we could surely learn from our past.

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[53] On these four aims as dominating American law, see generally, Stephen B. Presser, "Legal History" or The History of Law: A Primer on Bringing the Law's Past into the Present, 35 Vanderbilt Law Review 849 (1982).

[54] see C.S. LEWIS, We have Cause to Be Uneasy, in MERE CHRISTIANITY (1952), excerpted in THE ESSENTIAL C.S. LEWIS 309 (Lyle W. Dorset er., 1988) ("First, as to putting the clock back. Would you think I was joking if I said that you can put a clock back, and that if the clock is wrong it is often a very sensible thing to do? But I would rather get away from that whole idea of clocks. We all want progress. But progress means getting nearer to the place where you want to be. And if your have taken a wrong turning, then to go forward does not get you any nearer. If you are on the wrong road, progress means doing an about-turn and walking back to the right road . . . .").

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The Modern Transformation of Civil Law

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This paper addresses the transformation of civil law that began in this country roughly around the mid-1960s changing a legal system that intervened in the lives of citizens only on occasions of serious moral dereliction into the most extensive and powerful regulatory mechanism of modern society. Prior to the 1960s, civil law served a modest role in U.S. affairs. It enforced property rights and policed boundary disputes through property law, enforced promises as well as disclaimers of liability through contract law, and provided damages for personal injury through negligence law (tort law) where an individual was injured by an egregious breach of standards of normal behavior. Though the negligence standard proved loose enough to allow substantial subsequent expansion, prior to the 1960s courts employed that standard only where a party had shown clear moral culpability substantially antagonistic to social norms. Standards determined by private contract were far more significant with respect to the determination of the obligations of citizens.

Since the 1960s, however, our civil law has changed dramatically. Contract law, property law, and especially personal injury law have been transformed both in function and effect. The transformation occurred neither through some sudden change in legal doctrine nor through legislative statute or popular referendum. Instead, it occurred through the triumph of a set of ideas: the acceptance by the judiciary of the proposition that civil damage judgments can serve as the most effective public policy instrument for regulating the level of harm suffered by citizens in the society.

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It is surely not coincidental that the outset of the transformation of civil law was roughly contemporaneous with the creation of various federal regulatory agencies charged with controlling levels of harm, such as the Occupational Health and Safety Administration (created in 1971), the Environmental Protection Agency (1970), the National Highway Traffic Safety Administration (1970), and the Consumer Product Safety Commission (1972). In many respects, however, the transformation of civil law developed in ways that gave it a far more ambitious and extensive regulatory authority than any of these agencies. All regulatory agencies have limited budgets and, as a consequence, are constrained to thresholds of concern. Thus, even agencies with broad authority—such as OSHA or EPA—can effectively regulate the decisions of only a limited number of corporations. Other regulatory agencies—such as NHTSA—possess jurisdiction over only a single industry (auto manufacture).

Our modern civil justice system, in contrast, aspires to regulate the sources of harm with respect to all activities of the society. Our civil courts can entertain the question of whether a victim should receive compensation from the party that caused it harm as long as it is economically worthwhile for a person feeling victimized to initiate litigation. And all of such claims will be entertained. Indeed, to perfect the system, the incentives for initiating litigation have themselves been enhanced by various statutes awarding attorneys' fees and shifting litigation costs as well as by expansive notions of "harm", for example by awarding damages for medical monitoring to individuals who only suspect or fear that they have been harmed. As a result, our courts today employ civil damage judgments to regulate all activities implicating harm, made within every industry, indeed, by every citizen. Through the daily aggregation of civil damage judgments (or the settlement of lawsuits informed by expected judgments), our courts provide fine-tuned control of all societal behavior.

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How did this transformation of civil law come about?[1] In the 19th and early 20th Centuries, the basic doctrines of civil law remained generally stable. Yet, there was serious debate in the legal academy as well as in the public policy community generally over the role of civil law with respect to harms suffered in the society. An important initial step in the transformation of civil law occurred in the early years of the 20th Century when civil law was abandoned as a mechanism for dealing with injuries suffered by workers during the course of their employment. The adoption by state legislatures of worker compensation statutes during the period roughly 1907-1915—creating mandatory employer insurance programs—represented the rejection of both tort law and contract law as means of regulating the sources of worker injuries.

Prior to the establishment of workers' compensation insurance, injured workers could seek recovery against their employers in tort law where they could show employer negligence as a cause of the injury. Employers could defend such claims, however, by showing that the worker had been contributorily negligent, that the worker had assumed the risk of injury, or that the worker's injury resulted from the negligence of a fellow worker, according to what is called the fellow-servant doctrine. Workers could sue their fellow workers for negligence, but recovery was not likely to be substantial given workers' limited resources. Thus, it became widely accepted that tort law was largely ineffective in providing recovery to injured workers, and tort law was rejected as a mechanism for recovery. In its place, workers' compensation statutes compelled employers to provide insurance for worker injuries and, at the same time, prohibited workers from suing employers in tort.

Though somewhat less sharply, workers' compensation insurance also represented a rejection of contract law as a mechanism for dealing with injuries. Few believed that workers, individually, were able to negotiate safer working conditions, and only a small portion of the

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[1] For a more thorough account of this history, see Priest, The Invention of Enterprise Liability: A Critical History of the Intellectual Foundations of Modern Tort Law, 14 J. Legal Studies 461 (1985) (hereafter, "Priest, Invention"). Priest, Strict Products Liability: The Original Intent, 10 Cardozo L. Rev. 2301 (1989).

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working class was unionized. In addition, the concept of compensating wage differentials was not widely understood. Contract law, therefore, was not an answer. To the contrary, employer-provided insurance was necessary if workers were to receive compensation for injuries.

Besides serving the ambition of increasing payments to injured workers, workers' compensation insurance came to be justified by a concept that derived from economics: the concept of internalizing costs.[2] According to this concept, if a party engaging in some activity fails to take into account the full costs that the activity generates, the party is likely to engage in more of the activity than is appropriate for the society. Where the costs are injury costs, there will result higher levels of injurious activities and thus larger numbers of injuries than societally appropriate. If injury costs are internalized, however, the party causing the harm will be led to prevent losses where possible and otherwise to readjust its activity level to reduce the aggregate number of injuries. Compelling employers to provide insurance for all injuries suffered by workers during the course of employment serves to internalize the costs of worker injuries to employers.[3]

The adoption of workers' compensation programs was widely praised in the legal academy. Indeed, some academics thought the concept so meritorious that they sought to extend such insurance programs more broadly, to provide compensation for all injuries suffered in the society. Fleming James was a prominent promoter of this idea.[4] The ambition of James and others to have enacted general societal accident insurance, however, never found success. First, a general social insurance program is a program, basically, of socialism, to which there was deep

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[2] See A. C. Pigou, Wealth and Welfare (1912); Pigou, The Economics of Welfare (1920).

[3] By contrast, failing to compensate workers for their injuries, say, by enforcement of the common law tort defenses of contributory negligence, assumption of risk or the fellow-servant doctrine, serves to internalize worker injury costs to the workers themselves. Many years later, Ronald Coase would show that, with respect to activity levels, internalizing injury costs to workers will have economic effects equivalent to internalizing those costs to employers. This profound idea, however, remains foreign to the debate today. Ronald H. Coase, The Problem of Social Cost, 3 J. Law & Economics 1 (1960).

[4] James' work is described in more detail in Priest, Invention, supra.

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political opposition. (Note that even during the New Deal, insurance programs were established only with respect to particular risks—such as crop insurance, savings and loan insurance, and Social Security.[5]) Secondly, general social insurance is at heart inconsistent with the internalizing costs rationale. General social insurance is not self-contained as is insurance for workplace injuries. To provide general insurance for injuries does not serve to internalize costs to the specific activities that generated the injuries. General social insurance would provide compensation to injured parties—sufficient grounds for support to James and others—but it would not serve to create incentives for reducing the accident rate.

Faced with the failure of their social insurance proposals and with no serious prospect of future success, many academics pressed for the expansion of civil law as a means of providing broader compensation to injured parties. James, again, was the most prominent toward this end. In a set of roughly fifty articles, James urged the expansion of tort liability in all of its forms and the restriction of available defenses, moving toward a standard of absolute liability.

For many years, James' advocacy had little effect. An opening wedge appeared, however, in the early 1960s with regard to the subject of manufacturer liability. Until the 1960s, recovery for injuries resulting from product use was chiefly determined by contract law. Contract law allowed the specific purchaser of the product to recover according to the terms of the express product warranty or of the implied warranty of merchantability. Recovery was available to the specific purchaser and, generally, only to the specific purchaser, because that person was the only party to the contract of sale (a legal doctrine known as privity of contract). Virtually all product warranties at the time, however, disclaimed liability for any personal injury associated with use of the product.[6] Thus, according to contract law and the terms of product contracts, there was no recovery for personal injury.

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[5] Franklin Roosevelt justified Social Security as providing protection for the "risk of old age".

[6] The central warranty remedy then (as now) was repair and replacement if a product were found to be defective. There are good economic reasons for manufacturers to disclaim liability for personal injury—

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There had been some concern about the operation of these contract doctrines prior to the 1960s, but it remained chiefly academic. Some few jurisdictions recognized an action in negligence by a victim not a party to the contract. MacPherson v. Buick[7] was decided in 1916, but it extended negligence liability only to manufacturers of products regarded as "imminently dangerous", and only where it could be shown that the purchaser or an intermediate dealer would not inspect the product for defects. Over the four decades that followed MacPherson, some jurisdictions extended the scope of the negligence doctrine, in particular to cases involving spoiled foodstuffs, although the jurisdictions were far from unanimous. Thus, through the late 1950s and early 1960s, defective product cases were controlled by contract law with its privity requirement and, to a substantially lesser extent, by negligence law.

This was to change, however, and change dramatically in the early 1960s and 1970s first in the then-limited field of product liability. In my judgment, there were two conceptual forces leading to this change. The first was the delegitimation of contract law—in particular, warranty law—as a means for dealing with product injuries. The second was the growing belief that the expansion of tort liability in the context of personal injuries could have beneficial effects on the society.

The delegitimation of contract law followed from the work of another law professor, Friedrich Kessler.[8] Kessler was a German scholar who had fled the Hitler regime to the United States. Kessler had no specific interest in product-related injuries. His attack on contract law was far more expansive. Kessler believed that fundamental changes had occurred in the character of Western economies that deeply threatened democratic societies and the individual freedoms that had been achieved in modern times. Kessler attributed these social changes to the "decline of the

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chiefly because manufacturer-provided insurance is a very poor insurance mechanism—though these reasons were never articulated at the time. See Priest, A Theory of the Consumer Product Warranty, 90 Yale L. J. 1297 (1981).

[7] MacPherson v. Buick Motor Co., 217 N.Y. 382, 111 N.E. 1050 (Ct. App. 1916).

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free market system,"[9] which he saw as a consequence of "the innate trend of competitive capitalism toward monopoly."[10] Kessler's criticism of the capitalistic world was quite pointed. He described the modern industrial culture as a form of fascism. "The rise of fascism in our industrial world has made us realize that democratic freedom is not inevitable."[11] According to Kessler, single firms are now able "to control and regulate the distribution of goods from producer all the way down to the ultimate consumer."[12]

Quite curiously, Kessler saw the principal mechanism for this new means of fascist control to be contract law. The formation of "large industrial empires" had been made possible by contract and by standardized contracts in particular.[13] Standardized contracts—such as insurance policies or consumer product warranties—were the equivalent of the forms of bondage typical of the feudal era. According to Kessler, "[s]tandard contracts . . . [have] become effective instruments in the hands of powerful industrial and commercial overlords enabling them to impose a new feudal order of their own making upon a vast host of vassals."[14]

Kessler's most influential article with respect to the transformation of modern civil law is the classic "Contracts of Adhesion—Some Thoughts about Freedom of Contract". The article presents a moral narrative that contrasts the ancient to the modern, the good to the evil, the redeemable to the unredeemable that possesses a persuasive power that continues to command acceptance today. Kessler contrasts a "society of small enterprisers, individual merchants and

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[8] Kessler's work is described in detail in Priest, Invention, supra.

[9] Friedrich Kessler, Natural Law, Justice and Democracy—Some Reflections on Three Types of Thinking about Law and Justice, 19 Tulane L. Rev. 32, 33 (1944) (hereafter, "Kessler Natural Law").

[10] Friedrich Kessler, Contracts of Adhesion—Some Thoughts about Freedom of Contract, 43 Colum. L. Rev. 629, 641 (1943) (hereafter, "Kessler, Contracts of Adhesion").

[11] Kessler, Natural Law at 33.

[12] Kessler, Contracts of Adhesion, at p. 632.

[13] Id.

[14] Id. at 640.

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independent craftsmen" for whom 19th Century contract law was designed, with large-scale enterprise and monopoly capitalism characteristic of modern times. Freedom of contract may have had meaning in the earlier world. Today, however, the prototypical modern contract is a standardized form employed by enterprises with strong bargaining power against weaker parties—consumers—in need of necessary goods and services. Modern contracts are contracts of adhesion that consumers must take or leave without ever understanding their terms at all. In this context, the enforcement of contract terms according to the principle of freedom of contract serves only to protect "the unequal distribution of property."[15]

The second principal conceptual force toward the transformation of civil law was the insistence by James and others that an expansion of tort liability would substantially improve social welfare. James, as mentioned, was principally concerned with providing compensation to injured parties. He supported general social insurance and, in its absence, the expansion of tort liability to achieve that end. His ambition was valuably aided, however, by judicial opinions that focused more sharply on the positive societal gains from expanded tort liability.

Judicial acceptance of the broader role of tort law toward these ends first appeared in 1944 in California Supreme Court Justice Roger Traynor's concurring opinion in Escola v. Coca Cola Bottling Co.[16] Traynor's opinion sets forth the grounds for the strict liability standard for product defects that later was adopted by the California Supreme Court and virtually all other states. The case was simple. A waitress at a restaurant was moving some bottles of soda pop when one of them exploded, injuring her. (The context of the incident was never made clear. The California Supreme Court, and Traynor, approached the issue as if the bottle exploded spontaneously. Whether the waitress dropped the bottle, hit the bottle against something, or stumbled and fell was not present before the Court.) The majority of the California Supreme

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[15] Id. at 640, 632.

[16] 24 Cal. 2d 453, 150 P.2d 436 (1944).

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Court also found the case simple: they invoked the tort doctrine of res ipsa loquitur (roughly, the event speaks for itself) to hold that, despite the terms of any contractual arrangement between the distributor and the restaurant (in fact, the Court did not even discuss the contractual arrangement), the manufacturer should be liable because Coke bottles should not explode.

Justice Traynor's concurrence was more subtle and more policy oriented. He concurred with the Court's finding of liability, but provided deeper grounds for the appropriateness of shifting the costs of the waitress's injury to Coca-Cola. Traynor embraced a theory of strict liability in tort of the manufacturer. Strict liability was to be distinguished from negligence liability—in which the victim has to show that the defendant committed some negligent act. Traynor analogized the strict liability standard to the standard of res ipsa loquitor: if there is something defective with respect to the product, the manufacturer is to blame. That analogy, however, important for many courts in the future, was not Traynor's principal point. Traynor argued that there were important social grounds to extend liability to manufacturers for product-related injuries. First, such liability would lead manufacturers to invest to prevent product-related injuries in the future. Second, tort liability, resulting in the payment of compensatory damages to injured consumers, would provide a form of insurance to the injured that could be passed along in the product prices paid by all consumers. The expansion of tort liability, thus, would—like workers' compensation insurance—serve to internalize injury costs to the firms that generated them. In 1944, however, Traynor's concurrence was only a concurrence, and received little notice, though that would later change.

These ideas—contract law is perverted by market power, and tort law is a means of encouraging investments in accident prevention and insurance for resulting losses—transformed modern civil law. The first applications, again, were in the products liability field. In 1960, in the case Henningsen v. Bloomfield Motors, Inc., the New Jersey Supreme Court marked the effective end of the relevance of contract law in defective product actions involving personal

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injury.[17] The decision repudiates the basic principles of contract law applicable to product defect cases. Henningsen involved an action brought by the wife of the purchaser of a car, injured when the car veered off the road without an adequate explanation, though there was testimony suggesting a mechanical defect. Even putting aside the privity of contract problem, the automobile manufacturer's warranty provided only for repair or replacement of any defective part and disclaimed implied warranties that might extend liability further, including to personal injury damages. The New Jersey Supreme Court held that the privity doctrine as well as the express disclaimer of implied warranties were invalid as a matter of law—quoting from and relying heavily on Kessler's "Contracts of Adhesion". According to the Court, contract law should not be read to "authorize the automobile manufacturer to use its grossly disproportionate bargaining power to relieve itself from liability . . . An instinctively felt sense of justice cries out against such a sharp bargain."[18] The Court held that Mrs. Henningsen could recover under the Court's interpretation of the implied warranty of merchantabilty.

The permanent shift from contract to an expanded tort law as the basis for the resolution of product defect claims occurred in 1963 in the California Supreme Court decision in Greenman v. Yuba Power Products.[19] The case involved personal injury from an allegedly defectively designed machine tool.[20] The manufacturer-defendant believed that its strongest defense was the failure of the victim to provide notice of the alleged breach of warranty within a reasonable time. The strict notice requirement of contract law, however, had been flagged as illustrative of the outdated character of warranty law in many treatments of the product defect question, including those by James and a scholar writing in a similar vein, William Prosser. In Greenman, it seemed

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[17] 32 N.J. 358, 161 A. 2d 69 (1960).

[18] 32 N.J. at 404, 388, 161 A. 2d at 95, 85.

[19] 59 Cal. 2d 57, 377 P. 2d 897, 27 Cal. Rptr. 697 (1963).

[20] The product was a wood lathe in which a piece of wood being turned had detached and injured the plaintiff. The Court gave no attention as to whether Mr. Greenman had fastened the piece of wood adequately prior to turning on the lathe.

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to trigger the final acceptance by a majority of the California Supreme Court of Traynor's strict liability argument first presented nearly two decades earlier in Escola.

In Greenman, the court, in a Traynor opinion, announced the standard of strict liability in tort, applicable to a manufacturer whenever "an article he places on the market, knowing that it is to be used without inspection for defects, proves to have a defect that causes injury to a human being." The purpose of strict liability, according to the court, "is to insure that the costs of injuries resulting from defective products are borne by the manufacturers that put such products on the market rather than by the injured persons who are powerless to protect themselves."[21] For a further elaboration of justifications of strict liability, the reader was referred to James, Prosser and Traynor's concurring opinion in Escola.

Henningsen and Greenman were important moments in the transformation of civil law. One further event, however, vastly accelerated the transformation by jurisdictions skittish of the cutting edge. In 1964, the American Law Institute adopted Section 402A of its second Restatement of Torts, which extended strict liability to sellers of all products defective and unreasonably dangerous without regard to the seller's fault. The Reporter of the Restatement, William Prosser,[22] represented to the Institute that 16 separate jurisdictions had adopted strict liability or some standard resembling it, citing 40 different cases. This was blatant exaggeration. A rereading today shows that there were only three cases actually supporting Prosser's recommendation: Henningsen, Greenman, and a 1963 New York decision, Goldberg v. Kollsman Instrument Co.[23] But Prosser's recommendation was sufficient for the Institute, and the Institute's adoption of the strict liability standard was sufficient for the various states to adopt the

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[21] 59 Cal. 2d. at 62, 63, 377 P. 2d 900, 901, citing Henningsen.

[22] James and Traynor, among others, were Advisers to Prosser on the Restatement project.

[23] 12 N.Y. 2d 432, 191 N.E. 2d 81 (N.Y. 1963).

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standard as well. Within a little more than a decade following the Institute's adoption of the strict liability standard, forty-one of fifty jurisdictions had adopted the rule.

As mentioned, the change in the legal standards regarding product liability was only an opening wedge in the more general transformation of modern civil law though, surely, a significant wedge. The broader transformation of the law resulted from the extension of the underlying ideas that had motivated the change in products liability, first, to all other areas of civil law and, second, conceptually by the acceptance of the proposition that civil law could serve as a mechanism for regulating all risks faced by the society.

First, although the strict liability standard itself has been limited to the products field, the concept of cost internalization that underlies it has been extended across the various fields of civil law. Thus, the internalization policy has been extended to justify awarding damages in pollution cases,[24] in sexual harassment cases,[25] and in false arrest, malicious prosecution and Section 1983 civil rights violation cases,[26] among others. In these various contexts, as with product manufacture, it appears evident to which party costs should be internalized: to the manufacturer rather than the consumer; similarly, to the polluter, to the party harassing the victim, and to the official committing misconduct.

The second extension of the concept involved its application to contexts in which it is less clear to which party costs should be internalized. In contexts such as these, extension of the

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[24] E.g., Atlas Chem. Indus., Inc. v. M.P. Anderson, 514 S.W. 2d 309, 316 (Tex. Civ. App. 1974) ("the costs of injuries resulting from pollution must be internalized by industry as a cost of production and borne by consumers or shareholders, or both, and not by the injured individual.")

[25] Horn v. Duke Homes, 755 F.2d 599, 605 (7th Cir. 1985) ("[G]oods produced by the entrepreneurs who do not assume the costs of remedying a tort (in this case sexism) are artificially cheap; forcing them to internalize the costs of the tort regardless of fault, eliminates incentives to be sexist and insures proper allocation of societal resources.")

[26] Dobson v. Camden, 705 F.2d 759, 765 (5th Cir. 1983) ("If the person contemplating an action will reap the benefits but will not pay the costs, we have no assurance that the socially correct decision will be made. . . . Cost internalization provides us with a mechanism for reaching the correct level of deterrence for official misconduct. If people acting under color of state law know that they will bear the consequences of their actions, they will be deterred from violating a person's federal rights, but will not be over-deterred. The 'correct' level of deterrence will be established.")

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cost internalization concept requires consideration of losses viewed as risks attending the activity in question. Thus, all losses suffered in the society represent the outcome of some probabilistic process. The actions of one party or another can be viewed as contributing to the probability of occurrence of a loss, arrayed upon a continuum from losses the probability of which is 100 percent—intentionally caused harms—to losses the probability of which is zero.

With this extension, the basic foundation of civil law is transformed into controlling risks through cost internalization. The question before the court becomes which party to the litigation is in the best position to control the risk of loss. Again, in many contexts—such as product manufacture—it may seem obvious which party is in the superior position to control risks.[27] In other contexts, however, determining which party is in the superior position to bear the risk of loss from the activity is more complicated and requires a seemingly more sophisticated analysis of the relative abilities of the parties before the court to prevent or to bear those risks.

The adoption of risk control as the central purpose of civil law shifts sharply the focus of legal controversy in each of its various subfields. In the field of contract law, for example, contract litigation only a few decades ago turned chiefly on differing interpretations in terms of standard English of the provisions of underlying written contracts. In modern contract litigation, in contrast, the issues have been completely reoriented around the question of risk. The fact that some change in underlying conditions led one of the parties to breach the contract is only the beginning of the inquiry. The issue before the court is which party should bear the risk of the change in conditions that impelled the breach. Today, courts summon sophisticated theories of economics and risk bearing to determine whether it is more consistent with the long-term interests of the parties to assign the risk of the specific change of conditions that animated the breach to the breaching party or to the victim of the breach itself.

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[27] In fact, from an economic point of view, this conclusion—though embraced in modern civil law—is not so obvious. See, Priest, The Modern Expansion of Tort Liability: Its Sources, Its Effects, and Its Reform, 5 J.Econ. Perspectives 31 (1991).

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Similarly, in earlier years the law of corporations and of mergers and acquisitions was defined almost exclusively by the terms of corporate documents. Today, the papers of incorporation are often treated as only other obstacles that must be surpassed as part of the analysis of how to allocate risks that affect corporate ownership and structure. In recent highly publicized litigation involving mergers and acquisitions, for example, the issue before the court is whether the market for corporate control will be facilitated by assigning the risk and the commensurate benefits of some novel method of hostile takeover to current shareholders, to current management, or to the corporate raiders who have initiated the struggle.

The development of risk control as the central function of civil law has been most prominent in fields involving personal injury. As in other fields, this development has led to an extensive redefinition of legal issues. In cases involving claims of medical malpractice, for example, modern litigation extends far beyond the earlier relatively simple inquiry into whether the doctor was morally culpable for breaching standards of community practice. In the most sophisticated malpractice litigation today, the issue is one of risk and its control: Did the attending surgeon have sufficient control over the determinants of the risk of the medical maloccurrence to justify liability, or should that risk be assigned to supporting physicians or to the hospital vicariously through a judgment against its staff?

An important implication of the adoption of risk control as the principal function of civil law is that issues of motive and volition central to the legal regime that prevailed until the 1960s are rendered largely irrelevant. In modern contract law, for example, the decision of a party to intentionally breach a contract has little legal significance. It is acknowledged that the risks are omnipresent that changes in conditions will occur that might unsettle contracts and, thus, that it is inevitable that some contracts will be breached. The role of a court, as a result, is no longer to punish breach of contract, but to allocate between the parties the risks of such changes in underlying conditions. Similarly, though in earlier years it was necessary to demonstrate that a manufacturer had acted with bad motives or had behaved recklessly or negligently, such issues

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today are largely ignored. The concern of the courts has extended beyond specific bad motives to the broader risks of product injury. Thus, a manufacturer may have organized its production process with deep humanitarian concern for the welfare of its consumers, but if the company has miscalculated the risks and benefits of safety design, liability will follow immediately.

Many believe the derogation in civil law of issues of motive and volition as indicating a decline in commitment to individual responsibility or, perhaps, a shift of expectations toward an impersonal or a collective responsibility. The shift in standards of law may indirectly have that effect as citizens revise their expectations of the ultimate consequences of misoccurrences that afflict them. But I believe that the stimulus for the shift toward risk control as the central purpose of civil law is different and that it did not derive from a diminished conviction of the importance of individual responsibility.

The legal regime that prevailed from the 19th Century through the mid-1960s functioned chiefly by categorizing certain actions that generated loss as so particularly extreme or egregious as to deserve liability for any harm that resulted. Actions subject to legal liability were those for which there was a dramatically greater chance than normal that loss would result. According to this regime, prototypical candidates for liability were harms caused intentionally and those close to the intentional because of the high likelihood of injury.

Resolving disputes according to the standards of risk control is entirely different and implies vastly different methods of legal analysis. A property law whose focus is boundary disputes, a contract law whose focus is breach of promise, and a personal injury law whose focus is serious moral dereliction are each regimes in which the law defines a clear demarcation between acts subject to liability and acts immune from it. If the property line is transgressed, a trespass action will follow. If the contract is not performed, or if the injurer is morally culpable, damages will follow.

According to this earlier conception of the role of civil law, there are certain clear actions for which liability will apply, but equally clear sets for which liability is unavailable. Indeed,

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there are large sets of injuries suffered by property owners, parties to contracts, and injured victims that not only do not justify liability, but do not justify even judicial scrutiny. For example, under such a regime, a consumer injured by a product who cannot show that the product was intentionally or recklessly mis-manufactured or who cannot show clear moral negligence in the manufacturing process cannot recover damages. From the standpoint of the law, the product-related injury remains one of life's hazards to be suffered as best as possible according to the victim's resources, but without reference to the legal system. As another example, if a farmer promised to provide a broker 1,000 bushels of corn but because of drought can only provide 500, the farmer has breached the contract and must pay damages to the broker for the remainder. According to the law, the farmer must suffer the loss because it was the farmer, not the broker, who promised to deliver the corn.

This is not to suggest that the earlier regime was totally indifferent to conditions generating losses. If the probability of injury from product use were exceptionally high, the law could conclude that the manufacturer should have known of the product danger and find the manufacturer liable despite its claim of ignorance. Similarly, if the drought itself were so extreme that it prevented the farmer from delivering any of the 1,000 bushels, the law could relieve the farmer by rescinding the contract by finding it impossible to perform. Nevertheless, the method of analysis under the regime, even in these examples, was one of comparing the extremity of the factual context of the loss to some standard of normal or expected behavior.

According to this approach, some actions differ so dramatically from the normal—reckless manufacture or breach of contract—that legal liability is justified. Legal analysis under such a regime consisted of categorizing acts as either qualifying as sufficiently abnormal to justify liability or not. Obviously, intentional harm-causing actions justified liability. Beyond the intentional, unusually egregious actions may have justified liability. In almost all other cases, however, liability was unavailable, and the law allowed the loss to lie where it had fallen.

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The adoption of risk control as the central goal of civil law rejects this categorical method of legal analysis. A law concerned with risk perceives losses as occurring probabilistically, with greater or lesser likelihood. Actions become subject to potential legal liability if they increase the occurrence of loss by some sufficient amount.

This shift does not reject, but builds upon, the liability of the previous regime. Losses caused intentionally or that are especially egregious remain subject to liability *a fortiori*. The frontier of liability, instead, is extended to disputes involving actions that increase the probability of loss by some dimension, though they may not make the loss inevitable or even highly likely. Thus, a manufacturer is made responsible for avoiding more than recklessly or egregiously negligent production methods; the manufacturer must monitor all potential sources of product risk and will be held liable whenever a risk eventuates that the manufacturer could readily have controlled. Thus, manufacturers of automobiles are routinely held liable for failing to design safety features in autos that would protect even drunk drivers from injuries resulting from the accidents they cause.

Similarly, liability for breach of contract induced by a drought will turn not on the simple issue of whether it was the farmer or the broker who breached the promise. Rather, the breach of promise is viewed as a probabilistic outcome of the drought. The issue in the case shifts to the question of the appropriate assignment of the risk of drought: Is it better to allocate the risk of drought to the individual farmer, locked into the specific climatic position of the farm, or to the broker, who can diversify drought risk by entering contracts with geographically disparate farmers?

A law concerned with risk control rejects a discrete demarcation between actions regarded as extreme and those regarded as normal. All actions can be arrayed on a continuum of contribution toward loss. Thus, central concepts of causation are changed dramatically. The earlier regime that imposed a sharp distinction between particularly extreme sources of harm and all others was necessarily committed to a very strict conception of causation. Actions were

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subject to liability for causing harm chiefly if they constituted the sole or exclusive source of the harm. In contrast, our modern civil law, devoted to risk control, focuses less upon strict causation than upon contribution to the occurrence of the harm. Some action may generate liability because of its contribution to the risk of occurrence, though it was only one of many simultaneously contributing sources of the loss.

The new regime of risk control thus vastly expands the opportunity for the attachment of legal liability as well as the importance of civil law as an instrument of social control. Many decry what they perceive as the increased litigiousness of modern society. But the level of litigiousness is only a function of the underlying legal rules in force. Our modern civil law encourages litigation as an instrument for internalizing costs to control risks. Because in our society intentionally or egregiously caused harms are infrequent, the earlier legal regime that focused only upon such harms was a regime of very limited scope. In contrast, our modern legal regime, focused upon every contribution to risk, is a regime of dramatically greater dimension. Such a regime aspires to impose legal controls on all activities in the society that contribute to risk in any way. Thus, virtually every action by every citizen becomes subject to potential legal review because every action will increase the risk of some loss in some way.

To my mind, far from incorporating a diminished view of individual responsibility, the shift of the law's purpose toward risk control represents a vastly expanded commitment to standards of individual liability, though expanded liability is somewhat different than enhanced individual responsibility. Under the new regime, an individual may be held liable not only for intentionally or maliciously harmful behavior, but for all behavior that increases the risk of loss, though the loss itself may be remote. Under earlier law, an individual needed to make certain only that his or her actions caused no direct injury to another individual. Under modern law, in contrast, an individual must make certain that his or her actions do not increase the risk of loss in any way. Thus, for each citizen, the potential of civil liability is vastly increased. The law charges each citizen to carefully monitor every action for its potential contribution to risk of loss.

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From the standpoint of the control of risk, it is difficult to define a truly solitary act—an act that does not in some way implicate risks to others. The gardener spraying plants or the recluse reading silently before the fireplace may not be subject to liability personally for the increase in the collective social risk from pesticides or particulates, but will suffer the attachment of liability as pesticide or firewood prices rise or as the society proscribes such enjoyments directly. It is equally difficult in a society concerned with risk to truly shield or isolate oneself from others. The gardener's yield will be affected by the acidity of the rain, just as book prices will reflect the shift to acid-free paper. The centrality of risk effectively prevents all efforts of social escape.

Beyond increasing the scope of individual responsibility, the regime of risk control dramatically changes the substantive content of that responsibility. The focus of modern law on risk control diminishes the importance of moral standards in the evaluation of harm-causing activities. It is no longer useful in such a regime to distinguish between the guilty and the innocent or the culpable and the blameless. Almost every human action will increase the probability of some loss by some amount; empirically, it would be extremely rare for an action to contribute zero toward the probability of occurrence of all losses in all contexts. It follows, therefore, that under the modern conception of risk, no action is ever truly innocent. Each of us must recognize that all of our actions are likely to harm others in the society in some way. As a consequence, every citizen stands in a position of continuous potential interaction with the law since every action is potentially subject to liability. Indeed, each of us must be aware that many of our specific actions may well lie close to the point on the risk continuum at which the attachment of legal liability becomes socially worthwhile.

Once it is accepted that all actions can be arrayed at some point upon the risk-contribution continuum, sharp moral distinctions lose moment. It is no longer possible to clearly separate the moral quality of one's personal actions from the quality of the actions of others. On the risk-contribution continuum, there are no clear qualitative differences between actions

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whatsoever; all actions contribute something to risk. The only question is the extent of the contribution.

The decline in the importance of moral standards as grounds for comparing loss-contributing actions, however, should not be interpreted to suggest that our new legal regime of risk control lacks moral foundation. The moral foundation of the new regime is relentlessly utilitarian. The objective of controlling risk as effectively as possible prevails over all else. Civil law serves to internalize costs, first, to create incentives to reduce the risk level as much as is practicable placing liability on that party in the relatively better position to prevent it. Second, if the injury could not have been practicably prevented, liability will be placed on that party in the relatively better position to spread the risks of the injury as if an insurer.

The adoption of these two utilitarian principles of risk control has subtly changed the nature of modern adjudication. Modern trials have been transformed from disputes between individuals to occasions for judicial social engineering. In earlier days, the function of adjudication was to resolve specific controversies between often embittered parties. In such cases, the particular moral qualities of the parties or of their actions were of central importance, as issues of motive and goodwill were crucial. In modern litigation, in contrast, the court must evaluate, not how one individual or another behaved in a moment of crisis, but whether one party or another, as representatives of generic categories of actors, was in a better position to prevent injuries or to spread the costs of them. In litigation of this nature, the qualities of the actual litigants become irrelevant because the issue before the court is how best to fashion incentives for parties in such positions in the future. An obstetrician and a nurse-midwife may have dedicated their lives to serving others; in the incident before the court, they may have exerted great effort to help the injured child and suffered as deeply as the parents over the subsequent injury. But if the court determines that the risk of injury was within their control, that it was affected in any way by some technical decision made or ignored, or that the two professionals or their insurers were in

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the best position to spread such injury costs, liability for a lifetime of losses may be placed upon them.

In modern adjudication, the dispute between the specific litigants is of secondary, even trivial, importance to the exercise. The concern of the courts is how best to fashion broader incentives to maximize social welfare. The parties themselves and the loss one of them has suffered become mere informational inputs to the process of judicial revision of controlling rules of law. The legal claim serves only as an empirical example of a social problem for which a more specific legal rule defining behavior is needed. Frequently in modern litigation, the parties are unwitting instruments of this broader judicial purpose. But increasingly in recent years, the adversarial character of litigation has become pretended rather than real. The requirements of procedure compel the parties to defend contesting positions. Yet often the litigants and their attorneys play out their roles, not as hostile adversaries, but as characters, knowing that the drama being staged serves only to determine which of their insurers should foot the bill.

The new purpose of the law has led courts to adopt many novel and interesting rules that seem bizarre from the vantage point of earlier years. An example is the 1982 decision of the New Jersey Supreme Court in Beshada v. Johns-Manville, a relatively early case in the transformation of civil law.[28] The case involved a claim by a worker that an asbestos manufacturer should be liable for damages because the manufacturer had failed to warn the worker that asbestos could cause cancer. The manufacturer sought to defend the claim by proving that, at the time the worker contracted cancer, it was not known and could not have been known scientifically that asbestos causes cancer. More perceptive of the contours of our modern regime, the plaintiffs challenged the defense as irrelevant as a matter of law. The court concurred, holding that the manufacturer was liable for breaching its duty to warn the worker that asbestos causes cancer

[28] 90 N.J. 191, 447 A. 2d 539 (1982).

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though the court accepted that, at the time of the breach, it was impossible scientifically to have known that asbestos causes cancer

The notion of liability for breach of a duty with which it was impossible to comply seems to strain the most basic notions of responsibility. But responsibility in a regime of risk control has a very unusual meaning. According to the court, the manufacturer should be liable for the loss for two reasons. First, the decision improved incentives for accident avoidance: "By imposing on manufacturers the costs of failure to discover hazards, we create an incentive for them to invest more actively in safety research." Second, regardless of the information available at the time of injury, holding the manufacturer liable will serve to distribute the risks of product injuries broadly, because manufacturers can include expected injury costs in the prices of their products. Responsibility under the regime of risk control, thus, can mean a responsibility imposed ex post facto to reduce or to spread the risks of injuries.[29]

Many disapprove of the contours of modern civil law. But can those contours be changed? In my judgment, it is fanciful to imagine a return to the categorical analysis of civil law that prevailed until the 1960s. In retrospect, that legal regime was simplistic. There is a probabilistic character to all societal losses. All societal activities do implicate risks that some individuals will be harmed in some way.

The concept of internalizing costs to address those losses, however, can be substantially sharpened. As suggested earlier, Ronald Coase explained now forty years ago that, with respect to activity levels, injury costs are always internalized. Civil law is not needed to achieve the

[29] The Beshada opinion generate substantial criticism, and the New Jersey Supreme Court limited its scope to asbestos cases in Feldman v. Lederle Labs, 97 N.J. 429, 479 A. 2d 374 (1984). Several other jurisdictions, however, have adopted the approach.

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economic effect.[30] The question that remains is whether and how aggregate social welfare can be enhanced by shifting injury costs, which is to say, by changing the method of cost internalization.

Many have shown that employing civil law to provide insurance is counterproductive. Civil law may continue to possess a role, however, in creating incentives to directly reduce accident rates. Perhaps oddly, despite over forty years of experience with the expanded liability created by modern civil law, there are no empirical studies that have demonstrated that the expansion of liability has reduced the level of harm. Of course, there are strong market forces that generate greater levels of safety. No one has been able to show that legal liability serves to increase safety further.

Still, it remains possible that expanded liability enhances safety and thus that civil law can serve a regulatory role. It is an entirely separate question whether that regulation is sensibly administered through our adversarial process with the final decision delegated to lay juries, selected intentionally because their members know nothing about the subject before them. Put differently, we cannot imagine a regulatory agency such as, say, NHTSA setting standards for auto safety based upon the presentation of a claim by a single seriously injured individual with respect to that person's single accident, delegating the ultimate decision to laypersons.

Our modern regime of civil law, nevertheless, remains deeply entrenched both in terms of economic interests (note the to-date successful efforts of the trial bar and the unions to thwart the rejection of civil law with respect to asbestos-related injuries) and in popular conception. To change that legal regime in a serious way will require a substantial demonstration of the harms that it causes.

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[30] Although Coase's article is widely known and universally accepted, this point remains not fully understood even among economists. For a prominent example, see Steven Shavell, Strict Liability Versus Negligence, 9 J. Legal Studies 1 (1980), discussed in Priest, Internalizing Costs (forthcoming).

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Mr. Reyes,

Attached you will find the following papers that will be presented at the upcoming "Lawsuits and Liberty" conference at the National Constitution Center:

The Modern Transformation of Civil Law
George L. Priest, Professor, Yale Law School

How Did We Get Here? What Litigation Was, What It Is Now, What It Might Be
Stephen B. Presser, Professor, Northwestern University School of Law and Kellogg School of Management

The Administrative Advantage in Civil Procedure: Tort Reform through Consistent and Intelligent Policies Applied by Administrative Tribunals
E. Donald Elliott, Professor, Yale Law School;
Partner, Willkie Farr & Gallagher LLP

The Forgotten Goal of Civil Justice: A Foundation for Common Sense in Daily Life
Philip K. Howard, Chair, Common Good

A package of these materials has been FedExed to Mr. Gorsuch and the papers will be provided at the conference itself as well. Also attached is an update to the agenda that was sent, via memorandum, last week – as well as some logistical information, which has not changed. As always, should you have any questions or concerns, please do not hesitate to contact me, Andy, or Sara via the following contact information:

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We look forward to seeing Mr. Gorsuch in Philadelphia.

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Friday, June 24, 2005 3:08 PM
To: Gorsuch, Neil M
Subject: Statement of Administration's Position on Class Action Bill
Attachments: S5 SAP.pdf

Here is some further guidance

-----Original Message-----
From: Wilson, Karen L
Sent: Friday, June 24, 2005 3:07 PM
To: Reyes, Luis (SMO)
Subject: FW: S. 5 SAP

Class Action SAP

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

February 7, 2005
(House)

STATEMENT OF ADMINISTRATION POLICY

S. 5 - Class Action Fairness Act of 2005

(Sen. Grassley (R) Iowa and 29 cosponsors)

The Administration strongly supports the enactment of S. 5 as an important step in reforming class action litigation. The bill will remove significant burdens on class action litigants and provide greater protections for the victims whom the class action device originally was designed to benefit. Reducing the excessive burden of class action lawsuits on job creation is part of the President's plan to strengthen our economy further.

The Administration strongly supports the bill's proposal to establish a consumer class action bill of rights that would require heightened judicial review of settlements that either result in a net loss to the class members or give class members only coupons. The Administration also supports the provision prohibiting a court from approving a settlement that discriminates among plaintiffs on account of their geographical location.

The bill also would make long-needed changes to the requirements for Federal diversity jurisdiction over class action cases. The Administration strongly supports the proposal to permit, in certain cases, removal of a class action to Federal court if the aggregate amount in controversy exceeds $5 million and there is minimal diversity (at least one claimant and one defendant are from different States). The Administration also strongly supports the bill's coverage of "mass actions" in its diversity jurisdiction and removal reform sections. Like class actions, mass actions can be used to adjudicate substantial numbers of claims simultaneously in a single trial. Failure to include mass actions would create a significant loophole and would undermine the purpose of this legislation. Combined with existing Federal rules for consolidation of related Federal cases, this proposal would help avoid the inefficiency, waste, and unfairness that have too often resulted from multiple overlapping class action suits.

S. 5, as reported out of the Senate Judiciary Committee, reflects a carefully negotiated bi-partisan compromise. The Administration opposes any amendments that would have the effect of imperiling swift passage of this bill.

* * * * * *

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Friday, June 24, 2005 2:26 PM
To: Gorsuch, Neil M
Subject: Tort Reform AG Talking Points
Attachments: Gonzales--Tort Reform.doc

Neil, this help as some background. Were used by the AG in his confirmation process, so they are slightly dated. Nevertheless, they reflect some of what we have been cleared to say on the matter. Tracking down other.

-----Original Message-----
From: Wilson, Karen L
Sent: Friday, June 24, 2005 2:23 PM
To: Reyes, Luis (SMO)
Subject: Tort reform

Tort Reform

Issue: Do you think it is appropriate for the Department of Justice to support specific tort-reform proposals?

Talking Points:

- Yes. The Department of Justice litigates more civil cases than any other entity in the nation. The Department has a unique institutional interest, therefore, in ensuring that the courts operate smoothly and that the rules for litigants are clear and fair—even in those cases in which the United States is not a party.

- In addition, the Department of Justice has an interest in tort reform as the Administration's representative on questions of legal policy.

- Currently, the most significant proposals for tort reform are in the areas of **medical malpractice**, **class actions**, **asbestos**, and claims against **gun manufacturers**. The outcomes of these attempts at reform will have substantial implications for the nation's economy as well as consumers' access to important goods and services.

- The effort to reform medical liability is particularly important to the federal government, because it is one of the nation's largest providers of medical insurance and medical care.

- All of these reform proposals are important for ensuring that the costs of civil lawsuits (which will ultimately be borne by consumers) do not exceed the value of the compensation and deterrence that result from those lawsuits. No litigant, lawyer, or jury in any single case can be expected to strike that balance.

- In considering the merits of these reform proposals (particularly the one relating to asbestos liability), it is critical that they do not put the United States in the position of being the insurer of last resort.

Background:

- In June 2003, the House of Representatives passed H.R. 1115, the Class Action Fairness Act of 2003. The bill would have given federal district courts jurisdiction over most non-shareholder class actions in which the plaintiff class comprised more than 100 plaintiffs and the total amount in controversy for all plaintiffs exceeded $5 million. The Administration supported the bill, but it failed to pass the Senate.

- In March 2003, the House of Representatives passed H.R. 5, the HEALTH Act of 2003, which restricted the availability of punitive and non-economic damages in medical cases, limited lawyers' contingency fees, and precluded liability for

medical products that conformed to FDA standards. The Senate has never voted on the bill.

- In April 2003, the House of Representatives passed H.R. 1036, the Protection of Lawful Commerce in Arms Act. The bill would immunize gun manufacturers and dealers from liability arising from the unlawful use of a legal firearm. The Administration expressly supported the bill, but it failed to pass the Senate.

- There have been a number of efforts to institute a rationalized system for adjudicating and paying asbestos claims, but none has passed. The most recent major proposal (championed by Chairman Hatch) was S. 2290, which would establish a trust fund and an administrative office to pay claims within the Department of Labor. There is significant support for this approach, but there are fundamental disagreements on the specifics of funding the trust that led to a Democratic filibuster in April.

DRAFTER: Ryan Bounds, 305-4870

REVIEWER: Richard Hertling, 514-9114

Magnuson, Cynthia

From: Magnuson, Cynthia
Sent: Thursday, June 30, 2005 10:33 AM
To: Allen, Gary (CIV); Apisson, Elizabeth M; Baxter, Felix (CIV); Boyle, Brian D; Branda, Joyce (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Eubanks, Sharon (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D. (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Madden, Kevin; Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Miller, Charles S; Morgan, Julian (CIV); Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Rivera, Jennifer (CIV); Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Sierra, Bryan; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wiggins, Mike; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 6/30/05 Civil Division News

Health groups seek to intervene in U.S. tobacco case

Public health groups ask to intervene in government's tobacco trial

Health Groups File Motion To Join DOJ Tobacco Suit

Activists: HIV care scam uses homeless; Homeless people with HIV/AIDS are being used by storefront clinics to make millions off Medicare, activists and healthcare experts said

HIPAA PROVISION THREATENS TO RUIN Rx DRUG FIRMS GUILTY OF FRAUD

9/11 crisis led RCMP to share its secrets; Sensitive details offered to other nations, including Syria,
Mountie tells Arar probe

Lawyers' Fees Questioned In Gold Train Settlement

Opinion: Settling accounts

Reuters
29 Jun 2005 22:27:09 GMT

Health groups seek to intervene in U.S. tobacco case

WASHINGTON, June 29 (Reuters) - Anti-smoking and health advocates made a bid to intervene in the U.S. government's racketeering case against cigarette makers, telling a federal judge the Justice Department was not being tough enough on the industry.

Six anti-smoking groups said they filed with U.S. District Judge Gladys Kessler arguing that they should be made formal parties to the lawsuit so they can propose stricter sanctions against the industry.

The groups, including the Tobacco Free Kids Action Fund, the American Cancer Society, the American Heart Association and the American Lung Association, criticized as inadequate scaled back legal remedies being sought by the government.

"As the actions of the government demonstrate, the interests represented by the proposed intervenors are no longer being adequately represented," the groups said in a motion filed with the court.

The comment echoed criticism of the department's recent decision to scale back a key legal remedy they are seeking in the case.

The government late Monday asked Kessler to require cigarette makers to fund a $10 billion quit-smoking program and $4 billion for an anti-smoking education campaign to remedy decades of alleged fraud by the industry.

But the request angered anti-smoking groups because it was only a fraction of the $130 billion, 25-year program recommended by a government witness.

Targeted in the 1999 lawsuit are: Altria <MO.N> and its Philip Morris unit; Loews Corp.'s <LTR.N> Lorillard Tobacco unit, which has a tracking stock, Carolina Group <CG.N>; Vector Group Ltd.'s <VGR.N> Liggett Group; Reynolds American's <RAI.N> R.J. Reynolds Tobacco unit; and British American Tobacco Plc <BATS.L> unit, British American Tobacco Investments Ltd.

The companies deny they illegally conspired to promote smoking and say the government has no grounds to pursue them or impose additional restrictions after they drastically overhauled marketing practices as part of a 1998 settlement.

Altria called the motion "an inappropriate effort on behalf of these organizations to improperly inject themselves into a lawsuit to which they are not parties."

"There is no legal basis for this motion, and we will oppose it," Altria said in a statement.

END

AP
June 29, 2005

Public health groups ask to intervene in government's tobacco trial

By HILARY ROXE
Associated Press Writer

WASHINGTON_Public health groups, saying they lacked confidence in the government's handling of the case, asked on Wednesday to intervene in the federal racketeering lawsuit against major tobacco companies,

The six groups contended that prosecutors were no longer representing their interests after scaling down a proposed penalty. The filing to U.S. District Judge Gladys Kessler asked for the chance to weigh in "solely on the issue of the appropriate and necessary remedies."

The organizations asking to intervene were the American Cancer Society, the American Heart Association, the American Lung Association, Americans for Nonsmokers' Rights, the National African

American Tobacco Prevention Network and the Tobacco-Free Kids Action Fund.

"We're no longer confident that the government is going to represent the best interests of the American people in the case," said Paul Billings, a vice president at the American Lung Association.

Justice Department spokesman Charles Miller declined comment on the request.

William S. Ohlemeyer, vice president of Altria Group Inc., the parent company of Philip Morris, said the groups' filing were "an inappropriate effort ... to improperly inject themselves into a lawsuit to which they are not parties."

In the suit, the government claims cigarette companies conspired for decades to deceive the public about the health risks of smoking.

As the trial came to a close earlier this month, prosecutors asked for a $10 billion, five-year smoking cessation program, slashing the size of a $130 billion plan offered by one of their own witnesses.

The smaller plan "doesn't even begin to offer (American smokers) the assistance they need to drop the deadly habit and live a life free of tobacco," said John R. Seffrin, chief executive officer of the American Cancer Society.

The request came a day after prosecutors asked Kessler to impose $14 billion in penalties, if she finds liability. Besides the stop-smoking program, the government asked for a $4 billion education campaign and bans on practices such as flavored cigarettes.

END

Dow Jones
Wednesday June 29, 6:20 PM EDT

Health Groups File Motion To Join DOJ Tobacco Suit

By Brian Blackstone
Of DOW JONES NEWSWIRES

WASHINGTON -(Dow Jones)- In the strongest signal yet of antismoking advocates' anger at the government's handling of the cigarette racketeering case, a group of health advocates on Wednesday filed a motion in federal court to become parties to the lawsuit.

The organizations include the American Cancer Society, American Heart Association, American Lung Association, Americans for Nonsmokers' Rights, National African American Tobacco Prevention Network and the Tobacco-Free Kids Action Fund, which is affiliated with the Campaign for Tobacco-Free Kids.

"As the actions of the government demonstrate, the interests represented by the proposed intervenors are no longer being adequately represented," according to a motion filed with District Court Judge Gladys Kessler, who is deciding the nonjury case.

The health organizations specifically cited the government's last-minute decision to slice $120 billion off the cost of its proposed smoking cessation remedy during closing arguments in early June.

The groups don't want to present new evidence in the trial, which concluded earlier this month after nine months of testimony. DOJ filed suit in 1999 alleging that major cigarette makers engaged in a five-decade scheme to defraud the public on the dangers of smoking in violation of civil racketeering, or RICO statutes.

Rather, the groups seek to present "arguments solely on the issue of the appropriate and necessary remedies that should be imposed in this case," according to the motion. Filings on remedies are scheduled for Aug. 24 and Sept. 19.

Such a motion to intervene "is fairly common, especially where the government is the litigant in a case that has this kind of enormous impact," said David Vladeck, professor at Georgetown University Law School. He's representing the public health groups in this case.

William Ohlemeyer, associate general counsel of Altria Group Inc., parent company of defendant Philip Morris USA, stated: "At best, it reflects a fundamental misunderstanding of the law and the facts; at worst, it's a disingenuous attempt to confuse and mislead the public about the issues that must be decided in this case."

"There is no legal basis for this motion, and we will oppose it," he added.

Groups May Resurrect Fiore Plan

The Justice Department late Monday asked Kessler to force tobacco companies to spend a total of $10 billion over five years on smoking cessation programs and another $4 billion over 10 years for a public-education campaign through the American Legacy Foundation, which was set up as part of the 1998 Master Settlement Agreement with states.

The DOJ said its cessation plan would cover the first 2.5 million smokers that request treatment each year.

"There are currently 45 million Americans who are smokers and the $10 billion, five-year cessation remedy set forth by the government doesn't even begin to offer these people the assistance they need to drop the deadly habit and live a life free of tobacco," said John R. Seffrin, chief executive of the American Cancer Society.

A previous plan by DOJ witness Michael Fiore, a cessation expert at University of Wisconsin, strongly backed by antismoking advocates, called for a 25-year, $ 130 billion plan.

"The remedies order makes clear the DOJ does not represent the best interest of the public and the public health community," said William Corr, executive director of the Campaign for Tobacco Free Kids.

"All of our organizations strongly support the recommendations that Dr. Fiore made," Corr said. "If we're permitted to write a legal brief, we'd certainly stress the need for a remedy like Dr. Fiore's."

DOJ spokesman Charles Miller had no comment on the motion.

In its remedies filing Monday, DOJ also asked Kessler to require cigarette makers to achieve a 42% reduction in youth smoking by 2013 or face a $3,000 penalty for each youth above the target and force them to make "corrective communications concerning the adverse health effects of smoking."

DOJ requested the appointment of two court-appointed monitors with subpoena power to "supervise the implementation of court-ordered relief" and be able to " recommend removal of any officer, employee or other member of senior management."

The government was forced to backpedal on remedies following a February appellate court ruling tossing their request for disgorgement of $280 billion in past industry profits and proceeds as a remedy. The D.C. Circuit Appeals Court ruled that the remedy was backward-looking and thus not designed to prevent future fraud - a key threshold under racketeering statutes.

DOJ lawyers have said they scaled down the cessation remedy in order to fit the appellate standard.

In addition to denying the underlying fraud charges, industry lawyers contend none of DOJ's proposed remedies would pass appellate review.

Philip Morris USA lawyer Dan Webb said Tuesday he'll file a motion with Kessler to throw out all of DOJ's remedies and effectively shut down the entire case.

Defendants in the racketeering case include Altria Group's Philip Morris USA; R.J. Reynolds Tobacco Holdings Inc. and Brown & Williamson, which have merged to form Reynolds American Inc.; British American Tobacco PLC; Vector Group Ltd.'s Liggett Group Inc.; and Loews Corp.'s (LTR) Lorillard Inc.

END

Miami Herald
Thursday, Jun 30, 2005

Activists: HIV care scam uses homeless; Homeless people with HIV/AIDS are being used by storefront clinics to make millions off Medicare, activists and healthcare experts said.

BY JOHN DORSCHNER

Some storefront clinics are paying Broward homeless people with HIV/AIDS $100 to $300 a pop to get expensive, probably useless treatments that are costing Medicare huge sums of money.

"Since we became aware of this problem, back in 2003, we and our contractors . . . began taking steps to try to stop the scammers," Medicare spokesman Peter Ashkenaz said.

Broward AIDS activists say clinic recruiters go to Fort Lauderdale homeless shelters and drug treatment programs to find poor people with the virus. Many of these are officially disabled, qualifying them for Medicare. The recruiters offer these patients cash to get in vans to travel to clinics for injections costing up to $6,000 a session.

A widespread investigation by the FBI, Florida Department of Health and local police has led to three arrests at a Little Havana clinic in Miami-Dade County.

Medicare says it has blocked $214.5 million in claims in these South Florida AIDS scams and suspended more than two dozen providers.

But Broward AIDS activists are alarmed that many clinics are still operating.

"They don't care for the patients," Pat Callahan Taylor, a healthcare worker, told the South Florida AIDS Network at a May meeting in Fort Lauderdale. ``They just care about the money."

"I don't see why this isn't being yelled from the rooftops," said Ken Fountaine, a staff member at Shadowood II, a Fort Lauderdale shelter for the homeless with HIV/AIDS. ``They're taking advantage of the lowest of the low. . . . I don't understand why they can't go there and shut them down right now."

FBI spokeswoman Judy Orihuela said she could not confirm whether her agency was investigating, ``but very generally, healthcare investigations are document-intensive. They can involve hundreds of interviews, multiple agencies and generally take a lot of time to investigate."

`RED FLAGS'

Ashkenaz of Medicare said the agency's computers have set up the equivalent of "red flags" to block certain providers and patients connected with the AIDS investigation, and in the past five months, as these programming edits have kicked in, Medicare has stopped $144.5 million in payments to suspect clinics.

The three arrests in the investigation concerned people working at the R.A. Medical Center in Little Havana.

One patient at the AIDS Network meeting who asked not to be identified showed The Herald a bill with a long list of charges from the Little Havana clinic.

The bills show she was given injections of immune globulin at $6,000 each. Medicare paid for at least two at $4,092.96 each. The patient said she and others were paid $100 each time they visited the clinic.

Margaret Fischl, a physician who is an AIDS specialist at the University of Miami, said such expensive injections are sometimes useful for patients with low platelet counts, but very rarely. "I can't remember the last time I used that," she said. "Perhaps a couple years." She treats hundreds of patients a year.

Fischl said any clinic that paid people to become patients should be immediately suspect. ``It's just not done that way."

Ana Puga, a Broward physician who works with AIDS patients, said one of her patients told her she was paid $300 a visit for one to three trips a week to clinics. ``They're making them come into the clinic when it's not necessary."

Fountaine said he has banned recruiters from the clinics from coming on the property at the Shadowood shelter and he has brought in a Department of Health speaker to warn residents that treatment at these clinics might not be safe.

Still, Fountaine said he understands why homeless people would be enticed. ``When you have nothing, the cash is way too tempting."

Fountaine said that he didn't know of anyone in the shelter who wanted to talk about taking the money, because most of those with AIDS want privacy and those who are taking the cash wouldn't want to jeopardize their income.

At the AIDS Network meeting, a woman who asked that she be identified only as a "PWA" -- person with AIDS -- said she was offered money to take a van to a clinic last year, but ``I asked questions and didn't go."

The PWA said she had heard that the clinics were billing $5,500 a visit for some alleged treatments, ``but they don't tell you what they're putting in your body. . . . We need to send a message that it's not OK to prey on the most vulnerable."

THREE ARE CHARGED

The probe of R.A. Medical Center came after a patient talked to investigators.

In March, Raul Ramirez, 50, identified by patients as administering the treatments, was charged with the unlicensed practice of medicine. Ramirez has a string of drug charges dating to the 1980s.

Later, another employee of the Little Havana clinic, Beatriz B. Hernandez, 40, also was charged with the unlicensed practice of medicine. Both Hernandez and Ramirez have pleaded not guilty. Their attorney did not return a call seeking comment.

Last week, Miami-Dade police arrested Joseph Barata, 74, a physician at R.A. Medical Center, and charged him with aiding and abetting the unlicensed practice of medicine for allowing Hernandez and Ramirez to treat patients at his clinic.

None of the three have been charged with Medicare fraud connected with the treatment of HIV/AIDS patients. The clinic no longer operates.

END

Inside CMS
June 30, 2005

HIPAA PROVISION THREATENS TO RUIN Rx DRUG FIRMS GUILTY OF FRAUD

Former and current U.S attorneys this week warned drug companies to expect increased use of a law that could ruin companies guilty of defrauding the government -- such as through illegal off-label drug promotion -- by barring them from selling drugs under Medicare and Medicaid. Up to now prosecutors have turned to other enforcement tools in order to avoid putting companies out of business, but the statute of limitations is running out and prosecutors are now being forced to use the so-called "mandatory exclusion" enforcement tool under HIPAA.

The provision, included in the 1996 Health Insurance Portability and Accountability Act, states that any company or individual convicted of a fraud offense that happened after HIPAA's enactment cannot sell any products or services to Medicare or Medicaid.

"Mandatory exclusion is a big issue looming for the industry," according to Thomas Kanwit, an assistant U.S attorney in Boston who spoke this week at a Drug Information Association conference in Washington.

State and federal attorneys have threatened to use the measure against companies in order to win huge court settlements. But to use mandatory exclusion as a threat, prosecutors also need to be able to not use it, and that is becoming increasingly difficult.

One way around the provision has been to allow companies to plead guilty to offenses that happened before HIPAA's enactment on August 20, 1996, Kanwit said.

"What you've seen in a lot of prior cases is the allegations will coincidentally go up to August 19, 1996," Kanwit said. "That's going to be harder and harder to do because we generally have a five-year statute of limitations."

"The only way around it then is to have a subsidiary take the plea."

However, **T. Reed Stephens**, who used to work for the U.S. Department of Justice, told FDA Week that the government does not like allowing company subsidiaries to take the blame because the government looks complicit in letting the company off the hook. Appearances and politics aside, it is still much easier to simply get a company to plead guilty for offenses up to the August 1996 date.

Stephens, now a partner at Sonnenschein Nath & Rosenthal, said the government likely will focus its use of "mandatory exclusion" on makers of drugs for which there are multiple market alternatives, such as "me-too" drugs, so that patients can still get needed drugs if the drug maker is prohibited from selling to Medicare or Medicaid.

An industry lawyer contacted after the DIA conference said another way to avoid mandatory exclusion is to get companies to plead guilty to offenses that do not include fraud, such as violations of the Food, Drug

and Cosmetic Act. -- FDA Week

END

Globe and Mail (Toronto)
June 30, 2005

9/11 crisis led RCMP to share its secrets; Sensitive details offered to other nations, including Syria,
Mountie tells Arar probe

By MICHAEL DEN TANDT

Thursday, June 30, 2005 Updated at 4:52 AM EDT

Ottawa — A crisis environment after the Sept. 11, 2001, attacks on the United States led the RCMP, under orders from its most senior levels, to cast aside safeguards on the transfer of investigative information to foreign security services, a public inquiry heard yesterday.

RCMP Superintendent Michel Cabana, who led the Mounties' counterterrorist probe in the Ottawa area in the months after the attacks, said there simply wasn't time to abide by the usual checks and balances on information transfers, both within the Canadian government and overseas.

"It wasn't a situation where we were focused on just preventing attacks in Canada," Supt. Cabana said. "Borders as we knew it had come down. All agencies, domestic and foreign, were working together to prevent any further attacks around the world."

As a result, even the most sensitive secrets of the RCMP national security investigation, known as A-O Canada -- which looked into the activities of Ottawa computer engineer Maher Arar as well as several other Ottawa-area men -- were freely shared in late 2001 and 2002 with a large group of agencies, both domestic and foreign. They would also be offered to Syria, where Mr. Arar was held.

Supt. Cabana headed A-O Canada, the 2002 investigation into a suspected al-Qaeda sleeper cell based in Ottawa.

Normal protocols requiring signed authorizations, limits on dissemination and strict adherence to the Privacy Act were set aside, Supt. Cabana said.

That specifically included "the FBI and friends," he said. And after Mr. Arar's detention in Syria in October of 2002, the Mounties offered to share the fruits of A-O Canada with the Syrians as well.

"I relied on the experts," Supt. Cabana said, in defending the offer to Syrian intelligence, which are widely known to interrogate prisoners under torture.

"If my supervisors and the people from [Foreign Affairs] and Justice are in agreement with this, my mandate was an investigative mandate and to do anything I could to prevent a further attack."

In a number of instances, the groups of attendees at A-O Canada intelligence briefings were large enough to warrant a PowerPoint presentation, Supt. Cabana said.

In one instance, in late May, 2002 -- four months before Mr. Arar was detained at New York's JFK airport while en route from Tunisia to Montreal -- the Mounties delivered a detailed presentation on their A-O Canada findings to a meeting in the United States, Supt. Cabana testified.

In late January of 2002, the A-O Canada investigators executed seven search warrants in the Ottawa area and seized 26 computer hard drives, hundreds of CDs and tens of thousands of pages of documents.

The material was far more voluminous than the Mounties had expected, Supt. Cabana said, so they sought help from "stakeholder agencies, both domestic and foreign."

At a meeting on Jan. 31, 2002, the agencies were briefed in detail on the investigation and "we invited agencies to obtain copies of the information and to assign resources to our team," Supt. Cabana said.

Three months later, the FBI was given three compact discs that contained the entire investigative database to that point, Supt. Cabana said.

At least some of the RCMP information found its way into a U.S. Immigration and Naturalization Service deportation judgment that resulted in Mr. Arar's being hustled onto a private jet in the wee hours of Oct. 8, 2002, and flown to Jordan.

The Mounties knew of Mr. Arar's detention throughout his time in New York, Supt. Cabana said yesterday. They were notified of his pending arrival at JFK an hour before he landed and asked whether they had any questions for him.

In the 24 hours before Mr. Arar was reported missing, the RCMP were heavily engaged in negotiations with his U.S. jailers about whether, and under what circumstances, they would travel to New York to interview him themselves, the officer said.

But neither the FBI, nor the INS, nor any other U.S. official gave their Mountie allies a heads-up about the pending deportation, Supt. Cabana said. He didn't find out about it until the following day.

"Did that make you feel like you were a full partner with the Americans, the way they did this to you?" Arar commission lead counsel Paul Cavaluzzo asked the officer.

"Clearly not," he replied.

Mr. Arar, a husband and father of two, was arrested in New York in October of 2002. After a two-week stay in a U.S. detention centre he was deported to Jordan. He was later moved to Syria, where he was imprisoned for a year in a tiny cell, and says he was tortured.

Neither Canadian, nor U.S. nor Syrian security officials ever had any evidence that Mr. Arar was involved in terrorism or any other crime. The RCMP, Supt. Cabana asserted yesterday, was interested in him only as a potential witness who might know things about other "people of interest."

But Supt. Cabana said yesterday he felt no responsibility for Mr. Arar's deportation to Syria. "The directive I received was to direct a criminal investigation and to prevent attacks," he said.

END

The Forward
Thursday, June 30, 2005

Lawyers' Fees Questioned In Gold Train Settlement

By NATHANIEL POPPER

An out-of-court settlement has put the moral questions surrounding the Hungarian Gold Train on hold, but a new debate has sprung up over how much money should go to attorneys who prosecuted the case.

Last week, the law firms involved petitioned the judge for $3.85 million of the $25.5 million that the American government has agreed to pay in the settlement. In their petition, the lawyers cited the 16,000 hours of work they have put in over the last five years. While a number of the plaintiffs have provided vocal support for their lawyers, the fee request has drawn criticism from some insiders in the fight for Holocaust restitution.

The survivors in the case have been seeking restitution for valuables on the storied Gold Train, which contained the Hungarian Jews' goods that had been stolen by the Nazis. The United States took possession of the train in 1945, and few of the priceless objects on board ever made it back into the hands of Hungarian Jews. A 1999 report from an American presidential commission found that American army officers had looted and pilfered a number of paintings, oriental rugs and other valuables from the Gold Train after it was recovered in Austria.

The lawsuit against the American government has been controversial since it was filed in 2001, in part because of the unexpectedly spirited defense put up by the United States Department of Justice and in part because there was little evidence tracing objects on the train to any specific Holocaust survivor. The lawyers said that given the case's difficulty, their fee requests were "deeply discounted."

"We achieved this as a result of a tremendous amount of work," said Jonathan Cuneo, the lead counsel from the three law firms working on the case. "There has to be some reasonable reckoning at the end of the day. Otherwise, no attorney would do this kind of case again."

But Roman Kent, a survivor leader who was not involved in the matter, has written to the Miami federal judge, asking her to reject the lawyers' request when she finalizes the settlement in September.

"I think it's outrageous — scandalous — taking advantage of the survivors and trying to make millions for the lawyers," Kent told the Forward.

Kent argued that the percentage taken by the lawyers should be closer to what it was in other Holocaust restitution class action suits — like those against the Swiss banks and German industry — in which the lawyers took between 1% and 2% of the overall settlement. However, those cases involved billions of dollars, while the current case involves only $25.5 million. According to a 2003 study by a Cornell University professor, the average lawyer fees in American class action suits were 21.9%. In the Gold Train case, the total fees are 15% of the overall settlement with 12% going to lawyers' fees.

The overall settlement was significantly lower than what the plaintiffs had sought originally. When the case began, survivors were asking the American government to pay $10,000 to any qualifying Hungarian survivors — of which there are about 62,000. Because a division of the $25.5 million would have been minuscule, the preliminary settlement allows for no direct payments. Any money the lawyers don't receive will go to social services for needy Hungarian Holocaust survivors.

According to people who took part in the negotiations leading up to the settlement, the lawyers' fees — between $450 and $500 an hour for the lead counsels — were one of the major bones of contention during the discussions. The lawyers asked for $5 million, but they were worked down to a $3.85 million cap in the final days of the negotiations, sources said. Other fees have also drawn the ire of critics. For example, the former vice chairman of the U.S. Holocaust Memorial Museum, Mark Talisman, charged the law firm $242,500 for the advice he provided to lawyers in the case.

Michael Bazyler, a Whittier Law School professor who has written a book on the legal aspects of Holocaust restitution, criticized Talisman's fee and said he would have liked the totals fees for the case to be below 10%. But, like a number of legal authorities who commented on the case, Bazyler said the settlement was remarkable given the case's lack of legal merit, particularly because of the lack of evidence linking the contents of train to any individual survivor.

"The lawyers here were legal magicians," Bazyler said. "The number is high, considering the fact that the individual survivors aren't getting anything. On the other hand, without the class litigation there would have been zero recovery."

Irving Rosner, an 82-year-old survivor who was the lead plaintiff in the case, said he thinks it's mildly unfair that he is not receiving a penny after spending time and energy attending hearings and meetings.

But he said of the lawyers, "I know they put in a lot of work." He added, "I didn't do it to get money."

END

Baltimore Sun
June 30, 2005

Opinion: Settling accounts

THE ALLEGED bilking of Native American tribes by a slick Washington lobbyist hired to promote their gaming interests can't compare to the Indian monies lost by the federal government. The dubious dealings of lobbyist Jack Abramoff cost several tribes a fraction of the sum squandered by America's mismanagement of tribal lands. In the same week congressional investigators were identifying Mr. Abramoff's misdeeds, a group of Native American leaders was offering a solution to their long-standing dispute over remuneration for use of Indian lands.

The principles outlined by the Indian coalition should be the starting point for settling the 9-year-old court case and correcting the incompetence that led to it. Sens. John McCain and Byron L. Dorgan, who requested the principles, should shepherd a compromise through the Congress and end a century-old injustice. The lawmakers wanted Indian leaders to speak with one voice on a possible solution to this case, and they have.

Elouise Cobell, a community development officer and member of the Blackfeet Indian Tribe of Montana, filed the lawsuit in 1996. It involves the Indian Trust and the Department of Interior's management of it. The trust covers 56 million acres of Indian land and natural resources and royalties paid to its owners for use of them. It dates to 1887, when the U.S. government took control of Native American lands, divvied them up among tribes and Indians and held the parcels in trust.

The Indians were supposed to be paid for use of the land, including grazing, mining, drilling and logging. But the government failed to collect proper fees, didn't keep track of who was owed what and couldn't account for its mistakes because it was overwhelmed by the task at hand. The trust covers 1,400 tribal and 300,000 individual accounts, the latter involving about $400 million worth of payments annually.

Several courts have found that the government mismanaged the fund, so much so that federal officials can't reconcile the accounts. Documents have been lost or destroyed; bookkeeping was a fiction. Past and present interior secretaries have argued that they can reform the system, but none has made good on that claim.

The government has spent too much time in court trying to make this case go away, and it's easy to see why: As much as $28 billion could be at stake, according to Native American representatives. It's a staggering sum that suggests settling the case is the only realistic option. Resolving this lawsuit turns on identifying a fair and equitable settlement figure, since the lack of documentation makes an accurate accounting impossible, and instituting a system with proper oversight.

The 50-point proposal presented by Native American leaders last week provides ample recommendations for discussion and negotiation. But what has been noticeably lacking in this case is a commitment to act. Congress shouldn't delay. In this case, time is definitely money.

END

From: McDowell, Cynthia
Sent: Friday, July 01, 2005 12:39 PM
To: Andrea Bottner; Andrew Emrich; Brad Schlozman; Bruce Mcdonald; Carl Nichols; Carl Peed; Cheri Nolan; Clifford White; Crystal Roberts; Cybele Daley; Dan Meron; David Higbee; Deborah Rhodes; Deborah Spagnoli; Domingo Herraiz; Donald Gambatesa; Edward McNally; Elizabeth Kessler; Gregory Katsas; Howard Nielson; Jeffrey Bucholtz; Jeffrey Clark; Jeffrey Taylor; John Richter; Jonathan Cohn; Joseph Bianco; Kelly Johnson; Kristi Macklin; Kyle Sampson; Laura Parsky; Lily Swenson; Luis Reyes; Makan Delrahim; MaryBeth Buchanan; Michael Battle; Mike Wiggins; Monica Goodling; Neil Gorsuch; Nicholas Tzitzon; Pat O'Brien; Patrick Hofer; Patrick Philbin; Paul Clement; Rachel Brand; Raul Yanes; Rebecca Seidel; Richard Hertling; Richard Morrison; Robert Flores; Rod Rosenstein; Sean McLaughlin; Sharee Freeman; Steve Bradbury; Steven McFarland; Stuart Nash; Tasia Scolinos; Theodore Ullyot; Thomas Barnett; Tracy Henke; Uttam Dhillon; Wan Kim; Amy Grimsrud; Andrew Beach; Angela Williamson; Ben Curtis; Ben Porritt; Beth Collins Cook; Bruce Taylor; C. Kevin Marshall; Candice Chiu; Carrie Nelson; Connor Flaherty; Courtney Elwood; Cynthia Magnuson; Cynthia McKnight; Deborah Underhill; Denise Gitsham; Ebony Lee; Elizabeth Apisson; Eric Akers; Eric Holland; Evan Gilbert; Gordon Todd; Grant Nichols; Jaclyn Lesch; James OConnell; Jan Williams; Jana White; Janet Potter; Jason Torchinsky; Jennifer Korn; Jessica Gavora; John Eddy; John Nowacki; Jonathan Ganter; Julie Warren; Kerri Strug; Kevin Madden; Kiahna Sellers; Kimberly Smith; Lara Reynolds; Lindsey de la Torre; Mark Metcalf; Mary Neumayr; Matt David; Matt Dummermuth; Matt Robinson; Matt Roper; Matthew Miranda; Michael Costigan; Michael Tierney; Molly Donlin; Natalie Voris; Neal Jungeblut; Omar Vargas; Price Roe; Raquel Sours; Rena Comisac; Robert Coughlin; Ryan Bounds; Sandra Malloy; Shane Chambers; Stephanie McNees; Stuart Nash; Theodore Cooperstein; Tim Racicot; Trent Luckinbill; Tucker McNeil; Wanda Martinson; William Otis; William Woodruff
Subject: The Appointees Friday Weekly - July 1, 2005

THE APPOINTEES FRIDAY WEEKLY

Friday, July 1, 2005

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Dear Appointees,

Have a great 4th of July weekend! Here's the scoop to catch some fun.

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- ***TONIGHT!*** **Friday, July 1, is <u>a DOJ After-Hours SOCIAL</u> at the National Gallery of Art's Sculpture Garden, 9th & Constitution, 5:30-8:00 PM. Consider stopping by for some R&R. Look for Cynthia past the Café. Details below.**
- *Area Event:* Three-mask Tall Sailing Ship, the Denmark, open to public
- 4TH of July Events:
    - National Independence Day Parade
    - Mount Vernon's Celebrations
    - Annapolis' Celebrations
    - Concert at the U.S. Capitol
    - Weekend Events at the National Archives
    - D.C. Street Closings
- *Area Event:* Smithsonian Folklife Festival, Through July 4
- *Restaurant Specials:* Half-Price Sushi at Signatures Restaurant on Tuesdays
- *Tidbits:* Lance Armstrong Tries for Seventh and final Tour de France Win
- *Health:* Metabolism Notes
- *DOJ Info:* Monthly Photographic Exhibit
- *Wednesdays in June/July:* Free Diabetes Screening
- *Thursdays:* Penn Quarter Farmers Market, 8th Street NW by Teasism
- *Fridays:* Live Jazz in National Gallery of Art's Sculpture Garden

Regards,

The DOJ Office of White House Liaison
Jan Williams, John Eddy, and Cynthia McDowell

==========

Special Event for DOJ APPOINTEES:

<u>LIVE JAZZ in the National Gallery of Art's SCULPTURE GARDEN</u>
***TONIGHT* is DOJ After-Hours Social Night: Friday, July 1, featuring Perry Conticchio Quartet, jazz saxophone.**
Look for Cynthia just past the Café.
9th & Constitution Avenue, 5:30-8:00 PM. Food and Beverages available for purchase. Located within one block of the METRO stop of Navy-Archives-Penn Quarter (Yellow and Green lines).

~
Area Event:
<u>JULY 2-3, Saturday-Sunday - TALL SAILING SHIP OPEN TO PUBLIC</u>
The three-mast tall sailing ship is here in the District on its second visit. The Denmark, launched in 1933 as a training ship for the Danish merchant fleet and used by the United States during World War II, is moored at 550 Water Street, SW near the 14th Street Bridge. It will be open to the public from 1:00-4:00 PM both Saturday and Sunday, July 2-3.

~
Area Events:
<u>FOURTH OF JULY EVENTS - WASHINGTON, D.C.</u>

<u>JULY 4th National INDEPENDENCE DAY PARADE</u>, Constitution Avenue between 7th and 17th Streets, N.W., Washington, DC, at 11:45 AM. Free. 202-619-7222.

<u>JULY 4th MOUNT VERNON'S "Red, White and Blue Celebration"</u> 3200 Mount Vernon Memorial Highway, South of Alexandria, Virginia. Monday 8:00 AM-5:00 PM. Adults $11, Seniors $10.50, Ages 6-11 $5. 703-780-2000. Free birthday cake while supplies last!

DOJ_NMG_0000334

- 11:00 AM - Concert by the National Concert Band of America and special wreathlaying ceremony at Washington's tomb by the George Washington Chapter of the Sons of the American Revolution. Led by Fifes and Drums of Prince William III and the First Virginia Regiment.
- 12:00 NOON - Inspection on the Bowling Green of reenactors from the First Virginia Regiment, the First Maryland Regiment, and the Second New Jersey Regiment. A reading of the Declaration of Independence by "George Washington," and a cannon volley.

JULY 4th ANNAPOLIS' INDEPENDENCE DAY PARADE, Annapolis, Maryland. Kicks off at 6:00 PM beginning an evening of events downtown. After the parade, local bands and the U.S. Naval Academy Band will perform near the city docks. The fireworks are set for 9:15 PM and can be seen from anywhere along the parade route. 410-263-1183.

JULY 4th CONCERT on the West Lawn of the U.S. CAPITOL, Washington, DC, at 8:00 PM. Free. 202-619-7222. Barry Bostwick once again hosts "A Capitol Fourth." This year's show includes Gloria Estefan, the Beach Boys, the O'Jays and Kimberly Locke, the 1812 Overture and glorious Fireworks!

Weekend EVENTS at THE NATIONAL ARCHIVES, 700 Constitution Avenue, NW. Constitution Avenue between 7th and 9th streets, NW. www.archives.gov . PH: 202.501.5000.
Metro: Archives-Navy Mem-Penn Quarter
There is no charge for these programs, which are open to the public.

July 3rd and July 4th - Declaration Days at the National Archives:
10:00 AM - 9:00 PM - Exhibit Viewing (Rotunda) of the Charters of Freedom: The Declaration of Independence, The Constitution and the Bill of Rights on permanent display. Public Vaults - an interactive permanent exhibit. O'Brien Gallery - "Americans in Paris" through September 5

July 3rd and July 4th - Family Activities throughout the National Archives Experience: 10:00 AM - 4:00 PM Draw Your Dream of America, Sign the Declaration of Independence, Place Your Seal on the Treaty of Alliance, Hunt for Treasure, Write a Secret Message.

July 3rd and July 4th Performances in the William G. McGowan Theater:
11:30 am - 1:00 pm - The Hildebrands "Colonial Music"
1:30 pm - 2:30 pm - Joan Gatturna "Petticoat Patriot"

July 3rd and July 4th Performances in the Presidential Conference Rooms:
- ❑ 12:30 PM -1:30 PM (Washington Room): Bruce Harris "Peter Salem - Fighting in the Hope of Freedom"
- ❑ 2:30 PM - 3:30 PM (Jefferson Room): Michael Lasser "Shedding Grace - The Story of Our National Anthems"
- ❑ 3:30 PM -4:30 PM (Washington Room): Hector Diaz "General Bernardo de Galvez"
- ❑ 4:30 PM - 5:30 PM (Jefferson Room): History is a Hoot "Seeing Isn't Always Believing:"

July 4th at 10:00 AM - Reading Ceremony on the Constitution Avenue steps
- ❑ Presentation of Colors
- ❑ National Anthem
- ❑ Video Presentation "Declaring Our Freedom"
- ❑ Dramatic Reading of the Declaration of Independence by special guests from the Walter Reed Army Medical Center - Honored disabled veterans from Operation Enduring Freedom
- ❑ Performance by the U.S. Army 3rd Infantry "Old Guard" Fife and Drum Corps

July 4th at 12:00 PM-4:00 PM -Time Travelers

DOJ_NMG_0000335

Visit with special historical guests including John and Abigail Adams, Thomas Jefferson, Susan B. Anthony, Benjamin Franklin, Elizabeth "Mumbet" Freeman and Ned Hector.

~

JULY 4th STREET CLOSINGS in Washington, DC

From the National Park Service web site: http://www.nps.gov/nama/events/july4/closures.htm

The National Mall will be opened to the public at 10:00 a.m.
The following roads will be closed on July 4th by the United States Park Police.
These closures may change, please check back for updates.

Closed from 6:00 am until after pedestrian traffic clears after the conclusion of the event:

* Memorial Bridge
* Parkway Drive from Rock Creek Parkway to Lincoln Memorial Circle
* Rock Creek Parkway from Virginia Ave. to Ohio Drive
* Independence Ave. from 15th Street to 23rd Street
* Constitution Ave. from 15th Street to 23rd Street
* West Potomac Park from Inlet Bridge to 23rd Street, INCLUDES THE FDR MEMORIAL.
* Maine Ave. from SE Freeway to Independence Ave.
* 15th Street from Maine Ave to Constitution Ave.
* 17th Street from Independence Ave. to Constitution Ave.
* Jefferson Drive from 15th Street to 3rd Street
* Madison Drive from 15th Street. to 3rd Street
* Daniel French Drive
* Henry Bacon Drive

Street Closures from the DC Government Web Site:
http://dc.gov/closures/closures_by_agency.asp?agency_id=4
Check closer to the 4th for additional street closings

* Constitution Avenue between 7th and 9th streets, NW in front of the National Archives for a Reading of the Declaration of Independence

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Area Event:

SMITHSONIAN FOLKLIFE FESTIVAL, Through July 4th

What: The 39th Annual Smithsonian Folklife Festival
Where: The Mall, between 7th and 14th Streets, NW, Washington, DC.
When: 11:00 AM-5:30 PM daily, Through July 4.
Admission: Free
Sales: Food will be sold only at concession stands. The Festival Marketplace (in front of Freer Gallery of Art) will sell merchandise related to the programs.
General Information: 202-633-1000 or 202-633-9884 during festival
or see www.folklife.si.edu <http://www.folklife.si.edu>
2005 Sections:
Forest Service, Culture and Community, celebrating 100th anniversary of the U.S. Department of Agriculture's Forest Service and will include presentations by more than 100 people who work in America's national forests.
Oman: Desert, Oasis and Sea, presented in partnership with the government of the Sultanate of Oman, the Middle East Institute of Washington and the Omani Crafts Heritage Gallery.
Nuestra Musica: Music in Latino Culture, music program, in a series of evening concerts.
Food Culture USA, showing how American has changed in its planting, growing, producing, marketing, cooking and eating habits.
Performances 5:30 PM Nightly at the "Sounds of the Forest" stage, ranging from Appalachian to American Indian to Nuyorican; around 12th Street & Mall.

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Restaurant Specials:
HALF-PRICE SUSHI TUESDAY EVENINGS AT SIGNATURES

Sushi lovers, you're in luck! Indulge at *Half-Price Sushi Tuesday Evenings* at Signatures Restaurant, 801 Pennsylvania Ave, NW, www.signatures-dc.com <http://www.signatures-dc.com>. PH: 202.628.5900.
SPECIAL at the Bar inside, or on the Outdoor Terrace by the Bar ONLY, year round.

Includes: Sushi Chef Tu Soe's Signature Rolls; Crunchy Salmon Roll (Salmon, Asian Remoulade, Tempura); Rainbow Roll (California Roll, Tuna, Salmon, Avocado); Tuna Tempura Roll (Fried Tuna Roll, Seven Pepper Sauce); Toasted Bagel Roll (Smoked Salmon Mousse, Asparagus, Crunchy Bagel); Spicy California Roll (Crab, Avocado, Wasabi Fish Roe).

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Tidbits:
LANCE ARMSTRONG Tries for Seventh Tour de France Championship

The six-term defending Tour de France champion is set for his bid to win cycling's most famous race for a seventh straight time - and leave the sport as its undisputed king, writes *Express 07-01-05.* We know Armstrong as someone who's beaten cancer and rewritten cycling's record book.

The Tour de France opens Saturday with an 11.8-mile trial ride from Fromentine to Noirmoutier on Frace's Atlantic coast. From there, 20 more stages and about 2,230 more miles await before the finish in Paris on July 24. The 33-year-old Texas still insists that, win or lose, this will be his final Tour and retirement awaits. No one else has more than five Tour victories, yet Armstrong said he's not lacking incentive in his quest to stand atop the podium at the finish and don a yellow jersey one last time. "My kids weren't there last year and that was a real bummer for me," Armstrong said. "And they are going to be there this year. ...For them to come over here, come into my office basically, and see their father at work is important to me. ...That, right there, alone , is plenty of motivation." Armstrong said the eight other riders who will join him on the Discovery Channel roster represent "our strongest team ever" and six out of the eight are holdovers from last year's winning team.

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Health Info:
METABOLISM
Shady Grove Adventist Hospital Health Tip of the Week

Metabolism is the amount of energy (calories) the body burns to maintain itself. The speed at which the body burns calories is called metabolic rate. Basal Metabolic Rate (BMR) is what the body needs at rest to maintain normal bodily functions like beating of the heart, respiration, and the maintenance of body temperature. Sixty to seventy percent of energy is expended by the body at rest.

- ❑ People with a lower percentage of body fat have a higher metabolism than others that are less muscular because muscle uses more calories to maintain itself than fat. Men have a 10-15 percent faster BMR than women. The male body has a greater percentage of lean muscle tissues.

- ❑ Skipping breakfast can cause as much as a 40 percent drop in your BMR. Also, age brings less lean body mass and slows the BMR, as well as fasting and malnutrition.

- ❑ Spices are thought to raise metabolism by up to 50 percent for three hours after eating, due to the increase in heart rate.

- ❑ Three servings a day of low-fat yogurt or cheese will help you lose 22 percent more weight and 61 percent more body fat (when dieting), especially in the waist area.

- ❑ For every extra pound of muscle you build, your body uses an additional 50 calories a day.

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- Ginger, turmeric, cilantro, and cinnamon triple your body's ability to metabolize food and burn fat for fuel. Just adding one teaspoon of any of them to your meal will boost metabolism for a full three hours and burn 25 percent more calories, according to a study by British scientists.

- Research shows that the body loses a high amount of muscle with a very low calorie intake. This may suppress metabolism by up to 45 percent. The body goes into starvation mode - it protects its fat stores and uses lean tissue or muscle to provide calories.

- When you use your muscles in a low-intensity way like walking, this burns fat by activating an enzyme called hormone-sensitive lipase. Research shows that this fat-breaking enzyme activates after about an hour of walking, and then keeps burning fat for 12 hours.

- Drink green tea. There's evidence that is contains antioxidants that speed-up metabolism. Also, drink plenty of water, it prevents the metabolism-stalling effects of dehydration.

- According to researchers, adding fiber to a low-fat diet can triple the weight you lose.

- Never go more than three hours without having a meal or snack and never eat more than 500 calories at one sitting, according to Tufts University researchers. Eating smaller amounts more often will trick metabolism into acting younger.

- New research has shown that good sleep habits stabilize blood sugar levels, reduce appetite, and inhibit fat storage. While dreaming, the pituitary glands secrete HGH, the body's anti-aging hormone. Getting more sleep is the best way to keep HGH levels high.

Sources: Cornell University, 24-Hour Turnaround by Dr. Jay Williams, WeightLoss Resources and Washington and Shady Grove Adventist Hospitals. The Health Tip of the Week is for educational purposes only. For additional information, consult your physician. Please feel free to copy and distribute this health resource. Shady Grove Adventist Hospital is located at 9901 Medical Center Drive in Rockville. For more information or to receive our newsletter with details about medical services, health classes, and upcoming events, go to www.ShadyGroveAdventistHospital.com. To find a local physician, call 1-800-642-0101 24 hours a day, 7 days a week.

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DOJ Info:

Monthly DOJ PHOTOGRAPHY EXHIBIT: "THE AMERICA WE LOVE, SERVE, AND PROTECT"

An Opportunity for Department Employees to Participate in an On-Going Photographic Exhibition Portraying the Nation We Serve

The Department of Justice has an on-going photographic exhibit on the theme of "The America We Love, Serve, and Protect." All Department employees are eligible to participate by submitting photographs that convey this theme. Photo topics are not limited to depictions of employees performing their duties, but can also include images of our country, its landmarks, landscapes, and citizens. This will be an on-going exhibition that will be displayed prominently throughout the Robert F. Kennedy (Main Justice) Building in Washington, D.C. Photos may be submitted at any time. For more information, <http://10.173.2.12/jmd/photoexhibit.htm>

~

Have a great 4th of July Weekend!

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USDOJ- Office of Public Affairs

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Sent:	Tuesday, July 05, 2005 8:04 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing 7/2/05
Attachments:	agnb050702.pdf; agnb050702.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: SATURDAY, JULY 2, 2005 7:45 AM EST

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TERRORISM NEWS:

Negroponte To Investigate Iraq WMD Allegations Made By NGIC. The Washington Post (7/2, A18, Pincus) reports, "Director of National Intelligence John D. Negroponte will review changes made at the Army's National Ground Intelligence Center (NGIC) to address criticism by a presidential commission in March that found there was 'gross failure' in the center's analysis of Iraqi arms in 2002, said Gen. Michael V. Hayden, Negroponte's deputy." The Post notes, "Two NGIC analysts, who since 2002 have received annual performance awards, judged in September 2002 that the aluminum tubes that Iraq was purchasing were 'highly unlikely' to be used for rocket motor cases because of their 'material and tolerances,' according to the report of the president's commission on intelligence. The NGIC finding, which the commission termed 'completely wrong,' bolstered a CIA contention that the tubes were meant for nuclear centrifuges and were evidence that Saddam Hussein was reconstituting a nuclear weapons program."

Three Men Suspected Of Links To Bin Laden Arrested In Pakistan. The Associated Press (7/2) reports, "Three men suspected of ties to Osama bin Laden's terror network have been arrested in Pakistan, a major newspaper reported Friday." They "were traveling in a vehicle when they were caught Thursday in Mardan, a deeply conservative town in northwestern Pakistan, according to The Jang, Pakistan's largest circulation newspaper." It "is the same region where Pakistani intelligence agents on May 2 caught Abu Farraj al-Libbi, reputedly No. 3 in the al-Qaida terror network."

German 9/11 Suspect E-Mails Wife That He Will Not Return. The AP (7/2, Tiemann) reports, "A

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Sept. 11 suspect who fled his native Germany before the attacks told his wife in an e-mail he would not return for fear of being handed over to U.S. authorities, according to evidence presented at a trial Friday." The AP continues, "Said Bahaji is wanted on an international arrest warrant by Germany on suspicion he helped Sept. 11 suicide pilots Mohamed Atta, Marwan al-Shehhi and Ziad Jarrah as they plotted in Hamburg. … He fled the northern port city shortly before the Sept. 11 attacks and is believed to be in Pakistan or Afghanistan." The AP adds, "His e-mails, intercepted by German security services, were read aloud in the retrial of Mounir el Motassadeq, 31, who is also accused of providing logistical support to the Hamburg al-Qaida cell. … Other e-mails from Bahaji, a German whose father is Moroccan, have been read out previously in the proceedings against el Motassadeq, as prosecutors try to establish el Motassadeq's connection to the Hamburg cell. … El Motassadeq was convicted in 2003 of more than 3,000 counts of accessory to murder and membership in a terrorist organization and sentenced to the maximum 15 years. But the conviction was thrown out last year and a retrial was ordered after an appeals court ruled unfairly denied testimony by key al-Qaida suspects in U.S. custody."

Records Reveal Extent Of Guantanamo Detainee Defiance. The AP (7/2, Fox) reports, "Military authorities have previously disclosed some incidents of guard retaliation at Guantanamo Bay, which resulted in mostly minor disciplinary proceedings. What emerges from 278 pages of documents obtained by The Associated Press is the degree of defiance by the terrorism suspects at Guantanamo." The detainees "banged on their cells to protest the heat. They doused guards with whatever liquid was handy -- from spit to urine. Sometimes they struck their jailers, one swinging a steel chair at a military police officer." In response, "American MPs at times retaliated with force — punches, pepper spray and a splash of cleaning fluid in the face, according to the newly released documents that detail military investigations and eyewitness accounts of alleged abuse."

European Panel's Report Faults US Guantanamo Detainee Policy. Reuters (7/2, Zawadzki) reports, "The United States must close Guantanamo prison, where its treatment of some 500 terrorism suspects encourages hatred toward the West and bolsters Muslim membership of the al Qaeda network, a new report concludes." Reuters continues, "The Organization for Security and Cooperation in Europe (OSCE) commissioned the report from its human rights representative, Belgian senate president Anne-Marie Lizin, and will vote next week whether to accept its findings."

Berlosconi Demands US Respect Italian Sovereignty. The New York Times/IHT (7/2, Povoledo) reports, "Prime Minister Silvio Berlusconi demanded Friday that the United States show 'full respect' for Italian sovereignty, after summoning the American ambassador and asking him to explain the reported abduction of a Muslim cleric by people associated with the C.I.A." He "told the ambassador, Mel Sembler, that he 'demanded full respect for Italian sovereignty from the United States,' according to a curt statement released by the prime minister's office. He also reassured Mr. Sembler that relations between the countries remained strong."

US Concludes Counterterrorist Exercises With Five Saharan Nations. AFP (7/2) reports, "The US military has wrapped up three weeks of joint exercises in five Sahara nations aimed at honing the skills of the African militaries in a push to prevent remote desert zones from becoming terrorist havens." Over "2,000 African troops jumped out of C-130 transport planes, practiced marksmanship, learned about 'law of the land' warfare tactics that preserve basic human rights during combat and studied orienteering, a US officer said Friday."

Report Blames Spread Of Terrorism On Overpopulation. The Washington Times (7/2, Naqvi) reports, "A report released Thursday by the Population Institute links increases in global terrorism to 'unprecedented' population growth in the past 50 years." Population Institute president Werner Fornos "said if population growth remains unchecked in certain regions there could be 'serious security consequences' for that region and others surrounding it. Yemen, Palestinian territories and Afghanistan, breeding grounds for Islamic terrorists, have some of the highest growth rates in the world, he added." In addition to "the security threat, the Population Institute's report highlighted a number of other political crises that could mushroom into global security threats."

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PATRIOT ACT:

WPost Claims House Has Focused On Wrong Portion Of Patriot Act. The Washington Post (7/2) editorializes, "The vote by the House of Representatives last month to block use of a provision of the USA Patriot Act against libraries and bookstores sends a powerful message of bipartisan anxiety about the Bush administration's approach to terrorism. Unfortunately, that message is something of a misfire. Attached to an appropriations bill, the amendment by Rep. Bernard Sanders (I-Vt.) responds to a provision that, while imperfect, makes a good deal of sense and about which there is no evidence of abuse. … The provision in question, Section 215 of the Patriot Act, allows the FBI to get an order from a special court in national security cases to force the production of business records and other documents. The provision does not deal specifically with libraries or bookstores; indeed, the Justice Department says it has never used it to get library or bookstore records and, as of the end of March, had used it only 35 times for any purpose. What's more, the power it grants is largely redundant; the FBI can get that same material using a grand jury subpoena."

HOMELAND RESPONSE:

Independence Day Crowds Will Participate In Emergency Response Training. The Washington Post (7/2, B1, Schwartzman) reports, "The sprawling crowds on the Mall for Monday's July 4 fireworks display will participate in the first major test of Washington's downtown emergency evacuation routes since the Sept. 11, 2001, terrorist attacks, officials said yesterday." The Post continues, "Starting 15 minutes after the fireworks show ends, police officers are to direct tens of thousands of pedestrians and motorists leaving the Mall to seven evacuation routes, in which green and red traffic signals will be extended to four minutes. The test will last 45 minutes." Transportation Department officials "will observe the evacuation from the command center in the Frank D. Reeves Municipal Center on 14th Street NW, watching televised images from some 50 traffic cameras at the intersections. To replicate emergency conditions, officials will alter the timing of the traffic signals using laptop computers."

New DC Emergency Protocol Does Not Solve Communications Problems. The Washington Times (7/2, Redding) reports, "A top D.C. official said a newly created federal emergency protocol will not resolve communications problems between city officials and the U.S. Capitol Police, which is headed by the Metropolitan Police Department's former No. 2 officer." Deputy mayor for public safety and justice Edward Reiskin "said the protocol establishes notification procedures between the Department of Homeland Security and D.C. officials." Yet, "an evacuation of the Capitol on Wednesday and a similar incident in May that left city officials in the dark were directed by Capitol Police, who do not figure in the protocol." Reiskin said, "They don't control the legislative branch. … It's a totally different animal of government. It's not monolithic."

WAR NEWS:

Bush Visits Soldiers Wounded In Iraq And Afghanistan. The Washington Post/AP (7/2, A2) reports President Bush "expressed his gratitude to the nation's men and women in uniform yesterday, praising them for 'laying the foundation for peace for generations to come.' Bush visited 37 soldiers wounded in Iraq and Afghanistan and being treated at Walter Reed Army Medical Center in Washington. … Presidential spokesman Scott McClellan said one soldier who had lost a leg struggled to rise so that he could stand at attention to salute Bush."

Sistani Aide Assassinated. The Washington Post (7/2, A16, Mosher) reports Kamaleddin Ghuraifi, an aide to Grand Ayatollah Ali Sistani Iraq's was assassinated "on a street in central Baghdad on Friday, and a Sunni Muslim cleric was kidnapped shortly after in the same neighborhood, according to Iraqi security officials. … Sunni leaders have accused the Shiite-dominated security forces of using security crackdowns to settle sectarian scores. Since mid-June, Shiites have suffered the brunt of the violence. Another Sistani representative, Samir Baghdadi, was shot dead last week in Baghdad, and on Tuesday, Dhari Fayadh, a Shiite and the oldest member of the National Assembly, was killed by a suicide bomber."

The New York Times (7/2, Glanz) reports, "A few hours after the killing of…al-Ghuraifi, bullet holes could be seen scattered across a fence, and blood smeared the pavement inside a cordon of police at the scene, in the Allawi Al Hilla

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neighborhood in Baghdad. Residents said Mr. Ghuraifi died immediately, and the ministry official said four other people also died in the shower of bullets."

Knight Ridder (7/2, Fadel) reports, "Al-Ghuraifi was the sixth representative of al-Sistani's to be killed in Baghdad since the new government took office on April 28, according to al-Sistani's office in Najaf."

Jaafari's Party's Headquarters Hit By Suicide Bomber. The Washington Times/AP (7/2, Abdul-Zahra) reports that in Baghdad, "a car bomb exploded near a checkpoint outside the offices of Prime Minister Ibrahim al-Jaafari's Islamic Dawa Party, killing one person and injuring at least four more, officials said. Mr. al-Jaafari was not there at the time, party official Ayad al-Nedawi said. … In the attack on the Islamic Dawa Party offices in Baghdad's Mansour neighborhood, the suicide bomber detonated the car near a checkpoint about 80 feet from the building, which used to be Mr. al-Jaafari's house. Interior Ministry administrative affairs undersecretary police Maj. Gen. Adnan al-Assadi had left the building about a half-hour earlier, police said. A neighbor was killed and four armed guards for the compound were wounded."

Iraq's UN Envoy Accuses Marines Of Murdering His Cousin. The Washington Post (7/2, A19, Lynch) reports that Iraq's U.N. ambassador "accused U.S. Marines of killing his 21-year-old cousin 'in cold blood' during a June 25 raid in a village in the Sunni Muslim-dominated province of Anbar. Samir S.M. Sumaidaie called on the United States to investigate the death of Mohammed Sumaidaie in 'a credible and fair way to ensure that justice is done.' He said the killing represents a 'betrayal' of Iraqi and U.S. efforts to rebuild Iraq on a foundation of "freedom, democracy and respect for human rights and the rule of law. … According to a witness account compiled by Sumaidaie, U.S. Marines and Iraqi Army units were conducting a joint series of raids June 25 in the town of Haditha."

Galloway Plans To Tour The US. The New York Times (7/2, Alvarez) reports British MP George Galloway who is described as "the grand-père terrible of British politics" and who "has been called corrupt and treacherous; labeled an apologist for Saddam Hussein, a claim he forcefully rejects; portrayed as a Louis Vuitton-toting Socialist; and dismissed as a self-aggrandizing Labor Party turncoat." However, "since his appearance in May before the United States Senate Subcommittee on Investigations, where to the delight of many here and in America he flung scorn at two senators over Iraq, vilification has shifted to a modicum of admiration (even if it is grudging, at least in Britain). … He was embraced by the antiwar movement. Mr. Galloway, a gifted orator with a flair for the verbal showdown, says he is planning a speaking tour of the United States in September, challenging Americans to challenge their leaders more forcefully."

US May Never Overcome Suspicions Of Imperialism In Mideast. The New York Times' John Tierney (7/2) writes, "Today's liberators in Iraq like to attribute the resistance to Islamic fascists' fear of democracy and hatred of the West. But those fascists know that an abstract critique of Western ideology isn't enough to attract followers. In their appeals they constantly invoke the need to expel foreigners from their soil, a battle cry that is the great common denominator of suicide bombers around the world. Maybe, as President Bush hopes, Americans can stay long enough in the Middle East to jump-start democracy and reduce the long-term risk of terrorism. But in the meantime, they're bound to face resistance, no matter how noble their intentions."

Lost Soldiers In Afghanistan May Still Be Alive. ABC's World News Tonight (7/1, story 5, 2:00, Woodruff) reported, "In Afghanistan a military manhunt. 1,000 U.S. Troops as well as Afghan forces are scouring the mountains near Pakistan for a missing team of U.S. soldiers." ABC notes, "16 Americans already have died in the search when their helicopter was shot down on Tuesday. For four days now the small special operations team has been missing in these rugged mountains, badly outnumbered by enemy forces, armed with only rifles, pistols, and knives. But a senior military official tells ABC news there are indications that the team is still alive. 'We have gotten various signals,' said the official. At least on one occasion emergency beacons the men were carrying were activated. The military is also tracking the team with reconnaissance aircraft and unmanned aerial vehicles. What concerns the military most is that the men have not made radio contact. This team of special operations forces is one of the most highly trained and physically fit in the military. They carry sophisticated communications gear, night vision goggles, and global positioning equipment."

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NBC Nightly News (7/1, story 6, :20, Williams) reports, "To Afghanistan now, rescue operations still underway for that special operations team missing in the remote mountain area in the east. The Pentagon has been reluctant to reveal too many details of this ongoing rescue mission."

In a front-page piece, the Washington Post (7/2, Aizenman) reports that a man "claiming to speak for the Taliban militia called news organizations Friday to say that Taliban fighters had captured one of the men and killed seven others. But U.S. military officials said there was no evidence to support the claim." US military spokesman Lt. Col. Jerry O'Hara said, "All we have to date is that our guys are missing. … We don't have any positive proof that shows us they were injured, they were captured, or they are just in a hiding spot, waiting for our forces." The New York Times (7/2, Gall) and AP (7/2, Cooney) filed similar reports.

AFP (7/2) adds that Taliban spokesman Abdul Latif Hakimi "said they had footage of an exchange of fire with the so-called spies and of the captured American, which would be displayed on the rebels' website www.alemarah.com 'tomorrow or the day after'". AFP notes that "some of [Hakimi's] previous claims have proved to be untrue."

Elite Soldiers Among Those Killed. CBS Evening News (7/1, story 6, 2:30, Roberts) reported, "The military won't say how many are missing, but like those who died in the chopper crash, they are some of America's most elite warriors." CBS' Mark Strassman goes on to report, "Washington, Connecticut, small town U.S.A. now grieves for Steve Reich, the all-American boy. On Washington's baseball fields, Reich was the natural. But on Tuesday, Major Reich, now an elite special operations soldier, was killed when Afghan rebels shot down a U.S. military helicopter. On the Chinook helicopter that crashed, there were 16 elite U.S. troops, all special operations forces. Exactly half of those aboard were army; the other half were navy SEALs -- each of them part elite warrior, part covert operative. It's hard to overstate their usefulness in the war on terror, or what their loss means to that fight. The exact number of SEALs in Afghanistan is classified. But they've joined the hunt for Taliban and al Qaeda fighters. The eight seals killed in the chopper crash is the unit's single greatest loss since Vietnam. Each SEAL can take up to two years to train. With only 2,200 navy seals in active service, they're now another small community in grief."

Friends And Families Mourn Crash Victims. The New York Times (7/2, Lyman) reports on friends' and families' reactions to losing loved ones in the recent Afghan helicopter crash. For example, Danny Graves of the New York Mets remembered Major Steve Reich, who "was in the command seat of the Chinook MH-47 helicopter that was shot down on Tuesday." Reich was Graves' "fellow pitcher on the U.S. National Baseball Team, for which they played in the early 1990's. 'He was so polite and respectful that when he talked everyone on the team kept their mouth shut,' Mr. Graves said. … His dream was to serve his country. You knew a couple of minutes after meeting him that's what he wanted to do and what he was going to do." A Fourth of July fireworks display in Washington, Conn. "will include a flyover by a Chinook helicopter to honor" Reich.

Military To Begin Implementing Death Benefits Law. The AP (7/2) reports that the military "announced Friday that it will begin providing vastly increased death benefits to the next-of-kin of military personnel killed in combat zones or combat-related training." Last month, President Bush "signed into law the increase in the death benefit from $12,000 to $100,000. The military announced Friday it was implementing the law."

Army, Marines Meet Personnel Goals. The Los Angeles Times (7/2, Perry) reports, "Although finding enough recruits continues to be difficult, the Marine Corps has exceeded its goals for persuading Marines to reenlist." Marine Commandant Gen. Michael W. Hagee "told a congressional hearing Thursday that the Corps would meet its goal for recruits. 'The quality of individuals we are shipping to recruit depots remains high.'" The Times notes further that the Pentagon "announced that the Army had met its most recent monthly recruiting mark after four months of shortfalls."

US Army Uses NASCAR Events For Recruiting. The New York Times (7/2, Bernstein) reports on US Army efforts to recruit at "Nascar's premier racing series" as it travels from city to city. Among other things, "a short film compares the military to NASCAR, juxtaposing images of racecars next to tanks." Col. Tom Nickerson, "who is in charge of the Army's recruiting outreach program," said, "It's an opportunity for them to touch and feel the Army, to give them a real Army experience." Guy Morgan of Keystone Marketing Company, "which operates the display" notes that "the displays at NASCAR events are generating as many as

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1,000 to 2,000 leads for potential new recruits on each racing weekend."

DOJ:

US Attorneys For Maryland, Eastern Louisiana Confirmed. The Baltimore Sun (7/2, Dolan) reports, "In its closing hours before adjourning for a holiday recess, the Senate confirmed yesterday Rod J. Rosenstein, a high-ranking government lawyer who quickly ascended the ranks at the Justice Department, as Maryland's U.S. attorney." The Sun continues, "Rosenstein, 40, of Bethesda, could arrive in Baltimore to start his new job as the state's top federal prosecutor as soon as next week." The Sun adds, "Rosenstein declined to be interviewed about his plans for the office of 70 attorneys in Baltimore and Greenbelt, saying he is still waiting for President Bush to sign his commission. … He released a brief statement: 'I am grateful to President George W. Bush for giving me this opportunity to serve the people of Maryland, and to Senator Paul Sarbanes and Senator Barbara Mikulski for accepting my nomination. I look forward to rejoining the distinguished men and women of the U.S. Attorney's Office. … As we work to enhance public safety and pursue justice for Marylanders,' the statement continues, 'we will strive to inspire public confidence by adhering to the highest ethical and professional standards. … Rosenstein had previously worked as an assistant U.S. attorney in Maryland, emerging as the leading candidate to move up when former U.S. Attorney Thomas M. DiBiagio announced his resignation in December. Allen F. Loucks, a deputy in charge of the office's civil cases, has been serving in an interim role since January."

The New Orleans Times-Picayune (7/2, Carr) reports, "It's been a good week for Jim Letten. … Not only did New Orleans' top federal prosecutor win a conviction against a Jefferson Parish judge for mail fraud, Letten on Friday finally got word from Washington that the Senate made his appointment as U.S. attorney of the Eastern district official." The Times-Picayune continues, "Letten, a Republican, has held the post on an interim basis since April 2001, when President Clinton's appointee, Eddie Jordan, stepped down. Until Friday, Letten was one of a handful of the nation's 93 U.S. attorneys serving without White House confirmation. … The straight-laced prosecutor, who is rarely at a loss for words, said he was humbled by the news. … 'This is a reminder yet again to me and to all of us that we work for the citizens, and that public service is not a right but a privilege,' he said. 'The only thing I can promise is that I will continue to do everything I can to continue to earn the community's trust.'" The Times-Picayune notes, "When tapped for the job four years ago, Letten was known as a competent manager with little interest in politics who was expected to return to the ranks of working prosecutors once a more politically connected successor was named. … All that changed when then-Gov. Mike Foster's choice for the post, wealthy Metairie businessman and Bush contributor Fred Heebe, was accused of domestic abuse by his ex-wife and a former girlfriend. Heebe eventually withdrew his name. Disputes within the state Republican Party stalled subsequent attempts to decide on a nominee. … Meanwhile, Letten kept his head down and launched several high-profile corruption investigations, including a probe into the Jefferson Parish courthouse that netted convictions of two judges -- Alan Green at trial last week and Ronald Bodenheimer after a guilty plea -- and separate inquiries into New Orleans City Hall and the city's public school system."

ICE Official Named US Attorney For New York. The Washington Times (7/2) reports Department of Homeland Security Assistant Secretary Michael J. Garcia, "who has headed U.S. Immigration and Customs Enforcement (ICE) since the agency's creation in March 2003, has been named by the White House as U.S. attorney in New York. … Garcia has been criticized by some members of Congress for longstanding budgetary missteps and by ICE supervisors and agents who have complained the agency was a threat to the country's national security efforts because of mismanagement, low morale, a lack of a clearly defined mission and ongoing financial problems."

CORPORATE SCANDALS:

Scrushy Jurors Doubted Testimony Of Colleagues. The New York Times (7/2, Whitmire) reports, "In the end, the jury deciding the fate of HealthSouth's former chief executive, Richard M. Scrushy, focused on one issue: credibility. But it was not Mr. Scrushy's credibility they were thinking about - he did not testify in his own defense. Instead, they wondered, could they believe the five former company executives who testified against him? … 'No one really corroborated one another,' recalled one juror, Christopher Cooper, a 37-year-old computer technician at a

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local bank. 'Each one of them had a reason to hide something.'" The Times continues, "The jury acquitted Mr. Scrushy on Tuesday of all 36 counts that had accused him of presiding over a $2.7 billion accounting fraud while running the HealthSouth national hospital chain. The Justice Department, legal experts had thought, appeared to have a strong case against Mr. Scrushy after all five of the company's former chief financial officers agreed to cooperate." The Times adds, "Facing such a cadre of government witnesses during the five-month trial was a daunting challenge, one of Mr. Scrushy's lawyers, James Parkman III, said at a news conference after the verdict. … 'We couldn't go in with the idea that there were five of them,' Mr. Parkman said. 'We had to go in and try to sell the idea that there was only one, and they acted together as one, acted together as a group, and therefore cut that number of five to one.' … The one former executive they focused on was William T. Owens, who worked his way up at HealthSouth from assistant treasurer to chief financial officer and even served briefly as chief executive in 2002. The defense characterized him as a tax cheat who would lie to protect himself."

New Rules May Not Make Prosecuting Executives Easier. The New York Times (7/2, Glater) reports, "Perhaps forcing top executives to certify regulatory filings is not quite the fix lawmakers might have expected." The Times continues, "The acquittal of the former chief executive of HealthSouth, Richard M. Scrushy, on charges that he signed false financial filings - one of several charges accusing him of orchestrating a $2.7 billion fraud - illustrates a weakness of the certification requirements, which compel chief executives and chief financial officers to attest to the accuracy of financial reports to the Securities and Exchange Commission." The Times adds, "Investors might have expected that the certification requirement would make it easier to prosecute white-collar crimes. If all else fails, the reasoning went, at least the executive could be convicted of signing false filings. … But, in fact, convicting an executive of knowingly violating the certification requirement involves proving the same facts necessary to support other more serious criminal charges. … So while the law may be an easy way to increase prison time, it is not an easier way to lock up executives." The Times notes, "Corporate lawyers said Mr. Scrushy's acquittal on Tuesday was not a setback to enforcement of the certification requirement, which was included in a law passed in 2002 after the collapse of Enron and WorldCom because of accounting scandals. … The requirement is a powerful incentive for executives to do the right thing - violations can result in criminal and civil liabilities. But because of how it is drafted, the requirement has not instilled the fear that lawmakers, regulators and investors might have hoped. … The certification provision, Section 906 of the law known as the Sarbanes-Oxley Act, calls for a prison term of up to 10 years and a fine of up to $1 million for any executive who certifies a regulatory filing and who knows that the filing does not 'fairly present, in all material respects, the financial condition and results' of the company. Any executive who willfully - that is worse than knowingly - certifies such false filings faces up to 20 years in prison and a $5 million fine. Section 302 of the law opens up such executives to civil liability. … These are harsh terms, but the crucial element is knowledge, and proving that an executive knew of a fraud is what is often most challenging. If a prosecutor can do that, there are plenty of other criminal charges available in addition to Section 906 - securities fraud, for example, or conspiracy, both of which were charges against Mr. Scrushy."

SEC Warns Investors About Internet "Auto-Trading." Reuters (7/2) reports, "U.S. market regulators warned investors on Friday to be wary of a new type of online investment vehicle and filed civil fraud charges against a small Internet investment advisory firm called Terry's Tips Inc." Reuters continues, "The Securities and Exchange Commission accused Terry's Tips, based in Vermont, and its founder Terry Allen of promising clients misleadingly large investment returns in marketing the firm's auto-trading programs." Reuters adds, "Auto-trading is a new investment vehicle that is spreading fast on the Internet, said Kenneth Israel, district administrator of the SEC's Salt Lake district office. … Investors typically are asked to subscribe to online newsletters and open trading accounts at a brokerage chosen by the newsletter's publisher. Investors are then asked to give the publisher authority to automatically direct trades in the their brokerage accounts, the SEC said. … The SEC charged Terry's Tips in U.S. District Court in Vermont with violating antifraud laws. The agency alleged that as recently as September 2004, the firm had 1,200 auto-trading clients with total assets of over $14 million."

Banker Convicted In Enron Barge Fraud Ordered To Prison. The New York Times/AP (7/2, Press) reports, The former head of investment banking at Merrill Lynch & Company, who was convicted last year in

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Enron's bogus sale of power barges to the brokerage, must report to prison for a two-and-a-half-year term later this month, a judge has ruled." The AP continues, "The executive, Daniel Bayly, of Darien, Conn., the most prominent figure among the four former Merrill executives and a former midlevel Enron executive convicted last year, will be the first to begin his sentence. He must report July 14 to a federal prison in Hopewell, Va., according to a judge's order filed Friday." The AP adds, 'The order came after Judge Ewing Werlein of Federal District Court denied a request that Mr. Bayly remain free on bond pending an appeal of his conviction of conspiracy and fraud." The AP notes, "Mr. Bayly and four others were convicted of helping push through Enron's sale of power plants mounted on barges in 1999 to help Enron appear to have met earnings goals. … Jurors determined the sale was a loan because Enron had promised to buy back or find another buyer for the barges within six months."

CRIMINAL LAW:

Lerach Firm Under Fire From DOJ. The New York Times (7/2) reports, "Sitting in the back of a town car this past Wednesday, as his driver pulled away from the federal courthouse and headed toward his hotel in Midtown Manhattan, William S. Lerach reached for a ringing cellphone in the pocket of his natty suit. How had his day gone, asked the person on the other end. 'We went two for two,' said Mr. Lerach, the most aggressive, feared and controversial plaintiffs' lawyer in the land. 'It was a good day.' … No, he didn't mean he'd won two cases - but what he'd won was almost as important. In two hearings, Lerach Coughlin Stoia Geller Rudman & Robbins, Mr. Lerach's San Diego-based firm, had been named lead counsel. For Mr. Lerach - indeed, for every big-time lawyer who makes his living suing companies on behalf of an aggrieved 'class' of shareholders - being named lead counsel is the key to everything. The lead counsel controls the case. He negotiates the fees. And best of all, the lead counsel takes most of the lawyer's cut: 20 percent to 30 percent of whatever he ultimately extracts from the big bad corporation." The Times continues, "Of course you can't become lead counsel in a securities fraud case unless you're representing some shareholders who have been hurt by a company's misdeeds. And it now appears that Mr. Lerach's courting of shareholder plaintiffs has landed him in hot water with the Justice Department." The Times adds, "Late last week, a federal grand jury indicted Seymour M. Lazar, who had long been - how to put this nicely? - a regular in the stable of Mr. Lerach's former firm, Milberg Weiss Bershad Hynes & Lerach. … The government contends that over the years, Mr. Lazar received some $2.4 million in kickbacks from Milberg Weiss for lending his name to literally dozens of stockholder class-action lawsuits brought by the firm. Mr. Lazar's lawyer maintains that his actions were 'ethical and appropriate.' While neither has been charged, both Mr. Lerach and Milberg Weiss have denied any wrongdoing. Typically, though, Mr. Lerach's camp has been the more aggressive in pushing back. … The people in Mr. Lerach's camp have been quick to cast the investigation as politically motivated, an example of a pro-business Republican administration going after a scourge of corporate wrongdoing - and a big contributor to the Democrats to boot. Besides, doesn't Mr. Lerach currently have a shareholder suit against Halliburton, one that even points the finger at its former chief executive, Vice President Dick Cheney? Hasn't he extracted so far $4.7 billion for the beleaguered shareholders of Enron, the company once run by President Bush's old friend 'Kenny Boy?'"

DOJ Sues Body Armor Supplier, Manufacturer. The AP (7/2, Sherman) reports, "The government on Friday sued the top U.S. supplier of bullet-resistant police vests and the Japanese manufacturer of the vests' protective synthetic fiber, contending they conspired to hide evidence that the body armor could be defective." The AP continues, "Second Chance Body Armor Inc. of Central Lake, Mich., and Toyobo Co. knew that the vests' ability to stop bullets was overstated, but Second Chance sold them anyway to local, state and federal police, according to the lawsuit in U.S. District Court in Washington. … The government also alleged that the companies kept silent for nearly three years in the face of mounting evidence that the Zylon fabric degraded faster than they acknowledged when it was exposed to light, heat and humidity." The AP adds, "Only after an Oceanside, Calif., police office was killed and a Forest Hills, Pa., officer was seriously wounded while wearing Second Chance vests made of Zylon in June 2003 did the company stop selling certain models and disclose safety problems, the lawsuit said. … Second Chance executives also ordered the destruction of internal memos, including one that urged the company to take corrective action and not wait until an officer was killed, the lawsuit said. … Second

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Chance and Toyobo blamed each other Friday for problems with the vests. 'Second Chance was the bad actor, not Toyobo,' said Kent Jarrell, a spokesman for Toyobo. … Mary Ann Sabo, a Second Chance spokeswoman, said Second Chance has been working closely with the Justice Department and expects to be vindicated. Sabo said Toyobo 'is ultimately responsible for the problems with Zylon.'"

Cianci Asks High Court To Review His Conviction. The Providence Journal (7/2, Breton) reports, "Two weeks after losing his bid to have his sentence reduced, former Providence Mayor Vincent A. Cianci Jr. is asking the U.S. Supreme Court to review his conviction for racketeering conspiracy, his lawyer said." The Journal continues, "The petition was mailed to the nation's highest court today, according to his lawyer, John A. 'Terry' MacFayden. It is the last legal recourse Cianci has to try to void his conviction." The Journal adds, "Cianci, who was convicted three years ago in the wake of a federal probe into corruption at City Hall, attacks his conviction on two grounds. … He claims that the RICO indictment against him, as worded, was fatally flawed. … He also argues that Chief U.S. District Court Judge Ernest C. Torres should have allowed the jury to hear a 1995 tape recording in which Cianci rejects the overtures of an undercover agent for the FBI who was posing as an air-conditioning businessman trying to get a city contract." The Journal notes, "Cianci tells the agent that anyone who tried to shake him down would be castrated and arrested. But Torres ruled the tape inadmissable, saying he had doubts about the mayor's sincerity and it amounted to irrelevant hearsay. … The U.S. Supreme Court rejects most of the petitions for review that it receives, taking only those cases that it considers of 'gravity and general importance.' … Cianci is serving a 64-month prison term at a prison at Fort Dix, N.J., for his conviction on the single count of racketeering conspiracy. With good behavior, the 64-year-old is scheduled to be released in July 2007. His request for a reduced sentence was denied last month."

Federal Agents Raid Cunningham's Home, Defense Exec's Office. The Washington Post (7/2, A1, Merle, Smith) reports, "Federal agents armed with search warrants descended on the California house of Rep. Randy 'Duke' Cunningham yesterday, the latest step in a criminal investigation into his relationship with the owner of a District-based government contracting firm. Agents from the FBI, Internal Revenue Service and Defense Criminal Investigative Service of the Pentagon inspector general's office participated in the search of Cunningham's house near San Diego, as well as the Washington home, office and boat of Mitchell J. Wade. Wade was until recently the chief executive of MZM Inc., which does intelligence work for the Pentagon.

The Los Angeles Times (7/2, Perry) reports K. Lee Blalack, Cunningham's lawyer, "called the raid 'an appalling abuse of government power.' … Blalack said that Cunningham had earlier offered to cooperate fully with FBI authorities probing the sale of his house in Del Mar Heights to Wade in 2003. 'They will apparently not take 'yes' for an answer and have instead opted to use strong-arm tactics that were designed to generate headlines,' Blalack said. An attorney from Blalack's law firm arrived at the Rancho Santa Fe house during the search, which was authorized by a secret affidavit issued by a federal grand jury in San Diego. FBI officials declined to say what agents were searching for."

The Washington Times/AP (7/2) reports, "The Defense Department halted orders this month on a five-year contract that provided MZM with $163 million of revenue over its first three years after the department's inspector general found that it did not satisfy rules on competitiveness. This week, MZM announced that James King, a retired three-star Army general, was taking over as president and chief executive -- a role held for years by Mr. Wade, who founded the company in 1993."

Cunningham Faces Questions Over Commercial Use Of Congressional Seal. The San Diego Union-Tribune (7/2, Stern, Kammer) reports, "Rep. Randy 'Duke' Cunningham, already in legal and political hot water over his dealings with a defense contractor, might have run afoul of the law by using a likeness of the congressional seal for commercial purposes." The Union-Tribune continues, "Cunningham, a highly decorated Navy pilot in Vietnam and former instructor at the Navy's Top Gun academy, has operated a commercial Web site for years that sells memorabilia, including a $595 'Randy "Duke" Cunningham Fighter Ace Kalinga Style Buck Knife.' … The blade of the 10-inch knife is emblazoned with three emblems etched in gold, according to the Web site, including the 'Official Seal of the United States Congress.'" The Union-Tribune adds, "A chorus of still-unanswered questions has been raised in Washington this week about the legality of the Rancho Santa Fe Republican's use of the congressional seal for commercial purposes. … Cunningham and his attorney have

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refused to comment on the matter, but, after four days of questions from Copley News Service, the Web site's commercial operations were shut down yesterday afternoon with a message stating that a new Web site is under construction. … Under federal law, any member of Congress can be fined and imprisoned for up to six months if he or she 'knowingly uses, manufactures, reproduces, sells, purchases for resale . . . any likeness of the seal of the United States Congress' without the approval of the clerk of the House. … When asked if the clerk had approved Cunningham's use of the seal, his office referred calls to his attorney, Lee Blalack, who declined to comment. … However, a source close to Cunningham said that the likeness of the seal on the knife wasn't, as advertised, the 'Official Seal of the United States Congress.' … Instead, the source said, it was an unofficial seal not subject to the criminal statute barring commercial use. The source declined to be identified because of the ongoing FBI and federal grand jury investigations into Cunningham's dealings with defense contractor Mitchell Wade, founder of MZM Inc."

O'Donnell Says Rove Leaked Name Of Plame To Cooper. Editor & Publisher (7/2) reports that "on the syndicated McLaughlin Group political talk show, Lawrence O'Donnell, senior MSNBC political analyst, claimed to know that name" of the person who leaked Valerie Plame's name to Cooper, "and it is, according to him, top White House mastermind Karl Rove." O'Donnell said, "What we're going to go to now in the next stage, when Matt Cooper's e-mails, within Time Magazine, are handed over to the grand jury, the ultimate revelation, probably within the week of who his source is. And I know I'm going to get pulled into the grand jury for saying this but the source of...for Matt Cooper was Karl Rove, and that will be revealed in this document dump that Time magazine's going to do with the grand jury." Afterwards, "panelists then joined in discussing whether, if true, this would suggest a perjury rap for Rove, if he told the grand jury he did not leak to Cooper."

Cooper And Miller Submit Incarceration Preferences. The New York Times (7/2, Liptak) reports Matthew Cooper of Time magazine and Judith Miller of The New York Times "filed court papers yesterday asking to be sentenced to home confinement or to particular federal prisons if they must be jailed. Time Inc. also filed a brief statement saying it had complied with a grand jury subpoena by supplying documents to the special prosecutor in the case, Patrick J. Fitzgerald. … The documents held by Time disclose the identities of Mr. Cooper's confidential sources and the substance of what they told him, Mr. Cooper has said. Their release gives the reporters some fresh arguments in their efforts to avoid jail."

Time Claims Cooper's Testimony Is No Longer Necessary. The Washington Post (7/2, A2, Leonig) reports, "Lawyers for…Cooper yesterday urged a federal judge not to jail him for refusing to discuss his confidential sources with a prosecutor, arguing in a court filing that there is no need for his testimony now that his employer has turned over his notes, which identify the sources." Miller's attorneys "said that because she intends to go to jail rather than disclose the name of her source, incarceration would be 'merely punitive' and would not cause her to obey the court. … Over Cooper's objections, Time yesterday turned over notes and e-mails of Cooper's that were stored in a computer. The magazine, which faces a $1,000-a-day fine that had reached $270,000, said it hoped that by complying it would keep Cooper out of jail."

Man Who Threatened Judge, Held Attorney Hostage Sentenced To 20 Years. The AP (7/2, Word) reports, "A man with a grudge against a judge was sentenced Friday to the maximum 20 years in prison for holding a lawyer hostage and threatening to blow up an downtown office tower last summer." The AP continues, "John Knight, who was armed with two guns and claimed to have a bomb, 'had planned to take his own personal vengeance against the system,' said Circuit Judge Michael Weatherby. 'None of this was the act of a madman.' … 'What were you thinking?' Weatherby said. 'I cannot discern any plausible or palpable reason that someone would commit the crimes that he committed.'" The AP adds, "Knight, 37, a copy machine salesman from Fort Wayne, Ind., wearing a green jump suit, did not speak in the 15-minute hearing. He had taken attorney John Hazelip hostage in his office and threatened to blow up the building last August because he wanted to force the resignation of a judge who had sentenced him to a day in jail five years earlier. … Knight, who pleaded guilty in March, was sentenced to 15 years on a charge of false imprisonment; 20 years for armed fake impersonation of a law enforcement officer; five years for aggravated assault; five years for carrying a concealed firearm and 15 years for perpetrating a bomb hoax. All the sentences will run concurrently. … Carrying a 9mm handgun in an envelope, he

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entered the Hazelip's law office in the 28-story Riverplace Tower by claiming to be an agent of the Justice Department last August."

CIVIL RIGHTS:

Judge Cancels Order For DOJ Official To Testify In Utah Case. The Salt Lake Tribune (7/2, Manson) reports, "A federal judge in Utah has canceled his order requiring a top Justice Department official to testify why it is taking so long for the department to review records connected to the death of a prison inmate." The Tribune continues, "U.S. District Judge Bruce Jenkins had set a July 13 date for Noel Hillman, chief of the department's public integrity section, to come to his courtroom and explain, under oath, the delay in deciding which documents can be released under the Freedom of Information Act." The Tribune adds, "On Friday, he rescinded the order, noting that the official has said his review is complete. However, the judge warned that the reprieve is temporary and said the government ultimately will have to produce the records. … Hillman had been determining which documents could be withheld." The Tribune notes, "The records are being sought by Jesse Trentadue, the inmate's brother and a Salt Lake City attorney. He contends that Hillman began his review in 2001 and was taking too long. … The records request concerns the August 1995 death of Kenneth Trentadue, an ex-convict who had been placed in a federal prison in Oklahoma on an alleged parole violation. Prison authorities contend the 44-year-old committed suicide, but the man's relatives believe he was slain."

Study Finds Racial Profiling Still A Problem In Illinois. The Chicago Tribune (7/2, Goldstein) reports, "The first-year results of a state-mandated study on racial profiling to be released Friday suggest that some police departments in the northwest suburbs are stopping a relatively high number of minority motorists. … But law-enforcement officials in the region say the study is flawed and warn that the statistics don't tell the true story, exposing some departments to potentially dangerous misperceptions about how they treat minority drivers. … 'First of all, I'm terribly concerned about what's going to happen next because when anyone looks at these numbers, it's not going to tell them anything,' said Mt. Prospect Police Chief Richard Eddington. 'It's much more important the rapport a police department has with its community than this math problem.'" The Tribune continues, "Statistics from Mt. Prospect police show that nearly 31 percent of the drivers stopped in 2004 were minorities. About 24 percent of the village's driving population was estimated to be minorities." The Tribune adds, "In 2000 the Mt. Prospect Police Department settled discrimination lawsuits with three former officers who accused the department of ethnic profiling of Hispanics. As a result of the settlement, the Justice Department now monitors Mt. Prospect, and it found no reason for concern in the 2004 numbers, Eddington said. … Statistics from Elgin, Lake in the Hills and Des Plaines also appear to indicate that police stopped a disproportionate number of minorities last year. … Under a state law adopted in 2003, police officers are required to record the names, addresses, gender and races of all drivers stopped for traffic offenses through 2007. They must also record what led to the stop, what action resulted and whether a search was conducted."

The St. Louis Post-Dispatch (7/2, Reports) reports, "Minority drivers in Illinois - including some parts of the Metro East area - are more likely to be pulled over than white drivers, according to state data released Friday." The Post-Dispatch continues, "The survey by the Illinois Department of Transportation showed 33 percent of drivers who were pulled over statewide were minorities although only 28 percent of the state's drivers are minorities. … The disparities were worse in some Metro East cities. Minority drivers make up less than 9 percent of the minority population in Granite City, for example, but the study reported minorities accounted for nearly 19 percent of all traffic stops." The Post-Dispatch adds, "The study also reported minority drivers were more likely than whites to be stopped in Alton - where they made up 24 percent of the driving population but 35 percent of traffic stops. In Fairview Heights, where minorities were nearly 30 percent of the driving population, 40 percent of people police pulled over there last year were minorities. … Granite City Police Chief Dave Reubhausen said in a faxed statement that the study's figures are drastically skewed. … 'I believe the study to be flawed in this respect: No independent traffic study was conducted to determine the minority driving population in Granite City,' he wrote."

Federal Agents Break Korean Sex Ring. The New York Times (7/2, Marshall) reports that federal agents "raided scores of brothels and businesses and arrested more than two dozen people [in San Francisco and the Bay Area] in

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the dismantling of an international sex trafficking and human smuggling ring that lured Korean women to the United States and forced them to work as captive prostitutes." During the raids in San Francisco on Thursday, "federal agents found about 100 Korean women, who have been taken to an undisclosed nondetention facility to receive medical care and participate in interviews. The agents also seized at least $2 million in cash and several A.T.M.'s and shuttered about a dozen massage parlor brothels." In a "separate but related investigation, the authorities also charged 23 people in Los Angeles."

The Los Angeles Times (7/2, Rosenzweig, Kang) adds that US Attorney Debra Wong Yang "said there was no firm evidence that the women were coerced into working as prostitutes, although some were found to have been sexually abused." Kevin Ryan, US attorney in San Francisco, "said information about the circumstances of their prostitution will probably emerge in the coming days."

Anti-Sex Trafficking Pledge Critiqued. The New York Times (7/2) editorializes, "Since 2003, the Bush administration has required foreign groups fighting AIDS overseas to pledge their opposition to prostitution and sex trafficking before they get money from Washington. Last month, the administration expanded the requirement to American groups. On its face, this law seems innocuous. … But in countries like India, controlling AIDS among prostitutes and their clients is the key to keeping the disease from exploding into the general population. So some very effective programs are built around trying to make sure that prostitutes and their customers use condoms. The groups who run these programs try to gain the trust of prostitutes by providing them with health care and teaching them about safe sex. They argue that being forced to state their opposition to prostitution would limit their ability to do that. Brazil turned down a $40 million grant from the United States because it did not want to imperil successful programs."

DOJ Finds No Voting Booth Bias In Ohio Elections. The Washington Post/AP (7/2, Anderson) reports, "The Department of Justice says it found no evidence of discrimination in the distribution of voting machines in two Ohio counties in the 2004 presidential election." The AP continues, "The department began investigating after voters complained of long voting lines and alleged discrimination in Franklin and Knox counties. Investigators wanted to determine if elections officials had intentionally skewed the placement of machines to favor Republicans." The AP adds, "The Justice Department said, however, the distribution in Franklin County narrowly favored black voters. Because turnout in predominantly black precincts was lower than in white ones, machines in those districts averaged fewer votes, according to a report released Wednesday. … An unanticipated 76 percent turnout _ with many first-time voters _ contributed to the long lines in the Kenyon College precinct in Knox County _ with some people forced to wait until 4 a.m. to vote on just two available machines, officials found."

DC Voting Activists Seek European Support. The Washington Post (7/2, B1, Sheridan) reports, "D.C. voting rights activists took their case to an unusual constituency yesterday, calling on European legislators at an international meeting to lean on the U.S. government to give Washingtonians full representation in Congress."

ANTITRUST:

Microsoft Agrees To Pay $775 Million To Settle Lawsuit Brought By IBM. The New York Times (7/2, Markoff) reports, "Microsoft agreed on Friday to pay I.B.M. $775 million to settle claims growing out of the antitrust lawsuit brought by the Justice Department against Microsoft in 1995. I.B.M. will also receive a $75 million credit toward the use of Microsoft software. The settlement is one of the largest in a series of settlements Microsoft has struck in its effort to resolve its legal troubles after Judge Thomas Penfield Jackson of Federal District Court in Washington ruled in 2000 that it had engaged in anticompetitive practices."

The Los Angeles Times (7/2, Menn) reports, "Microsoft Corp. said Friday that it agreed to give $775 million in cash and $75 million worth of software to IBM Corp. to resolve one of the largest remaining antitrust claims against the world's biggest software maker." The Times adds, 'The settlement is the latest in a string of arrangements with customers and longtime business rivals that began after Microsoft resolved a long-running antitrust case with the Justice Department." The Times notes, "Including the IBM accord, Microsoft has now agreed to pay $4.5 billion to settle class-action consumer suits and business cases brought by Time Warner Inc., owner of the vanquished Netscape Web browser, as well as by Sun Microsystems Inc. and others. It takes Microsoft less than a month to earn what it's paying IBM."

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The New York Times (7/2, Bajaj, Markoff) reports, "The settlement stems from the Justice Department's antitrust case against Microsoft in the mid-1990's, in which Judge Thomas Penfield Jackson found the giant software company's practices harmed the International Business Machines Corporation, based in Armonk, N.Y. That case was settled in 2001." The Times adds, 'Under the agreement announced today, I.B.M. will also receive a $75 million credit toward using Microsoft software. It is the latest, and one of the largest, in a string of antitrust settlements totaling more than $3 billion between Microsoft, based in Redmond, Wash., and its rivals. In April, Microsoft said it would pay Gateway $150 million. Last year, it agreed to pay Sun Microsystems $1.6 billion, Microsoft's largest such payout. … I.B.M. and Microsoft, which issued a joint statement today, came to an agreement just weeks before a deal to extend the statute of limitations on the claims was to expire in July. The companies said they had been negotiating for the last two months." The Times notes, "An antitrust expert who has closely followed the Microsoft cases said the I.B.M. and other settlements did not, and will not, have much impact on the personal computer industry. … 'They are not in any way agreeing to fundamentally change how they do business,' the expert, Andrew I. Gavil, a law professor at Howard University, said of Microsoft. 'The only case where anyone is really holding out is the RealNetworks case. To them, if they can't get a change in that business model' - a reference to Microsoft's practices – 'the cash doesn't do them much good.'"

The Financial Times (7/2, London) reports, "Earlier this year, Microsoft paid $150m to Gateway, another PC maker identified in the 1998 case, based on claims that the software group used its monopoly over PC operating systems to overcharge for software and squeeze out rivals. … While the IBM settlement resolves most of the legal claims between two of the largest US technology companies, they are expected to remain fierce rivals. IBM retains the right to pursue claims relating to its server hardware and software business, although it has agreed not to do so for at least two years."

The Washington Post/AP (7/2, D3, Bergstein) reports, "IBM irked Microsoft in the '90s by pushing its own OS/2 operating system as a Windows alternative and putting its SmartSuite productivity software on IBM PCs, cutting into the market for Microsoft Office programs. IBM also was an early supporter of Java, a programming language that does not need Windows to run. … IBM had not sued Microsoft, but still pressed for retribution for the behavior cited by Jackson. Microsoft reached a similar deal with Gateway Inc. for $150 million in April."

DOJ Continues Probe Of Concrete Price-Fixing. The Evansville (IN) Courier & Press (7/2, Raithel) reports, "A representative for Irving Materials Inc. in Southwestern Indiana said Friday that the price-fixing activity for which the company was fined $29.2 million this week did not extend to the Evansville area." The C&P continues, "Kevin Swaidner, general manager for the Southwestern Division of Irving Materials, said that the U.S. Department of Justice had made inquiries into the company's activities in Southwestern and Southeastern Indiana, and concluded that the price-fixing was confined to the central part of the state. … 'We know there to be no problems with this issue' outside of Indianapolis, Swaidner said." The C&P adds, "Gina Talamona, a spokeswoman for the U.S. Department of Justice, said Friday that the department's investigation into concrete price-fixing was continuing. … Irving Materials Inc. (IMI) was given the largest fine in U.S. antitrust history Wednesday for conspiring to inflate the price of concrete in Central Indiana between July 2000 to May 25, 2004. Four company executives pleaded guilty to price-fixing and agreed to pay fines ranging from $100,000 to $200,000 and serve five months in prison followed by five months of home detention. … Scott Hammond, chief of criminal enforcement for the Justice Department, said that the price-fixing scandal could expand to other companies. 'IMI did not commit this crime on its own. It's just the first company to fess up, plead guilty and cooperate,' Hammond said."

Chinese Firm Asks US To Review Its Bid For Unocal. The New York Times (7/2, Mouawad) reports, "The Chinese oil company fighting for control of Unocal said yesterday that it had asked a top government panel in the United States to formally review its $18.5 billion takeover offer, even as political opposition to the bid was growing in Washington. The Chinese company, the China National Offshore Oil Corporation, or Cnooc, said it had filed a notice with the Treasury Department's Committee on Foreign Investments in the United States to look into the proposed acquisition and requested that the review be conducted 'in an expeditious manner.'" The Times notes, "The recent bid by Cnooc topped an offer of $16.8 billion made in April by Chevron, but threatens to be derailed by American lawmakers

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opposed to oil and gas assets being snapped up by a Chinese company."

The Washington Post (7/2, D1, Weisman) reports, "Typically, such reviews -- carried out by the interagency Committee on Foreign Investment in the United States, or CFIUS -- do not begin until a takeover bid is accepted. But by making its request quickly, CNOOC, which is 70 percent owned by the Chinese government, hoped to signal wary U.S. lawmakers that the company recognizes their concerns and is ready to cooperate. Company officials also hope to convince Unocal shareholders that U.S. regulatory requirements would not unduly delay a deal's completion."

The Financial Times (7/2, Kirchgaessner, Leahy) reports, "Chevron is also wooing Unocal executives. Peter Robertson, Chevron's vice-chairman, said it had offered 20 Unocal executives jobs in a merged entity and they had accepted, indicating the two rivals are keen to secure management talent as well as the backing of shareholders. Mr Robertson also raised the prospect of referring CNOOC's bid to the World Trade Organisation on the grounds that support from the Chinese government meant the proposed deal was not a purely commercial transaction."

Reuters (7/2, Berkowitz) reports, "The U.S. House of Representatives voted overwhelmingly Thursday to add an amendment to an appropriations bill that would bar the Treasury Department from spending any money to recommend approval of the CNOOC bid for Unocal. If signed into law, the measure would not take effect until Oct. 1. The House also passed a nonbinding resolution calling on President Bush to request an immediate review of the deal. Rep. Joe Barton, the chairman of the House Energy and Commerce Committee and co-sponsor of the resolution, called for a hearing on the CNOOC bid."

ENVIRONMENT:

Administration's Salmon Protection Plan Criticized By Federal Judge. The Washington Post (7/2, A3, Harden) reports, "Little Goose has turbines for power, locks for river transport and a Rube Goldberg device for distilling young salmon out of the river, sorting them by size, and hosing them into trucks and barges for passage downriver. This hulking gizmo has become part of the 'environmental baseline' here on the Snake River. At least that is how the Bush administration characterizes Little Goose and 13 other federal dams on the Snake and Columbia rivers. This characterization, though, has stuck in the craw of a federal judge. In his courtroom in Portland, Ore., U.S. District Judge James A. Redden described the administration's 2004 biological opinion -- it says dams are an ineluctable part of the river's environmental baseline -- as a document written 'more in cynicism than in sincerity.'" The post goes on to report that according to a survey of NOAA employees by the Union of Concerned Scientists and Public Employees for Environmental Responsibility, "about two-thirds of those surveyed did not believe the agency, responsible for protecting endangered fish and their habitat, was effectively doing its job."

EPA Proposes New Restrictions Air Pollution. The Washington Post (7/2, A4, Eilperin) reports EPA staff members "proposed tightening the nation's air pollution standards yesterday, a move that environmentalists said could save the lives of thousands of Americans. Aides to EPA Administrator Stephen L. Johnson outlined two scenarios in their report on what should be the acceptable nationwide level for 'fine particulate matter,' the soot that invades people's lungs and causes respiratory ailments. Both scenarios would slash the amount of small particles in the air, although one proposal would go significantly further than the other. … Public health advocates, who back the more stringent proposal, hailed the EPA for moving to curb harmful air pollution." The Post adds, "Some industry groups, however, oppose tightening the standards on the grounds that they can hamper economic growth. Bryan Brendle, director of air quality issues at the National Association of Manufacturers, said state and local officials tend to target manufacturers in an effort to comply with stricter standards, which 'imposes compliance costs on industry.'"

FBI/DEA/ATF/USMS:

Woodward's Book Presents New Profile Of Felt. The New York Times (7/2, Janofsky) reports, "From start to finish, W. Mark Felt was a bureau guy, a true believer, an officer sworn to uphold the security of the country against all manner of enemies, whether they were bank robbers, domestic terrorists, foreign spies - or, as Bob Woodward writes in his latest book, the highest official in the land. And so, Mr. Woodward concludes in 'The Secret Man,' a chronicle of his sometimes tense relationship with Mr. Felt, it was not the 1972 burglary of the Democratic National

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Committee office in the Watergate apartments that compelled Mr. Felt to become a secret source for Mr. Woodward and his Washington Post reporting partner, Carl Bernstein. It was President Richard M. Nixon."

IMMIGRATION:

CIS Extends Work Permits For Some Central Americans. The AP (7/2) reports, "Immigration officials announced Friday that they will extend work permits for Hondurans and Nicaraguans with temporary protected status. U.S. Citizenship and Immigration Services said the automatic, 90-day extension will apply to employment authorization documents with a Jan. 5, 2005, expiration date. … Officials first offered temporary protected status in 1998 to illegal immigrants from Honduras and Nicaragua after their countries were devastated by Hurricane Mitch. The immigrants' protected status has been renewed several times since."

TAX:

Three Sentenced To Prison For Tax Violations. The Atlantic City (NJ) Press (7/2, Johnson) reports, "Facing their fate in front of a federal judge, Joseph and Inge Donato stood side by side, holding hands, with Inge resting her head slightly against her husband's shoulder. … To the end, members of the Restored Israel of Yahweh remained united in faith and with each other." The Press adds, "A federal judge said he was impressed with the sincerity of the group's beliefs but less impressed with their sincerity in trying to obey the law. … U.S. District Court Judge Jerome B. Simandle sentenced Joseph Donato to 27 months and Inge Donato to six months in prison for their conviction on numerous tax-related charges Friday. Another senior member of the Hamilton Township biblical sect, Kevin McKee, received a prison sentence of 24 months." The Press notes, "All three defendants had fines levied against them and will have to file delinquent tax returns when they leave prison for the years they never paid the government. … A jury found in December that the members of the religious sect were guilty on 19 counts of conspiracy to defraud the government, tax evasion and failure to file taxes. The three say they do not pay federal taxes because they do not support war. McKee, in a pre-sentence report, indicated that a prison sentence was not likely to significantly alter that position."

Increased Tax Revenue Could Slash Budget Deficit By $100 Million. The Washington Post (7/2, D1, Weisman) reports, "An unanticipated surge of tax payments may push the 2005 federal budget deficit as much as $100 billion below official forecasts, leaving Republicans to claim vindication in their theory that lowering tax rates actually boosts tax receipts. In addition, this week the Commerce Department reported a solid economic growth rate of 3.8 percent for the first three months of 2005, an improvement on the earlier 3.5 percent estimate and more ammunition for Republican boasts that their tax cuts are the cause of this performance." However, "senior budget analysts, including the Republican who heads the Congressional Budget Office, cautioned this week that higher tax revenues may be a one-time phenomenon that in no way addresses the nation's grave deficit challenge. Much of the increase could stem from temporary factors, said CBO director Douglas Holtz-Eakin, a former Bush White House economist. The major corporate tax cut of 2004 provided a one-year 'tax holiday' for multinational corporations to bring home overseas profits at a reduced tax rate, and companies may be responding aggressively."

CONGRESS-ADMINISTRATION:

Bush Praises O'Connor, Calls For Fair Vote On SCOTUS Nominee. President Bush praised Supreme Court Justice Sandra Day O'Connor's service after she announced her intention to retire and called for a dignified, fair nomination process. Coverage focused on the historic opportunity Bush faced as he balanced consideration of the GOP base versus a protracted political struggle with Democrats. Previewing the Senate battle, Republicans started to push for fair hearings while Democrats urged Bush to consult with them. Many reports stressed O'Connor's key role as a moderating influence on the Supreme Court and the country. O'Connor's retirement and President Bush's reaction received extensive media coverage as the network newscasts all led with the story and included at least four stories on the subject. The news was also prominently covered in the nation's major newspapers and by local TV stations.

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ABC's World News Tonight (7/1, lead story, 4:30, Moran) reported, "With O'Connor's retirement, President Bush now has a chance to re-shape the Supreme Court, and he is certain to face ferocious opposition from many liberals and Democrats, though today in the Rose Garden, he argued for calm." President Bush "is said to be excited about this opportunity to pick a Supreme Court justice. He's told aides he's looking at the long term here."

CBS Evening News (7/1, story 2, 2:00, Roberts) reported, "President Bush has already begun maneuvering for Senate confirmation of his Supreme Court nominee, one he hasn't even chosen yet. CBS' Bill Plante added that Bush "laid down his marker: A demand that there be no filibuster by Democrats. Mr. Bush wants Senate confirmation before the new court term begins in October, but his staff says he won't nominate a new justice until after he returns from Europe next Friday. But the White House has been preparing for this day for years, and has a short list of well-researched names for him to consider."

NBC Nightly News (7/1, story 3, 2:30, Williams) reports, "No instant choice. Speaking in future tense because the White House said the President has not read any of the files prepared for him on possible candidates, but will, now that a vacancy is real." NBC's Kelly O'Donnell added, "With a confirmation fight looming, the President called for a dignified process and has pledged to work with Congress and reached out today by phone to some key Senators and pledged to work with them and meet with them about a choice when he gets back from Europe." The Atlanta Journal-Constitution/AP (7/2, Riechmann) reports, "Anticipating what could be a tough battle in the Senate when he returns from Europe, Bush called for civility in the confirmation process." White House spokesman Scott McClellan "said the White House would consult with Majority Leader Bill Frist and Minority Leader Harry Reid as well as leaders of the Judiciary Committee, and he expressed hope that Democrats would not block a vote on the president's pick."

The Washington Times (7/2, Curl) reports, "Mr. Bush yesterday pledged to seek input from Congress on his nomination and said 'the nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote. I will choose a nominee in a timely manner so that the hearing and the vote can be completed before the new Supreme Court term begins.'" The AP (7/2, Raum) in an analysis says, "President Bush's choice to fill the vacancy of retiring Justice Sandra Day O'Connor is all but certain to ignite a political inferno no matter whom he picks."

The New York Times (7/2, Stevenson) reports, "Bush effectively put the Democratic leadership on notice not to go to extreme lengths to reject his choice or turn the confirmation proceedings into a partisan free-for-all."

Pittsburgh Post-Gazette (7/2, McFeatters) reports, "With liberals and conservatives braced for a bruising battle over the person Bush chooses to replace O'Connor, the president promised to select someone who would make America proud and who would meet 'a high standard of legal ability, judgment and integrity, and who will faithfully interpret the Constitution and laws of our country.'" Reuters (7/2) reports, "Bush gave no indication who he was considering to replace O'Connor…other than to repeat his conservative philosophy that he would pick someone who will interpret the U.S. Constitution and not legislate from the bench." He "has often railed against what he calls 'activist judges' who he says legislate from the bench, and says he wants justices to 'strictly and faithfully interpret the law.'"

The Los Angeles Times (7/2, Savage) notes that "the political battle over the next court nominee is likely to focus on abortion and religion." And the Baltimore Sun (7/2, Desmon) reports, "Those on the front lines of the battle over abortion say" O'Connor's "retirement has an even greater impact than would the resignation of the ailing Chief Justice William Rehnquist, an abortion opponent whose potential replacement would be an "even exchange," as one advocate said.

But in contrast to most reports saying the battle over the new nominee will be over religious and social issues, the Financial Times (7/2, Waldmeir) notes Professor Jeffrey Rosen of George Washington University Law School "thinks the real threat of such a re-engineered court would be not social but economic: he believes Mr Bush's long-term goal is not to outlaw abortion but to roll back the regulatory state and dismantle the New Deal, by appointing jurists who believe the US constitution does not permit the federal government to meddle in matters such as workplace regulation or environmental protection." The Financial Times (7/2, Alden, Daniel, Yeager), the Houston Chronicle (7/2, Mason), the Miami Herald/AP (7/2, Espo), the Atlanta Journal-Constitution (7/2, Herman) and the Baltimore Sun (7/2, West) also reported on O'Connor's retirement.

President Bush's Response To Justice O'Connor's Retirement Receives Widespread Local Television

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Coverage. President Bush's response to the retirement of Justice Sandra Day O'Connor received heavy local television coverage nationwide. Reporting largely focused on speculation about whom the President would appoint, and the extent of the confirmation battle ahead. Frequently quoted was the President's Rose Garden comment that the nation "deserves a dignified process of confirmation in the United States Senate." Some examples: WDIV-TV Detroit (7/1, 6:17PM) reported that O'Connor's retirement "will set the stage for a bitter battle over her nominated successor. President Bush offered praise for the 75-year-old Justice O'Connor today. 'The nation deserves a nominee the nation can be proud of. The nation also deserves a dignified process of confirmation in the United States Senate.'"

WCCO-TV Minneapolis (7/1, 12:00PM) reported that "shortly after [O'Connor's] announcement, President Bush announced his thanks for her great service. 'This great lady born in El Paso, Texas, rose above the obstacles of an earlier time and became one of the most admired Americans of our time. The President did not name a successor but said he is compiling a list of potential nominees."

WPLG-TV Miami (7/1, 12:55PM) reported, "President Bush says he will work to fill O'Connor's vacancy, before the Court returns to work in October."

WVTV-TV Milwaukee (7/1, 9:19PM) said, "And President Bush made his Rose Garden remarks about the next nomination process. 'The nation deserves and I will select a Supreme Court justice that Americans can be proud of. The nation also deserves a dignified process of confirmation in the United States Senate.'"

KCCI-TV Des Moines (7/1, 10:02PM) reported that "Senator Tom Harkin hopes the President will seek the advice of senators from both parties to find a mainstream nominee who will impartially protect the rights and freedoms of all Americans."

KPNX-TV, Phoenix (7/1, 05:59PM) reported that "Survey USA asked 1200 people across the country if they believed President Bush's Supreme Court nominee will make the Court more in step or out of step with their beliefs, and 34% said his nominee will make the court more in step and 46% believe it will be more out of step. And 17% think the nominee really won't change things within the Supreme Court."

White House Said To Have Been Taken By Surprise. News that O'Conner intended to retire before Rehnquist caught the White House and most of the Washington DC establishment off guard. ABC's World News Tonight (7/1, lead story, 4:30, Woodruff) reported the White House was "taken by surprise. The White House got word yesterday morning that some kind of announcement out of the Supreme Court was imminent, though no one here was told any more than that. So when word came this morning that it was Justice O'Connor retiring, the White House started immediately preparing for the battle ahead."

The New York Times (7/2, Jehl) reports, "The White House has been preparing for months to fill a seat on the court, but people involved in the process said the main focus had been on finding a new chief justice to replace Mr. Rehnquist. It was only in recent weeks, some conservatives said, that the White House began to consider seriously the prospect of Justice O'Connor's departure." The Dallas Morning News/AP (7/2) adds that in addition to the White House, "O'Connor even surprised her family.

Now that Bush will be considering a replacement for O'Connor, the Washington Times (7/2, Curl) notes the list of candidates "is expected to expand to contain more women," and some experts believe it will include "Edith Hollan Jones, 56, and Edith Brown Clement, 57, both judges on the 5th U.S. Circuit Court of Appeals, as possible contenders, and…White House Counsel Harriet Miers."

Choice Expected To Define Bush Legacy.

The New York Times (7/2, Jehl) says, "At the White House, the moment presents Mr. Bush with an opportunity to define at last, more than four years into his presidency, whether he is a pragmatic, flexible conservative, as he has portrayed himself in two campaigns, or a more ideological one, determined to move the court much further rightward. It is a juncture officials have been planning for."

The Washington Post (7/2, A1, Balz) in a front page story notes that Bush's "political strategy is founded on the assiduous courtship of his conservative base, and on big issues he has rarely chosen to disappoint them. But it has never been clear how comfortable the president is in pushing a sharply conservative social agenda. He opposes abortion but has resisted championing the cause of overturning Roe v. Wade. He pushed a constitutional amendment barring same-sex marriages, but at a time when it was clear it could never pass Congress." But he "has been forthright…in trying to change the complexion of the courts, a political project that he shares with White House Deputy Chief of Staff Karl Rove and other top advisers." And he "likes to swing for the fences."

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Bush May Feel Pressure To Make "Historic" Selection. ABC's World News Tonight (7/1, story 2, 1:20, Stephanopoulos) reported that the retirement of O'Connor, as opposed to that of Rehnquist, "puts more pressure on President Bush to follow Justice O'Connor with a big, historic choice. That's why so many people are talking about Attorney General Gonzalez. But you know, President Bush, even though he's very close to Justice Gonzalez, has long had in mind, he says his models are Justice Scalia and Justice Thomas. It's much harder to replace a Justice O'Connor with someone in the mold of Justice Scalia or Justice Thomas."

The Dallas Morning News (7/2, Jackson) says O'Connor's "retirement puts pressure on Mr. Bush to consider nominating a woman, or at least a more moderate nominee in the O'Connor mold, analysts said. It also opens the door for a possible historic pick, such as the court's first Hispanic member, possibly Attorney General Al Gonzales." But recently, "conservatives have discussed a Gonzales-for-O'Connor trade. They have also criticized the possibility, calling the former White House counsel insufficiently opposed to abortion rights and affirmative action." And Gonzales "would face liberal opposition over his role in setting policy for treatment of war prisoners."

Meanwhile, the Los Angeles Times (7/2, Wallsten, Schmitt) says that while Bush will face pressure to name a historic pick, "White House allies and advisors said Friday that the toughest choice facing Bush was whether to pick a nominee who would probably coast to Senate confirmation -- such as his longtime friend, Atty. Gen. Alberto R. Gonzales -- or one who would please the conservative Republican base but also spark a protracted partisan battle that could stall other priorities." With O'Connor retiring before Rehnquist, "White House advisors are trying to draw lessons from the experience of President Reagan, who took the easy route first in winning confirmation for Justice Antonin Scalia but then paid a heavy price when a more controversial nominee, Robert H. Bork, was defeated."

White House Focused On Three Options For Timing Of Nominee Announcement. The Washington Post (7/2, A1, Baker) in a front page article reports, "Former attorney general Edwin Meese III, one of four outside advisers who plotted strategy with top White House officials last week, said in an interview yesterday that Bush has three options on timing: name a nominee as quickly as possible and ask senators to remain in August, request that the Senate Judiciary Committee come back from recess early to begin hearings, or wait until the end of the recess to announce a nominee. 'That's one thing I know will be discussed very carefully,' Meese said."

Poll Shows Most Americans Expect Bush To Choose Conservative Nominee. CBS Evening News (7/1, story 3, :10, Roberts) reported that "as for the public's take on prospective supreme court nominees, a CBS News/"New York Times" poll taken earlier this year offers some clues. 71% expect any justice named by President Bush would vote to make abortion illegal. 44% said it's likely the ideological views of the president's choice will be okay with them. 33% expect someone more conservative than they'd like. And 15% think the nominee won't be conservative enough."

Vacancy Adds To Burden Of Domestic Agenda. The AP (7/2, Hunt) reports, "The vacancy adds another major issue to an already bulging agenda Bush has presented to Congress. Administration officials expressed confidence about getting energy, highway and Central American trade measures passed and are crossing their fingers in hopes that lawmakers will have enough time and energy to deal with a complicated overhaul of Social Security."

The Washington Post (7/2, A1, Baker) in a front page article also notes that "the nomination could overshadow the rest of Bush's domestic agenda for months, particularly his plan for Social Security, which has foundered upon rock-solid Democratic opposition and Republican ambivalence. Some allies suggested it could even provide a way to quietly drop the Social Security effort until after next year's midterm elections."

Past Issues Resolved May Now Return To Debate. Tom Goldstein, founding editor of the nonpartisan SCOTUS blog in an interview with Newsweek (7/2, Braiker) said, "Everything's back on the table. Everything that had been settled over the previous few years had been settled in no small part because Sandra Day O'Connor had put the court in the center-right. Now those questions, because the Supreme Court can reverse itself, are all open to reconsideration."

Some Supreme Court Picks Go Awry. The Financial Times (7/2, Waldmeir) notes that "history teaches that things often do not work out the way the nominating president intended: either the Senate refuses to confirm the president's ideological favourite; or, surprisingly often, the new justice does not vote as the president thought he or she would; or the country moves on and the issues before the court are not the ones the president could have foreseen.

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The best laid plans of presidents can come to nought, once the nominee assumes his seat for life on the high court dais."

More Commentary. The New York Times (7/2) editorializes that Bush "can best serve the country, and his own party, by nominating a new justice with the same values." Before the debate over nominees begins, "Bush should ask himself whether Americans want to live in a country where the handicapped cannot find a champion in the law, where women are stripped of all abortion rights, where universities are barred from offering a hand up to deserving minority students. Then he should ask himself how much of his own party's current success has been due to Justice O'Connor's ability to save the right wing from the worst consequences of its extremism." If Bush "is thinking clearly, the president will understand how much he owes this quiet jurist who consistently looked for common ground. Perhaps he will also realize that the best way to repay the debt is to choose a replacement from the same mold."

The Financial Times (7/2) editorializes, "The battle to confirm her replacement will focus on abortion but more is at stake" because "there would still be a 5:4 majority on the Court in favour of abortion." Therefore, "the Senate should not allow itself to get bogged down over the views of the nominee on abortion. The Senate should rather examine the views of the candidate on a wide range of issues: what does he or she think the constitution says about gay rights? Or economic regulation? Or the role of judges themselves? Or the role of copyright and patent law in fuelling the innovation economy?"

The Washington Times (7/2) writes in an editorial that as "Bush deliberates on his first nominee to the high court, he must keep in mind that millions of Americans who voted for him in both 2000 and 2004 did so precisely because they believed that he would nominate judges, and particularly Supreme Court justices, determined to be faithful to the Constitution as it was written, judges not so open to persuasion where first principles are concerned."

The Washington Post (7/2) editorializes, "The president should consult as broadly as possible and seek a nominee who would satisfy his requirements while also garnering broad support from moderates of both parties. It is not too much to ask of Mr. Bush that he work for consensus in replacing a justice who, in a very real sense, had come to represent a bridge between left and right."

The Los Angeles Times (7/2) editorializes, "We do insist on one thing: Bush should not nominate Justice Clarence Thomas for chief justice. Thomas purposely misled the Senate at his original confirmation hearing 14 years ago, insisting he had no opinion on the hot-button Roe vs. Wade decision. Since then he has repeatedly shown his deep opposition to Roe. For the Senate to confirm him as chief justice now would say to the world that the contempt Thomas showed for that institution was fully justified."

Potential Bush Nominees Examined. CBS Evening News (7/1, story 2, 2:00, Plante) reported potential candidates include "Attorney General Alberto Gonzales, a possible first Hispanic justice and the president's close friend. He would likely face opposition from both the right for abortion rulings in Texas and the left for his rulings on prisoners rights. D.C. Circuit Judge John Roberts, conservative, but respected on both sides of the political spectrum. Appellate judge J. Michael Luttig, a conservative who has upheld restrictions on abortion. Among female candidates to replace O'Connor, conservatives are suggesting Janice Rogers Brown, an African American, and Priscilla Owen, on the grounds that it'd be hard to reject either since both were just confirmed to the appellate court."

Examining the potential nominees, the New York Times (7/2, Lewis) says, "President Bush is expected to select a nominee to the Supreme Court from a list of candidates that is, with few exceptions, a small roster of sitting federal appeals court judges. … And while all of the candidates may be described as conservative, each brings a different political and philosophical profile to the table." A number of newspapers included brief descriptions of the potential nominees' positions, including the Dallas Morning News/AP (7/2) and the Financial Times (7/2).

Senators Test Themes As They Prepare For Intense Showdown. Describing the early themes of the expected battle over the nominee, the New York Times (7/2, Hulse) reports, "In a move intended to prod Mr. Bush into consulting with them, Democrats repeatedly invoked President Ronald Reagan, a staunch conservative whose nominee Justice O'Connor was confirmed 99 to 0." But, "Republicans, trying to avoid a fight, called for 'a fair confirmation process,' in the words of the Senate majority leader, Bill Frist." The AP (7/2, Holland) adds, "Democrats are resigned to Bush nominating a conservative, but they are hoping to push him into picking someone like O'Connor."

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The Dallas Morning News (7/2, Gillman) says that "markers thrown down Friday suggest an all-out partisan brawl is looming." The Morning News notes, "One Democrat after another demanded a 'mainstream conservative' to replace Supreme Court Justice Sandra Day O'Connor. Republicans called for a 'fair and independent' jurist." The St. Louis Post-Dispatch (7/2, Sawyer) reports that "while Bush reached out immediately to promise consultation with senior Senate Democrats, and they responded in kind, the war drums could be heard of likely battle to come."

The Washington Times (7/2, A1, Taylor) in a front page article reports, "Democrats, who have led filibusters against lower court nominations by Mr. Bush, said the president has an obligation to preserve the precarious balance of the court with whomever he chooses to replace Justice O'Connor." But, "Republicans said the president should not be constrained. 'Elections have consequences,' said Sen. John McCain, Arizona Republican. 'The president clearly stated when he ran for re-election that he would be appointing conservative nominees to the Supreme Court. It comes as no surprise if a conservative nominee comes over.'"

Reuters (7/2) notes, "Sen. Edward Kennedy…immediately challenged Bush." Kennedy said, "If the president nominates someone who threatens to roll back the rights and freedom of the American people, the American people will insist we oppose that nominee, and we will do so." The Washington Times (7/2, Hurt) reports, "Democrats warned President Bush to consult them 'face-to-face' before offering a replacement for Justice Sandra Day O'Connor." For example, Sen. Charles Schumer "told reporters it would be 'a shame' if Mr. Bush makes his nomination 'without real face-to-face, back-and-forth consultation.'

The St. Louis Post-Dispatch (7/2) reports, "In the wake of Justice Sandra Day O'Connor's retirement announcement Friday, Democrats were competing so hard to sing her praises that Republicans could barely find a television camera free." The Boston Globe (7/2, Canellos) reports, "Both sides seemed to agree on one thing: No judicial confirmation battle, from Robert Bork and Clarence Thomas to the recent disputes over Democratic filibusters of 10 of President Bush's appeals court nominees, carried anything like the stakes in the upcoming confirmation battle."

Ron Brownstein in an analysis of the impending political battle in the Los Angeles Times (7/2) says that while the vacancy could be a defining moment for Bush, "the fight could define Democrats, too. While Senate Democrats will face intense pressure from their base to oppose virtually any Bush nominee, if they try to block a choice most Americans see as reasonable, they risk further alienating the culturally conservative and rural voters that many in the party consider critical to their prospects in 2006 and 2008."

Bush Has Already Talked To Democratic Senate Leaders. ABC's World News Tonight (7/1, story 4, :30, Douglas) reported, "Democrats are demanding that the president consult with them, and the President already is taking that step. He's called two leading Democrats, says he wants to meet with them. A senior Republican said today that's good, he hopes that this new justice gets a bipartisan majority. But Republicans are determined to get this person on the court by October 1st, even if that means that they're going to change the rules for confirmation right there on the Senate floor."

But Knight Ridder (7/2, Thomma) notes that "listening to Democrats is one thing; heeding their advice is another. Especially when Bush and both political parties are barraged by interest groups whose demands, particularly on abortion, make consensus all but unreachable."

Filibuster Deal Seen As Working Against Democrats. NBC Nightly News (7/1, story 4, 1:45, Williams) reports, "In spite of the president's plea for the dignified process, there are already clear indications this battle is breaking out even without a nominee." NBC's Chip Reid continued, "Dozens of protesters from the left and right today trading verbal jabs outside the Supreme Court. At the liberal group people for the American way, the war room is already on red alert." Ralph Neas, People for the American Way: "If the president decides to replace a mainstream conservative like Sandra Day O'Connor with a right-wing ideologue, it will be a titanic clash." Reid adds, "But blocking a nominee won't be easy because a key group of Democrats recently agreed to filibuster judges only in extreme circumstances."

Senate Moderates Expected To Be Key To Confirmation Battle. Knight Ridder (7/2, Kuhnhenn) reports, "In the end, the focal point in the Senate will be the deal-makers who stopped the meltdown. Sen. John McCain said, "I'm optimistic that the president will not send over someone who reaches the extraordinary-circumstances level. … We only made an agreement with seven Democrats...so it's their view that matters, not that of -- in all due respect -- their more liberal colleagues."

Both Parties Face Political Challenges. The New York Times (7/2, Toner) reports, "This struggle over

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fundamentals -- another battle in the culture wars -- poses challenges for both parties. Many Democrats have tried to moderate their party's image in recent months, especially on values-related issues like abortion. Many Republicans, meanwhile, have tried to return to bread-and-butter economic issues, worried about polls showing that large numbers of voters see the party as out of touch with their concerns, after months dominated by fights over judicial filibusters." Yet, "this judicial campaign will not be stopped, all sides agree, and there is a sense of foreboding about it." Meanwhile, the AP (7/2, Superville) profiles the leaders of the Senate Judiciary Committee.

Pressure Form Special Interest Groups Expected To Be Unprecedented. ABC's World News Tonight (7/1, story 3, 3:00, Woodruff) reported, "Polls show that it is conservatives who have been the most worked up over the makeup of the court, especially evangelical conservatives, many of whom are deeply angry at the nation's judges, who they sometimes call 'black-robed masters.' "Some more moderate, secular conservatives fear that if the religious right takes too prominent a role in this fight, it could cause a public backlash. Christian conservative leaders are unfazed." The Family Research Council's Tony Perkins was shown saying, "The president has promised to nominate judges like Scalia and Thomas, and we fully expect him to keep his promise. And I believe there's gonna be a fight over it."

Ron Brownstein in an analysis of the impending political battle in the Los Angeles Times (7/2) notes, "This fight may mark as great an advance over those tactics as the mechanized blitzkrieg of World War II did over the grinding trench warfare of World War I. Coalitions of left and right have already stockpiled huge sums for massive advertising and organizing efforts on the vacancy. In states with senators considered persuadable, the efforts could approach the levels seen in presidential campaigns."

The Washington Post (7/2, A12, Babington, Allen) reports, "The multimillion-dollar campaigns, which activists say will nearly rival presidential candidacies in their scope and sophistication, kicked off within an hour of O'Connor's announcement. Both sides launched ads designed to build momentum for their causes before President Bush names his nominee." For example, "MoveOn PAC began airing a television ad in five states recalling the president's role in the Terri Schiavo case and asking, 'Will George Bush choose an extremist who will threaten our rights?'" Meanwhile, "Progress for America, which spent $45 million on Bush's reelection, sent an e-mail to 8.7 million people about 45 minutes after the news broke, urging them to distribute a Web video mocking anticipated Democratic attacks. The group said it is rethinking its plan to refrain from airing TV ads next week.

The AP (7/2, Holland) reports, "With O'Connor's announcement Friday representing a test of these organizations' clout in the Internet Age, people on both ends of the political spectrum flooded their backers around the country with e-mail and pager alerts, telling them about the retirement and calling for their help." For example, "People for the American Way...sent out thousands of e-mails to its supporters and was setting up phone banks to make calls around the nation to build up support for Senate Democrats."

With the battle over the nominee expected to be intense, the Financial Times (7/2, Yeager) notes, "Senate leaders are well aware that 56 of the body's 100 members were not in the Senate 11 years ago, when the last Supreme Court vacancy was filled. They have already begun briefings for staff members about what to expect as the process moves forward. Congressional aides point to two changes in the political landscape: the arrival of the internet and the growing influence of outside political groups."

And the New York Times (7/2, Hulse) adds, "Controlling leaks, Republicans say, will be essential. Douglas H. Ginsburg, for instance, withdrew his Supreme Court nomination in 1987 after it was disclosed that he had smoked marijuana, information that the F.B.I. turned up.

The reaction to the news outside of the Beltway was furious as well, as the Minneapolis Star Tribune (7/2, Hotakainen, Wascoe) describes news of the vacancy "unleashed huge and emotional grass-roots campaigns in Minnesota and across the country Friday that ultimately could decide the future of abortion, affirmative action and an array of other volatile social issues." For NARAL Pro-Choice Minnesota executive director of Tim Stanley, "the battle was officially engaged at 9:15 a.m. Friday." Stanley "was crossing a street in St. Paul when his cell phone rang with news that O'Connor was retiring. Within minutes, Stanley had 500 'rapid responders' ready to organize for the fight over her successor. There were 100,000 doors to start knocking on, senators to call, petitions to gather and immediate plans for a rush-hour 'visibility' event for their effort Friday at Interstate Hwy. 94 and Snelling Avenue."

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Corporations, Unions Have Significant Interests In New Nominee. Knight Ridder (7/2, Hall) reports, "The Supreme Court's rulings on abortion and religion capture the headlines, but much of the business before the high court deals with the conduct of business. In the court's term that ended this week, for instance, about 30 percent of the rulings involved business issues." Knight Ridder notes, "The U.S. Chamber of Commerce…has quietly provided information to the White House about the pro-business voting records of judges over the last year." But AFL-CIO president John Sweeney said, "So it is more important than ever for the president to nominate a mainstream candidate, whose opinions will have a tremendous impact on the constitutional rights and legal protections of our children and grandchildren."

The Los Angeles Times (7/2, Hamburger) reports, "The nation's leading business lobbies are poised for the first time to campaign for the confirmation of a Supreme Court nominee, marking a historic change for the confirmation process, the perception of courts and business activism." The Times notes, "The addition of big business to the mix coincides with a shift in the way the judiciary is viewed by the public and leading interest groups. Federal courts once were largely exempt from the hurly-burly of political invective, and judges were considered above the fray for the most part. Now, judges and their decisions are routinely attacked from the right amid cries for "judicial reform" from talk radio, church pulpits and corporate board rooms."

O'Connor Seen As Key Moderating Influence. Justice O'Connor's key role as a moderating influence was highlighted in numerous media reports. ABC's World News Tonight (7/1, story 8, 3:00, Woodruff) reported, "O'Connor has often been called the most powerful woman in America, defining the law from abortion and affirmative action to sexual harassment and terrorism." CBS Evening News (7/1, lead story, 3:00, Roberts) reported, "She'd been leading the campaign lately to restore relations with Congress. Instead, it was apparently the love of her life that led Sandra Day O'Connor to step down today."

NBC Nightly News (7/1, lead story, Williams) reports, "In some of the most contentious cases, she often provided the critical fifth vote. She voted sometimes with the conservatives, approving taxpayer-funded vouchers for sending students to religious schools and ending the 2000 Florida recount between Bush and Gore. She sided with liberals to uphold affirmative action in college admissions, pushed states to create more voting districts with African American majorities, and upheld the Roe v. Wade decision on abortion."

The New York Times (7/2, A1, Greenhouse) in a front page story reports, "The phrase has been used so many times over so many years to describe the Supreme Court that it is nearly a cliché. Yet the simple words capture an equally simple truth: to find out where the court is on almost any given issue, look for Justice Sandra Day O'Connor." Whether "your issue is affirmative action, or religion, or federalism, or redistricting, or abortion, or constitutional due process in any of its many manifestations, you can assume that the fate of that issue is in her hands. Don't bother with doctrinaire assertions and bright-line rules."

The Washington Post (7/2, A1, Lane) in a front page story says, "During her 24-year tenure, the Republican and Democratic parties came increasingly under the influence of their ideological cores, and Washington grew deeply polarized between left and right." Yet, "O'Connor remained something of a throwback: a moderate Republican, known as a broker of compromises during her long-ago tenure as Arizona's Senate majority leader, who used her pivotal position on the court to keep the law under which all Americans must live from veering toward any extreme."

The Pittsburgh Post-Gazette (7/2, McGough) adds, "To the consternation of more ideological colleagues, especially Justice Antonin Scalia, O'Connor has become the arbiter of entire areas of constitutional law, including the role of religion in public life."

The Dallas Morning News (7/2, Pusey) reports, O'Connor "was routinely conservative in many of her votes. But her pragmatic approach made her an unexpected light for reproductive rights advocates, civil rights groups and death penalty opponents." The Washington Times (7/2, Dinan) adds that O'Connor "essentially setting the current legal standard on issues from abortion to religion to affirmative action." Knight Ridder (7/2, Henderson), Time (7/2, Stack), the AP (7/2, Gearan) and the AP (7/2, Yost) also reported on her pivotal role as a moderate on the Court and the Los Angeles Times (7/2) in a second editorial says "Her levelheaded common sense on the bench will be missed."

The Washington Post (7/2, C1, Gerhart, Roberts) in an article titled "A Dedication To Excellence From A Jurist Without Precedent" reports on her charm and style while a Justice. The Washington Post (7/2), the New York Times (7/2), Knight Ridder (7/2) and the AP (7/2) all published

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timelines of key decisions during O'Connor's career while the AP (7/2) includes a summary of quotes in reaction to her resignation.

Son Hints At Political Concerns Behind Retirement. The New York Times (7/2, Kornblut) reports, "Aside from Justice O'Connor's personal concerns, her son said that political calculations were almost certainly at play in her decision to step down." Brian O'Connor said, "There's no telling who will be our next president, and I just think, like so many of her decisions, it just kind of made sense. … And I think in some regards, the stars aligned, and it was just kind of time. … I don't think she would want to be an old 'hanger-oner.' And if she didn't do it now, she might have been there another 10 years, if you do the math, depending on what happens down the road with future presidential elections."

Speculation On Rehnquist's Future Continues. NBC Nightly News (7/1, story 2, 0:20, Williams) reports, "It was Rehnquist who had been the subject of most of the retirement rumors. There's one suggestion that if she's retired, she's clearly talked to the Chief Justice, they've known each other more than 50 years, and if she thought he was going to step down, perhaps she would have held back and deferred to him. There's a second thought, would the Chief Justice step down and create a huge confirmation battle with two vacancies. It suggests the chief wants to stay here as long as he can, as long as his health will let him." The New York Times (7/2, Stevenson) reports, "It is not clear whether Chief Justice Rehnquist, who is battling thyroid cancer, will step down this summer, expanding the confirmation battle to two fronts." The Los Angeles Times (7/2, Savage) reports, "While Rehnquist has said nothing in public of his plans, the justices and court staff who have watched him closely would not be surprised if he retired too."

But, Knight Ridder (7/2, Hutcheson, Henderson) reports, "A resignation announcement from Rehnquist would roil the waters even more, but that doesn't seem as likely as it did earlier this year. The 80-year-old chief justice has thyroid cancer but seems to have rallied recently and looks much less feeble than he did when he delivered the oath of office to Bush in January." The AP (7/2, Yen) also reported on Rehnquist.

Former President Clinton Suggests Increased Immigration Could Save Social Security. The AP (7/2, Hammer) reports, "Legalizing more immigrants would help bolster the Social Security system, former President Bill Clinton told the nation's largest Hispanic-rights organization Friday. 'Those of you who want immigration reform should use Social Security more,' Clinton said to…the League of United Latin American Citizens. 'If we legalize just 250,000 more immigrants a year, it would solve half of the shortfall in the Social Security Trust Fund.'"

Liberal Groups Utilizing Quirky Methods To Campaign Against Social Security Reform. The AP (7/2, Johnson) reports Rep. Bob Beauprez "will be confronted by waffles, be it breakfast, lunch or dinner." Rep. Nancy Johnson "will see her face plastered on an oversize milk carton." Rep. Jerry Weller will "be tailed by someone in a duck costume." The AP explains, "As House Republicans move ahead with plans to vote on Social Security changes this summer, a Democratic opposition group will use the July Fourth recess to pressure GOP lawmakers it believes are undecided about the legislation or susceptible to criticism from their constituents."

Drug Industry Said To Have Scored Major Victory With Passage Of CAFTA. The New York Times' Stephanie Saul (7/2) writes, "The sidewalk between the drug industry's headquarters in Washington and the United States trade representative's office has been taking a pounding from the wingtips of industry lobbyists. The work of these drug industry courtiers…appears to have succeeded in the Central American Free Trade Agreement. The agreement would extend the monopolies of drug makers and, critics say, lead to higher drug prices for the mostly impoverished people of the six Latin American countries it covers. … According to Representative Sherrod Brown, Democrat of Ohio, the trade agreement is an example of how the pharmaceutical lobby rarely loses on trade issues, often by quietly working behind the scenes."

Bush Names Kelliher New FERC Chairman. The Los Angeles Times/Bloomberg (7/2) reports Joseph Kelliher, "an advocate of expanded authority for regulators to police power markets, was named by President Bush to succeed Pat Wood as chairman of the Federal Energy Regulatory Commission." Bloomberg notes Kelliher "was on Bush's transition team before joining the commission in November 2003."

House And Senate Reach Compromise On Highway Funding. The Washington Post/AP (7/2, A6)

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reports, "House and Senate negotiators have agreed to a level of spending for highway and transit projects that is acceptable to the White House. The agreement clears a major hurdle in the two-year effort to develop a new federal transportation plan. … Congressional aides said the two sides have agreed on spending $286.5 billion over the six-year period ending in September 2009. The aides said the administration would accept that level. Yesterday, President Bush signed an extension of the previous transportation bill for the eighth time since it expired in 2003. The program was funded at $218 billion over six years. Congress has been unable to come up with a new bill, in part because lawmakers have sought significant increases in spending for transportation projects, drawing a veto threat from the White House over the cost of the bill."

BRAC Asks Rumsfeld To Review Closure Recommendations. The New York Times (7/2, Schmitt) reports, "The independent commission assessing the Pentagon's proposed list of domestic base closings directed Defense Secretary Donald H. Rumsfeld on Friday to justify more than a dozen of the recommendations, the first clear signal that the panel may alter some of the military's choices. In one case, the panel asked the Pentagon to explain why it did not recommend closing the naval shipyard at Pearl Harbor in Hawaii even though it is less efficient and had a lower military value than the military's choice for closure, the Portsmouth Naval Shipyard in Maine." The Times adds, "The commission's requests, contained in a seven-page letter from the panel chairman, Anthony J. Principi, came as federal investigators cautioned in a report issued on Friday that the Pentagon may have overstated the plan's estimated savings of $48.8 billion over 20 years. The review of the Pentagon's proposal by the Government Accountability Office found that 80 percent of the Pentagon's projected savings from base closings and consolidations came from only 10 percent of the recommendations and that nearly half the projected savings were from cuts in military jobs that in many cases would simply be reassigned to other areas."

The AP (7/2, Sidoti) reports, "Military bases in Hawaii and California are among several a commission is considering adding to Defense Secretary Donald H. Rumsfeld's list of proposed closures. In a letter sent Friday to the Pentagon chief, commission Chairman Anthony Principi identified additional bases the commission may recommend closing and seeks explanations for why the Pentagon decided to leave those facilities open. Specifically, the letter asks why Marine Corps Recruit Depot and the Navy Broadway Complex, both in San Diego, Calif., and the U.S. Naval Shipyard at Pearl Harbor, Hawaii, were not slated for closure. It also questions the Pentagon's decisions to downsize, rather than close, the Naval Air Station in Brunswick, Maine, Pope Air Force Base in North Carolina, and Grand Forks Air Force Base in North Dakota."

Mississippi Imposes Strict New Rules For Medicaid Recipients. The New York Times (7/2, Dewan) reports, "Starting Friday, most Medicaid recipients in Mississippi will be limited to five prescription drugs at a time, with no process for appeal. The cap appears to be the most restrictive in the nation, but is just one of many measures being taken by states seeking to rein in soaring Medicaid costs." Mississippi "is among many states moving aggressively to contain Medicaid costs, saying severe measures are necessary if the program is to continue. … In Mississippi, where more than a quarter of the population is on Medicaid, the cap includes a limit of two name-brand drugs. The only patients exempt from the rule are children, people in nursing homes and patients with H.I.V., who were given an 11th-hour reprieve because virtually none of the anti-viral drugs used were available in generic form. Gov. Haley Barbour, a Republican who backed steeper cuts to Medicaid than those enacted, said the Legislature had come up with the limit on prescription drugs on its own. But, he added, 'states are limited in their options as far as cost control.'"

Missouri Reduces Medicaid Benefits. Reuters (7/2, Gillam) reports, "Fending off a late courtroom challenge, Missouri implemented sweeping cuts in Medicaid on Friday, reducing benefits so sharply that critics called the moves among the most severe in the nation. The new Medicaid standards, championed by Missouri's new Republican Gov. Matt Blunt to avoid tax increases, trimmed Missouri's budget by $231 million, but are expected to cut more than 68,000 Missourians out of the Medicaid program over the next year. Under the new standards, a single mother of two children is deemed ineligible if she makes more than $350 a month, for instance. Previously, the income line was drawn at $1,050 a month. An estimated 24,000 children are expected to lose their benefits, dental coverage is being cut for adults, and disabled people are losing coverage for crutches and other aids."

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The Kansas City Star (7/2, Wagar, Skodack) reports, "U.S. District Judge Nanette Laughrey issued an order late Thursday night denying the request for an injunction that would have allowed Medicaid coverage to continue. Laughrey said she would file her ruling outlining the reasons for her order at a later date."

Maryland Faith-Base Tutoring Service Profiled. The Washington Times (7/2, Lively) reports, "Maryland's only faith-based tutoring service has found a home in a Bladensburg church where teachers are helping needy students improve their reading, writing and math skills. As about 100 elementary-school students yesterday concluded a two-week tutorial inside the St. Luke's Episcopal Church." The Times notes, "President Bush signed an executive order in December 2002 allowing federal money to be awarded to faith-based organizations through grants and contracts." The tutoring service "receives about $1,700 per student, so those who qualified for free or reduced school-lunch programs can receive the free tutoring."

Senate Approves Research On "Bunker Buster" Nuclear Warhead. The AP (7/2, Hebert) reports, The Senate on Friday agreed to revive the 'bunker-buster' program that Congress last year decided to kill. Administration officials have maintained that the country needs to try to develop a nuclear warhead that would be capable of destroying deeply buried targets including bunkers tunneled into solid rock. … The Senate early Friday voted 53-43 to include $4 million for research into the feasibility of a bunker-buster nuclear warhead. Earlier this year, the House refused to provide the money, so a final decision will have to be worked between the two chambers." The AP adds, "Supporters of the program said the $4 million does not signal development of any new warheads."

Senate Votes To Halt Funding Giant Laser. The New York Times (7/2, Broad) reports, "The Senate voted early yesterday morning to stop construction of the nation's costliest science project, a laser roughly the size of a football stadium that is meant to harness fusion, the process that powers the Sun. The project, the National Ignition Facility, or NIF (pronounced niff), is at the Lawrence Livermore National Laboratory in California and has cost $2.8 billion. About 80 percent complete, NIF is scheduled to be finished in 2009 at a cost of $3.5 billion and operate for three decades at an annual cost of $150 million, for a total of $8 billion. … The Bush administration backs the National Ignition Facility, and the Senate action could be reversed or modified later this summer in conference with the House."

Frist Calls On Drug Industry To Limit Advertising. The New York Times (7/2, Saul) reports Senate majority leader, Bill Frist, "called yesterday on the pharmaceutical industry to limit drug advertising directed at consumers, increasing the pressure on companies to curb such marketing." Frist "embraced an increasingly popular idea, a delay in advertising after a drug is introduced. He called for a two-year restriction. Proponents of a delay say it will give doctors time to understand how drugs work before patients begin asking for them, sometimes based on inflated claims."

US Consumers Remain Optimistic Despite Rise In The Price Of Oil. Bloomberg (7/2) reports, "U.S. manufacturing accelerated in June for the first time in seven months, consumer confidence rose and auto sales surged, supporting the Federal Reserve's view that the economy is weathering higher energy prices. … A separate report from the Commerce Department showed construction spending fell 0.9 percent in May, the third straight decrease. Government revisions switched four of the first five months of this year from gains to declines. Even so, construction in May was up 7 percent from the same time last year."

The New York Times (7/2) reports, "Crude oil rose more than $2 a barrel in New York yesterday, pulled higher by record heating-oil prices created by concern that refiners will not be able to meet peak demand during the winter. … Crude oil for August delivery rose $2.25, or 4 percent, to close at $58.75 a barrel on the New York Mercantile Exchange, the biggest gain since June 1. Heating oil for August delivery rose 7.5 cents, or 4.6 percent, to close at $1.7111 a gallon in New York. Gasoline for August delivery increased 8.27 cents, or 5.3 percent, to $1.6485 a gallon in New York, the biggest gain it has seen since Nov. 19."

Manufacturing Report Lifts Equities Markets. Bloomberg (7/2) reports, "U.S. stocks rose as a stronger-than-expected manufacturing report reinforced the Federal Reserve's suggestion that the economy can withstand higher interest rates. … The Standard & Poor's 500 Index added 3.11, or 0.3 percent, to 1194.44. The Dow Jones Industrial Average rose 28.47, or 0.3 percent, to 10,303.44. The Nasdaq Composite Index was little changed, up 0.41 at 2057.37. …

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For the week, the S&P 500 rose 0.2 percent. It gained 0.9 percent in the second quarter ended yesterday for the smallest quarterly move in three years. The Dow average finished this week 0.1 percent higher after completing the April through June period with a 2.2 percent drop. The Nasdaq Composite, up 0.2 percent for the week, climbed 2.9 percent in the quarter."

Dollar Reaches Thirteen Month High Against The Euro. The New York Times/AP (7/2, Press) reports, "The dollar reached a 13-month high against the euro yesterday after faster-than-expected expansion in manufacturing reinforced the view that the Federal Reserve would continue to raise interest rates. … In late trading in New York, the 12-country euro traded for $1.1947, after falling as low as $1.1941 earlier in the day. It was down from $1.2083 in New York late Thursday."

Bloomberg (7/2) reports, "Gains in the dollar began earlier today on signs the Federal Reserve will keep raising interest rates while central banks in Europe and Japan leave rates unchanged. The yen declined even after the Bank of Japan's Tankan survey showed business confidence rose more than expected."

OTHER NEWS:

Jury Awards Family $1.95 Million In Death Of Sportswriter Schaap. The New York Times (7/2, Jacobs) reports, "A jury found a cardiologist at Lenox Hill Hospital liable yesterday for the death of the sports journalist Dick Schaap after hip replacement surgery and awarded his family $1.95 million in compensatory damages." The Times continues, "The jury found that two other doctors at the hospital on the Upper East Side of Manhattan were not responsible even though they had been accused of failing to follow standard medical practice in caring for Mr. Schaap, who went into respiratory distress after the operation to replace his left hip. Mr. Schaap, 67, died on Dec. 21, 2001, three months after the surgery, having never left the hospital. His family had sought $21 million. … 'This case was never about the money,' his widow, Trish, said after the verdict. 'We felt that this was the only way to get hospitals to pay attention and to not sweep their mistakes under the rug.'" The Times adds, "The jury in State Supreme Court in Manhattan deliberated for nine days before finding that the cardiologist, Dr. Neil L. Coplan, was negligent. A lawyer for Dr. Coplan, Mark Aaronson, called the Schaap case 'junk science' and said he would appeal. 'The jury worked very, very hard, but they made a mistake,' he said. 'Dr. Coplan will be exonerated completely.' … The three-week trial focused on whether the medication that Mr. Schaap had been taking for years to treat an irregular heartbeat, amiodarone, had caused so much lung damage that his surgery should have been postponed. Thomas A. Moore, the Schaap family's lawyer, argued that Dr. Coplan never looked at a presurgery X-ray that, Mr. Moore said, hinted at the lung damage. The defense argued that no damage was evident."

US, Other G-8 Members Disagree On Global Warming. The Washington Post (7/2, Eilperin) says, "To hear President Bush's top environmental adviser tell it, Europe is coming around to the administration's approach to confronting global warming." However, the Post adds, "many European officials have a different take on the matter." Barbara Young, chief executive of Britain's Environment Agency, said that when it comes to Bush's climate change policy, "the amount of energy that goes into denying the case and not getting on with the job is just criminal." The Bush administration's "success so far in resisting its allies' calls for bolder measures to mitigate global warming -- such as mandatory emissions limits for greenhouse gases, concrete dollar commitments to new technology and specific energy efficiency targets -- is a testament to America's continuing power to shape the international agenda on climate change. In a consensus-oriented process, the most skeptical -- and most economically and politically powerful -- player, the United States, is largely dictating the terms of the debate." Other industrialized nations "acknowledge they have yet to win serious concessions from Bush."

Bush Feels Pressure Won't Be On Him At G8 Summit. The White House Bulletin/US News (7/1) reported, "President Bush feels that the pressure will be off when he attends the Group of Eight economic summit in Scotland next week. The president of the United States usually takes center stage at the annual conference, which brings together the leaders of the seven richest industrialized democracies and Russia. But this time, White House officials tell U.S. News and the Bulletin, the focus will be more diffuse. 'President Bush will not be the centerpiece of the drama this time,' says a senior Bush adviser. He points out that British Prime Minister Tony Blair has raised expectations that he will push through an agreement for a huge package of aid to Africa. The leaders differ on what to do about global warming.

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There are deep differences among the Europeans over the future of the European Union. And some leaders, notably those of France and Germany, are having serious political problems at home. Still, Bush has his own agenda. He will try to steer the discussions to topics such as the war on terrorism and the Mideast peace process, according to administration aides."

Scotland Prepares For G-8 Meeting. The Financial Times (7/2, Bolger) reports on Scotland's preparations for the upcoming G-8 summit. A five-mile security fence "has been erected around Gleneagles," and "steel barriers have also been put around the Scottish parliament and Holyrood Palace in Edinburgh, causing the Queen to change her holiday plans so as not to be in the city." The Los Angeles Times (7/2, Brown) adds that, by Sunday, "about 10,600 officers will be available as part of Operation Sorbus to provide security for President Bush, British Prime Minister Tony Blair and other leaders of the Group of 8 leading industrial nations as they gather Wednesday."

G-8 Nations Hammering Out Africa Relief. Reuters (7/1, Chambers) reports that officials "from the world's major industrialized nations launched last-ditch talks on Friday to try to help their leaders end differences and strike deals next week to lift Africa out of poverty and act on climate change." The US "opposes a more ambitious plan to increase aid by $50 billion by issuing bonds using future development budgets as collateral."

Live 8 Concerts Try To Change Leading Countries' Policies. Knight Ridder (7/2, Schofield) reports that Bob Geldof is back, "with a star-studded slate of concerts in 10 cities around the world. But raising money isn't the goal; changing the policy of the world's most powerful countries is." Live 8 is "timed to coincide with next week's meeting of the so-called Group of 8, a gathering of American, European and Asian leaders that begins Wednesday in Scotland," and is "is aimed at persuading them to cancel billions in African debt, increase aid to Africa by at least $50 billion and rewrite trade regulations to be more favorable to poor nations."

Europe Declared To Be In "Profound Crisis." Knight Ridder (7/2, Schofield) reports that because recent French and Dutch EU] votes "were seen as a rejection of European policy, the recent expansion, plans for future expansion and the implementation of the euro, member nation heads of state in June agreed to put any efforts to pass the constitution on hold for a year and declared that 'Europe is in a profound crisis.'"

EU Has Evolved For Over 50 Years. Knight Ridder (7/2, Schofield) says that "the beginning of what is now called the European Union is not traced so much to a single event, but through an evolution that lasted about 50 years." Knight Ridder quotes the official history of the EU as stating, "A number of European leaders became convinced that the only way to secure a lasting peace between their countries was to unite them economically and politically."

Documentary Captures Youth Despair In South Africa. The New York Times (7/2, Sandomir) reports on "Ithuteng," a documentary film about South African youth, which the Times calls "a raw but inspiring journey into the lives of teenagers ravaged by abuse, crime and AIDS." South African students "provided brutally candid narratives of their lives to the young American filmmakers, none more than Lebo, a girl who described being raped twice and contracting H.I.V."

Russia, China Issue Joint Declaration Supposedly Aimed At US. The Los Angeles Times (7/2, Holley) reports that Russia and China "on Friday issued a declaration demanding respect for the right of all countries to develop free of outside interference." Although the US is not mentioned directly, the Times says the declaration "shows that Moscow and Beijing 'don't quite believe the sincerity of the second Bush administration's attempts to break its image of being a proponent of unilateral actions and decisions,'" according to Andrei Kortunov, of the New Eurasia Foundation in Moscow.

US Resumes "Contact" With N Korea. AP2 (7/2, Schweid) reports that the US "has resumed contact with North Korea, but the talks at a security conference in New York have not produced a decision to reopen negotiations on Pyongyang's nuclear weapons program, the State Department said Friday." State Department spokesman Sean McCormack said the conference "dealt primarily with the Korean peninsula, and customarily at such events 'there is a natural exchange among the attendees.'" McCormack added, "We are still waiting to hear from North Korea a date when they will return to the six-party talks and engage in those talks in a constructive manner." Undersecretary of State Robert Joseph said "My sense is that the North Koreans will come back. … I hope in the near term." AFP (7/2) issued a similar report.

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North Korea Demands That US Withdraw Remark. The AP2 (7/2, Lederer) reports that North Korea told the US that "it must withdraw its description of the communist nation as an 'outpost of tyranny' and treat Pyongyang as a friend if it wants nuclear talks to resume." Li Gun, North Korea's director general of North American affairs, "told reporters after a two-day conference on northeast Asian security that the next step is up to the Americans."

LAT Times Looks At North Korea Famine. The Los Angeles Times (7/2, Demick) says, "Although North Korea's pursuit of nuclear weapons has captured the world's attention, outsiders know relatively little about its people or the miseries they have endured since a famine in the mid-1990s wiped out an estimated 2 million people. In the rare instances in which foreigners are admitted to the totalitarian country, it is on strictly escorted tours of the capital, Pyongyang, and a few other carefully selected sites." To penetrate the secrecy, the Times "spoke at length in China and South Korea with more than 30 people from Chongjin, North Korea's third-largest city. Their stories from the streets, homes and workplaces present a portrait of the city and of daily life in a nation struggling with deprivation and change." Even with international aid, "many people go to bed wondering whether they will eat the next day. Residents, along with officials of the United Nations World Food Program, say food shortages have grown worse again in the last year."

No Evidence Found Linking Iran's President-Elect To Hostage-Takers. NBC Nightly News (7/1, story 6, :20, Williams) reports, "Last night, we led this broadcast with explosive charges from several Americans who were taken hostage at the U.S. embassy in Iran back in 1979. They claim one of their captors was the man recently elected as the president of Iran. Today, the White House said it has found no evidence so far to support those claims, though it will continue to look into the matter. Fifty-two Americans were held captive for 444 days, and the U.S. has not yet resumed diplomatic relations with Iran."

The Los Angeles Times (7/2, Miller) reports that US investigators "have concluded that Iranian president-elect Mahmoud Ahmadinejad is not the glowering Islamic militant seen escorting an American hostage in a 1979 photograph that was widely publicized this week." The Times says the conclusion "casts doubt on what had been considered a key piece of evidence indicating that Iran's new president was among the leaders of the group of students who seized control of the U.S. Embassy in Tehran and went on to hold 52 Americans hostage for 444 days." A US official familiar with the investigation of Ahmadinejad's role "stressed that the investigation was continuing and that it was 'still an open question' whether Ahmadinejad was involved in the hostage crisis. Analysis of the photos was just one of many avenues in what has become a multi-agency inquiry."

AP2 (7/2, Gearan) reports that the White House "said Friday it would not be surprised if the newly elected Iranian president turns out to have been a main participant in the holding of American hostages in Tehran a quarter century ago. But the administration said it was still trying to determine the facts." Presidential spokesman Scott McClellan said "I don't think it should be surprising to anyone if it turns out to be true."

In a New York Times (7/2, Slackman) piece profiling Ahmadinejad, the Times says that when asked whether he had been among the students "who sacked the United States Embassy in 1979 and held American hostages for 444 days," Ahmadinejad replied, "It's not true. … It is only rumors."

The Washington Times/AP (7/2, Dareini), in a front-page piece about the memories fading among students involved in the hostage crisis, reports that "the students who carried out the embassy takeover said Mr. Ahmadinejad didn't participate in the taking or holding of 52 American hostages for 444 days." If Ahmadinejad had been involved, he "likely would have played it up in his presidential campaign to increase his appeal to hard-liners, the only ones who might still be impressed, said Abbas Abdi, one of the student leaders."

Ahmadinejad Debate Evokes Bitter Memories For Some Former Hostages. The New York Times (7/2, Barringer, Brinkley) reports that the Ahmadinejad debate evokes memories in some former hostages, "including the betrayal felt by some when their lawsuit against Iran's government was blocked by the State and Justice Departments, which argued that compensation would violate the 1981 treaty that was the basis for the hostages' release." Department spokesman Sean McCormack said "I do want to say one thing, and that is to underscore the fact that we have not forgotten - we have not forgotten - the fact that 51 of our diplomats were held for 444 days, that they were taken hostage." Former hostage William Daugherty, responded: "Of course they haven't forgotten. They have challenged us at three levels of the federal court system and have challenged

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every piece of legislation that would allow us to sue Iran or to receive compensation in some way."

Abbas Makes Cabinet Overtures To Hamas. The Los Angeles Times (7/2, King) says that Palestinian Authority President Mahmoud Abbas "has made overtures to the Islamic militant group Hamas about joining his Cabinet in the near future." Hamas "has not yet said whether it is willing to accept such an invitation. However, in recent months the group has made clear its interest in mainstream electoral politics, and it intends to field candidates in parliamentary balloting this year." In Gaza, Hamas spokesman Sami abu Zuhri "said the militant group would announce its position on joining the government "at a suitable time." Until now, Hamas "has declined to take part in the Palestinian government, citing objections in principle to the interim peace accords that brought the Palestinian Authority into being more than a decade ago."

Germany's Parliament Votes Out Coalition. The Washington Post (7/2, A15, Whitlock) reports that the German Parliament approved Chancellor Gerhard Schroeder's "request to disband and hold national elections in September. If the president and Supreme Court sign off on the plan -- and that is not at all certain -- the elections would take place a year earlier than necessary; opinion polls predict that Schroeder and his coalition will lose." The Post notes that "the sense of defeatism that lingered in the Reichstag building in the capital reflected the political mood across Germany, where a majority of voters say they lack confidence in any of their leaders to address a host of pressing social and economic issues. These include the highest unemployment rate since World War II and a failure to erase cultural and income gaps between eastern Germany and the wealthier west."

The New York Times (7/2, Landler) adds, "With polls showing the chancellor's Social Democrats trailing the conservative opposition by nearly 20 percentage points, Mr. Schröder is already viewed by many here as a lame duck. The no-confidence vote added to the sense of a country on the cusp of a political change." The Los Angeles Times (7/2, Retzlaff) adds that conservative Christian Democrat Union leader Angela Merkel, who "is well-positioned to win in new elections, according to recent polls," and "who would be Germany's first female chancellor, supported Schroeder's decision to hold the no-confidence vote but denied that her party had obstructed reform." Pointing toward Schroeder, she said, "You were unable to tell the voters why the changes are necessary. That's why you have lost the last [regional] elections."

Chinese Harassed US Human Rights Activist. The Washington Post (7/2, Pan) reports, "Chinese authorities tried last week to detain an American human rights activist at an international conference in Beijing, prompting a tense standoff that ended after state security agents interrogated the woman in front of U.S. diplomats and two European ambassadors for more than an hour." The EU "has lodged a protest with the Chinese government over the incident, which occurred June 21 and disrupted a two-day seminar on human rights. The activist, Sharon Hom, had been invited by China to the conference organized by the E.U. and the Chinese Foreign Ministry." The Post says the episode "is the latest sign that Chinese President Hu Jintao has granted the country's security services greater authority to act against perceived threats to the party's grip on power."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — No schedule available.

VICE PRESIDENT CHENEY — No schedule available.

US Senate: -- No events scheduled.

US House: -- No events scheduled.

Other: ALL DAY

June 30 - July 3. SCHOOL NURSES CONFERENCE _ The National Association of School Nurses (NASN) holds its 37th Annual Conference. Location: Marriott Wardman Park Hotel, 2660 Woodley Road, NW. Contacts: n/a, 207-883-2117

July 1 - 5. OSCE PARLIAMENTARY ASSEMBLY _ The 14th Annual Session of the Organization for Security and Co-operation in Europe (OSCE) Parliamentary Assembly, whose participating states span the geographical area from Vancouver to Vladivostok, is held with the theme, ``30 Years Since Helsinki: Challenges Ahead." Location: JW Marriott Hotel, 14th St. and Pennsylvania Ave. NW.

AFTERNOON

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12 p.m. - 1:30 p.m. LIVE 8 CONCERTS _ XM Satellite Radio holds a media availability for a behind-the-scenes look at the production of the Live 8 concert broadcasts in five countries to U.S. listeners. Location: XM Satellite Radio building, northeast Washington D.C. Contacts: David Butler, 202-380-4317

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Justice O'Connor Retires; Direction Of Court Now Hangs In The Balance"
"Adding 1 Involves A Lot Of Variables"
"'We Need To Start Thinking Big Again'"
"A Centered Life"
"Where Cabbage Is King"

New York Times:
"O'Connor To Retire, Touching Off Battle Over Court"
"Losing Shirt At Casino Pool"
"After A Brief Shock, Advocates Quickly Mobilize"
"Consistently, A Pivotal Role"
"Armstrong Victory Formula: Ride Fast but Dodge Disaster"

Washington Post:
"O'Connor To Leave High Court"
"In The Center, Hers Was The Vote That Counted"
"Nomination Could Be Defining Moment For Bush"
"Agents Search Homes, Yacht Of Contractor, Congressman"
"U.S. Searches For Troops In NE Afghan Mountains."

Washington Times:
"The Battle For The Court Begins"
"Bush Revisits Options"
"Democrats Warn Bush To Consult"
"Charges Pending For Aruba Suspects"
"Legacy Of Embassy Seizure Fades"
"Tutors' Zeal Based On Faith"
"NASCAR Revs Up For New York Site"

Detroit Free Press:
"Battle Supreme"
"Discount Pumps Up GM Sales"
"Singer's Voice Put Romance In The Air"

Atlanta Journal-Constitution:
"Search For Justice"
"Absent Officers Hinder Courts"
"Sudden Explosive Impact"
"Alabama Group Says It And Reed Have Clean Hands"

Dallas Morning News:
"Groups Poised To Swing Left And Right"
"O'Connor Leaves Bench In Limbo"
"DPS Drill Left Man Paralyzed"
"Lancaster Won't Take W-H Kids"
"Grammy Winner Luther Vandross Dies"

Houston Chronicle:
"Battle Lines Forming To Replace O'Connor"
"Attorneys Behind Silicosis Suits Draw Judge's Wrath"
"Star Made Fans Swoon Over His Romantic R&B"
"The Court's First Woman Often Had The Final Say"
"He's Beat Cancer; Now, The Battle Is With History"

Story Lineup From Last Night's Network News:
ABC: O'Connor Retirement/Replacement; Replacing O'Connor; Interest Groups/SCOTUS Opening; Senate Confirmation Preview; Lost GIs In Afghanistan; Turkish Bomber; Scientology Drugs; O'Connor Profile.
CBS: O'Connor Profile; O'Connor Replacement; SCOTUS Polling; O'Connor Biography; FDA Warning; Soldiers Killed In Afghanistan; Credit Cards; Rock And Roll School.
NBC: O'Connor Retirement; Rehnquist's Future; O'Connor's Replacement; Interest Groups/SCOTUS Opening; O'Connor Biography; Soldiers Missing In Afghanistan; Iran President-Elect Controversy; Live8; FDA Warning; Asthma.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: SATURDAY, JULY 2, 2005 7:45 AM EST

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TERRORISM NEWS:

Negroponte To Investigate Iraq WMD Allegations Made By NGIC. The Washington Post (7/2, A18, Pincus) reports, "Director of National Intelligence John D. Negroponte will review changes made at the Army's National Ground Intelligence Center (NGIC) to address criticism by a presidential commission in March that found there was 'gross failure' in the center's analysis of Iraqi arms in 2002, said Gen. Michael V. Hayden, Negroponte's deputy." The Post notes, "Two NGIC analysts, who since 2002 have received annual performance awards, judged in September 2002 that the aluminum tubes that Iraq was purchasing were 'highly unlikely' to be used for rocket motor cases because of their 'material and tolerances,' according to the report of the president's commission on intelligence. The NGIC finding, which the commission termed 'completely wrong,' bolstered a CIA contention that the tubes were meant for nuclear centrifuges and were evidence that Saddam Hussein was reconstituting a nuclear weapons program."

Three Men Suspected Of Links To Bin Laden Arrested In Pakistan. The Associated Press (7/2) reports, "Three men suspected of ties to Osama bin Laden's terror network have been arrested in Pakistan, a major newspaper reported Friday." They "were traveling in a vehicle when they were caught Thursday in Mardan, a deeply conservative town in northwestern Pakistan, according to The Jang, Pakistan's largest circulation newspaper." It "is the same region where Pakistani intelligence agents on May 2 caught Abu Farraj al-Libbi, reputedly No. 3 in the al-Qaida terror network."

German 9/11 Suspect E-Mails Wife That He Will Not Return. The AP (7/2, Tiemann) reports, "A Sept. 11 suspect who fled his native Germany before the attacks told his wife in an e-mail he would not return for fear of being handed over to U.S. authorities, according to evidence presented at a trial Friday." The AP continues, "Said Bahaji is wanted on an international arrest warrant by Germany on suspicion he helped Sept. 11 suicide pilots Mohamed Atta, Marwan al-Shehhi and Ziad Jarrah as they plotted in Hamburg. … He fled the northern port city shortly before the Sept. 11 attacks and is believed to be in Pakistan or Afghanistan." The AP adds, "His e-mails, intercepted by German security services, were read aloud in the retrial of Mounir el Motassadeq, 31, who is also accused of providing logistical support to the Hamburg al-Qaida cell. … Other e-mails from Bahaji, a German whose father is Moroccan, have been read out previously in the proceedings against el Motassadeq, as prosecutors try to establish el Motassadeq's connection to the Hamburg cell. … El Motassadeq was convicted in 2003 of more than 3,000 counts of accessory to murder and membership in a terrorist organization and sentenced to the maximum 15 years. But the conviction was thrown out last year and a retrial was ordered after an appeals court ruled unfairly denied testimony by key al-Qaida suspects in U.S. custody."

Records Reveal Extent Of Guantanamo Detainee Defiance. The AP (7/2, Fox) reports, "Military authorities have previously disclosed some incidents of guard retaliation at Guantanamo Bay, which resulted in mostly minor disciplinary proceedings. What emerges from 278 pages of documents obtained by The Associated Press is the degree of defiance by the terrorism suspects at

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Guantanamo." The detainees "banged on their cells to protest the heat. They doused guards with whatever liquid was handy -- from spit to urine. Sometimes they struck their jailers, one swinging a steel chair at a military police officer." In response, "American MPs at times retaliated with force — punches, pepper spray and a splash of cleaning fluid in the face, according to the newly released documents that detail military investigations and eyewitness accounts of alleged abuse."

European Panel's Report Faults US Guantanamo Detainee Policy. Reuters (7/2, Zawadzki) reports, "The United States must close Guantanamo prison, where its treatment of some 500 terrorism suspects encourages hatred toward the West and bolsters Muslim membership of the al Qaeda network, a new report concludes." Reuters continues, "The Organization for Security and Cooperation in Europe (OSCE) commissioned the report from its human rights representative, Belgian senate president Anne-Marie Lizin, and will vote next week whether to accept its findings."

Berlosconi Demands US Respect Italian Sovereignty. The New York Times/IHT (7/2, Povoledo) reports, "Prime Minister Silvio Berlusconi demanded Friday that the United States show 'full respect' for Italian sovereignty, after summoning the American ambassador and asking him to explain the reported abduction of a Muslim cleric by people associated with the C.I.A." He "told the ambassador, Mel Sembler, that he 'demanded full respect for Italian sovereignty from the United States,' according to a curt statement released by the prime minister's office. He also reassured Mr. Sembler that relations between the countries remained strong."

US Concludes Counterterrorist Exercises With Five Saharan Nations. AFP (7/2) reports, "The US military has wrapped up three weeks of joint exercises in five Sahara nations aimed at honing the skills of the African militaries in a push to prevent remote desert zones from becoming terrorist havens." Over "2,000 African troops jumped out of C-130 transport planes, practiced marksmanship, learned about 'law of the land' warfare tactics that preserve basic human rights during combat and studied orienteering, a US officer said Friday."

Report Blames Spread Of Terrorism On Overpopulation. The Washington Times (7/2, Naqvi) reports, "A report released Thursday by the Population Institute links increases in global terrorism to 'unprecedented' population growth in the past 50 years." Population Institute president Werner Fornos "said if population growth remains unchecked in certain regions there could be 'serious security consequences' for that region and others surrounding it. Yemen, Palestinian territories and Afghanistan, breeding grounds for Islamic terrorists, have some of the highest growth rates in the world, he added." In addition to "the security threat, the Population Institute's report highlighted a number of other political crises that could mushroom into global security threats."

PATRIOT ACT:

WPost Claims House Has Focused On Wrong Portion Of Patriot Act. The Washington Post (7/2) editorializes, "The vote by the House of Representatives last month to block use of a provision of the USA Patriot Act against libraries and bookstores sends a powerful message of bipartisan anxiety about the Bush administration's approach to terrorism. Unfortunately, that message is something of a misfire. Attached to an appropriations bill, the amendment by Rep. Bernard Sanders (I-Vt.) responds to a provision that, while imperfect, makes a good deal of sense and about which there is no evidence of abuse. … The provision in question, Section 215 of the Patriot Act, allows the FBI to get an order from a special court in national security cases to force the production of business records and other documents. The provision does not deal specifically with libraries or bookstores; indeed, the Justice Department says it has never used it to get library or bookstore records and, as of the end of March, had used it only 35 times for any purpose. What's more, the power it grants is largely redundant; the FBI can get that same material using a grand jury subpoena."

HOMELAND RESPONSE:

Independence Day Crowds Will Participate In Emergency Response Training. The Washington Post (7/2, B1, Schwartzman) reports, "The sprawling crowds on the Mall for Monday's July 4 fireworks display will participate in the first major test of Washington's downtown emergency evacuation routes since the Sept. 11, 2001, terrorist attacks, officials said yesterday." The Post continues, "Starting 15 minutes after the fireworks show ends, police officers are to direct tens of thousands of pedestrians and motorists leaving the Mall to seven evacuation routes, in which green and red traffic signals will be extended to four minutes. The test will last 45 minutes." Transportation Department officials "will observe the evacuation from the command center in the Frank D. Reeves Municipal Center on 14th Street NW, watching televised images from some 50 traffic cameras at the intersections. To replicate emergency conditions, officials will alter the timing of the traffic signals using laptop computers."

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New DC Emergency Protocol Does Not Solve Communications Problems. The Washington Times (7/2, Redding) reports, "A top D.C. official said a newly created federal emergency protocol will not resolve communications problems between city officials and the U.S. Capitol Police, which is headed by the Metropolitan Police Department's former No. 2 officer." Deputy mayor for public safety and justice Edward Reiskin "said the protocol establishes notification procedures between the Department of Homeland Security and D.C. officials." Yet, "an evacuation of the Capitol on Wednesday and a similar incident in May that left city officials in the dark were directed by Capitol Police, who do not figure in the protocol." Reiskin said, "They don't control the legislative branch. … It's a totally different animal of government. It's not monolithic."

WAR NEWS:

Bush Visits Soldiers Wounded In Iraq And Afghanistan. The Washington Post/AP (7/2, A2) reports President Bush "expressed his gratitude to the nation's men and women in uniform yesterday, praising them for 'laying the foundation for peace for generations to come.' Bush visited 37 soldiers wounded in Iraq and Afghanistan and being treated at Walter Reed Army Medical Center in Washington. … Presidential spokesman Scott McClellan said one soldier who had lost a leg struggled to rise so that he could stand at attention to salute Bush."

Sistani Aide Assassinated. The Washington Post (7/2, A16, Mosher) reports Kamaleddin Ghuraifi, an aide to Grand Ayatollah Ali Sistani Iraq's was assassinated "on a street in central Baghdad on Friday, and a Sunni Muslim cleric was kidnapped shortly after in the same neighborhood, according to Iraqi security officials. … Sunni leaders have accused the Shiite-dominated security forces of using security crackdowns to settle sectarian scores. Since mid-June, Shiites have suffered the brunt of the violence. Another Sistani representative, Samir Baghdadi, was shot dead last week in Baghdad, and on Tuesday, Dhari Fayadh, a Shiite and the oldest member of the National Assembly, was killed by a suicide bomber."

The New York Times (7/2, Glanz) reports, "A few hours after the killing of…al-Ghuraifi, bullet holes could be seen scattered across a fence, and blood smeared the pavement inside a cordon of police at the scene, in the Allawi Al Hilla neighborhood in Baghdad. Residents said Mr. Ghuraifi died immediately, and the ministry official said four other people also died in the shower of bullets."

Knight Ridder (7/2, Fadel) reports, "Al-Ghuraifi was the sixth representative of al-Sistani's to be killed in Baghdad since the new government took office on April 28, according to al-Sistani's office in Najaf."

Jaafari's Party's Headquarters Hit By Suicide Bomber. The Washington Times/AP (7/2, Abdul-Zahra) reports that in Baghdad, "a car bomb exploded near a checkpoint outside the offices of Prime Minister Ibrahim al-Jaafari's Islamic Dawa Party, killing one person and injuring at least four more, officials said. Mr. al-Jaafari was not there at the time, party official Ayad al-Nedawi said. … In the attack on the Islamic Dawa Party offices in Baghdad's Mansour neighborhood, the suicide bomber detonated the car near a checkpoint about 80 feet from the building, which used to be Mr. al-Jaafari's house. Interior Ministry administrative affairs undersecretary police Maj. Gen. Adnan al-Assadi had left the building about a half-hour earlier, police said. A neighbor was killed and four armed guards for the compound were wounded."

Iraq's UN Envoy Accuses Marines Of Murdering His Cousin. The Washington Post (7/2, A19, Lynch) reports that Iraq's U.N. ambassador "accused U.S. Marines of killing his 21-year-old cousin 'in cold blood' during a June 25 raid in a village in the Sunni Muslim-dominated province of Anbar. Samir S.M. Sumaidaie called on the United States to investigate the death of Mohammed Sumaidaie in 'a credible and fair way to ensure that justice is done.' He said the killing represents a 'betrayal' of Iraqi and U.S. efforts to rebuild Iraq on a foundation of "freedom, democracy and respect for human rights and the rule of law. … According to a witness account compiled by Sumaidaie, U.S. Marines and Iraqi Army units were conducting a joint series of raids June 25 in the town of Haditha."

Galloway Plans To Tour The US. The New York Times (7/2, Alvarez) reports British MP George Galloway who is described as "the grand-père terrible of British politics" and who "has been called corrupt and treacherous; labeled an apologist for Saddam Hussein, a claim he forcefully rejects; portrayed as a Louis Vuitton-toting Socialist; and dismissed as a self-aggrandizing Labor Party turncoat." However, "since his appearance in May before the United States Senate Subcommittee on Investigations, where to the delight of many here and in America he flung scorn at two senators over Iraq, vilification has shifted to a modicum of admiration (even if it is grudging, at least in Britain). … He was embraced by the antiwar movement. Mr. Galloway, a gifted orator with a flair for the verbal showdown, says he is planning a speaking tour of the United States in September, challenging Americans to challenge their leaders more forcefully."

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US May Never Overcome Suspicions Of Imperialism In Mideast. The New York Times' John Tierney (7/2) writes, "Today's liberators in Iraq like to attribute the resistance to Islamic fascists' fear of democracy and hatred of the West. But those fascists know that an abstract critique of Western ideology isn't enough to attract followers. In their appeals they constantly invoke the need to expel foreigners from their soil, a battle cry that is the great common denominator of suicide bombers around the world. Maybe, as President Bush hopes, Americans can stay long enough in the Middle East to jump-start democracy and reduce the long-term risk of terrorism. But in the meantime, they're bound to face resistance, no matter how noble their intentions."

Lost Soldiers In Afghanistan May Still Be Alive. ABC's World News Tonight (7/1, story 5, 2:00, Woodruff) reported, "In Afghanistan a military manhunt. 1,000 U.S. Troops as well as Afghan forces are scouring the mountains near Pakistan for a missing team of U.S. soldiers." ABC notes, "16 Americans already have died in the search when their helicopter was shot down on Tuesday. For four days now the small special operations team has been missing in these rugged mountains, badly outnumbered by enemy forces, armed with only rifles, pistols, and knives. But a senior military official tells ABC news there are indications that the team is still alive. 'We have gotten various signals,' said the official. At least on one occasion emergency beacons the men were carrying were activated. The military is also tracking the team with reconnaissance aircraft and unmanned aerial vehicles. What concerns the military most is that the men have not made radio contact. This team of special operations forces is one of the most highly trained and physically fit in the military. They carry sophisticated communications gear, night vision goggles, and global positioning equipment."

NBC Nightly News (7/1, story 6, :20, Williams) reports, "To Afghanistan now, rescue operations still underway for that special operations team missing in the remote mountain area in the east. The Pentagon has been reluctant to reveal too many details of this ongoing rescue mission."

In a front-page piece, the Washington Post (7/2, Aizenman) reports that a man "claiming to speak for the Taliban militia called news organizations Friday to say that Taliban fighters had captured one of the men and killed seven others. But U.S. military officials said there was no evidence to support the claim." US military spokesman Lt. Col. Jerry O'Hara said, "All we have to date is that our guys are missing. … We don't have any positive proof that shows us they were injured, they were captured, or they are just in a hiding spot, waiting for our forces." The New York Times (7/2, Gall) and AP (7/2, Cooney) filed similar reports.

AFP (7/2) adds that Taliban spokesman Abdul Latif Hakimi "said they had footage of an exchange of fire with the so-called spies and of the captured American, which would be displayed on the rebels' website www.alemarah.com 'tomorrow or the day after'". AFP notes that "some of [Hakimi's] previous claims have proved to be untrue."

Elite Soldiers Among Those Killed. CBS Evening News (7/1, story 6, 2:30, Roberts) reported, "The military won't say how many are missing, but like those who died in the chopper crash, they are some of America's most elite warriors." CBS' Mark Strassman goes on to report, "Washington, Connecticut, small town U.S.A. now grieves for Steve Reich, the all-American boy. On Washington's baseball fields, Reich was the natural. But on Tuesday, Major Reich, now an elite special operations soldier, was killed when Afghan rebels shot down a U.S. military helicopter. On the Chinook helicopter that crashed, there were 16 elite U.S. troops, all special operations forces. Exactly half of those aboard were army; the other half were navy SEALs -- each of them part elite warrior, part covert operative. It's hard to overstate their usefulness in the war on terror, or what their loss means to that fight. The exact number of SEALs in Afghanistan is classified. But they've joined the hunt for Taliban and al Qaeda fighters. The eight seals killed in the chopper crash is the unit's single greatest loss since Vietnam. Each SEAL can take up to two years to train. With only 2,200 navy seals in active service, they're now another small community in grief."

Friends And Families Mourn Crash Victims. The New York Times (7/2, Lyman) reports on friends' and families' reactions to losing loved ones in the recent Afghan helicopter crash. For example, Danny Graves of the New York Mets remembered Major Steve Reich, who "was in the command seat of the Chinook MH-47 helicopter that was shot down on Tuesday." Reich was Graves' "fellow pitcher on the U.S. National Baseball Team, for which they played in the early 1990's. 'He was so polite and respectful that when he talked everyone on the team kept their mouth shut,' Mr. Graves said. … His dream was to serve his country. You knew a couple of minutes after meeting him that's what he wanted to do and what he was going to do." A Fourth of July fireworks display in Washington, Conn. "will include a flyover by a Chinook helicopter to honor" Reich.

Military To Begin Implementing Death Benefits Law. The AP (7/2) reports that the military "announced Friday that it will begin providing vastly increased death benefits to the next-of-kin of military personnel killed in combat zones or combat-related training." Last month, President Bush "signed into law the increase in the death benefit from $12,000 to $100,000. The military announced Friday it was implementing the law."

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Army, Marines Meet Personnel Goals. The Los Angeles Times (7/2, Perry) reports, "Although finding enough recruits continues to be difficult, the Marine Corps has exceeded its goals for persuading Marines to reenlist." Marine Commandant Gen. Michael W. Hagee "told a congressional hearing Thursday that the Corps would meet its goal for recruits. 'The quality of individuals we are shipping to recruit depots remains high.'" The Times notes further that the Pentagon "announced that the Army had met its most recent monthly recruiting mark after four months of shortfalls."

US Army Uses NASCAR Events For Recruiting. The New York Times (7/2, Bernstein) reports on US Army efforts to recruit at "Nascar's premier racing series" as it travels from city to city. Among other things, "a short film compares the military to NASCAR, juxtaposing images of racecars next to tanks." Col. Tom Nickerson, "who is in charge of the Army's recruiting outreach program," said, "It's an opportunity for them to touch and feel the Army, to give them a real Army experience." Guy Morgan of Keystone Marketing Company, "which operates the display" notes that "the displays at NASCAR events are generating as many as 1,000 to 2,000 leads for potential new recruits on each racing weekend."

DOJ:

US Attorneys For Maryland, Eastern Louisiana Confirmed. The Baltimore Sun (7/2, Dolan) reports, "In its closing hours before adjourning for a holiday recess, the Senate confirmed yesterday Rod J. Rosenstein, a high-ranking government lawyer who quickly ascended the ranks at the Justice Department, as Maryland's U.S. attorney." The Sun continues, "Rosenstein, 40, of Bethesda, could arrive in Baltimore to start his new job as the state's top federal prosecutor as soon as next week." The Sun adds, "Rosenstein declined to be interviewed about his plans for the office of 70 attorneys in Baltimore and Greenbelt, saying he is still waiting for President Bush to sign his commission. … He released a brief statement: 'I am grateful to President George W. Bush for giving me this opportunity to serve the people of Maryland, and to Senator Paul Sarbanes and Senator Barbara Mikulski for accepting my nomination. I look forward to rejoining the distinguished men and women of the U.S. Attorney's Office. … As we work to enhance public safety and pursue justice for Marylanders,' the statement continues, 'we will strive to inspire public confidence by adhering to the highest ethical and professional standards. … Rosenstein had previously worked as an assistant U.S. attorney in Maryland, emerging as the leading candidate to move up when former U.S. Attorney Thomas M. DiBiagio announced his resignation in December. Allen F. Loucks, a deputy in charge of the office's civil cases, has been serving in an interim role since January."

The New Orleans Times-Picayune (7/2, Carr) reports, "It's been a good week for Jim Letten. … Not only did New Orleans' top federal prosecutor win a conviction against a Jefferson Parish judge for mail fraud, Letten on Friday finally got word from Washington that the Senate made his appointment as U.S. attorney of the Eastern district official." The Times-Picayune continues, "Letten, a Republican, has held the post on an interim basis since April 2001, when President Clinton's appointee, Eddie Jordan, stepped down. Until Friday, Letten was one of a handful of the nation's 93 U.S. attorneys serving without White House confirmation. … The straight-laced prosecutor, who is rarely at a loss for words, said he was humbled by the news. … 'This is a reminder yet again to me and to all of us that we work for the citizens, and that public service is not a right but a privilege,' he said. 'The only thing I can promise is that I will continue to do everything I can to continue to earn the community's trust.'" The Times-Picayune notes, "When tapped for the job four years ago, Letten was known as a competent manager with little interest in politics who was expected to return to the ranks of working prosecutors once a more politically connected successor was named. … All that changed when then-Gov. Mike Foster's choice for the post, wealthy Metairie businessman and Bush contributor Fred Heebe, was accused of domestic abuse by his ex-wife and a former girlfriend. Heebe eventually withdrew his name. Disputes within the state Republican Party stalled subsequent attempts to decide on a nominee. … Meanwhile, Letten kept his head down and launched several high-profile corruption investigations, including a probe into the Jefferson Parish courthouse that netted convictions of two judges -- Alan Green at trial last week and Ronald Bodenheimer after a guilty plea -- and separate inquiries into New Orleans City Hall and the city's public school system."

ICE Official Named US Attorney For New York. The Washington Times (7/2) reports Department of Homeland Security Assistant Secretary Michael J. Garcia, "who has headed U.S. Immigration and Customs Enforcement (ICE) since the agency's creation in March 2003, has been named by the White House as U.S. attorney in New York. … Garcia has been criticized by some members of Congress for longstanding budgetary missteps and by ICE supervisors and agents who have complained the agency was a threat to the country's national security efforts because of mismanagement, low morale, a lack of a clearly defined mission and ongoing financial problems."

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CORPORATE SCANDALS:

Scrushy Jurors Doubted Testimony Of Colleagues. The New York Times (7/2, Whitmire) reports, "In the end, the jury deciding the fate of HealthSouth's former chief executive, Richard M. Scrushy, focused on one issue: credibility. But it was not Mr. Scrushy's credibility they were thinking about - he did not testify in his own defense. Instead, they wondered, could they believe the five former company executives who testified against him? … 'No one really corroborated one another,' recalled one juror, Christopher Cooper, a 37-year-old computer technician at a local bank. 'Each one of them had a reason to hide something.'" The Times continues, "The jury acquitted Mr. Scrushy on Tuesday of all 36 counts that had accused him of presiding over a $2.7 billion accounting fraud while running the HealthSouth national hospital chain. The Justice Department, legal experts had thought, appeared to have a strong case against Mr. Scrushy after all five of the company's former chief financial officers agreed to cooperate." The Times adds, "Facing such a cadre of government witnesses during the five-month trial was a daunting challenge, one of Mr. Scrushy's lawyers, James Parkman III, said at a news conference after the verdict. … 'We couldn't go in with the idea that there were five of them,' Mr. Parkman said. 'We had to go in and try to sell the idea that there was only one, and they acted together as one, acted together as a group, and therefore cut that number of five to one.' … The one former executive they focused on was William T. Owens, who worked his way up at HealthSouth from assistant treasurer to chief financial officer and even served briefly as chief executive in 2002. The defense characterized him as a tax cheat who would lie to protect himself."

New Rules May Not Make Prosecuting Executives Easier. The New York Times (7/2, Glater) reports, "Perhaps forcing top executives to certify regulatory filings is not quite the fix lawmakers might have expected." The Times continues, "The acquittal of the former chief executive of HealthSouth, Richard M. Scrushy, on charges that he signed false financial filings - one of several charges accusing him of orchestrating a $2.7 billion fraud - illustrates a weakness of the certification requirements, which compel chief executives and chief financial officers to attest to the accuracy of financial reports to the Securities and Exchange Commission." The Times adds, "Investors might have expected that the certification requirement would make it easier to prosecute white-collar crimes. If all else fails, the reasoning went, at least the executive could be convicted of signing false filings. … But, in fact, convicting an executive of knowingly violating the certification requirement involves proving the same facts necessary to support other more serious criminal charges. … So while the law may be an easy way to increase prison time, it is not an easier way to lock up executives." The Times notes, "Corporate lawyers said Mr. Scrushy's acquittal on Tuesday was not a setback to enforcement of the certification requirement, which was included in a law passed in 2002 after the collapse of Enron and WorldCom because of accounting scandals. … The requirement is a powerful incentive for executives to do the right thing - violations can result in criminal and civil liabilities. But because of how it is drafted, the requirement has not instilled the fear that lawmakers, regulators and investors might have hoped. … The certification provision, Section 906 of the law known as the Sarbanes-Oxley Act, calls for a prison term of up to 10 years and a fine of up to $1 million for any executive who certifies a regulatory filing and who knows that the filing does not 'fairly present, in all material respects, the financial condition and results' of the company. Any executive who willfully - that is worse than knowingly - certifies such false filings faces up to 20 years in prison and a $5 million fine. Section 302 of the law opens up such executives to civil liability. … These are harsh terms, but the crucial element is knowledge, and proving that an executive knew of a fraud is what is often most challenging. If a prosecutor can do that, there are plenty of other criminal charges available in addition to Section 906 - securities fraud, for example, or conspiracy, both of which were charges against Mr. Scrushy."

SEC Warns Investors About Internet "Auto-Trading." Reuters (7/2) reports, "U.S. market regulators warned investors on Friday to be wary of a new type of online investment vehicle and filed civil fraud charges against a small Internet investment advisory firm called Terry's Tips Inc." Reuters continues, "The Securities and Exchange Commission accused Terry's Tips, based in Vermont, and its founder Terry Allen of promising clients misleadingly large investment returns in marketing the firm's auto-trading programs." Reuters adds, "Auto-trading is a new investment vehicle that is spreading fast on the Internet, said Kenneth Israel, district administrator of the SEC's Salt Lake district office. … Investors typically are asked to subscribe to online newsletters and open trading accounts at a brokerage chosen by the newsletter's publisher. Investors are then asked to give the publisher authority to automatically direct trades in the their brokerage accounts, the SEC said. … The SEC charged Terry's Tips in U.S. District Court in Vermont with violating antifraud laws. The agency alleged that as recently as September 2004, the firm had 1,200 auto-trading clients with total assets of over $14 million."

Banker Convicted In Enron Barge Fraud Ordered To Prison. The New York Times/AP (7/2,

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Press) reports, The former head of investment banking at Merrill Lynch & Company, who was convicted last year in Enron's bogus sale of power barges to the brokerage, must report to prison for a two-and-a-half-year term later this month, a judge has ruled." The AP continues, "The executive, Daniel Bayly, of Darien, Conn., the most prominent figure among the four former Merrill executives and a former midlevel Enron executive convicted last year, will be the first to begin his sentence. He must report July 14 to a federal prison in Hopewell, Va., according to a judge's order filed Friday." The AP adds, 'The order came after Judge Ewing Werlein of Federal District Court denied a request that Mr. Bayly remain free on bond pending an appeal of his conviction of conspiracy and fraud." The AP notes, "Mr. Bayly and four others were convicted of helping push through Enron's sale of power plants mounted on barges in 1999 to help Enron appear to have met earnings goals. … Jurors determined the sale was a loan because Enron had promised to buy back or find another buyer for the barges within six months."

CRIMINAL LAW:

Lerach Firm Under Fire From DOJ. The New York Times (7/2) reports, "Sitting in the back of a town car this past Wednesday, as his driver pulled away from the federal courthouse and headed toward his hotel in Midtown Manhattan, William S. Lerach reached for a ringing cellphone in the pocket of his natty suit. How had his day gone, asked the person on the other end. 'We went two for two,' said Mr. Lerach, the most aggressive, feared and controversial plaintiffs' lawyer in the land. 'It was a good day.' … No, he didn't mean he'd won two cases - but what he'd won was almost as important. In two hearings, Lerach Coughlin Stoia Geller Rudman & Robbins, Mr. Lerach's San Diego-based firm, had been named lead counsel. For Mr. Lerach - indeed, for every big-time lawyer who makes his living suing companies on behalf of an aggrieved 'class' of shareholders - being named lead counsel is the key to everything. The lead counsel controls the case. He negotiates the fees. And best of all, the lead counsel takes most of the lawyer's cut: 20 percent to 30 percent of whatever he ultimately extracts from the big bad corporation." The Times continues, "Of course you can't become lead counsel in a securities fraud case unless you're representing some shareholders who have been hurt by a company's misdeeds. And it now appears that Mr. Lerach's courting of shareholder plaintiffs has landed him in hot water with the Justice Department." The Times adds, "Late last week, a federal grand jury indicted Seymour M. Lazar, who had long been - how to put this nicely? - a regular in the stable of Mr. Lerach's former firm, Milberg Weiss Bershad Hynes & Lerach. … The government contends that over the years, Mr. Lazar received some $2.4 million in kickbacks from Milberg Weiss for lending his name to literally dozens of stockholder class-action lawsuits brought by the firm. Mr. Lazar's lawyer maintains that his actions were 'ethical and appropriate.' While neither has been charged, both Mr. Lerach and Milberg Weiss have denied any wrongdoing. Typically, though, Mr. Lerach's camp has been the more aggressive in pushing back. … The people in Mr. Lerach's camp have been quick to cast the investigation as politically motivated, an example of a pro-business Republican administration going after a scourge of corporate wrongdoing - and a big contributor to the Democrats to boot. Besides, doesn't Mr. Lerach currently have a shareholder suit against Halliburton, one that even points the finger at its former chief executive, Vice President Dick Cheney? Hasn't he extracted so far $4.7 billion for the beleaguered shareholders of Enron, the company once run by President Bush's old friend 'Kenny Boy?'"

DOJ Sues Body Armor Supplier, Manufacturer. The AP (7/2, Sherman) reports, "The government on Friday sued the top U.S. supplier of bullet-resistant police vests and the Japanese manufacturer of the vests' protective synthetic fiber, contending they conspired to hide evidence that the body armor could be defective." The AP continues, "Second Chance Body Armor Inc. of Central Lake, Mich., and Toyobo Co. knew that the vests' ability to stop bullets was overstated, but Second Chance sold them anyway to local, state and federal police, according to the lawsuit in U.S. District Court in Washington. … The government also alleged that the companies kept silent for nearly three years in the face of mounting evidence that the Zylon fabric degraded faster than they acknowledged when it was exposed to light, heat and humidity." The AP adds, "Only after an Oceanside, Calif., police office was killed and a Forest Hills, Pa., officer was seriously wounded while wearing Second Chance vests made of Zylon in June 2003 did the company stop selling certain models and disclose safety problems, the lawsuit said. … Second Chance executives also ordered the destruction of internal memos, including one that urged the company to take corrective action and not wait until an officer was killed, the lawsuit said. … Second Chance and Toyobo blamed each other Friday for problems with the vests. 'Second Chance was the bad actor, not Toyobo,' said Kent Jarrell, a spokesman for Toyobo. … Mary Ann Sabo, a Second Chance spokeswoman, said Second Chance has been working closely with the Justice Department and expects to be vindicated. Sabo said Toyobo 'is ultimately responsible for the problems with Zylon.'"

Cianci Asks High Court To Review His Conviction. The Providence Journal (7/2, Breton) reports, "Two weeks after losing his bid to have his sentence reduced,

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former Providence Mayor Vincent A. Cianci Jr. is asking the U.S. Supreme Court to review his conviction for racketeering conspiracy, his lawyer said." The Journal continues, "The petition was mailed to the nation's highest court today, according to his lawyer, John A. 'Terry' MacFayden. It is the last legal recourse Cianci has to try to void his conviction." The Journal adds, "Cianci, who was convicted three years ago in the wake of a federal probe into corruption at City Hall, attacks his conviction on two grounds. … He claims that the RICO indictment against him, as worded, was fatally flawed. … He also argues that Chief U.S. District Court Judge Ernest C. Torres should have allowed the jury to hear a 1995 tape recording in which Cianci rejects the overtures of an undercover agent for the FBI who was posing as an air-conditioning businessman trying to get a city contract." The Journal notes, "Cianci tells the agent that anyone who tried to shake him down would be castrated and arrested. But Torres ruled the tape inadmissable, saying he had doubts about the mayor's sincerity and it amounted to irrelevant hearsay. … The U.S. Supreme Court rejects most of the petitions for review that it receives, taking only those cases that it considers of 'gravity and general importance.' … Cianci is serving a 64-month prison term at a prison at Fort Dix, N.J., for his conviction on the single count of racketeering conspiracy. With good behavior, the 64-year-old is scheduled to be released in July 2007. His request for a reduced sentence was denied last month."

Federal Agents Raid Cunningham's Home, Defense Exec's Office. The Washington Post (7/2, A1, Merle, Smith) reports, "Federal agents armed with search warrants descended on the California house of Rep. Randy 'Duke' Cunningham yesterday, the latest step in a criminal investigation into his relationship with the owner of a District-based government contracting firm. Agents from the FBI, Internal Revenue Service and Defense Criminal Investigative Service of the Pentagon inspector general's office participated in the search of Cunningham's house near San Diego, as well as the Washington home, office and boat of Mitchell J. Wade. Wade was until recently the chief executive of MZM Inc., which does intelligence work for the Pentagon.

The Los Angeles Times (7/2, Perry) reports K. Lee Blalack, Cunningham's lawyer, "called the raid 'an appalling abuse of government power.' … Blalack said that Cunningham had earlier offered to cooperate fully with FBI authorities probing the sale of his house in Del Mar Heights to Wade in 2003. 'They will apparently not take 'yes' for an answer and have instead opted to use strong-arm tactics that were designed to generate headlines,' Blalack said. An attorney from Blalack's law firm arrived at the Rancho Santa Fe house during the search, which was authorized by a secret affidavit issued by a federal grand jury in San Diego. FBI officials declined to say what agents were searching for."

The Washington Times/AP (7/2) reports, "The Defense Department halted orders this month on a five-year contract that provided MZM with $163 million of revenue over its first three years after the department's inspector general found that it did not satisfy rules on competitiveness. This week, MZM announced that James King, a retired three-star Army general, was taking over as president and chief executive -- a role held for years by Mr. Wade, who founded the company in 1993."

Cunningham Faces Questions Over Commercial Use Of Congressional Seal. The San Diego Union-Tribune (7/2, Stern, Kammer) reports, "Rep. Randy 'Duke' Cunningham, already in legal and political hot water over his dealings with a defense contractor, might have run afoul of the law by using a likeness of the congressional seal for commercial purposes." The Union-Tribune continues, "Cunningham, a highly decorated Navy pilot in Vietnam and former instructor at the Navy's Top Gun academy, has operated a commercial Web site for years that sells memorabilia, including a $595 'Randy "Duke" Cunningham Fighter Ace Kalinga Style Buck Knife.' … The blade of the 10-inch knife is emblazoned with three emblems etched in gold, according to the Web site, including the 'Official Seal of the United States Congress.'" The Union-Tribune adds, "A chorus of still-unanswered questions has been raised in Washington this week about the legality of the Rancho Santa Fe Republican's use of the congressional seal for commercial purposes. … Cunningham and his attorney have refused to comment on the matter, but, after four days of questions from Copley News Service, the Web site's commercial operations were shut down yesterday afternoon with a message stating that a new Web site is under construction. … Under federal law, any member of Congress can be fined and imprisoned for up to six months if he or she 'knowingly uses, manufactures, reproduces, sells, purchases for resale . . . any likeness of the seal of the United States Congress' without the approval of the clerk of the House. … When asked if the clerk had approved Cunningham's use of the seal, his office referred calls to his attorney, Lee Blalack, who declined to comment. … However, a source close to Cunningham said that the likeness of the seal on the knife wasn't, as advertised, the 'Official Seal of the United States Congress.' … Instead, the source said, it was an unofficial seal not subject to the criminal statute barring commercial use. The source declined to be identified because of the ongoing FBI and federal grand jury investigations into Cunningham's dealings with defense contractor Mitchell Wade, founder of MZM Inc."

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O'Donnell Says Rove Leaked Name Of Plame To Cooper. Editor & Publisher (7/2) reports that "on the syndicated McLaughlin Group political talk show, Lawrence O'Donnell, senior MSNBC political analyst, claimed to know that name" of the person who leaked Valerie Plame's name to Cooper, "and it is, according to him, top White House mastermind Karl Rove." O'Donnell said, "What we're going to go to now in the next stage, when Matt Cooper's e-mails, within Time Magazine, are handed over to the grand jury, the ultimate revelation, probably within the week of who his source is. And I know I'm going to get pulled into the grand jury for saying this but the source of...for Matt Cooper was Karl Rove, and that will be revealed in this document dump that Time magazine's going to do with the grand jury." Afterwards, "panelists then joined in discussing whether, if true, this would suggest a perjury rap for Rove, if he told the grand jury he did not leak to Cooper."

Cooper And Miller Submit Incarceration Preferences. The New York Times (7/2, Liptak) reports Matthew Cooper of Time magazine and Judith Miller of The New York Times "filed court papers yesterday asking to be sentenced to home confinement or to particular federal prisons if they must be jailed. Time Inc. also filed a brief statement saying it had complied with a grand jury subpoena by supplying documents to the special prosecutor in the case, Patrick J. Fitzgerald. … The documents held by Time disclose the identities of Mr. Cooper's confidential sources and the substance of what they told him, Mr. Cooper has said. Their release gives the reporters some fresh arguments in their efforts to avoid jail."

Time Claims Cooper's Testimony Is No Longer Necessary. The Washington Post (7/2, A2, Leonig) reports, "Lawyers for…Cooper yesterday urged a federal judge not to jail him for refusing to discuss his confidential sources with a prosecutor, arguing in a court filing that there is no need for his testimony now that his employer has turned over his notes, which identify the sources." Miller's attorneys "said that because she intends to go to jail rather than disclose the name of her source, incarceration would be 'merely punitive' and would not cause her to obey the court. … Over Cooper's objections, Time yesterday turned over notes and e-mails of Cooper's that were stored in a computer. The magazine, which faces a $1,000-a-day fine that had reached $270,000, said it hoped that by complying it would keep Cooper out of jail."

Man Who Threatened Judge, Held Attorney Hostage Sentenced To 20 Years. The AP (7/2, Word) reports, "A man with a grudge against a judge was sentenced Friday to the maximum 20 years in prison for holding a lawyer hostage and threatening to blow up an downtown office tower last summer." The AP continues, "John Knight, who was armed with two guns and claimed to have a bomb, 'had planned to take his own personal vengeance against the system,' said Circuit Judge Michael Weatherby. 'None of this was the act of a madman.' … 'What were you thinking?' Weatherby said. 'I cannot discern any plausible or palpable reason that someone would commit the crimes that he committed.'" The AP adds, "Knight, 37, a copy machine salesman from Fort Wayne, Ind., wearing a green jump suit, did not speak in the 15-minute hearing. He had taken attorney John Hazelip hostage in his office and threatened to blow up the building last August because he wanted to force the resignation of a judge who had sentenced him to a day in jail five years earlier. … Knight, who pleaded guilty in March, was sentenced to 15 years on a charge of false imprisonment; 20 years for armed fake impersonation of a law enforcement officer; five years for aggravated assault; five years for carrying a concealed firearm and 15 years for perpetrating a bomb hoax. All the sentences will run concurrently. … Carrying a 9mm handgun in an envelope, he entered the Hazelip's law office in the 28-story Riverplace Tower by claiming to be an agent of the Justice Department last August."

CIVIL RIGHTS:

Judge Cancels Order For DOJ Official To Testify In Utah Case. The Salt Lake Tribune (7/2, Manson) reports, "A federal judge in Utah has canceled his order requiring a top Justice Department official to testify why it is taking so long for the department to review records connected to the death of a prison inmate." The Tribune continues, "U.S. District Judge Bruce Jenkins had set a July 13 date for Noel Hillman, chief of the department's public integrity section, to come to his courtroom and explain, under oath, the delay in deciding which documents can be released under the Freedom of Information Act." The Tribune adds, "On Friday, he rescinded the order, noting that the official has said his review is complete. However, the judge warned that the reprieve is temporary and said the government ultimately will have to produce the records. … Hillman had been determining which documents could be withheld." The Tribune notes, "The records are being sought by Jesse Trentadue, the inmate's brother and a Salt Lake City attorney. He contends that Hillman began his review in 2001 and was taking too long. … The records request concerns the August 1995 death of Kenneth Trentadue, an ex-convict who had been placed in a federal prison in Oklahoma on an alleged parole violation. Prison authorities contend the 44-year-old committed suicide, but the man's relatives believe he was slain."

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Study Finds Racial Profiling Still A Problem In Illinois. The Chicago Tribune (7/2, Goldstein) reports, "The first-year results of a state-mandated study on racial profiling to be released Friday suggest that some police departments in the northwest suburbs are stopping a relatively high number of minority motorists. … But law-enforcement officials in the region say the study is flawed and warn that the statistics don't tell the true story, exposing some departments to potentially dangerous misperceptions about how they treat minority drivers. … 'First of all, I'm terribly concerned about what's going to happen next because when anyone looks at these numbers, it's not going to tell them anything,' said Mt. Prospect Police Chief Richard Eddington. 'It's much more important the rapport a police department has with its community than this math problem.'" The Tribune continues, "Statistics from Mt. Prospect police show that nearly 31 percent of the drivers stopped in 2004 were minorities. About 24 percent of the village's driving population was estimated to be minorities." The Tribune adds, "In 2000 the Mt. Prospect Police Department settled discrimination lawsuits with three former officers who accused the department of ethnic profiling of Hispanics. As a result of the settlement, the Justice Department now monitors Mt. Prospect, and it found no reason for concern in the 2004 numbers, Eddington said. … Statistics from Elgin, Lake in the Hills and Des Plaines also appear to indicate that police stopped a disproportionate number of minorities last year. … Under a state law adopted in 2003, police officers are required to record the names, addresses, gender and races of all drivers stopped for traffic offenses through 2007. They must also record what led to the stop, what action resulted and whether a search was conducted."

The St. Louis Post-Dispatch (7/2, Reports) reports, "Minority drivers in Illinois - including some parts of the Metro East area - are more likely to be pulled over than white drivers, according to state data released Friday." The Post-Dispatch continues, "The survey by the Illinois Department of Transportation showed 33 percent of drivers who were pulled over statewide were minorities although only 28 percent of the state's drivers are minorities. … The disparities were worse in some Metro East cities. Minority drivers make up less than 9 percent of the minority population in Granite City, for example, but the study reported minorities accounted for nearly 19 percent of all traffic stops." The Post-Dispatch adds, "The study also reported minority drivers were more likely than whites to be stopped in Alton - where they made up 24 percent of the driving population but 35 percent of traffic stops. In Fairview Heights, where minorities were nearly 30 percent of the driving population, 40 percent of people police pulled over there last year were minorities. … Granite City Police Chief Dave Reubhausen said in a faxed statement that the study's figures are drastically skewed. … 'I believe the study to be flawed in this respect: No independent traffic study was conducted to determine the minority driving population in Granite City,' he wrote."

Federal Agents Break Korean Sex Ring. The New York Times (7/2, Marshall) reports that federal agents "raided scores of brothels and businesses and arrested more than two dozen people [in San Francisco and the Bay Area] in the dismantling of an international sex trafficking and human smuggling ring that lured Korean women to the United States and forced them to work as captive prostitutes." During the raids in San Francisco on Thursday, "federal agents found about 100 Korean women, who have been taken to an undisclosed nondetention facility to receive medical care and participate in interviews. The agents also seized at least $2 million in cash and several A.T.M.'s and shuttered about a dozen massage parlor brothels." In a "separate but related investigation, the authorities also charged 23 people in Los Angeles."

The Los Angeles Times (7/2, Rosenzweig, Kang) adds that US Attorney Debra Wong Yang "said there was no firm evidence that the women were coerced into working as prostitutes, although some were found to have been sexually abused." Kevin Ryan, US attorney in San Francisco, "said information about the circumstances of their prostitution will probably emerge in the coming days."

Anti-Sex Trafficking Pledge Critiqued. The New York Times (7/2) editorializes, "Since 2003, the Bush administration has required foreign groups fighting AIDS overseas to pledge their opposition to prostitution and sex trafficking before they get money from Washington. Last month, the administration expanded the requirement to American groups. On its face, this law seems innocuous. … But in countries like India, controlling AIDS among prostitutes and their clients is the key to keeping the disease from exploding into the general population. So some very effective programs are built around trying to make sure that prostitutes and their customers use condoms. The groups who run these programs try to gain the trust of prostitutes by providing them with health care and teaching them about safe sex. They argue that being forced to state their opposition to prostitution would limit their ability to do that. Brazil turned down a $40 million grant from the United States because it did not want to imperil successful programs."

DOJ Finds No Voting Booth Bias In Ohio Elections. The Washington Post/AP (7/2, Anderson) reports, "The Department of Justice says it found no evidence of discrimination in the distribution of voting machines in two Ohio counties in the 2004 presidential election." The AP continues, "The department began investigating after voters complained of long voting lines and alleged discrimination in Franklin and Knox counties. Investigators wanted to

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determine if elections officials had intentionally skewed the placement of machines to favor Republicans." The AP adds, "The Justice Department said, however, the distribution in Franklin County narrowly favored black voters. Because turnout in predominantly black precincts was lower than in white ones, machines in those districts averaged fewer votes, according to a report released Wednesday. … An unanticipated 76 percent turnout _ with many first-time voters _ contributed to the long lines in the Kenyon College precinct in Knox County _ with some people forced to wait until 4 a.m. to vote on just two available machines, officials found."

DC Voting Activists Seek European Support. The Washington Post (7/2, B1, Sheridan) reports, "D.C. voting rights activists took their case to an unusual constituency yesterday, calling on European legislators at an international meeting to lean on the U.S. government to give Washingtonians full representation in Congress."

ANTITRUST:

Microsoft Agrees To Pay $775 Million To Settle Lawsuit Brought By IBM. The New York Times (7/2, Markoff) reports, "Microsoft agreed on Friday to pay I.B.M. $775 million to settle claims growing out of the antitrust lawsuit brought by the Justice Department against Microsoft in 1995. I.B.M. will also receive a $75 million credit toward the use of Microsoft software. The settlement is one of the largest in a series of settlements Microsoft has struck in its effort to resolve its legal troubles after Judge Thomas Penfield Jackson of Federal District Court in Washington ruled in 2000 that it had engaged in anticompetitive practices."

The Los Angeles Times (7/2, Menn) reports, "Microsoft Corp. said Friday that it agreed to give $775 million in cash and $75 million worth of software to IBM Corp. to resolve one of the largest remaining antitrust claims against the world's biggest software maker." The Times adds, 'The settlement is the latest in a string of arrangements with customers and longtime business rivals that began after Microsoft resolved a long-running antitrust case with the Justice Department." The Times notes, "Including the IBM accord, Microsoft has now agreed to pay $4.5 billion to settle class-action consumer suits and business cases brought by Time Warner Inc., owner of the vanquished Netscape Web browser, as well as by Sun Microsystems Inc. and others. It takes Microsoft less than a month to earn what it's paying IBM."

The New York Times (7/2, Bajaj, Markoff) reports, "The settlement stems from the Justice Department's antitrust case against Microsoft in the mid-1990's, in which Judge Thomas Penfield Jackson found the giant software company's practices harmed the International Business Machines Corporation, based in Armonk, N.Y. That case was settled in 2001." The Times adds, 'Under the agreement announced today, I.B.M. will also receive a $75 million credit toward using Microsoft software. It is the latest, and one of the largest, in a string of antitrust settlements totaling more than $3 billion between Microsoft, based in Redmond, Wash., and its rivals. In April, Microsoft said it would pay Gateway $150 million. Last year, it agreed to pay Sun Microsystems $1.6 billion, Microsoft's largest such payout. … I.B.M. and Microsoft, which issued a joint statement today, came to an agreement just weeks before a deal to extend the statute of limitations on the claims was to expire in July. The companies said they had been negotiating for the last two months." The Times notes, "An antitrust expert who has closely followed the Microsoft cases said the I.B.M. and other settlements did not, and will not, have much impact on the personal computer industry. … 'They are not in any way agreeing to fundamentally change how they do business,' the expert, Andrew I. Gavil, a law professor at Howard University, said of Microsoft. 'The only case where anyone is really holding out is the RealNetworks case. To them, if they can't get a change in that business model' - a reference to Microsoft's practices – 'the cash doesn't do them much good.'"

The Financial Times (7/2, London) reports, "Earlier this year, Microsoft paid $150m to Gateway, another PC maker identified in the 1998 case, based on claims that the software group used its monopoly over PC operating systems to overcharge for software and squeeze out rivals. … While the IBM settlement resolves most of the legal claims between two of the largest US technology companies, they are expected to remain fierce rivals. IBM retains the right to pursue claims relating to its server hardware and software business, although it has agreed not to do so for at least two years."

The Washington Post/AP (7/2, D3, Bergstein) reports, "IBM irked Microsoft in the '90s by pushing its own OS/2 operating system as a Windows alternative and putting its SmartSuite productivity software on IBM PCs, cutting into the market for Microsoft Office programs. IBM also was an early supporter of Java, a programming language that does not need Windows to run. … IBM had not sued Microsoft, but still pressed for retribution for the behavior cited by Jackson. Microsoft reached a similar deal with Gateway Inc. for $150 million in April."

DOJ Continues Probe Of Concrete Price-Fixing. The Evansville (IN) Courier & Press (7/2, Raithel) reports, "A representative for Irving Materials Inc. in Southwestern Indiana said Friday that the price-fixing activity for which the company was fined $29.2 million this week did not extend to the Evansville area." The C&P continues, "Kevin Swaidner, general manager for the Southwestern Division of Irving Materials, said that the U.S. Department of Justice had made inquiries into the company's activities in Southwestern and

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Southeastern Indiana, and concluded that the price-fixing was confined to the central part of the state. … 'We know there to be no problems with this issue' outside of Indianapolis, Swaidner said." The C&P adds, "Gina Talamona, a spokeswoman for the U.S. Department of Justice, said Friday that the department's investigation into concrete price-fixing was continuing. … Irving Materials Inc. (IMI) was given the largest fine in U.S. antitrust history Wednesday for conspiring to inflate the price of concrete in Central Indiana between July 2000 to May 25, 2004. Four company executives pleaded guilty to price-fixing and agreed to pay fines ranging from $100,000 to $200,000 and serve five months in prison followed by five months of home detention. … Scott Hammond, chief of criminal enforcement for the Justice Department, said that the price-fixing scandal could expand to other companies. 'IMI did not commit this crime on its own. It's just the first company to fess up, plead guilty and cooperate,' Hammond said."

Chinese Firm Asks US To Review Its Bid For Unocal. The New York Times (7/2, Mouawad) reports, "The Chinese oil company fighting for control of Unocal said yesterday that it had asked a top government panel in the United States to formally review its $18.5 billion takeover offer, even as political opposition to the bid was growing in Washington. The Chinese company, the China National Offshore Oil Corporation, or Cnooc, said it had filed a notice with the Treasury Department's Committee on Foreign Investments in the United States to look into the proposed acquisition and requested that the review be conducted 'in an expeditious manner.'" The Times notes, "The recent bid by Cnooc topped an offer of $16.8 billion made in April by Chevron, but threatens to be derailed by American lawmakers opposed to oil and gas assets being snapped up by a Chinese company."

The Washington Post (7/2, D1, Weisman) reports, "Typically, such reviews -- carried out by the interagency Committee on Foreign Investment in the United States, or CFIUS -- do not begin until a takeover bid is accepted. But by making its request quickly, CNOOC, which is 70 percent owned by the Chinese government, hoped to signal wary U.S. lawmakers that the company recognizes their concerns and is ready to cooperate. Company officials also hope to convince Unocal shareholders that U.S. regulatory requirements would not unduly delay a deal's completion."

The Financial Times (7/2, Kirchgaessner, Leahy) reports, "Chevron is also wooing Unocal executives. Peter Robertson, Chevron's vice-chairman, said it had offered 20 Unocal executives jobs in a merged entity and they had accepted, indicating the two rivals are keen to secure management talent as well as the backing of shareholders. Mr Robertson also raised the prospect of referring CNOOC's bid to the World Trade Organisation on the grounds that support from the Chinese government meant the proposed deal was not a purely commercial transaction."

Reuters (7/2, Berkowitz) reports, "The U.S. House of Representatives voted overwhelmingly Thursday to add an amendment to an appropriations bill that would bar the Treasury Department from spending any money to recommend approval of the CNOOC bid for Unocal. If signed into law, the measure would not take effect until Oct. 1. The House also passed a nonbinding resolution calling on President Bush to request an immediate review of the deal. Rep. Joe Barton, the chairman of the House Energy and Commerce Committee and co-sponsor of the resolution, called for a hearing on the CNOOC bid."

ENVIRONMENT:

Administration's Salmon Protection Plan Criticized By Federal Judge. The Washington Post (7/2, A3, Harden) reports, "Little Goose has turbines for power, locks for river transport and a Rube Goldberg device for distilling young salmon out of the river, sorting them by size, and hosing them into trucks and barges for passage downriver. This hulking gizmo has become part of the 'environmental baseline' here on the Snake River. At least that is how the Bush administration characterizes Little Goose and 13 other federal dams on the Snake and Columbia rivers. This characterization, though, has stuck in the craw of a federal judge. In his courtroom in Portland, Ore., U.S. District Judge James A. Redden described the administration's 2004 biological opinion -- it says dams are an ineluctable part of the river's environmental baseline -- as a document written 'more in cynicism than in sincerity.'" The post goes on to report that according to a survey of NOAA employees by the Union of Concerned Scientists and Public Employees for Environmental Responsibility, "about two-thirds of those surveyed did not believe the agency, responsible for protecting endangered fish and their habitat, was effectively doing its job."

EPA Proposes New Restrictions Air Pollution. The Washington Post (7/2, A4, Eilperin) reports EPA staff members "proposed tightening the nation's air pollution standards yesterday, a move that environmentalists said could save the lives of thousands of Americans. Aides to EPA Administrator Stephen L. Johnson outlined two scenarios in their report on what should be the acceptable nationwide level for 'fine particulate matter,' the soot that invades people's lungs and causes respiratory ailments. Both scenarios would slash the amount of small particles in the air, although one proposal would go significantly further than the other. … Public health advocates, who back the

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more stringent proposal, hailed the EPA for moving to curb harmful air pollution." The Post adds, "Some industry groups, however, oppose tightening the standards on the grounds that they can hamper economic growth. Bryan Brendle, director of air quality issues at the National Association of Manufacturers, said state and local officials tend to target manufacturers in an effort to comply with stricter standards, which 'imposes compliance costs on industry.'"

FBI/DEA/ATF/USMS:

Woodward's Book Presents New Profile Of Felt. The New York Times (7/2, Janofsky) reports, "From start to finish, W. Mark Felt was a bureau guy, a true believer, an officer sworn to uphold the security of the country against all manner of enemies, whether they were bank robbers, domestic terrorists, foreign spies - or, as Bob Woodward writes in his latest book, the highest official in the land. And so, Mr. Woodward concludes in 'The Secret Man,' a chronicle of his sometimes tense relationship with Mr. Felt, it was not the 1972 burglary of the Democratic National Committee office in the Watergate apartments that compelled Mr. Felt to become a secret source for Mr. Woodward and his Washington Post reporting partner, Carl Bernstein. It was President Richard M. Nixon."

IMMIGRATION:

CIS Extends Work Permits For Some Central Americans. The AP (7/2) reports, "Immigration officials announced Friday that they will extend work permits for Hondurans and Nicaraguans with temporary protected status. U.S. Citizenship and Immigration Services said the automatic, 90-day extension will apply to employment authorization documents with a Jan. 5, 2005, expiration date. … Officials first offered temporary protected status in 1998 to illegal immigrants from Honduras and Nicaragua after their countries were devastated by Hurricane Mitch. The immigrants' protected status has been renewed several times since."

TAX:

Three Sentenced To Prison For Tax Violations. The Atlantic City (NJ) Press (7/2, Johnson) reports, "Facing their fate in front of a federal judge, Joseph and Inge Donato stood side by side, holding hands, with Inge resting her head slightly against her husband's shoulder. … To the end, members of the Restored Israel of Yahweh remained united in faith and with each other." The Press adds, "A federal judge said he was impressed with the sincerity of the group's beliefs but less impressed with their sincerity in trying to obey the law. … U.S. District Court Judge Jerome B. Simandle sentenced Joseph Donato to 27 months and Inge Donato to six months in prison for their conviction on numerous tax-related charges Friday. Another senior member of the Hamilton Township biblical sect, Kevin McKee, received a prison sentence of 24 months." The Press notes, "All three defendants had fines levied against them and will have to file delinquent tax returns when they leave prison for the years they never paid the government. … A jury found in December that the members of the religious sect were guilty on 19 counts of conspiracy to defraud the government, tax evasion and failure to file taxes. The three say they do not pay federal taxes because they do not support war. McKee, in a pre-sentence report, indicated that a prison sentence was not likely to significantly alter that position."

Increased Tax Revenue Could Slash Budget Deficit By $100 Million. The Washington Post (7/2, D1, Weisman) reports, "An unanticipated surge of tax payments may push the 2005 federal budget deficit as much as $100 billion below official forecasts, leaving Republicans to claim vindication in their theory that lowering tax rates actually boosts tax receipts. In addition, this week the Commerce Department reported a solid economic growth rate of 3.8 percent for the first three months of 2005, an improvement on the earlier 3.5 percent estimate and more ammunition for Republican boasts that their tax cuts are the cause of this performance." However, "senior budget analysts, including the Republican who heads the Congressional Budget Office, cautioned this week that higher tax revenues may be a one-time phenomenon that in no way addresses the nation's grave deficit challenge. Much of the increase could stem from temporary factors, said CBO director Douglas Holtz-Eakin, a former Bush White House economist. The major corporate tax cut of 2004 provided a one-year 'tax holiday' for multinational corporations to bring home overseas profits at a reduced tax rate, and companies may be responding aggressively."

CONGRESS-ADMINISTRATION:

Bush Praises O'Connor, Calls For Fair Vote On SCOTUS Nominee. President Bush praised Supreme Court Justice Sandra Day O'Connor's service after she announced her intention to retire and called for a dignified, fair nomination process. Coverage focused on the historic opportunity Bush faced as he balanced consideration of the GOP base versus a protracted political struggle with Democrats. Previewing the Senate battle, Republicans started to push for fair hearings while Democrats urged Bush

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to consult with them. Many reports stressed O'Connor's key role as a moderating influence on the Supreme Court and the country. O'Connor's retirement and President Bush's reaction received extensive media coverage as the network newscasts all led with the story and included at least four stories on the subject. The news was also prominently covered in the nation's major newspapers and by local TV stations.

ABC's World News Tonight (7/1, lead story, 4:30, Moran) reported, "With O'Connor's retirement, President Bush now has a chance to re-shape the Supreme Court, and he is certain to face ferocious opposition from many liberals and Democrats, though today in the Rose Garden, he argued for calm." President Bush "is said to be excited about this opportunity to pick a Supreme Court justice. He's told aides he's looking at the long term here."

CBS Evening News (7/1, story 2, 2:00, Roberts) reported, "President Bush has already begun maneuvering for Senate confirmation of his Supreme Court nominee, one he hasn't even chosen yet. CBS' Bill Plante added that Bush "laid down his marker: A demand that there be no filibuster by Democrats. Mr. Bush wants Senate confirmation before the new court term begins in October, but his staff says he won't nominate a new justice until after he returns from Europe next Friday. But the White House has been preparing for this day for years, and has a short list of well-researched names for him to consider."

NBC Nightly News (7/1, story 3, 2:30, Williams) reports, "No instant choice. Speaking in future tense because the White House said the President has not read any of the files prepared for him on possible candidates, but will, now that a vacancy is real." NBC's Kelly O'Donnell added, "With a confirmation fight looming, the President called for a dignified process and has pledged to work with Congress and reached out today by phone to some key Senators and pledged to work with them and meet with them about a choice when he gets back from Europe." The Atlanta Journal-Constitution/AP (7/2, Riechmann) reports, "Anticipating what could be a tough battle in the Senate when he returns from Europe, Bush called for civility in the confirmation process." White House spokesman Scott McClellan "said the White House would consult with Majority Leader Bill Frist and Minority Leader Harry Reid as well as leaders of the Judiciary Committee, and he expressed hope that Democrats would not block a vote on the president's pick."

The Washington Times (7/2, Curl) reports, "Mr. Bush yesterday pledged to seek input from Congress on his nomination and said 'the nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote. I will choose a nominee in a timely manner so that the hearing and the vote can be completed before the new Supreme Court term begins.'" The AP (7/2, Raum) in an analysis says, "President Bush's choice to fill the vacancy of retiring Justice Sandra Day O'Connor is all but certain to ignite a political inferno no matter whom he picks."

The New York Times (7/2, Stevenson) reports, "Bush effectively put the Democratic leadership on notice not to go to extreme lengths to reject his choice or turn the confirmation proceedings into a partisan free-for-all."

Pittsburgh Post-Gazette (7/2, McFeatters) reports, "With liberals and conservatives braced for a bruising battle over the person Bush chooses to replace O'Connor, the president promised to select someone who would make America proud and who would meet 'a high standard of legal ability, judgment and integrity, and who will faithfully interpret the Constitution and laws of our country.'" Reuters (7/2) reports, "Bush gave no indication who he was considering to replace O'Connor…other than to repeat his conservative philosophy that he would pick someone who will interpret the U.S. Constitution and not legislate from the bench." He "has often railed against what he calls 'activist judges' who he says legislate from the bench, and says he wants justices to 'strictly and faithfully interpret the law.'"

The Los Angeles Times (7/2, Savage) notes that "the political battle over the next court nominee is likely to focus on abortion and religion." And the Baltimore Sun (7/2, Desmon) reports, "Those on the front lines of the battle over abortion say" O'Connor's "retirement has an even greater impact than would the resignation of the ailing Chief Justice William Rehnquist, an abortion opponent whose potential replacement would be an "even exchange," as one advocate said.

But in contrast to most reports saying the battle over the new nominee will be over religious and social issues, the Financial Times (7/2, Waldmeir) notes Professor Jeffrey Rosen of George Washington University Law School "thinks the real threat of such a re-engineered court would be not social but economic: he believes Mr Bush's long-term goal is not to outlaw abortion but to roll back the regulatory state and dismantle the New Deal, by appointing jurists who believe the US constitution does not permit the federal government to meddle in matters such as workplace regulation or environmental protection." The Financial Times (7/2, Alden, Daniel, Yeager), the Houston Chronicle (7/2, Mason), the Miami Herald/AP (7/2, Espo), the Atlanta Journal-Constitution (7/2, Herman) and the Baltimore Sun (7/2, West) also reported on O'Connor's retirement.

President Bush's Response To Justice O'Connor's Retirement Receives Widespread Local Television Coverage. President Bush's response to the retirement of Justice Sandra Day O'Connor received heavy local television coverage nationwide. Reporting largely focused on speculation about whom the President would appoint, and the extent of the confirmation battle ahead. Frequently quoted was the President's Rose Garden comment that the nation

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"deserves a dignified process of confirmation in the United States Senate." Some examples: WDIV-TV Detroit (7/1, 6:17PM) reported that O'Connor's retirement "will set the stage for a bitter battle over her nominated successor. President Bush offered praise for the 75-year-old Justice O'Connor today. 'The nation deserves a nominee the nation can be proud of. The nation also deserves a dignified process of confirmation in the United States Senate.'"

WCCO-TV Minneapolis (7/1, 12:00PM) reported that "shortly after [O'Connor's] announcement, President Bush announced his thanks for her great service. 'This great lady born in El Paso, Texas, rose above the obstacles of an earlier time and became one of the most admired Americans of our time. The President did not name a successor but said he is compiling a list of potential nominees."

WPLG-TV Miami (7/1, 12:55PM) reported, "President Bush says he will work to fill O'Connor's vacancy, before the Court returns to work in October."

WVTV-TV Milwaukee (7/1, 9:19PM) said, "And President Bush made his Rose Garden remarks about the next nomination process. 'The nation deserves and I will select a Supreme Court justice that Americans can be proud of. The nation also deserves a dignified process of confirmation in the United States Senate.'"

KCCI-TV Des Moines (7/1, 10:02PM) reported that "Senator Tom Harkin hopes the President will seek the advice of senators from both parties to find a mainstream nominee who will impartially protect the rights and freedoms of all Americans."

KPNX-TV, Phoenix (7/1, 05:59PM) reported that "Survey USA asked 1200 people across the country if they believed President Bush's Supreme Court nominee will make the Court more in step or out of step with their beliefs, and 34% said his nominee will make the court more in step and 46% believe it will be more out of step. And 17% think the nominee really won't change things within the Supreme Court."

White House Said To Have Been Taken By Surprise. News that O'Conner intended to retire before Rehnquist caught the White House and most of the Washington DC establishment off guard. ABC's World News Tonight (7/1, lead story, 4:30, Woodruff) reported the White House was "taken by surprise. The White House got word yesterday morning that some kind of announcement out of the Supreme Court was imminent, though no one here was told any more than that. So when word came this morning that it was Justice O'Connor retiring, the White House started immediately preparing for the battle ahead."

The New York Times (7/2, Jehl) reports, "The White House has been preparing for months to fill a seat on the court, but people involved in the process said the main focus had been on finding a new chief justice to replace Mr. Rehnquist. It was only in recent weeks, some conservatives said, that the White House began to consider seriously the prospect of Justice O'Connor's departure." The Dallas Morning News/AP (7/2) adds that in addition to the White House, "O'Connor even surprised her family.

Now that Bush will be considering a replacement for O'Connor, the Washington Times (7/2, Curl) notes the list of candidates "is expected to expand to contain more women," and some experts believe it will include "Edith Hollan Jones, 56, and Edith Brown Clement, 57, both judges on the 5th U.S. Circuit Court of Appeals, as possible contenders, and…White House Counsel Harriet Miers."

Choice Expected To Define Bush Legacy. The New York Times (7/2, Jehl) says, "At the White House, the moment presents Mr. Bush with an opportunity to define at last, more than four years into his presidency, whether he is a pragmatic, flexible conservative, as he has portrayed himself in two campaigns, or a more ideological one, determined to move the court much further rightward. It is a juncture officials have been planning for."

The Washington Post (7/2, A1, Balz) in a front page story notes that Bush's "political strategy is founded on the assiduous courtship of his conservative base, and on big issues he has rarely chosen to disappoint them. But it has never been clear how comfortable the president is in pushing a sharply conservative social agenda. He opposes abortion but has resisted championing the cause of overturning Roe v. Wade. He pushed a constitutional amendment barring same-sex marriages, but at a time when it was clear it could never pass Congress." But he "has been forthright…in trying to change the complexion of the courts, a political project that he shares with White House Deputy Chief of Staff Karl Rove and other top advisers." And he "likes to swing for the fences."

Bush May Feel Pressure To Make "Historic" Selection. ABC's World News Tonight (7/1, story 2, 1:20, Stephanopoulos) reported that the retirement of O'Connor, as opposed to that of Rehnquist, "puts more pressure on President Bush to follow Justice O'Connor with a big, historic choice. That's why so many people are talking about Attorney General Gonzalez. But you know, President Bush, even though he's very close to Justice Gonzalez, has long had in mind, he says his models are Justice Scalia and Justice Thomas. It's much harder to replace a Justice O'Connor with someone in the mold of Justice Scalia or Justice Thomas."

The Dallas Morning News (7/2, Jackson) says O'Connor's "retirement puts pressure on Mr. Bush to consider nominating a woman, or at least a more moderate nominee in the O'Connor mold, analysts said. It also opens the door for a possible historic pick, such as the court's first Hispanic member, possibly Attorney General Al Gonzales." But recently, "conservatives have discussed a Gonzales-for-

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O'Connor trade. They have also criticized the possibility, calling the former White House counsel insufficiently opposed to abortion rights and affirmative action." And Gonzales "would face liberal opposition over his role in setting policy for treatment of war prisoners."

Meanwhile, the Los Angeles Times (7/2, Wallsten, Schmitt) says that while Bush will face pressure to name a historic pick, "White House allies and advisors said Friday that the toughest choice facing Bush was whether to pick a nominee who would probably coast to Senate confirmation -- such as his longtime friend, Atty. Gen. Alberto R. Gonzales -- or one who would please the conservative Republican base but also spark a protracted partisan battle that could stall other priorities." With O'Connor retiring before Rehnquist, "White House advisors are trying to draw lessons from the experience of President Reagan, who took the easy route first in winning confirmation for Justice Antonin Scalia but then paid a heavy price when a more controversial nominee, Robert H. Bork, was defeated."

White House Focused On Three Options For Timing Of Nominee Announcement. The Washington Post (7/2, A1, Baker) in a front page article reports, "Former attorney general Edwin Meese III, one of four outside advisers who plotted strategy with top White House officials last week, said in an interview yesterday that Bush has three options on timing: name a nominee as quickly as possible and ask senators to remain in August, request that the Senate Judiciary Committee come back from recess early to begin hearings, or wait until the end of the recess to announce a nominee. 'That's one thing I know will be discussed very carefully,' Meese said."

Poll Shows Most Americans Expect Bush To Choose Conservative Nominee. CBS Evening News (7/1, story 3, :10, Roberts) reported that "as for the public's take on prospective supreme court nominees, a CBS News/"New York Times" poll taken earlier this year offers some clues. 71% expect any justice named by President Bush would vote to make abortion illegal. 44% said it's likely the ideological views of the president's choice will be okay with them. 33% expect someone more conservative than they'd like. And 15% think the nominee won't be conservative enough."

Vacancy Adds To Burden Of Domestic Agenda. The AP (7/2, Hunt) reports, "The vacancy adds another major issue to an already bulging agenda Bush has presented to Congress. Administration officials expressed confidence about getting energy, highway and Central American trade measures passed and are crossing their fingers in hopes that lawmakers will have enough time and energy to deal with a complicated overhaul of Social Security."

The Washington Post (7/2, A1, Baker) in a front page article also notes that "the nomination could overshadow the rest of Bush's domestic agenda for months, particularly his plan for Social Security, which has foundered upon rock-solid Democratic opposition and Republican ambivalence. Some allies suggested it could even provide a way to quietly drop the Social Security effort until after next year's midterm elections."

Past Issues Resolved May Now Return To Debate. Tom Goldstein, founding editor of the nonpartisan SCOTUS blog in an interview with Newsweek (7/2, Braiker) said, "Everything's back on the table. Everything that had been settled over the previous few years had been settled in no small part because Sandra Day O'Connor had put the court in the center-right. Now those questions, because the Supreme Court can reverse itself, are all open to reconsideration."

Some Supreme Court Picks Go Awry. The Financial Times (7/2, Waldmeir) notes that "history teaches that things often do not work out the way the nominating president intended: either the Senate refuses to confirm the president's ideological favourite; or, surprisingly often, the new justice does not vote as the president thought he or she would; or the country moves on and the issues before the court are not the ones the president could have foreseen. The best laid plans of presidents can come to nought, once the nominee assumes his seat for life on the high court dais."

More Commentary. The New York Times (7/2) editorializes that Bush "can best serve the country, and his own party, by nominating a new justice with the same values." Before the debate over nominees begins, "Bush should ask himself whether Americans want to live in a country where the handicapped cannot find a champion in the law, where women are stripped of all abortion rights, where universities are barred from offering a hand up to deserving minority students. Then he should ask himself how much of his own party's current success has been due to Justice O'Connor's ability to save the right wing from the worst consequences of its extremism." If Bush "is thinking clearly, the president will understand how much he owes this quiet jurist who consistently looked for common ground. Perhaps he will also realize that the best way to repay the debt is to choose a replacement from the same mold."

The Financial Times (7/2) editorializes, "The battle to confirm her replacement will focus on abortion but more is at stake" because "there would still be a 5:4 majority on the Court in favour of abortion." Therefore, "the Senate should not allow itself to get bogged down over the views of the nominee on abortion. The Senate should rather examine the views of the candidate on a wide range of issues: what does he or she think the constitution says about gay rights? Or economic regulation? Or the role of judges themselves? Or the role of copyright and patent law in fuelling the innovation economy?"

The Washington Times (7/2) writes in an editorial that as "Bush deliberates on his first nominee to the high court, he must keep in mind that millions of Americans who voted for him in both 2000 and 2004 did so precisely because they

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believed that he would nominate judges, and particularly Supreme Court justices, determined to be faithful to the Constitution as it was written, judges not so open to persuasion where first principles are concerned."

The Washington Post (7/2) editorializes, "The president should consult as broadly as possible and seek a nominee who would satisfy his requirements while also garnering broad support from moderates of both parties. It is not too much to ask of Mr. Bush that he work for consensus in replacing a justice who, in a very real sense, had come to represent a bridge between left and right."

The Los Angeles Times (7/2) editorializes, "We do insist on one thing: Bush should not nominate Justice Clarence Thomas for chief justice. Thomas purposely misled the Senate at his original confirmation hearing 14 years ago, insisting he had no opinion on the hot-button Roe vs. Wade decision. Since then he has repeatedly shown his deep opposition to Roe. For the Senate to confirm him as chief justice now would say to the world that the contempt Thomas showed for that institution was fully justified."

Potential Bush Nominees Examined. CBS Evening News (7/1, story 2, 2:00, Plante) reported potential candidates include "Attorney General Alberto Gonzales, a possible first Hispanic justice and the president's close friend. He would likely face opposition from both the right for abortion rulings in Texas and the left for his rulings on prisoners rights. D.C. Circuit Judge John Roberts, conservative, but respected on both sides of the political spectrum. Appellate judge J. Michael Luttig, a conservative who has upheld restrictions on abortion. Among female candidates to replace O'Connor, conservatives are suggesting Janice Rogers Brown, an African American, and Priscilla Owen, on the grounds that it'd be hard to reject either since both were just confirmed to the appellate court."

Examining the potential nominees, the New York Times (7/2, Lewis) says, "President Bush is expected to select a nominee to the Supreme Court from a list of candidates that is, with few exceptions, a small roster of sitting federal appeals court judges. … And while all of the candidates may be described as conservative, each brings a different political and philosophical profile to the table." A number of newspapers included brief descriptions of the potential nominees' positions, including the Dallas Morning News/AP (7/2) and the Financial Times (7/2).

Senators Test Themes As They Prepare For Intense Showdown. Describing the early themes of the expected battle over the nominee, the New York Times (7/2, Hulse) reports, "In a move intended to prod Mr. Bush into consulting with them, Democrats repeatedly invoked President Ronald Reagan, a staunch conservative whose nominee Justice O'Connor was confirmed 99 to 0." But, "Republicans, trying to avoid a fight, called for 'a fair confirmation process,' in the words of the Senate majority leader, Bill Frist." The AP (7/2, Holland) adds, "Democrats are resigned to Bush nominating a conservative, but they are hoping to push him into picking someone like O'Connor."

The Dallas Morning News (7/2, Gillman) says that "markers thrown down Friday suggest an all-out partisan brawl is looming." The Morning News notes, "One Democrat after another demanded a 'mainstream conservative' to replace Supreme Court Justice Sandra Day O'Connor. Republicans called for a 'fair and independent' jurist." The St. Louis Post-Dispatch (7/2, Sawyer) reports that "while Bush reached out immediately to promise consultation with senior Senate Democrats, and they responded in kind, the war drums could be heard of likely battle to come."

The Washington Times (7/2, A1, Taylor) in a front page article reports, "Democrats, who have led filibusters against lower court nominations by Mr. Bush, said the president has an obligation to preserve the precarious balance of the court with whomever he chooses to replace Justice O'Connor." But, "Republicans said the president should not be constrained. 'Elections have consequences,' said Sen. John McCain, Arizona Republican. 'The president clearly stated when he ran for re-election that he would be appointing conservative nominees to the Supreme Court. It comes as no surprise if a conservative nominee comes over.'"

Reuters (7/2) notes, "Sen. Edward Kennedy…immediately challenged Bush." Kennedy said, "If the president nominates someone who threatens to roll back the rights and freedom of the American people, the American people will insist we oppose that nominee, and we will do so." The Washington Times (7/2, Hurt) reports, "Democrats warned President Bush to consult them 'face-to-face' before offering a replacement for Justice Sandra Day O'Connor." For example, Sen. Charles Schumer "told reporters it would be 'a shame' if Mr. Bush makes his nomination 'without real face-to-face, back-and-forth consultation.'

The St. Louis Post-Dispatch (7/2) reports, "In the wake of Justice Sandra Day O'Connor's retirement announcement Friday, Democrats were competing so hard to sing her praises that Republicans could barely find a television camera free." The Boston Globe (7/2, Canellos) reports, "Both sides seemed to agree on one thing: No judicial confirmation battle, from Robert Bork and Clarence Thomas to the recent disputes over Democratic filibusters of 10 of President Bush's appeals court nominees, carried anything like the stakes in the upcoming confirmation battle."

Ron Brownstein in an analysis of the impending political battle in the Los Angeles Times (7/2) says that while the vacancy could be a defining moment for Bush, "the fight could define Democrats, too. While Senate Democrats will face intense pressure from their base to oppose virtually any Bush nominee, if they try to block a choice most Americans

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see as reasonable, they risk further alienating the culturally conservative and rural voters that many in the party consider critical to their prospects in 2006 and 2008."

Bush Has Already Talked To Democratic Senate Leaders. ABC's World News Tonight (7/1, story 4, :30, Douglas) reported, "Democrats are demanding that the president consult with them, and the President already is taking that step. He's called two leading Democrats, says he wants to meet with them. A senior Republican said today that's good, he hopes that this new justice gets a bipartisan majority. But Republicans are determined to get this person on the court by October 1st, even if that means that they're going to change the rules for confirmation right there on the Senate floor."

But Knight Ridder (7/2, Thomma) notes that "listening to Democrats is one thing; heeding their advice is another. Especially when Bush and both political parties are barraged by interest groups whose demands, particularly on abortion, make consensus all but unreachable."

Filibuster Deal Seen As Working Against Democrats. NBC Nightly News (7/1, story 4, 1:45, Williams) reports, "In spite of the president's plea for the dignified process, there are already clear indications this battle is breaking out even without a nominee." NBC's Chip Reid continued, "Dozens of protesters from the left and right today trading verbal jabs outside the Supreme Court. At the liberal group people for the American way, the war room is already on red alert." Ralph Neas, People for the American Way: "If the president decides to replace a mainstream conservative like Sandra Day O'Connor with a right-wing ideologue, it will be a titanic clash." Reid adds, "But blocking a nominee won't be easy because a key group of Democrats recently agreed to filibuster judges only in extreme circumstances."

Senate Moderates Expected To Be Key To Confirmation Battle. Knight Ridder (7/2, Kuhnhenn) reports, "In the end, the focal point in the Senate will be the deal-makers who stopped the meltdown. Sen. John McCain said, "I'm optimistic that the president will not send over someone who reaches the extraordinary-circumstances level. … We only made an agreement with seven Democrats...so it's their view that matters, not that of -- in all due respect -- their more liberal colleagues."

Both Parties Face Political Challenges. The New York Times (7/2, Toner) reports, "This struggle over fundamentals -- another battle in the culture wars -- poses challenges for both parties. Many Democrats have tried to moderate their party's image in recent months, especially on values-related issues like abortion. Many Republicans, meanwhile, have tried to return to bread-and-butter economic issues, worried about polls showing that large numbers of voters see the party as out of touch with their concerns, after months dominated by fights over judicial filibusters." Yet, "this judicial campaign will not be stopped, all sides agree, and there is a sense of foreboding about it." Meanwhile, the AP (7/2, Superville) profiles the leaders of the Senate Judiciary Committee.

Pressure Form Special Interest Groups Expected To Be Unprecedented. ABC's World News Tonight (7/1, story 3, 3:00, Woodruff) reported, "Polls show that it is conservatives who have been the most worked up over the makeup of the court, especially evangelical conservatives, many of whom are deeply angry at the nation's judges, who they sometimes call 'black-robed masters.' "Some more moderate, secular conservatives fear that if the religious right takes too prominent a role in this fight, it could cause a public backlash. Christian conservative leaders are unfazed." The Family Research Council's Tony Perkins was shown saying, "The president has promised to nominate judges like Scalia and Thomas, and we fully expect him to keep his promise. And I believe there's gonna be a fight over it."

Ron Brownstein in an analysis of the impending political battle in the Los Angeles Times (7/2) notes, "This fight may mark as great an advance over those tactics as the mechanized blitzkrieg of World War II did over the grinding trench warfare of World War I. Coalitions of left and right have already stockpiled huge sums for massive advertising and organizing efforts on the vacancy. In states with senators considered persuadable, the efforts could approach the levels seen in presidential campaigns."

The Washington Post (7/2, A12, Babington, Allen) reports, "The multimillion-dollar campaigns, which activists say will nearly rival presidential candidacies in their scope and sophistication, kicked off within an hour of O'Connor's announcement. Both sides launched ads designed to build momentum for their causes before President Bush names his nominee." For example, "MoveOn PAC began airing a television ad in five states recalling the president's role in the Terri Schiavo case and asking, 'Will George Bush choose an extremist who will threaten our rights?'" Meanwhile, "Progress for America, which spent $45 million on Bush's reelection, sent an e-mail to 8.7 million people about 45 minutes after the news broke, urging them to distribute a Web video mocking anticipated Democratic attacks. The group said it is rethinking its plan to refrain from airing TV ads next week.

The AP (7/2, Holland) reports, "With O'Connor's announcement Friday representing a test of these organizations' clout in the Internet Age, people on both ends of the political spectrum flooded their backers around the country with e-mail and pager alerts, telling them about the retirement and calling for their help." For example, "People for the American Way…sent out thousands of e-mails to its

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supporters and was setting up phone banks to make calls around the nation to build up support for Senate Democrats."

With the battle over the nominee expected to be intense, the Financial Times (7/2, Yeager) notes, "Senate leaders are well aware that 56 of the body's 100 members were not in the Senate 11 years ago, when the last Supreme Court vacancy was filled. They have already begun briefings for staff members about what to expect as the process moves forward. Congressional aides point to two changes in the political landscape: the arrival of the internet and the growing influence of outside political groups."

And the New York Times (7/2, Hulse) adds, "Controlling leaks, Republicans say, will be essential. Douglas H. Ginsburg, for instance, withdrew his Supreme Court nomination in 1987 after it was disclosed that he had smoked marijuana, information that the F.B.I. turned up.

The reaction to the news outside of the Beltway was furious as well, as the Minneapolis Star Tribune (7/2, Hotakainen, Wascoe) describes news of the vacancy "unleashed huge and emotional grass-roots campaigns in Minnesota and across the country Friday that ultimately could decide the future of abortion, affirmative action and an array of other volatile social issues." For NARAL Pro-Choice Minnesota executive director of Tim Stanley, "the battle was officially engaged at 9:15 a.m. Friday." Stanley "was crossing a street in St. Paul when his cell phone rang with news that O'Connor was retiring. Within minutes, Stanley had 500 'rapid responders' ready to organize for the fight over her successor. There were 100,000 doors to start knocking on, senators to call, petitions to gather and immediate plans for a rush-hour 'visibility' event for their effort Friday at Interstate Hwy. 94 and Snelling Avenue."

Corporations, Unions Have Significant Interests In New Nominee. Knight Ridder (7/2, Hall) reports, "The Supreme Court's rulings on abortion and religion capture the headlines, but much of the business before the high court deals with the conduct of business. In the court's term that ended this week, for instance, about 30 percent of the rulings involved business issues." Knight Ridder notes, "The U.S. Chamber of Commerce…has quietly provided information to the White House about the pro-business voting records of judges over the last year." But AFL-CIO president John Sweeney said, "So it is more important than ever for the president to nominate a mainstream candidate, whose opinions will have a tremendous impact on the constitutional rights and legal protections of our children and grandchildren."

The Los Angeles Times (7/2, Hamburger) reports, "The nation's leading business lobbies are poised for the first time to campaign for the confirmation of a Supreme Court nominee, marking a historic change for the confirmation process, the perception of courts and business activism." The Times notes, "The addition of big business to the mix coincides with a shift in the way the judiciary is viewed by the public and leading interest groups. Federal courts once were largely exempt from the hurly-burly of political invective, and judges were considered above the fray for the most part. Now, judges and their decisions are routinely attacked from the right amid cries for "judicial reform" from talk radio, church pulpits and corporate board rooms."

O'Connor Seen As Key Moderating Influence. Justice O'Connor's key role as a moderating influence was highlighted in numerous media reports. ABC's World News Tonight (7/1, story 8, 3:00, Woodruff) reported, "O'Connor has often been called the most powerful woman in America, defining the law from abortion and affirmative action to sexual harassment and terrorism." CBS Evening News (7/1, lead story, 3:00, Roberts) reported, "She'd been leading the campaign lately to restore relations with Congress. Instead, it was apparently the love of her life that led Sandra Day O'Connor to step down today."

NBC Nightly News (7/1, lead story, Williams) reports, "In some of the most contentious cases, she often provided the critical fifth vote. She voted sometimes with the conservatives, approving taxpayer-funded vouchers for sending students to religious schools and ending the 2000 Florida recount between Bush and Gore. She sided with liberals to uphold affirmative action in college admissions, pushed states to create more voting districts with African American majorities, and upheld the Roe v. Wade decision on abortion."

The New York Times (7/2, A1, Greenhouse) in a front page story reports, "The phrase has been used so many times over so many years to describe the Supreme Court that it is nearly a cliché. Yet the simple words capture an equally simple truth: to find out where the court is on almost any given issue, look for Justice Sandra Day O'Connor." Whether "your issue is affirmative action, or religion, or federalism, or redistricting, or abortion, or constitutional due process in any of its many manifestations, you can assume that the fate of that issue is in her hands. Don't bother with doctrinaire assertions and bright-line rules."

The Washington Post (7/2, A1, Lane) in a front page story says, "During her 24-year tenure, the Republican and Democratic parties came increasingly under the influence of their ideological cores, and Washington grew deeply polarized between left and right." Yet, "O'Connor remained something of a throwback: a moderate Republican, known as a broker of compromises during her long-ago tenure as Arizona's Senate majority leader, who used her pivotal position on the court to keep the law under which all Americans must live from veering toward any extreme."

The Pittsburgh Post-Gazette (7/2, McGough) adds, "To the consternation of more ideological colleagues, especially Justice Antonin Scalia, O'Connor has become the arbiter of

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entire areas of constitutional law, including the role of religion in public life."

The Dallas Morning News (7/2, Pusey) reports, O'Connor "was routinely conservative in many of her votes. But her pragmatic approach made her an unexpected light for reproductive rights advocates, civil rights groups and death penalty opponents." The Washington Times (7/2, Dinan) adds that O'Connor "essentially setting the current legal standard on issues from abortion to religion to affirmative action." Knight Ridder (7/2, Henderson), Time (7/2, Stack), the AP (7/2, Gearan) and the AP (7/2, Yost) also reported on her pivotal role as a moderate on the Court and the Los Angeles Times (7/2) in a second editorial says "Her levelheaded common sense on the bench will be missed."

The Washington Post (7/2, C1, Gerhart, Roberts) in an article titled "A Dedication To Excellence From A Jurist Without Precedent" reports on her charm and style while a Justice. The Washington Post (7/2), the New York Times (7/2), Knight Ridder (7/2) and the AP (7/2) all published timelines of key decisions during O'Connor's career while the AP (7/2) includes a summary of quotes in reaction to her resignation.

Son Hints At Political Concerns Behind Retirement. The New York Times (7/2, Kornblut) reports, "Aside from Justice O'Connor's personal concerns, her son said that political calculations were almost certainly at play in her decision to step down." Brian O'Connor said, "There's no telling who will be our next president, and I just think, like so many of her decisions, it just kind of made sense. … And I think in some regards, the stars aligned, and it was just kind of time. … I don't think she would want to be an old 'hanger-oner.' And if she didn't do it now, she might have been there another 10 years, if you do the math, depending on what happens down the road with future presidential elections."

Speculation On Rehnquist's Future Continues. NBC Nightly News (7/1, story 2, 0:20, Williams) reports, "It was Rehnquist who had been the subject of most of the retirement rumors. There's one suggestion that if she's retired, she's clearly talked to the Chief Justice, they've known each other more than 50 years, and if she thought he was going to step down, perhaps she would have held back and deferred to him. There's a second thought, would the Chief Justice step down and create a huge confirmation battle with two vacancies. It suggests the chief wants to stay here as long as he can, as long as his health will let him." The New York Times (7/2, Stevenson) reports, "It is not clear whether Chief Justice Rehnquist, who is battling thyroid cancer, will step down this summer, expanding the confirmation battle to two fronts." The Los Angeles Times (7/2, Savage) reports, "While Rehnquist has said nothing in public of his plans, the justices and court staff who have watched him closely would not be surprised if he retired too."

But, Knight Ridder (7/2, Hutcheson, Henderson) reports, "A resignation announcement from Rehnquist would roil the waters even more, but that doesn't seem as likely as it did earlier this year. The 80-year-old chief justice has thyroid cancer but seems to have rallied recently and looks much less feeble than he did when he delivered the oath of office to Bush in January." The AP (7/2, Yen) also reported on Rehnquist.

Former President Clinton Suggests Increased Immigration Could Save Social Security. The AP (7/2, Hammer) reports, "Legalizing more immigrants would help bolster the Social Security system, former President Bill Clinton told the nation's largest Hispanic-rights organization Friday. 'Those of you who want immigration reform should use Social Security more,' Clinton said to…the League of United Latin American Citizens. 'If we legalize just 250,000 more immigrants a year, it would solve half of the shortfall in the Social Security Trust Fund.'"

Liberal Groups Utilizing Quirky Methods To Campaign Against Social Security Reform. The AP (7/2, Johnson) reports Rep. Bob Beauprez "will be confronted by waffles, be it breakfast, lunch or dinner." Rep. Nancy Johnson "will see her face plastered on an oversize milk carton." Rep. Jerry Weller will "be tailed by someone in a duck costume." The AP explains, "As House Republicans move ahead with plans to vote on Social Security changes this summer, a Democratic opposition group will use the July Fourth recess to pressure GOP lawmakers it believes are undecided about the legislation or susceptible to criticism from their constituents."

Drug Industry Said To Have Scored Major Victory With Passage Of CAFTA. The New York Times' Stephanie Saul (7/2) writes, "The sidewalk between the drug industry's headquarters in Washington and the United States trade representative's office has been taking a pounding from the wingtips of industry lobbyists. The work of these drug industry courtiers…appears to have succeeded in the Central American Free Trade Agreement. The agreement would extend the monopolies of drug makers and, critics say, lead to higher drug prices for the mostly impoverished people of the six Latin American countries it covers. … According to Representative Sherrod Brown, Democrat of Ohio, the trade agreement is an example of how the pharmaceutical lobby rarely loses on trade issues, often by quietly working behind the scenes."

Bush Names Kelliher New FERC Chairman. The Los Angeles Times/Bloomberg (7/2) reports Joseph Kelliher, "an advocate of expanded authority for regulators to police power markets, was named by President Bush to succeed Pat Wood as chairman of the Federal Energy Regulatory

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Commission." Bloomberg notes Kelliher "was on Bush's transition team before joining the commission in November 2003."

House And Senate Reach Compromise On Highway Funding. The Washington Post/AP (7/2, A6) reports, "House and Senate negotiators have agreed to a level of spending for highway and transit projects that is acceptable to the White House. The agreement clears a major hurdle in the two-year effort to develop a new federal transportation plan. … Congressional aides said the two sides have agreed on spending $286.5 billion over the six-year period ending in September 2009. The aides said the administration would accept that level. Yesterday, President Bush signed an extension of the previous transportation bill for the eighth time since it expired in 2003. The program was funded at $218 billion over six years. Congress has been unable to come up with a new bill, in part because lawmakers have sought significant increases in spending for transportation projects, drawing a veto threat from the White House over the cost of the bill."

BRAC Asks Rumsfeld To Review Closure Recommendations. The New York Times (7/2, Schmitt) reports, "The independent commission assessing the Pentagon's proposed list of domestic base closings directed Defense Secretary Donald H. Rumsfeld on Friday to justify more than a dozen of the recommendations, the first clear signal that the panel may alter some of the military's choices. In one case, the panel asked the Pentagon to explain why it did not recommend closing the naval shipyard at Pearl Harbor in Hawaii even though it is less efficient and had a lower military value than the military's choice for closure, the Portsmouth Naval Shipyard in Maine." The Times adds, "The commission's requests, contained in a seven-page letter from the panel chairman, Anthony J. Principi, came as federal investigators cautioned in a report issued on Friday that the Pentagon may have overstated the plan's estimated savings of $48.8 billion over 20 years. The review of the Pentagon's proposal by the Government Accountability Office found that 80 percent of the Pentagon's projected savings from base closings and consolidations came from only 10 percent of the recommendations and that nearly half the projected savings were from cuts in military jobs that in many cases would simply be reassigned to other areas."

The AP (7/2, Sidoti) reports, "Military bases in Hawaii and California are among several a commission is considering adding to Defense Secretary Donald H. Rumsfeld's list of proposed closures. In a letter sent Friday to the Pentagon chief, commission Chairman Anthony Principi identified additional bases the commission may recommend closing and seeks explanations for why the Pentagon decided to leave those facilities open. Specifically, the letter asks why Marine Corps Recruit Depot and the Navy Broadway Complex, both in San Diego, Calif., and the U.S. Naval Shipyard at Pearl Harbor, Hawaii, were not slated for closure. It also questions the Pentagon's decisions to downsize, rather than close, the Naval Air Station in Brunswick, Maine, Pope Air Force Base in North Carolina, and Grand Forks Air Force Base in North Dakota."

Mississippi Imposes Strict New Rules For Medicaid Recipients. The New York Times (7/2, Dewan) reports, "Starting Friday, most Medicaid recipients in Mississippi will be limited to five prescription drugs at a time, with no process for appeal. The cap appears to be the most restrictive in the nation, but is just one of many measures being taken by states seeking to rein in soaring Medicaid costs." Mississippi "is among many states moving aggressively to contain Medicaid costs, saying severe measures are necessary if the program is to continue. … In Mississippi, where more than a quarter of the population is on Medicaid, the cap includes a limit of two name-brand drugs. The only patients exempt from the rule are children, people in nursing homes and patients with H.I.V., who were given an 11th-hour reprieve because virtually none of the anti-viral drugs used were available in generic form. Gov. Haley Barbour, a Republican who backed steeper cuts to Medicaid than those enacted, said the Legislature had come up with the limit on prescription drugs on its own. But, he added, 'states are limited in their options as far as cost control.'"

Missouri Reduces Medicaid Benefits. Reuters (7/2, Gillam) reports, "Fending off a late courtroom challenge, Missouri implemented sweeping cuts in Medicaid on Friday, reducing benefits so sharply that critics called the moves among the most severe in the nation. The new Medicaid standards, championed by Missouri's new Republican Gov. Matt Blunt to avoid tax increases, trimmed Missouri's budget by $231 million, but are expected to cut more than 68,000 Missourians out of the Medicaid program over the next year. Under the new standards, a single mother of two children is deemed ineligible if she makes more than $350 a month, for instance. Previously, the income line was drawn at $1,050 a month. An estimated 24,000 children are expected to lose their benefits, dental coverage is being cut for adults, and disabled people are losing coverage for crutches and other aids."

The Kansas City Star (7/2, Wagar, Skodack) reports, "U.S. District Judge Nanette Laughrey issued an order late Thursday night denying the request for an injunction that would have allowed Medicaid coverage to continue. Laughrey said she would file her ruling outlining the reasons for her order at a later date."

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Maryland Faith-Base Tutoring Service Profiled. The Washington Times (7/2, Lively) reports, "Maryland's only faith-based tutoring service has found a home in a Bladensburg church where teachers are helping needy students improve their reading, writing and math skills. As about 100 elementary-school students yesterday concluded a two-week tutorial inside the St. Luke's Episcopal Church." The Times notes, "President Bush signed an executive order in December 2002 allowing federal money to be awarded to faith-based organizations through grants and contracts." The tutoring service "receives about $1,700 per student, so those who qualified for free or reduced school-lunch programs can receive the free tutoring."

Senate Approves Research On "Bunker Buster" Nuclear Warhead. The AP (7/2, Hebert) reports, The Senate on Friday agreed to revive the 'bunker-buster' program that Congress last year decided to kill. Administration officials have maintained that the country needs to try to develop a nuclear warhead that would be capable of destroying deeply buried targets including bunkers tunneled into solid rock. … The Senate early Friday voted 53-43 to include $4 million for research into the feasibility of a bunker-buster nuclear warhead. Earlier this year, the House refused to provide the money, so a final decision will have to be worked between the two chambers." The AP adds, "Supporters of the program said the $4 million does not signal development of any new warheads."

Senate Votes To Halt Funding Giant Laser. The New York Times (7/2, Broad) reports, "The Senate voted early yesterday morning to stop construction of the nation's costliest science project, a laser roughly the size of a football stadium that is meant to harness fusion, the process that powers the Sun. The project, the National Ignition Facility, or NIF (pronounced niff), is at the Lawrence Livermore National Laboratory in California and has cost $2.8 billion. About 80 percent complete, NIF is scheduled to be finished in 2009 at a cost of $3.5 billion and operate for three decades at an annual cost of $150 million, for a total of $8 billion. … The Bush administration backs the National Ignition Facility, and the Senate action could be reversed or modified later this summer in conference with the House."

Frist Calls On Drug Industry To Limit Advertising. The New York Times (7/2, Saul) reports Senate majority leader, Bill Frist, "called yesterday on the pharmaceutical industry to limit drug advertising directed at consumers, increasing the pressure on companies to curb such marketing." Frist "embraced an increasingly popular idea, a delay in advertising after a drug is introduced. He called for a two-year restriction. Proponents of a delay say it will give doctors time to understand how drugs work before patients begin asking for them, sometimes based on inflated claims."

US Consumers Remain Optimistic Despite Rise In The Price Of Oil. Bloomberg (7/2) reports, "U.S. manufacturing accelerated in June for the first time in seven months, consumer confidence rose and auto sales surged, supporting the Federal Reserve's view that the economy is weathering higher energy prices. … A separate report from the Commerce Department showed construction spending fell 0.9 percent in May, the third straight decrease. Government revisions switched four of the first five months of this year from gains to declines. Even so, construction in May was up 7 percent from the same time last year."

The New York Times (7/2) reports, "Crude oil rose more than $2 a barrel in New York yesterday, pulled higher by record heating-oil prices created by concern that refiners will not be able to meet peak demand during the winter. … Crude oil for August delivery rose $2.25, or 4 percent, to close at $58.75 a barrel on the New York Mercantile Exchange, the biggest gain since June 1. Heating oil for August delivery rose 7.5 cents, or 4.6 percent, to close at $1.7111 a gallon in New York. Gasoline for August delivery increased 8.27 cents, or 5.3 percent, to $1.6485 a gallon in New York, the biggest gain it has seen since Nov. 19."

Manufacturing Report Lifts Equities Markets. Bloomberg (7/2) reports, "U.S. stocks rose as a stronger-than- expected manufacturing report reinforced the Federal Reserve's suggestion that the economy can withstand higher interest rates. … The Standard & Poor's 500 Index added 3.11, or 0.3 percent, to 1194.44. The Dow Jones Industrial Average rose 28.47, or 0.3 percent, to 10,303.44. The Nasdaq Composite Index was little changed, up 0.41 at 2057.37. … For the week, the S&P 500 rose 0.2 percent. It gained 0.9 percent in the second quarter ended yesterday for the smallest quarterly move in three years. The Dow average finished this week 0.1 percent higher after completing the April through June period with a 2.2 percent drop. The Nasdaq Composite, up 0.2 percent for the week, climbed 2.9 percent in the quarter."

Dollar Reaches Thirteen Month High Against The Euro. The New York Times/AP (7/2, Press) reports, "The dollar reached a 13-month high against the euro yesterday after faster-than-expected expansion in manufacturing reinforced the view that the Federal Reserve would continue to raise interest rates. … In late trading in New York, the 12-country euro traded for $1.1947, after falling as low as $1.1941 earlier in the day. It was down from $1.2083 in New York late Thursday."

Bloomberg (7/2) reports, "Gains in the dollar began earlier today on signs the Federal Reserve will keep raising interest rates while central banks in Europe and Japan leave

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rates unchanged. The yen declined even after the Bank of Japan's Tankan survey showed business confidence rose more than expected."

OTHER NEWS:

Jury Awards Family $1.95 Million In Death Of Sportswriter Schaap. The New York Times (7/2, Jacobs) reports, "A jury found a cardiologist at Lenox Hill Hospital liable yesterday for the death of the sports journalist Dick Schaap after hip replacement surgery and awarded his family $1.95 million in compensatory damages." The Times continues, "The jury found that two other doctors at the hospital on the Upper East Side of Manhattan were not responsible even though they had been accused of failing to follow standard medical practice in caring for Mr. Schaap, who went into respiratory distress after the operation to replace his left hip. Mr. Schaap, 67, died on Dec. 21, 2001, three months after the surgery, having never left the hospital. His family had sought $21 million. … 'This case was never about the money,' his widow, Trish, said after the verdict. 'We felt that this was the only way to get hospitals to pay attention and to not sweep their mistakes under the rug.'" The Times adds, "The jury in State Supreme Court in Manhattan deliberated for nine days before finding that the cardiologist, Dr. Neil L. Coplan, was negligent. A lawyer for Dr. Coplan, Mark Aaronson, called the Schaap case 'junk science' and said he would appeal. 'The jury worked very, very hard, but they made a mistake,' he said. 'Dr. Coplan will be exonerated completely.' … The three-week trial focused on whether the medication that Mr. Schaap had been taking for years to treat an irregular heartbeat, amiodarone, had caused so much lung damage that his surgery should have been postponed. Thomas A. Moore, the Schaap family's lawyer, argued that Dr. Coplan never looked at a presurgery X-ray that, Mr. Moore said, hinted at the lung damage. The defense argued that no damage was evident."

US, Other G-8 Members Disagree On Global Warming. The Washington Post (7/2, Eilperin) says, "To hear President Bush's top environmental adviser tell it, Europe is coming around to the administration's approach to confronting global warming." However, the Post adds, "many European officials have a different take on the matter." Barbara Young, chief executive of Britain's Environment Agency, said that when it comes to Bush's climate change policy, "the amount of energy that goes into denying the case and not getting on with the job is just criminal." The Bush administration's "success so far in resisting its allies' calls for bolder measures to mitigate global warming -- such as mandatory emissions limits for greenhouse gases, concrete dollar commitments to new technology and specific energy efficiency targets -- is a testament to America's continuing power to shape the international agenda on climate change. In a consensus-oriented process, the most skeptical -- and most economically and politically powerful -- player, the United States, is largely dictating the terms of the debate." Other industrialized nations "acknowledge they have yet to win serious concessions from Bush."

Bush Feels Pressure Won't Be On Him At G8 Summit. The White House Bulletin/US News (7/1) reported, "President Bush feels that the pressure will be off when he attends the Group of Eight economic summit in Scotland next week. The president of the United States usually takes center stage at the annual conference, which brings together the leaders of the seven richest industrialized democracies and Russia. But this time, White House officials tell U.S. News and the Bulletin, the focus will be more diffuse. 'President Bush will not be the centerpiece of the drama this time,' says a senior Bush adviser. He points out that British Prime Minister Tony Blair has raised expectations that he will push through an agreement for a huge package of aid to Africa. The leaders differ on what to do about global warming. There are deep differences among the Europeans over the future of the European Union. And some leaders, notably those of France and Germany, are having serious political problems at home. Still, Bush has his own agenda. He will try to steer the discussions to topics such as the war on terrorism and the Mideast peace process, according to administration aides."

Scotland Prepares For G-8 Meeting. The Financial Times (7/2, Bolger) reports on Scotland's preparations for the upcoming G-8 summit. A five-mile security fence "has been erected around Gleneagles," and "steel barriers have also been put around the Scottish parliament and Holyrood Palace in Edinburgh, causing the Queen to change her holiday plans so as not to be in the city." The Los Angeles Times (7/2, Brown) adds that, by Sunday, "about 10,600 officers will be available as part of Operation Sorbus to provide security for President Bush, British Prime Minister Tony Blair and other leaders of the Group of 8 leading industrial nations as they gather Wednesday."

G-8 Nations Hammering Out Africa Relief. Reuters (7/1, Chambers) reports that officials "from the world's major industrialized nations launched last-ditch talks on Friday to try to help their leaders end differences and strike deals next week to lift Africa out of poverty and act on climate change." The US "opposes a more ambitious plan to increase aid by $50 billion by issuing bonds using future development budgets as collateral."

Live 8 Concerts Try To Change Leading Countries' Policies. Knight Ridder (7/2, Schofield) reports that Bob Geldof is back, "with a star-studded slate of concerts in 10 cities around the world. But raising money isn't the goal; changing the policy of the world's most powerful countries is."

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Live 8 is "timed to coincide with next week's meeting of the so-called Group of 8, a gathering of American, European and Asian leaders that begins Wednesday in Scotland," and is "is aimed at persuading them to cancel billions in African debt, increase aid to Africa by at least $50 billion and rewrite trade regulations to be more favorable to poor nations."

Europe Declared To Be In "Profound Crisis." Knight Ridder (7/2, Schofield) reports that because recent French and Dutch EU] votes "were seen as a rejection of European policy, the recent expansion, plans for future expansion and the implementation of the euro, member nation heads of state in June agreed to put any efforts to pass the constitution on hold for a year and declared that 'Europe is in a profound crisis.'"

EU Has Evolved For Over 50 Years. Knight Ridder (7/2, Schofield) says that "the beginning of what is now called the European Union is not traced so much to a single event, but through an evolution that lasted about 50 years." Knight Ridder quotes the official history of the EU as stating, "A number of European leaders became convinced that the only way to secure a lasting peace between their countries was to unite them economically and politically."

Documentary Captures Youth Despair In South Africa. The New York Times (7/2, Sandomir) reports on "Ithuteng," a documentary film about South African youth, which the Times calls "a raw but inspiring journey into the lives of teenagers ravaged by abuse, crime and AIDS." South African students "provided brutally candid narratives of their lives to the young American filmmakers, none more than Lebo, a girl who described being raped twice and contracting H.I.V."

Russia, China Issue Joint Declaration Supposedly Aimed At US. The Los Angeles Times (7/2, Holley) reports that Russia and China "on Friday issued a declaration demanding respect for the right of all countries to develop free of outside interference." Although the US is not mentioned directly, the Times says the declaration "shows that Moscow and Beijing 'don't quite believe the sincerity of the second Bush administration's attempts to break its image of being a proponent of unilateral actions and decisions,'" according to Andrei Kortunov, of the New Eurasia Foundation in Moscow.

US Resumes "Contact" With N Korea. AP2 (7/2, Schweid) reports that the US "has resumed contact with North Korea, but the talks at a security conference in New York have not produced a decision to reopen negotiations on Pyongyang's nuclear weapons program, the State Department said Friday." State Department spokesman Sean McCormack said the conference "dealt primarily with the Korean peninsula, and customarily at such events 'there is a natural exchange among the attendees.'" McCormack added, "We are still waiting to hear from North Korea a date when they will return to the six-party talks and engage in those talks in a constructive manner." Undersecretary of State Robert Joseph said "My sense is that the North Koreans will come back. … I hope in the near term." AFP (7/2) issued a similar report.

North Korea Demands That US Withdraw Remark. The AP2 (7/2, Lederer) reports that North Korea told the US that "it must withdraw its description of the communist nation as an 'outpost of tyranny' and treat Pyongyang as a friend if it wants nuclear talks to resume." Li Gun, North Korea's director general of North American affairs, "told reporters after a two-day conference on northeast Asian security that the next step is up to the Americans."

LAT Times Looks At North Korea Famine. The Los Angeles Times (7/2, Demick) says, "Although North Korea's pursuit of nuclear weapons has captured the world's attention, outsiders know relatively little about its people or the miseries they have endured since a famine in the mid-1990s wiped out an estimated 2 million people. In the rare instances in which foreigners are admitted to the totalitarian country, it is on strictly escorted tours of the capital, Pyongyang, and a few other carefully selected sites." To penetrate the secrecy, the Times "spoke at length in China and South Korea with more than 30 people from Chongjin, North Korea's third-largest city. Their stories from the streets, homes and workplaces present a portrait of the city and of daily life in a nation struggling with deprivation and change." Even with international aid, "many people go to bed wondering whether they will eat the next day. Residents, along with officials of the United Nations World Food Program, say food shortages have grown worse again in the last year."

No Evidence Found Linking Iran's President-Elect To Hostage-Takers. NBC Nightly News (7/1, story 6, :20, Williams) reports, "Last night, we led this broadcast with explosive charges from several Americans who were taken hostage at the U.S. embassy in Iran back in 1979. They claim one of their captors was the man recently elected as the president of Iran. Today, the White House said it has found no evidence so far to support those claims, though it will continue to look into the matter. Fifty-two Americans were held captive for 444 days, and the U.S. has not yet resumed diplomatic relations with Iran."

The Los Angeles Times (7/2, Miller) reports that US investigators "have concluded that Iranian president-elect Mahmoud Ahmadinejad is not the glowering Islamic militant seen escorting an American hostage in a 1979 photograph that was widely publicized this week." The Times says the conclusion "casts doubt on what had been considered a key piece of evidence indicating that Iran's new president was

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among the leaders of the group of students who seized control of the U.S. Embassy in Tehran and went on to hold 52 Americans hostage for 444 days." A US official familiar with the investigation of Ahmadinejad's role "stressed that the investigation was continuing and that it was 'still an open question' whether Ahmadinejad was involved in the hostage crisis. Analysis of the photos was just one of many avenues in what has become a multi-agency inquiry."

AP2 (7/2, Gearan) reports that the White House "said Friday it would not be surprised if the newly elected Iranian president turns out to have been a main participant in the holding of American hostages in Tehran a quarter century ago. But the administration said it was still trying to determine the facts." Presidential spokesman Scott McClellan said "I don't think it should be surprising to anyone if it turns out to be true."

In a New York Times (7/2, Slackman) piece profiling Ahmadinejad, the Times says that when asked whether he had been among the students "who sacked the United States Embassy in 1979 and held American hostages for 444 days," Ahmadinejad replied, "It's not true. … It is only rumors."

The Washington Times/AP (7/2, Dareini), in a front-page piece about the memories fading among students involved in the hostage crisis, reports that "the students who carried out the embassy takeover said Mr. Ahmadinejad didn't participate in the taking or holding of 52 American hostages for 444 days." If Ahmadinejad had been involved, he "likely would have played it up in his presidential campaign to increase his appeal to hard-liners, the only ones who might still be impressed, said Abbas Abdi, one of the student leaders."

Ahmadinejad Debate Evokes Bitter Memories For Some Former Hostages. The New York Times (7/2, Barringer, Brinkley) reports that the Ahmadinejad debate evokes memories in some former hostages, "including the betrayal felt by some when their lawsuit against Iran's government was blocked by the State and Justice Departments, which argued that compensation would violate the 1981 treaty that was the basis for the hostages' release." Department spokesman Sean McCormack said "I do want to say one thing, and that is to underscore the fact that we have not forgotten - we have not forgotten - the fact that 51 of our diplomats were held for 444 days, that they were taken hostage." Former hostage William Daugherty, responded: "Of course they haven't forgotten. They have challenged us at three levels of the federal court system and have challenged every piece of legislation that would allow us to sue Iran or to receive compensation in some way."

Abbas Makes Cabinet Overtures To Hamas. The Los Angeles Times (7/2, King) says that Palestinian Authority President Mahmoud Abbas "has made overtures to the Islamic militant group Hamas about joining his Cabinet in the near future." Hamas "has not yet said whether it is willing to accept such an invitation. However, in recent months the group has made clear its interest in mainstream electoral politics, and it intends to field candidates in parliamentary balloting this year." In Gaza, Hamas spokesman Sami abu Zuhri "said the militant group would announce its position on joining the government "at a suitable time." Until now, Hamas "has declined to take part in the Palestinian government, citing objections in principle to the interim peace accords that brought the Palestinian Authority into being more than a decade ago."

Germany's Parliament Votes Out Coalition. The Washington Post (7/2, A15, Whitlock) reports that the German Parliament approved Chancellor Gerhard Schroeder's "request to disband and hold national elections in September. If the president and Supreme Court sign off on the plan -- and that is not at all certain -- the elections would take place a year earlier than necessary; opinion polls predict that Schroeder and his coalition will lose." The Post notes that "the sense of defeatism that lingered in the Reichstag building in the capital reflected the political mood across Germany, where a majority of voters say they lack confidence in any of their leaders to address a host of pressing social and economic issues. These include the highest unemployment rate since World War II and a failure to erase cultural and income gaps between eastern Germany and the wealthier west."

The New York Times (7/2, Landler) adds, "With polls showing the chancellor's Social Democrats trailing the conservative opposition by nearly 20 percentage points, Mr. Schröder is already viewed by many here as a lame duck. The no-confidence vote added to the sense of a country on the cusp of a political change." The Los Angeles Times (7/2, Retzlaff) adds that conservative Christian Democrat Union leader Angela Merkel, who "is well-positioned to win in new elections, according to recent polls," and "who would be Germany's first female chancellor, supported Schroeder's decision to hold the no-confidence vote but denied that her party had obstructed reform." Pointing toward Schroeder, she said, "You were unable to tell the voters why the changes are necessary. That's why you have lost the last [regional] elections."

Chinese Harassed US Human Rights Activist. The Washington Post (7/2, Pan) reports, "Chinese authorities tried last week to detain an American human rights activist at an international conference in Beijing, prompting a tense standoff that ended after state security agents interrogated the woman in front of U.S. diplomats and two European ambassadors for more than an hour." The EU "has lodged a protest with the Chinese government over the incident, which occurred June 21 and disrupted a two-day seminar on human

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rights. The activist, Sharon Hom, had been invited by China to the conference organized by the E.U. and the Chinese Foreign Ministry." The Post says the episode "is the latest sign that Chinese President Hu Jintao has granted the country's security services greater authority to act against perceived threats to the party's grip on power."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — No schedule available.

VICE PRESIDENT CHENEY — No schedule available.

US Senate: -- No events scheduled.

US House: -- No events scheduled.

Other: ALL DAY

June 30 - July 3. SCHOOL NURSES CONFERENCE _ The National Association of School Nurses (NASN) holds its 37th Annual Conference. Location: Marriott Wardman Park Hotel, 2660 Woodley Road, NW. Contacts: n/a, 207-883-2117

July 1 - 5. OSCE PARLIAMENTARY ASSEMBLY _ The 14th Annual Session of the Organization for Security and Co-operation in Europe (OSCE) Parliamentary Assembly, whose participating states span the geographical area from Vancouver to Vladivostok, is held with the theme, ``30 Years Since Helsinki: Challenges Ahead." Location: JW Marriott Hotel, 14th St. and Pennsylvania Ave. NW.

AFTERNOON

12 p.m. - 1:30 p.m. LIVE 8 CONCERTS _ XM Satellite Radio holds a media availability for a behind-the-scenes look at the production of the Live 8 concert broadcasts in five countries to U.S. listeners. Location: XM Satellite Radio building, northeast Washington D.C. Contacts: David Butler, 202-380-4317

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"Justice O'Connor Retires; Direction Of Court Now Hangs In The Balance"
"Adding 1 Involves A Lot Of Variables"
"'We Need To Start Thinking Big Again'"
"A Centered Life"
"Where Cabbage Is King"

New York Times:

"O'Connor To Retire, Touching Off Battle Over Court"
"Losing Shirt At Casino Pool"
"After A Brief Shock, Advocates Quickly Mobilize"
"Consistently, A Pivotal Role"
"Armstrong Victory Formula: Ride Fast but Dodge Disaster"

Washington Post:

"O'Connor To Leave High Court"
"In The Center, Hers Was The Vote That Counted"
"Nomination Could Be Defining Moment For Bush"
"Agents Search Homes, Yacht Of Contractor, Congressman"
"U.S. Searches For Troops In NE Afghan Mountains."

Washington Times:

"The Battle For The Court Begins"
"Bush Revisits Options"
"Democrats Warn Bush To Consult"
"Charges Pending For Aruba Suspects"
"Legacy Of Embassy Seizure Fades"
"Tutors' Zeal Based On Faith"
"NASCAR Revs Up For New York Site"

Detroit Free Press:

"Battle Supreme"
"Discount Pumps Up GM Sales"
"Singer's Voice Put Romance In The Air"

Atlanta Journal-Constitution:

"Search For Justice"
"Absent Officers Hinder Courts"
"Sudden Explosive Impact"
"Alabama Group Says It And Reed Have Clean Hands"

Dallas Morning News:

"Groups Poised To Swing Left And Right"
"O'Connor Leaves Bench In Limbo"
"DPS Drill Left Man Paralyzed"
"Lancaster Won't Take W-H Kids"
"Grammy Winner Luther Vandross Dies"

Houston Chronicle:

"Battle Lines Forming To Replace O'Connor"
"Attorneys Behind Silicosis Suits Draw Judge's Wrath"
"Star Made Fans Swoon Over His Romantic R&B"
"The Court's First Woman Often Had The Final Say"
"He's Beat Cancer; Now, The Battle Is With History"

Story Lineup From Last Night's Network News:

ABC: O'Connor Retirement/Replacement; Replacing O'Connor; Interest Groups/SCOTUS Opening; Senate Confirmation Preview; Lost GIs In Afghanistan; Turkish Bomber; Scientology Drugs; O'Connor Profile.

CBS: O'Connor Profile; O'Connor Replacement; SCOTUS Polling; O'Connor Biography; FDA Warning; Soldiers Killed In Afghanistan; Credit Cards; Rock And Roll School.

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NBC: O'Connor Retirement; Rehnquist's Future; O'Connor's Replacement; Interest Groups/SCOTUS Opening; O'Connor Biography; Soldiers Missing In Afghanistan; Iran President-Elect Controversy; Live8; FDA Warning; Asthma.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: SATURDAY, JULY 2, 2005 7:45 AM EST

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TERRORISM NEWS:

Negroponte To Review Intelligence Changes (WP)

By Walter Pincus

The Washington Post, July 2, 2005

Director of National Intelligence John D. Negroponte will review changes made at the Army's National Ground Intelligence Center (NGIC) to address criticism by a presidential commission in March that found there was "gross failure" in the center's analysis of Iraqi arms in 2002, said Gen. Michael V. Hayden, Negroponte's deputy.

Two NGIC analysts, who since 2002 have received annual performance awards, judged in September 2002 that the aluminum tubes that Iraq was purchasing were "highly unlikely" to be used for rocket motor cases because of their "material and tolerances," according to the report of the president's commission on intelligence. The NGIC finding, which the commission termed "completely wrong," bolstered a CIA contention that the tubes were meant for nuclear centrifuges and were evidence that Saddam Hussein was reconstituting a nuclear weapons program.

The NGIC said it discovered its errors before the president's intelligence commission started its review, and as a result "instituted changes to training and procedures to improve analytic products," according to an Army statement delivered in answer to written questions from The Washington Post.

The two civilian analysts responsible for the tube analysis "were instrumental in developing that training and procedure improvement," the Army statement said.

Hayden told reporters Wednesday that the NGIC and two other intelligence agencies cited by the presidential commission -- the Defense Intelligence Agency Humint Service, which handles human intelligence, and the intelligence community's Center for Weapons Intelligence, Nonproliferation and Arms Control (WINPAC) -- would be held accountable for mistakes on prewar intelligence.

"They are doing their own look, and we will do our own," said Hayden, who added that the NGIC's activities fall under the DNI's purview. The House and Senate intelligence committees have also opened inquiries into the NGIC, according to congressional sources.

The NGIC has a staff of 900 full-time scientists, engineers, intelligence analysts and soldiers, with most of them at a relatively new facility near Charlottesville. It provides analyses of foreign armies, including scientific and technical work on their weapons.

Meanwhile, the NGIC has also been in the spotlight as a result of a controversy involving MZM Inc. MZM is a research company whose government contracting business has come under scrutiny after it was disclosed that its president, Mitchell J. Wade, purchased the California home of Rep. Randy "Duke" Cunningham (R-Calif.) for $1.6 million, but shortly thereafter sold it, taking a $700,000 loss.

Cunningham, a subcommittee chairman of the Permanent Select Committee on Intelligence and a member of the Defense subcommittee of the House Appropriations Committee, lived on a yacht owned by Wade docked in the Capital Yacht Club on the Potomac River.

A federal investigation is underway covering the Wade-Cunningham house sale, which the congressman last week acknowledged showed "poor judgment."

On Oct. 18, 2002, MZM got the first of what would grow to be a series of orders for NGIC work. This initial one was for a seven-week, $194,000 study analyzing a computer program concept called "FIRES," according to material provided by the Pentagon. FIRES was a program first suggested by an NGIC employee who believed that if U.S. operatives around the world collected blueprints of important buildings worldwide, an important intelligence database could be developed.

At the time, the NGIC's senior civilian employee and executive director was William S. Rich Jr. Rich had been the top civilian official at the NGIC since its inception in 1994. In September 2003, Rich retired from the NGIC and thereafter went to

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work as senior executive vice president for strategic intelligence for MZM, according to former NGIC colleagues and Pentagon documents. Rich has not returned telephone calls, and MZM has refused to comment on its NGIC work.

Other NGIC employees have been hired by MZM. The former sergeant major at the NGIC, George A. Peeterse, is an MZM vice president. Contacted by telephone at home last week, Peeterse declined to discuss MZM or the NGIC. "We have been told to refer all questions to MZM headquarters in Washington," he said.

Pakistan Nabs 3 With Alleged Terror Links (AP)

Associated Press, July 2, 2005

ISLAMABAD, Pakistan (AP) -- Three men suspected of ties to Osama bin Laden's terror network have been arrested in Pakistan, a major newspaper reported Friday.

The suspects were traveling in a vehicle when they were caught Thursday in Mardan, a deeply conservative town in northwestern Pakistan, according to The Jang, Pakistan's largest circulation newspaper.

That is the same region where Pakistani intelligence agents on May 2 caught Abu Farraj al-Libbi, reputedly No. 3 in the al-Qaida terror network.

The Jang said an army officer supervised this operation, but gave no other details.

Sept. 11 Suspect Who Fled Germany Before The Attacks Writes Wife He Won't Return (FINDLAW/AP)

By Claus-peter Tiemann, Associated Press Writer

Find Law, July 2, 2005

(AP) - HAMBURG, Germany-A Sept. 11 suspect who fled his native Germany before the attacks told his wife in an e-mail he would not return for fear of being handed over to U.S. authorities, according to evidence presented at a trial Friday.

Said Bahaji is wanted on an international arrest warrant by Germany on suspicion he helped Sept. 11 suicide pilots Mohamed Atta, Marwan al-Shehhi and Ziad Jarrah as they plotted in Hamburg.

He fled the northern port city shortly before the Sept. 11 attacks and is believed to be in Pakistan or Afghanistan.

His e-mails, intercepted by German security services, were read aloud in the retrial of Mounir el Motassadeq, 31, who is also accused of providing logistical support to the Hamburg al-Qaida cell.

"Nobody can guarantee that I won't land in Guantanamo," Bahaji wrote to his wife in a March 12, 2005 e-mail, referring to the U.S. detention center in Cuba. "I won't turn myself in," he said in another.

In an earlier e-mail, Bahaji seemed to be trying to convince his wife to join him.

"Life with the unbelievers is terrible," he wrote in March, 2004, referring to Germany. "The situation here is good, that means one can live well here."

Other e-mails from Bahaji, a German whose father is Moroccan, have been read out previously in the proceedings against el Motassadeq, as prosecutors try to establish el Motassadeq's connection to the Hamburg cell.

El Motassadeq was convicted in 2003 of more than 3,000 counts of accessory to murder and membership in a terrorist organization and sentenced to the maximum 15 years. But the conviction was thrown out last year and a retrial was ordered after an appeals court ruled unfairly denied testimony by key al-Qaida suspects in U.S. custody.

A verdict in the retrial is expected in August.

AP: Documents Show Gitmo Inmates Defy U.S. (AP-Y2)

By Ben Fox, Associated Press Writer

AP2, July 2, 2005

Military authorities have previously disclosed some incidents of guard retaliation at Guantanamo Bay, which resulted in mostly minor disciplinary proceedings. What emerges from 278 pages of documents obtained by The Associated Press is the degree of defiance by the terrorism suspects at Guantanamo.

The prisoners banged on their cells to protest the heat. They doused guards with whatever liquid was handy — from spit to urine. Sometimes they struck their jailers, one swinging a steel chair at a military police officer.

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And the American MPs at times retaliated with force — punches, pepper spray and a splash of cleaning fluid in the face, according to the newly released documents that detail military investigations and eyewitness accounts of alleged abuse.

Some prisoners at the U.S. base in eastern Cuba have gone on the attack, as in April 2003 when a detainee got out of his cell during a search for contraband food and knocked out a guard's tooth with a punch to the mouth and bit him before he was subdued by MPs. One soldier delivered two blows to the inmate's head with a handheld radio, the documents show.

"Several guards were trying to hold down the detainee who was putting up heavy resistance," recounted a translator who saw the incident. "The detainee was covered in blood as were some of the guards."

The soldier who struck the inmate, and was dropped in rank to private first class as a result, described it as a close call. "The detainee was fighting as if he really wanted to hurt us. ... We all saved each other's lives in my opinion," he wrote.

The documents, obtained under a Freedom of Information Act lawsuit filed by AP, are far from a comprehensive look at Guantanamo and do not provide full details about each incident.

Names and some other identifying details have been blacked out by military censors. Handwriting at times isn't legible and pages appear to be missing or out of sequence. In some cases, it is not possible to decipher who did what to whom. Disciplinary measures against the troops were either relatively minor or unclear in some reports.

The internal investigative reports do, however, provide a snapshot of life behind the wire at Guantanamo, depicting a tense, hostile and sometimes chaotic place.

In one of the more serious incidents described in the documents, detainees told guards that an MP threw the cleaning liquid Pine-Sol in the eyes of a prisoner in the middle of one night in January 2004. In a written statement, another soldier said he came in immediately afterward to find what smelled like cleaning liquid dripping from the cell.

"The detainee could be seen rubbing his eyes intensely and moaning in pain," he said.

Documents show that the guard, from the 661st Military Police Company, did not admit throwing the cleaning fluid when questioned about it that night but did say the detainee had spit on him, and may have thrown urine.

A medic on the cell block flushed the detainee's eyes with water, a witness said.

A Department of Defense investigative memo written six months later concluded the soldier had mistreated detainees twice — the second offense involved cursing at inmates — and that his superiors failed to report either episode.

Investigators recommended disciplinary action against the soldier and a probe into why the incident wasn't reported up the chain of command, but the outcome is unclear from the papers.

In a statement to investigators, one service member said he hadn't seen the Pine-Sol incident but noted that U.S. personnel have been taught to use restraint with detainees: "The training we have received here at Guantanamo Bay has always stressed ... that no matter what happens on the block do not retaliate ... it will just get you into trouble."

Still, tensions between prisoners and guards have been high since the first suspects arrived in early 2002, hooded and shackled, mostly from the battlefields of Afghanistan.

The detainees' defiance discussed in the documents ranged from mild — prisoners getting matching haircuts in a show of solidarity or refusing orders to stop practicing martial arts in the exercise yard — to hostile acts like spitting or throwing unknown liquids at the MPs. One soldier used pepper spray on prisoners because, he said in a report to superiors, he feared that the unknown liquids hurled could pose a health danger.

One soldier told military investigators he punched a detainee's face because the man spit at him and hit him as he tried to put him in restraints at the prison hospital in October 2004.

"My instincts took over after the hitting and spitting," said the soldier. Documents show authorities recommended that the punishment include reduction in rank to E-4, loss of a month's pay and extra duty for 45 days, though the outcome is unclear.

In the prison camp's early days, inmates showed their anger over the heat and the practice of leaving lights on in their cells at night by banging on the bars throughout one guard shift in September 2002, the documents say. One detainee who was believed to be leading the protest threw what an MP said smelled like water from the toilet on him. The MP tried to spray water from a hose in response, but the detainee blocked it with a mat.

The guard who tried to spray the detainee was charged with assault, given a reduction in rank to private first class, which was suspended, and reassigned to other duties at Guantanamo.

In another case, an inmate threw a partially full urine bottle at an MP in May 2002, apparently because he believed the soldier had intentionally kicked his hospital bed. When the soldier threw the urinal back, the detainee grabbed a steel chair and swung it at guards before they subdued him.

A military witness defended the MP, writing: "I believe (name deleted) to be a good and honest soldier ... and just influenced by negative elements among us." The documents don't make clear what punishment, if any, the MP got.

Military officials at Guantanamo did not respond this week to questions about relations between guards and detainees at the camp, which has held some 700 prisoners from 45 countries since it opened. There are about 540 detainees there now.

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EDITOR'S NOTE: This story is based on information contained in 278 pages of U.S. military documents dealing with investigations of alleged abuse of prisoners at Guantanamo Bay. The Associated Press obtained the documents under a Freedom of Information lawsuit.

Guantanamo Fuels Hatred And Boosts Al Qaeda -report (REU-Y2)

By Sabina Zawadzki

Reuters, July 2, 2005

The United States must close Guantanamo prison, where its treatment of some 500 terrorism suspects encourages hatred toward the West and bolsters Muslim membership of the al Qaeda network, a new report concludes.

The Organization for Security and Cooperation in Europe (OSCE) commissioned the report from its human rights representative, Belgian senate president Anne-Marie Lizin, and will vote next week whether to accept its findings.

"A generation of young Muslims, fed on the images of Abu Ghraib, of the treatment reserved for the Guantanamo detainees and rumors about profanation of the Koran, will have filled the al Qaeda ranks and those of other extremist groups," said the report made public on Friday.

"The longer the detention is in the camps the more the hatred against the U.S. and the West becomes anchored in hearts and minds," it said.

"Being fully aware of the U.S. authorities' dilemma between national and world security and long procedures, we recommend terminating the Guantanamo detention facility by announcing a calendar of closure."

In June, the U.S. military described cases of mishandling of the Koran by U.S. personnel at Guantanamo naval base in Cuba, including splashing it with urine and kicking it. Muslims view the Koran as the literal word of God.

U.S. UNDER PRESSURE

The U.S. government, increasingly under pressure at home to close the prison down, has said it is key to protecting the country from further attacks. Last week it said it was addressing abuse claims and holding prison staff to account.

The OSCE, consisting of 55 member nations from Europe, North America and the former Soviet republics, is an organization that aims to maintain security and flag conflicts and human rights issues in its region. The United States is a member.

Guantanamo mostly holds prisoners scooped up in Afghanistan during the U.S. offensive there in retaliation for the Sept. 11 al Qaeda attacks on the United States.

Human rights groups as well as institutions such as the European Parliament and the Council of Europe have criticized the United States for holding detainees there for indefinite periods and not assigning them "prisoner of war" status.

Instead, suspects are labeled "enemy combatants," something the new report called a legal nonentity under international law. If charged with crimes, they stand in front of a military tribunal which can demand capital punishment.

On Thursday, Lizin made news this week when she canceled a meeting in Brussels with the Iranian parliament speaker after the visitor, a strict observer of Islam, said he would not shake hands with the female senate president.

Italian Leader Chastises U.S. In Kidnapping Case In Milan (NYT)

By Elisabetta Povoledo, International Herald Tribune

The New York Times, July 2, 2005

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Prime Minister Silvio Berlusconi demanded Friday that the United States show "full respect" for Italian sovereignty, after summoning the American ambassador and asking him to explain the reported abduction of a Muslim cleric by people associated with the C.I.A.

Mr. Berlusconi told the ambassador, Mel Sembler, that he "demanded full respect for Italian sovereignty from the United States," according to a curt statement released by the prime minister's office. He also reassured Mr. Sembler that relations between the countries remained strong.

Mr. Sembler confirmed to Mr. Berlusconi that the American government's respect was "complete and total, and won't be neglected in the future," the statement read.

Mr. Sembler was summoned to discuss the disappearance of Hassan Mustafa Osama Nasr, or Abu Omar, a Muslim cleric who was seized on a street in Milan in February 2003.

Last week, an Italian judge ordered the arrest of 13 people linked to the Central Intelligence Agency on charges of kidnapping Mr. Nasr and flying him to Egypt, where he is still in prison, according to friends. At the time of his disappearance, Mr. Nasr was being investigated by Italian law enforcement officials for possible links to Al Qaeda.

Armando Spataro, the chief prosecutor investigating Mr. Nasr's disappearance, asked a Milanese court on Friday to reassess the position of another six Americans reportedly involved in the abduction, and to issue arrest warrants for them.

The initial arrest warrants placed Mr. Berlusconi's government - which has supported the Bush administration in the Iraq war - in a tight political spot. The war is highly unpopular here, and opponents have jumped on the incident, calling it a major embarrassment whether the government had advance notice or not, and demanding a clarification of the relationship between the United States and Italy.

The rapport between the countries was much strained in March, when United States troops in Baghdad killed an Italian intelligence agent, Nicola Calipari, as he was taking an Italian hostage he had just helped free to the airport. The two governments were not able to agree on what happened that night, and have issued contradictory reports.

On Thursday, Carlo Giovanardi, minister for relations with Parliament, told Parliament that the government had not known anything about the kidnapping in Milan.

Italian opposition leaders dismissed the meeting on Friday as a waste of time. "Berlusconi and Sembler could have spared us this farce," said Pietro Folena of the center-left Olive Tree coalition. The Americans, he said, "hide the truth about Calipari, kidnap presumed terrorists and then give no explanations."

US Wraps Up Joint Military Exercises In Sahara States (AFP)

AFP, July 2, 2005

The US military has wrapped up three weeks of joint exercises in five Sahara nations aimed at honing the skills of the African militaries in a push to prevent remote desert zones from becoming terrorist havens.

Nearly 800 troops under the US European Command (EUCOM) joined the exercises begun June 6 in Mali, Niger, Chad, Mauritania and Algeria and dubbed Operation Flintlock.

More than 2,000 African troops jumped out of C-130 transport planes, practiced marksmanship, learned about "law of the land" warfare tactics that preserve basic human rights during combat and studied orienteering, a US officer said Friday.

"Right now they are more focused on survival than going on the offense, so there needs to be a greater investment of time and energy with the nations on all levels," US Army Major John Silkman told AFP by telephone from Germany, where EUCOM is based.

"Their basic skills were rudimentary, but they understood the immediacy of the situation and the legitimacy of what we are trying to do to help protect their citizens within their borders," Silkman said.

"But we delivered the training we said we would, the countries said they were satisfied and we've built strong relationships. That to me means success."

Military officials from Senegal, Nigeria, Morocco and Tunisia also participated in an anti-terrorism scenario exercise in Dakar that required military cooperation to solve.

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Only days before the exercises began, insurgents attacked a Mauritanian military base in the remote northeast on the border with Mali and Algeria, killing some 15 people and injuring 17, according to a Mauritanian government toll.

The raid was claimed by the hardline Algerian Salafist Group for Preaching and Combat, which has links to Al-Qaeda and is known to have sent insurgents to the front lines of combat in Afghanistan and Iraq.

Such perceived threats have spurred an increase in US military funding to the Sahara states, which include the world's poorest countries and lack the high-tech equipment used by more sophisticated armies.

From 2007, the United States aims to fund a new Trans-Saharan Counter-terrorism Initiative for 100 million dollars annually for five years to boost the capacity of the region's armed forces.

But such a militaristic response to the terror threat, without a complementary effort to end the poverty that is among the factors pushing young people towards insurgency, could backfire on the United States, critics such as the International Crisis Group thinktank have warned.

Other US exercises planned in coming months include an aerial training session in internal defense with the Nigerian air force set for late August and a naval exercise in the Gulf of Guinea.

"We have to find common solutions to common problems, and help African countries build better counter-terrorism forces," Silkman said.

"There is no denying the strategic importance of the region and we are only at the beginning of what we need to do here."

Overpopulation Seen Spawning Terrorism (WT)

By Raza Naqvi

The Washington Times, July 2, 2005

A report released Thursday by the Population Institute links increases in global terrorism to "unprecedented" population growth in the past 50 years.

Speaking at a press briefing, Werner Fornos, president of the Population Institute, said if population growth remains unchecked in certain regions there could be "serious security consequences" for that region and others surrounding it. Yemen, Palestinian territories and Afghanistan, breeding grounds for Islamic terrorists, have some of the highest growth rates in the world, he added.

"Particularly in Palestine, many women turn suicide bombers," Mr. Fornos said. "[Population congestion] leaves young women convinced this is what they need to be active in."

According to the Population Institute report, entitled "Breeding Insecurity: Global Security Implications of Rapid Population Growth," the world's population will increase from 6.5 billion today to 9.1 billion by 2050, with most of the increase occurring in developing countries.

Aside from the security threat, the Population Institute's report highlighted a number of other political crises that could mushroom into global security threats.

"Revolution and other manifestations of political unrest are likely to originate within groups of youth looking to change the current political system," Mr. Fornos said. The report says 40 percent of the world's population is under the age of 20, the vast majority of whom live in developing countries.

The other major concern arising from population growth is the scarcity of fresh water to support it.

"Currently, about a third of the developing world's population lives in countries with severe water stress," the report states. "As the populations of countries sharing water grows, water shortages will become inevitable."

Mr. Fornos added that the world's population currently has to share 1 percent of the Earth's water supply.

The report cites a number of government reports since the Nixon era that have linked overpopulation to potential terrorist breeding grounds. According to the Population Institute study, "Vice President George H.W. Bush's 1976 task force on terrorism report, youth bulges and youth unemployment were recognized as demographic detriments of terrorism." Youth bulges are caused by "the combination of high fertility rates and declining infant mortality rates," both symptomatic of excess population growth.

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The issue of population growth is not receiving the attention it merits, according to Mr. Fornos. At a poorly attended press conference, he regretted not being invited to the White House and other Washington policy institutes.

"Terrorism is not the major problem in the world today," he said. "Terrorism and population growth are important."

The United Nations Population Fund recommended $1.5 billion is needed to adequately tackle the problem , but last year's contribution to the U.N. fund was only $500 million, ironically the largest single contribution to date.

PATRIOT ACT:

Patriot Misfire (WP)

The Washington Post, July 2, 2005

THE VOTE BY the House of Representatives last month to block use of a provision of the USA Patriot Act against libraries and bookstores sends a powerful message of bipartisan anxiety about the Bush administration's approach to terrorism. Unfortunately, that message is something of a misfire. Attached to an appropriations bill, the amendment by Rep. Bernard Sanders (I-Vt.) responds to a provision that, while imperfect, makes a good deal of sense and about which there is no evidence of abuse. The administration's response was characteristically hyperbolic: The Justice Department warned that Mr. Sanders's amendment would carve out "bookstores and libraries . . . as safe havens for terrorists and spies, who have, in fact, used public libraries to do research and communicate with their co-conspirators." But on the merits, the provision is not one that merits particular concern -- and a spending bill, in any event, is a ridiculous means of improving it.

The provision in question, Section 215 of the Patriot Act, allows the FBI to get an order from a special court in national security cases to force the production of business records and other documents. The provision does not deal specifically with libraries or bookstores; indeed, the Justice Department says it has never used it to get library or bookstore records and, as of the end of March, had used it only 35 times for any purpose. What's more, the power it grants is largely redundant; the FBI can get that same material using a grand jury subpoena. Although there are procedural differences between the two mechanisms, these differences do not seem hugely significant either from an investigative or from a civil liberties point of view. In fact, in some respects, the procedure under Section 215 is more protective than a conventional subpoena.

Section 215, which, like the rest of the Patriot Act, was passed in haste, could stand improvement. The mechanism for challenging an order under it in court should be made explicit, for example, and it ought to be clarified so that the secrecy associated with orders issued under it does not impede communication between a recipient and his or her lawyer. But the department supports such changes, which would merely codify rules it already observes in practice.

Even if cutting off money were a reasonable way to improve the law, the substance of Mr. Sanders's amendment makes little sense. The amendment would prohibit spending on Section 215 orders for records from libraries or bookstores. But the privacy interest in such records, while real, is not obviously stronger than the comparable privacy interest in medical, credit card or other business records. And, of course, barring production orders under the Patriot Act would not protect libraries from having to turn over those same records under other laws.

If this vote signals that the House of Representatives is truly interested in acting to protect civil liberties, a whole host of issues awaits its attention. But Section 215 of the Patriot Act shouldn't be high on its list.

HOMELAND RESPONSE:

Mall Crowd To Undergo 'Emergency' Evacuation (WP)

By Paul Schwartzman

The Washington Post, July 2, 2005

The sprawling crowds on the Mall for Monday's July 4 fireworks display will participate in the first major test of Washington's downtown emergency evacuation routes since the Sept. 11, 2001, terrorist attacks, officials said yesterday.

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Starting 15 minutes after the fireworks show ends, police officers are to direct tens of thousands of pedestrians and motorists leaving the Mall to seven evacuation routes, in which green and red traffic signals will be extended to four minutes. The test will last 45 minutes.

"This is a major step forward in emergency transportation planning, which we hope we never have to use for real," Dan Tangherlini, the District's director of transportation, said in a statement, adding that the test "will show how traffic and pedestrians are affected and how our transportation systems work in an emergency."

The routes in "Operation Fast Forward" include Constitution Avenue between 15th and 23rd streets NW; Independence Avenue between Third Street and Washington Avenue SW; and 14th Street between Pennsylvania Avenue NW and C Street SW.

Department of Transportation officials will observe the evacuation from the command center in the Frank D. Reeves Municipal Center on 14th Street NW, watching televised images from some 50 traffic cameras at the intersections. To replicate emergency conditions, officials will alter the timing of the traffic signals using laptop computers.

Douglas Noble, the department's chief traffic engineer, said the agency will view the test as a success if "we have an uneventful and quick exiting for people leaving the event. We will have collected information in terms of how well this works in getting people out of the city."

Law enforcement and transportation officials across the region have struggled since 2001 with the logistics of evacuating Washington during a terrorist attack. Concluding that the region's roads and transit network cannot accommodate an evacuation of the entire city, officials have focused on moving smaller groups from specific locations.

Metro estimates that more than 300,000 spectators traveled underground to last year's Fourth of July celebration, which was marred by rain. More than 500,000 people rode Metro to the fireworks display the year before.

About 125,000 vehicles -- more than a sixth of the number that drive city streets during a weekday rush hour -- are expected to travel downtown for the event, said John B. Townsend II, a spokesman for AAA Mid-Atlantic.

Recalling the panic downtown on Sept. 11 as people tried to leave the city, Townsend said that conducting the test on a holiday weekend is an effective way to "approximate what you have on a good workday in D.C."

The test would help motorists leave the area more quickly, he said, as well as demonstrate how officials can improve evacuation plans.

"It's a litmus test for how the situation will work during an emergency," he said.

The list of downtown evacuation routes also includes Ninth Street between Pennsylvania Avenue NW and Interstate 395; South Capitol Street between Washington Avenue and M Street; Washington Avenue between Independence Avenue SW and South Capitol Street; and Third Street between Constitution Avenue NW and Independence Avenue SW.

Protocol Changes Still Have Loopholes (WT)

By Robert Redding Jr.

The Washington Times, July 2, 2005

A top D.C. official said a newly created federal emergency protocol will not resolve communications problems between city officials and the U.S. Capitol Police, which is headed by the Metropolitan Police Department's former No. 2 officer.

Edward D. Reiskin, deputy mayor for public safety and justice, said the protocol establishes notification procedures between the Department of Homeland Security and D.C. officials.

But an evacuation of the Capitol on Wednesday and a similar incident in May that left city officials in the dark were directed by Capitol Police, who do not figure in the protocol.

"They don't control the legislative branch," Mr. Reiskin said. "It's a totally different animal of government. It's not monolithic."

Capitol Police Chief Terrance W. Gainer has not returned calls requesting comment. He was the executive assistant chief of the Metropolitan Police Department from 1999 to 2002, when he took charge of the force that secures congressional buildings.

According to the new protocol, a police officer at Homeland Security's Operations Center is supposed to contact the police department, which then contacts the D.C. Emergency Management Agency (EMA). The EMA then notifies the mayor and other city officials.

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D.C. fire department spokesman Alan Etter said Wednesday that the FBI notified the head of his department, and Metropolitan Police Chief Charles H. Ramsey said he learned of the event after receiving a page from police headquarters.

Chief Ramsey said he now is considering placing a police officer at the Capitol Police command center, in addition to an extra officer at Homeland Security's Operations Center and one at the Transportation Security Administration.

Mr. Reiskin yesterday said he did not know why a communications line between Capitol Police and EMA did not work or was not monitored on Wednesday.

The same line was described as being a live feed by EMA Director Barbara Childs-Pair last month.

Mr. Reiskin offered no details about the protocol's revisions, which D.C. officials submitted Thursday to Homeland Security.

"We expanded it," he said. "What they had originally put in place was specifically for airspace violations. We just made it a little more generic to cover all violations."

Homeland Security officials could not be reached for comment.

This is the first time there has been a major revision of the protocol between the District and Homeland Security since the department was established following the September 11 terrorist attacks.

On Wednesday, a private plane drifted into restricted D.C. airspace, prompting an evacuation of federal buildings. A similar event occurred May 11.

It was not clear yesterday whether the pilot of Wednesday's errant flight, Scott Murwin of Athens, Ga., will face charges.

WAR NEWS:

President Visits Injured Troops (WP/AP)

The Washington Post, July 2, 2005

President Bush expressed his gratitude to the nation's men and women in uniform yesterday, praising them for "laying the foundation for peace for generations to come."

Bush visited 37 soldiers wounded in Iraq and Afghanistan and being treated at Walter Reed Army Medical Center in Washington.

"Every time I come here, I am struck by the remarkable resolve and courage of the men and women who are treated here," he said.

Presidential spokesman Scott McClellan said one soldier who had lost a leg struggled to rise so that he could stand at attention to salute Bush. The president "shared some tearful moments with the family members of the soldiers. He also shared some laughs with them and a lot of hugs," McClellan said.

Bush spent an hour and a half going from room to room, meeting with the soldiers and their families.

Afterward, he urged Americans to celebrate the Fourth of July holiday by showing their support for U.S. servicemen and women. He suggested flying the American flag or writing a letter to a soldier overseas.

Bush also awarded five Purple Hearts to four soldiers -- one was wounded twice and received two awards.

Bush's visit comes three days after he rejected calls from critics to set a timetable for withdrawing troops from Iraq. During his speech to the nation Tuesday night, he also urged Americans to be patient in the face of fading support from the public.

Walter Reed has treated more than 4,200 patients from the Iraq war, 1,150 of them with combat injuries, and more than 300 wounded troops from Afghanistan.

Gunmen In Iraq Kill Aide To Cleric (WP)

By Andy Mosher

The Washington Post, July 2, 2005

Gunmen assassinated an aide to Iraq's most prominent Shiite Muslim cleric on a street in central Baghdad on Friday, and a Sunni Muslim cleric was kidnapped shortly after in the same neighborhood, according to Iraqi security officials.

In the face of these and other sectarian attacks, Muslim preachers used sermons at Friday mosque services to call for an end to violence.

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Police said Kamaleddin Ghuraifi, a Baghdad representative of Grand Ayatollah Ali Sistani, was gunned down on his way to Friday prayers at al-Doreen Mosque on Haifa Street, a dangerous area where Iraqi and U.S. officials say order is gradually being restored by Iraqi security forces. Two of Ghuraifi's bodyguards also were killed, according to a spokesman at Sistani's headquarters in Najaf, the Shiite holy city 90 miles south of Baghdad.

"We cannot protect every scholar of Sistani. They number in the thousands," the spokesman said. "We accuse the extremists. This is not the first time they have targeted a Sistani scholar."

Later, gunmen entered a nearby Sunni mosque during Friday prayers and abducted the preacher, Amr Tikriti, police 1st Lt. Mohammed Hiyani told the Associated Press. It was not clear whether the kidnapping was related to Ghuraifi's killing.

Also on Friday morning, a driver detonated a car bomb outside an office of Prime Minister Ibrahim Jafari's Dawa party, one of the principal groups in the Shiite coalition that holds a majority of the seats in Iraq's National Assembly. The attack killed the driver of the car and a bystander.

Conflict between Iraq's majority Shiites and the Sunni Arab minority that wielded power until the fall of President Saddam Hussein in 2003 has flared since Jafari's Shiite-led government was formed in April.

The country's nearly two-year-old insurgency, which is driven by Sunni religious radicals and secular Sunnis loyal to Hussein, has included assassinations of political and religious leaders in the Shiite community as well as bomb attacks on Shiite neighborhoods. Sunni leaders have accused the Shiite-dominated security forces of using security crackdowns to settle sectarian scores.

Since mid-June, Shiites have suffered the brunt of the violence. Another Sistani representative, Samir Baghdadi, was shot dead last week in Baghdad, and on Tuesday, Dhari Fayadh, a Shiite and the oldest member of the National Assembly, was killed by a suicide bomber.

"The sectarian war is escalating, and the objective is to draw the Shiites into civil war," warned Jalaladeen Sagheer, a Shiite cleric, in his Friday sermon at Baghdad's Buratha Mosque. He urged listeners not to use violence, because "if catastrophe struck, it would devastate everything. No one will benefit from it except the enemies of Iraq."

In the southern city of Karbala, another Shiite cleric, Mohammad Hussein Almeedy, denounced the insurgents' tactics. "What is the moral and religious justification for killing innocent Iraqis who are Muslims?" Almeedy asked in his sermon. "How can they justify the killing of women, children and old persons?"

Efforts by U.S. and Iraqi military forces to drive insurgents out of towns in western Iraq continued Friday. About 1,000 U.S. Marines, soldiers and sailors and 100 Iraqi troops conducted a fourth day of search operations in the town of Hit, about 95 miles northwest of Baghdad. The Marines said in a statement that the push, called Operation Sword, was continuing to meet little resistance.

Less than a mile north of Hit, the statement said, Marines and sailors found 15 roadside bombs -- 13 of them placed along an 800-yard stretch of road. "The insurgents had attempted to attach several of the bombs together in order to make a larger explosion and increase the blast radius of the bombs," the statement said.

In Ramadi, a city 60 miles west of Baghdad, residents directed police to a spot where the bodies of three men -- described as a Saudi, a Jordanian and a Kuwaiti -- had been dumped out of a pickup truck, according to Iraqi army 1st Lt. Hussein Fadhil Alwan. The residents said the dead men were members of al Qaeda in Iraq, the guerrilla group led by Abu Musab Zarqawi.

Later, a statement posted at a mosque in Ramadi by Zarqawi's group accused a local tribe of the killings and warned: "We promise a fast and very swift punishment for this tribe because of what they did. They are apostates from Islam -- they should be killed."

Top Shiite Cleric's Aide Killed, And Shiite Office Attacked (NYT)

By James Glanz

The New York Times, July 2, 2005

A senior aide to Grand Ayatollah Ali al-Sistani, Iraq's most influential Shiite cleric, was gunned down on his way to Friday Prayer in Baghdad, and a suicide car bomb exploded near the office of a major Shiite political party, an Interior Ministry official said Friday.

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A few hours after the killing of the aide, Sheik Kamaleddin al-Ghuraifi, bullet holes could be seen scattered across a fence, and blood smeared the pavement inside a cordon of police at the scene, in the Allawi Al Hilla neighborhood in Baghdad. Residents said Mr. Ghuraifi died immediately, and the ministry official said four other people also died in the shower of bullets.

The car bomb exploded in the Mansour neighborhood of Baghdad at 1:35 p.m. on Friday, only a few minutes after the killing of Mr. Ghuraifi, outside an office belonging to the party led by Prime Minister Ibrahim al-Jaafari. The Interior Ministry official, who insisted on anonymity, said one guard had been killed and two wounded in the blast.

In Kirkuk, a roadside bomb exploded near a public bath, wounding two people, and gunmen killed a woman driving near a large mosque in the center of town, said Col. Taha Muhammad, a member of the city police force. The motivation for the attacks was not immediately clear.

An attack about 7 a.m. shut down the Kharkh water treatment plant, which supplies most of Baghdad's drinking water. The attack hit an electrical substation that powers the plant, setting it on fire and causing damage that will take at least three days to repair, said Abu Haqi, an Electricity Ministry engineer.

The Kharkh has been struck repeatedly, most recently two weeks ago, placing great pressure on Baghdad's mayor, Alaa al-Tamimi, and the American forces to carry out repairs and keep the plant running.

Master Sgt. Greg Kaufman, a spokesman for the Third Infantry Division in Baghdad, said the fire was centered on the power distribution control room at the substation. He said that investigators had found unexploded ordnance around the site but that any connection between the ordnance and the attack was still undetermined. "I'm sure that's what they're investigating," he said.

Also on Friday, American marines said they were investigating the death of an Iraqi civilian that occurred last Saturday during raids of houses near Haditha, a city in the troubled Anbar Province in western Iraq.

According to an account by relatives of the dead man, Muhammad al-Sumaidai, marines entered the house, in the village of Shaikh Hadid, shortly after 10 a.m. Marines asked if the family owned any weapons and Mr. Sumaidai took them to a back bedroom, where, according to the family, a rifle was kept. Family members were asked to wait outside the house, while Mr. Sumaidai remained inside.

About an hour and a half later, the marines left, and family members found Mr. Sumaidai dead in the house, with a single bullet wound in his neck, said Samir Sumaidai, the dead man's cousin, who is serving as Iraq's ambassador to the United Nations.

The military said in a statement that the events, as described, "roughly correspond to an incident involving coalition forces on that day in that general location," and that it had started an investigation. Last Friday, a day before Mr. Sumaidai's death, Yasser Salihee, an Iraqi correspondent for Knight Ridder, was shot and killed by an American sniper while Mr. Salihee was on his way to get gas to drive his family to a swimming pool, the news agency said. That death is also under investigation by the military.

Though Iraqis die daily in attacks by insurgents, as well as in shootings by Americans and Iraqi troops that are often a result of split-second misunderstandings, the American military has refused to release the numbers of Iraqi civilians killed.

Gunmen Assassinate Aide To Leading Shiite Cleric In Iraq (KRT)

By Leila Fadel

Knight Ridder, July 2, 2005

An aide to Grand Ayatollah Ali al-Sistani, Iraq's leading Shiite Muslim cleric, was assassinated Friday in central Baghdad in the latest attack on leaders of Iraq's Shiite majority.

Kamal al-Deen al-Ghuraifi was walking from his home to the Al-Karkh mosque to give a sermon, but before the imam could get there, a car sped up the wrong side of the road. Four men with Kalashnikovs leaned out the window and sprayed him and his guards with bullets, said Police Maj. Abdul Wahab Ahmed, the officer in charge of the investigation.

Al-Ghuraifi died instantly from the four bullets that pierced his body. His bodyguards were injured. One was his son.

Only 40 minutes later and about 55 yards up the road, a group of gunmen stormed into the Sunni mosque Saad Bin Abi Waqas. As Sheik Amer al-Tikriti began his sermon, they dragged him from the pulpit and kidnapped him.

"It was one man for one man," Ahmed said.

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Al-Ghuraifi was the sixth representative of al-Sistani's to be killed in Baghdad since the new government took office on April 28, according to al-Sistani's office in Najaf.

The seemingly eye-for-eye actions Friday afternoon reflected the growing sectarian violence and political tensions in the nation.

In further violence, a car bomb exploded outside of Prime Minister Ibrahim al-Jaafari's Dawa party office, killing one bystander and injuring another.

"Terrorists are trying to create sectarian sedition here in Iraq by killing the religious figures from both the Sunnis and the Shiites," said Haitham al-Husseini, a spokesman for Abdul Aziz al-Hakim, a leader of the Shiite political party the Supreme Council for Islamic Revolution in Iraq.

Meanwhile, Sunnis have threatened to boycott the constitutional committee if their list of names to participate in drafting the constitution isn't approved this week, said Dr. Saleh al-Mutlak, of the Sunni National Dialogue Committee. Al-Mutlak is on the list submitted to help write the constitution. Sunni participation in writing Iraq's constitution is considered key to getting the document accepted by the Sunni minority, from which most of Iraq's insurgents have come.

Also Friday, wide swaths of the capital were without drinking water for the second time in two weeks. A fire at a purification plant in Tarmiyah, just north of Baghdad, caused the shortage, according to the Interior Ministry. It's unclear how the fire started.

Iraqis already deal with scarce electricity in sweltering heat and sewage problems. When they leave their homes, though, they risk their lives; if they aren't hit by a car bomb or an improvised explosive device, they may be mistaken for insurgents and get shot.

In other violence, a political satirist on the government-owned Iraqia television station was kidnapped and killed in Mosul.

Police found Khaled al-Attar's body riddled with bullets, said Ghazi Faysal, the manager of the Iraqia network in the north.

Senior Shi'ite Cleric's Aide Slain Near Baghdad Mosque (WT)

By By

The Washington Times, July 2, 2005

Gunmen killed an aide to Iraq's most influential Shi'ite cleric and two bodyguards in a drive-by shooting outside a Baghdad mosque yesterday.

Elsewhere in the capital, a car bomb exploded near a checkpoint outside the offices of Prime Minister Ibrahim al-Jaafari's Islamic Dawa Party, killing one person and injuring at least four more, officials said. Mr. al-Jaafari was not there at the time, party official Ayad al-Nedawi said.

Shi'ite cleric Kamal Ezz al-Deen al-Ghuraifi, an aide to leading Shi'ite cleric Grand Ayatollah Ali al-Husseini al-Sistani, was shot as he was about to leave al-Doreen mosque after leading prayers, according to his son, Hamid Kamal. Police confirmed the attack.

Two bodyguards were killed and another four were wounded, he said.

Mr. al-Ghuraifi, in his 60s, had been a Baghdad representative of Ayatollah al-Sistani for the past decade, said Amer al-Hussaini, a friend of Mr. al-Ghuraifi's.

It was the third attack on Ayatollah al-Sistani's aides in recent weeks.

In the attack on the Islamic Dawa Party offices in Baghdad's Mansour neighborhood, the suicide bomber detonated the car near a checkpoint about 80 feet from the building, which used to be Mr. al-Jaafari's house.

Interior Ministry administrative affairs undersecretary police Maj. Gen. Adnan al-Assadi had left the building about a half-hour earlier, police said. A neighbor was killed and four armed guards for the compound were wounded.

Meanwhile, a roadside bomb targeting a U.S. Marine convoy in the Anbar provincial capital of Ramadi instead killed two civilians and wounded two others, said 1st Lt. Blanca Binstock, a spokeswoman.

Another roadside bomb missed a U.S. military convoy in the New Baghdad district but killed a civilian and wounded three others.

In western Iraq, U.S. Marines conducting raids aimed at disrupting foreign fighter networks defused nine roadside bombs yesterday, a day after a light armored vehicle struck a mine, wounding six Marines, a company commander said.

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A supply convoy entering the city of Hit found the roadside bombs spread along 500 yards of a major artery, and Marines participating in Operation Sword traced trigger wires to a school, said Maj. Steve Lawson of the 3rd Battalion, 25th Marine Regiment.

Marines finished searching houses for weapons yesterday morning in 122-degree heat and began foot patrols in the city, about 85 miles west of Baghdad in volatile Anbar province. The operation began Tuesday with more than 1,000 U.S. troops and Iraqi soldiers.

Maj. Lawson said his company detained 10 suspected insurgents, and one of its tanks killed a man moments after they saw him trigger a roadside bomb.

A fire at a power station that supplies a Baghdad waterworks shut down the facility, leaving millions of people without drinking water, officials said.

The blaze came a day after Baghdad Mayor Alaa Mahmoud al-Timimi decried the capital's crumbling infrastructure and the lack of clean water and threatened to resign if the Iraqi government did not provide more money.

Iraqi Seeks Probe Of Killing (WP)

By Colum Lynch

The Washington Post, July 2, 2005

Iraq's U.N. ambassador Friday accused U.S. Marines of killing his 21-year-old cousin "in cold blood" during a June 25 raid in a village in the Sunni Muslim-dominated province of Anbar.

Samir S.M. Sumaidaie called on the United States to investigate the death of Mohammed Sumaidaie in "a credible and fair way to ensure that justice is done." He said the killing represents a "betrayal" of Iraqi and U.S. efforts to rebuild Iraq on a foundation of "freedom, democracy and respect for human rights and the rule of law."

The allegation comes as the United States is trying to persuade Iraq's Sunni Muslim community, which provides the largest base of support for the insurgency, to break with Islamic extremist elements in Iraq and participate in the country's political transition. The U.S. military has held a series of private meetings this summer with insurgent leaders to convince them to back the political process.

A spokesman for the U.S.-led multinational force in Camp Fallujah, in the heart of Iraq's Sunni region, issued a statement saying an inquiry had been launched into the incident, noting that the "allegations roughly correspond to an incident involving coalition forces" in the area on June 25.

"We take these allegations seriously and will thoroughly investigate this incident to determine what happened," said Maj. Gen. Stephen T. Johnson, commanding general of Multi-National Force-West. The investigation could take several weeks, according to the statement.

According to a witness account compiled by Sumaidaie, U.S. Marines and Iraqi Army units were conducting a joint series of raids June 25 in the town of Haditha. At 10 a.m., 10 Marines searching for weapons knocked on the door of Mohammed's father's house.

Mohammed, described as a "relatively shy" engineering student, "greeted them pleasantly" and led them to his father's bedroom, where the family stored an old rifle filled with blanks, according to the account.

His relatives say they do not know exactly what happened next, but they say that several family members, including Mohammed's mother, were gathered in the hallway and heard a thud in the bedroom. Meanwhile, according to Sumaidaie's account, one Marine dragged Mohammed's younger brother, Ali, through the house by his hair and beat him.

The family was asked to wait on the porch while the Marines continued searching the house for another hour, the account said. When they finished, an interpreter for the Marines asked Mohammed's mother in Arabic whether it was her son in the bedroom. The account said he told her, "They killed him!"

"In the bedroom Mohammed was found dead and laying in a clotted pool of his blood," according to the account.

Sumaidaie wrote in a statement released Friday: "If that account is broadly accurate, and I have absolutely no doubt that it is because I made sure of it, a serious crime has been committed. All indications point to a killing of an unarmed civilian -- a cold-blooded murder."

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The United States' acting U.N. ambassador, Anne W. Patterson, expressed "heartfelt condolences" to Sumaidaie and asked the U.S. embassy in Iraq and senior Pentagon officials "to look into the matter immediately," said Richard Grenell, spokesman for the U.S. mission to the United Nations.

"The situation is obviously just terrible," Grenell said.

A Scotsman With The Gifts Of Gab And Jab (NYT)

By Lizette Alvarez

The New York Times, July 2, 2005

INCORRIGIBLE to the core, George Galloway is used to being threatened, ousted, libeled, filleted in the press and just plain reviled.

Over the years, the grand-père terrible of British politics has been called corrupt and treacherous; labeled an apologist for Saddam Hussein, a claim he forcefully rejects; portrayed as a Louis Vuitton-toting Socialist; and dismissed as a self-aggrandizing Labor Party turncoat.

"I could show you my scars," Mr. Galloway, 50, said from inside the ramshackle room where he sat, the stubby end of his Montecristo cigar a reassuring arm's reach away. "I am swimming against the stream. As Dr. Johnson once said, 'The grimmest dictatorship is the dictatorship of the prevailing orthodoxy,' and I am fighting that orthodoxy. It's not that I relish it. It's that I am not afraid of it."

But since his appearance in May before the United States Senate Subcommittee on Investigations, where to the delight of many here and in America he flung scorn at two senators over Iraq, vilification has shifted to a modicum of admiration (even if it is grudging, at least in Britain).

Mr. Galloway, who is accused by the Senate subcommittee of enriching himself through the scandal-plagued oil-for-food program, volunteered to testify. Then, he swiftly turned the tables, he said. Entering the room, "not as the accused, but as the accuser," he ripped into the senators for ignoring central questions about Iraq and conducting what he called "the mother of all smokescreens."

He was embraced by the antiwar movement. Mr. Galloway, a gifted orator with a flair for the verbal showdown, says he is planning a speaking tour of the United States in September, challenging Americans to challenge their leaders more forcefully. Here at home, his House of Commons e-mail box had to be shut down for a spell, after it buckled under the heft of thousands of messages; most came from America, and some were sent by the family members of dead and wounded soldiers, he said. Letters also poured in.

President Bush's supporters, on the other hand, took a different view of his performance; they called him a rude, wrong-headed troublemaker. A "loudmouth Scot," said a Fox News commentator, John Gibson.

"I think I burst a bubble that had been waiting to be burst, a very toxic bubble," Mr. Galloway said. "The powerful in the United States, the elite, speak to themselves. They rely upon the most base electoral tactics, not to mention billions of dollars, to get themselves re-elected. That succeeds, but it doesn't persuade.

"And from the point of view of the British people, the British people have been heartily sickened by the obsequious way the British politicians have been behaving towards the United States elite for a very long time." He added, "And I touched that nerve there."

Mr. Galloway, a left-wing member of the House of Commons, has long been called "Gorgeous George," for his attachment to well-tailored suits, Cuban cigars and bronzed skin.

A one-time Michelin tire factory worker from Dundee, Scotland, he developed a passion for the Arab world by accident when, in 1975, a Palestinian student leader turned up one day at the local Labor Party office. Nobody else was around, so he talked to Mr. Galloway, and by the time he left, Mr. Galloway was ready to march, shout and speak for the Palestinian cause. An interest in other Arab issues soon followed.

Mr. Galloway has also made sport of angering Prime Minister Tony Blair. As Mr. Blair and President Bush prepared for war with Iraq in 2003, Mr. Galloway became one of their chief critics, mercilessly disparaging both as misleading the public into

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combat. In one interview for Abu Dhabi television after the invasion of Iraq, Mr. Galloway said the two leaders attacked Iraq "like wolves." Mr. Galloway then wondered, on tape, "Where are the Arab armies?"

Mr. Galloway was expelled from the Labor Partly shortly thereafter, following what he terms a "show trial" for making "prejudicial" remarks.

Despite the expulsion, Mr. Galloway won re-election to the House of Commons in May as a member of Respect, a Socialist party he founded with an antiwar focus. He managed to steal away a Labor seat in a Muslim neighborhood, mostly because the incumbent had voted for the war. The race was described in the press as the nastiest and rawest of the year.

AS his appearance before the Senate showed, Mr. Galloway is as pugnacious as ever, and as certain as ever that he is being proved right every step of the way. "Who today denies the centrality of the Palestinian question to the stability of the world?" he said. "And who now doubts what we said about the war in Iraq? It took longer to be vindicated on Palestine than Iraq, but vindication on both, I'm sure, is there."

Among the things that most deeply offend him about Mr. Bush's war calculus is the "disinformation," he said, the unraveling of a script intended to frighten and provoke.

"If you look at the most immediate lie, it was the lie he told the American armed forces that they would be received as liberators. They said implicitly that the Iraqis would throw flowers and rice at them, when in fact they are throwing something much more red hot and razor sharp. Nearly 1,700 have paid with their lives, 16,000 have been wounded and nearly 1,500 are disabled forever."

"The second most profound untruth that was told, and deliberately implied when not told, was that Iraq was in some way responsible for 9/11 and that Iraq was connected to Al Qaeda," he added. "I said over and over again, and the antiwar movement said, there is no Al Qaeda movement in Iraq, but there will be if you invade it. It will be a honey pot for every extremist in the world. These people are descending like spores on Iraq, and they will infect the whole area, and one day they will leave that area and hurt us."

But, the biggest whopper of an "untruth," he said, was "that invading and occupying Iraq would make the world safer, when any fool could see it would make the world more dangerous. Only a mad person could look at Iraq today and say things are better off."

The press, too, played a disheartening role in the march to war, he said. "They tamely regurgitated the arguments."

Now, "the Americans are sunk in a very deep swamp," Mr. Galloway said. "It is costing the taxpayers billions of dollars, soldiers are dying like flies and they are stuck there."

There are many who disagree with Mr. Galloway's conclusions and cite recent developments in Lebanon, Libya and the Israeli-Palestinian conflict as proof that the Iraq war and an increased American pressure for democracy have borne some fruit in the region. Nevertheless, a growing number of people now view the war and the occupation with a jaundiced eye.

As for the dust-up in the Senate, Mr. Galloway said he was thrilled to speak his mind and, as one journalist here put it, flaunt his "gift of the Glasgow gab."

HE had "underestimated the American people," he said, and overestimated the competence of American politicians.

"I am searching for words that are not insulting. I was very underimpressed," Mr. Galloway said. "I think America treats politicians like nobility, and that's certainly not how they are treated here." A result is that American political arguments are "not properly tested."

For example, a few Americans who sent e-mail began by apologizing for not knowing his title and for calling him Mr. Galloway, "like they should be saying the right honorable."

Then he smirked, and added, "This is quite amusing, because Mr. Galloway is usually the nicest thing I am called."

'Get Out, You Damned One' (NYT)

By John Tierney

The New York Times, July 2, 2005

DOJ_NMG_0000419

President Bush has the bully pulpit, but Saddam Hussein has the hot novel. Bootleg copies of his latest work are selling briskly in the Middle East, and not just because of the free publicity he got when Jordan banned it this week. Say what you will about Saddam, he knows his audience.

The critics have not been kind to the prose and the plot, but they miss Saddam's strength. He's a marketer. He is said to have finished the novel just as the war was beginning, when American leaders were fantasizing about their troops' being welcomed as liberators. But Saddam knew enough to give his novel a surefire title for the post-invasion era: "Get Out, You Damned One."

It's a naked appeal to xenophobia, an impulse that's far more ancient and widespread than the yearning for democracy that President Bush talked about this week. Yet it's been curiously underestimated by conservatives who used to pay close attention to just this sort of instinct.

When liberal intellectuals dreamed of a socialist world with a selfless "New Man," conservatives realized that he'd be as greedy as ever. When some feminists envisioned the end of gender stereotypes, conservatives insisted there were ingrained differences between the sexes. Yet when American troops met resistance after the war, conservatives dismissed the early insurgents as "dead-enders" and expected Iraqis to join Americans in quickly vanquishing the thugs.

In those early days, when the memory of Saddam was still fresh, you could walk down a street in Baghdad and be greeted by an Iraqi stranger thanking you for bringing freedom. But even back then there were plenty of Iraqis like Saleh Youssef Sayel, who proudly told me of the reaction of his 5-year-old son, Mustafa, to an American soldier.

"The soldier tried to shake his hand, but my son refused," he said. "He knew enough English to say, 'No. You go.' Later he told me he wanted a gun to kill Americans. This is a natural feeling. Nobody wants a stranger in your house or your country."

The natural impulse to dislike outsiders is so strong that it barely matters who the outsiders are.

When experimental psychologists divide subjects into purely arbitrary groups - by the color of their eyes, their taste in art, the flip of a coin - the members of a group quickly become so hostile to the other group that they'll try to deny rewards to the outsiders even at a cost to themselves.

And when the members of a group really have something in common, like family ties, they're willing to fight outsiders even if it means their own deaths. Xenophobia produced genetic rewards for hunter-gatherer clans. When the evolutionary psychologist J. B. S. Haldane was asked whether he would lay down his life for his brother, he replied, "No, but I would to save two brothers or eight cousins."

Iraqis have their own version of that line: "My brother and I against my cousin; my cousin and I against the world."

Because marriage between cousins is so common in the Middle East - half of Iraqis are married to their first or second cousins - Arabs live in tightly knit clans long resistant to outsiders, including would-be liberators. T. E. Lawrence learned that lesson when trying to unify Arabs early in the last century.

"The Semites' idea of nationality," he wrote, "was the independence of clans and villages, and their ideal of national union was episodic combined resistance to an intruder. Constructive policies, an organized state, an extended empire, were not so much beyond their sight as hateful in it. They were fighting to get rid of Empire, not to win it."

Today's liberators in Iraq like to attribute the resistance to Islamic fascists' fear of democracy and hatred of the West. But those fascists know that an abstract critique of Western ideology isn't enough to attract followers. In their appeals they constantly invoke the need to expel foreigners from their soil, a battle cry that is the great common denominator of suicide bombers around the world.

Maybe, as President Bush hopes, Americans can stay long enough in the Middle East to jump-start democracy and reduce the long-term risk of terrorism. But in the meantime, they're bound to face resistance, no matter how noble their intentions.

During the Civil War, Union soldiers were amazed to see poor Southerners without any stake in the slavery system defending it in suicidal charges. But there was a simple explanation, as a barefoot, emaciated Confederate captive famously put it when a Union soldier asked him why he kept fighting: "Because you're here."

U.S. Searches For Troops In NE Afghan MountainsOfficials Say Team's Fate Still Unknown (WP)

DOJ_NMG_0000420

By N.C. AizenmanWashington

WP -- A1 – Afghan Crash, July 2, 2005

U.S. forces continued a massive hunt Friday for a missing military team in the mountains of northeastern Afghanistan, three days after a Special Operations helicopter bringing troops to rescue the men crashed amid enemy fire, killing all 16 service members aboard.

A man claiming to speak for the Taliban militia called news organizations Friday to say that Taliban fighters had captured one of the men and killed seven others. But U.S. military officials said there was no evidence to support the claim. The missing team was made up of fewer than 10 soldiers, one officer in Washington said.

U.S. troops set up a checkpoint in Konar province, near Pakistan. (Reuters)

"All we have to date is that our guys are missing," said Lt. Col. Jerry O'Hara, a U.S. military spokesman here. "We don't have any positive proof that shows us they were injured, they were captured, or they are just in a hiding spot, waiting for our forces."

The incident in Konar province began Wednesday, when a small team of Special Operations forces were hiking through the region as part of Operation Red Wing, a mission against al Qaeda fighters, according to the military officer in Washington. The officer said none of the team members had been found, nor was it known whether any had been killed or captured.

"They could be hiding under a rock, waiting," the officer said. "There's an ongoing operation searching for them."

According to O'Hara, U.S. commanders last heard from the team on Tuesday afternoon after it started taking fire. The downed Chinook helicopter, a Special Operations aircraft, was one of at least two sent to extract the team, O'Hara said.

The Chinook appeared to have been hit by a rocket-propelled grenade as it approached its intended landing site, causing it to smash into a mountainside, Lt. Gen. James T. Conway, director of operations for the Joint Chiefs of Staff, told reporters Thursday.

He said the troops on board -- eight members of a Navy SEAL team and eight Army airmen -- appeared to have died in the crash. On Thursday, U.S. forces were finally able to reach the site and recover the bodies, but the ground team was not found in the area.

O'Hara said "all available assets" were being used to find the men, but that the search had been hampered by the steep, forested terrain and the possibility that "at any turn the search can turn into a fire fight if we encounter enemy forces."

Military officials said it was unclear who had fired on the helicopter. In addition to al Qaeda fighters, insurgents linked to the Taliban militia and Gulbuddin Hekmatyar, a fugitive former Afghan official, are also reportedly operating in the area.

The incident came as U.S. and Afghan forces face growing violence from insurgent groups that appear to be numerous, well-equipped and intent on undermining Afghanistan's modicum of stability after two decades of civil strife, foreign military occupation and religious repression.

At the same time, an increase in street crime, gang violence, kidnappings of foreign aid workers, murders of Afghans who support the U.S.-backed government and continued high levels of drug crop cultivation and trafficking have added to a sense of insecurity in the country. Afghan officials have been struggling to rebuild their country since the Taliban militia was ousted by a U.S.-led military campaign at the end of 2001.

U.S. Troops Still Missing After Crash In Afghanistan (NYT)

By Carlotta Gall

The New York Times, July 2, 2005

Still searching for a small reconnaissance team, hundreds of United States troops swarmed the mountainous terrain of eastern Afghanistan on Friday, near where a helicopter was shot down on Tuesday, killing all 16 aboard, military officials said.

The helicopter, a Chinook MH-47 with Navy Seal commandos and other Special Operations personnel aboard, was flying in to extract the reconnaissance team during a battle with insurgents suspected as members of the Taliban and Al Qaeda, said Lt. Col. Gerry O'Hara, a military spokesman at Bagram Air Base north of Kabul. The Chinook came under small-arms fire and was hit by a larger projectile, most likely a rocket-propelled grenade, and crashed, the military has said.

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Ground troops and aircraft were searching the steep wooded mountainsides of Kunar Province for the team but still had not located them by sundown on Friday, Colonel O'Hara said. "We are using all available assets to work the search for our missing," he said.

A spokesman for the Taliban, Abdul Latif Hakimi, said earlier in the week that Taliban fighters had killed seven American "spies" on Tuesday.

In another telephone conversation, he told Reuters on Friday that the Taliban had captured one American soldier. Some of his earlier claims have been unreliable, but his announcement that the Taliban had shot down the helicopter on Tuesday proved correct. He told Reuters that the American was captured Wednesday by a Taliban fighter as he was climbing a hill to get away from the crash site.

There was no evidence to suggest that the men in the missing unit were injured or dead, Colonel O'Hara said.

On Thursday, American troops secured the crash site, recovered the 16 bodies and began an investigation of the crash, the military has said.

Another United States serviceman disappeared Saturday when his Humvee slid down a steep river embankment in the same area of eastern Afghanistan and is now the subject of a search-and-rescue mission in the same area.

Troops have been engaged in a broad anti-insurgent operation, named Operation Red Wing, in the region all week but there was no fighting reported Friday, Colonel O'Hara said. "There has been no contact from the enemy directed at our forces today," he said.

Violence did, however, erupt in Uruzgan Province in central Afghanistan, where Taliban rebels kidnapped and killed nine tribal officials, according to an unidentifed Afghan official cited by The Associated Press. The Taliban then sent a boy with an offer to exchange the bodies for those of dead militants, the official said.

In the last three months, about 465 suspected insurgents, 43 Afghan policemen and soldiers, 125 civilians and 29 American troops, including the 16 in the helicopter crash, have died in the fighting, according to a tally by The A.P.

The 16 fatalities in the helicopter crash represent the single heaviest combat loss in the three and a half years of war in Afghanistan. In recent months, the Taliban have staged a resurgence, and American forces have ventured into particularly remote areas to root them out.

They have encountered hardened fighters, most of them Afghans but some foreign fighters, including Arabs and Pakistanis. There have been signs that the guerrillas have been receiving outside financing, equipment and weapons, military officials have said.

The Pentagon said that the dead in the helicopter crash included seven soldiers from an Army Special Operations aviation unit from Hunter Army Airfield, Ga.; one soldier from a Special Operations aviation unit from Fort Campbell, Ky.; and eight Navy Seal personnel from units in Norfolk, Va., and San Diego.

U.S. Forces Scour Afghan Mountains For Missing Unit (MINNST/AP)

By Daniel Cooney, Associated Press

Minneapolis Star Tribune, July 2, 2005

KABUL, AFGHANISTAN -- U.S. forces scoured rugged Afghan mountains Friday for an elite U.S. military team missing in the same area where a U.S. helicopter was shot down. A purported Taliban spokesman claimed insurgents captured one of the men.

In central Afghanistan, Taliban guerrillas kidnapped and killed nine tribal leaders and sent a boy to offer to exchange the bodies for those of dead militants, an official said. The tribal leaders were among 25 people killed in three days of fighting in Uruzgan Province -- yet another troubling sign of violence as September elections near.

The missing military team in the remote eastern mountains worsened the already stinging blow suffered by the U.S. military after 16 soldiers were killed Tuesday aboard the MH-47 Chinook chopper.

U.S. forces were using "every available asset" to search for the missing men, military spokesman Lt. Col. Jerry O'Hara said. "Until we find our guys, they are still listed as unaccounted for and everything we got in that area is oriented on finding the missing men," he said.

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The missing troops are a small special-operations unit, said military officials, speaking Friday on the condition of anonymity because rescue operations were still underway. Though the team has been missing since Tuesday, the military had refrained from discussing their situation to prevent the Taliban from setting out in search of them.

The downed helicopter had been sent to pick up the soldiers Tuesday when it went into the mountains near Asadabad, close to the Pakistani border, O'Hara said.

The Taliban claim to have kidnapped one of the men came from purported spokesman Mullah Latif Hakimi. "One high-ranking American has been captured in fighting in the same area as the helicopter went down," he told the Associated Press. "I won't give you any more details now."

Reacting to the claim, O'Hara said, "We have no proof or evidence indicating anything other than the soldiers are missing."

Hakimi, who also claimed insurgents shot down the helicopter, often calls news organizations to take responsibility for attacks, and the information frequently proves exaggerated or untrue. His exact tie to the Taliban leadership is unclear.

The loss of the helicopter and its complement follows three months of fighting that has killed about 477 suspected insurgents, 47 Afghan police and soldiers, 134 civilians, and 45 U.S. troops.

Remnants of the former Taliban regime have stepped up attacks, and there are disturbing signs that foreign fighters -- including some linked to Al-Qaida -- might be making a new push to sow an Iraq-style insurgency.

US Team Missing In Afghanistan After Chopper Crash (AFP)

AFP, July 2, 2005

US forces searched for a small reconnaissance team which has been missing since a helicopter sent to extract them was shot down in Afghanistan, as the Taliban claimed they had captured a US soldier.

Ground troops combed a mountainous, wooded area of militant-infested Kunar province in eastern Afghanistan around the crash site to find their comrades, US spokesman, Lieutenant Colonel Jerry O'Hara, said.

Sixteen personnel, including eight US Navy SEALs, were killed when their MH-47 Chinook crashed after being hit by what is believed to be a rocket propelled grenade on Tuesday. The ousted Taliban have claimed responsibility.

"The helicopter went in to lift them (the reconnaissance team) out of that area. We have not located them as of yet, but we are doing active patrolling to find our missing US service members," O'Hara told AFP.

"All available assets are being used to find our missing," the spokesman added.

He said security reasons prevented him from disclosing how many personnel were in the missing team or the number of US troops involved in the search operation.

Taliban spokesman Abdul Latif Hakimi said Friday that the rebels were holding a US serviceman and that they had killed seven American "spies" in the area. Earlier this week the militia said the dead men were Afghans.

"Our mujahideen arrested one American soldier alive in the area," he told AFP by satellite telephone from an undisclosed location.

"They have not started interrogating him, that is why I cannot tell you what his name is and what rank and which department he comes from."

Hakimi said they had footage of an exchange of fire with the so-called spies and of the captured American, which would be displayed on the rebels' website www.alemarah.com "tomorrow or the day after".

There was no way of independently confirming Hakimi's account and some of his previous claims have proved to be untrue.

US spokesman O'Hara said he could only confirm that a number of US service members were missing.

"I am not in the business of confirming or denying what the enemy says," he said. "All that I can report you today is they are missing. We have no evidence saying they were captured. We have no evidence saying they are injured."

The US helicopter was the first to be shot down by hostile fire in Afghanistan and the death toll is already the biggest for US forces from a single attack since they toppled the hardline Taliban in late 2001.

Lieutenant General James Conway, director of operations for the Joint Chiefs of Staff, told a Defense Department briefing in Washington late Thursday that the helicopter was downed by a "lucky shot".

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Recent months have seen an escalating insurgency by the Taliban ahead of Afghanistan's landmark parliamentary and legislative elections in September.

More than 500 people, most of them militants, have died since the Taliban launched the offensive at the beginning of the year.

In southern Uruzgan province 25 people were killed during a week of militant violence, including nine who were killed in an attack on a police post on Friday.

Four policemen and five suspected Taliban were killed in Tabag village in Friday's attack, Uruzgan governor Jan Mohammed Khan said.

Seven Taliban were killed Monday when they attacked a police post in another village 60 kilometers (38 miles) south of provincial capital Tirinkot.

Two days later Taliban rebels attacked the same village and kidnapped nine village elders and a child, accusing them of spying for the US-led forces. Khan said the nine were later executed by Taliban in front of the child.

Names Of Crash Victims Emerge, And Families Mourn (NYT)

By Rick Lyman

The New York Times, July 2, 2005

Steve Reich never expressed regret that his promising professional baseball career lasted only two games for a Baltimore Orioles farm team before the Army summoned him back to active duty 10 years ago.

"When the Army said they couldn't spare him, that was it," said Gary Fitzherbert, a longtime friend of the Reich family in Washington, Conn. "No argument. Baseball was a big dream, but it always came second place to the service."

Major Reich, 34, a West Point graduate, was in the command seat of the Chinook MH-47 helicopter that was shot down on Tuesday in a treacherous mountain ravine in eastern Afghanistan, killing him and 15 others trying to relieve a Special Forces team battling resurgent rebels. As the names of the dead began to emerge late this week, families and friends were assimilating the news.

Danny Graves of the New York Mets remembered Major Reich, his fellow pitcher on the U.S. National Baseball Team, for which they played in the early 1990's. "He was so polite and respectful that when he talked everyone on the team kept their mouth shut," Mr. Graves said. "It was like we knew that we had to listen. We were all young, immature kids just dreaming about playing big-league baseball. His dream was to serve his country. You knew a couple of minutes after meeting him that's what he wanted to do and what he was going to do."

American military officials in the Afghan capital said they had confirmed that all 16 on the helicopter died in the crash, which Pentagon officials said had apparently been caused by a rocket-propelled grenade. The victims were seven soldiers from Hunter Army Airfield, Ga.; one soldier from Fort Campbell, Ky.; and eight Navy Seal commandos assigned to units in Virginia Beach and San Diego.

Eight of the names had become public by late yesterday. Pentagon spokesmen said a full list would not be released until all of the families had been notified.

In Honolulu, Robyn Healy, former wife of Senior Chief Petty Officer Dan Healy, 36, said she and their two children had received word of his death on Wednesday. Chief Healy had been a members of the Seals and had spent 15 years in the military.

"He was just a good guy, always joking around," Ms. Healy said.

In Franklin, Tenn., Mayor Tom Miller had a press conference on Thursday to announce that his son-in-law, Sgt. First Class James Ponder III, who was stationed at Fort Campbell, died in the crash. Mr. Miller described his son-in-law, a flight engineer known as Tre, as "not real tall, somewhat thin, but tough as nails."

Sergeant Ponder, 36, joined the Army shortly after graduating from the Battle Ground Academy in Franklin. He left behind a wife and two daughters, ages 6 and 7.

Jim Bowman of Midway, W.Va., said he had been informed that his stepson, Petty Officer First Class Jeff Taylor of Little Creek, Va., was among the dead. Mr. Taylor, 30, was a member of the Seals who left behind a wife, Erin.

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The parents of Jeff Lucas, a 34-year-old membersof the Seals from Corbett, Ore., said they had gotten confirmation Thursday that he was among the dead. He had a wife, Rhoda, and a 4-year-old son. "No mountain was too high for him to climb," said Mr. Lucas's father, Rick, in an interview with The Bulletin of Bend, Ore.

Word came from Representative Jon Porter, Republican of Nevada, that Shane Patton, a member of the Seals from Boulder City, Nev., had been killed. Lee Russell of Stafford, Va., said he had received the same news about his 31-year-old son, Master Sgt. Michael Russell of the Army.

Lt. Michael M. McGreevy's classmates at the United States Naval Academy said there had been no doubt that Mr. McGreevy, a midshipman nicknamed Groove, would end up a commando.

"Everyone knew he was going to be a Seal from the get-go," said t. Randy C. Cruz, who had been class treasurer the year Lieutenant McGreevy had been class secretary.

Classmates remembered Lieutenant McGreevy, 30, as a model Annapolis man, but teachers in Portville, N.Y., his hometown, said he had ended up at the academy by chance.

West Point had been Mr. McGreevy's first choice, said his high school track coach, Gary Swetland. Although Mr. McGreevy had graduated third in his class, both military academies put him on waiting lists. Annapolis called a week earlier than West Point.

"Michael was an outstanding achiever in everything he did," Mr. Swetland said. "But not because he was blessed with the remarkable skills and talents of an athlete. He simply willed himself to be a champion."

Mr. Swetland said Mr. McGreevy had nearly been dropped from the track team as a freshman. But he was relentless and, by graduation, had transformed himself into an award-winning athlete and the top high school middle-distance runner in western New York.

"At the time, I knew Michael was a very good kid, and I was awfully proud of him," Mr. Swetland said. "But as I get older, I realize how very fortunate I was to even know someone like Mike McGreevy."

It was as a member of the Seals that Lieutenant McGreevy eventually settled with his wife, Laura, in Virginia Beach. Neighbors said he doted on his 16-month-old daughter, Molly.

In Washington, Conn., 20 miles northwest of Waterbury, friends and relatives of Major Reich were planning a weekend of memorials for the star who had helped clinch the state baseball championship for the local high school and had become top pitcher on the West Point team.

"This was a kid who everyone was expecting to be invincible, so people are having a hard time believing that he isn't coming home," said Richard C. Sears, the town's first selectman.

A Fourth of July fireworks display will include a flyover by a Chinook helicopter to honor the fallen soldier. On Sunday, a prayer vigil will be held at the First Congregational Church, where Major Reich's mother, an emergency room nurse in nearby New Milford, is a mainstay in the church's quilting club. And on July 10, a memorial service will be held on the lawn of the town hall.

"It's the biggest space we've got here in Washington," Mr. Fitzherbert said. "And we expect tons of people to show up."

Pentagon Implements Higher Death Benefits (AP-Y2)

AP2, July 2, 2005

WASHINGTON - The military announced Friday that it will begin providing vastly increased death benefits to the next-of-kin of military personnel killed in combat zones or combat-related training.

Last month, President Bush signed into law the increase in the death benefit from $12,000 to $100,000. The military announced Friday it was implementing the law.

The increase was part of an $82 billion emergency appropriations bill to fund the war in Afghanistan and Iraq, which also included a provision increasing military life insurance payments from $250,000 to $400,000.

The new benefits are available to the relatives of those killed since Oct. 7, 2001, the day the United States began overt combat operations in Afghanistan. It will take several months to find everyone who is eligible for the retroactive benefit, the Pentagon said in a statement.

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More than 1,700 U.S. military personnel have died in Iraq, according to the Defense Department. About 150 have died in Afghanistan and neighboring countries.

Marines Exceed Reenlist Goals (LAT)

By Tony Perry

The Los Angeles Times, July 2, 2005

Although finding enough recruits continues to be difficult, the Marine Corps has exceeded its goals for persuading Marines to reenlist, officials said Friday.

Lt. Col. Mark Menotti said that reenlistment bonuses, appeals to patriotism and the Marines' sense of camaraderie helped the Corps exceed its goals for reenlisting first-term Marines as well as those serving a second or third tour.

"Marines realize they are part of something special and significant," said Menotti, head of manpower and reserve affairs.

In certain job categories, particularly those needed for combat in Iraq, bonuses exceeded $30,000. The largest of the bonuses are for infantry skills personnel, so-called grunts. Others are for linguists and intelligence analysts.

The Marine Corps earmarked $52 million for bonuses, up $1 million from the previous year. Two-thirds of the money is for Marines reenlisting for a second tour, one-third for those reenlisting for a third or fourth tour. If troops reenlist while in Iraq, the bonuses are tax-exempt.

As of Friday, the beginning of a new fiscal year, the Corps had reenlisted 5,949 Marines for a second hitch, beating its goal by 0.2 percentage points. It retained 5,079 for a third or subsequent tour, exceeding that goal by 9.4 percentage points.

With many Marines serving multiple tours in Iraq, and more than 500 Marine fatalities there, some officials had worried that the Corps would not be able to meet its reenlistment goals.

Since establishing its annual reenlistment goals — in 1993 for first-term Marines, and 2002 for second- and third-termers — the Corps has never failed to meet them, Menotti said.

Yet for the first four months of this year, the Corps missed its goals for recruits. It was the first time in about a decade that the Corps' recruiting pitch, which dared young people to prove they were tough enough to be Marines, had fallen short.

In May, the most recent month for which the Pentagon has released figures, the Corps exceeded its recruiting goal by 3%, although it fell short of its objective for the reserves by 12%.

Marine Commandant Gen. Michael W. Hagee told a congressional hearing Thursday that the Corps would meet its goal for recruits. "The quality of individuals we are shipping to recruit depots remains high," he said.

On Wednesday, the Pentagon announced that the Army had met its most recent monthly recruiting mark after four months of shortfalls.

In Bid For Recruits, Military Has Allies In Nascar And Fans (NYT)

By Viv Bernstein

The New York Times, July 2, 2005

On most weekends during the Nextel Cup season, as Nascar's premier racing series travels from city to city, a marketing company hired by the United States Army follows, setting up shop outside the racetrack with a free interactive display that attracts thousands of fans.

There is a rock-climbing wall and a pit-crew challenge, where fans can be timed changing tires just as the Nascar teams do. A short film compares the military to Nascar, juxtaposing images of racecars next to tanks. Video games feature combat on an imaginary street where Arabic writing appears on the walls of buildings. Children and adults can stand in a replica jeep and pretend to shoot at the enemy with a mounted laser gun.

"It's an opportunity for them to touch and feel the Army, to give them a real Army experience," Col. Tom Nickerson, who is in charge of the Army's recruiting outreach program, said in a telephone interview.

The displays at Nascar events are generating as many as 1,000 to 2,000 leads for potential new recruits on each racing weekend, said Guy Morgan of Keystone Marketing Company, which operates the display. That amounts to nearly 40,000 leads a year, Nickerson said.

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Those leads, culled from releases that fans ages 16-39 must fill out with personal information and sign to visit the display, are coming in at a time when the military has struggled to find recruits.

"If all of our programs were doing as well as our racing program was, we wouldn't have a recruiting problem," Lt. Col. Mike Jones, the National Guard deputy division chief for recruiting and retention, said during a telephone interview. "Obviously, you have to do more than one type of outreach program to be successful in any business. Nascar alone will not fix our total recruiting needs. What Nascar does, it hits that segment of the population that is very pro-military service."

Many Nascar fans drape themselves in the flag, and the sport boasts a long, close relationship with the military. High-ranking officers frequently attend races and are taken behind the scenes, receiving applause when introduced to the drivers at the prerace meetings. Before almost every race, there is a military fly-over during the national anthem.

"I think that Nascar is as much Americana as anything else," Mike Helton, the Nascar president, said Thursday. "I think most Americans, a huge majority, support the military, so I don't think we're exclusive to that.

"You've got a lot of mothers and fathers, brother and sisters, sons and daughters, who are Nascar fans that have family members who either have been military or are currently military. That's as much America as Nascar racing is, and the fan base of Nascar."

Nascar's founder, Bill France, developed that close association with the military from the beginning. But it was not until this decade that the military started marketing itself to the fans.

Now, every branch uses Nascar as a recruiting tool.

The Marines and the Air Force were the first to arrive, in 2000; the Navy came in 2002 with a sponsorship in the Craftsman Truck Series. The Army, which joined the National Hot Rod Association in 2000, added Nascar sponsorship in 2003 along with the National Guard. The Coast Guard arrived in 2004.

The Army has bought sponsorship in a race team - the 01 car driven by Joe Nemechek in the Nextel Cup series. The National Guard is the title sponsor for Greg Biffle. The Air Force is a secondary sponsor of a racecar driven by Ricky Rudd. The Navy, the Marines and the Coast Guard support or sponsor racecars that compete in the Busch Series.

"It's a growing sport, and our target market, age 17-24 males, is pretty much into Nascar," Master Sgt. James Edwards, a spokesman for the Marine Corps recruiting command in Quantico, Va., said in a telephone interview. "We looked at it as an opportunity to get our message out."

Edwards said the Marines were spending $3.6 million to sponsor their Busch racecar this year, although they were meeting their quota for new recruits and did not use the racecar sponsorship to generate leads.

The Nextel Cup Series is much more expensive. Nickerson said the Army would spend $16 million on Nascar this year, including $9 million for the team sponsorship and more for the display and for a sponsorship of Kim Crosby, a female driver in the Busch Series.

That is out of an annual marketing expenditure of $230 million to $240 million.

Nickerson said there were few sporting events that drew 100,000 fans, who often came for a three-day period, arrived several hours before the event and "spend a lot of time just walking around."

"That is a rich environment for soldiers and recruiters to talk to influencers and prospects." Nickerson said. Influencers are parents and others who have influence over a military prospect's decisions.

The National Guard has received significantly more time on television broadcasts because of Biffle's success. The Guard signed on as Biffle's main sponsor in 2004, before he became a top driver. Biffle now has a series-best five victories and leads the Nextel Cup points standings.

The logo on the front of Biffle's No. 16 racecar received the equivalent of nearly $20 million of advertising air time through the first 14 races this season, according to Joyce Julius & Associates, Inc. The company tracks the time a logo is seen on screen during a race or is mentioned, and compares that to the cost of buying advertising time for that event.

Jones said the National Guard would spend $5.5 million this year, having sold secondary sponsorship to other companies such as Subway to lower its costs. The total price of the sponsorship is around $15 million. The Army team, which has not won this season, has received the equivalent of $16 million of air time through 14 races.

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The Army uses its sponsorship for more than publicity. At almost every race, the Army also brings in what it calls "future soldiers" - those who have enlisted but not yet reported for basic training and can still walk away from their commitment. The connection helps keep them motivated to report, Nickerson said. The recruits often meet with Nemechek.

"I just tell them how much pride I have in my race team, how much pride our race team has in building the racecars and trying to make our team run well on a weekly basis," Nemechek said in a telephone interview. "I tell them how proud I am of them and the step they're taking in their lives.

"I'm a racecar driver and I am very proud to be representing the Army and representing all these men and women that are about to become or about to get into the Army along with all the soldiers around the world."

Tyler Borck, 18, of Wauseon, Ohio, is not likely to be represented by Nemechek anytime soon. Borck was one of the thousands who visited the Army exhibit before a Nextel Cup race at Michigan International Speedway on June 19.

Borck said he was not worried about giving personal information to the Army. His high school had provided his address to the military. He usually throws away the pamphlets he receives in the mail.

Megan MacDonald, another visitor at the display in Michigan, is planning to go to college but said she is considering the military. The display, including free dog tags, got her attention.

"It's pretty cool," MacDonald said.

The Army will have more opportunities to sway her. The card she signed with her personal information will be added to a large database and sent on to a local recruiter.

DOJ:

Rosenstein Confirmed As U.S. Attorney In Md. (BSUN)

By Matthew Dolan, Sun Staff

The Baltimore Sun, July 2, 2005

In its closing hours before adjourning for a holiday recess, the Senate confirmed yesterday Rod J. Rosenstein, a high-ranking government lawyer who quickly ascended the ranks at the Justice Department, as Maryland's U.S. attorney.

Rosenstein, 40, of Bethesda, could arrive in Baltimore to start his new job as the state's top federal prosecutor as soon as next week.

Rosenstein declined to be interviewed about his plans for the office of 70 attorneys in Baltimore and Greenbelt, saying he is still waiting for President Bush to sign his commission.

He released a brief statement: "I am grateful to President George W. Bush for giving me this opportunity to serve the people of Maryland, and to Senator Paul Sarbanes and Senator Barbara Mikulski for accepting my nomination. I look forward to rejoining the distinguished men and women of the U.S. Attorney's Office.

"As we work to enhance public safety and pursue justice for Marylanders," the statement continues, "we will strive to inspire public confidence by adhering to the highest ethical and professional standards."

Rosenstein had previously worked as an assistant U.S. attorney in Maryland, emerging as the leading candidate to move up when former U.S. Attorney Thomas M. DiBiagio announced his resignation in December. Allen F. Loucks, a deputy in charge of the office's civil cases, has been serving in an interim role since January.

The U.S. attorney's office can be an influential one, using its broad prosecutorial power to tear apart violent drug gangs and dismantle white-collar criminal organizations. In Baltimore, federal prosecutors have intervened in cases - especially those involving witness intimidation - where the city's overwhelmed courts failed to yield convictions.

For more than three years, DiBiagio's office aggressively pursued public corruption investigations, scoring a number of high-profile victories in such cases as investment banker Nathan A. Chapman Jr. and former Baltimore police Commissioner Edward T. Norris, who was Maryland's state police chief when he was indicted.

But DiBiagio received criticism after The Sun published internal e-mails a year ago in which DiBiagio called for three "front-page" corruption indictments before Election Day, prompting Justice Department officials to issue a rare reprimand to the prosecutor.

Loucks replaced DiBiagio and quickly dismissed his predecessor's indictment against a former state official and ended the office's investigation into the financial practices of the Baltimore City Council.

Rosenstein comes to the office with a strong background in public corruption cases, including work on the Whitewater investigation during the Clinton administration. Most recently, he has served as principal deputy assistant attorney general for the Justice Department's tax division.

His nomination by President Bush in May met no opposition and was lavishly praised by those who said Rosenstein mixed legal talent with strong, reformist leadership. At a going-away party at the Justice Department's Great Hall this week, speakers teased the two-time Ivy League graduate - from the University of Pennsylvania and Harvard - for being a "geek," but uniformly lauded his intellect, tireless devotion to his work and open mind.

"He has a sign in his office that says 'Don't tell me what I want to hear. Tell me what I need to know,'" Assistant Attorney General Eileen J. O'Connor, Rosenstein's former boss, told the group of more than 50 colleagues.

Rosenstein's selection appeared to be more a product of his work in and support from the Justice Department, breaking with the tradition of selecting U.S. attorneys who have close ties to Maryland's political establishment. Rosenstein's selection, in the eyes of some, served to distance the office from DiBiagio, who received his appointment with the active support of Republican Gov. Robert L. Ehrlich Jr.

Known by some for his conservative ideological bent, Rosenstein also worked for Whitewater independent counsel Kenneth W. Starr. But Rosenstein, who trained in public corruption cases, left the office before the investigation delved into the relationship between President Bill Clinton and Monica Lewinsky.

Senate Makes It Official For Letten (NOTP)

By Martha Carr, Staff Writer

New Orleans Times-Picayune, July 2, 2005

It's been a good week for Jim Letten.

Not only did New Orleans' top federal prosecutor win a conviction against a Jefferson Parish judge for mail fraud, Letten on Friday finally got word from Washington that the Senate made his appointment as U.S. attorney of the Eastern district official.

Letten, a Republican, has held the post on an interim basis since April 2001, when President Clinton's appointee, Eddie Jordan, stepped down. Until Friday, Letten was one of a handful of the nation's 93 U.S. attorneys serving without White House confirmation.

The straight-laced prosecutor, who is rarely at a loss for words, said he was humbled by the news.

"This is a reminder yet again to me and to all of us that we work for the citizens, and that public service is not a right but a privilege," he said. "The only thing I can promise is that I will continue to do everything I can to continue to earn the community's trust."

Unexpected ascent

When tapped for the job four years ago, Letten was known as a competent manager with little interest in politics who was expected to return to the ranks of working prosecutors once a more politically connected successor was named.

All that changed when then-Gov. Mike Foster's choice for the post, wealthy Metairie businessman and Bush contributor Fred Heebe, was accused of domestic abuse by his ex-wife and a former girlfriend. Heebe eventually withdrew his name. Disputes within the state Republican Party stalled subsequent attempts to decide on a nominee.

Meanwhile, Letten kept his head down and launched several high-profile corruption investigations, including a probe into the Jefferson Parish courthouse that netted convictions of two judges -- Alan Green at trial last week and Ronald Bodenheimer after a guilty plea -- and separate inquiries into New Orleans City Hall and the city's public school system.

Then, last year, when Republican David Vitter won the U.S. Senate seat vacated by Democrat John Breaux, he announced Letten was his choice for the permanent post. Then it was just a matter of passing through the slow-moving nomination process.

Finally, on Friday, the Senate unanimously affirmed Letten after he won the blessing of its Judiciary Committee earlier this week. Neither vote drew controversy.

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"This is great news for Louisiana," Vitter said Friday in a statement. "Through his (Letten's) continued leadership, the U.S. attorney's office will be able to continue the ongoing fight against corruption and cronyism."

Letten, 51, will serve at Bush's pleasure, most likely at least until a new administration takes office in 2009. If another Republican wins the presidency, Letten could retain his post. If a Democrat is elected, Letten likely would be asked to resign, spelling an end to his almost three decades of service to the office. Rarely do U.S. attorneys rejoin the ranks of working federal prosecutors.

Earning respect

A career litigator, Letten is best known for helping convict former Gov. Edwin Edwards on charges that he rigged riverboat gambling licenses.

Since he has been in office, Letten has continued to aggressively pursue government corruption, one of the region's most intractable problems. He also has been successful in rallying the city's various law enforcement agencies toward common goals, including curbing violent crime and drugs. For that, he enjoys an unusual level of institutional respect.

New Orleans Police Chief Eddie Compass put it this way recently : "His integrity is unquestioned, his people skills are extraordinary, and his ability to organize and come up with plans for complex problems are major assets. He doesn't let grass grow under his feet."

After 2 ½ years prosecuting criminal cases for Orleans Parish District Attorney Harry Connick in the early 1980s, Letten joined the federal payroll as part of the Organized Crime Strike Force, a unit that tried a mix of cases in five states, from drugs to gambling to labor racketeering. In 1988, at age 34, Letten became its chief.

He retained that position when the unit merged with the local U.S. attorney's office in 1990, and in 1994, he was named first assistant to Jordan.

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ICE Head Named U.S. Attorney In N.Y. (WT)

By Jerry Seper

The Washington Times, July 2, 2005

Department of Homeland Security Assistant Secretary Michael J. Garcia, who has headed U.S. Immigration and Customs Enforcement (ICE) since the agency's creation in March 2003, has been named by the White House as U.S. attorney in New York.

Mr. Garcia has been criticized by some members of Congress for longstanding budgetary missteps and by ICE supervisors and agents who have complained the agency was a threat to the country's national security efforts because of mismanagement, low morale, a lack of a clearly defined mission and ongoing financial problems.

But the veteran prosecutor, a former assistant U.S. attorney in New York, is expected to win Senate confirmation to the post based on the backing of Sen. Charles E. Schumer, New York Democrat, and New York Gov. George E. Pataki, a Republican.

The post has been held on an interim basis for the past two years by David N. Kelley.

"Assistant Secretary Garcia is honored to be nominated by the president for this important position and looks forward to working closely with the Senate during the confirmation process," ICE spokesman Dean Boyd said yesterday. "In the interim, he will continue to fulfill his responsibilities overseeing the critical work of U.S. Immigration and Customs Enforcement."

ICE was created following the merger of the U.S. Customs Service, the U.S. Immigration and Naturalization Service (INS) and the Federal Protective Service. Criminal investigators from the Customs Service and INS were assigned to the ICE Office of Investigations and given the task of preventing terrorist attacks.

But ICE's ability to gather and share intelligence data, conduct counterterror investigations and enforce U.S. immigration laws has been challenged by both its supervisors and agents.

Many supervisors and agents said in letters and e-mails to Congress that the agency was burdened by a complex and mismanaged administrative system that lacked a definitive mission statement, adding that ICE's investigative efforts had undergone a "functional paralysis."

Noting that while the fiscal 2005 budget called for a $300 million increase, ICE canceled all training, implemented a hard hiring freeze, ordered its cars parked, ended Spanish-language training for investigators and limited spending and investigative activities.

As an assistant U.S. attorney in New York from 1992 to 2001, Mr. Garcia helped prosecute some of the nation's highest-profile terrorism cases. He was a member of the prosecution team that in May 2001 won convictions against four suspected terrorists accused of conspiring with al Qaeda founder Osama bin Laden in the 1998 bombings of the U.S. embassies in Kenya and Tanzania.

Mr. Garcia also was involved in the successful prosecution of the terrorists involved in the 1993 bombing of the World Trade Center in New York, and he helped prosecute Ramzi Ahmed Yousef and two others on charges of planning 48 hours of "terror in the sky" in a conspiracy to plant bombs aboard 12 American passenger aircraft in the Far East.

CORPORATE SCANDALS:

Jurors Doubted Scrushy's Colleagues (NYT)

By Kyle Whitmire

The New York Times, July 2, 2005

BIRMINGHAM, Ala., July 1 - In the end, the jury deciding the fate of HealthSouth's former chief executive, Richard M. Scrushy, focused on one issue: credibility. But it was not Mr. Scrushy's credibility they were thinking about - he did not testify in his own defense. Instead, they wondered, could they believe the five former company executives who testified against him?

"No one really corroborated one another," recalled one juror, Christopher Cooper, a 37-year-old computer technician at a local bank. "Each one of them had a reason to hide something."

The jury acquitted Mr. Scrushy on Tuesday of all 36 counts that had accused him of presiding over a $2.7 billion accounting fraud while running the HealthSouth national hospital chain. The Justice Department, legal experts had thought, appeared to have a strong case against Mr. Scrushy after all five of the company's former chief financial officers agreed to cooperate.

Facing such a cadre of government witnesses during the five-month trial was a daunting challenge, one of Mr. Scrushy's lawyers, James Parkman III, said at a news conference after the verdict.

"We couldn't go in with the idea that there were five of them," Mr. Parkman said. "We had to go in and try to sell the idea that there was only one, and they acted together as one, acted together as a group, and therefore cut that number of five to one."

The one former executive they focused on was William T. Owens, who worked his way up at HealthSouth from assistant treasurer to chief financial officer and even served briefly as chief executive in 2002. The defense characterized him as a tax cheat who would lie to protect himself.

Mr. Owens, in cooperating with the government, had secretly recorded his conversations with Mr. Scrushy. But those recordings were often difficult to hear and ambiguous in meaning, jurors said.

"I can't talk about the federal government, but a pocket recorder could have recorded better than what was on that tape," a second juror, Curtis Bender, said.

Mr. Cooper, the juror, said that he thought another of the chief financial officers, Weston Smith, had been lying to protect his wife, whom some witnesses connected with the fraud. Mr. Cooper also said Mr. Owens hadtransferred many of his assets to his wife before making his plea deal.

The jurors said the plea agreements, rather than strengthening the government's case, made the witnesses' testimony suspect. Before the trial, a federal judge had sentenced Michael Martin, another former chief financial officer, to six months of home detention. The defense characterized the sentence as excessively lenient, allowing Mr. Martin to sleep in his own bed, go to the store and even play golf.

"They were fooling the public, fooling the stockholders, bankers, auditors," Mr. Bender said. "They fooled a lot of people for a lot of years and got away with it - that's what it seemed like."

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But Mr. Bender, 54, a lineman for the Alabama Power Company, added that he could not conclude that Mr. Scrushy had known about the fraud. "That's where the reasonable doubt came in," he said.

Phoebe Ellsworth, a professor of psychology and law at the University of Michigan, said the case was somewhat analogous to one in which a co-defendant might testify in exchange for immunity. "Jurors ask themselves why one guy should be taking all the heat and another guy should be taking very little."

One juror said he thought the prosecution's case was strong enough to convict Mr. Scrushy. But because the juror, Willis G. Vest, 63, was suffering from migraine headaches, he was replaced with an alternate.

"To me, there was more than enough evidence and testimony, but people disagree," Mr. Vest said in an interview after the verdict. "Almost every witness agreed with each other."

Initially, at least, some jurors agreed with Mr. Vest. The first vote taken by the jury was seven to five for acquittal, Mr. Bender said. After further deliberation, a second vote ended with only three holdouts for conviction. In a note to the judge, the jury said that it was deadlocked on all counts.

The judge, Karon O. Bowdre of Federal District Court for the Northern District of Alabama, gave the jury a so-called Allen charge, a special set of instructions emphasizing the resources spent on the trial, with an encouragement to reach a unanimous decision.

"I was feeling like we didn't do our job, that this was the easy way out," Mr. Bender said. "But after she told us to go in there and try to reach a verdict, I was glad because now we could go in there and start deliberating."

After that, one juror changed his mind and Mr. Vest said he began to suffer from the migraine headaches.

The lone remaining holdout, a female juror, whom her colleagues declined to identify, finally gave in during the last four days of deliberation. The final vote, on Tuesday, was unanimous for acquittal.

"It is not surprising that one holdout would eventually agree with the others," Dr. Ellsworth said. "If the other guy had stayed on it might have been a different story, but being a minority of one is very difficult."

Mr. Bender said he went into the trial suspecting that Mr. Scrushy was guilty of violating the Sarbanes-Oxley Act, a law passed by Congress in the wake of the accounting scandals at Enron and WorldCom.

"If he signed that paper, knowingly or not knowingly, I was thinking he was guilty; he's C.E.O. of the company," Mr. Bender said. "But once we got into the courtroom and started reading what the law requires and not requires, it just blew my theory right out."

Shortly before his indictment was unsealed in 2003, Mr. Scrushy left a predominantly white suburban church to attend Guiding Light Church, a large, mostly black congregation in Birmingham. On weekends during the trial, he often preached and made donations at black churches in the area and was the host of a religious television program.

Many of the ministers who appeared on the show also appeared in court, sitting behind the defense table. The jurors, however, insisted that that was never a factor in their deliberations. "I was hoping that Birmingham would not make this into a black or white issue," Mr. Cooper said. "His charitable donations had nothing to do with our decisions. I didn't know much about that until it was over."

Mr. Bender said he nearly missed the birth of his granddaughter during the deliberations, and Mr. Cooper said he had to take a day off when his wife underwent knee surgery.

Now back at work, Mr. Cooper and Mr. Bender said they tried to avoid any questions from co-workers about the verdict. Mr. Bender said some of his co-workers had asked why they let Mr. Scrushy go.

"And then some said, 'What, they didn't have the evidence, right?' " Mr. Bender said. "And I said, 'Yep.' "

New Rules Make It Easier To Charge Executives, But Not To Send Them To Prison (NYT)

By Jonathan D. Glater

The New York Times, July 2, 2005

Perhaps forcing top executives to certify regulatory filings is not quite the fix lawmakers might have expected.

The acquittal of the former chief executive of HealthSouth, Richard M. Scrushy, on charges that he signed false financial filings - one of several charges accusing him of orchestrating a $2.7 billion fraud - illustrates a weakness of the certification

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requirements, which compel chief executives and chief financial officers to attest to the accuracy of financial reports to the Securities and Exchange Commission.

Investors might have expected that the certification requirement would make it easier to prosecute white-collar crimes. If all else fails, the reasoning went, at least the executive could be convicted of signing false filings.

But, in fact, convicting an executive of knowingly violating the certification requirement involves proving the same facts necessary to support other more serious criminal charges.

So while the law may be an easy way to increase prison time, it is not an easier way to lock up executives.

Corporate lawyers said Mr. Scrushy's acquittal on Tuesday was not a setback to enforcement of the certification requirement, which was included in a law passed in 2002 after the collapse of Enron and WorldCom because of accounting scandals.

The requirement is a powerful incentive for executives to do the right thing - violations can result in criminal and civil liabilities. But because of how it is drafted, the requirement has not instilled the fear that lawmakers, regulators and investors might have hoped.

"Effectively, you're going to have to prove an underlying fraud and then prove that the executive knew about it" in order to convict, said David Fine, head of the federal securities and public companies group at Ropes & Gray in Boston. "They effectively have to prove the same general case."

The certification provision, Section 906 of the law known as the Sarbanes-Oxley Act, calls for a prison term of up to 10 years and a fine of up to $1 million for any executive who certifies a regulatory filing and who knows that the filing does not "fairly present, in all material respects, the financial condition and results" of the company. Any executive who willfully - that is worse than knowingly - certifies such false filings faces up to 20 years in prison and a $5 million fine. Section 302 of the law opens up such executives to civil liability.

These are harsh terms, but the crucial element is knowledge, and proving that an executive knew of a fraud is what is often most challenging. If a prosecutor can do that, there are plenty of other criminal charges available in addition to Section 906 - securities fraud, for example, or conspiracy, both of which were charges against Mr. Scrushy.

Once jurors did not find Mr. Scrushy guilty of securities and accounting fraud, Mr. Fine said, it was not surprising that they did not convict him on the certification charge; convicting on one type of charge would require the jury to convict on the other.

"I can't imagine a case where you couldn't prove that the person had engaged in fraud, so you found them not guilty on that count, but then found him guilty" for certifying false filings, Mr. Fine said. "Once you reach that conclusion, you've reached the conclusion on the fraud too."

But the certification requirement can help prosecutors by preventing defendants from arguing that they had no role in preparing a false document, said John T. Bostelman, a partner at Sullivan & Cromwell and the author of a reference on the Sarbanes-Oxley Act.

"Certification creates a link between the person and the document," Mr. Bostelman said.

Lance D. Myers, a partner in the New York office of Holland & Knight, said Sections 302 and 906, which certainly grabbed the attention of executives, also emphasize a responsibility in preventing fraud and raising the potential penalty for participating in fraud. The acquittal of Mr. Scrushy, he said, "is not going to have the effect of saying, now C.E.O.'s can go back and act with impunity."

But there is still plenty of uncertainty about what constitutes a violation of Section 906, lawyers said.

"Here's my question, Is reckless disregard the equivalent of knowing?" Mr. Myers said. "Can you put your head in the sand and say I didn't know? Is there a duty to inquire?"

Lawyers have advised executives for years not to focus too much on the certification requirement, Mr. Fine said.

"We're certainly counseling our clients to be careful, to be honest, upright, all the rest," he said, "but we're also telling them that it's not a new and unique liability that's been imposed."

Besides, Mr. Fine added, top executives are supposed to be comfortable that their companies' regulatory filings are accurate. "The C.E.O. and the C.F.O. were supposed to be doing that anyway."

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US SEC Warns Investors On Internet 'Auto-trading' (REU-Y2)

Reuters, July 2, 2005

U.S. market regulators warned investors on Friday to be wary of a new type of online investment vehicle and filed civil fraud charges against a small Internet investment advisory firm called Terry's Tips Inc.

The Securities and Exchange Commission accused Terry's Tips, based in Vermont, and its founder Terry Allen of promising clients misleadingly large investment returns in marketing the firm's auto-trading programs.

Auto-trading is a new investment vehicle that is spreading fast on the Internet, said Kenneth Israel, district administrator of the SEC's Salt Lake district office.

Investors typically are asked to subscribe to online newsletters and open trading accounts at a brokerage chosen by the newsletter's publisher. Investors are then asked to give the publisher authority to automatically direct trades in the their brokerage accounts, the SEC said.

Both the newsletter subscription and the auto-trading arrangement typically involve the investor paying fees to the publisher, the commission said.

After an account is set up, the publisher sends trading instructions by e-mail or fax to the brokerage and only tells investors about trades after they have been executed.

The SEC charged Terry's Tips in U.S. District Court in Vermont with violating antifraud laws. The agency alleged that as recently as September 2004, the firm had 1,200 auto-trading clients with total assets of over $14 million.

An attorney for Allen and the firm declined to comment.

"In this case, what we allege is Terry's Tips was promising returns of about 100 percent a year when they were actually losing substantial amounts of money," Israel said.

The SEC action seeks a permanent injunction against the firm, repayment of ill-gotten gains and a monetary penalty.

"Investors should be careful when they give this kind of authority to trade in their account to anyone," Israel said.

Banker Convicted In Enron Barge Fraud Is Ordered To Prison (NYT/AP)

By The Associated Press

The New York Times, July 2, 2005

HOUSTON, July 1 (AP) - The former head of investment banking at Merrill Lynch & Company, who was convicted last year in Enron's bogus sale of power barges to the brokerage, must report to prison for a two-and-a-half-year term later this month, a judge has ruled.

The executive, Daniel Bayly, of Darien, Conn., the most prominent figure among the four former Merrill executives and a former midlevel Enron executive convicted last year, will be the first to begin his sentence. He must report July 14 to a federal prison in Hopewell, Va., according to a judge's order filed Friday.

The order came after Judge Ewing Werlein of Federal District Court denied a request that Mr. Bayly remain free on bond pending an appeal of his conviction of conspiracy and fraud.

Mr. Bayly and four others were convicted of helping push through Enron's sale of power plants mounted on barges in 1999 to help Enron appear to have met earnings goals.

Jurors determined the sale was a loan because Enron had promised to buy back or find another buyer for the barges within six months.

Enron kept that promise when a partnership run by the former Enron finance chief, Andrew S. Fastow, bought out Merrill's interest in the barges.

One of Mr. Bayly's co-defendants, James A. Brown, also of Darien, Conn., had been scheduled to report to prison this month to serve a term of 3 years and 10 months.

But his surrender date was moved to Aug. 12 after his 22-year-old son was critically injured in a car accident.

The judge has yet to set surrender dates for the other defendants - the former Merrill executives, Robert Furst and William Fuhs, and the former Enron executive, Dan Boyle.

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CRIMINAL LAW:

The Lawyer Companies Love To Hate (NYT)

The New York Times, July 2, 2005

SITTING in the back of a town car this past Wednesday, as his driver pulled away from the federal courthouse and headed toward his hotel in Midtown Manhattan, William S. Lerach reached for a ringing cellphone in the pocket of his natty suit. How had his day gone, asked the person on the other end. "We went two for two," said Mr. Lerach, the most aggressive, feared and controversial plaintiffs' lawyer in the land. "It was a good day."

No, he didn't mean he'd won two cases - but what he'd won was almost as important. In two hearings, Lerach Coughlin Stoia Geller Rudman & Robbins, Mr. Lerach's San Diego-based firm, had been named lead counsel. For Mr. Lerach - indeed, for every big-time lawyer who makes his living suing companies on behalf of an aggrieved "class" of shareholders - being named lead counsel is the key to everything. The lead counsel controls the case. He negotiates the fees. And best of all, the lead counsel takes most of the lawyer's cut: 20 percent to 30 percent of whatever he ultimately extracts from the big bad corporation.

Of course you can't become lead counsel in a securities fraud case unless you're representing some shareholders who have been hurt by a company's misdeeds. And it now appears that Mr. Lerach's courting of shareholder plaintiffs has landed him in hot water with the Justice Department.

Late last week, a federal grand jury indicted Seymour M. Lazar, who had long been - how to put this nicely? - a regular in the stable of Mr. Lerach's former firm, Milberg Weiss Bershad Hynes & Lerach. (Last year, Mr. Lerach and Melvin I. Weiss, a co-founder of Milberg Weiss, split the firm in two. Mr. Weiss's firm, based in New York, is now known as Milberg Weiss Bershad & Schulman.) The government contends that over the years, Mr. Lazar received some $2.4 million in kickbacks from Milberg Weiss for lending his name to literally dozens of stockholder class-action lawsuits brought by the firm. Mr. Lazar's lawyer maintains that his actions were "ethical and appropriate." While neither has been charged, both Mr. Lerach and Milberg Weiss have denied any wrongdoing. Typically, though, Mr. Lerach's camp has been the more aggressive in pushing back.

The people in Mr. Lerach's camp have been quick to cast the investigation as politically motivated, an example of a pro-business Republican administration going after a scourge of corporate wrongdoing - and a big contributor to the Democrats to boot. Besides, doesn't Mr. Lerach currently have a shareholder suit against Halliburton, one that even points the finger at its former chief executive, Vice President Dick Cheney? Hasn't he extracted so far $4.7 billion for the beleaguered shareholders of Enron, the company once run by President Bush's old friend "Kenny Boy?"

Mr. Lerach's lawyer, John Keker, said in a statement that "Bill Lerach has done more to protect shareholders than this S.E.C. and the Department of Justice combined"- and made ominous references to Mr. Lerach's "powerful enemies."

While I have no way of knowing whether Mr. Lerach is innocent of the charges he may soon face - or whether the investigation is politically inspired - I do know that Mr. Lerach is hardly a candidate for canonization. For much of his career, he made his living playing a dirty game.

He would watch for the stocks of companies to drop, especially volatile high-technology stocks that missed their earnings estimate, and then he would round up a small shareholder like Mr. Lazar and race to the courthouse to be first in line to file a suit seeking class-action status. And then, usually with little else to go on, he would essentially torture the company with discovery motions and deposition requests and legal filings until it finally settled to make him go away.

And he was so gleeful about it! And so taunting! And so vindictive! He sued 3Com five times. Intel, too. He would tell executives of the companies he was suing, "I'm going to take away every penny you own." Once when Alan Shugart, the C.E.O. of Seagate Technology, which was being sued by Mr. Lerach, started a campaign against "abusive litigation," Mr. Lerach sent him a note that said, "Dear Al: More is coming."

John Doerr, the Silicon Valley venture capitalist, has called Mr. Lerach "a cunning economic terrorist."

In 1995, Congress passed the Private Securities Litigation Reform Act, whose purpose, in part, was to put Mr. Lerach out of business. Under the new law, in order to be named lead counsel, it no longer mattered if you arrived at the courthouse first with a suit; what mattered was whether your client was a big shareholder who had lost a lot of money. The law also made it much more

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difficult to sue companies simply because they reported bad news and their stock prices went down. Plaintiffs' pleadings had to have some, you know, facts.

For a while Mr. Lerach floundered. Other firms quickly forged alliances with big pension funds and stopped filing frivolous lawsuits, searching instead for actual fraud. Mr. Lerach, meanwhile, had his own troubles to deal with, especially a lawsuit brought by an expert witness who testified for the defense in shareholder lawsuits, and who asserted that Mr. Lerach had tried to litigate him out of business. Milberg Weiss wound up paying $50 million to settle the case.

But Mr. Lerach eventually figured out how to make his way in this new environment. Which is why, when Enron came along, a real fraud by any reckoning, he could claim the University of California Regents as his client, and land the coveted lead counsel spot.

If Mr. Lerach's pre-1995 behavior shows him at his worst, the Enron case shows him at his best. Put aside his flamboyant histrionics - Mr. Lerach surrounded by cameras, holding a box of "the shredded evidence," as he called it. Focus instead on his legal tactics. The money Mr. Lerach has won for shareholders has come largely from the banks and investment banks - including Citicorp and J. P. Morgan Chase, which recently settled with Mr. Lerach for $4.2 billion combined - that did Enron's bidding. (And there are more banks, including Deutsche Bank and Credit Suisse, that will probably be settling with Mr. Lerach in the not-too-distant future.)

Yet he has won this money despite a clear-cut 1994 Supreme Court decision that banks cannot be held liable for aiding and abetting a securities fraud - something they clearly did in the Enron fraud. Knowing this, Mr. Lerach cleverly wrote a 500-page complaint that never once used the words "aiding" or "abetting," but asserted instead that the banks and Enron had "schemed" together to defraud investors.

Larry E. Ribstein, a law professor at the University of Illinois, called Mr. Lerach's brief "a masterpiece: he made the most convincing case that could be made." By the time all the banks he's suing have settled, Mr. Lerach will have probably generated upward of $6 billion for shareholders, and he'll keep 8 percent of that. (He cut his usual fees to get the case.)

In his town car, I asked Mr. Lerach about the effect of the 1995 law. His answer was not surprising. "I think the law contributed to the scandals," he said flatly. "When the new law was passed, some very fine cases got thrown out. That emboldened executives."

To which I say, "Baloney." The 1995 law did exactly what it was supposed to do. It made it much more difficult to win the kind of lawsuits that used to be Mr. Lerach's stock and trade: the ones that were never about corporate wrongdoing, but were about cost-benefit analysis. Much of the fraud now being prosecuted took place because we were in a bubble, and greed overtook fear. And strangely, the law wound up helping Mr. Lerach, because when the big cases like Enron came along, he had one of the few plaintiffs' firms with the money and talent and wherewithal to run with them. He finally got to play the good guy for real.

And yet I couldn't help noticing that even now, Mr. Lerach's firm files a lot of lawsuits that seem to be based on not much more than some bad news and a big drop in the stock price. Eastman Kodak, OfficeMax, DreamWorks SKG and dozens more companies are facing that kind of lawsuit from him. He also has a new version of the small shareholders he used to have in his hip pocket: various plumbers' and pipe fitters' unions in places like Tennessee and Kentucky.

Mr. Lerach gave an unapologetic shrug when I asked him about these suits. "We like to have a lot of cases," he said. "That's our business model. It keeps you sharp. It's good training for your young lawyers." He described some of his competitors in the plaintiffs' bar, the ones who stick to big institutional clients and only file lawsuits against the likes of American International Group and WorldCom - as "living off the low-hanging fruit."

With that, Mr. Lerach hopped out of the car and walked into the hotel. The old dog knows some new tricks. He really does. His problem now is that he can't stop using the old ones.

Government Sues Maker Of Body Armor (AP-Y2)

By Mark Sherman, Associated Press Writer

AP2, July 2, 2005

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The government on Friday sued the top U.S. supplier of bullet-resistant police vests and the Japanese manufacturer of the vests' protective synthetic fiber, contending they conspired to hide evidence that the body armor could be defective.

Second Chance Body Armor Inc. of Central Lake, Mich., and Toyobo Co. knew that the vests' ability to stop bullets was overstated, but Second Chance sold them anyway to local, state and federal police, according to the lawsuit in U.S. District Court in Washington.

The government also alleged that the companies kept silent for nearly three years in the face of mounting evidence that the Zylon fabric degraded faster than they acknowledged when it was exposed to light, heat and humidity.

Only after an Oceanside, Calif., police office was killed and a Forest Hills, Pa., officer was seriously wounded while wearing Second Chance vests made of Zylon in June 2003 did the company stop selling certain models and disclose safety problems, the lawsuit said.

Second Chance executives also ordered the destruction of internal memos, including one that urged the company to take corrective action and not wait until an officer was killed, the lawsuit said.

Second Chance and Toyobo blamed each other Friday for problems with the vests. "Second Chance was the bad actor, not Toyobo," said Kent Jarrell, a spokesman for Toyobo.

Mary Ann Sabo, a Second Chance spokeswoman, said Second Chance has been working closely with the Justice Department and expects to be vindicated. Sabo said Toyobo "is ultimately responsible for the problems with Zylon."

Questions about the vests, initially praised for their strength and light weight, were first raised by a whistle-blower, Second Chance's former director of research and development.

Second Chance is facing more than a dozen suits by states, police agencies and individuals. Last week, the company acknowledged that the Zylon vests may not be safe and urged its customers to replace nearly 100,000 vests that had not previously been recalled.

A company lawyer has said Second Chance did not recall its remaining Zylon vests because the company did not have the money to replace them. The lawyer said it was possible the company could tap a federal body-armor fund to replace the vests.

The company, now going through reorganization in federal bankruptcy court, earlier recalled more than 130,000 vests.

Second Chance also is suing Toyobo, which is a defendant in some of the other suits.

Toyobo has acknowledged that the fiber loses up to 20 percent of its durability within two years of manufacture. But the company has said Zylon works well in body armor that is properly constructed, and it contends it is not to blame for any problems with Second Chance vests.

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On the Net:

Second Chance Body Armor: http://www.secondchance.com

Toyobo Co.: http://www.toyobo.co.jp/e/

Justice Department: http://www.usdoj.gov

Cianci Asking U.S. Supreme Court To Review His Conviction (PROJO)

By Tracy Breton, Journal Staff Writer

The Providence Journal, July 2, 2005

PROVIDENCE -- Two weeks after losing his bid to have his sentence reduced, former Providence Mayor Vincent A. Cianci Jr. is asking the U.S. Supreme Court to review his conviction for racketeering conspiracy, his lawyer said.

The petition was mailed to the nation's highest court today, according to his lawyer, John A. "Terry" MacFayden. It is the last legal recourse Cianci has to try to void his conviction.

Digital extra

Read Cianci's petition to the U.S. Supreme Court

Cianci, who was convicted three years ago in the wake of a federal probe into corruption at City Hall, attacks his conviction on two grounds.

He claims that the RICO indictment against him, as worded, was fatally flawed.

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He also argues that Chief U.S. District Court Judge Ernest C. Torres should have allowed the jury to hear a 1995 tape recording in which Cianci rejects the overtures of an undercover agent for the FBI who was posing as an air-conditioning businessman trying to get a city contract.

Cianci tells the agent that anyone who tried to shake him down would be castrated and arrested. But Torres ruled the tape inadmissable, saying he had doubts about the mayor's sincerity and it amounted to irrelevant hearsay.

The U.S. Supreme Court rejects most of the petitions for review that it receives, taking only those cases that it considers of "gravity and general importance."

Cianci is serving a 64-month prison term at a prison at Fort Dix, N.J., for his conviction on the single count of racketeering conspiracy. With good behavior, the 64-year-old is scheduled to be released in July 2007. His request for a reduced sentence was denied last month.

During the trial, U.S. Justice Department prosecutors argued that Cianci headed a criminal enterprise with wide-ranging tentacles that took bribes in exchange for tax breaks, favors and city jobs.

The FBI's investigation, code-named "Operation Plunder Dome," relied heavily on testimony from corrupt former city officials. The star witness was the air conditioning contractor, Antonio Freitas, who posed undercover to ensnare some of Cianci's closest aides.

Freitas carried a hidden video camera, making several surveillance tapes, including Cianci's top aide, Frank Corrente, taking a $1,000 cash bribe. Corrente was convicted of several counts, including racketeering.

-- With reports from The Associated Press

Agents Search Homes, Yacht Of Contractor, Congressman (WP)

By Renae Merle and R. Jeffrey Smith

WP, July 2, 2005

Federal agents armed with search warrants descended on the California house of Rep. Randy "Duke" Cunningham yesterday, the latest step in a criminal investigation into his relationship with the owner of a District-based government contracting firm.

Agents from the FBI, Internal Revenue Service and Defense Criminal Investigative Service of the Pentagon inspector general's office participated in the search of Cunningham's house near San Diego, as well as the Washington home, office and boat of Mitchell J. Wade. Wade was until recently the chief executive of MZM Inc., which does intelligence work for the Pentagon.

Cunningham, a California Republican who was a fighter pilot in Vietnam and an instructor at the Navy's Top Gun school, is a member of the House Intelligence Committee and defense appropriations subcommittee.

The investigation began three weeks ago after news reports that Wade had purchased Cunningham's home in late 2003 for $1.675 million and then sold it months later at a $700,000 loss. Cunningham also was living rent-free on Wade's 42-foot yacht at the Capital Yacht Club on the Potomac River. But he has not stayed on the yacht for about two weeks, according to a source close to the congressman.

Cunningham acknowledged last week that he showed "poor judgment" in selling his house to Wade but denied he had improperly helped MZM obtain government contracts to work on intelligence programs.

Cunningham's lawyers, K. Lee Blalack II and Mark Holscher, issued a statement calling the search of Cunningham's home in Rancho Santa Fe "an appalling abuse of government power" because the congressman agreed Monday to cooperate with a federal grand jury subpoena seeking essentially the same documents.

"They will apparently not take yes for an answer and have instead opted to use strong arm tactics that were designed to generate headlines," the lawyers said.

In Washington, around 10 a.m., more than a dozen federal agents entered the headquarters of MZM, a secure white brick building on New Hampshire Avenue NW, and ushered employees into the reception area, according to one person who was there but spoke on the condition of anonymity. The agents took the names and phone numbers of the 15 to 20 employees before allowing them to leave, then did not allow anyone to reenter, the source said.

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Agents also searched Wade's Kalorama home and the yacht the contracting executive bought in late 2002 and soon renamed Duke-Stir, apparently after the congressman.

In an unsigned statement, MZM said that it was cooperating with the investigation and that its legal counsel, Steptoe & Johnson LLP, had been in contact with authorities.

"The search warrant process will not impede the ability of MZM's more than four hundred employees to continue to carry out critical national security support missions for our government," the statement said.

Attorneys at Wilmer Cutler Pickering Hale and Dorr LLP who represent Wade declined to comment.

The search warrants were executed at the company's headquarters two weeks to the day after an MZM official who worked closely with Wade shredded a large stack of documents on the third floor of MZM's Washington headquarters, two sources with knowledge of the incident said independently yesterday. They said the official destroyed the documents on June 17 in a waist-high machine during Wade's final hours in the office, an act that one source described as "weird" because of the timing.

Wade and his attorneys agreed the previous evening that he would surrender control of the company to other senior MZM officials, and they also agreed that he could pack up his office papers at a set time on June 17, one of the sources said. But Wade angered the firm's new managers by arriving earlier than agreed, according to this source. Both sources said he was in the building when the shredding occurred.

The nature of the destroyed documents could not be learned, and the executive who did the shredding did not reply to phone calls and e-mails seeking his comment. The shredding was halted when it became apparent to the new company managers, the sources said. Another senior MZM official affixed a note to the door in mid-morning that day, ordering employees of the company not to enter the room where the machine was located, they added. Wade was eventually permitted to take other documents from the building in boxes, under the supervision of company attorneys, the sources said.

The sources spoke on the condition that they not be named because of the sensitivity of the matter.

The Navy says Wade entered the Naval Reserve in November 1987 and the Individual Ready Reserve in 1996. He resigned his commission in 1999. He reached the rank of lieutenant commander. Wade was a program manager at the office of the assistant secretary of defense for command, communications and intelligence from 1991 to 1993, according to his entry in Who's Who.

Wade started MZM in 1993, but it did not begin to grow until it was awarded a broadly written contract, called a blanket purchase order, in fall 2002. It did more than $163 million in work for a variety of Pentagon agencies until the Defense Information Systems Agency cut off new work orders 11 days ago, saying the inspector general's office ruled that the work was not competitively awarded.

Federal procurement records show one of MZM's first contracts was a $140,000 deal to provide office furniture to the Executive Office of President. In 2003, the Pentagon hired the firm to provide linguists in Iraq.

According to news reports, some former and current MZM employees have complained that they were pressured to contribute to the company's political action committee, which could be illegal. The PAC and MZM employees contributed $50,000 to the 2004 campaign of Rep. Katherine Harris (R-Fla.), according to the Center for Responsive Politics, which monitors campaign spending.

Harris sent a letter to MZM employees this week, offering to return contributions if they were "pressured, overtly or tacitly, in making this gesture." According to Adam Goodman, Harris's campaign consultant, the letter was prompted by the news reports and the congresswoman had not been contacted by federal investigators.

FBI Raids Home Of Rep. Cunningham (LAT)

By Tony Perry

The Los Angeles Times, July 2, 2005

Federal agents Friday raided the home of Rep. Randy "Duke" Cunningham as part of a grand jury probe of the congressman's links to a defense contractor.

Agents also served search warrants on the Washington offices of the contractor, MZM Inc., and at the Duke Stir, the 42-foot yacht owned by MZM founder Mitchell Wade where Cunningham (R-San Diego) has been living for more than a year.

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K. Lee Blalack, Cunningham's lawyer, called the raid "an appalling abuse of government power."

The federal investigation centers on the sale of Cunningham's house in November 2003 to Wade for $1,675,000. Investigators appear to be looking at whether the price was inflated to allow Wade to funnel money to the congressman. Cunningham's position in Congress, where he sits on a committee that controls the Pentagon budget, could have allowed him to influence the flow of contracts to MZM.

The home was never offered publicly for sale. Months after buying it, Wade sold the home for $975,000, a $700,000 loss. Cunningham and his wife bought their current house, an 8,000-square-foot home in Rancho Santa Fe, for $2.5 million soon after selling the Del Mar Heights house to Wade.

Cunningham says he offered to sell the house to Wade after the contractor said he needed a place near Miramar Marine Corps Air Station, where MZM has a project.

In a three-page statement issued last week, Cunningham said he showed poor judgment in selling the home to Wade but that he never gave preferential treatment to the defense contractor. He said he had paid $13,000 in berthing fees and maintenance costs related to his stay on Wade's yacht, which is berthed at a yacht club on the Potomac River.

Cunningham also has said the price of the Del Mar Heights house was determined by comparing sales of similar-sized homes in the neighborhood. He said the work was done by real estate agent Elizabeth Todd, a longtime friend and contributor.

Todd has also received a subpoena from investigators.

Cunningham and his wife, Nancy, were not in when agents arrived at the house in Rancho Santa Fe, an exclusive community 25 miles north of San Diego.

Blalack said that Cunningham had earlier offered to cooperate fully with FBI authorities probing the sale of his house in Del Mar Heights to Wade in 2003.

"They will apparently not take 'yes' for an answer and have instead opted to use strong-arm tactics that were designed to generate headlines," Blalack said.

An attorney from Blalack's law firm arrived at the Rancho Santa Fe house during the search, which was authorized by a secret affidavit issued by a federal grand jury in San Diego. FBI officials declined to say what agents were searching for.

Cunningham, 63, an eight-term member of Congress, is scheduled to return to his northern San Diego County district this weekend for Fourth of July celebrations, his first home visit since the controversy began.

According to the Defense Information Systems Agency, MZM has received $163 million in federal contracts, mostly for classified projects involving the gathering and analysis of intelligence.

Last month the agency halted the awarding of new contracts to MZM as part of a change in federal regulations requiring more competitive bidding. The change is not related to the investigation, and MZM will be allowed to bid for new projects, said Mike Thiem, spokesman for the Defense Information Systems Agency.

According to the Washington Post, an MZM official who worked closely with Wade shredded a large stack of documents on the third floor of MZM's Washington headquarters two weeks ago. The Post said it based its account on two sources with knowledge of the incident who spoke to its reporters Friday. They said the official destroyed the documents June 17 in a waist-high machine during Wade's final hours in the office.

The federal probe into the relationship between Wade and Cunningham involves the FBI, the U.S. attorney's office, the Defense Criminal Investigative Service and the Internal Revenue Service, according to Jan Caldwell, spokeswoman for the FBI office in San Diego.

FBI Probe Targets Congressman (WT)

The Washington Times, July 2, 2005

FBI agents searched the California home of Rep. Randy "Duke" Cunningham yesterday, and served warrants at the yacht in the District where he has been living, a Justice Department official said.

Agents also searched the offices of a defense firm whose founder bought the congressman's previous home, leading to a federal investigation, the official said on the condition of anonymity.

Mr. Cunningham, 63, has said that he showed poor judgment in selling the house, but said he acted honestly and predicted that an investigation would prove that.

The former Navy "top gun" fighter pilot and eight-term Republican congressman sold his home in November 2003 to Mitchell Wade, a campaign contributor and close friend.

Mr. Wade paid $1.7 million for the 3,826-square-foot house in wealthy, seaside Del Mar, just north of San Diego. He put it back on the market soon after and eventually took a $700,000 loss when he resold it in October 2004. During that span, home prices in San Diego County rose an average of nearly 25 percent.

Meanwhile, Mr. Wade's little-known company, District-based MZM Inc., was increasing its federal contracting business. In 2004, MZM tripled its revenue and nearly quadrupled its staff, according to the company's Web site.

Mr. Cunningham has lived part-time on Mr. Wade's boat, docked on the Potomac River.

The congressman is a member of the House Appropriations Committee's defense subcommittee and the Permanent Select Committee on Intelligence, both of which oversee the kind of classified intelligence work MZM does for the military.

The Defense Department halted orders this month on a five-year contract that provided MZM with $163 million of revenue over its first three years after the department's inspector general found that it did not satisfy rules on competitiveness.

This week, MZM announced that James King, a retired three-star Army general, was taking over as president and chief executive -- a role held for years by Mr. Wade, who founded the company in 1993.

Cunningham Questioned Over Commercial Use Of Congressional Seal (SDUT)

By Marcus Stern And Jerry Kammer, Copley News Service

The San Diego Union-Tribune, July 2, 2005

WASHINGTON – Rep. Randy "Duke" Cunningham, already in legal and political hot water over his dealings with a defense contractor, might have run afoul of the law by using a likeness of the congressional seal for commercial purposes.

Cunningham, a highly decorated Navy pilot in Vietnam and former instructor at the Navy's Top Gun academy, has operated a commercial Web site for years that sells memorabilia, including a $595 "Randy 'Duke' Cunningham Fighter Ace Kalinga Style Buck Knife."

The blade of the 10-inch knife is emblazoned with three emblems etched in gold, according to the Web site, including the "Official Seal of the United States Congress."

A chorus of still-unanswered questions has been raised in Washington this week about the legality of the Rancho Santa Fe Republican's use of the congressional seal for commercial purposes.

Cunningham and his attorney have refused to comment on the matter, but, after four days of questions from Copley News Service, the Web site's commercial operations were shut down yesterday afternoon with a message stating that a new Web site is under construction.

Under federal law, any member of Congress can be fined and imprisoned for up to six months if he or she "knowingly uses, manufactures, reproduces, sells, purchases for resale . . . any likeness of the seal of the United States Congress" without the approval of the clerk of the House.

When asked if the clerk had approved Cunningham's use of the seal, his office referred calls to his attorney, Lee Blalack, who declined to comment. Numerous calls to the clerk's office this week either went unanswered or were referred to the House ethics committee. Calls to the ethics committee also went unanswered or resulted in no comment.

However, a source close to Cunningham said that the likeness of the seal on the knife wasn't, as advertised, the "Official Seal of the United States Congress."

Instead, the source said, it was an unofficial seal not subject to the criminal statute barring commercial use. The source declined to be identified because of the ongoing FBI and federal grand jury investigations into Cunningham's dealings with defense contractor Mitchell Wade, founder of MZM Inc.

Wade purchased Cunningham's Del Mar-area house in November 2003 and later sold it at a $700,000 loss. At the same time, MZM was growing its federal contracting business and Cunningham, who sits on the defense appropriations subcommittee, was supporting MZM's efforts to get tens of millions of dollars in contracts.

Questions have also been raised about Wade's purchase of a yacht that he has allowed Cunningham to live aboard while in Washington.

The Library of Congress, in a written statement that it keeps on file, confirmed yesterday that there is no current official seal of Congress. Instead, the House and Senate each have their own seals.

The official House seal depicts the House side of the U.S. Capitol. But the House also has an "unofficial" seal created for members "to use on stationery and other office-related items."

The unofficial seal depicts an eagle and stars in gold with a blue border and cream background, which is similar to the image emblazoned on the 1,000 collector knives Cunningham offered for sale.

However, congressional ethics experts expressed doubts about the legality of Cunningham's use of the likeness, even if it was the unofficial seal of the House.

"You can't use the seal for commercial purposes," said Jan Witold Baran, a Washington lawyer who specializes in ethics and has represented members of the Senate and House before their respective ethics committees.

While the issue of the seal being used on a collector's knife hasn't arisen before, as far as Baran knows, he said questions have arisen in the past over use of the unofficial seal on stationery.

"In the '80, some political party organizations used something that looked like the Great Seal (of the United States). The Justice Department said, 'Stop it,' and they did," said Baran, who served as the general counsel to the Republican National Committee from 1989 to 1992 and worked on the 1988 presidential campaign of former President George H.W. Bush.

The Great Seal of the United States, like the unofficial seal of the House, depicts an eagle.

Although the law carries criminal penalties, including fines and prison time, Baran could recall no instance in which a case was prosecuted.

"I don't know of anyone who has gone to jail for it," he said. "It is a statute that has been on the books a long time . . . I have never heard of the Department of Justice bringing a case against someone criminally under the statute."

The Web page still features a picture of Cunningham, a fighter ace in Vietnam, striking a pose in his flight jacket with his helmet under one arm and a likeness of his fighter jet underneath.

Cunningham has always listed Top Gun Enterprises on the annual financial disclosure form he is required to file as a member of Congress. During Cunningham's years in Congress, the company has always been valued on the form at up to $500,000. But the form Cunningham released recently for 2004 valued Top Gun Enterprises at up to $1 million.

Cunningham's office referred questions on the company's increase in value to his attorney, who declined to comment.

MSNBC Analyst Says Cooper Documents Reveal Karl Rove As Source In Plame Case (EaP)

Editor & Publisher, July 2, 2005

Now that Time Inc. has turned over documents to federal court, presumably revealing who its reporter, Matt Cooper, identified as his source in the Valerie Plame/CIA case, speculation runs rampant on the name of that source, and what might happen to him or her. Tonight, on the syndicated McLaughlin Group political talk show, Lawrence O'Donnell, senior MSNBC political analyst, claimed to know that name--and it is, according to him, top White House mastermind Karl Rove.

Here is the transcript of O'Donnell's remarks:

"What we're going to go to now in the next stage, when Matt Cooper's e-mails, within Time Magazine, are handed over to the grand jury, the ultimate revelation, probably within the week of who his source is.

"And I know I'm going to get pulled into the grand jury for saying this but the source of...for Matt Cooper was Karl Rove, and that will be revealed in this document dump that Time magazine's going to do with the grand jury."

Other panelists then joined in discussing whether, if true, this would suggest a perjury rap for Rove, if he told the grand jury he did not leak to Cooper.

Reporters Facing Jail Time Submit Preferences (NYT)

By Adam Liptak

The New York Times, July 2, 2005

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Matthew Cooper of Time magazine and Judith Miller of The New York Times, who have been held in contempt for refusing to testify about their confidential sources, filed court papers yesterday asking to be sentenced to home confinement or to particular federal prisons if they must be jailed.

Time Inc. also filed a brief statement saying it had complied with a grand jury subpoena by supplying documents to the special prosecutor in the case, Patrick J. Fitzgerald. Mr. Fitzgerald is looking into the possibly unlawful disclosure of the identity of a covert C.I.A. operative, Valerie Plame.

The documents held by Time disclose the identities of Mr. Cooper's confidential sources and the substance of what they told him, Mr. Cooper has said. Their release gives the reporters some fresh arguments in their efforts to avoid jail.

In October, Judge Thomas F. Hogan of Federal District Court in Washington held the reporters and the magazine in civil contempt. He ordered the reporters jailed and the magazine fined but suspended the sanctions while they pursued appeals.

On Monday, the United States Supreme Court declined to hear the case.

On Wednesday, Judge Hogan indicated that he would send the reporters to jail for up to 120 days and impose large fines on Time Inc. as soon as next Wednesday. Time Inc., a division of Time Warner, announced on Thursday that it would comply with the subpoena for the documents.

Mr. Cooper, who opposed the disclosure of the documents and continues to refuse to comply with a subpoena calling for his testimony, argued that "the nature and volume of the materials released" should render his testimony "duplicative and unnecessary."

One of Mr. Cooper's lawyers, Richard A. Sauber, said, "We are very hopeful that Mr. Fitzgerald will drop his demand for Matt's testimony after reviewing the documents provided to him by Time magazine."

Ms. Miller's lawyers have voiced similar hopes in recent days.

Mr. Cooper asked not to be sent to the default facility for people held in civil contempt in Washington, the District of Columbia jail. "Confinement in the D.C. jail," Mr. Cooper's lawyers wrote, "would subject Mr. Cooper, a non-violent, non-criminal journalist, to a dangerous maximum security lockup already overcrowded with a mix of convicted offenders and other detainees awaiting criminal trials."

Mr. Cooper asked to be sent to the federal prison camp in Cumberland, Md., if home confinement is not an option.

Mr. Cooper attached nine letters from family members and friends. They emphasized that he acted from principle and that jail time for Mr. Cooper would be very hard on his 6-year-old son, Ben.

In her papers, Ms. Miller argued that it was pointless to imprison her because she will never talk. She provided Judge Hogan with letters from soldiers with whom she was embedded during the war in Iraq attesting to that.

Ms. Miller asked for "very restrictive home detention" if confinement is required, including an electronic bracelet and excluding Internet access and cellular phones.

In the alternative, she asked to be sent to the federal prison camp for women in Danbury, Conn.

Mr. Fitzgerald will respond to the papers on Tuesday, and Judge Hogan has scheduled a hearing to consider the issues on Wednesday.

Reporters Ask Judge For Home Detention (WP)

By Carol D. Leonnig

The Washington Post, July 2, 2005

Lawyers for Time magazine reporter Matthew Cooper yesterday urged a federal judge not to jail him for refusing to discuss his confidential sources with a prosecutor, arguing in a court filing that there is no need for his testimony now that his employer has turned over his notes, which identify the sources.

Attorneys for New York Times reporter Judith Miller, who, like Cooper, faces four months in jail for defying Chief U.S. District Judge Thomas F. Hogan's order to cooperate with a special prosecutor's investigation, also urged Hogan yesterday not to jail her. In papers filed yesterday, her lawyers said that because she intends to go to jail rather than disclose the name of her source, incarceration would be "merely punitive" and would not cause her to obey the court.

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Both reporters said in the documents that if Hogan insists on incarceration, they will propose being detained under restrictive conditions at home. They said the cost of electronic bracelets and other monitoring equipment would be borne by private entities, not taxpayers, and that they would give up much of their contact with the outside world

If jailed, however, Cooper suggested he should be sent to a federal prison camp in Cumberland, in close proximity to Washington, where he lives with his wife, Mandy Grunwald, and their 6-year-old son. Miller proposed a federal women's prison camp in Danbury, Conn., which her lawyers described as "safe" and "near to Ms. Miller's 76-year-old husband," retired book publisher Jason Epstein, in New York City.

Most people found in contempt by a federal court in the District serve their time in the D.C. jail.

Hogan held Miller, Cooper and Time in contempt of court in October for refusing to identify their sources to special prosecutor Patrick J. Fitzgerald, who is investigating whether senior administration officials knowingly identified covert CIA operative Valerie Plame to the media.

Plame's name first appeared in a July 2003 syndicated column by Robert D. Novak, shortly after Plame's husband, former ambassador Joseph C. Wilson IV, published an opinion piece in the Times that accused the Bush administration of twisting intelligence to justify going to war with Iraq.

Fitzgerald wants to talk to Miller and Cooper about conversations they had with specific government officials. A spokesman for Fitzgerald declined to comment yesterday on the filings or the reporters' detention proposals. Fitzgerald has until Tuesday to reply to Hogan.

Over Cooper's objections, Time yesterday turned over notes and e-mails of Cooper's that were stored in a computer. The magazine, which faces a $1,000-a-day fine that had reached $270,000, said it hoped that by complying it would keep Cooper out of jail.

Time editor-in-chief Norman Pearlstine said Thursday that after the Supreme Court refused on Monday to hear the reporters' appeals of the case, he believed that the magazine had to obey Hogan's order.

In the court papers, the two reporters laid out their final arguments as they prepare for a hearing Wednesday at which Hogan could order them incarcerated.

"Mr. Cooper submits that his testimony would be duplicative and unnecessary, and he respectfully requests the court to inquire of the Special Counsel whether the grand jury still needs Mr. Cooper's testimony," Cooper's attorneys wrote.

In arguing for home confinement, Miller's attorneys said in the filings that Miller would suffer from giving up such tools as her cell phone and Internet access, because "impairing her unrestricted ability to do her job as an investigative journalist . . . would present the strictest form of coercion to her."

They said Miller is not in ill health but contended that home detention is more "suitable" for a 54-year-old woman.

20-year Sentence For Man With Grudge Against Judge (AP)

By RON WORD, Associated Press Writer

AP, July 2, 2005

JACKSONVILLE, Fla. -- A man with a grudge against a judge was sentenced Friday to the maximum 20 years in prison for holding a lawyer hostage and threatening to blow up an downtown office tower last summer.

John Knight, who was armed with two guns and claimed to have a bomb, "had planned to take his own personal vengeance against the system," said Circuit Judge Michael Weatherby. "None of this was the act of a madman."

"What were you thinking? Weatherby said. "I cannot discern any plausible or palpable reason that someone would commit the crimes that he committed."

Knight, 37, a copy machine salesman from Fort Wayne, Ind., wearing a green jump suit, did not speak in the 15-minute hearing. He had taken attorney John Hazelip hostage in his office and threatened to blow up the building last August because he wanted to force the resignation of a judge who had sentenced him to a day in jail five years earlier.

Knight, who pleaded guilty in March, was sentenced to 15 years on a charge of false imprisonment; 20 years for armed fake impersonation of a law enforcement officer; five years for aggravated assault; five years for carrying a concealed firearm and 15 years for perpetrating a bomb hoax. All the sentences will run concurrently.

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Hazelip, who Knight held for three hours, did not attend the hearing, but said later in a telephone interview, "I have forgiven him and hold no grudge against him. I hope he finds hope for the despair in his life."

Carrying a 9mm handgun in an envelope, he entered the Hazelip's law office in the 28-story Riverplace Tower by claiming to be an agent of the Justice Department last August.

For the next three hours, the two sat alone in his office while Knight made threats to kill Hazelip and demanded to talk to Jacksonville Mayor John Peyton, whose family owns the office tower. Knight ordered Peyton to secure the resignation of Duval County Judge Sharon Tanner, who had sentenced Knight in a 1999 domestic violence case.

As Peyton negotiated with Knight, police evacuated the office tower, fearing Knight might have a bomb. Children from a day care center were led to a nearby hotel lobby, while workers sweltered in the hot sun.

The standoff ended after Tanner pretended to resign on live television, although Hazelip testified earlier this month that Knight surrendered without knowing whether Tanner had resigned because there was no television in his office.

When Knight surrendered, police found he was carrying two 9mm pistols and 69 bullets. He did not have a bomb.

Tanner said she was pleased Weatherby sentenced Knight to the maximum sentence under his plea agreement.

"I doesn't give me any pleasure to see someone go to jail for 20 years, but I do believe the people of Jacksonville can rest assured that what Judge Weatherby has done today is completely appropriate," Tanner said after the hearing, tears welling in her eyes. "Judge Weatherby has assured the people of our town that people who take matters into their own hands and threaten public officials and threaten our system of government will be dealt with appropriately."

She said she faked her resignation to save lives.

"The thought that something that had happened in my courtroom might have led to the death of innocent people has haunted me night and day," Tanner said. "I will never ever get over that, never."

Assistant State Attorney Melissa Williamson Nelson was pleased the Weatherby imposed the maximum sentence.

"John Knight took the whole legal system of this community hostage when he chose to take Chris Hazelip hostage," she said. "I am thrilled with the outcome."

Knight's attorney, Assistant Public Defender Ann Finnell, did not comment and did not return a telephone call.

CIVIL RIGHTS:

Judge Cancels His Order That Justice Official Must Testify (SLT)

By Pamela Manson

Salt Lake Tribune, July 2, 2005

A federal judge in Utah has canceled his order requiring a top Justice Department official to testify why it is taking so long for the department to review records connected to the death of a prison inmate.

U.S. District Judge Bruce Jenkins had set a July 13 date for Noel Hillman, chief of the department's public integrity section, to come to his courtroom and explain, under oath, the delay in deciding which documents can be released under the Freedom of Information Act.

On Friday, he rescinded the order, noting that the official has said his review is complete. However, the judge warned that the reprieve is temporary and said the government ultimately will have to produce the records.

Hillman had been determining which documents could be withheld.

The records are being sought by Jesse Trentadue, the inmate's brother and a Salt Lake City attorney. He contends that Hillman began his review in 2001 and was taking too long.

The records request concerns the August 1995 death of Kenneth Trentadue, an ex-convict who had been placed in a federal prison in Oklahoma on an alleged parole violation. Prison authorities contend the 44-year-old committed suicide, but the man's relatives believe he was slain.

Trentadue is investigating a theory that Kenneth, who had served time for bank robbery, was killed during an interrogation gone awry. The lawyer believes authorities mistakenly suspected his brother was part of a gang that robbed banks to finance attacks on the government, possibly including the Oklahoma City bombing that killed 168 people.

Profiling Study Sparks Debate Among Police (CHIT)

By Scott Goldstein, Tribune Staff Reporter

Chicago Tribune, July 2, 2005

The first-year results of a state-mandated study on racial profiling to be released Friday suggest that some police departments in the northwest suburbs are stopping a relatively high number of minority motorists.

But law-enforcement officials in the region say the study is flawed and warn that the statistics don't tell the true story, exposing some departments to potentially dangerous misperceptions about how they treat minority drivers.

"First of all, I'm terribly concerned about what's going to happen next because when anyone looks at these numbers, it's not going to tell them anything," said Mt. Prospect Police Chief Richard Eddington. "It's much more important the rapport a police department has with its community than this math problem."

Statistics from Mt. Prospect police show that nearly 31 percent of the drivers stopped in 2004 were minorities. About 24 percent of the village's driving population was estimated to be minorities.

In 2000 the Mt. Prospect Police Department settled discrimination lawsuits with three former officers who accused the department of ethnic profiling of Hispanics. As a result of the settlement, the Justice Department now monitors Mt. Prospect, and it found no reason for concern in the 2004 numbers, Eddington said.

Statistics from Elgin, Lake in the Hills and Des Plaines also appear to indicate that police stopped a disproportionate number of minorities last year.

Under a state law adopted in 2003, police officers are required to record the names, addresses, gender and races of all drivers stopped for traffic offenses through 2007. They must also record what led to the stop, what action resulted and whether a search was conducted.

The percentage of traffic stops involving minority drivers is measured against an estimate for the percentage of minority drivers in each suburb.

That number, or benchmark, is a point of debate for some departments, which argue that it was set too low.

For most departments, the benchmark was based on 2000 census data by Northwestern University's Center for Public Safety, which is overseeing the study, said Alexander Weiss, the center's director.

The center is doing the study for the Illinois Department of Transportation, which will release a report Friday on the first year of the study. Many police departments, including Chicago's and those in DuPage County, already have released data.

Chicago police stopped African-Americans at a higher rate than their percentage of the population, according to department statistics. Officials said that might have been a result of targeting street gangs in minority communities. And about two-thirds of the police departments in DuPage County stopped a disproportionately large number of minority drivers, according to statistics.

In Lakewood in McHenry County, nearly 11 percent of those stopped in 2004 were minorities--in a community where the number of minority motorists was estimated at 9 percent. Though the disparity was small, Lakewood Police Chief Larry Howell, president of the McHenry County Police Chiefs Association, said he also has concerns about the accuracy of the benchmarks and how the data will be interpreted.

"I don't know that anyone knows how this is going to be used, No. 1, and specifically what are they saying is acceptable and what's unacceptable," Howell said. "That is something that no one has ever said with this whole thing."

Weiss said that the benchmarks were a reasonable estimate of the driving population and that departments that did not agree were able to argue for a different number.

What is important, Weiss said, is that each department uses the statistics as a point of discussion in the community.

David Harris, a professor at the University of Toledo College of Law and author of books on racial profiling, said conscientious police departments would have engaged the community on the issue of racial profiling long before the raw data were released.

"The way that a police department deals with this successfully is to get people on board with them from the get-go," Harris said. "They knew a good long time ago that they'd face this day, and the smart police departments got out in front of it."

Schaumburg police seem to have taken that approach.

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Lt. Dennis Carroll said Schaumburg police had no qualms about the study or the benchmark.

According to Schaumburg's statistics, about 33 percent of the driving population were minorities, while 24 percent of those stopped last year were minorities. Police in Arlington Heights, Crystal Lake, Woodstock and the town of McHenry also stopped minorities at a rate that was proportional to their driving populations, according to statistics.

And even among the harshest critics, most agree the initiative has forced discussion of an important issue.

"The only thing that the law, in my opinion, has done well is to create good, honest, hard-thought-out dialogue, and that's a good thing," said Rolling Meadows Police Chief Steven Williams. "We want to look at our work from a very critical perspective. I just don't think this study gives us any good valid data to work on."

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sgoldstein@tribune.com

Study: Greater Percentage Of Police Stops Are Minorities (SLPD)

By From Staff Reports, Of the Post-Dispatch

St. Louis Post-Dispatch, July 2, 2005

Minority drivers in Illinois - including some parts of the Metro East area - are more likely to be pulled over than white drivers, according to state data released Friday.

The survey by the Illinois Department of Transportation showed 33 percent of drivers who were pulled over statewide were minorities although only 28 percent of the state's drivers are minorities.

The disparities were worse in some Metro East cities. Minority drivers make up less than 9 percent of the minority population in Granite City, for example, but the study reported minorities accounted for nearly 19 percent of all traffic stops.

The study also reported minority drivers were more likely than whites to be stopped in Alton - where they made up 24 percent of the driving population but 35 percent of traffic stops. In Fairview Heights, where minorities were nearly 30 percent of the driving population, 40 percent of people police pulled over there last year were minorities.

Granite City Police Chief Dave Reubhausen said in a faxed statement that the study's figures are drastically skewed.

"I believe the study to be flawed in this respect: No independent traffic study was conducted to determine the minority driving population in Granite City," he wrote.

Reubhausen said the percentage for minority drivers used in the study was based on the average number of minority drivers in all of Madison County and not reflective of Granite City specifically.

Other cities, such as Collinsville, fared better in the study. Although minority drivers accounted for nearly 30 percent of Collinsville's driving population, the study reported less than 20 percent of people Collinsville police pulled over last year were minorities.

Minority drivers were also less likely to be stopped than whites in East. St. Louis and O'Fallon but slightly more likely to be stopped in Belleville and Edwardsville.

Minorities statewide received tickets 68 percent of the time they were pulled over, compared with whites being ticketed in 60 percent of stops.

The Associated Press contributed to this report.

Agents Said To Dismantle A Korean Sex Ring (NYT)

By Carolyn Marshall

The New York Times, July 2, 2005

Federal agents raided scores of brothels and businesses and arrested more than two dozen people here in the dismantling of an international sex trafficking and human smuggling ring that lured Korean women to the United States and forced them to work as captive prostitutes, the authorities said on Friday.

The crackdown on human smuggling was set in motion late on Thursday, when about 400 federal and state law enforcement officials searched 50 brothels and other businesses in San Francisco and the Bay Area, stemming from the indictment of 29 men who were subsequently charged with sex trafficking, money laundering and harboring illegal aliens. The

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men are also charged with conspiracy to transport women from South Korea and force them to work as prostitutes, said the United States attorney, Kevin V. Ryan.

The arrests here, along with the arrests of 18 people in Los Angeles in a related case, stem from a nine-month investigation by federal, state and local law enforcement agents looking into a human smuggling and sex trafficking ring that the authorities said may be one of the largest and most sophisticated ever.

"This investigation is aimed at stopping the horrific, demeaning and oftentimes brutal practice of smuggling and trafficking of human beings," Mr. Ryan said at a law enforcement press conference on Friday.

During the raids in San Francisco on Thursday, federal agents found about 100 Korean women, who have been taken to an undisclosed nondetention facility to receive medical care and participate in interviews. The agents also seized at least $2 million in cash and several A.T.M.'s and shuttered about a dozen massage parlor brothels.

In a separate but related investigation, the authorities also charged 23 people in Los Angeles.

In Los Angeles 46 women were escorted out of brothels on Thursday and to safety, the authorities said. The authorities said they believed that the San Francisco and Los Angeles operations, although separate businesses, worked in tandem to transport the women.

The cases, investigated by numerous government agencies including the F.B.I., the Internal Revenue Service, immigration and customs enforcement agencies, and the local police, were discussed at separate press conferences on Friday, one here and one in Los Angeles.

Some of the 29 men charged in San Francisco appeared in federal court on Friday. The authorities said they did not yet know whether the defendants are Korean, but all but one man are of Asian descent. The authorities singled out two people they said were major players in the trafficking scheme, Young Joon Yang, 37, and Sung Yong Kim, 39, each charged with two counts of sex trafficking, along with other charges including fraud and coercion.

The indictment in San Francisco said that from September 2001 to October 2004 the defendants "recruited and enticed female Korean nationals to illegally enter the United States." The women, in their 20's, were held captive and forced to work as prostitutes.

The indictment also said that between Feb. 22 and June 23, 2005, the defendants operated a taxi company and a travel agency, both used to transport the women. The taxi company often transported women from brothel to brothel, and in some cases the cabs were used to move women from San Francisco to Los Angeles, an F.B.I. spokeswoman said. The travel agency made international and interstate transport possible. The women were typically flown from an undisclosed location in South Korea to Canada and then to San Francisco.

Brad Schlozman, acting assistant attorney general for the Civil Rights Division of the Justice Department, called the operation "morally repugnant and a truly evil crime" and "a modern-day form of slavery."

At the press briefing in Los Angeles on Friday, the United States attorney, Debra Wong Yang, said that the brothels were concealed by supposedly legitimate massage parlors and that the women were managed by what she called an underground Korean taxi service.

Raids On Brothel Rings Net 45 Arrests (LAT)

By David Rosenzweig And K. Connie Kang

The Los Angeles Times, July 2, 2005

Two criminal syndicates suspected of smuggling hundreds of South Korean women into the United States to work at brothels in the Los Angeles and San Francisco areas have been broken up with the arrest of 45 people, including the ringleaders, federal authorities announced Friday.

In raids on massage parlors, chiropractic offices and apartments at both ends of the state, federal agents and local law enforcement officers took into custody nearly 150 suspected prostitutes as material witnesses.

U.S. Atty. Debra Wong Yang said there was no firm evidence that the women were coerced into working as prostitutes, although some were found to have been sexually abused.

Yang said federal agents were in the process of interviewing the women to learn how they got here and how they were treated.

"This type of criminal organization exploits the hopes and dreams of immigrants," the Los Angeles federal prosecutor said.

Law enforcement officials said the two networks operated independently, although they sometimes traded prostitutes.

The Los Angeles organization was headquartered in Koreatown, home of the largest Korean population outside Asia. Koreatown community leaders reacted to the arrests with surprise and shame.

"This is so embarrassing," said Kenny Shin, president of the Korean American Chamber of Commerce. Shin said he feared that notoriety would hurt Koreatown businesses that are finally recovering from the effects of the 1992 Los Angeles riots.

The Southern California investigation was launched two years ago by U.S. Immigration and Customs Enforcement, the Internal Revenue Service's criminal investigation division and the Los Angeles County sheriff's vice squad.

Using court-authorized wiretaps and undercover informants, investigators said, they were able to track the activities of the organization's leaders for months.

Among the 18 people arrested in Southern California late Thursday and early Friday on prostitution-related conspiracy charges was the alleged ringleader, Young Joon Jung, about 40, a resident of Koreatown. Investigators also seized more than $1 million.

Yang said the Jung organization was a "top to bottom" criminal enterprise. The organization smuggled women into the United States via Canada and Mexico, usually after they agreed to pay as much as $16,000 from their earnings as prostitutes, she said.

The women were then turned over to an underground network of Korean "taxi" services that assigned and transported them each day to various brothels. Authorities said the brothels operated under the guise of being massage parlors, chiropractic clinics and businesses offering aromatherapy, acupressure, acupuncture and the like.

According to an affidavit, some of those brothels paid chiropractors $600 to $1,500 a month to use their licenses.

Koreatown businesspeople Friday expressed surprise that health services were involved, even though only a few of the area's many chiropractors and acupuncturists were implicated. Across the street from one Koreatown establishment raided by investigators, clothing store owner Jong Soon Kang said Friday she could hardly believe that people would pay to lease professional licenses to engage in prostitution.

"I have heard about things like that happening in some massage parlors," she said. "But medical offices? This is very, very serious."

"I just hope this will not harm the Korean community's reputation," she said. "Most Korean immigrants are like me — we work hard and are good citizens. I hope the mainstream will understand that and not think badly of all of us."

The suspected brothels were not limited to Koreatown. Some were located in the San Fernando Valley, South Gate, Santa Monica, Redondo Beach and Anaheim, the affidavit said.

The taxi services, which allegedly were run by members and associates of Jung's organization, occasionally sent the women to work at brothels in Texas, Colorado and Northern California, according to the affidavit.

In one wiretapped conversation recorded in April, one of Jung's associates was overheard complaining about the arrest of 16 women by U.S. Border Patrol officers as they were being taken across the Canadian border in a recreational vehicle rented in El Monte.

Another alleged ring member lamented a crackdown by Mexican officials in Mexicali, saying the police there were arresting everyone who looked Korean. He said he found a way around the problem by sending the women to Tijuana, where he claimed to have a friendly Mexican immigration officer on his payroll.

In the San Francisco-area roundup, about 400 federal and local officers arrested 27 suspects. Five others charged in a grand jury indictment were still at large. The raid, dubbed Operation Gilded Cage, netted $2 million in cash.

By morning, more than 100 Korean women detained at 11 separate massage parlors had been taken to an undisclosed location. They appeared to be about 20 to 27 years old. Victim assistance workers were living among them in an effort to coax their cooperation, and more than half a dozen local social service and legal groups dispatched aid.

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The nine-month Northern California investigation was hailed as a coordinated effort, involving the U.S. attorney's office, the U.S. Department of Justice's Civil Rights Division, the FBI, U.S. Immigration and Customs Enforcement, the San Francisco Police Department, the Internal Revenue Service and the State Department's Diplomatic Security Service.

Officials said the operation successfully dismantled a "large criminal organization" headed by Young Joon Yang, 37, of Pleasant Hill, Calif.

Brad Schlozman, acting assistant attorney general for civil rights, said the still-unfolding investigation appeared to be "one of our biggest" nationwide. Officials said the San Francisco investigation unraveled a "sophisticated criminal enterprise" and therefore was a more serious case than the one brought in Los Angeles.

According to the indictment, two defendants -- Wu Sang Nah and Sung Yong Kim -- are believed to have smuggled at least two female Korean nationals across the U.S. border from Canada. The women were then taken to Virginia, Los Angeles and eventually San Francisco to work as prostitutes.

The indictment alleges that Young Joon Yang operated a taxi service and travel agency dedicated to transporting those two women as well as many others to and from brothels throughout San Francisco as well as to other prostitution engagements in Las Vegas and other cities.

Many of those arrested worked as drivers or support staff for Young Joon Yang. The more than two dozen men and women indicted face charges of conspiring to bring in and harbor aliens, sex trafficking, money laundering conspiracy, and transporting women in interstate commerce to engage in prostitution.

The indictment does not specify whether the women were working off smuggling debts or engaging in prostitution against their will. Advocates said 20% to 30% of women in such situations typically are coerced into prostitution and that the rest are working as prostitutes voluntarily.

Kevin Ryan, U.S. attorney in San Francisco, said information about the circumstances of their prostitution will probably emerge in the coming days.

"There's a belief that San Francisco is a major player in human trafficking," he said. "It's a gateway to the Pacific, and this is a city where many of the women are brought."

Friday afternoon, several dozen shocked family members and friends crowded into a federal courtroom to await the first court appearances of the detained, as defense attorneys milled about to pair with potential clients.

"It's a very broad sweep," San Jose criminal-defense attorney Tak Chang said of the raids. "I suspect some of these people will be very minor players -- drivers and receptionists. This might be a tactic to get the bigger fish."

Taking The Prostitution Pledge (NYT)

The New York Times, July 2, 2005

Since 2003, the Bush administration has required foreign groups fighting AIDS overseas to pledge their opposition to prostitution and sex trafficking before they get money from Washington. Last month, the administration expanded the requirement to American groups. On its face, this law seems innocuous. Who supports prostitution?

But in countries like India, controlling AIDS among prostitutes and their clients is the key to keeping the disease from exploding into the general population. So some very effective programs are built around trying to make sure that prostitutes and their customers use condoms. The groups who run these programs try to gain the trust of prostitutes by providing them with health care and teaching them about safe sex. They argue that being forced to state their opposition to prostitution would limit their ability to do that. Brazil turned down a $40 million grant from the United States because it did not want to imperil successful programs.

The Bush administration and some of its supporters disagree. They argue that anything that makes life more tolerable for prostitutes encourages prostitution. That would include organizing sex workers in India to stand up to abusive clients, or helping Bangladeshi prostitutes get shoes so they can leave the brothel to visit a health clinic. Initially, the Justice Department ruled that the prostitution pledge could not be required of American groups because the American Constitution guarantees the right to free speech. The administration's turnabout would seem vulnerable to a constitutional challenge.

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The new anti-prostitution requirement may have a hidden purpose: to take away the right of American groups working on family planning overseas to counsel abortions. On his first day in office, President Bush signed a reinstatement of President Ronald Reagan's policy blocking American funds for overseas family-planning groups that so much as mention abortion. Both restrictions are the work of Representative Christopher Smith, a New Jersey Republican. The abortion gag rule has never applied to American groups, for the same First Amendment reasons that the prostitution pledge did not. But the decision to strip Americans of their First Amendment right to speak as they please on prostitution opens the way to an attempt to keep them silent on abortion, too.

Justice Clears Ohio In Voting Booth Bias (WP/AP)

By Sarah Anderson, The Associated Press

The Washington Post, July 2, 2005

COLUMBUS, Ohio -- The Department of Justice says it found no evidence of discrimination in the distribution of voting machines in two Ohio counties in the 2004 presidential election.

The department began investigating after voters complained of long voting lines and alleged discrimination in Franklin and Knox counties. Investigators wanted to determine if elections officials had intentionally skewed the placement of machines to favor Republicans.

The Justice Department said, however, the distribution in Franklin County narrowly favored black voters. Because turnout in predominantly black precincts was lower than in white ones, machines in those districts averaged fewer votes, according to a report released Wednesday.

An unanticipated 76 percent turnout _ with many first-time voters _ contributed to the long lines in the Kenyon College precinct in Knox County _ with some people forced to wait until 4 a.m. to vote on just two available machines, officials found.

Distribution of voting machines is determined by county boards of elections, made up of two Democrats, two Republicans and two nonvoting members.

Franklin County, which includes Columbus, had 2,904 machines on hand for 535,575 people who showed up to vote.

In the Knox County precinct, the number of registered voters more than doubled to 1,607 between March and November of 2004. But by the time those numbers were available, the Knox County board already had decided on the distribution of voting machines.

The election turned on Ohio's 20 electoral college votes, and not until preliminary results were available early Nov. 3 did Democratic presidential candidate John Kerry concede. President Bush defeated Kerry by about 118,000 votes in the state.

Think Locally, Ask Globally (WP)

By Mary Beth Sheridan

The Washington Post, July 2, 2005

D.C. voting rights activists took their case to an unusual constituency yesterday, calling on European legislators at an international meeting to lean on the U.S. government to give Washingtonians full representation in Congress.

"O-S-C-E, free D.C.!" chanted scores of demonstrators parading in front of the J.W. Marriott on Pennsylvania Avenue NW, where legislators from countries in the Organization for Security and Cooperation in Europe were opening their annual meeting.

The 55-member OSCE includes countries from Europe and the former Soviet Union, as well as the United States. The OSCE grew out of the Helsinki process of the Cold War period, which established human rights as a global foreign policy concern and tried to spur greater freedom in the Soviet bloc.

The current OSCE meeting, which lasts through Tuesday, will address such issues as gender equality and human rights. But to local activists, nothing matters more than a proposed amendment that calls on the U.S. government to give D.C. residents "equal voting rights in their national legislature." The measure is expected to be considered today or tomorrow.

Eleanor Holmes Norton (D), the District's non-voting delegate in Congress, introduced the amendment with the support of four other legislators in the 12-member U.S. delegation to the OSCE meeting. Delegates from Canada and Switzerland also were sponsors.

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At a noontime rally yesterday in Freedom Plaza, in front of the Marriott, Norton assured a spirited crowd that she would press European parliamentarians to back the measure.

"I will be telling them, 'Do not let the United States government get away with pushing around every other country, insisting on democracy, then coming home and pushing us out when we insist on democracy,' " she said.

Cheers rose from the audience of about 200, including perspiring office workers in shirtsleeves, mothers clutching babies and Faith, an exotic ballet dancer and six-time mayoral candidate, who was clad in a U.S. flag, fishnet stockings and red boots.

The activists hoisted signs in French, German, Russian and other languages demanding the right to full representation for the District. In case the message did not get through, however, organizers set up four voting booths enclosed by a chain-link fence in one corner of the plaza. The fence was festooned with yellow-and-black signs warning: "DC Residents Out! By Order of Congress."

"Our hope is that passage of the resolution will further the cause by putting international pressure on the Congress," said Ilir Zherka, executive director of DC Vote.

Andreas Baker, a spokesman for the OSCE, said that if the D.C. measure passed, it would not have the force of law. It would, however, be included in a final document distributed to the member countries.

"It's essentially the voice of parliamentarians from the 55 [countries]. So it's a recommendation which tends to carry a bit of weight," he said.

An OSCE mission that monitored last year's U.S. presidential election issued a report recently that stated that the U.S. government denies full representation and voting rights to residents of the District.

It was not clear whether the D.C. voting-rights measure would be supported by the entire U.S. delegation, which is composed of six Democratic and six Republican members of Congress. A phone call to the office of Sen. Sam Brownback (R-Kan.), the head of the U.S. delegation, was not returned.

Voting rights activists were scrambling yesterday to make sure the approximately 300 OSCE delegates were aware of the District's special status. They handed out leaflets, marched with signs outside the Marriott and even buttonholed individual legislators.

David Bardin, 72, a retired D.C. attorney, grabbed a Spanish official, Gustavo Pallares, outside the Marriott and quickly filled him in about the local voting situation.

"So you don't have a representative in the U.S. Congress?" said Pallares, puzzled by the idea.

Many legislators simply ignored the protesters. But not Jean-Claude Lefort, a parliamentarian from France. Slapping a "Taxation Without Representation" sticker onto his suit jacket, he walked up and down the line of protesters, shaking hands.

"I support them," he said, explaining his feelings with the French national motto: " Liberté, Egalité, Fraternité."

ANTITRUST:

Microsoft To Pay I.B.M. $775 Million In Settlement (NYT)

By John Markoff

The New York Times, July 2, 2005

Microsoft agreed on Friday to pay I.B.M. $775 million to settle claims growing out of the antitrust lawsuit brought by the Justice Department against Microsoft in 1995. I.B.M. will also receive a $75 million credit toward the use of Microsoft software.

The settlement is one of the largest in a series of settlements Microsoft has struck in its effort to resolve its legal troubles after Judge Thomas Penfield Jackson of Federal District Court in Washington ruled in 2000 that it had engaged in anticompetitive practices.

I.B.M., in negotiating a settlement with Microsoft, held back from filing a separate lawsuit. Indeed, the two rivals have recently become partners in some areas. For example, Microsoft will use I.B.M. microprocessor chips in its new game console, the Xbox 360, which is scheduled to be introduced this fall.

Microsoft executives said the settlement with I.B.M. addressed all discriminatory pricing and overcharge claims growing from the federal antitrust case, including claims related to the I.B.M. OS/2 operating system and SmartSuite products. Under the

deal, I.B.M. agreed to defer consideration of filing claims related to I.B.M.'s server hardware and server software business for two years.

"It's an important milestone for us that marks the end of a significant effort," Microsoft's chief counsel, Brad Smith, said.

An I.B.M. spokesman, Scott Brooks, said the company was pleased to "resolve this amicably without having to go to greater extremes and we're looking ahead."

Executives at the companies said settlement negotiations began in November 2003 and were stepped up in the last two months because "tolling agreements" that extended the statue of limitations on claims related to the federal antitrust case were set to expire this month.

The claims first emerged in the late 1980's when Microsoft and I.B.M. agreed to develop the OS/2 operating system, which was intended as a replacement for MS-DOS, the original operating system for the I.B.M. PC.

In November 1989, the two companies publicly agreed to develop OS/2 first for high-end computing systems with more than four megabytes of memory. Microsoft, however, proceeded to develop its Windows operating system as an alternative for business customers, undercutting the agreement.

Microsoft's strategy affected not only I.B.M, but software makers like Lotus Development, which initially developed its software for OS/2 and not Windows.

Judge Jackson's ruling found that "from 1994 to 1997 Microsoft consistently pressured I.B.M. to reduce its support for software products that competed with Microsoft's offerings, and it used its monopoly power in the market for Intel-compatible PC operating systems to punish I.B.M. for its refusal to cooperate."

Andrew I. Gavil, a law professor at Howard University, said that Microsoft had managed to resolve many of its legal troubles without radically altering its conduct.

"It's paying for peace," Professor Gavil said, "but it's not changing its behavior in any significant way."

In recent years, Microsoft has spent more than $3 billion settling lawsuits by its rivals, including a $1.6 billion deal with Sun Microsystems in 2004 and a $750 million deal with America Online, part of Time Warner, in 2003.

In April Microsoft agreed to settle claims with Gateway Computer arising out of the government's antitrust suit for $150 million. Microsoft said earlier this year that it would place $550 million in reserve for further antitrust-related claims.

The company said Friday that it would describe how it would account for the I.B.M. settlement when it reports its quarterly financial results in July.

"This is just cleaning up the remaining mess on the floor," said Robert E. Litan, a senior fellow at the Brookings Institution and a former Justice Department prosecutor.

Mr. Litan also noted that while Microsoft's software monopoly in the home PC market has remained durable despite the federal antitrust ruling, the rise of the open-source Linux operating system, which is freely distributed, has proven a powerful counterweight to Microsoft's power in the corporate server market.

"You cannot underestimate the impact of Linux" on the computing industry in recent years, he said.

Microsoft also settled with Novell in November 2004 for $536 million for claims related to the antitrust case; however, Novell has since filed a second antitrust suit against Microsoft related to its WordPerfect word-processing software application.

Microsoft is also facing a lawsuit by RealNetworks over its Windows Media Player software and is appealing a $600 million antitrust ruling brought by European regulators.

As part of the ruling in 2000, Judge Jackson ordered that Microsoft be broken into two companies to curb its monopolistic practices. But the next year, the new Bush administration decided not to seek a breakup and the Justice Department settled in 2002.

Shares of I.B.M. shares rose 47 cents on Friday, to close at $74.67. Microsoft shares declined 13 cents, to close at $24.71.

Microsoft To Pay To Settle IBM Claims (LAT)

By Joseph Menn, Times Staff Writer

The Los Angeles Times, July 2, 2005

Microsoft Corp. said Friday that it agreed to give $775 million in cash and $75 million worth of software to IBM Corp. to resolve one of the largest remaining antitrust claims against the world's biggest software maker.

The settlement is the latest in a string of arrangements with customers and longtime business rivals that began after Microsoft resolved a long-running antitrust case with the Justice Department.

Including the IBM accord, Microsoft has now agreed to pay $4.5 billion to settle class-action consumer suits and business cases brought by Time Warner Inc., owner of the vanquished Netscape Web browser, as well as by Sun Microsystems Inc. and others. It takes Microsoft less than a month to earn what it's paying IBM.

"Over the last few years we have been focused on resolving our disputes with other companies, and today's announcement takes another significant step towards achieving that goal," Microsoft General Counsel Brad Smith said in a statement issued jointly with IBM. "With these antitrust issues behind us, both Microsoft and IBM can move ahead."

Still pending against Microsoft is a suit by RealNetworks Inc., which makes a video and music player for computers. RealNetworks is seeking $1 billion in damages.

Unlike Microsoft's settlements with Time Warner and Sun, the Microsoft-IBM agreement makes no reference to any broader framework for cooperation. IBM reserved the right to take action against Microsoft over other alleged improper behavior in the computer market.

Microsoft's stock slipped 13 cents to $24.71, while IBM shares rose 47 cents to $74.67.

IBM was seeking restitution for misbehavior by Microsoft identified in 1999 by U.S. District Judge Thomas Penfield Jackson. Jackson ruled that IBM and Gateway Inc. had to pay more than other firms to install Microsoft's Windows operating system on the computers they sold because those two companies wouldn't help Microsoft suppress competition.

Jackson found that Microsoft retaliated against IBM because of Big Blue's promotion of its own operating system and its decision to install its SmartSuite bundle of productivity applications, which competed with Microsoft's Office programs.

When IBM refused to stop promoting its competing products, Jackson wrote in his decision, Microsoft "punished" IBM by charging higher prices, delaying the license IBM needed to install the crucial Windows 95 operating system on its computers, and withholding technical and marketing support.

"Microsoft did not grant IBM a license to pre-install Windows 95 [on its computers] until 15 minutes before the start of Microsoft's official launch event," Jackson wrote. That was five weeks after other manufacturers got their copies of Windows.

IBM lost large accounts worth about $180 million in revenue during that period because those computer buyers worried that the tension between the two tech giants would keep Microsoft software from performing as well on IBM machines, the judge said.

IBM didn't sue Microsoft, but Jackson's findings significantly increased the odds that Big Blue and others who Jackson said suffered from the hardball tactics could win in court.

Microsoft and IBM began negotiating a settlement shortly after a group backed by IBM asked for permission in April to make arguments during Microsoft's appeal of European antitrust sanctions.

The animosity between the two giants goes back even further, to one of the great strategic blunders of the technology era.

In the early 1980s, IBM allowed Microsoft to sell the operating system it designed for IBM to other companies as well, a step that eventually made the operating system, ubiquitous and indispensable while reducing the importance of the computer it ran on. In that way, IBM helped create the monopoly it later accused Microsoft of exploiting.

Since then, the companies have cooperated in some areas, such as setting standards for programs that operate over the Internet, while squaring off in markets for databases and for operating systems, where IBM promotes Linux over Windows.

"They're huge competitors, but they have an understanding of one another," said Matt Rosoff, an analyst with independent research firm Directions on Microsoft.

Microsoft To Pay I.B.M. $775 Million To Settle Antitrust Claims (NYT)

By Vikas Bajaj And John Markoff

The New York Times, July 2, 2005

Microsoft said today that it would pay I.B.M., which it displaced as the world's premier technology purveyor, $775 million to settle a number of outstanding antitrust claims.

The settlement stems from the Justice Department's antitrust case against Microsoft in the mid-1990's, in which Judge Thomas Penfield Jackson found the giant software company's practices harmed the International Business Machines Corporation, based in Armonk, N.Y. That case was settled in 2001.

Under the agreement announced today, I.B.M. will also receive a $75 million credit toward using Microsoft software. It is the latest, and one of the largest, in a string of antitrust settlements totaling more than $3 billion between Microsoft, based in Redmond, Wash., and its rivals. In April, Microsoft said it would pay Gateway $150 million. Last year, it agreed to pay Sun Microsystems $1.6 billion, Microsoft's largest such payout.

I.B.M. and Microsoft, which issued a joint statement today, came to an agreement just weeks before a deal to extend the statute of limitations on the claims was to expire in July. The companies said they had been negotiating for the last two months.

"It's good that our two companies worked out something of this magnitude without having to go to court," Microsoft's general counsel and senior vice president, Bradford Smith, said in a telephone interview. "This is significant for an industry that has been marked by more than its share of its litigation over past decade."

He said I.B.M. was one of four rivals that approached Microsoft to start settlement talks at the end of 2003, just before the statute of limitations on Judge Jackson's ruling were expiring. The other three were Gateway, Novell and an undisclosed fourth company. With this latest agreement, Microsoft has reached deals with all four companies.

I.B.M.'s general counsel and senior vice president, Ed Lineen, said, "I.B.M. is pleased that we have amicably resolved these long standing issues."

The settlement includes claims related to I.B.M.'s OS/2 operating system and SmartSuite software package, neither of which ever established more than a toehold in the personal computer market dominated by Microsoft's Windows and Office software. In the agreement announced today, Microsoft also dropped antitrust claims against I.B.M.

But the agreement did not cover claims of damage to I.B.M.'s server hardware and software business. I.B.M. has agreed, with some unspecified limitations, not to seek damages on harm to its server business before June 30, 2002. An I.B.M. spokesman, Scott Brooks, declined to say which, if any, of those claims the company planned to pursue.

The latest settlement will have little direct bearing on I.B.M.'s business, aside from providing a few hundred million dollars in extra profits. The company has moved away from building and selling personal computers and related software, largely ceding those businesses to Microsoft and hardware makers like Dell. I.B.M. now makes most of its money by providing computer services to large businesses and governments.

An antitrust expert who has closely followed the Microsoft cases said the I.B.M. and other settlements did not, and will not, have much impact on the personal computer industry.

"They are not in any way agreeing to fundamentally change how they do business," the expert, Andrew I. Gavil, a law professor at Howard University, said of Microsoft. "The only case where anyone is really holding out is the RealNetworks case. To them, if they can't get a change in that business model" - a reference to Microsoft's practices - "the cash doesn't do them much good."

In a lawsuit filed in 2003, RealNetworks contends that Microsoft has illegally stifled the growth of software that competes with Windows Media Player utility, which comes bundled together with Microsoft's operating system. RealNetworks is seeking $1 billion in damages.

The accord announced today is also unlikely to have any impact on Microsoft's appeal of a European antitrust judgment against it from last year.

In March 2004, the European Commission fined Microsoft 497 million euros (about $613 million at the time) and ordered the company to share details of its desktop operating system with rivals. That judgment also demanded that the company make available to personal computer makers a stripped-down version of its software without its media-playing software.

Just last month, the company and the European Commission agreed to limit access to the software details that Microsoft is disclosing to a select group of rivals. The deal was fashioned specifically to prohibit open-source developers, who provide their software free, from seeing the details at least until Microsoft's appeal of the original ruling works its way through European courts.

Shortly before the close, I.B.M.'s shares were trading up 42 cents, to $74.62, on the New York Stock Exchange. Microsoft's shares were down 6 cents, to $24.78, in Nasdaq trading.

Microsoft Pays IBM $775m To Settle Suit (FT)

By Simon London In San Francisco

Financial Times, July 2, 2005

Microsoft is paying $775m to International Business Machines in the latest stage of its campaign to settle claims of anti-competitive behaviour.

The deal brings to about $4.5bn the total paid by Microsoft to settle private and class-action suits in the US. The largest software company has also paid a $600m fine to the European Commission.

IBM was among the personal computer companies found during the US government's 1998 antitrust case against Microsoft to have been harmed by anti-competitive practices. The finding paved the way for the company to pursue claims against Microsoft. It did so privately, without filing a suit.

Earlier this year, Microsoft paid $150m to Gateway, another PC maker identified in the 1998 case, based on claims that the software group used its monopoly over PC operating systems to overcharge for software and squeeze out rivals.

While the IBM settlement resolves most of the legal claims between two of the largest US technology companies, they are expected to remain fierce rivals. IBM retains the right to pursue claims relating to its server hardware and software business, although it has agreed not to do so for at least two years.

Last year, Microsoft settled outstanding litigation with Sun Microsystems by paying $1.6bn and agreeing to co-operate closely with the troubled IT systems group. The deal with IBM does not include a technology alliance.

In addition to cash payments, Microsoft has agreed to give IBM $75m of free software. Microsoft has now settled the majority of claims arising from the 1998 antitrust case.

Still pending is a $1bn suit by RealNetworks, whose multimedia software is at the centre of action against Microsoft by the European Union. Also in the pipeline is a second suit filed by Novell, which in November settled a separate case with Microsoft for $536m. A further six class action law suits backed by US states remain outstanding.

In its most recent quarter, Microsoft took a $768m charge to cover the Gateway settlement and other legal costs.

The company said it would disclose its accounting treatment for the IBM settlement when it announced quarterly earnings on July 21.

Microsoft To Settle IBM Antitrust Suit (WP/AP)

By Brian Bergstein, Associated Press

The Washington Post, July 2, 2005

BOSTON, July 1 -- Microsoft Corp. will pay $775 million in cash and $75 million in credit for software to International Business Machines Corp. to settle claims that resulted from the federal government's antitrust case against Microsoft in the 1990s, the companies announced Friday.

The payout is one of the largest that Microsoft has made since U.S. District Judge Thomas Penfield Jackson ruled in 2000 that Microsoft engaged in anticompetitive practices. Jackson's ruling cited IBM as a company that Microsoft had forced to "desist from certain technological innovations and business initiatives."

For example, Microsoft did not charge all computer makers the same amount for its Windows operating system, allegedly using higher prices as a cudgel against PC companies that did not comply with Microsoft's wishes.

IBM irked Microsoft in the '90s by pushing its own OS/2 operating system as a Windows alternative and putting its SmartSuite productivity software on IBM PCs, cutting into the market for Microsoft Office programs. IBM also was an early supporter of Java, a programming language that does not need Windows to run.

IBM had not sued Microsoft, but still pressed for retribution for the behavior cited by Jackson. Microsoft reached a similar deal with Gateway Inc. for $150 million in April.

Separately, Microsoft has spent more than $3 billion in recent years settling lawsuits by rivals, including a $1.6 billion deal with Sun Microsystems Inc. in 2004 and a $750 million truce with America Online Inc., part of Time Warner Inc., in 2003.

Redmond, Wash.-based Microsoft still faces other legal challenges, including a lawsuit by RealNetworks Inc. and an appeal of a $600 million antitrust ruling against it by European regulators.

City Not Affected By Price-fixing (EC&P)

By TOM RAITHEL, Courier & Press staff writer

Evansville (IN) Courier & Press, July 2, 2005

A representative for Irving Materials Inc. in Southwestern Indiana said Friday that the price-fixing activity for which the company was fined $29.2 million this week did not extend to the Evansville area.

Kevin Swaidner, general manager for the Southwestern Division of Irving Materials, said that the U.S. Department of Justice had made inquiries into the company's activities in Southwestern and Southeastern Indiana, and concluded that the price-fixing was confined to the central part of the state.

"We know there to be no problems with this issue" outside of Indianapolis, Swaidner said.

Gina Talamona, a spokeswoman for the U.S. Department of Justice, said Friday that the department's investigation into concrete price-fixing was continuing.

Irving Materials Inc. (IMI) was given the largest fine in U.S. antitrust history Wednesday for conspiring to inflate the price of concrete in Central Indiana between July 2000 to May 25, 2004. Four company executives pleaded guilty to price-fixing and agreed to pay fines ranging from $100,000 to $200,000 and serve five months in prison followed by five months of home detention.

Scott Hammond, chief of criminal enforcement for the Justice Department, said that the price-fixing scandal could expand to other companies. "IMI did not commit this crime on its own. It's just the first company to fess up, plead guilty and cooperate," Hammond said.

The Indiana Department of Transportation has moved to immediately halt all dealings with Irving Materials Inc. The department said it was contacting the state attorney general's office to determine what legal recourse it might have against the company. Representatives of the department could not be reached for additional comment Friday.

Meanwhile, Boyle Construction Co. of Indianapolis has filed suit against Irving Materials to recover costs. In a related case CWE Concrete Construction of Hamilton County has filed suits against American Concrete Co. of Indianapolis and Builder's Concrete & Supply Co. of Fishers, alleging the two conspired to fix prices.

Swaidner said that the Southwestern Indiana office of Irving Materials in Evansville was a separate division from the Indianapolis office, and the Evansville office made its own pricing decisions.

Concrete made in the Indianapolis area is unlikely to be used in the Evansville area. Concrete is generally made within a 20-mile radius of where it is delivered, Swaidner said.

Irving Materials, based in Greenfield, has branch offices in Louisville, Ky. and Nashville, Tenn., as well as Evansville. The company is a large supplier of concrete. In the Evansville area, the company provided concrete for both the Old National Bancorp and Vectren buildings.

Chinese Company Asks U.S. To Review Its Bid For Unocal (NYT)

By Jad Mouawad

The New York Times, July 2, 2005

The Chinese oil company fighting for control of Unocal said yesterday that it had asked a top government panel in the United States to formally review its $18.5 billion takeover offer, even as political opposition to the bid was growing in Washington.

The Chinese company, the China National Offshore Oil Corporation, or Cnooc, said it had filed a notice with the Treasury Department's Committee on Foreign Investments in the United States to look into the proposed acquisition and requested that the review be conducted "in an expeditious manner."

The recent bid by Cnooc topped an offer of $16.8 billion made in April by Chevron, but threatens to be derailed by American lawmakers opposed to oil and gas assets being snapped up by a Chinese company.

Cnooc is racing against an Aug. 10 deadline, when Unocal shareholders get to vote on the Chevron offer. Cnooc hopes that by pressing for a quick review by the government it can assuage concerns that the takeover will drag on for months and

persuade Unocal shareholders to turn down Chevron's bid. While Cnooc and Unocal's management are currently in talks, Unocal's board is still recommending Chevron's offer to its shareholders.

"It's a political decision for Cnooc to file for review," said Nancy McLernon, the deputy director of the Organization for International Investment, a business association that represents American subsidiaries of foreign companies, but does not represent Cnooc.

"They want the clock to start as soon as possible," she said, "and are actually responding to the concerns on Capitol Hill. This is not typically done in M.& A. activities."

Separately yesterday, the chairman of the House Energy and Commerce Committee, Representative Joe Barton, Republican of Texas, said he would hold a hearing on Cnooc's bid after Congress returns from the Independence Day recess. His comments came a day after Representative Carolyn Cheeks Kilpatrick, Democrat of Michigan, won passage of an amendment to the annual appropriations bill that would prevent the committee from reviewing the bid.

That committee, headed by the secretary of the Treasury, looks at foreign acquisitions that have national security implications for the United States and can make a recommendation to the president to block the purchase. Since 1988, 1,500 cases were filed, but only one was blocked on national security grounds - the 1990 sale of a Seattle-based airplane parts maker, Mamco Manufacturing, to a military-related agency of the Chinese government.

Cnooc said yesterday that "once all the facts are known and the commercial purpose and terms of the transaction are fully understood, many initial misimpressions will be corrected, and many doubts and questions will be favorably resolved."

Chinese Firm Gives U.S. Details Of Bid To Buy Unocal (WP)

By Jonathan Weisman

The Washington Post, July 2, 2005

China's CNOOC Ltd. energy company submitted its $18.5 billion bid for Unocal Corp. to the federal government for a national security review yesterday, hoping to jump-start the regulatory process while it allays political concerns in Washington.

Typically, such reviews -- carried out by the interagency Committee on Foreign Investment in the United States, or CFIUS -- do not begin until a takeover bid is accepted. But by making its request quickly, CNOOC, which is 70 percent owned by the Chinese government, hoped to signal wary U.S. lawmakers that the company recognizes their concerns and is ready to cooperate. Company officials also hope to convince Unocal shareholders that U.S. regulatory requirements would not unduly delay a deal's completion.

CNOOC's unsolicited bid last week to wrest Unocal from it U.S. suitor, Chevron Corp., has deepened anti-Chinese animosity in Washington. By a vote of 333 to 92, the House on Thursday passed an amendment to an appropriations bill that would bar the Treasury Department -- which leads CFIUS -- from spending any money to approve the CNOOC takeover.

CNOOC has shored up its political position, retaining the law firm Akin Gump Strauss Hauer & Feld LLP to handle its lobbying, and Public Opinion Strategies, a firm with ties to the Bush White House, to lead its public relations. Chevron has been at least as active, mobilizing its Washington office and its large number of contract lobbyists, according to corporate lobbyists familiar with the oil giant's effort.

Chevron, which has offered Unocal shareholders $16.5 billion in cash and stock, yesterday revealed it had already offered promotions to 25 top Unocal executives, available if shareholders accept Chevron's offer. Of those, 20 have already accepted, said Chevron spokesman Charles R. Stewart.

In an interview this week, Chevron Vice Chairman Peter J. Robertson said few Unocal workers outside the company's Southern California headquarters would lose their jobs in an acquisition, implying that CNOOC could make no such promise. The promotions could entice senior Unocal executives to pressure shareholders, while signaling again that a Chevron takeover would be quick and seamless.

Unocal shareholders cannot consider the CNOOC bid until after Aug. 10, when they are scheduled to vote on Chevron's offer, Robertson said. If Chevron is rejected, then CNOOC would begin its regulatory process and security review.

"They're in for a long and drawn-out process," Robertson said.

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But Mark Palmer of Public Opinion Strategies said the process would be faster than Chevron depicts. A CFIUS review that finds no threat to national security in a foreign takeover can take less than 30 days, and there is precedent for the process to begin before a takeover bid is formally accepted, he said.

"We want to provide timing and certainty to Unocal stockholders for our superior offer," Palmer said, "and we want the committee to begin the process as soon as possible."

CNOOC Seeks US Review Of Unocal Bid (FT)

By Stephanie Kirchgaessner In Washington And Joe Leahy In Hong Kong

Financial Times, July 2, 2005

China National Offshore Oil Corporation said on Friday it had filed notice on its proposed $18.5bn merger with Unocal with the US government committee that reviews foreign acquisitions.

The move to alert the committee on foreign investments, an interagency panel chaired by the Treasury department, is a significant step for CNOOC in its attempt to take over Unocal, a California-based energy group that has accepted a lower offer from Chevron, the US oil giant.

It is not clear whether the CFIUS will proceed with the review because Unocal has so far indicated it continues to favour Chevron's bid.

"A review begins when the committee has received the requisite filings from both parties in the proposed transaction and has made a judgment that the acquisition will be successful - that it is likely," the Treasury department said.

CNOOC's approach to CFIUS emerged as both bidders said they had agreed to retain Unocal executives after any merger.

Although the discussions between CNOOC and Unocal took place before Chevron's offer in April, it is understood that key figures would be willing to remain in place if CNOOC's bid were successful.

Chevron is also wooing Unocal executives. Peter Robertson, Chevron's vice-chairman, said it had offered 20 Unocal executives jobs in a merged entity and they had accepted, indicating the two rivals are keen to secure management talent as well as the backing of shareholders.

Mr Robertson also raised the prospect of referring CNOOC's bid to the World Trade Organisation on the grounds that support from the Chinese government meant the proposed deal was not a purely commercial transaction.

In response, CNOOC on Friday said: "The process of regulatory review for this takeover is entirely clear. We're expecting to proceed to a CFIUS review which will give us the opportunity to fully explain our offer."

CFIUS, whose members include representatives from the Justice Department, Commerce, Defense and Homeland Security, is mandated by law to examine foreign acquisitions of US assets or companies on national security grounds.

CNOOC said the committee's regulations required that Unocal respond to questions on the proposed transaction within seven days of a CFIUS request.

"We have given Unocal certainty with regard to our proposal . . . and assurances with regard to the regulatory approval process," said Yang Hua, CNOOC's chief financial officer.

If CFIUS agrees to review the proposed bid, the committee can examine the deal for 30 days.

If it determines that the deal should be investigated, the probe must be completed within 45 days. CFIUS then makes a recommendation to the US president, who has 15 days to act.

CNOOC Asks U.S. Panel To Review Unocal Bid (REU-Y2)

By Ben Berkowitz

Reuters, July 2, 2005

China's CNOOC Ltd. on Friday said it asked a top-level U.S. government panel to review its proposed merger with oil and gas producer Unocal Corp. in an effort to advance its politically charged $18.5 billion bid.

The Chinese oil company's offer topped a $16 billion-plus cash and stock offer from San Ramon, California-based Chevron Corp., which Unocal has accepted.

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A spokesman for Unocal, which is headquartered in El Segundo, California, told Reuters the company was not involved in CNOOC's request for a review from the Committee on Foreign Investments in the United States. He added that the two sides do not have an agreement that would necessarily spur CNOOC to request a review.

"What Unocal is doing is saying -- look we're not going to be party to help (CNOOC) in their efforts to try to get clearance," said James Halloran, an analyst with National City Private Client Group which manages $33 billion in assets. His firm has 18,400 Unocal shares and 2.1 million shares of Chevron. "It's more money but management must show good faith .... they signed an agreement."

CNOOC, whose largest shareholder is the Chinese government, has said from the outset of its offer that it wanted a review. The interagency committee, known as CFIUS, considers proposed acquisitions of U.S. corporations by foreigners where national security might be a concern.

CFIUS will not begin its work until it has received what it calls a complete notification. If the panel accepts the application for review, it has 30 days to decide whether to launch a full investigation.

"If one party, either side, thinks it's in the interest to either get over the CFIUS hurdle or, perhaps in some cases, fend off an unwelcome offer through raising the CFIUS hurdle, the law and regulations permit them to do that," said Cecil Hunt, a lawyer at Harris, Wiltshire & Grannis LLP in Washington who worked on CFIUS matters at the Commerce Department.

A person close to the deal with expertise on CFIUS said CNOOC's filing included significant information about Unocal, but that it was ultimately up to the committee to decide whether the notification was complete.

"I have every reason to believe they will follow their own regulations and turn around and send a letter to Unocal asking them for information," the person said.

POLITICAL BACKLASH

CNOOC's bid for Unocal has become a complicating factor in the diplomatic jostling between China and the United States over currency and trade issues. It also comes at a sensitive time when oil is trading near record highs, and both countries are intent on securing energy resources.

The U.S. House of Representatives voted overwhelmingly Thursday to add an amendment to an appropriations bill that would bar the Treasury Department from spending any money to recommend approval of the CNOOC bid for Unocal. If signed into law, the measure would not take effect until Oct. 1.

The House also passed a nonbinding resolution calling on President Bush to request an immediate review of the deal. Rep. Joe Barton (news, bio, voting record), the chairman of the House Energy and Commerce Committee and co-sponsor of the resolution, called for a hearing on the CNOOC bid.

Barton, a Texas Republican, called CNOOC "a front company for the Communist Chinese government."

CNOOC's request for the government review was made before the two House votes.

Late Friday, Chevron denied what it said were media reports it was going to seek intervention from the World Trade Organization on the CNOOC bid.

VOTE APPROACHING

Unocal shareholders are set to vote Aug. 10 on the offer from Chevron. Until then, Chevron says, CNOOC and Unocal cannot sign a deal unless Chevron is paid a $500 million breakup fee.

As of Friday afternoon the Chevron offer valued Unocal at about $60 per share compared with a $67 offer from CNOOC. Unocal shares were up 26 cents at $65.31.

Given that the CNOOC offer is more attractive financially, many investors have said the only real hurdle is political opposition that could slow down the acquisition. Chevron's offer already has all the necessary regulatory approvals.

"If the shareholders vote to approve the Chevron deal, which we hope and think they won't, then there's nothing left for the committee to review," the person familiar with the deal said.

(Additional reporting by Jeremy Pelofsky and Chris Baltimore in Washington and David Brinkerhoff in New York)

ENVIRONMENT:

DOJ_NMG_0000460

Future Of Salmon Leads To Dispute Over Federal Dams (WP)

By Blaine Harden

The Washington Post, July 2, 2005

Behold the slab of concrete called Little Goose -- ground zero in the salmon wars that are escalating across the Pacific Northwest.

Little Goose has turbines for power, locks for river transport and a Rube Goldberg device for distilling young salmon out of the river, sorting them by size, and hosing them into trucks and barges for passage downriver.

This hulking gizmo has become part of the "environmental baseline" here on the Snake River. At least that is how the Bush administration characterizes Little Goose and 13 other federal dams on the Snake and Columbia rivers.

This characterization, though, has stuck in the craw of a federal judge. In his courtroom in Portland, Ore., U.S. District Judge James A. Redden described the administration's 2004 biological opinion -- it says dams are an ineluctable part of the river's environmental baseline -- as a document written "more in cynicism than in sincerity."

The sincerity of the administration's policy is also being questioned by some scientists who work for the National Oceanic and Atmospheric Administration Fisheries Service, according to a survey of agency employees released Tuesday by the Union of Concerned Scientists and Public Employees for Environmental Responsibility. It found that about two-thirds of those surveyed did not believe the agency, responsible for protecting endangered fish and their habitat, was effectively doing its job. More than half of respondents said they knew of cases in which "commercial interests" or senior administration officials have "inappropriately" influenced agency decisions.

Results of the survey, which went to 460 science professionals and had a response rate of 27 percent, are similar to those of a survey early this year of scientists at the U.S. Fish and Wildlife Service.

The chief science adviser at NOAA Fisheries challenged the latest survey, saying it obtained responses from only 6 percent of more than 2,000 agency scientists. Steven Murawski said the survey itself is poor science because it was not sent to "the overwhelming number of our science professionals."

In Portland, Redden has tossed out as "legally flawed" the administration's 2004 biological opinion for the Columbia and Snake. He declared that it "ignored the reality of past, present and future effects" of dams on 12 species of endangered fish. Before the dams were built, these rivers were conduits for the world's premier salmon run.

"As currently operated, I find that the DAMS strongly contribute to the endangerment of the listed species and irreparable injury will result if changes are not made," Redden wrote.

To that end, he supported a request from the National Wildlife Federation and other salmon advocates, ordering that water be spilled over Little Goose Dam and other dams in the lower Snake. The spill started June 20. Spilling water over dams keeps migrating juvenile fish in the river, while keeping them out of turbines that often kill them. When less water goes through its turbines, though, Little Goose produces less electricity. Through the end of August, this dam will spill water that would be worth $267,288 a day, if it had been fed into turbines to generate electricity, said Carl Knaak, operations manager at the dam.

The total tab for the spill ordered by Redden will come to about $67 million, according to the Bonneville Power Administration (BPA), which sells power from federal dams in the Northwest and adamantly opposes the spill. For the average electricity customer whose utility buys all its power from BPA, the cost will be relatively low. It will require an increase of about 1.2 percent in the monthly bill (about 87 cents), said Ed Sheets, a private consultant with expertise in the Northwest hydro system.

The spill -- and Redden's coruscating language in tossing out the government's approach to running the river -- appears to have angered the Bush administration. The Justice Department tried last month -- and failed -- to persuade the U.S. Court of Appeals for the 9th Circuit in San Francisco to issue an emergency order to stop the spill. Last week that court also ruled against the administration on another salmon dispute, upholding a Seattle federal court ruling that the Environmental Protection Agency violated the Endangered Species Act by failing to protect salmon from harmful pesticides.

In the dispute over the spill, the 9th Circuit has ordered an expedited hearing on the government's appeal to the Redden ruling.

The Justice Department argues in its appeal that keeping endangered salmon in the dammed-up river -- rather than barging or trucking them around federal dams -- is "judicial experimentation."

"A federal judge just isn't in a position to step in and decide how to operate the system," said Fred Disheroon, special litigation council for the Justice Department on the salmon issue. "The judge is ordering something that is untested and in our view puts the fish at greater risk."

Research has shown that nearly all fish transported around the dams survive the ride, but it has not conclusively shown that trucking or barging them is better or worse for the longtime survival of salmon as compared with letting them swim in the river and negotiate the dams.

Dams kill juvenile salmon in a number of ways: in turbines; in the slow-moving, relatively warm reservoirs between dams; and by stunning them in a way that makes them vulnerable to predators.

If the government does not win its appeal, Disheroon said, it might invoke a rarely used provision of the Endangered Species Act, which would convene a Cabinet-level committee informally called the "God Squad." After a lengthy public process, the committee could decide that economic concerns justify the extinction of endangered fish.

Given the judge's decision, Disheroon said, "it may not be possible to come up with a way to avoid jeopardy for these fish."

Lawyers for the environmental groups that sued the government argue that it is absurd for the Bush administration to argue that keeping salmon in the river is an untested and risky plan.

"The science is clear. If we want to bring the salmon back, we have to be willing to make the hydrosystem work more like a natural river," said Todd True, a staff attorney for Earthjustice. "The Bonneville Power Administration thinks it owns the river, and they don't want to give it up -- not one drop."

Behind the legal arguments that are swirling this summer around the river system lie two long-held and diametrically opposed views about what should happen to Little Goose and three other dams in the lower Snake River.

Environmental groups, some state fish agencies and many salmon biologists argue that removing the dams is the only possible way to prevent wholesale extinction of Snake River salmon. It is an argument that dates back six decades -- well before Little Goose and its sister dams were built in the 1960s and '70s.

In 1946, the chief of fisheries for the Oregon Fish Commission warned about what the four Snake River dams would do: "All western biologists with whom I have talked agree that this plan, if followed, will spell the doom of salmon and steelhead migration up the Snake."

But the dams are now embedded into the economic status quo of the Northwest -- producing power and enabling river transport and irrigation. The federal government has promised to spend billions of dollars in coming years to find better mechanical fixes for moving salmon around dams.

At the top of the Bush administration, the signal is clear: President Bush has himself come to the lower Snake and pledged that dams such as Little Goose will never be removed.

Proposals Stiffen Standards On Air (WP)

By Juliet Eilperin

The Washington Post, July 2, 2005

Environmental Protection Agency staff members proposed tightening the nation's air pollution standards yesterday, a move that environmentalists said could save the lives of thousands of Americans.

Aides to EPA Administrator Stephen L. Johnson outlined two scenarios in their report on what should be the acceptable nationwide level for "fine particulate matter," the soot that invades people's lungs and causes respiratory ailments. Both scenarios would slash the amount of small particles in the air, although one proposal would go significantly further than the other.

Under standards set in 1997, soot levels should not exceed 15 micrograms per cubic meter of air on an annual basis, or 65 micrograms during a single 24-hour period. EPA aides said yesterday that the agency could either maintain the annual soot standard but reduce the daily level to between 25 and 35 micrograms, or reduce the annual limit to as low as 12 to 15 micrograms per cubic meter of air and cap the 24-hour level at between 25 and 40 micrograms.

Public health advocates, who back the more stringent proposal, hailed the EPA for moving to curb harmful air pollution. According to the EPA, fine particulate matter, which is one-thirtieth the width of a human hair, accounts for 5,000 premature deaths each year in nine cities: Boston, Detroit, Los Angeles, Philadelphia, Phoenix, Pittsburgh, St. Louis, San Jose and Seattle.

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"These standards could provide the Bush administration with a historic opportunity to protect public health," said Frank O'Donnell, who heads the advocacy group Clean Air Trust.

Cities and communities across the country have to meet the air standards or risk facing a series of penalties, including lost federal highway funds. The federal government also tailors new rules, such as the recently unveiled Clean Air Interstate Rule , to conform with national soot standards.

Some industry groups, however, oppose tightening the standards on the grounds that they can hamper economic growth.

Bryan Brendle, director of air quality issues at the National Association of Manufacturers, said state and local officials tend to target manufacturers in an effort to comply with stricter standards, which "imposes compliance costs on industry." He added: "At NAM, we try to balance environmental quality with increased economic growth."

Many communities are still struggling to meet the nation's 1997 guidelines. According to a recent EPA report, about 88 million Americans are breathing air that fails to meet federal standards.

George Thurston, an associate professor at New York University Medical Center, said researchers have learned enough over the past decade to insist that federal officials need to adopt stricter air pollution standards.

"While it sounds like an academic debate, it provides protection for all of us across the country," Thurston said.

In a statement issued yesterday, the agency did not say which approach Johnson, who is required to make a decision on the final air quality proposal by Dec. 20, would adopt. It did say, "The reduction of fine particle pollution is a critical element of the administration's comprehensive national clean air strategy."

The new standards are supposed to take effect by Sept. 27, 2006.

FBI/DEA/ATF/USMS:

New Book On Watergate Fleshes Out Deep Throat (NYT)

By Michael Janofsky

The New York Times, July 2, 2005

From start to finish, W. Mark Felt was a bureau guy, a true believer, an officer sworn to uphold the security of the country against all manner of enemies, whether they were bank robbers, domestic terrorists, foreign spies - or, as Bob Woodward writes in his latest book, the highest official in the land.

And so, Mr. Woodward concludes in "The Secret Man," a chronicle of his sometimes tense relationship with Mr. Felt, it was not the 1972 burglary of the Democratic National Committee office in the Watergate apartments that compelled Mr. Felt to become a secret source for Mr. Woodward and his Washington Post reporting partner, Carl Bernstein. It was President Richard M. Nixon.

Mr. Felt, then the second-ranking official at the Federal Bureau of Investigation, "never really voiced pure outrage to me about Watergate or what it represented," Mr. Woodward writes in the book, which is scheduled for release next week. "The crimes and abuses were background music. Nixon was trying to subvert not only the law but the bureau. So Watergate became Felt's instrument to reassert the bureau's independence and thus its supremacy. In the end, the bureau was damaged, seriously but not permanently, while Nixon lost much more, maybe everything."

"By surviving and enduring his hidden life," Mr. Woodward adds, "in contrast and in his own way, Mark Felt won."

Mr. Woodward's book adds little to the basic story line of the Watergate case, even as it continued with the disclosure last month by Vanity Fair magazine that Mr. Felt was the source who became known as Deep Throat. But it does provide texture regarding the lengths to which Mr. Felt, now 91, and Mr. Woodward would go to maintain their secret.

Mr. Woodward, an assistant managing editor at The Post, also writes of efforts, starting in 2000, to reconnect with his source to learn his motivations of decades before. Mr. Woodward describes telephone calls and visits to Mr. Felt in Santa Rosa, Calif., that, owing to Mr. Felt's failing memory, left his most burning questions unanswered.

While the 249-page book is clearly Mr. Woodward's, he gives Mr. Bernstein modest room at the end for "A Reporter's Assessment," allowing him to share the spotlight after Mr. Felt's identity was disclosed. Mr. Bernstein, a contributing editor to

Vanity Fair who admits he knew nothing of the magazine's scoop, offers his own view of how assiduously the pair worked to keep Mr. Felt's identity a secret.

And it was a secret well kept, as Mr. Woodward writes, with only rare instances when it was threatened - once by Mr. Felt himself.

Mr. Woodward recalled learning from an assistant attorney general, Stanley Pottinger, in 1976 that Mr. Felt seemed to betray himself during testimony before a grand jury. By Mr. Woodward's account, Mr. Pottinger said that after he and other lawyers had finished their questions, a member of the jury asked Mr. Felt if he was Deep Throat.

Mr. Pottinger told Mr. Woodward that Mr. Felt "looked so stunned, he seemed to go white."

Mr. Felt answered that he was not, but Mr. Pottinger's suspicions were aroused. He approached Mr. Felt and asked him in a whisper if he would prefer that the juror's question be withdrawn.

"Withdraw the question," Mr. Felt replied quickly, convincing Mr. Pottinger of his secret role.

After hearing the account from Mr. Pottinger, Mr. Woodard wrote, "I was jumping out of my skin."

Much of what Mr. Woodward learned from Mr. Felt came from meetings at an otherwise ordinary underground parking lot in Rosslyn, Va., just across the Potomac River from Georgetown.

By prior arrangements, Mr. Woodward would move a flower pot on his apartment balcony, a signal to Mr. Felt that he needed to ask him questions, and Mr. Felt would indicate a time by writing it on page 20 of Mr. Woodward's home-delivered copy of The New York Times.

That usually meant a wee-hours rendezvous at the bottom level of the garage. Always concerned about disclosure and the possibility that someone might follow Mr. Woodward to learn the identity of his source, Mr. Felt advised Mr. Woodward how to travel.

"Take the alley," he said, as Mr. Woodward writes. "Don't use your own car. Take a taxicab to a point several blocks from a hotel where there are cabs after midnight. Get dropped off and then walk to get a second cab to Rosslyn. Don't get dropped off directly at the parking garage. Walk the last several blocks. If you're being followed, don't go down to the garage. I'll understand if you don't show."

IMMIGRATION:

U.S. Extends Work Permits For Some (AP-Y2)

AP2, July 2, 2005

Immigration officials announced Friday that they will extend work permits for Hondurans and Nicaraguans with temporary protected status.

U.S. Citizenship and Immigration Services said the automatic, 90-day extension will apply to employment authorization documents with a Jan. 5, 2005, expiration date and a category of "A-12" or "C-19." Affected people do not need to report to or call a CIS office.

Officials first offered temporary protected status in 1998 to illegal immigrants from Honduras and Nicaragua after their countries were devastated by Hurricane Mitch. The immigrants' protected status has been renewed several times since.

In November 2004, CIS extended work permits for people from those two countries through July 5, 2005. Protected immigrants were required to get new documents by the beginning of July, but CIS said in a statement Friday that the agency would not be able to process all the forms by then because of the unexpectedly large number of applicants. The new Oct. 5 deadline will give CIS time to get through more paperwork.

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On the Net:

U.S. Citizenship and Immigration Services: http://uscis.gov

TAX:

DOJ_NMG_0000464

3 Yahweh Defendants Sentenced To Prison (ACP)

By ANDREW JOHNSON, Staff Writer

Atlantic City (NJ) Press, July 2, 2005

CAMDEN - Facing their fate in front of a federal judge, Joseph and Inge Donato stood side by side, holding hands, with Inge resting her head slightly against her husband's shoulder.

To the end, members of the Restored Israel of Yahweh remained united in faith and with each other.

A federal judge said he was impressed with the sincerity of the group's beliefs but less impressed with their sincerity in trying to obey the law.

U.S. District Court Judge Jerome B. Simandle sentenced Joseph Donato to 27 months and Inge Donato to six months in prison for their conviction on numerous tax-related charges Friday. Another senior member of the Hamilton Township biblical sect, Kevin McKee, received a prison sentence of 24 months.

All three defendants had fines levied against them and will have to file delinquent tax returns when they leave prison for the years they never paid the government.

A jury found in December that the members of the religious sect were guilty on 19 counts of conspiracy to defraud the government, tax evasion and failure to file taxes. The three say they do not pay federal taxes because they do not support war. McKee, in a pre-sentence report, indicated that a prison sentence was not likely to significantly alter that position.

There was little reaction after the sentencing in the courtroom filled with followers of the religion or from the defendants themselves.

Inge Donato alone received a sharply reduced sentence that departed from federal guidelines because of a mental condition she suffers from. After interviewing the 44-year-old Mays Landing woman, a social worker recommended the reduced sentence. The nature of the condition was never discussed in open court. Allusions were made to a childhood trauma and a subsequent fragile nature.

McKee's attorney, Rocco Cipparone, said afterward that his client was disappointed about the prison sentence. "It was not his intention or goal." That said, he was not surprised. Cipparone said that he will file an appeal on McKee's behalf with the same court.

Post-sentence commentary from Internal Revenue Service spokesman Al Drucker was short and to the point: "The taxpayer does not have the right to disobey tax law."

Although the jury took roughly four hours to convict all three defendants, Simandle took two days to handle their sentencing, saying that he was determined to get it right.

Simandle said he never doubted the religious members' convictions, and more than one defendant thanked the judge for his conduct during the trial.

In the end, though, Simandle did not cut the two male defendants a break, and said that he had mixed feelings about the group's actions.

Members of the sect believe God will destroy the Earth and set up a holy kingdom of resurrected souls. They also believed that their deceased spiritual leader Leo Volpe was the prophet Jeremiah.

"I have strong reservations about the way the belief was acted on," Simandle said.

The judge said that there are many ways to protest war, as others have shown. Simandle said the Yahweh group chose to ignore all taxes, including state taxes, and monies set aside for social programs such as Workman's Compensation and Social Security.

In his closing argument, Andy Kameros, a trial attorney with the Tax Division at the Justice Department, said that by not paying taxes for war, the group essentially pocketed the money for themselves.

"It is neither pure or unpure," Simandle said about the group's motive to not pay taxes.

McKee and Inge Donato must report to prison Aug. 8. Joseph Donato is allowed to report a week later and say goodbye to his wife before she is incarcerated.

Economic Growth, Tax Receipts Combine To Reduce Deficit (WP)

By Jonathan Weisman

The Washington Post, July 2, 2005

An unanticipated surge of tax payments may push the 2005 federal budget deficit as much as $100 billion below official forecasts, leaving Republicans to claim vindication in their theory that lowering tax rates actually boosts tax receipts.

In addition, this week the Commerce Department reported a solid economic growth rate of 3.8 percent for the first three months of 2005, an improvement on the earlier 3.5 percent estimate and more ammunition for Republican boasts that their tax cuts are the cause of this performance.

"Sustained, strong . . . growth confirms that our policies continue to boost the economy and tax revenues," said Rep. Jim Nussle (R-Iowa), chairman of the House Budget Committee.

But senior budget analysts, including the Republican who heads the Congressional Budget Office, cautioned this week that higher tax revenues may be a one-time phenomenon that in no way addresses the nation's grave deficit challenge.

Much of the increase could stem from temporary factors, said CBO director Douglas Holtz-Eakin, a former Bush White House economist. The major corporate tax cut of 2004 provided a one-year "tax holiday" for multinational corporations to bring home overseas profits at a reduced tax rate, and companies may be responding aggressively. Also, a large tax break for business investment ended Dec. 31, effectively raising some corporate tax rates this year, Holtz-Eakin said.

Finally, strong stock market gains last year, coupled with lingering jitters from the market swoon of 2000, may have produced strong executive bonuses and a rush to cash in stocks and stock options, other economists said.

"I find it difficult to get as excited about this as some people" are, Holtz-Eakin said.

For longtime champions of supply-side economic theory, the excitement is palpable. Since the political rise of Ronald Reagan, such conservative economists have contended that cuts in income tax rates and in taxes on investment income would generate economic growth that would in turn produce more revenue, possibly enough to pay for the tax cuts. The theory was popularized by economist Arthur Laffer and his Laffer curve.

The government's take this tax season validates that theory, conservatives say. On a single day, June 15, the Treasury took in a record $61 billion. Through June 30, three-quarters of the way through the fiscal year, receipts indicate the Treasury will reap $80 billion to $100 billion more in taxes than the CBO predicted in January. Individual tax payments have risen 21 percent beyond their level at this time last year. Corporate tax receipts are 48 percent ahead.

Despite slightly higher-than-expected spending, the federal deficit could come in at $325 billion to $350 billion, significantly better than the White House's $427 billion projection or the CBO's $400 billion forecast. Some Wall Street economists say the deficit could be as low as $300 billion.

"The numbers are an eye-popping vindication of the Laffer curve and the Bush tax cut's real economic value," anti-tax activist Stephen Moore wrote in the Wall Street Journal.

Michael T. Darda, chief economist of the Connecticut equity firm MKM Partners LLC, estimated that economic growth generated by the Bush tax cuts would generate $1.5 trillion in tax receipts over the next decade, nearly enough to recoup all the revenue loss expected due to lower rates. Writing for the conservative National Review, Darda blasted the "no-growth neo-Malthusian Democrats" and the "root-canal contingent" of the GOP who continue to fret over the budget impact of tax cuts.

Still, if the tax cuts are now yielding a rising tax take, the effect was certainly not immediate. The major tax cut of 2001 and further cuts in each of the last three years were followed by an unprecedented three-year decline in nominal tax revenues, from $2 trillion in 2000 to $1.8 trillion in 2003. Revenues recovered last year, reaching nearly $1.9 trillion. But at 16.3 percent of the gross domestic product, last year's revenue total, measured against the size of the economy, was the lowest level since 1959.

Robert Carroll, the deputy assistant Treasury secretary for tax analysis, was cautious about attributing this year's rising tax receipts to any single factor. It will be some time before the Treasury can decipher how much of the rush is attributable to capital gains and dividend taxes directly related to the Bush tax cut of 2003, Carroll said. But he did indicate the increased tax flow will be reflected not only in the administration's updated deficit forecast for 2005 but also in its long-term forecast when that is released July 15.

That has Democrats -- and some economists -- worried.

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"My concern is you're going to have exactly this kind of talk, and what it does is undermine the real need, which is to cut the deficit," said Edward McKelvey, an economist and federal budget analyst at Goldman Sachs in New York. "That's dangerous."

Even a $300 billion deficit would be the third largest ever in nominal dollars, said John M. Spratt Jr. (D-S.C.), the ranking Democrat on the House Budget Committee. Moreover, the major budget challenges are yet to come. The Medicare prescription drug benefit goes into effect next year. The alternative minimum tax, which was created to ensure that the rich pay taxes but is now taking an ever larger bite out of the middle class, has yet to be permanently fixed. And war costs have still not been counted in future deficit projections.

"It's good news," Spratt said of the improving deficit picture, "but no one should assume it's going to continue, and above all nobody should get euphoric and assume we're going to grow our way out of this deficit."

Business investment and stock-price gains have slowed from last year, Holtz-Eakin cautioned, possibly indicating that the government is not seeing the kind of sustained tax gains that drove the deficit into surplus in the late 1990s. CBO is not likely to project the 2005 gains too far into the future, Holtz-Eakin said, especially considering that the huge liabilities of Medicare and Social Security remain unaddressed.

"I do hope people are taking this with a grain of salt and not thinking this is 1998 all over again," Holtz-Eakin said. "There's simply no question if you take yourself to 2008, 2009 or 2010, that vision is the same today as it was two months ago."

CONGRESS-ADMINISTRATION:

Bush Gets First Chance For Court Nominee (AJC/AP)

By Deb Riechmann

The Atlanta Journal-Constitution, July 2, 2005

President Bush said Friday he would nominate his first Supreme Court justice quickly enough that the vacancy of retiring Sandra Day O'Connor could be filled by the time the court resumes work in the fall.

The White House said there would be no announcement before he returns from Europe next Friday.

"I will be deliberate and thorough in this process," said Bush in the Rose Garden where he praised O'Connor's 24 years on the court.

Bush will consult with Republican and Democratic senators about his selection, said presidential spokesman Scott McClellan. The president plans to review briefing material on potential nominees on the flight to Denmark next Tuesday and during his stay Wednesday through Friday at a summit of leading industrialized nations in Scotland.

The White House got the first indication of the retirement on Thursday when the Supreme Court's head marshal, Pamela Talkin, called White House Counsel Harriet Miers to make arrangements to deliver a sealed envelope the next morning. Miers informed Bush and Vice President Dick Cheney, who were having lunch together, that a letter was coming.

Talkin told the White House around 9 a.m. Friday that the letter was from O'Connor, and Miers alerted Bush.

After receiving word that the letter had been delivered to the White House, Supreme Court spokeswoman Kathy Arberg handed out copies to reporters who were gathered outside her office at 10:20 a.m.

By then, Bush was chatting on the phone with O'Connor.

"For an old ranching girl, you turned out pretty good," he told O'Connor, who grew up on an Arizona ranch. It was an emotional, five-minute call, McClellan said.

He quoted Bush as telling O'Connor, "You're one of the great Americans" and "I wish I were there to hug you."

After talking with O'Connor and before going to the Rose Garden, Bush held a meeting with senior advisers to talk about the selection process. The meeting included Cheney; Miers; Lewis "Scooter" Libby, the vice president's chief of staff; Attorney General Alberto Gonzales; Deputy Chief of Staff Karl Rove and Counselor Dan Bartlett. Chief of Staff Andy Card participated by telephone from Maine.

"We have had a plan in place ... just in case there was a vacancy," McClellan said.

Anticipating what could be a tough battle in the Senate when he returns from Europe, Bush called for civility in the confirmation process.

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"The nation deserves and I will select a Supreme Court that Americans can be proud of," Bush said. "The nation also deserves a dignified process of confirmation in the United States Senate — characterized by fair treatment, a fair hearing and a fair vote."

McClellan said the White House would consult with Majority Leader Bill Frist and Minority Leader Harry Reid as well as leaders of the Judiciary Committee, and he expressed hope that Democrats would not block a vote on the president's pick.

"I can't imagine that the Democrats would want to engage in controversial tactics when it comes to a nominee for the Supreme Court," he said.

In the Rose Garden, Bush praised O'Connor as "a discerning and conscientious judge and a public servant of complete integrity." He said he would pick her successor in a timely manner so the vacancy could be filled by the time the court resumes work in October.

He pledged to consult with senators about his choice.

There had been speculation that Chief Justice William H. Rehnquist would step down. Now, the White House has to re-examine its thinking because it faces a vacancy caused by the resignation of a moderate conservative woman instead of the more conservative Rehnquist.

A short list of candidates distributed in the White House within the past week did not include the names of any women or minorities, said one official, speaking on condition of anonymity because of the private nature of the selection process. But Bush has said in the past he would like to name a Hispanic to the court.

Bush will have an opportunity to consider his choice during the July Fourth holiday weekend at the presidential retreat at Camp David in Maryland's Catoctin Mountains.

"I have directed my staff, in cooperation with the Department of Justice, to compile information and recommend for my review potential nominees who meet a high standard of legal ability, judgment and integrity, and who will faithfully interpret the Constitution and laws of our country," he said.

Bush has said in the past that he favors the judicial philosophy of Justices Antonin Scalia and Clarence Thomas. The president has said repeatedly that judges should not "legislate from the bench," meaning that their opinions should not be swayed by social or cultural trends.

Bush Revisits Options (WT)

By Joseph Curl

The Washington Times, July 2, 2005

The White House was caught off guard yesterday when Supreme Court Justice Sandra Day O'Connor announced her retirement, forcing top administration officials, who had been readying for the departure of the court's conservative chief justice, to reconsider its options.

Bush administration officials already have interviewed some top candidates for the nation's highest court, but the group of contenders were front-runners to replace the ailing, 80-year-old Chief Justice William H. Rehnquist, not to fill the seat of the court's first female justice, who is considered moderate.

Now the small group of top candidates, which includes Attorney General Alberto R. Gonzales, 49, and three appeals court judges, Samuel Alito, 55, J. Michael Luttig, 51, and John Roberts, 50, is expected to expand to contain more women.

Court authorities consider Edith Hollan Jones, 56, and Edith Brown Clement, 57, both judges on the 5th U.S. Circuit Court of Appeals, as possible contenders, and also think White House Counsel Harriet Miers, a longtime Bush confidante, is in the mix.

Besides possible pressure to nominate a woman to the court, Mr. Bush's political base will lobby to replace Justice O'Connor, whose swing vote supported abortion and affirmative action, with a more conservative voice.

The White House got the first indication of Justice O'Connor's retirement about noon on Thursday. Pamela Talkin, the Supreme Court's head marshal, called Mrs. Miers to tell her that she had a sealed envelope to deliver the next morning.

The marshal did not say who the envelope was from or what it contained. After the notification, Mrs. Miers told Mr. Bush and Vice President Dick Cheney, who were having lunch together, that a letter was coming from the Supreme Court the next day.

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About 9 a.m. yesterday, Mrs. Talkin told the White House that the letter was from Justice O'Connor, and Mrs. Miers alerted the president.

A few minutes later, the president spoke with Justice O'Connor in what the White House described as a brief but emotional phone call.

"For an old ranching girl, you turned out pretty good," he told the El Paso, Texas, native, who grew up on an Arizona ranch. She laughed, White House spokesman Scott McClellan said.

After talking with Justice O'Connor and before going to the Rose Garden, Mr. Bush held a meeting with senior advisers to talk about the selection process.

The meeting included Mr. Cheney; Mrs. Miers; Lewis "Scooter" Libby, the vice president's chief of staff; Mr. Gonzales; Deputy Chief of Staff Karl Rove and Senior Counselor Dan Bartlett. Chief of Staff Andrew H. Card Jr. participated by telephone from Maine.

Mr. Bush yesterday pledged to seek input from Congress on his nomination and said "the nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote. I will choose a nominee in a timely manner so that the hearing and the vote can be completed before the new Supreme Court term begins."

Mr. McClellan said Mr. Bush spoke yesterday with Sen. Patrick J. Leahy of Vermont, ranking Democrat on the Senate Judiciary Committee, and committee Chairman Arlen Specter, Pennsylvania Republican. The president spoke this week about the Supreme Court with Senate Minority Leader Harry Reid of Nevada and yesterday tried unsuccessfully to reach him, the spokesman said.

He added optimistically: "I just can't imagine that Democrats are going to want to engage in controversial tactics when it comes to a nominee for the Supreme Court."

Yesterday's retirement does put the White House in another bind -- and a well-documented one, at that. In 1987, President Reagan nominated Robert Bork for the high court. He was lambasted by liberal activist groups throughout the summer and his nomination was all but dead on arrival when the Senate returned from its August recess.

With Congress set to take nearly all of August off this year, the White House must decide quickly when to make the nomination. There are just 90 days until the gavel falls to open the fall Supreme Court term on Oct. 3, and it typically takes 70 to 75 days from the time a justice announces retirement until the Senate Judiciary Committee is ready to hold confirmation hearings.

The White House said yesterday that Mr. Bush will not make a nomination until at least next Friday, when he returns from a trip to Denmark and Scotland. But he will use the long flights to and from Europe to review material about possible replacements, Mr. McClellan said.

The president made clear that he will not rush a decision in hopes of moving a nomination through the Senate before the August recess.

"I will be deliberate and thorough in this process. I have directed my staff, in cooperation with the Department of Justice, to compile information and recommend for my review potential nominees who meet a high standard of legal ability, judgment and integrity and who will faithfully interpret the Constitution and laws of our country," Mr. Bush said.

Newsview: Battle Looms Over Court Nominee (AP-Y2)

By Tom Raum, Associated Press Writer

AP2, July 2, 2005

President Bush's choice to fill the vacancy of retiring Justice Sandra Day O'Connor is all but certain to ignite a political inferno no matter whom he picks. Her departure gives Bush an opportunity to transform the dynamics of the high court.

But that opportunity for Bush also raises the stakes. Democrats indicate they will wage a mammoth Senate battle if the president caters to his conservative base and attempts to replace the moderate O'Connor with a jurist they consider to be out of the judicial mainstream.

On the other hand, if the president nominates someone with views similar to O'Connor's, he could face a right-wing rebellion within his own party from conservatives still fuming over the Senate rejection of Robert H. Bork in 1987.

Well-bankrolled interest groups on the political right and left are already in action in an effort to influence the outcome.

"Her replacement will have a monumental impact on the lives and freedoms of Americans for decades to come," said Ralph G. Neas, president of People for the American Way, a liberal group that is planning a major role in a political debate expected to dominate the summer.

The announcement appeared to catch the White House by surprise. It had prepared for the retirement of another court member, Chief Justice William Rehnquist, who is battling thyroid cancer.

Since Rehnquist was one of the more conservative members of the court, replacing him with another conservative would not have shifted the balance of power.

The same can't be said of O'Connor, who for a quarter century has been the crucial swing vote on a host of 5-4 votes on abortion and other divisive legal issues. The court is closely divided between a narrow conservative majority and a more liberal bloc. Her retirement may also put more pressure on Bush to name a woman.

In a brief Rose Garden appearance, Bush pledged to be "deliberate and thorough" in naming a replacement. He expressed hope for a "dignified" confirmation process and for "fair treatment, a fair hearing and a fair vote" for his nominee, an apparent reference to brutal battles with Democrats over appellate court nominations.

While a simple Senate majority is needed to confirm a nominee, 60 votes are required to end a filibuster. Republicans hold 55 of the 100 Senate seats.

Thus, Bush faces a crucial choice: Does he replace O'Connor with a like-minded moderate who might be able to attract bipartisan support or at least not be filibustered by Democrats? Or does go with a strict conservative and risk a difficult confirmation fight that might result in defeat?

"This appointment is the moral equivalent of a presidential election," said historian Allan Lichtman of American University.

Lichtman said Bush should opt for a "moderate conservative" like Attorney General Alberto Gonzales because "such a nomination would get through the Senate and also move the court to the right." But will he? "Not necessarily," said Lichtman.

Interest groups, still pumped up from the 2004 presidential race, have been preparing for this battle for months. They've taken to skilled — and sometimes massive — use of the airwaves and the Internet to get their messages across, from e-mail outpourings to broadcast ads and appearances on 24-hour cable news and talk radio shows.

Republican groups have said they will spend more than $18 million.

Passions are running so high that "there is going to be a presumption against any presidential nominee on the part of the Democrats, which is too bad," said Charles Black, a longtime GOP consultant who is close to the Bush family. "I think he could nominate Ted Kennedy, and they'd still go into full battle mode against him."

But Democratic consultant Joe Lockhart, former press secretary to Clinton, said there doesn't have to be a battle royal if Bush will confer with Senate leaders of both parties before submitting his choice — a practice Lockhart said was utilized successfully by both Presidents Reagan and Clinton.

"There no inevitability of a big fight. But if he chooses to go it alone, it increases the likelihood that this will get caught up in partisan back-and-forth," said Lockhart, who is helping People for the American Way run a "war room."

Both sides are mindful that Rehnquist, 80, might also retire in the near future, giving Bush yet another vacancy to fill, and an even greater chance to leave his mark on the court.

"Supreme Court justices are the living legacies of the presidents who appointed them," said Ross Baker, a political scientist at Rutgers University. "Of course, they often pull surprises and become very different kinds of judges."

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EDITOR'S NOTE — Tom Raum has covered Washington for The Associated Press since 1973, including five presidencies.

O'Connor To Retire, Touching Off Battle Over Court (NYT)

By Richard W. Stevenson

The New York Times, July 2, 2005

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Justice Sandra Day O'Connor, the first woman to serve on the United States Supreme Court and a critical swing vote on abortion and a host of other divisive social issues, announced Friday that she was retiring, setting up a tumultuous fight over her successor.

After months in which speculation about the Supreme Court focused on the likelihood of Chief Justice William H. Rehnquist's stepping down, the retirement of Justice O'Connor, 75, caught much of Washington, including the White House and her colleagues on the court, off guard.

Even so, the armies of ideological activists from both sides who had massed in anticipation of a battle over replacing the chief justice, a reliable conservative, quickly pivoted to what they agreed was an even greater struggle for control of a seat that could alter the court's balance on an array of polarizing topics.

Justice O'Connor's decision creates the first vacancy on the court in 11 years, ending the longest period without a change in the lineup of justices since the 1820's, and it provides President Bush with his first opportunity to name a Supreme Court justice.

The White House spokesman, Scott McClellan, said the president would not make a selection until after returning from a summit meeting next week in Scotland. Senator Arlen Specter, Republican of Pennsylvania and the chairman of the Senate Judiciary Committee, said he had been invited to the White House to talk about the vacancy on July 11.

Also invited to the meeting, Mr. Specter said, are Senator Bill Frist of Tennessee, the Republican majority leader, Senator Harry Reid of Nevada, the Democratic minority leader, and Senator Patrick Leahy of Vermont, the senior Democrat on the Judiciary Committee.

The names most frequently mentioned as potential nominees include Judges J. Harvie Wilkinson III and J. Michael Luttig of the United States Court of Appeals for the Fourth Circuit in Richmond, Va.; Judge John G. Roberts Jr., who sits on the appeals court based in Washington; and Judge Michael W. McConnell of the Tenth Circuit, who sits in Salt Lake City.

Should Mr. Bush want to choose a woman to succeed Justice O'Connor, the candidates are likely to include Judge Edith Brown Clement and Judge Edith H. Jones, both of the Fifth Circuit, based in New Orleans. Other potential candidates include two Hispanic men, Attorney General Alberto R. Gonzales and Emilio M. Garza, a federal appellate judge in Texas.

It is not clear whether Chief Justice Rehnquist, who is battling thyroid cancer, will step down this summer, expanding the confirmation battle to two fronts.

In an appearance in the Rose Garden on Friday morning a little more than two hours after getting word of Justice O'Connor's resignation, Mr. Bush said he would be "deliberate and thorough" in selecting a nominee to succeed her. He said his intention was to make a nomination in time for the new justice to be in place for the start of the court's next term in October. Justice O'Connor said she would stay on the bench until her successor arrived.

With memories still fresh among many conservatives of the Democrats' success in blocking the nomination of Robert H. Bork to the court in 1987, and with Capitol Hill still embittered over this spring's confrontation over the use of filibusters in judicial nominations, Mr. Bush effectively put the Democratic leadership on notice not to go to extreme lengths to reject his choice or turn the confirmation proceedings into a partisan free-for-all.

"The nation deserves, and I will select, a Supreme Court justice that Americans can be proud of," Mr. Bush said. "The nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote."

Mr. Specter indicated that he would most likely hold confirmation hearings in September, though he did not rule out August, when Congress is scheduled to be in recess. Some conservatives have expressed concern about delaying confirmation hearings for too long, out of worry that it would give liberal groups more time to gather ammunition for an attack.

Since joining the court in 1981, succeeding Justice Potter Stewart, Justice O'Connor has been at the very center of the court in almost every sense, and has held or helped define the balance of power on many of the issues of broadest concern to the nation, including affirmative action, the death penalty and religion.

But it was her stance on abortion, and in particular her role in reaffirming Roe v. Wade, the landmark 1973 ruling that put the court on the side of abortion rights, that placed her most squarely in the middle of the culture wars that have increasingly dominated not just the courts but political discourse in general.

Replacing her with an opponent of abortion rights would not by itself be enough to overturn Roe v. Wade; it would take a shift of two votes in the court's current composition to do so. But it would change the balance of power on the court when it comes to lesser restrictions on abortion, like bans on the procedure that its opponents call partial birth abortion. It would also move the court that much closer to overturning Roe, the long-held goal of many social conservatives.

Justice O'Connor did not specify her reasons for stepping down beyond a brief statement relayed by a spokeswoman for the Supreme Court in which the justice referred to being 75 and to wishing to spend more time with her husband. Her husband, John, is said to have Alzheimer's disease.

In her resignation letter to Mr. Bush, she said she would leave the court as soon as her successor was named and confirmed.

"It has been a great privilege, indeed, to have served as a member of the court for 24 terms," she said in the three-sentence letter. "I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure."

The first inkling the White House had of her decision came around midday on Thursday when Pamela Talkin, the head marshal of the Supreme Court, called Harriet E. Miers, the White House counsel, to make arrangements to hand-deliver a letter on Friday morning. Ms. Talkin did not say which justice the letter was from, according to an account provided by Mr. McClellan, the White House spokesman.

Ms. Miers then informed Mr. Bush and Vice President Dick Cheney, who were having lunch in the president's private dining room just off the Oval Office.

On Friday just before 9 a.m., Ms. Talkin called back to say the letter was from Justice O'Connor. Ms. Miers then told Mr. Bush by telephone. Mr. Bush relayed the news to his inner circle, including Mr. Cheney; Karl Rove, the president's senior adviser and deputy chief of staff; and Dan Bartlett, his longtime communications adviser.

After the White House formally received the justice's resignation letter in a manila envelope, Mr. Bush held a five-minute phone conversation with her starting at 10:18 a.m., telling her, "For an old ranching girl, you turned out pretty good," a reference to her roots in El Paso and her upbringing on a ranch in Arizona.

Mr. Bush later called a staff meeting to discuss the process of settling on a successor, Mr. McClellan said. Mr. McClellan said Mr. Bush had not yet "given any serious consideration to any nominee because he has not reviewed any material relating to potential nominees in any serious way."

Mr. McClellan said Mr. Bush would start reading through material about potential nominees over the weekend, which he will spend at Camp David, and during his trip next week to Denmark and Scotland.

A senior administration official, who spoke on the condition of anonymity to describe internal deliberations, said that Mr. Bush would be reviewing "more than half a dozen" potential candidates and that the list would include people with a broad array of backgrounds.

The official suggested that the list might include one or more women. The list, the official said, was assembled by a group including Mr. Cheney; Mr. Rove; Mr. Bartlett; Ms. Miers; Mr. Gonzales; Andrew H. Card Jr., the White House chief of staff; and I. Lewis Libby, Mr. Cheney's chief of staff.

The official said the list given to Mr. Bush might have been somewhat different if it had been Chief Justice Rehnquist who had stepped down, because a chief justice nominee would have benefited from managerial qualifications that are less relevant for an associate justice. But over all, the official said, the candidate pools to replace the justices were quite similar.

But even allies of the White House said Mr. Bush was facing a tricky task in nominating a successor for Justice O'Connor.

"This is clearly a different jigsaw puzzle than what they were expecting," said Kenneth M. Duberstein, who was White House chief of staff under President Ronald Reagan and managed the Supreme Court nominations of Clarence Thomas and David H. Souter for the first President Bush.

"Everyone was expecting a conservative replacing Rehnquist," he said. "Now you have the question of a woman or a minority for the swing vote on the Supreme Court. That's a sensitivity the White House will really have to grapple with."

Mr. Bush placed calls on Friday afternoon to Mr. Specter and Mr. Leahy. Mr. Bush had spoken earlier with Dr. Frist, who is turning to a close ally of Mr. Bush, Ed Gillespie, the former chairman of the Republican National Committee, to help manage the nomination fight in the Senate, Republicans said.

Mr. McClellan said the president had tried but failed to reach Mr. Reid, the Democratic leader.

On Capitol Hill, many senators, including Mr. Reid, had already scattered for the long holiday weekend. As word of the retirement buzzed through Congress, members of both parties moved quickly to stake out their positions in a rapid-fire sequence of floor speeches and news conferences.

Republicans immediately sought to pre-empt the prospect of a Democratic filibuster, the procedural tactic that had been employed against 10 of Mr. Bush's federal appeals court candidates. They said the nominee's fate should be decided by a simple Senate majority, not the 60-vote threshold the filibuster requires.

"The person either goes on the Supreme Court or they don't go on the Supreme Court by 51 votes," said Senator Sam Brownback, Republican of Kansas. "That's what it should be."

Democrats urged the president to make good on his promise to consult with members of both parties in the Senate in choosing his nominee, a dialogue they said could avert a bitter fight over the court vacancy.

Senator Charles E. Schumer, Democrat of New York, said, "I sincerely hope that the president will be true to tradition and true to the best interests of the nation and he'll consult meaningfully with both Democratic and Republican senators before making such a momentous decision." Mr. Schumer, a member of the Judiciary Committee, raced back to Washington from New York after the announcement.

Senator John Warner of Virginia, a senior Republican who was instrumental in crafting a compromise in May that averted a Senate showdown over judicial filibusters, urged Mr. Bush to choose a nominee that could attract broad bipartisan support.

"This nomination of the first Supreme Court justice by this distinguished president gives him an opportunity to be a uniter, not a divider," Mr. Warner said.

Within minutes of the news that Justice O'Connor would retire, liberal groups were portraying the coming confirmation fight as a momentous event that could go a long way toward determining whether abortion remains legal and how the nation deals with a host of other issues on which conservative pressure and legal reasoning are being brought to bear.

"Justice O'Connor has been the most important figure on the court in recent years," said Ralph G. Neas, president of People for the American Way, a liberal group. "Her replacement will have a monumental impact on the lives and freedoms of Americans for decades to come."

Social conservatives said they were primed for a battle to support any nominee who is to their liking on issues including abortion and religion in public life. It is a promise they say they believe Mr. Bush has implicitly made every time he has praised Justices Antonin Scalia and Thomas as models.

"You have to realize," said Tony Perkins, president of the Family Research Council, a conservative social policy organization, "seven of the nine were appointed by Republicans, and David Souter in particular has been against us on everything. We do not want another wolf in sheep's clothing."

For months, the White House has been running the names of potential nominees by conservative groups like Focus on the Family, an evangelical ministry based in Colorado Springs, and the Family Research Council, said Jordan Lorence, a lawyer for the Alliance Defense Fund, a legal group established by a consortium of conservative Christian organizations.

"The White House has been contacting other groups, like Focus on the Family and the Family Research Council," Mr. Lorence said, "and we get calls about what do you think of this name and that name? What do you think of Emilio Garza? What do you think of Alberto Gonzales?"

Surprise Move: After 24 Years, Justice Sandra Day O'Connor Retiring (PPG)

By Ann Mcfeatters

Pittsburgh Post-Gazette, July 2, 2005

Supreme Court Justice Sandra Day O'Connor, 75, the first woman to sit on the nation's highest court, surprised President Bush, her colleagues and millions of Americans yesterday by issuing a three-sentence letter saying she will retire from the bench as soon as her successor is confirmed.

A longtime Republican legislator, activist and judge in Arizona, she became one of the most well-known women in America during her 24-year tenure on the court. She had a reputation in legal circles as a centrist and a swing vote, often breaking the tie

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for the 5-4 rulings that have marked the court in recent years. She was regarded not as a legal theoretician, but rather as a pragmatist, searching for practical, workable solutions in nearly every aspect of human life.

Bush did not learn of O'Connor's resignation until 9 a.m. yesterday. After what he called a "warm conversation" with her on the telephone, the president went before TV cameras in the White House Rose Garden to praise her as a "discerning and conscientious judge and a public servant of complete integrity."

When Chief Justice William Rehnquist, 80, developed throat cancer last autumn, causing him to miss 11 oral arguments and leaving him increasingly frail, many thought that he would be the first to depart from the current court, which has not had a new member in 11 years.

With liberals and conservatives braced for a bruising battle over the person Bush chooses to replace O'Connor, the president promised to select someone who would make America proud and who would meet "a high standard of legal ability, judgment and integrity, and who will faithfully interpret the Constitution and laws of our country."

Bush has said little about the type of person he might nominate, except that he has mentioned he would like to name the first Hispanic. His former general counsel and good friend, Alberto Gonzales, who is now the attorney general, is Hispanic. But if Gonzales were nominated to the court, he would run into opposition both from liberals, over his advice to the administration regarding the treatment of detainees in the war on terror, and from conservatives, because they think he might be moderate regarding abortion.

There are a number of appellate court judges, such as Emilio Garza Emilio Garza and Edith Jones, both of the 5th U.S. Circuit Court of Appeals in New Orleans, who are now being vetted by the Justice Department as well as Bush's current counsel, Harriet Miers, and Karl Rove, his deputy chief of staff and political guru. The advantage of nominating an appellate court judge is that they already have been confirmed once by the Senate.

O'Connor grew up on her parents' ranch, the Lazy B, a 260-square-mile spread straddling the Arizona-New Mexico border. Because of her lifelong love for Arizona as well as her need to care for her husband, John, who is in the early stages of Alzheimer's disease, some court watchers have long thought that she might be ready to retire.

O'Connor's three sons, Scott, Brian and Jay, and her grandchildren live in Arizona, and she loves playing golf there. She has kept her sprawling home in Paradise Valley, outside Scottsdale, in addition to a Georgian-style brick home in Washington.

Duquesne University Law School professor Ken Gormley, who got to know O'Connor after she gave an address at the school, said what had struck him about her, aside from her intellectual curiosity, was that she was "very much a Western girl" who loved to have fun. Just as she enjoyed taking five years off from her law career to stay home with her children in the late 1950s and early '60s, Gormley said, she is looking forward to spending more time home in Arizona with her husband and family.

Senate Judiciary Committee Chairman Arlen Specter, R-Pa., will be in charge of confirmation hearings for the next justice, even though he himself is fighting cancer. Specter also presided over the contentious hearings for the confirmation of Justice Clarence Thomas, the court's youngest member and a controversial conservative.

Specter yesterday said his committee was prepared to proceed on the nomination at any time.

One of Congress' leading Democrats, Sen. Ted Kennedy, D-Mass., yesterday said he hoped that Bush would consult with the Senate and nominate a moderate, as he described O'Connor. Kennedy warned that, while it is Bush's job to make the nomination, the Senate will take seriously its responsibility to decide whether the president's choice is the right one.

The major issue at the confirmation hearings is certain to be the nominee's stance regarding the legality of abortion, possibly the most politically divisive issue in the nation. Groups both favoring and opposing the procedure yesterday immediately went into hyperdrive, preparing for battle.

Nancy Northup, president of the Center for Reproductive Rights, said pressing for the eventual nominee to declare whether he or she supports the 1973 Roe v. Wade decision, which said the Constitution protects the right to an abortion, will be her most important agenda.

Tony Perkins, head of the Family Research Council, which strongly opposes abortion, said his group often disagreed with O'Connor and would mobilize 20,000 churches to demand that Bush choose a nominee whose views are similar to those of Justices Antonin Scalia and Thomas, the court's most conservative members.

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Asked if he would vote to confirm any nominee who does not support Roe v. Wade, Kennedy said he would look at the prospect's support for a variety of civil liberties, but would not make the abortion stance a litmus test. "I will reserve judgment," he said.

Bush strongly opposes abortion but also has said he was not certain that the country was ready to have Roe v. Wade overturned.

Not everyone praised O'Connor yesterday. Robert Bork -- a conservative who, like O'Connor, was nominated to the court by former President Ronald Reagan, but whose confirmation the Senate rejected in 1987 -- said he hoped that Bush would nominate a less-activist judge than O'Connor has been. Interviewed on CNN, Bork said O'Connor "didn't have a firm judicial philosophy" and "lined up with the liberal side" on social issues. There are some judges who depart from a strict construction of the Constitution and others who stick with it, he said. "She departed from the actual Constitution," Bork asserted. "I wouldn't call that moderate; I call it unfortunate."

Throughout her tenure as a justice, O'Connor has been considered a trailblazer, saluted as much for her discipline and hard work as for her opinions. Her name is consistently on lists of the most admired American women. When she had a bout with breast cancer in 1988, she missed no oral arguments. George Mason University law professor Nelson Lund said he had never worked harder in his life than when he was O'Connor's law clerk in 1987-1988, but it was the most rewarding professional experience of his life.

When O'Connor graduated in only two years from Stanford Law School in 1952, placing third in a class that also included Rehnquist, she couldn't initially find a job as a lawyer. She recalled that moment vividly in a recent speech:

"I was shocked. I think I was naive. I had never stopped to think that it might be hard to get a job. [One law firm] partner who interviewed me said, 'Miss Day, how do you type?' And I said, 'Well, fair, not great. I can get by.' And he said, "Well, if you type well enough, I might be able to get you a job as a legal secretary. But we have never hired a woman as a lawyer here. And we don't anticipate doing it."

She found work instead as a deputy county attorney in San Mateo, Calif., until her husband graduated from Stanford a year after she had. He went to Germany as an Army lawyer for three years, and she was a civilian lawyer in the Quartermaster Corps. His service completed, the O'Connors moved to Phoenix, had three sons, and she became a full-time volunteer for many causes, including Republican politics, before founding her own law firm with another lawyer.

When her second son was 5, she became assistant state attorney general and was appointed to fill a vacant seat in the state Senate, eventually becoming the first woman majority leader in the United States.

In 1974, she was elected to the Maricopa County Superior Court. In 1979, then-Arizona Gov. Bruce Babbitt, a Democrat, put her on the state Court of Appeals, and on June 20, 1981, at age 51, she met at the White House with Reagan and found herself nominated to the nation's highest court.

When O'Connor was called to answer questions before the Senate Judiciary Committee, she refused to say how she would decide abortion cases that were certain to confront her on the court. Anti-abortion activists were uneasy about her, but she was confirmed by a vote of 99-0 -- the strongest acclamation any Supreme Court nominee had ever received.

She and her husband, who went to work for a Washington law firm, were immediate hits on the social circuit, sometimes attending several parties a week as she struggled to feel less like an outsider. She founded an early-morning exercise club for women who worked at the Supreme Court, and regularly cooked Saturday brunch for law clerks. She continued to take an annual "adventure" trip with women friends from her college years, hiking, fishing and exploring rough terrain, and she also made numerous trips abroad. She gave dozens of speeches, often to groups of young people, urging more civility within the legal profession.

In the early 1990s, when rumors surfaced that she was thinking of retiring, she batted them down. She decided not to retire during the 2004 presidential election year, partly because she feared that the debate over her successor might be too partisan during an election year.

She has written two books, "The Majesty of the Law," a consideration of current legal issues, and the autobiographical "Lazy B: Growing Up on a Cattle Ranch in the American Southwest," with her brother, Alan Day. In 1999, her granddaughter Courtney, then age 9, collaborated with her to write a book, "Meet My Grandmother ... She's a Supreme Court Justice."

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O'Connor has often said she was proud that she hadn't needed to give up "life" to be the first female legislative majority leader in U.S. history and the first woman on the U.S. Supreme Court bench.

When O'Connor was undergoing her Senate confirmation process, she was asked how she would like her epitaph to read. "Ah," she said. "The tombstone question. I hope it says, 'Here lies a good judge.' "

Bush Asks Senate For Fairness On High Court Opening (REU-Y2)

Reuters, July 2, 2005

WASHINGTON (Reuters) - President Bush, given his first chance to name a Supreme Court justice, held off on Friday on naming a replacement for the retiring Sandra Day O'Connor but urged lawmakers not to block what is likely to be a contentious nominee.

Foreshadowing a confirmation battle in the Senate, Bush called for "a fair vote," for his choice as successor to the moderate conservative, as he has frequently during a prolonged dispute with lawmakers over Democratic efforts to block other nominees.

"The nation deserves and I will select a Supreme Court justice that Americans can be proud of. The nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote," he said in the White House Rose Garden.

Bush gave no indication who he was considering to replace O'Connor who resigned after 24 years on the bench other than to repeat his conservative philosophy that he would pick someone who will interpret the U.S. Constitution and not legislate from the bench.

"I directed my staff in cooperation with the Department of Justice to compile information and recommend for my review potential nominees who meet a high standard of legal ability, judgment and integrity and who will faithfully interpret the constitution and laws of our country," Bush said.

The White House said he would not name a potential successor to the retiring O'Connor for at least a week.

Bush said his goal was to have a new justice in place by the time the court reconvenes in October. O'Connor's resignation is effective once the Senate confirms her successor.

The White House has been preparing for a vacancy since Bush took office in 2001 and has compiled materials on a number of candidates.

Bush appeared in the Rose Garden to offer praise for O'Connor an hour after she announced her pending retirement. Earlier, in what the White House called an emotional phone call, Bush told O'Connor, who was raised on an Arizona ranch, that, "For an old ranching girl, you turned out pretty good."

Bush's nomination may test a bipartisan truce reached in May that declared Democrats would retain their right to block judicial nominees with procedural hurdles known as filibusters but only "extraordinary circumstances."

Democrats, and some Republicans, complain that Bush has not sufficiently consulted them on judicial nominees.

With Democrats bracing for a fight and interest groups on both sides already energizing their followers, Bush promised to consult with senators on the vacancy but was not specific.

TALKS WITH SENATORS

McClellan said Bush spoke to Senate Democratic leader Harry Reid of Nevada about the high court in recent days and would do so again.

He said Bush would also talk to Vermont Democratic Sen. Patrick Leahy (news, bio, voting record), ranking Democrat on the Senate Judiciary Committee, as well as Republicans like Senate Majority Leader Bill Frist of Tennessee.

"I just can't imagine that Democrats are going to want to engage in controversial tactics" like a filibuster, McClellan said. "I hope that all members of the Senate would want to elevate the discourse."

Senate Democrats, who blocked 10 of Bush's appeals court nominees during his first term, urged the president to consult with them before picking a Supreme Court candidate.

"The Constitution gives the president and the Senate shared responsibility to fill this vacancy," Reid said. "With this nomination the president should choose to unite the country, not divide it."

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Senate Judiciary Committee Chairman Arlen Specter, who will oversee the confirmation hearing, said his "instinct is we will not have a filibuster here. That is only my hope."

McClellan said Bush would read materials on potential nominees this weekend at his Camp David presidential retreat and on a trip to Denmark and Gleneagles, Scotland, next week. Bush returns from that trip on July 8.

"There will be no decision before returning from the G8," McClellan said. "This will be a thorough process."

Bush has often railed against what he calls "activist judges" who he says legislate from the bench, and says he wants justices to "strictly and faithfully interpret the law."

O'Connor, First Woman Named To Supreme Court, Is Retiring (LAT)

By David G. Savage

The Los Angeles Times, July 2, 2005

Justice Sandra Day O'Connor, the first woman to serve on the Supreme Court and its decisive voice on such critical issues as abortion, affirmative action and religion, announced Friday she was retiring.

Her husband, John, is suffering from Alzheimer's disease, her friends report, and O'Connor said in a brief statement that she needs to spend more time with him.

O'Connor, 75, often has been called the most powerful woman in America because of her influence on the Supreme Court, and her surprise departure gives President Bush a chance to reshape its direction.

It will mark the first vacancy on the court in 11 years.

Activists on the right and left were preparing for what could be an epicbattle over her successor. The president's staunchest supporters want to eliminate the right to abortion, which the departing justice has helped to maintain.

On Friday, Bush said he first wanted to praise the Arizona cow girl who rose to become "one of the most admired Americans of our time. . . . Justice O'Connor's great intellect, wisdom and personal decency have won her the esteem of her colleagues and our country," the president said shortly after speaking with O'Connor by phone.

Bush said he "will be deliberate and thorough" in picking her successor, and he pledged to consult with members of the Senate on his choice.

"The nation deserves, and I will select, a Supreme Court justice that Americans can be proud of," Bush said. He said he hoped his nominee would undergo "a dignified process of confirmation" in the Senate.

Spokesman Scott McClellan said Bush did not plan to make a decision on O'Connor's successor until late next week, after he returns from a trip to Denmark and Scotland.

Until Friday, the White House and much of Washington had been focused on who might replace the ailing 80-year-old Chief Justice William H. Rehnquist, who was widely expected to step down.

When the court handed down its last opinions of the term Monday morning, O'Connor looked worried and saddened as a visibly weak Rehnquist, her former Stanford Law School classmate, rose from his seat. She reached out to steady him as they turned to walk back through the red velvet curtain.

But it turned out that was her last day on the bench -- and not necessarily his.

While Rehnquist has said nothing in public of his plans, the justices and court staff who have watched him closely would not be surprised if he retired, too.

However, O'Connor's announcement took the White House, other Supreme Court justices and even one of her sons by surprise. The president didn't learn of it until Friday morning.

A tireless worker, O'Connor once said the heavy workload of the Supreme Court had been her "salvation" in the late 1980s, when she underwent treatment for breast cancer.

She travels with piles of court briefs in her suitcases, and most of her friends and colleagues expected she would stay in her job for as long as possible. In recent years, her husband has come with her to the court and spent his days in her chambers.

The couple recently sold their home in suburban Maryland and bought a condominium in Washington, but none of her friends saw this as a sign of her impending retirement.

The White House counsel's office, charged with finding candidates for an expected vacancy, had to switch gears Friday.

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Because of O'Connor's role as a swing vote, the impending vacancy could set off a fierce fight, particularly if Bush chooses a staunch conservative to replace her.

For the past two decades, O'Connor has decided the Supreme Court's biggest cases. She has been neither a predictable conservative nor a true liberal. Rather, she set out to redefine the middle.

But the political battle over the next court nominee is likely to focus on abortion and religion.

O'Connor nearly single-handedly saved the constitutional right to abortion, even though she was an early critic of the Roe vs. Wade ruling that legalized it. She believed the court made a mistake in the 1970s by taking on the issue, and she said states should have more authority to regulate abortion.

In 1989, however, she refused to go along with Rehnquist and three others in overturning Roe vs. Wade in a pending Missouri case. When the issue returned three years later, O'Connor fashioned a 5-4 majority to affirm the abortion right. States may regulate abortion providers to ensure the health and safety of their patients, but they may not put an "undue burden" on the woman's decision whether or not to have an abortion, O'Connor said.

A year later, Justice Byron R. White, a firm abortion-rights foe, retired; President Clinton replaced him Ruth Bader Ginsburg, a women's rights lawyer who favors abortion rights. Today, the basic right to abortion has a 6-3 majority in the Supreme Court.

In recent years, however, the court has split 5-4 on whether states can outlaw a mid-term abortion procedure that critics label "partial-birth abortion." Justice Anthony M. Kennedy, who joined O'Connor in the 1992 decision, believes states can regulate abortion by banning certain procedures such as partial-birth abortion.

O'Connor also frustrated conservatives on affirmative action and religion cases.

She was a critic of race-based programs, and wrote a series of rulings that struck down such set-asides in government contracts, as well as electoral districts drawn along racial lines.

But O'Connor refused to close the door to affirmative action in colleges and universities. "In a society like our own, race unfortunately still matters," she said in a 5-4 ruling that upheld the admissions policy at the University of Michigan Law School. While schools may not use quotas or fixed percentages to admit more minorities, they may take race into account as a plus factor, she said.

She also fashioned a middle position on religion. She cast the fifth vote to uphold Ohio's school voucher programs three years ago. With these grants, parents in Cleveland could use tax money to send their children to religious schools. This is not an "establishment of religion," O'Connor said, but rather an education program that gives parents freedom of choice.

But she joined with her liberal colleagues to strike down school-sponsored prayers or religious displays on public property, including Monday's Ten Commandments ruling. The government may not "endorse" religion, she said.

She wrote movingly in Monday's opinion on the importance of preserving religious freedom -- including freedom from government-sponsored religion.

"At a time when we see around the world the violent consequences of the assumption of religious authority by the government, Americans may count themselves fortunate: Our regard for constitutional boundaries has protected us from similar travails, while allowing private religious exercise to flourish," she said.

But she also had her disputes with the court's liberals.

Two weeks ago, she wrote a pungent dissent when the court upheld a city's seizure of private homes to make way for business development. "The specter of condemnation hangs over all property. Nothing is to prevent the state from replacing a Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory," she said.

For her part, O'Connor became a historic figure upon her arrival in 1981 to join what had been known as "the brethren." At first, the focus was on her status as the first woman. But by the mid-1980s, she had emerged as a justice who brought a distinctive perspective -- not just as a woman, but as former state legislator and former state trial judge. She sought practical, middle-ground solutions to complicated problems.

By the 1990s, she was the single most important member of the Supreme Court, the justice who could be counted upon to decide the hardest cases.

She was widely praised Friday for having brought grace, wisdom and common sense to her job.

Justice Stephen G. Breyer, the court's junior justice, said he had admired her greatly.

"The court, the law and my life have been immeasurably enriched by her dedicated service. She has taught us all," he said.

"Any jurist would consider it a high honor to be a colleague of Justice O'Connor," wrote Kennedy. "Any person would consider it a privilege to be her friend."

Her rise to prominence was an unlikely one. She grew up on a cattle ranch in the desert along the border of New Mexico and Arizona. Her childhood home on the Lazy B ranch had no electricity, and it was 25 miles to town.

But she was able to attend Stanford University, first as an undergraduate and then as a law student. She placed third in the class of 1952, two spots behind a tall, lanky World War II vet named William H. Rehnquist.

She also met John O'Connor, and after they married, they settled in Phoenix. She rose to be a state legislator and the first female majority leader of the Arizona Senate. She was a state appeals court judge when Reagan chose her for the Supreme Court.

Bush harkened back to her childhood Friday, during what aides called an emotional conversation for both. "For an old ranch girl, you turned out pretty good," the president told her.

Future Of Abortion Could Be At Issue (BSUN)

By Stephanie Desmon

The Baltimore Sun, July 2, 2005

The surprise retirement of Supreme Court Justice Sandra Day O'Connor - considered a key vote in keeping abortion widely legal in the United States - throws into question the future of the procedure's availability and re-ignites a long-simmering and emotionally charged debate.

In losing O'Connor, the moderate voice who created the current legal standard that restrictions on abortion should not place an "undue burden" on women, the stage is set for someone cut from more conservative cloth to take her place.

Those on the front lines of the battle over abortion say her retirement has an even greater impact than would the resignation of the ailing Chief Justice William Rehnquist, an abortion opponent whose potential replacement would be an "even exchange," as one advocate said.

O'Connor's absence will be felt immediately. The court has already agreed to hear two abortion cases next fall.

"We're not talking theory. We're talking reality," said the Rev. Patrick J. Mahoney, director of the Washington-based Christian Defense Coalition. "By January of next year, decisions will come out of the court on abortion. ... Status quo in the Supreme Court has really gone out the window."

"It could change everything for women," said Wendy Royalty, a spokeswoman for Planned Parenthood of Maryland.

Advocacy groups sprang into action quickly yesterday.

Within minutes of the news that O'Connor would retire, NARAL Pro-Choice America's Web site had been transformed into a campaign headquarters for the fight ahead, asking visitors to donate money and write to their senators "to vote NO on anti-choice nominees!" News releases were flying; e-mails were sent by the thousands. The National Organization for Women planned an "emergency rally to save women's lives" in Nashville for this afternoon.

Anti-abortion groups were gearing up, too. Mahoney, for one, has already planned vigils, rallies and demonstrations outside the court building to coincide with the as-yet-unnamed nominee's confirmation hearing.

"Nobody's wasting any time getting on this," said Kathy Kleeman with the nonpartisan Center for American Women and Politics at Rutgers University. "This issue is going to be right in the middle of it."

It is unlikely, even with O'Connor's retirement and another, that Roe would be overturned - a majority of the remaining justices still favors letting the decision stand. Besides Rehnquist, only two other justices, Antonin Scalia and Clarence Thomas, have said Roe v. Wade should be overturned.

But even if the majority of the court is unwilling to completely reverse Roe, it doesn't mean that more limits won't be placed on it. The court with O'Connor has upheld waiting periods and parental notification provisions in the past. And a court without O'Connor is more likely to outlaw "partial-birth" abortions, an issue that is making its way through the courts again.

O'Connor, a Reagan appointee, was never really embraced by those on the right, who picketed her confirmation hearings. After Reagan left office, she made some of her crucial decisions on abortion.

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In Planned Parenthood v. Casey, the 1992 case that largely reaffirmed abortion rights, O'Connor was one of those who wrote for the majority. In 2000, the last time the court took up a major abortion case, she was a member of the 5-4 majority that struck down a Nebraska ban on a late-term abortion procedure that opponents call "partial-birth," mainly because it did not make an exception for women's health.

Many on both sides of the abortion question say they want to know where a nominee stands on Roe v. Wade, the landmark 1973 case that effectively legalized abortion.

Those on the right feel they have been burned in the past by nominees - such as Justices Anthony M. Kennedy and David H. Souter - who turned out not to share some of the key views of the Republican presidents who nominated them.

Members of the religious right, who feel responsible for returning Bush to office for a second term, will not be satisfied by a nominee with soft or fuzzy credentials on abortion rights, observers said. Conservative blogs are already teeming with worries about putting Attorney General Alberto R. Gonzales, who they don't think is a big enough opponent of abortion, on the bench. Advocates for abortion rights will insist on someone who shares their desire to maintain the "right to choose."

"We should not have the senators playing Russian roulette, guessing where a nominee stands on critical constitutional protections," said Nancy Northup, president for the Center for Reproductive Rights, a legal advocacy group that argued against the "partial-birth" abortion ban before the court in 2000.

Steve Elmendorf, a Washington-based Democratic strategist, said Bush's decision on who should replace O'Connor will be a difficult one. For years, Elmendorf said, Bush has tried to straddle a line, calling himself a "compassionate conservative" while also playing to his party's right wing. Some might like to see a nominee without an easily defined position on abortion, while others will insist on a strong position against.

"For years the Republicans have tried to have it both ways on this issue," he said. "Their ability to have it both ways is going to be severely compromised."

Douglas Johnson, legislative director of the National Right to Life Committee, said he doesn't think a nominee should have to answer the question head on. Finding out if the nominee will strictly follow the U.S. Constitution is enough, he said.

Nominees, he said, "are not supposed to predict how they're going to rule on future cases that will come before them."

Even without Roe, abortion wouldn't automatically be illegal everywhere. The decision would revert to the states. Nineteen states have laws that would outlaw abortion if Roe were overturned and another 19 are poised to do so, said Nancy Keenan, president of NARAL Pro-Choice America. Maryland law would keep abortion legal.

According to a June poll by the Pew Research Center for the People & the Press, 63 percent of those surveyed rejected the idea of completely overturning Roe. That margin has remained stable for more than a decade.

Even before the possibility of a court vacancy became a reality yesterday, the debate over abortion had bubbled back to the surface, returning with its customary fervor and intensity to the national political landscape.

There was the court's decision to take the two abortion cases after five years of silence on the issue. In April, the U.S. House of Representatives passed its first major bill on abortion in two years, one that would prohibit minors from being taken across state lines without parental permission for the procedure. While the Senate hasn't voted, Republican leaders have called a similar bill a priority.

Meanwhile, state legislatures have continued unabated in long-running efforts to place a variety of limits on abortion. And in some parts of the country there have been reports that pharmacists have refused to fill legal prescriptions for birth control, a step toward preventing unwanted pregnancies, on moral grounds.

Now, though, the focus is squarely on the court - and what it will look like when it begins its next session in October.

"It's going to be a battle royal," said Joseph Scheidler, president of the Chicago-based Pro-Life Action League.

The Battle To Shape American Society (FT)

By Patti Waldmeir In Washington

Financial Times, July 2, 2005

Friday was the first day of the new American culture war. The resignation of Sandra Day O'Connor has precipitated the battle of a generation over the future of what is arguably America's most influential branch of government.

Unique among the democratic world's ruling institutions, the US Supreme Court occupies a special place in American life. It can strike down laws and even slap down a president, all in the name of upholding the US constitution. At a time when US politics is paralysed by division, the court is often the only institution that steps in to tackle the people's disputes. Americans look to it for the last word on many of the most difficult questions in national life, from race to abortion to presidential elections. Most Americans know nothing at all about the highly secretive court but it plays a huge role in shaping the society they live in.

At key moments in the last century, the court has played a powerful liberalising role, banning segregation in schools and guaranteeing women the right to choose abortion. Even under the 18-year reign of Chief Justice William Rehnquist, a conservative, the court championed gay rights and affirmative action, and reined in the death penalty.

Now America faces a once-in-a-generation opportunity to reshape this institution and political activists from both ends of the spectrum are grasping that chance with both hands. Republicans hope to mount a conservative takeover that could transform American social policy for the first half of the new century. Liberals will spend tens of millions of dollars trying to stop them.

President George W. Bush is shortly expected to nominate a replacement for Justice O'Connor, and the Senate will then go to battle over whether to confirm the nominee. The argument is likely to be ugly, and could dominate US politics and stymie progress on other important issues for weeks or months to come.

And that may not be the end of it. The retirement of the 75-year-old Mrs O'Connor the first woman justice in American history is unlikely to be the only departure. Chief Justice William Rehnquist is 80 and ill with thyroid cancer. Altogether, three or even four justices could leave the court in the next few years.

Mr Bush has made no secret of the fact that he sees the appointment of Supreme Court justices as one of his most important legacies. He is determined to transform the mostly centrist Rehnquist court into a conservative institution. If he fills three or four vacancies on the nine-person court, he could well get his way.

So the battle is on for the heart and soul of this 200-year-old institution. Justice O'Connor's role on the court was pivotal: she provided the winning fifth vote for some of the court's most important rulings, including a 2003 decision upholding the constitutionality of affirmative action in higher education. And crucially, she supports a woman's right to choose, so replacing her with an opponent of abortion as Mr Bush is almost certain to do could have a big impact on the court's rulings in this explosive area.

The conservative bloc on the court would still have no realistic hope of overturning the court's 1973 landmark ruling on abortion, Roe v Wade: abortion supporters would still have five votes on the court, against four who oppose it. But with a slender 5:4 majority, the court could change some of the conditions under which abortion is permitted, in ways that might make it substantially harder in practice to get an abortion.

According to Tom Goldstein, Supreme Court expert at Goldstein & Howe law firm, the resignation of Mrs O'Connor makes it possible that there could be a “fundamental shift in the court's direction. . . On an array of basic social issues eg affirmative action, religion, and the death penalty”. He notes that Justice O'Connor has been a vital swing voter on the closely divided court. Predicting the impact of replacing Justice O'Connor can be difficult, though, because she was a consummate “one case at a time” judge whose jurisprudence could be very unpredictable. She did not always vote in line with the president who appointed her Ronald Reagan. According to Walter Dellinger, former acting US solicitor general, the real split on the Rehnquist court is between “legalists” and “pragmatists” Mrs O'Connor was one of the pragmatists. Replacing her with a legal fundamentalist like Justice Antonin Scalia, whom Mr Bush has held up as a model justice, could have a big impact on the court's rulings on a wide range of issues.

Replacing a conservative pragmatist with a conservative ideologue could make an especial difference on business issues, where pragmatic justices are generally more pro-corporate.

Stanton Anderson of the National Chamber Litigation Centre, the US Chamber of Commerce's legal arm, said before the retirement that appointing a “different type of conservative” perhaps a social conservative rather than an economic one could have big consequences for US business. “Just because you are a conservative does not mean you will be pro-business.” And over the longer term, predicting the impact of a new justice can be even harder. If the nominee is in his 50s (as the conservative right hopes he will be), he might serve for two or three decades. No one can predict with accuracy the legal issues that will come before him in that time or for that matter how he will vote on them.

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Justice David Souter is infamous among conservatives for morphing from an apparent conservative to a committed liberal after his appointment by President George H.W. Bush. Justice O'Connor represents a kind of "split the baby" jurisprudence, which toes a careful line between right and left.

Professor Jeffrey Rosen of George Washington University Law School credits her with giving the Rehnquist court its centrist character. He argues that she has done more to represent the moderate majority in American politics than the polarised politicians in Congress. If she were to be replaced by a far-right ideologue, America would lose a very powerful moderating influence.

For liberals, the nightmare scenario would be the resignation of all three justices and their replacement by jurists in the mould of Scalia and Clarence Thomas, the court's most conservative judicial fundamentalists. "A court majority sharing the Scalia and Thomas judicial philosophies could overturn more than 100 Supreme Court precedents concerning civil rights enforcement, privacy and reproductive choice, religious liberty, environmental protection, workers' rights, consumer safety, and much more," says the liberal group People for the American Way.

Prof Rosen thinks the real threat of such a re-engineered court would be not social but economic: he believes Mr Bush's long-term goal is not to outlaw abortion but to roll back the regulatory state and dismantle the New Deal, by appointing jurists who believe the US constitution does not permit the federal government to meddle in matters such as workplace regulation or environmental protection.

There are precious few supporters of that view on the current court; but some potential nominees are openly antithetical to a powerful federal government.

Lists of rumoured nominees have been circulating in Washington for months, in some cases years. Mr Bush is understood to want to name the first Hispanic justice, though it is not clear whether that might be Alberto Gonzales, the attorney general, who is viewed as too moderate by the conservative base, or one of a couple of more radical Hispanic appeals court judges. He may also want to replace a woman with a woman. Other potential nominees include conservative hard-liners such as J. Michael Luttig, an appeals court judge who supports limiting the powers of the federal government. Soon enough, America will know whom Mr Bush has chosen and then the cultural war can really begin. Activists on both sides have been preparing for this moment for years: they know this may be the chance of a lifetime to change American society, by changing the people who judge it.

Justice O'Connor Retires From Supreme Court (FT)

By Edward Alden, Caroline Daniel And Holly Yeager In Washington

Financial Times, July 2, 2005

Justice Sandra Day O'Connor, the first female US Supreme Court justice, announced her retirement on Friday, opening the door for President George W. Bush to nominate a successor who could strengthen conservative control over the nine-person court for a generation.

The resignation will launch an epic struggle over the direction of the top US court. Justice O'Connor was often the crucial swing vote on a court where many of the biggest rulings have come on 5-4 decisions.

Potentially at stake in the succession are the future of legal abortions, affirmative action for minority groups, government aid to religious schools and other issues that have divided US liberals and conservatives.

Mr Bush called Justice O'Connor, who served 24 years, "a discerning and conscientious judge and a public servant of complete integrity".

He promised to consult the Senate before choosing a nominee who would "faithfully interpret the Constitution and laws of our country".

The president called for "fair treatment, a fair hearing and a fair vote" and warned he did not want any nominee to be sidetracked by filibustering.

Mr Bush is likely to appeal to his electoral base by choosing a reliably conservative judge. Justice O'Connor helped send Mr Bush to the White House by voting to shut down the Florida recount in the 2000 election. But some conservatives have

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attacked her votes to uphold affirmative action, protect minority voting rights, maintain bans on government-sponsored prayer at public schools and protect abortion rights.

Arlen Specter, Republican chairman of the Senate judiciary committee, who will lead the Senate hearings to confirm Mr Bush's nominee, said Justice O'Connor's "pivotal role on the court as a centrist" meant the fight could be even more contentious than that for any replacement for Chief Justice Rehnquist, a more stalwart conservative.

The Senate debates may prove more divisive than those over Judge Robert Bork, a conservative rejected by the Senate in 1987, and Justice Clarence Thomas, who became the Supreme Court's most conservative judge after winning narrow Senate confirmation in 1991.

Retirement Yields First Opening In 11 Years (HC)

By Julie Mason

Houston Chronicle, July 2, 2005

SANDRA DAY O'CONNOR

AGE-BIRTH DATE — 75; March 26, 1930, in El Paso, Texas.

EDUCATION — BA, Stanford University, 1950; LLB, Stanford University, 1952.

EXPERIENCE — Appointed by President Ronald Reagan to the Supreme Court in 1981, confirmed by the Senate 99-0; judge, Arizona Court of Appeals, 1979-81; judge, Maricopa County Superior Court, 1975-79; majority leader, Arizona Senate, 1973-74; Arizona state senator, 1969-75; assistant attorney general, Arizona, 1965-69; practiced law in Maryvale, Arizona, 1958-60; civilian attorney for Quartermaster Market Center, Frankfurt, Germany, 1954-57; deputy county attorney, San Mateo County, Calif., 1952-53.

FAMILY — Husband, John Jay O'Connor III; three sons, Scott, Brian and Jay.

O'Connor Retires From Supreme Court (MH)

By David Espo

The Miami Herald, July 2, 2005

Sandra Day O'Connor stepped down unexpectedly from the Supreme Court on Friday, closing out a career as the first female justice and the anchor of a shaky majority for abortion rights. President Bush pledged to name a successor quickly as the costliest confirmation battle in history took shape.

O'Connor's decision to retire created the first vacancy at the high court in 11 years, and marked the departure of the justice who had become the majority maker in a stream of 5-4 cases covering abortion, affirmative action, the death penalty and more over a quarter-century.

Bush, under pressure from some conservatives to name an outright foe of abortion, said he would appoint a successor who "will faithfully interpret the Constitution and laws of our country." He said he would make his selection in time to have a full court in place before the new term opens in October.

"The nation also deserves a dignified process of confirmation in the United States Senate," he added.

Sen. Arlen Specter, R-Pa., chairman of the Judiciary Committee that will hold hearings on Bush's candidate, said he doubted there would be a filibuster.

Democrats said that was up to Bush. "Above all, Justice O'Connor has been a voice of reason and moderation on the court," said Senate Democratic Leader Harry Reid of Nevada. "It is vital that she be replaced by someone like her."

O'Connor, 75 and a breast cancer survivor, kept her retirement a surprise even from her son, and it was not until Friday morning that she dispatched her letter, hand-delivered to the president.

It seemed to catch Bush's team off guard. The president and his staff had long been anticipating a retirement letter from Chief Justice William Rehnquist, 80 and ailing with thyroid cancer.

The Rehnquist guessing game continued. "If we haven't heard from him by now, the chances are you won't hear from him for some time," predicted Specter. The last time there were two simultaneous vacancies at the court was 1971; Rehnquist was picked for one of them.

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Whatever the chief justice's plans, the short list of contenders, exclusively male, may have to be expanded in view of O'Connor's retirement, according to one White House official. That officials spoke only on condition of anonymity because of the sensitivity of the discussions.

Speculation has included Attorney General Alberto R. Gonzales and J. Michael Luttig, John Roberts, Samuel A. Alito Jr., Michael McConnell, Emilio Garza and James Harvie Wilkinson III, all federal appeals court judges.

O'Connor's decision capped a pioneer's career. President Reagan broke nearly 200 years of tradition in 1981 when he named her - a top-ranked graduate of Stanford law school - as the first woman to wear the robes of a justice.

"As the first woman to be appointed to this court, Sandra Day O'Connor was thrust into the spotlight as no new justice has ever been," Justice Antonin Scalia said in a written statement issued by the court.

Aware by her own account of the historical burden, she evolved into a moderate conservative, but more importantly, the consistent center of a fractured court.

In her first term, she cast the deciding vote and wrote a 5-4 ruling that said a Mississippi all-women college must allow a male student to study nursing.

It was the first of many such cases.

She voted with the majority on three significant 5-4 cases in recent years: the disputed 2000 presidential election that went to Bush, a 2003 decision that upheld an affirmative action program at the University of Michigan law school and a ruling last year that said the war on terrorism did not give the government a blank check to hold terror suspects in legal limbo.

Nowhere was her legal thinking more carefully scrutinized than when it came to abortion, an issue that divides the court as it does the country.

O'Connor balked at letting states outlaw most abortions, refusing in 1989 to join four other justices who were ready to reverse the landmark 1973 decision that said women have a constitutional right to abortion.

In 1992, she helped forge a five-justice majority that reaffirmed the core holding of the 1973 ruling. Then, in 2000, she provided the fifth and decisive vote that struck down a Nebraska law that was aimed at banning a procedure critics call "partial-birth abortions."

In her opinion, she wrote that to be constitutional, a ban must include "an exception to preserve the life and health of the mother."

Last week, she sided with a 5-4 majority in a ruling that threw out the sentence of a death row inmate and warned state courts that shoddy legal defense representation wouldn't be tolerated.

She expressed her views tartly at times.

Last week, in a dissent to a 5-4 ruling that let local governments take personal property to build malls and other businesses, she wrote that the majority had unwisely handed more power to the powerful.

"The specter of condemnation hangs over all property," O'Connor wrote. "Nothing is to prevent the state from replacing ... any home with a shopping mall, or any farm with a factory."

Alone among the current justices, O'Connor ran for office. In 1975, she was elected judge of the Maricopa County Superior Court. She served until 1979, when she was appointed to the appellate bench in Arizona. Reagan named her to the high court two years later, and she won Senate confirmation unanimously.

In a one-sentence written statement on Friday, O'Connor cited her age and said she "needs to spend time" with her family.

Her official resignation letter was brief.

"It has been a great privilege indeed to have served as a member of the court for 24 terms," the 75-year-old justice wrote to Bush. "I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure."

"For an old ranching girl, you turned out pretty good," Bush told her in a private call not long after receiving her letter, an aide said.

Then, in the Rose Garden outside the Oval Office, he praised her as "a discerning and conscientious judge and a public servant of complete integrity."

Lawmakers in both parties hastened to praise her, often taking note of her place in history. "She has been a wonderful role model for girls," said Sen. Kay Bailey Hutchison, R-Texas.

In a Senate that narrowly avoided a meltdown over judicial nominations earlier in the year, much of the speechmaking seemed framed by the coming confirmation struggle.

"America needs judges who are fair, independent, unbiased and committed to equal justice under the law," said Majority Leader Bill Frist, R-Tenn. "I look forward to working with my colleagues to ensure a fair confirmation process in the Senate that will ensure the Supreme Court is at full strength to start its next term in October.

Liberal Democrats said they understood Bush would name a conservative, and signaled a willingness to go along, up to a point.

Sen. Edward M. Kennedy, D-Mass., said he hoped Bush would name a replacement who was a "a conservative ... who is in the mainstream of judicial thinking."

The remark stirred echoes of Democratic filibusters against several of Bush's appeals court nominees whom Democrats had attacked for years as outside the mainstream.

Partisans on both sides have been preparing for a vacancy for months. Given her opinions on abortion, O'Connor's decision to step down raised the stakes for partisans on both sides of the issue.

Senate aides of both parties held strategy meetings during the day.

Republicans were instructed to say Bush's choice deserved an "up or down vote," and that no litmus test should be applied, whether on abortion or any other issue.

Bush pledged to consult with Senate leaders. He later talked with Frist, Specter and Sen. Pat Leahy, D-Vt., the senior Democrat on the Judiciary Committee.

Officials said they expected the Judiciary Committee to hold hearings three to six weeks after Bush submits a nomination, perhaps beginning in August when Congress is customarily gone.

Three to five days of testimony are likely, during which the panel would hear from the nominee as well as outside interest groups both for and against him or her.

Search For Justice O'Connor Retirement Opens Seat On Supreme Court (AJC)

By Ken Herman

The Atlanta Journal-Constitution, July 2, 2005

With a three-sentence letter delivered Friday to the White House, Justice Sandra Day O'Connor announced her retirement from the Supreme Court and set off what many expect to be a bitter battle over the future of the nation's highest court.

O'Connor, appointed by President Ronald Reagan and the court's first female member, turned out to be the main swing vote on a court with a penchant for 5-4 decisions in high-profile cases involving civil rights, religion and affirmative action — and even, in 2000, the awarding of the presidential election to George W. Bush.

"She has occupied a pivotal role on the court as a centrist," said Senate Judiciary Committee Chairman Arlen Specter (R-Pa.).

In the letter announcing her intention to retire when a successor is confirmed, O'Connor, 75, told President Bush, "It has been a great privilege, indeed, to have served as a member of the court for 24 terms. I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure." Her husband is battling Alzheimer's disease.

Praise for O'Connor prefaced all talk Friday about a replacement.

"For an old ranching girl, you turned out pretty good," Bush told O'Connor during a phone call, said White House press secretary Scott McClellan.

After speaking to O'Connor, Bush said in a Rose Garden address that the country deserved a new justice it can be proud of.

"The nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote," he said. He promised to make a nomination in time for the Senate to confirm his choice before the court reconvenes in October.

The confirmation process recently has been anything but smooth. Bush's nomination of John Bolton as U.N. ambassador is stuck in the Senate, with Democrats refusing to let it go to the floor for a vote. And some appellate court nominations were

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approved only after a brutal battle in which Republican senators threatened to eradicate the filibuster, used by the Democratic minority to block some of Bush's nominees.

"I can't imagine they are going to want to get into controversial tactics such as that," McClellan said of the potential for a filibuster of Bush's nominee to replace O'Connor.

But Sen. Edward Kennedy (D-Mass.) moved quickly to put Bush on notice about a replacement.

"If the president abuses his power and nominates someone who threatens to roll back the rights and freedoms of the American people, then the American people will insist that we oppose that nominee, and we intend to do so," Kennedy said.

Kennedy said "serious consultation with the Senate in the nomination process is the key to a successful confirmation process."

McClellan said Bush always consulted with senators on judicial nominees, "but I think this will be an even more thorough process."

The White House is working with a list that McClellan would quantify only as "a group of potential nominees." Most often cited on lists making the rounds in Washington are Attorney General Alberto Gonzales, a longtime Bush aide who said recently his only goal was to return to Texas in the coming years, and six solidly conservative federal appellate judges: J. Michael Luttig and J. Harvie Wilkinson of the 4th Circuit court in Richmond, John Roberts of the District of Columbia court, Samuel Alito Jr. of the 3rd Circuit in New Jersey, William Pryor of the 11th Circuit in Atlanta, and Emilio Garza of the 5th Circuit in Texas.

Friday's announcement followed weeks of anticipation of a court retirement that had centered on 80-year-old Chief Justice William Rehnquist, who is battling thyroid cancer. Also on the watch list has been the court's oldest justice, John Paul Stevens, 85.

Though O'Connor was a relatively little-known

Arizona state judge when she was appointed in 1981 to replace the retiring Potter Stewart, her status as the court's first female made her an instant celebrity and the court's most recognized member.

"People saw it as a signal that there are virtually unlimited opportunities for women," she said once in an interview. "It's important to parents for their daughters, and to daughters for themselves."

In the Senate, Specter did not understate the task of finding a consensus replacement.

"This is a very polarized country when it comes to the issues which will come to the Supreme Court of the United States," he said. "Everybody can't have their own way."

Sen. John Cornyn (R-Texas) said he expected a dogfight.

"During the past four years we have seen unprecedented obstruction, partisanship — and venomous personal attacks dominate the Senate's judicial confirmation process," said Cornyn, a member of the Senate Judiciary Committee.

Bush promised to announce a nominee in a "timely manner," but said he would be "deliberate and thorough in this process" as he reviewed potential appointees "who will faithfully interpret the Constitution and laws of our country."

McClellan said no appointment would be made until Bush's return Friday from the G-8 conference of world leaders in Scotland. He said Bush had not reviewed any records concerning potential nominees, but acknowledged that a list of names was ready for presidential review.

"This is something we have been preparing for over the last few years," McClellan said.

After meeting with administration officials Friday about O'Connor's retirement, Bush called Senate Majority Leader Bill Frist (R-Tenn.). McClellan said Bush had discussed the Supreme Court on Wednesday with Senate Minority Leader Harry Reid (D-Nev.).

Reid on Friday called for a nominee "whose views are within the broad constitutional mainstream and who will make all Americans proud."

"With this nomination the president should choose to unite the country, not divide it," said Reid.

While players on both sides called for a calm, measured replacement process, outside groups quickly mobilized.

People for the American Way, a left-leaning organization that has opposed Bush's judicial nominees, quickly issued an urgent appeal, telling supporters it expected Bush to name "someone who threatens our rights and liberties."

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"If O'Connor is replaced by a justice in the mold of justices [Antonin] Scalia and [Clarence] Thomas, as President Bush has suggested and right-wing leaders are demanding, the consequences would be disastrous for many of the legal and social justice victories achieved over recent decades," said Ralph Neas, the group's president.

On the other side, the Christian Defense Coalition also moved quickly to rally its backers.

"We are keenly aware that it was judges who removed prayer from the public schools and decriminalized abortion, which resulted in the deaths of 45,000,000 children," said the Rev. Patrick Mahoney, the group's director. "It was the courts that attempted to remove 'One nation under God' from the Pledge of Allegiance, and it is now courts that are trying to redefine marriage and the family."

Mahoney predicted a "bruising confirmation process."

Much Is At Stake With Bush's Choice (BSUN)

By Paul West

The Baltimore Sun, July 2, 2005

On a quiet, muggy, pre-holiday Friday morning, word of a Supreme Court retirement finally arrived - and with a stunning twist.

This was the Big One, the departure of Sandra Day O'Connor, the first female justice and the pivotal jurist on a closely divided court. The aftershocks from her announcement will be felt far into the future, in the realms of law, politics and, quite conceivably, American culture.

Most immediately, her resignation sharply raises the stakes - and ferocity - of a much-anticipated clash over the court's direction, legal scholars and political analysts said yesterday. It also creates a series of important decisions for President Bush and his advisers, from the selection of a replacement to the timing of that nomination.

"This is a vastly more consequential choice now for the president than replacing the chief justice would have been," said David Garrow of Emory University law school.

The ailing chief justice, William H. Rehnquist, whose departure had been more widely predicted than O'Connor's, is a fairly reliable member of the court's conservative bloc. By contrast, O'Connor has often been the justice whose vote decided cases, and her departure could well tilt a conservative court further to the right.

"This is probably the most significant appointment for the court" in nearly two decades, said Dennis J. Hutchinson, a University of Chicago law professor who edits The Supreme Court Review there.

"She's been the balance wheel of the court for at least the last half-decade. She's the one who has had the deciding vote or moderating vote on so many hot-button issues, whether it's affirmative action, abortion, states' rights and, to some extent, the religion clauses."

The confirmation fight in the Senate, which must approve her replacement, will be unlike any other.

"You have the 24-hour news cycle, the blogosphere, the incredible organizing by groups, for and against, with both sides literally raising millions of dollars. Their own legitimacy and power status in Washington is at stake here in ways that it wasn't in the past," said Hutchinson.

Analysts are already forecasting a long, hot Washington summer - and possibly autumn - in the struggle over replacing O'Connor, a story that figures to dominate attention during a period when the nation's capital is normally quiet.

"You really get the feeling that you're standing in the open field of Gettysburg, shortly before the action," said Jonathan Turley, a George Washington University law professor. "We've got two well-funded armies in Washington. Whenever you have this degree of preparation, money and personnel, something bad tends to happen. There's a certain sense of dread."

Bush and his advisers have been preparing for a Supreme Court vacancy for months, if not years. But the timing of the nomination could be almost as important as the choice of a nominee.

The president said yesterday that he would announce the appointment "in a timely manner." But he also promised to consult in advance with members of Congress, and his spokesman signaled that a nominee was unlikely to be announced before mid-July, at the earliest.

Delaying an announcement might be in Bush's best interest.

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"History has shown that nominees left to twist in the summer wind of Washington tend to suffer from the exposure," said Turley. "This town is like an armed camp, and any nominee that comes forward will suffer in the process."

By most estimates, the fight over replacing O'Connor will be more intense than the one over a Rehnquist successor would have been.

"O'Connor has long been an icon for both sides. For conservatives, she's viewed as an unreliable justice, in terms of conservative values," said Turley. "For Democrats, she's viewed as part of that thin black line of justices protecting them from a conservative sweep."

If Bush sticks to his stated goal of choosing a justice in the mold of Clarence Thomas, he "could have the most lasting impact on American law of any president in history," the professor added. "After decades of 5-4 votes, there are a dozen different areas that currently dangle by a single vote."

At the top of the list of legal issues, for many on both sides of the judicial fight, is abortion. O'Connor, a supporter of abortion rights, has often cast the swing vote in abortion cases.

Regardless of who replaces her, though, there will still be a majority on the court that supports abortion rights, which were guaranteed by the landmark 1973 decision in Roe v. Wade that overturned state laws outlawing abortion.

A conservative spokesman in the fight over judicial nominees stressed that point in an effort to play down the emotional importance of abortion in the confirmation battle.

The Supreme Court "has a 6-3 majority favoring Roe v. Wade, so replacing her will not challenge Roe's core," said C. Boyden Gray, former White House counsel to the first President George Bush and chairman of the Committee for Justice, part of a $20 million conservative effort to defend Bush's nominee.

University of Chicago's Hutchinson also said that O'Connor's replacement "isn't going to change the status of Roe v. Wade." Eleven of the last 13 appointments to the Supreme Court have been made by Republican presidents, "and Roe v. Wade is still solidly in place," he pointed out.

Instead, Bush's first decision will be "how much of a fight does he want to wage? Is he going to fight for symbolism, with an Hispanic, or the ideological fight, where he's getting pressed" from conservative groups, said Hutchinson.

Organizations representing religious and social conservatives are demanding a solidly conservative nominee in return for their help in Bush's re-election last year, preferably one who will move the court a step closer to overturning Roe.

Professor Garrow speculated that filling the O'Connor vacancy first, rather than the Rehnquist seat, will make it easier for Bush to name a close associate, Attorney General Alberto R. Gonzales, "replacing the first woman with the first Hispanic, rather than with an extremely conservative white male."

Conservative groups, who doubt Gonzales' zeal for the anti-abortion cause, oppose Gonzales. But the path-breaking selection of a Hispanic "would offer Bush some insulation from unhappy right-wingers," said Garrow, author of a history of Roe and the evolution of abortion rights.

He added that he "found it highly ironic this morning that the president so effusively praised [O'Connor], the justice who's done more to protect Roe v. Wade than anyone else. A president intent on naming an opponent of abortion wouldn't necessarily have made those remarks."

In the 2000 campaign, Bush said he wouldn't make abortion a litmus test for his court picks. But a legal adviser from that campaign, Ben Ginsberg, said that regardless of the eventual nominee's views, Democratic opposition is inevitable.

"O'Connor was a true conservative who stuck to her own positions and beliefs. And while she was perceived as being an ideological soulmate of Rehnquist's, which she was, there were some differences," he said. "That will gin up the liberal groups in a way that a Rehnquist resignation wouldn't have."

Conservatives, meantime, expect Bush to put a reliably conservative vote on the bench.

"The problem is that both sides are so firm that there's not a lot of room for compromise. It's all going to depend on the president. I think conservatives and liberals are not just ready but eager for a fight," said Turley. "In this environment, compromise will be viewed by both sides as weakness. It may be a battle that is inevitable."

At White House, Surprise Is Borne Out In Name Only (NYT)

By Douglas Jehl

The New York Times, July 2, 2005

In retrospect, there were ambiguous hints that Justice Sandra Day O'Connor might be preparing to step down.

Last June, for the court term that begins this October, Justice O'Connor hired just three clerks, one shy of her usual complement. Early last month, Justice O'Connor's husband, John, told another guest at a dinner party that while his wife had been the most powerful woman in America, now "we're out of here."

But within the White House and the rest of official Washington, none of those signals made it any less surprising early Friday morning when the Supreme Court sent word that it was Justice O'Connor, and not Chief Justice William H. Rehnquist, who was stepping down.

At the White House, the moment presents Mr. Bush with an opportunity to define at last, more than four years into his presidency, whether he is a pragmatic, flexible conservative, as he has portrayed himself in two campaigns, or a more ideological one, determined to move the court much further rightward. It is a juncture officials have been planning for.

Still, the first real expectations of an impending vacancy were prompted by a telephone call placed before noon on Thursday by a marshal at the court, said the White House spokesman, Scott McClellan. But the marshal had sent word to the White House only that she had a sealed envelope that needed to be delivered on Friday, he said.

Some White House officials had privately speculated that Justice O'Connor could well resign, though almost certainly in tandem with Chief Justice Rehnquist, who was seen as far more likely to depart. He is 80 and ill with thyroid cancer.

It was not until shortly before 9 a.m. on Friday that Harriet Miers, the White House counsel, learned which of the nine justices was leaving the court, Mr. McClellan said. Ms. Miers had spoken by telephone again to the marshal and was told that "she now had the authority to say that this letter was in reference to Justice O'Connor."

That meant that it would fall to Mr. Bush to fill not a seat held by a solid conservative, but one held by a justice who for most of her 24 years on the court has been one of its least predictable swing votes. By 10:30 a.m., Mr. Bush had spoken briefly by phone with Justice O'Connor and had met with advisers for the first strategy session about her replacement.

Mr. McClellan acknowledged that Thursday's call had been sufficient to prompt Ms. Miers to alert Andrew H. Card Jr., the White House chief of staff, as well as Mr. Bush and Vice President Dick Cheney. Asked if any speculation in the White House had focused on Mr. Rehnquist, Mr. McClellan just smiled.

The White House has been preparing for months to fill a seat on the court, but people involved in the process said the main focus had been on finding a new chief justice to replace Mr. Rehnquist. It was only in recent weeks, some conservatives said, that the White House began to consider seriously the prospect of Justice O'Connor's departure.

"It means a different nominee," C. Boyden Gray, the founder of a conservative group organized to back a Bush nominee, said as he rushed out the door of his Georgetown home on Friday morning to prepare for a day of back-to-back news media interviews and strategy sessions with his conservative troops.

"It's more difficult because it requires a vote change," said Mr. Gray, the former White House counsel under President Bush's father. "I'm not sure we are as prepared for an O'Connor vacancy."

However unprepared, Mr. Gray's conservative allies responded immediately. Progress for America, one of several groups steeled for a court vacancy, sent out a mass e-mail message shortly after 10 a.m., suggesting that their liberal opponents were poised to wage a bruising partisan battle. "The president's nominee deserves genuine consideration - not instant attacks," Brian McCabe, president of the group, was quoted as saying in the e-mail message. "The Left has been huddling for the last 11 years, plotting strategy to derail any nominee to the Supreme Court."

The group has said it will spend $18 million to defend Mr. Bush's Supreme Court nominee, and it quickly released a Web-exclusive advertisement to 8.7 million conservative constituents in 21 states contending that liberal advocacy groups would block Benjamin Franklin and George Washington if they were nominated to the court today. A mock news report in the advertisement reported that Democrats were attacking Franklin because of his ties to the energy industry and Washington for an environmental record tarnished by chopping down cherry trees.

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At roughly the same moment, People for the American Way, one of the main liberal groups working on the judicial issue, sent out its own e-mail memo to about 10,000 journalists and 4,000 activists, calling the O'Connor resignation a "critical moment for the Constitution."

"Replacing the conservative Justice O'Connor with a right-wing ideologue would be a constitutional catastrophe," Ralph G. Neas, president of the group, said. "A right-wing appointment could turn back the clock seven decades."

Among those in Washington notified at least a few hours before Justice O'Connor's decision became public were at least some of her fellow justices, according to people who talked by telephone with the justices on Friday morning.

An aide to Senator Bill Frist, the majority leader, said that the senator had been given "strong indications" that Justice O'Connor would step down, and that party leaders were sufficiently prepared that they had positioned themselves on the Senate floor for the moment when word became known. Dr. Frist's tribute to Justice O'Connor appeared to have been prepared in advance.

News A Surprise To Family, Bush (DMN/AP)

Associated Press

The Dallas Morning News, July 2, 2005

Justice Sandra Day O'Connor even surprised her family.

Her son, Scott, a Phoenix businessman, said he didn't find out about his mother's retirement until after the Washington announcement.

"She was a little teary-eyed," he said after talking to her Friday. "That is a tough decision."

Justice O'Connor has two other sons, Brian and Jay, and several grandchildren. One granddaughter wrote a book with her, about a child's visit to the court.

President Bush called Justice O'Connor before he appeared in the Rose Garden to express appreciation for her 24 years of service.

"For an old ranching girl, you turned out pretty good," he told Justice O'Connor, who grew up on an Arizona ranch.

"You're one of the great Americans," Mr. Bush said. "I wish I were there to hug you."

The White House got the first hint Thursday when the court's head marshal called White House counsel Harriet Miers to arrange delivery of a sealed envelope Friday morning.

The administration had been preparing for Chief Justice William Rehnquist to step down and had been mulling how to replace the court's conservative anchor.

"We have had a plan in place," White House press secretary Scott McClellan said, "just in case there was a vacancy."

Nomination Could Be Defining Moment For Bush (WP)

By Dan Balz

The Washington Post, July 2, 2005

There are few genuine earthquakes in American politics, but yesterday's announcement by Justice Sandra Day O'Connor easily qualifies as one. Her retirement is likely to trigger one of the most consequential confirmation battles in a generation, with the ideological balance of the Supreme Court and the future of contentious social issues now firmly in the hands of President Bush.

For more than three decades, the right has been ascendant in America. A Republican Party fueled by the energy and activism of its religious and social conservatives has seized control of the executive and legislative branches of government in Washington and has seen its strength widen and deepen across the country.

The Supreme Court is the lone branch of government where conservatives have been unable to gain the dominant voice, to the great frustration of those on the right. Among the most ardent conservatives, there is no better evidence of the need to change the court than two decisions that marked the end of the term this summer, which limited displays of the Ten Commandments on government property and gave local governments the power to seize private property for commercial development.

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The choice ahead for Bush in selecting a successor to O'Connor may prove to be the most important domestic decision of his presidency, given its potential impact on abortion and other issues and rivaling Iraq in its ability to split the country. He will soon decide just how far to try to push the court in a different direction. The bolder he is, the more likely he will touch off a battle that will consume Washington and much of the country for the rest of the summer and whose impact could be felt in the 2006 elections and beyond.

There are huge risks for Bush no matter which way he moves. He faces enormous pressure from the right to appoint someone more conservative than O'Connor. But such a move risks a potentially bruising battle with Senate Democrats and a backlash among voters in the middle of the ideological spectrum, who may worry about the GOP's social and cultural agenda.

But leading Republicans said Bush must move decisively to remake the court. "Given the disastrous decisions of the last few days on private property rights, the Ten Commandments and violent criminals, I think the majority that elected Bush and the House and Senate clearly expects a very conservative nomination," said former House speaker Newt Gingrich of Georgia.

The coming decision will prove a defining moment for Bush's presidency. His political strategy is founded on the assiduous courtship of his conservative base, and on big issues he has rarely chosen to disappoint them. But it has never been clear how comfortable the president is in pushing a sharply conservative social agenda. He opposes abortion but has resisted championing the cause of overturning Roe v. Wade . He pushed a constitutional amendment barring same-sex marriages, but at a time when it was clear it could never pass Congress.

Bush has been forthright, however, in trying to change the complexion of the courts, a political project that he shares with White House Deputy Chief of Staff Karl Rove and other top advisers. Bush has nominated a series of conservatives to fill federal district and, especially, appellate courts, locking horns with Democrats, whose filibusters of those nominations only heightened the White House's determination to keep pushing forward.

But the president also has a contrarian streak, and in personnel decisions he often likes to go with his instincts. Only a handful of people know the full range of calculations he and his advisers are bringing to this decision, but there is no more important issue to social and religious conservatives than the Supreme Court, and there aren't many ways for Bush to fudge on his intentions in the selection of a successor to O'Connor.

"The court is the pivot point on social policy, and O'Connor's seat is the pivot point on the court," said William Kristol, editor of the conservative Weekly Standard, who had predicted O'Connor's retirement. "So it's a pretty dramatic moment."

Both sides believe the political landscape tilts in their direction in a Supreme Court battle, reflecting sharply contrasting philosophies about the role of the courts.

Democrats think Bush has been hurt by Republican-led intervention in the Terri Schiavo case and by the comments of House Majority Leader Tom DeLay (R-Tex.) and others warning that they intend to do whatever they can to rein in the courts. In their estimation, moderate voters, particularly women, recoil at the prospect of a Republican Party that already controls the White House and Congress gaining control of the majority at the Supreme Court. Instead, they want a court system that provides a check and balance rather than a ratification of the conservative agenda.

But conservatives argue, and key White House officials agree, that the public sees the courts as out of touch with their values. They believe that voters want the courts to act as impartial referees in the political battles between the major parties. Conservatives believe a majority of Americans see the courts dominated by judges who are legislating on issues such as gay rights and abortion. They argue that the high court's rulings run wildly counter to public opinion.

The shockwaves of O'Connor's announcement began to reverberate immediately as word began to circulate yesterday morning that it was the court's most celebrated swing justice, and not the ailing chief justice, William H. Rehnquist, who is stepping down.

Combatants on both sides had widely anticipated a Rehnquist retirement and were gearing up for a confirmation fight over his successor. But there was something ritualistic about the preparations for that battle, since the departure of Rehnquist, one of the staunchest conservatives among the nine justices, would offer no real chance to move the court to the right.

The departure of O'Connor changed all that, bringing conservatives to a moment they have long dreamed about and liberals to a moment they have long feared. No one was exaggerating yesterday when they talked about the potential consequences involved in the choice of an O'Connor successor.

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"This totally raises the stakes," said Democratic pollster Geoffrey Garin. He added: "Obviously we've had battles over particular nominees, but this is a battle about the court itself rather than any one seat. As a result, so much more hangs in the balance. There's no question that all sides will see this as a very high-stakes, high-consequence battle."

It is possible that predictions of a pitched battle in the Senate this summer may prove exaggerated. "I understand both sides are well armed and ready for war and everyone's got their battle plans drawn," said Ron Klain, who was chief of staff to then-Vice President Al Gore. "But it ultimately does come down to whom he selects. If he does what Ronald Reagan did and veers off and picks someone more from the center, then we might not have a fight. If not, we're much more likely to have a fight."

That could mean the choice of someone such as Attorney General Alberto R. Gonzales, a personal favorite of the president, who is seen as less rigidly conservative than some others on lists of possible nominees.

But among conservatives still angry about the choice by Bush's father of Justice David H. Souter, who has voted regularly with the court's liberals, Gonzales is seen as insufficiently opposed to abortion, and his nomination would be viewed by them as a betrayal. "There are many pro-family groups who are opposed to his being nominated," said Jan LaRue, chief counsel of Concerned Women for America.

Depending on the outcome of the upcoming battle, the courts could become central issues in next year's midterm elections and in the next presidential campaign. After the uproar over the confirmation of Justice Clarence Thomas came what was called the "Year of the Woman," in 1992, when Democrats elected a number of women to the Senate. After the high court's 1989 abortion decision in the Webster case from Missouri, abortion became a mobilizing issue on both the right and the left.

In the larger context, conservatives see the upcoming battle as a chance to recoup from the failure to confirm Robert H. Bork to the Supreme Court during the Reagan administration, which they regard as a major setback for their movement. In Bush they have the most conservative president since Reagan and one who, as his advisers say, likes to swing for the fences. Which is why his next move is awaited by all sides with such great expectation.

Groups Poised To Swing Left And Right (DMN)

By David Jackson

The Dallas Morning News, July 2, 2005

The long-anticipated battle for the Supreme Court is finally here, but it's not the one many people expected.

It might be bloodier.

Washington prepared for the retirement of conservative Chief Justice William Rehnquist; instead, the more moderate Justice Sandra Day O'Connor announced her retirement Friday – giving President Bush the opportunity to pull the court to the right on such issues as abortion, gay rights, affirmative action and religion in public life.

Rather than swapping one conservative for another, as he would have with Justice Rehnquist, Mr. Bush gets to replace the justice who often provided the swing vote in 5-4 rulings.

"Her replacement will have a monumental impact on the lives and freedoms of Americans for decades to come," said Ralph Neas, president of the liberal group People for the American Way.

His organization is one of many prepared to campaign against any Bush nominee that they consider out of the mainstream. Those efforts will be opposed by conservative groups still smarting from the rough treatment given past GOP nominees Robert Bork, rejected by the Senate in 1987, and Clarence Thomas, who was barely confirmed after sexual harassment allegations surfaced in 1991.

"We know they will attack almost any nonliberal nominee in hysterical terms," said C. Boyden Gray, a former White House counsel whose organization, The Committee for Justice, will promote the president's pick.

Another conservative group, Progress for America, has already begun running television ads on behalf of Mr. Bush's nominee, whoever that person will be.

Mr. Bush said he will fill the first vacancy in 11 years with "a Supreme Court justice that Americans can be proud of."

Don't expect a nomination next week, aides said, as Mr. Bush travels to Scotland for the annual Group of Eight summit.

Woman, or Hispanic?

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Justice O'Connor's announcement forced a reassessment at the White House, where officials had been more focused on a possible Rehnquist retirement because of his thyroid cancer.

Her retirement puts pressure on Mr. Bush to consider nominating a woman, or at least a more moderate nominee in the O'Connor mold, analysts said. It also opens the door for a possible historic pick, such as the court's first Hispanic member, possibly Attorney General Al Gonzales.

In recent days, conservatives have discussed a Gonzales-for-O'Connor trade. They have also criticized the possibility, calling the former White House counsel insufficiently opposed to abortion rights and affirmative action.

On the other side, Mr. Gonzales, a former White House counsel, would face liberal opposition over his role in setting policy for treatment of war prisoners.

Asked about the Supreme Court this week, Mr. Gonzales said his sole focus is "to defend America against domestic attacks and to make our community safer."

As for potential female nominees, administration officials have reviewed the record of New Orleans-based appeals Judge Edith Brown Clement. Another possibility is Edith Jones of Houston, who, like Judge Clement, sits on the 5th U.S. Circuit Court of Appeals.

Both are considered pro-business conservatives and would likely be opposed by liberals.

Conservatives, meanwhile, are expected to continue pushing judges who had been promoted for Chief Justice Rehnquist's slot. That list includes appeals judges Michael Luttig of Virginia, Samuel Alito of New Jersey and John Roberts of Washington, D.C. They too would likely draw Democratic opposition.

Retirement announcement

The text of Sandra Day O'Connor's retirement letter to President Bush:

Dear President Bush:

This is to inform you of my decision to retire from my position as an associate justice of the Supreme Court of the United States effective upon the nomination and confirmation of my successor. It has been a great privilege, indeed, to have served as a member of the court for 24 terms. I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure.

Sincerely,

Sandra Day O'Connor

Mr. Bush is being bombarded with advice, including a push from conservatives to consider Sen. John Cornyn, R-Texas, and a write-in campaign on behalf of San Antonio-based appeals Judge Edward Prado. Both are considered long shots.

White House officials said the Bush legal team has spent years looking at possible nominees, but they indicated that Mr. Bush's interviews with the finalists would be decisive.

During a 2004 election debate, Mr. Bush said he would pick justices "who would not allow their personal opinion to get in the way of law. I would pick somebody who would strictly interpret the Constitution of the United States."

Many legal analysts have cited Mr. Bush's praise for justices Antonin Scalia and Clarence Thomas, the court's most conservative members, as an indicator of the type of person he might select.

Roe vs. Wade

As groups gear up for what will be a multimillion-dollar battle, abortion is probably the biggest fault line. Conservatives have long sought a reversal of Roe vs. Wade, the 1973 decision that made abortion a constitutional right.

Nancy Keenan, the president of NARAL Pro-Choice America, promised a "real fight" if Mr. Bush nominates an anti-Roe judge: "The 60 percent of Americans who want Roe v. Wade left alone will not be silent this time."

Abortion rights opponent Ed Meese, attorney general for President Reagan, urged Mr. Bush to seek a judge who interprets laws, "rather than making up the law to reach some policy objective or personal preference."

Liberals fear a conservative court would render decisions that favor businesses over consumers, environmentalists and unions; that restrict affirmative actions and gay rights; that give police more power over civilians; and that expand the role of religion in government.

Conservatives said they want a court that will protect the rights of religious believers, business people and property owners from expanding government control.

A simple Senate majority may not be enough to confirm Mr. Bush's nominee, who would need 60 votes to override a Democratic filibuster, a strategy many Bush critics are prepared to advocate.

In pledging to move expeditiously, Mr. Bush said, "the nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing, and a fair vote."

Sen. Patrick Leahy of Vermont, top Democrat on the Senate Judiciary Committee, said Mr. Bush could avoid past divisions by tapping a jurist in the O'Connor mold.

"Justice O'Connor is a sterling example of what can happen when a president nominates a justice not from the right or the left wing of one of the political parties," he said, "but an independent judge capable of making up her own mind."

Adding 1 Involves A Lot Of Variables (LAT)

By Peter Wallsten And Richard B. Schmitt

The Los Angeles Times, July 2, 2005

As President Bush weighs a successor for retiring Supreme Court Justice Sandra Day O'Connor, he will face pressure to name a Latino, a woman, an African American or someone who would help overturn the landmark case that legalized abortion.

But White House allies and advisors said Friday that the toughest choice facing Bush was whether to pick a nominee who would probably coast to Senate confirmation — such as his longtime friend, Atty. Gen. Alberto R. Gonzales — or one who would please the conservative Republican base but also spark a protracted partisan battle that could stall other priorities.

That quandary came into focus with O'Connor's surprise announcement, which all but assured White House allies that Bush would get the chance to make at least two Supreme Court appointments. The second would replace ailing Chief Justice William H. Rehnquist, who until Friday had been considered the sure bet to create the first opening.

Now, White House advisors are trying to draw lessons from the experience of President Reagan, who took the easy route first in winning confirmation for Justice Antonin Scalia but then paid a heavy price when a more controversial nominee, Robert H. Bork, was defeated.

"It's a fairly sophisticated choice to be facing," said C. Boyden Gray, White House counsel under President George H.W. Bush and now a strategist on court nominees for the current administration. Bush "really does want to appoint Gonzales. So does he appoint Gonzales now, or does he wait for the second opening? Gonzales would be the first Hispanic and would be easier to confirm" than other contenders considered to be more conservative.

Further complicating matters for the White House, said Gray and other administration allies, was the fact that O'Connor made her announcement on the eve of the president's trip to Scotland for the summit of the Group of 8 industrial nations. That means Bush will not announce his nominee until at least the end of next week, giving Democrats and liberal interest groups more time to frame the debate and talk about potential picks.

"It's going to put pressure on people like us on the outside to get on TV and fill the airwaves," Gray said.

For Bush, the O'Connor announcement opened the door to one of the most highly anticipated decisions of his presidency. His approach to a Supreme Court vacancy has been the source of speculation among activists on all sides of major issues since he said during his 2000 campaign that his ideal court picks would mirror conservative heroes Scalia and Justice Clarence Thomas.

But his course of action is unpredictable. Bush won the White House by shoring up his party's conservative base, but he is also fiercely loyal to friends such as Gonzales and eager to expand the Republican base by drawing more Latino voters.

Religious conservatives signaled Friday that they would not be satisfied with Gonzales or any nominee viewed as potentially soft on overturning the Roe vs. Wade abortion decision and on other social issues. O'Connor's departure is thought to leave a narrow court majority supporting a right to abortion, and leading conservative activists relished the prospect of moving one vote closer to overturning the 1973 decision that legalized the procedure.

Richard Land of the Southern Baptist Convention noted that O'Connor had been part of the majority in several cases that had "dismayed social conservatives," including several abortion decisions and this week's ruling limiting the display of the Ten

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Commandments in public buildings. Land said Bush's legacy as a president would probably turn on whether he picked a sufficiently conservative nominee.

Similar thoughts came from other evangelical leaders, such as Tony Perkins, president of the Family Research Council, and Gary Bauer, president of American Values. Bauer cautioned the White House to avoid the temptation to "pander to the whims of political correctness."

Gonzales has been a particular concern to conservatives because of moderate stances he took on abortion rights and affirmative action while a justice on the Texas Supreme Court and as White House counsel. Some conservatives said they were counting on Bush to hold off on appointing his friend.

"I know he respects [Gonzales], and he could come up later," said the Rev. Louis P. Sheldon, chairman of the Traditional Values Coalition. "But I think out of the chute, the president wants someone who will have 100% support from the grass roots."

But as Bush considers various nominees, there are reasons he may bypass the most conservative names and focus instead on Gonzales or other candidates considered more moderate.

The president may want to avoid a bitter confirmation battle that could hamper the rest of his agenda in Congress by tying up the Senate and inflaming partisan passions. Already, Bush's signature domestic proposal — restructuring Social Security — is in jeopardy, and a confirmation vote on John R. Bolton, his nominee to be U.N. ambassador, has been stalled by Senate Democrats.

Recent polls have put Bush's popularity below 50% amid growing concerns about the war in Iraq, and a further erosion may scare Republican lawmakers from following his lead on a range of issues.

Moreover, the fact that the president will be choosing a successor to O'Connor, a moderate, "makes it easier for Bush to appoint someone who is more of a moderate," said UC Berkeley law professor John Yoo, a former Justice Department official.

In fact, Bush may have signaled this week that pleasing social conservatives by pushing to overturn Roe vs. Wade was not necessarily weighing on his mind.

"Abortion ought to be illegal with the exception of rape, incest or life of the mother," he said on Danish television Wednesday. "But look, I'm a realist as well. I mean, this is an issue that has polarized the American political society. And in order to get good policy in place that protects the life of a child, we're going to have to change hearts."

O'Connor's retirement raises the prospect that Bush will nominate someone who has a diverse background, but not necessarily a woman, said some who watch the court. "The fact that it is Justice O'Connor may marginally hurt the chances of the white males in the pool and help the chances of those who are perceived to be more readily confirmable," said Bradford Berenson, a former White House lawyer.

Bush has never hidden his affection for his longtime aide Gonzales, a son of migrant workers. Bush has placed him in a series of increasingly important jobs since Gonzales became Bush's legal advisor in Texas in the 1990s.

If chosen for the high court, Gonzales is considered likely to be approved. Not only did he already win confirmation as attorney general, but also lawmakers from both parties would be wary of opposing him for fear of offending Latino voters.

"There is no doubt in my mind that Al Gonzales will be nominated for the Supreme Court. The only question is whether it will be for the first or the second opening," said Gonzales' longtime acquaintance Roland Garcia, a Houston lawyer who was a law partner of White House Counsel Harriet Miers.

Miers, a Texas lawyer who has known Gonzales and Bush for years, is helping vet potential nominees. Gonzales huddled Friday with Miers, Bush, Vice President Dick Cheney, White House political strategist Karl Rove and several others to discuss O'Connor's resignation. The attorney general has made a point recently of opening dialogue with conservative activists, leading some to conclude he was in essence interviewing for the job.

Gonzales was unavailable to comment Friday, but issued a written statement calling O'Connor a "role model for a generation of young lawyers."

Should Bush choose to avoid a battle with his own base over Gonzales and opt for a candidate thought to be more reliably conservative, there are many contenders believed to be on his short list.

Another possible Latino nominee is Judge Emilio M. Garza, 57, who sits on the 5th U.S. Circuit Court of Appeals in New Orleans. Garza has written opinions that are skeptical of the right to abortion set out in Roe vs. Wade.

If the White House concludes that O'Connor's departure means Bush must choose another woman, the possibilities include Edith H. Jones, who sits with Garza on the 5th Circuit; Edith Brown Clement, who also sits on that court; and former California Supreme Court Justice Janice Rogers Brown, who was recently confirmed as a judge on the federal appeals court in Washington, D.C.

Jones and Brown have endeared themselves to the GOP's conservative wing. Jones has written opinions openly questioning the rationale in Roe vs. Wade and suggesting that it should be reexamined based on research raising new questions about the effect of abortions on women's health.

Brown has a long record as a conservative-minded state court jurist on issues including property rights, affirmative action and government power. Born into a sharecropper's family in Alabama, she has the sort of personal story that Bush appears to admire in his Cabinet and judicial picks. She would also be the first African American woman on the court.

Clement was named to the federal bench by the first President Bush and was elevated to the appellate court in 2001.

Should Bush decide to forgo considerations of diversity and focus solely on finding a conservative, he may tap Judge J. Michael Luttig, an appellate judge in Virginia; Judge Samuel A. Alito of the U.S. Court of Appeals in Philadelphia, whose conservative voice has invited comparisons to Scalia; or Judge John G. Roberts Jr., a cautious Bush appointee to the U.S. Court of Appeals in Washington, D.C.

Candidates whose confirmations would probably be relatively less confrontational include J. Harvie Wilkinson III, a scholarly veteran judge on the U.S. Court of Appeals in Richmond, Va., and Michael W. McConnell, a former University of Chicago law professor who sits on the U.S. Court of Appeals in Denver and has drawn support from both liberal and conservative academics.

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VACANCY ON THE SUPREME COURT

10 potential successors

Samuel A. Alito Jr., 55

Son of an Italian immigrant has been likened to Justice Antonin Scalia because of his legal philosophy. A staunch conservative on the generally liberal U.S. 3rd Circuit Court of Appeals. Has written conservative dissents in abortion, gun control and 1st Amendment cases.

*

Janice Rogers Brown, 56

Brown was confirmed in June to the U.S. Court of Appeals for the District of Columbia after a nearly two-year political battle focused on her conservative judicial philosophy. She took some liberal positions as a California Supreme Court justice.

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Emilio Garza, 58

Appointed a district judge in 1988, Garza was promoted to the U.S. 5th Circuit Court of Appeals in 1991 by George H.W. Bush. A conservative Catholic, he would be the court's first Latino. He has suggested that he would vote to overturn the constitutional protection for abortion rights.

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Alberto R. Gonzales, 49

U.S. attorney general drew fire from Democrats during confirmation hearings. Some conservatives view the longtime Bush

advisor as too moderate on issues such as abortion rights and affirmative action. He is the son of Mexican American migrant farm-workers.

*

Edith Hollan Jones, 55

A smart, hard-nosed conservative, Jones has sat on the U.S. 5th Circuit Court of Appeals since 1985. She has a long track record on a wide range of issues, including abortion. She has characterized the Roe vs. Wade decision as a "raw exercise in judicial power."

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J. Michael Luttig, 51

Has been on U.S. 4th Circuit Court of Appeals in Virginia since 1991. Clerked for Justice Antonin Scalia on a federal appeals court, and for Chief Justice Warren Burger in 1983-84. Has a conservate reputation, but some see him as more moderate than others on Bush's list.

*

Michael W. McConnell, 50

Judge on the U.S. 10th Circuit Court of Appeals since 2002 has been criticized from the right and the left. Liberals suspect he opposes abortion, though he has said the issue is "completely settled." Opposed the Clinton impeachment and the 2000 presidential election ruling.

*

John G. Roberts Jr., 50

A judge with the D.C. Circuit Court since 2003, he was a law clerk for Chief Justice William Rehnquist and served under the first President Bush. A sought-after private litigator in Supreme Court cases, he has generally avoided weighing in on disputed social issues.

*

J. Harvie Wilkinson III, 60

Wilkinson has served in the armed forces, taught law and is a former editorial page editor of the Norfolk Virginian-Pilot. He has been consistently conservative since he was nominated to the U.S. 4th Circuit Court of Appeals by President Reagan in 1984.

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Edith Brown Clement, 57

Clement was nominated by President George H.W. Bush to a seat on the U.S. District Court for the Eastern District of Louisiana in 1991. She served for 10 years, including two as chief judge, until President George W. Bush elevated her to the U.S. 5th Circuit Court of Appeals.

Supreme Court Justice O'Connor Resigns (WP)

By Peter Baker

The Washington Post, July 2, 2005

Justice Sandra Day O'Connor, a self-described "simple cowgirl" who became the first woman on the Supreme Court, announced her retirement yesterday after nearly a generation as the court's pivotal voice on society's most burning issues, from abortion and race to capital punishment and terrorism.

O'Connor, 75, stunned the capital with her simple three-sentence letter hand-delivered to the White House yesterday morning, touching off what both parties expect to be a media-saturated struggle to choose her successor. The consequences could hardly be greater, given the precarious ideological balance on the court and O'Connor's role for many years as the deciding vote.

Her announcement threw off balance the political and legal establishment in Washington, which had expected Chief Justice William H. Rehnquist to retire when the court's term ended Monday and then stood down after he did not. President Bush first got word Thursday that a sealed envelope from the court would arrive the next morning but did not know from which justice, and he kept even that news secret from everyone in the West Wing but Vice President Cheney and two aides.

Within minutes of the letter's arrival, all manner of activists, lawmakers and administration officials -- many heading off for the holiday weekend -- scrambled to activate long-prepared battle plans. Bush and senators from both parties rushed to the microphones to lay down markers. Interest groups launched television advertising and sent millions of e-mail messages.

The coming nomination will be the first in 11 years and the first of the Internet era, an opportunity for Bush to remake the court in a decisive fashion. Scheduled to fly Tuesday to Europe for an international summit, Bush will not name a nominee until after he returns Friday, the White House said, but advisers have already produced a list of more than half a dozen candidates for him to consider, mainly conservative federal appellate judges.

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Appearing in the Rose Garden an hour after receiving her letter, Bush praised O'Connor as "a discerning and conscientious judge" and promised to pick a successor "who will faithfully interpret the Constitution." Bush, whose selections of lower-court nominees provoked a bitter months-long standoff in the Senate, pledged to consult lawmakers and called Senate Democratic leaders yesterday with a promise to meet after his European trip.

"The nation deserves, and I will select, a Supreme Court justice that Americans can be proud of," the president said. "The nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote."

But liberal critics wasted no time going on the attack even without a nominee identified. The advocacy group MoveOn.org released a television ad asking, "Will George Bush choose an extremist who will threaten our rights?"

Sen. Edward M. Kennedy (D-Mass.), whose early opposition to Robert H. Bork helped doom his nomination to the Supreme Court in 1987, threatened to do the same to a Bush candidate. "If the president abuses his power and nominates someone who threatens to roll back the rights and freedoms of the American people," Kennedy said, "then the American people will insist that we oppose that nominee, and we intend to do so."

Conservative allies of the president responded with their own media onslaught, including a webcast mocking Democrats in a satirical news show reporting that they were opposing George Washington and Benjamin Franklin after Bush named them to the court. "Today the battle is joined," said a statement from the Committee for Justice, a group founded to support the White House, singling out 12 Senate Democrats from conservative states "who will be held accountable" if their party blocks Bush's choice.

"This is the most important resignation and nomination . . . in our lifetime and probably more than that," said Jay Sekulow, chief counsel to the American Center for Law and Justice, an advocacy group founded by evangelist Pat Robertson. "It's very, very significant. Justice O'Connor is the pivotal vote on so many key cases. This has got gargantuan" implications, Sekulow said.

The nominee could reshape not only the court but also the president's place in history. "The person will serve for life and long outlive" Bush's presidency, said C. Boyden Gray, who was White House counsel to Bush's father and founded the Committee for Justice. "Presidents are in some cases defined by their nominations."

At the same time, the nomination could overshadow the rest of Bush's domestic agenda for months, particularly his plan for Social Security, which has foundered upon rock-solid Democratic opposition and Republican ambivalence. Some allies suggested it could even provide a way to quietly drop the Social Security effort until after next year's midterm elections.

The nomination battle could be the first of two, if Rehnquist, who is 80 and has thyroid cancer, decides to retire. The earliest Bush is likely to name a nominee to replace O'Connor is July 11, advisers said, and some think he might wait until after the Senate's August recess to avoid leaving a nominee as a target for opponents.

Former attorney general Edwin Meese III, one of four outside advisers who plotted strategy with top White House officials last week, said in an interview yesterday that Bush has three options on timing: name a nominee as quickly as possible and ask senators to remain in August, request that the Senate Judiciary Committee come back from recess early to begin hearings, or wait until the end of the recess to announce a nominee. "That's one thing I know will be discussed very carefully," Meese said.

Bush gave no indication of his plans except to say he will "choose a nominee in a timely manner" in hopes of filling the vacancy by the court's next term, which begins Oct. 3. O'Connor said she will remain on the court until her replacement is confirmed. Senate aides said hearings could begin in late July, with senators recalled in August.

Aides said Bush plans to bring files on candidates to study during his European trip and will interview finalists when he returns. He will also meet with Senate Majority Leader Bill Frist (R-Tenn.), Minority Leader Harry M. Reid (D-Nev.), Judiciary Committee Chairman Arlen Specter (R-Pa.) and Sen. Patrick J. Leahy (Vt.), the committee's ranking Democrat.

Bush and his team have prepared for a Supreme Court vacancy for four years and the field of candidates has long been vetted. The most heavily favored candidates, outside White House advisers said, are Judges J. Michael Luttig of the U.S. Court of Appeals for the 4th Circuit and John G. Roberts of the District of Columbia Circuit. Senior officials said Bush has not ruled out his longtime friend and adviser Alberto R. Gonzales, the current attorney general, who would be the nation's first Hispanic justice but is viewed with suspicion by some conservatives, who see him as too moderate on abortion and affirmative action.

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Because Bush will be filling O'Connor's seat rather than Rehnquist's, some outside advisers said he may want to focus on appointing another woman, such as Judges Edith B. Clement and Edith Hollan Jones of the U.S. Court of Appeals for the 5th Circuit. Some conservatives are promoting two appellate judges who were just confirmed in the past few weeks after much controversy, Priscilla R. Owen of the 5th Circuit and Janice Rogers Brown of the D.C. Circuit.

Other appellate judges believed to be possible candidates include Samuel A. Alito Jr. of the 3rd Circuit, Michael W. McConnell of the 10th Circuit, Emilio M. Garza of the 5th Circuit and J. Harvie Wilkinson III of the 4th Circuit.

Almost all of the known candidates are thought to be more conservative than O'Connor, who made her mark in the middle of the court as a pragmatist balancing the two extremes. A former Arizona state legislator, O'Connor was appointed to the high court by President Ronald Reagan in 1981 and cast the deciding vote in cases that banned state-sponsored prayer at high school graduations, preserved narrowly drawn affirmative action in university admissions, overturned a ban on late-term abortions known as "partial birth" by foes, and required the Bush administration to grant hearings to detainees in the terrorism fight.

By virtue of her position on so many 5 to 4 cases, she became perhaps the most influential woman in public office in U.S. history and was regularly named in public surveys as one of the most admired women in the United States. Yet her rulings often infuriated conservatives, who had hoped for more fidelity to Reagan's views.

"She shaped law in a number of very important areas through a very pragmatic approach of deciding the cases as they came to her," said Stuart Delery, a former O'Connor clerk. "The idea that she wasn't applying the law is wrong. She was not making decisions for decisions' sake. But at the same time, whether it was because of her background in politics or not, she had a sense of what the consequences would be" of her rulings.

O'Connor offered no public explanation for her decision to step down after 24 years on the bench, but court spokeswoman Kathy Arberg cited age and family considerations. "She's 75 years old, and she needs to spend time now with her husband," Arberg said. O'Connor has told friends that her husband, John Jay O'Connor III, has Alzheimer's disease. Once off the bench, she will have more time to care for him and more opportunities to make money on the lecture circuit and corporate boards.

O'Connor participated in a regular Friday exercise class at the court's gym between 8 and 9 a.m. yesterday and gave not a hint to the bombshell that was about to drop.

White House officials said they did not know O'Connor's plans until yesterday morning. Pamela Talkin, the marshal of the Supreme Court, called White House counsel Harriet Miers about noon Thursday to say she would be delivering a sealed envelope the next day but did not say who the envelope was from or what its contents were. Miers, according to a White House account, called Chief of Staff Andrew H. Card Jr. -- on vacation in Maine -- to tell him, then interrupted Bush's lunch with Vice President Cheney to inform them.

No one else in the White House, including Deputy Chief of Staff Karl Rove, was told until yesterday, officials said. Talkin told Miers by telephone shortly before 9 a.m. that the letter related to O'Connor. Miers informed Bush, who met with Cheney, Rove and counselor Dan Bartlett. The letter arrived at 10:15 a.m.

"It has been a great privilege, indeed, to have served as a member of the Court for 24 Terms," O'Connor wrote. "I will leave it with enormous respect for the integrity of the Court and its role under our Constitutional structure."

Bush then called O'Connor at 10:18 a.m., and they had what aides described as an emotional conversation. "For an old ranching girl, you turned out pretty good," Bush told O'Connor, according to spokesman Scott McClellan. As they talked, Bush also told her, "I wish I was there to hug you."

But O'Connor declined to come to the White House, telling Bush she was heading to the airport for a flight out of town, according to another senior administration official, and she disappeared from public view.

Bush Says He'll Pick Replacement Quickly (AP-Y2)

By Terence Hunt, Ap White House Correspondent

AP2, July 2, 2005

President Bush, facing a momentous battle over a Supreme Court vacancy, said Friday he would pick a candidate in a timely manner and urged the Senate to give his nominee "fair treatment, a fair hearing and a fair vote."

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The White House said it would be at least a week before he decides. More than a half dozen candidates are under consideration, an administration official said, and Bush will review names during a trip to Europe beginning Tuesday.

After waiting more than four years for a chance to strengthen conservatives' influence on the court, Bush was presented with the surprise decision of Justice Sandra Day O'Conner to step down after 24 years. White House officials had anticipated that if anyone retired, it would have been Chief Justice William Rehnquist, 80 years old and ailing with thyroid cancer.

The departure of O'Connor, the first woman on the high court, could increase pressure on Bush to name another woman. It also could bring demands from the right for a more reliable conservative to replace O'Connor, who had been a swing vote and was on the winning side when the court upheld the right of women to have abortions if their health was in danger.

O'Connor's resignation was a closely held secret — even from Bush — until Friday morning.

The Supreme Court's head marshal, Pamela Talkin, had called White House Counsel Harriet Miers on Thursday to inquire about how to deliver a sealed envelope the next day. When she called back on Friday before 9 a.m., Talkin said the letter was from O'Connor.

The news was relayed to Bush and he alerted Vice President Dick Cheney, deputy chief of staff Karl Rove and counselor Dan Bartlett. When the letter arrived around 10:15 a.m., it was in a letter-size manila envelope. Miers took it to Bush, and the president talked by telephone with O'Connor.

"For an old ranching girl, you turned out pretty good," the president told O'Connor, who grew up on an Arizona ranch. It was an emotional, five-minute call, White House press secretary Scott McClellan said.

He quoted Bush as telling O'Connor, "You're one of the great Americans" and "I wish I were there to hug you."

The vacancy adds another major issue to an already bulging agenda Bush has presented to Congress. Administration officials expressed confidence about getting energy, highway and Central American trade measures passed and are crossing their fingers in hopes that lawmakers will have enough time and energy to deal with a complicated overhaul of Social Security.

Bush, in a late-morning appearance in the Rose Garden, promised to consult with Senate members on his high court selection.

"The nation deserves, and I will select, a Supreme Court justice that Americans can be proud of," Bush said. "The nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote."

He said he would choose his candidate in time for the confirmation hearings and vote to be completed before the new Supreme Court term begins the first Monday in October.

Senate Democratic leader Harry Reid said he, too, hoped the confirmation process would be a smooth one — despite the heated battles between the White House and Democrats over judicial nominations.

"There is no reason for this to be a knockdown, drag-out fight in the Senate," he said at a brief news conference at the University of Nevada, Las Vegas. "How easy this is, is up to the president."

Bush has said in the past that he favors the judicial philosophy of Justices Antonin Scalia and Clarence Thomas, two of the court's most conservative members. The president has said repeatedly that judges should not "legislate from the bench," meaning that their opinions should not be swayed by social or cultural trends.

Bush held a strategy session at midmorning to talk about the selection process. McClellan said, "A lot of the preparation has been done by staff over the last few years," he said.

One senior administration official said a list of potential candidates circulated in the White House last week did not include any women. But another official disputed that. Both spoke on condition of anonymity because of the sensitivity of the selection process.

Bush said he had directed his staff to work with the Justice Department to compile dossiers and recommend nominees. Spending the weekend at the presidential retreat at Camp David, Bush was expected to talk by telephone with his advisers about the process.

After O'Connor's resignation, Bush spoke on the telephone with Senate Majority Leader Bill Frist; Sen. Arlen Specter (news, bio, voting record), R-Pa., the chairman of the Senate Judiciary Committee, and the panel's ranking Democrat, Patrick Leahy of Vermont. No names were discussed, McClellan said.

The president plans to review briefing material on potential nominees on his flight to Denmark next Tuesday and during his stay Wednesday through Friday at a meeting of leading industrialized nations in Scotland. McClellan said Bush would make no decisions before his return.

'The Gloves Are Off' (NSWK)

By Brian Braiker

Newsweek, July 2, 2005

The retirement announcement came later than Supreme Court watchers expected. And when it was made—four days after the court ended its term with a series of landmark decisions—it was from Sandra Day O'Connor, the first woman to sit on the country's highest bench. "It has been a great privilege indeed to have served as a member of the court for 24 terms," the 75-year-old justice wrote in a one-paragraph letter to President George W. Bush. "I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure."

The centrist-right leaning O'Connor, who was appointed by President Ronald Reagan in 1981, earned a reputation as the most powerful woman in America because she often cast the court's swing vote on politically touchy cases concerning issues such as affirmative action, abortion, gay rights, campaign finance and more. The vacancy she has left on the court was only a modest surprise, given that both she and 80-year-old Chief Justice William Rehnquist, who has thyroid cancer, had been expected to announce last Monday their plans to step down. Rehnquist has made no announcement yet, and the White House has indicated that it will not announce its pick to succeed O'Connor until after the president returns from the G8 summit in Scotland next week.

NEWSWEEK's Brian Braiker spoke with Tom Goldstein, founding editor of the nonpartisan SCOTUS blog (scotusblog.com) and cofounder of the D.C. law firm Goldstein & Howe, about O'Connor's legacy and the coming brutal political fight that will likely surround the appointment of her successor. Excerpts:

NEWSWEEK: How will this be different from a Chief Justice William Rehnquist vacancy, which is what most people were expecting?

Tom Goldstein: Confirmation hearings to replace Rehnquist were going to be hard fought because it was going to be a dress rehearsal for the O'Connor nomination. Now it's going to be thermonuclear war because she is a symbol of a closely divided court, and the reality of it when it comes to issues like affirmative action and abortion. Now the gloves are entirely off. In political Washington there is no more important question to the left or the right [than the composition of the Supreme Court].

It has suddenly the air of a presidential campaign to it, and there will be unbelievable pressures to support or oppose the president's nominee. We're about to see a real fundamental choice from the president about whether or not he wants to invest a huge amount of capital in a very conservative nominee.

Is there anyone he could pick that would not result in a dogfight?

Yes. There are different kinds of dogfights, and the true dogfight is: is there anybody he can pick that wouldn't result in a filibuster? And the answer to that question is, yes.

Who would that be?

Probably [Attorney General] Alberto Gonzales. If it were done right by the administration, because at some point the Democrats would realize it's not going to get any better that this. The question is: will they fight anybody to the death when they might get somebody that they like less afterward?

Is it too early to say how Sandra Day O'Connor will be remembered?

No, it's not too early to say. She will be remembered as conservative. She will be remembered as the first woman Supreme Court justice. Then she will be remembered as among the most influential and powerful Supreme Court justices, [despite not having served] at a time when the Supreme Court had its greatest influence on American society—that was probably 40 or 50 years ago when we went through an even greater set of social change. Nonetheless, she will be remembered in some ways incorrectly as the swing justice.

Is she not? We're already hearing that a lot today.

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She certainly [was] on a lot of important issues. But as this term showed, in any given case in a closely divided court, anybody can end up as the swing justice. And she always denied that she was the most important or the swing justice. She always recognized that she was just one of nine. She hated that reputation.

O'Connor was a pivotal justice on everything from affirmative action to abortion to gay rights, though. Where do you see the big fights going now?

Everything's back on the table. Everything that had been settled over the previous few years had been settled in no small part because Sandra Day O'Connor had put the court in the center-right. Now those questions, because the Supreme Court can reverse itself, are all open to reconsideration.

Because of this reputation as the swing voter, she's been called the most powerful woman in America. Was she?

For several years I called her the most powerful woman in the universe. Merely America doesn't quite cut it.

Is there talk of a potential third vacancy coming up after Rehnquist?

Not seriously. Justice [John Paul] Stevens this week started hiring his 2006-07 law clerks, so he's not going anywhere.

Best Laid Plans Of Presidents Can Come To Nought (FT)

By Patti Waldmeir In Washington

Financial Times, July 2, 2005

One of the greatest powers of any US president is the power to appoint Supreme Court justices. Or is it?

Conventional wisdom holds that Supreme Court appointments are the best way to guarantee a president's political legacy. George W. Bush wants his bequest to be a court dominated by conservatives for decades to come.

But history teaches that things often do not work out the way the nominating president intended: either the Senate refuses to confirm the president's ideological favourite; or, surprisingly often, the new justice does not vote as the president thought he or she would; or the country moves on and the issues before the court are not the ones the president could have foreseen. The best laid plans of presidents can come to nought, once the nominee assumes his seat for life on the high court dais.

Republicans are keenly aware of this danger. One of their most recent nominees Justice David Souter surprised everyone by emerging as one of the court's most consistently liberal members, soon after his appointment by Mr Bush's father in 1990.

But Supreme Court experts point out that Justice Souter is far from the only nominee to have disappointed his benefactor: seven of the nine justices of the Rehnquist court were appointed by Republican presidents, including John Paul Stevens, the court's oldest and most liberal member. Yet despite the notional 7:2 majority for Republicans, the court pursued a centrist agenda on most issues, and issued decidedly liberal rulings in areas such as affirmative action, gay rights and the death penalty.

Conservative critics point out that 11 of the past 13 justices have been appointed by Republican presidents but bemoan what they see as a process of liberalisation that affects new justices as they are exposed to “elite” opinion at the court.

As Michael Comiskey, a legal historian, argues in his new book, Seeking Justices: the Judging of Supreme Court Nominees, changing the ideological balance of the court can be very difficult. He points out that, statistically, a president has only a 37 per cent probability of filling more than two seats in one term and many successful nominees are not the president's preferred choice in any case, either because the Senate will not confirm the favourite or because the president had to balance the ideology of the nominee against other factors such as age and ethnicity.

And presidents may fail to predict the crucial issues of the future, he writes. Dwight Eisenhower did not foresee the importance of desegregation in choosing as chief justice Earl Warren who went on to write the landmark decision Brown v Board of Education, which abolished school segregation; and the Senate did not ask any of President Richard Nixon's nominees about abortion, just a few years before the landmark Roe v Wade decision legalising the practice.

“President Nixon's public crusade to reverse the direction of the Warren court and the mixed results he achieved despite his appointment of four justices illustrate the difficulties presidents face in trying to pack the court,” he concludes.

Mr Bush may well face the same problems even if, as expected, he is faced with a further one or two more Supreme Court vacancies before he leaves office.

Justice O'Connor (NYT)

The New York Times, July 2, 2005

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Justice Sandra Day O'Connor's retirement is going to trigger an enormous political collision. This is one time when it's not an overstatement to say that the choice of her successor could have an effect on the nation for generations to come. But as critical as the coming fight is, it would be a shame for the combatants to come out swinging before Americans had a chance to reflect on the career and contribution of the woman who is leaving the bench. In fact, the more time we spend thinking about this sensible, pragmatic jurist, the better. Perhaps it will convince President Bush that he can best serve the country, and his own party, by nominating a new justice with the same values.

When Justice O'Connor, who grew up on an Arizona ranch, joined the Supreme Court in 1981, she instantly became famous as the first woman justice in history. But before long, her sex was eclipsed by the pivotal role she assumed in the court's deliberations: she frequently found herself lodged between two four-member ideological blocs. Many a lawyer arrived at the Supreme Court for an oral argument convinced that the key to winning was winning over Justice O'Connor.

The list of cases in which Justice O'Connor cast the decisive vote is long and, given yesterday's announcement, sobering. On affirmative action, she joined conservatives in striking down one University of Michigan program and joined liberals in upholding another to reach a careful middle ground. On abortion, she showed a willingness to accept limited restrictions, but a commitment to Roe v. Wade - a position that closely matches the American public's. This week, in a Kentucky Ten Commandments case, she provided the fifth vote for defending the wall between church and state.

Justice O'Connor holds some strong views that this page does not share. She was fiercely protective of states' rights, and joined federalism decisions that unduly restricted Congress's power to protect people against discrimination, pollution and other ills. And history will have to judge her role in Bush v. Gore, in which she joined a bare majority of the court in overturning the Florida Supreme Court - in conflict with her oft-expressed deference to the states - and ordering that Florida's recounting of ballots in the 2000 presidential election be stopped.

Mainly, however, Justice O'Connor will be remembered for her skepticism about doctrinal and ideological absolutes, and her concern about the effect of her decisions on real people. Given her strong support for federalism, lawyers for the State of Tennessee might have expected to win her vote last year when they argued that the Americans with Disabilities Act could not require them to make their courtrooms more accessible. But people familiar with Justice O'Connor were not surprised when her vote swung the case to George Lane, a severely disabled man who sued after he was ordered to crawl up the stairs, or allow himself to be carried, to get to a courtroom.

She was sometimes called the most powerful person in America. That seems like a huge overbilling for a woman who toiled at legal writing in a modest office with a small staff, and whose vote was only one of nine. But on issue after crucial issue, it was her swing vote that decided what kind of nation America would be. Justice O'Connor's America is one that hews to conservative principles, but it is tempered by a compassion for individuals and an unwillingness to follow ideology blindly to unreasonable places.

When Justice O'Connor joined the court 24 years ago, there was no way of knowing how sorely she would be missed when she left. We are, in fact, beginning to miss her already as we envision the bitter confirmation battle that will take place if President Bush nominates a hard-line conservative to replace her. Senate Democrats, who have been willing to block ideologues nominated to the lower courts, will certainly do everything they can to prevent a right-wing ideologue from joining the nation's highest court.

Before that fight begins, Mr. Bush should ask himself whether Americans want to live in a country where the handicapped cannot find a champion in the law, where women are stripped of all abortion rights, where universities are barred from offering a hand up to deserving minority students. Then he should ask himself how much of his own party's current success has been due to Justice O'Connor's ability to save the right wing from the worst consequences of its extremism.

If he is thinking clearly, the president will understand how much he owes this quiet jurist who consistently looked for common ground. Perhaps he will also realize that the best way to repay the debt is to choose a replacement from the same mold.

Editorial Comment: The Battle For The Supreme Court (FT)

Financial Times, July 2, 2005

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The resignation of Sandra Day O'Connor from the US Supreme Court is likely to provoke a culture war of historic proportions in America. The US Supreme Court plays a central role in American life tackling many of the most sensitive political and social questions left unanswered by America's deeply divided politics. Political activists from both ends of the spectrum have been gearing up for years already to fight an almighty battle over who should take over at the helm of the world's most powerful court. On Friday, that battle was joined in earnest.

Justice O'Connor has arguably been the most powerful justice on the Court for much of the past decade more important even than William Rehnquist, the chief justice. On issues from abortion, to affirmative action, to religion in public life, she has delivered the deciding vote on a Court that has regularly split 5-4. Since 1995, she has cast the crucial fifth vote in 148 out of 193 close cases.

On the kind of issues that energise the Christian right such as abortion she has frequently sided with liberals. Largely because of her, the Rehnquist court has ended up being one of the most moderate and pragmatic in US history. President Bush would like to shift it decidedly to the right. He wants to leave his mark on posterity by ensuring a strong conservative voice to lead the court for decades to come.

America has been expecting a resignation for months or years already but not this one. Chief Justice William Rehnquist, who is ill with thyroid cancer, was viewed as most likely to retire. But the resignation of Justice O'Connor is far more important than the departure of the chief justice:she has given the Court its centristcharacter; replacing her with amore conservative justice could shift the court profoundly to the right.

It could also have a big impact on business. Justice O'Connor has been, on the whole, pro-business. Business leaders were already bemoaning her loss yesterday, with the US Chamber of Commerce saying she had been “a strong judicial voice for a commonsense application of the law”, and a key vote for restraining excessive punitive damages and a commonsense definition of disability under federal law.

Justice O'Connor is deeply pragmatic, and always concerned with the real-world consequences of her rulings. She is an economic conservative in the mould of the man who appointed her to the Court Ronald Reagan. If she is replaced by a social conservative, it could be bad news for big business.

The battle to confirm her replacement will focus on abortion but more is at stake. Justice O'Connor supports a woman's right to choose, so replacing her with a pro-life vote would alter the voting balance on this crucial issue; but there would still be a 5:4 majority on the Court in favour of abortion.

For that reason, the Senate should not allow itself to get bogged down over the views of the nominee on abortion. The Senate should rather examine the views of the candidate on a wide range of issues: what does he or she think the constitution says about gay rights? Or economic regulation? Or the role of judges themselves? Or the role of copyright and patent law in fuelling the innovation economy?

It has been a generation since Americans have had a chance to debate the direction of the US Supreme Court arguably the most powerful judicial body in the world. They should take it very seriously, and probe the judicial philosophy of the eventual nominee on all the issues that are likely to confront the court in the 21st century.

Justice O'Connor Retires (WT)

The Washington Times, July 2, 2005

The announcement yesterday that Justice Sandra Day O'Connor will retire from the Supreme Court will touch off a bruising political fight over her successor, who President Bush expects to nominate some time after he returns from the G-8 summit later this month. The stakes are great.

Over a generation the Supreme Court has delivered opinions on such volatile issues as racial preferences, sodomy, the death penalty and abortion that are grounded more in a desire to advance a political agenda than in interpreting the Constitution. The justices, including on occasion Justice O'Connor, have even cited the opinions of foreign courts as the basis for deciding.

Nevertheless, in the 24 years since President Reagan nominated her as the first woman to serve on the court, Justice O'Connor has conducted herself with grace and dignity. We have disagreed with certain of her decisions, particularly those

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dealing with racial preferences, limits on abortion and the death penalty. But she has frequently agreed with her more conservative colleagues on important cases, and she has been was one of the staunchest defenders of federalist principles.

Justice O'Connor evolved into a pivotal swing vote on the high court. She was "open to persuasion," she once said, when others were not. Her departure offers Mr. Bush the opportunity to nominate as her replacement a jurist with a judicial philosophy similar to that of Antonin Scalia or Clarence Thomas. The president must seize this opportunity. By nominating such a person to the court, he will incur the wrath of the left led by Sens. Ted Kennedy, Christopher Dodd and Joseph Biden and organizations such as People For the American Way and the Alliance for Justice. These ideologues, who cannot prevail when the issue is honestly drawn, will attempt to do to a Bush nominee precisely what they did to Robert Bork 18 years ago -- distort his record with false accusations to caricature him as an extremist.

From President Eisenhower's nomination of Earl Warren onward, every Republican president has put someone on the court whom those most devoted to the true meaning of the Constitution have come to regret. Richard Nixon gave us Harry Blackmun, for example; the president's father gave us David Souter. As George W. Bush deliberates on his his first nominee to the high court, he must keep in mind that millions of Americans who voted for him in both 2000 and 2004 did so precisely because they believed that he would nominate judges, and particularly Supreme Court justices, determined to be faithful to the Constitution as it was written, judges not so open to persuasion where first principles are concerned.

The President must understand that if he does not choose wisely he will disappoint these friends and supporters, probably beyond reconciliation. His staunchest friends and allies are prepared to join with him in the trenches to get a principled constitutionalist confirmed.

The O'Connor Court (WP)

The Washington Post, July 2, 2005

THE ANNOUNCEMENT yesterday of the retirement of Justice Sandra Day O'Connor brings to an end the career of one of modern America's most important jurists. Justice O'Connor came to the Supreme Court in 1981 as its first female member, and she has served the court since with honor and distinction. In that time, she has become -- in part because of her own evolution and in part because of the court's -- a pivotal vote, oftentimes the pivotal vote, in a large swath of the court's caseload. To garner Justice O'Connor's vote has often meant securing a majority; to lose it is often to lose a case. The court today represents the sensibilities and preferences of no other justice more consistently. Her impending departure is not merely the end of a deeply important career in American law and life but a major turning point for the Supreme Court itself.

Uniquely among current members of the court, Justice O'Connor was a politician -- an Arizona legislative leader and later a judge -- before she was appointed by President Ronald Reagan. Her background has given her an unusual political sophistication and savvy both in her substantive jurisprudence and in her role on the court. Allergic to the sort of broad principles that excite more ideological justices of both the left and right, her opinions generally lacked lively or stirring rhetoric. Her instincts were pragmatic. She had a pronounced tendency to decide cases on their facts, leaving herself room to shift gears when facts were different.

These traits often exposed her to charges of judging with insufficient analytical rigor or consistency, charges that were sometimes justified. Though certainly a conservative, she has not been a reliable enough conservative to develop much of a following within the conservative movement. Yet because she has been wedged between the court's liberal and conservative flanks, her attitudes took on enormous importance. Many of the most significant tendencies and rulings of the court during Chief Justice William H. Rehnquist's tenure reflect them: its adjustment of the balance between state and federal power back toward state authority; its deference to state court convictions and criminal proceedings even where they produce manifest flaws; its ultimate refusal to overturn federal abortion rights even while granting states somewhat greater leeway to regulate abortion; its decisions to defer to states on affirmative action in higher education and to Congress on the McCain-Feingold campaign finance law; and its expansion of judicial power in a host of areas.

Putting aside the notable exception of the court's recent rewriting of the rules of criminal sentencing -- from which Justice O'Connor has been a vociferous dissenter -- it's hard to think of major areas of modern jurisprudence not affected by her thinking. As a consequence, her departure will leave a dramatic hole and a no less dramatic opportunity for a new justice to nudge the

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court in a different direction across a significant array of hot-button issues. President Bush's coming choice may therefore prompt an ugly political fight. No sooner had Justice O'Connor announced her retirement than the distasteful jockeying among any number of interest groups began: conservative groups demanding satisfaction; liberal groups pretending they get to dictate the president's choice. Everyone should take a deep breath.

Mr. Bush ran for and won election as a conservative who would name justices who share his philosophy, and he can be expected to name a conservative in this case. In doing so, however, Mr. Bush needs to bear in mind the fractious state of American politics and the capacity of a divisive nominee to trigger an all-out war that would hurt the court and the country as a whole. The president should consult as broadly as possible and seek a nominee who would satisfy his requirements while also garnering broad support from moderates of both parties. It is not too much to ask of Mr. Bush that he work for consensus in replacing a justice who, in a very real sense, had come to represent a bridge between left and right.

... A Challenge For Bush (LAT)

The Los Angeles Times, July 2, 2005

Both sides have been gearing up for a brawl, and now it appears that it will be a double bill. In coming months, President Bush and the Senate will probably be filling two Supreme Court seats: those of Sandra Day O'Connor, who resigned Friday, and Chief Justice William H. Rehnquist, whose health is in peril. This makes it doubly important to establish some ground rules. They have been in flux since the bitter fight over President Reagan's failed nomination of Robert H. Bork almost two decades ago. Here, though, is what they should be.

First, advise and consent means advise and consent. Senators are entitled to make a full, independent judgment on the merits of a president's Supreme Court nominee. This is a lifetime appointment to a separate branch of government, not a president's choice for a job in his own administration. The president takes judicial philosophy into account in making his choice, and senators should do the same. The president's choice is owed no special deference.

Second, judicial philosophy means judicial philosophy. It does not mean political ideology. What's the difference? Judicial philosophy is about process: how a judge interprets the law to reach a conclusion. Political ideology is about the result: what policy gets implemented. A judge should have a coherent judicial philosophy and follow it even to a conclusion he or she would not prefer.

Third, judicial philosophy reveals itself through specific cases. Senators have the right to ask about specific cases, real and theoretical, and to expect an answer. The notion that nominees shouldn't "prejudge" issues they could face on the court is a red herring. Every sitting member of the Supreme Court, and of lower courts, has prejudged dozens or hundreds of issues in the course of his or her job. No one thinks this disqualifies them from continuing to judge.

Fourth, senators are entitled to take their time on what may be the most important votes they will cast, but the president is ultimately entitled to a yes or no on his nominee. In other words, no filibusters. They are an insult to democracy and will come back to haunt the party that misuses parliamentary process in this way.

Bush starts this battle in a seemingly towering position, with his party in control of the Senate. But not every Republican will support anyone Bush might nominate. If he overreaches, he will be forced to compromise. The president's plummeting approval ratings also offer a caution about the perils of governing from the far right. Especially if he has two seats at his disposal, Bush may decide to compromise on at least one before the battle. That would be wise of him. But we are in no position to insist, unfortunately.

Well, take that back. We do insist on one thing: Bush should not nominate Justice Clarence Thomas for chief justice. Thomas purposely misled the Senate at his original confirmation hearing 14 years ago, insisting he had no opinion on the hot-button Roe vs. Wade decision. Since then he has repeatedly shown his deep opposition to Roe. For the Senate to confirm him as chief justice now would say to the world that the contempt Thomas showed for that institution was fully justified.

In List Of Potential Justices, Many Kinds Of Conservative (NYT)

By Neil A. Lewis

The New York Times, July 2, 2005

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President Bush is expected to select a nominee to the Supreme Court from a list of candidates that is, with few exceptions, a small roster of sitting federal appeals court judges, Republican and former White House officials have said. And while all of the candidates may be described as conservative, each brings a different political and philosophical profile to the table.

Mr. Bush and his small circle of advisers may spring a surprise choice to replace Justice Sandra Day O'Connor, who resigned on Friday. But it is more likely that the nominee will come from a field of candidates identified by these former White House officials and well-connected Republicans outside the administration who have been consulted by White House officials.

At the top of most lists are four federal appellate judges: J. Harvie Wilkinson III and J. Michael Luttig, both on the United States Court of Appeals for the Fourth Circuit, based in Richmond, Va.; John G. Roberts Jr., who sits on the appeals court based in Washington; and Michael McConnell of the 10th Circuit, who sits in Salt Lake City.

That compilation was prepared with the assumption that Chief Justice William H. Rehnquist would retire and create the vacancy, not Justice O'Connor, which could change the political calculations. It may oblige Mr. Bush to add a woman or two to the candidate mix, a former administration official said. That could include Judges Edith Brown Clement and Edith H. Jones, both of the Fifth Circuit, based in New Orleans.

Although friends of Mr. Bush have said he would like to name the first Hispanic justice to the court, some said the resignation of Justice O'Connor made it less likely this time.

Both current and former officials have said Mr. Bush would like to place Attorney General Alberto R. Gonzales on the court, but would do so now only if he believed he had just one chance.

One senior Republican adviser said the surprise resignation of Justice O'Connor meant Mr. Bush could have a high degree of confidence that he would have another vacancy to fill before his term ended. That could be used for Mr. Gonzales, a former Texas Supreme Court justice who has been a trusted legal adviser going back to their days together in the Texas statehouse. Some lists include the name of Judge Emilio Garza, of the Fifth Circuit, if Mr. Bush were to seek a Hispanic candidate now.

Although Judges Luttig and Wilkinson are indisputably conservatives, they have markedly different approaches. They have clashed, sometimes strongly, when they have sat together on the same case. They are regularly measured and even defined in contrast to each other.

Both have ruled in favor of restrictions on abortion. Judge Luttig (pronounced LOO-tig) is renowned for being sought out by Virginia officials when they wanted a sympathetic judge to issue an emergency order blocking a lower court ruling that invalidated the state's ban on what it called partial-birth abortion. He granted the order in 1998 and then wrote a full opinion upholding the law.

But when the Supreme Court rejected his analysis and the case came his way again, he acknowledged his obligation to reverse course.

"Our responsibility is to faithfully follow its opinions," he wrote, adding that the Supreme Court's ruling on abortion deserved a special respect from lower court judges.

That approach could be interpreted as similar to Justice O'Connor's in declining to overturn precedents that have been upheld by the Supreme Court over the years.

Judge Luttig, 51, has also been in the forefront of what is called the new federalism, limiting Congress's power to enact legislation binding the states.

In a June 2000 case, the two Fourth Circuit judges clashed over the Endangered Species Act. Judge Wilkinson, writing for the majority, upheld the law's application to prevent a landowner from killing red wolves on his property in North Carolina. Judge Luttig said in dissent that there were only an estimated 41 red wolves in the whole state and that it was a stretch to contend their presence involved any interstate commerce, which would give the federal government authority. Judge Wilkinson said that such an approach would cripple "the entire federal regulatory scheme for wildlife and natural resource conservation."

Judge Luttig also wrote the opinion declaring unconstitutional the Violence Against Women Act, saying it was not a federal matter, a view that was upheld by the Supreme Court. He is a close friend of Justice Antonin Scalia, for whom he clerked, and Justice Clarence Thomas, whose nomination he helped pilot through rough waters in 1991.

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Judge Wilkinson's life and legal career have been heavily influenced by his close association with the late Justice Lewis F. Powell Jr. Judge Wilkinson's father, J. Harvie Wilkinson Jr., was a Richmond banker, and Mr. Powell was his lawyer. They were the closest of friends and partners in many civic enterprises.

When Mr. Powell was named to the court in 1974 as a surprise compromise candidate, the young Mr. Wilkinson served as his clerk. Prof. John Jeffries of the University of Virginia Law School, a biographer of Justice Powell, said the young man was more a partner than a clerk because Justice Powell, as a corporate lawyer, had little experience in the constitutional issues he suddenly had to contend with.

Judge Wilkinson, who is known for his courtly ways, has written a handful of books, including a political history of Virginia that won wide acclaim even though he wrote it as a senior at Yale.

In another book, "How Ethnic Separatism Threatens America" (1985), he argued that some affirmative action programs increased racial division. In 1987, he wrote the majority opinion striking down an affirmative action program in Richmond that set aside 30 percent of municipal contracts for minority-owned businesses.

Judge Wilkinson is a core conservative but has also sided with environmentalists on issues, like in the red wolf case from North Carolina, and the First Amendment.

In 1986 he dissented from a judgment that said the Rev. Jerry Falwell could collect damages from Hustler magazine for what he acknowledged was a repugnant cartoon depicting the evangelist. "Nothing is more thoroughly democratic than to have the high and mighty lampooned and spoofed," he wrote.

He ruled in favor of the administration in the case of Yaser Esam Hamdi, a United States citizen detained as an enemy combatant, saying the judicial branch had no role in second-guessing the president in the fight against terrorism. He was reversed by the Supreme Court.

Judge Roberts, 50, has been on the appeals court since May 2003. Before that appointment, he was widely viewed as one of the leading lawyers arguing before the Supreme Court, winning more than two dozen cases. Although he is considered a reliable conservative, he has written little commentary, has not taken any public position on abortion rights and has yet to rule on any major cases from the bench.

As a result, some conservatives have worried that his profile is similar to Justice David H. Souter when he was named to the Court in 1990 by President Bush's father, after having served briefly on a federal appeals court.

The elder Mr. Bush's aides assured conservatives that he would be to their liking. Instead, he has become one of the court's relatively liberal voices, angering conservatives who say they are determined not to be misled again about a potential justice's leanings.

Judge McConnell, also 50, has been on the appeals court since November 2002. He spent most of his career as a law professor and was the leading scholar advocating a more porous wall between church and state. When he was first nominated to the court, his fellow law professors, including many prominent liberals, signed a petition saying that he was a brilliant scholar and deserved to sit on the federal bench.

He is likely to be supported by social conservatives for his fierce opposition to abortion and his personal religious lifestyle, which has included home-schooling his three children.

Judge Clement, 57, has been on the appeals court since 2001 but has not been involved in any major decisions, nor has she written any articles, that would attract ardent support or opposition.

Judge Jones, who has been on the appeals court since 1985, is widely admired by conservatives, including several officers of the Federalist Society, the conservative lawyers' organization that has been influential in promoting judicial careers.

Potential Nominees For The High Court (DMN)

The Dallas Morning News, July 2, 2005

A look at some likely candidates for the vacancy on the Supreme Courrt:

SAMUEL A. ALITO:

Dubbed "Scalito" or "Scalia-lite" by some lawyers because his judicial philosophy invites comparisons to Supreme Court Justice Antonin Scalia, Alito, 55, has been a strong conservative voice in his 15 years on the Philadelphia-based 3rd U.S. Circuit

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Court of Appeals, which is considered to be among the most liberal.On one hot-button issue, Alito was a lone dissenter in a case striking down a Pennsylvania law requiring women seeking abortions to inform their husbands. Alito argued that the Pennsylvania legislature "could have rationally believed" that married women might seek abortions because of perceived problems such as finances or a husband's prior opposition that could be rectified if the couple talked before an abortion.

The case was appealed to the U.S. Supreme Court, which struck down the spousal notification requirement and reaffirmed the Roe v. Wade decision that legalized abortion.

Alito also has written a majority opinion holding that a city's holiday display that had a menorah did not violate the First Amendment's establishment clause -- which bars the federal government from declaring a national religion -- because it included secular symbols such as Frosty the Snowman.

He dissented in cases that loosened the legal standards for bringing a sex discrimination lawsuit.

In a dissent to a ruling that upheld the constitutionality of a federal law banning the possession of machine guns, Alito argued for greater state rights in reasoning that Congress had no authority to regulate private gun possession.

On the bench, Alito is known to be probing but more polite than the often-caustic Scalia.

Before President George H. W. Bush nominated Alito to the federal appeals court in 1990, he served as U.S. attorney for the District of New Jersey (1987-1990), where his first assistant was Michael Chertoff, now the Homeland Security Department secretary.

Alito was the deputy assistant attorney general in the Reagan administration (1985-87) and assistant to the solicitor general (1981-85).

His New Jersey ties run deep. The son of an Italian immigrant, Alito was born in Trenton and graduated from Princeton University. He headed to Connecticut and Yale University, where he received his law degree in 1975.

In a 1999 case, Fraternal Order of Police v. City of Newark, the 3rd Circuit ruled 3-0 that Muslim police officers in the city can keep their beards. The police had made an exemption in its facial hair policy for medical reasons (a skin condition known as pseudo folliculitis barbae) but not for religious reasons.

Alito wrote the opinion, saying, "We cannot accept the department's position that its differential treatment of medical exemptions and religious exemptions is premised on a good-faith belief that the former may be required by law while the latter are not."

In a May 2005 profile in The Newark (N.J.) Star-Ledger, Alito said, "Most of the labels people use to talk about judges, and the way judges decide (cases) aren't too descriptive. ... Judges should be judges. They shouldn't be legislators, they shouldn't be administrators."

ALBERTO GONZALES:

Every time -- and there have been five so far -- that George W. Bush has asked Alberto Gonzales to accept top jobs in his government, Gonzales has said yes. A possible nomination to the Supreme Court, for which Gonzales is believed to be in the running, could make it six.

Such a nomination would make him the first Hispanic to serve on the nation's highest court. He achieved another first in February when he was sworn in to office as the nation's 80th attorney general and the first Hispanic to lead the Department of Justice.

The decade-old friendship between Bush and Gonzales dates to 1995 when, as Texas governor, Bush plucked Gonzales from a corporate law firm in Houston and named him the governor's general counsel. Since then, Gonzales' fortunes have risen in tandem with Bush's.

In 1997, Bush named Gonzales to the post of Texas secretary of state, making him the state's top elections official. Two years later, Bush nominated for a seat on the Texas Supreme Court.

After Bush became president in 2001, Gonzales left the court to become White House counsel, where he provided legal advice to the president and helped him fill vacancies on the federal bench.

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It was in this position that Gonzales wrote a legal memo in 2002 contending that Bush had the right to waive anti-torture laws and international treaties that provide protections to prisoners of war. Critics have said the memo helped lead to abuses of the type seen at the Abu Ghraib prison in Iraq.

Gonzales also drafted rules for the military war tribunals created after terrorist attacks.

Soft-spoken and known as "the judge" to his White House colleagues or "Al" to friends, Gonzales also has critics on the right, who think he is too much of a moderate. The mistrust stems from his time on the Texas Supreme Court when he joined with the majority to affirm a pregnant teenager's right to seek an abortion without telling her parents.

Gonzales accused two dissenters in that case of "unconscionable judicial activism" -- words that came back to haunt him after Bush nominated one of the judges, Priscilla R. Owen, to a seat on the federal appeals court. Democrats threw Gonzales' words back at the White House.

If nominated to the high court, Gonzales' advice to Bush regarding the treatment of prisoners in the war on terror is certain to be a source of questioning during Senate confirmation hearings, as was the case during hearings on his nomination to be attorney general.

Gonzales, 49, has an up-from-the-bootstraps story that President Bush is fond of telling. He is the son of Pablo and Maria, migrant farm workers from Mexico, neither of whom finished elementary school, and he grew up near Houston in a two-bedroom house with his parents and seven siblings.

Gonzales graduated from high school in the 1970s and, with little thought of going on to college, he joined the Air Force. He also spent two years at the Air Force Academy before he changed his mind and decided to pursue a legal career instead of his dream of becoming a pilot.

He graduated from Rice University and Harvard Law School before launching his career.

Critics of Gonzales' qualifications for a seat on the Supreme Court would highlight his limited judicial experience -- two years on the high court in Texas. But the thin paper trail gives opponents scant insight into his judicial philosophy and thinking on major issues of the day to use against him.

Critics also may question his close relationship with Bush and whether that might jeopardize his independence or influence his court rulings.

During an online chat the White House sponsored earlier this year, Gonzales' answer to a question about his new job suggested an awareness of his changed role within the administration.

"While I was counsel to the president, I served as the president's lawyer. As attorney general, my primary allegiance is now to the Constitution and the American people," he replied.

Described as not being ambitious, Gonzales told senators at his confirmation hearing in January: "Let me make clear. I'm not a candidate for the Supreme Court."

EMILIO GARZA:

A former Marine and Texas state judge, Garza, 58, sits on the New Orleans-based 5th U.S. Circuit Court of Appeals and was considered for a Supreme Court seat by the first President Bush.

Appointed a federal judge by President Reagan and elevated to the 5th Circuit in 1991, he has become best known for his views that Roe v. Wade should be overturned and that abortion regulation should be decided by state legislatures.

In 1992, for example, he voted to strike down a Louisiana law criminalizing abortion in deference to Supreme Court precedent. But in his opinion, Garza made clear his disdain for Roe v. Wade.

"Two essential facts seem apparent: The Constitution says absolutely nothing about abortion and ... the long-standing traditions of American society have permitted abortion to be legally proscribed," he wrote. "Because the decision to permit or proscribe abortion is a political choice, I would allow the people of the state of Louisiana to decide this issue for themselves."

In 1997, Garza voted with the majority to strike down a Louisiana law allowing judges to deny abortion to a minor and notify her parents. He criticized Roe's legal reasoning in a concurrence.

His opinions in those two cases have drawn the ire of women's and abortion rights groups, who fear that if elevated to the high court Garza would be a reliable vote to overturn Roe v. Wade.

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An avid questioner in oral arguments, Garza's written opinions tend to be clear and scholarly.

In other cases:

--Garza dissented from a 5th Circuit decision in 2001 affirming a lower court decision to grant a prisoner's habeas corpus petition. The prisoner established that his attorney had slept through major portions of his trial. Garza argued that the claim of ineffective counsel was insufficient because the prisoner failed to show that the trial's outcome was prejudiced by the sleeping lawyer.

--Garza wrote for the 5th Circuit majority in a 1999 case upholding a district court's summary judgment in favor of the police and city of Lago Vista, Texas, in a civil rights case in which a woman alleged her Fourth Amendment rights against unreasonable searches and seizures were violated when she was arrested for driving without wearing a seat belt, a violation of state law. Her children also were not wearing seat belts, another violation of Texas law. Garza said there was probable cause for the arrest and that it was not conducted in an "extraordinary manner" harmful to the woman's privacy interests. Such a violation is a misdemeanor, typically punishable by a fine.

Garza was born in San Antonio, Texas, and received his bachelor's and master's degrees from the University of Notre Dame. He returned to Texas and earned his law degree from the University of Texas in 1976.

EDITH HOLLAN JONES:

President Bush's father considered Edith Hollan Jones for a vacancy on the Supreme Court in 1990 but instead nominated David H. Souter. The announcement of Sandra Day O'Connor's retirement raises the possibility that the president would nominate a woman -- and the brainy, hard-line conservative Jones could be his choice.

Jones espouses a judicial philosophy that underscores the adage that less is more.

"The federal judiciary has an important but ultimately limited role in society," she said in an interview with Douglas K. Moll in the November/December 2001 issue of the Houston Lawyer. "I favor legislative authority over judicial authority. We have an obligation to make law as clear as possible. It is law to guide all of the people."

Jones, 55, has served on the New Orleans-based 5th Circuit U.S. Court of Appeals since 1985 when President Reagan tapped her for the post. She has ruled and written on a range of cases, including states' rights, abortion, endangered species act and sexual harassment.

Among her notable opinions:

--McCorvey v. Hill in 2004. Norma McCorvey was Roe in the landmark 1972 case that legalized abortion. She asked the court to overturn the ruling, arguing that abortion has a detrimental effect on women's long-term emotional state.

The court dismissed the motion, but Jones wrote.

"If the courts were to delve into the facts underlying Roe's balancing scheme with present-day knowledge, they might conclude that the woman's 'choice' is far more risky and less beneficial, and the child's sentence far more advanced, that the Roe court knew."

She called the Roe decision an "exercise of raw judicial power."

In a speech sponsored by the Federalist Society in January 2003, Jones said the Supreme Court's decisions since the 1960s have been at odds with American values. She talked of the "modish, untested philosophical notions and extreme libertarianism that would have left the (Constitution's) framers aghast."

The Warren Court "extravagantly assumed the power to dictate new 'rights' not expressly stated in the Constitution and in so doing foisted its philosophical vision on the United States with consequences far beyond the Court's imagining," Jones said.

Born in Philadelphia, her family moved to San Antonio where she competed on the debate team and participated in extemporaneous speaking at Alamo High School.

She headed north -- way north -- to Ithaca, N.Y., to attend Cornell University and then got her law degree from the University of Texas. Upon graduation in 1974, she worked at the law firm of Andrews, Kurth, Campbell & Jones in Houston, handling bankruptcy work. She was the firm's first woman partner, an achievement that occurred while she was on maternity leave. She has two sons.

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J. MICHAEL LUTTIG:

The 51-year-old Luttig is considered a solid conservative choice. The Texas native worked in the Justice Department during the first Bush administration and has served on the 4th U.S. Circuit Court of Appeals in Richmond, Va.

The self-described legal nerd wrote the 1999 4th Circuit decision that struck down a key provision of 1994 Violence Against Women Act. The Supreme Court agreed on a 5-4 vote that Congress overstepped its bounds in giving rape victims the right to sue their attackers for monetary damages.

In that ruling and others, Luttig has been a defender of states' rights to set their own policies -- a hallmark of Chief Justice William H. Rehnquist's jurisprudence.

Criminal cases and rendering justice are more than theoretical exercises for Luttig, whose father was murdered in a carjacking more than a decade ago.

In 1994, Napoleon Beazley, 17, confronted businessman John Luttig in the driveway of his Tyler, Texas, home and shot him twice in the head. Luttig's wife, Bobbie, was shot at and crawled beneath the couple's Mercedes Benz and played dead.

In an interview with the Tyler Morning Telegraph, the younger Luttig said his father was a compassionate man who would have given his car to Beazley. He also testified at Beazley's trial, saying, "My dad was my hero. He still is my hero. I worshipped the ground he walked on. I still do."

Beazley was executed in 2002 after the Supreme Court deadlocked 3-3 on his appeal to stop the execution. A tie allows an execution to proceed.

Three justices recused themselves from the case -- Antonin Scalia, Clarence Thomas and David Souter.

The younger Luttig had clerked for Scalia from 1982-83 when Scalia was a member of the U.S. Court of Appeals for the District of Columbia Circuit. In 1991, during the rancorous Supreme Court nomination fight over Thomas, Luttig helped shepherd the nominee through the process.

The Supreme Court is familiar territory for Luttig.

He served as a law clerk to Chief Justice Warren Burger from 1983-84 and a special assistant to the chief justice from 1984-85. After four years in private practice, Luttig worked in the Justice Department in the first Bush administration and was assistant attorney general, Office of Legal Counsel.

The Virginia resident graduated from Washington and Lee University and received his law degree from the University of Virginia. In 1991 President Bush made him the youngest federal appeals court judge -- at age 37.

MICHAEL McCONNELL:

A respected conservative legal scholar, McConnell, a judge on the Denver-based 10th U.S. Circuit Court of Appeals, enjoys bipartisan support in the academic community. He opposed President Clinton's impeachment and the Supreme Court's 2000 ruling in Bush v. Gore that made George W. Bush the president.

Liberal interest groups are wary of McConnell because he is personally opposed to abortion. He has criticized the legal reasoning in Roe v. Wade and as a law professor, used Life magazine photos of fetuses to spark student discussion of whether abortion amounts to a taking of human life.

During his 2002 Senate confirmation hearing for the federal appeals court, however, McConnell insisted he would follow precedent in upholding Roe.

"The abortion question is completely settled," he told senators. "The only avenue for change is through constitutional amendment. ... It is not going to happen." At another point, he stated: "It is settled law. I am committed to enforcing and obeying that."

After McConnell was questioned by the Senate Judiciary Committee, Democratic Sen. Charles Schumer of New York said that while he disagreed with many of McConnell's positions, the nominee "showed himself to be more of an iconoclast than an ideologue" in his candid discussion of his views.

His writings advocate ending the rigid separation of church and state that prevailed in the 1970s, and he thus supports school vouchers. That shift to a more "neutral" state approach to religion is central to the Bush administration's goal to funnel more government money to religious social service programs.

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The self-described theologically conservative Christian, however, opposed government-sponsored prayer in schools.

McConnell, 50, also is a strong supporter of judicial restraint, arguing that Congress and not the courts should be the authority on defining and enforcing civil rights.

McConnell is not without critics from the political right. Lawyer Andy Schlafly, the son of longtime conservative activist Phyllis Schlafly, recently wrote that McConnell is "every bit as hostile to conservative legal principles as (David) Souter turned out to be." Souter was named to the Supreme Court by the first President Bush and has disappointed conservatives by repeatedly siding with its more liberal members. Schlafly cited McConnell's refusal to say Roe v. Wade should be overturned, as well as a legal philosophy that "hostile to government expressions of faith."

JOHN G. ROBERTS:

Roberts, who has been on the U.S. Court of Appeals for the District of Columbia Circuit since June 2003, was one of President Bush's least contentious picks for the bench.

A former Rehnquist clerk, Roberts was associate counsel to President Reagan from 1982-86 and then served in the first Bush administration, arguing cases before the Supreme Court from 1989-93.

During the Clinton administration, Roberts became a highly sought-after private lawyer in Supreme Court cases, representing clients such as the National Collegiate Athletic Association in a discrimination case, and carmaker Toyota in winning limits on a disabled workers claims.

Roberts had been in line to join the appeals court in 1992, but his nomination during the first Bush administration died in a Democratic-controlled Senate.

Roberts, 50, has generally avoided weighing in on disputed social issues. Abortion rights groups, however, have maintained that he tried during his days as a lawyer in the first Bush administration to overturn Roe v. Wade.

Roberts did help write a brief that stated "we continue to believe that Roe was wrongly decided and should be overruled." Pressed during his 2003 confirmation hearing for his own views on the matter, Roberts said: "Roe v. Wade is the settled law of the land. ... There's nothing in my personal views that would prevent me from fully and faithfully applying that precedent."

Roberts' nomination to the appellate bench attracted support from both ends of the ideological spectrum.

Some 146 members of the D.C. Bar signed a letter urging his confirmation, including officials from the Clinton administration. The letter stated: "He is one of the very best and most highly respected appellate lawyers in the nation, with a deserved reputation as a brilliant writer and oral advocate. He is also a wonderful professional colleague both because of his enormous skills and because of his unquestioned integrity and fair-mindedness.

A native of Buffalo, N.Y., Roberts received his undergraduate and law degrees from Harvard.

J. HARVIE WILKINSON III:

Wilkinson, 60, another prospect from the 4th Circuit, has been consistently conservative in his rulings since being put on the court by President Reagan in 1984.

For example, he was part of a panel that ruled in 2003 that the government could indefinitely detain without legal rights American citizens captured overseas in the war on terror. The Supreme Court reversed that decision, with moderate Justice Sandra Day O'Connor's blistering statement, "A state of war is not a blank check for the president when it comes to the rights of the nation's citizens."

The Supreme Court agreed with Wilkinson, however, in his 1987 ruling that struck down a city minority set-aside program.

In his book, "One Nation Indivisible: How Ethnic Separatism Threatens America," Wilkinson explains his opposition to affirmative action, which he says is "the most dangerous of policy prescriptions for a multi-ethnic nation." He argues that such policies separate rather than unite the many races, and advocates for a celebration of multiculturalism and diversity.

He has less clear-cut views on the issue of reproductive rights.

Those who argue that Wilkinson supports Roe v. Wade point to a decades-old article he co-wrote in which he said that "although Roe has been severely criticized, the decision is not an illogical extension of the court's earlier decisions in matters of intimate association."

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But in 1998, Wilkinson joined an opinion upholding a Virginia parental notification law for minors seeking abortions. Wilkinson called the law "a very mild and moderate form of regulation."

Unlike many other judges, Wilkinson frequently speaks and writes about his views on affirmative action and other subjects. Before his court career, he was editorial page editor of the Norfolk Virginian-Pilot and taught law at the University of Virginia.

While in law school he ran for Congress as a Republican and lost in 1970.

Wilkinson also:

--Wrote the majority 4th Circuit opinion in 1996 upholding the "don't ask, don't tell" policy that barred gays serving in the military from revealing their sexual orientation.

--Says judicial activism is frequently practiced by both liberal and conservative judges, which he seems to blame on a lawsuit culture that has shifted power from people to the judges (Michigan Law Review article, May 2000).

--Frowns upon what he says is a trend by the Supreme Court of relying on international law or looking to what other countries do when deciding cases. Wilkinson said that while comparisons to other countries cannot be avoided in an age of globalism, "the court's legitimacy must ultimately rest on reliance and reference to the American Constitution and to American democratic outcomes."

--Dissented on a panel of three judges that in 1986 upheld an emotional distress award for the Rev. Jerry Falwell, who was publicly lampooned in Hustler magazine. While criticizing the ad itself, Wilkinson said "nothing is more thoroughly democratic than to have the high and mighty lampooned and spoofed." The Supreme Court later overturned the emotional distress award.

Supreme Court: Possible Nominees (FT)

Financial Times, July 2, 2005

¦ Janice Rogers Brown was recently confirmed by the Senate, after a bitter battle, as a federal appeals court judge. She is an outspoken conservative whom liberals condemn as an ideologue rather than a jurist.

¦ Edith Brown Clement is a federal appeals court judge who made headlines by sharply reducing a jury verdict for pain and suffering to a mother and three-year-old daughter killed in a car accident.

¦ Edith Hollan Jones is also a federal appeals court judge and is conservative on abortion.

¦ J. Michael Luttig, a federal appeals court judge and former clerk to Justice Antonin Scalia, is a committed conservative and a firm supporter of federalism.

¦ John Roberts, another federal appeals court judge, was a law clerk to Chief Justice William Rehnquist. He is well respected by both liberal and conservative lawyers and is viewed as more of a jurist than an ideologue.

¦ Michael McConnell, serves on the tenth circuit court of appeals, and is a conservative legal scholar respected across party lines, but as a vocal foe of the Roe v Wade decision which legalised abortion, liberal groups would vehemently oppose him

¦ Alberto Gonzales: America's first Hispanic attorney general, he is close to President Bush, who might want to make him America's first Hispanic Chief Justice. He could probably get enough Democratic votes for confirmation, but many conservatives consider him too moderate

¦ Emilio Garza: another Hispanic, Garza, a federal appeals court judge, is viewed as an alternative to Gonzales. He has criticised Roe v Wade.

¦ Samuel Alito, is an alternate Hispanic candidate. Also a federal appeals court judge, he is described as an exceptionally bright ideologue who favours restrictions on a woman's right to choose.

¦ J. Harvie Wilkinson is a courtly conservative who is well respected across the political spectrum but at 61, he may be viewed as too old to ensure a long and uninterrupted period of conservative service.

Amid Vows Of Opposition, Senate Braces For Disarray (NYT)

By Carl Hulse

The New York Times, July 2, 2005

The Senate braced on Friday for a Supreme Court confirmation fight that threatens to strain a tenuous new agreement on handling court nominations and plunge the chamber back into partisan strife.

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Even though President Bush has not announced a nominee, some leading Democrats made clear that they would oppose any candidate whom they judged too conservative, particularly because the candidate would replace Justice Sandra Day O'Connor, a moderate.

"If the president abuses his power and nominates someone who threatens to roll back the rights and freedoms of the American people, then the American people will insist that we oppose that nominee, and we intend to do so," Senator Edward M. Kennedy, Democrat of Massachusetts, said on the Senate floor.

In a move intended to prod Mr. Bush into consulting with them, Democrats repeatedly invoked President Ronald Reagan, a staunch conservative whose nominee Justice O'Connor was confirmed 99 to 0.

Republicans, trying to avoid a fight, called for "a fair confirmation process," in the words of the Senate majority leader, Bill Frist of Tennessee.

Republicans said they hoped to avoid the bitterness that has permeated the Senate over the last few years, as Democrats blocked 10 of Mr. Bush's nominees for federal appeals courts, and Dr. Frist pushed the Senate to bar such tactics.

A confrontation was averted in late May when 14 senators struck their own compromise. But each side said Friday that a Supreme Court confirmation would push the long-running debate over the federal judiciary into a new, and ever more divisive, level.

"If history is the guide, our record is pretty checkered," Senator John Cornyn, Republican of Texas, said. "It hasn't always been dignified. While I'm not optimistic, I am hopeful."

It has been more than a decade since the Senate grappled with a Supreme Court nomination, Justice Stephen G. Breyer's, so long ago that, according to Dr. Frist's office, only 56 of the current members were here for it. Though confirmation hearings have traditionally been in September, Senator Arlen Specter, the Pennsylvania Republican who is chairman of the Senate Judiciary Committee, would not rule out hearings next month.

As the court seat opened, attention on Capitol Hill turned immediately to the 14 senators - 7 Republicans and 7 Democrats - who struck the compromise in May. Under it, the Democrats promised to use the filibuster to block court nominees only in "extraordinary circumstances," while Republicans said in exchange that they would not support efforts to bar such a procedural tactic.

Members of the so-called Gang of 14 promised to meet soon after Congress returned from its Fourth of July break. Democrats and Republicans in the group said they expected their agreement to hold and, perhaps, to ease the confirmation process.

"I am optimistic that it will be not meet the 'extraordinary circumstances' issue," said Senator John McCain, Republican of Arizona, a leader in reaching the compromise.

Mr. McCain said the fact that the vacancy was created by a centrist could not be interpreted as such a circumstance.

"We operated on principle, not individuals," he said.

Another senator in the compromise said he hoped that the consideration of the coming nominee would be so smooth that the agreement would never come into play. But that senator, John W. Warner, Republican of Virginia, said the prospect of a vote to prohibit filibusters, called the nuclear option, remained a possibility, although an unfortunate one.

"The nuclear option is definitely on the table," Mr. Warner said. "We recognize that."

"If we did," he added, "and that were the process by which this body gave advice and consent on that Supreme Court justice, that justice would be tattooed with the nuclear option for the rest of his or her life on that court."

With the possible exception of Dr. Frist, whose aides said they had "strong indications" of the retirement early Friday morning, most senators, like Mr. Specter, were caught off guard by Justice O'Connor's announcement.

Many had already scattered for the weeklong Fourth of July recess.

The retirement sent them scrambling back to the Capitol for news conferences and speeches, setting into motion plans that Congressional aides in both parties have been working on for months.

Dr. Frist was on the Senate floor delivering a speech on pharmaceutical advertising. His aides entered the chamber and handed him a sheaf of papers. After a brief pause, he delivered a prepared tribute to Justice O'Connor.

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He and the president spoke by telephone about 11 a.m., shortly before Mr. Bush made his remarks in the Rose Garden and just as Mr. Specter arrived to brief the news media.

Senator Harry Reid, Democrat of Nevada, the minority leader, was on his way to Nevada. Within minutes of the announcement, Mr. Reid's aides were lining up leading Democrats to appear on the weekend talk shows and issuing talking points to press secretaries.

Democrats emphasized the theme of consultation, harking frequently to the 14 senators' compromise, which centered on the Constitution's advise and consent clause.

"President Bush should use this opportunity to bring the country together, not to tear us apart," Mr. Reid said. "It's what President Reagan did when he nominated Justice O'Connor."

Mr. Reid did say that Mr. Bush had tried to contact him and that the president had spoken with Senator Patrick J. Leahy of Vermont, the senior Democrat on the Judiciary Committee.

Mr. Leahy, an aide said, had a 14-minute talk with the president that interrupted a news conference in the senator's office in Burlington, Vt. The senator would not discuss the call, but he has pushed for more consultation on judicial nominations.

Republicans made clear that they believed it was up to Mr. Bush to decide how to consult with the Senate, if at all.

Mr. Warner distributed a memorandum quoting Alexander Hamilton, saying there would be "no exertion of choice on the part of the Senate."

Mr. Specter said he thought long and hard about proposing names to Mr. Bush, but decided against it.

"I wasn't asked - don't ask, don't tell," Mr. Specter said.

The confirmation hearings will be a crucial test both for Mr. Specter, who nearly lost his chairmanship after the elections in November when he angered conservatives with remarks about abortion, and for Dr. Frist, a likely presidential candidate, whose Senate leadership has been questioned.

Aides to Dr. Frist have been preparing for a Supreme Court vacancy since last winter. Now they will ramp up that effort. By Friday afternoon their new "Supreme Court Confirmation Center" had issued statements by various senators. Republican aides said Ed Gillespie, the former chairman of the Republican National Committee, would be a consultant to Dr. Frist, as he was in the recent fight over filibusters.

Mr. Specter said he thought that the Senate had "learned a lot" from that confrontation.

He added, "And we retained the right to filibuster, which is vital, as the Senate has played such an historic role in dissenting."

Though senators retain the ability to filibuster judicial nominees under the compromise, its architects said they realized from the start that a Supreme Court vacancy could put the pact under incredible stress.

"We always knew that the first kind of test of this agreement, the real test, was going to come on the Supreme Court," said Senator Mike DeWine of Ohio, a Republican who had intended to vote to bar the filibuster but ultimately signed onto the accord.

Senator Ben Nelson of Nebraska, a Democratic architect of the compromise, said in a statement that the 14 senators would convene after a nominee had been named.

"Any speculation on potential nominees is obviously premature," Mr. Nelson said. "We will cross that bridge when we get there."

After the president names a nominee, the Senate confirmation process starts, long before hearings begin. Judiciary Committee aides will pore over the candidate's speeches and writings and, eventually, take custody of critical documents, the F.B.I. background check on the nominee.

The file will be closely guarded, Republicans say. They cite a memorandum of understanding between the Senate and the White House, drafted when the first President Bush was in office, that limits access to members of the Judiciary Committee and a handful of senior aides.

Controlling leaks, Republicans say, will be essential. Douglas H. Ginsburg, for instance, withdrew his Supreme Court nomination in 1987 after it was disclosed that he had smoked marijuana, information that the F.B.I. turned up.

"The Supreme Court will be the test now," Mr. Cornyn of Texas said. "Everything we have been doing for the last two years has been a warm-up to the main event."

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Senate Prepares For Fierce Judicial Battle (AP-Y2)

By Jesse J. Holland, Associated Press Writer

AP2, July 2, 2005

With the loss of Justice Sandra Day O'Connor's swing vote, senators are readying a fierce battle over President Bush's first Supreme Court nominee — a person who could determine the fate of several important court precedents in the future.

While the Senate is in a holding pattern until President Bush makes a nomination — which the White House said won't be until after he returns from Europe next Friday — Republicans and Democrats already are jockeying for advantage in a confirmation battle they say will reshape the courts.

"This is the first Supreme Court vacancy in more than a decade, and Justice O'Connor's replacement will greatly influence the future of this country," Sen. Russ Feingold (news, bio, voting record), D-Wis., a member of the Senate Judiciary Committee, said after O'Connor announced her retirement Friday.

Bush said he will consult with senators of both parties about his selection, something Democrats asked for repeatedly for months. The GOP-run Judiciary Committee is expected to start hearings within a month to six weeks after Bush sends the nomination to the Senate.

Democrats are resigned to Bush nominating a conservative, but they are hoping to push him into picking someone like O'Connor, who showed an independent streak on the court despite being a lifelong Republican and a Reagan appointee.

O'Connor has been a crucial vote in holding the middle ground on landmark rulings from abortion to abuses in money and politics. Sen. Christopher Dodd (news, bio, voting record), D-Conn., called her "a conservative, but who is in the mainstream of judicial thinking."

"Justice O'Connor has been a voice of reason and moderation on the court," said Senate Democratic leader Harry Reid of Nevada. "It is vital that she be replaced by someone like her, someone who embodies the fundamental American values of freedom, equality and fairness."

Republicans used the same buzzwords, with Majority Leader Bill Frist, R-Tenn., calling for a nominee who is "fair, independent, unbiased and committed to equal justice under the law" like O'Connor. But other Republicans took pains to point out that she wasn't as moderate as Democrats portrayed.

"She has provided the critical fifth vote in case after case after case, involving the important role that states play in our federalist system of government, and in the protection of religious liberties and religious expression in the public square," said Sen. John Cornyn (news, bio, voting record), R-Texas, a Judiciary Committee member.

Bush has said in the past that he favors the judicial philosophy of Justices Antonin Scalia and Clarence Thomas but never has mentioned O'Connor. And he has said repeatedly that judges should not "legislate from the bench," meaning that their opinions should not be swayed by social or cultural trends.

Republicans also immediately began pushing Democrats to not consider filibustering a Bush Supreme Court nominee. America "deserves a dignified process of confirmation in the United States Senate — characterized by fair treatment, a fair hearing and a fair vote," Bush said.

"My instinct is that there will not be a filibuster here," Judiciary Committee chairman Arlen Specter, R-Pa., declared minutes after the retirement announcement. Sen. Sam Brownback (news, bio, voting record), R-Kan., added: "The person either goes on the Supreme Court or they don't go on the Supreme Court by 51 votes. That's what it should be."

Democrats have successfully filibustered six of Bush's lower-court picks, so far with several withdrawing their nominations because they couldn't reach the 60-vote threshold for overcoming the blockade.

But seven Democrats and seven Republicans signed a pact last month pledging not to filibuster judicial nominees except in extraordinary circumstances. At the same time, they agreed to oppose attempts by GOP leaders to change filibuster procedures and allowed the confirmation five of those blocked Appeals Court nominees.

Sens. John Warner, R-Va., and Mark Pryor, D-Ark., two of the "Gang of 14," called for Bush to pick a consensus nominee so they won't have to test their agreement.

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"I believe the White House working together with the Senate, as a co-equal branch of government, will be able to find a consensus nominee who will faithfully uphold the Constitution and represent the best of our justice system," Pryor said. Warner added: "This nomination ... gives him the opportunity to be a uniter, not a divider."

Specter also is pushing for the confirmation process to be completed before the new term begins on Oct. 3 to ensure that the court does not split 4-4 on any case. "I think it is an important objective and I think we can reach it," he said.

But Democrats say they won't be rushed, considering O'Connor said she will serve until her replacement is confirmed — whenever that may be.

"We have plenty of time," said Sen. Charles Schumer (news, bio, voting record), D-N.Y.

Senate Already Squaring Off (DMN)

By Todd J. Gillman

The Dallas Morning News, July 2, 2005

The Senate barely averted a meltdown this spring over judicial nominations. And markers thrown down Friday suggest an all-out partisan brawl is looming.

One Democrat after another demanded a "mainstream conservative" to replace Supreme Court Justice Sandra Day O'Connor. Republicans called for a "fair and independent" jurist.

The gap between these code phrases could foreshadow a battle royal as fierce as any in Senate history.

Sen. Edward Kennedy, D-Mass., warned that "if the president abuses his power and nominates someone who threatens to roll back the rights and freedoms of the American people, then the American people will insist that we oppose that nominee, and we intend to do so."

Texas Sen. John Cornyn, a GOP member of the Judiciary Committee, said he's not optimistic the process will be "dignified," as President Bush and other Republicans called for Friday. He noted that Democrats have gone to great lengths to stymie a number of appellate court picks in recent years.

"I don't see any real reason necessarily to try to find a nominee that will provoke a filibuster," Mr. Cornyn said. But he added, "Obviously everything we've been doing for the last few years has been a warm-up to the main event."

Thus were battle lines drawn.

How the summer plays out could depend on the Gang of 14 – the centrist senators who averted a "nuclear" showdown over filibusters and appeals court nominees. The group plans to meet after the July Fourth recess.

Senate Judiciary Chairman Arlen Specter, R-Pa., said he's ready to begin hearings as soon as the White House sends him a name. And he insisted that, litmus tests and outside pressure aside, the president isn't obliged to replace a centrist with a centrist.

"This is a very polarized country when it comes to the issues which will come to the Supreme Court of the United States," he said. "Everybody can't have their own way."

A key Democrat on the panel, Sen. Charles Schumer of New York, urged Mr. Bush to hold a "summit" with leaders of both parties. "We should replace Sandra Day O'Connor with a consensus candidate, not an ideologue," he said. "Nothing would make me happier than a nominee that passes 100 to nothing, or 98 to 2."

But, as Sen. John McCain, R-Ariz., put it, "elections have consequences," and voters gave Mr. Bush a second term.

TWO SENATORS TO WATCH

These two senators will play key roles in the confirmation of the next Supreme Court justice:

Arlen Specter

As chairman of the Senate Judiciary Committee, the Pennsylvania Republican will control the potentially confrontational hearings. Some conservatives worry about Mr. Specter's moderate politics and maverick style.

Patrick Leahy

The panel's senior Democrat, he has been in bruising confirmation fights before, including Clarence Thomas in 1991. Of late, Mr. Leahy of Vermont has tried to derail some of the president's judicial picks as being too conservative.

BATTLE LINES ARE DRAWN

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"One thing is very clear – if the president makes this vacancy an opportunity to push his personal ideology, you can bet your last dollar he's got a real fight on his hands. The 60 percent of Americans who want Roe v. Wade left alone will not be silent this time."

– Nancy Keenan, president of NARAL Pro-Choice America, which supports abortion rights

"It is inevitable that this confirmation battle will revolve around values. The administration should not be afraid of such a debate. ... The sense among ordinary Americans is that the courts ... are out of balance and unreflective of the ideals and concerns of most citizens."

–Gary Bauer, president of American Values, a conservative advocacy group

O'Connor's Decision Opens Way For Court Shift Rightward (SLPD)

By Jon Sawyer

St. Louis Post-Dispatch, July 2, 2005

The waiting game over a long-expected Supreme Court vacancy ended dramatically on Friday when Justice Sandra Day O'Connor, the first woman to serve on the nation's highest court, announced that she was stepping down.

O'Connor, 75, had become an increasingly important swing vote in the court's moderate center since her appointment in 1981 by President Ronald Reagan. She cast key votes upholding abortion rights, affirmative action and the separation of church and state.

Her resignation, the first from the court in 11 years, gives President George W. Bush the opportunity to tilt the court more to the right - and sets the stage for an epic battle for confirmation in the Senate.

"The nation deserves, and I will select, a Supreme Court justice that Americans can be proud of," Bush said in a Rose Garden appearance after the announcement that O'Connor plans to retire as soon as a replacement is confirmed.

"The nation also deserves a dignified process of confirmation in the U.S. Senate," Bush added, "characterized by fair treatment, a fair hearing and a fair vote."

But while Bush reached out immediately to promise consultation with senior Senate Democrats, and they responded in kind, the war drums could be heard of likely battle to come.

Democrats control 45 seats in the 100-seat body but have vowed to do everything they can, including a possible filibuster, to block any nominee that they view as out of the mainstream. Republican activists are just as primed, praising O'Connor's service but at the same time making clear that they want Bush to name a replacement who will be more reliably conservative.

Ralph Neas, president of the liberal interest group People for the American Way, said that with war abroad and many divisions at home, it was important for Bush to reach across partisan lines. "At a time when so many things confront us, why can't we have a candidate of unity?" he said. "Why can't we have a consensus candidate?"

Thor Hearne, a national counsel for the Bush-Cheney campaign last year, noted that Bush had made clear to the country then the sort of justice he would choose and that there was no reason to back down now.

"The president's clear desire is to pick someone who's going to be true to interpreting the Constitution, as opposed to seeing an opportunity on the bench to legislate," said Hearne, now with the St. Louis office of Lathrop & Gage.

"That's the criteria he's consistently articulated, and following that course, he'll invite the opposition that the groups on the left have already promised to launch," he added. "They're out there sharpening their knives, no matter who he picks."

Taking DC by surprise

Official Washington had been in suspended animation since Monday, the last day of the court's current term, expecting the retirement of Chief Justice William H. Rehnquist, who is undergoing treatment for thyroid cancer.

But it was O'Connor, his Stanford University Law School classmate and for 24 years, often - but not always - a soulmate on the court, who ended up stepping down first.

White House spokesman Scott McClellan said the White House got word of a possible retirement Thursday, when Supreme Court Head Marshal Pamela Talkin called White House Counsel Harriet Miers to say that on Friday morning, she would hand-deliver a sealed envelope.

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Shortly before 8 a.m. St. Louis time on Friday, Talkin informed Miers that the letter concerned O'Connor. Miers informed Bush, who placed a call to O'Connor shortly before praising her publicly at a hastily called Rose Garden event.

McClellan described the conversation with O'Connor as "emotional," with Bush praising her service and saying "I wish I was there to hug you."

Bush discussed the court vacancy in a meeting with Vice President Dick Cheney, senior aides and Attorney General Alberto Gonzales, who has himself been touted as a leading candidate for the post.

No nomination is expected until after Bush returns from Europe July 8, McClellan said. Consultations with senators from both parties have already begun, he noted, among them a general discussion Wednesday, before O'Connor's announcement, with Senate Minority Leader Harry Reid, D-Nev.

In her three-sentence letter of resignation, O'Connor told Bush, "It has been a great privilege, indeed, to have served as a member of the court for 24 terms. I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure."

Swing voter

A state legislator and judge before her appointment, O'Connor cast the decisive vote in rulings that upheld affirmative action programs (2003), outlawed government-sponsored prayer at graduations and other public school events (1992), and upheld the McCain-Feingold ban on political parties using unrestricted soft-money contributions (2003).

She voted repeatedly to uphold Roe v. Wade, the 1973 ruling that legalized abortion, most significantly in 1989 and 1992 cases where four other justices were prepared to toss out Roe. In 2000, she cast the key vote that overturned a state ban on so-called partial birth abortion.

On the current court, there are still five pro-Roe votes besides O'Connor, said Neil Richards, a former clerk under Rehnquist who teaches now at the Washington University School of Law.

"Even if you get a committed anti-abortion rights jurist to replace O'Connor, I don't think Roe is in immediate danger," he said. "But it would be a court more tolerant of laws that infringe on a broad view of abortion rights."

The Battle For The Court Begins (WT)

By Guy Taylor

The Washington Times, July 2, 2005

Justice Sandra Day O'Connor, the first woman on the Supreme Court, resigned yesterday, setting the stage for a fierce battle over who will succeed her.

President Bush praised Justice O'Connor as a "discerning and conscientious judge" and vowed to offer a nominee who "will faithfully interpret the Constitution." The White House said it would not offer a candidate until after Mr. Bush returns from Europe on July 8.

While her retirement leaves Justice Ruth Bader Ginsburg, a liberal appointed by President Clinton, the lone woman on the court, few names mentioned have been those of women. Among the most mentioned are Attorney General Alberto R. Gonzales, thought to be a particular favorite of the president, and federal appeals court judges J. Michael Luttig and John G. Roberts.

In a note to the White House, Justice O'Connor, 75, was brief. She said she will stay on until a successor is confirmed and that she was leaving "with enormous respect for the integrity of the court and its role under the constitutional structure." Court officials said she spoke of a need to spend more time with her husband of 53 years.

A moderate conservative when President Reagan appointed her in 1981, Justice O'Connor delivered tie-breaking votes in more than dozen landmark cases affecting civil rights, environmental protection, abortion and the 2000 presidential election among others. She became less conservative as the years went on.

While there had been speculation Justice O'Connor might step down, the timing of her announcement was a mild surprise, because Chief Justice William H. Rehnquist was espected to retire first, at the end of the court's term ending June 30.

At 80 and recovering from thyroid cancer, the chief justice's condition during recent months had prompted the mention of several prospective replacements, who are now considered as successors to Justice O'Connor. Court watchers said her

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retirement indicates Justice Rehnquist will probably not step down this year, honoring a tradition of not having more than one vacancy per term.

Justice O'Connor will leave a legacy for women lawyers. Those who worked for or with her cite her intellect and scholarship.

"She's very smart, very dedicated and very savvy, but she's also extremely charming," said Jeffrey Lamken, a partner with Houston-based law firm Baker Botts, who clerked for Justice O'Connor in 1992 and 1993. "There is not going to be another Justice O'Connor. I think anyone who ever worked for her would tell you that."

It was her seriousness that made her a target for humor over the years, such as an incident at a White House Correspondents Dinner in the mid-1980s when a tipsy Washington Redskins running back, John Riggins, memorably called across a table to her: "Come on, Sandy baby, loosen up." Mr. Riggins was beseiged by calls yesterday, but declined to talk about it.

Lawmakers on Capitol Hill paid tribute yesterday.

"Today marks a great loss for America, but it's also a day to reflect on all that we have gained because of Justice O'Connor's service to our country," Senate Majority Leader Bill Frist said. "For nearly 24 years, Justice O'Connor lent America her brilliant mind and her fair and impartial judgement."

The Senate, which the Constitution tasks with confirming the president's nominee to succeed a justice, is preparing for a summer-long battle over Justice O'Connor's replacement. Democrats, who have led filibusters against lower court nominations by Mr. Bush, said the president has an obligation to preserve the precarious balance of the court with whomever he chooses to replace Justice O'Connor.

Republicans said the president should not be constrained. "Elections have consequences," said Sen. John McCain, Arizona Republican. "The president clearly stated when he ran for re-election that he would be appointing conservative nominees to the Supreme Court. It comes as no surprise if a conservative nominee comes over."

Born in 1930 in El Paso, Texas, Justice O'Connor earned undergraduate and law degrees at Stanford University, where she married classmate John Jay O'Connor III. Despite graduating third in her law school class, few law firms were willing to hire a woman lawyer during the early 1950s, so she took a job as deputy county attorney of San Mateo County in California.

After two years, she took a job as a civilian attorney for a firm in Frankfurt, Germany, and by the late 1950s had returned to the United States, to Arizona, where a private firm hired her. By 1965, she was emerging as a leading lawyer, later becoming the assistant attorney general of Arizona.

Beginning in 1969, she served three terms in the Arizona state Senate, and in 1973 became the first woman to serve as a state senate majority leader. Two years later she was elected judge of the Maricopa County Superior Court, where she served until being appointed to the Arizona Court of Appeals in 1979.

In 1981, President Reagan nominated her to replace retiring Supreme Court Justice Potter Stewart. She was unanimously confirmed and, at the time, quickly became a conservative ally of Chief Justice Warren E. Burger.

But in the years after, she was criticized by conservatives on some issues and hailed by them on others. Perhaps the most important case of her tenure came in December 2000, when she joined Chief Justice Rehnquist and Justices Antonin Scalia, Clarence Thomas and Anthony M. Kennedy overrule a decision by the Florida Supreme Court, which had overruled a Florida state circuit judge, finally tipping the election to George W. Bush.

Supreme Court Justice O'Connor Retires (REU-Y2)

By James Vicini

Reuters, July 2, 2005

WASHINGTON (Reuters) - Justice Sandra Day O'Connor, the first woman on the U.S. Supreme Court and a moderate conservative who often cast the decisive vote on abortion and other contentious issues, announced her retirement on Friday, and a political battle immediately began over her successor.

"This is to inform you of my decision to retire from my position as an associate justice of the Supreme Court of the United States, effective upon the nomination and confirmation of my successor," O'Connor, 75, said in a letter to President Bush.

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O'Connor gave no reason why she was resigning from the nine-member court, whose decisions play a central role in shaping the social, cultural and political fabric of the United States. It has been closely divided on such hot-button issues as abortion, the death penalty and church-state separation.

A court spokeswoman cited O'Connor's age and said the justice, who is one of America's most powerful women, needed to spend time with her husband. He has Alzheimer's disease, people close to the family have said.

"It has been a great privilege, indeed, to have served as a member of the court for 24 terms," O'Connor said in the one-paragraph letter released by the Supreme Court.

Her resignation was announced four days after the end of the court's term. There had been widespread speculation that Chief Justice William Rehnquist, 80, who has thyroid cancer, would resign at the end of the term, and even some of her colleagues did not think O'Connor would be leaving.

Her resignation allows Bush to make his first appointment to the high court, which must be confirmed by the U.S. Senate. Bush held off naming a replacement for at least a week but urged lawmakers to give his nominee "fair treatment."

Who Bush nominates could trigger a fierce fight between Republicans and Democrats and threaten a shaky truce over judicial nominations that has kept intact the minority's ability to block a controversial candidate.

Foreshadowing the likely battle over her successor, Bush came out into the White House Rose Garden with a message for lawmakers.

"The nation deserves and I will select a Supreme Court justice that Americans can be proud of. The nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote," he said.

O'Connor's departure, the first in more than a decade, could shift the balance of power on the court, which has been closely divided between the conservative majority and a more liberal faction. Her announcement immediately set off a flurry of comment and activity among interest groups and lawmakers on both sides of the aisle.

Sen. Edward Kennedy (news, bio, voting record), a leading liberal in the Democratic Party, immediately challenged Bush.

"If the president nominates someone who threatens to roll back the rights and freedom of the American people, the American people will insist we oppose that nominee, and we will do so," the Massachusetts lawmaker said.

O'Connor has been a key vote to preserve the constitutional right to abortion and to allow race to remain a factor to be considered in admissions at universities.

BUSH TO BE 'DELIBERATE, THOROUGH'

Bush pledged to be "deliberate and thorough" in naming a replacement and said he would announce a nominee in a timely manner in hopes of having the new justice start work when the court reconvenes for its new term in October.

One possibility is Attorney General Alberto Gonzales, the former White House counsel and a longtime Bush aide dating back to when Bush was governor of Texas. Bush may want to make history by selecting the first Hispanic American for the Supreme Court.

Other possible candidates are conservative U.S. Appeals Court judges J. Harvie Wilkinson, J. Michael Luttig, Michael McConnell, John Roberts, Samuel Alito and Emilio Garza.

If Bush wants to name a conservative woman, possibilities include federal appeals court judges Edith Jones and Edith Brown Clement and Judge Janice Rogers Brown of the California Supreme Court, who was recently confirmed as a U.S. appeals court judge.

O'Connor's resignation triggered dueling news conferences and speeches by Senate Democrats and Republicans as they jockeyed for position in the pending confirmation contest.

Simultaneously, special interest groups from the right and left revved up their multimillion-dollar radio, TV and Internet campaigns that will seek to shape public opinion and thus Senate votes on whoever Bush ultimately picks.

Sen. Arlen Specter (news, bio, voting record), the Republican head of the Senate Judiciary Committee that will take up the nomination, said he would hold hearings in August if necessary. "The judiciary committee is prepared to proceed at any time," he said.

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Senate Democrats, who blocked 10 of Bush's appeals court nominees during his first term, urged the president to consult with them before picking a Supreme Court candidate. Bush promised to consult with senators but was not specific.

Traveling in the Midwest, O'Connor got off a flight at the Minneapolis-St. Paul International Airport, preceded by Republican U.S. Rep. Jim Ramstad (news, bio, voting record), who told her, "I hate to see you go."

"I hate to go too," she replied. "It's been a real privilege." (Additional reporting by Steve Holland and Thomas Ferraro)

Democrats Warn Bush To Consult (WT)

By Charles Hurt

The Washington Times, July 2, 2005

Capitol Hill braced yesterday for the first Supreme Court confirmation fight in nearly 11 years, and Democrats warned President Bush to consult them "face-to-face" before offering a replacement for Justice Sandra Day O'Connor.

"If the president abuses his power and nominates someone who threatens to roll back the rights and freedoms of the American people, then the American people will insist that we oppose that nominee -- and we intend to do so," Sen. Edward M. Kennedy, Massachusetts Democrat and member of the Judiciary Committee, said.

Sen. Charles E. Schumer, New York Democrat and a member of the committee, told reporters it would be "a shame" if Mr. Bush makes his nomination "without real face-to-face, back-and-forth consultation." Democrats argue that this is the correct meaning of the Senate's constitutional "advice and consent" role.

A group of liberal activists reserved a room across the hall from the Senate chamber yesterday to add their warnings, calling the abortion rights as upheld by Justice O'Connor the most fundamental American freedom.

"On Independence Day weekend -- as we all celebrate the freedoms that make America so special -- there is no freedom more fundamental to our rights than the ability for women to decide whether and when to parent," said Karen Pearl, interim president of Planned Parenthood Federation of America.

Amid all the threats, lawmakers on both sides joined in lauding the first woman named to the Supreme Court.

"Throughout her 24 years of service on the nation's highest court, Justice O'Connor worked to restore common sense to our criminal justice system and due regard for the power reserved to the states under the Constitution and to limit restrictions on faith in the public square," said Sen. John Cornyn, Texas Republican and member of the Judiciary committee. "Thanks to Sandra Day O'Connor, victims of crime are more likely to receive justice, and inner city children are no longer constitutionally barred from access to school choice programs."

Senate Minority Leader Harry Reid agreed: "Justice O'Connor has been a voice of reason and moderation on the court."

The warm remarks put several Democrats in the unlikely position of urging Mr. Bush to go about nominating a replacement in the same manner as President Reagan, who nominated Justice O'Connor 24 years ago.

"Ronald Reagan was, arguably, the most conservative president of our time, and he chose someone who was confirmed with a vote of 99 to nothing," said Sen. Christopher J. Dodd, Connecticut Democrat. "This president ought to use the Reagan standard in choosing a nominee."

Mr. Reagan also nominated Justice Antonin Scalia to the high court and elevated William H. Rehnquist to chief justice. Justice Rehnquist anchors the conservatives on the court, and Justice Scalia has become the left's favorite "bad" conservative.

Justice O'Connor's announcement comes after the Senate narrowly averted a showdown in May over 10 Democratic filibusters of Mr. Bush's judicial nominations to lower federal courts.

Seven Democrats agreed to surrender most of the remaining filibusters in exchange for seven Republicans' promise not to support a leadership effort to employ the so-called "nuclear option," which would have prevented such judicial filibusters.

One of those Democratic signers, Sen. Ben Nelson of Nebraska, said he expects the deal to stick. "Once a nominee is put forward, I'm sure the 'Gang of Fourteen' senators will meet and begin discussions about the nominee to ensure that the agreement we reached will remain intact," he said. "Any speculation on potential nominees is obviously premature. We will cross that bridge when we get there."

Sen. John W. Warner, Virginia Republican and one of the Gang of Fourteen, reiterated yesterday that the "nuclear option is definitely on the table" but spoke against confirming a nominee in that manner. "For, if we did, and that were the process by

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which this body gave advice and consent on that Supreme Court justice, that justice would be tattooed with the nuclear option for the rest of his or her life on that court," he said.

Mr. Warner joined Democrats in warning Mr. Bush to find a nominee Democrats find acceptable. President Bush's first Supreme Court nomination "gives him an opportunity to be a uniter, not a divider," he said.

Democrats Press For Another Just Like O'Connor - Or Else (SLPD)

By Jon Sawyer

St. Louis Post-Dispatch, July 2, 2005

Call them "O'Connor Democrats."

In the wake of Justice Sandra Day O'Connor's retirement announcement Friday, Democrats were competing so hard to sing her praises that Republicans could barely find a television camera free.

The reason is simple:

O'Connor is the swing-vote centrist on the current court. Her retirement gives President George W. Bush the opportunity to name a full-throated conservative. Democrats are hoping he won't.

O'Connor "is a sterling example of what can happen when a president nominates a justice not from the right or the left wing of one of the political parties, but an independent judge, capable of making up her own mind," said Sen. Patrick Leahy of Vermont, ranking Democrat on the Judiciary Committee.

Sen. Edward M. Kennedy, D-Mass., praised O'Connor as "a wise judge who served the nation and the Constitution well." He urged Bush to nominate someone similar - or else.

"If the president abuses his power and nominates someone who threatens to roll back the rights and freedoms of the American people," he told reporters, "then the American people will insist that we oppose that nominee, and we intend to do so."

Kennedy and other Democrats refused to rule out the possibility of a filibuster, the parliamentary maneuver of unlimited debate that requires a super majority of 60 votes to stop. After Republicans threatened this spring to eliminate the filibuster, an agreement among Senate centrists to block that action included a pledge from Democrats to use filibusters only in "extraordinary" circumstances.

Senate Republicans stressed that there's nothing extraordinary about a conservative Republican president naming a like-minded justice.

The carefully phrased statements by other congressional Republicans warned Democrats to avoid the sort of all-out war that characterized the 1987 confirmation battle over Robert H. Bork, who was defeated, and the 1991 confirmation of Justice Clarence Thomas.

"I trust that the president's choice to replace Justice O'Connor will receive full, fair and objective consideration followed by a simple majority vote on the Senate floor," said Sen. Christopher "Kit" Bond, R-Mo.

Sen. Jim Talent, R-Mo., voiced similar views, adding that, "I also hope that everyone will treat the president's nominee with respect and avoid personal attacks."

Not to worry, said Sen. Christopher Dodd, D-Conn., so long as Bush follows the lead of President Ronald Reagan by choosing someone like O'Connor.

"That's the standard this president ought to use, the Reagan standard," Dodd said. "If the president does nominate someone along the lines of Sandra Day O'Connor, I think the issue of a filibuster would be moot."

Stage Set For Clash Over Social Issues (BOS)

By Peter S. Canellos

The Boston Globe, July 2, 2005

With new cases on abortion, capital punishment, and physician-assisted suicide already on the docket for the next term, and the chance that gay marriage could find its way to the Supreme Court, the battle over the replacement for Sandra Day O'Connor could become the epic clash over social issues that conservative and liberal activists have been anticipating for decades.

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Conservatives have wanted to overturn Roe v. Wade for 32 years, and while a more conservative replacement for O'Connor may not be enough to guarantee a reversal of Roe, many on the religious right yesterday sensed an opportunity to move the court sharply to the right on abortion and other social issues.

But for activists who have fought for abortion rights for decades, only to see some of their supporters lapse into complacency, the prospect of a fight over O'Connor's replacement was both terrifying and energizing -- a potentially transforming moment in the nation's culture wars.

Both sides seemed to agree on one thing: No judicial confirmation battle, from Robert Bork and Clarence Thomas to the recent disputes over Democratic filibusters of 10 of President Bush's appeals court nominees, carried anything like the stakes in the upcoming confirmation battle.

"This is where the fight will be," said Doug Schoen, a Democratic strategist and pollster for former president Bill Clinton.

Schoen, like many others involved in national politics, expected that the next Supreme Court replacement would be for ailing Chief Justice William Rehnquist, a reliable vote on the conservative side of most social issues.

But the news that the more moderate O'Connor is retiring dramatically raises the stakes for social liberals.

Nancy Northrup, president of the Center for Reproductive Rights, called O'Connor's departure a "monumentally important" moment in the battle for abortion rights, noting that O'Connor was the swing vote in the 2000 case of Stenberg v. Carhart, which struck down a law banning the late-term procedure that opponents call partial-birth abortion.

O'Connor has been a moderate supporter of abortion rights, preserving the core protections of Roe v. Wade while giving states more leeway to regulate the procedures. If she were replaced by a more conservative justice, the court would almost certainly allow greater restrictions. But the core right could still be preserved by a five-vote majority of Justices Anthony Kennedy, David H. Souter, Ruth Bader Ginsburg, Stephen Breyer, and John Paul Stevens.

Since the Roe v. Wade decision in 1973, the "right to privacy" has become the linchpin for an expanding array of social issues that now includes the right to die and the right to some forms of assisted reproduction. Conservative anger over what they see as judicial activism also extends to Supreme Court recognition of gay rights and affirmative action, and the tightening web of restrictions on the death penalty.

Cases bearing on all these issues are likely to bubble up from lower federal courts in the next few years. The Supreme Court is already slated to hear a challenge to a New Hampshire statute requiring parental notification for minors seeking abortions, with no exception for the health of the mother; a challenge to prosecutors' use of racketeering statutes to bring charges against antiabortion extremist groups; and three challenges to capital punishment.

Unlike many other issues that wind up before the court, these fundamental social issues send waves of passionate support and opposition across the country. And both Northrup of the Center for Reproductive Rights and conservative activist Gary Bauer have insisted that Bush's nominee answer questions about key social issues directly.

Many past nominees declined to voice views on specific rights or possible cases, leading to some unwelcome surprises for activists on both sides. Antonin Scalia had an easy confirmation while refusing to answer questions on abortion rights. Many liberals gave him their support, but Scalia has since voted against abortion rights in numerous cases. Souter also declined to talk about specific cases, and surprised many conservatives with liberal votes on the bench, including support of abortion rights.

The prospect of a nomination fight directly based on the right to privacy both scares and intrigues observers of past confirmation battles. Schoen, for one, believes an open battle over incendiary social issues could arouse even some voters who are usually unmoved by such topics, potentially changing the dynamic in congressional elections next year.

But for passionate activists on both sides, the confirmation of the next justice will be about more than politics. Law, religion, and morality will be the loudly clanking coins of the realm.

"I guess I've been preparing for this moment since my first day on the Judiciary Committee staff in 2001," said Manuel Miranda, a conservative activist now with the Heritage Foundation. "But how long have I really been preparing for this? This is an issue that's been at my family dinner for a long time."

O'Connor Resignation Triggers High-Stakes Battle (LAT)

By Ronald Brownstein

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The Los Angeles Times, July 2, 2005

It's apocalypse. Now.

When Justice Sandra Day O'Connor announced her retirement this morning, White House aides, Senate Democrats and interest groups mobilizing on the left and right instantly agreed on one point: the stakes in the struggle over her successor amounted to nothing less than control of the Supreme Court.

Because O'Connor has so often been the decisive swing vote on a closely divided court, her replacement could shift the balance between left and right on a wide range of controversial economic and social issues.

That virtually guarantees her departure will provoke a more intense fight, with even greater political consequences for the two parties, than the event most in Washington had anticipated this week: the retirement of Chief Justice William H. Rehnquist. Because Rehnquist is already a reliably conservative vote, replacing him with another conservative would not significantly change the court's alignment.

"More than one analyst has said in recent years that we are basically a country governed by Sandra Day O'Connor," said social conservative leader Gary Bauer in a view echoed by many liberals. "She has been the swing vote on a host of issues. So the choice, the vacancy, is much more significant even than if Rehnquist stepped down."

Both President Bush and congressional Democrats now face high-profile choices in a fight that is likely to eclipse all other issues, at least through this fall — and potentially could define each side for the 2006 election as much as any other decision they make in the next 18 months.

The departure of the moderate O'Connor offers Bush an opportunity to shift the court to the right — and to energize the conservative base that has been at the center of his political strategy.

But if Bush chooses a nominee opponents can portray as extreme, he risks further erosion of his support among centrist voters — which has already sagged in his second term amid dissatisfaction with the war in Iraq and controversies such as the congressional intervention in the case of Terry Schiavo.

"It is a defining moment in his presidency," said presidential historian Robert Dallek.

But the fight could define Democrats, too. While Senate Democrats will face intense pressure from their base to oppose virtually any Bush nominee, if they try to block a choice most Americans see as reasonable, they risk further alienating the culturally conservative and rural voters that many in the party consider critical to their prospects in 2006 and 2008.

"If Bush comes out with a moderate conservative, then I think Democrats have to be very careful not to oppose just for the sake of opposing, especially if they want to reach some of those centrist and religious voters in the next election," said Furman University political scientist James Guth, an expert on religion and politics.

All of these calculations will play out amid the cacophony of what could become the largest and loudest interest group campaign in modern times. During the last two heavily contested Supreme Court nominations — those of Robert Bork in 1987 and Clarence Thomas in 1991 — talk radio was in its infancy, the Internet was used almost solely by scientists, CNN was the only cable news network, and issue advertising was rarely employed in lobbying campaigns.

This fight may mark as great an advance over those tactics as the mechanized blitzkrieg of World War II did over the grinding trench warfare of World War I. Coalitions of left and right have already stockpiled huge sums for massive advertising and organizing efforts on the vacancy. In states with senators considered persuadable, the efforts could approach the levels seen in presidential campaigns.

"It is going to be huge," said Eli Pariser, executive director of the political action committee associated with MoveOn.org, the giant online liberal advocacy group.

Further unsettling the environment is the controversy still surrounding the deal on judicial nominations reached this spring by the so-called "gang of 14" senators. In that accord, seven Republicans blocked an effort by GOP leaders to exempt judicial nominations from the filibuster, a tool that allows a minority of 40 senators to prevent a vote on an issue. In return, seven Democrats agreed to employ the tool only in "extraordinary circumstances."

If Democrats filibuster Bush's choice for O'Connor's successor, the seven Republicans who approved the deal are likely to face enormous pressure to recant and support a filibuster ban.

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"They will have heat like never before if they fail to do that," said Jan LaRue, chief counsel for Concerned Women for America, a leading social conservative group.

Sen. John McCain (R-Ariz.), one of the deal's principal architects, sent a warning shot today across the Democrats' bow.

McCain told CNN that Bush deserved deference in his choice after the 2004 election and he did not believe any Bush nominee to the court "will meet the bar of a 'extraordinary circumstance.'"

Civility, Consensus Will Likely Be Scarce In Fight Over New Justice (KRT)

By Steven Thomma

KRT – Cong Civility, July 2, 2005

The fight for Sandra Day O'Connor's swing seat on the Supreme Court probably will be an ugly one in which consensus and comity are all but impossible.

First, her seat is the pivot point of a closely divided court. A more conservative replacement could change decisions on abortion rights, the place of religious expression in public life, and environmental regulation, all emotional flash points in a politically polarized country.

Second, religious conservatives as well as supporters of abortion rights demand a litmus test on abortion, a stance unheard-of in earlier nominations.

Finally, the contest is the first since the opinion-a-minute world of bloggers and the Internet have joined cable TV and talk radio in stirring the passions of both right and left. It's a political echo chamber that demands confrontation, not compromise, to keep people tuning in or contributing money.

"It will not be pretty," said Dennis Goldford, a political scientist at Drake University in Iowa and author of a recent book on the ways courts interpret the Constitution.

O'Connor's decision on a hazy hot Friday before a holiday weekend surprised official Washington, which had been gearing up for the possible retirement of ailing Chief Justice William Rehnquist. That may come soon as well, but his departure would trade a conservative for a conservative, meaning little substantive change.

O'Connor was a swing vote, however. She sometimes sided with the conservatives, sometimes with liberals. If President Bush follows through with his campaign promise to name someone in the purely conservative vein of Antonin Scalia or Clarence Thomas, he'd shift the court to the right.

Many Democrats urged Bush on Friday to consult them before making a pick. They said Ronald Reagan and Bill Clinton did that and then nominated candidates whom both parties could back. Their choices won broad support.

Bush aides said the president has consulted Sen. Harry Reid (news, bio, voting record), D-Nev., the party leader in the Senate, and would speak with Sen. Patrick Leahy (news, bio, voting record), D-Vt., the senior Democrat on the Senate Judiciary Committee.

But listening to Democrats is one thing; heeding their advice is another. Especially when Bush and both political parties are barraged by interest groups whose demands, particularly on abortion, make consensus all but unreachable.

Christian conservatives insisted Friday that Bush nominate someone who'd vote to restrict or outlaw abortion. They noted that they voted for him in large numbers in 2004 - the so-called values vote - and want their due.

"It is time to make good on those campaign promises, Mr. President," said Troy Newman, the president of the anti-abortion group Operation Rescue.

"You have been given a mandate to end abortion in our nation by the American people who cast their votes for you. You have been placed in power for such a time as this. Now it is time to fulfill your obligation to God and to those who elected you, and appoint a staunchly pro-life judge to the Supreme Court."

The Rev. Patrick Mahoney, the director of the Christian Defense Coalition, said O'Connor's retirement was a chance to roll back abortion that shouldn't be missed. " If she's gone, there is an opportunity to get a ban on partial-birth abortion," he said. "Now there may be an opportunity to make some inroads in the abortion debate."

The left insists on an abortion benchmark for any nominee from the opposite perspective.

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"We can never let her be replaced by a justice who does not respect the right to privacy and Roe v. Wade," said Sen. John Kerry, D-Mass., his party's 2004 presidential nominee.

The Center for Reproductive Rights also insisted that senators ask the eventual nominee how he or she would rule on cases involving abortion. "They need to vote with eyes wide open," said Nancy Northrup, the center's president.

Egging on the atmosphere of confrontation will be the bloggers, talk radio hosts, cable TV anchors and interest groups who depend on fireworks for attention, ratings and money.

From the left, liberal activist David Sirota sent out an e-mail Friday charging that Bush would nominate a "wild-eyed lunatic." NARAL Pro-Choice America, an abortion rights group, said "the battle over the future of the Supreme Court could be won or lost within the next two weeks," and sought contributions from $50 to $1,000.

From the right, C. Boyden Gray, a former White House counsel who heads a group that backs conservative judicial nominees, charged that liberals would attack almost any Bush nominee "in hysterical terms" in part because they're backed by the pornography industry. Another group, Progress for America, vows an $18 million campaign to back a Bush nominee and seeks contributions ranging from $100 to $5,000.

"Grass-roots advocacy groups on both sides have been mobilizing," said Goldford, of Drake University, adding that "this will be the first major Supreme Court appointment in the cable TV talk show, Internet blog era." The result, he said, "is going to be horrible."

Supreme Court Vacancy Puts Pressure On Senate Deal-makers (KRT)

By James Kuhnhenn

KRT – Cong Dealmakers, July 2, 2005

With Justice Sandra Day O'Connor's retirement, Democrats and Republicans dusted off their weapons of choice - the filibuster and the "nuclear option" - in case they feel a need to block or clear the way for the nominee to succeed her.

O'Connor's retirement is destined to cause a contentious debate in the Senate because her replacement is almost certain to alter the delicate balance she maintained on the court. Replacing O'Connor, in fact, is likely to cause more fireworks than would replacing Chief Justice William Rehnquist, a member of the court's conservative wing.

The vacancy puts the spotlight anew on seven Democrats and seven Republicans in the Senate who brokered an agreement in May that averted a partisan showdown over judicial appointments.

It also will test President Bush's relations with the Senate and whether he'll take the advice of those 14 senators to consult with Democrats and Republicans before he announces a nominee.

Pressure could be especially strong on the seven Democrats, who agreed that they wouldn't block judicial nominees except in an "extraordinary circumstance." No doubt, that phrase will be put to the test. The deal didn't define the term so it becomes a standard for each senator to determine.

Sen. John Warner (news, bio, voting record), R-Va., one of the 14 who brokered the deal, called on Bush to select a consensus candidate not only to avoid a partisan fight, but also to foster national unity.

"This nation of ours is troubled today and somewhat divided - the war on terrorism and other strong issues," Warner said. "And this nomination of the first Supreme Court justice by this distinguished president gives him an opportunity to be a uniter, not a divider."

Both Democrats and Republicans said they wanted to avoid repeating the showdowns over 10 of President Bush's circuit court nominees during his first term. Democrats blocked those nominations using a filibuster, a parliamentary delaying tactic that requires 60 out of the 100 senators to overcome.

When Bush asked the Senate again to confirm seven of those 10 nominees this year, Senate Majority Leader Bill Frist, R-Tenn., threatened to use his own tactics to eliminate filibusters on judicial nominations. That plan, considered a last resort that could devastate Senate traditions, was labeled the "nuclear option."

Earlier this week, Frist said he hoped that the agreement by the 14 senators had placed the filibuster and nuclear option "back in their cages."

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But Sen. Mark Pryor (news, bio, voting record) of Arkansas, one of the seven Democrats in the deal, warned if Bush names a "very, very conservative nominee" and doesn't seek advice from the Senate, some of the seven Democrats could view that as an "extraordinary circumstance" that would trigger a filibuster.

"The more that President Bush and the White House consults with the Senate, particularly the Judiciary Committee, the less likely it is there will be a filibuster," Pryor said.

The issue of abortion figures to be a significant factor in the confirmation process and is likely to fuel the tug of war between conservative and liberal groups. Edward Kennedy, D-Mass., a leading Senate liberal, said he wouldn't apply an abortion "litmus test" on the nominee, but that "I will not vote for someone unless they demonstrate, before the Judiciary Committee, a core commitment to the fundamental constitutional values of the Constitution, and they include a variety of different rights, including privacy."

In the end, the focal point in the Senate will be the deal-makers who stopped the meltdown.

"I'm optimistic that the president will not send over someone who reaches the extraordinary-circumstances level," said Sen. John McCain (news, bio, voting record), R-Ariz., one of the 14. "We only made an agreement with seven Democrats ... so it's their view that matters, not that of - in all due respect - their more liberal colleagues."

In addition to Warner and McCain, the agreement affects Republican Sens. Lindsey Graham of South Carolina, Mike DeWine of Ohio, Olympia Snowe and Susan Collins of Maine, and Lincoln Chafee of Rhode Island. Democrats in addition to Pryor are Robert Byrd of West Virginia, Ben Nelson of Nebraska, Mary Landrieu of Louisiana, Ken Salazar of Colorado, Joseph Lieberman of Connecticut and Daniel Inouye of Hawaii.

After A Brief Shock, Advocates Quickly Mobilize (NYT)

By Robin Toner

The New York Times, July 2, 2005

Around 9:30 Friday morning, C. Boyden Gray, founder of the Committee for Justice, a conservative group that is a leading ally of President Bush, was sipping coffee at his Georgetown residence and confessing mild frustration to a reporter for The New York Times about the waiting game for a Supreme Court retirement. Suddenly he got a text message and expressed that emotion rare for stage-managed Washington: surprise.

"An O'Connor resignation was not one we took seriously," Mr. Gray said, rushing out the door to begin deploying his troops.

At the abortion rights group Naral Pro-Choice America, organizers were sending e-mail alerts to 800,000 activists within 15 minutes after the announcement of Justice Sandra Day O'Connor's resignation. "Don't let Bush take away your choice!" they declared.

On Capitol Hill, senators of both parties quickly made their way to the floor and the galleries for a morning of speeches and briefings, hailing Justice O'Connor and trying to frame the debate to come - Democrats stressing a need for consultation and consensus, Republicans emphasizing a need for a fair process.

By midday, nothing less than a national political campaign had begun.

The retirement of Justice O'Connor, a moderate who has been a crucial vote for a constitutional right to abortion, began a struggle with incalculable political implications - for the interest groups, for the parties and for the president.

"This is the pivotal appointment," said Senator Dianne Feinstein, a California Democrat who sits on the Senate Judiciary Committee.

Advocates on the left and the right, who had prepared for this moment since the last Supreme Court vacancy was filled 11 years ago, agreed that the ideological balance of the court was up for grabs. Advocacy groups bought advertising on television and the Internet, and issued millions of e-mail alerts, waves of direct-mail fund-raising appeals and pre-emptive blasts at those viewed by the groups as either obstructionist Democrats or extremist Republicans.

"This is one of those moments in American history," said Ralph G. Neas, president of the liberal People for the American Way. "No matter what side you're on, everything you've believed in, everything you've cared about, everything you've fought for is at stake. It's such a closely divided court."

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Social conservatives saw a chance finally to translate their political successes - the election of allies to the White House and the top of the Congress - into greater influence on the court. They immediately reminded Mr. Bush of his campaign promise to appoint judges in the mold of Justices Antonin Scalia and Clarence Thomas. They roused the grass roots, reminding their constituents of the court's decisions on the display of the Ten Commandments in public places, on gay rights and, most of all, on abortion.

"Today marks a watershed moment in American history," declared Dr. James C. Dobson, founder and chairman of the conservative Focus on the Family, "the resignation of a swing-vote justice on the Supreme Court and the opportunity to change the court's direction."

Lest there be any doubt about the high expectations of religious conservatives, Dr. Richard Land, president of the Ethics and Religious Liberty Commission of the Southern Baptist Convention, declared, "For President Bush, social conservatives and the senators they helped elect, the moment of truth has arrived."

Liberal advocacy groups found themselves confronting what they had feared and warned about since the 2000 election: the prospect of a Bush court. They called on the president to nominate a consensus moderate, someone ideologically and judicially close to Justice O'Connor. But they were preparing for something else.

Nancy Keenan, president of Naral, asserted that there could be no "stealth candidates" - that any nominee must be asked for a position on Roe v. Wade, the 1973 decision declaring a constitutional right to abortion, and that any nominee must answer.

Notwithstanding much of the rhetoric, Justice O'Connor's retirement will not end the court's majority for Roe, which stands at 6 to 3.

But her successor could narrow that majority, and open the door to new abortion restrictions. For example, the Supreme Court ruled by only 5 to 4 that a "partial birth abortion" ban was unconstitutional; Justice O'Connor's vote was among the five in the majority.

Another version of that ban, which applies to a type of abortion performed in the second or third trimester, is being challenged in lower courts and may end up before the justices.

Justice O'Connor's successor could change the balance on other issues as well, among them affirmative action and legislative redistricting. But it is abortion that will drive many activists in this nomination struggle.

A recent poll by the Pew Research Center found that dissatisfaction with the Supreme Court among Republicans was closely tied to their views about Roe v. Wade; those who want to see the decision overturned are twice as likely to give the court an unfavorable rating.

Nothing mobilized the modern religious conservative movement more than Roe, said John C. Green, an expert on religion and politics at the University of Akron.

"If you talk about judicial tyranny with any of the Christian conservatives, Roe v. Wade comes up immediately," Dr. Green said. "Some will talk about school prayer, but that was a long time ago."

The issue has a painful history for many opponents of abortion, who have felt betrayed by the string of Republican appointees, including Justices O'Connor, David H. Souter and Anthony M. Kennedy, who have ruled for abortion rights. Indeed, while much of Washington was awash in praise for Justice O'Connor on Friday, Carol Tobias, political director of the National Right to Life Committee, said in an interview that "Justice O'Connor has not been good for unborn children, so we do see any change as being positive."

Abortion rights groups are hopeful that the coming struggle will re-energize their supporters. They note that the last great surge of abortion rights activism occurred in the early 1990's, when it appeared that the court might be moving to overturn abortion's constitutional protections.

Most Americans support legalized abortion, polls show, though many would also like to see more restrictions on it. "This will take the issue back to the fundamentals," said Celinda Lake, a Democratic pollster who works for Naral.

This struggle over fundamentals - another battle in the culture wars - poses challenges for both parties. Many Democrats have tried to moderate their party's image in recent months, especially on values-related issues like abortion. Many Republicans, meanwhile, have tried to return to bread-and-butter economic issues, worried about polls showing that large numbers of voters see the party as out of touch with their concerns, after months dominated by fights over judicial filibusters.

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But this judicial campaign will not be stopped, all sides agree, and there is a sense of foreboding about it.

"This is enormous," said Senator Feinstein, one of many trying to adjust to retirement by Justice O'Connor rather than Chief Justice William H. Rehnquist. "It's different from Rehnquist. It is enormous."

A Look At Senate Judiciary Committee (AP-Y2)

By Darlene Superville, Associated Press Writer

AP2, July 2, 2005

Republican Sen. Arlen Specter (news, bio, voting record) of Pennsylvania, chairman of the Senate Judiciary Committee, and Sen. Patrick Leahy (news, bio, voting record) of Vermont, the panel's senior Democrat, will play key roles in confirmation of a successor to Supreme Court Justice Sandra Day O'Connor.

Here are brief thumbnail sketches of the two senators.

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SPECTER:

As chairman of the Senate Judiciary Committee, Specter will control the upcoming confirmation hearings, a task his staff has been working on for months.

But the five-term senator almost missed getting the assignment.

Shortly after winning re-election last fall, Specter angered conservatives long suspicious of him by warning a newly re-elected President Bush that anti-abortion judges would have a difficult time winning Senate confirmation, given Democratic opposition.

The comment sparked an outcry from social conservatives, who waged a campaign to pressure Republican Senate leaders to deny Specter the judiciary committee chairmanship he'd long coveted.

Conservatives eager to see more like-minded judges elevated to the federal courts worry about Specter's moderate politics and maverick style, but Specter ultimately survived that challenge.

The 75-year-old senator, known for a quick mind, sharp tongue and blunt manner, has faced a different challenge of late. He announced in February that he has Hodgkin's disease and has been receiving chemotherapy treatments in Philadelphia. It is the latest in a series of health problems Specter has faced over the years, including a brain tumor.

Specter recently said he expected to complete his cancer treatments later this month.

If Specter becomes unavailable for the task, Sen. Orrin Hatch (news, bio, voting record), R-Utah, a former judiciary committee chairman, would step in to do it.

Specter, who has a law degree from Yale, first made a name for himself in the 1960s as a top aide on the Warren Commission investigating the assassination of President Kennedy.

He twice was elected district attorney in Philadelphia. He was elected to the Senate in 1980.

In his second term, Specter attracted national attention and angered women's groups and voters by aggressively questioning law professor Anita Hill during the confirmation hearings for Supreme Court nominee Clarence Thomas, who remains on the high court.

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LEAHY:

As the senior Democrat on the judiciary committee, Leahy has led the party through several high-profile confirmation battles, from Thomas for the Supreme Court in 1991 to former Sen. John Ashcroft's nomination to be attorney general in 2001.

He'll play that role again as soon as Bush names his choice for O'Connor's successor.

During the Thomas confirmation hearings, it was Leahy who pressed him to reveal his positions on several issues, including abortion rights. Under that line of questioning, Thomas said he never had discussed Roe v. Wade, the 1973 Supreme Court decision that legalized abortion — a statement Thomas' critics seized upon as proof of his evasiveness.

Of late, Leahy has been the main thorn in Bush's side during a series of filibusters of the president's nominees for the federal courts, whom the senator has judged as being too conservative for lifetime appointments to the bench.

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When Republicans complain about Democratic stalling, Leahy often points out that the GOP did the same thing to dozens of judicial nominees during President Clinton's administration.

Leahy, 65, was elected last fall to his sixth term. He was chairman of the judiciary committee at the time of the terrorist attacks of Sept. 11, 2001.

He has a law degree from Georgetown University, and was the state's attorney in Chittenden County, Vt., before his election to the Senate in 1974.

Surprise Retiree Raises The Stakes Of Battle To Come (WP)

By Charles Babington And Mike Allen

The Washington Post, July 2, 2005

After preparing for months for a battle to replace Chief Justice William H. Rehnquist, conservative and liberal groups were caught by surprise yesterday and immediately began reworking their strategies for a fight that they believe will be even more ferocious and carry higher stakes.

Activists on both sides said the retirement of Justice Sandra Day O'Connor, who has been a crucial swing vote compared with Rehnquist's reliable conservatism, gives conservatives an unexpected chance to shift the court rightward. Liberals, anxious to prevent such a move, said they must pour more money and energy into a campaign to educate Americans about the role O'Connor played and the importance of replacing her with a fellow centrist.

The multimillion-dollar campaigns, which activists say will nearly rival presidential candidacies in their scope and sophistication, kicked off within an hour of O'Connor's announcement. Both sides launched ads designed to build momentum for their causes before President Bush names his nominee, which some senators expect during the week of July 11.

The liberal MoveOn PAC began airing a television ad in five states recalling the president's role in the Terri Schiavo case and asking, "Will George Bush choose an extremist who will threaten our rights?"

The conservative group Progress for America, which spent $45 million on Bush's reelection, sent an e-mail to 8.7 million people about 45 minutes after the news broke, urging them to distribute a Web video mocking anticipated Democratic attacks. The group said it is rethinking its plan to refrain from airing TV ads next week.

Tony Perkins, president of the conservative Family Research Council, said his group plans to spend millions of dollars on the fight and will increase the budget and intensity because of the O'Connor opening. "To replace Justice Rehnquist with a nominee who respects the Constitution would be the status quo," Perkins said. "To replace Justice O'Connor with a nominee who respects the Constitution would change the composition of the court."

Nan Aron, head of the liberal coalition Alliance for Justice, said, "It's hard to overstate the stakes now with Justice O'Connor's resignation." Liberal activists, she said, must embark on a crash education course to tell Americans about potential changes in rulings on abortion, the environment, workers' rights and many other issues. "We need to share with the American people the importance of her seat . . . and secure their engagement in this national debate," Aron said.

The timing of O'Connor's announcement was awkward for senators, who will vote -- presumably in the early fall -- on whether to confirm Bush's pick to succeed her. Senators had met late into the night Thursday to begin their week-long Fourth of July recess yesterday, and most were gone or about to leave Washington when the word came at 10:30 a.m. At least one, Sen. Charles E. Schumer (D-N.Y.), quickly jetted back to hold a Capitol news conference, where he urged the president to convene "a summit" of senior Republican and Democratic senators to consult on a possible nominee.

The White House said Bush will meet with a few top Republican and Democratic leaders, including those on the Senate Judiciary Committee, before announcing his choice. Bush placed a 14-minute call to Sen. Patrick J. Leahy (Vt.), the committee's ranking Democrat, that forced the senator to interrupt his news conference in Burlington, Vt. But White House aides stopped far short of promising a "consensus" nominee, which Democrats and liberals called for throughout the day.

Several Democrats noted that President Ronald Reagan, a conservative icon, had nominated O'Connor, who was approved by the Senate 99 to 0. "This president should follow the Reagan standard," said Sen. Christopher J. Dodd (D-Conn.).

"President Bush should use this opportunity to bring the country together, not to tear us apart," said Senate Minority Leader Harry M. Reid (D-Nev.). "It's what President Reagan did when he nominated Justice O'Connor." But some Republicans urged

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Bush to nominate a strong conservative, even if it means a bruising confirmation fight in the Senate, where the GOP holds 55 of the 100 seats.

"While it may seem expedient to nominate people who can easily be confirmed by the U.S. Senate, history shows that is not the proper course of action," said Rep. Zach Wamp (R-Tenn.). Sen. Tom Coburn (R-Okla.) said: "I would hope that President Bush's nominee will swing the court back toward the Constitution and away from an era of self-indulgent judicial activism."

Activists on both sides will closely watch the seven Senate Democrats and seven Republicans who crafted a deal in May that ended Democratic filibusters of several appellate court nominees and thwarted a bid by Majority Leader Bill Frist (R-Tenn.) to outlaw such filibusters. The Democrats have promised not to filibuster a Supreme Court nominee except in "extraordinary circumstances." The seven Republicans have promised to block any effort to ban such filibusters as long as the Democrats keep their bargain.

The pact has prompted widespread debate on the meaning of "extraordinary circumstances," with liberals defining it loosely in hopes of giving themselves maximum leeway to combat a staunchly conservative nominee.

Sen. Ben. Nelson (D-Neb.), who helped to shape the agreement, said in a statement: "Once a nominee is put forward, I'm sure the 'Gang of Fourteen' senators will meet and begin discussions about the nominee to ensure that the agreement we reached will remain intact. Any speculation on potential nominees is obviously premature."

Another member of the group, Sen. Mark Pryor (D-Ark.), told reporters in a conference call that the 14 senators knew their pact would be sternly tested. "If President Bush wants to test the agreement by sending a very, very conservative nominee without consulting with senators," he may do so, Pryor said. But he added: "We do not want to see 'extraordinary circumstances.' "

Activists in both camps maintained a frantic pace of conference calls, e-mails and meetings to frame their messages and coordinate their campaigns. Frist's chief of staff, Eric Ueland, met with conservative interest groups in a Senate office building and laid out the Republicans' strategy and proposed timetable, which anticipates committee hearings this month and floor debate in September.

Conservatives, saying they have been cowed at times in the past by the left's tactics and rhetoric, vowed to be immediately aggressive. Sean Rushton, executive director of the conservative Committee for Justice, said that a victory in the battle to succeed O'Connor "would really buck up the movement and thrill and enhance our base."

The Independent Women's Forum, which is conservative but does not take a position on abortion, announced that it will work closely with the pro-Bush coalition to put women on television who will portray the president's choice as mainstream. "We know NOW [the National Organization for Women] will be everywhere," said Barbara Comstock, a consultant and legal strategist for the group. "They have been crying wolf for 20 years, and we're going to counter them."

All the time and money spent on campaigns may have little influence on the outcome, said several senators, because they and their colleagues see a Supreme Court vote as a deeply personal and principled decision. When a reporter asked Judiciary Committee Chairman Arlen Specter (R-Pa.) how public expectations might influence the battle, he replied: "There are so many publics, and so many expectations."

Interest Groups Mobilize For Court Push (AP-Y2)

By JESSE J. HOLLAND, Associated Press Writer

AP2, July 2, 2005

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, Fri Jul 1, 7:54 PM ET

WASHINGTON - Conservative and liberal groups sprang into action with the word of Justice Sandra Day O'Connor's retirement, telephoning supporters and firing off e-mails to mobilize help for a high-stakes Senate confirmation battle.

O'Connor was a swing vote on many cases, and interest groups are watching keenly to see whether President Bush replaces her with a more conservative justice to push the high court more to the right.

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"Justice O'Connor played a pivotal role on the court, and the nation has a tremendous amount at stake with her resignation," said Debra L. Ness, president of the liberal National Partnership for Women & Families.

With O'Connor's announcement Friday representing a test of these organizations' clout in the Internet Age, people on both ends of the political spectrum flooded their backers around the country with e-mail and pager alerts, telling them about the retirement and calling for their help.

People for the American Way, which set up a war room for the Supreme Court battle in downtown Washington, sent out thousands of e-mails to its supporters and was setting up phone banks to make calls around the nation to build up support for Senate Democrats.

"The American people must be part of this great debate over our future," president Ralph Neas said.

Other groups were planning to work the old-fashioned way with protests, rallies and marches on the Supreme Court and the Capitol. "We will not go silently into the night concerning the appointment of Supreme Court justices and plan a major presence outside the court and halls of Congress," said Rev. Patrick J. Mahoney, director of the Christian Defense Coalition.

Other conservative Christian groups also signaled their interest.

Focus on the Family founder James Dobson, whose political action group rallied evangelical Christians in November's elections called the resignation a watershed mark in the nation's history.

"It's a wonderful opportunity," said Carrie Gordon Earll, a policy analyst with Focus, a ministry and worldwide broadcasting and publishing concern in Colorado Springs, Colo. "It could be a return to a justice who takes the Constitution at its written word and not scribble in the margins with what they think should be added."

MoveOn PAC announced a cable television ad campaign — $280,000, a relatively small amount — in Maine, Nebraska, South Carolina, Virginia, New York City and Washington, D.C., trying to discourage Bush from picking a strict conservative.

"Will George Bush pick an extremist who will threaten our rights?" the commercial asks.

Abortion-rights groups like Planned Parenthood already are scheduling rallies in an effort to influence Bush's choice. "With so much at stake, Planned Parenthood will be on the front lines of the Supreme Court battles to ensure women's health is protected," said interim president Karen Pearl.

"Progress for America stands ready to defend whomever President Bush nominates from the left's character assassination campaign," said Brian McCabe, PFA's president. "The president's nominee deserves real consideration, not instant attacks."

Progress for America has said it expects to spend $18 million to get Bush's nominee confirmed to the Supreme Court, and has already started running television and radio ads around the nation.

Contentious Hearings Ahead As O'Connor Resigns (FT)

By Holly Yeager In Washington

Financial Times, July 2, 2005

Most politicians and political activists were quick to praise Justice Sandra Day O'Connor on Friday, but their reaction to her retirement left little doubt about the intensity of the battle to come over who succeeds her.

Arlen Specter, chairman of the Senate judiciary committee, said he had already spoken with Bill Frist, the majority leader, about the timetable for confirmation hearings on her successor and said his committee was “prepared to proceed at any time”.

But he acknowledged that, given Justice O'Connor's frequent status as a centrist and a swing vote in the court, the fight to replace her could be more contentious than that for any replacement for the William Rehnquist, the reliably conservative chief justice.

Senate Democrats renewed a chord they have been striking in recent weeks, as expectations of a Supreme Court retirement grew, calling on Mr Bush to consult them before making his choice. Their case seemed to be more urgent given that the vacancy was not created by Mr Rehnquist, as had been widely expected.

Edward Kennedy, Democratic senator from Massachusetts, said that while different presidents had consulted the Senate in different ways, “People know it when they're being consulted and they know it when they're being told.”

Mr Kennedy recalled how Ronald Reagan, former president, whom he called “the number one conservative of our time”, had acted when he nominated Justice O'Connor, who was confirmed by a 99-0 vote of the Senate.

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Senate leaders are well aware that 56 of the body's 100 members were not in the Senate 11 years ago, when the last Supreme Court vacancy was filled. They have already begun briefings for staff members about what to expect as the process moves forward. Congressional aides point to two changes in the political landscape: the arrival of the internet and the growing influence of outside political groups.

MoveOn, the liberal advocacy group, said its political action committee would spend almost $280,000 on a new television advertisement designed to encourage key senators to reject what they call “an extremist nominee”.

“The president should honour O'Connor and appoint a moderate Supreme Court justice,” said Ben Brandzel of MoveOn PAC.

On the other end of the political spectrum, the Family Research Council, a socially conservative group, said it frequently disagreed with Justice O'Connor's decisions and called on Mr Bush to choose a committed conservative to replace her.

“I am confident that President Bush will name a replacement. . . who has the same judicial philosophy as Justices Antonin Scalia and Clarence Thomas, as he indicated he would in his re-election campaign,” said Tony Perkins, president of the group.

The departure of Justice O'Connor may also increase pressure on Mr Bush to appoint a woman.

Mr Specter called it “very important” that there be “gender balance” on the court, saying that if her successor was not a woman, he hoped a future court vacancy would be filled with a woman.

The judiciary committee, which will handle the confirmation hearings on a successor, is prepared to begin hearings on a nominee within three to six weeks of a formal nomination.

The panel expects three to five days of hearings, including time for public comment and a closed session, with just senators and the nominee, to discuss any sensitive matters that may arise.

But even the conduct of those hearings, the types of questions posed, is expected to be confrontational. Speaking on the Senate floor on Friday, John Cornyn, Republican senator from Texas, said the confirmation process should focus on a nominee's qualifications, and “not on personal political beliefs”.

Battle Begins For O'Connor's Successor (MINNST)

By Rob Hotakainen And Dan Wascoe

Minneapolis Star Tribune, July 2, 2005

The first U.S. Supreme Court vacancy in 11 years unleashed huge and emotional grass-roots campaigns in Minnesota and across the country Friday that ultimately could decide the future of abortion, affirmative action and an array of other volatile social issues.

After years of preparation, all sides in those debates began rushing to raise and spend millions of dollars and assemble armies of activists to influence the votes of U.S. senators once President Bush submits a nominee to replace retiring justice Sandra Day O'Connor.

"The American people are focused -- the games have begun," said Andrea Lafferty, executive director of the Traditional Values Coalition.

Opening-day activity was fast and fierce.

For Tim Stanley, the battle was officially engaged at 9:15 a.m. Friday.

He was crossing a street in St. Paul when his cell phone rang with news that O'Connor was retiring. Within minutes, Stanley had 500 "rapid responders" ready to organize for the fight over her successor. There were 100,000 doors to start knocking on, senators to call, petitions to gather and immediate plans for a rush-hour "visibility" event for their effort Friday at Interstate Hwy. 94 and Snelling Avenue.

"Roe versus Wade has been kept alive by Sandra Day O'Connor," said Stanley, executive director of NARAL Pro-Choice Minnesota.

"The only way it's not going to disappear is if pro-choice Americans and pro-choice Minnesotans stand up and scream loudly," Stanley said.

Call to prayer

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Religious groups, meanwhile, began calling on Christians to pray outside the Supreme Court and Capitol when hearings begin on a replacement for O'Connor, who angered groups opposed to abortion.

"We are already praying and working for a nominee that will not waffle, as she did," said the Rev. Rob Schenck, president of the National Clergy Council.

At the liberal MoveOn PAC, e-mail alerts were sent to 3.5 million members, including more than 77,000 in Minnesota.

"Some of our basic freedoms are at stake here," said Ben Brandzel, the group's advocacy director. "The balance on the court is basically up in the air."

The NAACP announced plans for rallies throughout the country. It urged its 500,000 members to write letters to the White House and phone their senators.

"We're very concerned right now," said Hilary Shelton, director of the NAACP's Washington bureau. He praised O'Connor's views on affirmative action and the death penalty but worried a more "extremist" justice would not follow suit.

'War room'

People for the American Way, which has led the opposition to Bush's judicial nominees, said it plans to open a "war room" in Washington, D.C., for the nomination battle. The group is conducting oppositional research on prospective court nominees, with more than 60 staff members working in its D.C. office alone.

Progress for America, a leading conservative advocacy group, said it has pledged $18 million to combat any challenges to the nominee Bush selects to fill the court vacancy. The group is presenting a $700,000 advertising campaign to warn the public that a nominee could face "distorted" attacks from the left.

"We urge liberals to give genuine consideration instead of instant attacks to any potential U.S. Supreme Court nominee," president Brian McCabe said.

While abortion-rights advocates called on Bush to appoint a moderate judge and to consult with Democratic senators, the Rev. Louis Sheldon, founder and chairman of the Traditional Values Coalition, dismissed the idea. The group is the nation's largest grass-roots church lobby.

Sheldon said the president is not legally required to consult with anyone. Minnesota's leading organization against abortion, Minnesota Citizens Concerned for Life (MCCL), said it will be rallying its members and lobbying hard to win the votes of Minnesota senators in the months ahead. Abortion-rights supporters, who had been preparing for a resignation from Chief Justice William Rehnquist, feared that Bush would move quickly to appoint a judge opposed to abortion who could help overturn the Roe vs. Wade ruling that legalized abortion in 1973.

Robynne Curlee, organizing director for NARAL Pro Choice Minnesota, said losing O'Connor rather than Rehnquist "was really shocking and distressful" and "adds that little bit of extra urgency" to the group's efforts. She positioned a small group of sign-wavers late Friday near I-94 and Snelling Avenue.

"We had the signs ready to whip out" whenever a Supreme Court justice resigned, she said. The signs read, "Protect Roe v. Wade," and "Choose Justice/No Freedom without Choice."

Meanwhile, Candice Johnson was among a dozen canvassers for the group who got to work in south Minneapolis on Friday evening. As they went door-to-door with a fundraising pitch, they offered cell phones to residents and asked them to make immediate calls to their senators. "This is big," Stanley said. "It's going to galvanize our constituency all summer. ... We've got to be on high alert here now for another retirement, as well. Anything is possible."

Corporate America, Organized Labor Have Own Views On Vacancy (KRT)

By Kevin G. H

KRT – Interest Groups, July 2, 2005

The Supreme Court's rulings on abortion and religion capture the headlines, but much of the business before the high court deals with the conduct of business. In the court's term that ended this week, for instance, about 30 percent of the rulings involved business issues.

So corporate America and organized labor are gearing up to influence the debate over President Bush's nominee to fill the high court vacancy.

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The U.S. Chamber of Commerce, the nation's largest business organization, has quietly provided information to the White House about the pro-business voting records of judges over the last year. The group began its assessment when Chief Justice William Rehnquist announced last October that he had thyroid cancer.

"I think it's fair to say that once the chief's health issues came up, we probably engaged in that with a bit more intensity than we had in the past," said Stan Anderson, the executive vice president and chief legal officer for the Chamber of Commerce.

The chamber's litmus test: Does a judge support limits on corporate liability?

"What we fundamentally look at is whether they are a liability expander or a liability contractor," Anderson said.

Organized labor seeks the opposite in a nominee.

"The high court decides cases involving workplace rights and protections, such as the right to a safe workplace, to minimum wages and overtime pay, to a workplace free of discrimination and the right to join with others to form a union," said John Sweeney, the president of the AFL-CIO. "So it is more important than ever for the president to nominate a mainstream candidate, whose opinions will have a tremendous impact on the constitutional rights and legal protections of our children and grandchildren."

The National Association of Manufacturers is creating a special judicial-review committee to pore over nominees' previous rulings. The association has ranked the votes of congressmen, but will wade into Supreme Court politics for the first time.

"The mantra for us has been: We want a judge who interprets the law, who doesn't make it. A judge who says this is what the contract provided for, not what it should have provided," said Pat Cleary, a spokesman. "We've seen far too many statutes get on the book and grow through regulation and judicial interpretation."

Business issues before the court aren't sexy but they're vital to the lives of Americans, said Donald Falk, a Palo Alto, Calif.-based lawyer who argues before the high court for Mayer, Brown, Rowe & Maw.

"What really affects people's lives - their economic lives - are things like the regulatory scope of the state, the ability of the federal government to intrude into other areas of life and how far states can go within constitutional constraints," Falk said.

Process Won't Be Business As Usual (LAT)

By Tom Hamburger

The Los Angeles Times, July 2, 2005

The nation's leading business lobbies are poised for the first time to campaign for the confirmation of a Supreme Court nominee, marking a historic change for the confirmation process, the perception of courts and business activism.

The U.S. Chamber of Commerce and the National Assn. of Manufacturers say they have put structures in place to review and consider endorsement of President Bush's nominee and, if necessary, to launch a campaign on the candidate's behalf.

"If the nominee is controversial, then we can make a judgment that we want to activate our vast grass-roots network, engage our lobbying power and there could be paid media as well," said Stan Anderson, executive vice president of the Chamber of Commerce.

In the current climate in Washington, he said, the nomination is likely to be controversial, meaning business would be immersed in a nomination battle.

Historically, judicial nomination fights have been the province of social activists and the American Bar Assn., and have not drawn active participation from business. There have been partisan fights over nominees, most famously the Reagan-era rejection of Robert H. Bork by Democratic senators and the organized left.

But never before have interest groups prepared to spend millions of dollars on television and direct-mail campaigns for or against a particular nominee.

The addition of big business to the mix coincides with a shift in the way the judiciary is viewed by the public and leading interest groups. Federal courts once were largely exempt from the hurly-burly of political invective, and judges were considered above the fray for the most part. Now, judges and their decisions are routinely attacked from the right amid cries for "judicial reform" from talk radio, church pulpits and corporate board rooms.

In response, left-leaning organizations have become unusually unified, urging the president to consult with Democrats and offer a "consensus nominee." But their request — a plea for consultation and compromise — contrasts with more combative

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vows of the past to fight objectionable nominees. Despite a compromise last month that preserved the right to judicial filibusters, liberals had felt steamrolled by the president's judicial nominations to date and had stood by as some nominees once viewed as among the most objectionable were confirmed.

"There is now a completely unified right and a completely unified left," said conservative activist Grover Norquist, president of Americans for Tax Reform. "Both teams will be at full strength, and the court nominations will be an incredible test of that strength."

Within hours after Justice Sandra Day O'Connor's decision to retire from the bench was announced Friday morning, liberal and conservative groups vowed to spend millions to communicate their views to voters and lawmakers.

The Republican-oriented Progress for America pledged to spend $18 million on the Supreme Court vacancy campaign. A spokeswoman for the organization, Jessica Boulanger, said the group had "operatives in 21 states across the country who are working aggressively at the grass-roots level." Within 45 minutes of O'Connor's resignation, "we had our Web ads sent to 8.7 million Americans," Boulanger said.

Meanwhile, the liberal People for the American Way will "definitely be spending millions of dollars" if necessary to fight an objectionable nominee, vice president Elliot Mincberg said. The National Abortion Rights Action League transformed its website Friday so that visitors could donate time and money to a Supreme Court vacancy campaign.

Business may well be countering liberal messages with positive comments on a White House nominee. Business lobbyists said it was likely that business and social conservatives would find themselves on the same side of a nomination battle but noted they are not always allies. Justices who are heroes to social conservatives, such as Antonin Scalia and Clarence Thomas, also have taken stands opposed by business, as in a 2003 case on punitive damages in which the two dissented from a court majority in favor of limiting awards.

"The point is that 'conservative' doesn't necessarily mean 'pro-business,' " Anderson said. Despite some decisions that rile business, Norquist is urging executives and owners to recognize that socially conservative judges are likely to be pro-business overall.

"We are trying to make sure that every part of the center-right coalition is correctly focused on why this [judicial confirmation battle] is important," he said. "The same judge who will make Pastor Jones happy will make the Chamber of Commerce happy."

Even though business leaders may take an active part in an upcoming nomination fight, the prospect of a protracted battle is disconcerting to them.

"The concern we have is that a drawn-out fight ties down the Senate for months on end and our agenda doesn't get acted on," the Chamber's Anderson said.

There are other concerns for business, including the sense from shareholders or customers that business should not engage in political fights over polarizing social issues.

But the head of the National Assn. of Manufacturers, former Michigan Gov. John Engler, a Republican, has long argued that business should pay more attention to the courts.

"We can't sit on the sidelines with the third branch of government" making so many decisions affecting business, he has said.

Patrick Cleary, a vice president of the manufacturers' association, calculated that 80% of a federal judge's civil cases "concerns issues that we care about" — liability, contract and employment law.

"All the hard-fought gains business has made in the executive and legislative branches could be lost" by the decision of a single judge, Cleary said.

Engler has said he would like to see the Business Industry Political Action Committee, an organization created decades ago by the manufacturers' association and other groups to mobilize the grass-roots, engaged in federal judicial confirmations.

The head of that organization, Greg Casey, said there had been no formal request to engage the group, which encouraged companies to provide specially prepared information to their employees about political candidates and their stand on issues that affected business. In the last campaign, BIPAC took credit for registering and providing educational material to millions of pro-business voters.

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Casey said that BIPAC could quickly gear up to launch an educational campaign on a Bush nominee, provided that member companies agreed to the idea and were willing to fund the effort. He said a national campaign could be launched for less than $1 million.

The Chamber has forwarded to the White House its review of federal judges from each circuit, with ratings of each judge based on rulings that concern business. But Anderson said the review was not intended as a complete manual for picking a future justice because it did not include a review of people who were not currently on the bench, such as Atty. Gen. Alberto R. Gonzales.

Since 1998, the Chamber has had a process for reviewing the records of Supreme Court nominees. It endorsed Thomas, Scalia, Ruth Bader Ginsberg and Stephen G. Breyer but did not see the need to campaign for those nominees.

This year, however, the organization is likely to be in campaign mode. At both the Chamber and National Assn. of Manufacturers offices, officials said the decision would be based on a candidate's overall fitness for the job. However, a candidate's past position on issues such as labor law, punitive damages, tort reform and regulation also would be reviewed.

O'Connor Held Balance Of Power (NYT)

By Linda Greenhouse

The New York Times, July 2, 2005

The phrase has been used so many times over so many years to describe the Supreme Court that it is nearly a cliché. Yet the simple words capture an equally simple truth: to find out where the court is on almost any given issue, look for Justice Sandra Day O'Connor.

If you are a lawyer with a case at the court, pitch your arguments to her. If your issue is affirmative action, or religion, or federalism, or redistricting, or abortion, or constitutional due process in any of its many manifestations, you can assume that the fate of that issue is in her hands. Don't bother with doctrinaire assertions and bright-line rules. Be meticulously prepared on the facts, and be ready to show how the law relates to those facts and how, together, they make sense.

And it is because Justice O'Connor has played such a pivotal role on the court for much of her 24-year tenure that her unexpected retirement is such a galvanizing event. Much more than the widely anticipated retirement of the predictably conservative Chief Justice William H. Rehnquist, her departure creates an opportunity for President Bush to shape the court.

The last such defining moment occurred with the retirement in 1987 of Justice Lewis F. Powell Jr., whose position on the court then resembled Justice O'Connor's today. President Ronald Reagan nominated a polarizing conservative, Robert H. Bork, whose defeat by a Democratic-controlled Senate after a protracted battle still resonates today.

A list of the issues on which Justice O'Connor has held the balance of power goes far to explain why holiday weekend preparations screeched to a halt in Washington on Friday morning as word spread of her decision to retire.

Just two years ago, she wrote the opinion for the 5-to-4 majority that upheld affirmative action in university admissions. Earlier, in a series of decisions interpreting the Constitution's guarantee of equal protection, she led or joined 5-to-4 majorities that viewed with great suspicion government policies that took account of race in federal contracting, employment and electoral redistricting. Her view was that the government should not be in the business of counting by race.

But in Grutter v. Bollinger, the University of Michigan case decided in 2003, she became persuaded that affirmative action in university admissions was still justified. "Effective participation by members of all racial and ethnic groups in the civic life of our nation is essential if the dream of one nation, indivisible, is to be realized," she wrote.

Until the pair of Ten Commandments decisions this week, which found her in dissent from the ruling that upheld a Ten Commandments monument on the grounds of the Texas Capitol, she had occupied a central position on the role of religion in public life.

Beginning with her earliest years on the court, Justice O'Connor adopted her own test for evaluating whether government policy amounted to an unconstitutional establishment of religion. Instead of a three-part test that the court used, she asked whether the government policy under review conveyed to nonadherents the message that they were "outsiders, not full members of the political community."

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This led her to vote to prohibit public prayer at high school graduations and football games, but to insist on equal access for student religious publications and clubs. In 2002, she voted with the 5-to-4 majority that upheld the use of publicly financed tuition vouchers at religious schools. In her opinion this week concurring with the 5-to-4 majority that declared framed copies of the Ten Commandments hanging in Kentucky courthouses to be unconstitutional, she said the Constitution's religion clauses "protect adherents of all religions, as well as those who believe in no religion at all."

On the other most intensely fought social issue of the day, abortion, Justice O'Connor's successor will not be in a position to move the court away from its support of the core right to abortion, now at 6 to 3. But in the court's last major abortion ruling, five years ago, Justice O'Connor provided the crucial fifth vote to strike down Nebraska's ban on what were called "partial birth" abortions.

She has been a loyal ally of her Stanford Law School classmate Chief Justice William H. Rehnquist in the court's continuing reappraisal of the relationship between the states and the federal government, joining the five-member majority in a series of cases that have insisted on greater respect for the sovereignty of the individual states while limiting the role of Congress.

One of the few federalism cases in which she and Justice Rehnquist parted company came last year in Tennessee v. Lane, on whether states were immune from being sued for failing to make their courthouses accessible to people with disabilities. Justice O'Connor provided a fifth vote against immunity, while Chief Justice Rehnquist dissented. The plaintiff was a man who used a wheelchair and who had been forced to crawl up the stairs to reach the courtroom in a Tennessee county courthouse.

To the extent that Justice O'Connor had an overall judicial philosophy, she might have expressed it most directly in an opinion dissenting from a 1995 decision that authorized public school districts to subject student athletes to drug testing without any suspicion of individual wrongdoing. The policy was justified to deal with rampant student drug use, the district had argued in Vernonia School District v. Acton.

In her dissenting opinion, Justice O'Connor warned that judges should be wary of overreacting to such arguments.

"Some crises are quite real" but some are not, she said. "The only way for judges to mediate these conflicting impulses is to do what they should do anyway: stay close to the record in each case that appears before them, and make their judgments based on that alone."

Sandra O'Connor's pragmatic approach to life and the law was probably born in the stark and isolated desert of the Southwest that she described in vivid detail in "Lazy B," a childhood memoir she published three years ago. The Day family ranch, 250 arid square miles straddling the Arizona-New Mexico border, "was no country for sissies," she wrote.

The house, 35 miles from the nearest town, had neither electricity nor running water. Her companions were horses and ranch hands, and her goal as the first-born child was to be useful around the place and to please her hard-driving, perfectionist father. When things broke, they needed to be fixed. There was little room for discussion and none for theorizing.

Fulfilling her father's own ambition that had been thwarted by the lack of money, she attended Stanford University and Stanford Law School, where she graduated third in the class of 1952 at the age of 22. The top honors in the class went to a World War II veteran more than five years her senior, William H. Rehnquist. He went on to a Supreme Court clerkship. As a woman, she could not get a job with the law firms to which she applied, receiving offers of secretarial jobs instead.

She turned to the public sector as a lawyer for state and local governments, while raising three sons with her husband, John, who had been a fellow law-review editor at Stanford. The couple settled in Phoenix, where civic activities led her to a career in Republican politics. The Arizona governor appointed her to a vacant seat in the State Senate in 1969, and she later twice won election. She became majority leader, the first woman in the country to hold such a high leadership position in a state legislature.

In 1974, she was elected to a seat on the state trial court. Five years later, Gov. Bruce Babbitt, a Democrat, appointed her to the state appeals court, where she was serving when President Reagan, who had promised to appoint a woman to the Supreme Court, chose her in July 1981 for the first vacancy to occur during his term. She was confirmed unanimously, forever to be known as the first woman on the Supreme Court, or F.W.O.T.S.C., as she has put it dryly.

Although hardly a feminist in terms of political activism, Justice O'Connor demonstrated from her earliest years on the court a sensitivity to issues of sex discrimination that she maintained throughout her tenure.

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One of her first majority opinions, in 1982, came in Mississippi University for Women v. Hogan. The 5-to-4 decision declared unconstitutional the exclusion of a male applicant from a state-supported, women-only nursing school. Her opinion warned against using "archaic and stereotypic notions" about proper roles for men and women.

On several occasions, including this year, she joined the four more liberal justices to uphold a broad interpretation of a federal statute addressing sex discrimination. In 1999, for example, she wrote the opinion for a 5-to-4 majority in Davis v. Monroe County Board of Education, holding public school districts accountable for one student's sexual harassment of another student.

And during the term that just ended, she wrote the majority opinion in another 5-to-4 decision, Jackson v. Birmingham Board of Education, that expanded the scope of the sex discrimination law known as Title IX to provide protection against retaliation for whistle-blowers who complain about discriminatory practices in schools and colleges.

One exception came in 2000, when she joined Chief Justice Rehnquist's 5-to-4 majority opinion in United States v. Morrison, invalidating a provision of the Violence Against Women Act on the ground that Congress had lacked the constitutional authority to enact the law.

The most famous, or notorious, 5-to-4 opinion in 2000 was, of course, Bush v. Gore, which ended the Florida recount and effectively called the presidential election for George W. Bush. Justice O'Connor joined the unsigned opinion that declared the conditions of the recount to violate the constitutional guarantee of equal protection.

While Mr. Bush was undoubtedly pleased by that decision, he was just as undoubtedly displeased last year when the court refused to accept his administration's position that the federal courts lacked jurisdiction to hear challenges to the open-ended detention of those being held both at the United States naval base at Guantánamo Bay, Cuba, and in military custody in the United States.

"A state of war is not a blank check for the president," Justice O'Connor wrote for the court in Hamdi v. Rumsfeld. She said "history and common sense teach us that an unchecked system of detention carries the potential to become a means for oppression and abuse of others." In a second case decided at the same day last June, Rasul v. Bush, she joined the majority opinion extending federal jurisdiction to the Guantánamo detainees.

During the term that ended on Monday, Justice O'Connor was on the losing side in two major cases: Kelo v. City of New London, which upheld governmental power to use eminent domain for economic development, and Gonzales v. Raich, upholding the federal government's power to enforce federal drug laws in states that permit marijuana to be used for medical purposes.

Justice O'Connor learned she had breast cancer early in the court's 1988 term and underwent a mastectomy and follow-up treatment. She never missed a day that the court was on the bench, and only years later did she reveal publicly, in a talk to other cancer survivors, how stressful the period had been. She also bounced back quickly from an emergency appendectomy.

In recent years, she has maintained an active schedule of public speaking and foreign travel, in addition to writing two books. It was her husband's deteriorating health, not her own brushes with illness, that finally wore down a woman who still proudly refers to herself as a cowgirl.

"She has taught us all," her friend and colleague Stephen G. Breyer said Friday in a statement released by the court.

In The Center, Hers Was The Vote That Counted (WP)

By Charles Lane

The Washington Post, July 2, 2005

Justice Sandra Day O'Connor's retirement leaves a hole at the center of the Supreme Court and, in a sense, at the center of the country.

During her 24-year tenure, the Republican and Democratic parties came increasingly under the influence of their ideological cores, and Washington grew deeply polarized between left and right.

But O'Connor remained something of a throwback: a moderate Republican, known as a broker of compromises during her long-ago tenure as Arizona's Senate majority leader, who used her pivotal position on the court to keep the law under which all Americans must live from veering toward any extreme.

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On a nine-member court that often mirrored the liberal-conservative split of the larger society, O'Connor repeatedly cast the fifth and deciding vote, not to establish sweeping new constitutional principles but to make law that she thought would make sense to the American people.

The first woman on the court thus became the most powerful woman in the United States -- a fact that was acknowledged even by her conservative rival on the court, Antonin Scalia, who said in a statement yesterday that "she has become a star. The statistics show that during her tenure she shaped the jurisprudence of this Court more than any other Associate Justice."

O'Connor was guided not only by her political fingertips. She had a deep-rooted pragmatic sensibility that owed much to her upbringing on a desolate western cattle ranch -- and rather less to the fixed doctrinal principles contained in law books.

"Justice Scalia said the rule of law is the law of rules," said Eugene Volokh, a former law clerk to O'Connor who teaches constitutional law at UCLA. "Justice O'Connor's view was that the work of the law is making the law work."

Or, as O'Connor put it in dissenting from a ruling by liberal and conservative colleagues who teamed up to strike down state sentencing guidelines in a 2004 decision, "If indeed the choice is between adopting a balanced case-by-case approach . . . and adopting a rigid rule that destroys everything in its path, I will choose the former."

But when they were not angling for her vote, lawyers of both the left and the right would sometimes complain that her approach introduced too much instability into the law and made too many important issues into guessing games about her intentions.

"We have a living Constitution. Her name is Sandra Day O'Connor, and thank God she's retiring," Kevin J. "Seamus" Hasson, founder and president of the conservative Becket Fund for Religious Liberty, said yesterday.

"Her support for separation of church and state was not consistent," said Barry W. Lynn, executive director of the liberal Americans United for Separation of Church and State.

In his 1980 GOP presidential campaign, Ronald Reagan, concerned about the pro-Democrat "gender gap" that had opened up among voters, promised that he would name a woman "to one of the first Supreme Court vacancies in my administration."

When Justice Potter Stewart informed the White House in 1981 that he planned to retire, President Reagan asked aides for a list of possible replacements that included women. At the time, there were few women with significant experience on the bench, and not many of them were Republicans. O'Connor, then a little-known 51-year-old judge on Arizona's appeals court, filled the bill.

Though she had been active in the ill-fated 1964 presidential bid of Sen. Barry Goldwater (R-Ariz.) and she had been friends since law school with William H. Rehnquist, the conservative who would later sit next to her on the court, O'Connor was widely known in her home state as a middle-of-the-roader.

In fact, she was elevated to the court of appeals in 1979 by a Democratic governor, Bruce Babbitt.

In the Arizona Senate, she had voted against busing for school integration and opposed gun control. After the Supreme Court overturned state death penalty laws in 1972, O'Connor was a leader of an effort to write a new one for Arizona.

But she had also supported bilingual education, opposed state aid to private religious schools and was a strong advocate of the proposed federal Equal Rights Amendment.

On abortion, she had voted against a ban on state funds for abortions for poor women, and opposed a bill prohibiting abortions at the University of Arizona hospital. At the same time, she voted to give hospital personnel the right to refuse to participate in abortions.

Conservative warnings that this record made her an unreliable vote against Roe v. Wade, the 1973 decision that recognized a constitutional right to abortion, were outweighed by the historical impact of putting a woman on the court, and she won unanimous confirmation in the Senate.

O'Connor was surprised by her selection and, initially, daunted by the challenges of a court where she had never so much as witnessed an argument before her first day at work in October 1981.

"One of my most poignant memories in life was the day her commission was read to her in the presence of the president and the members of Congress and she put on her robe and ascended to the bench," said Theodore B. Olson, who argued many cases before O'Connor as a private lawyer and as solicitor general of the United States under President Bush.

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But, characteristically for a woman who had overcome law firms' refusal to hire her after graduation from Stanford Law School in the early 1950s, she plunged into the work and quickly made a mark.

She became a close friend of Justice Lewis F. Powell, then a moderate conservative on the court who, three years before O'Connor's arrival, had tried to define a centrist answer to the bitterly disputed Bakke affirmative-action case, suggesting that racial quotas in university admissions were unconstitutional but that using race as a "plus factor" to help qualified minorities was not.

The hallmark of O'Connor's style was what University of Chicago law professor Cass R. Sunstein called "judicial minimalism." She would decide cases incrementally, making no more law than was necessary to deal with the particular set of facts before her.

Her opinions were an exercise in keeping her options open; they would often contain qualifications or exceptions that reappeared in later cases as her rationale for reaching a seemingly different result on a similar issue.

And, when she was the fifth member of a majority, she sometimes issued a concurring opinion that articulated a narrower basis for the decision -- and became the de facto controlling precedent.

In 1985, O'Connor articulated a case-by-case "endorsement" test for deciding whether a given governmental action in support of religion violated the Constitution. According to O'Connor, the First Amendment's ban on the establishment of an official religion meant that governments could not advance or endorse religion.

The phrase "under God" in the Pledge of Allegiance, and a Cleveland program that gave parents government money to send their children to parochial schools, passed constitutional muster with her, while the posting of the Ten Commandments in a county courthouse or on the Texas Capitol grounds could not.

She generally voted for conservative positions on crime, economic regulation and, especially, states' rights. Among the federal laws O'Connor voted to strike down as violating state sovereignty were one that barred the carrying of a firearm within 1,000 yards of a school, a provision of the Americans With Disabilities Act permitting disabled state employees to sue their bosses for discrimination, and a provision of the Violence Against Women Act that let rape victims sue their attackers in federal court.

In her last term on the court, O'Connor dissented in a 6 to 3 ruling that gave the federal government the power to override California's state law permitting the use of homegrown "medical marijuana."

Noting that she would have voted against legal marijuana if she were a Californian herself, O'Connor faulted the court for "stifl[ing] an express choice by some States, concerned for the lives and liberties of their people, to regulate medical marijuana differently."

Yet O'Connor's backing for states' rights was not unlimited. She would not let it become a means to roll back what she saw as the core social advancements of the 1960s and '70s.

Two years ago, she voted with the majority to uphold the right to sue state employers for violating the federal Family and Medical Leave Act, in a case widely seen as a test of gender equality in the workplace.

In 2004, she joined the liberals in a 5 to 4 ruling that said states could be sued under the disabilities act if they fail to make their courthouses accessible to the handicapped.

And on abortion and race, O'Connor, after expressing many Americans' second thoughts about the social changes of the '60s and '70s, ultimately decided not to undo them.

In 1983, the court, citing Roe v. Wade , struck down an Akron, Ohio, ordinance that put regulations on abortion, including a required 24-hour waiting period. O'Connor dissented, offering some critical words about Roe .

She heartened conservatives again in 1986 and 1989, when she voted to uphold abortion regulations in Pennsylvania and Missouri.

But in 1992, when appointees of Reagan and President George H.W. Bush seemed to have a majority to overturn Roe , O'Connor hesitated.

She invoked an alternative constitutional balancing test that she had hinted at in early opinions: that the right to abortion could be limited only as long as the state did not impose an "undue burden" on it.

She voted to reaffirm Roe , striking down the Pennsylvania law's requirement that wives notify their husbands before an abortion.

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In 2000, O'Connor was also in the majority when the court ruled, 5 to 4, that a Nebraska law banning late-term abortion violated O'Connor's "undue burden" test. Yet she issued a separate concurring opinion suggesting she would not rule out all efforts to legislate against a procedure that opponents call "partial-birth" abortion.

Justice Harry A. Blackmun, the author of Roe , concluded it was no surprise the Supreme Court's first woman had voted to affirm Roe .

"She is a believer in states' rights in the sense that she feels an issue of this general nature should be left to the state legislatures and not be federally constitutionalized," Blackmun said in an oral history of his years on the court that was published early last year. But, he added, "she is a woman and may fear somewhat any accusation of being a traitor to her sex. Some women's organizations would so conclude."

Whatever her private motivations, O'Connor's ambivalent embrace of Roe was consistent with the American public's. According to Gallup polls going back to 1992, a significant majority opposes "completely" overturning Roe ; according to a 2004 Washington Post-ABC News poll, only 17 percent of Americans think abortion should always be illegal, while only 21 percent think it should always be legal.

During the 1980s and '90s, O'Connor helped the court establish the rule that affirmative action should be subjected to the same "strict scrutiny" as discrimination against minorities. As O'Connor saw it, only "compelling" governmental goals could justify affirmative action, and even then programs would have to be "narrowly tailored."

Yet for all her reservations about affirmative action, O'Connor never ruled it out. In her 1995 opinion enshrining "strict scrutiny" of affirmative action, for example, she insisted that the "unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country is an unfortunate reality, and government is not disqualified from acting in response to it."

In 2003, when white students challenged their denial of admission in favor of black students with lower test scores at the University of Michigan, O'Connor backed the university.

Diversity in higher education could, indeed, qualify as a compelling state interest, she wrote for a five-member majority consisting of her and the court's four most liberal members. As long as a school did not mechanically assign minorities' applications extra points, but gave all students individualized consideration, its approach would be constitutional under Powell's opinion in Bakke .

Her opinion took sympathetic note of the views of large corporations, university deans and retired military officers whose friend-of-the-court briefs called affirmative action necessary to educate a racially integrated elite -- and, by implication, to preserve the stability and legitimacy of the American meritocracy. Her only nod to critics of the programs was her expressed wish that they might no longer be necessary in 25 years.

Once again, O'Connor's position -- diversity, yes, quotas, no -- was roughly in line with public opinion.

In a Fox News poll published shortly after the affirmative-action decision, O'Connor ranked as the Supreme Court justice Americans "most admire or agree with."

Analysis: Last Day Reflected O'Connor's Legacy (PPG)

By Michael Mcgough

Pittsburgh Post-Gazette, July 2, 2005

On Monday, likely her last day on the Supreme Court bench, Justice Sandra Day O'Connor served as the fifth vote for the court's holding that two counties in Kentucky violated the First Amendment by posting the Ten Commandments in their courthouses.

But in addition to signing the majority opinion of Justice David H. Souter, one of the court's staunchest advocates of a strict separation of church and state, O'Connor wrote a separate concurring opinion, in which she emphasized that the court was ruling as it did "for the same reason that guided the Framers -- respect for religion's special role in society. ...

"Voluntary religious belief and expression may be as threatened when government takes the mantle of religion upon itself as when government directly interferes with private religious practices."

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O'Connor's role in the Ten Commandments case -- providing that fifth vote for the majority while writing separately in softer tones -- exemplified the influential role she has played in her 24 years on the court.

It is a cliche that O'Connor is a swing vote -- sometimes voting with liberals, sometimes with conservatives -- but she has been more than a whimsical wild card. Her case-by-case approach and penchant for separate concurrences have prevented the court from embracing extreme positions.

To the consternation of more ideological colleagues, especially Justice Antonin Scalia, O'Connor has become the arbiter of entire areas of constitutional law, including the role of religion in public life.

She is the author of what is called the "endorsement test" for determining whether government involvement with religion violates the First Amendment. Under that test, the court asks whether a "reasonable observer" would consider, say, a Nativity scene in a courthouse to be an endorsement of religion.

"O'Connor has been remarkably consistent and consistently influential," said Nancy Maveety, a Tulane University associate professor political science and author of "Sandra Day O'Connor: Strategist on the Court."

Maveety, who has analyzed O'Connor's voting patterns over many years, described the justice as "contextually conservative," which means she is "comparatively restrained when it comes to revising or overturning precedent and is likely to reason by exception when faced with a case not adequately covered by an existing rule."

Maveety described O'Connor's approach to judging as "judicial accommodationism," and said O'Connor had made it a practice to join "minimum-winning collations" on the court, enhancing her influence further by writing either "regular" concurring opinions (in cases in which she also signed the majority opinion) or "special" concurrences, in which she concurred only in the result.

The result of O'Connor's "accommodationism," Maveety said, is that the court as a whole often will embrace a "common-sense" position in tune with public opinion.

That's the problem, O'Connor's critics have charged. They accuse her of being unprincipled and acting like the legislator she once was.

In reacting yesterday to O'Connor's retirement, Derek Gaubatz, director of litigation of the Becket Fund for Religious Liberty, praised the justice for her generous view of the First Amendment's Free Exercise Clause but complained about her approach to another part of the First Amendment, which bars the "establishment" of religion by government.

"She was stubbornly resistant to any sort of categorization." Gaubatz said.

"Her 'reasonable observer' test for government display of religious symbols led the court away from any principled interpretation of what counts as an 'establishment of religion' to a subjective test that varied with the whims (including frequently O'Connor herself) of the individual justices."

But the case-by-case approach that O'Connor's critics see as a vice is regarded as a virtue by some legal observers.

"In any given era, you're likely to find someone occupying that middle position on the court," said Edward B. Foley, an Ohio State University law professor and former state solicitor of Ohio. "Like Justice Lewis Powell [in the 1970s and '80s], Justice O'Connor was a balancer, and it's not surprising that a balancer ends up as a swing vote."

Ken Gormley, a Duquesne University law professor who is close to O'Connor, offered a similar description: "I think she really made her name in recent years as a pragmatist; she found practical solutions to impossible problems."

Upon O'Connor's departure, the court's position on several issues could be up for grabs now, depending on the philosophy of the women or man who President Bush chooses to succeed her. This would not have been so true had it been Chief Justice William H. Rehnquist who announced his retirement, a prospect that was widely expected because of his poor health.

"The stakes are much higher after an O'Connor retirement than after a Rehnquist retirement," said Michael Comiskey, associate professor of political science at Penn State's Fayette campus and author of "Seeking Justices: The Judging of Supreme Court Nominees."

"If [Bush] chooses someone in the mold of Justice [Antonin] Scalia or [Clarence] Thomas, I think we would have another situation like the one involving Robert Bork," Comiskey said, referring to former President Ronald Reagan's controversial and eventually unsuccessful nominee for justice in 1987. "On the other hand, if he chose someone who was perceived as only a moderate conservative, confirmation would be easier."

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Within hours of O'Connor's announcement yesterday, e-mails were flying in Washington filled with interest groups' litanies of the decisions in which she had cast the crucial vote favoring a liberal position -- holdings that might be undone by a more ideologically conservative successor.

* Religion. In addition to her votes this week to strike down Ten Commandments monuments on public property in Kentucky and in Texas (she was in the minority on the latter case), O'Connor was part of a 5-4 majority that ruled in the 1992 case of Lee v. Weisman that a prayer at a public-school graduation was unconstitutional.

* Abortion. O'Connor joined the majority in the 1992 Planned Parenthood of Southeast Pennsylvania v. Casey decision that reaffirmed the essential holding of Roe v. Wade by a 5-4 vote. In 2000, she was part of a 5-4 majority in Stenberg v. Carhart striking down a Nebraska law banning so-called "partial-birth" abortions. A similar federal law is moving up the appeals process.

* Affirmative action. O'Connor wrote the majority opinion in the 2003 case of Grutter v. Bollinger upholding an affirmative-action program at the University of Michigan Law School and reaffirming a principle first enunciated in the 1978 Bakke case that state universities may consider race as one factor in admissions.

* Civil rights. Although critical in earlier cases of "racial gerrymandering" designed to maximize minorities' voting power, O'Connor was part of a 5-4 majority in the 2001 case of Hunt v. Cromartie allowing legislators to take race into account in redistricting. Last year, in Tennessee v. Lane, O'Connor joined with four liberal justices to uphold the right of disabled people to sue state governments under the Americans with Disabilities Act.

Although much attention yesterday was focused on swing votes in which O'Connor supported a liberal result, she often swung in the conservative direction.

Along with Rehnquist, Scalia, Thomas and Anthony Kennedy, O'Connor was a member of the "Federalism Five," a bare majority that struck down part or all of two federal laws -- the Gun-Free School Zones Act and the Violence Against Women Act -- on the grounds that they infringed on states' rights.

University of Pittsburgh law professor Arthur Hellman noted yesterday that O'Connor remained an ardent supporter of states' rights through her final term. For example, she vigorously dissented from last month's 6-3 decision in Gonzales v. Raich upholding the right of the federal government to prosecute users of medical marijuana in California, despite the fact that the state allows use of the drug by cancer patients.

Hellman cited that dissent and O'Connor's equally astringent dissent in last week's 5-4 Kelo v. City of New London decision upholding use of eminent domain as evidence that this term she has been "going back to her roots," voting conservatively.

O'Connor Leaves Bench In Limbo (DMN)

By Allen Pusey

The Dallas Morning News, July 2, 2005

Sandra Day O'Connor, who provided the critical vote in some of the most controversial cases of the last quarter-century, primed the U.S. Supreme Court for a major shift in ideology with her retirement from the bench Friday.

AP Supreme Court Justice Sandra Day O'Connor promised to stay until a successor is confirmed, a process that is sure to be contentious.

In a letter to the White House, the 75-year-old justice gave no reason for her departure, though it is widely known that she has been concerned about her husband's failing health.

Justice O'Connor was appointed in 1981 as the first woman on the court, and her instinctively practical jurisprudence was decisive in cases involving abortion, affirmative action, sexual privacy and the death penalty. Though she promised to stay until a successor is confirmed, her departure sets up a high-stakes battle for control of the nation's highest court.

In her letter to President Bush, she said: "It has been a great privilege indeed to have served as a member of the court for 24 terms. I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure."

Mr. Bush praised Justice O'Connor as "a discerning and conscientious judge and a public servant of complete integrity." He said he would recommend a replacement who would "faithfully interpret the Constitution and laws of our country."

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A quick choice for her successor is anticipated, perhaps within a week. But the White House, which had been poised to name a successor for ailing Chief Justice William Rehnquist, now faces the politically sensitive task of replacing not only the court's first woman but its most visible moderate.

Mark Tushnet, a constitutional scholar at Georgetown University said her departure would likely have a more dramatic effect than the widely anticipated resignation of the chief justice.

"Her retirement and replacement provides the opportunity for an appointment that might dramatically change the court's direction – or accelerate its transformation into a much more conservative court," Mr. Tushnet said.

1st vacancy in 11 years

Justice O'Connor's retirement creates the court's first vacancy in 11 years. The current group of justices has been together longer than any other since 1823.

Appointed by President Ronald Reagan, the Texas-born justice was routinely conservative in many of her votes. But her pragmatic approach made her an unexpected light for reproductive rights advocates, civil rights groups and death penalty opponents.

Though her crucial vote in Bush vs. Gore, the case that helped decide the 2000 election, ushered in the current administration, her perceived inconsistency frustrated conservatives who saw contradiction and politics in many of her high-profile decisions.

•In 1992, her vote preserved the right to abortion but seriously narrowed that right as first granted in Roe vs. Wade.

•Though she supported the death penalty, she persistently voted to prohibit its use against the mentally retarded and juveniles.

•Two years ago, she voted to preserve the use of affirmative action but limited its use in college admissions.

•Though she helped ban prayer at high school events, she didn't support a recent decision to block displays of the Ten Commandments in two Kentucky courthouses.

So pivotal was her swing vote that experienced Supreme Court litigators often tailored their arguments to her best-known views.

Sen. John Cornyn, who argued two cases before the high court as Texas attorney general, said he tailored his arguments to Justice O'Connor and fellow moderate Anthony Kennedy. "You virtually ignore the rest of the justices in terms of your strategy, because if you can get a Kennedy and an O'Connor, then you're going to win," he said.

Historian David J. Garrow said that kind of power speaks more to the balance of the court than her philosophy as a jurist. He said her narrowly tailored opinions often determined the outcome of a case but sometimes left issues unsettled.

FILE/AP Chief Justice Warren Burger (left) swore in Sandra Day O'Connor, with her husband, John O'Connor III.

"Her importance derived from the fact that she was in the middle," Mr. Garrow said.

Justice O'Connor usually dismissed such analyses as irrelevant.

She responded recently to an author who had concluded that her opinions varied from her colleagues in ways that were "peculiarly feminine."

"I would guess that my colleagues on the Court would be as surprised as I am by these conclusions," she wrote.

Early days on ranch

Justice O'Connor has long credited her background as the key to her jurisprudence. Her early life on a ranch, the professional barriers she faced as a woman, and her experience as the only justice to have held an elective office are critical to understanding her view of the law, she has suggested.

FILE/AP Sandra Day O'Connor testified on her nomination to the high court in 1981. Her nomination came less than two years after she joined the Arizona Court of Appeals.

Born as the first of three children in El Paso on March 26, 1930, the young Sandra Day spent her earliest winters attending Radford, a small school for girls in El Paso, and her earliest summers at her grandfather's ranch in Arizona, where she learned to mend fences, ride horses and shoot a rifle.

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The Lazy B in southeast Arizona was a working cattle ranch of nearly 200,000 acres founded decades before Arizona became a state. Justice O'Connor often recounted that the diligent work required to maintain it was a powerful influence on the values she carried through her life.

She graduated from high school at 16 to enter Stanford University, where she graduated magna cum laude in 1950 with a degree in mathematics. In 1952, she graduated third in her class of 102 students at Stanford Law School. Graduating first in that class was William Rehnquist.

Shortly after graduation, she married law review colleague John O'Connor III. Mr. O'Connor, who graduated law school a year behind his wife, stayed at Stanford while Mrs. O'Connor left for Phoenix. She was unable to find work as a lawyer in Phoenix because private firms would not hire women. The only work she was offered was that of a legal secretary, which she declined in favor of a job with the county attorney's office in San Mateo, Calif.

FILE/AP President Ronald Reagan made Sandra Day O'Connor the first woman on the Supreme Court in 1981.

While her husband was in the service, Mrs. O'Connor worked as a civilian lawyer overseas for the Army, then returned to Phoenix to open her own firm. She stopped working when her second child was born to concentrate on motherhood. Through volunteer and charity work, however, she built an impressive public service résumé. She became an active Republican and, in 1969, was appointed by a Democrat to an open seat in the Arizona state Senate.

In 1974, Mrs. O'Connor was elected to the Maricopa County Superior Court and five years later to the Arizona Court of Appeals. Less than two years later, President Reagan – who had vowed to appoint a woman to the Supreme Court – appointed her to the vacancy left by the retirement of Justice Potter Stewart.

Her nomination was confirmed in the U.S. Senate, 99-0.

Dubbed the "Arizona Twin" of Justice Rehnquist during her first term on the court, she voted as he did in all but four of 31 decisions decided by a single vote. But as years passed, she became better identified with Justice Lewis Powell, whose narrow opinions she began to imitate. As a former state legislator, the approach seemed to fit her philosophy and her temperament, and she has been unapologetic for considering the practical outcome of court decisions.

Justice O'Connor had been rumored to retire since she had breast cancer since 1988. Recent reports that her husband has Alzheimer's disease gave those rumors more credence, and Friday's announcement did not come as a total surprise.

She gave no indication of her plans after she leaves the court. In recent months, however, she has been re-establishing a presence in Arizona, and her eldest son, Scott O'Connor, said she would likely return there. He said his mother would probably write, teach and perhaps hear cases by special appointment to federal appeals courts.

Justice O'Connor Had Pivotal Role In Big Rulings (WT)

By Stephen Dinan

The Washington Times, July 2, 2005

Justice Sandra Day O'Connor provided the critical swing vote on a series of important 5-4 decisions during her tenure, essentially setting the current legal standard on issues from abortion to religion to affirmative action.

"Justice O'Connor has been the pivot on most of the major decisions that were decided 5-4," said Sen. John Cornyn, Texas Republican. "I argued two cases to the United States Supreme Court when I was [Texas] attorney general and, as every lawyer will tell you who argues to the United States Supreme Court, you argue to get Justice O'Connor, and Justice [Anthony M.] Kennedy, in close decisions. You virtually ignore the rest of the justices in terms of your strategy, because if you can get a Kennedy and an O'Connor, you win."

With four solidly liberal justices, three solidly conservative justices and one conservative leaner in Justice Kennedy, Justice O'Connor's vote was usually the tie-breaker between the two positions.

She wrote the majority opinion in a 5-4 case upholding the University of Michigan law school's affirmative action policy in 2003. Earlier this week, she sided with the liberal justices in a 5-4 case prohibiting a display of the Ten Commandments in a Kentucky courtroom.

Kevin J. Hasson, founder of the Becket Fund for Religious Liberty, a conservative group that defends free expression of religion, said he is happy to see Justice O'Connor go.

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"We have a living Constitution, her name is Sandra Day O'Connor and thank God she's retiring," Mr. Hasson said, adding that whoever replaces her will bring "clarity" to constitutional law on religion. "Right, left or center, the law will be clearer, and that in itself is a good thing."

Justice O'Connor was also part of the 5-4 majority that upheld the severe restrictions on donations to federal political campaigns that were part of the McCain-Feingold Bipartisan Campaign Reform Act of 2002. And she was part of the 5-4 majority that overturned a ban on a late-term abortion procedure commonly called partial-birth abortion.

But she sided with the court's conservatives in limiting federal power on cases such as overturning the 1994 Violence Against Women Act. That ruling prevents rape victims from suing their attackers in federal court.

And on the death penalty, she usually sided with the conservatives in upholding it, though she acknowledged in a 2001 speech that "serious questions are being raised" about its implementation.

With Republicans in control of the confirmation process, her retirement provides them with a chance to solidify the rulings in which she sided with the other conservatives on the court. Democrats find themselves playing defense in trying to preserve the balance when she sided with the court's liberals.

Nelson Lund, a former clerk to Justice O'Connor and now a law professor at George Mason University, said she didn't set out to be the key vote.

"She has been a pragmatic judge, and also a cautious judge, disinclined to make sweeping theoretical pronouncements," he said. "I think just by chance it's turned out there were enough people on either end of the ideological spectrum of the court that are willing, that that makes her the swing vote."

Justice O'Connor was a leader on the court on the issue of federalism, siding with the conservatives on the court in limiting the extent of federal power. Still, true to form, Mr. Lund said, she often wrote concurring opinions that "could be read as suggesting a little more caution" than the rest of the majority.

O'Connor's Independent Voice Made Her A Pivotal Figure (KRT)

By Stephen Henderson

KRT – Independent Swing Vote, July 2, 2005

In her best-selling memoir about growing up on a dusty cattle ranch in Arizona, Sandra Day O'Connor said that her childhood had endowed her with three pivotal values: openness, independence and generosity.

ADVERTISEMENT

If you had to sum up O'Connor's 24-year tenure on the Supreme Court - first woman justice, key decider of every major social controversy for a quarter century, confounder of both the far right wing and the nation's most liberal elements, the public face of the high court to millions at home and abroad - you wouldn't need to look further than those three words.

O'Connor's hard-scrabble upbringing on the Lazy B ranch is the perfect prism through which to view her work as one of the nation's most influential jurists. Practical and deliberative. Tough but moderate - and willing to change her mind. Hard working and independent, but mindful of the barriers that hinder some Americans' progress.

O'Connor embodies the kind of conservatism championed by Ronald Reagan, the president who nominated her to the court, and Barry Goldwater, the senator from her native Arizona who pioneered a revolution in libertarian thought. But she has shied from the more shrill conservatism of the modern Republican Party, alienating her from some of its current leaders.

"We're very fortunate that she was the first woman to serve on the court because she has been an absolutely independent voice, strong minded and strong willed," said Marci Hamilton, a professor at the Benjamin Cardozo School of Law at Yeshiva University and a clerk for O'Connor during the 1989-90 term. "She has her own internal moral compass, and she's not sitting around waiting to see what everyone else thinks before she makes up her mind. That's how she wound up in the center of the court. We laugh about it because she is now called liberal. But that's not who she is."

Nor was that what Reagan intended O'Connor to be when he nominated her in 1981.

Then, the court was dominated by Democratic appointees, and it tilted toward the expansive federal power and progressive legislation that had flowered in the past three decades.

O'Connor was Reagan's first appointment, fulfilling a promise he'd made during his campaign to put the first woman on the court, and she was expected to provide an important conservative counterbalance.

She did that most notably by joining William Rehnquist and other conservatives in championing a more delicate balance between the reach of the federal government and the rights of the states.

By the early 1990s, with a Republican majority on the court, O'Connor became a crucial voice in landmark decisions that formed the contours of the Rehnquist court's legacy. Federalism, or the idea that many questions should be left to states, is now a fundamental part of the court's legacy. In a 1992 opinion, in a case about Congress requiring states to provide for disposal of radioactive waste, O'Connor made the issue clear.

"The constitutional question is as old as the Constitution: It consists of discerning the proper division of authority between the Federal Government and the States," O'Connor wrote for the majority in New York v. United States.

In another case about whether a Virginia death-row inmate could raise claims - including one of innocence - in federal court after having them dismissed in state court, O'Connor was just as blunt.

"This case is about federalism," she wrote in the opening line of her opinion. "This Court will not review a question of federal law decided by a state court if the decision of that court rests on a state law ground that is independent of the federal question and adequate to support the judgment."

O'Connor also helped the court pare back the reach of some federal gun laws and congressional legislation aimed at helping battered women. She has been instrumental in Rehnquist-led efforts to limit federal review of search-and-seizure requirements during traffic stops and the ways in which death-row defendants can challenge their sentences.

But as tough as O'Connor can be on federalism questions, she also has shown a penchant for compassion and sympathy on many social issues - and a tendency to soften some positions over time. Her social pragmatism has put her at odds with other justices and conservative politicians who favor a more ideological approach.

Initially a critic of the landmark abortion case Roe v. Wade, for example, O'Connor eventually turned away attempts to overturn it. Instead, she has pushed for - and won - court rulings that call for permissible restrictions that are judged by whether they impose "undue burdens" on women seeking abortions.

In the 1989 case, Webster v. Reproductive Health Systems, O'Connor voted to uphold a Missouri provision that prevented public employees from performing abortions, but she insisted that Roe was law and shouldn't be revisited.

By 1992, her view was carrying the day, in Planned Parenthood v. Casey. The majority opinion in that case made it clear that the right to abortion wouldn't be threatened soon by the court.

"Liberty finds no refuge in a jurisprudence of doubt," O'Connor wrote. "Yet, 19 years after our holding that the Constitution protects a woman's right to terminate her pregnancy in its early stages, that definition of liberty is still questioned. ... The essential holding of Roe v. Wade should be retained and once again reaffirmed."

Similarly, O'Connor has refined her position on affirmative action.

In a 1989 case, she called a Richmond, Va., effort to boost minority contractors unconstitutional because it didn't meticulously document the past discrimination it was trying to remedy. O'Connor was central in developing the court practice of closely scrutinizing any race preferences, and she has tended to frown on them.

But in the key 2003 case challenging the constitutionality of race preferences in admissions at the University of Michigan Law School, O'Connor cast the deciding vote to retain the practice.

"Attaining a diverse student body is at the heart of the Law School's proper institutional mission, and its `good faith' is `presumed' absent a showing to the contrary," O'Connor wrote in Grutter v. Bollinger.

O'Connor has also confounded conservatives with thoughts about separation of church and state.

In a 1997 case about public schools providing services to poor children in sectarian schools, O'Connor led the charge in overturning a hard separation of church and state, saying an earlier ruling was too strict.

She also voted with the court majority to approve public vouchers for Cleveland students to attend religious schools.

But just last week, O'Connor voted to have two Ten Commandments monuments removed from courthouses in Kentucky and the state capitol grounds in Texas, arguing that both were improper entanglements of government and religion. Though

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most of the court's conservatives voted to uphold the more benign Texas monument, O'Connor balked, saying such symbolism was more divisive than helpful.

The separation of church and state has "kept religion a matter for the individual conscience, not for the prosecutor or bureaucrat," O'Connor said. "At a time when we see around the world the violent consequences of the assumption of religious authority by government, Americans may count themselves fortunate: Our regard for constitutional boundaries has protected us from similar travails, while allowing private religious exercise to flourish."

That kind of opinion inspired this quote about O'Connor, from Kevin J. "Seamus" Hasson, who founded the Becket Fund for Religious Liberty, a Washington-based interest group.

"Her approach to religion law questions made everything a matter of what an imaginary, objective observer would think. But there was no way to know what this imaginary person would think, until Justice O'Connor imagined it," Hasson said. "She was well-intentioned, but she was slowly but surely reinventing monarchy."

Nathaniel Persily, a constitutional expert and professor at the University of Pennsylvania's law school, said O'Connor is an easy target for those who support strict interpretations of the Constitution, but it's her ability to compromise that also gave rise to her prominence.

"Books will be written on her influence on the court and her approach as a justice," he said. "She not only became the decisive voice, but the lighthouse that lawyers look at to see where the court is going."

Sandra Day O'Connor To Retire (TIME)

By PATRICK STACK

Time, July 2, 2005

Supreme Court Justice Sandra Day O'Connor, nominated as the first woman on the Supreme Court 24 years ago and a key swing vote throughout her term, announced her retirement today. Her appointment to the Supreme Court in 1981 ended the Court's 191 years as an exclusively male institution.

O'Connor, 75, came up as a graduate of Stanford law and judge in the Arizona Court of Appeals. With the retirement of Justice Potter Stewart in 1981, Ronald Reagan kept a campaign promise of nominating a woman to the Supreme Court for the first time in U.S. history, as TIME noted in a cover story, "The Brethren's First Sister". She was confirmed 99-0 in the Senate and took her seat on the Court in a wave of celebration ("A New Order in the Court", 1981).

Though she had been nominated by a Republican president, O'Connor did not always hold the conservative line in Supreme Court decisions. She had a reputation of approaching each decision on a case-by-case basis, rather than through a sweeping judicial philosophy (see "Establishing Her Independence", 1986). She was the critical swing vote in upholding Roe v. Wade in the 1992 Planned Parenthood v. Casey decision, but voted to end the presidential ballot recount in 2000's Bush v. Gore.

Now, President Bush will nominate her replacement, with a Senate vote to confirm. Some of the potential choices: Attorney General Alberto Gonzales (see "Bush's Supreme Challenge", 2003) and federal appeals Judges J. Michael Luttig and John G. Roberts. Gonzales, who would be the first Hispanic justice on the court, is seen as the most moderate of the bunch and could face opposition from within Bush's party. Luttig is a conservative similar to Antonin Scalia or Clarence Thomas, and has been a strong proponent of federalism. Roberts served in the Justice Departments of both Reagan and George H.W. Bush.

O'Connor Known For Pragmatic Style (AP-Y2)

By Anne Gearan, Associated Press Writer

AP2, July 2, 2005

For many years, transcripts of Supreme Court arguments did not identify which justice had asked a given question. Nonetheless, it was usually easy to tell Sandra Day O'Connor's questions apart.

They were short, sometimes just one word, such as "Why?" And she often challenged lawyers arguing cases big or small to tell her the real-world effect that a Supreme Court ruling on the matter would have.

O'Connor, who announced her retirement Friday at age 75, was a pragmatist among ideologues, a centrist whose vote could often be a tiebreaker on the court's most contentious issues. Off the bench, she was both generous and demanding, and fully aware of the intimidating effect she had on other people.

The toughness and independence of her upbringing on an Arizona a ranch showed in O'Connor. She could be short-tempered and blunt, and she did not suffer pesky reporters lightly. She was accustomed to asking the questions, not answering them.

Her gaze, with cool blue eyes, is direct and uncompromising. When asked a question she disliked, such as when she would retire, she sometimes said nothing at all.

She often told interviewers and law students that she was stunned when President Reagan picked her as the first woman nominee to the high court.

"My concern was whether I could do the job of a justice well enough to convince the nation that my appointment was the right move," she said in during a discussion at Cardozo law school in 2000. "If I stumbled badly in doing the job, I think it would have made life more difficult for women, and that was a great concern of mine and still is."

She was outwardly comfortable with that powerful role, and with the social and professional obligations that came with the job. She traveled widely to give speeches, was a regular on the Washington social circuit and wrote a best-selling autobiography about growing up on an Arizona cattle ranch.

In a one-sentence statement, O'Connor cited her age and said she "needs to spend time" with family. She and her husband, John, a former classmate at Stanford, have three sons, Scott, Brian and Jay.

John O'Connor has been in declining mental and physical health for several years. For a time, he accompanied his wife to court nearly every day, sitting quietly in a reserved section near the front of the courtroom or in a chair near a window in her airy chambers.

Although she has probably made more public appearances than her colleagues on the court, and gave dozens of interviews about her book, she and her husband have maintained their privacy about his health and what effect it might have on her work.

O'Connor Leaves Legacy As Key Swing Vote (AP-Y2)

By PETE YOST

AP2, July 2, 2005

WASHINGTON - Sandra Day O'Connor's legacy is in the key votes she cast on such divisive issues as abortion rights, religion and affirmative action. The Supreme Court's pragmatist often was the pivotal voter in decisions that could shape the legal landscape for generations.

The 75-year-old grandmother, who calls herself a simple "cowgirl from Arizona," staked out the middle ground on a court that is often polarized on major social subjects.

In her nearly 24 years as a justice, O'Connor was wooed by conservatives and liberals on the court, but neither side could always count on her vote. Her decisions revealed a practical side, concerned most with the impact of rulings on everyday life.

"As the first woman to be appointed to this court, Sandra Day O'Connor was thrust into the spotlight as no new justice has ever been. And she has become a star," Justice Antonin Scalia said. "She shaped the jurisprudence of this court more than any other associate justice."

To the consternation of conservatives, she joined court liberals in 2000 in upholding the right of women to have abortions if their health is in danger. Later that year, she voted with conservatives in awarding the disputed presidential election to George W. Bush.

In recent years her influence has been obvious. She wrote the 2004 decision that said the war on terrorism did not give the government a "blank check" to hold terror suspects in legal limbo. She also led a 5-4 court in 2003 in upholding an affirmative action program at the University of Michigan's law school.

"Justice O'Connor is kind of like Ted Williams. Hit a home run the last time up and head off into the sunset," said Tom Walsh, a former colleague of O'Connor's lawyer husband, John.

In retirement, she will teach a law class at the University of Arizona and probably continue writing. She already has two books: "The Majesty of the Law; Reflections of a Supreme Court Justice," published in 2003, and the 2002 "Lazy B," about her childhood on a cattle ranch in Arizona.

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She is the most recognized and popular of the justices. She received more than 60,000 letters in her first year, more than any other member in the court's history. Fierce bidding broke out last year on e-Bay for an O'Connor bobblehead doll.

Former Solicitor General Theodore Olson said O'Connor will be remembered for her "charm, grace, kindness, poise, character and intelligence."

"She's been one of the most influential justices in U.S. history," said Jay Sekulow, chief counsel of the American Center for Law and Justice.

President Reagan broke nearly 200 years of tradition when he chose a woman for the high court.

O'Connor was 51 when she replaced the retired Potter Stewart. A virtual unknown on the national scene until her appointment, she had been an Arizona state judge.

She showed an independent streak from the beginning. In her first term, she cast the deciding vote and wrote a 5-4 ruling that said a Mississippi all-women college must let a male student study nursing.

In the years since, she often played down her role as a pivotal voter, but lawyers arguing appeals considered her vote so crucial that they often tailored arguments for her.

O'Connor generally favored states in disputes with the federal government.

She supported allowing a public Christmas display including a creche, but voted to bar a public Christmas display of a creche alone. Her view was that the Constitution prohibits any government action that is intended to send a message endorsing religion. Her vote determined the outcome in both cases.

This year has brought her some wins and losses. She wrote a strong dissent to a 5-4 ruling that let local governments take people's homes to build malls and other businesses. "The specter of condemnation hangs over all property," O'Connor wrote. "Nothing is to prevent the state from replacing ... any home with a shopping mall, or any farm with a factory."

She also disagreed with decisions that barred states from executing juveniles and allowed federal drug agents to get around state medical marijuana laws.

She joined liberals in a 5-4 votes to overturn a death sentence and expand the scope of a landmark gender equity law.

Justice Clarence Thomas said O'Connor has been "civil in dissent and gracious when in the majority."

"She has taught us all," Justice Stephen Breyer said.

O'Connor had been a top student at Stanford Law School, where she dated then-classmate William H. Rehnquist, even hosting him in Arizona during a summer break. She married another law student and experienced her first discrimination, when no law firm was interested in hiring her, except as a secretary.

O'Connor has said she was surprised by the reaction to her nomination to the Supreme Court.

"I had no idea when I was appointed how much it would mean to many people around the country," she said. "It affected them in a very personal way. People saw it as a signal that there are virtually unlimited opportunities for women. It's important to parents for their daughters, and to daughters for themselves."

O'Connor Leaves ... (LAT)

The Los Angeles Times, July 2, 2005

One fact sums up Justice Sandra Day O'Connor's pivotal role on the Supreme Court and the enormity of her resignation — she alone was in the majority of every one of the court's 13 5-4 decisions this last term.

The Democrats' genuine sorrow in seeing O'Connor leave 24 years after being picked by President Reagan is a tribute to her moderating influence. Sen. Harry Reid of Nevada, the minority leader, urged President Bush on Friday to appoint someone else "like O'Connor" to the court.

O'Connor, the first woman to serve on the nation's highest court, is an inspiration not only to female lawyers but to pioneers in other fields. She is in other ways a throwback — a former politician on a court that is no longer that welcoming to politicians. Among current justices, O'Connor is the only one who served in a legislature, back in Arizona.

That political experience helped shape O'Connor's jurisprudence, and the fact that she rarely seemed intent on building something as haughty-sounding as a "jurisprudence." O'Connor is less interested in all-encompassing principles than in the case before her, and its practical, nitty-gritty facts.

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The result could be maddening to lower courts and scholars looking for clear guidance. Some areas of the law, especially church-state relations and voting rights, remain muddled because O'Connor's answer to every constitutional question seemed to be a cautious "depends." In another area of the law, O'Connor upheld the University of Michigan Law School's affirmative action program but voted to strike down the same university's undergraduate affirmative action plan because they differed in their details.

The positive side of O'Connor's pragmatic approach to judging is that it applied a brake to the ideologically driven conservative counterrevolution. No one engaged with real-world facts, for instance, could allow Roe vs. Wade to be overturned.

In affirming the Michigan law school's program, O'Connor did indulge in soaring rhetoric: "Effective participation by members of all racial and ethnic groups in the civic life of our nation is essential if the dream of one nation, indivisible, is to be realized."

O'Connor's own biography no doubt contributed to her tolerance. She graduated third in her Stanford Law School class but could not get hired by a major law firm. Gibson, Dunn & Crutcher, the Los Angeles blue-chip firm, insultingly offered her a secretarial job.

Born in West Texas and raised on an Arizona ranch, she espoused a Western version of conservatism tinged with libertarianism. She voted to strike down state sodomy laws and wrote the opinion chastising President Bush for thinking he could indefinitely detain people without judicial oversight in the war on terrorism. Her levelheaded common sense on the bench will be missed.

A Dedication To Excellence From A Jurist Without Precedent (WP)

By Ann Gerhart And Roxanne Roberts

The Washington Post, July 2, 2005

When Supreme Court justice Potter Stewart announced his retirement in 1981, President Reagan summoned a former Republican activist and lawmaker, a judge sitting on the Arizona Court of Appeals, to the Oval Office. Sandra Day O'Connor was a wife, married for almost 30 years at that point to a law school classmate; a mother, whose three boys were nearly grown; and a daughter of the West, whose rancher daddy taught her to brand cattle and brandish a .22 by the time she was 8.

Reagan said later she charmed him immediately with her passion for horses, which he shared. They chatted about judicial issues; he never mentioned the Supreme Court opening.

She said later she "got on the airplane and sat down and took a big breath and said, 'My, that was an interesting time to go to Washington. But thank goodness I don't have to do that job.' "

O'Connor, 75, yesterday announced she is giving up "that job," which she held for nearly a quarter-century. For much of that time, she has been described as the most influential woman in America, a designation that always stuck in her craw. The way she was raised, and the way she has lived, is simply to work hard and attentively in all the realms of her life, from the law to the Arizona Senate to court trials, from the Junior League to her golf game, from her friendships to her 1988 battle with breast cancer.

"All her life, whatever she did, whether it was important, or unimportant, or semi-important, or very important, she just would do it to perfection," her younger brother, H. Alan Day, told The Post years ago. "If you said, 'The job is to wash dishes well,' she would do it better than anyone else."

The very nature of her vaunted position has allowed her to blend and balance all these realms with a grace and dignity many powerful women never achieve. Outside the publicity glare that descends on first ladies and female politicians, O'Connor in Washington created quite a modern model for any women who hope to fashion lives both professionally and personally full. She is her own mix of frontier woman and distinguished jurist, able both to mug in a cowboy hat and to cast the crucial swing vote in more than a dozen 5-4 decisions.

Friends and family members have said she is a down-to-earth woman, generous and funny, given to throwing birthday celebrations for her clerks and sending thank-you notes seemingly written as soon as she arrived home.

But she is also reserved and private; her own son told the Associated Press that yesterday's resignation caught him by surprise. In her letter to President Bush, the justice made no mention of why she was ending her lifetime appointment. Supreme Court spokeswoman Kathy Arberg said O'Connor said she "needs to spend more time with her husband," John, 75. The justice

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has told close friends that he is suffering from Alzheimer's. None of the couple's three sons and six grandchildren lives in the area.

Her husband has been a full partner in her life from their days at Stanford Law School, where they were editors on the law review. Sandra Day graduated third in her class (first in the class was William Rehnquist, now the chief justice). The two of them dated, "a few movies and one thing or another," as O'Connor explained it, but once she accepted a date from John O'Connor, they had dates the next 39 nights in a row, "until he decided he needed to get some rest," she said.

When she brought O'Connor back to the 198,000-acre ranch straddling Arizona and New Mexico, her father tormented him by taking a piece of baling wire, skewering the testicles of the bull he had just castrated and grilling them in the branding fire. Then he held out the delicacy, standard cocktail-hour fare on the Day ranch, and said, " 'Here, John, try these.' " O'Connor recalled. "And poor John, he had to take one and gulp, 'Very good, Mr. Day.' " With that test passed, the couple wed as soon as she graduated law school. She was 22.

None of the law firms in California would hire her as a lawyer, although she did get an offer to be a secretary, "depending on my typing," she likes to recall, and not with total amusement, even all these years later.

She took a job as a deputy county attorney. After her husband's military tour of duty in Germany, he got a well-paying corporate job in Phoenix and she hung out a shingle with another attorney. When her second child was born in 1960, she decided to stay at home. She threw herself into volunteer work, becoming president of the Phoenix Junior League, and kept her hand in the law with the occasional appointment as trustee in a bankruptcy case and juvenile court referee.

During the '60s, she was an assistant attorney general in Arizona, then served out the term of a state senator who stepped down. She won two elections on her own, and became the first woman in the country to be a Senate majority leader in 1973. A year later she moved to the bench and was appointed to the state's appeals court in 1979.

She had not fixed herself to a particular life course. "I don't think it would be fair to say that, for Sandra, drive was one of those things that meant she must get to a specific goal," Hattie Babbitt, an attorney, told The Post in 1986. She urged her husband, Arizona Gov. Bruce Babbitt, to appoint O'Connor to the state court. "The kind of drive she has is she's very smart, and very organized, and she would always want to be very good at what she does. You can do that and not be in the right place at the right time. But she did and she was."

It was John O'Connor to whom she turned when President Reagan called and asked if she would accept his nomination to the Supreme Court. She hesitated, not sure what to do. A move for her meant career upheaval for him. "You cannot say no to the president," he told her.

But the woman whose style is to make decisions and resolutely never look back arrived in the nation's capital scared to death. "I felt intimidated by Washington and everything there," she told George Vradenburg, chairman of the Phillips Collection. She loved her Arizona, and the way the expanse of limitless sky and land kept a person humble. Frequently, she evoked author Wallace Stegner to describe her feelings for the West: "There is something about exposure to that big country that not only tells an individual how small he is, but steadily tells him who he is."

She and her husband eventually settled in Chevy Chase and joined the exclusive Chevy Chase Club. She took up golf with her usual perseverance bordering on obsession, taking lessons with a pro and hitting buckets of balls every Saturday for four years before she ever set foot on the course. Her first outing, she broke 90.

Over the years, O'Connor and her husband maintained a social schedule that could seem almost frenzied. They are sought-after guests at A-list parties, popping up often at the Kennedy Center, the National Gallery of Art and embassies around town. "She and John were often the very first on the dance floor," said Walter Cutler, president of Meridian International Center. "They just love to dance. They had a unique dance step -- I wouldn't call it a Charleston, but it has that same festive air."

In 1985, O'Connor was seated at the head table at the Washington Press Club's annual dinner, where Redskins star John Riggins drunkenly told her, "Loosen up, Sandy baby. You're too tight!" Then he passed out on the floor. An embarrassed Riggins sent apologies and roses the next day. Seven years later, Riggins appeared in a play at a suburban Washington theater, and O'Connor presented him with a dozen roses during the curtain call.

When asked for a comment yesterday about the infamous incident, Riggins, with his characteristic politesse, hung up on a reporter.

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O'Connor, on the other hand, is well known as a great dinner partner: curious, lively, engaged, with a dry sense of humor and knack for telling stories.

Her ranch upbringing had isolation, deprivation and years of financial distress, but her parents were highly cultivated people. They subscribed to the Wall Street Journal, the Los Angeles Times, the New Yorker, Vogue and Time. Her mother was a college graduate who ordered her clothes from Neiman Marcus and Saks; when she drove her daughter into town, 25 miles away, to get the mail, the residents would crowd around just to see what Ada Mae Day was wearing.

Her daughter has taken full advantage of what can be fascinating and stimulating in the capital city.

"I've watched her in social situations, and what you find is that there is no limit to her interests," said philanthropist Catherine Reynolds. "She is interested in everything . She just embraces life and all it curiosities." Reynolds seated country singer Dwight Yoakam next to O'Connor at a dinner in March. "He must have thanked me a dozen times. He said it was the most interesting night of his life. He just enjoyed her tremendously."

Two years ago, Reynolds and her husband, Wayne, brought more than 200 graduate students to Washington to meet with politicians, scientists, historians, businessmen and artists. They asked O'Connor to speak to the group, and they were all invited to the Supreme Court chambers, where they heard O'Connor and Ruth Bader Ginsburg talk about the court, the Constitution and the decision that gave the 2000 election to George W. Bush.

"She is so special," said Reynolds. "She is a great inspiration for young people from all around the world, but especially young women. She's very forthcoming in talking about her experiences and her struggles. . . . When she talks to you, you get that sense of authenticity, how real she is. You feel a connection with her."

O'Connor seemed especially solicitous of female clerks with children. University of Florida law professor Barbara Bennett Woodhouse, who was a 40-year-old mom when she clerked 20 years ago, recalls how the justice insisted that Woodhouse fly to Connecticut to see her 11th-grade daughter perform Gilbert & Sullivan.

"She said, 'This is a must-attend event.' She picked up the phone, called her travel agent and told me about the flights," said Woodhouse. "She had a very strong appreciation for the importance of our families."

Twenty-three years ago, she summoned yoga and aerobics instructors to hold 8 a.m. classes for women working in the Supreme Court; they're still going strong, and O'Connor joins in. "She was a big believer in the well-rounded life," said another former clerk, Marci Hamilton, now a Cardozo School of Law professor. "She is the opposite of the 24-7 law partner. . . . A very human person. . . . She never let anyone believe that law was the beginning and end of your life."

As hard on her clerks as she was on herself, she counterbalanced her demands for excellence and long hours with warm gestures: they recall how she'd swoop into the office and announce an impromptu afternoon jaunt to see the cherry blossoms or, on one occasion, a new Degas exhibit at the National Gallery. She also set up weekend field trips: horseback riding in Rock Creek Park, rafting in West Virginia, a visit to Harpers Ferry.

She even cooked lunch for Saturday sessions at which she and her clerks discussed upcoming oral arguments. "That was my introduction to green chili casserole," recalled Phoenix lawyer Scott Bale, an O'Connor clerk in 1984-85. "It left me with a long-term affection for green chili."

As she has nurtured relationships on the court, keeping her ties with Rehnquist and playing bridge with justices Anthony Kennedy and Stephen Breyer, she has built "deep and lasting friendships," said Lynda Webster. She and her husband, former FBI and CIA director William Webster, are close friends of the O'Connors and share a passion for fly-fishing, tennis and golf. "She's a go-getter," said Webster. "She's game for anything. She really has an incredible zest for life."

The couple told some friends they were giving up their Chevy Chase home and purchasing an apartment on New Mexico Avenue.

The Websters and the O'Connors had dinner together last week, but Webster said neither she nor any other of O'Connor's friends had a hint of the pending resignation. "None of us knew, but then again, we would never ask."

Timeline: Sandra Day O'Connor's Key Decisions (WP)

The Washington Post, July 2, 2005

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The following are key decisions and events in the career of Justice Sandra Day O'Connor.March 29, 2005: Jackson v. Birmingham Board of Education

Decision allows a male teacher to bring a Title IX claim if he complains about sex discrimination.

Findlaw Case DocumentsApril 28, 2004: Hamdi v. Rumsfeld

This decision rejected the Bush administration's position on enemy combatants and rules that a citizen held in the United States must be given an opportunity to challenge the factual basis of the detention before a neutral decison maker.

Findlaw Case Documents

Post: U.S. Allows Lawyer for Citizen Held as 'Enemy Combatant'Dec. 10, 2003: McConnell v. FEC

The ruling, which O'Connor co-authored with Justice John Paul Stevens, declares the McCain-Feingold campaign finance law constitutional.

Findlaw Case Documents

Post: Justices Uphold Campaign Finance Law June 23, 2003: Grutter v. Bollinger, Gratz v. Bollinger

Findlaw Case Documents (Grutter v. Bollinger)

Findlaw Case Documents (Gratz v. Bollinger)

Post Article: Affirmative Action for Diversity Is Upheld

Post Article: O'Connor Questions Foes of U-Michigan Policy April 8, 2003

O'Connor publishes her second book, The Majesty of the Law: Reflections of a Supreme Court Justice.

Post Article: Bench Marks

Post Article: A Cowgirl's Sense of the Constitution and the Court March 5, 2003: Ewing v. California and Lockyer v. Andrade

O'Connor affirms California's "3-Strikes" law that long prison terms for repeat offenders are legal

FindLaw Case Documents

Post Article: California '3-Strikes' Law UpheldJan. 22, 2002

Post Profile: The O'Connor FactorJuly 3, 2001

Post Article: O'Connor Expresses Death Penalty DoubtDec. 12, 2000: Bush v. Gore

O'Connor votes with the 5 to 4 majority that effectively makes George W. Bush the 43rd president of the United States.

Findlaw Case Documents

Post Article: Opinion Is Sharply Divided on Ruling's Consequences

Post Article: Court May Have Mapped New Territory June 28, 2000: Stenberg, Attorney General of Nebraska v. Carhart

Stenberg, Attorney General of Nebraska v. Carhart Findlaw Case Documents

Hill v. Colorado Findlaw Case Documents

Post Article: Supreme Court Upholds Two Key Abortion Rights May 16, 1999

O'Connor calls on judges nationwide to ensure fairness for all.

Post Article: Justice O'Connor Calls for 'Concrete Action' to Fight Bias June 24, 1997: Agostini v. Felton

O'Connor delivers the decision allowing public school teachers to enter parochial schools to provide remedial education.

Findlaw Case Documents

Post Excerpts From Ruling: 'We Have Departed From the Rule' June 29, 1992: Planned Parenthood of Southeastern PA v. Casey

Justices O'Connor, Anthony M. Kennedy and David Hackett Souter reaffirm what they called the "central holding" of the Supreme Court's 1973 ruling in Roe v. Wade.

Findlaw Case Documents

Post Article: 5-4 Court Declines to Overrule Roe June 26, 1990

O'Connor votes to strike down a portion of an antiabortion law that would have required a minor, virtually without exception, to notify both parents before obtaining an abortion.

Post Article: O'Connor Breaks Ranks With Reagan Appointees June 11, 1990: United States v. Eichman

O'Connor dissents when the court rules that flag-burning is protected by the First Amendment.

Findlaw Case Documents June 21, 1989: Texas v. Johnson

O'Connor dissents as the court protects a citizen's right to make a political statement by burning s privately owned U.S. flag.

Findlaw Case Documents

April 29, 1989

Post Article: Justice O'Connor's Question Oct. 22, 1988

Post Article: Justice O'Connor Has Breast Cancer Surgery April 22, 1987: McCleskey v. Kemp

O'Connor joins with the court in upholding capital punishment law.

Findlaw Case Documents

Post Article: Capital Punishment Law Upheld June 4, 1985: Wallace v. Jaffree

O'Connor concurs in the court's judgment that moments of silence in public schools are in and of themselves constitutional, but may not "characterize prayer as a favored practice."

Findlaw Case Documents July 1, 1982: Mississippi University for Women v. Hogan

O'Connor rules in favor of a male applicant seeking admission to the Mississippi University for Women nursing school.

Findlaw Case Documents Sept. 25, 1981

O'Connor takes the oath of office. Sept. 22, 1981

O'Connor is confirmed by the Senate. July 7, 1981

O'Connor is nominated by President Reagan as the first woman associated justice of the Supreme Court.June 28, 2000

The Supreme Court upholds two key abortion rights, with O'Connor voting with the majority. Stenberg, Attorney General of Nebraska v. Carhart * Findlaw Case Documents Hill v. Colorado * Findlaw Case Documents * Post Article: Supreme Court Upholds Two Key Abortion Rights

&ovar14=May 16, 1999 O'Connor calls on judges nationwide to ensure fairness for all. * Post Article: Justice O'Connor Calls for 'Concrete Action' to Fight Bias

&ovar13=June 24, 1997 Agostini v. Felton O'Connor delivers the decision allowing public school teachers to enter parochial schools to provide remedial education. * Findlaw Case Documents * Post Excerpts From Ruling: 'We Have Departed From The Rule'

&ovar12=June 29, 1992 Planned Parenthood of Southeastern PA v. Casey O'Connor, Kennedy and Souter, reaffirmed what they called the "central holding" of the Supreme Court's 1973 ruling in Roe v. Wade. * Findlaw Case Documents * Post Article: 5-4 Court Declines to Overturn Roe

&ovar11=June 26, 1990 O'Connor votes to strike down a portion of an antiabortion law that would have required a minor, virtually without exception, to notify both parents before obtaining an abortion. * Findlaw Case Documents * Post Article: O'Connor Breaks Ranks With Reagan Appointees

&ovar10=June 11, 1990 United States v. Eichman O'Connor dissents when the court rules that flag-burning is protected by the First Amendment. * Findlaw Case Documents

&ovar9=June 21, 1989 TX v. Johnson O'Connor dissents, as the court protects a citizen's right to make a political statement by burning s privately-owned U.S. flag. * Findlaw Case Documents

&ovar8=April 29, 1989 O'Connor voices reservations about Roe and about abortion itself, as well as concerns about individual liberty. * Post Article: Justice O'Connor's Question

&ovar7=October 22, 1988 O'Connor undergoes breast cancer surgery * Post Article: Justice O'Connor Has Breast Cancer Surgery

&ovar6=April 22, 1987 McCleskey v. Kemp O'Connor joins with the court in upholding capital punishment law. * Findlaw Case Documents * Post Article: Capital Punishment Law Upheld &ovar5=June 4, 1985 Wallace v. Jaffree O'Connor concurs in the court's judgment that moments of silence in public schools are in and of themselves constitutional, but may not "characterize prayer as a favored practice." * Findlaw Case Documents &ovar4=July 1, 1982 Mississippi University for Women V. Hogan O'Connor rules in favor of a male applicant seeking admission to the Mississippi University for Women nursing school. * Findlaw Case Documents

&ovar3=July 7, 1981 O'Connor is nominated by President Reagan as the first woman associate justice of the Supreme Court.

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&ovar2=September 25, 1981. O'Connor takes the oath of office.

&ovar1=September 22, 1981 O'Connor is confirmed by the Senate. &checkLoad=1&

Opinions By Justice Sandra Day O'Connor (NYT)

The New York Times, July 2, 2005

Excerpts from opinions by Justice Sandra Day O'Connor:

From her 1992 plurality opinion Planned Parenthood v. Casey, which upheld a woman's constitutional right to an abortion, but gave states more flexibility to impose limited restrictions:

"We reject the trimester framework, which we do not consider to be part of the essential holding of Roe. Measures aimed at ensuring that a woman's choice contemplates the consequences for the fetus do not necessarily interfere with the right recognized in Roe, although those measures have been found to be inconsistent with the rigid trimester framework announced in that case.

"... The abortion right is similar. Numerous forms of state regulation might have the incidental effect of increasing the cost or decreasing the availability of medical care, whether for abortion or any other medical procedure. The fact that a law which serves a valid purpose, one not designed to strike at the right itself, has the incidental effect of making it more difficult or more expensive to procure an abortion cannot be enough to invalidate it. Only where state regulation imposes an undue burden on a woman's ability to make this decision does the power of the State reach into the heart of the liberty protected by the Due Process Clause."

Full Text of Opinion

From her 2003 majority opinion in Grutter v. Bollinger, which ruled the nation's public universities, for now, can take race partly into account in their admissions policies:

"We have repeatedly acknowledged the overriding importance of preparing students for work and citizenship, describing education as pivotal to "sustaining our political and cultural heritage" with a fundamental role in maintaining the fabric of society. This court has long recognized that "education is the very foundation of good citizenship." For this reason, the diffusion of knowledge and opportunity through public institutions of higher education must be accessible to all individuals regardless of race or ethnicity.

" ...We take the law school at its word that it would "like nothing better than to find a race-neutral admissions formula" and will terminate its race-conscious admissions program as soon as practicable. It has been 25 years since Justice Powell first approved the use of race to further an interest in student body diversity in the context of public higher education. Since that time, the number of minority applicants with high grades and test scores has indeed increased. We expect that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today."

Full Text of Opinion

From her 2004 majority opinion in Hamdi v. Rumsfeld, ruling a U.S. citizen seized on the Afghanistan battlefield can challenge his detention in U.S. courts:

"We have long since made clear that a state of war is not a blank check for the President when it comes to the rights of the Nation's citizens. ... (It) would turn our system of checks and balances on its head to suggest that a citizen could not make his way to court with a challenge to the factual basis for his detention by his government, simply because the Executive opposes making available such a challenge.

"... Any process in which the executive's factual assertions go wholly unchallenged or are simply presumed correct without any opportunity for the alleged combatant to demonstrate otherwise falls constitutionally short. ... We have no reason to doubt that courts faced with these sensitive matters will pay proper heed both to the matters of national security that might arise in an individual case and to the constitutional limitations safeguarding essential liberties that remain vibrant even in times of security concerns."

Full Text of Opinon

DOJ_NMG_0000559

From her 1984 concurrence in Lynch v. Donnelly on nativity scenes that sets the legal standard for determining which displays violate the Constitution's prohibition on government establishment of religion:

"The Establishment Clause prohibits government from making adherence to a religion relevant in any way to a person's standing in the political community. Government can run afoul of that prohibition in two principal ways. One is excessive entanglement with religious institutions, which may interfere with the independence of the institutions, give the institutions access to government or governmental powers not fully shared by nonadherents of the religion, and foster the creation of political constituencies defined along religious lines.

"The second and more direct infringement is government endorsement or disapproval of religion. Endorsement sends a message to nonadherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community. Disapproval sends the opposite message."

Full Text of Opinion

From her 2005 dissent in Kelo v. New London, a ruling that gives local governments broad authority to seize people's homes and businesses against their will for private development:

"The specter of condemnation hangs over all property. Nothing is to prevent the State from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory. ... Any property may now be taken for the benefit of another private party, but the fallout from this decision will not be random. The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms.

"As for the victims, the government now has license to transfer property from those with fewer resources to those with more. The Founders cannot have intended this perverse result. 'That alone is a just government,' wrote James Madison, 'which impartially secures to every man, whatever is his own.'

Full Text of Opinion

From her majority opinion in 1984 Strickland v. Washington, setting a higher burden for death row inmates to successfully overturn their convictions based on mistakes by their attorneys:

"An error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment. ... Judicial scrutiny of counsel's performance must be highly deferential. It is all too tempting for a defendant to second-guess counsel's assistance after conviction or adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable.

"A fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time. Because of the difficulties inherent in making the evaluation, a court must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance; that is, the defendant must overcome the presumption that, under the circumstances, the challenged action "might be considered sound trial strategy."

Full Text of Opinion

A Look At Major Decisions In Which O'Connor Played Key Role (KRT)

By Michael Barnett and Andres R. Martinez

KRT – O'Connor Key Votes, July 2, 2005

The following are some of the major cases in which Sandra Day O'Connor played a significant role.

Mississippi University for Women v. Hogan

Decided: July 1, 1982

Voted: With majority

DOJ_NMG_0000560

Decision: 5-4

O'Connor voted with the majority to strike down a rule that blocked men from attending Mississippi University's nursing school.

Lynch v. Donnelly

Decided: March 5, 1984

Voted: With majority

Decision: 5-4

The court ruled that the Pawtucket, R.I., government didn't violate the separation of church and state by sponsoring a Christmas display in a shopping district.

Hazelwood School District v. Kuhlmeier

Decided: Jan. 13, 1988

Voted: With majority

Decision: 5-3

O'Connor agreed with the majority that schools had the right to block students from publishing anything they deemed inappropriate.

Texas v. Johnson

Decided: June 21, 1989

Voted: With minority

Decision: 5-4

The Supreme Court upheld that burning the American flag was a protected form of speech.

Planned Parenthood v. Casey

Decided: June 29, 1992

Voted: With majority

Decision: 5-4

The court upheld a Pennsylvania law requiring a 24-hour waiting period before abortions and that minors get the permission of at least one parent before getting abortions.

Richmond v. J.A. Croson Co.

Decided: Jan. 23, 1989

Voted: With majority

Decision: 6-3

The court struck down a Richmond, Va., law mandating that construction companies working with the city subcontract work to minority-run businesses.

Bush v. Gore

Decided: Dec. 12, 2000

Voted: With majority

Decision: 5-4

The court agreed with President George Bush's argument that Florida's recount method in the 2000 presidential election was unconstitutional because the procedure was inconsistent across the state.

Grutter v. Bollinger

DOJ_NMG_0000561

Decided: June 23, 2003
Voted: With majority
Decision: 5-4
O'Connor joined the majority in saying that the Michigan School of Law didn't violate any laws by using race as a factor in admission to that school.

Lawrence and Garner v. Texas
Decided: June 26, 2003
Voted: With majority
Decision: 6-3
The court struck down Texas law that made sodomy illegal.

Rasul v. Bush
Decided: June 28, 2004
Voted: With majority
Decision: 6-3
In a case brought by detainees held at Guantanamo Bay, Cuba, O'Connor voted with the majority that detainees held at the U.S. military base could appeal their detentions.

Roper v. Simmons
Decided: March 1, 2005
Voted: With minority
Decision: 5-4
O'Connor dissented from the court's ruling that the death penalty couldn't be applied to cases where the accused was a minor when the crime was committed.

A Look At How Justice O'Connor Voted (AP-Y2)

AP2, July 2, 2005

Justice Sandra Day O'Connor has been the swing vote on many important decisions in the 24 years since President Reagan appointed her.

In her first term, O'Connor voted with conservative Justice William Rehnquist on 27 of 31 decisions that were decided by a 5-4 vote.

But early on, she showed an independent streak. In her first term, the liberal wing of the court joined O'Connor in a 5-4 ruling declaring that a state-supported university in Mississippi could not exclude men from its nursing school.

O'Connor's role in some other cases:

_1984: O'Connor wrote a concurring opinion on nativity scenes that set the legal standard for determining which displays violate the Constitution's prohibition on government establishment of religion. She also wrote the majority opinion that set a higher burden for death row inmates seeking to overturn their convictions based on mistakes by their attorneys.

_1989: O'Connor's opinion for the court declared that government programs violate equal protection if they set aside a fixed percentage of public contracts for minority businesses.

_1992: O'Connor and Justice Anthony Kennedy joined a plurality opinion by Justice David Souter that criticized the constitutional foundation for legalized abortion, while declining to overturn the 1973 decision that legalized it.

_2003: O'Connor co-authored the majority opinion upholding 5-4 the broadest restrictions on campaign donations in nearly 30 years. She also wrote the majority opinion ruling that public universities, for now, can take race partly into account in admissions policies.

DOJ_NMG_0000562

_2004: O'Connor wrote the majority opinion that a U.S. citizen seized on the battlefield in Afghanistan can challenge his detention in U.S. courts.

_2005: O'Connor dissented from a ruling that gave local governments broad authority to seize private property for private development.

Reaction To O'Connor Resignation (AP-Y2)

By The Associated Press

AP2, July 2, 2005

Reaction to Justice Sandra Day O'Connor's announcement Friday that she was retiring from the Supreme Court:

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"For over 23 years, Justice O'Connor has been one of the Supreme Court's finest justices. As the first female justice, this simple cowgirl from Arizona has been a trailblazer for women and rightfully earned her place in history." — Senate Majority Leader Bill Frist, R-Tenn.

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"She is a longtime friend and valued colleague. I shall miss her greatly." — Chief Justice William H. Rehnquist.

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"Above all, Justice O'Connor has been a voice of reason and moderation on the court. It is vital that she be replaced by someone like her, someone who embodies the fundamental American values of freedom, equality and fairness." — Senate Democratic leader Harry Reid of Nevada.

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"She has enhanced the national and international reputation of the court, and has established — to the point where it now goes almost without notice — the role of her sex in the administration of justice." — Justice Antonin Scalia.

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"As a senior member of the Judiciary Committee, I'll be looking forward to hearing from a nominee who understands that the role of the courts is to interpret the law, not create the law." — Sen. Charles Grassley (news, bio, voting record), R-Iowa.

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"Justice O'Connor has made a splendid contribution to the law and to the court." — Justice Anthony M. Kennedy.

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"Justice O'Connor played an indispensable and pivotal role in preserving our civil liberties and constitutional rights, including a woman's right to choose. ... As the president nominates a successor, he has an opportunity to unify the country by seeking meaningful consultation with legislators of both parties and choosing a respected nominee in the manner of Sandra Day O'Connor." — House Democratic leader Nancy Pelosi of California.

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"Justice O'Connor has authored some of the most influential precedents over the last quarter-century and has been the deciding vote on some of the most contentious issues of our time. Justice O'Connor has earned the respect of her colleagues and the entire legal community for her intellectual ability, evenhandedness and judicial restraint." — Sen. Olympia Snowe (news, bio, voting record), R-Maine.

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"She has been an outstanding colleague, civil in dissent and gracious when in the majority." — Justice Clarence Thomas.

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"Justice O'Connor was a mainstream conservative. ... I hope the president will select someone who meets the high standards that she set and that can bring the nation together as she did." — Sen. Edward Kennedy (news, bio, voting record), D-Mass.

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"She has been a trailblazer and role model for many. Her resignation leaves a void that won't easily be filled." — House Speaker Dennis Hastert, R-Ill.

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"The court, the law and my life have been immeasurably enriched by her dedicated service. She has taught us all." — Justice Stephen G. Breyer.

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"A quarter-century ago, Ronald Reagan enthusiastically accepted the recommendation of Barry Goldwater and nominated a mainstream conservative who came to the court with an open mind and true judicial temperament. It is my hope the president will consult with Senate leaders, and that ultimately his choice honors Justice O'Connor by choosing someone in her mold." — Sen. Joseph Biden (news, bio, voting record), D-Del.

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"When my husband had his first opportunity to make a nomination to the Supreme Court, he very much wanted to appoint a woman. He saw in Sandra Day O'Connor a sense of fairness and devotion to the public good, and she has certainly lived up to his expectations." — Former first lady Nancy Reagan.

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She has "been one of the few moderates on the Supreme Court, not always in our favor, but frequently in favor of civil rights and women's rights. What we fear is there will be a nominee along the lines of some of the extremist judges that have been put on the appellate court by George Bush." — Kim Gandy, president of the National Organization for Women.

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"This is another opportunity for President Bush to appoint a conservative jurist to the federal judiciary who will interpret and apply the Constitution properly instead of legislating from the bench and relying on international opinion and public polls." — Republican South Carolina Attorney General Henry McMaster.

Personal And Political Concerns In A Closely Held Decision (NYT)

By Anne E. Kornblut

The New York Times, July 2, 2005

When his mother was nominated for the Supreme Court in July 1981, it came as a surprise to Brian O'Connor. He had been off skydiving, and only learned the historic news along with the rest of the nation when he got home.

On Friday morning, he had much the same experience, turning on the television to discover that his mother had announced her retirement. Mr. O'Connor, 45, said he waited a while before calling his parents at home in suburban Maryland, noting that Justice Sandra Day O'Connor had once again confounded not only the political pundits but also her own children.

"I was as surprised as anyone - but then again, not surprised," said Mr. O'Connor, a real-estate developer in Phoenix and the justice's middle child. "Publicly, there's been a lot of speculation, and there has been in the family, as well. We had our hunches. But no one knew for sure."

In their 10-minute phone conversation, Mr. O'Connor said, he congratulated his mother, but commented that the decision must have been bittersweet.

"I said, 'Well, you must have some tears as well as a smile on your face,' and she said, 'Oh, I think there were more tears,' " he said. "I think she will miss it."

His mother used a mountain-climbing metaphor to describe her feelings to her son, who scaled Mount Everest two years ago.

"I feel like I'm starting to climb down off the summit," she said.

Several factors compelled Justice O'Connor to vacate her seat, according to her son, former clerks and friends. Her husband, John Jay O'Connor III, has suffered from Alzheimer's disease and grown increasingly dependent on his wife of more than 50 years. He often spent days with her at the court, resting in her office while she sat on the bench.

Kathleen Arberg, the court's public information officer, said the justice told her that after 24 years, at age 75, it was "time now to spend time with my husband."

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Brian O'Connor would not talk about his father, a retired lawyer, out of respect for his parents' privacy. The couple met at Stanford Law School, where the future Supreme Court justice was in the same class as William H. Rehnquist, the future chief justice, whom she briefly dated.

"That she needs to spend more time with John O'Connor strikes me as entirely credible," said Gerhard Casper, the former president of Stanford University and a friend of Justice O'Connor's for two decades. "He's hanging in there. Sometimes it is better, and sometimes it is worse."

The O'Connors plan to move to a townhouse they recently bought in northwest Washington from their home in Chevy Chase, Md., a move that was one factor fueling speculation that Justice O'Connor was not planning retirement any time soon. Her friends had long speculated that one reason she would step down would be to move back to Arizona, where the couple still own a home.

But Brian O'Connor said that, on the contrary, his parents enjoyed their active lives in Washington, and intended to split their time evenly between the capital and Phoenix. Like past retired justices, she will keep an office at the Supreme Court.

Aside from Justice O'Connor's personal concerns, her son said that political calculations were almost certainly at play in her decision to step down. In a week consumed with speculation about whether the ailing Justice Rehnquist would retire, Justice O'Connor waited until Friday to announce her plans.

Brian O'Connor said he did not know whether his mother had put off resigning out of deference to a possible Rehnquist departure or whether the two old friends had consulted.

"There's no telling who will be our next president, and I just think, like so many of her decisions, it just kind of made sense," her son said.

"And I think in some regards, the stars aligned, and it was just kind of time," he said. "I don't think she would want to be an old 'hanger-oner.' And if she didn't do it now, she might have been there another 10 years, if you do the math, depending on what happens down the road with future presidential elections."

His mother made no public comment about her coming departure beyond the one-paragraph resignation letter to President Bush.

Justice O'Connor was seen getting off a flight Friday at the Minneapolis-St. Paul International Airport, preceded by Representative Jim Ramstad, Republican of Minnesota, according to The Associated Press. He told her, "I hate to see you go."

"I hate to go, too," she replied. "It's been a real privilege."

O'Connor, First Female Justice, Retires From Supreme Court (KRT)

By Ron Hutcheson and Stephen Henderson

KRT – O'Connor Retires, July 2, 2005

Justice Sandra Day O'Connor, the first woman and a key swing vote on the Supreme Court, announced her resignation Friday, touching off a fierce battle over her replacement.

Her surprise decision to retire after 24 years on the high court was a political thunderbolt because of her role in moderating the court's conservative wing. A staunchly conservative replacement could tip the court's balance on a host of issues, including abortion rights, gay rights, civil liberties, the death penalty, racial preferences and the government's regulatory powers.

On Capitol Hill, the Senate braced for the possibility of a bitter, divisive and distracting confirmation debate that could sidetrack other legislative business for months.

O'Connor's resignation creates the first Supreme Court vacancy in 11 years, and the confirmation process will play out in the relatively new world of 24-hour news, Internet interest groups, ideologically driven bloggers and polarized politics.

O'Connor, 75, said she was stepping down to spend more time with her husband, John, who has SEARCH

News | News Photos | Images | Web" /> Alzheimer's disease.

"It has been a great privilege, indeed, to have served as a member of the court for 24 terms," she said in a short note that was delivered to

President Bush on Friday morning. "I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure."

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Bush praised the departing justice and promised to name a replacement in time for the court's next term, which begins in October. White House aides said he wouldn't announce his choice until after July 8, when he returns from a trip to Europe.

The list of possible candidates includes Attorney General

Alberto Gonzales, who'd be the first Hispanic on the court. The most likely female nominees appear to be appellate court Judges

Edith Jones and Edith Brown Clement, both on the 5th U.S. Circuit Court of Appeals in New Orleans.

Other appellate judges who could be tapped for promotion are J. Harvie Wilkinson of the 4th Circuit in Richmond, Va.; J. Michael Luttig, also of the 4th Circuit; Michael McConnell of the 10th Circuit in Denver; Samuel Alito of the 3rd Circuit in Philadelphia;

Emilio Garza of the 5th Circuit; and

John Roberts of the U.S. Court of Appeals for the District of Columbia.

"The nation deserves, and I will select, a Supreme Court justice that Americans can be proud of," Bush said in a brief statement from the White House

Rose Garden. "The nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote."

The president said he'd consult the Senate before making his choice, but he offered no clues about his intentions with regard to the court's philosophical balance.

O'Connor specified that her resignation wouldn't take effect until her replacement is confirmed.

Her fellow justices paid tribute to her in statements issued by the court.

Clarence Thomas, two stalwart conservatives who often disagreed with O'Connor, praised her temperament.

Scalia called her "a star" who "shaped the jurisprudence of this court more than any other associate justice." Thomas said she was "civil in dissent and gracious when in the majority," and always "warm and courteous."

Ruth Bader Ginsburg, the court's only other woman, recalled O'Connor's surprise appearance in a 1996 theatrical production of Shakespeare's "Henry V." O'Connor's character uttered the line "Hap'ly, a woman's voice may do some good."

"Sandra Day O'Connor's voice has done enormous good in the pursuit of justice for all in our land and the world," Ginsburg said.

Activists at both ends of the political spectrum swung into action within minutes of her announcement. O'Connor's planned departure gave groups that had been on alert for a possible resignation by Rehnquist a new, even more pressing reason to rally supporters.

"Her replacement will turn the direction of this court," said the

Rev. Rob Schenck, the president of Faith and Action, a conservative Christian group. "We are already praying and working for a nominee that will not waffle as she did."

The liberal group MoveOn began airing a new television ad urging Bush to avoid an "extremist" nominee.

"The president should honor O'Connor and appoint a moderate Supreme Court justice," said Ben Brandzel, the organization's advocacy director. "If

President Bush nominates an extremist, it will be up to senators to say no, and the American people will make sure that they do just that."

Sen. Arlen Specter (news, bio, voting record), R-Pa., the chairman of the Senate Judiciary Committee, said: "This is a very polarized country when it comes to the issues which will come to the Supreme Court. I would expect people to want their choice. And everybody can't have their own way."

Specter said he expected to hold confirmation hearings in September but didn't rule out action in August if Bush submitted a name to the Senate.

A resignation announcement from Rehnquist would roil the waters even more, but that doesn't seem as likely as it did earlier this year. The 80-year-old chief justice has thyroid cancer but seems to have rallied recently and looks much less feeble than he did when he delivered the oath of office to Bush in January.

Democrats said they'd consider a filibuster, a parliamentary tactic that involves unlimited debate, to block any nominee they considered extremist. Although Senate confirmation requires a bare majority - 51 votes in the 100-member Senate - it takes 60 votes to end a filibuster.

In a deal negotiated with Republicans in May, centrist Democrats had said they'd use the filibuster against judicial nominees only under "extraordinary circumstances."

"That's an option,"

Sen. Christopher Dodd (news, bio, voting record), D-Conn., said when he was asked Friday about filibustering. "I hope we can avoid that. I don't think any of us relish the idea."

O'Connor's decision to retire capped a remarkable career that mirrored the changing role of women in American life. After graduating third in her class from Stanford University law school in 1950 - two notches behind her classmate Rehnquist - the only job offer she received was a chance to become a legal secretary.

Three decades later,

Ronald Reagan named her to the nation's highest court. The appointment, approved in a unanimous Senate vote, transformed one of the last all-male bastions in government and made O'Connor a reluctant feminist icon.

"I think that I bring to the court differences in background that are more germane than my gender," she told Ladies' Home Journal in 1982. "I think the important fact about my appointment is not that I will decide cases as a woman, but that I am a woman who will get to decide cases."

O'Connor came to the court as a conservative, but she brought an independence that seemed consistent with her background as a rancher's daughter who grew up in relative isolation in Arizona.

She sided with the court's conservative wing in the ruling that decided the 2000 election for Bush, and was a strong advocate of state's rights. She sought a middle ground on abortion, refusing to join conservatives in banning the practice but permitting various restrictions.

O'Connor was diagnosed with breast cancer in 1988, but her swift return to the bench after treatment helped quiet resignation rumors then.

Admirers praised her flexibility. Critics accused her of substituting personal opinion and political considerations for the law.

"We have a living Constitution. Her name is

Sandra Day O'Connor, and thank God she's retiring," said

Kevin Hasson, the chairman of The Becket Fund for Religious Liberty, an organization that favors more religious expression in government institutions.

O'Connor has taken issue with suggestions that her ideological independence made her the court's power broker.

"I'm no more powerful than anyone else on this court. That's for sure," she told CNN two years ago. "Collectively, we do render opinions that matter to people, but I've never looked upon myself or the role of the court as being all-powerful."

Rehnquist's Future Still In Question (AP-Y2)

By Hope Yen, Associated Press Writer

AP2, July 2, 2005

The future of Chief Justice William H. Rehnquist, ailing with cancer and the focus of retirement speculation, is still up in the air.

Justice Sandra Day O'Connor, 75, announced Friday that she was retiring from the Supreme Court, surprising many who had expected that the 80-year-old chief justice would be the one stepping down.

There was no word from the court on Rehnquist's plans. Some court watchers suggested he might stay for another term, health permitting, based on an informal understanding among justices to avoid two retirements in the same term if possible.

One theory is that Rehnquist made clear to O'Connor that he was not planning an imminent retirement, perhaps so that he could reassess his condition over the court's three-month summer recess.

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David Garrow, a Supreme Court historian and law professor at Emory University, said he believes that Rehnquist intends to stay another full term. Otherwise, he would have made an announcement by now to avoid a vacancy after the new fall term begins.

"If there is one person whom Justice O'Connor told ahead of time, in addition to her husband, I think it would be the chief justice," Garrow said. "Barring a medical emergency, I think it's certain the chief justice is planning to return in October and believes he'll be fully capable of returning."

Rehnquist announced last October he had thyroid cancer, but after treatment he has been working at the court full-time. The chief justice walks under his own power with a cane, but he has difficulty talking and breathing at times.

Sen. Arlen Specter (news, bio, voting record), chairman of the Senate Judiciary Committee, said after visiting Rehnquist recently he didn't believe the chief justice was ready to retire. Specter, who has Hodgkin's disease, a cancer of the lymph system, said he could relate to Rehnquist's health problems.

"Speaking as someone who likes to get up in the morning with something important to do, I wouldn't say that it's keeping the chief alive but I think he likes his job," said Specter, R-Pa. "And if we haven't heard from him by now, the chances are you won't hear from him for some time."

Bill Clinton Poses Social Security Remedy (AP-Y2)

By David Hammer, Associated Press Writer

AP2, July 2, 2005

Legalizing more immigrants would help bolster the Social Security system, former President Bill Clinton told the nation's largest Hispanic-rights organization Friday.

"Those of you who want immigration reform should use Social Security more," Clinton said to about 1,300 members of the League of United Latin American Citizens. "If we legalize just 250,000 more immigrants a year, it would solve half of the shortfall in the Social Security Trust Fund."

More legalized immigrants would put more young people in the system to help support the deluge of baby boomer retirees, Clinton said.

During his 48-minute speech, Clinton didn't mention President Bush's plan to privatize some Social Security accounts, but he did criticize the administration indirectly.

Clinton said Hispanics experienced economic and educational gains under his presidency, but have since faltered, and it was time to figure out "where do we go from here?"

Clinton was greeted by an extended standing ovation and cries of "Viva Clinton!" to which he replied, "You need to calm down. Otherwise, I might think I'm president again."

Also Friday, Democratic National Committee chairman Howard Dean and his GOP counterpart, Ken Mehlman, both spoke before the league convention.

Dean said he would make sure Democrats do more to include Hispanics in state party systems, particularly in Texas.

"In Texas, I don't think there are more than one or two Hispanics in the employ of the state party; that will change and it will change dramatically," Dean said. "We will change our party, but not what we believe in. But we need your help."

Mehlman said President Bush has put more Hispanics in key leadership positions than Clinton, and the GOP exceeded its expectations among Hispanics in the 2004 presidential election. Bush claimed more than 40 percent of the Hispanic vote, according to Associated Press exit polls.

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On the Net:

League of United Latin American Citizens: http://www.lulac.org

Democratic Group Plans Quirky Campaigns (AP-Y2)

By GLEN JOHNSON, Associated Press Writer

AP2, July 2, 2005

DOJ_NMG_0000568

WASHINGTON - Rep. Bob Beauprez (news, bio, voting record) of Colorado will be confronted by waffles, be it breakfast, lunch or dinner. Rep. Nancy Johnson (news, bio, voting record) of Connecticut will see her face plastered on an oversize milk carton. When Rep. Jerry Weller (news, bio, voting record) of Illinois marches in a parade, he'll be tailed by someone in a duck costume.

As House Republicans move ahead with plans to vote on Social Security changes this summer, a Democratic opposition group will use the July Fourth recess to pressure GOP lawmakers it believes are undecided about the legislation or susceptible to criticism from their constituents.

The tactics will be far removed from the customs and decorum normally observed on the House floor.

"Beauprez is planning to run for governor; he cares about people all over the state. ... Bring waffles to all events," reads a plan drafted by Americans United to Protect Social Security, a copy of which was obtained by The Associated Press.

"Johnson is missing when it comes to defending Social Security. She refuses to take a stand. ... Major tactics: milk carton — 'Where is Johnson?' 'Johnson Missing,'" it also says.

The plan adds: "July 2-4, tailing Weller with duck costume (as in, stop 'ducking' the issue) at public events/parades."

The congressmen targeted are all members of the House Ways and Means Committee, which will be the first panel in the House to review the legislation. Rep. Bill Thomas, R-Calif., the committee's chairman, expects a vote before Congress takes its summer recess at the end of the month.

While the panel is split 24-17 in favor of the GOP, and Thomas is known to rule it with an iron fist, even some of his fellow Republicans have been slow to embrace the changes proposed by President Bush, or outlined in recent weeks by four Republican committee members, Reps. Jim McCrery of Louisiana, Clay Shaw of Florida, Sam Johnson of Texas and Paul Ryan of Wisconsin.

"The Republican members of the Ways and Means Committee, many of whom have straddled the fence, waffled or flip-flopped on the issue of privatization, are having their arms twisted nearly off by Thomas and the House Republican leadership to support this new privatization bill," Americans United writes in its battle plan.

The group proposes to fight back by picketing Shaw's congressional office with signs accusing him of forgetting about less-wealthy constituents. It also focuses on a fellow Florida Republican on the committee, Rep. Mark Foley (news, bio, voting record), with unusually brusque language.

"Foley is not as concerned (as Shaw) about an electoral challenge, but has many seniors," it reads. "Thin-skinned squealer."

The congressman, who is undecided about any of the plans, said during an interview the campaign smacks of desperation by Democrats and their allies.

Democrats have pointedly refused to offer an alternative until the president drops his accounts proposal. They argue that establishing the accounts is part of an overall effort to transform the program from one providing a guaranteed benefit check to one that provides benefits subject to the ups and downs of the stock market.

"If you're describing a program that has such an impact on seniors, which Social Security is, and your rallying cry is to make such pejorative statements about members, I think you're starting off on the wrong foot," Foley said. "It's so juvenile that they're engaging in a debate without an option, an answer, but they're using a vernacular that indicates they're nothing more than a ragtag group of rebels."

Jordan Stoick, spokesman for Beauprez, said he expects his boss to chuckle when he sees the waffles.

"He's not politically naive and will take this for what it's worth: a ploy by liberal Washington, D.C., special-interest groups," Stoick said.

Drug Lobby Got A Victory In Trade Pact Vote (NYT)

By Stephanie Saul

The New York Times, July 2, 2005

The sidewalk between the drug industry's headquarters in Washington and the United States trade representative's office has been taking a pounding from the wingtips of industry lobbyists.

The work of these drug industry courtiers, who represent what is arguably Washington's biggest and wealthiest lobby, appears to have succeeded in the Central American Free Trade Agreement. The agreement would extend the monopolies of drug makers and, critics say, lead to higher drug prices for the mostly impoverished people of the six Latin American countries it covers.

The accord cleared the Senate on Thursday but faces a difficult floor vote in the House of Representatives this month. The agreement's pharmaceutical provisions are a sideshow in the Congressional debate, eclipsed by concerns of the textile and sugar industries and the labor unions that their interests would not be protected.

In contrast, the agreement's pharmaceutical provisions, which provide five years of market exclusivity to brand-name drugs, have been front and center in Guatemala, where poor AIDS patients have marched in the streets to protest.

The six countries affected by the pact "understand that the net effect of these pharmaceutical provisions will be to raise the price of medicine," said Frederick M. Abbott, a professor of international law at Florida State University. "The way they have to view it is that they're getting something out of the agreement that will give them a net trade benefit."

The problem with such an analysis, Professor Abbott said, is that the textile employers and agricultural producers gain, but the economic benefits may never flow down to the people who cannot afford medicines.

According to Representative Sherrod Brown, Democrat of Ohio, the trade agreement is an example of how the pharmaceutical lobby rarely loses on trade issues, often by quietly working behind the scenes.

"A voter walking down the street would never think of the pharmaceutical industry's influence in another country through the U.S. trade representative," said Mr. Brown, who has criticized how the industry and other corporate interests shaped the trade accord.

The Pharmaceutical Research and Manufacturers of America, the drug industry association, is the single biggest influence group at the trade office, according to a new analysis by the Center for Public Integrity, a government watchdog group. The analysis is based on the sheer number of reports, 59, filed by lobbyists for the group since 1998.

The reports do not have to disclose how many individual contacts the lobbyists made.

The industry's primary interest at the trade office is protecting its intellectual property, which Peter R. Dolan, the chief executive of Bristol-Myers Squibb, recently called the "lifeblood" of the industry.

Like movies and software, pharmaceuticals require a lot of time, money and creativity to develop, yet they are fairly simple to replicate. The industry association estimates that intellectual property infringement in 21 countries costs its members $7 billion a year. Therein lies the problem for drug makers, and the reason they are fighting a global war to protect their patents.

In defending their efforts to extend intellectual property protection abroad, industry officials point out that pharmaceutical companies subsidize treatment for millions of people in developing countries. Bristol-Myers, for example, has invested $150 million to set up AIDS clinics and other charitable programs in Africa, a figure that does not include the low-cost drugs the company distributes there.

The industry association also argues that extending its patent protections worldwide will result in greater access to medications by encouraging drug makers to enter those markets.

"It provides certainty for companies to be able to market and sell their medicines in those particular markets," said Mark Grayson, a spokesman for the trade association.

The certainty, according to Professor Abbott of Florida State, results from the agreement's "highly restrictive market exclusivity rules which allow the originator companies to block any registration."

One of the most contentious provisions in the trade pact is a requirement that gives brand-name manufacturers market exclusivity for five years after a drug is registered in the countries, even if the 20-year patent has expired. A similar five-year period exists in the United States, but the trade agreement would require countries to enforce the five-year period even if the exclusivity period in the United States has already expired.

During that period, manufacturers who ultimately wanted to register a generic equivalent to the drug in that country would be barred from using the animal and human test data submitted for the drug's approval, a provision that critics say could delay the approval of generics beyond the five-year period.

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By protecting marketing exclusivity, the industry says, the trade agreement would also spur innovation and encourage pharmaceutical companies to register drugs in the small countries, ultimately helping deliver those drugs to the needy.

It is a philosophical argument that the United States trade representative's office has embraced.

"Trade rules that protect innovation and research foster a system that produces the types of medicines American health consumers and health consumers around the world use and need to fight diseases," said Richard Mills, a spokesman for the trade office. Former Representative Rob Portman, an Ohio Republican, was sworn in to the cabinet-level trade post that runs the trade office in May.

The issue of intellectual property protection for pharmaceuticals has been highlighted in the last week with the Brazilian government's threat to break Abbott Laboratories' patent for the AIDS drug Kaletra by authorizing one of its domestic drug manufacturers to make a copy at roughly half the cost.

The Brazilian government currently buys Kaletra for about 180,000 citizens with AIDS. Abbott Laboratories charges Brazil $2,500 a patient annually. That represents a special price break from the company, which charges $6,000 to $7,000 for the drug in other developed countries, according to figures supplied by the company. Despite the special deal his government is getting, Brazil's president, Luiz Inácio Lula da Silva, wants the drug cheaper.

If President Lula goes through with his threat, he would invoke rarely used "compulsory licensing" provisions of a 1994 World Trade Organization agreement on intellectual property. The agreement forced countries to adopt American-style patent rules for pharmaceuticals, but allowed flexibility in cases of overriding public health issues by giving countries the right to order compulsory licenses.

Citing the Brazilian example, Representative Pete Stark, a California Democrat, referring to the industry trade group, said, "My guess is that Pharma's worry is that one of these countries will say, 'To hell with you,' and start making their own drugs."

Critics of the trade agreement say it sets up barriers to compulsory licensing in the countries it covers - the Dominican Republic as well as Nicaragua, Guatemala, El Salvador, Honduras and Costa Rica. The combined gross domestic product of the six countries amounts to a third of the annual revenues of major drug makers.

The pharmaceutical industry has also been successful in influencing trade "priority lists" and "watch lists" issued by the trade representative in recent years, according to the Center for Public Integrity analysis, released this week. Inclusion on the trade watch lists constitutes the first salvo in a trade war.

Last year, the pharmaceutical trade group requested action against 38 countries for infringing on American patents, producing counterfeit drugs and releasing confidential test data. Of those, 31 found their way onto some level of the trade watch list, according to the center's analysis.

The report for 2005, released in May, again showed the extent of the industry's influence. Of 41 companies recommended for inclusion by the industry, 32 made it onto one of the trade lists, the center said.

The trade representative's office disputes the analysis, however, saying the office complies with exact pharmaceutical industry requests involving the priority and watch lists only about half the time.

The 59 reports filed by lobbyists for the pharmaceutical association do not count dozens of reports filed by individual companies. The analysis revealed that Pfizer lobbyists had filed reports about lobbying the trade office 32 times during the same period; Bristol-Myers, 27 times; and Wyeth, 19 times.

Over all, the various representatives of the pharmaceutical association and its individual companies filed 289 reports of lobbying at the trade representative's office since 1998, making pharmaceuticals the fourth-largest lobbying interest group, behind miscellaneous manufacturing, business associations and agriculture, according to the center's analysis.

Mr. Grayson said extensive lobbying efforts by his industry were a good sign.

"If we're not doing a lot, we're not doing our job," Mr. Grayson said.

Bush Names Kelliher To Head Energy Panel (LAT/BLOOM)

The Los Angeles Times, July 2, 2005

Joseph Kelliher, an advocate of expanded authority for regulators to police power markets, was named by President Bush to succeed Pat Wood as chairman of the Federal Energy Regulatory Commission.

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Kelliher, 44, was on Bush's transition team before joining the commission in November 2003.

Lawmakers Agree On Road Spending (WP/AP)

The Washington Post, July 2, 2005

House and Senate negotiators have agreed to a level of spending for highway and transit projects that is acceptable to the White House. The agreement clears a major hurdle in the two-year effort to develop a new federal transportation plan.

Negotiators "have been working on a compromise for a transportation bill that would make much-needed improvements to federal highways," House Speaker J. Dennis Hastert (R-Ill.) said in a midnight speech on the House floor Thursday. "Tonight they came to an agreement . . . to move that bill forward."

Hastert provided no details. Congressional aides said the two sides have agreed on spending $286.5 billion over the six-year period ending in September 2009. The aides said the administration would accept that level.

Yesterday, President Bush signed an extension of the previous transportation bill for the eighth time since it expired in 2003. The program was funded at $218 billion over six years.

Congress has been unable to come up with a new bill, in part because lawmakers have sought significant increases in spending for transportation projects, drawing a veto threat from the White House over the cost of the bill.

This year the White House has warned that President Bush would veto any bill that went over $284 billion, the level approved in the House bill passed last March.

The Senate in May passed a $295 billion bill. Its sponsors proposed increasing revenues by cracking down on tax fraud and other measures so that it would not add to the federal deficit.

Money for highway and transit spending is derived from the Highway Trust Fund, which comes from the 18.4-cent-a-gallon federal tax that drivers pay at the gasoline pump.

The latest extension goes through July 19, giving negotiators several weeks after they return from the Independence Day recess to work out details of the legislation, including the formula that determines how much states get in federal grants in relation to their contributions to the trust fund.

Pentagon Is Asked To Justify Parts Of Base-Closing Plan (NYT)

By Eric Schmitt

The New York Times, July 2, 2005

The independent commission assessing the Pentagon's proposed list of domestic base closings directed Defense Secretary Donald H. Rumsfeld on Friday to justify more than a dozen of the recommendations, the first clear signal that the panel may alter some of the military's choices.

In one case, the panel asked the Pentagon to explain why it did not recommend closing the naval shipyard at Pearl Harbor in Hawaii even though it is less efficient and had a lower military value than the military's choice for closure, the Portsmouth Naval Shipyard in Maine.

The commission's requests, contained in a seven-page letter from the panel chairman, Anthony J. Principi, came as federal investigators cautioned in a report issued on Friday that the Pentagon may have overstated the plan's estimated savings of $48.8 billion over 20 years.

The review of the Pentagon's proposal by the Government Accountability Office found that 80 percent of the Pentagon's projected savings from base closings and consolidations came from only 10 percent of the recommendations and that nearly half the projected savings were from cuts in military jobs that in many cases would simply be reassigned to other areas.

"This could create a false sense of savings available for other purposes," the report said.

Members of the commission have visited dozens of installations and held several public hearings in communities that are pulling out all the stops to persuade the commission to reverse the Pentagon's plans. The panel's request for more information resulted from questions raised in those visits and hearings, and from other public comments.

Mr. Principi, a former secretary of veterans affairs, said in May that the panel would not be "a rubber stamp" for the Defense Department. The four previous base-closing commissions endorsed 85 percent of the military's recommendations.

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Lawmakers from some states that would suffer deep cuts under the Pentagon's plan, including Senator Olympia J. Snowe, Republican of Maine, said that the panel's challenge to the military's recommendations reinforced many of the arguments they have been making. The commission will hold a hearing in Boston on Wednesday, where the fate of the Maine shipyard will be the hot topic.

In a separate letter to Ms. Snowe, Mr. Principi warned that the panel was "inquiring, not deciding," and that his letter to Mr. Rumsfeld was simply a request for more information. When the commission meets on July 19, it will need the vote of seven of its nine members to add a base to the Pentagon's list for consideration. At least two commission members would then be required to visit the site and hold a public hearing.

At the panel's final deliberations, which are scheduled for the week of Aug. 22, at least seven members would have to vote to close one of the bases added to the list. The commission must submit its findings to President Bush by Sept. 8. The president and Congress have until Nov. 7 to reject or accept the entire package.

In addition to Portsmouth, the commission asked why the Pentagon did not recommend consolidating the Marine Corps' recruiting depots on the East and West Coasts, and why it did not suggest closing Pope Air Force Base in North Carolina. It also asked the Pentagon to justify its decision to shrink, but not close, Grand Forks Air Base in North Dakota and why it did not consolidate the headquarters for the armed services' surgeons general at a new national medical center in Bethesda, Md.

The Government Accountability Office report found that the cost to carry out the proposed closures and consolidations in this round alone was $24.4 billion, compared with a total of $22 billion for the four previous rounds combined, as of 2001. This increase was due largely to the proposed cost of building new housing for troops returning from Europe ($2.3 billion) and the expense of building new facilities ($1.3 billion) for personnel who would move out of leased space, much of it in the Washington area that was deemed to be vulnerable to terrorist attack.

The report said that 22 percent of the recommendations would not yield savings within six years and a handful would produce no savings. The investigators said that savings could be difficult to track, and urged Mr. Rumsfeld to establish mechanisms to monitor savings estimates.

A Pentagon spokesman, Glenn Flood, said officials there were pleased with the G.A.O.'s report, and would supply the requested information before the July 19 hearing.

Panel Targets More Bases For Closure (AP-Y2)

By Liz Sidoti, Associated Press Writer

AP2, July 2, 2005

Military bases in Hawaii and California are among several a commission is considering adding to Defense Secretary Donald H. Rumsfeld's list of proposed closures.

In a letter sent Friday to the Pentagon chief, commission Chairman Anthony Principi identified additional bases the commission may recommend closing and seeks explanations for why the Pentagon decided to leave those facilities open.

Specifically, the letter asks why Marine Corps Recruit Depot and the Navy Broadway Complex, both in San Diego, Calif., and the U.S. Naval Shipyard at Pearl Harbor, Hawaii, were not slated for closure.

It also questions the Pentagon's decisions to downsize, rather than close, the Naval Air Station in Brunswick, Maine, Pope Air Force Base in North Carolina, and Grand Forks Air Force Base in North Dakota.

And, the letter asks for more explanation about the proposed reorganization of Air National Guard facilities across the country and the downsizing of several other small facilities.

In May, the Pentagon proposed closing or reducing forces at 62 major bases and hundreds of smaller installations to save money and streamline the services. Dozens of other facilities would grow, absorbing troops from domestic and overseas bases slated for closure or downsizing.

The law that authorized the first round of base closings in a decade requires the Pentagon to answer such questions before the commission can recommend closing or downsizing a facility that wasn't on Rumsfeld's original list.

In another letter to members of Congress on Friday, Principi said, "Please be assured that the commission has not decided to close or realign any installations."

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"We are in the early stages of a multistep process," he continued, adding that the commission simply is seeking more information from Rumsfeld before decided whether to add bases to the list. "The commission is inquiring, not deciding."

The commission will conduct a public hearing on July 19 in Washington to decide whether bases left off the list should be added. It takes seven of nine votes to add a base. Public hearings and base visits would follow.

Bases, including any added to the list in July, can be removed from the list later, but the commission won't make those decisions until August.

The commission must send its revised list to the president in September. He must approve it in its entirety or send it back to the commission for more work. Once the president signs off on it, the list goes to Congress, which must accept it or reject it as a whole.

The Pentagon says it will save $49 billion over 20 years by streamlining services across the Army, Navy, Air Force and Marine Corps and shutting down bases deemed inefficient.

On Friday, the Government Accountability Office released a report that found upfront costs will total $24 billion and questioned the Pentagon's projected savings.

"We believe the recommendations overall, if approved, would produce savings," the report said. However, it added, "there are clear limitations associated with the projected savings, such as the lack of military end-strength reductions and uncertainties associated with other savings estimates."

The report said eliminating jobs held by military personnel would make up about half of the annual recurring savings. However, the report said much of that money won't be available for other uses because the jobs — and salaries — simply will be relocating to other areas.

"Without recognition that these are not dollar savings that can be readily applied elsewhere, this could create a false sense of savings available for other purposes," the report said.

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On the Net:

BRAC: http://www.brac.gov

Government Accountability Office: http://www.gao.gov/

In Mississippi, Soaring Costs Force Deep Medicaid Cuts (NYT)

By Shaila Dewan

The New York Times, July 2, 2005

Starting Friday, most Medicaid recipients in Mississippi will be limited to five prescription drugs at a time, with no process for appeal. The cap appears to be the most restrictive in the nation, but is just one of many measures being taken by states seeking to rein in soaring Medicaid costs.

It will hit hard for people like Erainna Johnson, 42, left legally blind by a stroke in 1997. She takes 19 medications - already more than the previous Medicaid limit of seven - relying on family members, her church and free samples from doctors to make up the difference. "Sometimes I just crack my pills in half, honestly," she said, sitting in the living room of her trailer here.

Mississippi is among many states moving aggressively to contain Medicaid costs, saying severe measures are necessary if the program is to continue. In Missouri, new cuts also took effect Friday in an effort to reduce the rolls; for example, a single mother of three in Missouri is now ineligible if she makes more than $350 a month. About a dozen states limit the number of prescriptions offered to adult patients, but almost all provide for an appeal process or allow doctors to override the limit.

In Mississippi, where more than a quarter of the population is on Medicaid, the cap includes a limit of two name-brand drugs. The only patients exempt from the rule are children, people in nursing homes and patients with H.I.V., who were given an 11th-hour reprieve because virtually none of the anti-viral drugs used were available in generic form.

Gov. Haley Barbour, a Republican who backed steeper cuts to Medicaid than those enacted, said the Legislature had come up with the limit on prescription drugs on its own. But, he added, "states are limited in their options as far as cost control."

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The cost of Medicaid, financed jointly by the federal government and the states, has risen 63 percent in five years and is now more than $300 billion a year. Governors from both parties have asked the federal government to allow them more latitude in restricting Medicaid spending.

Advocates for the ill and the disabled in Mississippi say many patients require more medicine than the new restrictions allow. Others who could be affected include diabetics, the mentally ill and cancer patients. Of the 768,000 Medicaid patients in 2004, 80,000 used more than five prescriptions a month.

Mary Troupe, the executive director of the Mississippi Coalition for Citizens with Disabilities, said the policy amounted to state control of medical decisions that only doctors were qualified to make. If a patient is already taking five medications, Ms. Troupe said, "what happens when they're needing a particular antibiotic or any other medications for any complications?"

Ms. Troupe said the fact that nursing home residents were exempt would push more people into institutional care, which is generally far more expensive for the state and far worse for a patient's quality of life.

Ms. Johnson said that she and her doctor had reviewed her medications to see if there were any she could live without. Not the female hormones, because she had just had a hysterectomy to remove fibroid tumors. Not the asthma medicine or the eyedrops that preserve her little remaining sight. Not the pills to compensate for her removed gallbladder, those for angina relief or the pills that tame her irritable bowel syndrome.

"I've tried it myself, to pull myself off," she said, adding that she had even changed her diet to include more vegetables and fruit. "And I've become very ill, very sick."

This year, Mississippi lawmakers borrowed $240 million from the state's health care trust fund to cover a Medicaid budget gap. The measures that took effect Friday, which also include higher co-payments and hospital bed taxes and cut home care visits to 25 a year from 60, will save an estimated $120 million a year.

The current plan came after a judge temporarily blocked an effort, backed by Mr. Barbour, to cut 65,000 people from Medicaid rolls last year. The 65,000 fell into a category known as Poverty-Level Aged and Disabled that states are not required to cover. States are also not required to provide a prescription drug benefit.

Maxine Mahoney, 82, of Jackson, was one of those who would have been cut. Saved by the judge's injunction, she must now contend with the new cuts. She lives on $605 a month and takes 12 prescriptions, the most expensive of which is $330 a month, for ailments that include heart disease, high blood pressure and a nerve dysfunction. A prescription drug benefit under Medicare, the federal program that covers people 65 and older, begins in January.

Asked what politicians should do about the costs, Ms. Mahoney shrugged. "The Bible tells us we must pray for those in authority," she said. "And I do pray for them. I'm 82 years old, what more can I do?"

State Representative Stephen Holland, a Democrat on the House's Medicaid committee, said he had argued against proposals from the State Division of Medicaid for deeper cuts, like a limit of three drugs.

"The reality was we had to ratchet it down some or run the risk of losing the whole program because of the spiraling costs," Mr. Holland said.

Sweeping Medicaid Cuts Hit Missourians (REU-Y2)

By Carey Gillam

Reuters, July 2, 2005

Fending off a late courtroom challenge, Missouri implemented sweeping cuts in Medicaid on Friday, reducing benefits so sharply that critics called the moves among the most severe in the nation.

The new Medicaid standards, championed by Missouri's new Republican Gov. Matt Blunt to avoid tax increases, trimmed Missouri's budget by $231 million, but are expected to cut more than 68,000 Missourians out of the Medicaid program over the next year.

Under the new standards, a single mother of two children is deemed ineligible if she makes more than $350 a month, for instance. Previously, the income line was drawn at $1,050 a month. An estimated 24,000 children are expected to lose their benefits, dental coverage is being cut for adults, and disabled people are losing coverage for crutches and other aids.

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An analysis by the nonprofit Center on Budget Priorities and Policies said Missouri's Medicaid expenditures were already below the national norm before the cuts and the new program is among the harshest "that any state has ever instituted."

"It is pretty draconian," said Marc Cohan, director of litigation for the Welfare Law Center in New York, which filed a lawsuit against Missouri on Wednesday, along with the National Health Law Program in Washington. "Missouri has made a choice ... to balance the budget on the backs of the poor," Cohan said.

The suit alleges the state is rushing the cuts into effect and in the process cutting off people who should remain eligible. U.S. District Judge Nanette Laughrey denied a request for a temporary injunction on Thursday.

Besides Missouri, several other states are moving aggressively to rein in Medicaid spending and Congress is considering a plan to cut federal contributions to Medicaid by $10 billion over five years.

Missouri, which spends about $2 billion annually in state money on Medicaid, has defended its actions and calls the previous Medicaid level of benefits "unsustainable."

"We continue to provide a very generous Medicaid program," said Missouri Department of Social Services director Gary Sherman in a statement issued on Friday.

Medicaid Cuts Hit Missourians (KCS)

By Kit Wagar And Debra Skodack The Kansas City Star

The Kansas City Star, July 2, 2005

Medical coverage for more than 23,000 Missourians lapsed as planned Friday after a federal judge denied a request to delay the changes.

The delay was sought by two public-interest law firms that sued the Department of Social Services on Wednesday, alleging that Medicaid recipients had received inadequate notice of the cutoff and were not given the proper chance to appeal the state's ruling.

But U.S. District Judge Nanette Laughrey issued an order late Thursday night denying the request for an injunction that would have allowed Medicaid coverage to continue. Laughrey said she would file her ruling outlining the reasons for her order at a later date.

State officials were pleased with the ruling. Gary Sherman, Missouri's director of social services, praised Gov. Matt Blunt and lawmakers for moving to rein in "a rate of program expansion that was absolutely unsustainable."

"We are confident that the needed reforms … will ensure the program remains solvent while a new, more viable system is crafted," Sherman said in a written statement. "We continue to provide a very generous Medicaid program, committing over 29 percent of the state's total budget to provide medical services to needy Missourians."

Marc Cohan, who argued the case for the Welfare Law Center of New York, one of the groups that challenged the state's actions, said he would continue trying to convince the judge that the state's methods are causing people to be thrown off the program even though they still are eligible.

He pointed to the three St. Louis women in the lawsuit who were told they were losing Medicaid coverage. After the lawsuit was filed, the state acknowledged that those determinations were erroneous.

"We have no faith that the department's review process will catch those cases," Cohan said. "The three named plaintiffs are not the only ones. We will continue to fight to make sure that anyone still eligible gets their eligibility restored as quickly as possible."

Those dropped from the Medicaid program are mostly low-income parents who have not worked enough during the last six months to qualify for temporary coverage while they gain work experience.

Deborah Scott, spokeswoman for social services, said the department's review and appeals process restored coverage for 488 who at first had been determined ineligible under Friday's new rules.

The cutoff in coverage — part of Gov. Matt Blunt's plan to restructure and downsize Medicaid — was authorized by Missouri lawmakers when they adopted a budget that dramatically lowered the maximum income an adult was allowed to have and still remain eligible.

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Scott said 22,020 persons lost coverage Friday because their income exceeded 23 percent of the federal poverty level. Previously, they qualified with income up to 75 percent of the poverty level.

An additional 1,560 persons on Friday exhausted temporary coverage intended to help make the transition from welfare to work.

For about 44,200 other people, the clock began ticking Friday on Medicaid coverage. Those people moved from the regular Medicaid program to transitional status that will last six months to a year.

Organizations that provide health care to Kansas City's indigent said they noticed some changes Friday but no signs of panic.

Sheri Wood, executive director of the Kansas City Free Health Clinic, said the Medicaid changes prompted several calls Thursday and Friday to the mental health clinic. People who had lost Medicaid coverage were making appointments at her clinic so their treatment and medications could continue uninterrupted.

Shelly Phinney, corporate manager of the financial consulting center at Truman Medical Center, said pregnant women came into Truman on Friday thinking they were no longer covered.

The women did not realize that pregnant women qualify for Medicaid at much higher income levels than for regular Medicaid coverage for most adults. Coverage for pregnant women was not changed.

Some nonemergency patients were unaware they no longer had coverage. "They were shocked," Phinney said. "We did treat them."

Phinney said some patients were eligible for transitional benefits but had not applied for them. She said her office was fairly calm.

"A lot of it might be because it is a day before a holiday (weekend)," Phinney said. "I do imagine it will be a lot busier, maybe next week."

Kelvin Simmons, vice president of development at Swope Health Services, said that facility was noticeably busier. "I am not sure whether it is busy because it is a day before the holiday or it being D-Day," Simmons said. He said it was likely to become even busier.

"I don't think it's sunk in," he said of the Medicaid changes.

First glance

¦ Because their income exceeds 23 percent of the federal poverty level, thousands of Missouri residents lost their Medicaid coverage Friday.

¦ Those dropped from the program are mostly low-income parents.

Tutors' Zeal Based On Faith (WT)

By Tarron Lively

The Washington Times, July 2, 2005

Maryland's only faith-based tutoring service has found a home in a Bladensburg church where teachers are helping needy students improve their reading, writing and math skills.

As about 100 elementary-school students yesterday concluded a two-week tutorial inside the St. Luke's Episcopal Church, Eileen Dowd said her Mrs. Dowd's Teaching Service is a worldwide network of Christian teachers but the curriculum focuses on helping children, not preaching.

"We teach secular math and reading," she said. "I was a teacher for more than 30 years, and we feel a real responsibility to teach solid math and reading skills. We do it with kindness and compassion, but we don't teach religion. That's not our goal."

Mrs. Dowd said the program works one on one or in small groups with children of all backgrounds, cultures and religions.

President Bush signed an executive order in December 2002 allowing federal money to be awarded to faith-based organizations through grants and contracts.

Mrs. Dowd's service receives about $1,700 per student, so those who qualified for free or reduced school-lunch programs can receive the free tutoring.

"The community is behind us and involved all the way," Mrs. Dowd said.

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She said the roughly 40 certified teachers, student teachers and teachers' assistants have also taken a "big leap of faith" because the paperwork for them to get paid is still incomplete.

Most of the students at St. Luke's attend Bladensburg Elementary School and were split this summer into either the 8 a.m.-to-11:30 a.m. or the 1 p.m.-to-4 p.m. session.

"The good part about this program is that the students deal with an actual face rather than a computer," said Rhonda Pitts, the Bladensburg school principal. "I recommended it because of the personal touch."

Yesterday, the students got an anatomy lesson using the brain, heart and lungs of a sheep.

"It was slimy to touch, but I learned that the heart never stops pumping blood." said 8-year-old Ronald Coello.

Michael Lidner, a 17-year-old who was home-schooled, taught the class.

"The tutoring helps them learn what they didn't learn during the school year, finding weaknesses and what they can improve on," he said.

Michael, who studied anatomy and physiology, said teaching the children was initially "pretty difficult" but gradually became fun as the children got used to him.

"It was interesting to see them open up more as time went on," he said. "It's definitely been a new experience for me."

The program also fine-tuned the students' addition and subtraction skills.

"I got better on multiplication and fractions," said Justyce Nicholson, an 8-year-old from Bladensburg. Quizzed about the sum of two halves, she quickly and confidently answered correctly.

"Math is my favorite subject," said Kenneth Evans, an 8-year-old from Bladensburg whose mother signed him up for the program.

Senate Keeps 'Bunker-Buster' Program Alive (AP-Y2)

By H. JOSEF HEBERT, Associated Press Writer

AP2, July 2, 2005

WASHINGTON - The Bush administration may get another chance to try to develop an earth-penetrating nuclear warhead. The Senate on Friday agreed to revive the "bunker-buster" program that Congress last year decided to kill.

Administration officials have maintained that the country needs to try to develop a nuclear warhead that would be capable of destroying deeply buried targets including bunkers tunneled into solid rock.

But opponents said that its benefits are questionable and that such a warhead would cause extensive radiation fallout above ground killing thousands of people. And they say it may make it easier for a future president to decide to use the nuclear option instead of a conventional weapon.

The Senate early Friday voted 53-43 to include $4 million for research into the feasibility of a bunker-buster nuclear warhead. Earlier this year, the House refused to provide the money, so a final decision will have to be worked between the two chambers.

The money is included in a $31.2 billion spending measure for the Energy Department and other programs. Last year Congress killed the program, but the Bush administration asked that it be revived.

Supporters of the program said the $4 million does not signal development of any new warheads. They argue that the money would be used to see whether a sufficiently hardened casing could be developed for an existing warhead so that it can penetrate beneath the earth before exploding and destroy reinforced underground bunkers.

But Sen. Dianne Feinstein (news, bio, voting record), D-Calif., one of Congress' most vocal opponents of the bunker-buster, said the program "sends the wrong signals to the rest of the world by reopening the nuclear door and beginning the testing and development of a new generation of nuclear weapons."

"A bunker-buster cannot penetrate into the Earth deeply enough to avoid massive casualties and the spewing of millions of cubic feet of radioactive materials into the atmosphere," said Feinstein.

Last April, a panel of the National Academy of Sciences, concluded that an earth-penetrating nuclear device would likely cause the same casualties as a surface burst if the weapons are of the same size. Such a bomb could cause from several thousand to 1 million casualties depending on its yield and location, according to the report requested by Congress.

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At a congressional hearing earlier this year, Linton Brooks, head of the National Nuclear Security Administration, which oversees nuclear weapons programs, acknowledged that there is no way to avoid significant fallout of radioactive debris from use of a bunker-buster warhead.

He said the administration never intended to suggest "that it was possible to have a bomb that penetrated far enough to trap all fallout. I don't believe the laws of physics will ever let that be true."

Nevertheless, Brooks and Defense Secretary Donald Rumsfeld have argued that a nuclear weapon that can destroy hardened, deeply buried targets is needed in the U.S. arsenal.

When challenged by Feinstein over the bunker buster at a hearing in April, Rumsfeld said there are many potential U.S. adversaries that are capable of putting hardened facilities deep underground, often in solid rock, that conventional weapons cannot reach.

Senate Votes To Shut Down Laser Meant For Fusion Study (NYT)

By William J. Broad

The New York Times, July 2, 2005

The Senate voted early yesterday morning to stop construction of the nation's costliest science project, a laser roughly the size of a football stadium that is meant to harness fusion, the process that powers the Sun.

The project, the National Ignition Facility, or NIF (pronounced niff), is at the Lawrence Livermore National Laboratory in California and has cost $2.8 billion. About 80 percent complete, NIF is scheduled to be finished in 2009 at a cost of $3.5 billion and operate for three decades at an annual cost of $150 million, for a total of $8 billion.

The Senate's action, part of the $31 billion energy and water appropriations bill, prompted warnings from the project's leaders that its demise could damage the nation's leadership in a field important to confronting energy shortages. This week, an international consortium picked France as the site of the world's first large-scale, sustainable nuclear fusion reactor, a project with an estimated cost of $10 billion.

"What's at stake here is the opportunity to meet one of the grand challenges of science," Michael R. Anastasio, director of the Livermore laboratory, said in an interview. "It's essential for investigating fusion, which will help sustain confidence in our nuclear stockpile and inform our future thinking about fusion energy."

Other Livermore officials warned of a parallel to the Superconducting Supercollider, a proposed 54-mile particle accelerator that Congress killed in 1993 after spending $2 billion. Some physicists regard its fate as a symbol of the erosion of the nation's scientific standing.

The Bush administration backs the National Ignition Facility, and the Senate action could be reversed or modified later this summer in conference with the House.

"There's going to be some meeting of the minds," said Greg Mello, director of the Los Alamos Study Group, a private organization in Albuquerque that monitors the nation's nuclear laboratories. "I think NIF will be hurt, but I doubt that it will come to a complete standstill."

In nuclear fusion, atoms merge and release bursts of energy, as in the sun or in hydrogen bombs.

The facility's powerful laser beams are intended to produce blistering hot conditions similar to those in exploding nuclear arms, helping scientists ensure the reliability of the nation's nuclear stockpile without the need for underground tests. Less directly, scientists want to use the beams to explore laser fusion as a way of producing commercial power.

But last month, Senator Pete V. Domenici, the New Mexico Republican who heads the Subcommittee on Energy and Water, proposed to delete all construction money, $146 million, from the administration's request for the coming year.

The bill does provide $314 million for limited research. Livermore scientists have built 4 of NIF's planned 192 laser beams and are firing them at targets the size of a BB, producing the first scientific insights.

Mr. Domenici, whose state includes both the Los Alamos and Sandia National Laboratories, in recent statements has accused the administration of "single-mindedly" supporting the California project at the expense of other worthy efforts. The ignition facility "is just one of many tools that must be supported," he said.

"The Senate bill will correct this imbalance," he said.

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Senate Leader Calls For Limits On Drug Ads (NYT)

By Stephanie Saul

The New York Times, July 2, 2005

The Senate majority leader, Bill Frist, called yesterday on the pharmaceutical industry to limit drug advertising directed at consumers, increasing the pressure on companies to curb such marketing.

Senator Frist, a Tennessee Republican, embraced an increasingly popular idea, a delay in advertising after a drug is introduced. He called for a two-year restriction.

Proponents of a delay say it will give doctors time to understand how drugs work before patients begin asking for them, sometimes based on inflated claims.

"This advertising can lead to inappropriate prescribing and fuel prescription drug spending," Senator Frist said. "It can also oversell benefits and minimize risks."

He also said he would ask the Government Accountability Office to examine whether the Food and Drug Administration should review drug advertising before its publication or broadcast.

The senator's remarks, delivered yesterday on the Senate floor and posted on his Web site, add a politically powerful voice to the growing support for some limits on the quality and quantity of drug ads aimed at consumers.

Such advertising has grown to a $3.8 billion industry since 1997, when the F.D.A. lifted limits on it.

Consumer drug advertising has prompted a reaction in recent months. Some critics say it contributed to an excessive, unnecessary use of cox-2 painkillers, which were later shown to cause serious cardiovascular problems in some patients. Others criticized the drug industry for prime-time erectile dysfunction drug ads that are laden with sexual innuendo.

The Pharmaceutical Research and Manufacturers of America, a trade association, is formulating guidelines for advertising and is likely to adopt them this month. It is unlikely that the guidelines will require a moratorium on advertising new drugs, said Ken Johnson, a spokesman for the association.

"We believe as an industry that there should be an appropriate way to educate doctors and health care providers before advertising begins," Mr. Johnson said. "But we also believe strongly that patients have a right to know about new drugs that could save and improve the quality of their lives."

Last month, Bristol-Myers Squibb became the first company to embrace a self-imposed lag time - 12 months - between the introduction of a drug and consumer advertising. Also last month, the American Medical Association decided to conduct a study of consumer drug advertising after several medical groups proposed that the association recommend limits on ads.

U.S. Economy: Factory Index, Confidence Increase (BLOOM)

By Joe Richter

Bloomberg, July 2, 2005

U.S. manufacturing accelerated in June for the first time in seven months, consumer confidence rose and auto sales surged, supporting the Federal Reserve's view that the economy is weathering higher energy prices.

The Institute for Supply Management said today that its factory index rose to 53.8 from 51.4 in May. Manufacturing remains in an uninterrupted expansion that began in June 2003, marked by readings higher than 50. The University of Michigan said today its sentiment index reached a six-month high in June.

U.S. Treasury notes tumbled after the factory report, which showed orders are picking up as companies work off inventories that swelled in the first quarter. The Fed raised its benchmark interest rate for a ninth time yesterday to head off faster inflation and said in a statement that ``although energy prices have risen further, the expansion remains firm."

``It's clear that consumers are beginning to feel much better, and manufacturing is coming out of its soft patch," said Nariman Behravesh, chief economist at Global Insight Inc., a forecasting firm in Lexington, Massachusetts. ``This is certainly one more piece of evidence that the Fed has the picture right."

The university's index increased to 96 last month from a preliminary estimate of 94.8 two weeks ago and the 86.9 reading in May. The rise suggests Americans will be in the mood to spend. A measure of current conditions, which reflects people's perception of their financial situation and whether it's a good time to buy, rose to the highest level since November 2000.

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Auto Sales

General Motors Corp., the world's biggest automaker, said today that extending employee discounts to all buyers sparked a 47 percent jump in sales last month, the most since August 1999. Sales also increased at Toyota Motor Corp., Nissan Motor Co., Ford Motor Co. and DaimlerChrysler AG, resulting in a 16 percent gain for the industry from the year-earlier month.

A separate report from the Commerce Department showed construction spending fell 0.9 percent in May, the third straight decrease. Government revisions switched four of the first five months of this year from gains to declines. Even so, construction in May was up 7 percent from the same time last year.

U.S. Treasuries tumbled, pushing the yield on the 10-year note above 4 percent for the first time since June 22, after institute's report bolstered speculation the Fed is no closer to ending a series of interest-rate increases, as some investors expect. The yield on the benchmark note, which moves opposite to the price, rose 13 basis points to 4.04 percent at 5:31 p.m. The Standard & Poor's 500 Index rose 3.1 points, or 0.3 percent.

Federal Reserve

The central bank yesterday boosted its target rate to 3.25 percent from 3 percent and said it can continue to lift short-term borrowing costs at a ``measured'' pace.

A reading of 51.4 was forecast for the June ISM report, based on the median estimate of 72 economists in a Bloomberg News survey. The institute, based in Tempe, Arizona, surveys more than 400 companies in 20 industries, including clothing, printing, transportation and plastics to compile its index.

The institute's new orders gauge, which makes up about a third of the total, rose to 57.2, the highest this year, from 51.7 in May. The production index, a measure of work being performed, increased to 55.6 from 54.9.

``Demand continues to be strong and robust for our business,'' said Matt Szulik, chief executive officer at Red Hat Inc., in an interview. Red Hat, the world's biggest distributor of the Linux computer-operating system, said sales rose 46 percent in the first quarter.

Inventories

The prices paid index fell to 50.5, the lowest since February 2002, from 58 in May. The backlog of orders gauge rose to 51.5 from 51. The index of supplier deliveries, which measures how long it takes to get materials, increased to 53.1 from 50.5.

The factory institute's employment index rose to 49.9 from 48.8 in May. The inventories index held at 47.8. The new export orders index fell to 50.4.

Inventories in the first quarter grew by $66.8 billion, the most since the second quarter of 2000, the Commerce Department said this week. There are signs that companies are starting to have some success in drawing down excess inventories, which bodes well for second-half growth, according to some economists.

``That is encouraging because manufacturing has been the weak link in the economy,'' said John Miller, a Chicago-based portfolio manager at Nuveen Asset Management, in an interview. ``There has been a draw down in excess inventories over the second quarter and that should bode well for future quarters in terms of building the inventories back up.''

Inventories

GM's offer of incentives, set to end July 5, helped pare the company's inventory to a 64-day supply of vehicles from 81 days in May, analyst Robert Barry of Goldman Sachs estimated.

The increase in new orders in the ISM report ``reduces the concern over inventories,'' said Norbert Ore, chairman of the ISM manufacturing survey, in a conference call with reporters. ``We can't proclaim that inventories are no longer a problem, but it gives us some hope that things are looking better than they did last month.''

The economy will probably expand at a 3.3 percent annual rate in the current quarter that ends tomorrow, according to a Bloomberg News survey of economists last month. That's down from 3.8 percent in the first quarter and 4.4 percent for all of last year. It still exceeds the 3 percent annual average during the past three decades.

In Europe, manufacturing in the dozen nations sharing the euro contracted for a third straight month in June because of higher crude oil prices. The 49.9 reading in the factory gauge followed a 22-month low of 48.7 a month earlier, according to a survey of about 3,000 purchasing managers, compiled by NTC Research Ltd. for Reuters Group Plc.

Energy Costs

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Rising energy prices may still limit growth at the nation's factories. Crude oil closed above $60 a barrel for the first time on the New York Mercantile Exchange this week and traded at about $58 a barrel today. ISM's Ore said that oil prices at this level will make it ``hard to maintain" the expansion in manufacturing.

``Oil prices are an issue, and companies would rather go into the summer a little lean on inventories than fat," said Joel Naroff, president of Naroff Economic Advisors in Holland, Pennsylvania. ``It's just a logical decision for businesses when uncertainty sets in."

Alcoa Inc., the world's biggest aluminum maker, said June 23 it will shed 6,500 jobs and close plants because of a drop in prices and higher energy costs. The plant shutdowns will include a factory in Kentucky that makes auto parts, the Pittsburgh-based company said.

Heating Demand Pushes Oil Up $2.25 (NYT)

By Bloomberg News

The New York Times, July 2, 2005

Crude oil rose more than $2 a barrel in New York yesterday, pulled higher by record heating-oil prices created by concern that refiners will not be able to meet peak demand during the winter.

Demand for distillate fuel, a category that includes heating oil and diesel, has surged because of a growing global economy.

"It's unusual to see heating oil lead the complex in the middle of the summer," said Jason Schenker, an economist at the Wachovia Corporation in Charlotte, N.C. "There are two things leading the heating-oil rally, concern about heating-oil supplies this winter and strong diesel demand."

He said a report from the Institute for Supply Management showing an increase in manufacturing in June indicated that industrial consumption would continue to grow strongly.

Crude oil for August delivery rose $2.25, or 4 percent, to close at $58.75 a barrel on the New York Mercantile Exchange, the biggest gain since June 1.

Heating oil for August delivery rose 7.5 cents, or 4.6 percent, to close at $1.7111 a gallon in New York. Gasoline for August delivery increased 8.27 cents, or 5.3 percent, to $1.6485 a gallon in New York, the biggest gain it has seen since Nov. 19.

U.S. Stocks Gain On Manufacturing Report; Shares Of GM Advance (BLOOM)

Bloomberg, July 2, 2005

U.S. stocks rose as a stronger-than- expected manufacturing report reinforced the Federal Reserve's suggestion that the economy can withstand higher interest rates.

``Business continues to do well," said Tom Wirth, who manages $1.3 billion at Chemung Canal Trust Co. in Elmira, New York. ``Earnings will be as good or better than expected and we'll see some nice growth. I expect the market to find some support."

General Motors Corp., the world's biggest automaker, advanced after posting its largest monthly sales increase since 1999. Energy shares including Exxon Mobil Corp. got a lift from higher oil prices.

The Standard & Poor's 500 Index added 3.11, or 0.3 percent, to 1194.44. The Dow Jones Industrial Average rose 28.47, or 0.3 percent, to 10,303.44. The Nasdaq Composite Index was little changed, up 0.41 at 2057.37.

Gains in benchmark indexes were restrained by oil prices, which rebounded from a three-day decline. Crude oil for August delivery surged 4 percent to $58.75 a barrel in New York.

For the week, the S&P 500 rose 0.2 percent. It gained 0.9 percent in the second quarter ended yesterday for the smallest quarterly move in three years. The Dow average finished this week 0.1 percent higher after completing the April through June period with a 2.2 percent drop. The Nasdaq Composite, up 0.2 percent for the week, climbed 2.9 percent in the quarter.

`Firm' Expansion

A private survey showed the pace of manufacturing growth accelerated in June for the first time in seven months. The Institute for Supply Management's factory index climbed to 53.8 from 51.4 in May, supporting the Fed's view that the economic expansion ``remains firm" even as oil holds close to a record.

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The central bank yesterday lifted its target rate to 3.25 percent, the ninth boost in as many meetings. Policy makers also restated their intention to make future rate increases at a ``measured'' pace.

``There were no surprises out of the Fed,'' said Art Hogan, chief market analyst at Jefferies & Co. in Boston. ``Earnings will be the next big market mover and my guess is that we'll again be low on our estimates.''

Another report today showed consumer confidence increased for the first time this year. The University of Michigan's index climbed to 96 in June from 86.9 in May.

Slower Trading

Trading slowed as investors got an early start on the three-day weekend. Exchanges will be shut on July 4 for Independence Day. The bond market closed at 2:00 p.m.

Thirteen stocks rose for every six that dropped on the New York Stock Exchange. Some 1.2 billion shares changed hands on the Big Board in the slowest activity since June 6.

GM gained 65 cents to $34.65. Sales last month jumped 47 percent from a year earlier for the biggest increase since August 1999. The company sold 558,092 vehicles, the most of any month since September 1996, thanks to an extension of employee discounts to all buyers.

Shares of Ford Motor Co., GM's smaller rival, added 7 cents to $10.31. Its sales last month rose 0.7 percent to 289,449 from a year ago.

The rally in oil prices gave energy stocks the best performance in the S&P 500 among 10 industry indexes. The stocks advanced 1.9 percent as a group.

ConocoPhillips, the No. 3 U.S. oil producer, climbed $1.61 to $59.10. The company said it raised its stake in Russia's OAO Lukoil to 12.6 percent as of yesterday from 11.3 percent three months earlier. Exxon Mobil Corp., the world's biggest publicly traded oil company, increased 84 cents to $58.31.

Intel

Intel Corp. added 19 cents to $26.21. The company's second- quarter revenue will be $9.3 billion, at the high end of its forecast, wrote Prudential Equity Group Inc. analyst Mark Lipacis.

Computer-chip makers may beat analysts' expectations because inventories are at ``low levels'' and ``utilization rates'' are bottoming, which will improve margins, Lipacis wrote in a note yesterday.

Red Hat Inc., the world's biggest distributor of the Linux computer-operating system, rose $1.21 to $14.31. The company reported first-quarter profit of 7 cents a share, exceeding the 5-cent average estimate of analysts surveyed by Thomson.

Profit among S&P 500 companies is expected to increase 6.6 percent in the second quarter, based on Bloomberg's analysis of analyst estimates compiled by Thomson Financial. Earnings growth will probably climb to 14.6 percent in the third quarter.

Alcoa Inc., the world's biggest aluminum maker, kicks off the reporting season for companies in the Dow average on July 7. General Electric Co., the No. 2 company by market value, will announce results on July 15.

Sears Holdings

Sears Holdings Corp. climbed $1.88 to $151.75. Shares of the third-largest U.S. retailer may get a boost from ``significant cash flow generation'' and share buybacks, wrote Deutsche Bank AG analyst Bill Dreher in a report. He rated the shares ``buy'' in new coverage by Deutsche Bank AG analyst Bill Dreher.

Pixar dragged the Nasdaq lower. Shares of the computer- animation film studio dropped $6.99 to $43.06. Second-quarter net income will be 10 cents a share because of disappointing sales of ``The Incredibles'' home videos, the company said. That's compared with the 15 cents Pixar predicted in May and the 19 cents analysts were expecting.

Pfizer Inc., the world's biggest drugmaker, slid 48 cents, or 1.7 percent, to $27.10 for the second-worst performance in the Dow average. Pfizer and Germany's Altana AG ended a partnership to develop Daxas, an experimental treatment for smokers' lung that failed to meet a goal in a clinical study.

QQQQs, Spiders

The S&P 500 shares, called Spiders, advanced 35 cents to $119.53. Nasdaq-100 tracking shares, known by their QQQQ symbol, fell 6 cents to $36.73.

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S&P 500 futures expiring in September gained 4.5 to 1200 on the Chicago Mercantile Exchange. Nasdaq-100 Index futures slid 3 to 1500.

The Russell 2000 Index, which tracks companies with a median market value of $519 million, added 0.5 percent to 643.04. The Dow Jones Wilshire 5000 Total Market Index, the broadest measure of U.S. shares climbed 39.59, or 0.3 percent, to 11,896.26. Based on changes in the Wilshire, the value of stocks increased by $49.5 billion.

ConocoPhillips (COP US) Exxon Mobil Corp. (XOM US) Ford Motor Co. (F US) General Motors Corp. (GM US) Intel Corp. (INTC US) Pfizer Inc. (PFE US) Pixar (PIXR US) Red Hat Inc. (RHAT US) Sears Holdings Corp. (SHLD US) To contact the reporter on this story: Ari Levy in New York at alevy5@bloomberg.net. Last Updated: July 1, 2005 18:07 EDT

Dollar Hits High Against Euro On Strong U.S. Economic Data (NYT/AP)

By The Associated Press

The New York Times, July 2, 2005

The dollar reached a 13-month high against the euro yesterday after faster-than-expected expansion in manufacturing reinforced the view that the Federal Reserve would continue to raise interest rates.

Manufacturing has now registered 25 consecutive months of expansion, according to figures from the Institute for Supply Management. The June increase followed six straight months of slowing growth, the group said.

In Washington, the Fed raised its federal funds rate on Thursday by one-quarter percentage point to 3.25, as was widely expected. The increase was the ninth since June 2004 and policy makers reiterated that rates would probably continue to rise at a measured pace.

Higher interest rates lift the return on investments denominated in a particular currency, raising its allure.

In late trading in New York, the 12-country euro traded for $1.1947, after falling as low as $1.1941 earlier in the day. It was down from $1.2083 in New York late Thursday.

The dollar strengthened further against the Japanese yen, trading at 111.70 yen after hitting a high of 111.78, up from 110.95 yen late Thursday.

The British pound traded at $1.7694 late yesterday after falling as low as $1.7685, down from $1.7887 Thursday, after the British economy grew just 0.4 percent during the first quarter. That raised fears the Bank of England may step in next week and cut interest rates from the 4.75 percent they have been at for nine months.

Dollar Surges As U.S. Factory, Consumer Indexes Top Forecasts (BLOOM)

By Mark Tannenbaum

Bloomberg, July 2, 2005

The dollar surged to the highest in more than a year against the euro and rose against 14 other actively traded currencies as gauges of U.S. manufacturing strength and consumer confidence both exceeded expectations.

``We are seeing heavy, heavy dollar buying across the board," said John McCarthy, a director of currency trading in New York at ING Financial Markets LLC. ``People are just more optimistic on the U.S. economy in general vis-a-vis everybody else."

The dollar advanced to $1.1959 per euro at 5 p.m. in New York, from $1.2108 late yesterday, according to electronic currency-dealing system EBS. It was the euro's first close below $1.20 since May 18, 2004. The dollar rose to 111.78 yen, the highest since August, and is 2.5 percent higher this week, the most since a 3.01 percent gain for the week ended Dec. 10.

The Institute for Supply Management's factory index rose to 53.8 last month from 51.4. The median estimate in a Bloomberg survey was for an unchanged index. A reading higher than 50 shows net growth. Separately, the University of Michigan said its consumer confidence index rose to 96 in June, the first increase this year.

Gains in the dollar began earlier today on signs the Federal Reserve will keep raising interest rates while central banks in Europe and Japan leave rates unchanged. The yen declined even after the Bank of Japan's Tankan survey showed business confidence rose more than expected.

``Europe's economy's going one way and our economy and our rates are going the other way," said Enrico Caruso, chief trader at currency hedge fund Tempest Asset Management in Newport Beach, California. ``We're long dollars. I'm still looking for $1.1850."

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European Manufacturing

Measured by the Fed's Trade-Weighted Major Currency Dollar Index, the dollar climbed 5.1 percent in the second quarter, the most since 1997.

The euro earlier today briefly pared some losses after an industry report showed manufacturing in the dozen nations sharing the currency shrank less than expected in June. An index based on responses from about 3,000 purchasing managers, compiled by NTC Research Ltd. for Reuters Group Plc, rose to 49.9 from 48.7 in May.

Economists expected a figure of 49, according to the median of estimates in a Bloomberg survey. A reading below 50 indicates a contraction.

``We're getting some better news out of Europe, and that can help stop the slide of the euro," said Adam Cole, a currency strategist in London at RBC Capital Markets Ltd.

U.S. Rates

Yesterday's rate increase by the Fed, to 3.25 percent from 3 percent, brought its target rate to the highest since August 2001. Policy makers said they intend to keep increasing the rate at a ``measured" pace. The European Central Bank has kept its rate at 2 percent for the last two years, while the BOJ has kept borrowing costs near zero since 2001.

``Rising U.S. interest rates have been a positive for the dollar," said Shahab Jalinoos, a currency strategist at ABN Amro Holding NV in London. ``There's still a discussion of an ECB cut going forward. We don't think they will cut, but there could well be continued speculation."

The spread between two-year U.S. Treasury notes and similar-maturity German government bonds was about 166 basis points, the most since 2000. A basis point is 0.01 percentage point.

Japan's currency reached as strong as 110.62 immediately after the Tankan survey was released, before resuming its decline. Finance Minister Sadakazu Tanigaki said today a widening rate gap between the U.S. and Japan is helping weaken the yen.

Tankan

The Tankan index of confidence among large manufacturers rose to 18 points in June from 14 in March, above the median forecast of 16 in a Bloomberg News survey of economists. A positive number means optimists outnumber pessimists.

``The yen is going to weaken," said Toru Umemoto, chief currency strategist at Barclays Plc. ``The Tankan wasn't enough. Rates are going up in the U.S. and the BOJ's doing nothing. Oil remains a problem as well."

The yen may fall to 112 per dollar next week, he said. The Japanese currency rose to 133.65 per euro today from 134.23.

The Tankan indicates the economy has yet to recover from a period of stagnation, Japan's government spokesman said. ``The situation of stagnation remaining has not changed," Hiroyuki Hosoda said at a press briefing in Tokyo.

Support for Japan's currency has waned on concern near- record oil prices will crimp growth. Movements in crude prices may be affecting the exchange rate, Tanigaki told reporters, adding that Japan must closely monitor the oil and currency markets. Japan imports almost all its oil.

``The Fed is still the only major central bank raising rates, and there are no signs it's getting closer to a stopping point," said Richard Yetsenga, a currency strategist in Hong Kong at HSBC Holdings Plc. ``The dollar still has a fair degree of upside momentum."

OTHER NEWS:

Jury Awards Family $1.95 Million In Dick Schaap's Death (NYT)

By Andrew Jacobs

The New York Times, July 2, 2005

A jury found a cardiologist at Lenox Hill Hospital liable yesterday for the death of the sports journalist Dick Schaap after hip replacement surgery and awarded his family $1.95 million in compensatory damages.

The jury found that two other doctors at the hospital on the Upper East Side of Manhattan were not responsible even though they had been accused of failing to follow standard medical practice in caring for Mr. Schaap, who went into respiratory distress

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after the operation to replace his left hip. Mr. Schaap, 67, died on Dec. 21, 2001, three months after the surgery, having never left the hospital. His family had sought $21 million.

"This case was never about the money," his widow, Trish, said after the verdict. "We felt that this was the only way to get hospitals to pay attention and to not sweep their mistakes under the rug."

The jury in State Supreme Court in Manhattan deliberated for nine days before finding that the cardiologist, Dr. Neil L. Coplan, was negligent. A lawyer for Dr. Coplan, Mark Aaronson, called the Schaap case "junk science" and said he would appeal. "The jury worked very, very hard, but they made a mistake," he said. "Dr. Coplan will be exonerated completely."

The three-week trial focused on whether the medication that Mr. Schaap had been taking for years to treat an irregular heartbeat, amiodarone, had caused so much lung damage that his surgery should have been postponed. Thomas A. Moore, the Schaap family's lawyer, argued that Dr. Coplan never looked at a presurgery X-ray that, Mr. Moore said, hinted at the lung damage. The defense argued that no damage was evident.

The other doctors named in the suit were Dr. Nicholas T. Skipitaris, an electrophysiology specialist, and Dr. Chitranjan S. Ranawat, the chief orthopedic surgeon at Lenox Hill. They had been accused of failing to properly diagnose and treat the syndrome, known as amiodarone pulmonary toxicity, a relatively rare side effect of the drug. Despite the verdict, Mr. Aaronson insisted yesterday that Mr. Schaap's death was not due to amiodarone toxicity but to fragments of bone marrow dislodged during surgery that ended up in the lungs.

A juror, Robin Joseph, 26, said the four women and two men on the panel were initially divided on the verdict but ultimately decided that Dr. Coplan was "100 percent to blame" for Mr. Schaap's death. "He had a lot of tools at his disposal, but he didn't use them," she said.

Mr. Moore said he would appeal an earlier decision by Justice Karen S. Smith to remove Lenox Hill from the lawsuit. He also expressed some disappointment with the jury's monetary award, saying it failed to consider Mr. Schaap's future earnings. "He was at the zenith of his career when he died," he said.

Climate Plan Splits U.S. And Europe (WP)

By Juliet Eilperin

The Washington Post, July 2, 2005

To hear President Bush's top environmental adviser tell it, Europe is coming around to the administration's approach to confronting global warming.

"We are all working at the same realistically aggressive pace," James L. Connaughton said in an interview this week. "The world is coming to a more sustainable, collective vision of how to address climate change."

As the eight major industrialized nations struggle to reach an agreement on global warming policy before next week's Group of Eight summit, however, many European officials have a different take on the matter.

"I wish I could believe it was true," said Barbara Young, chief executive of Britain's Environment Agency. When it comes to Bush's climate change policy, she added, "the amount of energy that goes into denying the case and not getting on with the job is just criminal."

This clash of visions between the other seven industrialized nations and the United States will come to a head when their leaders meet at Scotland's Gleneagles resort starting Wednesday to outline how they plan to address global warming and poverty in Africa. Summit organizers hastily arranged a last-minute round of talks in London this weekend to try to forge a joint statement on the environment, but so far that has eluded them.

The Bush administration's success so far in resisting its allies' calls for bolder measures to mitigate global warming -- such as mandatory emissions limits for greenhouse gases, concrete dollar commitments to new technology and specific energy efficiency targets -- is a testament to America's continuing power to shape the international agenda on climate change. In a consensus-oriented process, the most skeptical -- and most economically and politically powerful -- player, the United States, is largely dictating the terms of the debate.

Other industrialized nations acknowledge they have yet to win serious concessions from Bush. A week ago, British Prime Minister Tony Blair -- who as the current G-8 president placed climate change atop the group's agenda this year -- told reporters

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that when it came to reaching a summit agreement, "climate change is obviously very difficult." French President Jacques Chirac said Thursday that he welcomed Blair's efforts to bring Washington "back on board" in terms of an international pact but that "results have been modest."

The other G-8 members are Canada, Germany, Italy, Japan and Russia. In addition, Brazil, China, India, Mexico and South Africa will participate in next week's summit.

The most recent draft of the G-8 text on climate change, obtained by The Washington Post this week, shows that U.S. negotiators helped pare down a lengthy statement on scientific and policy details by two-thirds, in some cases inserting quotes directly from Bush's past speeches.

The language of previous texts called for specific funding to promote such things as clean energy research and creating sustainable energy markets in developing nations; the new statement includes no dollar amounts. Earlier drafts started with the sentence "Our world is warming"; that wording is now in dispute. European negotiators initially pushed for specific targets on energy efficiency and the sharing of emissions trading practices; the new document is now silent on these points.

Negotiators this weekend will debate whether to adopt a new sentence -- emphasizing the "need to slow, stop and then reverse the growth in greenhouse gases" -- that is lifted almost verbatim from the president's Feb. 14, 2001, speech on climate change.

A European Union official familiar with the negotiations -- and who asked not to be identified for fear of jeopardizing the final talks -- said Europeans were trying unsuccessfully to open up "a process, through whatever means possible, to jointly identify a series of next steps."

"There is a great reluctance on the part of the U.S. to accept anything meaningful," the official said. "There's still an effort to water down language on the science."

The administration's success in resisting pressure from the Europeans has won it praise from conservatives at home and criticism from environmental groups.

Myron Ebell, who directs the free-market Competitive Enterprise Institute's global warming and international environmental programs, said he and his colleagues are "pleased with the firm and consistent position Bush is taking on climate change." He added: "On the issue of climate change, Blair is going to make no progress in hoping the U.S. will accede." The institute gets funding from oil companies that oppose mandatory carbon emissions curbs.

By contrast, Jeff Fiedler, a climate policy specialist at the environmentalist Natural Resources Defense Council, said administration officials are seeking to craft "a fig leaf for the real action that's needed."

"The olive branch has been extended to find some effective policies that are acceptable to the White House, and as far as we can see, they have just slapped that branch away," Fiedler said.

Connaughton, the chairman of the Council on Environmental Quality, and other administration officials said they are focused on obtaining practical commitments industrialized countries can meet without damaging their economies. He said that although some G-8 countries are struggling to meet their goal of bringing greenhouse gas emissions down to 1990 levels by 2012, the United States is on track to fulfill its pledge to reduce its carbon intensity -- how much emissions are rising relative to overall economic growth -- 18 percent by 2012.

On Thursday, the Energy Information Administration announced that the nation's carbon emissions rose 1.7 percent in 2004 -- but that amounted to a 2.6 percent drop in carbon intensity, because the U.S. economy grew 4.4 percent that year. The rate of increase in U.S. carbon emissions more than doubled from 2003 to 2004 because of heightened economic activity.

"Our whole focus has been we need to get past these policy differences and get to deployment and implementation of these clean-technology opportunities," Connaughton said of the G-8 negotiations. "Perhaps I'm a Pollyanna, but this discussion is going to be historic."

But Europeans interviewed this week delivered a less sanguine assessment of the ongoing talks. Robert May, who served as Britain's chief scientist from 1995 to 2000 and now heads the Royal Society, the United Kingdom's independent scientific academy, said the Bush administration is resisting "scientific fact" and is trying to superimpose "one fundamentalist ideology . . . on the rest of the G-8."

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Philip Clapp, who heads the U.S. advocacy group National Environmental Trust and will be an observer at next week's summit, said Bush's approach might backfire if other G-8 nations start negotiating a new global warming treaty to take effect in 2012 "and the U.S. will just sit on the sidelines as a spectator, not a participant."

But some British officials held out hope they can reach a compromise with the United States by the summit's end.

"We need to focus on the ground we have in common and not split hairs over differences," said one, who asked not to be identified out of deference to negotiators. "The G-8 is a massive opportunity. You have the world's richest economies taking practical measures to deal with the issue, and it's not just the world's richest economies, it's the world's emerging economies."

Scotland Awaits Global Chieftains (FT)

By Andrew Bolger

Financial Times, July 2, 2005

For the host, can it really be worth it? Scotland is distinctly nervous as it awaits the arrival of the Group of Eight circus, with its rock stars, demonstrators and attendant passions, for next week's summit at the five-star luxury of Gleneagles Hotel.

Tony Blair has no doubts.

The prime minister not only hopes for big things on aid and debt relief for Africa and climate change. He also thinks the gathering in glorious Perthshire scenery will showcase Britain, and Scotland in particular, while demonstrating the UK's leadership in tackling global problems.

Jack McConnell, first minister in Scotland's devolved executive, describes the summit as an opportunity for a confident, modern Scotland – one the whole country should get behind. But Donald Anderson, Labour leader of Edinburgh City Council, admits there is a tense atmosphere in the Scottish capital.

Some newspapers – particularly the Scottish editions of London-based tabloids – have carried lurid tales about the havoc that could be wreaked by a small minority of anarchists among the expected masses of demonstrators.

Police and politicians are confident about the arrangements for today's Make Poverty History march in Edinburgh, but admit to greater concern about unauthorised demonstrations outside financial institutions in Edinburgh on Monday by groups that have not identified themselves.

A five-mile security fence has been erected around Gleneagles. Steel barriers have also been put around the Scottish parliament and Holyrood Palace in Edinburgh, causing the Queen to change her holiday plans so as not to be in the city.

Scottish police say they will not use tear gas or water cannon – unlike the Italian riot squads whose heavy-handed tactics provoked much of the violence that marred the Genoa summit in 2001.

Much could depend on the weather. Scotland in summer sunshine can be delightful but heavy rain is also possible, and could dampen the enthusiasm of demonstrators heading for the countryside around Gleneagles. Not to mention midges, the tiny blood-sucking insects that can make any Scottish campsite a misery in summer.

Rudyard Kipling is seldom cited in Scotland these days, perhaps because the English writer's association with British jingoism sits ill with Scots' sense of a post-imperial national identity. There is certainly no chance of his "twin imposters", triumph and disaster, being treated just the same.

If the G8 turns out well, there will be crowing and self-congratulation about how Scotland's international image has been burnished. If things go badly, there will be a tidal wave of recrimination, and a search for scapegoats.

To that extent at least, Scotland's reaction to the summit will faithfully reflect the proceedings behind the barricades at Gleneagles.

Scottish Police Heighten Security Ahead Of Group Of 8 Summit (LAT)

By Sarah Price Brown

The Los Angeles Times, July 2, 2005

With a security operation named after a tree that local folklore says can ward off evil, police were making final preparations Friday for the arrival in Scotland of eight world leaders and tens of thousands of protesters.

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By Sunday, about 10,600 officers will be available as part of Operation Sorbus to provide security for President Bush, British Prime Minister Tony Blair and other leaders of the Group of 8 leading industrial nations as they gather Wednesday in Gleneagles, Scotland.

Police have erected a 5-mile fence around the Gleneagles Hotel, where the meeting will take place. Security cameras line the fence, and anyone who tries to bypass the barrier will be arrested, said a spokeswoman from Tayside Police, the local office responsible for the summit's security.

Five roads near the hotel will be closed to keep traffic away from the conference site, about 40 miles northwest of Edinburgh, Scotland's capital.

Officers will patrol the area around the meeting by foot and car. Mounted police will guard the streets, and security dogs will be deployed. A surveillance blimp with video cameras will relay images to a command center. Helicopters with loudspeakers and video cameras also will survey the area.

Should any breach in security occur at the hotel, the summit would be moved 20 miles to the Tulliallan Castle, Scotland's police college, the Times of London reported. Local police would not comment on the plan but also said they would not deny it.

"We're putting a very broad range of contingencies in place," said the Tayside spokeswoman, adding that department policy required that she not to be named. "We're planning for all eventualities."

More than 100,000 activists are expected to descend on Edinburgh today for a march called "Make Poverty History," which is being organized by charities and was approved by the City Council.

About 2,500 officers will police the march, said Kevin Smith, spokesman for Lothian and Borders Police, the Edinburgh-area agency in charge of monitoring the protest. Police are taking a nonconfrontational approach to the demonstration, he said. Officers will wear their usual uniforms, for example, though police in riot gear will be on hand in case of violence.

"We will be working hard to balance the rights of free speech and lawful protest," said Paddy Tomkins, chief of Lothian and Borders Police.

One member of the board of the Lothian and Borders Police said he would join the demonstrators at the march.

"If the cause of ending world poverty is achieved," said Eric Milligan, "it will be due as much to those who planned for months and worked on these demanding days, as to the demonstrators and the world leaders."

Protesters have set up campsites near Edinburgh in anticipation of a number of rallies. The Stop the War Coalition will hold a march Sunday and demonstrate Monday outside Scotland's Faslane nuclear submarine facility, about 50 miles northwest of Edinburgh. Police are bracing for what they fear will be a chaotic demonstration Monday: the Carnival for Full Enjoyment, arranged by an anarchist group.

Rock star Bob Geldof, who organized the Live 8 concerts taking place worldwide today to raise awareness about poverty in Africa, has urged 1 million people to descend on Edinburgh on Wednesday to show their support for Africa. The leaders from the Group of 8 — the United States, Britain, Germany, France, Italy, Japan, Canada and Russia — are expected to take up the issue at their meetings.

Police fear that the influx of so many people into a city of nearly 450,000 will cause problems.

"We are concerned that people may come up and have nowhere to stay and nothing to do," a Lothian and Borders police spokeswoman told the media. "We are trying to discourage them."

Peter Wilson, chief of the Fife Police, was quoted by the Scotsman newspaper as saying he was prepared for violence of the magnitude seen at the G-8 summit four years ago in Genoa, Italy. There, a protester died and hundreds of police and demonstrators were injured in clashes.

Wilson warned potential troublemakers that they would be under surveillance. "We know where to find you," he said.

G8 Officials In Last-ditch Bid On Africa, Climate (REU)

By Madeline Chambers

Reuter, July 2, 2005

LONDON (Reuters) - Officials from the world's major industrialized nations launched last-ditch talks on Friday to try to help their leaders end differences and strike deals next week to lift Africa out of poverty and act on climate change.

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British Prime Minister Tony Blair, who holds the Group of Eight presidency and will host a G8 heads of state summit at Gleneagles in Scotland from July 6-8, is also seeking an initiative to inject new impetus into Middle East peacemaking.

Previous British initiatives have had little success and Blair was cautious on the latest.

"I hope but I can't yet be sure that there will be a specific initiative on the Israeli-Palestinian issue," Blair told a news conference.

"I've set aside time within the summit now to do this because there have been developments over the past few days that lead me to believe we may be able to make some progress," he said.

Blair has put African poverty relief and climate change at the center of his G8 presidency, but Britain is worried that any deals on the two issues will fail to live up to expectations.

STARKEST DIFFERENCES

The starkest differences are between the United States and other G8 countries on climate change.

The G8 nations have been unable to agree on its severity, causes or how to tackle it, according to a leaked text of the latest draft declaration seen by Reuters.

Environmentalists are calling on Blair to signal an open rift with Washington rather than agree to a watered down text.

"No deal is better than a deal on this (draft) document," said Tony Juniper of Friends of the Earth.

"Rather than trying to paper over the differences with Bush, Blair should publicly signal a rift with the United States."

Blair has acknowledged a deal on climate change would be very difficult at the summit of G8 nations -- the United States, Britain, Canada, France, Germany, Italy, Japan and Russia.

"What I am trying to do at the G8 is say 'America is not going to sign the Kyoto Treaty, let's leave that to one side'," Blair said in an MTV interview to be broadcast later on Friday.

He argues there are other issues, such as the need to develop clean energy technology, that can be agreed upon.

"Can I get agreement on that? I don't know but I'm going to try," he said.

PROGRESS ON AFRICA

Blair has made more progress on easing poverty in Africa, although there is still some way to go.

Campaigners want the G8 to increase aid for Africa, cut the continent's debt and dismantle trade barriers.

Last month, G8 finance ministers agreed to cut about $40 billion worth of impoverished nations' debt and the European Union and Washington have agreed to boost aid spending.

But the United States opposes a more ambitious plan to increase aid by $50 billion by issuing bonds using future development budgets as collateral.

Blair, widely known to be keen to make progress on major international issues in his third and final term as prime minister, would seize on any accord to put momentum into Middle East peacemaking.

The United States, traditionally the main broker in Middle East peace efforts, says Israel's planned withdrawal from the Gaza Strip could help revive talks on a long stalled U.S.-backed "road map" for peace and Palestinian statehood.

The G8 summit will take place a month before Israeli soldiers and settlers are due to pull out of Gaza, home to 1.3 million Palestinians.

After a week of turmoil in which pro-settler radicals clashed with troops and blocked roads, fears are mounting that the pullout will be overshadowed by violence.

Officials said G8 leaders would discuss a plan by former World Bank President James Wolfensohn, now an international envoy for the so-called Gaza "disengagement."

Charged with reviving the Palestinian economy after the pullout, he is seeking support for Palestinan aid packages.

Live 8 Concerts Seek To Change Policies Of Leading Countries (KRT)

By Matthew Schofield

Knight Ridder, July 2, 2005

Twenty years ago, Bob Geldof, then a member of the Boomtown Rats rock band, organized a pair of concerts known as Live Aid that raised $150 million for African charitable work and helped redefine rock stars from bad boys to charitable agents.

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Saturday, Geldof is back, with a star-studded slate of concerts in 10 cities around the world. But raising money isn't the goal; changing the policy of the world's most powerful countries is.

"This is not Live Aid 2," Geldof has noted.

Timed to coincide with next week's meeting of the so-called Group of 8, a gathering of American, European and Asian leaders that begins Wednesday in Scotland, Live 8 is aimed at persuading them to cancel billions in African debt, increase aid to Africa by at least $50 billion and rewrite trade regulations to be more favorable to poor nations.

Organizers also hope to flood Scotland with protesters in the coming week, beginning with as many as 150,000 Saturday in Edinburgh, an hour's drive from Gleneagles, where the G-8 leaders, including President Bush, will meet.

"We need proper grown-up politics and people need to be serious," Geldof said at a recent news conference.

The concert venues were picked in G-8 countries to maximize political influence on the leaders: London, Philadelphia, Berlin, Moscow, Paris, Rome, Tokyo and Barrie, Canada, about 60 miles north of Toronto. Concerts also are set for Johannesburg, South Africa, and Edinburgh. The Edinburgh show will be Wednesday, as the summit begins.

More than 100 performers will appear, among them Madonna, P. Diddy and Elton John.

The motto this time is "We Don't Want Your Money - We Want You," and the concerts are free.

There's some nostalgia attached to Saturday's festivities. Paul McCartney is expected to kick off London's concert by singing "Sgt. Pepper's Lonely Hearts Club Band," which begins with the words "It was 20 years ago today." (In fact, it's about two weeks early for the 20th anniversary).

"This is not an issue of politics, it's an issue of morality," Geldof said recently. " I think it will have deep political resonance."

Kate Norgrove, a spokeswoman for the Global Call to Action Against Poverty, acknowledged that the concerts have done quickly what she and other have spent years trying to do: Draw attention to African debt relief and trade issues.

"Rock 'n' roll has upped the ante considerably," she said. "It's pushed from the background into the limelight, and we hope that it means we're entering a new phase in working for Africa, one where we're not struggling to find the money to get done what needs to be done."

The numbers that move the movement are a constant in newspapers and newscasts around Europe: 291 million Africans survive on less than $1 a day each, 30,000 children die every day because of poverty, 26 million Africans are HIV-positive.

Already, the pressure from the worldwide effort is given credit for helping to get the United States and Great Britain to agree to $40 billion - possibly rising to $55 billion - in debt relief for Africa and Latin America.

Still, not everyone is convinced that the concerts will have long-term impact.

"We wish them luck, but we've seen this before," said Onyekachi Wambu, the information officer for the London-based African Foundation for Development.

Wambu's organization has been criticized for planning a conference on African development that runs at the same time that an expected 200,000 people will be attending the Live 8 concert in London's Hyde Park, criticism that Wambu said showed how little was known about African aid programs.

"We hold this conference on creating jobs and wealth - the real answer to development - on the first Saturday of July every year," he said. "Someone who drops in on the issue wouldn't pay attention to that, I guess."

Tom Cargill, the Africa program coordinator for Chatham House, an English research group, offered similar sentiments.

"I do believe Africa will sort itself out, but it will do so in spite of what the rest of the world is doing," he said. "But these big-bang ideas on making poverty history all of a sudden are a bit optimistic."

African aid should be focused on creating jobs and a middle class, he said.

Of course, a recent London Mail on Sunday column noted that there certainly will be some who benefit from the Live 8 efforts.

"Once again, the hungry, terrorized children of Africa are pooling their efforts to help others," it began. "They will, once more, perform on our TV screens to help rescue the sagging reputations of that needy and deprived group of balding, clapped-out rock stars who long for the crowds that once listened to them."

HIGHLIGHTS OF THE CONCERTS

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Philadelphia - Where: The Museum of Art. Audience expected: 250,000. Artists: Black Eyed Peas, Dave Matthews Band, P. Diddy, Stevie Wonder.

London - Hyde Park. 200,000. U2, Coldplay, Madonna, Snoop Dogg, Elton John, Pink Floyd (reunion).

Barrie, Canada - Park Place. 150,000. Bare Naked Ladies, Deep Purple, Simple Plan, Run DMC.

Berlin - Tiergarten. 250,000. Brian Wilson, Die Toten Hosen, Crosby Stills & Nash.

Johannesburg - Newtown. 40,000. Malaika, Zola.

Moscow - Red Square. 50,000-200,000. Pet Shop Boys.

Paris - Palais de Versailles. 220,000. The Cure, Dido, Youssou N'Dour.

Rome - Circus Maximus. 250,000. Duran Duran, Tim McGraw.

Tokyo - Makuhari Messe Arena. 10,000. Bjork, McFly.

Edinburgh - Wednesday, as the G-8 summit begins, Murrayfield Stadium. Number expected is unknown. Annie Lennox, Bob Geldof, the Proclaimers.

The EU Problem (KRT)

By Matthew Schofield

Knight Ridder, July 2, 2005

In 2004, the European Union agreed on a new European Constitution to be sent to each member nation for approval. Under EU law, the constitution had to be approved by every nation or it could not be activated. Nations were given the choice of adopting it by either Parliamentary vote or popular referendum. The first binding referendum, however, came late May in France, where it was defeated 55 percent to 45 percent. A few days later, almost two-thirds of Dutch voters rejected it.

Because the votes were seen as a rejection of European policy, the recent expansion, plans for future expansion and the implementation of the euro, member nation heads of state in June agreed to put any efforts to pass the constitution on hold for a year and declared that "Europe is in a profound crisis."

The History Of The European Union (KRT)

By Matthew Schofield

Knight Ridder, July 2, 2005

In 1950, as Europe was rebuilding after the devastation of World War II, French Foreign Minister Robert Schuman suggested integrating the coal and steel industries of western Europe. He was speaking on May 9, what is now called Europe Day, considered the birth of the European Union.

But the beginning of what is now called the European Union is not traced so much to a single event, but through an evolution that lasted about 50 years.

Schuman's speech led to the formation of the European Coal and Steel Community. The formation wasn't so much for economic reasons as because of the backdrop of animosity between nations.

Beginning with the Napoleonic Wars in the early 19th century, through the Franco-Prussian War and World War I and to the end of World War II in 1945, about 60 million Europeans were killed through the effects of warfare.

As the official history of the European Union states, "A number of European leaders became convinced that the only way to secure a lasting peace between their countries was to unite them economically and politically."

What this meant was while the nations involved would remain independent, they would increase the level to which they were reliant upon each other. This has meant giving up pieces of national sovereignty to the union, such as monetary policy, agriculture and fisheries policy, and product standards.

The first European Community formed in 1954 and included six nations: Belgium, Germany, France, Italy, Luxembourg and the Netherlands.

Pleased with the way that agreement worked, the six founder nations in 1957 signed the Treaties of Rome, one to regulate atomic energy and the other to remove the trade barriers existing at their borders, forming a "common market," although a true open and common market did not appear until 1992.

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In 1967, administration of the three treaties was merged under a single body, and a European Commission, Council of Ministers and Parliament were created.

In 1973, the original six were joined by three new members, Denmark, Ireland and the United Kingdom. In 1981, Greece joined, followed by Portugal and Spain in 1986 and Austria, Finland and Sweden in 1995.

By that time, the community in 1992 had passed the Treaty of Maastricht, which increased cooperation in areas such as defense, justice and "home affairs," and officially named the group the European Union.

Two of the biggest changes to the union were yet to come, however. The first was the introduction of the euro, a single currency for the European Union, in 2002. Denmark, Sweden and the United Kingdom decided against replacing their national currencies, but the other 12 members formed the eurozone, an economic union with a single interest rate.

The second change came in 2004, when the Union expanded from 15 mostly western European nations to include 10 new, mostly eastern European nations. The new nations were Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. The new additions created a Union of 25 nations. Bulgaria and Romania are expected to be the next nations to join. Croatia and Turkey also are being considered.

Film About Despair In South Africa, And School That Offers Hope (NYT)

By Richard Sandomir

The New York Times, July 2, 2005

Charlie Ebersol's need to tell the story of the Ithuteng Trust school in Soweto - where traumatized and violent teenagers learn to overcome their young lives' horrors - began with a visit to the South African township two years ago and has produced a new documentary, "Ithuteng (Never Stop Learning)."

"I have a great life, and I felt I had a responsibility to tell this story," said Mr. Ebersol, 22, who was a film major at the University of Notre Dame and graduated in May.

The documentary, which was honored in May as best humanitarian film at the MountainFilm festival in Telluride, Colo., is a raw but inspiring journey into the lives of teenagers ravaged by abuse, crime and AIDS. All were recruited by Jacqueline Maarohanye, a fiercely devoted teacher known as "Mama Jackey" who set up the school in 1999. Although some students board there, most come from their own schools around Johannesburg for after-hours and Saturday programs that combine academics, culture, sports, peer counseling, therapeutic dramatizations of the teenagers' own lives and outings to a maximum-security prison.

Mr. Ebersol, who now lives in Los Angeles and recently completed a stint as a production assistant on the film "Yours, Mine and Ours," produced the documentary with a friend, Kip Kroeger, also 22, with whom he had made music videos. They hired Mr. Ebersol's brother, Willie, 18 and a student at the University of Southern California, to direct a 17-day shooting schedule in the summer of 2003 because they admired a short student film he had made on a classmate's dating problems.

"I should have been intimidated, but I wasn't," Willie Ebersol said. "He came back from South Africa, gave me a blanket as a gift and asked me to direct."

The students provided brutally candid narratives of their lives to the young American filmmakers, none more than Lebo, a girl who described being raped twice and contracting H.I.V.

"They poured out their lives and didn't hold back," Mr. Kroeger, a North Carolina State University graduate, said in a telephone interview. "It sears right into you. Here's a girl you met two hours and ago she's telling us about being raped? How can she sit there and tell us that?"

In another scene from the film, an orphan named Dineo, who is described as having been sexually abused by her foster father, the head of an anti-abuse charity, confronts an older girl whose behavior toward her had made her want to give up the program.

"I thought you were a bad person," Dineo says to the older girl. "I hated you so much, but now I'm going to be your mother and you're going to be my mother."

While they embraced, Mama Jackey tried to hold back her tears.

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"Here are these kids, who are not taught about love, teaching each other to love," Charlie Ebersol said in an interview. "They will learn to love and share it because Mama said you have a chance now, you have a way to dream."

Although the film does not yet have a distributor, it is winning notice beyond the award. Oprah Winfrey had already known about Ithuteng (pronounced IT-uh-teng) and Mama Jackey, but it was watching a DVD of the documentary during a flight to Johannesburg in June that prompted her to donate a total of $1.14 million to the school, said Gayle King, editor at large of O, the Oprah Magazine.

When Ms. King told Charlie Ebersol of the donation, she said: "He was incoherent with joy. He said, 'Oh, my God, Gayle, I was just trying to raise $10,000 to keep Mama's electricity on.' "Ms. Winfrey's gift was the largest to the school so far, but it has received support from numerous groups, including the National Basketball Association, which built a reading center there, and from Dikembe Mutombo, the Congolese player for the Houston Rockets, who donated $150,000 to build two dormitories.

Kathy Behrens, a senior vice president of the N.B.A., said: "I was with Charlie when he first showed the film to Mama. It was very emotional for her. It was very hard for her to watch Lebo, who had died of AIDS."

The lessons of Ithuteng resonated with unexpected power for the Ebersol brothers. Until last year, theirs had been a charmed life, as the older sons of Dick Ebersol, the chairman of NBC Universal Sports and the retired actress Susan Saint James.

Dick Ebersol bankrolled the film for about $90,000, after Charlie Ebersol and Mr. Kroeger began raising money on their own. Their father gave them guidance on the documentary and helped find film veterans to help his sons in Soweto. Their mother helped edit the film.

But last Nov. 28, a private jet carrying Dick, Charlie and the youngest Ebersol son, Teddy, crashed after takeoff in Montrose, Colo., near the family's winter home in Telluride. Teddy, 14, was killed; Charlie suffered a broken wrist, and eye and back injuries; Dick broke several ribs, his sternum, his pelvis, his coccyx and several vertebrae.

"I walked off the plane with my father in my arms, and my brother behind me," Charlie Ebersol recalled. "I said, 'Oh, God, how can I get through this without my father, and then I had to find Ted. In talking to God, I said: 'How can you empower me, and take away my father's power? I need him.' "

He said the openness of the students at Ithuteng helped him deal with his grief. "Mama believes you must cry yourself dry," he said of Ms. Maarohanye, "and that people shouldn't prevent you from crying. Willie and I employed what Mama taught us in the context of real tragedy."

Willie Ebersol said: "South Africa taught me that I can talk about what's eating me up inside. We learned from the kids that it's O.K. to be sad. If you've been raped, it's O.K. to say you've been raped. You don't bury your grief if you speak about it. You open up."

The film also underwent a transformation after the crash, becoming more overtly emotional with additional music to underscore the painful pasts and altered lives of the students.

"We had a fear of exploiting the emotion," Mr. Kroeger said of their initial framing of the material. "But after the crash, we realized we weren't tapping into our emotions. We had to make changes."

Now, Charlie Ebersol said, the film "represents our trying to find hope in the face of loss."

Russia, China Team Up To Assail U.S. Foreign Policy (LAT)

By David Holley

The Los Angeles Times, July 2, 2005

Teaming up in a thinly veiled attack on perceived U.S. efforts to dominate the world, Russia and China on Friday issued a declaration demanding respect for the right of all countries to develop free of outside interference.

Signed by Russian President Vladimir V. Putin and Chinese President Hu Jintao on the second day of a summit here, the statement denounces "the aspiration for monopoly and domination in international affairs" and calls for an end to "attempts to divide nations into leaders and those being led."

While not mentioning the United States directly, the Declaration on World Order in the 21st Century leaves no doubt that Washington is its main target.

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Russian-Chinese ties have been steadily warming, boosted by the signing last year and ratification this spring of the final settlement of a prolonged border dispute. The two countries plan to hold their first joint military maneuvers this year in China.

Putin and Hu offered each other support in Moscow's war against separatist rebels in the republic of Chechnya and Beijing's effort to assert control over Taiwan, which it considers a renegade province.

"Any actions aimed at splitting sovereign states and kindling ethnic discord are inadmissible," the statement says.

"The declaration reflects similar approaches by Russia and China to fundamental world policy issues," Putin told reporters after the signing ceremony. "We understand well the importance of good-neighborly relations based on partnership between Russia and China, both for our own peoples and for the entire world."

Hu told reporters that the two sides had discussed cooperation concerning Taiwan and Chechnya, promotion of stability in Central Asia, reform of the United Nations and "the nuclear problem of the Korean peninsula."

The declaration shows that Moscow and Beijing "don't quite believe the sincerity of the second Bush administration's attempts to break its image of being a proponent of unilateral actions and decisions," said Andrei Kortunov, president of the New Eurasia Foundation in Moscow.

"It is confirmation that Washington's attempts to somehow draw various countries into cooperation on a whole number of issues doesn't seem very convincing to China and Russia," Kortunov said.

"This may be connected with the unilateral actions of Washington in the Middle East, its latest decisions on increasing its defense budget and some others."

The declaration endorses a stronger United Nations role in global affairs and rejects attempts "to impose models of social and political development from outside."

The accord also prominently recycles language that China has pushed in international agreements for decades: "All countries of the world should strictly observe the principles of mutual respect for sovereignty and territorial integrity, mutual nonaggression, noninterference in each other's internal affairs, equality and mutual benefit, and peaceful coexistence."

Vasily Mikheyev, deputy director of the Institute of Far Eastern Studies at the Russian Academy of Sciences, said the declaration was "to some extent counterproductive because it is composed in an old diplomatic style, in the spirit of the Cold War. That is, the declaration is full of cliches from Cold War times."

He added: "The language of this declaration has very little to do with the diplomacy of globalization. It is neither in Russian nor in Chinese interests to spoil relations with the United States. That is why no country is named by name in the declaration, which makes it sound even more like a bureaucratic Cold War document."

The two sides also signed economic agreements Friday, including one between the Russian oil company Rosneft and China National Petroleum Corp. that paves the way for increased Russian oil exports to China. Rosneft announced in a news release that the firms would begin discussing cooperation in exploring and developing oil and gas fields on Sakhalin Island, off Russia's east coast.

Other agreements involve cooperation in electric power and banking.

Trade between Russia and China jumped by one-third in 2004, to $21 billion, and has continued to expand rapidly this year, Putin told reporters.

"There are promising projects in such sectors as metallurgy, the modernization of transport infrastructure, inter-bank ties and space exploration," Putin said. "We intend to develop military-technical ties and cooperation between defense ministries."

White House Renews Contact With N. Korea (AP-Y2)

By Barry Schweid, Ap Diplomatic Writer

AP2, July 2, 2005

The United States has resumed contact with North Korea, but the talks at a security conference in New York have not produced a decision to reopen negotiations on Pyongyang's nuclear weapons program, the State Department said Friday.

The same two American diplomats who met secretly in May with North Korean counterparts in New York, State Department envoy Joseph DeTrani and James Foster, were involved, spokesman Sean McCormack said. Foster is in charge of the department's office of Korean affairs.

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He described it as a "contact" and said there was no negotiating between the two sides at the conference held by the National Committee on American Foreign Policy.

The conference dealt primarily with the Korean peninsula, and customarily at such events "there is a natural exchange among the attendees," McCormack said.

"I am not going to characterize it beyond that," the U.S. official said, but added: "We are still waiting to hear from North Korea a date when they will return to the six-party talks and engage in those talks in a constructive manner."

In fact, McCormack said, "all the members of the six-party talks are still waiting to hear from North Korea a date when they will return" to the talks.

After the May meeting surfaced, McCormack said North Korea had registered an interest in reopening the negotiations, last held a year ago. No date or location has been set since, and McCormack declined to say whether the North Koreans had expressed interest again in the latest encounter.

"What matters is that they return to the talks and engage in a constructive manner," he said.

China, Russia, South Korea and Japan are aligned with the United States in the negotiations, trying to persuade North Korea to halt a nuclear weapons program that U.S. intelligence is convinced already has produced at least two bombs.

Last week, Undersecretary of State Robert Joseph suggested that China put economic pressure on North Korea to induce it to reopen nuclear weapons negotiations.

Joseph, who has succeeded John R. Bolton as the department's top arms control official, said, "We think China can do more to get them to eliminate their nuclear weapons program."

China shares with the United States and other nations an interest in a nuclear-free Korean peninsula, Joseph said. "It is very much in China's interest to exert as much influence as it can," he said.

"My sense is that the North Koreans will come back," he said. "I hope in the near term."

US, North Korea Have Contacts (AFP)

AFP, July 2, 2005

US and North Korean officials had rare direct discussions Thursday on efforts to resolve the dispute over Pyongyang's nuclear weapons program, the State Department said.

Spokesman Sean McCormack said Joseph DeTrani, the US envoy to six-party talks on the nuclear issue, conferred with senior North Korean diplomat Ri Gun at an academic conference in New York.

"Yesterday, in the context of the seminar, there was contact between Mr. DeTrani and Mr. Ri Gun," McCormack said. But he added, "This was not a negotiation."

McCormack would not discuss any details of the latest exchange between the two countries, which have no diplomatic relations but occasionally make contact via Pyongyang's UN mission in New York.

But a senior State Department official implicitly confirmed the two had discussed efforts to resume the nuclear negotiations that have been stalled for a year.

"That probably would be the only reason why we would have contact with them. That's the issue before us," said the official, who asked not to be named.

But McCormack made it clear that any substantive negotiations could come only within the framework of the multilateral talks that also include China, Japan, South Korea and Russia.

"All the members of the six-party talks are still waiting to hear from North Korea a date when they will return to the six-party talks and engage in those talks in a constructive manner," he said.

Word of the New York discussions came after South Korean Foreign Minister Ban Ki-Moon said Friday that Christopher Hill, the top US negotiator with North Korea, could visit the insular communist country.

Hill, assistant secretary of state for East Asian and Pacific affairs, said recently he would be prepared to make the trip.

"He has already visited South Korea, China, Japan and Russia, which are involved in the talks. There is no reason for him to skip North Korea," Ban said in an interview with the Hankyoreh newspaper in Seoul.

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The news also came as South Korea's Yonhap news agency said that US Secretary of State Condoleezza Rice would visit China, Japan and South Korea later this month. The State Department declined to confirm the report.

The encounter between DeTrani and Ri Gun, Pyongyang's number-two man in the nuclear negotiations, came after McCormack announced Thursday that he expected no substantive contact between the men.

The pair were in New York for a conference on the Korean Peninsula also attended by Jim Foster, who heads the State Department's office of Korean affairs, and other participants in the six-party process.

North Korea boycotted the fourth round of the talks in September after rejecting a US-led aid-for-disarmament offer. Pyongyang has also demanded that Washington end its "hostile" attitude before discussions can resume.

Although the negotiations have been deadlocked for a year, optimism has grown in recent weeks that North Korea might be willing to come back to the table sometime this month.

North Korea Wants U.S. To Withdraw Remark (AP-Y2)

By Edith M. Lederer, Associated Press Writer

AP2, July 2, 2005

North Korea told the United States that it must withdraw its description of the communist nation as an "outpost of tyranny" and treat Pyongyang as a friend if it wants nuclear talks to resume, a senior North Korean official said Friday.

North Korea's director general of North American affairs, Li Gun, told reporters after a two-day conference on northeast Asian security that the next step is up to the Americans.

Speaking in English, Li said, "We told them (the U.S.) to just withdraw the words `outpost of tyranny.' We demand it."

Secretary of State Condoleezza Rice called North Korea one of the world's "outposts of tyranny" during her confirmation hearings in January. She defended the characterization last month, telling Pyongyang if it wants economic help it must give up its nuclear weapons and return to the six-party talks.

The State Department confirmed that Joseph De Trani, the top U.S. official to the six-party talks on North Korea's nuclear weapons program, and James Foster, who is in charge of the department's office of Korean affairs, resumed contact with the North Koreans at the conference.

State Department spokesman Sean McCormack said there were no negotiations between the two sides at the closed meeting.

"We are still waiting to hear from North Korea a date when they will return to the six-party talks and engage in those talks in a constructive manner," he said.

De Trani told reporters it was a good meeting but would not elaborate.

Speaking in Korean, Li said the two sides exchanged positions and that he told the Americans "the United States has to treat us friendly, not as enemy, if they want us to take part in the six-party talks."

Li said it wasn't the right time to talk about when the talks would reopen.

"We have to watch the Americans, what kind of steps the Americans take," he said.

Li's remarks in Korean were translated by the correspondent for South Korea's main daily newspaper, Chosun Ilbo.

Later, Li told the correspondent for the Japanese daily, Tokyo Shinbun, that the conference was useful.

"We are ready for resuming the six-party talks, and we told them that," he said in English. "The U.S. must create some justification to enter into the six-party talks."

"We never deny or oppose to six-party talks. Our position is that once they give us justification, we can enter any time into six-party talks," Li said.

"I think they heard our voices, and it's up to them. We will see it," he said.

The multilateral talks — involving North and South Korea, the United States, China, Japan and Russia — have been stalled since June 2004. Since then, North Korea declared it has nuclear weapons, claiming they are a deterrent against a possible attack by the United States.

The State Department announced North Korea's agreement to resume talks on June 6 following a meeting in New York between De Trani, Foster and senior North Korean diplomats, but no date has been set.

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AP Diplomatic Writer Barry Schweid contributed to this report from Washington.

Glimpses Of A Hermit Nation (LAT)

By Barbara Demick

The Los Angeles Times, July 2, 2005

His day begins at 4:30 a.m. The 64-year-old retired math teacher doesn't own a clock or even a watch, but the internal alarm that has kept him alive while so many of his fellow North Koreans have starved to death tells him he had better get out to pick grass if his family is to survive.

Soon the streets of his city, Chongjin, will be swarming with others doing the same. Some cook the grass to eat. The teacher feeds it to the rabbits his family sells at the market.

At 10 a.m., he eats a modest meal of corn porridge. A late breakfast is best as it allows him and his wife to skip lunch. Then he goes with a hand cart to collect firewood. He has to walk two hours from Chongjin, mostly uphill, to find a patch that has not been stripped bare of vegetation.

"There is no time for rest. If you stand still, you will not survive," said the teacher, a lean, soft-spoken man with salt-and-pepper hair who could be described as elegant if not for his threadbare trousers and his fingernails, as gnarled as oyster shells from chronic malnutrition.

Later, if it is one of the rare evenings when there is electricity, he might indulge in reading Tolstoy. More often than not, he collapses for a few hours of sleep before the routine is replayed for yet another day.

Such is the quest for survival in North Korea, an impoverished country that is the most closed in the world.

Although North Korea's pursuit of nuclear weapons has captured the world's attention, outsiders know relatively little about its people or the miseries they have endured since a famine in the mid-1990s wiped out an estimated 2 million people. In the rare instances in which foreigners are admitted to the totalitarian country, it is on strictly escorted tours of the capital, Pyongyang, and a few other carefully selected sites.

To penetrate the secrecy, the Los Angeles Times spoke at length in China and South Korea with more than 30 people from Chongjin, North Korea's third-largest city. Their stories from the streets, homes and workplaces present a portrait of the city and of daily life in a nation struggling with deprivation and change.

Most of the factories in Chongjin, a former industrial port, are rusting into ruin. Those still operating can barely pay salaries; the average worker's wage amounts to $1 per month at current exchange rates.

Even with international aid, many people go to bed wondering whether they will eat the next day. Residents, along with officials of the United Nations World Food Program, say food shortages have grown worse again in the last year.

U.S.: Photo Not Of Iran Chief (LAT)

By Greg Miller

The Los Angeles Times, July 2, 2005

U.S. investigators have concluded that Iranian president-elect Mahmoud Ahmadinejad is not the glowering Islamic militant seen escorting an American hostage in a 1979 photograph that was widely publicized this week, officials said Friday.

The conclusion casts doubt on what had been considered a key piece of evidence indicating that Iran's new president was among the leaders of the group of students who seized control of the U.S. Embassy in Tehran and went on to hold 52 Americans hostage for 444 days.

A U.S. official familiar with the investigation of Ahmadinejad's role said that analysts had found "serious discrepancies" between the figure in the 1979 photo and other images of the Iranian president. The discrepancies included differences in facial structure and features, the official said.

If there is a case to be made that Ahmadinejad was among the hostage takers in 1979, the official said, "it doesn't look as if it will be done on the basis of those photographs."

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The official stressed that the investigation was continuing and that it was "still an open question" whether Ahmadinejad was involved in the hostage crisis. Analysis of the photos was just one of many avenues in what has become a multi-agency inquiry, said the official, who spoke on condition of anonymity.

State Department spokesman Sean McCormack said Friday that those involved in the inquiry were "searching through all the information at their disposal," and planned to interview former hostages. McCormack also said that the intelligence community was involved in the inquiry.

He did not elaborate, but other officials said the CIA was among the agencies playing a leading role.

The Bush administration launched the investigation this week after several former hostages said they recognized Ahmadinejad as one of their captors.

Those claims appeared to be bolstered by the 1979 photo, which was in the archives of Associated Press. It depicts two militants, one of whom bears a striking resemblance to Ahmadinejad, on either side of a blindfolded American.

The picture has been widely circulated on the Internet, and was carried on the front pages of major newspapers across the country, including Friday's editions of The Times.

William J. Daugherty, a former CIA officer who was one of the hostages, said Friday that he was not positive that Ahmadinejad is the bearded man depicted in the 1979 photo, but said he remained convinced that Ahmadinejad was among the hostage takers.

Daugherty, who lives in Savannah, Ga., said he and other former hostages "did not make our identification based on that AP photo from 1979. We made it looking at the guy today."

When the Associated Press contacted him this week to show him the 1979 photo, Daugherty said that his initial reaction was that Ahmadinejad and the militant in the picture "could be the same guy."

After closer examination, he said, "I see some differences," though he noted that comparing the two was difficult because the smiling politician exhibits a very different demeanor from the young militant in the picture who he said is "deliberately trying to look fierce and menacing."

Daugherty said that the blindfolded American in the photo is Jerry J. Miele, who was a communications officer at the embassy. The Iranian who resembles Ahmadinejad has not been positively identified.

The allegations about Ahmadinejad have deepened long-standing tensions between the United States and the Islamic Republic, which have not had diplomatic relations in more than a quarter-century. President Bush has declared Iran part of an "axis of evil," and administration officials have refused to rule out military intervention to prevent Iran from developing nuclear weapons.

Ahmadinejad, the former mayor of Tehran, is an Islamic hard-liner whose recent victory over better-known presidential candidates defied predictions. Officials close to Ahmadinejad, as well as some Iranians who are known to have helped orchestrate the seizure of the American Embassy in 1979, have said in recent days that Ahmadinejad was not actively involved.

White House Waiting On Iran Leader Facts (AP-Y2)

By Anne Gearan, Ap Diplomatic Writer

AP2, July 2, 2005

The White House said Friday it would not be surprised if the newly elected Iranian president turns out to have been a main participant in the holding of American hostages in Tehran a quarter century ago. But the administration said it was still trying to determine the facts.

Five former U.S. hostages who saw Iranian president-elect Mahmoud Ahmadinejad in photos or on television said they believe he was among the hostage-takers. One said he was interrogated by Ahmadinejad.

"I don't think it should be surprising to anyone if it turns out to be true," presidential spokesman Scott McClellan said. "This is a regime run by an unelected few that only allowed its handpicked candidates to run in an election that was well short of free and fair."

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U.S. officials have found serious discrepancies in photographs of one hostage-taker that have gotten attention in recent days and those of Ahmadinejad, said one official, who spoke on condition of anonymity because reviews are still under way. But, the official added, other information still must be assessed.

The administration has acknowledged that it has followed Ahmadinejad's career in Iranian politics, so it was unclear why the United States could not say if he were a hostage-taker or whether the issue had been explored before. "Given the nature of the regime and his own past, I don't think it should be surprising," McClellan said.

In Tehran on Friday, a reporter for The New York Times asked Ahmadinejad if he was one of the hostage-takers.

"It is not true," Ahmadinejad said. "It is only rumors."

If Ahmadinejad turns out to have been a participant, he wouldn't be the first top Iranian official with a role in the 1979 crisis.

The current Iranian vice president and head of the Environment Department, Massoumeh Ebtekar, was the chief interpreter and spokeswoman for the radical students who took over the U.S. Embassy and held 52 Americans hostage for 444 days.

Dubbed "Sister Mary" by the American press because her heavy head scarf resembled a nun's habit, Ebtekar gave almost nightly interviews during the standoff, denouncing the hostages as spies and accusing the United States of committing crimes.

Some of the former students have said Ahmadinejad opposed the takeover and played no role in it, even though he was a member of the hard-line Islamic student group that seized the embassy.

Ebtekar, who is also one of Iran's six vice presidents, has been the highest-ranking woman in the moderate-leaning government of President Mohammad Khatami.

She acknowledged her part in the U.S. Embassy takeover in remarks to reporters in 1998.

"The generation that is in executive and policy-making jobs is a revolutionary generation that played an active role in every stage of the revolution," Ebtekar said then.

A report in The New York Times that year had detailed her involvement, which was not listed on Ebtekar's biography.

She was an 18-year-old freshman at Polytechnic University in Tehran when she became the public voice of the student takeover. She spoke English better than others in the student group because she had lived in suburban Philadelphia as a child and had attended American schools.

She once told an ABC News reporter that she could imagine being provoked into killing the hostages.

"Yes," she said. "When I've seen an American gun being lifted up and killing my brothers and sisters in the streets, of course."

In the turbulent early days of Iran's Islamic Revolution, Ahmadinejad was more concerned with putting down leftists and communists at universities than striking at Americans, former students said. During the long standoff, he was writing and speaking against leftist students, they said.

National security adviser Stephen Hadley said Thursday that the United States has followed his career. "Obviously, one of the things you do when you get a report like this is look back and see what you have in the files and that's the process that's going on now," he said.

Hadley said the White House was looking into the photographs and had not reached any conclusions. "They are allegations at the present time," he said. "We need to get the facts."

Hadley stressed that the United States would have to deal with Ahmadinejad, even if the administration did not approve of the way he was elected. President Bush denounced the election, saying it was designed to maintain power in the hands of an unelected few who denied ballot access to more than 1,000 people who wanted to run.

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On the Net:

State Department: http://www.state.gov

Iranian Leader Denies He Was Among Radicals At Embassy (NYT)

By Michael Slackman

The New York Times, July 2, 2005

DOJ_NMG_0000600

A shiny black Peugeot rolled to a stop, and there he was, Mahmoud Ahmadinejad, the president-elect of Iran, smiling through an open window, ready to greet a few of the people who have been coming to his street as a sort of pilgrimage since he won.

The security men tried to keep a cordon around the car, but the president-elect gave his casual smile, and told them to let the people through. He also let this reporter and an interpreter approach.

When asked the question preoccupying many Americans about him just now - Had he been among the students who sacked the United States Embassy in 1979 and held American hostages for 444 days? - his driver started to pull out, but Mr. Ahmadinejad stopped him and said he would answer.

"It is not true," he said. "It is only rumors."

The security men began to push again, and three women draped in flowing black chadors made their way up to the car.

One woman handed Mr. Ahmadinejad a blank piece of paper on which he wrote: "Stick to your Islamic values. God will help you."

And with that, he closed the window and was driven off.

Since the election a week ago, it has been nearly impossible to get a feel for Mahmoud Ahmadinejad, to take the measure of the man. He has refused all interviews, though he did hold one hourlong news conference. His spokesman has insisted that he was not among the students at the embassy.

He is generally described as an ultra-conservative. He has been a member of the Basij militia, which is made up of young bearded men who ride through the streets on motorcycles enforcing strict codes of behavior and dress, often brutally. He was also a member of the Revolutionary Guard during the war with Iraq. And of course he has recently been accused of being one of the student leaders who stormed the American Embassy in Tehran on Nov. 4, 1979, keeping 52 hostages.

Yet friends, supporters and neighbors here describe the diminutive, bearded man as humble and caring. Mr. Ahmadinejad has a small circle of aides, one that appears a bit overwhelmed by all the demands and preparations ahead. Nasser Hadian-Jazy, a political science professor at Tehran University, said that he had known the president-elect since childhood and that Mr. Ahmadinejad was not involved with the student hostage takers. He said they grew up together in East Tehran, and Mr. Hadian-Jazy described his old classmate as among the brightest in the neighborhood.

He called Mr. Ahmadinejad "self-confident, committed and absolutely incorruptible." He said he is very religious, but modern in his thinking. If there is a negative quality, Mr. Hadian-Jazy said, it is that he is very set in his views, and can be hard to persuade otherwise.

"If you can force him to sit down and listen, he has the capability to understand," the professor said.

While Mr. Ahmadinejad maintained a humble life style as the appointed mayor of Tehran, that is likely to change, if for no other reason than security. He lives at the end of a dead-end street, more of an alley that runs alongside a school. The alley opens onto a circle, with a small park in the middle with benches and a field of grass that now attracts those who come to ask favors of the president-elect, and serves as a spot for neighbors to socialize. These days, cars packed with sightseers drive around the circle, stopping to look down the alley, a far cry from the palatial and off-limit homes of other Iranian leaders.

On Friday, the day of prayer and rest in most Muslim countries, some of Mr. Ahmadinejad's neighbors sat on a bench, talking about their favorite son. It is almost a rule that when someone is asked about Mr. Ahmadinejad, the first thing said is that he is a modest person who has never lost touch with his roots. Security is very tight in the neighborhood, and with soldiers and plainclothes agents around, the neighbors were afraid to give their names.

One older man, who said he had lived in the neighborhood for 15 years, said that every year for the Iranian New Year, Mr. Ahmadinejad invited the neighbors over for a celebration. He is described as a devout man who lives in a three-bedroom house with two sons and a daughter. His family has little furniture, they said, and has machine-made carpets, not the more expensive hand-woven ones commonly owned by the better-off.

One son is finishing high school, and the two other children are studying in the university, the neighbors said.

Since he became mayor of Tehran, the city has had a driver pick Mr. Ahmadinejad up for work every day. But on his days off, neighbors said, he still drives the same 1977 Peugeot, without air-conditioning, that is parked in the alleyway beside the house.

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People are quick to offer stories about Mr. Ahmadinejad, almost as if he was a religious figure. They say, for example, that he always brought his own lunch to work because he did not want the city to have to pay for his meals.

At the municipal building, Ahmad Esmali's job is to deliver tea to the offices. "This mayor was better than the others," he said recently. "He saw managers and workers with one eye."

In the park on Friday, one neighbor said the mayor had given money to the local butcher, at a shop called Zand, so the butcher could give poor and needy people meat at a discount. Two young men working in the butcher shop said they believed it was true.

It is a common practice in many Middle Eastern cultures for leaders to have audiences with citizens seeking help, or to accept their petitions for assistance. Mr. Ahmadinejad appears to take that custom to heart.

A small security booth sits at the mouth of the alley leading to his house. As Mr. Ahmadinejad's car pulled out, a security agent handed the president-elect a pile of letters that had been delivered that morning, from people seeking some kind of help.

Ali Ghorbani, 29, had just driven up to deliver a letter to the guard booth when Mr. Ahmadinejad pulled up. Mr. Ghorbani wanted to ask for a loan so he and a friend could open a cultural center in Tehran. He was allowed to hand the letter directly to the president-elect. "I didn't have the faintest idea I would see him," Mr. Ghorbani said as he walked away. "He took the letter and told me I would have a reply in two weeks."

Legacy Of Embassy Seizure Fades (WT)

By Ali Akbar Dareini

The Washington Times, July 2, 2005

For Iranians, fervor over the 1979 U.S. Embassy takeover -- a central event in their stormy Islamic Revolution -- has faded. If the country's new president participated, he would be one of many former hostage-takers who entered politics.

Many of the organizers of the embassy seizure are now leading advocates of democratic reform and closer ties with the United States.

In fact, the election of hard-liner Mahmoud Ahmadinejad marks the end of an era in which former hostage-takers held key positions in the government and parliament. Most of them have already lost their posts in the backlash by Iran's clerical regime or will leave with the outgoing pro-reform president.

The official Iranian media outlets were silent yesterday about U.S. demands that the new president explain his role in the embassy seizure. Six former hostages, after seeing Mr. Ahmadinejad in photos or on television, said they believe he was among the hostage-takers.

Mr. Ahmadinejad's aides have denied he had a role.

The students who carried out the embassy takeover said Mr. Ahmadinejad didn't participate in the taking or holding of 52 American hostages for 444 days.

If he had been involved, Mr. Ahmadinejad likely would have played it up in his presidential campaign to increase his appeal to hard-liners, the only ones who might still be impressed, said Abbas Abdi, one of the student leaders.

"If he had played any sort of role in any part of it, he would have used that 1,000 times in the past 25 years to take advantage of it," Mr. Abdi said yesterday.

While a traumatic event for Americans, the embassy seizure and the revolution that surrounded it were, for Iranians, similar to the 1960s in the U.S. and Europe: a turbulent period that forged today's leaders.

And, like many post-baby boomers in the United States sick of hearing about the 1960s, many young Iranians have little interest in the capture of the "den of spies," as the revolutionaries called the U.S. Embassy.

"I was a little kid when the embassy seizure happened," said Reza Hosseinpour, a Tehran shopkeeper in his late 20s. "I don't want to hear about it anymore. It's part of the past history. There has been enough hostility between Iran and America."

In past years, the annual celebrations to mark the Nov. 4, 1979 seizure of the embassy have attracted crowds only in the hundreds -- many of them children bused in for the event.

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The students who carried out the takeover were vehement supporters of Ayatollah Ruhollah Khomeini, the Shi'ite theologian who became Iran's supreme leader and imposed an Islamic government. The students seized the embassy to protest the U.S. refusal to hand over Shah Mohammad Reza Pahlavi, the Iranian leader who had been ousted from power that year.

Over the past decade, many of the students formed the core of the Iranian reform movement that sought the loosening of the theocracy's hold on power and contacts with the United States.

Many, like Mr. Abdi, are members of the Islamic Iran Participation Front, the largest reformist party, which helped bring outgoing pro-reform President Mohammad Khatami to power in 1997.

Mr. Khatami's brother, Mohammad Reza Khatami, was also a hostage-taker but now leads the party and was vice speaker of parliament after his brother took office.

Mr. Abdi was jailed in November 2002 after conducting a poll showing strong public support for dialogue with the United States. He was sentenced to eight years in prison but freed in May after the Supreme Court overturned his conviction.

At least two former hostage-takers will be leaving office with Mr. Khatami's government: Energy Minister Habibollah Bitaraf and Vice President Masumeh Ebtekar, the highest woman in the Iranian leadership.

Miss Ebtekar was the 19-year-old spokeswoman for the students who seized the embassy.

Known sarcastically among the American captives as "Sister Mary," she learned English as a child in Philadelphia and became a fixture on American television. On an almost nightly basis, she vigorously defended the embassy takeover and the Iranian Revolution.

For Former Tehran Hostages, A Tangle Of Anger At Both Captors And The U.S. (NYT)

By Felicity Barringer And Joel Brinkley

The New York Times, July 2, 2005

For Thomas Schaefer, being held hostage in Iran for 444 days was a transformative experience but largely a solitary one. It was rare for him, a former Air Force attaché, to see any of his fellow hostages during captivity, and he saw few afterward.

These days, he said in an interview on Friday, "there are still about four or five guys I keep in touch with," but "we're scattered around the world." Large gatherings or other occasions are rare for the surviving 41 hostages, who were taken captive by Iranian militants in November 1979.

This week, however, was one of those occasions, prompted by the election of Mahmoud Ahmadinejad, a student radical at the time of the embassy takeover, as the new president of Iran.

Five of the former hostages, seeing photographs of Mr. Ahmadinejad, said they remembered him as a virulently anti-American figure during the takeover who supervised other militants and urged them to be tougher on captives. The president-elect and former leaders of the hostage takers have denied that he was among the militants.

The memories evoked by that debate have stirred other feelings, too - including the betrayal felt by some when their lawsuit against Iran's government was blocked by the State and Justice Departments, which argued that compensation would violate the 1981 treaty that was the basis for the hostages' release.

Some of the men who stepped forward this week have incorporated badges of their ordeal into their everyday lives - for instance, by building e-mail addresses around the number "444." Most of them have also been in the forefront of a series of unsuccessful class-action lawsuits seeking monetary compensation for their ordeal. They remain in close e-mail contact.

Other former captives still work in the diplomatic world, some of them employed by the State Department. They have been more aloof from the disputes over the past, though they are among the 130 people - former hostages, spouses and children - who could benefit.

But in public, when controversies like this week's arise, they say nothing against their fellows. Those former hostages who, in interviews, could not corroborate the memories of the five who identified Mr. Ahmadinejad - Charles Scott, Donald Sharer, William J. Daugherty, Kevin J. Hermening and David M. Roeder - pointedly did not contradict them.

For example, Richard H. Morefield, the American consul general at the embassy when it was seized, said in a telephone interview from his home in Springfield, Va., that "it's not surprising that I don't recognize" the new president as a onetime militant. "I was not one of those on which they spent a lot of time."

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The publicity about the election energized small, informal networks of former captives. Steven Kirtley, 46, an information systems consultant for a small Washington, D.C., company who was a Marine guard at the embassy, received an e-mail note from another former hostage, Paul Lewis, on Monday or early Tuesday, with a link to a Web site that showed the new president's photograph.

The face looked familiar, he said in an interview, but he could not be sure. "I can't pin him down to a specific time or place as one of the hostage takers," he said.

Another thing that unites the hostages is their refusal to speak for one another. Most were newcomers to the embassy before the takeover; most were held alone or in very small groups. All of the 50 men and 2 women who emerged incorporated the ordeal into their lives differently. Some bonded with one another; many did not.

The ordeal was defining for Mr. Schaefer, the former Air Force attaché, who lives in Phoenix. He said he was deeply offended when the State Department stepped in to block the former captives' successful federal lawsuit against Iran in 2001, just as the judge was about to award damages, which would have been paid out of the Iranian government money in American banks that was frozen in 1979.

The State Department has said it was unaware of the lawsuit until a legal officer stumbled upon it just before its scheduled conclusion. Hastily, the department argued that the suit conflicted with the agreement the government made with Iran in 1981 and that neither the courts nor Congress had the right to abrogate international treaties.

In what was known as the Algiers accord, the United States agreed to preclude the prosecution of any claim against Iran arising out of the hostages' seizure and detention.

Several acts of Congress in later years appeared to open the door to lawsuits against Iran despite the agreement. A group of hostages filed a class-action suit in 2000. Then, in 2001, shortly after President Bush took office, the State Department and the Justice Department intervened.

This week, Sean McCormack, the department spokesman, punctuated his comments about the hostages' allegations on Thursday with one expression of concern that caught their attention: "I do want to say one thing, and that is to underscore the fact that we have not forgotten - we have not forgotten - the fact that 51 of our diplomats were held for 444 days, that they were taken hostage."

Mr. Daugherty, a former hostage, responded Friday: "Of course they haven't forgotten. They have challenged us at three levels of the federal court system and have challenged every piece of legislation that would allow us to sue Iran or to receive compensation in some way."

Asked about that, Mr. McCormack simply referred to his statement on Thursday, adding: "I'm not going to comment. What am I going to say?"

Abbas Seeks Cabinet Post For Hamas (LAT)

By Laura King

The Los Angeles Times, July 2, 2005

Palestinian Authority President Mahmoud Abbas has made overtures to the Islamic militant group Hamas about joining his Cabinet in the near future, Palestinian officials said Friday.

Hamas has not yet said whether it is willing to accept such an invitation. However, in recent months the group has made clear its interest in mainstream electoral politics, and it intends to field candidates in parliamentary balloting this year.

That election, originally set for mid-July, is now expected sometime after Israel's withdrawal from the Gaza Strip, which is scheduled to begin in mid-August.

The idea of approaching Hamas to participate in the government prior to the voting has been raised in several recent meetings of Abbas' Fatah faction, Palestinian officials said, including talks currently underway in Amman, Jordan.

Fatah's Central Committee, which sets the movement's policy, is meeting in the Jordanian capital to accommodate exiled leaders such as Farouk Kaddoumi, a Palestine Liberation Organization hard-liner who refuses to enter the Palestinian territories because he would have to submit to Israeli border formalities.

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"The spirit of this meeting involves participation of all Palestinian factions in a national unity government," said Nabil Shaath, a Palestinian deputy prime minister and the minister of information.

In Gaza, Hamas spokesman Sami abu Zuhri said the militant group would announce its position on joining the government "at a suitable time."

Palestinian and Israeli media reports said that Hamas had previously demanded that Abbas set up a special authority to oversee the hand-over of Gaza that would include the militant group but that the Palestinian leader had refused. Israeli plans call for evacuating all 21 Jewish settlements in Gaza and four smaller ones in the northern West Bank.

At the Amman talks, Fatah officials reportedly are also weighing candidates, including Kaddoumi, for deputy to Abbas. The Palestinian president endorsed the idea of having a deputy after undergoing a coronary procedure last month in the Jordanian capital.

Hamas, which has scored strongly in municipal elections in the West Bank and Gaza, is expected to do well in parliamentary balloting. Last week, respected Palestinian pollster Khalil Shikaki told reporters that the latest numbers indicated the group could easily win a third of the seats on the Palestinian Legislative Council.

Both Hamas and Fatah officials in the Gaza Strip said Hamas might be willing to accept a Cabinet position or positions before the pullout to help ensure that the hand-over of Gaza, where the group has great influence, goes smoothly.

Hamas has a large and loyal following in Gaza, particularly among the seaside enclave's poorer residents. The group's popularity stems largely from the social services it provides and from its image of incorruptibility, which contrasts sharply with the graft-ridden history of the Palestinian Authority.

Israel and the Palestinian Authority have been locked in dispute about how Abbas ought to deal with Hamas. The group's military wing carried out dozens of suicide bombings during more than four years of fighting, and it has never abandoned an ideology that calls for the destruction of Israel.

Until now, Hamas has declined to take part in the Palestinian government, citing objections in principle to the interim peace accords that brought the Palestinian Authority into being more than a decade ago.

Hamas, together with other armed factions, agreed in March to observe a period of calm until the end of the year, refraining from attacks against Israelis. Its militants have violated that informal accord by firing mortar shells and rockets at Jewish settlements and Israeli communities, but only Islamic Jihad has mounted major attacks during the ad hoc truce.

On the Israeli side, polls Friday suggested that Prime Minister Ariel Sharon was again rallying public support for his Gaza pullout plan. Previous surveys had shown backing for the withdrawal slipping below 50%.

However, this week's violent actions by extremists opposed to the pullout, including a widely publicized incident in which settler youths beat a Palestinian in front of news photographers, apparently have swayed opinion against the settlers.

A survey published in Friday's editions of the daily newspaper Yediot Aharonot indicated that support for Sharon's plan had climbed to 62%.

A poll in the Maariv newspaper said 54% backed the withdrawal.

Germany's Parliament Votes Out Coalition (WP)

By Craig Whitlock

The Washington Post, July 2, 2005

A grim and tired-looking Chancellor Gerhard Schroeder pleaded Friday with the German Parliament to dissolve his government, arguing that his ruling coalition had lost the ability to fix the German economy, the largest in Europe but hobbled by years of stagnation and joblessness.

After a two-hour debate, lawmakers approved Schroeder's request to disband and hold national elections in September. If the president and Supreme Court sign off on the plan -- and that is not at all certain -- the elections would take place a year earlier than necessary; opinion polls predict that Schroeder and his coalition will lose.

The next chancellor would likely be Angela Merkel, leader of the opposition Christian Democrats. She would be the first woman to hold the office, and the first person from the former communist East to lead the reunified Germany.

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The sense of defeatism that lingered in the Reichstag building in the capital reflected the political mood across Germany, where a majority of voters say they lack confidence in any of their leaders to address a host of pressing social and economic issues. These include the highest unemployment rate since World War II and a failure to erase cultural and income gaps between eastern Germany and the wealthier west.

Schroeder won reelection three years ago, in large part by vociferously opposing U.S. policy toward Iraq. Like President Jacques Chirac of France, he has seen his popularity plummet at home because of economic concerns and anti-globalization sentiment, as well as anxiety over immigration and his country's role in the expanded European Union.

In an address to lawmakers, Schroeder said his ruling coalition of Social Democrats and Greens was hopelessly divided over his policies to rejuvenate the economy with a mixture of spending cuts and hiring incentives. "Without a new mandate, my political program cannot be carried forward," Schroeder said.

The unusual maneuver of seeking a vote of no confidence on his own rule grew from provisions in the German constitution that make it difficult to dissolve a government. These measures were drafted after World War II in an effort to avoid the political instability that helped the Nazis rise to power.

But Parliament's no-confidence vote must be upheld by President Horst Koehler, who has indicated that he will not rubber-stamp the move.

Koehler has three weeks to make his decision. He has said he will take into account arguments from some legal scholars and members of Schroeder's coalition that it is unconstitutional for a ruling party to disband a government unless there is a genuine political crisis that prevents it from operating.

Opponents of Friday's vote have already served notice that they will file a challenge with the German Supreme Court.

Otto Depenheuer, a law professor at the University of Cologne, said Schroeder carefully crafted his call for a no-confidence vote by stressing that rebels in the governing coalition were making it impossible for him to continue effectively, rather than blaming the opposition.

"He clearly stated that he was lacking support from his own party," Depenheuer said. "This is a clear sign for the federal president that the chancellor is no longer in a position to carry out his politics. "

Lawmakers in the lower house of Parliament voted 296 to 151 against the government, with 148 abstentions. Nearly all the abstentions came from Schroeder's coalition.

Opinion polls show the opposition Christian Democrats far ahead of Schroeder's party. In May, the Christian Democrats won a regional election in the populous state of North Rhine-Westphalia, an industrial region that had strongly favored the Social Democrats for 40 years.

Merkel, the Christian Democratic leader, told members of Parliament that early elections were necessary. "The people are fed up with being governed by a zigzag course," she said.

In remarks aimed directly at Schroeder, she reminded the chancellor of a campaign promise he made in 1998 to add jobs. "You said it yourself, 'If we do not lower unemployment significantly, we do not deserve to be reelected,' " Merkel said. "Mr. Chancellor, you cannot argue that the figure of almost 5 million unemployed people is not almost exactly the opposite of what you anticipated."

While Schroeder's reelection chances look bleak, political analysts said he concluded that an early election was his only chance. By looking resolute and boldly admitting that he needs a popular mandate to administer unpleasant reforms, he hopes to win back voters who had soured on his party, they said.

Others suggested that Schroeder was resigned to losing. Klaus von Beyme, a political science professor at the University of Heidelberg, said the chancellor would rather be remembered as someone who stepped down early for the good of the country than a weak leader who dragged out his term in office.

"If he is now going to lose, which I think he will, he will go down in history as the man who acted like a hero and took the country on the right road," von Beyme said. "He has very much calculated what posterity will think of him. I don't think he will necessarily be sad if he loses. There's a certain tiredness of governing."

Schröder Loses Confidence Vote; Early Election Is Likely (NYT)

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By Mark Landler

The New York Times, July 2, 2005

Chancellor Gerhard Schröder cleared a crucial hurdle in his quest to hold an early election in Germany this fall, deliberately losing a confidence vote in Parliament on Friday.

Mr. Schröder, gambling that a quick election is the only way to break Germany's political stalemate and rescue his own faded fortunes, watched somberly from his seat as lawmakers heeded his call to vote against the coalition that has governed Germany since 1998.

The carefully orchestrated defeat allowed him to petition the German president to dissolve Parliament, which would set the stage for elections in September, a year earlier than scheduled.

"Without a new mandate, it is impossible to continue with my policies," he said before the vote. "If we want to continue with the reforms, and we must, we need to seek a new mandate through elections."

With polls showing the chancellor's Social Democrats trailing the conservative opposition by nearly 20 percentage points, Mr. Schröder is already viewed by many here as a lame duck. The no-confidence vote added to the sense of a country on the cusp of a political change.

Angela Merkel, the conservative leader who is set to face Mr. Schröder in the election, supported his call for an early election. "This country needs cohesive politics," she said, delivering a feisty attack on the chancellor's record. "It is not enough to say we'll carry on as before."

Mr. Schröder's win-by-losing strategy still faces two potential roadblocks. The German president, Horst Köhler, still must decide whether to dissolve Parliament. He has 21 days to make up his mind and his judgment must pass muster with the federal constitutional court.

Typically, German presidents accede to these requests. This case, though, could be different.

Legal scholars say Mr. Schröder's success in engineering the vote undermines his contention that he can no longer govern effectively - a claim he must prove to meet the constitutional test for dissolving Parliament. At least one legislator, Werner Schulz of the Green Party, said he planned to challenge the vote in court, calling it an "an absurdity."

Germany's Constitution makes it difficult to dissolve Parliament, largely to avoid the kind of instability that plagued the Weimar Republic from 1919 to 1933. There has been one prior confidence vote - called by Helmut Kohl in 1982 - in which the chancellor conspired to lose.

"My opinion, which is shared by most constitutional scholars, is that the president is not in a position to dissolve the Parliament," said Dieter Grimm, a former judge on the constitutional court.

Mr. Köhler, who assumed the largely ceremonial post of president in 2004 after being head of the International Monetary Fund, called the issues "complex," and said he would not be rushed into a decision.

There is little dispute that Mr. Schröder has lost much of his political credibility in the last year. He first called for elections to be moved up in May, after the Social Democrats were dealt a humiliating defeat in a state election in North Rhine-Westphalia, a traditional stronghold.

It was the latest in a string of defeats, and it underscored the depth of hostility that many Germans feel for Mr. Schröder's campaign to overhaul the country's sclerotic economy. Most notably, he has cut back benefits aimed at forcing long-term unemployed people back into the job market.

That provoked howls of protest and has not yet yielded tangible economic benefits. The number of people out of work still hovers around five million, and economic growth in Germany has trailed that of most of its neighbors, earning it the sobriquet "sick man of Europe."

The defeats have opened fissures in the Social Democratic Party, with left-wing factions calling for the chancellor to shelve his reform plans. The party's chairman, Franz Müntefering, started a populist campaign against foreign investors, describing them as "locusts."

"Schröder knows he can't pursue his reform politics without a majority behind him," said Jürgen Falter, a professor of political science at the University of Mainz. "He is a street fighter, so he thought, 'It's better to go into the last battle, than to give up and flee.' "

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Mr. Schröder is a resilient campaigner, who fought back from a weak position to win re-election in 2002, in part by refusing to commit German troops to the American-led war in Iraq.

The battle lines for the campaign were already being drawn under the glass dome of the Reichstag on Friday. While Mr. Schröder sought to portray his government as a spent force, his coalition allies, like Foreign Minister Joschka Fischer, lined up to poke holes in the opposition.

"You strike me as a magnificent-looking soufflé in the oven," Mr. Fischer said to Mrs. Merkel. "We'll see in the final three weeks, when the voters prick it, what's really left of this splendor. I can't wait."

Mr. Müntefering, the Social Democratic chairman, went a step further, declaring that the chancellor still enjoys the support of a majority in Parliament - a claim that seemed ill timed on the day that Mr. Schröder was trying to arrange the dismantling of his government.

Although Mr. Schröder did lose by a comfortable margin - 296 to 151, with 148 abstentions - political analysts were surprised that 105 members of Mr. Schröder's party voted in favor of the chancellor. They had been encouraged to abstain, as part of the plan to lose the vote.

"It's not so easy to say to your own chancellor that you don't have confidence in him," said Gernot Erler, a Social Democrat. "But we all have the same purpose, which is to open the path for an election."

Lawmakers lingered after the vote to assess a topsy-turvy day in German politics. Mr. Fischer likened it to the budget standoff between President Bill Clinton and Newt Gingrich that shut down the government in 1995. But he disputed the suggestion that the vote was staged.

"This was not theater," he said. "This was serious."

Schroeder Orchestrates His Exit As His Party Flounders (LAT)

By Christian Retzlaff

The Los Angeles Times, July 2, 2005

Facing high unemployment and an inability to reform the welfare state, German Chancellor Gerhard Schroeder deliberately lost a confidence vote in Parliament on Friday, opening the way for early elections that are expected to push his liberal coalition from power.

Schroeder called for the vote after a series of political defeats and widening divisions within his Social Democratic Party over how to reform one of Europe's most generous welfare systems. President Horst Kohler is expected to dissolve Parliament in the coming weeks, and new elections are likely by mid-September, a year before Schroeder's term was to expire.

With an 18% approval rating, Schroeder's party has been viewed by most Germans as unable to stem high unemployment and enact social and economic programs to improve the nation's global competitiveness.

The conservative Christian Democrat Union, led by Angela Merkel, is well-positioned to win in new elections, according to recent polls.

Schroeder acknowledged his party's failures when he addressed the lower house of Parliament moments before the vote: "The reform program, known as Agenda 2010, has led to disputes between the parties and within the parties. My party, I can't deny it, has suffered most from the disputes."

Only 151 of 601 members of the lower house voted for Schroeder on Friday. The defeat was largely orchestrated by the chancellor, who asked his own party members and supporters to cast ballots of no confidence.

Analysts called it an indication that Schroeder believed his party and its allies were not unified enough to weather another year of economic problems while attempting to persuade Germans to accept significant social cuts.

Schroeder's Agenda 2010 program, announced two years ago and intended to prepare Germany's welfare system for economic globalization, failed to reduce the country's unemployment rate of almost 12%, the highest since the modern republic was formed in 1949.

Schroeder's political maneuverability was further curtailed by the Christian Democrats, who, in controlling the upper house of Parliament, blocked many of the chancellor's efforts.

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"The urgent problems of our country, the continuation of reforms, the crisis of the European Union, the challenge of globalization and the danger for peace, security and stability do not allow a state of paralysis," Schroeder said in his speech. "We need clarity."

Germany's Constitution does not allow Parliament to dissolve itself, but after a lost confidence vote by the lower house, the president may call for early elections. It is still not certain whether Kohler will disband Parliament, or whether legal challenges will force the Constitutional Court to rule against the balloting.

Schroeder announced his strategy six weeks ago after his party lost an important regional vote in North Rhine-Westphalia, the Social Democratic heartland.

Merkel, who would be Germany's first female chancellor, supported Schroeder's decision to hold the no-confidence vote but denied that her party had obstructed reform.

"The Agenda 2010 was a right step in the right direction," Merkel said. Pointing toward Schroeder, she continued: "You were unable to tell the voters why the changes are necessary. That's why you have lost the last [regional] elections."

Foreign Minister Joschka Fischer of Schroeder's junior coalition partner, the Greens, used the session to criticize Merkel's party. He said the Christian Democrats had failed to present an alternative program for change.

"Ms. Merkel, at the moment you and your opinion polls come across like a beautiful souffle in the oven," he said. "Let's see what's really left of this splendor when the voter has pricked into it" in the run-up to elections.

Kohler must decide within 21 days whether he agrees with Schroeder that the current government cannot continue to function. In such a case, he would call elections within an additional 60 days.

Political analysts expect that Kohler will approve the new balloting.

"A president who urges every day to hurry up will be the last one to say: Let's muddle on for another year," wrote Robert Leicht, a commentator for the weekly newspaper Die Zeit.

Bild, a major tabloid and frequent critic of Schroeder, has already bid him an ironic farewell. In its Friday issue, the paper wrote "Thank You, Chancellor" in large letters on the front page.

The Constitutional Court could still block early elections. Werner Schulz, a Greens lawmaker, announced Friday that he would file suit to keep the current Parliament in office until autumn 2006.

Several small parties announced last week that they also would file suit.

Chinese Harassed U.S. Activist (WP)

By Philip P. Pan

The Washington Post, July 2, 2005

Chinese authorities tried last week to detain an American human rights activist at an international conference in Beijing, prompting a tense standoff that ended after state security agents interrogated the woman in front of U.S. diplomats and two European ambassadors for more than an hour.

The European Union has lodged a protest with the Chinese government over the incident, which occurred June 21 and disrupted a two-day seminar on human rights. The activist, Sharon Hom, had been invited by China to the conference organized by the E.U. and the Chinese Foreign Ministry, according to Hom and diplomats familiar with what happened.

The government's decision to allow Hom to participate in the seminar appeared at first to be a diplomatic breakthrough because she is executive director of Human Rights in China, a New York-based advocacy group that the governing Communist Party has repeatedly condemned. The Beijing government also agreed to host representatives of Amnesty International and Article 19, a London group that campaigns for freedom of speech.

But during the banquet on the last night of the conference, plainclothes agents of the Ministry of State Security stopped Hom outside her hotel room and demanded she leave with them. Even after the protests of U.S. diplomats, the E.U. ambassador to China and its ambassador for human rights, the agents insisted on questioning her, Hom said.

The episode is the latest sign that Chinese President Hu Jintao has granted the country's security services greater authority to act against perceived threats to the party's grip on power. In recent months, police have detained several mainland dissidents

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and activists, as well as a prominent Hong Kong journalist employed by a Singapore newspaper. Propaganda officials have also ordered a general tightening of controls on the Internet and in state media.

The incident also suggests there may be a rift within the Chinese government about how to deal with pressure from the United States and Europe for progress on human rights issues and the release of political prisoners. Hom said Chinese diplomats and other officials treated her with respect during the seminar but none came to her defense when the state security agents arrived.

"One of the lessons of this incident is that while you can engage up to a point with the more progressive elements in the government, sooner or later you have to deal with the reality of the state security apparatus and the fact it can trump the others," Hom said by phone from New York. "One way to do that is to not to be intimidated and to insist on the inclusion of civil society and independent voices in China when engaging the government."

A spokeswoman for the U.S. Embassy and another for the State Department said they were unable to immediately comment on the incident. E.U. diplomats in Beijing declined to comment, and the Chinese Foreign Ministry also did not respond to questions.

Hom said she waited until Friday to go public because the E.U. filed strong protests with the Chinese and she wanted time to analyze the situation carefully.

She said the incident began when she left the banquet early and returned to her hotel room, where she found that her key card no longer worked. Suddenly, two men and a woman surrounded her, identified themselves as state security agents and said they wanted to ask her a few questions, she said.

Hom said she agreed to go downstairs with them and offered to answer their questions in the lobby. But the agents insisted she go with them to a nearby location where it would be "more convenient" to talk. They pressed her to go for nearly 20 minutes, and their demands grew more threatening, Hom said.

One of eight agents in the lobby grabbed her arm when she began walking away, Hom said, but she made it back to the banquet and requested help from European diplomats there.

After a stalemate that lasted two hours, the agents eventually agreed to interrogate Hom in the presence of the U.S. deputy chief of mission and the two European ambassadors, she said. For more than an hour, she answered questions about her identity, her participation in the seminar, her activities in Beijing and her opinion of the changes in China over the past two decades.

Hom, who was born in Hong Kong, said one of the agents argued that though she is an American citizen, she is also "still Chinese." He then implied that she therefore could participate only in organizations approved under Chinese law, she said.

The interrogation ended shortly before midnight, Hom said, after she complained she was tired.

Hom said she was unsure why the agents targeted her. She said she did not meet with any Chinese outside the seminar. She also said she had visited China twice before while in her current job without a problem, as a tourist and a visiting law professor.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

Negroponte To Review Intelligence Changes (WP)

By Walter Pincus
The Washington Post, July 2, 2005

Director of National Intelligence John D. Negroponte will review changes made at the Army's National Ground Intelligence Center (NGIC) to address criticism by a presidential commission in March that found there was "gross failure" in the center's analysis of Iraqi arms in 2002, said Gen. Michael V. Hayden, Negroponte's deputy.

Two NGIC analysts, who since 2002 have received annual performance awards, judged in September 2002 that the aluminum tubes that Iraq was purchasing were "highly unlikely" to be used for rocket motor cases because of their "material and tolerances," according to the report of the president's commission on intelligence. The NGIC finding, which the commission termed "completely wrong," bolstered a CIA contention that the tubes were meant for nuclear centrifuges and were evidence that Saddam Hussein was reconstituting a nuclear weapons program.

The NGIC said it discovered its errors before the president's intelligence commission started its review, and as a result "instituted changes to training and procedures to improve analytic products," according to an Army statement delivered in answer to written questions from The Washington Post.

The two civilian analysts responsible for the tube analysis "were instrumental in developing that training and procedure improvement," the Army statement said.

Hayden told reporters Wednesday that the NGIC and two other intelligence agencies cited by the presidential commission -- the Defense Intelligence Agency Humint Service, which handles human intelligence, and the intelligence community's Center for Weapons Intelligence, Nonproliferation and Arms Control (WINPAC) -- would be held accountable for mistakes on prewar intelligence.

"They are doing their own look, and we will do our own," said Hayden, who added that the NGIC's activities fall under the DNI's purview. The House and Senate intelligence committees have also opened inquiries into the NGIC, according to congressional sources.

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The NGIC has a staff of 900 full-time scientists, engineers, intelligence analysts and soldiers, with most of them at a relatively new facility near Charlottesville. It provides analyses of foreign armies, including scientific and technical work on their weapons.

Meanwhile, the NGIC has also been in the spotlight as a result of a controversy involving MZM Inc. MZM is a research company whose government contracting business has come under scrutiny after it was disclosed that its president, Mitchell J. Wade, purchased the California home of Rep. Randy "Duke" Cunningham (R-Calif.) for $1.6 million, but shortly thereafter sold it, taking a $700,000 loss.

Cunningham, a subcommittee chairman of the Permanent Select Committee on Intelligence and a member of the Defense subcommittee of the House Appropriations Committee, lived on a yacht owned by Wade docked in the Capital Yacht Club on the Potomac River.

A federal investigation is underway covering the Wade-Cunningham house sale, which the congressman last week acknowledged showed "poor judgment."

On Oct. 18, 2002, MZM got the first of what would grow to be a series of orders for NGIC work. This initial one was for a seven-week, $194,000 study analyzing a computer program concept called "FIRES," according to material provided by the Pentagon. FIRES was a program first suggested by an NGIC employee who believed that if U.S. operatives around the world collected blueprints of important buildings worldwide, an important intelligence database could be developed.

At the time, the NGIC's senior civilian employee and executive director was William S. Rich Jr. Rich had been the top civilian official at the NGIC since its inception in 1994. In September 2003, Rich retired from the NGIC and thereafter went to work as senior executive vice president for strategic intelligence for MZM, according to former NGIC colleagues and Pentagon documents. Rich has not returned telephone calls, and MZM has refused to comment on its NGIC work.

Other NGIC employees have been hired by MZM. The former sergeant major at the NGIC, George A. Peeterse, is an MZM vice president. Contacted by telephone at home last week, Peeterse declined to discuss MZM or the NGIC. "We have been told to refer all questions to MZM headquarters in Washington," he said.

Pakistan Nabs 3 With Alleged Terror Links (AP)

Associated Press, July 2, 2005

ISLAMABAD, Pakistan (AP) -- Three men suspected of ties to Osama bin Laden's terror network have been arrested in Pakistan, a major newspaper reported Friday.

The suspects were traveling in a vehicle when they were caught Thursday in Mardan, a deeply conservative town in northwestern Pakistan, according to The Jang, Pakistan's largest circulation newspaper.

That is the same region where Pakistani intelligence agents on May 2 caught Abu Farraj al-Libbi, reputedly No. 3 in the al-Qaida terror network.

The Jang said an army officer supervised this operation, but gave no other details.

Sept. 11 Suspect Who Fled Germany Before The Attacks Writes Wife He Won't Return (FINDLAW/AP)

By Claus-peter Tiemann, Associated Press Writer

Find Law, July 2, 2005

(AP) - HAMBURG, Germany-A Sept. 11 suspect who fled his native Germany before the attacks told his wife in an e-mail he would not return for fear of being handed over to U.S. authorities, according to evidence presented at a trial Friday.

Said Bahaji is wanted on an international arrest warrant by Germany on suspicion he helped Sept. 11 suicide pilots Mohamed Atta, Marwan al-Shehhi and Ziad Jarrah as they plotted in Hamburg.

He fled the northern port city shortly before the Sept. 11 attacks and is believed to be in Pakistan or Afghanistan.

His e-mails, intercepted by German security services, were read aloud in the retrial of Mounir el Motassadeq, 31, who is also accused of providing logistical support to the Hamburg al-Qaida cell.

"Nobody can guarantee that I won't land in Guantanamo," Bahaji wrote to his wife in a March 12, 2005 e-mail, referring to the U.S. detention center in Cuba. "I won't turn myself in," he said in another.

In an earlier e-mail, Bahaji seemed to be trying to convince his wife to join him.

"Life with the unbelievers is terrible," he wrote in March, 2004, referring to Germany. "The situation here is good, that means one can live well here."

Other e-mails from Bahaji, a German whose father is Moroccan, have been read out previously in the proceedings against el Motassadeq, as prosecutors try to establish el Motassadeq's connection to the Hamburg cell.

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El Motassadeq was convicted in 2003 of more than 3,000 counts of accessory to murder and membership in a terrorist organization and sentenced to the maximum 15 years. But the conviction was thrown out last year and a retrial was ordered after an appeals court ruled unfairly denied testimony by key al-Qaida suspects in U.S. custody.

A verdict in the retrial is expected in August.

AP: Documents Show Gitmo Inmates Defy U.S. (AP-Y2)

By Ben Fox, Associated Press Writer

AP2, July 2, 2005

Military authorities have previously disclosed some incidents of guard retaliation at Guantanamo Bay, which resulted in mostly minor disciplinary proceedings. What emerges from 278 pages of documents obtained by The Associated Press is the degree of defiance by the terrorism suspects at Guantanamo.

The prisoners banged on their cells to protest the heat. They doused guards with whatever liquid was handy — from spit to urine. Sometimes they struck their jailers, one swinging a steel chair at a military police officer.

And the American MPs at times retaliated with force — punches, pepper spray and a splash of cleaning fluid in the face, according to the newly released documents that detail military investigations and eyewitness accounts of alleged abuse.

Some prisoners at the U.S. base in eastern Cuba have gone on the attack, as in April 2003 when a detainee got out of his cell during a search for contraband food and knocked out a guard's tooth with a punch to the mouth and bit him before he was subdued by MPs. One soldier delivered two blows to the inmate's head with a handheld radio, the documents show.

"Several guards were trying to hold down the detainee who was putting up heavy resistance," recounted a translator who saw the incident. "The detainee was covered in blood as were some of the guards."

The soldier who struck the inmate, and was dropped in rank to private first class as a result, described it as a close call. "The detainee was fighting as if he really wanted to hurt us. ... We all saved each other's lives in my opinion," he wrote.

The documents, obtained under a Freedom of Information Act lawsuit filed by AP, are far from a comprehensive look at Guantanamo and do not provide full details about each incident.

Names and some other identifying details have been blacked out by military censors. Handwriting at times isn't legible and pages appear to be missing or out of sequence. In some cases, it is not possible to decipher who did what to whom. Disciplinary measures against the troops were either relatively minor or unclear in some reports.

The internal investigative reports do, however, provide a snapshot of life behind the wire at Guantanamo, depicting a tense, hostile and sometimes chaotic place.

In one of the more serious incidents described in the documents, detainees told guards that an MP threw the cleaning liquid Pine-Sol in the eyes of a prisoner in the middle of one night in January 2004. In a written statement, another soldier said he came in immediately afterward to find what smelled like cleaning liquid dripping from the cell.

"The detainee could be seen rubbing his eyes intensely and moaning in pain," he said.

Documents show that the guard, from the 661st Military Police Company, did not admit throwing the cleaning fluid when questioned about it that night but did say the detainee had spit on him, and may have thrown urine.

A medic on the cell block flushed the detainee's eyes with water, a witness said.

A Department of Defense investigative memo written six months later concluded the soldier had mistreated detainees twice — the second offense involved cursing at inmates — and that his superiors failed to report either episode.

Investigators recommended disciplinary action against the soldier and a probe into why the incident wasn't reported up the chain of command, but the outcome is unclear from the papers.

In a statement to investigators, one service member said he hadn't seen the Pine-Sol incident but noted that U.S. personnel have been taught to use restraint with detainees: "The training we have received here at Guantanamo Bay has always stressed ... that no matter what happens on the block do not retaliate ... it will just get you into trouble."

Still, tensions between prisoners and guards have been high since the first suspects arrived in early 2002, hooded and shackled, mostly from the battlefields of Afghanistan.

The detainees' defiance discussed in the documents ranged from mild — prisoners getting matching haircuts in a show of solidarity or refusing orders to stop practicing martial arts in the exercise yard — to hostile acts like spitting or throwing unknown liquids at the MPs. One soldier used pepper spray on prisoners because, he said in a report to superiors, he feared that the unknown liquids hurled could pose a health danger.

One soldier told military investigators he punched a detainee's face because the man spit at him and hit him as he tried to put him in restraints at the prison hospital in October 2004.

"My instincts took over after the hitting and spitting," said the soldier. Documents show authorities recommended that the punishment include reduction in rank to E-4, loss of a month's pay and extra duty for 45 days, though the outcome is unclear.

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In the prison camp's early days, inmates showed their anger over the heat and the practice of leaving lights on in their cells at night by banging on the bars throughout one guard shift in September 2002, the documents say. One detainee who was believed to be leading the protest threw what an MP said smelled like water from the toilet on him. The MP tried to spray water from a hose in response, but the detainee blocked it with a mat.

The guard who tried to spray the detainee was charged with assault, given a reduction in rank to private first class, which was suspended, and reassigned to other duties at Guantanamo.

In another case, an inmate threw a partially full urine bottle at an MP in May 2002, apparently because he believed the soldier had intentionally kicked his hospital bed. When the soldier threw the urinal back, the detainee grabbed a steel chair and swung it at guards before they subdued him.

A military witness defended the MP, writing: "I believe (name deleted) to be a good and honest soldier ... and just influenced by negative elements among us." The documents don't make clear what punishment, if any, the MP got.

Military officials at Guantanamo did not respond this week to questions about relations between guards and detainees at the camp, which has held some 700 prisoners from 45 countries since it opened. There are about 540 detainees there now.

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EDITOR'S NOTE: This story is based on information contained in 278 pages of U.S. military documents dealing with investigations of alleged abuse of prisoners at Guantanamo Bay. The Associated Press obtained the documents under a Freedom of Information lawsuit.

Guantanamo Fuels Hatred And Boosts Al Qaeda -report (REU-Y2)

By Sabina Zawadzki

Reuters, July 2, 2005

The United States must close Guantanamo prison, where its treatment of some 500 terrorism suspects encourages hatred toward the West and bolsters Muslim membership of the al Qaeda network, a new report concludes.

The Organization for Security and Cooperation in Europe (OSCE) commissioned the report from its human rights representative, Belgian senate president Anne-Marie Lizin, and will vote next week whether to accept its findings.

"A generation of young Muslims, fed on the images of Abu Ghraib, of the treatment reserved for the Guantanamo detainees and rumors about profanation of the Koran, will have filled the al Qaeda ranks and those of other extremist groups," said the report made public on Friday.

"The longer the detention is in the camps the more the hatred against the U.S. and the West becomes anchored in hearts and minds," it said.

"Being fully aware of the U.S. authorities' dilemma between national and world security and long procedures, we recommend terminating the Guantanamo detention facility by announcing a calendar of closure."

In June, the U.S. military described cases of mishandling of the Koran by U.S. personnel at Guantanamo naval base in Cuba, including splashing it with urine and kicking it. Muslims view the Koran as the literal word of God.

U.S. UNDER PRESSURE

The U.S. government, increasingly under pressure at home to close the prison down, has said it is key to protecting the country from further attacks. Last week it said it was addressing abuse claims and holding prison staff to account.

The OSCE, consisting of 55 member nations from Europe, North America and the former Soviet republics, is an organization that aims to maintain security and flag conflicts and human rights issues in its region. The United States is a member.

Guantanamo mostly holds prisoners scooped up in Afghanistan during the U.S. offensive there in retaliation for the Sept. 11 al Qaeda attacks on the United States.

Human rights groups as well as institutions such as the European Parliament and the Council of Europe have criticized the United States for holding detainees there for indefinite periods and not assigning them "prisoner of war" status.

Instead, suspects are labeled "enemy combatants," something the new report called a legal nonentity under international law. If charged with crimes, they stand in front of a military tribunal which can demand capital punishment.

On Thursday, Lizin made news this week when she canceled a meeting in Brussels with the Iranian parliament speaker after the visitor, a strict observer of Islam, said he would not shake hands with the female senate president.

Italian Leader Chastises U.S. In Kidnapping Case In Milan (NYT)

By Elisabetta Povoledo, International Herald Tribune

The New York Times, July 2, 2005

DOJ_NMG_0000616

Prime Minister Silvio Berlusconi demanded Friday that the United States show "full respect" for Italian sovereignty, after summoning the American ambassador and asking him to explain the reported abduction of a Muslim cleric by people associated with the C.I.A.

Mr. Berlusconi told the ambassador, Mel Sembler, that he "demanded full respect for Italian sovereignty from the United States," according to a curt statement released by the prime minister's office. He also reassured Mr. Sembler that relations between the countries remained strong.

Mr. Sembler confirmed to Mr. Berlusconi that the American government's respect was "complete and total, and won't be neglected in the future," the statement read.

Mr. Sembler was summoned to discuss the disappearance of Hassan Mustafa Osama Nasr, or Abu Omar, a Muslim cleric who was seized on a street in Milan in February 2003.

Last week, an Italian judge ordered the arrest of 13 people linked to the Central Intelligence Agency on charges of kidnapping Mr. Nasr and flying him to Egypt, where he is still in prison, according to friends. At the time of his disappearance, Mr. Nasr was being investigated by Italian law enforcement officials for possible links to Al Qaeda.

Armando Spataro, the chief prosecutor investigating Mr. Nasr's disappearance, asked a Milanese court on Friday to reassess the position of another six Americans reportedly involved in the abduction, and to issue arrest warrants for them.

The initial arrest warrants placed Mr. Berlusconi's government - which has supported the Bush administration in the Iraq war - in a tight political spot. The war is highly unpopular here, and opponents have jumped on the incident, calling it a major embarrassment whether the government had advance notice or not, and demanding a clarification of the relationship between the United States and Italy.

The rapport between the countries was much strained in March, when United States troops in Baghdad killed an Italian intelligence agent, Nicola Calipari, as he was taking an Italian hostage he had just helped free to the airport. The two governments were not able to agree on what happened that night, and have issued contradictory reports.

On Thursday, Carlo Giovanardi, minister for relations with Parliament, told Parliament that the government had not known anything about the kidnapping in Milan.

Italian opposition leaders dismissed the meeting on Friday as a waste of time. "Berlusconi and Sembler could have spared us this farce," said Pietro Folena of the center-left Olive Tree coalition. The Americans, he said, "hide the truth about Calipari, kidnap presumed terrorists and then give no explanations."

US Wraps Up Joint Military Exercises In Sahara States (AFP)

AFP, July 2, 2005

The US military has wrapped up three weeks of joint exercises in five Sahara nations aimed at honing the skills of the African militaries in a push to prevent remote desert zones from becoming terrorist havens.

Nearly 800 troops under the US European Command (EUCOM) joined the exercises begun June 6 in Mali, Niger, Chad, Mauritania and Algeria and dubbed Operation Flintlock.

More than 2,000 African troops jumped out of C-130 transport planes, practiced marksmanship, learned about "law of the land" warfare tactics that preserve basic human rights during combat and studied orienteering, a US officer said Friday.

"Right now they are more focused on survival than going on the offense, so there needs to be a greater investment of time and energy with the nations on all levels," US Army Major John Silkman told AFP by telephone from Germany, where EUCOM is based.

"Their basic skills were rudimentary, but they understood the immediacy of the situation and the legitimacy of what we are trying to do to help protect their citizens within their borders," Silkman said.

"But we delivered the training we said we would, the countries said they were satisfied and we've built strong relationships. That to me means success."

Military officials from Senegal, Nigeria, Morocco and Tunisia also participated in an anti-terrorism scenario exercise in Dakar that required military cooperation to solve.

Only days before the exercises began, insurgents attacked a Mauritanian military base in the remote northeast on the border with Mali and Algeria, killing some 15 people and injuring 17, according to a Mauritanian government toll.

The raid was claimed by the hardline Algerian Salafist Group for Preaching and Combat, which has links to Al-Qaeda and is known to have sent insurgents to the front lines of combat in Afghanistan and Iraq.

Such perceived threats have spurred an increase in US military funding to the Sahara states, which include the world's poorest countries and lack the high-tech equipment used by more sophisticated armies.

From 2007, the United States aims to fund a new Trans-Saharan Counter-terrorism Initiative for 100 million dollars annually for five years to boost the capacity of the region's armed forces.

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But such a militaristic response to the terror threat, without a complementary effort to end the poverty that is among the factors pushing young people towards insurgency, could backfire on the United States, critics such as the International Crisis Group thinktank have warned.

Other US exercises planned in coming months include an aerial training session in internal defense with the Nigerian air force set for late August and a naval exercise in the Gulf of Guinea.

"We have to find common solutions to common problems, and help African countries build better counter-terrorism forces," Silkman said.

"There is no denying the strategic importance of the region and we are only at the beginning of what we need to do here."

Overpopulation Seen Spawning Terrorism (WT)

By Raza Naqvi

The Washington Times, July 2, 2005

A report released Thursday by the Population Institute links increases in global terrorism to "unprecedented" population growth in the past 50 years.

Speaking at a press briefing, Werner Fornos, president of the Population Institute, said if population growth remains unchecked in certain regions there could be "serious security consequences" for that region and others surrounding it. Yemen, Palestinian territories and Afghanistan, breeding grounds for Islamic terrorists, have some of the highest growth rates in the world, he added.

"Particularly in Palestine, many women turn suicide bombers," Mr. Fornos said. "[Population congestion] leaves young women convinced this is what they need to be active in."

According to the Population Institute report, entitled "Breeding Insecurity: Global Security Implications of Rapid Population Growth," the world's population will increase from 6.5 billion today to 9.1 billion by 2050, with most of the increase occurring in developing countries.

Aside from the security threat, the Population Institute's report highlighted a number of other political crises that could mushroom into global security threats.

"Revolution and other manifestations of political unrest are likely to originate within groups of youth looking to change the current political system," Mr. Fornos said. The report says 40 percent of the world's population is under the age of 20, the vast majority of whom live in developing countries.

The other major concern arising from population growth is the scarcity of fresh water to support it.

"Currently, about a third of the developing world's population lives in countries with severe water stress," the report states. "As the populations of countries sharing water grows, water shortages will become inevitable."

Mr. Fornos added that the world's population currently has to share 1 percent of the Earth's water supply.

The report cites a number of government reports since the Nixon era that have linked overpopulation to potential terrorist breeding grounds. According to the Population Institute study, "Vice President George H.W. Bush's 1976 task force on terrorism report, youth bulges and youth unemployment were recognized as demographic detriments of terrorism." Youth bulges are caused by "the combination of high fertility rates and declining infant mortality rates," both symptomatic of excess population growth.

The issue of population growth is not receiving the attention it merits, according to Mr. Fornos. At a poorly attended press conference, he regretted not being invited to the White House and other Washington policy institutes.

"Terrorism is not the major problem in the world today," he said. "Terrorism and population growth are important."

The United Nations Population Fund recommended $1.5 billion is needed to adequately tackle the problem, but last year's contribution to the U.N. fund was only $500 million, ironically the largest single contribution to date.

PATRIOT ACT:

Patriot Misfire (WP)

The Washington Post, July 2, 2005

THE VOTE BY the House of Representatives last month to block use of a provision of the USA Patriot Act against libraries and bookstores sends a powerful message of bipartisan anxiety about the Bush administration's approach to terrorism. Unfortunately, that message is something of a misfire. Attached to an appropriations bill, the amendment by Rep. Bernard Sanders (I-Vt.) responds to a provision that, while imperfect, makes a good deal of sense and about which there is no evidence of abuse. The administration's response was characteristically hyperbolic: The Justice Department warned that Mr. Sanders's

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amendment would carve out "bookstores and libraries . . . as safe havens for terrorists and spies, who have, in fact, used public libraries to do research and communicate with their co-conspirators." But on the merits, the provision is not one that merits particular concern -- and a spending bill, in any event, is a ridiculous means of improving it.

The provision in question, Section 215 of the Patriot Act, allows the FBI to get an order from a special court in national security cases to force the production of business records and other documents. The provision does not deal specifically with libraries or bookstores; indeed, the Justice Department says it has never used it to get library or bookstore records and, as of the end of March, had used it only 35 times for any purpose. What's more, the power it grants is largely redundant; the FBI can get that same material using a grand jury subpoena. Although there are procedural differences between the two mechanisms, these differences do not seem hugely significant either from an investigative or from a civil liberties point of view. In fact, in some respects, the procedure under Section 215 is more protective than a conventional subpoena.

Section 215, which, like the rest of the Patriot Act, was passed in haste, could stand improvement. The mechanism for challenging an order under it in court should be made explicit, for example, and it ought to be clarified so that the secrecy associated with orders issued under it does not impede communication between a recipient and his or her lawyer. But the department supports such changes, which would merely codify rules it already observes in practice.

Even if cutting off money were a reasonable way to improve the law, the substance of Mr. Sanders's amendment makes little sense. The amendment would prohibit spending on Section 215 orders for records from libraries or bookstores. But the privacy interest in such records, while real, is not obviously stronger than the comparable privacy interest in medical, credit card or other business records. And, of course, barring production orders under the Patriot Act would not protect libraries from having to turn over those same records under other laws.

If this vote signals that the House of Representatives is truly interested in acting to protect civil liberties, a whole host of issues awaits its attention. But Section 215 of the Patriot Act shouldn't be high on its list.

HOMELAND RESPONSE:

Mall Crowd To Undergo 'Emergency' Evacuation (WP)

By Paul Schwartzman

The Washington Post, July 2, 2005

The sprawling crowds on the Mall for Monday's July 4 fireworks display will participate in the first major test of Washington's downtown emergency evacuation routes since the Sept. 11, 2001, terrorist attacks, officials said yesterday.

Starting 15 minutes after the fireworks show ends, police officers are to direct tens of thousands of pedestrians and motorists leaving the Mall to seven evacuation routes, in which green and red traffic signals will be extended to four minutes. The test will last 45 minutes.

"This is a major step forward in emergency transportation planning, which we hope we never have to use for real," Dan Tangherlini, the District's director of transportation, said in a statement, adding that the test "will show how traffic and pedestrians are affected and how our transportation systems work in an emergency."

The routes in "Operation Fast Forward" include Constitution Avenue between 15th and 23rd streets NW; Independence Avenue between Third Street and Washington Avenue SW; and 14th Street between Pennsylvania Avenue NW and C Street SW.

Department of Transportation officials will observe the evacuation from the command center in the Frank D. Reeves Municipal Center on 14th Street NW, watching televised images from some 50 traffic cameras at the intersections. To replicate emergency conditions, officials will alter the timing of the traffic signals using laptop computers.

Douglas Noble, the department's chief traffic engineer, said the agency will view the test as a success if "we have an uneventful and quick exiting for people leaving the event. We will have collected information in terms of how well this works in getting people out of the city."

Law enforcement and transportation officials across the region have struggled since 2001 with the logistics of evacuating Washington during a terrorist attack. Concluding that the region's roads and transit network cannot accommodate an evacuation of the entire city, officials have focused on moving smaller groups from specific locations.

Metro estimates that more than 300,000 spectators traveled underground to last year's Fourth of July celebration, which was marred by rain. More than 500,000 people rode Metro to the fireworks display the year before.

About 125,000 vehicles -- more than a sixth of the number that drive city streets during a weekday rush hour -- are expected to travel downtown for the event, said John B. Townsend II, a spokesman for AAA Mid-Atlantic.

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Recalling the panic downtown on Sept. 11 as people tried to leave the city, Townsend said that conducting the test on a holiday weekend is an effective way to "approximate what you have on a good workday in D.C."

The test would help motorists leave the area more quickly, he said, as well as demonstrate how officials can improve evacuation plans.

"It's a litmus test for how the situation will work during an emergency," he said.

The list of downtown evacuation routes also includes Ninth Street between Pennsylvania Avenue NW and Interstate 395; South Capitol Street between Washington Avenue and M Street; Washington Avenue between Independence Avenue SW and South Capitol Street; and Third Street between Constitution Avenue NW and Independence Avenue SW.

Protocol Changes Still Have Loopholes (WT)

By Robert Redding Jr.

The Washington Times, July 2, 2005

A top D.C. official said a newly created federal emergency protocol will not resolve communications problems between city officials and the U.S. Capitol Police, which is headed by the Metropolitan Police Department's former No. 2 officer.

Edward D. Reiskin, deputy mayor for public safety and justice, said the protocol establishes notification procedures between the Department of Homeland Security and D.C. officials.

But an evacuation of the Capitol on Wednesday and a similar incident in May that left city officials in the dark were directed by Capitol Police, who do not figure in the protocol.

"They don't control the legislative branch," Mr. Reiskin said. "It's a totally different animal of government. It's not monolithic."

Capitol Police Chief Terrance W. Gainer has not returned calls requesting comment. He was the executive assistant chief of the Metropolitan Police Department from 1999 to 2002, when he took charge of the force that secures congressional buildings.

According to the new protocol, a police officer at Homeland Security's Operations Center is supposed to contact the police department, which then contacts the D.C. Emergency Management Agency (EMA). The EMA then notifies the mayor and other city officials.

D.C. fire department spokesman Alan Etter said Wednesday that the FBI notified the head of his department, and Metropolitan Police Chief Charles H. Ramsey said he learned of the event after receiving a page from police headquarters.

Chief Ramsey said he now is considering placing a police officer at the Capitol Police command center, in addition to an extra officer at Homeland Security's Operations Center and one at the Transportation Security Administration.

Mr. Reiskin yesterday said he did not know why a communications line between Capitol Police and EMA did not work or was not monitored on Wednesday.

The same line was described as being a live feed by EMA Director Barbara Childs-Pair last month.

Mr. Reiskin offered no details about the protocol's revisions, which D.C. officials submitted Thursday to Homeland Security.

"We expanded it," he said. "What they had originally put in place was specifically for airspace violations. We just made it a little more generic to cover all violations."

Homeland Security officials could not be reached for comment.

This is the first time there has been a major revision of the protocol between the District and Homeland Security since the department was established following the September 11 terrorist attacks.

On Wednesday, a private plane drifted into restricted D.C. airspace, prompting an evacuation of federal buildings. A similar event occurred May 11.

It was not clear yesterday whether the pilot of Wednesday's errant flight, Scott Murwin of Athens, Ga., will face charges.

WAR NEWS:

President Visits Injured Troops (WP/AP)

The Washington Post, July 2, 2005

President Bush expressed his gratitude to the nation's men and women in uniform yesterday, praising them for "laying the foundation for peace for generations to come."

Bush visited 37 soldiers wounded in Iraq and Afghanistan and being treated at Walter Reed Army Medical Center in Washington.

"Every time I come here, I am struck by the remarkable resolve and courage of the men and women who are treated here," he said.

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Presidential spokesman Scott McClellan said one soldier who had lost a leg struggled to rise so that he could stand at attention to salute Bush. The president "shared some tearful moments with the family members of the soldiers. He also shared some laughs with them and a lot of hugs," McClellan said.

Bush spent an hour and a half going from room to room, meeting with the soldiers and their families.

Afterward, he urged Americans to celebrate the Fourth of July holiday by showing their support for U.S. servicemen and women. He suggested flying the American flag or writing a letter to a soldier overseas.

Bush also awarded five Purple Hearts to four soldiers -- one was wounded twice and received two awards.

Bush's visit comes three days after he rejected calls from critics to set a timetable for withdrawing troops from Iraq. During his speech to the nation Tuesday night, he also urged Americans to be patient in the face of fading support from the public.

Walter Reed has treated more than 4,200 patients from the Iraq war, 1,150 of them with combat injuries, and more than 300 wounded troops from Afghanistan.

Gunmen In Iraq Kill Aide To Cleric (WP)

By Andy Mosher

The Washington Post, July 2, 2005

Gunmen assassinated an aide to Iraq's most prominent Shiite Muslim cleric on a street in central Baghdad on Friday, and a Sunni Muslim cleric was kidnapped shortly after in the same neighborhood, according to Iraqi security officials.

In the face of these and other sectarian attacks, Muslim preachers used sermons at Friday mosque services to call for an end to violence.

Police said Kamaleddin Ghuraifi, a Baghdad representative of Grand Ayatollah Ali Sistani, was gunned down on his way to Friday prayers at al-Doreen Mosque on Haifa Street, a dangerous area where Iraqi and U.S. officials say order is gradually being restored by Iraqi security forces. Two of Ghuraifi's bodyguards also were killed, according to a spokesman at Sistani's headquarters in Najaf, the Shiite holy city 90 miles south of Baghdad.

"We cannot protect every scholar of Sistani. They number in the thousands," the spokesman said. "We accuse the extremists. This is not the first time they have targeted a Sistani scholar."

Later, gunmen entered a nearby Sunni mosque during Friday prayers and abducted the preacher, Amr Tikriti, police 1st Lt. Mohammed Hiyani told the Associated Press. It was not clear whether the kidnapping was related to Ghuraifi's killing.

Also on Friday morning, a driver detonated a car bomb outside an office of Prime Minister Ibrahim Jafari's Dawa party, one of the principal groups in the Shiite coalition that holds a majority of the seats in Iraq's National Assembly. The attack killed the driver of the car and a bystander.

Conflict between Iraq's majority Shiites and the Sunni Arab minority that wielded power until the fall of President Saddam Hussein in 2003 has flared since Jafari's Shiite-led government was formed in April.

The country's nearly two-year-old insurgency, which is driven by Sunni religious radicals and secular Sunnis loyal to Hussein, has included assassinations of political and religious leaders in the Shiite community as well as bomb attacks on Shiite neighborhoods. Sunni leaders have accused the Shiite-dominated security forces of using security crackdowns to settle sectarian scores.

Since mid-June, Shiites have suffered the brunt of the violence. Another Sistani representative, Samir Baghdadi, was shot dead last week in Baghdad, and on Tuesday, Dhari Fayadh, a Shiite and the oldest member of the National Assembly, was killed by a suicide bomber.

"The sectarian war is escalating, and the objective is to draw the Shiites into civil war," warned Jalaladeen Sagheer, a Shiite cleric, in his Friday sermon at Baghdad's Buratha Mosque. He urged listeners not to use violence, because "if catastrophe struck, it would devastate everything. No one will benefit from it except the enemies of Iraq."

In the southern city of Karbala, another Shiite cleric, Mohammad Hussein Almeedy, denounced the insurgents' tactics. "What is the moral and religious justification for killing innocent Iraqis who are Muslims?" Almeedy asked in his sermon. "How can they justify the killing of women, children and old persons?"

Efforts by U.S. and Iraqi military forces to drive insurgents out of towns in western Iraq continued Friday. About 1,000 U.S. Marines, soldiers and sailors and 100 Iraqi troops conducted a fourth day of search operations in the town of Hit, about 95 miles northwest of Baghdad. The Marines said in a statement that the push, called Operation Sword, was continuing to meet little resistance.

Less than a mile north of Hit, the statement said, Marines and sailors found 15 roadside bombs -- 13 of them placed along an 800-yard stretch of road. "The insurgents had attempted to attach several of the bombs together in order to make a larger explosion and increase the blast radius of the bombs," the statement said.

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In Ramadi, a city 60 miles west of Baghdad, residents directed police to a spot where the bodies of three men -- described as a Saudi, a Jordanian and a Kuwaiti -- had been dumped out of a pickup truck, according to Iraqi army 1st Lt. Hussein Fadhil Alwan. The residents said the dead men were members of al Qaeda in Iraq, the guerrilla group led by Abu Musab Zarqawi.

Later, a statement posted at a mosque in Ramadi by Zarqawi's group accused a local tribe of the killings and warned: "We promise a fast and very swift punishment for this tribe because of what they did. They are apostates from Islam -- they should be killed."

Top Shiite Cleric's Aide Killed, And Shiite Office Attacked (NYT)

By James Glanz

The New York Times, July 2, 2005

A senior aide to Grand Ayatollah Ali al-Sistani, Iraq's most influential Shiite cleric, was gunned down on his way to Friday Prayer in Baghdad, and a suicide car bomb exploded near the office of a major Shiite political party, an Interior Ministry official said Friday.

A few hours after the killing of the aide, Sheik Kamaleddin al-Ghuraifi, bullet holes could be seen scattered across a fence, and blood smeared the pavement inside a cordon of police at the scene, in the Allawi Al Hilla neighborhood in Baghdad. Residents said Mr. Ghuraifi died immediately, and the ministry official said four other people also died in the shower of bullets.

The car bomb exploded in the Mansour neighborhood of Baghdad at 1:35 p.m. on Friday, only a few minutes after the killing of Mr. Ghuraifi, outside an office belonging to the party led by Prime Minister Ibrahim al-Jaafari. The Interior Ministry official, who insisted on anonymity, said one guard had been killed and two wounded in the blast.

In Kirkuk, a roadside bomb exploded near a public bath, wounding two people, and gunmen killed a woman driving near a large mosque in the center of town, said Col. Taha Muhammad, a member of the city police force. The motivation for the attacks was not immediately clear.

An attack about 7 a.m. shut down the Kharkh water treatment plant, which supplies most of Baghdad's drinking water. The attack hit an electrical substation that powers the plant, setting it on fire and causing damage that will take at least three days to repair, said Abu Haqi, an Electricity Ministry engineer.

The Kharkh has been struck repeatedly, most recently two weeks ago, placing great pressure on Baghdad's mayor, Alaa al-Tamimi, and the American forces to carry out repairs and keep the plant running.

Master Sgt. Greg Kaufman, a spokesman for the Third Infantry Division in Baghdad, said the fire was centered on the power distribution control room at the substation. He said that investigators had found unexploded ordnance around the site but that any connection between the ordnance and the attack was still undetermined. "I'm sure that's what they're investigating," he said.

Also on Friday, American marines said they were investigating the death of an Iraqi civilian that occurred last Saturday during raids of houses near Haditha, a city in the troubled Anbar Province in western Iraq.

According to an account by relatives of the dead man, Muhammad al-Sumaidai, marines entered the house, in the village of Shaikh Hadid, shortly after 10 a.m. Marines asked if the family owned any weapons and Mr. Sumaidai took them to a back bedroom, where, according to the family, a rifle was kept. Family members were asked to wait outside the house, while Mr. Sumaidai remained inside.

About an hour and a half later, the marines left, and family members found Mr. Sumaidai dead in the house, with a single bullet wound in his neck, said Samir Sumaidai, the dead man's cousin, who is serving as Iraq's ambassador to the United Nations.

The military said in a statement that the events, as described, "roughly correspond to an incident involving coalition forces on that day in that general location," and that it had started an investigation. Last Friday, a day before Mr. Sumaidai's death, Yasser Salihee, an Iraqi correspondent for Knight Ridder, was shot and killed by an American sniper while Mr. Salihee was on his way to get gas to drive his family to a swimming pool, the news agency said. That death is also under investigation by the military.

Though Iraqis die daily in attacks by insurgents, as well as in shootings by Americans and Iraqi troops that are often a result of split-second misunderstandings, the American military has refused to release the numbers of Iraqi civilians killed.

Gunmen Assassinate Aide To Leading Shiite Cleric In Iraq (KRT)

By Leila Fadel

Knight Ridder, July 2, 2005

An aide to Grand Ayatollah Ali al-Sistani, Iraq's leading Shiite Muslim cleric, was assassinated Friday in central Baghdad in the latest attack on leaders of Iraq's Shiite majority.

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Kamal al-Deen al-Ghuraifi was walking from his home to the Al-Karkh mosque to give a sermon, but before the imam could get there, a car sped up the wrong side of the road. Four men with Kalashnikovs leaned out the window and sprayed him and his guards with bullets, said Police Maj. Abdul Wahab Ahmed, the officer in charge of the investigation.

Al-Ghuraifi died instantly from the four bullets that pierced his body. His bodyguards were injured. One was his son.

Only 40 minutes later and about 55 yards up the road, a group of gunmen stormed into the Sunni mosque Saad Bin Abi Waqas. As Sheik Amer al-Tikriti began his sermon, they dragged him from the pulpit and kidnapped him.

"It was one man for one man," Ahmed said.

Al-Ghuraifi was the sixth representative of al-Sistani's to be killed in Baghdad since the new government took office on April 28, according to al-Sistani's office in Najaf.

The seemingly eye-for-eye actions Friday afternoon reflected the growing sectarian violence and political tensions in the nation.

In further violence, a car bomb exploded outside of Prime Minister Ibrahim al-Jaafari's Dawa party office, killing one bystander and injuring another.

"Terrorists are trying to create sectarian sedition here in Iraq by killing the religious figures from both the Sunnis and the Shiites," said Haitham al-Husseini, a spokesman for Abdul Aziz al-Hakim, a leader of the Shiite political party the Supreme Council for Islamic Revolution in Iraq.

Meanwhile, Sunnis have threatened to boycott the constitutional committee if their list of names to participate in drafting the constitution isn't approved this week, said Dr. Saleh al-Mutlak, of the Sunni National Dialogue Committee. Al-Mutlak is on the list submitted to help write the constitution. Sunni participation in writing Iraq's constitution is considered key to getting the document accepted by the Sunni minority, from which most of Iraq's insurgents have come.

Also Friday, wide swaths of the capital were without drinking water for the second time in two weeks. A fire at a purification plant in Tarmiyah, just north of Baghdad, caused the shortage, according to the Interior Ministry. It's unclear how the fire started.

Iraqis already deal with scarce electricity in sweltering heat and sewage problems. When they leave their homes, though, they risk their lives; if they aren't hit by a car bomb or an improvised explosive device, they may be mistaken for insurgents and get shot.

In other violence, a political satirist on the government-owned Iraqia television station was kidnapped and killed in Mosul.

Police found Khaled al-Attar's body riddled with bullets, said Ghazi Faysal, the manager of the Iraqia network in the north.

Senior Shi'ite Cleric's Aide Slain Near Baghdad Mosque (WT)

By By

The Washington Times, July 2, 2005

Gunmen killed an aide to Iraq's most influential Shi'ite cleric and two bodyguards in a drive-by shooting outside a Baghdad mosque yesterday.

Elsewhere in the capital, a car bomb exploded near a checkpoint outside the offices of Prime Minister Ibrahim al-Jaafari's Islamic Dawa Party, killing one person and injuring at least four more, officials said. Mr. al-Jaafari was not there at the time, party official Ayad al-Nedawi said.

Shi'ite cleric Kamal Ezz al-Deen al-Ghuraifi, an aide to leading Shi'ite cleric Grand Ayatollah Ali al-Husseini al-Sistani, was shot as he was about to leave al-Doreen mosque after leading prayers, according to his son, Hamid Kamal. Police confirmed the attack.

Two bodyguards were killed and another four were wounded, he said.

Mr. al-Ghuraifi, in his 60s, had been a Baghdad representative of Ayatollah al-Sistani for the past decade, said Amer al-Hussaini, a friend of Mr. al-Ghuraifi's.

It was the third attack on Ayatollah al-Sistani's aides in recent weeks.

In the attack on the Islamic Dawa Party offices in Baghdad's Mansour neighborhood, the suicide bomber detonated the car near a checkpoint about 80 feet from the building, which used to be Mr. al-Jaafari's house.

Interior Ministry administrative affairs undersecretary police Maj. Gen. Adnan al-Assadi had left the building about a half-hour earlier, police said. A neighbor was killed and four armed guards for the compound were wounded.

Meanwhile, a roadside bomb targeting a U.S. Marine convoy in the Anbar provincial capital of Ramadi instead killed two civilians and wounded two others, said 1st Lt. Blanca Binstock, a spokeswoman.

Another roadside bomb missed a U.S. military convoy in the New Baghdad district but killed a civilian and wounded three others.

In western Iraq, U.S. Marines conducting raids aimed at disrupting foreign fighter networks defused nine roadside bombs yesterday, a day after a light armored vehicle struck a mine, wounding six Marines, a company commander said.

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A supply convoy entering the city of Hit found the roadside bombs spread along 500 yards of a major artery, and Marines participating in Operation Sword traced trigger wires to a school, said Maj. Steve Lawson of the 3rd Battalion, 25th Marine Regiment.

Marines finished searching houses for weapons yesterday morning in 122-degree heat and began foot patrols in the city, about 85 miles west of Baghdad in volatile Anbar province. The operation began Tuesday with more than 1,000 U.S. troops and Iraqi soldiers.

Maj. Lawson said his company detained 10 suspected insurgents, and one of its tanks killed a man moments after they saw him trigger a roadside bomb.

A fire at a power station that supplies a Baghdad waterworks shut down the facility, leaving millions of people without drinking water, officials said.

The blaze came a day after Baghdad Mayor Alaa Mahmoud al-Timimi decried the capital's crumbling infrastructure and the lack of clean water and threatened to resign if the Iraqi government did not provide more money.

Iraqi Seeks Probe Of Killing (WP)

By Colum Lynch

The Washington Post, July 2, 2005

Iraq's U.N. ambassador Friday accused U.S. Marines of killing his 21-year-old cousin "in cold blood" during a June 25 raid in a village in the Sunni Muslim-dominated province of Anbar.

Samir S.M. Sumaidaie called on the United States to investigate the death of Mohammed Sumaidaie in "a credible and fair way to ensure that justice is done." He said the killing represents a "betrayal" of Iraqi and U.S. efforts to rebuild Iraq on a foundation of "freedom, democracy and respect for human rights and the rule of law."

The allegation comes as the United States is trying to persuade Iraq's Sunni Muslim community, which provides the largest base of support for the insurgency, to break with Islamic extremist elements in Iraq and participate in the country's political transition. The U.S. military has held a series of private meetings this summer with insurgent leaders to convince them to back the political process.

A spokesman for the U.S.-led multinational force in Camp Fallujah, in the heart of Iraq's Sunni region, issued a statement saying an inquiry had been launched into the incident, noting that the "allegations roughly correspond to an incident involving coalition forces" in the area on June 25.

"We take these allegations seriously and will thoroughly investigate this incident to determine what happened," said Maj. Gen. Stephen T. Johnson, commanding general of Multi-National Force-West. The investigation could take several weeks, according to the statement.

According to a witness account compiled by Sumaidaie, U.S. Marines and Iraqi Army units were conducting a joint series of raids June 25 in the town of Haditha. At 10 a.m., 10 Marines searching for weapons knocked on the door of Mohammed's father's house.

Mohammed, described as a "relatively shy" engineering student, "greeted them pleasantly" and led them to his father's bedroom, where the family stored an old rifle filled with blanks, according to the account.

His relatives say they do not know exactly what happened next, but they say that several family members, including Mohammed's mother, were gathered in the hallway and heard a thud in the bedroom. Meanwhile, according to Sumaidaie's account, one Marine dragged Mohammed's younger brother, Ali, through the house by his hair and beat him.

The family was asked to wait on the porch while the Marines continued searching the house for another hour, the account said. When they finished, an interpreter for the Marines asked Mohammed's mother in Arabic whether it was her son in the bedroom. The account said he told her, "They killed him!"

"In the bedroom Mohammed was found dead and laying in a clotted pool of his blood," according to the account.

Sumaidaie wrote in a statement released Friday: "If that account is broadly accurate, and I have absolutely no doubt that it is because I made sure of it, a serious crime has been committed. All indications point to a killing of an unarmed civilian -- a cold-blooded murder."

The United States' acting U.N. ambassador, Anne W. Patterson, expressed "heartfelt condolences" to Sumaidaie and asked the U.S. embassy in Iraq and senior Pentagon officials "to look into the matter immediately," said Richard Grenell, spokesman for the U.S. mission to the United Nations.

"The situation is obviously just terrible," Grenell said.

A Scotsman With The Gifts Of Gab And Jab (NYT)

By Lizette Alvarez

DOJ_NMG_0000624

The New York Times, July 2, 2005

INCORRIGIBLE to the core, George Galloway is used to being threatened, ousted, libeled, filleted in the press and just plain reviled.

Over the years, the grand-père terrible of British politics has been called corrupt and treacherous; labeled an apologist for Saddam Hussein, a claim he forcefully rejects; portrayed as a Louis Vuitton-toting Socialist; and dismissed as a self-aggrandizing Labor Party turncoat.

"I could show you my scars," Mr. Galloway, 50, said from inside the ramshackle room where he sat, the stubby end of his Montecristo cigar a reassuring arm's reach away. "I am swimming against the stream. As Dr. Johnson once said, 'The grimmest dictatorship is the dictatorship of the prevailing orthodoxy,' and I am fighting that orthodoxy. It's not that I relish it. It's that I am not afraid of it."

But since his appearance in May before the United States Senate Subcommittee on Investigations, where to the delight of many here and in America he flung scorn at two senators over Iraq, vilification has shifted to a modicum of admiration (even if it is grudging, at least in Britain).

Mr. Galloway, who is accused by the Senate subcommittee of enriching himself through the scandal-plagued oil-for-food program, volunteered to testify. Then, he swiftly turned the tables, he said. Entering the room, "not as the accused, but as the accuser," he ripped into the senators for ignoring central questions about Iraq and conducting what he called "the mother of all smokescreens."

He was embraced by the antiwar movement. Mr. Galloway, a gifted orator with a flair for the verbal showdown, says he is planning a speaking tour of the United States in September, challenging Americans to challenge their leaders more forcefully. Here at home, his House of Commons e-mail box had to be shut down for a spell, after it buckled under the heft of thousands of messages; most came from America, and some were sent by the family members of dead and wounded soldiers, he said. Letters also poured in.

President Bush's supporters, on the other hand, took a different view of his performance; they called him a rude, wrong-headed troublemaker. A "loudmouth Scot," said a Fox News commentator, John Gibson.

"I think I burst a bubble that had been waiting to be burst, a very toxic bubble," Mr. Galloway said. "The powerful in the United States, the elite, speak to themselves. They rely upon the most base electoral tactics, not to mention billions of dollars, to get themselves re-elected. That succeeds, but it doesn't persuade.

"And from the point of view of the British people, the British people have been heartily sickened by the obsequious way the British politicians have been behaving towards the United States elite for a very long time." He added, "And I touched that nerve there."

Mr. Galloway, a left-wing member of the House of Commons, has long been called "Gorgeous George," for his attachment to well-tailored suits, Cuban cigars and bronzed skin.

A one-time Michelin tire factory worker from Dundee, Scotland, he developed a passion for the Arab world by accident when, in 1975, a Palestinian student leader turned up one day at the local Labor Party office. Nobody else was around, so he talked to Mr. Galloway, and by the time he left, Mr. Galloway was ready to march, shout and speak for the Palestinian cause. An interest in other Arab issues soon followed.

Mr. Galloway has also made sport of angering Prime Minister Tony Blair. As Mr. Blair and President Bush prepared for war with Iraq in 2003, Mr. Galloway became one of their chief critics, mercilessly disparaging both as misleading the public into combat. In one interview for Abu Dhabi television after the invasion of Iraq, Mr. Galloway said the two leaders attacked Iraq "like wolves." Mr. Galloway then wondered, on tape, "Where are the Arab armies?"

Mr. Galloway was expelled from the Labor Partly shortly thereafter, following what he terms a "show trial" for making "prejudicial" remarks.

Despite the expulsion, Mr. Galloway won re-election to the House of Commons in May as a member of Respect, a Socialist party he founded with an antiwar focus. He managed to steal away a Labor seat in a Muslim neighborhood, mostly because the incumbent had voted for the war. The race was described in the press as the nastiest and rawest of the year.

AS his appearance before the Senate showed, Mr. Galloway is as pugnacious as ever, and as certain as ever that he is being proved right every step of the way. "Who today denies the centrality of the Palestinian question to the stability of the world?" he said. "And who now doubts what we said about the war in Iraq? It took longer to be vindicated on Palestine than Iraq, but vindication on both, I'm sure, is there."

Among the things that most deeply offend him about Mr. Bush's war calculus is the "disinformation," he said, the unraveling of a script intended to frighten and provoke.

"If you look at the most immediate lie, it was the lie he told the American armed forces that they would be received as liberators. They said implicitly that the Iraqis would throw flowers and rice at them, when in fact they are throwing something

much more red hot and razor sharp. Nearly 1,700 have paid with their lives, 16,000 have been wounded and nearly 1,500 are disabled forever."

"The second most profound untruth that was told, and deliberately implied when not told, was that Iraq was in some way responsible for 9/11 and that Iraq was connected to Al Qaeda," he added. "I said over and over again, and the antiwar movement said, there is no Al Qaeda movement in Iraq, but there will be if you invade it. It will be a honey pot for every extremist in the world. These people are descending like spores on Iraq, and they will infect the whole area, and one day they will leave that area and hurt us."

But, the biggest whopper of an "untruth," he said, was "that invading and occupying Iraq would make the world safer, when any fool could see it would make the world more dangerous. Only a mad person could look at Iraq today and say things are better off."

The press, too, played a disheartening role in the march to war, he said. "They tamely regurgitated the arguments."

Now, "the Americans are sunk in a very deep swamp," Mr. Galloway said. "It is costing the taxpayers billions of dollars, soldiers are dying like flies and they are stuck there."

There are many who disagree with Mr. Galloway's conclusions and cite recent developments in Lebanon, Libya and the Israeli-Palestinian conflict as proof that the Iraq war and an increased American pressure for democracy have borne some fruit in the region. Nevertheless, a growing number of people now view the war and the occupation with a jaundiced eye.

As for the dust-up in the Senate, Mr. Galloway said he was thrilled to speak his mind and, as one journalist here put it, flaunt his "gift of the Glasgow gab."

HE had "underestimated the American people," he said, and overestimated the competence of American politicians.

"I am searching for words that are not insulting. I was very underimpressed," Mr. Galloway said. "I think America treats politicians like nobility, and that's certainly not how they are treated here." A result is that American political arguments are "not properly tested."

For example, a few Americans who sent e-mail began by apologizing for not knowing his title and for calling him Mr. Galloway, "like they should be saying the right honorable."

Then he smirked, and added, "This is quite amusing, because Mr. Galloway is usually the nicest thing I am called."

'Get Out, You Damned One' (NYT)

By John Tierney

The New York Times, July 2, 2005

President Bush has the bully pulpit, but Saddam Hussein has the hot novel. Bootleg copies of his latest work are selling briskly in the Middle East, and not just because of the free publicity he got when Jordan banned it this week. Say what you will about Saddam, he knows his audience.

The critics have not been kind to the prose and the plot, but they miss Saddam's strength. He's a marketer. He is said to have finished the novel just as the war was beginning, when American leaders were fantasizing about their troops' being welcomed as liberators. But Saddam knew enough to give his novel a surefire title for the post-invasion era: "Get Out, You Damned One."

It's a naked appeal to xenophobia, an impulse that's far more ancient and widespread than the yearning for democracy that President Bush talked about this week. Yet it's been curiously underestimated by conservatives who used to pay close attention to just this sort of instinct.

When liberal intellectuals dreamed of a socialist world with a selfless "New Man," conservatives realized that he'd be as greedy as ever. When some feminists envisioned the end of gender stereotypes, conservatives insisted there were ingrained differences between the sexes. Yet when American troops met resistance after the war, conservatives dismissed the early insurgents as "dead-enders" and expected Iraqis to join Americans in quickly vanquishing the thugs.

In those early days, when the memory of Saddam was still fresh, you could walk down a street in Baghdad and be greeted by an Iraqi stranger thanking you for bringing freedom. But even back then there were plenty of Iraqis like Saleh Youssef Sayel, who proudly told me of the reaction of his 5-year-old son, Mustafa, to an American soldier.

"The soldier tried to shake his hand, but my son refused," he said. "He knew enough English to say, 'No. You go.' Later he told me he wanted a gun to kill Americans. This is a natural feeling. Nobody wants a stranger in your house or your country."

The natural impulse to dislike outsiders is so strong that it barely matters who the outsiders are.

When experimental psychologists divide subjects into purely arbitrary groups - by the color of their eyes, their taste in art, the flip of a coin - the members of a group quickly become so hostile to the other group that they'll try to deny rewards to the outsiders even at a cost to themselves.

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And when the members of a group really have something in common, like family ties, they're willing to fight outsiders even if it means their own deaths. Xenophobia produced genetic rewards for hunter-gatherer clans. When the evolutionary psychologist J. B. S. Haldane was asked whether he would lay down his life for his brother, he replied, "No, but I would to save two brothers or eight cousins."

Iraqis have their own version of that line: "My brother and I against my cousin; my cousin and I against the world."

Because marriage between cousins is so common in the Middle East - half of Iraqis are married to their first or second cousins - Arabs live in tightly knit clans long resistant to outsiders, including would-be liberators. T. E. Lawrence learned that lesson when trying to unify Arabs early in the last century.

"The Semites' idea of nationality," he wrote, "was the independence of clans and villages, and their ideal of national union was episodic combined resistance to an intruder. Constructive policies, an organized state, an extended empire, were not so much beyond their sight as hateful in it. They were fighting to get rid of Empire, not to win it."

Today's liberators in Iraq like to attribute the resistance to Islamic fascists' fear of democracy and hatred of the West. But those fascists know that an abstract critique of Western ideology isn't enough to attract followers. In their appeals they constantly invoke the need to expel foreigners from their soil, a battle cry that is the great common denominator of suicide bombers around the world.

Maybe, as President Bush hopes, Americans can stay long enough in the Middle East to jump-start democracy and reduce the long-term risk of terrorism. But in the meantime, they're bound to face resistance, no matter how noble their intentions.

During the Civil War, Union soldiers were amazed to see poor Southerners without any stake in the slavery system defending it in suicidal charges. But there was a simple explanation, as a barefoot, emaciated Confederate captive famously put it when a Union soldier asked him why he kept fighting: "Because you're here."

U.S. Searches For Troops In NE Afghan MountainsOfficials Say Team's Fate Still Unknown (WP)

By N.C. AizenmanWashington

WP -- A1 – Afghan Crash, July 2, 2005

U.S. forces continued a massive hunt Friday for a missing military team in the mountains of northeastern Afghanistan, three days after a Special Operations helicopter bringing troops to rescue the men crashed amid enemy fire, killing all 16 service members aboard.

A man claiming to speak for the Taliban militia called news organizations Friday to say that Taliban fighters had captured one of the men and killed seven others. But U.S. military officials said there was no evidence to support the claim. The missing team was made up of fewer than 10 soldiers, one officer in Washington said.

U.S. troops set up a checkpoint in Konar province, near Pakistan. (Reuters)

"All we have to date is that our guys are missing," said Lt. Col. Jerry O'Hara, a U.S. military spokesman here. "We don't have any positive proof that shows us they were injured, they were captured, or they are just in a hiding spot, waiting for our forces."

The incident in Konar province began Wednesday, when a small team of Special Operations forces were hiking through the region as part of Operation Red Wing, a mission against al Qaeda fighters, according to the military officer in Washington. The officer said none of the team members had been found, nor was it known whether any had been killed or captured.

"They could be hiding under a rock, waiting," the officer said. "There's an ongoing operation searching for them."

According to O'Hara, U.S. commanders last heard from the team on Tuesday afternoon after it started taking fire. The downed Chinook helicopter, a Special Operations aircraft, was one of at least two sent to extract the team, O'Hara said.

The Chinook appeared to have been hit by a rocket-propelled grenade as it approached its intended landing site, causing it to smash into a mountainside, Lt. Gen. James T. Conway, director of operations for the Joint Chiefs of Staff, told reporters Thursday.

He said the troops on board -- eight members of a Navy SEAL team and eight Army airmen -- appeared to have died in the crash. On Thursday, U.S. forces were finally able to reach the site and recover the bodies, but the ground team was not found in the area.

O'Hara said "all available assets" were being used to find the men, but that the search had been hampered by the steep, forested terrain and the possibility that "at any turn the search can turn into a fire fight if we encounter enemy forces."

Military officials said it was unclear who had fired on the helicopter. In addition to al Qaeda fighters, insurgents linked to the Taliban militia and Gulbuddin Hekmatyar, a fugitive former Afghan official, are also reportedly operating in the area.

The incident came as U.S. and Afghan forces face growing violence from insurgent groups that appear to be numerous, well-equipped and intent on undermining Afghanistan's modicum of stability after two decades of civil strife, foreign military occupation and religious repression.

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At the same time, an increase in street crime, gang violence, kidnappings of foreign aid workers, murders of Afghans who support the U.S.-backed government and continued high levels of drug crop cultivation and trafficking have added to a sense of insecurity in the country. Afghan officials have been struggling to rebuild their country since the Taliban militia was ousted by a U.S.-led military campaign at the end of 2001.

U.S. Troops Still Missing After Crash In Afghanistan (NYT)

By Carlotta Gall

The New York Times, July 2, 2005

Still searching for a small reconnaissance team, hundreds of United States troops swarmed the mountainous terrain of eastern Afghanistan on Friday, near where a helicopter was shot down on Tuesday, killing all 16 aboard, military officials said.

The helicopter, a Chinook MH-47 with Navy Seal commandos and other Special Operations personnel aboard, was flying in to extract the reconnaissance team during a battle with insurgents suspected as members of the Taliban and Al Qaeda, said Lt. Col. Gerry O'Hara, a military spokesman at Bagram Air Base north of Kabul. The Chinook came under small-arms fire and was hit by a larger projectile, most likely a rocket-propelled grenade, and crashed, the military has said.

Ground troops and aircraft were searching the steep wooded mountainsides of Kunar Province for the team but still had not located them by sundown on Friday, Colonel O'Hara said. "We are using all available assets to work the search for our missing," he said.

A spokesman for the Taliban, Abdul Latif Hakimi, said earlier in the week that Taliban fighters had killed seven American "spies" on Tuesday.

In another telephone conversation, he told Reuters on Friday that the Taliban had captured one American soldier. Some of his earlier claims have been unreliable, but his announcement that the Taliban had shot down the helicopter on Tuesday proved correct. He told Reuters that the American was captured Wednesday by a Taliban fighter as he was climbing a hill to get away from the crash site.

There was no evidence to suggest that the men in the missing unit were injured or dead, Colonel O'Hara said.

On Thursday, American troops secured the crash site, recovered the 16 bodies and began an investigation of the crash, the military has said.

Another United States serviceman disappeared Saturday when his Humvee slid down a steep river embankment in the same area of eastern Afghanistan and is now the subject of a search-and-rescue mission in the same area.

Troops have been engaged in a broad anti-insurgent operation, named Operation Red Wing, in the region all week but there was no fighting reported Friday, Colonel O'Hara said. "There has been no contact from the enemy directed at our forces today," he said.

Violence did, however, erupt in Uruzgan Province in central Afghanistan, where Taliban rebels kidnapped and killed nine tribal officials, according to an unidentifed Afghan official cited by The Associated Press. The Taliban then sent a boy with an offer to exchange the bodies for those of dead militants, the official said.

In the last three months, about 465 suspected insurgents, 43 Afghan policemen and soldiers, 125 civilians and 29 American troops, including the 16 in the helicopter crash, have died in the fighting, according to a tally by The A.P.

The 16 fatalities in the helicopter crash represent the single heaviest combat loss in the three and a half years of war in Afghanistan. In recent months, the Taliban have staged a resurgence, and American forces have ventured into particularly remote areas to root them out.

They have encountered hardened fighters, most of them Afghans but some foreign fighters, including Arabs and Pakistanis. There have been signs that the guerrillas have been receiving outside financing, equipment and weapons, military officials have said.

The Pentagon said that the dead in the helicopter crash included seven soldiers from an Army Special Operations aviation unit from Hunter Army Airfield, Ga.; one soldier from a Special Operations aviation unit from Fort Campbell, Ky.; and eight Navy Seal personnel from units in Norfolk, Va., and San Diego.

U.S. Forces Scour Afghan Mountains For Missing Unit (MINNST/AP)

By Daniel Cooney, Associated Press

Minneapolis Star Tribune, July 2, 2005

KABUL, AFGHANISTAN -- U.S. forces scoured rugged Afghan mountains Friday for an elite U.S. military team missing in the same area where a U.S. helicopter was shot down. A purported Taliban spokesman claimed insurgents captured one of the men.

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In central Afghanistan, Taliban guerrillas kidnapped and killed nine tribal leaders and sent a boy to offer to exchange the bodies for those of dead militants, an official said. The tribal leaders were among 25 people killed in three days of fighting in Uruzgan Province -- yet another troubling sign of violence as September elections near.

The missing military team in the remote eastern mountains worsened the already stinging blow suffered by the U.S. military after 16 soldiers were killed Tuesday aboard the MH-47 Chinook chopper.

U.S. forces were using "every available asset" to search for the missing men, military spokesman Lt. Col. Jerry O'Hara said. "Until we find our guys, they are still listed as unaccounted for and everything we got in that area is oriented on finding the missing men," he said.

The missing troops are a small special-operations unit, said military officials, speaking Friday on the condition of anonymity because rescue operations were still underway. Though the team has been missing since Tuesday, the military had refrained from discussing their situation to prevent the Taliban from setting out in search of them.

The downed helicopter had been sent to pick up the soldiers Tuesday when it went into the mountains near Asadabad, close to the Pakistani border, O'Hara said.

The Taliban claim to have kidnapped one of the men came from purported spokesman Mullah Latif Hakimi. "One high-ranking American has been captured in fighting in the same area as the helicopter went down," he told the Associated Press. "I won't give you any more details now."

Reacting to the claim, O'Hara said, "We have no proof or evidence indicating anything other than the soldiers are missing."

Hakimi, who also claimed insurgents shot down the helicopter, often calls news organizations to take responsibility for attacks, and the information frequently proves exaggerated or untrue. His exact tie to the Taliban leadership is unclear.

The loss of the helicopter and its complement follows three months of fighting that has killed about 477 suspected insurgents, 47 Afghan police and soldiers, 134 civilians, and 45 U.S. troops.

Remnants of the former Taliban regime have stepped up attacks, and there are disturbing signs that foreign fighters -- including some linked to Al-Qaida -- might be making a new push to sow an Iraq-style insurgency.

US Team Missing In Afghanistan After Chopper Crash (AFP)

AFP, July 2, 2005

US forces searched for a small reconnaissance team which has been missing since a helicopter sent to extract them was shot down in Afghanistan, as the Taliban claimed they had captured a US soldier.

Ground troops combed a mountainous, wooded area of militant-infested Kunar province in eastern Afghanistan around the crash site to find their comrades, US spokesman, Lieutenant Colonel Jerry O'Hara, said.

Sixteen personnel, including eight US Navy SEALs, were killed when their MH-47 Chinook crashed after being hit by what is believed to be a rocket propelled grenade on Tuesday. The ousted Taliban have claimed responsibility.

"The helicopter went in to lift them (the reconnaissance team) out of that area. We have not located them as of yet, but we are doing active patrolling to find our missing US service members," O'Hara told AFP.

"All available assets are being used to find our missing," the spokesman added.

He said security reasons prevented him from disclosing how many personnel were in the missing team or the number of US troops involved in the search operation.

Taliban spokesman Abdul Latif Hakimi said Friday that the rebels were holding a US serviceman and that they had killed seven American "spies" in the area. Earlier this week the militia said the dead men were Afghans.

"Our mujahideen arrested one American soldier alive in the area," he told AFP by satellite telephone from an undisclosed location.

"They have not started interrogating him, that is why I cannot tell you what his name is and what rank and which department he comes from."

Hakimi said they had footage of an exchange of fire with the so-called spies and of the captured American, which would be displayed on the rebels' website www.alemarah.com "tomorrow or the day after".

There was no way of independently confirming Hakimi's account and some of his previous claims have proved to be untrue.

US spokesman O'Hara said he could only confirm that a number of US service members were missing.

"I am not in the business of confirming or denying what the enemy says," he said. "All that I can report you today is they are missing. We have no evidence saying they were captured. We have no evidence saying they are injured."

The US helicopter was the first to be shot down by hostile fire in Afghanistan and the death toll is already the biggest for US forces from a single attack since they toppled the hardline Taliban in late 2001.

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Lieutenant General James Conway, director of operations for the Joint Chiefs of Staff, told a Defense Department briefing in Washington late Thursday that the helicopter was downed by a "lucky shot".

Recent months have seen an escalating insurgency by the Taliban ahead of Afghanistan's landmark parliamentary and legislative elections in September.

More than 500 people, most of them militants, have died since the Taliban launched the offensive at the beginning of the year.

In southern Uruzgan province 25 people were killed during a week of militant violence, including nine who were killed in an attack on a police post on Friday.

Four policemen and five suspected Taliban were killed in Tabag village in Friday's attack, Uruzgan governor Jan Mohammed Khan said.

Seven Taliban were killed Monday when they attacked a police post in another village 60 kilometers (38 miles) south of provincial capital Tirinkot.

Two days later Taliban rebels attacked the same village and kidnapped nine village elders and a child, accusing them of spying for the US-led forces. Khan said the nine were later executed by Taliban in front of the child.

Names Of Crash Victims Emerge, And Families Mourn (NYT)

By Rick Lyman

The New York Times, July 2, 2005

Steve Reich never expressed regret that his promising professional baseball career lasted only two games for a Baltimore Orioles farm team before the Army summoned him back to active duty 10 years ago.

"When the Army said they couldn't spare him, that was it," said Gary Fitzherbert, a longtime friend of the Reich family in Washington, Conn. "No argument. Baseball was a big dream, but it always came second place to the service."

Major Reich, 34, a West Point graduate, was in the command seat of the Chinook MH-47 helicopter that was shot down on Tuesday in a treacherous mountain ravine in eastern Afghanistan, killing him and 15 others trying to relieve a Special Forces team battling resurgent rebels. As the names of the dead began to emerge late this week, families and friends were assimilating the news.

Danny Graves of the New York Mets remembered Major Reich, his fellow pitcher on the U.S. National Baseball Team, for which they played in the early 1990's. "He was so polite and respectful that when he talked everyone on the team kept their mouth shut," Mr. Graves said. "It was like we knew that we had to listen. We were all young, immature kids just dreaming about playing big-league baseball. His dream was to serve his country. You knew a couple of minutes after meeting him that's what he wanted to do and what he was going to do."

American military officials in the Afghan capital said they had confirmed that all 16 on the helicopter died in the crash, which Pentagon officials said had apparently been caused by a rocket-propelled grenade. The victims were seven soldiers from Hunter Army Airfield, Ga.; one soldier from Fort Campbell, Ky.; and eight Navy Seal commandos assigned to units in Virginia Beach and San Diego.

Eight of the names had become public by late yesterday. Pentagon spokesmen said a full list would not be released until all of the families had been notified.

In Honolulu, Robyn Healy, former wife of Senior Chief Petty Officer Dan Healy, 36, said she and their two children had received word of his death on Wednesday. Chief Healy had been a members of the Seals and had spent 15 years in the military.

"He was just a good guy, always joking around," Ms. Healy said.

In Franklin, Tenn., Mayor Tom Miller had a press conference on Thursday to announce that his son-in-law, Sgt. First Class James Ponder III, who was stationed at Fort Campbell, died in the crash. Mr. Miller described his son-in-law, a flight engineer known as Tre, as "not real tall, somewhat thin, but tough as nails."

Sergeant Ponder, 36, joined the Army shortly after graduating from the Battle Ground Academy in Franklin. He left behind a wife and two daughters, ages 6 and 7.

Jim Bowman of Midway, W.Va., said he had been informed that his stepson, Petty Officer First Class Jeff Taylor of Little Creek, Va., was among the dead. Mr. Taylor, 30, was a member of the Seals who left behind a wife, Erin.

The parents of Jeff Lucas, a 34-year-old membersof the Seals from Corbett, Ore., said they had gotten confirmation Thursday that he was among the dead. He had a wife, Rhoda, and a 4-year-old son. "No mountain was too high for him to climb," said Mr. Lucas's father, Rick, in an interview with The Bulletin of Bend, Ore.

Word came from Representative Jon Porter, Republican of Nevada, that Shane Patton, a member of the Seals from Boulder City, Nev., had been killed. Lee Russell of Stafford, Va., said he had received the same news about his 31-year-old son, Master Sgt. Michael Russell of the Army.

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Lt. Michael M. McGreevy's classmates at the United States Naval Academy said there had been no doubt that Mr. McGreevy, a midshipman nicknamed Groove, would end up a commando.

"Everyone knew he was going to be a Seal from the get-go," said t. Randy C. Cruz, who had been class treasurer the year Lieutenant McGreevy had been class secretary.

Classmates remembered Lieutenant McGreevy, 30, as a model Annapolis man, but teachers in Portville, N.Y., his hometown, said he had ended up at the academy by chance.

West Point had been Mr. McGreevy's first choice, said his high school track coach, Gary Swetland. Although Mr. McGreevy had graduated third in his class, both military academies put him on waiting lists. Annapolis called a week earlier than West Point.

"Michael was an outstanding achiever in everything he did," Mr. Swetland said. "But not because he was blessed with the remarkable skills and talents of an athlete. He simply willed himself to be a champion."

Mr. Swetland said Mr. McGreevy had nearly been dropped from the track team as a freshman. But he was relentless and, by graduation, had transformed himself into an award-winning athlete and the top high school middle-distance runner in western New York.

"At the time, I knew Michael was a very good kid, and I was awfully proud of him," Mr. Swetland said. "But as I get older, I realize how very fortunate I was to even know someone like Mike McGreevy."

It was as a member of the Seals that Lieutenant McGreevy eventually settled with his wife, Laura, in Virginia Beach. Neighbors said he doted on his 16-month-old daughter, Molly.

In Washington, Conn., 20 miles northwest of Waterbury, friends and relatives of Major Reich were planning a weekend of memorials for the star who had helped clinch the state baseball championship for the local high school and had become top pitcher on the West Point team.

"This was a kid who everyone was expecting to be invincible, so people are having a hard time believing that he isn't coming home," said Richard C. Sears, the town's first selectman.

A Fourth of July fireworks display will include a flyover by a Chinook helicopter to honor the fallen soldier. On Sunday, a prayer vigil will be held at the First Congregational Church, where Major Reich's mother, an emergency room nurse in nearby New Milford, is a mainstay in the church's quilting club. And on July 10, a memorial service will be held on the lawn of the town hall.

"It's the biggest space we've got here in Washington," Mr. Fitzherbert said. "And we expect tons of people to show up."

Pentagon Implements Higher Death Benefits (AP-Y2)

AP2, July 2, 2005

WASHINGTON - The military announced Friday that it will begin providing vastly increased death benefits to the next-of-kin of military personnel killed in combat zones or combat-related training.

Last month, President Bush signed into law the increase in the death benefit from $12,000 to $100,000. The military announced Friday it was implementing the law.

The increase was part of an $82 billion emergency appropriations bill to fund the war in Afghanistan and Iraq, which also included a provision increasing military life insurance payments from $250,000 to $400,000.

The new benefits are available to the relatives of those killed since Oct. 7, 2001, the day the United States began overt combat operations in Afghanistan. It will take several months to find everyone who is eligible for the retroactive benefit, the Pentagon said in a statement.

More than 1,700 U.S. military personnel have died in Iraq, according to the Defense Department. About 150 have died in Afghanistan and neighboring countries.

Marines Exceed Reenlist Goals (LAT)

By Tony Perry

The Los Angeles Times, July 2, 2005

Although finding enough recruits continues to be difficult, the Marine Corps has exceeded its goals for persuading Marines to reenlist, officials said Friday.

Lt. Col. Mark Menotti said that reenlistment bonuses, appeals to patriotism and the Marines' sense of camaraderie helped the Corps exceed its goals for reenlisting first-term Marines as well as those serving a second or third tour.

"Marines realize they are part of something special and significant," said Menotti, head of manpower and reserve affairs.

In certain job categories, particularly those needed for combat in Iraq, bonuses exceeded $30,000. The largest of the bonuses are for infantry skills personnel, so-called grunts. Others are for linguists and intelligence analysts.

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The Marine Corps earmarked $52 million for bonuses, up $1 million from the previous year. Two-thirds of the money is for Marines reenlisting for a second tour, one-third for those reenlisting for a third or fourth tour. If troops reenlist while in Iraq, the bonuses are tax-exempt.

As of Friday, the beginning of a new fiscal year, the Corps had reenlisted 5,949 Marines for a second hitch, beating its goal by 0.2 percentage points. It retained 5,079 for a third or subsequent tour, exceeding that goal by 9.4 percentage points.

With many Marines serving multiple tours in Iraq, and more than 500 Marine fatalities there, some officials had worried that the Corps would not be able to meet its reenlistment goals.

Since establishing its annual reenlistment goals — in 1993 for first-term Marines, and 2002 for second- and third-termers — the Corps has never failed to meet them, Menotti said.

Yet for the first four months of this year, the Corps missed its goals for recruits. It was the first time in about a decade that the Corps' recruiting pitch, which dared young people to prove they were tough enough to be Marines, had fallen short.

In May, the most recent month for which the Pentagon has released figures, the Corps exceeded its recruiting goal by 3%, although it fell short of its objective for the reserves by 12%.

Marine Commandant Gen. Michael W. Hagee told a congressional hearing Thursday that the Corps would meet its goal for recruits. "The quality of individuals we are shipping to recruit depots remains high," he said.

On Wednesday, the Pentagon announced that the Army had met its most recent monthly recruiting mark after four months of shortfalls.

In Bid For Recruits, Military Has Allies In Nascar And Fans (NYT)

By Viv Bernstein

The New York Times, July 2, 2005

On most weekends during the Nextel Cup season, as Nascar's premier racing series travels from city to city, a marketing company hired by the United States Army follows, setting up shop outside the racetrack with a free interactive display that attracts thousands of fans.

There is a rock-climbing wall and a pit-crew challenge, where fans can be timed changing tires just as the Nascar teams do. A short film compares the military to Nascar, juxtaposing images of racecars next to tanks. Video games feature combat on an imaginary street where Arabic writing appears on the walls of buildings. Children and adults can stand in a replica jeep and pretend to shoot at the enemy with a mounted laser gun.

"It's an opportunity for them to touch and feel the Army, to give them a real Army experience," Col. Tom Nickerson, who is in charge of the Army's recruiting outreach program, said in a telephone interview.

The displays at Nascar events are generating as many as 1,000 to 2,000 leads for potential new recruits on each racing weekend, said Guy Morgan of Keystone Marketing Company, which operates the display. That amounts to nearly 40,000 leads a year, Nickerson said.

Those leads, culled from releases that fans ages 16-39 must fill out with personal information and sign to visit the display, are coming in at a time when the military has struggled to find recruits.

"If all of our programs were doing as well as our racing program was, we wouldn't have a recruiting problem," Lt. Col. Mike Jones, the National Guard deputy division chief for recruiting and retention, said during a telephone interview. "Obviously, you have to do more than one type of outreach program to be successful in any business. Nascar alone will not fix our total recruiting needs. What Nascar does, it hits that segment of the population that is very pro-military service."

Many Nascar fans drape themselves in the flag, and the sport boasts a long, close relationship with the military. High-ranking officers frequently attend races and are taken behind the scenes, receiving applause when introduced to the drivers at the prerace meetings. Before almost every race, there is a military fly-over during the national anthem.

"I think that Nascar is as much Americana as anything else," Mike Helton, the Nascar president, said Thursday. "I think most Americans, a huge majority, support the military, so I don't think we're exclusive to that.

"You've got a lot of mothers and fathers, brother and sisters, sons and daughters, who are Nascar fans that have family members who either have been military or are currently military. That's as much America as Nascar racing is, and the fan base of Nascar."

Nascar's founder, Bill France, developed that close association with the military from the beginning. But it was not until this decade that the military started marketing itself to the fans.

Now, every branch uses Nascar as a recruiting tool.

The Marines and the Air Force were the first to arrive, in 2000; the Navy came in 2002 with a sponsorship in the Craftsman Truck Series. The Army, which joined the National Hot Rod Association in 2000, added Nascar sponsorship in 2003 along with the National Guard. The Coast Guard arrived in 2004.

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The Army has bought sponsorship in a race team - the 01 car driven by Joe Nemechek in the Nextel Cup series. The National Guard is the title sponsor for Greg Biffle. The Air Force is a secondary sponsor of a racecar driven by Ricky Rudd. The Navy, the Marines and the Coast Guard support or sponsor racecars that compete in the Busch Series.

"It's a growing sport, and our target market, age 17-24 males, is pretty much into Nascar," Master Sgt. James Edwards, a spokesman for the Marine Corps recruiting command in Quantico, Va., said in a telephone interview. "We looked at it as an opportunity to get our message out."

Edwards said the Marines were spending $3.6 million to sponsor their Busch racecar this year, although they were meeting their quota for new recruits and did not use the racecar sponsorship to generate leads.

The Nextel Cup Series is much more expensive. Nickerson said the Army would spend $16 million on Nascar this year, including $9 million for the team sponsorship and more for the display and for a sponsorship of Kim Crosby, a female driver in the Busch Series.

That is out of an annual marketing expenditure of $230 million to $240 million.

Nickerson said there were few sporting events that drew 100,000 fans, who often came for a three-day period, arrived several hours before the event and "spend a lot of time just walking around."

"That is a rich environment for soldiers and recruiters to talk to influencers and prospects." Nickerson said. Influencers are parents and others who have influence over a military prospect's decisions.

The National Guard has received significantly more time on television broadcasts because of Biffle's success. The Guard signed on as Biffle's main sponsor in 2004, before he became a top driver. Biffle now has a series-best five victories and leads the Nextel Cup points standings.

The logo on the front of Biffle's No. 16 racecar received the equivalent of nearly $20 million of advertising air time through the first 14 races this season, according to Joyce Julius & Associates, Inc. The company tracks the time a logo is seen on screen during a race or is mentioned, and compares that to the cost of buying advertising time for that event.

Jones said the National Guard would spend $5.5 million this year, having sold secondary sponsorship to other companies such as Subway to lower its costs. The total price of the sponsorship is around $15 million. The Army team, which has not won this season, has received the equivalent of $16 million of air time through 14 races.

The Army uses its sponsorship for more than publicity. At almost every race, the Army also brings in what it calls "future soldiers" - those who have enlisted but not yet reported for basic training and can still walk away from their commitment. The connection helps keep them motivated to report, Nickerson said. The recruits often meet with Nemechek.

"I just tell them how much pride I have in my race team, how much pride our race team has in building the racecars and trying to make our team run well on a weekly basis," Nemechek said in a telephone interview. "I tell them how proud I am of them and the step they're taking in their lives.

"I'm a racecar driver and I am very proud to be representing the Army and representing all these men and women that are about to become or about to get into the Army along with all the soldiers around the world."

Tyler Borck, 18, of Wauseon, Ohio, is not likely to be represented by Nemechek anytime soon. Borck was one of the thousands who visited the Army exhibit before a Nextel Cup race at Michigan International Speedway on June 19.

Borck said he was not worried about giving personal information to the Army. His high school had provided his address to the military. He usually throws away the pamphlets he receives in the mail.

Megan MacDonald, another visitor at the display in Michigan, is planning to go to college but said she is considering the military. The display, including free dog tags, got her attention.

"It's pretty cool," MacDonald said.

The Army will have more opportunities to sway her. The card she signed with her personal information will be added to a large database and sent on to a local recruiter.

DOJ:

Rosenstein Confirmed As U.S. Attorney In Md. (BSUN)

By Matthew Dolan, Sun Staff

The Baltimore Sun, July 2, 2005

In its closing hours before adjourning for a holiday recess, the Senate confirmed yesterday Rod J. Rosenstein, a high-ranking government lawyer who quickly ascended the ranks at the Justice Department, as Maryland's U.S. attorney.

Rosenstein, 40, of Bethesda, could arrive in Baltimore to start his new job as the state's top federal prosecutor as soon as next week.

Rosenstein declined to be interviewed about his plans for the office of 70 attorneys in Baltimore and Greenbelt, saying he is still waiting for President Bush to sign his commission.

He released a brief statement: "I am grateful to President George W. Bush for giving me this opportunity to serve the people of Maryland, and to Senator Paul Sarbanes and Senator Barbara Mikulski for accepting my nomination. I look forward to rejoining the distinguished men and women of the U.S. Attorney's Office.

"As we work to enhance public safety and pursue justice for Marylanders," the statement continues, "we will strive to inspire public confidence by adhering to the highest ethical and professional standards."

Rosenstein had previously worked as an assistant U.S. attorney in Maryland, emerging as the leading candidate to move up when former U.S. Attorney Thomas M. DiBiagio announced his resignation in December. Allen F. Loucks, a deputy in charge of the office's civil cases, has been serving in an interim role since January.

The U.S. attorney's office can be an influential one, using its broad prosecutorial power to tear apart violent drug gangs and dismantle white-collar criminal organizations. In Baltimore, federal prosecutors have intervened in cases - especially those involving witness intimidation - where the city's overwhelmed courts failed to yield convictions.

For more than three years, DiBiagio's office aggressively pursued public corruption investigations, scoring a number of high-profile victories in such cases as investment banker Nathan A. Chapman Jr. and former Baltimore police Commissioner Edward T. Norris, who was Maryland's state police chief when he was indicted.

But DiBiagio received criticism after The Sun published internal e-mails a year ago in which DiBiagio called for three "front-page" corruption indictments before Election Day, prompting Justice Department officials to issue a rare reprimand to the prosecutor.

Loucks replaced DiBiagio and quickly dismissed his predecessor's indictment against a former state official and ended the office's investigation into the financial practices of the Baltimore City Council.

Rosenstein comes to the office with a strong background in public corruption cases, including work on the Whitewater investigation during the Clinton administration. Most recently, he has served as principal deputy assistant attorney general for the Justice Department's tax division.

His nomination by President Bush in May met no opposition and was lavishly praised by those who said Rosenstein mixed legal talent with strong, reformist leadership. At a going-away party at the Justice Department's Great Hall this week, speakers teased the two-time Ivy League graduate - from the University of Pennsylvania and Harvard - for being a "geek," but uniformly lauded his intellect, tireless devotion to his work and open mind.

"He has a sign in his office that says 'Don't tell me what I want to hear. Tell me what I need to know,'" Assistant Attorney General Eileen J. O'Connor, Rosenstein's former boss, told the group of more than 50 colleagues.

Rosenstein's selection appeared to be more a product of his work in and support from the Justice Department, breaking with the tradition of selecting U.S. attorneys who have close ties to Maryland's political establishment. Rosenstein's selection, in the eyes of some, served to distance the office from DiBiagio, who received his appointment with the active support of Republican Gov. Robert L. Ehrlich Jr.

Known by some for his conservative ideological bent, Rosenstein also worked for Whitewater independent counsel Kenneth W. Starr. But Rosenstein, who trained in public corruption cases, left the office before the investigation delved into the relationship between President Bill Clinton and Monica Lewinsky.

Senate Makes It Official For Letten (NOTP)

By Martha Carr, Staff Writer

New Orleans Times-Picayune, July 2, 2005

It's been a good week for Jim Letten.

Not only did New Orleans' top federal prosecutor win a conviction against a Jefferson Parish judge for mail fraud, Letten on Friday finally got word from Washington that the Senate made his appointment as U.S. attorney of the Eastern district official.

Letten, a Republican, has held the post on an interim basis since April 2001, when President Clinton's appointee, Eddie Jordan, stepped down. Until Friday, Letten was one of a handful of the nation's 93 U.S. attorneys serving without White House confirmation.

The straight-laced prosecutor, who is rarely at a loss for words, said he was humbled by the news.

"This is a reminder yet again to me and to all of us that we work for the citizens, and that public service is not a right but a privilege," he said. "The only thing I can promise is that I will continue to do everything I can to continue to earn the community's trust."

Unexpected ascent

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When tapped for the job four years ago, Letten was known as a competent manager with little interest in politics who was expected to return to the ranks of working prosecutors once a more politically connected successor was named.

All that changed when then-Gov. Mike Foster's choice for the post, wealthy Metairie businessman and Bush contributor Fred Heebe, was accused of domestic abuse by his ex-wife and a former girlfriend. Heebe eventually withdrew his name. Disputes within the state Republican Party stalled subsequent attempts to decide on a nominee.

Meanwhile, Letten kept his head down and launched several high-profile corruption investigations, including a probe into the Jefferson Parish courthouse that netted convictions of two judges -- Alan Green at trial last week and Ronald Bodenheimer after a guilty plea -- and separate inquiries into New Orleans City Hall and the city's public school system.

Then, last year, when Republican David Vitter won the U.S. Senate seat vacated by Democrat John Breaux, he announced Letten was his choice for the permanent post. Then it was just a matter of passing through the slow-moving nomination process.

Finally, on Friday, the Senate unanimously affirmed Letten after he won the blessing of its Judiciary Committee earlier this week. Neither vote drew controversy.

"This is great news for Louisiana," Vitter said Friday in a statement. "Through his (Letten's) continued leadership, the U.S. attorney's office will be able to continue the ongoing fight against corruption and cronyism."

Letten, 51, will serve at Bush's pleasure, most likely at least until a new administration takes office in 2009. If another Republican wins the presidency, Letten could retain his post. If a Democrat is elected, Letten likely would be asked to resign, spelling an end to his almost three decades of service to the office. Rarely do U.S. attorneys rejoin the ranks of working federal prosecutors.

Earning respect

A career litigator, Letten is best known for helping convict former Gov. Edwin Edwards on charges that he rigged riverboat gambling licenses.

Since he has been in office, Letten has continued to aggressively pursue government corruption, one of the region's most intractable problems. He also has been successful in rallying the city's various law enforcement agencies toward common goals, including curbing violent crime and drugs. For that, he enjoys an unusual level of institutional respect.

New Orleans Police Chief Eddie Compass put it this way recently : "His integrity is unquestioned, his people skills are extraordinary, and his ability to organize and come up with plans for complex problems are major assets. He doesn't let grass grow under his feet."

After 2 ½ years prosecuting criminal cases for Orleans Parish District Attorney Harry Connick in the early 1980s, Letten joined the federal payroll as part of the Organized Crime Strike Force, a unit that tried a mix of cases in five states, from drugs to gambling to labor racketeering. In 1988, at age 34, Letten became its chief.

He retained that position when the unit merged with the local U.S. attorney's office in 1990, and in 1994, he was named first assistant to Jordan.

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ICE Head Named U.S. Attorney In N.Y. (WT)

By Jerry Seper

The Washington Times, July 2, 2005

Department of Homeland Security Assistant Secretary Michael J. Garcia, who has headed U.S. Immigration and Customs Enforcement (ICE) since the agency's creation in March 2003, has been named by the White House as U.S. attorney in New York.

Mr. Garcia has been criticized by some members of Congress for longstanding budgetary missteps and by ICE supervisors and agents who have complained the agency was a threat to the country's national security efforts because of mismanagement, low morale, a lack of a clearly defined mission and ongoing financial problems.

But the veteran prosecutor, a former assistant U.S. attorney in New York, is expected to win Senate confirmation to the post based on the backing of Sen. Charles E. Schumer, New York Democrat, and New York Gov. George E. Pataki, a Republican.

The post has been held on an interim basis for the past two years by David N. Kelley.

"Assistant Secretary Garcia is honored to be nominated by the president for this important position and looks forward to working closely with the Senate during the confirmation process," ICE spokesman Dean Boyd said yesterday. "In the interim, he will continue to fulfill his responsibilities overseeing the critical work of U.S. Immigration and Customs Enforcement."

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ICE was created following the merger of the U.S. Customs Service, the U.S. Immigration and Naturalization Service (INS) and the Federal Protective Service. Criminal investigators from the Customs Service and INS were assigned to the ICE Office of Investigations and given the task of preventing terrorist attacks.

But ICE's ability to gather and share intelligence data, conduct counterterror investigations and enforce U.S. immigration laws has been challenged by both its supervisors and agents.

Many supervisors and agents said in letters and e-mails to Congress that the agency was burdened by a complex and mismanaged administrative system that lacked a definitive mission statement, adding that ICE's investigative efforts had undergone a "functional paralysis."

Noting that while the fiscal 2005 budget called for a $300 million increase, ICE canceled all training, implemented a hard hiring freeze, ordered its cars parked, ended Spanish-language training for investigators and limited spending and investigative activities.

As an assistant U.S. attorney in New York from 1992 to 2001, Mr. Garcia helped prosecute some of the nation's highest-profile terrorism cases. He was a member of the prosecution team that in May 2001 won convictions against four suspected terrorists accused of conspiring with al Qaeda founder Osama bin Laden in the 1998 bombings of the U.S. embassies in Kenya and Tanzania.

Mr. Garcia also was involved in the successful prosecution of the terrorists involved in the 1993 bombing of the World Trade Center in New York, and he helped prosecute Ramzi Ahmed Yousef and two others on charges of planning 48 hours of "terror in the sky" in a conspiracy to plant bombs aboard 12 American passenger aircraft in the Far East.

CORPORATE SCANDALS:

Jurors Doubted Scrushy's Colleagues (NYT)

By Kyle Whitmire

The New York Times, July 2, 2005

BIRMINGHAM, Ala., July 1 - In the end, the jury deciding the fate of HealthSouth's former chief executive, Richard M. Scrushy, focused on one issue: credibility. But it was not Mr. Scrushy's credibility they were thinking about - he did not testify in his own defense. Instead, they wondered, could they believe the five former company executives who testified against him?

"No one really corroborated one another," recalled one juror, Christopher Cooper, a 37-year-old computer technician at a local bank. "Each one of them had a reason to hide something."

The jury acquitted Mr. Scrushy on Tuesday of all 36 counts that had accused him of presiding over a $2.7 billion accounting fraud while running the HealthSouth national hospital chain. The Justice Department, legal experts had thought, appeared to have a strong case against Mr. Scrushy after all five of the company's former chief financial officers agreed to cooperate.

Facing such a cadre of government witnesses during the five-month trial was a daunting challenge, one of Mr. Scrushy's lawyers, James Parkman III, said at a news conference after the verdict.

"We couldn't go in with the idea that there were five of them," Mr. Parkman said. "We had to go in and try to sell the idea that there was only one, and they acted together as one, acted together as a group, and therefore cut that number of five to one."

The one former executive they focused on was William T. Owens, who worked his way up at HealthSouth from assistant treasurer to chief financial officer and even served briefly as chief executive in 2002. The defense characterized him as a tax cheat who would lie to protect himself.

Mr. Owens, in cooperating with the government, had secretly recorded his conversations with Mr. Scrushy. But those recordings were often difficult to hear and ambiguous in meaning, jurors said.

"I can't talk about the federal government, but a pocket recorder could have recorded better than what was on that tape," a second juror, Curtis Bender, said.

Mr. Cooper, the juror, said that he thought another of the chief financial officers, Weston Smith, had been lying to protect his wife, whom some witnesses connected with the fraud. Mr. Cooper also said Mr. Owens hadtransferred many of his assets to his wife before making his plea deal.

The jurors said the plea agreements, rather than strengthening the government's case, made the witnesses' testimony suspect. Before the trial, a federal judge had sentenced Michael Martin, another former chief financial officer, to six months of home detention. The defense characterized the sentence as excessively lenient, allowing Mr. Martin to sleep in his own bed, go to the store and even play golf.

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"They were fooling the public, fooling the stockholders, bankers, auditors," Mr. Bender said. "They fooled a lot of people for a lot of years and got away with it - that's what it seemed like."

But Mr. Bender, 54, a lineman for the Alabama Power Company, added that he could not conclude that Mr. Scrushy had known about the fraud. "That's where the reasonable doubt came in," he said.

Phoebe Ellsworth, a professor of psychology and law at the University of Michigan, said the case was somewhat analogous to one in which a co-defendant might testify in exchange for immunity. "Jurors ask themselves why one guy should be taking all the heat and another guy should be taking very little."

One juror said he thought the prosecution's case was strong enough to convict Mr. Scrushy. But because the juror, Willis G. Vest, 63, was suffering from migraine headaches, he was replaced with an alternate.

"To me, there was more than enough evidence and testimony, but people disagree," Mr. Vest said in an interview after the verdict. "Almost every witness agreed with each other."

Initially, at least, some jurors agreed with Mr. Vest. The first vote taken by the jury was seven to five for acquittal, Mr. Bender said. After further deliberation, a second vote ended with only three holdouts for conviction. In a note to the judge, the jury said that it was deadlocked on all counts.

The judge, Karon O. Bowdre of Federal District Court for the Northern District of Alabama, gave the jury a so-called Allen charge, a special set of instructions emphasizing the resources spent on the trial, with an encouragement to reach a unanimous decision.

"I was feeling like we didn't do our job, that this was the easy way out," Mr. Bender said. "But after she told us to go in there and try to reach a verdict, I was glad because now we could go in there and start deliberating."

After that, one juror changed his mind and Mr. Vest said he began to suffer from the migraine headaches.

The lone remaining holdout, a female juror, whom her colleagues declined to identify, finally gave in during the last four days of deliberation. The final vote, on Tuesday, was unanimous for acquittal.

"It is not surprising that one holdout would eventually agree with the others," Dr. Ellsworth said. "If the other guy had stayed on it might have been a different story, but being a minority of one is very difficult."

Mr. Bender said he went into the trial suspecting that Mr. Scrushy was guilty of violating the Sarbanes-Oxley Act, a law passed by Congress in the wake of the accounting scandals at Enron and WorldCom.

"If he signed that paper, knowingly or not knowingly, I was thinking he was guilty; he's C.E.O. of the company," Mr. Bender said. "But once we got into the courtroom and started reading what the law requires and not requires, it just blew my theory right out."

Shortly before his indictment was unsealed in 2003, Mr. Scrushy left a predominantly white suburban church to attend Guiding Light Church, a large, mostly black congregation in Birmingham. On weekends during the trial, he often preached and made donations at black churches in the area and was the host of a religious television program.

Many of the ministers who appeared on the show also appeared in court, sitting behind the defense table. The jurors, however, insisted that that was never a factor in their deliberations. "I was hoping that Birmingham would not make this into a black or white issue," Mr. Cooper said. "His charitable donations had nothing to do with our decisions. I didn't know much about that until it was over."

Mr. Bender said he nearly missed the birth of his granddaughter during the deliberations, and Mr. Cooper said he had to take a day off when his wife underwent knee surgery.

Now back at work, Mr. Cooper and Mr. Bender said they tried to avoid any questions from co-workers about the verdict. Mr. Bender said some of his co-workers had asked why they let Mr. Scrushy go.

"And then some said, 'What, they didn't have the evidence, right?' " Mr. Bender said. "And I said, 'Yep.' "

New Rules Make It Easier To Charge Executives, But Not To Send Them To Prison (NYT)

By Jonathan D. Glater

The New York Times, July 2, 2005

Perhaps forcing top executives to certify regulatory filings is not quite the fix lawmakers might have expected.

The acquittal of the former chief executive of HealthSouth, Richard M. Scrushy, on charges that he signed false financial filings - one of several charges accusing him of orchestrating a $2.7 billion fraud - illustrates a weakness of the certification requirements, which compel chief executives and chief financial officers to attest to the accuracy of financial reports to the Securities and Exchange Commission.

Investors might have expected that the certification requirement would make it easier to prosecute white-collar crimes. If all else fails, the reasoning went, at least the executive could be convicted of signing false filings.

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But, in fact, convicting an executive of knowingly violating the certification requirement involves proving the same facts necessary to support other more serious criminal charges.

So while the law may be an easy way to increase prison time, it is not an easier way to lock up executives.

Corporate lawyers said Mr. Scrushy's acquittal on Tuesday was not a setback to enforcement of the certification requirement, which was included in a law passed in 2002 after the collapse of Enron and WorldCom because of accounting scandals.

The requirement is a powerful incentive for executives to do the right thing - violations can result in criminal and civil liabilities. But because of how it is drafted, the requirement has not instilled the fear that lawmakers, regulators and investors might have hoped.

"Effectively, you're going to have to prove an underlying fraud and then prove that the executive knew about it" in order to convict, said David Fine, head of the federal securities and public companies group at Ropes & Gray in Boston. "They effectively have to prove the same general case."

The certification provision, Section 906 of the law known as the Sarbanes-Oxley Act, calls for a prison term of up to 10 years and a fine of up to $1 million for any executive who certifies a regulatory filing and who knows that the filing does not "fairly present, in all material respects, the financial condition and results" of the company. Any executive who willfully - that is worse than knowingly - certifies such false filings faces up to 20 years in prison and a $5 million fine. Section 302 of the law opens up such executives to civil liability.

These are harsh terms, but the crucial element is knowledge, and proving that an executive knew of a fraud is what is often most challenging. If a prosecutor can do that, there are plenty of other criminal charges available in addition to Section 906 - securities fraud, for example, or conspiracy, both of which were charges against Mr. Scrushy.

Once jurors did not find Mr. Scrushy guilty of securities and accounting fraud, Mr. Fine said, it was not surprising that they did not convict him on the certification charge; convicting on one type of charge would require the jury to convict on the other.

"I can't imagine a case where you couldn't prove that the person had engaged in fraud, so you found them not guilty on that count, but then found him guilty" for certifying false filings, Mr. Fine said. "Once you reach that conclusion, you've reached the conclusion on the fraud too."

But the certification requirement can help prosecutors by preventing defendants from arguing that they had no role in preparing a false document, said John T. Bostelman, a partner at Sullivan & Cromwell and the author of a reference on the Sarbanes-Oxley Act.

"Certification creates a link between the person and the document," Mr. Bostelman said.

Lance D. Myers, a partner in the New York office of Holland & Knight, said Sections 302 and 906, which certainly grabbed the attention of executives, also emphasize a responsibility in preventing fraud and raising the potential penalty for participating in fraud. The acquittal of Mr. Scrushy, he said, "is not going to have the effect of saying, now C.E.O.'s can go back and act with impunity."

But there is still plenty of uncertainty about what constitutes a violation of Section 906, lawyers said.

"Here's my question, Is reckless disregard the equivalent of knowing?" Mr. Myers said. "Can you put your head in the sand and say I didn't know? Is there a duty to inquire?"

Lawyers have advised executives for years not to focus too much on the certification requirement, Mr. Fine said.

"We're certainly counseling our clients to be careful, to be honest, upright, all the rest," he said, "but we're also telling them that it's not a new and unique liability that's been imposed."

Besides, Mr. Fine added, top executives are supposed to be comfortable that their companies' regulatory filings are accurate. "The C.E.O. and the C.F.O. were supposed to be doing that anyway."

US SEC Warns Investors On Internet 'Auto-trading' (REU-Y2)

Reuters, July 2, 2005

U.S. market regulators warned investors on Friday to be wary of a new type of online investment vehicle and filed civil fraud charges against a small Internet investment advisory firm called Terry's Tips Inc.

The Securities and Exchange Commission accused Terry's Tips, based in Vermont, and its founder Terry Allen of promising clients misleadingly large investment returns in marketing the firm's auto-trading programs.

Auto-trading is a new investment vehicle that is spreading fast on the Internet, said Kenneth Israel, district administrator of the SEC's Salt Lake district office.

Investors typically are asked to subscribe to online newsletters and open trading accounts at a brokerage chosen by the newsletter's publisher. Investors are then asked to give the publisher authority to automatically direct trades in the their brokerage accounts, the SEC said.

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Both the newsletter subscription and the auto-trading arrangement typically involve the investor paying fees to the publisher, the commission said.

After an account is set up, the publisher sends trading instructions by e-mail or fax to the brokerage and only tells investors about trades after they have been executed.

The SEC charged Terry's Tips in U.S. District Court in Vermont with violating antifraud laws. The agency alleged that as recently as September 2004, the firm had 1,200 auto-trading clients with total assets of over $14 million.

An attorney for Allen and the firm declined to comment.

"In this case, what we allege is Terry's Tips was promising returns of about 100 percent a year when they were actually losing substantial amounts of money," Israel said.

The SEC action seeks a permanent injunction against the firm, repayment of ill-gotten gains and a monetary penalty.

"Investors should be careful when they give this kind of authority to trade in their account to anyone," Israel said.

Banker Convicted In Enron Barge Fraud Is Ordered To Prison (NYT/AP)

By The Associated Press

The New York Times, July 2, 2005

HOUSTON, July 1 (AP) - The former head of investment banking at Merrill Lynch & Company, who was convicted last year in Enron's bogus sale of power barges to the brokerage, must report to prison for a two-and-a-half-year term later this month, a judge has ruled.

The executive, Daniel Bayly, of Darien, Conn., the most prominent figure among the four former Merrill executives and a former midlevel Enron executive convicted last year, will be the first to begin his sentence. He must report July 14 to a federal prison in Hopewell, Va., according to a judge's order filed Friday.

The order came after Judge Ewing Werlein of Federal District Court denied a request that Mr. Bayly remain free on bond pending an appeal of his conviction of conspiracy and fraud.

Mr. Bayly and four others were convicted of helping push through Enron's sale of power plants mounted on barges in 1999 to help Enron appear to have met earnings goals.

Jurors determined the sale was a loan because Enron had promised to buy back or find another buyer for the barges within six months.

Enron kept that promise when a partnership run by the former Enron finance chief, Andrew S. Fastow, bought out Merrill's interest in the barges.

One of Mr. Bayly's co-defendants, James A. Brown, also of Darien, Conn., had been scheduled to report to prison this month to serve a term of 3 years and 10 months.

But his surrender date was moved to Aug. 12 after his 22-year-old son was critically injured in a car accident.

The judge has yet to set surrender dates for the other defendants - the former Merrill executives, Robert Furst and William Fuhs, and the former Enron executive, Dan Boyle.

CRIMINAL LAW:

The Lawyer Companies Love To Hate (NYT)

The New York Times, July 2, 2005

SITTING in the back of a town car this past Wednesday, as his driver pulled away from the federal courthouse and headed toward his hotel in Midtown Manhattan, William S. Lerach reached for a ringing cellphone in the pocket of his natty suit. How had his day gone, asked the person on the other end. "We went two for two," said Mr. Lerach, the most aggressive, feared and controversial plaintiffs' lawyer in the land. "It was a good day."

No, he didn't mean he'd won two cases - but what he'd won was almost as important. In two hearings, Lerach Coughlin Stoia Geller Rudman & Robbins, Mr. Lerach's San Diego-based firm, had been named lead counsel. For Mr. Lerach - indeed, for every big-time lawyer who makes his living suing companies on behalf of an aggrieved "class" of shareholders - being named lead counsel is the key to everything. The lead counsel controls the case. He negotiates the fees. And best of all, the lead counsel takes most of the lawyer's cut: 20 percent to 30 percent of whatever he ultimately extracts from the big bad corporation.

Of course you can't become lead counsel in a securities fraud case unless you're representing some shareholders who have been hurt by a company's misdeeds. And it now appears that Mr. Lerach's courting of shareholder plaintiffs has landed him in hot water with the Justice Department.

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Late last week, a federal grand jury indicted Seymour M. Lazar, who had long been - how to put this nicely? - a regular in the stable of Mr. Lerach's former firm, Milberg Weiss Bershad Hynes & Lerach. (Last year, Mr. Lerach and Melvin I. Weiss, a co-founder of Milberg Weiss, split the firm in two. Mr. Weiss's firm, based in New York, is now known as Milberg Weiss Bershad & Schulman.) The government contends that over the years, Mr. Lazar received some $2.4 million in kickbacks from Milberg Weiss for lending his name to literally dozens of stockholder class-action lawsuits brought by the firm. Mr. Lazar's lawyer maintains that his actions were "ethical and appropriate." While neither has been charged, both Mr. Lerach and Milberg Weiss have denied any wrongdoing. Typically, though, Mr. Lerach's camp has been the more aggressive in pushing back.

The people in Mr. Lerach's camp have been quick to cast the investigation as politically motivated, an example of a pro-business Republican administration going after a scourge of corporate wrongdoing - and a big contributor to the Democrats to boot. Besides, doesn't Mr. Lerach currently have a shareholder suit against Halliburton, one that even points the finger at its former chief executive, Vice President Dick Cheney? Hasn't he extracted so far $4.7 billion for the beleaguered shareholders of Enron, the company once run by President Bush's old friend "Kenny Boy?"

Mr. Lerach's lawyer, John Keker, said in a statement that "Bill Lerach has done more to protect shareholders than this S.E.C. and the Department of Justice combined"- and made ominous references to Mr. Lerach's "powerful enemies."

While I have no way of knowing whether Mr. Lerach is innocent of the charges he may soon face - or whether the investigation is politically inspired - I do know that Mr. Lerach is hardly a candidate for canonization. For much of his career, he made his living playing a dirty game.

He would watch for the stocks of companies to drop, especially volatile high-technology stocks that missed their earnings estimate, and then he would round up a small shareholder like Mr. Lazar and race to the courthouse to be first in line to file a suit seeking class-action status. And then, usually with little else to go on, he would essentially torture the company with discovery motions and deposition requests and legal filings until it finally settled to make him go away.

And he was so gleeful about it! And so taunting! And so vindictive! He sued 3Com five times. Intel, too. He would tell executives of the companies he was suing, "I'm going to take away every penny you own." Once when Alan Shugart, the C.E.O. of Seagate Technology, which was being sued by Mr. Lerach, started a campaign against "abusive litigation," Mr. Lerach sent him a note that said, "Dear Al: More is coming."

John Doerr, the Silicon Valley venture capitalist, has called Mr. Lerach "a cunning economic terrorist."

In 1995, Congress passed the Private Securities Litigation Reform Act, whose purpose, in part, was to put Mr. Lerach out of business. Under the new law, in order to be named lead counsel, it no longer mattered if you arrived at the courthouse first with a suit; what mattered was whether your client was a big shareholder who had lost a lot of money. The law also made it much more difficult to sue companies simply because they reported bad news and their stock prices went down. Plaintiffs' pleadings had to have some, you know, facts.

For a while Mr. Lerach floundered. Other firms quickly forged alliances with big pension funds and stopped filing frivolous lawsuits, searching instead for actual fraud. Mr. Lerach, meanwhile, had his own troubles to deal with, especially a lawsuit brought by an expert witness who testified for the defense in shareholder lawsuits, and who asserted that Mr. Lerach had tried to litigate him out of business. Milberg Weiss wound up paying $50 million to settle the case.

But Mr. Lerach eventually figured out how to make his way in this new environment. Which is why, when Enron came along, a real fraud by any reckoning, he could claim the University of California Regents as his client, and land the coveted lead counsel spot.

If Mr. Lerach's pre-1995 behavior shows him at his worst, the Enron case shows him at his best. Put aside his flamboyant histrionics - Mr. Lerach surrounded by cameras, holding a box of "the shredded evidence," as he called it. Focus instead on his legal tactics. The money Mr. Lerach has won for shareholders has come largely from the banks and investment banks - including Citicorp and J. P. Morgan Chase, which recently settled with Mr. Lerach for $4.2 billion combined - that did Enron's bidding. (And there are more banks, including Deutsche Bank and Credit Suisse, that will probably be settling with Mr. Lerach in the not-too-distant future.)

Yet he has won this money despite a clear-cut 1994 Supreme Court decision that banks cannot be held liable for aiding and abetting a securities fraud - something they clearly did in the Enron fraud. Knowing this, Mr. Lerach cleverly wrote a 500-page complaint that never once used the words "aiding" or "abetting," but asserted instead that the banks and Enron had "schemed" together to defraud investors.

Larry E. Ribstein, a law professor at the University of Illinois, called Mr. Lerach's brief "a masterpiece: he made the most convincing case that could be made." By the time all the banks he's suing have settled, Mr. Lerach will have probably generated upward of $6 billion for shareholders, and he'll keep 8 percent of that. (He cut his usual fees to get the case.)

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In his town car, I asked Mr. Lerach about the effect of the 1995 law. His answer was not surprising. "I think the law contributed to the scandals," he said flatly. "When the new law was passed, some very fine cases got thrown out. That emboldened executives."

To which I say, "Baloney." The 1995 law did exactly what it was supposed to do. It made it much more difficult to win the kind of lawsuits that used to be Mr. Lerach's stock and trade: the ones that were never about corporate wrongdoing, but were about cost-benefit analysis. Much of the fraud now being prosecuted took place because we were in a bubble, and greed overtook fear. And strangely, the law wound up helping Mr. Lerach, because when the big cases like Enron came along, he had one of the few plaintiffs' firms with the money and talent and wherewithal to run with them. He finally got to play the good guy for real.

And yet I couldn't help noticing that even now, Mr. Lerach's firm files a lot of lawsuits that seem to be based on not much more than some bad news and a big drop in the stock price. Eastman Kodak, OfficeMax, DreamWorks SKG and dozens more companies are facing that kind of lawsuit from him. He also has a new version of the small shareholders he used to have in his hip pocket: various plumbers' and pipe fitters' unions in places like Tennessee and Kentucky.

Mr. Lerach gave an unapologetic shrug when I asked him about these suits. "We like to have a lot of cases," he said. "That's our business model. It keeps you sharp. It's good training for your young lawyers." He described some of his competitors in the plaintiffs' bar, the ones who stick to big institutional clients and only file lawsuits against the likes of American International Group and WorldCom - as "living off the low-hanging fruit."

With that, Mr. Lerach hopped out of the car and walked into the hotel. The old dog knows some new tricks. He really does. His problem now is that he can't stop using the old ones.

Government Sues Maker Of Body Armor (AP-Y2)

By Mark Sherman, Associated Press Writer

AP2, July 2, 2005

The government on Friday sued the top U.S. supplier of bullet-resistant police vests and the Japanese manufacturer of the vests' protective synthetic fiber, contending they conspired to hide evidence that the body armor could be defective.

Second Chance Body Armor Inc. of Central Lake, Mich., and Toyobo Co. knew that the vests' ability to stop bullets was overstated, but Second Chance sold them anyway to local, state and federal police, according to the lawsuit in U.S. District Court in Washington.

The government also alleged that the companies kept silent for nearly three years in the face of mounting evidence that the Zylon fabric degraded faster than they acknowledged when it was exposed to light, heat and humidity.

Only after an Oceanside, Calif., police office was killed and a Forest Hills, Pa., officer was seriously wounded while wearing Second Chance vests made of Zylon in June 2003 did the company stop selling certain models and disclose safety problems, the lawsuit said.

Second Chance executives also ordered the destruction of internal memos, including one that urged the company to take corrective action and not wait until an officer was killed, the lawsuit said.

Second Chance and Toyobo blamed each other Friday for problems with the vests. "Second Chance was the bad actor, not Toyobo," said Kent Jarrell, a spokesman for Toyobo.

Mary Ann Sabo, a Second Chance spokeswoman, said Second Chance has been working closely with the Justice Department and expects to be vindicated. Sabo said Toyobo "is ultimately responsible for the problems with Zylon."

Questions about the vests, initially praised for their strength and light weight, were first raised by a whistle-blower, Second Chance's former director of research and development.

Second Chance is facing more than a dozen suits by states, police agencies and individuals. Last week, the company acknowledged that the Zylon vests may not be safe and urged its customers to replace nearly 100,000 vests that had not previously been recalled.

A company lawyer has said Second Chance did not recall its remaining Zylon vests because the company did not have the money to replace them. The lawyer said it was possible the company could tap a federal body-armor fund to replace the vests.

The company, now going through reorganization in federal bankruptcy court, earlier recalled more than 130,000 vests.

Second Chance also is suing Toyobo, which is a defendant in some of the other suits.

Toyobo has acknowledged that the fiber loses up to 20 percent of its durability within two years of manufacture. But the company has said Zylon works well in body armor that is properly constructed, and it contends it is not to blame for any problems with Second Chance vests.

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On the Net:

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Second Chance Body Armor: http://www.secondchance.com
Toyobo Co.: http://www.toyobo.co.jp/e/
Justice Department: http://www.usdoj.gov

Cianci Asking U.S. Supreme Court To Review His Conviction (PROJO)

By Tracy Breton, Journal Staff Writer
The Providence Journal, July 2, 2005

PROVIDENCE -- Two weeks after losing his bid to have his sentence reduced, former Providence Mayor Vincent A. Cianci Jr. is asking the U.S. Supreme Court to review his conviction for racketeering conspiracy, his lawyer said.

The petition was mailed to the nation's highest court today, according to his lawyer, John A. "Terry" MacFayden. It is the last legal recourse Cianci has to try to void his conviction.

Digital extra

Read Cianci's petition to the U.S. Supreme Court

Cianci, who was convicted three years ago in the wake of a federal probe into corruption at City Hall, attacks his conviction on two grounds.

He claims that the RICO indictment against him, as worded, was fatally flawed.

He also argues that Chief U.S. District Court Judge Ernest C. Torres should have allowed the jury to hear a 1995 tape recording in which Cianci rejects the overtures of an undercover agent for the FBI who was posing as an air-conditioning businessman trying to get a city contract.

Cianci tells the agent that anyone who tried to shake him down would be castrated and arrested. But Torres ruled the tape inadmissable, saying he had doubts about the mayor's sincerity and it amounted to irrelevant hearsay.

The U.S. Supreme Court rejects most of the petitions for review that it receives, taking only those cases that it considers of "gravity and general importance."

Cianci is serving a 64-month prison term at a prison at Fort Dix, N.J., for his conviction on the single count of racketeering conspiracy. With good behavior, the 64-year-old is scheduled to be released in July 2007. His request for a reduced sentence was denied last month.

During the trial, U.S. Justice Department prosecutors argued that Cianci headed a criminal enterprise with wide-ranging tentacles that took bribes in exchange for tax breaks, favors and city jobs.

The FBI's investigation, code-named "Operation Plunder Dome," relied heavily on testimony from corrupt former city officials. The star witness was the air conditioning contractor, Antonio Freitas, who posed undercover to ensnare some of Cianci's closest aides.

Freitas carried a hidden video camera, making several surveillance tapes, including Cianci's top aide, Frank Corrente, taking a $1,000 cash bribe. Corrente was convicted of several counts, including racketeering.

-- With reports from The Associated Press

Agents Search Homes, Yacht Of Contractor, Congressman (WP)

By Renae Merle and R. Jeffrey Smith
WP, July 2, 2005

Federal agents armed with search warrants descended on the California house of Rep. Randy "Duke" Cunningham yesterday, the latest step in a criminal investigation into his relationship with the owner of a District-based government contracting firm.

Agents from the FBI, Internal Revenue Service and Defense Criminal Investigative Service of the Pentagon inspector general's office participated in the search of Cunningham's house near San Diego, as well as the Washington home, office and boat of Mitchell J. Wade. Wade was until recently the chief executive of MZM Inc., which does intelligence work for the Pentagon.

Cunningham, a California Republican who was a fighter pilot in Vietnam and an instructor at the Navy's Top Gun school, is a member of the House Intelligence Committee and defense appropriations subcommittee.

The investigation began three weeks ago after news reports that Wade had purchased Cunningham's home in late 2003 for $1.675 million and then sold it months later at a $700,000 loss. Cunningham also was living rent-free on Wade's 42-foot yacht at the Capital Yacht Club on the Potomac River. But he has not stayed on the yacht for about two weeks, according to a source close to the congressman.

Cunningham acknowledged last week that he showed "poor judgment" in selling his house to Wade but denied he had improperly helped MZM obtain government contracts to work on intelligence programs.

Cunningham's lawyers, K. Lee Blalack II and Mark Holscher, issued a statement calling the search of Cunningham's home in Rancho Santa Fe "an appalling abuse of government power" because the congressman agreed Monday to cooperate with a federal grand jury subpoena seeking essentially the same documents.

"They will apparently not take yes for an answer and have instead opted to use strong arm tactics that were designed to generate headlines," the lawyers said.

In Washington, around 10 a.m., more than a dozen federal agents entered the headquarters of MZM, a secure white brick building on New Hampshire Avenue NW, and ushered employees into the reception area, according to one person who was there but spoke on the condition of anonymity. The agents took the names and phone numbers of the 15 to 20 employees before allowing them to leave, then did not allow anyone to reenter, the source said.

Agents also searched Wade's Kalorama home and the yacht the contracting executive bought in late 2002 and soon renamed Duke-Stir, apparently after the congressman.

In an unsigned statement, MZM said that it was cooperating with the investigation and that its legal counsel, Steptoe & Johnson LLP, had been in contact with authorities.

"The search warrant process will not impede the ability of MZM's more than four hundred employees to continue to carry out critical national security support missions for our government," the statement said.

Attorneys at Wilmer Cutler Pickering Hale and Dorr LLP who represent Wade declined to comment.

The search warrants were executed at the company's headquarters two weeks to the day after an MZM official who worked closely with Wade shredded a large stack of documents on the third floor of MZM's Washington headquarters, two sources with knowledge of the incident said independently yesterday. They said the official destroyed the documents on June 17 in a waist-high machine during Wade's final hours in the office, an act that one source described as "weird" because of the timing.

Wade and his attorneys agreed the previous evening that he would surrender control of the company to other senior MZM officials, and they also agreed that he could pack up his office papers at a set time on June 17, one of the sources said. But Wade angered the firm's new managers by arriving earlier than agreed, according to this source. Both sources said he was in the building when the shredding occurred.

The nature of the destroyed documents could not be learned, and the executive who did the shredding did not reply to phone calls and e-mails seeking his comment. The shredding was halted when it became apparent to the new company managers, the sources said. Another senior MZM official affixed a note to the door in mid-morning that day, ordering employees of the company not to enter the room where the machine was located, they added. Wade was eventually permitted to take other documents from the building in boxes, under the supervision of company attorneys, the sources said.

The sources spoke on the condition that they not be named because of the sensitivity of the matter.

The Navy says Wade entered the Naval Reserve in November 1987 and the Individual Ready Reserve in 1996. He resigned his commission in 1999. He reached the rank of lieutenant commander. Wade was a program manager at the office of the assistant secretary of defense for command, communications and intelligence from 1991 to 1993, according to his entry in Who's Who.

Wade started MZM in 1993, but it did not begin to grow until it was awarded a broadly written contract, called a blanket purchase order, in fall 2002. It did more than $163 million in work for a variety of Pentagon agencies until the Defense Information Systems Agency cut off new work orders 11 days ago, saying the inspector general's office ruled that the work was not competitively awarded.

Federal procurement records show one of MZM's first contracts was a $140,000 deal to provide office furniture to the Executive Office of President. In 2003, the Pentagon hired the firm to provide linguists in Iraq.

According to news reports, some former and current MZM employees have complained that they were pressured to contribute to the company's political action committee, which could be illegal. The PAC and MZM employees contributed $50,000 to the 2004 campaign of Rep. Katherine Harris (R-Fla.), according to the Center for Responsive Politics, which monitors campaign spending.

Harris sent a letter to MZM employees this week, offering to return contributions if they were "pressured, overtly or tacitly, in making this gesture." According to Adam Goodman, Harris's campaign consultant, the letter was prompted by the news reports and the congresswoman had not been contacted by federal investigators.

FBI Raids Home Of Rep. Cunningham (LAT)

By Tony Perry

The Los Angeles Times, July 2, 2005

DOJ_NMG_0000643

Federal agents Friday raided the home of Rep. Randy "Duke" Cunningham as part of a grand jury probe of the congressman's links to a defense contractor.

Agents also served search warrants on the Washington offices of the contractor, MZM Inc., and at the Duke Stir, the 42-foot yacht owned by MZM founder Mitchell Wade where Cunningham (R-San Diego) has been living for more than a year.

K. Lee Blalack, Cunningham's lawyer, called the raid "an appalling abuse of government power."

The federal investigation centers on the sale of Cunningham's house in November 2003 to Wade for $1,675,000. Investigators appear to be looking at whether the price was inflated to allow Wade to funnel money to the congressman. Cunningham's position in Congress, where he sits on a committee that controls the Pentagon budget, could have allowed him to influence the flow of contracts to MZM.

The home was never offered publicly for sale. Months after buying it, Wade sold the home for $975,000, a $700,000 loss. Cunningham and his wife bought their current house, an 8,000-square-foot home in Rancho Santa Fe, for $2.5 million soon after selling the Del Mar Heights house to Wade.

Cunningham says he offered to sell the house to Wade after the contractor said he needed a place near Miramar Marine Corps Air Station, where MZM has a project.

In a three-page statement issued last week, Cunningham said he showed poor judgment in selling the home to Wade but that he never gave preferential treatment to the defense contractor. He said he had paid $13,000 in berthing fees and maintenance costs related to his stay on Wade's yacht, which is berthed at a yacht club on the Potomac River.

Cunningham also has said the price of the Del Mar Heights house was determined by comparing sales of similar-sized homes in the neighborhood. He said the work was done by real estate agent Elizabeth Todd, a longtime friend and contributor.

Todd has also received a subpoena from investigators.

Cunningham and his wife, Nancy, were not in when agents arrived at the house in Rancho Santa Fe, an exclusive community 25 miles north of San Diego.

Blalack said that Cunningham had earlier offered to cooperate fully with FBI authorities probing the sale of his house in Del Mar Heights to Wade in 2003.

"They will apparently not take 'yes' for an answer and have instead opted to use strong-arm tactics that were designed to generate headlines," Blalack said.

An attorney from Blalack's law firm arrived at the Rancho Santa Fe house during the search, which was authorized by a secret affidavit issued by a federal grand jury in San Diego. FBI officials declined to say what agents were searching for.

Cunningham, 63, an eight-term member of Congress, is scheduled to return to his northern San Diego County district this weekend for Fourth of July celebrations, his first home visit since the controversy began.

According to the Defense Information Systems Agency, MZM has received $163 million in federal contracts, mostly for classified projects involving the gathering and analysis of intelligence.

Last month the agency halted the awarding of new contracts to MZM as part of a change in federal regulations requiring more competitive bidding. The change is not related to the investigation, and MZM will be allowed to bid for new projects, said Mike Thiem, spokesman for the Defense Information Systems Agency.

According to the Washington Post, an MZM official who worked closely with Wade shredded a large stack of documents on the third floor of MZM's Washington headquarters two weeks ago. The Post said it based its account on two sources with knowledge of the incident who spoke to its reporters Friday. They said the official destroyed the documents June 17 in a waist-high machine during Wade's final hours in the office.

The federal probe into the relationship between Wade and Cunningham involves the FBI, the U.S. attorney's office, the Defense Criminal Investigative Service and the Internal Revenue Service, according to Jan Caldwell, spokeswoman for the FBI office in San Diego.

FBI Probe Targets Congressman (WT)

The Washington Times, July 2, 2005

FBI agents searched the California home of Rep. Randy "Duke" Cunningham yesterday, and served warrants at the yacht in the District where he has been living, a Justice Department official said.

Agents also searched the offices of a defense firm whose founder bought the congressman's previous home, leading to a federal investigation, the official said on the condition of anonymity.

Mr. Cunningham, 63, has said that he showed poor judgment in selling the house, but said he acted honestly and predicted that an investigation would prove that.

The former Navy "top gun" fighter pilot and eight-term Republican congressman sold his home in November 2003 to Mitchell Wade, a campaign contributor and close friend.

Mr. Wade paid $1.7 million for the 3,826-square-foot house in wealthy, seaside Del Mar, just north of San Diego. He put it back on the market soon after and eventually took a $700,000 loss when he resold it in October 2004. During that span, home prices in San Diego County rose an average of nearly 25 percent.

Meanwhile, Mr. Wade's little-known company, District-based MZM Inc., was increasing its federal contracting business. In 2004, MZM tripled its revenue and nearly quadrupled its staff, according to the company's Web site.

Mr. Cunningham has lived part-time on Mr. Wade's boat, docked on the Potomac River.

The congressman is a member of the House Appropriations Committee's defense subcommittee and the Permanent Select Committee on Intelligence, both of which oversee the kind of classified intelligence work MZM does for the military.

The Defense Department halted orders this month on a five-year contract that provided MZM with $163 million of revenue over its first three years after the department's inspector general found that it did not satisfy rules on competitiveness.

This week, MZM announced that James King, a retired three-star Army general, was taking over as president and chief executive -- a role held for years by Mr. Wade, who founded the company in 1993.

Cunningham Questioned Over Commercial Use Of Congressional Seal (SDUT)

By Marcus Stern And Jerry Kammer, Copley News Service

The San Diego Union-Tribune, July 2, 2005

WASHINGTON – Rep. Randy "Duke" Cunningham, already in legal and political hot water over his dealings with a defense contractor, might have run afoul of the law by using a likeness of the congressional seal for commercial purposes.

Cunningham, a highly decorated Navy pilot in Vietnam and former instructor at the Navy's Top Gun academy, has operated a commercial Web site for years that sells memorabilia, including a $595 "Randy 'Duke' Cunningham Fighter Ace Kalinga Style Buck Knife."

The blade of the 10-inch knife is emblazoned with three emblems etched in gold, according to the Web site, including the "Official Seal of the United States Congress."

A chorus of still-unanswered questions has been raised in Washington this week about the legality of the Rancho Santa Fe Republican's use of the congressional seal for commercial purposes.

Cunningham and his attorney have refused to comment on the matter, but, after four days of questions from Copley News Service, the Web site's commercial operations were shut down yesterday afternoon with a message stating that a new Web site is under construction.

Under federal law, any member of Congress can be fined and imprisoned for up to six months if he or she "knowingly uses, manufactures, reproduces, sells, purchases for resale . . . any likeness of the seal of the United States Congress" without the approval of the clerk of the House.

When asked if the clerk had approved Cunningham's use of the seal, his office referred calls to his attorney, Lee Blalack, who declined to comment. Numerous calls to the clerk's office this week either went unanswered or were referred to the House ethics committee. Calls to the ethics committee also went unanswered or resulted in no comment.

However, a source close to Cunningham said that the likeness of the seal on the knife wasn't, as advertised, the "Official Seal of the United States Congress."

Instead, the source said, it was an unofficial seal not subject to the criminal statute barring commercial use. The source declined to be identified because of the ongoing FBI and federal grand jury investigations into Cunningham's dealings with defense contractor Mitchell Wade, founder of MZM Inc.

Wade purchased Cunningham's Del Mar-area house in November 2003 and later sold it at a $700,000 loss. At the same time, MZM was growing its federal contracting business and Cunningham, who sits on the defense appropriations subcommittee, was supporting MZM's efforts to get tens of millions of dollars in contracts.

Questions have also been raised about Wade's purchase of a yacht that he has allowed Cunningham to live aboard while in Washington.

The Library of Congress, in a written statement that it keeps on file, confirmed yesterday that there is no current official seal of Congress. Instead, the House and Senate each have their own seals.

The official House seal depicts the House side of the U.S. Capitol. But the House also has an "unofficial" seal created for members "to use on stationery and other office-related items."

The unofficial seal depicts an eagle and stars in gold with a blue border and cream background, which is similar to the image emblazoned on the 1,000 collector knives Cunningham offered for sale.

However, congressional ethics experts expressed doubts about the legality of Cunningham's use of the likeness, even if it was the unofficial seal of the House.

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"You can't use the seal for commercial purposes," said Jan Witold Baran, a Washington lawyer who specializes in ethics and has represented members of the Senate and House before their respective ethics committees.

While the issue of the seal being used on a collector's knife hasn't arisen before, as far as Baran knows, he said questions have arisen in the past over use of the unofficial seal on stationery.

"In the '80, some political party organizations used something that looked like the Great Seal (of the United States). The Justice Department said, 'Stop it,' and they did," said Baran, who served as the general counsel to the Republican National Committee from 1989 to 1992 and worked on the 1988 presidential campaign of former President George H.W. Bush.

The Great Seal of the United States, like the unofficial seal of the House, depicts an eagle.

Although the law carries criminal penalties, including fines and prison time, Baran could recall no instance in which a case was prosecuted.

"I don't know of anyone who has gone to jail for it," he said. "It is a statute that has been on the books a long time . . . I have never heard of the Department of Justice bringing a case against someone criminally under the statute."

The Web page still features a picture of Cunningham, a fighter ace in Vietnam, striking a pose in his flight jacket with his helmet under one arm and a likeness of his fighter jet underneath.

Cunningham has always listed Top Gun Enterprises on the annual financial disclosure form he is required to file as a member of Congress. During Cunningham's years in Congress, the company has always been valued on the form at up to $500,000. But the form Cunningham released recently for 2004 valued Top Gun Enterprises at up to $1 million.

Cunningham's office referred questions on the company's increase in value to his attorney, who declined to comment.

MSNBC Analyst Says Cooper Documents Reveal Karl Rove As Source In Plame Case (EaP)

Editor & Publisher, July 2, 2005

Now that Time Inc. has turned over documents to federal court, presumably revealing who its reporter, Matt Cooper, identified as his source in the Valerie Plame/CIA case, speculation runs rampant on the name of that source, and what might happen to him or her. Tonight, on the syndicated McLaughlin Group political talk show, Lawrence O'Donnell, senior MSNBC political analyst, claimed to know that name--and it is, according to him, top White House mastermind Karl Rove.

Here is the transcript of O'Donnell's remarks:

"What we're going to go to now in the next stage, when Matt Cooper's e-mails, within Time Magazine, are handed over to the grand jury, the ultimate revelation, probably within the week of who his source is.

"And I know I'm going to get pulled into the grand jury for saying this but the source of...for Matt Cooper was Karl Rove, and that will be revealed in this document dump that Time magazine's going to do with the grand jury."

Other panelists then joined in discussing whether, if true, this would suggest a perjury rap for Rove, if he told the grand jury he did not leak to Cooper.

Reporters Facing Jail Time Submit Preferences (NYT)

By Adam Liptak

The New York Times, July 2, 2005

Matthew Cooper of Time magazine and Judith Miller of The New York Times, who have been held in contempt for refusing to testify about their confidential sources, filed court papers yesterday asking to be sentenced to home confinement or to particular federal prisons if they must be jailed.

Time Inc. also filed a brief statement saying it had complied with a grand jury subpoena by supplying documents to the special prosecutor in the case, Patrick J. Fitzgerald. Mr. Fitzgerald is looking into the possibly unlawful disclosure of the identity of a covert C.I.A. operative, Valerie Plame.

The documents held by Time disclose the identities of Mr. Cooper's confidential sources and the substance of what they told him, Mr. Cooper has said. Their release gives the reporters some fresh arguments in their efforts to avoid jail.

In October, Judge Thomas F. Hogan of Federal District Court in Washington held the reporters and the magazine in civil contempt. He ordered the reporters jailed and the magazine fined but suspended the sanctions while they pursued appeals.

On Monday, the United States Supreme Court declined to hear the case.

On Wednesday, Judge Hogan indicated that he would send the reporters to jail for up to 120 days and impose large fines on Time Inc. as soon as next Wednesday. Time Inc., a division of Time Warner, announced on Thursday that it would comply with the subpoena for the documents.

Mr. Cooper, who opposed the disclosure of the documents and continues to refuse to comply with a subpoena calling for his testimony, argued that "the nature and volume of the materials released" should render his testimony "duplicative and unnecessary."

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One of Mr. Cooper's lawyers, Richard A. Sauber, said, "We are very hopeful that Mr. Fitzgerald will drop his demand for Matt's testimony after reviewing the documents provided to him by Time magazine."

Ms. Miller's lawyers have voiced similar hopes in recent days.

Mr. Cooper asked not to be sent to the default facility for people held in civil contempt in Washington, the District of Columbia jail. "Confinement in the D.C. jail," Mr. Cooper's lawyers wrote, "would subject Mr. Cooper, a non-violent, non-criminal journalist, to a dangerous maximum security lockup already overcrowded with a mix of convicted offenders and other detainees awaiting criminal trials."

Mr. Cooper asked to be sent to the federal prison camp in Cumberland, Md., if home confinement is not an option.

Mr. Cooper attached nine letters from family members and friends. They emphasized that he acted from principle and that jail time for Mr. Cooper would be very hard on his 6-year-old son, Ben.

In her papers, Ms. Miller argued that it was pointless to imprison her because she will never talk. She provided Judge Hogan with letters from soldiers with whom she was embedded during the war in Iraq attesting to that.

Ms. Miller asked for "very restrictive home detention" if confinement is required, including an electronic bracelet and excluding Internet access and cellular phones.

In the alternative, she asked to be sent to the federal prison camp for women in Danbury, Conn.

Mr. Fitzgerald will respond to the papers on Tuesday, and Judge Hogan has scheduled a hearing to consider the issues on Wednesday.

Reporters Ask Judge For Home Detention (WP)

By Carol D. Leonnig

The Washington Post, July 2, 2005

Lawyers for Time magazine reporter Matthew Cooper yesterday urged a federal judge not to jail him for refusing to discuss his confidential sources with a prosecutor, arguing in a court filing that there is no need for his testimony now that his employer has turned over his notes, which identify the sources.

Attorneys for New York Times reporter Judith Miller, who, like Cooper, faces four months in jail for defying Chief U.S. District Judge Thomas F. Hogan's order to cooperate with a special prosecutor's investigation, also urged Hogan yesterday not to jail her. In papers filed yesterday, her lawyers said that because she intends to go to jail rather than disclose the name of her source, incarceration would be "merely punitive" and would not cause her to obey the court.

Both reporters said in the documents that if Hogan insists on incarceration, they will propose being detained under restrictive conditions at home. They said the cost of electronic bracelets and other monitoring equipment would be borne by private entities, not taxpayers, and that they would give up much of their contact with the outside world

If jailed, however, Cooper suggested he should be sent to a federal prison camp in Cumberland, in close proximity to Washington, where he lives with his wife, Mandy Grunwald, and their 6-year-old son. Miller proposed a federal women's prison camp in Danbury, Conn., which her lawyers described as "safe" and "near to Ms. Miller's 76-year-old husband," retired book publisher Jason Epstein, in New York City.

Most people found in contempt by a federal court in the District serve their time in the D.C. jail.

Hogan held Miller, Cooper and Time in contempt of court in October for refusing to identify their sources to special prosecutor Patrick J. Fitzgerald, who is investigating whether senior administration officials knowingly identified covert CIA operative Valerie Plame to the media.

Plame's name first appeared in a July 2003 syndicated column by Robert D. Novak, shortly after Plame's husband, former ambassador Joseph C. Wilson IV, published an opinion piece in the Times that accused the Bush administration of twisting intelligence to justify going to war with Iraq.

Fitzgerald wants to talk to Miller and Cooper about conversations they had with specific government officials. A spokesman for Fitzgerald declined to comment yesterday on the filings or the reporters' detention proposals. Fitzgerald has until Tuesday to reply to Hogan.

Over Cooper's objections, Time yesterday turned over notes and e-mails of Cooper's that were stored in a computer. The magazine, which faces a $1,000-a-day fine that had reached $270,000, said it hoped that by complying it would keep Cooper out of jail.

Time editor-in-chief Norman Pearlstine said Thursday that after the Supreme Court refused on Monday to hear the reporters' appeals of the case, he believed that the magazine had to obey Hogan's order.

In the court papers, the two reporters laid out their final arguments as they prepare for a hearing Wednesday at which Hogan could order them incarcerated.

"Mr. Cooper submits that his testimony would be duplicative and unnecessary, and he respectfully requests the court to inquire of the Special Counsel whether the grand jury still needs Mr. Cooper's testimony," Cooper's attorneys wrote.

In arguing for home confinement, Miller's attorneys said in the filings that Miller would suffer from giving up such tools as her cell phone and Internet access, because "impairing her unrestricted ability to do her job as an investigative journalist . . . would present the strictest form of coercion to her."

They said Miller is not in ill health but contended that home detention is more "suitable" for a 54-year-old woman.

20-year Sentence For Man With Grudge Against Judge (AP)

By RON WORD, Associated Press Writer

AP, July 2, 2005

JACKSONVILLE, Fla. -- A man with a grudge against a judge was sentenced Friday to the maximum 20 years in prison for holding a lawyer hostage and threatening to blow up an downtown office tower last summer.

John Knight, who was armed with two guns and claimed to have a bomb, "had planned to take his own personal vengeance against the system," said Circuit Judge Michael Weatherby. "None of this was the act of a madman."

"What were you thinking? Weatherby said. "I cannot discern any plausible or palpable reason that someone would commit the crimes that he committed."

Knight, 37, a copy machine salesman from Fort Wayne, Ind., wearing a green jump suit, did not speak in the 15-minute hearing. He had taken attorney John Hazelip hostage in his office and threatened to blow up the building last August because he wanted to force the resignation of a judge who had sentenced him to a day in jail five years earlier.

Knight, who pleaded guilty in March, was sentenced to 15 years on a charge of false imprisonment; 20 years for armed fake impersonation of a law enforcement officer; five years for aggravated assault; five years for carrying a concealed firearm and 15 years for perpetrating a bomb hoax. All the sentences will run concurrently.

Hazelip, who Knight held for three hours, did not attend the hearing, but said later in a telephone interview, "I have forgiven him and hold no grudge against him. I hope he finds hope for the despair in his life."

Carrying a 9mm handgun in an envelope, he entered the Hazelip's law office in the 28-story Riverplace Tower by claiming to be an agent of the Justice Department last August.

For the next three hours, the two sat alone in his office while Knight made threats to kill Hazelip and demanded to talk to Jacksonville Mayor John Peyton, whose family owns the office tower. Knight ordered Peyton to secure the resignation of Duval County Judge Sharon Tanner, who had sentenced Knight in a 1999 domestic violence case.

As Peyton negotiated with Knight, police evacuated the office tower, fearing Knight might have a bomb. Children from a day care center were led to a nearby hotel lobby, while workers sweltered in the hot sun.

The standoff ended after Tanner pretended to resign on live television, although Hazelip testified earlier this month that Knight surrendered without knowing whether Tanner had resigned because there was no television in his office.

When Knight surrendered, police found he was carrying two 9mm pistols and 69 bullets. He did not have a bomb.

Tanner said she was pleased Weatherby sentenced Knight to the maximum sentence under his plea agreement.

"I doesn't give me any pleasure to see someone go to jail for 20 years, but I do believe the people of Jacksonville can rest assured that what Judge Weatherby has done today is completely appropriate," Tanner said after the hearing, tears welling in her eyes. "Judge Weatherby has assured the people of our town that people who take matters into their own hands and threaten public officials and threaten our system of government will be dealt with appropriately."

She said she faked her resignation to save lives.

"The thought that something that had happened in my courtroom might have led to the death of innocent people has haunted me night and day," Tanner said. "I will never ever get over that, never."

Assistant State Attorney Melissa Williamson Nelson was pleased the Weatherby imposed the maximum sentence.

"John Knight took the whole legal system of this community hostage when he chose to take Chris Hazelip hostage," she said. "I am thrilled with the outcome."

Knight's attorney, Assistant Public Defender Ann Finnell, did not comment and did not return a telephone call.

CIVIL RIGHTS:

Judge Cancels His Order That Justice Official Must Testify (SLT)

By Pamela Manson

Salt Lake Tribune, July 2, 2005

DOJ_NMG_0000648

A federal judge in Utah has canceled his order requiring a top Justice Department official to testify why it is taking so long for the department to review records connected to the death of a prison inmate.

U.S. District Judge Bruce Jenkins had set a July 13 date for Noel Hillman, chief of the department's public integrity section, to come to his courtroom and explain, under oath, the delay in deciding which documents can be released under the Freedom of Information Act.

On Friday, he rescinded the order, noting that the official has said his review is complete. However, the judge warned that the reprieve is temporary and said the government ultimately will have to produce the records.

Hillman had been determining which documents could be withheld.

The records are being sought by Jesse Trentadue, the inmate's brother and a Salt Lake City attorney. He contends that Hillman began his review in 2001 and was taking too long.

The records request concerns the August 1995 death of Kenneth Trentadue, an ex-convict who had been placed in a federal prison in Oklahoma on an alleged parole violation. Prison authorities contend the 44-year-old committed suicide, but the man's relatives believe he was slain.

Trentadue is investigating a theory that Kenneth, who had served time for bank robbery, was killed during an interrogation gone awry. The lawyer believes authorities mistakenly suspected his brother was part of a gang that robbed banks to finance attacks on the government, possibly including the Oklahoma City bombing that killed 168 people.

Profiling Study Sparks Debate Among Police (CHIT)

By Scott Goldstein, Tribune Staff Reporter

Chicago Tribune, July 2, 2005

The first-year results of a state-mandated study on racial profiling to be released Friday suggest that some police departments in the northwest suburbs are stopping a relatively high number of minority motorists.

But law-enforcement officials in the region say the study is flawed and warn that the statistics don't tell the true story, exposing some departments to potentially dangerous misperceptions about how they treat minority drivers.

"First of all, I'm terribly concerned about what's going to happen next because when anyone looks at these numbers, it's not going to tell them anything," said Mt. Prospect Police Chief Richard Eddington. "It's much more important the rapport a police department has with its community than this math problem."

Statistics from Mt. Prospect police show that nearly 31 percent of the drivers stopped in 2004 were minorities. About 24 percent of the village's driving population was estimated to be minorities.

In 2000 the Mt. Prospect Police Department settled discrimination lawsuits with three former officers who accused the department of ethnic profiling of Hispanics. As a result of the settlement, the Justice Department now monitors Mt. Prospect, and it found no reason for concern in the 2004 numbers, Eddington said.

Statistics from Elgin, Lake in the Hills and Des Plaines also appear to indicate that police stopped a disproportionate number of minorities last year.

Under a state law adopted in 2003, police officers are required to record the names, addresses, gender and races of all drivers stopped for traffic offenses through 2007. They must also record what led to the stop, what action resulted and whether a search was conducted.

The percentage of traffic stops involving minority drivers is measured against an estimate for the percentage of minority drivers in each suburb.

That number, or benchmark, is a point of debate for some departments, which argue that it was set too low.

For most departments, the benchmark was based on 2000 census data by Northwestern University's Center for Public Safety, which is overseeing the study, said Alexander Weiss, the center's director.

The center is doing the study for the Illinois Department of Transportation, which will release a report Friday on the first year of the study. Many police departments, including Chicago's and those in DuPage County, already have released data.

Chicago police stopped African-Americans at a higher rate than their percentage of the population, according to department statistics. Officials said that might have been a result of targeting street gangs in minority communities. And about two-thirds of the police departments in DuPage County stopped a disproportionately large number of minority drivers, according to statistics.

In Lakewood in McHenry County, nearly 11 percent of those stopped in 2004 were minorities--in a community where the number of minority motorists was estimated at 9 percent. Though the disparity was small, Lakewood Police Chief Larry Howell, president of the McHenry County Police Chiefs Association, said he also has concerns about the accuracy of the benchmarks and how the data will be interpreted.

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"I don't know that anyone knows how this is going to be used, No. 1, and specifically what are they saying is acceptable and what's unacceptable," Howell said. "That is something that no one has ever said with this whole thing."

Weiss said that the benchmarks were a reasonable estimate of the driving population and that departments that did not agree were able to argue for a different number.

What is important, Weiss said, is that each department uses the statistics as a point of discussion in the community.

David Harris, a professor at the University of Toledo College of Law and author of books on racial profiling, said conscientious police departments would have engaged the community on the issue of racial profiling long before the raw data were released.

"The way that a police department deals with this successfully is to get people on board with them from the get-go," Harris said. "They knew a good long time ago that they'd face this day, and the smart police departments got out in front of it."

Schaumburg police seem to have taken that approach.

Lt. Dennis Carroll said Schaumburg police had no qualms about the study or the benchmark.

According to Schaumburg's statistics, about 33 percent of the driving population were minorities, while 24 percent of those stopped last year were minorities. Police in Arlington Heights, Crystal Lake, Woodstock and the town of McHenry also stopped minorities at a rate that was proportional to their driving populations, according to statistics.

And even among the harshest critics, most agree the initiative has forced discussion of an important issue.

"The only thing that the law, in my opinion, has done well is to create good, honest, hard-thought-out dialogue, and that's a good thing," said Rolling Meadows Police Chief Steven Williams. "We want to look at our work from a very critical perspective. I just don't think this study gives us any good valid data to work on."

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Study: Greater Percentage Of Police Stops Are Minorities (SLPD)

By From Staff Reports, Of the Post-Dispatch

St. Louis Post-Dispatch, July 2, 2005

Minority drivers in Illinois - including some parts of the Metro East area - are more likely to be pulled over than white drivers, according to state data released Friday.

The survey by the Illinois Department of Transportation showed 33 percent of drivers who were pulled over statewide were minorities although only 28 percent of the state's drivers are minorities.

The disparities were worse in some Metro East cities. Minority drivers make up less than 9 percent of the minority population in Granite City, for example, but the study reported minorities accounted for nearly 19 percent of all traffic stops.

The study also reported minority drivers were more likely than whites to be stopped in Alton - where they made up 24 percent of the driving population but 35 percent of traffic stops. In Fairview Heights, where minorities were nearly 30 percent of the driving population, 40 percent of people police pulled over there last year were minorities.

Granite City Police Chief Dave Reubhausen said in a faxed statement that the study's figures are drastically skewed.

"I believe the study to be flawed in this respect: No independent traffic study was conducted to determine the minority driving population in Granite City," he wrote.

Reubhausen said the percentage for minority drivers used in the study was based on the average number of minority drivers in all of Madison County and not reflective of Granite City specifically.

Other cities, such as Collinsville, fared better in the study. Although minority drivers accounted for nearly 30 percent of Collinsville's driving population, the study reported less than 20 percent of people Collinsville police pulled over last year were minorities.

Minority drivers were also less likely to be stopped than whites in East. St. Louis and O'Fallon but slightly more likely to be stopped in Belleville and Edwardsville.

Minorities statewide received tickets 68 percent of the time they were pulled over, compared with whites being ticketed in 60 percent of stops.

The Associated Press contributed to this report.

Agents Said To Dismantle A Korean Sex Ring (NYT)

By Carolyn Marshall

The New York Times, July 2, 2005

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Federal agents raided scores of brothels and businesses and arrested more than two dozen people here in the dismantling of an international sex trafficking and human smuggling ring that lured Korean women to the United States and forced them to work as captive prostitutes, the authorities said on Friday.

The crackdown on human smuggling was set in motion late on Thursday, when about 400 federal and state law enforcement officials searched 50 brothels and other businesses in San Francisco and the Bay Area, stemming from the indictment of 29 men who were subsequently charged with sex trafficking, money laundering and harboring illegal aliens. The men are also charged with conspiracy to transport women from South Korea and force them to work as prostitutes, said the United States attorney, Kevin V. Ryan.

The arrests here, along with the arrests of 18 people in Los Angeles in a related case, stem from a nine-month investigation by federal, state and local law enforcement agents looking into a human smuggling and sex trafficking ring that the authorities said may be one of the largest and most sophisticated ever.

"This investigation is aimed at stopping the horrific, demeaning and oftentimes brutal practice of smuggling and trafficking of human beings," Mr. Ryan said at a law enforcement press conference on Friday.

During the raids in San Francisco on Thursday, federal agents found about 100 Korean women, who have been taken to an undisclosed nondetention facility to receive medical care and participate in interviews. The agents also seized at least $2 million in cash and several A.T.M.'s and shuttered about a dozen massage parlor brothels.

In a separate but related investigation, the authorities also charged 23 people in Los Angeles.

In Los Angeles 46 women were escorted out of brothels on Thursday and to safety, the authorities said. The authorities said they believed that the San Francisco and Los Angeles operations, although separate businesses, worked in tandem to transport the women.

The cases, investigated by numerous government agencies including the F.B.I., the Internal Revenue Service, immigration and customs enforcement agencies, and the local police, were discussed at separate press conferences on Friday, one here and one in Los Angeles.

Some of the 29 men charged in San Francisco appeared in federal court on Friday. The authorities said they did not yet know whether the defendants are Korean, but all but one man are of Asian descent. The authorities singled out two people they said were major players in the trafficking scheme, Young Joon Yang, 37, and Sung Yong Kim, 39, each charged with two counts of sex trafficking, along with other charges including fraud and coercion.

The indictment in San Francisco said that from September 2001 to October 2004 the defendants "recruited and enticed female Korean nationals to illegally enter the United States." The women, in their 20's, were held captive and forced to work as prostitutes.

The indictment also said that between Feb. 22 and June 23, 2005, the defendants operated a taxi company and a travel agency, both used to transport the women. The taxi company often transported women from brothel to brothel, and in some cases the cabs were used to move women from San Francisco to Los Angeles, an F.B.I. spokeswoman said. The travel agency made international and interstate transport possible. The women were typically flown from an undisclosed location in South Korea to Canada and then to San Francisco.

Brad Schlozman, acting assistant attorney general for the Civil Rights Division of the Justice Department, called the operation "morally repugnant and a truly evil crime" and "a modern-day form of slavery."

At the press briefing in Los Angeles on Friday, the United States attorney, Debra Wong Yang, said that the brothels were concealed by supposedly legitimate massage parlors and that the women were managed by what she called an underground Korean taxi service.

Raids On Brothel Rings Net 45 Arrests (LAT)

By David Rosenzweig And K. Connie Kang

The Los Angeles Times, July 2, 2005

Two criminal syndicates suspected of smuggling hundreds of South Korean women into the United States to work at brothels in the Los Angeles and San Francisco areas have been broken up with the arrest of 45 people, including the ringleaders, federal authorities announced Friday.

In raids on massage parlors, chiropractic offices and apartments at both ends of the state, federal agents and local law enforcement officers took into custody nearly 150 suspected prostitutes as material witnesses.

U.S. Atty. Debra Wong Yang said there was no firm evidence that the women were coerced into working as prostitutes, although some were found to have been sexually abused.

Yang said federal agents were in the process of interviewing the women to learn how they got here and how they were treated.

"This type of criminal organization exploits the hopes and dreams of immigrants," the Los Angeles federal prosecutor said.

Law enforcement officials said the two networks operated independently, although they sometimes traded prostitutes.

The Los Angeles organization was headquartered in Koreatown, home of the largest Korean population outside Asia. Koreatown community leaders reacted to the arrests with surprise and shame.

"This is so embarrassing," said Kenny Shin, president of the Korean American Chamber of Commerce. Shin said he feared that notoriety would hurt Koreatown businesses that are finally recovering from the effects of the 1992 Los Angeles riots.

The Southern California investigation was launched two years ago by U.S. Immigration and Customs Enforcement, the Internal Revenue Service's criminal investigation division and the Los Angeles County sheriff's vice squad.

Using court-authorized wiretaps and undercover informants, investigators said, they were able to track the activities of the organization's leaders for months.

Among the 18 people arrested in Southern California late Thursday and early Friday on prostitution-related conspiracy charges was the alleged ringleader, Young Joon Jung, about 40, a resident of Koreatown. Investigators also seized more than $1 million.

Yang said the Jung organization was a "top to bottom" criminal enterprise. The organization smuggled women into the United States via Canada and Mexico, usually after they agreed to pay as much as $16,000 from their earnings as prostitutes, she said.

The women were then turned over to an underground network of Korean "taxi" services that assigned and transported them each day to various brothels. Authorities said the brothels operated under the guise of being massage parlors, chiropractic clinics and businesses offering aromatherapy, acupressure, acupuncture and the like.

According to an affidavit, some of those brothels paid chiropractors $600 to $1,500 a month to use their licenses.

Koreatown businesspeople Friday expressed surprise that health services were involved, even though only a few of the area's many chiropractors and acupuncturists were implicated. Across the street from one Koreatown establishment raided by investigators, clothing store owner Jong Soon Kang said Friday she could hardly believe that people would pay to lease professional licenses to engage in prostitution.

"I have heard about things like that happening in some massage parlors," she said. "But medical offices? This is very, very serious."

"I just hope this will not harm the Korean community's reputation," she said. "Most Korean immigrants are like me — we work hard and are good citizens. I hope the mainstream will understand that and not think badly of all of us."

The suspected brothels were not limited to Koreatown. Some were located in the San Fernando Valley, South Gate, Santa Monica, Redondo Beach and Anaheim, the affidavit said.

The taxi services, which allegedly were run by members and associates of Jung's organization, occasionally sent the women to work at brothels in Texas, Colorado and Northern California, according to the affidavit.

In one wiretapped conversation recorded in April, one of Jung's associates was overheard complaining about the arrest of 16 women by U.S. Border Patrol officers as they were being taken across the Canadian border in a recreational vehicle rented in El Monte.

Another alleged ring member lamented a crackdown by Mexican officials in Mexicali, saying the police there were arresting everyone who looked Korean. He said he found a way around the problem by sending the women to Tijuana, where he claimed to have a friendly Mexican immigration officer on his payroll.

In the San Francisco-area roundup, about 400 federal and local officers arrested 27 suspects. Five others charged in a grand jury indictment were still at large. The raid, dubbed Operation Gilded Cage, netted $2 million in cash.

By morning, more than 100 Korean women detained at 11 separate massage parlors had been taken to an undisclosed location. They appeared to be about 20 to 27 years old. Victim assistance workers were living among them in an effort to coax their cooperation, and more than half a dozen local social service and legal groups dispatched aid.

The nine-month Northern California investigation was hailed as a coordinated effort, involving the U.S. attorney's office, the U.S. Department of Justice's Civil Rights Division, the FBI, U.S. Immigration and Customs Enforcement, the San Francisco Police Department, the Internal Revenue Service and the State Department's Diplomatic Security Service.

Officials said the operation successfully dismantled a "large criminal organization" headed by Young Joon Yang, 37, of Pleasant Hill, Calif.

Brad Schlozman, acting assistant attorney general for civil rights, said the still-unfolding investigation appeared to be "one of our biggest" nationwide. Officials said the San Francisco investigation unraveled a "sophisticated criminal enterprise" and therefore was a more serious case than the one brought in Los Angeles.

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According to the indictment, two defendants -- Wu Sang Nah and Sung Yong Kim -- are believed to have smuggled at least two female Korean nationals across the U.S. border from Canada. The women were then taken to Virginia, Los Angeles and eventually San Francisco to work as prostitutes.

The indictment alleges that Young Joon Yang operated a taxi service and travel agency dedicated to transporting those two women as well as many others to and from brothels throughout San Francisco as well as to other prostitution engagements in Las Vegas and other cities.

Many of those arrested worked as drivers or support staff for Young Joon Yang. The more than two dozen men and women indicted face charges of conspiring to bring in and harbor aliens, sex trafficking, money laundering conspiracy, and transporting women in interstate commerce to engage in prostitution.

The indictment does not specify whether the women were working off smuggling debts or engaging in prostitution against their will. Advocates said 20% to 30% of women in such situations typically are coerced into prostitution and that the rest are working as prostitutes voluntarily.

Kevin Ryan, U.S. attorney in San Francisco, said information about the circumstances of their prostitution will probably emerge in the coming days.

"There's a belief that San Francisco is a major player in human trafficking," he said. "It's a gateway to the Pacific, and this is a city where many of the women are brought."

Friday afternoon, several dozen shocked family members and friends crowded into a federal courtroom to await the first court appearances of the detained, as defense attorneys milled about to pair with potential clients.

"It's a very broad sweep," San Jose criminal-defense attorney Tak Chang said of the raids. "I suspect some of these people will be very minor players -- drivers and receptionists. This might be a tactic to get the bigger fish."

Taking The Prostitution Pledge (NYT)

The New York Times, July 2, 2005

Since 2003, the Bush administration has required foreign groups fighting AIDS overseas to pledge their opposition to prostitution and sex trafficking before they get money from Washington. Last month, the administration expanded the requirement to American groups. On its face, this law seems innocuous. Who supports prostitution?

But in countries like India, controlling AIDS among prostitutes and their clients is the key to keeping the disease from exploding into the general population. So some very effective programs are built around trying to make sure that prostitutes and their customers use condoms. The groups who run these programs try to gain the trust of prostitutes by providing them with health care and teaching them about safe sex. They argue that being forced to state their opposition to prostitution would limit their ability to do that. Brazil turned down a $40 million grant from the United States because it did not want to imperil successful programs.

The Bush administration and some of its supporters disagree. They argue that anything that makes life more tolerable for prostitutes encourages prostitution. That would include organizing sex workers in India to stand up to abusive clients, or helping Bangladeshi prostitutes get shoes so they can leave the brothel to visit a health clinic. Initially, the Justice Department ruled that the prostitution pledge could not be required of American groups because the American Constitution guarantees the right to free speech. The administration's turnabout would seem vulnerable to a constitutional challenge.

The new anti-prostitution requirement may have a hidden purpose: to take away the right of American groups working on family planning overseas to counsel abortions. On his first day in office, President Bush signed a reinstatement of President Ronald Reagan's policy blocking American funds for overseas family-planning groups that so much as mention abortion. Both restrictions are the work of Representative Christopher Smith, a New Jersey Republican. The abortion gag rule has never applied to American groups, for the same First Amendment reasons that the prostitution pledge did not. But the decision to strip Americans of their First Amendment right to speak as they please on prostitution opens the way to an attempt to keep them silent on abortion, too.

Justice Clears Ohio In Voting Booth Bias (WP/AP)

By Sarah Anderson, The Associated Press

The Washington Post, July 2, 2005

COLUMBUS, Ohio -- The Department of Justice says it found no evidence of discrimination in the distribution of voting machines in two Ohio counties in the 2004 presidential election.

The department began investigating after voters complained of long voting lines and alleged discrimination in Franklin and Knox counties. Investigators wanted to determine if elections officials had intentionally skewed the placement of machines to favor Republicans.

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The Justice Department said, however, the distribution in Franklin County narrowly favored black voters. Because turnout in predominantly black precincts was lower than in white ones, machines in those districts averaged fewer votes, according to a report released Wednesday.

An unanticipated 76 percent turnout _ with many first-time voters _ contributed to the long lines in the Kenyon College precinct in Knox County _ with some people forced to wait until 4 a.m. to vote on just two available machines, officials found.

Distribution of voting machines is determined by county boards of elections, made up of two Democrats, two Republicans and two nonvoting members.

Franklin County, which includes Columbus, had 2,904 machines on hand for 535,575 people who showed up to vote.

In the Knox County precinct, the number of registered voters more than doubled to 1,607 between March and November of 2004. But by the time those numbers were available, the Knox County board already had decided on the distribution of voting machines.

The election turned on Ohio's 20 electoral college votes, and not until preliminary results were available early Nov. 3 did Democratic presidential candidate John Kerry concede. President Bush defeated Kerry by about 118,000 votes in the state.

Think Locally, Ask Globally (WP)

By Mary Beth Sheridan

The Washington Post, July 2, 2005

D.C. voting rights activists took their case to an unusual constituency yesterday, calling on European legislators at an international meeting to lean on the U.S. government to give Washingtonians full representation in Congress.

"O-S-C-E, free D.C.!" chanted scores of demonstrators parading in front of the J.W. Marriott on Pennsylvania Avenue NW, where legislators from countries in the Organization for Security and Cooperation in Europe were opening their annual meeting.

The 55-member OSCE includes countries from Europe and the former Soviet Union, as well as the United States. The OSCE grew out of the Helsinki process of the Cold War period, which established human rights as a global foreign policy concern and tried to spur greater freedom in the Soviet bloc.

The current OSCE meeting, which lasts through Tuesday, will address such issues as gender equality and human rights. But to local activists, nothing matters more than a proposed amendment that calls on the U.S. government to give D.C. residents "equal voting rights in their national legislature." The measure is expected to be considered today or tomorrow.

Eleanor Holmes Norton (D), the District's non-voting delegate in Congress, introduced the amendment with the support of four other legislators in the 12-member U.S. delegation to the OSCE meeting. Delegates from Canada and Switzerland also were sponsors.

At a noontime rally yesterday in Freedom Plaza, in front of the Marriott, Norton assured a spirited crowd that she would press European parliamentarians to back the measure.

"I will be telling them, 'Do not let the United States government get away with pushing around every other country, insisting on democracy, then coming home and pushing us out when we insist on democracy,' " she said.

Cheers rose from the audience of about 200, including perspiring office workers in shirtsleeves, mothers clutching babies and Faith, an exotic ballet dancer and six-time mayoral candidate, who was clad in a U.S. flag, fishnet stockings and red boots.

The activists hoisted signs in French, German, Russian and other languages demanding the right to full representation for the District. In case the message did not get through, however, organizers set up four voting booths enclosed by a chain-link fence in one corner of the plaza. The fence was festooned with yellow-and-black signs warning: "DC Residents Out! By Order of Congress."

"Our hope is that passage of the resolution will further the cause by putting international pressure on the Congress," said Ilir Zherka, executive director of DC Vote.

Andreas Baker, a spokesman for the OSCE, said that if the D.C. measure passed, it would not have the force of law. It would, however, be included in a final document distributed to the member countries.

"It's essentially the voice of parliamentarians from the 55 [countries]. So it's a recommendation which tends to carry a bit of weight," he said.

An OSCE mission that monitored last year's U.S. presidential election issued a report recently that stated that the U.S. government denies full representation and voting rights to residents of the District.

It was not clear whether the D.C. voting-rights measure would be supported by the entire U.S. delegation, which is composed of six Democratic and six Republican members of Congress. A phone call to the office of Sen. Sam Brownback (R-Kan.), the head of the U.S. delegation, was not returned.

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Voting rights activists were scrambling yesterday to make sure the approximately 300 OSCE delegates were aware of the District's special status. They handed out leaflets, marched with signs outside the Marriott and even buttonholed individual legislators.

David Bardin, 72, a retired D.C. attorney, grabbed a Spanish official, Gustavo Pallares, outside the Marriott and quickly filled him in about the local voting situation.

"So you don't have a representative in the U.S. Congress?" said Pallares, puzzled by the idea.

Many legislators simply ignored the protesters. But not Jean-Claude Lefort, a parliamentarian from France. Slapping a "Taxation Without Representation" sticker onto his suit jacket, he walked up and down the line of protesters, shaking hands.

"I support them," he said, explaining his feelings with the French national motto: " Liberté, Egalité, Fraternit é."

ANTITRUST:

Microsoft To Pay I.B.M. $775 Million In Settlement (NYT)

By John Markoff

The New York Times, July 2, 2005

Microsoft agreed on Friday to pay I.B.M. $775 million to settle claims growing out of the antitrust lawsuit brought by the Justice Department against Microsoft in 1995. I.B.M. will also receive a $75 million credit toward the use of Microsoft software.

The settlement is one of the largest in a series of settlements Microsoft has struck in its effort to resolve its legal troubles after Judge Thomas Penfield Jackson of Federal District Court in Washington ruled in 2000 that it had engaged in anticompetitive practices.

I.B.M., in negotiating a settlement with Microsoft, held back from filing a separate lawsuit. Indeed, the two rivals have recently become partners in some areas. For example, Microsoft will use I.B.M. microprocessor chips in its new game console, the Xbox 360, which is scheduled to be introduced this fall.

Microsoft executives said the settlement with I.B.M. addressed all discriminatory pricing and overcharge claims growing from the federal antitrust case, including claims related to the I.B.M. OS/2 operating system and SmartSuite products. Under the deal, I.B.M. agreed to defer consideration of filing claims related to I.B.M.'s server hardware and server software business for two years.

"It's an important milestone for us that marks the end of a significant effort," Microsoft's chief counsel, Brad Smith, said.

An I.B.M. spokesman, Scott Brooks, said the company was pleased to "resolve this amicably without having to go to greater extremes and we're looking ahead."

Executives at the companies said settlement negotiations began in November 2003 and were stepped up in the last two months because "tolling agreements" that extended the statue of limitations on claims related to the federal antitrust case were set to expire this month.

The claims first emerged in the late 1980's when Microsoft and I.B.M. agreed to develop the OS/2 operating system, which was intended as a replacement for MS-DOS, the original operating system for the I.B.M. PC.

In November 1989, the two companies publicly agreed to develop OS/2 first for high-end computing systems with more than four megabytes of memory. Microsoft, however, proceeded to develop its Windows operating system as an alternative for business customers, undercutting the agreement.

Microsoft's strategy affected not only I.B.M, but software makers like Lotus Development, which initially developed its software for OS/2 and not Windows.

Judge Jackson's ruling found that "from 1994 to 1997 Microsoft consistently pressured I.B.M. to reduce its support for software products that competed with Microsoft's offerings, and it used its monopoly power in the market for Intel-compatible PC operating systems to punish I.B.M. for its refusal to cooperate."

Andrew I. Gavil, a law professor at Howard University, said that Microsoft had managed to resolve many of its legal troubles without radically altering its conduct.

"It's paying for peace," Professor Gavil said, "but it's not changing its behavior in any significant way."

In recent years, Microsoft has spent more than $3 billion settling lawsuits by its rivals, including a $1.6 billion deal with Sun Microsystems in 2004 and a $750 million deal with America Online, part of Time Warner, in 2003.

In April Microsoft agreed to settle claims with Gateway Computer arising out of the government's antitrust suit for $150 million. Microsoft said earlier this year that it would place $550 million in reserve for further antitrust-related claims.

The company said Friday that it would describe how it would account for the I.B.M. settlement when it reports its quarterly financial results in July.

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"This is just cleaning up the remaining mess on the floor," said Robert E. Litan, a senior fellow at the Brookings Institution and a former Justice Department prosecutor.

Mr. Litan also noted that while Microsoft's software monopoly in the home PC market has remained durable despite the federal antitrust ruling, the rise of the open-source Linux operating system, which is freely distributed, has proven a powerful counterweight to Microsoft's power in the corporate server market.

"You cannot underestimate the impact of Linux" on the computing industry in recent years, he said.

Microsoft also settled with Novell in November 2004 for $536 million for claims related to the antitrust case; however, Novell has since filed a second antitrust suit against Microsoft related to its WordPerfect word-processing software application.

Microsoft is also facing a lawsuit by RealNetworks over its Windows Media Player software and is appealing a $600 million antitrust ruling brought by European regulators.

As part of the ruling in 2000, Judge Jackson ordered that Microsoft be broken into two companies to curb its monopolistic practices. But the next year, the new Bush administration decided not to seek a breakup and the Justice Department settled in 2002.

Shares of I.B.M. shares rose 47 cents on Friday, to close at $74.67. Microsoft shares declined 13 cents, to close at $24.71.

Microsoft To Pay To Settle IBM Claims (LAT)

By Joseph Menn, Times Staff Writer

The Los Angeles Times, July 2, 2005

Microsoft Corp. said Friday that it agreed to give $775 million in cash and $75 million worth of software to IBM Corp. to resolve one of the largest remaining antitrust claims against the world's biggest software maker.

The settlement is the latest in a string of arrangements with customers and longtime business rivals that began after Microsoft resolved a long-running antitrust case with the Justice Department.

Including the IBM accord, Microsoft has now agreed to pay $4.5 billion to settle class-action consumer suits and business cases brought by Time Warner Inc., owner of the vanquished Netscape Web browser, as well as by Sun Microsystems Inc. and others. It takes Microsoft less than a month to earn what it's paying IBM.

"Over the last few years we have been focused on resolving our disputes with other companies, and today's announcement takes another significant step towards achieving that goal," Microsoft General Counsel Brad Smith said in a statement issued jointly with IBM. "With these antitrust issues behind us, both Microsoft and IBM can move ahead."

Still pending against Microsoft is a suit by RealNetworks Inc., which makes a video and music player for computers. RealNetworks is seeking $1 billion in damages.

Unlike Microsoft's settlements with Time Warner and Sun, the Microsoft-IBM agreement makes no reference to any broader framework for cooperation. IBM reserved the right to take action against Microsoft over other alleged improper behavior in the computer market.

Microsoft's stock slipped 13 cents to $24.71, while IBM shares rose 47 cents to $74.67.

IBM was seeking restitution for misbehavior by Microsoft identified in 1999 by U.S. District Judge Thomas Penfield Jackson. Jackson ruled that IBM and Gateway Inc. had to pay more than other firms to install Microsoft's Windows operating system on the computers they sold because those two companies wouldn't help Microsoft suppress competition.

Jackson found that Microsoft retaliated against IBM because of Big Blue's promotion of its own operating system and its decision to install its SmartSuite bundle of productivity applications, which competed with Microsoft's Office programs.

When IBM refused to stop promoting its competing products, Jackson wrote in his decision, Microsoft "punished" IBM by charging higher prices, delaying the license IBM needed to install the crucial Windows 95 operating system on its computers, and withholding technical and marketing support.

"Microsoft did not grant IBM a license to pre-install Windows 95 [on its computers] until 15 minutes before the start of Microsoft's official launch event," Jackson wrote. That was five weeks after other manufacturers got their copies of Windows.

IBM lost large accounts worth about $180 million in revenue during that period because those computer buyers worried that the tension between the two tech giants would keep Microsoft software from performing as well on IBM machines, the judge said.

IBM didn't sue Microsoft, but Jackson's findings significantly increased the odds that Big Blue and others who Jackson said suffered from the hardball tactics could win in court.

Microsoft and IBM began negotiating a settlement shortly after a group backed by IBM asked for permission in April to make arguments during Microsoft's appeal of European antitrust sanctions.

The animosity between the two giants goes back even further, to one of the great strategic blunders of the technology era.

In the early 1980s, IBM allowed Microsoft to sell the operating system it designed for IBM to other companies as well, a step that eventually made the operating system, ubiquitous and indispensable while reducing the importance of the computer it ran on. In that way, IBM helped create the monopoly it later accused Microsoft of exploiting.

Since then, the companies have cooperated in some areas, such as setting standards for programs that operate over the Internet, while squaring off in markets for databases and for operating systems, where IBM promotes Linux over Windows.

"They're huge competitors, but they have an understanding of one another," said Matt Rosoff, an analyst with independent research firm Directions on Microsoft.

Microsoft To Pay I.B.M. $775 Million To Settle Antitrust Claims (NYT)

By Vikas Bajaj And John Markoff

The New York Times, July 2, 2005

Microsoft said today that it would pay I.B.M., which it displaced as the world's premier technology purveyor, $775 million to settle a number of outstanding antitrust claims.

The settlement stems from the Justice Department's antitrust case against Microsoft in the mid-1990's, in which Judge Thomas Penfield Jackson found the giant software company's practices harmed the International Business Machines Corporation, based in Armonk, N.Y. That case was settled in 2001.

Under the agreement announced today, I.B.M. will also receive a $75 million credit toward using Microsoft software. It is the latest, and one of the largest, in a string of antitrust settlements totaling more than $3 billion between Microsoft, based in Redmond, Wash., and its rivals. In April, Microsoft said it would pay Gateway $150 million. Last year, it agreed to pay Sun Microsystems $1.6 billion, Microsoft's largest such payout.

I.B.M. and Microsoft, which issued a joint statement today, came to an agreement just weeks before a deal to extend the statute of limitations on the claims was to expire in July. The companies said they had been negotiating for the last two months.

"It's good that our two companies worked out something of this magnitude without having to go to court," Microsoft's general counsel and senior vice president, Bradford Smith, said in a telephone interview. "This is significant for an industry that has been marked by more than its share of its litigation over past decade."

He said I.B.M. was one of four rivals that approached Microsoft to start settlement talks at the end of 2003, just before the statute of limitations on Judge Jackson's ruling were expiring. The other three were Gateway, Novell and an undisclosed fourth company. With this latest agreement, Microsoft has reached deals with all four companies.

I.B.M.'s general counsel and senior vice president, Ed Lineen, said, "I.B.M. is pleased that we have amicably resolved these long standing issues."

The settlement includes claims related to I.B.M.'s OS/2 operating system and SmartSuite software package, neither of which ever established more than a toehold in the personal computer market dominated by Microsoft's Windows and Office software. In the agreement announced today, Microsoft also dropped antitrust claims against I.B.M.

But the agreement did not cover claims of damage to I.B.M.'s server hardware and software business. I.B.M. has agreed, with some unspecified limitations, not to seek damages on harm to its server business before June 30, 2002. An I.B.M. spokesman, Scott Brooks, declined to say which, if any, of those claims the company planned to pursue.

The latest settlement will have little direct bearing on I.B.M.'s business, aside from providing a few hundred million dollars in extra profits. The company has moved away from building and selling personal computers and related software, largely ceding those businesses to Microsoft and hardware makers like Dell. I.B.M. now makes most of its money by providing computer services to large businesses and governments.

An antitrust expert who has closely followed the Microsoft cases said the I.B.M. and other settlements did not, and will not, have much impact on the personal computer industry.

"They are not in any way agreeing to fundamentally change how they do business," the expert, Andrew I. Gavil, a law professor at Howard University, said of Microsoft. "The only case where anyone is really holding out is the RealNetworks case. To them, if they can't get a change in that business model" - a reference to Microsoft's practices - "the cash doesn't do them much good."

In a lawsuit filed in 2003, RealNetworks contends that Microsoft has illegally stifled the growth of software that competes with Windows Media Player utility, which comes bundled together with Microsoft's operating system. RealNetworks is seeking $1 billion in damages.

The accord announced today is also unlikely to have any impact on Microsoft's appeal of a European antitrust judgment against it from last year.

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In March 2004, the European Commission fined Microsoft 497 million euros (about $613 million at the time) and ordered the company to share details of its desktop operating system with rivals. That judgment also demanded that the company make available to personal computer makers a stripped-down version of its software without its media-playing software.

Just last month, the company and the European Commission agreed to limit access to the software details that Microsoft is disclosing to a select group of rivals. The deal was fashioned specifically to prohibit open-source developers, who provide their software free, from seeing the details at least until Microsoft's appeal of the original ruling works its way through European courts.

Shortly before the close, I.B.M.'s shares were trading up 42 cents, to $74.62, on the New York Stock Exchange. Microsoft's shares were down 6 cents, to $24.78, in Nasdaq trading.

Microsoft Pays IBM $775m To Settle Suit (FT)

By Simon London In San Francisco

Financial Times, July 2, 2005

Microsoft is paying $775m to International Business Machines in the latest stage of its campaign to settle claims of anti-competitive behaviour.

The deal brings to about $4.5bn the total paid by Microsoft to settle private and class-action suits in the US. The largest software company has also paid a $600m fine to the European Commission.

IBM was among the personal computer companies found during the US government's 1998 antitrust case against Microsoft to have been harmed by anti-competitive practices. The finding paved the way for the company to pursue claims against Microsoft. It did so privately, without filing a suit.

Earlier this year, Microsoft paid $150m to Gateway, another PC maker identified in the 1998 case, based on claims that the software group used its monopoly over PC operating systems to overcharge for software and squeeze out rivals.

While the IBM settlement resolves most of the legal claims between two of the largest US technology companies, they are expected to remain fierce rivals. IBM retains the right to pursue claims relating to its server hardware and software business, although it has agreed not to do so for at least two years.

Last year, Microsoft settled outstanding litigation with Sun Microsystems by paying $1.6bn and agreeing to co-operate closely with the troubled IT systems group. The deal with IBM does not include a technology alliance.

In addition to cash payments, Microsoft has agreed to give IBM $75m of free software. Microsoft has now settled the majority of claims arising from the 1998 antitrust case.

Still pending is a $1bn suit by RealNetworks, whose multimedia software is at the centre of action against Microsoft by the European Union. Also in the pipeline is a second suit filed by Novell, which in November settled a separate case with Microsoft for $536m. A further six class action law suits backed by US states remain outstanding.

In its most recent quarter, Microsoft took a $768m charge to cover the Gateway settlement and other legal costs.

The company said it would disclose its accounting treatment for the IBM settlement when it announced quarterly earnings on July 21.

Microsoft To Settle IBM Antitrust Suit (WP/AP)

By Brian Bergstein, Associated Press

The Washington Post, July 2, 2005

BOSTON, July 1 -- Microsoft Corp. will pay $775 million in cash and $75 million in credit for software to International Business Machines Corp. to settle claims that resulted from the federal government's antitrust case against Microsoft in the 1990s, the companies announced Friday.

The payout is one of the largest that Microsoft has made since U.S. District Judge Thomas Penfield Jackson ruled in 2000 that Microsoft engaged in anticompetitive practices. Jackson's ruling cited IBM as a company that Microsoft had forced to "desist from certain technological innovations and business initiatives."

For example, Microsoft did not charge all computer makers the same amount for its Windows operating system, allegedly using higher prices as a cudgel against PC companies that did not comply with Microsoft's wishes.

IBM irked Microsoft in the '90s by pushing its own OS/2 operating system as a Windows alternative and putting its SmartSuite productivity software on IBM PCs, cutting into the market for Microsoft Office programs. IBM also was an early supporter of Java, a programming language that does not need Windows to run.

IBM had not sued Microsoft, but still pressed for retribution for the behavior cited by Jackson. Microsoft reached a similar deal with Gateway Inc. for $150 million in April.

Separately, Microsoft has spent more than $3 billion in recent years settling lawsuits by rivals, including a $1.6 billion deal with Sun Microsystems Inc. in 2004 and a $750 million truce with America Online Inc., part of Time Warner Inc., in 2003.

Redmond, Wash.-based Microsoft still faces other legal challenges, including a lawsuit by RealNetworks Inc. and an appeal of a $600 million antitrust ruling against it by European regulators.

City Not Affected By Price-fixing (EC&P)

By TOM RAITHEL, Courier & Press staff writer

Evansville (IN) Courier & Press, July 2, 2005

A representative for Irving Materials Inc. in Southwestern Indiana said Friday that the price-fixing activity for which the company was fined $29.2 million this week did not extend to the Evansville area.

Kevin Swaidner, general manager for the Southwestern Division of Irving Materials, said that the U.S. Department of Justice had made inquiries into the company's activities in Southwestern and Southeastern Indiana, and concluded that the price-fixing was confined to the central part of the state.

"We know there to be no problems with this issue" outside of Indianapolis, Swaidner said.

Gina Talamona, a spokeswoman for the U.S. Department of Justice, said Friday that the department's investigation into concrete price-fixing was continuing.

Irving Materials Inc. (IMI) was given the largest fine in U.S. antitrust history Wednesday for conspiring to inflate the price of concrete in Central Indiana between July 2000 to May 25, 2004. Four company executives pleaded guilty to price-fixing and agreed to pay fines ranging from $100,000 to $200,000 and serve five months in prison followed by five months of home detention.

Scott Hammond, chief of criminal enforcement for the Justice Department, said that the price-fixing scandal could expand to other companies. "IMI did not commit this crime on its own. It's just the first company to fess up, plead guilty and cooperate," Hammond said.

The Indiana Department of Transportation has moved to immediately halt all dealings with Irving Materials Inc. The department said it was contacting the state attorney general's office to determine what legal recourse it might have against the company. Representatives of the department could not be reached for additional comment Friday.

Meanwhile, Boyle Construction Co. of Indianapolis has filed suit against Irving Materials to recover costs. In a related case CWE Concrete Construction of Hamilton County has filed suits against American Concrete Co. of Indianapolis and Builder's Concrete & Supply Co. of Fishers, alleging the two conspired to fix prices.

Swaidner said that the Southwestern Indiana office of Irving Materials in Evansville was a separate division from the Indianapolis office, and the Evansville office made its own pricing decisions.

Concrete made in the Indianapolis area is unlikely to be used in the Evansville area. Concrete is generally made within a 20-mile radius of where it is delivered, Swaidner said.

Irving Materials, based in Greenfield, has branch offices in Louisville, Ky. and Nashville, Tenn., as well as Evansville. The company is a large supplier of concrete. In the Evansville area, the company provided concrete for both the Old National Bancorp and Vectren buildings.

Chinese Company Asks U.S. To Review Its Bid For Unocal (NYT)

By Jad Mouawad

The New York Times, July 2, 2005

The Chinese oil company fighting for control of Unocal said yesterday that it had asked a top government panel in the United States to formally review its $18.5 billion takeover offer, even as political opposition to the bid was growing in Washington.

The Chinese company, the China National Offshore Oil Corporation, or Cnooc, said it had filed a notice with the Treasury Department's Committee on Foreign Investments in the United States to look into the proposed acquisition and requested that the review be conducted "in an expeditious manner."

The recent bid by Cnooc topped an offer of $16.8 billion made in April by Chevron, but threatens to be derailed by American lawmakers opposed to oil and gas assets being snapped up by a Chinese company.

Cnooc is racing against an Aug. 10 deadline, when Unocal shareholders get to vote on the Chevron offer. Cnooc hopes that by pressing for a quick review by the government it can assuage concerns that the takeover will drag on for months and persuade Unocal shareholders to turn down Chevron's bid. While Cnooc and Unocal's management are currently in talks, Unocal's board is still recommending Chevron's offer to its shareholders.

"It's a political decision for Cnooc to file for review," said Nancy McLernon, the deputy director of the Organization for International Investment, a business association that represents American subsidiaries of foreign companies, but does not represent Cnooc.

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"They want the clock to start as soon as possible," she said, "and are actually responding to the concerns on Capitol Hill. This is not typically done in M.& A. activities."

Separately yesterday, the chairman of the House Energy and Commerce Committee, Representative Joe Barton, Republican of Texas, said he would hold a hearing on Cnooc's bid after Congress returns from the Independence Day recess. His comments came a day after Representative Carolyn Cheeks Kilpatrick, Democrat of Michigan, won passage of an amendment to the annual appropriations bill that would prevent the committee from reviewing the bid.

That committee, headed by the secretary of the Treasury, looks at foreign acquisitions that have national security implications for the United States and can make a recommendation to the president to block the purchase. Since 1988, 1,500 cases were filed, but only one was blocked on national security grounds - the 1990 sale of a Seattle-based airplane parts maker, Mamco Manufacturing, to a military-related agency of the Chinese government.

Cnooc said yesterday that "once all the facts are known and the commercial purpose and terms of the transaction are fully understood, many initial misimpressions will be corrected, and many doubts and questions will be favorably resolved."

Chinese Firm Gives U.S. Details Of Bid To Buy Unocal (WP)

By Jonathan Weisman

The Washington Post, July 2, 2005

China's CNOOC Ltd. energy company submitted its $18.5 billion bid for Unocal Corp. to the federal government for a national security review yesterday, hoping to jump-start the regulatory process while it allays political concerns in Washington.

Typically, such reviews -- carried out by the interagency Committee on Foreign Investment in the United States, or CFIUS -- do not begin until a takeover bid is accepted. But by making its request quickly, CNOOC, which is 70 percent owned by the Chinese government, hoped to signal wary U.S. lawmakers that the company recognizes their concerns and is ready to cooperate. Company officials also hope to convince Unocal shareholders that U.S. regulatory requirements would not unduly delay a deal's completion.

CNOOC's unsolicited bid last week to wrest Unocal from it U.S. suitor, Chevron Corp., has deepened anti-Chinese animosity in Washington. By a vote of 333 to 92, the House on Thursday passed an amendment to an appropriations bill that would bar the Treasury Department -- which leads CFIUS -- from spending any money to approve the CNOOC takeover.

CNOOC has shored up its political position, retaining the law firm Akin Gump Strauss Hauer & Feld LLP to handle its lobbying, and Public Opinion Strategies, a firm with ties to the Bush White House, to lead its public relations. Chevron has been at least as active, mobilizing its Washington office and its large number of contract lobbyists, according to corporate lobbyists familiar with the oil giant's effort.

Chevron, which has offered Unocal shareholders $16.5 billion in cash and stock, yesterday revealed it had already offered promotions to 25 top Unocal executives, available if shareholders accept Chevron's offer. Of those, 20 have already accepted, said Chevron spokesman Charles R. Stewart.

In an interview this week, Chevron Vice Chairman Peter J. Robertson said few Unocal workers outside the company's Southern California headquarters would lose their jobs in an acquisition, implying that CNOOC could make no such promise. The promotions could entice senior Unocal executives to pressure shareholders, while signaling again that a Chevron takeover would be quick and seamless.

Unocal shareholders cannot consider the CNOOC bid until after Aug. 10, when they are scheduled to vote on Chevron's offer, Robertson said. If Chevron is rejected, then CNOOC would begin its regulatory process and security review.

"They're in for a long and drawn-out process," Robertson said.

But Mark Palmer of Public Opinion Strategies said the process would be faster than Chevron depicts. A CFIUS review that finds no threat to national security in a foreign takeover can take less than 30 days, and there is precedent for the process to begin before a takeover bid is formally accepted, he said.

"We want to provide timing and certainty to Unocal stockholders for our superior offer," Palmer said, "and we want the committee to begin the process as soon as possible."

CNOOC Seeks US Review Of Unocal Bid (FT)

By Stephanie Kirchgaessner In Washington And Joe Leahy In Hong Kong

Financial Times, July 2, 2005

China National Offshore Oil Corporation said on Friday it had filed notice on its proposed $18.5bn merger with Unocal with the US government committee that reviews foreign acquisitions.

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The move to alert the committee on foreign investments, an interagency panel chaired by the Treasury department, is a significant step for CNOOC in its attempt to take over Unocal, a California-based energy group that has accepted a lower offer from Chevron, the US oil giant.

It is not clear whether the CFIUS will proceed with the review because Unocal has so far indicated it continues to favour Chevron's bid.

"A review begins when the committee has received the requisite filings from both parties in the proposed transaction and has made a judgment that the acquisition will be successful - that it is likely," the Treasury department said.

CNOOC's approach to CFIUS emerged as both bidders said they had agreed to retain Unocal executives after any merger.

Although the discussions between CNOOC and Unocal took place before Chevron's offer in April, it is understood that key figures would be willing to remain in place if CNOOC's bid were successful.

Chevron is also wooing Unocal executives. Peter Robertson, Chevron's vice-chairman, said it had offered 20 Unocal executives jobs in a merged entity and they had accepted, indicating the two rivals are keen to secure management talent as well as the backing of shareholders.

Mr Robertson also raised the prospect of referring CNOOC's bid to the World Trade Organisation on the grounds that support from the Chinese government meant the proposed deal was not a purely commercial transaction.

In response, CNOOC on Friday said: "The process of regulatory review for this takeover is entirely clear. We're expecting to proceed to a CFIUS review which will give us the opportunity to fully explain our offer."

CFIUS, whose members include representatives from the Justice Department, Commerce, Defense and Homeland Security, is mandated by law to examine foreign acquisitions of US assets or companies on national security grounds.

CNOOC said the committee's regulations required that Unocal respond to questions on the proposed transaction within seven days of a CFIUS request.

"We have given Unocal certainty with regard to our proposal . . . and assurances with regard to the regulatory approval process," said Yang Hua, CNOOC's chief financial officer.

If CFIUS agrees to review the proposed bid, the committee can examine the deal for 30 days.

If it determines that the deal should be investigated, the probe must be completed within 45 days. CFIUS then makes a recommendation to the US president, who has 15 days to act.

CNOOC Asks U.S. Panel To Review Unocal Bid (REU-Y2)

By Ben Berkowitz

Reuters, July 2, 2005

China's CNOOC Ltd. on Friday said it asked a top-level U.S. government panel to review its proposed merger with oil and gas producer Unocal Corp. in an effort to advance its politically charged $18.5 billion bid.

The Chinese oil company's offer topped a $16 billion-plus cash and stock offer from San Ramon, California-based Chevron Corp., which Unocal has accepted.

A spokesman for Unocal, which is headquartered in El Segundo, California, told Reuters the company was not involved in CNOOC's request for a review from the Committee on Foreign Investments in the United States. He added that the two sides do not have an agreement that would necessarily spur CNOOC to request a review.

"What Unocal is doing is saying -- look we're not going to be party to help (CNOOC) in their efforts to try to get clearance," said James Halloran, an analyst with National City Private Client Group which manages $33 billion in assets. His firm has 18,400 Unocal shares and 2.1 million shares of Chevron. "It's more money but management must show good faith .... they signed an agreement."

CNOOC, whose largest shareholder is the Chinese government, has said from the outset of its offer that it wanted a review. The interagency committee, known as CFIUS, considers proposed acquisitions of U.S. corporations by foreigners where national security might be a concern.

CFIUS will not begin its work until it has received what it calls a complete notification. If the panel accepts the application for review, it has 30 days to decide whether to launch a full investigation.

"If one party, either side, thinks it's in the interest to either get over the CFIUS hurdle or, perhaps in some cases, fend off an unwelcome offer through raising the CFIUS hurdle, the law and regulations permit them to do that," said Cecil Hunt, a lawyer at Harris, Wiltshire & Grannis LLP in Washington who worked on CFIUS matters at the Commerce Department.

A person close to the deal with expertise on CFIUS said CNOOC's filing included significant information about Unocal, but that it was ultimately up to the committee to decide whether the notification was complete.

"I have every reason to believe they will follow their own regulations and turn around and send a letter to Unocal asking them for information," the person said.

POLITICAL BACKLASH

CNOOC's bid for Unocal has become a complicating factor in the diplomatic jostling between China and the United States over currency and trade issues. It also comes at a sensitive time when oil is trading near record highs, and both countries are intent on securing energy resources.

The U.S. House of Representatives voted overwhelmingly Thursday to add an amendment to an appropriations bill that would bar the Treasury Department from spending any money to recommend approval of the CNOOC bid for Unocal. If signed into law, the measure would not take effect until Oct. 1.

The House also passed a nonbinding resolution calling on President Bush to request an immediate review of the deal. Rep. Joe Barton (news, bio, voting record), the chairman of the House Energy and Commerce Committee and co-sponsor of the resolution, called for a hearing on the CNOOC bid.

Barton, a Texas Republican, called CNOOC "a front company for the Communist Chinese government."

CNOOC's request for the government review was made before the two House votes.

Late Friday, Chevron denied what it said were media reports it was going to seek intervention from the World Trade Organization on the CNOOC bid.

VOTE APPROACHING

Unocal shareholders are set to vote Aug. 10 on the offer from Chevron. Until then, Chevron says, CNOOC and Unocal cannot sign a deal unless Chevron is paid a $500 million breakup fee.

As of Friday afternoon the Chevron offer valued Unocal at about $60 per share compared with a $67 offer from CNOOC. Unocal shares were up 26 cents at $65.31.

Given that the CNOOC offer is more attractive financially, many investors have said the only real hurdle is political opposition that could slow down the acquisition. Chevron's offer already has all the necessary regulatory approvals.

"If the shareholders vote to approve the Chevron deal, which we hope and think they won't, then there's nothing left for the committee to review," the person familiar with the deal said.

(Additional reporting by Jeremy Pelofsky and Chris Baltimore in Washington and David Brinkerhoff in New York)

ENVIRONMENT:

Future Of Salmon Leads To Dispute Over Federal Dams (WP)

By Blaine Harden

The Washington Post, July 2, 2005

Behold the slab of concrete called Little Goose -- ground zero in the salmon wars that are escalating across the Pacific Northwest.

Little Goose has turbines for power, locks for river transport and a Rube Goldberg device for distilling young salmon out of the river, sorting them by size, and hosing them into trucks and barges for passage downriver.

This hulking gizmo has become part of the "environmental baseline" here on the Snake River. At least that is how the Bush administration characterizes Little Goose and 13 other federal dams on the Snake and Columbia rivers.

This characterization, though, has stuck in the craw of a federal judge. In his courtroom in Portland, Ore., U.S. District Judge James A. Redden described the administration's 2004 biological opinion -- it says dams are an ineluctable part of the river's environmental baseline -- as a document written "more in cynicism than in sincerity."

The sincerity of the administration's policy is also being questioned by some scientists who work for the National Oceanic and Atmospheric Administration Fisheries Service, according to a survey of agency employees released Tuesday by the Union of Concerned Scientists and Public Employees for Environmental Responsibility. It found that about two-thirds of those surveyed did not believe the agency, responsible for protecting endangered fish and their habitat, was effectively doing its job. More than half of respondents said they knew of cases in which "commercial interests" or senior administration officials have "inappropriately" influenced agency decisions.

Results of the survey, which went to 460 science professionals and had a response rate of 27 percent, are similar to those of a survey early this year of scientists at the U.S. Fish and Wildlife Service.

The chief science adviser at NOAA Fisheries challenged the latest survey, saying it obtained responses from only 6 percent of more than 2,000 agency scientists. Steven Murawski said the survey itself is poor science because it was not sent to "the overwhelming number of our science professionals."

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In Portland, Redden has tossed out as "legally flawed" the administration's 2004 biological opinion for the Columbia and Snake. He declared that it "ignored the reality of past, present and future effects" of dams on 12 species of endangered fish. Before the dams were built, these rivers were conduits for the world's premier salmon run.

"As currently operated, I find that the DAMS strongly contribute to the endangerment of the listed species and irreparable injury will result if changes are not made," Redden wrote.

To that end, he supported a request from the National Wildlife Federation and other salmon advocates, ordering that water be spilled over Little Goose Dam and other dams in the lower Snake. The spill started June 20. Spilling water over dams keeps migrating juvenile fish in the river, while keeping them out of turbines that often kill them. When less water goes through its turbines, though, Little Goose produces less electricity. Through the end of August, this dam will spill water that would be worth $267,288 a day, if it had been fed into turbines to generate electricity, said Carl Knaak, operations manager at the dam.

The total tab for the spill ordered by Redden will come to about $67 million, according to the Bonneville Power Administration (BPA), which sells power from federal dams in the Northwest and adamantly opposes the spill. For the average electricity customer whose utility buys all its power from BPA, the cost will be relatively low. It will require an increase of about 1.2 percent in the monthly bill (about 87 cents), said Ed Sheets, a private consultant with expertise in the Northwest hydro system.

The spill -- and Redden's coruscating language in tossing out the government's approach to running the river -- appears to have angered the Bush administration. The Justice Department tried last month -- and failed -- to persuade the U.S. Court of Appeals for the 9th Circuit in San Francisco to issue an emergency order to stop the spill. Last week that court also ruled against the administration on another salmon dispute, upholding a Seattle federal court ruling that the Environmental Protection Agency violated the Endangered Species Act by failing to protect salmon from harmful pesticides.

In the dispute over the spill, the 9th Circuit has ordered an expedited hearing on the government's appeal to the Redden ruling.

The Justice Department argues in its appeal that keeping endangered salmon in the dammed-up river -- rather than barging or trucking them around federal dams -- is "judicial experimentation."

"A federal judge just isn't in a position to step in and decide how to operate the system," said Fred Disheroon, special litigation council for the Justice Department on the salmon issue. "The judge is ordering something that is untested and in our view puts the fish at greater risk."

Research has shown that nearly all fish transported around the dams survive the ride, but it has not conclusively shown that trucking or barging them is better or worse for the longtime survival of salmon as compared with letting them swim in the river and negotiate the dams.

Dams kill juvenile salmon in a number of ways: in turbines; in the slow-moving, relatively warm reservoirs between dams; and by stunning them in a way that makes them vulnerable to predators.

If the government does not win its appeal, Disheroon said, it might invoke a rarely used provision of the Endangered Species Act, which would convene a Cabinet-level committee informally called the "God Squad." After a lengthy public process, the committee could decide that economic concerns justify the extinction of endangered fish.

Given the judge's decision, Disheroon said, "it may not be possible to come up with a way to avoid jeopardy for these fish."

Lawyers for the environmental groups that sued the government argue that it is absurd for the Bush administration to argue that keeping salmon in the river is an untested and risky plan.

"The science is clear. If we want to bring the salmon back, we have to be willing to make the hydrosystem work more like a natural river," said Todd True, a staff attorney for Earthjustice. "The Bonneville Power Administration thinks it owns the river, and they don't want to give it up -- not one drop."

Behind the legal arguments that are swirling this summer around the river system lie two long-held and diametrically opposed views about what should happen to Little Goose and three other dams in the lower Snake River.

Environmental groups, some state fish agencies and many salmon biologists argue that removing the dams is the only possible way to prevent wholesale extinction of Snake River salmon. It is an argument that dates back six decades -- well before Little Goose and its sister dams were built in the 1960s and '70s.

In 1946, the chief of fisheries for the Oregon Fish Commission warned about what the four Snake River dams would do: "All western biologists with whom I have talked agree that this plan, if followed, will spell the doom of salmon and steelhead migration up the Snake."

But the dams are now embedded into the economic status quo of the Northwest -- producing power and enabling river transport and irrigation. The federal government has promised to spend billions of dollars in coming years to find better mechanical fixes for moving salmon around dams.

At the top of the Bush administration, the signal is clear: President Bush has himself come to the lower Snake and pledged that dams such as Little Goose will never be removed.

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Proposals Stiffen Standards On Air (WP)

By Juliet Eilperin

The Washington Post, July 2, 2005

Environmental Protection Agency staff members proposed tightening the nation's air pollution standards yesterday, a move that environmentalists said could save the lives of thousands of Americans.

Aides to EPA Administrator Stephen L. Johnson outlined two scenarios in their report on what should be the acceptable nationwide level for "fine particulate matter," the soot that invades people's lungs and causes respiratory ailments. Both scenarios would slash the amount of small particles in the air, although one proposal would go significantly further than the other.

Under standards set in 1997, soot levels should not exceed 15 micrograms per cubic meter of air on an annual basis, or 65 micrograms during a single 24-hour period. EPA aides said yesterday that the agency could either maintain the annual soot standard but reduce the daily level to between 25 and 35 micrograms, or reduce the annual limit to as low as 12 to 15 micrograms per cubic meter of air and cap the 24-hour level at between 25 and 40 micrograms.

Public health advocates, who back the more stringent proposal, hailed the EPA for moving to curb harmful air pollution. According to the EPA, fine particulate matter, which is one-thirtieth the width of a human hair, accounts for 5,000 premature deaths each year in nine cities: Boston, Detroit, Los Angeles, Philadelphia, Phoenix, Pittsburgh, St. Louis, San Jose and Seattle.

"These standards could provide the Bush administration with a historic opportunity to protect public health," said Frank O'Donnell, who heads the advocacy group Clean Air Trust.

Cities and communities across the country have to meet the air standards or risk facing a series of penalties, including lost federal highway funds. The federal government also tailors new rules, such as the recently unveiled Clean Air Interstate Rule, to conform with national soot standards.

Some industry groups, however, oppose tightening the standards on the grounds that they can hamper economic growth.

Bryan Brendle, director of air quality issues at the National Association of Manufacturers, said state and local officials tend to target manufacturers in an effort to comply with stricter standards, which "imposes compliance costs on industry." He added: "At NAM, we try to balance environmental quality with increased economic growth."

Many communities are still struggling to meet the nation's 1997 guidelines. According to a recent EPA report, about 88 million Americans are breathing air that fails to meet federal standards.

George Thurston, an associate professor at New York University Medical Center, said researchers have learned enough over the past decade to insist that federal officials need to adopt stricter air pollution standards.

"While it sounds like an academic debate, it provides protection for all of us across the country," Thurston said.

In a statement issued yesterday, the agency did not say which approach Johnson, who is required to make a decision on the final air quality proposal by Dec. 20, would adopt. It did say, "The reduction of fine particle pollution is a critical element of the administration's comprehensive national clean air strategy."

The new standards are supposed to take effect by Sept. 27, 2006.

FBI/DEA/ATF/USMS:

New Book On Watergate Fleshes Out Deep Throat (NYT)

By Michael Janofsky

The New York Times, July 2, 2005

From start to finish, W. Mark Felt was a bureau guy, a true believer, an officer sworn to uphold the security of the country against all manner of enemies, whether they were bank robbers, domestic terrorists, foreign spies - or, as Bob Woodward writes in his latest book, the highest official in the land.

And so, Mr. Woodward concludes in "The Secret Man," a chronicle of his sometimes tense relationship with Mr. Felt, it was not the 1972 burglary of the Democratic National Committee office in the Watergate apartments that compelled Mr. Felt to become a secret source for Mr. Woodward and his Washington Post reporting partner, Carl Bernstein. It was President Richard M. Nixon.

Mr. Felt, then the second-ranking official at the Federal Bureau of Investigation, "never really voiced pure outrage to me about Watergate or what it represented," Mr. Woodward writes in the book, which is scheduled for release next week. "The crimes and abuses were background music. Nixon was trying to subvert not only the law but the bureau. So Watergate became Felt's instrument to reassert the bureau's independence and thus its supremacy. In the end, the bureau was damaged, seriously but not permanently, while Nixon lost much more, maybe everything."

"By surviving and enduring his hidden life," Mr. Woodward adds, "in contrast and in his own way, Mark Felt won."

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Mr. Woodward's book adds little to the basic story line of the Watergate case, even as it continued with the disclosure last month by Vanity Fair magazine that Mr. Felt was the source who became known as Deep Throat. But it does provide texture regarding the lengths to which Mr. Felt, now 91, and Mr. Woodward would go to maintain their secret.

Mr. Woodward, an assistant managing editor at The Post, also writes of efforts, starting in 2000, to reconnect with his source to learn his motivations of decades before. Mr. Woodward describes telephone calls and visits to Mr. Felt in Santa Rosa, Calif., that, owing to Mr. Felt's failing memory, left his most burning questions unanswered.

While the 249-page book is clearly Mr. Woodward's, he gives Mr. Bernstein modest room at the end for "A Reporter's Assessment," allowing him to share the spotlight after Mr. Felt's identity was disclosed. Mr. Bernstein, a contributing editor to Vanity Fair who admits he knew nothing of the magazine's scoop, offers his own view of how assiduously the pair worked to keep Mr. Felt's identity a secret.

And it was a secret well kept, as Mr. Woodward writes, with only rare instances when it was threatened - once by Mr. Felt himself.

Mr. Woodward recalled learning from an assistant attorney general, Stanley Pottinger, in 1976 that Mr. Felt seemed to betray himself during testimony before a grand jury. By Mr. Woodward's account, Mr. Pottinger said that after he and other lawyers had finished their questions, a member of the jury asked Mr. Felt if he was Deep Throat.

Mr. Pottinger told Mr. Woodward that Mr. Felt "looked so stunned, he seemed to go white."

Mr. Felt answered that he was not, but Mr. Pottinger's suspicions were aroused. He approached Mr. Felt and asked him in a whisper if he would prefer that the juror's question be withdrawn.

"Withdraw the question," Mr. Felt replied quickly, convincing Mr. Pottinger of his secret role.

After hearing the account from Mr. Pottinger, Mr. Woodard wrote, "I was jumping out of my skin."

Much of what Mr. Woodward learned from Mr. Felt came from meetings at an otherwise ordinary underground parking lot in Rosslyn, Va., just across the Potomac River from Georgetown.

By prior arrangements, Mr. Woodward would move a flower pot on his apartment balcony, a signal to Mr. Felt that he needed to ask him questions, and Mr. Felt would indicate a time by writing it on page 20 of Mr. Woodward's home-delivered copy of The New York Times.

That usually meant a wee-hours rendezvous at the bottom level of the garage. Always concerned about disclosure and the possibility that someone might follow Mr. Woodward to learn the identity of his source, Mr. Felt advised Mr. Woodward how to travel.

"Take the alley," he said, as Mr. Woodward writes. "Don't use your own car. Take a taxicab to a point several blocks from a hotel where there are cabs after midnight. Get dropped off and then walk to get a second cab to Rosslyn. Don't get dropped off directly at the parking garage. Walk the last several blocks. If you're being followed, don't go down to the garage. I'll understand if you don't show."

IMMIGRATION:

U.S. Extends Work Permits For Some (AP-Y2)

AP2, July 2, 2005

Immigration officials announced Friday that they will extend work permits for Hondurans and Nicaraguans with temporary protected status.

U.S. Citizenship and Immigration Services said the automatic, 90-day extension will apply to employment authorization documents with a Jan. 5, 2005, expiration date and a category of "A-12" or "C-19." Affected people do not need to report to or call a CIS office.

Officials first offered temporary protected status in 1998 to illegal immigrants from Honduras and Nicaragua after their countries were devastated by Hurricane Mitch. The immigrants' protected status has been renewed several times since.

In November 2004, CIS extended work permits for people from those two countries through July 5, 2005. Protected immigrants were required to get new documents by the beginning of July, but CIS said in a statement Friday that the agency would not be able to process all the forms by then because of the unexpectedly large number of applicants. The new Oct. 5 deadline will give CIS time to get through more paperwork.

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On the Net:

U.S. Citizenship and Immigration Services: http://uscis.gov

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TAX:

3 Yahweh Defendants Sentenced To Prison (ACP)

By ANDREW JOHNSON, Staff Writer

Atlantic City (NJ) Press, July 2, 2005

CAMDEN - Facing their fate in front of a federal judge, Joseph and Inge Donato stood side by side, holding hands, with Inge resting her head slightly against her husband's shoulder.

To the end, members of the Restored Israel of Yahweh remained united in faith and with each other.

A federal judge said he was impressed with the sincerity of the group's beliefs but less impressed with their sincerity in trying to obey the law.

U.S. District Court Judge Jerome B. Simandle sentenced Joseph Donato to 27 months and Inge Donato to six months in prison for their conviction on numerous tax-related charges Friday. Another senior member of the Hamilton Township biblical sect, Kevin McKee, received a prison sentence of 24 months.

All three defendants had fines levied against them and will have to file delinquent tax returns when they leave prison for the years they never paid the government.

A jury found in December that the members of the religious sect were guilty on 19 counts of conspiracy to defraud the government, tax evasion and failure to file taxes. The three say they do not pay federal taxes because they do not support war. McKee, in a pre-sentence report, indicated that a prison sentence was not likely to significantly alter that position.

There was little reaction after the sentencing in the courtroom filled with followers of the religion or from the defendants themselves.

Inge Donato alone received a sharply reduced sentence that departed from federal guidelines because of a mental condition she suffers from. After interviewing the 44-year-old Mays Landing woman, a social worker recommended the reduced sentence. The nature of the condition was never discussed in open court. Allusions were made to a childhood trauma and a subsequent fragile nature.

McKee's attorney, Rocco Cipparone, said afterward that his client was disappointed about the prison sentence. "It was not his intention or goal." That said, he was not surprised. Cipparone said that he will file an appeal on McKee's behalf with the same court.

Post-sentence commentary from Internal Revenue Service spokesman Al Drucker was short and to the point: "The taxpayer does not have the right to disobey tax law."

Although the jury took roughly four hours to convict all three defendants, Simandle took two days to handle their sentencing, saying that he was determined to get it right.

Simandle said he never doubted the religious members' convictions, and more than one defendant thanked the judge for his conduct during the trial.

In the end, though, Simandle did not cut the two male defendants a break, and said that he had mixed feelings about the group's actions.

Members of the sect believe God will destroy the Earth and set up a holy kingdom of resurrected souls. They also believed that their deceased spiritual leader Leo Volpe was the prophet Jeremiah.

"I have strong reservations about the way the belief was acted on," Simandle said.

The judge said that there are many ways to protest war, as others have shown. Simandle said the Yahweh group chose to ignore all taxes, including state taxes, and monies set aside for social programs such as Workman's Compensation and Social Security.

In his closing argument, Andy Kameros, a trial attorney with the Tax Division at the Justice Department, said that by not paying taxes for war, the group essentially pocketed the money for themselves.

"It is neither pure or unpure," Simandle said about the group's motive to not pay taxes.

McKee and Inge Donato must report to prison Aug. 8. Joseph Donato is allowed to report a week later and say goodbye to his wife before she is incarcerated.

Economic Growth, Tax Receipts Combine To Reduce Deficit (WP)

By Jonathan Weisman

The Washington Post, July 2, 2005

An unanticipated surge of tax payments may push the 2005 federal budget deficit as much as $100 billion below official forecasts, leaving Republicans to claim vindication in their theory that lowering tax rates actually boosts tax receipts.

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In addition, this week the Commerce Department reported a solid economic growth rate of 3.8 percent for the first three months of 2005, an improvement on the earlier 3.5 percent estimate and more ammunition for Republican boasts that their tax cuts are the cause of this performance.

"Sustained, strong . . . growth confirms that our policies continue to boost the economy and tax revenues," said Rep. Jim Nussle (R-Iowa), chairman of the House Budget Committee.

But senior budget analysts, including the Republican who heads the Congressional Budget Office, cautioned this week that higher tax revenues may be a one-time phenomenon that in no way addresses the nation's grave deficit challenge.

Much of the increase could stem from temporary factors, said CBO director Douglas Holtz-Eakin, a former Bush White House economist. The major corporate tax cut of 2004 provided a one-year "tax holiday" for multinational corporations to bring home overseas profits at a reduced tax rate, and companies may be responding aggressively. Also, a large tax break for business investment ended Dec. 31, effectively raising some corporate tax rates this year, Holtz-Eakin said.

Finally, strong stock market gains last year, coupled with lingering jitters from the market swoon of 2000, may have produced strong executive bonuses and a rush to cash in stocks and stock options, other economists said.

"I find it difficult to get as excited about this as some people" are, Holtz-Eakin said.

For longtime champions of supply-side economic theory, the excitement is palpable. Since the political rise of Ronald Reagan, such conservative economists have contended that cuts in income tax rates and in taxes on investment income would generate economic growth that would in turn produce more revenue, possibly enough to pay for the tax cuts. The theory was popularized by economist Arthur Laffer and his Laffer curve.

The government's take this tax season validates that theory, conservatives say. On a single day, June 15, the Treasury took in a record $61 billion. Through June 30, three-quarters of the way through the fiscal year, receipts indicate the Treasury will reap $80 billion to $100 billion more in taxes than the CBO predicted in January. Individual tax payments have risen 21 percent beyond their level at this time last year. Corporate tax receipts are 48 percent ahead.

Despite slightly higher-than-expected spending, the federal deficit could come in at $325 billion to $350 billion, significantly better than the White House's $427 billion projection or the CBO's $400 billion forecast. Some Wall Street economists say the deficit could be as low as $300 billion.

"The numbers are an eye-popping vindication of the Laffer curve and the Bush tax cut's real economic value," anti-tax activist Stephen Moore wrote in the Wall Street Journal.

Michael T. Darda, chief economist of the Connecticut equity firm MKM Partners LLC, estimated that economic growth generated by the Bush tax cuts would generate $1.5 trillion in tax receipts over the next decade, nearly enough to recoup all the revenue loss expected due to lower rates. Writing for the conservative National Review, Darda blasted the "no-growth neo-Malthusian Democrats" and the "root-canal contingent" of the GOP who continue to fret over the budget impact of tax cuts.

Still, if the tax cuts are now yielding a rising tax take, the effect was certainly not immediate. The major tax cut of 2001 and further cuts in each of the last three years were followed by an unprecedented three-year decline in nominal tax revenues, from $2 trillion in 2000 to $1.8 trillion in 2003. Revenues recovered last year, reaching nearly $1.9 trillion. But at 16.3 percent of the gross domestic product, last year's revenue total, measured against the size of the economy, was the lowest level since 1959.

Robert Carroll, the deputy assistant Treasury secretary for tax analysis, was cautious about attributing this year's rising tax receipts to any single factor. It will be some time before the Treasury can decipher how much of the rush is attributable to capital gains and dividend taxes directly related to the Bush tax cut of 2003, Carroll said. But he did indicate the increased tax flow will be reflected not only in the administration's updated deficit forecast for 2005 but also in its long-term forecast when that is released July 15.

That has Democrats -- and some economists -- worried.

"My concern is you're going to have exactly this kind of talk, and what it does is undermine the real need, which is to cut the deficit," said Edward McKelvey, an economist and federal budget analyst at Goldman Sachs in New York. "That's dangerous."

Even a $300 billion deficit would be the third largest ever in nominal dollars, said John M. Spratt Jr. (D-S.C.), the ranking Democrat on the House Budget Committee. Moreover, the major budget challenges are yet to come. The Medicare prescription drug benefit goes into effect next year. The alternative minimum tax, which was created to ensure that the rich pay taxes but is now taking an ever larger bite out of the middle class, has yet to be permanently fixed. And war costs have still not been counted in future deficit projections.

"It's good news," Spratt said of the improving deficit picture, "but no one should assume it's going to continue, and above all nobody should get euphoric and assume we're going to grow our way out of this deficit."

Business investment and stock-price gains have slowed from last year, Holtz-Eakin cautioned, possibly indicating that the government is not seeing the kind of sustained tax gains that drove the deficit into surplus in the late 1990s. CBO is not likely to

project the 2005 gains too far into the future, Holtz-Eakin said, especially considering that the huge liabilities of Medicare and Social Security remain unaddressed.

"I do hope people are taking this with a grain of salt and not thinking this is 1998 all over again," Holtz-Eakin said. "There's simply no question if you take yourself to 2008, 2009 or 2010, that vision is the same today as it was two months ago."

CONGRESS-ADMINISTRATION:

Bush Gets First Chance For Court Nominee (AJC/AP)

By Deb Riechmann

The Atlanta Journal-Constitution, July 2, 2005

President Bush said Friday he would nominate his first Supreme Court justice quickly enough that the vacancy of retiring Sandra Day O'Connor could be filled by the time the court resumes work in the fall.

The White House said there would be no announcement before he returns from Europe next Friday.

"I will be deliberate and thorough in this process," said Bush in the Rose Garden where he praised O'Connor's 24 years on the court.

Bush will consult with Republican and Democratic senators about his selection, said presidential spokesman Scott McClellan. The president plans to review briefing material on potential nominees on the flight to Denmark next Tuesday and during his stay Wednesday through Friday at a summit of leading industrialized nations in Scotland.

The White House got the first indication of the retirement on Thursday when the Supreme Court's head marshal, Pamela Talkin, called White House Counsel Harriet Miers to make arrangements to deliver a sealed envelope the next morning. Miers informed Bush and Vice President Dick Cheney, who were having lunch together, that a letter was coming.

Talkin told the White House around 9 a.m. Friday that the letter was from O'Connor, and Miers alerted Bush.

After receiving word that the letter had been delivered to the White House, Supreme Court spokeswoman Kathy Arberg handed out copies to reporters who were gathered outside her office at 10:20 a.m.

By then, Bush was chatting on the phone with O'Connor.

"For an old ranching girl, you turned out pretty good," he told O'Connor, who grew up on an Arizona ranch. It was an emotional, five-minute call, McClellan said.

He quoted Bush as telling O'Connor, "You're one of the great Americans" and "I wish I were there to hug you."

After talking with O'Connor and before going to the Rose Garden, Bush held a meeting with senior advisers to talk about the selection process. The meeting included Cheney; Miers; Lewis "Scooter" Libby, the vice president's chief of staff; Attorney General Alberto Gonzales; Deputy Chief of Staff Karl Rove and Counselor Dan Bartlett. Chief of Staff Andy Card participated by telephone from Maine.

"We have had a plan in place ... just in case there was a vacancy," McClellan said.

Anticipating what could be a tough battle in the Senate when he returns from Europe, Bush called for civility in the confirmation process.

"The nation deserves and I will select a Supreme Court that Americans can be proud of," Bush said. "The nation also deserves a dignified process of confirmation in the United States Senate — characterized by fair treatment, a fair hearing and a fair vote."

McClellan said the White House would consult with Majority Leader Bill Frist and Minority Leader Harry Reid as well as leaders of the Judiciary Committee, and he expressed hope that Democrats would not block a vote on the president's pick.

"I can't imagine that the Democrats would want to engage in controversial tactics when it comes to a nominee for the Supreme Court," he said.

In the Rose Garden, Bush praised O'Connor as "a discerning and conscientious judge and a public servant of complete integrity." He said he would pick her successor in a timely manner so the vacancy could be filled by the time the court resumes work in October.

He pledged to consult with senators about his choice.

There had been speculation that Chief Justice William H. Rehnquist would step down. Now, the White House has to re-examine its thinking because it faces a vacancy caused by the resignation of a moderate conservative woman instead of the more conservative Rehnquist.

A short list of candidates distributed in the White House within the past week did not include the names of any women or minorities, said one official, speaking on condition of anonymity because of the private nature of the selection process. But Bush has said in the past he would like to name a Hispanic to the court.

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Bush will have an opportunity to consider his choice during the July Fourth holiday weekend at the presidential retreat at Camp David in Maryland's Catoctin Mountains.

"I have directed my staff, in cooperation with the Department of Justice, to compile information and recommend for my review potential nominees who meet a high standard of legal ability, judgment and integrity, and who will faithfully interpret the Constitution and laws of our country," he said.

Bush has said in the past that he favors the judicial philosophy of Justices Antonin Scalia and Clarence Thomas. The president has said repeatedly that judges should not "legislate from the bench," meaning that their opinions should not be swayed by social or cultural trends.

Bush Revisits Options (WT)

By Joseph Curl

The Washington Times, July 2, 2005

The White House was caught off guard yesterday when Supreme Court Justice Sandra Day O'Connor announced her retirement, forcing top administration officials, who had been readying for the departure of the court's conservative chief justice, to reconsider its options.

Bush administration officials already have interviewed some top candidates for the nation's highest court, but the group of contenders were front-runners to replace the ailing, 80-year-old Chief Justice William H. Rehnquist, not to fill the seat of the court's first female justice, who is considered moderate.

Now the small group of top candidates, which includes Attorney General Alberto R. Gonzales, 49, and three appeals court judges, Samuel Alito, 55, J. Michael Luttig, 51, and John Roberts, 50, is expected to expand to contain more women.

Court authorities consider Edith Hollan Jones, 56, and Edith Brown Clement, 57, both judges on the 5th U.S. Circuit Court of Appeals, as possible contenders, and also think White House Counsel Harriet Miers, a longtime Bush confidante, is in the mix.

Besides possible pressure to nominate a woman to the court, Mr. Bush's political base will lobby to replace Justice O'Connor, whose swing vote supported abortion and affirmative action, with a more conservative voice.

The White House got the first indication of Justice O'Connor's retirement about noon on Thursday. Pamela Talkin, the Supreme Court's head marshal, called Mrs. Miers to tell her that she had a sealed envelope to deliver the next morning.

The marshal did not say who the envelope was from or what it contained. After the notification, Mrs. Miers told Mr. Bush and Vice President Dick Cheney, who were having lunch together, that a letter was coming from the Supreme Court the next day.

About 9 a.m. yesterday, Mrs. Talkin told the White House that the letter was from Justice O'Connor, and Mrs. Miers alerted the president.

A few minutes later, the president spoke with Justice O'Connor in what the White House described as a brief but emotional phone call.

"For an old ranching girl, you turned out pretty good," he told the El Paso, Texas, native, who grew up on an Arizona ranch. She laughed, White House spokesman Scott McClellan said.

After talking with Justice O'Connor and before going to the Rose Garden, Mr. Bush held a meeting with senior advisers to talk about the selection process.

The meeting included Mr. Cheney; Mrs. Miers; Lewis "Scooter" Libby, the vice president's chief of staff; Mr. Gonzales; Deputy Chief of Staff Karl Rove and Senior Counselor Dan Bartlett. Chief of Staff Andrew H. Card Jr. participated by telephone from Maine.

Mr. Bush yesterday pledged to seek input from Congress on his nomination and said "the nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote. I will choose a nominee in a timely manner so that the hearing and the vote can be completed before the new Supreme Court term begins."

Mr. McClellan said Mr. Bush spoke yesterday with Sen. Patrick J. Leahy of Vermont, ranking Democrat on the Senate Judiciary Committee, and committee Chairman Arlen Specter, Pennsylvania Republican. The president spoke this week about the Supreme Court with Senate Minority Leader Harry Reid of Nevada and yesterday tried unsuccessfully to reach him, the spokesman said.

He added optimistically: "I just can't imagine that Democrats are going to want to engage in controversial tactics when it comes to a nominee for the Supreme Court."

Yesterday's retirement does put the White House in another bind -- and a well-documented one, at that. In 1987, President Reagan nominated Robert Bork for the high court. He was lambasted by liberal activist groups throughout the summer and his nomination was all but dead on arrival when the Senate returned from its August recess.

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With Congress set to take nearly all of August off this year, the White House must decide quickly when to make the nomination. There are just 90 days until the gavel falls to open the fall Supreme Court term on Oct. 3, and it typically takes 70 to 75 days from the time a justice announces retirement until the Senate Judiciary Committee is ready to hold confirmation hearings.

The White House said yesterday that Mr. Bush will not make a nomination until at least next Friday, when he returns from a trip to Denmark and Scotland. But he will use the long flights to and from Europe to review material about possible replacements, Mr. McClellan said.

The president made clear that he will not rush a decision in hopes of moving a nomination through the Senate before the August recess.

"I will be deliberate and thorough in this process. I have directed my staff, in cooperation with the Department of Justice, to compile information and recommend for my review potential nominees who meet a high standard of legal ability, judgment and integrity and who will faithfully interpret the Constitution and laws of our country," Mr. Bush said.

Newsview: Battle Looms Over Court Nominee (AP-Y2)

By Tom Raum, Associated Press Writer

AP2, July 2, 2005

President Bush's choice to fill the vacancy of retiring Justice Sandra Day O'Connor is all but certain to ignite a political inferno no matter whom he picks. Her departure gives Bush an opportunity to transform the dynamics of the high court.

But that opportunity for Bush also raises the stakes. Democrats indicate they will wage a mammoth Senate battle if the president caters to his conservative base and attempts to replace the moderate O'Connor with a jurist they consider to be out of the judicial mainstream.

On the other hand, if the president nominates someone with views similar to O'Connor's, he could face a right-wing rebellion within his own party from conservatives still fuming over the Senate rejection of Robert H. Bork in 1987.

Well-bankrolled interest groups on the political right and left are already in action in an effort to influence the outcome.

"Her replacement will have a monumental impact on the lives and freedoms of Americans for decades to come," said Ralph G. Neas, president of People for the American Way, a liberal group that is planning a major role in a political debate expected to dominate the summer.

The announcement appeared to catch the White House by surprise. It had prepared for the retirement of another court member, Chief Justice William Rehnquist, who is battling thyroid cancer.

Since Rehnquist was one of the more conservative members of the court, replacing him with another conservative would not have shifted the balance of power.

The same can't be said of O'Connor, who for a quarter century has been the crucial swing vote on a host of 5-4 votes on abortion and other divisive legal issues. The court is closely divided between a narrow conservative majority and a more liberal bloc. Her retirement may also put more pressure on Bush to name a woman.

In a brief Rose Garden appearance, Bush pledged to be "deliberate and thorough" in naming a replacement. He expressed hope for a "dignified" confirmation process and for "fair treatment, a fair hearing and a fair vote" for his nominee, an apparent reference to brutal battles with Democrats over appellate court nominations.

While a simple Senate majority is needed to confirm a nominee, 60 votes are required to end a filibuster. Republicans hold 55 of the 100 Senate seats.

Thus, Bush faces a crucial choice: Does he replace O'Connor with a like-minded moderate who might be able to attract bipartisan support or at least not be filibustered by Democrats? Or does go with a strict conservative and risk a difficult confirmation fight that might result in defeat?

"This appointment is the moral equivalent of a presidential election," said historian Allan Lichtman of American University.

Lichtman said Bush should opt for a "moderate conservative" like Attorney General Alberto Gonzales because "such a nomination would get through the Senate and also move the court to the right." But will he? "Not necessarily," said Lichtman.

Interest groups, still pumped up from the 2004 presidential race, have been preparing for this battle for months. They've taken to skilled — and sometimes massive — use of the airwaves and the Internet to get their messages across, from e-mail outpourings to broadcast ads and appearances on 24-hour cable news and talk radio shows.

Republican groups have said they will spend more than $18 million.

Passions are running so high that "there is going to be a presumption against any presidential nominee on the part of the Democrats, which is too bad," said Charles Black, a longtime GOP consultant who is close to the Bush family. "I think he could nominate Ted Kennedy, and they'd still go into full battle mode against him."

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But Democratic consultant Joe Lockhart, former press secretary to Clinton, said there doesn't have to be a battle royal if Bush will confer with Senate leaders of both parties before submitting his choice — a practice Lockhart said was utilized successfully by both Presidents Reagan and Clinton.

"There no inevitability of a big fight. But if he chooses to go it alone, it increases the likelihood that this will get caught up in partisan back-and-forth," said Lockhart, who is helping People for the American Way run a "war room."

Both sides are mindful that Rehnquist, 80, might also retire in the near future, giving Bush yet another vacancy to fill, and an even greater chance to leave his mark on the court.

"Supreme Court justices are the living legacies of the presidents who appointed them," said Ross Baker, a political scientist at Rutgers University. "Of course, they often pull surprises and become very different kinds of judges."

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EDITOR'S NOTE — Tom Raum has covered Washington for The Associated Press since 1973, including five presidencies.

O'Connor To Retire, Touching Off Battle Over Court (NYT)

By Richard W. Stevenson

The New York Times, July 2, 2005

Justice Sandra Day O'Connor, the first woman to serve on the United States Supreme Court and a critical swing vote on abortion and a host of other divisive social issues, announced Friday that she was retiring, setting up a tumultuous fight over her successor.

After months in which speculation about the Supreme Court focused on the likelihood of Chief Justice William H. Rehnquist's stepping down, the retirement of Justice O'Connor, 75, caught much of Washington, including the White House and her colleagues on the court, off guard.

Even so, the armies of ideological activists from both sides who had massed in anticipation of a battle over replacing the chief justice, a reliable conservative, quickly pivoted to what they agreed was an even greater struggle for control of a seat that could alter the court's balance on an array of polarizing topics.

Justice O'Connor's decision creates the first vacancy on the court in 11 years, ending the longest period without a change in the lineup of justices since the 1820's, and it provides President Bush with his first opportunity to name a Supreme Court justice.

The White House spokesman, Scott McClellan, said the president would not make a selection until after returning from a summit meeting next week in Scotland. Senator Arlen Specter, Republican of Pennsylvania and the chairman of the Senate Judiciary Committee, said he had been invited to the White House to talk about the vacancy on July 11.

Also invited to the meeting, Mr. Specter said, are Senator Bill Frist of Tennessee, the Republican majority leader, Senator Harry Reid of Nevada, the Democratic minority leader, and Senator Patrick Leahy of Vermont, the senior Democrat on the Judiciary Committee.

The names most frequently mentioned as potential nominees include Judges J. Harvie Wilkinson III and J. Michael Luttig of the United States Court of Appeals for the Fourth Circuit in Richmond, Va.; Judge John G. Roberts Jr., who sits on the appeals court based in Washington; and Judge Michael W. McConnell of the Tenth Circuit, who sits in Salt Lake City.

Should Mr. Bush want to choose a woman to succeed Justice O'Connor, the candidates are likely to include Judge Edith Brown Clement and Judge Edith H. Jones, both of the Fifth Circuit, based in New Orleans. Other potential candidates include two Hispanic men, Attorney General Alberto R. Gonzales and Emilio M. Garza, a federal appellate judge in Texas.

It is not clear whether Chief Justice Rehnquist, who is battling thyroid cancer, will step down this summer, expanding the confirmation battle to two fronts.

In an appearance in the Rose Garden on Friday morning a little more than two hours after getting word of Justice O'Connor's resignation, Mr. Bush said he would be "deliberate and thorough" in selecting a nominee to succeed her. He said his intention was to make a nomination in time for the new justice to be in place for the start of the court's next term in October. Justice O'Connor said she would stay on the bench until her successor arrived.

With memories still fresh among many conservatives of the Democrats' success in blocking the nomination of Robert H. Bork to the court in 1987, and with Capitol Hill still embittered over this spring's confrontation over the use of filibusters in judicial nominations, Mr. Bush effectively put the Democratic leadership on notice not to go to extreme lengths to reject his choice or turn the confirmation proceedings into a partisan free-for-all.

"The nation deserves, and I will select, a Supreme Court justice that Americans can be proud of," Mr. Bush said. "The nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote."

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Mr. Specter indicated that he would most likely hold confirmation hearings in September, though he did not rule out August, when Congress is scheduled to be in recess. Some conservatives have expressed concern about delaying confirmation hearings for too long, out of worry that it would give liberal groups more time to gather ammunition for an attack.

Since joining the court in 1981, succeeding Justice Potter Stewart, Justice O'Connor has been at the very center of the court in almost every sense, and has held or helped define the balance of power on many of the issues of broadest concern to the nation, including affirmative action, the death penalty and religion.

But it was her stance on abortion, and in particular her role in reaffirming Roe v. Wade, the landmark 1973 ruling that put the court on the side of abortion rights, that placed her most squarely in the middle of the culture wars that have increasingly dominated not just the courts but political discourse in general.

Replacing her with an opponent of abortion rights would not by itself be enough to overturn Roe v. Wade; it would take a shift of two votes in the court's current composition to do so. But it would change the balance of power on the court when it comes to lesser restrictions on abortion, like bans on the procedure that its opponents call partial birth abortion. It would also move the court that much closer to overturning Roe, the long-held goal of many social conservatives.

Justice O'Connor did not specify her reasons for stepping down beyond a brief statement relayed by a spokeswoman for the Supreme Court in which the justice referred to being 75 and to wishing to spend more time with her husband. Her husband, John, is said to have Alzheimer's disease.

In her resignation letter to Mr. Bush, she said she would leave the court as soon as her successor was named and confirmed.

"It has been a great privilege, indeed, to have served as a member of the court for 24 terms," she said in the three-sentence letter. "I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure."

The first inkling the White House had of her decision came around midday on Thursday when Pamela Talkin, the head marshal of the Supreme Court, called Harriet E. Miers, the White House counsel, to make arrangements to hand-deliver a letter on Friday morning. Ms. Talkin did not say which justice the letter was from, according to an account provided by Mr. McClellan, the White House spokesman.

Ms. Miers then informed Mr. Bush and Vice President Dick Cheney, who were having lunch in the president's private dining room just off the Oval Office.

On Friday just before 9 a.m., Ms. Talkin called back to say the letter was from Justice O'Connor. Ms. Miers then told Mr. Bush by telephone. Mr. Bush relayed the news to his inner circle, including Mr. Cheney; Karl Rove, the president's senior adviser and deputy chief of staff; and Dan Bartlett, his longtime communications adviser.

After the White House formally received the justice's resignation letter in a manila envelope, Mr. Bush held a five-minute phone conversation with her starting at 10:18 a.m., telling her, "For an old ranching girl, you turned out pretty good," a reference to her roots in El Paso and her upbringing on a ranch in Arizona.

Mr. Bush later called a staff meeting to discuss the process of settling on a successor, Mr. McClellan said. Mr. McClellan said Mr. Bush had not yet "given any serious consideration to any nominee because he has not reviewed any material relating to potential nominees in any serious way."

Mr. McClellan said Mr. Bush would start reading through material about potential nominees over the weekend, which he will spend at Camp David, and during his trip next week to Denmark and Scotland.

A senior administration official, who spoke on the condition of anonymity to describe internal deliberations, said that Mr. Bush would be reviewing "more than half a dozen" potential candidates and that the list would include people with a broad array of backgrounds.

The official suggested that the list might include one or more women. The list, the official said, was assembled by a group including Mr. Cheney; Mr. Rove; Mr. Bartlett; Ms. Miers; Mr. Gonzales; Andrew H. Card Jr., the White House chief of staff; and I. Lewis Libby, Mr. Cheney's chief of staff.

The official said the list given to Mr. Bush might have been somewhat different if it had been Chief Justice Rehnquist who had stepped down, because a chief justice nominee would have benefited from managerial qualifications that are less relevant for an associate justice. But over all, the official said, the candidate pools to replace the justices were quite similar.

But even allies of the White House said Mr. Bush was facing a tricky task in nominating a successor for Justice O'Connor.

"This is clearly a different jigsaw puzzle than what they were expecting," said Kenneth M. Duberstein, who was White House chief of staff under President Ronald Reagan and managed the Supreme Court nominations of Clarence Thomas and David H. Souter for the first President Bush.

"Everyone was expecting a conservative replacing Rehnquist," he said. "Now you have the question of a woman or a minority for the swing vote on the Supreme Court. That's a sensitivity the White House will really have to grapple with."

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Mr. Bush placed calls on Friday afternoon to Mr. Specter and Mr. Leahy. Mr. Bush had spoken earlier with Dr. Frist, who is turning to a close ally of Mr. Bush, Ed Gillespie, the former chairman of the Republican National Committee, to help manage the nomination fight in the Senate, Republicans said.

Mr. McClellan said the president had tried but failed to reach Mr. Reid, the Democratic leader.

On Capitol Hill, many senators, including Mr. Reid, had already scattered for the long holiday weekend. As word of the retirement buzzed through Congress, members of both parties moved quickly to stake out their positions in a rapid-fire sequence of floor speeches and news conferences.

Republicans immediately sought to pre-empt the prospect of a Democratic filibuster, the procedural tactic that had been employed against 10 of Mr. Bush's federal appeals court candidates. They said the nominee's fate should be decided by a simple Senate majority, not the 60-vote threshold the filibuster requires.

"The person either goes on the Supreme Court or they don't go on the Supreme Court by 51 votes," said Senator Sam Brownback, Republican of Kansas. "That's what it should be."

Democrats urged the president to make good on his promise to consult with members of both parties in the Senate in choosing his nominee, a dialogue they said could avert a bitter fight over the court vacancy.

Senator Charles E. Schumer, Democrat of New York, said, "I sincerely hope that the president will be true to tradition and true to the best interests of the nation and he'll consult meaningfully with both Democratic and Republican senators before making such a momentous decision." Mr. Schumer, a member of the Judiciary Committee, raced back to Washington from New York after the announcement.

Senator John Warner of Virginia, a senior Republican who was instrumental in crafting a compromise in May that averted a Senate showdown over judicial filibusters, urged Mr. Bush to choose a nominee that could attract broad bipartisan support.

"This nomination of the first Supreme Court justice by this distinguished president gives him an opportunity to be a uniter, not a divider," Mr. Warner said.

Within minutes of the news that Justice O'Connor would retire, liberal groups were portraying the coming confirmation fight as a momentous event that could go a long way toward determining whether abortion remains legal and how the nation deals with a host of other issues on which conservative pressure and legal reasoning are being brought to bear.

"Justice O'Connor has been the most important figure on the court in recent years," said Ralph G. Neas, president of People for the American Way, a liberal group. "Her replacement will have a monumental impact on the lives and freedoms of Americans for decades to come."

Social conservatives said they were primed for a battle to support any nominee who is to their liking on issues including abortion and religion in public life. It is a promise they say they believe Mr. Bush has implicitly made every time he has praised Justices Antonin Scalia and Thomas as models.

"You have to realize," said Tony Perkins, president of the Family Research Council, a conservative social policy organization, "seven of the nine were appointed by Republicans, and David Souter in particular has been against us on everything. We do not want another wolf in sheep's clothing."

For months, the White House has been running the names of potential nominees by conservative groups like Focus on the Family, an evangelical ministry based in Colorado Springs, and the Family Research Council, said Jordan Lorence, a lawyer for the Alliance Defense Fund, a legal group established by a consortium of conservative Christian organizations.

"The White House has been contacting other groups, like Focus on the Family and the Family Research Council," Mr. Lorence said, "and we get calls about what do you think of this name and that name? What do you think of Emilio Garza? What do you think of Alberto Gonzales?"

Surprise Move: After 24 Years, Justice Sandra Day O'Connor Retiring (PPG)

By Ann Mcfeatters

Pittsburgh Post-Gazette, July 2, 2005

Supreme Court Justice Sandra Day O'Connor, 75, the first woman to sit on the nation's highest court, surprised President Bush, her colleagues and millions of Americans yesterday by issuing a three-sentence letter saying she will retire from the bench as soon as her successor is confirmed.

A longtime Republican legislator, activist and judge in Arizona, she became one of the most well-known women in America during her 24-year tenure on the court. She had a reputation in legal circles as a centrist and a swing vote, often breaking the tie for the 5-4 rulings that have marked the court in recent years. She was regarded not as a legal theoretician, but rather as a pragmatist, searching for practical, workable solutions in nearly every aspect of human life.

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Bush did not learn of O'Connor's resignation until 9 a.m. yesterday. After what he called a "warm conversation" with her on the telephone, the president went before TV cameras in the White House Rose Garden to praise her as a "discerning and conscientious judge and a public servant of complete integrity."

When Chief Justice William Rehnquist, 80, developed throat cancer last autumn, causing him to miss 11 oral arguments and leaving him increasingly frail, many thought that he would be the first to depart from the current court, which has not had a new member in 11 years.

With liberals and conservatives braced for a bruising battle over the person Bush chooses to replace O'Connor, the president promised to select someone who would make America proud and who would meet "a high standard of legal ability, judgment and integrity, and who will faithfully interpret the Constitution and laws of our country."

Bush has said little about the type of person he might nominate, except that he has mentioned he would like to name the first Hispanic. His former general counsel and good friend, Alberto Gonzales, who is now the attorney general, is Hispanic. But if Gonzales were nominated to the court, he would run into opposition both from liberals, over his advice to the administration regarding the treatment of detainees in the war on terror, and from conservatives, because they think he might be moderate regarding abortion.

There are a number of appellate court judges, such as Emilio Garza Emilio Garza and Edith Jones, both of the 5th U.S. Circuit Court of Appeals in New Orleans, who are now being vetted by the Justice Department as well as Bush's current counsel, Harriet Miers, and Karl Rove, his deputy chief of staff and political guru. The advantage of nominating an appellate court judge is that they already have been confirmed once by the Senate.

O'Connor grew up on her parents' ranch, the Lazy B, a 260-square-mile spread straddling the Arizona-New Mexico border. Because of her lifelong love for Arizona as well as her need to care for her husband, John, who is in the early stages of Alzheimer's disease, some court watchers have long thought that she might be ready to retire.

O'Connor's three sons, Scott, Brian and Jay, and her grandchildren live in Arizona, and she loves playing golf there. She has kept her sprawling home in Paradise Valley, outside Scottsdale, in addition to a Georgian-style brick home in Washington.

Duquesne University Law School professor Ken Gormley, who got to know O'Connor after she gave an address at the school, said what had struck him about her, aside from her intellectual curiosity, was that she was "very much a Western girl" who loved to have fun. Just as she enjoyed taking five years off from her law career to stay home with her children in the late 1950s and early '60s, Gormley said, she is looking forward to spending more time home in Arizona with her husband and family.

Senate Judiciary Committee Chairman Arlen Specter, R-Pa., will be in charge of confirmation hearings for the next justice, even though he himself is fighting cancer. Specter also presided over the contentious hearings for the confirmation of Justice Clarence Thomas, the court's youngest member and a controversial conservative.

Specter yesterday said his committee was prepared to proceed on the nomination at any time.

One of Congress' leading Democrats, Sen. Ted Kennedy, D-Mass., yesterday said he hoped that Bush would consult with the Senate and nominate a moderate, as he described O'Connor. Kennedy warned that, while it is Bush's job to make the nomination, the Senate will take seriously its responsibility to decide whether the president's choice is the right one.

The major issue at the confirmation hearings is certain to be the nominee's stance regarding the legality of abortion, possibly the most politically divisive issue in the nation. Groups both favoring and opposing the procedure yesterday immediately went into hyperdrive, preparing for battle.

Nancy Northup, president of the Center for Reproductive Rights, said pressing for the eventual nominee to declare whether he or she supports the 1973 Roe v. Wade decision, which said the Constitution protects the right to an abortion, will be her most important agenda.

Tony Perkins, head of the Family Research Council, which strongly opposes abortion, said his group often disagreed with O'Connor and would mobilize 20,000 churches to demand that Bush choose a nominee whose views are similar to those of Justices Antonin Scalia and Thomas, the court's most conservative members.

Asked if he would vote to confirm any nominee who does not support Roe v. Wade, Kennedy said he would look at the prospect's support for a variety of civil liberties, but would not make the abortion stance a litmus test. "I will reserve judgment," he said.

Bush strongly opposes abortion but also has said he was not certain that the country was ready to have Roe v. Wade overturned.

Not everyone praised O'Connor yesterday. Robert Bork -- a conservative who, like O'Connor, was nominated to the court by former President Ronald Reagan, but whose confirmation the Senate rejected in 1987 -- said he hoped that Bush would nominate a less-activist judge than O'Connor has been. Interviewed on CNN, Bork said O'Connor "didn't have a firm judicial philosophy" and "lined up with the liberal side" on social issues. There are some judges who depart from a strict construction of

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the Constitution and others who stick with it, he said. "She departed from the actual Constitution," Bork asserted. "I wouldn't call that moderate; I call it unfortunate."

Throughout her tenure as a justice, O'Connor has been considered a trailblazer, saluted as much for her discipline and hard work as for her opinions. Her name is consistently on lists of the most admired American women. When she had a bout with breast cancer in 1988, she missed no oral arguments. George Mason University law professor Nelson Lund said he had never worked harder in his life than when he was O'Connor's law clerk in 1987-1988, but it was the most rewarding professional experience of his life.

When O'Connor graduated in only two years from Stanford Law School in 1952, placing third in a class that also included Rehnquist, she couldn't initially find a job as a lawyer. She recalled that moment vividly in a recent speech:

"I was shocked. I think I was naive. I had never stopped to think that it might be hard to get a job. [One law firm] partner who interviewed me said, 'Miss Day, how do you type?' And I said, 'Well, fair, not great. I can get by.' And he said, "Well, if you type well enough, I might be able to get you a job as a legal secretary. But we have never hired a woman as a lawyer here. And we don't anticipate doing it."

She found work instead as a deputy county attorney in San Mateo, Calif., until her husband graduated from Stanford a year after she had. He went to Germany as an Army lawyer for three years, and she was a civilian lawyer in the Quartermaster Corps. His service completed, the O'Connors moved to Phoenix, had three sons, and she became a full-time volunteer for many causes, including Republican politics, before founding her own law firm with another lawyer.

When her second son was 5, she became assistant state attorney general and was appointed to fill a vacant seat in the state Senate, eventually becoming the first woman majority leader in the United States.

In 1974, she was elected to the Maricopa County Superior Court. In 1979, then-Arizona Gov. Bruce Babbitt, a Democrat, put her on the state Court of Appeals, and on June 20, 1981, at age 51, she met at the White House with Reagan and found herself nominated to the nation's highest court.

When O'Connor was called to answer questions before the Senate Judiciary Committee, she refused to say how she would decide abortion cases that were certain to confront her on the court. Anti-abortion activists were uneasy about her, but she was confirmed by a vote of 99-0 -- the strongest acclamation any Supreme Court nominee had ever received.

She and her husband, who went to work for a Washington law firm, were immediate hits on the social circuit, sometimes attending several parties a week as she struggled to feel less like an outsider. She founded an early-morning exercise club for women who worked at the Supreme Court, and regularly cooked Saturday brunch for law clerks. She continued to take an annual "adventure" trip with women friends from her college years, hiking, fishing and exploring rough terrain, and she also made numerous trips abroad. She gave dozens of speeches, often to groups of young people, urging more civility within the legal profession.

In the early 1990s, when rumors surfaced that she was thinking of retiring, she batted them down. She decided not to retire during the 2004 presidential election year, partly because she feared that the debate over her successor might be too partisan during an election year.

She has written two books, "The Majesty of the Law," a consideration of current legal issues, and the autobiographical "Lazy B: Growing Up on a Cattle Ranch in the American Southwest," with her brother, Alan Day. In 1999, her granddaughter Courtney, then age 9, collaborated with her to write a book, "Meet My Grandmother ... She's a Supreme Court Justice."

O'Connor has often said she was proud that she hadn't needed to give up "life" to be the first female legislative majority leader in U.S. history and the first woman on the U.S. Supreme Court bench.

When O'Connor was undergoing her Senate confirmation process, she was asked how she would like her epitaph to read. "Ah," she said. "The tombstone question. I hope it says, 'Here lies a good judge.' "

Bush Asks Senate For Fairness On High Court Opening (REU-Y2)

Reuters, July 2, 2005

WASHINGTON (Reuters) - President Bush, given his first chance to name a Supreme Court justice, held off on Friday on naming a replacement for the retiring Sandra Day O'Connor but urged lawmakers not to block what is likely to be a contentious nominee.

Foreshadowing a confirmation battle in the Senate, Bush called for "a fair vote," for his choice as successor to the moderate conservative, as he has frequently during a prolonged dispute with lawmakers over Democratic efforts to block other nominees.

"The nation deserves and I will select a Supreme Court justice that Americans can be proud of. The nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote," he said in the White House Rose Garden.

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Bush gave no indication who he was considering to replace O'Connor who resigned after 24 years on the bench other than to repeat his conservative philosophy that he would pick someone who will interpret the U.S. Constitution and not legislate from the bench.

"I directed my staff in cooperation with the Department of Justice to compile information and recommend for my review potential nominees who meet a high standard of legal ability, judgment and integrity and who will faithfully interpret the constitution and laws of our country," Bush said.

The White House said he would not name a potential successor to the retiring O'Connor for at least a week.

Bush said his goal was to have a new justice in place by the time the court reconvenes in October. O'Connor's resignation is effective once the Senate confirms her successor.

The White House has been preparing for a vacancy since Bush took office in 2001 and has compiled materials on a number of candidates.

Bush appeared in the Rose Garden to offer praise for O'Connor an hour after she announced her pending retirement. Earlier, in what the White House called an emotional phone call, Bush told O'Connor, who was raised on an Arizona ranch, that, "For an old ranching girl, you turned out pretty good."

Bush's nomination may test a bipartisan truce reached in May that declared Democrats would retain their right to block judicial nominees with procedural hurdles known as filibusters but only "extraordinary circumstances."

Democrats, and some Republicans, complain that Bush has not sufficiently consulted them on judicial nominees.

With Democrats bracing for a fight and interest groups on both sides already energizing their followers, Bush promised to consult with senators on the vacancy but was not specific.

TALKS WITH SENATORS

McClellan said Bush spoke to Senate Democratic leader Harry Reid of Nevada about the high court in recent days and would do so again.

He said Bush would also talk to Vermont Democratic Sen. Patrick Leahy (news, bio, voting record), ranking Democrat on the Senate Judiciary Committee, as well as Republicans like Senate Majority Leader Bill Frist of Tennessee.

"I just can't imagine that Democrats are going to want to engage in controversial tactics" like a filibuster, McClellan said. "I hope that all members of the Senate would want to elevate the discourse."

Senate Democrats, who blocked 10 of Bush's appeals court nominees during his first term, urged the president to consult with them before picking a Supreme Court candidate.

"The Constitution gives the president and the Senate shared responsibility to fill this vacancy," Reid said. "With this nomination the president should choose to unite the country, not divide it."

Senate Judiciary Committee Chairman Arlen Specter, who will oversee the confirmation hearing, said his "instinct is we will not have a filibuster here. That is only my hope."

McClellan said Bush would read materials on potential nominees this weekend at his Camp David presidential retreat and on a trip to Denmark and Gleneagles, Scotland, next week. Bush returns from that trip on July 8.

"There will be no decision before returning from the G8," McClellan said. "This will be a thorough process."

Bush has often railed against what he calls "activist judges" who he says legislate from the bench, and says he wants justices to "strictly and faithfully interpret the law."

O'Connor, First Woman Named To Supreme Court, Is Retiring (LAT)

By David G. Savage

The Los Angeles Times, July 2, 2005

Justice Sandra Day O'Connor, the first woman to serve on the Supreme Court and its decisive voice on such critical issues as abortion, affirmative action and religion, announced Friday she was retiring.

Her husband, John, is suffering from Alzheimer's disease, her friends report, and O'Connor said in a brief statement that she needs to spend more time with him.

O'Connor, 75, often has been called the most powerful woman in America because of her influence on the Supreme Court, and her surprise departure gives President Bush a chance to reshape its direction.

It will mark the first vacancy on the court in 11 years.

Activists on the right and left were preparing for what could be an epicbattle over her successor. The president's staunchest supporters want to eliminate the right to abortion, which the departing justice has helped to maintain.

On Friday, Bush said he first wanted to praise the Arizona cow girl who rose to become "one of the most admired Americans of our time. . . . Justice O'Connor's great intellect, wisdom and personal decency have won her the esteem of her colleagues and our country," the president said shortly after speaking with O'Connor by phone.

Bush said he "will be deliberate and thorough" in picking her successor, and he pledged to consult with members of the Senate on his choice.

"The nation deserves, and I will select, a Supreme Court justice that Americans can be proud of," Bush said. He said he hoped his nominee would undergo "a dignified process of confirmation" in the Senate.

Spokesman Scott McClellan said Bush did not plan to make a decision on O'Connor's successor until late next week, after he returns from a trip to Denmark and Scotland.

Until Friday, the White House and much of Washington had been focused on who might replace the ailing 80-year-old Chief Justice William H. Rehnquist, who was widely expected to step down.

When the court handed down its last opinions of the term Monday morning, O'Connor looked worried and saddened as a visibly weak Rehnquist, her former Stanford Law School classmate, rose from his seat. She reached out to steady him as they turned to walk back through the red velvet curtain.

But it turned out that was her last day on the bench -- and not necessarily his.

While Rehnquist has said nothing in public of his plans, the justices and court staff who have watched him closely would not be surprised if he retired, too.

However, O'Connor's announcement took the White House, other Supreme Court justices and even one of her sons by surprise. The president didn't learn of it until Friday morning.

A tireless worker, O'Connor once said the heavy workload of the Supreme Court had been her "salvation" in the late 1980s, when she underwent treatment for breast cancer.

She travels with piles of court briefs in her suitcases, and most of her friends and colleagues expected she would stay in her job for as long as possible. In recent years, her husband has come with her to the court and spent his days in her chambers.

The couple recently sold their home in suburban Maryland and bought a condominium in Washington, but none of her friends saw this as a sign of her impending retirement.

The White House counsel's office, charged with finding candidates for an expected vacancy, had to switch gears Friday.

Because of O'Connor's role as a swing vote, the impending vacancy could set off a fierce fight, particularly if Bush chooses a staunch conservative to replace her.

For the past two decades, O'Connor has decided the Supreme Court's biggest cases. She has been neither a predictable conservative nor a true liberal. Rather, she set out to redefine the middle.

But the political battle over the next court nominee is likely to focus on abortion and religion.

O'Connor nearly single-handedly saved the constitutional right to abortion, even though she was an early critic of the Roe vs. Wade ruling that legalized it. She believed the court made a mistake in the 1970s by taking on the issue, and she said states should have more authority to regulate abortion.

In 1989, however, she refused to go along with Rehnquist and three others in overturning Roe vs. Wade in a pending Missouri case. When the issue returned three years later, O'Connor fashioned a 5-4 majority to affirm the abortion right. States may regulate abortion providers to ensure the health and safety of their patients, but they may not put an "undue burden" on the woman's decision whether or not to have an abortion, O'Connor said.

A year later, Justice Byron R. White, a firm abortion-rights foe, retired; President Clinton replaced him Ruth Bader Ginsburg, a women's rights lawyer who favors abortion rights. Today, the basic right to abortion has a 6-3 majority in the Supreme Court.

In recent years, however, the court has split 5-4 on whether states can outlaw a mid-term abortion procedure that critics label "partial-birth abortion." Justice Anthony M. Kennedy, who joined O'Connor in the 1992 decision, believes states can regulate abortion by banning certain procedures such as partial-birth abortion.

O'Connor also frustrated conservatives on affirmative action and religion cases.

She was a critic of race-based programs, and wrote a series of rulings that struck down such set-asides in government contracts, as well as electoral districts drawn along racial lines.

But O'Connor refused to close the door to affirmative action in colleges and universities. "In a society like our own, race unfortunately still matters," she said in a 5-4 ruling that upheld the admissions policy at the University of Michigan Law School. While schools may not use quotas or fixed percentages to admit more minorities, they may take race into account as a plus factor, she said.

She also fashioned a middle position on religion. She cast the fifth vote to uphold Ohio's school voucher programs three years ago. With these grants, parents in Cleveland could use tax money to send their children to religious schools. This is not an "establishment of religion," O'Connor said, but rather an education program that gives parents freedom of choice.

But she joined with her liberal colleagues to strike down school-sponsored prayers or religious displays on public property, including Monday's Ten Commandments ruling. The government may not "endorse" religion, she said.

She wrote movingly in Monday's opinion on the importance of preserving religious freedom -- including freedom from government-sponsored religion.

"At a time when we see around the world the violent consequences of the assumption of religious authority by the government, Americans may count themselves fortunate: Our regard for constitutional boundaries has protected us from similar travails, while allowing private religious exercise to flourish," she said.

But she also had her disputes with the court's liberals.

Two weeks ago, she wrote a pungent dissent when the court upheld a city's seizure of private homes to make way for business development. "The specter of condemnation hangs over all property. Nothing is to prevent the state from replacing a Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory," she said.

For her part, O'Connor became a historic figure upon her arrival in 1981 to join what had been known as "the brethren." At first, the focus was on her status as the first woman. But by the mid-1980s, she had emerged as a justice who brought a distinctive perspective -- not just as a woman, but as former state legislator and former state trial judge. She sought practical, middle-ground solutions to complicated problems.

By the 1990s, she was the single most important member of the Supreme Court, the justice who could be counted upon to decide the hardest cases.

She was widely praised Friday for having brought grace, wisdom and common sense to her job.

Justice Stephen G. Breyer, the court's junior justice, said he had admired her greatly.

"The court, the law and my life have been immeasurably enriched by her dedicated service. She has taught us all," he said.

"Any jurist would consider it a high honor to be a colleague of Justice O'Connor," wrote Kennedy. "Any person would consider it a privilege to be her friend."

Her rise to prominence was an unlikely one. She grew up on a cattle ranch in the desert along the border of New Mexico and Arizona. Her childhood home on the Lazy B ranch had no electricity, and it was 25 miles to town.

But she was able to attend Stanford University, first as an undergraduate and then as a law student. She placed third in the class of 1952, two spots behind a tall, lanky World War II vet named William H. Rehnquist.

She also met John O'Connor, and after they married, they settled in Phoenix. She rose to be a state legislator and the first female majority leader of the Arizona Senate. She was a state appeals court judge when Reagan chose her for the Supreme Court.

Bush harkened back to her childhood Friday, during what aides called an emotional conversation for both. "For an old ranch girl, you turned out pretty good," the president told her.

Future Of Abortion Could Be At Issue (BSUN)

By Stephanie Desmon

The Baltimore Sun, July 2, 2005

The surprise retirement of Supreme Court Justice Sandra Day O'Connor - considered a key vote in keeping abortion widely legal in the United States - throws into question the future of the procedure's availability and re-ignites a long-simmering and emotionally charged debate.

In losing O'Connor, the moderate voice who created the current legal standard that restrictions on abortion should not place an "undue burden" on women, the stage is set for someone cut from more conservative cloth to take her place.

Those on the front lines of the battle over abortion say her retirement has an even greater impact than would the resignation of the ailing Chief Justice William Rehnquist, an abortion opponent whose potential replacement would be an "even exchange," as one advocate said.

O'Connor's absence will be felt immediately. The court has already agreed to hear two abortion cases next fall.

"We're not talking theory. We're talking reality," said the Rev. Patrick J. Mahoney, director of the Washington-based Christian Defense Coalition. "By January of next year, decisions will come out of the court on abortion. ... Status quo in the Supreme Court has really gone out the window."

"It could change everything for women," said Wendy Royalty, a spokeswoman for Planned Parenthood of Maryland.

Advocacy groups sprang into action quickly yesterday.

Within minutes of the news that O'Connor would retire, NARAL Pro-Choice America's Web site had been transformed into a campaign headquarters for the fight ahead, asking visitors to donate money and write to their senators "to vote NO on anti-choice nominees!" News releases were flying; e-mails were sent by the thousands. The National Organization for Women planned an "emergency rally to save women's lives" in Nashville for this afternoon.

Anti-abortion groups were gearing up, too. Mahoney, for one, has already planned vigils, rallies and demonstrations outside the court building to coincide with the as-yet-unnamed nominee's confirmation hearing.

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"Nobody's wasting any time getting on this," said Kathy Kleeman with the nonpartisan Center for American Women and Politics at Rutgers University. "This issue is going to be right in the middle of it."

It is unlikely, even with O'Connor's retirement and another, that Roe would be overturned - a majority of the remaining justices still favors letting the decision stand. Besides Rehnquist, only two other justices, Antonin Scalia and Clarence Thomas, have said Roe v. Wade should be overturned.

But even if the majority of the court is unwilling to completely reverse Roe, it doesn't mean that more limits won't be placed on it. The court with O'Connor has upheld waiting periods and parental notification provisions in the past. And a court without O'Connor is more likely to outlaw "partial-birth" abortions, an issue that is making its way through the courts again.

O'Connor, a Reagan appointee, was never really embraced by those on the right, who picketed her confirmation hearings. After Reagan left office, she made some of her crucial decisions on abortion.

In Planned Parenthood v. Casey, the 1992 case that largely reaffirmed abortion rights, O'Connor was one of those who wrote for the majority. In 2000, the last time the court took up a major abortion case, she was a member of the 5-4 majority that struck down a Nebraska ban on a late-term abortion procedure that opponents call "partial-birth," mainly because it did not make an exception for women's health.

Many on both sides of the abortion question say they want to know where a nominee stands on Roe v. Wade, the landmark 1973 case that effectively legalized abortion.

Those on the right feel they have been burned in the past by nominees - such as Justices Anthony M. Kennedy and David H. Souter - who turned out not to share some of the key views of the Republican presidents who nominated them.

Members of the religious right, who feel responsible for returning Bush to office for a second term, will not be satisfied by a nominee with soft or fuzzy credentials on abortion rights, observers said. Conservative blogs are already teeming with worries about putting Attorney General Alberto R. Gonzales, who they don't think is a big enough opponent of abortion, on the bench. Advocates for abortion rights will insist on someone who shares their desire to maintain the "right to choose."

"We should not have the senators playing Russian roulette, guessing where a nominee stands on critical constitutional protections," said Nancy Northup, president for the Center for Reproductive Rights, a legal advocacy group that argued against the "partial-birth" abortion ban before the court in 2000.

Steve Elmendorf, a Washington-based Democratic strategist, said Bush's decision on who should replace O'Connor will be a difficult one. For years, Elmendorf said, Bush has tried to straddle a line, calling himself a "compassionate conservative" while also playing to his party's right wing. Some might like to see a nominee without an easily defined position on abortion, while others will insist on a strong position against.

"For years the Republicans have tried to have it both ways on this issue," he said. "Their ability to have it both ways is going to be severely compromised."

Douglas Johnson, legislative director of the National Right to Life Committee, said he doesn't think a nominee should have to answer the question head on. Finding out if the nominee will strictly follow the U.S. Constitution is enough, he said.

Nominees, he said, "are not supposed to predict how they're going to rule on future cases that will come before them."

Even without Roe, abortion wouldn't automatically be illegal everywhere. The decision would revert to the states. Nineteen states have laws that would outlaw abortion if Roe were overturned and another 19 are poised to do so, said Nancy Keenan, president of NARAL Pro-Choice America. Maryland law would keep abortion legal.

According to a June poll by the Pew Research Center for the People & the Press, 63 percent of those surveyed rejected the idea of completely overturning Roe. That margin has remained stable for more than a decade.

Even before the possibility of a court vacancy became a reality yesterday, the debate over abortion had bubbled back to the surface, returning with its customary fervor and intensity to the national political landscape.

There was the court's decision to take the two abortion cases after five years of silence on the issue. In April, the U.S. House of Representatives passed its first major bill on abortion in two years, one that would prohibit minors from being taken across state lines without parental permission for the procedure. While the Senate hasn't voted, Republican leaders have called a similar bill a priority.

Meanwhile, state legislatures have continued unabated in long-running efforts to place a variety of limits on abortion. And in some parts of the country there have been reports that pharmacists have refused to fill legal prescriptions for birth control, a step toward preventing unwanted pregnancies, on moral grounds.

Now, though, the focus is squarely on the court - and what it will look like when it begins its next session in October.

"It's going to be a battle royal," said Joseph Scheidler, president of the Chicago-based Pro-Life Action League.

The Battle To Shape American Society (FT)

By Patti Waldmeir In Washington

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Financial Times, July 2, 2005

Friday was the first day of the new American culture war. The resignation of Sandra Day O'Connor has precipitated the battle of a generation over the future of what is arguably America's most influential branch of government.

Unique among the democratic world's ruling institutions, the US Supreme Court occupies a special place in American life. It can strike down laws and even slap down a president, all in the name of upholding the US constitution. At a time when US politics is paralysed by division, the court is often the only institution that steps in to tackle the people's disputes. Americans look to it for the last word on many of the most difficult questions in national life, from race to abortion to presidential elections. Most Americans know nothing at all about the highly secretive court but it plays a huge role in shaping the society they live in.

At key moments in the last century, the court has played a powerful liberalising role, banning segregation in schools and guaranteeing women the right to choose abortion. Even under the 18-year reign of Chief Justice William Rehnquist, a conservative, the court championed gay rights and affirmative action, and reined in the death penalty.

Now America faces a once-in-a-generation opportunity to reshape this institution and political activists from both ends of the spectrum are grasping that chance with both hands. Republicans hope to mount a conservative takeover that could transform American social policy for the first half of the new century. Liberals will spend tens of millions of dollars trying to stop them.

President George W. Bush is shortly expected to nominate a replacement for Justice O'Connor, and the Senate will then go to battle over whether to confirm the nominee. The argument is likely to be ugly, and could dominate US politics and stymie progress on other important issues for weeks or months to come.

And that may not be the end of it. The retirement of the 75-year-old Mrs O'Connor the first woman justice in American history is unlikely to be the only departure. Chief Justice William Rehnquist is 80 and ill with thyroid cancer. Altogether, three or even four justices could leave the court in the next few years.

Mr Bush has made no secret of the fact that he sees the appointment of Supreme Court justices as one of his most important legacies. He is determined to transform the mostly centrist Rehnquist court into a conservative institution. If he fills three or four vacancies on the nine-person court, he could well get his way.

So the battle is on for the heart and soul of this 200-year-old institution. Justice O'Connor's role on the court was pivotal: she provided the winning fifth vote for some of the court's most important rulings, including a 2003 decision upholding the constitutionality of affirmative action in higher education. And crucially, she supports a woman's right to choose, so replacing her with an opponent of abortion as Mr Bush is almost certain to do could have a big impact on the court's rulings in this explosive area.

The conservative bloc on the court would still have no realistic hope of overturning the court's 1973 landmark ruling on abortion, Roe v Wade: abortion supporters would still have five votes on the court, against four who oppose it. But with a slender 5:4 majority, the court could change some of the conditions under which abortion is permitted, in ways that might make it substantially harder in practice to get an abortion.

According to Tom Goldstein, Supreme Court expert at Goldstein & Howe law firm, the resignation of Mrs O'Connor makes it possible that there could be a “fundamental shift in the court's direction. . . On an array of basic social issues eg affirmative action, religion, and the death penalty”. He notes that Justice O'Connor has been a vital swing voter on the closely divided court. Predicting the impact of replacing Justice O'Connor can be difficult, though, because she was a consummate “one case at a time” judge whose jurisprudence could be very unpredictable. She did not always vote in line with the president who appointed her Ronald Reagan. According to Walter Dellinger, former acting US solicitor general, the real split on the Rehnquist court is between “legalists” and “pragmatists” Mrs O'Connor was one of the pragmatists. Replacing her with a legal fundamentalist like Justice Antonin Scalia, whom Mr Bush has held up as a model justice, could have a big impact on the court's rulings on a wide range of issues.

Replacing a conservative pragmatist with a conservative ideologue could make an especial difference on business issues, where pragmatic justices are generally more pro-corporate.

Stanton Anderson of the National Chamber Litigation Centre, the US Chamber of Commerce's legal arm, said before the retirement that appointing a “different type of conservative” perhaps a social conservative rather than an economic one could have big consequences for US business. “Just because you are a conservative does not mean you will be pro-business.” And over the longer term, predicting the impact of a new justice can be even harder. If the nominee is in his 50s (as the conservative right hopes he will be), he might serve for two or three decades. No one can predict with accuracy the legal issues that will come before him in that time or for that matter how he will vote on them.

Justice David Souter is infamous among conservatives for morphing from an apparent conservative to a committed liberal after his appointment by President George H.W. Bush. Justice O'Connor represents a kind of “split the baby” jurisprudence, which toes a careful line between right and left.

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Professor Jeffrey Rosen of George Washington University Law School credits her with giving the Rehnquist court its centrist character. He argues that she has done more to represent the moderate majority in American politics than the polarised politicians in Congress. If she were to be replaced by a far-right ideologue, America would lose a very powerful moderating influence.

For liberals, the nightmare scenario would be the resignation of all three justices and their replacement by jurists in the mould of Scalia and Clarence Thomas, the court's most conservative judicial fundamentalists. “A court majority sharing the Scalia and Thomas judicial philosophies could overturn more than 100 Supreme Court precedents concerning civil rights enforcement, privacy and reproductive choice, religious liberty, environmental protection, workers' rights, consumer safety, and much more,” says the liberal group People for the American Way.

Prof Rosen thinks the real threat of such a re-engineered court would be not social but economic: he believes Mr Bush's long-term goal is not to outlaw abortion but to roll back the regulatory state and dismantle the New Deal, by appointing jurists who believe the US constitution does not permit the federal government to meddle in matters such as workplace regulation or environmental protection.

There are precious few supporters of that view on the current court; but some potential nominees are openly antithetical to a powerful federal government.

Lists of rumoured nominees have been circulating in Washington for months, in some cases years. Mr Bush is understood to want to name the first Hispanic justice, though it is not clear whether that might be Alberto Gonzales, the attorney general, who is viewed as too moderate by the conservative base, or one of a couple of more radical Hispanic appeals court judges. He may also want to replace a woman with a woman. Other potential nominees include conservative hard-liners such as J. Michael Luttig, an appeals court judge who supports limiting the powers of the federal government. Soon enough, America will know whom Mr Bush has chosen and then the cultural war can really begin. Activists on both sides have been preparing for this moment for years: they know this may be the chance of a lifetime to change American society, by changing the people who judge it.

Justice O’Connor Retires From Supreme Court (FT)

By Edward Alden, Caroline Daniel And Holly Yeager In Washington

Financial Times, July 2, 2005

Justice Sandra Day O’Connor, the first female US Supreme Court justice, announced her retirement on Friday, opening the door for President George W. Bush to nominate a successor who could strengthen conservative control over the nine-person court for a generation.

The resignation will launch an epic struggle over the direction of the top US court. Justice O’Connor was often the crucial swing vote on a court where many of the biggest rulings have come on 5-4 decisions.

Potentially at stake in the succession are the future of legal abortions, affirmative action for minority groups, government aid to religious schools and other issues that have divided US liberals and conservatives.

Mr Bush called Justice O’Connor, who served 24 years, “a discerning and conscientious judge and a public servant of complete integrity”.

He promised to consult the Senate before choosing a nominee who would “faithfully interpret the Constitution and laws of our country”.

The president called for “fair treatment, a fair hearing and a fair vote” and warned he did not want any nominee to be sidetracked by filibustering.

Mr Bush is likely to appeal to his electoral base by choosing a reliably conservative judge. Justice O’Connor helped send Mr Bush to the White House by voting to shut down the Florida recount in the 2000 election. But some conservatives have attacked her votes to uphold affirmative action, protect minority voting rights, maintain bans on government-sponsored prayer at public schools and protect abortion rights.

Arlen Specter, Republican chairman of the Senate judiciary committee, who will lead the Senate hearings to confirm Mr Bush’s nominee, said Justice O’Connor’s “pivotal role on the court as a centrist” meant the fight could be even more contentious than that for any replacement for Chief Justice Rehnquist, a more stalwart conservative.

The Senate debates may prove more divisive than those over Judge Robert Bork, a conservative rejected by the Senate in 1987, and Justice Clarence Thomas, who became the Supreme Court’s most conservative judge after winning narrow Senate confirmation in 1991.

Retirement Yields First Opening In 11 Years (HC)

By Julie Mason

DOJ_NMG_0000681

Houston Chronicle, July 2, 2005

SANDRA DAY O'CONNOR

AGE-BIRTH DATE — 75; March 26, 1930, in El Paso, Texas.

EDUCATION — BA, Stanford University, 1950; LLB, Stanford University, 1952.

EXPERIENCE — Appointed by President Ronald Reagan to the Supreme Court in 1981, confirmed by the Senate 99-0; judge, Arizona Court of Appeals, 1979-81; judge, Maricopa County Superior Court, 1975-79; majority leader, Arizona Senate, 1973-74; Arizona state senator, 1969-75; assistant attorney general, Arizona, 1965-69; practiced law in Maryvale, Arizona, 1958-60; civilian attorney for Quartermaster Market Center, Frankfurt, Germany, 1954-57; deputy county attorney, San Mateo County, Calif., 1952-53.

FAMILY — Husband, John Jay O'Connor III; three sons, Scott, Brian and Jay.

O'Connor Retires From Supreme Court (MH)

By David Espo

The Miami Herald, July 2, 2005

Sandra Day O'Connor stepped down unexpectedly from the Supreme Court on Friday, closing out a career as the first female justice and the anchor of a shaky majority for abortion rights. President Bush pledged to name a successor quickly as the costliest confirmation battle in history took shape.

O'Connor's decision to retire created the first vacancy at the high court in 11 years, and marked the departure of the justice who had become the majority maker in a stream of 5-4 cases covering abortion, affirmative action, the death penalty and more over a quarter-century.

Bush, under pressure from some conservatives to name an outright foe of abortion, said he would appoint a successor who "will faithfully interpret the Constitution and laws of our country." He said he would make his selection in time to have a full court in place before the new term opens in October.

"The nation also deserves a dignified process of confirmation in the United States Senate," he added.

Sen. Arlen Specter, R-Pa., chairman of the Judiciary Committee that will hold hearings on Bush's candidate, said he doubted there would be a filibuster.

Democrats said that was up to Bush. "Above all, Justice O'Connor has been a voice of reason and moderation on the court," said Senate Democratic Leader Harry Reid of Nevada. "It is vital that she be replaced by someone like her."

O'Connor, 75 and a breast cancer survivor, kept her retirement a surprise even from her son, and it was not until Friday morning that she dispatched her letter, hand-delivered to the president.

It seemed to catch Bush's team off guard. The president and his staff had long been anticipating a retirement letter from Chief Justice William Rehnquist, 80 and ailing with thyroid cancer.

The Rehnquist guessing game continued. "If we haven't heard from him by now, the chances are you won't hear from him for some time," predicted Specter. The last time there were two simultaneous vacancies at the court was 1971; Rehnquist was picked for one of them.

Whatever the chief justice's plans, the short list of contenders, exclusively male, may have to be expanded in view of O'Connor's retirement, according to one White House official. That officials spoke only on condition of anonymity because of the sensitivity of the discussions.

Speculation has included Attorney General Alberto R. Gonzales and J. Michael Luttig, John Roberts, Samuel A. Alito Jr., Michael McConnell, Emilio Garza and James Harvie Wilkinson III, all federal appeals court judges.

O'Connor's decision capped a pioneer's career. President Reagan broke nearly 200 years of tradition in 1981 when he named her - a top-ranked graduate of Stanford law school - as the first woman to wear the robes of a justice.

"As the first woman to be appointed to this court, Sandra Day O'Connor was thrust into the spotlight as no new justice has ever been," Justice Antonin Scalia said in a written statement issued by the court.

Aware by her own account of the historical burden, she evolved into a moderate conservative, but more importantly, the consistent center of a fractured court.

In her first term, she cast the deciding vote and wrote a 5-4 ruling that said a Mississippi all-women college must allow a male student to study nursing.

It was the first of many such cases.

She voted with the majority on three significant 5-4 cases in recent years: the disputed 2000 presidential election that went to Bush, a 2003 decision that upheld an affirmative action program at the University of Michigan law school and a ruling last year that said the war on terrorism did not give the government a blank check to hold terror suspects in legal limbo.

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Nowhere was her legal thinking more carefully scrutinized than when it came to abortion, an issue that divides the court as it does the country.

O'Connor balked at letting states outlaw most abortions, refusing in 1989 to join four other justices who were ready to reverse the landmark 1973 decision that said women have a constitutional right to abortion.

In 1992, she helped forge a five-justice majority that reaffirmed the core holding of the 1973 ruling. Then, in 2000, she provided the fifth and decisive vote that struck down a Nebraska law that was aimed at banning a procedure critics call "partial-birth abortions."

In her opinion, she wrote that to be constitutional, a ban must include "an exception to preserve the life and health of the mother."

Last week, she sided with a 5-4 majority in a ruling that threw out the sentence of a death row inmate and warned state courts that shoddy legal defense representation wouldn't be tolerated.

She expressed her views tartly at times.

Last week, in a dissent to a 5-4 ruling that let local governments take personal property to build malls and other businesses, she wrote that the majority had unwisely handed more power to the powerful.

"The specter of condemnation hangs over all property," O'Connor wrote. "Nothing is to prevent the state from replacing ... any home with a shopping mall, or any farm with a factory."

Alone among the current justices, O'Connor ran for office. In 1975, she was elected judge of the Maricopa County Superior Court. She served until 1979, when she was appointed to the appellate bench in Arizona. Reagan named her to the high court two years later, and she won Senate confirmation unanimously.

In a one-sentence written statement on Friday, O'Connor cited her age and said she "needs to spend time" with her family.

Her official resignation letter was brief.

"It has been a great privilege indeed to have served as a member of the court for 24 terms," the 75-year-old justice wrote to Bush. "I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure."

"For an old ranching girl, you turned out pretty good," Bush told her in a private call not long after receiving her letter, an aide said.

Then, in the Rose Garden outside the Oval Office, he praised her as "a discerning and conscientious judge and a public servant of complete integrity."

Lawmakers in both parties hastened to praise her, often taking note of her place in history. "She has been a wonderful role model for girls," said Sen. Kay Bailey Hutchison, R-Texas.

In a Senate that narrowly avoided a meltdown over judicial nominations earlier in the year, much of the speechmaking seemed framed by the coming confirmation struggle.

"America needs judges who are fair, independent, unbiased and committed to equal justice under the law," said Majority Leader Bill Frist, R-Tenn. "I look forward to working with my colleagues to ensure a fair confirmation process in the Senate that will ensure the Supreme Court is at full strength to start its next term in October.

Liberal Democrats said they understood Bush would name a conservative, and signaled a willingness to go along, up to a point.

Sen. Edward M. Kennedy, D-Mass., said he hoped Bush would name a replacement who was a "a conservative ... who is in the mainstream of judicial thinking."

The remark stirred echoes of Democratic filibusters against several of Bush's appeals court nominees whom Democrats had attacked for years as outside the mainstream.

Partisans on both sides have been preparing for a vacancy for months. Given her opinions on abortion, O'Connor's decision to step down raised the stakes for partisans on both sides of the issue.

Senate aides of both parties held strategy meetings during the day.

Republicans were instructed to say Bush's choice deserved an "up or down vote," and that no litmus test should be applied, whether on abortion or any other issue.

Bush pledged to consult with Senate leaders. He later talked with Frist, Specter and Sen. Pat Leahy, D-Vt., the senior Democrat on the Judiciary Committee.

Officials said they expected the Judiciary Committee to hold hearings three to six weeks after Bush submits a nomination, perhaps beginning in August when Congress is customarily gone.

Three to five days of testimony are likely, during which the panel would hear from the nominee as well as outside interest groups both for and against him or her.

Search For Justice O'Connor Retirement Opens Seat On Supreme Court (AJC)

By Ken Herman

The Atlanta Journal-Constitution, July 2, 2005

With a three-sentence letter delivered Friday to the White House, Justice Sandra Day O'Connor announced her retirement from the Supreme Court and set off what many expect to be a bitter battle over the future of the nation's highest court.

O'Connor, appointed by President Ronald Reagan and the court's first female member, turned out to be the main swing vote on a court with a penchant for 5-4 decisions in high-profile cases involving civil rights, religion and affirmative action — and even, in 2000, the awarding of the presidential election to George W. Bush.

"She has occupied a pivotal role on the court as a centrist," said Senate Judiciary Committee Chairman Arlen Specter (R-Pa.).

In the letter announcing her intention to retire when a successor is confirmed, O'Connor, 75, told President Bush, "It has been a great privilege, indeed, to have served as a member of the court for 24 terms. I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure." Her husband is battling Alzheimer's disease.

Praise for O'Connor prefaced all talk Friday about a replacement.

"For an old ranching girl, you turned out pretty good," Bush told O'Connor during a phone call, said White House press secretary Scott McClellan.

After speaking to O'Connor, Bush said in a Rose Garden address that the country deserved a new justice it can be proud of.

"The nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote," he said. He promised to make a nomination in time for the Senate to confirm his choice before the court reconvenes in October.

The confirmation process recently has been anything but smooth. Bush's nomination of John Bolton as U.N. ambassador is stuck in the Senate, with Democrats refusing to let it go to the floor for a vote. And some appellate court nominations were approved only after a brutal battle in which Republican senators threatened to eradicate the filibuster, used by the Democratic minority to block some of Bush's nominees.

"I can't imagine they are going to want to get into controversial tactics such as that," McClellan said of the potential for a filibuster of Bush's nominee to replace O'Connor.

But Sen. Edward Kennedy (D-Mass.) moved quickly to put Bush on notice about a replacement.

"If the president abuses his power and nominates someone who threatens to roll back the rights and freedoms of the American people, then the American people will insist that we oppose that nominee, and we intend to do so," Kennedy said.

Kennedy said "serious consultation with the Senate in the nomination process is the key to a successful confirmation process."

McClellan said Bush always consulted with senators on judicial nominees, "but I think this will be an even more thorough process."

The White House is working with a list that McClellan would quantify only as "a group of potential nominees." Most often cited on lists making the rounds in Washington are Attorney General Alberto Gonzales, a longtime Bush aide who said recently his only goal was to return to Texas in the coming years, and six solidly conservative federal appellate judges: J. Michael Luttig and J. Harvie Wilkinson of the 4th Circuit court in Richmond, John Roberts of the District of Columbia court, Samuel Alito Jr. of the 3rd Circuit in New Jersey, William Pryor of the 11th Circuit in Atlanta, and Emilio Garza of the 5th Circuit in Texas.

Friday's announcement followed weeks of anticipation of a court retirement that had centered on 80-year-old Chief Justice William Rehnquist, who is battling thyroid cancer. Also on the watch list has been the court's oldest justice, John Paul Stevens, 85.

Though O'Connor was a relatively little-known

Arizona state judge when she was appointed in 1981 to replace the retiring Potter Stewart, her status as the court's first female made her an instant celebrity and the court's most recognized member.

"People saw it as a signal that there are virtually unlimited opportunities for women," she said once in an interview. "It's important to parents for their daughters, and to daughters for themselves."

In the Senate, Specter did not understate the task of finding a consensus replacement.

"This is a very polarized country when it comes to the issues which will come to the Supreme Court of the United States," he said. "Everybody can't have their own way."

Sen. John Cornyn (R-Texas) said he expected a dogfight.

"During the past four years we have seen unprecedented obstruction, partisanship — and venomous personal attacks dominate the Senate's judicial confirmation process," said Cornyn, a member of the Senate Judiciary Committee.

Bush promised to announce a nominee in a "timely manner," but said he would be "deliberate and thorough in this process" as he reviewed potential appointees "who will faithfully interpret the Constitution and laws of our country."

McClellan said no appointment would be made until Bush's return Friday from the G-8 conference of world leaders in Scotland. He said Bush had not reviewed any records concerning potential nominees, but acknowledged that a list of names was ready for presidential review.

"This is something we have been preparing for over the last few years," McClellan said.

After meeting with administration officials Friday about O'Connor's retirement, Bush called Senate Majority Leader Bill Frist (R-Tenn.). McClellan said Bush had discussed the Supreme Court on Wednesday with Senate Minority Leader Harry Reid (D-Nev.).

Reid on Friday called for a nominee "whose views are within the broad constitutional mainstream and who will make all Americans proud."

"With this nomination the president should choose to unite the country, not divide it," said Reid.

While players on both sides called for a calm, measured replacement process, outside groups quickly mobilized.

People for the American Way, a left-leaning organization that has opposed Bush's judicial nominees, quickly issued an urgent appeal, telling supporters it expected Bush to name "someone who threatens our rights and liberties."

"If O'Connor is replaced by a justice in the mold of justices [Antonin] Scalia and [Clarence] Thomas, as President Bush has suggested and right-wing leaders are demanding, the consequences would be disastrous for many of the legal and social justice victories achieved over recent decades," said Ralph Neas, the group's president.

On the other side, the Christian Defense Coalition also moved quickly to rally its backers.

"We are keenly aware that it was judges who removed prayer from the public schools and decriminalized abortion, which resulted in the deaths of 45,000,000 children," said the Rev. Patrick Mahoney, the group's director. "It was the courts that attempted to remove 'One nation under God' from the Pledge of Allegiance, and it is now courts that are trying to redefine marriage and the family."

Mahoney predicted a "bruising confirmation process."

Much Is At Stake With Bush's Choice (BSUN)

By Paul West

The Baltimore Sun, July 2, 2005

On a quiet, muggy, pre-holiday Friday morning, word of a Supreme Court retirement finally arrived - and with a stunning twist.

This was the Big One, the departure of Sandra Day O'Connor, the first female justice and the pivotal jurist on a closely divided court. The aftershocks from her announcement will be felt far into the future, in the realms of law, politics and, quite conceivably, American culture.

Most immediately, her resignation sharply raises the stakes - and ferocity - of a much-anticipated clash over the court's direction, legal scholars and political analysts said yesterday. It also creates a series of important decisions for President Bush and his advisers, from the selection of a replacement to the timing of that nomination.

"This is a vastly more consequential choice now for the president than replacing the chief justice would have been," said David Garrow of Emory University law school.

The ailing chief justice, William H. Rehnquist, whose departure had been more widely predicted than O'Connor's, is a fairly reliable member of the court's conservative bloc. By contrast, O'Connor has often been the justice whose vote decided cases, and her departure could well tilt a conservative court further to the right.

"This is probably the most significant appointment for the court" in nearly two decades, said Dennis J. Hutchinson, a University of Chicago law professor who edits The Supreme Court Review there.

"She's been the balance wheel of the court for at least the last half-decade. She's the one who has had the deciding vote or moderating vote on so many hot-button issues, whether it's affirmative action, abortion, states' rights and, to some extent, the religion clauses."

The confirmation fight in the Senate, which must approve her replacement, will be unlike any other.

"You have the 24-hour news cycle, the blogosphere, the incredible organizing by groups, for and against, with both sides literally raising millions of dollars. Their own legitimacy and power status in Washington is at stake here in ways that it wasn't in the past," said Hutchinson.

Analysts are already forecasting a long, hot Washington summer - and possibly autumn - in the struggle over replacing O'Connor, a story that figures to dominate attention during a period when the nation's capital is normally quiet.

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"You really get the feeling that you're standing in the open field of Gettysburg, shortly before the action," said Jonathan Turley, a George Washington University law professor. "We've got two well-funded armies in Washington. Whenever you have this degree of preparation, money and personnel, something bad tends to happen. There's a certain sense of dread."

Bush and his advisers have been preparing for a Supreme Court vacancy for months, if not years. But the timing of the nomination could be almost as important as the choice of a nominee.

The president said yesterday that he would announce the appointment "in a timely manner." But he also promised to consult in advance with members of Congress, and his spokesman signaled that a nominee was unlikely to be announced before mid-July, at the earliest.

Delaying an announcement might be in Bush's best interest.

"History has shown that nominees left to twist in the summer wind of Washington tend to suffer from the exposure," said Turley. "This town is like an armed camp, and any nominee that comes forward will suffer in the process."

By most estimates, the fight over replacing O'Connor will be more intense than the one over a Rehnquist successor would have been.

"O'Connor has long been an icon for both sides. For conservatives, she's viewed as an unreliable justice, in terms of conservative values," said Turley. "For Democrats, she's viewed as part of that thin black line of justices protecting them from a conservative sweep."

If Bush sticks to his stated goal of choosing a justice in the mold of Clarence Thomas, he "could have the most lasting impact on American law of any president in history," the professor added. "After decades of 5-4 votes, there are a dozen different areas that currently dangle by a single vote."

At the top of the list of legal issues, for many on both sides of the judicial fight, is abortion. O'Connor, a supporter of abortion rights, has often cast the swing vote in abortion cases.

Regardless of who replaces her, though, there will still be a majority on the court that supports abortion rights, which were guaranteed by the landmark 1973 decision in Roe v. Wade that overturned state laws outlawing abortion.

A conservative spokesman in the fight over judicial nominees stressed that point in an effort to play down the emotional importance of abortion in the confirmation battle.

The Supreme Court "has a 6-3 majority favoring Roe v. Wade, so replacing her will not challenge Roe's core," said C. Boyden Gray, former White House counsel to the first President George Bush and chairman of the Committee for Justice, part of a $20 million conservative effort to defend Bush's nominee.

University of Chicago's Hutchinson also said that O'Connor's replacement "isn't going to change the status of Roe v. Wade." Eleven of the last 13 appointments to the Supreme Court have been made by Republican presidents, "and Roe v. Wade is still solidly in place," he pointed out.

Instead, Bush's first decision will be "how much of a fight does he want to wage? Is he going to fight for symbolism, with an Hispanic, or the ideological fight, where he's getting pressed" from conservative groups, said Hutchinson.

Organizations representing religious and social conservatives are demanding a solidly conservative nominee in return for their help in Bush's re-election last year, preferably one who will move the court a step closer to overturning Roe.

Professor Garrow speculated that filling the O'Connor vacancy first, rather than the Rehnquist seat, will make it easier for Bush to name a close associate, Attorney General Alberto R. Gonzales, "replacing the first woman with the first Hispanic, rather than with an extremely conservative white male."

Conservative groups, who doubt Gonzales' zeal for the anti-abortion cause, oppose Gonzales. But the path-breaking selection of a Hispanic "would offer Bush some insulation from unhappy right-wingers," said Garrow, author of a history of Roe and the evolution of abortion rights.

He added that he "found it highly ironic this morning that the president so effusively praised [O'Connor], the justice who's done more to protect Roe v. Wade than anyone else. A president intent on naming an opponent of abortion wouldn't necessarily have made those remarks."

In the 2000 campaign, Bush said he wouldn't make abortion a litmus test for his court picks. But a legal adviser from that campaign, Ben Ginsberg, said that regardless of the eventual nominee's views, Democratic opposition is inevitable.

"O'Connor was a true conservative who stuck to her own positions and beliefs. And while she was perceived as being an ideological soulmate of Rehnquist's, which she was, there were some differences," he said. "That will gin up the liberal groups in a way that a Rehnquist resignation wouldn't have."

Conservatives, meantime, expect Bush to put a reliably conservative vote on the bench.

"The problem is that both sides are so firm that there's not a lot of room for compromise. It's all going to depend on the president. I think conservatives and liberals are not just ready but eager for a fight," said Turley. "In this environment, compromise will be viewed by both sides as weakness. It may be a battle that is inevitable."

At White House, Surprise Is Borne Out In Name Only (NYT)

By Douglas Jehl

The New York Times, July 2, 2005

In retrospect, there were ambiguous hints that Justice Sandra Day O'Connor might be preparing to step down.

Last June, for the court term that begins this October, Justice O'Connor hired just three clerks, one shy of her usual complement. Early last month, Justice O'Connor's husband, John, told another guest at a dinner party that while his wife had been the most powerful woman in America, now "we're out of here."

But within the White House and the rest of official Washington, none of those signals made it any less surprising early Friday morning when the Supreme Court sent word that it was Justice O'Connor, and not Chief Justice William H. Rehnquist, who was stepping down.

At the White House, the moment presents Mr. Bush with an opportunity to define at last, more than four years into his presidency, whether he is a pragmatic, flexible conservative, as he has portrayed himself in two campaigns, or a more ideological one, determined to move the court much further rightward. It is a juncture officials have been planning for.

Still, the first real expectations of an impending vacancy were prompted by a telephone call placed before noon on Thursday by a marshal at the court, said the White House spokesman, Scott McClellan. But the marshal had sent word to the White House only that she had a sealed envelope that needed to be delivered on Friday, he said.

Some White House officials had privately speculated that Justice O'Connor could well resign, though almost certainly in tandem with Chief Justice Rehnquist, who was seen as far more likely to depart. He is 80 and ill with thyroid cancer.

It was not until shortly before 9 a.m. on Friday that Harriet Miers, the White House counsel, learned which of the nine justices was leaving the court, Mr. McClellan said. Ms. Miers had spoken by telephone again to the marshal and was told that "she now had the authority to say that this letter was in reference to Justice O'Connor."

That meant that it would fall to Mr. Bush to fill not a seat held by a solid conservative, but one held by a justice who for most of her 24 years on the court has been one of its least predictable swing votes. By 10:30 a.m., Mr. Bush had spoken briefly by phone with Justice O'Connor and had met with advisers for the first strategy session about her replacement.

Mr. McClellan acknowledged that Thursday's call had been sufficient to prompt Ms. Miers to alert Andrew H. Card Jr., the White House chief of staff, as well as Mr. Bush and Vice President Dick Cheney. Asked if any speculation in the White House had focused on Mr. Rehnquist, Mr. McClellan just smiled.

The White House has been preparing for months to fill a seat on the court, but people involved in the process said the main focus had been on finding a new chief justice to replace Mr. Rehnquist. It was only in recent weeks, some conservatives said, that the White House began to consider seriously the prospect of Justice O'Connor's departure.

"It means a different nominee," C. Boyden Gray, the founder of a conservative group organized to back a Bush nominee, said as he rushed out the door of his Georgetown home on Friday morning to prepare for a day of back-to-back news media interviews and strategy sessions with his conservative troops.

"It's more difficult because it requires a vote change," said Mr. Gray, the former White House counsel under President Bush's father. "I'm not sure we are as prepared for an O'Connor vacancy."

However unprepared, Mr. Gray's conservative allies responded immediately. Progress for America, one of several groups steeled for a court vacancy, sent out a mass e-mail message shortly after 10 a.m., suggesting that their liberal opponents were poised to wage a bruising partisan battle. "The president's nominee deserves genuine consideration - not instant attacks," Brian McCabe, president of the group, was quoted as saying in the e-mail message. "The Left has been huddling for the last 11 years, plotting strategy to derail any nominee to the Supreme Court."

The group has said it will spend $18 million to defend Mr. Bush's Supreme Court nominee, and it quickly released a Web-exclusive advertisement to 8.7 million conservative constituents in 21 states contending that liberal advocacy groups would block Benjamin Franklin and George Washington if they were nominated to the court today. A mock news report in the advertisement reported that Democrats were attacking Franklin because of his ties to the energy industry and Washington for an environmental record tarnished by chopping down cherry trees.

At roughly the same moment, People for the American Way, one of the main liberal groups working on the judicial issue, sent out its own e-mail memo to about 10,000 journalists and 4,000 activists, calling the O'Connor resignation a "critical moment for the Constitution."

"Replacing the conservative Justice O'Connor with a right-wing ideologue would be a constitutional catastrophe," Ralph G. Neas, president of the group, said. "A right-wing appointment could turn back the clock seven decades."

Among those in Washington notified at least a few hours before Justice O'Connor's decision became public were at least some of her fellow justices, according to people who talked by telephone with the justices on Friday morning.

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An aide to Senator Bill Frist, the majority leader, said that the senator had been given "strong indications" that Justice O'Connor would step down, and that party leaders were sufficiently prepared that they had positioned themselves on the Senate floor for the moment when word became known. Dr. Frist's tribute to Justice O'Connor appeared to have been prepared in advance.

News A Surprise To Family, Bush (DMN/AP)

Associated Press

The Dallas Morning News, July 2, 2005

Justice Sandra Day O'Connor even surprised her family.

Her son, Scott, a Phoenix businessman, said he didn't find out about his mother's retirement until after the Washington announcement.

"She was a little teary-eyed," he said after talking to her Friday. "That is a tough decision."

Justice O'Connor has two other sons, Brian and Jay, and several grandchildren. One granddaughter wrote a book with her, about a child's visit to the court.

President Bush called Justice O'Connor before he appeared in the Rose Garden to express appreciation for her 24 years of service.

"For an old ranching girl, you turned out pretty good," he told Justice O'Connor, who grew up on an Arizona ranch.

"You're one of the great Americans," Mr. Bush said. "I wish I were there to hug you."

The White House got the first hint Thursday when the court's head marshal called White House counsel Harriet Miers to arrange delivery of a sealed envelope Friday morning.

The administration had been preparing for Chief Justice William Rehnquist to step down and had been mulling how to replace the court's conservative anchor.

"We have had a plan in place," White House press secretary Scott McClellan said, "just in case there was a vacancy."

Nomination Could Be Defining Moment For Bush (WP)

By Dan Balz

The Washington Post, July 2, 2005

There are few genuine earthquakes in American politics, but yesterday's announcement by Justice Sandra Day O'Connor easily qualifies as one. Her retirement is likely to trigger one of the most consequential confirmation battles in a generation, with the ideological balance of the Supreme Court and the future of contentious social issues now firmly in the hands of President Bush.

For more than three decades, the right has been ascendant in America. A Republican Party fueled by the energy and activism of its religious and social conservatives has seized control of the executive and legislative branches of government in Washington and has seen its strength widen and deepen across the country.

The Supreme Court is the lone branch of government where conservatives have been unable to gain the dominant voice, to the great frustration of those on the right. Among the most ardent conservatives, there is no better evidence of the need to change the court than two decisions that marked the end of the term this summer, which limited displays of the Ten Commandments on government property and gave local governments the power to seize private property for commercial development.

The choice ahead for Bush in selecting a successor to O'Connor may prove to be the most important domestic decision of his presidency, given its potential impact on abortion and other issues and rivaling Iraq in its ability to split the country. He will soon decide just how far to try to push the court in a different direction. The bolder he is, the more likely he will touch off a battle that will consume Washington and much of the country for the rest of the summer and whose impact could be felt in the 2006 elections and beyond.

There are huge risks for Bush no matter which way he moves. He faces enormous pressure from the right to appoint someone more conservative than O'Connor. But such a move risks a potentially bruising battle with Senate Democrats and a backlash among voters in the middle of the ideological spectrum, who may worry about the GOP's social and cultural agenda.

But leading Republicans said Bush must move decisively to remake the court. "Given the disastrous decisions of the last few days on private property rights, the Ten Commandments and violent criminals, I think the majority that elected Bush and the House and Senate clearly expects a very conservative nomination," said former House speaker Newt Gingrich of Georgia.

The coming decision will prove a defining moment for Bush's presidency. His political strategy is founded on the assiduous courtship of his conservative base, and on big issues he has rarely chosen to disappoint them. But it has never been clear how comfortable the president is in pushing a sharply conservative social agenda. He opposes abortion but has resisted championing

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the cause of overturning Roe v. Wade . He pushed a constitutional amendment barring same-sex marriages, but at a time when it was clear it could never pass Congress.

Bush has been forthright, however, in trying to change the complexion of the courts, a political project that he shares with White House Deputy Chief of Staff Karl Rove and other top advisers. Bush has nominated a series of conservatives to fill federal district and, especially, appellate courts, locking horns with Democrats, whose filibusters of those nominations only heightened the White House's determination to keep pushing forward.

But the president also has a contrarian streak, and in personnel decisions he often likes to go with his instincts. Only a handful of people know the full range of calculations he and his advisers are bringing to this decision, but there is no more important issue to social and religious conservatives than the Supreme Court, and there aren't many ways for Bush to fudge on his intentions in the selection of a successor to O'Connor.

"The court is the pivot point on social policy, and O'Connor's seat is the pivot point on the court," said William Kristol, editor of the conservative Weekly Standard, who had predicted O'Connor's retirement. "So it's a pretty dramatic moment."

Both sides believe the political landscape tilts in their direction in a Supreme Court battle, reflecting sharply contrasting philosophies about the role of the courts.

Democrats think Bush has been hurt by Republican-led intervention in the Terri Schiavo case and by the comments of House Majority Leader Tom DeLay (R-Tex.) and others warning that they intend to do whatever they can to rein in the courts. In their estimation, moderate voters, particularly women, recoil at the prospect of a Republican Party that already controls the White House and Congress gaining control of the majority at the Supreme Court. Instead, they want a court system that provides a check and balance rather than a ratification of the conservative agenda.

But conservatives argue, and key White House officials agree, that the public sees the courts as out of touch with their values. They believe that voters want the courts to act as impartial referees in the political battles between the major parties. Conservatives believe a majority of Americans see the courts dominated by judges who are legislating on issues such as gay rights and abortion. They argue that the high court's rulings run wildly counter to public opinion.

The shockwaves of O'Connor's announcement began to reverberate immediately as word began to circulate yesterday morning that it was the court's most celebrated swing justice, and not the ailing chief justice, William H. Rehnquist, who is stepping down.

Combatants on both sides had widely anticipated a Rehnquist retirement and were gearing up for a confirmation fight over his successor. But there was something ritualistic about the preparations for that battle, since the departure of Rehnquist, one of the staunchest conservatives among the nine justices, would offer no real chance to move the court to the right.

The departure of O'Connor changed all that, bringing conservatives to a moment they have long dreamed about and liberals to a moment they have long feared. No one was exaggerating yesterday when they talked about the potential consequences involved in the choice of an O'Connor successor.

"This totally raises the stakes," said Democratic pollster Geoffrey Garin. He added: "Obviously we've had battles over particular nominees, but this is a battle about the court itself rather than any one seat. As a result, so much more hangs in the balance. There's no question that all sides will see this as a very high-stakes, high-consequence battle."

It is possible that predictions of a pitched battle in the Senate this summer may prove exaggerated. "I understand both sides are well armed and ready for war and everyone's got their battle plans drawn," said Ron Klain, who was chief of staff to then-Vice President Al Gore. "But it ultimately does come down to whom he selects. If he does what Ronald Reagan did and veers off and picks someone more from the center, then we might not have a fight. If not, we're much more likely to have a fight."

That could mean the choice of someone such as Attorney General Alberto R. Gonzales, a personal favorite of the president, who is seen as less rigidly conservative than some others on lists of possible nominees.

But among conservatives still angry about the choice by Bush's father of Justice David H. Souter, who has voted regularly with the court's liberals, Gonzales is seen as insufficiently opposed to abortion, and his nomination would be viewed by them as a betrayal. "There are many pro-family groups who are opposed to his being nominated," said Jan LaRue, chief counsel of Concerned Women for America.

Depending on the outcome of the upcoming battle, the courts could become central issues in next year's midterm elections and in the next presidential campaign. After the uproar over the confirmation of Justice Clarence Thomas came what was called the "Year of the Woman," in 1992, when Democrats elected a number of women to the Senate. After the high court's 1989 abortion decision in the Webster case from Missouri, abortion became a mobilizing issue on both the right and the left.

In the larger context, conservatives see the upcoming battle as a chance to recoup from the failure to confirm Robert H. Bork to the Supreme Court during the Reagan administration, which they regard as a major setback for their movement. In Bush they have the most conservative president since Reagan and one who, as his advisers say, likes to swing for the fences. Which is why his next move is awaited by all sides with such great expectation.

Groups Poised To Swing Left And Right (DMN)

By David Jackson

The Dallas Morning News, July 2, 2005

The long-anticipated battle for the Supreme Court is finally here, but it's not the one many people expected.

It might be bloodier.

Washington prepared for the retirement of conservative Chief Justice William Rehnquist; instead, the more moderate Justice Sandra Day O'Connor announced her retirement Friday – giving President Bush the opportunity to pull the court to the right on such issues as abortion, gay rights, affirmative action and religion in public life.

Rather than swapping one conservative for another, as he would have with Justice Rehnquist, Mr. Bush gets to replace the justice who often provided the swing vote in 5-4 rulings.

"Her replacement will have a monumental impact on the lives and freedoms of Americans for decades to come," said Ralph Neas, president of the liberal group People for the American Way.

His organization is one of many prepared to campaign against any Bush nominee that they consider out of the mainstream. Those efforts will be opposed by conservative groups still smarting from the rough treatment given past GOP nominees Robert Bork, rejected by the Senate in 1987, and Clarence Thomas, who was barely confirmed after sexual harassment allegations surfaced in 1991.

"We know they will attack almost any nonliberal nominee in hysterical terms," said C. Boyden Gray, a former White House counsel whose organization, The Committee for Justice, will promote the president's pick.

Another conservative group, Progress for America, has already begun running television ads on behalf of Mr. Bush's nominee, whoever that person will be.

Mr. Bush said he will fill the first vacancy in 11 years with "a Supreme Court justice that Americans can be proud of."

Don't expect a nomination next week, aides said, as Mr. Bush travels to Scotland for the annual Group of Eight summit.

Woman, or Hispanic?

Justice O'Connor's announcement forced a reassessment at the White House, where officials had been more focused on a possible Rehnquist retirement because of his thyroid cancer.

Her retirement puts pressure on Mr. Bush to consider nominating a woman, or at least a more moderate nominee in the O'Connor mold, analysts said. It also opens the door for a possible historic pick, such as the court's first Hispanic member, possibly Attorney General Al Gonzales.

In recent days, conservatives have discussed a Gonzales-for-O'Connor trade. They have also criticized the possibility, calling the former White House counsel insufficiently opposed to abortion rights and affirmative action.

On the other side, Mr. Gonzales, a former White House counsel, would face liberal opposition over his role in setting policy for treatment of war prisoners.

Asked about the Supreme Court this week, Mr. Gonzales said his sole focus is "to defend America against domestic attacks and to make our community safer."

As for potential female nominees, administration officials have reviewed the record of New Orleans-based appeals Judge Edith Brown Clement. Another possibility is Edith Jones of Houston, who, like Judge Clement, sits on the 5th U.S. Circuit Court of Appeals.

Both are considered pro-business conservatives and would likely be opposed by liberals.

Conservatives, meanwhile, are expected to continue pushing judges who had been promoted for Chief Justice Rehnquist's slot. That list includes appeals judges Michael Luttig of Virginia, Samuel Alito of New Jersey and John Roberts of Washington, D.C. They too would likely draw Democratic opposition.

Retirement announcement

The text of Sandra Day O'Connor's retirement letter to President Bush:

Dear President Bush:

This is to inform you of my decision to retire from my position as an associate justice of the Supreme Court of the United States effective upon the nomination and confirmation of my successor. It has been a great privilege, indeed, to have served as a member of the court for 24 terms. I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure.

Sincerely,

Sandra Day O'Connor

Mr. Bush is being bombarded with advice, including a push from conservatives to consider Sen. John Cornyn, R-Texas, and a write-in campaign on behalf of San Antonio-based appeals Judge Edward Prado. Both are considered long shots.

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White House officials said the Bush legal team has spent years looking at possible nominees, but they indicated that Mr. Bush's interviews with the finalists would be decisive.

During a 2004 election debate, Mr. Bush said he would pick justices "who would not allow their personal opinion to get in the way of law. I would pick somebody who would strictly interpret the Constitution of the United States."

Many legal analysts have cited Mr. Bush's praise for justices Antonin Scalia and Clarence Thomas, the court's most conservative members, as an indicator of the type of person he might select.

Roe vs. Wade

As groups gear up for what will be a multimillion-dollar battle, abortion is probably the biggest fault line. Conservatives have long sought a reversal of Roe vs. Wade, the 1973 decision that made abortion a constitutional right.

Nancy Keenan, the president of NARAL Pro-Choice America, promised a "real fight" if Mr. Bush nominates an anti-Roe judge: "The 60 percent of Americans who want Roe v. Wade left alone will not be silent this time."

Abortion rights opponent Ed Meese, attorney general for President Reagan, urged Mr. Bush to seek a judge who interprets laws, "rather than making up the law to reach some policy objective or personal preference."

Liberals fear a conservative court would render decisions that favor businesses over consumers, environmentalists and unions; that restrict affirmative actions and gay rights; that give police more power over civilians; and that expand the role of religion in government.

Conservatives said they want a court that will protect the rights of religious believers, business people and property owners from expanding government control.

A simple Senate majority may not be enough to confirm Mr. Bush's nominee, who would need 60 votes to override a Democratic filibuster, a strategy many Bush critics are prepared to advocate.

In pledging to move expeditiously, Mr. Bush said, "the nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing, and a fair vote."

Sen. Patrick Leahy of Vermont, top Democrat on the Senate Judiciary Committee, said Mr. Bush could avoid past divisions by tapping a jurist in the O'Connor mold.

"Justice O'Connor is a sterling example of what can happen when a president nominates a justice not from the right or the left wing of one of the political parties," he said, "but an independent judge capable of making up her own mind."

Adding 1 Involves A Lot Of Variables (LAT)

By Peter Wallsten And Richard B. Schmitt

The Los Angeles Times, July 2, 2005

As President Bush weighs a successor for retiring Supreme Court Justice Sandra Day O'Connor, he will face pressure to name a Latino, a woman, an African American or someone who would help overturn the landmark case that legalized abortion.

But White House allies and advisors said Friday that the toughest choice facing Bush was whether to pick a nominee who would probably coast to Senate confirmation — such as his longtime friend, Atty. Gen. Alberto R. Gonzales — or one who would please the conservative Republican base but also spark a protracted partisan battle that could stall other priorities.

That quandary came into focus with O'Connor's surprise announcement, which all but assured White House allies that Bush would get the chance to make at least two Supreme Court appointments. The second would replace ailing Chief Justice William H. Rehnquist, who until Friday had been considered the sure bet to create the first opening.

Now, White House advisors are trying to draw lessons from the experience of President Reagan, who took the easy route first in winning confirmation for Justice Antonin Scalia but then paid a heavy price when a more controversial nominee, Robert H. Bork, was defeated.

"It's a fairly sophisticated choice to be facing," said C. Boyden Gray, White House counsel under President George H.W. Bush and now a strategist on court nominees for the current administration. Bush "really does want to appoint Gonzales. So does he appoint Gonzales now, or does he wait for the second opening? Gonzales would be the first Hispanic and would be easier to confirm" than other contenders considered to be more conservative.

Further complicating matters for the White House, said Gray and other administration allies, was the fact that O'Connor made her announcement on the eve of the president's trip to Scotland for the summit of the Group of 8 industrial nations. That means Bush will not announce his nominee until at least the end of next week, giving Democrats and liberal interest groups more time to frame the debate and talk about potential picks.

"It's going to put pressure on people like us on the outside to get on TV and fill the airwaves," Gray said.

For Bush, the O'Connor announcement opened the door to one of the most highly anticipated decisions of his presidency. His approach to a Supreme Court vacancy has been the source of speculation among activists on all sides of major issues since

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he said during his 2000 campaign that his ideal court picks would mirror conservative heroes Scalia and Justice Clarence Thomas.

But his course of action is unpredictable. Bush won the White House by shoring up his party's conservative base, but he is also fiercely loyal to friends such as Gonzales and eager to expand the Republican base by drawing more Latino voters.

Religious conservatives signaled Friday that they would not be satisfied with Gonzales or any nominee viewed as potentially soft on overturning the Roe vs. Wade abortion decision and on other social issues. O'Connor's departure is thought to leave a narrow court majority supporting a right to abortion, and leading conservative activists relished the prospect of moving one vote closer to overturning the 1973 decision that legalized the procedure.

Richard Land of the Southern Baptist Convention noted that O'Connor had been part of the majority in several cases that had "dismayed social conservatives," including several abortion decisions and this week's ruling limiting the display of the Ten Commandments in public buildings. Land said Bush's legacy as a president would probably turn on whether he picked a sufficiently conservative nominee.

Similar thoughts came from other evangelical leaders, such as Tony Perkins, president of the Family Research Council, and Gary Bauer, president of American Values. Bauer cautioned the White House to avoid the temptation to "pander to the whims of political correctness."

Gonzales has been a particular concern to conservatives because of moderate stances he took on abortion rights and affirmative action while a justice on the Texas Supreme Court and as White House counsel. Some conservatives said they were counting on Bush to hold off on appointing his friend.

"I know he respects [Gonzales], and he could come up later," said the Rev. Louis P. Sheldon, chairman of the Traditional Values Coalition. "But I think out of the chute, the president wants someone who will have 100% support from the grass roots."

But as Bush considers various nominees, there are reasons he may bypass the most conservative names and focus instead on Gonzales or other candidates considered more moderate.

The president may want to avoid a bitter confirmation battle that could hamper the rest of his agenda in Congress by tying up the Senate and inflaming partisan passions. Already, Bush's signature domestic proposal — restructuring Social Security — is in jeopardy, and a confirmation vote on John R. Bolton, his nominee to be U.N. ambassador, has been stalled by Senate Democrats.

Recent polls have put Bush's popularity below 50% amid growing concerns about the war in Iraq, and a further erosion may scare Republican lawmakers from following his lead on a range of issues.

Moreover, the fact that the president will be choosing a successor to O'Connor, a moderate, "makes it easier for Bush to appoint someone who is more of a moderate," said UC Berkeley law professor John Yoo, a former Justice Department official.

In fact, Bush may have signaled this week that pleasing social conservatives by pushing to overturn Roe vs. Wade was not necessarily weighing on his mind.

"Abortion ought to be illegal with the exception of rape, incest or life of the mother," he said on Danish television Wednesday. "But look, I'm a realist as well. I mean, this is an issue that has polarized the American political society. And in order to get good policy in place that protects the life of a child, we're going to have to change hearts."

O'Connor's retirement raises the prospect that Bush will nominate someone who has a diverse background, but not necessarily a woman, said some who watch the court. "The fact that it is Justice O'Connor may marginally hurt the chances of the white males in the pool and help the chances of those who are perceived to be more readily confirmable," said Bradford Berenson, a former White House lawyer.

Bush has never hidden his affection for his longtime aide Gonzales, a son of migrant workers. Bush has placed him in a series of increasingly important jobs since Gonzales became Bush's legal advisor in Texas in the 1990s.

If chosen for the high court, Gonzales is considered likely to be approved. Not only did he already win confirmation as attorney general, but also lawmakers from both parties would be wary of opposing him for fear of offending Latino voters.

"There is no doubt in my mind that Al Gonzales will be nominated for the Supreme Court. The only question is whether it will be for the first or the second opening," said Gonzales' longtime acquaintance Roland Garcia, a Houston lawyer who was a law partner of White House Counsel Harriet Miers.

Miers, a Texas lawyer who has known Gonzales and Bush for years, is helping vet potential nominees. Gonzales huddled Friday with Miers, Bush, Vice President Dick Cheney, White House political strategist Karl Rove and several others to discuss O'Connor's resignation. The attorney general has made a point recently of opening dialogue with conservative activists, leading some to conclude he was in essence interviewing for the job.

Gonzales was unavailable to comment Friday, but issued a written statement calling O'Connor a "role model for a generation of young lawyers."

Should Bush choose to avoid a battle with his own base over Gonzales and opt for a candidate thought to be more reliably conservative, there are many contenders believed to be on his short list.

Another possible Latino nominee is Judge Emilio M. Garza, 57, who sits on the 5th U.S. Circuit Court of Appeals in New Orleans. Garza has written opinions that are skeptical of the right to abortion set out in Roe vs. Wade.

If the White House concludes that O'Connor's departure means Bush must choose another woman, the possibilities include Edith H. Jones, who sits with Garza on the 5th Circuit; Edith Brown Clement, who also sits on that court; and former California Supreme Court Justice Janice Rogers Brown, who was recently confirmed as a judge on the federal appeals court in Washington, D.C.

Jones and Brown have endeared themselves to the GOP's conservative wing. Jones has written opinions openly questioning the rationale in Roe vs. Wade and suggesting that it should be reexamined based on research raising new questions about the effect of abortions on women's health.

Brown has a long record as a conservative-minded state court jurist on issues including property rights, affirmative action and government power. Born into a sharecropper's family in Alabama, she has the sort of personal story that Bush appears to admire in his Cabinet and judicial picks. She would also be the first African American woman on the court.

Clement was named to the federal bench by the first President Bush and was elevated to the appellate court in 2001.

Should Bush decide to forgo considerations of diversity and focus solely on finding a conservative, he may tap Judge J. Michael Luttig, an appellate judge in Virginia; Judge Samuel A. Alito of the U.S. Court of Appeals in Philadelphia, whose conservative voice has invited comparisons to Scalia; or Judge John G. Roberts Jr., a cautious Bush appointee to the U.S. Court of Appeals in Washington, D.C.

Candidates whose confirmations would probably be relatively less confrontational include J. Harvie Wilkinson III, a scholarly veteran judge on the U.S. Court of Appeals in Richmond, Va., and Michael W. McConnell, a former University of Chicago law professor who sits on the U.S. Court of Appeals in Denver and has drawn support from both liberal and conservative academics.

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VACANCY ON THE SUPREME COURT

10 potential successors

Samuel A. Alito Jr., 55

Son of an Italian immigrant has been likened to Justice Antonin Scalia because of his legal philosophy. A staunch conservative on the generally liberal U.S. 3rd Circuit Court of Appeals. Has written conservative dissents in abortion, gun control and 1st Amendment cases.

*

Janice Rogers Brown, 56

Brown was confirmed in June to the U.S. Court of Appeals for the District of Columbia after a nearly two-year political battle focused on her conservative judicial philosophy. She took some liberal positions as a California Supreme Court justice.

*

Emilio Garza, 58

Appointed a district judge in 1988, Garza was promoted to the U.S. 5th Circuit Court of Appeals in 1991 by George H.W. Bush. A conservative Catholic, he would be the court's first Latino. He has suggested that he would vote to overturn the constitutional protection for abortion rights.

*

Alberto R. Gonzales, 49

U.S. attorney general drew fire from Democrats during confirmation hearings. Some conservatives view the longtime Bush

advisor as too moderate on issues such as abortion rights and affirmative action. He is the son of Mexican American migrant farm-workers.

*

Edith Hollan Jones, 55

A smart, hard-nosed conservative, Jones has sat on the U.S. 5th Circuit Court of Appeals since 1985. She has a long track record on a wide range of issues, including abortion. She has characterized the Roe vs. Wade decision as a "raw exercise in judicial power."

*

J. Michael Luttig, 51

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Has been on U.S. 4th Circuit Court of Appeals in Virginia since 1991. Clerked for Justice Antonin Scalia on a federal appeals court, and for Chief Justice Warren Burger in 1983-84. Has a conservate reputation, but some see him as more moderate than others on Bush's list.

*

Michael W. McConnell, 50

Judge on the U.S. 10th Circuit Court of Appeals since 2002 has been criticized from the right and the left. Liberals suspect he opposes abortion, though he has said the issue is "completely settled." Opposed the Clinton impeachment and the 2000 presidential election ruling.

*

John G. Roberts Jr., 50

A judge with the D.C. Circuit Court since 2003, he was a law clerk for Chief Justice William Rehnquist and served under the first President Bush. A sought-after private litigator in Supreme Court cases, he has generally avoided weighing in on disputed social issues.

*

J. Harvie Wilkinson III, 60

Wilkinson has served in the armed forces, taught law and is a former editorial page editor of the Norfolk Virginian-Pilot. He has been consistently conservative since he was nominated to the U.S. 4th Circuit Court of Appeals by President Reagan in 1984.

*

Edith Brown Clement, 57

Clement was nominated by President George H.W. Bush to a seat on the U.S. District Court for the Eastern District of Louisiana in 1991. She served for 10 years, including two as chief judge, until President George W. Bush elevated her to the U.S. 5th Circuit Court of Appeals.

Supreme Court Justice O'Connor Resigns (WP)

By Peter Baker

The Washington Post, July 2, 2005

Justice Sandra Day O'Connor, a self-described "simple cowgirl" who became the first woman on the Supreme Court, announced her retirement yesterday after nearly a generation as the court's pivotal voice on society's most burning issues, from abortion and race to capital punishment and terrorism.

O'Connor, 75, stunned the capital with her simple three-sentence letter hand-delivered to the White House yesterday morning, touching off what both parties expect to be a media-saturated struggle to choose her successor. The consequences could hardly be greater, given the precarious ideological balance on the court and O'Connor's role for many years as the deciding vote.

Her announcement threw off balance the political and legal establishment in Washington, which had expected Chief Justice William H. Rehnquist to retire when the court's term ended Monday and then stood down after he did not. President Bush first got word Thursday that a sealed envelope from the court would arrive the next morning but did not know from which justice, and he kept even that news secret from everyone in the West Wing but Vice President Cheney and two aides.

Within minutes of the letter's arrival, all manner of activists, lawmakers and administration officials -- many heading off for the holiday weekend -- scrambled to activate long-prepared battle plans. Bush and senators from both parties rushed to the microphones to lay down markers. Interest groups launched television advertising and sent millions of e-mail messages.

The coming nomination will be the first in 11 years and the first of the Internet era, an opportunity for Bush to remake the court in a decisive fashion. Scheduled to fly Tuesday to Europe for an international summit, Bush will not name a nominee until after he returns Friday, the White House said, but advisers have already produced a list of more than half a dozen candidates for him to consider, mainly conservative federal appellate judges.

Appearing in the Rose Garden an hour after receiving her letter, Bush praised O'Connor as "a discerning and conscientious judge" and promised to pick a successor "who will faithfully interpret the Constitution." Bush, whose selections of lower-court nominees provoked a bitter months-long standoff in the Senate, pledged to consult lawmakers and called Senate Democratic leaders yesterday with a promise to meet after his European trip.

"The nation deserves, and I will select, a Supreme Court justice that Americans can be proud of," the president said. "The nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote."

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But liberal critics wasted no time going on the attack even without a nominee identified. The advocacy group MoveOn.org released a television ad asking, "Will George Bush choose an extremist who will threaten our rights?"

Sen. Edward M. Kennedy (D-Mass.), whose early opposition to Robert H. Bork helped doom his nomination to the Supreme Court in 1987, threatened to do the same to a Bush candidate. "If the president abuses his power and nominates someone who threatens to roll back the rights and freedoms of the American people," Kennedy said, "then the American people will insist that we oppose that nominee, and we intend to do so."

Conservative allies of the president responded with their own media onslaught, including a webcast mocking Democrats in a satirical news show reporting that they were opposing George Washington and Benjamin Franklin after Bush named them to the court. "Today the battle is joined," said a statement from the Committee for Justice, a group founded to support the White House, singling out 12 Senate Democrats from conservative states "who will be held accountable" if their party blocks Bush's choice.

"This is the most important resignation and nomination . . . in our lifetime and probably more than that," said Jay Sekulow, chief counsel to the American Center for Law and Justice, an advocacy group founded by evangelist Pat Robertson. "It's very, very significant. Justice O'Connor is the pivotal vote on so many key cases. This has got gargantuan" implications, Sekulow said.

The nominee could reshape not only the court but also the president's place in history. "The person will serve for life and long outlive" Bush's presidency, said C. Boyden Gray, who was White House counsel to Bush's father and founded the Committee for Justice. "Presidents are in some cases defined by their nominations."

At the same time, the nomination could overshadow the rest of Bush's domestic agenda for months, particularly his plan for Social Security, which has foundered upon rock-solid Democratic opposition and Republican ambivalence. Some allies suggested it could even provide a way to quietly drop the Social Security effort until after next year's midterm elections.

The nomination battle could be the first of two, if Rehnquist, who is 80 and has thyroid cancer, decides to retire. The earliest Bush is likely to name a nominee to replace O'Connor is July 11, advisers said, and some think he might wait until after the Senate's August recess to avoid leaving a nominee as a target for opponents.

Former attorney general Edwin Meese III, one of four outside advisers who plotted strategy with top White House officials last week, said in an interview yesterday that Bush has three options on timing: name a nominee as quickly as possible and ask senators to remain in August, request that the Senate Judiciary Committee come back from recess early to begin hearings, or wait until the end of the recess to announce a nominee. "That's one thing I know will be discussed very carefully," Meese said.

Bush gave no indication of his plans except to say he will "choose a nominee in a timely manner" in hopes of filling the vacancy by the court's next term, which begins Oct. 3. O'Connor said she will remain on the court until her replacement is confirmed. Senate aides said hearings could begin in late July, with senators recalled in August.

Aides said Bush plans to bring files on candidates to study during his European trip and will interview finalists when he returns. He will also meet with Senate Majority Leader Bill Frist (R-Tenn.), Minority Leader Harry M. Reid (D-Nev.), Judiciary Committee Chairman Arlen Specter (R-Pa.) and Sen. Patrick J. Leahy (Vt.), the committee's ranking Democrat.

Bush and his team have prepared for a Supreme Court vacancy for four years and the field of candidates has long been vetted. The most heavily favored candidates, outside White House advisers said, are Judges J. Michael Luttig of the U.S. Court of Appeals for the 4th Circuit and John G. Roberts of the District of Columbia Circuit. Senior officials said Bush has not ruled out his longtime friend and adviser Alberto R. Gonzales, the current attorney general, who would be the nation's first Hispanic justice but is viewed with suspicion by some conservatives, who see him as too moderate on abortion and affirmative action.

Because Bush will be filling O'Connor's seat rather than Rehnquist's, some outside advisers said he may want to focus on appointing another woman, such as Judges Edith B. Clement and Edith Hollan Jones of the U.S. Court of Appeals for the 5th Circuit. Some conservatives are promoting two appellate judges who were just confirmed in the past few weeks after much controversy, Priscilla R. Owen of the 5th Circuit and Janice Rogers Brown of the D.C. Circuit.

Other appellate judges believed to be possible candidates include Samuel A. Alito Jr. of the 3rd Circuit, Michael W. McConnell of the 10th Circuit, Emilio M. Garza of the 5th Circuit and J. Harvie Wilkinson III of the 4th Circuit.

Almost all of the known candidates are thought to be more conservative than O'Connor, who made her mark in the middle of the court as a pragmatist balancing the two extremes. A former Arizona state legislator, O'Connor was appointed to the high court by President Ronald Reagan in 1981 and cast the deciding vote in cases that banned state-sponsored prayer at high school graduations, preserved narrowly drawn affirmative action in university admissions, overturned a ban on late-term abortions known as "partial birth" by foes, and required the Bush administration to grant hearings to detainees in the terrorism fight.

By virtue of her position on so many 5 to 4 cases, she became perhaps the most influential woman in public office in U.S. history and was regularly named in public surveys as one of the most admired women in the United States. Yet her rulings often infuriated conservatives, who had hoped for more fidelity to Reagan's views.

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"She shaped law in a number of very important areas through a very pragmatic approach of deciding the cases as they came to her," said Stuart Delery, a former O'Connor clerk. "The idea that she wasn't applying the law is wrong. She was not making decisions for decisions' sake. But at the same time, whether it was because of her background in politics or not, she had a sense of what the consequences would be" of her rulings.

O'Connor offered no public explanation for her decision to step down after 24 years on the bench, but court spokeswoman Kathy Arberg cited age and family considerations. "She's 75 years old, and she needs to spend time now with her husband," Arberg said. O'Connor has told friends that her husband, John Jay O'Connor III, has Alzheimer's disease. Once off the bench, she will have more time to care for him and more opportunities to make money on the lecture circuit and corporate boards.

O'Connor participated in a regular Friday exercise class at the court's gym between 8 and 9 a.m. yesterday and gave not a hint to the bombshell that was about to drop.

White House officials said they did not know O'Connor's plans until yesterday morning. Pamela Talkin, the marshal of the Supreme Court, called White House counsel Harriet Miers about noon Thursday to say she would be delivering a sealed envelope the next day but did not say who the envelope was from or what its contents were. Miers, according to a White House account, called Chief of Staff Andrew H. Card Jr. -- on vacation in Maine -- to tell him, then interrupted Bush's lunch with Vice President Cheney to inform them.

No one else in the White House, including Deputy Chief of Staff Karl Rove, was told until yesterday, officials said. Talkin told Miers by telephone shortly before 9 a.m. that the letter related to O'Connor. Miers informed Bush, who met with Cheney, Rove and counselor Dan Bartlett. The letter arrived at 10:15 a.m.

"It has been a great privilege, indeed, to have served as a member of the Court for 24 Terms," O'Connor wrote. "I will leave it with enormous respect for the integrity of the Court and its role under our Constitutional structure."

Bush then called O'Connor at 10:18 a.m., and they had what aides described as an emotional conversation. "For an old ranching girl, you turned out pretty good," Bush told O'Connor, according to spokesman Scott McClellan. As they talked, Bush also told her, "I wish I was there to hug you."

But O'Connor declined to come to the White House, telling Bush she was heading to the airport for a flight out of town, according to another senior administration official, and she disappeared from public view.

Bush Says He'll Pick Replacement Quickly (AP-Y2)

By Terence Hunt, Ap White House Correspondent

AP2, July 2, 2005

President Bush, facing a momentous battle over a Supreme Court vacancy, said Friday he would pick a candidate in a timely manner and urged the Senate to give his nominee "fair treatment, a fair hearing and a fair vote."

The White House said it would be at least a week before he decides. More than a half dozen candidates are under consideration, an administration official said, and Bush will review names during a trip to Europe beginning Tuesday.

After waiting more than four years for a chance to strengthen conservatives' influence on the court, Bush was presented with the surprise decision of Justice Sandra Day O'Conner to step down after 24 years. White House officials had anticipated that if anyone retired, it would have been Chief Justice William Rehnquist, 80 years old and ailing with thyroid cancer.

The departure of O'Connor, the first woman on the high court, could increase pressure on Bush to name another woman. It also could bring demands from the right for a more reliable conservative to replace O'Connor, who had been a swing vote and was on the winning side when the court upheld the right of women to have abortions if their health was in danger.

O'Connor's resignation was a closely held secret — even from Bush — until Friday morning.

The Supreme Court's head marshal, Pamela Talkin, had called White House Counsel Harriet Miers on Thursday to inquire about how to deliver a sealed envelope the next day. When she called back on Friday before 9 a.m., Talkin said the letter was from O'Connor.

The news was relayed to Bush and he alerted Vice President Dick Cheney, deputy chief of staff Karl Rove and counselor Dan Bartlett. When the letter arrived around 10:15 a.m., it was in a letter-size manila envelope. Miers took it to Bush, and the president talked by telephone with O'Connor.

"For an old ranching girl, you turned out pretty good," the president told O'Connor, who grew up on an Arizona ranch. It was an emotional, five-minute call, White House press secretary Scott McClellan said.

He quoted Bush as telling O'Connor, "You're one of the great Americans" and "I wish I were there to hug you."

The vacancy adds another major issue to an already bulging agenda Bush has presented to Congress. Administration officials expressed confidence about getting energy, highway and Central American trade measures passed and are crossing their fingers in hopes that lawmakers will have enough time and energy to deal with a complicated overhaul of Social Security.

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Bush, in a late-morning appearance in the Rose Garden, promised to consult with Senate members on his high court selection.

"The nation deserves, and I will select, a Supreme Court justice that Americans can be proud of," Bush said. "The nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote."

He said he would choose his candidate in time for the confirmation hearings and vote to be completed before the new Supreme Court term begins the first Monday in October.

Senate Democratic leader Harry Reid said he, too, hoped the confirmation process would be a smooth one — despite the heated battles between the White House and Democrats over judicial nominations.

"There is no reason for this to be a knockdown, drag-out fight in the Senate," he said at a brief news conference at the University of Nevada, Las Vegas. "How easy this is, is up to the president."

Bush has said in the past that he favors the judicial philosophy of Justices Antonin Scalia and Clarence Thomas, two of the court's most conservative members. The president has said repeatedly that judges should not "legislate from the bench," meaning that their opinions should not be swayed by social or cultural trends.

Bush held a strategy session at midmorning to talk about the selection process. McClellan said, "A lot of the preparation has been done by staff over the last few years," he said.

One senior administration official said a list of potential candidates circulated in the White House last week did not include any women. But another official disputed that. Both spoke on condition of anonymity because of the sensitivity of the selection process.

Bush said he had directed his staff to work with the Justice Department to compile dossiers and recommend nominees. Spending the weekend at the presidential retreat at Camp David, Bush was expected to talk by telephone with his advisers about the process.

After O'Connor's resignation, Bush spoke on the telephone with Senate Majority Leader Bill Frist; Sen. Arlen Specter (news, bio, voting record), R-Pa., the chairman of the Senate Judiciary Committee, and the panel's ranking Democrat, Patrick Leahy of Vermont. No names were discussed, McClellan said.

The president plans to review briefing material on potential nominees on his flight to Denmark next Tuesday and during his stay Wednesday through Friday at a meeting of leading industrialized nations in Scotland. McClellan said Bush would make no decisions before his return.

'The Gloves Are Off' (NSWK)

By Brian Braiker

Newsweek, July 2, 2005

The retirement announcement came later than Supreme Court watchers expected. And when it was made—four days after the court ended its term with a series of landmark decisions—it was from Sandra Day O'Connor, the first woman to sit on the country's highest bench. "It has been a great privilege indeed to have served as a member of the court for 24 terms," the 75-year-old justice wrote in a one-paragraph letter to President George W. Bush. "I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure."

The centrist-right leaning O'Connor, who was appointed by President Ronald Reagan in 1981, earned a reputation as the most powerful woman in America because she often cast the court's swing vote on politically touchy cases concerning issues such as affirmative action, abortion, gay rights, campaign finance and more. The vacancy she has left on the court was only a modest surprise, given that both she and 80-year-old Chief Justice William Rehnquist, who has thyroid cancer, had been expected to announce last Monday their plans to step down. Rehnquist has made no announcement yet, and the White House has indicated that it will not announce its pick to succeed O'Connor until after the president returns from the G8 summit in Scotland next week.

NEWSWEEK's Brian Braiker spoke with Tom Goldstein, founding editor of the nonpartisan SCOTUS blog (scotusblog.com) and cofounder of the D.C. law firm Goldstein & Howe, about O'Connor's legacy and the coming brutal political fight that will likely surround the appointment of her successor. Excerpts:

NEWSWEEK: How will this be different from a Chief Justice William Rehnquist vacancy, which is what most people were expecting?

Tom Goldstein: Confirmation hearings to replace Rehnquist were going to be hard fought because it was going to be a dress rehearsal for the O'Connor nomination. Now it's going to be thermonuclear war because she is a symbol of a closely divided court, and the reality of it when it comes to issues like affirmative action and abortion. Now the gloves are entirely off. In political Washington there is no more important question to the left or the right [than the composition of the Supreme Court].

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It has suddenly the air of a presidential campaign to it, and there will be unbelievable pressures to support or oppose the president's nominee. We're about to see a real fundamental choice from the president about whether or not he wants to invest a huge amount of capital in a very conservative nominee.

Is there anyone he could pick that would not result in a dogfight?

Yes. There are different kinds of dogfights, and the true dogfight is: is there anybody he can pick that wouldn't result in a filibuster? And the answer to that question is, yes.

Who would that be?

Probably [Attorney General] Alberto Gonzales. If it were done right by the administration, because at some point the Democrats would realize it's not going to get any better that this. The question is: will they fight anybody to the death when they might get somebody that they like less afterward?

Is it too early to say how Sandra Day O'Connor will be remembered?

No, it's not too early to say. She will be remembered as conservative. She will be remembered as the first woman Supreme Court justice. Then she will be remembered as among the most influential and powerful Supreme Court justices, [despite not having served] at a time when the Supreme Court had its greatest influence on American society—that was probably 40 or 50 years ago when we went through an even greater set of social change. Nonetheless, she will be remembered in some ways incorrectly as the swing justice.

Is she not? We're already hearing that a lot today.

She certainly [was] on a lot of important issues. But as this term showed, in any given case in a closely divided court, anybody can end up as the swing justice. And she always denied that she was the most important or the swing justice. She always recognized that she was just one of nine. She hated that reputation.

O'Connor was a pivotal justice on everything from affirmative action to abortion to gay rights, though. Where do you see the big fights going now?

Everything's back on the table. Everything that had been settled over the previous few years had been settled in no small part because Sandra Day O'Connor had put the court in the center-right. Now those questions, because the Supreme Court can reverse itself, are all open to reconsideration.

Because of this reputation as the swing voter, she's been called the most powerful woman in America. Was she?

For several years I called her the most powerful woman in the universe. Merely America doesn't quite cut it.

Is there talk of a potential third vacancy coming up after Rehnquist?

Not seriously. Justice [John Paul] Stevens this week started hiring his 2006-07 law clerks, so he's not going anywhere.

Best Laid Plans Of Presidents Can Come To Nought (FT)

By Patti Waldmeir In Washington

Financial Times, July 2, 2005

One of the greatest powers of any US president is the power to appoint Supreme Court justices. Or is it?

Conventional wisdom holds that Supreme Court appointments are the best way to guarantee a president's political legacy. George W. Bush wants his bequest to be a court dominated by conservatives for decades to come.

But history teaches that things often do not work out the way the nominating president intended: either the Senate refuses to confirm the president's ideological favourite; or, surprisingly often, the new justice does not vote as the president thought he or she would; or the country moves on and the issues before the court are not the ones the president could have foreseen. The best laid plans of presidents can come to nought, once the nominee assumes his seat for life on the high court dais.

Republicans are keenly aware of this danger. One of their most recent nominees Justice David Souter surprised everyone by emerging as one of the court's most consistently liberal members, soon after his appointment by Mr Bush's father in 1990.

But Supreme Court experts point out that Justice Souter is far from the only nominee to have disappointed his benefactor: seven of the nine justices of the Rehnquist court were appointed by Republican presidents, including John Paul Stevens, the court's oldest and most liberal member. Yet despite the notional 7:2 majority for Republicans, the court pursued a centrist agenda on most issues, and issued decidedly liberal rulings in areas such as affirmative action, gay rights and the death penalty.

Conservative critics point out that 11 of the past 13 justices have been appointed by Republican presidents but bemoan what they see as a process of liberalisation that affects new justices as they are exposed to "elite" opinion at the court.

As Michael Comiskey, a legal historian, argues in his new book, Seeking Justices: the Judging of Supreme Court Nominees, changing the ideological balance of the court can be very difficult. He points out that, statistically, a president has only a 37 per cent probability of filling more than two seats in one term and many successful nominees are not the president's preferred choice in any case, either because the Senate will not confirm the favourite or because the president had to balance the ideology of the nominee against other factors such as age and ethnicity.

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And presidents may fail to predict the crucial issues of the future, he writes. Dwight Eisenhower did not foresee the importance of desegregation in choosing as chief justice Earl Warren who went on to write the landmark decision Brown v Board of Education, which abolished school segregation; and the Senate did not ask any of President Richard Nixon's nominees about abortion, just a few years before the landmark Roe v Wade decision legalising the practice.

"President Nixon's public crusade to reverse the direction of the Warren court and the mixed results he achieved despite his appointment of four justices illustrate the difficulties presidents face in trying to pack the court," he concludes.

Mr Bush may well face the same problems even if, as expected, he is faced with a further one or two more Supreme Court vacancies before he leaves office.

Justice O'Connor (NYT)

The New York Times, July 2, 2005

Justice Sandra Day O'Connor's retirement is going to trigger an enormous political collision. This is one time when it's not an overstatement to say that the choice of her successor could have an effect on the nation for generations to come. But as critical as the coming fight is, it would be a shame for the combatants to come out swinging before Americans had a chance to reflect on the career and contribution of the woman who is leaving the bench. In fact, the more time we spend thinking about this sensible, pragmatic jurist, the better. Perhaps it will convince President Bush that he can best serve the country, and his own party, by nominating a new justice with the same values.

When Justice O'Connor, who grew up on an Arizona ranch, joined the Supreme Court in 1981, she instantly became famous as the first woman justice in history. But before long, her sex was eclipsed by the pivotal role she assumed in the court's deliberations: she frequently found herself lodged between two four-member ideological blocs. Many a lawyer arrived at the Supreme Court for an oral argument convinced that the key to winning was winning over Justice O'Connor.

The list of cases in which Justice O'Connor cast the decisive vote is long and, given yesterday's announcement, sobering. On affirmative action, she joined conservatives in striking down one University of Michigan program and joined liberals in upholding another to reach a careful middle ground. On abortion, she showed a willingness to accept limited restrictions, but a commitment to Roe v. Wade - a position that closely matches the American public's. This week, in a Kentucky Ten Commandments case, she provided the fifth vote for defending the wall between church and state.

Justice O'Connor holds some strong views that this page does not share. She was fiercely protective of states' rights, and joined federalism decisions that unduly restricted Congress's power to protect people against discrimination, pollution and other ills. And history will have to judge her role in Bush v. Gore, in which she joined a bare majority of the court in overturning the Florida Supreme Court - in conflict with her oft-expressed deference to the states - and ordering that Florida's recounting of ballots in the 2000 presidential election be stopped.

Mainly, however, Justice O'Connor will be remembered for her skepticism about doctrinal and ideological absolutes, and her concern about the effect of her decisions on real people. Given her strong support for federalism, lawyers for the State of Tennessee might have expected to win her vote last year when they argued that the Americans with Disabilities Act could not require them to make their courtrooms more accessible. But people familiar with Justice O'Connor were not surprised when her vote swung the case to George Lane, a severely disabled man who sued after he was ordered to crawl up the stairs, or allow himself to be carried, to get to a courtroom.

She was sometimes called the most powerful person in America. That seems like a huge overbilling for a woman who toiled at legal writing in a modest office with a small staff, and whose vote was only one of nine. But on issue after crucial issue, it was her swing vote that decided what kind of nation America would be. Justice O'Connor's America is one that hews to conservative principles, but it is tempered by a compassion for individuals and an unwillingness to follow ideology blindly to unreasonable places.

When Justice O'Connor joined the court 24 years ago, there was no way of knowing how sorely she would be missed when she left. We are, in fact, beginning to miss her already as we envision the bitter confirmation battle that will take place if President Bush nominates a hard-line conservative to replace her. Senate Democrats, who have been willing to block ideologues nominated to the lower courts, will certainly do everything they can to prevent a right-wing ideologue from joining the nation's highest court.

Before that fight begins, Mr. Bush should ask himself whether Americans want to live in a country where the handicapped cannot find a champion in the law, where women are stripped of all abortion rights, where universities are barred from offering a hand up to deserving minority students. Then he should ask himself how much of his own party's current success has been due to Justice O'Connor's ability to save the right wing from the worst consequences of its extremism.

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If he is thinking clearly, the president will understand how much he owes this quiet jurist who consistently looked for common ground. Perhaps he will also realize that the best way to repay the debt is to choose a replacement from the same mold.

Editorial Comment: The Battle For The Supreme Court (FT)

Financial Times, July 2, 2005

The resignation of Sandra Day O'Connor from the US Supreme Court is likely to provoke a culture war of historic proportions in America. The US Supreme Court plays a central role in American life tackling many of the most sensitive political and social questions left unanswered by America's deeply divided politics. Political activists from both ends of the spectrum have been gearing up for years already to fight an almighty battle over who should take over at the helm of the world's most powerful court. On Friday, that battle was joined in earnest.

Justice O'Connor has arguably been the most powerful justice on the Court for much of the past decade more important even than William Rehnquist, the chief justice. On issues from abortion, to affirmative action, to religion in public life, she has delivered the deciding vote on a Court that has regularly split 5-4. Since 1995, she has cast the crucial fifth vote in 148 out of 193 close cases.

On the kind of issues that energise the Christian right such as abortion she has frequently sided with liberals. Largely because of her, the Rehnquist court has ended up being one of the most moderate and pragmatic in US history. President Bush would like to shift it decidedly to the right. He wants to leave his mark on posterity by ensuring a strong conservative voice to lead the court for decades to come.

America has been expecting a resignation for months or years already but not this one. Chief Justice William Rehnquist, who is ill with thyroid cancer, was viewed as most likely to retire. But the resignation of Justice O'Connor is far more important than the departure of the chief justice:she has given the Court its centristcharacter; replacing her with amore conservative justice could shift the court profoundly to the right.

It could also have a big impact on business. Justice O'Connor has been, on the whole, pro-business. Business leaders were already bemoaning her loss yesterday, with the US Chamber of Commerce saying she had been “a strong judicial voice for a commonsense application of the law”, and a key vote for restraining excessive punitive damages and a commonsense definition of disability under federal law.

Justice O'Connor is deeply pragmatic, and always concerned with the real-world consequences of her rulings. She is an economic conservative in the mould of the man who appointed her to the Court Ronald Reagan. If she is replaced by a social conservative, it could be bad news for big business.

The battle to confirm her replacement will focus on abortion but more is at stake. Justice O'Connor supports a woman's right to choose, so replacing her with a pro-life vote would alter the voting balance on this crucial issue; but there would still be a 5:4 majority on the Court in favour of abortion.

For that reason, the Senate should not allow itself to get bogged down over the views of the nominee on abortion. The Senate should rather examine the views of the candidate on a wide range of issues: what does he or she think the constitution says about gay rights? Or economic regulation? Or the role of judges themselves? Or the role of copyright and patent law in fuelling the innovation economy?

It has been a generation since Americans have had a chance to debate the direction of the US Supreme Court arguably the most powerful judicial body in the world. They should take it very seriously, and probe the judicial philosophy of the eventual nominee on all the issues that are likely to confront the court in the 21st century.

Justice O'Connor Retires (WT)

The Washington Times, July 2, 2005

The announcement yesterday that Justice Sandra Day O'Connor will retire from the Supreme Court will touch off a bruising political fight over her successor, who President Bush expects to nominate some time after he returns from the G-8 summit later this month. The stakes are great.

Over a generation the Supreme Court has delivered opinions on such volatile issues as racial preferences, sodomy, the death penalty and abortion that are grounded more in a desire to advance a political agenda than in interpreting the Constitution. The justices, including on occasion Justice O'Connor, have even cited the opinions of foreign courts as the basis for deciding.

Nevertheless, in the 24 years since President Reagan nominated her as the first woman to serve on the court, Justice O'Connor has conducted herself with grace and dignity. We have disagreed with certain of her decisions, particularly those dealing with racial preferences, limits on abortion and the death penalty. But she has frequently agreed with her more conservative colleagues on important cases, and she has been was one of the staunchest defenders of federalist principles.

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Justice O'Connor evolved into a pivotal swing vote on the high court. She was "open to persuasion," she once said, when others were not. Her departure offers Mr. Bush the opportunity to nominate as her replacement a jurist with a judicial philosophy similar to that of Antonin Scalia or Clarence Thomas. The president must seize this opportunity. By nominating such a person to the court, he will incur the wrath of the left led by Sens. Ted Kennedy, Christopher Dodd and Joseph Biden and organizations such as People For the American Way and the Alliance for Justice. These ideologues, who cannot prevail when the issue is honestly drawn, will attempt to do to a Bush nominee precisely what they did to Robert Bork 18 years ago -- distort his record with false accusations to caricature him as an extremist.

From President Eisenhower's nomination of Earl Warren onward, every Republican president has put someone on the court whom those most devoted to the true meaning of the Constitution have come to regret. Richard Nixon gave us Harry Blackmun, for example; the president's father gave us David Souter. As George W. Bush deliberates on his his first nominee to the high court, he must keep in mind that millions of Americans who voted for him in both 2000 and 2004 did so precisely because they believed that he would nominate judges, and particularly Supreme Court justices, determined to be faithful to the Constitution as it was written, judges not so open to persuasion where first principles are concerned.

The President must understand that if he does not choose wisely he will disappoint these friends and supporters, probably beyond reconciliation. His staunchest friends and allies are prepared to join with him in the trenches to get a principled constitutionalist confirmed.

The O'Connor Court (WP)

The Washington Post, July 2, 2005

THE ANNOUNCEMENT yesterday of the retirement of Justice Sandra Day O'Connor brings to an end the career of one of modern America's most important jurists. Justice O'Connor came to the Supreme Court in 1981 as its first female member, and she has served the court since with honor and distinction. In that time, she has become -- in part because of her own evolution and in part because of the court's -- a pivotal vote, oftentimes the pivotal vote, in a large swath of the court's caseload. To garner Justice O'Connor's vote has often meant securing a majority; to lose it is often to lose a case. The court today represents the sensibilities and preferences of no other justice more consistently. Her impending departure is not merely the end of a deeply important career in American law and life but a major turning point for the Supreme Court itself.

Uniquely among current members of the court, Justice O'Connor was a politician -- an Arizona legislative leader and later a judge -- before she was appointed by President Ronald Reagan. Her background has given her an unusual political sophistication and savvy both in her substantive jurisprudence and in her role on the court. Allergic to the sort of broad principles that excite more ideological justices of both the left and right, her opinions generally lacked lively or stirring rhetoric. Her instincts were pragmatic. She had a pronounced tendency to decide cases on their facts, leaving herself room to shift gears when facts were different.

These traits often exposed her to charges of judging with insufficient analytical rigor or consistency, charges that were sometimes justified. Though certainly a conservative, she has not been a reliable enough conservative to develop much of a following within the conservative movement. Yet because she has been wedged between the court's liberal and conservative flanks, her attitudes took on enormous importance. Many of the most significant tendencies and rulings of the court during Chief Justice William H. Rehnquist's tenure reflect them: its adjustment of the balance between state and federal power back toward state authority; its deference to state court convictions and criminal proceedings even where they produce manifest flaws; its ultimate refusal to overturn federal abortion rights even while granting states somewhat greater leeway to regulate abortion; its decisions to defer to states on affirmative action in higher education and to Congress on the McCain-Feingold campaign finance law; and its expansion of judicial power in a host of areas.

Putting aside the notable exception of the court's recent rewriting of the rules of criminal sentencing -- from which Justice O'Connor has been a vociferous dissenter -- it's hard to think of major areas of modern jurisprudence not affected by her thinking. As a consequence, her departure will leave a dramatic hole and a no less dramatic opportunity for a new justice to nudge the court in a different direction across a significant array of hot-button issues. President Bush's coming choice may therefore prompt an ugly political fight. No sooner had Justice O'Connor announced her retirement than the distasteful jockeying among any number of interest groups began: conservative groups demanding satisfaction; liberal groups pretending they get to dictate the president's choice. Everyone should take a deep breath.

Mr. Bush ran for and won election as a conservative who would name justices who share his philosophy, and he can be expected to name a conservative in this case. In doing so, however, Mr. Bush needs to bear in mind the fractious state of American politics and the capacity of a divisive nominee to trigger an all-out war that would hurt the court and the country as a whole. The president should consult as broadly as possible and seek a nominee who would satisfy his requirements while also

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garnering broad support from moderates of both parties. It is not too much to ask of Mr. Bush that he work for consensus in replacing a justice who, in a very real sense, had come to represent a bridge between left and right.

... A Challenge For Bush (LAT)

The Los Angeles Times, July 2, 2005

Both sides have been gearing up for a brawl, and now it appears that it will be a double bill. In coming months, President Bush and the Senate will probably be filling two Supreme Court seats: those of Sandra Day O'Connor, who resigned Friday, and Chief Justice William H. Rehnquist, whose health is in peril. This makes it doubly important to establish some ground rules. They have been in flux since the bitter fight over President Reagan's failed nomination of Robert H. Bork almost two decades ago. Here, though, is what they should be.

First, advise and consent means advise and consent. Senators are entitled to make a full, independent judgment on the merits of a president's Supreme Court nominee. This is a lifetime appointment to a separate branch of government, not a president's choice for a job in his own administration. The president takes judicial philosophy into account in making his choice, and senators should do the same. The president's choice is owed no special deference.

Second, judicial philosophy means judicial philosophy. It does not mean political ideology. What's the difference? Judicial philosophy is about process: how a judge interprets the law to reach a conclusion. Political ideology is about the result: what policy gets implemented. A judge should have a coherent judicial philosophy and follow it even to a conclusion he or she would not prefer.

Third, judicial philosophy reveals itself through specific cases. Senators have the right to ask about specific cases, real and theoretical, and to expect an answer. The notion that nominees shouldn't "prejudge" issues they could face on the court is a red herring. Every sitting member of the Supreme Court, and of lower courts, has prejudged dozens or hundreds of issues in the course of his or her job. No one thinks this disqualifies them from continuing to judge.

Fourth, senators are entitled to take their time on what may be the most important votes they will cast, but the president is ultimately entitled to a yes or no on his nominee. In other words, no filibusters. They are an insult to democracy and will come back to haunt the party that misuses parliamentary process in this way.

Bush starts this battle in a seemingly towering position, with his party in control of the Senate. But not every Republican will support anyone Bush might nominate. If he overreaches, he will be forced to compromise. The president's plummeting approval ratings also offer a caution about the perils of governing from the far right. Especially if he has two seats at his disposal, Bush may decide to compromise on at least one before the battle. That would be wise of him. But we are in no position to insist, unfortunately.

Well, take that back. We do insist on one thing: Bush should not nominate Justice Clarence Thomas for chief justice. Thomas purposely misled the Senate at his original confirmation hearing 14 years ago, insisting he had no opinion on the hot-button Roe vs. Wade decision. Since then he has repeatedly shown his deep opposition to Roe. For the Senate to confirm him as chief justice now would say to the world that the contempt Thomas showed for that institution was fully justified.

In List Of Potential Justices, Many Kinds Of Conservative (NYT)

By Neil A. Lewis

The New York Times, July 2, 2005

President Bush is expected to select a nominee to the Supreme Court from a list of candidates that is, with few exceptions, a small roster of sitting federal appeals court judges, Republican and former White House officials have said. And while all of the candidates may be described as conservative, each brings a different political and philosophical profile to the table.

Mr. Bush and his small circle of advisers may spring a surprise choice to replace Justice Sandra Day O'Connor, who resigned on Friday. But it is more likely that the nominee will come from a field of candidates identified by these former White House officials and well-connected Republicans outside the administration who have been consulted by White House officials.

At the top of most lists are four federal appellate judges: J. Harvie Wilkinson III and J. Michael Luttig, both on the United States Court of Appeals for the Fourth Circuit, based in Richmond, Va.; John G. Roberts Jr., who sits on the appeals court based in Washington; and Michael McConnell of the 10th Circuit, who sits in Salt Lake City.

That compilation was prepared with the assumption that Chief Justice William H. Rehnquist would retire and create the vacancy, not Justice O'Connor, which could change the political calculations. It may oblige Mr. Bush to add a woman or two to the candidate mix, a former administration official said. That could include Judges Edith Brown Clement and Edith H. Jones, both of the Fifth Circuit, based in New Orleans.

Although friends of Mr. Bush have said he would like to name the first Hispanic justice to the court, some said the resignation of Justice O'Connor made it less likely this time.

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Both current and former officials have said Mr. Bush would like to place Attorney General Alberto R. Gonzales on the court, but would do so now only if he believed he had just one chance.

One senior Republican adviser said the surprise resignation of Justice O'Connor meant Mr. Bush could have a high degree of confidence that he would have another vacancy to fill before his term ended. That could be used for Mr. Gonzales, a former Texas Supreme Court justice who has been a trusted legal adviser going back to their days together in the Texas statehouse. Some lists include the name of Judge Emilio Garza, of the Fifth Circuit, if Mr. Bush were to seek a Hispanic candidate now.

Although Judges Luttig and Wilkinson are indisputably conservatives, they have markedly different approaches. They have clashed, sometimes strongly, when they have sat together on the same case. They are regularly measured and even defined in contrast to each other.

Both have ruled in favor of restrictions on abortion. Judge Luttig (pronounced LOO-tig) is renowned for being sought out by Virginia officials when they wanted a sympathetic judge to issue an emergency order blocking a lower court ruling that invalidated the state's ban on what it called partial-birth abortion. He granted the order in 1998 and then wrote a full opinion upholding the law.

But when the Supreme Court rejected his analysis and the case came his way again, he acknowledged his obligation to reverse course.

"Our responsibility is to faithfully follow its opinions," he wrote, adding that the Supreme Court's ruling on abortion deserved a special respect from lower court judges.

That approach could be interpreted as similar to Justice O'Connor's in declining to overturn precedents that have been upheld by the Supreme Court over the years.

Judge Luttig, 51, has also been in the forefront of what is called the new federalism, limiting Congress's power to enact legislation binding the states.

In a June 2000 case, the two Fourth Circuit judges clashed over the Endangered Species Act. Judge Wilkinson, writing for the majority, upheld the law's application to prevent a landowner from killing red wolves on his property in North Carolina. Judge Luttig said in dissent that there were only an estimated 41 red wolves in the whole state and that it was a stretch to contend their presence involved any interstate commerce, which would give the federal government authority. Judge Wilkinson said that such an approach would cripple "the entire federal regulatory scheme for wildlife and natural resource conservation."

Judge Luttig also wrote the opinion declaring unconstitutional the Violence Against Women Act, saying it was not a federal matter, a view that was upheld by the Supreme Court. He is a close friend of Justice Antonin Scalia, for whom he clerked, and Justice Clarence Thomas, whose nomination he helped pilot through rough waters in 1991.

Judge Wilkinson's life and legal career have been heavily influenced by his close association with the late Justice Lewis F. Powell Jr. Judge Wilkinson's father, J. Harvie Wilkinson Jr., was a Richmond banker, and Mr. Powell was his lawyer. They were the closest of friends and partners in many civic enterprises.

When Mr. Powell was named to the court in 1974 as a surprise compromise candidate, the young Mr. Wilkinson served as his clerk. Prof. John Jeffries of the University of Virginia Law School, a biographer of Justice Powell, said the young man was more a partner than a clerk because Justice Powell, as a corporate lawyer, had little experience in the constitutional issues he suddenly had to contend with.

Judge Wilkinson, who is known for his courtly ways, has written a handful of books, including a political history of Virginia that won wide acclaim even though he wrote it as a senior at Yale.

In another book, "How Ethnic Separatism Threatens America" (1985), he argued that some affirmative action programs increased racial division. In 1987, he wrote the majority opinion striking down an affirmative action program in Richmond that set aside 30 percent of municipal contracts for minority-owned businesses.

Judge Wilkinson is a core conservative but has also sided with environmentalists on issues, like in the red wolf case from North Carolina, and the First Amendment.

In 1986 he dissented from a judgment that said the Rev. Jerry Falwell could collect damages from Hustler magazine for what he acknowledged was a repugnant cartoon depicting the evangelist. "Nothing is more thoroughly democratic than to have the high and mighty lampooned and spoofed," he wrote.

He ruled in favor of the administration in the case of Yaser Esam Hamdi, a United States citizen detained as an enemy combatant, saying the judicial branch had no role in second-guessing the president in the fight against terrorism. He was reversed by the Supreme Court.

Judge Roberts, 50, has been on the appeals court since May 2003. Before that appointment, he was widely viewed as one of the leading lawyers arguing before the Supreme Court, winning more than two dozen cases. Although he is considered a reliable conservative, he has written little commentary, has not taken any public position on abortion rights and has yet to rule on any major cases from the bench.

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As a result, some conservatives have worried that his profile is similar to Justice David H. Souter when he was named to the Court in 1990 by President Bush's father, after having served briefly on a federal appeals court.

The elder Mr. Bush's aides assured conservatives that he would be to their liking. Instead, he has become one of the court's relatively liberal voices, angering conservatives who say they are determined not to be misled again about a potential justice's leanings.

Judge McConnell, also 50, has been on the appeals court since November 2002. He spent most of his career as a law professor and was the leading scholar advocating a more porous wall between church and state. When he was first nominated to the court, his fellow law professors, including many prominent liberals, signed a petition saying that he was a brilliant scholar and deserved to sit on the federal bench.

He is likely to be supported by social conservatives for his fierce opposition to abortion and his personal religious lifestyle, which has included home-schooling his three children.

Judge Clement, 57, has been on the appeals court since 2001 but has not been involved in any major decisions, nor has she written any articles, that would attract ardent support or opposition.

Judge Jones, who has been on the appeals court since 1985, is widely admired by conservatives, including several officers of the Federalist Society, the conservative lawyers' organization that has been influential in promoting judicial careers.

Potential Nominees For The High Court (DMN)

The Dallas Morning News, July 2, 2005

A look at some likely candidates for the vacancy on the Supreme Courrt:

SAMUEL A. ALITO:

Dubbed "Scalito" or "Scalia-lite" by some lawyers because his judicial philosophy invites comparisons to Supreme Court Justice Antonin Scalia, Alito, 55, has been a strong conservative voice in his 15 years on the Philadelphia-based 3rd U.S. Circuit Court of Appeals, which is considered to be among the most liberal.On one hot-button issue, Alito was a lone dissenter in a case striking down a Pennsylvania law requiring women seeking abortions to inform their husbands. Alito argued that the Pennsylvania legislature "could have rationally believed" that married women might seek abortions because of perceived problems such as finances or a husband's prior opposition that could be rectified if the couple talked before an abortion.

The case was appealed to the U.S. Supreme Court, which struck down the spousal notification requirement and reaffirmed the Roe v. Wade decision that legalized abortion.

Alito also has written a majority opinion holding that a city's holiday display that had a menorah did not violate the First Amendment's establishment clause -- which bars the federal government from declaring a national religion -- because it included secular symbols such as Frosty the Snowman.

He dissented in cases that loosened the legal standards for bringing a sex discrimination lawsuit.

In a dissent to a ruling that upheld the constitutionality of a federal law banning the possession of machine guns, Alito argued for greater state rights in reasoning that Congress had no authority to regulate private gun possession.

On the bench, Alito is known to be probing but more polite than the often-caustic Scalia.

Before President George H. W. Bush nominated Alito to the federal appeals court in 1990, he served as U.S. attorney for the District of New Jersey (1987-1990), where his first assistant was Michael Chertoff, now the Homeland Security Department secretary.

Alito was the deputy assistant attorney general in the Reagan administration (1985-87) and assistant to the solicitor general (1981-85).

His New Jersey ties run deep. The son of an Italian immigrant, Alito was born in Trenton and graduated from Princeton University. He headed to Connecticut and Yale University, where he received his law degree in 1975.

In a 1999 case, Fraternal Order of Police v. City of Newark, the 3rd Circuit ruled 3-0 that Muslim police officers in the city can keep their beards. The police had made an exemption in its facial hair policy for medical reasons (a skin condition known as pseudo folliculitis barbae) but not for religious reasons.

Alito wrote the opinion, saying, "We cannot accept the department's position that its differential treatment of medical exemptions and religious exemptions is premised on a good-faith belief that the former may be required by law while the latter are not."

In a May 2005 profile in The Newark (N.J.) Star-Ledger, Alito said, "Most of the labels people use to talk about judges, and the way judges decide (cases) aren't too descriptive. ... Judges should be judges. They shouldn't be legislators, they shouldn't be administrators."

ALBERTO GONZALES:

Every time -- and there have been five so far -- that George W. Bush has asked Alberto Gonzales to accept top jobs in his government, Gonzales has said yes. A possible nomination to the Supreme Court, for which Gonzales is believed to be in the running, could make it six.

Such a nomination would make him the first Hispanic to serve on the nation's highest court. He achieved another first in February when he was sworn in to office as the nation's 80th attorney general and the first Hispanic to lead the Department of Justice.

The decade-old friendship between Bush and Gonzales dates to 1995 when, as Texas governor, Bush plucked Gonzales from a corporate law firm in Houston and named him the governor's general counsel. Since then, Gonzales' fortunes have risen in tandem with Bush's.

In 1997, Bush named Gonzales to the post of Texas secretary of state, making him the state's top elections official. Two years later, Bush nominated for a seat on the Texas Supreme Court.

After Bush became president in 2001, Gonzales left the court to become White House counsel, where he provided legal advice to the president and helped him fill vacancies on the federal bench.

It was in this position that Gonzales wrote a legal memo in 2002 contending that Bush had the right to waive anti-torture laws and international treaties that provide protections to prisoners of war. Critics have said the memo helped lead to abuses of the type seen at the Abu Ghraib prison in Iraq.

Gonzales also drafted rules for the military war tribunals created after terrorist attacks.

Soft-spoken and known as "the judge" to his White House colleagues or "Al" to friends, Gonzales also has critics on the right, who think he is too much of a moderate. The mistrust stems from his time on the Texas Supreme Court when he joined with the majority to affirm a pregnant teenager's right to seek an abortion without telling her parents.

Gonzales accused two dissenters in that case of "unconscionable judicial activism" -- words that came back to haunt him after Bush nominated one of the judges, Priscilla R. Owen, to a seat on the federal appeals court. Democrats threw Gonzales' words back at the White House.

If nominated to the high court, Gonzales' advice to Bush regarding the treatment of prisoners in the war on terror is certain to be a source of questioning during Senate confirmation hearings, as was the case during hearings on his nomination to be attorney general.

Gonzales, 49, has an up-from-the-bootstraps story that President Bush is fond of telling. He is the son of Pablo and Maria, migrant farm workers from Mexico, neither of whom finished elementary school, and he grew up near Houston in a two-bedroom house with his parents and seven siblings.

Gonzales graduated from high school in the 1970s and, with little thought of going on to college, he joined the Air Force. He also spent two years at the Air Force Academy before he changed his mind and decided to pursue a legal career instead of his dream of becoming a pilot.

He graduated from Rice University and Harvard Law School before launching his career.

Critics of Gonzales' qualifications for a seat on the Supreme Court would highlight his limited judicial experience -- two years on the high court in Texas. But the thin paper trail gives opponents scant insight into his judicial philosophy and thinking on major issues of the day to use against him.

Critics also may question his close relationship with Bush and whether that might jeopardize his independence or influence his court rulings.

During an online chat the White House sponsored earlier this year, Gonzales' answer to a question about his new job suggested an awareness of his changed role within the administration.

"While I was counsel to the president, I served as the president's lawyer. As attorney general, my primary allegiance is now to the Constitution and the American people," he replied.

Described as not being ambitious, Gonzales told senators at his confirmation hearing in January: "Let me make clear. I'm not a candidate for the Supreme Court."

EMILIO GARZA:

A former Marine and Texas state judge, Garza, 58, sits on the New Orleans-based 5th U.S. Circuit Court of Appeals and was considered for a Supreme Court seat by the first President Bush.

Appointed a federal judge by President Reagan and elevated to the 5th Circuit in 1991, he has become best known for his views that Roe v. Wade should be overturned and that abortion regulation should be decided by state legislatures.

In 1992, for example, he voted to strike down a Louisiana law criminalizing abortion in deference to Supreme Court precedent. But in his opinion, Garza made clear his disdain for Roe v. Wade.

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"Two essential facts seem apparent: The Constitution says absolutely nothing about abortion and ... the long-standing traditions of American society have permitted abortion to be legally proscribed," he wrote. "Because the decision to permit or proscribe abortion is a political choice, I would allow the people of the state of Louisiana to decide this issue for themselves."

In 1997, Garza voted with the majority to strike down a Louisiana law allowing judges to deny abortion to a minor and notify her parents. He criticized Roe's legal reasoning in a concurrence.

His opinions in those two cases have drawn the ire of women's and abortion rights groups, who fear that if elevated to the high court Garza would be a reliable vote to overturn Roe v. Wade.

An avid questioner in oral arguments, Garza's written opinions tend to be clear and scholarly.

In other cases:

--Garza dissented from a 5th Circuit decision in 2001 affirming a lower court decision to grant a prisoner's habeas corpus petition. The prisoner established that his attorney had slept through major portions of his trial. Garza argued that the claim of ineffective counsel was insufficient because the prisoner failed to show that the trial's outcome was prejudiced by the sleeping lawyer.

--Garza wrote for the 5th Circuit majority in a 1999 case upholding a district court's summary judgment in favor of the police and city of Lago Vista, Texas, in a civil rights case in which a woman alleged her Fourth Amendment rights against unreasonable searches and seizures were violated when she was arrested for driving without wearing a seat belt, a violation of state law. Her children also were not wearing seat belts, another violation of Texas law. Garza said there was probable cause for the arrest and that it was not conducted in an "extraordinary manner" harmful to the woman's privacy interests. Such a violation is a misdemeanor, typically punishable by a fine.

Garza was born in San Antonio, Texas, and received his bachelor's and master's degrees from the University of Notre Dame. He returned to Texas and earned his law degree from the University of Texas in 1976.

EDITH HOLLAN JONES:

President Bush's father considered Edith Hollan Jones for a vacancy on the Supreme Court in 1990 but instead nominated David H. Souter. The announcement of Sandra Day O'Connor's retirement raises the possibility that the president would nominate a woman -- and the brainy, hard-line conservative Jones could be his choice.

Jones espouses a judicial philosophy that underscores the adage that less is more.

"The federal judiciary has an important but ultimately limited role in society," she said in an interview with Douglas K. Moll in the November/December 2001 issue of the Houston Lawyer. "I favor legislative authority over judicial authority. We have an obligation to make law as clear as possible. It is law to guide all of the people."

Jones, 55, has served on the New Orleans-based 5th Circuit U.S. Court of Appeals since 1985 when President Reagan tapped her for the post. She has ruled and written on a range of cases, including states' rights, abortion, endangered species act and sexual harassment.

Among her notable opinions:

--McCorvey v. Hill in 2004. Norma McCorvey was Roe in the landmark 1972 case that legalized abortion. She asked the court to overturn the ruling, arguing that abortion has a detrimental effect on women's long-term emotional state.

The court dismissed the motion, but Jones wrote.

"If the courts were to delve into the facts underlying Roe's balancing scheme with present-day knowledge, they might conclude that the woman's 'choice' is far more risky and less beneficial, and the child's sentence far more advanced, that the Roe court knew."

She called the Roe decision an "exercise of raw judicial power."

In a speech sponsored by the Federalist Society in January 2003, Jones said the Supreme Court's decisions since the 1960s have been at odds with American values. She talked of the "modish, untested philosophical notions and extreme libertarianism that would have left the (Constitution's) framers aghast."

The Warren Court "extravagantly assumed the power to dictate new 'rights' not expressly stated in the Constitution and in so doing foisted its philosophical vision on the United States with consequences far beyond the Court's imagining," Jones said.

Born in Philadelphia, her family moved to San Antonio where she competed on the debate team and participated in extemporaneous speaking at Alamo High School.

She headed north -- way north -- to Ithaca, N.Y., to attend Cornell University and then got her law degree from the University of Texas. Upon graduation in 1974, she worked at the law firm of Andrews, Kurth, Campbell & Jones in Houston, handling bankruptcy work. She was the firm's first woman partner, an achievement that occurred while she was on maternity leave. She has two sons.

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J. MICHAEL LUTTIG:

The 51-year-old Luttig is considered a solid conservative choice. The Texas native worked in the Justice Department during the first Bush administration and has served on the 4th U.S. Circuit Court of Appeals in Richmond, Va.

The self-described legal nerd wrote the 1999 4th Circuit decision that struck down a key provision of 1994 Violence Against Women Act. The Supreme Court agreed on a 5-4 vote that Congress overstepped its bounds in giving rape victims the right to sue their attackers for monetary damages.

In that ruling and others, Luttig has been a defender of states' rights to set their own policies -- a hallmark of Chief Justice William H. Rehnquist's jurisprudence.

Criminal cases and rendering justice are more than theoretical exercises for Luttig, whose father was murdered in a carjacking more than a decade ago.

In 1994, Napoleon Beazley, 17, confronted businessman John Luttig in the driveway of his Tyler, Texas, home and shot him twice in the head. Luttig's wife, Bobbie, was shot at and crawled beneath the couple's Mercedes Benz and played dead.

In an interview with the Tyler Morning Telegraph, the younger Luttig said his father was a compassionate man who would have given his car to Beazley. He also testified at Beazley's trial, saying, "My dad was my hero. He still is my hero. I worshipped the ground he walked on. I still do."

Beazley was executed in 2002 after the Supreme Court deadlocked 3-3 on his appeal to stop the execution. A tie allows an execution to proceed.

Three justices recused themselves from the case -- Antonin Scalia, Clarence Thomas and David Souter.

The younger Luttig had clerked for Scalia from 1982-83 when Scalia was a member of the U.S. Court of Appeals for the District of Columbia Circuit. In 1991, during the rancorous Supreme Court nomination fight over Thomas, Luttig helped shepherd the nominee through the process.

The Supreme Court is familiar territory for Luttig.

He served as a law clerk to Chief Justice Warren Burger from 1983-84 and a special assistant to the chief justice from 1984-85. After four years in private practice, Luttig worked in the Justice Department in the first Bush administration and was assistant attorney general, Office of Legal Counsel.

The Virginia resident graduated from Washington and Lee University and received his law degree from the University of Virginia. In 1991 President Bush made him the youngest federal appeals court judge -- at age 37.

MICHAEL McCONNELL:

A respected conservative legal scholar, McConnell, a judge on the Denver-based 10th U.S. Circuit Court of Appeals, enjoys bipartisan support in the academic community. He opposed President Clinton's impeachment and the Supreme Court's 2000 ruling in Bush v. Gore that made George W. Bush the president.

Liberal interest groups are wary of McConnell because he is personally opposed to abortion. He has criticized the legal reasoning in Roe v. Wade and as a law professor, used Life magazine photos of fetuses to spark student discussion of whether abortion amounts to a taking of human life.

During his 2002 Senate confirmation hearing for the federal appeals court, however, McConnell insisted he would follow precedent in upholding Roe.

"The abortion question is completely settled," he told senators. "The only avenue for change is through constitutional amendment. ... It is not going to happen." At another point, he stated: "It is settled law. I am committed to enforcing and obeying that."

After McConnell was questioned by the Senate Judiciary Committee, Democratic Sen. Charles Schumer of New York said that while he disagreed with many of McConnell's positions, the nominee "showed himself to be more of an iconoclast than an ideologue" in his candid discussion of his views.

His writings advocate ending the rigid separation of church and state that prevailed in the 1970s, and he thus supports school vouchers. That shift to a more "neutral" state approach to religion is central to the Bush administration's goal to funnel more government money to religious social service programs.

The self-described theologically conservative Christian, however, opposed government-sponsored prayer in schools.

McConnell, 50, also is a strong supporter of judicial restraint, arguing that Congress and not the courts should be the authority on defining and enforcing civil rights.

McConnell is not without critics from the political right. Lawyer Andy Schlafly, the son of longtime conservative activist Phyllis Schlafly, recently wrote that McConnell is "every bit as hostile to conservative legal principles as (David) Souter turned out to be." Souter was named to the Supreme Court by the first President Bush and has disappointed conservatives by repeatedly

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siding with its more liberal members. Schlafly cited McConnell's refusal to say Roe v. Wade should be overturned, as well as a legal philosophy that "hostile to government expressions of faith."

JOHN G. ROBERTS:

Roberts, who has been on the U.S. Court of Appeals for the District of Columbia Circuit since June 2003, was one of President Bush's least contentious picks for the bench.

A former Rehnquist clerk, Roberts was associate counsel to President Reagan from 1982-86 and then served in the first Bush administration, arguing cases before the Supreme Court from 1989-93.

During the Clinton administration, Roberts became a highly sought-after private lawyer in Supreme Court cases, representing clients such as the National Collegiate Athletic Association in a discrimination case, and carmaker Toyota in winning limits on a disabled workers claims.

Roberts had been in line to join the appeals court in 1992, but his nomination during the first Bush administration died in a Democratic-controlled Senate.

Roberts, 50, has generally avoided weighing in on disputed social issues. Abortion rights groups, however, have maintained that he tried during his days as a lawyer in the first Bush administration to overturn Roe v. Wade.

Roberts did help write a brief that stated "we continue to believe that Roe was wrongly decided and should be overruled." Pressed during his 2003 confirmation hearing for his own views on the matter, Roberts said: "Roe v. Wade is the settled law of the land. ... There's nothing in my personal views that would prevent me from fully and faithfully applying that precedent."

Roberts' nomination to the appellate bench attracted support from both ends of the ideological spectrum.

Some 146 members of the D.C. Bar signed a letter urging his confirmation, including officials from the Clinton administration. The letter stated: "He is one of the very best and most highly respected appellate lawyers in the nation, with a deserved reputation as a brilliant writer and oral advocate. He is also a wonderful professional colleague both because of his enormous skills and because of his unquestioned integrity and fair-mindedness.

A native of Buffalo, N.Y., Roberts received his undergraduate and law degrees from Harvard.

J. HARVIE WILKINSON III:

Wilkinson, 60, another prospect from the 4th Circuit, has been consistently conservative in his rulings since being put on the court by President Reagan in 1984.

For example, he was part of a panel that ruled in 2003 that the government could indefinitely detain without legal rights American citizens captured overseas in the war on terror. The Supreme Court reversed that decision, with moderate Justice Sandra Day O'Connor's blistering statement, "A state of war is not a blank check for the president when it comes to the rights of the nation's citizens."

The Supreme Court agreed with Wilkinson, however, in his 1987 ruling that struck down a city minority set-aside program.

In his book, "One Nation Indivisible: How Ethnic Separatism Threatens America," Wilkinson explains his opposition to affirmative action, which he says is "the most dangerous of policy prescriptions for a multi-ethnic nation." He argues that such policies separate rather than unite the many races, and advocates for a celebration of multiculturalism and diversity.

He has less clear-cut views on the issue of reproductive rights.

Those who argue that Wilkinson supports Roe v. Wade point to a decades-old article he co-wrote in which he said that "although Roe has been severely criticized, the decision is not an illogical extension of the court's earlier decisions in matters of intimate association."

But in 1998, Wilkinson joined an opinion upholding a Virginia parental notification law for minors seeking abortions. Wilkinson called the law "a very mild and moderate form of regulation."

Unlike many other judges, Wilkinson frequently speaks and writes about his views on affirmative action and other subjects. Before his court career, he was editorial page editor of the Norfolk Virginian-Pilot and taught law at the University of Virginia.

While in law school he ran for Congress as a Republican and lost in 1970.

Wilkinson also:

--Wrote the majority 4th Circuit opinion in 1996 upholding the "don't ask, don't tell" policy that barred gays serving in the military from revealing their sexual orientation.

--Says judicial activism is frequently practiced by both liberal and conservative judges, which he seems to blame on a lawsuit culture that has shifted power from people to the judges (Michigan Law Review article, May 2000).

--Frowns upon what he says is a trend by the Supreme Court of relying on international law or looking to what other countries do when deciding cases. Wilkinson said that while comparisons to other countries cannot be avoided in an age of

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globalism, "the court's legitimacy must ultimately rest on reliance and reference to the American Constitution and to American democratic outcomes."

--Dissented on a panel of three judges that in 1986 upheld an emotional distress award for the Rev. Jerry Falwell, who was publicly lampooned in Hustler magazine. While criticizing the ad itself, Wilkinson said "nothing is more thoroughly democratic than to have the high and mighty lampooned and spoofed." The Supreme Court later overturned the emotional distress award.

Supreme Court: Possible Nominees (FT)

Financial Times, July 2, 2005

¦ Janice Rogers Brown was recently confirmed by the Senate, after a bitter battle, as a federal appeals court judge. She is an outspoken conservative whom liberals condemn as an ideologue rather than a jurist.

¦ Edith Brown Clement is a federal appeals court judge who made headlines by sharply reducing a jury verdict for pain and suffering to a mother and three-year-old daughter killed in a car accident.

¦ Edith Hollan Jones is also a federal appeals court judge and is conservative on abortion.

¦ J. Michael Luttig, a federal appeals court judge and former clerk to Justice Antonin Scalia, is a committed conservative and a firm supporter of federalism.

¦ John Roberts, another federal appeals court judge, was a law clerk to Chief Justice William Rehnquist. He is well respected by both liberal and conservative lawyers and is viewed as more of a jurist than an ideologue.

¦ Michael McConnell, serves on the tenth circuit court of appeals, and is a conservative legal scholar respected across party lines, but as a vocal foe of the Roe v Wade decision which legalised abortion, liberal groups would vehemently oppose him

¦ Alberto Gonzales: America's first Hispanic attorney general, he is close to President Bush, who might want to make him America's first Hispanic Chief Justice. He could probably get enough Democratic votes for confirmation, but many conservatives consider him too moderate

¦ Emilio Garza: another Hispanic, Garza, a federal appeals court judge, is viewed as an alternative to Gonzales. He has criticised Roe v Wade.

¦ Samuel Alito, is an alternate Hispanic candidate. Also a federal appeals court judge, he is described as an exceptionally bright ideologue who favours restrictions on a woman's right to choose.

¦ J. Harvie Wilkinson is a courtly conservative who is well respected across the political spectrum but at 61, he may be viewed as too old to ensure a long and uninterrupted period of conservative service.

Amid Vows Of Opposition, Senate Braces For Disarray (NYT)

By Carl Hulse

The New York Times, July 2, 2005

The Senate braced on Friday for a Supreme Court confirmation fight that threatens to strain a tenuous new agreement on handling court nominations and plunge the chamber back into partisan strife.

Even though President Bush has not announced a nominee, some leading Democrats made clear that they would oppose any candidate whom they judged too conservative, particularly because the candidate would replace Justice Sandra Day O'Connor, a moderate.

"If the president abuses his power and nominates someone who threatens to roll back the rights and freedoms of the American people, then the American people will insist that we oppose that nominee, and we intend to do so," Senator Edward M. Kennedy, Democrat of Massachusetts, said on the Senate floor.

In a move intended to prod Mr. Bush into consulting with them, Democrats repeatedly invoked President Ronald Reagan, a staunch conservative whose nominee Justice O'Connor was confirmed 99 to 0.

Republicans, trying to avoid a fight, called for "a fair confirmation process," in the words of the Senate majority leader, Bill Frist of Tennessee.

Republicans said they hoped to avoid the bitterness that has permeated the Senate over the last few years, as Democrats blocked 10 of Mr. Bush's nominees for federal appeals courts, and Dr. Frist pushed the Senate to bar such tactics.

A confrontation was averted in late May when 14 senators struck their own compromise. But each side said Friday that a Supreme Court confirmation would push the long-running debate over the federal judiciary into a new, and ever more divisive, level.

"If history is the guide, our record is pretty checkered," Senator John Cornyn, Republican of Texas, said. "It hasn't always been dignified. While I'm not optimistic, I am hopeful."

It has been more than a decade since the Senate grappled with a Supreme Court nomination, Justice Stephen G. Breyer's, so long ago that, according to Dr. Frist's office, only 56 of the current members were here for it. Though confirmation hearings

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have traditionally been in September, Senator Arlen Specter, the Pennsylvania Republican who is chairman of the Senate Judiciary Committee, would not rule out hearings next month.

As the court seat opened, attention on Capitol Hill turned immediately to the 14 senators - 7 Republicans and 7 Democrats - who struck the compromise in May. Under it, the Democrats promised to use the filibuster to block court nominees only in "extraordinary circumstances," while Republicans said in exchange that they would not support efforts to bar such a procedural tactic.

Members of the so-called Gang of 14 promised to meet soon after Congress returned from its Fourth of July break. Democrats and Republicans in the group said they expected their agreement to hold and, perhaps, to ease the confirmation process.

"I am optimistic that it will be not meet the 'extraordinary circumstances' issue," said Senator John McCain, Republican of Arizona, a leader in reaching the compromise.

Mr. McCain said the fact that the vacancy was created by a centrist could not be interpreted as such a circumstance.

"We operated on principle, not individuals," he said.

Another senator in the compromise said he hoped that the consideration of the coming nominee would be so smooth that the agreement would never come into play. But that senator, John W. Warner, Republican of Virginia, said the prospect of a vote to prohibit filibusters, called the nuclear option, remained a possibility, although an unfortunate one.

"The nuclear option is definitely on the table," Mr. Warner said. "We recognize that."

"If we did," he added, "and that were the process by which this body gave advice and consent on that Supreme Court justice, that justice would be tattooed with the nuclear option for the rest of his or her life on that court."

With the possible exception of Dr. Frist, whose aides said they had "strong indications" of the retirement early Friday morning, most senators, like Mr. Specter, were caught off guard by Justice O'Connor's announcement.

Many had already scattered for the weeklong Fourth of July recess.

The retirement sent them scrambling back to the Capitol for news conferences and speeches, setting into motion plans that Congressional aides in both parties have been working on for months.

Dr. Frist was on the Senate floor delivering a speech on pharmaceutical advertising. His aides entered the chamber and handed him a sheaf of papers. After a brief pause, he delivered a prepared tribute to Justice O'Connor.

He and the president spoke by telephone about 11 a.m., shortly before Mr. Bush made his remarks in the Rose Garden and just as Mr. Specter arrived to brief the news media.

Senator Harry Reid, Democrat of Nevada, the minority leader, was on his way to Nevada. Within minutes of the announcement, Mr. Reid's aides were lining up leading Democrats to appear on the weekend talk shows and issuing talking points to press secretaries.

Democrats emphasized the theme of consultation, harking frequently to the 14 senators' compromise, which centered on the Constitution's advise and consent clause.

"President Bush should use this opportunity to bring the country together, not to tear us apart," Mr. Reid said. "It's what President Reagan did when he nominated Justice O'Connor."

Mr. Reid did say that Mr. Bush had tried to contact him and that the president had spoken with Senator Patrick J. Leahy of Vermont, the senior Democrat on the Judiciary Committee.

Mr. Leahy, an aide said, had a 14-minute talk with the president that interrupted a news conference in the senator's office in Burlington, Vt. The senator would not discuss the call, but he has pushed for more consultation on judicial nominations.

Republicans made clear that they believed it was up to Mr. Bush to decide how to consult with the Senate, if at all.

Mr. Warner distributed a memorandum quoting Alexander Hamilton, saying there would be "no exertion of choice on the part of the Senate."

Mr. Specter said he thought long and hard about proposing names to Mr. Bush, but decided against it.

"I wasn't asked - don't ask, don't tell," Mr. Specter said.

The confirmation hearings will be a crucial test both for Mr. Specter, who nearly lost his chairmanship after the elections in November when he angered conservatives with remarks about abortion, and for Dr. Frist, a likely presidential candidate, whose Senate leadership has been questioned.

Aides to Dr. Frist have been preparing for a Supreme Court vacancy since last winter. Now they will ramp up that effort. By Friday afternoon their new "Supreme Court Confirmation Center" had issued statements by various senators. Republican aides said Ed Gillespie, the former chairman of the Republican National Committee, would be a consultant to Dr. Frist, as he was in the recent fight over filibusters.

Mr. Specter said he thought that the Senate had "learned a lot" from that confrontation.

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He added, "And we retained the right to filibuster, which is vital, as the Senate has played such an historic role in dissenting."

Though senators retain the ability to filibuster judicial nominees under the compromise, its architects said they realized from the start that a Supreme Court vacancy could put the pact under incredible stress.

"We always knew that the first kind of test of this agreement, the real test, was going to come on the Supreme Court," said Senator Mike DeWine of Ohio, a Republican who had intended to vote to bar the filibuster but ultimately signed onto the accord.

Senator Ben Nelson of Nebraska, a Democratic architect of the compromise, said in a statement that the 14 senators would convene after a nominee had been named.

"Any speculation on potential nominees is obviously premature," Mr. Nelson said. "We will cross that bridge when we get there."

After the president names a nominee, the Senate confirmation process starts, long before hearings begin. Judiciary Committee aides will pore over the candidate's speeches and writings and, eventually, take custody of critical documents, the F.B.I. background check on the nominee.

The file will be closely guarded, Republicans say. They cite a memorandum of understanding between the Senate and the White House, drafted when the first President Bush was in office, that limits access to members of the Judiciary Committee and a handful of senior aides.

Controlling leaks, Republicans say, will be essential. Douglas H. Ginsburg, for instance, withdrew his Supreme Court nomination in 1987 after it was disclosed that he had smoked marijuana, information that the F.B.I. turned up.

"The Supreme Court will be the test now," Mr. Cornyn of Texas said. "Everything we have been doing for the last two years has been a warm-up to the main event."

Senate Prepares For Fierce Judicial Battle (AP-Y2)

By Jesse J. Holland, Associated Press Writer

AP2, July 2, 2005

With the loss of Justice Sandra Day O'Connor's swing vote, senators are readying a fierce battle over President Bush's first Supreme Court nominee — a person who could determine the fate of several important court precedents in the future.

While the Senate is in a holding pattern until President Bush makes a nomination — which the White House said won't be until after he returns from Europe next Friday — Republicans and Democrats already are jockeying for advantage in a confirmation battle they say will reshape the courts.

"This is the first Supreme Court vacancy in more than a decade, and Justice O'Connor's replacement will greatly influence the future of this country," Sen. Russ Feingold (news, bio, voting record), D-Wis., a member of the Senate Judiciary Committee, said after O'Connor announced her retirement Friday.

Bush said he will consult with senators of both parties about his selection, something Democrats asked for repeatedly for months. The GOP-run Judiciary Committee is expected to start hearings within a month to six weeks after Bush sends the nomination to the Senate.

Democrats are resigned to Bush nominating a conservative, but they are hoping to push him into picking someone like O'Connor, who showed an independent streak on the court despite being a lifelong Republican and a Reagan appointee.

O'Connor has been a crucial vote in holding the middle ground on landmark rulings from abortion to abuses in money and politics. Sen. Christopher Dodd (news, bio, voting record), D-Conn., called her "a conservative, but who is in the mainstream of judicial thinking."

"Justice O'Connor has been a voice of reason and moderation on the court," said Senate Democratic leader Harry Reid of Nevada. "It is vital that she be replaced by someone like her, someone who embodies the fundamental American values of freedom, equality and fairness."

Republicans used the same buzzwords, with Majority Leader Bill Frist, R-Tenn., calling for a nominee who is "fair, independent, unbiased and committed to equal justice under the law" like O'Connor. But other Republicans took pains to point out that she wasn't as moderate as Democrats portrayed.

"She has provided the critical fifth vote in case after case after case, involving the important role that states play in our federalist system of government, and in the protection of religious liberties and religious expression in the public square," said Sen. John Cornyn (news, bio, voting record), R-Texas, a Judiciary Committee member.

Bush has said in the past that he favors the judicial philosophy of Justices Antonin Scalia and Clarence Thomas but never has mentioned O'Connor. And he has said repeatedly that judges should not "legislate from the bench," meaning that their opinions should not be swayed by social or cultural trends.

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Republicans also immediately began pushing Democrats to not consider filibustering a Bush Supreme Court nominee. America "deserves a dignified process of confirmation in the United States Senate — characterized by fair treatment, a fair hearing and a fair vote," Bush said.

"My instinct is that there will not be a filibuster here," Judiciary Committee chairman Arlen Specter, R-Pa., declared minutes after the retirement announcement. Sen. Sam Brownback (news, bio, voting record), R-Kan., added: "The person either goes on the Supreme Court or they don't go on the Supreme Court by 51 votes. That's what it should be."

Democrats have successfully filibustered six of Bush's lower-court picks, so far with several withdrawing their nominations because they couldn't reach the 60-vote threshold for overcoming the blockade.

But seven Democrats and seven Republicans signed a pact last month pledging not to filibuster judicial nominees except in extraordinary circumstances. At the same time, they agreed to oppose attempts by GOP leaders to change filibuster procedures and allowed the confirmation five of those blocked Appeals Court nominees.

Sens. John Warner, R-Va., and Mark Pryor, D-Ark., two of the "Gang of 14," called for Bush to pick a consensus nominee so they won't have to test their agreement.

"I believe the White House working together with the Senate, as a co-equal branch of government, will be able to find a consensus nominee who will faithfully uphold the Constitution and represent the best of our justice system," Pryor said. Warner added: "This nomination ... gives him the opportunity to be a uniter, not a divider."

Specter also is pushing for the confirmation process to be completed before the new term begins on Oct. 3 to ensure that the court does not split 4-4 on any case. "I think it is an important objective and I think we can reach it," he said.

But Democrats say they won't be rushed, considering O'Connor said she will serve until her replacement is confirmed — whenever that may be.

"We have plenty of time," said Sen. Charles Schumer (news, bio, voting record), D-N.Y.

Senate Already Squaring Off (DMN)

By Todd J. Gillman

The Dallas Morning News, July 2, 2005

The Senate barely averted a meltdown this spring over judicial nominations. And markers thrown down Friday suggest an all-out partisan brawl is looming.

One Democrat after another demanded a "mainstream conservative" to replace Supreme Court Justice Sandra Day O'Connor. Republicans called for a "fair and independent" jurist.

The gap between these code phrases could foreshadow a battle royal as fierce as any in Senate history.

Sen. Edward Kennedy, D-Mass., warned that "if the president abuses his power and nominates someone who threatens to roll back the rights and freedoms of the American people, then the American people will insist that we oppose that nominee, and we intend to do so."

Texas Sen. John Cornyn, a GOP member of the Judiciary Committee, said he's not optimistic the process will be "dignified," as President Bush and other Republicans called for Friday. He noted that Democrats have gone to great lengths to stymie a number of appellate court picks in recent years.

"I don't see any real reason necessarily to try to find a nominee that will provoke a filibuster," Mr. Cornyn said. But he added, "Obviously everything we've been doing for the last few years has been a warm-up to the main event."

Thus were battle lines drawn.

How the summer plays out could depend on the Gang of 14 – the centrist senators who averted a "nuclear" showdown over filibusters and appeals court nominees. The group plans to meet after the July Fourth recess.

Senate Judiciary Chairman Arlen Specter, R-Pa., said he's ready to begin hearings as soon as the White House sends him a name. And he insisted that, litmus tests and outside pressure aside, the president isn't obliged to replace a centrist with a centrist.

"This is a very polarized country when it comes to the issues which will come to the Supreme Court of the United States," he said. "Everybody can't have their own way."

A key Democrat on the panel, Sen. Charles Schumer of New York, urged Mr. Bush to hold a "summit" with leaders of both parties. "We should replace Sandra Day O'Connor with a consensus candidate, not an ideologue," he said. "Nothing would make me happier than a nominee that passes 100 to nothing, or 98 to 2."

But, as Sen. John McCain, R-Ariz., put it, "elections have consequences," and voters gave Mr. Bush a second term.

TWO SENATORS TO WATCH

These two senators will play key roles in the confirmation of the next Supreme Court justice:

Arlen Specter

As chairman of the Senate Judiciary Committee, the Pennsylvania Republican will control the potentially confrontational hearings. Some conservatives worry about Mr. Specter's moderate politics and maverick style.

Patrick Leahy

The panel's senior Democrat, he has been in bruising confirmation fights before, including Clarence Thomas in 1991. Of late, Mr. Leahy of Vermont has tried to derail some of the president's judicial picks as being too conservative.

BATTLE LINES ARE DRAWN

"One thing is very clear – if the president makes this vacancy an opportunity to push his personal ideology, you can bet your last dollar he's got a real fight on his hands. The 60 percent of Americans who want Roe v. Wade left alone will not be silent this time."

– Nancy Keenan, president of NARAL Pro-Choice America, which supports abortion rights

"It is inevitable that this confirmation battle will revolve around values. The administration should not be afraid of such a debate. ... The sense among ordinary Americans is that the courts ... are out of balance and unreflective of the ideals and concerns of most citizens."

–Gary Bauer, president of American Values, a conservative advocacy group

O'Connor's Decision Opens Way For Court Shift Rightward (SLPD)

By Jon Sawyer

St. Louis Post-Dispatch, July 2, 2005

The waiting game over a long-expected Supreme Court vacancy ended dramatically on Friday when Justice Sandra Day O'Connor, the first woman to serve on the nation's highest court, announced that she was stepping down.

O'Connor, 75, had become an increasingly important swing vote in the court's moderate center since her appointment in 1981 by President Ronald Reagan. She cast key votes upholding abortion rights, affirmative action and the separation of church and state.

Her resignation, the first from the court in 11 years, gives President George W. Bush the opportunity to tilt the court more to the right - and sets the stage for an epic battle for confirmation in the Senate.

"The nation deserves, and I will select, a Supreme Court justice that Americans can be proud of," Bush said in a Rose Garden appearance after the announcement that O'Connor plans to retire as soon as a replacement is confirmed.

"The nation also deserves a dignified process of confirmation in the U.S. Senate," Bush added, "characterized by fair treatment, a fair hearing and a fair vote."

But while Bush reached out immediately to promise consultation with senior Senate Democrats, and they responded in kind, the war drums could be heard of likely battle to come.

Democrats control 45 seats in the 100-seat body but have vowed to do everything they can, including a possible filibuster, to block any nominee that they view as out of the mainstream. Republican activists are just as primed, praising O'Connor's service but at the same time making clear that they want Bush to name a replacement who will be more reliably conservative.

Ralph Neas, president of the liberal interest group People for the American Way, said that with war abroad and many divisions at home, it was important for Bush to reach across partisan lines. "At a time when so many things confront us, why can't we have a candidate of unity?" he said. "Why can't we have a consensus candidate?"

Thor Hearne, a national counsel for the Bush-Cheney campaign last year, noted that Bush had made clear to the country then the sort of justice he would choose and that there was no reason to back down now.

"The president's clear desire is to pick someone who's going to be true to interpreting the Constitution, as opposed to seeing an opportunity on the bench to legislate," said Hearne, now with the St. Louis office of Lathrop & Gage.

"That's the criteria he's consistently articulated, and following that course, he'll invite the opposition that the groups on the left have already promised to launch," he added. "They're out there sharpening their knives, no matter who he picks."

Taking DC by surprise

Official Washington had been in suspended animation since Monday, the last day of the court's current term, expecting the retirement of Chief Justice William H. Rehnquist, who is undergoing treatment for thyroid cancer.

But it was O'Connor, his Stanford University Law School classmate and for 24 years, often - but not always - a soulmate on the court, who ended up stepping down first.

White House spokesman Scott McClellan said the White House got word of a possible retirement Thursday, when Supreme Court Head Marshal Pamela Talkin called White House Counsel Harriet Miers to say that on Friday morning, she would hand-deliver a sealed envelope.

Shortly before 8 a.m. St. Louis time on Friday, Talkin informed Miers that the letter concerned O'Connor. Miers informed Bush, who placed a call to O'Connor shortly before praising her publicly at a hastily called Rose Garden event.

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McClellan described the conversation with O'Connor as "emotional," with Bush praising her service and saying "I wish I was there to hug you."

Bush discussed the court vacancy in a meeting with Vice President Dick Cheney, senior aides and Attorney General Alberto Gonzales, who has himself been touted as a leading candidate for the post.

No nomination is expected until after Bush returns from Europe July 8, McClellan said. Consultations with senators from both parties have already begun, he noted, among them a general discussion Wednesday, before O'Connor's announcement, with Senate Minority Leader Harry Reid, D-Nev.

In her three-sentence letter of resignation, O'Connor told Bush, "It has been a great privilege, indeed, to have served as a member of the court for 24 terms. I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure."

Swing voter

A state legislator and judge before her appointment, O'Connor cast the decisive vote in rulings that upheld affirmative action programs (2003), outlawed government-sponsored prayer at graduations and other public school events (1992), and upheld the McCain-Feingold ban on political parties using unrestricted soft-money contributions (2003).

She voted repeatedly to uphold Roe v. Wade, the 1973 ruling that legalized abortion, most significantly in 1989 and 1992 cases where four other justices were prepared to toss out Roe. In 2000, she cast the key vote that overturned a state ban on so-called partial birth abortion.

On the current court, there are still five pro-Roe votes besides O'Connor, said Neil Richards, a former clerk under Rehnquist who teaches now at the Washington University School of Law.

"Even if you get a committed anti-abortion rights jurist to replace O'Connor, I don't think Roe is in immediate danger," he said. "But it would be a court more tolerant of laws that infringe on a broad view of abortion rights."

The Battle For The Court Begins (WT)

By Guy Taylor

The Washington Times, July 2, 2005

Justice Sandra Day O'Connor, the first woman on the Supreme Court, resigned yesterday, setting the stage for a fierce battle over who will succeed her.

President Bush praised Justice O'Connor as a "discerning and conscientious judge" and vowed to offer a nominee who "will faithfully interpret the Constitution." The White House said it would not offer a candidate until after Mr. Bush returns from Europe on July 8.

While her retirement leaves Justice Ruth Bader Ginsburg, a liberal appointed by President Clinton, the lone woman on the court, few names mentioned have been those of women. Among the most mentioned are Attorney General Alberto R. Gonzales, thought to be a particular favorite of the president, and federal appeals court judges J. Michael Luttig and John G. Roberts.

In a note to the White House, Justice O'Connor, 75, was brief. She said she will stay on until a successor is confirmed and that she was leaving "with enormous respect for the integrity of the court and its role under the constitutional structure." Court officials said she spoke of a need to spend more time with her husband of 53 years.

A moderate conservative when President Reagan appointed her in 1981, Justice O'Connor delivered tie-breaking votes in more than dozen landmark cases affecting civil rights, environmental protection, abortion and the 2000 presidential election among others. She became less conservative as the years went on.

While there had been speculation Justice O'Connor might step down, the timing of her announcement was a mild surprise, because Chief Justice William H. Rehnquist was espected to retire first, at the end of the court's term ending June 30.

At 80 and recovering from thyroid cancer, the chief justice's condition during recent months had prompted the mention of several prospective replacements, who are now considered as successors to Justice O'Connor. Court watchers said her retirement indicates Justice Rehnquist will probably not step down this year, honoring a tradition of not having more than one vacancy per term.

Justice O'Connor will leave a legacy for women lawyers. Those who worked for or with her cite her intellect and scholarship.

"She's very smart, very dedicated and very savvy, but she's also extremely charming," said Jeffrey Lamken, a partner with Houston-based law firm Baker Botts, who clerked for Justice O'Connor in 1992 and 1993. "There is not going to be another Justice O'Connor. I think anyone who ever worked for her would tell you that."

It was her seriousness that made her a target for humor over the years, such as an incident at a White House Correspondents Dinner in the mid-1980s when a tipsy Washington Redskins running back, John Riggins, memorably called

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across a table to her: "Come on, Sandy baby, loosen up." Mr. Riggins was beseiged by calls yesterday, but declined to talk about it.

Lawmakers on Capitol Hill paid tribute yesterday.

"Today marks a great loss for America, but it's also a day to reflect on all that we have gained because of Justice O'Connor's service to our country," Senate Majority Leader Bill Frist said. "For nearly 24 years, Justice O'Connor lent America her brilliant mind and her fair and impartial judgement."

The Senate, which the Constitution tasks with confirming the president's nominee to succeed a justice, is preparing for a summer-long battle over Justice O'Connor's replacement. Democrats, who have led filibusters against lower court nominations by Mr. Bush, said the president has an obligation to preserve the precarious balance of the court with whomever he chooses to replace Justice O'Connor.

Republicans said the president should not be constrained. "Elections have consequences," said Sen. John McCain, Arizona Republican. "The president clearly stated when he ran for re-election that he would be appointing conservative nominees to the Supreme Court. It comes as no surprise if a conservative nominee comes over."

Born in 1930 in El Paso, Texas, Justice O'Connor earned undergraduate and law degrees at Stanford University, where she married classmate John Jay O'Connor III. Despite graduating third in her law school class, few law firms were willing to hire a woman lawyer during the early 1950s, so she took a job as deputy county attorney of San Mateo County in California.

After two years, she took a job as a civilian attorney for a firm in Frankfurt, Germany, and by the late 1950s had returned to the United States, to Arizona, where a private firm hired her. By 1965, she was emerging as a leading lawyer, later becoming the assistant attorney general of Arizona.

Beginning in 1969, she served three terms in the Arizona state Senate, and in 1973 became the first woman to serve as a state senate majority leader. Two years later she was elected judge of the Maricopa County Superior Court, where she served until being appointed to the Arizona Court of Appeals in 1979.

In 1981, President Reagan nominated her to replace retiring Supreme Court Justice Potter Stewart. She was unanimously confirmed and, at the time, quickly became a conservative ally of Chief Justice Warren E. Burger.

But in the years after, she was criticized by conservatives on some issues and hailed by them on others. Perhaps the most important case of her tenure came in December 2000, when she joined Chief Justice Rehnquist and Justices Antonin Scalia, Clarence Thomas and Anthony M. Kennedy overrule a decision by the Florida Supreme Court, which had overruled a Florida state circuit judge, finally tipping the election to George W. Bush.

Supreme Court Justice O'Connor Retires (REU-Y2)

By James Vicini

Reuters, July 2, 2005

WASHINGTON (Reuters) - Justice Sandra Day O'Connor, the first woman on the U.S. Supreme Court and a moderate conservative who often cast the decisive vote on abortion and other contentious issues, announced her retirement on Friday, and a political battle immediately began over her successor.

"This is to inform you of my decision to retire from my position as an associate justice of the Supreme Court of the United States, effective upon the nomination and confirmation of my successor," O'Connor, 75, said in a letter to President Bush.

O'Connor gave no reason why she was resigning from the nine-member court, whose decisions play a central role in shaping the social, cultural and political fabric of the United States. It has been closely divided on such hot-button issues as abortion, the death penalty and church-state separation.

A court spokeswoman cited O'Connor's age and said the justice, who is one of America's most powerful women, needed to spend time with her husband. He has Alzheimer's disease, people close to the family have said.

"It has been a great privilege, indeed, to have served as a member of the court for 24 terms," O'Connor said in the one-paragraph letter released by the Supreme Court.

Her resignation was announced four days after the end of the court's term. There had been widespread speculation that Chief Justice William Rehnquist, 80, who has thyroid cancer, would resign at the end of the term, and even some of her colleagues did not think O'Connor would be leaving.

Her resignation allows Bush to make his first appointment to the high court, which must be confirmed by the U.S. Senate. Bush held off naming a replacement for at least a week but urged lawmakers to give his nominee "fair treatment."

Who Bush nominates could trigger a fierce fight between Republicans and Democrats and threaten a shaky truce over judicial nominations that has kept intact the minority's ability to block a controversial candidate.

Foreshadowing the likely battle over her successor, Bush came out into the White House Rose Garden with a message for lawmakers.

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"The nation deserves and I will select a Supreme Court justice that Americans can be proud of. The nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote," he said.

O'Connor's departure, the first in more than a decade, could shift the balance of power on the court, which has been closely divided between the conservative majority and a more liberal faction. Her announcement immediately set off a flurry of comment and activity among interest groups and lawmakers on both sides of the aisle.

Sen. Edward Kennedy (news, bio, voting record), a leading liberal in the Democratic Party, immediately challenged Bush.

"If the president nominates someone who threatens to roll back the rights and freedom of the American people, the American people will insist we oppose that nominee, and we will do so," the Massachusetts lawmaker said.

O'Connor has been a key vote to preserve the constitutional right to abortion and to allow race to remain a factor to be considered in admissions at universities.

BUSH TO BE 'DELIBERATE, THOROUGH'

Bush pledged to be "deliberate and thorough" in naming a replacement and said he would announce a nominee in a timely manner in hopes of having the new justice start work when the court reconvenes for its new term in October.

One possibility is Attorney General Alberto Gonzales, the former White House counsel and a longtime Bush aide dating back to when Bush was governor of Texas. Bush may want to make history by selecting the first Hispanic American for the Supreme Court.

Other possible candidates are conservative U.S. Appeals Court judges J. Harvie Wilkinson, J. Michael Luttig, Michael McConnell, John Roberts, Samuel Alito and Emilio Garza.

If Bush wants to name a conservative woman, possibilities include federal appeals court judges Edith Jones and Edith Brown Clement and Judge Janice Rogers Brown of the California Supreme Court, who was recently confirmed as a U.S. appeals court judge.

O'Connor's resignation triggered dueling news conferences and speeches by Senate Democrats and Republicans as they jockeyed for position in the pending confirmation contest.

Simultaneously, special interest groups from the right and left revved up their multimillion-dollar radio, TV and Internet campaigns that will seek to shape public opinion and thus Senate votes on whoever Bush ultimately picks.

Sen. Arlen Specter (news, bio, voting record), the Republican head of the Senate Judiciary Committee that will take up the nomination, said he would hold hearings in August if necessary. "The judiciary committee is prepared to proceed at any time," he said.

Senate Democrats, who blocked 10 of Bush's appeals court nominees during his first term, urged the president to consult with them before picking a Supreme Court candidate. Bush promised to consult with senators but was not specific.

Traveling in the Midwest, O'Connor got off a flight at the Minneapolis-St. Paul International Airport, preceded by Republican U.S. Rep. Jim Ramstad (news, bio, voting record), who told her, "I hate to see you go."

"I hate to go too," she replied. "It's been a real privilege." (Additional reporting by Steve Holland and Thomas Ferraro)

Democrats Warn Bush To Consult (WT)

By Charles Hurt

The Washington Times, July 2, 2005

Capitol Hill braced yesterday for the first Supreme Court confirmation fight in nearly 11 years, and Democrats warned President Bush to consult them "face-to-face" before offering a replacement for Justice Sandra Day O'Connor.

"If the president abuses his power and nominates someone who threatens to roll back the rights and freedoms of the American people, then the American people will insist that we oppose that nominee -- and we intend to do so," Sen. Edward M. Kennedy, Massachusetts Democrat and member of the Judiciary Committee, said.

Sen. Charles E. Schumer, New York Democrat and a member of the committee, told reporters it would be "a shame" if Mr. Bush makes his nomination "without real face-to-face, back-and-forth consultation." Democrats argue that this is the correct meaning of the Senate's constitutional "advice and consent" role.

A group of liberal activists reserved a room across the hall from the Senate chamber yesterday to add their warnings, calling the abortion rights as upheld by Justice O'Connor the most fundamental American freedom.

"On Independence Day weekend -- as we all celebrate the freedoms that make America so special -- there is no freedom more fundamental to our rights than the ability for women to decide whether and when to parent," said Karen Pearl, interim president of Planned Parenthood Federation of America.

Amid all the threats, lawmakers on both sides joined in lauding the first woman named to the Supreme Court.

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"Throughout her 24 years of service on the nation's highest court, Justice O'Connor worked to restore common sense to our criminal justice system and due regard for the power reserved to the states under the Constitution and to limit restrictions on faith in the public square," said Sen. John Cornyn, Texas Republican and member of the Judiciary committee. "Thanks to Sandra Day O'Connor, victims of crime are more likely to receive justice, and inner city children are no longer constitutionally barred from access to school choice programs."

Senate Minority Leader Harry Reid agreed: "Justice O'Connor has been a voice of reason and moderation on the court."

The warm remarks put several Democrats in the unlikely position of urging Mr. Bush to go about nominating a replacement in the same manner as President Reagan, who nominated Justice O'Connor 24 years ago.

"Ronald Reagan was, arguably, the most conservative president of our time, and he chose someone who was confirmed with a vote of 99 to nothing," said Sen. Christopher J. Dodd, Connecticut Democrat. "This president ought to use the Reagan standard in choosing a nominee."

Mr. Reagan also nominated Justice Antonin Scalia to the high court and elevated William H. Rehnquist to chief justice. Justice Rehnquist anchors the conservatives on the court, and Justice Scalia has become the left's favorite "bad" conservative.

Justice O'Connor's announcement comes after the Senate narrowly averted a showdown in May over 10 Democratic filibusters of Mr. Bush's judicial nominations to lower federal courts.

Seven Democrats agreed to surrender most of the remaining filibusters in exchange for seven Republicans' promise not to support a leadership effort to employ the so-called "nuclear option," which would have prevented such judicial filibusters.

One of those Democratic signers, Sen. Ben Nelson of Nebraska, said he expects the deal to stick. "Once a nominee is put forward, I'm sure the 'Gang of Fourteen' senators will meet and begin discussions about the nominee to ensure that the agreement we reached will remain intact," he said. "Any speculation on potential nominees is obviously premature. We will cross that bridge when we get there."

Sen. John W. Warner, Virginia Republican and one of the Gang of Fourteen, reiterated yesterday that the "nuclear option is definitely on the table" but spoke against confirming a nominee in that manner. "For, if we did, and that were the process by which this body gave advice and consent on that Supreme Court justice, that justice would be tattooed with the nuclear option for the rest of his or her life on that court," he said.

Mr. Warner joined Democrats in warning Mr. Bush to find a nominee Democrats find acceptable. President Bush's first Supreme Court nomination "gives him an opportunity to be a uniter, not a divider," he said.

Democrats Press For Another Just Like O'Connor - Or Else (SLPD)

By Jon Sawyer

St. Louis Post-Dispatch, July 2, 2005

Call them "O'Connor Democrats."

In the wake of Justice Sandra Day O'Connor's retirement announcement Friday, Democrats were competing so hard to sing her praises that Republicans could barely find a television camera free.

The reason is simple:

O'Connor is the swing-vote centrist on the current court. Her retirement gives President George W. Bush the opportunity to name a full-throated conservative. Democrats are hoping he won't.

O'Connor "is a sterling example of what can happen when a president nominates a justice not from the right or the left wing of one of the political parties, but an independent judge, capable of making up her own mind," said Sen. Patrick Leahy of Vermont, ranking Democrat on the Judiciary Committee.

Sen. Edward M. Kennedy, D-Mass., praised O'Connor as "a wise judge who served the nation and the Constitution well." He urged Bush to nominate someone similar - or else.

"If the president abuses his power and nominates someone who threatens to roll back the rights and freedoms of the American people," he told reporters, "then the American people will insist that we oppose that nominee, and we intend to do so."

Kennedy and other Democrats refused to rule out the possibility of a filibuster, the parliamentary maneuver of unlimited debate that requires a super majority of 60 votes to stop. After Republicans threatened this spring to eliminate the filibuster, an agreement among Senate centrists to block that action included a pledge from Democrats to use filibusters only in "extraordinary" circumstances.

Senate Republicans stressed that there's nothing extraordinary about a conservative Republican president naming a like-minded justice.

The carefully phrased statements by other congressional Republicans warned Democrats to avoid the sort of all-out war that characterized the 1987 confirmation battle over Robert H. Bork, who was defeated, and the 1991 confirmation of Justice Clarence Thomas.

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"I trust that the president's choice to replace Justice O'Connor will receive full, fair and objective consideration followed by a simple majority vote on the Senate floor," said Sen. Christopher "Kit" Bond, R-Mo.

Sen. Jim Talent, R-Mo., voiced similar views, adding that, "I also hope that everyone will treat the president's nominee with respect and avoid personal attacks."

Not to worry, said Sen. Christopher Dodd, D-Conn., so long as Bush follows the lead of President Ronald Reagan by choosing someone like O'Connor.

"That's the standard this president ought to use, the Reagan standard," Dodd said. "If the president does nominate someone along the lines of Sandra Day O'Connor, I think the issue of a filibuster would be moot."

Stage Set For Clash Over Social Issues (BOS)

By Peter S. Canellos

The Boston Globe, July 2, 2005

With new cases on abortion, capital punishment, and physician-assisted suicide already on the docket for the next term, and the chance that gay marriage could find its way to the Supreme Court, the battle over the replacement for Sandra Day O'Connor could become the epic clash over social issues that conservative and liberal activists have been anticipating for decades.

Conservatives have wanted to overturn Roe v. Wade for 32 years, and while a more conservative replacement for O'Connor may not be enough to guarantee a reversal of Roe, many on the religious right yesterday sensed an opportunity to move the court sharply to the right on abortion and other social issues.

But for activists who have fought for abortion rights for decades, only to see some of their supporters lapse into complacency, the prospect of a fight over O'Connor's replacement was both terrifying and energizing -- a potentially transforming moment in the nation's culture wars.

Both sides seemed to agree on one thing: No judicial confirmation battle, from Robert Bork and Clarence Thomas to the recent disputes over Democratic filibusters of 10 of President Bush's appeals court nominees, carried anything like the stakes in the upcoming confirmation battle.

"This is where the fight will be," said Doug Schoen, a Democratic strategist and pollster for former president Bill Clinton.

Schoen, like many others involved in national politics, expected that the next Supreme Court replacement would be for ailing Chief Justice William Rehnquist, a reliable vote on the conservative side of most social issues.

But the news that the more moderate O'Connor is retiring dramatically raises the stakes for social liberals.

Nancy Northrup, president of the Center for Reproductive Rights, called O'Connor's departure a "monumentally important" moment in the battle for abortion rights, noting that O'Connor was the swing vote in the 2000 case of Stenberg v. Carhart, which struck down a law banning the late-term procedure that opponents call partial-birth abortion.

O'Connor has been a moderate supporter of abortion rights, preserving the core protections of Roe v. Wade while giving states more leeway to regulate the procedures. If she were replaced by a more conservative justice, the court would almost certainly allow greater restrictions. But the core right could still be preserved by a five-vote majority of Justices Anthony Kennedy, David H. Souter, Ruth Bader Ginsburg, Stephen Breyer, and John Paul Stevens.

Since the Roe v. Wade decision in 1973, the "right to privacy" has become the linchpin for an expanding array of social issues that now includes the right to die and the right to some forms of assisted reproduction. Conservative anger over what they see as judicial activism also extends to Supreme Court recognition of gay rights and affirmative action, and the tightening web of restrictions on the death penalty.

Cases bearing on all these issues are likely to bubble up from lower federal courts in the next few years. The Supreme Court is already slated to hear a challenge to a New Hampshire statute requiring parental notification for minors seeking abortions, with no exception for the health of the mother; a challenge to prosecutors' use of racketeering statutes to bring charges against antiabortion extremist groups; and three challenges to capital punishment.

Unlike many other issues that wind up before the court, these fundamental social issues send waves of passionate support and opposition across the country. And both Northrup of the Center for Reproductive Rights and conservative activist Gary Bauer have insisted that Bush's nominee answer questions about key social issues directly.

Many past nominees declined to voice views on specific rights or possible cases, leading to some unwelcome surprises for activists on both sides. Antonin Scalia had an easy confirmation while refusing to answer questions on abortion rights. Many liberals gave him their support, but Scalia has since voted against abortion rights in numerous cases. Souter also declined to talk about specific cases, and surprised many conservatives with liberal votes on the bench, including support of abortion rights.

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The prospect of a nomination fight directly based on the right to privacy both scares and intrigues observers of past confirmation battles. Schoen, for one, believes an open battle over incendiary social issues could arouse even some voters who are usually unmoved by such topics, potentially changing the dynamic in congressional elections next year.

But for passionate activists on both sides, the confirmation of the next justice will be about more than politics. Law, religion, and morality will be the loudly clanking coins of the realm.

"I guess I've been preparing for this moment since my first day on the Judiciary Committee staff in 2001," said Manuel Miranda, a conservative activist now with the Heritage Foundation. "But how long have I really been preparing for this? This is an issue that's been at my family dinner for a long time."

O'Connor Resignation Triggers High-Stakes Battle (LAT)

By Ronald Brownstein

The Los Angeles Times, July 2, 2005

It's apocalypse. Now.

When Justice Sandra Day O'Connor announced her retirement this morning, White House aides, Senate Democrats and interest groups mobilizing on the left and right instantly agreed on one point: the stakes in the struggle over her successor amounted to nothing less than control of the Supreme Court.

Because O'Connor has so often been the decisive swing vote on a closely divided court, her replacement could shift the balance between left and right on a wide range of controversial economic and social issues.

That virtually guarantees her departure will provoke a more intense fight, with even greater political consequences for the two parties, than the event most in Washington had anticipated this week: the retirement of Chief Justice William H. Rehnquist. Because Rehnquist is already a reliably conservative vote, replacing him with another conservative would not significantly change the court's alignment.

"More than one analyst has said in recent years that we are basically a country governed by Sandra Day O'Connor," said social conservative leader Gary Bauer in a view echoed by many liberals. "She has been the swing vote on a host of issues. So the choice, the vacancy, is much more significant even than if Rehnquist stepped down."

Both President Bush and congressional Democrats now face high-profile choices in a fight that is likely to eclipse all other issues, at least through this fall — and potentially could define each side for the 2006 election as much as any other decision they make in the next 18 months.

The departure of the moderate O'Connor offers Bush an opportunity to shift the court to the right — and to energize the conservative base that has been at the center of his political strategy.

But if Bush chooses a nominee opponents can portray as extreme, he risks further erosion of his support among centrist voters — which has already sagged in his second term amid dissatisfaction with the war in Iraq and controversies such as the congressional intervention in the case of Terry Schiavo.

"It is a defining moment in his presidency," said presidential historian Robert Dallek.

But the fight could define Democrats, too. While Senate Democrats will face intense pressure from their base to oppose virtually any Bush nominee, if they try to block a choice most Americans see as reasonable, they risk further alienating the culturally conservative and rural voters that many in the party consider critical to their prospects in 2006 and 2008.

"If Bush comes out with a moderate conservative, then I think Democrats have to be very careful not to oppose just for the sake of opposing, especially if they want to reach some of those centrist and religious voters in the next election," said Furman University political scientist James Guth, an expert on religion and politics.

All of these calculations will play out amid the cacophony of what could become the largest and loudest interest group campaign in modern times. During the last two heavily contested Supreme Court nominations — those of Robert Bork in 1987 and Clarence Thomas in 1991 — talk radio was in its infancy, the Internet was used almost solely by scientists, CNN was the only cable news network, and issue advertising was rarely employed in lobbying campaigns.

This fight may mark as great an advance over those tactics as the mechanized blitzkrieg of World War II did over the grinding trench warfare of World War I. Coalitions of left and right have already stockpiled huge sums for massive advertising and organizing efforts on the vacancy. In states with senators considered persuadable, the efforts could approach the levels seen in presidential campaigns.

"It is going to be huge," said Eli Pariser, executive director of the political action committee associated with MoveOn.org, the giant online liberal advocacy group.

Further unsettling the environment is the controversy still surrounding the deal on judicial nominations reached this spring by the so-called "gang of 14" senators. In that accord, seven Republicans blocked an effort by GOP leaders to exempt judicial

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nominations from the filibuster, a tool that allows a minority of 40 senators to prevent a vote on an issue. In return, seven Democrats agreed to employ the tool only in "extraordinary circumstances."

If Democrats filibuster Bush's choice for O'Connor's successor, the seven Republicans who approved the deal are likely to face enormous pressure to recant and support a filibuster ban.

"They will have heat like never before if they fail to do that," said Jan LaRue, chief counsel for Concerned Women for America, a leading social conservative group.

Sen. John McCain (R-Ariz.), one of the deal's principal architects, sent a warning shot today across the Democrats' bow.

McCain told CNN that Bush deserved deference in his choice after the 2004 election and he did not believe any Bush nominee to the court "will meet the bar of a 'extraordinary circumstance.'"

Civility, Consensus Will Likely Be Scarce In Fight Over New Justice (KRT)

By Steven Thomma

KRT – Cong Civility, July 2, 2005

The fight for Sandra Day O'Connor's swing seat on the Supreme Court probably will be an ugly one in which consensus and comity are all but impossible.

First, her seat is the pivot point of a closely divided court. A more conservative replacement could change decisions on abortion rights, the place of religious expression in public life, and environmental regulation, all emotional flash points in a politically polarized country.

Second, religious conservatives as well as supporters of abortion rights demand a litmus test on abortion, a stance unheard-of in earlier nominations.

Finally, the contest is the first since the opinion-a-minute world of bloggers and the Internet have joined cable TV and talk radio in stirring the passions of both right and left. It's a political echo chamber that demands confrontation, not compromise, to keep people tuning in or contributing money.

"It will not be pretty," said Dennis Goldford, a political scientist at Drake University in Iowa and author of a recent book on the ways courts interpret the Constitution.

O'Connor's decision on a hazy hot Friday before a holiday weekend surprised official Washington, which had been gearing up for the possible retirement of ailing Chief Justice William Rehnquist. That may come soon as well, but his departure would trade a conservative for a conservative, meaning little substantive change.

O'Connor was a swing vote, however. She sometimes sided with the conservatives, sometimes with liberals. If President Bush follows through with his campaign promise to name someone in the purely conservative vein of Antonin Scalia or Clarence Thomas, he'd shift the court to the right.

Many Democrats urged Bush on Friday to consult them before making a pick. They said Ronald Reagan and Bill Clinton did that and then nominated candidates whom both parties could back. Their choices won broad support.

Bush aides said the president has consulted Sen. Harry Reid (news, bio, voting record), D-Nev., the party leader in the Senate, and would speak with Sen. Patrick Leahy (news, bio, voting record), D-Vt., the senior Democrat on the Senate Judiciary Committee.

But listening to Democrats is one thing; heeding their advice is another. Especially when Bush and both political parties are barraged by interest groups whose demands, particularly on abortion, make consensus all but unreachable.

Christian conservatives insisted Friday that Bush nominate someone who'd vote to restrict or outlaw abortion. They noted that they voted for him in large numbers in 2004 - the so-called values vote - and want their due.

"It is time to make good on those campaign promises, Mr. President," said Troy Newman, the president of the anti-abortion group Operation Rescue.

"You have been given a mandate to end abortion in our nation by the American people who cast their votes for you. You have been placed in power for such a time as this. Now it is time to fulfill your obligation to God and to those who elected you, and appoint a staunchly pro-life judge to the Supreme Court."

The Rev. Patrick Mahoney, the director of the Christian Defense Coalition, said O'Connor's retirement was a chance to roll back abortion that shouldn't be missed. " If she's gone, there is an opportunity to get a ban on partial-birth abortion," he said. "Now there may be an opportunity to make some inroads in the abortion debate."

The left insists on an abortion benchmark for any nominee from the opposite perspective.

"We can never let her be replaced by a justice who does not respect the right to privacy and Roe v. Wade," said Sen. John Kerry, D-Mass., his party's 2004 presidential nominee.

The Center for Reproductive Rights also insisted that senators ask the eventual nominee how he or she would rule on cases involving abortion. "They need to vote with eyes wide open," said Nancy Northrup, the center's president.

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Egging on the atmosphere of confrontation will be the bloggers, talk radio hosts, cable TV anchors and interest groups who depend on fireworks for attention, ratings and money.

From the left, liberal activist David Sirota sent out an e-mail Friday charging that Bush would nominate a "wild-eyed lunatic." NARAL Pro-Choice America, an abortion rights group, said "the battle over the future of the Supreme Court could be won or lost within the next two weeks," and sought contributions from $50 to $1,000.

From the right, C. Boyden Gray, a former White House counsel who heads a group that backs conservative judicial nominees, charged that liberals would attack almost any Bush nominee "in hysterical terms" in part because they're backed by the pornography industry. Another group, Progress for America, vows an $18 million campaign to back a Bush nominee and seeks contributions ranging from $100 to $5,000.

"Grass-roots advocacy groups on both sides have been mobilizing," said Goldford, of Drake University, adding that "this will be the first major Supreme Court appointment in the cable TV talk show, Internet blog era." The result, he said, "is going to be horrible."

Supreme Court Vacancy Puts Pressure On Senate Deal-makers (KRT)

By James Kuhnhenn

KRT – Cong Dealmakers, July 2, 2005

With Justice Sandra Day O'Connor's retirement, Democrats and Republicans dusted off their weapons of choice - the filibuster and the "nuclear option" - in case they feel a need to block or clear the way for the nominee to succeed her.

O'Connor's retirement is destined to cause a contentious debate in the Senate because her replacement is almost certain to alter the delicate balance she maintained on the court. Replacing O'Connor, in fact, is likely to cause more fireworks than would replacing Chief Justice William Rehnquist, a member of the court's conservative wing.

The vacancy puts the spotlight anew on seven Democrats and seven Republicans in the Senate who brokered an agreement in May that averted a partisan showdown over judicial appointments.

It also will test President Bush's relations with the Senate and whether he'll take the advice of those 14 senators to consult with Democrats and Republicans before he announces a nominee.

Pressure could be especially strong on the seven Democrats, who agreed that they wouldn't block judicial nominees except in an "extraordinary circumstance." No doubt, that phrase will be put to the test. The deal didn't define the term so it becomes a standard for each senator to determine.

Sen. John Warner (news, bio, voting record), R-Va., one of the 14 who brokered the deal, called on Bush to select a consensus candidate not only to avoid a partisan fight, but also to foster national unity.

"This nation of ours is troubled today and somewhat divided - the war on terrorism and other strong issues," Warner said. "And this nomination of the first Supreme Court justice by this distinguished president gives him an opportunity to be a uniter, not a divider."

Both Democrats and Republicans said they wanted to avoid repeating the showdowns over 10 of President Bush's circuit court nominees during his first term. Democrats blocked those nominations using a filibuster, a parliamentary delaying tactic that requires 60 out of the 100 senators to overcome.

When Bush asked the Senate again to confirm seven of those 10 nominees this year, Senate Majority Leader Bill Frist, R-Tenn., threatened to use his own tactics to eliminate filibusters on judicial nominations. That plan, considered a last resort that could devastate Senate traditions, was labeled the "nuclear option."

Earlier this week, Frist said he hoped that the agreement by the 14 senators had placed the filibuster and nuclear option "back in their cages."

But Sen. Mark Pryor (news, bio, voting record) of Arkansas, one of the seven Democrats in the deal, warned if Bush names a "very, very conservative nominee" and doesn't seek advice from the Senate, some of the seven Democrats could view that as an "extraordinary circumstance" that would trigger a filibuster.

"The more that President Bush and the White House consults with the Senate, particularly the Judiciary Committee, the less likely it is there will be a filibuster," Pryor said.

The issue of abortion figures to be a significant factor in the confirmation process and is likely to fuel the tug of war between conservative and liberal groups. Edward Kennedy, D-Mass., a leading Senate liberal, said he wouldn't apply an abortion "litmus test" on the nominee, but that "I will not vote for someone unless they demonstrate, before the Judiciary Committee, a core commitment to the fundamental constitutional values of the Constitution, and they include a variety of different rights, including privacy."

In the end, the focal point in the Senate will be the deal-makers who stopped the meltdown.

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"I'm optimistic that the president will not send over someone who reaches the extraordinary-circumstances level," said Sen. John McCain (news, bio, voting record), R-Ariz., one of the 14. "We only made an agreement with seven Democrats ... so it's their view that matters, not that of - in all due respect - their more liberal colleagues."

In addition to Warner and McCain, the agreement affects Republican Sens. Lindsey Graham of South Carolina, Mike DeWine of Ohio, Olympia Snowe and Susan Collins of Maine, and Lincoln Chafee of Rhode Island. Democrats in addition to Pryor are Robert Byrd of West Virginia, Ben Nelson of Nebraska, Mary Landrieu of Louisiana, Ken Salazar of Colorado, Joseph Lieberman of Connecticut and Daniel Inouye of Hawaii.

After A Brief Shock, Advocates Quickly Mobilize (NYT)

By Robin Toner

The New York Times, July 2, 2005

Around 9:30 Friday morning, C. Boyden Gray, founder of the Committee for Justice, a conservative group that is a leading ally of President Bush, was sipping coffee at his Georgetown residence and confessing mild frustration to a reporter for The New York Times about the waiting game for a Supreme Court retirement. Suddenly he got a text message and expressed that emotion rare for stage-managed Washington: surprise.

"An O'Connor resignation was not one we took seriously," Mr. Gray said, rushing out the door to begin deploying his troops.

At the abortion rights group Naral Pro-Choice America, organizers were sending e-mail alerts to 800,000 activists within 15 minutes after the announcement of Justice Sandra Day O'Connor's resignation. "Don't let Bush take away your choice!" they declared.

On Capitol Hill, senators of both parties quickly made their way to the floor and the galleries for a morning of speeches and briefings, hailing Justice O'Connor and trying to frame the debate to come - Democrats stressing a need for consultation and consensus, Republicans emphasizing a need for a fair process.

By midday, nothing less than a national political campaign had begun.

The retirement of Justice O'Connor, a moderate who has been a crucial vote for a constitutional right to abortion, began a struggle with incalculable political implications - for the interest groups, for the parties and for the president.

"This is the pivotal appointment," said Senator Dianne Feinstein, a California Democrat who sits on the Senate Judiciary Committee.

Advocates on the left and the right, who had prepared for this moment since the last Supreme Court vacancy was filled 11 years ago, agreed that the ideological balance of the court was up for grabs. Advocacy groups bought advertising on television and the Internet, and issued millions of e-mail alerts, waves of direct-mail fund-raising appeals and pre-emptive blasts at those viewed by the groups as either obstructionist Democrats or extremist Republicans.

"This is one of those moments in American history," said Ralph G. Neas, president of the liberal People for the American Way. "No matter what side you're on, everything you've believed in, everything you've cared about, everything you've fought for is at stake. It's such a closely divided court."

Social conservatives saw a chance finally to translate their political successes - the election of allies to the White House and the top of the Congress - into greater influence on the court. They immediately reminded Mr. Bush of his campaign promise to appoint judges in the mold of Justices Antonin Scalia and Clarence Thomas. They roused the grass roots, reminding their constituents of the court's decisions on the display of the Ten Commandments in public places, on gay rights and, most of all, on abortion.

"Today marks a watershed moment in American history," declared Dr. James C. Dobson, founder and chairman of the conservative Focus on the Family, "the resignation of a swing-vote justice on the Supreme Court and the opportunity to change the court's direction."

Lest there be any doubt about the high expectations of religious conservatives, Dr. Richard Land, president of the Ethics and Religious Liberty Commission of the Southern Baptist Convention, declared, "For President Bush, social conservatives and the senators they helped elect, the moment of truth has arrived."

Liberal advocacy groups found themselves confronting what they had feared and warned about since the 2000 election: the prospect of a Bush court. They called on the president to nominate a consensus moderate, someone ideologically and judicially close to Justice O'Connor. But they were preparing for something else.

Nancy Keenan, president of Naral, asserted that there could be no "stealth candidates" - that any nominee must be asked for a position on Roe v. Wade, the 1973 decision declaring a constitutional right to abortion, and that any nominee must answer.

Notwithstanding much of the rhetoric, Justice O'Connor's retirement will not end the court's majority for Roe, which stands at 6 to 3.

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But her successor could narrow that majority, and open the door to new abortion restrictions. For example, the Supreme Court ruled by only 5 to 4 that a "partial birth abortion" ban was unconstitutional; Justice O'Connor's vote was among the five in the majority.

Another version of that ban, which applies to a type of abortion performed in the second or third trimester, is being challenged in lower courts and may end up before the justices.

Justice O'Connor's successor could change the balance on other issues as well, among them affirmative action and legislative redistricting. But it is abortion that will drive many activists in this nomination struggle.

A recent poll by the Pew Research Center found that dissatisfaction with the Supreme Court among Republicans was closely tied to their views about Roe v. Wade; those who want to see the decision overturned are twice as likely to give the court an unfavorable rating.

Nothing mobilized the modern religious conservative movement more than Roe, said John C. Green, an expert on religion and politics at the University of Akron.

"If you talk about judicial tyranny with any of the Christian conservatives, Roe v. Wade comes up immediately," Dr. Green said. "Some will talk about school prayer, but that was a long time ago."

The issue has a painful history for many opponents of abortion, who have felt betrayed by the string of Republican appointees, including Justices O'Connor, David H. Souter and Anthony M. Kennedy, who have ruled for abortion rights. Indeed, while much of Washington was awash in praise for Justice O'Connor on Friday, Carol Tobias, political director of the National Right to Life Committee, said in an interview that "Justice O'Connor has not been good for unborn children, so we do see any change as being positive."

Abortion rights groups are hopeful that the coming struggle will re-energize their supporters. They note that the last great surge of abortion rights activism occurred in the early 1990's, when it appeared that the court might be moving to overturn abortion's constitutional protections.

Most Americans support legalized abortion, polls show, though many would also like to see more restrictions on it. "This will take the issue back to the fundamentals," said Celinda Lake, a Democratic pollster who works for Naral.

This struggle over fundamentals - another battle in the culture wars - poses challenges for both parties. Many Democrats have tried to moderate their party's image in recent months, especially on values-related issues like abortion. Many Republicans, meanwhile, have tried to return to bread-and-butter economic issues, worried about polls showing that large numbers of voters see the party as out of touch with their concerns, after months dominated by fights over judicial filibusters.

But this judicial campaign will not be stopped, all sides agree, and there is a sense of foreboding about it.

"This is enormous," said Senator Feinstein, one of many trying to adjust to retirement by Justice O'Connor rather than Chief Justice William H. Rehnquist. "It's different from Rehnquist. It is enormous."

A Look At Senate Judiciary Committee (AP-Y2)

By Darlene Superville, Associated Press Writer

AP2, July 2, 2005

Republican Sen. Arlen Specter (news, bio, voting record) of Pennsylvania, chairman of the Senate Judiciary Committee, and Sen. Patrick Leahy (news, bio, voting record) of Vermont, the panel's senior Democrat, will play key roles in confirmation of a successor to Supreme Court Justice Sandra Day O'Connor.

Here are brief thumbnail sketches of the two senators.

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SPECTER:

As chairman of the Senate Judiciary Committee, Specter will control the upcoming confirmation hearings, a task his staff has been working on for months.

But the five-term senator almost missed getting the assignment.

Shortly after winning re-election last fall, Specter angered conservatives long suspicious of him by warning a newly re-elected President Bush that anti-abortion judges would have a difficult time winning Senate confirmation, given Democratic opposition.

The comment sparked an outcry from social conservatives, who waged a campaign to pressure Republican Senate leaders to deny Specter the judiciary committee chairmanship he'd long coveted.

Conservatives eager to see more like-minded judges elevated to the federal courts worry about Specter's moderate politics and maverick style, but Specter ultimately survived that challenge.

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The 75-year-old senator, known for a quick mind, sharp tongue and blunt manner, has faced a different challenge of late. He announced in February that he has Hodgkin's disease and has been receiving chemotherapy treatments in Philadelphia. It is the latest in a series of health problems Specter has faced over the years, including a brain tumor.

Specter recently said he expected to complete his cancer treatments later this month.

If Specter becomes unavailable for the task, Sen. Orrin Hatch (news, bio, voting record), R-Utah, a former judiciary committee chairman, would step in to do it.

Specter, who has a law degree from Yale, first made a name for himself in the 1960s as a top aide on the Warren Commission investigating the assassination of President Kennedy.

He twice was elected district attorney in Philadelphia. He was elected to the Senate in 1980.

In his second term, Specter attracted national attention and angered women's groups and voters by aggressively questioning law professor Anita Hill during the confirmation hearings for Supreme Court nominee Clarence Thomas, who remains on the high court.

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LEAHY:

As the senior Democrat on the judiciary committee, Leahy has led the party through several high-profile confirmation battles, from Thomas for the Supreme Court in 1991 to former Sen. John Ashcroft's nomination to be attorney general in 2001.

He'll play that role again as soon as Bush names his choice for O'Connor's successor.

During the Thomas confirmation hearings, it was Leahy who pressed him to reveal his positions on several issues, including abortion rights. Under that line of questioning, Thomas said he never had discussed Roe v. Wade, the 1973 Supreme Court decision that legalized abortion — a statement Thomas' critics seized upon as proof of his evasiveness.

Of late, Leahy has been the main thorn in Bush's side during a series of filibusters of the president's nominees for the federal courts, whom the senator has judged as being too conservative for lifetime appointments to the bench.

When Republicans complain about Democratic stalling, Leahy often points out that the GOP did the same thing to dozens of judicial nominees during President Clinton's administration.

Leahy, 65, was elected last fall to his sixth term. He was chairman of the judiciary committee at the time of the terrorist attacks of Sept. 11, 2001.

He has a law degree from Georgetown University, and was the state's attorney in Chittenden County, Vt., before his election to the Senate in 1974.

Surprise Retiree Raises The Stakes Of Battle To Come (WP)

By Charles Babington And Mike Allen

The Washington Post, July 2, 2005

After preparing for months for a battle to replace Chief Justice William H. Rehnquist, conservative and liberal groups were caught by surprise yesterday and immediately began reworking their strategies for a fight that they believe will be even more ferocious and carry higher stakes.

Activists on both sides said the retirement of Justice Sandra Day O'Connor, who has been a crucial swing vote compared with Rehnquist's reliable conservatism, gives conservatives an unexpected chance to shift the court rightward. Liberals, anxious to prevent such a move, said they must pour more money and energy into a campaign to educate Americans about the role O'Connor played and the importance of replacing her with a fellow centrist.

The multimillion-dollar campaigns, which activists say will nearly rival presidential candidacies in their scope and sophistication, kicked off within an hour of O'Connor's announcement. Both sides launched ads designed to build momentum for their causes before President Bush names his nominee, which some senators expect during the week of July 11.

The liberal MoveOn PAC began airing a television ad in five states recalling the president's role in the Terri Schiavo case and asking, "Will George Bush choose an extremist who will threaten our rights?"

The conservative group Progress for America, which spent $45 million on Bush's reelection, sent an e-mail to 8.7 million people about 45 minutes after the news broke, urging them to distribute a Web video mocking anticipated Democratic attacks. The group said it is rethinking its plan to refrain from airing TV ads next week.

Tony Perkins, president of the conservative Family Research Council, said his group plans to spend millions of dollars on the fight and will increase the budget and intensity because of the O'Connor opening. "To replace Justice Rehnquist with a nominee who respects the Constitution would be the status quo," Perkins said. "To replace Justice O'Connor with a nominee who respects the Constitution would change the composition of the court."

Nan Aron, head of the liberal coalition Alliance for Justice, said, "It's hard to overstate the stakes now with Justice O'Connor's resignation." Liberal activists, she said, must embark on a crash education course to tell Americans about potential

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changes in rulings on abortion, the environment, workers' rights and many other issues. "We need to share with the American people the importance of her seat . . . and secure their engagement in this national debate," Aron said.

The timing of O'Connor's announcement was awkward for senators, who will vote -- presumably in the early fall -- on whether to confirm Bush's pick to succeed her. Senators had met late into the night Thursday to begin their week-long Fourth of July recess yesterday, and most were gone or about to leave Washington when the word came at 10:30 a.m. At least one, Sen. Charles E. Schumer (D-N.Y.), quickly jetted back to hold a Capitol news conference, where he urged the president to convene "a summit" of senior Republican and Democratic senators to consult on a possible nominee.

The White House said Bush will meet with a few top Republican and Democratic leaders, including those on the Senate Judiciary Committee, before announcing his choice. Bush placed a 14-minute call to Sen. Patrick J. Leahy (Vt.), the committee's ranking Democrat, that forced the senator to interrupt his news conference in Burlington, Vt. But White House aides stopped far short of promising a "consensus" nominee, which Democrats and liberals called for throughout the day.

Several Democrats noted that President Ronald Reagan, a conservative icon, had nominated O'Connor, who was approved by the Senate 99 to 0. "This president should follow the Reagan standard," said Sen. Christopher J. Dodd (D-Conn.).

"President Bush should use this opportunity to bring the country together, not to tear us apart," said Senate Minority Leader Harry M. Reid (D-Nev.). "It's what President Reagan did when he nominated Justice O'Connor." But some Republicans urged Bush to nominate a strong conservative, even if it means a bruising confirmation fight in the Senate, where the GOP holds 55 of the 100 seats.

"While it may seem expedient to nominate people who can easily be confirmed by the U.S. Senate, history shows that is not the proper course of action," said Rep. Zach Wamp (R-Tenn.). Sen. Tom Coburn (R-Okla.) said: "I would hope that President Bush's nominee will swing the court back toward the Constitution and away from an era of self-indulgent judicial activism."

Activists on both sides will closely watch the seven Senate Democrats and seven Republicans who crafted a deal in May that ended Democratic filibusters of several appellate court nominees and thwarted a bid by Majority Leader Bill Frist (R-Tenn.) to outlaw such filibusters. The Democrats have promised not to filibuster a Supreme Court nominee except in "extraordinary circumstances." The seven Republicans have promised to block any effort to ban such filibusters as long as the Democrats keep their bargain.

The pact has prompted widespread debate on the meaning of "extraordinary circumstances," with liberals defining it loosely in hopes of giving themselves maximum leeway to combat a staunchly conservative nominee.

Sen. Ben. Nelson (D-Neb.), who helped to shape the agreement, said in a statement: "Once a nominee is put forward, I'm sure the 'Gang of Fourteen' senators will meet and begin discussions about the nominee to ensure that the agreement we reached will remain intact. Any speculation on potential nominees is obviously premature."

Another member of the group, Sen. Mark Pryor (D-Ark.), told reporters in a conference call that the 14 senators knew their pact would be sternly tested. "If President Bush wants to test the agreement by sending a very, very conservative nominee without consulting with senators," he may do so, Pryor said. But he added: "We do not want to see 'extraordinary circumstances.' "

Activists in both camps maintained a frantic pace of conference calls, e-mails and meetings to frame their messages and coordinate their campaigns. Frist's chief of staff, Eric Ueland, met with conservative interest groups in a Senate office building and laid out the Republicans' strategy and proposed timetable, which anticipates committee hearings this month and floor debate in September.

Conservatives, saying they have been cowed at times in the past by the left's tactics and rhetoric, vowed to be immediately aggressive. Sean Rushton, executive director of the conservative Committee for Justice, said that a victory in the battle to succeed O'Connor "would really buck up the movement and thrill and enhance our base."

The Independent Women's Forum, which is conservative but does not take a position on abortion, announced that it will work closely with the pro-Bush coalition to put women on television who will portray the president's choice as mainstream. "We know NOW [the National Organization for Women] will be everywhere," said Barbara Comstock, a consultant and legal strategist for the group. "They have been crying wolf for 20 years, and we're going to counter them."

All the time and money spent on campaigns may have little influence on the outcome, said several senators, because they and their colleagues see a Supreme Court vote as a deeply personal and principled decision. When a reporter asked Judiciary Committee Chairman Arlen Specter (R-Pa.) how public expectations might influence the battle, he replied: "There are so many publics, and so many expectations."

Interest Groups Mobilize For Court Push (AP-Y2)

By JESSE J. HOLLAND, Associated Press Writer

AP2, July 2, 2005

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All News
Yahoo! News Only
News Photos
Audio/Video Advanced
, Fri Jul 1, 7:54 PM ET

WASHINGTON - Conservative and liberal groups sprang into action with the word of Justice Sandra Day O'Connor's retirement, telephoning supporters and firing off e-mails to mobilize help for a high-stakes Senate confirmation battle.

O'Connor was a swing vote on many cases, and interest groups are watching keenly to see whether President Bush replaces her with a more conservative justice to push the high court more to the right.

"Justice O'Connor played a pivotal role on the court, and the nation has a tremendous amount at stake with her resignation," said Debra L. Ness, president of the liberal National Partnership for Women & Families.

With O'Connor's announcement Friday representing a test of these organizations' clout in the Internet Age, people on both ends of the political spectrum flooded their backers around the country with e-mail and pager alerts, telling them about the retirement and calling for their help.

People for the American Way, which set up a war room for the Supreme Court battle in downtown Washington, sent out thousands of e-mails to its supporters and was setting up phone banks to make calls around the nation to build up support for Senate Democrats.

"The American people must be part of this great debate over our future," president Ralph Neas said.

Other groups were planning to work the old-fashioned way with protests, rallies and marches on the Supreme Court and the Capitol. "We will not go silently into the night concerning the appointment of Supreme Court justices and plan a major presence outside the court and halls of Congress," said Rev. Patrick J. Mahoney, director of the Christian Defense Coalition.

Other conservative Christian groups also signaled their interest.

Focus on the Family founder James Dobson, whose political action group rallied evangelical Christians in November's elections called the resignation a watershed mark in the nation's history.

"It's a wonderful opportunity," said Carrie Gordon Earll, a policy analyst with Focus, a ministry and worldwide broadcasting and publishing concern in Colorado Springs, Colo. "It could be a return to a justice who takes the Constitution at its written word and not scribble in the margins with what they think should be added."

MoveOn PAC announced a cable television ad campaign — $280,000, a relatively small amount — in Maine, Nebraska, South Carolina, Virginia, New York City and Washington, D.C., trying to discourage Bush from picking a strict conservative.

"Will George Bush pick an extremist who will threaten our rights?" the commercial asks.

Abortion-rights groups like Planned Parenthood already are scheduling rallies in an effort to influence Bush's choice. "With so much at stake, Planned Parenthood will be on the front lines of the Supreme Court battles to ensure women's health is protected," said interim president Karen Pearl.

"Progress for America stands ready to defend whomever President Bush nominates from the left's character assassination campaign," said Brian McCabe, PFA's president. "The president's nominee deserves real consideration, not instant attacks."

Progress for America has said it expects to spend $18 million to get Bush's nominee confirmed to the Supreme Court, and has already started running television and radio ads around the nation.

Contentious Hearings Ahead As O'Connor Resigns (FT)

By Holly Yeager In Washington
Financial Times, July 2, 2005

Most politicians and political activists were quick to praise Justice Sandra Day O'Connor on Friday, but their reaction to her retirement left little doubt about the intensity of the battle to come over who succeeds her.

Arlen Specter, chairman of the Senate judiciary committee, said he had already spoken with Bill Frist, the majority leader, about the timetable for confirmation hearings on her successor and said his committee was “prepared to proceed at any time”.

But he acknowledged that, given Justice O'Connor's frequent status as a centrist and a swing vote in the court, the fight to replace her could be more contentious than that for any replacement for the William Rehnquist, the reliably conservative chief justice.

Senate Democrats renewed a chord they have been striking in recent weeks, as expectations of a Supreme Court retirement grew, calling on Mr Bush to consult them before making his choice. Their case seemed to be more urgent given that the vacancy was not created by Mr Rehnquist, as had been widely expected.

Edward Kennedy, Democratic senator from Massachusetts, said that while different presidents had consulted the Senate in different ways, “People know it when they're being consulted and they know it when they're being told.”

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Mr Kennedy recalled how Ronald Reagan, former president, whom he called “the number one conservative of our time”, had acted when he nominated Justice O'Connor, who was confirmed by a 99-0 vote of the Senate.

Senate leaders are well aware that 56 of the body's 100 members were not in the Senate 11 years ago, when the last Supreme Court vacancy was filled. They have already begun briefings for staff members about what to expect as the process moves forward. Congressional aides point to two changes in the political landscape: the arrival of the internet and the growing influence of outside political groups.

MoveOn, the liberal advocacy group, said its political action committee would spend almost $280,000 on a new television advertisement designed to encourage key senators to reject what they call “an extremist nominee”.

“The president should honour O'Connor and appoint a moderate Supreme Court justice,” said Ben Brandzel of MoveOn PAC.

On the other end of the political spectrum, the Family Research Council, a socially conservative group, said it frequently disagreed with Justice O'Connor's decisions and called on Mr Bush to choose a committed conservative to replace her.

“I am confident that President Bush will name a replacement. . . who has the same judicial philosophy as Justices Antonin Scalia and Clarence Thomas, as he indicated he would in his re-election campaign,” said Tony Perkins, president of the group.

The departure of Justice O'Connor may also increase pressure on Mr Bush to appoint a woman.

Mr Specter called it “very important” that there be “gender balance” on the court, saying that if her successor was not a woman, he hoped a future court vacancy would be filled with a woman.

The judiciary committee, which will handle the confirmation hearings on a successor, is prepared to begin hearings on a nominee within three to six weeks of a formal nomination.

The panel expects three to five days of hearings, including time for public comment and a closed session, with just senators and the nominee, to discuss any sensitive matters that may arise.

But even the conduct of those hearings, the types of questions posed, is expected to be confrontational. Speaking on the Senate floor on Friday, John Cornyn, Republican senator from Texas, said the confirmation process should focus on a nominee's qualifications, and “not on personal political beliefs”.

Battle Begins For O'Connor's Successor (MINNST)

By Rob Hotakainen And Dan Wascoe

Minneapolis Star Tribune, July 2, 2005

The first U.S. Supreme Court vacancy in 11 years unleashed huge and emotional grass-roots campaigns in Minnesota and across the country Friday that ultimately could decide the future of abortion, affirmative action and an array of other volatile social issues.

After years of preparation, all sides in those debates began rushing to raise and spend millions of dollars and assemble armies of activists to influence the votes of U.S. senators once President Bush submits a nominee to replace retiring justice Sandra Day O'Connor.

"The American people are focused -- the games have begun," said Andrea Lafferty, executive director of the Traditional Values Coalition.

Opening-day activity was fast and fierce.

For Tim Stanley, the battle was officially engaged at 9:15 a.m. Friday.

He was crossing a street in St. Paul when his cell phone rang with news that O'Connor was retiring. Within minutes, Stanley had 500 "rapid responders" ready to organize for the fight over her successor. There were 100,000 doors to start knocking on, senators to call, petitions to gather and immediate plans for a rush-hour "visibility" event for their effort Friday at Interstate Hwy. 94 and Snelling Avenue.

"Roe versus Wade has been kept alive by Sandra Day O'Connor," said Stanley, executive director of NARAL Pro-Choice Minnesota.

"The only way it's not going to disappear is if pro-choice Americans and pro-choice Minnesotans stand up and scream loudly," Stanley said.

Call to prayer

Religious groups, meanwhile, began calling on Christians to pray outside the Supreme Court and Capitol when hearings begin on a replacement for O'Connor, who angered groups opposed to abortion.

"We are already praying and working for a nominee that will not waffle, as she did," said the Rev. Rob Schenck, president of the National Clergy Council.

At the liberal MoveOn PAC, e-mail alerts were sent to 3.5 million members, including more than 77,000 in Minnesota.

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"Some of our basic freedoms are at stake here," said Ben Brandzel, the group's advocacy director. "The balance on the court is basically up in the air."

The NAACP announced plans for rallies throughout the country. It urged its 500,000 members to write letters to the White House and phone their senators.

"We're very concerned right now," said Hilary Shelton, director of the NAACP's Washington bureau. He praised O'Connor's views on affirmative action and the death penalty but worried a more "extremist" justice would not follow suit.

'War room'

People for the American Way, which has led the opposition to Bush's judicial nominees, said it plans to open a "war room" in Washington, D.C., for the nomination battle. The group is conducting oppositional research on prospective court nominees, with more than 60 staff members working in its D.C. office alone.

Progress for America, a leading conservative advocacy group, said it has pledged $18 million to combat any challenges to the nominee Bush selects to fill the court vacancy. The group is presenting a $700,000 advertising campaign to warn the public that a nominee could face "distorted" attacks from the left.

"We urge liberals to give genuine consideration instead of instant attacks to any potential U.S. Supreme Court nominee," president Brian McCabe said.

While abortion-rights advocates called on Bush to appoint a moderate judge and to consult with Democratic senators, the Rev. Louis Sheldon, founder and chairman of the Traditional Values Coalition, dismissed the idea. The group is the nation's largest grass-roots church lobby.

Sheldon said the president is not legally required to consult with anyone. Minnesota's leading organization against abortion, Minnesota Citizens Concerned for Life (MCCL), said it will be rallying its members and lobbying hard to win the votes of Minnesota senators in the months ahead. Abortion-rights supporters, who had been preparing for a resignation from Chief Justice William Rehnquist, feared that Bush would move quickly to appoint a judge opposed to abortion who could help overturn the Roe vs. Wade ruling that legalized abortion in 1973.

Robynne Curlee, organizing director for NARAL Pro Choice Minnesota, said losing O'Connor rather than Rehnquist "was really shocking and distressful" and "adds that little bit of extra urgency" to the group's efforts. She positioned a small group of sign-wavers late Friday near I-94 and Snelling Avenue.

"We had the signs ready to whip out" whenever a Supreme Court justice resigned, she said. The signs read, "Protect Roe v. Wade," and "Choose Justice/No Freedom without Choice."

Meanwhile, Candice Johnson was among a dozen canvassers for the group who got to work in south Minneapolis on Friday evening. As they went door-to-door with a fundraising pitch, they offered cell phones to residents and asked them to make immediate calls to their senators. "This is big," Stanley said. "It's going to galvanize our constituency all summer. ... We've got to be on high alert here now for another retirement, as well. Anything is possible."

Corporate America, Organized Labor Have Own Views On Vacancy (KRT)

By Kevin G. H

KRT – Interest Groups, July 2, 2005

The Supreme Court's rulings on abortion and religion capture the headlines, but much of the business before the high court deals with the conduct of business. In the court's term that ended this week, for instance, about 30 percent of the rulings involved business issues.

So corporate America and organized labor are gearing up to influence the debate over President Bush's nominee to fill the high court vacancy.

The U.S. Chamber of Commerce, the nation's largest business organization, has quietly provided information to the White House about the pro-business voting records of judges over the last year. The group began its assessment when Chief Justice William Rehnquist announced last October that he had thyroid cancer.

"I think it's fair to say that once the chief's health issues came up, we probably engaged in that with a bit more intensity than we had in the past," said Stan Anderson, the executive vice president and chief legal officer for the Chamber of Commerce.

The chamber's litmus test: Does a judge support limits on corporate liability?

"What we fundamentally look at is whether they are a liability expander or a liability contractor," Anderson said.

Organized labor seeks the opposite in a nominee.

"The high court decides cases involving workplace rights and protections, such as the right to a safe workplace, to minimum wages and overtime pay, to a workplace free of discrimination and the right to join with others to form a union," said John Sweeney, the president of the AFL-CIO. "So it is more important than ever for the president to nominate a mainstream

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candidate, whose opinions will have a tremendous impact on the constitutional rights and legal protections of our children and grandchildren."

The National Association of Manufacturers is creating a special judicial-review committee to pore over nominees' previous rulings. The association has ranked the votes of congressmen, but will wade into Supreme Court politics for the first time.

"The mantra for us has been: We want a judge who interprets the law, who doesn't make it. A judge who says this is what the contract provided for, not what it should have provided," said Pat Cleary, a spokesman. "We've seen far too many statutes get on the book and grow through regulation and judicial interpretation."

Business issues before the court aren't sexy but they're vital to the lives of Americans, said Donald Falk, a Palo Alto, Calif.-based lawyer who argues before the high court for Mayer, Brown, Rowe & Maw.

"What really affects people's lives - their economic lives - are things like the regulatory scope of the state, the ability of the federal government to intrude into other areas of life and how far states can go within constitutional constraints," Falk said.

Process Won't Be Business As Usual (LAT)

By Tom Hamburger

The Los Angeles Times, July 2, 2005

The nation's leading business lobbies are poised for the first time to campaign for the confirmation of a Supreme Court nominee, marking a historic change for the confirmation process, the perception of courts and business activism.

The U.S. Chamber of Commerce and the National Assn. of Manufacturers say they have put structures in place to review and consider endorsement of President Bush's nominee and, if necessary, to launch a campaign on the candidate's behalf.

"If the nominee is controversial, then we can make a judgment that we want to activate our vast grass-roots network, engage our lobbying power and there could be paid media as well," said Stan Anderson, executive vice president of the Chamber of Commerce.

In the current climate in Washington, he said, the nomination is likely to be controversial, meaning business would be immersed in a nomination battle.

Historically, judicial nomination fights have been the province of social activists and the American Bar Assn., and have not drawn active participation from business. There have been partisan fights over nominees, most famously the Reagan-era rejection of Robert H. Bork by Democratic senators and the organized left.

But never before have interest groups prepared to spend millions of dollars on television and direct-mail campaigns for or against a particular nominee.

The addition of big business to the mix coincides with a shift in the way the judiciary is viewed by the public and leading interest groups. Federal courts once were largely exempt from the hurly-burly of political invective, and judges were considered above the fray for the most part. Now, judges and their decisions are routinely attacked from the right amid cries for "judicial reform" from talk radio, church pulpits and corporate board rooms.

In response, left-leaning organizations have become unusually unified, urging the president to consult with Democrats and offer a "consensus nominee." But their request — a plea for consultation and compromise — contrasts with more combative vows of the past to fight objectionable nominees. Despite a compromise last month that preserved the right to judicial filibusters, liberals had felt steamrolled by the president's judicial nominations to date and had stood by as some nominees once viewed as among the most objectionable were confirmed.

"There is now a completely unified right and a completely unified left," said conservative activist Grover Norquist, president of Americans for Tax Reform. "Both teams will be at full strength, and the court nominations will be an incredible test of that strength."

Within hours after Justice Sandra Day O'Connor's decision to retire from the bench was announced Friday morning, liberal and conservative groups vowed to spend millions to communicate their views to voters and lawmakers.

The Republican-oriented Progress for America pledged to spend $18 million on the Supreme Court vacancy campaign. A spokeswoman for the organization, Jessica Boulanger, said the group had "operatives in 21 states across the country who are working aggressively at the grass-roots level." Within 45 minutes of O'Connor's resignation, "we had our Web ads sent to 8.7 million Americans," Boulanger said.

Meanwhile, the liberal People for the American Way will "definitely be spending millions of dollars" if necessary to fight an objectionable nominee, vice president Elliot Mincberg said. The National Abortion Rights Action League transformed its website Friday so that visitors could donate time and money to a Supreme Court vacancy campaign.

Business may well be countering liberal messages with positive comments on a White House nominee. Business lobbyists said it was likely that business and social conservatives would find themselves on the same side of a nomination battle but noted they are not always allies. Justices who are heroes to social conservatives, such as Antonin Scalia and Clarence Thomas, also

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have taken stands opposed by business, as in a 2003 case on punitive damages in which the two dissented from a court majority in favor of limiting awards.

"The point is that 'conservative' doesn't necessarily mean 'pro-business,' " Anderson said. Despite some decisions that rile business, Norquist is urging executives and owners to recognize that socially conservative judges are likely to be pro-business overall.

"We are trying to make sure that every part of the center-right coalition is correctly focused on why this [judicial confirmation battle] is important," he said. "The same judge who will make Pastor Jones happy will make the Chamber of Commerce happy."

Even though business leaders may take an active part in an upcoming nomination fight, the prospect of a protracted battle is disconcerting to them.

"The concern we have is that a drawn-out fight ties down the Senate for months on end and our agenda doesn't get acted on," the Chamber's Anderson said.

There are other concerns for business, including the sense from shareholders or customers that business should not engage in political fights over polarizing social issues.

But the head of the National Assn. of Manufacturers, former Michigan Gov. John Engler, a Republican, has long argued that business should pay more attention to the courts.

"We can't sit on the sidelines with the third branch of government" making so many decisions affecting business, he has said.

Patrick Cleary, a vice president of the manufacturers' association, calculated that 80% of a federal judge's civil cases "concerns issues that we care about" — liability, contract and employment law.

"All the hard-fought gains business has made in the executive and legislative branches could be lost" by the decision of a single judge, Cleary said.

Engler has said he would like to see the Business Industry Political Action Committee, an organization created decades ago by the manufacturers' association and other groups to mobilize the grass-roots, engaged in federal judicial confirmations.

The head of that organization, Greg Casey, said there had been no formal request to engage the group, which encouraged companies to provide specially prepared information to their employees about political candidates and their stand on issues that affected business. In the last campaign, BIPAC took credit for registering and providing educational material to millions of pro-business voters.

Casey said that BIPAC could quickly gear up to launch an educational campaign on a Bush nominee, provided that member companies agreed to the idea and were willing to fund the effort. He said a national campaign could be launched for less than $1 million.

The Chamber has forwarded to the White House its review of federal judges from each circuit, with ratings of each judge based on rulings that concern business. But Anderson said the review was not intended as a complete manual for picking a future justice because it did not include a review of people who were not currently on the bench, such as Atty. Gen. Alberto R. Gonzales.

Since 1998, the Chamber has had a process for reviewing the records of Supreme Court nominees. It endorsed Thomas, Scalia, Ruth Bader Ginsberg and Stephen G. Breyer but did not see the need to campaign for those nominees.

This year, however, the organization is likely to be in campaign mode. At both the Chamber and National Assn. of Manufacturers offices, officials said the decision would be based on a candidate's overall fitness for the job. However, a candidate's past position on issues such as labor law, punitive damages, tort reform and regulation also would be reviewed.

O'Connor Held Balance Of Power (NYT)

By Linda Greenhouse

The New York Times, July 2, 2005

The phrase has been used so many times over so many years to describe the Supreme Court that it is nearly a cliché. Yet the simple words capture an equally simple truth: to find out where the court is on almost any given issue, look for Justice Sandra Day O'Connor.

If you are a lawyer with a case at the court, pitch your arguments to her. If your issue is affirmative action, or religion, or federalism, or redistricting, or abortion, or constitutional due process in any of its many manifestations, you can assume that the fate of that issue is in her hands. Don't bother with doctrinaire assertions and bright-line rules. Be meticulously prepared on the facts, and be ready to show how the law relates to those facts and how, together, they make sense.

And it is because Justice O'Connor has played such a pivotal role on the court for much of her 24-year tenure that her unexpected retirement is such a galvanizing event. Much more than the widely anticipated retirement of the predictably conservative Chief Justice William H. Rehnquist, her departure creates an opportunity for President Bush to shape the court.

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The last such defining moment occurred with the retirement in 1987 of Justice Lewis F. Powell Jr., whose position on the court then resembled Justice O'Connor's today. President Ronald Reagan nominated a polarizing conservative, Robert H. Bork, whose defeat by a Democratic-controlled Senate after a protracted battle still resonates today.

A list of the issues on which Justice O'Connor has held the balance of power goes far to explain why holiday weekend preparations screeched to a halt in Washington on Friday morning as word spread of her decision to retire.

Just two years ago, she wrote the opinion for the 5-to-4 majority that upheld affirmative action in university admissions. Earlier, in a series of decisions interpreting the Constitution's guarantee of equal protection, she led or joined 5-to-4 majorities that viewed with great suspicion government policies that took account of race in federal contracting, employment and electoral redistricting. Her view was that the government should not be in the business of counting by race.

But in Grutter v. Bollinger, the University of Michigan case decided in 2003, she became persuaded that affirmative action in university admissions was still justified. "Effective participation by members of all racial and ethnic groups in the civic life of our nation is essential if the dream of one nation, indivisible, is to be realized," she wrote.

Until the pair of Ten Commandments decisions this week, which found her in dissent from the ruling that upheld a Ten Commandments monument on the grounds of the Texas Capitol, she had occupied a central position on the role of religion in public life.

Beginning with her earliest years on the court, Justice O'Connor adopted her own test for evaluating whether government policy amounted to an unconstitutional establishment of religion. Instead of a three-part test that the court used, she asked whether the government policy under review conveyed to nonadherents the message that they were "outsiders, not full members of the political community."

This led her to vote to prohibit public prayer at high school graduations and football games, but to insist on equal access for student religious publications and clubs. In 2002, she voted with the 5-to-4 majority that upheld the use of publicly financed tuition vouchers at religious schools. In her opinion this week concurring with the 5-to-4 majority that declared framed copies of the Ten Commandments hanging in Kentucky courthouses to be unconstitutional, she said the Constitution's religion clauses "protect adherents of all religions, as well as those who believe in no religion at all."

On the other most intensely fought social issue of the day, abortion, Justice O'Connor's successor will not be in a position to move the court away from its support of the core right to abortion, now at 6 to 3. But in the court's last major abortion ruling, five years ago, Justice O'Connor provided the crucial fifth vote to strike down Nebraska's ban on what were called "partial birth" abortions.

She has been a loyal ally of her Stanford Law School classmate Chief Justice William H. Rehnquist in the court's continuing reappraisal of the relationship between the states and the federal government, joining the five-member majority in a series of cases that have insisted on greater respect for the sovereignty of the individual states while limiting the role of Congress.

One of the few federalism cases in which she and Justice Rehnquist parted company came last year in Tennessee v. Lane, on whether states were immune from being sued for failing to make their courthouses accessible to people with disabilities. Justice O'Connor provided a fifth vote against immunity, while Chief Justice Rehnquist dissented. The plaintiff was a man who used a wheelchair and who had been forced to crawl up the stairs to reach the courtroom in a Tennessee county courthouse.

To the extent that Justice O'Connor had an overall judicial philosophy, she might have expressed it most directly in an opinion dissenting from a 1995 decision that authorized public school districts to subject student athletes to drug testing without any suspicion of individual wrongdoing. The policy was justified to deal with rampant student drug use, the district had argued in Vernonia School District v. Acton.

In her dissenting opinion, Justice O'Connor warned that judges should be wary of overreacting to such arguments.

"Some crises are quite real" but some are not, she said. "The only way for judges to mediate these conflicting impulses is to do what they should do anyway: stay close to the record in each case that appears before them, and make their judgments based on that alone."

Sandra O'Connor's pragmatic approach to life and the law was probably born in the stark and isolated desert of the Southwest that she described in vivid detail in "Lazy B," a childhood memoir she published three years ago. The Day family ranch, 250 arid square miles straddling the Arizona-New Mexico border, "was no country for sissies," she wrote.

The house, 35 miles from the nearest town, had neither electricity nor running water. Her companions were horses and ranch hands, and her goal as the first-born child was to be useful around the place and to please her hard-driving, perfectionist father. When things broke, they needed to be fixed. There was little room for discussion and none for theorizing.

Fulfilling her father's own ambition that had been thwarted by the lack of money, she attended Stanford University and Stanford Law School, where she graduated third in the class of 1952 at the age of 22. The top honors in the class went to a

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World War II veteran more than five years her senior, William H. Rehnquist. He went on to a Supreme Court clerkship. As a woman, she could not get a job with the law firms to which she applied, receiving offers of secretarial jobs instead.

She turned to the public sector as a lawyer for state and local governments, while raising three sons with her husband, John, who had been a fellow law-review editor at Stanford. The couple settled in Phoenix, where civic activities led her to a career in Republican politics. The Arizona governor appointed her to a vacant seat in the State Senate in 1969, and she later twice won election. She became majority leader, the first woman in the country to hold such a high leadership position in a state legislature.

In 1974, she was elected to a seat on the state trial court. Five years later, Gov. Bruce Babbitt, a Democrat, appointed her to the state appeals court, where she was serving when President Reagan, who had promised to appoint a woman to the Supreme Court, chose her in July 1981 for the first vacancy to occur during his term. She was confirmed unanimously, forever to be known as the first woman on the Supreme Court, or F.W.O.T.S.C., as she has put it dryly.

Although hardly a feminist in terms of political activism, Justice O'Connor demonstrated from her earliest years on the court a sensitivity to issues of sex discrimination that she maintained throughout her tenure.

One of her first majority opinions, in 1982, came in Mississippi University for Women v. Hogan. The 5-to-4 decision declared unconstitutional the exclusion of a male applicant from a state-supported, women-only nursing school. Her opinion warned against using "archaic and stereotypic notions" about proper roles for men and women.

On several occasions, including this year, she joined the four more liberal justices to uphold a broad interpretation of a federal statute addressing sex discrimination. In 1999, for example, she wrote the opinion for a 5-to-4 majority in Davis v. Monroe County Board of Education, holding public school districts accountable for one student's sexual harassment of another student.

And during the term that just ended, she wrote the majority opinion in another 5-to-4 decision, Jackson v. Birmingham Board of Education, that expanded the scope of the sex discrimination law known as Title IX to provide protection against retaliation for whistle-blowers who complain about discriminatory practices in schools and colleges.

One exception came in 2000, when she joined Chief Justice Rehnquist's 5-to-4 majority opinion in United States v. Morrison, invalidating a provision of the Violence Against Women Act on the ground that Congress had lacked the constitutional authority to enact the law.

The most famous, or notorious, 5-to-4 opinion in 2000 was, of course, Bush v. Gore, which ended the Florida recount and effectively called the presidential election for George W. Bush. Justice O'Connor joined the unsigned opinion that declared the conditions of the recount to violate the constitutional guarantee of equal protection.

While Mr. Bush was undoubtedly pleased by that decision, he was just as undoubtedly displeased last year when the court refused to accept his administration's position that the federal courts lacked jurisdiction to hear challenges to the open-ended detention of those being held both at the United States naval base at Guantánamo Bay, Cuba, and in military custody in the United States.

"A state of war is not a blank check for the president," Justice O'Connor wrote for the court in Hamdi v. Rumsfeld. She said "history and common sense teach us that an unchecked system of detention carries the potential to become a means for oppression and abuse of others." In a second case decided at the same day last June, Rasul v. Bush, she joined the majority opinion extending federal jurisdiction to the Guantánamo detainees.

During the term that ended on Monday, Justice O'Connor was on the losing side in two major cases: Kelo v. City of New London, which upheld governmental power to use eminent domain for economic development, and Gonzales v. Raich, upholding the federal government's power to enforce federal drug laws in states that permit marijuana to be used for medical purposes.

Justice O'Connor learned she had breast cancer early in the court's 1988 term and underwent a mastectomy and follow-up treatment. She never missed a day that the court was on the bench, and only years later did she reveal publicly, in a talk to other cancer survivors, how stressful the period had been. She also bounced back quickly from an emergency appendectomy.

In recent years, she has maintained an active schedule of public speaking and foreign travel, in addition to writing two books. It was her husband's deteriorating health, not her own brushes with illness, that finally wore down a woman who still proudly refers to herself as a cowgirl.

"She has taught us all," her friend and colleague Stephen G. Breyer said Friday in a statement released by the court.

In The Center, Hers Was The Vote That Counted (WP)

By Charles Lane

The Washington Post, July 2, 2005

Justice Sandra Day O'Connor's retirement leaves a hole at the center of the Supreme Court and, in a sense, at the center of the country.

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During her 24-year tenure, the Republican and Democratic parties came increasingly under the influence of their ideological cores, and Washington grew deeply polarized between left and right.

But O'Connor remained something of a throwback: a moderate Republican, known as a broker of compromises during her long-ago tenure as Arizona's Senate majority leader, who used her pivotal position on the court to keep the law under which all Americans must live from veering toward any extreme.

On a nine-member court that often mirrored the liberal-conservative split of the larger society, O'Connor repeatedly cast the fifth and deciding vote, not to establish sweeping new constitutional principles but to make law that she thought would make sense to the American people.

The first woman on the court thus became the most powerful woman in the United States -- a fact that was acknowledged even by her conservative rival on the court, Antonin Scalia, who said in a statement yesterday that "she has become a star. The statistics show that during her tenure she shaped the jurisprudence of this Court more than any other Associate Justice."

O'Connor was guided not only by her political fingertips. She had a deep-rooted pragmatic sensibility that owed much to her upbringing on a desolate western cattle ranch -- and rather less to the fixed doctrinal principles contained in law books.

"Justice Scalia said the rule of law is the law of rules," said Eugene Volokh, a former law clerk to O'Connor who teaches constitutional law at UCLA. "Justice O'Connor's view was that the work of the law is making the law work."

Or, as O'Connor put it in dissenting from a ruling by liberal and conservative colleagues who teamed up to strike down state sentencing guidelines in a 2004 decision, "If indeed the choice is between adopting a balanced case-by-case approach . . . and adopting a rigid rule that destroys everything in its path, I will choose the former."

But when they were not angling for her vote, lawyers of both the left and the right would sometimes complain that her approach introduced too much instability into the law and made too many important issues into guessing games about her intentions.

"We have a living Constitution. Her name is Sandra Day O'Connor, and thank God she's retiring," Kevin J. "Seamus" Hasson, founder and president of the conservative Becket Fund for Religious Liberty, said yesterday.

"Her support for separation of church and state was not consistent," said Barry W. Lynn, executive director of the liberal Americans United for Separation of Church and State.

In his 1980 GOP presidential campaign, Ronald Reagan, concerned about the pro-Democrat "gender gap" that had opened up among voters, promised that he would name a woman "to one of the first Supreme Court vacancies in my administration."

When Justice Potter Stewart informed the White House in 1981 that he planned to retire, President Reagan asked aides for a list of possible replacements that included women. At the time, there were few women with significant experience on the bench, and not many of them were Republicans. O'Connor, then a little-known 51-year-old judge on Arizona's appeals court, filled the bill.

Though she had been active in the ill-fated 1964 presidential bid of Sen. Barry Goldwater (R-Ariz.) and she had been friends since law school with William H. Rehnquist, the conservative who would later sit next to her on the court, O'Connor was widely known in her home state as a middle-of-the-roader.

In fact, she was elevated to the court of appeals in 1979 by a Democratic governor, Bruce Babbitt.

In the Arizona Senate, she had voted against busing for school integration and opposed gun control. After the Supreme Court overturned state death penalty laws in 1972, O'Connor was a leader of an effort to write a new one for Arizona.

But she had also supported bilingual education, opposed state aid to private religious schools and was a strong advocate of the proposed federal Equal Rights Amendment.

On abortion, she had voted against a ban on state funds for abortions for poor women, and opposed a bill prohibiting abortions at the University of Arizona hospital. At the same time, she voted to give hospital personnel the right to refuse to participate in abortions.

Conservative warnings that this record made her an unreliable vote against Roe v. Wade, the 1973 decision that recognized a constitutional right to abortion, were outweighed by the historical impact of putting a woman on the court, and she won unanimous confirmation in the Senate.

O'Connor was surprised by her selection and, initially, daunted by the challenges of a court where she had never so much as witnessed an argument before her first day at work in October 1981.

"One of my most poignant memories in life was the day her commission was read to her in the presence of the president and the members of Congress and she put on her robe and ascended to the bench," said Theodore B. Olson, who argued many cases before O'Connor as a private lawyer and as solicitor general of the United States under President Bush.

But, characteristically for a woman who had overcome law firms' refusal to hire her after graduation from Stanford Law School in the early 1950s, she plunged into the work and quickly made a mark.

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She became a close friend of Justice Lewis F. Powell, then a moderate conservative on the court who, three years before O'Connor's arrival, had tried to define a centrist answer to the bitterly disputed Bakke affirmative-action case, suggesting that racial quotas in university admissions were unconstitutional but that using race as a "plus factor" to help qualified minorities was not.

The hallmark of O'Connor's style was what University of Chicago law professor Cass R. Sunstein called "judicial minimalism." She would decide cases incrementally, making no more law than was necessary to deal with the particular set of facts before her.

Her opinions were an exercise in keeping her options open; they would often contain qualifications or exceptions that reappeared in later cases as her rationale for reaching a seemingly different result on a similar issue.

And, when she was the fifth member of a majority, she sometimes issued a concurring opinion that articulated a narrower basis for the decision -- and became the de facto controlling precedent.

In 1985, O'Connor articulated a case-by-case "endorsement" test for deciding whether a given governmental action in support of religion violated the Constitution. According to O'Connor, the First Amendment's ban on the establishment of an official religion meant that governments could not advance or endorse religion.

The phrase "under God" in the Pledge of Allegiance, and a Cleveland program that gave parents government money to send their children to parochial schools, passed constitutional muster with her, while the posting of the Ten Commandments in a county courthouse or on the Texas Capitol grounds could not.

She generally voted for conservative positions on crime, economic regulation and, especially, states' rights. Among the federal laws O'Connor voted to strike down as violating state sovereignty were one that barred the carrying of a firearm within 1,000 yards of a school, a provision of the Americans With Disabilities Act permitting disabled state employees to sue their bosses for discrimination, and a provision of the Violence Against Women Act that let rape victims sue their attackers in federal court.

In her last term on the court, O'Connor dissented in a 6 to 3 ruling that gave the federal government the power to override California's state law permitting the use of homegrown "medical marijuana."

Noting that she would have voted against legal marijuana if she were a Californian herself, O'Connor faulted the court for "stifl[ing] an express choice by some States, concerned for the lives and liberties of their people, to regulate medical marijuana differently."

Yet O'Connor's backing for states' rights was not unlimited. She would not let it become a means to roll back what she saw as the core social advancements of the 1960s and '70s.

Two years ago, she voted with the majority to uphold the right to sue state employers for violating the federal Family and Medical Leave Act, in a case widely seen as a test of gender equality in the workplace.

In 2004, she joined the liberals in a 5 to 4 ruling that said states could be sued under the disabilities act if they fail to make their courthouses accessible to the handicapped.

And on abortion and race, O'Connor, after expressing many Americans' second thoughts about the social changes of the '60s and '70s, ultimately decided not to undo them.

In 1983, the court, citing Roe v. Wade , struck down an Akron, Ohio, ordinance that put regulations on abortion, including a required 24-hour waiting period. O'Connor dissented, offering some critical words about Roe .

She heartened conservatives again in 1986 and 1989, when she voted to uphold abortion regulations in Pennsylvania and Missouri.

But in 1992, when appointees of Reagan and President George H.W. Bush seemed to have a majority to overturn Roe , O'Connor hesitated.

She invoked an alternative constitutional balancing test that she had hinted at in early opinions: that the right to abortion could be limited only as long as the state did not impose an "undue burden" on it.

She voted to reaffirm Roe , striking down the Pennsylvania law's requirement that wives notify their husbands before an abortion.

In 2000, O'Connor was also in the majority when the court ruled, 5 to 4, that a Nebraska law banning late-term abortion violated O'Connor's "undue burden" test. Yet she issued a separate concurring opinion suggesting she would not rule out all efforts to legislate against a procedure that opponents call "partial-birth" abortion.

Justice Harry A. Blackmun, the author of Roe , concluded it was no surprise the Supreme Court's first woman had voted to affirm Roe .

"She is a believer in states' rights in the sense that she feels an issue of this general nature should be left to the state legislatures and not be federally constitutionalized," Blackmun said in an oral history of his years on the court that was published

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early last year. But, he added, "she is a woman and may fear somewhat any accusation of being a traitor to her sex. Some women's organizations would so conclude."

Whatever her private motivations, O'Connor's ambivalent embrace of Roe was consistent with the American public's. According to Gallup polls going back to 1992, a significant majority opposes "completely" overturning Roe ; according to a 2004 Washington Post-ABC News poll, only 17 percent of Americans think abortion should always be illegal, while only 21 percent think it should always be legal.

During the 1980s and '90s, O'Connor helped the court establish the rule that affirmative action should be subjected to the same "strict scrutiny" as discrimination against minorities. As O'Connor saw it, only "compelling" governmental goals could justify affirmative action, and even then programs would have to be "narrowly tailored."

Yet for all her reservations about affirmative action, O'Connor never ruled it out. In her 1995 opinion enshrining "strict scrutiny" of affirmative action, for example, she insisted that the "unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country is an unfortunate reality, and government is not disqualified from acting in response to it."

In 2003, when white students challenged their denial of admission in favor of black students with lower test scores at the University of Michigan, O'Connor backed the university.

Diversity in higher education could, indeed, qualify as a compelling state interest, she wrote for a five-member majority consisting of her and the court's four most liberal members. As long as a school did not mechanically assign minorities' applications extra points, but gave all students individualized consideration, its approach would be constitutional under Powell's opinion in Bakke .

Her opinion took sympathetic note of the views of large corporations, university deans and retired military officers whose friend-of-the-court briefs called affirmative action necessary to educate a racially integrated elite -- and, by implication, to preserve the stability and legitimacy of the American meritocracy. Her only nod to critics of the programs was her expressed wish that they might no longer be necessary in 25 years.

Once again, O'Connor's position -- diversity, yes, quotas, no -- was roughly in line with public opinion.

In a Fox News poll published shortly after the affirmative-action decision, O'Connor ranked as the Supreme Court justice Americans "most admire or agree with."

Analysis: Last Day Reflected O'Connor's Legacy (PPG)

By Michael Mcgough

Pittsburgh Post-Gazette, July 2, 2005

On Monday, likely her last day on the Supreme Court bench, Justice Sandra Day O'Connor served as the fifth vote for the court's holding that two counties in Kentucky violated the First Amendment by posting the Ten Commandments in their courthouses.

But in addition to signing the majority opinion of Justice David H. Souter, one of the court's staunchest advocates of a strict separation of church and state, O'Connor wrote a separate concurring opinion, in which she emphasized that the court was ruling as it did "for the same reason that guided the Framers -- respect for religion's special role in society. ...

"Voluntary religious belief and expression may be as threatened when government takes the mantle of religion upon itself as when government directly interferes with private religious practices."

O'Connor's role in the Ten Commandments case -- providing that fifth vote for the majority while writing separately in softer tones -- exemplified the influential role she has played in her 24 years on the court.

It is a cliche that O'Connor is a swing vote -- sometimes voting with liberals, sometimes with conservatives -- but she has been more than a whimsical wild card. Her case-by-case approach and penchant for separate concurrences have prevented the court from embracing extreme positions.

To the consternation of more ideological colleagues, especially Justice Antonin Scalia, O'Connor has become the arbiter of entire areas of constitutional law, including the role of religion in public life.

She is the author of what is called the "endorsement test" for determining whether government involvement with religion violates the First Amendment. Under that test, the court asks whether a "reasonable observer" would consider, say, a Nativity scene in a courthouse to be an endorsement of religion.

"O'Connor has been remarkably consistent and consistently influential," said Nancy Maveety, a Tulane University associate professor political science and author of "Sandra Day O'Connor: Strategist on the Court."

Maveety, who has analyzed O'Connor's voting patterns over many years, described the justice as "contextually conservative," which means she is "comparatively restrained when it comes to revising or overturning precedent and is likely to reason by exception when faced with a case not adequately covered by an existing rule."

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Maveety described O'Connor's approach to judging as "judicial accommodationism," and said O'Connor had made it a practice to join "minimum-winning collations" on the court, enhancing her influence further by writing either "regular" concurring opinions (in cases in which she also signed the majority opinion) or "special" concurrences, in which she concurred only in the result.

The result of O'Connor's "accommodationism," Maveety said, is that the court as a whole often will embrace a "common-sense" position in tune with public opinion.

That's the problem, O'Connor's critics have charged. They accuse her of being unprincipled and acting like the legislator she once was.

In reacting yesterday to O'Connor's retirement, Derek Gaubatz, director of litigation of the Becket Fund for Religious Liberty, praised the justice for her generous view of the First Amendment's Free Exercise Clause but complained about her approach to another part of the First Amendment, which bars the "establishment" of religion by government.

"She was stubbornly resistant to any sort of categorization." Gaubatz said.

"Her 'reasonable observer' test for government display of religious symbols led the court away from any principled interpretation of what counts as an 'establishment of religion' to a subjective test that varied with the whims (including frequently O'Connor herself) of the individual justices."

But the case-by-case approach that O'Connor's critics see as a vice is regarded as a virtue by some legal observers.

"In any given era, you're likely to find someone occupying that middle position on the court," said Edward B. Foley, an Ohio State University law professor and former state solicitor of Ohio. "Like Justice Lewis Powell [in the 1970s and '80s], Justice O'Connor was a balancer, and it's not surprising that a balancer ends up as a swing vote."

Ken Gormley, a Duquesne University law professor who is close to O'Connor, offered a similar description: "I think she really made her name in recent years as a pragmatist; she found practical solutions to impossible problems."

Upon O'Connor's departure, the court's position on several issues could be up for grabs now, depending on the philosophy of the women or man who President Bush chooses to succeed her. This would not have been so true had it been Chief Justice William H. Rehnquist who announced his retirement, a prospect that was widely expected because of his poor health.

"The stakes are much higher after an O'Connor retirement than after a Rehnquist retirement," said Michael Comiskey, associate professor of political science at Penn State's Fayette campus and author of "Seeking Justices: The Judging of Supreme Court Nominees."

"If [Bush] chooses someone in the mold of Justice [Antonin] Scalia or [Clarence] Thomas, I think we would have another situation like the one involving Robert Bork," Comiskey said, referring to former President Ronald Reagan's controversial and eventually unsuccessful nominee for justice in 1987. "On the other hand, if he chose someone who was perceived as only a moderate conservative, confirmation would be easier."

Within hours of O'Connor's announcement yesterday, e-mails were flying in Washington filled with interest groups' litanies of the decisions in which she had cast the crucial vote favoring a liberal position -- holdings that might be undone by a more ideologically conservative successor.

* Religion. In addition to her votes this week to strike down Ten Commandments monuments on public property in Kentucky and in Texas (she was in the minority on the latter case), O'Connor was part of a 5-4 majority that ruled in the 1992 case of Lee v. Weisman that a prayer at a public-school graduation was unconstitutional.

* Abortion. O'Connor joined the majority in the 1992 Planned Parenthood of Southeast Pennsylvania v. Casey decision that reaffirmed the essential holding of Roe v. Wade by a 5-4 vote. In 2000, she was part of a 5-4 majority in Stenberg v. Carhart striking down a Nebraska law banning so-called "partial-birth" abortions. A similar federal law is moving up the appeals process.

* Affirmative action. O'Connor wrote the majority opinion in the 2003 case of Grutter v. Bollinger upholding an affirmative-action program at the University of Michigan Law School and reaffirming a principle first enunciated in the 1978 Bakke case that state universities may consider race as one factor in admissions.

* Civil rights. Although critical in earlier cases of "racial gerrymandering" designed to maximize minorities' voting power, O'Connor was part of a 5-4 majority in the 2001 case of Hunt v. Cromartie allowing legislators to take race into account in redistricting. Last year, in Tennessee v. Lane, O'Connor joined with four liberal justices to uphold the right of disabled people to sue state governments under the Americans with Disabilities Act.

Although much attention yesterday was focused on swing votes in which O'Connor supported a liberal result, she often swung in the conservative direction.

Along with Rehnquist, Scalia, Thomas and Anthony Kennedy, O'Connor was a member of the "Federalism Five," a bare majority that struck down part or all of two federal laws -- the Gun-Free School Zones Act and the Violence Against Women Act -- on the grounds that they infringed on states' rights.

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University of Pittsburgh law professor Arthur Hellman noted yesterday that O'Connor remained an ardent supporter of states' rights through her final term. For example, she vigorously dissented from last month's 6-3 decision in Gonzales v. Raich upholding the right of the federal government to prosecute users of medical marijuana in California, despite the fact that the state allows use of the drug by cancer patients.

Hellman cited that dissent and O'Connor's equally astringent dissent in last week's 5-4 Kelo v. City of New London decision upholding use of eminent domain as evidence that this term she has been "going back to her roots," voting conservatively.

O'Connor Leaves Bench In Limbo (DMN)

By Allen Pusey

The Dallas Morning News, July 2, 2005

Sandra Day O'Connor, who provided the critical vote in some of the most controversial cases of the last quarter-century, primed the U.S. Supreme Court for a major shift in ideology with her retirement from the bench Friday.

AP Supreme Court Justice Sandra Day O'Connor promised to stay until a successor is confirmed, a process that is sure to be contentious.

In a letter to the White House, the 75-year-old justice gave no reason for her departure, though it is widely known that she has been concerned about her husband's failing health.

Justice O'Connor was appointed in 1981 as the first woman on the court, and her instinctively practical jurisprudence was decisive in cases involving abortion, affirmative action, sexual privacy and the death penalty. Though she promised to stay until a successor is confirmed, her departure sets up a high-stakes battle for control of the nation's highest court.

In her letter to President Bush, she said: "It has been a great privilege indeed to have served as a member of the court for 24 terms. I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure."

Mr. Bush praised Justice O'Connor as "a discerning and conscientious judge and a public servant of complete integrity." He said he would recommend a replacement who would "faithfully interpret the Constitution and laws of our country."

A quick choice for her successor is anticipated, perhaps within a week. But the White House, which had been poised to name a successor for ailing Chief Justice William Rehnquist, now faces the politically sensitive task of replacing not only the court's first woman but its most visible moderate.

Mark Tushnet, a constitutional scholar at Georgetown University said her departure would likely have a more dramatic effect than the widely anticipated resignation of the chief justice.

"Her retirement and replacement provides the opportunity for an appointment that might dramatically change the court's direction – or accelerate its transformation into a much more conservative court," Mr. Tushnet said.

1st vacancy in 11 years

Justice O'Connor's retirement creates the court's first vacancy in 11 years. The current group of justices has been together longer than any other since 1823.

Appointed by President Ronald Reagan, the Texas-born justice was routinely conservative in many of her votes. But her pragmatic approach made her an unexpected light for reproductive rights advocates, civil rights groups and death penalty opponents.

Though her crucial vote in Bush vs. Gore, the case that helped decide the 2000 election, ushered in the current administration, her perceived inconsistency frustrated conservatives who saw contradiction and politics in many of her high-profile decisions.

·In 1992, her vote preserved the right to abortion but seriously narrowed that right as first granted in Roe vs. Wade.

·Though she supported the death penalty, she persistently voted to prohibit its use against the mentally retarded and juveniles.

·Two years ago, she voted to preserve the use of affirmative action but limited its use in college admissions.

·Though she helped ban prayer at high school events, she didn't support a recent decision to block displays of the Ten Commandments in two Kentucky courthouses.

So pivotal was her swing vote that experienced Supreme Court litigators often tailored their arguments to her best-known views.

Sen. John Cornyn, who argued two cases before the high court as Texas attorney general, said he tailored his arguments to Justice O'Connor and fellow moderate Anthony Kennedy. "You virtually ignore the rest of the justices in terms of your strategy, because if you can get a Kennedy and an O'Connor, then you're going to win," he said.

Historian David J. Garrow said that kind of power speaks more to the balance of the court than her philosophy as a jurist. He said her narrowly tailored opinions often determined the outcome of a case but sometimes left issues unsettled.

FILE/AP Chief Justice Warren Burger (left) swore in Sandra Day O'Connor, with her husband, John O'Connor III.

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"Her importance derived from the fact that she was in the middle," Mr. Garrow said.

Justice O'Connor usually dismissed such analyses as irrelevant.

She responded recently to an author who had concluded that her opinions varied from her colleagues in ways that were "peculiarly feminine."

"I would guess that my colleagues on the Court would be as surprised as I am by these conclusions," she wrote.

Early days on ranch

Justice O'Connor has long credited her background as the key to her jurisprudence. Her early life on a ranch, the professional barriers she faced as a woman, and her experience as the only justice to have held an elective office are critical to understanding her view of the law, she has suggested.

FILE/AP Sandra Day O'Connor testified on her nomination to the high court in 1981. Her nomination came less than two years after she joined the Arizona Court of Appeals.

Born as the first of three children in El Paso on March 26, 1930, the young Sandra Day spent her earliest winters attending Radford, a small school for girls in El Paso, and her earliest summers at her grandfather's ranch in Arizona, where she learned to mend fences, ride horses and shoot a rifle.

The Lazy B in southeast Arizona was a working cattle ranch of nearly 200,000 acres founded decades before Arizona became a state. Justice O'Connor often recounted that the diligent work required to maintain it was a powerful influence on the values she carried through her life.

She graduated from high school at 16 to enter Stanford University, where she graduated magna cum laude in 1950 with a degree in mathematics. In 1952, she graduated third in her class of 102 students at Stanford Law School. Graduating first in that class was William Rehnquist.

Shortly after graduation, she married law review colleague John O'Connor III. Mr. O'Connor, who graduated law school a year behind his wife, stayed at Stanford while Mrs. O'Connor left for Phoenix. She was unable to find work as a lawyer in Phoenix because private firms would not hire women. The only work she was offered was that of a legal secretary, which she declined in favor of a job with the county attorney's office in San Mateo, Calif.

FILE/AP President Ronald Reagan made Sandra Day O'Connor the first woman on the Supreme Court in 1981.

While her husband was in the service, Mrs. O'Connor worked as a civilian lawyer overseas for the Army, then returned to Phoenix to open her own firm. She stopped working when her second child was born to concentrate on motherhood. Through volunteer and charity work, however, she built an impressive public service résumé. She became an active Republican and, in 1969, was appointed by a Democrat to an open seat in the Arizona state Senate.

In 1974, Mrs. O'Connor was elected to the Maricopa County Superior Court and five years later to the Arizona Court of Appeals. Less than two years later, President Reagan – who had vowed to appoint a woman to the Supreme Court – appointed her to the vacancy left by the retirement of Justice Potter Stewart.

Her nomination was confirmed in the U.S. Senate, 99-0.

Dubbed the "Arizona Twin" of Justice Rehnquist during her first term on the court, she voted as he did in all but four of 31 decisions decided by a single vote. But as years passed, she became better identified with Justice Lewis Powell, whose narrow opinions she began to imitate. As a former state legislator, the approach seemed to fit her philosophy and her temperament, and she has been unapologetic for considering the practical outcome of court decisions.

Justice O'Connor had been rumored to retire since she had breast cancer since 1988. Recent reports that her husband has Alzheimer's disease gave those rumors more credence, and Friday's announcement did not come as a total surprise.

She gave no indication of her plans after she leaves the court. In recent months, however, she has been re-establishing a presence in Arizona, and her eldest son, Scott O'Connor, said she would likely return there. He said his mother would probably write, teach and perhaps hear cases by special appointment to federal appeals courts.

Justice O'Connor Had Pivotal Role In Big Rulings (WT)

By Stephen Dinan

The Washington Times, July 2, 2005

Justice Sandra Day O'Connor provided the critical swing vote on a series of important 5-4 decisions during her tenure, essentially setting the current legal standard on issues from abortion to religion to affirmative action.

"Justice O'Connor has been the pivot on most of the major decisions that were decided 5-4," said Sen. John Cornyn, Texas Republican. "I argued two cases to the United States Supreme Court when I was [Texas] attorney general and, as every lawyer will tell you who argues to the United States Supreme Court, you argue to get Justice O'Connor, and Justice [Anthony M.] Kennedy, in close decisions. You virtually ignore the rest of the justices in terms of your strategy, because if you can get a Kennedy and an O'Connor, you win."

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With four solidly liberal justices, three solidly conservative justices and one conservative leaner in Justice Kennedy, Justice O'Connor's vote was usually the tie-breaker between the two positions.

She wrote the majority opinion in a 5-4 case upholding the University of Michigan law school's affirmative action policy in 2003. Earlier this week, she sided with the liberal justices in a 5-4 case prohibiting a display of the Ten Commandments in a Kentucky courtroom.

Kevin J. Hasson, founder of the Becket Fund for Religious Liberty, a conservative group that defends free expression of religion, said he is happy to see Justice O'Connor go.

"We have a living Constitution, her name is Sandra Day O'Connor and thank God she's retiring," Mr. Hasson said, adding that whoever replaces her will bring "clarity" to constitutional law on religion. "Right, left or center, the law will be clearer, and that in itself is a good thing."

Justice O'Connor was also part of the 5-4 majority that upheld the severe restrictions on donations to federal political campaigns that were part of the McCain-Feingold Bipartisan Campaign Reform Act of 2002. And she was part of the 5-4 majority that overturned a ban on a late-term abortion procedure commonly called partial-birth abortion.

But she sided with the court's conservatives in limiting federal power on cases such as overturning the 1994 Violence Against Women Act. That ruling prevents rape victims from suing their attackers in federal court.

And on the death penalty, she usually sided with the conservatives in upholding it, though she acknowledged in a 2001 speech that "serious questions are being raised" about its implementation.

With Republicans in control of the confirmation process, her retirement provides them with a chance to solidify the rulings in which she sided with the other conservatives on the court. Democrats find themselves playing defense in trying to preserve the balance when she sided with the court's liberals.

Nelson Lund, a former clerk to Justice O'Connor and now a law professor at George Mason University, said she didn't set out to be the key vote.

"She has been a pragmatic judge, and also a cautious judge, disinclined to make sweeping theoretical pronouncements," he said. "I think just by chance it's turned out there were enough people on either end of the ideological spectrum of the court that are willing, that that makes her the swing vote."

Justice O'Connor was a leader on the court on the issue of federalism, siding with the conservatives on the court in limiting the extent of federal power. Still, true to form, Mr. Lund said, she often wrote concurring opinions that "could be read as suggesting a little more caution" than the rest of the majority.

O'Connor's Independent Voice Made Her A Pivotal Figure (KRT)

By Stephen Henderson

KRT – Independent Swing Vote, July 2, 2005

In her best-selling memoir about growing up on a dusty cattle ranch in Arizona, Sandra Day O'Connor said that her childhood had endowed her with three pivotal values: openness, independence and generosity.

ADVERTISEMENT

If you had to sum up O'Connor's 24-year tenure on the Supreme Court - first woman justice, key decider of every major social controversy for a quarter century, confounder of both the far right wing and the nation's most liberal elements, the public face of the high court to millions at home and abroad - you wouldn't need to look further than those three words.

O'Connor's hard-scrabble upbringing on the Lazy B ranch is the perfect prism through which to view her work as one of the nation's most influential jurists. Practical and deliberative. Tough but moderate - and willing to change her mind. Hard working and independent, but mindful of the barriers that hinder some Americans' progress.

O'Connor embodies the kind of conservatism championed by Ronald Reagan, the president who nominated her to the court, and Barry Goldwater, the senator from her native Arizona who pioneered a revolution in libertarian thought. But she has shied from the more shrill conservatism of the modern Republican Party, alienating her from some of its current leaders.

"We're very fortunate that she was the first woman to serve on the court because she has been an absolutely independent voice, strong minded and strong willed," said Marci Hamilton, a professor at the Benjamin Cardozo School of Law at Yeshiva University and a clerk for O'Connor during the 1989-90 term. "She has her own internal moral compass, and she's not sitting around waiting to see what everyone else thinks before she makes up her mind. That's how she wound up in the center of the court. We laugh about it because she is now called liberal. But that's not who she is."

Nor was that what Reagan intended O'Connor to be when he nominated her in 1981.

Then, the court was dominated by Democratic appointees, and it tilted toward the expansive federal power and progressive legislation that had flowered in the past three decades.

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O'Connor was Reagan's first appointment, fulfilling a promise he'd made during his campaign to put the first woman on the court, and she was expected to provide an important conservative counterbalance.

She did that most notably by joining William Rehnquist and other conservatives in championing a more delicate balance between the reach of the federal government and the rights of the states.

By the early 1990s, with a Republican majority on the court, O'Connor became a crucial voice in landmark decisions that formed the contours of the Rehnquist court's legacy. Federalism, or the idea that many questions should be left to states, is now a fundamental part of the court's legacy. In a 1992 opinion, in a case about Congress requiring states to provide for disposal of radioactive waste, O'Connor made the issue clear.

"The constitutional question is as old as the Constitution: It consists of discerning the proper division of authority between the Federal Government and the States," O'Connor wrote for the majority in New York v. United States.

In another case about whether a Virginia death-row inmate could raise claims - including one of innocence - in federal court after having them dismissed in state court, O'Connor was just as blunt.

"This case is about federalism," she wrote in the opening line of her opinion. "This Court will not review a question of federal law decided by a state court if the decision of that court rests on a state law ground that is independent of the federal question and adequate to support the judgment."

O'Connor also helped the court pare back the reach of some federal gun laws and congressional legislation aimed at helping battered women. She has been instrumental in Rehnquist-led efforts to limit federal review of search-and-seizure requirements during traffic stops and the ways in which death-row defendants can challenge their sentences.

But as tough as O'Connor can be on federalism questions, she also has shown a penchant for compassion and sympathy on many social issues - and a tendency to soften some positions over time. Her social pragmatism has put her at odds with other justices and conservative politicians who favor a more ideological approach.

Initially a critic of the landmark abortion case Roe v. Wade, for example, O'Connor eventually turned away attempts to overturn it. Instead, she has pushed for - and won - court rulings that call for permissible restrictions that are judged by whether they impose "undue burdens" on women seeking abortions.

In the 1989 case, Webster v. Reproductive Health Systems, O'Connor voted to uphold a Missouri provision that prevented public employees from performing abortions, but she insisted that Roe was law and shouldn't be revisited.

By 1992, her view was carrying the day, in Planned Parenthood v. Casey. The majority opinion in that case made it clear that the right to abortion wouldn't be threatened soon by the court.

"Liberty finds no refuge in a jurisprudence of doubt," O'Connor wrote. "Yet, 19 years after our holding that the Constitution protects a woman's right to terminate her pregnancy in its early stages, that definition of liberty is still questioned. ... The essential holding of Roe v. Wade should be retained and once again reaffirmed."

Similarly, O'Connor has refined her position on affirmative action.

In a 1989 case, she called a Richmond, Va., effort to boost minority contractors unconstitutional because it didn't meticulously document the past discrimination it was trying to remedy. O'Connor was central in developing the court practice of closely scrutinizing any race preferences, and she has tended to frown on them.

But in the key 2003 case challenging the constitutionality of race preferences in admissions at the University of Michigan Law School, O'Connor cast the deciding vote to retain the practice.

"Attaining a diverse student body is at the heart of the Law School's proper institutional mission, and its `good faith' is `presumed' absent a showing to the contrary," O'Connor wrote in Grutter v. Bollinger.

O'Connor has also confounded conservatives with thoughts about separation of church and state.

In a 1997 case about public schools providing services to poor children in sectarian schools, O'Connor led the charge in overturning a hard separation of church and state, saying an earlier ruling was too strict.

She also voted with the court majority to approve public vouchers for Cleveland students to attend religious schools.

But just last week, O'Connor voted to have two Ten Commandments monuments removed from courthouses in Kentucky and the state capitol grounds in Texas, arguing that both were improper entanglements of government and religion. Though most of the court's conservatives voted to uphold the more benign Texas monument, O'Connor balked, saying such symbolism was more divisive than helpful.

The separation of church and state has "kept religion a matter for the individual conscience, not for the prosecutor or bureaucrat," O'Connor said. "At a time when we see around the world the violent consequences of the assumption of religious authority by government, Americans may count themselves fortunate: Our regard for constitutional boundaries has protected us from similar travails, while allowing private religious exercise to flourish."

That kind of opinion inspired this quote about O'Connor, from Kevin J. "Seamus" Hasson, who founded the Becket Fund for Religious Liberty, a Washington-based interest group.

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"Her approach to religion law questions made everything a matter of what an imaginary, objective observer would think. But there was no way to know what this imaginary person would think, until Justice O'Connor imagined it," Hasson said. "She was well-intentioned, but she was slowly but surely reinventing monarchy."

Nathaniel Persily, a constitutional expert and professor at the University of Pennsylvania's law school, said O'Connor is an easy target for those who support strict interpretations of the Constitution, but it's her ability to compromise that also gave rise to her prominence.

"Books will be written on her influence on the court and her approach as a justice," he said. "She not only became the decisive voice, but the lighthouse that lawyers look at to see where the court is going."

Sandra Day O'Connor To Retire (TIME)

By PATRICK STACK

Time, July 2, 2005

Supreme Court Justice Sandra Day O'Connor, nominated as the first woman on the Supreme Court 24 years ago and a key swing vote throughout her term, announced her retirement today. Her appointment to the Supreme Court in 1981 ended the Court's 191 years as an exclusively male institution.

O'Connor, 75, came up as a graduate of Stanford law and judge in the Arizona Court of Appeals. With the retirement of Justice Potter Stewart in 1981, Ronald Reagan kept a campaign promise of nominating a woman to the Supreme Court for the first time in U.S. history, as TIME noted in a cover story, "The Brethren's First Sister". She was confirmed 99-0 in the Senate and took her seat on the Court in a wave of celebration ("A New Order in the Court", 1981).

Though she had been nominated by a Republican president, O'Connor did not always hold the conservative line in Supreme Court decisions. She had a reputation of approaching each decision on a case-by-case basis, rather than through a sweeping judicial philosophy (see "Establishing Her Independence", 1986). She was the critical swing vote in upholding Roe v. Wade in the 1992 Planned Parenthood v. Casey decision, but voted to end the presidential ballot recount in 2000's Bush v. Gore.

Now, President Bush will nominate her replacement, with a Senate vote to confirm. Some of the potential choices: Attorney General Alberto Gonzales (see "Bush's Supreme Challenge", 2003) and federal appeals Judges J. Michael Luttig and John G. Roberts. Gonzales, who would be the first Hispanic justice on the court, is seen as the most moderate of the bunch and could face opposition from within Bush's party. Luttig is a conservative similar to Antonin Scalia or Clarence Thomas, and has been a strong proponent of federalism. Roberts served in the Justice Departments of both Reagan and George H.W. Bush.

O'Connor Known For Pragmatic Style (AP-Y2)

By Anne Gearan, Associated Press Writer

AP2, July 2, 2005

For many years, transcripts of Supreme Court arguments did not identify which justice had asked a given question. Nonetheless, it was usually easy to tell Sandra Day O'Connor's questions apart.

They were short, sometimes just one word, such as "Why?" And she often challenged lawyers arguing cases big or small to tell her the real-world effect that a Supreme Court ruling on the matter would have.

O'Connor, who announced her retirement Friday at age 75, was a pragmatist among ideologues, a centrist whose vote could often be a tiebreaker on the court's most contentious issues. Off the bench, she was both generous and demanding, and fully aware of the intimidating effect she had on other people.

The toughness and independence of her upbringing on an Arizona a ranch showed in O'Connor. She could be short-tempered and blunt, and she did not suffer pesky reporters lightly. She was accustomed to asking the questions, not answering them.

Her gaze, with cool blue eyes, is direct and uncompromising. When asked a question she disliked, such as when she would retire, she sometimes said nothing at all.

She often told interviewers and law students that she was stunned when President Reagan picked her as the first woman nominee to the high court.

"My concern was whether I could do the job of a justice well enough to convince the nation that my appointment was the right move," she said in during a discussion at Cardozo law school in 2000. "If I stumbled badly in doing the job, I think it would have made life more difficult for women, and that was a great concern of mine and still is."

She was outwardly comfortable with that powerful role, and with the social and professional obligations that came with the job. She traveled widely to give speeches, was a regular on the Washington social circuit and wrote a best-selling autobiography about growing up on an Arizona cattle ranch.

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In a one-sentence statement, O'Connor cited her age and said she "needs to spend time" with family. She and her husband, John, a former classmate at Stanford, have three sons, Scott, Brian and Jay.

John O'Connor has been in declining mental and physical health for several years. For a time, he accompanied his wife to court nearly every day, sitting quietly in a reserved section near the front of the courtroom or in a chair near a window in her airy chambers.

Although she has probably made more public appearances than her colleagues on the court, and gave dozens of interviews about her book, she and her husband have maintained their privacy about his health and what effect it might have on her work.

O'Connor Leaves Legacy As Key Swing Vote (AP-Y2)

By PETE YOST

AP2, July 2, 2005

WASHINGTON - Sandra Day O'Connor's legacy is in the key votes she cast on such divisive issues as abortion rights, religion and affirmative action. The Supreme Court's pragmatist often was the pivotal voter in decisions that could shape the legal landscape for generations.

The 75-year-old grandmother, who calls herself a simple "cowgirl from Arizona," staked out the middle ground on a court that is often polarized on major social subjects.

In her nearly 24 years as a justice, O'Connor was wooed by conservatives and liberals on the court, but neither side could always count on her vote. Her decisions revealed a practical side, concerned most with the impact of rulings on everyday life.

"As the first woman to be appointed to this court, Sandra Day O'Connor was thrust into the spotlight as no new justice has ever been. And she has become a star," Justice Antonin Scalia said. "She shaped the jurisprudence of this court more than any other associate justice."

To the consternation of conservatives, she joined court liberals in 2000 in upholding the right of women to have abortions if their health is in danger. Later that year, she voted with conservatives in awarding the disputed presidential election to George W. Bush.

In recent years her influence has been obvious. She wrote the 2004 decision that said the war on terrorism did not give the government a "blank check" to hold terror suspects in legal limbo. She also led a 5-4 court in 2003 in upholding an affirmative action program at the University of Michigan's law school.

"Justice O'Connor is kind of like Ted Williams. Hit a home run the last time up and head off into the sunset," said Tom Walsh, a former colleague of O'Connor's lawyer husband, John.

In retirement, she will teach a law class at the University of Arizona and probably continue writing. She already has two books: "The Majesty of the Law; Reflections of a Supreme Court Justice," published in 2003, and the 2002 "Lazy B," about her childhood on a cattle ranch in Arizona.

She is the most recognized and popular of the justices. She received more than 60,000 letters in her first year, more than any other member in the court's history. Fierce bidding broke out last year on e-Bay for an O'Connor bobblehead doll.

Former Solicitor General Theodore Olson said O'Connor will be remembered for her "charm, grace, kindness, poise, character and intelligence."

"She's been one of the most influential justices in U.S. history," said Jay Sekulow, chief counsel of the American Center for Law and Justice.

President Reagan broke nearly 200 years of tradition when he chose a woman for the high court.

O'Connor was 51 when she replaced the retired Potter Stewart. A virtual unknown on the national scene until her appointment, she had been an Arizona state judge.

She showed an independent streak from the beginning. In her first term, she cast the deciding vote and wrote a 5-4 ruling that said a Mississippi all-women college must let a male student study nursing.

In the years since, she often played down her role as a pivotal voter, but lawyers arguing appeals considered her vote so crucial that they often tailored arguments for her.

O'Connor generally favored states in disputes with the federal government.

She supported allowing a public Christmas display including a creche, but voted to bar a public Christmas display of a creche alone. Her view was that the Constitution prohibits any government action that is intended to send a message endorsing religion. Her vote determined the outcome in both cases.

This year has brought her some wins and losses. She wrote a strong dissent to a 5-4 ruling that let local governments take people's homes to build malls and other businesses. "The specter of condemnation hangs over all property," O'Connor wrote. "Nothing is to prevent the state from replacing ... any home with a shopping mall, or any farm with a factory."

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She also disagreed with decisions that barred states from executing juveniles and allowed federal drug agents to get around state medical marijuana laws.

She joined liberals in a 5-4 votes to overturn a death sentence and expand the scope of a landmark gender equity law.

Justice Clarence Thomas said O'Connor has been "civil in dissent and gracious when in the majority."

"She has taught us all," Justice Stephen Breyer said.

O'Connor had been a top student at Stanford Law School, where she dated then-classmate William H. Rehnquist, even hosting him in Arizona during a summer break. She married another law student and experienced her first discrimination, when no law firm was interested in hiring her, except as a secretary.

O'Connor has said she was surprised by the reaction to her nomination to the Supreme Court.

"I had no idea when I was appointed how much it would mean to many people around the country," she said. "It affected them in a very personal way. People saw it as a signal that there are virtually unlimited opportunities for women. It's important to parents for their daughters, and to daughters for themselves."

O'Connor Leaves ... (LAT)

The Los Angeles Times, July 2, 2005

One fact sums up Justice Sandra Day O'Connor's pivotal role on the Supreme Court and the enormity of her resignation — she alone was in the majority of every one of the court's 13 5-4 decisions this last term.

The Democrats' genuine sorrow in seeing O'Connor leave 24 years after being picked by President Reagan is a tribute to her moderating influence. Sen. Harry Reid of Nevada, the minority leader, urged President Bush on Friday to appoint someone else "like O'Connor" to the court.

O'Connor, the first woman to serve on the nation's highest court, is an inspiration not only to female lawyers but to pioneers in other fields. She is in other ways a throwback — a former politician on a court that is no longer that welcoming to politicians. Among current justices, O'Connor is the only one who served in a legislature, back in Arizona.

That political experience helped shape O'Connor's jurisprudence, and the fact that she rarely seemed intent on building something as haughty-sounding as a "jurisprudence." O'Connor is less interested in all-encompassing principles than in the case before her, and its practical, nitty-gritty facts.

The result could be maddening to lower courts and scholars looking for clear guidance. Some areas of the law, especially church-state relations and voting rights, remain muddled because O'Connor's answer to every constitutional question seemed to be a cautious "depends." In another area of the law, O'Connor upheld the University of Michigan Law School's affirmative action program but voted to strike down the same university's undergraduate affirmative action plan because they differed in their details.

The positive side of O'Connor's pragmatic approach to judging is that it applied a brake to the ideologically driven conservative counterrevolution. No one engaged with real-world facts, for instance, could allow Roe vs. Wade to be overturned.

In affirming the Michigan law school's program, O'Connor did indulge in soaring rhetoric: "Effective participation by members of all racial and ethnic groups in the civic life of our nation is essential if the dream of one nation, indivisible, is to be realized."

O'Connor's own biography no doubt contributed to her tolerance. She graduated third in her Stanford Law School class but could not get hired by a major law firm. Gibson, Dunn & Crutcher, the Los Angeles blue-chip firm, insultingly offered her a secretarial job.

Born in West Texas and raised on an Arizona ranch, she espoused a Western version of conservatism tinged with libertarianism. She voted to strike down state sodomy laws and wrote the opinion chastising President Bush for thinking he could indefinitely detain people without judicial oversight in the war on terrorism. Her levelheaded common sense on the bench will be missed.

A Dedication To Excellence From A Jurist Without Precedent (WP)

By Ann Gerhart And Roxanne Roberts

The Washington Post, July 2, 2005

When Supreme Court justice Potter Stewart announced his retirement in 1981, President Reagan summoned a former Republican activist and lawmaker, a judge sitting on the Arizona Court of Appeals, to the Oval Office. Sandra Day O'Connor was a wife, married for almost 30 years at that point to a law school classmate; a mother, whose three boys were nearly grown; and a daughter of the West, whose rancher daddy taught her to brand cattle and brandish a .22 by the time she was 8.

Reagan said later she charmed him immediately with her passion for horses, which he shared. They chatted about judicial issues; he never mentioned the Supreme Court opening.

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She said later she "got on the airplane and sat down and took a big breath and said, 'My, that was an interesting time to go to Washington. But thank goodness I don't have to do that job.' "

O'Connor, 75, yesterday announced she is giving up "that job," which she held for nearly a quarter-century. For much of that time, she has been described as the most influential woman in America, a designation that always stuck in her craw. The way she was raised, and the way she has lived, is simply to work hard and attentively in all the realms of her life, from the law to the Arizona Senate to court trials, from the Junior League to her golf game, from her friendships to her 1988 battle with breast cancer.

"All her life, whatever she did, whether it was important, or unimportant, or semi-important, or very important, she just would do it to perfection," her younger brother, H. Alan Day, told The Post years ago. "If you said, 'The job is to wash dishes well,' she would do it better than anyone else."

The very nature of her vaunted position has allowed her to blend and balance all these realms with a grace and dignity many powerful women never achieve. Outside the publicity glare that descends on first ladies and female politicians, O'Connor in Washington created quite a modern model for any women who hope to fashion lives both professionally and personally full. She is her own mix of frontier woman and distinguished jurist, able both to mug in a cowboy hat and to cast the crucial swing vote in more than a dozen 5-4 decisions.

Friends and family members have said she is a down-to-earth woman, generous and funny, given to throwing birthday celebrations for her clerks and sending thank-you notes seemingly written as soon as she arrived home.

But she is also reserved and private; her own son told the Associated Press that yesterday's resignation caught him by surprise. In her letter to President Bush, the justice made no mention of why she was ending her lifetime appointment. Supreme Court spokeswoman Kathy Arberg said O'Connor said she "needs to spend more time with her husband," John, 75. The justice has told close friends that he is suffering from Alzheimer's. None of the couple's three sons and six grandchildren lives in the area.

Her husband has been a full partner in her life from their days at Stanford Law School, where they were editors on the law review. Sandra Day graduated third in her class (first in the class was William Rehnquist, now the chief justice). The two of them dated, "a few movies and one thing or another," as O'Connor explained it, but once she accepted a date from John O'Connor, they had dates the next 39 nights in a row, "until he decided he needed to get some rest," she said.

When she brought O'Connor back to the 198,000-acre ranch straddling Arizona and New Mexico, her father tormented him by taking a piece of baling wire, skewering the testicles of the bull he had just castrated and grilling them in the branding fire. Then he held out the delicacy, standard cocktail-hour fare on the Day ranch, and said, " 'Here, John, try these.' " O'Connor recalled. "And poor John, he had to take one and gulp, 'Very good, Mr. Day.' " With that test passed, the couple wed as soon as she graduated law school. She was 22.

None of the law firms in California would hire her as a lawyer, although she did get an offer to be a secretary, "depending on my typing," she likes to recall, and not with total amusement, even all these years later.

She took a job as a deputy county attorney. After her husband's military tour of duty in Germany, he got a well-paying corporate job in Phoenix and she hung out a shingle with another attorney. When her second child was born in 1960, she decided to stay at home. She threw herself into volunteer work, becoming president of the Phoenix Junior League, and kept her hand in the law with the occasional appointment as trustee in a bankruptcy case and juvenile court referee.

During the '60s, she was an assistant attorney general in Arizona, then served out the term of a state senator who stepped down. She won two elections on her own, and became the first woman in the country to be a Senate majority leader in 1973. A year later she moved to the bench and was appointed to the state's appeals court in 1979.

She had not fixed herself to a particular life course. "I don't think it would be fair to say that, for Sandra, drive was one of those things that meant she must get to a specific goal," Hattie Babbitt, an attorney, told The Post in 1986. She urged her husband, Arizona Gov. Bruce Babbitt, to appoint O'Connor to the state court. "The kind of drive she has is she's very smart, and very organized, and she would always want to be very good at what she does. You can do that and not be in the right place at the right time. But she did and she was."

It was John O'Connor to whom she turned when President Reagan called and asked if she would accept his nomination to the Supreme Court. She hesitated, not sure what to do. A move for her meant career upheaval for him. "You cannot say no to the president," he told her.

But the woman whose style is to make decisions and resolutely never look back arrived in the nation's capital scared to death. "I felt intimidated by Washington and everything there," she told George Vradenburg, chairman of the Phillips Collection. She loved her Arizona, and the way the expanse of limitless sky and land kept a person humble. Frequently, she evoked author Wallace Stegner to describe her feelings for the West: "There is something about exposure to that big country that not only tells an individual how small he is, but steadily tells him who he is."

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She and her husband eventually settled in Chevy Chase and joined the exclusive Chevy Chase Club. She took up golf with her usual perseverance bordering on obsession, taking lessons with a pro and hitting buckets of balls every Saturday for four years before she ever set foot on the course. Her first outing, she broke 90.

Over the years, O'Connor and her husband maintained a social schedule that could seem almost frenzied. They are sought-after guests at A-list parties, popping up often at the Kennedy Center, the National Gallery of Art and embassies around town. "She and John were often the very first on the dance floor," said Walter Cutler, president of Meridian International Center. "They just love to dance. They had a unique dance step -- I wouldn't call it a Charleston, but it has that same festive air."

In 1985, O'Connor was seated at the head table at the Washington Press Club's annual dinner, where Redskins star John Riggins drunkenly told her, "Loosen up, Sandy baby. You're too tight!" Then he passed out on the floor. An embarrassed Riggins sent apologies and roses the next day. Seven years later, Riggins appeared in a play at a suburban Washington theater, and O'Connor presented him with a dozen roses during the curtain call.

When asked for a comment yesterday about the infamous incident, Riggins, with his characteristic politesse, hung up on a reporter.

O'Connor, on the other hand, is well known as a great dinner partner: curious, lively, engaged, with a dry sense of humor and knack for telling stories.

Her ranch upbringing had isolation, deprivation and years of financial distress, but her parents were highly cultivated people. They subscribed to the Wall Street Journal, the Los Angeles Times, the New Yorker, Vogue and Time. Her mother was a college graduate who ordered her clothes from Neiman Marcus and Saks; when she drove her daughter into town, 25 miles away, to get the mail, the residents would crowd around just to see what Ada Mae Day was wearing.

Her daughter has taken full advantage of what can be fascinating and stimulating in the capital city.

"I've watched her in social situations, and what you find is that there is no limit to her interests," said philanthropist Catherine Reynolds. "She is interested in everything . She just embraces life and all it curiosities." Reynolds seated country singer Dwight Yoakam next to O'Connor at a dinner in March. "He must have thanked me a dozen times. He said it was the most interesting night of his life. He just enjoyed her tremendously."

Two years ago, Reynolds and her husband, Wayne, brought more than 200 graduate students to Washington to meet with politicians, scientists, historians, businessmen and artists. They asked O'Connor to speak to the group, and they were all invited to the Supreme Court chambers, where they heard O'Connor and Ruth Bader Ginsburg talk about the court, the Constitution and the decision that gave the 2000 election to George W. Bush.

"She is so special," said Reynolds. "She is a great inspiration for young people from all around the world, but especially young women. She's very forthcoming in talking about her experiences and her struggles. . . . When she talks to you, you get that sense of authenticity, how real she is. You feel a connection with her."

O'Connor seemed especially solicitous of female clerks with children. University of Florida law professor Barbara Bennett Woodhouse, who was a 40-year-old mom when she clerked 20 years ago, recalls how the justice insisted that Woodhouse fly to Connecticut to see her 11th-grade daughter perform Gilbert & Sullivan.

"She said, 'This is a must-attend event.' She picked up the phone, called her travel agent and told me about the flights," said Woodhouse. "She had a very strong appreciation for the importance of our families."

Twenty-three years ago, she summoned yoga and aerobics instructors to hold 8 a.m. classes for women working in the Supreme Court; they're still going strong, and O'Connor joins in. "She was a big believer in the well-rounded life," said another former clerk, Marci Hamilton, now a Cardozo School of Law professor. "She is the opposite of the 24-7 law partner. . . . A very human person. . . . She never let anyone believe that law was the beginning and end of your life."

As hard on her clerks as she was on herself, she counterbalanced her demands for excellence and long hours with warm gestures: they recall how she'd swoop into the office and announce an impromptu afternoon jaunt to see the cherry blossoms or, on one occasion, a new Degas exhibit at the National Gallery. She also set up weekend field trips: horseback riding in Rock Creek Park, rafting in West Virginia, a visit to Harpers Ferry.

She even cooked lunch for Saturday sessions at which she and her clerks discussed upcoming oral arguments. "That was my introduction to green chili casserole," recalled Phoenix lawyer Scott Bale, an O'Connor clerk in 1984-85. "It left me with a long-term affection for green chili."

As she has nurtured relationships on the court, keeping her ties with Rehnquist and playing bridge with justices Anthony Kennedy and Stephen Breyer, she has built "deep and lasting friendships," said Lynda Webster. She and her husband, former FBI and CIA director William Webster, are close friends of the O'Connors and share a passion for fly-fishing, tennis and golf. "She's a go-getter," said Webster. "She's game for anything. She really has an incredible zest for life."

The couple told some friends they were giving up their Chevy Chase home and purchasing an apartment on New Mexico Avenue.

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The Websters and the O'Connors had dinner together last week, but Webster said neither she nor any other of O'Connor's friends had a hint of the pending resignation. "None of us knew, but then again, we would never ask."

Timeline: Sandra Day O'Connor's Key Decisions (WP)

The Washington Post, July 2, 2005

The following are key decisions and events in the career of Justice Sandra Day O'Connor.March 29, 2005: Jackson v. Birmingham Board of Education

Decision allows a male teacher to bring a Title IX claim if he complains about sex discrimination.

Findlaw Case DocumentsApril 28, 2004: Hamdi v. Rumsfeld

This decision rejected the Bush administration's position on enemy combatants and rules that a citizen held in the United States must be given an opportunity to challenge the factual basis of the detention before a neutral decison maker.

Findlaw Case Documents

Post: U.S. Allows Lawyer for Citizen Held as 'Enemy Combatant'Dec. 10, 2003: McConnell v. FEC

The ruling, which O'Connor co-authored with Justice John Paul Stevens, declares the McCain-Feingold campaign finance law constitutional.

Findlaw Case Documents

Post: Justices Uphold Campaign Finance Law June 23, 2003: Grutter v. Bollinger, Gratz v. Bollinger

Findlaw Case Documents (Grutter v. Bollinger)

Findlaw Case Documents (Gratz v. Bollinger)

Post Article: Affirmative Action for Diversity Is Upheld

Post Article: O'Connor Questions Foes of U-Michigan Policy April 8, 2003

O'Connor publishes her second book, The Majesty of the Law: Reflections of a Supreme Court Justice.

Post Article: Bench Marks

Post Article: A Cowgirl's Sense of the Constitution and the Court March 5, 2003: Ewing v. California and Lockyer v. Andrade

O'Connor affirms California's "3-Strikes" law that long prison terms for repeat offenders are legal

FindLaw Case Documents

Post Article: California '3-Strikes' Law UpheldJan. 22, 2002

Post Profile: The O'Connor FactorJuly 3, 2001

Post Article: O'Connor Expresses Death Penalty DoubtDec. 12, 2000: Bush v. Gore

O'Connor votes with the 5 to 4 majority that effectively makes George W. Bush the 43rd president of the United States.

Findlaw Case Documents

Post Article: Opinion Is Sharply Divided on Ruling's Consequences

Post Article: Court May Have Mapped New Territory June 28, 2000: Stenberg, Attorney General of Nebraska v. Carhart

Stenberg, Attorney General of Nebraska v. Carhart Findlaw Case Documents

Hill v. Colorado Findlaw Case Documents

Post Article: Supreme Court Upholds Two Key Abortion Rights May 16, 1999

O'Connor calls on judges nationwide to ensure fairness for all.

Post Article: Justice O'Connor Calls for 'Concrete Action' to Fight Bias June 24, 1997: Agostini v. Felton

O'Connor delivers the decision allowing public school teachers to enter parochial schools to provide remedial education.

Findlaw Case Documents

Post Excerpts From Ruling: 'We Have Departed From the Rule' June 29, 1992: Planned Parenthood of Southeastern PA v. Casey

Justices O'Connor, Anthony M. Kennedy and David Hackett Souter reaffirm what they called the "central holding" of the Supreme Court's 1973 ruling in Roe v. Wade.

Findlaw Case Documents

Post Article: 5-4 Court Declines to Overrule Roe June 26, 1990

O'Connor votes to strike down a portion of an antiabortion law that would have required a minor, virtually without exception, to notify both parents before obtaining an abortion.

Post Article: O'Connor Breaks Ranks With Reagan Appointees June 11, 1990: United States v. Eichman

O'Connor dissents when the court rules that flag-burning is protected by the First Amendment.

Findlaw Case Documents June 21, 1989: Texas v. Johnson

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O'Connor dissents as the court protects a citizen's right to make a political statement by burning s privately owned U.S. flag.

Findlaw Case Documents

April 29, 1989

Post Article: Justice O'Connor's Question Oct. 22, 1988

Post Article: Justice O'Connor Has Breast Cancer Surgery April 22, 1987: McCleskey v. Kemp

O'Connor joins with the court in upholding capital punishment law.

Findlaw Case Documents

Post Article: Capital Punishment Law Upheld June 4, 1985: Wallace v. Jaffree

O'Connor concurs in the court's judgment that moments of silence in public schools are in and of themselves constitutional, but may not "characterize prayer as a favored practice."

Findlaw Case Documents July 1, 1982: Mississippi University for Women v. Hogan

O'Connor rules in favor of a male applicant seeking admission to the Mississippi University for Women nursing school.

Findlaw Case Documents Sept. 25, 1981

O'Connor takes the oath of office. Sept. 22, 1981

O'Connor is confirmed by the Senate. July 7, 1981

O'Connor is nominated by President Reagan as the first woman associated justice of the Supreme Court.June 28, 2000

The Supreme Court upholds two key abortion rights, with O'Connor voting with the majority. Stenberg, Attorney General of Nebraska v. Carhart * Findlaw Case Documents Hill v. Colorado * Findlaw Case Documents * Post Article: Supreme Court Upholds Two Key Abortion Rights

&ovar14=May 16, 1999 O'Connor calls on judges nationwide to ensure fairness for all. * Post Article: Justice O'Connor Calls for 'Concrete Action' to Fight Bias

&ovar13=June 24, 1997 Agostini v. Felton O'Connor delivers the decision allowing public school teachers to enter parochial schools to provide remedial education. * Findlaw Case Documents * Post Excerpts From Ruling: 'We Have Departed From The Rule'

&ovar12=June 29, 1992 Planned Parenthood of Southeastern PA v. Casey O'Connor, Kennedy and Souter, reaffirmed what they called the "central holding" of the Supreme Court's 1973 ruling in Roe v. Wade. * Findlaw Case Documents * Post Article: 5-4 Court Declines to Overturn Roe

&ovar11=June 26, 1990 O'Connor votes to strike down a portion of an antiabortion law that would have required a minor, virtually without exception, to notify both parents before obtaining an abortion. * Findlaw Case Documents * Post Article: O'Connor Breaks Ranks With Reagan Appointees

&ovar10=June 11, 1990 United States v. Eichman O'Connor dissents when the court rules that flag-burning is protected by the First Amendment. * Findlaw Case Documents

&ovar9=June 21, 1989 TX v. Johnson O'Connor dissents, as the court protects a citizen's right to make a political statement by burning s privately-owned U.S. flag. * Findlaw Case Documents

&ovar8=April 29, 1989 O'Connor voices reservations about Roe and about abortion itself, as well as concerns about individual liberty. * Post Article: Justice O'Connor's Question

&ovar7=October 22, 1988 O'Connor undergoes breast cancer surgery * Post Article: Justice O'Connor Has Breast Cancer Surgery

&ovar6=April 22, 1987 McCleskey v. Kemp O'Connor joins with the court in upholding capital punishment law. * Findlaw Case Documents * Post Article: Capital Punishment Law Upheld &ovar5=June 4, 1985 Wallace v. Jaffree O'Connor concurs in the court's judgment that moments of silence in public schools are in and of themselves constitutional, but may not "characterize prayer as a favored practice." * Findlaw Case Documents &ovar4=July 1, 1982 Mississippi University for Women V. Hogan O'Connor rules in favor of a male applicant seeking admission to the Mississippi University for Women nursing school. * Findlaw Case Documents

&ovar3=July 7, 1981 O'Connor is nominated by President Reagan as the first woman associate justice of the Supreme Court.

&ovar2=September 25, 1981. O'Connor takes the oath of office.

&ovar1=September 22, 1981 O'Connor is confirmed by the Senate. &checkLoad=1&

Opinions By Justice Sandra Day O'Connor (NYT)

The New York Times, July 2, 2005

Excerpts from opinions by Justice Sandra Day O'Connor:

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From her 1992 plurality opinion Planned Parenthood v. Casey, which upheld a woman's constitutional right to an abortion, but gave states more flexibility to impose limited restrictions:

"We reject the trimester framework, which we do not consider to be part of the essential holding of Roe. Measures aimed at ensuring that a woman's choice contemplates the consequences for the fetus do not necessarily interfere with the right recognized in Roe, although those measures have been found to be inconsistent with the rigid trimester framework announced in that case.

"... The abortion right is similar. Numerous forms of state regulation might have the incidental effect of increasing the cost or decreasing the availability of medical care, whether for abortion or any other medical procedure. The fact that a law which serves a valid purpose, one not designed to strike at the right itself, has the incidental effect of making it more difficult or more expensive to procure an abortion cannot be enough to invalidate it. Only where state regulation imposes an undue burden on a woman's ability to make this decision does the power of the State reach into the heart of the liberty protected by the Due Process Clause."

Full Text of Opinion

From her 2003 majority opinion in Grutter v. Bollinger, which ruled the nation's public universities, for now, can take race partly into account in their admissions policies:

"We have repeatedly acknowledged the overriding importance of preparing students for work and citizenship, describing education as pivotal to "sustaining our political and cultural heritage" with a fundamental role in maintaining the fabric of society. This court has long recognized that "education is the very foundation of good citizenship." For this reason, the diffusion of knowledge and opportunity through public institutions of higher education must be accessible to all individuals regardless of race or ethnicity.

" ...We take the law school at its word that it would "like nothing better than to find a race-neutral admissions formula" and will terminate its race-conscious admissions program as soon as practicable. It has been 25 years since Justice Powell first approved the use of race to further an interest in student body diversity in the context of public higher education. Since that time, the number of minority applicants with high grades and test scores has indeed increased. We expect that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today."

Full Text of Opinion

From her 2004 majority opinion in Hamdi v. Rumsfeld, ruling a U.S. citizen seized on the Afghanistan battlefield can challenge his detention in U.S. courts:

"We have long since made clear that a state of war is not a blank check for the President when it comes to the rights of the Nation's citizens. ... (It) would turn our system of checks and balances on its head to suggest that a citizen could not make his way to court with a challenge to the factual basis for his detention by his government, simply because the Executive opposes making available such a challenge.

"... Any process in which the executive's factual assertions go wholly unchallenged or are simply presumed correct without any opportunity for the alleged combatant to demonstrate otherwise falls constitutionally short. ... We have no reason to doubt that courts faced with these sensitive matters will pay proper heed both to the matters of national security that might arise in an individual case and to the constitutional limitations safeguarding essential liberties that remain vibrant even in times of security concerns."

Full Text of Opinon

From her 1984 concurrence in Lynch v. Donnelly on nativity scenes that sets the legal standard for determining which displays violate the Constitution's prohibition on government establishment of religion:

"The Establishment Clause prohibits government from making adherence to a religion relevant in any way to a person's standing in the political community. Government can run afoul of that prohibition in two principal ways. One is excessive entanglement with religious institutions, which may interfere with the independence of the institutions, give the institutions access to government or governmental powers not fully shared by nonadherents of the religion, and foster the creation of political constituencies defined along religious lines.

"The second and more direct infringement is government endorsement or disapproval of religion. Endorsement sends a message to nonadherents that they are outsiders, not full members of the political community, and an accompanying message to adherents that they are insiders, favored members of the political community. Disapproval sends the opposite message."

Full Text of Opinion

DOJ_NMG_0000748

From her 2005 dissent in Kelo v. New London, a ruling that gives local governments broad authority to seize people's homes and businesses against their will for private development:

"The specter of condemnation hangs over all property. Nothing is to prevent the State from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory. ... Any property may now be taken for the benefit of another private party, but the fallout from this decision will not be random. The beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms.

"As for the victims, the government now has license to transfer property from those with fewer resources to those with more. The Founders cannot have intended this perverse result. 'That alone is a just government,' wrote James Madison, 'which impartially secures to every man, whatever is his own.'

Full Text of Opinion

From her majority opinion in 1984 Strickland v. Washington, setting a higher burden for death row inmates to successfully overturn their convictions based on mistakes by their attorneys:

"An error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment. ... Judicial scrutiny of counsel's performance must be highly deferential. It is all too tempting for a defendant to second-guess counsel's assistance after conviction or adverse sentence, and it is all too easy for a court, examining counsel's defense after it has proved unsuccessful, to conclude that a particular act or omission of counsel was unreasonable.

"A fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time. Because of the difficulties inherent in making the evaluation, a court must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance; that is, the defendant must overcome the presumption that, under the circumstances, the challenged action "might be considered sound trial strategy."

Full Text of Opinion

A Look At Major Decisions In Which O'Connor Played Key Role (KRT)

By Michael Barnett and Andres R. Martinez

KRT – O'Connor Key Votes, July 2, 2005

The following are some of the major cases in which Sandra Day O'Connor played a significant role.

Mississippi University for Women v. Hogan

Decided: July 1, 1982

Voted: With majority

Decision: 5-4

O'Connor voted with the majority to strike down a rule that blocked men from attending Mississippi University's nursing school.

Lynch v. Donnelly

Decided: March 5, 1984

Voted: With majority

Decision: 5-4

The court ruled that the Pawtucket, R.I., government didn't violate the separation of church and state by sponsoring a Christmas display in a shopping district.

Hazelwood School District v. Kuhlmeier

Decided: Jan. 13, 1988

Voted: With majority

Decision: 5-3

O'Connor agreed with the majority that schools had the right to block students from publishing anything they deemed inappropriate.

Texas v. Johnson

Decided: June 21, 1989

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Voted: With minority
Decision: 5-4
The Supreme Court upheld that burning the American flag was a protected form of speech.

Planned Parenthood v. Casey
Decided: June 29, 1992
Voted: With majority
Decision: 5-4
The court upheld a Pennsylvania law requiring a 24-hour waiting period before abortions and that minors get the permission of at least one parent before getting abortions.

Richmond v. J.A. Croson Co.
Decided: Jan. 23, 1989
Voted: With majority
Decision: 6-3
The court struck down a Richmond, Va., law mandating that construction companies working with the city subcontract work to minority-run businesses.

Bush v. Gore
Decided: Dec. 12, 2000
Voted: With majority
Decision: 5-4
The court agreed with President George Bush's argument that Florida's recount method in the 2000 presidential election was unconstitutional because the procedure was inconsistent across the state.

Grutter v. Bollinger
Decided: June 23, 2003
Voted: With majority
Decision: 5-4
O'Connor joined the majority in saying that the Michigan School of Law didn't violate any laws by using race as a factor in admission to that school.

Lawrence and Garner v. Texas
Decided: June 26, 2003
Voted: With majority
Decision: 6-3
The court struck down Texas law that made sodomy illegal.

Rasul v. Bush
Decided: June 28, 2004
Voted: With majority
Decision: 6-3
In a case brought by detainees held at Guantanamo Bay, Cuba, O'Connor voted with the majority that detainees held at the U.S. military base could appeal their detentions.

Roper v. Simmons
Decided: March 1, 2005
Voted: With minority
Decision: 5-4
O'Connor dissented from the court's ruling that the death penalty couldn't be applied to cases where the accused was a minor when the crime was committed.

A Look At How Justice O'Connor Voted (AP-Y2)

DOJ_NMG_0000750

AP2, July 2, 2005

Justice Sandra Day O'Connor has been the swing vote on many important decisions in the 24 years since President Reagan appointed her.

In her first term, O'Connor voted with conservative Justice William Rehnquist on 27 of 31 decisions that were decided by a 5-4 vote.

But early on, she showed an independent streak. In her first term, the liberal wing of the court joined O'Connor in a 5-4 ruling declaring that a state-supported university in Mississippi could not exclude men from its nursing school.

O'Connor's role in some other cases:

_1984: O'Connor wrote a concurring opinion on nativity scenes that set the legal standard for determining which displays violate the Constitution's prohibition on government establishment of religion. She also wrote the majority opinion that set a higher burden for death row inmates seeking to overturn their convictions based on mistakes by their attorneys.

_1989: O'Connor's opinion for the court declared that government programs violate equal protection if they set aside a fixed percentage of public contracts for minority businesses.

_1992: O'Connor and Justice Anthony Kennedy joined a plurality opinion by Justice David Souter that criticized the constitutional foundation for legalized abortion, while declining to overturn the 1973 decision that legalized it.

_2003: O'Connor co-authored the majority opinion upholding 5-4 the broadest restrictions on campaign donations in nearly 30 years. She also wrote the majority opinion ruling that public universities, for now, can take race partly into account in admissions policies.

_2004: O'Connor wrote the majority opinion that a U.S. citizen seized on the battlefield in Afghanistan can challenge his detention in U.S. courts.

_2005: O'Connor dissented from a ruling that gave local governments broad authority to seize private property for private development.

Reaction To O'Connor Resignation (AP-Y2)

By The Associated Press

AP2, July 2, 2005

Reaction to Justice Sandra Day O'Connor's announcement Friday that she was retiring from the Supreme Court:

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"For over 23 years, Justice O'Connor has been one of the Supreme Court's finest justices. As the first female justice, this simple cowgirl from Arizona has been a trailblazer for women and rightfully earned her place in history." — Senate Majority Leader Bill Frist, R-Tenn.

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"She is a longtime friend and valued colleague. I shall miss her greatly." — Chief Justice William H. Rehnquist.

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"Above all, Justice O'Connor has been a voice of reason and moderation on the court. It is vital that she be replaced by someone like her, someone who embodies the fundamental American values of freedom, equality and fairness." — Senate Democratic leader Harry Reid of Nevada.

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"She has enhanced the national and international reputation of the court, and has established — to the point where it now goes almost without notice — the role of her sex in the administration of justice." — Justice Antonin Scalia.

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"As a senior member of the Judiciary Committee, I'll be looking forward to hearing from a nominee who understands that the role of the courts is to interpret the law, not create the law." — Sen. Charles Grassley (news, bio, voting record), R-Iowa.

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"Justice O'Connor has made a splendid contribution to the law and to the court." — Justice Anthony M. Kennedy.

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"Justice O'Connor played an indispensable and pivotal role in preserving our civil liberties and constitutional rights, including a woman's right to choose. ... As the president nominates a successor, he has an opportunity to unify the country by seeking meaningful consultation with legislators of both parties and choosing a respected nominee in the manner of Sandra Day O'Connor." — House Democratic leader Nancy Pelosi of California.

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"Justice O'Connor has authored some of the most influential precedents over the last quarter-century and has been the deciding vote on some of the most contentious issues of our time. Justice O'Connor has earned the respect of her colleagues

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and the entire legal community for her intellectual ability, evenhandedness and judicial restraint." — Sen. Olympia Snowe (news, bio, voting record), R-Maine.

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"She has been an outstanding colleague, civil in dissent and gracious when in the majority." — Justice Clarence Thomas.

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"Justice O'Connor was a mainstream conservative. ... I hope the president will select someone who meets the high standards that she set and that can bring the nation together as she did." — Sen. Edward Kennedy (news, bio, voting record), D-Mass.

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"She has been a trailblazer and role model for many. Her resignation leaves a void that won't easily be filled." — House Speaker Dennis Hastert, R-Ill.

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"The court, the law and my life have been immeasurably enriched by her dedicated service. She has taught us all." — Justice Stephen G. Breyer.

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"A quarter-century ago, Ronald Reagan enthusiastically accepted the recommendation of Barry Goldwater and nominated a mainstream conservative who came to the court with an open mind and true judicial temperament. It is my hope the president will consult with Senate leaders, and that ultimately his choice honors Justice O'Connor by choosing someone in her mold." — Sen. Joseph Biden (news, bio, voting record), D-Del.

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"When my husband had his first opportunity to make a nomination to the Supreme Court, he very much wanted to appoint a woman. He saw in Sandra Day O'Connor a sense of fairness and devotion to the public good, and she has certainly lived up to his expectations." — Former first lady Nancy Reagan.

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She has "been one of the few moderates on the Supreme Court, not always in our favor, but frequently in favor of civil rights and women's rights. What we fear is there will be a nominee along the lines of some of the extremist judges that have been put on the appellate court by George Bush." — Kim Gandy, president of the National Organization for Women.

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"This is another opportunity for President Bush to appoint a conservative jurist to the federal judiciary who will interpret and apply the Constitution properly instead of legislating from the bench and relying on international opinion and public polls." — Republican South Carolina Attorney General Henry McMaster.

Personal And Political Concerns In A Closely Held Decision (NYT)

By Anne E. Kornblut

The New York Times, July 2, 2005

When his mother was nominated for the Supreme Court in July 1981, it came as a surprise to Brian O'Connor. He had been off skydiving, and only learned the historic news along with the rest of the nation when he got home.

On Friday morning, he had much the same experience, turning on the television to discover that his mother had announced her retirement. Mr. O'Connor, 45, said he waited a while before calling his parents at home in suburban Maryland, noting that Justice Sandra Day O'Connor had once again confounded not only the political pundits but also her own children.

"I was as surprised as anyone - but then again, not surprised," said Mr. O'Connor, a real-estate developer in Phoenix and the justice's middle child. "Publicly, there's been a lot of speculation, and there has been in the family, as well. We had our hunches. But no one knew for sure."

In their 10-minute phone conversation, Mr. O'Connor said, he congratulated his mother, but commented that the decision must have been bittersweet.

"I said, 'Well, you must have some tears as well as a smile on your face,' and she said, 'Oh, I think there were more tears,' " he said. "I think she will miss it."

His mother used a mountain-climbing metaphor to describe her feelings to her son, who scaled Mount Everest two years ago.

"I feel like I'm starting to climb down off the summit," she said.

Several factors compelled Justice O'Connor to vacate her seat, according to her son, former clerks and friends. Her husband, John Jay O'Connor III, has suffered from Alzheimer's disease and grown increasingly dependent on his wife of more than 50 years. He often spent days with her at the court, resting in her office while she sat on the bench.

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Kathleen Arberg, the court's public information officer, said the justice told her that after 24 years, at age 75, it was "time now to spend time with my husband."

Brian O'Connor would not talk about his father, a retired lawyer, out of respect for his parents' privacy. The couple met at Stanford Law School, where the future Supreme Court justice was in the same class as William H. Rehnquist, the future chief justice, whom she briefly dated.

"That she needs to spend more time with John O'Connor strikes me as entirely credible," said Gerhard Casper, the former president of Stanford University and a friend of Justice O'Connor's for two decades. "He's hanging in there. Sometimes it is better, and sometimes it is worse."

The O'Connors plan to move to a townhouse they recently bought in northwest Washington from their home in Chevy Chase, Md., a move that was one factor fueling speculation that Justice O'Connor was not planning retirement any time soon. Her friends had long speculated that one reason she would step down would be to move back to Arizona, where the couple still own a home.

But Brian O'Connor said that, on the contrary, his parents enjoyed their active lives in Washington, and intended to split their time evenly between the capital and Phoenix. Like past retired justices, she will keep an office at the Supreme Court.

Aside from Justice O'Connor's personal concerns, her son said that political calculations were almost certainly at play in her decision to step down. In a week consumed with speculation about whether the ailing Justice Rehnquist would retire, Justice O'Connor waited until Friday to announce her plans.

Brian O'Connor said he did not know whether his mother had put off resigning out of deference to a possible Rehnquist departure or whether the two old friends had consulted.

"There's no telling who will be our next president, and I just think, like so many of her decisions, it just kind of made sense," her son said.

"And I think in some regards, the stars aligned, and it was just kind of time," he said. "I don't think she would want to be an old 'hanger-oner.' And if she didn't do it now, she might have been there another 10 years, if you do the math, depending on what happens down the road with future presidential elections."

His mother made no public comment about her coming departure beyond the one-paragraph resignation letter to President Bush.

Justice O'Connor was seen getting off a flight Friday at the Minneapolis-St. Paul International Airport, preceded by Representative Jim Ramstad, Republican of Minnesota, according to The Associated Press. He told her, "I hate to see you go."

"I hate to go, too," she replied. "It's been a real privilege."

O'Connor, First Female Justice, Retires From Supreme Court (KRT)

By Ron Hutcheson and Stephen Henderson

KRT – O'Connor Retires, July 2, 2005

Justice Sandra Day O'Connor, the first woman and a key swing vote on the Supreme Court, announced her resignation Friday, touching off a fierce battle over her replacement.

Her surprise decision to retire after 24 years on the high court was a political thunderbolt because of her role in moderating the court's conservative wing. A staunchly conservative replacement could tip the court's balance on a host of issues, including abortion rights, gay rights, civil liberties, the death penalty, racial preferences and the government's regulatory powers.

On Capitol Hill, the Senate braced for the possibility of a bitter, divisive and distracting confirmation debate that could sidetrack other legislative business for months.

O'Connor's resignation creates the first Supreme Court vacancy in 11 years, and the confirmation process will play out in the relatively new world of 24-hour news, Internet interest groups, ideologically driven bloggers and polarized politics.

O'Connor, 75, said she was stepping down to spend more time with her husband, John, who has SEARCH

News | News Photos | Images | Web" /> Alzheimer's disease.

"It has been a great privilege, indeed, to have served as a member of the court for 24 terms," she said in a short note that was delivered to

President Bush on Friday morning. "I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure."

Bush praised the departing justice and promised to name a replacement in time for the court's next term, which begins in October. White House aides said he wouldn't announce his choice until after July 8, when he returns from a trip to Europe.

The list of possible candidates includes Attorney General

Alberto Gonzales, who'd be the first Hispanic on the court. The most likely female nominees appear to be appellate court Judges

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Edith Jones and Edith Brown Clement, both on the 5th U.S. Circuit Court of Appeals in New Orleans.

Other appellate judges who could be tapped for promotion are J. Harvie Wilkinson of the 4th Circuit in Richmond, Va.; J. Michael Luttig, also of the 4th Circuit; Michael McConnell of the 10th Circuit in Denver; Samuel Alito of the 3rd Circuit in Philadelphia;

Emilio Garza of the 5th Circuit; and

John Roberts of the U.S. Court of Appeals for the District of Columbia.

"The nation deserves, and I will select, a Supreme Court justice that Americans can be proud of," Bush said in a brief statement from the White House

Rose Garden. "The nation also deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote."

The president said he'd consult the Senate before making his choice, but he offered no clues about his intentions with regard to the court's philosophical balance.

O'Connor specified that her resignation wouldn't take effect until her replacement is confirmed.

Her fellow justices paid tribute to her in statements issued by the court.

Clarence Thomas, two stalwart conservatives who often disagreed with O'Connor, praised her temperament.

Scalia called her "a star" who "shaped the jurisprudence of this court more than any other associate justice." Thomas said she was "civil in dissent and gracious when in the majority," and always "warm and courteous."

Ruth Bader Ginsburg, the court's only other woman, recalled O'Connor's surprise appearance in a 1996 theatrical production of Shakespeare's "Henry V." O'Connor's character uttered the line "Hap'ly, a woman's voice may do some good."

"Sandra Day O'Connor's voice has done enormous good in the pursuit of justice for all in our land and the world," Ginsburg said.

Activists at both ends of the political spectrum swung into action within minutes of her announcement. O'Connor's planned departure gave groups that had been on alert for a possible resignation by Rehnquist a new, even more pressing reason to rally supporters.

"Her replacement will turn the direction of this court," said the

Rev. Rob Schenck, the president of Faith and Action, a conservative Christian group. "We are already praying and working for a nominee that will not waffle as she did."

The liberal group MoveOn began airing a new television ad urging Bush to avoid an "extremist" nominee.

"The president should honor O'Connor and appoint a moderate Supreme Court justice," said Ben Brandzel, the organization's advocacy director. "If

President Bush nominates an extremist, it will be up to senators to say no, and the American people will make sure that they do just that."

Sen. Arlen Specter (news, bio, voting record), R-Pa., the chairman of the Senate Judiciary Committee, said: "This is a very polarized country when it comes to the issues which will come to the Supreme Court. I would expect people to want their choice. And everybody can't have their own way."

Specter said he expected to hold confirmation hearings in September but didn't rule out action in August if Bush submitted a name to the Senate.

A resignation announcement from Rehnquist would roil the waters even more, but that doesn't seem as likely as it did earlier this year. The 80-year-old chief justice has thyroid cancer but seems to have rallied recently and looks much less feeble than he did when he delivered the oath of office to Bush in January.

Democrats said they'd consider a filibuster, a parliamentary tactic that involves unlimited debate, to block any nominee they considered extremist. Although Senate confirmation requires a bare majority - 51 votes in the 100-member Senate - it takes 60 votes to end a filibuster.

In a deal negotiated with Republicans in May, centrist Democrats had said they'd use the filibuster against judicial nominees only under "extraordinary circumstances."

"That's an option,"

Sen. Christopher Dodd (news, bio, voting record), D-Conn., said when he was asked Friday about filibustering. "I hope we can avoid that. I don't think any of us relish the idea."

O'Connor's decision to retire capped a remarkable career that mirrored the changing role of women in American life. After graduating third in her class from Stanford University law school in 1950 - two notches behind her classmate Rehnquist - the only job offer she received was a chance to become a legal secretary.

Three decades later,

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Ronald Reagan named her to the nation's highest court. The appointment, approved in a unanimous Senate vote, transformed one of the last all-male bastions in government and made O'Connor a reluctant feminist icon.

"I think that I bring to the court differences in background that are more germane than my gender," she told Ladies' Home Journal in 1982. "I think the important fact about my appointment is not that I will decide cases as a woman, but that I am a woman who will get to decide cases."

O'Connor came to the court as a conservative, but she brought an independence that seemed consistent with her background as a rancher's daughter who grew up in relative isolation in Arizona.

She sided with the court's conservative wing in the ruling that decided the 2000 election for Bush, and was a strong advocate of state's rights. She sought a middle ground on abortion, refusing to join conservatives in banning the practice but permitting various restrictions.

O'Connor was diagnosed with breast cancer in 1988, but her swift return to the bench after treatment helped quiet resignation rumors then.

Admirers praised her flexibility. Critics accused her of substituting personal opinion and political considerations for the law.

"We have a living Constitution. Her name is

Sandra Day O'Connor, and thank God she's retiring," said

Kevin Hasson, the chairman of The Becket Fund for Religious Liberty, an organization that favors more religious expression in government institutions.

O'Connor has taken issue with suggestions that her ideological independence made her the court's power broker.

"I'm no more powerful than anyone else on this court. That's for sure," she told CNN two years ago. "Collectively, we do render opinions that matter to people, but I've never looked upon myself or the role of the court as being all-powerful."

Rehnquist's Future Still In Question (AP-Y2)

By Hope Yen, Associated Press Writer

AP2, July 2, 2005

The future of Chief Justice William H. Rehnquist, ailing with cancer and the focus of retirement speculation, is still up in the air.

Justice Sandra Day O'Connor, 75, announced Friday that she was retiring from the Supreme Court, surprising many who had expected that the 80-year-old chief justice would be the one stepping down.

There was no word from the court on Rehnquist's plans. Some court watchers suggested he might stay for another term, health permitting, based on an informal understanding among justices to avoid two retirements in the same term if possible.

One theory is that Rehnquist made clear to O'Connor that he was not planning an imminent retirement, perhaps so that he could reassess his condition over the court's three-month summer recess.

David Garrow, a Supreme Court historian and law professor at Emory University, said he believes that Rehnquist intends to stay another full term. Otherwise, he would have made an announcement by now to avoid a vacancy after the new fall term begins.

"If there is one person whom Justice O'Connor told ahead of time, in addition to her husband, I think it would be the chief justice," Garrow said. "Barring a medical emergency, I think it's certain the chief justice is planning to return in October and believes he'll be fully capable of returning."

Rehnquist announced last October he had thyroid cancer, but after treatment he has been working at the court full-time. The chief justice walks under his own power with a cane, but he has difficulty talking and breathing at times.

Sen. Arlen Specter (news, bio, voting record), chairman of the Senate Judiciary Committee, said after visiting Rehnquist recently he didn't believe the chief justice was ready to retire. Specter, who has Hodgkin's disease, a cancer of the lymph system, said he could relate to Rehnquist's health problems.

"Speaking as someone who likes to get up in the morning with something important to do, I wouldn't say that it's keeping the chief alive but I think he likes his job," said Specter, R-Pa. "And if we haven't heard from him by now, the chances are you won't hear from him for some time."

Bill Clinton Poses Social Security Remedy (AP-Y2)

By David Hammer, Associated Press Writer

AP2, July 2, 2005

Legalizing more immigrants would help bolster the Social Security system, former President Bill Clinton told the nation's largest Hispanic-rights organization Friday.

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"Those of you who want immigration reform should use Social Security more," Clinton said to about 1,300 members of the League of United Latin American Citizens. "If we legalize just 250,000 more immigrants a year, it would solve half of the shortfall in the Social Security Trust Fund."

More legalized immigrants would put more young people in the system to help support the deluge of baby boomer retirees, Clinton said.

During his 48-minute speech, Clinton didn't mention President Bush's plan to privatize some Social Security accounts, but he did criticize the administration indirectly.

Clinton said Hispanics experienced economic and educational gains under his presidency, but have since faltered, and it was time to figure out "where do we go from here?"

Clinton was greeted by an extended standing ovation and cries of "Viva Clinton!" to which he replied, "You need to calm down. Otherwise, I might think I'm president again."

Also Friday, Democratic National Committee chairman Howard Dean and his GOP counterpart, Ken Mehlman, both spoke before the league convention.

Dean said he would make sure Democrats do more to include Hispanics in state party systems, particularly in Texas.

"In Texas, I don't think there are more than one or two Hispanics in the employ of the state party; that will change and it will change dramatically," Dean said. "We will change our party, but not what we believe in. But we need your help."

Mehlman said President Bush has put more Hispanics in key leadership positions than Clinton, and the GOP exceeded its expectations among Hispanics in the 2004 presidential election. Bush claimed more than 40 percent of the Hispanic vote, according to Associated Press exit polls.

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On the Net:

League of United Latin American Citizens: http://www.lulac.org

Democratic Group Plans Quirky Campaigns (AP-Y2)

By GLEN JOHNSON, Associated Press Writer

AP2, July 2, 2005

WASHINGTON - Rep. Bob Beauprez (news, bio, voting record) of Colorado will be confronted by waffles, be it breakfast, lunch or dinner. Rep. Nancy Johnson (news, bio, voting record) of Connecticut will see her face plastered on an oversize milk carton. When Rep. Jerry Weller (news, bio, voting record) of Illinois marches in a parade, he'll be tailed by someone in a duck costume.

As House Republicans move ahead with plans to vote on Social Security changes this summer, a Democratic opposition group will use the July Fourth recess to pressure GOP lawmakers it believes are undecided about the legislation or susceptible to criticism from their constituents.

The tactics will be far removed from the customs and decorum normally observed on the House floor.

"Beauprez is planning to run for governor; he cares about people all over the state. ... Bring waffles to all events," reads a plan drafted by Americans United to Protect Social Security, a copy of which was obtained by The Associated Press.

"Johnson is missing when it comes to defending Social Security. She refuses to take a stand. ... Major tactics: milk carton — 'Where is Johnson?' 'Johnson Missing,'" it also says.

The plan adds: "July 2-4, tailing Weller with duck costume (as in, stop 'ducking' the issue) at public events/parades."

The congressmen targeted are all members of the House Ways and Means Committee, which will be the first panel in the House to review the legislation. Rep. Bill Thomas, R-Calif., the committee's chairman, expects a vote before Congress takes its summer recess at the end of the month.

While the panel is split 24-17 in favor of the GOP, and Thomas is known to rule it with an iron fist, even some of his fellow Republicans have been slow to embrace the changes proposed by President Bush, or outlined in recent weeks by four Republican committee members, Reps. Jim McCrery of Louisiana, Clay Shaw of Florida, Sam Johnson of Texas and Paul Ryan of Wisconsin.

"The Republican members of the Ways and Means Committee, many of whom have straddled the fence, waffled or flip-flopped on the issue of privatization, are having their arms twisted nearly off by Thomas and the House Republican leadership to support this new privatization bill," Americans United writes in its battle plan.

The group proposes to fight back by picketing Shaw's congressional office with signs accusing him of forgetting about less-wealthy constituents. It also focuses on a fellow Florida Republican on the committee, Rep. Mark Foley (news, bio, voting record), with unusually brusque language.

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"Foley is not as concerned (as Shaw) about an electoral challenge, but has many seniors," it reads. "Thin-skinned squealer."

The congressman, who is undecided about any of the plans, said during an interview the campaign smacks of desperation by Democrats and their allies.

Democrats have pointedly refused to offer an alternative until the president drops his accounts proposal. They argue that establishing the accounts is part of an overall effort to transform the program from one providing a guaranteed benefit check to one that provides benefits subject to the ups and downs of the stock market.

"If you're describing a program that has such an impact on seniors, which Social Security is, and your rallying cry is to make such pejorative statements about members, I think you're starting off on the wrong foot," Foley said. "It's so juvenile that they're engaging in a debate without an option, an answer, but they're using a vernacular that indicates they're nothing more than a ragtag group of rebels."

Jordan Stoick, spokesman for Beauprez, said he expects his boss to chuckle when he sees the waffles.

"He's not politically naive and will take this for what it's worth: a ploy by liberal Washington, D.C., special-interest groups," Stoick said.

Drug Lobby Got A Victory In Trade Pact Vote (NYT)

By Stephanie Saul

The New York Times, July 2, 2005

The sidewalk between the drug industry's headquarters in Washington and the United States trade representative's office has been taking a pounding from the wingtips of industry lobbyists.

The work of these drug industry courtiers, who represent what is arguably Washington's biggest and wealthiest lobby, appears to have succeeded in the Central American Free Trade Agreement. The agreement would extend the monopolies of drug makers and, critics say, lead to higher drug prices for the mostly impoverished people of the six Latin American countries it covers.

The accord cleared the Senate on Thursday but faces a difficult floor vote in the House of Representatives this month. The agreement's pharmaceutical provisions are a sideshow in the Congressional debate, eclipsed by concerns of the textile and sugar industries and the labor unions that their interests would not be protected.

In contrast, the agreement's pharmaceutical provisions, which provide five years of market exclusivity to brand-name drugs, have been front and center in Guatemala, where poor AIDS patients have marched in the streets to protest.

The six countries affected by the pact "understand that the net effect of these pharmaceutical provisions will be to raise the price of medicine," said Frederick M. Abbott, a professor of international law at Florida State University. "The way they have to view it is that they're getting something out of the agreement that will give them a net trade benefit."

The problem with such an analysis, Professor Abbott said, is that the textile employers and agricultural producers gain, but the economic benefits may never flow down to the people who cannot afford medicines.

According to Representative Sherrod Brown, Democrat of Ohio, the trade agreement is an example of how the pharmaceutical lobby rarely loses on trade issues, often by quietly working behind the scenes.

"A voter walking down the street would never think of the pharmaceutical industry's influence in another country through the U.S. trade representative," said Mr. Brown, who has criticized how the industry and other corporate interests shaped the trade accord.

The Pharmaceutical Research and Manufacturers of America, the drug industry association, is the single biggest influence group at the trade office, according to a new analysis by the Center for Public Integrity, a government watchdog group. The analysis is based on the sheer number of reports, 59, filed by lobbyists for the group since 1998.

The reports do not have to disclose how many individual contacts the lobbyists made.

The industry's primary interest at the trade office is protecting its intellectual property, which Peter R. Dolan, the chief executive of Bristol-Myers Squibb, recently called the "lifeblood" of the industry.

Like movies and software, pharmaceuticals require a lot of time, money and creativity to develop, yet they are fairly simple to replicate. The industry association estimates that intellectual property infringement in 21 countries costs its members $7 billion a year. Therein lies the problem for drug makers, and the reason they are fighting a global war to protect their patents.

In defending their efforts to extend intellectual property protection abroad, industry officials point out that pharmaceutical companies subsidize treatment for millions of people in developing countries. Bristol-Myers, for example, has invested $150 million to set up AIDS clinics and other charitable programs in Africa, a figure that does not include the low-cost drugs the company distributes there.

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The industry association also argues that extending its patent protections worldwide will result in greater access to medications by encouraging drug makers to enter those markets.

"It provides certainty for companies to be able to market and sell their medicines in those particular markets," said Mark Grayson, a spokesman for the trade association.

The certainty, according to Professor Abbott of Florida State, results from the agreement's "highly restrictive market exclusivity rules which allow the originator companies to block any registration."

One of the most contentious provisions in the trade pact is a requirement that gives brand-name manufacturers market exclusivity for five years after a drug is registered in the countries, even if the 20-year patent has expired. A similar five-year period exists in the United States, but the trade agreement would require countries to enforce the five-year period even if the exclusivity period in the United States has already expired.

During that period, manufacturers who ultimately wanted to register a generic equivalent to the drug in that country would be barred from using the animal and human test data submitted for the drug's approval, a provision that critics say could delay the approval of generics beyond the five-year period.

By protecting marketing exclusivity, the industry says, the trade agreement would also spur innovation and encourage pharmaceutical companies to register drugs in the small countries, ultimately helping deliver those drugs to the needy.

It is a philosophical argument that the United States trade representative's office has embraced.

"Trade rules that protect innovation and research foster a system that produces the types of medicines American health consumers and health consumers around the world use and need to fight diseases," said Richard Mills, a spokesman for the trade office. Former Representative Rob Portman, an Ohio Republican, was sworn in to the cabinet-level trade post that runs the trade office in May.

The issue of intellectual property protection for pharmaceuticals has been highlighted in the last week with the Brazilian government's threat to break Abbott Laboratories' patent for the AIDS drug Kaletra by authorizing one of its domestic drug manufacturers to make a copy at roughly half the cost.

The Brazilian government currently buys Kaletra for about 180,000 citizens with AIDS. Abbott Laboratories charges Brazil $2,500 a patient annually. That represents a special price break from the company, which charges $6,000 to $7,000 for the drug in other developed countries, according to figures supplied by the company. Despite the special deal his government is getting, Brazil's president, Luiz Inácio Lula da Silva, wants the drug cheaper.

If President Lula goes through with his threat, he would invoke rarely used "compulsory licensing" provisions of a 1994 World Trade Organization agreement on intellectual property. The agreement forced countries to adopt American-style patent rules for pharmaceuticals, but allowed flexibility in cases of overriding public health issues by giving countries the right to order compulsory licenses.

Citing the Brazilian example, Representative Pete Stark, a California Democrat, referring to the industry trade group, said, "My guess is that Pharma's worry is that one of these countries will say, ' To hell with you,' and start making their own drugs."

Critics of the trade agreement say it sets up barriers to compulsory licensing in the countries it covers - the Dominican Republic as well as Nicaragua, Guatemala, El Salvador, Honduras and Costa Rica. The combined gross domestic product of the six countries amounts to a third of the annual revenues of major drug makers.

The pharmaceutical industry has also been successful in influencing trade "priority lists" and "watch lists" issued by the trade representative in recent years, according to the Center for Public Integrity analysis, released this week. Inclusion on the trade watch lists constitutes the first salvo in a trade war.

Last year, the pharmaceutical trade group requested action against 38 countries for infringing on American patents, producing counterfeit drugs and releasing confidential test data. Of those, 31 found their way onto some level of the trade watch list, according to the center's analysis.

The report for 2005, released in May, again showed the extent of the industry's influence. Of 41 companies recommended for inclusion by the industry, 32 made it onto one of the trade lists, the center said.

The trade representative's office disputes the analysis, however, saying the office complies with exact pharmaceutical industry requests involving the priority and watch lists only about half the time.

The 59 reports filed by lobbyists for the pharmaceutical association do not count dozens of reports filed by individual companies. The analysis revealed that Pfizer lobbyists had filed reports about lobbying the trade office 32 times during the same period; Bristol-Myers, 27 times; and Wyeth, 19 times.

Over all, the various representatives of the pharmaceutical association and its individual companies filed 289 reports of lobbying at the trade representative's office since 1998, making pharmaceuticals the fourth-largest lobbying interest group, behind miscellaneous manufacturing, business associations and agriculture, according to the center's analysis.

Mr. Grayson said extensive lobbying efforts by his industry were a good sign.

"If we're not doing a lot, we're not doing our job," Mr. Grayson said.

Bush Names Kelliher To Head Energy Panel (LAT/BLOOM)

The Los Angeles Times, July 2, 2005

Joseph Kelliher, an advocate of expanded authority for regulators to police power markets, was named by President Bush to succeed Pat Wood as chairman of the Federal Energy Regulatory Commission.

Kelliher, 44, was on Bush's transition team before joining the commission in November 2003.

Lawmakers Agree On Road Spending (WP/AP)

The Washington Post, July 2, 2005

House and Senate negotiators have agreed to a level of spending for highway and transit projects that is acceptable to the White House. The agreement clears a major hurdle in the two-year effort to develop a new federal transportation plan.

Negotiators "have been working on a compromise for a transportation bill that would make much-needed improvements to federal highways," House Speaker J. Dennis Hastert (R-Ill.) said in a midnight speech on the House floor Thursday. "Tonight they came to an agreement . . . to move that bill forward."

Hastert provided no details. Congressional aides said the two sides have agreed on spending $286.5 billion over the six-year period ending in September 2009. The aides said the administration would accept that level.

Yesterday, President Bush signed an extension of the previous transportation bill for the eighth time since it expired in 2003. The program was funded at $218 billion over six years.

Congress has been unable to come up with a new bill, in part because lawmakers have sought significant increases in spending for transportation projects, drawing a veto threat from the White House over the cost of the bill.

This year the White House has warned that President Bush would veto any bill that went over $284 billion, the level approved in the House bill passed last March.

The Senate in May passed a $295 billion bill. Its sponsors proposed increasing revenues by cracking down on tax fraud and other measures so that it would not add to the federal deficit.

Money for highway and transit spending is derived from the Highway Trust Fund, which comes from the 18.4-cent-a-gallon federal tax that drivers pay at the gasoline pump.

The latest extension goes through July 19, giving negotiators several weeks after they return from the Independence Day recess to work out details of the legislation, including the formula that determines how much states get in federal grants in relation to their contributions to the trust fund.

Pentagon Is Asked To Justify Parts Of Base-Closing Plan (NYT)

By Eric Schmitt

The New York Times, July 2, 2005

The independent commission assessing the Pentagon's proposed list of domestic base closings directed Defense Secretary Donald H. Rumsfeld on Friday to justify more than a dozen of the recommendations, the first clear signal that the panel may alter some of the military's choices.

In one case, the panel asked the Pentagon to explain why it did not recommend closing the naval shipyard at Pearl Harbor in Hawaii even though it is less efficient and had a lower military value than the military's choice for closure, the Portsmouth Naval Shipyard in Maine.

The commission's requests, contained in a seven-page letter from the panel chairman, Anthony J. Principi, came as federal investigators cautioned in a report issued on Friday that the Pentagon may have overstated the plan's estimated savings of $48.8 billion over 20 years.

The review of the Pentagon's proposal by the Government Accountability Office found that 80 percent of the Pentagon's projected savings from base closings and consolidations came from only 10 percent of the recommendations and that nearly half the projected savings were from cuts in military jobs that in many cases would simply be reassigned to other areas.

"This could create a false sense of savings available for other purposes," the report said.

Members of the commission have visited dozens of installations and held several public hearings in communities that are pulling out all the stops to persuade the commission to reverse the Pentagon's plans. The panel's request for more information resulted from questions raised in those visits and hearings, and from other public comments.

Mr. Principi, a former secretary of veterans affairs, said in May that the panel would not be "a rubber stamp" for the Defense Department. The four previous base-closing commissions endorsed 85 percent of the military's recommendations.

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Lawmakers from some states that would suffer deep cuts under the Pentagon's plan, including Senator Olympia J. Snowe, Republican of Maine, said that the panel's challenge to the military's recommendations reinforced many of the arguments they have been making. The commission will hold a hearing in Boston on Wednesday, where the fate of the Maine shipyard will be the hot topic.

In a separate letter to Ms. Snowe, Mr. Principi warned that the panel was "inquiring, not deciding," and that his letter to Mr. Rumsfeld was simply a request for more information. When the commission meets on July 19, it will need the vote of seven of its nine members to add a base to the Pentagon's list for consideration. At least two commission members would then be required to visit the site and hold a public hearing.

At the panel's final deliberations, which are scheduled for the week of Aug. 22, at least seven members would have to vote to close one of the bases added to the list. The commission must submit its findings to President Bush by Sept. 8. The president and Congress have until Nov. 7 to reject or accept the entire package.

In addition to Portsmouth, the commission asked why the Pentagon did not recommend consolidating the Marine Corps' recruiting depots on the East and West Coasts, and why it did not suggest closing Pope Air Force Base in North Carolina. It also asked the Pentagon to justify its decision to shrink, but not close, Grand Forks Air Base in North Dakota and why it did not consolidate the headquarters for the armed services' surgeons general at a new national medical center in Bethesda, Md.

The Government Accountability Office report found that the cost to carry out the proposed closures and consolidations in this round alone was $24.4 billion, compared with a total of $22 billion for the four previous rounds combined, as of 2001. This increase was due largely to the proposed cost of building new housing for troops returning from Europe ($2.3 billion) and the expense of building new facilities ($1.3 billion) for personnel who would move out of leased space, much of it in the Washington area that was deemed to be vulnerable to terrorist attack.

The report said that 22 percent of the recommendations would not yield savings within six years and a handful would produce no savings. The investigators said that savings could be difficult to track, and urged Mr. Rumsfeld to establish mechanisms to monitor savings estimates.

A Pentagon spokesman, Glenn Flood, said officials there were pleased with the G.A.O.'s report, and would supply the requested information before the July 19 hearing.

Panel Targets More Bases For Closure (AP-Y2)

By Liz Sidoti, Associated Press Writer

AP2, July 2, 2005

Military bases in Hawaii and California are among several a commission is considering adding to Defense Secretary Donald H. Rumsfeld's list of proposed closures.

In a letter sent Friday to the Pentagon chief, commission Chairman Anthony Principi identified additional bases the commission may recommend closing and seeks explanations for why the Pentagon decided to leave those facilities open.

Specifically, the letter asks why Marine Corps Recruit Depot and the Navy Broadway Complex, both in San Diego, Calif., and the U.S. Naval Shipyard at Pearl Harbor, Hawaii, were not slated for closure.

It also questions the Pentagon's decisions to downsize, rather than close, the Naval Air Station in Brunswick, Maine, Pope Air Force Base in North Carolina, and Grand Forks Air Force Base in North Dakota.

And, the letter asks for more explanation about the proposed reorganization of Air National Guard facilities across the country and the downsizing of several other small facilities.

In May, the Pentagon proposed closing or reducing forces at 62 major bases and hundreds of smaller installations to save money and streamline the services. Dozens of other facilities would grow, absorbing troops from domestic and overseas bases slated for closure or downsizing.

The law that authorized the first round of base closings in a decade requires the Pentagon to answer such questions before the commission can recommend closing or downsizing a facility that wasn't on Rumsfeld's original list.

In another letter to members of Congress on Friday, Principi said, "Please be assured that the commission has not decided to close or realign any installations."

"We are in the early stages of a multistep process," he continued, adding that the commission simply is seeking more information from Rumsfeld before decided whether to add bases to the list. "The commission is inquiring, not deciding."

The commission will conduct a public hearing on July 19 in Washington to decide whether bases left off the list should be added. It takes seven of nine votes to add a base. Public hearings and base visits would follow.

Bases, including any added to the list in July, can be removed from the list later, but the commission won't make those decisions until August.

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The commission must send its revised list to the president in September. He must approve it in its entirety or send it back to the commission for more work. Once the president signs off on it, the list goes to Congress, which must accept it or reject it as a whole.

The Pentagon says it will save $49 billion over 20 years by streamlining services across the Army, Navy, Air Force and Marine Corps and shutting down bases deemed inefficient.

On Friday, the Government Accountability Office released a report that found upfront costs will total $24 billion and questioned the Pentagon's projected savings.

"We believe the recommendations overall, if approved, would produce savings," the report said. However, it added, "there are clear limitations associated with the projected savings, such as the lack of military end-strength reductions and uncertainties associated with other savings estimates."

The report said eliminating jobs held by military personnel would make up about half of the annual recurring savings. However, the report said much of that money won't be available for other uses because the jobs — and salaries — simply will be relocating to other areas.

"Without recognition that these are not dollar savings that can be readily applied elsewhere, this could create a false sense of savings available for other purposes," the report said.

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On the Net:

BRAC: http://www.brac.gov

Government Accountability Office: http://www.gao.gov/

In Mississippi, Soaring Costs Force Deep Medicaid Cuts (NYT)

By Shaila Dewan

The New York Times, July 2, 2005

Starting Friday, most Medicaid recipients in Mississippi will be limited to five prescription drugs at a time, with no process for appeal. The cap appears to be the most restrictive in the nation, but is just one of many measures being taken by states seeking to rein in soaring Medicaid costs.

It will hit hard for people like Erainna Johnson, 42, left legally blind by a stroke in 1997. She takes 19 medications - already more than the previous Medicaid limit of seven - relying on family members, her church and free samples from doctors to make up the difference. "Sometimes I just crack my pills in half, honestly," she said, sitting in the living room of her trailer here.

Mississippi is among many states moving aggressively to contain Medicaid costs, saying severe measures are necessary if the program is to continue. In Missouri, new cuts also took effect Friday in an effort to reduce the rolls; for example, a single mother of three in Missouri is now ineligible if she makes more than $350 a month. About a dozen states limit the number of prescriptions offered to adult patients, but almost all provide for an appeal process or allow doctors to override the limit.

In Mississippi, where more than a quarter of the population is on Medicaid, the cap includes a limit of two name-brand drugs. The only patients exempt from the rule are children, people in nursing homes and patients with H.I.V., who were given an 11th-hour reprieve because virtually none of the anti-viral drugs used were available in generic form.

Gov. Haley Barbour, a Republican who backed steeper cuts to Medicaid than those enacted, said the Legislature had come up with the limit on prescription drugs on its own. But, he added, "states are limited in their options as far as cost control."

The cost of Medicaid, financed jointly by the federal government and the states, has risen 63 percent in five years and is now more than $300 billion a year. Governors from both parties have asked the federal government to allow them more latitude in restricting Medicaid spending.

Advocates for the ill and the disabled in Mississippi say many patients require more medicine than the new restrictions allow. Others who could be affected include diabetics, the mentally ill and cancer patients. Of the 768,000 Medicaid patients in 2004, 80,000 used more than five prescriptions a month.

Mary Troupe, the executive director of the Mississippi Coalition for Citizens with Disabilities, said the policy amounted to state control of medical decisions that only doctors were qualified to make. If a patient is already taking five medications, Ms. Troupe said, "what happens when they're needing a particular antibiotic or any other medications for any complications?"

Ms. Troupe said the fact that nursing home residents were exempt would push more people into institutional care, which is generally far more expensive for the state and far worse for a patient's quality of life.

Ms. Johnson said that she and her doctor had reviewed her medications to see if there were any she could live without. Not the female hormones, because she had just had a hysterectomy to remove fibroid tumors. Not the asthma medicine or the eyedrops that preserve her little remaining sight. Not the pills to compensate for her removed gallbladder, those for angina relief or the pills that tame her irritable bowel syndrome.

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"I've tried it myself, to pull myself off," she said, adding that she had even changed her diet to include more vegetables and fruit. "And I've become very ill, very sick."

This year, Mississippi lawmakers borrowed $240 million from the state's health care trust fund to cover a Medicaid budget gap. The measures that took effect Friday, which also include higher co-payments and hospital bed taxes and cut home care visits to 25 a year from 60, will save an estimated $120 million a year.

The current plan came after a judge temporarily blocked an effort, backed by Mr. Barbour, to cut 65,000 people from Medicaid rolls last year. The 65,000 fell into a category known as Poverty-Level Aged and Disabled that states are not required to cover. States are also not required to provide a prescription drug benefit.

Maxine Mahoney, 82, of Jackson, was one of those who would have been cut. Saved by the judge's injunction, she must now contend with the new cuts. She lives on $605 a month and takes 12 prescriptions, the most expensive of which is $330 a month, for ailments that include heart disease, high blood pressure and a nerve dysfunction. A prescription drug benefit under Medicare, the federal program that covers people 65 and older, begins in January.

Asked what politicians should do about the costs, Ms. Mahoney shrugged. "The Bible tells us we must pray for those in authority," she said. "And I do pray for them. I'm 82 years old, what more can I do?"

State Representative Stephen Holland, a Democrat on the House's Medicaid committee, said he had argued against proposals from the State Division of Medicaid for deeper cuts, like a limit of three drugs.

"The reality was we had to ratchet it down some or run the risk of losing the whole program because of the spiraling costs," Mr. Holland said.

Sweeping Medicaid Cuts Hit Missourians (REU-Y2)

By Carey Gillam

Reuters, July 2, 2005

Fending off a late courtroom challenge, Missouri implemented sweeping cuts in Medicaid on Friday, reducing benefits so sharply that critics called the moves among the most severe in the nation.

The new Medicaid standards, championed by Missouri's new Republican Gov. Matt Blunt to avoid tax increases, trimmed Missouri's budget by $231 million, but are expected to cut more than 68,000 Missourians out of the Medicaid program over the next year.

Under the new standards, a single mother of two children is deemed ineligible if she makes more than $350 a month, for instance. Previously, the income line was drawn at $1,050 a month. An estimated 24,000 children are expected to lose their benefits, dental coverage is being cut for adults, and disabled people are losing coverage for crutches and other aids.

An analysis by the nonprofit Center on Budget Priorities and Policies said Missouri's Medicaid expenditures were already below the national norm before the cuts and the new program is among the harshest "that any state has ever instituted."

"It is pretty draconian," said Marc Cohan, director of litigation for the Welfare Law Center in New York, which filed a lawsuit against Missouri on Wednesday, along with the National Health Law Program in Washington. "Missouri has made a choice ... to balance the budget on the backs of the poor," Cohan said.

The suit alleges the state is rushing the cuts into effect and in the process cutting off people who should remain eligible. U.S. District Judge Nanette Laughrey denied a request for a temporary injunction on Thursday.

Besides Missouri, several other states are moving aggressively to rein in Medicaid spending and Congress is considering a plan to cut federal contributions to Medicaid by $10 billion over five years.

Missouri, which spends about $2 billion annually in state money on Medicaid, has defended its actions and calls the previous Medicaid level of benefits "unsustainable."

"We continue to provide a very generous Medicaid program," said Missouri Department of Social Services director Gary Sherman in a statement issued on Friday.

Medicaid Cuts Hit Missourians (KCS)

By Kit Wagar And Debra Skodack The Kansas City Star

The Kansas City Star, July 2, 2005

Medical coverage for more than 23,000 Missourians lapsed as planned Friday after a federal judge denied a request to delay the changes.

The delay was sought by two public-interest law firms that sued the Department of Social Services on Wednesday, alleging that Medicaid recipients had received inadequate notice of the cutoff and were not given the proper chance to appeal the state's ruling.

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But U.S. District Judge Nanette Laughrey issued an order late Thursday night denying the request for an injunction that would have allowed Medicaid coverage to continue. Laughrey said she would file her ruling outlining the reasons for her order at a later date.

State officials were pleased with the ruling. Gary Sherman, Missouri's director of social services, praised Gov. Matt Blunt and lawmakers for moving to rein in "a rate of program expansion that was absolutely unsustainable."

"We are confident that the needed reforms … will ensure the program remains solvent while a new, more viable system is crafted," Sherman said in a written statement. "We continue to provide a very generous Medicaid program, committing over 29 percent of the state's total budget to provide medical services to needy Missourians."

Marc Cohan, who argued the case for the Welfare Law Center of New York, one of the groups that challenged the state's actions, said he would continue trying to convince the judge that the state's methods are causing people to be thrown off the program even though they still are eligible.

He pointed to the three St. Louis women in the lawsuit who were told they were losing Medicaid coverage. After the lawsuit was filed, the state acknowledged that those determinations were erroneous.

"We have no faith that the department's review process will catch those cases," Cohan said. "The three named plaintiffs are not the only ones. We will continue to fight to make sure that anyone still eligible gets their eligibility restored as quickly as possible."

Those dropped from the Medicaid program are mostly low-income parents who have not worked enough during the last six months to qualify for temporary coverage while they gain work experience.

Deborah Scott, spokeswoman for social services, said the department's review and appeals process restored coverage for 488 who at first had been determined ineligible under Friday's new rules.

The cutoff in coverage — part of Gov. Matt Blunt's plan to restructure and downsize Medicaid — was authorized by Missouri lawmakers when they adopted a budget that dramatically lowered the maximum income an adult was allowed to have and still remain eligible.

Scott said 22,020 persons lost coverage Friday because their income exceeded 23 percent of the federal poverty level. Previously, they qualified with income up to 75 percent of the poverty level.

An additional 1,560 persons on Friday exhausted temporary coverage intended to help make the transition from welfare to work.

For about 44,200 other people, the clock began ticking Friday on Medicaid coverage. Those people moved from the regular Medicaid program to transitional status that will last six months to a year.

Organizations that provide health care to Kansas City's indigent said they noticed some changes Friday but no signs of panic.

Sheri Wood, executive director of the Kansas City Free Health Clinic, said the Medicaid changes prompted several calls Thursday and Friday to the mental health clinic. People who had lost Medicaid coverage were making appointments at her clinic so their treatment and medications could continue uninterrupted.

Shelly Phinney, corporate manager of the financial consulting center at Truman Medical Center, said pregnant women came into Truman on Friday thinking they were no longer covered.

The women did not realize that pregnant women qualify for Medicaid at much higher income levels than for regular Medicaid coverage for most adults. Coverage for pregnant women was not changed.

Some nonemergency patients were unaware they no longer had coverage. "They were shocked," Phinney said. "We did treat them."

Phinney said some patients were eligible for transitional benefits but had not applied for them. She said her office was fairly calm.

"A lot of it might be because it is a day before a holiday (weekend)," Phinney said. "I do imagine it will be a lot busier, maybe next week."

Kelvin Simmons, vice president of development at Swope Health Services, said that facility was noticeably busier. "I am not sure whether it is busy because it is a day before the holiday or it being D-Day," Simmons said. He said it was likely to become even busier.

"I don't think it's sunk in," he said of the Medicaid changes.

First glance

¦ Because their income exceeds 23 percent of the federal poverty level, thousands of Missouri residents lost their Medicaid coverage Friday.

¦ Those dropped from the program are mostly low-income parents.

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Tutors' Zeal Based On Faith (WT)

By Tarron Lively

The Washington Times, July 2, 2005

Maryland's only faith-based tutoring service has found a home in a Bladensburg church where teachers are helping needy students improve their reading, writing and math skills.

As about 100 elementary-school students yesterday concluded a two-week tutorial inside the St. Luke's Episcopal Church, Eileen Dowd said her Mrs. Dowd's Teaching Service is a worldwide network of Christian teachers but the curriculum focuses on helping children, not preaching.

"We teach secular math and reading," she said. "I was a teacher for more than 30 years, and we feel a real responsibility to teach solid math and reading skills. We do it with kindness and compassion, but we don't teach religion. That's not our goal."

Mrs. Dowd said the program works one on one or in small groups with children of all backgrounds, cultures and religions.

President Bush signed an executive order in December 2002 allowing federal money to be awarded to faith-based organizations through grants and contracts.

Mrs. Dowd's service receives about $1,700 per student, so those who qualified for free or reduced school-lunch programs can receive the free tutoring.

"The community is behind us and involved all the way," Mrs. Dowd said.

She said the roughly 40 certified teachers, student teachers and teachers' assistants have also taken a "big leap of faith" because the paperwork for them to get paid is still incomplete.

Most of the students at St. Luke's attend Bladensburg Elementary School and were split this summer into either the 8 a.m.-to-11:30 a.m. or the 1 p.m.-to-4 p.m. session.

"The good part about this program is that the students deal with an actual face rather than a computer," said Rhonda Pitts, the Bladensburg school principal. "I recommended it because of the personal touch."

Yesterday, the students got an anatomy lesson using the brain, heart and lungs of a sheep.

"It was slimy to touch, but I learned that the heart never stops pumping blood." said 8-year-old Ronald Coello.

Michael Lidner, a 17-year-old who was home-schooled, taught the class.

"The tutoring helps them learn what they didn't learn during the school year, finding weaknesses and what they can improve on," he said.

Michael, who studied anatomy and physiology, said teaching the children was initially "pretty difficult" but gradually became fun as the children got used to him.

"It was interesting to see them open up more as time went on," he said. "It's definitely been a new experience for me."

The program also fine-tuned the students' addition and subtraction skills.

"I got better on multiplication and fractions," said Justyce Nicholson, an 8-year-old from Bladensburg. Quizzed about the sum of two halves, she quickly and confidently answered correctly.

"Math is my favorite subject," said Kenneth Evans, an 8-year-old from Bladensburg whose mother signed him up for the program.

Senate Keeps 'Bunker-Buster' Program Alive (AP-Y2)

By H. JOSEF HEBERT, Associated Press Writer

AP2, July 2, 2005

WASHINGTON - The Bush administration may get another chance to try to develop an earth-penetrating nuclear warhead. The Senate on Friday agreed to revive the "bunker-buster" program that Congress last year decided to kill.

Administration officials have maintained that the country needs to try to develop a nuclear warhead that would be capable of destroying deeply buried targets including bunkers tunneled into solid rock.

But opponents said that its benefits are questionable and that such a warhead would cause extensive radiation fallout above ground killing thousands of people. And they say it may make it easier for a future president to decide to use the nuclear option instead of a conventional weapon.

The Senate early Friday voted 53-43 to include $4 million for research into the feasibility of a bunker-buster nuclear warhead. Earlier this year, the House refused to provide the money, so a final decision will have to be worked between the two chambers.

The money is included in a $31.2 billion spending measure for the Energy Department and other programs. Last year Congress killed the program, but the Bush administration asked that it be revived.

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Supporters of the program said the $4 million does not signal development of any new warheads. They argue that the money would be used to see whether a sufficiently hardened casing could be developed for an existing warhead so that it can penetrate beneath the earth before exploding and destroy reinforced underground bunkers.

But Sen. Dianne Feinstein (news, bio, voting record), D-Calif., one of Congress' most vocal opponents of the bunker-buster, said the program "sends the wrong signals to the rest of the world by reopening the nuclear door and beginning the testing and development of a new generation of nuclear weapons."

"A bunker-buster cannot penetrate into the Earth deeply enough to avoid massive casualties and the spewing of millions of cubic feet of radioactive materials into the atmosphere," said Feinstein.

Last April, a panel of the National Academy of Sciences, concluded that an earth-penetrating nuclear device would likely cause the same casualties as a surface burst if the weapons are of the same size. Such a bomb could cause from several thousand to 1 million casualties depending on its yield and location, according to the report requested by Congress.

At a congressional hearing earlier this year, Linton Brooks, head of the National Nuclear Security Administration, which oversees nuclear weapons programs, acknowledged that there is no way to avoid significant fallout of radioactive debris from use of a bunker-buster warhead.

He said the administration never intended to suggest "that it was possible to have a bomb that penetrated far enough to trap all fallout. I don't believe the laws of physics will ever let that be true."

Nevertheless, Brooks and Defense Secretary Donald Rumsfeld have argued that a nuclear weapon that can destroy hardened, deeply buried targets is needed in the U.S. arsenal.

When challenged by Feinstein over the bunker buster at a hearing in April, Rumsfeld said there are many potential U.S. adversaries that are capable of putting hardened facilities deep underground, often in solid rock, that conventional weapons cannot reach.

Senate Votes To Shut Down Laser Meant For Fusion Study (NYT)

By William J. Broad

The New York Times, July 2, 2005

The Senate voted early yesterday morning to stop construction of the nation's costliest science project, a laser roughly the size of a football stadium that is meant to harness fusion, the process that powers the Sun.

The project, the National Ignition Facility, or NIF (pronounced niff), is at the Lawrence Livermore National Laboratory in California and has cost $2.8 billion. About 80 percent complete, NIF is scheduled to be finished in 2009 at a cost of $3.5 billion and operate for three decades at an annual cost of $150 million, for a total of $8 billion.

The Senate's action, part of the $31 billion energy and water appropriations bill, prompted warnings from the project's leaders that its demise could damage the nation's leadership in a field important to confronting energy shortages. This week, an international consortium picked France as the site of the world's first large-scale, sustainable nuclear fusion reactor, a project with an estimated cost of $10 billion.

"What's at stake here is the opportunity to meet one of the grand challenges of science," Michael R. Anastasio, director of the Livermore laboratory, said in an interview. "It's essential for investigating fusion, which will help sustain confidence in our nuclear stockpile and inform our future thinking about fusion energy."

Other Livermore officials warned of a parallel to the Superconducting Supercollider, a proposed 54-mile particle accelerator that Congress killed in 1993 after spending $2 billion. Some physicists regard its fate as a symbol of the erosion of the nation's scientific standing.

The Bush administration backs the National Ignition Facility, and the Senate action could be reversed or modified later this summer in conference with the House.

"There's going to be some meeting of the minds," said Greg Mello, director of the Los Alamos Study Group, a private organization in Albuquerque that monitors the nation's nuclear laboratories. "I think NIF will be hurt, but I doubt that it will come to a complete standstill."

In nuclear fusion, atoms merge and release bursts of energy, as in the sun or in hydrogen bombs.

The facility's powerful laser beams are intended to produce blistering hot conditions similar to those in exploding nuclear arms, helping scientists ensure the reliability of the nation's nuclear stockpile without the need for underground tests. Less directly, scientists want to use the beams to explore laser fusion as a way of producing commercial power.

But last month, Senator Pete V. Domenici, the New Mexico Republican who heads the Subcommittee on Energy and Water, proposed to delete all construction money, $146 million, from the administration's request for the coming year.

The bill does provide $314 million for limited research. Livermore scientists have built 4 of NIF's planned 192 laser beams and are firing them at targets the size of a BB, producing the first scientific insights.

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Mr. Domenici, whose state includes both the Los Alamos and Sandia National Laboratories, in recent statements has accused the administration of "single-mindedly" supporting the California project at the expense of other worthy efforts. The ignition facility "is just one of many tools that must be supported," he said.

"The Senate bill will correct this imbalance," he said.

Senate Leader Calls For Limits On Drug Ads (NYT)

By Stephanie Saul

The New York Times, July 2, 2005

The Senate majority leader, Bill Frist, called yesterday on the pharmaceutical industry to limit drug advertising directed at consumers, increasing the pressure on companies to curb such marketing.

Senator Frist, a Tennessee Republican, embraced an increasingly popular idea, a delay in advertising after a drug is introduced. He called for a two-year restriction.

Proponents of a delay say it will give doctors time to understand how drugs work before patients begin asking for them, sometimes based on inflated claims.

"This advertising can lead to inappropriate prescribing and fuel prescription drug spending," Senator Frist said. "It can also oversell benefits and minimize risks."

He also said he would ask the Government Accountability Office to examine whether the Food and Drug Administration should review drug advertising before its publication or broadcast.

The senator's remarks, delivered yesterday on the Senate floor and posted on his Web site, add a politically powerful voice to the growing support for some limits on the quality and quantity of drug ads aimed at consumers.

Such advertising has grown to a $3.8 billion industry since 1997, when the F.D.A. lifted limits on it.

Consumer drug advertising has prompted a reaction in recent months. Some critics say it contributed to an excessive, unnecessary use of cox-2 painkillers, which were later shown to cause serious cardiovascular problems in some patients. Others criticized the drug industry for prime-time erectile dysfunction drug ads that are laden with sexual innuendo.

The Pharmaceutical Research and Manufacturers of America, a trade association, is formulating guidelines for advertising and is likely to adopt them this month. It is unlikely that the guidelines will require a moratorium on advertising new drugs, said Ken Johnson, a spokesman for the association.

"We believe as an industry that there should be an appropriate way to educate doctors and health care providers before advertising begins," Mr. Johnson said. "But we also believe strongly that patients have a right to know about new drugs that could save and improve the quality of their lives."

Last month, Bristol-Myers Squibb became the first company to embrace a self-imposed lag time - 12 months - between the introduction of a drug and consumer advertising. Also last month, the American Medical Association decided to conduct a study of consumer drug advertising after several medical groups proposed that the association recommend limits on ads.

U.S. Economy: Factory Index, Confidence Increase (BLOOM)

By Joe Richter

Bloomberg, July 2, 2005

U.S. manufacturing accelerated in June for the first time in seven months, consumer confidence rose and auto sales surged, supporting the Federal Reserve's view that the economy is weathering higher energy prices.

The Institute for Supply Management said today that its factory index rose to 53.8 from 51.4 in May. Manufacturing remains in an uninterrupted expansion that began in June 2003, marked by readings higher than 50. The University of Michigan said today its sentiment index reached a six-month high in June.

U.S. Treasury notes tumbled after the factory report, which showed orders are picking up as companies work off inventories that swelled in the first quarter. The Fed raised its benchmark interest rate for a ninth time yesterday to head off faster inflation and said in a statement that ``although energy prices have risen further, the expansion remains firm."

``It's clear that consumers are beginning to feel much better, and manufacturing is coming out of its soft patch," said Nariman Behravesh, chief economist at Global Insight Inc., a forecasting firm in Lexington, Massachusetts. ``This is certainly one more piece of evidence that the Fed has the picture right."

The university's index increased to 96 last month from a preliminary estimate of 94.8 two weeks ago and the 86.9 reading in May. The rise suggests Americans will be in the mood to spend. A measure of current conditions, which reflects people's perception of their financial situation and whether it's a good time to buy, rose to the highest level since November 2000.

Auto Sales

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General Motors Corp., the world's biggest automaker, said today that extending employee discounts to all buyers sparked a 47 percent jump in sales last month, the most since August 1999. Sales also increased at Toyota Motor Corp., Nissan Motor Co., Ford Motor Co. and DaimlerChrysler AG, resulting in a 16 percent gain for the industry from the year-earlier month.

A separate report from the Commerce Department showed construction spending fell 0.9 percent in May, the third straight decrease. Government revisions switched four of the first five months of this year from gains to declines. Even so, construction in May was up 7 percent from the same time last year.

U.S. Treasuries tumbled, pushing the yield on the 10-year note above 4 percent for the first time since June 22, after institute's report bolstered speculation the Fed is no closer to ending a series of interest-rate increases, as some investors expect. The yield on the benchmark note, which moves opposite to the price, rose 13 basis points to 4.04 percent at 5:31 p.m. The Standard & Poor's 500 Index rose 3.1 points, or 0.3 percent.

Federal Reserve

The central bank yesterday boosted its target rate to 3.25 percent from 3 percent and said it can continue to lift short-term borrowing costs at a ``measured'' pace.

A reading of 51.4 was forecast for the June ISM report, based on the median estimate of 72 economists in a Bloomberg News survey. The institute, based in Tempe, Arizona, surveys more than 400 companies in 20 industries, including clothing, printing, transportation and plastics to compile its index.

The institute's new orders gauge, which makes up about a third of the total, rose to 57.2, the highest this year, from 51.7 in May. The production index, a measure of work being performed, increased to 55.6 from 54.9.

``Demand continues to be strong and robust for our business,'' said Matt Szulik, chief executive officer at Red Hat Inc., in an interview. Red Hat, the world's biggest distributor of the Linux computer-operating system, said sales rose 46 percent in the first quarter.

Inventories

The prices paid index fell to 50.5, the lowest since February 2002, from 58 in May. The backlog of orders gauge rose to 51.5 from 51. The index of supplier deliveries, which measures how long it takes to get materials, increased to 53.1 from 50.5.

The factory institute's employment index rose to 49.9 from 48.8 in May. The inventories index held at 47.8. The new export orders index fell to 50.4.

Inventories in the first quarter grew by $66.8 billion, the most since the second quarter of 2000, the Commerce Department said this week. There are signs that companies are starting to have some success in drawing down excess inventories, which bodes well for second-half growth, according to some economists.

``That is encouraging because manufacturing has been the weak link in the economy,'' said John Miller, a Chicago-based portfolio manager at Nuveen Asset Management, in an interview. ``There has been a draw down in excess inventories over the second quarter and that should bode well for future quarters in terms of building the inventories back up.''

Inventories

GM's offer of incentives, set to end July 5, helped pare the company's inventory to a 64-day supply of vehicles from 81 days in May, analyst Robert Barry of Goldman Sachs estimated.

The increase in new orders in the ISM report ``reduces the concern over inventories,'' said Norbert Ore, chairman of the ISM manufacturing survey, in a conference call with reporters. ``We can't proclaim that inventories are no longer a problem, but it gives us some hope that things are looking better than they did last month.''

The economy will probably expand at a 3.3 percent annual rate in the current quarter that ends tomorrow, according to a Bloomberg News survey of economists last month. That's down from 3.8 percent in the first quarter and 4.4 percent for all of last year. It still exceeds the 3 percent annual average during the past three decades.

In Europe, manufacturing in the dozen nations sharing the euro contracted for a third straight month in June because of higher crude oil prices. The 49.9 reading in the factory gauge followed a 22-month low of 48.7 a month earlier, according to a survey of about 3,000 purchasing managers, compiled by NTC Research Ltd. for Reuters Group Plc.

Energy Costs

Rising energy prices may still limit growth at the nation's factories. Crude oil closed above $60 a barrel for the first time on the New York Mercantile Exchange this week and traded at about $58 a barrel today. ISM's Ore said that oil prices at this level will make it ``hard to maintain'' the expansion in manufacturing.

``Oil prices are an issue, and companies would rather go into the summer a little lean on inventories than fat,'' said Joel Naroff, president of Naroff Economic Advisors in Holland, Pennsylvania. ``It's just a logical decision for businesses when uncertainty sets in.''

DOJ_NMG_0000767

Alcoa Inc., the world's biggest aluminum maker, said June 23 it will shed 6,500 jobs and close plants because of a drop in prices and higher energy costs. The plant shutdowns will include a factory in Kentucky that makes auto parts, the Pittsburgh-based company said.

Heating Demand Pushes Oil Up $2.25 (NYT)

By Bloomberg News

The New York Times, July 2, 2005

Crude oil rose more than $2 a barrel in New York yesterday, pulled higher by record heating-oil prices created by concern that refiners will not be able to meet peak demand during the winter.

Demand for distillate fuel, a category that includes heating oil and diesel, has surged because of a growing global economy.

"It's unusual to see heating oil lead the complex in the middle of the summer," said Jason Schenker, an economist at the Wachovia Corporation in Charlotte, N.C. "There are two things leading the heating-oil rally, concern about heating-oil supplies this winter and strong diesel demand."

He said a report from the Institute for Supply Management showing an increase in manufacturing in June indicated that industrial consumption would continue to grow strongly.

Crude oil for August delivery rose $2.25, or 4 percent, to close at $58.75 a barrel on the New York Mercantile Exchange, the biggest gain since June 1.

Heating oil for August delivery rose 7.5 cents, or 4.6 percent, to close at $1.7111 a gallon in New York. Gasoline for August delivery increased 8.27 cents, or 5.3 percent, to $1.6485 a gallon in New York, the biggest gain it has seen since Nov. 19.

U.S. Stocks Gain On Manufacturing Report; Shares Of GM Advance (BLOOM)

Bloomberg, July 2, 2005

U.S. stocks rose as a stronger-than- expected manufacturing report reinforced the Federal Reserve's suggestion that the economy can withstand higher interest rates.

``Business continues to do well," said Tom Wirth, who manages $1.3 billion at Chemung Canal Trust Co. in Elmira, New York. ``Earnings will be as good or better than expected and we'll see some nice growth. I expect the market to find some support."

General Motors Corp., the world's biggest automaker, advanced after posting its largest monthly sales increase since 1999. Energy shares including Exxon Mobil Corp. got a lift from higher oil prices.

The Standard & Poor's 500 Index added 3.11, or 0.3 percent, to 1194.44. The Dow Jones Industrial Average rose 28.47, or 0.3 percent, to 10,303.44. The Nasdaq Composite Index was little changed, up 0.41 at 2057.37.

Gains in benchmark indexes were restrained by oil prices, which rebounded from a three-day decline. Crude oil for August delivery surged 4 percent to $58.75 a barrel in New York.

For the week, the S&P 500 rose 0.2 percent. It gained 0.9 percent in the second quarter ended yesterday for the smallest quarterly move in three years. The Dow average finished this week 0.1 percent higher after completing the April through June period with a 2.2 percent drop. The Nasdaq Composite, up 0.2 percent for the week, climbed 2.9 percent in the quarter.

`Firm' Expansion

A private survey showed the pace of manufacturing growth accelerated in June for the first time in seven months. The Institute for Supply Management's factory index climbed to 53.8 from 51.4 in May, supporting the Fed's view that the economic expansion ``remains firm" even as oil holds close to a record.

The central bank yesterday lifted its target rate to 3.25 percent, the ninth boost in as many meetings. Policy makers also restated their intention to make future rate increases at a ``measured" pace.

``There were no surprises out of the Fed," said Art Hogan, chief market analyst at Jefferies & Co. in Boston. ``Earnings will be the next big market mover and my guess is that we'll again be low on our estimates."

Another report today showed consumer confidence increased for the first time this year. The University of Michigan's index climbed to 96 in June from 86.9 in May.

Slower Trading

Trading slowed as investors got an early start on the three-day weekend. Exchanges will be shut on July 4 for Independence Day. The bond market closed at 2:00 p.m.

Thirteen stocks rose for every six that dropped on the New York Stock Exchange. Some 1.2 billion shares changed hands on the Big Board in the slowest activity since June 6.

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GM gained 65 cents to $34.65. Sales last month jumped 47 percent from a year earlier for the biggest increase since August 1999. The company sold 558,092 vehicles, the most of any month since September 1996, thanks to an extension of employee discounts to all buyers.

Shares of Ford Motor Co., GM's smaller rival, added 7 cents to $10.31. Its sales last month rose 0.7 percent to 289,449 from a year ago.

The rally in oil prices gave energy stocks the best performance in the S&P 500 among 10 industry indexes. The stocks advanced 1.9 percent as a group.

ConocoPhillips, the No. 3 U.S. oil producer, climbed $1.61 to $59.10. The company said it raised its stake in Russia's OAO Lukoil to 12.6 percent as of yesterday from 11.3 percent three months earlier. Exxon Mobil Corp., the world's biggest publicly traded oil company, increased 84 cents to $58.31.

Intel

Intel Corp. added 19 cents to $26.21. The company's second- quarter revenue will be $9.3 billion, at the high end of its forecast, wrote Prudential Equity Group Inc. analyst Mark Lipacis.

Computer-chip makers may beat analysts' expectations because inventories are at ``low levels'' and ``utilization rates'' are bottoming, which will improve margins, Lipacis wrote in a note yesterday.

Red Hat Inc., the world's biggest distributor of the Linux computer-operating system, rose $1.21 to $14.31. The company reported first-quarter profit of 7 cents a share, exceeding the 5-cent average estimate of analysts surveyed by Thomson.

Profit among S&P 500 companies is expected to increase 6.6 percent in the second quarter, based on Bloomberg's analysis of analyst estimates compiled by Thomson Financial. Earnings growth will probably climb to 14.6 percent in the third quarter.

Alcoa Inc., the world's biggest aluminum maker, kicks off the reporting season for companies in the Dow average on July 7. General Electric Co., the No. 2 company by market value, will announce results on July 15.

Sears Holdings

Sears Holdings Corp. climbed $1.88 to $151.75. Shares of the third-largest U.S. retailer may get a boost from ``significant cash flow generation'' and share buybacks, wrote Deutsche Bank AG analyst Bill Dreher in a report. He rated the shares ``buy'' in new coverage by Deutsche Bank AG analyst Bill Dreher.

Pixar dragged the Nasdaq lower. Shares of the computer- animation film studio dropped $6.99 to $43.06. Second-quarter net income will be 10 cents a share because of disappointing sales of ``The Incredibles'' home videos, the company said. That's compared with the 15 cents Pixar predicted in May and the 19 cents analysts were expecting.

Pfizer Inc., the world's biggest drugmaker, slid 48 cents, or 1.7 percent, to $27.10 for the second-worst performance in the Dow average. Pfizer and Germany's Altana AG ended a partnership to develop Daxas, an experimental treatment for smokers' lung that failed to meet a goal in a clinical study.

QQQQs, Spiders

The S&P 500 shares, called Spiders, advanced 35 cents to $119.53. Nasdaq-100 tracking shares, known by their QQQQ symbol, fell 6 cents to $36.73.

S&P 500 futures expiring in September gained 4.5 to 1200 on the Chicago Mercantile Exchange. Nasdaq-100 Index futures slid 3 to 1500.

The Russell 2000 Index, which tracks companies with a median market value of $519 million, added 0.5 percent to 643.04. The Dow Jones Wilshire 5000 Total Market Index, the broadest measure of U.S. shares climbed 39.59, or 0.3 percent, to 11,896.26. Based on changes in the Wilshire, the value of stocks increased by $49.5 billion.

ConocoPhillips (COP US) Exxon Mobil Corp. (XOM US) Ford Motor Co. (F US) General Motors Corp. (GM US) Intel Corp. (INTC US) Pfizer Inc. (PFE US) Pixar (PIXR US) Red Hat Inc. (RHAT US) Sears Holdings Corp. (SHLD US) To contact the reporter on this story: Ari Levy in New York at alevy5@bloomberg.net. Last Updated: July 1, 2005 18:07 EDT

Dollar Hits High Against Euro On Strong U.S. Economic Data (NYT/AP)

By The Associated Press

The New York Times, July 2, 2005

The dollar reached a 13-month high against the euro yesterday after faster-than-expected expansion in manufacturing reinforced the view that the Federal Reserve would continue to raise interest rates.

Manufacturing has now registered 25 consecutive months of expansion, according to figures from the Institute for Supply Management. The June increase followed six straight months of slowing growth, the group said.

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In Washington, the Fed raised its federal funds rate on Thursday by one-quarter percentage point to 3.25, as was widely expected. The increase was the ninth since June 2004 and policy makers reiterated that rates would probably continue to rise at a measured pace.

Higher interest rates lift the return on investments denominated in a particular currency, raising its allure.

In late trading in New York, the 12-country euro traded for $1.1947, after falling as low as $1.1941 earlier in the day. It was down from $1.2083 in New York late Thursday.

The dollar strengthened further against the Japanese yen, trading at 111.70 yen after hitting a high of 111.78, up from 110.95 yen late Thursday.

The British pound traded at $1.7694 late yesterday after falling as low as $1.7685, down from $1.7887 Thursday, after the British economy grew just 0.4 percent during the first quarter. That raised fears the Bank of England may step in next week and cut interest rates from the 4.75 percent they have been at for nine months.

Dollar Surges As U.S. Factory, Consumer Indexes Top Forecasts (BLOOM)

By Mark Tannenbaum

Bloomberg, July 2, 2005

The dollar surged to the highest in more than a year against the euro and rose against 14 other actively traded currencies as gauges of U.S. manufacturing strength and consumer confidence both exceeded expectations.

``We are seeing heavy, heavy dollar buying across the board," said John McCarthy, a director of currency trading in New York at ING Financial Markets LLC. ``People are just more optimistic on the U.S. economy in general vis-a-vis everybody else."

The dollar advanced to $1.1959 per euro at 5 p.m. in New York, from $1.2108 late yesterday, according to electronic currency-dealing system EBS. It was the euro's first close below $1.20 since May 18, 2004. The dollar rose to 111.78 yen, the highest since August, and is 2.5 percent higher this week, the most since a 3.01 percent gain for the week ended Dec. 10.

The Institute for Supply Management's factory index rose to 53.8 last month from 51.4. The median estimate in a Bloomberg survey was for an unchanged index. A reading higher than 50 shows net growth. Separately, the University of Michigan said its consumer confidence index rose to 96 in June, the first increase this year.

Gains in the dollar began earlier today on signs the Federal Reserve will keep raising interest rates while central banks in Europe and Japan leave rates unchanged. The yen declined even after the Bank of Japan's Tankan survey showed business confidence rose more than expected.

``Europe's economy's going one way and our economy and our rates are going the other way," said Enrico Caruso, chief trader at currency hedge fund Tempest Asset Management in Newport Beach, California. ``We're long dollars. I'm still looking for $1.1850."

European Manufacturing

Measured by the Fed's Trade-Weighted Major Currency Dollar Index, the dollar climbed 5.1 percent in the second quarter, the most since 1997.

The euro earlier today briefly pared some losses after an industry report showed manufacturing in the dozen nations sharing the currency shrank less than expected in June. An index based on responses from about 3,000 purchasing managers, compiled by NTC Research Ltd. for Reuters Group Plc, rose to 49.9 from 48.7 in May.

Economists expected a figure of 49, according to the median of estimates in a Bloomberg survey. A reading below 50 indicates a contraction.

``We're getting some better news out of Europe, and that can help stop the slide of the euro," said Adam Cole, a currency strategist in London at RBC Capital Markets Ltd.

U.S. Rates

Yesterday's rate increase by the Fed, to 3.25 percent from 3 percent, brought its target rate to the highest since August 2001. Policy makers said they intend to keep increasing the rate at a ``measured" pace. The European Central Bank has kept its rate at 2 percent for the last two years, while the BOJ has kept borrowing costs near zero since 2001.

``Rising U.S. interest rates have been a positive for the dollar," said Shahab Jalinoos, a currency strategist at ABN Amro Holding NV in London. ``There's still a discussion of an ECB cut going forward. We don't think they will cut, but there could well be continued speculation."

The spread between two-year U.S. Treasury notes and similar-maturity German government bonds was about 166 basis points, the most since 2000. A basis point is 0.01 percentage point.

Japan's currency reached as strong as 110.62 immediately after the Tankan survey was released, before resuming its decline. Finance Minister Sadakazu Tanigaki said today a widening rate gap between the U.S. and Japan is helping weaken the yen.

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Tankan

The Tankan index of confidence among large manufacturers rose to 18 points in June from 14 in March, above the median forecast of 16 in a Bloomberg News survey of economists. A positive number means optimists outnumber pessimists.

``The yen is going to weaken," said Toru Umemoto, chief currency strategist at Barclays Plc. ``The Tankan wasn't enough. Rates are going up in the U.S. and the BOJ's doing nothing. Oil remains a problem as well."

The yen may fall to 112 per dollar next week, he said. The Japanese currency rose to 133.65 per euro today from 134.23.

The Tankan indicates the economy has yet to recover from a period of stagnation, Japan's government spokesman said. ``The situation of stagnation remaining has not changed," Hiroyuki Hosoda said at a press briefing in Tokyo.

Support for Japan's currency has waned on concern near- record oil prices will crimp growth. Movements in crude prices may be affecting the exchange rate, Tanigaki told reporters, adding that Japan must closely monitor the oil and currency markets. Japan imports almost all its oil.

``The Fed is still the only major central bank raising rates, and there are no signs it's getting closer to a stopping point," said Richard Yetsenga, a currency strategist in Hong Kong at HSBC Holdings Plc. ``The dollar still has a fair degree of upside momentum."

OTHER NEWS:

Jury Awards Family $1.95 Million In Dick Schaap's Death (NYT)

By Andrew Jacobs

The New York Times, July 2, 2005

A jury found a cardiologist at Lenox Hill Hospital liable yesterday for the death of the sports journalist Dick Schaap after hip replacement surgery and awarded his family $1.95 million in compensatory damages.

The jury found that two other doctors at the hospital on the Upper East Side of Manhattan were not responsible even though they had been accused of failing to follow standard medical practice in caring for Mr. Schaap, who went into respiratory distress after the operation to replace his left hip. Mr. Schaap, 67, died on Dec. 21, 2001, three months after the surgery, having never left the hospital. His family had sought $21 million.

"This case was never about the money," his widow, Trish, said after the verdict. "We felt that this was the only way to get hospitals to pay attention and to not sweep their mistakes under the rug."

The jury in State Supreme Court in Manhattan deliberated for nine days before finding that the cardiologist, Dr. Neil L. Coplan, was negligent. A lawyer for Dr. Coplan, Mark Aaronson, called the Schaap case "junk science" and said he would appeal. "The jury worked very, very hard, but they made a mistake," he said. "Dr. Coplan will be exonerated completely."

The three-week trial focused on whether the medication that Mr. Schaap had been taking for years to treat an irregular heartbeat, amiodarone, had caused so much lung damage that his surgery should have been postponed. Thomas A. Moore, the Schaap family's lawyer, argued that Dr. Coplan never looked at a presurgery X-ray that, Mr. Moore said, hinted at the lung damage. The defense argued that no damage was evident.

The other doctors named in the suit were Dr. Nicholas T. Skipitaris, an electrophysiology specialist, and Dr. Chitranjan S. Ranawat, the chief orthopedic surgeon at Lenox Hill. They had been accused of failing to properly diagnose and treat the syndrome, known as amiodarone pulmonary toxicity, a relatively rare side effect of the drug. Despite the verdict, Mr. Aaronson insisted yesterday that Mr. Schaap's death was not due to amiodarone toxicity but to fragments of bone marrow dislodged during surgery that ended up in the lungs.

A juror, Robin Joseph, 26, said the four women and two men on the panel were initially divided on the verdict but ultimately decided that Dr. Coplan was "100 percent to blame" for Mr. Schaap's death. "He had a lot of tools at his disposal, but he didn't use them," she said.

Mr. Moore said he would appeal an earlier decision by Justice Karen S. Smith to remove Lenox Hill from the lawsuit. He also expressed some disappointment with the jury's monetary award, saying it failed to consider Mr. Schaap's future earnings. "He was at the zenith of his career when he died," he said.

Climate Plan Splits U.S. And Europe (WP)

By Juliet Eilperin

The Washington Post, July 2, 2005

To hear President Bush's top environmental adviser tell it, Europe is coming around to the administration's approach to confronting global warming.

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"We are all working at the same realistically aggressive pace," James L. Connaughton said in an interview this week. "The world is coming to a more sustainable, collective vision of how to address climate change."

As the eight major industrialized nations struggle to reach an agreement on global warming policy before next week's Group of Eight summit, however, many European officials have a different take on the matter.

"I wish I could believe it was true," said Barbara Young, chief executive of Britain's Environment Agency. When it comes to Bush's climate change policy, she added, "the amount of energy that goes into denying the case and not getting on with the job is just criminal."

This clash of visions between the other seven industrialized nations and the United States will come to a head when their leaders meet at Scotland's Gleneagles resort starting Wednesday to outline how they plan to address global warming and poverty in Africa. Summit organizers hastily arranged a last-minute round of talks in London this weekend to try to forge a joint statement on the environment, but so far that has eluded them.

The Bush administration's success so far in resisting its allies' calls for bolder measures to mitigate global warming -- such as mandatory emissions limits for greenhouse gases, concrete dollar commitments to new technology and specific energy efficiency targets -- is a testament to America's continuing power to shape the international agenda on climate change. In a consensus-oriented process, the most skeptical -- and most economically and politically powerful -- player, the United States, is largely dictating the terms of the debate.

Other industrialized nations acknowledge they have yet to win serious concessions from Bush. A week ago, British Prime Minister Tony Blair -- who as the current G-8 president placed climate change atop the group's agenda this year -- told reporters that when it came to reaching a summit agreement, "climate change is obviously very difficult." French President Jacques Chirac said Thursday that he welcomed Blair's efforts to bring Washington "back on board" in terms of an international pact but that "results have been modest."

The other G-8 members are Canada, Germany, Italy, Japan and Russia. In addition, Brazil, China, India, Mexico and South Africa will participate in next week's summit.

The most recent draft of the G-8 text on climate change, obtained by The Washington Post this week, shows that U.S. negotiators helped pare down a lengthy statement on scientific and policy details by two-thirds, in some cases inserting quotes directly from Bush's past speeches.

The language of previous texts called for specific funding to promote such things as clean energy research and creating sustainable energy markets in developing nations; the new statement includes no dollar amounts. Earlier drafts started with the sentence "Our world is warming"; that wording is now in dispute. European negotiators initially pushed for specific targets on energy efficiency and the sharing of emissions trading practices; the new document is now silent on these points.

Negotiators this weekend will debate whether to adopt a new sentence -- emphasizing the "need to slow, stop and then reverse the growth in greenhouse gases" -- that is lifted almost verbatim from the president's Feb. 14, 2001, speech on climate change.

A European Union official familiar with the negotiations -- and who asked not to be identified for fear of jeopardizing the final talks -- said Europeans were trying unsuccessfully to open up "a process, through whatever means possible, to jointly identify a series of next steps."

"There is a great reluctance on the part of the U.S. to accept anything meaningful," the official said. "There's still an effort to water down language on the science."

The administration's success in resisting pressure from the Europeans has won it praise from conservatives at home and criticism from environmental groups.

Myron Ebell, who directs the free-market Competitive Enterprise Institute's global warming and international environmental programs, said he and his colleagues are "pleased with the firm and consistent position Bush is taking on climate change." He added: "On the issue of climate change, Blair is going to make no progress in hoping the U.S. will accede." The institute gets funding from oil companies that oppose mandatory carbon emissions curbs.

By contrast, Jeff Fiedler, a climate policy specialist at the environmentalist Natural Resources Defense Council, said administration officials are seeking to craft "a fig leaf for the real action that's needed."

"The olive branch has been extended to find some effective policies that are acceptable to the White House, and as far as we can see, they have just slapped that branch away," Fiedler said.

Connaughton, the chairman of the Council on Environmental Quality, and other administration officials said they are focused on obtaining practical commitments industrialized countries can meet without damaging their economies. He said that although some G-8 countries are struggling to meet their goal of bringing greenhouse gas emissions down to 1990 levels by 2012, the United States is on track to fulfill its pledge to reduce its carbon intensity -- how much emissions are rising relative to overall economic growth -- 18 percent by 2012.

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On Thursday, the Energy Information Administration announced that the nation's carbon emissions rose 1.7 percent in 2004 -- but that amounted to a 2.6 percent drop in carbon intensity, because the U.S. economy grew 4.4 percent that year. The rate of increase in U.S. carbon emissions more than doubled from 2003 to 2004 because of heightened economic activity.

"Our whole focus has been we need to get past these policy differences and get to deployment and implementation of these clean-technology opportunities," Connaughton said of the G-8 negotiations. "Perhaps I'm a Pollyanna, but this discussion is going to be historic."

But Europeans interviewed this week delivered a less sanguine assessment of the ongoing talks. Robert May, who served as Britain's chief scientist from 1995 to 2000 and now heads the Royal Society, the United Kingdom's independent scientific academy, said the Bush administration is resisting "scientific fact" and is trying to superimpose "one fundamentalist ideology . . . on the rest of the G-8."

Philip Clapp, who heads the U.S. advocacy group National Environmental Trust and will be an observer at next week's summit, said Bush's approach might backfire if other G-8 nations start negotiating a new global warming treaty to take effect in 2012 "and the U.S. will just sit on the sidelines as a spectator, not a participant."

But some British officials held out hope they can reach a compromise with the United States by the summit's end.

"We need to focus on the ground we have in common and not split hairs over differences," said one, who asked not to be identified out of deference to negotiators. "The G-8 is a massive opportunity. You have the world's richest economies taking practical measures to deal with the issue, and it's not just the world's richest economies, it's the world's emerging economies."

Scotland Awaits Global Chieftains (FT)

By Andrew Bolger

Financial Times, July 2, 2005

For the host, can it really be worth it? Scotland is distinctly nervous as it awaits the arrival of the Group of Eight circus, with its rock stars, demonstrators and attendant passions, for next week's summit at the five-star luxury of Gleneagles Hotel.

Tony Blair has no doubts.

The prime minister not only hopes for big things on aid and debt relief for Africa and climate change. He also thinks the gathering in glorious Perthshire scenery will showcase Britain, and Scotland in particular, while demonstrating the UK's leadership in tackling global problems.

Jack McConnell, first minister in Scotland's devolved executive, describes the summit as an opportunity for a confident, modern Scotland – one the whole country should get behind. But Donald Anderson, Labour leader of Edinburgh City Council, admits there is a tense atmosphere in the Scottish capital.

Some newspapers – particularly the Scottish editions of London-based tabloids – have carried lurid tales about the havoc that could be wreaked by a small minority of anarchists among the expected masses of demonstrators.

Police and politicians are confident about the arrangements for today's Make Poverty History march in Edinburgh, but admit to greater concern about unauthorised demonstrations outside financial institutions in Edinburgh on Monday by groups that have not identified themselves.

A five-mile security fence has been erected around Gleneagles. Steel barriers have also been put around the Scottish parliament and Holyrood Palace in Edinburgh, causing the Queen to change her holiday plans so as not to be in the city.

Scottish police say they will not use tear gas or water cannon – unlike the Italian riot squads whose heavy-handed tactics provoked much of the violence that marred the Genoa summit in 2001.

Much could depend on the weather. Scotland in summer sunshine can be delightful but heavy rain is also possible, and could dampen the enthusiasm of demonstrators heading for the countryside around Gleneagles. Not to mention midges, the tiny blood-sucking insects that can make any Scottish campsite a misery in summer.

Rudyard Kipling is seldom cited in Scotland these days, perhaps because the English writer's association with British jingoism sits ill with Scots' sense of a post-imperial national identity. There is certainly no chance of his "twin imposters", triumph and disaster, being treated just the same.

If the G8 turns out well, there will be crowing and self-congratulation about how Scotland's international image has been burnished. If things go badly, there will be a tidal wave of recrimination, and a search for scapegoats.

To that extent at least, Scotland's reaction to the summit will faithfully reflect the proceedings behind the barricades at Gleneagles.

Scottish Police Heighten Security Ahead Of Group Of 8 Summit (LAT)

By Sarah Price Brown

The Los Angeles Times, July 2, 2005

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With a security operation named after a tree that local folklore says can ward off evil, police were making final preparations Friday for the arrival in Scotland of eight world leaders and tens of thousands of protesters.

By Sunday, about 10,600 officers will be available as part of Operation Sorbus to provide security for President Bush, British Prime Minister Tony Blair and other leaders of the Group of 8 leading industrial nations as they gather Wednesday in Gleneagles, Scotland.

Police have erected a 5-mile fence around the Gleneagles Hotel, where the meeting will take place. Security cameras line the fence, and anyone who tries to bypass the barrier will be arrested, said a spokeswoman from Tayside Police, the local office responsible for the summit's security.

Five roads near the hotel will be closed to keep traffic away from the conference site, about 40 miles northwest of Edinburgh, Scotland's capital.

Officers will patrol the area around the meeting by foot and car. Mounted police will guard the streets, and security dogs will be deployed. A surveillance blimp with video cameras will relay images to a command center. Helicopters with loudspeakers and video cameras also will survey the area.

Should any breach in security occur at the hotel, the summit would be moved 20 miles to the Tulliallan Castle, Scotland's police college, the Times of London reported. Local police would not comment on the plan but also said they would not deny it.

"We're putting a very broad range of contingencies in place," said the Tayside spokeswoman, adding that department policy required that she not to be named. "We're planning for all eventualities."

More than 100,000 activists are expected to descend on Edinburgh today for a march called "Make Poverty History," which is being organized by charities and was approved by the City Council.

About 2,500 officers will police the march, said Kevin Smith, spokesman for Lothian and Borders Police, the Edinburgh-area agency in charge of monitoring the protest. Police are taking a nonconfrontational approach to the demonstration, he said. Officers will wear their usual uniforms, for example, though police in riot gear will be on hand in case of violence.

"We will be working hard to balance the rights of free speech and lawful protest," said Paddy Tomkins, chief of Lothian and Borders Police.

One member of the board of the Lothian and Borders Police said he would join the demonstrators at the march.

"If the cause of ending world poverty is achieved," said Eric Milligan, "it will be due as much to those who planned for months and worked on these demanding days, as to the demonstrators and the world leaders."

Protesters have set up campsites near Edinburgh in anticipation of a number of rallies. The Stop the War Coalition will hold a march Sunday and demonstrate Monday outside Scotland's Faslane nuclear submarine facility, about 50 miles northwest of Edinburgh. Police are bracing for what they fear will be a chaotic demonstration Monday: the Carnival for Full Enjoyment, arranged by an anarchist group.

Rock star Bob Geldof, who organized the Live 8 concerts taking place worldwide today to raise awareness about poverty in Africa, has urged 1 million people to descend on Edinburgh on Wednesday to show their support for Africa. The leaders from the Group of 8 — the United States, Britain, Germany, France, Italy, Japan, Canada and Russia — are expected to take up the issue at their meetings.

Police fear that the influx of so many people into a city of nearly 450,000 will cause problems.

"We are concerned that people may come up and have nowhere to stay and nothing to do," a Lothian and Borders police spokeswoman told the media. "We are trying to discourage them."

Peter Wilson, chief of the Fife Police, was quoted by the Scotsman newspaper as saying he was prepared for violence of the magnitude seen at the G-8 summit four years ago in Genoa, Italy. There, a protester died and hundreds of police and demonstrators were injured in clashes.

Wilson warned potential troublemakers that they would be under surveillance. "We know where to find you," he said.

G8 Officials In Last-ditch Bid On Africa, Climate (REU)

By Madeline Chambers

Reuter, July 2, 2005

LONDON (Reuters) - Officials from the world's major industrialized nations launched last-ditch talks on Friday to try to help their leaders end differences and strike deals next week to lift Africa out of poverty and act on climate change.

British Prime Minister Tony Blair, who holds the Group of Eight presidency and will host a G8 heads of state summit at Gleneagles in Scotland from July 6-8, is also seeking an initiative to inject new impetus into Middle East peacemaking.

Previous British initiatives have had little success and Blair was cautious on the latest.

"I hope but I can't yet be sure that there will be a specific initiative on the Israeli-Palestinian issue," Blair told a news conference.

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"I've set aside time within the summit now to do this because there have been developments over the past few days that lead me to believe we may be able to make some progress," he said.

Blair has put African poverty relief and climate change at the center of his G8 presidency, but Britain is worried that any deals on the two issues will fail to live up to expectations.

STARKEST DIFFERENCES

The starkest differences are between the United States and other G8 countries on climate change.

The G8 nations have been unable to agree on its severity, causes or how to tackle it, according to a leaked text of the latest draft declaration seen by Reuters.

Environmentalists are calling on Blair to signal an open rift with Washington rather than agree to a watered down text.

"No deal is better than a deal on this (draft) document," said Tony Juniper of Friends of the Earth.

"Rather than trying to paper over the differences with Bush, Blair should publicly signal a rift with the United States."

Blair has acknowledged a deal on climate change would be very difficult at the summit of G8 nations -- the United States, Britain, Canada, France, Germany, Italy, Japan and Russia.

"What I am trying to do at the G8 is say 'America is not going to sign the Kyoto Treaty, let's leave that to one side'," Blair said in an MTV interview to be broadcast later on Friday.

He argues there are other issues, such as the need to develop clean energy technology, that can be agreed upon.

"Can I get agreement on that? I don't know but I'm going to try," he said.

PROGRESS ON AFRICA

Blair has made more progress on easing poverty in Africa, although there is still some way to go.

Campaigners want the G8 to increase aid for Africa, cut the continent's debt and dismantle trade barriers.

Last month, G8 finance ministers agreed to cut about $40 billion worth of impoverished nations' debt and the European Union and Washington have agreed to boost aid spending.

But the United States opposes a more ambitious plan to increase aid by $50 billion by issuing bonds using future development budgets as collateral.

Blair, widely known to be keen to make progress on major international issues in his third and final term as prime minister, would seize on any accord to put momentum into Middle East peacemaking.

The United States, traditionally the main broker in Middle East peace efforts, says Israel's planned withdrawal from the Gaza Strip could help revive talks on a long stalled U.S.-backed "road map" for peace and Palestinian statehood.

The G8 summit will take place a month before Israeli soldiers and settlers are due to pull out of Gaza, home to 1.3 million Palestinians.

After a week of turmoil in which pro-settler radicals clashed with troops and blocked roads, fears are mounting that the pullout will be overshadowed by violence.

Officials said G8 leaders would discuss a plan by former World Bank President James Wolfensohn, now an international envoy for the so-called Gaza "disengagement."

Charged with reviving the Palestinian economy after the pullout, he is seeking support for Palestinan aid packages.

Live 8 Concerts Seek To Change Policies Of Leading Countries (KRT)

By Matthew Schofield

Knight Ridder, July 2, 2005

Twenty years ago, Bob Geldof, then a member of the Boomtown Rats rock band, organized a pair of concerts known as Live Aid that raised $150 million for African charitable work and helped redefine rock stars from bad boys to charitable agents.

Saturday, Geldof is back, with a star-studded slate of concerts in 10 cities around the world. But raising money isn't the goal; changing the policy of the world's most powerful countries is.

"This is not Live Aid 2," Geldof has noted.

Timed to coincide with next week's meeting of the so-called Group of 8, a gathering of American, European and Asian leaders that begins Wednesday in Scotland, Live 8 is aimed at persuading them to cancel billions in African debt, increase aid to Africa by at least $50 billion and rewrite trade regulations to be more favorable to poor nations.

Organizers also hope to flood Scotland with protesters in the coming week, beginning with as many as 150,000 Saturday in Edinburgh, an hour's drive from Gleneagles, where the G-8 leaders, including President Bush, will meet.

"We need proper grown-up politics and people need to be serious," Geldof said at a recent news conference.

The concert venues were picked in G-8 countries to maximize political influence on the leaders: London, Philadelphia, Berlin, Moscow, Paris, Rome, Tokyo and Barrie, Canada, about 60 miles north of Toronto. Concerts also are set for Johannesburg, South Africa, and Edinburgh. The Edinburgh show will be Wednesday, as the summit begins.

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More than 100 performers will appear, among them Madonna, P. Diddy and Elton John.

The motto this time is "We Don't Want Your Money - We Want You," and the concerts are free.

There's some nostalgia attached to Saturday's festivities. Paul McCartney is expected to kick off London's concert by singing "Sgt. Pepper's Lonely Hearts Club Band," which begins with the words "It was 20 years ago today." (In fact, it's about two weeks early for the 20th anniversary).

"This is not an issue of politics, it's an issue of morality," Geldof said recently. " I think it will have deep political resonance."

Kate Norgrove, a spokeswoman for the Global Call to Action Against Poverty, acknowledged that the concerts have done quickly what she and other have spent years trying to do: Draw attention to African debt relief and trade issues.

"Rock 'n' roll has upped the ante considerably," she said. "It's pushed from the background into the limelight, and we hope that it means we're entering a new phase in working for Africa, one where we're not struggling to find the money to get done what needs to be done."

The numbers that move the movement are a constant in newspapers and newscasts around Europe: 291 million Africans survive on less than $1 a day each, 30,000 children die every day because of poverty, 26 million Africans are HIV-positive.

Already, the pressure from the worldwide effort is given credit for helping to get the United States and Great Britain to agree to $40 billion - possibly rising to $55 billion - in debt relief for Africa and Latin America.

Still, not everyone is convinced that the concerts will have long-term impact.

"We wish them luck, but we've seen this before," said Onyekachi Wambu, the information officer for the London-based African Foundation for Development.

Wambu's organization has been criticized for planning a conference on African development that runs at the same time that an expected 200,000 people will be attending the Live 8 concert in London's Hyde Park, criticism that Wambu said showed how little was known about African aid programs.

"We hold this conference on creating jobs and wealth - the real answer to development - on the first Saturday of July every year," he said. "Someone who drops in on the issue wouldn't pay attention to that, I guess."

Tom Cargill, the Africa program coordinator for Chatham House, an English research group, offered similar sentiments.

"I do believe Africa will sort itself out, but it will do so in spite of what the rest of the world is doing," he said. "But these big-bang ideas on making poverty history all of a sudden are a bit optimistic."

African aid should be focused on creating jobs and a middle class, he said.

Of course, a recent London Mail on Sunday column noted that there certainly will be some who benefit from the Live 8 efforts.

"Once again, the hungry, terrorized children of Africa are pooling their efforts to help others," it began. "They will, once more, perform on our TV screens to help rescue the sagging reputations of that needy and deprived group of balding, clapped-out rock stars who long for the crowds that once listened to them."

HIGHLIGHTS OF THE CONCERTS

Philadelphia - Where: The Museum of Art. Audience expected: 250,000. Artists: Black Eyed Peas, Dave Matthews Band, P. Diddy, Stevie Wonder.

London - Hyde Park. 200,000. U2, Coldplay, Madonna, Snoop Dogg, Elton John, Pink Floyd (reunion).

Barrie, Canada - Park Place. 150,000. Bare Naked Ladies, Deep Purple, Simple Plan, Run DMC.

Berlin - Tiergarten. 250,000. Brian Wilson, Die Toten Hosen, Crosby Stills & Nash.

Johannesburg - Newtown. 40,000. Malaika, Zola.

Moscow - Red Square. 50,000-200,000. Pet Shop Boys.

Paris - Palais de Versailles. 220,000. The Cure, Dido, Youssou N'Dour.

Rome - Circus Maximus. 250,000. Duran Duran, Tim McGraw.

Tokyo - Makuhari Messe Arena. 10,000. Bjork, McFly.

Edinburgh - Wednesday, as the G-8 summit begins, Murrayfield Stadium. Number expected is unknown. Annie Lennox, Bob Geldof, the Proclaimers.

The EU Problem (KRT)

By Matthew Schofield

Knight Ridder, July 2, 2005

In 2004, the European Union agreed on a new European Constitution to be sent to each member nation for approval. Under EU law, the constitution had to be approved by every nation or it could not be activated. Nations were given the choice of

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adopting it by either Parliamentary vote or popular referendum. The first binding referendum, however, came late May in France, where it was defeated 55 percent to 45 percent. A few days later, almost two-thirds of Dutch voters rejected it.

Because the votes were seen as a rejection of European policy, the recent expansion, plans for future expansion and the implementation of the euro, member nation heads of state in June agreed to put any efforts to pass the constitution on hold for a year and declared that "Europe is in a profound crisis."

The History Of The European Union (KRT)

By Matthew Schofield

Knight Ridder, July 2, 2005

In 1950, as Europe was rebuilding after the devastation of World War II, French Foreign Minister Robert Schuman suggested integrating the coal and steel industries of western Europe. He was speaking on May 9, what is now called Europe Day, considered the birth of the European Union.

But the beginning of what is now called the European Union is not traced so much to a single event, but through an evolution that lasted about 50 years.

Schuman's speech led to the formation of the European Coal and Steel Community. The formation wasn't so much for economic reasons as because of the backdrop of animosity between nations.

Beginning with the Napoleonic Wars in the early 19th century, through the Franco-Prussian War and World War I and to the end of World War II in 1945, about 60 million Europeans were killed through the effects of warfare.

As the official history of the European Union states, "A number of European leaders became convinced that the only way to secure a lasting peace between their countries was to unite them economically and politically."

What this meant was while the nations involved would remain independent, they would increase the level to which they were reliant upon each other. This has meant giving up pieces of national sovereignty to the union, such as monetary policy, agriculture and fisheries policy, and product standards.

The first European Community formed in 1954 and included six nations: Belgium, Germany, France, Italy, Luxembourg and the Netherlands.

Pleased with the way that agreement worked, the six founder nations in 1957 signed the Treaties of Rome, one to regulate atomic energy and the other to remove the trade barriers existing at their borders, forming a "common market," although a true open and common market did not appear until 1992.

In 1967, administration of the three treaties was merged under a single body, and a European Commission, Council of Ministers and Parliament were created.

In 1973, the original six were joined by three new members, Denmark, Ireland and the United Kingdom. In 1981, Greece joined, followed by Portugal and Spain in 1986 and Austria, Finland and Sweden in 1995.

By that time, the community in 1992 had passed the Treaty of Maastricht, which increased cooperation in areas such as defense, justice and "home affairs," and officially named the group the European Union.

Two of the biggest changes to the union were yet to come, however. The first was the introduction of the euro, a single currency for the European Union, in 2002. Denmark, Sweden and the United Kingdom decided against replacing their national currencies, but the other 12 members formed the eurozone, an economic union with a single interest rate.

The second change came in 2004, when the Union expanded from 15 mostly western European nations to include 10 new, mostly eastern European nations. The new nations were Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia. The new additions created a Union of 25 nations. Bulgaria and Romania are expected to be the next nations to join. Croatia and Turkey also are being considered.

Film About Despair In South Africa, And School That Offers Hope (NYT)

By Richard Sandomir

The New York Times, July 2, 2005

Charlie Ebersol's need to tell the story of the Ithuteng Trust school in Soweto - where traumatized and violent teenagers learn to overcome their young lives' horrors - began with a visit to the South African township two years ago and has produced a new documentary, "Ithuteng (Never Stop Learning)."

"I have a great life, and I felt I had a responsibility to tell this story," said Mr. Ebersol, 22, who was a film major at the University of Notre Dame and graduated in May.

The documentary, which was honored in May as best humanitarian film at the MountainFilm festival in Telluride, Colo., is a raw but inspiring journey into the lives of teenagers ravaged by abuse, crime and AIDS. All were recruited by Jacqueline Maarohanye, a fiercely devoted teacher known as "Mama Jackey" who set up the school in 1999. Although some students board

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there, most come from their own schools around Johannesburg for after-hours and Saturday programs that combine academics, culture, sports, peer counseling, therapeutic dramatizations of the teenagers' own lives and outings to a maximum-security prison.

Mr. Ebersol, who now lives in Los Angeles and recently completed a stint as a production assistant on the film "Yours, Mine and Ours," produced the documentary with a friend, Kip Kroeger, also 22, with whom he had made music videos. They hired Mr. Ebersol's brother, Willie, 18 and a student at the University of Southern California, to direct a 17-day shooting schedule in the summer of 2003 because they admired a short student film he had made on a classmate's dating problems.

"I should have been intimidated, but I wasn't," Willie Ebersol said. "He came back from South Africa, gave me a blanket as a gift and asked me to direct."

The students provided brutally candid narratives of their lives to the young American filmmakers, none more than Lebo, a girl who described being raped twice and contracting H.I.V.

"They poured out their lives and didn't hold back," Mr. Kroeger, a North Carolina State University graduate, said in a telephone interview. "It sears right into you. Here's a girl you met two hours and ago she's telling us about being raped? How can she sit there and tell us that?"

In another scene from the film, an orphan named Dineo, who is described as having been sexually abused by her foster father, the head of an anti-abuse charity, confronts an older girl whose behavior toward her had made her want to give up the program.

"I thought you were a bad person," Dineo says to the older girl. "I hated you so much, but now I'm going to be your mother and you're going to be my mother."

While they embraced, Mama Jackey tried to hold back her tears.

"Here are these kids, who are not taught about love, teaching each other to love," Charlie Ebersol said in an interview. "They will learn to love and share it because Mama said you have a chance now, you have a way to dream."

Although the film does not yet have a distributor, it is winning notice beyond the award. Oprah Winfrey had already known about Ithuteng (pronounced IT-uh-teng) and Mama Jackey, but it was watching a DVD of the documentary during a flight to Johannesburg in June that prompted her to donate a total of $1.14 million to the school, said Gayle King, editor at large of O, the Oprah Magazine.

When Ms. King told Charlie Ebersol of the donation, she said: "He was incoherent with joy. He said, 'Oh, my God, Gayle, I was just trying to raise $10,000 to keep Mama's electricity on.' "Ms. Winfrey's gift was the largest to the school so far, but it has received support from numerous groups, including the National Basketball Association, which built a reading center there, and from Dikembe Mutombo, the Congolese player for the Houston Rockets, who donated $150,000 to build two dormitories.

Kathy Behrens, a senior vice president of the N.B.A., said: "I was with Charlie when he first showed the film to Mama. It was very emotional for her. It was very hard for her to watch Lebo, who had died of AIDS."

The lessons of Ithuteng resonated with unexpected power for the Ebersol brothers. Until last year, theirs had been a charmed life, as the older sons of Dick Ebersol, the chairman of NBC Universal Sports and the retired actress Susan Saint James.

Dick Ebersol bankrolled the film for about $90,000, after Charlie Ebersol and Mr. Kroeger began raising money on their own. Their father gave them guidance on the documentary and helped find film veterans to help his sons in Soweto. Their mother helped edit the film.

But last Nov. 28, a private jet carrying Dick, Charlie and the youngest Ebersol son, Teddy, crashed after takeoff in Montrose, Colo., near the family's winter home in Telluride. Teddy, 14, was killed; Charlie suffered a broken wrist, and eye and back injuries; Dick broke several ribs, his sternum, his pelvis, his coccyx and several vertebrae.

"I walked off the plane with my father in my arms, and my brother behind me," Charlie Ebersol recalled. "I said, 'Oh, God, how can I get through this without my father, and then I had to find Ted. In talking to God, I said: 'How can you empower me, and take away my father's power? I need him.' "

He said the openness of the students at Ithuteng helped him deal with his grief. "Mama believes you must cry yourself dry," he said of Ms. Maarohanye, "and that people shouldn't prevent you from crying. Willie and I employed what Mama taught us in the context of real tragedy."

Willie Ebersol said: "South Africa taught me that I can talk about what's eating me up inside. We learned from the kids that it's O.K. to be sad. If you've been raped, it's O.K. to say you've been raped. You don't bury your grief if you speak about it. You open up."

The film also underwent a transformation after the crash, becoming more overtly emotional with additional music to underscore the painful pasts and altered lives of the students.

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"We had a fear of exploiting the emotion," Mr. Kroeger said of their initial framing of the material. "But after the crash, we realized we weren't tapping into our emotions. We had to make changes."

Now, Charlie Ebersol said, the film "represents our trying to find hope in the face of loss."

Russia, China Team Up To Assail U.S. Foreign Policy (LAT)

By David Holley

The Los Angeles Times, July 2, 2005

Teaming up in a thinly veiled attack on perceived U.S. efforts to dominate the world, Russia and China on Friday issued a declaration demanding respect for the right of all countries to develop free of outside interference.

Signed by Russian President Vladimir V. Putin and Chinese President Hu Jintao on the second day of a summit here, the statement denounces "the aspiration for monopoly and domination in international affairs" and calls for an end to "attempts to divide nations into leaders and those being led."

While not mentioning the United States directly, the Declaration on World Order in the 21st Century leaves no doubt that Washington is its main target.

Russian-Chinese ties have been steadily warming, boosted by the signing last year and ratification this spring of the final settlement of a prolonged border dispute. The two countries plan to hold their first joint military maneuvers this year in China.

Putin and Hu offered each other support in Moscow's war against separatist rebels in the republic of Chechnya and Beijing's effort to assert control over Taiwan, which it considers a renegade province.

"Any actions aimed at splitting sovereign states and kindling ethnic discord are inadmissible," the statement says.

"The declaration reflects similar approaches by Russia and China to fundamental world policy issues," Putin told reporters after the signing ceremony. "We understand well the importance of good-neighborly relations based on partnership between Russia and China, both for our own peoples and for the entire world."

Hu told reporters that the two sides had discussed cooperation concerning Taiwan and Chechnya, promotion of stability in Central Asia, reform of the United Nations and "the nuclear problem of the Korean peninsula."

The declaration shows that Moscow and Beijing "don't quite believe the sincerity of the second Bush administration's attempts to break its image of being a proponent of unilateral actions and decisions," said Andrei Kortunov, president of the New Eurasia Foundation in Moscow.

"It is confirmation that Washington's attempts to somehow draw various countries into cooperation on a whole number of issues doesn't seem very convincing to China and Russia," Kortunov said.

"This may be connected with the unilateral actions of Washington in the Middle East, its latest decisions on increasing its defense budget and some others."

The declaration endorses a stronger United Nations role in global affairs and rejects attempts "to impose models of social and political development from outside."

The accord also prominently recycles language that China has pushed in international agreements for decades: "All countries of the world should strictly observe the principles of mutual respect for sovereignty and territorial integrity, mutual nonaggression, noninterference in each other's internal affairs, equality and mutual benefit, and peaceful coexistence."

Vasily Mikheyev, deputy director of the Institute of Far Eastern Studies at the Russian Academy of Sciences, said the declaration was "to some extent counterproductive because it is composed in an old diplomatic style, in the spirit of the Cold War. That is, the declaration is full of cliches from Cold War times."

He added: "The language of this declaration has very little to do with the diplomacy of globalization. It is neither in Russian nor in Chinese interests to spoil relations with the United States. That is why no country is named by name in the declaration, which makes it sound even more like a bureaucratic Cold War document."

The two sides also signed economic agreements Friday, including one between the Russian oil company Rosneft and China National Petroleum Corp. that paves the way for increased Russian oil exports to China. Rosneft announced in a news release that the firms would begin discussing cooperation in exploring and developing oil and gas fields on Sakhalin Island, off Russia's east coast.

Other agreements involve cooperation in electric power and banking.

Trade between Russia and China jumped by one-third in 2004, to $21 billion, and has continued to expand rapidly this year, Putin told reporters.

"There are promising projects in such sectors as metallurgy, the modernization of transport infrastructure, inter-bank ties and space exploration," Putin said. "We intend to develop military-technical ties and cooperation between defense ministries."

White House Renews Contact With N. Korea (AP-Y2)

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By Barry Schweid, Ap Diplomatic Writer

AP2, July 2, 2005

The United States has resumed contact with North Korea, but the talks at a security conference in New York have not produced a decision to reopen negotiations on Pyongyang's nuclear weapons program, the State Department said Friday.

The same two American diplomats who met secretly in May with North Korean counterparts in New York, State Department envoy Joseph DeTrani and James Foster, were involved, spokesman Sean McCormack said. Foster is in charge of the department's office of Korean affairs.

He described it as a "contact" and said there was no negotiating between the two sides at the conference held by the National Committee on American Foreign Policy.

The conference dealt primarily with the Korean peninsula, and customarily at such events "there is a natural exchange among the attendees," McCormack said.

"I am not going to characterize it beyond that," the U.S. official said, but added: "We are still waiting to hear from North Korea a date when they will return to the six-party talks and engage in those talks in a constructive manner."

In fact, McCormack said, "all the members of the six-party talks are still waiting to hear from North Korea a date when they will return" to the talks.

After the May meeting surfaced, McCormack said North Korea had registered an interest in reopening the negotiations, last held a year ago. No date or location has been set since, and McCormack declined to say whether the North Koreans had expressed interest again in the latest encounter.

"What matters is that they return to the talks and engage in a constructive manner," he said.

China, Russia, South Korea and Japan are aligned with the United States in the negotiations, trying to persuade North Korea to halt a nuclear weapons program that U.S. intelligence is convinced already has produced at least two bombs.

Last week, Undersecretary of State Robert Joseph suggested that China put economic pressure on North Korea to induce it to reopen nuclear weapons negotiations.

Joseph, who has succeeded John R. Bolton as the department's top arms control official, said, "We think China can do more to get them to eliminate their nuclear weapons program."

China shares with the United States and other nations an interest in a nuclear-free Korean peninsula, Joseph said. "It is very much in China's interest to exert as much influence as it can," he said.

"My sense is that the North Koreans will come back," he said. "I hope in the near term."

US, North Korea Have Contacts (AFP)

AFP, July 2, 2005

US and North Korean officials had rare direct discussions Thursday on efforts to resolve the dispute over Pyongyang's nuclear weapons program, the State Department said.

Spokesman Sean McCormack said Joseph DeTrani, the US envoy to six-party talks on the nuclear issue, conferred with senior North Korean diplomat Ri Gun at an academic conference in New York.

"Yesterday, in the context of the seminar, there was contact between Mr. DeTrani and Mr. Ri Gun," McCormack said. But he added, "This was not a negotiation."

McCormack would not discuss any details of the latest exchange between the two countries, which have no diplomatic relations but occasionally make contact via Pyongyang's UN mission in New York.

But a senior State Department official implicitly confirmed the two had discussed efforts to resume the nuclear negotiations that have been stalled for a year.

"That probably would be the only reason why we would have contact with them. That's the issue before us," said the official, who asked not to be named.

But McCormack made it clear that any substantive negotiations could come only within the framework of the multilateral talks that also include China, Japan, South Korea and Russia.

"All the members of the six-party talks are still waiting to hear from North Korea a date when they will return to the six-party talks and engage in those talks in a constructive manner," he said.

Word of the New York discussions came after South Korean Foreign Minister Ban Ki-Moon said Friday that Christopher Hill, the top US negotiator with North Korea, could visit the insular communist country.

Hill, assistant secretary of state for East Asian and Pacific affairs, said recently he would be prepared to make the trip.

"He has already visited South Korea, China, Japan and Russia, which are involved in the talks. There is no reason for him to skip North Korea," Ban said in an interview with the Hankyoreh newspaper in Seoul.

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The news also came as South Korea's Yonhap news agency said that US Secretary of State Condoleezza Rice would visit China, Japan and South Korea later this month. The State Department declined to confirm the report.

The encounter between DeTrani and Ri Gun, Pyongyang's number-two man in the nuclear negotiations, came after McCormack announced Thursday that he expected no substantive contact between the men.

The pair were in New York for a conference on the Korean Peninsula also attended by Jim Foster, who heads the State Department's office of Korean affairs, and other participants in the six-party process.

North Korea boycotted the fourth round of the talks in September after rejecting a US-led aid-for-disarmament offer. Pyongyang has also demanded that Washington end its "hostile" attitude before discussions can resume.

Although the negotiations have been deadlocked for a year, optimism has grown in recent weeks that North Korea might be willing to come back to the table sometime this month.

North Korea Wants U.S. To Withdraw Remark (AP-Y2)

By Edith M. Lederer, Associated Press Writer

AP2, July 2, 2005

North Korea told the United States that it must withdraw its description of the communist nation as an "outpost of tyranny" and treat Pyongyang as a friend if it wants nuclear talks to resume, a senior North Korean official said Friday.

North Korea's director general of North American affairs, Li Gun, told reporters after a two-day conference on northeast Asian security that the next step is up to the Americans.

Speaking in English, Li said, "We told them (the U.S.) to just withdraw the words `outpost of tyranny.' We demand it."

Secretary of State Condoleezza Rice called North Korea one of the world's "outposts of tyranny" during her confirmation hearings in January. She defended the characterization last month, telling Pyongyang if it wants economic help it must give up its nuclear weapons and return to the six-party talks.

The State Department confirmed that Joseph De Trani, the top U.S. official to the six-party talks on North Korea's nuclear weapons program, and James Foster, who is in charge of the department's office of Korean affairs, resumed contact with the North Koreans at the conference.

State Department spokesman Sean McCormack said there were no negotiations between the two sides at the closed meeting.

"We are still waiting to hear from North Korea a date when they will return to the six-party talks and engage in those talks in a constructive manner," he said.

De Trani told reporters it was a good meeting but would not elaborate.

Speaking in Korean, Li said the two sides exchanged positions and that he told the Americans "the United States has to treat us friendly, not as enemy, if they want us to take part in the six-party talks."

Li said it wasn't the right time to talk about when the talks would reopen.

"We have to watch the Americans, what kind of steps the Americans take," he said.

Li's remarks in Korean were translated by the correspondent for South Korea's main daily newspaper, Chosun Ilbo.

Later, Li told the correspondent for the Japanese daily, Tokyo Shinbun, that the conference was useful.

"We are ready for resuming the six-party talks, and we told them that," he said in English. "The U.S. must create some justification to enter into the six-party talks."

"We never deny or oppose to six-party talks. Our position is that once they give us justification, we can enter any time into six-party talks," Li said.

"I think they heard our voices, and it's up to them. We will see it," he said.

The multilateral talks — involving North and South Korea, the United States, China, Japan and Russia — have been stalled since June 2004. Since then, North Korea declared it has nuclear weapons, claiming they are a deterrent against a possible attack by the United States.

The State Department announced North Korea's agreement to resume talks on June 6 following a meeting in New York between De Trani, Foster and senior North Korean diplomats, but no date has been set.

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AP Diplomatic Writer Barry Schweid contributed to this report from Washington.

Glimpses Of A Hermit Nation (LAT)

By Barbara Demick

The Los Angeles Times, July 2, 2005

DOJ_NMG_0000781

His day begins at 4:30 a.m. The 64-year-old retired math teacher doesn't own a clock or even a watch, but the internal alarm that has kept him alive while so many of his fellow North Koreans have starved to death tells him he had better get out to pick grass if his family is to survive.

Soon the streets of his city, Chongjin, will be swarming with others doing the same. Some cook the grass to eat. The teacher feeds it to the rabbits his family sells at the market.

At 10 a.m., he eats a modest meal of corn porridge. A late breakfast is best as it allows him and his wife to skip lunch. Then he goes with a hand cart to collect firewood. He has to walk two hours from Chongjin, mostly uphill, to find a patch that has not been stripped bare of vegetation.

"There is no time for rest. If you stand still, you will not survive," said the teacher, a lean, soft-spoken man with salt-and-pepper hair who could be described as elegant if not for his threadbare trousers and his fingernails, as gnarled as oyster shells from chronic malnutrition.

Later, if it is one of the rare evenings when there is electricity, he might indulge in reading Tolstoy. More often than not, he collapses for a few hours of sleep before the routine is replayed for yet another day.

Such is the quest for survival in North Korea, an impoverished country that is the most closed in the world.

Although North Korea's pursuit of nuclear weapons has captured the world's attention, outsiders know relatively little about its people or the miseries they have endured since a famine in the mid-1990s wiped out an estimated 2 million people. In the rare instances in which foreigners are admitted to the totalitarian country, it is on strictly escorted tours of the capital, Pyongyang, and a few other carefully selected sites.

To penetrate the secrecy, the Los Angeles Times spoke at length in China and South Korea with more than 30 people from Chongjin, North Korea's third-largest city. Their stories from the streets, homes and workplaces present a portrait of the city and of daily life in a nation struggling with deprivation and change.

Most of the factories in Chongjin, a former industrial port, are rusting into ruin. Those still operating can barely pay salaries; the average worker's wage amounts to $1 per month at current exchange rates.

Even with international aid, many people go to bed wondering whether they will eat the next day. Residents, along with officials of the United Nations World Food Program, say food shortages have grown worse again in the last year.

U.S.: Photo Not Of Iran Chief (LAT)

By Greg Miller

The Los Angeles Times, July 2, 2005

U.S. investigators have concluded that Iranian president-elect Mahmoud Ahmadinejad is not the glowering Islamic militant seen escorting an American hostage in a 1979 photograph that was widely publicized this week, officials said Friday.

The conclusion casts doubt on what had been considered a key piece of evidence indicating that Iran's new president was among the leaders of the group of students who seized control of the U.S. Embassy in Tehran and went on to hold 52 Americans hostage for 444 days.

A U.S. official familiar with the investigation of Ahmadinejad's role said that analysts had found "serious discrepancies" between the figure in the 1979 photo and other images of the Iranian president. The discrepancies included differences in facial structure and features, the official said.

If there is a case to be made that Ahmadinejad was among the hostage takers in 1979, the official said, "it doesn't look as if it will be done on the basis of those photographs."

The official stressed that the investigation was continuing and that it was "still an open question" whether Ahmadinejad was involved in the hostage crisis. Analysis of the photos was just one of many avenues in what has become a multi-agency inquiry, said the official, who spoke on condition of anonymity.

State Department spokesman Sean McCormack said Friday that those involved in the inquiry were "searching through all the information at their disposal," and planned to interview former hostages. McCormack also said that the intelligence community was involved in the inquiry.

He did not elaborate, but other officials said the CIA was among the agencies playing a leading role.

The Bush administration launched the investigation this week after several former hostages said they recognized Ahmadinejad as one of their captors.

Those claims appeared to be bolstered by the 1979 photo, which was in the archives of Associated Press. It depicts two militants, one of whom bears a striking resemblance to Ahmadinejad, on either side of a blindfolded American.

The picture has been widely circulated on the Internet, and was carried on the front pages of major newspapers across the country, including Friday's editions of The Times.

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William J. Daugherty, a former CIA officer who was one of the hostages, said Friday that he was not positive that Ahmadinejad is the bearded man depicted in the 1979 photo, but said he remained convinced that Ahmadinejad was among the hostage takers.

Daugherty, who lives in Savannah, Ga., said he and other former hostages "did not make our identification based on that AP photo from 1979. We made it looking at the guy today."

When the Associated Press contacted him this week to show him the 1979 photo, Daugherty said that his initial reaction was that Ahmadinejad and the militant in the picture "could be the same guy."

After closer examination, he said, "I see some differences," though he noted that comparing the two was difficult because the smiling politician exhibits a very different demeanor from the young militant in the picture who he said is "deliberately trying to look fierce and menacing."

Daugherty said that the blindfolded American in the photo is Jerry J. Miele, who was a communications officer at the embassy. The Iranian who resembles Ahmadinejad has not been positively identified.

The allegations about Ahmadinejad have deepened long-standing tensions between the United States and the Islamic Republic, which have not had diplomatic relations in more than a quarter-century. President Bush has declared Iran part of an "axis of evil," and administration officials have refused to rule out military intervention to prevent Iran from developing nuclear weapons.

Ahmadinejad, the former mayor of Tehran, is an Islamic hard-liner whose recent victory over better-known presidential candidates defied predictions. Officials close to Ahmadinejad, as well as some Iranians who are known to have helped orchestrate the seizure of the American Embassy in 1979, have said in recent days that Ahmadinejad was not actively involved.

White House Waiting On Iran Leader Facts (AP-Y2)

By Anne Gearan, Ap Diplomatic Writer

AP2, July 2, 2005

The White House said Friday it would not be surprised if the newly elected Iranian president turns out to have been a main participant in the holding of American hostages in Tehran a quarter century ago. But the administration said it was still trying to determine the facts.

Five former U.S. hostages who saw Iranian president-elect Mahmoud Ahmadinejad in photos or on television said they believe he was among the hostage-takers. One said he was interrogated by Ahmadinejad.

"I don't think it should be surprising to anyone if it turns out to be true," presidential spokesman Scott McClellan said. "This is a regime run by an unelected few that only allowed its handpicked candidates to run in an election that was well short of free and fair."

U.S. officials have found serious discrepancies in photographs of one hostage-taker that have gotten attention in recent days and those of Ahmadinejad, said one official, who spoke on condition of anonymity because reviews are still under way. But, the official added, other information still must be assessed.

The administration has acknowledged that it has followed Ahmadinejad's career in Iranian politics, so it was unclear why the United States could not say if he were a hostage-taker or whether the issue had been explored before. "Given the nature of the regime and his own past, I don't think it should be surprising," McClellan said.

In Tehran on Friday, a reporter for The New York Times asked Ahmadinejad if he was one of the hostage-takers.

"It is not true," Ahmadinejad said. "It is only rumors."

If Ahmadinejad turns out to have been a participant, he wouldn't be the first top Iranian official with a role in the 1979 crisis.

The current Iranian vice president and head of the Environment Department, Massoumeh Ebtekar, was the chief interpreter and spokeswoman for the radical students who took over the U.S. Embassy and held 52 Americans hostage for 444 days.

Dubbed "Sister Mary" by the American press because her heavy head scarf resembled a nun's habit, Ebtekar gave almost nightly interviews during the standoff, denouncing the hostages as spies and accusing the United States of committing crimes.

Some of the former students have said Ahmadinejad opposed the takeover and played no role in it, even though he was a member of the hard-line Islamic student group that seized the embassy.

Ebtekar, who is also one of Iran's six vice presidents, has been the highest-ranking woman in the moderate-leaning government of President Mohammad Khatami.

She acknowledged her part in the U.S. Embassy takeover in remarks to reporters in 1998.

"The generation that is in executive and policy-making jobs is a revolutionary generation that played an active role in every stage of the revolution," Ebtekar said then.

A report in The New York Times that year had detailed her involvement, which was not listed on Ebtekar's biography.

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She was an 18-year-old freshman at Polytechnic University in Tehran when she became the public voice of the student takeover. She spoke English better than others in the student group because she had lived in suburban Philadelphia as a child and had attended American schools.

She once told an ABC News reporter that she could imagine being provoked into killing the hostages.

"Yes," she said. "When I've seen an American gun being lifted up and killing my brothers and sisters in the streets, of course."

In the turbulent early days of Iran's Islamic Revolution, Ahmadinejad was more concerned with putting down leftists and communists at universities than striking at Americans, former students said. During the long standoff, he was writing and speaking against leftist students, they said.

National security adviser Stephen Hadley said Thursday that the United States has followed his career. "Obviously, one of the things you do when you get a report like this is look back and see what you have in the files and that's the process that's going on now," he said.

Hadley said the White House was looking into the photographs and had not reached any conclusions. "They are allegations at the present time," he said. "We need to get the facts."

Hadley stressed that the United States would have to deal with Ahmadinejad, even if the administration did not approve of the way he was elected. President Bush denounced the election, saying it was designed to maintain power in the hands of an unelected few who denied ballot access to more than 1,000 people who wanted to run.

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On the Net:

State Department: http://www.state.gov

Iranian Leader Denies He Was Among Radicals At Embassy (NYT)

By Michael Slackman

The New York Times, July 2, 2005

A shiny black Peugeot rolled to a stop, and there he was, Mahmoud Ahmadinejad, the president-elect of Iran, smiling through an open window, ready to greet a few of the people who have been coming to his street as a sort of pilgrimage since he won.

The security men tried to keep a cordon around the car, but the president-elect gave his casual smile, and told them to let the people through. He also let this reporter and an interpreter approach.

When asked the question preoccupying many Americans about him just now - Had he been among the students who sacked the United States Embassy in 1979 and held American hostages for 444 days? - his driver started to pull out, but Mr. Ahmadinejad stopped him and said he would answer.

"It is not true," he said. "It is only rumors."

The security men began to push again, and three women draped in flowing black chadors made their way up to the car.

One woman handed Mr. Ahmadinejad a blank piece of paper on which he wrote: "Stick to your Islamic values. God will help you."

And with that, he closed the window and was driven off.

Since the election a week ago, it has been nearly impossible to get a feel for Mahmoud Ahmadinejad, to take the measure of the man. He has refused all interviews, though he did hold one hourlong news conference. His spokesman has insisted that he was not among the students at the embassy.

He is generally described as an ultra-conservative. He has been a member of the Basij militia, which is made up of young bearded men who ride through the streets on motorcycles enforcing strict codes of behavior and dress, often brutally. He was also a member of the Revolutionary Guard during the war with Iraq. And of course he has recently been accused of being one of the student leaders who stormed the American Embassy in Tehran on Nov. 4, 1979, keeping 52 hostages.

Yet friends, supporters and neighbors here describe the diminutive, bearded man as humble and caring. Mr. Ahmadinejad has a small circle of aides, one that appears a bit overwhelmed by all the demands and preparations ahead. Nasser Hadian-Jazy, a political science professor at Tehran University, said that he had known the president-elect since childhood and that Mr. Ahmadinejad was not involved with the student hostage takers. He said they grew up together in East Tehran, and Mr. Hadian-Jazy described his old classmate as among the brightest in the neighborhood.

He called Mr. Ahmadinejad "self-confident, committed and absolutely incorruptible." He said he is very religious, but modern in his thinking. If there is a negative quality, Mr. Hadian-Jazy said, it is that he is very set in his views, and can be hard to persuade otherwise.

"If you can force him to sit down and listen, he has the capability to understand," the professor said.

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While Mr. Ahmadinejad maintained a humble life style as the appointed mayor of Tehran, that is likely to change, if for no other reason than security. He lives at the end of a dead-end street, more of an alley that runs alongside a school. The alley opens onto a circle, with a small park in the middle with benches and a field of grass that now attracts those who come to ask favors of the president-elect, and serves as a spot for neighbors to socialize. These days, cars packed with sightseers drive around the circle, stopping to look down the alley, a far cry from the palatial and off-limit homes of other Iranian leaders.

On Friday, the day of prayer and rest in most Muslim countries, some of Mr. Ahmadinejad's neighbors sat on a bench, talking about their favorite son. It is almost a rule that when someone is asked about Mr. Ahmadinejad, the first thing said is that he is a modest person who has never lost touch with his roots. Security is very tight in the neighborhood, and with soldiers and plainclothes agents around, the neighbors were afraid to give their names.

One older man, who said he had lived in the neighborhood for 15 years, said that every year for the Iranian New Year, Mr. Ahmadinejad invited the neighbors over for a celebration. He is described as a devout man who lives in a three-bedroom house with two sons and a daughter. His family has little furniture, they said, and has machine-made carpets, not the more expensive hand-woven ones commonly owned by the better-off.

One son is finishing high school, and the two other children are studying in the university, the neighbors said.

Since he became mayor of Tehran, the city has had a driver pick Mr. Ahmadinejad up for work every day. But on his days off, neighbors said, he still drives the same 1977 Peugeot, without air-conditioning, that is parked in the alleyway beside the house.

People are quick to offer stories about Mr. Ahmadinejad, almost as if he was a religious figure. They say, for example, that he always brought his own lunch to work because he did not want the city to have to pay for his meals.

At the municipal building, Ahmad Esmali's job is to deliver tea to the offices. "This mayor was better than the others," he said recently. "He saw managers and workers with one eye."

In the park on Friday, one neighbor said the mayor had given money to the local butcher, at a shop called Zand, so the butcher could give poor and needy people meat at a discount. Two young men working in the butcher shop said they believed it was true.

It is a common practice in many Middle Eastern cultures for leaders to have audiences with citizens seeking help, or to accept their petitions for assistance. Mr. Ahmadinejad appears to take that custom to heart.

A small security booth sits at the mouth of the alley leading to his house. As Mr. Ahmadinejad's car pulled out, a security agent handed the president-elect a pile of letters that had been delivered that morning, from people seeking some kind of help.

Ali Ghorbani, 29, had just driven up to deliver a letter to the guard booth when Mr. Ahmadinejad pulled up. Mr. Ghorbani wanted to ask for a loan so he and a friend could open a cultural center in Tehran. He was allowed to hand the letter directly to the president-elect. "I didn't have the faintest idea I would see him," Mr. Ghorbani said as he walked away. "He took the letter and told me I would have a reply in two weeks."

Legacy Of Embassy Seizure Fades (WT)

By Ali Akbar Dareini

The Washington Times, July 2, 2005

For Iranians, fervor over the 1979 U.S. Embassy takeover -- a central event in their stormy Islamic Revolution -- has faded. If the country's new president participated, he would be one of many former hostage-takers who entered politics.

Many of the organizers of the embassy seizure are now leading advocates of democratic reform and closer ties with the United States.

In fact, the election of hard-liner Mahmoud Ahmadinejad marks the end of an era in which former hostage-takers held key positions in the government and parliament. Most of them have already lost their posts in the backlash by Iran's clerical regime or will leave with the outgoing pro-reform president.

The official Iranian media outlets were silent yesterday about U.S. demands that the new president explain his role in the embassy seizure. Six former hostages, after seeing Mr. Ahmadinejad in photos or on television, said they believe he was among the hostage-takers.

Mr. Ahmadinejad's aides have denied he had a role.

The students who carried out the embassy takeover said Mr. Ahmadinejad didn't participate in the taking or holding of 52 American hostages for 444 days.

If he had been involved, Mr. Ahmadinejad likely would have played it up in his presidential campaign to increase his appeal to hard-liners, the only ones who might still be impressed, said Abbas Abdi, one of the student leaders.

"If he had played any sort of role in any part of it, he would have used that 1,000 times in the past 25 years to take advantage of it," Mr. Abdi said yesterday.

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While a traumatic event for Americans, the embassy seizure and the revolution that surrounded it were, for Iranians, similar to the 1960s in the U.S. and Europe: a turbulent period that forged today's leaders.

And, like many post-baby boomers in the United States sick of hearing about the 1960s, many young Iranians have little interest in the capture of the "den of spies," as the revolutionaries called the U.S. Embassy.

"I was a little kid when the embassy seizure happened," said Reza Hosseinpour, a Tehran shopkeeper in his late 20s. "I don't want to hear about it anymore. It's part of the past history. There has been enough hostility between Iran and America."

In past years, the annual celebrations to mark the Nov. 4, 1979 seizure of the embassy have attracted crowds only in the hundreds -- many of them children bused in for the event.

The students who carried out the takeover were vehement supporters of Ayatollah Ruhollah Khomeini, the Shi'ite theologian who became Iran's supreme leader and imposed an Islamic government. The students seized the embassy to protest the U.S. refusal to hand over Shah Mohammad Reza Pahlavi, the Iranian leader who had been ousted from power that year.

Over the past decade, many of the students formed the core of the Iranian reform movement that sought the loosening of the theocracy's hold on power and contacts with the United States.

Many, like Mr. Abdi, are members of the Islamic Iran Participation Front, the largest reformist party, which helped bring outgoing pro-reform President Mohammad Khatami to power in 1997.

Mr. Khatami's brother, Mohammad Reza Khatami, was also a hostage-taker but now leads the party and was vice speaker of parliament after his brother took office.

Mr. Abdi was jailed in November 2002 after conducting a poll showing strong public support for dialogue with the United States. He was sentenced to eight years in prison but freed in May after the Supreme Court overturned his conviction.

At least two former hostage-takers will be leaving office with Mr. Khatami's government: Energy Minister Habibollah Bitaraf and Vice President Masumeh Ebtekar, the highest woman in the Iranian leadership.

Miss Ebtekar was the 19-year-old spokeswoman for the students who seized the embassy.

Known sarcastically among the American captives as "Sister Mary," she learned English as a child in Philadelphia and became a fixture on American television. On an almost nightly basis, she vigorously defended the embassy takeover and the Iranian Revolution.

For Former Tehran Hostages, A Tangle Of Anger At Both Captors And The U.S. (NYT)

By Felicity Barringer And Joel Brinkley

The New York Times, July 2, 2005

For Thomas Schaefer, being held hostage in Iran for 444 days was a transformative experience but largely a solitary one. It was rare for him, a former Air Force attaché, to see any of his fellow hostages during captivity, and he saw few afterward.

These days, he said in an interview on Friday, "there are still about four or five guys I keep in touch with," but "we're scattered around the world." Large gatherings or other occasions are rare for the surviving 41 hostages, who were taken captive by Iranian militants in November 1979.

This week, however, was one of those occasions, prompted by the election of Mahmoud Ahmadinejad, a student radical at the time of the embassy takeover, as the new president of Iran.

Five of the former hostages, seeing photographs of Mr. Ahmadinejad, said they remembered him as a virulently anti-American figure during the takeover who supervised other militants and urged them to be tougher on captives. The president-elect and former leaders of the hostage takers have denied that he was among the militants.

The memories evoked by that debate have stirred other feelings, too - including the betrayal felt by some when their lawsuit against Iran's government was blocked by the State and Justice Departments, which argued that compensation would violate the 1981 treaty that was the basis for the hostages' release.

Some of the men who stepped forward this week have incorporated badges of their ordeal into their everyday lives - for instance, by building e-mail addresses around the number "444." Most of them have also been in the forefront of a series of unsuccessful class-action lawsuits seeking monetary compensation for their ordeal. They remain in close e-mail contact.

Other former captives still work in the diplomatic world, some of them employed by the State Department. They have been more aloof from the disputes over the past, though they are among the 130 people - former hostages, spouses and children - who could benefit.

But in public, when controversies like this week's arise, they say nothing against their fellows. Those former hostages who, in interviews, could not corroborate the memories of the five who identified Mr. Ahmadinejad - Charles Scott, Donald Sharer, William J. Daugherty, Kevin J. Hermening and David M. Roeder - pointedly did not contradict them.

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For example, Richard H. Morefield, the American consul general at the embassy when it was seized, said in a telephone interview from his home in Springfield, Va., that "it's not surprising that I don't recognize" the new president as a onetime militant. "I was not one of those on which they spent a lot of time."

The publicity about the election energized small, informal networks of former captives. Steven Kirtley, 46, an information systems consultant for a small Washington, D.C., company who was a Marine guard at the embassy, received an e-mail note from another former hostage, Paul Lewis, on Monday or early Tuesday, with a link to a Web site that showed the new president's photograph.

The face looked familiar, he said in an interview, but he could not be sure. "I can't pin him down to a specific time or place as one of the hostage takers," he said.

Another thing that unites the hostages is their refusal to speak for one another. Most were newcomers to the embassy before the takeover; most were held alone or in very small groups. All of the 50 men and 2 women who emerged incorporated the ordeal into their lives differently. Some bonded with one another; many did not.

The ordeal was defining for Mr. Schaefer, the former Air Force attaché, who lives in Phoenix. He said he was deeply offended when the State Department stepped in to block the former captives' successful federal lawsuit against Iran in 2001, just as the judge was about to award damages, which would have been paid out of the Iranian government money in American banks that was frozen in 1979.

The State Department has said it was unaware of the lawsuit until a legal officer stumbled upon it just before its scheduled conclusion. Hastily, the department argued that the suit conflicted with the agreement the government made with Iran in 1981 and that neither the courts nor Congress had the right to abrogate international treaties.

In what was known as the Algiers accord, the United States agreed to preclude the prosecution of any claim against Iran arising out of the hostages' seizure and detention.

Several acts of Congress in later years appeared to open the door to lawsuits against Iran despite the agreement. A group of hostages filed a class-action suit in 2000. Then, in 2001, shortly after President Bush took office, the State Department and the Justice Department intervened.

This week, Sean McCormack, the department spokesman, punctuated his comments about the hostages' allegations on Thursday with one expression of concern that caught their attention: "I do want to say one thing, and that is to underscore the fact that we have not forgotten - we have not forgotten - the fact that 51 of our diplomats were held for 444 days, that they were taken hostage."

Mr. Daugherty, a former hostage, responded Friday: "Of course they haven't forgotten. They have challenged us at three levels of the federal court system and have challenged every piece of legislation that would allow us to sue Iran or to receive compensation in some way."

Asked about that, Mr. McCormack simply referred to his statement on Thursday, adding: "I'm not going to comment. What am I going to say?"

Abbas Seeks Cabinet Post For Hamas (LAT)

By Laura King

The Los Angeles Times, July 2, 2005

Palestinian Authority President Mahmoud Abbas has made overtures to the Islamic militant group Hamas about joining his Cabinet in the near future, Palestinian officials said Friday.

Hamas has not yet said whether it is willing to accept such an invitation. However, in recent months the group has made clear its interest in mainstream electoral politics, and it intends to field candidates in parliamentary balloting this year.

That election, originally set for mid-July, is now expected sometime after Israel's withdrawal from the Gaza Strip, which is scheduled to begin in mid-August.

The idea of approaching Hamas to participate in the government prior to the voting has been raised in several recent meetings of Abbas' Fatah faction, Palestinian officials said, including talks currently underway in Amman, Jordan.

Fatah's Central Committee, which sets the movement's policy, is meeting in the Jordanian capital to accommodate exiled leaders such as Farouk Kaddoumi, a Palestine Liberation Organization hard-liner who refuses to enter the Palestinian territories because he would have to submit to Israeli border formalities.

"The spirit of this meeting involves participation of all Palestinian factions in a national unity government," said Nabil Shaath, a Palestinian deputy prime minister and the minister of information.

In Gaza, Hamas spokesman Sami abu Zuhri said the militant group would announce its position on joining the government "at a suitable time."

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Palestinian and Israeli media reports said that Hamas had previously demanded that Abbas set up a special authority to oversee the hand-over of Gaza that would include the militant group but that the Palestinian leader had refused. Israeli plans call for evacuating all 21 Jewish settlements in Gaza and four smaller ones in the northern West Bank.

At the Amman talks, Fatah officials reportedly are also weighing candidates, including Kaddoumi, for deputy to Abbas. The Palestinian president endorsed the idea of having a deputy after undergoing a coronary procedure last month in the Jordanian capital.

Hamas, which has scored strongly in municipal elections in the West Bank and Gaza, is expected to do well in parliamentary balloting. Last week, respected Palestinian pollster Khalil Shikaki told reporters that the latest numbers indicated the group could easily win a third of the seats on the Palestinian Legislative Council.

Both Hamas and Fatah officials in the Gaza Strip said Hamas might be willing to accept a Cabinet position or positions before the pullout to help ensure that the hand-over of Gaza, where the group has great influence, goes smoothly.

Hamas has a large and loyal following in Gaza, particularly among the seaside enclave's poorer residents. The group's popularity stems largely from the social services it provides and from its image of incorruptibility, which contrasts sharply with the graft-ridden history of the Palestinian Authority.

Israel and the Palestinian Authority have been locked in dispute about how Abbas ought to deal with Hamas. The group's military wing carried out dozens of suicide bombings during more than four years of fighting, and it has never abandoned an ideology that calls for the destruction of Israel.

Until now, Hamas has declined to take part in the Palestinian government, citing objections in principle to the interim peace accords that brought the Palestinian Authority into being more than a decade ago.

Hamas, together with other armed factions, agreed in March to observe a period of calm until the end of the year, refraining from attacks against Israelis. Its militants have violated that informal accord by firing mortar shells and rockets at Jewish settlements and Israeli communities, but only Islamic Jihad has mounted major attacks during the ad hoc truce.

On the Israeli side, polls Friday suggested that Prime Minister Ariel Sharon was again rallying public support for his Gaza pullout plan. Previous surveys had shown backing for the withdrawal slipping below 50%.

However, this week's violent actions by extremists opposed to the pullout, including a widely publicized incident in which settler youths beat a Palestinian in front of news photographers, apparently have swayed opinion against the settlers.

A survey published in Friday's editions of the daily newspaper Yediot Aharonot indicated that support for Sharon's plan had climbed to 62%.

A poll in the Maariv newspaper said 54% backed the withdrawal.

Germany's Parliament Votes Out Coalition (WP)

By Craig Whitlock

The Washington Post, July 2, 2005

A grim and tired-looking Chancellor Gerhard Schroeder pleaded Friday with the German Parliament to dissolve his government, arguing that his ruling coalition had lost the ability to fix the German economy, the largest in Europe but hobbled by years of stagnation and joblessness.

After a two-hour debate, lawmakers approved Schroeder's request to disband and hold national elections in September. If the president and Supreme Court sign off on the plan -- and that is not at all certain -- the elections would take place a year earlier than necessary; opinion polls predict that Schroeder and his coalition will lose.

The next chancellor would likely be Angela Merkel, leader of the opposition Christian Democrats. She would be the first woman to hold the office, and the first person from the former communist East to lead the reunified Germany.

The sense of defeatism that lingered in the Reichstag building in the capital reflected the political mood across Germany, where a majority of voters say they lack confidence in any of their leaders to address a host of pressing social and economic issues. These include the highest unemployment rate since World War II and a failure to erase cultural and income gaps between eastern Germany and the wealthier west.

Schroeder won reelection three years ago, in large part by vociferously opposing U.S. policy toward Iraq. Like President Jacques Chirac of France, he has seen his popularity plummet at home because of economic concerns and anti-globalization sentiment, as well as anxiety over immigration and his country's role in the expanded European Union.

In an address to lawmakers, Schroeder said his ruling coalition of Social Democrats and Greens was hopelessly divided over his policies to rejuvenate the economy with a mixture of spending cuts and hiring incentives. "Without a new mandate, my political program cannot be carried forward," Schroeder said.

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The unusual maneuver of seeking a vote of no confidence on his own rule grew from provisions in the German constitution that make it difficult to dissolve a government. These measures were drafted after World War II in an effort to avoid the political instability that helped the Nazis rise to power.

But Parliament's no-confidence vote must be upheld by President Horst Koehler, who has indicated that he will not rubber-stamp the move.

Koehler has three weeks to make his decision. He has said he will take into account arguments from some legal scholars and members of Schroeder's coalition that it is unconstitutional for a ruling party to disband a government unless there is a genuine political crisis that prevents it from operating.

Opponents of Friday's vote have already served notice that they will file a challenge with the German Supreme Court.

Otto Depenheuer, a law professor at the University of Cologne, said Schroeder carefully crafted his call for a no-confidence vote by stressing that rebels in the governing coalition were making it impossible for him to continue effectively, rather than blaming the opposition.

"He clearly stated that he was lacking support from his own party," Depenheuer said. "This is a clear sign for the federal president that the chancellor is no longer in a position to carry out his politics. "

Lawmakers in the lower house of Parliament voted 296 to 151 against the government, with 148 abstentions. Nearly all the abstentions came from Schroeder's coalition.

Opinion polls show the opposition Christian Democrats far ahead of Schroeder's party. In May, the Christian Democrats won a regional election in the populous state of North Rhine-Westphalia, an industrial region that had strongly favored the Social Democrats for 40 years.

Merkel, the Christian Democratic leader, told members of Parliament that early elections were necessary. "The people are fed up with being governed by a zigzag course," she said.

In remarks aimed directly at Schroeder, she reminded the chancellor of a campaign promise he made in 1998 to add jobs. "You said it yourself, 'If we do not lower unemployment significantly, we do not deserve to be reelected,' " Merkel said. "Mr. Chancellor, you cannot argue that the figure of almost 5 million unemployed people is not almost exactly the opposite of what you anticipated."

While Schroeder's reelection chances look bleak, political analysts said he concluded that an early election was his only chance. By looking resolute and boldly admitting that he needs a popular mandate to administer unpleasant reforms, he hopes to win back voters who had soured on his party, they said.

Others suggested that Schroeder was resigned to losing. Klaus von Beyme, a political science professor at the University of Heidelberg, said the chancellor would rather be remembered as someone who stepped down early for the good of the country than a weak leader who dragged out his term in office.

"If he is now going to lose, which I think he will, he will go down in history as the man who acted like a hero and took the country on the right road," von Beyme said. "He has very much calculated what posterity will think of him. I don't think he will necessarily be sad if he loses. There's a certain tiredness of governing."

Schröder Loses Confidence Vote; Early Election Is Likely (NYT)

By Mark Landler

The New York Times, July 2, 2005

Chancellor Gerhard Schröder cleared a crucial hurdle in his quest to hold an early election in Germany this fall, deliberately losing a confidence vote in Parliament on Friday.

Mr. Schröder, gambling that a quick election is the only way to break Germany's political stalemate and rescue his own faded fortunes, watched somberly from his seat as lawmakers heeded his call to vote against the coalition that has governed Germany since 1998.

The carefully orchestrated defeat allowed him to petition the German president to dissolve Parliament, which would set the stage for elections in September, a year earlier than scheduled.

"Without a new mandate, it is impossible to continue with my policies," he said before the vote. "If we want to continue with the reforms, and we must, we need to seek a new mandate through elections."

With polls showing the chancellor's Social Democrats trailing the conservative opposition by nearly 20 percentage points, Mr. Schröder is already viewed by many here as a lame duck. The no-confidence vote added to the sense of a country on the cusp of a political change.

Angela Merkel, the conservative leader who is set to face Mr. Schröder in the election, supported his call for an early election. "This country needs cohesive politics," she said, delivering a feisty attack on the chancellor's record. "It is not enough to say we'll carry on as before."

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Mr. Schröder's win-by-losing strategy still faces two potential roadblocks. The German president, Horst Köhler, still must decide whether to dissolve Parliament. He has 21 days to make up his mind and his judgment must pass muster with the federal constitutional court.

Typically, German presidents accede to these requests. This case, though, could be different.

Legal scholars say Mr. Schröder's success in engineering the vote undermines his contention that he can no longer govern effectively - a claim he must prove to meet the constitutional test for dissolving Parliament. At least one legislator, Werner Schulz of the Green Party, said he planned to challenge the vote in court, calling it an "an absurdity."

Germany's Constitution makes it difficult to dissolve Parliament, largely to avoid the kind of instability that plagued the Weimar Republic from 1919 to 1933. There has been one prior confidence vote - called by Helmut Kohl in 1982 - in which the chancellor conspired to lose.

"My opinion, which is shared by most constitutional scholars, is that the president is not in a position to dissolve the Parliament," said Dieter Grimm, a former judge on the constitutional court.

Mr. Köhler, who assumed the largely ceremonial post of president in 2004 after being head of the International Monetary Fund, called the issues "complex," and said he would not be rushed into a decision.

There is little dispute that Mr. Schröder has lost much of his political credibility in the last year. He first called for elections to be moved up in May, after the Social Democrats were dealt a humiliating defeat in a state election in North Rhine-Westphalia, a traditional stronghold.

It was the latest in a string of defeats, and it underscored the depth of hostility that many Germans feel for Mr. Schröder's campaign to overhaul the country's sclerotic economy. Most notably, he has cut back benefits aimed at forcing long-term unemployed people back into the job market.

That provoked howls of protest and has not yet yielded tangible economic benefits. The number of people out of work still hovers around five million, and economic growth in Germany has trailed that of most of its neighbors, earning it the sobriquet "sick man of Europe."

The defeats have opened fissures in the Social Democratic Party, with left-wing factions calling for the chancellor to shelve his reform plans. The party's chairman, Franz Müntefering, started a populist campaign against foreign investors, describing them as "locusts."

"Schröder knows he can't pursue his reform politics without a majority behind him," said Jürgen Falter, a professor of political science at the University of Mainz. "He is a street fighter, so he thought, 'It's better to go into the last battle, than to give up and flee.' "

Mr. Schröder is a resilient campaigner, who fought back from a weak position to win re-election in 2002, in part by refusing to commit German troops to the American-led war in Iraq.

The battle lines for the campaign were already being drawn under the glass dome of the Reichstag on Friday. While Mr. Schröder sought to portray his government as a spent force, his coalition allies, like Foreign Minister Joschka Fischer, lined up to poke holes in the opposition.

"You strike me as a magnificent-looking soufflé in the oven," Mr. Fischer said to Mrs. Merkel. "We'll see in the final three weeks, when the voters prick it, what's really left of this splendor. I can't wait."

Mr. Müntefering, the Social Democratic chairman, went a step further, declaring that the chancellor still enjoys the support of a majority in Parliament - a claim that seemed ill timed on the day that Mr. Schröder was trying to arrange the dismantling of his government.

Although Mr. Schröder did lose by a comfortable margin - 296 to 151, with 148 abstentions - political analysts were surprised that 105 members of Mr. Schröder's party voted in favor of the chancellor. They had been encouraged to abstain, as part of the plan to lose the vote.

"It's not so easy to say to your own chancellor that you don't have confidence in him," said Gernot Erler, a Social Democrat. "But we all have the same purpose, which is to open the path for an election."

Lawmakers lingered after the vote to assess a topsy-turvy day in German politics. Mr. Fischer likened it to the budget standoff between President Bill Clinton and Newt Gingrich that shut down the government in 1995. But he disputed the suggestion that the vote was staged.

"This was not theater," he said. "This was serious."

Schroeder Orchestrates His Exit As His Party Flounders (LAT)

By Christian Retzlaff

The Los Angeles Times, July 2, 2005

DOJ_NMG_0000790

Facing high unemployment and an inability to reform the welfare state, German Chancellor Gerhard Schroeder deliberately lost a confidence vote in Parliament on Friday, opening the way for early elections that are expected to push his liberal coalition from power.

Schroeder called for the vote after a series of political defeats and widening divisions within his Social Democratic Party over how to reform one of Europe's most generous welfare systems. President Horst Kohler is expected to dissolve Parliament in the coming weeks, and new elections are likely by mid-September, a year before Schroeder's term was to expire.

With an 18% approval rating, Schroeder's party has been viewed by most Germans as unable to stem high unemployment and enact social and economic programs to improve the nation's global competitiveness.

The conservative Christian Democrat Union, led by Angela Merkel, is well-positioned to win in new elections, according to recent polls.

Schroeder acknowledged his party's failures when he addressed the lower house of Parliament moments before the vote: "The reform program, known as Agenda 2010, has led to disputes between the parties and within the parties. My party, I can't deny it, has suffered most from the disputes."

Only 151 of 601 members of the lower house voted for Schroeder on Friday. The defeat was largely orchestrated by the chancellor, who asked his own party members and supporters to cast ballots of no confidence.

Analysts called it an indication that Schroeder believed his party and its allies were not unified enough to weather another year of economic problems while attempting to persuade Germans to accept significant social cuts.

Schroeder's Agenda 2010 program, announced two years ago and intended to prepare Germany's welfare system for economic globalization, failed to reduce the country's unemployment rate of almost 12%, the highest since the modern republic was formed in 1949.

Schroeder's political maneuverability was further curtailed by the Christian Democrats, who, in controlling the upper house of Parliament, blocked many of the chancellor's efforts.

"The urgent problems of our country, the continuation of reforms, the crisis of the European Union, the challenge of globalization and the danger for peace, security and stability do not allow a state of paralysis," Schroeder said in his speech. "We need clarity."

Germany's Constitution does not allow Parliament to dissolve itself, but after a lost confidence vote by the lower house, the president may call for early elections. It is still not certain whether Kohler will disband Parliament, or whether legal challenges will force the Constitutional Court to rule against the balloting.

Schroeder announced his strategy six weeks ago after his party lost an important regional vote in North Rhine-Westphalia, the Social Democratic heartland.

Merkel, who would be Germany's first female chancellor, supported Schroeder's decision to hold the no-confidence vote but denied that her party had obstructed reform.

"The Agenda 2010 was a right step in the right direction," Merkel said. Pointing toward Schroeder, she continued: "You were unable to tell the voters why the changes are necessary. That's why you have lost the last [regional] elections."

Foreign Minister Joschka Fischer of Schroeder's junior coalition partner, the Greens, used the session to criticize Merkel's party. He said the Christian Democrats had failed to present an alternative program for change.

"Ms. Merkel, at the moment you and your opinion polls come across like a beautiful souffle in the oven," he said. "Let's see what's really left of this splendor when the voter has pricked into it" in the run-up to elections.

Kohler must decide within 21 days whether he agrees with Schroeder that the current government cannot continue to function. In such a case, he would call elections within an additional 60 days.

Political analysts expect that Kohler will approve the new balloting.

"A president who urges every day to hurry up will be the last one to say: Let's muddle on for another year," wrote Robert Leicht, a commentator for the weekly newspaper Die Zeit.

Bild, a major tabloid and frequent critic of Schroeder, has already bid him an ironic farewell. In its Friday issue, the paper wrote "Thank You, Chancellor" in large letters on the front page.

The Constitutional Court could still block early elections. Werner Schulz, a Greens lawmaker, announced Friday that he would file suit to keep the current Parliament in office until autumn 2006.

Several small parties announced last week that they also would file suit.

Chinese Harassed U.S. Activist (WP)

By Philip P. Pan

The Washington Post, July 2, 2005

DOJ_NMG_0000791

Chinese authorities tried last week to detain an American human rights activist at an international conference in Beijing, prompting a tense standoff that ended after state security agents interrogated the woman in front of U.S. diplomats and two European ambassadors for more than an hour.

The European Union has lodged a protest with the Chinese government over the incident, which occurred June 21 and disrupted a two-day seminar on human rights. The activist, Sharon Hom, had been invited by China to the conference organized by the E.U. and the Chinese Foreign Ministry, according to Hom and diplomats familiar with what happened.

The government's decision to allow Hom to participate in the seminar appeared at first to be a diplomatic breakthrough because she is executive director of Human Rights in China, a New York-based advocacy group that the governing Communist Party has repeatedly condemned. The Beijing government also agreed to host representatives of Amnesty International and Article 19, a London group that campaigns for freedom of speech.

But during the banquet on the last night of the conference, plainclothes agents of the Ministry of State Security stopped Hom outside her hotel room and demanded she leave with them. Even after the protests of U.S. diplomats, the E.U. ambassador to China and its ambassador for human rights, the agents insisted on questioning her, Hom said.

The episode is the latest sign that Chinese President Hu Jintao has granted the country's security services greater authority to act against perceived threats to the party's grip on power. In recent months, police have detained several mainland dissidents and activists, as well as a prominent Hong Kong journalist employed by a Singapore newspaper. Propaganda officials have also ordered a general tightening of controls on the Internet and in state media.

The incident also suggests there may be a rift within the Chinese government about how to deal with pressure from the United States and Europe for progress on human rights issues and the release of political prisoners. Hom said Chinese diplomats and other officials treated her with respect during the seminar but none came to her defense when the state security agents arrived.

"One of the lessons of this incident is that while you can engage up to a point with the more progressive elements in the government, sooner or later you have to deal with the reality of the state security apparatus and the fact it can trump the others," Hom said by phone from New York. "One way to do that is to not to be intimidated and to insist on the inclusion of civil society and independent voices in China when engaging the government."

A spokeswoman for the U.S. Embassy and another for the State Department said they were unable to immediately comment on the incident. E.U. diplomats in Beijing declined to comment, and the Chinese Foreign Ministry also did not respond to questions.

Hom said she waited until Friday to go public because the E.U. filed strong protests with the Chinese and she wanted time to analyze the situation carefully.

She said the incident began when she left the banquet early and returned to her hotel room, where she found that her key card no longer worked. Suddenly, two men and a woman surrounded her, identified themselves as state security agents and said they wanted to ask her a few questions, she said.

Hom said she agreed to go downstairs with them and offered to answer their questions in the lobby. But the agents insisted she go with them to a nearby location where it would be "more convenient" to talk. They pressed her to go for nearly 20 minutes, and their demands grew more threatening, Hom said.

One of eight agents in the lobby grabbed her arm when she began walking away, Hom said, but she made it back to the banquet and requested help from European diplomats there.

After a stalemate that lasted two hours, the agents eventually agreed to interrogate Hom in the presence of the U.S. deputy chief of mission and the two European ambassadors, she said. For more than an hour, she answered questions about her identity, her participation in the seminar, her activities in Beijing and her opinion of the changes in China over the past two decades.

Hom, who was born in Hong Kong, said one of the agents argued that though she is an American citizen, she is also "still Chinese." He then implied that she therefore could participate only in organizations approved under Chinese law, she said.

The interrogation ended shortly before midnight, Hom said, after she complained she was tired.

Hom said she was unsure why the agents targeted her. She said she did not meet with any Chinese outside the seminar. She also said she had visited China twice before while in her current job without a problem, as a tourist and a visiting law professor.

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USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Tuesday, July 5, 2005 8:05 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing 7/3/05
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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: SUNDAY, JULY 3, 2005 7:45 AM EST

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TERRORISM NEWS:

US-French Anti-Terrorism Cooperation Is Often Hid From Public View. NBC Nightly News (7/2, story 4, 3:00, Seigenthaler) reported, "Washington Post reporter and NBC news analyst Dana Priest is investigating worldwide terrorism. One facet she's uncovered in the current global battle is the extraordinary behind-the-scenes cooperation between the United States and France." Priest noted, "While some Americans protested by insisting oh freedom fries, diplomats say the French are among their most effective in tracking terrorists and have put 200 of its special forces under U.S. Command in Afghanistan." According to NBC, "Shortly after 9/11, the C.I.A. and French security services set up a counterterrorism clearinghouse somewhere in Paris. Its operations and its very existence remain a closely guarded secret even today. This is the senior French terrorism judge who's ordered the arrest of more than 500 suspected terrorists, inclusion six French citizens released from Guantanamo."

Adding more details to the report on US-French counterterrorism cooperation, the Washington Post (7/3, A1, Priest) in a front page story reports, "Funded largely by the CIA's Counterterrorist Center, Alliance Base analyzes the transnational movement of terrorist suspects and develops operations to catch or spy on them." The Post continues, "Alliance Base demonstrates how most counterterrorism operations actually take place: through secretive alliances between the CIA and other countries' intelligence services. This is not the work of large army formations, or even small special forces teams, but of handfuls of U.S. intelligence case officers working with handfuls of foreign operatives, often in tentative arrangements." Their efforts have been "responsible for identifying, tracking and capturing or killing the vast majority of committed jihadists who have been targeted outside Iraq and Afghanistan since the Sept. 11, 2001, attacks, according to terrorism experts."

DHS Official Seeks To Increase International Counterterrorism Cooperation. The Washington Times (7/3, Taylor) reports DHS director of international affairs Cresencio Arcos "says the United States must do more to spark action among its foreign allies in fighting the global war on terrorism in their own countries." He said, "We need to be more creative in how we engage our allies in the war on terror." The US "has made great progress working with Britain, Canada and Mexico -- the latter two making up about 60 percent of joint-U.S. homeland security efforts -- said Mr. Arcos." But DHS sources "say they are 'circumspect' about forming joint working groups with governments outside those three nations. 'We can't possibly have them with every country in the world,' one official said, on the condition of anonymity."

Subject Of CIA Italy Rendition Being Held In Egypt. The Houston Chronicle (7/3) reports, "Osama Moustafa Hassan Nasr, the man at the center of an international controversy over an alleged CIA abduction, is being held in Damanhour prison outside Alexandria though he has not been accused of a crime, according to his lawyer, Muntassir al-Zayyat, a Cairo attorney who defends many Islamists." In contrast to the public uproar in Italy, "in Egypt, where such renditions of wanted fugitives are relatively common, the dramatic seizure of Abu Omar in Milan drew little attention."

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Columnist Questions Value Of Rendition Policy. Jim Hoagland in his column in the Washington Post (7/3, B7) writes, "America's spy agencies need more money, a sleeker bureaucratic structure, fluent Arabic speakers and a host of other reforms and gimmicks to protect the United States and its allies from harm. Add one more urgent need: a sense of proportion." In substance and style, the exposure of the 'extraordinary rendition' -- Bush-era legalese for kidnapping -- of a radical Egyptian cleric off a Milan street in 2003 reveals a crushing inability by higher-ups here to ask and answer sensibly this question: Is this covert act really worth the likely consequences?"

More Commentary. The Washington Post (7/3, B6) editorializes, "The practice of rendition began before the Bush administration, and in some cases it is a necessary tool in the fight against terrorism. … But renditions should be rare, and they should have clear rules and oversight. No terrorist suspect should be turned over to a government likely to use torture -- and Egypt, among other Middle Eastern countries, is a well-documented abuser. The CIA should not use illegal means to capture suspects in democratic countries with a strong rule of law, especially if they are allies of the United States. It may make it quicker or easier to get one extremist sheik off the street, but as the Italian case shows, the damage caused by such highhandedness is too great."

Suspected Terrorist Obtained US Visa Easily. The Los Angeles Times (7/3, Tempest) reports, "As Shabbir Ahmed sits in the county jail on immigration charges connected to an FBI terrorism investigation, federal officials are at a loss to explain how a man who publicly demonstrated his rage against the United States and advocated violence against the U.S.-backed regime in Pakistan could slip so easily through the State Department visa system." Despite media reports about his demonstrations against the US, in J2002 Ahmed "walked into the consular section of the heavily fortified U.S. Embassy compound, where he was granted an uncontested three-year 'religious worker' visa to the United States."

PATRIOT ACT:

New Jersey County Urges Patriot Act Revisions. The East Brunswick (NJ) Home News Tribune (7/3, Loyer) reports, "The Middlesex County (NJ) Human Relations Commission is joining the growing list of communities and legislators from around the country taking a stance against the USA Patriot Act." The Tribune continues, "The commission will issue a formal resolution to lawmakers, municipal governments and local organizations on Tuesday urging them to petition the executive level of the federal government to rescind or modify any law or executive order that diminishes protected civil rights. … 'We definitely want to protect our country, our neighbors and our homes, but there are potential dangers in such acts as the Patriot Act,' said commission Chairman Bruce S. Morgan. 'We take exception to any act or order that erodes the rights guaranteed by the United States Constitution and Bill of Rights.'" The Tribune adds, "According to the resolution, the act and several federal executive orders go beyond legitimate measures of protection against terrorism and lead to infringe on such rights as freedom of speech, religion, assembly and privacy, the right to counsel and due process in judicial proceedings, protection from unreasonable searches and seizure and equal protection under the law. … Morgan said he believes the act was passed by lawmakers because 'they were given so little time to review it and a lot of things may have been missed. We're hoping to get it tailored so it does not erode the rights guaranteed by the Constitution,' he said. … The Highland Park Borough Council passed a similar resolution in February 2004. The New Brunswick City Council adopted a similar resolution in May."

More Patriot Act Commentary. In a letter to the editor of the Lansing (MI) State Journal (7/3), Hagen W. Frank, an assistant U.S. attorney in Grand Rapids, writes, "On June 10 and 17, the LSJ ran editorials strongly criticizing the USA Patriot Act. While the articles demonstrated the LSJ's commitment to privacy rights in the face of purported infringements by the Patriot Act, they also demonstrated the editors' unfamiliarity with the constitutional and statutory law that governs federal law enforcement and intelligence investigations. … Both articles focused primarily on section 215 of the act, which expanded the types of materials that may be ordered produced by the Foreign Intelligence Surveillance Court (the 'FISA Court') in domestic intelligence investigations of foreign powers or international terrorism." Frank continues, "Described by critics as a provision that allows the FBI to go on fishing expeditions of citizens' reading habits - as if the FBI were looking for 'busy work' - the provision in fact simply gave the FISA Court the same authority in intelligence and international terrorism investigations to order production of materials that a

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prosecutor can obtain by grand jury subpoena in a domestic criminal investigation. …. According to the June 17 editorial, this is bad because the FISA Court is secret and because the government already had the power to get these materials by search warrant. Secrecy, however, is essential to the kinds of investigations overseen by the FISA Court, i.e., classified intelligence investigations into the activities of foreign powers, suspected agents of foreign powers and international terrorism." Frank adds, "Similarly, the June 10 editorial complains about the Senate Intelligence Committee's endorsement of a proposal to give the FBI administrative subpoena authority in terrorism investigations. According to the LSJ, this would empower the FBI to 'investigate citizens without judicial oversight.' This complaint assumes incorrectly that every government investigative tool requires judicial oversight. … However, whether judicial pre-approval is required depends upon how intrusive something is and on constitutional, statutory and regulatory provisions that the editorial ignores. Further, administrative subpoenas have long been used by a wide variety of federal agencies. … The FBI already has such authority in health care fraud and child sexual-exploitation investigations, and the proposed measure would simply expand that authority to terrorism investigations. … Every citizen and every media organization has the right to question and criticize government. However, the LSJ also has the responsibility not to mislead the public on important issues of the day."

The Washington Times (7/3), Senator Christopher 'Kit' Bond (R-MO) writes, "As July Fourth approaches, some Americans appear to suffer from amnesia. … With dramatic headlines such as 'Ripping Pages from the Book of Civil Liberties,' 'Patriot Act Fosters Secrecy, Government Abuse' and 'Keep Big Brother at Bay,' editorial writers and columnists unfairly criticize legislation that has helped keep America safe since September 11, 2001." Bond continues, "A few weeks ago, the U.S. House of Representatives rejected a proposal to make it easier for the FBI to obtain information on suspected terrorists that could help prevent a future attack. … What is going on here? … It appears some editorial writers and members of Congress have forgotten. And they are not alone. Fewer Americans -- only 35 percent -- now fear another terrorist attack in the near future than at any time since September 11, a recent USA Today/CNN/Gallup poll found. Despite their complacency, the threat of terrorism continues. … And surely there is no more important public purpose than keeping America safe from another catastrophic terrorist attack on U.S. soil. To do so, Congress should reauthorize the Patriot Act quickly and expand it to give law enforcement more tools to go after suspected terrorists and prevent attacks." Bond concludes, "The September 11 attacks showed the failure of a number of legal and regulatory policies that kept intelligence and law enforcement communities from talking to each other and sharing information on investigations of suspected terrorists."

HOMELAND RESPONSE:

Analysts Say Overhaul Of Intelligence System Could Take 10 Years. The Baltimore Sun (7/3, Gorman) reports, "Though the White House announced its intelligence overhaul Wednesday with promises that it would make the country safer, the changes it outlined could take a decade to complete, according to longtime intelligence analysts, including a member of the presidential commission that proposed the reforms. … 'The whole process will take five to 10 years,' said Adm. William O. Studeman, a member of the commission that investigated the intelligence failures that led the administration to conclude that Iraq possessed weapons of mass destruction." The Sun continues, "Studeman characterized that time frame as an optimistic estimate - one assuming that every part of the intelligence community endorses the changes. … The White House said it embraced 70 of 74 recommendations of the commission, led by U.S. Circuit Judge Laurence Silberman and former Sen. Charles S. Robb of Virginia. The most significant reform would be creation of a domestic intelligence service within the FBI." The Sun adds, "Other changes are aimed at slowing the proliferation of weapons of mass destruction, improving the quality of human intelligence and integrating the efforts of all 15 U.S. intelligence agencies. … But the future of the reforms is in doubt, as Attorney General Alberto R. Gonzales and FBI Director Robert S. Mueller III have begun maneuvering to regain control over the design of the FBI's intelligence service, said an intelligence veteran responsible for helping the White House implement the plan. … The president set a 60-day deadline for having a detailed outline of the new domestic intelligence service. The Justice Department is arguing that the planning should begin immediately, while White House aides want to wait until the head of the service is appointed, the intelligence veteran said. … If the deadline is suspended until the White House

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appoints a chief of the domestic intelligence service, the FBI will lose considerable control over that service's shape."

Artists Express Support for New York Professor Under Federal Probe. The San Diego Union-Tribune (7/3, Pincus) reports, "Imagine this scenario: You are a well-established artist and respected university professor. You wake up one morning to find your spouse of 25 years isn't breathing. You call 911. Paramedics arrive, accompanied by police. … There are a few petri dishes in the house, because your conceptually oriented work involves scientific-style installations and issues. So, one of those workers decides you just might be a terrorist and calls the FBI." The Union-Tribune continues, "The next day, as you are on the way to the funeral home, you are detained by the FBI and the Joint Terrorist Task Force. You are held for 22 hours without having your Miranda rights read to you. Your home and even part of your block is cordoned off; your computer, books, manuscripts and anything else deemed suspicious are confiscated by workers in hazmat suits. Even your spouse's body is held for further analysis. … Sound like the outline of a compelling novel or film about governmental abuse of power? Sure. But this story isn't imaginary. It is what University of Buffalo professor Steven Kurtz, a member of the artists' collaborative called Critical Art Ensemble (CAE), experienced in May 2004 when someone who answered his 911 call decided to make a call to the FBI." The Union-Tribune adds, "This tale doesn't end there; Kurtz is now facing charges that could result in a 20-year prison sentence. … Artists across the United States and beyond have taken up Kurtz's cause, because they feel it is their cause, too. Following an earlier fundraiser in London, an auction to raise money for his defense was held at the esteemed Paula Cooper Gallery in New York in April. … While there apparently wasn't enough evidence to bring bioterrorist charges, the government is pursuing wire and mail fraud charges against Kurtz and Robert Ferrell, a former head of the Department of Genetics at the University of Pittsburgh's School of Public Health. … 'These laws (on fraud) have been on the books for more than a century. Whether it (the bacteria) is or isn't harmful isn't an element of the offense. The case centers on property acquired by fraud or misstatement,' said U.S. Assistant District Attorney William Hochul on Thursday. He's the prosecutor on the case, which is being tried in New York."

Minutemen Plan New Patrols For Fall. The Los Angeles Times (7/3, Gold) reports, "As the second act to its civilian border patrol in Arizona, the organization known as the Minutemen has pledged to launch a massive patrol of the entire U.S.-Mexico border this fall." They "are holding community meetings throughout the South and Southwest to marshal thousands of volunteers. Leaders hope to amass in October to try to block illegal immigration routes in four states." Yet, "the organization is finding that such an ambitious plan will not come together as easily as the April patrol in Arizona that covered 23 miles of the border. That is particularly true in Texas, which has 1,254 miles of the 2,000-mile border." That is because "most of the land along the border in Texas is privately owned, except for the Big Bend region in the western tip of the state."

Fighter Jets Force Small Plane To Land After Violating Airspace. The AP (7/3) reports, "A small plane entered restricted air space in the Washington area before two fighter jets forced it to land at an airport here, authorities said." The AP adds, "Two F-16 fighter jets were deployed and they forced the small plane to land at Frederick Municipal Airport. Officials were questioning a man and a woman Saturday, according to the News-Post. There were no arrests."

Independence Day Crowds Will Participate In Emergency Response Training. The Washington Post (7/3, C1, Markon) reports, "The first test of Washington's downtown emergency evacuation plan is expected to clear the Mall of most Fourth of July revelers tomorrow and speed them on their way within an hour, officials said yesterday." The Post adds, "The plan, which calls for police to direct the hundreds of thousands of pedestrians and motorists to seven evacuation routes, where green and red traffic signals will run longer, was developed two years ago in response to the Sept. 11, 2001, terrorist attacks. City officials have tried to publicize it, even painting special signs on streets along the routes directing drivers to the Capital Beltway, but they acknowledged that a major test is needed to tell people how they should flee if terrorists were to strike the city."

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WAR NEWS:

Bush Ties War On Terror To Fourth Of July Celebration. The AP (7/3) reports, "President Bush paid tribute to America's military forces Saturday, saying that Independence Day is an occasion for the nation to express thanks by flying the flag, sending letters to troops and reaching out to their families. 'At posts in Afghanistan, Iraq, and around the world, our men and women in uniform are taking the fight to the terrorists overseas, so that we do not have to face the terrorists here at home,' Bush said in his weekly radio address. He said U.S. forces have freed millions of people from oppression, in keeping with the principle of the Declaration of Independence 'that all are created equal and all are meant to be free."

Bush Seen As Unable To Inspire Insecurity As Easily As He Could After 9/11. The New York Times' Frank Rich (7/3) writes "As we saw on Tuesday night, doomsday isn't the surefire hit it used to be for Mr. Bush. Now that the rhetorical arsenal of W.M.D.'s and mushroom clouds is bare, he had little choice but to bring back that oldie but goodie, 9/11, as the specter of the doom that awaits us if we don't stay the course - his course - in Iraq. By the fifth time he did so, it was hard not to think of that legendary National Lampoon cover: 'If you don't buy this magazine, we'll kill this dog.'"

US Said To Have Failed To Promote Democracy Effectively In The Past. In an op-ed for the Washington Post (7/3, B4) Richard Kohn, former chief of history for the U.S. Air Force, writes, "Contrary to the rosy picture of our past so prevalent in Washington today, this country possesses a rich and often troubled history of intervention and nation building, and even empire. We succeeded in building democracy at home but largely failed in planting it abroad, which ought to make all of us, the president included, wary of so vague a goal in Iraq, and exceedingly careful in crafting a strategy to set that country on the road to stability and independence."

President Bush's Radio Address Receives Light Local Television Coverage. President Bush's radio address, in which he praised American troops and their families, received extremely light local television coverage. The President was quoted by one station as having said, "The burden of war falls especially hard on military families and I thank them for their support they give our troops in their vital work." Senator Patty Murray issued the Democratic response, saying that Independence Day is also a good time for President Bush to "give us the facts about the war and lay out a plan."

Some examples: WGCL-TV Atlanta (7/2, 11:09PM) reported that "President Bush says Independence Day is a time for the nation to express thanks to the military. During the weekly radio address Bush asked all Americans to show their gratitude by flying the flag, sending letters to troops, and reaching out to families. 'Those who serve are taking their rightful place among the greatest generations that have worn our nation's uniform. The burden of war falls especially hard on military families and I thank them for their support they give our troops in their vital work.'"

WCCB-TV Charlotte (7/2, 10:12PM) said that "Bush compared the current military operations in Iraq and Afghanistan to the American battles of the 19th and 20th centuries. The President also urged Americans to use the holiday as an opportunity to reach out to military families." Meanwhile, "Democratic senator Patty Murray also looked to veterans as an example of how the Bush administration has failed. She pointed out budget shortfalls for the Veterans Administration. Senator Murray says President Bush needs to give Americans the facts and lay out a plan for Iraq."

KHWB-TV Houston (7/2, 9:03PM) reported, "President Bush uses his weekly radio address to say the best way to celebrate Independence Day is to give thanks to American troops. 'At posts in Afghanistan and Iraq and around the world, our men and women in uniform are taking the fight to the terrorists overseas so that we do not have to face the terrorists here at home.' Democrats responded by saying Independence Day is also a good time for President Bush to, quote, 'give us the facts about the war and lay out a plan.' They accuse the President of failing veterans."

Democrats Contend Administration Has Underfunded Veterans Affairs. The AP (7/3) reports that in the weekly Democratic radio address Sen. Patty Murray "said President Bush's recent denials concerning the financial straits of the Veterans Affairs Department represented another administration failure to level with Americans about the costs of the Iraq war." Murray and other Democrats "had long questioned whether the department would have enough money to pay medical costs for veterans returning from Iraq and Afghanistan. The administration repeatedly denied it, but the VA acknowledged last week it was short at least $1 billion this year. On Wednesday, the Senate voted 96-0 to spend an extra $1.5 billion to cover the politically sensitive shortfall.

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'We're still working to find out the exact size of the shortfall, but one thing is clear: It results from either deliberate misdirection or gross incompetence,' Murray said."

Hagel Says He Hopes US Doesn't Repeat Mistakes Made During Vietnam Era. In an interview with the New York Times Magazine's Deborah Solomon (7/3) Sen. Chuck Hagel says, "If someone says I am a disloyal Republican because I am not supporting my party, let them say it. War is bigger than politics." When it is noted that Hagel and John Kerry "are the only current U.S. senators who served in Vietnam," Hagel comments, "I got to Vietnam in December of 1967, and I was wounded twice with my brother Tom, who was with me. I still have some shrapnel in my chest that the doctors never took out. The second time my face was burned pretty bad, and I had both eardrums blown out." Asked to compare "the situation in Iraq with the one in Vietnam," Hagel replies, "Congress was absent during the Vietnam War, and they didn't ask the tough questions, and consequently we lost 58,000 Americans and lost a war and humiliated this nation. It took a generation to get over it. As long as I am here as a U.S. senator, I am going to do whatever I can to make sure that isn't going to happen."

Suicide Bombings Targeting Iraqi Police Kill At Least Twenty. The New York Times (7/3, Wong) reports, "Three suicide bombers blew themselves up on Saturday in two separate attacks aimed at Iraqi security forces, killing at least 20 people and wounding at least 59, police officials said. The first explosion took place at a recruiting center in western Baghdad. The blast killed at least 12 people and wounded at least 23. Those killed were all men trying to get jobs with the security forces, said Maj. Gen. Rasheed Flayeh, the commander of the Interior Ministry's commando units. … The second attack took place at 10 p.m. at a restaurant beside the police commando headquarters in the town of Hilla, south of Baghdad, an Interior Ministry official said. Two suicide bombers detonated their explosives, killing at least eight police officers and wounding at least 36 others."

Bombings Disrupt Relatively Calm Week In Iraq. CBS Evening News (7/2, story 4, :10, Mitchell) reported, "In the battle for Iraq, rebel attacks around Baghdad shattered six days of relative calm. A suicide bomber killed at least 16 Iraqis at a police recruiting center. Another bomb killed six people at a checkpoint. Millions of Baghdad residents are scrounging for water in 100- degree heat after a rebel attack disabled water works."

ABC's World News Tonight (7/2, story 2, 0:10, Moran) reported, "Now we turn to Iraq. The attack in Baghdad hurt more than 20 others, and killed 17. It was more than several assaults that killed more than 30 Iraqis today."

The Washington Post (7/3, A15, Mosher, Nouri) reports, "Over the course of a nearly two-year-old insurgency in which assaults on Iraqi and U.S. security forces have been frequent, attackers repeatedly have targeted places where men stand in line to apply for jobs with the police and Iraqi army. Because would-be recruits typically are made to wait outside fortified bases and recruiting centers, they have proved to be easy targets for often-deadly bombings."

Several Other Iraqis Killed In Incidents Across The Country. The Los Angeles Times/AP (7/3) reports, "In other violence Saturday, three Iraqi soldiers were killed in a roadside bombing northeast of Baghdad, their commander said. Gunmen also assassinated a police lieutenant colonel in the northern city of Mosul, officials said. Two other people were killed when a bomb hidden in a vegetable cart exploded Saturday in Mahmoudiya, about 20 miles south of Baghdad. … Also Saturday, a policeman and a female relative traveling in a civilian car were killed in a drive-by shooting in the northern city of Kirkuk, authorities said."

Columnist Urges Rumsfeld To Provide Congress With Overview Of Security Situation In Iraq. The Washington Post's David Broder (7/3) writes, "President Bush is facing an early legal deadline to deliver what he has been most resistant to providing: a set of specific benchmarks for measuring progress toward military and political stability in Iraq. Under a little-noticed provision of the defense spending bill passed by Congress in May, Defense Secretary Don Rumsfeld has until July 11 to send Capitol Hill a 'comprehensive set of performance indicators and measures of stability and security' two years after the fall of Saddam Hussein. … If and when it comes in, it could do much more than the president's Tuesday night speech at Fort Bragg to provide a factual basis for judging how close we may be to reaching our goals in Iraq."

Shiites Protest US Overtures To Sunni Insurgents. The Los Angeles Times (7/3, Mcdonnell) reports, "It didn't take long for fresh reports of U.S. talks with Sunni Arab insurgents to stir cries of an impending sellout. … A senior U.S. official here sought to provide damage control.

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There was no intent, he declared, to undermine the fledgling Shiite-run government, which meets behind U.S.-fortified blast walls." The Times continues, "The exchange underscored the fragility of the political compromise that the Bush administration is seeking to facilitate in Iraq, even as the complementary military strategy — turning more and more responsibility over to fledgling Iraqi forces — has yet to prove a success. … Reports of U.S. overtures to the Sunni Arab-driven insurgency immediately sparked a backlash last week among the long-repressed Shiite majority. Much hinges on a two-part premise. First, that disaffected Sunni Arabs can be brought into the political process, and second, that participating Sunni representatives can sway militants, who have denounced the government, to put down their arms."

The Los Angeles Times (7/3) Larry Diamond, senior fellow at the Hoover Institution, writes, "if the United States is to avoid defeat in Iraq, Bush must recognize what our military leaders have repeated for more than a year: There is no purely military solution to the insurgency. It will only be extinguished by a combination of military might, good intelligence, reliable policing and — crucially — effective politics. … The administration deserves credit for drawing Sunnis into the political process, but it must do more to incorporate them politically into the new Iraq, the second element of a winning political strategy. It has done too little to address their nationalist anxiety."

Shiite Town Ravaged By Hussein Looks Forward To His Trial. The New York Times (7/3, Burns) reports, "Officials at the Iraqi Special Tribunal set up to try [Saddam Hussein] and his top aides have said they expect to put him on trial by the end of the year in the deaths of nearly 160 men and boys from Dujail, all Shiites, some in their early teens. Some were shot dead in the immediate aftermath of [an] assassination attempt, but 143 - 9 of them ages 13 through 15 - were executed three years later by Mr. Hussein's revolutionary court. Townspeople say that many others remain missing - at least 200, by some counts - and that they hope the trial will reveal at least something of their fate."

US Suffers Worst Week In Afghanistan Since 2001. CBS Evening News (7/2, story 5, 2:00, Mitchell) reported, "In his weekly radio address, President Bush said the best way to honor Americans killed in the war is 'to complete the mission.' The bodies of sixteen U.S. commandos killed in this week's helicopter crash in Afghanistan were flown home this weekend. But the commando unit they were sent to rescue is still missing in the escalating afghan violence." CBS' Randall Pinkston continues, "This has been the deadliest week for U.S. Troops in Afghanistan since the overthrow of the Taliban regime and their al Qaeda allies in 2001. With the missing unit, the death toll could go higher. Tuesday's rocket- propelled grenade attack brought down a Chinook helicopter. The deaths of eight navy seals and eight army special forces service members sent to aid the missing unit were a deadly reminder for the U.S. And today, a flare-up in the south east. A United Nations official reported a bomb attack on a 25- vehicle convoy of U.S. and U.N. Troops in Paktika province. No American injuries, but four Afghan troops were killed."

ABC's World News Tonight (7/2, story 3, 2:00, Moran) reported, "In Afghanistan, the U.S. military has launched fresh attacks on suspected Taliban fighters as the search for a missing team of elite American commandos intensifies." ABC's John Yang continues, "That team of commandos has been missing for five days. today, the military said they're using every available resource to search for them. In the rugged mountains of remote eastern Afghanistan, U.S. warplanes use precision-guided bombs to hit a suspected Taliban compound, near where the elite unit went missing. Fewer than ten lightly armed commandos hunting insurgent fighters. Today, U.S. officials said there's no evidence to support Taliban claims that they captured some of them."

US Aircraft Target Compound Near Where Soldiers Went Missing. The Washington Post (7/3, A21, Aizenman) reports, "U.S. aircraft bombarded a suspected insurgent compound in a mountainous area of northeastern Afghanistan where a military team has been missing since Tuesday, military officials said Saturday. A purported spokesman for the ousted Islamic Taliban militia called news organizations and claimed that 25 civilians had died in the airstrike on the compound in Konar province, a rugged region near the Pakistani border. Lt. Col. Jerry O'Hara, a U.S. military spokesman, said American troops were still assessing the impact of the Friday night bombing. … The purported Taliban spokesman, Abdul Latif Hakimi, told news agencies by telephone Friday that Taliban fighters had captured one of the missing men and killed seven of them. But U.S. military officials have said there was no evidence to support the claim.

Taliban Claims To Have Captured One American. The Washington Times/AP (7/3, Cooney) reports Hakimi

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claimed Friday that militants had captured one of the men and said he was a 'high-ranking American' caught in the same area as where the helicopter went down. He reiterated the claim yesterday in a phone call with the Associated Press. 'The soldier is being held in Kunar. Taliban leaders will decide what to do with him,' Mr. Hakimi said. 'He is being kept in a home. His health is all right.' When asked to provide evidence that the soldier was in captivity, he said, 'Tomorrow we will give proof.'" The AP adds, "Hakimi, who also claimed insurgents shot down the helicopter, often calls news organizations to take responsibility for attacks, and the information frequently proves exaggerated or untrue. His exact tie to the Taliban leadership is not clear."

The Los Angeles Times (7/3, Kazem) reports, "Hundreds of U.S. and Afghan forces have since been scouring the area's deep ravines in the hope of finding the special reconnaissance team, which has been out of contact for several days. … 'There is a good chance that the soldiers are being held hostage by the rebel fighters,' said Gov. Asadullah Wafa of Kunar."

US Releases 57 Held At Bagram For Months Or Years Without Being Charged. The Washington Post (7/3, A21, Aizenman) reports, "In Kabul, U.S. military officials released 57 Afghans who had been held at a detention facility at Bagram air base for many months on suspicion of being armed Muslim extremists. They were taken to the office of a government program that reintegrates former Taliban members and released to the custody of tribal elders. … In May, President Hamid Karzai called for all Afghan prisoners to be turned over to Afghan government custody in the wake of reports of past abuse by U.S. guards at Bagram and Guantanamo Bay, Cuba. Several of the released men complained bitterly of being detained for several years without charge.

Attack On UN Convoy Kills Six Afghans. The Washington Post (7/3, A21, Aizenman) reports, "on Saturday, guerrilla fighters in eastern Paktika province detonated a roadside bomb under a passing convoy of more than 20 vehicles carrying officials from the United Nations as well as Afghan leaders and security forces. The attack killed as many as six Afghan policemen and soldiers, and wounded at least two others, including a local police chief, according to news services and the U.N. spokesman here, Adrian Edwards.

Wounded Soldiers Provided With Trip To Gettysburg. The Washington Post (7/3, C6, Ruane) reports on three wounded soldiers from Walter reed who visited A weekend reenactment at Gettysburg. The n outing was "hosted by a soldiers support agency called Operation Second Chance Inc."

CORPORATE SCANDALS:

Kinsley Examines Scrushy Acquittal. In an op-ed in the Washington Post (7/3, B7), Michael Kinsley writes, "God works in mysterious ways, but his or her decision to acquit Richard Scrushy, former CEO of HealthSouth Corp., on all charges of financial fraud is especially inscrutable. Five consecutive HealthSouth chief financial officers admitted to cooking the books and copped a plea. They all fingered Scrushy. But jurors chose to believe that the man on top knew nothing about what was going on directly below him." Kinsley continues, "That kind of ignorance doesn't come cheap. No one denies there was massive fraud at HealthSouth. The government estimates that Scrushy made almost $300 million from the alleged fraud, and he'll get to keep it minus lawyer's fees. Other prominent business defendants have tried the ignorance defense but found that juries tend to think that the more you're paid, the more you ought to know about what's going on around you. Bernard Ebbers of Worldcom Corp., apparently the most convincing of the recent CEO ignoramus wannabes, is facing prosecutors' request for a life sentence." Kinsley adds, "Experts say the Scrushy prosecution should have been a slam-dunk. Even the Wall Street Journal editorial page seemed amazed that he got off. The Journal approved, of course, but couldn't really explain why. Meanwhile, jurors quoted in the papers said they were bothered by things like the lack of Scrushy fingerprints on copies of the crucial documents. … Only one word can describe Scrushy's acquittal. It is a miracle. … When Scrushy was indicted, he hired God. Less inspired defendants might have settled for the late Johnnie Cochran or Jack Abramoff. Scrushy, though, went straight to the top. … He left his suburban evangelical church and joined a predominantly black congregation in a blue-collar neighborhood. He bought a half-hour of local TV for a morning prayer show featuring himself and his wife, and frequent guest spots by black ministers. He had a prayer group praying for him every day at

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the trial. All this was in Birmingham, Ala., where HealthSouth was located and where the trial occurred."

CRIMINAL LAW:

White House Reportedly Concerned That Fitzgerald Is Focusing On Rove. Newsweek (7/3, Isikoff) reports that Time's Matthew Cooper's e-mails and computer notes turned over to special prosecutor Patrick Fitzgerald investigating the leak of CIA agent Valerie "show that one of Cooper's sources was White House deputy chief of staff Karl Rove, according to two lawyers who asked not to be identified because they are representing witnesses sympathetic to the White House. Cooper and a Time spokeswoman declined to comment. But in an interview with NEWSWEEK, Rove's lawyer, Robert Luskin, confirmed that Rove had been interviewed by Cooper for the article. It is unclear, however, what passed between Cooper and Rove. … According to Luskin…Rove spoke to Cooper three or four days before Novak's column appeared. Luskin told NEWSWEEK that Rove 'never knowingly disclosed classified information' and that 'he did not tell any reporter that Valerie Plame worked for the CIA.' Luskin declined, however, to discuss any other details." Newsweek adds that one of the two lawyers representing a witness sympathetic to the White House "told NEWSWEEK that there was growing 'concern' in the White House that the prosecutor is interested in Rove."

Attorney Says Rove Never Revealed Secrets To Cooper. The Los Angeles Times (7/3, Schmitt) reports, "In confirming the conversation between Rove and Cooper, Rove's attorney, Robert Luskin, emphasized that the presidential advisor did not reveal any secrets. But the disclosure raised new questions about Rove and the precise role of the White House in the apparent national security breach." Rove "testified before a grand jury investigating the Plame case on three occasions. His latest appearance was in October 2004, about the same time the prosecutor investigating the case said his probe was complete with the exception of testimony from Cooper and Miller." Luskin "said Rove had been assured by prosecutors that he was not a target of the investigation. 'We were advised recently that his status has not changed,' he added.

The Washington Post (7/3, A7, Leonnig) reports Luskin said, "Karl did nothing wrong. Karl didn't disclose Valerie Plame's identity to Mr. Cooper or anybody else." Luskin "said the question remains unanswered: 'Who outed this woman? It wasn't Karl.'"

Journalists See Growing Threat Of Reporters Being Subpoenaed. The New York Times (7/3, Seelye) reports, "Lawyers for the news media say that the legal climate for those seeking to protect confidential sources is turning chillier, with more subpoenas being issued to reporters. There is no database that tracks such subpoenas, and some prosecutors dispute that they are on the rise. But a series of high-profile cases involving confidential sources has the news media on edge. … 'It does feel like open season,' said Laura Handman, a First Amendment lawyer based in Washington. 'There are more instances of courts ordering confidential sources to be disclosed,' she said, adding that she believed the Bush administration's emphasis on secrecy was partly to blame. 'This leads to more leak inquiries, which, in turn, leads to more subpoenas.'" The Times adds, "In the last year, more than two dozen reporters across the country have been subpoenaed or questioned about their confidential sources in cases before federal courts, according to the Newspaper Association of America. Paul J. Boyle, senior vice president of the association, said he believed that 'the filing of subpoenas, as well as the letters and phone calls that media companies receive from prosecutors and civil litigants, is on the rise.'"

Cunningham Foregoes Public Appearances After Returning To District. The AP (7/3, Hettena) reports Rep. Randy "Duke" Cunningham "whose dealings with a defense contractor are under investigation was taking a 'personal day' Saturday and not commenting on federal authorities' searches a day earlier of his home and a yacht where he stayed while in Washington, a spokesman said." Cunningham "didn't plan a public appearance until a Monday pancake breakfast in Encinitas. … Cunningham's attorney, K. Lee Blalack, released a statement saying he told the government Thursday the congressman would cooperate with the investigation."

St Louis Public Defender Rules To Change. The St. Louis Post-Dispatch (7/3, Patrick) reports, "The St. Louis public defender's office - the last legal hope for those too poor to afford their own lawyer - will, for the first time in at least 20 years, refuse to represent certain people in court starting Tuesday, state officials said last week." The Post-Dispatch continues, "Those people are on the misdemeanor

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confined docket, which means they've been arrested on misdemeanor charges, or are named on the assessed docket because they've been arrested for failing to pay fines or court costs." The Post-Dispatch adds, "State and local representatives of the public defender's office say they're making the move because it's unethical and unprofessional to try to represent defendants with only minutes to familiarize themselves with the cases. … J. Marty Robinson, director of the Missouri State Public Defender system, calls it "meet 'em and greet 'em and plead 'em." … 'I'm just flabbergasted that there are people that think this is OK,' he said. … Robinson said many people were probably misled into thinking they had a lawyer, but public defenders were simply 'filling out the court's paperwork.' … Public defenders also say that under recently revised state laws, guilty pleas to two of certain misdemeanors can lead to a felony charge and serious prison time for the third offense, along the lines of state three-strikes laws. That could mean defendants who plead guilty to minor crimes to stay out of jail are unknowingly increasing their chance of greater future penalties."

California Weighs Bullet Marking Proposals. The Los Angeles Times (7/3, Rau) reports, "With a zealot's enthusiasm, Randy Rossi has been firing bullets into lots of things lately. Car doors, Sheetrock, wood walls, gelatin with the consistency of human bodies. … On the base of each mashed slug is a series of tiny, mostly legible numbers that have been inscribed by a laser. To Rossi, head of Atty. Gen. Bill Lockyer's firearm division, these markings represent a solution for one of law enforcement's most trying problems: the anonymity of ammunition." The Times continues, "With 45% of the state's homicides unsolved in 2003, the most recent data available, the California Legislature is moving ahead with two potentially landmark measures that would require that identifying marks be embedded on projectiles from guns. … One proposal would have all bullets sold in the state marked during manufacture with codes. The other would mandate that guns be equipped with stamping mechanisms that would hammer telling marks onto every cartridge fired. That could allow investigators to link the cartridge to the gun's purchaser even if they could not find the firearm." The Times adds, "The approaches depart from law enforcement tactics elsewhere in the country, which have focused on creating computer registries of fired bullets. Those allow for investigators to match projectiles from different crimes, linking ones committed with the same weapon. … The issue of marking ammunition has become the most contested law enforcement topic in Sacramento this year. One of the bills has split California's law enforcement community and infuriated the nation's ammunition manufacturers, weapons sellers and firearms enthusiasts, including the National Rifle Assn. Several police groups in California are also opposed. … The hyperbolic debate has even ricocheted into Congress. In April, Rep. Duncan Hunter (R-El Cajon), chairman of the House Committee on Armed Services, warned Gov. Arnold Schwarzenegger that requiring serial numbers on ammunition would increase the cost of bullets so much that the military would scale back target practice. Arkansas Gov. Mike Huckabee, also a Republican, is also against the proposal, which he said would hurt manufacturers in his state."

CIVIL RIGHTS:

Human Smuggling Investigation Focused On "Jung Organization". The Washington Times (7/3, Seper) reports on last week's raid "that targeted a sophisticated human-smuggling operation" in California. US Immigration and Customs Enforcement spokesman Dean Boyd "said the investigation focused on a criminal organization called the 'Jung Organization,' which reportedly smuggled South Korean women into the United States and then provided them to brothel operators. The brothels were concealed behind businesses that purported to be massage parlors and 'out-call service' operations. He said the prostitutes were managed by an underground network of Korean 'taxi' services operated by members and associates of the Jung Organization."

California AG Asks For Review Of Decision On Same-Sex Marriages. The Washington Times/AP (7/3) reports California attorney general Bill Lockyer "urged the state Supreme Court to decide whether homosexual 'marriage' is permitted under the state constitution." Lockyer "asked the justices to review a trial judge's decision in March that said state laws limiting marriage to heterosexual couples is unconstitutional. The ruling had been stayed pending appeal. The attorney general, however, wants California's top court to remove the pending case from a San Francisco appellate court."

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California Redistricting Proposal Compared With DeLay-Engineered Campaign In Texas. The Dallas Morning News (7/3, Becker) reports, "Amid recent polls showing Arnold Schwarzenegger's star power dropping from the top of California's political marquee, the governor's push to redraw congressional and legislative district lines mid-decade isn't looking like this summer's Republican blockbuster. It's a very different scenario from the redistricting deal that House Majority Leader Tom DeLay…orchestrated in Texas two years ago. … What exactly Mr. Schwarzenegger seeks from redistricting reform isn't clear, pundits say. While it could help Republicans acquire congressional seats in the long term, the initiative hasn't brought wide party support."

Interest Groups Prepare For California's Special Election. The Los Angeles Times (7/3, Barabak) reports, "California's special election is drawing money and attention from interest groups and political partisans across the country who see the campaign as a way to invigorate their efforts in 2006 and beyond. … Conservative activists see an opportunity to defang a longtime nemesis — organized labor — by making it harder to collect union dues for political purposes. Eight initiatives have qualified for the statewide ballot, which will bring voters to the polls for the fourth time in as many years. The measures deal with a variety of issues, including parental consent for abortions, teacher tenure and electricity re-regulation, as well as union dues, redistricting, prescription drugs and the state budget." Schwarzenegger "has embraced three of the measures as part of a package designed to circumvent the Democrat-run Legislature and diminish the clout of lawmakers in Sacramento. Those measures would lengthen the time teachers work before receiving tenure, give the governor greater control over state spending and give legislators' political line-drawing power to a panel of retired judges."

Romney Urged To Speak More Clearly On Abortion. The Boston Globe (7/3, Ebbert) reports, "Advocates on both sides of the abortion debate say they are confused over Governor Mitt Romney's position on abortion and are seeking to understand the meaning of recent comments he has made, in light of the positions he outlined during the 2002 gubernatorial campaign. Last week, the Planned Parenthood League of Massachusetts and NARAL Pro-Choice Massachusetts provided the Globe a copy of a letter sent earlier this month in which they asked Romney to explain his current abortion philosophy and to confirm that he supports emergency contraception and other measures he embraced while running for governor. Similarly, a leading antiabortion group is puzzled: "We honestly don't know where he stands on this issue,' said Marie Sturgis, executive director and legislative director for Massachusetts Citizens for Life."

Frist Accused Of Changing His Position On Stem Cell Research. The Washington Post (7/3, A5, Connolly) reports Sen. Bill Frist "is again at the center of the stem cell battle. Unlike four years ago, when he sought an influential role, the Senate majority leader has shied away from the issue, frustrating once-admiring researchers and patient advocates who now accuse him of exchanging sound medical thinking for with political calculations." According to the Post, the House passage of stem cell research legislation succeeded in "placing additional pressure on Frist to stand by a policy that falls far short of the approach he envisioned four years ago. … But if Frist is maneuvering to attract Republican primary voters in pursuit of the 2008 presidential nomination, he is doing so at the risk of angering loyal Tennessee supporters." The Post notes, "Over a period of three days, Frist aides did not respond to multiple interview requests."

Gordon Looks To Repair NAACP's Relationship With Bush. The Milwaukee Journal Sentinel (7/3, Sykes, Thomas-Lynn) reports, "With Bruce S. Gordon's stellar background in corporate America, his installation as executive director of the NAACP at its 96th annual convention in Milwaukee could herald a new beginning for the venerable civil rights organization's relationship with the Bush administration. … Gordon already has indicated he wants to improve the NAACP's relationship with the Bush administration, a radical departure for a group known for its criticism of the president. But in doing so, the 59-year-old retired Verizon Communications executive may run the risk of pitting himself against some members who supported the NAACP's confrontational style with President Bush. Delegates will get a chance to witness Gordon's style for the first time, as well as hear an array of speakers from across the political and religious spectrum." Sen. Barack Obama, the Rev. Jesse Jackson and former NAACP chief Benjamin Hooks" are among the scheduled speakers."

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ENVIRONMENT/INDIAN AFFAIRS:

St. Louis Mayor Expresses Support For Eminent Domain Decision. The St. Louis Post-Dispatch (7/3) reports, "In Kelo vs. New London, Conn., the Supreme Court ruled that the city could not take land simply to confer a private benefit on a particular private property. However, the decision said the taking would be executed based on a carefully considered development plan, which would have a public benefit. The decision pleased Mayor Francis Slay. 'It's very difficult rebuilding an older city with the environmental issues and with the issues of assembling sites for redevelopment to help improve the quality of life for people in our neighborhoods,' Slay said."

Maryland Gubernatorial Candidates Trade Shots Over Environmental Protection Policies. The Washington Post (7/3, C4, Wagner) reports, "Debate in the run-up to Maryland's race for governor was dominated last week by talk about the environment. Baltimore Mayor Martin O'Malley , a Democratic hopeful, sought to spotlight his record in a sprawling address that included heavy criticism of Republican Gov. Robert L. Ehrlich Jr. 's environmental stewardship." O'Malley "accused Ehrlich of lacking commitment to preserving parkland, improving water quality and protecting children from lead paint, among other shortcomings. … Montgomery County Executive Douglas M. Duncan , another Democrat interested in being governor, moved aggressively to insert himself into the debate by questioning O'Malley's record."

Portland Said To Have Cut Emissions While Improving Its Economy. The New York Times Nicholas Kristof (7/3) writes, "Newly released data show that Portland, America's environmental laboratory, has achieved stunning reductions in carbon emissions. It has reduced emissions below the levels of 1990, the benchmark for the Kyoto accord, while booming economically. What's more, officials in Portland insist that the campaign to cut carbon emissions has entailed no significant economic price, and on the contrary has brought the city huge benefits: less tax money spent on energy, more convenient transportation, a greener city, and expertise in energy efficiency that is helping local businesses win contracts worldwide."

Wisconsin Reservation Dealing With Gang Crime. The Milwaukee Journal Sentinel (7/3, Zielinski) reports from Hayward, WI, where "23-year-old Cody Badbear Wade was shot five times, once in the head. Police searched a nearby cranberry marsh for the murder weapon. … A police report said Wade had proclaimed himself a 'King killer,' but it turned out differently the night of May 30, 2002. … After trading harsh words with Wade at the Snowshoe Bar, Robert G. 'Bobby' Smith, an avowed member of the Almighty Latin King Nation, the violent Hispanic street gang with a significant presence in Milwaukee, would ambush and kill Wade after he approached a clearing in his truck." The Sentinel continues, "Smith, the son of a former Sawyer County sheriff's deputy, told investigators that one of the admitted leaders of the Latin Kings on the Lac Courte Oreilles Indian reservation, Charles Gokey, ordered members to "light up" on Wade. Smith later was sentenced to 13 years in prison for Wade's murder. … Earlier this year, Gokey, in turn, was sentenced in a federal court in Madison to almost 20 years for crack cocaine distribution. U.S. District Judge John C. Shabaz said the harsh punishment was meant 'to assist the government's mission to substantially reduce the impact of drug and drug-related crime on the Lac Courte Oreilles reservation.' … The two were part of more than 50 prosecutions and a continuing multi-headed investigation that were set in motion by the events in the pine plantation in an attempt to rid the reservation of the Latin Kings."

FBI/DEA/ATF/USMS:

Federal Agents Seize Human Growth Hormone In Denver. The Denver Post (7/3, Caldwell, Briggs) reports, "Agents with the U.S. Food and Drug Administration and the Postal Inspection Service are investigating a shipment of human growth hormone worth up to $400,000 to the home of a Denver substance-abuse counselor, records show." The Post continues, "Authorities in March seized 400 vials of Chinese hGH and are investigating clinic owner Tamea Rae Sisco and two people involved in a Hawaiian osteopathic center on suspicion that they illegally imported the drugs for use in anti-aging treatments, according to a federal search- warrant affidavit and federal sources." The Post adds, 'Sisco denies any wrongdoing and said she was an intermediary for a legitimate shipment. No charges have been brought as a result of the raid. … While

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the national debate on performance-enhancing drugs swirls around sports superstars, federal agents are waging a local battle away from the limelight. They're intercepting hGH doses meant for everyday people who are hoping to look younger and leaner. It's all part of a surging anti-aging phenomenon in which hGH is king. … Law enforcement officials step in when hGH is illegally pitched as a youth elixir. HGH can be legally prescribed only under narrow circumstances, including the treatment of AIDS wasting disease. HGH also is obtained illegally by some athletes seeking to build muscle and cut fat. … 'I can't comment on ongoing investigations, but I can state that there is a problem in general,' said Jeff Dorschner, spokesman for the U.S. attorney's office in Colorado. 'The illegal trafficking of human growth hormones remains a concern of the Justice Department.'"

Florida Drug Case Chilled US-Colombia Relations. The Tampa Tribune (7/3) reports, "U.S. relations with Colombia were briefly strained in March because of a federal prosecutor's court filing in Tampa in the case of an alleged leader of the Cali drug cartel." The Tribune continues, "Colombian officials even threatened to halt all extraditions to the United States, but U.S. officials retracted the court filing, averting a crisis." The Tribune adds, "The flare-up exposed a nerve in Colombia and highlighted the troubled, violent and corrupt recent history of efforts to stem the country's illegal drug exports. … The controversy involved a Colombian Constitution provision that allows extraditions, but only for crimes committed after Dec. 17, 1997, when the constitutional amendment, Article 35, was enacted. … A defense attorney for Joaquin Mario Valencia-Trujillo filed a motion to enforce that restriction and strike from Valencia's indictment charges that preceded the 1997 constitutional amendment. … Federal investigators say Valencia was a politically connected, if little noticed, leader in the notorious drug cartel as far back as 1988. He is the biggest catch in 'Operation Panama Express,' a wide-ranging, long-term investigation, based in Tampa, of Colombian maritime drug traffickers. … Part of a 2002 indictment against Valencia alleges a conspiracy to use drug money to 'make payments to influence political and judicial decisions in Colombia, the United States and elsewhere.' … Assistant U.S. Attorney Joseph K. Ruddy filed a response to the defense motion alleging that Article 35 is part of the conspiracy mentioned in Valencia's indictment. 'It represents the product of the successful bribery of then-Colombian President Ernesto Samper and the Colombian Congress by the Cali cartel to immunize them from extradition to the United States,' Ruddy wrote."

Gangs Moving Into Hampton Roads, VA, Area. The Norfolk (VA) Virginian-Pilot (7/3, Kimberlin, Heinatz) reports, "A warning has come from the feds. … An FBI informant says MS-13, a notorious street gang with ties to El Salvador, recently issued an order for its members to kill someone — anyone — wearing a badge in Hampton Roads." The V-P continues, "The hit was discussed during a meeting of gang leaders held in Norfolk. … The purpose: To send a message to local law enforcement trying to stop the machete-wielding gang from moving to town. … The message: Stay out of our business. Stay out of our way." The V-P adds, "The alert arrived in a May 23 bulletin from the Department of Homeland Security. Both the department and the FBI have refused to comment, but state and federal gang experts confirmed the warning – which has since been put on hold. … 'The gangs call it a "green light,"' said Mindy Grizzard, spokeswoman for the Virginia Gang Investigators Association. … In the urban underbellies of Los Angeles, Chicago, Detroit or New York, such a threat might not raise even an eyebrow. … In Hampton Roads, it's met with an odd mix of shock and shhh. … Shock that such things could happen here. … Shhh because gangs are dirty laundry – the scent of which can derail a city's redevelopment plan, shred a school's reputation and cause decent folks to pull out of a neighborhood."

Reyna Says He Was Not Pressured To Resign As US Marshals Head. The Brownsville (TX) Herald (7/3, Perez-Treviño) reports, "U.S. Marshals Service Director Ben Reyna never bought a house in Washington, D.C. … 'My intention was not to stay,' Reyna said last week after submitting his resignation from the Marshals Service effective July 31." The Herald continues, "He was not pressured to resign from the post he's held since 2001, he says, and will return to his hometown of Brownsville for personal reasons and without regrets. … 'I would not have done anything differently. It's been a great experience and a great honor,' Reyna told The Brownsville Herald in an exclusive interview." The Herald adds, "The Marshals Service is charged primarily with protecting judges and courts. Its performance is under scrutiny and criticism, seemingly

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prompted by the slaying of U.S. District Judge Joan Humphrey Lefkow's mother and husband in their Chicago home. … Less than a month after the Lefkow murders, Superior Court Judge Rowland Barnes was killed when a prisoner wrestled a gun from a sheriff's deputy in the Fulton County Courthouse in Atlanta, Ga., on March 11. … The back-to-back tragedies shined an unflattering light on the Marshals Service and started a buzz among judges and lawmakers in Washington, D.C. … In a letter dated March 14, U.S. Sen. Arlen Specter, R-Pa., chairman of the Senate Judiciary Committee, wrote to Reyna inquiring about security measures and what would be instituted in response to the attack on the Lefkows. … Reyna said protecting the judiciary has always been and should always be the priority: 'That is what allows us to maintain the rule of law.' … He also noted that in the agency's 215-year history, no federal judge has been murdered in a courtroom or courthouse."

TAX:

IRS Data Shows More Wealthy Americans Pay Little Or No Federal Taxes. The New York Times (7/3, Johnston) reports, "The number of affluent individuals and married couples who paid no federal income taxes jumped more than 15 percent in 2002, to 5,650, government data released last week showed. … About one in every 436 high-income Americans paid no taxes in 2002, up from one in 531 in 2001 and one in 1,010 in 2000. Over all, the top 2 percent of earners - the 2.5 million filers with income of $200,000 or more - paid almost 27 cents in taxes for each dollar of income they reported in 2002, other I.R.S. data showed. … Among that high-income group, however, almost 83,000, or one in 33, paid less than a dime in taxes for every dollar of income. An additional 79,000 paid less than 15 cents."

CONGRESS-ADMINISTRATION:

Bush Reviewing Potential SCOTUS Nominees. President Bush is reviewing potential nominees for the Supreme Court while preparing to attend the G-8 summit next week. While the President has many options, the consensus in the media is that Bush will likely to be able to get a conservative nominee passed, and the question now is what sort of conservative that nominee will be. Media coverage of the impending political battle over Bush's nominee continued to receive significant media coverage. Meanwhile, President Bush's radio address praising US troops received light coverage.

While all three network news programs reported on how liberal and conservative activists were preparing for the political battle, NBC Nightly News (7/2, story 2, 1:30, Seigenthaler) first focused on Bush's selection process, reporting, "President Bush is preparing to submit his nominee for the court." NBC (Jordan): "Former presidential advisors say this is a process that just can't be rushed. There's a reason why President Bush says he'll take his time replacing Justice Sandra Day O'Connor because Bush is building a part of his legacy, that from a former aide to President Reagan who was on hand for the O'Connor nomination."

The AP (7/3, Riechmann) reports, "Regardless of whom he picks, the closely divided court…will very well end up with a more conservative bent." Key factors in Bush's decision will be "Intellect. Character. Judicial philosophy. The prospect of being able to win Senate confirmation. Those are the overriding issues that several legal experts and advocates on both the right and left think will guide the president, who is facing intense pressure from both sides of the political aisle."

The Los Angeles Times (7/3, Brownstein, Chen) notes, "While promising to consult, the aide signaled that the White House did not believe that Bush faced an obligation to replace O'Connor with a justice who shared her relatively moderate views, as some Democrats and liberal groups have suggested." One senior Bush aide said, "The notion that there is…a narrow band of people who are appropriate to replace Justice O'Connor is wrong. … The president will consult, but the president will make a decision."

The Chicago Tribune (7/3, Tackett) reports, "The news was about Justice Sandra Day O'Connor. But the story is about President Bush. How Bush manages that story, by the person he nominates to replace O'Connor, by the words he chooses to frame that debate, by the way he deals with Congress, could define his presidency almost as much as terrorism and the war in Iraq." Bush, "even with sagging approval ratings and diminishing support for the war and his handling of the economy, finds himself in an extraordinarily powerful position with Republicans controlling the executive branch and Congress. Now he will be extending that leverage to the Supreme Court."

The Boston Globe (7/3, Milligan) notes that Democratic senators, civil libertarians, and liberal groups "agree with

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conservatives that…the president will use his first appointment to the high court to establish a conservative legacy with a nominee similar to those Bush has publicly touted as his favorite justices." And experts "note that Bush -- unlike his predecessor, President Clinton --has consistently stuck to his guns on both policy decision and nominees, no matter how much heat he has gotten from the public, the international community, or Capitol Hill."

And Knight Ridder (7/3, Hutcheson) quotes the Rev. Patrick Mahoney, director of the Christian Defense Coalition saying, "If 9/11 was the defining moment of his first term, the composition of the Supreme Court is the defining moment of the second."

The Minneapolis Star Tribune (7/3, Doyle, O'Rourke) reports, "Bush will be confronting a multiplicity of choices," including whether to nominate a Hispanic, a woman, a consensus candidate or a senator like Sen. John Cornyn. Senate Judiciary Committee chairman Arlen Specter "said that two women are 'a minimum' on the court." But it is considered more likely "that Bush will scour the appeals court benches."

Meanwhile, the St. Louis Post-Dispatch (7/3, Shesgreen) says "what both sides fear most is the unknown: a so-called 'stealth' nominee who has a thin paper trail and offers ambiguous answers in the Senate grilling that is sure to come." USA Today Biskupic (7/3) also reports on O'Connor's retirement.

Bush Aides To Solicit Bipartisan Advice. The Los Angeles Times (7/3, Brownstein, Chen) reports while Bush is in Europe "senior White House officials plan to canvass Democratic and Republican Senators for recommendations to fill" the Supreme Court vacancy. But, "Democrats and their allies…reacted cautiously to the signal from White House." Senate Minority Leader Harry Reid's spokesman Jim Manley said, "Their track record of even consulting with Republicans on Capitol Hill is very poor. … It remains to be seen if this is an encouraging first step or is just going to be a one-way dialogue." The Times notes, "Both sides are trying to position themselves as reasonable and conciliatory to strengthen their hands for the full-scale combat most suspect will erupt."

Bush May Face Difficulties Satisfying GOP Base With Conservative Nominee. Highlighting the difficulties Bush may face is satisfying the GOP base, the New York Times (7/3, Rosen) in a "Week in Review" article examining the different types of judicial conservatism represented by those likely to be on Bush's short list says "the crucial question for the country is what kind of judicial conservative." The judicial conservative movement is not "monolithic" and represents "very different approaches to constitutional interpretation that often lead to dramatically different results in cases ranging from affirmative action to abortion and states' rights." Some "of the leading candidates said to be on Mr. Bush's short list…defy easy categorization. But it's clear that justices from each philosophical camp would reach very different decisions in the cases Americans care most about." After describing the different approaches to judicial conservatism Bush's potential nominees represent, the Times notes that it's clear that Mr. Bush will have an opportunity to satisfy and infuriate conservatives of many stripes. Whatever choice he makes will define not only the Supreme Court but his own conservative legacy."

Women Split Over Necessity To Choose Woman To Succeed O'Connor. The Washington Post (7/3, A12, Argetsinger, Williamson) notes that "for all the significance they place on her sex, women are split on the question of whether O'Connor should be succeeded by another woman. Although some of their leaders and members have expressed hope that the next appointee will be a woman, most women's organizations, liberal and conservative, are no longer making a person's sex an official priority, instead holding up O'Connor's reputation for open-mindedness as the characteristic they most want to see replicated."

New Justice Could Come From Fifth Circuit. The New Orleans Times-Picayune (7/2, Schleifstein) reports, "The list of potential replacements for retiring U.S. Supreme Court Justice Sandra Day O'Connor, the first female member of the high court, includes three judges on the U.S. 5th Circuit Court of Appeals in New Orleans -- two of them women." According to John Baker, a constitutional law professor at the Louisiana State University Law Center "Jones would draw the greatest opposition…because of signals she has given over the years that she would be an 'originalist,' closely following the Constitution's original meaning instead of expanding its interpretation in light of modern events." Yet, "New Orleans defense lawyer Bruce Waltzer said Clement may actually be more conservative than either of the other two."

Expert Warns Conservative Pick May Drive Justice Kennedy Leftwards. The AP (7/3, Riechmann) reports, "There's no doubt a confirmation fight would be contentious if Bush nominates" the conservatives "thought to be on his short list." Yet, "American University historian Allan J. Lichtman

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says naming an extremely conservative nominee could backfire on the president because it might prompt Justice Anthony M. Kennedy, a moderate conservative who also has been a swing vote on the court, to inch away from the right." Lichtman said, "That could push Kennedy into the O'Connor slot."

Knight Ridder (7/3, Henderson) reports "the injection of a new personality into" the dynamics of the relationship between Supreme Court justices "could have unpredictable -- and, for the White House, undesirable -- effects." Some observers "say the arrival of another hard-line conservative to the bench…could embolden moderate conservative Anthony Kennedy." Court historian David Garrow said, "Replacing a moderate with a conservative automatically magnifies the center." A new conservative justice "would empower Kennedy, whose shift to the court's middle has seemed dramatic over the past few terms, and has been decisive in a number of cases that have left conservatives reeling."

And Orin Kerr, an associate professor at George Washington University Law School who once clerked for Justice Kennedy, in an op-ed in the Los Angeles Times (7/3) writes the replacement of O'Connor's vote "may not have a dramatic effect on the outcomes of the court's biggest cases" because "Kennedy often votes with the more liberal justices to form a liberal majority in major cases. He has voted to uphold Roe vs. Wade, and he wrote the opinions that struck down sodomy laws and invalidated the death penalty for juveniles. All these decisions would remain intact."

Loss Of O'Connor Unlikely To Hurt Liberal Bloc On Court. The Los Angeles Times (7/3, Savage) reports that "the conservative Supreme Court led by Chief Justice William Rehnquist" faded away last term as it was replaced by "a moderate-to-liberal court led by John Paul Stevens." The Times notes, "By forming alliances with O'Connor or Justice Anthony M. Kennedy -- and sometimes even with Justice Antonin Scalia -- Stevens has been able to forge a majority in some of the biggest Supreme Court cases." Losing "O'Connor's vote might mean Stevens' sway over the court has reached its high-water mark. But with Kennedy and four liberals still in place, the Stevens bloc isn't likely to dissolve overnight."

Controversial Nominee Could Impact 2006 Elections. Knight Ridder (7/3, Hutcheson) reports, "In today's politically polarized world, with 24-hour cable news, 30-second attack ads, Internet interest groups and ideologically driven bloggers, a contentious nomination battle could drive a deeper wedge between Americans on opposite sides of the political divide." The impact of "a bitter confirmation battle could easily spill into next year's congressional elections, when Republican control of Congress will be tested at the polls."

Bush Urged To Choose Politician For Court. AEI resident scholar Norman Ornstein in an op-ed in the Washington Post (7/3, B7) writes, "Most of the names the White House has floated as possible Supreme Court nominees are, predictably, judges on federal appeals courts. It is time to expand the field to seriously consider people with political backgrounds. Former senators John Danforth and Warren Rudman would be superb choices. At least two current senators, John Cornyn of Texas and Jon Kyl of Arizona, fit the ideological criteria of the White House. Harry Reid, the Senate Democratic leader, has mentioned other capable Republican senators, including Mike DeWine of Ohio and Lindsey Graham of South Carolina. … The court, and the country, would be well served to have a politician or two on the bench."

Interest Groups Gear Up For Fight Over SCOTUS Nominee. The preparations and concerns of liberal and conservative activists were covered extensively by the media, as NBC Nightly News (7/2, story 3, 1:30, Seigenthaler) reported, "The battle of the next Supreme Court nominee could in some ways reflect the political and cultural battle that is brewing in this country."

CBS Evening News (7/2, story 3, 2:30, Mitchell) reported that "the gloves are off in the fight over who will replace" O'Connor. CBS (Chen): "In their war room, liberal activists are in full battle mode in their effort to head off the nominee, though no one knows who the nominee is yet. What are you afraid of?" Ralph Neas, of People for the American Way, was shown saying, "What we are afraid of is that George W. Bush will replace a mainstream conservative like Sandra Day O'Connor with a right wing ideologue, someone like Clarence Thomas or Scalia." Chen: "Conservative groups aim to stop what they see as judicial activism, and openly name justices they see as having let them down." Wendy Long, of the Judicial Confirmation Network said, "I think that justices Souter and Justice Kennedy are regarded by the Republican base as disappointments." Chen continues, "Likewise, Justice O'Connor, a Reagan appointee, has often frustrated more hard-line conservatives."

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The Chicago Tribune (7/3, James, Dorning) notes, "Liberal and conservative efforts Friday were driven by fear on one side, hope on the other. Liberals feared decisions favorable to them on affirmative action, abortion rights, the environment and a host of other hot-button issues could be reversed in new rulings. Conservatives hoped a new justice would deliver just such reversals."

The Baltimore Sun (7/3, Woestendiek, Little) reports, "Ruptures over gay marriage, flag burning or displaying the Ten Commandments will feel like mere tremors compared with the cultural quake sure to erupt when the nation's differences become the weapons with which the Supreme Court's future is determined, political analysts say. Expect the 'red' and the 'blue' to go at it fiercely enough to leave the nation purple, or at least with some long-lingering bitter feelings."

The Washington Post (7/3, A11, Milbank) reports that "beneath the official posturing" on Friday "was a simple truth: O'Connor is the tiebreaking vote on a range of hot-button social issues, and the battle to replace her will be in many ways a referendum on legal abortion. So it's no surprise that, starting at mid-morning, the O'Connor succession fight became the only game in town." The Pittsburgh Post-Gazette (7/3, Reston) also reported on the efforts of activists to influence Bush's choice and the Dallas Morning News (7/3, Pusey) includes a brief description of the key players in the upcoming debate.

Conservatives Prepared To Launch Effort To Influence Bush. The Washington Post (7/3, A1, Edsall, Milbank) in a front page story reports that "the conservative movement has something it lacked during its losing battle for the confirmation of Robert H. Bork to the court 18 years ago: a highly coordinated movement that has fused the big dollars of economic conservatives with the grass-roots clout of millions of religious conservatives." Conservatives believe that "will prevent the defeat of another nominee such as Bork and will inoculate Bush from pressure to appoint a moderate such as Kennedy or Souter. And if it works with O'Connor's replacement, conservatives say, they will have found a formula that will allow them gradually to control the judiciary and revisit the full range of precedents regarding abortion, affirmative action, church-state matters and regulations of business and the environment."

And the New York Times (7/3, Rosenbaum, Clemetson) reports that the "last time Ralph G. Neas and C. Boyden Gray went head to head as commanding generals in a war over a Supreme Court confirmation was in 1991, when Clarence Thomas was the nominee." Although Gray "won the Thomas battle," Neas "had the superior operation: a unified battalion of labor unions, civil rights groups, women's organizations, civil libertarians and environmentalists that had more money, more energy and more firepower than had ever been used in a Supreme Court fight." After the battle Gray "vowed he would never be outgunned again." Now as chairman of the Committee for Justice, Gray has organized "outside forces that would be up to the fight." Gray said, "We haven't leveled the playing field. … But at least we're on the field and we're able to engage."

Conservatives Express Opposition To Gonzales Nomination. Conservative opposition to AG Alberto Gonzales was noted in a number of articles Sunday morning. Providing in depth coverage, the Washington Post (7/3, A1, Baker, Glasser) in a front page story reports, "Many of President Bush's conservative supporters lined up in staunch opposition yesterday to the candidate he might personally most want to name to the Supreme Court, his longtime friend and adviser, Attorney General Alberto R. Gonzales." With Bush leaving for Europe, leaves "Republicans a short time to influence his decision. If the broader nomination battle will resemble a presidential campaign, as both sides predict, then the next week or two could amount to a primary." The Post notes, "The one candidate who unifies most conservatives -- in opposition -- is Gonzales."

The New York Times (7/3, A1, Nagourney, Purdum, Kirkpatrick) in a front page story adds, "Administration officials discounted the conservative uprising against Mr. Gonzales, saying that Mr. Bush was already aware of the objections and was not convinced by them." One senior Administration official said, "The president is going to pick someone who is a true constructionist and who is correct in interpreting the law." The official said "Gonzales fit that description, but also that Mr. Bush might be wary of moving him to a new position so shortly after he was confirmed as attorney general." Yet, "the swift and vociferous opposition to Mr. Gonzales reflected the intensity of concern on the right over just what kind of conservative Mr. Bush will choose, as he moves toward a decision that will go a long way toward settling any question about what kind of conservative he is, and how his presidency will be remembered."

Both Sides Of Abortion Debate Accused Of Using Hyperbole. ABC's World News Tonight (7/2, story 4, 3:00, Moran) reported that "both sides of the abortion issue are

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turning up the volume in the debate. The President of the National Organization for Women, for instance, has declared a 'state of emergency' for women's rights." ABC (Morrell): "But some legal analysts say both sides are misleading the public. They say her departure almost certainly opens the door for further restrictions on abortion. She was a decisive fifth vote in a 2000 case. Striking down a state ban on so-called partial birth abortions. And this fall, for the first time in five years, the court will hear an abortion case, one that could allow states to pass tougher parental notification laws. While the left may be overselling the risk to abortion rights, some on the right are underselling it, trying to convince Americans that with or without O'Connor, Roe v. Wade is safe. Some on the right fear if abortion becomes the central issue in this debate, it could hurt their chances of replacing the moderate O'Connor with a true conservative."

Public May Tune Out Partisan Battle Over Nominee. But the Los Angeles Times (7/3, McManus) says, "in the middle of the storm, like civilians caught on a battlefield, much of the nation may wish that the whole thing would just go away." Pew Research Center pollster Andrew Kohut said that "for most of the country, it may just look like another partisan battle in Washington." The Times notes, "Abortion, gay marriage and religion may be 'hot button' issues, prized by interest groups and political consultants for their ability to mobilize people to vote and donate money. But most Americans consider those issues less pressing than the war in Iraq or the state of the economy, and recoil from the acrimony of the debate."

NOW Members Rally For Abortion Rights. The AP (7/3, Gerome) reports, "Chanting 'Not the church, not the state; women must choose their fate,' hundreds of members of the National Organization for Women rallied for abortion rights Saturday as President Bush prepares to select a new U.S. Supreme Court justice." They "shifted the agenda for its three-day annual convention following the announcement Friday that Supreme Court Justice Sandra Day O'Connor was retiring.

Conservatives Restrain Happiness Over O'Connor Resignation. The Washington Times (7/3, A1, Hurt) in a front page story reports that some conservative activists "chuckled with delight over their turn of good fortune." After she announced her intention to retire, "many conservatives chose to applaud the service of Justice O'Connor, but to otherwise keep quiet. White House aides and Senate Republicans sent out the word that there should be no public relief that it was Justice O'Connor, rather than Chief Justice Rehnquist, who was retiring." One conservative activist said, "Nobody wants to get into gloating here. … We're all too aware of what's at stake."

More Commentary. Expressing his concern that the political battle over Bush's nominee will hurt the Supreme Court, Yale law professor Stephen Carter in an op-ed in the New York Times (7/3) writes, "Perhaps President Bush could say to his most strident supporters on the right that it is not appropriate for them to behave with the triumphalism of conquerors who believe that the retirement of Justice O'Connor signals the moment to take control of the court. Perhaps the activists on the left, gearing up for a fight, could go back and read the speech made on the Senate floor by Edward Kennedy, during the vicious 1967 campaign over the nomination of Thurgood Marshall. Senator Kennedy warned his colleagues to reject the view that the Senate should reject potential justices who possess a judicial philosophy with which they disagree."

And the Washington Post (7/3, B6) in an editorial predicting the fierce political battle writes that "we take this moment, when nobody knows how excellent or terrible the next nominee will be, to emphasize that a judicial nomination is not a political campaign and should not be treated as one. A nominee's record is almost never a simple affair, because good legal reasoning doesn't always render the most politically congenial answer. Demagogic attacks on almost any nominee are easy, and knee-jerk defenses equally so. But a reasonable assessment of the president's choice, whoever it is, will not emerge from such a shouting match."

Specter Remains Noncommittal As He Prepares To Play Pivotal Role. The New York Times (7/3, Stolberg) reports, "Perhaps more than any other senator," Sen. Arlen Specter "will be the pivotal figure as he tries to manage his bitterly divided committee, his own uneasy relationship with the White House and the intense pressure that is already bearing down on him from both the left and right at a time when both sides are deeply suspicious of him." He "said that he and Mr. Bush had not named names in any of their conversations. He said he had thought 'long and hard' about suggesting possible candidates but decided not to, believing that 'the wiser course' would be to remain uncommitted to anyone in particular. As to whether he would advise Mr. Bush against nominating judges who might be perceived as likely to overturn Roe v. Wade, Mr. Specter was

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noncommittal." Specter said, "I'm going to listen to the president…and see how it goes."

Senate Republicans Expected To Focus On Nominee's Legal Credentials. The Washington Post (7/3, A1, Baker, Glasser) in a front page story also notes that although some Republicans "focused on whom Bush's choice will be, others mapped out strategy for the period after he decides. Senate Republicans made plans to begin hearings as quickly as possible after the nomination, focused not on the candidate's positions on hot-button issues but on legal credentials."

And the Washington Post (7/3, A13, Allen) reports, "The two parties have begun outlining their strategies for confirmation hearings once President Bush nominates a successor to Justice Sandra Day O'Connor, with Senate Republicans planning a rapid and rigid schedule designed to prevent Democrats from pinning the nominee down on divisive issues such as abortion." Senate Judiciary Committee Republican planning document "says the nominee will be counseled to avoid disclosing 'personal political views or legal thinking on any issue' in an effort to put a focus on qualifications rather than specific issues, including same-sex marriage and the government's treatment of suspected terrorists."

Sen. John Cornyn in a letter to the editor in the Washington Post (7/2, A29) wrote, "when evaluating the nominee, I will not be asking for commitments as to how he or she will rule on cases involving such contentious issues as abortion, affirmative action, same-sex marriage, the war on terrorism or any other specific issue on which the nominee might eventually rule." Cornyn stresses, "It's crucial that judges approach every case free from political commitments. They must be free to disappoint their supporters and surprise their opponents and critics. Judges must be free to do their jobs -- to listen to the facts, to carefully divine the law and to be faithful to the Constitution."

Supreme Court To Address Tough Issues In Next Term. The AP (7/3, Holland) reports, "Abortion, assisted suicide, gay rights, the death penalty. Some of the toughest issues in the land confront the Supreme Court in its new term in the fall." And whoever Bush nominates "will immediately face cases involving the Bush administration." For example, "the court will decide if law schools may restrict military recruiters as a way of protesting the Pentagon's 'don't ask, don't tell' policy." The AP notes, "The abortion cases involve a parental notification law from New Hampshire and a long-running fight over the liability of people who protest outside clinics."

The Baltimore Sun (7/3, Gibson) also reports "the retirement of Justice Sandra Day O'Connor could have almost immediate implications." In addition to other issues, the death penalty "could hang in the balance. O'Connor, who in 2001 publicly questioned how fairly capital punishment was administered, sided in recent years with a majority that struck down the death penalty for the mentally retarded, but dissented this year from a 5-4 decision banning juvenile executions." Recently the court agreed "to hear the appeal of a death row inmate from Tennessee who claims that new DNA evidence could exonerate him in the 1985 rape and murder." The Dallas Morning News (7/3, Jackson, Pusey) adds, "The justices have already agreed to review a federal law banning doctors from using drugs to assist suicides. Oregon officials claim the rule infringes on their Death with Dignity Act."

Observers Believe Rehnquist Will Remain On Court. The Chicago Tribune (7/3, Neikirk) reports that "some analysts say that if" Chief Justice William Rehnquist "waits much longer, it is less likely that he will resign." Marquette law professor Scott Moss said, "I would doubt it at this point. … If a justice is going to retire, he probably isn't going to wait until midway through the summer." And Georgetown law professor Susan Low Bloch "said she had heard that Rehnquist 'doesn't want to get off' the court while O'Connor 'did want to get off,' adding that 'I just know he loves the court and has all his life. Once his wife died, that became everything to him.'"

O'Connor Seen As Key Moderating Influence. The Minneapolis Star Tribune (7/3, Doyle) reports, "More pragmatic than philosophical, more centrist than hard-line conservative, the former Arizona state senator left a distinctive stamp on American justice that surpassed her initial ground-breaking appointment."

Linda Ross Meyer, professor of law at Quinnipiac University School of Law and a law clerk for Justice Sandra Day O'Connor during the 1991-1992 Supreme Court term, in an op-ed in the Washington Post (7/3, B1) says, "O'Connor believed that judging is not policy analysis or scholarship or ideology. Justice doesn't come from a book. The difficult decisions come in shades of gray, not black and white, and the view from the Supreme Court bench can be a narrow one.

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She looked to the pragmatic consequences of the court's decisions for everyday citizens, and she tried to do justice in the case while leaving play in the constitutional joints so as not to tie the hands of those closer to the facts and the people."

Viet Dinh, a former law clerk to Justice Sandra Day O'Connor, in an op-ed in the Washington Post (7/3, B7) concludes, "I could go on and identify Justice O'Connor's indelible stamp in every area of the law spanning property rights, race relations, privacy, employment contracts, retirement benefits and so on. But that would be missing the point of her life, work and worth. She is not a crusader, a reformer or a philosopher. She has always tried to be a good judge, and by succeeding she has been a pioneer, sage and icon."

The Dallas Morning News (7/3, Nelson) reports O'Connor "opened doors for women at the highest levels of the legal profession. But when the justice who once aspired to be a cattle rancher graduated from Stanford Law School, she found that even low-level jobs weren't options for female lawyers. Many law firms simply didn't hire women. One offered the graduate, who finished third in her class, a secretarial position." Sen. Kay Bailey Hutchison, "who also struggled to find work after law school, said that despite the rejections that Justice O'Connor faced, 'she kept that positive spirit, and she has been a leader in everything she's done.'"

Feminists Reflect On O'Connor's Legacy. The Washington Post (7/3, D1, Rosin) reports, "The feminist movement kicked into action immediately when it lost O'Connor. She may not have been a reliable ally on their pet causes (she voted to invalidate the Violence Against Women Act, for example), but she came through as the critical vote on cases involving abortion and affirmative action. But there were no heartfelt personal reminiscences. No honoring of a fellow suffragette's guts and glory. Just the legal issues and the facts, with all the emotional warmth of a legal brief. It was understood that O'Connor herself wouldn't be caught dead at such a rally."

Amount Of Classified Government Documents Has Almost Doubled Since 2001. The New York Times (7/3, Shane) reports, "Driven in part by fears of terrorism, government secrecy has reached a historic high by several measures, with federal departments classifying documents at the rate of 125 a minute as they create new categories of semi-secrets bearing vague labels like 'sensitive security information.' A record 15.6 million documents were classified last year, nearly double the number in 2001. … Meanwhile, the declassification process, which made millions of historical documents available annually in the 1990's, has slowed to a relative crawl, from a high of 204 million pages in 1997 to just 28 million pages last year." According to the Times, "The increasing secrecy - and its rising cost to taxpayers, estimated by the office at $7.2 billion last year - is drawing protests from a growing array of politicians and activists, including Republican members of Congress, leaders of the independent commission that studied the Sept. 11 attacks and even the top federal official who oversees classification." Sens. John Cornyn and Patrick Leahy cosponsored a bill that "requires that any legislation creating new exemptions to the Freedom of Information Act explicitly disclose them. It is only part of overhaul efforts proposed by the two."

The AP (7/3, Freking) reports, "The numbers come from the Information Security Oversight Office in its latest annual report to the president. … An increase in the number of documents being classified has raised concerns that the government is being too secretive, and the report notes that overclassification of documents has been a consistent issue for decades. However, the report stops short of saying that the trend runs counter to the nation's interest."

OTHER NEWS:

Rally For The Poor Held In Scotland. The New York Times (7/3, Alvarez) reports that "more than 225,000 demonstrators encircled the heart of" Edinburgh "and demanded an end to abject poverty around the world." All types of people "poured into the streets here to deliver their message to the powerful leaders who will arrive at Gleneagles Hotel in Perthshire, nearby, for the Group of 8 summit meeting that starts Wednesday." The activists and demonstrators say "the world's richest countries should forgive the debts of the poorest countries, with no strings attached, equalize trade and put an end to harmful export subsidies and increase aid to poor countries while ensuring it gets funneled to the right people." The Los Angeles Times (7/3, Depasquale) issued a similar report.

The Washington Times (7/3) added, "At the head of the march was Zimbabwean campaigner Amadou Kanoute, one of the few Africans in the overwhelmingly white crowd." The

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Times said that "organizers estimated the day's turnout at more than 200,000 people making the demonstration the biggest in Scotland yet for a political cause."

G-8 Unlikely To Agree On Global Warming Specifics. The Atlanta Journal-Constitution (7/3, Melvin) reports on various aspects of the upcoming G-8 conference, including the history and security concerns. The Journal notes that Tony Blair "seems unlikely to be able to get an agreement from all his guests to take specific steps to curb global warming. Bush does not agree that science has demonstrated that climate change poses a near-term problem or that it is caused by humans." However, "it does seem possible" that the leaders "will agree in Scotland to support the development of new technologies that do not produce greenhouse gases." Nicholas Bayne, a former British diplomat, said "I think Blair's objective was to bring the United States back into the international discussion of what to do about climate change."

G-8 Under Pressure To Admit China. The AP (7/3, Raum) says that the G-8 partnership "is under pressure to open the door to new members," among which "China, India and South Korea come to mind. Doing so would reflect the rapidly changing global economy and maintain the strategic role for which the group was organized in the first place." However, "not one of the current members seems to want to make the first move toward expansion." Grant Aldonas, who was commerce undersecretary in Bush's first term, "said a strong case could be made for bringing in other nations with fast-growing economies." Aldonas also said, "It's hard to talk meaningfully about the world economy any more without China being included." AP notes that by 2050, "the countries with the top economies are expected to be the U.S., China, India, Japan, Britain, France, Germany and South Korea. Current club members Italy and Russia would not rank in the top 10."

Past Africa Aid Failures. The Los Angeles Times (7/3, Dixon) says that "like the untouched land, Nigeria, and much of Africa, has not been transformed by the donor aid that has washed in during recent decades, most of which was stolen or wasted. Despite billions of dollars in grants and loans, Africa is the only continent sliding backward, worse off than it was 25 years ago." In some African countries, "such as corruption-plagued Nigeria, people agree that debt relief rarely trickles down to those who need it most." However, "many economists and anti-poverty activists counter that lifting the yoke of debt is the only way to reduce hardship in the poorest nations. The World Bank is beginning to favor grants, not loans, for the neediest countries to prevent them from getting buried in debt."

To Ordinary Africans, G-8 Seems Out Of Touch. In a front-page piece, the Washington Post (7/3, Wax) reports on Africans' feelings about the G-8 summit and associated activities. Africans interviewed this week, "from farmers to artists to health workers, say they are grateful for the outpouring of sentiment, and glad to hear that glamorous musicians and actors are championing their cause," but they "also said there was a dangerous disconnect between what the industrialized nations see as solutions and what Africans believe they need. Instead of debt relief and more aid, many Africans said they wanted the G-8 to focus on ending corruption and on improving roads, courts, banking and secondary education." Many Africans said that "another useful step" would be "to end Western countries' trade subsidies for their own farmers, which make it impossible for African industries to do much more than survive."

NYTimes Mag Says International Community Belongs In Congo. The New York Times Magazine (7/3, Traub) in a lengthy piece on Democratic Republic of the Congo, notes that at the G-8 summit "we may well be hearing a great deal about promising African countries like Ghana or Malawi," but "that great swaths of the continent are occupied by countries -- Sudan, Sierra Leone, Burundi and, not least, Congo -- that, left to their own devices, are very likely to eat themselves up, and their neighbors as well." The international community "has no choice but to intervene in these places." One argument "we will be hearing from the Bush administration at the Gleneagles G-8 summit meeting is that corrupt countries have to change their own political culture before the world starts pouring in aid," which the writer describes as true, "but rather facile."

NYTimes Credits, Challenges Bush In Fight Against Poverty. The New York Times (7/3) editorializes, "If Mr. Bush is truly the compassionate conservative he says he is, he will not let the moment pass with the United States continuing to contribute far less than its share to the international effort to include Africa in the prosperity of the 21st century." President Bush, "to his great credit," has been "more attentive to the problems of Africa than his recent predecessors. He has increased overall assistance, stepped up spending on H.I.V./AIDS programs and created the Millennium Challenge Account to reward Africa's best-governed countries. Last week he promised further increases, including a program to

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fight malaria, and new teacher training and scholarship money to help girls attend school." But so far "there has been a discouraging gap between Mr. Bush's generous declarations and the money Washington has actually made available to Africa. The White House has failed to push the Republican-controlled Congress to fully finance Mr. Bush's aid programs and failed to spur its own aid appointees to get the money flowing to where it is most urgently needed."

Administration Promise To Work With Other Governments "A Good Sign". The Los Angeles Times (7/3) editorializes that President Bush's "announcement last week of a $1.2-billion package to fight malaria in Africa over the next five years showed an awareness of the disease's economic and human toll. That's progress; the United States has essentially ignored its devastating effects on Africa for decades, throwing in token sums that have enriched U.S. aid contractors but done next to nothing to reduce mortality from a plague that kills from 1 million to 3 million people a year." Bush's malaria initiative "is an inspirational commitment that — if implemented properly and fully funded by Congress — could save thousands of lives. Unfortunately, those are big 'ifs.'" The administration "promises to work with other governments and the Global Fund to Fight AIDS, Malaria and Tuberculosis, and that's a good sign. Bush should see this initiative as an experiment in distributing aid without USAID's involvement."

EU Urged To Remain Committed To Expansion. Ivo Daalder, a senior fellow at the Brookings Institution, and James Goldgeier a professor of political science at George Washington University, have written an op-ed in the Washington Post (7/3, Daalder, Goldgeier) that notes "from the beginning, Europeans have greeted President Bush's 'transformational diplomacy' with disdain. To them, the mess in Iraq demonstrates the failure of a policy that relies on speaking loudly and carrying a big stick. Instead of pursuing a policy of invasion, Western Europe has used the prospect of membership in the European Union to help transform the countries of Central and Eastern Europe into stable market democracies, thus continuing a process that saw Greece, Spain and Portugal join after they too pursued a democratic path." However, "the crisis in Europe that has emerged in recent weeks, first with the rejection of the European constitution by voters in France and the Netherlands and then with the breakdown of budget negotiations at last month's E.U. summit, has put the brakes on talk of continuing the enlargement process." Unless "the door to Europe is kept ajar, the instability that continues to bedevil Europe's periphery in the broader Middle East and the former Soviet Union will come to plague Europe itself and all that has been accomplished there. The consequences would be bad not just for Europe, but also for the United States, which needs a strong partner to address challenges emanating from Northern Africa, the Middle East and Eurasia."

Media Highlights Live 8 Concert. The Live 8 concert's message urging G-8 leaders to help reduce poverty in Africa was highlighted by the media. While coverage focused on the bands, music and crowds, all three network news broadcasts led with coverage of the Live 8 concert and it was covered by most of the nation's major dailies. NBC Nightly News (7/2, lead story, 3:00, Seigenthaler) reported, "Specifically Live 8 calls for rich nations to erase more than $200 Billion in African debt, aid doubled and better trade deals for Africa. Many insist President Bush's initiatives this week to fight malaria and improve education on the continent shows…" Sir Elton John was shown singing but the audio was garbled. Sir Elton John: "There are a lot of naysayers and it provoked a lot of, well, it's not going to make that much difference. Well, you have to try. You have to try and do something positive."

CBS Evening News (7/2, lead story, :10, Palmer) reported, "In Edinburgh, where the G-8 leaders are due to meet, marchers have already begun what organizers are calling the long march to justice. But experts in development say this feel-good popular movement isn't likely to change the minds of G-8 leaders on crucial issues that might help Africa but wouldn't be popular with voters."

Knight Ridder (7/3, Schofield) reports that organizer Bob Geldof "had billed this not as a fund-raiser, but a consciousness raiser." Later, during the performance, Geldof "would describe Saturday's concerts as part of the 'long, long walk to justice.'" In Philadelphia, "in a scene that was broadcast to concerts around the world, actor/singer Will Smith urged people around the world to snap their fingers at three-second intervals, noting that the pace represented the death rate for African children from poverty." Un Secretary-General Kofi Annan said, "On behalf of the poor, the voiceless and the weak, I say thank you."

The Washington Post (7/3, Lac, Wiltz) focused primarily on the artistic aspects of the Philadelphia concert, noting that organizer Bob Geldof's goal "was to make a social statement so grand, so loud, that the leaders of the industrialized world

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simply could not ignore it." Actor Don Cheadle "urged everybody to sign an online petition to pressure the G-8 participants…to help Africa out of abject poverty."

The Washington Times (7/3) reports that Geldof "requested that performers ratchet down the kind of partisan rhetoric that characterized celebrities' involvement in the presidential election last year. Artists here complied for the most part, but, occasionally, lips loosened." The New York Times (7/3, Lyall) quotes South African pop star Zola, speaking of Europe: "They owe us. … They are the ones who brought slavery, killed our ancestors. If anybody must pay, they must pay us back so that we can have jobs and education."

The Los Angeles Times (7/3) reports that German punk rocker Campino "told the Berlin audience, 'We have to get Africa out of USA's headlock.'"

Op-ed Argues For Piecemeal Efforts To Aid Africa. In an op-ed piece appearing in the New York Times (7/3, Easterly) New York University professor of economics William Easterly, says "it's great that so many are finally noticing the tragedy of Africa. But sadly, historical evidence says that the solutions offered by big plans are not so easy. From 1960 to 2003, we spent $568 billion (in today's dollars) to end poverty in Africa. Yet these efforts still did not lift Africa from misery and stagnation." The "sensible alternative" Campino argues, "is to concentrate on piecemeal solutions to poor people's problems. You can evaluate the results of a specific intervention by comparing them with conditions in another group without the intervention, and you can get feedback from those affected and hold an individual aid agency accountable." Piecemeal fixers "do not promise the miracles that planners do; they just quietly deliver results."

American Businesses Have "Vested Interest"In China Success. The New York Times (7/3, Porter) says that "China has set out to snap up everything from Unocal to Maytag, not to mention a steady diet of United States Treasury bonds. And many of the leading voices who worried about Japan in the 1980's are warning that China presents a much bigger and more complex conundrum." Even those most concerned about China's rise up the economic, political and military ladder, however, "recognize another, perhaps more important difference between China and 1980's Japan. The United States has a vested interest in China's success." Whereas Japan's success at the time "was inevitably seen as America's failure, today American businesses are all rooting for China to succeed. Because they own a lot of it."

More Commentary. The Los Angeles Times (7/3) editorializes, "Americans needn't fear the prospect of the world's largest country joining the global middle class. This -- or the more prosaic possibility that some country might definitively unseat the United States as the world's richest country -- is not some tragic possibility that Americans must acknowledge with good grace or world-weary resignation (like the British waving farewell to their empire). The wealth of other nations is good for Americans in the narrowest selfish terms."

Abbas Attempts To Co-Opt Hamas. The Washington Times/AP (7/3, Daraghmeh) reports that Palestinian leader Mahmoud Abbas "has asked his most formidable rival, the militant Islamic group Hamas, to join his Cabinet in advance of Israel's Gaza pullout, and the group is considering the offer." Israel "denounced the idea of Hamas' joining the Palestinian government, calling the group 'a murderous terrorist organization.'" Israel and the US "have demanded that Mr. Abbas disarm Hamas and other militants, a step he has refused to take for fear it would provoke bloodshed among Palestinians. He has chosen instead to co-opt militants."

Some Gaza Settlers Dig In As Pullout Nears. The Los Angeles Times (7/3, Ellingwood) reports that "rather than packing up, Sanur's 31 families are busily fortifying their hold on the West Bank hilltop in anticipation of a last stand." Sanur "is one of four settlements in the northern West Bank scheduled to be abandoned by Israel this summer, along with all 21 Jewish communities in the Gaza Strip." Although "Sanur and the three other isolated West Bank settlements, Homesh, Ganim and Kadim, have been largely overlooked in the turbulent national drama over the planned withdrawal," military officials "say settler resistance may prove especially tough in Sanur and Homesh." Settlers in Sanur "say they expect 10,000 or more supporters to sweep in to help thwart the evacuation."

Iranian Pres-Elect Refuses Interviews. The New York Times (7/3, Slackman) says that since the election a week ago, "it has been nearly impossible to get a feel for Mahmoud Ahmadinejad, to take the measure of the man. He has refused all interviews, though he did hold one hourlong news conference." Friends, supporters and neighbors "describe the diminutive, bearded man as humble and

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caring." Nasser Hadian-Jazy, a political science professor at Tehran University, "said that he had known the president-elect since childhood and that Mr. Ahmadinejad was not involved with the student hostage takers."

Ahmadinejad A Suspected Accomplice In 1989 Austrian Attack. The Washington Times/AP (7/3, Kole) reports that Austria's daily, "Der Standard." quoted a prominent Austrian politician "as saying authorities have 'very convincing' evidence linking" Ahmadinejad to attacks in Vienna," in which Kurds were killed in 1989." Der Standard reported yesterday that a top official with Austria's Green Party, accused Ahmadinejad "of traveling to Vienna a few days before the slayings to deliver the weapons to the Iranian commandos who carried out the killings. He said he wants a warrant issued for Mr. Ahmadinejad's arrest."

Ahmadinejad Campaign Message Of Economic Hope Aided Victory. The New York Times (7/3, Slackman) reports on Ahmadinejad's election campaign "promising to redistribute the nation's wealth, hold down prices, raise salaries and lift state-supported benefits for the poor. He infused those pledges with the theme of social justice, which resonated in a society where aiding the poor is considered an obligation for the faithful." Iran is "awash in oil money, as the price of crude topped $60 a barrel this week, pumping billions into the government treasury. But this country's economy is still tied down by a system in which the state and a shadowy collection of foundations controlled by clerics monopolize the vast bulk of its industries, including oil." The Ahmadinejad campaign message of "economic hope - as well as social justice - captured the hearts…of middle-class families. Parts of the middle class have trouble meeting their own financial needs, although their support for Mr. Ahmadinejad also stems from having grown used to buying subsidized food, even if they can afford to pay market prices."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — No schedule available.

VICE PRESIDENT CHENEY — No schedule available.

US Senate: -- No events scheduled.

US House: -- No events scheduled.

Other: ALL DAY

June 30 - July 3. SCHOOL NURSES CONFERENCE _ The National Association of School Nurses (NASN) holds its 37th Annual Conference. Location: Marriott Wardman Park Hotel, 2660 Woodley Road, NW. Contacts: n/a, 207-883-2117

July 1 - 5. OSCE PARLIAMENTARY ASSEMBLY _ The 14th Annual Session of the Organization for Security and Co-operation in Europe (OSCE) Parliamentary Assembly, whose participating states span the geographical area from Vancouver to Vladivostok, is held with the theme, ``30 Years Since Helsinki: Challenges Ahead." Highlights: 12 p.m. The World Jewish Congress, Institute on Religion and Public Policy, and Foundation for Ethnic Understanding host a roundtable luncheon, ``Legislative Responses to Anti-Semitism," with parliamentarians from across Europe, North America, and the former Soviet Union. The program includes Rep. Alcee Hastings, D-Fla., president, OSCE Parliamentary Assembly; co-chairs Rep. Chris Smith, R-N.J., co-chairman, U.S. Helsinki Commission, and Prof. Gert Weisskirchen, German Bundestag, OSCE-PA vice president and personal representative of the Chairman-in-Office of the OSCE on Combating Anti-Semitism; and presentations from leading members of national parliaments from the OSCE region. Willard Intercontinental Hotel. Location: JW Marriott Hotel, 14th St. and Pennsylvania Ave. NW.

CAPITAL FOURTH-REHEARSAL _ Open dress rehearsal for accredited media only of the 25th Annual PBS Capitol Fourth concert. Highlights: 11:50 a.m. - 12:50 p.m. The O'Jays 2 p.m. - 2:30 p.m. Kimberley Locke 2:30 p.m. - 3:25 p.m. Ronan Tynan 3:25 p.m. - 5:20 p.m. Gloria Estefan, Jimmy Smits 5:20 p.m. - 6 p.m. Barry Bostwick 7:40 p.m. - 10 p.m. Full concert dress rehearsal Location: U.S. Capitol, West Lawn Contacts: Anne Maginnis, 202-554-4620

July 3 - 8. IEEE CONFERENCE _ The Institute of Electrical and Electronics Engineers (IEEE) holds the 2005 IEEE Antennas and Propagation Society International Symposium and URSI National Radio Science Meeting. Location: Omni Shoreham Hotel, 2500 Calvert St. NW. Contacts: Prof. Amir Zaghloul, 703-535-3465

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"State Ballot, Wider Impact"

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"Glimpses Of A Hermit Nation"
"High Noon For High Court"
"How Visa System Failed To Flag Lodi Imam"
"Junior Miss Bows Out True To Tradition – Gracefully"
"Start to Make It Better, Live 8 Urges"

New York Times:

"Conservative Groups Rally Against Gonzales As Justice"
"Profit, Not Jobs, in Silicon Valley"
"A Town That Bled Under Hussein Hails His Trial"
"Confirmation Battle In Senate Could Define Specter's Career"
"In An Epic Wimbledon Final, Williams Prevails"
"For The Poor In Iran, Voting Was About Making Ends Meet"

Washington Post:

"Activists Gear Up For Nominee Fight"
"Help From France Key In Covert Operations"
"The Right's Moment, Years In The Making"
"Among The Poor Of Africa, G-8 Seems Out of Touch"
"One Man's Fight Against E-Mail Spam"

Washington Times:

"Liberals Gird For Supreme Struggle"
"Iranian Accused In Killing Of Kurds"
"A Present Built On The Past"
"NASA Plans Big Bang For Fourth"
"Live 8 Concerts Rock The Globe For Africa"

Atlanta Journal-Constitution:

"Old Glory's Preservation"
"A Musical Message"
"Noodlin' Away A Summer Afternoon"
"Conservatives Relish Chance To Seize Court"

Dallas Morning News:

"A Mystery In Boots And Beard"
"Gen X Marks Its Spot"
"Microbiologist Claimed Aloe Vera Fights Cancer, AIDS"
"Shaky Science: Experts Question Anthrax Lotion"

Houston Chronicle:

"Mad cow Puts Role Of USDA In Question"
"How NASA Would Save Shuttle Crew In Danger"
"Authorities Little Help, Hope To Families Of Missing"
"Conservatives Lobby Against Gonzales"

Story Lineup From Last Night's Network News:

ABC: Live8; Iraq Bombings; Missing And Dead Soldiers In Afghanistan; SCOTUS/Abortion; Missing Girl; Arizona Wildfire; House Insurance; Wimbledon; Tour De France; Miss America.

CBS: Live8; Missing Girl; SCOTUS Nominee; Iraq Bombings; Soldiers' Deaths In Afghanistan; Wimbledon; Tour De France; Ballroom Dancing.

NBC: Live8; SCOTUS Nomination; SCOTUS/Interest Groups; Missing Girl; French Anti-Terrorism; NASCAR; Wimbledon.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: SUNDAY, JULY 3, 2005 7:45 AM EST

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TERRORISM NEWS:

US-French Anti-Terrorism Cooperation Is Often Hid From Public View. NBC Nightly News (7/2, story 4, 3:00, Seigenthaler) reported, "Washington Post reporter and NBC news analyst Dana Priest is investigating worldwide terrorism. One facet she's uncovered in the current global battle is the extraordinary behind-the-scenes cooperation between the United States and France." Priest noted, "While some Americans protested by insisting oh freedom fries, diplomats say the French are among their most effective in tracking terrorists and have put 200 of its special forces under U.S. Command in Afghanistan." According to NBC, "Shortly after 9/11, the C.I.A. and French security services set up a counterterrorism clearinghouse somewhere in Paris. Its operations and its very existence remain a closely guarded secret even today. This is the senior French terrorism judge who's ordered the arrest of more than 500 suspected terrorists, inclusion six French citizens released from Guantanamo."

Adding more details to the report on US-French counterterrorism cooperation, the Washington Post (7/3, A1, Priest) in a front page story reports, "Funded largely by the CIA's Counterterrorist Center, Alliance Base analyzes the transnational movement of terrorist suspects and develops operations to catch or spy on them." The Post continues, "Alliance Base demonstrates how most counterterrorism operations actually take place: through secretive alliances between the CIA and other countries' intelligence services. This is not the work of large army formations, or even small special forces teams, but of handfuls of U.S. intelligence case officers working with handfuls of foreign operatives, often in tentative arrangements." Their efforts have been "responsible for identifying, tracking and capturing or killing the vast majority of committed jihadists who have been targeted outside Iraq and Afghanistan since the Sept. 11, 2001, attacks, according to terrorism experts."

DHS Official Seeks To Increase International Counterterrorism Cooperation. The Washington Times (7/3, Taylor) reports DHS director of international affairs Cresencio Arcos "says the United States must do more to spark action among its foreign allies in fighting the global war on terrorism in their own countries." He said, "We need to be more creative in how we engage our allies in the war on terror." The US "has made great progress working with Britain, Canada and Mexico -- the latter two making up about 60 percent of joint-U.S. homeland security efforts -- said Mr. Arcos." But DHS sources "say they are 'circumspect' about forming joint working groups with governments outside those three nations. 'We can't possibly have them with every country in the world,' one official said, on the condition of anonymity."

Subject Of CIA Italy Rendition Being Held In Egypt. The Houston Chronicle (7/3) reports, "Osama Moustafa Hassan Nasr, the man at the center of an international controversy over an alleged CIA abduction, is being held in Damanhour prison outside Alexandria though he has not been accused of a crime, according to his lawyer, Muntassir al-Zayyat, a Cairo attorney who defends many Islamists." In contrast to the public uproar in Italy, "in Egypt, where such renditions of wanted fugitives are relatively common, the dramatic seizure of Abu Omar in Milan drew little attention."

Columnist Questions Value Of Rendition Policy. Jim Hoagland in his column in the Washington Post (7/3, B7) writes, "America's spy agencies need more money, a sleeker bureaucratic structure, fluent Arabic speakers and a host of other reforms and gimmicks to protect the United States and its allies from harm. Add one more urgent need: a sense of proportion." In substance and style, the exposure of the 'extraordinary rendition' -- Bush-era legalese for kidnapping -- of a radical Egyptian cleric off a Milan street in 2003 reveals a crushing inability by higher-ups here to ask and answer sensibly this question: Is this covert act really worth the likely consequences?"

More Commentary. The Washington Post (7/3, B6) editorializes, "The practice of rendition began before the Bush administration, and in some cases it is a necessary tool in the fight against terrorism. … But renditions should be rare, and they should have clear rules and oversight. No terrorist suspect should be turned over to a government likely to use torture -- and Egypt, among other Middle Eastern countries, is a well-documented abuser. The CIA should not use illegal means to capture suspects in democratic countries with a strong rule of law, especially if they are allies of the United States. It may make it quicker or easier to get one extremist sheik off the street, but as the Italian case shows, the damage caused by such highhandedness is too great."

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Suspected Terrorist Obtained US Visa Easily. The Los Angeles Times (7/3, Tempest) reports, "As Shabbir Ahmed sits in the county jail on immigration charges connected to an FBI terrorism investigation, federal officials are at a loss to explain how a man who publicly demonstrated his rage against the United States and advocated violence against the U.S.-backed regime in Pakistan could slip so easily through the State Department visa system." Despite media reports about his demonstrations against the US, in J2002 Ahmed "walked into the consular section of the heavily fortified U.S. Embassy compound, where he was granted an uncontested three-year 'religious worker' visa to the United States."

PATRIOT ACT:

New Jersey County Urges Patriot Act Revisions. The East Brunswick (NJ) Home News Tribune (7/3, Loyer) reports, "The Middlesex County (NJ) Human Relations Commission is joining the growing list of communities and legislators from around the country taking a stance against the USA Patriot Act." The Tribune continues, "The commission will issue a formal resolution to lawmakers, municipal governments and local organizations on Tuesday urging them to petition the executive level of the federal government to rescind or modify any law or executive order that diminishes protected civil rights. … 'We definitely want to protect our country, our neighbors and our homes, but there are potential dangers in such acts as the Patriot Act,' said commission Chairman Bruce S. Morgan. 'We take exception to any act or order that erodes the rights guaranteed by the United States Constitution and Bill of Rights.'" The Tribune adds, "According to the resolution, the act and several federal executive orders go beyond legitimate measures of protection against terrorism and lead to infringe on such rights as freedom of speech, religion, assembly and privacy, the right to counsel and due process in judicial proceedings, protection from unreasonable searches and seizure and equal protection under the law. … Morgan said he believes the act was passed by lawmakers because 'they were given so little time to review it and a lot of things may have been missed. We're hoping to get it tailored so it does not erode the rights guaranteed by the Constitution,' he said. … The Highland Park Borough Council passed a similar resolution in February 2004. The New Brunswick City Council adopted a similar resolution in May."

More Patriot Act Commentary. In a letter to the editor of the Lansing (MI) State Journal (7/3), Hagen W. Frank, an assistant U.S. attorney in Grand Rapids, writes, "On June 10 and 17, the LSJ ran editorials strongly criticizing the USA Patriot Act. While the articles demonstrated the LSJ's commitment to privacy rights in the face of purported infringements by the Patriot Act, they also demonstrated the editors' unfamiliarity with the constitutional and statutory law that governs federal law enforcement and intelligence investigations. … Both articles focused primarily on section 215 of the act, which expanded the types of materials that may be ordered produced by the Foreign Intelligence Surveillance Court (the 'FISA Court') in domestic intelligence investigations of foreign powers or international terrorism." Frank continues, "Described by critics as a provision that allows the FBI to go on fishing expeditions of citizens' reading habits - as if the FBI were looking for 'busy work' - the provision in fact simply gave the FISA Court the same authority in intelligence and international terrorism investigations to order production of materials that a prosecutor can obtain by grand jury subpoena in a domestic criminal investigation. …. According to the June 17 editorial, this is bad because the FISA Court is secret and because the government already had the power to get these materials by search warrant. Secrecy, however, is essential to the kinds of investigations overseen by the FISA Court, i.e., classified intelligence investigations into the activities of foreign powers, suspected agents of foreign powers and international terrorism." Frank adds, "Similarly, the June 10 editorial complains about the Senate Intelligence Committee's endorsement of a proposal to give the FBI administrative subpoena authority in terrorism investigations. According to the LSJ, this would empower the FBI to 'investigate citizens without judicial oversight.' This complaint assumes incorrectly that every government investigative tool requires judicial oversight. … However, whether judicial pre-approval is required depends upon how intrusive something is and on constitutional, statutory and regulatory provisions that the editorial ignores. Further, administrative subpoenas have long been used by a wide variety of federal agencies. … The FBI already has such authority in health care fraud and child sexual-exploitation investigations, and the proposed measure would simply expand that authority to terrorism investigations. … Every citizen and every media organization has the right to question and criticize government. However, the LSJ also has the responsibility not to mislead the public on important issues of the day."

The Washington Times (7/3), Senator Christopher 'Kit' Bond (R-MO) writes, "As July Fourth approaches, some Americans appear to suffer from amnesia. … With dramatic headlines such as 'Ripping Pages from the Book of Civil Liberties,' 'Patriot Act Fosters Secrecy, Government Abuse' and 'Keep Big Brother at Bay,' editorial writers and columnists unfairly criticize legislation that has helped keep America safe since September 11, 2001." Bond continues, "A few weeks ago, the U.S. House of Representatives rejected a proposal to make it easier for the FBI to obtain information on suspected terrorists that could help prevent a future attack. …

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What is going on here? … It appears some editorial writers and members of Congress have forgotten. And they are not alone. Fewer Americans -- only 35 percent -- now fear another terrorist attack in the near future than at any time since September 11, a recent USA Today/CNN/Gallup poll found. Despite their complacency, the threat of terrorism continues. … And surely there is no more important public purpose than keeping America safe from another catastrophic terrorist attack on U.S. soil. To do so, Congress should reauthorize the Patriot Act quickly and expand it to give law enforcement more tools to go after suspected terrorists and prevent attacks." Bond concludes, "The September 11 attacks showed the failure of a number of legal and regulatory policies that kept intelligence and law enforcement communities from talking to each other and sharing information on investigations of suspected terrorists."

HOMELAND RESPONSE:

Analysts Say Overhaul Of Intelligence System Could Take 10 Years. The Baltimore Sun (7/3, Gorman) reports, "Though the White House announced its intelligence overhaul Wednesday with promises that it would make the country safer, the changes it outlined could take a decade to complete, according to longtime intelligence analysts, including a member of the presidential commission that proposed the reforms. … 'The whole process will take five to 10 years,' said Adm. William O. Studeman, a member of the commission that investigated the intelligence failures that led the administration to conclude that Iraq possessed weapons of mass destruction." The Sun continues, "Studeman characterized that time frame as an optimistic estimate - one assuming that every part of the intelligence community endorses the changes. … The White House said it embraced 70 of 74 recommendations of the commission, led by U.S. Circuit Judge Laurence Silberman and former Sen. Charles S. Robb of Virginia. The most significant reform would be creation of a domestic intelligence service within the FBI." The Sun adds, "Other changes are aimed at slowing the proliferation of weapons of mass destruction, improving the quality of human intelligence and integrating the efforts of all 15 U.S. intelligence agencies. … But the future of the reforms is in doubt, as Attorney General Alberto R. Gonzales and FBI Director Robert S. Mueller III have begun maneuvering to regain control over the design of the FBI's intelligence service, said an intelligence veteran responsible for helping the White House implement the plan. … The president set a 60-day deadline for having a detailed outline of the new domestic intelligence service. The Justice Department is arguing that the planning should begin immediately, while White House aides want to wait until the head of the service is appointed, the intelligence veteran said. … If the deadline is suspended until the White House appoints a chief of the domestic intelligence service, the FBI will lose considerable control over that service's shape."

Artists Express Support for New York Professor Under Federal Probe. The San Diego Union-Tribune (7/3, Pincus) reports, "Imagine this scenario: You are a well-established artist and respected university professor. You wake up one morning to find your spouse of 25 years isn't breathing. You call 911. Paramedics arrive, accompanied by police. … There are a few petri dishes in the house, because your conceptually oriented work involves scientific-style installations and issues. So, one of those workers decides you just might be a terrorist and calls the FBI." The Union-Tribune continues, "The next day, as you are on the way to the funeral home, you are detained by the FBI and the Joint Terrorist Task Force. You are held for 22 hours without having your Miranda rights read to you. Your home and even part of your block is cordoned off; your computer, books, manuscripts and anything else deemed suspicious are confiscated by workers in hazmat suits. Even your spouse's body is held for further analysis. … Sound like the outline of a compelling novel or film about governmental abuse of power? Sure. But this story isn't imaginary. It is what University of Buffalo professor Steven Kurtz, a member of the artists' collaborative called Critical Art Ensemble (CAE), experienced in May 2004 when someone who answered his 911 call decided to make a call to the FBI." The Union-Tribune adds, "This tale doesn't end there; Kurtz is now facing charges that could result in a 20-year prison sentence. … Artists across the United States and beyond have taken up Kurtz's cause, because they feel it is their cause, too. Following an earlier fundraiser in London, an auction to raise money for his defense was held at the esteemed Paula Cooper Gallery in New York in April. … While there apparently wasn't enough evidence to bring bioterrorist charges, the government is pursuing wire and mail fraud charges against Kurtz and Robert Ferrell, a former head of the Department of Genetics at the University of Pittsburgh's School of Public Health. … 'These laws (on fraud) have been on the books for more than a century. Whether it (the bacteria) is or isn't harmful isn't an element of the offense. The case centers on property acquired by fraud or misstatement,' said U.S. Assistant District Attorney William Hochul on Thursday. He's the prosecutor on the case, which is being tried in New York."

Minutemen Plan New Patrols For Fall. The Los Angeles Times (7/3, Gold) reports, "As the second act to its civilian border patrol in Arizona, the organization known as the Minutemen has pledged to launch a massive patrol of the entire U.S.-Mexico border this fall." They "are holding community meetings throughout the South and Southwest to

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marshal thousands of volunteers. Leaders hope to amass in October to try to block illegal immigration routes in four states." Yet, "the organization is finding that such an ambitious plan will not come together as easily as the April patrol in Arizona that covered 23 miles of the border. That is particularly true in Texas, which has 1,254 miles of the 2,000-mile border." That is because "most of the land along the border in Texas is privately owned, except for the Big Bend region in the western tip of the state."

Fighter Jets Force Small Plane To Land After Violating Airspace. The AP (7/3) reports, "A small plane entered restricted air space in the Washington area before two fighter jets forced it to land at an airport here, authorities said." The AP adds, "Two F-16 fighter jets were deployed and they forced the small plane to land at Frederick Municipal Airport. Officials were questioning a man and a woman Saturday, according to the News-Post. There were no arrests."

Independence Day Crowds Will Participate In Emergency Response Training. The Washington Post (7/3, C1, Markon) reports, "The first test of Washington's downtown emergency evacuation plan is expected to clear the Mall of most Fourth of July revelers tomorrow and speed them on their way within an hour, officials said yesterday." The Post adds, "The plan, which calls for police to direct the hundreds of thousands of pedestrians and motorists to seven evacuation routes, where green and red traffic signals will run longer, was developed two years ago in response to the Sept. 11, 2001, terrorist attacks. City officials have tried to publicize it, even painting special signs on streets along the routes directing drivers to the Capital Beltway, but they acknowledged that a major test is needed to tell people how they should flee if terrorists were to strike the city."

WAR NEWS:

Bush Ties War On Terror To Fourth Of July Celebration. The AP (7/3) reports, "President Bush paid tribute to America's military forces Saturday, saying that Independence Day is an occasion for the nation to express thanks by flying the flag, sending letters to troops and reaching out to their families. 'At posts in Afghanistan, Iraq, and around the world, our men and women in uniform are taking the fight to the terrorists overseas, so that we do not have to face the terrorists here at home,' Bush said in his weekly radio address. He said U.S. forces have freed millions of people from oppression, in keeping with the principle of the Declaration of Independence 'that all are created equal and all are meant to be free."

Bush Seen As Unable To Inspire Insecurity As Easily As He Could After 9/11. The New York Times' Frank Rich (7/3) writes "As we saw on Tuesday night, doomsday isn't the surefire hit it used to be for Mr. Bush. Now that the rhetorical arsenal of W.M.D.'s and mushroom clouds is bare, he had little choice but to bring back that oldie but goodie, 9/11, as the specter of the doom that awaits us if we don't stay the course - his course - in Iraq. By the fifth time he did so, it was hard not to think of that legendary National Lampoon cover: 'If you don't buy this magazine, we'll kill this dog.'"

US Said To Have Failed To Promote Democracy Effectively In The Past. In an op-ed for the Washington Post (7/3, B4) Richard Kohn, former chief of history for the U.S. Air Force, writes, "Contrary to the rosy picture of our past so prevalent in Washington today, this country possesses a rich and often troubled history of intervention and nation building, and even empire. We succeeded in building democracy at home but largely failed in planting it abroad, which ought to make all of us, the president included, wary of so vague a goal in Iraq, and exceedingly careful in crafting a strategy to set that country on the road to stability and independence."

President Bush's Radio Address Receives Light Local Television Coverage. President Bush's radio address, in which he praised American troops and their families, received extremely light local television coverage. The President was quoted by one station as having said, "The burden of war falls especially hard on military families and I thank them for their support they give our troops in their vital work." Senator Patty Murray issued the Democratic response, saying that Independence Day is also a good time for President Bush to "give us the facts about the war and lay out a plan."

Some examples: WGCL-TV Atlanta (7/2, 11:09PM) reported that "President Bush says Independence Day is a time for the nation to express thanks to the military. During the weekly radio address Bush asked all Americans to show their gratitude by flying the flag, sending letters to troops, and reaching out to families. 'Those who serve are taking their rightful place among the greatest generations that have worn our nation's uniform. The burden of war falls especially hard on military families and I thank them for their support they give our troops in their vital work.'"

WCCB-TV Charlotte (7/2, 10:12PM) said that "Bush compared the current military operations in Iraq and Afghanistan to the American battles of the 19th and 20th centuries. The President also urged Americans to use the holiday as an opportunity to reach out to military families." Meanwhile, "Democratic senator Patty Murray also looked to veterans as an example of how the Bush administration has failed. She pointed out budget shortfalls for the Veterans

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Administration. Senator Murray says President Bush needs to give Americans the facts and lay out a plan for Iraq."

KHWB-TV Houston (7/2, 9:03PM) reported, "President Bush uses his weekly radio address to say the best way to celebrate Independence Day is to give thanks to American troops. 'At posts in Afghanistan and Iraq and around the world, our men and women in uniform are taking the fight to the terrorists overseas so that we do not have to face the terrorists here at home.' Democrats responded by saying Independence Day is also a good time for President Bush to, quote, 'give us the facts about the war and lay out a plan.' They accuse the President of failing veterans."

Democrats Contend Administration Has Underfunded Veterans Affairs. The AP (7/3) reports that in the weekly Democratic radio address Sen. Patty Murray "said President Bush's recent denials concerning the financial straits of the Veterans Affairs Department represented another administration failure to level with Americans about the costs of the Iraq war." Murray and other Democrats "had long questioned whether the department would have enough money to pay medical costs for veterans returning from Iraq and Afghanistan. The administration repeatedly denied it, but the VA acknowledged last week it was short at least $1 billion this year. On Wednesday, the Senate voted 96-0 to spend an extra $1.5 billion to cover the politically sensitive shortfall. 'We're still working to find out the exact size of the shortfall, but one thing is clear: It results from either deliberate misdirection or gross incompetence,' Murray said."

Hagel Says He Hopes US Doesn't Repeat Mistakes Made During Vietnam Era. In an interview with the New York Times Magazine's Deborah Solomon (7/3) Sen. Chuck Hagel says, "If someone says I am a disloyal Republican because I am not supporting my party, let them say it. War is bigger than politics." When it is noted that Hagel and John Kerry "are the only current U.S. senators who served in Vietnam," Hagel comments, "I got to Vietnam in December of 1967, and I was wounded twice with my brother Tom, who was with me. I still have some shrapnel in my chest that the doctors never took out. The second time my face was burned pretty bad, and I had both eardrums blown out." Asked to compare "the situation in Iraq with the one in Vietnam," Hagel replies, "Congress was absent during the Vietnam War, and they didn't ask the tough questions, and consequently we lost 58,000 Americans and lost a war and humiliated this nation. It took a generation to get over it. As long as I am here as a U.S. senator, I am going to do whatever I can to make sure that isn't going to happen."

Suicide Bombings Targeting Iraqi Police Kill At Least Twenty. The New York Times (7/3, Wong) reports, "Three suicide bombers blew themselves up on Saturday in two separate attacks aimed at Iraqi security forces, killing at least 20 people and wounding at least 59, police officials said. The first explosion took place at a recruiting center in western Baghdad. The blast killed at least 12 people and wounded at least 23. Those killed were all men trying to get jobs with the security forces, said Maj. Gen. Rasheed Flayeh, the commander of the Interior Ministry's commando units. … The second attack took place at 10 p.m. at a restaurant beside the police commando headquarters in the town of Hilla, south of Baghdad, an Interior Ministry official said. Two suicide bombers detonated their explosives, killing at least eight police officers and wounding at least 36 others."

Bombings Disrupt Relatively Calm Week In Iraq. CBS Evening News (7/2, story 4, :10, Mitchell) reported, "In the battle for Iraq, rebel attacks around Baghdad shattered six days of relative calm. A suicide bomber killed at least 16 Iraqis at a police recruiting center. Another bomb killed six people at a checkpoint. Millions of Baghdad residents are scrounging for water in 100- degree heat after a rebel attack disabled water works."

ABC's World News Tonight (7/2, story 2, 0:10, Moran) reported, "Now we turn to Iraq. The attack in Baghdad hurt more than 20 others, and killed 17. It was more than several assaults that killed more than 30 Iraqis today."

The Washington Post (7/3, A15, Mosher, Nouri) reports, "Over the course of a nearly two-year-old insurgency in which assaults on Iraqi and U.S. security forces have been frequent, attackers repeatedly have targeted places where men stand in line to apply for jobs with the police and Iraqi army. Because would-be recruits typically are made to wait outside fortified bases and recruiting centers, they have proved to be easy targets for often-deadly bombings."

Several Other Iraqis Killed In Incidents Across The Country. The Los Angeles Times/AP (7/3) reports, "In other violence Saturday, three Iraqi soldiers were killed in a roadside bombing northeast of Baghdad, their commander said. Gunmen also assassinated a police lieutenant colonel in the northern city of Mosul, officials said. Two other people were killed when a bomb hidden in a vegetable cart exploded Saturday in Mahmoudiya, about 20 miles south of Baghdad. … Also Saturday, a policeman and a female relative traveling in a civilian car were killed in a drive-by shooting in the northern city of Kirkuk, authorities said."

Columnist Urges Rumsfeld To Provide Congress With Overview Of Security Situation In Iraq. The Washington Post's David Broder (7/3) writes, "President Bush is facing an early legal deadline to deliver what he has been most resistant to providing: a set of specific benchmarks for measuring progress toward military and political stability in Iraq. Under a little-noticed provision of the defense spending bill passed by Congress in May, Defense Secretary Don Rumsfeld has until July 11 to send Capitol Hill a 'comprehensive set of performance indicators and measures

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of stability and security' two years after the fall of Saddam Hussein. … If and when it comes in, it could do much more than the president's Tuesday night speech at Fort Bragg to provide a factual basis for judging how close we may be to reaching our goals in Iraq."

Shiites Protest US Overtures To Sunni Insurgents. The Los Angeles Times (7/3, Mcdonnell) reports, "It didn't take long for fresh reports of U.S. talks with Sunni Arab insurgents to stir cries of an impending sellout. … A senior U.S. official here sought to provide damage control. There was no intent, he declared, to undermine the fledgling Shiite-run government, which meets behind U.S.-fortified blast walls." The Times continues, "The exchange underscored the fragility of the political compromise that the Bush administration is seeking to facilitate in Iraq, even as the complementary military strategy — turning more and more responsibility over to fledgling Iraqi forces — has yet to prove a success. … Reports of U.S. overtures to the Sunni Arab-driven insurgency immediately sparked a backlash last week among the long-repressed Shiite majority. Much hinges on a two-part premise. First, that disaffected Sunni Arabs can be brought into the political process, and second, that participating Sunni representatives can sway militants, who have denounced the government, to put down their arms."

The Los Angeles Times (7/3) Larry Diamond, senior fellow at the Hoover Institution, writes, "if the United States is to avoid defeat in Iraq, Bush must recognize what our military leaders have repeated for more than a year: There is no purely military solution to the insurgency. It will only be extinguished by a combination of military might, good intelligence, reliable policing and — crucially — effective politics. … The administration deserves credit for drawing Sunnis into the political process, but it must do more to incorporate them politically into the new Iraq, the second element of a winning political strategy. It has done too little to address their nationalist anxiety."

Shiite Town Ravaged By Hussein Looks Forward To His Trial. The New York Times (7/3, Burns) reports, "Officials at the Iraqi Special Tribunal set up to try [Saddam Hussein] and his top aides have said they expect to put him on trial by the end of the year in the deaths of nearly 160 men and boys from Dujail, all Shiites, some in their early teens. Some were shot dead in the immediate aftermath of [an] assassination attempt, but 143 - 9 of them ages 13 through 15 - were executed three years later by Mr. Hussein's revolutionary court. Townspeople say that many others remain missing - at least 200, by some counts - and that they hope the trial will reveal at least something of their fate."

US Suffers Worst Week In Afghanistan Since 2001. CBS Evening News (7/2, story 5, 2:00, Mitchell) reported, "In his weekly radio address, President Bush said the best way to honor Americans killed in the war is 'to complete the mission.' The bodies of sixteen U.S. commandos killed in this week's helicopter crash in Afghanistan were flown home this weekend. But the commando unit they were sent to rescue is still missing in the escalating afghan violence." CBS' Randall Pinkston continues, "This has been the deadliest week for U.S. Troops in Afghanistan since the overthrow of the Taliban regime and their al Qaeda allies in 2001. With the missing unit, the death toll could go higher. Tuesday's rocket- propelled grenade attack brought down a Chinook helicopter. The deaths of eight navy seals and eight army special forces service members sent to aid the missing unit were a deadly reminder for the U.S. And today, a flare-up in the south east. A United Nations official reported a bomb attack on a 25- vehicle convoy of U.S. and U.N. Troops in Paktika province. No American injuries, but four Afghan troops were killed."

ABC's World News Tonight (7/2, story 3, 2:00, Moran) reported, "In Afghanistan, the U.S. military has launched fresh attacks on suspected Taliban fighters as the search for a missing team of elite American commandos intensifies." ABC's John Yang continues, "That team of commandos has been missing for five days. today, the military said they're using every available resource to search for them. In the rugged mountains of remote eastern Afghanistan, U.S. warplanes use precision-guided bombs to hit a suspected Taliban compound, near where the elite unit went missing. Fewer than ten lightly armed commandos hunting insurgent fighters. Today, U.S. officials said there's no evidence to support Taliban claims that they captured some of them."

US Aircraft Target Compound Near Where Soldiers Went Missing. The Washington Post (7/3, A21, Aizenman) reports, "U.S. aircraft bombarded a suspected insurgent compound in a mountainous area of northeastern Afghanistan where a military team has been missing since Tuesday, military officials said Saturday. A purported spokesman for the ousted Islamic Taliban militia called news organizations and claimed that 25 civilians had died in the airstrike on the compound in Konar province, a rugged region near the Pakistani border. Lt. Col. Jerry O'Hara, a U.S. military spokesman, said American troops were still assessing the impact of the Friday night bombing. … The purported Taliban spokesman, Abdul Latif Hakimi, told news agencies by telephone Friday that Taliban fighters had captured one of the missing men and killed seven of them. But U.S. military officials have said there was no evidence to support the claim.

Taliban Claims To Have Captured One American. The Washington Times/AP (7/3, Cooney) reports Hakimi

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claimed Friday that militants had captured one of the men and said he was a 'high-ranking American' caught in the same area as where the helicopter went down. He reiterated the claim yesterday in a phone call with the Associated Press. 'The soldier is being held in Kunar. Taliban leaders will decide what to do with him,' Mr. Hakimi said. 'He is being kept in a home. His health is all right.' When asked to provide evidence that the soldier was in captivity, he said, 'Tomorrow we will give proof.'" The AP adds, "Hakimi, who also claimed insurgents shot down the helicopter, often calls news organizations to take responsibility for attacks, and the information frequently proves exaggerated or untrue. His exact tie to the Taliban leadership is not clear."

The Los Angeles Times (7/3, Kazem) reports, "Hundreds of U.S. and Afghan forces have since been scouring the area's deep ravines in the hope of finding the special reconnaissance team, which has been out of contact for several days. … 'There is a good chance that the soldiers are being held hostage by the rebel fighters,' said Gov. Asadullah Wafa of Kunar."

US Releases 57 Held At Bagram For Months Or Years Without Being Charged. The Washington Post (7/3, A21, Aizenman) reports, "In Kabul, U.S. military officials released 57 Afghans who had been held at a detention facility at Bagram air base for many months on suspicion of being armed Muslim extremists. They were taken to the office of a government program that reintegrates former Taliban members and released to the custody of tribal elders. … In May, President Hamid Karzai called for all Afghan prisoners to be turned over to Afghan government custody in the wake of reports of past abuse by U.S. guards at Bagram and Guantanamo Bay, Cuba. Several of the released men complained bitterly of being detained for several years without charge.

Attack On UN Convoy Kills Six Afghans. The Washington Post (7/3, A21, Aizenman) reports, "on Saturday, guerrilla fighters in eastern Paktika province detonated a roadside bomb under a passing convoy of more than 20 vehicles carrying officials from the United Nations as well as Afghan leaders and security forces. The attack killed as many as six Afghan policemen and soldiers, and wounded at least two others, including a local police chief, according to news services and the U.N. spokesman here, Adrian Edwards.

Wounded Soldiers Provided With Trip To Gettysburg. The Washington Post (7/3, C6, Ruane) reports on three wounded soldiers from Walter reed who visited A weekend reenactment at Gettysburg. The n outing was "hosted by a soldiers support agency called Operation Second Chance Inc."

CORPORATE SCANDALS:

Kinsley Examines Scrushy Acquittal. In an op-ed in the Washington Post (7/3, B7), Michael Kinsley writes, "God works in mysterious ways, but his or her decision to acquit Richard Scrushy, former CEO of HealthSouth Corp., on all charges of financial fraud is especially inscrutable. Five consecutive HealthSouth chief financial officers admitted to cooking the books and copped a plea. They all fingered Scrushy. But jurors chose to believe that the man on top knew nothing about what was going on directly below him." Kinsley continues, "That kind of ignorance doesn't come cheap. No one denies there was massive fraud at HealthSouth. The government estimates that Scrushy made almost $300 million from the alleged fraud, and he'll get to keep it minus lawyer's fees. Other prominent business defendants have tried the ignorance defense but found that juries tend to think that the more you're paid, the more you ought to know about what's going on around you. Bernard Ebbers of Worldcom Corp., apparently the most convincing of the recent CEO ignoramus wannabes, is facing prosecutors' request for a life sentence." Kinsley adds, "Experts say the Scrushy prosecution should have been a slam-dunk. Even the Wall Street Journal editorial page seemed amazed that he got off. The Journal approved, of course, but couldn't really explain why. Meanwhile, jurors quoted in the papers said they were bothered by things like the lack of Scrushy fingerprints on copies of the crucial documents. … Only one word can describe Scrushy's acquittal. It is a miracle. … When Scrushy was indicted, he hired God. Less inspired defendants might have settled for the late Johnnie Cochran or Jack Abramoff. Scrushy, though, went straight to the top. … He left his suburban evangelical church and joined a predominantly black congregation in a blue-collar neighborhood. He bought a half-hour of local TV for a morning prayer show featuring himself and his wife, and frequent guest spots by black ministers. He had a prayer group praying for him every day at the trial. All this was in Birmingham, Ala., where HealthSouth was located and where the trial occurred."

CRIMINAL LAW:

White House Reportedly Concerned That Fitzgerald Is Focusing On Rove. Newsweek (7/3, Isikoff) reports that Time's Matthew Cooper's e-mails and computer notes turned over to special prosecutor Patrick Fitzgerald investigating the leak of CIA agent Valerie "show that one of Cooper's sources was White House deputy chief of staff Karl Rove, according to two lawyers who asked not to be identified because they are representing witnesses

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sympathetic to the White House. Cooper and a Time spokeswoman declined to comment. But in an interview with NEWSWEEK, Rove's lawyer, Robert Luskin, confirmed that Rove had been interviewed by Cooper for the article. It is unclear, however, what passed between Cooper and Rove. … According to Luskin…Rove spoke to Cooper three or four days before Novak's column appeared. Luskin told NEWSWEEK that Rove 'never knowingly disclosed classified information' and that 'he did not tell any reporter that Valerie Plame worked for the CIA.' Luskin declined, however, to discuss any other details." Newsweek adds that one of the two lawyers representing a witness sympathetic to the White House "told NEWSWEEK that there was growing 'concern' in the White House that the prosecutor is interested in Rove."

Attorney Says Rove Never Revealed Secrets To Cooper. The Los Angeles Times (7/3, Schmitt) reports, "In confirming the conversation between Rove and Cooper, Rove's attorney, Robert Luskin, emphasized that the presidential advisor did not reveal any secrets. But the disclosure raised new questions about Rove and the precise role of the White House in the apparent national security breach." Rove "testified before a grand jury investigating the Plame case on three occasions. His latest appearance was in October 2004, about the same time the prosecutor investigating the case said his probe was complete with the exception of testimony from Cooper and Miller." Luskin "said Rove had been assured by prosecutors that he was not a target of the investigation. 'We were advised recently that his status has not changed,' he added.

The Washington Post (7/3, A7, Leonnig) reports Luskin said, "Karl did nothing wrong. Karl didn't disclose Valerie Plame's identity to Mr. Cooper or anybody else." Luskin "said the question remains unanswered: 'Who outed this woman? It wasn't Karl.'"

Journalists See Growing Threat Of Reporters Being Subpoenaed. The New York Times (7/3, Seelye) reports, "Lawyers for the news media say that the legal climate for those seeking to protect confidential sources is turning chillier, with more subpoenas being issued to reporters. There is no database that tracks such subpoenas, and some prosecutors dispute that they are on the rise. But a series of high-profile cases involving confidential sources has the news media on edge. … 'It does feel like open season,' said Laura Handman, a First Amendment lawyer based in Washington. 'There are more instances of courts ordering confidential sources to be disclosed,' she said, adding that she believed the Bush administration's emphasis on secrecy was partly to blame. 'This leads to more leak inquiries, which, in turn, leads to more subpoenas.'" The Times adds, "In the last year, more than two dozen reporters across the country have been subpoenaed or questioned about their confidential sources in cases before federal courts, according to the Newspaper Association of America. Paul J. Boyle, senior vice president of the association, said he believed that 'the filing of subpoenas, as well as the letters and phone calls that media companies receive from prosecutors and civil litigants, is on the rise.'"

Cunningham Foregoes Public Appearances After Returning To District. The AP (7/3, Hettena) reports Rep. Randy "Duke" Cunningham "whose dealings with a defense contractor are under investigation was taking a 'personal day' Saturday and not commenting on federal authorities' searches a day earlier of his home and a yacht where he stayed while in Washington, a spokesman said." Cunningham "didn't plan a public appearance until a Monday pancake breakfast in Encinitas. … Cunningham's attorney, K. Lee Blalack, released a statement saying he told the government Thursday the congressman would cooperate with the investigation."

St Louis Public Defender Rules To Change. The St. Louis Post-Dispatch (7/3, Patrick) reports, "The St. Louis public defender's office - the last legal hope for those too poor to afford their own lawyer - will, for the first time in at least 20 years, refuse to represent certain people in court starting Tuesday, state officials said last week." The Post-Dispatch continues, "Those people are on the misdemeanor confined docket, which means they've been arrested on misdemeanor charges, or are named on the assessed docket because they've been arrested for failing to pay fines or court costs." The Post-Dispatch adds, "State and local representatives of the public defender's office say they're making the move because it's unethical and unprofessional to try to represent defendants with only minutes to familiarize themselves with the cases. … J. Marty Robinson, director of the Missouri State Public Defender system, calls it "meet 'em and greet 'em and plead 'em." … 'I'm just flabbergasted that there are people that think this is OK,' he said. … Robinson said many people were probably misled into thinking they had a lawyer, but public defenders were simply 'filling out the court's paperwork.' … Public defenders also say that under recently revised state laws, guilty pleas to two of certain misdemeanors can lead to a felony charge and serious prison time for the third offense, along the lines of state three-strikes laws. That could mean defendants who plead guilty to minor crimes to stay out of jail are unknowingly increasing their chance of greater future penalties."

California Weighs Bullet Marking Proposals. The Los Angeles Times (7/3, Rau) reports, "With a zealot's enthusiasm, Randy Rossi has been firing bullets into lots of things lately. Car doors, Sheetrock, wood walls, gelatin with the consistency of human bodies. … On the base of each mashed slug is a series of tiny, mostly legible numbers that have been inscribed by a laser. To Rossi, head of Atty. Gen.

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Bill Lockyer's firearm division, these markings represent a solution for one of law enforcement's most trying problems: the anonymity of ammunition." The Times continues, "With 45% of the state's homicides unsolved in 2003, the most recent data available, the California Legislature is moving ahead with two potentially landmark measures that would require that identifying marks be embedded on projectiles from guns. … One proposal would have all bullets sold in the state marked during manufacture with codes. The other would mandate that guns be equipped with stamping mechanisms that would hammer telling marks onto every cartridge fired. That could allow investigators to link the cartridge to the gun's purchaser even if they could not find the firearm." The Times adds, "The approaches depart from law enforcement tactics elsewhere in the country, which have focused on creating computer registries of fired bullets. Those allow for investigators to match projectiles from different crimes, linking ones committed with the same weapon. … The issue of marking ammunition has become the most contested law enforcement topic in Sacramento this year. One of the bills has split California's law enforcement community and infuriated the nation's ammunition manufacturers, weapons sellers and firearms enthusiasts, including the National Rifle Assn. Several police groups in California are also opposed. … The hyperbolic debate has even ricocheted into Congress. In April, Rep. Duncan Hunter (R-El Cajon), chairman of the House Committee on Armed Services, warned Gov. Arnold Schwarzenegger that requiring serial numbers on ammunition would increase the cost of bullets so much that the military would scale back target practice. Arkansas Gov. Mike Huckabee, also a Republican, is also against the proposal, which he said would hurt manufacturers in his state."

CIVIL RIGHTS:

Human Smuggling Investigation Focused On "Jung Organization". The Washington Times (7/3, Seper) reports on last week's raid "that targeted a sophisticated human-smuggling operation" in California. US Immigration and Customs Enforcement spokesman Dean Boyd "said the investigation focused on a criminal organization called the 'Jung Organization,' which reportedly smuggled South Korean women into the United States and then provided them to brothel operators. The brothels were concealed behind businesses that purported to be massage parlors and 'out-call service' operations. He said the prostitutes were managed by an underground network of Korean 'taxi' services operated by members and associates of the Jung Organization."

California AG Asks For Review Of Decision On Same-Sex Marriages. The Washington Times/AP (7/3) reports California attorney general Bill Lockyer "urged the state Supreme Court to decide whether homosexual 'marriage' is permitted under the state constitution." Lockyer "asked the justices to review a trial judge's decision in March that said state laws limiting marriage to heterosexual couples is unconstitutional. The ruling had been stayed pending appeal. The attorney general, however, wants California's top court to remove the pending case from a San Francisco appellate court."

California Redistricting Proposal Compared With DeLay-Engineered Campaign In Texas. The Dallas Morning News (7/3, Becker) reports, "Amid recent polls showing Arnold Schwarzenegger's star power dropping from the top of California's political marquee, the governor's push to redraw congressional and legislative district lines mid-decade isn't looking like this summer's Republican blockbuster. It's a very different scenario from the redistricting deal that House Majority Leader Tom DeLay…orchestrated in Texas two years ago. … What exactly Mr. Schwarzenegger seeks from redistricting reform isn't clear, pundits say. While it could help Republicans acquire congressional seats in the long term, the initiative hasn't brought wide party support."

Interest Groups Prepare For California's Special Election. The Los Angeles Times (7/3, Barabak) reports, "California's special election is drawing money and attention from interest groups and political partisans across the country who see the campaign as a way to invigorate their efforts in 2006 and beyond. … Conservative activists see an opportunity to defang a longtime nemesis — organized labor — by making it harder to collect union dues for political purposes. Eight initiatives have qualified for the statewide ballot, which will bring voters to the polls for the fourth time in as many years. The measures deal with a variety of issues, including parental consent for abortions, teacher tenure and electricity re-regulation, as well as union dues, redistricting, prescription drugs and the state budget." Schwarzenegger "has embraced three of the measures as part of a package designed to circumvent the Democrat-run Legislature and diminish the clout of lawmakers in Sacramento. Those measures would lengthen the time teachers work before receiving tenure, give the governor greater control over state spending and give legislators' political line-drawing power to a panel of retired judges."

Romney Urged To Speak More Clearly On Abortion. The Boston Globe (7/3, Ebbert) reports, "Advocates on both sides of the abortion debate say they are confused over Governor Mitt Romney's position on abortion

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and are seeking to understand the meaning of recent comments he has made, in light of the positions he outlined during the 2002 gubernatorial campaign. Last week, the Planned Parenthood League of Massachusetts and NARAL Pro-Choice Massachusetts provided the Globe a copy of a letter sent earlier this month in which they asked Romney to explain his current abortion philosophy and to confirm that he supports emergency contraception and other measures he embraced while running for governor. Similarly, a leading antiabortion group is puzzled: "We honestly don't know where he stands on this issue,' said Marie Sturgis, executive director and legislative director for Massachusetts Citizens for Life."

Frist Accused Of Changing His Position On Stem Cell Research. The Washington Post (7/3, A5, Connolly) reports Sen. Bill Frist "is again at the center of the stem cell battle. Unlike four years ago, when he sought an influential role, the Senate majority leader has shied away from the issue, frustrating once-admiring researchers and patient advocates who now accuse him of exchanging sound medical thinking for with political calculations." According to the Post, the House passage of stem cell research legislation succeeded in "placing additional pressure on Frist to stand by a policy that falls far short of the approach he envisioned four years ago. … But if Frist is maneuvering to attract Republican primary voters in pursuit of the 2008 presidential nomination, he is doing so at the risk of angering loyal Tennessee supporters." The Post notes, "Over a period of three days, Frist aides did not respond to multiple interview requests."

Gordon Looks To Repair NAACP's Relationship With Bush. The Milwaukee Journal Sentinel (7/3, Sykes, Thomas-Lynn) reports, "With Bruce S. Gordon's stellar background in corporate America, his installation as executive director of the NAACP at its 96th annual convention in Milwaukee could herald a new beginning for the venerable civil rights organization's relationship with the Bush administration. … Gordon already has indicated he wants to improve the NAACP's relationship with the Bush administration, a radical departure for a group known for its criticism of the president. But in doing so, the 59-year-old retired Verizon Communications executive may run the risk of pitting himself against some members who supported the NAACP's confrontational style with President Bush. Delegates will get a chance to witness Gordon's style for the first time, as well as hear an array of speakers from across the political and religious spectrum." Sen. Barack Obama, the Rev. Jesse Jackson and former NAACP chief Benjamin Hooks" are among the scheduled speakers."

ENVIRONMENT/INDIAN AFFAIRS:

St. Louis Mayor Expresses Support For Eminent Domain Decision. The St. Louis Post-Dispatch (7/3) reports, "In Kelo vs. New London, Conn., the Supreme Court ruled that the city could not take land simply to confer a private benefit on a particular private property. However, the decision said the taking would be executed based on a carefully considered development plan, which would have a public benefit. The decision pleased Mayor Francis Slay. 'It's very difficult rebuilding an older city with the environmental issues and with the issues of assembling sites for redevelopment to help improve the quality of life for people in our neighborhoods,' Slay said."

Maryland Gubernatorial Candidates Trade Shots Over Environmental Protection Policies. The Washington Post (7/3, C4, Wagner) reports, "Debate in the run-up to Maryland's race for governor was dominated last week by talk about the environment. Baltimore Mayor Martin O'Malley , a Democratic hopeful, sought to spotlight his record in a sprawling address that included heavy criticism of Republican Gov. Robert L. Ehrlich Jr. 's environmental stewardship." O'Malley "accused Ehrlich of lacking commitment to preserving parkland, improving water quality and protecting children from lead paint, among other shortcomings. … Montgomery County Executive Douglas M. Duncan , another Democrat interested in being governor, moved aggressively to insert himself into the debate by questioning O'Malley's record."

Portland Said To Have Cut Emissions While Improving Its Economy. The New York Times Nicholas Kristof (7/3) writes, "Newly released data show that Portland, America's environmental laboratory, has achieved stunning reductions in carbon emissions. It has reduced emissions below the levels of 1990, the benchmark for the Kyoto accord, while booming economically. What's more, officials in Portland insist that the campaign to cut carbon emissions has entailed no significant economic price, and on the contrary has brought the city huge benefits: less tax money spent on energy, more convenient transportation, a greener city, and expertise in energy efficiency that is helping local businesses win contracts worldwide."

Wisconsin Reservation Dealing With Gang Crime. The Milwaukee Journal Sentinel (7/3, Zielinski) reports from Hayward, WI, where "23-year-old Cody Badbear Wade was shot five times, once in the head. Police searched a nearby cranberry marsh for the murder weapon. … A police report said Wade had proclaimed himself a 'King killer,'

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but it turned out differently the night of May 30, 2002. … After trading harsh words with Wade at the Snowshoe Bar, Robert G. 'Bobby' Smith, an avowed member of the Almighty Latin King Nation, the violent Hispanic street gang with a significant presence in Milwaukee, would ambush and kill Wade after he approached a clearing in his truck." The Sentinel continues, "Smith, the son of a former Sawyer County sheriff's deputy, told investigators that one of the admitted leaders of the Latin Kings on the Lac Courte Oreilles Indian reservation, Charles Gokey, ordered members to "light up" on Wade. Smith later was sentenced to 13 years in prison for Wade's murder. … Earlier this year, Gokey, in turn, was sentenced in a federal court in Madison to almost 20 years for crack cocaine distribution. U.S. District Judge John C. Shabaz said the harsh punishment was meant 'to assist the government's mission to substantially reduce the impact of drug and drug-related crime on the Lac Courte Oreilles reservation.' … The two were part of more than 50 prosecutions and a continuing multi-headed investigation that were set in motion by the events in the pine plantation in an attempt to rid the reservation of the Latin Kings."

FBI/DEA/ATF/USMS:

Federal Agents Seize Human Growth Hormone In Denver. The Denver Post (7/3, Caldwell, Briggs) reports, "Agents with the U.S. Food and Drug Administration and the Postal Inspection Service are investigating a shipment of human growth hormone worth up to $400,000 to the home of a Denver substance-abuse counselor, records show." The Post continues, "Authorities in March seized 400 vials of Chinese hGH and are investigating clinic owner Tamea Rae Sisco and two people involved in a Hawaiian osteopathic center on suspicion that they illegally imported the drugs for use in anti-aging treatments, according to a federal search- warrant affidavit and federal sources." The Post adds, 'Sisco denies any wrongdoing and said she was an intermediary for a legitimate shipment. No charges have been brought as a result of the raid. … While the national debate on performance-enhancing drugs swirls around sports superstars, federal agents are waging a local battle away from the limelight. They're intercepting hGH doses meant for everyday people who are hoping to look younger and leaner. It's all part of a surging anti-aging phenomenon in which hGH is king. … Law enforcement officials step in when hGH is illegally pitched as a youth elixir. HGH can be legally prescribed only under narrow circumstances, including the treatment of AIDS wasting disease. HGH also is obtained illegally by some athletes seeking to build muscle and cut fat. … 'I can't comment on ongoing investigations, but I can state that there is a problem in general,' said Jeff Dorschner, spokesman for the U.S. attorney's office in Colorado. 'The illegal trafficking of human growth hormones remains a concern of the Justice Department.'"

Florida Drug Case Chilled US-Colombia Relations. The Tampa Tribune (7/3) reports, "U.S. relations with Colombia were briefly strained in March because of a federal prosecutor's court filing in Tampa in the case of an alleged leader of the Cali drug cartel." The Tribune continues, "Colombian officials even threatened to halt all extraditions to the United States, but U.S. officials retracted the court filing, averting a crisis." The Tribune adds, "The flare-up exposed a nerve in Colombia and highlighted the troubled, violent and corrupt recent history of efforts to stem the country's illegal drug exports. … The controversy involved a Colombian Constitution provision that allows extraditions, but only for crimes committed after Dec. 17, 1997, when the constitutional amendment, Article 35, was enacted. … A defense attorney for Joaquin Mario Valencia-Trujillo filed a motion to enforce that restriction and strike from Valencia's indictment charges that preceded the 1997 constitutional amendment. … Federal investigators say Valencia was a politically connected, if little noticed, leader in the notorious drug cartel as far back as 1988. He is the biggest catch in 'Operation Panama Express,' a wide-ranging, long-term investigation, based in Tampa, of Colombian maritime drug traffickers. … Part of a 2002 indictment against Valencia alleges a conspiracy to use drug money to 'make payments to influence political and judicial decisions in Colombia, the United States and elsewhere.' … Assistant U.S. Attorney Joseph K. Ruddy filed a response to the defense motion alleging that Article 35 is part of the conspiracy mentioned in Valencia's indictment. 'It represents the product of the successful bribery of then-Colombian President Ernesto Samper and the Colombian Congress by the Cali cartel to immunize them from extradition to the United States,' Ruddy wrote."

Gangs Moving Into Hampton Roads, VA, Area. The Norfolk (VA) Virginian-Pilot (7/3, Kimberlin, Heinatz) reports, "A warning has come from the feds. … An FBI informant says MS-13, a notorious street gang with ties to El Salvador, recently issued an order for its members to kill someone — anyone — wearing a badge in Hampton Roads." The V-P continues, "The hit was discussed during a meeting of gang leaders held in Norfolk. … The purpose: To send a message to local law enforcement trying to stop the machete-wielding gang from moving to town. … The message: Stay out of our business. Stay out of our way." The V-P adds, "The alert arrived in a May 23 bulletin from the Department of Homeland Security. Both the department and the FBI have refused to comment, but state and federal gang experts confirmed the warning – which has since been put on hold. … 'The gangs call it a "green light,"' said Mindy Grizzard,

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spokeswoman for the Virginia Gang Investigators Association. … In the urban underbellies of Los Angeles, Chicago, Detroit or New York, such a threat might not raise even an eyebrow. … In Hampton Roads, it's met with an odd mix of shock and shhh. … Shock that such things could happen here. … Shhh because gangs are dirty laundry – the scent of which can derail a city's redevelopment plan, shred a school's reputation and cause decent folks to pull out of a neighborhood."

Reyna Says He Was Not Pressured To Resign As US Marshals Head. The Brownsville (TX) Herald (7/3, Perez-Treviño) reports, "U.S. Marshals Service Director Ben Reyna never bought a house in Washington, D.C. … 'My intention was not to stay,' Reyna said last week after submitting his resignation from the Marshals Service effective July 31." The Herald continues, "He was not pressured to resign from the post he's held since 2001, he says, and will return to his hometown of Brownsville for personal reasons and without regrets. … 'I would not have done anything differently. It's been a great experience and a great honor,' Reyna told The Brownsville Herald in an exclusive interview." The Herald adds, "The Marshals Service is charged primarily with protecting judges and courts. Its performance is under scrutiny and criticism, seemingly prompted by the slaying of U.S. District Judge Joan Humphrey Lefkow's mother and husband in their Chicago home. … Less than a month after the Lefkow murders, Superior Court Judge Rowland Barnes was killed when a prisoner wrestled a gun from a sheriff's deputy in the Fulton County Courthouse in Atlanta, Ga., on March 11. … The back-to-back tragedies shined an unflattering light on the Marshals Service and started a buzz among judges and lawmakers in Washington, D.C. … In a letter dated March 14, U.S. Sen. Arlen Specter, R-Pa., chairman of the Senate Judiciary Committee, wrote to Reyna inquiring about security measures and what would be instituted in response to the attack on the Lefkows. … Reyna said protecting the judiciary has always been and should always be the priority: 'That is what allows us to maintain the rule of law.' … He also noted that in the agency's 215-year history, no federal judge has been murdered in a courtroom or courthouse."

TAX:

IRS Data Shows More Wealthy Americans Pay Little Or No Federal Taxes. The New York Times (7/3, Johnston) reports, "The number of affluent individuals and married couples who paid no federal income taxes jumped more than 15 percent in 2002, to 5,650, government data released last week showed. … About one in every 436 high-income Americans paid no taxes in 2002, up from one in 531 in 2001 and one in 1,010 in 2000. Over all, the top 2 percent of earners - the 2.5 million filers with income of $200,000 or more - paid almost 27 cents in taxes for each dollar of income they reported in 2002, other I.R.S. data showed. … Among that high-income group, however, almost 83,000, or one in 33, paid less than a dime in taxes for every dollar of income. An additional 79,000 paid less than 15 cents."

CONGRESS-ADMINISTRATION:

Bush Reviewing Potential SCOTUS Nominees. President Bush is reviewing potential nominees for the Supreme Court while preparing to attend the G-8 summit next week. While the President has many options, the consensus in the media is that Bush will likely to be able to get a conservative nominee passed, and the question now is what sort of conservative that nominee will be. Media coverage of the impending political battle over Bush's nominee continued to receive significant media coverage. Meanwhile, President Bush's radio address praising US troops received light coverage.

While all three network news programs reported on how liberal and conservative activists were preparing for the political battle, NBC Nightly News (7/2, story 2, 1:30, Seigenthaler) first focused on Bush's selection process, reporting, "President Bush is preparing to submit his nominee for the court." NBC (Jordan): "Former presidential advisors say this is a process that just can't be rushed. There's a reason why President Bush says he'll take his time replacing Justice Sandra Day O'Connor because Bush is building a part of his legacy, that from a former aide to President Reagan who was on hand for the O'Connor nomination."

The AP (7/3, Riechmann) reports, "Regardless of whom he picks, the closely divided court…will very well end up with a more conservative bent." Key factors in Bush's decision will be "Intellect. Character. Judicial philosophy. The prospect of being able to win Senate confirmation. Those are the overriding issues that several legal experts and advocates on both the right and left think will guide the president, who is facing intense pressure from both sides of the political aisle."

The Los Angeles Times (7/3, Brownstein, Chen) notes, "While promising to consult, the aide signaled that the White House did not believe that Bush faced an obligation to replace O'Connor with a justice who shared her relatively moderate views, as some Democrats and liberal groups have suggested." One senior Bush aide said, "The notion that there is…a narrow band of people who are appropriate to replace Justice O'Connor is wrong. … The president will consult, but the president will make a decision."

The Chicago Tribune (7/3, Tackett) reports, "The news was about Justice Sandra Day O'Connor. But the story is

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about President Bush. How Bush manages that story, by the person he nominates to replace O'Connor, by the words he chooses to frame that debate, by the way he deals with Congress, could define his presidency almost as much as terrorism and the war in Iraq." Bush, "even with sagging approval ratings and diminishing support for the war and his handling of the economy, finds himself in an extraordinarily powerful position with Republicans controlling the executive branch and Congress. Now he will be extending that leverage to the Supreme Court."

The Boston Globe (7/3, Milligan) notes that Democratic senators, civil libertarians, and liberal groups "agree with conservatives that…the president will use his first appointment to the high court to establish a conservative legacy with a nominee similar to those Bush has publicly touted as his favorite justices." And experts "note that Bush -- unlike his predecessor, President Clinton --has consistently stuck to his guns on both policy decision and nominees, no matter how much heat he has gotten from the public, the international community, or Capitol Hill."

And Knight Ridder (7/3, Hutcheson) quotes the Rev. Patrick Mahoney, director of the Christian Defense Coalition saying, "If 9/11 was the defining moment of his first term, the composition of the Supreme Court is the defining moment of the second."

The Minneapolis Star Tribune (7/3, Doyle, O'Rourke) reports, "Bush will be confronting a multiplicity of choices," including whether to nominate a Hispanic, a woman, a consensus candidate or a senator like Sen. John Cornyn. Senate Judiciary Committee chairman Arlen Specter "said that two women are 'a minimum' on the court." But it is considered more likely "that Bush will scour the appeals court benches."

Meanwhile, the St. Louis Post-Dispatch (7/3, Shesgreen) says "what both sides fear most is the unknown: a so-called 'stealth' nominee who has a thin paper trail and offers ambiguous answers in the Senate grilling that is sure to come." USA Today Biskupic (7/3) also reports on O'Connor's retirement.

Bush Aides To Solicit Bipartisan Advice. The Los Angeles Times (7/3, Brownstein, Chen) reports while Bush is in Europe "senior White House officials plan to canvass Democratic and Republican Senators for recommendations to fill" the Supreme Court vacancy. But, "Democrats and their allies…reacted cautiously to the signal from White House." Senate Minority Leader Harry Reid's spokesman Jim Manley said, "Their track record of even consulting with Republicans on Capitol Hill is very poor. … It remains to be seen if this is an encouraging first step or is just going to be a one-way dialogue." The Times notes, "Both sides are trying to position themselves as reasonable and conciliatory to strengthen their hands for the full-scale combat most suspect will erupt."

Bush May Face Difficulties Satisfying GOP Base With Conservative Nominee. Highlighting the difficulties Bush may face is satisfying the GOP base, the New York Times (7/3, Rosen) in a "Week in Review" article examining the different types of judicial conservatism represented by those likely to be on Bush's short list says "the crucial question for the country is what kind of judicial conservative." The judicial conservative movement is not "monolithic" and represents "very different approaches to constitutional interpretation that often lead to dramatically different results in cases ranging from affirmative action to abortion and states' rights." Some "of the leading candidates said to be on Mr. Bush's short list…defy easy categorization. But it's clear that justices from each philosophical camp would reach very different decisions in the cases Americans care most about." After describing the different approaches to judicial conservatism Bush's potential nominees represent, the Times notes that it's clear that Mr. Bush will have an opportunity to satisfy and infuriate conservatives of many stripes. Whatever choice he makes will define not only the Supreme Court but his own conservative legacy."

Women Split Over Necessity To Choose Woman To Succeed O'Connor. The Washington Post (7/3, A12, Argetsinger, Williamson) notes that "for all the significance they place on her sex, women are split on the question of whether O'Connor should be succeeded by another woman. Although some of their leaders and members have expressed hope that the next appointee will be a woman, most women's organizations, liberal and conservative, are no longer making a person's sex an official priority, instead holding up O'Connor's reputation for open-mindedness as the characteristic they most want to see replicated."

New Justice Could Come From Fifth Circuit. The New Orleans Times-Picayune (7/2, Schleifstein) reports, "The list of potential replacements for retiring U.S. Supreme Court Justice Sandra Day O'Connor, the first female member of the high court, includes three judges on the U.S. 5th Circuit Court of Appeals in New Orleans -- two of them women." According to John Baker, a constitutional law professor at the Louisiana State University Law Center "Jones would draw the greatest opposition…because of signals she has given over the years that she would be an 'originalist,' closely following the Constitution's original meaning instead of expanding its interpretation in light of modern events." Yet, "New Orleans defense lawyer Bruce Waltzer said Clement may actually be more conservative than either of the other two."

Expert Warns Conservative Pick May Drive Justice Kennedy Leftwards. The AP (7/3, Riechmann) reports, "There's no doubt a confirmation fight would be contentious if Bush nominates" the conservatives "thought to be on his short list." Yet, "American University historian Allan J. Lichtman says naming an extremely conservative nominee could backfire on the president because it might prompt

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Justice Anthony M. Kennedy, a moderate conservative who also has been a swing vote on the court, to inch away from the right." Lichtman said, "That could push Kennedy into the O'Connor slot."

Knight Ridder (7/3, Henderson) reports "the injection of a new personality into" the dynamics of the relationship between Supreme Court justices "could have unpredictable -- and, for the White House, undesirable -- effects." Some observers "say the arrival of another hard-line conservative to the bench…could embolden moderate conservative Anthony Kennedy." Court historian David Garrow said, "Replacing a moderate with a conservative automatically magnifies the center." A new conservative justice "would empower Kennedy, whose shift to the court's middle has seemed dramatic over the past few terms, and has been decisive in a number of cases that have left conservatives reeling."

And Orin Kerr, an associate professor at George Washington University Law School who once clerked for Justice Kennedy, in an op-ed in the Los Angeles Times (7/3) writes the replacement of O'Connor's vote "may not have a dramatic effect on the outcomes of the court's biggest cases" because "Kennedy often votes with the more liberal justices to form a liberal majority in major cases. He has voted to uphold Roe vs. Wade, and he wrote the opinions that struck down sodomy laws and invalidated the death penalty for juveniles. All these decisions would remain intact."

Loss Of O'Connor Unlikely To Hurt Liberal Bloc On Court. The Los Angeles Times (7/3, Savage) reports that "the conservative Supreme Court led by Chief Justice William Rehnquist" faded away last term as it was replaced by "a moderate-to-liberal court led by John Paul Stevens." The Times notes, "By forming alliances with O'Connor or Justice Anthony M. Kennedy -- and sometimes even with Justice Antonin Scalia -- Stevens has been able to forge a majority in some of the biggest Supreme Court cases." Losing "O'Connor's vote might mean Stevens' sway over the court has reached its high-water mark. But with Kennedy and four liberals still in place, the Stevens bloc isn't likely to dissolve overnight."

Controversial Nominee Could Impact 2006 Elections. Knight Ridder (7/3, Hutcheson) reports, "In today's politically polarized world, with 24-hour cable news, 30-second attack ads, Internet interest groups and ideologically driven bloggers, a contentious nomination battle could drive a deeper wedge between Americans on opposite sides of the political divide." The impact of "a bitter confirmation battle could easily spill into next year's congressional elections, when Republican control of Congress will be tested at the polls."

Bush Urged To Choose Politician For Court. AEI resident scholar Norman Ornstein in an op-ed in the Washington Post (7/3, B7) writes, "Most of the names the White House has floated as possible Supreme Court nominees are, predictably, judges on federal appeals courts. It is time to expand the field to seriously consider people with political backgrounds. Former senators John Danforth and Warren Rudman would be superb choices. At least two current senators, John Cornyn of Texas and Jon Kyl of Arizona, fit the ideological criteria of the White House. Harry Reid, the Senate Democratic leader, has mentioned other capable Republican senators, including Mike DeWine of Ohio and Lindsey Graham of South Carolina. … The court, and the country, would be well served to have a politician or two on the bench."

Interest Groups Gear Up For Fight Over SCOTUS Nominee. The preparations and concerns of liberal and conservative activists were covered extensively by the media, as NBC Nightly News (7/2, story 3, 1:30, Seigenthaler) reported, "The battle of the next Supreme Court nominee could in some ways reflect the political and cultural battle that is brewing in this country."

CBS Evening News (7/2, story 3, 2:30, Mitchell) reported that "the gloves are off in the fight over who will replace" O'Connor. CBS (Chen): "In their war room, liberal activists are in full battle mode in their effort to head off the nominee, though no one knows who the nominee is yet. What are you afraid of?" Ralph Neas, of People for the American Way, was shown saying, "What we are afraid of is that George W. Bush will replace a mainstream conservative like Sandra Day O'Connor with a right wing ideologue, someone like Clarence Thomas or Scalia." Chen: "Conservative groups aim to stop what they see as judicial activism, and openly name justices they see as having let them down." Wendy Long, of the Judicial Confirmation Network said, "I think that justices Souter and Justice Kennedy are regarded by the Republican base as disappointments." Chen continues, "Likewise, Justice O'Connor, a Reagan appointee, has often frustrated more hard-line conservatives."

The Chicago Tribune (7/3, James, Dorning) notes, "Liberal and conservative efforts Friday were driven by fear on one side, hope on the other. Liberals feared decisions favorable to them on affirmative action, abortion rights, the environment and a host of other hot-button issues could be reversed in new rulings. Conservatives hoped a new justice would deliver just such reversals."

The Baltimore Sun (7/3, Woestendiek, Little) reports, "Ruptures over gay marriage, flag burning or displaying the Ten Commandments will feel like mere tremors compared with the cultural quake sure to erupt when the nation's differences become the weapons with which the Supreme Court's future is determined, political analysts say. Expect the 'red' and the 'blue' to go at it fiercely enough to leave the

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nation purple, or at least with some long-lingering bitter feelings."

The Washington Post (7/3, A11, Milbank) reports that "beneath the official posturing" on Friday "was a simple truth: O'Connor is the tiebreaking vote on a range of hot-button social issues, and the battle to replace her will be in many ways a referendum on legal abortion. So it's no surprise that, starting at mid-morning, the O'Connor succession fight became the only game in town." The Pittsburgh Post-Gazette (7/3, Reston) also reported on the efforts of activists to influence Bush's choice and the Dallas Morning News (7/3, Pusey) includes a brief description of the key players in the upcoming debate.

Conservatives Prepared To Launch Effort To Influence Bush. The Washington Post (7/3, A1, Edsall, Milbank) in a front page story reports that "the conservative movement has something it lacked during its losing battle for the confirmation of Robert H. Bork to the court 18 years ago: a highly coordinated movement that has fused the big dollars of economic conservatives with the grass-roots clout of millions of religious conservatives." Conservatives believe that "will prevent the defeat of another nominee such as Bork and will inoculate Bush from pressure to appoint a moderate such as Kennedy or Souter. And if it works with O'Connor's replacement, conservatives say, they will have found a formula that will allow them gradually to control the judiciary and revisit the full range of precedents regarding abortion, affirmative action, church-state matters and regulations of business and the environment."

And the New York Times (7/3, Rosenbaum, Clemetson) reports that the "last time Ralph G. Neas and C. Boyden Gray went head to head as commanding generals in a war over a Supreme Court confirmation was in 1991, when Clarence Thomas was the nominee." Although Gray "won the Thomas battle," Neas "had the superior operation: a unified battalion of labor unions, civil rights groups, women's organizations, civil libertarians and environmentalists that had more money, more energy and more firepower than had ever been used in a Supreme Court fight." After the battle Gray "vowed he would never be outgunned again." Now as chairman of the Committee for Justice, Gray has organized "outside forces that would be up to the fight." Gray said, "We haven't leveled the playing field. … But at least we're on the field and we're able to engage."

Conservatives Express Opposition To Gonzales Nomination. Conservative opposition to AG Alberto Gonzales was noted in a number of articles Sunday morning. Providing in depth coverage, the Washington Post (7/3, A1, Baker, Glasser) in a front page story reports, "Many of President Bush's conservative supporters lined up in staunch opposition yesterday to the candidate he might personally most want to name to the Supreme Court, his longtime friend and adviser, Attorney General Alberto R. Gonzales." With Bush leaving for Europe, leaves "Republicans a short time to influence his decision. If the broader nomination battle will resemble a presidential campaign, as both sides predict, then the next week or two could amount to a primary." The Post notes, "The one candidate who unifies most conservatives -- in opposition -- is Gonzales."

The New York Times (7/3, A1, Nagourney, Purdum, Kirkpatrick) in a front page story adds, "Administration officials discounted the conservative uprising against Mr. Gonzales, saying that Mr. Bush was already aware of the objections and was not convinced by them." One senior Administration official said, "The president is going to pick someone who is a true constructionist and who is correct in interpreting the law." The official said "Gonzales fit that description, but also that Mr. Bush might be wary of moving him to a new position so shortly after he was confirmed as attorney general." Yet, "the swift and vociferous opposition to Mr. Gonzales reflected the intensity of concern on the right over just what kind of conservative Mr. Bush will choose, as he moves toward a decision that will go a long way toward settling any question about what kind of conservative he is, and how his presidency will be remembered."

Both Sides Of Abortion Debate Accused Of Using Hyperbole. ABC's World News Tonight (7/2, story 4, 3:00, Moran) reported that "both sides of the abortion issue are turning up the volume in the debate. The President of the National Organization for Women, for instance, has declared a 'state of emergency' for women's rights." ABC (Morrell): "But some legal analysts say both sides are misleading the public. They say her departure almost certainly opens the door for further restrictions on abortion. She was a decisive fifth vote in a 2000 case. Striking down a state ban on so-called partial birth abortions. And this fall, for the first time in five years, the court will hear an abortion case, one that could allow states to pass tougher parental notification laws. While the left may be overselling the risk to abortion rights, some on the right are underselling it, trying to convince Americans that with or without O'Connor, Roe v. Wade is safe. Some on the right fear if abortion becomes the central issue in this debate, it could hurt their chances of replacing the moderate O'Connor with a true conservative."

Public May Tune Out Partisan Battle Over Nominee. But the Los Angeles Times (7/3, McManus) says, "in the middle of the storm, like civilians caught on a battlefield, much of the nation may wish that the whole thing would just go away." Pew Research Center pollster Andrew Kohut said that "for most of the country, it may just look like another partisan battle in Washington." The Times notes, "Abortion, gay marriage and religion may be 'hot button' issues, prized by interest groups and political consultants for their ability to mobilize people to vote and donate money. But most Americans consider those issues less pressing than the war

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in Iraq or the state of the economy, and recoil from the acrimony of the debate."

NOW Members Rally For Abortion Rights. The AP (7/3, Gerome) reports, "Chanting 'Not the church, not the state; women must choose their fate,' hundreds of members of the National Organization for Women rallied for abortion rights Saturday as President Bush prepares to select a new U.S. Supreme Court justice." They "shifted the agenda for its three-day annual convention following the announcement Friday that Supreme Court Justice Sandra Day O'Connor was retiring.

Conservatives Restrain Happiness Over O'Connor Resignation. The Washington Times (7/3, A1, Hurt) in a front page story reports that some conservative activists "chuckled with delight over their turn of good fortune." After she announced her intention to retire, "many conservatives chose to applaud the service of Justice O'Connor, but to otherwise keep quiet. White House aides and Senate Republicans sent out the word that there should be no public relief that it was Justice O'Connor, rather than Chief Justice Rehnquist, who was retiring." One conservative activist said, "Nobody wants to get into gloating here. … We're all too aware of what's at stake."

More Commentary. Expressing his concern that the political battle over Bush's nominee will hurt the Supreme Court, Yale law professor Stephen Carter in an op-ed in the New York Times (7/3) writes, "Perhaps President Bush could say to his most strident supporters on the right that it is not appropriate for them to behave with the triumphalism of conquerors who believe that the retirement of Justice O'Connor signals the moment to take control of the court. Perhaps the activists on the left, gearing up for a fight, could go back and read the speech made on the Senate floor by Edward Kennedy, during the vicious 1967 campaign over the nomination of Thurgood Marshall. Senator Kennedy warned his colleagues to reject the view that the Senate should reject potential justices who possess a judicial philosophy with which they disagree."

And the Washington Post (7/3, B6) in an editorial predicting the fierce political battle writes that "we take this moment, when nobody knows how excellent or terrible the next nominee will be, to emphasize that a judicial nomination is not a political campaign and should not be treated as one. A nominee's record is almost never a simple affair, because good legal reasoning doesn't always render the most politically congenial answer. Demagogic attacks on almost any nominee are easy, and knee-jerk defenses equally so. But a reasonable assessment of the president's choice, whoever it is, will not emerge from such a shouting match."

Specter Remains Noncommittal As He Prepares To Play Pivotal Role. The New York Times (7/3, Stolberg) reports, "Perhaps more than any other senator," Sen. Arlen Specter "will be the pivotal figure as he tries to manage his bitterly divided committee, his own uneasy relationship with the White House and the intense pressure that is already bearing down on him from both the left and right at a time when both sides are deeply suspicious of him." He "said that he and Mr. Bush had not named names in any of their conversations. He said he had thought 'long and hard' about suggesting possible candidates but decided not to, believing that 'the wiser course' would be to remain uncommitted to anyone in particular. As to whether he would advise Mr. Bush against nominating judges who might be perceived as likely to overturn Roe v. Wade, Mr. Specter was noncommittal." Specter said, "I'm going to listen to the president…and see how it goes."

Senate Republicans Expected To Focus On Nominee's Legal Credentials. The Washington Post (7/3, A1, Baker, Glasser) in a front page story also notes that although some Republicans "focused on whom Bush's choice will be, others mapped out strategy for the period after he decides. Senate Republicans made plans to begin hearings as quickly as possible after the nomination, focused not on the candidate's positions on hot-button issues but on legal credentials."

And the Washington Post (7/3, A13, Allen) reports, "The two parties have begun outlining their strategies for confirmation hearings once President Bush nominates a successor to Justice Sandra Day O'Connor, with Senate Republicans planning a rapid and rigid schedule designed to prevent Democrats from pinning the nominee down on divisive issues such as abortion." Senate Judiciary Committee Republican planning document "says the nominee will be counseled to avoid disclosing 'personal political views or legal thinking on any issue' in an effort to put a focus on qualifications rather than specific issues, including same-sex marriage and the government's treatment of suspected terrorists."

Sen. John Cornyn in a letter to the editor in the Washington Post (7/2, A29) wrote, "when evaluating the nominee, I will not be asking for commitments as to how he or she will rule on cases involving such contentious issues as abortion, affirmative action, same-sex marriage, the war on terrorism or any other specific issue on which the nominee might eventually rule." Cornyn stresses, "It's crucial that judges approach every case free from political commitments. They must be free to disappoint their supporters and surprise their opponents and critics. Judges must be free to do their jobs -- to listen to the facts, to carefully divine the law and to be faithful to the Constitution."

Supreme Court To Address Tough Issues In Next Term. The AP (7/3, Holland) reports, "Abortion,

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assisted suicide, gay rights, the death penalty. Some of the toughest issues in the land confront the Supreme Court in its new term in the fall." And whoever Bush nominates "will immediately face cases involving the Bush administration." For example, "the court will decide if law schools may restrict military recruiters as a way of protesting the Pentagon's 'don't ask, don't tell' policy." The AP notes, "The abortion cases involve a parental notification law from New Hampshire and a long-running fight over the liability of people who protest outside clinics."

The Baltimore Sun (7/3, Gibson) also reports "the retirement of Justice Sandra Day O'Connor could have almost immediate implications." In addition to other issues, the death penalty "could hang in the balance. O'Connor, who in 2001 publicly questioned how fairly capital punishment was administered, sided in recent years with a majority that struck down the death penalty for the mentally retarded, but dissented this year from a 5-4 decision banning juvenile executions." Recently the court agreed "to hear the appeal of a death row inmate from Tennessee who claims that new DNA evidence could exonerate him in the 1985 rape and murder." The Dallas Morning News (7/3, Jackson, Pusey) adds, "The justices have already agreed to review a federal law banning doctors from using drugs to assist suicides. Oregon officials claim the rule infringes on their Death with Dignity Act."

Observers Believe Rehnquist Will Remain On Court. The Chicago Tribune (7/3, Neikirk) reports that "some analysts say that if" Chief Justice William Rehnquist "waits much longer, it is less likely that he will resign." Marquette law professor Scott Moss said, "I would doubt it at this point. … If a justice is going to retire, he probably isn't going to wait until midway through the summer." And Georgetown law professor Susan Low Bloch "said she had heard that Rehnquist 'doesn't want to get off' the court while O'Connor 'did want to get off,' adding that 'I just know he loves the court and has all his life. Once his wife died, that became everything to him.'"

O'Connor Seen As Key Moderating Influence. The Minneapolis Star Tribune (7/3, Doyle) reports, "More pragmatic than philosophical, more centrist than hard-line conservative, the former Arizona state senator left a distinctive stamp on American justice that surpassed her initial ground-breaking appointment."

Linda Ross Meyer, professor of law at Quinnipiac University School of Law and a law clerk for Justice Sandra Day O'Connor during the 1991-1992 Supreme Court term, in an op-ed in the Washington Post (7/3, B1) says, "O'Connor believed that judging is not policy analysis or scholarship or ideology. Justice doesn't come from a book. The difficult decisions come in shades of gray, not black and white, and the view from the Supreme Court bench can be a narrow one. She looked to the pragmatic consequences of the court's decisions for everyday citizens, and she tried to do justice in the case while leaving play in the constitutional joints so as not to tie the hands of those closer to the facts and the people."

Viet Dinh, a former law clerk to Justice Sandra Day O'Connor, in an op-ed in the Washington Post (7/3, B7) concludes, "I could go on and identify Justice O'Connor's indelible stamp in every area of the law spanning property rights, race relations, privacy, employment contracts, retirement benefits and so on. But that would be missing the point of her life, work and worth. She is not a crusader, a reformer or a philosopher. She has always tried to be a good judge, and by succeeding she has been a pioneer, sage and icon."

The Dallas Morning News (7/3, Nelson) reports O'Connor "opened doors for women at the highest levels of the legal profession. But when the justice who once aspired to be a cattle rancher graduated from Stanford Law School, she found that even low-level jobs weren't options for female lawyers. Many law firms simply didn't hire women. One offered the graduate, who finished third in her class, a secretarial position." Sen. Kay Bailey Hutchison, "who also struggled to find work after law school, said that despite the rejections that Justice O'Connor faced, 'she kept that positive spirit, and she has been a leader in everything she's done.'"

Feminists Reflect On O'Connor's Legacy. The Washington Post (7/3, D1, Rosin) reports, "The feminist movement kicked into action immediately when it lost O'Connor. She may not have been a reliable ally on their pet causes (she voted to invalidate the Violence Against Women Act, for example), but she came through as the critical vote on cases involving abortion and affirmative action. But there were no heartfelt personal reminiscences. No honoring of a fellow suffragette's guts and glory. Just the legal issues and the facts, with all the emotional warmth of a legal brief. It was understood that O'Connor herself wouldn't be caught dead at such a rally."

Amount Of Classified Government Documents Has Almost Doubled Since 2001. The New York Times (7/3, Shane) reports, "Driven in part by fears of terrorism, government secrecy has reached a historic high by several measures, with federal departments classifying documents at the rate of 125 a minute as they create new categories of semi-secrets bearing vague labels like 'sensitive security information.' A record 15.6 million documents were classified last year, nearly double the number in 2001. … Meanwhile, the declassification process, which made millions of historical documents available annually in the 1990's, has slowed to a relative crawl, from a high of 204 million pages in 1997 to just 28 million pages last year." According to the

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Times, "The increasing secrecy - and its rising cost to taxpayers, estimated by the office at $7.2 billion last year - is drawing protests from a growing array of politicians and activists, including Republican members of Congress, leaders of the independent commission that studied the Sept. 11 attacks and even the top federal official who oversees classification." Sens. John Cornyn and Patrick Leahy cosponsored a bill that "requires that any legislation creating new exemptions to the Freedom of Information Act explicitly disclose them. It is only part of overhaul efforts proposed by the two."

The AP (7/3, Freking) reports, "The numbers come from the Information Security Oversight Office in its latest annual report to the president. … An increase in the number of documents being classified has raised concerns that the government is being too secretive, and the report notes that overclassification of documents has been a consistent issue for decades. However, the report stops short of saying that the trend runs counter to the nation's interest."

OTHER NEWS:

Rally For The Poor Held In Scotland. The New York Times (7/3, Alvarez) reports that "more than 225,000 demonstrators encircled the heart of" Edinburgh "and demanded an end to abject poverty around the world." All types of people "poured into the streets here to deliver their message to the powerful leaders who will arrive at Gleneagles Hotel in Perthshire, nearby, for the Group of 8 summit meeting that starts Wednesday." The activists and demonstrators say "the world's richest countries should forgive the debts of the poorest countries, with no strings attached, equalize trade and put an end to harmful export subsidies and increase aid to poor countries while ensuring it gets funneled to the right people." The Los Angeles Times (7/3, Depasquale) issued a similar report.

The Washington Times (7/3) added, "At the head of the march was Zimbabwean campaigner Amadou Kanoute, one of the few Africans in the overwhelmingly white crowd." The Times said that "organizers estimated the day's turnout at more than 200,000 people making the demonstration the biggest in Scotland yet for a political cause."

G-8 Unlikely To Agree On Global Warming Specifics. The Atlanta Journal-Constitution (7/3, Melvin) reports on various aspects of the upcoming G-8 conference, including the history and security concerns. The Journal notes that Tony Blair "seems unlikely to be able to get an agreement from all his guests to take specific steps to curb global warming. Bush does not agree that science has demonstrated that climate change poses a near-term problem or that it is caused by humans." However, "it does seem possible" that the leaders "will agree in Scotland to support the development of new technologies that do not produce greenhouse gases." Nicholas Bayne, a former British diplomat, said "I think Blair's objective was to bring the United States back into the international discussion of what to do about climate change."

G-8 Under Pressure To Admit China. The AP (7/3, Raum) says that the G-8 partnership "is under pressure to open the door to new members," among which "China, India and South Korea come to mind. Doing so would reflect the rapidly changing global economy and maintain the strategic role for which the group was organized in the first place." However, "not one of the current members seems to want to make the first move toward expansion." Grant Aldonas, who was commerce undersecretary in Bush's first term, "said a strong case could be made for bringing in other nations with fast-growing economies." Aldonas also said, "It's hard to talk meaningfully about the world economy any more without China being included." AP notes that by 2050, "the countries with the top economies are expected to be the U.S., China, India, Japan, Britain, France, Germany and South Korea. Current club members Italy and Russia would not rank in the top 10."

Past Africa Aid Failures. The Los Angeles Times (7/3, Dixon) says that "like the untouched land, Nigeria, and much of Africa, has not been transformed by the donor aid that has washed in during recent decades, most of which was stolen or wasted. Despite billions of dollars in grants and loans, Africa is the only continent sliding backward, worse off than it was 25 years ago." In some African countries, "such as corruption-plagued Nigeria, people agree that debt relief rarely trickles down to those who need it most." However, "many economists and anti-poverty activists counter that lifting the yoke of debt is the only way to reduce hardship in the poorest nations. The World Bank is beginning to favor grants, not loans, for the neediest countries to prevent them from getting buried in debt."

To Ordinary Africans, G-8 Seems Out Of Touch. In a front-page piece, the Washington Post (7/3, Wax) reports on Africans' feelings about the G-8 summit and associated activities. Africans interviewed this week, "from farmers to artists to health workers, say they are grateful for the outpouring of sentiment, and glad to hear that glamorous musicians and actors are championing their cause," but they "also said there was a dangerous disconnect between what the industrialized nations see as solutions and what Africans believe they need. Instead of debt relief and more aid, many Africans said they wanted the G-8 to focus on ending corruption and on improving roads, courts, banking and secondary education." Many Africans said that "another useful step" would be "to end Western countries' trade subsidies for their own farmers, which make it impossible for African industries to do much more than survive."

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NYTimes Mag Says International Community Belongs In Congo. The New York Times Magazine (7/3, Traub) in a lengthy piece on Democratic Republic of the Congo, notes that at the G-8 summit "we may well be hearing a great deal about promising African countries like Ghana or Malawi," but "that great swaths of the continent are occupied by countries -- Sudan, Sierra Leone, Burundi and, not least, Congo -- that, left to their own devices, are very likely to eat themselves up, and their neighbors as well." The international community "has no choice but to intervene in these places." One argument "we will be hearing from the Bush administration at the Gleneagles G-8 summit meeting is that corrupt countries have to change their own political culture before the world starts pouring in aid," which the writer describes as true, "but rather facile."

NYTimes Credits, Challenges Bush In Fight Against Poverty. The New York Times (7/3) editorializes, "If Mr. Bush is truly the compassionate conservative he says he is, he will not let the moment pass with the United States continuing to contribute far less than its share to the international effort to include Africa in the prosperity of the 21st century." President Bush, "to his great credit," has been "more attentive to the problems of Africa than his recent predecessors. He has increased overall assistance, stepped up spending on H.I.V./AIDS programs and created the Millennium Challenge Account to reward Africa's best-governed countries. Last week he promised further increases, including a program to fight malaria, and new teacher training and scholarship money to help girls attend school." But so far "there has been a discouraging gap between Mr. Bush's generous declarations and the money Washington has actually made available to Africa. The White House has failed to push the Republican-controlled Congress to fully finance Mr. Bush's aid programs and failed to spur its own aid appointees to get the money flowing to where it is most urgently needed."

Administration Promise To Work With Other Governments "A Good Sign". The Los Angeles Times (7/3) editorializes that President Bush's "announcement last week of a $1.2-billion package to fight malaria in Africa over the next five years showed an awareness of the disease's economic and human toll. That's progress; the United States has essentially ignored its devastating effects on Africa for decades, throwing in token sums that have enriched U.S. aid contractors but done next to nothing to reduce mortality from a plague that kills from 1 million to 3 million people a year." Bush's malaria initiative "is an inspirational commitment that — if implemented properly and fully funded by Congress — could save thousands of lives. Unfortunately, those are big 'ifs.'" The administration "promises to work with other governments and the Global Fund to Fight AIDS, Malaria and Tuberculosis, and that's a good sign. Bush should see this initiative as an experiment in distributing aid without USAID's involvement."

EU Urged To Remain Committed To Expansion. Ivo Daalder, a senior fellow at the Brookings Institution, and James Goldgeier a professor of political science at George Washington University, have written an op-ed in the Washington Post (7/3, Daalder, Goldgeier) that notes "from the beginning, Europeans have greeted President Bush's 'transformational diplomacy' with disdain. To them, the mess in Iraq demonstrates the failure of a policy that relies on speaking loudly and carrying a big stick. Instead of pursuing a policy of invasion, Western Europe has used the prospect of membership in the European Union to help transform the countries of Central and Eastern Europe into stable market democracies, thus continuing a process that saw Greece, Spain and Portugal join after they too pursued a democratic path." However, "the crisis in Europe that has emerged in recent weeks, first with the rejection of the European constitution by voters in France and the Netherlands and then with the breakdown of budget negotiations at last month's E.U. summit, has put the brakes on talk of continuing the enlargement process." Unless "the door to Europe is kept ajar, the instability that continues to bedevil Europe's periphery in the broader Middle East and the former Soviet Union will come to plague Europe itself and all that has been accomplished there. The consequences would be bad not just for Europe, but also for the United States, which needs a strong partner to address challenges emanating from Northern Africa, the Middle East and Eurasia."

Media Highlights Live 8 Concert. The Live 8 concert's message urging G-8 leaders to help reduce poverty in Africa was highlighted by the media. While coverage focused on the bands, music and crowds, all three network news broadcasts led with coverage of the Live 8 concert and it was covered by most of the nation's major dailies. NBC Nightly News (7/2, lead story, 3:00, Seigenthaler) reported, "Specifically Live 8 calls for rich nations to erase more than $200 Billion in African debt, aid doubled and better trade deals for Africa. Many insist President Bush's initiatives this week to fight malaria and improve education on the continent shows…" Sir Elton John was shown singing but the audio was garbled. Sir Elton John: "There are a lot of naysayers and it provoked a lot of, well, it's not going to make that much difference. Well, you have to try. You have to try and do something positive."

CBS Evening News (7/2, lead story, :10, Palmer) reported, "In Edinburgh, where the G-8 leaders are due to meet, marchers have already begun what organizers are calling the long march to justice. But experts in development say this feel-good popular movement isn't likely to change the minds of G-8 leaders on crucial issues that might help Africa but wouldn't be popular with voters."

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Knight Ridder (7/3, Schofield) reports that organizer Bob Geldof "had billed this not as a fund-raiser, but a consciousness raiser." Later, during the performance, Geldof "would describe Saturday's concerts as part of the 'long, long walk to justice.'" In Philadelphia, "in a scene that was broadcast to concerts around the world, actor/singer Will Smith urged people around the world to snap their fingers at three-second intervals, noting that the pace represented the death rate for African children from poverty." Un Secretary-General Kofi Annan said, "On behalf of the poor, the voiceless and the weak, I say thank you."

The Washington Post (7/3, Lac, Wiltz) focused primarily on the artistic aspects of the Philadelphia concert, noting that organizer Bob Geldof's goal "was to make a social statement so grand, so loud, that the leaders of the industrialized world simply could not ignore it." Actor Don Cheadle "urged everybody to sign an online petition to pressure the G-8 participants…to help Africa out of abject poverty."

The Washington Times (7/3) reports that Geldof "requested that performers ratchet down the kind of partisan rhetoric that characterized celebrities' involvement in the presidential election last year. Artists here complied for the most part, but, occasionally, lips loosened." The New York Times (7/3, Lyall) quotes South African pop star Zola, speaking of Europe: "They owe us. … They are the ones who brought slavery, killed our ancestors. If anybody must pay, they must pay us back so that we can have jobs and education."

The Los Angeles Times (7/3) reports that German punk rocker Campino "told the Berlin audience, 'We have to get Africa out of USA's headlock.'"

Op-ed Argues For Piecemeal Efforts To Aid Africa. In an op-ed piece appearing in the New York Times (7/3, Easterly) New York University professor of economics William Easterly, says "it's great that so many are finally noticing the tragedy of Africa. But sadly, historical evidence says that the solutions offered by big plans are not so easy. From 1960 to 2003, we spent $568 billion (in today's dollars) to end poverty in Africa. Yet these efforts still did not lift Africa from misery and stagnation." The "sensible alternative" Campino argues, "is to concentrate on piecemeal solutions to poor people's problems. You can evaluate the results of a specific intervention by comparing them with conditions in another group without the intervention, and you can get feedback from those affected and hold an individual aid agency accountable." Piecemeal fixers "do not promise the miracles that planners do; they just quietly deliver results."

American Businesses Have "Vested Interest"In China Success. The New York Times (7/3, Porter) says that "China has set out to snap up everything from Unocal to Maytag, not to mention a steady diet of United States Treasury bonds. And many of the leading voices who worried about Japan in the 1980's are warning that China presents a much bigger and more complex conundrum." Even those most concerned about China's rise up the economic, political and military ladder, however, "recognize another, perhaps more important difference between China and 1980's Japan. The United States has a vested interest in China's success." Whereas Japan's success at the time "was inevitably seen as America's failure, today American businesses are all rooting for China to succeed. Because they own a lot of it."

More Commentary. The Los Angeles Times (7/3) editorializes, "Americans needn't fear the prospect of the world's largest country joining the global middle class. This -- or the more prosaic possibility that some country might definitively unseat the United States as the world's richest country -- is not some tragic possibility that Americans must acknowledge with good grace or world-weary resignation (like the British waving farewell to their empire). The wealth of other nations is good for Americans in the narrowest selfish terms."

Abbas Attempts To Co-Opt Hamas. The Washington Times/AP (7/3, Daraghmeh) reports that Palestinian leader Mahmoud Abbas "has asked his most formidable rival, the militant Islamic group Hamas, to join his Cabinet in advance of Israel's Gaza pullout, and the group is considering the offer." Israel "denounced the idea of Hamas' joining the Palestinian government, calling the group 'a murderous terrorist organization.'" Israel and the US "have demanded that Mr. Abbas disarm Hamas and other militants, a step he has refused to take for fear it would provoke bloodshed among Palestinians. He has chosen instead to co-opt militants."

Some Gaza Settlers Dig In As Pullout Nears. The Los Angeles Times (7/3, Ellingwood) reports that "rather than packing up, Sanur's 31 families are busily fortifying their hold on the West Bank hilltop in anticipation of a last stand." Sanur "is one of four settlements in the northern West Bank scheduled to be abandoned by Israel this summer, along with all 21 Jewish communities in the Gaza Strip." Although "Sanur and the three other isolated West Bank settlements, Homesh, Ganim and Kadim, have been largely overlooked in the turbulent national drama over the planned withdrawal," military officials "say settler resistance may prove especially tough in Sanur and Homesh." Settlers in Sanur "say they expect 10,000 or more supporters to sweep in to help thwart the evacuation."

Iranian Pres-Elect Refuses Interviews. The New York Times (7/3, Slackman) says that since the election a week ago, "it has been nearly impossible to get a feel for Mahmoud Ahmadinejad, to take the measure of the man. He

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has refused all interviews, though he did hold one hourlong news conference." Friends, supporters and neighbors "describe the diminutive, bearded man as humble and caring." Nasser Hadian-Jazy, a political science professor at Tehran University, "said that he had known the president-elect since childhood and that Mr. Ahmadinejad was not involved with the student hostage takers."

Ahmadinejad A Suspected Accomplice In 1989 Austrian Attack. The Washington Times/AP (7/3, Kole) reports that Austria's daily, "Der Standard." quoted a prominent Austrian politician "as saying authorities have 'very convincing' evidence linking" Ahmadinejad to attacks in Vienna," in which Kurds were killed in 1989." Der Standard reported yesterday that a top official with Austria's Green Party, accused Ahmadinejad "of traveling to Vienna a few days before the slayings to deliver the weapons to the Iranian commandos who carried out the killings. He said he wants a warrant issued for Mr. Ahmadinejad's arrest."

Ahmadinejad Campaign Message Of Economic Hope Aided Victory. The New York Times (7/3, Slackman) reports on Ahmadinejad's election campaign "promising to redistribute the nation's wealth, hold down prices, raise salaries and lift state-supported benefits for the poor. He infused those pledges with the theme of social justice, which resonated in a society where aiding the poor is considered an obligation for the faithful." Iran is "awash in oil money, as the price of crude topped $60 a barrel this week, pumping billions into the government treasury. But this country's economy is still tied down by a system in which the state and a shadowy collection of foundations controlled by clerics monopolize the vast bulk of its industries, including oil." The Ahmadinejad campaign message of "economic hope - as well as social justice - captured the hearts…of middle-class families. Parts of the middle class have trouble meeting their own financial needs, although their support for Mr. Ahmadinejad also stems from having grown used to buying subsidized food, even if they can afford to pay market prices."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — No schedule available.

VICE PRESIDENT CHENEY — No schedule available.

US Senate: -- No events scheduled.

US House: -- No events scheduled.

Other: ALL DAY

June 30 - July 3. SCHOOL NURSES CONFERENCE _ The National Association of School Nurses (NASN) holds its 37th Annual Conference. Location: Marriott Wardman Park Hotel, 2660 Woodley Road, NW. Contacts: n/a, 207-883-2117

July 1 - 5. OSCE PARLIAMENTARY ASSEMBLY _ The 14th Annual Session of the Organization for Security and Co-operation in Europe (OSCE) Parliamentary Assembly, whose participating states span the geographical area from Vancouver to Vladivostok, is held with the theme, ``30 Years Since Helsinki: Challenges Ahead." Highlights: 12 p.m. The World Jewish Congress, Institute on Religion and Public Policy, and Foundation for Ethnic Understanding host a roundtable luncheon, ``Legislative Responses to Anti-Semitism," with parliamentarians from across Europe, North America, and the former Soviet Union. The program includes Rep. Alcee Hastings, D-Fla., president, OSCE Parliamentary Assembly; co-chairs Rep. Chris Smith, R-N.J., co-chairman, U.S. Helsinki Commission, and Prof. Gert Weisskirchen, German Bundestag, OSCE-PA vice president and personal representative of the Chairman-in-Office of the OSCE on Combating Anti-Semitism; and presentations from leading members of national parliaments from the OSCE region. Willard Intercontinental Hotel. Location: JW Marriott Hotel, 14th St. and Pennsylvania Ave. NW.

CAPITAL FOURTH-REHEARSAL _ Open dress rehearsal for accredited media only of the 25th Annual PBS Capitol Fourth concert. Highlights: 11:50 a.m. - 12:50 p.m. The O'Jays 2 p.m. - 2:30 p.m. Kimberley Locke 2:30 p.m. - 3:25 p.m. Ronan Tynan 3:25 p.m. - 5:20 p.m. Gloria Estefan, Jimmy Smits 5:20 p.m. - 6 p.m. Barry Bostwick 7:40 p.m. - 10 p.m. Full concert dress rehearsal Location: U.S. Capitol, West Lawn Contacts: Anne Maginnis, 202-554-4620

July 3 - 8. IEEE CONFERENCE _ The Institute of Electrical and Electronics Engineers (IEEE) holds the 2005 IEEE Antennas and Propagation Society International Symposium and URSI National Radio Science Meeting. Location: Omni Shoreham Hotel, 2500 Calvert St. NW. Contacts: Prof. Amir Zaghloul, 703-535-3465

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"State Ballot, Wider Impact"
"Glimpses Of A Hermit Nation"
"High Noon For High Court"
"How Visa System Failed To Flag Lodi Imam"
"Junior Miss Bows Out True To Tradition – Gracefully"
"Start to Make It Better, Live 8 Urges"

New York Times:

"Conservative Groups Rally Against Gonzales As Justice"
"Profit, Not Jobs, in Silicon Valley"
"A Town That Bled Under Hussein Hails His Trial"

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"In An Epic Wimbledon Final, Williams Prevails"
"For The Poor In Iran, Voting Was About Making Ends Meet"

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"Help From France Key In Covert Operations"
"The Right's Moment, Years In The Making"
"Among The Poor Of Africa, G-8 Seems Out of Touch"
"One Man's Fight Against E-Mail Spam"

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"Iranian Accused In Killing Of Kurds"
"A Present Built On The Past"
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"Old Glory's Preservation"
"A Musical Message"
"Noodlin' Away A Summer Afternoon"
"Conservatives Relish Chance To Seize Court"

Dallas Morning News:
"A Mystery In Boots And Beard"
"Gen X Marks Its Spot"
"Microbiologist Claimed Aloe Vera Fights Cancer, AIDS"
"Shaky Science: Experts Question Anthrax Lotion"

Houston Chronicle:
"Mad cow Puts Role Of USDA In Question"
"How NASA Would Save Shuttle Crew In Danger"
"Authorities Little Help, Hope To Families Of Missing"
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Story Lineup From Last Night's Network News:
ABC: Live8; Iraq Bombings; Missing And Dead Soldiers In Afghanistan; SCOTUS/Abortion; Missing Girl; Arizona Wildfire; House Insurance;
Wimbledon; Tour De France; Miss America.
CBS: Live8; Missing Girl; SCOTUS Nominee; Iraq Bombings; Soldiers' Deaths In Afghanistan; Wimbledon; Tour De France; Ballroom Dancing.
NBC: Live8; SCOTUS Nomination; SCOTUS/Interest Groups; Missing Girl; French Anti-Terrorism; NASCAR; Wimbledon.

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USDOJ- Office of Public Affairs

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: SUNDAY, JULY 3, 2005 7:45 AM EST

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TERRORISM NEWS:

Help From France Key In Covert Operations (WP)

By Dana Priest

The Washington Post, July 3, 2005

When Christian Ganczarski, a German convert to Islam, boarded an Air France flight from Riyadh on June 3, 2003, he knew only that the Saudi government had put him under house arrest for an expired pilgrim visa and had given his family one-way tickets back to Germany, with a change of planes in Paris.

He had no idea that he was being secretly escorted by an undercover officer sitting behind him, or that a senior CIA officer was waiting at the end of the jetway as French authorities gently separated him from his family and swept Ganczarski into French custody, where he remains today on suspicion of associating with terrorists.

Ganczarski is among the most important European al Qaeda figures alive, according to U.S. and French law enforcement and intelligence officials. The operation that ensnared him was put together at a top secret center in Paris, code-named Alliance Base, that was set up by the CIA and French intelligence services in 2002, according to U.S. and European intelligence sources. Its existence has not been previously disclosed.

Funded largely by the CIA's Counterterrorist Center, Alliance Base analyzes the transnational movement of terrorist suspects and develops operations to catch or spy on them.

Alliance Base demonstrates how most counterterrorism operations actually take place: through secretive alliances between the CIA and other countries' intelligence services. This is not the work of large army formations, or even small special forces teams, but of handfuls of U.S. intelligence case officers working with handfuls of foreign operatives, often in tentative arrangements.

Such joint intelligence work has been responsible for identifying, tracking and capturing or killing the vast majority of committed jihadists who have been targeted outside Iraq and Afghanistan since the Sept. 11, 2001, attacks, according to terrorism experts.

The CIA declined to comment on Alliance Base, as did a spokesman for the French Embassy in Washington.

Most French officials and other intelligence veterans would talk about the partnership only if their names were withheld because the specifics are classified and the politics are sensitive. John E. McLaughlin, the former acting CIA director who retired recently after a 32-year career, described the relationship between the CIA and its French counterparts as "one of the best in the world. What they are willing to contribute is extraordinarily valuable."

The rarely discussed Langley-Paris connection also belies the public portrayal of acrimony between the two countries that erupted over the invasion of Iraq. Within the Bush administration, the discord was amplified by Defense Secretary Donald H. Rumsfeld, who has claimed the lead role in the administration's "global war on terrorism" and has sought to give the military more of a part in it.

But even as Rumsfeld was criticizing France in early 2003 for not doing its share in fighting terrorism, his U.S. Special Operations Command was finalizing a secret arrangement to put 200 French special forces under U.S. command in Afghanistan. Beginning in July 2003, its commanders have worked side by side there with U.S. commanders and CIA and National Security Agency representatives.Organizing Alliance Base

Alliance Base, headed by a French general assigned to France's equivalent of the CIA -- the General Directorate for External Security (DGSE) -- was described by six U.S. and foreign intelligence specialists with involvement in its activities. The base is unique in the world because it is multinational and actually plans operations instead of sharing information among countries, they said. It has case officers from Britain, France, Germany, Canada, Australia and the United States.

The Ganczarski operation was one of at least 12 major cases the base worked on during its first years, according to one person familiar with its operations.

"It's really an effort to come up with innovative ideas and deal with some of the cooperation issues," said one CIA officer familiar with the base. "I don't know of anything like it."

Factions within the intelligence services of several countries opposed a multinational approach, according to current and former U.S. and European government officials who described its inception. The CIA's Counterterrorist Center did not want to lose control over all counterterrorism operations; the British service did not want to dilute its unique ties to Washington; Germany was not keen to become involved in more operations.

And no country wanted to be perceived as taking direction from the CIA, whose practice of extraordinary renditions -- secretly apprehending suspected terrorists and transferring them to other countries without any judicial review -- has become highly controversial in Europe. In Italy, 13 alleged CIA operatives are accused of kidnapping a radical Egyptian cleric off the streets of Milan in 2003.

To play down the U.S. role, the center's working language is French, sources said. The base selects its cases carefully, chooses a lead country for each operation, and that country's service runs the operation.

The base also provides a way for German case officers to read information from their own country's law enforcement authorities, sources said. German law bars criminal authorities from sharing certain information directly with their intelligence agencies.

French law, by contrast, encourages intelligence sharing among its police and security services. In fact, since the Napoleonic Code was adopted in 1804, French magistrates have had broad powers over civil society. Today, magistrates in the French Justice Department's anti-terrorism unit have authority to detain people suspected of "conspiracy in relation to terrorism" while evidence is gathered against them.

The top anti-terrorism magistrate, Judge Jean-Louis Bruguiere, has said that in the past decade, he has ordered the arrests of more than 500 suspects, some with the help of U.S. authorities. "I have good connections with the CIA and FBI," Bruguiere said in a recent interview.

In France, which has a Muslim population reaching 8 percent -- the largest in Europe -- U.S. and French terrorism experts are desperate to take terrorist-group recruiters and new recruits off the streets, and have been willing to put their own anti-terrorism laws into the service of allies to lure suspects such as Ganczarski from abroad.

"Yes, without a doubt there are some cases where we participate that way," one senior French intelligence official said.

France sent its interrogators to Guantanamo Bay to gather evidence that could be used in French court against the French detainees the United States was holding there. France is the only one of six European nations that continues to imprison detainees returned to it from the U.S. military facility at Guantanamo Bay, Cuba.

Bruguiere and other French intelligence officials like to note dryly that France first realized it had become a target of al Qaeda-style jihadists when a group of Algerian radicals hijacked an airliner with the intent of crashing it into the Eiffel Tower in 1994. They viewed the attacks on the World Trade Center and the Pentagon as another, if much larger, part of the jihadist campaign against Western civilization.

So it did not surprise many intelligence officers when, in the days after the attacks, President Jacques Chirac issued an edict to French intelligence services to share information about terrorism with the U.S. intelligence agencies "as if they were your own service," according to two officials who read it.

The steady, daily flow of encrypted messages increased. "We saw a quantitative and qualitative difference in the degree of detail in the information," said Alejandro Wolff, the second-in-charge at the U.S. Embassy here, whose portfolio includes fighting terrorism.

One CIA veteran with knowledge of the U.S.-French intelligence work estimates that the French have detained about 60 suspects since the end of 2001, some with the help of the CIA. "They do as much for us as the British and in some ways more -- if you ask them," said a recently retired senior intelligence official who worked closely with France and other European countries.

France was also an early and willing collaborator in other parts of the world, allowing the CIA to fly its top-secret, armed Predator drone, still controversial inside the Pentagon, from France's air base in the former French colony of Djibouti. Its mission was to kill al Qaeda figures on a classified CIA list of "high-value targets." On Nov. 3, 2002, CIA officers operating remote controls from the air base took their first shot, killing Abu Ali al-Harithi, the mastermind of the October 2000 attack on the destroyer USS Cole, and six others, including Ahmed Hijazi, a naturalized U.S. citizen, in a Yemeni desert.

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The broader cooperation between the United States and France plays to the strengths of each side, according to current and former French and U.S. officials. The CIA brings money from its classified and ever-growing "foreign liaison" account -- it has paid to transport some of France's suspects from abroad into Paris for legal imprisonment -- and its global eavesdropping capabilities and worldwide intelligence service ties. France brings its harsh laws, surveillance of radical Muslim groups and their networks in Arab states, and its intelligence links to its former colonies.

"There's an easy exchange of information," said Pierre de Bousquet de Florian, director of France's domestic CIA, the Directorate of Territorial Surveillance, who declined to comment on specifics of the relationship. "The cooperation between my service and the American service is candid, loyal and certainly effective."

France's willingness to share its dossiers on terrorists has helped the United States make some of its most significant convictions, including those of Ahmed Ressam, who was stopped at the Canadian border on his way to attempt to blow up Los Angeles International Airport in 1999, and Zacarias Moussaoui, a Moroccan who once lived in France and is the only person in the United States to have pleaded guilty in the Sept. 11 hijacking plot.Tension Over Iraq

In the run-up to the Iraq war, the White House drew the battle lines between countries that were tough on terrorists -- the administration included Iraq in the mix -- and those that were not. France's government believed U.N. inspections had successfully contained Saddam Hussein's development of weapons programs, and Bruguiere saw no connection between Iraq and al Qaeda. At the Defense Department, on Capitol Hill and elsewhere, many cast France's opposition to war as evidence it was a slacker when it came to fighting terrorism.

French fries became "freedom fries" on Air Force One and in congressional cafeterias. Rumsfeld prohibited general officers from telephoning their French counterparts, grounded U.S. planes at the Paris Air Show and disinvited the French from Red Flag, a major U.S. military exercise in which they had participated for decades.

Three months into the dispute, the State Department and the CIA made a case for France, citing its intelligence cooperation. Bush eventually told Rumsfeld to desist, according to two former State Department officials. Then-Secretary of State Colin L. Powell wrote a memo saying that punishing the French was not U.S. policy. A. Elizabeth Jones, the assistant secretary of state for European and Eurasian affairs, kept it on top of her desk. "I frequently needed to be able to pull it out and quote it to my Pentagon colleagues," Jones said.

But Rumsfeld persisted a year later, excluding the French Air Force from the Red Flag exercise in 2004.

Rumsfeld's symbolic jabs baffled some officials inside the Bush administration. "Most things the secretary of defense did I could understand, even if I disagreed with him," said Lawrence B. Wilkerson, former chief of staff to Powell. "On this one, it was totally irrational, even dumb."

The intelligence services tried to insulate themselves from the public fray.

"The French were very keen on demonstrating there was no drop-off at all," said Wolff, the U.S. diplomat here. "There was never any sense of this spilling over. There was an effort on both sides to compartmentalize" the differences.

The same was true for the CIA and other U.S. intelligence agencies, which report a steady, daily flow of encrypted messages on terrorism between the CIA and its French counterpart.

"The relations between intelligence services in the United States and France has been good, even during the transatlantic dispute over Iraq, for practical reasons," Bruguiere said. "If you want to have a better grasp of a difficult situation, you have to share intelligence real time."The Ganczarski Operation

Ganczarski, a metallurgist from the industrial Ruhr district in Germany, had been radicalized by a Saudi cleric touring European mosques in the early 1990s, studied Islam on a religious scholarship in the kingdom, traveled to Afghanistan four times, trained in al Qaeda camps, met Osama bin Laden, and returned to Germany from his last trip nine days before Sept. 11, 2001.

Intelligence officials say he was part of a patient, post-9/11 al Qaeda plan to activate European converts, including failed British "shoe-bomber" Richard Reid. Ganczarski's cell phone was the last number that a suicide bomber who killed 21 people on the island of Djerba called in April 2002. Some of the casualties were French, which gave Bruguiere legal grounds to arrest Ganczarski.

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On May 20, 2003, an urgent bit of intelligence was fed into Alliance Base: Ahmed Mehdi, an associate of Ganczarski, had just booked a 14-day vacation to the French island of Reunion in the Indian Ocean.

Mehdi, then a 34-year-old Moroccan who had lived near Ganczarski in Germany, was under surveillance and showing a worrisome interest in remote-control detonators. German authorities, who did not have enough evidence to arrest him or Ganczarski, believed Mehdi was planning an attack on Reunion.

Mid-level case officers working at Alliance Base met to devise a plan: They would entice first Mehdi, then Ganczarski, to France. Bruguiere would lock them up on suspicion of associating with terrorists.

The CIA arranged for an asset to suggest that Mehdi stop in Paris on his way to Reunion to surveil targets. Mehdi, Alliance Base learned from wiretaps, worried that France would not give him a visa, which he needed because he is Moroccan. On cue, the French services arranged for a visa. The Germans monitored calls and contacts there for a change of plans.

On June 1, French authorities apprehended Mehdi at Charles de Gaulle International Airport in Paris. He was sent to Fresnes Prison outside Paris. Two days later, on June 3, 2003, Ganczarski was there, too.

Unbeknownst to the two men, they were held in cells just yards from each other. Authorities used the information gained from one to question the other. Within days, Mehdi told Bruguiere's investigators about the plot, the network and Ganczarski. Investigators now believe that Mehdi has links to al Qaeda's Hamburg cell that plotted the Sept. 11 attacks and that Ganczarski associated directly with Sept. 11 architect Khalid Sheikh Mohammed.

Alliance Base's role in the operation was noted obliquely on June 11, 2003, by Interior Minister Nicholas Sarkozy. Speaking before Parliament, he said, "This arrest took place thanks to the perfect collaboration between the services of the great democracies."

U.S. Seen Prodding Allies In Terror War (WT)

By Guy Taylor

The Washington Times, July 3, 2005

The top foreign-affairs adviser to the Department of Homeland Security says the United States must do more to spark action among its foreign allies in fighting the global war on terrorism in their own countries.

In an interview while attending a terrorism-law conference here this week, Cresencio S. Arcos, the department's director of international affairs, said: "We need to be more creative in how we engage our allies in the war on terror."

The United States has made great progress working with Britain, Canada and Mexico -- the latter two making up about 60 percent of joint-U.S. homeland security efforts -- said Mr. Arcos.

Department sources, however, say they are "circumspect" about forming joint working groups with governments outside those three nations. "We can't possibly have them with every country in the world," one official said, on the condition of anonymity.

On June 1, DHS officials convened a semiannual conference with British officials to discuss information- and technology-sharing practices in the war on terrorism.

A key topic, said department officials, was how better to involve the European Union in multinational air-security efforts, such as creating more extensive passenger information. The next meeting with Britain is scheduled for December.

Meanwhile, Mr. Arcos, a former senior State Department official who once served as ambassador to Honduras, said perhaps the biggest challenge in engaging allies in Europe and other parts of the world is that the war on terrorism "costs a lot."

Most countries are less willing than the United States to embrace the high price of beefing up security in such places as international airports.

"Increasingly, as we move away from September 11, one of the concerns that we must all be mindful of is that we don't want to let the guard down," Mr. Arcos said. "We need to keep funding up."

Spending by the 22 agencies that form DHS has ballooned in the four years since the hijackings killed nearly 3,000 people in New York, at the Pentagon and in Pennsylvania.

With spending on contracts by homeland security agencies climbing from around $2.5 billion a year in 2001 to nearly $5.8 billion this year, Mr. Arcos said even Congress "is becoming very pricklish" about funding homeland security efforts.

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The bulk of the increased funding, he said, has gone toward private contract firms providing Internet security systems and personnel management services to help ease the transition of nearly two dozen separate agencies into a single, more coherent umbrella department.

"The biggest concern," Mr. Arcos said, "is that we don't lose focus, that we don't just become like a pork barrel."

Man Allegedly Abducted By CIA In Egypt, Lawyer Says (HC)

Houston Chronicle, July 3, 2005

Osama Moustafa Hassan Nasr, the man at the center of an international controversy over an alleged CIA abduction, is being held in Damanhour prison outside Alexandria though he has not been accused of a crime, according to his lawyer, Muntassir al-Zayyat, a Cairo attorney who defends many Islamists.

In Italy, lawmakers are enraged at what many regard as a flagrant abuse of Italian laws by the U.S. government. Italian authorities who have charged 13 CIA operatives with his abduction say they don't know the whereabouts of Nasr, also known as Abu Omar, and that their requests for information from Egyptian authorities have gone unanswered.

But in Egypt, where such renditions of wanted fugitives are relatively common, the dramatic seizure of Abu Omar in Milan drew little attention.

There are 10,000 to 20,000 political prisoners being held in Egypt, and the case of just one is unlikely to attract much interest, said Hafez Abu Saeda, a lawyer who heads the Egyptian Organization of Human Rights.

The Egyptian government has cracked down on fundamentalist groups for decades.

At the Nasr family's modest apartment in the working-class Alexandria neighborhood of Moharem Bek, his brother Hisham and mother, Safinaz, were too afraid to speak about Abu Omar and threatened to call police when approached by a reporter.

Hisham Nasr later apologized in a telephone interview, though he still refused to discuss his brother's whereabouts beyond saying he is still in prison and that the family is in regular contact with him.

"Please don't make trouble for us," he said. "He is in prison. I can't talk about it. Please forgive me."

For more than a decade, the Egyptian authorities have been hunting down suspected extremists abroad and bringing them back to Egypt, where they are routinely tortured and detained without trial, according to a Human Rights Watch report last month that documented 63 such cases.

Pricey Rendition (WP)

By Jim Hoagland

The Washington Post, July 3, 2005

America's spy agencies need more money, a sleeker bureaucratic structure, fluent Arabic speakers and a host of other reforms and gimmicks to protect the United States and its allies from harm. Add one more urgent need: a sense of proportion.

In substance and style, the exposure of the "extraordinary rendition" -- Bush-era legalese for kidnapping -- of a radical Egyptian cleric off a Milan street in 2003 reveals a crushing inability by higher-ups here to ask

and answer sensibly this question: Is this covert act really worth the likely consequences?

It certainly seemed worth it to the spies who lived in five-star luxury hotels while setting up the snatch -- and briefly afterward to rest up, it seems -- as long as the operation was never discovered and publicized. I hear the Hotel Principe di Savoia in Milan makes an unforgettable cappuccino.

But their incredibly sloppy tradecraft in bundling Hassan Mustafa Osama Nasr onto a CIA-chartered jet and flying him to Cairo for interrogation virtually guaranteed that the operation would surface and be used against the United States and -- more consequentially -- against Italian Prime Minister Silvio Berlusconi, one of President Bush's staunchest allies in the war on terrorism.

In the "timing is everything" department, Berlusconi announced Wednesday that he would seek reelection next year, only to be hit on Thursday with a Post exclusive quoting unnamed "CIA veterans" asserting that the Italian government was in on the operation all along.

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The story goaded a tardy, unconvincing denial from Rome of any involvement in the grab. But the earlier total silence from Berlusconi's office and its now overtaken orders to Italian officials not to discuss the matter publicly lend substantial weight to the account of the "veterans."

The quickness of CIA officials to give up sources makes reporters Judith Miller and Matt Cooper look even more heroic for stubbornly resisting the disclosure of theirs to another overzealous, judgment-impaired official, special prosecutor Patrick Fitzgerald. Cooper and Miller opposed Thursday's decision by Time Inc. to give some documents to Fitzgerald.

Unlike those two journalists, the "veterans" rushed to break a CIA pledge to the Italians never to confirm the incident if it became public -- which it did on June 23 when an Italian magistrate issued arrest warrants for 13 U.S. intelligence agents.

Berlusconi, like other foreign leaders who cooperate intimately with the Bush administration, will have to fend for himself against this embarrassment, which comes after one of his own ace secret operatives was killed in a tragic error by U.S. troops in Iraq. The Italian magistrates -- who have long been convinced that their national chief is a crook -- will make sure the kidnapping story does not go away.

Americans should focus on what this incident reveals about the lack

of effective restraints and review placed by the Bush administration

on covert operations. To paraphrase Lord Acton, absolute secrecy corrupts absolutely.

This gung-ho administration has elevated secrecy to a positive end in itself, an attitude that gives extraordinary license to spooks, knuckle-

draggers and other contract employees of the agency to exceed the normal limits of lying, cheating and breaking other countries' laws.

Knuckle-draggers? It is, I gather, a term of art for a growing number of contract employees who accompany full-time CIA agents on risky missions and who have greater latitude to get physical if need be. The descriptions of the Milan operation suggest that some such outsourcing occurred there.

This is not to say that physicality is not at times required in vital operations, or that renditions should be automatically removed from the kit bag of U.S. foreign policy. The Bush team did not invent rendition. It was inherited and reauthorized by Bill Clinton in a 1995 policy directive and used more extensively during his administration than is generally recognized.

But a look at 18 confirmed renditions from 1987 to 2001 that are documented in FBI, Government Accountability Office and other public records provides an immediate understanding in almost all those cases of why they were ordered, and of the value they held for law enforcement and national security purposes.

The available facts about the abduction in broad daylight of the cleric Nasr, who is still missing, do not provide such prima-facie reassurance -- especially when weighed against the now-apparent costs.

In the current climate of secrecy and fear, there will be no limits on such damaging behavior unless Bush and his new director of national intelligence, John Negroponte, clearly establish them. If they do not, then Congress should. Even a war on terrorism needs to take into account the words spoken by Talleyrand two centuries ago: Above all, not too much zeal.

A Roman Mess (WP)

The Washington Post, July 3, 2005

IT IS NOT KNOWN, and may never be, what benefit to U.S. security resulted from the reported CIA seizure of a radical Egyptian cleric on a street in Milan in 2003 and his delivery to Cairo for detention in an Egyptian prison. But the price of the extraordinary operation is all too apparent: from the more than $100,000 some 18 operatives allegedly blew on luxury hotels to the kidnapping charges an Italian prosecutor has brought against 13 of them, to the understandable uproar in Italy and the damage it could cause to future Italian-American cooperation in the war on terrorism. Was the sudden disappearance of Hassan Mustafa Osama Nasr and any intelligence it yielded -- allegedly under torture so severe that he lost hearing in one ear -- worth it? It's hard to believe so, especially since Italian authorities are telling journalists that the Bush administration had an workable alternative to its lawless behavior: allowing the security services of a close NATO ally to complete their own legal operation against Mr. Nasr and his associates.

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The botched Italian job is but one example of how the CIA's greatly expanded use of the extralegal practice of "rendition" since 2001 has caused collateral damage to U.S. interests. The repeated and extensive exposure of clumsy and not-so-covert operations to grab terrorism suspects and transport them to foreign prisons has tied the United States to abduction and torture, in some cases of persons who may have been innocent of any crime or extremist connection. It has hurt the Bush administration's relations and ability to cooperate on intelligence and law enforcement with several close U.S. allies, including Canada, Germany and Sweden, as well as Italy. Though the CIA apparently cooperated with counterparts in several of those countries, the exposure of the operations has led to high-profile official investigations in all of them and a damaging political backlash. The refusal of the CIA or other administration spokesmen to respond to the uproar or cooperate with the inquiries has made the problem only worse.

The practice of rendition began before the Bush administration, and in some cases it is a necessary tool in the fight against terrorism. Some terrorists, such as Mir Amal Kansi, the Pakistani who killed two people outside CIA headquarters in 1993, have been captured in relatively lawless regions abroad and returned to the United States for trial. In other cases, where militants have been detained in unstable places but have no intelligence value or legal culpability, it may make sense for the United States to deliver them to their home countries, rather than free them or transport them to Guantanamo Bay, Cuba, for an indefinite term of detention. But renditions should be rare, and they should have clear rules and oversight. No terrorist suspect should be turned over to a government likely to use torture -- and Egypt, among other Middle Eastern countries, is a well-documented abuser. The CIA should not use illegal means to capture suspects in democratic countries with a strong rule of law, especially if they are allies of the United States. It may make it quicker or easier to get one extremist sheik off the street, but as the Italian case shows, the damage caused by such highhandedness is too great.

How Visa System Failed To Flag Lodi Imam (LAT)

By Rone Tempest

The Los Angeles Times, July 3, 2005

As Shabbir Ahmed sits in the county jail on immigration charges connected to an FBI terrorism investigation, federal officials are at a loss to explain how a man who publicly demonstrated his rage against the United States and advocated violence against the U.S.-backed regime in Pakistan could slip so easily through the State Department visa system.

In October 2001, after U.S. military aircraft began bombing Al Qaeda bases and Taliban strongholds in Afghanistan, Ahmed — then a 35-year-old imam of a small mosque in Islamabad — was one of the main speakers at an anti-U.S. demonstration at a market near the U.S. Embassy in the Pakistani capital.

While demonstrators burned American flags and effigies of President Bush, Pakistan Press International news service reported that the slight, bearded Muslim cleric exhorted the crowd to join a jihad, or holy war, against the United States.

A month later at another rally, the Boston Globe quoted Ahmed as calling for a rebellion against Pakistan's president, U.S. ally Gen. Pervez Musharraf: "Whoever is against Islam," said Ahmed, "we will destroy him. If this is rebellion, we are not afraid of rebellion. Blood is going to be spilled in Pakistan."

These events were widely reported by Pakistani and foreign media. But a short time later, probably in January 2002, Ahmed walked into the consular section of the heavily fortified U.S. Embassy compound, where he was granted an uncontested three-year "religious worker" visa to the United States.

He arrived in San Francisco on Jan. 23, 2002, and immediately assumed a position as imam of a Lodi, Calif., mosque that is the center of religious life for that San Joaquin Valley city's large Pakistani American immigrant community. Since then he has made at least two trips back to his native Pakistan.

At an immigration hearing June 24 in San Francisco, Ahmed admitted making the anti-American speeches but said he had since completely changed his opinion about the United States, which he said he now loves and respects.

"He now regrets that he made those statements," said his attorney, Saad Ahmad.

But federal prosecutors, who allege links between Ahmed and Pakistan's banned Harkat-ul-Moujahedeen political party, are not convinced. They have asked Immigration Judge Anthony Murry to deny bail to Ahmed pending a deportation hearing later this year.

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After reading reports about the Islamabad speeches, the leadership of the Lodi mosque where Ahmed worked fired him at a special meeting June 26. "We don't want that kind of person who has spoken against the United States," mosque President Mohammed Shoaib told Associated Press.

The man who sponsored Ahmed for the Lodi job — former Imam Mohammad Adil Khan — is also jailed without bond on immigration charges, as is Khan's 22-year-old son, Mohammad Hassan Adil.

All three men came into the country on R-1 or R-2 religious worker visas. R-2 visas are for spouses and children of R-1 visa holders.

How Ahmed's public pronouncements against the United States went unnoticed remains an unanswered question.

Before his name surfaced as part of an FBI investigation of people in the Lodi area with alleged terrorist ties, Ahmed had had at least four encounters with U.S. officials without setting off any alarms.

The first was with U.S. consular officers at the embassy in Islamabad.

Obtaining a religious worker visa requires a sponsor in the U.S. who promises such a job for the applicant and guarantees a steady source of income.

In Ahmed's case the sponsor was the Lodi mosque, then under the direction of Mohammad Adil Khan. Khan was Ahmed's teacher for many years at Jamia Farooqia, a madrasa, or Islamic school, in Karachi, Pakistan.

Like many madrasas across that nation, Jamia Farooqia had strong connections to the Taliban movement in Afghanistan. "Taliban," in fact, means "religious students."

The school, founded by Khan's father, Salimullah Khan, also has at least a historical connection to Harkat-ul-Moujahedeen. The party had fought Soviet troops in Afghanistan from 1980 to 1988 but by 2001 had been listed as a terrorist organization by the U.S. government.

None of this background appears to have reached consular officers when they considered Ahmed's visa request in early 2002.

Likewise, if intelligence agents or political officers at the U.S. Embassy in Islamabad had noted Ahmed's active participation in anti-U.S. rallies in October and November 2001, they failed to pass the information on to the consular officers.

"In every instance in which we have specific information when an individual intends to do harm to the U.S. or to U.S. citizens, we deny the visa," said Angela Aggelar, spokeswoman for the State Department's Bureau of Consular Affairs. "But in order for a person not to be eligible for a visa, they have to have done something that was reported to us by law enforcement."

Ahmed was also screened by airport immigration and customs officials at the San Francisco airport when he first entered the country and each time he returned from trips to Pakistan.

But it was not until Nov. 15, 2004 — when the Lodi mosque applied for a two-year extension of Ahmed's visa — that his name showed up on a watch list. This was after the FBI's Sacramento office had launched an investigation of alleged terrorist links in Lodi.

By the time federal immigration attorneys arrived in court for the June 24 hearing, they had a complete dossier on Ahmed, including his writings in the Jamia Farooqia magazine and his speeches before the Islamabad crowds.

"Did you encourage people in Pakistan at least five times to go to Afghanistan and kill Americans?" federal attorney Paul Nischiie asked Ahmed. "Did you encourage people to defend Osama bin Laden?"

At the hearing, Ahmed initially answered no to both questions, but he later admitted to making anti-U.S. statements.

Officials in Washington with Homeland Security, Citizenship and Immigration Services, Immigration and Customs Enforcement and the State Department had no explanation for why the same questions were not asked three years earlier when Ahmed first presented himself at the U.S. Embassy seeking a visa.

Part of the problem, noted in the 9/11 Commission Report, was that different federal agencies did not communicate well with each other. The Department of Homeland Security was not created until March 2003.

Russ Knocke, a spokesman for Homeland Security, said someone with a similar background would be much more likely to be identified today.

"It shows you how much has changed," he said.

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Consular Affairs spokeswoman Aggelar pointed to the limited resources available to the embassy at the time of Ahmed's first visa request.

In the months immediately after the Sept. 11, 2001, terrorist attacks, Aggelar said, the consular database contained 7 million names. The watch list has expanded to more than 20 million names under a new heightened security system in which many more people are likely to be flagged.

This explanation is unlikely to satisfy congressional critics of the consular screening process.

"The State Department's excuse that they didn't have a functioning terrorist list is inadequate," said Rep. Tom Tancredo (R-Colo.), a critic of immigration policy. "If State thought it was important enough, they would have relayed the message by phone, e-mail, smoke signal or carrier pigeon."

Tancredo, a former Denver schoolteacher, believes that terrorists enter the country using a network that includes imams granted entry on R-1 religious worker visas.

In the 15 years since the R-1 category was established in 1990, more than 145,000 religious worker admissions have been recorded by U.S. immigration authorities.

In fiscal year 2002, the same year that Ahmed came into the country, immigration records show 53 R-1 admissions from Pakistan.

Only relatively recently have federal law enforcement agencies begun to concentrate on investigations of Muslim clerics holding religious worker visas.

Last fall, 62-year-old Muhammad Khalil, imam of a basement mosque in Brooklyn, N.Y., was convicted in federal court of fraudulently sponsoring more than 200 applications for Pakistani religious workers for his Dar Ehya Essunah mosque.

In January, Wagdy Mohammed Ghoneim, the Egyptian head of an Orange County mosque, left the country with his wife and seven children rather than face deportation hearings on immigration charges.

PATRIOT ACT:

County Commission Cites Patriot Act Concerns (EBHNT)

By SUSAN LOYER, STAFF WRITER

East Brunswick (NJ) Home News Tribune, July 3, 2005

NEW BRUNSWICK — The Middlesex County Human Relations Commission is joining the growing list of communities and legislators from around the country taking a stance against the USA Patriot Act.

The commission will issue a formal resolution to lawmakers, municipal governments and local organizations on Tuesday urging them to petition the executive level of the federal government to rescind or modify any law or executive order that diminishes protected civil rights.

"We definitely want to protect our country, our neighbors and our homes, but there are potential dangers in such acts as the Patriot Act," said commission Chairman Bruce S. Morgan. "We take exception to any act or order that erodes the rights guaranteed by the United States Constitution and Bill of Rights."

The USA Patriot Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism) was passed in October 2001 in response to the events on Sept. 11. The act is designed to deter and punish terrorist acts in the United States and around the world and enhance law enforcement investigatory tools.

But some groups, including the Middlesex County Human Relations Commission, believe the act infringes on the rights guaranteed by the U.S. Constitution and the Bill of Rights.

According to the resolution, the act and several federal executive orders go beyond legitimate measures of protection against terrorism and lead to infringe on such rights as freedom of speech, religion, assembly and privacy, the right to counsel and due process in judicial proceedings, protection from unreasonable searches and seizure and equal protection under the law.

"The act impedes on our rights of free speech and also allows people to be held without a trial and even without their family's knowledge," said Morgan. "In general, we object to the portions of the act that pertain to human rights. I am hoping that by

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issuing the resolution, other Americans will take up the banner and bring lawmakers' attention to the portions of the Patriot Act, which I believe are antithetical to the Constitution and Bill of Rights, so they will be repealed."

Morgan said he believes the act was passed by lawmakers because "they were given so little time to review it and a lot of things may have been missed. We're hoping to get it tailored so it does not erode the rights guaranteed by the Constitution," he said.

The Highland Park Borough Council passed a similar resolution in February 2004. The New Brunswick City Council adopted a similar resolution in May.

Portions of the Patriot Act are due to expire at the end of the year, unless they are renewed by federal officials.

Hagen W. Frank: Patriot Act Not Threat As LSJ Says (LSJ)

Lansing (MI) State Journal, July 3, 2005

Hagen W. Frank is an assistant U.S. attorney in Grand Rapids.

On June 10 and 17, the LSJ ran editorials strongly criticizing the USA Patriot Act. While the articles demonstrated the LSJ's commitment to privacy rights in the face of purported infringements by the Patriot Act, they also demonstrated the editors' unfamiliarity with the constitutional and statutory law that governs federal law enforcement and intelligence investigations.

Both articles focused primarily on section 215 of the act, which expanded the types of materials that may be ordered produced by the Foreign Intelligence Surveillance Court (the "FISA Court") in domestic intelligence investigations of foreign powers or international terrorism.

Described by critics as a provision that allows the FBI to go on fishing expeditions of citizens' reading habits - as if the FBI were looking for "busy work" - the provision in fact simply gave the FISA Court the same authority in intelligence and international terrorism investigations to order production of materials that a prosecutor can obtain by grand jury subpoena in a domestic criminal investigation.

According to the June 17 editorial, this is bad because the FISA Court is secret and because the government already had the power to get these materials by search warrant. Secrecy, however, is essential to the kinds of investigations overseen by the FISA Court, i.e., classified intelligence investigations into the activities of foreign powers, suspected agents of foreign powers and international terrorism.

Also, the assertion that search warrants are required to get such materials in domestic criminal investigations is incorrect. Those materials are routinely obtained through grand jury subpoenas, issued by federal prosecutors based only upon a belief that relevant evidence may be found. The Fourth Amendment's probable cause warrant requirement protects reasonable expectations of privacy, not public records of public use of a public facility.

Similarly, the June 10 editorial complains about the Senate Intelligence Committee's endorsement of a proposal to give the FBI administrative subpoena authority in terrorism investigations. According to the LSJ, this would empower the FBI to "investigate citizens without judicial oversight." This complaint assumes incorrectly that every government investigative tool requires judicial oversight.

However, whether judicial pre-approval is required depends upon how intrusive something is and on constitutional, statutory and regulatory provisions that the editorial ignores. Further, administrative subpoenas have long been used by a wide variety of federal agencies.

The FBI already has such authority in health care fraud and child sexual-exploitation investigations, and the proposed measure would simply expand that authority to terrorism investigations.

Even though obtaining evidence through subpoena is not a Fourth Amendment "search," and even though administrative subpoena power is unremarkable, the editorial still warns that this would "give the FBI the power to conduct searches without the approval of any court or grand jury."

Every citizen and every media organization has the right to question and criticize government. However, the LSJ also has the responsibility not to mislead the public on important issues of the day.

The USA Patriot Act presents important issues that call for well-informed debate. The LSJ's recent editorials did not contribute to such a debate.

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Senator Christopher "Kit" Bond: Strong Patriot Act Required (WT)

By Christopher "Kit" Bond

The Washington Times, July 3, 2005

As July Fourth approaches, some Americans appear to suffer from amnesia.

With dramatic headlines such as "Ripping Pages from the Book of Civil Liberties," "Patriot Act Fosters Secrecy, Government Abuse" and "Keep Big Brother at Bay," editorial writers and columnists unfairly criticize legislation that has helped keep America safe since September 11, 2001.

A few weeks ago, the U.S. House of Representatives rejected a proposal to make it easier for the FBI to obtain information on suspected terrorists that could help prevent a future attack.

What is going on here? Consider the lyrics of country music artist Darryl Worley's song titled "Have You Forgotten?"

Have you forgotten how it felt that day?

To see your homeland under fire

And her people blown away.

Have you forgotten when those towers fell?

We had neighbors still inside going thru a living hell.

It appears some editorial writers and members of Congress have forgotten. And they are not alone. Fewer Americans -- only 35 percent -- now fear another terrorist attack in the near future than at any time since September 11, a recent USA Today/CNN/Gallup poll found. Despite their complacency, the threat of terrorism continues.

And surely there is no more important public purpose than keeping America safe from another catastrophic terrorist attack on U.S. soil. To do so, Congress should reauthorize the Patriot Act quickly and expand it to give law enforcement more tools to go after suspected terrorists and prevent attacks.

The September 11 attacks showed the failure of a number of legal and regulatory policies that kept intelligence and law enforcement communities from talking to each other and sharing information on investigations of suspected terrorists.

HOMELAND RESPONSE:

Overhaul Of U.S. Intelligence System May Take 10 Years, Analysts Say (BSUN)

By Siobhan Gorman, Sun National Staff

The Baltimore Sun, July 3, 2005

WASHINGTON - Though the White House announced its intelligence overhaul Wednesday with promises that it would make the country safer, the changes it outlined could take a decade to complete, according to longtime intelligence analysts, including a member of the presidential commission that proposed the reforms.

"The whole process will take five to 10 years," said Adm. William O. Studeman, a member of the commission that investigated the intelligence failures that led the administration to conclude that Iraq possessed weapons of mass destruction.

Studeman characterized that time frame as an optimistic estimate - one assuming that every part of the intelligence community endorses the changes.

The White House said it embraced 70 of 74 recommendations of the commission, led by U.S. Circuit Judge Laurence Silberman and former Sen. Charles S. Robb of Virginia. The most significant reform would be creation of a domestic intelligence service within the FBI.

Other changes are aimed at slowing the proliferation of weapons of mass destruction, improving the quality of human intelligence and integrating the efforts of all 15 U.S. intelligence agencies.

But the future of the reforms is in doubt, as Attorney General Alberto R. Gonzales and FBI Director Robert S. Mueller III have begun maneuvering to regain control over the design of the FBI's intelligence service, said an intelligence veteran responsible for helping the White House implement the plan.

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The president set a 60-day deadline for having a detailed outline of the new domestic intelligence service. The Justice Department is arguing that the planning should begin immediately, while White House aides want to wait until the head of the service is appointed, the intelligence veteran said.

If the deadline is suspended until the White House appoints a chief of the domestic intelligence service, the FBI will lose considerable control over that service's shape.

This early battle for control is symptomatic of the kinds of cultural and turf battles National Intelligence Director John D. Negroponte will continually contend with.

President Bush also set a 60-day deadline for the Justice Department to develop a plan for consolidating its three anti-terrorism divisions into one. Negroponte has 30 days to produce plans for his human intelligence management office housed at the CIA.

Once the plans are drafted, the organizations should be up and running within six months, "if people are not dragging their feet," said John MacGaffin, who spent 31 years at the CIA and six at the FBI. He testified before the presidential commission and the 9/11 commission, which investigated the Sept. 11 attacks.

MacGaffin said that the full impact of the reforms would not be felt for "a long time." He said that progress would be "incremental" but that some changes could occur immediately.

He pointed to a large number of intelligence reports on terrorism that the FBI did not pass along to policy-makers on a timely basis because they weren't familiar with intelligence reporting. Instead of seeking assistance from the CIA, he said, "the FBI took refuge in bureaucratic ownership of the information and declined to let the CIA distribute the reports on their behalf."

The greater the direct authority given to Negroponte and others responsible for instituting the president's plans, the faster the changes will take hold, said John Gannon, former chairman of the National Intelligence Council. "Consensus in the intelligence community means status quo."

Skeptics, though, predict that any positive results are much more than 10 years away.

Clark Kent Ervin, former inspector general of the Homeland Security Department, likened the intelligence agencies to the military services circa 1945. He said it took 40 years for the branches to learn - or be forced - to work together. The intelligence agencies are embarking on a similarly long road to reform, he said.

Ervin pointed to the State Department's negotiations with the FBI to gain full access to terrorist watch lists. "It was shocking to learn that as a matter of course, the State Department does not have access to that information," said Ervin, who was the inspector general at the State Department before he moved to Homeland Security.

Ervin also worries that the continual organizational changes could prove self-defeating: Policy-makers have been unwilling to wait to see the effects of one new organization before they start another with a similar mission.

"You've got to have a score card, but the intelligence community has never really had one," MacGaffin said. "The problem is that scorekeeping in intelligence does not lend itself to more traditional metrics. ... If the DNI [Negroponte] can't establish such a system, we'll never know whether we are successful or not."

In the first months, the success of the latest reforms can best be gauged by whom the president appoints to the myriad positions that Bush's plan creates, says former 9/11 commission member John Lehman, who was secretary of the Navy in the Reagan administration. The intelligence agencies need new blood to force a change of culture that is largely wedded to Cold War-era rules and processes, he said.

"The administration seems to have an almost childlike faith in the career bureaucracy," he said of Bush's appointments in the office of the director of national intelligence.

Art World Comes To The Cause Of Arrested Artist (SDUT)

By Robert L. Pincus, Union-tribune Art Critic

The San Diego Union-Tribune, July 3, 2005

Imagine this scenario: You are a well-established artist and respected university professor. You wake up one morning to find your spouse of 25 years isn't breathing. You call 911. Paramedics arrive, accompanied by police.

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There are a few petri dishes in the house, because your conceptually oriented work involves scientific-style installations and issues. So, one of those workers decides you just might be a terrorist and calls the FBI.

The next day, as you are on the way to the funeral home, you are detained by the FBI and the Joint Terrorist Task Force. You are held for 22 hours without having your Miranda rights read to you. Your home and even part of your block is cordoned off; your computer, books, manuscripts and anything else deemed suspicious are confiscated by workers in hazmat suits. Even your spouse's body is held for further analysis.

Sound like the outline of a compelling novel or film about governmental abuse of power? Sure. But this story isn't imaginary. It is what University of Buffalo professor Steven Kurtz, a member of the artists' collaborative called Critical Art Ensemble (CAE), experienced in May 2004 when someone who answered his 911 call decided to make a call to the FBI.

This tale doesn't end there; Kurtz is now facing charges that could result in a 20-year prison sentence.

Artists across the United States and beyond have taken up Kurtz's cause, because they feel it is their cause, too. Following an earlier fundraiser in London, an auction to raise money for his defense was held at the esteemed Paula Cooper Gallery in New York in April. Those donating work included some of the best-known contemporary artists – Chris Burden, Ann Hamilton, Barbara Kruger, Sol Lewitt, Louise Lawler, Brice Marden and Kiki Smith, among others.

"We feel that artists' and intellectuals' First Amendment rights are in serious jeopardy under this administration," stated Helen Molesworth, one of the auction's co-organizers, shortly before the event opened. "It's so important, for all of us, that our abilities to be creative thinkers are not hampered by government." (Molesworth is chief curator for exhibitions at the Wexner Center for the Arts in Columbus, Ohio.)

For some years, Kurtz has been a pivotal member of the CAE, a collaborative of artists that, through books, writings on the Web and exhibitions, has reflected on such subjects as what it calls "the flesh machine" (the scientific/medical establishment) and on genetically engineered food. And the group's installations have incorporated bacteria and food testing because of its broader interest in demystifying science for the lay person.

The argument could be made that the FBI and the Terrorist Task Force were being reasonable when they followed up on a phone call and sampled the materials in Kurtz's petri dishes. But the government has continued to pursue prosecution, even after the Commissioner of Public Health for the state of New York declared that the samples of bacteria in the petri dishes were harmless.

While there apparently wasn't enough evidence to bring bioterrorist charges, the government is pursuing wire and mail fraud charges against Kurtz and Robert Ferrell, a former head of the Department of Genetics at the University of Pittsburgh's School of Public Health.

"These laws (on fraud) have been on the books for more than a century. Whether it (the bacteria) is or isn't harmful isn't an element of the offense. The case centers on property acquired by fraud or misstatement," said U.S. Assistant District Attorney William Hochul on Thursday. He's the prosecutor on the case, which is being tried in New York.

Ferrell's crime was to have helped Kurtz obtain $256 worth of benign bacteria, which means he didn't follow the fine print of his contract with a company called American Type Culture Collection. The firm itself has taken no legal action against either Kurtz or Ferrell. Yet if convicted of the government's charges, artist and scientist could serve up to 20 years in prison.

Kurtz, himself, tries to be philosophical about his situation.

"When you stand up to authoritarian parts of the culture, stuff like this will happen," says Kurtz. "People I know say it's inevitable.

"I would temper that point and say it could happen to lots of people, and somehow I got picked. I certainly got the booby prize on this."

Standing up, in CAE terms, means confronting troublesome subjects. As part of The Free Range Project, the CAE lets people have the opportunity to bring in food to be tested for genetic modifications. It had been presented in a European venue but couldn't go on view at the Massachusetts Museum of Contemporary Art in May 2004 because much of the materials were confiscated from Kurtz's home.

"Molecular Invasion" was the CAE's companion book on this subject, which argued that some science can be scrutinized by everyone.

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"Amateur discourse clearly has a place in the transgenic debates since some levels of study can be reviewed by nonexperts," they write. "The stakes are too high for product safety testing to be left solely in the domain of corporate and scientific experts."

One can speculate that the government isn't sympathetic to the latest Critical Arts Ensemble project either, which looks at the history of germ warfare and issues of American policy about biological warfare and bioterrorism. Toward this end, Kurtz had acquired three bacteria that have been used as educational tools in schools. They were in his home at the time of the search.

Having to deal with the case has forced him to work a lot slower, he says. But, he adds, "The FBI is not going to stop us. If anything, we're more committed to what we do, not less."

Looking at the government's goals, he speculated, "They are trying to develop an internal enemy that fits into their canon of fear. Bob (Ferrell) looks like a friendly grandpa. And if they can convince people that even he could be a terrorist, then who isn't a potential terrorist?"

The Critical Art Ensemble Defense Fund has raised enough money to defend him adequately. In May, at the most recent hearing before a judge in Buffalo, Kurtz's attorney, Paul Cambria, asked that the case be dismissed. He argued that the government intentionally misled the judge when obtaining the original search warrant. Any ruling on this won't likely happen until late July or August. Still, if events don't go the government's way, it can appeal, of course, forcing Kurtz to raise more funds for his defense.

He believes that his irreplaceable materials won't ever be returned.

"Even if the case concludes," he says, "they'll probably think of some way to keep the investigation going."

While hearings about the wire and mail-fraud charges have gone forward, a Buffalo grand jury subpoenaed CAE member Steven Barnes. After testifying, Barnes told a reporter, "It seems apparent that the prosecution is still trying to pursue some kind of biological weapons charge."

On what basis they might bring charges is unclear, though initially the Justice Department's Assistant District Attorney William Hochul was trying to use a section of the Patriot Act, which expanded the earlier Biological Weapons Statute.

"Apparently," writes the CAE in a recent essay, "the U.S. Justice Department is now trying to make CAE into an example of what can happen to citizens whose only 'crime' is having thoughts of dissent enacted within the sphere of legality and the alleged protection of constitutional rights."

Whether Kurtz and Ferrell's fraud charges are dismissed or not is only one reason for attention to be paid to this case. The larger issue centers on whether the government's "war on terror" is having a corrosive effect on artistic expression.

Border Watchers Gear Up For Expanded Patrol (LAT)

By Scott Gold

The Los Angeles Times, July 3, 2005

As the second act to its civilian border patrol in Arizona, the organization known as the Minutemen has pledged to launch a massive patrol of the entire U.S.-Mexico border this fall.

To protest what they call inadequate security along the border, Minuteman leaders are holding community meetings throughout the South and Southwest to marshal thousands of volunteers. Leaders hope to amass in October to try to block illegal immigration routes in four states.

But the organization is finding that such an ambitious plan will not come together as easily as the April patrol in Arizona that covered 23 miles of the border. That is particularly true in Texas, which has 1,254 miles of the 2,000-mile border.

Unlike Arizona, where patrols operated primarily on public land, most of the land along the border in Texas is privately owned, except for the Big Bend region in the western tip of the state.

Activists would need permission to patrol on private property. But despite the Minutemen's meetings in recent weeks with ranchers and other landowners, many of the owners said they remained torn about the project — supportive of its message, for the most part, but wary of its practical implications.

Many landowners said they were concerned about the potential for a violent exchange between Minutemen and so-called coyotes or, worse, drug traffickers who used some of the same corridors as human smugglers.

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"We're worried about the liability of a confrontation occurring on our ranch," said Dr. Michael Vickers, owner of three cattle ranches, and a rural veterinarian in 10 south Texas counties. "Having them out on some of these ranches may be a dangerous situation."

Vickers said he had attended several of the meetings and remained conflicted. The 1,000-acre ranch he uses as his residence, south of a town called Falfurrias, is about four miles from a U.S. Border Patrol checkpoint. Illegal immigrants frequently bypass the checkpoint by sneaking across his land; they leave behind holes cut in fences, and trash.

"You walk outside and you feel like there are eyes watching you, and most of the time there are," Vickers said. "This is every night, sometimes a hundred or more in a night. And I'm not the only one. This is every ranch in south Texas."

Still, Vickers said he thought the Minutemen might be better off sticking to public areas, such as roadside parks where immigrants were often picked up after crossing.

Minutemen organizers, however, continue to push for access to private property.

"Those that love their country will surely come around to letting us use their land," said Wanda Schultz, a spokeswoman for Americans for Zero Population Growth, a Houston group that expects to play a role in the Texas border campaign.

Organizers in Texas also disagree over whether volunteers should be allowed to confront and even detain illegal immigrants. That dispute is significant because some fear it could threaten the air of legitimacy the Minutemen have captured after the Arizona patrol.

Self-appointed border patrols have long operated in small, ragtag posses and been maligned as vigilantes. Under the umbrella of a unifying organization — and because of the media attention group leaders have generated — they suddenly have a voice in immigration policy.

Though the Minutemen remain controversial — they have been condemned by President Bush and the American Civil Liberties Union, among others — their leaders have testified on Capitol Hill and made numerous television appearances. They attribute their public relations victory in part to a rule rule prohibiting patrollers from any interaction with immigrants.

Volunteers in Arizona were ordered to report their discoveries to the official Border Patrol, which would make arrests.

But with plans underway for a broader watch, some Texas activists are questioning those restrictions.

J.C. Hernandez, a third-generation Texan, is the founder and president of Americans for Zero Immigration. Hernandez was working with Minutemen organizers in Texas and said he expected to play a leading role in the upcoming patrol. He also wants the right, he said, to make a citizen's arrest of suspected illegal immigrants.

"When you fight a war you don't fight it with rhetoric," Hernandez said. "When you fight a war, man, you go in and kill the enemy…. A signal has to be sent to Mexico and all those countries that we are tired of it and we're not going to put up with it. I would handcuff them and walk them physically back to their country."

The two founders of the movement, Jim Gilchrist of Aliso Viejo, Calif., and Chris Simcox of Arizona, said any change to the group's "standard operating procedure" could be devastating to the image that leaders have cultivated.

Gilchrist said he declined to carry a weapon during the Arizona patrol, and he said organizers there determined that volunteers could be charged with kidnapping if they tried to apprehend immigrants.

"This is a bloodless revolution. It has to be," Gilchrist said. "There are a lot of wannabe soldiers. They think that this is a call to literally defend their country with arms…. But this is not a war. We can't look like a bunch of Rambos."

Simcox, who was in Texas recently to plan strategy, said veering from his script would feed criticism from government officials and human rights groups.

"They are just waiting for someone to make a mistake and break the law," Simcox said. "This is the only model that will work. If there are groups out there advocating citizen's arrests, they are treading on dangerous territory. They could ruin this entire movement."

Some activists contend that a careful reading of Texas law, however, would permit a more aggressive response. State law says a police officer or "any other person" may arrest someone when a felony is committed in that person's presence or "within his view."

"It is under discussion," Schultz said. "I agree that it might be legal under the law."

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Discussions with landowners and the debate over confronting immigrants are not the only problems that have arisen since plans for a broader campaign were announced.

The group's two founders have gone their separate ways since Arizona. Volunteers who worked alongside them said the two clashed over management tactics and strategy, though both have played down reports of tension.

Gilchrist has left the patrol operation and is instead marshaling forces to investigate companies that hire illegal immigrants. Simcox has taken the helm of the border patrol campaign.

As a result, there is considerable confusion over who controls the "Minuteman" name. Gilchrist and Simcox share a dual Internet portal used to spread the group's message and recruit volunteers. Gilchrist controls the "Minuteman Project" name, he said, and Simcox controls the parallel Minuteman Civil Defense Corps, which includes the border patrol campaign.

There are numerous splinter groups; at least seven organizations affiliated with the Minuteman Project have separate plans for smaller border patrols in Texas. The division has fueled renewed criticism from some officials in southern Texas, who have asked the Minutemen to stay away.

"It tells you something," said Laredo Mayor Betty Flores, whose border town would be an anchor of the Texas campaign.

"When that happens to a private business, when you don't know who the CEO is, things go wrong. Can you imagine if the same thing happens to an organization like this? It's very dangerous."

Small Plane Violates Washington Air Space (KCS)

The Kansas City Star, July 3, 2005

A small plane entered restricted air space in the Washington area before two fighter jets forced it to land at an airport here, authorities said.

U.S. Secret Service spokesman Jonathan Cherry would not say what air space the small Cessna passenger plane violated on Saturday, the Frederick News-Post reported.

There is a 16-mile restricted zone in each direction from the Washington Monument and Camp David, near Thurmont, where President Bush was spending the weekend, is also off limits.

Two F-16 fighter jets were deployed and they forced the small plane to land at Frederick Municipal Airport. Officials were questioning a man and a woman Saturday, according to the News-Post. There were no arrests.

On Wednesday, the White House briefly went to a red alert when a plane entered restricted airspace around Washington.

In that incident, President Bush was hurried from his residence to a safer location and lawmakers were evacuated from the Capitol. Two fighter jets intercepted a twin-engine, propeller-driven plane eight miles northeast of the Capitol and escorted it to Winchester, Va.

The White House press office did not return calls for comment early Sunday.

D.C. Ready To Assess Evacuation Strategy (WP)

By Jerry Markon

The Washington Post, July 3, 2005

The first test of Washington's downtown emergency evacuation plan is expected to clear the Mall of most Fourth of July revelers tomorrow and speed them on their way within an hour, officials said yesterday.

"A good majority of people will be out of there in that time span," said Douglas Noble, chief traffic engineer for the D.C. Department of Transportation.

The plan, which calls for police to direct the hundreds of thousands of pedestrians and motorists to seven evacuation routes, where green and red traffic signals will run longer, was developed two years ago in response to the Sept. 11, 2001, terrorist attacks. City officials have tried to publicize it, even painting special signs on streets along the routes directing drivers to the Capital Beltway, but they acknowledged that a major test is needed to tell people how they should flee if terrorists were to strike the city.

"We are trying to educate people that in the event of an unfortunate emergency, these are the routes you would use," DOT spokesman Bill Rice said. "The idea is to see in a limited situation how our systems respond, how motorists and pedestrians respond, and work the kinks out on a smaller scale and hopefully never have to use it on a larger scale."

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Experts said yesterday that they knew of no other major U.S. city that has recently tested emergency evacuation routes. "It makes perfect sense," said Brian Jenkins, a terrorism expert who co-wrote a report on how transportation, primarily in New York City, functioned on Sept. 11. "There are two ways of learning," Jenkins said. "One is you produce a theoretical plan, put it on the shelf and wait for a real incident. The other is to run a test, see how it works and make corrections. Mistakes are free."

The routes in what is being billed as Operation Fast Forward include Constitution Avenue between 15th and 23rd streets NW; Independence Avenue between Third Street and Washington Avenue SW; and 14th Street between Pennsylvania Avenue NW and C Street SW.

City officials yesterday provided additional details about the test. They said it was designed to start 15 minutes after the fireworks end because planners believe that will give most pedestrians enough time to walk from the Mall to Metro stations while drivers retrieve their cars from garages. Cars will then flood the streets right about the time pedestrian volume is decreasing, which the city hopes will avoid massive tie-ups.

"Typically, you get a big clearance off the Mall right after the fireworks," Noble said. "Waiting 15 minutes allows people to get out of the Mall, get up into town, get to Metro stations, get to parking garages, and then this gets deployed as people actually leave the garages.

"If we did this right at the start," Noble added, "it would be just a mess."

D.C. police officers will direct people from the Mall to the seven evacuation routes, although they will not stop drivers and pedestrians from using other routes if they choose. Along the emergency routes, streetlights will operate on extended cycles of three minutes green followed by one minute red. Planners believe the extra green-light time will speed cars out of town while a minute of red will allow lingering pedestrians to cross streets. At rush hour, D.C. traffic lights typically run 70 seconds green followed by 30 seconds red.

Transportation officials will observe the evacuation from the command center in the Reeves Municipal Center on 14th Street NW, watching televised images from about 50 traffic cameras at the intersections.

City officials chose the evacuation routes, known as E-routes, two years ago as part of the government's massive response to the Sept. 11 attacks. Officials have struggled with how to evacuate Washington during a terrorist attack and have concluded that the region's roads and transit network cannot handle a citywide evacuation. Instead, officials have focused on moving smaller groups from specific locations.

Del. Eleanor Holmes Norton (D-D.C.) yesterday questioned whether the test was poorly timed because it will ensnare tourists, rather than educating the many residents who are out of town for the holiday weekend.

"I'm also not sure exactly what it will prove," she said. "It may be something of a test of mass transportation, but there will be little test of what really stopped us on 9/11, which was lots and lots of cars going the same way."

But law enforcement and Metro officials yesterday said they support the evacuation plan. "This is a twofer," U.S. Capitol Police Chief Terrance W. Gainer said. "We need to move the people off the Mall anyway. Why not use this opportunity to drill your plan and make sure it is working?"

About 125,000 vehicles are expected to travel downtown for the festivities, according to AAA Mid-Atlantic. Metro estimates that more than 300,000 spectators rode trains to last year's Fourth of July celebration, which was marred by rain. More than 500,000 people took Metro to the fireworks display the year before.

The other downtown evacuation routes are Ninth Street between Pennsylvania Avenue NW and Interstate 395; South Capitol Street between Washington Avenue and M Street; Washington Avenue between Independence Avenue SW and South Capitol Street; and Third Street between Constitution Avenue NW and Independence Avenue SW.

WAR NEWS:

Bush Salutes Military In Radio Address (AP-Y2)

AP2, July 3, 2005

President Bush paid tribute to America's military forces Saturday, saying that Independence Day is an occasion for the nation to express thanks by flying the flag, sending letters to troops and reaching out to their families.

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"At posts in Afghanistan, Iraq, and around the world, our men and women in uniform are taking the fight to the terrorists overseas, so that we do not have to face the terrorists here at home," Bush said in his weekly radio address.

He said U.S. forces have freed millions of people from oppression, in keeping with the principle of the Declaration of Independence "that all are created equal and all are meant to be free.

"Those who serve today are taking their rightful place among the greatest generations that have worn our nation's uniform," the president said.

He will celebrate July Fourth with a visit to Morgantown, W.Va.

"In this time of testing, all our troops and their families can know that the American people are behind them," Bush said. "On this Fourth of July weekend, I ask every American to find a way to thank men and women defending our freedom — by flying the flag, sending letters to our troops in the field, and helping the military family down the street."

He said other methods of tribute are outlined on a Pentagon Web site, http://www.AmericaSupportsYou.mil.

The Two Wars Of The Worlds (NYT)

By Frank Rich

The New York Times, July 3, 2005

ON the morning after George W. Bush spoke to the nation from Fort Bragg, Americans started marching off to Steven Spielberg's "War of the Worlds." Both halves of this double feature invoked 9/11, perfectly timed for this particular holiday. Ever since "Jaws," a movie set on the July Fourth weekend, broke box office records 30 summers ago, Independence Day has come to stand for terror as much as for freedom.

Decide for yourself if "War of the Worlds" is more terrifying than "Jaws." Either way, it's scarier than the president's speech. Yet the discrepancy between Mr. Spielberg's ability to whip up fear and Mr. Bush's inability isn't merely a matter of aesthetics. On Independence Day 2005, this terror gap is an ideal barometer for gauging the waning political power of a lame-duck president waging what increasingly looks like a lame-duck war.

As we saw on Tuesday night, doomsday isn't the surefire hit it used to be for Mr. Bush. Now that the rhetorical arsenal of W.M.D.'s and mushroom clouds is bare, he had little choice but to bring back that oldie but goodie, 9/11, as the specter of the doom that awaits us if we don't stay the course - his course - in Iraq. By the fifth time he did so, it was hard not to think of that legendary National Lampoon cover: "If you don't buy this magazine, we'll kill this dog."

Planned or not, the sepulchral silence of Mr. Bush's military audience was the perfect dazed response to what was literally a summer rerun. The president gave almost the identical televised address, albeit with four fewer 9/11 references, at the Army War College in Pennsylvania in May 2004. It's so tired that this time around even the normally sympathetic Drudge site gave higher billing to reviews of "War of the Worlds." Fewer TV viewers tuned in than for any prime-time speech in Mr. Bush's presidency. A good thing too, since so much of what he said was, as usual, at odds with reality. The president pledged to "prevent Al Qaeda and other foreign terrorists from turning Iraq into what Afghanistan was under the Taliban" a full week after Newsweek and The New York Times reported on a new C.I.A. assessment that the war may be turning Iraq into an even more effective magnet and training ground for Islamic militants than Afghanistan was for Al Qaeda in the 1980's and 90's.

"War of the Worlds" makes as many references to 9/11 as Mr. Bush did. The alien attack on America is the work of sleeper cells; the garments of the dead rain down on those fleeing urban apocalypse; poignant fliers are posted for The Missing. There is also a sterling American military that rides to the rescue. Deep in the credits for "War of the Worlds" is a thank-you to the Department of Defense and some half-dozen actual units that participated in the movie, from the Virginia Army National Guard to a Marine battalion from Camp Pendleton, Calif. Indeed, Mr. Spielberg seems to have had markedly more success in recruiting extras for his film than the Pentagon has had of late in drumming up troops for Iraq.

That's not the only way that "War of the Worlds" shows up Mr. Bush. In not terribly coded dialogue, the film makes clear that its Americans know very well how to distinguish a war of choice like that in Iraq from a war of necessity, like that prompted by Al Qaeda's attack on America. Tim Robbins - who else? - pops up to declare that when aliens occupy a country, the "occupations always fail." Even Tom Cruise's doltish teenage screen son is writing a school report on "the French occupation of Algeria."

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Mr. Spielberg's movie illuminates, too, how Mr. Bush has flubbed the basic storytelling essential to sustain public support for his Iraq adventure. The president has made a tic of hammering in melodramatic movie tropes: good vs. evil, you're with us or you're with the terrorists, "wanted dead or alive," "bring 'em on," "mission accomplished." When you relay a narrative in that style, the audience expects you to stick to the conventions of the genre; the story can end only with the cavalry charging in to win the big final battle. That's how Mr. Spielberg deploys his platoons, "Saving Private Ryan"-style, in "War of the Worlds." By contrast, Mr. Bush never marshaled the number of troops needed to guarantee Iraq's security and protect its borders; he has now defined "mission accomplished" down from concrete victory to the inchoate spreading of democracy. To start off sounding like Patton and end up parroting Woodrow Wilson is tantamount to ambushing an audience at a John Wayne movie with a final reel by Frank Capra.

Both Mr. Bush's critics and loyalists at times misunderstand where his failure leaves America now. The left frets too much that the public just doesn't get it - that it is bamboozled by the administration and won't see the light until it digests the Downing Street memo. But even if they couldn't bring themselves to vote for John Kerry, most Americans do get it. A majority of the country view the Iraq war as "not worth it" and going badly. They intuitively sense that as USA Today calculated on Friday, there have been more U.S. military deaths (roughly a third more) in the year since Iraq got its sovereignty than in the year before. Last week an ABC News/Washington Post survey also found that a majority now believe that the administration "intentionally misled" us into a war - or, in the words of the Downing Street memo, that the Bush administration "fixed" the intelligence to gin up the mission.

Meanwhile, the war's die-hard supporters, now in the minority, keep clinging to the hope that some speech or Rovian stunt or happy political development in the furtherance of democratic Iraqi self-government can turn public opinion around. Dream on. The most illuminating of all the recent poll numbers was released by the Pew Research Center on June 13: the number of Americans who say that "people they know are becoming less involved emotionally" with news of the war has risen from 26 percent in May 2004 to 44 percent now. Like the war or not, Americans who do not have a relative or neighbor in the fight are simply tuning Iraq out.

The president has no one to blame but himself. The color-coded terror alerts, the repeated John Ashcroft press conferences announcing imminent Armageddon during election season, the endless exploitation of 9/11 have all taken their numbing toll. Fear itself is the emotional card Mr. Bush chose to overplay, and when he plays it now, he is the boy who cried wolf. That's why a film director engaging in utter fantasy can arouse more anxiety about a possible attack on America than our actual commander in chief hitting us with the supposed truth.

If anything, we're back where we were in the lazy summer of 2001, when the president was busy in Crawford ignoring an intelligence report titled "Bin Laden Determined to Attack Inside the United States" and the news media were more preoccupied with a rash of "Jaws"-like shark attacks than with Al Qaeda. The sharks are back, and the "missing girl" drama of Natalee Holloway has echoed the Chandra Levy ur-text. Even the World Trade Center is making a comeback, if we are to believe that the new Freedom Bunker unveiled for ground zero might ever be built.

AS those on all sides of the Iraq argument have said, the only way for Mr. Bush to break through this torpor is to tell Americans the truth. Donald Rumsfeld did exactly that when he said a week ago that the insurgency in Iraq might last as long as 12 years. If that's so, then what? Go ahead and argue that pulling out precipitously or setting a precise exit timetable is each a bad option, guaranteeing that Iraq will become even more of a jihad central than this ill-conceived war has already made it. But what is Plan C?

Mr. Bush could have addressed that question honestly on Tuesday night. Instead of once more cooking the books - exaggerating the number of coalition partners, the number of battle-ready Iraqi troops, the amount of non-American dollars in the Iraq kitty - he could have laid out the long haul in hard facts, explaining the future costs in manpower, money and time, and what sacrifices he proposes for meeting them. He could have been, as he is fond of calling himself, a leader.

It was a blown opportunity, and it's hard to see that there will be another chance. Iraq may not be Vietnam, but The Wall Street Journal reports that the current war's unpopularity now matches the Gallup findings during the Vietnam tipping point, the summer of 1968. As the prospect of midterm elections pumps more and more genuine fear into the hearts of Republicans up for re-election, it's the Bush presidency, not the insurgency, that will be in its last throes. Is the commander in chief so isolated in his bubble that he does not realize this? G.W.B., phone home.

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Democracy Has Its Own Timetable, Mr. Bush (WP)

By Richard H. Kohn

The Washington Post, July 3, 2005

"America's mission in Iraq," the president proclaimed in his speech at Fort Bragg on Tuesday, "is . . . a free, representative government that is an ally . . . and a beacon of hope in a part of the world that is desperate for reform." And it should be a nation, he continued, "that can govern itself, sustain itself and defend itself."

A tall order. Contrary to the rosy picture of our past so prevalent in Washington today, this country possesses a rich and often troubled history of intervention and nation building, and even empire. We succeeded in building democracy at home but largely failed in planting it abroad, which ought to make all of us, the president included, wary of so vague a goal in Iraq, and exceedingly careful in crafting a strategy to set that country on the road to stability and independence.

From the very beginning, we were nation builders. At the same time as they created a republic, the Founders themselves spoke enthusiastically and confidently about a rising American empire. 19th-century successors expanded over the continent (our "Manifest Destiny"), conquering and then ultimately forcing the Indians onto reservations. End-of-century colonization of foreign lands in the Caribbean and western Pacific was followed by 20th-century occupations in Europe and Asia. And our own generation has overthrown governments in Panama and Haiti, sent troops into Somalia, Bosnia, Kosovo and elsewhere, and now has embarked on nation building in Afghanistan and Iraq.

It is clear from looking back over these many attempts that when the president claimed on Tuesday that we have "made progress, but we have a lot of -- a lot more work to do," he spoke a larger truth than even he perhaps realizes.

We seem to have forgotten just how difficult our own struggle at home for democracy, freedom, social justice and national security has been. Our liberties grew over time, in fits and starts, with periods of violence -- race riots, labor strife, domestic bombings, veterans' protests, the upheavals of the 1960s. It took nearly a century and a catastrophic civil war to abolish slavery. It took another 60 years to enfranchise women. Sometimes liberty regressed, for example in time of war -- a possibility expressed frequently today as Congress debates renewing the Patriot Act and the courts struggle with definitions of freedom of the press.

Abroad, the American experience has been marked by decidedly less success. Over the course of our history, we have occupied defeated enemies (Mexico in the 1840s, Japan in the late 1940s and Germany -- twice -- after the two World Wars), sent troops into countries where our interests were threatened, assisted nations under attack, and overthrown regimes that threatened us in some way. The few times that the United States has attempted to defeat insurgencies or build viable democratic regimes, it has sometimes met with temporary success but ultimately, almost always failed.

Between 1898 and the early 1930s, American soldiers and Marines intervened in or occupied countries in the Caribbean and Central America almost 20 different times to protect U.S. economic interests or to develop the countries or simply to suppress revolts and provide order. Democracy was rarely if ever the result. Interventions during the Cold War -- whether overt or covert -- usually propped up unsavory undemocratic governments in an effort to combat communism. And while some interventions -- Nicaragua and Panama in the 1980s -- fostered democracy, others, like Chile, had the opposite result.

While nation building in Asia has been more successful, it was marked by notable failures. In the Philippines, after suppressing the insurrection against American rule between 1899 and 1903, the United States maintained permanent garrisons to support a colonial administration, didn't relinquish control until the mid-1940s, had assisted in defeating a communist insurgency in the 1950s, then watched the country slip back into dictatorship before democracy took hold in the late 1980s. Japan was perhaps the most dramatic success, but South Korea suffered Syngman Rhee's autocracy and then decades of military authoritarianism before democracy emerged. The United States never succeeded in liberalizing Ngo Dinh Diem's government in South Vietnam before acquiescing in military rule and then North Vietnamese victory in 1975.

Since the Cold War, the record has been ambiguous. Progress in Bosnia has been painfully slow, 10 years after American troops arrived intending to stay but a year, and few would count that country -- or its Kosovo neighbor -- as a free, democratic regime able to defend itself. Twice U.S. troops have been sent to Haiti without even stabilizing that troubled nation, much less solidifying democracy. None of this bodes well for the continuing conflicts in Afghanistan and Iraq.

Each example, of course, stands alone -- the product of place and time, the individual experience of a country and its population, and the actions undertaken by the governments and groups involved. But the historysuggests that democracy,

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freedom and liberty take root slowly and face formidable obstacles even in a country such as ours that inherited a reverence for law, and after 1815 grew for over a century without significant foreign threats to national security.

Few would suggest that today, with American and others' experience to draw upon, democratization needs to be as slow as it was in the United States and Europe. Indeed democratization has advanced dramatically in many places in the last 25 years. But in societies less blessed with the advantages of the United States and other western democracies, the challenges are immense and sometimes the push for democracy can actually slow or even reverse freedom and liberty.

In a country where there is a history of colonial subjugation and autocratic rule, clan or ethnic rivalries and religious hatreds, discrimination against minorities and women, and underdeveloped or dependent economies, the obstacles are all the greater. The absence of such norms as the respect for equality, religious freedom, civil liberty, civilian control of the military and political compromise -- even when no foreign or domestic foes are threatening force -- indicates that the United States will have to make some very difficult choices in Iraq during the next few months.

Withdrawal while the insurgency rages even at a slower tempo will invite chaos and civil war, and clearly a defeat of the president's intentions. Staying for many years, with a large American military presence, is likely not only to weaken the Iraqi government but to stimulate jihadi recruitment and attacks, undermining the larger war on terrorism.

The moderate course in between, which the administration is pursuing, possesses dangers of its own. The fighting must be turned over largely to the Iraqis and quickly -- in a year or two. Explicit milestones and a reduced American footprint will have many advantages: revealing our strategy and marking its progress in order to maintain American patience and gain international support; diluting enemy propaganda about our motives; and removing a major impulse behind the insurgency.

More important will be the progress of Baghdad's government, on which all else rests. Here history suggests that we will have to assess its character with a more realistic standard of what's possible. "The mission" must be defined with greater precision than the president offered last Tuesday if the American people are to accept continuing expenditures of blood and money. Sooner or later we will need a realistic rendering of what "success" involves. Squishy generalities won't suffice; the public has a keen nose for fakery and fraud. The president knows "that Americans want our troops to come home as quickly as possible." If, as he says, "So do I," he may have to accept a less robust definition of a free and democratic government in Iraq -- and its analogue elsewhere in the Middle East -- than he asserted this past week. If he won't, then the American people will have to force an outcome more in keeping with historical reality.

Richard Kohn, a military historian and former chief of history for the U.S. Air Force, chairs the Curriculum in Peace, War, and Defense at the University of North Carolina at Chapel Hill.

Dems: Bush Administration Has Failed Vets (AP-Y2)

AP2, July 3, 2005

President Bush's recent denials concerning the financial straits of the Veterans Affairs Department represented another administration failure to level with Americans about the costs of the Iraq war, Sen. Patty Murray (news, bio, voting record), D-Wash., said Saturday.

"Due to their failures, we saw troops using scrap metal to armor their Humvees," Murray said in the weekly Democratic radio address.

"Due to their failures, we saw families raising funds to buy bulletproof vests for soldiers fighting in Iraq. And now, due to their failures, we see that the VA doesn't have the money to provide the needed medical care when our troops return home."

Murray and other Democrats had long questioned whether the department would have enough money to pay medical costs for veterans returning from Iraq and Afghanistan. The administration repeatedly denied it, but the VA acknowledged last week it was short at least $1 billion this year.

On Wednesday, the Senate voted 96-0 to spend an extra $1.5 billion to cover the politically sensitive shortfall.

"We're still working to find out the exact size of the shortfall, but one thing is clear: It results from either deliberate misdirection or gross incompetence," Murray said.

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"The president has an obligation to our troops, their families and to the American people to tell the truth about the costs and sacrifices necessary to win the war in Iraq," she said. "There's no better time than now, as we celebrate our country's independence and all that is great about this nation, for the president to give us the facts and lay out a plan."

Fighting Words (NYT)

By Interview By Deborah Solomon

The New York Times, July 3, 2005

Q: You're one of a growing number of Republicans who have lately accused President Bush of botching the war in Iraq.

If someone says I am a disloyal Republican because I am not supporting my party, let them say it. War is bigger than politics.

You, John McCain and John Kerry are the only current U.S. senators who served in Vietnam.

I got to Vietnam in December of 1967, and I was wounded twice with my brother Tom, who was with me. I still have some shrapnel in my chest that the doctors never took out. The second time my face was burned pretty bad, and I had both eardrums blown out.

Are you saying you are deaf?

Eardrums heal, but I did lose some hearing.

Did you kill anyone in the war?

Well, I am sure I did.

How would you compare the situation in Iraq with the one in Vietnam?

Congress was absent during the Vietnam War, and they didn't ask the tough questions, and consequently we lost 58,000 Americans and lost a war and humiliated this nation. It took a generation to get over it. As long as I am here as a U.S. senator, I am going to do whatever I can to make sure that isn't going to happen.

What do you suggest that the president do?

For starters, we don't have enough troops. But I don't think the answer to increasing manpower is to pursue some of the things the Pentagon is doing, such as doubling and tripling bonuses for those in the military. Kids do not serve their country because they are in it to make money.

Many serve to help pay for school and because they see it as a career.

Of course. But you aren't going to attract the kind of people we have been able to attract just by incentives. When you try to project military recruitment through bonuses, you are going to get people signing up for the wrong reasons.

On the other hand, with our deficit now exceeding $400 billion, aren't we sort of out of money?

In terms of the deficit, we have blown the top right off. We're a bunch of Democrats.

I've never heard anyone call President Bush a Democrat.

That's my point. We're less honest about it. We built the biggest government history has ever seen under a Republican government. The Democrats are better because they are honest about it. They don't pretend. I admire that. They'll say: "We want more money. We need more money."

Where do you think the Republican Party needs to go?

I'd take it back to the party of Eisenhower, Goldwater and Reagan. It was a pretty simple party in those days. It was all about limited government, fiscal responsibility, strong national defense and pro-trade foreign policy.

Will that be your message in your 2008 presidential campaign?

Well, first of all, I haven't said I am running.

You are rumored to be a candidate.

As John McCain has said to me, Anyone who is not in detox is rumored to be a candidate.

Well, you're not too old to run.

I'll be 59 in October. I'm a puppy. I think it's young. I'm really happy with my age, and I can't do anything about it.

Actually, I think it's warped to talk about 2008 so much. Pundits care too much about betting on the next winner, and then they lose interest once the contest is over.

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That's because there's a dynamic to politics that has lately been overtaken by show business. Politics is show business. It's just show business for the ugly. It's Hollywood without all the beautiful people.

Bombers In Iraq Kill 20; Security Forces Are Targets (NYT)

By Edward Wong

The New York Times, July 3, 2005

Three suicide bombers blew themselves up on Saturday in two separate attacks aimed at Iraqi security forces, killing at least 20 people and wounding at least 59, police officials said.

The first explosion took place at a recruiting center in western Baghdad. The blast killed at least 12 people and wounded at least 23. Those killed were all men trying to get jobs with the security forces, said Maj. Gen. Rasheed Flayeh, the commander of the Interior Ministry's commando units.

The attack occurred at 8:50 a.m., as men waiting outside the center were being called in small numbers to enter the building. Each group was searched at a checkpoint about 600 feet from the building. The bomber blew himself up at that checkpoint, apparently because he would not have been able to pass through undetected with his load of explosives, General Flayeh said.

he second attack took place at 10 p.m. at a restaurant beside the police commando headquarters in the town of Hilla, south of Baghdad, an Interior Ministry official said. Two suicide bombers detonated their explosives, killing at least eight police officers and wounding at least 36 others.

The separate attacks on Saturday were the latest in a long series of deadly bombings at recruiting centers and police stations. Insurgents have struck such places to discourage Iraqis from joining the security forces. Yet Iraqis continue to line up in large numbers at the centers, largely because few jobs are available in the ravaged economy here.

In the northern city of Mosul, a police colonel was shot dead on his way to work, the police said, according to The Associated Press.

South of the capital, in an area heavily populated by insurgents, a bomb exploded in a vegetable cart in the town of Mahmudiya, killing two people and wounding 10 others.

The explosion took place a few minutes after mourners had passed by with the body of Sheik Kamaleddin al-Ghuraifi, a senior aide to Grand Ayatollah Ali al-Sistani, the most revered Shiite cleric in Iraq.

Sheik Ghuraifi was gunned down on Friday in the capital, in another sign of worsening sectarian tensions. It was unclear whether his funeral procession, which was headed to the Shiite holy city of Najaf, was the target of the bombing in Mahmudiya.

"The problem of sectarian tension is real," a senior American official told reporters on Friday evening, speaking on the condition of anonymity because of government protocol. "It requires calm heads on all sides. It requires all sides to make a commitment against violence."

Despite the large numbers of Shiite civilians and security officers killed during the Sunni-led insurgency, the grand clerics of Najaf, and in particular Ayatollah Sistani, have not publicly urged violent reprisals.

Instead, they have promoted a quick advancement of the political process, so that religious Shiite parties can take the reins of power in the government. Now, those parties have control of institutions like the Interior Ministry and are populating the security forces with fighters loyal to them.

In recent weeks, an increasing number of Sunni Arabs have expressed concern about operations carried out by those forces. They also accuse Shiite militias like the Badr Organization, which was formed and trained in Iran during the years Saddam Hussein was in power, of carrying out assassinations of Sunni figures.

A Sunni political group, the National Dialogue Council, released a statement on Saturday denouncing an American-led military operation in Anbar Province, west of Baghdad.

The military sweep began early last week and has focused on the towns of Hit and Haditha in the Euphrates River corridor. The operation is being led by the Second Marine Division.

In its statement, the National Dialogue Council said the American-led forces had engaged in "the most horrible kinds of killing and destruction," including the killing of civilians.

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Capt. Jeffrey Pool, a spokesman for the Second Marine Division, has maintained that the marines have conducted themselves properly during the operation.

But on Friday, an Iraqi ambassador to the United Nations, Samir Sumaidaie, sent out an e-mail message saying a cousin of his, Muhammad al-Sumaidaie, had been shot dead by marines recently while the marines searched a house near Haditha. The killing took place in "cold blood," the e-mail message said. The marines said they were investigating.

Suicide Bomber Kills 12 In Iraq (WP)

By Andy Mosher And Naseer Nouri

The Washington Post, July 3, 2005

Thwarting security measures set up to protect a police recruiting center already hit by vehicle bombs, an attacker wearing explosives walked into the midst of a group of men applying for police jobs Saturday and detonated his charge, killing himself and at least 12 others, police and witnesses said.

The 9 a.m. attack on the police commando base in Baghdad's Yarmouk district "was not very loud. It sounded like the explosion of a tire," said Mays Naib, 32, who lives nearby.

Police initially put the death toll at 20, but the number was revised downward to 12, said police Col. Adnan Abdul Rahman, an Interior Ministry spokesman. He said 14 people were wounded.

Over the course of a nearly two-year-old insurgency in which assaults on Iraqi and U.S. security forces have been frequent, attackers repeatedly have targeted places where men stand in line to apply for jobs with the police and Iraqi army. Because would-be recruits typically are made to wait outside fortified bases and recruiting centers, they have proved to be easy targets for often-deadly bombings.

After previous attacks on the base in Yarmouk, the surrounding street had been blocked to provide greater security, Naib said. "So they send a suicide bomber to do this attack. Because of this recruiting center, we feel like we live in a battlefield," she said.

Despite the dangers that the job-seekers pose to the neighborhood, Naib said she felt sorry for "those poor people."

"What are they supposed to do?" she said. "They came here to look for a job and protect the country. Isn't that better than being without a job and turning to crime to make money to live?"

The dead and wounded were carried to Yarmouk Hospital, a few hundred yards from the attack. Outside the hospital, Khalid Hamza, 42, was trying to find a friend who had come to Baghdad from the southern town of Hilla to find work with the police. "His father is an old man; that is why he decided to join the police," Hamza said. "He did not tell his mother that he is going to join the police. She would never let him do that."

Al Qaeda in Iraq, the guerrilla organization led by Abu Musab Zarqawi, asserted responsibility for the bombing in a statement posted on the Internet. The authenticity of the claim could not be verified.

Meanwhile in Hilla, a mostly Shiite city 60 miles south of Baghdad, a suicide bomber detonated a belt of explosives at a police checkpoint in the city center, killing six policemen and the attacker, said Police Capt. Muthana Khalid Ali, according to the Associated Press.

About 10 minutes later, a second attacker blew himself up in a crowd of police officers and civilians who had rushed to the scene of the first blast, Ali said. Twenty-six people were injured, the AP reported. There was no immediate assertion of responsibility for either attack in Hilla.

On Friday, Zarqawi's radical Sunni Muslim group claimed to have carried out the drive-by shooting of a prominent Shiite Muslim cleric, Kamaleddin Ghuraifi, on a street in central Baghdad. On Saturday, a bomb exploded at a police checkpoint in Mahmudiyah, 15 miles south of Baghdad, shortly after Ghuraifi's funeral procession had passed by, according to the Reuters news agency.

The bomb, which police said was hidden in a vegetable cart, killed five people and wounded 12. It was not clear whether the bomb had been intended to hit the procession, which was taking Ghuraifi's body to be buried in the holy city of Najaf, 90 miles south of the capital.

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Ghuraifi had been a Baghdad representative of Grand Ayatollah Ali Sistani, Iraq's most prominent Shiite religious leader, who has his headquarters in Najaf. On Saturday, the walls around Najaf's ornate Imam Ali shrine were filled with banners denouncing the recent assassinations of prominent Shiite religious and political figures and blaming them on Sunni insurgent groups. One of the banners demanded: "Can't the Sunni wise men stop the criminals?"

Meanwhile, another influential Shiite cleric's top lieutenant was released from detention Saturday after a year in U.S. military custody. The Najaf office of Moqtada Sadr, the rebel cleric whose militia twice battled U.S. forces last year, announced that Muhammed Tabatabei had been freed from Abu Ghraib prison, where he had been held without being charged. Tabatabei returned to Najaf, where he met with Sadr, the announcement said.

Two Suicide Attacks Kill 26 In Iraq (LAT/AP)

The Los Angeles Times, July 3, 2005

Suicide bombers struck Saturday in Baghdad and a Shiite Muslim city south of the capital in attacks that killed 26 people and injured nearly 50, Iraqi officials said. One of the attackers targeted bystanders and police officers who had rushed to the scene of an earlier blast.

In the first attack, a bomber blew himself up outside a recruiting station for police special forces in west Baghdad, killing at least 16 people, including 11 recruits, police and hospital officials said. Twenty-two people were injured.

The other attacks occurred in Hillah, a mostly Shiite city 60 miles south of Baghdad. Police Capt. Muthana Khalid Ali said the first blast occurred when a suicide bomber detonated an explosives belt at a police checkpoint in the city center.

Six policemen were killed, Ali said.

About 10 minutes later, a second suicide bomber blew himself up in the crowd of police and civilians who had rushed to the scene, Ali said. Twenty-six people were injured, but only the attacker died, said Dr. Hashim Suleiman of Hillah General Hospital.

On Feb. 28, a suicide car bomber struck a crowd of police and army recruits at a health center in Hillah, killing 125 and wounding more than 140 in one of the deadliest attacks since the 2003 fall of Saddam Hussein.

In other violence Saturday, three Iraqi soldiers were killed in a roadside bombing northeast of Baghdad, their commander said. Gunmen also assassinated a police lieutenant colonel in the northern city of Mosul, officials said.

Two other people were killed when a bomb hidden in a vegetable cart exploded Saturday in Mahmoudiya, about 20 miles south of Baghdad.

The blast occurred a few minutes after mourners passed by with the body of an aide to Shiite Muslim leader Grand Ayatollah Ali Sistani, who was slain Friday outside a Baghdad mosque. The body of Kamal Ghuraifi was being carried through the town en route to burial in the holy city of Najaf.

Also Saturday, a policeman and a female relative traveling in a civilian car were killed in a drive-by shooting in the northern city of Kirkuk, authorities said.

Insurgent attacks have raised tensions among Iraq's varied ethnic and religious groups and raised fears of civil war. In a statement Saturday, the leader of Iraq's largest Shiite political party warned against sectarian conflict and called on the Iraqi government to step up efforts to fight militants.

"We stress the importance of being alert and cautious not to be carried away toward the sectarian strife that our enemies want for us," said Abdelaziz Hakim, head of the Supreme Council for Islamic Revolution in Iraq. "We ask the Iraqi government, particularly the security apparatuses, to exert more efforts to strike these terrorist groups."

The Metrics Of Success In Iraq (WP)

By David S. Broder

The Washington Post, July 3, 2005

President Bush is facing an early legal deadline to deliver what he has been most resistant to providing: a set of specific benchmarks for measuring progress toward military and political stability in Iraq.

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Under a little-noticed provision of the defense spending bill passed by Congress in May, Defense Secretary Don Rumsfeld has until July 11 to send Capitol Hill a "comprehensive set of performance indicators and measures of stability and security" two years after the fall of Saddam Hussein.

A Pentagon spokeswoman, responding to my inquiry, said last week, "We are working toward completing the report by the due date."

If and when it comes in, it could do much more than the president's Tuesday night speech at Fort Bragg to provide a factual basis for judging how close we may be to reaching our goals in Iraq.

In that address, Bush once again demolished a straw man, denouncing any talk of a deadline for withdrawal of U.S. and coalition forces and any timetable for phasing them out. While public support for a pullout has grown, almost no one in Congress is advocating such a step.

What serious people are asking of the administration is a set of yardsticks by which the situation in Iraq can be realistically measured -- and accountability established for a strategy to reach those goals. That is something the president has refused to provide, beyond his cliched declaration that "the United States will stay as long as necessary -- and not one day longer."

It is hard to understand his resistance to this perfectly reasonable demand for a set of metrics by which all concerned -- Congress and the administration, service members and their families, and the general public -- could judge what is happening.

This is our first MBA president, a business school grad who generally operates on the principle that if you can't measure something, you are flying blind. He insists that his Office of Management and Budget keep score on how well each department and agency is meeting its program responsibilities. Why not measure the enormously expensive investment in Iraq?

Metrics are exactly what the serious critics in Congress say have been lacking. In a thoughtful speech on June 21, Sen. Joe Biden of Delaware, a Democrat who supported the invasion and vehemently opposes an early withdrawal, said continued public support depends on "a new compact between the administration and Congress to secure the informed consent of the American people, so that they give the president the time we need to succeed in Iraq."

"Specifically," Biden said, "the administration should develop with Congress clear benchmarks or goals in key areas: security, governance and politics, reconstruction and burden-sharing. We in Congress should aggressively assert our oversight responsibility by insisting that the administration report on progress toward those goals every month in public testimony."

Last week Rep. John Murtha of Pennsylvania, the ranking Democrat on the defense Appropriations subcommittee, pointed to language in the report accompanying May's Iraq funding bill that would satisfy most of those demands. It orders the first detailed status report on July 11 and follow-ups every 90 days thereafter.

The information required is specific and detailed. It includes such measures of the security envi-

ronment as the number of engagements per day, the count of trained Iraqi forces, the estimated strength of the Iraqi insurgency and the role of foreign fighters.

It orders up indicators of economic activity, including unemployment levels, electricity, water and oil production rates, and hunger and poverty levels.

It requires detailed information on the training of Iraqi military and security forces, their equipment, and their capabilities -- and the timetables for achieving full readiness.

It aims to end the confusion over Iraq's forces by asking specifically which Iraqi battalions are capable of operating independently, which can fight if supported by coalition forces and which are not ready to conduct counterinsurgency operations even with help. It also requires documentation on their absentee rates and calls for similar information on the Iraqi police forces and their training.

Finally, it directs Rumsfeld to provide -- either in public or in classified annexes -- an estimate of U.S. military forces needed in Iraq through the end of calendar 2006 and the criteria the administration will use to determine when it is safe to begin withdrawing forces from that country.

As a senior congressional aide told me, "if the Pentagon takes the law seriously and responds as robustly as it is capable of doing," we may finally begin to learn where we stand. Candid answers could restore the trust required to sustain the effort in Iraq. Bush's speeches don't meet that need.

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Shiites Question U.S. Overtures To Sunni Rebels (LAT)

By Patrick J. Mcdonnell

The Los Angeles Times, July 3, 2005

It didn't take long for fresh reports of U.S. talks with Sunni Arab insurgents to stir cries of an impending sellout.

"The Americans and everyone else must understand that the Iraqi people will never accept any talks with the criminals who have blood on their hands," Sheik Jalaluddin Saghir, a prominent Shiite Muslim cleric and member of parliament, declared during Friday prayers.

A senior U.S. official here sought to provide damage control. There was no intent, he declared, to undermine the fledgling Shiite-run government, which meets behind U.S.-fortified blast walls.

"In the end, we are not going to hand to the insurgency the head of the Iraqi government on a platter," the U.S. official told reporters Friday. "It isn't going to happen."

The exchange underscored the fragility of the political compromise that the Bush administration is seeking to facilitate in Iraq, even as the complementary military strategy — turning more and more responsibility over to fledgling Iraqi forces — has yet to prove a success.

U.S. commanders say they hope a drawdown of the 140,000-strong American force in Iraq can begin sometime next year. But no one will publicly say how many of Iraq's 100-plus U.S.-trained battalions are ready to wage a difficult counterinsurgency campaign without U.S. assistance.

"That information is classified," Brig. Gen. Don Alston, chief spokesman for the multinational forces, said here last week. "I wouldn't want to reveal something that could be an advantage to the enemy."

Things are no less murky on the political front, where reports of U.S. overtures to the Sunni Arab-driven insurgency immediately sparked a backlash last week among the long-repressed Shiite majority.

Much hinges on a two-part premise. First, that disaffected Sunni Arabs can be brought into the political process, and second, that participating Sunni representatives can sway militants, who have denounced the government, to put down their arms.

There is certainly reason to believe that Sunni Arabs, who largely boycotted the Jan. 30 election, will be more involved now.

Victorious Shiites and Kurds have reached out to bring Sunni Arabs into the committee drafting a constitution. Many Sunni Arabs now rue the decision to not vote. Plans are progressing on a new electoral law that would require the next set of lawmakers to be elected by provincial districts, probably ensuring greater Sunni Arab representation.

But few believe that these developments, however positive, will soon defuse the insurgency, which even in U.S. assessments is no weaker than it was six months ago.

The Sunni Arab representatives willing to take part in writing the constitution have acknowledged little leverage with the men with guns, and there is no broad Sunni call to lay down arms.

"The Iraqi resistance is not seeking a solution but defending a cause," said Sheik Khalaf Duleimi of the National Dialogue Council, a Sunni group involved in writing the constitution. "The government should seek a solution."

U.S. officials often point out that violence in Iraq is largely confined to four of the 18 provinces. Much of the Shiite south and Kurdish north is relatively quiet. But those four battleground provinces are home to about 40% of the population and include Mosul and Kirkuk, the multiethnic hubs of the north, and the capital, Baghdad, where sectarian-tinged bombings, assassinations and abductions are daily events.

Early Saturday, the bodies of 11 police recruits, covered with light-purple sheets, were placed inside the morgue at the capital's Yarmouk Hospital. They were the victims of the latest bombing at a police recruiting center, this one by an attacker wearing an explosives-laden vest laced with ball bearings that burst out in a fusillade of deadly shrapnel.

"Oh, my son Malik!" cried a sobbing father seated outside the morgue, in a scene that has become agonizingly familiar. "I saw you get married and start your new life. Why did it have to end like this? Why?"

Although most of the slain recruits have been Shiites, Sunnis accuse militias and police squads associated with Shiites of retaliatory attacks on Sunni clerics and civilians.

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The latest rumor sweeping Baghdad is that the Badr Brigade, an Iranian-trained Shiite militia, is targeting Iraqi pilots who bombed Iran during the 1980s war between the two nations.

Amid so much uncertainty, hostility and bloodshed, American officials are expressing confidence that Iraqis will meet three impending deadlines: Aug. 15, when a draft constitution is supposed to be ready; Oct. 15, when a constitutional referendum is to be held; and Dec. 15, when a permanent government is to be elected.

The State Department is pressuring Iraqis to get everything done on time, fearful that any delay will provoke even more instability.

The Bush administration views all three deadlines as crucial guideposts on the road to an exit strategy from a war in which the U.S. death toll is approaching 2,000.

But other milestones — the capture of Saddam Hussein in December 2003, the return of sovereignty a year ago, the landmark January election — have all passed without the anticipated letup in violence. In each case, exhilaration turned to disappointment.

In November, Marine Lt. Gen. John F. Sattler declared that the invasion of the former rebel-held enclave of Fallouja had "broken the back" of the insurgency. Yet the last two months saw 155 U.S. troops killed in Iraq, among the highest monthly death tolls of the war. Among the dead were six Americans, including three women, killed by a suicide bomber in Fallouja, which remains a trouble spot despite the continued presence of thousands of U.S. and Iraqi troops who have in effect sealed off the city.

There simply aren't enough troops and police to watch over every stretch of volatile terrain. In the vast Sunni homeland of western Iraq, Marines have launched a series of offensives that seem destined to repeat the war's numbing pattern: Thinly stretched U.S. troops clear out a rebel town and return to their bases, allowing fighters to filter back in.

"We cannot defend everywhere," Col. Bob Chase, chief of operations for the 2nd Marine Division in western Iraq, said recently. Insurgents "will attempt to fill the vacuum."

U.S. officials, who have acknowledged that military superiority is not enough to win the war in Iraq, are keen to know what it will take to get the guerrillas to put down their arms — hence the ongoing exploratory talks with Sunni sheiks and community leaders thought to have links to the insurgency.

The ultimate U.S. approach is a classic divide-and-conquer strategy: separate "nationalist" elements of the fragmented insurgency from religious militants and foreign jihadists, who are regarded as irredeemable.

"It is credible that parts of this disparate group of insurgents and terrorists would consider finding a way to participate in a political process," another senior U.S. official here said recently.

U.S. commanders even seem prepared to consider some kind of Sunni-dominated force in volatile Al Anbar province, despite the disastrous experience last year with the Fallouja Brigade, a U.S.-armed unit that ultimately sided with the insurgents and was disbanded.

"You want the Americans out of Al Anbar?" a senior U.S. commander asked rhetorically in a recent interview. "Then get … to the table, create an environment where we can provide some basic security for Iraq, and we'll get 'em out. That ain't hard to do."

But the Sunni religious militants and their Iraqi nationalist allies have, by all accounts, cooperated closely and may be harder to separate than many believe.

And it seems clear that the guerrillas, who have proved to be determined and crafty, are insisting on at least one clear concession — a timetable for U.S. withdrawal — that the Bush administration has no intention of granting, at least for now.

"We will stay in the fight until the fight is won," President Bush said in a radio address Saturday, echoing his message in a prime-time address last week.

"In the end," said the senior U.S. official who spoke Friday, "the Sunni Arab community that fuels the insurgency is going to get more out of the political process than out of a military confrontation that it cannot hope to win."

Commanders in the field here often point out a thorny reality: The "bad guys" don't have to win. They only have to make headlines.

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The most likely scenario this year, many agree, is the birth of both a new constitution and a new government — even as the fighting, and dying, continues. It is not a cheerful prognostication, but it is the state of affairs to which Defense Secretary Donald H. Rumsfeld alluded when he said recently that the fighting could continue for a dozen years.

Beat The Insurgents By Talking To Them (LAT)

By Larry J. Diamond

The Los Angeles Times, July 3, 2005

In his speech last week, President Bush correctly said that the United States had a vital interest in remaining in Iraq until a viable, secure and hopefully democratic state emerged. He also appropriately noted evidence of democratic progress in Iraq — an elected government in Baghdad and a more representative constitution drafting committee set to begin its work. But if the United States is to avoid defeat in Iraq, Bush must recognize what our military leaders have repeated for more than a year: There is no purely military solution to the insurgency. It will only be extinguished by a combination of military might, good intelligence, reliable policing and — crucially — effective politics.

A political strategy to defeat the insurgency, which the administration has been inching toward but has not fully articulated and embraced, requires six elements.

First, the U.S. must know who and what we are dealing with. Radical Islamists from other countries are the ones blowing themselves and civilians to bits and slaughtering cops and elected Iraqi leaders — and there is no negotiating with these zealots.

Similarly, Saddam Hussein's top loyalists, who finance and orchestrate much of the destruction from safe houses in Syria, have nowhere to go in the new order but jail (and probably the hangman's noose). These two groups must be killed, captured or cut off from their bases of support and operation in Iraq.

A wider circle of Iraqis tolerates, uses and supports these groups in their violent resistance to the U.S.-led coalition and the new Iraqi government. These mostly Sunni Arab Iraqis believe that they have been shafted and humiliated by the emerging political order — and they want in. They feel their country is under indefinite occupation — and they want it back. The U.S. needs to separate the jihadists and Hussein's cronies from the Iraqis who feel left out.

The administration deserves credit for drawing Sunnis into the political process, but it must do more to incorporate them politically into the new Iraq, the second element of a winning political strategy. It has done too little to address their nationalist anxiety.

That bring us to the third element. Many Iraqis (including essentially all those in the insurgency) believe that we are there to establish permanent military bases and gain control of their oil. This suspicion feeds the intense nationalism underlying the violent resistance. In fact, it is the only factor uniting its disparate elements.

To douse the nationalist fire, Bush must tell the Iraqi people, directly and unequivocally, that the United States does not seek long-term military bases in their country. Defense Secretary Donald H. Rumsfeld told Congress as much recently, but unless the message comes from the president, it will not register in Iraq.

If Bush's assurance is to be credible, it must be coupled to a fourth strategic element. Bush is right to reject a fixed timetable for withdrawal, which would only embolden the terrorists. But Iraqi insurgents must be able to envision a time when foreign troops will be gone.

To this end, the administration should set a time — not a deadline, but a goal — when it hopes to be militarily out of Iraq, provided insurgents opted for peaceful politics instead of violence. This would shift the burden to the Sunni-based insurgents to demonstrate their nationalist credentials by altering their strategies and methods so order can return to Iraq, the new Iraqi armed forces can gain strength and the United States can make good on its withdrawal pledge.

If these four elements are to defeat the insurgency, they have to be part of direct negotiations with political and tribal forces "associated with" the insurgency, the fifth essential of a successful strategy. For almost two years, some insurgents have been sending signals through international intermediaries that they want to talk directly to the United States.

Initially wary and defiant, the administration has become more pragmatic about the overtures and discussions have occurred. But the talks have involved only low-level operatives and have left some Iraqi insurgents feeling that the United States is more interested in gaining tactical intelligence than negotiating a political deal.

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Any agreement with insurgents will have to include concessions on access to and release of some detainees, as well as what are America's long-term intentions in Iraq. If these issues are on the table, higher-level insurgents appear ready to talk.

Finally, we need to talk directly to the insurgents, but we cannot do so alone. The Iraqi government must be involved because it will need to make concessions of its own. And if trust is to be created and hostilities tempered by a pragmatic search for common ground, mediation will be needed. There is no better institution to play this role than the United Nations, and no better individual than the negotiator who brokered the handover of power last year, special envoy Lakhdar Brahimi.

Critics lambasted Bush's speech for its lack of new initiatives. But the indigenous core of the Iraqi insurgency may be ripe for resolution if the administration will craft and carry out a political strategy to defeat the insurgency.

This will not miraculously end the violence in Iraq. But it may enable us — and the Iraqi people — to turn the corner toward a peaceful and inclusive political order in which the zealots meet the fate they deserve.

A Town That Bled Under Hussein Hails His Trial (NYT)

By John F. Burns

The New York Times, July 3, 2005

The scars of what happened after an assassination attempt on Saddam Hussein, on July 8, 1982, are painfully evident in this mainly Shiite town 35 miles north of Baghdad.

People lower their voices when they speak of fathers, brothers and sons who went to the gallows, their fates unknown until Mr. Hussein's overthrow 21 years later set off the ransacking of a secret police headquarters in Baghdad that uncovered records of the executions. The landscape around Dujail is mostly barren scrubland, stark testament to the bulldozing of thousands of acres of date palms and fruit orchards after plotters fired on Mr. Hussein's convoy from thickets on the edge of town.

Now, the events at Dujail have come full cycle for Mr. Hussein.

Officials at the Iraqi Special Tribunal set up to try the former dictator and his top aides have said they expect to put him on trial by the end of the year in the deaths of nearly 160 men and boys from Dujail, all Shiites, some in their early teens. Some were shot dead in the immediate aftermath of the assassination attempt, but 143 - 9 of them ages 13 through 15 - were executed three years later by Mr. Hussein's revolutionary court. Townspeople say that many others remain missing - at least 200, by some counts - and that they hope the trial will reveal at least something of their fate.

For now, their families have only fading photographs of their lost menfolk at weddings, school graduations and summer outings, and tales of the moments they disappeared, seized on the streets or pulled from their homes by secret police squads that descended on Dujail in the days that followed the attack on Mr. Hussein.

Along the sun-blasted streets and alleyways of the town, a nondescript, impoverished sprawl of single- and double-storied concrete structures and makeshift, domeless mosques beside the main highway to Iraq's oil-rich north, the prospect of seeing Mr. Hussein, 68, facing a possible death sentence has brought relief - at least to the three-quarters of the population who are Shiites, though not to many in the Sunni Arab minority in the town, where there are still fierce loyalties to Mr. Hussein.

"Having Saddam on trial for what he did here will be good for Dujail, and for all of Iraq, because many people in this country, and in Dujail, still think of him as some kind of a god," said Ali Haj Hussein, a 37-year-old Shiite who lost seven brothers in the executions that followed the assassination attempt, including one, Hussein, 19, who confessed to his father before he died that he was one of those who had shot at the Iraqi ruler.

The visit to Dujail amounted to a venture into enemy territory for Saddam Hussein. In 1982, he was in his third year as president, still consolidating his power, and many in this town, with a population of about 75,000, despised him for starting a war with Iran, Iraq's Shiite neighbor, two years earlier. Shiites here say that Mr. Hussein had long distrusted the presence of a large Shiite enclave, including Dujail and the nearby town of Balad, deep inside Iraq's Sunni Arab heartland - and beside the main highway from Baghdad to Tikrit, Mr. Hussein's hometown.

A conservative Shiite religious party, Dawa, with an armed wing that had mounted terrorist attacks against Mr. Hussein's government, had strong support in Dujail, and saw in his visit a chance to avenge the government's killings of hundreds of Dawa leaders and sympathizers. The plotters named the mission Operation Bint Huda, after the sister of Dawa's founder, Ayatollah Muhammad Bakr al-Sadr, a prominent Shiite cleric. The two were executed in 1980.

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Other crimes for which Mr. Hussein is likely to face eventual prosecution, in separate trials, include the Anfal campaign - the Arabic word means spoils - of the late 1980's, in which as many as 150,000 Kurds were killed, many shot and dumped into mass graves, others killed in poison-gas attacks; the chemical weapons attack on the Kurdish town of Halabja in March 1988 that killed about 5,000, which is likely to be treated as a separate case, like Dujail; and the repression of a Shiite rebellion in southern Iraq in 1991, in which 150,000 people are believed to have been killed. Also under investigation by the tribunal are the executions of more than 200 Baath Party leaders after Mr. Hussein seized power in 1979.

But the Dujail trial will set the pattern for the others, and lawyers for Mr. Hussein have made it clear they plan to use every legal recourse to expose the proceedings as a show trial, manipulated by the American lawyers who run the Regime Crimes Liaison Office, an American Embassy agency that has been the legal and financial mainstay of the tribunal.

"All over the world, people know Saddam Hussein as the man who said 'No!' to America, and it will be so in court," said Ziad Najdawi, a Jordanian who is part of an international team of defense lawyers.

"They can talk as they want, about executions and chemical weapons and mass graves, but we will say, 'It is all lies, nothing but lies. Everything here is tainted by America.' "

On the summer afternoon 23 years ago when Mr. Hussein came to Dujail, he was greeted with gunfire from the palm groves on the north side of town, survivors say. The first to rush to the streets were the youths; they had heard rumors for days that something important was about to happen. Army helicopters had been circling near the town, and official vehicles from Baghdad had been coming and going from the Baath Party headquarters in a grim, guarded compound along the road leading into Dujail from the main north-south highway.

"It was about 2:30 p.m. when we heard people saying that Saddam had arrived, so we ran into the streets to see him, and right away his bodyguards started shooting at us, and they killed three of my friends," said Ghalib Hussein Abbas, a 42-year-old tractor driver now, then an unemployed youth of 19.

Fleeing to their homes, the townspeople saw the helicopters return, firing at villages amid the palm groves from which the plotters had attacked.

Two days later, survivors said, a 24-hour curfew was eased when loudspeakers announced that those missing relatives should go to the Baath headquarters and search among rows of bodies laid out in the building's forecourt. For some, it was a trap. According to witnesses' statements to the tribunal, four of the men set to go on trial with Mr. Hussein had gathered at the building to direct vengeance on the town: his half-brother, Barzan Ibrahim al-Tikriti, deputy head of the Mukhabarat secret police in 1982; Taha Yasin Ramadan, a deputy prime minister and later Baath Party vice chairman; and the two local Baathist officials, Abdullah al-Musheikhi and his son, Mizher al-Musheikhi. Another defendant will be Awad Hamad al-Bandr al-Sadoon, former chief judge of the revolutionary court.

In small groups at first, then in larger roundups, about 1,500 townspeople were arrested, as many as 30 from single families, and started on a journey into Mr. Hussein's gulags - first at a detention center in Tikrit, later at a secret police detention center in Baghdad, and finally, to the Nugra as-Salman prison, an old British-built fort in the desert along the Saudi Arabian border. Some survivors, who were released in 1986, say that the appalling conditions at the prison caused several dozen deaths, including women, children and nursing infants. The 143 who were hanged never got beyond detention in Baghdad, where Mr. Sadoon, the chief of the revolutionary court, sent them to the execution chambers at the Abu Ghraib prison outside Baghdad.

Accounts from local Shiites say Mr. Hussein outwitted the Dujail plotters from the start. On his entry to the town, those accounts say, tribal leaders made him a gift of a car, and marked it, in tribal tradition, with hands dipped in the blood of slaughtered sheep. Mr. Hussein, though, Shiites in Dujail say, saw the gift as a possible harbinger of assassination and returned the car, insisting that the tribal leaders and some of his aides travel in it - to their deaths, as the accounts have it, when the plotters fired on the car.

A few hours after the shooting, Mr. Hussein took to the flat roof of the town's main clinic and told a crowd that he was "not a coward who can be chased from your town," but assured his listeners there would be no reprisals. "He told us that the people who had attempted to kill him were a small band of traitors, and that we don't want to confuse them with the good people of Dujail," said Kassem Aalbuhaider, a shopkeeper now, then only 12.

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But even as Mr. Hussein spoke, Mr. Aalbuhaider said, the secret police were at work. "They took whole families, even old people, women and small children," he said.

Within weeks, the razing of the palm groves and the orchards began, continuing until more than 250,000 acres had been bulldozed. In 1992, after the first Persian Gulf war, Mr. Hussein returned to Dujail for the first time, and told tribal leaders that the wastelands could be replanted, with grain crops, but not with palms and orchards. But it took 12 more years, and the overthrow of Mr. Hussein, before the town could begin in other ways to recover from what townspeople now refer to simply as "al karitha," the disaster.

Now, the plinths where Mr. Hussein's statues and portraits once stood at the town's major intersections are bare, and the streets are hung with portraits of the white-bearded clerics who are the icons of religious Shiites. The Baath Party headquarters serves now as a Shiite mosque. But the totems that seem to matter most are the date palms that some townspeople began planting discreetly in the mid-1990's as memorials to those who died.

On a recent evening, Mr. Hussein, the townsman who lost seven brothers to the gallows, led a visitor to the family's fields outside the town and through a grove of half-grown palms dedicated to them: Faleh, Hussein, Mahmud, Mohsen, Muhammad, Saad and Salim. "Here, I feel like a king," he said, smiling broadly as he reached out to touch the palm trees' drooping fronds. "Like these trees, Iraq is reborn. We are just at the beginning, but once Saddam has been tried and executed, we believe Dujail will begin to rise again."

Afghan Rebel Site Bombed, U.S. Says (WP)

By N.c. Aizenman

The Washington Post, July 3, 2005

U.S. aircraft bombarded a suspected insurgent compound in a mountainous area of northeastern Afghanistan where a military team has been missing since Tuesday, military officials said Saturday.

A purported spokesman for the ousted Islamic Taliban militia called news organizations and claimed that 25 civilians had died in the airstrike on the compound in Konar province, a rugged region near the Pakistani border.

Lt. Col. Jerry O'Hara, a U.S. military spokesman, said American troops were still assessing the impact of the Friday night bombing. However, he said that precision weapons had been used and that it was unlikely civilians were killed.

"We don't target civilians," he said. "We put a lot of effort into ensuring we minimize any type of collateral damage. . . . Our operations are intelligence-driven."

A Special Operations helicopter carrying U.S. troops to rescue the missing team crashed amid enemy fire Tuesday, killing all 16 people aboard. Late Friday, their bodies were flown from the U.S. air base in Bagram, north of Kabul, en route to Dover, Del., for identification, O'Hara said. He described throngs of soldiers lining the long road running through the base, saluting as vehicles passed carrying flag-draped containers to the airstrip.

"When there's a departure ceremony, everybody who is not actively involved in a mission comes out to show their respect," O'Hara said. "But this was much more emotional because you have many more that were lost in this incident."

Also on Saturday, guerrilla fighters in eastern Paktika province detonated a roadside bomb under a passing convoy of more than 20 vehicles carrying officials from the United Nations as well as Afghan leaders and security forces.

The attack killed as many as six Afghan policemen and soldiers, and wounded at least two others, including a local police chief, according to news services and the U.N. spokesman here, Adrian Edwards.

Other violence included a battle between Taliban and Afghan government forces in the central province of Uruzgan in which 18 insurgents were killed, according to news services. The militia members appeared to be part of the same group of fighters who kidnapped and killed a group of tribal elders Thursday.

In Kabul, U.S. military officials released 57 Afghans who had been held at a detention facility at Bagram air base for many months on suspicion of being armed Muslim extremists. They were taken to the office of a government program that reintegrates former Taliban members and released to the custody of tribal elders.

Since January, 220 detainees have been released from the U.S.-run prison at Bagram, and 142 more are slated to be released shortly, according to a U.S. military statement. In May, President Hamid Karzai called for all Afghan prisoners to be

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turned over to Afghan government custody in the wake of reports of past abuse by U.S. guards at Bagram and Guantanamo Bay, Cuba.

Several of the released men complained bitterly of being detained for several years without charge. "There was no beating or torturing, but they were disrespectful of our culture and we didn't have good food for a long time," Ghulam Mustafa, 21, told the Reuters news agency.

In Konar, a massive five-day hunt for the missing U.S. team continued without success Saturday, O'Hara said.

The purported Taliban spokesman, Abdul Latif Hakimi, told news agencies by telephone Friday that Taliban fighters had captured one of the missing men and killed seven of them. But U.S. military officials have said there was no evidence to support the claim.

The missing team was made up of fewer than 10 Special Operations troops and was participating in a mission against al Qaeda fighters, U.S. officials have said.

The Chinook helicopter sent to extract the team appeared to have been downed by a rocket-propelled grenade, military officials said.

The air attack on the compound Friday night was part of an ongoing military mission in the area, O'Hara said. "That operation was still ongoing all the while we were conducting search and recovery for our 16 that we lost, and while searching for the missing service members that haven't been accounted for," he said.

Edwards, the U.N. spokesman, said the team in Paktika was on its way to negotiate with tribes in the area about security matters. He said that after the roadside bombing, the group may have come under small-arms fire, and that Afghan security forces subsequently detained several men suspected of taking part in the attack. The U.S. military said it was not aware of any small-arms fire.

Edwards said the ambush was the latest in a string of attacks on military forces, government officials, aid workers and civilians by gunmen intent on disrupting parliamentary elections scheduled for September. The violence has contributed to a growing climate of pessimism and fear.

"The thinking of the United Nations is that there is a serious problem with security and that with the elections coming up we, like most people, want this addressed," said Edwards.

U.S. Planes Bomb Suspected Taliban Mountain Base (WT)

By Daniel Cooney

The Washington Times, July 3, 2005

Warplanes pounded a suspected Taliban compound in the Afghan mountains near where an elite U.S. military team disappeared last week, and violence elsewhere left 38 rebels and Afghan security forces dead as fighting rose ahead of fall elections.

A transport plane flew home the bodies of 16 U.S. troops -- eight Navy SEALs and eight other troops -- killed when their helicopter was shot down while trying to rescue the missing team, U.S. officials said yesterday.

It was not clear if there were any casualties in the air strike late Friday in mountains near Asadabad town in Kunar province, close to the Pakistani border. U.S. military spokesman Lt. Col. Jerry O'Hara said a "battle damage assessment is ongoing."

"We conducted an air strike on a target we deemed we had to hit immediately. The target was an enemy compound in Kunar province," he said. "The bombing was done using precision guided munitions. The target objective was intelligence driven."

Col. O'Hara declined to say whether the air strike was directly related to the missing military team, which was last heard from in the same area Tuesday.

A purported Taliban spokesman, Mullah Latif Hakimi, claimed Friday that militants had captured one of the men and said he was a "high-ranking American" caught in the same area as where the helicopter went down. He reiterated the claim yesterday in a phone call with the Associated Press.

"The soldier is being held in Kunar. Taliban leaders will decide what to do with him," Mr. Hakimi said. "He is being kept in a home. His health is all right."

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When asked to provide evidence that the soldier was in captivity, he said, "Tomorrow we will give proof."

Mr. Hakimi, who also claimed insurgents shot down the helicopter, often calls news organizations to take responsibility for attacks, and the information frequently proves exaggerated or untrue. His exact tie to the Taliban leadership is not clear.

Col. O'Hara said the downed Chinook helicopter had been trying to extract the soldiers when it went into the mountains.

"All our hopes are that we find our missing service members. On top of those hopes are actions on the ground looking for them," Col. O'Hara said. "It's a very demanding area: very mountainous, very wooded and the likelihood of enemy contact is probable."

The bodies of 16 soldiers killed in the helicopter crash were loaded in flag-draped caskets onto a C-17 transport plane during a memorial ceremony Friday night and flown to Dover, Del., Col. O'Hara said.

The loss of the 16 was the deadliest single blow to American forces who ousted the Taliban in 2001 and are now fighting the escalating insurgency.

In three months of unprecedented fighting, about 502 suspected insurgents, 57 Afghan police and soldiers, 45 Americans and 134 civilians have been killed. Only eight months ago, Afghan and U.S. officials were hailing a relatively peaceful presidential election as a sign that the Taliban rebellion was finished.

U.S. Attacks Near Copter Crash Site (LAT)

By Halima Kazem

The Los Angeles Times, July 3, 2005

American fighter planes bombed a suspected insurgent compound in the same eastern area of Afghanistan where a team of U.S. soldiers has gone missing, military officials said Saturday.

A Taliban spokesman said more than 25 militants were killed in the airstrikes Friday, but U.S. military officials said it was too soon to estimate casualties.

"We do not know the results of the airstrikes. The battle assessments are ongoing," said Lt. Cindy Moore, a U.S. spokeswoman.

The airstrikes were a continuation of operations in mountainous Kunar province, where a Chinook helicopter was shot down Tuesday by rebel forces, killing all 16 service personnel on board.

The Chinook had been called in to assist the ground team in fighting Al Qaeda and Taliban militants but crashed into a mountainside after being targeted by rocket-propelled grenades.

On Saturday, the Pentagon identified the eight Navy SEALs on board the Chinook as Chief Petty Officer Jacques J. Fontan, 36, of New Orleans; Senior Chief Petty Officer Daniel R. Healy, 36, of Exeter, N.H.; Lt. Cmdr. Erik S. Kristensen, 33, of San Diego; and Petty Officer 1st Class Jeffery A. Lucas, 33, of Corbett, Ore.

Also, Lt. Michael M. McGreevy Jr., 30, of Portville, N.Y.; Petty Officer 2nd Class Eric S. Patton, 22, of Boulder City, Nev.; Petty Officer 2nd Class James Suh, 28, of Deerfield Beach, Fla.; and Petty Officer 1st Class Jeffrey S. Taylor, 30, of Midway, W. Va.

Hundreds of U.S. and Afghan forces have since been scouring the area's deep ravines in the hope of finding the special reconnaissance team, which has been out of contact for several days.

Moore did not comment on reports that rebels had captured members of the missing team.

"There is a good chance that the soldiers are being held hostage by the rebel fighters," said Gov. Asadullah Wafa of Kunar. "These rebels have an agenda."

Also Saturday, in the mountains of central Oruzgan province, Afghan soldiers attacked a Taliban hide-out where about 100 insurgents are thought to have been camped, Afghan security forces said. Two soldiers and 18 rebels were killed, they said.

The attack was in response to the kidnapping and killings of nine Oruzgan tribal leaders by Taliban militants. More than 45 people have been slain in the area in four days.

In Paktika province, meanwhile, six local United Nations security personnel were killed when their convoy was hit by a roadside bomb, according to early reports.

With landmark parliamentary elections scheduled for September, violence has surged in the last three months. About 500 suspected insurgents, 49 Afghan police and soldiers, 140 civilians, and 45 U.S. troops have been killed since March.

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The instability has spread fear through the country, especially in southern provinces with Pushtun majorities, the same ethnic group as the Taliban.

Many believe that Taliban and Al Qaeda militants have joined forces with other rebel groups to destabilize election preparations and prevent a long-term U.S. military presence in Afghanistan.

Veterans Confront A Taste Of Battle (WP)

By Michael E. Ruane

The Washington Post, July 3, 2005

The petite young woman with the ponytail, hoop earrings and little red knapsack holds her fingers in her ears and shudders with each crash of the cannon.

One by one, the line of Civil War-era artillery pieces goes off -- shh-BOOM! -- each one a little closer, and each one a little more jarring. As the shots come near, the woman has both hands covering the sides of her face, and with the final blast, about 30 feet distant, she turns away in pain as if she has just been slapped.

The firing is, of course, make-believe war -- a masquerade attended by perspiring men and women in gaudy period costume. But as Army Spec. Kristina Steinmetz, 23, looks on here during a visit from Walter Reed Army Medical Center, she is having trouble separating the pretend war from the real thing.

The occasion is a sprawling weekend reenactment of the battle of Gettysburg staged across freshly mowed farmland in the fields north of town. Steinmetz, who is recovering from combat stress at Walter Reed, had come to the reenactment with two wounded comrades on an outing hosted by a soldiers support agency called Operation Second Chance Inc.

Steinmetz, of Phillipsburg, N.J., Michael Oreskovic, 23, of Eugene, Ore., and Harold Peckenpaugh, 19, of Attica, N.Y., had been eager to make the trip. The three are close friends, and it had been their idea: a three-day weekend away from the hospital. Peckenpaugh had been a reenactor before entering the Army, and his old Civil War outfit was going to be in the battle. Steinmetz and Oreskovic, a military history buff, had never been to Gettysburg.

But Friday morning, as they were driven to the make-believe war by Operation Second Chance founder Cindy McGrew, each of the young soldiers bore the scars of the real one that is underway in Iraq.

Steinmetz, who looks much younger than her years, had been a convoy truck driver -- one of the most harrowing assignments in Iraq. She told of convoys being attacked daily by roadside bombs, of never knowing what might blow up -- an animal carcass, a pile of garbage -- and of never knowing who in the convoy would survive and who wouldn't. Peace of mind came only at night, she said, under the stars.

Partway through her tour at Tikrit, she began blacking out without warning and developed heart problems. She was taken to Walter Reed, where, she said, she was treated for syncope, a temporary loss of consciousness that can be stress-related, and for post-traumatic stress disorder, from which she has substantially recovered.

Peckenpaugh, a rangy Humvee gunner who wears his Purple Heart pinned to the bill of his blue baseball cap, has a long pink scar down the right side of his neck. On Dec. 4, near Ramadi, he was at his gun when an improvised bomb went off, sending shrapnel into his neck, breaking his jaw and slicing his carotid artery. He lost so much blood that he suffered a stroke and, for a time, was partially paralyzed.

Oreskovic was a scout with an Army cavalry unit. He had spent months on hazardous house searches, "hunter-killer" missions and recons. "It was fun," he said. "I enjoyed it." He had been wounded once by a car bomb, on Oct. 5, and six days later he was hit again, just a week before he was scheduled to come home.

This time it was a huge device, made of mortars and artillery rounds, in a truck full of fruit that blew up near his Stryker vehicle in Mosul. He was exposed from the waist up, manning a grenade launcher in the turret.

"I saw a blue flash, " he recalled. "Turned to red. Got real hot." His squad leader, in the vehicle in front of him, was killed. And the blast tore off Oreskovic's left arm at the elbow. "There was nothing left of it," he said.

He arrived a few days later at Walter Reed, where for the first few months of his recovery he couldn't watch TV or movies about war, and certain sounds made him jumpy and emotional. Gradually, he got over that, and this weekend -- his interest in history piqued -- he did not expect trouble at the reenactment. "I can separate myself from it," he said.

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The four arrived at a campground about 11 a.m. Friday, unloaded their gear at the cabin where they planned to stay and headed for the battlefield, where the reenactment continued yesterday and is scheduled to conclude today.

It was the 142nd anniversary of the battle, where thousands perished over July 1, 2 and 3, 1863.

At first glance, the modern-day soldiers looked like anyone in the crowd of onlookers who came to watch the battles and browse under the tents where merchants sold reproductions of 1860s-era clothing and firearms.

Oreskovic's artificial left arm was barely noticeable, protruding from his long-sleeved shirt, though he did fumble a bit getting money from his wallet using only his right hand. Steinmetz and Peckenpaugh each bought cap guns, which they fired at each other playfully. And when Peckenpaugh purchased a reproduction 1858 Army revolver, the clerk asked, "How old are you?" He showed his Army ID card.

But there was a seriousness about the trio as they strolled anonymously among people wearing "Support Our Troops" T-shirts or clad as soldiers from a bygone era. When Steinmetz emerged from one merchant's tent with a feathery blue dream catcher, she muttered to Peckenpaugh, "I need something to take the damn nightmares away."

As the day wore on, the weather grew more sultry. Oreskovic and Peckenpaugh dressed up temporarily in period garb provided by Peckenpaugh's reenactor friends. All three drank bottled water and ate ice cream cones to stay cool.

But by mid-afternoon, the heat and the artillery fire had become too much for Steinmetz. Her hands trembled as she clutched her small digital camera. McGrew held her tightly around the waist during the demonstration.

"It was a little hard," Steinmetz said afterward. "Just flashback memories. You just start thinking. . . . The jump is always going to be there. But just visions, you know."

That evening, as distant bugles sounded and drumfire again echoed among the fields here, she packed her things, caught a ride back to the hospital and left Gettysburg, with an old-fashioned band playing in the town square.

CORPORATE SCANDALS:

Op-Ed by Michael Kinsley: The Lord And Richard Scrushy (WP)

By Michael Kinsley, Post

The Washington Post, July 3, 2005

God works in mysterious ways, but his or her decision to acquit Richard Scrushy, former CEO of HealthSouth Corp., on all charges of financial fraud is especially inscrutable. Five consecutive HealthSouth chief financial officers admitted to cooking the books and copped a plea. They all fingered Scrushy. But jurors chose to believe that the man on top knew nothing about what was going on directly below him.

That kind of ignorance doesn't come cheap. No one denies there was massive fraud at HealthSouth. The government estimates that Scrushy made almost $300 million from the alleged fraud, and he'll get to keep it minus lawyer's fees. Other prominent business defendants have tried the ignorance defense but found that juries tend to think that the more you're paid, the more you ought to know about what's going on around you. Bernard Ebbers of Worldcom Corp., apparently the most convincing of the recent CEO ignoramus wannabes, is facing prosecutors' request for a life sentence.

Experts say the Scrushy prosecution should have been a slam-dunk. Even the Wall Street Journal editorial page seemed amazed that he got off. The Journal approved, of course, but couldn't really explain why. Meanwhile, jurors quoted in the papers said they were bothered by things like the lack of Scrushy fingerprints on copies of the crucial documents.

Only one word can describe Scrushy's acquittal. It is a miracle.

Miracles happen, just like that other stuff. But miracles don't just happen. They require work. Money doesn't hurt, either. When Scrushy was indicted, he hired God. Less inspired defendants might have settled for the late Johnnie Cochran or Jack Abramoff. Scrushy, though, went straight to the top.

He left his suburban evangelical church and joined a predominantly black congregation in a blue-collar neighborhood. He bought a half-hour of local TV for a morning prayer show featuring himself and his wife, and frequent guest spots by black ministers. He had a prayer group praying for him every day at the trial. All this was in Birmingham, Ala., where HealthSouth was located and where the trial occurred.

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Cynics have suggested that Scrushy and his advisers might have been trying to influence the local jury with these tactics. This, if I might say so, is a typical example of the anti-Christian bias that so many folks complain about in the liberal media. Why can't a man turn to God in his moment of trial (or, indeed, in his actual criminal trial) without being accused of ulterior motives? Scrushy prayed, and his prayers were answered. "God is good," he said on the courthouse steps after the jury verdict. And well he might think so.

The Post got in trouble a million years ago for an article that described evangelical Christians as "poor, undereducated and easily led." The paper apologized almost immediately and many times afterward. And, like every major paper in those cesspools of secularism that are America's big cities, The Post now seizes any opportunity to slobber over religion and to show respect to religious people, especially evangelical Christians.

But with their cynical suggestion that Richard Scrushy and his defense team might have been using religion to con the jury, the liberal media reveal that they are still heathens. Not only do they still secretly think that devoutly religious people in the Deep South are "poor, undereducated and easily led," but they imply that Richard Scrushy and his defense team may think so, too. What could be a bigger insult to a godly man who has now been acquitted of all wrongdoing?

The obvious lesson of the Scrushy verdict is that prayer works. What do the cynics say now? Even Martha Stewart, who keeps thousands of people out of church every Sunday because they are too busy searching for fresh kale or folding their handkerchiefs and whose obsessive celebration of the material world makes her possibly the least spiritual figure in American public life (though no worse for that, in my opinion), might well wish she had fallen to her knees before it was too late.

To anybody but Scrushy, his acquittal doesn't necessarily prove that there is a God. To some HealthSouth investors, it may even suggest the opposite. And the view of those five former HealthSouth CFOs may be even bleaker. But if there is a God, it is hard to see the Scrushy acquittal as anything but the result of divine intervention.

So there is no puzzle about Scrushy's motives. The intriguing question is, what were God's motives? Being all-knowing, He or She doesn't need fingerprints and has no doubts, reasonable or otherwise. Are we supposed to conclude that prayer, if suitably ostentatious, can be an acceptable substitute for goodness, rather than a reflection of it?

Or is this a demonstration of God's powers? A good defense attorney can get an innocent man off, but it takes a great defense attorney to get a guilty man off. Maybe it's the same with deities.

All we can say is, God knows.

The writer is editorial and opinion editor of the Los Angeles Times.

CRIMINAL LAW:

The Rove Factor? (NSWK)

By Michael Isikoff

Newsweek, July 3, 2005

Its legal appeals exhausted, Time magazine agreed last week to turn over reporter Matthew Cooper's e-mails and computer notes to a special prosecutor investigating the leak of an undercover CIA agent's identity. The case has been the subject of press controversy for two years. Saying "we are not above the law," Time Inc. Editor in Chief Norman Pearlstine decided to comply with a grand-jury subpoena to turn over documents related to the leak. But Cooper (and a New York Times reporter, Judith Miller) is still refusing to testify and faces jail this week.

At issue is the story of a CIA-sponsored trip taken by former ambassador (and White House critic) Joseph Wilson to investigate reports that Iraq was seeking to buy uranium from the African country of Niger. "Some government officials have noted to Time in interviews... that Wilson's wife, Valerie Plame, is a CIA official who monitors the proliferation of weapons of mass destruction," said Cooper's July 2003 Time online article.

Now the story may be about to take another turn. The e-mails surrendered by Time Inc., which are largely between Cooper and his editors, show that one of Cooper's sources was White House deputy chief of staff Karl Rove, according to two lawyers who asked not to be identified because they are representing witnesses sympathetic to the White House. Cooper and a Time

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spokeswoman declined to comment. But in an interview with NEWSWEEK, Rove's lawyer, Robert Luskin, confirmed that Rove had been interviewed by Cooper for the article. It is unclear, however, what passed between Cooper and Rove.

The controversy began three days before the Time piece appeared, when columnist Robert Novak, writing about Wilson's trip, reported that Wilson had been sent at the suggestion of his wife, who was identified by name as a CIA operative. The leak to Novak, apparently intended to discredit Wilson's mission, caused a furor when it turned out that Plame was an undercover agent. It is a crime to knowingly reveal the identity of an undercover CIA official. A special prosecutor was appointed and began subpoenaing reporters to find the source of the leak.

Novak appears to have made some kind of arrangement with the special prosecutor, and other journalists who reported on the Plame story have talked to prosecutors with the permission of their sources. Cooper agreed to discuss his contact with Lewis (Scooter) Libby, Vice President Dick Cheney's top aide, after Libby gave him permission to do so. But Cooper drew the line when special prosecutor Patrick Fitzgerald asked about other sources.

Initially, Fitzgerald's focus was on Novak's sourcing, since Novak was the first to out Plame. But according to Luskin, Rove's lawyer, Rove spoke to Cooper three or four days before Novak's column appeared. Luskin told NEWSWEEK that Rove "never knowingly disclosed classified information" and that "he did not tell any reporter that Valerie Plame worked for the CIA." Luskin declined, however, to discuss any other details. He did say that Rove himself had testified before the grand jury "two or three times" and signed a waiver authorizing reporters to testify about their conversations with him. "He has answered every question that has been put to him about his conversations with Cooper and anybody else," Luskin said. But one of the two lawyers representing a witness sympathetic to the White House told NEWSWEEK that there was growing "concern" in the White House that the prosecutor is interested in Rove. Fitzgerald declined to comment.

In early October 2003, NEWSWEEK reported that immediately after Novak's column appeared in July, Rove called MSNBC "Hardball" host Chris Matthews and told him that Wilson's wife was "fair game." But White House spokesman Scott McClellan told reporters at the time that any suggestion that Rove had played a role in outing Plame was "totally ridiculous." On Oct. 10, McClellan was asked directly if Rove and two other White House aides had ever discussed Valerie Plame with any reporters. McClellan said he had spoken with all three, and "those individuals assured me they were not involved in this."

Rove Talked But Did Not Tattle, Attorney Says (LAT)

By Richard B. Schmitt, Times Staff Writer

The Los Angeles Times, July 3, 2005

WASHINGTON — Karl Rove, one of President Bush's closest advisors, spoke with a Time magazine reporter days before the name of a CIA operative surfaced in the press, but did not leak the confidential information, a lawyer for Rove said Saturday in a new admission in the case.

Rove spoke to Time reporter Matthew Cooper in July 2003, before a syndicated column revealed the identity of operative Valerie Plame, the wife of Bush administration critic and former U.S. Ambassador Joseph C. Wilson IV.

Cooper is one of two reporters who has been held in contempt of court for not cooperating with a federal investigation into who leaked Plame's identity. Although Wilson once said he suspected that Rove had played a role in destroying his wife's CIA cover, the White House dismissed questions about Rove's actions as "totally ridiculous."

In confirming the conversation between Rove and Cooper, Rove's attorney, Robert Luskin, emphasized that the presidential advisor did not reveal any secrets. But the disclosure raised new questions about Rove and the precise role of the White House in the apparent national security breach as Cooper and another reporter, Judith Miller of the New York Times, faced imminent jail terms.

Time Inc., under pressure from a federal judge and over Cooper's objections, turned over e-mail records and other internal documents to a special prosecutor Friday, identifying sources that Cooper used to report and write on the politically charged case. A Time spokeswoman declined to say Saturday whether Rove was among sources mentioned in the documents.

Cooper and Miller could be jailed as soon as Wednesday for refusing to cooperate in the investigation. Time, which was separately held in contempt in the case, said that it hoped its cooperation meant that Cooper would not be incarcerated.

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Rove, Bush's deputy chief of staff and longtime political strategist, testified before a grand jury investigating the Plame case on three occasions. His latest appearance was in October 2004, about the same time the prosecutor investigating the case said his probe was complete with the exception of testimony from Cooper and Miller.

Special prosecutor Patrick J. Fitzgerald is investigating the alleged outing of Plame by Robert Novak, a columnist and CNN pundit, on July 14, 2003. Some suspect that the White House leaked her name in retaliation for a July 6, 2003, op-ed piece in the New York Times written by Wilson, her husband. He accused the administration of twisting intelligence to justify the invasion of Iraq.

Fitzgerald interviewed many other White House officials and journalists, including Bush and Vice President Dick Cheney. Although Novak was the first to publish Plame's name, Fitzgerald has indicated that whoever leaked the information to Novak also might have revealed her identity to other journalists. That could constitute separate violations of a federal law that protects the identity of undercover CIA personnel.

Prosecutions are rare, however, because they require showing that the leak was intentionally disclosed and that the person leaking the information knew the government was trying to conceal it.

Fitzgerald asked Cooper and Time for documents and testimony relating to conversations Cooper had with official sources about Wilson, Plame or her ties to the CIA in the period before the publication of Novak's column. Cooper wrote about the case on Time's website after the Novak column appeared.

Luskin, Rove's attorney, acknowledged in an interview Saturday that Cooper and Rove had spoken days before Novak's column, in a conversation that was initiated by Cooper.

"What I can tell you is that Cooper called Rove during that week between the Wilson article and the Novak article, but that Karl absolutely did not identify Valerie Plame," Luskin said. "He did not disclose any confidential information about anybody to Cooper or to anybody else."

Luskin said he would not "characterize the substance of the conversation," which was covered in the testimony Rove provided to the grand jury investigating the leak. "The folks in Fitzgerald's office have asked us not to talk about what Karl has had to say," Luskin said.

Luskin said Rove had been assured by prosecutors that he was not a target of the investigation. "We were advised recently that his status has not changed," he added.

"It is certainly my understanding that Karl has testified absolutely truthfully about all his conversations about everybody that he has been asked about during that week," Luskin added. "Nobody has suggested to us ever that they think that there are any problems about whether they think he is being candid."

But Newsweek magazine reported on its website Saturday that Rove was one of Cooper's sources identified in notes that Time turned over to Fitzgerald. And separately, MSNBC political analyst Lawrence O'Donnell said in a taped TV program that he had information indicating Rove was one of Cooper's sources. O'Donnell's comments were made in a segment of "The McLaughlin Group" that was set to air in Los Angeles on PBS Saturday night.

Cooper's lawyer, Richard Sauber, declined to discuss Rove's role in Cooper's work, saying in response to an e-mail message, "We're not going to discuss one way or another what the [documents turned over by Time] say."

In court papers filed Friday arguing against his possible confinement, Cooper's lawyers said if he were to break promises of confidentiality, "his ability to continue as an effective reporter would be seriously jeopardized."

In letters to the court accompanying his plea, fellow journalists discussed this principle.

"Journalists must honor their promises which protect the bad along with the good," said Margaret Carlson, a Time columnist and colleague of Cooper. "We can't separate them like the darks and the whites in the laundry."

Lawyer Says Rove Talked To Reporter, Did Not Leak Name (WP)

By Carol D. Leonnig

The Washington Post, July 3, 2005

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Karl Rove, President Bush's chief political adviser, spoke with Time magazine's Matthew Cooper during a critical week in July 2003 when Cooper was reporting on a public critic of the Bush administration who was also the husband of a CIA operative, his lawyer confirmed yesterday.

Rove is identified in Cooper's notes from that time period, which Time turned over Friday to special prosecutor Patrick J. Fitzgerald -- under court order. Fitzgerald is investigating whether senior administration officials leaked CIA operative Valerie Plame's name to reporters in July 2003 as retaliation after her husband, former ambassador Joseph C. Wilson IV, publicly accused the Bush administration of twisting intelligence to justify a war with Iraq.

Rove's lawyer said Rove never identified Plame to Cooper in those conversations. More significantly, Robert Luskin said, Fitzgerald assured him in October and again last week that Rove is not a target of his investigation.

"Karl did nothing wrong. Karl didn't disclose Valerie Plame's identity to Mr. Cooper or anybody else," Luskin said. Luskin said the question remains unanswered: "Who outed this woman? . . . It wasn't Karl."

Cooper has said that more than one confidential source is identified in his e-mails and the notes of interviews he conducted in July 2003 after Wilson's opinion piece appeared in the New York Times. Reporters were calling the White House with questions about Wilson's assertions, which senior government officials tried to discredit.

Plame's name first appeared in Robert D. Novak's syndicated column in July 2003, eight days after Wilson's opinion piece critical of the Bush administration appeared in the Times. Wilson was sent by the CIA in 2002 to investigate allegations that Iraq had sought to buy uranium in the African nation of Niger, and he reported that he found no proof. His opinion piece accused the administration of twisting intelligence to justify going to war with Iraq

After the Novak column, Wilson said the White House had damaged his wife's career and had put all her contacts in jeopardy. He initially accused Rove of being behind the leak, then retracted that statement. It is a felony to knowingly identify a covert operative.

Rove answered questions under oath for about two hours before a grand jury on Oct. 15 as part of the special prosecutor's investigation. According to Luskin, the prosecutor said he believes Rove was candid and forthcoming about his contact with reporters.

"I've been assured by the prosecutor they have no reason to doubt the honesty of anything he's said," Luskin said.

Cooper and New York Times reporter Judith Miller face four months in jail as early as Wednesday for defying Chief U.S. District Judge Thomas F. Hogan's order to cooperate with Fitzgerald's investigation. The Supreme Court on Monday refused to hear the reporters' appeals of Hogan's order.

Journalists Say Threat Of Subpoena Intensifies (NYT)

By Katharine Q. Seelye

The New York Times, July 3, 2005

In 1991, when Timothy Phelps, a reporter for Newsday, and Nina Totenberg, a reporter for National Public Radio, broke the news that Anita Hill had accused Clarence Thomas, then a Supreme Court nominee, of sexual harassment, a special Senate counsel tried to subpoena the reporters' telephone records to unmask their confidential source.

The accusations prompted a second round of highly contentious confirmation hearings, but Senate leaders ultimately refused to give the special counsel permission to pursue the records, and eventually the matter was dropped.

Mr. Phelps, who is now Newsday's bureau chief in Washington, recalled his case last week after two courts, including the Supreme Court, ruled in two similar cases against journalists.

"We seemed to have pretty solid support for the stand we took, from the journalistic community, the legal community, the human rights community, the public," he said. "And I don't sense as much of that today, even in the journalistic community. The legal atmosphere, the corporate atmosphere, and the public atmosphere has changed."

Lawyers for the news media say that the legal climate for those seeking to protect confidential sources is turning chillier, with more subpoenas being issued to reporters. There is no database that tracks such subpoenas, and some prosecutors dispute that they are on the rise. But a series of high-profile cases involving confidential sources has the news media on edge.

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"It does feel like open season," said Laura Handman, a First Amendment lawyer based in Washington. "There are more instances of courts ordering confidential sources to be disclosed," she said, adding that she believed the Bush administration's emphasis on secrecy was partly to blame. "This leads to more leak inquiries, which, in turn, leads to more subpoenas."

In the last year, more than two dozen reporters across the country have been subpoenaed or questioned about their confidential sources in cases before federal courts, according to the Newspaper Association of America. Paul J. Boyle, senior vice president of the association, said he believed that "the filing of subpoenas, as well as the letters and phone calls that media companies receive from prosecutors and civil litigants, is on the rise."

Kurt Wimmer, a media lawyer whose firm, Covington & Burling, represents 45 television stations in 40 states, said he had as many subpoenas against reporters in the first three months of this year as he had in all of last year.

He said those subpoenas were largely inspired by the looming prospect over the last several months that Judith Miller of The New York Times and Matthew Cooper of Time magazine would go to jail for refusing to testify in a grand jury investigation into the disclosure of the identity of a covert C.I.A. operative, Valerie Plame. The Supreme Court last week declined to hear the reporters' appeal, intensifying one of the biggest clashes between the news media and the courts in a generation.

"When the Supreme Court says there's nothing wrong with forcing reporters to testify and go to jail, other lawyers are looking at that and saying, 'Why shouldn't I subpoena a reporter?' " Mr. Wimmer said.

Others doubt that there have been more subpoenas recently, saying it may just seem that way because a handful of cases have become so prominent. They say that regardless of the numbers, there is nothing wrong with pursuing justice if a reporter has been manipulated by a source and published misleading information.

In another case last week, a federal appeals court in Washington upheld contempt orders against four reporters who had refused to disclose their confidential sources to Wen Ho Lee, an atomic scientist who had been suspected of passing secrets to the Chinese but pleaded guilty to a lesser charge. He is suing the government for giving information about him to those reporters, violating his privacy.

Brian A. Sun, a Los Angeles lawyer who represents Dr. Lee, said that while he did not see more subpoenas, just more publicity about them, he agreed that the Miller-Cooper case "could encourage other prosecutors to utilize the tools that they have had available to them." In Mr. Sun's view, what is behind these cases are leakers who have "less than altruistic motives" and are using reporters, while those reporters in turn are looking to break a big story.

The heightened interest in national security issues since the Sept. 11 terrorist attacks has drawn attention to some cases, said Martin London, a New York lawyer who has litigated several media cases and subpoenaed nearly a dozen reporters in 1972 on behalf of Spiro T. Agnew, the former vice president. At the same time, he said, high-profile scandals at various news organizations, including The New York Times and CBS News, have undermined confidence in the news media.

"I don't buy that there is any increase in subpoenas," Mr. London said. "The Miller-Cooper case is very unusual, it has a lot of wrinkles that are just sort of extraordinary. But it's perfectly reasonable in a post-9/11 world for the government to be concerned about the security of C.I.A. information."

John Nowacki, a spokesman for the Justice Department, said the department would not comment on the use of subpoenas against reporters.

Mr. Boyle and others said there was a change after a 2003 ruling written by Richard Posner, an influential federal appeals court judge in Chicago, who said that lower courts had been misreading a 1972 Supreme Court decision, Branzburg v. Hayes. That case in fact rejected the idea of First Amendment protections for reporters, but media lawyers over three decades managed to convince judges otherwise.

"He seems to have freed some of his colleagues to pull back on the privilege," said Sandra Baron, executive director of the Media Law Resource Center.

Patrick J. Fitzgerald, the special prosecutor in the Miller-Cooper case, has served as something of a role model for those who are seeking information from reporters. Mr. Fitzgerald has employed a technique based on the idea that if a source no longer requires confidentiality, the reporter's pledge to keep it is moot. He has sought and obtained waivers from suspected sources releasing reporters of their confidentiality agreements, making it harder for reporters to claim they are bound by a pledge not to talk.

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Through this approach, Mr. Fitzgerald obtained at least limited testimony from journalists including Tim Russert of NBC, Walter Pincus of The Washington Post and Mr. Cooper. Mr. Cooper was subpoenaed again and refused to testify, although Time Inc. has turned over his notes to the prosecutor, a decision with which Mr. Cooper said he disagreed. Mr. Cooper and Ms. Miller face another court hearing Wednesday to learn their fates.

Mr. Phelps, for one, lamented this turn of events and said it was only likely to chill potential sources in the future. "The fact that some news organizations have cooperated in this case is going to put a little seed of doubt in people's minds about whether they can really depend on reporters or not," he said.

And there is a rising concern among reporters that those people might be right.

"The biggest fear that most reporters have now is not having their mail taken or their phone records taken without their being told," said John Solomon, who oversees investigative reporting for the Associated Press and who had both of those things happen to him, in 2002 and 2001, respectively. "The biggest concern is that they'll write about something and will be forced to talk about it."

Representative Mike Pence, the Indiana Republican who is pushing, so far unsuccessfully, for Congress to pass a federal law to protect journalists, said that fear was justified. "No reporter, as the law has evolved in the last 30 years, can give absolute assurance to any source that at no time will their identity be disclosed," he said.

In addition to the Lee and Miller-Cooper cases, there have been several other high-profile cases involving confidential sources. Jim Taricani, a reporter with WJAR, a television station in Providence, R.I., refused to reveal the identity of the person who leaked him an F.B.I. videotape of a politician taking a bribe. He was sentenced to six months of home detention in December and was released after four months.

Nine news organizations have been subpoenaed in the case involving Steven J. Hatfill, a scientist, who sued federal officials under the privacy act for naming him as a "person of interest" in the 2001 anthrax investigations. As many as 100 federal agents have waived any confidentiality agreements they had with the media in that case.

Ms. Miller of The New York Times and a colleague, Philip Shenon, are under subpoena for their phone records by a grand jury investigating the leak of information about a planned F.B.I. raid on an Islamic charity suspected of funding terrorism. In February, a federal district judge in New York held that the reporters had a right to keep their phone records confidential.

The cases come as polls show the public has a deepening distrust of the news media, although a study by the Pew Research Center last month found that 76 percent of Americans think the use of confidential sources is at least sometimes justified.

Michael Getler, the ombudsman for The Washington Post, cautioned between linking what he agrees is a rise in the number of legal proceedings over sources and the low regard in which the news media is held. "There clearly is a more widespread ideological assault from both sides on the press these days, and that may well be feeding some of the prosecutorial zeal," he said. "But I don't know that that is really the case. I don't think we know enough to say exactly what is driving individual prosecutors."

Congressman Mum After FBI Searches Home (AP-Y2)

By Seth Hettena, Associated Press Writer

AP2, July 3, 2005

A California congressman whose dealings with a defense contractor are under investigation was taking a "personal day" Saturday and not commenting on federal authorities' searches a day earlier of his home and a yacht where he stayed while in Washington, a spokesman said.

Rep. Randy "Duke" Cunningham didn't plan a public appearance until a Monday pancake breakfast in Encinitas, spokesman Mark Olson said.

Olson referred all questions about the investigation to Cunningham's attorney.

FBI agents on Friday searched Cunningham's $2.55 million mansion outside San Diego and a 42-foot yacht named Duke Stir, according to a bureau spokeswoman, who said agents from the Department of Defense and Internal Revenue Service assisted.

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Cunningham's attorney, K. Lee Blalack, released a statement saying he told the government Thursday the congressman would cooperate with the investigation.

"They will apparently not take 'yes' for an answer and have instead opted to use strong-arm tactics that were designed to generate headlines," Blalack said.

Blalack said Saturday that Cunningham still intended to provide information requested.

Authorities also searched the Washington offices of defense firm MZM Inc. MZM's founder, Mitchell Wade, bought a home from the congressman in 2003 at what may have been an inflated $1.7 million price. Wade also owns the yacht where Cunningham said he has lived part-time since April 2004.

Cunningham pledged last month to release records on the boat payments but has yet to do so. If he was living on Wade's boat for free, that could be a violation of congressional ethics rules.

Blalack said Saturday that Cunningham still planned to release those records but did not say when. He declined to comment further on the case.

Cunningham, 63, a former Navy "Top Gun" fighter pilot and eight-term Republican congressman, has said that he showed poor judgment in selling the house but acted honestly and predicted that an investigation would prove that.

Public Defender Rules Are Set To Change (SLPD)

By Robert Patrick, Of the Post-Dispatch

St. Louis Post-Dispatch, July 3, 2005

The St. Louis public defender's office - the last legal hope for those too poor to afford their own lawyer - will, for the first time in at least 20 years, refuse to represent certain people in court starting Tuesday, state officials said last week.

Those people are on the misdemeanor confined docket, which means they've been arrested on misdemeanor charges, or are named on the assessed docket because they've been arrested for failing to pay fines or court costs.

State and local representatives of the public defender's office say they're making the move because it's unethical and unprofessional to try to represent defendants with only minutes to familiarize themselves with the cases.

J. Marty Robinson, director of the Missouri State Public Defender system, calls it "meet 'em and greet 'em and plead 'em."

"I'm just flabbergasted that there are people that think this is OK," he said.

Robinson said many people were probably misled into thinking they had a lawyer, but public defenders were simply "filling out the court's paperwork."

Public defenders also say that under recently revised state laws, guilty pleas to two of certain misdemeanors can lead to a felony charge and serious prison time for the third offense, along the lines of state three-strikes laws. That could mean defendants who plead guilty to minor crimes to stay out of jail are unknowingly increasing their chance of greater future penalties.

"Our representation on that docket was unethical, unprofessional and unconstitutional, and innocent and vulnerable people were being hurt," said St. Louis District Defender Eric Affholter. "And that's why we made our decision to participate differently on that docket."

The move is threatening to fill local jails and to clog courtrooms. Presiding Circuit Judge John Riley said he was going to tell city officials last week that city jails could be seeing more inmates for longer periods.

It also is angering judges. In legal paperwork filed late Friday, the public defender's office said one assistant public defender had been told by sheriff's deputies they had been ordered to arrest her and her colleagues if they didn't show up to interview clients at 9 a.m. Tuesday. But sheriff's spokesman Mike Guzy said Friday afternoon that he wasn't aware of any order to arrest public defenders.

The judges reportedly are striking back in other ways, including in ways public defenders say will punish those too poor to afford their own attorneys.

According to affidavits signed by Affholter and Assistant District Defender Laura O'Sullivan and filed Friday, Circuit Judge Michael Mullen called O'Sullivan and told her that he was changing policies in his courtroom in response to the public defender's move set for Tuesday. Mullen said he would no longer allow public defenders to postpone trials, would go with

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prosecutors' recommended sentences over public defenders' recommendations and would no longer reschedule hearings to avoid conflicts with the public defenders' schedules.

"When one arm of the criminal justice system flexes its muscle, the others must respond," Mullen told the public defender's office staff, according to Affholter. Mullen was on vacation last week and could not be reached for comment.

"We weren't trying to flex our muscle," Affholter responded last week. "Our intent really was to do the best lawyering we can."

The controversy began, according to legal filings, after two defendants pleaded guilty with the assistance of public defenders, then hired private attorneys who weeks later tried to withdraw those guilty pleas, alleging inadequate representation.

The public defender's office then began examining whether they should continue to represent certain defendants on the docket.

Public defender's officials met with a handful of judges on May 24 to discuss the problem and suggest solutions, Affholter said.

"Nothing came of that," he said.

A June 17 letter to Associate Circuit Judge Paula Bryant announced that as of July 5, the office would no longer automatically represent defendants the first time they appear in court after having been arrested on a misdemeanor charge.

From 15 to 50 people appear on that docket each morning, Affholter said. Public defenders have been representing those defendants without access to police reports or the criminal court file and with little time to consult, he said.

Robinson said those defendants have a constitutional right to "meaningful representation." He said, "It means an attorney that meets with me, hears my problems, finds out what the case is against me." The attorney "either presents my defense or knows enough about my situation to negotiate the best plea agreement. But you can't really do that unless you know what evidence the state has."

Defendants often were given a choice: Plead guilty or stay in jail until paying a $5,000 bond, Affholter said. "So, coercively, people were pleading guilty."

For certain misdemeanor crimes, the third charge can be prosecuted as a felony, Affholter said.

"So the implication of just pleading people out has a lot more serious impact," he said. "Driving while (license) revoked can now be a felony if you have enough priors." And that could mean up to five years in prison.

Pippa Barrett, in charge of misdemeanors for the St. Louis circuit attorney's office, said it would be "infrequent" for someone to qualify to be charged with a felony for that charge.

According to the June 17 letter and to state officials, starting Tuesday, public defenders in St. Louis, the state's busiest trial court, will not represent defendants who already have been convicted and sentenced but were arrested again because they failed to pay fines or fees.

Riley describes defendants in that category as "you didn't do what you were supposed to do or you didn't do it by a certain date."

And the office will represent poor defendants but will not represent them if they wish to immediately plead guilty.

"We are taking this position because it is not possible for us to render constitutional, ethical and professional assistance of counsel upon walking into court with no discovery, no opportunity for investigation and no opportunity to counsel the accused," the letter reads.

Similar rules elsewhere

Broward County, Fla., Public Defender Howard Finkelstein banned "meet, greet and plead" early last month over similar concerns.

Although some judges warned that the system would crumble and criminal defendants would miss out on good plea deals, Finkelstein said, "the public's reaction has been overwhelmingly supportive."

Finkelstein said he knows of two other public defenders in Florida that have instituted similar rules.

Riley said some judges see setting the start of the policy change on Tuesday - the end of a long holiday weekend that could result in a busy criminal docket - as a cynical way to boost pressure on the judges.

Others, including Affholter, said there have been accusations the move is in retaliation for Bryant's March 23 decision to overturn a guilty plea by a man accused of violating a protective order.

In a legal motion filed in that case, private attorney James Knappenberger said his client didn't have the capacity to understand the proceedings, couldn't comprehend what he read and was mentally and physically exhausted at the hearing.

"His assistant public defender did not raise his issues at or before the time of the plea. He only spoke to the assistant public defender the first time, when they appeared first in court, and entered his plea of guilty," the filing says.

Bryant did not give a reason in her ruling and declined an interview request. The man was later referred for a mental health evaluation.

"That happened to be a kid whose parents or someone had the wherewithal to look into it," Robinson said. "I wonder how many hundreds, if not thousands, don't have the ability to challenge it after the fact and have it set aside."

Affholter denied that his office was retaliating and said public defenders were not angry at Bryant. Affholter also denied accusations that the move was a bid for more money and staff. But state officials with the public defender's office have been crying for help.

Robinson said caseload was increasing at an average rate of 6.5 percent per year over the last 15 years.

"Their case files are too many, and they are too few," Robinson said of public defenders. Robinson calls it "assembly-line justice" that will inevitably send innocent people to jail.

Public defender's offices statewide are so understaffed, in fact, that the Missouri Bar announced June 20 that it is asking private attorneys to volunteer and help out by taking traffic, vehicle registration, licensing and other minor cases off the hands of public defenders.

"If the Public Defender System slips any further, Missouri's entire criminal justice system will falter," said Missouri Bar President Joe Whisler in a statement announcing the volunteer initiative.

Affholter said "the decision we made is 100 percent for representation."

Affholter also said the new policy would probably not be a big money saver. The office will most likely pick up many of the new cases anyway, he said.

In interviews last week, Riley was skeptical that handling the docket was very taxing.

"The guy didn't pay his costs on time? How much time do you need, counselor?" Riley asked.

An order and reply

The issue is likely to remain unresolved until at least Tuesday.

Presiding Judge Riley issued a one-page court order Monday that said public defenders would have to interview defendants on the confined docket at 9 a.m. to see whether they are eligible for representation by a public defender.

Robinson, director of the Missouri State Public Defender system, fired back Friday afternoon with a 22-page filing that contained many of the allegations against Mullen and other St. Louis judges.

Robinson's filing asks a judge to stay the order until a hearing could be scheduled. Robinson's filings also said Riley's order exceeded his authority by trying to take over management of the public defender's office, was vague and overly broad and would force public defenders to violate ethics rules.

The filing also asks St. Louis judges to recuse themselves from hearing the issue.

Barrett, who said prosecutors are just "bystanders" in the conflict, said public defenders once interviewed everybody for eligibility first.

"I think what's going on, and this is only my interpretation of events, is the judges think that's what could happen again," she said.

At 4:30 p.m. Friday, 90 minutes after most court staffers had left early for the holiday weekend, O'Sullivan and Ellen Blau, deputy trial division director of the public defender's office, tried to get Circuit Judge Michael Calvin to stay Riley's order until a hearing could be held.

Riley was on vacation Friday, and was two states away when Calvin reached him by phone to tell him of the filing. Calvin refused to question the presiding judge's order.

"I don't believe it is my place to rule one way or the other," Calvin told Blau.

Calvin said the assistant presiding judge could hear the case as early as Tuesday morning.

State Weighs 2 Bills Requiring Bullet Marking (LAT)

By Jordan Rau, Times Staff Writer

The Los Angeles Times, July 3, 2005

SACRAMENTO — With a zealot's enthusiasm, Randy Rossi has been firing bullets into lots of things lately. Car doors, Sheetrock, wood walls, gelatin with the consistency of human bodies.

On the base of each mashed slug is a series of tiny, mostly legible numbers that have been inscribed by a laser. To Rossi, head of Atty. Gen. Bill Lockyer's firearm division, these markings represent a solution for one of law enforcement's most trying problems: the anonymity of ammunition.

"This is nothing fancy, just simple technology," he said on a recent day, after proudly showing that the identification numbers on several slugs remained readable after the bullets were fired into a bulletproof vest.

With 45% of the state's homicides unsolved in 2003, the most recent data available, the California Legislature is moving ahead with two potentially landmark measures that would require that identifying marks be embedded on projectiles from guns.

One proposal would have all bullets sold in the state marked during manufacture with codes. The other would mandate that guns be equipped with stamping mechanisms that would hammer telling marks onto every cartridge fired. That could allow investigators to link the cartridge to the gun's purchaser even if they could not find the firearm.

The approaches depart from law enforcement tactics elsewhere in the country, which have focused on creating computer registries of fired bullets. Those allow for investigators to match projectiles from different crimes, linking ones committed with the same weapon.

The issue of marking ammunition has become the most contested law enforcement topic in Sacramento this year. One of the bills has split California's law enforcement community and infuriated the nation's ammunition manufacturers, weapons sellers and firearms enthusiasts, including the National Rifle Assn. Several police groups in California are also opposed.

The hyperbolic debate has even ricocheted into Congress. In April, Rep. Duncan Hunter (R-El Cajon), chairman of the House Committee on Armed Services, warned Gov. Arnold Schwarzenegger that requiring serial numbers on ammunition would increase the cost of bullets so much that the military would scale back target practice. Arkansas Gov. Mike Huckabee, also a Republican, is also against the proposal, which he said would hurt manufacturers in his state.

Nationwide, there were 347,705 crimes committed with firearms in 2003. In California, those included 44,466 robberies and aggravated assaults, and 1,733 murders.

Although handgun serialization has been a required practice for decades, forensic advances in tracking the sale of ammunition — which is far more likely to be left at a crime scene — have been limited.

Since 1994, law enforcement agencies have been experimenting with ballistics imaging technology that makes computer pictures of bullets recovered from crime scenes. Those images are compared in hopes of linking crimes in which the same weapon was used.

The federal Bureau of Alcohol, Tobacco, Firearms and Explosives has established a database with 862,000 images that authorities say have led to 11,300 matches. Maryland and New York have established their own programs but have been criticized for failing to provide enough substantial leads. The first time Maryland's database contributed to a murder conviction was in April, four years after its creation.

California lawmakers debated the same strategy in 2000 but decided instead to study it. A 2003 report from Lockyer's office provided greater caution after concluding that constructing such a large database would be "impractical" and finding that it was often difficult to match images of bullets fired from the same gun.

The ammunition bill, SB 357 — numbered to correspond with a popular caliber — was introduced by Sen. Joe Dunn (D-Santa Ana) on Lockyer's behalf. It has passed the Senate and an initial Assembly panel. It is the one that has drawn the most intense opposition.

For any box of ammunition sold in California, the bill would require manufacturers to engrave each bullet with the same serial number, which would also be affixed to the box. Retailers would record who purchased each box and would provide that information to the state Department of Justice.

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Ammunition Coding Systems, a Seattle company that provided demonstration bullets to California police, uses a laser to etch the number, but the bill does not specify what technology manufacturers would have to use.

Initial testing indicates that the serial numbers almost always survive impact. The San Bernardino County Sheriff's Department was able to identify serial numbers on 21 of 22 bullets it tested and recovered. The attorney general's office identified 180 serial numbers on 181 bullets.

The other, less cleverly numbered, bill, AB 352 by Assemblyman Paul Koretz (D-West Hollywood), has passed the Assembly and one Senate panel. The bill, sponsored by the Coalition to Stop Gun Violence, would require that semiautomatic pistols be equipped with technology that could imprint microscopic identifying information on each cartridge case fired from the gun.

NanoMark Technologies of Londonderry, N.H., has patented one technology that uses the firing pin to emboss the identification mark onto the chamber while it is in the breech of the gun. Although Ammunition Coding Systems' marks can be read with the aid of a regular magnifying glass, NanoMark's require more powerful imaging equipment used by forensic experts.

It remains unclear what Schwarzenegger will do if either measure makes it to his desk. Last year the governor proved himself unpredictable on gun legislation by banning .50-caliber BMG rifles — powerful hunting weapons that can penetrate thick surfaces from great distances — but rejecting a measure requiring ammunition vendors to keep records of all purchasers.

"Forensic testing of ammunition used in a crime is the most effective way of tracing criminal activity," Schwarzenegger wrote in that veto message.

Ammunition manufacturers, who together produce 8 billion rounds nationally each year, say Dunn's legislation would bankrupt them. The industry, which makes $626 million worth of wholesale civilian sales each year — on top of unknown amounts to law enforcement and the military — insists that marking each piece will slow their production and substantially drive up the cost of bullets. Some fear that using lasers in factories filled with gunpowder would be unsafe.

"The question is, 'Can it be done on a mass level?' and the answer is, 'No, not without building a new factory,' " said Lawrence Keane, general counsel for the Sporting Arms and Ammunition Manufacturers' Institute, the industry association.

Makers of coding equipment, which etches and reads serial numbers on hundreds of products, insist that it could be done for a penny or less per bullet.

Carl Rennard, a consultant from Lincoln, R.I., who owns several coding patents, said the ammunition industry "is really uninformed about the technology available, how unobtrusive it would be to the product line. They're just being afraid."

Advocates say the industry has been unwilling to meet with consultants who help integrate such technology into their production lines.

The debate has also incorporated a disagreement on the craftiness of criminals.

Opponents complain that criminals will refit their guns to get rid of firing pins that stamp codes onto cartridges and will shave numbers off bullets, even though that would require them to take the bullet out of its cartridge. More likely, they say, criminals will simply avoid these weapons and buy their wares out of state or use black market items.

"Criminal street gang members and other perpetrators of crime, who are often under the legal age for buying handguns and ammunition, would have no trouble getting both from sources other than retailers," Robert Baker, president of the Los Angeles Police Protective League, wrote in opposition to Dunn's bill.

Some forensics experts say that is giving too much credit to criminals who often do not bother to use gloves during crimes or take other precautionary measures.

"Yes, there would be ways to get around that, but it's not an easy thing to do," said Joe Vince, a former agent with the federal Bureau of Alcohol, Tobacco and Firearms who is now a forensics consultant in Frederick, Md. "In L.A. in particular, you have ghetto rounds, which is whatever you have in your pocket."

Lawrence Kobilinsky, a professor at John Jay College of Criminal Justice in New York City, said serializing ammunition was "probably something that should have been done long ago" but cautioned that its use would be limited so long as the requirement was limited to California.

"To have one state is well and good, but in order to be effective, it has to be national," he said.

But backers of the legislation hope that, as with many other California mandates, the state's market is so large that manufacturers will find it cheaper to adopt the practices for all their wares rather than just for California's.

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Advocates say they do not expect the technology to automatically solve every case but say they believe it would often provide a valuable clue.

"It's like any other tool, like fingerprints or copying down a license number," Rossi, the state firearms chief, said. "There are limitations, but it can still be valuable."

CIVIL RIGHTS:

18 Nabbed In Human-smuggling Scheme (WT)

By Jerry Seper

The Washington Times, July 3, 2005

Federal and state authorities in California arrested 18 persons during a series of overnight raids last week that targeted a sophisticated human-smuggling operation authorities said brought hundreds of South Korean women into the United States to work as prostitutes.

A criminal complaint filed in Los Angeles late Friday charged 23 persons with conspiracy. Five were listed as fugitives.

Those arrested, according to U.S. Immigration and Customs Enforcement (ICE) spokesman Dean Boyd, were charged with harboring illegal aliens for an immoral purpose, harboring and transporting illegal aliens and violating the Travel Act, a federal statute that prohibits moving people across state lines for illegal sexual purposes, such as prostitution.

In addition to the criminal arrests, Mr. Boyd said, immigration officials took into custody 46 women who were working at brothels that were shut down. Agents are interviewing the women to learn more about the circumstances surrounding how they came to the United States and how they were treated once they arrived, he said.

"This type of criminal organization exploits the hopes and dreams of immigrants," said U.S. Attorney Debra Wong Yang in Los Angeles. "In this case, they exploited women, some of whom apparently suffered injuries as a result of their work. My office works very hard to eliminate these types of exploitation and to secure punishment for those who engage in them, seeking to profit at the expense of others."

Mr. Boyd said the investigation focused on a criminal organization called the "Jung Organization," which reportedly smuggled South Korean women into the United States and then provided them to brothel operators. The brothels were concealed behind businesses that purported to be massage parlors and "out-call service" operations. He said the prostitutes were managed by an underground network of Korean "taxi" services operated by members and associates of the Jung Organization.

The taxi services coordinated the prostitutes' daily schedules and worked hand-in-hand with the brothel operators.

An affidavit in the case said ringleaders Young Joon Jung and Ho Kyung Kim oversaw efforts to recruit prospective prostitutes in South Korea and then arranged for them to be brought to the United States. Some of the women were smuggled into the country across the Mexican and Canadian borders, it said.

The affidavit said the women paid up to $16,000 each to be smuggled into the country. Once they arrived, it said the women were expected to work as prostitutes, with a portion of their earnings going to repay their smuggling debts. As part of the scheme, some of the women were transported to Northern California, Colorado and Texas to work as prostitutes, the affidavit said.

An army of federal agents executed search warrants at 28 locations across the greater Los Angeles area. The targeted sites included suspected brothels and so-called human smuggling "drop houses." The brothels were housed in a variety of businesses, including chiropractic offices, acupuncture clinics, spas and massage parlors.

During the raids, agents seized nearly $300,000 in cash and more than $650,000 in bank accounts.

California Court Faces Gay Unions (WT)

The Washington Times, July 3, 2005

California's attorney general urged the state Supreme Court to decide whether homosexual "marriage" is permitted under the state constitution.

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Attorney General Bill Lockyer asked the justices to review a trial judge's decision in March that said state laws limiting marriage to heterosexual couples is unconstitutional. The ruling had been stayed pending appeal.

The attorney general, however, wants California's top court to remove the pending case from a San Francisco appellate court.

"Same-sex couples should be given a prompt determination as to whether they can marry, and should not have to put their lives and affairs on hold indefinitely while this matter works its way through several levels of court proceedings," Mr. Lockyer said.

The move came two days after couples won a major legal victory before the state Supreme Court, which let stand a new law granting registered domestic partners many of the same rights and protections of heterosexual marriage.

But it's unclear whether the justices will decide the homosexual "marriage" question since they normally do not resolve cases until they have worked their way through the trial and appellate courts.

One of the last times they did involved same-sex "marriage."

In August, the seven justices ruled unanimously that San Francisco Mayor Gavin Newsom overstepped his authority by issuing same-sex "marriage" licenses last spring. On a 5-2 vote, the court also voided the 4,000 "marriages" of homosexual couples sanctioned by the city.

The court didn't resolve whether the California Constitution would permit a same-sex "marriage." In nullifying the "marriages," Justice Joyce Kennard wrote the court was not interested in deciding the hot-button issue of same-sex "marriage" until "the constitutionality of California laws restricting marriages to opposite-sex couples has been authoritatively resolved through judicial proceedings."

The court can make its decision any time.

Recall Star Takes A Remap Risk (DMN)

By Andrew Becker

The Dallas Morning News, July 3, 2005

Amid recent polls showing Arnold Schwarzenegger's star power dropping from the top of California's political marquee, the governor's push to redraw congressional and legislative district lines mid-decade isn't looking like this summer's Republican blockbuster.

It's a very different scenario from the redistricting deal that House Majority Leader Tom DeLay, R-Sugar Land, orchestrated in Texas two years ago.

"You definitely haven't seen national Democrats or Republicans involved like in Texas with Tom DeLay," said Steven Hill of the New America Foundation, a nonpartisan Washington think tank. "It seems to me Schwarzenegger is pushing this, and even if he is successful, there's not a lot to gain."

Mr. DeLay's efforts boosted Texas Republicans' House delegation to a 21-11 advantage in the 2004 election, just two years after Democrats held a 17-15 edge.

What exactly Mr. Schwarzenegger seeks from redistricting reform isn't clear, pundits say. While it could help Republicans acquire congressional seats in the long term, the initiative hasn't brought wide party support.

No turnover in seats

At issue in California are fairness and competitiveness. California Republicans and Democrats agree redistricting reform is necessary. Lawmakers redraw lines every 10 years to reflect census-determined population changes.

The existing lines in California were laid out in 2001 after a deal was struck to protect Democratic and Republican incumbents in congressional and state legislative races. Of the 153 seats up for election in 2004, not one changed parties.

California's congressional delegation favors Democrats, 33-20. Similarly, Democrats dominate the Assembly, 48-32, and the state Senate, 25-15.

While Mr. DeLay worked with Texas state legislators to redraw congressional districts, Mr. Schwarzenegger doesn't have the political clout in Sacramento to effect the changes he seeks. Instead, he wants Californians to take away the state lawmakers' power to draw congressional and their own district lines so he can have a more pliable legislature.

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In June, the Republican governor called for a special election. Along with seven other initiatives on the November ballot, the Schwarzenegger-backed plan calls for an independent commission of three retired judges to redraw district lines. California Democrats floated their own independent commission proposal this week, but it wouldn't require new boundaries until after the 2010 census. Mr. Schwarzenegger hopes to initiate the change immediately.

In Texas, state Sen. Jeff Wentworth, R-San Antonio, has introduced a similar measure in every session since 1993 to create an independent redistricting commission. In the Legislature's regular meeting this year, his measure cleared the Senate before stalling in the House.

Other goals

California's budget is Mr. Schwarzenegger's ultimate target; it has been running a multibillion-dollar deficit for each of the last three years. He also wants to make public employee unions get written permission from members to spend fees or dues on political contributions. Some believe Mr. Schwarzenegger may compromise on redistricting – especially because his approval numbers and the voter support for redistricting are low – if he can get legislators' support for his other initiatives.

Recent Field Polls have shown that less than half of voters approve of midterm redistricting or would vote for Mr. Schwarzenegger next year.

Michael McDonald, a professor of public and international affairs at George Mason University in Virginia, sees Mr. Schwarzenegger ultimately trying to rejuvenate moderate Republicans in the state, where legislators have become more polarized.

From the Republican perspective, "California ... is hopelessly Democratic for a long time to come," said Joel Aberbach, director of the Center for American Politics and Public Policy and a professor at the University of California, Los Angeles. "This is a game that's being played with threats and counterthreats. Some of these [initiatives] are tradable – don't take them at face value."

In Texas, Mr. DeLay helped redraw congressional boundaries, including his own, in 2003 without facing the kind of risks Mr. Schwarzenegger does. With the election on the California governor's plan costing taxpayers at least $60 million, it becomes a referendum on Mr. Schwarzenegger, who rode into office in a recall vote in 2003.

"It's a crazy gamble," said Tony Quinn, a former redistricting adviser to Republicans in the California Assembly, who noted that at least eight attempts to put redistricting before the voters have failed. "The public would not approve reform proposed just by one party. They're very suspicious of this."

State Ballot, Wider Impact (LAT)

By Mark Z. Barabak

The Los Angeles Times, July 3, 2005

Even before the ballot is set, California's special election is drawing money and attention from interest groups and political partisans across the country who see the campaign as a way to invigorate their efforts in 2006 and beyond.

Democrats believe they have a chance this fall to make Gov. Arnold Schwarzenegger "a starring villain" in their attack on national Republican leaders, said Jenny Backus, a Democratic strategist in Washington.

Conservative activists see an opportunity to defang a longtime nemesis — organized labor — by making it harder to collect union dues for political purposes.

The pharmaceutical industry and consumer groups are waging a battle over prescription drugs that both sides consider a test case for fights in Congress and elsewhere.

"California's always a state that the rest of the nation looks to," said Michelle Korsmo, executive vice president of Americans for Prosperity, a Washington group that favors limited government. By approving a budget cap sponsored by Schwarzenegger, voters would demonstrate that "controlling the growth of state spending is not a red- or blue-state issue," Korsmo said, spurring limitation efforts in other states.

Eight initiatives have qualified for the statewide ballot, which will bring voters to the polls for the fourth time in as many years. The measures deal with a variety of issues, including parental consent for abortions, teacher tenure and electricity re-regulation, as well as union dues, redistricting, prescription drugs and the state budget.

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However, much about the election remains uncertain — including how vigorously the two major political parties will go at each other.

Schwarzenegger has embraced three of the measures as part of a package designed to circumvent the Democrat-run Legislature and diminish the clout of lawmakers in Sacramento. Those measures would lengthen the time teachers work before receiving tenure, give the governor greater control over state spending and give legislators' political line-drawing power to a panel of retired judges.

But with opinion polls showing both Schwarzenegger and the Legislature falling in public esteem — and the redistricting and budget measures opposed by most voters — talks have been underway on a possible deal to place alternative measures on the ballot with the blessing of both sides. Voters would then be urged to pass the bipartisan versions, the way they did last November when presented with a compromise initiative — supplanting an earlier draft — that made it harder for Sacramento to raid local government coffers.

A deal between lawmakers and the governor could quickly take the starch out of national Democrats' anti-Schwarzenegger efforts. It would also leave the two Democrats running for governor, Treasurer Phil Angelides and Controller Steve Westly, in a politically awkward position, caught between their ambitions and the party's legislators. That provides added incentive for the governor to deal, though he faces division between his more moderate advisors and administration conservatives who would prefer a fight.

Democrats outside Sacramento are not shying away from a scrap, seeing a chance to lump Schwarzenegger with Republicans in Washington and the GOP's pattern of "arrogance and abuse," in the words of Karen Finney, a national Democratic Party spokeswoman.

Taking down the high-profile celebrity governor would give Democrats nationwide a significant morale boost heading into the 2006 elections. "He's the hottest commodity in the country when it comes to riling up Republicans, and he's also one of the hottest commodities in the country when it comes to riling up Democrats," said Democratic strategist Backus.

With so much uncertainty surrounding the November vote — and the fight over a Supreme Court vacancy consuming Washington for the next few months — many outside interest groups are waiting to see the final ballot before committing money or personnel to California. Korsmo, for instance, said her organization — which claims 35,000 members in the state — would like to see an even tougher version of the spending limitation measure.

But even if a bipartisan deal is reached on the governor's proposals, that still leaves the two measures drawing the most interest from outside the state: the initiatives dealing with prescription drugs and union dues.

Already, the pharmaceutical industry has contributed more than $30 million to promote a ballot measure establishing a voluntary discount drug program, modeled on a deal negotiated with Schwarzenegger but rejected by the state Senate.

A rival measure, sponsored by Health Access California, a consumer group, would offer more extensive coverage and penalize drug companies that failed to offer discounts. It has been vigorously opposed by the pharmaceutical industry, which recently lost a court battle to keep the initiative off the ballot.

Anthony Wright, executive director of Health Access California, said lately he has had "at least one or two conversations a day with people in D.C. and other states" interested in the competing ballot measures.

"All of my colleagues in other states know a victory in California would have national implications in terms of the attempt to bring down the cost of prescription drugs," Wright said.

Similarly, both sides in the fight over union dues see a national stake in November's outcome.

The initiative, sponsored by conservative activist Lewis Uhler, would require the annual consent of any member of a California public employee union before a portion of his or her dues could be used for political campaigns.

The measure, dubbed "paycheck protection" by its proponents, has drawn widespread support from conservatives across the country, who believe the initiative could slash the money available to unions, which generally support Democratic candidates and causes.

"If it passes, it will be so significant and the effects will be so dramatic that you would see a dozen initiatives on the ballots [in other states] within two to four years," said Grover Norquist, president of Americans for Tax Reform, a Washington group, and one of the leading strategists on the political right.

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For some, such as proponents of school vouchers, approving a dues checkoff would be a first step toward achieving larger goals that have long been thwarted by union opposition. Vouchers would allow the use of some public education funds in private schools.

"It's no secret that for years one of the stumbling blocks to the implementation of voucher plans has been the war chest of teacher unions," said Lance Izumi, education director at the Pacific Research Institute, a conservative California think tank. A dues checkoff "has always been an issue on the radar screen for proponents of vouchers," he said.

For their part, unions and their Democratic allies are treating the initiative as a matter of political life and death. As part of their negotiations with Schwarzenegger, Democrats hope to persuade the governor to stay neutral on the initiative, which they call "paycheck deception." That would deny proponents the benefit of Schwarzenegger's considerable fundraising clout.

In the meantime, California union officials are appealing to national leaders to put their money and muscle behind efforts to defeat the ballot measure — even as the national labor movement is engaged in an unrelated fight between the AFL-CIO and dissident unions.

"Unions in California are very together about this goal," said Art Pulaski, head of the California Labor Federation.

Already, the National Education Assn. has committed more than $2 million to the opposition fight, and the special election is expected to be a topic of wide discussion when the group meets for its national convention in Los Angeles this week. Barbara Kerr, president of the California Teachers Assn., said the group has received checks — "some for $5, $10, some for $100" — from individuals across the country "who know what happens in California tends to spread."

By contrast, proponents of the dues checkoff have downplayed the influence and financial support of outside interests, mindful of the campaign waged to defeat a similar, albeit broader, initiative in 1998. Unions and their Democratic allies attacked Norquist and others as part of a movement by out-of-state conservatives to silence unions and promote an anti-worker agenda in California.

Norquist, who put up $440,000 to qualify the previous initiative, has not matched that contribution this time, nor does he plan to. There is plenty of money and support within California to pass the dues checkoff without his help, he said.

Clarity Sought On Romney's Abortion Stance (BOS)

By Stephanie Ebbert

The Boston Globe, July 3, 2005

Advocates on both sides of the abortion debate say they are confused over Governor Mitt Romney's position on abortion and are seeking to understand the meaning of recent comments he has made, in light of the positions he outlined during the 2002 gubernatorial campaign.

Last week, the Planned Parenthood League of Massachusetts and NARAL Pro-Choice Massachusetts provided the Globe a copy of a letter sent earlier this month in which they asked Romney to explain his current abortion philosophy and to confirm that he supports emergency contraception and other measures he embraced while running for governor.

Similarly, a leading antiabortion group is puzzled: "We honestly don't know where he stands on this issue," said Marie Sturgis, executive director and legislative director for Massachusetts Citizens for Life.

When he ran for US Senate in liberal-leaning Massachusetts in 1994, Romney said abortion should be "safe and legal." As a candidate for governor in 2002, he said he would keep the state's abortion rights laws intact and has since said that he kept that promise. But this year, as he began preparing a potential run for president, Romney said he is "in a different place" than he was when he first ran for office in 1994 and has stressed that he is "personally prolife."

Romney was asked repeatedly by the Globe last week to elaborate on his abortion stance, and he refused. "I think I've said it a few hundred times through my campaign the same thing I'll say today, which is that I personally do not favor abortion. But as governor of Massachusetts, I will keep the laws as they exist," Romney said Wednesday.

That answer is unfulfilling to advocates on both sides of the polarizing issue at a time when the next president could shape the makeup of the US Supreme Court. Justice Sandra Day O'Connor announced Friday that she was stepping down, and more openings are expected in the coming years.

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Four weeks ago, the Globe reported that Joseph M. Scheidler, the national director of the Pro-Life Action League, detected that Romney was "coming around" to a firmer opposition to abortion. Soon after Scheidler's comments were published, however, the Chicago-based advocate heard from Massachusetts abortion opponents who were far more skeptical about their governor.

"I started getting a lot of calls saying, 'This guy is no good, he's just playing politics, he's trying to get both sides,' " Scheidler said in a telephone interview.

Sturgis, of the Massachusetts Citizens for Life, said Romney does not have regular contacts with her group. "If we could, we would," Sturgis said. When he ran for governor in 2002, she said, her group considered him an abortion rights supporter; Romney declined to complete the Citizens for Life questionnaire.

"He appears to be evolving," Sturgis said. "Where that goes, or to what degree he winds up with us, I can't say. But certainly, more than one politician has changed his mind on this issue."

By contrast, the Massachusetts Catholic Conference, which also opposes abortion, does not believe the governor's recent statements signify a change in his position.

"No matter how you position the governor, it looks to me like he's the more moderate choice, given what the Democrats may offer," said Daniel Avila, associate director for policy and research for the Massachusetts Catholic Conference. And, Avila believes, Romney will make his position clear when the time comes. "My experience is that when a particular issue solidifies, it hasn't taken too long for him to come forward with a concrete response," he said.

During the 2002 campaign for governor, most major abortion rights groups endorsed his Democratic opponent, Shannon O'Brien, because they said she would be a champion of their cause, even though Romney offered support for abortion rights. He picked up the backing of the Republican Pro-Choice Coalition.

"I respect and will protect a woman's right to choose. This choice is a deeply personal one," Romney wrote in answer to a NARAL questionnaire during the campaign. "Women should be free to choose based on their own beliefs, not mine and not the government's. The truth is, no candidate in the governor's race in either party would deny women abortion rights. So let's end this argument that does not exist and stop the cynical, divisive attacks made only for political gain."

Now, abortion rights activists contend he is backing away, citing his changing language on abortion rights and his positions on what they see as a related set of issues on family planning. This spring, Romney tried to direct federal abstinence-only federal funding toward classroom instruction, which abortion rights groups oppose. He trimmed $1 million for teen pregnancy prevention in budget vetoes Thursday, although he let some money remain.

Looking ahead, he has refused to commit to a pending bill providing emergency contraception, though he supported such pregnancy prevention during his campaign. He also tried unsuccessfully to insert language into the stem cell research bill stating that life begins at the moment of conception. Abortion opponents were heartened by that effort, but remain unsure.

Romney's declaration of support for abortion rights dates to his first campaign for political office, challenging US Senator Edward M. Kennedy in 1994. During a televised debate, Romney said he and his family were influenced by an experience that led both him and his mother, who ran for the US Senate in Michigan in 1970, to embrace abortion rights.

"Many years ago, I had a dear, close family relative that was very close to me who passed away from an illegal abortion," Romney said in a debate with Kennedy. "It is since that time my mother and my family have been committed to the belief that we can believe as we want, but we will not force our beliefs on others on that matter. And you will not see me wavering on that."

Last week, Romney's sister, Jane, recalled that the girl Romney cited in the debate was a teenager engaged to marry a relative of the Romneys' extended family. In a separate interview, Ronna Romney Kulp, the former wife of Romney's brother, Scott, remembered that the family was shaken by the girl's death.

"I do know it deeply impacted members of the family," Kulp said.

Jane Romney recalled that although the girl was not a close relative, her death shifted her family's perspective on a difficult political issue.

"With my mom, that was a personal thing because we had a tragedy close to us -- not in our immediate family, but a young girl who actually was engaged and had an illegal abortion and died," Jane Romney said in a telephone interview. "She was a beautiful, talented young gal we all loved. And it pretty much ruined the parents -- their only daughter. You would do anything not to repeat that."

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Romney has declined to discuss the episode involving the girl, and his aides were extremely sensitive to further examination of his record last week. Over his career, Romney has at times resisted characterization on abortion and he once objected to the Utah news media's characterization of him as a "prochoice" politician.

"I do not wish to be labeled prochoice," Romney wrote in a July 2001 Salt Lake Tribune letter to the editor. "I have never felt comfortable with the labels associated with the abortion issue."

If Romney would make his opposition clear, the 6,000-member Pro-Life Action League would be pleased to have him, Scheidler said.

"This would be the time," Scheidler said. "I can't fault him for that, if [the timing] looks a little suspicious. He's read the writing on the wall. The values voters are strong. And they're growing."

Frist Again At The Center Of Stem Cell Fight (WP)

By Ceci Connolly

The Washington Post, July 3, 2005

On July 18, 2001, Sen. Bill Frist (R-Tenn.) stood on the Senate floor urging his colleagues to buck conservative orthodoxy and support federally funded research on embryonic stem cells. As the Senate's only physician, Frist made headlines -- and gave momentum to the controversial science -- with his endorsement.

The following month, however, President Bush announced a policy that was far more restrictive, limiting federal research to already existing embryonic stem cells, and Frist acquiesced.

A few weeks after Bush announced his policy, Frist said the differences between the two were minor because scientists at the National Institutes of Health had "informed the president that more than 60 cell lines exist and that this number is sufficient to provide ample opportunity to research the potential of embryonic stem cells."

Today, Frist is again at the center of the stem cell battle. Unlike four years ago, when he sought an influential role, the Senate majority leader has shied away from the issue, frustrating once-admiring researchers and patient advocates who now accuse him of exchanging sound medical thinking for with political calculations.

"We, as scientists, had great expectations for what he could do," said Mary Hendrix, president and scientific director of the Children's Memorial Research Center at Northwestern University. When she heard Frist's 2001 speech, Hendrix got "goose bumps" because the well-respected transplant surgeon had "put his credibility on the line."

Hendrix is puzzled and disappointed by what "appears to be a change in Senator Frist's position," she said in an interview. "I thought he was a staunch supporter."

As Congress begins its Fourth of July recess, activists on both sides of the stem cell divide are gearing up for what appears to be a fresh fight in the Senate, perhaps as early as the week lawmakers return.

On one side are scientists and patient groups who say the cells taken from days-old embryos hold enormous potential for treating a range of illnesses because they can grow into any type of cell or tissue in the body. Opponents object to the research because the process involves destroying the embryo.

When Bush announced his compromise in 2001, the White House said scientists would have more than 60 embryonic stem cell colonies, called "lines," to work on. But fewer than two dozen have materialized, reinvigorating the push to expand the policy.

In May, with 50 Republican votes, the House passed legislation that would permit federal research on tens of thousands of frozen embryos donated by couples at fertility clinics. Bush has threatened to veto the bill, placing additional pressure on Frist to stand by a policy that falls far short of the approach he envisioned four years ago.

"If he wants the Republican nomination, he may be worried that coming out for embryonic stem cell research funding would make conservatives angry, especially if it involves disagreeing with President Bush," said Harvard political scientist Michael J. Sandel. If stem cell legislation becomes Bush's first veto, "it would be a symbolic issue in the Republican primaries."

But if Frist is maneuvering to attract Republican primary voters in pursuit of the 2008 presidential nomination, he is doing so at the risk of angering loyal Tennessee supporters such as Anne Shockley.

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"I thought he was for stem cell research, but ever since Bush got involved, [Frist has] gone all wishy-washy," said Shockley, a volunteer for the Tennessee Parkinson's Action Network. "It makes no sense. He's a physician; he knows what stem cell research can be. It seems to me it's become a political football, and it's frustrating."

Shockley, who described herself as a "pro-life" Republican, said she has stopped donating to Frist's campaigns, even as he considers a run for the presidency in 2008.

"He became [Senate Majority] Leader," said Sen. Arlen Specter (R-Pa.), one of the leading advocates of a broad research policy. "He has a little different responsibility now with respect to the party approach."

Over a period of three days, Frist aides did not respond to multiple interview requests. Spokesman Nick Smith left a voice message indicating only that the majority leader is trying to schedule a Senate vote this month.

Frist's 10-point stem cell proposal in the summer of 2001 was the result of extensive research, soul-searching and "20 years in the field of medicine and in science," he said. Describing himself as the "Senate's only physician and only medical researcher," he said he knew the promise and pitfalls of cutting-edge science.

His 11-page speech on the "promising and important line of inquiry" addressed in detail a host of scientific and ethical questions, displaying an impressive command of the complex science and a doctor's ease with life-and-death issues.

Drawing comparisons to his experience as a transplant surgeon, Frist stressed that the stem cells are taken only from "spare" embryos "that would otherwise be discarded."

"It is critically important that we understand, and in our moral and ethical framework ensure, that this tissue otherwise would not be used," he said. "It is similar to the fact that when I do a heart transplant, that heart otherwise would not be used for anything useful."

On the question of whether the days-old blastocyst is a life, Frist said: "There is a continuum from a sperm and an egg, to a blastocyst, to a fetus, to a child, to an adolescent, to an adult."

He acknowledged that other types of stem cells appear to offer some therapeutic benefits but said they were insufficient.

"It appears clear that research using adult stem cells does not hold the same potential for medical advances as does the use of the more versatile embryonic stem cells," he said.

Hendrix, who at the time was immediate past president of the Federation of American Societies for Experimental Biology, said she will never forget the excitement Frist's stance sparked in the research community. "The credibility he brought was something that was just profound," she said.

Conservative and religious activists were displeased, recalled Wendy Wright, senior policy director of Concerned Women for America.

"That was something we didn't care for," she said. "It wouldn't have comported with what the president came up with."

Frist added several caveats, including an outright ban on therapeutic cloning, a process for growing embryonic cells; a thorough consent process for embryo donors; and strict ethical oversight. He advocated limiting the number of cell lines to be used as a way to guard against abuses. But he also explicitly rejected what would become the central plank in the Bush policy.

"This does not mean limiting it to research using stem cells that have already been derived to date," he said, foreshadowing the difficulties scientists are now encountering with the older, federally approved stem cell lines. In a Senate hearing that day, Frist noted that some experts suggested 100 or 200 embryonic stem cell colonies might be enough for federal researchers to "jump-start" the burgeoning field.

When Frist generally accepted Bush's position, Wright praised the senator's change of heart, saying he had an "opportunity to be reeducated."

Last summer, with Bush campaigning for a second term, Frist said in an appearance at the National Press Club that it would be appropriate to reassess the president's stem cell policy after Election Day.

Peggy Willocks, Tennessee state coordinator of the Parkinson's Action Network, has tried unsuccessfully to discuss the issue with Frist. Now, she is resigned to sending him a message through staff, she said. "I want to tell him this is the time he is going to have to take himself up by his own bootstraps and make a decision that's not following Bush," she said.

Two weeks ago, however, Frist said he did not see a need to expand the Bush restrictions, as the House-passed bill does. As he put it: "I agree with the president's policy."

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NAACP Considers A New Approach (MJS)

By Leonard Sykes Jr. And Felicia Thomas-Lynn

Milwaukee Journal Sentinel, July 3, 2005

With Bruce S. Gordon's stellar background in corporate America, his installation as executive director of the NAACP at its 96th annual convention in Milwaukee could herald a new beginning for the venerable civil rights organization's relationship with the Bush administration.Or could it prove to be a risky, high-stakes gamble?

Delegates will have the final vote on Gordon's appointment as executive director of the nation's oldest civil rights organization when it holds its convention July 9-14 at the Midwest Airlines Convention Center. The vote on his nomination is expected July 14.

Gordon already has indicated he wants to improve the NAACP's relationship with the Bush administration, a radical departure for a group known for its criticism of the president. But in doing so, the 59-year-old retired Verizon Communications executive may run the risk of pitting himself against some members who supported the NAACP's confrontational style with President Bush.

Delegates will get a chance to witness Gordon's style for the first time, as well as hear an array of speakers from across the political and religious spectrum, including some who have been critical of Bush on issues ranging from Social Security reform to the war in Iraq.

U.S. Sen. Barack Obama (D-Ill.), the Rev. Jesse Jackson and former NAACP chief Benjamin Hooks are among the scheduled speakers.

Bush was invited to the group's national convention in Milwaukee, but the White House sent a letter to the NAACP indicating that he would not attend. But even with the rejection, it already is clear from Gordon's initial remarks that he wants to forge a new relationship between the NAACP and the Bush administration.

Repositioning image

That gesture alone is a strong indication that the National Association for the Advancement of Colored People is seeking to position its image in line with the National Urban League, which opened lines of communications with the White House a year ago.

Last year, Bush was one of the headline speakers at the Urban League's national convention in Detroit. He has received invitations to five consecutive NAACP national conventions, and rejected them all, mainly due to the organization's caustic language with his administration and its policies.

Former NAACP President Kweisi Mfume, a former U.S. representative who is now a candidate for the senate in Maryland, labeled Bush's black supporters "ventriloquist's dummies." NAACP board chairman Julian Bond has stridently attacked Bush's on his education, economic and Iraq policies. Last year, the Internal Revenue Service launched an investigation into the group's financial records.

In an interview Thursday, Gordon said although it is not necessary to agree on everything, a constructive relationship with the White House is in the interest of both sides.

Gordon said he has already taken steps to open the dialogue. "The process is in its very early stages, and I'm proceeding with a high level of optimism," he said.

But while Gordon is seeking common ground that "serves the mutual interests" of the administration and the NAACP, there are many within and outside of the organization who aren't so sure it is appropriate to extend an olive branch.

Searching for new role

NAACP observers think Gordon's gesture toward improved relations with Bush is a sign the organization is searching for its soul, and a new role in America.

"The NAACP has been adrift," said Walter C. Farrell Jr., a professor of social welfare and associate director of urban investment strategies in the Kenan-Flagler Institute at the University of North Carolina at Chapel Hill and a former professor at the University of Wisconsin-Milwaukee.

"It's all over the place . . . It doesn't have any coherent focus. They're trying to get back in the game, and they're hurting for money. But what's going to happen with the NAACP and its new leadership is a class war.

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"Branches all over the country are basically run by the masses. The black middle class no longer provides its leadership. I think (Gordon) is going to try to track them to the mainstream, and there is a possibility there could be a fight, branch by branch."

Local branches

Jerry Ann Hamilton, president of the Milwaukee branch of the NAACP, said she believes the local branches will respect the choice of the organization's leadership.

"I would hope that Gordon would continue to reach out to the Bush administration as we always have," Hamilton said. "I hope the new president will be effective in getting (Bush) to do this."

DeWayne Wickham, a columnist with USA Today, said it's the NAACP establishment, particularly its chairman, that wants to see a better working relationship with the White House.

Wickham, author of "Bill Clinton and Black America," who is also working on a NAACP book, currently titled: "A House Divided: Politics, Sex and the Struggle for Power Inside the NAACP," said, "Mfume's departure signaled a swinging of the power pendulum in the direction of the chairman. Bond is the important power in this organization at this time."

Whether it is subtle or an outright difference in strategy between the NAACP branches and its new leader, one thing is already clear about Gordon, say those who know him: He is one of only a few not to come from a religious, political or civil rights background. And his record in the corporate world is impeccable.

Consensus builder

Gordon has been described as a consensus builder. And over a 35-year relationship with the telecommunication industry that steered Bell of Pennsylvania through a dizzying string of mergers that led to Verizon Communications, Gordon earned a reputation of becoming comfortable working within the system. Upon his retirement in 2003, Gordon was chief of Verizon's biggest division - retail markets.

One of the major themes of the NAACP will be a new economic thrust, Hamilton said.

The NAACP will take a position against Social Security reforms and a new aggressive push for economic justice. The theme of the convention will be "The Conscience of a Nation."

"That's the role that the NAACP has always played," she said. "And now we're making it known more than ever as we're going into more direct action all over the country. We're making it known that we have a presence and that our history speaks for itself.

"The major things that have been done for black people in this country have been done by the NAACP."

But how will the closer ties with Bush wash with the overall membership of the NAACP?"

Attorney Vel Phillips, a member of the NAACP for 62 years, isn't so sure it will be a clean sell. There may be a "smidgen" of truth to the fact that the organization should have dialogue with the White House, she said. At the same time, she isn't sold on the fact that the organization should abandon its role as the president's chief critic among African-Americans.

"I don't think it's that necessary to have a dialogue with a president who comes from a state that has the highest number (of death row inmates)," said Phillips, who in 1956 was the first African-American and woman elected to the Milwaukee Common Council.

"I don't know if it's important to have a relationship with him if the president has indicated that he really doesn't care, doesn't come to (our) conventions and doesn't want a relationship. We should keep doing what we're doing and have done for almost 100 years."

ENVIRONMENT/INDIAN AFFAIRS:

Court's Eminent Domain Decision Hailed As Victory For Cities (SLPD)

By Jim Merkel

St. Louis Post-Dispatch, July 3, 2005

South Side Journal

A Supreme Court decision handed down last week could influence a number of local cases involving eminent domain.

In a 5-4 vote, the high court upheld the right of a private company in New London, Conn. to take private land for private uses.

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In Kelo vs. New London, Conn., the Supreme Court ruled that the city could not take land simply to confer a private benefit on a particular private property. However, the decision said the taking would be executed based on a carefully considered development plan, which would have a public benefit.

The decision pleased Mayor Francis Slay.

"It's very difficult rebuilding an older city with the environmental issues and with the issues of assembling sites for redevelopment to help improve the quality of life for people in our neighborhoods," Slay said.

"The eminent domain has been a good tool for us to acquire property so that we can take older areas and redevelop them into something more positive for the entire city and for the entire region."

But Slay said it's important that officials use good judgment and compassion and only use the tool sparingly when other means of redevelopment aren't working.

One local development that would have been affected by a different decision is the planned Loughborough Commons shopping center at Interstate 55 and Loughbough Avenue. There, 19 homeowners agreed to sell to the developer but a 20th, June Thompson and her son Howard, refused,

Circuit Court Judge Timothy Wilson is now considering whether the Thompsons' home can be taken by eminent domain.

"The decision in the Kelo case takes away an argument that we had as to whether or not this was limited by the U.S. Constitution, said Michael Wolff, the Thompsons' attorney.

But Wolff also argued under a provision in the Missouri Constitution, which he said is more restrictive in allowing the taking of property for private use.

The Missouri Constitution allows the taking of property for blight, "the kind of blight that everybody thinks of," Wolff said. "Our argument is that the Thompsons' neighborhood is not blighted as originally understood back in 1945 (when the rule was originally established)," Wolff said.

"I think the decision from the U.S. Supreme Court is a terrible decision," Wolff said. "What the court is doing is writing out of the Fifth Amendment the term ‘public use.'"

The Fifth Amendment says private property can't be taken for public use without just compensation.

Especially at the local level, the local governments will be more influenced by wealthy members of the electorate, Wolff said.

A different view is held by Alderman Matt Villa, D-11th Ward, who pushed through legislation in the Board of Aldermen calling for Loughborough Commons and allowing eminent domain.

"If eminent domain did not exist, this development would not be going forward," Villa said. "If you did not have the eminent domain tool, one property owner could effectively kill development that is good for the entire region."

Eminent domain should be a tool that's only used in rare circumstances, Villa said. If more than 10 percent of property owners in a redevelopment area are made to sell through eminent domain, that tool shouldn't be used, he said.

If urban areas can't assemble land for development through eminent domain, developers will go to the edge of metropolitan areas, where a single farmer will sell them land, Villa said. This would increase urban sprawl, he said.

"Very little development would get done in the urban areas that are already built out," Villa said.

"Nothing would get developed," Villa said. "That doesn't serve the overall benefit of the city of St. Louis when you have one property owner that can basically say you're not going to do this development."

One landlord who has seen eminent domain used heavily against him is Jim Roos, who runs the landlord management company, Neighborhood Enterprises. Twenty-three apartment buildings managed by the company with 57 units of housing were taken for the Botanical Heights housing development in the McRee Town neighborhood.

Roos said he thinks he knows how the justices came to their decision.

"They've never substantially experienced how eminent domain can be abused. When you start approving eminent domain for private projects, that becomes a mindset for people in government," Roos said.

"People who are a little less popular, a little less affluent then become the ones who are abused by this," Roos said.

Homes of the affluent won't be taken, Roos said. "It's abusing the rights and the benefits of the poor people."

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Some Political Give-and-Take On Matters Ecological (WP)

By John Wagner

The Washington Post, July 3, 2005

Debate in the run-up to Maryland's race for governor was dominated last week by talk about the environment.

Baltimore Mayor Martin O'Malley , a Democratic hopeful, sought to spotlight his record in a sprawling address that included heavy criticism of Republican Gov. Robert L. Ehrlich Jr. 's environmental stewardship.

With Baltimore's Inner Harbor as a backdrop, O'Malley accused Ehrlich of lacking commitment to preserving parkland, improving water quality and protecting children from lead paint, among other shortcomings. "While the people of Baltimore are moving forward, our state seems to be taking another course," O'Malley said.

Aides said that the speech was intended to signal O'Malley's commitment to the issue and that specific proposals would come later in a campaign that hasn't officially started. O'Malley announced plans for a summit on environmental matters and pointed Marylanders to his campaign Web site to share their thoughts on the subject in the meantime.

Ehrlich's office declined to respond, directing reporters to the state Republican Party, which sought to shift attention to Baltimore's big-city problems.

"Aren't the streets of Baltimore considered part of O'Malley's environment?" Maryland GOP Chairman John M. Kane said in a statement. "The people of the city would be better served if O'Malley would concentrate on the issues plaguing the city and get his head out of the clouds. . . . You are still six times more likely to be shot in Baltimore than New York City."

Montgomery County Executive Douglas M. Duncan , another Democrat interested in being governor, moved aggressively to insert himself into the debate by questioning O'Malley's record.

In his speech, for example, O'Malley touted his city's investment of more than $900 million to upgrade its sewage system. Duncan's camp pointed out that the federal government pushed Baltimore in that direction and highlighted the increased fees residents have had to pay as a result.

"Lofty rhetoric and carefully staged photo opportunities can't hide the fact that when it comes to the environment, Martin O'Malley has been a follower, not a leader," Duncan campaign manager Scott Arceneaux said. "On the environment, the mayor's record is as clear as a polluted city stream."

The Men Who Came to Dinner

A dinner hosted by the Maryland Municipal League in Ocean City last week offered a stark contrast between Baltimore Mayor Martin O'Malley and Montgomery County Executive Douglas M. Duncan: O'Malley attended in a business suit; Duncan wore a bright yellow golf shirt.

The two Democratic gubernatorial prospects and the Republican incumbent, Gov. Robert L. Ehrlich Jr., put in schmoozing time with local officials at the annual four-day conference.

Tuesday night's dinner, at which attire ranged from Sunday best to shorts and untucked shirts, seemed at times like a three-ring circus.

O'Malley hosted a pre-dinner reception that included appearances by several of Ehrlich's Cabinet secretaries. Other guests waited in line for a chance to greet the mayor, who wore a conference attendee badge proclaiming "Martin" in bold, black letters.

Duncan, who hosted a separate reception earlier in the week at Ocean City's fabled night spot, Seacrets, appeared most aggressive in working the dining room crowd once the doors opened.

Ehrlich hosted a dessert reception immediately after the dinner at which guests lined up for pictures with him and Lt. Gov. Michael S. Steele (R). O'Malley headed back to Baltimore before it started, but Duncan hung out, shook hands and appeared to enjoy several chocolate-covered strawberries.Busch Aide Departs

Tom Lewis , chief of staff to House Speaker Michael E. Busch , will leave late this month to become director of state affairs for the Johns Hopkins Institutions.

Lewis, who started working for the legislature in 1983, has been with Busch (D-Anne Arundel) for the past three years. He served former speaker Casper R. Taylor (D-Allegany) for eight years.

Busch said Lewis's duties would be assumed by two staff members, Kristin F. Jones and John Favazza .

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A Livable Shade Of Green (NYT)

By Nicholas D. Kristof

The New York Times, July 3, 2005

PORTLAND, Ore.

When President Bush travels to the Group of 8 summit meeting this week, he'll stiff Tony Blair and other leaders who are appealing for firm action on global warming.

"Kyoto would have wrecked our economy," Mr. Bush told a Danish interviewer recently, referring to the accord to curb carbon emissions. Maybe that was a plausible argument a few years ago, but now the city of Portland is proving it flat wrong.

Newly released data show that Portland, America's environmental laboratory, has achieved stunning reductions in carbon emissions. It has reduced emissions below the levels of 1990, the benchmark for the Kyoto accord, while booming economically.

What's more, officials in Portland insist that the campaign to cut carbon emissions has entailed no significant economic price, and on the contrary has brought the city huge benefits: less tax money spent on energy, more convenient transportation, a greener city, and expertise in energy efficiency that is helping local businesses win contracts worldwide.

"People have looked at it the wrong way, as a drain," said Mayor Tom Potter, who himself drives a Prius hybrid. "Actually it's something that attracts people. ... It's economical; it makes sense in dollars."

I've been torn about what to do about global warming. But the evidence is growing that climate change is a real threat: I was bowled over when I visited the Arctic and talked to Eskimos who described sea ice disappearing, permafrost melting and visits by robins, for which they have no word in the local language.

In the past, economic models tended to discourage aggressive action on greenhouse gases, because they indicated that the cost of curbing carbon emissions could be extraordinarily high, amounting to perhaps 3 percent of G.N.P.

That's where Portland's experience is so crucial. It confirms the suggestions of some economists that we can take initial steps against global warming without economic disruptions. Then in a decade or two, we can decide whether to proceed with other, costlier steps.

In 1993, Portland became the first local government in the United States to adopt a strategy to deal with climate change. The latest data, released a few weeks ago, show the results: Greenhouse gas emissions last year in Multnomah County, which includes Portland, dropped below the level of 1990, and per capita emissions were down 13 percent.

This was achieved partly by a major increase in public transit, including two light rail lines and a streetcar system. The city has also built 750 miles of bicycle paths, and the number of people commuting by foot or on bicycle has increased 10 percent.

Portland offers all city employees either a $25-per-month bus pass or car pool parking. Private businesses are told that if they provide employees with subsidized parking, they should also subsidize bus commutes.

The city has also offered financial incentives and technical assistance to anyone constructing a "green building" with built-in energy efficiency.

Then there are innumerable little steps, such as encouraging people to weatherize their homes. Portland also replaced the bulbs in the city's traffic lights with light-emitting diodes, which reduce electricity use by 80 percent and save the city almost $500,000 a year.

"Portland's efforts refute the thesis that you can't make progress without huge economic harm," says Erik Sten, a city commissioner. "It actually goes all the other way - to the extent Portland has been successful, the things that we were doing that happened to reduce emissions were the things that made our city livable and hence desirable."

Mr. Sten added that Portland's officials were able to curb carbon emissions only because the steps they took were intrinsically popular and cheap, serving other purposes like reducing traffic congestion or saving on electrical costs. "I haven't seen that much willingness even among our environmentalists," he said, "to do huge masochistic things to save the planet."

So as he heads to the summit meeting, Mr. Bush should get a briefing on Portland's experience (a full report is at www.sustainableportland.org) and accept that we don't need to surrender to global warming.

Perhaps eventually we will face hard trade-offs. But for now Portland shows that we can help our planet without "wrecking" our economy - indeed, at no significant cost at all. At the Group of 8, that should be a no-brainer.

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Gang Plunges Tribe Into Turmoil (MJS)

By GRAEME ZIELINSKI

Milwaukee Journal Sentinel, July 3, 2005

Hayward - It is an unlikely venue for a gangland killing.

There are no damp alleys topped with garbage, there is no scream of siren or chugging hum of city life.

Here, the wind sighs through the red pines and wisps of spiderwebs hang pendent from the branches, amid patches of sandy soil. Not far away, herons glide across a necklace of pristine glacial lakes.

This pine plantation is where 23-year-old Cody Badbear Wade was shot five times, once in the head. Police searched a nearby cranberry marsh for the murder weapon.

A police report said Wade had proclaimed himself a "King killer," but it turned out differently the night of May 30, 2002.

After trading harsh words with Wade at the Snowshoe Bar, Robert G. "Bobby" Smith, an avowed member of the Almighty Latin King Nation, the violent Hispanic street gang with a significant presence in Milwaukee, would ambush and kill Wade after he approached a clearing in his truck.

Smith, the son of a former Sawyer County sheriff's deputy, told investigators that one of the admitted leaders of the Latin Kings on the Lac Courte Oreilles Indian reservation, Charles Gokey, ordered members to "light up" on Wade. Smith later was sentenced to 13 years in prison for Wade's murder.

Earlier this year, Gokey, in turn, was sentenced in a federal court in Madison to almost 20 years for crack cocaine distribution. U.S. District Judge John C. Shabaz said the harsh punishment was meant "to assist the government's mission to substantially reduce the impact of drug and drug-related crime on the Lac Courte Oreilles reservation."

The two were part of more than 50 prosecutions and a continuing multi-headed investigation that were set in motion by the events in the pine plantation in an attempt to rid the reservation of the Latin Kings.

The Lac Courte Oreilles (pronounced "la COO de ray") Band of Lake Superior Chippewa Indians of Wisconsin lives on a 78,000-acre reservation crisscrossed with more than 260 miles of roads. About 3,000 residents live there out of a total tribal enrollment of 6,000, arrayed in 20 distinct communities, some of which amount to four or five prefabricated homes.

These developments have names like Dry Town, New Post and Bacon Strip and bear the mark of economic depression, made especially vivid against the breathtaking natural beauty of the surrounding landscape, featuring the Chippewa River Flowage. Tribal figures estimate unemployment at more than 70%, despite a casino that has provided one stream of economic relief.

At the tribal headquarters, there are signs of progress. Construction crews are finishing a new administrative office. Just up Old School Road is a brand-new Head Start office, and in front of the tree farm where Wade was killed is another new building, housing a branch of the Boys & Girls Club where on a recent day, dozens of young tribal kids played basketball.

Whereas gang slayings in Milwaukee often barely makes the news, on the Lac Courte Oreilles (LCO) Indian reservation, it has been treated as epochal. And the presence of the Latin Kings, hundreds of miles from their traditional base, has been treated as more than a cross-cultural anomaly, but as a full-on peril to peace.

The prosecutions over the past three years on and near the reservation, including a sweeping round of federal charges that brought long prison terms for dozens of people and the evictions of several tribal members from reservation property, have left children without parents and a tribe with a wounded sense of pride - and a sense of relief.

Court documents and interviews reveal how a relationship developed over the years between Milwaukee and Sawyer County as tribal members spending time in the city imported criminality back to the reservation. Interviews there indicate that the Latin Kings may have been in Sawyer County as early as the 1980s.

"The influences come from cities like Milwaukee. We have a lot of tribal members all over. When they come back from the city, they bring a lot of the negative things with them," said Brian Bisonette, a member of the council that governs the tribe.

Gang members would drive to Milwaukee or the Twin Cities to acquire drugs, and sometimes guns, to be resold at big profits on the reservation, court records show.

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The LCO version of the gang was called the "Lion Tribe Set" and was proved, in close to 30 federal guilty pleas, to have kicked profits from crack and powder cocaine sales back to Milwaukee, with the gang going so far as to rent a home on the reservation to process the narcotics, according to court records.

People around the reservation prominently wore the "black and gold," gang colors. Graffiti featuring the crown associated with the Latin Kings began appearing on tribal-owned properties, on traffic signs and literally in the streets.

In some cases, the relationships grew as thick as blood, as Milwaukee gang members started families with LCO members and Latin Kings used the reservation as sort of a hideout, much as Al Capone did at a nearby retreat in the 1920s.

Names such as Acosta and Barragon and Zamora from Milwaukee began being linked with old names locally, such as Martinson, Lasieur and Rademacher.

"We live in a fish bowl," said Bisonette, the tribal council member. "Everyone knows everybody. So when something like this happens . . . "

Consider that Smith's girlfriend was Wade's first cousin. Or that William Morrow, the chief of the tribal police force, which was created in part as a response to the killing, was related to both Smith and Wade. Or that with the Wade killing and the vicious murder later in 2002 of an elderly Hayward couple, allegedly by another Latin King, Sawyer County (current population about 17,000) had the highest per capita murder rate in the state.

When Smith finally admitted in court in February 2005 to pulling the trigger, he said he spoke up partly at the insistence of an uncle familiar with tribal traditions. Smith said that it was the "Indian way" to accept responsibility so healing could begin.

A few weeks ago Smith again echoed that theme in a jail letter to a federal magistrate in Madison, seeking, as his lawyer put it in an accompanying letter, the "various accoutrements" needed to practice his native religion. Medicine bundles. Drums. An eagle feather.

One ritual "involves the ceremonial placing of a plate of food in the outdoors for the spirit of the victim," the lawyer wrote.

But the Wade killing was in many ways only the beginning of the troubles that came to the reservation with the Latin Kings.

In the tense days afterward, and following other gang-related violence on the reservation that included drive-by shootings, brutal beatings and a home arson, the tribal council in September 2002 declared a "state of emergency" and asked for outside help.

It came in the form of a task force made up of Sawyer County, federal and state agencies. It peaked last July, when a small army descended in the early morning hours to serve warrants in one of the largest law-enforcement actions in North Woods history.

"There's never been anything like that here," said Dan Ross, a Sawyer County Sheriff's Department investigator involved in the case. The closest may have been in the early 1900s, when posses were sent to subdue John F. Deitz, who became a national folk hero for defying logger barons at the Cameron Dam.

Beyond a small group, the Latin Kings are not seen in such a heroic light in LCO country.

One mother to a victim of Latin Kings violence, who feared reprisal if her name was used, put it this way: "We just want them gone."

The federal probe continues, with more arrests on the way, according to investigators. In the meantime, several residents on LCO land say that while the investigation may have shown a heavy hand, it caused a serious downtick in the presence of drugs, illegal guns and gang graffiti.

Tension lingers, but eases

"You can just feel it. The tension has gone down quite a bit," said Paul DeMain, managing editor and CEO publisher of News from Indian Country, a national publication he runs from a building on the reservation that includes an Internet café and a gift shop.

His son was a member of the Latin Kings and later dropped out, DeMain said.

Certain members of the tribe are reluctant to talk about the problems with drugs and gangs out of a sense of embarrassment, while others are reluctant to talk, or identify themselves, because they still fear the gang.

"He's getting out soon, so we're still afraid of what he may do," said a victim of Latin Kings violence, a middle-aged woman standing in her front lawn in the Dry Town community.

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In any case, the LCO tribe has seen relative peace in the days since the first indictments came down, but in some quarters the silence is seen as ominous.

"You still have the ingredients here," said Bill Cadotte, a tribal program specialist. "There is a lack of jobs, there is a lack of programming here for young people. It's a total problem here."

Morrow, the police chief, pointed to a disturbing sign when driving on a recent day near the site of the Wade killing.

"See those colors?" he said, pointing to teens wearing powder blue basketball jerseys. "Those are supposed to be 'The Players,' " another gang rumored to growing to fill the void created with the recent convictions. "There still are gangs here, but what they will do, we don't know."

FBI/DEA/ATF/USMS:

Agents Probing Hormone Shipment (DENP)

By Alicia Caldwell and Bill Briggs, Denver Post Staff Writers

Denver Post, July 3, 2005

Agents with the U.S. Food and Drug Administration and the Postal Inspection Service are investigating a shipment of human growth hormone worth up to $400,000 to the home of a Denver substance-abuse counselor, records show.

Authorities in March seized 400 vials of Chinese hGH and are investigating clinic owner Tamea Rae Sisco and two people involved in a Hawaiian osteopathic center on suspicion that they illegally imported the drugs for use in anti-aging treatments, according to a federal search- warrant affidavit and federal sources.

Sisco denies any wrongdoing and said she was an intermediary for a legitimate shipment. No charges have been brought as a result of the raid.

While the national debate on performance-enhancing drugs swirls around sports superstars, federal agents are waging a local battle away from the limelight. They're intercepting hGH doses meant for everyday people who are hoping to look younger and leaner. It's all part of a surging anti-aging phenomenon in which hGH is king.

Law enforcement officials step in when hGH is illegally pitched as a youth elixir. HGH can be legally prescribed only under narrow circumstances, including the treatment of AIDS wasting disease. HGH also is obtained illegally by some athletes seeking to build muscle and cut fat.

"I can't comment on ongoing investigations, but I can state that there is a problem in general," said Jeff Dorschner, spokesman for the U.S. attorney's office in Colorado. "The illegal trafficking of human growth hormones remains a concern of the Justice Department."

The investigation is in its infancy, said federal law enforcement sources who still are threading together the intended use and eventual buyers for the 400 vials.

But federal agents suspect Sisco's house was "being used as a location to receive, store and distribute unapproved new drugs, misbranded drugs, and/or human growth hormone illegally introduced into the United States," according to a search-warrant affidavit filed by U.S. Food and Drug Administration special agent Russell Hermann.

Ties to steroid dealer

Agents also are exploring possible ties between the March shipment and Albert Celio, a now-disbarred doctor who supplied steroids and hGH to a local fitness club, according to federal court records.

The operation, which spanned 1999 and 2000, was described in federal records at the time as being the largest steroid-dealing ring in Denver. Investigative documents in that case list sales to a variety of customers, including Denver police officers.

Celio was sentenced Friday to 27 months in federal prison for prescription fraud - one of four cohorts convicted on various charges.

Celio declined to be interviewed for this story.

Now, federal investigators are probing the association between Celio and Sisco. A search-warrant affidavit said Celio co-owned a home with Sisco in 2001. And during the March 18 raid on Sisco's house, agents found a piece of mail addressed to him.

Sisco acknowledges once employing Celio at her clinic, Excel Treatment Program. In 2002, a federal prosecutor called his work at Excel "highly inappropriate" given the drug charges he faced. Sisco said she fired him after learning about the charges.

"We don't even want to be associated with him," Sisco said in an interview. "We treat people to not be affiliated with substance rather than be affiliated with it."

The hGH investigation began March 11 when customs and border protection officers working

Advertisement

at the San Francisco international mail facility intercepted two packages from Hefei, China.

The parcels, labeled as mineral samples, were bound for Sisco's home in Aurora and addressed to Teresa Denney, an osteopath who works in Hawaii.

Twenty-three minutes after Sisco accepted the shipment, agents raided her home and seized the vials. On the street, one vial of hGH can sell for as much as $1,000, police say.

At least seven packages originating from overseas had been delivered to Sisco's home in the six months prior to the raid, a postal employee told federal authorities. Only 1 percent to 3 percent of inbound foreign packages are physically examined by customs and border agents, federal authorities say.

The Internet is littered with websites pushing hGH as the new wonder drug for an over-40 crowd seeking a lean, cut physique with little dieting or exercise. Some claim human growth hormone will restore lost hair or banish gray hair, enhance the immune system and even boost sexual performance.

Denney's Honolulu-based clinic offers growth hormone through its website, HGHPharm.com, which compares the drug to a "fountain of youth" and promises results in "as early as one week."

Denney did not return three phone messages left at her clinic in Honolulu.

Looking for links

When federal agents searched Sisco's house in March, they sought any information linking Denney, Sisco, Celio and Keith Skinner, a Hawaii man who once was married to Sisco and had business ties with Celio, court records show.

Skinner's truck, which contained two other boxes from Hefei, China, plus an array of pills and capsules, was parked in Sisco's driveway on the morning of the search.

In an interview, Sisco said the hGH was ordered from China by Denney, a friend, for use in anti- aging treatments on Denney's patients on "the East Coast." Sisco said her role was to keep the hGH chilled before repackaging it and sending the drug east.

"That was legitimate, with that package. They (the federal agents) just didn't know what it was for," said Sisco, also a licensed chiropractor.

Skinner, a former Colorado chiropractor, could not be reached for comment.

Last month, a Denver District Court judge entered a $2.3 million judgment in a medical malpractice case against a business with which Skinner was affiliated, records show. Front Range Management Group, which was doing business as Cellular Medicine Institute, "deceptively represented" Skinner as a licensed physician, according to a judge's order awarding damages.

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Drug Case Chilled U.S., Colombia Tie (TAMPTRIB)

Tampa Tribune, July 3, 2005

TAMPA - - U.S. relations with Colombia were briefly strained in March because of a federal prosecutor's court filing in Tampa in the case of an alleged leader of the Cali drug cartel.

Colombian officials even threatened to halt all extraditions to the United States, but U.S. officials retracted the court filing, averting a crisis.

The flare-up exposed a nerve in Colombia and highlighted the troubled, violent and corrupt recent history of efforts to stem the country's illegal drug exports.

``The Colombians went nuts with this thing," said Bruce Bagley, a professor in international relations at the University of Miami. ``It certainly has created hiccups in the U.S.- Colombian relationship."

Former U.S. Ambassador to Colombia Myles Frechette said that based on his reading of reports in the Colombian media, ``I would suspect that Ambassador [William] Wood was told, `Get that fixed and get it fixed tonight.' ... I'm sure it energized Washington from the White House to the lowest levels of the Justice Department."

The controversy involved a Colombian Constitution provision that allows extraditions, but only for crimes committed after Dec. 17, 1997, when the constitutional amendment, Article 35, was enacted.

A defense attorney for Joaquin Mario Valencia-Trujillo filed a motion to enforce that restriction and strike from Valencia's indictment charges that preceded the 1997 constitutional amendment.

Federal investigators say Valencia was a politically connected, if little noticed, leader in the notorious drug cartel as far back as 1988. He is the biggest catch in ``Operation Panama Express," a wide-ranging, long-term investigation, based in Tampa, of Colombian maritime drug traffickers.

Part of a 2002 indictment against Valencia alleges a conspiracy to use drug money to ``make payments to influence political and judicial decisions in Colombia, the United States and elsewhere."

Assistant U.S. Attorney Joseph K. Ruddy filed a response to the defense motion alleging that Article 35 is part of the conspiracy mentioned in Valencia's indictment. ``It represents the product of the successful bribery of then-Colombian President Ernesto Samper and the Colombian Congress by the Cali cartel to immunize them from extradition to the United States," Ruddy wrote.

Ruddy's filing said he plans to present testimony at Valencia's trial next year that the cartel ``jointly collected $5 million to pay President Samper to support Article 35 and make it law. Testimony will also establish that almost one-half of the entire Colombian Congress was similarly bribed by the Cali cartel to support the identical legislation."

Ruddy's allegations marked the first time Samper had been publicly accused of receiving traffickers' bribes during his 1994-98 term, The Associated Press reported. He had been accused of taking Cali money in his election campaign.

``I reject in the most categorical and absolute manner the accusation presented ... by a prosecutor in Florida," Samper told the AP.

Ruddy also argued in the filing that appeals courts have ``repeatedly and emphatically" held that a foreign government ``cannot dictate what evidence can or cannot be used to support a conviction on a criminal offense for which it has authorized extradition."

On March 17, the day The Tampa Tribune published a story about Ruddy's court filing, the prosecution withdrew the pleading and filed an ``amended response" to the defendant's motion. The new pleading eliminated references to allegations of bribery of Colombian officials.

The next day, the AP reported that Ambassador Wood held a late-night news conference in Colombia to try to repair the damage, insisting that the United States would comply with the extradition requirements from its key ally in Latin America.

``It made front-page headlines [in Colombia] for about two days," said Adam Isacson, senior associate at the Center for International Policy's Colombia program. ``Ambassador Wood smoothed it out. ... That made it disappear from the Colombian media immediately."

Ruddy would not discuss the international kerfuffle. ``I'm not permitted to comment on issues like that," he said.

`The Correct Position'

Ruddy said the new filing represents ``the correct position given all the circumstances." He said he intends to offer at Valencia's trial evidence cited in the first pleading.

On June 23, U.S. Magistrate Elizabeth A. Jenkins issued a report, recommending that District Judge Elizabeth Kovachevich strike the parts of the indictment that deal with crimes committed before Dec. 17, 1997. Such a ruling would eliminate 26 alleged actions in the conspiracy, leaving 10. The report reflects a suggestion made by Ruddy.

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Jenkins did not go as far as the defense wanted. She refused to bar prosecutors from presenting evidence pertaining to allegations that drug trafficking was a pattern that began as early as 1988.

Jenkins' order did not address the allegations filed in the withdrawn prosecution filing, leaving open the issue of bribery and Article 35.

Experts agree on one thing: In the years before the constitutional amendment was adopted, Colombia was rife with corruption.

In 1984, Medellin cartel kingpin Pablo Escobar killed the country's justice minister.

Bagley said intimidation from drug traffickers may be why the Colombian Supreme Court in the 1980s overturned laws allowing extradition of drug lords. In 1991, the constitution was amended to prohibit extradition.

The U.S. government pushed hard for extradition to be reinstated.

``The effort to get an extradition agreement with the United States cost hundreds of lives" and took many years, Isacson said. During that time, drug traffickers blew up planes in the air and the Colombian headquarters of the FBI, imposing ``a frightening rein of terror to try to keep an extradition agreement from happening," he added.

Politicians in Colombia lived in an environment in which they either accepted money from drug traffickers or risked being killed or seeing their families endangered.

``They call it in Spanish plata o plomo," Isacson said. ``You get silver or you get lead."

Article 35 ``was the best they could do after a lot of loss of life and an effort to overcome corruption," Isacson said. ``I think the United States was happy to get it."

Extradition A Top Priority

Frechette, ambassador from July 1994 to November 1997, said getting extradition was a top priority. Since Article 35 was enacted, ``we've been like a house afire on extraditions," he said. ``There have been over 200 just under" President Alvaro Uribe, who has been in office less than three years.

He said the Cali and Medellin cartels ``hired battalions of lawyers and legal people to oppose extradition" in the belief that ``better a grave in Colombia than prison in the United States."

He said he received threats, including a funeral wreath delivered to the U.S. Embassy with a card reading, ``Condolences on your death."

Frechette said many Colombian Congress members were bought off by drug lords. And there was a scandal after evidence turned up that Samper's 1994 presidential campaign had received $6 million from the Cali cartel. Samper was tried in impeachment proceedings but was cleared.

Frechette said Samper escaped conviction because he bought off members of Congress with legislation sending money to their districts. The U.S. government pressured Samper and took away his visa, Frechette said. ``We knew that Samper was always trying to diddle us and trying to introduce amendments [in Congress] that would gut legislation that we wanted, like strengthening sentencing and more cooperation with the U.S. government," he said.

But Frechette was skeptical of Ruddy's allegation that a bribe to Samper was responsible for the extradition restriction. He thinks it's more likely members of Congress were bribed to get the limitation.

Even with the restriction, Frechette said U.S. officials ``thought we produced a great victory, because despite all the money and the threats, extradition was re-established."

Attempts to get around the limitation could undermine the hard-won extradition agreement, he said. ``The prosecutor was out of line and should have been rebuked."

Added Bagley, ``I think your prosecutor is way out on a limb. ... Tell the guy to put up or shut up. ... If he can go forward and have admitted into court evidence [of such a bribe], I would be surprised."

U.S. Attorney Paul Perez, Ruddy's boss, defended the initial filing, saying it was based on public record, including 1997 testimony of Guillermo Pallomari, a former Cali accountant. The AP reported he testified the cartel bribed Colombian officials to get a constitutional ban on extradition and spent $5 million to pick a president they liked.

Perez said U.S. officials sent a transcript of Pallomari's testimony to Colombia after the stir about Ruddy's filing. But Bagley said U.S. officials ``tried to put the lid on this because neither side wants to upset the apple cart and damage this ... relationship."

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President Uribe ``is one of President Bush's closest allies in all of Latin America. Upsetting that relationship on this issue is simply not worth it."

Reporter Elaine Silvestrini can be reached at (813) 259-7837.

Gang Busters In Hampton Roads (V-P)

By JOANNE KIMBERLIN AND STEPHANIE HEINATZ, The Virginian-Pilot

The Norfolk (VA) Virginian-Pilot, July 3, 2005

A warning has come from the feds.

An FBI informant says MS-13, a notorious street gang with ties to El Salvador, recently issued an order for its members to kill someone — anyone — wearing a badge in Hampton Roads.

The hit was discussed during a meeting of gang leaders held in Norfolk.

The purpose: To send a message to local law enforcement trying to stop the machete-wielding gang from moving to town.

The message: Stay out of our business. Stay out of our way.

The alert arrived in a May 23 bulletin from the Department of Homeland Security. Both the department and the FBI have refused to comment, but state and federal gang experts confirmed the warning – which has since been put on hold.

“The gangs call it a 'green light,' ” said Mindy Grizzard, spokeswoman for the Virginia Gang Investigators Association.

In the urban underbellies of Los Angeles, Chicago, Detroit or New York, such a threat might not raise even an eyebrow.

In Hampton Roads, it’s met with an odd mix of shock and shhh.

Shock that such things could happen here.

Shhh because gangs are dirty laundry – the scent of which can derail a city’s redevelopment plan, shred a school’s reputation and cause decent folks to pull out of a neighborhood.

Such stigma results in a battle that’s often waged as quietly as possible. It’s fought from the region’s green countryside to the shadows of its grittiest asphalt. It’s marked by code words, muffled blows, silent losses and whispered wins.

No one is suggesting citizens hit the panic button. In fact, some officials insist gangs aren’t a problem in Hampton Roads.

But others say locals need to wake up. In many quarters, gangs are getting serious attention:

- Every Hampton Roads police department now has a gang unit or gang officers.
- State authorities are doling out millions to communities that admit they have a gang problem.
- Former Attorney General Jerry Kilgore, the Republican candidate for governor, has made the gang issue a bedrock of his campaign.
- Gov. Mark R. Warner recently ordered state police to gauge the scope of gangs in Virginia.
- Local school officials get regular gang updates from police.
- Businesses are even getting involved – police plan to educate employees at the meat-packing plants in Smithfield on how to spot members of MS-13, among their ranks.

And as of Friday, when the latest legislation out of Richmond became law, the Old Dominion took on a title that, at first glance, seems out of keeping with the state’s genteel image:

Virginia now has what it says are the toughest gang laws in the nation.

Destiney Butler, 15, drew a portrait of her brother, Kyron, an 8-year-old who was killed in his bed when a stray bullet from an apparent gang shootout entered the family’s Smithfield apartment in 2003. “There is no more innocent victim than a child,” said Kyron’s mother, Rhonda Butler, shown in the background.

MS-13 violence in Northern Virginia spurred most of the new laws. In recent years, the gang’s ranks have mushroomed to an estimated 3,000 members in the Washington suburbs. They’ve been implicated in a number of machete attacks and grisly murders.

With police pressure increasing in Northern Virginia, Mara Salvatrucha 13 may be looking for new turf. In Hampton Roads, it would not find wide-open territory.

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A 2004 survey by the state gang association counted 13 other national gangs already in the region, along with an assortment of homegrown cliques. An estimated 50 gangs operate in Newport News alone. Many regularly cross the river to South Hampton Roads.

Gangs are hardly new, but police are seeing disturbing changes. Pushed by the desire to expand, big-city gangs, such as Bloods and Crips, have sent scouts into the area – recruiting homegrown groups into their fold, ratcheting up the rivalry and organizing their crimes into money-making enterprises.

Gangs are also cropping up in surprising places. In historic Smithfield, a country oasis known best for its ham biscuits and antique shops, one homegrown gang claims the neighborhood behind the meat-packing plants. Another rules two streets of houses rising from the surrounding farm fields. Another stakes its turf in the Jersey Park apartment complex.

An apparent beef between the Jersey Park boys and a gang from nearby Windsor sent a stray bullet into one of the apartments in 2003, killing 8-year-old Kyron Butler as he slept.

No one knows how many gang members are in Hampton Roads. Or how many crimes they commit. Or how many lives are lost to their violence. No one records or collects those numbers.

The U.S. Justice Department believes 25,000 gangs are operating across the country, in more than 3,000 jurisdictions, with more than 750,000 members – more manpower than the U.S. Army.

But that's only a best-guess. Outside the nation's major gang hubs, most police departments use a standardized form that doesn't include a box that can be checked when an incident is gang-related. Without the box, that detail doesn't find its way into the computers, which makes it tough to track gang activity.

Police do know what they see: More gangsters, more graffiti and more weeping mothers, such as Norfolk's Antoinette Boyd. In May 2004, her 25-year-old son wound up dead after men who called themselves Bloods opened fire in the street.

"Something's got to change," Boyd said. "Something's got to be done."

Randy Crank, a Norfolk gang investigator, says "gangbangers" seem to be getting younger and younger.

"We're seeing more 8-, 9- and 10-year-olds," Crank said. "I went to four elementary schools last month that were having trouble."

Roughly 80 suspected gangsters sit in cells in the Norfolk city jail, where deputies try to keep known rivals apart, while at the same time limiting the number of allies placed in each block, said Cpl. Jerry Warner of the Norfolk Sheriff's Department. The bars have held members of MS-13, the Bloods, the Crips, Gangster Disciples, a Puerto Rican gang called NETA, a California set known as South 13, and the Aryan Nation.

Still, the lack of hard statistics supports what's known as "the denial."

"No one wants to be the place pointed to as the one with the gang problem," said George Knox of the National Gang Crime Research Center. "It can be kind of convenient not to know how bad it really is. And if you do know, you don't really want to tell anybody else."

Denial can leave police fighting a two-front battle: on the street and in city hall, where the reluctance of officials to go public with the problem can be a roadblock to getting more officers and money.

According to a 2005 national survey, denial is one the "greatest contributing factors in the alarming increase in the number, size and strength of gangs."

Until recently, Knox said, Virginia has been among the most closed-mouth.

"Cooperation there has been pathetic in the past," he said.

Knox said the national center conducts annual surveys of state prisons to keep its finger on the pulse of gangs behind bars. In Virginia, Knox said, "one bureaucrat waylaid the questionnaires every year. He kept saying, 'We don't have to provide this.' "

Now, Knox said, the state is cooperating: "We had no problem getting the information this year."

In Portsmouth, Sharon Harris, spokeswoman for the city's schools, said: "We don't have any activity that we know to be gang activity."

But some students say gangs have carved out turf on campus.

"It's real tough," said Jamarty Bradshaw, who just graduated from Norcom High School. "There are certain places you can't walk in school because you'll get in trouble."

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Still, most school officials insist they're holding their own. They say they maintain close ties with police, keep a sharp eye out for gang signs, and use a strong hand when trouble erupts. In Virginia Beach, faculty is regularly clued in on the latest gang signs, colors, graffiti and clothing.

"I know our coordinator speaks three or four times a week with police," said Richard Ponti, Virginia Beach's director of safe schools and risk management. "We need them to keep us apprised of what they see on the streets."

Schools are required to report gang-related incidents every year to the state's Department of Education. For the 2003-04 school year, Suffolk reported six incidents, Norfolk four, Virginia Beach three, Portsmouth two and Chesapeake one.

But Randy Forbes, a Republican congressman from Chesapeake, said schools fret about their images and have more gang trouble than they admit.

"You ask them and they say no," he said. "But then the superintendent calls me in, shuts the door and says, 'Randy, you've got to do something. If we don't get these people out of here, kids will be killed.' "

Scary labels make some folks queasy. Many agencies use the term "strategic threat group" instead of "gang."

Until lately, Richmond police officers "weren't even allowed to use the word 'gang' in their reports," said Grizzard of the state gang association.

By last year, it was obvious that the city was in the path of a southern migration by gangs out of Northern Virginia. Richmond accepted a $2.5 million grant to fight gang violence – part of more than $8 million being spread across the commonwealth. In May, the city held a news conference to acknowledge its growing troubles with nearly two dozen gangs, including Bloods, Crips and MS-13.

"I hate to put it this way," Grizzard said, "but it's sort of like the money bought the word."

The debate continues in Smithfield. After the shootout that killed Kyron Butler, town detectives reached a quick conclusion.

"There's no question in my mind that it was gang-related," Lt. Kurt Beach said.

But the sheriff of Isle of Wight, the county Smithfield folds into, sees it differently.

"There are bad people everywhere, and, in this case, some bad people got together and did a bad thing," Sheriff Charles Phelps told reporters afterward. "But that doesn't necessarily make them a gang."

Gang violence means business for Shaukat Hagimalik, owner of a custom T-shirt shop in Norfolk. He creates memorial shirts for slain gangsters.

Their memorials hang on a wall in the T-shirts Unlimited & Airbrush shop in The Gallery at Military Circle: 60-plus shirts with computer-scanned photos, all framed by the letters "R.I.P."

The photos are a reflection of the gang scene in Hampton Roads. Gangs span races and cultures. National breakdowns say 49 percent of gang members are Hispanic, 34 percent are black, 10 percent Caucasian, 6 percent Asian, and 1 percent other.

But on this particular wall, nearly all of the photos are of young black men. Nearly every one, says shop owner Shaukat Hagimalik, died from gang violence over the past six or seven years. He says the customers who order the shirts to wear to the funerals tell him so.

"I ask them, 'What happened to him?'" Hagimalik said. "They say, 'Oh, he got shot.'"

From each order, Hagimalik keeps one shirt to hang on the wall.

"I've had fathers bring their sons in here and say, 'Look! Look at them. Do you want to end up on that wall?'"

Police, Hagimalik said, are more interested in his customers – and what he might know about them. He waved a fresh summons to Norfolk court.

"I get these all the time," he said. "They're driving me crazy. They expect me to close up my shop and come there all the time."

Reyna Says 'no Pressure' To Resign (BROWNHER)

By EMMA PEREZ-TREVIÑO, The Brownsville Herald

Brownsville (TX) Herald, July 3, 2005

U.S. Marshals Service Director Ben Reyna never bought a house in Washington, D.C.

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"My intention was not to stay," Reyna said last week after submitting his resignation from the Marshals Service effective July 31.

He was not pressured to resign from the post he's held since 2001, he says, and will return to his hometown of Brownsville for personal reasons and without regrets.

"I would not have done anything differently. It's been a great experience and a great honor," Reyna told The Brownsville Herald in an exclusive interview.

"I am very, very pleased, very happy and very grateful for the opportunity to serve the U.S. Marshals Service, but there are also greater things and very important things for me in Brownsville — my family," he said.

Reyna's parents Benigno and Carmen Torres Reyna reside here, where Reyna was born, raised and began his law enforcement career.

But the sequence of events that led to Reyna stepping down may have begun in February with the shooting death of a federal judge's family in Illinois.

The Marshals Service is charged primarily with protecting judges and courts. Its performance is under scrutiny and criticism, seemingly prompted by the slaying of U.S. District Judge Joan Humphrey Lefkow's mother and husband in their Chicago home.

"A litigant who was angry with me shot him in the head, and shot my aged mother, on February 28, 2005, for no reason other than that they were in his way on his road to murder me," Lefkow testified in a Judiciary Commission hearing. "He could have easily added my 16-year-old daughter and me."

Less than a month after the Lefkow murders, Superior Court Judge Rowland Barnes was killed when a prisoner wrestled a gun from a sheriff's deputy in the Fulton County Courthouse in Atlanta, Ga., on March 11.

The back-to-back tragedies shined an unflattering light on the Marshals Service and started a buzz among judges and lawmakers in Washington, D.C.

In a letter dated March 14, U.S. Sen. Arlen Specter, R-Pa., chairman of the Senate Judiciary Committee, wrote to Reyna inquiring about security measures and what would be instituted in response to the attack on the Lefkows.

Reyna said protecting the judiciary has always been and should always be the priority: "That is what allows us to maintain the rule of law."

He also noted that in the agency's 215-year history, no federal judge has been murdered in a courtroom or courthouse.

The Judicial Conference of the United States — with policy-making functions in the administration of U.S. courts — adopted a resolution March 15, calling on the U.S. Department of Justice Department and Marshals Service to review judicial security in a time of "crisis" of the "gravest concern."

Specter has said the U.S. Department of Justice responded on April 11 to indicate that off-site security was under review, "but nothing more than that." He also said that legislators appropriated nearly $12 million for judicial security in an emergency allocation for home alarm systems.

On May 6, Specter met with U.S. Judge Jane R. Roth of Delaware, who chairs the judicial conference's committee on security and facilities. A Senate Judiciary Committee hearing happened on May 18.

The committee heard from several witnesses, including Roth and Lefkow, who made her first public address about the killings and subsequent security concerns.

They aired grievances against Reyna's agency that they said is inadequately funded, unresponsive, lacks manpower, leadership, and questioned the agency's capability to properly assess threats.

Lefkow could not be reached for comment. Specter and Roth did not respond to requests for comments on Reyna's resignation; neither did judiciary committee member U.S. Sen. John Cornyn, R-Texas.

Their testimony came a little more than a year after a critical assessment questioning the agency's ability to protect judges. The U.S. Department of Justice's Office of the Inspector General conducted the study in March 2004.

"The decision for me to resign was totally independent of that (criticism and scrutiny)," Reyna told The Herald last week.

"There is never, I guess, such a thing as a perfect time for anything."

Reyna was nominated director of the Marshals Service by President Bush and confirmed by the Senate in 2001.

He said he agrees with much of what those concerned about the agency have said of its resources. The U.S. Marshals Service needs more funding and personnel, he said.

In testimony to the judiciary committee, Reyna said that the president's budget to Congress asked for 993 positions for fiscal years 2001 through 2005, but only 531 were appropriated.

He also referred to a statement from Roth's committee that the Marshals Service "never gets the resources it needs to get the job done."

"I wish that things would move forward a lot faster," he said of bureaucracy and the complex budgetary process.

"It is important to recognize that in government, nobody has unlimited budgets. When I was with the (Brownsville) Police Department, we had to work with what we had. It is the same in the federal government and state government.

"But we want everybody to understand that judges are protected."

Reyna said he doesn't consider the criticism heaped on the agency a personal attack on his work.

"I think that it is totally appropriate for members of Congress and the judiciary to ask questions about how we serve the Marshals Service. I think that we should be able to point out what we have done and what we need (in order) to do a better job."

He said the Marshals Service is but one component of the U.S. Department of Justice that also includes the Federal Bureau of Investigation and the Drug Enforcement Administration among other departments.

Praise from U.S. Attorney General Alberto R. Gonzales was aimed at Reyna's work.

In a prepared statement issued June 24, Gonzales, head of the USDoJ, said Reyna served with "integrity and skill" and demonstrated "steadfast leadership" throughout his tenure.

He also recognized Reyna's work with state and local law enforcement in this year's "Operation Falcon," which resulted in arrests of more than 10,000 criminal fugitives.

"I am grateful for his service and wish him every success in his future endeavors," Gonzales said.

Gonzales noted that Reyna improved the agency's ability to carry out its protective missions and its information technology infrastructure; streamlined the allocation of resources; achieved a record level of employment; expanded national and international law enforcement cooperative efforts; and assisted in achieving a significant increase in the apprehension of violent fugitives.

"There are a lot of positive things that have happened here," Reyna said from his office in Washington, D.C.

"We have a great team of marshals and deputy marshals throughout the United States and its territories. We have highly dedicated employees. I will miss working alongside some very dedicated individuals."

Since announcing his resignation, Reyna said he does not know if Gonzales was contacted or urged to secure his removal as has been suggested in national media reports.

"Whether they spoke to him or not, I don't know and he never indicated to me that anyone did," Reyna said.

"Leaving is a normal part of the process. This is the way the job is."

TAX:

In 2002, More Wealthy People Paid No Tax (NYT)

By David Cay Johnston

The New York Times, July 3, 2005

The number of affluent individuals and married couples who paid no federal income taxes jumped more than 15 percent in 2002, to 5,650, government data released last week showed.

The chances of having a large income but not paying taxes on any of it are growing, according to the data, issued in the Internal Revenue Service's annual report to Congress on well-to-do Americans who live tax free.

About one in every 436 high-income Americans paid no taxes in 2002, up from one in 531 in 2001 and one in 1,010 in 2000.

Over all, the top 2 percent of earners - the 2.5 million filers with income of $200,000 or more - paid almost 27 cents in taxes for each dollar of income they reported in 2002, other I.R.S. data showed. This group accounted for 53.5 percent of the income tax paid by all Americans.

Among that high-income group, however, almost 83,000, or one in 33, paid less than a dime in taxes for every dollar of income. An additional 79,000 paid less than 15 cents. The average for all Americans was 13 cents.

Congress taxes Americans on their worldwide income. Of the 5,650 individuals and couples who paid no income taxes to the United States, only 728 paid any to a foreign government, while 4,922 lived completely free of income tax.

The I.R.S. measured income in two ways.

One was by adjusted gross income, the last line on the front page of the Form 1040 tax return. By this measure, 2,959 affluent individuals and married couples paid no federal income tax, down from 3,385 in 2001, but up from 2,328 in 2000. There were 60 such examples in 1977, when a dollar was worth three times as much as in 2002.

On a worldwide basis, 2,551 such individuals and couples paid no tax in 2002, down from 2,875 in 2001, but up from 2,022 in 2000. There were 37 such examples in 1977, the first year the agency disclosed such data.

The second measure, giving a fuller picture, was expanded income, which also includes money from sources like tax-exempt interest and untaxed Social Security benefits. By this measure, 5,650 well-to-do individuals and married couples paid no federal income tax in 2002, up from 4,910 in 2001 and 2,766 in 2000. There were 85 such examples in 1977.

Worldwide on this basis, there were 4,922 individuals and couples who lived tax free in 2002, up from 4,119 in 2001 and 2,320 in 2000. There were 64 such examples in 1977.

The I.R.S. report said that "the most important item in eliminating tax" was taking income in the form of tax-exempt interest on state and municipal bonds.

Nearly two-thirds of those who lived tax-free reported income from such bonds.

The four largest items that reduced income subject to taxation, the I.R.S. said, were miscellaneous deductions; interest paid on borrowing to finance investments; various tax credits; and large medical bills, which can be deducted once they exceed either 7.5 percent or 10 percent of adjusted gross income, depending on the taxpayer's circumstances.

CONGRESS-ADMINISTRATION:

Bush Faces Pivotal Choice For High Court (AP-Y2)

By Deb Riechmann, Associated Press Writer

AP2, July 3, 2005

President Bush could rein the court to the right by nominating a bedrock conservative to replace the retiring Justice Sandra Day O'Connor. He could make history — and perhaps pick up votes for the GOP — by naming the first Hispanic to the court. Or he could choose a woman and keep intact the court's current balance of seven men and two women.

Bush has had nearly five years to consider how to burn the "G.W.B" brand on the bench of the highest court in the land.

Regardless of whom he picks, the closely divided court, which often splits 5-4 on key decisions, will very well end up with a more conservative bent.

The question is, how far to the right will the post-O'Connor court be? And how much farther to the right will it lean once the 80-year-old Chief Justice William H. Rehnquist, who is sick with thyroid cancer, retires and possibly gives Bush a second chance to shape the court?

Legal experts on both sides speculate that the retirement of O'Connor raises the prospect that Bush will name Attorney General Alberto Gonzales. He is not a favorite of conservatives, who continued to target the White House this weekend in their anti-Gonzales campaign, saying his views on issues such as abortion and affirmative action are not aligned far enough to the right.

"When the right looks at Judge Gonzales, they have tended to worry they are getting another David Souter," Brad Berenson, a White House lawyer during Bush's first term, said about how conservatives were disappointed when Justice Souter sides with the court's more liberal members. "I don't personally think that's fair, but that is their view."

Gonzales' confirmation hearing for the Justice Department job focused on his role in developing the administration's policy on the interrogation and treatment of suspected terrorists. It is an issue sure to dominate hearings should he turn out to be Bush's first nominee to the Supreme Court.

Yet, Gonzales is a loyal friend of the president's — and Hispanic, a member of one of the fast-growing voting blocs. Bush might be willing to accept a chilly reception from his far-right constituency to make history, reward a friend and lessen the chance of having a more conservative nominee blocked in the Senate.

Bush's options were rearranged when it was O'Connor, not Rehnquist, who announced she was stepping down last week.

"Will politics be considered?" said Berenson, a former Supreme Court clerk. "Will factors like the diversity of the court and a justice's life story be considered? Sure. But I don't think those things are going to drive the decision."

Intellect. Character. Judicial philosophy. The prospect of being able to win Senate confirmation. Those are the overriding issues that several legal experts and advocates on both the right and left think will guide the president, who is facing intense pressure from both sides of the political aisle.

Because Rehnquist sits on the conservative side of the court, replacing him with another conservative would not have shifted the balance of power on the nine-member court.

The same cannot be said of O'Connor. She has been the critical fifth vote on abortion and other contentious issues involving privacy, equal opportunity, the environment and religious rights.

"It is dramatically different with O'Connor retiring," Ralph Neas, president of the liberal People for the American Way, said Saturday. "Replacing the conservative O'Connor with a right-wing ideological would be a constitutional catastrophe.

"A right-wing appointment could turn back the clock seven decades on so many fundamental rights and liberties and legal protections that most Americans think are theirs forever," Neas said. "These are rights and liberties and protections that could disappear overnight if a right-wing majority takes control of the court."

Both the liberals and conservatives, who say Neas is exaggerating the potential change to the court, think they have the upper hand in persuading Bush to see it their way. Yet the president's independent streak might make him impossible to sway.

Advocates on the right argue that he must make good on a pledge to name a justice who would vote in the same way as conservative Justices Antonin Scalia and Clarence Thomas. They believe in a strict interpretation of the Constitution that is not affected by cultural or social trends.

Liberals say that given O'Connor's swing position on the court, Bush must choose a moderate conservative — a move that would risk alienating his far-right base but would avoid a nasty confirmation battle with Democrats.

Indeed, Democratic senators might be uneasy about voting against a woman or a minority such as Gonzales or Samuel Garza, a Hispanic on the 5th Circuit Court of Appeals.

There's no doubt a confirmation fight would be contentious if Bush nominates individuals thought to be on his short list: conservative federal appellate court judges Samuel Alito, J. Michael Luttig, Michael McConnell, John Roberts Jr. and J. Harvie Wilkinson III.

But American University historian Allan J. Lichtman says naming an extremely conservative nominee could backfire on the president because it might prompt Justice Anthony M. Kennedy, a moderate conservative who also has been a swing vote on the court, to inch away from the right.

"That could push Kennedy into the O'Connor slot," Lichtman said.

White House Promises Bi-Partisan Input From Senate (LAT)

By Ronald Brownstein And Edwin Chen

The Los Angeles Times, July 3, 2005

The White House plans to solicit opinions this week from senators in both parties, a senior White House aide said Saturday, as the two sides began early maneuvers in the summer battle over President Bush's first Supreme Court nomination.

While Bush will spend most of the week at meetings in Europe, senior White House officials plan to canvass Democratic and Republican Senators for recommendations to fill the vacancy opened when Justice Sandra Day O'Connor announced her retirement Friday, said the aide, who spoke on condition of anonymity.

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"It will be senior White House staff consulting with senators in both parties," the official said. "White House staff will be asking senators for their ideas about good candidates to be nominated."

Democrats and their allies who have emphasized that they want to be consulted reacted cautiously to the signal from White House.

"Their track record of even consulting with Republicans on Capitol Hill is very poor," said Jim Manley, a spokesman for Senate Minority Leader Harry Reid, D-Nev. "It remains to be seen if this is an encouraging first step or is just going to be a one-way dialogue."

The maneuvering by the White House, senators of both parties and the interest groups underscores the priority each side places on shaping the debate. Both sides are trying to position themselves as reasonable and conciliatory to strengthen their hands for the full-scale combat most suspect will erupt.

In his remarks after O'Connor announced her resignation Friday, Bush pledged that he and his advisers would consult with the Senate. Democrats and even some Republican senators such as Susan Collins of Maine have accused the White House this year of failing to consult sufficiently on Bush's nominees for the federal district and appellate courts.

Speaking with reporters Friday, White House press secretary Scott McClellan said the administration would undertake "more thorough consulting" on the Supreme Court vacancy.

The president spoke Friday with Sen. Patrick Leahy, D-Vt., the ranking Democrat on the Senate Judiciary Committee, and placed a call to Reid, although they did not connect, according to White House and congressional officials. The White House aide said Bush has also scheduled a meeting for July 11 with Reid, Leahy, Senate Majority Leader Bill Frist, R-Tenn., and Senate Judiciary Committee Chairman Arlen Specter, R-Pa.

O'Connor's announcement surprised many in the capital who had been girding for a resignation from ailing Chief Justice William H. Rehnquist. Because O'Connor has so often functioned as the decisive fifth vote in a divided court, her retirement instantly ignited intense lobbying campaigns from groups on the left and the right who believe her successor could determine the court's balance of power.

While promising to consult, the aide signaled that the White House did not believe that Bush faced an obligation to replace O'Connor with a justice who shared her relatively moderate views, as some Democrats and liberal groups have suggested.

"The notion that there is . . . a narrow band of people who are appropriate to replace Justice O'Connor is wrong," the official said. "The president will consult, but the president will make a decision."

Given Bush's repeated declarations that he intended to appoint justices with similarities to Antonin Scalia and Clarence Thomas, two of the Court's most conservative members, many liberals remain skeptical that he would genuinely consider Democrats' views before naming his choice.

"There will be activities that constitute an appearance of bipartisan consultation, but it will not be what is actually happening," predicted Ralph Neas, president of People for the American Way, a leading liberal group.

Bush leaves Tuesday for Denmark and then Scotland, where he will attend the annual meeting of the Group of 8 industrialized nations. White House officials have indicated that he would not announce his nominee to replace O'Connor until after he returned.

Bush himself seemed to be one of the few people still in Washington for the holiday weekend who Saturday was not focused on the O'Connor vacancy. The White House aide said the president was at Camp David preparing for the G-8 meeting and was not reviewing materials on potential nominees.

Another senior White House official, who asked not to be identified while discussing the internal deliberations, said Bush would likely begin to seriously examine the contenders when he flew to Europe on Tuesday.

For Bush, A Defining Moment (CHT)

By Michael Tackett

CHT – Bush Focus, July 3, 2005

The news was about Justice Sandra Day O'Connor. But the story is about President Bush.

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How Bush manages that story, by the person he nominates to replace O'Connor, by the words he chooses to frame that debate, by the way he deals with Congress, could define his presidency almost as much as terrorism and the war in Iraq.

And the impact on American life could last a generation. The most contentious, difficult and profound issues facing the country--life and death, science and faith, global commerce and crime--are likely now to be shaped by a court that has Bush's signature.

The president, even with sagging approval ratings and diminishing support for the war and his handling of the economy, finds himself in an extraordinarily powerful position with Republicans controlling the executive branch and Congress. Now he will be extending that leverage to the Supreme Court.

O'Connor's resignation was a surprise, to be sure, but not entirely unexpected, and yet it forces a different kind of decision-making for the president. In many respects, naming a replacement for Chief Justice William Rehnquist--considered far more predictably conservative than O'Connor--would have been easier, a judicial form of a zero sum game.

The argument simply would have been over whether the nominee was too conservative. And given Rehnquist's failing health, Bush might get the chance anyway.

Replacing O'Connor forces the president to confront not merely judicial philosophy but also the court's diversity. Bush's support among suburban women has been ebbing since the election. And it is likely that, because O'Connor was largely seen as the swing vote that preserved abortion rights, her proposed successor's views on abortion could become a central issue during Senate confirmation hearings.

If so, Bush would face unrelenting pressure from both sides of the divide.

Social conservatives have often felt betrayed by none other than President Ronald Reagan (who appointed O'Connor) when it came to abortion. And though Bush has sided with them on nearly every issue of concern--from prohibiting embryonic stem cell research to interceding in the Terri Schiavo case to winning passage of a ban on certain late-term abortions--the president's rhetoric about support for a "culture of life" will be put to an ultimate test.

Tug from left, right

He will face pressure from the left as well, with at least equal zeal, as liberals try to frame the debate as the ultimate fight over a woman's right to make a choice on abortion. And he will face pressure from the moderate center, particularly in the GOP, that favors abortion rights but doesn't really like a discussion of it in the public square.

It has been clear for some time that by a ratio of greater than 2-to-1 Americans don't want to see the landmark Roe vs. Wade ruling completely overturned. And Bush has never specifically said that it should be, either.

"I think there will be a fight, because the partisans on both sides will be looking--on the conservative side, for somebody who's really going to be pretty predictably in favor of dramatic cutbacks in Roe v. Wade, and those on the left who are going to want somebody who at least will think about what Roe v. Wade means," said Drew Days, a professor at Yale Law School and former solicitor general in the Clinton administration.

To some degree, Bush's decision is a gut check, and his thought process can't be predicted.

"Tell me what he wants to be remembered as," said Abner Mikva, a former judge and White House counsel for President Bill Clinton. "If he is thinking about his legacy, I am a lot more comfortable than if he is trying to show how tough he is."

Generally, Americans have paid little attention to Senate confirmation hearings on Supreme Court nominees, with the notable exception of the battle over Clarence Thomas in 1991, and to a lesser extent the fight over Robert Bork. But the tension in the Thomas hearings was over an allegation of sexual harassment, not so much over his legal views.

Climate change

This time promises to be different because the political context has so changed in the last decade. The dividing lines have been more sharply drawn. The cleavage that was driven home in the 2000 presidential race, in which the Supreme Court ultimately ratified Bush's election, has shown no sign of healing.

Interest groups are now far better funded and empowered by technology to try to shape the public debate. Both sides are stoked for a passionate fight.

The president might have a fight that he would rather avoid, despite all the strong signals he has sent to conservatives that their cause is his as well.

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But if the sense of certitude that he has brought to his other decisions is on display with his choice of a nominee for the court, it might be a battle he embraces. From the day Bush took office, it was no secret that several of the justices were ailing and a retirement was almost certain. The president's team has been war-gaming its options on the court for years.

The only surprise was that it took this long.

Court Pick To Test Bush Promise (BOS)

By Susan Milligan

The Boston Globe, July 3, 2005

President Bush is likely to deliver to the Senate exactly what he promised in both presidential campaigns and displayed in his lower-court nominations: a Supreme Court pick who is conservative, antiabortion, and a believer in a strict interpretation of the Constitution, according to political operatives and activists in close contact with the White House.

Democratic senators, civil libertarians, and liberal groups are holding out hope Bush will offer a nominee who is uncontroversial and somewhat centrist, someone they say would fill the void created by retiring Justice Sandra Day O'Connor, who became a moderating voice on the court. But they agree with conservatives that the prospect is unlikely, and that the president will use his first appointment to the high court to establish a conservative legacy with a nominee similar to those Bush has publicly touted as his favorite justices, conservatives Antonin Scalia and Clarence Thomas.

In a nation already deeply polarized by two divisive presidential elections, interest groups are readying for a battle not so much to sway Bush's decision but to fight over just how conservative an acceptable nominee will be.

The Republican Main Street Partnership, comprising centrist Republican lawmakers, is nudging Bush to select a more moderate conservative so he can avoid a nasty confirmation battle in the Senate. Several Senate moderates signaled privately that they would accept Attorney General Alberto Gonzales, who, as a member of the Texas Supreme Court, once sided with the majority in ruling that a 17-year-old girl should get an exemption to the parental notification law prior to having an abortion.

But hard-line conservatives are demanding a very conservative, antiabortion judge, and they say they won't be happy with a choice, such as Gonzales, that could appease Democrats and moderates on Capitol Hill. Conservative groups started a concerted effort Friday to pressure the White House to choose someone other than Gonzales, whom they consider questionable on abortion.

"This is the payoff, in an ideological sense. This is why they worked so hard in 2000 and '04," said Daron Shaw, an associate professor at the University of Texas, who advised both Bush presidential campaigns. "To say to them, 'we're nominating a moderate because we don't want to make the Democrats mad' " isn't going to work, Shaw said.

Even before Bush has named a new justice, interest groups are already gearing up for a heated and expensive lobbying campaign over the nominee. The group MoveOn.org on Friday announced a $280,000 TV ad buy urging the naming of a justice who will "protect our rights" by upholding the right to privacy, which is an argument for abortion rights. Paul Schenck, executive director of the National Pro-Life Action Center, said the group has sent out 5,000 letters to members to mobilize support for a conservative nominee and will send out 10,000 more by tomorrow.

With the atmosphere so charged, the White House is expecting a fight on Capitol Hill over any nominee; because of that Bush may select a staunch conservative and reject any notion of appeasing critics, said Mike Carver, a former Reagan administration deputy assistant attorney general who is close to Bush administration officials.

"I don't think this is a power issue, or a testosterone issue. It's a question of living up to your campaign pledges. This president does that," Carver said. "I think he's made it clear he prefers judges in the longstanding tradition of Republican presidents who [strictly] interpret the law. I don't see any reason why he would depart from that."

For religious conservatives, the Supreme Court selection represents a defining moment in Bush's presidency, his most potent opportunity yet to create a legacy that reflects their values. The religious and antiabortion activists, who labored mightily to twice elect Bush, say they aren't ready to accept a moderate nominee in the name of placating an intensely partisan Senate -- and Bush insiders say there's no reason they should.

Conservative lobbyists who meet regularly with White House officials said they don't know who the nominee will be, but they are working to make sure the selection will live up to the promises Bush has made on the matter. Bush has frequently discussed

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his commitment to a "culture of life," and he said during the 2004 campaign that he "wouldn't pick a judge who said that the Pledge of Allegiance couldn't be said in a school because it had the words `under God' in it."

"That's an example of a judge allowing personal opinion to enter into the decision-making process as opposed to strict interpretation of the Constitution," Bush said during an October debate against Democratic presidential nominee John F. Kerry.

The lobbyists say they are deeply disappointed with Justice David Souter, the first Supreme Court justice confirmed during the presidency of Bush's father, George H.W. Bush. Souter revealed very little in his confirmation hearings about how he would rule, and he has turned out to be a moderate voice on the Supreme Court. They will fight to see that the current president doesn't make a similar pick, and instead selects someone with the same views as the elder Bush's second Supreme Court appointee -- Clarence Thomas.

O'Connor's departure creates an opening to build a solid conservative voice on the court, said Tom Minnery, vice president of public policy for the Colorado-based group Focus on the Family.

"This is a wonderful opportunity to reshape the court, and the court badly needs reshaping," he said, referring to what he called the "nutty" split decisions recently on the display of religious symbols on public property. In separate 5-4 decisions last week, the court said that Texas may keep a Ten Commandments monument on Capitol grounds, but that Kentucky courthouses must remove Ten Commandments displays in the buildings. In both cases, O'Connor thought the displays should be removed.

"We're confident the president will keep his campaign pledge to send up a nominee who will interpret the constitution as it was written, rather than as the latest fads legal theorists dictate," Minnery said.

Nan Aron, president of the Alliance for Justice, which has led the fight against many of Bush's conservative lower-court nominees, said she was not hopeful that Bush would pick a more moderate, less controversial justice.

"While the alliance urges president Bush to nominate a consensus candidate, we don't expect that he'll do so. We expect that he'll spark a fight, and we're hoping that he defies expectations," she said.

Ellen Malcolm, president of EMILY's List, which promotes female, Democratic candidates who favor abortion rights, is so certain Bush will name a very conservative nominee that she is already assessing the galvanizing impact the selection could have for the Democrats in general and female candidates in particular.

"If they make this a partisan ramrodding of a nominee, I think there will be tremendous political consequences" for conservative candidates, Malcolm said.

The activists and political analysts note that Bush -- unlike his predecessor, President Clinton --has consistently stuck to his guns on both policy decision and nominees, no matter how much heat he has gotten from the public, the international community, or Capitol Hill.

Clinton, for example, asked Lani Guinier to withdraw as his nominee as assistant attorney general for civil rights following an outcry over some of her writings, even though Guinier offered to defend herself in front of a highly skeptical Senate Judiciary Committee. Bush, meanwhile, has refused to withdraw his nominee for ambassador to the United Nations, John Bolton, in the face of heavy opposition from Democrats and at least one Republican in the Senate.

Bush has so far been unable to get Bolton confirmed, and some Republicans are suggesting that he do a "recess appointment" of Bolton, putting him in the job while Congress is out of session, to get his way. Bush used that tactic to get former Alabama attorney general William Pryor a recess appointment in February 2004 to a US appeals court slot, getting around a Democrat-led filibuster that had kept Pryor off the bench since 2003. Democrats considered Pryor an "extremist" and questioned whether he improperly solicited campaign funds from corporations subject to lawsuits by his office.

Under a shaky truce senators brokered last month, Bush got Pryor and two other controversial, conservative judges confirmed by the Senate.

Bush is likely to display the same resolve on a Supreme Court pick, said Bruce Buchanan, a government professor at the University of Texas.

"That's been part of the general strategy: The way you bolster your position across the board is you solidify your base," Buchanan said. "And that part of the base will be very insistent" on a conservative, he said.

Bush Faces Choice Of Advancing Agenda Or Bridging Political Divide (KRT)

By Ron Hutcheson

KRT – Bush Political Divide, July 3, 2005

President Bush started his search for a new Supreme Court justice Saturday, gearing up for a decision that could have a lasting impact on his presidency, his political party and the nation.y picking a staunch conservative to replace retiring Justice Sandra Day O'Connor, Bush could do more to advance the conservative agenda than he has been able to accomplish in five years in the White House. But he also would risk a divisive battle in the Senate and a potential backlash from Americans who favor a middle-ground approach to abortion, gay rights, affirmative action and other hot-button social issues. In today's politically polarized world, with 24-hour cable news, 30-second attack ads, Internet interest groups and ideologically driven bloggers, a contentious nomination battle could drive a deeper wedge between Americans on opposite sides of the political divide.

Democrats have already served notice that they would use a nomination fight to cast Republicans as extremists who are out of touch with average Americans. Republicans say they would paint Democrats as obstructionists.

Any fallout from a bitter confirmation battle could easily spill into next year's congressional elections, when Republican control of Congress will be tested at the polls.

Replacing O'Connor with a like-minded jurist also carries some political risk for Bush, who owes his re-election to strong support from his conservative base. The president's conservative supporters view her retirement as an ideal opportunity to rein in a judiciary that they consider hostile to their values. To them, the vacancy is a test of their faith in Bush, and, by extension, the Republican Party.

"This is going to be a defining moment for President Bush," said the Rev. Patrick Mahoney, director of the Christian Defense Coalition, a conservative group. "If 9/11 was the defining moment of his first term, the composition of the Supreme Court is the defining moment of the second."

Bush has spent most of his political career trying to balance his conservative views against his desire to win support from Americans who might not agree with him. For example, he opposes abortion, but he concedes that most Americans are not ready to outlaw the practice.

"I've always believed that abortion ought to be illegal with the exception of rape, incest or life of the mother. But, look, I'm a realist, as well," the president told a Danish journalist last week.

The stakes at the Supreme Court, the final word on abortion rights and all other legal issues, make it harder to find the middle ground. Conservative groups have made it clear that they expect Bush to select a new ally for Justices Clarence Thomas and Antonin Scalia, the court's most conservative members.

Bush expressed admiration for both men during the presidential campaign.

"Now it is time to make good on those campaign promises, Mr. President," Troy Newman, the president of the anti-abortion group Operation Rescue, said in a statement issued after O'Connor's resignation announcement Friday. "Now it is time to fulfill your obligation to God and to those who elected you, and appoint a staunchly pro-life judge to the Supreme Court."

It seems unlikely that replacing O'Connor with a stalwart anti-abortion justice would spell the end of Roe v. Wade, the 1973 Supreme Court ruling legalizing abortion. O'Connor voted with a 6-3 majority in the last clear test of that ruling, so shifting one vote is not likely to make a difference at the court.

But the addition of anti-abortion justice would probably make it easier for states to restrict the procedure. And it isn't just abortion that's at stake. O'Connor cast the deciding vote against the court's conservative wing in cases involving the death penalty for minors, affirmative action for law school admission and the display of the Ten Commandments inside Kentucky courts.

"Supreme Court nominees are a president's most important legacy," said Neil Siegel, a law professor at Duke University in North Carolina. "He's got two roads before him, and they are rather stark choices. One is to try to put through the most conservative person that he can. The other is to go for a more moderate-type conservative.

"No matter who he chooses, the court is going to move to the right," Siegel added. "The question is how far."

White House spokesman Trent Duffy said Bush began considering his options on Saturday during a holiday weekend visit to the presidential retreat in Camp David, Md. He will take a stack of information on possible nominees with him Tuesday when he flies to Europe for a three-day trip to Denmark and Scotland.

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Although White House aides began looking at possible court nominees in Bush's first term, White House press secretary Scott McClellan said Bush has not looked his options in any detail.

McClellan said Bush would not announce a decision until after he returns from Europe on Friday. The president has pledged to visit with congressional leaders from both parties when he gets back.

"He has not, at this point, given any serious consideration to any nominee," McClellan told reporters Friday. Bush has offered no clues to his leanings, saying only that he will find a nominee that Americans can be proud of.

Bush Has Numerous Constituencies To Consider (MINNST)

By Michael Doyle And Lawrence M. O'rourke

Minneapolis Star Tribune, July 3, 2005

As President Bush prepares for what may become a history-changing appointment to the Supreme Court, one thing appears near-certain: Bush's pick will be a conservative whose vote could shift the balance of power on the evenly divided court.

Beyond that, Bush will be confronting a multiplicity of choices as he arrives at a successor to Sandra Day O'Connor, who announced her surprise resignation from the court on Friday.

Will he appoint the first Hispanic to the court? Will he select another woman? Will he seek a far-to-the-right conservative who will touch off a titanic confirmation battle in the Senate? Or will he opt for more of a consensus candidate who could win easier confirmation, thereby enhancing prospects for other elements of his second-term agenda?

However Bush decides, his choice could offer the greatest insight on how he wants to leave his mark on the Supreme Court and the country for possibly many years after his term expires in 2009.

Competing agendas

The jockeying for Bush's attention was underway minutes after O'Connor disclosed she was ending her 24-year career on the court.

"We should replace Sandra Day O'Connor with a consensus candidate, not an ideologue," said Sen. Charles Schumer, D-N.Y., who called for a summit of the White House and Democratic leaders.

But Republican Sen. Tom Coburn of Oklahoma said now is the time for Bush to make a pick that will decisively change the court's direction. "I would hope that President Bush's nominee will swing the court back toward the Constitution and away from an era of self-indulgent judicial activism," he said.

Already, White House advisers have sifted endless court opinions, law review articles and other background documents. It's painstaking work, as officials seek out the kind of killer detail that might unravel a candidate.

Bush's team has already been able to do much of this preliminary work because at least one Supreme Court vacancy has been anticipated almost from the day he took office.

Only one woman?

The resignation of O'Connor, the first woman to serve on the Supreme Court, interjected a new factor for Bush to consider: Should he make certain that the court is not left with Ruth Bader Ginsburg as the only female member?

Sen. Arlen Specter, chairman of the Judiciary Committee, said that two women are "a minimum" on the court. "The gender of the nominee is a "dimension that is very, very important to consider," said Specter, the Pennsylvania Republican who will preside over the confirmation hearings.

Specter, a moderate who favors abortion rights and embryonic stem cell research, noted, however, that the eventual retirement of 80-year-old Chief Justice William Rehnquist will almost certainly give Bush another opening to fill.

Appointing the first Hispanic Supreme Court justice is also believed to have Bush's attention. A natural could be Alberto Gonzales, who is a longtime Bush ally from Texas, the former White House counsel and was recently installed as U.S. attorney general.

Another possibility is appellate Judge Emilio Garza, known to have stronger appeal to conservatives than does Gonzales.

Moving to the middle

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The closer Bush moves toward the perceived middle, the lower the resistance is likely to be from Senate Democrats. Moving to the middle, however, would anger Bush's conservative base, many of whom see the O'Connor vacancy as a chance to move the court more emphatically rightward.

But fully satisfying conservatives could allow Democrats to characterize the candidate as the kind of "extraordinary" circumstance that, under a recent Senate deal, justifies reinvoking a Senate filibuster. That, in turn, would raise the bar for Senate approval to 60 votes -- unless Republicans made good on a threat to waive the 60-vote requirement.

Should that happen, the Senate could dissolve into a partisan quagmire, raising questions about Bush's ability to achieve many of his domestic priorities.

Bush has already pledged to consult with two key Democrats: Senate Minority Leader Harry Reid of Nevada and Sen. Patrick Leahy of Vermont, the top Democrat on the Judiciary Committee.

Avoiding a battle

Some say Bush could also skirt a nasty fight by nominating a member of the Senate. Texas Republican John Cornyn, a former elected member of the Texas Supreme Court, stands as one option. Also mentioned are Utah Republican Orrin Hatch, a former chairman of the Judiciary Committee, and Arizona Republican Jon Kyl.

Considered more likely is that Bush will scour the appeals court benches. Among appellate judges with high reputations among conservative activists are Michael Luttig and Harvie Wilkinson of the 4th Circuit in Richmond, Va., and Samuel Alioto of the 2nd Circuit in Philadelphia.

If Bush opts to keep two women on the court, he could choose from two reliable conservatives now serving on the New Orleans-based 5th Circuit Court of Appeals: Edith Clement and Edith Hollan Jones.

Some suggest Bush could get a conservative justice and simultaneously make history with a Hispanic appointment, choosing either Gonzales or Garza. The two candidates, however, offer competing appeals.

The 49-year-old son of Mexican immigrants, Gonzales enjoys a close relationship with Bush, who has appointed him to a variety of sensitive positions. But Gonzales worries activists, who consider him insufficiently conservative. Gonzales told senators during his attorney general confirmation hearing that he considers the Roe vs. Wade decision upholding a woman's right to an abortion to be "the law of the land." As a Texas Supreme Court judge in 2000, he voted to uphold a 17-year-old girl's right to obtain an abortion without notifying her parents.

Garza enjoys a more down-the-line conservative record. Garza, 57, a University of Texas Law School graduate and former Marine officer, has used his position on the Fifth Circuit Court of Appeals to criticize the Roe vs. Wade decision.

But there's also the issue of personal chemistry when a president is nominating someone who may define his legacy.

On that score, the edge could go to Gonzales and also to Theodore Olson, a former U.S. solicitor general. Olson successfully represented the president in the epic battle after the 2000 election that culminated in the 5-4 Supreme Court decision that chose Bush for the White House over Democrat Al Gore.

Both Sides Fear "stealth" Nominee, Observers Say (SLPD)

By Deirdre Shesgreen

St. Louis Post-Dispatch, July 3, 2005

With the Supreme Court battle now under way, what both sides fear most is the unknown: a so-called "stealth" nominee who has a thin paper trail and offers ambiguous answers in the Senate grilling that is sure to come.

Already, activists on the right and left are calculating how to divine the true ideology of any candidate the White House might put forward, especially on politically explosive subjects like abortion. While in the past, nominees have been able to duck and dodge dicey questions, this time the president's pick for the high court won't be let off so easily, court observers say.

The apprehension about a blank-slate candidate is all the more intense on both sides of the aisle because it is Sandra Day O'Connor - herself an unpredictable swing vote - leaving the court, rather than Chief Justice William Rehnquist, a reliable conservative whose retirement had been the subject of speculation.

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With a Rehnquist vacancy, President George W. Bush might have felt freer to appoint a strong conservative - and Senate Democrats might have felt more willing to accept such a choice - because it wouldn't have tipped the balance of the court. Now, however, the pressure on Bush to appoint a moderate will be more intense, say those on both sides of the fight.

Indeed, within hours of O'Connor's announcement, Democrats were calling on Bush to nominate someone in her mold - a "voice of reason and moderation," as Sen. Daniel Akaka, D- Hawaii, put it at a news conference here Friday.

Some conservatives, meanwhile, immediately began plotting strategy to head off the most obvious such choice on Bush's short list - Attorney General Alberto Gonzales - in part because they are worried about what they don't know about his views.

"Conservatives are looking for someone with a paper trail that shows their views, as is the left," said Manuel Miranda, head of the Third Branch Conference, a conservative activist group, and former Republican aide to the Senate Judiciary Committee.

Miranda said he fears Gonzales' name may shoot to the top of Bush's list because Gonzales would be the first Latino Supreme Court justice, a move all the more symbolic because he would replace O'Connor, the court's first woman.

Some on the right oppose Gonzales because of a decision the former Texas Supreme Court judge wrote in a case upholding a 17-year-old girl's quest for an exception to a Texas law requiring minors to notify their parents or guardians before undergoing an abortion.

But Miranda voiced much broader concerns, pointing to public comments by the attorney general in which he appeared to espouse a view of the Constitution as a living document whose meaning changes with time as evidence that he would be an unreliable vote on the court.

"This is an unformed mind," said Miranda, who helped organize the sending of a letter to Bush on Friday from a coalition of Latino clergy who said they'd love to see a Hispanic nominee - unless it's Gonzales.

Word watch

Just how liberal and conservative activists - and the U.S. senators they're trying to influence - will smoke out a prospective candidate's views on controversial issues like abortion, gay marriage, or affirmative action is unclear.

In this politically charged environment, court observers say, any nominee is going to do his or her best to be evasive. So the public may be in for a confusing game of Washington semantics.

Take, for instance, the answer from Sen. Edward Kennedy, D-Mass., when asked Friday whether he would filibuster a nominee who opposed Roe v. Wade, the Supreme Court opinion that established a woman's right to have an abortion.

Kennedy said he wouldn't impose a "litmus test" on any nominee. But he added, he would vote against anyone who doesn't express a "core commitment to constitutional values," including a right to privacy, the foundation of the majority's opinion in Roe v. Wade.

On the other side of that issue, Jan LaRue, chief counsel of the conservative Concerned Women for America, said: "We have one litmus test. Is the nominee pro-Constitution? Is he an originalist?"

Those who adhere to such a view believe there is no right to an abortion spelled out in the Constitution.

In the past, candidates who have directly answered such couched questions - or even more direct ones - have not fared well. Exhibit A is Robert Bork, the highly controversial 1987 Supreme Court nominee who went down in defeat after being more candid than his supporters wished.

"What was so exciting about the Bork debate was that ... he was really willing to sit down and talk about his notion of the Constitution," said Howard Gillman, a political science professor at the University of Southern California and an expert on Supreme Court nominations. "You really had this very thoughtful debate about different constitutional visions."

Since Bork's defeat, however, "people have learned there are disadvantages to being completely honest and elaborative about your vision," Gillman said. "Nominees feel it's safer territory to cloak themselves in generalities and to talk about respect for precedent. We're really talking about nominees who are not going to want to engage in that kind of substantive conversation."

By contrast, Justice David Souter, nominated by the first President George Bush in 1990, "ducked and parried and answered almost nothing directly and was easily confirmed," noted David Yalof, a political science professor at the University of Connecticut and expert on the judicial selection process.

Similarly, Justice Anthony Kennedy, nominated by Reagan after Bork's defeat, provided careful and circumspect answers and sailed through the Senate.

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But once on the court, those two justices turned out to be much more liberal than their supporters had hoped. And conservatives say they have learned a hard lesson from those easy confirmations.

"No one will be happy ... with a kabuki dance of no substance," said Miranda. "On the right, people will always have this sense that they're being had - because they've been had before."

Showdown

Those on the left say they will be just as skeptical of anything short of full and direct answers.

"We think it's critical that there not be any stealth nominees to the court, and by that I mean nominees like Scalia and Thomas who would not discuss their positions on Roe v. Wade (during their confirmations) and have turned out to be staunch opponents who call for the reversal of Roe," said Nancy Northup, president of the Center for Reproductive Rights, an abortion-rights group. Justices Antonin Scalia and Clarence Thomas are seen as the two most conservative members of the court.

Said Elliot Mincberg, of the liberal group People for the American Way: "The Senate is not required to accept a pig in a poke."

A refusal to answer questions about legal precedents such as Roe v. Wade "should not be accepted," Mincberg said. "This is a lifetime seat on the Supreme Court, and that person ought to be required to completely fill out their job application, which includes explaining their judicial philosophy."

Those kinds of demands create a showdown with its own mysterious political puzzle.

"Both sides are going to demand answers, and the nominee is going to be as evasive as possible," Gillman said. "We're as close to a stalemate system as you can imagine. We don't really see the road from here to a successful confirmation."

O'Connor Resignation Ignites Political Firestorm (DeN)

By Joan Biskupic

DetroitNews, July 3, 2005

Sandra Day O'Connor's sudden resignation from the Supreme Court on Friday signals the departure of a pioneering justice who was the most influential member of a divided court. It also ignites a political firestorm over her successor and gives President Bush a chance to make a lasting imprint on the bench.

The departure of O'Connor, who became the first woman on the court when she was named to the bench by President Reagan in 1981, raises the possibility that Bush -- who has never made a high court appointment -- could get the chance to make two of them in short order.

Chief Justice William Rehnquist, 80, is battling thyroid cancer, and much of the talk about potential court retirements has focused on him. But Rehnquist concluded the court's term for 2004-05 this week without giving any indication that he planned to step down.

In a statement released by the court, O'Connor, 75, said she was leaving in part to spend more time with her husband. John O'Connor, 75, has been suffering from Alzheimer's disease. Her resignation creates the first opening on the Supreme Court in 11 years, the bench's longest period without a departure since 1812-1823. The former Arizona state senator was at the ideological center of the court and was its equilibrium, resisting moves by her colleagues to move the court too much to the left or to the right.

To the disappointment of many conservative Republicans, she cast key votes protecting abortion rights, an issue that is certain to be a key point in the Senate confirmation hearings for whoever Bush chooses as her replacement. In disputes over the separation of church and state, O'Connor generally supported limited government mingling with religion. She also took a lead role as the Rehnquist court boosted states' rights and curtailed congressional intervention in the affairs of local governments.

She often was criticized -- by conservative Justice Antonin Scalia, among others -- for seeming to have no hard-and-fast rules on the law, for compromising too much. But O'Connor, the only member of the current court who ever held elective office, favored real governmental action to come from elected legislators.

Because of her centrist approach, her departure could be far more significant than if Rehnquist had resigned. Bush -- who has expressed admiration for Scalia and another conservative justice, Clarence Thomas -- now could appoint someone whose vote could move the court to the right on abortion, affirmative action and other issues.

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Senate Democrats such as Minority Leader Harry Reid and interest groups such as the National Women's Law Center have vowed to protect abortion rights and fight any Bush nominee that seems "out of the mainstream." On Friday, they indicated that because it is O'Connor -- and not Rehnquist -- who is leaving, the stakes in the Senate nomination hearings would be particularly high.

In the White House's Rose Garden shortly after O'Connor's announcement, Bush praised her service to the country and said his nominee would be someone who meets "a high standard of legal ability, judgment and integrity."

Anticipating a political battle in a Senate that is sharply divided and that already has resisted his nominees to federal courts, he said, "The nation deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote."

Bush said he would choose a nominee "in a timely manner" in the hope that the nominee would be confirmed by the Senate before the Supreme Court's new term begins Oct. 3. Press secretary Scott McClellan said later that Bush wouldn't announce his choice until he returns from a four-day trip to Europe on July 8.

White House and Justice Department officials have been working quietly for weeks on a list of prospects. Some have been interviewed informally. But those candidates were being considered as possible replacements for Rehnquist. The departure of the more moderate O'Connor could mean a change in the administration's political calculus toward a more moderate candidate, as Reid and other Democrats have suggested.

A candidate whose stock could be up is Alberto Gonzales, a longtime friend of Bush who had a reputation as a moderate when he was on the Texas Supreme Court. Bush has expressed a desire to appoint the nation's first Hispanic justice, which also could work in Gonzales' favor.

Lower court judges who have been on the White House's radar as potential nominees include Michael Luttig and J. Harvie Wilkinson, both based in Virginia, on the U.S. Court of Appeals for the 4th Circuit; Emilio Garza and Edith Jones, both in Texas and on the U.S. Court of Appeals for the 5th Circuit; John Roberts, of the Court of Appeals for the District of Columbia Circuit; and Samuel Alito, based in New Jersey on the U.S. Court of Appeals 3rd Circuit.

Some past presidents, most recently Bill Clinton, have asked key members of the opposite party about Supreme Court prospects before nominating them, and Democrats are urging Bush to do the same. "Justice O'Connor has been a voice of reason and moderation on the court," said Reid, D-Nev. "It is vital that she be replaced by someone like her."

'I am 75 years old'

With so much of Washington's focus on a potential retirement by Rehnquist, O'Connor's name had surfaced only in the last few days in news reports about possible departures on the court.

Some of her fellow justices quietly had rejected the notion that O'Connor was leaving. Her work always has been her passion, and O'Connor has drawn strength from her job -- most poignantly in the late 1980s, when she was diagnosed with breast cancer. When she spoke about the experience, she said that work became even more important in her life to keep her going.

But O'Connor's husband, John, has been suffering from Alzheimer's for several years and apparently his condition forced her to change course. She told the other justices of her decision Friday morning.

"I am 75 years old," she said in a statement released through the court public information office. "I need to spend more time with my husband." O'Connor and her husband, who also is 75, met in law school at Stanford University where they were classmates with Rehnquist. The O'Connors have been married for 52 years.

The first hint of O'Connor's resignation came Thursday, when the Supreme Court's head marshal, Pamela Talkin, called White House counsel Harriet Miers to say that a sealed envelope would be delivered from the court on Friday morning. Miers told Bush and Vice President Cheney, who were having lunch. The letter arrived Friday morning, with a surprising message: It was O'Connor, not Rehnquist.

In O'Connor's letter to Bush, she wrote, "It has been a great privilege, indeed, to have served as a member of the court for 24 years. I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure."

Groups ready for 'heck of a fight'

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Interest groups stand ready to turn the political battle over O'Connor's replacement into as tough a tussle as the fights over the nominations of Clarence Thomas in 1991 and Robert Bork in 1987. Thomas won confirmation. Bork did not.

"It's hard to imagine anything more heated than those two," says C. Michael Comiskey, political science professor at Penn State Fayette and author of "Seeking Justices: The Judging of Supreme Court Nominees." But, "this could be one heck of a fight" because groups on both sides of the political aisle know that O'Connor was often a key swing vote on cases involving social issues and that Bush could make the court more conservative.

There are signs that the lobbying campaign over this court nomination will be far more sophisticated than any before it and that it likely will resemble a fall political campaign.

On the conservative side, interest groups have pledged to spend at least $20 million on ads, grass-roots lobbying here and elsewhere and other efforts. At least $18 million of that will be spent by one group alone, Progress for America. That group released its first TV/radio ad last week. It was a warning that Democrats would try to smear anyone Bush nominates.

On the liberal side, organizations such as People for the American Way and MoveOnPac.org also plan to spend millions. Within minutes of Bush's appearance Friday, MoveOn Pac announced it was releasing a TV ad warning that a too-conservative nominee could "undermine the rights of individuals and families."

"The moderating leadership of O'Connor must not be replaced with a far-right extremist," says Wade Henderson, executive director of the Leadership Conference on Civil Rights, one of the groups that has been preparing to mount a campaign if Bush nominates a candidate they see as too conservative.

In a statement, the American Civil Liberties Union praised O'Connor as a centrist who "stood up for individual rights and against a radically conservative vision of the Constitution" on key cases involving abortion rights, affirmative action and the rights of foreign detainees to have access to the court system.

"We are gravely concerned that President Bush will use this opportunity to nominate someone whose judicial philosophy is hostile to civil liberties," said Steven Shapiro, the ACLU's legal director.

For Progress for America and other conservative groups, O'Connor's departure signals a once-a-generation opportunity to push for significant change on the high court, with restrictions for abortion chief among the goals. (The current court generally splits 6-3 in favor of abortion rights, with O'Connor in the majority.)

Boydon Gray, former counsel to the first President Bush and a strategist for various groups who are pushing the administration to make the Supreme Court more conservative, cited recent battles in the Senate over judicial nominees in warning Democrats to give Bush's nominee a fair chance.

"We call on Democrats to resist the temptation to use their attack machine against a qualified nominee," Gray said. "All parties should withhold judgment until a fair and sober analysis has occurred.

"We expect the president to choose the best person for this difficult job. We have no doubt that the nominee will be of the highest legal excellence and integrity, who follows the Constitution, defends property rights, and as the president suggested in his press conference, refrains from making law from the bench. Any such nominee deserves a respectful hearing and an up or down vote. They do not deserve to have their record distorted."

Specter under a spotlight

The nomination hearings will put a particular focus on Judiciary Committee Chairman Arlen Specter, R-Pa., who will be at the center of the wrangling over the nominee.

On Friday, Specter called O'Connor a "historic figure" who had "a pivotal role on the court as a centrist."

Specter said he has talked with Senate Majority Leader Bill Frist about the timing of hearings and said his panel is prepared to "proceed at any time."

Specter acknowledged that O'Connor's retirement would "pose a somewhat different picture" than Rehnquist's would have. He said he anticipated that with O'Connor being a swing vote, hearings "could produce more controversy. But I don't want to prejudge anything."

He said he had not submitted any recommendations to Bush but had spoken several times to the president about consulting the Senate on a nomination. "I wasn't asked (who I liked). Don't ask, don't tell," he joked.

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Of the nominee, Specter said, "People will be expecting everything. This is a very polarized country. ...Everybody can't have their own way."

Specter said he expects abortion rights to "be a focal point" of the confirmation hearings. Specter, who supports abortion rights, said he would have no "litmus test" on that or other issues regarding a nominee. He said that for all the action by interest groups surrounding the nominations process, "the activities of the groups are vastly overstated, vastly overstated, and in many cases they are counterproductive."

As for Rehnquist, Specter -- who has two more chemotherapy treatments left to go for the Hodgkin's lymphoma that has left him bald -- said he saw the chief justice at a lunch a couple weeks ago. Specter said Rehnquist "looked infinitely better" than he had when he sworn in Bush in January.

"Speaking as someone who likes to get up in the morning with something important to do, I wouldn't say it's keeping the chief alive, but I think he likes his job," Specter said. "And if we haven't heard from him by now (concerning his retirement), the chances are you won't hear from him for some time."

A politician on the court

O'Connor's resignation brought an end to the public life of a woman whose rise to the nation's highest court was an inspirational story to women.

O'Connor was born March 26, 1930, in El Paso and grew up on her family's ranch, the Lazy B.

She grew up splitting her years between El Paso, where she lived with her grandmother and attended the Radford School, and the 162,000-acre ranch that her grandfather had established in southeastern Arizona. She graduated from high school at 16 and earned a degree in economics from Stanford in 1950.

She married John O'Connor, also a lawyer, and moved with him to Germany while he was in the Army. After his service, they settled in Phoenix in 1957 and had three sons.

Sandra Day O'Connor became active in Arizona politics and was appointed state senator in 1969 to fill out a vacancy. She later won election and then was elected by fellow Republicans to be the majority leader of Arizona's Senate. She was the first woman nationwide to hold the post.

She left the Legislature and soon after was elected to the Maricopa County Superior Court. In 1979, then-Gov. Bruce Babbitt appointed her to the Arizona Court of Appeals.

Through coincidence and mutual friends, O'Connor met U.S. Chief Justice Warren Burger on a vacation in late 1979. She stayed in touch with him and he eventually helped bring her name to the attention of the Reagan White House in the spring of 1981, before it began looking for a successor to retiring Justice Potter Stewart.

At the time, O'Connor's credentials did not make her an obvious candidate. She was not on a federal court or top state court, as many nominees in the recent past had been. Instead, she was a judge on an Arizona intermediate court handling criminal and civil appeals. But as a former state senator, she had deep and well maintained political connections to the Republican Party. She was a close friend of Arizona Sen. Barry Goldwater, R-Ariz.

For O'Connor, it was a matter of right place, right time. During his recent campaign for president, Ronald Reagan had promised to give the Supreme Court its first female justice.

O'Connor's nomination was embraced widely, although some opponents of abortion rights warned that she would vote against their cause. O'Connor ended up being confirmed by the Senate, 99-0, on Sept. 21, 1981. She took the judicial oath five days later.

O'Connor's political background ended up shaping her style on the high court. She turned out to be a consensus builder and learned over the years to be adept at counting votes among her colleagues.

Her imprint at the center was evident in 1992 as she, joining with Anthony Kennedy and David Souter, crafted a compromise ruling that affirmed abortion rights nationwide. In 2003, she was the pivotal fifth vote to uphold affirmative action in higher education, arising from a dispute at the University of Michigan. Earlier this term, she was the key fifth vote for a broad reading of the law known as Title IX, which protects girls and women from discrimination in school sports.

O'Connor's place at the center of the court's social milieu also was important. She was the one who ensured that all the justices ate lunch together after oral arguments, she arranged social outings and events for visiting dignitaries. The role she

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played at the court's social center reinforced her position of influence on the law. She often spoke about how important it was to have "agreeable" relations to minimize disagreements on substance.

She was also the public face of the court internationally. In 2003, for example, as part of the Bush administration's effort to develop democratic structures of government in the Persian Gulf, the president asked O'Connor to represent the United States at an Arab Judicial Forum in Manama, Bahrain.

So What's The 'Right' Pick? (NYT)

By Jeffrey Rosen

The New York Times, July 3, 2005

WHEN Justice Sandra Day O'Connor announced her intention to resign from the Supreme Court, President Bush promised to nominate a successor who would "faithfully interpret the Constitution."

He is widely expected to appoint a judicial conservative, but the crucial question for the country is what kind of judicial conservative.

Judicial conservatism, after all, is not a monolithic movement: It is a catchphrase for very different approaches to constitutional interpretation that often lead to dramatically different results in cases ranging from affirmative action to abortion and states' rights.

Several of the leading candidates said to be on Mr. Bush's short list - like Judge J. Michael Luttig of Virginia and Judge John Roberts of Washington - defy easy categorization. But it's clear that justices from each philosophical camp would reach very different decisions in the cases Americans care most about. Consider abortion. "A traditionalist conservative might make his peace with Roe v. Wade, saying the country has accepted it," said Akhil Amar, a constitutional law professor at Yale University. "But an original intent person would say: Where does it say that in the Constitution? A deference person would say that legislatures can decide the optimal rate of change, and libertarians will divide based on their answer to a philosophical question about the beginning of life."

Affirmative action cases might be decided in similarly different ways by the various conservative camps. "O'Connor, the pragmatist, relied on the fact that the country had come to accept some affirmative action," Professor Amar said. "A libertarian like Justice Thomas might say affirmative action offends an idea of merit."

According to legal scholars and Supreme Court historians, at least five different types of judicial conservatism are represented on the current Supreme Court and on President Bush's short list. As he ponders his first Supreme Court nomination, President Bush can choose from the following menu:

Originalist Conservatives

Since the 1980's, the most influential movement in conservative legal circles has insisted that the text of the Constitution should be strictly interpreted as it was originally understood by its framers and ratifiers. The leading originalist (who also sometimes calls himself a textualist) is Justice Antonin Scalia, who insists that respect for original understanding is the only way of separating law from politics.

"When this president and this party talk about strict constructionism or faithfully interpreting the law, they mean textualism and originalism," says Jack Goldsmith of Harvard Law School, a former Bush administration official.

Many of the names of President Bush's shortlist, like Judge Michael McConnell of the United States Court of Appeals for the 10th Circuit, are widely considered to be originalists, although not all of them embrace the label.

Libertarian/Constitution in Exile Conservatives

This strain of judicial conservatism is consistently anti-government and pro-individual liberties, especially including economic liberties. On the current court, the leading representative of these libertarian conservatives is Clarence Thomas.

"Sometimes, the libertarian conservatives are associated with originalism, because in many cases the original understanding comports with their conception of limited government," says Professor Goldsmith of Harvard. "But sometimes there is a conflict, and the real commitment of the libertarians is to individual liberty, not original understanding or judicial restraint."

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For this reason, libertarian conservatives like Justice Thomas are even more willing than traditional originalists like Justice Scalia to overturn decades of judicial precedents with which they disagree and to encourage judicial activism in cases protecting economic liberties.

The favorite Supreme Court candidate of the judicial libertarians is Janice Rogers Brown, recently confirmed by the Senate to the United States Court of Appeals for the District of Columbia. Liberals consider her one of the most radical potential nominees.

Traditionalist Conservatives

Traditionalist conservatives believe that judicial wisdom is built up slowly, and judges shouldn't depart radically in any direction from the Constitution as it has been interpreted in case law over the ages. "The traditionalist conservatives were in the judicial mainstream for at least half a century after the New Deal," says Professor David Strauss of the University of Chicago. Their leading representative during the Warren era was Justice John Marshall Harlan. On the current court, they are best represented by Justice David Souter.

Traditionalists are reluctant to overturn judicial precedents except in the exceptional cases, like Brown v. Board of Education, which outlawed school segregation. On Mr. Bush's shortlist, the leading traditionalist conservative is J. Harvie Wilkinson of the United States Court of Appeals for the Fourth Circuit, whom some administration officials reportedly consider too moderate.

Pragmatic Conservatives

Judicial pragmatists believe in reaching practical decisions that will help the institutions of government function smoothly. They are less concerned with the text or history of the Constitution and more interested in empirical evidence about the effects of their decisions in everyday life.

"Lewis Powell, Sandra Day O'Connor's judicial mentor, followed the same trajectory as Justice O'Connor: they both began as tradition-minded conservatives and ended up as conservative-minded pragmatists," Professor Goldsmith says.

In addition to Justice O'Connor, other pragmatists on the current court are Chief Justice William Rehnquist and Justice Stephen Breyer. All voted last year to regulate the detention of enemy combatants over dissents by Justices Scalia and Thomas.

"From my perspective, Justice O'Connor didn't give enough weight to the role of text, history and principle in constitutional law," says Steven Calabresi of Northwestern University Law School, a leading conservative scholar. "I think one concern with Attorney General Alberto Gonzales, who is on President Bush's shortlist, is that he would be too much of a pragmatist as well."

Social conservatives in particular fear that Mr. Gonzales is too liberal (and too pragmatic) on questions involving affirmative action and abortion.

Deferential Conservatives

One of the oldest strains of judicial conservatism says that courts should play a very limited role in American politics and should rarely, if ever, strike down laws passed by the state legislatures and Congress. On the Supreme Court, the leading advocates of judicial deference to legislatures were Felix Frankfurter and, during the Warren era, Byron White.

During the postwar period, conservative presidents starting with Richard Nixon claimed to want to appoint justices who would allow political battles to be fought in legislatures, not courts. But today, few liberal or conservatives justices or judges consistently believe in judicial deference.

"There is no consistent devotion on the right or the left for judges who defer to the political process across the board," says John Yoo, a law professor at the University of California at Berkeley and a former Bush administration official. "I don't think any of the judge pickers believe in it either."

How will President Bush choose among a dizzying variety of judicial conservatives? "I think O'Connor's leaving makes Bush's job easier," Professor Yoo says. "He's now free to replace O'Connor with a like-minded pragmatist like Gonzales who will win political points with Hispanics but upset his base. Since Bush is likely to have a chance to replace Chief Justice Rehnquist, too, he could reassure social conservatives that they'll get a reliable originalist for the chief's slot."

Other conservative scholars think the game of musical chairs might lead to a different result. "I think Bush will focus on replacing Justice O'Connor with someone who shares his stated philosophical goals of originalism and textualism," said Professor Goldsmith of Harvard. "Once he does that, he can focus on what criteria he will use in selecting a chief."

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With one Supreme Court nomination imminent, and another very likely on the horizon, it's clear that Mr. Bush will have an opportunity to satisfy and infuriate conservatives of many stripes. Whatever choice he makes will define not only the Supreme Court but his own conservative legacy.

O'Connor Successor Debated (WP)

By Amy Argetsinger And Elizabeth Williamson

The Washington Post, July 3, 2005

When she heard the name Sandra Day O'Connor for the first time in the fall of 1981, it meant almost nothing to Eleanor Smeal, then president of the National Organization for Women. All she knew was that O'Connor was the new Supreme Court nominee of a president she hotly opposed -- and that O'Connor was a woman.

That was enough. After a few quick calls to O'Connor acquaintances in Arizona, Smeal was on board. "We said, 'We believe she'll be there for women,' " Smeal recalled.

O'Connor's appointment galvanized women across the country in a way almost impossible to imagine nearly a quarter-century later. At a time when women were vastly underrepresented in professional schools and struggling for workplace equality, her ascension to the top ranks of federal power blasted down barriers and opened new horizons for younger generations.

More than just a symbol, she was cheered by women across an unusually wide political spectrum who believed the nation needed not just a female presence but a female perspective on its highest court. Years later, those supporters point to O'Connor's legal reasoning in several key rulings -- abortion rights, discrimination, affirmative action -- which, they are convinced, was informed by her personal experiences.

Yet for all the significance they place on her sex, women are split on the question of whether O'Connor should be succeeded by another woman. Although some of their leaders and members have expressed hope that the next appointee will be a woman, most women's organizations, liberal and conservative, are no longer making a person's sex an official priority, instead holding up O'Connor's reputation for open-mindedness as the characteristic they most want to see replicated.

"I think the mind is more important than the sex," said Jennifer Taylor, 48, a homemaker in Chevy Chase who described herself as liberal. "I just hope -- and I doubt -- that the person who replaces her is going to be as much of a centrist."

But lawyer Victoria Toensing, a Republican and a deputy assistant attorney general from 1984 to 1988, disagreed.

"One out of nine just doesn't do it," she said. "It is important for people to look at the Supreme Court and say there's someone on that court who represents who I am."

For many women who were beginning to make their way in law or politics in the 1970s and early '80s, the idea of a female Supreme Court justice was virtually inconceivable, almost until the moment it happened.

"It was still rare for a woman to be made a partner in a law firm," said Patricia A. McGuire, the president of Trinity College in Northeast. "We would hear horror stories -- if you want to be made partner, don't get married, don't have babies."

Jamie S. Gorelick, who would become deputy attorney general in the Clinton administration, recalled a constitutional law professor in the early 1970s posing hypothetical arguments to his students as if they were members of the Supreme Court and addressing her as "Mr. Justice Gorelick."

"There wasn't even a way to address a hypothetical female Supreme Court justice," recalled Gorelick, now a partner with Wilmer Cutler Pickering Hale and Dorr in the District.

Both women recalled the appointment of O'Connor as unexpected and electrifying. While some liberal women harbored doubts about a Republican appointee, NOW -- which had been pushing for a female justice for years -- quickly decided to support her.

Smeal's Arizona contacts told her "they felt she understood discrimination. She had been discriminated against as a woman," Smeal remembers.

O'Connor's personal history, in fact, became something of a touchstone, both for the activists seeking to predict how she would weigh in on key issues and for women seeking ways to balance career and family.

Although O'Connor graduated third in her Stanford law class, no law firm would hire her, except as a secretary. Ultimately, she started her own firm with her husband, and built a powerful career in law and in Arizona state government.

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Judith Areen, then a professor with a 1-year-old child, was another liberal with doubts about O'Connor's credentials. When they met upon O'Connor's arrival in Washington, she found herself impressed.

"I was very admiring of the fact that she had raised three sons and yet had done well enough to elevate herself to the court," said Areen, later the long-serving dean of Georgetown University's law school. Michelle Bernard, a high school senior that fall with notions of becoming a doctor, found herself riveted by the gender debates surrounding the appointment. Would a female jurist overturn Roe v. Wade ? What would she wear on the bench? She started reading everything she could about O'Connor -- and four years later headed for law school.

Once on the court, O'Connor almost immediately found herself the swing vote -- and often the deciding voice -- on issues of keen concern to women, such as abortion. A number cited one of her first opinions for the court, in favor of a male applicant seeking admission to the Mississippi University for Women nursing school, as evidence that she would not tolerate gender bias of any kind.

"She made it very clear in her very first decision [involving sex bias] that she believed you can't apply gender markers," said Judith L. Lichtman, former president of the National Partnership for Women and Families, which works for workplace equality for women. "Although she was very much a moderate conservative . . . she did not bring her own political views to her decisions."

To some, the opinions she wrote and the votes she cast were proof that having a woman on the bench made a difference. Eleanor Holmes Norton, the District's Democratic delegate to Congress, cited O'Connor's majority decision in Planned Parenthood v. Casey , in which she wrote that states may not put an "undue burden" on women seeking abortions before the fetus can survive on its own.

"Although this is a profoundly conservative justice who was not predictable on human rights and civil rights issues, she nevertheless made us understand why it was important to have a woman on the court," Norton said.

Bernard, now a vice president at the conservative Independent Women's Forum, cited O'Connor's decision in the case that allowed the University of Michigan to continue using race as one of many factors in admissions decisions.

"It takes a woman or a minority or someone who has been marginalized at some point in their lifetime to recognize the importance of our institutions of higher education not just being for the elite few," Bernard said. "You need to experience that in order to reason through that."

Yet Bernard and Norton, like many women on both sides of the spectrum , said they do not think it essential that O'Connor be succeeded by a woman.

"Forget gender," declared Gina Glantz, a longtime Democratic activist who managed former senator Bill Bradley's presidential campaign. "With the country as polarized as it is, to add someone to the court who would add another layer of acrimony to that playing field would be unhealthy for the country. . . . We need a balanced, thoughtful person, regardless of race or gender."

Marsha Greenberger, president of the National Women's Law Center, said that "diversity of experiences is critical, but not at the expense of having a justice who truly cares about equal protections and justice for women and upholding core rights."

Others disagreed. "If you can find a man who thinks like a woman and cares about women as much as women do, then fine, appoint a man," said Susan Ford Bales, a Republican who favors abortion rights and who succeeded her mother as chairman of the Betty Ford Center drug rehabilitation clinic.

But Bales, whose father, President Gerald R. Ford, appointed John Paul Stevens to the high court, added: "I just don't think a man can adequately represent women's fundamental right to equality in areas such as equal pay and health."

Smeal, now president of the Arlington-based advocacy group Feminist Majority, found herself at a NOW convention in Tennessee the day O'Connor announced her retirement. NOW's leadership put out a passionate demand that the next nominee "protect the civil liberties of all people" and pledged to fight anyone who "would turn back the clock on our civil, economic and reproductive rights" but stayed silent on the question of gender.

Not Smeal. She conducted a news conference with some other old-guard feminists, demanding O'Connor's successor be a woman. "We can't go back to the time of tokenism, one woman out of nine," she said. "Symbolism is very important. We're telling the world we have to eliminate the bias against women. There's no better way to do that than to practice what you preach."

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5th Circuit Has Likely Candidates (NOTP)

By Mark Schleifstein

New Orleans Times-Picayune, July 3, 2005

The list of potential replacements for retiring U.S. Supreme Court Justice Sandra Day O'Connor, the first female member of the high court, includes three judges on the U.S. 5th Circuit Court of Appeals in New Orleans -- two of them women.

Judges Edith Brown Clement, Edith Jones and Emilio Garza all have been cited as the type of conservative jurists President Bush would like to add to the bench. They also are likely to face opposition from many Democrats in the Senate, which confirms candidates.

Indeed, the fight over any Bush candidate is expected to be greater than usual because of O'Connor's status as a moderately conservative swing vote, said John Baker, a constitutional law professor at the Louisiana State University Law Center.

Among the likely 5th Circuit candidates, Jones would draw the greatest opposition, Baker said, because of signals she has given over the years that she would be an "originalist," closely following the Constitution's original meaning instead of expanding its interpretation in light of modern events.

Both Jones and Garza also have indicated they believe abortion is not justified under the Constitution, he said.

But New Orleans defense lawyer Bruce Waltzer said Clement may actually be more conservative than either of the other two.

"On civil rights and civil liberties issues, she would be to the right of the majority of the Supreme Court today," he said.

Baker said, however, that predicting what an appellate court judge will do when elevated to the Supreme Court is difficult. The job of district and appeals court judges is to interpret the law in the context of Supreme Court decisions, he said, a point that Garza has even cited in opinions in which he has criticized the high court's philosophy.

Edith Brown Clement

With the anticipated retirement of Chief Justice William Rehnquist, White House staffers already have interviewed Clement, 57, as part of their search for Supreme Court candidates, according to columnist Robert Novak.

Her confirmation process in 2001, when Bush elevated her from her U.S. District Court judgeship in New Orleans to the 5th Circuit, was uneventful. The vote for her was unanimous.

She was appointed a district judge in 1991 by the first President Bush.

Observers have said it's difficult to determine much about Clement's constitutional leanings based on the few decisions she's written while on the appeals court.

She did join a stinging dissent saying her fellow judges over-reached in applying the Endangered Species Act to protect insects found in a cave, in a case that blocked development of a Texas shopping mall. The Supreme Court recently declined an appeal of that decision.

A native of Birmingham, Clement received a bachelor of arts degree from the University of Alabama in 1969 and a law degree from the Tulane Law School in 1972. She clerked for U.S. District Judge Herbert Christenberry from 1973 to 1975 and was in private practice in New Orleans from 1975 until she was appointed to the bench.

Emilio Garza

Garza, a former captain in the Marine Corps, has been mentioned as a prominent Bush choice to be the Supreme Court's first Hispanic justice since Benjamin Cardozo was appointed in the 1930s, which could bolster the Republican Party's appeal to Hispanic voters in the 2006 midterm elections.

Garza followed existing Supreme Court precedents when he voted in 1992 to strike down a Louisiana law criminalizing abortion. But in a concurring opinion, Garza said that because the decision to regulate abortion is a political one, "I would allow the people of the state of Louisiana to decide this issue for themselves." He also wrote an opinion this year that found Congress' constitutional authority to regulate interstate commerce allowed it to limit access of protesters to abortion clinic entrances.

Garza, 58, was elevated from a federal district court bench in San Antonio, Texas, to the 5th Circuit by the elder Bush in 1991. He had been appointed to the district bench in 1988 by President Reagan, and had earlier served as a state district court judge in San Antonio. He had a private practice in San Antonio from 1976 to 1983.

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Garza graduated from the University of Texas School of Law in 1976, and received bachelor's and master's degrees from Notre Dame in 1969 and 1970.

Edith Jones

Jones, 56, first surfaced as a candidate for the high court in 1990, when she was on a short list considered by the elder Bush when he named David Souter to a seat opened by the death of Justice William Brennan.

She once served as the general counsel of the Texas Republican Party and was an attorney for 11 years in Houston, where she specialized in oil and real estate bankruptcy cases, before being elevated directly to the 5th Circuit by Reagan in 1985.

Jones has written several circuit opinions that have been reversed by the Supreme Court, including one earlier this year involving a death penalty case. She also was the author of the dissent Clement joined in the Endangered Species Act case.

A native of Philadelphia, she received a bachelor of arts degree from Cornell University in 1971 and graduated from the University of Texas School of Law in 1974.

THE CONTENDERS

Some other possible candidates for the upcoming vacancy on the Supreme Court:

SAMUEL A. ALITO: 55, has been a strong conservative voice in his 15 years on the Philadelphia-based 3rd U.S. Circuit Court of Appeals, which is considered to be among the most liberal.

ALBERTO GONZALES: 48, U.S. attorney general and former White House counsel. Critics argue that a memo he wrote on the treatment of terrorism detainees helped lead to abuses of the type seen at the Abu Ghraib prison in Iraq.

J. MICHAEL LUTTIG: 51, worked in the Justice Department during the first Bush administration and has served on the 4th U.S. Circuit Court of Appeals in Richmond, Va. He was a law clerk to Chief Justice Warren Burger from 1983 to 1984.

MICHAEL McCONNELL: 50, a judge on the Denver-based 10th U.S. Circuit Court of Appeals, enjoys bipartisan support in the academic community. Based on his reading of the law, he opposed President Clinton's impeachment and the Supreme Court's 2000 ruling in Bush v. Gore that made George Bush president.

JOHN G. ROBERTS: 50, has been on the U.S. Court of Appeals for the District of Columbia Circuit since June 2003. A former clerk to Chief Justice William Rehnquist, Roberts was associate counsel to President Reagan from 1982 to 1986 and then served in the first Bush administration, arguing cases before the Supreme Court from 1989 to 1993.

J. HARVIE WILKINSON III: 60, also on the 4th Circuit appeals bench, has been consistently conservative in his rulings since being put on the court by Reagan in 1984. Wilkinson wrote the majority 4th Circuit opinion in 1996 upholding the "don't ask, don't tell" policy that barred gay men and lesbians serving in the military from revealing their sexual orientation.

Court's Internal Dynamics - A Factor In Decisions - May Change (KRT)

By Stephen Henderson

KRT – Internal SCOTUS, July 3, 2005

With Sandra Day O'Connor poised to leave the Supreme Court soon, the talk among interest groups and politicians is about what change will be wrought What will happen with abortion? Affirmative action? Church and state separation?

Finding the answer is more complicated than simply subtracting O'Connor's vote in such cases, and adding another, presumably more conservative one. The court's internal dynamics - the way the justices work together, react to one another and shift over time - also play a pivotal role in how cases are decided. And the injection of a new personality into that dynamic could have unpredictable - and, for the White House, undesirable - effects.

Some court watchers say the arrival of another hard-line conservative to the bench, someone in the mold of Justices Antonin Scalia or Clarence Thomas, could embolden moderate conservative Anthony Kennedy.

"If you replace O'Connor with a justice like Scalia, there's no doubt it would change the dynamic inside the court," said Ed Lazarus, a court expert who clerked for former Justice Harry Blackmun. "O'Connor and Kennedy have held down the center of the court together. Now he'll be there by himself. A polarizing justice could add pressure to Kennedy to assert the middle."

Court historian David Garrow put it this way: "Replacing a moderate with a conservative automatically magnifies the center," he said.

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The current crop of nine justices, including O'Connor, held together for 11 years without a retirement or death - a record in the modern court era. And by all accounts, both inside the court and out, the justices are among the most collegial group in the court's history.

Under the even hand of Chief Justice William H. Rehnquist, they have largely avoided the acrimony that dominated courts that confronted issues such as Roosevelt's New Deal and the beginnings of the civil rights movement.

There is disagreement - sometimes bitter - over a number of issues, but the proceedings are cordial, and bad feelings don't bleed over from one case to the next.

Even Scalia's biting opinions, which sometimes take aim at other justices' take on the law or their intellect, are not a cause for extended bad feelings.

"You used to have courts where justices displayed open disrespect for the chief justice," Garrow said. When Louis Brandeis was appointed as the first Jewish justice, Justice James McReynolds, a notorious anti-Semite, refused to speak to him, or sit next to him for a court portrait. McReynolds retired in 1941.

"The court this last 11 years has probably been the happiest and most collegial in over a century," Garrow said.

At least partially on the strength of that collegiality, the court has settled into somewhat familiar patterns, revolving around the twin center of O'Connor and Kennedy.

A new face at the court - and the possibility of two, if the ailing Rehnquist leaves soon - means certain change to that stability.

If O'Connor's replacement is more consistently conservative than she is, but also takes to the court's air of cooperation, his or her vote could begin to prove decisive in close cases. But a more aggressive justice, given to extreme positions and derision for the court's other members, could have the opposite effect.

That would empower Kennedy, whose shift to the court's middle has seemed dramatic over the past few terms, and has been decisive in a number of cases that have left conservatives reeling.

Unlike Scalia and Thomas, Kennedy does not adhere to strict constitutional philosophy, and balances interests to come up with his rulings in the court's cases. That approach puts him more in league with O'Connor, Souter, John Paul Stevens and Ruth Bader Ginsburg. He has a strong penchant for individual liberty, and can be a stickler for procedure in criminal cases. He has been the target of far-right ire at least partially because he got the seat that was initially reserved by President Reagan for Robert Bork, whose approach to the court would have more closely mirrored Scalia's.

In the 2003 decision overturning gay sodomy laws, it was Kennedy who penned the most expansive ruling - one that even O'Connor declined to support. He did the same in the spring ruling that struck down the juvenile death penalty, again without O'Connor's support.

Kennedy also supports limited use of racial preferences, though he voted to strike down two University of Michigan admissions policies in 2003. He has supported most state restrictions on abortion, but has resisted efforts to overturn Roe v. Wade - a key goal of some conservative groups.

On many issues, the court's conservatives would need to convince Kennedy to side with them to overturn liberal precedents, and the new justice could either ease that process, or aggravate it.

Kennedy joined the court in 1986, appointed by Reagan, and began his tenure as a reliable vote, nearly in the mold of Scalia. But as the court's truly liberal wing - composed of justices like Thurgood Marshall, William Brennan and Harry Blackmun - retired, Kennedy has shifted more to the center. Lazarus said he has adopted a role as the court's "moral conscience, from a conservative perspective," but it's a fair distance from where he started.

"O'Connor's absence could be an opportunity for change on some issues for conservatives, but if he's made more powerful by the new appointee, the impact could be much less," Lazarus said.

Garrow said if the White House is thinking strategically, it will appoint a new justice who, both philosophically and by his or her approach, might frequently entice Kennedy or one of the court's more liberal justices to the more conservative side.

"You want someone who might persuasively keep tugging on his shirt sleeve," Garrow said.

O'Connor's Replacement Is Likely To Be A Swinger (LAT)

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By Orin S. Kerr

The Los Angeles Times, July 3, 2005

Some court observers are predicting that the Supreme Court will be radically different without Justice Sandra Day O'Connor. I'm not so sure.

Every year, the court decides a handful of closely divided cases with important ramifications for American life. In many of these cases, the court has divided into three camps.

The first includes the four liberal justices: John Paul Stevens, David H. Souter, Ruth Bader Ginsburg and Stephen G. Breyer. The second consists of the three conservatives: Antonin Scalia, Clarence Thomas and William H. Rehnquist. The last camp covers the two moderate swing votes: O'Connor and Anthony M. Kennedy.

O'Connor's retirement removes a swing vote. But that may not have a dramatic effect on the outcomes of the court's biggest cases.

To see why, assume that O'Connor is replaced by a strong conservative, such as Judge J. Michael Luttig of the 4th Circuit Court of Appeals. The balance on the court would change, but only somewhat. Kennedy (for whom I clerked) would remain as a key swing vote.

Kennedy often votes with the more liberal justices to form a liberal majority in major cases. He has voted to uphold Roe vs. Wade, and he wrote the opinions that struck down sodomy laws and invalidated the death penalty for juveniles. All these decisions would remain intact.

This scenario assumes President Bush will nominate — and the Senate will confirm — a justice who consistently votes with the conservatives. That might not happen. Bush might nominate a moderate, or the Senate might not be able to confirm a conservative. In that case, O'Connor's replacement may end up voting in a way similar to O'Connor. Again, little would change.

The possible retirement of Rehnquist raises another important variable. The chief justice has been treated for thyroid cancer, and many expect him to announce his retirement soon.

Rehnquist's departure would drop the number of conservatives on the court from three to two. Bush would nominate two instead of one, but the new justices, taken together, may end up mirroring the would-be combined votes of Rehnquist and O'Connor.

Finally, the legal principle of stare decisis will limit the changes. By institutional tradition, the Supreme Court overturns prior decisions only rarely. The justices routinely decline to overrule old cases even if they would have reached a different result the first time.

In other words, once a case is decided, it tends to stick around. This practice helps explain why most of the major decisions of the liberal Warren Court from the 1960s remain on the books today. It also suggests that most of the decisions shaped by O'Connor will remain the law in the future.

Court's Liberal Bloc Stands Firm (LAT)

By David G. Savage, Times Staff Writer

The Los Angeles Times, July 3, 2005

WASHINGTON — The Rehnquist court did not come to an end last week as predicted, despite the illness of the chief justice.

But the conservative Supreme Court led by Chief Justice William H. Rehnquist did fade away, a development as surprising as the retirement announced Friday by Justice Sandra Day O'Connor.

In its place at the end of the term stood a moderate-to-liberal court led by John Paul Stevens, the 85-year-old justice who sports bow ties and whose energy and influence seem to have grown with age.

By forming alliances with O'Connor or Justice Anthony M. Kennedy — and sometimes even with Justice Antonin Scalia — Stevens has been able to forge a majority in some of the biggest Supreme Court cases.

The loss of O'Connor's vote might mean Stevens' sway over the court has reached its high-water mark. But with Kennedy and four liberals still in place, the Stevens bloc isn't likely to dissolve overnight.

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He led a court this term that was determined to preserve the separation of church and state, increasingly willing to limit the death penalty, committed to removing racial bias from courtrooms and inclined to give cities broad power to regulate property.

In March, the justices struck down state executions of juvenile murderers as "cruel and unusual punishment," with Kennedy casting the key vote for a 5-4 majority; O'Connor was in dissent.

This followed a ruling in January that struck down the federal sentencing rules on the grounds that they gave judges too much power to add years to a defendant's prison term. In that 5-4 decision, Stevens formed an odd coalition that included Scalia and Justice Clarence Thomas. Again, O'Connor dissented.

On the final day of the term, a 5-4 ruling limited government-sponsored displays of the Ten Commandments. O'Connor joined Stevens in an opinion that said government officials could not promote or endorse religion.

Rehnquist was in dissent in all of these decisions.

This is not an entirely new trend. Indeed, this marks the third year in a row in which the liberal bloc has prevailed in the court's biggest cases.

In 2003, a liberal majority, led by Stevens and O'Connor, upheld affirmative action in colleges and universities, and held that gay couples deserved respect in their private lives, not criminal prosecution. That 6-3 ruling, in a Texas case, struck down the last of the laws that made sex between gays a crime. In the mid-1980s, Stevens had argued in a similar case for striking down such laws, but he had done so in dissent.

Last year, Stevens spoke for a narrow majority that rejected the Bush administration's contention that the president alone had the power to capture and hold "enemy combatants" — both foreign and domestic — for as long as he chose. The Constitution gives all individuals held by the government a right to go to court and to challenge the basis for holding them, Stevens said.

This term saw nearly a clean sweep for the liberal faction of the court.

The decision ending executions for young murderers followed in line with a Stevens opinion three years ago that ended state executions of mentally retarded criminals.

This year, the court also overturned two convictions of black men — one in Texas and one in California — because of racial bias in the makeup of the jury.

In what turned out to be one of the most controversial rulings, the court upheld the power of city officials to condemn private property, including homes, to make way for business development.

Stevens stressed that state legislatures may limit this power of "eminent domain," but federal judges should not take on the task, he said.

"This is the term where Justice Stevens became ascendant," Washington lawyer Mark I. Levy said. "It's been a dreadful term for the conservatives. I can't think of a single big case where the conservative side won."

Pepperdine law professor Douglas W. Kmiec, a former Reagan administration lawyer, said it was a "deeply troubling" term.

He pointed to "conservative losses on federalism and on property rights" as well as the "muddle" on religion and the Ten Commandments.

In all these areas, the high court this year rejected earlier opinions by Rehnquist that once held sway with the majority, Kmiec said.

For much of Rehnquist's tenure as chief justice, which began in 1986, the high court followed his lead. It gave more leeway to police and prosecutors. It rejected challenges to the death penalty. It restored support for state's rights and for property rights.

It also moved away from a strict church-state separation. Rehnquist once derided Thomas Jefferson's "wall of separation between church and state" as a "misguided metaphor … based on a bad history." Rehnquist said that from the days of George Washington, American officials had "acknowledged God" through solemn oaths, invocations and religious displays. He said he saw no problem with a "passive monument" of the Ten Commandments on public property.

The Bill of Rights, the first 10 amendments to the Constitution, commands that there can be "no laws respecting an establishment of religion." The Ten Commandments begin with the words, "I am the Lord thy God. Thou shalt have no other gods before me." Stevens said that if officials erected a monument of the Commandments at a government building, its message "is quite plain: This state endorses the divine code of the 'Judeo-Christian' God."

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In the court's private conferences, Rehnquist and Stevens have special roles. The chief justice sits at one of end of the table and speaks first. He describes the issues in a pending case and says how he would resolve them.

Stevens, a 1975 appointee of President Ford, is the senior associate justice. He sits at the other end of the table and speaks next. Since the two often take opposite sides in major cases, the outcome turns on whether the other justices vote with Rehnquist or Stevens.

Once the votes are tallied, the chief justice, if he is in the majority, decides who writes the opinion. If not, Stevens decides who writes the opinion.

In the juvenile death penalty case, Roper vs. Simmons, Stevens had a 5-4 majority and assigned the opinion to Justice Kennedy. In his opinion, Kennedy noted that around the world, other nations had abolished capital punishment for crimes committed by people younger than 18.

"The stark reality is the United States is the only country in the world that continues to give official sanction to the juvenile death penalty," Kennedy wrote.

That comment drew a sharp rebuke from Scalia. "I do not believe that the meaning of our [Constitution] should be determined by the subjective views of five members of this Court and like-minded foreigners." Rehnquist agreed with Scalia.

Facing a clash between federal and state power, Stevens spoke for a 6-3 majority in ruling that the federal drug laws trumped California's law allowing the use of medical marijuana.

Kennedy and Scalia joined him, but Rehnquist and O'Connor dissented in Gonzales vs. Raich.

In a test of the Title IX law that bolstered sports for women, Stevens assigned O'Connor to write a 5-4 ruling that held that coaches and teachers could not be punished for complaining about unequal treatment for girls' and women's teams. Rehnquist joined the dissenters in Jackson vs. Birmingham.

In the pair of cases on the Ten Commandments, the majority was split. In a Kentucky case, McCreary County vs. ACLU, Stevens had a 5-4 majority to rule that it was unconstitutional for officials to endorse religion by posting the Commandments in the county courthouse. Justice David H. Souter wrote the opinion, and Justices O'Connor, Ruth Bader Ginsburg and Stephen G. Breyer signed on.

In the Commandments case from Texas, the chief justice had a 5-4 majority, and he wrote an opinion that upheld the granite monument that had sat for 44 years on the grounds of the state capitol in Austin. Breyer agreed with the outcome, but he did not agree with Rehnquist's view, leaving the chief justice without a true majority opinion in Van Orden vs. Perry.

Pepperdine's Kmiec says Rehnquist's illness had an effect this year. In October, the chief justice announced he had thyroid cancer, and he underwent surgery to have a hole opened in his windpipe. In January, he returned to the court on a part-time basis. And though he continued to preside over the court's conferences, he spoke haltingly and with evident difficulty.

"His absence from the center chair [during many of the public arguments] could have shaped the dynamic in those close cases," Kmiec said.

Rehnquist and Stevens were not always divided. The justices were unanimous in a series of important business rulings. They held that Internet companies could be held liable for stealing copyrighted materials if they actively aided computer users in downloading free music or movies.

And they ruled that scientists could use patented drugs in research on new drugs. And they limited the reach of an obstruction of justice law in overturning the criminal conviction against the defunct accounting firm of Arthur Andersen.

As the court's only octogenarians, the two also share some old memories. It brought them together in a dissent from the ruling that was welcomed in California and in much of the nation. It was the 5-4 decision that struck down the state laws that banned the direct shipment of wine to consumers.

Stevens grew up during the 1920s in Chicago, where his father owned the city's largest hotel. It was dry during the era of Al Capone and the gangster wars over booze. Rehnquist, born in 1924, grew up in Milwaukee.

The national experiment in the prohibition of alcohol ended in 1933 with the adoption of the 21st Amendment. But the amendment said the "importation into any state … of intoxicating liquors, in violation of [their] laws, is hereby prohibited."

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"Today many Americans, particularly those members of younger generations who make policy decisions, regard alcohol as an ordinary article of commerce," Stevens said in a lecture to his younger colleagues, such as 68-year-old Kennedy and 69-year-old Scalia.

He recalled in his written opinion the "moral condemnation … of 'demon rum' in the 1920s and 1930s…. My understanding [and recollection] of the historical context reinforces my conviction" that the ban on cross-state sales of alcohol should be upheld as written.

Rehnquist agreed. So did O'Connor. The words of the 21st Amendment could not be clearer, agreed 57-year-old Thomas, showing again that neither ideology nor age was a sure predictor for a justice of the Supreme Court.

More Politicians For The Court (WP)

By Norman Ornstein

The Washington Post, July 3, 2005

The resignation of Justice Sandra Day O'Connor means more than the loss of the most visible centrist on the Supreme Court. It also means the loss of the only justice who has been an elected politician. Before coming to the court in 1981, O'Connor had served in the Arizona Senate for five years, including time as majority leader.

Is that sort of experience important? Last year, at a remarkable seminar at Yale Law School, a group of former Supreme Court law clerks who served a half-century ago discussed the behind-the-scenes story of the 1954 ruling in Brown v. Board of Education. That decision actually took two years to reach. It was unanimous in the end, spanning the full range of ideology on the court from William O. Douglas on the left to Felix Frankfurter on the right. It could easily have been 5 to 4, given the issues at stake, the intensity of views and the breathtaking change the decision represented.

Frankly, if the current court had been serving back then, the decision probably would have been 5 to 4, like so many other highly charged and controversial decisions of recent years. What is the difference? The Warren Court in 1954 had five members who had been politicians -- three former U.S. senators (one of whom had also been a mayor of Cleveland), one state legislator and a former governor, Chief Justice Earl Warren.

The former clerks talked about the way in which Warren, Justices Hugo Black, Sherman Minton, Frankfurter and others worked patiently to build consensus, not just a narrow majority. When it wasn't forthcoming the first time the case was up, they put it off to the next year. Liberals and conservatives alike understood how important it was for society, and for the credibility of the court, to find that consensus and put forward a united front. The fact that several of them had been schooled in an environment of coalition-building -- the legislative process -- was a key to that sensitivity and to the final result.

The Warren court of the 1950s was quite typical of American history up to that point, in that justices often came from political backgrounds. Only one of the nine justices in 1954, Minton, had served on a U.S. court of appeals, and he had been a senator before that. Contrast that with the current Supreme Court -- on which seven of the nine justices have served on a federal court of appeals and one other had service on a state court of appeals. The only current member without a background as a judge, interestingly, is Chief Justice William Rehnquist.

Why the change? Over the past 50 years, the federal courts have increasingly made public policy, from settling details on airborne emissions to intervening in disputes between telephone and cable companies to setting guidelines on abortion and sodomy. The increased policy role has come about in part because Congress has passed the buck on controversial decisions to the courts, and in part because judges, left and right, have been willing and eager to step in to fill vacuums. As our politics have become more ideological and more partisan, lifetime court appointments have thus become more important and valuable.

Choosing judges, especially at the Supreme Court level, has taken on a heightened importance -- and presidents and their partisans want to make sure they know what they are getting. A track record at the federal appeals court level is a much safer predictor of behavior at the next level up than service in the U.S. Senate, or as a governor or in other political office.

But having a court that consists largely or only of nonpoliticians has serious costs for the public. Not only are judges less inclined to think broadly of the country and its social and political divide, they are more likely to look at decisions with tunnel vision, not thinking through the problems of maintaining the court's standing with the public and of implementing difficult and divisive decisions.

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Moreover, since much of what the court does is to sort out legislative intent, those without political experience have no real sense of how a legislature works and no direct idea of what legislative intent really means in the crucible of the legislative process. Politicians who have run for office and been in campaigns also know how politics works; the ignorance of basic politics shows up in the court's decisions on political issues such as redistricting.

With O'Connor gone, the Supreme Court will have no politicians and only one member, Stephen Breyer, who has worked in a legislature, as a staffer. Most of the names the White House has floated as possible Supreme Court nominees are, predictably, judges on federal appeals courts. It is time to expand the field to seriously consider people with political backgrounds. Former senators John Danforth and Warren Rudman would be superb choices. At least two current senators, John Cornyn of Texas and Jon Kyl of Arizona, fit the ideological criteria of the White House. Harry Reid, the Senate Democratic leader, has mentioned other capable Republican senators, including Mike DeWine of Ohio and Lindsey Graham of South Carolina. There are many others, including present and former governors, senators and House members, who could also fit the bill. The court, and the country, would be well served to have a politician or two on the bench.

Left And Right, Groups Gear Up (CHT)

By Frank James and Mike Dorning

CHT – Senate Battle, July 3, 2005

At People for the American Way headquarters Friday, Ralph Neas, the liberal advocacy group's president, briefly stopped in the "war room" to rally staffers and volunteers who were contacting activists shortly after Supreme Court Justice Sandra Day O'Connor announced her retirement.

"What's at stake is everything we care about," he told two dozen mostly young adults working phones and computers and filling envelopes. "We have to get the message out. If a right-winger replaces Sandra Day O'Connor, that right-winger can turn back the clock seven decades." Neas was between interviews and heading to a Capitol Hill news conference.

On the conservative side, the war room was more virtual than real. "Who needs a war room?" said Sean Rushton, executive director of The Committee for Justice. "We can all sit at our desks and e-mail."

Rushton spent the hours after the announcement in the office that his organization rents from a high-powered Republican lobbying firm, juggling conference calls among conservative activists and tapping away at his keyboard on press statements, talking points and a slew of e-mail.

"The message is, be magnanimous about Sandra Day O'Connor and speak about her as a conservative judge," he said.

A heated fight between interest groups on the political left and right over whom President Bush should name to fill a Supreme Court vacancy intensified sharply Friday, as both sides viewed O'Connor's retirement as a chance for Bush to significantly shift the nation's highest court to the right.

The announcement by O'Connor took virtually all the groups by surprise.

Raised stakes for all

For groups on both sides, O'Connor's retirement caused what already were high stakes to multiply because of her role as the court's main swing vote in 5-4 decisions. What had promised to be a major battle as Washington insiders speculated that ailing Chief Justice William Rehnquist might retire loomed as an even bigger fight with news that O'Connor is leaving the court.

Liberal and conservative efforts Friday were driven by fear on one side, hope on the other. Liberals feared decisions favorable to them on affirmative action, abortion rights, the environment and a host of other hot-button issues could be reversed in new rulings. Conservatives hoped a new justice would deliver just such reversals.

Neas and other leaders of the liberal coalition said they hoped the president would consult with Republican and Democratic senators about O'Connor's replacement and pick a consensus candidate. They said that is even more important now because the retirement was of a swing justice, as opposed to Rehnquist. A strong conservative replacement for the reliably conservative Rehnquist might be seen as retaining the philosophical mix among the nine justices.

Liberal advocates put the White House and Senate on notice that if the president wanted a contentious confirmation battle, he would get one.

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"If he chooses the more divisive route and names a candidate who is extreme, he will ignite a firestorm," promised Nan Aron, president of the Alliance for Justice.

O'Connor's announcement set in motion activities both sides had planned for months, with thousands of phone calls and hundreds of thousands of e-mails going out to activists who in turn were being asked to reach out to others to lobby their senators. Web sites were updated with the O'Connor news and suggested actions.

For conservatives, the goal was to get supporters to tell senators they wanted O'Connor, whom they called a true conservative, to be replaced by another. Liberals asked supporters to flood senators' offices with the message that they want a nominee who would draw broad bipartisan support.

O'Connor's announcement seemed to especially stun liberals because they viewed her as the key vote for their issues.

A `state of emergency'

"We are declaring a state of emergency at this point, not only for Roe vs. Wade," said Kim Gandy, president of the National Organization for Women. That 1973 decision determined that women had a constitutional right to abortion, a position that O'Connor upheld in various cases during her 24-year tenure on the court.

As much as many liberals were shocked, conservatives, especially Christian conservatives, had a sense of the possibilities created by the vacancy.

"Today marks a watershed moment in American history: the resignation of a swing-vote justice on the Supreme Court and the opportunity to change the court's direction," said James Dobson, founder and head of the Focus on the Family organization and host of a radio show by the same name.

Tony Perkins, president of the Family Research Council, a conservative Christian activist group, said the organization had sent an e-mail alert to members but would wait until Bush nominates a successor before asking them to take action.

"We're all ready to go once there's a nominee," Perkins said.

Fears Of Battle Over High Court (BSUN)

By John Woestendiek And Robert Little

The Baltimore Sun, July 3, 2005

It's going to be a bruiser.

If you thought election 2004 and Terri Schiavo's last days were nasty confrontations in the so-called culture wars, just wait for the fight over who will fill Sandra Day O'Connor's U.S. Supreme Court seat.

Ruptures over gay marriage, flag burning or displaying the Ten Commandments will feel like mere tremors compared with the cultural quake sure to erupt when the nation's differences become the weapons with which the Supreme Court's future is determined, political analysts say. Expect the "red" and the "blue" to go at it fiercely enough to leave the nation purple, or at least with some long-lingering bitter feelings.

"It's likely to be the political equivalent of the war of the worlds," said Marshall Wittman - once legislative director for the Christian Coalition, now a senior fellow at the Progressive Policy Institute. "Unless the president completely surprises everyone and picks a moderate, he will likely trigger an end-of-all-times cultural battle over this nomination."

The White House said Bush won't announce a nominee until at least July 8, after he returns from a trip to Europe, but the fight over that nominee is looking to be bloody.

Soon after word of O'Connor's retirement surfaced, Planned Parenthood announced a series of rallies and sent a message to supporters saying, "We cannot remain idle in the face of such a threat."

David Corn, Washington editor of the left-leaning periodical The Nation, quickly posted a column saying, "It should be ugly."

"There will be much at stake. But ugly is ugly," he wrote, adding, "A titanic fight over a Supreme Court nomination can really ruin a summer in Washington."

"The supply lines are being formed," Wittman said Friday, hours after O'Connor, the first woman on the Supreme Court and a swing vote on abortion, announced her retirement.

"Everyone is canceling their weekend vacations to hunker down. People are being deluged with political spam. Everyone's sharpening their sound bites. It's lock-and-load time in Washington."

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Those who believe in the concept of culture wars - the idea that the nation is increasingly divided into increasingly entrenched camps that are increasingly at odds over whether the government should legislate moral values - agree that this could be the mother of all of them.

Even before the 2004 election, which seemed to turn on the relatively new political theme of "moral values," the country's fractured conscience had grown apparent.

Disagreements over the balance of church and state have played out in debates over creationism in public schools or display of the Ten Commandments on public property, for instance. A rift over the definition of life and death, kept open by issues related to abortion, has been widened by debates in Congress and elsewhere about things like embryonic stem cell research and Schiavo's right to live or die.

The wars in Iraq and Afghanistan have provided more fuel, not only by spawning political opposition, but also by sparking disagreements over such matters as the treatment and rights of political prisoners, or whether individual rights should be sacrificed in the name of security.

Some see these culture wars as a concoction of the news media, think tank talking heads and TV producers who like everything to be, if not black and white, at least red and blue.

But even the cynics agree that O'Connor's resignation creates a prism through which the disagreements are likely to be concentrated, amplified and perhaps distorted, leading to the political skirmish of the fledgling century. No matter whom Bush nominates, Democrats are likely to put up a fight and, based on the high stakes and their losing record of late, it's likely to be an all-out one.

Some say another big, prolonged, values-laden battle in Washington will do little more than increase alienation and apathy among the masses, and even widen the rift between the right and left - that, when it comes to the national fabric, we might want to consider switching to Kevlar.

'A firestorm'

"The Democrats will see no downside to attacking this nominee mercilessly," said Richard Shenkman, editor of George Mason University's History News Network. "I don't see any way around it, really. It will be a firestorm."

The president could, of course, defuse the fireworks by appointing a moderate nominee, though few consider that likely. With his poll numbers down and his conservative core in need of a good soothing, he is more apt to rally supporters with a candidate of their ilk. And besides, the conservatives have been burned by the so-called moderates in the past.

While seven of the court's nine justices were appointed by Republicans, three of them - O'Connor, Anthony M. Kennedy and David H. Souter - have hardly been the conservative stalwarts that the party faithful might have expected. In perhaps the most telling example of the conservatives' laments, those three justices teamed up in 1992 to write the court's Planned Parenthood v. Casey decision, which reaffirmed abortion rights and dashed the hopes of the right wing.

"The conservatives have this history now of what they consider to be 20 years of betrayal," said Shenkman, an associate professor of history at George Mason. "They're demanding a true conservative, which will just fan the flames of the cultural war in this country.

"We're living through one of those periods in American history where there is great conflict, where society is not very settled. And I can't imagine things being any more settled after this."

Many expect Bush to choose a nominee who opposes legalized abortion to appease the conservative base of the party and to make up for his father's appointment in 1990 of Souter, whose votes have been more moderate than many expected.

"Consequently, it's payback time for the religious right," Wittman said.

"Ultimately, this fight will be about abortion," he said. "The No. 1 item on the agenda of social conservatives is to overturn Roe v. Wade."

Widening rift seen

Wittman believes the fallout from the battle will serve to widen the rift between those who vote based on their conservative moral values and those who think those values don't belong in the political arena.

"I think we will see the accelerated polarization of American politics, and quite possibly the further alienation of the American people from Washington," said Wittman, who was a Republican for 20 years.

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"Most Americans' concerns are about health care, gas prices, and all those will be going to the wayside while Washington engages in the cultural war. Many other important issues will be ignored because of the primary focus on abortion."

That, he says, was the case with the debate over whether Terri Schiavo's feeding tube should be disconnected - the latest flare-up of the culture wars. For more than a year, conservative Christian and anti-abortion groups lined up against civil liberties attorneys, with elected officials entering the fray as reinforcements.

James Davison Hunter, a professor of sociology and religious studies at the University of Virginia and author of Culture Wars: The Struggle to Define America, said the Schiavo case, like the election, served as a trigger.

"My position is that cultural conflict is deeply rooted in American society and has been for quite a while, though it typically remains below the surface of political life until certain events, different events, act like a trigger to bring them to the surface.

"Once they're on the surface, they become politicized. Special interest groups, political parties and activists of all sorts become involved and stake out a position. Where the majority of Americans would want a compromise - some kind of middling position - the special interest groups tend to polarize the issue into stark options, and those extremes tend to frame the public debate."

Bush 'inclusive'

Some think Bush, who is expected to have at least one more Supreme Court seat to fill before his term expires, might choose a less contentious candidate this time - someone who doesn't drive the nation's political extremes to blows.

"My guess is that Bush will nominate someone who is acceptable to his base but who will not be the hard-core ideologue that a lot of them would have liked," said Corwin Smidt, executive director of the Henry Institute for the Study of Christianity and Politics at Calvin College in Grand Rapids, Mich.

"In this climate you won't be able to escape the debates about things like abortion rights or the Ten Commandments," Smidt said. "But despite all the talk about Bush being this polarizing figure, I think there's a lot of evidence in his record to suggest that he's very inclusive, particularly with regards to religion."

Nevertheless, most suspect a battle is in the offing.

"Ordinary people, the average American, spends most of life far away from the battle lines and considers most of these issues irrelevant to their daily lives, but when these triggering events happen, people end up making decisions within the categories that have been given," said the University of Virginia's Hunter.

"We saw that in the last election. Americans divided very evenly but very contentiously. We saw it on a smaller scale with Schiavo. Even though her circumstances were fairly remote from the average American's everyday experience, when senators and presidents become involved, when it becomes politicized and stays in the newscast and on the front pages of newspapers for as long as that did, eventually people take sides."

"As contentious as this is likely to be, it won't divide the nation in ways that will be enduring and really threatening to political institutions," Hunter said. "What it will more likely do is create a disaffection of the average voter. ... People get tired and weary of it."

Word From O'Connor Sets Off Pre-Fourth Fireworks (WP)

By Dana Milbank

The Washington Post, July 3, 2005

As reporters filed into the office of Senate Majority Leader Bill Frist (R-Tenn.) yesterday afternoon for a briefing on the process to replace Supreme Court Justice Sandra Day O'Connor, Frist aide Bob Stevenson called out cheerfully: "This is a great introduction to the Fourth of July weekend. Anybody have to cancel plans?"

Well, yes and no.

O'Connor's announcement caught just about everybody by surprise -- even the White House, which rushed to schedule a Rose Garden appearance for President Bush before his meeting with Kuwait's prime minister. Most people had expected the ailing chief justice, William H. Rehnquist, to be the one making the announcement, and even that seemed doubtful as the days passed. Reporters and staff on the Hill arrived for work in blue jeans, hoping to slip away early for the holiday.

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But in a sense, Washington could not have been better prepared for O'Connor's announcement. Liberals and conservatives alike have been drilling for months in preparation for the vacancy, and they responded with an impressive blend of logistical precision and ideological excess. Eighteen minutes after O'Connor's retirement became public, Frist was on the Senate floor reading a 1,600-word statement. Forty-nine minutes later, the first television ads were announced. Eighteen minutes after that, Sen. Tom Coburn (R-Okla.) became the first senator to disparage the Reagan-appointed O'Connor, for "self-indulgent judicial activism."

Sen. Charles E. Schumer (D-N.Y.) caught a flight back to Washington to give a news conference. Within hours, hundreds of organizations and lawmakers had issued statements and news releases -- the liberal People for the American Way issued four -- with the choicest political hyperbole: "Devastating," "historic," "ominous," "critical," "freedoms hang in the balance," "reinventing monarchy," "state of emergency," "save the court."

And Bush hasn't even nominated a successor.

With exceptions such as Coburn, the politicians left most of the hysteria to interest groups and resorted to euphemistic talk. Bush said he would "consult" with the Senate on a nominee. Democrats pretended that they did not have a "litmus test" for prospective justices. Republicans pretended that their only desire for a successor was that the justice would "interpret the law" and wouldn't "make public policy."

But beneath the official posturing was a simple truth: O'Connor is the tiebreaking vote on a range of hot-button social issues, and the battle to replace her will be in many ways a referendum on legal abortion. So it's no surprise that, starting at mid-morning, the O'Connor succession fight became the only game in town.

10:21. The first Associated Press bulletin crosses the wire: "O'Connor, high court's first woman, retires."

10:30. The conservative Becket Fund for Religious Liberty announces that its lawyers are standing by "to discuss the legacy of Justice Sandra Day O'Connor and the impact her leaving the court will have on religious liberties." Three hours later, a PR firm issues astatement from the group saying "thank God she's retiring."

10:31. People for the American Way, in its first release, calls for "a consensus nominee," not an "aggressively activist ideologue."

10:33. The White House -- which evidently knew nothing of O'Connor's intentions when Bush's press secretary briefed reporters at 8:30 a.m. -- announces that Bush will speak at 11:15.

10:34. Sen. Jim DeMint (R-S.C.) rushes out a preemptive attack on the opposition. "While some Democrats will attack anyone the president nominates, I hope others will give the nominee serious and fair consideration," he says.

10:39. Frist, on the Senate floor, makes no mention of abortion but uses the conservative refrain that a justice's role is "to interpret the law and not to make public policy."

10:40. Planned Parenthood issues a press release: "Departure of Justice O'Connor Creates Ominous Vacancy. . . . Reproductive Rights Hanging in the Balance."

11:01. Senate Democratic leader Harry M. Reid, stuck at home in Nevada, issues his statement: "Justice O'Connor has been a voice of reason and moderation. It is vital that she be replaced by someone like her."

11:07. The liberal Alliance for Justice steals Planned Parenthood's 27-minute-old line. "Individual rights and freedoms hang in the balance," the group says. Not to be outdone, the ACLU warns at 11:11 that "we are gravely concerned that President Bush will use this opportunity to nominate someone whose judicial philosophy is hostile to civil liberties."

11:16. Sweat-soaked journalists wait in the sweltering Rose Garden as television correspondents struggle for words to describe the drama to their viewers. Bush emerges, grinning, saying he will "be deliberate and thorough" but also "timely." He praises O'Connor without praising her judicial opinions. And he warns filibuster-minded Senate Democrats that he wants a "fair vote."

11:21. GOP Chairman Ken Mehlman bemoans "the inevitable protest from far-left special interest groups." Democratic Chairman Howard Dean answers 57 minutes later by saying a cordial process "will be up to President Bush."

12:41. Frist's office serves notice that Supreme Court vacancies over the past 30 years have been filled in 72 days on average. Experts assembled by Frist's staff tell journalists that Bush is under no obligation to consult with Democrats and that it is "inappropriate" for Democrats to ask a nominee about specific issues, such as abortion.

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12:49. The conservative Committee for Justice vows guilt by association. "We will be watching Senate Democrats and intend to link moderate and red states senators to their liberal Senate colleagues and outside groups," it announces.

1:42. The liberal Coalition for a Fair and Independent Judiciary weighs in, saying Bush should pursue a "consensus nominee" such as O'Connor, who was confirmed 99 to 0. Twenty minutes later, the conservative Family Research Council holds a news conference to call O'Connor's view on abortion "shocking" and to demand a successor in the mold of Rehnquist or Antonin Scalia. "We have been waiting over a decade," the group's chief, Tony Perkins, says. "We will seize this opportunity."

But he had better pace himself.

Interest Groups Gear Up On Court (PPG)

By Maeve Reston

Pittsburgh Post-Gazette, July 3, 2005

Within minutes of Friday's announcement of the impending retirement of Supreme Court Justice Sandra Day O'Connor, interest groups on the right and left were fully engaged in long-drawn-up battle plans that promise to make this fight fiercer than any previous nomination.

As President Bush is expected to make an announcement regarding his choice to succeed O'Connor perhaps as soon as the end of this week, though possibly longer, groups were already firing off scores of e-mails that encouraged supporters to flood the White House with phone calls recommending the kind of nominee he should pick.

Organizations and coalitions on each side -- already immersed in plans and regular conference calls for several years, in some cases -- have scheduled news conferences and rallies across the nation throughout this week. The liberal group People For the American Way announced yesterday that it would begin running ads this week urging Bush to choose a nominee that could be approved with a broad bipartisan consensus.

One anti-abortion rights group, Generation Life, plans to hold vigils in front of the Supreme Court building before the confirmation hearings begin.

A pro-abortion rights group, Emily's List, was using the excitement of Friday's announcement to solicit those on its e-mail list to contribute to female Senate candidates who would protect abortion rights -- and potentially use minority-party power to block an anti-abortion rights nominee.

The fact that the court vacancy is the first in the era of Internet instant communication and mobilization had led many groups to speculate that thousands more Americans will become involved in the confirmation process as it winds through the summer.

But leaders on both sides say O'Connor's role as a critical swing vote on the high court has already brought a new level of intensity to the fight.

For many on the left, the loss of O'Connor's vote on the high court was the most feared prospect -- because it could lead to a reversal on some crucial abortion-rights cases and dozens of prior 5-4 decisions, ranging from affirmative action in college admissions processes to the recent ruling barring display of the Ten Commandments at courthouses.

"It intensifies everything that we were planning to do," said Elliot Mincberg, legal director at People for the American Way.

"She's been the swing vote in so many important areas -- civil rights, affirmative action, reproductive rights, environmental cases," he said. "So, literally, rights and liberties are at stake across the board depending on who her replacement will be."

For groups on the right, the vacancy is a chance to win appointment of a justice whose views are in line with the conservative justices whom Bush has said he admires most.

"The president has the historic opportunity to keep faith with the promise he has repeated numerous times, which is to name justices who are like Justices Antonin Scalia and Clarence Thomas," said Jan LaRue, chief counsel of the conservative Concerned Women for America.

She said it was ridiculous that Democrats including Sens. Edward Kennedy of Massachusetts and Christopher Dodd of Connecticut were already calling upon Bush to replace O'Connor with a justice of similarly moderate views. "They claim that you have to maintain the balance of the court," LaRue said. "That's irrelevant. ... It's not a constitutional requirement."

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Though Senate Judiciary Committee officials say it will be at least several weeks, if not more than a month, before their panel begins holding hearings on whether to recommend confirmation of the president's choice, strategies for interest groups on both sides are already well-established -- as was evident in the first wave of e-mails they sent out.

For more than a week, the conservative Progress for America, a pro-Bush group that has pledged to spend $18 million on the fight, has been running ads intended to discredit liberals' criticism of Bush's court nominees -- stating that their adversaries are committed to 'tar and feather' any choice the president makes.

C. Boyden Gray, White House counsel for former President George H.W. Bush but now head of the Committee for Justice, a group formed to support the president's nominees, said groups on the left need to "take a breath and resist their natural impulse towards exaggeration."

"We call on Democrats to resist the temptation to use their attack machine against a qualified nominee," Gray said. "All parties should withhold judgment until a fair and sober analysis has occurred."

As did Democratic senators, these liberal activists underscored that O'Connor, after being nominated by then-President Ronald Reagan, was confirmed unanimously by the Senate in 1981 during a polarized time. They are urging that Bush, too, should choose "a consensus nominee." Kennedy on Friday already was referring to the precedent of the O'Connor selection as the "Reagan standard."

Nan Aron, head of the progressive Alliance for Justice, a longtime player in confirmation battles, said that with O'Connor's retirement, "individual rights and freedoms hang in the balance."

Bush, said Aron, "can unite the country and consult with both parties in selecting a moderate, consensus nominee -- someone like Justice O'Connor -- or he can continue down the path he has taken with lower-court nominees and name a controversial candidate who will further divide the nation."

Nominee Battle Lines Drawn (DMN)

By Allen Pusey

The Dallas Morning News, July 3, 2005

A look at the key players in the looming fight over the next Supreme Court justice:

REPUBLICANS

Committee For Justice: Committee executive director Sean Rushton's job is to provide instant background and talking points. "It is important to respond very quickly to anything the liberal groups or the Democrats put out there," he said.

He works for C. Boyden Gray, a White House counsel during the first Bush administration who spent the last three years creating a vaguely vertical structure for the hundreds of business, religious and single-issue interest groups that have a stake in getting a conservative court nominee. They have amassed an estimated $18 million to pay for advertising on behalf of a Bush nominee.

American Center for Law and Justice: Televangelist Pat Robertson founded the center, which has offices near the Supreme Court. Jay Sekulow, the organization's chief counsel, is preparing to guide his audience of 1.5 million, most of them evangelical Christians, through the confirmation process. "It's my job to speak to those people, to explain the process to them and get them involved," he said.

Federalist Society: Once little more than a law school debating club, the Federalist Society has become a significant conservative talent pool for law firms, government posts and judicial nominations. Justices Antonin Scalia and Clarence Thomas were Federalists, and most of the names being suggested for the next Supreme Court vacancy are, or have been, members of the society.

Leonard Leo, the group's executive vice president, will seek to convince disparate conservatives that another Federalist voice on the high court will benefit their cause, even if the nominee's record is ambiguous or incomplete.

DEMOCRATS

People For The American Way: Hollywood producer Norman Lear founded People For The American Way for the specific purpose of blocking the nomination of appeals court judge Robert Bork in 1987.

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The group's executive director, Ralph Neas, former head of the Leadership Conference on Civil Rights, said the confirmation will represent a "titanic struggle over radically differing interpretations of the Constitution." His group has been conducting polling and focus groups to distill the most effective arguments against a conservative candidate and setting up a war room of more than 40 work stations to mobilize his troops.

Alliance For Justice: The alliance is a coalition of women's groups who see in any court nominee the potential loss of abortion rights. Nan Aron, its president, has been working to block some of the administration's federal appellate nominees.

"We're prepared to fight and to win if he sends up an individual who's a lightning rod," Ms. Aron said.

Leadership Conference on Civil Rights: Founded in 1950, the conference is a coalition of 180 rights organizations pooling their resources to affect legislation, civil rights litigation and, in this case, federal court nominations.

Executive director Wade Henderson's job is to mobilize and educate the vast array of rights groups under the conference umbrella, including organized labor, gay and lesbian groups, human rights activists and traditional civil rights organizations.

The Right's Moment, Years In The Making (WP)

By Thomas B. Edsall And Dana Milbank

The Washington Post, July 3, 2005

With the Supreme Court vacancy left by the retirement of Justice Sandra Day O'Connor, the conservative movement has within its grasp the prize it has sought for more than 40 years: the control of all levers of the federal government.

From the ashes of Barry Goldwater's presidential campaign, conservatives have built an enduring governing majority, with Republicans winning seven of 10 presidential contests and holding unified control of Congress for 11 years.

The judiciary has until now been alone in clinging to liberalism and the remnants of the Democratic New Deal coalition. A series of Republican appointments to the Supreme Court -- John Paul Stevens, O'Connor, Anthony M. Kennedy, David H. Souter -- have disappointed conservatives by frequently siding with the court's liberal bloc.

That could well happen again with O'Connor's replacement, but conservatives are cautiously hopeful it will not. President Bush has indicated that he will appoint a justice in the tradition of Antonin Scalia, a conservative stalwart. And the conservative movement has something it lacked during its losing battle for the confirmation of Robert H. Bork to the court 18 years ago: a highly coordinated movement that has fused the big dollars of economic conservatives with the grass-roots clout of millions of religious conservatives.

This, conservatives say, will prevent the defeat of another nominee such as Bork and will inoculate Bush from pressure to appoint a moderate such as Kennedy or Souter. And if it works with O'Connor's replacement, conservatives say, they will have found a formula that will allow them gradually to control the judiciary and revisit the full range of precedents regarding abortion, affirmative action, church-state matters and regulations of business and the environment.

"It is a moment of conclusion after years [in which] the conservative movement has moved very far," said Manuel Miranda, a former counsel to Senate Majority Leader Bill Frist (R-Tenn.) who leads a coalition of groups pushing for conservative jurists. "The resources on the right are so overwhelmingly different from what they were 11 years ago," when there was last a court vacancy.

Connie Mackey, of the conservative Family Research Council, said at a news conference Friday she sees "a tremendous amount of organization, unlike I'd ever seen" in past confirmation fights. "The social-issue groups as well as the fiscal conservative groups are determined that they're not going to see a Borking of any nominee that would be a good constitutionalist." That was a reference to the effective campaign by Democrats to demonize Bork and defeat his nomination by President Ronald Reagan to the high court.

The conservative bid to reshape the federal judiciary has been years in the making. Since the 1973 Roe v. Wade decision -- widely condemned by conservative legal thinkers -- groups such as the Federalist Society have sought to expand the ranks of young conservative lawyers. Dozens of conservative judicial appointments by Reagan and President George H.W. Bush have given the current president a broad pool of judges from which to choose for the high court.

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The prospect of a new Supreme Court vacancy has accelerated this campaign. With the blessings of the Bush White House, a team of conservative leaders self-dubbed "the four horsemen" formed in 2002 and has taken over much of the planning for the nomination fight.

These men are C. Boyden Gray, an establishment lawyer who chairs the Committee for Justice; Jay Alan Sekulow, chief counsel for the American Center for Law and Justice; Leonard A. Leo, executive vice president of the Federalist Society; and Edwin A. Meese III, attorney general during part of the Reagan administration.

Gray, in an interview, described a battle plan over two years in the making. The Federalist Society will provide research in support of the nominee. A group called Progress for America, which backed the reelection of Bush in 2004, will spend as much as $18 million on radio and television backing Bush's nominee; and the recently created Judicial Confirmation Network, run by a former Bush campaign coalitions director, is setting up a grass-roots network in the states of six key senators.

"We have been preparing for this for 2 1/2 years," Gray said.

What Gray and others have done is fuse the GOP's economic and social conservatives, much as Bush did in his two presidential races. Gray's Committee for Justice represents business conservatives and has on its board top corporate lawyers; members of the Republican lobbying firm Barbour, Griffith & Rogers; John Engler, head of the National Association of Manufacturers; and Frank A. Keating, president of the American Council of Life Insurers.

O'Connor was pro-business in her rulings, and economic conservatives are determined to keep the seat that way in cases involving class-action lawsuits, tough enforcement of corporate-fraud laws and bankruptcy legislation -- all of which have bottom-line consequences of billions of dollars.

The financial clout of such conservatives is being paired with the grass-roots power of the social conservatives, who have been dismayed by recent rulings of the court on abortion, the Ten Commandments and other polarizing issues. The social conservatives are represented by people such as Sekulow; Tony Perkins, president of the Family Research Council; and James Dobson of Focus on the Family.

Perkins said Friday that his group "will be mobilizing over 20,000 churches" and is reaching "over a million people" daily through e-mail and the Internet.

The replacement of O'Connor with a more reliable conservative would, by itself, give conservatives a majority for the first time on church-state issues, affirmative action and such abortion issues as parental notification and what critics call "partial birth" procedures. Perhaps more significantly, it will bring the right within one vote of a solid conservative majority that could theoretically overturn the Roe v. Wade abortion ruling -- although some legal analysts say that could be years away.

Veterans of the culture wars of the past few decades see the shift of a couple of seats on the Supreme Court as the culmination of a long struggle.

"This fight has been going on for my entire adult lifetime," said Richard Land, president of the Southern Baptist Convention's Ethics & Religious Liberty Commission, who was first ordained in 1969, six years after the Supreme Court had barred school prayer.

Gary Bauer, of the Campaign for Working Families and a 2000 GOP presidential candidate, said: "The court is both the last holdout and the major instigator of the disturbing changes in the values arena over the last 30 years."

Miranda calls the vacancy left by O'Connor a "test case" for conservative clout and says the right will demand that any Bush nominee have a "paper trail" showing strong conservative views.

"The conservative movement is mobilized to prevent a Souter or even a Kennedy," Miranda said. And once a true conservative is nominated, he added, "The conservative movement is ready to fall on its sword for a presidential nominee, and that is in reaction to Bork."

Ralph G. Neas, who heads the liberal People for the American Way and has been involved in every confirmation battle since 1975, has grudging respect for conservatives' progress.

"They have taken efforts to enhance their organizational structure and be able to finance that structure in a way they haven't before," he said. "They're in many ways replicating what we have been doing for some time, and bringing in wads of new money through their corporate special-interest contacts. Their pockets are much deeper than ours."

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The first goal of the conservatives' newfound organizational power is to pressure Bush to nominate an ideologically acceptable judicial candidate. Perkins said Bush "has committed to nominate justices like Scalia and Thomas." Rush Limbaugh, in his radio broadcast, warned that there "is no longer any room" for a "stealth" nominee without a proven conservative record.

Bush said during the 2004 presidential campaign that he admires justices such as Scalia and Clarence Thomas -- a statement that prompts Shannen W. Coffin, a former official in Bush's Justice Department, to say "there's no doubt the president made a promise" to nominate like-minded judges.

Grover Norquist, president of Americans for Tax Reform and an adviser to Karl Rove, Bush's chief political strategist, said that starting with the election of 1968, "the left discovered it could no longer hold the presidency, so it turned to Congress for protection." After Democrats lost control of Congress in 1994, "the left turned to the courts. This is all they have left."

In Battle To Confirm A New Justice, Both Sides Get Troops Ready Again (NYT)

By David E. Rosenbaum And Lynette Clemetson

The New York Times, July 3, 2005

The last time Ralph G. Neas and C. Boyden Gray went head to head as commanding generals in a war over a Supreme Court confirmation was in 1991, when Clarence Thomas was the nominee. Now, with the resignation of Justice Sandra Day O'Connor, they are adversaries again.

Mr. Gray, who was White House counsel for President George Bush, won the Thomas battle.

But by all accounts, Mr. Neas had the superior operation: a unified battalion of labor unions, civil rights groups, women's organizations, civil libertarians and environmentalists that had more money, more energy and more firepower than had ever been used in a Supreme Court fight. It was an expansion of the same force Mr. Neas mobilized successfully in 1987 to defeat the nomination of Robert H. Bork.

After the bruising Thomas conflict, Mr. Gray, surprised by the fervor of the opposition, vowed he would never be outgunned again.

"When I was counsel, there was nothing out there," he said in a recent interview at his law office. "We didn't have the infrastructure with Bork or Thomas. The other side existed, but this side did not."

This year, said Mr. Gray, chairman of the Committee for Justice, an organization he formed three years ago to work for the president's judicial nominees, he was mustering outside forces that would be up to the fight.

"We haven't leveled the playing field," Mr. Gray said. "But at least we're on the field and we're able to engage." There is no doubt that his side has been much fortified. Progress for America, a group with close ties to the Bush administration, has begun to spend a pledged $18 million on advertising and organizing for the confirmation battle. Christian conservatives, who are far better organized and sophisticated than they were when the first President Bush named Justice Thomas to the court, are springing into action. And Mr. Gray, like his opponent, expects to have far greater reserves of cash and armies of activists this time around.

Some familiar faces are assisting Mr. Gray, who talks regularly with the White House about judicial nominees, in the confirmation campaign. The growing clout of Christian conservatives has given him new allies. He works closely with Jay Sekulow, general counsel of the American Center for Law and Justice, a Christian conservative legal group founded by the televangelist Pat Robertson, and Leonard Leo, a top official of the conservative Federalist Society who doubles as director of Republican outreach to Catholics.

By contrast, Mr. Neas, now president of People for the American Way, is presiding over a liberal coalition that has stayed largely intact over the last 10 years, still led by the same handful of veterans.

After learning of the O'Connor resignation Friday, Mr. Neas joined Nan Aron, president of the Alliance for Justice, and representatives from three dozen groups - including the A.F.L.-C.I.O., the American Association of University Women and the Leadership Conference for Civil Rights - at a Capitol news conference to call for a "consensus nominee."

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Of the two generals, he is less likely to face dissension in his ranks. His coalition has worked with the Democratic leadership in the Senate all year on appellate court nominees, and Mr. Neas himself is so closely tied to the Democrats in Congress that Senator Edward M. Kennedy once called him "the 101st senator."

The conservatives, by contrast, are looser-knit and have a more contentious relationship with Republicans in the Senate. Mr. Gray's task is to hold them together despite their divergent interests.

Progress for America, for instance, can be counted on to support President Bush's choice. "Our focus as an organization all along has been to defend the president's nominee, no matter who that person is, from attacks from liberal interest groups," said Jessica Boulanger, a spokeswoman for the organization.

But the Christian conservatives say they will back only a nominee with a clear record of subscribing to their views on abortion, gay marriage and the role of religion in public life.

Meanwhile, business groups, which have largely sat out the fights over the president's appeals court nominees, have pledged support for Mr. Gray but will make no commitment until Mr. Bush's choice for the Supreme Court is known.

As in their previous confirmation battles, both sides will rely on advertising blitzes, barrages of mail and phone calls and media campaigns to deliver their messages. But this time they will have to compete to shape public opinion in the faster, more intense world of gossipy Web sites, political blogs and 24-hour news shows. Mr. Gray will be a regular television presence, agreeing to appear exclusively on the Fox network during the confirmation process.

He founded the Committee for Justice in 2002 at the request of Karl Rove, Mr. Bush's chief political adviser, and Senator Trent Lott of Mississippi, then the Senate Republican leader, to work for the president's judicial nominees - and to expressly counter the voice and influence of Mr. Neas.

By Friday morning, Mr. Gray had convinced himself that any resignation would hold for the holiday weekend. When he got word of Justice O'Connor's plans, he left home in a flash and headed to his downtown office. Within minutes he was on the phone with allies - among them Edwin Meese III, former White House counsel and attorney general under President Ronald Reagan and now at the Heritage Foundation; former Gov. John Engler of Michigan, now president of the National Association of Manufacturers; and Mr. Sekulow.

He issued a statement imploring the left "to take a breath and resist their natural impulse toward exaggeration."

A few blocks away on M Street downtown, Mr. Neas had been in his office since 6 a.m. He had joined People for the American Way, a group founded by the Hollywood producer Norman Lear as a political antidote to the conservative Christian movement, in 2000. During the Bork and Thomas battles, he headed the Leadership Conference on Civil Rights. At 8:30 a.m., Mr. Neas called his wife, Katy, and promised that this weekend, unlike the past several when he had spent all day devising strategies to respond to various potential court nominations, they would take their 5-year-old daughter, Maria, to the zoo and to see the animated movie "Madagascar."

Then the news broke. By 10 a.m., Mr. Neas had his armies in motion. E-mail messages were sent to the bulk of the group's 750,000 members and supporters, as well as 10,000 reporters. Volunteers streamed into what the organization calls its war room, a 2,500-square-foot space in downtown Washington with 40 computers and 75 phone lines .

At seven regional offices across the country - in California, Florida, Illinois, New York and Texas - staff members were rounding up supporters to bombard the Senate and White House with e-mail messages and petitions once a nominee is announced.

For Mr. Neas, the Supreme Court is the ultimate guardian of fundamental rights, from civil rights to reproductive rights. For Mr. Gray, the Supreme Court is the final arbiter of the Constitution's enduring meaning, with no business usurping decisions better left to voters. Beyond their judicial philosophies, the leaders of the two campaigns could hardly be more different in appearance, background and temperament.

Mr. Gray, 62, is 6-foot-6 and lanky with an angular face. An heir to the Reynolds tobacco fortune, he went to Harvard, clerked for Chief Justice Earl Warren and has more than a trace of his native North Carolina in his voice.

Divorced, he has a daughter, Eliza, who is now at Harvard, and he lives most of the year alone in his elegant, orchid-filled Georgetown house, a hub of the Washington social circuit, where he is host to near-weekly fund-raisers for everything from his judicial interests to a Washington voucher program. He has faced ethics queries in the past for skirting campaign finance laws in

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the 1990's by using his secretary to make campaign donations to Mr. Lott and, during the first Bush administration, for meeting with oil company representatives while serving on a regulatory task force.

A partner at the traditionally Democratic law firm Wilmer Cutler Pickering Hale & Dorr, Mr. Gray is said to be Mr. Bush's top pick for ambassador to the European Union. Business associates say he has been scaling back work with clients in his law practice, easing himself off the many boards on which he sits and making frequent trips to the State Department.

Mr. Neas, 59, is 5-foot-9 and compact, constantly in motion. He grew up outside Boston, graduated from Notre Dame and the University of Chicago Law School and cut his political teeth in the civil rights movement.

He was 42 when he married and did not become a father until he was 54. His family now lives in a three-bedroom home in Bethesda, Md., that he says is "almost large enough to take care of the three of us with room for a grandparent or two."

Paradoxically, both men switched parties well into adulthood.

Mr. Gray was a Democrat until 1978, when he became a Republican because, he says, he opposed the Carter administration's economic policies. Mr. Neas was a Republican and worked for Republican senators throughout the 1970's. He switched parties and ran unsuccessfully for Congress as a Democrat in 1998.

The two have not always been antagonists. In 1989, when Mr. Gray was White House counsel, they worked together on the Americans With Disabilities Act. But on the heels of that, they squared off as rivals once more on civil rights legislation.

"He's a very astute politician," Mr. Gray said of Mr. Neas. "He knows where all the pressure points are and he's a very serious adversary - or ally if you're on his side, which I have been."

Mr. Neas was more critical of his longtime opponent.

"President Bush and Trent Lott chose Boyden Gray to be the quarterback of the radical right," he said. "Boyden Gray has always been the consigliere for the Bush family and has always represented well corporate special interests, often at the expense of ordinary citizens across the country."

Activists Gear Up For Nominee Fight (WP)

By Peter Baker And Susan B. Glasser

The Washington Post, July 3, 2005

Many of President Bush's conservative supporters lined up in staunch opposition yesterday to the candidate he might personally most want to name to the Supreme Court, his longtime friend and adviser, Attorney General Alberto R. Gonzales, as battle lines were drawn for selection of the first new justice in more than a decade.

Bush has long been intrigued by the idea of making Gonzales the first Hispanic on the Supreme Court, according to advisers, a prospect that might seem especially tempting in replacing Justice Sandra Day O'Connor, the court's first woman. But a range of activists and congressional Republicans warned the White House against the move, saying they do not consider Gonzales a steadfast conservative.

"We would oppose him because we don't believe he has a philosophy that we can determine. We are not enthused," said Tom Minnery, vice president of public policy for Focus on the Family, a conservative advocacy group. "He is someone who is apparently still developing his philosophy, and that's not good enough," Minnery added, citing Gonzales's "lack of open commitment to interpret the Constitution as it was written."

The surge of pressure after O'Connor's retirement announcement Friday reflected the brief but intense struggle that will play out in Republican circles in coming days. Bush leaves Tuesday for an international summit in Europe and does not plan to name a nominee until the week of July 11 at the earliest, leaving Republicans a short time to influence his decision. If the broader nomination battle will resemble a presidential campaign, as both sides predict, then the next week or two could amount to a primary.

While some focused on whom Bush's choice will be, others mapped out strategy for the period after he decides. Senate Republicans made plans to begin hearings as quickly as possible after the nomination, focused not on the candidate's positions on hot-button issues but on legal credentials.

A Republican planning document provided to The Washington Post described the need to avoid disclosing the nominee's "personal political views or legal thinking on any issue."

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Democrats, by contrast, prepared a campaign to extend the process and portray anyone Bush selects as outside the mainstream. The liberal People for the American Way moved to claim O'Connor's mantle with a new television commercial that flashes her image and demands that Bush pick someone in her pragmatic tradition who "protects our fundamental rights and freedoms" or risk dividing the country.

Intent on preventing the other side from gaining the upper hand, liberals and conservatives spent the weekend in meetings, on conference calls and drafting talking points for Sunday talk shows -- and preparing for the wild-card possibility that a second seat would open if Chief Justice William H. Rehnquist steps down as well.

From Camp David, Bush consulted by telephone with Chief of Staff Andrew H. Card Jr. while lawyers at the White House assembled dossiers of candidates for him to take on the flight to Scotland, a senior administration official said.

Various activists and groups have lobbied for their favorites on the list of federal appellate judges under consideration. Appeals Judge J. Michael Luttig of the 4th Circuit is the choice of many conservatives who cite his sharp mind and sturdy track record after 14 years on the bench. The Christian Legal Society and other religious conservatives are promoting Judge Michael W. McConnell of the 10th Circuit, although his criticism of the Supreme Court's decision in the Bush v. Gore decision that ended the 2000 election recount left hard feelings at the White House.

Some activists also point to Judge Samuel A. Alito Jr. of the 3rd Circuit, nicknamed by some "Scalito" for demonstrating the same sharp intellect and conservative views of Justice Antonin Scalia. If Bush wants a woman to replace O'Connor, conservatives have embraced Appeals Judges Edith Brown Clement and Edith Hollan Jones, both of the 5th Circuit. If he wants a Hispanic, they have recommended another 5th Circuit judge, Emilio M. Garza, instead of Gonzales.

Judge John G. Roberts of the D.C. Circuit, described as a front-runner by outside White House advisers, does not elicit as much enthusiasm from conservatives but has passed the test of key figures. "Everything I know about him would say he would fit that profile of Scalia and [Clarence] Thomas," said Jan LaRue, counsel to the Concerned Women for America, a conservative group.

Some conservatives yesterday advanced the strategy of naming Janice Rogers Brown, who was confirmed last month to the D.C. Circuit after a Senate battle. Having just confirmed Brown, activists reason, Senate Democrats would not be able to turn around and argue that she meets the criteria of "extraordinary circumstances" deserving a filibuster as defined by a recent bipartisan deal on judicial nominations. And as a black woman, she would be harder to vote against, these strategists reasoned.

"She's just been through the process," said Gary L. Bauer, president of the Christian organization American Values. "It's kind of hard to vote for her once and then turn around and say she's unacceptable."

The one candidate who unifies most conservatives -- in opposition -- is Gonzales. Gonzales occupies a spot on the innermost orbit of the Bush universe, having been a longtime adviser. He was appointed by Bush to the Texas Supreme Court, then he served as White House counsel before becoming attorney general.

Advisers both inside and outside the administration said Bush has not ruled him out for O'Connor's seat, although in his current capacity he is helping to direct the search, and friends say he is reluctant to join the high court, preferring the pace of the executive branch.

While Bush places enormous trust in him, Gonzales elicits groans and eye-rolling from conservatives who worry how he might rule on some issues and see him as another potential David H. Souter, the little-known New Hampshire judge put on the bench by Bush's father and who has turned out to be far too liberal for their taste.

Conservatives most often cite Gonzales's rulings on parental consent cases in Texas involving minors seeking abortions. Gonzales has publicly called Roe v. Wade , the case that established a woman's constitutional right to abortion, "the law of the land," once adding that "how I feel about it personally may differ with how I feel about it legally." Asked during a recent interview with PBS's Charlie Rose whether support for Roe would disqualify a prospective nominee, Gonzales said, "There are no litmus tests for this president."

"The only nomination that would cause the people that I really associate with consternation would be Gonzales," said Michael P. Farris, a prominent conservative constitutional lawyer. "The president's going to need all the help he can get no matter who he picks. I don't think many people in the socially conservative movement would openly oppose him, but the enthusiasm would be sufficiently dampened to the point that many would not participate."

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Out of deference to a Republican White House, other conservatives are not as open about their opposition to Gonzales, using code instead, such as urging the president to pick another Scalia or Thomas, whom he has described as his model jurists.

"Conservative groups strongly believe that the president should just do what he promised to do. He was crystal clear on his vision of the appropriate qualities of a judge," Sen. Jeff Sessions (R-Ala.) said in an interview yesterday. "He can't allow personal or short-term political factors to override his commitment."

Other conservatives have come up with a new line of argument to dissuade the White House from selecting Gonzales without offending the president. Because he helped fashion so many administration policies, they said, Gonzales would have to recuse himself if they ever came before the bench, including the highly emotional case of late-term abortions that opponents call "partial birth."

"I don't think the president wants to have a 4 to 4 vote when that comes up before the Supreme Court," said Wendy E. Long, counsel to the Judicial Confirmation Network, a group supporting conservative judicial nominees. "That's just not a good position for a justice to be in."

Yet some conservatives have resigned themselves to Gonzales. Robert H. Bork, whose Supreme Court nomination was defeated in 1987, said his friends believe Gonzales will be the nominee and that lobbying will not change that. "Already, people have been pushing various candidates, but I don't think that's going to have much effect on Bush," he said. "I think he already knows what he wants to do."

Bush advisers refused to discuss individual candidates yesterday but brushed off criticism of Gonzales.

"This is not the first time he has come under scrutiny," said a senior administration official who spoke on the condition of anonymity because of the sensitivity of the selection process. "He's a well-centered person. His relationship with the president is strong enough that I don't think he worries too much about the chatter."

Indeed, Gonzales draws criticism from the left side of the political spectrum as well. During his confirmation as attorney general earlier this year, most Democrats voted against him, citing his authorship of detention policies that some blamed for leading to abuse of military detainees.

"We would have serious concern about Gonzales based on what we know of his record on issues pertaining to torture, executive privilege and his handling of death penalty clemency positions" in Texas, said Nan Aron, president of the liberal advocacy group Alliance for Justice. "On other issues about which the right is particularly concerned -- reproductive rights, civil rights -- it would be important for the Judiciary Committee to ask him to answer questions. It's very difficult to know where he stands."

Conservative Groups Rally Against Gonzales As Justice (NYT)

By Adam Nagourney, Todd S. Purdum And David D. Kirkpatrick

The New York Times, July 3, 2005

Within hours after Justice Sandra Day O'Connor's announced retirement from the Supreme Court, members of conservative groups around the country convened in five national conference calls in which, participants said, they shared one big concern: heading off any effort by President Bush to nominate his attorney general, Alberto R. Gonzales, to replace her.

Late last week, a delegation of conservative lawyers led by C. Boyden Gray and former Attorney General Edwin Meese III met with the White House chief of staff, Andrew H. Card Jr., to warn that appointing Mr. Gonzales would splinter conservative support.

And Paul M. Weyrich, a veteran conservative organizer and chairman of the Free Congress Foundation, said he had told administration officials that nominating Mr. Gonzales, whose views on abortion are considered suspect by religious conservatives, would fracture the president's conservative backers.

The groundswell of opposition to Mr. Gonzales was just one sign of the conflicting forces suddenly swirling around Mr. Bush this weekend as he headed to Camp David to begin considering a replacement for Justice O'Connor, a decision his aides said would not be announced before he returned from a trip to Europe at the end of next week.

Senate Democrats demanded that he consult them before making a choice and appoint a pragmatist in Justice O'Connor's mold.

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Conservatives, flexing their muscles in a battle they have spent a decade preparing for, described the nomination as a test of Mr. Bush's convictions and past promises, and his biggest opportunity yet to assure that the Bush presidency will leave a conservative stamp for a generation to come.

And on Friday, the Rev. Miguel Rivera, president of the National Coalition of Latino Clergy and Christian Leaders, a group that represents more than 6,000 Latino evangelical churches, sent the president a letter urging consideration of "a true conservative Latino nominee," Emilio M. Garza, a federal appeals judge from Texas.

In a telephone interview late Friday, Mr. Rivera said he had received no response. "All the meetings we have had in all the different groups today we have not heard anything to reassure us that he is out of the loop," Mr. Rivera said of Mr. Gonzales.

Administration officials discounted the conservative uprising against Mr. Gonzales, saying that Mr. Bush was already aware of the objections and was not convinced by them.

"It is what it is," said one senior administration official, who insisted on anonymity in exchange for discussing the White House views of the criticism of the attorney general. "The president is going to pick someone who is a true constructionist and who is correct in interpreting the law." The official said that Mr. Gonzales fit that description, but also that Mr. Bush might be wary of moving him to a new position so shortly after he was confirmed as attorney general.

Mr. Bush planned to spend the weekend getting a head start on "homework" on a list of potential nominees and expected to "be on the phones with his advisers," said another senior administration official, who spoke on condition of anonymity to describe internal deliberations. He said that the president had been briefed on his staff's preparations for a court vacancy, and that "he knows the orbit of names."

Other White House aides said they had canceled holiday plans to meet with supporters and prepare for a fight whose dimensions and intensity would be, to a considerable extent, dictated by the nominee Mr. Bush settles on.

Members of Congress and conservatives close to the White House said that they were confident that Mr. Bush would use the first Supreme Court vacancy of his tenure to nominate a judge in the mold of Antonin Scalia and Clarence Thomas, as he has repeatedly promised to do.

"They don't need me lobbying on this stuff - they know what to do," said Grover Norquist, president of Americans for Tax Reform, a conservative group with close ties to the White House. "My only recommendation is that they nominate someone who is 12 or 13 years old," to ensure as long a conservative legacy as possible.

Senator Orrin G. Hatch, Republican of Utah, a veteran and former chairman of the Judiciary Committee, which will hold hearings on any nominee, said flatly of Mr. Bush: "He's going to appoint a conservative. I have no doubt about that."

But Mr. Hatch, breaking with fellow conservatives, suggested in an interview that he would support Mr. Gonzales.

"Let me not get into any nominee, but Gonzales is an excellent human being," Mr. Hatch said. "He's done an exceptional job as White House counsel. He's brought additional stability and peace to the Justice Department. I know the president is interested in trying to find people of diversity - he's really bent over to do that as president."

Mr. Gonzales is a longtime Bush aide and friend from Texas, and naming him could enhance the Republican Party's standing among Hispanics, one of the president's longtime political goals. Some conservatives acknowledged that they had stated their opposition to him with some delicacy to avoid provoking the White House, given Mr. Gonzales's friendship with the president.

But the swift and vociferous opposition to Mr. Gonzales reflected the intensity of concern on the right over just what kind of conservative Mr. Bush will choose, as he moves toward a decision that will go a long way toward settling any question about what kind of conservative he is, and how his presidency will be remembered.

Mr. Weyrich, while declining to disclose the specifics of a recent conversation with Ken Mehlman, the Republican Party chairman, said: "We have let the administration know through whatever channels we have that Gonzales would be an unwise appointment because of the opposition of some of the groups," some of which he said would actively oppose Mr. Gonzales, while "others like the Southern Baptists and myself would simply not help."

For many conservatives, who have seen Republican presidents nominate justices like Ms. O'Connor who then vote against them on pivotal issues, Mr. Gonzales epitomizes the fear of the unknown. But in other ways, and to some Democrats, he is very well known, confirmed by a vote of 60-to-36, along largely partisan lines, after unexpectedly contentious hearings and debate in

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which Democrats challenged his policies on the detention and treatment of prisoners in the administration's campaign against terror. In a 2002 legal memorandum, Mr. Gonzales characterized as "obsolete" the Geneva Conventions' limitations on questioning of enemy prisoners, and he said provisions in the conventions like commissary privileges and athletic uniforms were "quaint."

"He would face stiff opposition from liberal groups," said Nan Aron, president of the liberal legal group Alliance for Justice. "He would have to answer tough questions about his role in the administration's war on terror."

Senator Charles E. Schumer, Democrat of New York and a member of the Judiciary Committee, declined to say on Saturday how Senate Democrats might respond to a Gonzales nomination. "It's too early to tell - we're not talking about any specific judge," Mr. Schumer said.

He described the situation with Mr. Gonzales as "a real Rubicon for this president. The hard, hard right wants a true believer."

Even at a time when they have unprecedented influence in the nation's capital, many conservative leaders have become increasingly restive at their comparative lack of sway on the court and have described the selection of the next justice as the most important decision Mr. Bush will make - even if he has to force it through at the expense of his ambitious second-term agenda.

Some Republicans warned that a very conservative nomination by Mr. Bush would guarantee a protracted legislative battle that could doom any hope Mr. Bush had of pushing through a Social Security or tax reform bill.

At the same time, Kenneth M. Duberstein, who managed the Supreme Court nominations of Clarence Thomas and David H. Souter for Mr. Bush's father, said that the president could go only so far in replacing Justice O'Connor, a Reagan appointee who turned out to be a major disappointment to the right.

"Any nominee can be a notch or two to the right of Sandra Day O'Connor, but not 10 notches to the right," Mr. Duberstein said, noting that the political dynamics are different than if Mr. Bush were replacing Chief Justice William H. Rehnquist, who is ill with thyroid cancer and still widely expected to retire.

The National Review said in an editorial on its Web site: "Conservatives would be appalled and demoralized by a Gonzales appointment."

Phyllis Schlafly, a longtime conservative activist, said: "Bush was very clear, and certainly his constituents believed him, when he said he would appoint justices like Scalia and Thomas. We are not in favor of Gonzales." Reflecting a widely held view among conservatives, and one of the reasons for the intensity of the sentiment on the right, Mrs. Schlafly described Justice O'Connor as "a terrible disappointment."

But other conservatives said there was no reason to fear, given Mr. Bush's record of appointing conservatives as president, and noted Mr. Bush's unambiguous embrace of conservative ideals.

"Whatever else you say about President Bush, he is certainly the type of man who says what he means and means what he says," said Paul Rosenzweig, a senior fellow at the Heritage Foundation, a conservative group. "I also think it's clear that the majority who elected him - and who elected 55 members of the Senate - is looking to him to fulfill that pledge. Just as President Clinton took the opportunity to name two very liberal judges, the president's constituency will be looking to him to appoint a conservative jurist."

White House officials declined to comment, saying that Mr. Bush would not make a final decision until he finished reviewing potential candidates and consulting with Senate leaders, and that they were making an orchestrated effort to avoid saying or doing anything that would feed what they feared could be a week of speculation. One Republican with close ties to the White House said administration officials assumed that Mr. Bush would have at least one other vacancy to fill, and that that could influence his thinking.

Among the names most frequently mentioned as likely candidates, besides Mr. Gonzales and Mr. Garza, are Judges J. Harvie Wilkinson III and J. Michael Luttig of the United States Court of Appeals for the Fourth Circuit in Richmond, Va.; Judge John G. Roberts Jr., who sits on the federal appeals court in Washington; and Judge Michael W. McConnell of the 10th Circuit, which is based in Denver. Should Mr. Bush consider a woman, the most likely candidates are Judges Edith Brown Clement and Edith H. Jones, both of the Fifth Circuit, based in New Orleans.

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Republicans and Democrats agreed on the importance of the appointment for Mr. Bush's legacy, though they differed sharply - and predictably - over what kind of nominee he should choose.

Senator John Cornyn, Republican of Texas, said that he believed that Mr. Bush would pick "a qualified, mainstream nominee." But he acknowledged that "the problem is because of the contentious nature of the process, sometimes even mainstream nominees are caricatured in a way that makes them appear to be extreme."

Senator Jon Kyl, Republican of Arizona and a member of the Judiciary Committee, said in a telephone interview: "You know President Bush. You know the kind of person he is. You know the way he's approached personnel questions. He's going to be very straightforward about the kind of person he wants."

High Noon For High Court (LAT)

By Doyle Mcmanus

The Los Angeles Times, July 3, 2005

Like vast armies taking up positions on the eve of battle, interest groups of right and left are readying for a fight over President Bush's nomination of a successor to Supreme Court Justice Sandra Day O'Connor.

Both sides agree that the battle is likely to be fierce. The stakes are high: O'Connor has been one of the court's "swing votes" whose views determine how cases are decided. The debate over her replacement will focus on some of the most painful and divisive issues before the nation: abortion, gay marriage, religious symbols in public places. It will likely dominate Washington's agenda -- and the media's -- for two months or more.

But in the middle of the storm, like civilians caught on a battlefield, much of the nation may wish that the whole thing would just go away.

"This will be the Super Bowl of polarization for ideological interest groups," said pollster Andrew Kohut, director of the Pew Research Center. "But for most of the country, it may just look like another partisan battle in Washington."

Abortion, gay marriage and religion may be "hot button" issues, prized by interest groups and political consultants for their ability to mobilize people to vote and donate money. But most Americans consider those issues less pressing than the war in Iraq or the state of the economy, and recoil from the acrimony of the debate.

"The rhetoric is going to be terrible," predicted Patricia McDonald, a semi-retired lawyer in Leawood, Kan. "Cable television is filled with talking heads who get paid to talk like that, to take the most extreme viewpoints. . . . But in the end, we don't get to vote about this. Life will go on.

"I don't think this is going to be nearly as divisive as the presidential campaign," she added. "Even then, we had a lot of disagreement, but I don't think I met more than two people who really got upset about it."

An increasing number of political scientists agree with her. Americans, they argue, aren't as polarized as they look.

On Election Day, the United States may divide into a 50-50 nation -- or, in last November's choice between George W. Bush and Sen. John F. Kerry, 51-48. But even on the most hotly debated issues, most Americans prefer a position somewhere in the middle.

Most don't want to outlaw all abortions, polls show, but they'd like to see a few more restrictions. Most don't approve of gay marriage, but they're willing to consider other legal rights for homosexuals.

"There's a difference between division and polarization," said Morris Fiorina, a political scientist at Stanford University's Hoover Institution. "We are a closely divided nation -- but we aren't all that deeply divided. In a battle like this one, you're listening to 10 percent on each side scream at each other."

The problem, Fiorina and others say, is that the American political process has become polarized -- and it's increasingly forcing voters to choose between one extreme and the other, leaving out the middle.

The battle over Bush's impending Supreme Court nomination will combine several of the factors that have made politics so divisive. It will likely focus on controversial social, cultural and religious issues. It will culminate in a yes-or-no question -- should the nominee be confirmed, or not? -- without much room for middle ground. And the debate will be spearheaded by interest groups on both extremes -- groups that sometimes appear to have a vested interest in polarization because it increases their influence.

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"You've got large amounts of what we used to call issue advocacy money -- money that exists and waits to be deployed in the service of polarization," said Kathleen Hall Jamieson, director of the Annenberg Public Policy Center at the University of Pennsylvania. "That's a new factor."

"It's an open question whether they are raising the money to fight the battles or fight the battles to raise the money," said William A. Galston, who was an aide to former President Clinton and now teaches at the University of Maryland. "This is an infernal machine that has taken on a life of its own."

The coming battle includes several other features that could make the conflict even sharper.

"You have at least two presidential prospects in the Senate . . . whose self-interest lies in gaining as much visibility as they can in a way that will activate their core constituencies," Jamieson said, citing Sens. Hillary Rodham Clinton, D-N.Y., and Joseph R. Biden Jr., D-Del.

That's not all. This will be the first Supreme Court confirmation battle in 11 years -- which means it will be the first such battle of the Internet age, with its legions of bloggers, and the first of the current era of media polarization, with phalanxes of partisan commentators on competing all-news cable channels.

It will also be the first confirmation battle over a Supreme Court nominee during the current era of conservative Republican domination in both houses of Congress as well as the White House.

Many conservatives have targeted the judiciary as the last branch of the federal government they hope to dominate. House Majority Leader Tom DeLay, R-Texas, has derided the federal courts as "the left's last legislative body."

"Conservatives want a conservative justice, and they feel betrayed by past nominees that weren't contentious," said Jamieson. "That sets up the likelihood that this is going to be hard-fought and divisive."

But Galston, a Democrat, said his party is partly to blame.

"Beginning in the 1950s, the Democratic Party convinced itself that, especially on social issues, the principal vehicle of advance would be the Court," he said. "As a result . . . the principal focus of many interest groups was centered on the Court. Well, there's a Newton's Law of politics: Every action generates a reaction -- frequently an equal and opposite one. The interest groups on the conservative side have become highly court-centered as well."

The history of the abortion issue -- especially the 1973 decision that states could not prohibit abortion -- is a case in point, he said. "Whatever its judicial merits, Roe v. Wade has led to an intensification of polarization and bitterness in American discourse over social issues," Galston said.

"In 1972," before Roe, "neither party platform even mentioned abortion," he noted. "In 1976, each mentioned it in a nuanced way. . . . By 1984, not only was all nuance gone, but people who disagreed with the established line of each party were anathematized."

Divisive partisan battles produce another unwelcome result, Galston said: alienated, disaffected citizens.

"There's a very large share of the American electorate that feels unrepresented by this polarized politics," he said. "The popularity of figures like (Sen. John) McCain, R-Ariz., and (former Secretary of State Colin L.) Powell represents a yearning for leadership by the underrepresented middle who always lose out to the extremes."

If Bush's nominee is a controversial hot-button conservative, he warned: "We could see an orgy of self-destruction. It will bring the rest of the nation's business to a halt for an extended period."

It doesn't have to be that way.

"It's not inevitable," said C. Michael Comiskey, a Supreme Court scholar at Pennsylvania State University at Fayette. "If you look at the confirmation process since (1987), three of the four have been consensual, not 'conflictual'. . . .It's up to presidents to decide whether Supreme Court nominees are conflictual."

In other words, he said, Bush could consult with senators in both parties and nominate a judge who would not polarize the debate.

And even a hard-fought confirmation fight doesn't need to be a bad experience, Jamieson suggested.

"Contentious isn't bad," she said. "What's bad is demagogic-contentious. What's bad is mindless polarization.

NOW Marches In Support Of Abortion Rights (AP-Y2)

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By John Gerome, Associated Press Writer

AP2, July 3, 2005

Chanting "Not the church, not the state; women must choose their fate," hundreds of members of the National Organization for Women rallied for abortion rights Saturday as President Bush prepares to select a new U.S. Supreme Court justice.

NOW shifted the agenda for its three-day annual convention following the announcement Friday that Supreme Court Justice Sandra Day O'Connor was retiring.

The first woman on the Supreme Court, O'Connor refused in 1989 to join four other justices who were ready to reverse the landmark 1973 decision that said women have a constitutional right to abortion.

In 1992, she helped forge a five-justice majority that reaffirmed the core holding of the 1973 ruling. Then, in 2000, she provided the fifth and decisive vote that struck down a Nebraska law that was aimed at banning a procedure critics call "partial-birth" abortions.

Her retirement gives the court its first vacancy since 1994 and leaves Justice Ruth Bader Ginsburg as the only woman on the court.

Activist Eleanor Smeal told the crowd that if Senate Majority Leader Bill Frist has any future presidential ambition, he can't be known as the lawmaker instrumental in rolling back abortion rights. Frist, R-Tenn., will be expected to guide Bush's choice to succeed O'Connor through Senate confirmation.

"What we have to do now is raise such a loud voice that Sen. Bill Frist (news, bio, voting record) hears it," said Smeal, former president of the National Organization of Women and current president of the Feminist Majority Foundation. "He has to understand we need a moderate, centrist Supreme Court."

Frist spokesman Nick Smith said it was "premature to be talking about who the president may or may not nominate."

He said the senator would do his best to see a thorough and fair confirmation process. Frist has said he will give up his Senate seat when his term ends next year, but he hasn't answered — or discouraged — speculation that he will run for president in 2008.

Demonstrator Kathy Miller, 58, of Philadelphia, said she wanted to see a moderate justice in the same vein as O'Connor replace her.

"It's not like we're asking to go in the extreme other direction," she said.

Members of NOW planned to elect their president Saturday night.

NOW president Kim Gandy, elected in 2001, is being challenged by Connecticut lawyer Rosemary J. Dempsey, who has held several national and state leadership roles since joining NOW in 1970.

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On the Net:

NOW: http://www.now.org

Liberals Gird For Supreme Struggle (WT)

By Charles Hurt

The Washington Times, July 3, 2005

A group of the most influential liberal court lobbyists gathered in a high-ceilinged room across the hall from the Senate chamber, within hours of Supreme Court Justice Sandra Day O'Connor's retirement announcement Friday.

With grave expressions on their faces, the activists stood somberly behind a lectern and one-by-one delivered impassioned pleas that Justice O'Connor be replaced with a jurist who will protect their particular interests.

"This is a watershed moment," said Ralph G. Neas, president of People for the American Way, noting that this fight will be even more momentous than the one for which they have been preparing for years, the successor to the chief justice.

Most active court watchers were expecting to see the resignation of Chief Justice William H. Rehnquist, an unwavering conservative on the court. With the surprise announcement from Justice O'Connor, often a swing vote on the court, liberal activists such as Mr. Neas rushed from playing offense on replacing a conservative to having to defend a vital vote.

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"Over the last 10 years, we have not had a Rehnquist Court; we've had an O'Connor Court," he said, arguing that replacing her with a reliable conservative would be a "constitutional catastrophe."

Less vocal last week -- but every bit as powerful and involved in the judicial-selection process -- were conservative activists, some of whom chuckled with delight over their turn of good fortune.

"The game hasn't changed, but the post-game celebration will be much bigger," said Manuel Miranda, chairman of the conservative Third Branch Conference. "Drinks will be on me."

On Friday, many conservatives chose to applaud the service of Justice O'Connor, but to otherwise keep quiet. White House aides and Senate Republicans sent out the word that there should be no public relief that it was Justice O'Connor, rather than Chief Justice Rehnquist, who was retiring.

"Nobody wants to get into gloating here," said one conservative activist. "We're all too aware of what's at stake."

Activists on both sides of the issue have marshaled thousands of people across the country and raised millions of dollars to wage this battle. About the only thing both sides seem to agree on is that much is at stake.

Karen Pearl, interim president of Planned Parenthood Federation of America, told reporters that "this may be one of the most critical and dangerous moments for the future of women's reproductive freedom that any of us have seen in our lifetime."

Few issues carry more voltage on both sides than abortion rights. Ms. Pearl noted the Independence Day weekend and said "there is no freedom more fundamental to our rights than the ability for women to decide whether and when to parent."

Already, she said, Planned Parenthood has alerted 1 million of its supporters, trained 50,000 local leaders and mobilized more than 170 campus groups to rally against any Supreme Court nominee deemed weak on supporting reproductive rights.

The issue is no less important to conservative activists, who are expecting President Bush to nominate someone who is unapologetically opposed to abortion rights.

"The president has the historic opportunity to keep faith with the promise he has repeated numerous times, which is to name justices who are like Justices Antonin Scalia and Clarence Thomas," said Jan LaRue, chief counsel for Concerned Women of America.

Many conservatives opposed to abortion have made clear that they would not, for instance, be satisfied with the nomination of Attorney General Alberto Gonzales. Mr. Gonzales is often discussed as a possibility for the high court, but has written opinions conservatives say give adolescents too much leeway to get abortions without notifying their parents.

But abortion won't be the only issue in the upcoming Supreme Court fight.

Justice O'Connor "served as a moderate voice of reason on the court," said Nancy Zirkin, deputy director of the Leadership Conference on Civil Rights. "She played a pivotal role in protecting the right and liberty of all Americans in cases involving affirmative action, human rights, religious freedom, criminal justice and the rights of women -- including reproductive health -- people with disabilities, gays, lesbians and many other communities whose rights are often jeopardized."

She begged Mr. Bush to follow the "shining example of President Reagan" in naming Justice O'Connor's successor. Mr. Reagan also nominated U. S. Court of Appeals Judge Robert H. Bork for the District of Columbia Circuit, a staunch conservative, to the Supreme Court in 1987, but his nomination was ultimately rejected by the Senate.

Disorder In The Court (NYT)

By Stephen L. Carter

The New York Times, July 3, 2005

I KEENLY remember the excitement at the Supreme Court when President Ronald Reagan announced the nomination of the little-known Sandra Day O'Connor to replace the retiring justice, Potter Stewart, in 1981. At the time I was a law clerk for Justice Thurgood Marshall, and, although none of us knew who she was, all of us sensed that a new epoch had begun. We were right.

During her two and a half decades on the court, Justice O'Connor excited as rich a mixture of undeserved opprobrium and richly deserved encomiums as any sitting member. It is far too early to assess Justice O'Connor's legacy, for that is the task of the historians, when they are able to look back and see what part of the current court's work stands the test of time. We cannot predict the far future, but we can predict the near future: it is going to be a messy summer.

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What will make the summer messy is the certain controversy over Justice O'Connor's replacement. Mean-spirited idealists on the right and the left have been waiting years for this moment, and now it is upon them. Conservatives are demanding a true believer; worried liberals are gearing up to stop that from happening. The clash is likely to be ugly.

Had Chief Justice William Rehnquist stepped down, as widely expected (and as he still might), the battle would probably have been less severe. One conservative replaces another, liberal activists might have reasoned, so keep the powder dry. But Justice O'Connor's resignation is likely to excite even more attention than her appointment as the first woman on the Supreme Court: she is seen as a swing vote.

On issues from abortion to affirmative action to criminal procedure, it has often been Justice O'Connor's unpredictable vote that determines which bloc prevails. So the right will naturally see its chance to move the court further toward its agenda; and the left will battle to retain what pieces of its own agenda it can, a sort of holding action against the day when the Democrats again rule the White House and the Senate.

This path, so predictable, so frequently trod in recent decades, is carrying the Supreme Court, and the ideal of judicial review, toward disaster. There has been much talk lately of how the cruel posturing of politicians and commentators critical of various decisions hurts the reputation of the courts. And there is something to this notion. But the overwrought attacks by some critics do less harm to the notion of an independent judiciary than does the way activists gird themselves for battle each time a vacancy occurs, as if it is the obligation of the political branches to guarantee outcomes their supporters prefer.

We all claim to believe in judicial independence, but our definition of independence too often turns out to mean deciding cases according to our druthers. A court that rules in our favor displays integrity and independence. A court that rules against us shows its ideology and partisanship. Need evidence? Listen to anyone on the right discuss classroom prayer or abortion. Listen to anyone on the left discuss Bush v. Gore.

When we talk about decisions in this way - as if the only plausible results are the ones we like, a propensity that grows worse at election time and worst of all when a vacancy occurs - we obscure the proper relationship of the judiciary to the other branches of government, and of the Supreme Court justices to the larger society. When the news media survey the public for its view on decisions few people have ever read, interpreting constitutional provisions few people would recognize, the mischief intensifies, for the very act of surveying popular opinion on, say, the correctness of Roe v. Wade implies that the Supreme Court's highest duty is to do as it is told.

Confirmation hearings for nominees to the high court only make matters worse, for the would-be justices are forced to sit before the cameras, under oath, as senators ask them questions they cannot ethically answer, on how they would vote on cases that might come before them. This process began not in the early Republic but in the battle over Jim Crow. In the 1950's, the Southern Democrats who controlled the Senate Judiciary Committee decided to require every nominee to appear in person in order to grill them about Brown v. Board of Education. Before Brown, it was almost unheard-of for a nominee to testify. When the Dixiecrats changed the rules, the liberal position was that inquiries about such matters as judicial philosophy posed a threat to the independence of the judiciary.

The left of that era was correct. The spectacle we have made of confirmation hearings reinforces the public notion that the justices exist to decide cases the way political movements want them to. Liberals think the right started it, and conservatives think the left started it, but the important question is not who started it but who is going to stop it.

Perhaps President Bush could say to his most strident supporters on the right that it is not appropriate for them to behave with the triumphalism of conquerors who believe that the retirement of Justice O'Connor signals the moment to take control of the court. Perhaps the activists on the left, gearing up for a fight, could go back and read the speech made on the Senate floor by Edward Kennedy, during the vicious 1967 campaign over the nomination of Thurgood Marshall. Senator Kennedy warned his colleagues to reject the view that the Senate should reject potential justices who possess a judicial philosophy with which they disagree.

Or perhaps both sides should listen to the wisdom of Justice O'Connor herself. In 1992, she joined Justices David H. Souter and Anthony M. Kennedy in writing that the court, in deciding whether to overrule past decisions, must not "surrender to political pressure" and, indeed, that a reversal "under fire," except for the most compelling reasons, "would subvert the court's legitimacy beyond any serious question." These wise but often misunderstood words do not mean that the court should be above criticism;

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only that it is not up to politicians to decide when the court is wrong. This language occurred in the controversial decision in Planned Parenthood v. Casey where the court declined an invitation from the United States government to overturn Roe v. Wade. But one need not think Roe (or any other precedent) correct to appreciate the larger point: when the court becomes a political plaything, there is less reason for any of us to respect it.

Not A Campaign (WP)

The Washington Post, July 3, 2005

SECONDS AFTER President Bush announces his choice to replace Supreme Court Justice Sandra Day O'Connor -- whenever that happens and whoever the nominee is -- liberal interest groups will release a blast of e-mails promising a "rollback" of American liberties if the person is confirmed. Conservative groups, at the same moment, will blitz with e-mails proclaiming the nominee a modern John Marshall. Ads will appear on television. Journalists will be hit with distorted "reports" attacking or defending the nominee's "record," as groups release their opposition research or their defensive spin. Both camps, in short, will unleash the huge sums they have raised in what will be, for all intents and purposes, a political campaign -- a political campaign, unfortunately, for an office that is meant to be not merely apolitical but actively insulated from politics.

The campaign, in reality, began long ago. It began when both sides made the judgment that they had to invest in judicial appointments -- particularly Supreme Court appointments -- to make sure they got the results they wanted from the courts. At this point, the war has become a Washington industry, fed by both sides' wounds from the past, real and imagined, and fears for the future, realistic and fantastical. Barely had Justice O'Connor announced her retirement Friday when the liberal People for the American Way was promising to "help lead the fight against any terrible changes to the Supreme Court." The conservative Family Research Council vowed that the "public is primed for the fight it will take to confirm a nominee" and promised "significant grassroots support for the President's nominees." A lot of people on both sides actively want a fight.

The war is about money and fundraising as much as it is about jurisprudence and the judicial function. It elevates partisanship and political rhetoric over any serious discussion of law. In the long run, the war over the courts -- which teaches both judges and the public at large to view the courts simply as political institutions -- threatens judicial independence and the integrity of American justice.

So we take this moment, when nobody knows how excellent or terrible the next nominee will be, to emphasize that a judicial nomination is not a political campaign and should not be treated as one. A nominee's record is almost never a simple affair, because good legal reasoning doesn't always render the most politically congenial answer. Demagogic attacks on almost any nominee are easy, and knee-jerk defenses equally so. But a reasonable assessment of the president's choice, whoever it is, will not emerge from such a shouting match.

We say this not in hopes that the war rooms will shut down and the campaign atmosphere give way to a serious discussion of -- and with -- the eventual nominee. That won't happen. But somehow, the serious discussion needs to take place even in an atmosphere that so disfavors it. The only legitimate source of the power of the Supreme Court -- which is, after all, a group of unelected officials who serve for life -- is the premise that interpreting law is not the same as creating it, that the task of judging, in other words, is not a political function. The war rooms, the money and the rhetoric all speak to a loss of faith in that premise on the part of groups who are now fighting over political spoils. Those Americans who still believe in the Third Branch need to endeavor to tune those special interests out.

Confirmation Battle In Senate Could Define Specter's Career (NYT)

By Sheryl Gay Stolberg

The New York Times, July 3, 2005

In nearly 25 years on the Senate Judiciary Committee, Senator Arlen Specter, Republican of Pennsylvania, has sat through nine Supreme Court confirmation hearings, some short and polite, some ugly and drawn out. Now that he is the chairman, he is prepared for the next one to go either way.

"I'm not going to anticipate a bruising battle," Mr. Specter said in an interview on Friday after Justice Sandra Day O'Connor announced her resignation, "but I'm not going to run from one either."

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Although Mr. Specter may not anticipate a bruising battle, just about everyone else in Washington does, and the inevitable confirmation fight could be the defining moment in his long career. It comes as he faces a battle of a more personal sort, against Hodgkin's disease.

Perhaps more than any other senator, Mr. Specter will be the pivotal figure as he tries to manage his bitterly divided committee, his own uneasy relationship with the White House and the intense pressure that is already bearing down on him from both the left and right at a time when both sides are deeply suspicious of him.

Within hours of Justice O'Connor's announcement on Friday, Mr. Specter said he would probably hold confirmation hearings in September, a move that could upset conservatives, who would like to move a nominee along as quickly as possible in the hope of outflanking liberal groups that plan to use the summer months to prepare for a confirmation battle. Mr. Specter, though, says only that the Senate has "an obligation to confirm the justice by the 1st of October" and that he intends to meet that deadline.

Sharp-tongued and cagey, with an uncanny knack for parsing his words to wiggle his way out of tight spots, Mr. Specter is widely regarded as the Senate's brightest legal mind. A rare centrist in a Senate that has shifted increasingly to the right, he is reviled by conservatives for dooming the nomination of Robert H. Bork, and by liberals for assuring the confirmation of Justice Clarence Thomas with his aggressive questioning of Anita Hill, the law professor who had accused Justice Thomas of sexual harassment.

Now the vacancy created by the retirement of Justice O'Connor gives Mr. Specter a chance to rewrite his Judiciary Committee history, but it comes at a delicate time for him. He nearly lost his chairmanship last year amid an uproar from conservatives, who were furious when Mr. Specter, an unabashed supporter of abortion rights, suggested that the Senate would have difficulty confirming judges who would overturn Roe v. Wade.

He won the job after an all-out campaign that culminated with a carefully worded four-paragraph statement in which he pledged to "use my best efforts to stop any future filibusters," the tactic Democrats had been using to block President Bush's judicial nominees. The filibuster fight could re-emerge during a Supreme Court confirmation, and a big question is how Mr. Specter would handle it.

"I'll jump off that bridge when I come to it," he said.

So far, Mr. Specter has not been forced to jump. Last month, when Senator Bill Frist, the majority leader, brought the Senate to the brink of a vote to bar judicial filibusters, Mr. Specter kept the chamber on tenterhooks, refusing to say how he would vote even as he urged party leaders to "liberate their caucuses to vote without party straitjackets." When 14 senators - 7 Democrats and 7 Republicans - struck a deal to avert the so-called nuclear option, Mr. Specter was not part of it. His critics were exasperated.

"Arlen Specter is as predictable as the sun rising in the east," Richard Viguerie, the conservative direct mail consultant, complained in an interview at the time. "He's not going to keep a deal he makes with anybody."

But Mr. Specter, whose brusque manner has earned him the nickname Snarlin' Arlen on Capitol Hill, said he was keeping his own counsel, a move he considers wise and one that will probably continue to confound Specter-watchers as the nomination process moves forward. "I've made people mad saying very little, so I'm not going to say very much," he said.

He added: "I think a senator, whether or not he is the chairman, ought to be circumspect in what he says."

That may be especially so for the chairman of the Judiciary Committee, whose members include some of the most powerful lawmakers in the Senate, including fellow Republicans Charles E. Grassley of Iowa and Orrin G. Hatch of Utah and Democrats Patrick J. Leahy of Vermont, Edward M. Kennedy of Massachusetts, Joseph R. Biden Jr. of Delaware and Charles E. Schumer of New York.

But Mr. Specter was not circumspect on Friday about criticizing Democrats who were already vowing to use the filibuster against a nominee they find objectionable.

"I'm a little bit concerned about what I heard Senator Kennedy say on television tonight, that if the president does not nominate someone who meets Senator Kennedy's specifications, as he articulates it, the American people will expect a battle and they're prepared to do it," he said.

"I would hope that we would tone down the rhetoric," he added.

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Democrats have been pressing Mr. Bush to seek their advice on possible nominees, and Mr. Specter said he had urged the president to consult with him and three other senior senators - Dr. Frist, Harry Reid, who is the Democratic leader, and Mr. Leahy, the senior Democrat on the Judiciary Committee. The president apparently took Mr. Specter's advice and has invited the four men to the White House on July 11, after the Senate returns from recess.

Mr. Specter said that he and Mr. Bush had not named names in any of their conversations. He said he had thought "long and hard" about suggesting possible candidates but decided not to, believing that "the wiser course" would be to remain uncommitted to anyone in particular. As to whether he would advise Mr. Bush against nominating judges who might be perceived as likely to overturn Roe v. Wade, Mr. Specter was noncommittal.

"I'm going to listen to the president," he said, "and see how it goes."

Mr. Specter is not one to shun the limelight - he is scheduled to appear on three morning talk shows on Sunday - and he has never masked his moderate views. Last year, he survived a bitter primary challenge from the right, winning re-election with considerable help from Mr. Bush. In 1995, he made a brief ill-fated bid for the White House, running on the unusual platform of attacking Christian conservatives as an extremist "fringe."

The Supreme Court hearings come at a time of great personal challenge for Mr. Specter. His chemotherapy treatments have left him tired, he said, although he pushes himself to get up in the morning and play his regular squash game.

"Frankly," he said, "it's hard to get out of bed, hard to do the exercises and hard to get going, but once I'm on the squash court, I'm fine."

He has been very public about his illness - "I decided a long time ago: no toupee, no baseball hat, no shaved head," he said, referring to the baldness resulting from his treatment - and has become a symbol for cancer patients, who have been sending him cards and letters. He advises them to keep a busy schedule.

Perhaps for that reason, Mr. Specter may have been the only politician in Washington to publicly speculate that Chief Justice William H. Rehnquist, who has thyroid cancer, would not retire.

"I think I have special insights into how he feels," Mr. Specter said, although he said they have not talked about it. "I think the chief likes to get up every day knowing he has important work to do, and I like to get up every day thinking I have important work to do."

A former prosecutor, Mr. Specter entered public life four decades ago as an ambitious young lawyer on the Warren Commission, which conducted the inquiry into the killing of President John F. Kennedy. He takes credit for producing the so-called single-bullet theory to explain how Kennedy was killed.

Mr. Specter was elected to the Senate in 1980 and immediately sought a seat on the Judiciary Committee, much to the chagrin of the chairman, Senator Strom Thurmond, the conservative Republican from South Carolina. Mr. Thurmond, concerned that Mr. Specter was too liberal, tried to keep him off the committee, but when no one else wanted the last remaining seat, Mr. Specter got it.

Although he will rely heavily on his aides - his chief counsel Michael E. O'Neill, a former clerk of Justice Thomas, is on leave from his job as an associate law professor at George Mason University - Mr. Specter has more experience than any of them. He has participated in the confirmation of every one of the current Supreme Court justices except John Paul Stevens, and he says he views himself as "a fact-finder" rather than a prosecutor.

He pledged to run the hearings "straight down the center, professionally," and added that he was eager to delve into a detailed examination of the nominee. But at 75, he says he is not looking at the coming hearings as any measure of his legacy.

"It's too early," he said, "to think about my legacy."

Parties Line Up Strategies For Hearings On Nomination (WP)

By Mike Allen

The Washington Post, July 3, 2005

The two parties have begun outlining their strategies for confirmation hearings once President Bush nominates a successor to Justice Sandra Day O'Connor, with Senate Republicans planning a rapid and rigid schedule designed to prevent Democrats from pinning the nominee down on divisive issues such as abortion.

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A planning document for Senate Judiciary Committee Republicans says the nominee will be counseled to avoid disclosing "personal political views or legal thinking on any issue" in an effort to put a focus on qualifications rather than specific issues, including same-sex marriage and the government's treatment of suspected terrorists.

Democrats signaled that whoever the nominee is, their three likely lines of attack will be to assert the White House did not consult them sufficiently, then paint the nominee as ideologically extreme and finally assert that the Senate had not received sufficient documents about the candidate. But Senate Democratic aides said they will focus for now on bipartisan consultation and not publicly prejudge the nominee.

Republican leaders said they are prepared to start Judiciary Committee hearings as soon as three weeks after Bush announces his choice, although they are more likely to begin in late August or early September. Party leaders said it is their goal to have the new justice on the bench when the court reconvenes Oct. 3. O'Connor said in her retirement letter to Bush that she will stay until her successor is confirmed.

Lawmakers and aides said leaders are conscious of the poor image of Congress in recent polls and are determined to avoid having the two to three days of nationally televised hearings come off like a trial. Senate Majority Leader Bill Frist (R-Tenn.) appealed for hearings marked by "dignity and respect."

That does not appear likely. Sen. Charles E. Schumer (N.Y.), the ranking Democrat on the Judiciary Committee's subcommittee on courts, said an effort to choke off inquiries about specific issues would fail because Democrats believe they have "an obligation to our country and the Constitution to thoroughly vet the nominee."

"The number one thing we look for are the person's views," Schumer said. "The hard right wants to get it done with as few questions and as quickly as possible."

Republicans cited as precedent the hearings of justices Ruth Bader Ginsburg in 1993 and Stephen G. Breyer in 1994, when the nominees said it was inappropriate to give their views on legal issues that could come before the court.

With the nominee still unknown, the parties' plans are sketchy at points and could change. But to a remarkable degree, the contours of the strategies -- and the avenues down which lawmakers plan to steer debate in coming weeks -- have already emerged in interviews, floor statements and internal planning documents.

An instruction sheet prepared by Senate Republican leaders and given to conservative allies of the White House on Friday afternoon said in its first sentence, in a reference to the tough line taken by Sen. Edward M. Kennedy (D-Mass.), that the instructions place an "emphasis on taking the high road and avoiding the attacks that Kennedy et al. are implicitly threatening."

The sheet was distributed at a meeting where speakers urged the groups not to stress the abortion issue in their public statements. Eric Ueland, Frist's chief of staff, "urged them not to fall into the mainstream media trap of rhetorical or behavioral excess on behalf of a highly qualified nominee," according to an attendee.

Senate Democrats said they will insist on a more deliberative and candid process than Republicans appear to be contemplating, and called for an unprecedented amount of consultation with the White House before the announcement of a nominee. The Constitution says the president shall nominate judges to the Supreme Court and appoint them "with the Advice and Consent of the Senate," but it does not define the advising function.

Talking points distributed by e-mail by Senate Republican leaders state that consultation "does not mean co-nomination," hinting at the disputes that are likely to erupt even before the public hearings begin. "Consultation is a courtesy," said the talking points, which are guidelines for other senators. "The Constitution does not require it."

Senate Democrats said in their own e-mails that they plan exclusive interviews and briefings for bloggers and Hispanic news outlets throughout the confirmation fight. The party distributed talking points, used to guide lawmakers' news releases and sound bites, stating: "We hope this process will be one of consensus rather than confrontation, but that will be up to President Bush." The Democratic National Committee circulated a memo saying that Bush's sinking poll ratings mean that he "needs a win -- desperately" and that the nomination is "a chance to bring the country together."

Sen. John Cornyn (R-Tex.) said in an interview yesterday that his party will resist Democratic arguments for "ideological balance" on the court, a concept not in the writings of the Founding Fathers. And he said it is important to set "reasonable deadlines" for confirmation.

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"The longer a nominee is dangled out there, the more people are going to try to take a whack at him like a piñata," Cornyn said.

Senate Democrats said a more reasonable pace than that being contemplated by Republicans would be 75 days between the announcement of a vacancy and the start of hearings. (The hearings for the last two, Breyer and Ginsburg, were less than that.) Schumer said that confirming the nominee by Oct. 3 is "not going to be so easy to do, because it's hard to imagine how hearings would begin before Labor Day." He said to finish hearings, a committee vote and a floor vote by the first Monday in October would be "pretty rough."

Confirmation hearings did not become national spectacles until the television age: Before 1955, only two Supreme Court nominees appeared before the committee, according to court histories. The hearings, the first Supreme Court confirmation since Breyer's 11 years ago, are likely to be held in the Beaux-Arts splendor of the Russell Senate Office Building Caucus Room, site of hearings on the Teapot Dome oil reserves, the Watergate break-in, the Iran-contra affair and the confirmation of Justice Clarence Thomas.

The televised portion of the hearing would probably last two to three days, with an additional day or two for testimony from outside groups. The first day would be taken up mostly by introductions of the nominee and opening statements, so the second would likely be the most intense. Before the committee vote, senators also would be likely to hold a one-day, closed session to discuss confidential matters such as the contents of the FBI report on the nominee.

Judiciary Committee Chairman Arlen Specter (R-Pa.) is intent on moving expeditiously, Republican aides said. As soon as the nomination is announced, he and Frist will agree on a schedule. One topic of discussion might be limiting opening statements at the committee hearing to Specter and the top Democrat, Sen. Patrick J. Leahy (Vt.), to allow more time for questioning the nominee, the aides said.

Specter is to finish chemotherapy treatment for Hodgkin's disease on July 22, and Republican aides said he will show his resilience at the hearings by living up to his reputation for wielding a firm gavel. "You're not going to see him jam the Democrats at all," one of the aides said. "But he can see when they're being dilatory and will draw the line."

But other Judiciary Committee members said that for Specter, 75, the hearings are part of his legacy, as surely as the result will be part of Bush's. His aim is to be driven by objectivity and precedent, fellow Republicans said.

But former GOP senator Alan K. Simpson, who voted to confirm seven of the nine sitting justices, said from his home in Cody, Wyo., yesterday that he already sees the committee members "ripping into each other" and fears there is no way to head off contentious hearings because the groups on both sides are so galvanized.

"If this just turns into an issue of abortion and 'partial birth' abortion, gay marriage, homosexual issues," Simpson said, "it will be the disaster of the ages."

Justice For The Next Justice (WP)

By John Cornyn

The Washington Post, July 3, 2005

This week marks a historic occasion, not only for the U.S. Supreme Court, but for America -- the retirement announcement of our nation's first female Supreme Court justice. The process in the U.S. Senate for considering her successor should reflect the best of the American judiciary -- not the worst of American politics.

Justice O'Connor has provided a voice of judicial restraint on a number of important issues on which the court was closely divided. Throughout her 24 years on the nation's highest court, Sandra Day O'Connor worked to restore common sense to our criminal justice system and foster due regard for the powers reserved to the states under the Constitution. Thanks to her, victims of crime are more likely to receive justice and inner-city children are no longer constitutionally barred from access to school choice programs. And although I have not always agreed with her rulings, I have always felt a deep and abiding respect for her commitment to public service and reverence for the law.

The announcement of Justice O'Connor's retirement has now set a familiar process in motion. Soon the president will nominate, and the Senate will have the responsibility to consider, an individual to serve a lifetime appointment to the Supreme

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Court. As a senator, I must decide whether to vote to confirm or reject this nomination. This is a responsibility not to be taken lightly.

The president has the sole responsibility to pick his nominee. It is crucial that he do so with an eye toward character and temperament. The nominee must be intelligent and wise, thoughtful and careful, and always fair-minded and impartial. The nominee must have good moral character and demonstrated commitment to public service and the common good. And he or she must be open-minded and willing to consider all arguments before the court.

That is why, when evaluating the nominee, I will not be asking for commitments as to how he or she will rule on cases involving such contentious issues as abortion, affirmative action, same-sex marriage, the war on terrorism or any other specific issue on which the nominee might eventually rule.

To ask a judicial nominee how he or she will rule on future cases is to force the nominee to prejudge these cases. Imagine going before a judge whose mind was already made up concerning your case. Imagine a judge who had promised the president or some senator that he would rule against you -- no matter the merits of the case. That would not be a judicial process; it would be a political process.

It's crucial that judges approach every case free from political commitments. They must be free to disappoint their supporters and surprise their opponents and critics. Judges must be free to do their jobs -- to listen to the facts, to carefully divine the law and to be faithful to the Constitution.

As soon as the president announces his nominee, media reports and interest groups will probably attempt to demonize or paint the nominee as a right-wing extremist. Some Senate Democrats -- who often insist on asking nominees to prejudge cases and issues -- will subject the nominee to controversial questioning during the hearing process. The American people should recognize such questions for what they are: an attempt to politicize the process and badger the nominee to reveal personal feelings about any given issue. This is unfair to the nominee and the American people, and grossly distorts the Senate's role of providing advice and consent.

Before her service on the federal bench, Ruth Bader Ginsburg -- a distinguished jurist and liberal favorite -- served as general counsel of the American Civil Liberties Union, a liberal organization that has championed the abolition of traditional marriage laws. Before becoming a judge, Ginsburg expressed her belief that traditional marriage laws are unconstitutional but that prostitution is a constitutional right. She also wrote that the Boy Scouts and Girl Scouts are discriminatory institutions, and that courts must require the use of taxpayer funds to pay for abortions -- hardly views Americans would consider mainstream. Yet Senate Republicans and Democrats alike set aside such concerns and approved her nomination.

By contrast, we have seen during the past four years a partisan minority obstruct this president's judicial nominees -- who hold views shared by millions of Americans and enjoy bipartisan majority support in the Senate -- suffer vicious attacks and unprecedented obstruction at the behest of liberal interest groups.

Our role as senators is to ensure that the nominee is qualified and has the intelligence, character, and judicial temperament to perform the job, to guarantee that all senators have an opportunity to evaluate the nominee, to allow as much debate as is necessary to fully discuss the nomination, and then to come to a vote. Yet there are some who argue that the Senate can refuse to vote altogether, and that the Supreme Court should be forced to operate without a ninth justice.

While I am confident that the nominee to replace Justice O'Connor will be an able jurist, I am less confident in the treatment he or she will receive from the president's opponents.

The writer is a Republican senator from Texas.

High Court's Next Term Full Of Big Cases (AP-Y2)

By Gina Holland, Associated Press Writer

AP2, July 3, 2005

Abortion, assisted suicide, gay rights, the death penalty. Some of the toughest issues in the land confront the Supreme Court in its new term in the fall.

A new lineup of justices — assuming the successor to influential Justice Sandra Day O'Connor is on the bench — makes the outcome of these cases more unpredictable than usual.

The high court has not had a new member since 1994, a modern-era record. That stability has made it easier to gauge what issues the court will take on and how they will be decided.

On major ones, the court frequently splits 5-4. O'Connor, a moderate put on the court by President Reagan, has been a key vote in death penalty, religion and abortion cases. Her view often became the final word.

Her retirement, announced Friday, shook up the world of Supreme Court lawyers who prepared cases with O'Connor in mind.

"She was widely viewed as the key by experienced and successful litigators. They'll have to figure some other way to win their cases," said Nelson Lund, a George Mason University law professor and former clerk to O'Connor.

O'Connor said that she will remain on the court until her successor is confirmed. Depending on President Bush's choice, there could be a lengthy fight that stretches into the fall.

If O'Connor is not able to continue serving, many major cases could leave the court split 4-4.

Also in doubt is the future of Chief Justice William H. Rehnquist, who has cancer and could step down this summer, too. The last time there were two vacancies was 1971.

Justices already have a full lineup of cases for the nine-month term that begins the first Monday in October. The court has agreed to hear about 40 appeals, including four death penalty cases and two abortion-related cases. About 40 more appeals will be added later.

Whoever the president names to the court will immediately face cases involving the Bush administration.

In one, the court will decide if law schools may restrict military recruiters as a way of protesting the Pentagon's "don't ask, don't tell" policy excluding openly gay people from military service.

Schools argue that their nondiscrimination policies apply to all recruiters that base hiring on race, gender or sexual orientation.

Justices will take up the administration's challenge to Oregon's law allowing physician-assisted suicide. In addition, there is a fight that tests freedom of religion, over a church's use of hallucinogenic tea in its religious services.

The abortion cases involve a parental notification law from New Hampshire and a long-running fight over the liability of people who protest outside clinics.

O'Connor's successor probably will be quizzed during Senate confirmation hearings about those subjects.

"I'd expect any of the nominees to duck answering," said Paul Schiff Berman, a law professor at the University of Connecticut.

Berman said that a major question is whether the new justice will be a pragmatist like O'Connor.

The 75-year-old former Arizona state senator and mother of three sons approached cases with a practical view.

"She always chose the least extreme solution, the compromise solution," Berman said. "She's kept the court very close to the American popular consensus on most issues."

Unlike the court's other conservatives, she believes that affirmative action has a place in government institutions, although limited. She believes that abortion should be legal. While she supports the death penalty, she has talked openly about concerns that it is being fairly imposed.

Among the death penalty cases in the next term is a potentially significant issue of allowing inmates to get a new chance to prove their innocence with DNA evidence.

"In many cases, Justice O'Connor's votes were to protect the rights of defendants," said Richard Dieter, executive director of the anti-capital punishment Death Penalty Information Center.

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On the Net:

Supreme Court: http://www.supremecourtus.gov/

Justice's Exit Could Produce Seismic Shift On High Court (BSUN)

By Gail Gibson

The Baltimore Sun, July 3, 2005

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She was the deciding vote, again and again, on some of the most critical and contentious issues to reach the Supreme Court in the past two decades, including affirmative action, capital punishment and the disputed 2000 presidential election.

And if the court's next term gets under way in October with her replacement confirmed and on the bench, following the timetable that President Bush set out Friday, the retirement of Justice Sandra Day O'Connor could have almost immediate implications.

Already on the calendar for this fall is a string of politically charged cases which, under the court's current lineup, could well have come down to O'Connor's vote. The cases include the Bush administration's challenge to the nation's only right-to-die law, Oregon's Death with Dignity Act, and an appeal of a federal court order striking down as unconstitutional a New Hampshire law requiring parental notification when teenagers seek abortions.

The court has also agreed to decide in its coming term whether colleges and universities that receive federal funding may bar military recruiters, setting up a clash between government funding and free speech, and raising issues of gay rights.

A coalition of law schools has argued that they have a right to refuse to associate with military recruiters, pointing to the First Amendment and what they view as the Pentagon's discriminatory policies on gays and lesbians. The Pentagon contends that because the schools accept federal funding, they have an obligation to allow the military to recruit on campus.

The case is being closely watched by civil liberties groups, which praised O'Connor's willingness to distance herself from administration policies in such cases as Hamdi v. Rumsfeld, in which she ruled that a U.S. citizen seized as an "enemy combatant" in the fight against terror can challenge his detention in U.S. courts.

Capital punishment

Death penalty issues also could hang in the balance. O'Connor, who in 2001 publicly questioned how fairly capital punishment was administered, sided in recent years with a majority that struck down the death penalty for the mentally retarded, but dissented this year from a 5-4 decision banning juvenile executions.

The court agreed last week to hear the appeal of a death row inmate from Tennessee who claims that new DNA evidence could exonerate him in the 1985 rape and murder of a female neighbor whose husband also was a suspect in the crime.

O'Connor wrote a 2003 decision that threw out the death sentence of Maryland inmate Kevin Wiggins, saying trial lawyers in his 1989 case failed to present mitigating evidence about horrific childhood abuses.

Two of the court's other conservatives, Justice Anthony M. Kennedy and Chief Justice William H. Rehnquist, joined the 7-2 decision.

The court's two most conservative members - and the judges that President Bush has said he would most want to replicate in appointing a new justice - wrote a scathing dissent. Saying that the majority's reasoning ranged from "the incredible up to the feeble," the dissent from Justices Antonin Scalia and Clarence Thomas concluded: "Today's decision is extraordinary - even for our 'death is different' jurisprudence."

On such divisive questions, it was O'Connor during her 24 years on the nation's high court who was closely watched as the bellwether. Her retirement, court scholars say, could produce a seismic shift on some of the most high-profile constitutional questions to come before the court - regardless of who is nominated to her seat.

"Her departure is a huge loss to anyone who has wanted the court to continue restraining congressional power over the states," David Garrow, a law professor and Supreme Court historian with Emory University, said in offering an example of O'Connor's influence. "If I was the attorney general of Oregon, I would be very disappointed ... because I just lost a vote."

How great the court's shift will be in the coming years depends largely on who is named to replace O'Connor. But her departure is expected to leave a mark regardless, because of her unique case-by-case approach to the job and her efforts to decide cases on the narrowest, most fact-specific grounds.

That approach meant O'Connor never fit squarely with the court's most conservative or its most liberal members, and she moved between the two blocs often as she earned her reputation as the court's most critical swing vote.

"Justice O'Connor fully earned her reputation as a centrist; she was a conscientious jurist and, in a number of key cases, stood up for individual rights and against a radically conservative vision of the constitution," said Steven Shapiro, legal director for the American Civil Liberties Union.

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Sometimes, she switched camps in rapid succession. In 2003, she wrote the court opinion in its landmark, 5-4 decision that upheld the University of Michigan law school's policy of using race as a weighing factor in evaluating applicants. On the same day, she voted with a 6-3 majority that invalidated the school's affirmative action program for undergraduate applicants.

The difference for O'Connor was in the details. But she wrote a powerful endorsement of the importance of racial diversity on campuses: "In order to cultivate a set of leaders with legitimacy in the eyes of the citizenry, it is necessary that the path to leadership be visibly open to talented and qualified individuals of every race and ethnicity."

Sometimes, her decisions did not land in the win column. In the court's most recent term, which concluded last week, O'Connor was in the majority on 47 percent of the court's most high-profile cases - a lower percentage than any other justice on the court this term, according to an analysis by the Georgetown University Law Center's Supreme Court Institute.

She dissented, for instance, when the court this term voted to ban as unconstitutional executions for murderers who were under 18 when they committed their crimes, when it ruled that federal sentencing guidelines should be considered advisory rather than mandatory, and when it upheld as constitutional a 6-foot-tall granite monument displaying the Ten Commandments near the Texas Capitol.

One of the last dissents of her court career was among her most biting. Disagreeing with the court's decision to allow local governments to use eminent domain powers to seize private homes and small businesses to promote private economic development, O'Connor warned: "The specter of condemnation hangs over all property."

"Nothing is to prevent the state from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory," she wrote.

"'Independent' is really a good word for her," said Michael P. Van Alstine, a University of Maryland law professor. "She didn't toe the line. She was an independent thinker, and I think that really is what defined her."

It also is what makes the future position of the court so hard to predict on so many issues, some of which have reached the next term's docket.

For the first time in five years, the court will revisit next term the emotional debate over abortion with a review of New Hampshire's parental notification laws. The case could end up being as much about legal technicalities - specifically, what standard should be used to assess the constitutionality of state abortion laws - but it ensures that any questions about abortion rulings during confirmation hearings will be more than hypothetical.

In two key rulings, O'Connor had sided with the court's more liberal members in upholding the basic right to choose an abortion. Advocacy groups on both sides of the emotional debate launched aggressive campaigns over the weekend to influence the confirmation debate, with abortion rights advocates staging a rally in Tennessee - the home state of Senate Majority Leader Bill Frist.

"Women who have the most to lose will be the strongest voice in the debate over this Supreme Court fight," said Eleanor Smeal, president of the Feminist Majority advocacy organization.

Internal dynamics

O'Connor's retirement leaves one remaining swing vote on abortion, in Kennedy - as well as the unknown views of the yet-unnamed replacement. It is hard to predict, too, how any new arrival might tip the balance on any high-profile issue, said Herman Schwartz, a constitutional law scholar at American University who has written about the Rehnquist court.

"One of the things that's hard to figure is, each of these justices has some issue where they're not quite in line with their natural allies," Schwartz said.

That is especially true in a court that has gone more than a decade without a vacancy.

"It would change the internal dynamics greatly - it would have to," said Arthur Hellman, a University of Pittsburgh law professor who studies the court. "Everybody would be reassessing not only their relationship with the new person, but also their relationship with each other, because there is so much interdependence."

One Justice, Many Cases, Lots Of Power (DMN)

By David Jackson And Allen Pusey

The Dallas Morning News, July 3, 2005

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In these politically divided days, a single Supreme Court justice can settle a lot of issues.

One justice can decide whether your daughter has to tell you if she is having an abortion; whether law schools can bar military recruiters from their campuses; whether doctors can help terminally ill patients end their lives.The answers to these questions are uncertain – especially now that Justice Sandra Day O'Connor is leaving the high court.

During her 24 years on the court, Justice O'Connor wound up making decisions that evenly split her colleagues – on issues ranging from access to abortion to how congressional districts are drawn.

"With many 5-to-4 decisions which the court has handed down, she has been the critical vote," said Sen. Arlen Specter, R-Pa., who, as chairman of the Senate Judiciary Committee, will conduct hearings on a replacement to be nominated by President Bush.

Sen. Charles Schumer, D-N.Y., a key Democrat on the Judiciary Committee, said Justice O'Connor's role as a "fulcrum, right at the center of the court" makes the choice of a new justice "all the more significant."

The divisive social issues at stake are fueling the many advocacy groups that plan to spend millions on the emerging judicial war.

Indeed, hostilities have already commenced.

On Saturday, the National Organization for Women, declaring "a state of emergency," conducted an impromptu abortion rights rally at its convention in Nashville, Tenn.

"Not the church, not the state; women must choose their fate," NOW members chanted.

Conservative religious groups, meanwhile, blasted e-mails to their members, asking them to contact the White House and urge Mr. Bush to appoint a jurist willing to overturn Roe vs. Wade, the 1973 decision that made abortion a constitutional right.

Some of these same groups have also registered objections to at least one high court candidate, Attorney General Al Gonzales, calling him wobbly on the abortion issue.

Reaffirming Roe

In assessing Justice O'Connor's influence – and a successor's potential power – consider that Roe vs. Wade might not have survived without her. She and Republican colleague Anthony Kennedy both signed on to a 1992 opinion reaffirming the basic holding of Roe.

Her vote was critical in many other cases:

In 2000, she made the difference in a 5-4 case to overturn a state ban on late-term abortions. Because of her vote, HMO patients in certain states have the right to a second medical opinion even if their health care plan disapproves of it. And another swing vote preserved the use of affirmative action.

Some conservatives have been critical of Justice O'Connor, claiming inconsistencies on such issues as the death penalty and religion in public life; liberals hailed as her as pragmatic and non-ideological – both arguments sure to echo as the process of replacing her moves forward.

More hard cases await the court when it resumes work in October with or without Justice O'Connor, who has agreed to stay on until a successor is confirmed.

The justices have already agreed to review a federal law banning doctors from using drugs to assist suicides. Oregon officials claim the rule infringes on their Death with Dignity Act.

The court is also scheduled to decide whether the government can withhold federal funds from law schools that refused to allow military recruiters on their campuses.

The Pentagon says it has the same rights as other job recruiters; schools say the military violates campus non-discrimination policies with its rules excluding openly gay troops.

A New Hampshire law requiring parental notification for minors before an abortion is also slated for the court's consideration. The justices must decide whether the law has adequate exemptions to protect the health of the minor. Similar laws apply in 33 states.

Many conservatives have eagerly anticipated replacing Justice O'Connor as part of their decades-long effort to shift the ideological direction of court.

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The conservative movement grew in large measure in response to the expansive Supreme Court rulings of the 1950s, 1960s, and 1970s. The court integrated public schools, struck down school prayer, cut back on capital punishment, exercised control over some political redistricting, restricted police powers and expanded protections for defendants.

Reacting to what he called the court's liberal excesses, President Nixon appointed then-little-known assistant attorney general William Rehnquist in 1971. President Reagan elevated Mr. Rehnquist to chief justice in 1986.

Rehnquist's future

In recent weeks, court watchers thought Chief Justice Rehnquist would be the one retiring because of his thyroid cancer. His departure remains a possibility, which would give Mr. Bush and his conservative supporters another chance to shift the court to the right.

In the meantime, the battle to replace the court's most prominent swing vote is being fought by groups animated by the social issues Justice O'Connor decided.

Conservative organizations include religious activists, business interests, libertarians, and legal groups such as the Federalist Society. They include single-issue organizations ranging from gun owners to tax cutters.

One conservative coalition, Progress for America, has pledged to spend $18 million on the campaign. The group has already produced television ads, including one claiming that Democratic environmentalists would object if Mr. Bush nominated George Washington because he once chopped down a cherry tree.

Liberals groups ready to oppose Mr. Bush's nominee include feminists, unions, environmentalists, gay rights advocates and civil rights organizations. They are led in large part by People for the American Way, Alliance for Justice and the Leadership Council on Civil Rights.

The rhetoric on both sides is just getting started.

Justice O'Connor's retirement "places women's health at risk, endangering the future of reproductive rights in this nation," said Karen Pearl, interim president for the Planned Parenthood Federation of America.

"The public is primed for the fight it will take to confirm a nominee," said Tony Perkins, president of the socially conservative Family Research Council.

O'Connor Bow Puts New Focus On Rehnquist (CHT)

By William Neikirk

CHT – Rehnquist Focus, July 3, 2005

Chief Justice William Rehnquist might be next. Or will he?

Seemingly frail from his struggle with thyroid cancer, the chief justice defied expectations in the past week by not announcing his retirement. Instead, Justice Sandra Day O'Connor turned out to be the retiree who caused an explosion of Washington political buzz.

But Rehnquist is still considered a good candidate for retirement because of his poor health, possibly giving President Bush the rare opportunity of nominating two Supreme Court justices at about the same time.

But some analysts say that if Rehnquist waits much longer, it is less likely that he will resign.

"I would doubt it at this point," said Scott Moss, a law professor and Supreme Court expert at Marquette University. "If a justice is going to retire, he probably isn't going to wait until midway through the summer" because that would mean a successor might not be confirmed in time for the court's new term in October.

The 80-year-old chief justice has shown grit in his post, and despite being under treatment for cancer, he showed up on a cold January Inauguration Day to swear in Bush to a second term.

Susan Low Bloch, a law professor at Georgetown University, said she had thought that Rehnquist might have announced his resignation this week.

"But now I don't know what I think," she added. "Now, I sort of think he may wait."

She said she had heard that Rehnquist "doesn't want to get off" the court while O'Connor "did want to get off," adding that "I just know he loves the court and has all his life. Once his wife died, that became everything to him."

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Sen. Arlen Specter (news, bio, voting record) (R-Pa.), chairman of the Senate Judiciary Committee, which considers Supreme Court nominees, weighed in on whether Rehnquist would retire.

"Speaking as someone who likes to get up in the morning with something important to do, I wouldn't say it's keeping the chief justice alive, but I think he likes his job," Specter said. "And if we haven't heard from him by now, the chances are you won't hear from him for some time."

Still, observers noted Rehnquist looked especially weak at the end of the current term.

"I still expect Rehnquist to resign soon, after a decent interval allowing discussion of O'Connor's legacy," said Thomas Mann, a Brookings Institution scholar. Some believe this could happen as early as next week.

If Bush has the chance to name two justices, said Mann, he could "couple a strong conservative with a more ambiguous, uncertain appointee. This might avoid a rancorous battle, which he doesn't need now given his weakened political position."

But if the Senate does have to consider two Supreme Court vacancies at the same time, it is almost certain to make for a bitter, stormy autumn.

Named to the high court by President Richard Nixon and elevated to chief justice by President Ronald Reagan, Rehnquist long has been a conservative mainstay there.

But, said Bloch, he is by no means as conservative as Justices Antonin Scalia and Clarence Thomas, and if he should retire, Bush could conceivably choose two justices that would align themselves more regularly with Scalia and Thomas.

In today's political climate, said Bloch, it is much harder to nominate a justice who has not firmly settled into one philosophical camp or another. When Reagan named O'Connor to the court, she said, the justice's legal background on issues was not as clear.

"It won't happen again," Bloch said. "The president will pick someone whose views are more known."

But analysts said that if Bush has the chance to name two justices and picks two arch-conservatives, it could set off a titanic battle in the Senate over their confirmation. Already, a major fight is expected when O'Connor's replacement is named.

The speculation about court retirements began when Rehnquist developed an aggressive form of throat cancer in late 2004. He underwent treatment and missed a number of oral arguments in late 2004 and early 2005. He returned to the bench on March 21. During his absence, he participated in deliberations and court decisions.

No one knows what the chief justice will do, but Moss said that "there is a long tradition of justices trying to stick it out" even when they are extremely ill.

O'Connor Made Her Mark As Pragmatic Centrist (MINNST)

By Michael Doyle

Minneapolis Star Tribune, July 3, 2005

Sandra Day O'Connor was a chief justice without the title.

The only experienced politician on the current Supreme Court, O'Connor has dominated decision-making for well over a decade. More pragmatic than philosophical, more centrist than hard-line conservative, the former Arizona state senator left a distinctive stamp on American justice that surpassed her initial ground-breaking appointment.

"If we didn't have a tradition of naming courts for the chief justice, this would be known as the O'Connor Court," said Washington attorney Ronald Klain, a former Supreme Court clerk and one-time chief of staff to Al Gore.

When the court has split, it has usually been O'Connor holding the center.

Early on, O'Connor wrote the 5-4 opinion requiring an all-female Mississippi nursing school to admit men. Two decades later, she penned the 5-4 opinion upholding affirmative action in university admissions. In between, the 1952 Stanford Law School graduate literally defined what middle-of-the-road meant for the late 20th century and early 21st century Supreme Court.

"She is somebody who brought a voice of moderation to the Supreme Court," Senate Minority Leader Harry Reid told reporters.

Washington, D.C., attorney Masha Dabiza, author of a detailed assessment of O'Connor's jurisprudence, said Friday that "if you compare her to the rest of the Supreme Court, she would be considered a moderate, but I also think the court is further to the right than most people think."

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Numbers tell part of the story, starting with the unanimous 99-0 Senate vote by which O'Connor won confirmation in 1981.

The Supreme Court split 5-4 on 175 cases between 1994 and 2003. O'Connor was in the majority in 135 of those cases. This was more than any of the other justices, a 2004 Harvard Law Review statistical analysis found. Chief Justice William Rehnquist, for instance, was in the majority in 111 of the 5-4 cases.

In other words, labels like "The Great Dissenter" or the "Lone Ranger" -- terms once applied to justices Oliver Wendell Holmes and Rehnquist, respectively -- would never fit O'Connor. She was in the majority 89 percent of the time over the past decade, a Georgetown University Law Center analysis found.

Just a few days ago, for instance, O'Connor joined the slim majority in the McCreary vs. ACLU case, ordering removal of the Ten Commandments from a Kentucky courthouse. She was in a similarly slim majority upholding campaign finance reforms in the 2003 case called McConnell vs. Federal Election Commission, and she authored the 2003 opinion in Grutter vs. Bollinger upholding the University of Michigan Law School's use of race in admissions.

"Access to legal education, and thus the legal profession, must be inclusive of talented and qualified individuals of every race and ethnicity," O'Connor wrote for the 5-4 majority.

As her Grutter opinion suggested, simple ideological labels don't do O'Connor justice.

Just one week before striking down Kentucky's posting of the Ten Commandments, O'Connor vigorously argued on behalf of private property owners in her dissent from the ruling in Kelo v. City of New London. The Kelo majority ruling empowered cities to seize more property through eminent domain, and O'Connor's dissent amounted to a conservative's cautionary note.

"She is willing to exercise the court's power on behalf of both liberal and conservative ends," Thomas Keck, assistant professor of political science at Syracuse University's Maxwell School of Citizenship and Public Affairs, said in an interview Friday.

Author of a recent book assessing the current court, Keck noted Friday that O'Connor has "regularly joined with conservative colleagues to enforce conservative constitutional principles like states' rights, and regularly joined with liberal colleagues to enforce liberal constitutional principles like gay rights."

Indeed, the gay rights issue illustrates just how O'Connor has evolved as a judge.

In her first term, O'Connor sided with then-associate justice William Rehnquist -- an old Stanford Law School classmate -- in 27 of the 31 decisions resolved by a 5-4 vote. Not long afterward, in the 1986 case called Bowers vs. Hardwick, O'Connor joined Rehnquist in the 5-4 majority opinion upholding Georgia's anti-sodomy law.

But by 2003, O'Connor played a different role. She joined the majority ruling in the Lawrence vs. Texas case that struck down statutes in Texas and other states that ban homosexual sodomy. Although O'Connor declared in a concurring opinion that she was not willing to explicitly overturn Bowers, as the five other majority justices would, she did give voice to a more liberal sentiment than she was expressing in the mid-1980s.

"Texas' sodomy law brands all homosexuals as criminals, thereby making it more difficult for homosexuals to be treated in the same manner as everyone else," O'Connor wrote.

Abortion cases

Such opinions could anger true-blue conservatives, and never more so than in cases involving abortion.

While telling senators during her 1981 confirmation hearing that she would neither "endorse or criticize" the 1973 Roe vs. Wade decision upholding abortion rights, O'Connor characterized abortion as "simply offensive" and repugnant." And in the 1989 case called Webster vs. Reproductive Health Services, O'Connor helped uphold various abortion restrictions.

Nonetheless, in the even more crucial 1992 case called Planned Parenthood of Southeastern Pennsylvania vs. Casey, O'Connor joined the narrow majority that sustained Roe vs. Wade's basic holding. It was, in some ways, a classic O'Connor cut straight down the middle.

The mother of three helped uphold Pennsylvania's 24-hour waiting period for women wanting abortions, while retaining the constitutional right to an abortion. It was an utterly pragmatic ruling; an effort, by some lights, to settle the core abortion question once and for all.

"Liberty," O'Connor and her fellow justices wrote, "finds no refuge in a jurisprudence of doubt."

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O'Connor's prose rarely soared, and she usually kept her opinions tightly focused on the technical facts of a particular case. In that respect, she was a conventional conservative compared to a more activist judge such as Scalia or Associate Justice Clarence Thomas.

All of which means it may not be her words that are remembered, but her votes and the concrete consequences that followed.

"Ah, the tombstone question," O'Connor said, according to an account by the Supreme Court Historical Society. "I hope it says, 'Here Lies a Good Judge.'"

Supreme Difference (WP)

By Linda Ross Meyer

The Washington Post, July 3, 2005

Will the Supreme Court be different without Sandra Day O'Connor? You bet. But it will be different not only because she provided crucial votes for a right to privacy, against race-based redistricting, against state endorsement of religion and for affirmative action, etc. The court will be different without her because, if President Bush nominates a replacement on the basis of that person's position on constitutional theory, there will be no one to take the court on an outing from its ivory tower.

Justice O'Connor is known in court circles for organizing field trips for her clerks. She was determined to pry us clerks from behind our computers and from under our piles of briefs, and scoot us into the whirl of working Washington. Getting out into the real world, talking with real people, was a trial for some of her library-carrel-reared clerks, but these outings were not just matters of tourism. They gave us the foundational experience for understanding O'Connor's approach to jurisprudence and her place on the court. And they taught us what the court will lack when O'Connor leaves.

She would troop us around the District, taking in exhibits, touring postal facilities or wandering about historic ships, all the while peppering every docent or captain or postal worker with her questions and characteristic energy and enthusiasm. "Isn't this interesting!" she would exclaim over the concept of self-adhering postal stamps or machinery for dredging clams from the muck of Chesapeake Bay. We bleary-eyed bookworms would dutifully agree.

At the court itself, it seemed to us as if O'Connor kept her feet on the ground in a place often dominated by Grand Constitutional Theory -- a combination of theoretical absolutes and scholarly minutiae of the kind that law professors love. Justice Stephen Breyer's opinions, for example, often sound as though they came directly from the policy wonks at the nonprofit Rand Corp., complete with appendices and concordances. Justice Clarence Thomas, meanwhile, believes his job is to return the court to the constitutional law of the 18th century, according to the Framers' intent, and his opinions usually contain long historical discourses about the state of law in 1790, as capital defendants dance on the head of an historical pin.

Justice Antonin Scalia, likewise, believes in theoretical absolutes. The court should expunge all rights not explicitly articulated in the text. It should never look at legislative history. And it should establish neat, clear, interlocking rules that can be applied consistently for all areas of law (and without further judgment by presumably less-competent trial courts). "What distinguishes the rule of law from the dictatorship of a shifting Supreme Court majority is the absolutely indispensable requirement that judicial opinions be grounded in consistently applied principle," Scalia wrote in his dissent to last week's court decision limiting the display of the Ten Commandments on government property.

But O'Connor believed that judging is not policy analysis or scholarship or ideology. Justice doesn't come from a book. The difficult decisions come in shades of gray, not black and white, and the view from the Supreme Court bench can be a narrow one. She looked to the pragmatic consequences of the court's decisions for everyday citizens, and she tried to do justice in the case while leaving play in the constitutional joints so as not to tie the hands of those closer to the facts and the people.

As a former trial judge and state legislator, she knew firsthand that abstract rules can't always assure a just result, and so her legal "rules" took the form of balancing tests that allowed wiggle room for the vast and infinite variety of real life (much to chagrin of her more theoretical colleagues). State governments could regulate abortion as long as they didn't place an "undue burden" on women; governments could display religious symbols as long as they didn't "endorse" religion or make religious minorities feel excluded from citizenship. She was also one of the few justices willing to grant certiorari in (and review) death penalty cases not just when the constitutional theories needed to be clarified, but to fix mistakes in particular cases.

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Her jurisprudence was characterized by a deference for local knowledge and a practical humility about the Court's ability to construct or reconstruct a seamless theory of constitutional law. If people were treated unjustly -- arrested and handcuffed for a seatbelt violation, unfairly denied an equal vote by crazy-quilt redistricting, stripped of their property in order to increase the local tax base, discriminated against because of who they were and not what they had accomplished, or detained without a hearing -- then Grand Theory had to bend to Justice, not Justice to Grand Theory. Like her predecessor, Justice Potter Stewart, she didn't need a theory to know an injustice when she saw it.

Most of what we have been hearing about potential nominees is about their "judicial philosophy" or their "theory of the Constitution." During last year's presidential campaign debates, Bush said, "I would pick people that would be strict constructionists."

And now, in anticipation not of O'Connor's retirement but of Chief Justice William Rehnquist's departure, activist groups on the left and the right have raised millions of dollars to promote or fight against nominees depending on their judicial philosophies. We're asked to support Janice Rogers Brown because she is dedicated to "preserving the Constitution as ratified," Michael McConnell because of his theory of the establishment clause, Emilio Garza or Edith Jones because they are constitutional originalists, Alberto Gonzales because of his position on substantive due process and abortion rights.

But these positions and writings reveal just one part of what the president should know to make his next decision. Character and range of human experience should also matter. Does the nominee have truly practical wisdom -- an on-the-muddy-ground understanding of the sheer diversity of human aspiration, emotion, frailty, and passion? Does the nominee have a sense of justice to prevail where simple theory proves inadequate? O'Connor did, and a court without members of these qualities does not bode well for our future.

Justice O'Connor's Indelible Stamp (WP)

By Viet Dinh

The Washington Post, July 3, 2005

In the coming days, many will no doubt tout Sandra Day O'Connor as the pioneering first female Supreme Court justice. Most will point to her importance as the pivotal middle justice on a divided court. And some will accuse her of squandering her influence by not articulating and hewing to a unified theory of the law of their liking. In all this, the pundits may well be right in the description, but many will be wrong in ascribing merit or blame. Justice O'Connor is, quite simply, a great judge.

In 1995 I and my three co-clerks to O'Connor engaged in a heated discussion over some small point of law whose importance seemed transcendental at the time. This was the mother of all debates, several days of intense silences punctuated by heated discussions. The justice knew, of course, having carried awkward luncheon conversations and having interrupted several of our closed-door shouting matches. But she let us continue without intervention. The next morning, she handed us a two-page draft opinion -- concisely crafted, beautifully written and articulating a clear answer based on her writings and intimations in previous cases. Each of us combatants saw our conflicting points considered, answered or accommodated in her elegant draft. All that was left to do was to check the spelling, fill in the citations and go on with our coffee.

That example encapsulates O'Connor's approach to her work.

Without fanfare she hones her craft, deciding individual cases, answering concrete questions and in the process providing clear and enduring answers to the most important questions of the day.

Take, for example, the recent cases articulating the division of governmental power between state and federal governments. For more than 50 years, the constitutional enumeration of (and therefore implicit limitation of) the powers of the federal government went unheeded. On the Supreme Court, O'Connor spent over a decade dissenting from what she considered the court's abdication of its constitutional responsibility to rein in Congress. The justices agreed in 1995 and placed limits on Congress's power to regulate interstate commerce. O'Connor takes these limits so seriously that last month, contrary to her law-and-order instincts, she voted against federal authority, in the name of commerce, to prohibit in-state marijuana possession.

Given her leadership, many were surprised when O'Connor in recent years voted to affirm Congress's power to regulate family leave policies and access to courthouses. But her votes were perfectly consistent, because these latter cases dealt not

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with Congress's power to regulate commerce but rather with its separate authority to redress disability and gender discrimination. They are surprising only to those who would view O'Connor through the lens of a states' rights ideologue or a lazy pundit.

Likewise, O'Connor has decried the tendency to adopt a grand unified theory of church-state relations. Instead, she reads the Constitution as prohibiting governmental actions that a reasonable observer would construe as endorsing religious beliefs. This is no "I know it when I see it" test. Rather, it relies on a common legal standard, the reasonable objective person, to guide decisions in concrete cases according to their facts.

Last year O'Connor brought her practical brilliance to bear on the most interesting and vexing current question of constitutional law, military detention of enemy combatants in the war against terrorism. Structural purists would perhaps prefer Justice Clarence Thomas's categorical reliance on the president's exclusive power to wage war. And human rights advocates no doubt cheered Justice John Paul Stevens's characterization of executive detention as akin to mild torture.

O'Connor, however, wrote the controlling opinion for the court, which recognized the president's wartime power to detain enemy combatants who would kill American soldiers and civilians. But even in war there is law, and due process requires that the president afford combatants with some opportunity to challenge their detention before an impartial tribunal. She is mindful that generals fight war, not judges and lawyers, and she prescribed procedures that deferred to military judgment and necessities.

I could go on and identify Justice O'Connor's indelible stamp in every area of the law spanning property rights, race relations, privacy, employment contracts, retirement benefits and so on. But that would be missing the point of her life, work and worth. She is not a crusader, a reformer or a philosopher. She has always tried to be a good judge, and by succeeding she has been a pioneer, sage and icon.

Justice Forged A Path For Women (DMN)

By Colleen Mccain Nelson

The Dallas Morning News, July 3, 2005

When Sandra Day O'Connor was nominated to the Supreme Court, her confirmation hearings were must-see TV for Helen Perry Grimwood and her friends.

Ms. Grimwood, a clerk for the Arizona Court of Appeals in 1981, rushed home each evening to watch replays of the hearings late into the night. "I was absolutely glued [to the TV], and so was everybody I knew," said Ms. Grimwood, who has known Justice O'Connor for more than 30 years. "We were just so intrigued. If that's any indication of what a monumental event it was ... we watched every minute that we could."

During her clerkship, Ms. Grimwood had watched and learned from Justice O'Connor, who was a judge on the Arizona Court of Appeals when President Reagan announced her nomination.

Her mentor's ascension to become the first woman on the country's highest court was a milestone that some women had never dared consider, Ms. Grimwood said.

"Now, women can dream about being on the U.S. Supreme Court," said Ms. Grimwood of Phoenix, now president of the State Bar of Arizona.

Justice O'Connor, who announced her retirement Friday, opened doors for women at the highest levels of the legal profession. But when the justice who once aspired to be a cattle rancher graduated from Stanford Law School, she found that even low-level jobs weren't options for female lawyers. Many law firms simply didn't hire women. One offered the graduate, who finished third in her class, a secretarial position.

Texas Sen. Kay Bailey Hutchison, who also struggled to find work after law school, said that despite the rejections that Justice O'Connor faced, "she kept that positive spirit, and she has been a leader in everything she's done."

Ms. Hutchison, a Republican, said Justice O'Connor was a role model for women in law.

"She had the spotlight shone on her at an early time in her career, and she handled it with such grace and integrity that I think it set the exact right tone," Ms. Hutchison said.

Regina Montoya of Dallas, a former congressional candidate who served in the Clinton White House, said Justice O'Connor's accomplishments signaled that women could be seen as equal to men.

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"She made it really clear that the legal profession was open to women and you could succeed at the highest level," she said.

Beyond limits

Justice O'Connor did not allow gender to define her.

"Yes, I will bring the understanding of a woman to the court, but I doubt that alone will affect my decisions," she once said. "The important thing about my appointment is not that I will decide cases as a woman, but that I am a woman who will get to decide cases."

Mary Spector, an associate professor of law at Southern Methodist University, said Justice O'Connor had to prove to a skeptical public that she was not a "fluke" and that she could thrive in a male-dominated world.

She accomplished that by establishing herself as an independent voice on the court.

"She wielded that middle-ground position with a lot of deliberateness and didn't just influence the court's decisions by her vote but by her opinions and the reasoning she relied upon to split the middle," said Lynne Rambo, a professor of constitutional law at Texas Wesleyan University.

Ms. Grimwood, who describes her mentor as no-nonsense and gracious, said Justice O'Connor has never been an ideologue. She set political agendas aside, simply considering the facts of every case.

Alternative view

And as a working woman with a family, Justice O'Connor brought a unique perspective to the Supreme Court. "She had lots of experience that other members of the court didn't have," Ms. Grimwood said. "Until she was on the court, half the population was just not represented."

Now, nearly 24 years after Justice O'Connor joined the high court, the path for women following in her footsteps will be smoother, Ms. Grimwood said. But she noted that if Justice O'Connor is succeeded by a man, only one woman, Ruth Bader Ginsburg, would remain on the Supreme Court.

"The difference between what it was like when Sandra Day O'Connor graduated from law school and what it's like now is profound," she said. "But we still have a lot of ground to cover."

Feminists On O'Connor: A Mixed Verdict (WP)

By Hanna Rosin

The Washington Post, July 3, 2005

With her retirement, Sandra Day O'Connor did to many American feminists what she's done during her tenure as a Supreme Court justice: Eluded them. She left, in part, to spend more time with her husband, John O'Connor, who suffers from Alzheimer's disease and who has been known to spend his days in her chambers while she works.

Surely your average successful lawyer has faced this dilemma: give up a career or take care of the family. But not the Chief Woman Lawyer of America -- she shouldn't quit to take care of her family, should she? What kind of message does that send?

"I was on a radio show and someone called in to say, 'Would we ever see a man retire to take care of his spouse?' " says Suzanna Sherry, a law professor at Vanderbilt University who has written about O'Connor. "This is why she's never been considered a feminist's feminist. A feminist would say: 'Well, why would she do that?' " O'Connor was the first woman appointed to the Supreme Court, and that alone seals her place in American feminist history. It makes her arguably the most powerful American woman, one rung short of the first female American president. She was third in her Stanford law school class at a time when a woman was lucky to get a job as a secretary at a law firm. That's the job she was offered upon graduation, so she invented her own career path.

Still, she never quite fit the image of a modern feminist. She was appointed by Ronald Reagan. Although she ended up in a critical tie-breaking role on the court, it seemed as if by accident; legal analysts often criticized her for lacking a coherent judicial philosophy, an aggressive Grand Unified Theory that characterizes, say, Antonin Scalia.

In her autobiography, "Lazy B," she wrote about growing up on a remote cattle ranch in Arizona, rounding up wild colts and witnessing drunken bar fights. But the Annie Oakley image never stuck. She is better known for delaying her career until her three sons were in school. Her public persona in Washington was maternal, nurturing, genteel, soft. She let her granddaughter write a

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book about her featuring a picture on the cover of the two of them holding a teddy bear. On her clerks' door she left a Xerox of her hand with a note that read "For a pat on the back, lean here."

Yesterday, during its convention, the National Organization for Women planned an impromptu march on the Tennessee state capitol in response to news of her retirement. "We are determined not to have an extremist who will roll back women's rights," Eleanor Smeal, president of the Feminist Majority, said in an interview from the rally, with the crowd in the background shouting, "Hell no, we won't go." The feminist movement kicked into action immediately when it lost O'Connor. She may not have been a reliable ally on their pet causes (she voted to invalidate the Violence Against Women Act, for example), but she came through as the critical vote on cases involving abortion and affirmative action. But there were no heartfelt personal reminiscences. No honoring of a fellow suffragette's guts and glory. Just the legal issues and the facts, with all the emotional warmth of a legal brief. It was understood that O'Connor herself wouldn't be caught dead at such a rally.

Smeal testified for O'Connor when she was first nominated and, Smeal says, "I never regretted my testimony." Smeal's highest compliment: "She's obviously a conservative woman, but she did not turn her back on women's rights. It was the best we could do under the circumstances."

In the mid-'80s, feminist legal theorists made an attempt at embracing O'Connor. Sherry wrote an article describing the jurist as the archetype of "difference feminism," a theory popularized by feminist Carol Gilligan and which holds that men and women reason differently and write in different styles.

O'Connor, she wrote, had a uniquely "feminine perspective"; she consistently valued communities over individuals, moderation over confrontation, wrote in a way that's more contextual, less "abstract" and more "caring."

But many feminists "balked at the idea that difference feminism could explain a conservative woman," says Sherry.

O'Connor herself rejected the thesis as well.

"This 'new feminism' is interesting but troubling, precisely because it so nearly echoes the Victorian myth of the 'True Woman' that kept women out of law for so long," O'Connor said at a speech at New York University in 1991. "Asking whether women attorneys speak with 'a different voice' than men do is a question that is both dangerous and unanswerable."

In her generation, women competed on equal terms with men, and the updated feminism must have struck her as a cop-out of a kind.

Once Ruth Bader Ginsburg came on the court in 1993, feminists had an ally they could truly rely on. Ginsburg had dedicated her career to fighting for feminist causes; she had founded the American Civil Liberties Union Women's Rights Project to argue that the law discriminated between men and women; she sees the world through that lens. Now she is the one who wins honors with such names as the Athena Award. NOW named its annual lecture after her.

O'Connor then settled into a place with the feminist establishment that suited both sides better: as the spotty understudy. O'Connor became a favorite speaker at commencement events. She was invited to the types of places that give out crystal figurines, as Margaret Talbot pointed out recently in the New Yorker. (Last year she accepted $5,825 worth of gifts, the second highest amount after Clarence Thomas, "mostly in small crystal figurines," O'Connor said.)

These days O'Connor has a new status in women's circles. She is now the mother of "Sequencing," a new fancy word that means delaying your career until your children are in school. "Juggling Career and Home: Albright, O'Connor, and You," reads a recent article in Mothering magazine, explaining how you can take care of your family and have a stellar career. So maybe feminism has caught up with the Supreme Court justice after all.

Increase In The Number Of Documents Classified By The Government (NYT)

By Scott Shane

The New York Times, July 3, 2005

Driven in part by fears of terrorism, government secrecy has reached a historic high by several measures, with federal departments classifying documents at the rate of 125 a minute as they create new categories of semi-secrets bearing vague labels like "sensitive security information."

A record 15.6 million documents were classified last year, nearly double the number in 2001, according to the federal Information Security Oversight Office. Meanwhile, the declassification process, which made millions of historical documents

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available annually in the 1990's, has slowed to a relative crawl, from a high of 204 million pages in 1997 to just 28 million pages last year.

The increasing secrecy - and its rising cost to taxpayers, estimated by the office at $7.2 billion last year - is drawing protests from a growing array of politicians and activists, including Republican members of Congress, leaders of the independent commission that studied the Sept. 11 attacks and even the top federal official who oversees classification.

The acceleration of secrecy began after the 2001 attacks, as officials sought to curtail access to information that might tip off Al Qaeda about America's vulnerabilities. Such worries have not faded; just this week the Department of Health and Human Services sought unsuccessfully to prevent publication of a scientific paper about the threat of a poisoned milk supply on the ground that it was "a road map for terrorists."

But across the political spectrum there is concern that the hoarding of information could backfire. Thomas H. Kean, chairman of the Sept. 11 commission and a former Republican governor of New Jersey, said the failure to prevent the 2001 attacks was rooted not in leaks of sensitive information but in the barriers to sharing information between agencies and with the public.

"You'd just be amazed at the kind of information that's classified - everyday information, things we all know from the newspaper," Mr. Kean said. "We're better off with openness. The best ally we have in protecting ourselves against terrorism is an informed public."

Mr. Kean said he could not legally disclose examples he discovered of unnecessary classification. But others cite cases of what they call secrecy running amok: the Central Intelligence Agency's court fight this year to withhold its budgets from the 1950's and 60's; the Defense Intelligence Agency's deletion of the fact that the Chilean dictator Augusto Pinochet was interested in "fencing, boxing and horseback riding"; and the Justice Department's insistence on blacking out a four-line quotation of a published Supreme Court decision.

Secrecy has long been denounced by liberal watchdog groups like the American Civil Liberties Union. But more conservatives are emerging as skeptics, including Senator John Cornyn, Republican of Texas, whose bill to strengthen the Freedom of Information Act passed the Senate last week. The bill, cosponsored by Senator Patrick J. Leahy, Democrat of Vermont, requires that any legislation creating new exemptions to the Freedom of Information Act explicitly disclose them. It is only part of overhaul efforts proposed by the two.

Mr. Cornyn, a former state attorney general, said he had been trying to persuade his colleagues that freedom of information was not just a concern of the news media. "The people should get the information they need to see if government is doing what they want," he said.

He gets no argument from J. William Leonard, who in his three years as director of the Information Security Oversight Office has waged a lonely battle against overclassification. "I've seen information that was classified that I've also seen published in third-grade textbooks," Mr. Leonard said.

Such missteps may come in part from inexperience. Since 2001, President Bush has extended the power to classify documents to the heads of the Environmental Protection Agency, the Department of Health and Human Services and the Department of Agriculture. At the Agriculture Department, where officials are concerned about agroterrorism, employees can visit the agency's Web site and easily print out a bright-yellow "sensitive security information" cover sheet.

Such labels for unclassified information deemed sensitive have multiplied in recent years, going beyond the traditional "for official use only" to "law enforcement sensitive," "homeland security sensitive" and other vague tags.

"We find there's such a proliferation of these bogus categories," which lack clear rules or definitions, said Lawrence J. Halloran, an aide to Representative Christopher Shays, a Connecticut Republican who held a hearing on excessive secrecy in March.

The secrecy wave has reached obscure outposts of federal power. Wes Addington, a lawyer in Prestonsburg, Ky., who represents mine workers filing safety complaints, said the Mine Safety and Health Administration now denied him documents under the Freedom of Information Act that a few years ago were routinely provided.

"Honestly, I don't understand the reason," Mr. Addington said. "I don't see how releasing this stuff would hurt the government."

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A spokeswoman for the safety agency, Suzanne Bohnert, said it began withholding inspectors' notes because their release could "harm ongoing enforcement matters."

Some opponents of secrecy say the Bush administration has created an atmosphere that discourages disclosure. Vice President Dick Cheney won a court battle to keep secret the records of his energy task force. Former Attorney General John Ashcroft issued a memorandum in October 2001 urging officials to be careful to protect sensitive information.

Thomas S. Blanton, director of the National Security Archive at George Washington University, said the administration viewed public access to information as encroaching on executive power.

But a spokesman for the National Security Council, Frederick L. Jones II, said the effect of the Ashcroft memorandum had been "greatly exaggerated" by critics. Mr. Jones blamed the increasing use of e-mail for the rapid rise in classified documents. He added that the president had nominated members for a planned Public Interest Declassification Board that would guard against excessive secrecy.

"The administration is proud of its record of openness," Mr. Jones said.

Mr. Blanton's group, which files hundreds of Freedom of Information requests each year, occasionally gets a glimpse of the arbitrariness of bureaucrats' decisions. In 1999, the Defense Intelligence Agency released its two-page Pinochet biography without deletions. Three years later, it released the same document with half the text deleted, including such comments as "Gen. Pinochet is conservative in his political thinking."

In a recent battle, Steven Aftergood, who directs the Project on Government Secrecy at the Federation of American Scientists, sought C.I.A. budgets for 1947 to 1970. A judge gave him only the 1963 budget, because it had already been released.

"I don't know any intelligence professional who says, 'I'll stake my integrity on the need to protect the 1962 intelligence budget,' " Mr. Aftergood said.

But a C.I.A. spokesman, Paul Gimigliano, said that releasing even old budgets could prove a slippery slope. "The budget remains classified to prevent America's adversaries from piecing together the national security priorities set for the C.I.A.," he said. "This is not secrecy for secrecy's sake."

Feds Increasingly Classify Documents (AP-Y2)

By KEVIN FREKING, Associated Press Writer

AP2, July 3, 2005

WASHINGTON - Driven largely by ongoing military operations in Iraq and Afghanistan, the federal government reports that the number of documents being classified jumped 10 percent last year to 15.6 million.

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The numbers come from the Information Security Oversight Office in its latest annual report to the president.

Meanwhile, the number of pages that the government declassified continued to drop. Last year, 28.4 million pages were declassified, a 34 percent drop from the previous year.

An increase in the number of documents being classified has raised concerns that the government is being too secretive, and the report notes that overclassification of documents has been a consistent issue for decades. However, the report stops short of saying that the trend runs counter to the nation's interest.

"It cannot be said conclusively from this report's data that recent increases in the number of classification decisions were due substantially to the phenomenon of overclassification," the report states.

The report, dated March 31, notes that classifying information is an essential and proven tool for defending the nation, but says that it can be a double-edged sword. For example, it said limits on information can contribute to friendly fire deaths on the battle field, and failure to share information contributed to the government's failure to intercept the plot that led to the Sept. 11 terrorist attacks.

"Simply put, secrecy comes at a price. For classification to work, agency officials must become more successful in factoring this reality into the overall risk equation when making classification decisions," the report said.

OTHER NEWS:

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Vast Crowd Attends Rally For The Poor In Scotland (NYT)

By Lizette Alvarez

The New York Times, July 3, 2005

Wearing white as a symbol of hope and justice, more than 225,000 demonstrators encircled the heart of this graceful medieval city on Saturday and demanded an end to abject poverty around the world.

The radical and the peaceful, the curious and the committed, all poured into the streets here to deliver their message to the powerful leaders who will arrive at Gleneagles Hotel in Perthshire, nearby, for the Group of 8 summit meeting that starts Wednesday.

"Thirty thousand children die every day as a result of extreme poverty," said Richard Bennett, the chairman of the Make Poverty History campaign, the work of a coalition of 500 groups in Britain. "That is one every three seconds. It's totally avoidable, and the fact that it is avoidable makes it unacceptable."

Their list of particulars is not long, Mr. Bennett said at the protest, the first of several scheduled over the week. The activists and demonstrators want the wealthy of the world to do more for the wretched of the world, most notably in Africa. Specifically, they say, the world's richest countries should forgive the debts of the poorest countries, with no strings attached, equalize trade and put an end to harmful export subsidies and increase aid to poor countries while ensuring it gets funneled to the right people. The aid, activists say, should not come attached to cumbersome, unworkable requirements.

Buoyed by the sunny weather, the demonstrators spoke of their newfound hope that the British prime minister, Tony Blair, President Bush and the other leaders of the eight major industrialized countries were beginning to take note of the widening gap between rich and poor. The jubilant crowd blew whistles, banged drums, waved placards that read "Water Not War" and "Drop the Debt," donned kilts and flashed their white wrist bands, a symbol of the anti-poverty campaign.

At 3 p.m., the marchers - and many others in the city - halted for a two-minute silence. Shortly afterward, the marchers formed a white-clad human chain around the city center. In London, St. Paul's Cathedral was wrapped in white, and similar installations were planned in other cities around the world.

"Half the world is dying to eat and the other half is eating itself to death," said Elizabeth Hodgson, 49, a modern studies teacher at a high school in Livingston, not far from Edinburgh, who went to the march with her teenage daughter. "It won't be solved overnight, but there is no point in saying it will never be solved."

Cardinal Keith O'Brien, the head of Scotland's Catholics, read a message from the Vatican. He said that Pope Benedict XVI had called upon the summit meeting's leaders to do more for the poor of the world. The pope, he said, holds "ardent hope that the scourge of global poverty may one day be consigned to history."

Sitting on the grass at the rally on the Meadows, the city's largest park, Mike Dewar, a retired firefighter, said he had gone to the rally to help draw attention to the poverty that is ravaging the world but gets short shrift among the world's most pampered countries.

"They have to realize we're unhappy," he said, of the Group of 8 leaders. "They seem to be immune in their ivory towers. We don't all need money. Just a decent way to earn a living."

On the stage at the Meadows, Kathy Galloway, a human rights advocate from Glasgow, put it bluntly.

"This isn't about charity," she said, to the cheering crowd. "This is about justice."

'Make Poverty History' Protest Draws Tens Of Thousands (LAT)

By Ron Depasquale

The Los Angeles Times, July 3, 2005

Waves of anti-poverty protesters ringed Scotland's capital Saturday to demand more aid, debt relief and fair trade for poor nations, hoping to pressure world leaders ahead of this week's Group of 8 summit.

Colorfully costumed activists, parents carrying children on their backs and African immigrants massed together for the raucous "Make Poverty History" march, which lasted more than five hours. More than 200,000 people marched and gathered at the Meadows, a downtown park, police said.

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Musicians from around the world, including British folk singer Billy Bragg, sang politically charged songs, while activists and religious leaders urged crowds to demonstrate throughout the week of the G-8 summit, when leaders of eight of the wealthiest countries will meet north of the city.

British Prime Minister Tony Blair, the summit host, has placed African aid at the top of the agenda, along with global warming.

The Make Poverty History coalition, consisting of aid groups such as Oxfam and Christian Aid, coincided with Live 8 concerts around the world on a day that focused global attention on the developing world's plight. People in Edinburgh watched the concerts on a giant video screen.

Along the march, the sound of trumpets, drums and whistles mixed with chants like "Drop, drop, drop the debt!" A band of Kenyan immigrants — with "Fair Trade for Kenya" scrawled on their white T-shirts — danced and sang in Swahili, at one point linking together in a circle.

"We want fair trade — no more subsidies for American and European farmers," said Chege Wanjihia, a 31-year-old healthcare worker. "We don't want handouts. We're tired of handouts."

Brian Chiwara, a Zimbabwean immigrant in a synthetic leopard-skin cloak and feather headdress, said more aid should also bring added scrutiny of African leaders. He stood by a flag that read "Make Mugabe History," a reference to Zimbabwe's leader, Robert Mugabe, who has drawn global scorn for stifling political opposition.

"Just giving money to African governments without holding them accountable only enriches the ruling party," he said. "The U.K. and U.S. should empower Zimbabweans and help us become a democracy."

Aid organizations are working harder in African nations to make sure donated money is properly spent, said Make Poverty History coordinator Adrian Lovett of Oxfam. "We'll go there and count the number of schoolbooks in the schools if that's what it takes," he said.

At the rally, Bragg borrowed Bob Marley's song "One Love" and changed the chorus to "Let's drop the debt and it will be all right." Scottish Cardinal Keith Patrick O'Brien read a message from Pope Benedict XVI calling for the people of rich nations to "urge their leaders to fulfill the pledges made to reduce world poverty, especially in Africa."

British Chancellor of the Exchequer Gordon Brown endorsed the march at a Christian Aid rally and called the fight against poverty "the greatest moral crusade of our times."

"You are right to demand trade justice and you are right to say instead of being impoverished, Africa's poorest communities should be empowered," he said.

Edinburgh residents were supportive of the protesters' cause, if a bit nervous.

Some stores along the parade route were boarded closed, but many remained open.

"Hopefully they'll be only peaceful and joyful," said Robert Coulter, a 27-year-old barber. "But just in case they're not, we're putting up a 'Power to the People' sign."

Marchers Rally For G-8 Action On African Poverty (WT)

By Robert MacPherson

The Washington Times, July 3, 2005

More than 200,000 people marched and linked arms yesterday in the streets of Edinburgh, calling for action on African poverty at this week's Group of Eight (G-8) summit in nearby Gleneagles.

The Make Poverty History rally formed a walking band of white, the color of solidarity with Africa's poor, around the heart of the Scottish capital. It coincided with the Live 8 series of rock concerts around the world.

Both high-profile events were aimed at pressuring the G-8 leaders' summit, taking place from Wednesday to Friday, to agree to a package of aid, debt relief and trade reform to help lift African nations out of poverty.

Blowing whistles and beating drums, with a few Scottish bagpipes thrown in for good measure, the good-natured crowd formed a ring in the streets that ran around Edinburgh's famous hilltop castle.

At 3:00 p.m., the marchers stopped and held hands, forming a giant human chain beneath the castle. Then they observed a minute's silence in memory of the many millions who have died in poverty.

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At the head of the march was Zimbabwean campaigner Amadou Kanoute, one of the few Africans in the overwhelmingly white crowd.

"We are at the front here today and that is the right place, because Africa has to be put at the front," he said. "It makes me feel so good to see the solidarity in the people here today."

Organizers estimated the day's turnout at more than 200,000 people making the demonstration the biggest in Scotland yet for a political cause. Local officials put their own figure at around 200,000 as well.

"This is way over our expectations," said Matt Phillips of Save the Children, a major British charity that is part of the Make Poverty History coalition. "It's been an amazing day with a sharp political edge."

Make Poverty History has three core demands: debt relief for Africa's poorest countries, significantly more and better aid from the West, and "trade justice" to enable Africa to sell more exports to rich countries.

The Associated Press reported that about 150 anarchists and anti-globalization protesters dressed in black joined the march, many wearing hoods or covering their faces with bandanas.

Some had T-shirts bearing the anarchist symbol of the letter "A" inside a circle; one had a placard that said "No nation, no order."

Some pushed over a barricade and charged a line of police before running away down side streets. One activist threw a bottle while another tipped over a garbage can. Police described the incident as minor and said no one had been arrested, the AP reported.

Police fear a repeat of violent anti-globalization protests that have marred past G-8 summits, such as the 2001 event in Genoa, Italy, where an officer fatally shot a protester.

G-8 A Study In Power, Seclusion (AJC)

By Don Melvin

The Atlanta Journal-Constitution, July 3, 2005

This week, the leaders of the world's richest countries will gather at a posh golf resort in the cool of Scotland to tackle the issues of African poverty and global warming.

"Along with the threat from international terrorism and the spread of weapons of mass destruction, I believe they are the most serious problems facing the world today," British Prime Minister Tony Blair, the host and agenda-setter for the summit, wrote in The Economist magazine earlier this year.

The Group of Eight summit will bring him together with the heads of government of the United States, Canada, France, Japan, Russia, Germany and Italy. The meeting will begin Wednesday evening with a ceremonial dinner attended also by the leaders' wives and Queen Elizabeth II. It will end Friday afternoon with a news conference and what participants hope will be a joint statement of agreement.

The leaders will meet at the lush, 850-acre Gleneagles estate resort, where the amenities include a golf course, jogging and bicycling trails and guests can also ride horses, shoot, fish, play tennis and even engage in falconry. But the location has been chosen as much for its seclusion as its splendor, as with all the group's venues since police and protesters clashed violently at a World Trade Organization conference in Seattle in 1999.

Isolated site

Last year's G-8 summit was held on Georgia's Sea Island, where the surrounding water provided a natural barrier to protesters. Gleneagles lacks open water, but its rural isolation makes it easy to limit access to the site.

Though there are only eight official members of the G-8, many other officials from around the world will attend, including U.N. Secretary-General Kofi Annan and Jose Manuel Barroso, president of the European Commission. Also, 11 other heads of government will be on hand.

And there will be sideshows aplenty. Tens of thousands of demonstrators are expected to descend on Edinburgh, an hour's drive away. Many, gathering under the slogan "Make Poverty History," support Blair's initiative. Other, unrulier groups may protest globalization or promote anarchy.

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Aides to the G-8 leaders have been meeting in London this weekend to try to hammer out, insofar as possible, the text of the communiqué their bosses will issue at the close of the conference.

Some areas of agreement are already known. G-8 finance ministers agreed last month to cancel as much as $55 billion in debt owed by 38 poor countries. Proponents of debt cancellation say the loans were often agreed to by corrupt leaders who are no longer in power and that the payment of debt service prevents those countries from spending on needs such as education, health care and infrastructure.

In addition, members of the European Union, largely at Britain's urging, agreed in May to double their annual development aid to $80 billion by 2010. Blair has been pressing the United States, Japan and Canada to do the same, and on Thursday, President Bush indicated that he wants to double U.S. aid to Africa.

But Blair seems unlikely to be able to get an agreement from all his guests to take specific steps to curb global warming. Bush does not agree that science has demonstrated that climate change poses a near-term problem or that it is caused by humans.

The United States has not ratified the Kyoto Protocol, an international agreement to reduce "greenhouse gas" emissions that was negotiated in Japan in 1997. More than 140 countries, including the other members of the G-8, have ratified the agreement.

It does seem possible, however, that the leaders will agree in Scotland to support the development of new technologies that do not produce greenhouse gases. That may be enough for Blair to claim success, said Nicholas Bayne, a former British diplomat who has written books about the G-8 summit process.

"I think Blair's objective was to bring the United States back into the international discussion of what to do about climate change," Bayne said. Scientists say the United States is the largest single emitter of greenhouse gases.

Blair host again

Blair is one of the few heads of state ever to lead a second G-8 summit, having hosted the event in Birmingham, England, in 1998. His skill this time lies not so much in his decision to focus the agenda very narrowly as in announcing the subjects on which he would concentrate nearly two years ahead of time. That allowed all the participants to "orient their thinking," said John Kirton, a G-8 expert at the University of Toronto.

The annual summits began 30 years ago, in 1975, when French President Valery Giscard d'Estaing invited the leaders of the United States, Japan, Germany, Britain and Italy to Rambouillet, near Paris, to discuss economic problems. The group expanded to include Canada in 1976 and Russia in 1998.

Unlike most international bodies, the G-8 does not have a fixed structure. It is up to the country that has the presidency to set the agenda and organize the annual summit.

This year's schedule includes a fair amount of free time, which will allow leaders to hold one-on-one talks with one another. Bush told a London newspaper that his agenda also includes walking hand in hand with his wife through the Scottish mist.

At the end of the summits, the leaders sometimes pose for pictures wearing local clothing. Bush, however, said he will not wear a kilt.

Bush also ruled out eating haggis, a traditional Scottish dish of sheep or calf organs mixed with suet and oatmeal and boiled in the animal's stomach.

"I was briefed on haggis," Bush told The Times of London. "No."

Awakening Economic Powerhouses Eye G-8 (FLSUNSEN/AP)

By Tom Raum

South Florida Sun-Sentinel, July 3, 2005

The exclusive club of world leaders, known as the Group of Eight, has an identity crisis. It often is described as a collection of the richest countries or largest industrial democracies. It is neither.

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The partnership is under pressure to open the door to new members; China, India and South Korea come to mind. Doing so would reflect the rapidly changing global economy and maintain the strategic role for which the group was organized in the first place.

Yet not one of the current members seems to want to make the first move toward expansion.

These strains will be on display in Gleneagles, Scotland, this week when President Bush meets with leaders from Britain, Canada, France, Germany, Italy, Japan and Russia for the group's 30th annual economic summit.

China's economy has surpassed Canada's and is racing to the front of the global pack. India, the world's largest democracy, is surging ahead, too.

Five other countries not in the G-8 club boast economies that are stronger than Russia's. They are Australia, Brazil, Mexico, South Korea and Spain.

"It's hard to talk meaningfully about the world economy any more without China being included," said Grant Aldonas, an international trade lawyer who was commerce undersecretary in Bush's first term. Aldonas said a strong case could be made for bringing in other nations with fast-growing economies.

British Prime Minister Tony Blair, this year's summit host, has invited leaders from Brazil, China, India, Mexico and South Africa to attend the summit. They will participate in a discussion on relieving poverty, particularly in Africa, and on climate change.

A former U.S. ambassador to the United Nations, Richard Holbrooke, suggested in a speech to the Asia Society in New York last month that the annual G-8 summit had become "a complete anachronism" because it includes Russia, Italy and Canada but neither China nor India.

By 2050, the countries with the top economies are expected to be the U.S., China, India, Japan, Britain, France, Germany and South Korea. Current club members Italy and Russia would not rank in the top 10.

So is it time to adjust the membership?

"My preference would be to expand it. It's very hard to knock countries off," said Gary Hufbauer, a trade economist at the Washington-based Institute for International Economics. Perhaps expanded to as many as 18 countries, he said.

"I see it happening in stages. I don't think they can admit another country without admitting China first. And the problem then becomes, if they admit China, they will really have to concede that democracy is not a central criteria," Hufbauer said.

The problem with inviting China, critics say, is that all current members have open-market democracies.

Yet democratic India is excluded despite having a dynamic economy and the expectation it will be a major player on the world stage for years to come.

At the first economic summit in 1975, the participants were the U.S., Britain, France, Germany and Japan. It turned into the Group of Seven with invitations soon going out to Canada and Italy.

The European Union also sends a representative.

Russia became a full-fledged member in recent years. Earlier, Russian and Soviet presidents could attend the meetings as observers.

With Russian President Vladimir Putin hosting the 2006 summit, his G-8 partners have raised concerns about his recent steps to roll back democratic reforms. In addition, it has focused more attention on why Russia, No. 15 on the World Bank's most recent listing of world economies, is even a G-8 member.

The cloud of the Russian presidency and the rapid growth of many developing-world economies could bring enormous momentum to overhaul the G-8, said James Steinberg, deputy national security adviser in the Clinton administration.

"I see a kind of perfect storm coming together" that could set changes in motion beginning with the next summit, said Steinberg, who now works at the Brookings Institution, a Washington think tank. At a White House briefing on Thursday, the president's national security adviser sidestepped a question that dealt with the nature of Russia's participation and next year's meeting.

"Obviously, the question will be, what does President Putin want to try and accomplish under his chairmanship," said Stephen Hadley.

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"There will be some conversations, obviously, in that part with others, but basically, that's pretty much the prerogative of the chair," Hadley said.

Failure Of Past Efforts Cloud The West's Attempt To Help (LAT)

By Robyn Dixon

The Los Angeles Times, July 3, 2005

It must have seemed a wonderful idea in the late 1970s: Build a modern carpet factory in Ihiala, in southeast Nigeria, putting in place one small cog in the country's hoped-for transition from a poor, backward nation to an African economic tiger.

The state of Anambra got a loan of $17 million from a Western bank, and a stretch of virgin land was selected. But not a single spadeful of dirt was ever turned. More than 25 years later, the loan is still being repaid.

Like the untouched land, Nigeria, and much of Africa, has not been transformed by the donor aid that has washed in during recent decades, most of which was stolen or wasted. Despite billions of dollars in grants and loans, Africa is the only continent sliding backward, worse off than it was 25 years ago.

Now, a combination of politics, goodwill and timing is giving Africa its biggest break on debt and aid in years. Finance ministers of the world's richest countries agreed last month to forgive $40 billion in debt in an attempt to lift 18 of the poorest countries out of poverty. Fourteen of those are in Africa.

A Group of 8 meeting in Gleneagles, Scotland, this week will finalize the debt deal and perhaps go further. If a British lobbying blitz succeeds, the G-8 could double total foreign aid to Africa.

So sweeping is the effort that no one can say whether it will work wonders or repeat mistakes of the past, when aid fostered dependency, not progress.

"We don't know. We don't really have a precedent for it," said Todd Moss, an analyst with the Washington-based Center for Global Development. The countries that have been most successful in reducing poverty, China and India, did so with little aid, he noted.

"The record of lots of aid leading to economic growth and transformation is an old idea from the '50s that's never been shown to work," Moss said. "I am very skeptical it will lead to sustained economic growth in Africa, absent of major changes inside some of these countries."

In some African countries, such as corruption-plagued Nigeria, people agree that debt relief rarely trickles down to those who need it most. "The common man will not benefit from any debt forgiveness by foreign creditors. It will be shared by the leadership," said Ernest Emefieh, 60, who runs an Internet cafe in Festac Town outside Lagos. "I do not support debt relief because we are not going to enjoy it."

But many economists and anti-poverty activists counter that lifting the yoke of debt is the only way to reduce hardship in the poorest nations. The World Bank is beginning to favor grants, not loans, for the neediest countries to prevent them from getting buried in debt.

"That's clearly the way we've got to go if we want to avoid building up another debt problem," said Max Lawson of Oxfam, one of the British aid agencies that strongly back 100% debt forgiveness for poor countries with good governance.

The aid recipients' record of responsibility is key. The 18 countries that qualify for the G-8 relief plan have instituted reforms to combat poverty and corruption, and the debt forgiveness should provide free education, schools and clinics for about 120 million people. Twenty-two other countries may qualify later, with debt forgiveness potentially reaching $55 billion.

Since 1980, Africa's per-capita income has declined 25% and life expectancy has sunk to 46 years, the British Commission for Africa wrote this year.

African nations received $540 billion in loans from 1970 to 2002, according to the United Nations. Many countries spend more on servicing their debt than on health and education. But much of the money also vanishes in a fog of graft and neglect.

Some analysts question how much the West can do to end African poverty when countries make their own economic decisions and set their own budget priorities. Most concur that massive infusions of aid will be effective only if they are accompanied by trade and investment.

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On the other hand, analysts such as Francis Kornegay of the Center for Policy Studies in Johannesburg argue that many more countries should have their debt wiped clean, even those with records of poor governance and entrenched corruption, including Nigeria, Angola, Congo and Sudan. These four do not now qualify for G-8 debt relief.

"These countries are very strategic. If they are stabilized, then the continent has a chance. If Nigeria becomes a failed state, which no one wants, you can imagine how that would set back West Africa and equatorial Africa," Kornegay said.

With $33 billion in foreign debt, Nigeria illustrates why there is widespread cynicism about forgiving African debt and pumping in aid. Why, critics ask, should creditors erase the debts of a country that brings in more than $25 billion annually from oil exports, while most of its people live on less than $1 a day? Won't the money be misused as it has been before?

Many Nigerians think it will. Father Gabriel Osu, spokesman for Lagos' Roman Catholic archdiocese, is angry that those who squandered loans have not been punished.

"As a patriot and on the basis of sentiment, we as a people need debt forgiveness. But on a reality basis, we don't deserve it," he said. "We took the loans, and we must pay them back. See … the vanity all around us. Does this support calls for debt relief?"

Nigeria is supposed to pay $2 billion a year to service its debt. It pays about half that, and officials lobbying for relief recently threatened to stop payments altogether in an Argentina-style default.

Such posturing might not seem likely to garner international sympathy, given Nigeria's oil wealth. But much of the revenue has been guzzled by mismanagement and corruption, leaving 95 million Nigerians in extreme poverty — out of a populace of 129 million. By comparison, about 120 million live in such conditions in the 18 countries chosen for debt relief by the G-8.

Moss and Kornegay argue that Nigeria merits a special deal because a small group of economic reformers, including President Olusegun Obasanjo and Finance Minister Ngozi Okonjo-Iweala, a former vice president of the World Bank, are struggling against powerful interests to put the country on the right track.

"You have an economic system that has deeply entrenched interests, where corruption, graft and patronage are part of the system, and their history of economic management has been awful. But … the country, which was a military dictatorship for 15 years, now has a fragile democracy," Moss said.

"And it has a very capable economic team in place that's trying desperately to reform the economy and to break the stranglehold of the thugs," he said. "If you want the reformers in Nigeria to succeed, we have to do something on debt."

The Western commitment to Africa will be tested when the World Trade Organization meets in Hong Kong in December. There is pressure on Europe and the U.S. to cut subsidies on cotton and sugar that make it nearly impossible for struggling African farmers to compete.

But substantial changes in agricultural subsidies are unlikely, and this could undermine efforts to fight poverty through debt relief. "This year for us is about aid, debt and trade," said Oxfam's Lawson. "If any one of those three falls through, it means their impact is lessened.

"If you've got debt relief and that releases money for you to process cotton, but because of subsidies in America you can't sell that cotton, then clearly the debt relief isn't as effective as it could have been," he said. "If aid is used to get kids into school for an education and when they get out there are no jobs, then clearly that's not going to work."

Moss says the key to raising Africa out of poverty is encouraging small farms and businesses.

"That's where the employment comes from, that's where the tax revenue comes from, that's where the wealth creation comes from," he said. "Now aid can play a role there and trade can play a role there and not having a debt burden can help, but none of those are magic bullets."

Among Ordinary Africans, G-8 Seems Out Of Touch (WP)

By Emily Wax

The Washington Post, July 3, 2005

Peter Kanans, a coffee farmer whose house has no running water and a leaking roof, said he had a message for the leaders of the world's richest countries who will meet at the G-8 summit next week: Unfair trade practices are enriching African officials and international coffee chains while village farmers grow steadily poorer.

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"Like many hardworking Africans, I have a serious bone to pick with the G-8," said Kanans, a slender man of 60 who has a college education but wears shredded flip-flops. This year, Kanans said, his crop netted about $300 -- less than his brother in Delaware spends in two months on takeout cappuccinos.

"Even if they cancel the debt, even if they give our governments aid money, ordinary Africans will not benefit," he said. "That money will only make the corrupt people richer and Africans international beggars for decades to come."

The G-8 conference of the eight major industrialized nations, which starts Wednesday in Scotland under the leadership of British Prime Minister Tony Blair, hopes to address trade imbalances in Africa and endorse two major plans championed by Blair that would double aid to the continent and cancel the debt of 14 African countries so they can use the money for such needs as health and education.

This weekend, 10 massive rock concerts, called Live 8, are being held in major cities from Philadelphia to Berlin to Johannesburg to rally support for debt relief and aid to Africa. The celebrity-studded events (Bono, Paul McCartney, Stevie Wonder and Senegalese superstar Youssou N'Dourare are among the artists appearing) are similar to the Live Aid concerts that were held in 1985 to raise money for world famine relief.

On the world's poorest continent, however, feelings about debt relief and aid money are far more nuanced than many Westerners may realize. Africans interviewed this week, from farmers to artists to health workers, say they are grateful for the outpouring of sentiment, and glad to hear that glamorous musicians and actors are championing their cause and that college students are wearing bracelets with the slogan, "Make Poverty History."

But they also said there was a dangerous disconnect between what the industrialized nations see as solutions and what Africans believe they need. Instead of debt relief and more aid, many Africans said they wanted the G-8 to focus on ending corruption and on improving roads, courts, banking and secondary education.

Another useful step, many Africans said, would be to end Western countries' trade subsidies for their own farmers, which make it impossible for African industries to do much more than survive. Debt relief, some asserted, is actually hush money to get free trade advocates off the backs of European countries, the United States and Japan, which offer huge subsidies to their corn, cattle and cotton farmers and thus undercut African farmers' ability to enter the market.

Ousmane Sembene, the prominent Senegalese-born filmmaker, shocked a crowd of earnest young people in London during a talk in early June when he condemned the G-8 and the Live 8 concerts as "fake," and added: "African heads of state who buy into that idea of aid are all liars. The only way for us to come out of poverty is to work hard."

Sembene used the example of cotton, which African countries grow but none of the G-8 countries buy. Instead, he said, they subsidize their own cotton farmers and then dump used clothing on the African markets, crippling Africa's domestic clothing industries.

"We make great cotton in Africa, but the West won't buy it. Instead they are selling us rags," he said. "Everywhere you go in Africa, in the big cities, you would think that you were in a Salvation Army store."

Corruption is an issue that Africans raised repeatedly in discussions about aid and debt relief. In Kenya, many people said they felt betrayed by the new government, which was elected on an anti-corruption platform in 2002. After taking office in early 2003, some said, cabinet officials voted themselves a 172 percent salary increase, putting them among the world's highest-paid ministers.

"Anyone who has spent any real amount of time in Africa knows that corruption is the reality. It's a disservice to ordinary Africans to not be honest about that," said Rose Mucheke, 35, a Kenyan health care worker in Nairobi. While her salary is barely enough to meet her monthly bills, she said bitterly, "the aid money will go into the pockets of corrupt officials to buy their fully loaded Mercedes-Benzes."

Kenya, ironically, does not qualify for immediate G-8 debt relief, because it technically has enough cash to pay its debts -- even though the average citizen lives on $1 per day. The 14 countries due to receive the relief are considerably poorer.

While international pop stars sing to promote relief of poverty and debt, African intellectuals and civil society leaders said they were lobbying hard to shift world attention to other issues, such as the need to link aid to a reduction in corruption and to decrease Western subsidies on agriculture.

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"You can address poverty needs by filling someone's belly, giving them a doctor and clean water and a house. But that doesn't make them competitive in the world market," Ross Herbert, a researcher with the South African Institute of International Affairs, said from Johannesburg. "A strong element of aid is about national posturing. Then again, Africa needs so much help that we are taking what we can get. Debt relief is a start, but it's not a panacea."

Herbert said he would like to see G-8 leaders focus on ensuring that aid money goes to developing institutions such as courts and banks, to promote confidence in the rule of law and stability for investors, and on building roads to help cut Africa's onerous transport costs for crops and other products.

The story of Peter Kanans is a case study in how corruption can sabotage even the most ambitious African families. His father was once a successful coffee farmer who sent his sons to college and donated land and money to build a three-story church in their town, 40 miles northeast of the capital, Nairobi.

Kanans got a degree in criminal justice, and rose to become a senior police official and an expert on terrorist bombings. But in the late 1980s, he said, he was fired when he tried to stop a Kenyan official named Nicholas Biwott from smuggling in cheap sugar from abroad without paying taxes. Newspaper reports from that time confirmed Kanans's story. Since then, Biwott has been the subject of numerous corruption investigations.

Kanans went back to farming and took over his father's coffee business. But he said he soon found that government-controlled cooperatives, which acted as liaisons between farmers and the large Western coffee companies, were skimming profits while giving farmers a drastically lower price. He also observed that Kenya was relying more and more on aid, even as its leaders grew richer.

His wife, though a midwife herself, died in childbirth, he said, because the hospital had received little of the aid that supposedly had been donated by foreign countries. His brother, a professor at Kenyatta University, became frustrated with the low pay and left to teach in Delaware.

Back in Kanans's village, many people started to get sick with HIV/AIDS. Kanans and his new wife suddenly found themselves feeding 20 orphans. Aid groups said money was being sent, but he said little reached them.

"Now, I find myself poorer than my father ever was," Kanans said, pointing to a hole in his pants. "All I want to say to G-8 is: Spend some time with the real people of Africa. You're welcome at my home anytime, if you don't mind life without running water."

The Congo Case (NYT)

By James Traub

The New York Times, July 3, 2005

In the last days of 1962, United Nations peacekeepers under the command of Maj. Gen. Dewan Prem Chand of India launched an offensive, rakishly titled Operation Grand Slam, against the secessionist army of Moise Tshombe in the Congolese province of Katanga. Within days, Chand's jet bombers and fighters had smashed the Katangese Air Force, and his men had overrun the rebel strongholds. Tshombe surrendered, and his rebellion, which was among the things that had kept Congo in a state of continual chaos after independence in 1960, largely collapsed. The U.N. remained in Congo for another 18 months. When the troops withdrew, Secretary General U Thant explained that "the United Nations cannot permanently protect the Congo or any other country from the internal tensions and disturbances created by its own organic growth toward unity and nationhood."

Forty-one years later, it is safe to say that while Thant may have been brutally honest about the U.N.'s limitations, he was unduly optimistic about Congo's prospects. The Democratic Republic of the Congo, to use its current and sadly self-mocking name, is on life support, attended around the clock by aid organizations, international bankers, diplomats and, above all, by a vast U.N. civilian and military operation costing $1 billion a year. Congo has in many ways retrogressed since 1960: few Congolese have access to roads, electricity, clean water, medical care or almost any other public services; Congo is a state in name only. Of course, the U.N. doesn't fight wars these days, but even if it did, Congo's problems can no longer be solved by jet fighters. The real problem, of course, is that tangle of "internal tensions and disturbances," which in a happier day seemed like a transitory stage of nationhood.

There is a welcome sense of possibility, even of optimism, about much of Africa just now. At the Gleneagles summit of the world's leading economic powers, the G-8, to be held later this week in Scotland, we may well be hearing a great deal about

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promising African countries like Ghana or Malawi, which need only timely and well-directed help from the West to prosper. It is a persuasive argument, and an urgent one. But it is also true that great swaths of the continent are occupied by countries -- Sudan, Sierra Leone, Burundi and, not least, Congo -- that, left to their own devices, are very likely to eat themselves up, and their neighbors as well. The international community has no choice but to intervene in these places. While we may know how to stand up to warlords and militias, even if the U.N. has trouble mustering the force needed to do the job, we don't really know what it means to "intervene" against a political culture that is corrupt, mendacious and self-perpetuating. This is a pathology for which the U.N., and the international community, will be avidly seeking a cure for many years to come.

n early May, I flew to South Kivu, an eastern province of Congo that borders Rwanda, in order to spend time with the Pakistani peacekeepers who patrol the area. South Kivu is one of the most heartbreaking regions of what is surely one of the world's most ill-starred nations. It is a startlingly lovely spot, more Hemingway than Conrad: green hills fading into distant, dark ridges; exceptionally well-fed cows grazing on the upper slopes; fields planted with corn, beans, cassava and bananas. South Kivu has abundant water and timber, gold and diamonds, copper and coltan (the mineral from which cellphone chips are made). And yet for all that -- in part because of all that -- the fundamental conditions of life are pitiful. As I was bouncing up a steep, rutted road, a soldier nudged me in the ribs and said, "Look, an ambulance." And there, momentarily stopped on the side of the road, were four weary men bearing on their shoulders a wooden cradle that held a woman wrapped in a thin blanket. It would be hours before they reached the nearest clinic, which was unlikely to have any medicine.

South Kivu was a victim of the same neglect that almost every part of Congo suffered during the 32-year kleptocracy of Mobutu Sese Seko. But the region has endured an extra measure of suffering owing to its proximity to Rwanda. In 1994, thousands of Rwandan Hutu génocidaires fled across the border before the advancing Tutsi forces, settling in the rural areas of South and North Kivu and living off smuggling, "taxes" on local markets, kidnapping and plunder. Starting in late 1966, the Rwandan Army poured over the border and massacred its Hutu adversaries as well as thousands of civilians. After the Hutu threat had been suppressed, the Rwandan Army remained in the Kivus, turning much of eastern Congo into an economic protectorate. And when the Rwandan troops finally left under international pressure, the 10,000 to 15,000 remaining members of the Democratic Forces for the Liberation of Rwanda, or F.D.L.R., as the Hutu militia called themselves, returned to their brutal exactions.

U.N. peacekeepers returned to Congo in 2000. Two years earlier, a savage civil war, which involved Congo's neighbors as well as myriad militia groups, had convulsed the entire Great Lakes region. The Security Council agreed to send 5,500 peacekeepers to enforce a very shaky cease-fire. It was a preposterously small number to clamp a lid on so immense a caldron -- the Kivus alone are three times as big as Sierra Leone, where the U.N. had more than twice the number of troops -- and I recall senior officials at the time grimly predicting that the U.N. Mission in Congo, known as Monuc after its French name, would disappear into the Congolese vastness and maybe take the whole peacekeeping enterprise with it. And their fears were soon validated. Peacekeepers were overwhelmed and humiliated on several occasions, most notoriously in Bunia, the chief city of the northeastern region of Ituri, in 2003. There, a small detachment of Uruguayan guards, who had been sent to protect the U.N. mission in the midst of a savage battle between rival militias, remained inside the U.N. compound while hundreds of civilians were murdered.

In May and June 2004, mutinous government troops affiliated with, and quite possibly aided by, the Rwandan government launched attacks on Bukavu, the capital of South Kivu. The city, like Bunia, was protected by poorly trained and equipped Uruguayan peacekeepers. Ordered to take up blocking positions, the Uruguayans instead surrendered the airport and allowed the rebels to take the city, where they indulged in rape, pillage and murder. The Uruguayans protected the hundreds of citizens who took shelter in their compound but refused to venture outside to halt the mayhem. A scathing report by a unit of the U.N. Department of Peacekeeping Operations blamed the civilian leadership of the mission no less than the peacekeepers themselves. William Lacy Swing, the veteran American diplomat who heads the U.N. mission in Congo, personally threatened to take military action if the rebels attacked the airport. But ultimately nothing was done.

The people of South Kivu loathed the Uruguayans, and thus the U.N. itself. When U.N. vehicles drove around Bukavu, local people glared at them and drew fingers across their throats. "The Uruguayans didn't come for peacekeeping," as one Bukavan told me. "They came for tourism." And that very much included sexual tourism. The Uruguayans were notorious for paying

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villagers -- including children -- for sex. But in this they were scarcely distinctive; U.N. investigations, which began only in the wake of news reports, found numerous instances of sexual abuse, including child prostitution, rape, the exchange of food for sex and other forms of exploitation, among both peacekeepers and civilian employees in Congo. The mission seemed to be a fiasco at every level.

The fall of Bukavu recalled in miniature the most sickening chapters of U.N. peacekeeping, including the slaughter in Srebrenica; indeed, the whole mission, with its failure to come to grips with a chaotic and brutal environment, felt very much like Bosnia redux. But here there was no NATO to save the U.N. with a bombing campaign. Following a request from Secretary General Kofi Annan, the Security Council agreed last fall to add 5,900 troops, principally in the form of new "Kivu brigades," and to give them a stronger mandate. In the Kivus, the Department of Peacekeeping Operations was able to replace a patchwork of national contingents of varying degrees of competence and enthusiasm with brigades of Indians and Pakistanis, among the most professional armies available to the U.N. Early this year, the Uruguayans gave way to a 3,000-man Pakistani brigade.

The area I was driving up to, Walungu, had been terrorized by the F.D.L.R. with almost complete impunity despite the presence of a Uruguayan contingent. At the local peacekeeping headquarters, an island of immaculate landscaping amid dusty squalor, I was greeted by Gen. Shujaat Ali Khan, the new brigade commander. Shujaat, a bluff, garrulous character with a thick black mustache set in a round, pudgy face, gave the impression that, nationality aside, he would have been quite happy serving 40-odd years ago under Dewan Prem Chand. He bridled at the restrictive rules of engagement that have governed peacekeeping ever since the first Congo venture, which, despite its eventual success, provoked a widespread backlash against war-fighting by the U.N. "We are not permitted to fly the attack helicopters at night," he complained. "We cannot fly with the doors open and so on." He could not just go and shoot bad guys.

Shujaat was prepared to forcibly disarm the F.D.L.R., but the Security Council resolution that governed Monuc would not permit that. He had to leave disarmament to the Congolese government troops in the area, and that would be a very unequal fight. The F.D.L.R. was a highly disciplined army, while the Congolese Army was barely a fighting force. The troops who had initially been assigned to work with the Pakistanis had instead devoted themselves to plunder, frequently in collaboration with the F.D.L.R. Shujaat had reached a deal with the regional commander in which his men would transport all 2,200 soldiers out of the area in exchange for other government troops actually willing to fight. "Now," he said, "it is as per our desire."

For all his bluster, Shujaat understood that his job was not to attack the F.D.L.R. troops but to suppress their brigandage so that life could return to something like normal. He appeared to be succeeding. Since the Pakistanis had arrived, the population of a camp in Walungu for "internally displaced people" had dwindled from 2,500 to 800. The ultimate goal was to make life so uncomfortable for the Hutu rebels that they would go back home (though it was plain that the hard core of génocidaires would never leave without a fight). Here, too, the situation was improving: At the end of March, in a major breakthrough, the F.D.L.R.'s political arm had pledged to end its armed struggle against the Rwandan government and to return home as long as its members were guaranteed "political space." Paul Kagame, the Rwandan president, had promised them a safe homecoming though not the political space, a commodity almost unknown in Rwanda. Shujaat, a worrier as well as a blunt realist, found the whole enterprise somewhat doubtful. "These fellows are having an excellent life raping the women and so forth," he told me. "Why should they go back and go to prison?"

Later that afternoon, I drove out with a squad of soldiers in open transports with machine-gun mounts. We stopped at a plateau ringed by steep green hills. Here the men would stay for the next 12 hours: if word of an attack came from any of the government soldiers they had posted in the local villages, they would bounce down the rutted lanes and confront the rebels with gunfire if necessary. Maj. Mohammed Younis, the commanding officer, pointed out the local villages along the ridge lines and said, "When we first began, in late March, we had three to four incidents every week." An F..D.L.R. raiding party would wait until nightfall and then attack a village, stealing food and raping women; they frequently kidnapped villagers, took them back to the forest and threatened to kill them if relatives didn't pay ransoms. But Operation Night Flash, as the Pakistanis called their nocturnal vigil, had at least temporarily closed down the crime wave. Younis said that there hadn't been an incident for close to a week.

As an almost impenetrable fog rolled in, we drove down to the village of Kanyola and stopped in a plaza before the parish church. A group of villagers materialized; one of them stepped forward to say that they had just found the bodies of two victims of a

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notorious F.D.L.R. kidnapping. Would we like to see them? Several minutes later, an old woman came trudging up the dirt lane from the village, bearing what appeared to be a large child on her back. When she drew closer, we could see that the child was in fact a gray-haired man. The woman, who said she was 65, had the stony mien of the endlessly suffering; only when invited to do so did she rest the corpse on the tailgate of one of our vehicles. The man, she said, was her husband. He and seven others had been kidnapped three weeks earlier. She had paid, he had been released and then he had died from natural causes on the way home; she had stumbled across his corpse. The man standing silently next to her, with a bullet wound in his arm, was her husband's brother, who had avoided capture in the same incident. Having told her tale, she bent over double in order to yank her husband's corpse onto her back, staggered for a moment, righted herself and then stoically bore her burden to the steps of the church.

Nothing else happened that night. Like a modern police force, the Pakistanis seemed to have reduced the crime rate by flooding the bad neighborhoods. And it wasn't only in South Kivu that peacekeepers had taken the fight to the enemy. In the Ituri region, scene of the most humiliating of Monuc's failures to protect civilians, peacekeepers in armored personnel carriers had conducted "cordon and search" operations that had led to the disarming of 12,000 of the estimated 15,000 militia members in the area. Violence continued both in Ituri and in South Kivu, but it was no longer apt to lead to another war or to derail the peace process. In the end, that was all peacekeeping could do. The rest was politics. And politics, it turned out, was much the harder part.

ongo's great problem is the same one that plagues so many African countries -- poor governance. But this technocratic term scarcely does justice to the self-perpetuating machine of immiseration that one Congolese leader after another has operated for over a century. King Leopold II of Belgium put the mechanism in motion in the 1880's when he reduced the tribes of the region to so many employees of companies devoted to sucking up Congo's treasures, principally ivory and rubber. The Belgians ultimately bequeathed the country a decent infrastructure, though they left it ludicrously unprepared for self-government. (At independence, none of Congo's 14 million citizens -- zero -- had university degrees in law, medicine or engineering.) Five years after independence, Mobutu toppled Congo's only elected president in a coup and instituted a home-grown version of Leopold's rapacity. Mobutu stole billions over the years, while the roads and hospitals and schools the Belgians had left behind disintegrated into the bush. Unlike the Belgian king, Mobutu lavished Congo's bounty on his collaborators, who frequently left a presidential audience with $5,000 or $10,000 in their pockets. Kabuya Lumuna, a former World Bank consultant who served as Mobutu's spokesman and deputy chief of cabinet in the last years, said: "Mobutu created an image for the Congolese people that enrichment through the state was normal practice. It is normal for a person to say: 'I have finished my studies. If I can't get a government post, I will live my entire life in poverty.'"

If the purpose of the state is to organize plunder, then a functioning civil service -- or for that matter, a private sector -- only makes the job harder. What Congo lacks is thus not only an effective apparatus -- customs officials, tax collectors, policemen -- but also a legitimate notion of politics. Something so deep-seated is almost by definition impossible for outsiders to import, yet a legitimate politics is unlikely to arise on its own, because the rewards of corruption are simply too lavish.

In 1997, Mobutu was overthrown by a guerrilla army originating in Katanga. The commander, Laurent Kabila, proved to be every bit as corrupt and brutal as Mobutu but lacked Mobutu's spirit of regal largess. And he was reckless: having gained the indispensable support of Rwanda as well as Uganda, he then shut them out of power. Kabila's former allies turned against him and were all too happy to support, and control, a Congolese militia force. What began as a war in the east in 1998 swelled into a Hobbesian war of all against all. Militias, pro- and antigovernment, rose up across the country. Angola and Zimbabwe entered on Kabila's side; whatever their strategic calculations, Congo's neighbors knew they could exploit the chaos to bite off their own chunk of the country's precious resources. It was civil war as mass plunder. Millions of peasants were forced to flee their villages, leading to as many as four million deaths, chiefly from malnourishment and disease. Kabila was murdered by one of his own bodyguards in 2001, and the Katangese entourage who had come to power replaced him with one of his sons, Joseph, then 29, a feckless character who had worked as a cabdriver in Tanzania and was considered acceptable to the outside world.

That outside world has not allowed the machinery of misery to simply grind on, as it would have until quite recently. In early 2003, after various truces had been signed and violated and hostilities had finally tapered off, President Thabo Mbeki of South Africa coaxed the combatants into forming a new government. Kabila's party, the People's Party for Reconstruction and

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Democracy, or P.P.R.D., would hold the presidency while vice presidencies and a portion of national and provincial offices would be parceled out among the major opposition forces, including the Congolese Rally for Democracy, or R.C.D., a party from the east essentially controlled by Rwanda; the Mayi-Mayi, an amorphous militia that had fought the R.C.D; and a party from the north organized by a wealthy businessman. The men who had provoked Congo's unspeakable civil war were thus given an opportunity to jockey for a share of its spoils. Through what is widely described as an adroit combination of horse trading and bribery, the P.P.R.D. succeeded in excluding Congo's one legitimate political party, which had formed in opposition to Mobutu, and in including two essentially compliant groups among the "opposition" parties.

he most unusual feature of Congo's power-sharing arrangement is that the warlords agreed to make diplomats from the major-donor countries as well as important African neighbors "co-responsible" for the transition, which is to say that outsiders would have the power to impede the inevitable attempts to corrupt the process. And just as the tribal militias and the F.D.L.R. in the east keep challenging the peacekeepers and forcing them to take a tougher line, so have the members of the transitional government confronted their diplomatic minders. Political failure has been, in fact, directly responsible for much of the continued violence and disorder. The parties to the power-sharing agreement had pledged to integrate their militias into a new national army. But since none of these parties had any real political base, the militias were their sole guarantee of power. And so army units, whatever their new name, tended to remain loyal to their old masters and prone to fighting one another -- as they had in Bukavu in 2004 -- rather than any supposedly common enemy. And since most of the $8 million a month that international donors gave the government to pay its soldiers disappeared in transit, the troops had few means of survival save predation, which in any case they were quite accustomed to from the civil-war period. William Swing, the American head of the U.N. mission, assured me that the chief figures in the government "recognize this, and they want to help." Others I spoke to took the view that it was precisely such heightened opportunities for graft that had lured the warlords into the government in the first place.

The U.N., which holds a nonvoting position on the international committee supporting the process, exercises substantial influence over Congolese affairs owing to its size, the reach of its mission and its impartial status. And Swing has played a crucial role in reassuring foreign capitals that Congo is on the right track. He is a great believer in "the process," for which the U.N. provides technical expertise and political guidance. "Of all the peacekeeping transitions in Africa," he told me in his big office in the U.N. compound in Kinshasa, "I don't know of any that's going better than this one." Swing is a classically optimistic American abroad, a calm veteran of innumerable African upheavals who has stayed in improbably wonderful trim despite his 70 years. His optimism, however, can feel dangerously like nonchalance. U.N. officials tried to force him out of office after his failure in Bukavu and his sluggish response to the sexual-abuse scandal, but after he mounted a campaign in Washington, the Bush administration pressured told Kofi Annan to keep him. And with a mild public chastisement, he was retained. Peacekeeping officials in New York fear that Swing's upbeat salesmanship sends the worst possible message to the principal actors. "My feeling," says an official who works with Monuc and thus declined to speak for attribution, "is that we're spending a billion dollars, these people are a bunch of crooks and they're stealing the country blind. We have a responsibility to be pushy."

The question of pushiness has dogged the U.N. and its partners, who seem to shuffle back and forth over some imaginary line of acceptable intervention. When I arrived in Kinshasa in early May, a major crisis was brewing over the constitution. A committee of foreign and Congolese experts had drafted a constitution and submitted it to Parliament, but legislators -- all of them appointed to their posts by the various warlords -- kept changing the document to transfer more and more power to the office of the president, until the constitution had become a virtual blueprint for dictatorship. I had been told repeatedly that Kabila's party, the P.P.R.D., had bribed legislators to, in effect, surrender their own powers. When I met with Azarias Ruberwa, one of the opposition leaders and easily the most highly regarded of the four vice presidents, he said, "The corruption in our country has become so pervasive that these legislators were paid $500 to change their votes -- not $5,000, $500." Ruberwa was outraged not so much at the sale of votes as at the willingness to subvert the nation for peanuts.

The U.N. was then gearing up for a staggeringly expensive and complex national election process, and the prospect of collaborating in what looked like constitutionally sanctioned Mobutuism appalled a number of officials. "We could spend several hundred million to elect a dictator," said Ross Mountain, Monuc's deputy special representative. "Normally you can get a dictator cheaper than that." But diplomats in Kinshasa made no attempt to block the process. Jean-Marie Guehenno, the head of U.N. peacekeeping, went to the Security Council in late April to alert it to this looming catastrophe, but he was firmly rebuffed. The

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nearly unanimous view was that the Congolese should be free to write their own constitution; it was a matter of sovereignty. And there it would have rested had not Guehenno, deeply alarmed, immediately spoken to senior diplomatic officials in Europe. A few days later, Javier Solana, the European Union's foreign policy chief, came to Congo to personally deliver the message that the constitution was unacceptable. Diplomats in Kinshasa bestirred themselves at the 11th hour to drive home the same point. Kabila, who knows that he cannot survive without international support, finally relented, and on May 13 Parliament adopted a new, more democratic Constitution.

The transition process has been agonizingly protracted. As originally envisioned, the election was to be held no later than June 30, but thanks to endless dithering, it probably won't be held before some time next year. Another opposition leader, Mbusa Nyamwisi, insisted that Kabila and his Katangese entourage, who effectively control Congo's public-sector companies and a range of mining operations, want to postpone the election as long as possible in order to keep the cash register ringing -- though the same can be said for the other leading parties, each with its own fiefs. No one can say for sure whether the Congolese people, who have been hearing for years that change is soon to come, will accept yet another promissory note.

Swing told me that he understands "the general frustration and impatience with the slowness of the transition," but said that he felt that the Congolese people will accept the delay in the electoral process as long as they see forward momentum. Swing's optimism may well prove justified, but when I relayed his views over lunch in a Kinshasa restaurant with a group of leading Congolese journalists and representatives of rights groups, I was greeted with hoots of derision. Belhard Mbuyi, a columnist for Soft, a local daily, said that when he had admonished villagers just outside of Kinshasa to be patient and to trust in the electoral process, they turned on him, saying, "That's what Kabila says; you must be for Kabila." It was, he said, all he could do to keep from being beaten to a pulp. "They've produced so many schedules in the past," Mbuyi said, "and none of them have been kept." Mbuyi fears an explosion of anger that no party will have the organization and legitimacy to control.

Even if the summer passes without incident and the Congolese go to the polls in due course, the election may do very little to legitimize the state in the eyes of the people. And the problem is not only Kabila and his party; few of the chief candidates will have any connection to the aspirations of the Congolese people. "That's why it's not enough to say to the people, 'Elections are coming,'" says a U.N. official based in Kinshasa who declined to be identified. "We have to say: 'We've heard your message that you can't stand these people who were in the bush for five years of war. They started the war, and now they're looting the money.'" The official says that the only way to prevent the election from deepening popular alienation is to sideline the current government, including Kabila, in favor of figures with greater legitimacy. Such conversations, he said, had not yet begun.

The optimistic view is that elections will bring to the fore a new generation of well-educated and forward-looking politicians. And in fact, I met several opposition leaders who seemed to be essentially free of the Mobutuist taint. But that, alas, cannot be said of Joseph Kabila, the likeliest winner of the election. (I was unable to meet with either Kabila or his senior advisers, who had decamped to Katanga in order to suppress an uprising that included members of Kabila's own elite security force.) Kabila has perpetrated no atrocities; he is plainly not the monster his father was. Congolese, including his own partners in government, tend to view him as an amiable nullity -- "The presidential space is absent," the leader of the Senate said -- but one who is answerable to the same men who surrounded his father after seizing power by brute force and who appear to have disposed of Kabila pere when he became a liability. Vice President Ruberwa, who says that he plans to run for president on a platform of good governance whether anyone pays attention or not, assumes that Kabila will use the vast wealth he has amassed to try to buy the election. "The danger," he said, "will come if the election is nevertheless seen by the world as legitimate. A thief can always be forced out of office, but if he is legitimized by an election, what can you say?"

Well, you could say, "That's sovereignty for you." The international community cannot force the Congolese people to choose the good guy, any more than they can bomb the bad guys into submission; those days are over. But the only Congolese official I met who talked about sovereignty was an unrepentant servitor to the Mobutu government. The Congolese I talked to want to be saved from themselves, or at least from their desperate predicament. Even those who accuse Monuc of spinelessness or complicity add immediately that of course the U.N. troops mustn't leave. They want more troops, not fewer, and more insistent political engagement. They want to see Kabila brought to heel, even if they aren't sure how.

What, then, is to be done? After all, the doctors of the international community, for all their wealth and know-how, cannot rid Congo of its poisons; this is the work of generations. And one argument we will be hearing from the Bush administration at the

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Gleneagles G-8 summit meeting is that corrupt countries have to change their own political culture before the world starts pouring in aid. That is true, but rather facile. For just as Monuc has begun demonstrating, at last, that there's plenty of space for action between passivity and warfare, so there is space between anticolonial deference and neocolonial dominion (though Congo presents a pretty strong case for the latter). And it is not just something that we owe to the Congolese. If we believe that in the post-9/11 world we can no longer afford to let failed states fester, then we plainly owe it to ourselves to stop the Congolese political class from preying on its people and to shape the nascent institutions of state in such a way as to give legitimate economic and political activity a decent shot at survival. Is that, in fact, a prescription for some kind of benevolent imperialism? If so, then bring it on.

Africa At The Summit (NYT)

The New York Times, July 3, 2005

"There can be no excuse, no defense, no justification for the plight of millions of our fellow human beings in Africa today. And there should be nothing that stands in our way in changing it." That ringing summons was issued by Britain's prime minister, Tony Blair, earlier this year, when he presented the compelling findings and lucid recommendations of his Commission for Africa. Later this week, we will see whether President Bush has the vision and compassion to meet those challenges, and grasp a historic opportunity to radically improve the life prospects of millions of those fellow human beings.

An unusual and mutually reinforcing set of possibilities is converging around this week's summit meeting of the world's richest countries in Scotland. If Mr. Bush is truly the compassionate conservative he says he is, he will not let the moment pass with the United States continuing to contribute far less than its share to the international effort to include Africa in the prosperity of the 21st century.

Africa is not looking for handouts. It is looking for help in nurturing the human capital, physical infrastructure and governmental capacities that are indispensable to modern development. Africa's poor are asking the world's rich countries for an admission ticket to the modern world. America, the world's richest country, would betray its values and its humanity by holding back.

To his great credit, Mr. Bush has been more attentive to the problems of Africa than his recent predecessors. He has increased overall assistance, stepped up spending on H.I.V./AIDS programs and created the Millennium Challenge Account to reward Africa's best-governed countries. Last week he promised further increases, including a program to fight malaria, and new teacher training and scholarship money to help girls attend school.

But so far there has been a discouraging gap between Mr. Bush's generous declarations and the money Washington has actually made available to Africa. The White House has failed to push the Republican-controlled Congress to fully finance Mr. Bush's aid programs and failed to spur its own aid appointees to get the money flowing to where it is most urgently needed.

At this point, America's total worldwide spending on all forms of foreign aid still amounts to only a relatively stingy 0.16 percent of this country's gross national income, one of the lowest proportions in the developed world. Most European countries represented at this week's summit meeting are already giving substantially higher percentages of their smaller national incomes. Many have promised to double those percentages between now and 2010. Mr. Bush needs to commit Washington to a substantially faster rate of increase to make America once again a leader in global development.

A brighter future for Africa will require more than just increased aid. The other recommendations made by Mr. Blair's commission are just as important. Rich-world agricultural subsidies make it possible for high-cost American, European and Japanese farmers to undersell efficient African producers even in their home markets; they must be phased out. Attention and money must be devoted to strengthening peace agreements and preventing conflicts before they erupt - a far cheaper and more humane approach than waiting to send help only after genocide and other atrocities start appearing on international television screens.

Donors must also make certain that African governments are held accountable for how the money is spent. Western countries can fight corruption by urging their own companies to be more transparent about the money they pay to African governments for oil, diamonds and other valuable commodities and by pressing Western banks to better monitor and police suspicious deposits and fund transfers.

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There is a desperate need for greater policy coherence in a period when many national governments, including Washington, are sensibly exhorting African governments to spend more on primary health care and education while international financial institutions largely controlled by those same Western governments have been pressing African countries to shrink their government payrolls, including teachers and health care workers.

Africa comes to this week's summit meeting proclaiming its commitment to be a responsible and constructive partner in its own development. It has made significant accomplishments over the past decade or so. These include a rising trend of multiparty elections across the continent (tyrannies like Zimbabwe's are now the exception, not the rule), an important reduction in the number and scope of destructive civil wars (Darfur being a tragic counterexample), the spread of enlightened economic management (notably in South Africa, Uganda and Ghana) and brave governmental forays against corruption in places like Nigeria.

Nurturing these positive trends and providing hope for Africa's millions, is, as Mr. Blair unflinchingly put it, "the fundamental moral challenge of our generation." We beseech Mr. Bush to embrace that challenge on behalf of the American people.

A Promise, And Pitfalls (LAT)

The Los Angeles Times, July 3, 2005

President Bush's announcement last week of a $1.2-billion package to fight malaria in Africa over the next five years showed an awareness of the disease's economic and human toll. That's progress; the United States has essentially ignored its devastating effects on Africa for decades, throwing in token sums that have enriched U.S. aid contractors but done next to nothing to reduce mortality from a plague that kills from 1 million to 3 million people a year.

Speaking at the Smithsonian Institution on Thursday, Bush announced a package of aid for Africa that also included a doubling of U.S. spending to $400 million for promoting education for girls and an additional $55 million over three years to improve legal protections for women. Welcome moves all, but also a defensive strategy. At the Group of 8 summit starting Wednesday in Gleneagles, Scotland, Bush will be asked to join an initiative by British Prime Minister Tony Blair to double overall aid to Africa. Bush now has a face-saving way to turn Blair down.

All that aside, Bush's malaria initiative is an inspirational commitment that — if implemented properly and fully funded by Congress — could save thousands of lives. Unfortunately, those are big "ifs."

Bush has made grand promises before on foreign aid but failed to wield his influence over the Republican-controlled Congress to get them funded, or to follow through to get the money used.

His biggest aid initiative, the Millennium Challenge Account, was initially touted as a sweeping commitment to Africa that would rise to $5 billion a year by 2006. For the 2006 budget, Bush requested $3 billion for the account, and last week a Senate subcommittee trimmed that to $1.8 billion. The previous year's commitment was less. Yet even that is misleading. To date only $400,000 from the account has actually been spent, though commitments have been signed to spend $610 million on four nations.

Assuming Bush can drum up the money to keep his $1.2-billion promise on malaria, there are serious questions about how it would be spent. At all costs, the administration should resist the traditional method of distributing foreign aid: giving it to the U.S. Agency for International Development.

In May, Senate hearings on USAID's anti-malaria spending turned up some shocking revelations, including the fact that just 5% of the agency's $90-million malaria budget is spent on concrete tools to fight the disease, such as insecticide-treated bed nets and drugs. The bulk of the money goes to nonprofit U.S. corporations that mostly provide high-priced consulting work to African governments or create public education campaigns to induce people to buy bed nets, which very few rural Africans can afford.

The administration promises to work with other governments and the Global Fund to Fight AIDS, Malaria and Tuberculosis, and that's a good sign. Bush should see this initiative as an experiment in distributing aid without USAID's involvement.

Now's Not The Time For Europe To Go Wobbly (WP)

By Ivo Daalder And James M. Goldgeier

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The Washington Post, July 3, 2005

From the beginning, Europeans have greeted President Bush's "transformational diplomacy" with disdain. To them, the mess in Iraq demonstrates the failure of a policy that relies on speaking loudly and carrying a big stick. Instead of pursuing a policy of invasion, Western Europe has used the prospect of membership in the European Union to help transform the countries of Central and Eastern Europe into stable market democracies, thus continuing a process that saw Greece, Spain and Portugal join after they too pursued a democratic path.

The crisis in Europe that has emerged in recent weeks, first with the rejection of the European constitution by voters in France and the Netherlands and then with the breakdown of budget negotiations at last month's E.U. summit, has put the brakes on talk of continuing the enlargement process. The consequences of turning inward will not be temporary -- nor confined to Europe alone. Nations that had hoped to join instead face a future marked by economic decline, creeping authoritarianism, growing instability and possibly even violence. As for the European model of transformation -- recently heralded as the reason "Why Europe Will Run the 21st Century" -- it will lose its luster in other parts of the world, which looked to Europe's success as a way to direct their own future.

In the last 15 years, many east European countries reformed their economies, tackled corruption and opened their political systems in the expectation that E.U. membership would bring them the peace and prosperity their western neighbors had long enjoyed. That hope may now be lost for all remaining aspirants but Bulgaria and Romania, whose negotiations with the E.U. are far enough along that they may join in 2007. Turkey will have to rethink its assumption that the opening of formal accession talks on Oct. 3 would be the first sure step to membership down the road. The Balkan countries of Croatia, Macedonia and Bosnia will have to revise their hopes that the years of war could finally be put behind them as they joined Europe, paving the way perhaps for Serbia and Montenegro and a final resolution of the festering sore of Kosovo. And Ukrainians will have to think again about whether the 2004 Orange Revolution really heralded a new Euro-Atlantic orientation after years of increasingly corrupt and authoritarian rule.

For all of these countries, Europe's current crisis could not have come at a worse moment. Conflict over the future course of reform will be likely in them all, halting if not reversing the progress made to date. Europe's entire periphery will be that much more unstable -- with consequences for stability within the E.U. itself.

The growing resistance to enlargement is shortsighted. Let's remember what earlier enlargement did for Europe in just 15 years. A continent that produced World War I, World War II and the Cold War has been transformed into a Europe nearly whole and free and at peace. Never before have so many countries with so many people made such political and economic progress in such a short period of time as the countries imprisoned for decades behind the Iron Curtain. These gains are now being put at risk.

Take the Balkans. While the violence of the 1990s is behind us, the situation there remains fragile. For now, the ugly face of nationalism is being held in check as Bosnia, Croatia, Macedonia and Serbia have embarked on the reforms necessary to be considered for E.U. membership. Once that door closes, the political consensus in favor of reform will likely shatter as leaders fall back into their old ways. The situation in Kosovo remains particularly volatile -- with the only viable long-term solution being for both Kosovo and Serbia to join the larger Europe.

Turkey offers the more immediate challenge. While voters in France and the Netherlands made clear that they did not want Turkey to join their Union, can Europe really afford not to continue on a path that would lead to membership for the first primarily Muslim country? Consider what might be lost. Because of the need to satisfy the E.U.'s criteria, Ankara's leaders have already undertaken extraordinary reforms. On the political side, Turkey has abolished the death penalty, allowed much greater freedom of speech and introduced civilian control over military budgets. On the economic front, Ankara has slashed government subsidies. The government has reached out to the country's Kurdish minority and to neighboring Greece, with which relations are better than ever. All this might be lost if Europe fails to leave open the possibility of Turkey's membership.

Similarly, without the incentive of E.U. membership, Ukraine's new leaders may prove either not committed or not strong enough to root out corruption and reform the security services. These are tough challenges -- but ones that Ukraine's neighbors were determined to overcome once they realized this was the price they had to pay for entering Europe. If Ukraine fails to get a clear signal that its future lies with Europe, the hopes of the Orange Revolution will fade fast.

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The consequences for Europe of a failure to keep the enlargement process moving are grave. Failure in Turkey might well inflame Muslim populations throughout Europe. And while many Europeans fear that Turkish membership brings Europe to the borders of Iran, Iraq and Syria, Europe cannot hope to play a stabilizing role in the broader Middle East if it does not help Turkey succeed.

After the bright hopes of last year, failure in Ukraine would be disastrous for the former Soviet Union as a whole, producing a sense of crisis not only for Ukraine's neighbors in the east but also for some of its E.U. neighbors in the west, potentially increasing Moscow's leverage over these nations.

There is too much at stake for Europe to accept risks like these. Washington must help its European friends in developing policies that minimize the damage. NATO's expansion policy, which has languished as E.U. enlargement took center stage, should be put back on the front burner to address the fears and aspirations of countries like Ukraine, Serbia and Bosnia. The E.U. must also create new kinds of association arrangements that fall short of membership, and thus do not evoke the kind of public opposition that full membership now does.

Unless the door to Europe is kept ajar, the instability that continues to bedevil Europe's periphery in the broader Middle East and the former Soviet Union will come to plague Europe itself and all that has been accomplished there. The consequences would be bad not just for Europe, but also for the United States, which needs a strong partner to address challenges emanating from Northern Africa, the Middle East and Eurasia.

Music, Politics Merge In Live 8 Concerts Across The Globe (KRT)

By Matthew Schofield

Knight Ridder, July 3, 2005

The new era of celebrity diplomacy kicked up its volume Saturday, with rock concerts on four continents aimed at forcing world leaders to increase African aid, cancel existing debt and open up trade.

The concerts, the beginning first in Tokyo with the last of the day ending in Barrie, Canada, attracted more than a million in person, and a potential television audience of billions. The effort was called Live 8, a counterweight to the G-8 summit scheduled to begin Wednesday in Gleneagles, Scotland. The G-8 is a group of the world's eight most powerful leaders. At their meeting this week, they are scheduled to address African economic and global climate issues.

In addition to the concerts, almost a quarter million protesters marched in Edinburgh, the nearest large city to the summit site, calling for an end to poverty.

Summit participants, including President Bush and British Prime Minister Tony Blair, have already preliminarily agreed to cancel $40 billion of debt in the world's poorest nations, and to increase direct aid moving toward the $25 billion to $50 billion called for by Live 8 organizers.

Critics of the effort claim that it focuses too much on aid and too little on job creation in Africa, that it is too patriarchal and that too few Africans are involved in an effort aimed at helping Africa.

The focus Saturday, however, was on stage. The driving force behind the effort, Bob Geldof, formerly of the Boomtown Rats and the organizer 20 years ago of Live Aid - the concert that raised about $150 million for African aid, had billed this not as a fund-raiser, but a consciousness raiser.

In a tribute to the first effort, the London concert began with rock group U2 and former Beatle Paul McCartney singing "Sgt. Pepper's Lonely Heart's Club Band," opening with the words, "It was 20 years ago today ... "

Before the London concert began in Hyde Park, as about 200,000 waited outside a quickly built stage framed by guitars with the body shaped like Africa and the necks twisted into figure eights, Geldof told reporters: "Everything that rock and roll is meant to be is happening now."

Later, during the performance, he would describe Saturday's concerts as part of the "long, long walk to justice."

Performers around the world mixed music with the political pleas, pop-star Madonna, in London, asked concertgoers, "Are you ready to start a revolution? Are you ready to change history?"

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In Philadelphia, in a scene that was broadcast to concerts around the world, actor/singer Will Smith urged people around the world to snap their fingers at three-second intervals, noting that the pace represented the death rate for African children from poverty.

Not all of those on stage were artists, however.

In Johannesburg, former South African leader Nelson Mandela - in a message broadcast to other venues - called the worldwide event an "historic opportunity," for "a better future for all ... It is within your power to prevent a genocide against humanity."

And Microsoft billionaire Bill Gates noted in London, "If you show people the problems and you show them the solutions, they will be moved to act."

The G-8 includes the United States, United Kingdom, Canada, France, Italy, Germany, Japan and Russia, and there was a concert in each nation.

United Nations Secretary-General Kofi Annan, in London to show support for Live 8, said that there was great value in turning the world's eyes toward the problems of global poverty.

"On behalf of the poor, the voiceless and the weak, I say thank you," he said.

Off stage, Bono, of the rock group U2, said that they weren't there to change the world, but to energize the audience to take up the cause.

"The rock stars and hip hop stars can't change anything," he said. "But the audience can. They can put the politicians who do something in and out of office."

City Of Brotherly Love Brings It On Home (WP)

By J. Freedom Du Lac And Teresa Wiltz

The Washington Post, July 3, 2005

It's not every day that you see this: A prepubescent girl in the middle of a Million Fan Mosh, squealing in apparent ecstasy and holding up a hand-drawn sign that declares "I (Heart) Linkin Park!!!!!!" A few feet to her left, a woman old enough to be her mother wearing a Toby Keith T-shirt. And nearby, a solemn-looking man holding his own stenciled statement that says: "Make Poverty History."

That unlikely brew of cause and cacophony was the hallmark of Live 8, the politically motivated pop festival that was staged Saturday in 10 cities around the world. The only U.S. edition was here, on the Benjamin Franklin Parkway in front of the Philadelphia Museum of Art.

Mayor John Street announced that 1 million people packed the 60 acres on and around the mile-long boulevard. If that number is remotely accurate, Live 8 would rank as the largest concert ever staged in North America.

No question, hundreds of thousands of people turned out for a musical smorgasbord that had the multiethnic rap-rockers Linkin Park and the country boy Keith sharing a stage with neosoul singer Alicia Keys, hair-metal relics Def Leppard and rap star Kanye West. (Not all at once, though.) United in cause, if nothing else, the disparate group of stars provided the draw -- and, every few minutes, the message, too:

Dear world leaders,

Rid Africa of debt. Now.

Signed,

The Billboard Top 40

"This is one of the most important things we will collectively or individually be a part of," singer Rob Thomas told the crowd. A sheepish look washing over his face, Thomas then introduced a relationship song by noting that "it doesn't have anything to do with" the issues at hand.

At least he acknowledged what was becoming increasingly obvious and awkward: That few of the performers chose material even remotely related to the core Live 8 message. Organizers did have the good sense to fill the show-closing slot with Stevie Wonder, who has long addressed human suffering and injustice in song; yet even Wonder's set included off-message love songs, such as "Signed, Sealed, Delivered I'm Yours."

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The crowd was blessed with plenty of sunshine and relatively mild temperatures for July, although it didn't seem that way after a few hours in shoulder-to-shoulder formation. The show ran from a little before noon until nearly 7 p.m., about an hour longer than planned yet still relatively close to schedule for an event that came together in just 32 days.

By show's end, police reported four arrests for what were called minor incidents and five disorderly conduct citations. Thirty-eight people were transported to hospitals, primarily for heat-related problems, and about 300 concertgoers were treated and released at medical facilities at the concert site, according to Tom McNally, a spokesman for the city.

The technological difficulties of coordinating so many shows -- 10 on four continents -- became obvious early in the day, when the nine Jumbotrons in Philadelphia showed Paul McCartney and U2 performing "Sgt. Pepper's Lonely Hearts Club Band" in Hyde Park as audio bled in from Paris, where R&B singer Craig David was doing a severe disservice to the Beatles classic "Come Together." Throw in the distraction of a bass being sound-checked and you had a mash-up gone awry.

As if on cue, a mounted police officer's horse, trotting through the crowd, relieved itself at that very moment.

There were other glitches in Philadelphia, too. During the Black Eyed Peas' set, almost an entire verse of "Where Is the Love?" went unheard. Speakers popped and crackled during Destiny's Child's performance, appearing to strain under the weight of all that thunderous bass. (Or maybe that was the sound of all those jaws dropping when Beyonce Knowles sashayed onstage in a perilously short white skirt.)

The Jumbotrons were meant to connect concertgoers in the nether reaches of the parkway to the performers, but the screen operators often betrayed a wandering eye. The majority of West's electrifying set, for instance, was heard but not seen, as the screens flashed canned video images rather than the Chicago rapper-producer's actual performances of the smash hit "Jesus Walks" and the new anti-bling treatise, "Diamonds of Sierra Leone." It was a shame, as the set was one of the day's artistic high points.

Not that this was supposed to be about art.

Live 8 organizer Bob Geldof's goal was to make a social statement so grand, so loud, that the leaders of the industrialized world simply could not ignore it. So, with a few exceptions, Geldof booked the biggest artists, not necessarily the best.

How else to explain the ridiculous sight of Bon Jovi's Richie Sambora fretting over his anachronistic double-neck guitar? Or, worse: a choice slot for those piffle-rock masters, Maroon 5?

At least fans weren't ripped off. As with the other Live 8s, the Philadelphia concert was free.

"We're not asking for your money," actor Don Cheadle said from the stage. "We're asking for your voice."

Cheadle then urged everybody to sign an online petition to pressure the G-8 participants, meeting this week in Scotland, to help Africa out of abject poverty.

Said actor-rapper (and Philly native) Will Smith: "We're calling on the eight most powerful leaders to do what they can to end. This. Tragedy."

These being megalomaniacal pop stars, of course, there were also calls made in the name of far less noble causes.

Having been carried onto the stage on a throne, Smith instructed the crowd to scream "Will's house!" every time he asked just where we were. He also detonated various pyrotechnics in an apparent effort to mark his territory. (It didn't work, as he was overshadowed by several artists, including West, the rock-rap group Linkin Park performing an explosive set with rap icon Jay-Z; Australian heartthrob Keith Urban, whose country-pop performance was a revelation -- even Bon Jovi.)

The Black Eyed Peas weren't nearly as braggadocious as Smith. That's never been the boho-pop-rap group's style. The group did, however, show off at least a hint of crassness when lead vocalist will.i.am introduced the last part of the group's set by saying: "We're going to do a song off our new record, 'Monkey Business.' " In mentioning their product by name, the Peas stood virtually alone.

To their credit, the Peas -- like the other Live 8 performers here and around the world -- did not receive a penny for having performed. But it wasn't exactly a net loss. The artists got to perform their hit songs -- typically three to a set -- before a global TV audience that organizers predicted would number more than 2 billion.

Backstage, according to the Philadelphia Inquirer, every performer received a token of the organizers' appreciation: a $3,000 Hugo Boss duffel bag, along with access to an impressive spread of swag, from $2,000 Gibson guitars to Bertolucci watches worth as much as $6,000.

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Backstage, in the press tent, celebrities were shuttled in and out for a little picture-taking and a little espousing about the troubled state of affairs on the African continent.

Some didn't even bother with the espousing part. There was Anna Nicole Smith, she of the hyper-inflated chest and the newly Trimspa'd bod. It was announced that Ms. Smith would not be fielding questions. She was, however, more than happy to provide a photo op. Dressed in skinny jeans and a nearly absent pink top, she preened and posed, smiling and mute, her Mystic Tan gleaming. She shimmied and shook her implants, just as Jumbotrons began transmitting Will Smith's speech.

"Every three seconds, a child in Africa dies," he intoned onstage as the other Smith shook her investments.

The Rev. Al -- Sharpton, not Green -- was in the house, seemingly impervious to the heat with his shellacked hair and beige leisure suit. He came with a posse and an agenda: He and Mayor Street would be meeting the next day to form a "follow-up plan" to Live 8.

Someone from the press corps wanted to know how Sharpton remained so "fearless."

"You have to be committed," Sharpton said. "You have to be here for a reason, not just a season. I'm not always fearless."

Rita Marley, looking glam and way younger than her sixtysomething years in high heels and capris, was channeling her late husband, reggae giant Bob Marley. When asked a question, she spoke in lyric:

"Get up, stand up, stand up for your rights," she said, "Get up, stand up, don't give up the fight."

Kami, the HIV-positive puppet who appears on the South African version of "Sesame Street," was backstage, too. Reporters diligently asked the puppet questions and jotted down answers.

Out front, the show began 15 minutes before noon, when the British band Kaiser Chiefs bounded onstage after what seemed like endless hours of sound checks. Looking like they'd time-traveled from the first Live Aid (neck scarves! oh-so-'80s blazers! rolled-up jeans!), the group offered a rather ominous opener: "I Predict a Riot."

If nothing else, the show suggested a possible new Olympic sport: The 60-acre steeplechase. Police cleared the parkway overnight and kept eager fans at bay until daybreak, when the tree-lined boulevard was reopened to pedestrian traffic and a human autobahn materialized. "It was crazy -- totally insane," said Michael Lunt.

The 23-year-old had flown in from Salt Lake City overnight, arriving just in time to make a mad dash in the general direction of the stage. To get there, he had to avoid wires, fencing, vending trucks, 400 Port-a-Potties and tens of thousands of people along the way.

"There were already a ton of people here," said Lunt's friend, Jeff Johnson, 24, who had taken the train up from Washington's Union Station. "The floodgates opened, and everybody just started running. Whoever was fastest got up to the front."

The two Brigham Young University students must be fleet afoot, then: As the show began, Lunt and Johnson were positioned just behind the metal barricades 30 yards from the stage. They were the best spots in the house, at least for the hoi polloi. VIPs occupied the area immediately in front of the 60-by-120-foot stage and even got their own folding chairs.

Lunt and Johnson hadn't slept since Thursday, and they clearly hadn't prepared for the marathon event. Neither was wearing sunscreen (which became evident by noon, as their faces turned a bright pink). Nor had they eaten since Friday, when Lunt had a small bag of pretzels on the plane and Johnson had a hot dog -- and now there was no food within grabbing distance. "We'll feed off the music, I guess," Lunt said.

And then, there was the bathroom issue. As in: how to go without losing those spots near the stage?

"We're pretty much stuck here," Johnson said. "I guess we'll have to go easy on the water. But it's worth it. It's a once-in-a-lifetime opportunity."

As fans wedged onto the parkway sang along to Destiny's Child's "Say My Name," a couple performed an erotic pas de deux, grinding to the music as the man yelled, "Owwwwww! Owwwwwww!" and others looked on in bemusement. There were those who attempted to picnic, bravely spreading out blankets on the grass -- only to have them trampled by the crowd.

As Wonder closed the show, the air was ripe with the fragrant aroma of day-long sweat and sunburned skin. Everyone got to their feet.Young girls swathed in the latest in boho-chic peasant skirts clutched tiny American flags. A contingent of rollerbladers danced with their helmets on. They'd been on hand to help, running water to police and firefighters. Now they were taking advantage of their access to get closer to the stage.

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Backstage, singer Sarah McLachlan said that performing here was almost a "meditative" experience. "I've never gone by myself live in front of all these people," she said. "I almost started crying."

She said that as soon as she heard "a hint of a whisper" that Live 8 might be happening, she asked her manager to sign her up.

Wonder was the last to speak backstage, switching to a business suit emblazoned with gold brocade, evocative of Michael Jackson's court attire.

"How can you take the first continent of civilization, with all its natural resources, and not give back?" he said. "It's a joke."

Live 8 Concerts Rock The Globe For Africa (WT)

By Scott Galupo

The Washington Times, July 3, 2005

Hundreds of thousands turned out here yesterday for the U.S. installment of Live 8, a worldwide cluster of concerts performed in advance of the July 6 summit of Group of Eight leaders and designed to raise awareness of poverty in the developing world.

The six-hour concert, staged in front of the Philadelphia Museum of Art and stretching across 60 acres of the Benjamin Franklin Parkway, featured top American artists, such as the rock band Bon Jovi, country musician Toby Keith, rapper Jay-Z and R&B group Destiny's Child.

"With the stroke of a pen, eight men can make a world of difference for billions of people," said rapper-actor and concert host Will Smith, referring to the world leaders who will meet Wednesday in Gleneagles, Scotland.

Live 8 organizer Bob Geldof requested that performers ratchet down the kind of partisan rhetoric that characterized celebrities' involvement in the presidential election last year. Artists here complied for the most part, but, occasionally, lips loosened.

Before his performance, rapper Kayne West said the Iraq war, the AIDS epidemic in Africa and the South Asian tsunami made him wonder, "Are all of Hitler's dreams coming true -- to only have one race left?"

In addition to pop musicians, the event drew black actors, such as Chris Tucker and "Hotel Rwanda" star Don Cheadle. And the scantily clad reality-TV star Anna Nicole Smith posed for reporters, but chose not to answer questions, such as "Why are you here?"

Elsewhere across the globe, more than a million fans attended concerts in Tokyo, Moscow, Johannesburg, Berlin, Rome, Paris, Toronto, London and the southwest England town of Cornwall, where a concert featured African-based musicians.

None of the Live 8 concerts yesterday raised funds for the blighted African nations. Instead, Mr. Geldof, the driving force behind the Live Aid famine-relief concerts 20 years ago, said Live 8 represented a post-charity phase of a global anti-poverty campaign.

Mr. Geldof and fellow Live 8 organizers U2 frontman Bono and screenwriter Richard Curtis aim to convince the world's eight leading industrialized nations to cancel the debt of Africa's poorest countries, increase foreign-aid spending and open their markets to African exports.

"Don't make Africa more pathetic," said Rick Warren, author of "The Purpose Driven Life." "Africa doesn't need a handout. It needs a hand up."

The Live 8 concerts, London's in particular, were criticized for excluding nonwhite musicians. Philadelphia's lineup, meanwhile, was heavy on black hip-hop and R&B artists, such as Mr. West, the Black Eyed Peas and Alicia Keys.

Record producer and Philadelphia event organizer Russell Simmons said "no big idea carries in America without hip-hop."

Benjamin Chavis of the Hip-Hop Summit Action Network said, "Hip-hop is a growing cultural phenomenon throughout Africa. We want to connect."

Attendance figures here were disputed primarily owing to the no-ticket, all-invitation nature of the event. (Concertgoers at London's Hyde Park, in contrast, were awarded tickets on a lottery basis.)

Thousands of people streamed through Philadelphia's center-city core -- which was closed to vehicle traffic -- just to be within reverberatory earshot of the music.

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Veteran local promoter Larry Magid reported "no surprises" about midway through the afternoon.

"Are we good or what?" said local disc jockey Cindy Drew, boasting of the city's capacity to handle large crowds.

Crane-hoisted hoses sprayed the crush of people on the parkway, whose carnival-like perimeter was dominated by freelance T-shirt hawkers and a bevy of food vendors.

In fact, a minor pre-concert controversy here revolved around the seemingly disproportionate share -- 17 percent -- of minority set-aside vending spaces that were given to Philadelphia Mayor John F. Street's brother, T. Milton Street.

"There was no special arrangement for him," a spokesman for a food company partnering with Mr. Street told the Philadelphia Inquirer.

In Johannesburg, former South African President Nelson Mandela received a five-minute ovation, according to wire reports. "History and the generations to come will judge our leaders by the decisions they make in the coming weeks," Mr. Mandela said. "I say to all those leaders: Do not look the other way. Do not hesitate ... . It is within your power to prevent a genocide."

In Hyde Park, Paul McCartney and U2 opened the show jointly with a rendition of the Beatles classic "Sgt. Pepper's Lonely Hearts Club Band." Aptly enough, the song's first line evoked the anniversary of the original Live Aid: "It was 20 years ago today ... ."

Organizers estimated that up to 85 percent of the world's population had access to the Live 8 concerts through television, radio or online broadcasts. In parts of Europe, the concerts could be viewed on mobile phones, according to Ralph Simon, head of the London-based Mobilium Group.

Asked in Philadelphia if artists felt they were competing with the $200-million-raising-legacy of Live Aid, Def Leppard frontman Joe Elliott said, "We're not competing with anybody. Everybody wins today."

Musical Cry To Help Africa's Poor Is Heard Around Globe (NYT)

By Sarah Lyall

The New York Times, July 3, 2005

Hundreds of thousands of people gathered here and in nine other spots around the world on Saturday for a series of free concerts meant to persuade world leaders to give more money to fight poverty in Africa.

The concerts, held in South Africa as well as in each of the eight countries whose leaders will gather at the Group of 8 summit meeting in Scotland starting on Wednesday, were a triumph of logistical flexibility, extravagant idealism and strange juxtapositions.

In London, the preternaturally scruffy Sir Bob Geldof, the former Boomtown Rat and the events organizer, performed an old favorite, "I Don't Like Mondays," while the clean-cut billionaire Bill Gates told the cheering crowd that "some day in the future, all the people in the world will be able to lead a healthy life."

Conceived only in May and organized in haste, with additions popping up at the last minute - concerts in Moscow and Japan were announced just a few days ago - the Live 8 shows were intended to send a loud message to the leaders of the eight countries before their meeting.

In Philadelphia, an estimated 1.5 million people heard the rapper and actor Will Smith relay the sobering statistic that in Africa, one child dies every three seconds. In Johannesburg some 40,000 people gathered to listen to the music and to denounce the selfishness of the world's richest countries.

"They owe us," said the South African pop star Zola, speaking of Europe. "They are the ones who brought slavery, killed our ancestors. If anybody must pay, they must pay us back so that we can have jobs and education."

Elsewhere, some of the stars seemed unsure of the statistics they were citing - in London, performers could not agree whether 50,000 Africans die of poverty every day, or just 20,000 - but the sentiment was there. "This is our moment; this is our time; this is our chance to stand up for what's right," Bono of U2 told the crowd in Hyde Park, saying 3,000 Africans die every day of bites from disease-carrying mosquitoes.

U2 led off the concert here, playing "Sgt. Pepper's Lonely Hearts Club Band" along with one of its composers, Sir Paul McCartney. The familiar opening line - "It was 20 years ago today" - was an affectionate reference to Live Aid, the multiact extravaganza staged in 1985, also by Sir Bob, to raise money directly for African famine relief.

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Expectations for Live 8 were high, as was on-the-scene euphoria. Chris Martin, the charismatic frontman of Coldplay, which performed in London, called the concerts "the greatest thing that's ever been organized, probably, in the history of the world."

According to Sir Bob, who sweet-talked, strong-armed and shamed politicians and musicians into endorsing and taking part in the 10 concerts, the collective gatherings constituted "the largest mandate for action in history."

Among his "demands" were that the Group of 8 leaders increase aid to Africa by $25 billion, as well as send an additional $25 billion to impoverished non-African countries.

The concerts included more than 200 musical acts scheduled to play more than 69 hours of music. Organizers said 5.5 billion people would be able to watch or listen on the Internet and over 182 television stations and 2,000 radio networks and stations.

Enormous crowds turned out for the concerts in London and in Philadelphia, where a diverse and mellow crowd withstood 85-degree heat to listen to bands including Destiny's Child and the Black-Eyed Peas. But some of the other concerts - held in Barrie, Canada; Berlin; Johannesburg; the Eden Project, an ecological theme park in Cornwall, southwestern England; Moscow; Versailles, France; Philadelphia; Rome; and Chiba, Japan - proved not as well-attended as expected.

The concert in Japan drew just 10,000 spectators, in a stadium that holds twice that many. At the Circus Maximus in Rome, the crowd was estimated at about 200,000, and enthusiasm was high. "I wanted to raise their awareness about issues like canceling the debt," Isabella Dandina, a 40-year-old housewife, said of her three teenage children. She said she thought the initiative would jolt the Group of 8 leaders into action. "We're all voters, if you want to put it in blackmail terms," she said.

The mood was festive at the Brandenburg Gate in Berlin, too. "I can feel a sense of community among all the people," said 31-year-old Peter Gabriel, a computer engineer, "and many of the band leaders actually seem very convincing in what they say."

Many Africans were not aware that concerts were being held on their behalf. "I hope it's going to help us Africans," said Jane Waisaka, a hairdresser in Nairobi, "but I really don't know how."

Sir Bob has certainly been doing his best to prod politicians into paying attention, publicly berating Italy and Canada, saying they do not spend enough money on foreign aid.

The call was taken up at the concert in Barrie, a town about an hour north of Toronto, where the Canadian musician Tom Cochrane said onstage that foreign aid should represent 0.7 percent of the country's gross domestic product.

But a poll published Saturday said most Canadians agreed with their prime minister, Paul Martin, that spending should be kept in check so as to preserve the country's budget surplus.

"I'm sure Bob Geldof means well," the commentator Connie Woodcock wrote recently in the Toronto Sun, "but where does this second-string musician get off telling Paul Martin he doesn't like our foreign aid spending?"

Start To Make It Better, Live 8 Urges (LAT)

By Randy Lewis and Vanora Bennett

LAT -- Live 8, July 3, 2005

The day began here with Paul McCartney and U2 joining forces, climaxed with the emotionally charged reunion of iconic '70s rock band Pink Floyd and wrapped with an all-star cast singing the Beatles' "Hey Jude."

And that was just on one of the 10 stages around the world that were part of Saturday's Live 8 concert extravaganza to raise awareness about poverty in Africa.

American rock band Green Day powered through Queen's "We Are the Champions" in Berlin, husband-wife country music stars Tim McGraw and Faith Hill topped the bill in Rome, and in Canada, Neil Young delivered a tenacious rendition of his sardonic anthem "Rockin' in the Free World" in his first public performance since a brain aneurysm in March.

About 900,000 people turned out in nine countries for the free concerts, which were broadcast live on TV, radio and over the Internet in 140 countries to a potential audience estimated at more than 1 billion.

"This is our moment, this is our time," U2 singer Bono, one of the driving forces behind Live 8 and 1985's Live Aid, said in front of an estimated 200,000 people at London's Hyde Park. "This is our chance to stand up for what's right. We're not asking for charity. We're asking for justice."

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Unlike the Live Aid concerts in London and Philadelphia two decades ago, at which fans were asked to open their hearts and their wallets to help famine victims in Africa, the thrust of Live 8 wasn't raising funds, but consciousness about the toll poverty is taking in Africa.

Musicians and celebrity speakers urged audiences to pressure President Bush, British Prime Minister Tony Blair and leaders of other wealthy nations to take swift action when they meet for the annual Group of 8 summit Wednesday near Edinburgh, Scotland. About 220,000 people gathered there Saturday for a rally timed to coincide with the summit and the concerts.

Live 8 supporters want the G-8 to adopt a three-pronged program mirroring recommendations by Britain's Commission on Africa, of which Bob Geldof, organizer of Live 8 and Live Aid, is a member. It calls for canceling debts, increasing foreign aid and ending trade tariffs for impoverished African nations.

McCartney and U2, who sang the Beatles' "Sgt. Pepper's Lonely Hearts Club Band" on Saturday, were joined in London by other Live Aid veterans, including the Who, Madonna, Elton John and Sting.

At other venues, Stevie Wonder, Jay-Z, Celine Dion and more than 100 pop, rock and rap performers took the stage in Philadelphia, Moscow, Tokyo, Berlin, Rome, Paris, Toronto, Johannesburg, South Africa, and Cornwall, England. Many of the musicians were children when Live Aid was staged, and many watching the Live 8 shows hadn't been born.

"This is really the United Nations," U.N. Secretary-General Kofi Annan told the London audience on a warm afternoon. "The whole world has come together in solidarity with the poor. On the behalf of the poor, the voices of the weak have said thank you."

In Johannesburg, former South African President Nelson Mandela received a five-minute standing ovation from an audience of more than 8,000 after saying, "History and the generations to come will judge our leaders by the decisions they make in the coming weeks."

Anti-establishment rock stars even turned over stage time to one of the world's most famous capitalists and philanthropists, Microsoft Corp. co-founder Bill Gates, who received a hero's welcome. "We can do it," he said, "and when we do it, it will be the best thing humanity has ever done."

As chairman of this year's G-8 summit, Blair has promised to put the issue of poverty in Africa at the top of the group's agenda. Saturday's concerts were hastily mounted after being announced in May by Bono and Geldof.

In one of the day's most dramatic and emotional moments, Geldof addressed the skepticism directed at him about pop musicians and their fans attempting to influence world politics.

"Mahatma Gandhi freed a continent, Martin Luther King freed a people, Nelson Mandela freed a country," Geldof told the London crowd. "It does work — they will listen."

Then he brought out Birhan Woldu, a 24-year-old Ethiopian woman who he said was prominently featured in a documentary shown at Live Aid about the famine then gripping her country.

In that film, Woldu, then a toddler, had been wrapped in a burial shroud because nuns caring for the starving told her father she was within 15 minutes of death. She survived, and with the help of money and services generated by Live Aid, she grew up and recently took exams for a college degree in agricultural studies.

After she told the crowd, through an interpreter, "We Africans love you very much," Geldof defiantly said: "There — don't let them tell you this stuff doesn't work." He then introduced Madonna, who kissed Weldu.

In addition to Green Day, the Berlin lineup included Beach Boys founder Brian Wilson and rock band Audioslave. The concert in Johannesburg and a smaller event in Cornwall, heavy with African acts, were arranged after Geldof and other Live 8 organizers were criticized for including few black performers in London. Geldof noted the heavy rap and R&B contingent in Philadelphia, and said the priority was to get big-name acts that could draw a wide audience.

The Live 8 concert in France at the Palace of Versailles outside Paris featured the Cure, Italian tenor Andrea Bocelli, Latin pop star Shakira and numerous French pop acts that drew about 65,000 people. The show near Tokyo, added relatively late and headlined by Icelandic singer Björk and U.S. punk band Good Charlotte, pulled in about 10,000 people — half the capacity of the Makuhari Messe hall.

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"What we did in the Beatles really overtook us and our intentions," McCartney said ahead of Saturday's performances. "When it is remembered and loved that way, you can only appreciate that something mighty has happened, way beyond anything we set out to do. I think the same thing is happening with Live 8 now."

Geldof had asked performers to refrain from criticizing world leaders, which resulted in a minimum of pointedly politicized pronouncements. In Philadelphia, rapper Jay-Z alluded to "billions of dollars being spent to kill people," and German punk rocker Campino told the Berlin audience, "We have to get Africa out of USA's headlock."

Times staff writer Lewis reported from Los Angeles and special correspondent Bennett from London. Times staff writers Achrene Sicakyuz in Paris, Christian Retzlaff in Berlin and Natasha Yefimova in Moscow contributed to this report.

Tone Deaf On Africa (NYT)

By William Easterly

The New York Times, July 3, 2005

BONO, Jeffrey Sachs, Tony Blair, rock bands, finance ministers and aid agencies have been vowing to "make poverty history" in Africa as the Group of 8 summit meeting in Scotland begins this week. The proponents of a comprehensive plan to end Africa's poverty say the solutions are easy. For example, Gordon Brown, Britain's chancellor of the Exchequer, says preventing the deaths of five million children over the next 10 years would cost just $3 more for each new mother in the world's poorest countries. All told, Tony Blair's Commission for Africa calls for $25 billion more in aid to Africa per year.

It's great that so many are finally noticing the tragedy of Africa. But sadly, historical evidence says that the solutions offered by big plans are not so easy. From 1960 to 2003, we spent $568 billion (in today's dollars) to end poverty in Africa. Yet these efforts still did not lift Africa from misery and stagnation.

Why don't big plans work? Because they miss the critical elements of feedback and accountability. If consumers like a product, its maker prospers; if they don't, the company goes out of business. If voters complain about public services to their local politician, the politician either fixes the problem or gets voted out of office. It doesn't always work, but it works well enough for rich people to get potato chips and paved roads.

For the poor, Professor Sachs and the United Nations Millennium Project propose everything from nitrogen-fixing leguminous trees to replenish the soil, to rainwater harvesting, to battery-charging stations, for, by my count, 449 interventions. Poor Africans have no market or democratic mechanisms to let planners in New York know which of the 449 interventions they need, whether they are satisfied with the results, or whether the goods ever arrived at all.

Take the nitrogen-fixing leguminous trees that cure exhausted soils. As one study pointed out, the trees don't grow well in shade, they can proliferate as weeds and they can wind up competing for soil nutrients, especially in arid areas. It's easy to decree a solution at the top, but it will never work without the detailed local knowledge at the bottom - which planners in New York cannot possibly process.

To make it worse, the United Nations agencies, the World Bank, the International Monetary Fund, and national aid agencies like the United States Agency for International Development are jointly responsible for these interventions to reach the Millennium Development Goals (which are various indicators of reduced poverty). Collective responsibility for big goals doesn't hold any one agency accountable if the effort fails; they can always point to others as the ones who are to blame.

Who took responsibility, for example, for missing the goal of universal primary school enrollment by 2000 set by a 1990 United Nations conference? Instead, it is now one of the Millennium Development Goals for 2015.

The sensible alternative is to concentrate on piecemeal solutions to poor people's problems. You can evaluate the results of a specific intervention by comparing them with conditions in another group without the intervention, and you can get feedback from those affected and hold an individual aid agency accountable.

The Dutch aid organization I.C.S. Africa distributed deworming drugs to schoolchildren in the Busia district of Kenya. Ninety-two percent of the children had intestinal worms that cause listlessness, malnutrition and pain. I.C.S. invited economists to evaluate its program, comparing those children who got the drugs with those who did not. The deworming drugs decreased school absenteeism by a quarter. "Pupils who had been miserable now became active and lifeful," said a schoolteacher.

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Piecemeal projects have led to progress in other areas as well. Twenty-five percent of the population in African countries had access to clean water in 1970; 60 percent do so today. The enrollment rate in secondary school has gone from less than 5 percent to more than 30 percent over the last 40 years; over the same period, increased vaccination helped infant mortality fall by more than a third. Aid agencies are more accountable on visible piecemeal steps like water pipes and wells, school buildings and vaccinations - where individual contributions can be measured - than they are on nebulous goals like African poverty reduction, which depends on many players and many factors.

Piecemeal fixers do not promise the miracles that planners do; they just quietly deliver results. Accountability for aid would transfer power from planners to fixers, both African and foreign. Maybe then we can hold some aid agency accountable to get the full value of those three additional dollars to each new mother.

O.K., Japan Isn't Taking Over The World. But China... (NYT)

By Eduardo Porter

The New York Times, July 3, 2005

NOT even 20 years have passed since the apparently unstoppable Japanese economic juggernaut struck fear in the hearts of Americans, and now China has emerged to be seen as the new economic menace threatening the nation's vital strategic interests.

America's boom in the 1990's, coupled with Japan's decline into an economic quagmire through much of the decade, quelled most fears that the Japanese were going to eat our economic lunch.

But now China has set out to snap up everything from Unocal to Maytag, not to mention a steady diet of United States Treasury bonds. And many of the leading voices who worried about Japan in the 1980's are warning that China presents a much bigger and more complex conundrum.

"In retrospect I probably did overstate the nature of the Japanese challenge," said Chalmers Johnson, a prominent expert on Asia who in the early 1990's argued that Japan was "the only nation with real leverage over the United States." But, he added, "China is several orders of magnitude different from Japan."

China is not only much bigger and more populous. Its economy is likely to become the largest in the world at some point in the next 50 years. As China keeps growing at a rubber-burning pace, competition with the United States over energy resources alone could cause substantial tension.

Americans' fear of Japan's ascendancy in the 1980's was inspired by economics and pride. The growing bilateral trade deficit, as Japanese companies acquired leadership in industries that were once dominated by American businesses, cast a pall on America's self-confidence. The Japanese purchase of high-profile American assets, whether Columbia Pictures or the Pebble Beach golf course, just rubbed it in.

Relations with China have a more complex geopolitical dimension. Unlike Japan, China is likely to become a military power. And it is not an unconditional ally. From Taiwan to the Middle East, the strategic interests of China diverge from America's. As it throws its weight around, to secure supplies of energy, say, or to avail itself of strategic technology, China can cause American policy makers no end of discomfort.

For instance, if the United States government were to block the China National Offshore Oil Corporation from acquiring Unocal, it might just push China into cutting energy deals that the United States government would rather it did not make with countries like Russia or Iran.

"Clearly the relationship between the United States and China is much more ambivalent than that between the United States and Japan," said Clyde V. Prestowitz, a trade negotiator during the Reagan administration who in the 1980's warned that Japan's ascent could eclipse the United States' power and compromise its prosperity.

Those differences might warrant a more careful review of deals like the attempted purchase of Unocal by China's state run oil company.

Robert B. Reich, the former secretary of labor in the Clinton administration who as a Harvard professor in the early 1990's argued that big Japanese investments in the United States were not threatening, says today that a Chinese acquisition of a potentially strategic asset like Unocal could be problematic.

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"In economic terms there is no reason to block Chinese ownership of U.S. assets just as there was no reason to block Japan from buying U.S. assets in the 1980's," Mr. Reich said. "But in political terms in 2005 there may be a reason to take seriously the downside of China owning Unocal."

But even those most concerned about China's rise up the economic, political and military ladder recognize another, perhaps more important difference between China and 1980's Japan. The United States has a vested interest in China's success.

For starters, whereas Japan's success at the time was inevitably seen as America's failure, today American businesses are all rooting for China to succeed. Because they own a lot of it.

"It was virtually impossible for a foreigner to make an acquisition in Japan," Mr. Prestowitz said. "In China its 'y'all come.' American business is part of the China lobby, not the anti-China lobby."

Some of Japan's old foes view America's growing interdependence with China with suspicion. "Interdependence means dependence," said Susan J. Tolchin, a professor of public policy at George Mason University who in 1993 was the co-author of "Selling Our Security," which argued against allowing foreign investment in American technology companies. "If we lose our economic independence we are going to lose our independence of movement on foreign policy."

Yet most acknowledge that China's transformation from a struggling Communist state to a prosperous nation with a growing stake in the global system of market economies is in America's best interest. For example, if the Chinese central bank owns oodles of United States Treasury bonds, it has a reason not to want to destabilize the bond market.

"I cannot see how a rich bourgeois China could be not in our interest," Mr. Johnson said. "If we're interested in our security we should establish collaborative ties with China right now."

The difference in emphasis appears in a shift in Mr. Prestowitz's writing about Asia. In 1988, he published "Trading Places: How We Are Giving Our Future to Japan and How to Reclaim It." This year, he published "Three Billion New Capitalists: The Great Shift of Wealth and Power to the East."

Today, Mr. Prestowitz said, the biggest risk is not that China will succeed in rising to become an economic superpower. The biggest risk is that it will fail.

The Chinese Invasion (LAT)

The Los Angeles Times, July 3, 2005

Even some people who were not alarmed when Japanese companies started snapping up famous American businesses 15 years ago are succumbing to alarm about Chinese companies doing the same thing today. The alarmists were wrong the last time, and the please-remain-calm types were right. Are there good reasons to think that things are different this time around?

The Japan scare came with a lot of xenophobia, verging on racism, and foolish analogies between Japan's military imperialism of World War II and the so-called economic imperialism of half a century later. That earlier Japanese imperialism had involved killing millions of foreigners in an attempt to rule half the world by military force. The later Japanese so-called imperialism involved selling high-quality goods to millions of willing foreigners and then investing part of the proceeds in job-producing assets in those foreign countries.

Anti-Japanese hysteria also featured quite a bit of anthropological poppycock about how the basic laws of economics don't apply to cultures that emphasize production over consumption. Or to novel forms of organization (remember the keiretsu?) that combine all the evils of socialism and corporate capitalism into a production machine that is too efficient to be tolerated. Virtues morphed into cheating: They work hard and save while we spend and borrow — it's not fair!

The current and growing anti-Chinese sentiment has the same basic causes: resentment at another country's economic success and fear that it threatens our own well-being. But there are distinctions in flavor. Yesterday's Japanophobia and today's Sinophobia draw from different themes of classic Western prejudice against the East. Japan was the wily Oriental with his devilish plots. China is the Asian hordes. It's not that they're so smart, it's just that there are so darn many of them, and they are all being orchestrated by a fiendish Communist Party. Peasants pour out of the countryside into huge factories where they work 20 hours a day for $3.25 and produce enough of everything to fill an entire Wal-Mart every 7.3 minutes…. And we, like fools, buy this stuff. It's not fair!

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But it turned out that Japan was not one big, unstoppable economic machine. Its economy has been in the tank, while ours has thrived, for most of the period since the Japanophobia pandemic. The Japanese are not robots. A touching human weakness — vanity — caused them to overpay for prestigious American assets such as Rockefeller Center and Columbia Pictures, which they then managed badly. And who today feels humiliated because a major studio is named "Sony" — or even thinks of Sony as especially Japanese, or even foreign?

Old-fashioned economics has more to say about these episodes than cultural theorizing does. Economic point No. 1 is that if there is a problem, it's our fault, not theirs. When you spend more than you earn (or consume more than you produce), you go into debt. We've been doing that with a vengeance lately, both as individuals and as a society, through the government. Others then have your IOUs.

In international trade, these IOUs are known as "dollars," and they're ultimately only good for one thing: buying stuff from the United States. For misguided reasons of its own, China keeps its currency and consumer demand artificially low, resulting in a larger trade imbalance: We buy a lot more from them than they buy from us. But another way to look at it is that they send us all those lovely things on the shelves at Wal-Mart and we send them in exchange small pieces of paper. (Or actually not even that: just some electronic pulses representing pieces of paper called dollars.)

We complain about this. But when they start spending their dollars instead of hoarding them, we are horrified at what they are able to buy: IBM's ThinkPad computer line, the Maytag appliance brand name, an oil company (Unocal). But it is our own spendthrift ways that supply the dollars. If foreigners ever lost interest in accumulating or spending dollars, we would really be in trouble.

Economic point No. 2 is the golden oldie: Free trade is good, even if it is unilateral. The United States benefits from being open to anything China wishes to sell to us, whether or not China reciprocates. Trade is disruptive. But people tend to focus on the lost jobs and lose sight of the cheap shirts.

During the Japan fuss, this trade-off was often described as destroying a blue-collar worker's life so that a yuppie could drive a Lexus. But imports from China tend to be more down-market. They effectively raise the standard of living of the lowest-income Americans. The much smaller number of Americans who are hurt by trade deserve generous help from the vast majority who benefit from it. But restricting trade with China to help those few would harm the many.

Then there's globalization, the third economic reality. In the emerging world economy, American investors will own shares in Chinese companies that invest in Albania or Zambia, and so on. Already, much of what we are buying "from China" is being produced by U.S. companies there, and today's anti-Beijing chorus overlooks the extent to which our culture is changing China in our image.

Americans needn't fear the prospect of the world's largest country joining the global middle class. This — or the more prosaic possibility that some country might definitively unseat the United States as the world's richest country — is not some tragic possibility that Americans must acknowledge with good grace or world-weary resignation (like the British waving farewell to their empire). The wealth of other nations is good for Americans in the narrowest selfish terms.

Hamas Weighs Abbas' Offer To Join Cabinet (WT)

By Mohammed Daraghmeh

The Washington Times, July 3, 2005

Palestinian leader Mahmoud Abbas has asked his most formidable rival, the militant Islamic group Hamas, to join his Cabinet in advance of Israel's Gaza pullout, and the group is considering the offer, officials on both sides said yesterday.

Israel denounced the idea of Hamas' joining the Palestinian government, calling the group "a murderous terrorist organization."

Hamas has strong grass-roots support in Gaza and has demanded to help rule the area after Israel's pullout, slated to begin in August. The group was expected to make a strong showing in Palestinian parliamentary elections later this year and recently won municipal elections in several West Bank and Gaza districts. By incorporating Hamas into his government, Mr. Abbas hopes to improve prospects of a smooth takeover at a time when violence in Gaza has heated up.

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Palestinian negotiator Saeb Erekat said this was not the first time Mr. Abbas has offered to bring the militant group into his Cabinet.

"Our policy is a policy of one authority, one gun, and we welcome all political parties to participate as such," Mr. Erekat said.

Mr. Abbas first invited Hamas to join his Cabinet two months ago, but Hamas rejected the offer because it was conditioned on the group's agreeing to a delay in parliamentary elections. The vote originally scheduled for July has been delayed until the end of the year.

Hamas' West Bank leader, Sheik Hassan Yousef, said the group was considering the latest offer from Mr. Abbas.

The United States considers Hamas a terrorist organization and refuses to deal with it.

Israel and the United States have demanded that Mr. Abbas disarm Hamas and other militants, a step he has refused to take for fear it would provoke bloodshed among Palestinians. He has chosen instead to co-opt militants.

"Hamas is a murderous terrorist organization responsible for countless acts of senseless violence against innocent civilians," Israeli Foreign Ministry spokesman Mark Regev said. "Hamas is no partner for us in any sort of political process."

The Palestinian leader has promised a smooth turnover in Gaza and a clampdown on militants who would fire on Israeli soldiers and about 8,500 Jewish settlers who will withdraw. He has also said he would not allow a land grab after the summer evacuation.

But a fragile truce Mr. Abbas reached with Israel in February has been unraveling as the pullout date approaches.

Mr. Abbas is to meet Palestinian militant leaders living in self-imposed exile in Damascus during a visit to Syria this week, his national security adviser, Jibril Rajoub, said yesterday.

Some West Bank Settlers Dig In Their Heels As Pullout Looms (LAT)

By Ken Ellingwood

The Los Angeles Times, July 3, 2005

Tile by tile, a new synagogue is rapidly taking form just steps from an outdoor basketball court where five families have moved into a makeshift neighborhood of military tents.

On a recent afternoon, there was plenty of room nearby for more arrivals beneath huge canopies that shade a rectangular dirt lot, lending it the appearance of an American fairground. If this Jewish settlement is soon to be evacuated, and the Israeli government insists it is, there is little sign its residents plan to go easily. Rather than packing up, Sanur's 31 families are busily fortifying their hold on the West Bank hilltop in anticipation of a last stand.

Volunteers from Jewish religious academies have rushed to join in building the synagogue, which awaits a roof and the rest of the tile floor. Backers have come from other strongholds of Jewish nationalist ideology in the West Bank.

Sanur is one of four settlements in the northern West Bank scheduled to be abandoned by Israel this summer, along with all 21 Jewish communities in the Gaza Strip. So far, most of the attention has focused on the withdrawal from Gaza, home to the vast majority of the estimated 8,000 settlers who are to be uprooted from both areas. The pullout is set to begin in mid-August.

Sanur and the three other isolated West Bank settlements, Homesh, Ganim and Kadim, have been largely overlooked in the turbulent national drama over the planned withdrawal, but military officials say settler resistance may prove especially tough in Sanur and Homesh.

Ganim and Kadim, secular communities about 10 miles to the north with 60 families between them, aren't expected to present much of a problem because many residents have said they are willing to leave and have started hunting for new homes.

"Ninety-five percent of the people here will leave before August 15th," said Ganim resident Aharon Yarden, 40, who planned to move with his family to the Golan Heights.

Around Sanur and Homesh, a web of back roads, trails and canyons could make it difficult for the army to block the arrival of religious militants from other settlements in the northern West Bank, historically referred to by its biblical name, Samaria.

Settlers in Sanur say they expect 10,000 or more supporters to sweep in to help thwart the evacuation. Employing images of a dire military-style standoff, one right-wing Israeli lawmaker has compared Sanur to Stalingrad.

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The evacuation "will be impossible," said Miriam Adler, a Sanur resident and spokeswoman for the community. "They just won't succeed."

Adler, 28, moved to Sanur with her husband 2 1/2 years ago from Kiryat Arba, a Jewish enclave near the West Bank city of Hebron known for its hard-line ideology.

At the time, Sanur had been all but deserted. Once a military post under Ottoman and British rule, Sanur was settled by Jews in 1978 and served as an artists' colony. But most of the secular residents fled after violence erupted between Israel and the Palestinians in September 2000.

Taking their place in rows of low, bunker-like stucco houses were young families ardent about religion and unflinching in their belief that Jews are the rightful heirs of all the biblical land of Israel. Some attend colleges and universities in the West Bank or in Israel. All wear the skullcaps and head scarves of the religiously observant.

To these residents, the battle against Israeli Prime Minister Ariel Sharon and his pullout plan hinges on passion and faith. Although Gaza has many settlers who are devout, it is the West Bank that has greater biblical significance and the lion's share of the 230,000 Jewish settlers, who draw extra fervor from being able to gesture across a valley to one site or another mentioned in the Old Testament.

"Sharon is temporary, and the land of Israel is eternal," Adler said, standing at the edge of the little tent village. "Whoever fights for ideology — and not interest — will win."

It is possible from here to gaze past a plain of Palestinian hay fields to Homesh, perched on a peak immediately above the Palestinian village of Burqa. From the backyard of a Jewish home in Homesh, one can hear a Palestinian vendor below touting his wares: tomatoes, oranges, apricots.

Homesh, with 55 families, is a collection of modest stucco houses hemmed by a wire security fence. Its residents are less uniformly religious than those in Sanur and more ambivalent about what to do next. Although all prefer to stay, a split has emerged between religious residents, who are determined to fight, and their secular neighbors, who say they will obey the government's edict.

A core of activists has organized protest events, including bringing in thousands of supporters during the springtime Passover holiday, and sought to make sure that backers will show up to thwart the withdrawal. Defense Minister Shaul Mofaz was heckled there during a recent meeting at which some residents had hoped to learn more about where they might move.

Menora Hazani, a devout, 28-year-old teacher and filmmaker in Homesh, said Sharon had deliberately focused attention on Gaza because pulling out of a slice of the West Bank, with scores of remaining settlements and relative proximity to large Israeli cities, was more problematic.

"Leaving the region here is much more catastrophic in security terms than leaving Gush Katif," Hazani said, referring to the main settlement block in Gaza.

Hazani, whose father, Benny Katsover, was a well-known settler leader, said she and her husband still hoped that the withdrawal would not take place. Hazani said, though, that if the police came to the door, officers would have to carry the family out. She said any resistance must be nonviolent.

Other Homesh residents say they are waiting for the government to tell them where to go and have no plans to put up a fight.

"I'm a law-abiding person," said Nina Korover, 58, who emigrated from Ukraine in 1992 and moved with her husband into a $30,000 house a year later.

She recalls how thirsty and drab the stony landscape appeared then. Now, Korover said, "there is nothing more beautiful than Homesh."

In one direction, the West Bank city of Nablus covers a hillside; in the other, Tel Aviv's skyscrapers punctuate the hazy glare of the Mediterranean.

Homesh has only three businesses, including a car parts factory. Most residents commute to work in Tel Aviv or coastal Netanya, about 30 miles away, or settlements in the West Bank.

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Korover said about 30 Homesh families, about half of them from the former Soviet Union, had concluded that it was time to prepare to leave. The government said last week that the families had signed an agreement to move as a group to a community in Israel, but residents said the matter was still being negotiated.

Korover's husband, Boris, died four years ago when a Palestinian driver steered a car into his. Leaving the home where the couple crafted a life after emigrating somehow feels like a betrayal, she said.

But Korover worries that religious hard-liners might be more interested in a confrontation with the government than in negotiation. "I don't want to leave my house, but if I have no choice — if they say I have to leave — I won't make a war," she said.

Iranian Leader Denies He Took Embassy Hostages (NYT)

By Michael Slackman

The New York Times, July 3, 2005

A shiny black Peugeot rolled to a stop, and there he was, Mahmoud Ahmadinejad, the president-elect of Iran, smiling through an open window, ready to greet a few of the people who have been coming to his street as a sort of pilgrimage since he won.

The security men tried to keep a cordon around the car, but the president-elect gave his casual smile, and told them to let the people through. He also let this reporter and an interpreter approach.

When asked the question preoccupying many Americans about him just now - Had he been among the students who sacked the United States Embassy in 1979 and held American hostages for 444 days? - his driver started to pull out, but Mr. Ahmadinejad stopped him and said he would answer.

"It is not true," he said. "It is only rumors."

The security men began to push again, and three women draped in flowing black chadors made their way up to the car.

One woman handed Mr. Ahmadinejad a blank piece of paper on which he wrote: "Stick to your Islamic values. God will help you."

And with that, he closed the window and was driven off.

Since the election a week ago, it has been nearly impossible to get a feel for Mahmoud Ahmadinejad, to take the measure of the man. He has refused all interviews, though he did hold one hourlong news conference. His spokesman has insisted that he was not among the students at the embassy.

He is generally described as an ultra-conservative. He has been a member of the Basij militia, which is made up of young bearded men who ride through the streets on motorcycles enforcing strict codes of behavior and dress, often brutally. He was also a member of the Revolutionary Guard during the war with Iraq. And of course he has recently been accused of being one of the student leaders who stormed the American Embassy in Tehran on Nov. 4, 1979, keeping 52 hostages.

Yet friends, supporters and neighbors here describe the diminutive, bearded man as humble and caring. Mr. Ahmadinejad has a small circle of aides, one that appears a bit overwhelmed by all the demands and preparations ahead. Nasser Hadian-Jazy, a political science professor at Tehran University, said that he had known the president-elect since childhood and that Mr. Ahmadinejad was not involved with the student hostage takers. He said they grew up together in East Tehran, and Mr. Hadian-Jazy described his old classmate as among the brightest in the neighborhood.

He called Mr. Ahmadinejad "self-confident, committed and absolutely incorruptible." He said he is very religious, but modern in his thinking. If there is a negative quality, Mr. Hadian-Jazy said, it is that he is very set in his views, and can be hard to persuade otherwise.

"If you can force him to sit down and listen, he has the capability to understand," the professor said.

While Mr. Ahmadinejad maintained a humble life style as the appointed mayor of Tehran, that is likely to change, if for no other reason than security. He lives at the end of a dead-end street, more of an alley that runs alongside a school. The alley opens onto a circle, with a small park in the middle with benches and a field of grass that now attracts those who come to ask favors of the president-elect, and serves as a spot for neighbors to socialize. These days, cars packed with sightseers drive around the circle, stopping to look down the alley, a far cry from the palatial and off-limit homes of other Iranian leaders.

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On Friday, the day of prayer and rest in most Muslim countries, some of Mr. Ahmadinejad's neighbors sat on a bench, talking about their favorite son. It is almost a rule that when someone is asked about Mr. Ahmadinejad, the first thing said is that he is a modest person who has never lost touch with his roots. Security is very tight in the neighborhood, and with soldiers and plainclothes agents around, the neighbors were afraid to give their names.

One older man, who said he had lived in the neighborhood for 15 years, said that every year for the Iranian New Year, Mr. Ahmadinejad invited the neighbors over for a celebration. He is described as a devout man who lives in a three-bedroom house with two sons and a daughter. His family has little furniture, they said, and has machine-made carpets, not the more expensive hand-woven ones commonly owned by the better-off.

One son is finishing high school, and the two other children are studying in the university, the neighbors said.

Since he became mayor of Tehran, the city has had a driver pick Mr. Ahmadinejad up for work every day. But on his days off, neighbors said, he still drives the same 1977 Peugeot, without air-conditioning, that is parked in the alleyway beside the house.

People are quick to offer stories about Mr. Ahmadinejad, almost as if he was a religious figure. They say, for example, that he always brought his own lunch to work because he did not want the city to have to pay for his meals.

At the municipal building, Ahmad Esmali's job is to deliver tea to the offices. "This mayor was better than the others," he said recently. "He saw managers and workers with one eye."

In the park on Friday, one neighbor said the mayor had given money to the local butcher, at a shop called Zand, so the butcher could give poor and needy people meat at a discount. Two young men working in the butcher shop said they believed it was true.

It is a common practice in many Middle Eastern cultures for leaders to have audiences with citizens seeking help, or to accept their petitions for assistance. Mr. Ahmadinejad appears to take that custom to heart.

A small security booth sits at the mouth of the alley leading to his house. As Mr. Ahmadinejad's car pulled out, a security agent handed the president-elect a pile of letters that had been delivered that morning, from people seeking some kind of help.

Ali Ghorbani, 29, had just driven up to deliver a letter to the guard booth when Mr. Ahmadinejad pulled up. Mr. Ghorbani wanted to ask for a loan so he and a friend could open a cultural center in Tehran. He was allowed to hand the letter directly to the president-elect. "I didn't have the faintest idea I would see him," Mr. Ghorbani said as he walked away. "He took the letter and told me I would have a reply in two weeks."

Iranian Accused In Killing Of Kurds (WT)

By William J. Kole

The Washington Times, July 3, 2005

Iran's newly elected president, already accused of taking American diplomats hostage 26 years ago, played a key role in the 1989 execution-style slayings of a Kurdish opposition leader and two associates in Vienna, an exiled Iranian dissident said yesterday.

Austria's daily Der Standard quoted a prominent Austrian politician as saying authorities have "very convincing" evidence linking Mahmoud Ahmadinejad to the attacks in Vienna, in which the Kurds were killed.

The reports follow recent accusations from some of the 52 Americans who were held hostage for 444 days in Iran beginning in 1979 that Mr. Ahmadinejad, a hard-line Islamist, was among the hostage-takers.

Neither Mr. Ahmadinejad nor his aides could be reached yesterday for comment on the claims about the Vienna killings, but the president-elect on Friday denied a role in the hostage-taking.

"It is not true," Mr. Ahmadinejad said. "It is only rumors."

Alireza Jafarzadeh, who runs Strategic Policy Consulting, a Washington-based think tank focusing on Iran and Iraq, said Mr. Ahmadinejad was a Revolutionary Guard commander who supplied the weapons used to gun down Iranian Kurdish politician Abdul-Rahman Ghassemlou and two colleagues on July 13, 1989, in Vienna.

Mr. Jafarzadeh is a former U.S. representative for the National Council of Resistance of Iran. The council is the political arm of the Mojahedin Khalq, a group that Washington and the European Union list as a terrorist organization.

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Mr. Ghassemlou, the principal target, was secretary-general of the Democratic Party of Iranian Kurdistan. His delegation had been in Vienna for secret talks with envoys from the Tehran regime.

Mr. Jafarzadeh said his assessment was based on Iranian government sources "who have provided accurate information in the past." He said Mr. Ahmadinejad helped organize the Vienna attack while serving in the Revolutionary Guard's Ramazan garrison near the western Iranian city of Kermanshah.

"While he was there, he became involved in terrorist operations abroad, and he led many, many operations," Mr. Jafarzadeh said.

In 2002, Mr. Jafarzadeh disclosed information about two hidden nuclear sites in Iran that helped uncover nearly two decades of secret atomic activity and stoked fears that Tehran was trying to build a nuclear bomb.

Der Standard reported yesterday that Peter Pilz, a top official with Austria's Green Party, accused Mr. Ahmadinejad of traveling to Vienna a few days before the slayings to deliver the weapons to the Iranian commandos who carried out the killings. He said he wants a warrant issued for Mr. Ahmadinejad's arrest

Mr. Pilz could not be reached for comment yesterday, and calls to Austria's Interior Ministry and the nation's federal counterterrorism agency went unanswered.

Mr. Pilz said an unidentified Iranian journalist living in France was contacted in 2001 by one of the reputed gunmen, described as a former revolutionary guard who has since died. The gunman's account -- which Mr. Pilz said strongly implicated Mr. Ahmadinejad -- was turned over to Austria's federal Office for Counterterrorism and Constitutional Protection.

In another development, a top Iranian former secret agent told the Associated Press in Tehran yesterday that the hostage-taker in a 1979 photograph that has come under intense scrutiny is not of Mr. Ahmadinejad, but a former militant who committed suicide in jail.

Saeed Hajjarian, a top adviser to departing President Mohammad Khatami, identified the man in the photo dating to the 1979 U.S. Embassy siege as Taqi Mohammadi.

Iran's newly elected president has been accused of being a major participant in the taking of American hostages at the embassy.

Six former U.S. hostages who saw the president-elect in photos or on television said they believe Mr. Ahmadinejad was among the hostage-takers. One said he was interrogated by Mr. Ahmadinejad.

The White House said it was taking their statements seriously. President Bush said "many questions" were raised by the accusations.

International media have compared photos of Mr. Ahmadinejad, who won a presidential runoff election the week before last, with a black-and-white picture of one of the hostage-takers, a young man with a thin, bearded face and dark hair that sweeps down across his forehead.

But Mr. Hajjarian said they were not the same person.

"This man is Taqi Mohammadi, a militant who later turned into a dissident and committed suicide in jail," he said, pointing to the 1979 photo.

Mr. Hajjarian's comment follows statements by a number of the former Iranian students who carried out the U.S. Embassy seizure and held Americans hostage that Mr. Ahmadinejad had no role in the operation.

For The Poor In Iran, Voting Was About Making Ends Meet (NYT)

By Michael Slackman

The New York Times, July 3, 2005

They had come from very different neighborhoods and backgrounds, but they were all there for the same reason: to buy government-subsidized food.

The line ran from the basement up the stairs and out the door.

Inside, sugar and rice were selling for about one-fifth of the retail price, a huge savings in a country where according to an opposition economist more than a quarter of the people live below the poverty line - which is defined as a family of five with an income of less than $278 a month.

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"I cannot make ends meet," said Hossein Ganji, 49, who works behind a counter in the food distribution center. Mr. Ganji supports his wife and three children on about $150 a month.

"I am the only person that works in my family," he said. "All the others are unemployed."

This distribution center in a crowded basement in southern Tehran and many others like it around the country represent the kind of government assistance that many people here want more of - and that Mahmoud Ahmadinejad promised to provide in his successful campaign to become the next president of Iran.

Mr. Ahmadinejad, who catapulted to president-elect from near obscurity as the appointed mayor of Tehran, campaigned on a populist message, promising to redistribute the nation's wealth, hold down prices, raise salaries and lift state-supported benefits for the poor. He infused those pledges with the theme of social justice, which resonated in a society where aiding the poor is considered an obligation for the faithful.

His message came at the right time. In 1997 and again in 2001, voters focused their political will on social and democratic freedoms in electing Mohammad Khatami to the presidency. But his promised reforms were hardly carried out, and in the election last week voters appeared to have shifted focus to their pocketbooks. One candidate, Mehdi Karroubi, a former speaker of Parliament, just missed making it to the runoff election for president after promising to pay each family the equivalent of $60 a month if elected.

Average salaries run about $200 a month in Iran, with a salary of $300 to $500 considered generous. But costs are fast outstripping the ability to pay - government figures put annual inflation at about 15 percent, though on some products, merchants say prices rise far faster than that.

In a food store in central Tehran, the owner, Reza Karimi, said pomegranate paste had doubled in price to nearly $2; a bottle of olive oil rose to about $4 from $3, and in the last three months a little more than a pound of rice climbed to $1.80 from $1.30.

The price of dairy products sold by a state-owned company jumped 17 percent on Wednesday alone, he said. "The prices will jump again next month," he said. "And when one company raises their prices, they all do."

Khodabaksh Jalili, 30, is typical of many people in southern Tehran who supported Mr. Ahmadinejad. He moved to the city from Asadabad, a village 200 miles west of Tehran, when the farm that had supported his family for generations failed because of drought and a shortage of supplies, he said.

He has a wife and two children and earns about $200 a month working in a food store. His rent is $50 a month, and he makes extra money on his day off ferrying passengers on his scooter. If he is lucky, he said, he takes in another $20 a month.

"I have very little," he said. "I am married eight years. I have never been to the cinema with my children."

Iran is awash in oil money, as the price of crude topped $60 a barrel this week, pumping billions into the government treasury. But this country's economy is still tied down by a system in which the state and a shadowy collection of foundations controlled by clerics monopolize the vast bulk of its industries, including oil.

With all that money effectively locked up and a state budget weighed down by subsidies, there is little to spur the kind of private sector growth and development that would help provide someone like Mr. Jalili with a job that could support a family.

Past presidents have tried to move the economy away from its dependence on oil revenue and to open Iran to investment, but they have been thwarted by more conservative powers intent on preserving the vestiges of a welfare state.

The clerics - who control vast wealth and power through the foundations, known as bonyads - are also unwilling to give that up, and they answer to Iran's supreme leader, Ayatollah Ali Khamenei, not to elected officials, limiting what any president can do.

The bonyads, which were set up after the 1979 revolution to control assets held by the former shah's family and associates, were to operate as nonprofit organizations dedicated to aiding the poor. Since then, they have amassed great wealth and now control a large swath of the nation's economy.

Though there has been some progress in the past eight years in opening the country to foreign investment, economists say the inability to change the fundamental structure of the economy has allowed unemployment and poverty to climb.

Rahim Oskui, who described himself as an opposition economist working for the Industrial Management Institute, a quasi-governmental agency, said the official figures of 10 percent unemployment and 27 percent living in poverty were most likely understated.

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"It is very natural, that when a candidate comes chanting slogans of justice and welfare, which belong to 400 years ago, this population will follow along," Mr. Oskui said.

Iran is a country still making the transition from a village-based agricultural economy to a more industrial economy, he said, with both controlled by the government and the foundations. That change has created a political force of millions who have left their homes and social support networks in villages and towns in search of work in big cities, only to find themselves poor and disenfranchised, Mr. Oskui said.

"They are looking for a source that can help them out," he said.

Hamid Shahrabi, 31, is the kind of person Mr. Oskui was talking about. Because of Mr. Ahmadinejad's economic message, he said, he got involved in politics for the first time. "I never voted in a presidential election before," Mr. Shahrabi said. "This guy put his hand on the Koran and said he would work for poor people - so I worked for him and voted for him."

Mr. Shahrabi lives with his wife, Azam, 30, and two small children in a one-room apartment in southeastern Tehran. There is no furniture in the living room, just a carpet on the concrete floor, a few pillows along the walls and a small television on a stand. They turned a walk-in closet into a separate bedroom, where their 12-year-old daughter sleeps and where they keep their bed cushions during the day. On any given day, the family's refrigerator is almost empty, but for a pot of traditional Iranian stew - a mix of rice, meat and vegetables - three-day-old bread and some tomatoes. They survive on their government rations.

Mr. Shahrabi moved to the city from Arak, a province in central Iran, when he was 15 years old, following his brothers in search of work when the family farm was no longer making enough money. He found a job with a state-owned oil company, which he kept until he was laid off four years ago. He has not found work since, and rides around the city on his battered motor scooter making deliveries and carrying passengers for about $5 a day. Of that he has to set aside $3 a day for rent.

"I feel really ashamed in front of my family," Mr. Shahrabi said, without a trace of self-pity. "My doctor said I need to feed my daughter better. I cannot afford to buy my wife new dresses. My son always feels dizzy. The landlord has asked me to find another place to live."

The Ahmadinejad campaign message of economic hope - as well as social justice - captured the hearts not only of people like Mr. Shahrabi but also of middle-class families. Parts of the middle class have trouble meeting their own financial needs, although their support for Mr. Ahmadinejad also stems from having grown used to buying subsidized food, even if they can afford to pay market prices.

At the distribution center in southern Tehran, Mohammed Javad Moradli, 50, said he backed Mr. Ahmadinejad because he was a religious man. His wife, Fatimeh Ghadani, 47, wrapped in a chador, nudged his arm. "It's also about the economy," she said. "We don't want slogans. We want deeds."

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

Help From France Key In Covert Operations (WP)

By Dana Priest

The Washington Post, July 3, 2005

When Christian Ganczarski, a German convert to Islam, boarded an Air France flight from Riyadh on June 3, 2003, he knew only that the Saudi government had put him under house arrest for an expired pilgrim visa and had given his family one-way tickets back to Germany, with a change of planes in Paris.

He had no idea that he was being secretly escorted by an undercover officer sitting behind him, or that a senior CIA officer was waiting at the end of the jetway as French authorities gently separated him from his family and swept Ganczarski into French custody, where he remains today on suspicion of associating with terrorists.

Ganczarski is among the most important European al Qaeda figures alive, according to U.S. and French law enforcement and intelligence officials. The operation that ensnared him was put together at a top secret center in Paris, code-named Alliance Base, that was set up by the CIA and French intelligence services in 2002, according to U.S. and European intelligence sources. Its existence has not been previously disclosed.

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Funded largely by the CIA's Counterterrorist Center, Alliance Base analyzes the transnational movement of terrorist suspects and develops operations to catch or spy on them.

Alliance Base demonstrates how most counterterrorism operations actually take place: through secretive alliances between the CIA and other countries' intelligence services. This is not the work of large army formations, or even small special forces teams, but of handfuls of U.S. intelligence case officers working with handfuls of foreign operatives, often in tentative arrangements.

Such joint intelligence work has been responsible for identifying, tracking and capturing or killing the vast majority of committed jihadists who have been targeted outside Iraq and Afghanistan since the Sept. 11, 2001, attacks, according to terrorism experts.

The CIA declined to comment on Alliance Base, as did a spokesman for the French Embassy in Washington.

Most French officials and other intelligence veterans would talk about the partnership only if their names were withheld because the specifics are classified and the politics are sensitive. John E. McLaughlin, the former acting CIA director who retired recently after a 32-year career, described the relationship between the CIA and its French counterparts as "one of the best in the world. What they are willing to contribute is extraordinarily valuable."

The rarely discussed Langley-Paris connection also belies the public portrayal of acrimony between the two countries that erupted over the invasion of Iraq. Within the Bush administration, the discord was amplified by Defense Secretary Donald H. Rumsfeld, who has claimed the lead role in the administration's "global war on terrorism" and has sought to give the military more of a part in it.

But even as Rumsfeld was criticizing France in early 2003 for not doing its share in fighting terrorism, his U.S. Special Operations Command was finalizing a secret arrangement to put 200 French special forces under U.S. command in Afghanistan. Beginning in July 2003, its commanders have worked side by side there with U.S. commanders and CIA and National Security Agency representatives.Organizing Alliance Base

Alliance Base, headed by a French general assigned to France's equivalent of the CIA -- the General Directorate for External Security (DGSE) -- was described by six U.S. and foreign intelligence specialists with involvement in its activities. The base is unique in the world because it is multinational and actually plans operations instead of sharing information among countries, they said. It has case officers from Britain, France, Germany, Canada, Australia and the United States.

The Ganczarski operation was one of at least 12 major cases the base worked on during its first years, according to one person familiar with its operations.

"It's really an effort to come up with innovative ideas and deal with some of the cooperation issues," said one CIA officer familiar with the base. "I don't know of anything like it."

Factions within the intelligence services of several countries opposed a multinational approach, according to current and former U.S. and European government officials who described its inception. The CIA's Counterterrorist Center did not want to lose control over all counterterrorism operations; the British service did not want to dilute its unique ties to Washington; Germany was not keen to become involved in more operations.

And no country wanted to be perceived as taking direction from the CIA, whose practice of extraordinary renditions -- secretly apprehending suspected terrorists and transferring them to other countries without any judicial review -- has become highly controversial in Europe. In Italy, 13 alleged CIA operatives are accused of kidnapping a radical Egyptian cleric off the streets of Milan in 2003.

To play down the U.S. role, the center's working language is French, sources said. The base selects its cases carefully, chooses a lead country for each operation, and that country's service runs the operation.

The base also provides a way for German case officers to read information from their own country's law enforcement authorities, sources said. German law bars criminal authorities from sharing certain information directly with their intelligence agencies.

French law, by contrast, encourages intelligence sharing among its police and security services. In fact, since the Napoleonic Code was adopted in 1804, French magistrates have had broad powers over civil society. Today, magistrates in the French Justice Department's anti-terrorism unit have authority to detain people suspected of "conspiracy in relation to terrorism" while evidence is gathered against them.

The top anti-terrorism magistrate, Judge Jean-Louis Bruguiere, has said that in the past decade, he has ordered the arrests of more than 500 suspects, some with the help of U.S. authorities. "I have good connections with the CIA and FBI," Bruguiere said in a recent interview.

In France, which has a Muslim population reaching 8 percent -- the largest in Europe -- U.S. and French terrorism experts are desperate to take terrorist-group recruiters and new recruits off the streets, and have been willing to put their own anti-terrorism laws into the service of allies to lure suspects such as Ganczarski from abroad.

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"Yes, without a doubt there are some cases where we participate that way," one senior French intelligence official said.

France sent its interrogators to Guantanamo Bay to gather evidence that could be used in French court against the French detainees the United States was holding there. France is the only one of six European nations that continues to imprison detainees returned to it from the U.S. military facility at Guantanamo Bay, Cuba.

Bruguiere and other French intelligence officials like to note dryly that France first realized it had become a target of al Qaeda-style jihadists when a group of Algerian radicals hijacked an airliner with the intent of crashing it into the Eiffel Tower in 1994. They viewed the attacks on the World Trade Center and the Pentagon as another, if much larger, part of the jihadist campaign against Western civilization.

So it did not surprise many intelligence officers when, in the days after the attacks, President Jacques Chirac issued an edict to French intelligence services to share information about terrorism with the U.S. intelligence agencies "as if they were your own service," according to two officials who read it.

The steady, daily flow of encrypted messages increased. "We saw a quantitative and qualitative difference in the degree of detail in the information," said Alejandro Wolff, the second-in-charge at the U.S. Embassy here, whose portfolio includes fighting terrorism.

One CIA veteran with knowledge of the U.S.-French intelligence work estimates that the French have detained about 60 suspects since the end of 2001, some with the help of the CIA. "They do as much for us as the British and in some ways more -- if you ask them," said a recently retired senior intelligence official who worked closely with France and other European countries.

France was also an early and willing collaborator in other parts of the world, allowing the CIA to fly its top-secret, armed Predator drone, still controversial inside the Pentagon, from France's air base in the former French colony of Djibouti. Its mission was to kill al Qaeda figures on a classified CIA list of "high-value targets." On Nov. 3, 2002, CIA officers operating remote controls from the air base took their first shot, killing Abu Ali al-Harithi, the mastermind of the October 2000 attack on the destroyer USS Cole, and six others, including Ahmed Hijazi, a naturalized U.S. citizen, in a Yemeni desert.

The broader cooperation between the United States and France plays to the strengths of each side, according to current and former French and U.S. officials. The CIA brings money from its classified and ever-growing "foreign liaison" account -- it has paid to transport some of France's suspects from abroad into Paris for legal imprisonment -- and its global eavesdropping capabilities and worldwide intelligence service ties. France brings its harsh laws, surveillance of radical Muslim groups and their networks in Arab states, and its intelligence links to its former colonies.

"There's an easy exchange of information," said Pierre de Bousquet de Florian, director of France's domestic CIA, the Directorate of Territorial Surveillance, who declined to comment on specifics of the relationship. "The cooperation between my service and the American service is candid, loyal and certainly effective."

France's willingness to share its dossiers on terrorists has helped the United States make some of its most significant convictions, including those of Ahmed Ressam, who was stopped at the Canadian border on his way to attempt to blow up Los Angeles International Airport in 1999, and Zacarias Moussaoui, a Moroccan who once lived in France and is the only person in the United States to have pleaded guilty in the Sept. 11 hijacking plot.Tension Over Iraq

In the run-up to the Iraq war, the White House drew the battle lines between countries that were tough on terrorists -- the administration included Iraq in the mix -- and those that were not. France's government believed U.N. inspections had successfully contained Saddam Hussein's development of weapons programs, and Bruguiere saw no connection between Iraq and al Qaeda. At the Defense Department, on Capitol Hill and elsewhere, many cast France's opposition to war as evidence it was a slacker when it came to fighting terrorism.

French fries became "freedom fries" on Air Force One and in congressional cafeterias. Rumsfeld prohibited general officers from telephoning their French counterparts, grounded U.S. planes at the Paris Air Show and disinvited the French from Red Flag, a major U.S. military exercise in which they had participated for decades.

Three months into the dispute, the State Department and the CIA made a case for France, citing its intelligence cooperation. Bush eventually told Rumsfeld to desist, according to two former State Department officials. Then-Secretary of State Colin L. Powell wrote a memo saying that punishing the French was not U.S. policy. A. Elizabeth Jones, the assistant secretary of state for European and Eurasian affairs, kept it on top of her desk. "I frequently needed to be able to pull it out and quote it to my Pentagon colleagues," Jones said.

But Rumsfeld persisted a year later, excluding the French Air Force from the Red Flag exercise in 2004.

Rumsfeld's symbolic jabs baffled some officials inside the Bush administration. "Most things the secretary of defense did I could understand, even if I disagreed with him," said Lawrence B. Wilkerson, former chief of staff to Powell. "On this one, it was totally irrational, even dumb."

The intelligence services tried to insulate themselves from the public fray.

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"The French were very keen on demonstrating there was no drop-off at all," said Wolff, the U.S. diplomat here. "There was never any sense of this spilling over. There was an effort on both sides to compartmentalize" the differences.

The same was true for the CIA and other U.S. intelligence agencies, which report a steady, daily flow of encrypted messages on terrorism between the CIA and its French counterpart.

"The relations between intelligence services in the United States and France has been good, even during the transatlantic dispute over Iraq, for practical reasons," Bruguiere said. "If you want to have a better grasp of a difficult situation, you have to share intelligence real time."The Ganczarski Operation

Ganczarski, a metallurgist from the industrial Ruhr district in Germany, had been radicalized by a Saudi cleric touring European mosques in the early 1990s, studied Islam on a religious scholarship in the kingdom, traveled to Afghanistan four times, trained in al Qaeda camps, met Osama bin Laden, and returned to Germany from his last trip nine days before Sept. 11, 2001.

Intelligence officials say he was part of a patient, post-9/11 al Qaeda plan to activate European converts, including failed British "shoe-bomber" Richard Reid. Ganczarski's cell phone was the last number that a suicide bomber who killed 21 people on the island of Djerba called in April 2002. Some of the casualties were French, which gave Bruguiere legal grounds to arrest Ganczarski.

On May 20, 2003, an urgent bit of intelligence was fed into Alliance Base: Ahmed Mehdi, an associate of Ganczarski, had just booked a 14-day vacation to the French island of Reunion in the Indian Ocean.

Mehdi, then a 34-year-old Moroccan who had lived near Ganczarski in Germany, was under surveillance and showing a worrisome interest in remote-control detonators. German authorities, who did not have enough evidence to arrest him or Ganczarski, believed Mehdi was planning an attack on Reunion.

Mid-level case officers working at Alliance Base met to devise a plan: They would entice first Mehdi, then Ganczarski, to France. Bruguiere would lock them up on suspicion of associating with terrorists.

The CIA arranged for an asset to suggest that Mehdi stop in Paris on his way to Reunion to surveil targets. Mehdi, Alliance Base learned from wiretaps, worried that France would not give him a visa, which he needed because he is Moroccan. On cue, the French services arranged for a visa. The Germans monitored calls and contacts there for a change of plans.

On June 1, French authorities apprehended Mehdi at Charles de Gaulle International Airport in Paris. He was sent to Fresnes Prison outside Paris. Two days later, on June 3, 2003, Ganczarski was there, too.

Unbeknownst to the two men, they were held in cells just yards from each other. Authorities used the information gained from one to question the other. Within days, Mehdi told Bruguiere's investigators about the plot, the network and Ganczarski. Investigators now believe that Mehdi has links to al Qaeda's Hamburg cell that plotted the Sept. 11 attacks and that Ganczarski associated directly with Sept. 11 architect Khalid Sheikh Mohammed.

Alliance Base's role in the operation was noted obliquely on June 11, 2003, by Interior Minister Nicholas Sarkozy. Speaking before Parliament, he said, "This arrest took place thanks to the perfect collaboration between the services of the great democracies."

U.S. Seen Prodding Allies In Terror War (WT)

By Guy Taylor

The Washington Times, July 3, 2005

The top foreign-affairs adviser to the Department of Homeland Security says the United States must do more to spark action among its foreign allies in fighting the global war on terrorism in their own countries.

In an interview while attending a terrorism-law conference here this week, Cresencio S. Arcos, the department's director of international affairs, said: "We need to be more creative in how we engage our allies in the war on terror."

The United States has made great progress working with Britain, Canada and Mexico -- the latter two making up about 60 percent of joint-U.S. homeland security efforts -- said Mr. Arcos.

Department sources, however, say they are "circumspect" about forming joint working groups with governments outside those three nations. "We can't possibly have them with every country in the world," one official said, on the condition of anonymity.

On June 1, DHS officials convened a semiannual conference with British officials to discuss information- and technology-sharing practices in the war on terrorism.

A key topic, said department officials, was how better to involve the European Union in multinational air-security efforts, such as creating more extensive passenger information. The next meeting with Britain is scheduled for December.

Meanwhile, Mr. Arcos, a former senior State Department official who once served as ambassador to Honduras, said perhaps the biggest challenge in engaging allies in Europe and other parts of the world is that the war on terrorism "costs a lot."

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Most countries are less willing than the United States to embrace the high price of beefing up security in such places as international airports.

"Increasingly, as we move away from September 11, one of the concerns that we must all be mindful of is that we don't want to let the guard down," Mr. Arcos said. "We need to keep funding up."

Spending by the 22 agencies that form DHS has ballooned in the four years since the hijackings killed nearly 3,000 people in New York, at the Pentagon and in Pennsylvania.

With spending on contracts by homeland security agencies climbing from around $2.5 billion a year in 2001 to nearly $5.8 billion this year, Mr. Arcos said even Congress "is becoming very pricklish" about funding homeland security efforts.

The bulk of the increased funding, he said, has gone toward private contract firms providing Internet security systems and personnel management services to help ease the transition of nearly two dozen separate agencies into a single, more coherent umbrella department.

"The biggest concern," Mr. Arcos said, "is that we don't lose focus, that we don't just become like a pork barrel."

Man Allegedly Abducted By CIA In Egypt, Lawyer Says (HC)

Houston Chronicle, July 3, 2005

Osama Moustafa Hassan Nasr, the man at the center of an international controversy over an alleged CIA abduction, is being held in Damanhour prison outside Alexandria though he has not been accused of a crime, according to his lawyer, Muntassir al-Zayyat, a Cairo attorney who defends many Islamists.

In Italy, lawmakers are enraged at what many regard as a flagrant abuse of Italian laws by the U.S. government. Italian authorities who have charged 13 CIA operatives with his abduction say they don't know the whereabouts of Nasr, also known as Abu Omar, and that their requests for information from Egyptian authorities have gone unanswered.

But in Egypt, where such renditions of wanted fugitives are relatively common, the dramatic seizure of Abu Omar in Milan drew little attention.

There are 10,000 to 20,000 political prisoners being held in Egypt, and the case of just one is unlikely to attract much interest, said Hafez Abu Saeda, a lawyer who heads the Egyptian Organization of Human Rights.

The Egyptian government has cracked down on fundamentalist groups for decades.

At the Nasr family's modest apartment in the working-class Alexandria neighborhood of Moharem Bek, his brother Hisham and mother, Safinaz, were too afraid to speak about Abu Omar and threatened to call police when approached by a reporter.

Hisham Nasr later apologized in a telephone interview, though he still refused to discuss his brother's whereabouts beyond saying he is still in prison and that the family is in regular contact with him.

"Please don't make trouble for us," he said. "He is in prison. I can't talk about it. Please forgive me."

For more than a decade, the Egyptian authorities have been hunting down suspected extremists abroad and bringing them back to Egypt, where they are routinely tortured and detained without trial, according to a Human Rights Watch report last month that documented 63 such cases.

Pricey Rendition (WP)

By Jim Hoagland

The Washington Post, July 3, 2005

America's spy agencies need more money, a sleeker bureaucratic structure, fluent Arabic speakers and a host of other reforms and gimmicks to protect the United States and its allies from harm. Add one more urgent need: a sense of proportion.

In substance and style, the exposure of the "extraordinary rendition" -- Bush-era legalese for kidnapping -- of a radical Egyptian cleric off a Milan street in 2003 reveals a crushing inability by higher-ups here to ask

and answer sensibly this question: Is this covert act really worth the likely consequences?

It certainly seemed worth it to the spies who lived in five-star luxury hotels while setting up the snatch -- and briefly afterward to rest up, it seems -- as long as the operation was never discovered and publicized. I hear the Hotel Principe di Savoia in Milan makes an unforgettable cappuccino.

But their incredibly sloppy tradecraft in bundling Hassan Mustafa Osama Nasr onto a CIA-chartered jet and flying him to Cairo for interrogation virtually guaranteed that the operation would surface and be used against the United States and -- more consequentially -- against Italian Prime Minister Silvio Berlusconi, one of President Bush's staunchest allies in the war on terrorism.

In the "timing is everything" department, Berlusconi announced Wednesday that he would seek reelection next year, only to be hit on Thursday with a Post exclusive quoting unnamed "CIA veterans" asserting that the Italian government was in on the operation all along.

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The story goaded a tardy, unconvincing denial from Rome of any involvement in the grab. But the earlier total silence from Berlusconi's office and its now overtaken orders to Italian officials not to discuss the matter publicly lend substantial weight to the account of the "veterans."

The quickness of CIA officials to give up sources makes reporters Judith Miller and Matt Cooper look even more heroic for stubbornly resisting the disclosure of theirs to another overzealous, judgment-impaired official, special prosecutor Patrick Fitzgerald. Cooper and Miller opposed Thursday's decision by Time Inc. to give some documents to Fitzgerald.

Unlike those two journalists, the "veterans" rushed to break a CIA pledge to the Italians never to confirm the incident if it became public -- which it did on June 23 when an Italian magistrate issued arrest warrants for 13 U.S. intelligence agents.

Berlusconi, like other foreign leaders who cooperate intimately with the Bush administration, will have to fend for himself against this embarrassment, which comes after one of his own ace secret operatives was killed in a tragic error by U.S. troops in Iraq. The Italian magistrates -- who have long been convinced that their national chief is a crook -- will make sure the kidnapping story does not go away.

Americans should focus on what this incident reveals about the lack

of effective restraints and review placed by the Bush administration

on covert operations. To paraphrase Lord Acton, absolute secrecy corrupts absolutely.

This gung-ho administration has elevated secrecy to a positive end in itself, an attitude that gives extraordinary license to spooks, knuckle-

draggers and other contract employees of the agency to exceed the normal limits of lying, cheating and breaking other countries' laws.

Knuckle-draggers? It is, I gather, a term of art for a growing number of contract employees who accompany full-time CIA agents on risky missions and who have greater latitude to get physical if need be. The descriptions of the Milan operation suggest that some such outsourcing occurred there.

This is not to say that physicality is not at times required in vital operations, or that renditions should be automatically removed from the kit bag of U.S. foreign policy. The Bush team did not invent rendition. It was inherited and reauthorized by Bill Clinton in a 1995 policy directive and used more extensively during his administration than is generally recognized.

But a look at 18 confirmed renditions from 1987 to 2001 that are documented in FBI, Government Accountability Office and other public records provides an immediate understanding in almost all those cases of why they were ordered, and of the value they held for law enforcement and national security purposes.

The available facts about the abduction in broad daylight of the cleric Nasr, who is still missing, do not provide such prima-facie reassurance -- especially when weighed against the now-apparent costs.

In the current climate of secrecy and fear, there will be no limits on such damaging behavior unless Bush and his new director of national intelligence, John Negroponte, clearly establish them. If they do not, then Congress should. Even a war on terrorism needs to take into account the words spoken by Talleyrand two centuries ago: Above all, not too much zeal.

A Roman Mess (WP)

The Washington Post, July 3, 2005

IT IS NOT KNOWN, and may never be, what benefit to U.S. security resulted from the reported CIA seizure of a radical Egyptian cleric on a street in Milan in 2003 and his delivery to Cairo for detention in an Egyptian prison. But the price of the extraordinary operation is all too apparent: from the more than $100,000 some 18 operatives allegedly blew on luxury hotels to the kidnapping charges an Italian prosecutor has brought against 13 of them, to the understandable uproar in Italy and the damage it could cause to future Italian-American cooperation in the war on terrorism. Was the sudden disappearance of Hassan Mustafa Osama Nasr and any intelligence it yielded -- allegedly under torture so severe that he lost hearing in one ear -- worth it? It's hard to believe so, especially since Italian authorities are telling journalists that the Bush administration had an workable alternative to its lawless behavior: allowing the security services of a close NATO ally to complete their own legal operation against Mr. Nasr and his associates.

The botched Italian job is but one example of how the CIA's greatly expanded use of the extralegal practice of "rendition" since 2001 has caused collateral damage to U.S. interests. The repeated and extensive exposure of clumsy and not-so-covert operations to grab terrorism suspects and transport them to foreign prisons has tied the United States to abduction and torture, in some cases of persons who may have been innocent of any crime or extremist connection. It has hurt the Bush administration's relations and ability to cooperate on intelligence and law enforcement with several close U.S. allies, including Canada, Germany and Sweden, as well as Italy. Though the CIA apparently cooperated with counterparts in several of those countries, the exposure of the operations has led to high-profile official investigations in all of them and a damaging political backlash. The

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refusal of the CIA or other administration spokesmen to respond to the uproar or cooperate with the inquiries has made the problem only worse.

The practice of rendition began before the Bush administration, and in some cases it is a necessary tool in the fight against terrorism. Some terrorists, such as Mir Amal Kansi, the Pakistani who killed two people outside CIA headquarters in 1993, have been captured in relatively lawless regions abroad and returned to the United States for trial. In other cases, where militants have been detained in unstable places but have no intelligence value or legal culpability, it may make sense for the United States to deliver them to their home countries, rather than free them or transport them to Guantanamo Bay, Cuba, for an indefinite term of detention. But renditions should be rare, and they should have clear rules and oversight. No terrorist suspect should be turned over to a government likely to use torture -- and Egypt, among other Middle Eastern countries, is a well-documented abuser. The CIA should not use illegal means to capture suspects in democratic countries with a strong rule of law, especially if they are allies of the United States. It may make it quicker or easier to get one extremist sheik off the street, but as the Italian case shows, the damage caused by such highhandedness is too great.

How Visa System Failed To Flag Lodi Imam (LAT)

By Rone Tempest

The Los Angeles Times, July 3, 2005

As Shabbir Ahmed sits in the county jail on immigration charges connected to an FBI terrorism investigation, federal officials are at a loss to explain how a man who publicly demonstrated his rage against the United States and advocated violence against the U.S.-backed regime in Pakistan could slip so easily through the State Department visa system.

In October 2001, after U.S. military aircraft began bombing Al Qaeda bases and Taliban strongholds in Afghanistan, Ahmed — then a 35-year-old imam of a small mosque in Islamabad — was one of the main speakers at an anti-U.S. demonstration at a market near the U.S. Embassy in the Pakistani capital.

While demonstrators burned American flags and effigies of President Bush, Pakistan Press International news service reported that the slight, bearded Muslim cleric exhorted the crowd to join a jihad, or holy war, against the United States.

A month later at another rally, the Boston Globe quoted Ahmed as calling for a rebellion against Pakistan's president, U.S. ally Gen. Pervez Musharraf: "Whoever is against Islam," said Ahmed, "we will destroy him. If this is rebellion, we are not afraid of rebellion. Blood is going to be spilled in Pakistan."

These events were widely reported by Pakistani and foreign media. But a short time later, probably in January 2002, Ahmed walked into the consular section of the heavily fortified U.S. Embassy compound, where he was granted an uncontested three-year "religious worker" visa to the United States.

He arrived in San Francisco on Jan. 23, 2002, and immediately assumed a position as imam of a Lodi, Calif., mosque that is the center of religious life for that San Joaquin Valley city's large Pakistani American immigrant community. Since then he has made at least two trips back to his native Pakistan.

At an immigration hearing June 24 in San Francisco, Ahmed admitted making the anti-American speeches but said he had since completely changed his opinion about the United States, which he said he now loves and respects.

"He now regrets that he made those statements," said his attorney, Saad Ahmad.

But federal prosecutors, who allege links between Ahmed and Pakistan's banned Harkat-ul-Moujahedeen political party, are not convinced. They have asked Immigration Judge Anthony Murry to deny bail to Ahmed pending a deportation hearing later this year.

After reading reports about the Islamabad speeches, the leadership of the Lodi mosque where Ahmed worked fired him at a special meeting June 26. "We don't want that kind of person who has spoken against the United States," mosque President Mohammed Shoaib told Associated Press.

The man who sponsored Ahmed for the Lodi job — former Imam Mohammad Adil Khan — is also jailed without bond on immigration charges, as is Khan's 22-year-old son, Mohammad Hassan Adil.

All three men came into the country on R-1 or R-2 religious worker visas. R-2 visas are for spouses and children of R-1 visa holders.

How Ahmed's public pronouncements against the United States went unnoticed remains an unanswered question.

Before his name surfaced as part of an FBI investigation of people in the Lodi area with alleged terrorist ties, Ahmed had had at least four encounters with U.S. officials without setting off any alarms.

The first was with U.S. consular officers at the embassy in Islamabad.

Obtaining a religious worker visa requires a sponsor in the U.S. who promises such a job for the applicant and guarantees a steady source of income.

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In Ahmed's case the sponsor was the Lodi mosque, then under the direction of Mohammad Adil Khan. Khan was Ahmed's teacher for many years at Jamia Farooqia, a madrasa, or Islamic school, in Karachi, Pakistan.

Like many madrasas across that nation, Jamia Farooqia had strong connections to the Taliban movement in Afghanistan. "Taliban," in fact, means "religious students."

The school, founded by Khan's father, Salimullah Khan, also has at least a historical connection to Harkat-ul-Moujahedeen. The party had fought Soviet troops in Afghanistan from 1980 to 1988 but by 2001 had been listed as a terrorist organization by the U.S. government.

None of this background appears to have reached consular officers when they considered Ahmed's visa request in early 2002.

Likewise, if intelligence agents or political officers at the U.S. Embassy in Islamabad had noted Ahmed's active participation in anti-U.S. rallies in October and November 2001, they failed to pass the information on to the consular officers.

"In every instance in which we have specific information when an individual intends to do harm to the U.S. or to U.S. citizens, we deny the visa," said Angela Aggelar, spokeswoman for the State Department's Bureau of Consular Affairs. "But in order for a person not to be eligible for a visa, they have to have done something that was reported to us by law enforcement."

Ahmed was also screened by airport immigration and customs officials at the San Francisco airport when he first entered the country and each time he returned from trips to Pakistan.

But it was not until Nov. 15, 2004 — when the Lodi mosque applied for a two-year extension of Ahmed's visa — that his name showed up on a watch list. This was after the FBI's Sacramento office had launched an investigation of alleged terrorist links in Lodi.

By the time federal immigration attorneys arrived in court for the June 24 hearing, they had a complete dossier on Ahmed, including his writings in the Jamia Farooqia magazine and his speeches before the Islamabad crowds.

"Did you encourage people in Pakistan at least five times to go to Afghanistan and kill Americans?" federal attorney Paul Nischiie asked Ahmed. "Did you encourage people to defend Osama bin Laden?"

At the hearing, Ahmed initially answered no to both questions, but he later admitted to making anti-U.S. statements.

Officials in Washington with Homeland Security, Citizenship and Immigration Services, Immigration and Customs Enforcement and the State Department had no explanation for why the same questions were not asked three years earlier when Ahmed first presented himself at the U.S. Embassy seeking a visa.

Part of the problem, noted in the 9/11 Commission Report, was that different federal agencies did not communicate well with each other. The Department of Homeland Security was not created until March 2003.

Russ Knocke, a spokesman for Homeland Security, said someone with a similar background would be much more likely to be identified today.

"It shows you how much has changed," he said.

Consular Affairs spokeswoman Aggelar pointed to the limited resources available to the embassy at the time of Ahmed's first visa request.

In the months immediately after the Sept. 11, 2001, terrorist attacks, Aggelar said, the consular database contained 7 million names. The watch list has expanded to more than 20 million names under a new heightened security system in which many more people are likely to be flagged.

This explanation is unlikely to satisfy congressional critics of the consular screening process.

"The State Department's excuse that they didn't have a functioning terrorist list is inadequate," said Rep. Tom Tancredo (R-Colo.), a critic of immigration policy. "If State thought it was important enough, they would have relayed the message by phone, e-mail, smoke signal or carrier pigeon."

Tancredo, a former Denver schoolteacher, believes that terrorists enter the country using a network that includes imams granted entry on R-1 religious worker visas.

In the 15 years since the R-1 category was established in 1990, more than 145,000 religious worker admissions have been recorded by U.S. immigration authorities.

In fiscal year 2002, the same year that Ahmed came into the country, immigration records show 53 R-1 admissions from Pakistan.

Only relatively recently have federal law enforcement agencies begun to concentrate on investigations of Muslim clerics holding religious worker visas.

Last fall, 62-year-old Muhammad Khalil, imam of a basement mosque in Brooklyn, N.Y., was convicted in federal court of fraudulently sponsoring more than 200 applications for Pakistani religious workers for his Dar Ehya Essunah mosque.

In January, Wagdy Mohammed Ghoneim, the Egyptian head of an Orange County mosque, left the country with his wife and seven children rather than face deportation hearings on immigration charges.

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PATRIOT ACT:

County Commission Cites Patriot Act Concerns (EBHNT)

By SUSAN LOYER, STAFF WRITER

East Brunswick (NJ) Home News Tribune, July 3, 2005

NEW BRUNSWICK — The Middlesex County Human Relations Commission is joining the growing list of communities and legislators from around the country taking a stance against the USA Patriot Act.

The commission will issue a formal resolution to lawmakers, municipal governments and local organizations on Tuesday urging them to petition the executive level of the federal government to rescind or modify any law or executive order that diminishes protected civil rights.

"We definitely want to protect our country, our neighbors and our homes, but there are potential dangers in such acts as the Patriot Act," said commission Chairman Bruce S. Morgan. "We take exception to any act or order that erodes the rights guaranteed by the United States Constitution and Bill of Rights."

The USA Patriot Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism) was passed in October 2001 in response to the events on Sept. 11. The act is designed to deter and punish terrorist acts in the United States and around the world and enhance law enforcement investigatory tools.

But some groups, including the Middlesex County Human Relations Commission, believe the act infringes on the rights guaranteed by the U.S. Constitution and the Bill of Rights.

According to the resolution, the act and several federal executive orders go beyond legitimate measures of protection against terrorism and lead to infringe on such rights as freedom of speech, religion, assembly and privacy, the right to counsel and due process in judicial proceedings, protection from unreasonable searches and seizure and equal protection under the law.

"The act impedes on our rights of free speech and also allows people to be held without a trial and even without their family's knowledge," said Morgan. "In general, we object to the portions of the act that pertain to human rights. I am hoping that by issuing the resolution, other Americans will take up the banner and bring lawmakers' attention to the portions of the Patriot Act, which I believe are antithetical to the Constitution and Bill of Rights, so they will be repealed."

Morgan said he believes the act was passed by lawmakers because "they were given so little time to review it and a lot of things may have been missed. We're hoping to get it tailored so it does not erode the rights guaranteed by the Constitution," he said.

The Highland Park Borough Council passed a similar resolution in February 2004. The New Brunswick City Council adopted a similar resolution in May.

Portions of the Patriot Act are due to expire at the end of the year, unless they are renewed by federal officials.

Hagen W. Frank: Patriot Act Not Threat As LSJ Says (LSJ)

Lansing (MI) State Journal, July 3, 2005

Hagen W. Frank is an assistant U.S. attorney in Grand Rapids.

On June 10 and 17, the LSJ ran editorials strongly criticizing the USA Patriot Act. While the articles demonstrated the LSJ's commitment to privacy rights in the face of purported infringements by the Patriot Act, they also demonstrated the editors' unfamiliarity with the constitutional and statutory law that governs federal law enforcement and intelligence investigations.

Both articles focused primarily on section 215 of the act, which expanded the types of materials that may be ordered produced by the Foreign Intelligence Surveillance Court (the "FISA Court") in domestic intelligence investigations of foreign powers or international terrorism.

Described by critics as a provision that allows the FBI to go on fishing expeditions of citizens' reading habits - as if the FBI were looking for "busy work" - the provision in fact simply gave the FISA Court the same authority in intelligence and international terrorism investigations to order production of materials that a prosecutor can obtain by grand jury subpoena in a domestic criminal investigation.

According to the June 17 editorial, this is bad because the FISA Court is secret and because the government already had the power to get these materials by search warrant. Secrecy, however, is essential to the kinds of investigations overseen by the FISA Court, i.e., classified intelligence investigations into the activities of foreign powers, suspected agents of foreign powers and international terrorism.

Also, the assertion that search warrants are required to get such materials in domestic criminal investigations is incorrect. Those materials are routinely obtained through grand jury subpoenas, issued by federal prosecutors based only upon a belief

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that relevant evidence may be found. The Fourth Amendment's probable cause warrant requirement protects reasonable expectations of privacy, not public records of public use of a public facility.

Similarly, the June 10 editorial complains about the Senate Intelligence Committee's endorsement of a proposal to give the FBI administrative subpoena authority in terrorism investigations. According to the LSJ, this would empower the FBI to "investigate citizens without judicial oversight." This complaint assumes incorrectly that every government investigative tool requires judicial oversight.

However, whether judicial pre-approval is required depends upon how intrusive something is and on constitutional, statutory and regulatory provisions that the editorial ignores. Further, administrative subpoenas have long been used by a wide variety of federal agencies.

The FBI already has such authority in health care fraud and child sexual-exploitation investigations, and the proposed measure would simply expand that authority to terrorism investigations.

Even though obtaining evidence through subpoena is not a Fourth Amendment "search," and even though administrative subpoena power is unremarkable, the editorial still warns that this would "give the FBI the power to conduct searches without the approval of any court or grand jury."

Every citizen and every media organization has the right to question and criticize government. However, the LSJ also has the responsibility not to mislead the public on important issues of the day.

The USA Patriot Act presents important issues that call for well-informed debate. The LSJ's recent editorials did not contribute to such a debate.

Senator Christopher "Kit" Bond: Strong Patriot Act Required (WT)

By Christopher "Kit" Bond

The Washington Times, July 3, 2005

As July Fourth approaches, some Americans appear to suffer from amnesia.

With dramatic headlines such as "Ripping Pages from the Book of Civil Liberties," "Patriot Act Fosters Secrecy, Government Abuse" and "Keep Big Brother at Bay," editorial writers and columnists unfairly criticize legislation that has helped keep America safe since September 11, 2001.

A few weeks ago, the U.S. House of Representatives rejected a proposal to make it easier for the FBI to obtain information on suspected terrorists that could help prevent a future attack.

What is going on here? Consider the lyrics of country music artist Darryl Worley's song titled "Have You Forgotten?"

Have you forgotten how it felt that day?
To see your homeland under fire
And her people blown away.
Have you forgotten when those towers fell?
We had neighbors still inside going thru a living hell.

It appears some editorial writers and members of Congress have forgotten. And they are not alone. Fewer Americans -- only 35 percent -- now fear another terrorist attack in the near future than at any time since September 11, a recent USA Today/CNN/Gallup poll found. Despite their complacency, the threat of terrorism continues.

And surely there is no more important public purpose than keeping America safe from another catastrophic terrorist attack on U.S. soil. To do so, Congress should reauthorize the Patriot Act quickly and expand it to give law enforcement more tools to go after suspected terrorists and prevent attacks.

The September 11 attacks showed the failure of a number of legal and regulatory policies that kept intelligence and law enforcement communities from talking to each other and sharing information on investigations of suspected terrorists.

HOMELAND RESPONSE:

Overhaul Of U.S. Intelligence System May Take 10 Years, Analysts Say (BSUN)

By Siobhan Gorman, Sun National Staff

The Baltimore Sun, July 3, 2005

WASHINGTON - Though the White House announced its intelligence overhaul Wednesday with promises that it would make the country safer, the changes it outlined could take a decade to complete, according to longtime intelligence analysts, including a member of the presidential commission that proposed the reforms.

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"The whole process will take five to 10 years," said Adm. William O. Studeman, a member of the commission that investigated the intelligence failures that led the administration to conclude that Iraq possessed weapons of mass destruction.

Studeman characterized that time frame as an optimistic estimate - one assuming that every part of the intelligence community endorses the changes.

The White House said it embraced 70 of 74 recommendations of the commission, led by U.S. Circuit Judge Laurence Silberman and former Sen. Charles S. Robb of Virginia. The most significant reform would be creation of a domestic intelligence service within the FBI.

Other changes are aimed at slowing the proliferation of weapons of mass destruction, improving the quality of human intelligence and integrating the efforts of all 15 U.S. intelligence agencies.

But the future of the reforms is in doubt, as Attorney General Alberto R. Gonzales and FBI Director Robert S. Mueller III have begun maneuvering to regain control over the design of the FBI's intelligence service, said an intelligence veteran responsible for helping the White House implement the plan.

The president set a 60-day deadline for having a detailed outline of the new domestic intelligence service. The Justice Department is arguing that the planning should begin immediately, while White House aides want to wait until the head of the service is appointed, the intelligence veteran said.

If the deadline is suspended until the White House appoints a chief of the domestic intelligence service, the FBI will lose considerable control over that service's shape.

This early battle for control is symptomatic of the kinds of cultural and turf battles National Intelligence Director John D. Negroponte will continually contend with.

President Bush also set a 60-day deadline for the Justice Department to develop a plan for consolidating its three anti-terrorism divisions into one. Negroponte has 30 days to produce plans for his human intelligence management office housed at the CIA.

Once the plans are drafted, the organizations should be up and running within six months, "if people are not dragging their feet," said John MacGaffin, who spent 31 years at the CIA and six at the FBI. He testified before the presidential commission and the 9/11 commission, which investigated the Sept. 11 attacks.

MacGaffin said that the full impact of the reforms would not be felt for "a long time." He said that progress would be "incremental" but that some changes could occur immediately.

He pointed to a large number of intelligence reports on terrorism that the FBI did not pass along to policy-makers on a timely basis because they weren't familiar with intelligence reporting. Instead of seeking assistance from the CIA, he said, "the FBI took refuge in bureaucratic ownership of the information and declined to let the CIA distribute the reports on their behalf."

The greater the direct authority given to Negroponte and others responsible for instituting the president's plans, the faster the changes will take hold, said John Gannon, former chairman of the National Intelligence Council. "Consensus in the intelligence community means status quo."

Skeptics, though, predict that any positive results are much more than 10 years away.

Clark Kent Ervin, former inspector general of the Homeland Security Department, likened the intelligence agencies to the military services circa 1945. He said it took 40 years for the branches to learn - or be forced - to work together. The intelligence agencies are embarking on a similarly long road to reform, he said.

Ervin pointed to the State Department's negotiations with the FBI to gain full access to terrorist watch lists. "It was shocking to learn that as a matter of course, the State Department does not have access to that information," said Ervin, who was the inspector general at the State Department before he moved to Homeland Security.

Ervin also worries that the continual organizational changes could prove self-defeating: Policy-makers have been unwilling to wait to see the effects of one new organization before they start another with a similar mission.

"You've got to have a score card, but the intelligence community has never really had one," MacGaffin said. "The problem is that scorekeeping in intelligence does not lend itself to more traditional metrics. ... If the DNI [Negroponte] can't establish such a system, we'll never know whether we are successful or not."

In the first months, the success of the latest reforms can best be gauged by whom the president appoints to the myriad positions that Bush's plan creates, says former 9/11 commission member John Lehman, who was secretary of the Navy in the Reagan administration. The intelligence agencies need new blood to force a change of culture that is largely wedded to Cold War-era rules and processes, he said.

"The administration seems to have an almost childlike faith in the career bureaucracy," he said of Bush's appointments in the office of the director of national intelligence.

Art World Comes To The Cause Of Arrested Artist (SDUT)

By Robert L. Pincus, Union-tribune Art Critic

The San Diego Union-Tribune, July 3, 2005

Imagine this scenario: You are a well-established artist and respected university professor. You wake up one morning to find your spouse of 25 years isn't breathing. You call 911. Paramedics arrive, accompanied by police.

There are a few petri dishes in the house, because your conceptually oriented work involves scientific-style installations and issues. So, one of those workers decides you just might be a terrorist and calls the FBI.

The next day, as you are on the way to the funeral home, you are detained by the FBI and the Joint Terrorist Task Force. You are held for 22 hours without having your Miranda rights read to you. Your home and even part of your block is cordoned off; your computer, books, manuscripts and anything else deemed suspicious are confiscated by workers in hazmat suits. Even your spouse's body is held for further analysis.

Sound like the outline of a compelling novel or film about governmental abuse of power? Sure. But this story isn't imaginary. It is what University of Buffalo professor Steven Kurtz, a member of the artists' collaborative called Critical Art Ensemble (CAE), experienced in May 2004 when someone who answered his 911 call decided to make a call to the FBI.

This tale doesn't end there; Kurtz is now facing charges that could result in a 20-year prison sentence.

Artists across the United States and beyond have taken up Kurtz's cause, because they feel it is their cause, too. Following an earlier fundraiser in London, an auction to raise money for his defense was held at the esteemed Paula Cooper Gallery in New York in April. Those donating work included some of the best-known contemporary artists – Chris Burden, Ann Hamilton, Barbara Kruger, Sol Lewitt, Louise Lawler, Brice Marden and Kiki Smith, among others.

"We feel that artists' and intellectuals' First Amendment rights are in serious jeopardy under this administration," stated Helen Molesworth, one of the auction's co-organizers, shortly before the event opened. "It's so important, for all of us, that our abilities to be creative thinkers are not hampered by government." (Molesworth is chief curator for exhibitions at the Wexner Center for the Arts in Columbus, Ohio.)

For some years, Kurtz has been a pivotal member of the CAE, a collaborative of artists that, through books, writings on the Web and exhibitions, has reflected on such subjects as what it calls "the flesh machine" (the scientific/medical establishment) and on genetically engineered food. And the group's installations have incorporated bacteria and food testing because of its broader interest in demystifying science for the lay person.

The argument could be made that the FBI and the Terrorist Task Force were being reasonable when they followed up on a phone call and sampled the materials in Kurtz's petri dishes. But the government has continued to pursue prosecution, even after the Commissioner of Public Health for the state of New York declared that the samples of bacteria in the petri dishes were harmless.

While there apparently wasn't enough evidence to bring bioterrorist charges, the government is pursuing wire and mail fraud charges against Kurtz and Robert Ferrell, a former head of the Department of Genetics at the University of Pittsburgh's School of Public Health.

"These laws (on fraud) have been on the books for more than a century. Whether it (the bacteria) is or isn't harmful isn't an element of the offense. The case centers on property acquired by fraud or misstatement," said U.S. Assistant District Attorney William Hochul on Thursday. He's the prosecutor on the case, which is being tried in New York.

Ferrell's crime was to have helped Kurtz obtain $256 worth of benign bacteria, which means he didn't follow the fine print of his contract with a company called American Type Culture Collection. The firm itself has taken no legal action against either Kurtz or Ferrell. Yet if convicted of the government's charges, artist and scientist could serve up to 20 years in prison.

Kurtz, himself, tries to be philosophical about his situation.

"When you stand up to authoritarian parts of the culture, stuff like this will happen," says Kurtz. "People I know say it's inevitable.

"I would temper that point and say it could happen to lots of people, and somehow I got picked. I certainly got the booby prize on this."

Standing up, in CAE terms, means confronting troublesome subjects. As part of The Free Range Project, the CAE lets people have the opportunity to bring in food to be tested for genetic modifications. It had been presented in a European venue but couldn't go on view at the Massachusetts Museum of Contemporary Art in May 2004 because much of the materials were confiscated from Kurtz's home.

"Molecular Invasion" was the CAE's companion book on this subject, which argued that some science can be scrutinized by everyone.

"Amateur discourse clearly has a place in the transgenic debates since some levels of study can be reviewed by nonexperts," they write. "The stakes are too high for product safety testing to be left solely in the domain of corporate and scientific experts."

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One can speculate that the government isn't sympathetic to the latest Critical Arts Ensemble project either, which looks at the history of germ warfare and issues of American policy about biological warfare and bioterrorism. Toward this end, Kurtz had acquired three bacteria that have been used as educational tools in schools. They were in his home at the time of the search.

Having to deal with the case has forced him to work a lot slower, he says. But, he adds, "The FBI is not going to stop us. If anything, we're more committed to what we do, not less."

Looking at the government's goals, he speculated, "They are trying to develop an internal enemy that fits into their canon of fear. Bob (Ferrell) looks like a friendly grandpa. And if they can convince people that even he could be a terrorist, then who isn't a potential terrorist?"

The Critical Art Ensemble Defense Fund has raised enough money to defend him adequately. In May, at the most recent hearing before a judge in Buffalo, Kurtz's attorney, Paul Cambria, asked that the case be dismissed. He argued that the government intentionally misled the judge when obtaining the original search warrant. Any ruling on this won't likely happen until late July or August. Still, if events don't go the government's way, it can appeal, of course, forcing Kurtz to raise more funds for his defense.

He believes that his irreplaceable materials won't ever be returned.

"Even if the case concludes," he says, "they'll probably think of some way to keep the investigation going."

While hearings about the wire and mail-fraud charges have gone forward, a Buffalo grand jury subpoenaed CAE member Steven Barnes. After testifying, Barnes told a reporter, "It seems apparent that the prosecution is still trying to pursue some kind of biological weapons charge."

On what basis they might bring charges is unclear, though initially the Justice Department's Assistant District Attorney William Hochul was trying to use a section of the Patriot Act, which expanded the earlier Biological Weapons Statute.

"Apparently," writes the CAE in a recent essay, "the U.S. Justice Department is now trying to make CAE into an example of what can happen to citizens whose only 'crime' is having thoughts of dissent enacted within the sphere of legality and the alleged protection of constitutional rights."

Whether Kurtz and Ferrell's fraud charges are dismissed or not is only one reason for attention to be paid to this case. The larger issue centers on whether the government's "war on terror" is having a corrosive effect on artistic expression.

Border Watchers Gear Up For Expanded Patrol (LAT)

By Scott Gold

The Los Angeles Times, July 3, 2005

As the second act to its civilian border patrol in Arizona, the organization known as the Minutemen has pledged to launch a massive patrol of the entire U.S.-Mexico border this fall.

To protest what they call inadequate security along the border, Minuteman leaders are holding community meetings throughout the South and Southwest to marshal thousands of volunteers. Leaders hope to amass in October to try to block illegal immigration routes in four states.

But the organization is finding that such an ambitious plan will not come together as easily as the April patrol in Arizona that covered 23 miles of the border. That is particularly true in Texas, which has 1,254 miles of the 2,000-mile border.

Unlike Arizona, where patrols operated primarily on public land, most of the land along the border in Texas is privately owned, except for the Big Bend region in the western tip of the state.

Activists would need permission to patrol on private property. But despite the Minutemen's meetings in recent weeks with ranchers and other landowners, many of the owners said they remained torn about the project — supportive of its message, for the most part, but wary of its practical implications.

Many landowners said they were concerned about the potential for a violent exchange between Minutemen and so-called coyotes or, worse, drug traffickers who used some of the same corridors as human smugglers.

"We're worried about the liability of a confrontation occurring on our ranch," said Dr. Michael Vickers, owner of three cattle ranches, and a rural veterinarian in 10 south Texas counties. "Having them out on some of these ranches may be a dangerous situation."

Vickers said he had attended several of the meetings and remained conflicted. The 1,000-acre ranch he uses as his residence, south of a town called Falfurrias, is about four miles from a U.S. Border Patrol checkpoint. Illegal immigrants frequently bypass the checkpoint by sneaking across his land; they leave behind holes cut in fences, and trash.

"You walk outside and you feel like there are eyes watching you, and most of the time there are," Vickers said. "This is every night, sometimes a hundred or more in a night. And I'm not the only one. This is every ranch in south Texas."

Still, Vickers said he thought the Minutemen might be better off sticking to public areas, such as roadside parks where immigrants were often picked up after crossing.

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Minutemen organizers, however, continue to push for access to private property.

"Those that love their country will surely come around to letting us use their land," said Wanda Schultz, a spokeswoman for Americans for Zero Population Growth, a Houston group that expects to play a role in the Texas border campaign.

Organizers in Texas also disagree over whether volunteers should be allowed to confront and even detain illegal immigrants. That dispute is significant because some fear it could threaten the air of legitimacy the Minutemen have captured after the Arizona patrol.

Self-appointed border patrols have long operated in small, ragtag posses and been maligned as vigilantes. Under the umbrella of a unifying organization — and because of the media attention group leaders have generated — they suddenly have a voice in immigration policy.

Though the Minutemen remain controversial — they have been condemned by President Bush and the American Civil Liberties Union, among others — their leaders have testified on Capitol Hill and made numerous television appearances. They attribute their public relations victory in part to a rule rule prohibiting patrollers from any interaction with immigrants.

Volunteers in Arizona were ordered to report their discoveries to the official Border Patrol, which would make arrests.

But with plans underway for a broader watch, some Texas activists are questioning those restrictions.

J.C. Hernandez, a third-generation Texan, is the founder and president of Americans for Zero Immigration. Hernandez was working with Minutemen organizers in Texas and said he expected to play a leading role in the upcoming patrol. He also wants the right, he said, to make a citizen's arrest of suspected illegal immigrants.

"When you fight a war you don't fight it with rhetoric," Hernandez said. "When you fight a war, man, you go in and kill the enemy…. A signal has to be sent to Mexico and all those countries that we are tired of it and we're not going to put up with it. I would handcuff them and walk them physically back to their country."

The two founders of the movement, Jim Gilchrist of Aliso Viejo, Calif., and Chris Simcox of Arizona, said any change to the group's "standard operating procedure" could be devastating to the image that leaders have cultivated.

Gilchrist said he declined to carry a weapon during the Arizona patrol, and he said organizers there determined that volunteers could be charged with kidnapping if they tried to apprehend immigrants.

"This is a bloodless revolution. It has to be," Gilchrist said. "There are a lot of wannabe soldiers. They think that this is a call to literally defend their country with arms…. But this is not a war. We can't look like a bunch of Rambos."

Simcox, who was in Texas recently to plan strategy, said veering from his script would feed criticism from government officials and human rights groups.

"They are just waiting for someone to make a mistake and break the law," Simcox said. "This is the only model that will work. If there are groups out there advocating citizen's arrests, they are treading on dangerous territory. They could ruin this entire movement."

Some activists contend that a careful reading of Texas law, however, would permit a more aggressive response. State law says a police officer or "any other person" may arrest someone when a felony is committed in that person's presence or "within his view."

"It is under discussion," Schultz said. "I agree that it might be legal under the law."

Discussions with landowners and the debate over confronting immigrants are not the only problems that have arisen since plans for a broader campaign were announced.

The group's two founders have gone their separate ways since Arizona. Volunteers who worked alongside them said the two clashed over management tactics and strategy, though both have played down reports of tension.

Gilchrist has left the patrol operation and is instead marshaling forces to investigate companies that hire illegal immigrants. Simcox has taken the helm of the border patrol campaign.

As a result, there is considerable confusion over who controls the "Minuteman" name. Gilchrist and Simcox share a dual Internet portal used to spread the group's message and recruit volunteers. Gilchrist controls the "Minuteman Project" name, he said, and Simcox controls the parallel Minuteman Civil Defense Corps, which includes the border patrol campaign.

There are numerous splinter groups; at least seven organizations affiliated with the Minuteman Project have separate plans for smaller border patrols in Texas. The division has fueled renewed criticism from some officials in southern Texas, who have asked the Minutemen to stay away.

"It tells you something," said Laredo Mayor Betty Flores, whose border town would be an anchor of the Texas campaign.

"When that happens to a private business, when you don't know who the CEO is, things go wrong. Can you imagine if the same thing happens to an organization like this? It's very dangerous."

Small Plane Violates Washington Air Space (KCS)

The Kansas City Star, July 3, 2005

A small plane entered restricted air space in the Washington area before two fighter jets forced it to land at an airport here, authorities said.

U.S. Secret Service spokesman Jonathan Cherry would not say what air space the small Cessna passenger plane violated on Saturday, the Frederick News-Post reported.

There is a 16-mile restricted zone in each direction from the Washington Monument and Camp David, near Thurmont, where President Bush was spending the weekend, is also off limits.

Two F-16 fighter jets were deployed and they forced the small plane to land at Frederick Municipal Airport. Officials were questioning a man and a woman Saturday, according to the News-Post. There were no arrests.

On Wednesday, the White House briefly went to a red alert when a plane entered restricted airspace around Washington.

In that incident, President Bush was hurried from his residence to a safer location and lawmakers were evacuated from the Capitol. Two fighter jets intercepted a twin-engine, propeller-driven plane eight miles northeast of the Capitol and escorted it to Winchester, Va.

The White House press office did not return calls for comment early Sunday.

D.C. Ready To Assess Evacuation Strategy (WP)

By Jerry Markon

The Washington Post, July 3, 2005

The first test of Washington's downtown emergency evacuation plan is expected to clear the Mall of most Fourth of July revelers tomorrow and speed them on their way within an hour, officials said yesterday.

"A good majority of people will be out of there in that time span," said Douglas Noble, chief traffic engineer for the D.C. Department of Transportation.

The plan, which calls for police to direct the hundreds of thousands of pedestrians and motorists to seven evacuation routes, where green and red traffic signals will run longer, was developed two years ago in response to the Sept. 11, 2001, terrorist attacks. City officials have tried to publicize it, even painting special signs on streets along the routes directing drivers to the Capital Beltway, but they acknowledged that a major test is needed to tell people how they should flee if terrorists were to strike the city.

"We are trying to educate people that in the event of an unfortunate emergency, these are the routes you would use," DOT spokesman Bill Rice said. "The idea is to see in a limited situation how our systems respond, how motorists and pedestrians respond, and work the kinks out on a smaller scale and hopefully never have to use it on a larger scale."

Experts said yesterday that they knew of no other major U.S. city that has recently tested emergency evacuation routes. "It makes perfect sense," said Brian Jenkins, a terrorism expert who co-wrote a report on how transportation, primarily in New York City, functioned on Sept. 11. "There are two ways of learning," Jenkins said. "One is you produce a theoretical plan, put it on the shelf and wait for a real incident. The other is to run a test, see how it works and make corrections. Mistakes are free."

The routes in what is being billed as Operation Fast Forward include Constitution Avenue between 15th and 23rd streets NW; Independence Avenue between Third Street and Washington Avenue SW; and 14th Street between Pennsylvania Avenue NW and C Street SW.

City officials yesterday provided additional details about the test. They said it was designed to start 15 minutes after the fireworks end because planners believe that will give most pedestrians enough time to walk from the Mall to Metro stations while drivers retrieve their cars from garages. Cars will then flood the streets right about the time pedestrian volume is decreasing, which the city hopes will avoid massive tie-ups.

"Typically, you get a big clearance off the Mall right after the fireworks," Noble said. "Waiting 15 minutes allows people to get out of the Mall, get up into town, get to Metro stations, get to parking garages, and then this gets deployed as people actually leave the garages.

"If we did this right at the start," Noble added, "it would be just a mess."

D.C. police officers will direct people from the Mall to the seven evacuation routes, although they will not stop drivers and pedestrians from using other routes if they choose. Along the emergency routes, streetlights will operate on extended cycles of three minutes green followed by one minute red. Planners believe the extra green-light time will speed cars out of town while a minute of red will allow lingering pedestrians to cross streets. At rush hour, D.C. traffic lights typically run 70 seconds green followed by 30 seconds red.

Transportation officials will observe the evacuation from the command center in the Reeves Municipal Center on 14th Street NW, watching televised images from about 50 traffic cameras at the intersections.

City officials chose the evacuation routes, known as E-routes, two years ago as part of the government's massive response to the Sept. 11 attacks. Officials have struggled with how to evacuate Washington during a terrorist attack and have concluded

that the region's roads and transit network cannot handle a citywide evacuation. Instead, officials have focused on moving smaller groups from specific locations.

Del. Eleanor Holmes Norton (D-D.C.) yesterday questioned whether the test was poorly timed because it will ensnare tourists, rather than educating the many residents who are out of town for the holiday weekend.

"I'm also not sure exactly what it will prove," she said. "It may be something of a test of mass transportation, but there will be little test of what really stopped us on 9/11, which was lots and lots of cars going the same way."

But law enforcement and Metro officials yesterday said they support the evacuation plan. "This is a twofer," U.S. Capitol Police Chief Terrance W. Gainer said. "We need to move the people off the Mall anyway. Why not use this opportunity to drill your plan and make sure it is working?"

About 125,000 vehicles are expected to travel downtown for the festivities, according to AAA Mid-Atlantic. Metro estimates that more than 300,000 spectators rode trains to last year's Fourth of July celebration, which was marred by rain. More than 500,000 people took Metro to the fireworks display the year before.

The other downtown evacuation routes are Ninth Street between Pennsylvania Avenue NW and Interstate 395; South Capitol Street between Washington Avenue and M Street; Washington Avenue between Independence Avenue SW and South Capitol Street; and Third Street between Constitution Avenue NW and Independence Avenue SW.

WAR NEWS:

Bush Salutes Military In Radio Address (AP-Y2)

AP2, July 3, 2005

President Bush paid tribute to America's military forces Saturday, saying that Independence Day is an occasion for the nation to express thanks by flying the flag, sending letters to troops and reaching out to their families.

"At posts in Afghanistan, Iraq, and around the world, our men and women in uniform are taking the fight to the terrorists overseas, so that we do not have to face the terrorists here at home," Bush said in his weekly radio address.

He said U.S. forces have freed millions of people from oppression, in keeping with the principle of the Declaration of Independence "that all are created equal and all are meant to be free.

"Those who serve today are taking their rightful place among the greatest generations that have worn our nation's uniform," the president said.

He will celebrate July Fourth with a visit to Morgantown, W.Va.

"In this time of testing, all our troops and their families can know that the American people are behind them," Bush said. "On this Fourth of July weekend, I ask every American to find a way to thank men and women defending our freedom — by flying the flag, sending letters to our troops in the field, and helping the military family down the street."

He said other methods of tribute are outlined on a Pentagon Web site, http://www.AmericaSupportsYou.mil.

The Two Wars Of The Worlds (NYT)

By Frank Rich

The New York Times, July 3, 2005

ON the morning after George W. Bush spoke to the nation from Fort Bragg, Americans started marching off to Steven Spielberg's "War of the Worlds." Both halves of this double feature invoked 9/11, perfectly timed for this particular holiday. Ever since "Jaws," a movie set on the July Fourth weekend, broke box office records 30 summers ago, Independence Day has come to stand for terror as much as for freedom.

Decide for yourself if "War of the Worlds" is more terrifying than "Jaws." Either way, it's scarier than the president's speech. Yet the discrepancy between Mr. Spielberg's ability to whip up fear and Mr. Bush's inability isn't merely a matter of aesthetics. On Independence Day 2005, this terror gap is an ideal barometer for gauging the waning political power of a lame-duck president waging what increasingly looks like a lame-duck war.

As we saw on Tuesday night, doomsday isn't the surefire hit it used to be for Mr. Bush. Now that the rhetorical arsenal of W.M.D.'s and mushroom clouds is bare, he had little choice but to bring back that oldie but goodie, 9/11, as the specter of the doom that awaits us if we don't stay the course - his course - in Iraq. By the fifth time he did so, it was hard not to think of that legendary National Lampoon cover: "If you don't buy this magazine, we'll kill this dog."

Planned or not, the sepulchral silence of Mr. Bush's military audience was the perfect dazed response to what was literally a summer rerun. The president gave almost the identical televised address, albeit with four fewer 9/11 references, at the Army War College in Pennsylvania in May 2004. It's so tired that this time around even the normally sympathetic Drudge site gave

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higher billing to reviews of "War of the Worlds." Fewer TV viewers tuned in than for any prime-time speech in Mr. Bush's presidency. A good thing too, since so much of what he said was, as usual, at odds with reality. The president pledged to "prevent Al Qaeda and other foreign terrorists from turning Iraq into what Afghanistan was under the Taliban" a full week after Newsweek and The New York Times reported on a new C.I.A. assessment that the war may be turning Iraq into an even more effective magnet and training ground for Islamic militants than Afghanistan was for Al Qaeda in the 1980's and 90's.

"War of the Worlds" makes as many references to 9/11 as Mr. Bush did. The alien attack on America is the work of sleeper cells; the garments of the dead rain down on those fleeing urban apocalypse; poignant fliers are posted for The Missing. There is also a sterling American military that rides to the rescue. Deep in the credits for "War of the Worlds" is a thank-you to the Department of Defense and some half-dozen actual units that participated in the movie, from the Virginia Army National Guard to a Marine battalion from Camp Pendleton, Calif. Indeed, Mr. Spielberg seems to have had markedly more success in recruiting extras for his film than the Pentagon has had of late in drumming up troops for Iraq.

That's not the only way that "War of the Worlds" shows up Mr. Bush. In not terribly coded dialogue, the film makes clear that its Americans know very well how to distinguish a war of choice like that in Iraq from a war of necessity, like that prompted by Al Qaeda's attack on America. Tim Robbins - who else? - pops up to declare that when aliens occupy a country, the "occupations always fail." Even Tom Cruise's doltish teenage screen son is writing a school report on "the French occupation of Algeria."

Mr. Spielberg's movie illuminates, too, how Mr. Bush has flubbed the basic storytelling essential to sustain public support for his Iraq adventure. The president has made a tic of hammering in melodramatic movie tropes: good vs. evil, you're with us or you're with the terrorists, "wanted dead or alive," "bring 'em on," "mission accomplished." When you relay a narrative in that style, the audience expects you to stick to the conventions of the genre; the story can end only with the cavalry charging in to win the big final battle. That's how Mr. Spielberg deploys his platoons, "Saving Private Ryan"-style, in "War of the Worlds." By contrast, Mr. Bush never marshaled the number of troops needed to guarantee Iraq's security and protect its borders; he has now defined "mission accomplished" down from concrete victory to the inchoate spreading of democracy. To start off sounding like Patton and end up parroting Woodrow Wilson is tantamount to ambushing an audience at a John Wayne movie with a final reel by Frank Capra.

Both Mr. Bush's critics and loyalists at times misunderstand where his failure leaves America now. The left frets too much that the public just doesn't get it - that it is bamboozled by the administration and won't see the light until it digests the Downing Street memo. But even if they couldn't bring themselves to vote for John Kerry, most Americans do get it. A majority of the country view the Iraq war as "not worth it" and going badly. They intuitively sense that as USA Today calculated on Friday, there have been more U.S. military deaths (roughly a third more) in the year since Iraq got its sovereignty than in the year before. Last week an ABC News/Washington Post survey also found that a majority now believe that the administration "intentionally misled" us into a war - or, in the words of the Downing Street memo, that the Bush administration "fixed" the intelligence to gin up the mission.

Meanwhile, the war's die-hard supporters, now in the minority, keep clinging to the hope that some speech or Rovian stunt or happy political development in the furtherance of democratic Iraqi self-government can turn public opinion around. Dream on. The most illuminating of all the recent poll numbers was released by the Pew Research Center on June 13: the number of Americans who say that "people they know are becoming less involved emotionally" with news of the war has risen from 26 percent in May 2004 to 44 percent now. Like the war or not, Americans who do not have a relative or neighbor in the fight are simply tuning Iraq out.

The president has no one to blame but himself. The color-coded terror alerts, the repeated John Ashcroft press conferences announcing imminent Armageddon during election season, the endless exploitation of 9/11 have all taken their numbing toll. Fear itself is the emotional card Mr. Bush chose to overplay, and when he plays it now, he is the boy who cried wolf. That's why a film director engaging in utter fantasy can arouse more anxiety about a possible attack on America than our actual commander in chief hitting us with the supposed truth.

If anything, we're back where we were in the lazy summer of 2001, when the president was busy in Crawford ignoring an intelligence report titled "Bin Laden Determined to Attack Inside the United States" and the news media were more preoccupied with a rash of "Jaws"-like shark attacks than with Al Qaeda. The sharks are back, and the "missing girl" drama of Natalee Holloway has echoed the Chandra Levy ur-text. Even the World Trade Center is making a comeback, if we are to believe that the new Freedom Bunker unveiled for ground zero might ever be built.

AS those on all sides of the Iraq argument have said, the only way for Mr. Bush to break through this torpor is to tell Americans the truth. Donald Rumsfeld did exactly that when he said a week ago that the insurgency in Iraq might last as long as 12 years. If that's so, then what? Go ahead and argue that pulling out precipitously or setting a precise exit timetable is each a

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bad option, guaranteeing that Iraq will become even more of a jihad central than this ill-conceived war has already made it. But what is Plan C?

Mr. Bush could have addressed that question honestly on Tuesday night. Instead of once more cooking the books - exaggerating the number of coalition partners, the number of battle-ready Iraqi troops, the amount of non-American dollars in the Iraq kitty - he could have laid out the long haul in hard facts, explaining the future costs in manpower, money and time, and what sacrifices he proposes for meeting them. He could have been, as he is fond of calling himself, a leader.

It was a blown opportunity, and it's hard to see that there will be another chance. Iraq may not be Vietnam, but The Wall Street Journal reports that the current war's unpopularity now matches the Gallup findings during the Vietnam tipping point, the summer of 1968. As the prospect of midterm elections pumps more and more genuine fear into the hearts of Republicans up for re-election, it's the Bush presidency, not the insurgency, that will be in its last throes. Is the commander in chief so isolated in his bubble that he does not realize this? G.W.B., phone home.

Democracy Has Its Own Timetable, Mr. Bush (WP)

By Richard H. Kohn

The Washington Post, July 3, 2005

"America's mission in Iraq," the president proclaimed in his speech at Fort Bragg on Tuesday, "is . . . a free, representative government that is an ally . . . and a beacon of hope in a part of the world that is desperate for reform." And it should be a nation, he continued, "that can govern itself, sustain itself and defend itself."

A tall order. Contrary to the rosy picture of our past so prevalent in Washington today, this country possesses a rich and often troubled history of intervention and nation building, and even empire. We succeeded in building democracy at home but largely failed in planting it abroad, which ought to make all of us, the president included, wary of so vague a goal in Iraq, and exceedingly careful in crafting a strategy to set that country on the road to stability and independence.

From the very beginning, we were nation builders. At the same time as they created a republic, the Founders themselves spoke enthusiastically and confidently about a rising American empire. 19th-century successors expanded over the continent (our "Manifest Destiny"), conquering and then ultimately forcing the Indians onto reservations. End-of-century colonization of foreign lands in the Caribbean and western Pacific was followed by 20th-century occupations in Europe and Asia. And our own generation has overthrown governments in Panama and Haiti, sent troops into Somalia, Bosnia, Kosovo and elsewhere, and now has embarked on nation building in Afghanistan and Iraq.

It is clear from looking back over these many attempts that when the president claimed on Tuesday that we have "made progress, but we have a lot of -- a lot more work to do," he spoke a larger truth than even he perhaps realizes.

We seem to have forgotten just how difficult our own struggle at home for democracy, freedom, social justice and national security has been. Our liberties grew over time, in fits and starts, with periods of violence -- race riots, labor strife, domestic bombings, veterans' protests, the upheavals of the 1960s. It took nearly a century and a catastrophic civil war to abolish slavery. It took another 60 years to enfranchise women. Sometimes liberty regressed, for example in time of war -- a possibility expressed frequently today as Congress debates renewing the Patriot Act and the courts struggle with definitions of freedom of the press.

Abroad, the American experience has been marked by decidedly less success. Over the course of our history, we have occupied defeated enemies (Mexico in the 1840s, Japan in the late 1940s and Germany -- twice -- after the two World Wars), sent troops into countries where our interests were threatened, assisted nations under attack, and overthrown regimes that threatened us in some way. The few times that the United States has attempted to defeat insurgencies or build viable democratic regimes, it has sometimes met with temporary success but ultimately, almost always failed.

Between 1898 and the early 1930s, American soldiers and Marines intervened in or occupied countries in the Caribbean and Central America almost 20 different times to protect U.S. economic interests or to develop the countries or simply to suppress revolts and provide order. Democracy was rarely if ever the result. Interventions during the Cold War -- whether overt or covert -- usually propped up unsavory undemocratic governments in an effort to combat communism. And while some interventions -- Nicaragua and Panama in the 1980s -- fostered democracy, others, like Chile, had the opposite result.

While nation building in Asia has been more successful, it was marked by notable failures. In the Philippines, after suppressing the insurrection against American rule between 1899 and 1903, the United States maintained permanent garrisons to support a colonial administration, didn't relinquish control until the mid-1940s, had assisted in defeating a communist insurgency in the 1950s, then watched the country slip back into dictatorship before democracy took hold in the late 1980s. Japan was perhaps the most dramatic success, but South Korea suffered Syngman Rhee's autocracy and then decades of military authoritarianism before democracy emerged. The United States never succeeded in liberalizing Ngo Dinh Diem's government in South Vietnam before acquiescing in military rule and then North Vietnamese victory in 1975.

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Since the Cold War, the record has been ambiguous. Progress in Bosnia has been painfully slow, 10 years after American troops arrived intending to stay but a year, and few would count that country -- or its Kosovo neighbor -- as a free, democratic regime able to defend itself. Twice U.S. troops have been sent to Haiti without even stabilizing that troubled nation, much less solidifying democracy. None of this bodes well for the continuing conflicts in Afghanistan and Iraq.

Each example, of course, stands alone -- the product of place and time, the individual experience of a country and its population, and the actions undertaken by the governments and groups involved. But the historysuggests that democracy, freedom and liberty take root slowly and face formidable obstacles even in a country such as ours that inherited a reverence for law, and after 1815 grew for over a century without significant foreign threats to national security.

Few would suggest that today, with American and others' experience to draw upon, democratization needs to be as slow as it was in the United States and Europe. Indeed democratization has advanced dramatically in many places in the last 25 years. But in societies less blessed with the advantages of the United States and other western democracies, the challenges are immense and sometimes the push for democracy can actually slow or even reverse freedom and liberty.

In a country where there is a history of colonial subjugation and autocratic rule, clan or ethnic rivalries and religious hatreds, discrimination against minorities and women, and underdeveloped or dependent economies, the obstacles are all the greater. The absence of such norms as the respect for equality, religious freedom, civil liberty, civilian control of the military and political compromise -- even when no foreign or domestic foes are threatening force -- indicates that the United States will have to make some very difficult choices in Iraq during the next few months.

Withdrawal while the insurgency rages even at a slower tempo will invite chaos and civil war, and clearly a defeat of the president's intentions. Staying for many years, with a large American military presence, is likely not only to weaken the Iraqi government but to stimulate jihadi recruitment and attacks, undermining the larger war on terrorism.

The moderate course in between, which the administration is pursuing, possesses dangers of its own. The fighting must be turned over largely to the Iraqis and quickly -- in a year or two. Explicit milestones and a reduced American footprint will have many advantages: revealing our strategy and marking its progress in order to maintain American patience and gain international support; diluting enemy propaganda about our motives; and removing a major impulse behind the insurgency.

More important will be the progress of Baghdad's government, on which all else rests. Here history suggests that we will have to assess its character with a more realistic standard of what's possible. "The mission" must be defined with greater precision than the president offered last Tuesday if the American people are to accept continuing expenditures of blood and money. Sooner or later we will need a realistic rendering of what "success" involves. Squishy generalities won't suffice; the public has a keen nose for fakery and fraud. The president knows "that Americans want our troops to come home as quickly as possible." If, as he says, "So do I," he may have to accept a less robust definition of a free and democratic government in Iraq -- and its analogue elsewhere in the Middle East -- than he asserted this past week. If he won't, then the American people will have to force an outcome more in keeping with historical reality.

Richard Kohn, a military historian and former chief of history for the U.S. Air Force, chairs the Curriculum in Peace, War, and Defense at the University of North Carolina at Chapel Hill.

Dems: Bush Administration Has Failed Vets (AP-Y2)

AP2, July 3, 2005

President Bush's recent denials concerning the financial straits of the Veterans Affairs Department represented another administration failure to level with Americans about the costs of the Iraq war, Sen. Patty Murray (news, bio, voting record), D-Wash., said Saturday.

"Due to their failures, we saw troops using scrap metal to armor their Humvees," Murray said in the weekly Democratic radio address.

"Due to their failures, we saw families raising funds to buy bulletproof vests for soldiers fighting in Iraq. And now, due to their failures, we see that the VA doesn't have the money to provide the needed medical care when our troops return home."

Murray and other Democrats had long questioned whether the department would have enough money to pay medical costs for veterans returning from Iraq and Afghanistan. The administration repeatedly denied it, but the VA acknowledged last week it was short at least $1 billion this year.

On Wednesday, the Senate voted 96-0 to spend an extra $1.5 billion to cover the politically sensitive shortfall.

"We're still working to find out the exact size of the shortfall, but one thing is clear: It results from either deliberate misdirection or gross incompetence," Murray said.

"The president has an obligation to our troops, their families and to the American people to tell the truth about the costs and sacrifices necessary to win the war in Iraq," she said. "There's no better time than now, as we celebrate our country's independence and all that is great about this nation, for the president to give us the facts and lay out a plan."

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Fighting Words (NYT)

By Interview By Deborah Solomon

The New York Times, July 3, 2005

Q: You're one of a growing number of Republicans who have lately accused President Bush of botching the war in Iraq.

If someone says I am a disloyal Republican because I am not supporting my party, let them say it. War is bigger than politics.

You, John McCain and John Kerry are the only current U.S. senators who served in Vietnam.

I got to Vietnam in December of 1967, and I was wounded twice with my brother Tom, who was with me. I still have some shrapnel in my chest that the doctors never took out. The second time my face was burned pretty bad, and I had both eardrums blown out.

Are you saying you are deaf?

Eardrums heal, but I did lose some hearing.

Did you kill anyone in the war?

Well, I am sure I did.

How would you compare the situation in Iraq with the one in Vietnam?

Congress was absent during the Vietnam War, and they didn't ask the tough questions, and consequently we lost 58,000 Americans and lost a war and humiliated this nation. It took a generation to get over it. As long as I am here as a U.S. senator, I am going to do whatever I can to make sure that isn't going to happen.

What do you suggest that the president do?

For starters, we don't have enough troops. But I don't think the answer to increasing manpower is to pursue some of the things the Pentagon is doing, such as doubling and tripling bonuses for those in the military. Kids do not serve their country because they are in it to make money.

Many serve to help pay for school and because they see it as a career.

Of course. But you aren't going to attract the kind of people we have been able to attract just by incentives. When you try to project military recruitment through bonuses, you are going to get people signing up for the wrong reasons.

On the other hand, with our deficit now exceeding $400 billion, aren't we sort of out of money?

In terms of the deficit, we have blown the top right off. We're a bunch of Democrats.

I've never heard anyone call President Bush a Democrat.

That's my point. We're less honest about it. We built the biggest government history has ever seen under a Republican government. The Democrats are better because they are honest about it. They don't pretend. I admire that. They'll say: "We want more money. We need more money."

Where do you think the Republican Party needs to go?

I'd take it back to the party of Eisenhower, Goldwater and Reagan. It was a pretty simple party in those days. It was all about limited government, fiscal responsibility, strong national defense and pro-trade foreign policy.

Will that be your message in your 2008 presidential campaign?

Well, first of all, I haven't said I am running.

You are rumored to be a candidate.

As John McCain has said to me, Anyone who is not in detox is rumored to be a candidate.

Well, you're not too old to run.

I'll be 59 in October. I'm a puppy. I think it's young. I'm really happy with my age, and I can't do anything about it.

Actually, I think it's warped to talk about 2008 so much. Pundits care too much about betting on the next winner, and then they lose interest once the contest is over.

That's because there's a dynamic to politics that has lately been overtaken by show business. Politics is show business. It's just show business for the ugly. It's Hollywood without all the beautiful people.

Bombers In Iraq Kill 20; Security Forces Are Targets (NYT)

By Edward Wong

The New York Times, July 3, 2005

Three suicide bombers blew themselves up on Saturday in two separate attacks aimed at Iraqi security forces, killing at least 20 people and wounding at least 59, police officials said.

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The first explosion took place at a recruiting center in western Baghdad. The blast killed at least 12 people and wounded at least 23. Those killed were all men trying to get jobs with the security forces, said Maj. Gen. Rasheed Flayeh, the commander of the Interior Ministry's commando units.

The attack occurred at 8:50 a.m., as men waiting outside the center were being called in small numbers to enter the building. Each group was searched at a checkpoint about 600 feet from the building. The bomber blew himself up at that checkpoint, apparently because he would not have been able to pass through undetected with his load of explosives, General Flayeh said.

he second attack took place at 10 p.m. at a restaurant beside the police commando headquarters in the town of Hilla, south of Baghdad, an Interior Ministry official said. Two suicide bombers detonated their explosives, killing at least eight police officers and wounding at least 36 others.

The separate attacks on Saturday were the latest in a long series of deadly bombings at recruiting centers and police stations. Insurgents have struck such places to discourage Iraqis from joining the security forces. Yet Iraqis continue to line up in large numbers at the centers, largely because few jobs are available in the ravaged economy here.

In the northern city of Mosul, a police colonel was shot dead on his way to work, the police said, according to The Associated Press.

South of the capital, in an area heavily populated by insurgents, a bomb exploded in a vegetable cart in the town of Mahmudiya, killing two people and wounding 10 others.

The explosion took place a few minutes after mourners had passed by with the body of Sheik Kamaleddin al-Ghuraifi, a senior aide to Grand Ayatollah Ali al-Sistani, the most revered Shiite cleric in Iraq.

Sheik Ghuraifi was gunned down on Friday in the capital, in another sign of worsening sectarian tensions. It was unclear whether his funeral procession, which was headed to the Shiite holy city of Najaf, was the target of the bombing in Mahmudiya.

"The problem of sectarian tension is real," a senior American official told reporters on Friday evening, speaking on the condition of anonymity because of government protocol. "It requires calm heads on all sides. It requires all sides to make a commitment against violence."

Despite the large numbers of Shiite civilians and security officers killed during the Sunni-led insurgency, the grand clerics of Najaf, and in particular Ayatollah Sistani, have not publicly urged violent reprisals.

Instead, they have promoted a quick advancement of the political process, so that religious Shiite parties can take the reins of power in the government. Now, those parties have control of institutions like the Interior Ministry and are populating the security forces with fighters loyal to them.

In recent weeks, an increasing number of Sunni Arabs have expressed concern about operations carried out by those forces. They also accuse Shiite militias like the Badr Organization, which was formed and trained in Iran during the years Saddam Hussein was in power, of carrying out assassinations of Sunni figures.

A Sunni political group, the National Dialogue Council, released a statement on Saturday denouncing an American-led military operation in Anbar Province, west of Baghdad.

The military sweep began early last week and has focused on the towns of Hit and Haditha in the Euphrates River corridor. The operation is being led by the Second Marine Division.

In its statement, the National Dialogue Council said the American-led forces had engaged in "the most horrible kinds of killing and destruction," including the killing of civilians.

Capt. Jeffrey Pool, a spokesman for the Second Marine Division, has maintained that the marines have conducted themselves properly during the operation.

But on Friday, an Iraqi ambassador to the United Nations, Samir Sumaidaie, sent out an e-mail message saying a cousin of his, Muhammad al-Sumaidaie, had been shot dead by marines recently while the marines searched a house near Haditha. The killing took place in "cold blood," the e-mail message said. The marines said they were investigating.

Suicide Bomber Kills 12 In Iraq (WP)

By Andy Mosher And Naseer Nouri

The Washington Post, July 3, 2005

Thwarting security measures set up to protect a police recruiting center already hit by vehicle bombs, an attacker wearing explosives walked into the midst of a group of men applying for police jobs Saturday and detonated his charge, killing himself and at least 12 others, police and witnesses said.

The 9 a.m. attack on the police commando base in Baghdad's Yarmouk district "was not very loud. It sounded like the explosion of a tire," said Mays Naib, 32, who lives nearby.

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Police initially put the death toll at 20, but the number was revised downward to 12, said police Col. Adnan Abdul Rahman, an Interior Ministry spokesman. He said 14 people were wounded.

Over the course of a nearly two-year-old insurgency in which assaults on Iraqi and U.S. security forces have been frequent, attackers repeatedly have targeted places where men stand in line to apply for jobs with the police and Iraqi army. Because would-be recruits typically are made to wait outside fortified bases and recruiting centers, they have proved to be easy targets for often-deadly bombings.

After previous attacks on the base in Yarmouk, the surrounding street had been blocked to provide greater security, Naib said. "So they send a suicide bomber to do this attack. Because of this recruiting center, we feel like we live in a battlefield," she said.

Despite the dangers that the job-seekers pose to the neighborhood, Naib said she felt sorry for "those poor people."

"What are they supposed to do?" she said. "They came here to look for a job and protect the country. Isn't that better than being without a job and turning to crime to make money to live?"

The dead and wounded were carried to Yarmouk Hospital, a few hundred yards from the attack. Outside the hospital, Khalid Hamza, 42, was trying to find a friend who had come to Baghdad from the southern town of Hilla to find work with the police. "His father is an old man; that is why he decided to join the police," Hamza said. "He did not tell his mother that he is going to join the police. She would never let him do that."

Al Qaeda in Iraq, the guerrilla organization led by Abu Musab Zarqawi, asserted responsibility for the bombing in a statement posted on the Internet. The authenticity of the claim could not be verified.

Meanwhile in Hilla, a mostly Shiite city 60 miles south of Baghdad, a suicide bomber detonated a belt of explosives at a police checkpoint in the city center, killing six policemen and the attacker, said Police Capt. Muthana Khalid Ali, according to the Associated Press.

About 10 minutes later, a second attacker blew himself up in a crowd of police officers and civilians who had rushed to the scene of the first blast, Ali said. Twenty-six people were injured, the AP reported. There was no immediate assertion of responsibility for either attack in Hilla.

On Friday, Zarqawi's radical Sunni Muslim group claimed to have carried out the drive-by shooting of a prominent Shiite Muslim cleric, Kamaleddin Ghuraifi, on a street in central Baghdad. On Saturday, a bomb exploded at a police checkpoint in Mahmudiyah, 15 miles south of Baghdad, shortly after Ghuraifi's funeral procession had passed by, according to the Reuters news agency.

The bomb, which police said was hidden in a vegetable cart, killed five people and wounded 12. It was not clear whether the bomb had been intended to hit the procession, which was taking Ghuraifi's body to be buried in the holy city of Najaf, 90 miles south of the capital.

Ghuraifi had been a Baghdad representative of Grand Ayatollah Ali Sistani, Iraq's most prominent Shiite religious leader, who has his headquarters in Najaf. On Saturday, the walls around Najaf's ornate Imam Ali shrine were filled with banners denouncing the recent assassinations of prominent Shiite religious and political figures and blaming them on Sunni insurgent groups. One of the banners demanded: "Can't the Sunni wise men stop the criminals?"

Meanwhile, another influential Shiite cleric's top lieutenant was released from detention Saturday after a year in U.S. military custody. The Najaf office of Moqtada Sadr, the rebel cleric whose militia twice battled U.S. forces last year, announced that Muhammed Tabatabei had been freed from Abu Ghraib prison, where he had been held without being charged. Tabatabei returned to Najaf, where he met with Sadr, the announcement said.

Two Suicide Attacks Kill 26 In Iraq (LAT/AP)

The Los Angeles Times, July 3, 2005

Suicide bombers struck Saturday in Baghdad and a Shiite Muslim city south of the capital in attacks that killed 26 people and injured nearly 50, Iraqi officials said. One of the attackers targeted bystanders and police officers who had rushed to the scene of an earlier blast.

In the first attack, a bomber blew himself up outside a recruiting station for police special forces in west Baghdad, killing at least 16 people, including 11 recruits, police and hospital officials said. Twenty-two people were injured.

The other attacks occurred in Hillah, a mostly Shiite city 60 miles south of Baghdad. Police Capt. Muthana Khalid Ali said the first blast occurred when a suicide bomber detonated an explosives belt at a police checkpoint in the city center.

Six policemen were killed, Ali said.

About 10 minutes later, a second suicide bomber blew himself up in the crowd of police and civilians who had rushed to the scene, Ali said. Twenty-six people were injured, but only the attacker died, said Dr. Hashim Suleiman of Hillah General Hospital.

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On Feb. 28, a suicide car bomber struck a crowd of police and army recruits at a health center in Hillah, killing 125 and wounding more than 140 in one of the deadliest attacks since the 2003 fall of Saddam Hussein.

In other violence Saturday, three Iraqi soldiers were killed in a roadside bombing northeast of Baghdad, their commander said. Gunmen also assassinated a police lieutenant colonel in the northern city of Mosul, officials said.

Two other people were killed when a bomb hidden in a vegetable cart exploded Saturday in Mahmoudiya, about 20 miles south of Baghdad.

The blast occurred a few minutes after mourners passed by with the body of an aide to Shiite Muslim leader Grand Ayatollah Ali Sistani, who was slain Friday outside a Baghdad mosque. The body of Kamal Ghuraifi was being carried through the town en route to burial in the holy city of Najaf.

Also Saturday, a policeman and a female relative traveling in a civilian car were killed in a drive-by shooting in the northern city of Kirkuk, authorities said.

Insurgent attacks have raised tensions among Iraq's varied ethnic and religious groups and raised fears of civil war. In a statement Saturday, the leader of Iraq's largest Shiite political party warned against sectarian conflict and called on the Iraqi government to step up efforts to fight militants.

"We stress the importance of being alert and cautious not to be carried away toward the sectarian strife that our enemies want for us," said Abdelaziz Hakim, head of the Supreme Council for Islamic Revolution in Iraq. "We ask the Iraqi government, particularly the security apparatuses, to exert more efforts to strike these terrorist groups."

The Metrics Of Success In Iraq (WP)

By David S. Broder

The Washington Post, July 3, 2005

President Bush is facing an early legal deadline to deliver what he has been most resistant to providing: a set of specific benchmarks for measuring progress toward military and political stability in Iraq.

Under a little-noticed provision of the defense spending bill passed by Congress in May, Defense Secretary Don Rumsfeld has until July 11 to send Capitol Hill a "comprehensive set of performance indicators and measures of stability and security" two years after the fall of Saddam Hussein.

A Pentagon spokeswoman, responding to my inquiry, said last week, "We are working toward completing the report by the due date."

If and when it comes in, it could do much more than the president's Tuesday night speech at Fort Bragg to provide a factual basis for judging how close we may be to reaching our goals in Iraq.

In that address, Bush once again demolished a straw man, denouncing any talk of a deadline for withdrawal of U.S. and coalition forces and any timetable for phasing them out. While public support for a pullout has grown, almost no one in Congress is advocating such a step.

What serious people are asking of the administration is a set of yardsticks by which the situation in Iraq can be realistically measured -- and accountability established for a strategy to reach those goals. That is something the president has refused to provide, beyond his cliched declaration that "the United States will stay as long as necessary -- and not one day longer."

It is hard to understand his resistance to this perfectly reasonable demand for a set of metrics by which all concerned -- Congress and the administration, service members and their families, and the general public -- could judge what is happening.

This is our first MBA president, a business school grad who generally operates on the principle that if you can't measure something, you are flying blind. He insists that his Office of Management and Budget keep score on how well each department and agency is meeting its program responsibilities. Why not measure the enormously expensive investment in Iraq?

Metrics are exactly what the serious critics in Congress say have been lacking. In a thoughtful speech on June 21, Sen. Joe Biden of Delaware, a Democrat who supported the invasion and vehemently opposes an early withdrawal, said continued public support depends on "a new compact between the administration and Congress to secure the informed consent of the American people, so that they give the president the time we need to succeed in Iraq."

"Specifically," Biden said, "the administration should develop with Congress clear benchmarks or goals in key areas: security, governance and politics, reconstruction and burden-sharing. We in Congress should aggressively assert our oversight responsibility by insisting that the administration report on progress toward those goals every month in public testimony."

Last week Rep. John Murtha of Pennsylvania, the ranking Democrat on the defense Appropriations subcommittee, pointed to language in the report accompanying May's Iraq funding bill that would satisfy most of those demands. It orders the first detailed status report on July 11 and follow-ups every 90 days thereafter.

The information required is specific and detailed. It includes such measures of the security envi-

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ronment as the number of engagements per day, the count of trained Iraqi forces, the estimated strength of the Iraqi insurgency and the role of foreign fighters.

It orders up indicators of economic activity, including unemployment levels, electricity, water and oil production rates, and hunger and poverty levels.

It requires detailed information on the training of Iraqi military and security forces, their equipment, and their capabilities -- and the timetables for achieving full readiness.

It aims to end the confusion over Iraq's forces by asking specifically which Iraqi battalions are capable of operating independently, which can fight if supported by coalition forces and which are not ready to conduct counterinsurgency operations even with help. It also requires documentation on their absentee rates and calls for similar information on the Iraqi police forces and their training.

Finally, it directs Rumsfeld to provide -- either in public or in classified annexes -- an estimate of U.S. military forces needed in Iraq through the end of calendar 2006 and the criteria the administration will use to determine when it is safe to begin withdrawing forces from that country.

As a senior congressional aide told me, "if the Pentagon takes the law seriously and responds as robustly as it is capable of doing," we may finally begin to learn where we stand. Candid answers could restore the trust required to sustain the effort in Iraq. Bush's speeches don't meet that need.

Shiites Question U.S. Overtures To Sunni Rebels (LAT)

By Patrick J. Mcdonnell

The Los Angeles Times, July 3, 2005

It didn't take long for fresh reports of U.S. talks with Sunni Arab insurgents to stir cries of an impending sellout.

"The Americans and everyone else must understand that the Iraqi people will never accept any talks with the criminals who have blood on their hands," Sheik Jalaluddin Saghir, a prominent Shiite Muslim cleric and member of parliament, declared during Friday prayers.

A senior U.S. official here sought to provide damage control. There was no intent, he declared, to undermine the fledgling Shiite-run government, which meets behind U.S.-fortified blast walls.

"In the end, we are not going to hand to the insurgency the head of the Iraqi government on a platter," the U.S. official told reporters Friday. "It isn't going to happen."

The exchange underscored the fragility of the political compromise that the Bush administration is seeking to facilitate in Iraq, even as the complementary military strategy — turning more and more responsibility over to fledgling Iraqi forces — has yet to prove a success.

U.S. commanders say they hope a drawdown of the 140,000-strong American force in Iraq can begin sometime next year. But no one will publicly say how many of Iraq's 100-plus U.S.-trained battalions are ready to wage a difficult counterinsurgency campaign without U.S. assistance.

"That information is classified," Brig. Gen. Don Alston, chief spokesman for the multinational forces, said here last week. "I wouldn't want to reveal something that could be an advantage to the enemy."

Things are no less murky on the political front, where reports of U.S. overtures to the Sunni Arab-driven insurgency immediately sparked a backlash last week among the long-repressed Shiite majority.

Much hinges on a two-part premise. First, that disaffected Sunni Arabs can be brought into the political process, and second, that participating Sunni representatives can sway militants, who have denounced the government, to put down their arms.

There is certainly reason to believe that Sunni Arabs, who largely boycotted the Jan. 30 election, will be more involved now.

Victorious Shiites and Kurds have reached out to bring Sunni Arabs into the committee drafting a constitution. Many Sunni Arabs now rue the decision to not vote. Plans are progressing on a new electoral law that would require the next set of lawmakers to be elected by provincial districts, probably ensuring greater Sunni Arab representation.

But few believe that these developments, however positive, will soon defuse the insurgency, which even in U.S. assessments is no weaker than it was six months ago.

The Sunni Arab representatives willing to take part in writing the constitution have acknowledged little leverage with the men with guns, and there is no broad Sunni call to lay down arms.

"The Iraqi resistance is not seeking a solution but defending a cause," said Sheik Khalaf Duleimi of the National Dialogue Council, a Sunni group involved in writing the constitution. "The government should seek a solution."

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U.S. officials often point out that violence in Iraq is largely confined to four of the 18 provinces. Much of the Shiite south and Kurdish north is relatively quiet. But those four battleground provinces are home to about 40% of the population and include Mosul and Kirkuk, the multiethnic hubs of the north, and the capital, Baghdad, where sectarian-tinged bombings, assassinations and abductions are daily events.

Early Saturday, the bodies of 11 police recruits, covered with light-purple sheets, were placed inside the morgue at the capital's Yarmouk Hospital. They were the victims of the latest bombing at a police recruiting center, this one by an attacker wearing an explosives-laden vest laced with ball bearings that burst out in a fusillade of deadly shrapnel.

"Oh, my son Malik!" cried a sobbing father seated outside the morgue, in a scene that has become agonizingly familiar. "I saw you get married and start your new life. Why did it have to end like this? Why?"

Although most of the slain recruits have been Shiites, Sunnis accuse militias and police squads associated with Shiites of retaliatory attacks on Sunni clerics and civilians.

The latest rumor sweeping Baghdad is that the Badr Brigade, an Iranian-trained Shiite militia, is targeting Iraqi pilots who bombed Iran during the 1980s war between the two nations.

Amid so much uncertainty, hostility and bloodshed, American officials are expressing confidence that Iraqis will meet three impending deadlines: Aug. 15, when a draft constitution is supposed to be ready; Oct. 15, when a constitutional referendum is to be held; and Dec. 15, when a permanent government is to be elected.

The State Department is pressuring Iraqis to get everything done on time, fearful that any delay will provoke even more instability.

The Bush administration views all three deadlines as crucial guideposts on the road to an exit strategy from a war in which the U.S. death toll is approaching 2,000.

But other milestones — the capture of Saddam Hussein in December 2003, the return of sovereignty a year ago, the landmark January election — have all passed without the anticipated letup in violence. In each case, exhilaration turned to disappointment.

In November, Marine Lt. Gen. John F. Sattler declared that the invasion of the former rebel-held enclave of Fallouja had "broken the back" of the insurgency. Yet the last two months saw 155 U.S. troops killed in Iraq, among the highest monthly death tolls of the war. Among the dead were six Americans, including three women, killed by a suicide bomber in Fallouja, which remains a trouble spot despite the continued presence of thousands of U.S. and Iraqi troops who have in effect sealed off the city.

There simply aren't enough troops and police to watch over every stretch of volatile terrain. In the vast Sunni homeland of western Iraq, Marines have launched a series of offensives that seem destined to repeat the war's numbing pattern: Thinly stretched U.S. troops clear out a rebel town and return to their bases, allowing fighters to filter back in.

"We cannot defend everywhere," Col. Bob Chase, chief of operations for the 2nd Marine Division in western Iraq, said recently. Insurgents "will attempt to fill the vacuum."

U.S. officials, who have acknowledged that military superiority is not enough to win the war in Iraq, are keen to know what it will take to get the guerrillas to put down their arms — hence the ongoing exploratory talks with Sunni sheiks and community leaders thought to have links to the insurgency.

The ultimate U.S. approach is a classic divide-and-conquer strategy: separate "nationalist" elements of the fragmented insurgency from religious militants and foreign jihadists, who are regarded as irredeemable.

"It is credible that parts of this disparate group of insurgents and terrorists would consider finding a way to participate in a political process," another senior U.S. official here said recently.

U.S. commanders even seem prepared to consider some kind of Sunni-dominated force in volatile Al Anbar province, despite the disastrous experience last year with the Fallouja Brigade, a U.S.-armed unit that ultimately sided with the insurgents and was disbanded.

"You want the Americans out of Al Anbar?" a senior U.S. commander asked rhetorically in a recent interview. "Then get … to the table, create an environment where we can provide some basic security for Iraq, and we'll get 'em out. That ain't hard to do."

But the Sunni religious militants and their Iraqi nationalist allies have, by all accounts, cooperated closely and may be harder to separate than many believe.

And it seems clear that the guerrillas, who have proved to be determined and crafty, are insisting on at least one clear concession — a timetable for U.S. withdrawal — that the Bush administration has no intention of granting, at least for now.

"We will stay in the fight until the fight is won," President Bush said in a radio address Saturday, echoing his message in a prime-time address last week.

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"In the end," said the senior U.S. official who spoke Friday, "the Sunni Arab community that fuels the insurgency is going to get more out of the political process than out of a military confrontation that it cannot hope to win."

Commanders in the field here often point out a thorny reality: The "bad guys" don't have to win. They only have to make headlines.

The most likely scenario this year, many agree, is the birth of both a new constitution and a new government — even as the fighting, and dying, continues. It is not a cheerful prognostication, but it is the state of affairs to which Defense Secretary Donald H. Rumsfeld alluded when he said recently that the fighting could continue for a dozen years.

Beat The Insurgents By Talking To Them (LAT)

By Larry J. Diamond

The Los Angeles Times, July 3, 2005

In his speech last week, President Bush correctly said that the United States had a vital interest in remaining in Iraq until a viable, secure and hopefully democratic state emerged. He also appropriately noted evidence of democratic progress in Iraq — an elected government in Baghdad and a more representative constitution drafting committee set to begin its work. But if the United States is to avoid defeat in Iraq, Bush must recognize what our military leaders have repeated for more than a year: There is no purely military solution to the insurgency. It will only be extinguished by a combination of military might, good intelligence, reliable policing and — crucially — effective politics.

A political strategy to defeat the insurgency, which the administration has been inching toward but has not fully articulated and embraced, requires six elements.

First, the U.S. must know who and what we are dealing with. Radical Islamists from other countries are the ones blowing themselves and civilians to bits and slaughtering cops and elected Iraqi leaders — and there is no negotiating with these zealots.

Similarly, Saddam Hussein's top loyalists, who finance and orchestrate much of the destruction from safe houses in Syria, have nowhere to go in the new order but jail (and probably the hangman's noose). These two groups must be killed, captured or cut off from their bases of support and operation in Iraq.

A wider circle of Iraqis tolerates, uses and supports these groups in their violent resistance to the U.S.-led coalition and the new Iraqi government. These mostly Sunni Arab Iraqis believe that they have been shafted and humiliated by the emerging political order — and they want in. They feel their country is under indefinite occupation — and they want it back. The U.S. needs to separate the jihadists and Hussein's cronies from the Iraqis who feel left out.

The administration deserves credit for drawing Sunnis into the political process, but it must do more to incorporate them politically into the new Iraq, the second element of a winning political strategy. It has done too little to address their nationalist anxiety.

That bring us to the third element. Many Iraqis (including essentially all those in the insurgency) believe that we are there to establish permanent military bases and gain control of their oil. This suspicion feeds the intense nationalism underlying the violent resistance. In fact, it is the only factor uniting its disparate elements.

To douse the nationalist fire, Bush must tell the Iraqi people, directly and unequivocally, that the United States does not seek long-term military bases in their country. Defense Secretary Donald H. Rumsfeld told Congress as much recently, but unless the message comes from the president, it will not register in Iraq.

If Bush's assurance is to be credible, it must be coupled to a fourth strategic element. Bush is right to reject a fixed timetable for withdrawal, which would only embolden the terrorists. But Iraqi insurgents must be able to envision a time when foreign troops will be gone.

To this end, the administration should set a time — not a deadline, but a goal — when it hopes to be militarily out of Iraq, provided insurgents opted for peaceful politics instead of violence. This would shift the burden to the Sunni-based insurgents to demonstrate their nationalist credentials by altering their strategies and methods so order can return to Iraq, the new Iraqi armed forces can gain strength and the United States can make good on its withdrawal pledge.

If these four elements are to defeat the insurgency, they have to be part of direct negotiations with political and tribal forces "associated with" the insurgency, the fifth essential of a successful strategy. For almost two years, some insurgents have been sending signals through international intermediaries that they want to talk directly to the United States.

Initially wary and defiant, the administration has become more pragmatic about the overtures and discussions have occurred. But the talks have involved only low-level operatives and have left some Iraqi insurgents feeling that the United States is more interested in gaining tactical intelligence than negotiating a political deal.

Any agreement with insurgents will have to include concessions on access to and release of some detainees, as well as what are America's long-term intentions in Iraq. If these issues are on the table, higher-level insurgents appear ready to talk.

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Finally, we need to talk directly to the insurgents, but we cannot do so alone. The Iraqi government must be involved because it will need to make concessions of its own. And if trust is to be created and hostilities tempered by a pragmatic search for common ground, mediation will be needed. There is no better institution to play this role than the United Nations, and no better individual than the negotiator who brokered the handover of power last year, special envoy Lakhdar Brahimi.

Critics lambasted Bush's speech for its lack of new initiatives. But the indigenous core of the Iraqi insurgency may be ripe for resolution if the administration will craft and carry out a political strategy to defeat the insurgency.

This will not miraculously end the violence in Iraq. But it may enable us — and the Iraqi people — to turn the corner toward a peaceful and inclusive political order in which the zealots meet the fate they deserve.

A Town That Bled Under Hussein Hails His Trial (NYT)

By John F. Burns

The New York Times, July 3, 2005

The scars of what happened after an assassination attempt on Saddam Hussein, on July 8, 1982, are painfully evident in this mainly Shiite town 35 miles north of Baghdad.

People lower their voices when they speak of fathers, brothers and sons who went to the gallows, their fates unknown until Mr. Hussein's overthrow 21 years later set off the ransacking of a secret police headquarters in Baghdad that uncovered records of the executions. The landscape around Dujail is mostly barren scrubland, stark testament to the bulldozing of thousands of acres of date palms and fruit orchards after plotters fired on Mr. Hussein's convoy from thickets on the edge of town.

Now, the events at Dujail have come full cycle for Mr. Hussein.

Officials at the Iraqi Special Tribunal set up to try the former dictator and his top aides have said they expect to put him on trial by the end of the year in the deaths of nearly 160 men and boys from Dujail, all Shiites, some in their early teens. Some were shot dead in the immediate aftermath of the assassination attempt, but 143 - 9 of them ages 13 through 15 - were executed three years later by Mr. Hussein's revolutionary court. Townspeople say that many others remain missing - at least 200, by some counts - and that they hope the trial will reveal at least something of their fate.

For now, their families have only fading photographs of their lost menfolk at weddings, school graduations and summer outings, and tales of the moments they disappeared, seized on the streets or pulled from their homes by secret police squads that descended on Dujail in the days that followed the attack on Mr. Hussein.

Along the sun-blasted streets and alleyways of the town, a nondescript, impoverished sprawl of single- and double-storied concrete structures and makeshift, domeless mosques beside the main highway to Iraq's oil-rich north, the prospect of seeing Mr. Hussein, 68, facing a possible death sentence has brought relief - at least to the three-quarters of the population who are Shiites, though not to many in the Sunni Arab minority in the town, where there are still fierce loyalties to Mr. Hussein.

"Having Saddam on trial for what he did here will be good for Dujail, and for all of Iraq, because many people in this country, and in Dujail, still think of him as some kind of a god," said Ali Haj Hussein, a 37-year-old Shiite who lost seven brothers in the executions that followed the assassination attempt, including one, Hussein, 19, who confessed to his father before he died that he was one of those who had shot at the Iraqi ruler.

The visit to Dujail amounted to a venture into enemy territory for Saddam Hussein. In 1982, he was in his third year as president, still consolidating his power, and many in this town, with a population of about 75,000, despised him for starting a war with Iran, Iraq's Shiite neighbor, two years earlier. Shiites here say that Mr. Hussein had long distrusted the presence of a large Shiite enclave, including Dujail and the nearby town of Balad, deep inside Iraq's Sunni Arab heartland - and beside the main highway from Baghdad to Tikrit, Mr. Hussein's hometown.

A conservative Shiite religious party, Dawa, with an armed wing that had mounted terrorist attacks against Mr. Hussein's government, had strong support in Dujail, and saw in his visit a chance to avenge the government's killings of hundreds of Dawa leaders and sympathizers. The plotters named the mission Operation Bint Huda, after the sister of Dawa's founder, Ayatollah Muhammad Bakr al-Sadr, a prominent Shiite cleric. The two were executed in 1980.

Other crimes for which Mr. Hussein is likely to face eventual prosecution, in separate trials, include the Anfal campaign - the Arabic word means spoils - of the late 1980's, in which as many as 150,000 Kurds were killed, many shot and dumped into mass graves, others killed in poison-gas attacks; the chemical weapons attack on the Kurdish town of Halabja in March 1988 that killed about 5,000, which is likely to be treated as a separate case, like Dujail; and the repression of a Shiite rebellion in southern Iraq in 1991, in which 150,000 people are believed to have been killed. Also under investigation by the tribunal are the executions of more than 200 Baath Party leaders after Mr. Hussein seized power in 1979.

But the Dujail trial will set the pattern for the others, and lawyers for Mr. Hussein have made it clear they plan to use every legal recourse to expose the proceedings as a show trial, manipulated by the American lawyers who run the Regime Crimes Liaison Office, an American Embassy agency that has been the legal and financial mainstay of the tribunal.

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"All over the world, people know Saddam Hussein as the man who said 'No!' to America, and it will be so in court," said Ziad Najdawi, a Jordanian who is part of an international team of defense lawyers.

"They can talk as they want, about executions and chemical weapons and mass graves, but we will say, 'It is all lies, nothing but lies. Everything here is tainted by America.' "

On the summer afternoon 23 years ago when Mr. Hussein came to Dujail, he was greeted with gunfire from the palm groves on the north side of town, survivors say. The first to rush to the streets were the youths; they had heard rumors for days that something important was about to happen. Army helicopters had been circling near the town, and official vehicles from Baghdad had been coming and going from the Baath Party headquarters in a grim, guarded compound along the road leading into Dujail from the main north-south highway.

"It was about 2:30 p.m. when we heard people saying that Saddam had arrived, so we ran into the streets to see him, and right away his bodyguards started shooting at us, and they killed three of my friends," said Ghalib Hussein Abbas, a 42-year-old tractor driver now, then an unemployed youth of 19.

Fleeing to their homes, the townspeople saw the helicopters return, firing at villages amid the palm groves from which the plotters had attacked.

Two days later, survivors said, a 24-hour curfew was eased when loudspeakers announced that those missing relatives should go to the Baath headquarters and search among rows of bodies laid out in the building's forecourt. For some, it was a trap. According to witnesses' statements to the tribunal, four of the men set to go on trial with Mr. Hussein had gathered at the building to direct vengeance on the town: his half-brother, Barzan Ibrahim al-Tikriti, deputy head of the Mukhabarat secret police in 1982; Taha Yasin Ramadan, a deputy prime minister and later Baath Party vice chairman; and the two local Baathist officials, Abdullah al-Musheikhi and his son, Mizher al-Musheikhi. Another defendant will be Awad Hamad al-Bandr al-Sadoon, former chief judge of the revolutionary court.

In small groups at first, then in larger roundups, about 1,500 townspeople were arrested, as many as 30 from single families, and started on a journey into Mr. Hussein's gulags - first at a detention center in Tikrit, later at a secret police detention center in Baghdad, and finally, to the Nugra as-Salman prison, an old British-built fort in the desert along the Saudi Arabian border. Some survivors, who were released in 1986, say that the appalling conditions at the prison caused several dozen deaths, including women, children and nursing infants. The 143 who were hanged never got beyond detention in Baghdad, where Mr. Sadoon, the chief of the revolutionary court, sent them to the execution chambers at the Abu Ghraib prison outside Baghdad.

Accounts from local Shiites say Mr. Hussein outwitted the Dujail plotters from the start. On his entry to the town, those accounts say, tribal leaders made him a gift of a car, and marked it, in tribal tradition, with hands dipped in the blood of slaughtered sheep. Mr. Hussein, though, Shiites in Dujail say, saw the gift as a possible harbinger of assassination and returned the car, insisting that the tribal leaders and some of his aides travel in it - to their deaths, as the accounts have it, when the plotters fired on the car.

A few hours after the shooting, Mr. Hussein took to the flat roof of the town's main clinic and told a crowd that he was "not a coward who can be chased from your town," but assured his listeners there would be no reprisals. "He told us that the people who had attempted to kill him were a small band of traitors, and that we don't want to confuse them with the good people of Dujail," said Kassem Aalbuhaider, a shopkeeper now, then only 12.

But even as Mr. Hussein spoke, Mr. Aalbuhaider said, the secret police were at work. "They took whole families, even old people, women and small children," he said.

Within weeks, the razing of the palm groves and the orchards began, continuing until more than 250,000 acres had been bulldozed. In 1992, after the first Persian Gulf war, Mr. Hussein returned to Dujail for the first time, and told tribal leaders that the wastelands could be replanted, with grain crops, but not with palms and orchards. But it took 12 more years, and the overthrow of Mr. Hussein, before the town could begin in other ways to recover from what townspeople now refer to simply as "al karitha," the disaster.

Now, the plinths where Mr. Hussein's statues and portraits once stood at the town's major intersections are bare, and the streets are hung with portraits of the white-bearded clerics who are the icons of religious Shiites. The Baath Party headquarters serves now as a Shiite mosque. But the totems that seem to matter most are the date palms that some townspeople began planting discreetly in the mid-1990's as memorials to those who died.

On a recent evening, Mr. Hussein, the townsman who lost seven brothers to the gallows, led a visitor to the family's fields outside the town and through a grove of half-grown palms dedicated to them: Faleh, Hussein, Mahmud, Mohsen, Muhammad, Saad and Salim. "Here, I feel like a king," he said, smiling broadly as he reached out to touch the palm trees' drooping fronds. "Like these trees, Iraq is reborn. We are just at the beginning, but once Saddam has been tried and executed, we believe Dujail will begin to rise again."

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Afghan Rebel Site Bombed, U.S. Says (WP)

By N.c. Aizenman

The Washington Post, July 3, 2005

U.S. aircraft bombarded a suspected insurgent compound in a mountainous area of northeastern Afghanistan where a military team has been missing since Tuesday, military officials said Saturday.

A purported spokesman for the ousted Islamic Taliban militia called news organizations and claimed that 25 civilians had died in the airstrike on the compound in Konar province, a rugged region near the Pakistani border.

Lt. Col. Jerry O'Hara, a U.S. military spokesman, said American troops were still assessing the impact of the Friday night bombing. However, he said that precision weapons had been used and that it was unlikely civilians were killed.

"We don't target civilians," he said. "We put a lot of effort into ensuring we minimize any type of collateral damage. . . . Our operations are intelligence-driven."

A Special Operations helicopter carrying U.S. troops to rescue the missing team crashed amid enemy fire Tuesday, killing all 16 people aboard. Late Friday, their bodies were flown from the U.S. air base in Bagram, north of Kabul, en route to Dover, Del., for identification, O'Hara said. He described throngs of soldiers lining the long road running through the base, saluting as vehicles passed carrying flag-draped containers to the airstrip.

"When there's a departure ceremony, everybody who is not actively involved in a mission comes out to show their respect," O'Hara said. "But this was much more emotional because you have many more that were lost in this incident."

Also on Saturday, guerrilla fighters in eastern Paktika province detonated a roadside bomb under a passing convoy of more than 20 vehicles carrying officials from the United Nations as well as Afghan leaders and security forces.

The attack killed as many as six Afghan policemen and soldiers, and wounded at least two others, including a local police chief, according to news services and the U.N. spokesman here, Adrian Edwards.

Other violence included a battle between Taliban and Afghan government forces in the central province of Uruzgan in which 18 insurgents were killed, according to news services. The militia members appeared to be part of the same group of fighters who kidnapped and killed a group of tribal elders Thursday.

In Kabul, U.S. military officials released 57 Afghans who had been held at a detention facility at Bagram air base for many months on suspicion of being armed Muslim extremists. They were taken to the office of a government program that reintegrates former Taliban members and released to the custody of tribal elders.

Since January, 220 detainees have been released from the U.S.-run prison at Bagram, and 142 more are slated to be released shortly, according to a U.S. military statement. In May, President Hamid Karzai called for all Afghan prisoners to be turned over to Afghan government custody in the wake of reports of past abuse by U.S. guards at Bagram and Guantanamo Bay, Cuba.

Several of the released men complained bitterly of being detained for several years without charge. "There was no beating or torturing, but they were disrespectful of our culture and we didn't have good food for a long time," Ghulam Mustafa, 21, told the Reuters news agency.

In Konar, a massive five-day hunt for the missing U.S. team continued without success Saturday, O'Hara said.

The purported Taliban spokesman, Abdul Latif Hakimi, told news agencies by telephone Friday that Taliban fighters had captured one of the missing men and killed seven of them. But U.S. military officials have said there was no evidence to support the claim.

The missing team was made up of fewer than 10 Special Operations troops and was participating in a mission against al Qaeda fighters, U.S. officials have said.

The Chinook helicopter sent to extract the team appeared to have been downed by a rocket-propelled grenade, military officials said.

The air attack on the compound Friday night was part of an ongoing military mission in the area, O'Hara said. "That operation was still ongoing all the while we were conducting search and recovery for our 16 that we lost, and while searching for the missing service members that haven't been accounted for," he said.

Edwards, the U.N. spokesman, said the team in Paktika was on its way to negotiate with tribes in the area about security matters. He said that after the roadside bombing, the group may have come under small-arms fire, and that Afghan security forces subsequently detained several men suspected of taking part in the attack. The U.S. military said it was not aware of any small-arms fire.

Edwards said the ambush was the latest in a string of attacks on military forces, government officials, aid workers and civilians by gunmen intent on disrupting parliamentary elections scheduled for September. The violence has contributed to a growing climate of pessimism and fear.

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"The thinking of the United Nations is that there is a serious problem with security and that with the elections coming up we, like most people, want this addressed," said Edwards.

U.S. Planes Bomb Suspected Taliban Mountain Base (WT)

By Daniel Cooney

The Washington Times, July 3, 2005

Warplanes pounded a suspected Taliban compound in the Afghan mountains near where an elite U.S. military team disappeared last week, and violence elsewhere left 38 rebels and Afghan security forces dead as fighting rose ahead of fall elections.

A transport plane flew home the bodies of 16 U.S. troops -- eight Navy SEALs and eight other troops -- killed when their helicopter was shot down while trying to rescue the missing team, U.S. officials said yesterday.

It was not clear if there were any casualties in the air strike late Friday in mountains near Asadabad town in Kunar province, close to the Pakistani border. U.S. military spokesman Lt. Col. Jerry O'Hara said a "battle damage assessment is ongoing."

"We conducted an air strike on a target we deemed we had to hit immediately. The target was an enemy compound in Kunar province," he said. "The bombing was done using precision guided munitions. The target objective was intelligence driven."

Col. O'Hara declined to say whether the air strike was directly related to the missing military team, which was last heard from in the same area Tuesday.

A purported Taliban spokesman, Mullah Latif Hakimi, claimed Friday that militants had captured one of the men and said he was a "high-ranking American" caught in the same area as where the helicopter went down. He reiterated the claim yesterday in a phone call with the Associated Press.

"The soldier is being held in Kunar. Taliban leaders will decide what to do with him," Mr. Hakimi said. "He is being kept in a home. His health is all right."

When asked to provide evidence that the soldier was in captivity, he said, "Tomorrow we will give proof."

Mr. Hakimi, who also claimed insurgents shot down the helicopter, often calls news organizations to take responsibility for attacks, and the information frequently proves exaggerated or untrue. His exact tie to the Taliban leadership is not clear.

Col. O'Hara said the downed Chinook helicopter had been trying to extract the soldiers when it went into the mountains.

"All our hopes are that we find our missing service members. On top of those hopes are actions on the ground looking for them," Col. O'Hara said. "It's a very demanding area: very mountainous, very wooded and the likelihood of enemy contact is probable."

The bodies of 16 soldiers killed in the helicopter crash were loaded in flag-draped caskets onto a C-17 transport plane during a memorial ceremony Friday night and flown to Dover, Del., Col. O'Hara said.

The loss of the 16 was the deadliest single blow to American forces who ousted the Taliban in 2001 and are now fighting the escalating insurgency.

In three months of unprecedented fighting, about 502 suspected insurgents, 57 Afghan police and soldiers, 45 Americans and 134 civilians have been killed. Only eight months ago, Afghan and U.S. officials were hailing a relatively peaceful presidential election as a sign that the Taliban rebellion was finished.

U.S. Attacks Near Copter Crash Site (LAT)

By Halima Kazem

The Los Angeles Times, July 3, 2005

American fighter planes bombed a suspected insurgent compound in the same eastern area of Afghanistan where a team of U.S. soldiers has gone missing, military officials said Saturday.

A Taliban spokesman said more than 25 militants were killed in the airstrikes Friday, but U.S. military officials said it was too soon to estimate casualties.

"We do not know the results of the airstrikes. The battle assessments are ongoing," said Lt. Cindy Moore, a U.S. spokeswoman.

The airstrikes were a continuation of operations in mountainous Kunar province, where a Chinook helicopter was shot down Tuesday by rebel forces, killing all 16 service personnel on board.

The Chinook had been called in to assist the ground team in fighting Al Qaeda and Taliban militants but crashed into a mountainside after being targeted by rocket-propelled grenades.

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On Saturday, the Pentagon identified the eight Navy SEALs on board the Chinook as Chief Petty Officer Jacques J. Fontan, 36, of New Orleans; Senior Chief Petty Officer Daniel R. Healy, 36, of Exeter, N.H.; Lt. Cmdr. Erik S. Kristensen, 33, of San Diego; and Petty Officer 1st Class Jeffery A. Lucas, 33, of Corbett, Ore.

Also, Lt. Michael M. McGreevy Jr., 30, of Portville, N.Y.; Petty Officer 2nd Class Eric S. Patton, 22, of Boulder City, Nev.; Petty Officer 2nd Class James Suh, 28, of Deerfield Beach, Fla.; and Petty Officer 1st Class Jeffrey S. Taylor, 30, of Midway, W. Va.

Hundreds of U.S. and Afghan forces have since been scouring the area's deep ravines in the hope of finding the special reconnaissance team, which has been out of contact for several days.

Moore did not comment on reports that rebels had captured members of the missing team.

"There is a good chance that the soldiers are being held hostage by the rebel fighters," said Gov. Asadullah Wafa of Kunar. "These rebels have an agenda."

Also Saturday, in the mountains of central Oruzgan province, Afghan soldiers attacked a Taliban hide-out where about 100 insurgents are thought to have been camped, Afghan security forces said. Two soldiers and 18 rebels were killed, they said.

The attack was in response to the kidnapping and killings of nine Oruzgan tribal leaders by Taliban militants. More than 45 people have been slain in the area in four days.

In Paktika province, meanwhile, six local United Nations security personnel were killed when their convoy was hit by a roadside bomb, according to early reports.

With landmark parliamentary elections scheduled for September, violence has surged in the last three months. About 500 suspected insurgents, 49 Afghan police and soldiers, 140 civilians, and 45 U.S. troops have been killed since March.

The instability has spread fear through the country, especially in southern provinces with Pushtun majorities, the same ethnic group as the Taliban.

Many believe that Taliban and Al Qaeda militants have joined forces with other rebel groups to destabilize election preparations and prevent a long-term U.S. military presence in Afghanistan.

Veterans Confront A Taste Of Battle (WP)

By Michael E. Ruane

The Washington Post, July 3, 2005

The petite young woman with the ponytail, hoop earrings and little red knapsack holds her fingers in her ears and shudders with each crash of the cannon.

One by one, the line of Civil War-era artillery pieces goes off -- shh-BOOM! -- each one a little closer, and each one a little more jarring. As the shots come near, the woman has both hands covering the sides of her face, and with the final blast, about 30 feet distant, she turns away in pain as if she has just been slapped.

The firing is, of course, make-believe war -- a masquerade attended by perspiring men and women in gaudy period costume. But as Army Spec. Kristina Steinmetz, 23, looks on here during a visit from Walter Reed Army Medical Center, she is having trouble separating the pretend war from the real thing.

The occasion is a sprawling weekend reenactment of the battle of Gettysburg staged across freshly mowed farmland in the fields north of town. Steinmetz, who is recovering from combat stress at Walter Reed, had come to the reenactment with two wounded comrades on an outing hosted by a soldiers support agency called Operation Second Chance Inc.

Steinmetz, of Phillipsburg, N.J., Michael Oreskovic, 23, of Eugene, Ore., and Harold Peckenpaugh, 19, of Attica, N.Y., had been eager to make the trip. The three are close friends, and it had been their idea: a three-day weekend away from the hospital. Peckenpaugh had been a reenactor before entering the Army, and his old Civil War outfit was going to be in the battle. Steinmetz and Oreskovic, a military history buff, had never been to Gettysburg.

But Friday morning, as they were driven to the make-believe war by Operation Second Chance founder Cindy McGrew, each of the young soldiers bore the scars of the real one that is underway in Iraq.

Steinmetz, who looks much younger than her years, had been a convoy truck driver -- one of the most harrowing assignments in Iraq. She told of convoys being attacked daily by roadside bombs, of never knowing what might blow up -- an animal carcass, a pile of garbage -- and of never knowing who in the convoy would survive and who wouldn't. Peace of mind came only at night, she said, under the stars.

Partway through her tour at Tikrit, she began blacking out without warning and developed heart problems. She was taken to Walter Reed, where, she said, she was treated for syncope, a temporary loss of consciousness that can be stress-related, and for post-traumatic stress disorder, from which she has substantially recovered.

Peckenpaugh, a rangy Humvee gunner who wears his Purple Heart pinned to the bill of his blue baseball cap, has a long pink scar down the right side of his neck. On Dec. 4, near Ramadi, he was at his gun when an improvised bomb went off,

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sending shrapnel into his neck, breaking his jaw and slicing his carotid artery. He lost so much blood that he suffered a stroke and, for a time, was partially paralyzed.

Oreskovic was a scout with an Army cavalry unit. He had spent months on hazardous house searches, "hunter-killer" missions and recons. "It was fun," he said. "I enjoyed it." He had been wounded once by a car bomb, on Oct. 5, and six days later he was hit again, just a week before he was scheduled to come home.

This time it was a huge device, made of mortars and artillery rounds, in a truck full of fruit that blew up near his Stryker vehicle in Mosul. He was exposed from the waist up, manning a grenade launcher in the turret.

"I saw a blue flash, " he recalled. "Turned to red. Got real hot." His squad leader, in the vehicle in front of him, was killed. And the blast tore off Oreskovic's left arm at the elbow. "There was nothing left of it," he said.

He arrived a few days later at Walter Reed, where for the first few months of his recovery he couldn't watch TV or movies about war, and certain sounds made him jumpy and emotional. Gradually, he got over that, and this weekend -- his interest in history piqued -- he did not expect trouble at the reenactment. "I can separate myself from it," he said.

The four arrived at a campground about 11 a.m. Friday, unloaded their gear at the cabin where they planned to stay and headed for the battlefield, where the reenactment continued yesterday and is scheduled to conclude today.

It was the 142nd anniversary of the battle, where thousands perished over July 1, 2 and 3, 1863.

At first glance, the modern-day soldiers looked like anyone in the crowd of onlookers who came to watch the battles and browse under the tents where merchants sold reproductions of 1860s-era clothing and firearms.

Oreskovic's artificial left arm was barely noticeable, protruding from his long-sleeved shirt, though he did fumble a bit getting money from his wallet using only his right hand. Steinmetz and Peckenpaugh each bought cap guns, which they fired at each other playfully. And when Peckenpaugh purchased a reproduction 1858 Army revolver, the clerk asked, "How old are you?" He showed his Army ID card.

But there was a seriousness about the trio as they strolled anonymously among people wearing "Support Our Troops" T-shirts or clad as soldiers from a bygone era. When Steinmetz emerged from one merchant's tent with a feathery blue dream catcher, she muttered to Peckenpaugh, "I need something to take the damn nightmares away."

As the day wore on, the weather grew more sultry. Oreskovic and Peckenpaugh dressed up temporarily in period garb provided by Peckenpaugh's reenactor friends. All three drank bottled water and ate ice cream cones to stay cool.

But by mid-afternoon, the heat and the artillery fire had become too much for Steinmetz. Her hands trembled as she clutched her small digital camera. McGrew held her tightly around the waist during the demonstration.

"It was a little hard," Steinmetz said afterward. "Just flashback memories. You just start thinking. . . . The jump is always going to be there. But just visions, you know."

That evening, as distant bugles sounded and drumfire again echoed among the fields here, she packed her things, caught a ride back to the hospital and left Gettysburg, with an old-fashioned band playing in the town square.

CORPORATE SCANDALS:

Op-Ed by Michael Kinsley: The Lord And Richard Scrushy (WP)

By Michael Kinsley, Post

The Washington Post, July 3, 2005

God works in mysterious ways, but his or her decision to acquit Richard Scrushy, former CEO of HealthSouth Corp., on all charges of financial fraud is especially inscrutable. Five consecutive HealthSouth chief financial officers admitted to cooking the books and copped a plea. They all fingered Scrushy. But jurors chose to believe that the man on top knew nothing about what was going on directly below him.

That kind of ignorance doesn't come cheap. No one denies there was massive fraud at HealthSouth. The government estimates that Scrushy made almost $300 million from the alleged fraud, and he'll get to keep it minus lawyer's fees. Other prominent business defendants have tried the ignorance defense but found that juries tend to think that the more you're paid, the more you ought to know about what's going on around you. Bernard Ebbers of Worldcom Corp., apparently the most convincing of the recent CEO ignoramus wannabes, is facing prosecutors' request for a life sentence.

Experts say the Scrushy prosecution should have been a slam-dunk. Even the Wall Street Journal editorial page seemed amazed that he got off. The Journal approved, of course, but couldn't really explain why. Meanwhile, jurors quoted in the papers said they were bothered by things like the lack of Scrushy fingerprints on copies of the crucial documents.

Only one word can describe Scrushy's acquittal. It is a miracle.

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Miracles happen, just like that other stuff. But miracles don't just happen. They require work. Money doesn't hurt, either. When Scrushy was indicted, he hired God. Less inspired defendants might have settled for the late Johnnie Cochran or Jack Abramoff. Scrushy, though, went straight to the top.

He left his suburban evangelical church and joined a predominantly black congregation in a blue-collar neighborhood. He bought a half-hour of local TV for a morning prayer show featuring himself and his wife, and frequent guest spots by black ministers. He had a prayer group praying for him every day at the trial. All this was in Birmingham, Ala., where HealthSouth was located and where the trial occurred.

Cynics have suggested that Scrushy and his advisers might have been trying to influence the local jury with these tactics. This, if I might say so, is a typical example of the anti-Christian bias that so many folks complain about in the liberal media. Why can't a man turn to God in his moment of trial (or, indeed, in his actual criminal trial) without being accused of ulterior motives? Scrushy prayed, and his prayers were answered. "God is good," he said on the courthouse steps after the jury verdict. And well he might think so.

The Post got in trouble a million years ago for an article that described evangelical Christians as "poor, undereducated and easily led." The paper apologized almost immediately and many times afterward. And, like every major paper in those cesspools of secularism that are America's big cities, The Post now seizes any opportunity to slobber over religion and to show respect to religious people, especially evangelical Christians.

But with their cynical suggestion that Richard Scrushy and his defense team might have been using religion to con the jury, the liberal media reveal that they are still heathens. Not only do they still secretly think that devoutly religious people in the Deep South are "poor, undereducated and easily led," but they imply that Richard Scrushy and his defense team may think so, too. What could be a bigger insult to a godly man who has now been acquitted of all wrongdoing?

The obvious lesson of the Scrushy verdict is that prayer works. What do the cynics say now? Even Martha Stewart, who keeps thousands of people out of church every Sunday because they are too busy searching for fresh kale or folding their handkerchiefs and whose obsessive celebration of the material world makes her possibly the least spiritual figure in American public life (though no worse for that, in my opinion), might well wish she had fallen to her knees before it was too late.

To anybody but Scrushy, his acquittal doesn't necessarily prove that there is a God. To some HealthSouth investors, it may even suggest the opposite. And the view of those five former HealthSouth CFOs may be even bleaker. But if there is a God, it is hard to see the Scrushy acquittal as anything but the result of divine intervention.

So there is no puzzle about Scrushy's motives. The intriguing question is, what were God's motives? Being all-knowing, He or She doesn't need fingerprints and has no doubts, reasonable or otherwise. Are we supposed to conclude that prayer, if suitably ostentatious, can be an acceptable substitute for goodness, rather than a reflection of it?

Or is this a demonstration of God's powers? A good defense attorney can get an innocent man off, but it takes a great defense attorney to get a guilty man off. Maybe it's the same with deities.

All we can say is, God knows.

The writer is editorial and opinion editor of the Los Angeles Times.

CRIMINAL LAW:

The Rove Factor? (NSWK)

By Michael Isikoff

Newsweek, July 3, 2005

Its legal appeals exhausted, Time magazine agreed last week to turn over reporter Matthew Cooper's e-mails and computer notes to a special prosecutor investigating the leak of an undercover CIA agent's identity. The case has been the subject of press controversy for two years. Saying "we are not above the law," Time Inc. Editor in Chief Norman Pearlstine decided to comply with a grand-jury subpoena to turn over documents related to the leak. But Cooper (and a New York Times reporter, Judith Miller) is still refusing to testify and faces jail this week.

At issue is the story of a CIA-sponsored trip taken by former ambassador (and White House critic) Joseph Wilson to investigate reports that Iraq was seeking to buy uranium from the African country of Niger. "Some government officials have noted to Time in interviews... that Wilson's wife, Valerie Plame, is a CIA official who monitors the proliferation of weapons of mass destruction," said Cooper's July 2003 Time online article.

Now the story may be about to take another turn. The e-mails surrendered by Time Inc., which are largely between Cooper and his editors, show that one of Cooper's sources was White House deputy chief of staff Karl Rove, according to two lawyers who asked not to be identified because they are representing witnesses sympathetic to the White House. Cooper and a Time

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spokeswoman declined to comment. But in an interview with NEWSWEEK, Rove's lawyer, Robert Luskin, confirmed that Rove had been interviewed by Cooper for the article. It is unclear, however, what passed between Cooper and Rove.

The controversy began three days before the Time piece appeared, when columnist Robert Novak, writing about Wilson's trip, reported that Wilson had been sent at the suggestion of his wife, who was identified by name as a CIA operative. The leak to Novak, apparently intended to discredit Wilson's mission, caused a furor when it turned out that Plame was an undercover agent. It is a crime to knowingly reveal the identity of an undercover CIA official. A special prosecutor was appointed and began subpoenaing reporters to find the source of the leak.

Novak appears to have made some kind of arrangement with the special prosecutor, and other journalists who reported on the Plame story have talked to prosecutors with the permission of their sources. Cooper agreed to discuss his contact with Lewis (Scooter) Libby, Vice President Dick Cheney's top aide, after Libby gave him permission to do so. But Cooper drew the line when special prosecutor Patrick Fitzgerald asked about other sources.

Initially, Fitzgerald's focus was on Novak's sourcing, since Novak was the first to out Plame. But according to Luskin, Rove's lawyer, Rove spoke to Cooper three or four days before Novak's column appeared. Luskin told NEWSWEEK that Rove "never knowingly disclosed classified information" and that "he did not tell any reporter that Valerie Plame worked for the CIA." Luskin declined, however, to discuss any other details. He did say that Rove himself had testified before the grand jury "two or three times" and signed a waiver authorizing reporters to testify about their conversations with him. "He has answered every question that has been put to him about his conversations with Cooper and anybody else," Luskin said. But one of the two lawyers representing a witness sympathetic to the White House told NEWSWEEK that there was growing "concern" in the White House that the prosecutor is interested in Rove. Fitzgerald declined to comment.

In early October 2003, NEWSWEEK reported that immediately after Novak's column appeared in July, Rove called MSNBC "Hardball" host Chris Matthews and told him that Wilson's wife was "fair game." But White House spokesman Scott McClellan told reporters at the time that any suggestion that Rove had played a role in outing Plame was "totally ridiculous." On Oct. 10, McClellan was asked directly if Rove and two other White House aides had ever discussed Valerie Plame with any reporters. McClellan said he had spoken with all three, and "those individuals assured me they were not involved in this."

Rove Talked But Did Not Tattle, Attorney Says (LAT)

By Richard B. Schmitt, Times Staff Writer

The Los Angeles Times, July 3, 2005

WASHINGTON — Karl Rove, one of President Bush's closest advisors, spoke with a Time magazine reporter days before the name of a CIA operative surfaced in the press, but did not leak the confidential information, a lawyer for Rove said Saturday in a new admission in the case.

Rove spoke to Time reporter Matthew Cooper in July 2003, before a syndicated column revealed the identity of operative Valerie Plame, the wife of Bush administration critic and former U.S. Ambassador Joseph C. Wilson IV.

Cooper is one of two reporters who has been held in contempt of court for not cooperating with a federal investigation into who leaked Plame's identity. Although Wilson once said he suspected that Rove had played a role in destroying his wife's CIA cover, the White House dismissed questions about Rove's actions as "totally ridiculous."

In confirming the conversation between Rove and Cooper, Rove's attorney, Robert Luskin, emphasized that the presidential advisor did not reveal any secrets. But the disclosure raised new questions about Rove and the precise role of the White House in the apparent national security breach as Cooper and another reporter, Judith Miller of the New York Times, faced imminent jail terms.

Time Inc., under pressure from a federal judge and over Cooper's objections, turned over e-mail records and other internal documents to a special prosecutor Friday, identifying sources that Cooper used to report and write on the politically charged case. A Time spokeswoman declined to say Saturday whether Rove was among sources mentioned in the documents.

Cooper and Miller could be jailed as soon as Wednesday for refusing to cooperate in the investigation. Time, which was separately held in contempt in the case, said that it hoped its cooperation meant that Cooper would not be incarcerated.

Rove, Bush's deputy chief of staff and longtime political strategist, testified before a grand jury investigating the Plame case on three occasions. His latest appearance was in October 2004, about the same time the prosecutor investigating the case said his probe was complete with the exception of testimony from Cooper and Miller.

Special prosecutor Patrick J. Fitzgerald is investigating the alleged outing of Plame by Robert Novak, a columnist and CNN pundit, on July 14, 2003. Some suspect that the White House leaked her name in retaliation for a July 6, 2003, op-ed piece in the New York Times written by Wilson, her husband. He accused the administration of twisting intelligence to justify the invasion of Iraq.

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Fitzgerald interviewed many other White House officials and journalists, including Bush and Vice President Dick Cheney. Although Novak was the first to publish Plame's name, Fitzgerald has indicated that whoever leaked the information to Novak also might have revealed her identity to other journalists. That could constitute separate violations of a federal law that protects the identity of undercover CIA personnel.

Prosecutions are rare, however, because they require showing that the leak was intentionally disclosed and that the person leaking the information knew the government was trying to conceal it.

Fitzgerald asked Cooper and Time for documents and testimony relating to conversations Cooper had with official sources about Wilson, Plame or her ties to the CIA in the period before the publication of Novak's column. Cooper wrote about the case on Time's website after the Novak column appeared.

Luskin, Rove's attorney, acknowledged in an interview Saturday that Cooper and Rove had spoken days before Novak's column, in a conversation that was initiated by Cooper.

"What I can tell you is that Cooper called Rove during that week between the Wilson article and the Novak article, but that Karl absolutely did not identify Valerie Plame," Luskin said. "He did not disclose any confidential information about anybody to Cooper or to anybody else."

Luskin said he would not "characterize the substance of the conversation," which was covered in the testimony Rove provided to the grand jury investigating the leak. "The folks in Fitzgerald's office have asked us not to talk about what Karl has had to say," Luskin said.

Luskin said Rove had been assured by prosecutors that he was not a target of the investigation. "We were advised recently that his status has not changed," he added.

"It is certainly my understanding that Karl has testified absolutely truthfully about all his conversations about everybody that he has been asked about during that week," Luskin added. "Nobody has suggested to us ever that they think that there are any problems about whether they think he is being candid."

But Newsweek magazine reported on its website Saturday that Rove was one of Cooper's sources identified in notes that Time turned over to Fitzgerald. And separately, MSNBC political analyst Lawrence O'Donnell said in a taped TV program that he had information indicating Rove was one of Cooper's sources. O'Donnell's comments were made in a segment of "The McLaughlin Group" that was set to air in Los Angeles on PBS Saturday night.

Cooper's lawyer, Richard Sauber, declined to discuss Rove's role in Cooper's work, saying in response to an e-mail message, "We're not going to discuss one way or another what the [documents turned over by Time] say."

In court papers filed Friday arguing against his possible confinement, Cooper's lawyers said if he were to break promises of confidentiality, "his ability to continue as an effective reporter would be seriously jeopardized."

In letters to the court accompanying his plea, fellow journalists discussed this principle.

"Journalists must honor their promises which protect the bad along with the good," said Margaret Carlson, a Time columnist and colleague of Cooper. "We can't separate them like the darks and the whites in the laundry."

Lawyer Says Rove Talked To Reporter, Did Not Leak Name (WP)

By Carol D. Leonnig

The Washington Post, July 3, 2005

Karl Rove, President Bush's chief political adviser, spoke with Time magazine's Matthew Cooper during a critical week in July 2003 when Cooper was reporting on a public critic of the Bush administration who was also the husband of a CIA operative, his lawyer confirmed yesterday.

Rove is identified in Cooper's notes from that time period, which Time turned over Friday to special prosecutor Patrick J. Fitzgerald -- under court order. Fitzgerald is investigating whether senior administration officials leaked CIA operative Valerie Plame's name to reporters in July 2003 as retaliation after her husband, former ambassador Joseph C. Wilson IV, publicly accused the Bush administration of twisting intelligence to justify a war with Iraq.

Rove's lawyer said Rove never identified Plame to Cooper in those conversations. More significantly, Robert Luskin said, Fitzgerald assured him in October and again last week that Rove is not a target of his investigation.

"Karl did nothing wrong. Karl didn't disclose Valerie Plame's identity to Mr. Cooper or anybody else," Luskin said. Luskin said the question remains unanswered: "Who outed this woman? . . . It wasn't Karl."

Cooper has said that more than one confidential source is identified in his e-mails and the notes of interviews he conducted in July 2003 after Wilson's opinion piece appeared in the New York Times. Reporters were calling the White House with questions about Wilson's assertions, which senior government officials tried to discredit.

Plame's name first appeared in Robert D. Novak's syndicated column in July 2003, eight days after Wilson's opinion piece critical of the Bush administration appeared in the Times. Wilson was sent by the CIA in 2002 to investigate allegations that Iraq

had sought to buy uranium in the African nation of Niger, and he reported that he found no proof. His opinion piece accused the administration of twisting intelligence to justify going to war with Iraq

After the Novak column, Wilson said the White House had damaged his wife's career and had put all her contacts in jeopardy. He initially accused Rove of being behind the leak, then retracted that statement. It is a felony to knowingly identify a covert operative.

Rove answered questions under oath for about two hours before a grand jury on Oct. 15 as part of the special prosecutor's investigation. According to Luskin, the prosecutor said he believes Rove was candid and forthcoming about his contact with reporters.

"I've been assured by the prosecutor they have no reason to doubt the honesty of anything he's said," Luskin said.

Cooper and New York Times reporter Judith Miller face four months in jail as early as Wednesday for defying Chief U.S. District Judge Thomas F. Hogan's order to cooperate with Fitzgerald's investigation. The Supreme Court on Monday refused to hear the reporters' appeals of Hogan's order.

Journalists Say Threat Of Subpoena Intensifies (NYT)

By Katharine Q. Seelye

The New York Times, July 3, 2005

In 1991, when Timothy Phelps, a reporter for Newsday, and Nina Totenberg, a reporter for National Public Radio, broke the news that Anita Hill had accused Clarence Thomas, then a Supreme Court nominee, of sexual harassment, a special Senate counsel tried to subpoena the reporters' telephone records to unmask their confidential source.

The accusations prompted a second round of highly contentious confirmation hearings, but Senate leaders ultimately refused to give the special counsel permission to pursue the records, and eventually the matter was dropped.

Mr. Phelps, who is now Newsday's bureau chief in Washington, recalled his case last week after two courts, including the Supreme Court, ruled in two similar cases against journalists.

"We seemed to have pretty solid support for the stand we took, from the journalistic community, the legal community, the human rights community, the public," he said. "And I don't sense as much of that today, even in the journalistic community. The legal atmosphere, the corporate atmosphere, and the public atmosphere has changed."

Lawyers for the news media say that the legal climate for those seeking to protect confidential sources is turning chillier, with more subpoenas being issued to reporters. There is no database that tracks such subpoenas, and some prosecutors dispute that they are on the rise. But a series of high-profile cases involving confidential sources has the news media on edge.

"It does feel like open season," said Laura Handman, a First Amendment lawyer based in Washington. "There are more instances of courts ordering confidential sources to be disclosed," she said, adding that she believed the Bush administration's emphasis on secrecy was partly to blame. "This leads to more leak inquiries, which, in turn, leads to more subpoenas."

In the last year, more than two dozen reporters across the country have been subpoenaed or questioned about their confidential sources in cases before federal courts, according to the Newspaper Association of America. Paul J. Boyle, senior vice president of the association, said he believed that "the filing of subpoenas, as well as the letters and phone calls that media companies receive from prosecutors and civil litigants, is on the rise."

Kurt Wimmer, a media lawyer whose firm, Covington & Burling, represents 45 television stations in 40 states, said he had as many subpoenas against reporters in the first three months of this year as he had in all of last year.

He said those subpoenas were largely inspired by the looming prospect over the last several months that Judith Miller of The New York Times and Matthew Cooper of Time magazine would go to jail for refusing to testify in a grand jury investigation into the disclosure of the identity of a covert C.I.A. operative, Valerie Plame. The Supreme Court last week declined to hear the reporters' appeal, intensifying one of the biggest clashes between the news media and the courts in a generation.

"When the Supreme Court says there's nothing wrong with forcing reporters to testify and go to jail, other lawyers are looking at that and saying, 'Why shouldn't I subpoena a reporter?' " Mr. Wimmer said.

Others doubt that there have been more subpoenas recently, saying it may just seem that way because a handful of cases have become so prominent. They say that regardless of the numbers, there is nothing wrong with pursuing justice if a reporter has been manipulated by a source and published misleading information.

In another case last week, a federal appeals court in Washington upheld contempt orders against four reporters who had refused to disclose their confidential sources to Wen Ho Lee, an atomic scientist who had been suspected of passing secrets to the Chinese but pleaded guilty to a lesser charge. He is suing the government for giving information about him to those reporters, violating his privacy.

Brian A. Sun, a Los Angeles lawyer who represents Dr. Lee, said that while he did not see more subpoenas, just more publicity about them, he agreed that the Miller-Cooper case "could encourage other prosecutors to utilize the tools that they have

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had available to them." In Mr. Sun's view, what is behind these cases are leakers who have "less than altruistic motives" and are using reporters, while those reporters in turn are looking to break a big story.

The heightened interest in national security issues since the Sept. 11 terrorist attacks has drawn attention to some cases, said Martin London, a New York lawyer who has litigated several media cases and subpoenaed nearly a dozen reporters in 1972 on behalf of Spiro T. Agnew, the former vice president. At the same time, he said, high-profile scandals at various news organizations, including The New York Times and CBS News, have undermined confidence in the news media.

"I don't buy that there is any increase in subpoenas," Mr. London said. "The Miller-Cooper case is very unusual, it has a lot of wrinkles that are just sort of extraordinary. But it's perfectly reasonable in a post-9/11 world for the government to be concerned about the security of C.I.A. information."

John Nowacki, a spokesman for the Justice Department, said the department would not comment on the use of subpoenas against reporters.

Mr. Boyle and others said there was a change after a 2003 ruling written by Richard Posner, an influential federal appeals court judge in Chicago, who said that lower courts had been misreading a 1972 Supreme Court decision, Branzburg v. Hayes. That case in fact rejected the idea of First Amendment protections for reporters, but media lawyers over three decades managed to convince judges otherwise.

"He seems to have freed some of his colleagues to pull back on the privilege," said Sandra Baron, executive director of the Media Law Resource Center.

Patrick J. Fitzgerald, the special prosecutor in the Miller-Cooper case, has served as something of a role model for those who are seeking information from reporters. Mr. Fitzgerald has employed a technique based on the idea that if a source no longer requires confidentiality, the reporter's pledge to keep it is moot. He has sought and obtained waivers from suspected sources releasing reporters of their confidentiality agreements, making it harder for reporters to claim they are bound by a pledge not to talk.

Through this approach, Mr. Fitzgerald obtained at least limited testimony from journalists including Tim Russert of NBC, Walter Pincus of The Washington Post and Mr. Cooper. Mr. Cooper was subpoenaed again and refused to testify, although Time Inc. has turned over his notes to the prosecutor, a decision with which Mr. Cooper said he disagreed. Mr. Cooper and Ms. Miller face another court hearing Wednesday to learn their fates.

Mr. Phelps, for one, lamented this turn of events and said it was only likely to chill potential sources in the future. "The fact that some news organizations have cooperated in this case is going to put a little seed of doubt in people's minds about whether they can really depend on reporters or not," he said.

And there is a rising concern among reporters that those people might be right.

"The biggest fear that most reporters have now is not having their mail taken or their phone records taken without their being told," said John Solomon, who oversees investigative reporting for the Associated Press and who had both of those things happen to him, in 2002 and 2001, respectively. "The biggest concern is that they'll write about something and will be forced to talk about it."

Representative Mike Pence, the Indiana Republican who is pushing, so far unsuccessfully, for Congress to pass a federal law to protect journalists, said that fear was justified. "No reporter, as the law has evolved in the last 30 years, can give absolute assurance to any source that at no time will their identity be disclosed," he said.

In addition to the Lee and Miller-Cooper cases, there have been several other high-profile cases involving confidential sources. Jim Taricani, a reporter with WJAR, a television station in Providence, R.I., refused to reveal the identity of the person who leaked him an F.B.I. videotape of a politician taking a bribe. He was sentenced to six months of home detention in December and was released after four months.

Nine news organizations have been subpoenaed in the case involving Steven J. Hatfill, a scientist, who sued federal officials under the privacy act for naming him as a "person of interest" in the 2001 anthrax investigations. As many as 100 federal agents have waived any confidentiality agreements they had with the media in that case.

Ms. Miller of The New York Times and a colleague, Philip Shenon, are under subpoena for their phone records by a grand jury investigating the leak of information about a planned F.B.I. raid on an Islamic charity suspected of funding terrorism. In February, a federal district judge in New York held that the reporters had a right to keep their phone records confidential.

The cases come as polls show the public has a deepening distrust of the news media, although a study by the Pew Research Center last month found that 76 percent of Americans think the use of confidential sources is at least sometimes justified.

Michael Getler, the ombudsman for The Washington Post, cautioned between linking what he agrees is a rise in the number of legal proceedings over sources and the low regard in which the news media is held. "There clearly is a more widespread ideological assault from both sides on the press these days, and that may well be feeding some of the prosecutorial

zeal," he said. "But I don't know that that is really the case. I don't think we know enough to say exactly what is driving individual prosecutors."

Congressman Mum After FBI Searches Home (AP-Y2)

By Seth Hettena, Associated Press Writer

AP2, July 3, 2005

A California congressman whose dealings with a defense contractor are under investigation was taking a "personal day" Saturday and not commenting on federal authorities' searches a day earlier of his home and a yacht where he stayed while in Washington, a spokesman said.

Rep. Randy "Duke" Cunningham didn't plan a public appearance until a Monday pancake breakfast in Encinitas, spokesman Mark Olson said.

Olson referred all questions about the investigation to Cunningham's attorney.

FBI agents on Friday searched Cunningham's $2.55 million mansion outside San Diego and a 42-foot yacht named Duke Stir, according to a bureau spokeswoman, who said agents from the Department of Defense and Internal Revenue Service assisted.

Cunningham's attorney, K. Lee Blalack, released a statement saying he told the government Thursday the congressman would cooperate with the investigation.

"They will apparently not take 'yes' for an answer and have instead opted to use strong-arm tactics that were designed to generate headlines," Blalack said.

Blalack said Saturday that Cunningham still intended to provide information requested.

Authorities also searched the Washington offices of defense firm MZM Inc. MZM's founder, Mitchell Wade, bought a home from the congressman in 2003 at what may have been an inflated $1.7 million price. Wade also owns the yacht where Cunningham said he has lived part-time since April 2004.

Cunningham pledged last month to release records on the boat payments but has yet to do so. If he was living on Wade's boat for free, that could be a violation of congressional ethics rules.

Blalack said Saturday that Cunningham still planned to release those records but did not say when. He declined to comment further on the case.

Cunningham, 63, a former Navy "Top Gun" fighter pilot and eight-term Republican congressman, has said that he showed poor judgment in selling the house but acted honestly and predicted that an investigation would prove that.

Public Defender Rules Are Set To Change (SLPD)

By Robert Patrick, Of the Post-Dispatch

St. Louis Post-Dispatch, July 3, 2005

The St. Louis public defender's office - the last legal hope for those too poor to afford their own lawyer - will, for the first time in at least 20 years, refuse to represent certain people in court starting Tuesday, state officials said last week.

Those people are on the misdemeanor confined docket, which means they've been arrested on misdemeanor charges, or are named on the assessed docket because they've been arrested for failing to pay fines or court costs.

State and local representatives of the public defender's office say they're making the move because it's unethical and unprofessional to try to represent defendants with only minutes to familiarize themselves with the cases.

J. Marty Robinson, director of the Missouri State Public Defender system, calls it "meet 'em and greet 'em and plead 'em."

"I'm just flabbergasted that there are people that think this is OK," he said.

Robinson said many people were probably misled into thinking they had a lawyer, but public defenders were simply "filling out the court's paperwork."

Public defenders also say that under recently revised state laws, guilty pleas to two of certain misdemeanors can lead to a felony charge and serious prison time for the third offense, along the lines of state three-strikes laws. That could mean defendants who plead guilty to minor crimes to stay out of jail are unknowingly increasing their chance of greater future penalties.

"Our representation on that docket was unethical, unprofessional and unconstitutional, and innocent and vulnerable people were being hurt," said St. Louis District Defender Eric Affholter. "And that's why we made our decision to participate differently on that docket."

The move is threatening to fill local jails and to clog courtrooms. Presiding Circuit Judge John Riley said he was going to tell city officials last week that city jails could be seeing more inmates for longer periods.

It also is angering judges. In legal paperwork filed late Friday, the public defender's office said one assistant public defender had been told by sheriff's deputies they had been ordered to arrest her and her colleagues if they didn't show up to

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interview clients at 9 a.m. Tuesday. But sheriff's spokesman Mike Guzy said Friday afternoon that he wasn't aware of any order to arrest public defenders.

The judges reportedly are striking back in other ways, including in ways public defenders say will punish those too poor to afford their own attorneys.

According to affidavits signed by Affholter and Assistant District Defender Laura O'Sullivan and filed Friday, Circuit Judge Michael Mullen called O'Sullivan and told her that he was changing policies in his courtroom in response to the public defender's move set for Tuesday. Mullen said he would no longer allow public defenders to postpone trials, would go with prosecutors' recommended sentences over public defenders' recommendations and would no longer reschedule hearings to avoid conflicts with the public defenders' schedules.

"When one arm of the criminal justice system flexes its muscle, the others must respond," Mullen told the public defender's office staff, according to Affholter. Mullen was on vacation last week and could not be reached for comment.

"We weren't trying to flex our muscle," Affholter responded last week. "Our intent really was to do the best lawyering we can."

The controversy began, according to legal filings, after two defendants pleaded guilty with the assistance of public defenders, then hired private attorneys who weeks later tried to withdraw those guilty pleas, alleging inadequate representation.

The public defender's office then began examining whether they should continue to represent certain defendants on the docket.

Public defender's officials met with a handful of judges on May 24 to discuss the problem and suggest solutions, Affholter said.

"Nothing came of that," he said.

A June 17 letter to Associate Circuit Judge Paula Bryant announced that as of July 5, the office would no longer automatically represent defendants the first time they appear in court after having been arrested on a misdemeanor charge.

From 15 to 50 people appear on that docket each morning, Affholter said. Public defenders have been representing those defendants without access to police reports or the criminal court file and with little time to consult, he said.

Robinson said those defendants have a constitutional right to "meaningful representation." He said, "It means an attorney that meets with me, hears my problems, finds out what the case is against me." The attorney "either presents my defense or knows enough about my situation to negotiate the best plea agreement. But you can't really do that unless you know what evidence the state has."

Defendants often were given a choice: Plead guilty or stay in jail until paying a $5,000 bond, Affholter said. "So, coercively, people were pleading guilty."

For certain misdemeanor crimes, the third charge can be prosecuted as a felony, Affholter said.

"So the implication of just pleading people out has a lot more serious impact," he said. "Driving while (license) revoked can now be a felony if you have enough priors." And that could mean up to five years in prison.

Pippa Barrett, in charge of misdemeanors for the St. Louis circuit attorney's office, said it would be "infrequent" for someone to qualify to be charged with a felony for that charge.

According to the June 17 letter and to state officials, starting Tuesday, public defenders in St. Louis, the state's busiest trial court, will not represent defendants who already have been convicted and sentenced but were arrested again because they failed to pay fines or fees.

Riley describes defendants in that category as "you didn't do what you were supposed to do or you didn't do it by a certain date."

And the office will represent poor defendants but will not represent them if they wish to immediately plead guilty.

"We are taking this position because it is not possible for us to render constitutional, ethical and professional assistance of counsel upon walking into court with no discovery, no opportunity for investigation and no opportunity to counsel the accused," the letter reads.

Similar rules elsewhere

Broward County, Fla., Public Defender Howard Finkelstein banned "meet, greet and plead" early last month over similar concerns.

Although some judges warned that the system would crumble and criminal defendants would miss out on good plea deals, Finkelstein said, "the public's reaction has been overwhelmingly supportive."

Finkelstein said he knows of two other public defenders in Florida that have instituted similar rules.

Riley said some judges see setting the start of the policy change on Tuesday - the end of a long holiday weekend that could result in a busy criminal docket - as a cynical way to boost pressure on the judges.

Others, including Affholter, said there have been accusations the move is in retaliation for Bryant's March 23 decision to overturn a guilty plea by a man accused of violating a protective order.

In a legal motion filed in that case, private attorney James Knappenberger said his client didn't have the capacity to understand the proceedings, couldn't comprehend what he read and was mentally and physically exhausted at the hearing.

"His assistant public defender did not raise his issues at or before the time of the plea. He only spoke to the assistant public defender the first time, when they appeared first in court, and entered his plea of guilty," the filing says.

Bryant did not give a reason in her ruling and declined an interview request. The man was later referred for a mental health evaluation.

"That happened to be a kid whose parents or someone had the wherewithal to look into it," Robinson said. "I wonder how many hundreds, if not thousands, don't have the ability to challenge it after the fact and have it set aside."

Affholter denied that his office was retaliating and said public defenders were not angry at Bryant. Affholter also denied accusations that the move was a bid for more money and staff. But state officials with the public defender's office have been crying for help.

Robinson said caseload was increasing at an average rate of 6.5 percent per year over the last 15 years.

"Their case files are too many, and they are too few," Robinson said of public defenders. Robinson calls it "assembly-line justice" that will inevitably send innocent people to jail.

Public defender's offices statewide are so understaffed, in fact, that the Missouri Bar announced June 20 that it is asking private attorneys to volunteer and help out by taking traffic, vehicle registration, licensing and other minor cases off the hands of public defenders.

"If the Public Defender System slips any further, Missouri's entire criminal justice system will falter," said Missouri Bar President Joe Whisler in a statement announcing the volunteer initiative.

Affholter said "the decision we made is 100 percent for representation."

Affholter also said the new policy would probably not be a big money saver. The office will most likely pick up many of the new cases anyway, he said.

In interviews last week, Riley was skeptical that handling the docket was very taxing.

"The guy didn't pay his costs on time? How much time do you need, counselor?" Riley asked.

An order and reply

The issue is likely to remain unresolved until at least Tuesday.

Presiding Judge Riley issued a one-page court order Monday that said public defenders would have to interview defendants on the confined docket at 9 a.m. to see whether they are eligible for representation by a public defender.

Robinson, director of the Missouri State Public Defender system, fired back Friday afternoon with a 22-page filing that contained many of the allegations against Mullen and other St. Louis judges.

Robinson's filing asks a judge to stay the order until a hearing could be scheduled. Robinson's filings also said Riley's order exceeded his authority by trying to take over management of the public defender's office, was vague and overly broad and would force public defenders to violate ethics rules.

The filing also asks St. Louis judges to recuse themselves from hearing the issue.

Barrett, who said prosecutors are just "bystanders" in the conflict, said public defenders once interviewed everybody for eligibility first.

"I think what's going on, and this is only my interpretation of events, is the judges think that's what could happen again," she said.

At 4:30 p.m. Friday, 90 minutes after most court staffers had left early for the holiday weekend, O'Sullivan and Ellen Blau, deputy trial division director of the public defender's office, tried to get Circuit Judge Michael Calvin to stay Riley's order until a hearing could be held.

Riley was on vacation Friday, and was two states away when Calvin reached him by phone to tell him of the filing. Calvin refused to question the presiding judge's order.

"I don't believe it is my place to rule one way or the other," Calvin told Blau.

Calvin said the assistant presiding judge could hear the case as early as Tuesday morning.

State Weighs 2 Bills Requiring Bullet Marking (LAT)

By Jordan Rau, Times Staff Writer

The Los Angeles Times, July 3, 2005

SACRAMENTO — With a zealot's enthusiasm, Randy Rossi has been firing bullets into lots of things lately. Car doors, Sheetrock, wood walls, gelatin with the consistency of human bodies.

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On the base of each mashed slug is a series of tiny, mostly legible numbers that have been inscribed by a laser. To Rossi, head of Atty. Gen. Bill Lockyer's firearm division, these markings represent a solution for one of law enforcement's most trying problems: the anonymity of ammunition.

"This is nothing fancy, just simple technology," he said on a recent day, after proudly showing that the identification numbers on several slugs remained readable after the bullets were fired into a bulletproof vest.

With 45% of the state's homicides unsolved in 2003, the most recent data available, the California Legislature is moving ahead with two potentially landmark measures that would require that identifying marks be embedded on projectiles from guns.

One proposal would have all bullets sold in the state marked during manufacture with codes. The other would mandate that guns be equipped with stamping mechanisms that would hammer telling marks onto every cartridge fired. That could allow investigators to link the cartridge to the gun's purchaser even if they could not find the firearm.

The approaches depart from law enforcement tactics elsewhere in the country, which have focused on creating computer registries of fired bullets. Those allow for investigators to match projectiles from different crimes, linking ones committed with the same weapon.

The issue of marking ammunition has become the most contested law enforcement topic in Sacramento this year. One of the bills has split California's law enforcement community and infuriated the nation's ammunition manufacturers, weapons sellers and firearms enthusiasts, including the National Rifle Assn. Several police groups in California are also opposed.

The hyperbolic debate has even ricocheted into Congress. In April, Rep. Duncan Hunter (R-El Cajon), chairman of the House Committee on Armed Services, warned Gov. Arnold Schwarzenegger that requiring serial numbers on ammunition would increase the cost of bullets so much that the military would scale back target practice. Arkansas Gov. Mike Huckabee, also a Republican, is also against the proposal, which he said would hurt manufacturers in his state.

Nationwide, there were 347,705 crimes committed with firearms in 2003. In California, those included 44,466 robberies and aggravated assaults, and 1,733 murders.

Although handgun serialization has been a required practice for decades, forensic advances in tracking the sale of ammunition — which is far more likely to be left at a crime scene — have been limited.

Since 1994, law enforcement agencies have been experimenting with ballistics imaging technology that makes computer pictures of bullets recovered from crime scenes. Those images are compared in hopes of linking crimes in which the same weapon was used.

The federal Bureau of Alcohol, Tobacco, Firearms and Explosives has established a database with 862,000 images that authorities say have led to 11,300 matches. Maryland and New York have established their own programs but have been criticized for failing to provide enough substantial leads. The first time Maryland's database contributed to a murder conviction was in April, four years after its creation.

California lawmakers debated the same strategy in 2000 but decided instead to study it. A 2003 report from Lockyer's office provided greater caution after concluding that constructing such a large database would be "impractical" and finding that it was often difficult to match images of bullets fired from the same gun.

The ammunition bill, SB 357 — numbered to correspond with a popular caliber — was introduced by Sen. Joe Dunn (D-Santa Ana) on Lockyer's behalf. It has passed the Senate and an initial Assembly panel. It is the one that has drawn the most intense opposition.

For any box of ammunition sold in California, the bill would require manufacturers to engrave each bullet with the same serial number, which would also be affixed to the box. Retailers would record who purchased each box and would provide that information to the state Department of Justice.

Ammunition Coding Systems, a Seattle company that provided demonstration bullets to California police, uses a laser to etch the number, but the bill does not specify what technology manufacturers would have to use.

Initial testing indicates that the serial numbers almost always survive impact. The San Bernardino County Sheriff's Department was able to identify serial numbers on 21 of 22 bullets it tested and recovered. The attorney general's office identified 180 serial numbers on 181 bullets.

The other, less cleverly numbered, bill, AB 352 by Assemblyman Paul Koretz (D-West Hollywood), has passed the Assembly and one Senate panel. The bill, sponsored by the Coalition to Stop Gun Violence, would require that semiautomatic pistols be equipped with technology that could imprint microscopic identifying information on each cartridge case fired from the gun.

NanoMark Technologies of Londonderry, N.H., has patented one technology that uses the firing pin to emboss the identification mark onto the chamber while it is in the breech of the gun. Although Ammunition Coding Systems' marks can be read with the aid of a regular magnifying glass, NanoMark's require more powerful imaging equipment used by forensic experts.

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It remains unclear what Schwarzenegger will do if either measure makes it to his desk. Last year the governor proved himself unpredictable on gun legislation by banning .50-caliber BMG rifles — powerful hunting weapons that can penetrate thick surfaces from great distances — but rejecting a measure requiring ammunition vendors to keep records of all purchasers.

"Forensic testing of ammunition used in a crime is the most effective way of tracing criminal activity," Schwarzenegger wrote in that veto message.

Ammunition manufacturers, who together produce 8 billion rounds nationally each year, say Dunn's legislation would bankrupt them. The industry, which makes $626 million worth of wholesale civilian sales each year — on top of unknown amounts to law enforcement and the military — insists that marking each piece will slow their production and substantially drive up the cost of bullets. Some fear that using lasers in factories filled with gunpowder would be unsafe.

"The question is, 'Can it be done on a mass level?' and the answer is, 'No, not without building a new factory,' " said Lawrence Keane, general counsel for the Sporting Arms and Ammunition Manufacturers' Institute, the industry association.

Makers of coding equipment, which etches and reads serial numbers on hundreds of products, insist that it could be done for a penny or less per bullet.

Carl Rennard, a consultant from Lincoln, R.I., who owns several coding patents, said the ammunition industry "is really uninformed about the technology available, how unobtrusive it would be to the product line. They're just being afraid."

Advocates say the industry has been unwilling to meet with consultants who help integrate such technology into their production lines.

The debate has also incorporated a disagreement on the craftiness of criminals.

Opponents complain that criminals will refit their guns to get rid of firing pins that stamp codes onto cartridges and will shave numbers off bullets, even though that would require them to take the bullet out of its cartridge. More likely, they say, criminals will simply avoid these weapons and buy their wares out of state or use black market items.

"Criminal street gang members and other perpetrators of crime, who are often under the legal age for buying handguns and ammunition, would have no trouble getting both from sources other than retailers," Robert Baker, president of the Los Angeles Police Protective League, wrote in opposition to Dunn's bill.

Some forensics experts say that is giving too much credit to criminals who often do not bother to use gloves during crimes or take other precautionary measures.

"Yes, there would be ways to get around that, but it's not an easy thing to do," said Joe Vince, a former agent with the federal Bureau of Alcohol, Tobacco and Firearms who is now a forensics consultant in Frederick, Md. "In L.A. in particular, you have ghetto rounds, which is whatever you have in your pocket."

Lawrence Kobilinsky, a professor at John Jay College of Criminal Justice in New York City, said serializing ammunition was "probably something that should have been done long ago" but cautioned that its use would be limited so long as the requirement was limited to California.

"To have one state is well and good, but in order to be effective, it has to be national," he said.

But backers of the legislation hope that, as with many other California mandates, the state's market is so large that manufacturers will find it cheaper to adopt the practices for all their wares rather than just for California's.

Advocates say they do not expect the technology to automatically solve every case but say they believe it would often provide a valuable clue.

"It's like any other tool, like fingerprints or copying down a license number," Rossi, the state firearms chief, said. "There are limitations, but it can still be valuable."

CIVIL RIGHTS:

18 Nabbed In Human-smuggling Scheme (WT)

By Jerry Seper

The Washington Times, July 3, 2005

Federal and state authorities in California arrested 18 persons during a series of overnight raids last week that targeted a sophisticated human-smuggling operation authorities said brought hundreds of South Korean women into the United States to work as prostitutes.

A criminal complaint filed in Los Angeles late Friday charged 23 persons with conspiracy. Five were listed as fugitives.

Those arrested, according to U.S. Immigration and Customs Enforcement (ICE) spokesman Dean Boyd, were charged with harboring illegal aliens for an immoral purpose, harboring and transporting illegal aliens and violating the Travel Act, a federal statute that prohibits moving people across state lines for illegal sexual purposes, such as prostitution.

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In addition to the criminal arrests, Mr. Boyd said, immigration officials took into custody 46 women who were working at brothels that were shut down. Agents are interviewing the women to learn more about the circumstances surrounding how they came to the United States and how they were treated once they arrived, he said.

"This type of criminal organization exploits the hopes and dreams of immigrants," said U.S. Attorney Debra Wong Yang in Los Angeles. "In this case, they exploited women, some of whom apparently suffered injuries as a result of their work. My office works very hard to eliminate these types of exploitation and to secure punishment for those who engage in them, seeking to profit at the expense of others."

Mr. Boyd said the investigation focused on a criminal organization called the "Jung Organization," which reportedly smuggled South Korean women into the United States and then provided them to brothel operators. The brothels were concealed behind businesses that purported to be massage parlors and "out-call service" operations. He said the prostitutes were managed by an underground network of Korean "taxi" services operated by members and associates of the Jung Organization.

The taxi services coordinated the prostitutes' daily schedules and worked hand-in-hand with the brothel operators.

An affidavit in the case said ringleaders Young Joon Jung and Ho Kyung Kim oversaw efforts to recruit prospective prostitutes in South Korea and then arranged for them to be brought to the United States. Some of the women were smuggled into the country across the Mexican and Canadian borders, it said.

The affidavit said the women paid up to $16,000 each to be smuggled into the country. Once they arrived, it said the women were expected to work as prostitutes, with a portion of their earnings going to repay their smuggling debts. As part of the scheme, some of the women were transported to Northern California, Colorado and Texas to work as prostitutes, the affidavit said.

An army of federal agents executed search warrants at 28 locations across the greater Los Angeles area. The targeted sites included suspected brothels and so-called human smuggling "drop houses." The brothels were housed in a variety of businesses, including chiropractic offices, acupuncture clinics, spas and massage parlors.

During the raids, agents seized nearly $300,000 in cash and more than $650,000 in bank accounts.

California Court Faces Gay Unions (WT)

The Washington Times, July 3, 2005

California's attorney general urged the state Supreme Court to decide whether homosexual "marriage" is permitted under the state constitution.

Attorney General Bill Lockyer asked the justices to review a trial judge's decision in March that said state laws limiting marriage to heterosexual couples is unconstitutional. The ruling had been stayed pending appeal.

The attorney general, however, wants California's top court to remove the pending case from a San Francisco appellate court.

"Same-sex couples should be given a prompt determination as to whether they can marry, and should not have to put their lives and affairs on hold indefinitely while this matter works its way through several levels of court proceedings," Mr. Lockyer said.

The move came two days after couples won a major legal victory before the state Supreme Court, which let stand a new law granting registered domestic partners many of the same rights and protections of heterosexual marriage.

But it's unclear whether the justices will decide the homosexual "marriage" question since they normally do not resolve cases until they have worked their way through the trial and appellate courts.

One of the last times they did involved same-sex "marriage."

In August, the seven justices ruled unanimously that San Francisco Mayor Gavin Newsom overstepped his authority by issuing same-sex "marriage" licenses last spring. On a 5-2 vote, the court also voided the 4,000 "marriages" of homosexual couples sanctioned by the city.

The court didn't resolve whether the California Constitution would permit a same-sex "marriage." In nullifying the "marriages," Justice Joyce Kennard wrote the court was not interested in deciding the hot-button issue of same-sex "marriage" until "the constitutionality of California laws restricting marriages to opposite-sex couples has been authoritatively resolved through judicial proceedings."

The court can make its decision any time.

Recall Star Takes A Remap Risk (DMN)

By Andrew Becker

The Dallas Morning News, July 3, 2005

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Amid recent polls showing Arnold Schwarzenegger's star power dropping from the top of California's political marquee, the governor's push to redraw congressional and legislative district lines mid-decade isn't looking like this summer's Republican blockbuster.

It's a very different scenario from the redistricting deal that House Majority Leader Tom DeLay, R-Sugar Land, orchestrated in Texas two years ago.

"You definitely haven't seen national Democrats or Republicans involved like in Texas with Tom DeLay," said Steven Hill of the New America Foundation, a nonpartisan Washington think tank. "It seems to me Schwarzenegger is pushing this, and even if he is successful, there's not a lot to gain."

Mr. DeLay's efforts boosted Texas Republicans' House delegation to a 21-11 advantage in the 2004 election, just two years after Democrats held a 17-15 edge.

What exactly Mr. Schwarzenegger seeks from redistricting reform isn't clear, pundits say. While it could help Republicans acquire congressional seats in the long term, the initiative hasn't brought wide party support.

No turnover in seats

At issue in California are fairness and competitiveness. California Republicans and Democrats agree redistricting reform is necessary. Lawmakers redraw lines every 10 years to reflect census-determined population changes.

The existing lines in California were laid out in 2001 after a deal was struck to protect Democratic and Republican incumbents in congressional and state legislative races. Of the 153 seats up for election in 2004, not one changed parties.

California's congressional delegation favors Democrats, 33-20. Similarly, Democrats dominate the Assembly, 48-32, and the state Senate, 25-15.

While Mr. DeLay worked with Texas state legislators to redraw congressional districts, Mr. Schwarzenegger doesn't have the political clout in Sacramento to effect the changes he seeks. Instead, he wants Californians to take away the state lawmakers' power to draw congressional and their own district lines so he can have a more pliable legislature.

In June, the Republican governor called for a special election. Along with seven other initiatives on the November ballot, the Schwarzenegger-backed plan calls for an independent commission of three retired judges to redraw district lines. California Democrats floated their own independent commission proposal this week, but it wouldn't require new boundaries until after the 2010 census. Mr. Schwarzenegger hopes to initiate the change immediately.

In Texas, state Sen. Jeff Wentworth, R-San Antonio, has introduced a similar measure in every session since 1993 to create an independent redistricting commission. In the Legislature's regular meeting this year, his measure cleared the Senate before stalling in the House.

Other goals

California's budget is Mr. Schwarzenegger's ultimate target; it has been running a multibillion-dollar deficit for each of the last three years. He also wants to make public employee unions get written permission from members to spend fees or dues on political contributions. Some believe Mr. Schwarzenegger may compromise on redistricting – especially because his approval numbers and the voter support for redistricting are low – if he can get legislators' support for his other initiatives.

Recent Field Polls have shown that less than half of voters approve of midterm redistricting or would vote for Mr. Schwarzenegger next year.

Michael McDonald, a professor of public and international affairs at George Mason University in Virginia, sees Mr. Schwarzenegger ultimately trying to rejuvenate moderate Republicans in the state, where legislators have become more polarized.

From the Republican perspective, "California ... is hopelessly Democratic for a long time to come," said Joel Aberbach, director of the Center for American Politics and Public Policy and a professor at the University of California, Los Angeles. "This is a game that's being played with threats and counterthreats. Some of these [initiatives] are tradable – don't take them at face value."

In Texas, Mr. DeLay helped redraw congressional boundaries, including his own, in 2003 without facing the kind of risks Mr. Schwarzenegger does. With the election on the California governor's plan costing taxpayers at least $60 million, it becomes a referendum on Mr. Schwarzenegger, who rode into office in a recall vote in 2003.

"It's a crazy gamble," said Tony Quinn, a former redistricting adviser to Republicans in the California Assembly, who noted that at least eight attempts to put redistricting before the voters have failed. "The public would not approve reform proposed just by one party. They're very suspicious of this."

State Ballot, Wider Impact (LAT)

By Mark Z. Barabak

The Los Angeles Times, July 3, 2005

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Even before the ballot is set, California's special election is drawing money and attention from interest groups and political partisans across the country who see the campaign as a way to invigorate their efforts in 2006 and beyond.

Democrats believe they have a chance this fall to make Gov. Arnold Schwarzenegger "a starring villain" in their attack on national Republican leaders, said Jenny Backus, a Democratic strategist in Washington.

Conservative activists see an opportunity to defang a longtime nemesis — organized labor — by making it harder to collect union dues for political purposes.

The pharmaceutical industry and consumer groups are waging a battle over prescription drugs that both sides consider a test case for fights in Congress and elsewhere.

"California's always a state that the rest of the nation looks to," said Michelle Korsmo, executive vice president of Americans for Prosperity, a Washington group that favors limited government. By approving a budget cap sponsored by Schwarzenegger, voters would demonstrate that "controlling the growth of state spending is not a red- or blue-state issue," Korsmo said, spurring limitation efforts in other states.

Eight initiatives have qualified for the statewide ballot, which will bring voters to the polls for the fourth time in as many years. The measures deal with a variety of issues, including parental consent for abortions, teacher tenure and electricity re-regulation, as well as union dues, redistricting, prescription drugs and the state budget.

However, much about the election remains uncertain — including how vigorously the two major political parties will go at each other.

Schwarzenegger has embraced three of the measures as part of a package designed to circumvent the Democrat-run Legislature and diminish the clout of lawmakers in Sacramento. Those measures would lengthen the time teachers work before receiving tenure, give the governor greater control over state spending and give legislators' political line-drawing power to a panel of retired judges.

But with opinion polls showing both Schwarzenegger and the Legislature falling in public esteem — and the redistricting and budget measures opposed by most voters — talks have been underway on a possible deal to place alternative measures on the ballot with the blessing of both sides. Voters would then be urged to pass the bipartisan versions, the way they did last November when presented with a compromise initiative — supplanting an earlier draft — that made it harder for Sacramento to raid local government coffers.

A deal between lawmakers and the governor could quickly take the starch out of national Democrats' anti-Schwarzenegger efforts. It would also leave the two Democrats running for governor, Treasurer Phil Angelides and Controller Steve Westly, in a politically awkward position, caught between their ambitions and the party's legislators. That provides added incentive for the governor to deal, though he faces division between his more moderate advisors and administration conservatives who would prefer a fight.

Democrats outside Sacramento are not shying away from a scrap, seeing a chance to lump Schwarzenegger with Republicans in Washington and the GOP's pattern of "arrogance and abuse," in the words of Karen Finney, a national Democratic Party spokeswoman.

Taking down the high-profile celebrity governor would give Democrats nationwide a significant morale boost heading into the 2006 elections. "He's the hottest commodity in the country when it comes to riling up Republicans, and he's also one of the hottest commodities in the country when it comes to riling up Democrats," said Democratic strategist Backus.

With so much uncertainty surrounding the November vote — and the fight over a Supreme Court vacancy consuming Washington for the next few months — many outside interest groups are waiting to see the final ballot before committing money or personnel to California. Korsmo, for instance, said her organization — which claims 35,000 members in the state — would like to see an even tougher version of the spending limitation measure.

But even if a bipartisan deal is reached on the governor's proposals, that still leaves the two measures drawing the most interest from outside the state: the initiatives dealing with prescription drugs and union dues.

Already, the pharmaceutical industry has contributed more than $30 million to promote a ballot measure establishing a voluntary discount drug program, modeled on a deal negotiated with Schwarzenegger but rejected by the state Senate.

A rival measure, sponsored by Health Access California, a consumer group, would offer more extensive coverage and penalize drug companies that failed to offer discounts. It has been vigorously opposed by the pharmaceutical industry, which recently lost a court battle to keep the initiative off the ballot.

Anthony Wright, executive director of Health Access California, said lately he has had "at least one or two conversations a day with people in D.C. and other states" interested in the competing ballot measures.

"All of my colleagues in other states know a victory in California would have national implications in terms of the attempt to bring down the cost of prescription drugs," Wright said.

Similarly, both sides in the fight over union dues see a national stake in November's outcome.

The initiative, sponsored by conservative activist Lewis Uhler, would require the annual consent of any member of a California public employee union before a portion of his or her dues could be used for political campaigns.

The measure, dubbed "paycheck protection" by its proponents, has drawn widespread support from conservatives across the country, who believe the initiative could slash the money available to unions, which generally support Democratic candidates and causes.

"If it passes, it will be so significant and the effects will be so dramatic that you would see a dozen initiatives on the ballots [in other states] within two to four years," said Grover Norquist, president of Americans for Tax Reform, a Washington group, and one of the leading strategists on the political right.

For some, such as proponents of school vouchers, approving a dues checkoff would be a first step toward achieving larger goals that have long been thwarted by union opposition. Vouchers would allow the use of some public education funds in private schools.

"It's no secret that for years one of the stumbling blocks to the implementation of voucher plans has been the war chest of teacher unions," said Lance Izumi, education director at the Pacific Research Institute, a conservative California think tank. A dues checkoff "has always been an issue on the radar screen for proponents of vouchers," he said.

For their part, unions and their Democratic allies are treating the initiative as a matter of political life and death. As part of their negotiations with Schwarzenegger, Democrats hope to persuade the governor to stay neutral on the initiative, which they call "paycheck deception." That would deny proponents the benefit of Schwarzenegger's considerable fundraising clout.

In the meantime, California union officials are appealing to national leaders to put their money and muscle behind efforts to defeat the ballot measure — even as the national labor movement is engaged in an unrelated fight between the AFL-CIO and dissident unions.

"Unions in California are very together about this goal," said Art Pulaski, head of the California Labor Federation.

Already, the National Education Assn. has committed more than $2 million to the opposition fight, and the special election is expected to be a topic of wide discussion when the group meets for its national convention in Los Angeles this week. Barbara Kerr, president of the California Teachers Assn., said the group has received checks — "some for $5, $10, some for $100" — from individuals across the country "who know what happens in California tends to spread."

By contrast, proponents of the dues checkoff have downplayed the influence and financial support of outside interests, mindful of the campaign waged to defeat a similar, albeit broader, initiative in 1998. Unions and their Democratic allies attacked Norquist and others as part of a movement by out-of-state conservatives to silence unions and promote an anti-worker agenda in California.

Norquist, who put up $440,000 to qualify the previous initiative, has not matched that contribution this time, nor does he plan to. There is plenty of money and support within California to pass the dues checkoff without his help, he said.

Clarity Sought On Romney's Abortion Stance (BOS)

By Stephanie Ebbert

The Boston Globe, July 3, 2005

Advocates on both sides of the abortion debate say they are confused over Governor Mitt Romney's position on abortion and are seeking to understand the meaning of recent comments he has made, in light of the positions he outlined during the 2002 gubernatorial campaign.

Last week, the Planned Parenthood League of Massachusetts and NARAL Pro-Choice Massachusetts provided the Globe a copy of a letter sent earlier this month in which they asked Romney to explain his current abortion philosophy and to confirm that he supports emergency contraception and other measures he embraced while running for governor.

Similarly, a leading antiabortion group is puzzled: "We honestly don't know where he stands on this issue," said Marie Sturgis, executive director and legislative director for Massachusetts Citizens for Life.

When he ran for US Senate in liberal-leaning Massachusetts in 1994, Romney said abortion should be "safe and legal." As a candidate for governor in 2002, he said he would keep the state's abortion rights laws intact and has since said that he kept that promise. But this year, as he began preparing a potential run for president, Romney said he is "in a different place" than he was when he first ran for office in 1994 and has stressed that he is "personally prolife."

Romney was asked repeatedly by the Globe last week to elaborate on his abortion stance, and he refused. "I think I've said it a few hundred times through my campaign the same thing I'll say today, which is that I personally do not favor abortion. But as governor of Massachusetts, I will keep the laws as they exist," Romney said Wednesday.

That answer is unfulfilling to advocates on both sides of the polarizing issue at a time when the next president could shape the makeup of the US Supreme Court. Justice Sandra Day O'Connor announced Friday that she was stepping down, and more openings are expected in the coming years.

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Four weeks ago, the Globe reported that Joseph M. Scheidler, the national director of the Pro-Life Action League, detected that Romney was "coming around" to a firmer opposition to abortion. Soon after Scheidler's comments were published, however, the Chicago-based advocate heard from Massachusetts abortion opponents who were far more skeptical about their governor.

"I started getting a lot of calls saying, 'This guy is no good, he's just playing politics, he's trying to get both sides,' " Scheidler said in a telephone interview.

Sturgis, of the Massachusetts Citizens for Life, said Romney does not have regular contacts with her group. "If we could, we would," Sturgis said. When he ran for governor in 2002, she said, her group considered him an abortion rights supporter; Romney declined to complete the Citizens for Life questionnaire.

"He appears to be evolving," Sturgis said. "Where that goes, or to what degree he winds up with us, I can't say. But certainly, more than one politician has changed his mind on this issue."

By contrast, the Massachusetts Catholic Conference, which also opposes abortion, does not believe the governor's recent statements signify a change in his position.

"No matter how you position the governor, it looks to me like he's the more moderate choice, given what the Democrats may offer," said Daniel Avila, associate director for policy and research for the Massachusetts Catholic Conference. And, Avila believes, Romney will make his position clear when the time comes. "My experience is that when a particular issue solidifies, it hasn't taken too long for him to come forward with a concrete response," he said.

During the 2002 campaign for governor, most major abortion rights groups endorsed his Democratic opponent, Shannon O'Brien, because they said she would be a champion of their cause, even though Romney offered support for abortion rights. He picked up the backing of the Republican Pro-Choice Coalition.

"I respect and will protect a woman's right to choose. This choice is a deeply personal one," Romney wrote in answer to a NARAL questionnaire during the campaign. "Women should be free to choose based on their own beliefs, not mine and not the government's. The truth is, no candidate in the governor's race in either party would deny women abortion rights. So let's end this argument that does not exist and stop the cynical, divisive attacks made only for political gain."

Now, abortion rights activists contend he is backing away, citing his changing language on abortion rights and his positions on what they see as a related set of issues on family planning. This spring, Romney tried to direct federal abstinence-only federal funding toward classroom instruction, which abortion rights groups oppose. He trimmed $1 million for teen pregnancy prevention in budget vetoes Thursday, although he let some money remain.

Looking ahead, he has refused to commit to a pending bill providing emergency contraception, though he supported such pregnancy prevention during his campaign. He also tried unsuccessfully to insert language into the stem cell research bill stating that life begins at the moment of conception. Abortion opponents were heartened by that effort, but remain unsure.

Romney's declaration of support for abortion rights dates to his first campaign for political office, challenging US Senator Edward M. Kennedy in 1994. During a televised debate, Romney said he and his family were influenced by an experience that led both him and his mother, who ran for the US Senate in Michigan in 1970, to embrace abortion rights.

"Many years ago, I had a dear, close family relative that was very close to me who passed away from an illegal abortion," Romney said in a debate with Kennedy. "It is since that time my mother and my family have been committed to the belief that we can believe as we want, but we will not force our beliefs on others on that matter. And you will not see me wavering on that."

Last week, Romney's sister, Jane, recalled that the girl Romney cited in the debate was a teenager engaged to marry a relative of the Romneys' extended family. In a separate interview, Ronna Romney Kulp, the former wife of Romney's brother, Scott, remembered that the family was shaken by the girl's death.

"I do know it deeply impacted members of the family," Kulp said.

Jane Romney recalled that although the girl was not a close relative, her death shifted her family's perspective on a difficult political issue.

"With my mom, that was a personal thing because we had a tragedy close to us -- not in our immediate family, but a young girl who actually was engaged and had an illegal abortion and died," Jane Romney said in a telephone interview. "She was a beautiful, talented young gal we all loved. And it pretty much ruined the parents -- their only daughter. You would do anything not to repeat that."

Romney has declined to discuss the episode involving the girl, and his aides were extremely sensitive to further examination of his record last week. Over his career, Romney has at times resisted characterization on abortion and he once objected to the Utah news media's characterization of him as a "prochoice" politician.

"I do not wish to be labeled prochoice," Romney wrote in a July 2001 Salt Lake Tribune letter to the editor. "I have never felt comfortable with the labels associated with the abortion issue."

If Romney would make his opposition clear, the 6,000-member Pro-Life Action League would be pleased to have him, Scheidler said.

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"This would be the time," Scheidler said. "I can't fault him for that, if [the timing] looks a little suspicious. He's read the writing on the wall. The values voters are strong. And they're growing."

Frist Again At The Center Of Stem Cell Fight (WP)

By Ceci Connolly

The Washington Post, July 3, 2005

On July 18, 2001, Sen. Bill Frist (R-Tenn.) stood on the Senate floor urging his colleagues to buck conservative orthodoxy and support federally funded research on embryonic stem cells. As the Senate's only physician, Frist made headlines -- and gave momentum to the controversial science -- with his endorsement.

The following month, however, President Bush announced a policy that was far more restrictive, limiting federal research to already existing embryonic stem cells, and Frist acquiesced.

A few weeks after Bush announced his policy, Frist said the differences between the two were minor because scientists at the National Institutes of Health had "informed the president that more than 60 cell lines exist and that this number is sufficient to provide ample opportunity to research the potential of embryonic stem cells."

Today, Frist is again at the center of the stem cell battle. Unlike four years ago, when he sought an influential role, the Senate majority leader has shied away from the issue, frustrating once-admiring researchers and patient advocates who now accuse him of exchanging sound medical thinking for with political calculations.

"We, as scientists, had great expectations for what he could do," said Mary Hendrix, president and scientific director of the Children's Memorial Research Center at Northwestern University. When she heard Frist's 2001 speech, Hendrix got "goose bumps" because the well-respected transplant surgeon had "put his credibility on the line."

Hendrix is puzzled and disappointed by what "appears to be a change in Senator Frist's position," she said in an interview. "I thought he was a staunch supporter."

As Congress begins its Fourth of July recess, activists on both sides of the stem cell divide are gearing up for what appears to be a fresh fight in the Senate, perhaps as early as the week lawmakers return.

On one side are scientists and patient groups who say the cells taken from days-old embryos hold enormous potential for treating a range of illnesses because they can grow into any type of cell or tissue in the body. Opponents object to the research because the process involves destroying the embryo.

When Bush announced his compromise in 2001, the White House said scientists would have more than 60 embryonic stem cell colonies, called "lines," to work on. But fewer than two dozen have materialized, reinvigorating the push to expand the policy.

In May, with 50 Republican votes, the House passed legislation that would permit federal research on tens of thousands of frozen embryos donated by couples at fertility clinics. Bush has threatened to veto the bill, placing additional pressure on Frist to stand by a policy that falls far short of the approach he envisioned four years ago.

"If he wants the Republican nomination, he may be worried that coming out for embryonic stem cell research funding would make conservatives angry, especially if it involves disagreeing with President Bush," said Harvard political scientist Michael J. Sandel. If stem cell legislation becomes Bush's first veto, "it would be a symbolic issue in the Republican primaries."

But if Frist is maneuvering to attract Republican primary voters in pursuit of the 2008 presidential nomination, he is doing so at the risk of angering loyal Tennessee supporters such as Anne Shockley.

"I thought he was for stem cell research, but ever since Bush got involved, [Frist has] gone all wishy-washy," said Shockley, a volunteer for the Tennessee Parkinson's Action Network. "It makes no sense. He's a physician; he knows what stem cell research can be. It seems to me it's become a political football, and it's frustrating."

Shockley, who described herself as a "pro-life" Republican, said she has stopped donating to Frist's campaigns, even as he considers a run for the presidency in 2008.

"He became [Senate Majority] Leader," said Sen. Arlen Specter (R-Pa.), one of the leading advocates of a broad research policy. "He has a little different responsibility now with respect to the party approach."

Over a period of three days, Frist aides did not respond to multiple interview requests. Spokesman Nick Smith left a voice message indicating only that the majority leader is trying to schedule a Senate vote this month.

Frist's 10-point stem cell proposal in the summer of 2001 was the result of extensive research, soul-searching and "20 years in the field of medicine and in science," he said. Describing himself as the "Senate's only physician and only medical researcher," he said he knew the promise and pitfalls of cutting-edge science.

His 11-page speech on the "promising and important line of inquiry" addressed in detail a host of scientific and ethical questions, displaying an impressive command of the complex science and a doctor's ease with life-and-death issues.

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Drawing comparisons to his experience as a transplant surgeon, Frist stressed that the stem cells are taken only from "spare" embryos "that would otherwise be discarded."

"It is critically important that we understand, and in our moral and ethical framework ensure, that this tissue otherwise would not be used," he said. "It is similar to the fact that when I do a heart transplant, that heart otherwise would not be used for anything useful."

On the question of whether the days-old blastocyst is a life, Frist said: "There is a continuum from a sperm and an egg, to a blastocyst, to a fetus, to a child, to an adolescent, to an adult."

He acknowledged that other types of stem cells appear to offer some therapeutic benefits but said they were insufficient.

"It appears clear that research using adult stem cells does not hold the same potential for medical advances as does the use of the more versatile embryonic stem cells," he said.

Hendrix, who at the time was immediate past president of the Federation of American Societies for Experimental Biology, said she will never forget the excitement Frist's stance sparked in the research community. "The credibility he brought was something that was just profound," she said.

Conservative and religious activists were displeased, recalled Wendy Wright, senior policy director of Concerned Women for America.

"That was something we didn't care for," she said. "It wouldn't have comported with what the president came up with."

Frist added several caveats, including an outright ban on therapeutic cloning, a process for growing embryonic cells; a thorough consent process for embryo donors; and strict ethical oversight. He advocated limiting the number of cell lines to be used as a way to guard against abuses. But he also explicitly rejected what would become the central plank in the Bush policy.

"This does not mean limiting it to research using stem cells that have already been derived to date," he said, foreshadowing the difficulties scientists are now encountering with the older, federally approved stem cell lines. In a Senate hearing that day, Frist noted that some experts suggested 100 or 200 embryonic stem cell colonies might be enough for federal researchers to "jump-start" the burgeoning field.

When Frist generally accepted Bush's position, Wright praised the senator's change of heart, saying he had an "opportunity to be reeducated."

Last summer, with Bush campaigning for a second term, Frist said in an appearance at the National Press Club that it would be appropriate to reassess the president's stem cell policy after Election Day.

Peggy Willocks, Tennessee state coordinator of the Parkinson's Action Network, has tried unsuccessfully to discuss the issue with Frist. Now, she is resigned to sending him a message through staff, she said. "I want to tell him this is the time he is going to have to take himself up by his own bootstraps and make a decision that's not following Bush," she said.

Two weeks ago, however, Frist said he did not see a need to expand the Bush restrictions, as the House-passed bill does. As he put it: "I agree with the president's policy."

NAACP Considers A New Approach (MJS)

By Leonard Sykes Jr. And Felicia Thomas-Lynn

Milwaukee Journal Sentinel, July 3, 2005

With Bruce S. Gordon's stellar background in corporate America, his installation as executive director of the NAACP at its 96th annual convention in Milwaukee could herald a new beginning for the venerable civil rights organization's relationship with the Bush administration.Or could it prove to be a risky, high-stakes gamble?

Delegates will have the final vote on Gordon's appointment as executive director of the nation's oldest civil rights organization when it holds its convention July 9-14 at the Midwest Airlines Convention Center. The vote on his nomination is expected July 14.

Gordon already has indicated he wants to improve the NAACP's relationship with the Bush administration, a radical departure for a group known for its criticism of the president. But in doing so, the 59-year-old retired Verizon Communications executive may run the risk of pitting himself against some members who supported the NAACP's confrontational style with President Bush.

Delegates will get a chance to witness Gordon's style for the first time, as well as hear an array of speakers from across the political and religious spectrum, including some who have been critical of Bush on issues ranging from Social Security reform to the war in Iraq.

U.S. Sen. Barack Obama (D-Ill.), the Rev. Jesse Jackson and former NAACP chief Benjamin Hooks are among the scheduled speakers.

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Bush was invited to the group's national convention in Milwaukee, but the White House sent a letter to the NAACP indicating that he would not attend. But even with the rejection, it already is clear from Gordon's initial remarks that he wants to forge a new relationship between the NAACP and the Bush administration.

Repositioning image

That gesture alone is a strong indication that the National Association for the Advancement of Colored People is seeking to position its image in line with the National Urban League, which opened lines of communications with the White House a year ago.

Last year, Bush was one of the headline speakers at the Urban League's national convention in Detroit. He has received invitations to five consecutive NAACP national conventions, and rejected them all, mainly due to the organization's caustic language with his administration and its policies.

Former NAACP President Kweisi Mfume, a former U.S. representative who is now a candidate for the senate in Maryland, labeled Bush's black supporters "ventriloquist's dummies." NAACP board chairman Julian Bond has stridently attacked Bush's on his education, economic and Iraq policies. Last year, the Internal Revenue Service launched an investigation into the group's financial records.

In an interview Thursday, Gordon said although it is not necessary to agree on everything, a constructive relationship with the White House is in the interest of both sides.

Gordon said he has already taken steps to open the dialogue. "The process is in its very early stages, and I'm proceeding with a high level of optimism," he said.

But while Gordon is seeking common ground that "serves the mutual interests" of the administration and the NAACP, there are many within and outside of the organization who aren't so sure it is appropriate to extend an olive branch.

Searching for new role

NAACP observers think Gordon's gesture toward improved relations with Bush is a sign the organization is searching for its soul, and a new role in America.

"The NAACP has been adrift," said Walter C. Farrell Jr., a professor of social welfare and associate director of urban investment strategies in the Kenan-Flagler Institute at the University of North Carolina at Chapel Hill and a former professor at the University of Wisconsin-Milwaukee.

"It's all over the place . . . It doesn't have any coherent focus. They're trying to get back in the game, and they're hurting for money. But what's going to happen with the NAACP and its new leadership is a class war.

"Branches all over the country are basically run by the masses. The black middle class no longer provides its leadership. I think (Gordon) is going to try to track them to the mainstream, and there is a possibility there could be a fight, branch by branch."

Local branches

Jerry Ann Hamilton, president of the Milwaukee branch of the NAACP, said she believes the local branches will respect the choice of the organization's leadership.

"I would hope that Gordon would continue to reach out to the Bush administration as we always have," Hamilton said. "I hope the new president will be effective in getting (Bush) to do this."

DeWayne Wickham, a columnist with USA Today, said it's the NAACP establishment, particularly its chairman, that wants to see a better working relationship with the White House.

Wickham, author of "Bill Clinton and Black America," who is also working on a NAACP book, currently titled: "A House Divided: Politics, Sex and the Struggle for Power Inside the NAACP," said, "Mfume's departure signaled a swinging of the power pendulum in the direction of the chairman. Bond is the important power in this organization at this time."

Whether it is subtle or an outright difference in strategy between the NAACP branches and its new leader, one thing is already clear about Gordon, say those who know him: He is one of only a few not to come from a religious, political or civil rights background. And his record in the corporate world is impeccable.

Consensus builder

Gordon has been described as a consensus builder. And over a 35-year relationship with the telecommunication industry that steered Bell of Pennsylvania through a dizzying string of mergers that led to Verizon Communications, Gordon earned a reputation of becoming comfortable working within the system. Upon his retirement in 2003, Gordon was chief of Verizon's biggest division - retail markets.

One of the major themes of the NAACP will be a new economic thrust, Hamilton said.

The NAACP will take a position against Social Security reforms and a new aggressive push for economic justice. The theme of the convention will be "The Conscience of a Nation."

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"That's the role that the NAACP has always played," she said. "And now we're making it known more than ever as we're going into more direct action all over the country. We're making it known that we have a presence and that our history speaks for itself.

"The major things that have been done for black people in this country have been done by the NAACP."

But how will the closer ties with Bush wash with the overall membership of the NAACP?"

Attorney Vel Phillips, a member of the NAACP for 62 years, isn't so sure it will be a clean sell. There may be a "smidgen" of truth to the fact that the organization should have dialogue with the White House, she said. At the same time, she isn't sold on the fact that the organization should abandon its role as the president's chief critic among African-Americans.

"I don't think it's that necessary to have a dialogue with a president who comes from a state that has the highest number (of death row inmates)," said Phillips, who in 1956 was the first African-American and woman elected to the Milwaukee Common Council.

"I don't know if it's important to have a relationship with him if the president has indicated that he really doesn't care, doesn't come to (our) conventions and doesn't want a relationship. We should keep doing what we're doing and have done for almost 100 years."

ENVIRONMENT/INDIAN AFFAIRS:

Court's Eminent Domain Decision Hailed As Victory For Cities (SLPD)

By Jim Merkel

St. Louis Post-Dispatch, July 3, 2005

South Side Journal

A Supreme Court decision handed down last week could influence a number of local cases involving eminent domain.

In a 5-4 vote, the high court upheld the right of a private company in New London, Conn. to take private land for private uses.

In Kelo vs. New London, Conn., the Supreme Court ruled that the city could not take land simply to confer a private benefit on a particular private property. However, the decision said the taking would be executed based on a carefully considered development plan, which would have a public benefit.

The decision pleased Mayor Francis Slay.

"It's very difficult rebuilding an older city with the environmental issues and with the issues of assembling sites for redevelopment to help improve the quality of life for people in our neighborhoods," Slay said.

"The eminent domain has been a good tool for us to acquire property so that we can take older areas and redevelop them into something more positive for the entire city and for the entire region."

But Slay said it's important that officials use good judgment and compassion and only use the tool sparingly when other means of redevelopment aren't working.

One local development that would have been affected by a different decision is the planned Loughborough Commons shopping center at Interstate 55 and Loughbough Avenue. There, 19 homeowners agreed to sell to the developer but a 20th, June Thompson and her son Howard, refused,

Circuit Court Judge Timothy Wilson is now considering whether the Thompsons' home can be taken by eminent domain.

"The decision in the Kelo case takes away an argument that we had as to whether or not this was limited by the U.S. Constitution, said Michael Wolff, the Thompsons' attorney.

But Wolff also argued under a provision in the Missouri Constitution, which he said is more restrictive in allowing the taking of property for private use.

The Missouri Constitution allows the taking of property for blight, "the kind of blight that everybody thinks of," Wolff said. "Our argument is that the Thompsons' neighborhood is not blighted as originally understood back in 1945 (when the rule was originally established)," Wolff said.

"I think the decision from the U.S. Supreme Court is a terrible decision," Wolff said. "What the court is doing is writing out of the Fifth Amendment the term 'public use.'"

The Fifth Amendment says private property can't be taken for public use without just compensation.

Especially at the local level, the local governments will be more influenced by wealthy members of the electorate, Wolff said.

A different view is held by Alderman Matt Villa, D-11th Ward, who pushed through legislation in the Board of Aldermen calling for Loughborough Commons and allowing eminent domain.

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"If eminent domain did not exist, this development would not be going forward," Villa said. "If you did not have the eminent domain tool, one property owner could effectively kill development that is good for the entire region."

Eminent domain should be a tool that's only used in rare circumstances, Villa said. If more than 10 percent of property owners in a redevelopment area are made to sell through eminent domain, that tool shouldn't be used, he said.

If urban areas can't assemble land for development through eminent domain, developers will go to the edge of metropolitan areas, where a single farmer will sell them land, Villa said. This would increase urban sprawl, he said.

"Very little development would get done in the urban areas that are already built out," Villa said.

"Nothing would get developed," Villa said. "That doesn't serve the overall benefit of the city of St. Louis when you have one property owner that can basically say you're not going to do this development."

One landlord who has seen eminent domain used heavily against him is Jim Roos, who runs the landlord management company, Neighborhood Enterprises. Twenty-three apartment buildings managed by the company with 57 units of housing were taken for the Botanical Heights housing development in the McRee Town neighborhood.

Roos said he thinks he knows how the justices came to their decision.

"They've never substantially experienced how eminent domain can be abused. When you start approving eminent domain for private projects, that becomes a mindset for people in government," Roos said.

"People who are a little less popular, a little less affluent then become the ones who are abused by this," Roos said.

Homes of the affluent won't be taken, Roos said. "It's abusing the rights and the benefits of the poor people."

Some Political Give-and-Take On Matters Ecological (WP)

By John Wagner

The Washington Post, July 3, 2005

Debate in the run-up to Maryland's race for governor was dominated last week by talk about the environment.

Baltimore Mayor Martin O'Malley , a Democratic hopeful, sought to spotlight his record in a sprawling address that included heavy criticism of Republican Gov. Robert L. Ehrlich Jr. 's environmental stewardship.

With Baltimore's Inner Harbor as a backdrop, O'Malley accused Ehrlich of lacking commitment to preserving parkland, improving water quality and protecting children from lead paint, among other shortcomings. "While the people of Baltimore are moving forward, our state seems to be taking another course," O'Malley said.

Aides said that the speech was intended to signal O'Malley's commitment to the issue and that specific proposals would come later in a campaign that hasn't officially started. O'Malley announced plans for a summit on environmental matters and pointed Marylanders to his campaign Web site to share their thoughts on the subject in the meantime.

Ehrlich's office declined to respond, directing reporters to the state Republican Party, which sought to shift attention to Baltimore's big-city problems.

"Aren't the streets of Baltimore considered part of O'Malley's environment?" Maryland GOP Chairman John M. Kane said in a statement. "The people of the city would be better served if O'Malley would concentrate on the issues plaguing the city and get his head out of the clouds. . . . You are still six times more likely to be shot in Baltimore than New York City."

Montgomery County Executive Douglas M. Duncan , another Democrat interested in being governor, moved aggressively to insert himself into the debate by questioning O'Malley's record.

In his speech, for example, O'Malley touted his city's investment of more than $900 million to upgrade its sewage system. Duncan's camp pointed out that the federal government pushed Baltimore in that direction and highlighted the increased fees residents have had to pay as a result.

"Lofty rhetoric and carefully staged photo opportunities can't hide the fact that when it comes to the environment, Martin O'Malley has been a follower, not a leader," Duncan campaign manager Scott Arceneaux said. "On the environment, the mayor's record is as clear as a polluted city stream."

The Men Who Came to Dinner

A dinner hosted by the Maryland Municipal League in Ocean City last week offered a stark contrast between Baltimore Mayor Martin O'Malley and Montgomery County Executive Douglas M. Duncan: O'Malley attended in a business suit; Duncan wore a bright yellow golf shirt.

The two Democratic gubernatorial prospects and the Republican incumbent, Gov. Robert L. Ehrlich Jr., put in schmoozing time with local officials at the annual four-day conference.

Tuesday night's dinner, at which attire ranged from Sunday best to shorts and untucked shirts, seemed at times like a three-ring circus.

O'Malley hosted a pre-dinner reception that included appearances by several of Ehrlich's Cabinet secretaries. Other guests waited in line for a chance to greet the mayor, who wore a conference attendee badge proclaiming "Martin" in bold, black letters.

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Duncan, who hosted a separate reception earlier in the week at Ocean City's fabled night spot, Seacrets, appeared most aggressive in working the dining room crowd once the doors opened.

Ehrlich hosted a dessert reception immediately after the dinner at which guests lined up for pictures with him and Lt. Gov. Michael S. Steele (R). O'Malley headed back to Baltimore before it started, but Duncan hung out, shook hands and appeared to enjoy several chocolate-covered strawberries.Busch Aide Departs

Tom Lewis , chief of staff to House Speaker Michael E. Busch , will leave late this month to become director of state affairs for the Johns Hopkins Institutions.

Lewis, who started working for the legislature in 1983, has been with Busch (D-Anne Arundel) for the past three years. He served former speaker Casper R. Taylor (D-Allegany) for eight years.

Busch said Lewis's duties would be assumed by two staff members, Kristin F. Jones and John Favazza .

A Livable Shade Of Green (NYT)

By Nicholas D. Kristof

The New York Times, July 3, 2005

PORTLAND, Ore.

When President Bush travels to the Group of 8 summit meeting this week, he'll stiff Tony Blair and other leaders who are appealing for firm action on global warming.

"Kyoto would have wrecked our economy," Mr. Bush told a Danish interviewer recently, referring to the accord to curb carbon emissions. Maybe that was a plausible argument a few years ago, but now the city of Portland is proving it flat wrong.

Newly released data show that Portland, America's environmental laboratory, has achieved stunning reductions in carbon emissions. It has reduced emissions below the levels of 1990, the benchmark for the Kyoto accord, while booming economically.

What's more, officials in Portland insist that the campaign to cut carbon emissions has entailed no significant economic price, and on the contrary has brought the city huge benefits: less tax money spent on energy, more convenient transportation, a greener city, and expertise in energy efficiency that is helping local businesses win contracts worldwide.

"People have looked at it the wrong way, as a drain," said Mayor Tom Potter, who himself drives a Prius hybrid. "Actually it's something that attracts people. ... It's economical; it makes sense in dollars."

I've been torn about what to do about global warming. But the evidence is growing that climate change is a real threat: I was bowled over when I visited the Arctic and talked to Eskimos who described sea ice disappearing, permafrost melting and visits by robins, for which they have no word in the local language.

In the past, economic models tended to discourage aggressive action on greenhouse gases, because they indicated that the cost of curbing carbon emissions could be extraordinarily high, amounting to perhaps 3 percent of G.N.P.

That's where Portland's experience is so crucial. It confirms the suggestions of some economists that we can take initial steps against global warming without economic disruptions. Then in a decade or two, we can decide whether to proceed with other, costlier steps.

In 1993, Portland became the first local government in the United States to adopt a strategy to deal with climate change. The latest data, released a few weeks ago, show the results: Greenhouse gas emissions last year in Multnomah County, which includes Portland, dropped below the level of 1990, and per capita emissions were down 13 percent.

This was achieved partly by a major increase in public transit, including two light rail lines and a streetcar system. The city has also built 750 miles of bicycle paths, and the number of people commuting by foot or on bicycle has increased 10 percent.

Portland offers all city employees either a $25-per-month bus pass or car pool parking. Private businesses are told that if they provide employees with subsidized parking, they should also subsidize bus commutes.

The city has also offered financial incentives and technical assistance to anyone constructing a "green building" with built-in energy efficiency.

Then there are innumerable little steps, such as encouraging people to weatherize their homes. Portland also replaced the bulbs in the city's traffic lights with light-emitting diodes, which reduce electricity use by 80 percent and save the city almost $500,000 a year.

"Portland's efforts refute the thesis that you can't make progress without huge economic harm," says Erik Sten, a city commissioner. "It actually goes all the other way - to the extent Portland has been successful, the things that we were doing that happened to reduce emissions were the things that made our city livable and hence desirable."

Mr. Sten added that Portland's officials were able to curb carbon emissions only because the steps they took were intrinsically popular and cheap, serving other purposes like reducing traffic congestion or saving on electrical costs. "I haven't seen that much willingness even among our environmentalists," he said, "to do huge masochistic things to save the planet."

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So as he heads to the summit meeting, Mr. Bush should get a briefing on Portland's experience (a full report is at www.sustainableportland.org) and accept that we don't need to surrender to global warming.

Perhaps eventually we will face hard trade-offs. But for now Portland shows that we can help our planet without "wrecking" our economy - indeed, at no significant cost at all. At the Group of 8, that should be a no-brainer.

Gang Plunges Tribe Into Turmoil (MJS)

By GRAEME ZIELINSKI

Milwaukee Journal Sentinel, July 3, 2005

Hayward - It is an unlikely venue for a gangland killing.

There are no damp alleys topped with garbage, there is no scream of siren or chugging hum of city life.

Here, the wind sighs through the red pines and wisps of spiderwebs hang pendent from the branches, amid patches of sandy soil. Not far away, herons glide across a necklace of pristine glacial lakes.

This pine plantation is where 23-year-old Cody Badbear Wade was shot five times, once in the head. Police searched a nearby cranberry marsh for the murder weapon.

A police report said Wade had proclaimed himself a "King killer," but it turned out differently the night of May 30, 2002.

After trading harsh words with Wade at the Snowshoe Bar, Robert G. "Bobby" Smith, an avowed member of the Almighty Latin King Nation, the violent Hispanic street gang with a significant presence in Milwaukee, would ambush and kill Wade after he approached a clearing in his truck.

Smith, the son of a former Sawyer County sheriff's deputy, told investigators that one of the admitted leaders of the Latin Kings on the Lac Courte Oreilles Indian reservation, Charles Gokey, ordered members to "light up" on Wade. Smith later was sentenced to 13 years in prison for Wade's murder.

Earlier this year, Gokey, in turn, was sentenced in a federal court in Madison to almost 20 years for crack cocaine distribution. U.S. District Judge John C. Shabaz said the harsh punishment was meant "to assist the government's mission to substantially reduce the impact of drug and drug-related crime on the Lac Courte Oreilles reservation."

The two were part of more than 50 prosecutions and a continuing multi-headed investigation that were set in motion by the events in the pine plantation in an attempt to rid the reservation of the Latin Kings.

The Lac Courte Oreilles (pronounced "la COO de ray") Band of Lake Superior Chippewa Indians of Wisconsin lives on a 78,000-acre reservation crisscrossed with more than 260 miles of roads. About 3,000 residents live there out of a total tribal enrollment of 6,000, arrayed in 20 distinct communities, some of which amount to four or five prefabricated homes.

These developments have names like Dry Town, New Post and Bacon Strip and bear the mark of economic depression, made especially vivid against the breathtaking natural beauty of the surrounding landscape, featuring the Chippewa River Flowage. Tribal figures estimate unemployment at more than 70%, despite a casino that has provided one stream of economic relief.

At the tribal headquarters, there are signs of progress. Construction crews are finishing a new administrative office. Just up Old School Road is a brand-new Head Start office, and in front of the tree farm where Wade was killed is another new building, housing a branch of the Boys & Girls Club where on a recent day, dozens of young tribal kids played basketball.

Whereas gang slayings in Milwaukee often barely makes the news, on the Lac Courte Oreilles (LCO) Indian reservation, it has been treated as epochal. And the presence of the Latin Kings, hundreds of miles from their traditional base, has been treated as more than a cross-cultural anomaly, but as a full-on peril to peace.

The prosecutions over the past three years on and near the reservation, including a sweeping round of federal charges that brought long prison terms for dozens of people and the evictions of several tribal members from reservation property, have left children without parents and a tribe with a wounded sense of pride - and a sense of relief.

Court documents and interviews reveal how a relationship developed over the years between Milwaukee and Sawyer County as tribal members spending time in the city imported criminality back to the reservation. Interviews there indicate that the Latin Kings may have been in Sawyer County as early as the 1980s.

"The influences come from cities like Milwaukee. We have a lot of tribal members all over. When they come back from the city, they bring a lot of the negative things with them," said Brian Bisonette, a member of the council that governs the tribe.

Gang members would drive to Milwaukee or the Twin Cities to acquire drugs, and sometimes guns, to be resold at big profits on the reservation, court records show.

The LCO version of the gang was called the "Lion Tribe Set" and was proved, in close to 30 federal guilty pleas, to have kicked profits from crack and powder cocaine sales back to Milwaukee, with the gang going so far as to rent a home on the reservation to process the narcotics, according to court records.

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People around the reservation prominently wore the "black and gold," gang colors. Graffiti featuring the crown associated with the Latin Kings began appearing on tribal-owned properties, on traffic signs and literally in the streets.

In some cases, the relationships grew as thick as blood, as Milwaukee gang members started families with LCO members and Latin Kings used the reservation as sort of a hideout, much as Al Capone did at a nearby retreat in the 1920s.

Names such as Acosta and Barragon and Zamora from Milwaukee began being linked with old names locally, such as Martinson, Lasieur and Rademacher.

"We live in a fish bowl," said Bisonette, the tribal council member. "Everyone knows everybody. So when something like this happens . . . "

Consider that Smith's girlfriend was Wade's first cousin. Or that William Morrow, the chief of the tribal police force, which was created in part as a response to the killing, was related to both Smith and Wade. Or that with the Wade killing and the vicious murder later in 2002 of an elderly Hayward couple, allegedly by another Latin King, Sawyer County (current population about 17,000) had the highest per capita murder rate in the state.

When Smith finally admitted in court in February 2005 to pulling the trigger, he said he spoke up partly at the insistence of an uncle familiar with tribal traditions. Smith said that it was the "Indian way" to accept responsibility so healing could begin.

A few weeks ago Smith again echoed that theme in a jail letter to a federal magistrate in Madison, seeking, as his lawyer put it in an accompanying letter, the "various accoutrements" needed to practice his native religion. Medicine bundles. Drums. An eagle feather.

One ritual "involves the ceremonial placing of a plate of food in the outdoors for the spirit of the victim," the lawyer wrote.

But the Wade killing was in many ways only the beginning of the troubles that came to the reservation with the Latin Kings.

In the tense days afterward, and following other gang-related violence on the reservation that included drive-by shootings, brutal beatings and a home arson, the tribal council in September 2002 declared a "state of emergency" and asked for outside help.

It came in the form of a task force made up of Sawyer County, federal and state agencies. It peaked last July, when a small army descended in the early morning hours to serve warrants in one of the largest law-enforcement actions in North Woods history.

"There's never been anything like that here," said Dan Ross, a Sawyer County Sheriff's Department investigator involved in the case. The closest may have been in the early 1900s, when posses were sent to subdue John F. Deitz, who became a national folk hero for defying logger barons at the Cameron Dam.

Beyond a small group, the Latin Kings are not seen in such a heroic light in LCO country.

One mother to a victim of Latin Kings violence, who feared reprisal if her name was used, put it this way: "We just want them gone."

The federal probe continues, with more arrests on the way, according to investigators. In the meantime, several residents on LCO land say that while the investigation may have shown a heavy hand, it caused a serious downtick in the presence of drugs, illegal guns and gang graffiti.

Tension lingers, but eases

"You can just feel it. The tension has gone down quite a bit," said Paul DeMain, managing editor and CEO publisher of News from Indian Country, a national publication he runs from a building on the reservation that includes an Internet café and a gift shop.

His son was a member of the Latin Kings and later dropped out, DeMain said.

Certain members of the tribe are reluctant to talk about the problems with drugs and gangs out of a sense of embarrassment, while others are reluctant to talk, or identify themselves, because they still fear the gang.

"He's getting out soon, so we're still afraid of what he may do," said a victim of Latin Kings violence, a middle-aged woman standing in her front lawn in the Dry Town community.

In any case, the LCO tribe has seen relative peace in the days since the first indictments came down, but in some quarters the silence is seen as ominous.

"You still have the ingredients here," said Bill Cadotte, a tribal program specialist. "There is a lack of jobs, there is a lack of programming here for young people. It's a total problem here."

Morrow, the police chief, pointed to a disturbing sign when driving on a recent day near the site of the Wade killing.

"See those colors?" he said, pointing to teens wearing powder blue basketball jerseys. "Those are supposed to be 'The Players,' " another gang rumored to growing to fill the void created with the recent convictions. "There still are gangs here, but what they will do, we don't know."

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FBI/DEA/ATF/USMS:

Agents Probing Hormone Shipment (DENP)

By Alicia Caldwell and Bill Briggs, Denver Post Staff Writers

Denver Post, July 3, 2005

Agents with the U.S. Food and Drug Administration and the Postal Inspection Service are investigating a shipment of human growth hormone worth up to $400,000 to the home of a Denver substance-abuse counselor, records show.

Authorities in March seized 400 vials of Chinese hGH and are investigating clinic owner Tamea Rae Sisco and two people involved in a Hawaiian osteopathic center on suspicion that they illegally imported the drugs for use in anti-aging treatments, according to a federal search- warrant affidavit and federal sources.

Sisco denies any wrongdoing and said she was an intermediary for a legitimate shipment. No charges have been brought as a result of the raid.

While the national debate on performance-enhancing drugs swirls around sports superstars, federal agents are waging a local battle away from the limelight. They're intercepting hGH doses meant for everyday people who are hoping to look younger and leaner. It's all part of a surging anti-aging phenomenon in which hGH is king.

Law enforcement officials step in when hGH is illegally pitched as a youth elixir. HGH can be legally prescribed only under narrow circumstances, including the treatment of AIDS wasting disease. HGH also is obtained illegally by some athletes seeking to build muscle and cut fat.

"I can't comment on ongoing investigations, but I can state that there is a problem in general," said Jeff Dorschner, spokesman for the U.S. attorney's office in Colorado. "The illegal trafficking of human growth hormones remains a concern of the Justice Department."

The investigation is in its infancy, said federal law enforcement sources who still are threading together the intended use and eventual buyers for the 400 vials.

But federal agents suspect Sisco's house was "being used as a location to receive, store and distribute unapproved new drugs, misbranded drugs, and/or human growth hormone illegally introduced into the United States," according to a search-warrant affidavit filed by U.S. Food and Drug Administration special agent Russell Hermann.

Ties to steroid dealer

Agents also are exploring possible ties between the March shipment and Albert Celio, a now-disbarred doctor who supplied steroids and hGH to a local fitness club, according to federal court records.

The operation, which spanned 1999 and 2000, was described in federal records at the time as being the largest steroid-dealing ring in Denver. Investigative documents in that case list sales to a variety of customers, including Denver police officers.

Celio was sentenced Friday to 27 months in federal prison for prescription fraud - one of four cohorts convicted on various charges.

Celio declined to be interviewed for this story.

Now, federal investigators are probing the association between Celio and Sisco. A search-warrant affidavit said Celio co-owned a home with Sisco in 2001. And during the March 18 raid on Sisco's house, agents found a piece of mail addressed to him.

Sisco acknowledges once employing Celio at her clinic, Excel Treatment Program. In 2002, a federal prosecutor called his work at Excel "highly inappropriate" given the drug charges he faced. Sisco said she fired him after learning about the charges.

"We don't even want to be associated with him," Sisco said in an interview. "We treat people to not be affiliated with substance rather than be affiliated with it."

The hGH investigation began March 11 when customs and border protection officers working

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at the San Francisco international mail facility intercepted two packages from Hefei, China.

The parcels, labeled as mineral samples, were bound for Sisco's home in Aurora and addressed to Teresa Denney, an osteopath who works in Hawaii.

Twenty-three minutes after Sisco accepted the shipment, agents raided her home and seized the vials. On the street, one vial of hGH can sell for as much as $1,000, police say.

At least seven packages originating from overseas had been delivered to Sisco's home in the six months prior to the raid, a postal employee told federal authorities. Only 1 percent to 3 percent of inbound foreign packages are physically examined by customs and border agents, federal authorities say.

The Internet is littered with websites pushing hGH as the new wonder drug for an over-40 crowd seeking a lean, cut physique with little dieting or exercise. Some claim human growth hormone will restore lost hair or banish gray hair, enhance the immune system and even boost sexual performance.

Denney's Honolulu-based clinic offers growth hormone through its website, HGHPharm.com, which compares the drug to a "fountain of youth" and promises results in "as early as one week."

Denney did not return three phone messages left at her clinic in Honolulu.

Looking for links

When federal agents searched Sisco's house in March, they sought any information linking Denney, Sisco, Celio and Keith Skinner, a Hawaii man who once was married to Sisco and had business ties with Celio, court records show.

Skinner's truck, which contained two other boxes from Hefei, China, plus an array of pills and capsules, was parked in Sisco's driveway on the morning of the search.

In an interview, Sisco said the hGH was ordered from China by Denney, a friend, for use in anti- aging treatments on Denney's patients on "the East Coast." Sisco said her role was to keep the hGH chilled before repackaging it and sending the drug east.

"That was legitimate, with that package. They (the federal agents) just didn't know what it was for," said Sisco, also a licensed chiropractor.

Skinner, a former Colorado chiropractor, could not be reached for comment.

Last month, a Denver District Court judge entered a $2.3 million judgment in a medical malpractice case against a business with which Skinner was affiliated, records show. Front Range Management Group, which was doing business as Cellular Medicine Institute, "deceptively represented" Skinner as a licensed physician, according to a judge's order awarding damages.

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Drug Case Chilled U.S., Colombia Tie (TAMPTRIB)

Tampa Tribune, July 3, 2005

TAMPA - - U.S. relations with Colombia were briefly strained in March because of a federal prosecutor's court filing in Tampa in the case of an alleged leader of the Cali drug cartel.

Colombian officials even threatened to halt all extraditions to the United States, but U.S. officials retracted the court filing, averting a crisis.

The flare-up exposed a nerve in Colombia and highlighted the troubled, violent and corrupt recent history of efforts to stem the country's illegal drug exports.

``The Colombians went nuts with this thing," said Bruce Bagley, a professor in international relations at the University of Miami. ``It certainly has created hiccups in the U.S.- Colombian relationship."

Former U.S. Ambassador to Colombia Myles Frechette said that based on his reading of reports in the Colombian media, ``I would suspect that Ambassador [William] Wood was told, `Get that fixed and get it fixed tonight.' ... I'm sure it energized Washington from the White House to the lowest levels of the Justice Department."

The controversy involved a Colombian Constitution provision that allows extraditions, but only for crimes committed after Dec. 17, 1997, when the constitutional amendment, Article 35, was enacted.

A defense attorney for Joaquin Mario Valencia-Trujillo filed a motion to enforce that restriction and strike from Valencia's indictment charges that preceded the 1997 constitutional amendment.

Federal investigators say Valencia was a politically connected, if little noticed, leader in the notorious drug cartel as far back as 1988. He is the biggest catch in ``Operation Panama Express," a wide-ranging, long-term investigation, based in Tampa, of Colombian maritime drug traffickers.

Part of a 2002 indictment against Valencia alleges a conspiracy to use drug money to ``make payments to influence political and judicial decisions in Colombia, the United States and elsewhere."

Assistant U.S. Attorney Joseph K. Ruddy filed a response to the defense motion alleging that Article 35 is part of the conspiracy mentioned in Valencia's indictment. ``It represents the product of the successful bribery of then-Colombian President Ernesto Samper and the Colombian Congress by the Cali cartel to immunize them from extradition to the United States," Ruddy wrote.

Ruddy's filing said he plans to present testimony at Valencia's trial next year that the cartel ``jointly collected $5 million to pay President Samper to support Article 35 and make it law. Testimony will also establish that almost one-half of the entire Colombian Congress was similarly bribed by the Cali cartel to support the identical legislation."

Ruddy's allegations marked the first time Samper had been publicly accused of receiving traffickers' bribes during his 1994-98 term, The Associated Press reported. He had been accused of taking Cali money in his election campaign.

``I reject in the most categorical and absolute manner the accusation presented ... by a prosecutor in Florida,'' Samper told the AP.

Ruddy also argued in the filing that appeals courts have ``repeatedly and emphatically'' held that a foreign government ``cannot dictate what evidence can or cannot be used to support a conviction on a criminal offense for which it has authorized extradition.''

On March 17, the day The Tampa Tribune published a story about Ruddy's court filing, the prosecution withdrew the pleading and filed an ``amended response'' to the defendant's motion. The new pleading eliminated references to allegations of bribery of Colombian officials.

The next day, the AP reported that Ambassador Wood held a late-night news conference in Colombia to try to repair the damage, insisting that the United States would comply with the extradition requirements from its key ally in Latin America.

``It made front-page headlines [in Colombia] for about two days,'' said Adam Isacson, senior associate at the Center for International Policy's Colombia program. ``Ambassador Wood smoothed it out. ... That made it disappear from the Colombian media immediately.''

Ruddy would not discuss the international kerfuffle. ``I'm not permitted to comment on issues like that,'' he said.

`The Correct Position'

Ruddy said the new filing represents ``the correct position given all the circumstances.'' He said he intends to offer at Valencia's trial evidence cited in the first pleading.

On June 23, U.S. Magistrate Elizabeth A. Jenkins issued a report, recommending that District Judge Elizabeth Kovachevich strike the parts of the indictment that deal with crimes committed before Dec. 17, 1997. Such a ruling would eliminate 26 alleged actions in the conspiracy, leaving 10. The report reflects a suggestion made by Ruddy.

Jenkins did not go as far as the defense wanted. She refused to bar prosecutors from presenting evidence pertaining to allegations that drug trafficking was a pattern that began as early as 1988.

Jenkins' order did not address the allegations filed in the withdrawn prosecution filing, leaving open the issue of bribery and Article 35.

Experts agree on one thing: In the years before the constitutional amendment was adopted, Colombia was rife with corruption.

In 1984, Medellin cartel kingpin Pablo Escobar killed the country's justice minister.

Bagley said intimidation from drug traffickers may be why the Colombian Supreme Court in the 1980s overturned laws allowing extradition of drug lords. In 1991, the constitution was amended to prohibit extradition.

The U.S. government pushed hard for extradition to be reinstated.

``The effort to get an extradition agreement with the United States cost hundreds of lives'' and took many years, Isacson said. During that time, drug traffickers blew up planes in the air and the Colombian headquarters of the FBI, imposing ``a frightening rein of terror to try to keep an extradition agreement from happening,'' he added.

Politicians in Colombia lived in an environment in which they either accepted money from drug traffickers or risked being killed or seeing their families endangered.

``They call it in Spanish plata o plomo,'' Isacson said. ``You get silver or you get lead.''

Article 35 ``was the best they could do after a lot of loss of life and an effort to overcome corruption,'' Isacson said. ``I think the United States was happy to get it.''

Extradition A Top Priority

Frechette, ambassador from July 1994 to November 1997, said getting extradition was a top priority. Since Article 35 was enacted, ``we've been like a house afire on extraditions,'' he said. ``There have been over 200 just under'' President Alvaro Uribe, who has been in office less than three years.

He said the Cali and Medellin cartels ``hired battalions of lawyers and legal people to oppose extradition'' in the belief that ``better a grave in Colombia than prison in the United States.''

He said he received threats, including a funeral wreath delivered to the U.S. Embassy with a card reading, ``Condolences on your death.''

Frechette said many Colombian Congress members were bought off by drug lords. And there was a scandal after evidence turned up that Samper's 1994 presidential campaign had received $6 million from the Cali cartel. Samper was tried in impeachment proceedings but was cleared.

Frechette said Samper escaped conviction because he bought off members of Congress with legislation sending money to their districts. The U.S. government pressured Samper and took away his visa, Frechette said. ``We knew that Samper was

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always trying to diddle us and trying to introduce amendments [in Congress] that would gut legislation that we wanted, like strengthening sentencing and more cooperation with the U.S. government," he said.

But Frechette was skeptical of Ruddy's allegation that a bribe to Samper was responsible for the extradition restriction. He thinks it's more likely members of Congress were bribed to get the limitation.

Even with the restriction, Frechette said U.S. officials ``thought we produced a great victory, because despite all the money and the threats, extradition was re-established."

Attempts to get around the limitation could undermine the hard-won extradition agreement, he said. ``The prosecutor was out of line and should have been rebuked."

Added Bagley, ``I think your prosecutor is way out on a limb. ... Tell the guy to put up or shut up. ... If he can go forward and have admitted into court evidence [of such a bribe], I would be surprised."

U.S. Attorney Paul Perez, Ruddy's boss, defended the initial filing, saying it was based on public record, including 1997 testimony of Guillermo Pallomari, a former Cali accountant. The AP reported he testified the cartel bribed Colombian officials to get a constitutional ban on extradition and spent $5 million to pick a president they liked.

Perez said U.S. officials sent a transcript of Pallomari's testimony to Colombia after the stir about Ruddy's filing. But Bagley said U.S. officials ``tried to put the lid on this because neither side wants to upset the apple cart and damage this ... relationship." President Uribe ``is one of President Bush's closest allies in all of Latin America. Upsetting that relationship on this issue is simply not worth it."

Reporter Elaine Silvestrini can be reached at (813) 259-7837.

Gang Busters In Hampton Roads (V-P)

By JOANNE KIMBERLIN AND STEPHANIE HEINATZ, The Virginian-Pilot

The Norfolk (VA) Virginian-Pilot, July 3, 2005

A warning has come from the feds.

An FBI informant says MS-13, a notorious street gang with ties to El Salvador, recently issued an order for its members to kill someone — anyone — wearing a badge in Hampton Roads.

The hit was discussed during a meeting of gang leaders held in Norfolk.

The purpose: To send a message to local law enforcement trying to stop the machete-wielding gang from moving to town.

The message: Stay out of our business. Stay out of our way.

The alert arrived in a May 23 bulletin from the Department of Homeland Security. Both the department and the FBI have refused to comment, but state and federal gang experts confirmed the warning – which has since been put on hold.

“The gangs call it a 'green light,’ ” said Mindy Grizzard, spokeswoman for the Virginia Gang Investigators Association.

In the urban underbellies of Los Angeles, Chicago, Detroit or New York, such a threat might not raise even an eyebrow.

In Hampton Roads, it’s met with an odd mix of shock and shhh.

Shock that such things could happen here.

Shhh because gangs are dirty laundry – the scent of which can derail a city’s redevelopment plan, shred a school’s reputation and cause decent folks to pull out of a neighborhood.

Such stigma results in a battle that’s often waged as quietly as possible. It’s fought from the region’s green countryside to the shadows of its grittiest asphalt. It’s marked by code words, muffled blows, silent losses and whispered wins.

No one is suggesting citizens hit the panic button. In fact, some officials insist gangs aren’t a problem in Hampton Roads.

But others say locals need to wake up. In many quarters, gangs are getting serious attention:

- Every Hampton Roads police department now has a gang unit or gang officers.
- State authorities are doling out millions to communities that admit they have a gang problem.
- Former Attorney General Jerry Kilgore, the Republican candidate for governor, has made the gang issue a bedrock of his campaign.
- Gov. Mark R. Warner recently ordered state police to gauge the scope of gangs in Virginia.
- Local school officials get regular gang updates from police.
- Businesses are even getting involved – police plan to educate employees at the meat-packing plants in Smithfield on how to spot members of MS-13, among their ranks.

And as of Friday, when the latest legislation out of Richmond became law, the Old Dominion took on a title that, at first glance, seems out of keeping with the state’s genteel image:

Virginia now has what it says are the toughest gang laws in the nation.

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Destiney Butler, 15, drew a portrait of her brother, Kyron, an 8-year-old who was killed in his bed when a stray bullet from an apparent gang shootout entered the family's Smithfield apartment in 2003. "There is no more innocent victim than a child," said Kyron's mother, Rhonda Butler, shown in the background.

MS-13 violence in Northern Virginia spurred most of the new laws. In recent years, the gang's ranks have mushroomed to an estimated 3,000 members in the Washington suburbs. They've been implicated in a number of machete attacks and grisly murders.

With police pressure increasing in Northern Virginia, Mara Salvatrucha 13 may be looking for new turf. In Hampton Roads, it would not find wide-open territory.

A 2004 survey by the state gang association counted 13 other national gangs already in the region, along with an assortment of homegrown cliques. An estimated 50 gangs operate in Newport News alone. Many regularly cross the river to South Hampton Roads.

Gangs are hardly new, but police are seeing disturbing changes. Pushed by the desire to expand, big-city gangs, such as Bloods and Crips, have sent scouts into the area – recruiting homegrown groups into their fold, ratcheting up the rivalry and organizing their crimes into money-making enterprises.

Gangs are also cropping up in surprising places. In historic Smithfield, a country oasis known best for its ham biscuits and antique shops, one homegrown gang claims the neighborhood behind the meat-packing plants. Another rules two streets of houses rising from the surrounding farm fields. Another stakes its turf in the Jersey Park apartment complex.

An apparent beef between the Jersey Park boys and a gang from nearby Windsor sent a stray bullet into one of the apartments in 2003, killing 8-year-old Kyron Butler as he slept.

No one knows how many gang members are in Hampton Roads. Or how many crimes they commit. Or how many lives are lost to their violence. No one records or collects those numbers.

The U.S. Justice Department believes 25,000 gangs are operating across the country, in more than 3,000 jurisdictions, with more than 750,000 members – more manpower than the U.S. Army.

But that's only a best-guess. Outside the nation's major gang hubs, most police departments use a standardized form that doesn't include a box that can be checked when an incident is gang-related. Without the box, that detail doesn't find its way into the computers, which makes it tough to track gang activity.

Police do know what they see: More gangsters, more graffiti and more weeping mothers, such as Norfolk's Antoinette Boyd. In May 2004, her 25-year-old son wound up dead after men who called themselves Bloods opened fire in the street.

"Something's got to change," Boyd said. "Something's got to be done."

Randy Crank, a Norfolk gang investigator, says "gangbangers" seem to be getting younger and younger.

"We're seeing more 8-, 9- and 10-year-olds," Crank said. "I went to four elementary schools last month that were having trouble."

Roughly 80 suspected gangsters sit in cells in the Norfolk city jail, where deputies try to keep known rivals apart, while at the same time limiting the number of allies placed in each block, said Cpl. Jerry Warner of the Norfolk Sheriff's Department. The bars have held members of MS-13, the Bloods, the Crips, Gangster Disciples, a Puerto Rican gang called NETA, a California set known as South 13, and the Aryan Nation.

Still, the lack of hard statistics supports what's known as "the denial."

"No one wants to be the place pointed to as the one with the gang problem," said George Knox of the National Gang Crime Research Center. "It can be kind of convenient not to know how bad it really is. And if you do know, you don't really want to tell anybody else."

Denial can leave police fighting a two-front battle: on the street and in city hall, where the reluctance of officials to go public with the problem can be a roadblock to getting more officers and money.

According to a 2005 national survey, denial is one the "greatest contributing factors in the alarming increase in the number, size and strength of gangs."

Until recently, Knox said, Virginia has been among the most closed-mouth.

"Cooperation there has been pathetic in the past," he said.

Knox said the national center conducts annual surveys of state prisons to keep its finger on the pulse of gangs behind bars. In Virginia, Knox said, "one bureaucrat waylaid the questionnaires every year. He kept saying, 'We don't have to provide this.' "

Now, Knox said, the state is cooperating: "We had no problem getting the information this year."

In Portsmouth, Sharon Harris, spokeswoman for the city's schools, said: "We don't have any activity that we know to be gang activity."

But some students say gangs have carved out turf on campus.

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"It's real tough," said Jamarty Bradshaw, who just graduated from Norcom High School. "There are certain places you can't walk in school because you'll get in trouble."

Still, most school officials insist they're holding their own. They say they maintain close ties with police, keep a sharp eye out for gang signs, and use a strong hand when trouble erupts. In Virginia Beach, faculty is regularly clued in on the latest gang signs, colors, graffiti and clothing.

"I know our coordinator speaks three or four times a week with police," said Richard Ponti, Virginia Beach's director of safe schools and risk management. "We need them to keep us apprised of what they see on the streets."

Schools are required to report gang-related incidents every year to the state's Department of Education. For the 2003-04 school year, Suffolk reported six incidents, Norfolk four, Virginia Beach three, Portsmouth two and Chesapeake one.

But Randy Forbes, a Republican congressman from Chesapeake, said schools fret about their images and have more gang trouble than they admit.

"You ask them and they say no," he said. "But then the superintendent calls me in, shuts the door and says, 'Randy, you've got to do something. If we don't get these people out of here, kids will be killed.' "

Scary labels make some folks queasy. Many agencies use the term "strategic threat group" instead of "gang."

Until lately, Richmond police officers "weren't even allowed to use the word 'gang' in their reports," said Grizzard of the state gang association.

By last year, it was obvious that the city was in the path of a southern migration by gangs out of Northern Virginia. Richmond accepted a $2.5 million grant to fight gang violence – part of more than $8 million being spread across the commonwealth. In May, the city held a news conference to acknowledge its growing troubles with nearly two dozen gangs, including Bloods, Crips and MS-13.

"I hate to put it this way," Grizzard said, "but it's sort of like the money bought the word."

The debate continues in Smithfield. After the shootout that killed Kyron Butler, town detectives reached a quick conclusion.

"There's no question in my mind that it was gang-related," Lt. Kurt Beach said.

But the sheriff of Isle of Wight, the county Smithfield folds into, sees it differently.

"There are bad people everywhere, and, in this case, some bad people got together and did a bad thing," Sheriff Charles Phelps told reporters afterward. "But that doesn't necessarily make them a gang."

Gang violence means business for Shaukat Hagimalik, owner of a custom T-shirt shop in Norfolk. He creates memorial shirts for slain gangsters.

Their memorials hang on a wall in the T-shirts Unlimited & Airbrush shop in The Gallery at Military Circle: 60-plus shirts with computer-scanned photos, all framed by the letters "R.I.P."

The photos are a reflection of the gang scene in Hampton Roads. Gangs span races and cultures. National breakdowns say 49 percent of gang members are Hispanic, 34 percent are black, 10 percent Caucasian, 6 percent Asian, and 1 percent other.

But on this particular wall, nearly all of the photos are of young black men. Nearly every one, says shop owner Shaukat Hagimalik, died from gang violence over the past six or seven years. He says the customers who order the shirts to wear to the funerals tell him so.

"I ask them, 'What happened to him?'" Hagimalik said. "They say, 'Oh, he got shot.'"

From each order, Hagimalik keeps one shirt to hang on the wall.

"I've had fathers bring their sons in here and say, 'Look! Look at them. Do you want to end up on that wall?'"

Police, Hagimalik said, are more interested in his customers – and what he might know about them. He waved a fresh summons to Norfolk court.

"I get these all the time," he said. "They're driving me crazy. They expect me to close up my shop and come there all the time."

Reyna Says 'no Pressure' To Resign (BROWNHER)

By EMMA PEREZ-TREVIÑO, The Brownsville Herald

Brownsville (TX) Herald, July 3, 2005

U.S. Marshals Service Director Ben Reyna never bought a house in Washington, D.C.

"My intention was not to stay," Reyna said last week after submitting his resignation from the Marshals Service effective July 31.

He was not pressured to resign from the post he's held since 2001, he says, and will return to his hometown of Brownsville for personal reasons and without regrets.

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"I would not have done anything differently. It's been a great experience and a great honor," Reyna told The Brownsville Herald in an exclusive interview.

"I am very, very pleased, very happy and very grateful for the opportunity to serve the U.S. Marshals Service, but there are also greater things and very important things for me in Brownsville — my family," he said.

Reyna's parents Benigno and Carmen Torres Reyna reside here, where Reyna was born, raised and began his law enforcement career.

But the sequence of events that led to Reyna stepping down may have begun in February with the shooting death of a federal judge's family in Illinois.

The Marshals Service is charged primarily with protecting judges and courts. Its performance is under scrutiny and criticism, seemingly prompted by the slaying of U.S. District Judge Joan Humphrey Lefkow's mother and husband in their Chicago home.

"A litigant who was angry with me shot him in the head, and shot my aged mother, on February 28, 2005, for no reason other than that they were in his way on his road to murder me," Lefkow testified in a Judiciary Commission hearing. "He could have easily added my 16-year-old daughter and me."

Less than a month after the Lefkow murders, Superior Court Judge Rowland Barnes was killed when a prisoner wrestled a gun from a sheriff's deputy in the Fulton County Courthouse in Atlanta, Ga., on March 11.

The back-to-back tragedies shined an unflattering light on the Marshals Service and started a buzz among judges and lawmakers in Washington, D.C.

In a letter dated March 14, U.S. Sen. Arlen Specter, R-Pa., chairman of the Senate Judiciary Committee, wrote to Reyna inquiring about security measures and what would be instituted in response to the attack on the Lefkows.

Reyna said protecting the judiciary has always been and should always be the priority: "That is what allows us to maintain the rule of law."

He also noted that in the agency's 215-year history, no federal judge has been murdered in a courtroom or courthouse.

The Judicial Conference of the United States — with policy-making functions in the administration of U.S. courts — adopted a resolution March 15, calling on the U.S. Department of Justice Department and Marshals Service to review judicial security in a time of "crisis" of the "gravest concern."

Specter has said the U.S. Department of Justice responded on April 11 to indicate that off-site security was under review, "but nothing more than that." He also said that legislators appropriated nearly $12 million for judicial security in an emergency allocation for home alarm systems.

On May 6, Specter met with U.S. Judge Jane R. Roth of Delaware, who chairs the judicial conference's committee on security and facilities. A Senate Judiciary Committee hearing happened on May 18.

The committee heard from several witnesses, including Roth and Lefkow, who made her first public address about the killings and subsequent security concerns.

They aired grievances against Reyna's agency that they said is inadequately funded, unresponsive, lacks manpower, leadership, and questioned the agency's capability to properly assess threats.

Lefkow could not be reached for comment. Specter and Roth did not respond to requests for comments on Reyna's resignation; neither did judiciary committee member U.S. Sen. John Cornyn, R-Texas.

Their testimony came a little more than a year after a critical assessment questioning the agency's ability to protect judges. The U.S. Department of Justice's Office of the Inspector General conducted the study in March 2004.

"The decision for me to resign was totally independent of that (criticism and scrutiny)," Reyna told The Herald last week.

"There is never, I guess, such a thing as a perfect time for anything."

Reyna was nominated director of the Marshals Service by President Bush and confirmed by the Senate in 2001.

He said he agrees with much of what those concerned about the agency have said of its resources. The U.S. Marshals Service needs more funding and personnel, he said.

In testimony to the judiciary committee, Reyna said that the president's budget to Congress asked for 993 positions for fiscal years 2001 through 2005, but only 531 were appropriated.

He also referred to a statement from Roth's committee that the Marshals Service "never gets the resources it needs to get the job done."

"I wish that things would move forward a lot faster," he said of bureaucracy and the complex budgetary process.

"It is important to recognize that in government, nobody has unlimited budgets. When I was with the (Brownsville) Police Department, we had to work with what we had. It is the same in the federal government and state government.

"But we want everybody to understand that judges are protected."

Reyna said he doesn't consider the criticism heaped on the agency a personal attack on his work.

"I think that it is totally appropriate for members of Congress and the judiciary to ask questions about how we serve the Marshals Service. I think that we should be able to point out what we have done and what we need (in order) to do a better job."

He said the Marshals Service is but one component of the U.S. Department of Justice that also includes the Federal Bureau of Investigation and the Drug Enforcement Administration among other departments.

Praise from U.S. Attorney General Alberto R. Gonzales was aimed at Reyna's work.

In a prepared statement issued June 24, Gonzales, head of the USDoJ, said Reyna served with "integrity and skill" and demonstrated "steadfast leadership" throughout his tenure.

He also recognized Reyna's work with state and local law enforcement in this year's "Operation Falcon," which resulted in arrests of more than 10,000 criminal fugitives.

"I am grateful for his service and wish him every success in his future endeavors," Gonzales said.

Gonzales noted that Reyna improved the agency's ability to carry out its protective missions and its information technology infrastructure; streamlined the allocation of resources; achieved a record level of employment; expanded national and international law enforcement cooperative efforts; and assisted in achieving a significant increase in the apprehension of violent fugitives.

"There are a lot of positive things that have happened here," Reyna said from his office in Washington, D.C.

"We have a great team of marshals and deputy marshals throughout the United States and its territories. We have highly dedicated employees. I will miss working alongside some very dedicated individuals."

Since announcing his resignation, Reyna said he does not know if Gonzales was contacted or urged to secure his removal as has been suggested in national media reports.

"Whether they spoke to him or not, I don't know and he never indicated to me that anyone did," Reyna said.

"Leaving is a normal part of the process. This is the way the job is."

TAX:

In 2002, More Wealthy People Paid No Tax (NYT)

By David Cay Johnston

The New York Times, July 3, 2005

The number of affluent individuals and married couples who paid no federal income taxes jumped more than 15 percent in 2002, to 5,650, government data released last week showed.

The chances of having a large income but not paying taxes on any of it are growing, according to the data, issued in the Internal Revenue Service's annual report to Congress on well-to-do Americans who live tax free.

About one in every 436 high-income Americans paid no taxes in 2002, up from one in 531 in 2001 and one in 1,010 in 2000.

Over all, the top 2 percent of earners - the 2.5 million filers with income of $200,000 or more - paid almost 27 cents in taxes for each dollar of income they reported in 2002, other I.R.S. data showed. This group accounted for 53.5 percent of the income tax paid by all Americans.

Among that high-income group, however, almost 83,000, or one in 33, paid less than a dime in taxes for every dollar of income. An additional 79,000 paid less than 15 cents. The average for all Americans was 13 cents.

Congress taxes Americans on their worldwide income. Of the 5,650 individuals and couples who paid no income taxes to the United States, only 728 paid any to a foreign government, while 4,922 lived completely free of income tax.

The I.R.S. measured income in two ways.

One was by adjusted gross income, the last line on the front page of the Form 1040 tax return. By this measure, 2,959 affluent individuals and married couples paid no federal income tax, down from 3,385 in 2001, but up from 2,328 in 2000. There were 60 such examples in 1977, when a dollar was worth three times as much as in 2002.

On a worldwide basis, 2,551 such individuals and couples paid no tax in 2002, down from 2,875 in 2001, but up from 2,022 in 2000. There were 37 such examples in 1977, the first year the agency disclosed such data.

The second measure, giving a fuller picture, was expanded income, which also includes money from sources like tax-exempt interest and untaxed Social Security benefits. By this measure, 5,650 well-to-do individuals and married couples paid no federal income tax in 2002, up from 4,910 in 2001 and 2,766 in 2000. There were 85 such examples in 1977.

Worldwide on this basis, there were 4,922 individuals and couples who lived tax free in 2002, up from 4,119 in 2001 and 2,320 in 2000. There were 64 such examples in 1977.

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The I.R.S. report said that "the most important item in eliminating tax" was taking income in the form of tax-exempt interest on state and municipal bonds.

Nearly two-thirds of those who lived tax-free reported income from such bonds.

The four largest items that reduced income subject to taxation, the I.R.S. said, were miscellaneous deductions; interest paid on borrowing to finance investments; various tax credits; and large medical bills, which can be deducted once they exceed either 7.5 percent or 10 percent of adjusted gross income, depending on the taxpayer's circumstances.

CONGRESS-ADMINISTRATION:

Bush Faces Pivotal Choice For High Court (AP-Y2)

By Deb Riechmann, Associated Press Writer

AP2, July 3, 2005

President Bush could rein the court to the right by nominating a bedrock conservative to replace the retiring Justice Sandra Day O'Connor. He could make history — and perhaps pick up votes for the GOP — by naming the first Hispanic to the court. Or he could choose a woman and keep intact the court's current balance of seven men and two women.

Bush has had nearly five years to consider how to burn the "G.W.B" brand on the bench of the highest court in the land.

Regardless of whom he picks, the closely divided court, which often splits 5-4 on key decisions, will very well end up with a more conservative bent.

The question is, how far to the right will the post-O'Connor court be? And how much farther to the right will it lean once the 80-year-old Chief Justice William H. Rehnquist, who is sick with thyroid cancer, retires and possibly gives Bush a second chance to shape the court?

Legal experts on both sides speculate that the retirement of O'Connor raises the prospect that Bush will name Attorney General Alberto Gonzales. He is not a favorite of conservatives, who continued to target the White House this weekend in their anti-Gonzales campaign, saying his views on issues such as abortion and affirmative action are not aligned far enough to the right.

"When the right looks at Judge Gonzales, they have tended to worry they are getting another David Souter," Brad Berenson, a White House lawyer during Bush's first term, said about how conservatives were disappointed when Justice Souter sides with the court's more liberal members. "I don't personally think that's fair, but that is their view."

Gonzales' confirmation hearing for the Justice Department job focused on his role in developing the administration's policy on the interrogation and treatment of suspected terrorists. It is an issue sure to dominate hearings should he turn out to be Bush's first nominee to the Supreme Court.

Yet, Gonzales is a loyal friend of the president's — and Hispanic, a member of one of the fast-growing voting blocs. Bush might be willing to accept a chilly reception from his far-right constituency to make history, reward a friend and lessen the chance of having a more conservative nominee blocked in the Senate.

Bush's options were rearranged when it was O'Connor, not Rehnquist, who announced she was stepping down last week.

"Will politics be considered?" said Berenson, a former Supreme Court clerk. "Will factors like the diversity of the court and a justice's life story be considered? Sure. But I don't think those things are going to drive the decision."

Intellect. Character. Judicial philosophy. The prospect of being able to win Senate confirmation. Those are the overriding issues that several legal experts and advocates on both the right and left think will guide the president, who is facing intense pressure from both sides of the political aisle.

Because Rehnquist sits on the conservative side of the court, replacing him with another conservative would not have shifted the balance of power on the nine-member court.

The same cannot be said of O'Connor. She has been the critical fifth vote on abortion and other contentious issues involving privacy, equal opportunity, the environment and religious rights.

"It is dramatically different with O'Connor retiring," Ralph Neas, president of the liberal People for the American Way, said Saturday. "Replacing the conservative O'Connor with a right-wing ideological would be a constitutional catastrophe.

"A right-wing appointment could turn back the clock seven decades on so many fundamental rights and liberties and legal protections that most Americans think are theirs forever," Neas said. "These are rights and liberties and protections that could disappear overnight if a right-wing majority takes control of the court."

Both the liberals and conservatives, who say Neas is exaggerating the potential change to the court, think they have the upper hand in persuading Bush to see it their way. Yet the president's independent streak might make him impossible to sway.

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Advocates on the right argue that he must make good on a pledge to name a justice who would vote in the same way as conservative Justices Antonin Scalia and Clarence Thomas. They believe in a strict interpretation of the Constitution that is not affected by cultural or social trends.

Liberals say that given O'Connor's swing position on the court, Bush must choose a moderate conservative — a move that would risk alienating his far-right base but would avoid a nasty confirmation battle with Democrats.

Indeed, Democratic senators might be uneasy about voting against a woman or a minority such as Gonzales or Samuel Garza, a Hispanic on the 5th Circuit Court of Appeals.

There's no doubt a confirmation fight would be contentious if Bush nominates individuals thought to be on his short list: conservative federal appellate court judges Samuel Alito, J. Michael Luttig, Michael McConnell, John Roberts Jr. and J. Harvie Wilkinson III.

But American University historian Allan J. Lichtman says naming an extremely conservative nominee could backfire on the president because it might prompt Justice Anthony M. Kennedy, a moderate conservative who also has been a swing vote on the court, to inch away from the right.

"That could push Kennedy into the O'Connor slot," Lichtman said.

White House Promises Bi-Partisan Input From Senate (LAT)

By Ronald Brownstein And Edwin Chen

The Los Angeles Times, July 3, 2005

The White House plans to solicit opinions this week from senators in both parties, a senior White House aide said Saturday, as the two sides began early maneuvers in the summer battle over President Bush's first Supreme Court nomination.

While Bush will spend most of the week at meetings in Europe, senior White House officials plan to canvass Democratic and Republican Senators for recommendations to fill the vacancy opened when Justice Sandra Day O'Connor announced her retirement Friday, said the aide, who spoke on condition of anonymity.

"It will be senior White House staff consulting with senators in both parties," the official said. "White House staff will be asking senators for their ideas about good candidates to be nominated."

Democrats and their allies who have emphasized that they want to be consulted reacted cautiously to the signal from White House.

"Their track record of even consulting with Republicans on Capitol Hill is very poor," said Jim Manley, a spokesman for Senate Minority Leader Harry Reid, D-Nev. "It remains to be seen if this is an encouraging first step or is just going to be a one-way dialogue."

The maneuvering by the White House, senators of both parties and the interest groups underscores the priority each side places on shaping the debate. Both sides are trying to position themselves as reasonable and conciliatory to strengthen their hands for the full-scale combat most suspect will erupt.

In his remarks after O'Connor announced her resignation Friday, Bush pledged that he and his advisers would consult with the Senate. Democrats and even some Republican senators such as Susan Collins of Maine have accused the White House this year of failing to consult sufficiently on Bush's nominees for the federal district and appellate courts.

Speaking with reporters Friday, White House press secretary Scott McClellan said the administration would undertake "more thorough consulting" on the Supreme Court vacancy.

The president spoke Friday with Sen. Patrick Leahy, D-Vt., the ranking Democrat on the Senate Judiciary Committee, and placed a call to Reid, although they did not connect, according to White House and congressional officials. The White House aide said Bush has also scheduled a meeting for July 11 with Reid, Leahy, Senate Majority Leader Bill Frist, R-Tenn., and Senate Judiciary Committee Chairman Arlen Specter, R-Pa.

O'Connor's announcement surprised many in the capital who had been girding for a resignation from ailing Chief Justice William H. Rehnquist. Because O'Connor has so often functioned as the decisive fifth vote in a divided court, her retirement instantly ignited intense lobbying campaigns from groups on the left and the right who believe her successor could determine the court's balance of power.

While promising to consult, the aide signaled that the White House did not believe that Bush faced an obligation to replace O'Connor with a justice who shared her relatively moderate views, as some Democrats and liberal groups have suggested.

"The notion that there is . . . a narrow band of people who are appropriate to replace Justice O'Connor is wrong," the official said. "The president will consult, but the president will make a decision."

Given Bush's repeated declarations that he intended to appoint justices with similarities to Antonin Scalia and Clarence Thomas, two of the Court's most conservative members, many liberals remain skeptical that he would genuinely consider Democrats' views before naming his choice.

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"There will be activities that constitute an appearance of bipartisan consultation, but it will not be what is actually happening," predicted Ralph Neas, president of People for the American Way, a leading liberal group.

Bush leaves Tuesday for Denmark and then Scotland, where he will attend the annual meeting of the Group of 8 industrialized nations. White House officials have indicated that he would not announce his nominee to replace O'Connor until after he returned.

Bush himself seemed to be one of the few people still in Washington for the holiday weekend who Saturday was not focused on the O'Connor vacancy. The White House aide said the president was at Camp David preparing for the G-8 meeting and was not reviewing materials on potential nominees.

Another senior White House official, who asked not to be identified while discussing the internal deliberations, said Bush would likely begin to seriously examine the contenders when he flew to Europe on Tuesday.

For Bush, A Defining Moment (CHT)

By Michael Tackett

CHT – Bush Focus, July 3, 2005

The news was about Justice Sandra Day O'Connor. But the story is about President Bush.

How Bush manages that story, by the person he nominates to replace O'Connor, by the words he chooses to frame that debate, by the way he deals with Congress, could define his presidency almost as much as terrorism and the war in Iraq.

And the impact on American life could last a generation. The most contentious, difficult and profound issues facing the country--life and death, science and faith, global commerce and crime--are likely now to be shaped by a court that has Bush's signature.

The president, even with sagging approval ratings and diminishing support for the war and his handling of the economy, finds himself in an extraordinarily powerful position with Republicans controlling the executive branch and Congress. Now he will be extending that leverage to the Supreme Court.

O'Connor's resignation was a surprise, to be sure, but not entirely unexpected, and yet it forces a different kind of decision-making for the president. In many respects, naming a replacement for Chief Justice William Rehnquist--considered far more predictably conservative than O'Connor--would have been easier, a judicial form of a zero sum game.

The argument simply would have been over whether the nominee was too conservative. And given Rehnquist's failing health, Bush might get the chance anyway.

Replacing O'Connor forces the president to confront not merely judicial philosophy but also the court's diversity. Bush's support among suburban women has been ebbing since the election. And it is likely that, because O'Connor was largely seen as the swing vote that preserved abortion rights, her proposed successor's views on abortion could become a central issue during Senate confirmation hearings.

If so, Bush would face unrelenting pressure from both sides of the divide.

Social conservatives have often felt betrayed by none other than President Ronald Reagan (who appointed O'Connor) when it came to abortion. And though Bush has sided with them on nearly every issue of concern--from prohibiting embryonic stem cell research to interceding in the Terri Schiavo case to winning passage of a ban on certain late-term abortions--the president's rhetoric about support for a "culture of life" will be put to an ultimate test.

Tug from left, right

He will face pressure from the left as well, with at least equal zeal, as liberals try to frame the debate as the ultimate fight over a woman's right to make a choice on abortion. And he will face pressure from the moderate center, particularly in the GOP, that favors abortion rights but doesn't really like a discussion of it in the public square.

It has been clear for some time that by a ratio of greater than 2-to-1 Americans don't want to see the landmark Roe vs. Wade ruling completely overturned. And Bush has never specifically said that it should be, either.

"I think there will be a fight, because the partisans on both sides will be looking--on the conservative side, for somebody who's really going to be pretty predictably in favor of dramatic cutbacks in Roe v. Wade, and those on the left who are going to want somebody who at least will think about what Roe v. Wade means," said Drew Days, a professor at Yale Law School and former solicitor general in the Clinton administration.

To some degree, Bush's decision is a gut check, and his thought process can't be predicted.

"Tell me what he wants to be remembered as," said Abner Mikva, a former judge and White House counsel for President Bill Clinton. "If he is thinking about his legacy, I am a lot more comfortable than if he is trying to show how tough he is."

Generally, Americans have paid little attention to Senate confirmation hearings on Supreme Court nominees, with the notable exception of the battle over Clarence Thomas in 1991, and to a lesser extent the fight over Robert Bork. But the tension in the Thomas hearings was over an allegation of sexual harassment, not so much over his legal views.

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Climate change

This time promises to be different because the political context has so changed in the last decade. The dividing lines have been more sharply drawn. The cleavage that was driven home in the 2000 presidential race, in which the Supreme Court ultimately ratified Bush's election, has shown no sign of healing.

Interest groups are now far better funded and empowered by technology to try to shape the public debate. Both sides are stoked for a passionate fight.

The president might have a fight that he would rather avoid, despite all the strong signals he has sent to conservatives that their cause is his as well.

But if the sense of certitude that he has brought to his other decisions is on display with his choice of a nominee for the court, it might be a battle he embraces. From the day Bush took office, it was no secret that several of the justices were ailing and a retirement was almost certain. The president's team has been war-gaming its options on the court for years.

The only surprise was that it took this long.

Court Pick To Test Bush Promise (BOS)

By Susan Milligan

The Boston Globe, July 3, 2005

President Bush is likely to deliver to the Senate exactly what he promised in both presidential campaigns and displayed in his lower-court nominations: a Supreme Court pick who is conservative, antiabortion, and a believer in a strict interpretation of the Constitution, according to political operatives and activists in close contact with the White House.

Democratic senators, civil libertarians, and liberal groups are holding out hope Bush will offer a nominee who is uncontroversial and somewhat centrist, someone they say would fill the void created by retiring Justice Sandra Day O'Connor, who became a moderating voice on the court. But they agree with conservatives that the prospect is unlikely, and that the president will use his first appointment to the high court to establish a conservative legacy with a nominee similar to those Bush has publicly touted as his favorite justices, conservatives Antonin Scalia and Clarence Thomas.

In a nation already deeply polarized by two divisive presidential elections, interest groups are readying for a battle not so much to sway Bush's decision but to fight over just how conservative an acceptable nominee will be.

The Republican Main Street Partnership, comprising centrist Republican lawmakers, is nudging Bush to select a more moderate conservative so he can avoid a nasty confirmation battle in the Senate. Several Senate moderates signaled privately that they would accept Attorney General Alberto Gonzales, who, as a member of the Texas Supreme Court, once sided with the majority in ruling that a 17-year-old girl should get an exemption to the parental notification law prior to having an abortion.

But hard-line conservatives are demanding a very conservative, antiabortion judge, and they say they won't be happy with a choice, such as Gonzales, that could appease Democrats and moderates on Capitol Hill. Conservative groups started a concerted effort Friday to pressure the White House to choose someone other than Gonzales, whom they consider questionable on abortion.

"This is the payoff, in an ideological sense. This is why they worked so hard in 2000 and '04," said Daron Shaw, an associate professor at the University of Texas, who advised both Bush presidential campaigns. "To say to them, 'we're nominating a moderate because we don't want to make the Democrats mad' " isn't going to work, Shaw said.

Even before Bush has named a new justice, interest groups are already gearing up for a heated and expensive lobbying campaign over the nominee. The group MoveOn.org on Friday announced a $280,000 TV ad buy urging the naming of a justice who will "protect our rights" by upholding the right to privacy, which is an argument for abortion rights. Paul Schenck, executive director of the National Pro-Life Action Center, said the group has sent out 5,000 letters to members to mobilize support for a conservative nominee and will send out 10,000 more by tomorrow.

With the atmosphere so charged, the White House is expecting a fight on Capitol Hill over any nominee; because of that Bush may select a staunch conservative and reject any notion of appeasing critics, said Mike Carver, a former Reagan administration deputy assistant attorney general who is close to Bush administration officials.

"I don't think this is a power issue, or a testosterone issue. It's a question of living up to your campaign pledges. This president does that," Carver said. "I think he's made it clear he prefers judges in the longstanding tradition of Republican presidents who [strictly] interpret the law. I don't see any reason why he would depart from that."

For religious conservatives, the Supreme Court selection represents a defining moment in Bush's presidency, his most potent opportunity yet to create a legacy that reflects their values. The religious and antiabortion activists, who labored mightily to twice elect Bush, say they aren't ready to accept a moderate nominee in the name of placating an intensely partisan Senate -- and Bush insiders say there's no reason they should.

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Conservative lobbyists who meet regularly with White House officials said they don't know who the nominee will be, but they are working to make sure the selection will live up to the promises Bush has made on the matter. Bush has frequently discussed his commitment to a "culture of life," and he said during the 2004 campaign that he "wouldn't pick a judge who said that the Pledge of Allegiance couldn't be said in a school because it had the words `under God' in it."

"That's an example of a judge allowing personal opinion to enter into the decision-making process as opposed to strict interpretation of the Constitution," Bush said during an October debate against Democratic presidential nominee John F. Kerry.

The lobbyists say they are deeply disappointed with Justice David Souter, the first Supreme Court justice confirmed during the presidency of Bush's father, George H.W. Bush. Souter revealed very little in his confirmation hearings about how he would rule, and he has turned out to be a moderate voice on the Supreme Court. They will fight to see that the current president doesn't make a similar pick, and instead selects someone with the same views as the elder Bush's second Supreme Court appointee -- Clarence Thomas.

O'Connor's departure creates an opening to build a solid conservative voice on the court, said Tom Minnery, vice president of public policy for the Colorado-based group Focus on the Family.

"This is a wonderful opportunity to reshape the court, and the court badly needs reshaping," he said, referring to what he called the "nutty" split decisions recently on the display of religious symbols on public property. In separate 5-4 decisions last week, the court said that Texas may keep a Ten Commandments monument on Capitol grounds, but that Kentucky courthouses must remove Ten Commandments displays in the buildings. In both cases, O'Connor thought the displays should be removed.

"We're confident the president will keep his campaign pledge to send up a nominee who will interpret the constitution as it was written, rather than as the latest fads legal theorists dictate," Minnery said.

Nan Aron, president of the Alliance for Justice, which has led the fight against many of Bush's conservative lower-court nominees, said she was not hopeful that Bush would pick a more moderate, less controversial justice.

"While the alliance urges president Bush to nominate a consensus candidate, we don't expect that he'll do so. We expect that he'll spark a fight, and we're hoping that he defies expectations," she said.

Ellen Malcolm, president of EMILY's List, which promotes female, Democratic candidates who favor abortion rights, is so certain Bush will name a very conservative nominee that she is already assessing the galvanizing impact the selection could have for the Democrats in general and female candidates in particular.

"If they make this a partisan ramrodding of a nominee, I think there will be tremendous political consequences" for conservative candidates, Malcolm said.

The activists and political analysts note that Bush -- unlike his predecessor, President Clinton --has consistently stuck to his guns on both policy decision and nominees, no matter how much heat he has gotten from the public, the international community, or Capitol Hill.

Clinton, for example, asked Lani Guinier to withdraw as his nominee as assistant attorney general for civil rights following an outcry over some of her writings, even though Guinier offered to defend herself in front of a highly skeptical Senate Judiciary Committee. Bush, meanwhile, has refused to withdraw his nominee for ambassador to the United Nations, John Bolton, in the face of heavy opposition from Democrats and at least one Republican in the Senate.

Bush has so far been unable to get Bolton confirmed, and some Republicans are suggesting that he do a "recess appointment" of Bolton, putting him in the job while Congress is out of session, to get his way. Bush used that tactic to get former Alabama attorney general William Pryor a recess appointment in February 2004 to a US appeals court slot, getting around a Democrat-led filibuster that had kept Pryor off the bench since 2003. Democrats considered Pryor an "extremist" and questioned whether he improperly solicited campaign funds from corporations subject to lawsuits by his office.

Under a shaky truce senators brokered last month, Bush got Pryor and two other controversial, conservative judges confirmed by the Senate.

Bush is likely to display the same resolve on a Supreme Court pick, said Bruce Buchanan, a government professor at the University of Texas.

"That's been part of the general strategy: The way you bolster your position across the board is you solidify your base," Buchanan said. "And that part of the base will be very insistent" on a conservative, he said.

Bush Faces Choice Of Advancing Agenda Or Bridging Political Divide (KRT)

By Ron Hutcheson

KRT – Bush Political Divide, July 3, 2005

President Bush started his search for a new Supreme Court justice Saturday, gearing up for a decision that could have a lasting impact on his presidency, his political party and the nation.y picking a staunch conservative to replace retiring Justice Sandra Day O'Connor, Bush could do more to advance the conservative agenda than he has been able to accomplish in five

years in the White House. But he also would risk a divisive battle in the Senate and a potential backlash from Americans who favor a middle-ground approach to abortion, gay rights, affirmative action and other hot-button social issues. In today's politically polarized world, with 24-hour cable news, 30-second attack ads, Internet interest groups and ideologically driven bloggers, a contentious nomination battle could drive a deeper wedge between Americans on opposite sides of the political divide.

Democrats have already served notice that they would use a nomination fight to cast Republicans as extremists who are out of touch with average Americans. Republicans say they would paint Democrats as obstructionists.

Any fallout from a bitter confirmation battle could easily spill into next year's congressional elections, when Republican control of Congress will be tested at the polls.

Replacing O'Connor with a like-minded jurist also carries some political risk for Bush, who owes his re-election to strong support from his conservative base. The president's conservative supporters view her retirement as an ideal opportunity to rein in a judiciary that they consider hostile to their values. To them, the vacancy is a test of their faith in Bush, and, by extension, the Republican Party.

"This is going to be a defining moment for President Bush," said the Rev. Patrick Mahoney, director of the Christian Defense Coalition, a conservative group. "If 9/11 was the defining moment of his first term, the composition of the Supreme Court is the defining moment of the second."

Bush has spent most of his political career trying to balance his conservative views against his desire to win support from Americans who might not agree with him. For example, he opposes abortion, but he concedes that most Americans are not ready to outlaw the practice.

"I've always believed that abortion ought to be illegal with the exception of rape, incest or life of the mother. But, look, I'm a realist, as well," the president told a Danish journalist last week.

The stakes at the Supreme Court, the final word on abortion rights and all other legal issues, make it harder to find the middle ground. Conservative groups have made it clear that they expect Bush to select a new ally for Justices Clarence Thomas and Antonin Scalia, the court's most conservative members.

Bush expressed admiration for both men during the presidential campaign.

"Now it is time to make good on those campaign promises, Mr. President," Troy Newman, the president of the anti-abortion group Operation Rescue, said in a statement issued after O'Connor's resignation announcement Friday. "Now it is time to fulfill your obligation to God and to those who elected you, and appoint a staunchly pro-life judge to the Supreme Court."

It seems unlikely that replacing O'Connor with a stalwart anti-abortion justice would spell the end of Roe v. Wade, the 1973 Supreme Court ruling legalizing abortion. O'Connor voted with a 6-3 majority in the last clear test of that ruling, so shifting one vote is not likely to make a difference at the court.

But the addition of anti-abortion justice would probably make it easier for states to restrict the procedure. And it isn't just abortion that's at stake. O'Connor cast the deciding vote against the court's conservative wing in cases involving the death penalty for minors, affirmative action for law school admission and the display of the Ten Commandments inside Kentucky courts.

"Supreme Court nominees are a president's most important legacy," said Neil Siegel, a law professor at Duke University in North Carolina. "He's got two roads before him, and they are rather stark choices. One is to try to put through the most conservative person that he can. The other is to go for a more moderate-type conservative.

"No matter who he chooses, the court is going to move to the right," Siegel added. "The question is how far."

White House spokesman Trent Duffy said Bush began considering his options on Saturday during a holiday weekend visit to the presidential retreat in Camp David, Md. He will take a stack of information on possible nominees with him Tuesday when he flies to Europe for a three-day trip to Denmark and Scotland.

Although White House aides began looking at possible court nominees in Bush's first term, White House press secretary Scott McClellan said Bush has not looked his options in any detail.

McClellan said Bush would not announce a decision until after he returns from Europe on Friday. The president has pledged to visit with congressional leaders from both parties when he gets back.

"He has not, at this point, given any serious consideration to any nominee," McClellan told reporters Friday. Bush has offered no clues to his leanings, saying only that he will find a nominee that Americans can be proud of.

Bush Has Numerous Constituencies To Consider (MINNST)

By Michael Doyle And Lawrence M. O'rourke

Minneapolis Star Tribune, July 3, 2005

As President Bush prepares for what may become a history-changing appointment to the Supreme Court, one thing appears near-certain: Bush's pick will be a conservative whose vote could shift the balance of power on the evenly divided court.

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Beyond that, Bush will be confronting a multiplicity of choices as he arrives at a successor to Sandra Day O'Connor, who announced her surprise resignation from the court on Friday.

Will he appoint the first Hispanic to the court? Will he select another woman? Will he seek a far-to-the-right conservative who will touch off a titanic confirmation battle in the Senate? Or will he opt for more of a consensus candidate who could win easier confirmation, thereby enhancing prospects for other elements of his second-term agenda?

However Bush decides, his choice could offer the greatest insight on how he wants to leave his mark on the Supreme Court and the country for possibly many years after his term expires in 2009.

Competing agendas

The jockeying for Bush's attention was underway minutes after O'Connor disclosed she was ending her 24-year career on the court.

"We should replace Sandra Day O'Connor with a consensus candidate, not an ideologue," said Sen. Charles Schumer, D-N.Y., who called for a summit of the White House and Democratic leaders.

But Republican Sen. Tom Coburn of Oklahoma said now is the time for Bush to make a pick that will decisively change the court's direction. "I would hope that President Bush's nominee will swing the court back toward the Constitution and away from an era of self-indulgent judicial activism," he said.

Already, White House advisers have sifted endless court opinions, law review articles and other background documents. It's painstaking work, as officials seek out the kind of killer detail that might unravel a candidate.

Bush's team has already been able to do much of this preliminary work because at least one Supreme Court vacancy has been anticipated almost from the day he took office.

Only one woman?

The resignation of O'Connor, the first woman to serve on the Supreme Court, interjected a new factor for Bush to consider: Should he make certain that the court is not left with Ruth Bader Ginsburg as the only female member?

Sen. Arlen Specter, chairman of the Judiciary Committee, said that two women are "a minimum" on the court. "The gender of the nominee is a "dimension that is very, very important to consider," said Specter, the Pennsylvania Republican who will preside over the confirmation hearings.

Specter, a moderate who favors abortion rights and embryonic stem cell research, noted, however, that the eventual retirement of 80-year-old Chief Justice William Rehnquist will almost certainly give Bush another opening to fill.

Appointing the first Hispanic Supreme Court justice is also believed to have Bush's attention. A natural could be Alberto Gonzales, who is a longtime Bush ally from Texas, the former White House counsel and was recently installed as U.S. attorney general.

Another possibility is appellate Judge Emilio Garza, known to have stronger appeal to conservatives than does Gonzales.

Moving to the middle

The closer Bush moves toward the perceived middle, the lower the resistance is likely to be from Senate Democrats. Moving to the middle, however, would anger Bush's conservative base, many of whom see the O'Connor vacancy as a chance to move the court more emphatically rightward.

But fully satisfying conservatives could allow Democrats to characterize the candidate as the kind of "extraordinary" circumstance that, under a recent Senate deal, justifies reinvoking a Senate filibuster. That, in turn, would raise the bar for Senate approval to 60 votes -- unless Republicans made good on a threat to waive the 60-vote requirement.

Should that happen, the Senate could dissolve into a partisan quagmire, raising questions about Bush's ability to achieve many of his domestic priorities.

Bush has already pledged to consult with two key Democrats: Senate Minority Leader Harry Reid of Nevada and Sen. Patrick Leahy of Vermont, the top Democrat on the Judiciary Committee.

Avoiding a battle

Some say Bush could also skirt a nasty fight by nominating a member of the Senate. Texas Republican John Cornyn, a former elected member of the Texas Supreme Court, stands as one option. Also mentioned are Utah Republican Orrin Hatch, a former chairman of the Judiciary Committee, and Arizona Republican Jon Kyl.

Considered more likely is that Bush will scour the appeals court benches. Among appellate judges with high reputations among conservative activists are Michael Luttig and Harvie Wilkinson of the 4th Circuit in Richmond, Va., and Samuel Alioto of the 2nd Circuit in Philadelphia.

If Bush opts to keep two women on the court, he could choose from two reliable conservatives now serving on the New Orleans-based 5th Circuit Court of Appeals: Edith Clement and Edith Hollan Jones.

Some suggest Bush could get a conservative justice and simultaneously make history with a Hispanic appointment, choosing either Gonzales or Garza. The two candidates, however, offer competing appeals.

The 49-year-old son of Mexican immigrants, Gonzales enjoys a close relationship with Bush, who has appointed him to a variety of sensitive positions. But Gonzales worries activists, who consider him insufficiently conservative. Gonzales told senators during his attorney general confirmation hearing that he considers the Roe vs. Wade decision upholding a woman's right to an abortion to be "the law of the land." As a Texas Supreme Court judge in 2000, he voted to uphold a 17-year-old girl's right to obtain an abortion without notifying her parents.

Garza enjoys a more down-the-line conservative record. Garza, 57, a University of Texas Law School graduate and former Marine officer, has used his position on the Fifth Circuit Court of Appeals to criticize the Roe vs. Wade decision.

But there's also the issue of personal chemistry when a president is nominating someone who may define his legacy.

On that score, the edge could go to Gonzales and also to Theodore Olson, a former U.S. solicitor general. Olson successfully represented the president in the epic battle after the 2000 election that culminated in the 5-4 Supreme Court decision that chose Bush for the White House over Democrat Al Gore.

Both Sides Fear "stealth" Nominee, Observers Say (SLPD)

By Deirdre Shesgreen

St. Louis Post-Dispatch, July 3, 2005

With the Supreme Court battle now under way, what both sides fear most is the unknown: a so-called "stealth" nominee who has a thin paper trail and offers ambiguous answers in the Senate grilling that is sure to come.

Already, activists on the right and left are calculating how to divine the true ideology of any candidate the White House might put forward, especially on politically explosive subjects like abortion. While in the past, nominees have been able to duck and dodge dicey questions, this time the president's pick for the high court won't be let off so easily, court observers say.

The apprehension about a blank-slate candidate is all the more intense on both sides of the aisle because it is Sandra Day O'Connor - herself an unpredictable swing vote - leaving the court, rather than Chief Justice William Rehnquist, a reliable conservative whose retirement had been the subject of speculation.

With a Rehnquist vacancy, President George W. Bush might have felt freer to appoint a strong conservative - and Senate Democrats might have felt more willing to accept such a choice - because it wouldn't have tipped the balance of the court. Now, however, the pressure on Bush to appoint a moderate will be more intense, say those on both sides of the fight.

Indeed, within hours of O'Connor's announcement, Democrats were calling on Bush to nominate someone in her mold - a "voice of reason and moderation," as Sen. Daniel Akaka, D- Hawaii, put it at a news conference here Friday.

Some conservatives, meanwhile, immediately began plotting strategy to head off the most obvious such choice on Bush's short list - Attorney General Alberto Gonzales - in part because they are worried about what they don't know about his views.

"Conservatives are looking for someone with a paper trail that shows their views, as is the left," said Manuel Miranda, head of the Third Branch Conference, a conservative activist group, and former Republican aide to the Senate Judiciary Committee.

Miranda said he fears Gonzales' name may shoot to the top of Bush's list because Gonzales would be the first Latino Supreme Court justice, a move all the more symbolic because he would replace O'Connor, the court's first woman.

Some on the right oppose Gonzales because of a decision the former Texas Supreme Court judge wrote in a case upholding a 17-year-old girl's quest for an exception to a Texas law requiring minors to notify their parents or guardians before undergoing an abortion.

But Miranda voiced much broader concerns, pointing to public comments by the attorney general in which he appeared to espouse a view of the Constitution as a living document whose meaning changes with time as evidence that he would be an unreliable vote on the court.

"This is an unformed mind," said Miranda, who helped organize the sending of a letter to Bush on Friday from a coalition of Latino clergy who said they'd love to see a Hispanic nominee - unless it's Gonzales.

Word watch

Just how liberal and conservative activists - and the U.S. senators they're trying to influence - will smoke out a prospective candidate's views on controversial issues like abortion, gay marriage, or affirmative action is unclear.

In this politically charged environment, court observers say, any nominee is going to do his or her best to be evasive. So the public may be in for a confusing game of Washington semantics.

Take, for instance, the answer from Sen. Edward Kennedy, D-Mass., when asked Friday whether he would filibuster a nominee who opposed Roe v. Wade, the Supreme Court opinion that established a woman's right to have an abortion.

Kennedy said he wouldn't impose a "litmus test" on any nominee. But he added, he would vote against anyone who doesn't express a "core commitment to constitutional values," including a right to privacy, the foundation of the majority's opinion in Roe v. Wade.

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On the other side of that issue, Jan LaRue, chief counsel of the conservative Concerned Women for America, said: "We have one litmus test. Is the nominee pro-Constitution? Is he an originalist?"

Those who adhere to such a view believe there is no right to an abortion spelled out in the Constitution.

In the past, candidates who have directly answered such couched questions - or even more direct ones - have not fared well. Exhibit A is Robert Bork, the highly controversial 1987 Supreme Court nominee who went down in defeat after being more candid than his supporters wished.

"What was so exciting about the Bork debate was that ... he was really willing to sit down and talk about his notion of the Constitution," said Howard Gillman, a political science professor at the University of Southern California and an expert on Supreme Court nominations. "You really had this very thoughtful debate about different constitutional visions."

Since Bork's defeat, however, "people have learned there are disadvantages to being completely honest and elaborative about your vision," Gillman said. "Nominees feel it's safer territory to cloak themselves in generalities and to talk about respect for precedent. We're really talking about nominees who are not going to want to engage in that kind of substantive conversation."

By contrast, Justice David Souter, nominated by the first President George Bush in 1990, "ducked and parried and answered almost nothing directly and was easily confirmed," noted David Yalof, a political science professor at the University of Connecticut and expert on the judicial selection process.

Similarly, Justice Anthony Kennedy, nominated by Reagan after Bork's defeat, provided careful and circumspect answers and sailed through the Senate.

But once on the court, those two justices turned out to be much more liberal than their supporters had hoped. And conservatives say they have learned a hard lesson from those easy confirmations.

"No one will be happy ... with a kabuki dance of no substance," said Miranda. "On the right, people will always have this sense that they're being had - because they've been had before."

Showdown

Those on the left say they will be just as skeptical of anything short of full and direct answers.

"We think it's critical that there not be any stealth nominees to the court, and by that I mean nominees like Scalia and Thomas who would not discuss their positions on Roe v. Wade (during their confirmations) and have turned out to be staunch opponents who call for the reversal of Roe," said Nancy Northup, president of the Center for Reproductive Rights, an abortion-rights group. Justices Antonin Scalia and Clarence Thomas are seen as the two most conservative members of the court.

Said Elliot Mincberg, of the liberal group People for the American Way: "The Senate is not required to accept a pig in a poke."

A refusal to answer questions about legal precedents such as Roe v. Wade "should not be accepted," Mincberg said. "This is a lifetime seat on the Supreme Court, and that person ought to be required to completely fill out their job application, which includes explaining their judicial philosophy."

Those kinds of demands create a showdown with its own mysterious political puzzle.

"Both sides are going to demand answers, and the nominee is going to be as evasive as possible," Gillman said. "We're as close to a stalemate system as you can imagine. We don't really see the road from here to a successful confirmation."

O'Connor Resignation Ignites Political Firestorm (DeN)

By Joan Biskupic

DetroitNews, July 3, 2005

Sandra Day O'Connor's sudden resignation from the Supreme Court on Friday signals the departure of a pioneering justice who was the most influential member of a divided court. It also ignites a political firestorm over her successor and gives President Bush a chance to make a lasting imprint on the bench.

The departure of O'Connor, who became the first woman on the court when she was named to the bench by President Reagan in 1981, raises the possibility that Bush -- who has never made a high court appointment -- could get the chance to make two of them in short order.

Chief Justice William Rehnquist, 80, is battling thyroid cancer, and much of the talk about potential court retirements has focused on him. But Rehnquist concluded the court's term for 2004-05 this week without giving any indication that he planned to step down.

In a statement released by the court, O'Connor, 75, said she was leaving in part to spend more time with her husband. John O'Connor, 75, has been suffering from Alzheimer's disease. Her resignation creates the first opening on the Supreme Court in 11 years, the bench's longest period without a departure since 1812-1823. The former Arizona state senator was at the ideological center of the court and was its equilibrium, resisting moves by her colleagues to move the court too much to the left or to the right.

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To the disappointment of many conservative Republicans, she cast key votes protecting abortion rights, an issue that is certain to be a key point in the Senate confirmation hearings for whoever Bush chooses as her replacement. In disputes over the separation of church and state, O'Connor generally supported limited government mingling with religion. She also took a lead role as the Rehnquist court boosted states' rights and curtailed congressional intervention in the affairs of local governments.

She often was criticized -- by conservative Justice Antonin Scalia, among others -- for seeming to have no hard-and-fast rules on the law, for compromising too much. But O'Connor, the only member of the current court who ever held elective office, favored real governmental action to come from elected legislators.

Because of her centrist approach, her departure could be far more significant than if Rehnquist had resigned. Bush -- who has expressed admiration for Scalia and another conservative justice, Clarence Thomas -- now could appoint someone whose vote could move the court to the right on abortion, affirmative action and other issues.

Senate Democrats such as Minority Leader Harry Reid and interest groups such as the National Women's Law Center have vowed to protect abortion rights and fight any Bush nominee that seems "out of the mainstream." On Friday, they indicated that because it is O'Connor -- and not Rehnquist -- who is leaving, the stakes in the Senate nomination hearings would be particularly high.

In the White House's Rose Garden shortly after O'Connor's announcement, Bush praised her service to the country and said his nominee would be someone who meets "a high standard of legal ability, judgment and integrity."

Anticipating a political battle in a Senate that is sharply divided and that already has resisted his nominees to federal courts, he said, "The nation deserves a dignified process of confirmation in the United States Senate, characterized by fair treatment, a fair hearing and a fair vote."

Bush said he would choose a nominee "in a timely manner" in the hope that the nominee would be confirmed by the Senate before the Supreme Court's new term begins Oct. 3. Press secretary Scott McClellan said later that Bush wouldn't announce his choice until he returns from a four-day trip to Europe on July 8.

White House and Justice Department officials have been working quietly for weeks on a list of prospects. Some have been interviewed informally. But those candidates were being considered as possible replacements for Rehnquist. The departure of the more moderate O'Connor could mean a change in the administration's political calculus toward a more moderate candidate, as Reid and other Democrats have suggested.

A candidate whose stock could be up is Alberto Gonzales, a longtime friend of Bush who had a reputation as a moderate when he was on the Texas Supreme Court. Bush has expressed a desire to appoint the nation's first Hispanic justice, which also could work in Gonzales' favor.

Lower court judges who have been on the White House's radar as potential nominees include Michael Luttig and J. Harvie Wilkinson, both based in Virginia, on the U.S. Court of Appeals for the 4th Circuit; Emilio Garza and Edith Jones, both in Texas and on the U.S. Court of Appeals for the 5th Circuit; John Roberts, of the Court of Appeals for the District of Columbia Circuit; and Samuel Alito, based in New Jersey on the U.S. Court of Appeals 3rd Circuit.

Some past presidents, most recently Bill Clinton, have asked key members of the opposite party about Supreme Court prospects before nominating them, and Democrats are urging Bush to do the same. "Justice O'Connor has been a voice of reason and moderation on the court," said Reid, D-Nev. "It is vital that she be replaced by someone like her."

'I am 75 years old'

With so much of Washington's focus on a potential retirement by Rehnquist, O'Connor's name had surfaced only in the last few days in news reports about possible departures on the court.

Some of her fellow justices quietly had rejected the notion that O'Connor was leaving. Her work always has been her passion, and O'Connor has drawn strength from her job -- most poignantly in the late 1980s, when she was diagnosed with breast cancer. When she spoke about the experience, she said that work became even more important in her life to keep her going.

But O'Connor's husband, John, has been suffering from Alzheimer's for several years and apparently his condition forced her to change course. She told the other justices of her decision Friday morning.

"I am 75 years old," she said in a statement released through the court public information office. "I need to spend more time with my husband." O'Connor and her husband, who also is 75, met in law school at Stanford University where they were classmates with Rehnquist. The O'Connors have been married for 52 years.

The first hint of O'Connor's resignation came Thursday, when the Supreme Court's head marshal, Pamela Talkin, called White House counsel Harriet Miers to say that a sealed envelope would be delivered from the court on Friday morning. Miers told Bush and Vice President Cheney, who were having lunch. The letter arrived Friday morning, with a surprising message: It was O'Connor, not Rehnquist.

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In O'Connor's letter to Bush, she wrote, "It has been a great privilege, indeed, to have served as a member of the court for 24 years. I will leave it with enormous respect for the integrity of the court and its role under our constitutional structure."

Groups ready for 'heck of a fight'

Interest groups stand ready to turn the political battle over O'Connor's replacement into as tough a tussle as the fights over the nominations of Clarence Thomas in 1991 and Robert Bork in 1987. Thomas won confirmation. Bork did not.

"It's hard to imagine anything more heated than those two," says C. Michael Comiskey, political science professor at Penn State Fayette and author of "Seeking Justices: The Judging of Supreme Court Nominees." But, "this could be one heck of a fight" because groups on both sides of the political aisle know that O'Connor was often a key swing vote on cases involving social issues and that Bush could make the court more conservative.

There are signs that the lobbying campaign over this court nomination will be far more sophisticated than any before it and that it likely will resemble a fall political campaign.

On the conservative side, interest groups have pledged to spend at least $20 million on ads, grass-roots lobbying here and elsewhere and other efforts. At least $18 million of that will be spent by one group alone, Progress for America. That group released its first TV/radio ad last week. It was a warning that Democrats would try to smear anyone Bush nominates.

On the liberal side, organizations such as People for the American Way and MoveOnPac.org also plan to spend millions. Within minutes of Bush's appearance Friday, MoveOn Pac announced it was releasing a TV ad warning that a too-conservative nominee could "undermine the rights of individuals and families."

"The moderating leadership of O'Connor must not be replaced with a far-right extremist," says Wade Henderson, executive director of the Leadership Conference on Civil Rights, one of the groups that has been preparing to mount a campaign if Bush nominates a candidate they see as too conservative.

In a statement, the American Civil Liberties Union praised O'Connor as a centrist who "stood up for individual rights and against a radically conservative vision of the Constitution" on key cases involving abortion rights, affirmative action and the rights of foreign detainees to have access to the court system.

"We are gravely concerned that President Bush will use this opportunity to nominate someone whose judicial philosophy is hostile to civil liberties," said Steven Shapiro, the ACLU's legal director.

For Progress for America and other conservative groups, O'Connor's departure signals a once-a-generation opportunity to push for significant change on the high court, with restrictions for abortion chief among the goals. (The current court generally splits 6-3 in favor of abortion rights, with O'Connor in the majority.)

Boydon Gray, former counsel to the first President Bush and a strategist for various groups who are pushing the administration to make the Supreme Court more conservative, cited recent battles in the Senate over judicial nominees in warning Democrats to give Bush's nominee a fair chance.

"We call on Democrats to resist the temptation to use their attack machine against a qualified nominee," Gray said. "All parties should withhold judgment until a fair and sober analysis has occurred.

"We expect the president to choose the best person for this difficult job. We have no doubt that the nominee will be of the highest legal excellence and integrity, who follows the Constitution, defends property rights, and as the president suggested in his press conference, refrains from making law from the bench. Any such nominee deserves a respectful hearing and an up or down vote. They do not deserve to have their record distorted."

Specter under a spotlight

The nomination hearings will put a particular focus on Judiciary Committee Chairman Arlen Specter, R-Pa., who will be at the center of the wrangling over the nominee.

On Friday, Specter called O'Connor a "historic figure" who had "a pivotal role on the court as a centrist."

Specter said he has talked with Senate Majority Leader Bill Frist about the timing of hearings and said his panel is prepared to "proceed at any time."

Specter acknowledged that O'Connor's retirement would "pose a somewhat different picture" than Rehnquist's would have. He said he anticipated that with O'Connor being a swing vote, hearings "could produce more controversy. But I don't want to prejudge anything."

He said he had not submitted any recommendations to Bush but had spoken several times to the president about consulting the Senate on a nomination. "I wasn't asked (who I liked). Don't ask, don't tell," he joked.

Of the nominee, Specter said, "People will be expecting everything. This is a very polarized country. ...Everybody can't have their own way."

Specter said he expects abortion rights to "be a focal point" of the confirmation hearings. Specter, who supports abortion rights, said he would have no "litmus test" on that or other issues regarding a nominee. He said that for all the action by interest

groups surrounding the nominations process, "the activities of the groups are vastly overstated, vastly overstated, and in many cases they are counterproductive."

As for Rehnquist, Specter -- who has two more chemotherapy treatments left to go for the Hodgkin's lymphoma that has left him bald -- said he saw the chief justice at a lunch a couple weeks ago. Specter said Rehnquist "looked infinitely better" than he had when he sworn in Bush in January.

"Speaking as someone who likes to get up in the morning with something important to do, I wouldn't say it's keeping the chief alive, but I think he likes his job," Specter said. "And if we haven't heard from him by now (concerning his retirement), the chances are you won't hear from him for some time."

A politician on the court

O'Connor's resignation brought an end to the public life of a woman whose rise to the nation's highest court was an inspirational story to women.

O'Connor was born March 26, 1930, in El Paso and grew up on her family's ranch, the Lazy B.

She grew up splitting her years between El Paso, where she lived with her grandmother and attended the Radford School, and the 162,000-acre ranch that her grandfather had established in southeastern Arizona. She graduated from high school at 16 and earned a degree in economics from Stanford in 1950.

She married John O'Connor, also a lawyer, and moved with him to Germany while he was in the Army. After his service, they settled in Phoenix in 1957 and had three sons.

Sandra Day O'Connor became active in Arizona politics and was appointed state senator in 1969 to fill out a vacancy. She later won election and then was elected by fellow Republicans to be the majority leader of Arizona's Senate. She was the first woman nationwide to hold the post.

She left the Legislature and soon after was elected to the Maricopa County Superior Court. In 1979, then-Gov. Bruce Babbitt appointed her to the Arizona Court of Appeals.

Through coincidence and mutual friends, O'Connor met U.S. Chief Justice Warren Burger on a vacation in late 1979. She stayed in touch with him and he eventually helped bring her name to the attention of the Reagan White House in the spring of 1981, before it began looking for a successor to retiring Justice Potter Stewart.

At the time, O'Connor's credentials did not make her an obvious candidate. She was not on a federal court or top state court, as many nominees in the recent past had been. Instead, she was a judge on an Arizona intermediate court handling criminal and civil appeals. But as a former state senator, she had deep and well maintained political connections to the Republican Party. She was a close friend of Arizona Sen. Barry Goldwater, R-Ariz.

For O'Connor, it was a matter of right place, right time. During his recent campaign for president, Ronald Reagan had promised to give the Supreme Court its first female justice.

O'Connor's nomination was embraced widely, although some opponents of abortion rights warned that she would vote against their cause. O'Connor ended up being confirmed by the Senate, 99-0, on Sept. 21, 1981. She took the judicial oath five days later.

O'Connor's political background ended up shaping her style on the high court. She turned out to be a consensus builder and learned over the years to be adept at counting votes among her colleagues.

Her imprint at the center was evident in 1992 as she, joining with Anthony Kennedy and David Souter, crafted a compromise ruling that affirmed abortion rights nationwide. In 2003, she was the pivotal fifth vote to uphold affirmative action in higher education, arising from a dispute at the University of Michigan. Earlier this term, she was the key fifth vote for a broad reading of the law known as Title IX, which protects girls and women from discrimination in school sports.

O'Connor's place at the center of the court's social milieu also was important. She was the one who ensured that all the justices ate lunch together after oral arguments, she arranged social outings and events for visiting dignitaries. The role she played at the court's social center reinforced her position of influence on the law. She often spoke about how important it was to have "agreeable" relations to minimize disagreements on substance.

She was also the public face of the court internationally. In 2003, for example, as part of the Bush administration's effort to develop democratic structures of government in the Persian Gulf, the president asked O'Connor to represent the United States at an Arab Judicial Forum in Manama, Bahrain.

So What's The 'Right' Pick? (NYT)

By Jeffrey Rosen

The New York Times, July 3, 2005

WHEN Justice Sandra Day O'Connor announced her intention to resign from the Supreme Court, President Bush promised to nominate a successor who would "faithfully interpret the Constitution."

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He is widely expected to appoint a judicial conservative, but the crucial question for the country is what kind of judicial conservative.

Judicial conservatism, after all, is not a monolithic movement: It is a catchphrase for very different approaches to constitutional interpretation that often lead to dramatically different results in cases ranging from affirmative action to abortion and states' rights.

Several of the leading candidates said to be on Mr. Bush's short list - like Judge J. Michael Luttig of Virginia and Judge John Roberts of Washington - defy easy categorization. But it's clear that justices from each philosophical camp would reach very different decisions in the cases Americans care most about. Consider abortion. "A traditionalist conservative might make his peace with Roe v. Wade, saying the country has accepted it," said Akhil Amar, a constitutional law professor at Yale University. "But an original intent person would say: Where does it say that in the Constitution? A deference person would say that legislatures can decide the optimal rate of change, and libertarians will divide based on their answer to a philosophical question about the beginning of life."

Affirmative action cases might be decided in similarly different ways by the various conservative camps. "O'Connor, the pragmatist, relied on the fact that the country had come to accept some affirmative action," Professor Amar said. "A libertarian like Justice Thomas might say affirmative action offends an idea of merit."

According to legal scholars and Supreme Court historians, at least five different types of judicial conservatism are represented on the current Supreme Court and on President Bush's short list. As he ponders his first Supreme Court nomination, President Bush can choose from the following menu:

Originalist Conservatives

Since the 1980's, the most influential movement in conservative legal circles has insisted that the text of the Constitution should be strictly interpreted as it was originally understood by its framers and ratifiers. The leading originalist (who also sometimes calls himself a textualist) is Justice Antonin Scalia, who insists that respect for original understanding is the only way of separating law from politics.

"When this president and this party talk about strict constructionism or faithfully interpreting the law, they mean textualism and originalism," says Jack Goldsmith of Harvard Law School, a former Bush administration official.

Many of the names of President Bush's shortlist, like Judge Michael McConnell of the United States Court of Appeals for the 10th Circuit, are widely considered to be originalists, although not all of them embrace the label.

Libertarian/Constitution in Exile Conservatives

This strain of judicial conservatism is consistently anti-government and pro-individual liberties, especially including economic liberties. On the current court, the leading representative of these libertarian conservatives is Clarence Thomas.

"Sometimes, the libertarian conservatives are associated with originalism, because in many cases the original understanding comports with their conception of limited government," says Professor Goldsmith of Harvard. "But sometimes there is a conflict, and the real commitment of the libertarians is to individual liberty, not original understanding or judicial restraint."

For this reason, libertarian conservatives like Justice Thomas are even more willing than traditional originalists like Justice Scalia to overturn decades of judicial precedents with which they disagree and to encourage judicial activism in cases protecting economic liberties.

The favorite Supreme Court candidate of the judicial libertarians is Janice Rogers Brown, recently confirmed by the Senate to the United States Court of Appeals for the District of Columbia. Liberals consider her one of the most radical potential nominees.

Traditionalist Conservatives

Traditionalist conservatives believe that judicial wisdom is built up slowly, and judges shouldn't depart radically in any direction from the Constitution as it has been interpreted in case law over the ages. "The traditionalist conservatives were in the judicial mainstream for at least half a century after the New Deal," says Professor David Strauss of the University of Chicago. Their leading representative during the Warren era was Justice John Marshall Harlan. On the current court, they are best represented by Justice David Souter.

Traditionalists are reluctant to overturn judicial precedents except in the exceptional cases, like Brown v. Board of Education, which outlawed school segregation. On Mr. Bush's shortlist, the leading traditionalist conservative is J. Harvie Wilkinson of the United States Court of Appeals for the Fourth Circuit, whom some administration officials reportedly consider too moderate.

Pragmatic Conservatives

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Judicial pragmatists believe in reaching practical decisions that will help the institutions of government function smoothly. They are less concerned with the text or history of the Constitution and more interested in empirical evidence about the effects of their decisions in everyday life.

"Lewis Powell, Sandra Day O'Connor's judicial mentor, followed the same trajectory as Justice O'Connor: they both began as tradition-minded conservatives and ended up as conservative-minded pragmatists," Professor Goldsmith says.

In addition to Justice O'Connor, other pragmatists on the current court are Chief Justice William Rehnquist and Justice Stephen Breyer. All voted last year to regulate the detention of enemy combatants over dissents by Justices Scalia and Thomas.

"From my perspective, Justice O'Connor didn't give enough weight to the role of text, history and principle in constitutional law," says Steven Calabresi of Northwestern University Law School, a leading conservative scholar. "I think one concern with Attorney General Alberto Gonzales, who is on President Bush's shortlist, is that he would be too much of a pragmatist as well."

Social conservatives in particular fear that Mr. Gonzales is too liberal (and too pragmatic) on questions involving affirmative action and abortion.

Deferential Conservatives

One of the oldest strains of judicial conservatism says that courts should play a very limited role in American politics and should rarely, if ever, strike down laws passed by the state legislatures and Congress. On the Supreme Court, the leading advocates of judicial deference to legislatures were Felix Frankfurter and, during the Warren era, Byron White.

During the postwar period, conservative presidents starting with Richard Nixon claimed to want to appoint justices who would allow political battles to be fought in legislatures, not courts. But today, few liberal or conservatives justices or judges consistently believe in judicial deference.

"There is no consistent devotion on the right or the left for judges who defer to the political process across the board," says John Yoo, a law professor at the University of California at Berkeley and a former Bush administration official. "I don't think any of the judge pickers believe in it either."

How will President Bush choose among a dizzying variety of judicial conservatives? "I think O'Connor's leaving makes Bush's job easier," Professor Yoo says. "He's now free to replace O'Connor with a like-minded pragmatist like Gonzales who will win political points with Hispanics but upset his base. Since Bush is likely to have a chance to replace Chief Justice Rehnquist, too, he could reassure social conservatives that they'll get a reliable originalist for the chief's slot."

Other conservative scholars think the game of musical chairs might lead to a different result. "I think Bush will focus on replacing Justice O'Connor with someone who shares his stated philosophical goals of originalism and textualism," said Professor Goldsmith of Harvard. "Once he does that, he can focus on what criteria he will use in selecting a chief."

With one Supreme Court nomination imminent, and another very likely on the horizon, it's clear that Mr. Bush will have an opportunity to satisfy and infuriate conservatives of many stripes. Whatever choice he makes will define not only the Supreme Court but his own conservative legacy.

O'Connor Successor Debated (WP)

By Amy Argetsinger And Elizabeth Williamson

The Washington Post, July 3, 2005

When she heard the name Sandra Day O'Connor for the first time in the fall of 1981, it meant almost nothing to Eleanor Smeal, then president of the National Organization for Women. All she knew was that O'Connor was the new Supreme Court nominee of a president she hotly opposed -- and that O'Connor was a woman.

That was enough. After a few quick calls to O'Connor acquaintances in Arizona, Smeal was on board. "We said, 'We believe she'll be there for women,' " Smeal recalled.

O'Connor's appointment galvanized women across the country in a way almost impossible to imagine nearly a quarter-century later. At a time when women were vastly underrepresented in professional schools and struggling for workplace equality, her ascension to the top ranks of federal power blasted down barriers and opened new horizons for younger generations.

More than just a symbol, she was cheered by women across an unusually wide political spectrum who believed the nation needed not just a female presence but a female perspective on its highest court. Years later, those supporters point to O'Connor's legal reasoning in several key rulings -- abortion rights, discrimination, affirmative action -- which, they are convinced, was informed by her personal experiences.

Yet for all the significance they place on her sex, women are split on the question of whether O'Connor should be succeeded by another woman. Although some of their leaders and members have expressed hope that the next appointee will be a woman, most women's organizations, liberal and conservative, are no longer making a person's sex an official priority, instead holding up O'Connor's reputation for open-mindedness as the characteristic they most want to see replicated.

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"I think the mind is more important than the sex," said Jennifer Taylor, 48, a homemaker in Chevy Chase who described herself as liberal. "I just hope -- and I doubt -- that the person who replaces her is going to be as much of a centrist."

But lawyer Victoria Toensing, a Republican and a deputy assistant attorney general from 1984 to 1988, disagreed.

"One out of nine just doesn't do it," she said. "It is important for people to look at the Supreme Court and say there's someone on that court who represents who I am."

For many women who were beginning to make their way in law or politics in the 1970s and early '80s, the idea of a female Supreme Court justice was virtually inconceivable, almost until the moment it happened.

"It was still rare for a woman to be made a partner in a law firm," said Patricia A. McGuire, the president of Trinity College in Northeast. "We would hear horror stories -- if you want to be made partner, don't get married, don't have babies."

Jamie S. Gorelick, who would become deputy attorney general in the Clinton administration, recalled a constitutional law professor in the early 1970s posing hypothetical arguments to his students as if they were members of the Supreme Court and addressing her as "Mr. Justice Gorelick."

"There wasn't even a way to address a hypothetical female Supreme Court justice," recalled Gorelick, now a partner with Wilmer Cutler Pickering Hale and Dorr in the District.

Both women recalled the appointment of O'Connor as unexpected and electrifying. While some liberal women harbored doubts about a Republican appointee, NOW -- which had been pushing for a female justice for years -- quickly decided to support her.

Smeal's Arizona contacts told her "they felt she understood discrimination. She had been discriminated against as a woman," Smeal remembers.

O'Connor's personal history, in fact, became something of a touchstone, both for the activists seeking to predict how she would weigh in on key issues and for women seeking ways to balance career and family.

Although O'Connor graduated third in her Stanford law class, no law firm would hire her, except as a secretary. Ultimately, she started her own firm with her husband, and built a powerful career in law and in Arizona state government.

Judith Areen, then a professor with a 1-year-old child, was another liberal with doubts about O'Connor's credentials. When they met upon O'Connor's arrival in Washington, she found herself impressed.

"I was very admiring of the fact that she had raised three sons and yet had done well enough to elevate herself to the court," said Areen, later the long-serving dean of Georgetown University's law school. Michelle Bernard, a high school senior that fall with notions of becoming a doctor, found herself riveted by the gender debates surrounding the appointment. Would a female jurist overturn Roe v. Wade ? What would she wear on the bench? She started reading everything she could about O'Connor -- and four years later headed for law school.

Once on the court, O'Connor almost immediately found herself the swing vote -- and often the deciding voice -- on issues of keen concern to women, such as abortion. A number cited one of her first opinions for the court, in favor of a male applicant seeking admission to the Mississippi University for Women nursing school, as evidence that she would not tolerate gender bias of any kind.

"She made it very clear in her very first decision [involving sex bias] that she believed you can't apply gender markers," said Judith L. Lichtman, former president of the National Partnership for Women and Families, which works for workplace equality for women. "Although she was very much a moderate conservative . . . she did not bring her own political views to her decisions."

To some, the opinions she wrote and the votes she cast were proof that having a woman on the bench made a difference. Eleanor Holmes Norton, the District's Democratic delegate to Congress, cited O'Connor's majority decision in Planned Parenthood v. Casey , in which she wrote that states may not put an "undue burden" on women seeking abortions before the fetus can survive on its own.

"Although this is a profoundly conservative justice who was not predictable on human rights and civil rights issues, she nevertheless made us understand why it was important to have a woman on the court," Norton said.

Bernard, now a vice president at the conservative Independent Women's Forum, cited O'Connor's decision in the case that allowed the University of Michigan to continue using race as one of many factors in admissions decisions.

"It takes a woman or a minority or someone who has been marginalized at some point in their lifetime to recognize the importance of our institutions of higher education not just being for the elite few," Bernard said. "You need to experience that in order to reason through that."

Yet Bernard and Norton, like many women on both sides of the spectrum, said they do not think it essential that O'Connor be succeeded by a woman.

"Forget gender," declared Gina Glantz, a longtime Democratic activist who managed former senator Bill Bradley's presidential campaign. "With the country as polarized as it is, to add someone to the court who would add another layer of

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acrimony to that playing field would be unhealthy for the country. . . . We need a balanced, thoughtful person, regardless of race or gender."

Marsha Greenberger, president of the National Women's Law Center, said that "diversity of experiences is critical, but not at the expense of having a justice who truly cares about equal protections and justice for women and upholding core rights."

Others disagreed. "If you can find a man who thinks like a woman and cares about women as much as women do, then fine, appoint a man," said Susan Ford Bales, a Republican who favors abortion rights and who succeeded her mother as chairman of the Betty Ford Center drug rehabilitation clinic.

But Bales, whose father, President Gerald R. Ford, appointed John Paul Stevens to the high court, added: "I just don't think a man can adequately represent women's fundamental right to equality in areas such as equal pay and health."

Smeal, now president of the Arlington-based advocacy group Feminist Majority, found herself at a NOW convention in Tennessee the day O'Connor announced her retirement. NOW's leadership put out a passionate demand that the next nominee "protect the civil liberties of all people" and pledged to fight anyone who "would turn back the clock on our civil, economic and reproductive rights" but stayed silent on the question of gender.

Not Smeal. She conducted a news conference with some other old-guard feminists, demanding O'Connor's successor be a woman. "We can't go back to the time of tokenism, one woman out of nine," she said. "Symbolism is very important. We're telling the world we have to eliminate the bias against women. There's no better way to do that than to practice what you preach."

5th Circuit Has Likely Candidates (NOTP)

By Mark Schleifstein

New Orleans Times-Picayune, July 3, 2005

The list of potential replacements for retiring U.S. Supreme Court Justice Sandra Day O'Connor, the first female member of the high court, includes three judges on the U.S. 5th Circuit Court of Appeals in New Orleans -- two of them women.

Judges Edith Brown Clement, Edith Jones and Emilio Garza all have been cited as the type of conservative jurists President Bush would like to add to the bench. They also are likely to face opposition from many Democrats in the Senate, which confirms candidates.

Indeed, the fight over any Bush candidate is expected to be greater than usual because of O'Connor's status as a moderately conservative swing vote, said John Baker, a constitutional law professor at the Louisiana State University Law Center.

Among the likely 5th Circuit candidates, Jones would draw the greatest opposition, Baker said, because of signals she has given over the years that she would be an "originalist," closely following the Constitution's original meaning instead of expanding its interpretation in light of modern events.

Both Jones and Garza also have indicated they believe abortion is not justified under the Constitution, he said.

But New Orleans defense lawyer Bruce Waltzer said Clement may actually be more conservative than either of the other two.

"On civil rights and civil liberties issues, she would be to the right of the majority of the Supreme Court today," he said.

Baker said, however, that predicting what an appellate court judge will do when elevated to the Supreme Court is difficult. The job of district and appeals court judges is to interpret the law in the context of Supreme Court decisions, he said, a point that Garza has even cited in opinions in which he has criticized the high court's philosophy.

Edith Brown Clement

With the anticipated retirement of Chief Justice William Rehnquist, White House staffers already have interviewed Clement, 57, as part of their search for Supreme Court candidates, according to columnist Robert Novak.

Her confirmation process in 2001, when Bush elevated her from her U.S. District Court judgeship in New Orleans to the 5th Circuit, was uneventful. The vote for her was unanimous.

She was appointed a district judge in 1991 by the first President Bush.

Observers have said it's difficult to determine much about Clement's constitutional leanings based on the few decisions she's written while on the appeals court.

She did join a stinging dissent saying her fellow judges over-reached in applying the Endangered Species Act to protect insects found in a cave, in a case that blocked development of a Texas shopping mall. The Supreme Court recently declined an appeal of that decision.

A native of Birmingham, Clement received a bachelor of arts degree from the University of Alabama in 1969 and a law degree from the Tulane Law School in 1972. She clerked for U.S. District Judge Herbert Christenberry from 1973 to 1975 and was in private practice in New Orleans from 1975 until she was appointed to the bench.

Emilio Garza

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Garza, a former captain in the Marine Corps, has been mentioned as a prominent Bush choice to be the Supreme Court's first Hispanic justice since Benjamin Cardozo was appointed in the 1930s, which could bolster the Republican Party's appeal to Hispanic voters in the 2006 midterm elections.

Garza followed existing Supreme Court precedents when he voted in 1992 to strike down a Louisiana law criminalizing abortion. But in a concurring opinion, Garza said that because the decision to regulate abortion is a political one, "I would allow the people of the state of Louisiana to decide this issue for themselves." He also wrote an opinion this year that found Congress' constitutional authority to regulate interstate commerce allowed it to limit access of protesters to abortion clinic entrances.

Garza, 58, was elevated from a federal district court bench in San Antonio, Texas, to the 5th Circuit by the elder Bush in 1991. He had been appointed to the district bench in 1988 by President Reagan, and had earlier served as a state district court judge in San Antonio. He had a private practice in San Antonio from 1976 to 1983.

Garza graduated from the University of Texas School of Law in 1976, and received bachelor's and master's degrees from Notre Dame in 1969 and 1970.

Edith Jones

Jones, 56, first surfaced as a candidate for the high court in 1990, when she was on a short list considered by the elder Bush when he named David Souter to a seat opened by the death of Justice William Brennan.

She once served as the general counsel of the Texas Republican Party and was an attorney for 11 years in Houston, where she specialized in oil and real estate bankruptcy cases, before being elevated directly to the 5th Circuit by Reagan in 1985.

Jones has written several circuit opinions that have been reversed by the Supreme Court, including one earlier this year involving a death penalty case. She also was the author of the dissent Clement joined in the Endangered Species Act case.

A native of Philadelphia, she received a bachelor of arts degree from Cornell University in 1971 and graduated from the University of Texas School of Law in 1974.

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THE CONTENDERS

Some other possible candidates for the upcoming vacancy on the Supreme Court:

SAMUEL A. ALITO: 55, has been a strong conservative voice in his 15 years on the Philadelphia-based 3rd U.S. Circuit Court of Appeals, which is considered to be among the most liberal.

ALBERTO GONZALES: 48, U.S. attorney general and former White House counsel. Critics argue that a memo he wrote on the treatment of terrorism detainees helped lead to abuses of the type seen at the Abu Ghraib prison in Iraq.

J. MICHAEL LUTTIG: 51, worked in the Justice Department during the first Bush administration and has served on the 4th U.S. Circuit Court of Appeals in Richmond, Va. He was a law clerk to Chief Justice Warren Burger from 1983 to 1984.

MICHAEL McCONNELL: 50, a judge on the Denver-based 10th U.S. Circuit Court of Appeals, enjoys bipartisan support in the academic community. Based on his reading of the law, he opposed President Clinton's impeachment and the Supreme Court's 2000 ruling in Bush v. Gore that made George Bush president.

JOHN G. ROBERTS: 50, has been on the U.S. Court of Appeals for the District of Columbia Circuit since June 2003. A former clerk to Chief Justice William Rehnquist, Roberts was associate counsel to President Reagan from 1982 to 1986 and then served in the first Bush administration, arguing cases before the Supreme Court from 1989 to 1993.

J. HARVIE WILKINSON III: 60, also on the 4th Circuit appeals bench, has been consistently conservative in his rulings since being put on the court by Reagan in 1984. Wilkinson wrote the majority 4th Circuit opinion in 1996 upholding the "don't ask, don't tell" policy that barred gay men and lesbians serving in the military from revealing their sexual orientation.

Court's Internal Dynamics - A Factor In Decisions - May Change (KRT)

By Stephen Henderson

KRT – Internal SCOTUS, July 3, 2005

With Sandra Day O'Connor poised to leave the Supreme Court soon, the talk among interest groups and politicians is about what change will be wrought What will happen with abortion? Affirmative action? Church and state separation?

Finding the answer is more complicated than simply subtracting O'Connor's vote in such cases, and adding another, presumably more conservative one. The court's internal dynamics - the way the justices work together, react to one another and shift over time - also play a pivotal role in how cases are decided. And the injection of a new personality into that dynamic could have unpredictable - and, for the White House, undesirable - effects.

Some court watchers say the arrival of another hard-line conservative to the bench, someone in the mold of Justices Antonin Scalia or Clarence Thomas, could embolden moderate conservative Anthony Kennedy.

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"If you replace O'Connor with a justice like Scalia, there's no doubt it would change the dynamic inside the court," said Ed Lazarus, a court expert who clerked for former Justice Harry Blackmun. "O'Connor and Kennedy have held down the center of the court together. Now he'll be there by himself. A polarizing justice could add pressure to Kennedy to assert the middle."

Court historian David Garrow put it this way: "Replacing a moderate with a conservative automatically magnifies the center," he said.

The current crop of nine justices, including O'Connor, held together for 11 years without a retirement or death - a record in the modern court era. And by all accounts, both inside the court and out, the justices are among the most collegial group in the court's history.

Under the even hand of Chief Justice William H. Rehnquist, they have largely avoided the acrimony that dominated courts that confronted issues such as Roosevelt's New Deal and the beginnings of the civil rights movement.

There is disagreement - sometimes bitter - over a number of issues, but the proceedings are cordial, and bad feelings don't bleed over from one case to the next.

Even Scalia's biting opinions, which sometimes take aim at other justices' take on the law or their intellect, are not a cause for extended bad feelings.

"You used to have courts where justices displayed open disrespect for the chief justice," Garrow said. When Louis Brandeis was appointed as the first Jewish justice, Justice James McReynolds, a notorious anti-Semite, refused to speak to him, or sit next to him for a court portrait. McReynolds retired in 1941.

"The court this last 11 years has probably been the happiest and most collegial in over a century," Garrow said.

At least partially on the strength of that collegiality, the court has settled into somewhat familiar patterns, revolving around the twin center of O'Connor and Kennedy.

A new face at the court - and the possibility of two, if the ailing Rehnquist leaves soon - means certain change to that stability.

If O'Connor's replacement is more consistently conservative than she is, but also takes to the court's air of cooperation, his or her vote could begin to prove decisive in close cases. But a more aggressive justice, given to extreme positions and derision for the court's other members, could have the opposite effect.

That would empower Kennedy, whose shift to the court's middle has seemed dramatic over the past few terms, and has been decisive in a number of cases that have left conservatives reeling.

Unlike Scalia and Thomas, Kennedy does not adhere to strict constitutional philosophy, and balances interests to come up with his rulings in the court's cases. That approach puts him more in league with O'Connor, Souter, John Paul Stevens and Ruth Bader Ginsburg. He has a strong penchant for individual liberty, and can be a stickler for procedure in criminal cases. He has been the target of far-right ire at least partially because he got the seat that was initially reserved by President Reagan for Robert Bork, whose approach to the court would have more closely mirrored Scalia's.

In the 2003 decision overturning gay sodomy laws, it was Kennedy who penned the most expansive ruling - one that even O'Connor declined to support. He did the same in the spring ruling that struck down the juvenile death penalty, again without O'Connor's support.

Kennedy also supports limited use of racial preferences, though he voted to strike down two University of Michigan admissions policies in 2003. He has supported most state restrictions on abortion, but has resisted efforts to overturn Roe v. Wade - a key goal of some conservative groups.

On many issues, the court's conservatives would need to convince Kennedy to side with them to overturn liberal precedents, and the new justice could either ease that process, or aggravate it.

Kennedy joined the court in 1986, appointed by Reagan, and began his tenure as a reliable vote, nearly in the mold of Scalia. But as the court's truly liberal wing - composed of justices like Thurgood Marshall, William Brennan and Harry Blackmun - retired, Kennedy has shifted more to the center. Lazarus said he has adopted a role as the court's "moral conscience, from a conservative perspective," but it's a fair distance from where he started.

"O'Connor's absence could be an opportunity for change on some issues for conservatives, but if he's made more powerful by the new appointee, the impact could be much less," Lazarus said.

Garrow said if the White House is thinking strategically, it will appoint a new justice who, both philosophically and by his or her approach, might frequently entice Kennedy or one of the court's more liberal justices to the more conservative side.

"You want someone who might persuasively keep tugging on his shirt sleeve," Garrow said.

O'Connor's Replacement Is Likely To Be A Swinger (LAT)

By Orin S. Kerr

The Los Angeles Times, July 3, 2005

Some court observers are predicting that the Supreme Court will be radically different without Justice Sandra Day O'Connor. I'm not so sure.

Every year, the court decides a handful of closely divided cases with important ramifications for American life. In many of these cases, the court has divided into three camps.

The first includes the four liberal justices: John Paul Stevens, David H. Souter, Ruth Bader Ginsburg and Stephen G. Breyer. The second consists of the three conservatives: Antonin Scalia, Clarence Thomas and William H. Rehnquist. The last camp covers the two moderate swing votes: O'Connor and Anthony M. Kennedy.

O'Connor's retirement removes a swing vote. But that may not have a dramatic effect on the outcomes of the court's biggest cases.

To see why, assume that O'Connor is replaced by a strong conservative, such as Judge J. Michael Luttig of the 4th Circuit Court of Appeals. The balance on the court would change, but only somewhat. Kennedy (for whom I clerked) would remain as a key swing vote.

Kennedy often votes with the more liberal justices to form a liberal majority in major cases. He has voted to uphold Roe vs. Wade, and he wrote the opinions that struck down sodomy laws and invalidated the death penalty for juveniles. All these decisions would remain intact.

This scenario assumes President Bush will nominate — and the Senate will confirm — a justice who consistently votes with the conservatives. That might not happen. Bush might nominate a moderate, or the Senate might not be able to confirm a conservative. In that case, O'Connor's replacement may end up voting in a way similar to O'Connor. Again, little would change.

The possible retirement of Rehnquist raises another important variable. The chief justice has been treated for thyroid cancer, and many expect him to announce his retirement soon.

Rehnquist's departure would drop the number of conservatives on the court from three to two. Bush would nominate two instead of one, but the new justices, taken together, may end up mirroring the would-be combined votes of Rehnquist and O'Connor.

Finally, the legal principle of stare decisis will limit the changes. By institutional tradition, the Supreme Court overturns prior decisions only rarely. The justices routinely decline to overrule old cases even if they would have reached a different result the first time.

In other words, once a case is decided, it tends to stick around. This practice helps explain why most of the major decisions of the liberal Warren Court from the 1960s remain on the books today. It also suggests that most of the decisions shaped by O'Connor will remain the law in the future.

Court's Liberal Bloc Stands Firm (LAT)

By David G. Savage, Times Staff Writer

The Los Angeles Times, July 3, 2005

WASHINGTON — The Rehnquist court did not come to an end last week as predicted, despite the illness of the chief justice.

But the conservative Supreme Court led by Chief Justice William H. Rehnquist did fade away, a development as surprising as the retirement announced Friday by Justice Sandra Day O'Connor.

In its place at the end of the term stood a moderate-to-liberal court led by John Paul Stevens, the 85-year-old justice who sports bow ties and whose energy and influence seem to have grown with age.

By forming alliances with O'Connor or Justice Anthony M. Kennedy — and sometimes even with Justice Antonin Scalia — Stevens has been able to forge a majority in some of the biggest Supreme Court cases.

The loss of O'Connor's vote might mean Stevens' sway over the court has reached its high-water mark. But with Kennedy and four liberals still in place, the Stevens bloc isn't likely to dissolve overnight.

He led a court this term that was determined to preserve the separation of church and state, increasingly willing to limit the death penalty, committed to removing racial bias from courtrooms and inclined to give cities broad power to regulate property.

In March, the justices struck down state executions of juvenile murderers as "cruel and unusual punishment," with Kennedy casting the key vote for a 5-4 majority; O'Connor was in dissent.

This followed a ruling in January that struck down the federal sentencing rules on the grounds that they gave judges too much power to add years to a defendant's prison term. In that 5-4 decision, Stevens formed an odd coalition that included Scalia and Justice Clarence Thomas. Again, O'Connor dissented.

On the final day of the term, a 5-4 ruling limited government-sponsored displays of the Ten Commandments. O'Connor joined Stevens in an opinion that said government officials could not promote or endorse religion.

Rehnquist was in dissent in all of these decisions.

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This is not an entirely new trend. Indeed, this marks the third year in a row in which the liberal bloc has prevailed in the court's biggest cases.

In 2003, a liberal majority, led by Stevens and O'Connor, upheld affirmative action in colleges and universities, and held that gay couples deserved respect in their private lives, not criminal prosecution. That 6-3 ruling, in a Texas case, struck down the last of the laws that made sex between gays a crime. In the mid-1980s, Stevens had argued in a similar case for striking down such laws, but he had done so in dissent.

Last year, Stevens spoke for a narrow majority that rejected the Bush administration's contention that the president alone had the power to capture and hold "enemy combatants" — both foreign and domestic — for as long as he chose. The Constitution gives all individuals held by the government a right to go to court and to challenge the basis for holding them, Stevens said.

This term saw nearly a clean sweep for the liberal faction of the court.

The decision ending executions for young murderers followed in line with a Stevens opinion three years ago that ended state executions of mentally retarded criminals.

This year, the court also overturned two convictions of black men — one in Texas and one in California — because of racial bias in the makeup of the jury.

In what turned out to be one of the most controversial rulings, the court upheld the power of city officials to condemn private property, including homes, to make way for business development.

Stevens stressed that state legislatures may limit this power of "eminent domain," but federal judges should not take on the task, he said.

"This is the term where Justice Stevens became ascendant," Washington lawyer Mark I. Levy said. "It's been a dreadful term for the conservatives. I can't think of a single big case where the conservative side won."

Pepperdine law professor Douglas W. Kmiec, a former Reagan administration lawyer, said it was a "deeply troubling" term.

He pointed to "conservative losses on federalism and on property rights" as well as the "muddle" on religion and the Ten Commandments.

In all these areas, the high court this year rejected earlier opinions by Rehnquist that once held sway with the majority, Kmiec said.

For much of Rehnquist's tenure as chief justice, which began in 1986, the high court followed his lead. It gave more leeway to police and prosecutors. It rejected challenges to the death penalty. It restored support for state's rights and for property rights.

It also moved away from a strict church-state separation. Rehnquist once derided Thomas Jefferson's "wall of separation between church and state" as a "misguided metaphor … based on a bad history." Rehnquist said that from the days of George Washington, American officials had "acknowledged God" through solemn oaths, invocations and religious displays. He said he saw no problem with a "passive monument" of the Ten Commandments on public property.

The Bill of Rights, the first 10 amendments to the Constitution, commands that there can be "no laws respecting an establishment of religion." The Ten Commandments begin with the words, "I am the Lord thy God. Thou shalt have no other gods before me." Stevens said that if officials erected a monument of the Commandments at a government building, its message "is quite plain: This state endorses the divine code of the 'Judeo-Christian' God."

In the court's private conferences, Rehnquist and Stevens have special roles. The chief justice sits at one of end of the table and speaks first. He describes the issues in a pending case and says how he would resolve them.

Stevens, a 1975 appointee of President Ford, is the senior associate justice. He sits at the other end of the table and speaks next. Since the two often take opposite sides in major cases, the outcome turns on whether the other justices vote with Rehnquist or Stevens.

Once the votes are tallied, the chief justice, if he is in the majority, decides who writes the opinion. If not, Stevens decides who writes the opinion.

In the juvenile death penalty case, Roper vs. Simmons, Stevens had a 5-4 majority and assigned the opinion to Justice Kennedy. In his opinion, Kennedy noted that around the world, other nations had abolished capital punishment for crimes committed by people younger than 18.

"The stark reality is the United States is the only country in the world that continues to give official sanction to the juvenile death penalty," Kennedy wrote.

That comment drew a sharp rebuke from Scalia. "I do not believe that the meaning of our [Constitution] should be determined by the subjective views of five members of this Court and like-minded foreigners." Rehnquist agreed with Scalia.

Facing a clash between federal and state power, Stevens spoke for a 6-3 majority in ruling that the federal drug laws trumped California's law allowing the use of medical marijuana.

Kennedy and Scalia joined him, but Rehnquist and O'Connor dissented in Gonzales vs. Raich.

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In a test of the Title IX law that bolstered sports for women, Stevens assigned O'Connor to write a 5-4 ruling that held that coaches and teachers could not be punished for complaining about unequal treatment for girls' and women's teams. Rehnquist joined the dissenters in Jackson vs. Birmingham.

In the pair of cases on the Ten Commandments, the majority was split. In a Kentucky case, McCreary County vs. ACLU, Stevens had a 5-4 majority to rule that it was unconstitutional for officials to endorse religion by posting the Commandments in the county courthouse. Justice David H. Souter wrote the opinion, and Justices O'Connor, Ruth Bader Ginsburg and Stephen G. Breyer signed on.

In the Commandments case from Texas, the chief justice had a 5-4 majority, and he wrote an opinion that upheld the granite monument that had sat for 44 years on the grounds of the state capitol in Austin. Breyer agreed with the outcome, but he did not agree with Rehnquist's view, leaving the chief justice without a true majority opinion in Van Orden vs. Perry.

Pepperdine's Kmiec says Rehnquist's illness had an effect this year. In October, the chief justice announced he had thyroid cancer, and he underwent surgery to have a hole opened in his windpipe. In January, he returned to the court on a part-time basis. And though he continued to preside over the court's conferences, he spoke haltingly and with evident difficulty.

"His absence from the center chair [during many of the public arguments] could have shaped the dynamic in those close cases," Kmiec said.

Rehnquist and Stevens were not always divided. The justices were unanimous in a series of important business rulings. They held that Internet companies could be held liable for stealing copyrighted materials if they actively aided computer users in downloading free music or movies.

And they ruled that scientists could use patented drugs in research on new drugs. And they limited the reach of an obstruction of justice law in overturning the criminal conviction against the defunct accounting firm of Arthur Andersen.

As the court's only octogenarians, the two also share some old memories. It brought them together in a dissent from the ruling that was welcomed in California and in much of the nation. It was the 5-4 decision that struck down the state laws that banned the direct shipment of wine to consumers.

Stevens grew up during the 1920s in Chicago, where his father owned the city's largest hotel. It was dry during the era of Al Capone and the gangster wars over booze. Rehnquist, born in 1924, grew up in Milwaukee.

The national experiment in the prohibition of alcohol ended in 1933 with the adoption of the 21st Amendment. But the amendment said the "importation into any state … of intoxicating liquors, in violation of [their] laws, is hereby prohibited."

"Today many Americans, particularly those members of younger generations who make policy decisions, regard alcohol as an ordinary article of commerce," Stevens said in a lecture to his younger colleagues, such as 68-year-old Kennedy and 69-year-old Scalia.

He recalled in his written opinion the "moral condemnation … of 'demon rum' in the 1920s and 1930s…. My understanding [and recollection] of the historical context reinforces my conviction" that the ban on cross-state sales of alcohol should be upheld as written.

Rehnquist agreed. So did O'Connor. The words of the 21st Amendment could not be clearer, agreed 57-year-old Thomas, showing again that neither ideology nor age was a sure predictor for a justice of the Supreme Court.

More Politicians For The Court (WP)

By Norman Ornstein

The Washington Post, July 3, 2005

The resignation of Justice Sandra Day O'Connor means more than the loss of the most visible centrist on the Supreme Court. It also means the loss of the only justice who has been an elected politician. Before coming to the court in 1981, O'Connor had served in the Arizona Senate for five years, including time as majority leader.

Is that sort of experience important? Last year, at a remarkable seminar at Yale Law School, a group of former Supreme Court law clerks who served a half-century ago discussed the behind-the-scenes story of the 1954 ruling in Brown v. Board of Education. That decision actually took two years to reach. It was unanimous in the end, spanning the full range of ideology on the court from William O. Douglas on the left to Felix Frankfurter on the right. It could easily have been 5 to 4, given the issues at stake, the intensity of views and the breathtaking change the decision represented.

Frankly, if the current court had been serving back then, the decision probably would have been 5 to 4, like so many other highly charged and controversial decisions of recent years. What is the difference? The Warren Court in 1954 had five members who had been politicians -- three former U.S. senators (one of whom had also been a mayor of Cleveland), one state legislator and a former governor, Chief Justice Earl Warren.

The former clerks talked about the way in which Warren, Justices Hugo Black, Sherman Minton, Frankfurter and others worked patiently to build consensus, not just a narrow majority. When it wasn't forthcoming the first time the case was up, they

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put it off to the next year. Liberals and conservatives alike understood how important it was for society, and for the credibility of the court, to find that consensus and put forward a united front. The fact that several of them had been schooled in an environment of coalition-building -- the legislative process -- was a key to that sensitivity and to the final result.

The Warren court of the 1950s was quite typical of American history up to that point, in that justices often came from political backgrounds. Only one of the nine justices in 1954, Minton, had served on a U.S. court of appeals, and he had been a senator before that. Contrast that with the current Supreme Court -- on which seven of the nine justices have served on a federal court of appeals and one other had service on a state court of appeals. The only current member without a background as a judge, interestingly, is Chief Justice William Rehnquist.

Why the change? Over the past 50 years, the federal courts have increasingly made public policy, from settling details on airborne emissions to intervening in disputes between telephone and cable companies to setting guidelines on abortion and sodomy. The increased policy role has come about in part because Congress has passed the buck on controversial decisions to the courts, and in part because judges, left and right, have been willing and eager to step in to fill vacuums. As our politics have become more ideological and more partisan, lifetime court appointments have thus become more important and valuable.

Choosing judges, especially at the Supreme Court level, has taken on a heightened importance -- and presidents and their partisans want to make sure they know what they are getting. A track record at the federal appeals court level is a much safer predictor of behavior at the next level up than service in the U.S. Senate, or as a governor or in other political office.

But having a court that consists largely or only of nonpoliticians has serious costs for the public. Not only are judges less inclined to think broadly of the country and its social and political divide, they are more likely to look at decisions with tunnel vision, not thinking through the problems of maintaining the court's standing with the public and of implementing difficult and divisive decisions.

Moreover, since much of what the court does is to sort out legislative intent, those without political experience have no real sense of how a legislature works and no direct idea of what legislative intent really means in the crucible of the legislative process. Politicians who have run for office and been in campaigns also know how politics works; the ignorance of basic politics shows up in the court's decisions on political issues such as redistricting.

With O'Connor gone, the Supreme Court will have no politicians and only one member, Stephen Breyer, who has worked in a legislature, as a staffer. Most of the names the White House has floated as possible Supreme Court nominees are, predictably, judges on federal appeals courts. It is time to expand the field to seriously consider people with political backgrounds. Former senators John Danforth and Warren Rudman would be superb choices. At least two current senators, John Cornyn of Texas and Jon Kyl of Arizona, fit the ideological criteria of the White House. Harry Reid, the Senate Democratic leader, has mentioned other capable Republican senators, including Mike DeWine of Ohio and Lindsey Graham of South Carolina. There are many others, including present and former governors, senators and House members, who could also fit the bill. The court, and the country, would be well served to have a politician or two on the bench.

Left And Right, Groups Gear Up (CHT)

By Frank James and Mike Dorning

CHT – Senate Battle, July 3, 2005

At People for the American Way headquarters Friday, Ralph Neas, the liberal advocacy group's president, briefly stopped in the "war room" to rally staffers and volunteers who were contacting activists shortly after Supreme Court Justice Sandra Day O'Connor announced her retirement.

"What's at stake is everything we care about," he told two dozen mostly young adults working phones and computers and filling envelopes. "We have to get the message out. If a right-winger replaces Sandra Day O'Connor, that right-winger can turn back the clock seven decades." Neas was between interviews and heading to a Capitol Hill news conference.

On the conservative side, the war room was more virtual than real. "Who needs a war room?" said Sean Rushton, executive director of The Committee for Justice. "We can all sit at our desks and e-mail."

Rushton spent the hours after the announcement in the office that his organization rents from a high-powered Republican lobbying firm, juggling conference calls among conservative activists and tapping away at his keyboard on press statements, talking points and a slew of e-mail.

"The message is, be magnanimous about Sandra Day O'Connor and speak about her as a conservative judge," he said.

A heated fight between interest groups on the political left and right over whom President Bush should name to fill a Supreme Court vacancy intensified sharply Friday, as both sides viewed O'Connor's retirement as a chance for Bush to significantly shift the nation's highest court to the right.

The announcement by O'Connor took virtually all the groups by surprise.

Raised stakes for all

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For groups on both sides, O'Connor's retirement caused what already were high stakes to multiply because of her role as the court's main swing vote in 5-4 decisions. What had promised to be a major battle as Washington insiders speculated that ailing Chief Justice William Rehnquist might retire loomed as an even bigger fight with news that O'Connor is leaving the court.

Liberal and conservative efforts Friday were driven by fear on one side, hope on the other. Liberals feared decisions favorable to them on affirmative action, abortion rights, the environment and a host of other hot-button issues could be reversed in new rulings. Conservatives hoped a new justice would deliver just such reversals.

Neas and other leaders of the liberal coalition said they hoped the president would consult with Republican and Democratic senators about O'Connor's replacement and pick a consensus candidate. They said that is even more important now because the retirement was of a swing justice, as opposed to Rehnquist. A strong conservative replacement for the reliably conservative Rehnquist might be seen as retaining the philosophical mix among the nine justices.

Liberal advocates put the White House and Senate on notice that if the president wanted a contentious confirmation battle, he would get one.

"If he chooses the more divisive route and names a candidate who is extreme, he will ignite a firestorm," promised Nan Aron, president of the Alliance for Justice.

O'Connor's announcement set in motion activities both sides had planned for months, with thousands of phone calls and hundreds of thousands of e-mails going out to activists who in turn were being asked to reach out to others to lobby their senators. Web sites were updated with the O'Connor news and suggested actions.

For conservatives, the goal was to get supporters to tell senators they wanted O'Connor, whom they called a true conservative, to be replaced by another. Liberals asked supporters to flood senators' offices with the message that they want a nominee who would draw broad bipartisan support.

O'Connor's announcement seemed to especially stun liberals because they viewed her as the key vote for their issues.

A `state of emergency'

"We are declaring a state of emergency at this point, not only for Roe vs. Wade," said Kim Gandy, president of the National Organization for Women. That 1973 decision determined that women had a constitutional right to abortion, a position that O'Connor upheld in various cases during her 24-year tenure on the court.

As much as many liberals were shocked, conservatives, especially Christian conservatives, had a sense of the possibilities created by the vacancy.

"Today marks a watershed moment in American history: the resignation of a swing-vote justice on the Supreme Court and the opportunity to change the court's direction," said James Dobson, founder and head of the Focus on the Family organization and host of a radio show by the same name.

Tony Perkins, president of the Family Research Council, a conservative Christian activist group, said the organization had sent an e-mail alert to members but would wait until Bush nominates a successor before asking them to take action.

"We're all ready to go once there's a nominee," Perkins said.

Fears Of Battle Over High Court (BSUN)

By John Woestendiek And Robert Little

The Baltimore Sun, July 3, 2005

It's going to be a bruiser.

If you thought election 2004 and Terri Schiavo's last days were nasty confrontations in the so-called culture wars, just wait for the fight over who will fill Sandra Day O'Connor's U.S. Supreme Court seat.

Ruptures over gay marriage, flag burning or displaying the Ten Commandments will feel like mere tremors compared with the cultural quake sure to erupt when the nation's differences become the weapons with which the Supreme Court's future is determined, political analysts say. Expect the "red" and the "blue" to go at it fiercely enough to leave the nation purple, or at least with some long-lingering bitter feelings.

"It's likely to be the political equivalent of the war of the worlds," said Marshall Wittman - once legislative director for the Christian Coalition, now a senior fellow at the Progressive Policy Institute. "Unless the president completely surprises everyone and picks a moderate, he will likely trigger an end-of-all-times cultural battle over this nomination."

The White House said Bush won't announce a nominee until at least July 8, after he returns from a trip to Europe, but the fight over that nominee is looking to be bloody.

Soon after word of O'Connor's retirement surfaced, Planned Parenthood announced a series of rallies and sent a message to supporters saying, "We cannot remain idle in the face of such a threat."

David Corn, Washington editor of the left-leaning periodical The Nation, quickly posted a column saying, "It should be ugly."

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"There will be much at stake. But ugly is ugly," he wrote, adding, "A titanic fight over a Supreme Court nomination can really ruin a summer in Washington."

"The supply lines are being formed," Wittman said Friday, hours after O'Connor, the first woman on the Supreme Court and a swing vote on abortion, announced her retirement.

"Everyone is canceling their weekend vacations to hunker down. People are being deluged with political spam. Everyone's sharpening their sound bites. It's lock-and-load time in Washington."

Those who believe in the concept of culture wars - the idea that the nation is increasingly divided into increasingly entrenched camps that are increasingly at odds over whether the government should legislate moral values - agree that this could be the mother of all of them.

Even before the 2004 election, which seemed to turn on the relatively new political theme of "moral values," the country's fractured conscience had grown apparent.

Disagreements over the balance of church and state have played out in debates over creationism in public schools or display of the Ten Commandments on public property, for instance. A rift over the definition of life and death, kept open by issues related to abortion, has been widened by debates in Congress and elsewhere about things like embryonic stem cell research and Schiavo's right to live or die.

The wars in Iraq and Afghanistan have provided more fuel, not only by spawning political opposition, but also by sparking disagreements over such matters as the treatment and rights of political prisoners, or whether individual rights should be sacrificed in the name of security.

Some see these culture wars as a concoction of the news media, think tank talking heads and TV producers who like everything to be, if not black and white, at least red and blue.

But even the cynics agree that O'Connor's resignation creates a prism through which the disagreements are likely to be concentrated, amplified and perhaps distorted, leading to the political skirmish of the fledgling century. No matter whom Bush nominates, Democrats are likely to put up a fight and, based on the high stakes and their losing record of late, it's likely to be an all-out one.

Some say another big, prolonged, values-laden battle in Washington will do little more than increase alienation and apathy among the masses, and even widen the rift between the right and left - that, when it comes to the national fabric, we might want to consider switching to Kevlar.

'A firestorm'

"The Democrats will see no downside to attacking this nominee mercilessly," said Richard Shenkman, editor of George Mason University's History News Network. "I don't see any way around it, really. It will be a firestorm."

The president could, of course, defuse the fireworks by appointing a moderate nominee, though few consider that likely. With his poll numbers down and his conservative core in need of a good soothing, he is more apt to rally supporters with a candidate of their ilk. And besides, the conservatives have been burned by the so-called moderates in the past.

While seven of the court's nine justices were appointed by Republicans, three of them - O'Connor, Anthony M. Kennedy and David H. Souter - have hardly been the conservative stalwarts that the party faithful might have expected. In perhaps the most telling example of the conservatives' laments, those three justices teamed up in 1992 to write the court's Planned Parenthood v. Casey decision, which reaffirmed abortion rights and dashed the hopes of the right wing.

"The conservatives have this history now of what they consider to be 20 years of betrayal," said Shenkman, an associate professor of history at George Mason. "They're demanding a true conservative, which will just fan the flames of the cultural war in this country.

"We're living through one of those periods in American history where there is great conflict, where society is not very settled. And I can't imagine things being any more settled after this."

Many expect Bush to choose a nominee who opposes legalized abortion to appease the conservative base of the party and to make up for his father's appointment in 1990 of Souter, whose votes have been more moderate than many expected.

"Consequently, it's payback time for the religious right," Wittman said.

"Ultimately, this fight will be about abortion," he said. "The No. 1 item on the agenda of social conservatives is to overturn Roe v. Wade."

Widening rift seen

Wittman believes the fallout from the battle will serve to widen the rift between those who vote based on their conservative moral values and those who think those values don't belong in the political arena.

"I think we will see the accelerated polarization of American politics, and quite possibly the further alienation of the American people from Washington," said Wittman, who was a Republican for 20 years.

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"Most Americans' concerns are about health care, gas prices, and all those will be going to the wayside while Washington engages in the cultural war. Many other important issues will be ignored because of the primary focus on abortion."

That, he says, was the case with the debate over whether Terri Schiavo's feeding tube should be disconnected - the latest flare-up of the culture wars. For more than a year, conservative Christian and anti-abortion groups lined up against civil liberties attorneys, with elected officials entering the fray as reinforcements.

James Davison Hunter, a professor of sociology and religious studies at the University of Virginia and author of Culture Wars: The Struggle to Define America, said the Schiavo case, like the election, served as a trigger.

"My position is that cultural conflict is deeply rooted in American society and has been for quite a while, though it typically remains below the surface of political life until certain events, different events, act like a trigger to bring them to the surface.

"Once they're on the surface, they become politicized. Special interest groups, political parties and activists of all sorts become involved and stake out a position. Where the majority of Americans would want a compromise - some kind of middling position - the special interest groups tend to polarize the issue into stark options, and those extremes tend to frame the public debate."

Bush 'inclusive'

Some think Bush, who is expected to have at least one more Supreme Court seat to fill before his term expires, might choose a less contentious candidate this time - someone who doesn't drive the nation's political extremes to blows.

"My guess is that Bush will nominate someone who is acceptable to his base but who will not be the hard-core ideologue that a lot of them would have liked," said Corwin Smidt, executive director of the Henry Institute for the Study of Christianity and Politics at Calvin College in Grand Rapids, Mich.

"In this climate you won't be able to escape the debates about things like abortion rights or the Ten Commandments," Smidt said. "But despite all the talk about Bush being this polarizing figure, I think there's a lot of evidence in his record to suggest that he's very inclusive, particularly with regards to religion."

Nevertheless, most suspect a battle is in the offing.

"Ordinary people, the average American, spends most of life far away from the battle lines and considers most of these issues irrelevant to their daily lives, but when these triggering events happen, people end up making decisions within the categories that have been given," said the University of Virginia's Hunter.

"We saw that in the last election. Americans divided very evenly but very contentiously. We saw it on a smaller scale with Schiavo. Even though her circumstances were fairly remote from the average American's everyday experience, when senators and presidents become involved, when it becomes politicized and stays in the newscast and on the front pages of newspapers for as long as that did, eventually people take sides."

"As contentious as this is likely to be, it won't divide the nation in ways that will be enduring and really threatening to political institutions," Hunter said. "What it will more likely do is create a disaffection of the average voter. ... People get tired and weary of it."

Word From O'Connor Sets Off Pre-Fourth Fireworks (WP)

By Dana Milbank

The Washington Post, July 3, 2005

As reporters filed into the office of Senate Majority Leader Bill Frist (R-Tenn.) yesterday afternoon for a briefing on the process to replace Supreme Court Justice Sandra Day O'Connor, Frist aide Bob Stevenson called out cheerfully: "This is a great introduction to the Fourth of July weekend. Anybody have to cancel plans?"

Well, yes and no.

O'Connor's announcement caught just about everybody by surprise -- even the White House, which rushed to schedule a Rose Garden appearance for President Bush before his meeting with Kuwait's prime minister. Most people had expected the ailing chief justice, William H. Rehnquist, to be the one making the announcement, and even that seemed doubtful as the days passed. Reporters and staff on the Hill arrived for work in blue jeans, hoping to slip away early for the holiday.

But in a sense, Washington could not have been better prepared for O'Connor's announcement. Liberals and conservatives alike have been drilling for months in preparation for the vacancy, and they responded with an impressive blend of logistical precision and ideological excess. Eighteen minutes after O'Connor's retirement became public, Frist was on the Senate floor reading a 1,600-word statement. Forty-nine minutes later, the first television ads were announced. Eighteen minutes after that, Sen. Tom Coburn (R-Okla.) became the first senator to disparage the Reagan-appointed O'Connor, for "self-indulgent judicial activism."

Sen. Charles E. Schumer (D-N.Y.) caught a flight back to Washington to give a news conference. Within hours, hundreds of organizations and lawmakers had issued statements and news releases -- the liberal People for the American Way issued four

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-- with the choicest political hyperbole: "Devastating," "historic," "ominous," "critical," "freedoms hang in the balance," "reinventing monarchy," "state of emergency," "save the court."

And Bush hasn't even nominated a successor.

With exceptions such as Coburn, the politicians left most of the hysteria to interest groups and resorted to euphemistic talk. Bush said he would "consult" with the Senate on a nominee. Democrats pretended that they did not have a "litmus test" for prospective justices. Republicans pretended that their only desire for a successor was that the justice would "interpret the law" and wouldn't "make public policy."

But beneath the official posturing was a simple truth: O'Connor is the tiebreaking vote on a range of hot-button social issues, and the battle to replace her will be in many ways a referendum on legal abortion. So it's no surprise that, starting at mid-morning, the O'Connor succession fight became the only game in town.

10:21. The first Associated Press bulletin crosses the wire: "O'Connor, high court's first woman, retires."

10:30. The conservative Becket Fund for Religious Liberty announces that its lawyers are standing by "to discuss the legacy of Justice Sandra Day O'Connor and the impact her leaving the court will have on religious liberties." Three hours later, a PR firm issues astatement from the group saying "thank God she's retiring."

10:31. People for the American Way, in its first release, calls for "a consensus nominee," not an "aggressively activist ideologue."

10:33. The White House -- which evidently knew nothing of O'Connor's intentions when Bush's press secretary briefed reporters at 8:30 a.m. -- announces that Bush will speak at 11:15.

10:34. Sen. Jim DeMint (R-S.C.) rushes out a preemptive attack on the opposition. "While some Democrats will attack anyone the president nominates, I hope others will give the nominee serious and fair consideration," he says.

10:39. Frist, on the Senate floor, makes no mention of abortion but uses the conservative refrain that a justice's role is "to interpret the law and not to make public policy."

10:40. Planned Parenthood issues a press release: "Departure of Justice O'Connor Creates Ominous Vacancy. . . . Reproductive Rights Hanging in the Balance."

11:01. Senate Democratic leader Harry M. Reid, stuck at home in Nevada, issues his statement: "Justice O'Connor has been a voice of reason and moderation. It is vital that she be replaced by someone like her."

11:07. The liberal Alliance for Justice steals Planned Parenthood's 27-minute-old line. "Individual rights and freedoms hang in the balance," the group says. Not to be outdone, the ACLU warns at 11:11 that "we are gravely concerned that President Bush will use this opportunity to nominate someone whose judicial philosophy is hostile to civil liberties."

11:16. Sweat-soaked journalists wait in the sweltering Rose Garden as television correspondents struggle for words to describe the drama to their viewers. Bush emerges, grinning, saying he will "be deliberate and thorough" but also "timely." He praises O'Connor without praising her judicial opinions. And he warns filibuster-minded Senate Democrats that he wants a "fair vote."

11:21. GOP Chairman Ken Mehlman bemoans "the inevitable protest from far-left special interest groups." Democratic Chairman Howard Dean answers 57 minutes later by saying a cordial process "will be up to President Bush."

12:41. Frist's office serves notice that Supreme Court vacancies over the past 30 years have been filled in 72 days on average. Experts assembled by Frist's staff tell journalists that Bush is under no obligation to consult with Democrats and that it is "inappropriate" for Democrats to ask a nominee about specific issues, such as abortion.

12:49. The conservative Committee for Justice vows guilt by association. "We will be watching Senate Democrats and intend to link moderate and red states senators to their liberal Senate colleagues and outside groups," it announces.

1:42. The liberal Coalition for a Fair and Independent Judiciary weighs in, saying Bush should pursue a "consensus nominee" such as O'Connor, who was confirmed 99 to 0. Twenty minutes later, the conservative Family Research Council holds a news conference to call O'Connor's view on abortion "shocking" and to demand a successor in the mold of Rehnquist or Antonin Scalia. "We have been waiting over a decade," the group's chief, Tony Perkins, says. "We will seize this opportunity."

But he had better pace himself.

Interest Groups Gear Up On Court (PPG)

By Maeve Reston

Pittsburgh Post-Gazette, July 3, 2005

Within minutes of Friday's announcement of the impending retirement of Supreme Court Justice Sandra Day O'Connor, interest groups on the right and left were fully engaged in long-drawn-up battle plans that promise to make this fight fiercer than any previous nomination.

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As President Bush is expected to make an announcement regarding his choice to succeed O'Connor perhaps as soon as the end of this week, though possibly longer, groups were already firing off scores of e-mails that encouraged supporters to flood the White House with phone calls recommending the kind of nominee he should pick.

Organizations and coalitions on each side -- already immersed in plans and regular conference calls for several years, in some cases -- have scheduled news conferences and rallies across the nation throughout this week. The liberal group People For the American Way announced yesterday that it would begin running ads this week urging Bush to choose a nominee that could be approved with a broad bipartisan consensus.

One anti-abortion rights group, Generation Life, plans to hold vigils in front of the Supreme Court building before the confirmation hearings begin.

A pro-abortion rights group, Emily's List, was using the excitement of Friday's announcement to solicit those on its e-mail list to contribute to female Senate candidates who would protect abortion rights -- and potentially use minority-party power to block an anti-abortion rights nominee.

The fact that the court vacancy is the first in the era of Internet instant communication and mobilization had led many groups to speculate that thousands more Americans will become involved in the confirmation process as it winds through the summer.

But leaders on both sides say O'Connor's role as a critical swing vote on the high court has already brought a new level of intensity to the fight.

For many on the left, the loss of O'Connor's vote on the high court was the most feared prospect -- because it could lead to a reversal on some crucial abortion-rights cases and dozens of prior 5-4 decisions, ranging from affirmative action in college admissions processes to the recent ruling barring display of the Ten Commandments at courthouses.

"It intensifies everything that we were planning to do," said Elliot Mincberg, legal director at People for the American Way.

"She's been the swing vote in so many important areas -- civil rights, affirmative action, reproductive rights, environmental cases," he said. "So, literally, rights and liberties are at stake across the board depending on who her replacement will be."

For groups on the right, the vacancy is a chance to win appointment of a justice whose views are in line with the conservative justices whom Bush has said he admires most.

"The president has the historic opportunity to keep faith with the promise he has repeated numerous times, which is to name justices who are like Justices Antonin Scalia and Clarence Thomas," said Jan LaRue, chief counsel of the conservative Concerned Women for America.

She said it was ridiculous that Democrats including Sens. Edward Kennedy of Massachusetts and Christopher Dodd of Connecticut were already calling upon Bush to replace O'Connor with a justice of similarly moderate views. "They claim that you have to maintain the balance of the court," LaRue said. "That's irrelevant. ... It's not a constitutional requirement."

Though Senate Judiciary Committee officials say it will be at least several weeks, if not more than a month, before their panel begins holding hearings on whether to recommend confirmation of the president's choice, strategies for interest groups on both sides are already well-established -- as was evident in the first wave of e-mails they sent out.

For more than a week, the conservative Progress for America, a pro-Bush group that has pledged to spend $18 million on the fight, has been running ads intended to discredit liberals' criticism of Bush's court nominees -- stating that their adversaries are committed to 'tar and feather' any choice the president makes.

C. Boyden Gray, White House counsel for former President George H.W. Bush but now head of the Committee for Justice, a group formed to support the president's nominees, said groups on the left need to "take a breath and resist their natural impulse towards exaggeration."

"We call on Democrats to resist the temptation to use their attack machine against a qualified nominee," Gray said. "All parties should withhold judgment until a fair and sober analysis has occurred."

As did Democratic senators, these liberal activists underscored that O'Connor, after being nominated by then-President Ronald Reagan, was confirmed unanimously by the Senate in 1981 during a polarized time. They are urging that Bush, too, should choose "a consensus nominee." Kennedy on Friday already was referring to the precedent of the O'Connor selection as the "Reagan standard."

Nan Aron, head of the progressive Alliance for Justice, a longtime player in confirmation battles, said that with O'Connor's retirement, "individual rights and freedoms hang in the balance."

Bush, said Aron, "can unite the country and consult with both parties in selecting a moderate, consensus nominee -- someone like Justice O'Connor -- or he can continue down the path he has taken with lower-court nominees and name a controversial candidate who will further divide the nation."

Nominee Battle Lines Drawn (DMN)

By Allen Pusey

The Dallas Morning News, July 3, 2005

A look at the key players in the looming fight over the next Supreme Court justice:

REPUBLICANS

Committee For Justice: Committee executive director Sean Rushton's job is to provide instant background and talking points. "It is important to respond very quickly to anything the liberal groups or the Democrats put out there," he said.

He works for C. Boyden Gray, a White House counsel during the first Bush administration who spent the last three years creating a vaguely vertical structure for the hundreds of business, religious and single-issue interest groups that have a stake in getting a conservative court nominee. They have amassed an estimated $18 million to pay for advertising on behalf of a Bush nominee.

American Center for Law and Justice: Televangelist Pat Robertson founded the center, which has offices near the Supreme Court. Jay Sekulow, the organization's chief counsel, is preparing to guide his audience of 1.5 million, most of them evangelical Christians, through the confirmation process. "It's my job to speak to those people, to explain the process to them and get them involved," he said.

Federalist Society: Once little more than a law school debating club, the Federalist Society has become a significant conservative talent pool for law firms, government posts and judicial nominations. Justices Antonin Scalia and Clarence Thomas were Federalists, and most of the names being suggested for the next Supreme Court vacancy are, or have been, members of the society.

Leonard Leo, the group's executive vice president, will seek to convince disparate conservatives that another Federalist voice on the high court will benefit their cause, even if the nominee's record is ambiguous or incomplete.

DEMOCRATS

People For The American Way: Hollywood producer Norman Lear founded People For The American Way for the specific purpose of blocking the nomination of appeals court judge Robert Bork in 1987.

The group's executive director, Ralph Neas, former head of the Leadership Conference on Civil Rights, said the confirmation will represent a "titanic struggle over radically differing interpretations of the Constitution." His group has been conducting polling and focus groups to distill the most effective arguments against a conservative candidate and setting up a war room of more than 40 work stations to mobilize his troops.

Alliance For Justice: The alliance is a coalition of women's groups who see in any court nominee the potential loss of abortion rights. Nan Aron, its president, has been working to block some of the administration's federal appellate nominees.

"We're prepared to fight and to win if he sends up an individual who's a lightning rod," Ms. Aron said.

Leadership Conference on Civil Rights: Founded in 1950, the conference is a coalition of 180 rights organizations pooling their resources to affect legislation, civil rights litigation and, in this case, federal court nominations.

Executive director Wade Henderson's job is to mobilize and educate the vast array of rights groups under the conference umbrella, including organized labor, gay and lesbian groups, human rights activists and traditional civil rights organizations.

The Right's Moment, Years In The Making (WP)

By Thomas B. Edsall And Dana Milbank

The Washington Post, July 3, 2005

With the Supreme Court vacancy left by the retirement of Justice Sandra Day O'Connor, the conservative movement has within its grasp the prize it has sought for more than 40 years: the control of all levers of the federal government.

From the ashes of Barry Goldwater's presidential campaign, conservatives have built an enduring governing majority, with Republicans winning seven of 10 presidential contests and holding unified control of Congress for 11 years.

The judiciary has until now been alone in clinging to liberalism and the remnants of the Democratic New Deal coalition. A series of Republican appointments to the Supreme Court -- John Paul Stevens, O'Connor, Anthony M. Kennedy, David H. Souter -- have disappointed conservatives by frequently siding with the court's liberal bloc.

That could well happen again with O'Connor's replacement, but conservatives are cautiously hopeful it will not. President Bush has indicated that he will appoint a justice in the tradition of Antonin Scalia, a conservative stalwart. And the conservative movement has something it lacked during its losing battle for the confirmation of Robert H. Bork to the court 18 years ago: a highly coordinated movement that has fused the big dollars of economic conservatives with the grass-roots clout of millions of religious conservatives.

This, conservatives say, will prevent the defeat of another nominee such as Bork and will inoculate Bush from pressure to appoint a moderate such as Kennedy or Souter. And if it works with O'Connor's replacement, conservatives say, they will have

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found a formula that will allow them gradually to control the judiciary and revisit the full range of precedents regarding abortion, affirmative action, church-state matters and regulations of business and the environment.

"It is a moment of conclusion after years [in which] the conservative movement has moved very far," said Manuel Miranda, a former counsel to Senate Majority Leader Bill Frist (R-Tenn.) who leads a coalition of groups pushing for conservative jurists. "The resources on the right are so overwhelmingly different from what they were 11 years ago," when there was last a court vacancy.

Connie Mackey, of the conservative Family Research Council, said at a news conference Friday she sees "a tremendous amount of organization, unlike I'd ever seen" in past confirmation fights. "The social-issue groups as well as the fiscal conservative groups are determined that they're not going to see a Borking of any nominee that would be a good constitutionalist." That was a reference to the effective campaign by Democrats to demonize Bork and defeat his nomination by President Ronald Reagan to the high court.

The conservative bid to reshape the federal judiciary has been years in the making. Since the 1973 Roe v. Wade decision -- widely condemned by conservative legal thinkers -- groups such as the Federalist Society have sought to expand the ranks of young conservative lawyers. Dozens of conservative judicial appointments by Reagan and President George H.W. Bush have given the current president a broad pool of judges from which to choose for the high court.

The prospect of a new Supreme Court vacancy has accelerated this campaign. With the blessings of the Bush White House, a team of conservative leaders self-dubbed "the four horsemen" formed in 2002 and has taken over much of the planning for the nomination fight.

These men are C. Boyden Gray, an establishment lawyer who chairs the Committee for Justice; Jay Alan Sekulow, chief counsel for the American Center for Law and Justice; Leonard A. Leo, executive vice president of the Federalist Society; and Edwin A. Meese III, attorney general during part of the Reagan administration.

Gray, in an interview, described a battle plan over two years in the making. The Federalist Society will provide research in support of the nominee. A group called Progress for America, which backed the reelection of Bush in 2004, will spend as much as $18 million on radio and television backing Bush's nominee; and the recently created Judicial Confirmation Network, run by a former Bush campaign coalitions director, is setting up a grass-roots network in the states of six key senators.

"We have been preparing for this for 2 1/2 years," Gray said.

What Gray and others have done is fuse the GOP's economic and social conservatives, much as Bush did in his two presidential races. Gray's Committee for Justice represents business conservatives and has on its board top corporate lawyers; members of the Republican lobbying firm Barbour, Griffith & Rogers; John Engler, head of the National Association of Manufacturers; and Frank A. Keating, president of the American Council of Life Insurers.

O'Connor was pro-business in her rulings, and economic conservatives are determined to keep the seat that way in cases involving class-action lawsuits, tough enforcement of corporate-fraud laws and bankruptcy legislation -- all of which have bottom-line consequences of billions of dollars.

The financial clout of such conservatives is being paired with the grass-roots power of the social conservatives, who have been dismayed by recent rulings of the court on abortion, the Ten Commandments and other polarizing issues. The social conservatives are represented by people such as Sekulow; Tony Perkins, president of the Family Research Council; and James Dobson of Focus on the Family.

Perkins said Friday that his group "will be mobilizing over 20,000 churches" and is reaching "over a million people" daily through e-mail and the Internet.

The replacement of O'Connor with a more reliable conservative would, by itself, give conservatives a majority for the first time on church-state issues, affirmative action and such abortion issues as parental notification and what critics call "partial birth" procedures. Perhaps more significantly, it will bring the right within one vote of a solid conservative majority that could theoretically overturn the Roe v. Wade abortion ruling -- although some legal analysts say that could be years away.

Veterans of the culture wars of the past few decades see the shift of a couple of seats on the Supreme Court as the culmination of a long struggle.

"This fight has been going on for my entire adult lifetime," said Richard Land, president of the Southern Baptist Convention's Ethics & Religious Liberty Commission, who was first ordained in 1969, six years after the Supreme Court had barred school prayer.

Gary Bauer, of the Campaign for Working Families and a 2000 GOP presidential candidate, said: "The court is both the last holdout and the major instigator of the disturbing changes in the values arena over the last 30 years."

Miranda calls the vacancy left by O'Connor a "test case" for conservative clout and says the right will demand that any Bush nominee have a "paper trail" showing strong conservative views.

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"The conservative movement is mobilized to prevent a Souter or even a Kennedy," Miranda said. And once a true conservative is nominated, he added, "The conservative movement is ready to fall on its sword for a presidential nominee, and that is in reaction to Bork."

Ralph G. Neas, who heads the liberal People for the American Way and has been involved in every confirmation battle since 1975, has grudging respect for conservatives' progress.

"They have taken efforts to enhance their organizational structure and be able to finance that structure in a way they haven't before," he said. "They're in many ways replicating what we have been doing for some time, and bringing in wads of new money through their corporate special-interest contacts. Their pockets are much deeper than ours."

The first goal of the conservatives' newfound organizational power is to pressure Bush to nominate an ideologically acceptable judicial candidate. Perkins said Bush "has committed to nominate justices like Scalia and Thomas." Rush Limbaugh, in his radio broadcast, warned that there "is no longer any room" for a "stealth" nominee without a proven conservative record.

Bush said during the 2004 presidential campaign that he admires justices such as Scalia and Clarence Thomas -- a statement that prompts Shannen W. Coffin, a former official in Bush's Justice Department, to say "there's no doubt the president made a promise" to nominate like-minded judges.

Grover Norquist, president of Americans for Tax Reform and an adviser to Karl Rove, Bush's chief political strategist, said that starting with the election of 1968, "the left discovered it could no longer hold the presidency, so it turned to Congress for protection." After Democrats lost control of Congress in 1994, "the left turned to the courts. This is all they have left."

In Battle To Confirm A New Justice, Both Sides Get Troops Ready Again (NYT)

By David E. Rosenbaum And Lynette Clemetson

The New York Times, July 3, 2005

The last time Ralph G. Neas and C. Boyden Gray went head to head as commanding generals in a war over a Supreme Court confirmation was in 1991, when Clarence Thomas was the nominee. Now, with the resignation of Justice Sandra Day O'Connor, they are adversaries again.

Mr. Gray, who was White House counsel for President George Bush, won the Thomas battle.

But by all accounts, Mr. Neas had the superior operation: a unified battalion of labor unions, civil rights groups, women's organizations, civil libertarians and environmentalists that had more money, more energy and more firepower than had ever been used in a Supreme Court fight. It was an expansion of the same force Mr. Neas mobilized successfully in 1987 to defeat the nomination of Robert H. Bork.

After the bruising Thomas conflict, Mr. Gray, surprised by the fervor of the opposition, vowed he would never be outgunned again.

"When I was counsel, there was nothing out there," he said in a recent interview at his law office. "We didn't have the infrastructure with Bork or Thomas. The other side existed, but this side did not."

This year, said Mr. Gray, chairman of the Committee for Justice, an organization he formed three years ago to work for the president's judicial nominees, he was mustering outside forces that would be up to the fight.

"We haven't leveled the playing field," Mr. Gray said. "But at least we're on the field and we're able to engage." There is no doubt that his side has been much fortified. Progress for America, a group with close ties to the Bush administration, has begun to spend a pledged $18 million on advertising and organizing for the confirmation battle. Christian conservatives, who are far better organized and sophisticated than they were when the first President Bush named Justice Thomas to the court, are springing into action. And Mr. Gray, like his opponent, expects to have far greater reserves of cash and armies of activists this time around.

Some familiar faces are assisting Mr. Gray, who talks regularly with the White House about judicial nominees, in the confirmation campaign. The growing clout of Christian conservatives has given him new allies. He works closely with Jay Sekulow, general counsel of the American Center for Law and Justice, a Christian conservative legal group founded by the televangelist Pat Robertson, and Leonard Leo, a top official of the conservative Federalist Society who doubles as director of Republican outreach to Catholics.

By contrast, Mr. Neas, now president of People for the American Way, is presiding over a liberal coalition that has stayed largely intact over the last 10 years, still led by the same handful of veterans.

After learning of the O'Connor resignation Friday, Mr. Neas joined Nan Aron, president of the Alliance for Justice, and representatives from three dozen groups - including the A.F.L.-C.I.O., the American Association of University Women and the Leadership Conference for Civil Rights - at a Capitol news conference to call for a "consensus nominee."

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Of the two generals, he is less likely to face dissension in his ranks. His coalition has worked with the Democratic leadership in the Senate all year on appellate court nominees, and Mr. Neas himself is so closely tied to the Democrats in Congress that Senator Edward M. Kennedy once called him "the 101st senator."

The conservatives, by contrast, are looser-knit and have a more contentious relationship with Republicans in the Senate. Mr. Gray's task is to hold them together despite their divergent interests.

Progress for America, for instance, can be counted on to support President Bush's choice. "Our focus as an organization all along has been to defend the president's nominee, no matter who that person is, from attacks from liberal interest groups," said Jessica Boulanger, a spokeswoman for the organization.

But the Christian conservatives say they will back only a nominee with a clear record of subscribing to their views on abortion, gay marriage and the role of religion in public life.

Meanwhile, business groups, which have largely sat out the fights over the president's appeals court nominees, have pledged support for Mr. Gray but will make no commitment until Mr. Bush's choice for the Supreme Court is known.

As in their previous confirmation battles, both sides will rely on advertising blitzes, barrages of mail and phone calls and media campaigns to deliver their messages. But this time they will have to compete to shape public opinion in the faster, more intense world of gossipy Web sites, political blogs and 24-hour news shows. Mr. Gray will be a regular television presence, agreeing to appear exclusively on the Fox network during the confirmation process.

He founded the Committee for Justice in 2002 at the request of Karl Rove, Mr. Bush's chief political adviser, and Senator Trent Lott of Mississippi, then the Senate Republican leader, to work for the president's judicial nominees - and to expressly counter the voice and influence of Mr. Neas.

By Friday morning, Mr. Gray had convinced himself that any resignation would hold for the holiday weekend. When he got word of Justice O'Connor's plans, he left home in a flash and headed to his downtown office. Within minutes he was on the phone with allies - among them Edwin Meese III, former White House counsel and attorney general under President Ronald Reagan and now at the Heritage Foundation; former Gov. John Engler of Michigan, now president of the National Association of Manufacturers; and Mr. Sekulow.

He issued a statement imploring the left "to take a breath and resist their natural impulse toward exaggeration."

A few blocks away on M Street downtown, Mr. Neas had been in his office since 6 a.m. He had joined People for the American Way, a group founded by the Hollywood producer Norman Lear as a political antidote to the conservative Christian movement, in 2000. During the Bork and Thomas battles, he headed the Leadership Conference on Civil Rights. At 8:30 a.m., Mr. Neas called his wife, Katy, and promised that this weekend, unlike the past several when he had spent all day devising strategies to respond to various potential court nominations, they would take their 5-year-old daughter, Maria, to the zoo and to see the animated movie "Madagascar."

Then the news broke. By 10 a.m., Mr. Neas had his armies in motion. E-mail messages were sent to the bulk of the group's 750,000 members and supporters, as well as 10,000 reporters. Volunteers streamed into what the organization calls its war room, a 2,500-square-foot space in downtown Washington with 40 computers and 75 phone lines .

At seven regional offices across the country - in California, Florida, Illinois, New York and Texas - staff members were rounding up supporters to bombard the Senate and White House with e-mail messages and petitions once a nominee is announced.

For Mr. Neas, the Supreme Court is the ultimate guardian of fundamental rights, from civil rights to reproductive rights. For Mr. Gray, the Supreme Court is the final arbiter of the Constitution's enduring meaning, with no business usurping decisions better left to voters. Beyond their judicial philosophies, the leaders of the two campaigns could hardly be more different in appearance, background and temperament.

Mr. Gray, 62, is 6-foot-6 and lanky with an angular face. An heir to the Reynolds tobacco fortune, he went to Harvard, clerked for Chief Justice Earl Warren and has more than a trace of his native North Carolina in his voice.

Divorced, he has a daughter, Eliza, who is now at Harvard, and he lives most of the year alone in his elegant, orchid-filled Georgetown house, a hub of the Washington social circuit, where he is host to near-weekly fund-raisers for everything from his judicial interests to a Washington voucher program. He has faced ethics queries in the past for skirting campaign finance laws in the 1990's by using his secretary to make campaign donations to Mr. Lott and, during the first Bush administration, for meeting with oil company representatives while serving on a regulatory task force.

A partner at the traditionally Democratic law firm Wilmer Cutler Pickering Hale & Dorr, Mr. Gray is said to be Mr. Bush's top pick for ambassador to the European Union. Business associates say he has been scaling back work with clients in his law practice, easing himself off the many boards on which he sits and making frequent trips to the State Department.

Mr. Neas, 59, is 5-foot-9 and compact, constantly in motion. He grew up outside Boston, graduated from Notre Dame and the University of Chicago Law School and cut his political teeth in the civil rights movement.

He was 42 when he married and did not become a father until he was 54. His family now lives in a three-bedroom home in Bethesda, Md., that he says is "almost large enough to take care of the three of us with room for a grandparent or two."

Paradoxically, both men switched parties well into adulthood.

Mr. Gray was a Democrat until 1978, when he became a Republican because, he says, he opposed the Carter administration's economic policies. Mr. Neas was a Republican and worked for Republican senators throughout the 1970's. He switched parties and ran unsuccessfully for Congress as a Democrat in 1998.

The two have not always been antagonists. In 1989, when Mr. Gray was White House counsel, they worked together on the Americans With Disabilities Act. But on the heels of that, they squared off as rivals once more on civil rights legislation.

"He's a very astute politician," Mr. Gray said of Mr. Neas. "He knows where all the pressure points are and he's a very serious adversary - or ally if you're on his side, which I have been."

Mr. Neas was more critical of his longtime opponent.

"President Bush and Trent Lott chose Boyden Gray to be the quarterback of the radical right," he said. "Boyden Gray has always been the consigliere for the Bush family and has always represented well corporate special interests, often at the expense of ordinary citizens across the country."

Activists Gear Up For Nominee Fight (WP)

By Peter Baker And Susan B. Glasser

The Washington Post, July 3, 2005

Many of President Bush's conservative supporters lined up in staunch opposition yesterday to the candidate he might personally most want to name to the Supreme Court, his longtime friend and adviser, Attorney General Alberto R. Gonzales, as battle lines were drawn for selection of the first new justice in more than a decade.

Bush has long been intrigued by the idea of making Gonzales the first Hispanic on the Supreme Court, according to advisers, a prospect that might seem especially tempting in replacing Justice Sandra Day O'Connor, the court's first woman. But a range of activists and congressional Republicans warned the White House against the move, saying they do not consider Gonzales a steadfast conservative.

"We would oppose him because we don't believe he has a philosophy that we can determine. We are not enthused," said Tom Minnery, vice president of public policy for Focus on the Family, a conservative advocacy group. "He is someone who is apparently still developing his philosophy, and that's not good enough," Minnery added, citing Gonzales's "lack of open commitment to interpret the Constitution as it was written."

The surge of pressure after O'Connor's retirement announcement Friday reflected the brief but intense struggle that will play out in Republican circles in coming days. Bush leaves Tuesday for an international summit in Europe and does not plan to name a nominee until the week of July 11 at the earliest, leaving Republicans a short time to influence his decision. If the broader nomination battle will resemble a presidential campaign, as both sides predict, then the next week or two could amount to a primary.

While some focused on whom Bush's choice will be, others mapped out strategy for the period after he decides. Senate Republicans made plans to begin hearings as quickly as possible after the nomination, focused not on the candidate's positions on hot-button issues but on legal credentials.

A Republican planning document provided to The Washington Post described the need to avoid disclosing the nominee's "personal political views or legal thinking on any issue."

Democrats, by contrast, prepared a campaign to extend the process and portray anyone Bush selects as outside the mainstream. The liberal People for the American Way moved to claim O'Connor's mantle with a new television commercial that flashes her image and demands that Bush pick someone in her pragmatic tradition who "protects our fundamental rights and freedoms" or risk dividing the country.

Intent on preventing the other side from gaining the upper hand, liberals and conservatives spent the weekend in meetings, on conference calls and drafting talking points for Sunday talk shows -- and preparing for the wild-card possibility that a second seat would open if Chief Justice William H. Rehnquist steps down as well.

From Camp David, Bush consulted by telephone with Chief of Staff Andrew H. Card Jr. while lawyers at the White House assembled dossiers of candidates for him to take on the flight to Scotland, a senior administration official said.

Various activists and groups have lobbied for their favorites on the list of federal appellate judges under consideration. Appeals Judge J. Michael Luttig of the 4th Circuit is the choice of many conservatives who cite his sharp mind and sturdy track record after 14 years on the bench. The Christian Legal Society and other religious conservatives are promoting Judge Michael W. McConnell of the 10th Circuit, although his criticism of the Supreme Court's decision in the Bush v. Gore decision that ended the 2000 election recount left hard feelings at the White House.

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Some activists also point to Judge Samuel A. Alito Jr. of the 3rd Circuit, nicknamed by some "Scalito" for demonstrating the same sharp intellect and conservative views of Justice Antonin Scalia. If Bush wants a woman to replace O'Connor, conservatives have embraced Appeals Judges Edith Brown Clement and Edith Hollan Jones, both of the 5th Circuit. If he wants a Hispanic, they have recommended another 5th Circuit judge, Emilio M. Garza, instead of Gonzales.

Judge John G. Roberts of the D.C. Circuit, described as a front-runner by outside White House advisers, does not elicit as much enthusiasm from conservatives but has passed the test of key figures. "Everything I know about him would say he would fit that profile of Scalia and [Clarence] Thomas," said Jan LaRue, counsel to the Concerned Women for America, a conservative group.

Some conservatives yesterday advanced the strategy of naming Janice Rogers Brown, who was confirmed last month to the D.C. Circuit after a Senate battle. Having just confirmed Brown, activists reason, Senate Democrats would not be able to turn around and argue that she meets the criteria of "extraordinary circumstances" deserving a filibuster as defined by a recent bipartisan deal on judicial nominations. And as a black woman, she would be harder to vote against, these strategists reasoned.

"She's just been through the process," said Gary L. Bauer, president of the Christian organization American Values. "It's kind of hard to vote for her once and then turn around and say she's unacceptable."

The one candidate who unifies most conservatives -- in opposition -- is Gonzales. Gonzales occupies a spot on the innermost orbit of the Bush universe, having been a longtime adviser. He was appointed by Bush to the Texas Supreme Court, then he served as White House counsel before becoming attorney general.

Advisers both inside and outside the administration said Bush has not ruled him out for O'Connor's seat, although in his current capacity he is helping to direct the search, and friends say he is reluctant to join the high court, preferring the pace of the executive branch.

While Bush places enormous trust in him, Gonzales elicits groans and eye-rolling from conservatives who worry how he might rule on some issues and see him as another potential David H. Souter, the little-known New Hampshire judge put on the bench by Bush's father and who has turned out to be far too liberal for their taste.

Conservatives most often cite Gonzales's rulings on parental consent cases in Texas involving minors seeking abortions. Gonzales has publicly called Roe v. Wade , the case that established a woman's constitutional right to abortion, "the law of the land," once adding that "how I feel about it personally may differ with how I feel about it legally." Asked during a recent interview with PBS's Charlie Rose whether support for Roe would disqualify a prospective nominee, Gonzales said, "There are no litmus tests for this president."

"The only nomination that would cause the people that I really associate with consternation would be Gonzales," said Michael P. Farris, a prominent conservative constitutional lawyer. "The president's going to need all the help he can get no matter who he picks. I don't think many people in the socially conservative movement would openly oppose him, but the enthusiasm would be sufficiently dampened to the point that many would not participate."

Out of deference to a Republican White House, other conservatives are not as open about their opposition to Gonzales, using code instead, such as urging the president to pick another Scalia or Thomas, whom he has described as his model jurists.

"Conservative groups strongly believe that the president should just do what he promised to do. He was crystal clear on his vision of the appropriate qualities of a judge," Sen. Jeff Sessions (R-Ala.) said in an interview yesterday. "He can't allow personal or short-term political factors to override his commitment."

Other conservatives have come up with a new line of argument to dissuade the White House from selecting Gonzales without offending the president. Because he helped fashion so many administration policies, they said, Gonzales would have to recuse himself if they ever came before the bench, including the highly emotional case of late-term abortions that opponents call "partial birth."

"I don't think the president wants to have a 4 to 4 vote when that comes up before the Supreme Court," said Wendy E. Long, counsel to the Judicial Confirmation Network, a group supporting conservative judicial nominees. "That's just not a good position for a justice to be in."

Yet some conservatives have resigned themselves to Gonzales. Robert H. Bork, whose Supreme Court nomination was defeated in 1987, said his friends believe Gonzales will be the nominee and that lobbying will not change that. "Already, people have been pushing various candidates, but I don't think that's going to have much effect on Bush," he said. "I think he already knows what he wants to do."

Bush advisers refused to discuss individual candidates yesterday but brushed off criticism of Gonzales.

"This is not the first time he has come under scrutiny," said a senior administration official who spoke on the condition of anonymity because of the sensitivity of the selection process. "He's a well-centered person. His relationship with the president is strong enough that I don't think he worries too much about the chatter."

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Indeed, Gonzales draws criticism from the left side of the political spectrum as well. During his confirmation as attorney general earlier this year, most Democrats voted against him, citing his authorship of detention policies that some blamed for leading to abuse of military detainees.

"We would have serious concern about Gonzales based on what we know of his record on issues pertaining to torture, executive privilege and his handling of death penalty clemency positions" in Texas, said Nan Aron, president of the liberal advocacy group Alliance for Justice. "On other issues about which the right is particularly concerned -- reproductive rights, civil rights -- it would be important for the Judiciary Committee to ask him to answer questions. It's very difficult to know where he stands."

Conservative Groups Rally Against Gonzales As Justice (NYT)

By Adam Nagourney, Todd S. Purdum And David D. Kirkpatrick

The New York Times, July 3, 2005

Within hours after Justice Sandra Day O'Connor's announced retirement from the Supreme Court, members of conservative groups around the country convened in five national conference calls in which, participants said, they shared one big concern: heading off any effort by President Bush to nominate his attorney general, Alberto R. Gonzales, to replace her.

Late last week, a delegation of conservative lawyers led by C. Boyden Gray and former Attorney General Edwin Meese III met with the White House chief of staff, Andrew H. Card Jr., to warn that appointing Mr. Gonzales would splinter conservative support.

And Paul M. Weyrich, a veteran conservative organizer and chairman of the Free Congress Foundation, said he had told administration officials that nominating Mr. Gonzales, whose views on abortion are considered suspect by religious conservatives, would fracture the president's conservative backers.

The groundswell of opposition to Mr. Gonzales was just one sign of the conflicting forces suddenly swirling around Mr. Bush this weekend as he headed to Camp David to begin considering a replacement for Justice O'Connor, a decision his aides said would not be announced before he returned from a trip to Europe at the end of next week.

Senate Democrats demanded that he consult them before making a choice and appoint a pragmatist in Justice O'Connor's mold.

Conservatives, flexing their muscles in a battle they have spent a decade preparing for, described the nomination as a test of Mr. Bush's convictions and past promises, and his biggest opportunity yet to assure that the Bush presidency will leave a conservative stamp for a generation to come.

And on Friday, the Rev. Miguel Rivera, president of the National Coalition of Latino Clergy and Christian Leaders, a group that represents more than 6,000 Latino evangelical churches, sent the president a letter urging consideration of "a true conservative Latino nominee," Emilio M. Garza, a federal appeals judge from Texas.

In a telephone interview late Friday, Mr. Rivera said he had received no response. "All the meetings we have had in all the different groups today we have not heard anything to reassure us that he is out of the loop," Mr. Rivera said of Mr. Gonzales.

Administration officials discounted the conservative uprising against Mr. Gonzales, saying that Mr. Bush was already aware of the objections and was not convinced by them.

"It is what it is," said one senior administration official, who insisted on anonymity in exchange for discussing the White House views of the criticism of the attorney general. "The president is going to pick someone who is a true constructionist and who is correct in interpreting the law." The official said that Mr. Gonzales fit that description, but also that Mr. Bush might be wary of moving him to a new position so shortly after he was confirmed as attorney general.

Mr. Bush planned to spend the weekend getting a head start on "homework" on a list of potential nominees and expected to "be on the phones with his advisers," said another senior administration official, who spoke on condition of anonymity to describe internal deliberations. He said that the president had been briefed on his staff's preparations for a court vacancy, and that "he knows the orbit of names."

Other White House aides said they had canceled holiday plans to meet with supporters and prepare for a fight whose dimensions and intensity would be, to a considerable extent, dictated by the nominee Mr. Bush settles on.

Members of Congress and conservatives close to the White House said that they were confident that Mr. Bush would use the first Supreme Court vacancy of his tenure to nominate a judge in the mold of Antonin Scalia and Clarence Thomas, as he has repeatedly promised to do.

"They don't need me lobbying on this stuff - they know what to do," said Grover Norquist, president of Americans for Tax Reform, a conservative group with close ties to the White House. "My only recommendation is that they nominate someone who is 12 or 13 years old," to ensure as long a conservative legacy as possible.

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Senator Orrin G. Hatch, Republican of Utah, a veteran and former chairman of the Judiciary Committee, which will hold hearings on any nominee, said flatly of Mr. Bush: "He's going to appoint a conservative. I have no doubt about that."

But Mr. Hatch, breaking with fellow conservatives, suggested in an interview that he would support Mr. Gonzales.

"Let me not get into any nominee, but Gonzales is an excellent human being," Mr. Hatch said. "He's done an exceptional job as White House counsel. He's brought additional stability and peace to the Justice Department. I know the president is interested in trying to find people of diversity - he's really bent over to do that as president."

Mr. Gonzales is a longtime Bush aide and friend from Texas, and naming him could enhance the Republican Party's standing among Hispanics, one of the president's longtime political goals. Some conservatives acknowledged that they had stated their opposition to him with some delicacy to avoid provoking the White House, given Mr. Gonzales's friendship with the president.

But the swift and vociferous opposition to Mr. Gonzales reflected the intensity of concern on the right over just what kind of conservative Mr. Bush will choose, as he moves toward a decision that will go a long way toward settling any question about what kind of conservative he is, and how his presidency will be remembered.

Mr. Weyrich, while declining to disclose the specifics of a recent conversation with Ken Mehlman, the Republican Party chairman, said: "We have let the administration know through whatever channels we have that Gonzales would be an unwise appointment because of the opposition of some of the groups," some of which he said would actively oppose Mr. Gonzales, while "others like the Southern Baptists and myself would simply not help."

For many conservatives, who have seen Republican presidents nominate justices like Ms. O'Connor who then vote against them on pivotal issues, Mr. Gonzales epitomizes the fear of the unknown. But in other ways, and to some Democrats, he is very well known, confirmed by a vote of 60-to-36, along largely partisan lines, after unexpectedly contentious hearings and debate in which Democrats challenged his policies on the detention and treatment of prisoners in the administration's campaign against terror. In a 2002 legal memorandum, Mr. Gonzales characterized as "obsolete" the Geneva Conventions' limitations on questioning of enemy prisoners, and he said provisions in the conventions like commissary privileges and athletic uniforms were "quaint."

"He would face stiff opposition from liberal groups," said Nan Aron, president of the liberal legal group Alliance for Justice. "He would have to answer tough questions about his role in the administration's war on terror."

Senator Charles E. Schumer, Democrat of New York and a member of the Judiciary Committee, declined to say on Saturday how Senate Democrats might respond to a Gonzales nomination. "It's too early to tell - we're not talking about any specific judge," Mr. Schumer said.

He described the situation with Mr. Gonzales as "a real Rubicon for this president. The hard, hard right wants a true believer."

Even at a time when they have unprecedented influence in the nation's capital, many conservative leaders have become increasingly restive at their comparative lack of sway on the court and have described the selection of the next justice as the most important decision Mr. Bush will make - even if he has to force it through at the expense of his ambitious second-term agenda.

Some Republicans warned that a very conservative nomination by Mr. Bush would guarantee a protracted legislative battle that could doom any hope Mr. Bush had of pushing through a Social Security or tax reform bill.

At the same time, Kenneth M. Duberstein, who managed the Supreme Court nominations of Clarence Thomas and David H. Souter for Mr. Bush's father, said that the president could go only so far in replacing Justice O'Connor, a Reagan appointee who turned out to be a major disappointment to the right.

"Any nominee can be a notch or two to the right of Sandra Day O'Connor, but not 10 notches to the right," Mr. Duberstein said, noting that the political dynamics are different than if Mr. Bush were replacing Chief Justice William H. Rehnquist, who is ill with thyroid cancer and still widely expected to retire.

The National Review said in an editorial on its Web site: "Conservatives would be appalled and demoralized by a Gonzales appointment."

Phyllis Schlafly, a longtime conservative activist, said: "Bush was very clear, and certainly his constituents believed him, when he said he would appoint justices like Scalia and Thomas. We are not in favor of Gonzales." Reflecting a widely held view among conservatives, and one of the reasons for the intensity of the sentiment on the right, Mrs. Schlafly described Justice O'Connor as "a terrible disappointment."

But other conservatives said there was no reason to fear, given Mr. Bush's record of appointing conservatives as president, and noted Mr. Bush's unambiguous embrace of conservative ideals.

"Whatever else you say about President Bush, he is certainly the type of man who says what he means and means what he says," said Paul Rosenzweig, a senior fellow at the Heritage Foundation, a conservative group. "I also think it's clear that the

majority who elected him - and who elected 55 members of the Senate - is looking to him to fulfill that pledge. Just as President Clinton took the opportunity to name two very liberal judges, the president's constituency will be looking to him to appoint a conservative jurist."

White House officials declined to comment, saying that Mr. Bush would not make a final decision until he finished reviewing potential candidates and consulting with Senate leaders, and that they were making an orchestrated effort to avoid saying or doing anything that would feed what they feared could be a week of speculation. One Republican with close ties to the White House said administration officials assumed that Mr. Bush would have at least one other vacancy to fill, and that that could influence his thinking.

Among the names most frequently mentioned as likely candidates, besides Mr. Gonzales and Mr. Garza, are Judges J. Harvie Wilkinson III and J. Michael Luttig of the United States Court of Appeals for the Fourth Circuit in Richmond, Va.; Judge John G. Roberts Jr., who sits on the federal appeals court in Washington; and Judge Michael W. McConnell of the 10th Circuit, which is based in Denver. Should Mr. Bush consider a woman, the most likely candidates are Judges Edith Brown Clement and Edith H. Jones, both of the Fifth Circuit, based in New Orleans.

Republicans and Democrats agreed on the importance of the appointment for Mr. Bush's legacy, though they differed sharply - and predictably - over what kind of nominee he should choose.

Senator John Cornyn, Republican of Texas, said that he believed that Mr. Bush would pick "a qualified, mainstream nominee." But he acknowledged that "the problem is because of the contentious nature of the process, sometimes even mainstream nominees are caricatured in a way that makes them appear to be extreme."

Senator Jon Kyl, Republican of Arizona and a member of the Judiciary Committee, said in a telephone interview: "You know President Bush. You know the kind of person he is. You know the way he's approached personnel questions. He's going to be very straightforward about the kind of person he wants."

High Noon For High Court (LAT)

By Doyle Mcmanus

The Los Angeles Times, July 3, 2005

Like vast armies taking up positions on the eve of battle, interest groups of right and left are readying for a fight over President Bush's nomination of a successor to Supreme Court Justice Sandra Day O'Connor.

Both sides agree that the battle is likely to be fierce. The stakes are high: O'Connor has been one of the court's "swing votes" whose views determine how cases are decided. The debate over her replacement will focus on some of the most painful and divisive issues before the nation: abortion, gay marriage, religious symbols in public places. It will likely dominate Washington's agenda -- and the media's -- for two months or more.

But in the middle of the storm, like civilians caught on a battlefield, much of the nation may wish that the whole thing would just go away.

"This will be the Super Bowl of polarization for ideological interest groups," said pollster Andrew Kohut, director of the Pew Research Center. "But for most of the country, it may just look like another partisan battle in Washington."

Abortion, gay marriage and religion may be "hot button" issues, prized by interest groups and political consultants for their ability to mobilize people to vote and donate money. But most Americans consider those issues less pressing than the war in Iraq or the state of the economy, and recoil from the acrimony of the debate.

"The rhetoric is going to be terrible," predicted Patricia McDonald, a semi-retired lawyer in Leawood, Kan. "Cable television is filled with talking heads who get paid to talk like that, to take the most extreme viewpoints. . . . But in the end, we don't get to vote about this. Life will go on.

"I don't think this is going to be nearly as divisive as the presidential campaign," she added. "Even then, we had a lot of disagreement, but I don't think I met more than two people who really got upset about it."

An increasing number of political scientists agree with her. Americans, they argue, aren't as polarized as they look.

On Election Day, the United States may divide into a 50-50 nation -- or, in last November's choice between George W. Bush and Sen. John F. Kerry, 51-48. But even on the most hotly debated issues, most Americans prefer a position somewhere in the middle.

Most don't want to outlaw all abortions, polls show, but they'd like to see a few more restrictions. Most don't approve of gay marriage, but they're willing to consider other legal rights for homosexuals.

"There's a difference between division and polarization," said Morris Fiorina, a political scientist at Stanford University's Hoover Institution. "We are a closely divided nation -- but we aren't all that deeply divided. In a battle like this one, you're listening to 10 percent on each side scream at each other."

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The problem, Fiorina and others say, is that the American political process has become polarized -- and it's increasingly forcing voters to choose between one extreme and the other, leaving out the middle.

The battle over Bush's impending Supreme Court nomination will combine several of the factors that have made politics so divisive. It will likely focus on controversial social, cultural and religious issues. It will culminate in a yes-or-no question -- should the nominee be confirmed, or not? -- without much room for middle ground. And the debate will be spearheaded by interest groups on both extremes -- groups that sometimes appear to have a vested interest in polarization because it increases their influence.

"You've got large amounts of what we used to call issue advocacy money -- money that exists and waits to be deployed in the service of polarization," said Kathleen Hall Jamieson, director of the Annenberg Public Policy Center at the University of Pennsylvania. "That's a new factor."

"It's an open question whether they are raising the money to fight the battles or fight the battles to raise the money," said William A. Galston, who was an aide to former President Clinton and now teaches at the University of Maryland. "This is an infernal machine that has taken on a life of its own."

The coming battle includes several other features that could make the conflict even sharper.

"You have at least two presidential prospects in the Senate . . . whose self-interest lies in gaining as much visibility as they can in a way that will activate their core constituencies," Jamieson said, citing Sens. Hillary Rodham Clinton, D-N.Y., and Joseph R. Biden Jr., D-Del.

That's not all. This will be the first Supreme Court confirmation battle in 11 years -- which means it will be the first such battle of the Internet age, with its legions of bloggers, and the first of the current era of media polarization, with phalanxes of partisan commentators on competing all-news cable channels.

It will also be the first confirmation battle over a Supreme Court nominee during the current era of conservative Republican domination in both houses of Congress as well as the White House.

Many conservatives have targeted the judiciary as the last branch of the federal government they hope to dominate. House Majority Leader Tom DeLay, R-Texas, has derided the federal courts as "the left's last legislative body."

"Conservatives want a conservative justice, and they feel betrayed by past nominees that weren't contentious," said Jamieson. "That sets up the likelihood that this is going to be hard-fought and divisive."

But Galston, a Democrat, said his party is partly to blame.

"Beginning in the 1950s, the Democratic Party convinced itself that, especially on social issues, the principal vehicle of advance would be the Court," he said. "As a result . . . the principal focus of many interest groups was centered on the Court. Well, there's a Newton's Law of politics: Every action generates a reaction -- frequently an equal and opposite one. The interest groups on the conservative side have become highly court-centered as well."

The history of the abortion issue -- especially the 1973 decision that states could not prohibit abortion -- is a case in point, he said. "Whatever its judicial merits, Roe v. Wade has led to an intensification of polarization and bitterness in American discourse over social issues," Galston said.

"In 1972," before Roe, "neither party platform even mentioned abortion," he noted. "In 1976, each mentioned it in a nuanced way. . . . By 1984, not only was all nuance gone, but people who disagreed with the established line of each party were anathematized."

Divisive partisan battles produce another unwelcome result, Galston said: alienated, disaffected citizens.

"There's a very large share of the American electorate that feels unrepresented by this polarized politics," he said. "The popularity of figures like (Sen. John) McCain, R-Ariz., and (former Secretary of State Colin L.) Powell represents a yearning for leadership by the underrepresented middle who always lose out to the extremes."

If Bush's nominee is a controversial hot-button conservative, he warned: "We could see an orgy of self-destruction. It will bring the rest of the nation's business to a halt for an extended period."

It doesn't have to be that way.

"It's not inevitable," said C. Michael Comiskey, a Supreme Court scholar at Pennsylvania State University at Fayette. "If you look at the confirmation process since (1987), three of the four have been consensual, not 'conflictual'. . . .It's up to presidents to decide whether Supreme Court nominees are conflictual."

In other words, he said, Bush could consult with senators in both parties and nominate a judge who would not polarize the debate.

And even a hard-fought confirmation fight doesn't need to be a bad experience, Jamieson suggested.

"Contentious isn't bad," she said. "What's bad is demagogic-contentious. What's bad is mindless polarization.

NOW Marches In Support Of Abortion Rights (AP-Y2)

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By John Gerome, Associated Press Writer

AP2, July 3, 2005

Chanting "Not the church, not the state; women must choose their fate," hundreds of members of the National Organization for Women rallied for abortion rights Saturday as President Bush prepares to select a new U.S. Supreme Court justice.

NOW shifted the agenda for its three-day annual convention following the announcement Friday that Supreme Court Justice Sandra Day O'Connor was retiring.

The first woman on the Supreme Court, O'Connor refused in 1989 to join four other justices who were ready to reverse the landmark 1973 decision that said women have a constitutional right to abortion.

In 1992, she helped forge a five-justice majority that reaffirmed the core holding of the 1973 ruling. Then, in 2000, she provided the fifth and decisive vote that struck down a Nebraska law that was aimed at banning a procedure critics call "partial-birth" abortions.

Her retirement gives the court its first vacancy since 1994 and leaves Justice Ruth Bader Ginsburg as the only woman on the court.

Activist Eleanor Smeal told the crowd that if Senate Majority Leader Bill Frist has any future presidential ambition, he can't be known as the lawmaker instrumental in rolling back abortion rights. Frist, R-Tenn., will be expected to guide Bush's choice to succeed O'Connor through Senate confirmation.

"What we have to do now is raise such a loud voice that Sen. Bill Frist (news, bio, voting record) hears it," said Smeal, former president of the National Organization of Women and current president of the Feminist Majority Foundation. "He has to understand we need a moderate, centrist Supreme Court."

Frist spokesman Nick Smith said it was "premature to be talking about who the president may or may not nominate."

He said the senator would do his best to see a thorough and fair confirmation process. Frist has said he will give up his Senate seat when his term ends next year, but he hasn't answered — or discouraged — speculation that he will run for president in 2008.

Demonstrator Kathy Miller, 58, of Philadelphia, said she wanted to see a moderate justice in the same vein as O'Connor replace her.

"It's not like we're asking to go in the extreme other direction," she said.

Members of NOW planned to elect their president Saturday night.

NOW president Kim Gandy, elected in 2001, is being challenged by Connecticut lawyer Rosemary J. Dempsey, who has held several national and state leadership roles since joining NOW in 1970.

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On the Net:

NOW: http://www.now.org

Liberals Gird For Supreme Struggle (WT)

By Charles Hurt

The Washington Times, July 3, 2005

A group of the most influential liberal court lobbyists gathered in a high-ceilinged room across the hall from the Senate chamber, within hours of Supreme Court Justice Sandra Day O'Connor's retirement announcement Friday.

With grave expressions on their faces, the activists stood somberly behind a lectern and one-by-one delivered impassioned pleas that Justice O'Connor be replaced with a jurist who will protect their particular interests.

"This is a watershed moment," said Ralph G. Neas, president of People for the American Way, noting that this fight will be even more momentous than the one for which they have been preparing for years, the successor to the chief justice.

Most active court watchers were expecting to see the resignation of Chief Justice William H. Rehnquist, an unwavering conservative on the court. With the surprise announcement from Justice O'Connor, often a swing vote on the court, liberal activists such as Mr. Neas rushed from playing offense on replacing a conservative to having to defend a vital vote.

"Over the last 10 years, we have not had a Rehnquist Court; we've had an O'Connor Court," he said, arguing that replacing her with a reliable conservative would be a "constitutional catastrophe."

Less vocal last week -- but every bit as powerful and involved in the judicial-selection process -- were conservative activists, some of whom chuckled with delight over their turn of good fortune.

"The game hasn't changed, but the post-game celebration will be much bigger," said Manuel Miranda, chairman of the conservative Third Branch Conference. "Drinks will be on me."

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On Friday, many conservatives chose to applaud the service of Justice O'Connor, but to otherwise keep quiet. White House aides and Senate Republicans sent out the word that there should be no public relief that it was Justice O'Connor, rather than Chief Justice Rehnquist, who was retiring.

"Nobody wants to get into gloating here," said one conservative activist. "We're all too aware of what's at stake."

Activists on both sides of the issue have marshaled thousands of people across the country and raised millions of dollars to wage this battle. About the only thing both sides seem to agree on is that much is at stake.

Karen Pearl, interim president of Planned Parenthood Federation of America, told reporters that "this may be one of the most critical and dangerous moments for the future of women's reproductive freedom that any of us have seen in our lifetime."

Few issues carry more voltage on both sides than abortion rights. Ms. Pearl noted the Independence Day weekend and said "there is no freedom more fundamental to our rights than the ability for women to decide whether and when to parent."

Already, she said, Planned Parenthood has alerted 1 million of its supporters, trained 50,000 local leaders and mobilized more than 170 campus groups to rally against any Supreme Court nominee deemed weak on supporting reproductive rights.

The issue is no less important to conservative activists, who are expecting President Bush to nominate someone who is unapologetically opposed to abortion rights.

"The president has the historic opportunity to keep faith with the promise he has repeated numerous times, which is to name justices who are like Justices Antonin Scalia and Clarence Thomas," said Jan LaRue, chief counsel for Concerned Women of America.

Many conservatives opposed to abortion have made clear that they would not, for instance, be satisfied with the nomination of Attorney General Alberto Gonzales. Mr. Gonzales is often discussed as a possibility for the high court, but has written opinions conservatives say give adolescents too much leeway to get abortions without notifying their parents.

But abortion won't be the only issue in the upcoming Supreme Court fight.

Justice O'Connor "served as a moderate voice of reason on the court," said Nancy Zirkin, deputy director of the Leadership Conference on Civil Rights. "She played a pivotal role in protecting the right and liberty of all Americans in cases involving affirmative action, human rights, religious freedom, criminal justice and the rights of women -- including reproductive health -- people with disabilities, gays, lesbians and many other communities whose rights are often jeopardized."

She begged Mr. Bush to follow the "shining example of President Reagan" in naming Justice O'Connor's successor. Mr. Reagan also nominated U. S. Court of Appeals Judge Robert H. Bork for the District of Columbia Circuit, a staunch conservative, to the Supreme Court in 1987, but his nomination was ultimately rejected by the Senate.

Disorder In The Court (NYT)

By Stephen L. Carter

The New York Times, July 3, 2005

I KEENLY remember the excitement at the Supreme Court when President Ronald Reagan announced the nomination of the little-known Sandra Day O'Connor to replace the retiring justice, Potter Stewart, in 1981. At the time I was a law clerk for Justice Thurgood Marshall, and, although none of us knew who she was, all of us sensed that a new epoch had begun. We were right.

During her two and a half decades on the court, Justice O'Connor excited as rich a mixture of undeserved opprobrium and richly deserved encomiums as any sitting member. It is far too early to assess Justice O'Connor's legacy, for that is the task of the historians, when they are able to look back and see what part of the current court's work stands the test of time. We cannot predict the far future, but we can predict the near future: it is going to be a messy summer.

What will make the summer messy is the certain controversy over Justice O'Connor's replacement. Mean-spirited idealists on the right and the left have been waiting years for this moment, and now it is upon them. Conservatives are demanding a true believer; worried liberals are gearing up to stop that from happening. The clash is likely to be ugly.

Had Chief Justice William Rehnquist stepped down, as widely expected (and as he still might), the battle would probably have been less severe. One conservative replaces another, liberal activists might have reasoned, so keep the powder dry. But Justice O'Connor's resignation is likely to excite even more attention than her appointment as the first woman on the Supreme Court: she is seen as a swing vote.

On issues from abortion to affirmative action to criminal procedure, it has often been Justice O'Connor's unpredictable vote that determines which bloc prevails. So the right will naturally see its chance to move the court further toward its agenda; and the left will battle to retain what pieces of its own agenda it can, a sort of holding action against the day when the Democrats again rule the White House and the Senate.

This path, so predictable, so frequently trod in recent decades, is carrying the Supreme Court, and the ideal of judicial review, toward disaster. There has been much talk lately of how the cruel posturing of politicians and commentators critical of

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various decisions hurts the reputation of the courts. And there is something to this notion. But the overwrought attacks by some critics do less harm to the notion of an independent judiciary than does the way activists gird themselves for battle each time a vacancy occurs, as if it is the obligation of the political branches to guarantee outcomes their supporters prefer.

We all claim to believe in judicial independence, but our definition of independence too often turns out to mean deciding cases according to our druthers. A court that rules in our favor displays integrity and independence. A court that rules against us shows its ideology and partisanship. Need evidence? Listen to anyone on the right discuss classroom prayer or abortion. Listen to anyone on the left discuss Bush v. Gore.

When we talk about decisions in this way - as if the only plausible results are the ones we like, a propensity that grows worse at election time and worst of all when a vacancy occurs - we obscure the proper relationship of the judiciary to the other branches of government, and of the Supreme Court justices to the larger society. When the news media survey the public for its view on decisions few people have ever read, interpreting constitutional provisions few people would recognize, the mischief intensifies, for the very act of surveying popular opinion on, say, the correctness of Roe v. Wade implies that the Supreme Court's highest duty is to do as it is told.

Confirmation hearings for nominees to the high court only make matters worse, for the would-be justices are forced to sit before the cameras, under oath, as senators ask them questions they cannot ethically answer, on how they would vote on cases that might come before them. This process began not in the early Republic but in the battle over Jim Crow. In the 1950's, the Southern Democrats who controlled the Senate Judiciary Committee decided to require every nominee to appear in person in order to grill them about Brown v. Board of Education. Before Brown, it was almost unheard-of for a nominee to testify. When the Dixiecrats changed the rules, the liberal position was that inquiries about such matters as judicial philosophy posed a threat to the independence of the judiciary.

The left of that era was correct. The spectacle we have made of confirmation hearings reinforces the public notion that the justices exist to decide cases the way political movements want them to. Liberals think the right started it, and conservatives think the left started it, but the important question is not who started it but who is going to stop it.

Perhaps President Bush could say to his most strident supporters on the right that it is not appropriate for them to behave with the triumphalism of conquerors who believe that the retirement of Justice O'Connor signals the moment to take control of the court. Perhaps the activists on the left, gearing up for a fight, could go back and read the speech made on the Senate floor by Edward Kennedy, during the vicious 1967 campaign over the nomination of Thurgood Marshall. Senator Kennedy warned his colleagues to reject the view that the Senate should reject potential justices who possess a judicial philosophy with which they disagree.

Or perhaps both sides should listen to the wisdom of Justice O'Connor herself. In 1992, she joined Justices David H. Souter and Anthony M. Kennedy in writing that the court, in deciding whether to overrule past decisions, must not "surrender to political pressure" and, indeed, that a reversal "under fire," except for the most compelling reasons, "would subvert the court's legitimacy beyond any serious question." These wise but often misunderstood words do not mean that the court should be above criticism; only that it is not up to politicians to decide when the court is wrong. This language occurred in the controversial decision in Planned Parenthood v. Casey where the court declined an invitation from the United States government to overturn Roe v. Wade. But one need not think Roe (or any other precedent) correct to appreciate the larger point: when the court becomes a political plaything, there is less reason for any of us to respect it.

Not A Campaign (WP)

The Washington Post, July 3, 2005

SECONDS AFTER President Bush announces his choice to replace Supreme Court Justice Sandra Day O'Connor -- whenever that happens and whoever the nominee is -- liberal interest groups will release a blast of e-mails promising a "rollback" of American liberties if the person is confirmed. Conservative groups, at the same moment, will blitz with e-mails proclaiming the nominee a modern John Marshall. Ads will appear on television. Journalists will be hit with distorted "reports" attacking or defending the nominee's "record," as groups release their opposition research or their defensive spin. Both camps, in short, will unleash the huge sums they have raised in what will be, for all intents and purposes, a political campaign -- a political campaign, unfortunately, for an office that is meant to be not merely apolitical but actively insulated from politics.

The campaign, in reality, began long ago. It began when both sides made the judgment that they had to invest in judicial appointments -- particularly Supreme Court appointments -- to make sure they got the results they wanted from the courts. At this point, the war has become a Washington industry, fed by both sides' wounds from the past, real and imagined, and fears for the future, realistic and fantastical. Barely had Justice O'Connor announced her retirement Friday when the liberal People for the American Way was promising to "help lead the fight against any terrible changes to the Supreme Court." The conservative

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Family Research Council vowed that the "public is primed for the fight it will take to confirm a nominee" and promised "significant grassroots support for the President's nominees." A lot of people on both sides actively want a fight.

The war is about money and fundraising as much as it is about jurisprudence and the judicial function. It elevates partisanship and political rhetoric over any serious discussion of law. In the long run, the war over the courts -- which teaches both judges and the public at large to view the courts simply as political institutions -- threatens judicial independence and the integrity of American justice.

So we take this moment, when nobody knows how excellent or terrible the next nominee will be, to emphasize that a judicial nomination is not a political campaign and should not be treated as one. A nominee's record is almost never a simple affair, because good legal reasoning doesn't always render the most politically congenial answer. Demagogic attacks on almost any nominee are easy, and knee-jerk defenses equally so. But a reasonable assessment of the president's choice, whoever it is, will not emerge from such a shouting match.

We say this not in hopes that the war rooms will shut down and the campaign atmosphere give way to a serious discussion of -- and with -- the eventual nominee. That won't happen. But somehow, the serious discussion needs to take place even in an atmosphere that so disfavors it. The only legitimate source of the power of the Supreme Court -- which is, after all, a group of unelected officials who serve for life -- is the premise that interpreting law is not the same as creating it, that the task of judging, in other words, is not a political function. The war rooms, the money and the rhetoric all speak to a loss of faith in that premise on the part of groups who are now fighting over political spoils. Those Americans who still believe in the Third Branch need to endeavor to tune those special interests out.

Confirmation Battle In Senate Could Define Specter's Career (NYT)

By Sheryl Gay Stolberg

The New York Times, July 3, 2005

In nearly 25 years on the Senate Judiciary Committee, Senator Arlen Specter, Republican of Pennsylvania, has sat through nine Supreme Court confirmation hearings, some short and polite, some ugly and drawn out. Now that he is the chairman, he is prepared for the next one to go either way.

"I'm not going to anticipate a bruising battle," Mr. Specter said in an interview on Friday after Justice Sandra Day O'Connor announced her resignation, "but I'm not going to run from one either."

Although Mr. Specter may not anticipate a bruising battle, just about everyone else in Washington does, and the inevitable confirmation fight could be the defining moment in his long career. It comes as he faces a battle of a more personal sort, against Hodgkin's disease.

Perhaps more than any other senator, Mr. Specter will be the pivotal figure as he tries to manage his bitterly divided committee, his own uneasy relationship with the White House and the intense pressure that is already bearing down on him from both the left and right at a time when both sides are deeply suspicious of him.

Within hours of Justice O'Connor's announcement on Friday, Mr. Specter said he would probably hold confirmation hearings in September, a move that could upset conservatives, who would like to move a nominee along as quickly as possible in the hope of outflanking liberal groups that plan to use the summer months to prepare for a confirmation battle. Mr. Specter, though, says only that the Senate has "an obligation to confirm the justice by the 1st of October" and that he intends to meet that deadline.

Sharp-tongued and cagey, with an uncanny knack for parsing his words to wiggle his way out of tight spots, Mr. Specter is widely regarded as the Senate's brightest legal mind. A rare centrist in a Senate that has shifted increasingly to the right, he is reviled by conservatives for dooming the nomination of Robert H. Bork, and by liberals for assuring the confirmation of Justice Clarence Thomas with his aggressive questioning of Anita Hill, the law professor who had accused Justice Thomas of sexual harassment.

Now the vacancy created by the retirement of Justice O'Connor gives Mr. Specter a chance to rewrite his Judiciary Committee history, but it comes at a delicate time for him. He nearly lost his chairmanship last year amid an uproar from conservatives, who were furious when Mr. Specter, an unabashed supporter of abortion rights, suggested that the Senate would have difficulty confirming judges who would overturn Roe v. Wade.

He won the job after an all-out campaign that culminated with a carefully worded four-paragraph statement in which he pledged to "use my best efforts to stop any future filibusters," the tactic Democrats had been using to block President Bush's judicial nominees. The filibuster fight could re-emerge during a Supreme Court confirmation, and a big question is how Mr. Specter would handle it.

"I'll jump off that bridge when I come to it," he said.

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So far, Mr. Specter has not been forced to jump. Last month, when Senator Bill Frist, the majority leader, brought the Senate to the brink of a vote to bar judicial filibusters, Mr. Specter kept the chamber on tenterhooks, refusing to say how he would vote even as he urged party leaders to "liberate their caucuses to vote without party straitjackets." When 14 senators - 7 Democrats and 7 Republicans - struck a deal to avert the so-called nuclear option, Mr. Specter was not part of it. His critics were exasperated.

"Arlen Specter is as predictable as the sun rising in the east," Richard Viguerie, the conservative direct mail consultant, complained in an interview at the time. "He's not going to keep a deal he makes with anybody."

But Mr. Specter, whose brusque manner has earned him the nickname Snarlin' Arlen on Capitol Hill, said he was keeping his own counsel, a move he considers wise and one that will probably continue to confound Specter-watchers as the nomination process moves forward. "I've made people mad saying very little, so I'm not going to say very much," he said.

He added: "I think a senator, whether or not he is the chairman, ought to be circumspect in what he says."

That may be especially so for the chairman of the Judiciary Committee, whose members include some of the most powerful lawmakers in the Senate, including fellow Republicans Charles E. Grassley of Iowa and Orrin G. Hatch of Utah and Democrats Patrick J. Leahy of Vermont, Edward M. Kennedy of Massachusetts, Joseph R. Biden Jr. of Delaware and Charles E. Schumer of New York.

But Mr. Specter was not circumspect on Friday about criticizing Democrats who were already vowing to use the filibuster against a nominee they find objectionable.

"I'm a little bit concerned about what I heard Senator Kennedy say on television tonight, that if the president does not nominate someone who meets Senator Kennedy's specifications, as he articulates it, the American people will expect a battle and they're prepared to do it," he said.

"I would hope that we would tone down the rhetoric," he added.

Democrats have been pressing Mr. Bush to seek their advice on possible nominees, and Mr. Specter said he had urged the president to consult with him and three other senior senators - Dr. Frist, Harry Reid, who is the Democratic leader, and Mr. Leahy, the senior Democrat on the Judiciary Committee. The president apparently took Mr. Specter's advice and has invited the four men to the White House on July 11, after the Senate returns from recess.

Mr. Specter said that he and Mr. Bush had not named names in any of their conversations. He said he had thought "long and hard" about suggesting possible candidates but decided not to, believing that "the wiser course" would be to remain uncommitted to anyone in particular. As to whether he would advise Mr. Bush against nominating judges who might be perceived as likely to overturn Roe v. Wade, Mr. Specter was noncommittal.

"I'm going to listen to the president," he said, "and see how it goes."

Mr. Specter is not one to shun the limelight - he is scheduled to appear on three morning talk shows on Sunday - and he has never masked his moderate views. Last year, he survived a bitter primary challenge from the right, winning re-election with considerable help from Mr. Bush. In 1995, he made a brief ill-fated bid for the White House, running on the unusual platform of attacking Christian conservatives as an extremist "fringe."

The Supreme Court hearings come at a time of great personal challenge for Mr. Specter. His chemotherapy treatments have left him tired, he said, although he pushes himself to get up in the morning and play his regular squash game.

"Frankly," he said, "it's hard to get out of bed, hard to do the exercises and hard to get going, but once I'm on the squash court, I'm fine."

He has been very public about his illness - "I decided a long time ago: no toupee, no baseball hat, no shaved head," he said, referring to the baldness resulting from his treatment - and has become a symbol for cancer patients, who have been sending him cards and letters. He advises them to keep a busy schedule.

Perhaps for that reason, Mr. Specter may have been the only politician in Washington to publicly speculate that Chief Justice William H. Rehnquist, who has thyroid cancer, would not retire.

"I think I have special insights into how he feels," Mr. Specter said, although he said they have not talked about it. "I think the chief likes to get up every day knowing he has important work to do, and I like to get up every day thinking I have important work to do."

A former prosecutor, Mr. Specter entered public life four decades ago as an ambitious young lawyer on the Warren Commission, which conducted the inquiry into the killing of President John F. Kennedy. He takes credit for producing the so-called single-bullet theory to explain how Kennedy was killed.

Mr. Specter was elected to the Senate in 1980 and immediately sought a seat on the Judiciary Committee, much to the chagrin of the chairman, Senator Strom Thurmond, the conservative Republican from South Carolina. Mr. Thurmond, concerned that Mr. Specter was too liberal, tried to keep him off the committee, but when no one else wanted the last remaining seat, Mr. Specter got it.

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Although he will rely heavily on his aides - his chief counsel Michael E. O'Neill, a former clerk of Justice Thomas, is on leave from his job as an associate law professor at George Mason University - Mr. Specter has more experience than any of them. He has participated in the confirmation of every one of the current Supreme Court justices except John Paul Stevens, and he says he views himself as "a fact-finder" rather than a prosecutor.

He pledged to run the hearings "straight down the center, professionally," and added that he was eager to delve into a detailed examination of the nominee. But at 75, he says he is not looking at the coming hearings as any measure of his legacy.

"It's too early," he said, "to think about my legacy."

Parties Line Up Strategies For Hearings On Nomination (WP)

By Mike Allen

The Washington Post, July 3, 2005

The two parties have begun outlining their strategies for confirmation hearings once President Bush nominates a successor to Justice Sandra Day O'Connor, with Senate Republicans planning a rapid and rigid schedule designed to prevent Democrats from pinning the nominee down on divisive issues such as abortion.

A planning document for Senate Judiciary Committee Republicans says the nominee will be counseled to avoid disclosing "personal political views or legal thinking on any issue" in an effort to put a focus on qualifications rather than specific issues, including same-sex marriage and the government's treatment of suspected terrorists.

Democrats signaled that whoever the nominee is, their three likely lines of attack will be to assert the White House did not consult them sufficiently, then paint the nominee as ideologically extreme and finally assert that the Senate had not received sufficient documents about the candidate. But Senate Democratic aides said they will focus for now on bipartisan consultation and not publicly prejudge the nominee.

Republican leaders said they are prepared to start Judiciary Committee hearings as soon as three weeks after Bush announces his choice, although they are more likely to begin in late August or early September. Party leaders said it is their goal to have the new justice on the bench when the court reconvenes Oct. 3. O'Connor said in her retirement letter to Bush that she will stay until her successor is confirmed.

Lawmakers and aides said leaders are conscious of the poor image of Congress in recent polls and are determined to avoid having the two to three days of nationally televised hearings come off like a trial. Senate Majority Leader Bill Frist (R-Tenn.) appealed for hearings marked by "dignity and respect."

That does not appear likely. Sen. Charles E. Schumer (N.Y.), the ranking Democrat on the Judiciary Committee's subcommittee on courts, said an effort to choke off inquiries about specific issues would fail because Democrats believe they have "an obligation to our country and the Constitution to thoroughly vet the nominee."

"The number one thing we look for are the person's views," Schumer said. "The hard right wants to get it done with as few questions and as quickly as possible."

Republicans cited as precedent the hearings of justices Ruth Bader Ginsburg in 1993 and Stephen G. Breyer in 1994, when the nominees said it was inappropriate to give their views on legal issues that could come before the court.

With the nominee still unknown, the parties' plans are sketchy at points and could change. But to a remarkable degree, the contours of the strategies -- and the avenues down which lawmakers plan to steer debate in coming weeks -- have already emerged in interviews, floor statements and internal planning documents.

An instruction sheet prepared by Senate Republican leaders and given to conservative allies of the White House on Friday afternoon said in its first sentence, in a reference to the tough line taken by Sen. Edward M. Kennedy (D-Mass.), that the instructions place an "emphasis on taking the high road and avoiding the attacks that Kennedy et al. are implicitly threatening."

The sheet was distributed at a meeting where speakers urged the groups not to stress the abortion issue in their public statements. Eric Ueland, Frist's chief of staff, "urged them not to fall into the mainstream media trap of rhetorical or behavioral excess on behalf of a highly qualified nominee," according to an attendee.

Senate Democrats said they will insist on a more deliberative and candid process than Republicans appear to be contemplating, and called for an unprecedented amount of consultation with the White House before the announcement of a nominee. The Constitution says the president shall nominate judges to the Supreme Court and appoint them "with the Advice and Consent of the Senate," but it does not define the advising function.

Talking points distributed by e-mail by Senate Republican leaders state that consultation "does not mean co-nomination," hinting at the disputes that are likely to erupt even before the public hearings begin. "Consultation is a courtesy," said the talking points, which are guidelines for other senators. "The Constitution does not require it."

Senate Democrats said in their own e-mails that they plan exclusive interviews and briefings for bloggers and Hispanic news outlets throughout the confirmation fight. The party distributed talking points, used to guide lawmakers' news releases and

sound bites, stating: "We hope this process will be one of consensus rather than confrontation, but that will be up to President Bush." The Democratic National Committee circulated a memo saying that Bush's sinking poll ratings mean that he "needs a win -- desperately" and that the nomination is "a chance to bring the country together."

Sen. John Cornyn (R-Tex.) said in an interview yesterday that his party will resist Democratic arguments for "ideological balance" on the court, a concept not in the writings of the Founding Fathers. And he said it is important to set "reasonable deadlines" for confirmation.

"The longer a nominee is dangled out there, the more people are going to try to take a whack at him like a piñata," Cornyn said.

Senate Democrats said a more reasonable pace than that being contemplated by Republicans would be 75 days between the announcement of a vacancy and the start of hearings. (The hearings for the last two, Breyer and Ginsburg, were less than that.) Schumer said that confirming the nominee by Oct. 3 is "not going to be so easy to do, because it's hard to imagine how hearings would begin before Labor Day." He said to finish hearings, a committee vote and a floor vote by the first Monday in October would be "pretty rough."

Confirmation hearings did not become national spectacles until the television age: Before 1955, only two Supreme Court nominees appeared before the committee, according to court histories. The hearings, the first Supreme Court confirmation since Breyer's 11 years ago, are likely to be held in the Beaux-Arts splendor of the Russell Senate Office Building Caucus Room, site of hearings on the Teapot Dome oil reserves, the Watergate break-in, the Iran-contra affair and the confirmation of Justice Clarence Thomas.

The televised portion of the hearing would probably last two to three days, with an additional day or two for testimony from outside groups. The first day would be taken up mostly by introductions of the nominee and opening statements, so the second would likely be the most intense. Before the committee vote, senators also would be likely to hold a one-day, closed session to discuss confidential matters such as the contents of the FBI report on the nominee.

Judiciary Committee Chairman Arlen Specter (R-Pa.) is intent on moving expeditiously, Republican aides said. As soon as the nomination is announced, he and Frist will agree on a schedule. One topic of discussion might be limiting opening statements at the committee hearing to Specter and the top Democrat, Sen. Patrick J. Leahy (Vt.), to allow more time for questioning the nominee, the aides said.

Specter is to finish chemotherapy treatment for Hodgkin's disease on July 22, and Republican aides said he will show his resilience at the hearings by living up to his reputation for wielding a firm gavel. "You're not going to see him jam the Democrats at all," one of the aides said. "But he can see when they're being dilatory and will draw the line."

But other Judiciary Committee members said that for Specter, 75, the hearings are part of his legacy, as surely as the result will be part of Bush's. His aim is to be driven by objectivity and precedent, fellow Republicans said.

But former GOP senator Alan K. Simpson, who voted to confirm seven of the nine sitting justices, said from his home in Cody, Wyo., yesterday that he already sees the committee members "ripping into each other" and fears there is no way to head off contentious hearings because the groups on both sides are so galvanized.

"If this just turns into an issue of abortion and 'partial birth' abortion, gay marriage, homosexual issues," Simpson said, "it will be the disaster of the ages."

Justice For The Next Justice (WP)

By John Cornyn

The Washington Post, July 3, 2005

This week marks a historic occasion, not only for the U.S. Supreme Court, but for America -- the retirement announcement of our nation's first female Supreme Court justice. The process in the U.S. Senate for considering her successor should reflect the best of the American judiciary -- not the worst of American politics.

Justice O'Connor has provided a voice of judicial restraint on a number of important issues on which the court was closely divided. Throughout her 24 years on the nation's highest court, Sandra Day O'Connor worked to restore common sense to our criminal justice system and foster due regard for the powers reserved to the states under the Constitution. Thanks to her, victims of crime are more likely to receive justice and inner-city children are no longer constitutionally barred from access to school choice programs. And although I have not always agreed with her rulings, I have always felt a deep and abiding respect for her commitment to public service and reverence for the law.

The announcement of Justice O'Connor's retirement has now set a familiar process in motion. Soon the president will nominate, and the Senate will have the responsibility to consider, an individual to serve a lifetime appointment to the Supreme Court. As a senator, I must decide whether to vote to confirm or reject this nomination. This is a responsibility not to be taken lightly.

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The president has the sole responsibility to pick his nominee. It is crucial that he do so with an eye toward character and temperament. The nominee must be intelligent and wise, thoughtful and careful, and always fair-minded and impartial. The nominee must have good moral character and demonstrated commitment to public service and the common good. And he or she must be open-minded and willing to consider all arguments before the court.

That is why, when evaluating the nominee, I will not be asking for commitments as to how he or she will rule on cases involving such contentious issues as abortion, affirmative action, same-sex marriage, the war on terrorism or any other specific issue on which the nominee might eventually rule.

To ask a judicial nominee how he or she will rule on future cases is to force the nominee to prejudge these cases. Imagine going before a judge whose mind was already made up concerning your case. Imagine a judge who had promised the president or some senator that he would rule against you -- no matter the merits of the case. That would not be a judicial process; it would be a political process.

It's crucial that judges approach every case free from political commitments. They must be free to disappoint their supporters and surprise their opponents and critics. Judges must be free to do their jobs -- to listen to the facts, to carefully divine the law and to be faithful to the Constitution.

As soon as the president announces his nominee, media reports and interest groups will probably attempt to demonize or paint the nominee as a right-wing extremist. Some Senate Democrats -- who often insist on asking nominees to prejudge cases and issues -- will subject the nominee to controversial questioning during the hearing process. The American people should recognize such questions for what they are: an attempt to politicize the process and badger the nominee to reveal personal feelings about any given issue. This is unfair to the nominee and the American people, and grossly distorts the Senate's role of providing advice and consent.

Before her service on the federal bench, Ruth Bader Ginsburg -- a distinguished jurist and liberal favorite -- served as general counsel of the American Civil Liberties Union, a liberal organization that has championed the abolition of traditional marriage laws. Before becoming a judge, Ginsburg expressed her belief that traditional marriage laws are unconstitutional but that prostitution is a constitutional right. She also wrote that the Boy Scouts and Girl Scouts are discriminatory institutions, and that courts must require the use of taxpayer funds to pay for abortions -- hardly views Americans would consider mainstream. Yet Senate Republicans and Democrats alike set aside such concerns and approved her nomination.

By contrast, we have seen during the past four years a partisan minority obstruct this president's judicial nominees -- who hold views shared by millions of Americans and enjoy bipartisan majority support in the Senate -- suffer vicious attacks and unprecedented obstruction at the behest of liberal interest groups.

Our role as senators is to ensure that the nominee is qualified and has the intelligence, character, and judicial temperament to perform the job, to guarantee that all senators have an opportunity to evaluate the nominee, to allow as much debate as is necessary to fully discuss the nomination, and then to come to a vote. Yet there are some who argue that the Senate can refuse to vote altogether, and that the Supreme Court should be forced to operate without a ninth justice.

While I am confident that the nominee to replace Justice O'Connor will be an able jurist, I am less confident in the treatment he or she will receive from the president's opponents.

The writer is a Republican senator from Texas.

High Court's Next Term Full Of Big Cases (AP-Y2)

By Gina Holland, Associated Press Writer

AP2, July 3, 2005

Abortion, assisted suicide, gay rights, the death penalty. Some of the toughest issues in the land confront the Supreme Court in its new term in the fall.

A new lineup of justices — assuming the successor to influential Justice Sandra Day O'Connor is on the bench — makes the outcome of these cases more unpredictable than usual.

The high court has not had a new member since 1994, a modern-era record. That stability has made it easier to gauge what issues the court will take on and how they will be decided.

On major ones, the court frequently splits 5-4. O'Connor, a moderate put on the court by President Reagan, has been a key vote in death penalty, religion and abortion cases. Her view often became the final word.

Her retirement, announced Friday, shook up the world of Supreme Court lawyers who prepared cases with O'Connor in mind.

"She was widely viewed as the key by experienced and successful litigators. They'll have to figure some other way to win their cases," said Nelson Lund, a George Mason University law professor and former clerk to O'Connor.

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O'Connor said that she will remain on the court until her successor is confirmed. Depending on President Bush's choice, there could be a lengthy fight that stretches into the fall.

If O'Connor is not able to continue serving, many major cases could leave the court split 4-4.

Also in doubt is the future of Chief Justice William H. Rehnquist, who has cancer and could step down this summer, too. The last time there were two vacancies was 1971.

Justices already have a full lineup of cases for the nine-month term that begins the first Monday in October. The court has agreed to hear about 40 appeals, including four death penalty cases and two abortion-related cases. About 40 more appeals will be added later.

Whoever the president names to the court will immediately face cases involving the Bush administration.

In one, the court will decide if law schools may restrict military recruiters as a way of protesting the Pentagon's "don't ask, don't tell" policy excluding openly gay people from military service.

Schools argue that their nondiscrimination policies apply to all recruiters that base hiring on race, gender or sexual orientation.

Justices will take up the administration's challenge to Oregon's law allowing physician-assisted suicide. In addition, there is a fight that tests freedom of religion, over a church's use of hallucinogenic tea in its religious services.

The abortion cases involve a parental notification law from New Hampshire and a long-running fight over the liability of people who protest outside clinics.

O'Connor's successor probably will be quizzed during Senate confirmation hearings about those subjects.

"I'd expect any of the nominees to duck answering," said Paul Schiff Berman, a law professor at the University of Connecticut.

Berman said that a major question is whether the new justice will be a pragmatist like O'Connor.

The 75-year-old former Arizona state senator and mother of three sons approached cases with a practical view.

"She always chose the least extreme solution, the compromise solution," Berman said. "She's kept the court very close to the American popular consensus on most issues."

Unlike the court's other conservatives, she believes that affirmative action has a place in government institutions, although limited. She believes that abortion should be legal. While she supports the death penalty, she has talked openly about concerns that it is being fairly imposed.

Among the death penalty cases in the next term is a potentially significant issue of allowing inmates to get a new chance to prove their innocence with DNA evidence.

"In many cases, Justice O'Connor's votes were to protect the rights of defendants," said Richard Dieter, executive director of the anti-capital punishment Death Penalty Information Center.

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On the Net:

Supreme Court: http://www.supremecourtus.gov/

Justice's Exit Could Produce Seismic Shift On High Court (BSUN)

By Gail Gibson

The Baltimore Sun, July 3, 2005

She was the deciding vote, again and again, on some of the most critical and contentious issues to reach the Supreme Court in the past two decades, including affirmative action, capital punishment and the disputed 2000 presidential election.

And if the court's next term gets under way in October with her replacement confirmed and on the bench, following the timetable that President Bush set out Friday, the retirement of Justice Sandra Day O'Connor could have almost immediate implications.

Already on the calendar for this fall is a string of politically charged cases which, under the court's current lineup, could well have come down to O'Connor's vote. The cases include the Bush administration's challenge to the nation's only right-to-die law, Oregon's Death with Dignity Act, and an appeal of a federal court order striking down as unconstitutional a New Hampshire law requiring parental notification when teenagers seek abortions.

The court has also agreed to decide in its coming term whether colleges and universities that receive federal funding may bar military recruiters, setting up a clash between government funding and free speech, and raising issues of gay rights.

A coalition of law schools has argued that they have a right to refuse to associate with military recruiters, pointing to the First Amendment and what they view as the Pentagon's discriminatory policies on gays and lesbians. The Pentagon contends that because the schools accept federal funding, they have an obligation to allow the military to recruit on campus.

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The case is being closely watched by civil liberties groups, which praised O'Connor's willingness to distance herself from administration policies in such cases as Hamdi v. Rumsfeld, in which she ruled that a U.S. citizen seized as an "enemy combatant" in the fight against terror can challenge his detention in U.S. courts.

Capital punishment

Death penalty issues also could hang in the balance. O'Connor, who in 2001 publicly questioned how fairly capital punishment was administered, sided in recent years with a majority that struck down the death penalty for the mentally retarded, but dissented this year from a 5-4 decision banning juvenile executions.

The court agreed last week to hear the appeal of a death row inmate from Tennessee who claims that new DNA evidence could exonerate him in the 1985 rape and murder of a female neighbor whose husband also was a suspect in the crime.

O'Connor wrote a 2003 decision that threw out the death sentence of Maryland inmate Kevin Wiggins, saying trial lawyers in his 1989 case failed to present mitigating evidence about horrific childhood abuses.

Two of the court's other conservatives, Justice Anthony M. Kennedy and Chief Justice William H. Rehnquist, joined the 7-2 decision.

The court's two most conservative members - and the judges that President Bush has said he would most want to replicate in appointing a new justice - wrote a scathing dissent. Saying that the majority's reasoning ranged from "the incredible up to the feeble," the dissent from Justices Antonin Scalia and Clarence Thomas concluded: "Today's decision is extraordinary - even for our 'death is different' jurisprudence."

On such divisive questions, it was O'Connor during her 24 years on the nation's high court who was closely watched as the bellwether. Her retirement, court scholars say, could produce a seismic shift on some of the most high-profile constitutional questions to come before the court - regardless of who is nominated to her seat.

"Her departure is a huge loss to anyone who has wanted the court to continue restraining congressional power over the states," David Garrow, a law professor and Supreme Court historian with Emory University, said in offering an example of O'Connor's influence. "If I was the attorney general of Oregon, I would be very disappointed ... because I just lost a vote."

How great the court's shift will be in the coming years depends largely on who is named to replace O'Connor. But her departure is expected to leave a mark regardless, because of her unique case-by-case approach to the job and her efforts to decide cases on the narrowest, most fact-specific grounds.

That approach meant O'Connor never fit squarely with the court's most conservative or its most liberal members, and she moved between the two blocs often as she earned her reputation as the court's most critical swing vote.

"Justice O'Connor fully earned her reputation as a centrist; she was a conscientious jurist and, in a number of key cases, stood up for individual rights and against a radically conservative vision of the constitution," said Steven Shapiro, legal director for the American Civil Liberties Union.

Sometimes, she switched camps in rapid succession. In 2003, she wrote the court opinion in its landmark, 5-4 decision that upheld the University of Michigan law school's policy of using race as a weighing factor in evaluating applicants. On the same day, she voted with a 6-3 majority that invalidated the school's affirmative action program for undergraduate applicants.

The difference for O'Connor was in the details. But she wrote a powerful endorsement of the importance of racial diversity on campuses: "In order to cultivate a set of leaders with legitimacy in the eyes of the citizenry, it is necessary that the path to leadership be visibly open to talented and qualified individuals of every race and ethnicity."

Sometimes, her decisions did not land in the win column. In the court's most recent term, which concluded last week, O'Connor was in the majority on 47 percent of the court's most high-profile cases - a lower percentage than any other justice on the court this term, according to an analysis by the Georgetown University Law Center's Supreme Court Institute.

She dissented, for instance, when the court this term voted to ban as unconstitutional executions for murderers who were under 18 when they committed their crimes, when it ruled that federal sentencing guidelines should be considered advisory rather than mandatory, and when it upheld as constitutional a 6-foot-tall granite monument displaying the Ten Commandments near the Texas Capitol.

One of the last dissents of her court career was among her most biting. Disagreeing with the court's decision to allow local governments to use eminent domain powers to seize private homes and small businesses to promote private economic development, O'Connor warned: "The specter of condemnation hangs over all property."

"Nothing is to prevent the state from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory," she wrote.

"'Independent' is really a good word for her," said Michael P. Van Alstine, a University of Maryland law professor. "She didn't toe the line. She was an independent thinker, and I think that really is what defined her."

It also is what makes the future position of the court so hard to predict on so many issues, some of which have reached the next term's docket.

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For the first time in five years, the court will revisit next term the emotional debate over abortion with a review of New Hampshire's parental notification laws. The case could end up being as much about legal technicalities - specifically, what standard should be used to assess the constitutionality of state abortion laws - but it ensures that any questions about abortion rulings during confirmation hearings will be more than hypothetical.

In two key rulings, O'Connor had sided with the court's more liberal members in upholding the basic right to choose an abortion. Advocacy groups on both sides of the emotional debate launched aggressive campaigns over the weekend to influence the confirmation debate, with abortion rights advocates staging a rally in Tennessee - the home state of Senate Majority Leader Bill Frist.

"Women who have the most to lose will be the strongest voice in the debate over this Supreme Court fight," said Eleanor Smeal, president of the Feminist Majority advocacy organization.

Internal dynamics

O'Connor's retirement leaves one remaining swing vote on abortion, in Kennedy - as well as the unknown views of the yet-unnamed replacement. It is hard to predict, too, how any new arrival might tip the balance on any high-profile issue, said Herman Schwartz, a constitutional law scholar at American University who has written about the Rehnquist court.

"One of the things that's hard to figure is, each of these justices has some issue where they're not quite in line with their natural allies," Schwartz said.

That is especially true in a court that has gone more than a decade without a vacancy.

"It would change the internal dynamics greatly - it would have to," said Arthur Hellman, a University of Pittsburgh law professor who studies the court. "Everybody would be reassessing not only their relationship with the new person, but also their relationship with each other, because there is so much interdependence."

One Justice, Many Cases, Lots Of Power (DMN)

By David Jackson And Allen Pusey

The Dallas Morning News, July 3, 2005

In these politically divided days, a single Supreme Court justice can settle a lot of issues.

One justice can decide whether your daughter has to tell you if she is having an abortion; whether law schools can bar military recruiters from their campuses; whether doctors can help terminally ill patients end their lives.The answers to these questions are uncertain – especially now that Justice Sandra Day O'Connor is leaving the high court.

During her 24 years on the court, Justice O'Connor wound up making decisions that evenly split her colleagues – on issues ranging from access to abortion to how congressional districts are drawn.

"With many 5-to-4 decisions which the court has handed down, she has been the critical vote," said Sen. Arlen Specter, R-Pa., who, as chairman of the Senate Judiciary Committee, will conduct hearings on a replacement to be nominated by President Bush.

Sen. Charles Schumer, D-N.Y., a key Democrat on the Judiciary Committee, said Justice O'Connor's role as a "fulcrum, right at the center of the court" makes the choice of a new justice "all the more significant."

The divisive social issues at stake are fueling the many advocacy groups that plan to spend millions on the emerging judicial war.

Indeed, hostilities have already commenced.

On Saturday, the National Organization for Women, declaring "a state of emergency," conducted an impromptu abortion rights rally at its convention in Nashville, Tenn.

"Not the church, not the state; women must choose their fate," NOW members chanted.

Conservative religious groups, meanwhile, blasted e-mails to their members, asking them to contact the White House and urge Mr. Bush to appoint a jurist willing to overturn Roe vs. Wade, the 1973 decision that made abortion a constitutional right.

Some of these same groups have also registered objections to at least one high court candidate, Attorney General Al Gonzales, calling him wobbly on the abortion issue.

Reaffirming Roe

In assessing Justice O'Connor's influence – and a successor's potential power – consider that Roe vs. Wade might not have survived without her. She and Republican colleague Anthony Kennedy both signed on to a 1992 opinion reaffirming the basic holding of Roe.

Her vote was critical in many other cases:

In 2000, she made the difference in a 5-4 case to overturn a state ban on late-term abortions. Because of her vote, HMO patients in certain states have the right to a second medical opinion even if their health care plan disapproves of it. And another swing vote preserved the use of affirmative action.

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Some conservatives have been critical of Justice O'Connor, claiming inconsistencies on such issues as the death penalty and religion in public life; liberals hailed as her as pragmatic and non-ideological – both arguments sure to echo as the process of replacing her moves forward.

More hard cases await the court when it resumes work in October with or without Justice O'Connor, who has agreed to stay on until a successor is confirmed.

The justices have already agreed to review a federal law banning doctors from using drugs to assist suicides. Oregon officials claim the rule infringes on their Death with Dignity Act.

The court is also scheduled to decide whether the government can withhold federal funds from law schools that refused to allow military recruiters on their campuses.

The Pentagon says it has the same rights as other job recruiters; schools say the military violates campus non-discrimination policies with its rules excluding openly gay troops.

A New Hampshire law requiring parental notification for minors before an abortion is also slated for the court's consideration. The justices must decide whether the law has adequate exemptions to protect the health of the minor. Similar laws apply in 33 states.

Many conservatives have eagerly anticipated replacing Justice O'Connor as part of their decades-long effort to shift the ideological direction of court.

The conservative movement grew in large measure in response to the expansive Supreme Court rulings of the 1950s, 1960s, and 1970s. The court integrated public schools, struck down school prayer, cut back on capital punishment, exercised control over some political redistricting, restricted police powers and expanded protections for defendants.

Reacting to what he called the court's liberal excesses, President Nixon appointed then-little-known assistant attorney general William Rehnquist in 1971. President Reagan elevated Mr. Rehnquist to chief justice in 1986.

Rehnquist's future

In recent weeks, court watchers thought Chief Justice Rehnquist would be the one retiring because of his thyroid cancer. His departure remains a possibility, which would give Mr. Bush and his conservative supporters another chance to shift the court to the right.

In the meantime, the battle to replace the court's most prominent swing vote is being fought by groups animated by the social issues Justice O'Connor decided.

Conservative organizations include religious activists, business interests, libertarians, and legal groups such as the Federalist Society. They include single-issue organizations ranging from gun owners to tax cutters.

One conservative coalition, Progress for America, has pledged to spend $18 million on the campaign. The group has already produced television ads, including one claiming that Democratic environmentalists would object if Mr. Bush nominated George Washington because he once chopped down a cherry tree.

Liberals groups ready to oppose Mr. Bush's nominee include feminists, unions, environmentalists, gay rights advocates and civil rights organizations. They are led in large part by People for the American Way, Alliance for Justice and the Leadership Council on Civil Rights.

The rhetoric on both sides is just getting started.

Justice O'Connor's retirement "places women's health at risk, endangering the future of reproductive rights in this nation," said Karen Pearl, interim president for the Planned Parenthood Federation of America.

"The public is primed for the fight it will take to confirm a nominee," said Tony Perkins, president of the socially conservative Family Research Council.

O'Connor Bow Puts New Focus On Rehnquist (CHT)

By William Neikirk

CHT – Rehnquist Focus, July 3, 2005

Chief Justice William Rehnquist might be next. Or will he?

Seemingly frail from his struggle with thyroid cancer, the chief justice defied expectations in the past week by not announcing his retirement. Instead, Justice Sandra Day O'Connor turned out to be the retiree who caused an explosion of Washington political buzz.

But Rehnquist is still considered a good candidate for retirement because of his poor health, possibly giving President Bush the rare opportunity of nominating two Supreme Court justices at about the same time.

But some analysts say that if Rehnquist waits much longer, it is less likely that he will resign.

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"I would doubt it at this point," said Scott Moss, a law professor and Supreme Court expert at Marquette University. "If a justice is going to retire, he probably isn't going to wait until midway through the summer" because that would mean a successor might not be confirmed in time for the court's new term in October.

The 80-year-old chief justice has shown grit in his post, and despite being under treatment for cancer, he showed up on a cold January Inauguration Day to swear in Bush to a second term.

Susan Low Bloch, a law professor at Georgetown University, said she had thought that Rehnquist might have announced his resignation this week.

"But now I don't know what I think," she added. "Now, I sort of think he may wait."

She said she had heard that Rehnquist "doesn't want to get off" the court while O'Connor "did want to get off," adding that "I just know he loves the court and has all his life. Once his wife died, that became everything to him."

Sen. Arlen Specter (news, bio, voting record) (R-Pa.), chairman of the Senate Judiciary Committee, which considers Supreme Court nominees, weighed in on whether Rehnquist would retire.

"Speaking as someone who likes to get up in the morning with something important to do, I wouldn't say it's keeping the chief justice alive, but I think he likes his job," Specter said. "And if we haven't heard from him by now, the chances are you won't hear from him for some time."

Still, observers noted Rehnquist looked especially weak at the end of the current term.

"I still expect Rehnquist to resign soon, after a decent interval allowing discussion of O'Connor's legacy," said Thomas Mann, a Brookings Institution scholar. Some believe this could happen as early as next week.

If Bush has the chance to name two justices, said Mann, he could "couple a strong conservative with a more ambiguous, uncertain appointee. This might avoid a rancorous battle, which he doesn't need now given his weakened political position."

But if the Senate does have to consider two Supreme Court vacancies at the same time, it is almost certain to make for a bitter, stormy autumn.

Named to the high court by President Richard Nixon and elevated to chief justice by President Ronald Reagan, Rehnquist long has been a conservative mainstay there.

But, said Bloch, he is by no means as conservative as Justices Antonin Scalia and Clarence Thomas, and if he should retire, Bush could conceivably choose two justices that would align themselves more regularly with Scalia and Thomas.

In today's political climate, said Bloch, it is much harder to nominate a justice who has not firmly settled into one philosophical camp or another. When Reagan named O'Connor to the court, she said, the justice's legal background on issues was not as clear.

"It won't happen again," Bloch said. "The president will pick someone whose views are more known."

But analysts said that if Bush has the chance to name two justices and picks two arch-conservatives, it could set off a titanic battle in the Senate over their confirmation. Already, a major fight is expected when O'Connor's replacement is named.

The speculation about court retirements began when Rehnquist developed an aggressive form of throat cancer in late 2004. He underwent treatment and missed a number of oral arguments in late 2004 and early 2005. He returned to the bench on March 21. During his absence, he participated in deliberations and court decisions.

No one knows what the chief justice will do, but Moss said that "there is a long tradition of justices trying to stick it out" even when they are extremely ill.

O'Connor Made Her Mark As Pragmatic Centrist (MINNST)

By Michael Doyle

Minneapolis Star Tribune, July 3, 2005

Sandra Day O'Connor was a chief justice without the title.

The only experienced politician on the current Supreme Court, O'Connor has dominated decision-making for well over a decade. More pragmatic than philosophical, more centrist than hard-line conservative, the former Arizona state senator left a distinctive stamp on American justice that surpassed her initial ground-breaking appointment.

"If we didn't have a tradition of naming courts for the chief justice, this would be known as the O'Connor Court," said Washington attorney Ronald Klain, a former Supreme Court clerk and one-time chief of staff to Al Gore.

When the court has split, it has usually been O'Connor holding the center.

Early on, O'Connor wrote the 5-4 opinion requiring an all-female Mississippi nursing school to admit men. Two decades later, she penned the 5-4 opinion upholding affirmative action in university admissions. In between, the 1952 Stanford Law School graduate literally defined what middle-of-the-road meant for the late 20th century and early 21st century Supreme Court.

"She is somebody who brought a voice of moderation to the Supreme Court," Senate Minority Leader Harry Reid told reporters.

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Washington, D.C., attorney Masha Dabiza, author of a detailed assessment of O'Connor's jurisprudence, said Friday that "if you compare her to the rest of the Supreme Court, she would be considered a moderate, but I also think the court is further to the right than most people think."

Numbers tell part of the story, starting with the unanimous 99-0 Senate vote by which O'Connor won confirmation in 1981.

The Supreme Court split 5-4 on 175 cases between 1994 and 2003. O'Connor was in the majority in 135 of those cases. This was more than any of the other justices, a 2004 Harvard Law Review statistical analysis found. Chief Justice William Rehnquist, for instance, was in the majority in 111 of the 5-4 cases.

In other words, labels like "The Great Dissenter" or the "Lone Ranger" -- terms once applied to justices Oliver Wendell Holmes and Rehnquist, respectively -- would never fit O'Connor. She was in the majority 89 percent of the time over the past decade, a Georgetown University Law Center analysis found.

Just a few days ago, for instance, O'Connor joined the slim majority in the McCreary vs. ACLU case, ordering removal of the Ten Commandments from a Kentucky courthouse. She was in a similarly slim majority upholding campaign finance reforms in the 2003 case called McConnell vs. Federal Election Commission, and she authored the 2003 opinion in Grutter vs. Bollinger upholding the University of Michigan Law School's use of race in admissions.

"Access to legal education, and thus the legal profession, must be inclusive of talented and qualified individuals of every race and ethnicity," O'Connor wrote for the 5-4 majority.

As her Grutter opinion suggested, simple ideological labels don't do O'Connor justice.

Just one week before striking down Kentucky's posting of the Ten Commandments, O'Connor vigorously argued on behalf of private property owners in her dissent from the ruling in Kelo v. City of New London. The Kelo majority ruling empowered cities to seize more property through eminent domain, and O'Connor's dissent amounted to a conservative's cautionary note.

"She is willing to exercise the court's power on behalf of both liberal and conservative ends," Thomas Keck, assistant professor of political science at Syracuse University's Maxwell School of Citizenship and Public Affairs, said in an interview Friday.

Author of a recent book assessing the current court, Keck noted Friday that O'Connor has "regularly joined with conservative colleagues to enforce conservative constitutional principles like states' rights, and regularly joined with liberal colleagues to enforce liberal constitutional principles like gay rights."

Indeed, the gay rights issue illustrates just how O'Connor has evolved as a judge.

In her first term, O'Connor sided with then-associate justice William Rehnquist -- an old Stanford Law School classmate -- in 27 of the 31 decisions resolved by a 5-4 vote. Not long afterward, in the 1986 case called Bowers vs. Hardwick, O'Connor joined Rehnquist in the 5-4 majority opinion upholding Georgia's anti-sodomy law.

But by 2003, O'Connor played a different role. She joined the majority ruling in the Lawrence vs. Texas case that struck down statutes in Texas and other states that ban homosexual sodomy. Although O'Connor declared in a concurring opinion that she was not willing to explicitly overturn Bowers, as the five other majority justices would, she did give voice to a more liberal sentiment than she was expressing in the mid-1980s.

"Texas' sodomy law brands all homosexuals as criminals, thereby making it more difficult for homosexuals to be treated in the same manner as everyone else," O'Connor wrote.

Abortion cases

Such opinions could anger true-blue conservatives, and never more so than in cases involving abortion.

While telling senators during her 1981 confirmation hearing that she would neither "endorse or criticize" the 1973 Roe vs. Wade decision upholding abortion rights, O'Connor characterized abortion as "simply offensive" and repugnant." And in the 1989 case called Webster vs. Reproductive Health Services, O'Connor helped uphold various abortion restrictions.

Nonetheless, in the even more crucial 1992 case called Planned Parenthood of Southeastern Pennsylvania vs. Casey, O'Connor joined the narrow majority that sustained Roe vs. Wade's basic holding. It was, in some ways, a classic O'Connor cut straight down the middle.

The mother of three helped uphold Pennsylvania's 24-hour waiting period for women wanting abortions, while retaining the constitutional right to an abortion. It was an utterly pragmatic ruling; an effort, by some lights, to settle the core abortion question once and for all.

"Liberty," O'Connor and her fellow justices wrote, "finds no refuge in a jurisprudence of doubt."

O'Connor's prose rarely soared, and she usually kept her opinions tightly focused on the technical facts of a particular case. In that respect, she was a conventional conservative compared to a more activist judge such as Scalia or Associate Justice Clarence Thomas.

All of which means it may not be her words that are remembered, but her votes and the concrete consequences that followed.

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"Ah, the tombstone question," O'Connor said, according to an account by the Supreme Court Historical Society. "I hope it says, 'Here Lies a Good Judge.'"

Supreme Difference (WP)

By Linda Ross Meyer

The Washington Post, July 3, 2005

Will the Supreme Court be different without Sandra Day O'Connor? You bet. But it will be different not only because she provided crucial votes for a right to privacy, against race-based redistricting, against state endorsement of religion and for affirmative action, etc. The court will be different without her because, if President Bush nominates a replacement on the basis of that person's position on constitutional theory, there will be no one to take the court on an outing from its ivory tower.

Justice O'Connor is known in court circles for organizing field trips for her clerks. She was determined to pry us clerks from behind our computers and from under our piles of briefs, and scoot us into the whirl of working Washington. Getting out into the real world, talking with real people, was a trial for some of her library-carrel-reared clerks, but these outings were not just matters of tourism. They gave us the foundational experience for understanding O'Connor's approach to jurisprudence and her place on the court. And they taught us what the court will lack when O'Connor leaves.

She would troop us around the District, taking in exhibits, touring postal facilities or wandering about historic ships, all the while peppering every docent or captain or postal worker with her questions and characteristic energy and enthusiasm. "Isn't this interesting!" she would exclaim over the concept of self-adhering postal stamps or machinery for dredging clams from the muck of Chesapeake Bay. We bleary-eyed bookworms would dutifully agree.

At the court itself, it seemed to us as if O'Connor kept her feet on the ground in a place often dominated by Grand Constitutional Theory -- a combination of theoretical absolutes and scholarly minutiae of the kind that law professors love. Justice Stephen Breyer's opinions, for example, often sound as though they came directly from the policy wonks at the nonprofit Rand Corp., complete with appendices and concordances. Justice Clarence Thomas, meanwhile, believes his job is to return the court to the constitutional law of the 18th century, according to the Framers' intent, and his opinions usually contain long historical discourses about the state of law in 1790, as capital defendants dance on the head of an historical pin.

Justice Antonin Scalia, likewise, believes in theoretical absolutes. The court should expunge all rights not explicitly articulated in the text. It should never look at legislative history. And it should establish neat, clear, interlocking rules that can be applied consistently for all areas of law (and without further judgment by presumably less-competent trial courts). "What distinguishes the rule of law from the dictatorship of a shifting Supreme Court majority is the absolutely indispensable requirement that judicial opinions be grounded in consistently applied principle," Scalia wrote in his dissent to last week's court decision limiting the display of the Ten Commandments on government property.

But O'Connor believed that judging is not policy analysis or scholarship or ideology. Justice doesn't come from a book. The difficult decisions come in shades of gray, not black and white, and the view from the Supreme Court bench can be a narrow one. She looked to the pragmatic consequences of the court's decisions for everyday citizens, and she tried to do justice in the case while leaving play in the constitutional joints so as not to tie the hands of those closer to the facts and the people.

As a former trial judge and state legislator, she knew firsthand that abstract rules can't always assure a just result, and so her legal "rules" took the form of balancing tests that allowed wiggle room for the vast and infinite variety of real life (much to chagrin of her more theoretical colleagues). State governments could regulate abortion as long as they didn't place an "undue burden" on women; governments could display religious symbols as long as they didn't "endorse" religion or make religious minorities feel excluded from citizenship. She was also one of the few justices willing to grant certiorari in (and review) death penalty cases not just when the constitutional theories needed to be clarified, but to fix mistakes in particular cases.

Her jurisprudence was characterized by a deference for local knowledge and a practical humility about the Court's ability to construct or reconstruct a seamless theory of constitutional law. If people were treated unjustly -- arrested and handcuffed for a seatbelt violation, unfairly denied an equal vote by crazy-quilt redistricting, stripped of their property in order to increase the local tax base, discriminated against because of who they were and not what they had accomplished, or detained without a hearing -- then Grand Theory had to bend to Justice, not Justice to Grand Theory. Like her predecessor, Justice Potter Stewart, she didn't need a theory to know an injustice when she saw it.

Most of what we have been hearing about potential nominees is about their "judicial philosophy" or their "theory of the Constitution." During last year's presidential campaign debates, Bush said, "I would pick people that would be strict constructionists."

And now, in anticipation not of O'Connor's retirement but of Chief Justice William Rehnquist's departure, activist groups on the left and the right have raised millions of dollars to promote or fight against nominees depending on their judicial philosophies. We're asked to support Janice Rogers Brown because she is dedicated to "preserving the Constitution as ratified," Michael

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McConnell because of his theory of the establishment clause, Emilio Garza or Edith Jones because they are constitutional originalists, Alberto Gonzales because of his position on substantive due process and abortion rights.

But these positions and writings reveal just one part of what the president should know to make his next decision. Character and range of human experience should also matter. Does the nominee have truly practical wisdom -- an on-the-muddy-ground understanding of the sheer diversity of human aspiration, emotion, frailty, and passion? Does the nominee have a sense of justice to prevail where simple theory proves inadequate? O'Connor did, and a court without members of these qualities does not bode well for our future.

Justice O'Connor's Indelible Stamp (WP)

By Viet Dinh

The Washington Post, July 3, 2005

In the coming days, many will no doubt tout Sandra Day O'Connor as the pioneering first female Supreme Court justice. Most will point to her importance as the pivotal middle justice on a divided court. And some will accuse her of squandering her influence by not articulating and hewing to a unified theory of the law of their liking. In all this, the pundits may well be right in the description, but many will be wrong in ascribing merit or blame. Justice O'Connor is, quite simply, a great judge.

In 1995 I and my three co-clerks to O'Connor engaged in a heated discussion over some small point of law whose importance seemed transcendental at the time. This was the mother of all debates, several days of intense silences punctuated by heated discussions. The justice knew, of course, having carried awkward luncheon conversations and having interrupted several of our closed-door shouting matches. But she let us continue without intervention. The next morning, she handed us a two-page draft opinion -- concisely crafted, beautifully written and articulating a clear answer based on her writings and intimations in previous cases. Each of us combatants saw our conflicting points considered, answered or accommodated in her elegant draft. All that was left to do was to check the spelling, fill in the citations and go on with our coffee.

That example encapsulates O'Connor's approach to her work.

Without fanfare she hones her craft, deciding individual cases, answering concrete questions and in the process providing clear and enduring answers to the most important questions of the day.

Take, for example, the recent cases articulating the division of governmental power between state and federal governments. For more than 50 years, the constitutional enumeration of (and therefore implicit limitation of) the powers of the federal government went unheeded. On the Supreme Court, O'Connor spent over a decade dissenting from what she considered the court's abdication of its constitutional responsibility to rein in Congress. The justices agreed in 1995 and placed limits on Congress's power to regulate interstate commerce. O'Connor takes these limits so seriously that last month, contrary to her law-and-order instincts, she voted against federal authority, in the name of commerce, to prohibit in-state marijuana possession.

Given her leadership, many were surprised when O'Connor in recent years voted to affirm Congress's power to regulate family leave policies and access to courthouses. But her votes were perfectly consistent, because these latter cases dealt not with Congress's power to regulate commerce but rather with its separate authority to redress disability and gender discrimination. They are surprising only to those who would view O'Connor through the lens of a states' rights ideologue or a lazy pundit.

Likewise, O'Connor has decried the tendency to adopt a grand unified theory of church-state relations. Instead, she reads the Constitution as prohibiting governmental actions that a reasonable observer would construe as endorsing religious beliefs. This is no "I know it when I see it" test. Rather, it relies on a common legal standard, the reasonable objective person, to guide decisions in concrete cases according to their facts.

Last year O'Connor brought her practical brilliance to bear on the most interesting and vexing current question of constitutional law, military detention of enemy combatants in the war against terrorism. Structural purists would perhaps prefer Justice Clarence Thomas's categorical reliance on the president's exclusive power to wage war. And human rights advocates no doubt cheered Justice John Paul Stevens's characterization of executive detention as akin to mild torture.

O'Connor, however, wrote the controlling opinion for the court, which recognized the president's wartime power to detain enemy combatants who would kill American soldiers and civilians. But even in war there is law, and due process requires that the president afford combatants with some opportunity to challenge their detention before an impartial tribunal. She is mindful that generals fight war, not judges and lawyers, and she prescribed procedures that deferred to military judgment and necessities.

I could go on and identify Justice O'Connor's indelible stamp in every area of the law spanning property rights, race relations, privacy, employment contracts, retirement benefits and so on. But that would be missing the point of her life, work and worth. She is not a crusader, a reformer or a philosopher. She has always tried to be a good judge, and by succeeding she has been a pioneer, sage and icon.

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Justice Forged A Path For Women (DMN)

By Colleen Mccain Nelson

The Dallas Morning News, July 3, 2005

When Sandra Day O'Connor was nominated to the Supreme Court, her confirmation hearings were must-see TV for Helen Perry Grimwood and her friends.

Ms. Grimwood, a clerk for the Arizona Court of Appeals in 1981, rushed home each evening to watch replays of the hearings late into the night. "I was absolutely glued [to the TV], and so was everybody I knew," said Ms. Grimwood, who has known Justice O'Connor for more than 30 years. "We were just so intrigued. If that's any indication of what a monumental event it was ... we watched every minute that we could."

During her clerkship, Ms. Grimwood had watched and learned from Justice O'Connor, who was a judge on the Arizona Court of Appeals when President Reagan announced her nomination.

Her mentor's ascension to become the first woman on the country's highest court was a milestone that some women had never dared consider, Ms. Grimwood said.

"Now, women can dream about being on the U.S. Supreme Court," said Ms. Grimwood of Phoenix, now president of the State Bar of Arizona.

Justice O'Connor, who announced her retirement Friday, opened doors for women at the highest levels of the legal profession. But when the justice who once aspired to be a cattle rancher graduated from Stanford Law School, she found that even low-level jobs weren't options for female lawyers. Many law firms simply didn't hire women. One offered the graduate, who finished third in her class, a secretarial position.

Texas Sen. Kay Bailey Hutchison, who also struggled to find work after law school, said that despite the rejections that Justice O'Connor faced, "she kept that positive spirit, and she has been a leader in everything she's done."

Ms. Hutchison, a Republican, said Justice O'Connor was a role model for women in law.

"She had the spotlight shone on her at an early time in her career, and she handled it with such grace and integrity that I think it set the exact right tone," Ms. Hutchison said.

Regina Montoya of Dallas, a former congressional candidate who served in the Clinton White House, said Justice O'Connor's accomplishments signaled that women could be seen as equal to men.

"She made it really clear that the legal profession was open to women and you could succeed at the highest level," she said.

Beyond limits

Justice O'Connor did not allow gender to define her.

"Yes, I will bring the understanding of a woman to the court, but I doubt that alone will affect my decisions," she once said. "The important thing about my appointment is not that I will decide cases as a woman, but that I am a woman who will get to decide cases."

Mary Spector, an associate professor of law at Southern Methodist University, said Justice O'Connor had to prove to a skeptical public that she was not a "fluke" and that she could thrive in a male-dominated world.

She accomplished that by establishing herself as an independent voice on the court.

"She wielded that middle-ground position with a lot of deliberateness and didn't just influence the court's decisions by her vote but by her opinions and the reasoning she relied upon to split the middle," said Lynne Rambo, a professor of constitutional law at Texas Wesleyan University.

Ms. Grimwood, who describes her mentor as no-nonsense and gracious, said Justice O'Connor has never been an ideologue. She set political agendas aside, simply considering the facts of every case.

Alternative view

And as a working woman with a family, Justice O'Connor brought a unique perspective to the Supreme Court. "She had lots of experience that other members of the court didn't have," Ms. Grimwood said. "Until she was on the court, half the population was just not represented."

Now, nearly 24 years after Justice O'Connor joined the high court, the path for women following in her footsteps will be smoother, Ms. Grimwood said. But she noted that if Justice O'Connor is succeeded by a man, only one woman, Ruth Bader Ginsburg, would remain on the Supreme Court.

"The difference between what it was like when Sandra Day O'Connor graduated from law school and what it's like now is profound," she said. "But we still have a lot of ground to cover."

Feminists On O'Connor: A Mixed Verdict (WP)

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By Hanna Rosin

The Washington Post, July 3, 2005

With her retirement, Sandra Day O'Connor did to many American feminists what she's done during her tenure as a Supreme Court justice: Eluded them. She left, in part, to spend more time with her husband, John O'Connor, who suffers from Alzheimer's disease and who has been known to spend his days in her chambers while she works.

Surely your average successful lawyer has faced this dilemma: give up a career or take care of the family. But not the Chief Woman Lawyer of America -- she shouldn't quit to take care of her family, should she? What kind of message does that send?

"I was on a radio show and someone called in to say, 'Would we ever see a man retire to take care of his spouse?' " says Suzanna Sherry, a law professor at Vanderbilt University who has written about O'Connor. "This is why she's never been considered a feminist's feminist. A feminist would say: 'Well, why would she do that?' " O'Connor was the first woman appointed to the Supreme Court, and that alone seals her place in American feminist history. It makes her arguably the most powerful American woman, one rung short of the first female American president. She was third in her Stanford law school class at a time when a woman was lucky to get a job as a secretary at a law firm. That's the job she was offered upon graduation, so she invented her own career path.

Still, she never quite fit the image of a modern feminist. She was appointed by Ronald Reagan. Although she ended up in a critical tie-breaking role on the court, it seemed as if by accident; legal analysts often criticized her for lacking a coherent judicial philosophy, an aggressive Grand Unified Theory that characterizes, say, Antonin Scalia.

In her autobiography, "Lazy B," she wrote about growing up on a remote cattle ranch in Arizona, rounding up wild colts and witnessing drunken bar fights. But the Annie Oakley image never stuck. She is better known for delaying her career until her three sons were in school. Her public persona in Washington was maternal, nurturing, genteel, soft. She let her granddaughter write a book about her featuring a picture on the cover of the two of them holding a teddy bear. On her clerks' door she left a Xerox of her hand with a note that read "For a pat on the back, lean here."

Yesterday, during its convention, the National Organization for Women planned an impromptu march on the Tennessee state capitol in response to news of her retirement. "We are determined not to have an extremist who will roll back women's rights," Eleanor Smeal, president of the Feminist Majority, said in an interview from the rally, with the crowd in the background shouting, "Hell no, we won't go." The feminist movement kicked into action immediately when it lost O'Connor. She may not have been a reliable ally on their pet causes (she voted to invalidate the Violence Against Women Act, for example), but she came through as the critical vote on cases involving abortion and affirmative action. But there were no heartfelt personal reminiscences. No honoring of a fellow suffragette's guts and glory. Just the legal issues and the facts, with all the emotional warmth of a legal brief. It was understood that O'Connor herself wouldn't be caught dead at such a rally.

Smeal testified for O'Connor when she was first nominated and, Smeal says, "I never regretted my testimony." Smeal's highest compliment: "She's obviously a conservative woman, but she did not turn her back on women's rights. It was the best we could do under the circumstances."

In the mid-'80s, feminist legal theorists made an attempt at embracing O'Connor. Sherry wrote an article describing the jurist as the archetype of "difference feminism," a theory popularized by feminist Carol Gilligan and which holds that men and women reason differently and write in different styles.

O'Connor, she wrote, had a uniquely "feminine perspective"; she consistently valued communities over individuals, moderation over confrontation, wrote in a way that's more contextual, less "abstract" and more "caring."

But many feminists "balked at the idea that difference feminism could explain a conservative woman," says Sherry.

O'Connor herself rejected the thesis as well.

"This 'new feminism' is interesting but troubling, precisely because it so nearly echoes the Victorian myth of the 'True Woman' that kept women out of law for so long," O'Connor said at a speech at New York University in 1991. "Asking whether women attorneys speak with 'a different voice' than men do is a question that is both dangerous and unanswerable."

In her generation, women competed on equal terms with men, and the updated feminism must have struck her as a cop-out of a kind.

Once Ruth Bader Ginsburg came on the court in 1993, feminists had an ally they could truly rely on. Ginsburg had dedicated her career to fighting for feminist causes; she had founded the American Civil Liberties Union Women's Rights Project to argue that the law discriminated between men and women; she sees the world through that lens. Now she is the one who wins honors with such names as the Athena Award. NOW named its annual lecture after her.

O'Connor then settled into a place with the feminist establishment that suited both sides better: as the spotty understudy. O'Connor became a favorite speaker at commencement events. She was invited to the types of places that give out crystal

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figurines, as Margaret Talbot pointed out recently in the New Yorker. (Last year she accepted $5,825 worth of gifts, the second highest amount after Clarence Thomas, "mostly in small crystal figurines," O'Connor said.)

These days O'Connor has a new status in women's circles. She is now the mother of "Sequencing," a new fancy word that means delaying your career until your children are in school. "Juggling Career and Home: Albright, O'Connor, and You," reads a recent article in Mothering magazine, explaining how you can take care of your family and have a stellar career. So maybe feminism has caught up with the Supreme Court justice after all.

Increase In The Number Of Documents Classified By The Government (NYT)

By Scott Shane

The New York Times, July 3, 2005

Driven in part by fears of terrorism, government secrecy has reached a historic high by several measures, with federal departments classifying documents at the rate of 125 a minute as they create new categories of semi-secrets bearing vague labels like "sensitive security information."

A record 15.6 million documents were classified last year, nearly double the number in 2001, according to the federal Information Security Oversight Office. Meanwhile, the declassification process, which made millions of historical documents available annually in the 1990's, has slowed to a relative crawl, from a high of 204 million pages in 1997 to just 28 million pages last year.

The increasing secrecy - and its rising cost to taxpayers, estimated by the office at $7.2 billion last year - is drawing protests from a growing array of politicians and activists, including Republican members of Congress, leaders of the independent commission that studied the Sept. 11 attacks and even the top federal official who oversees classification.

The acceleration of secrecy began after the 2001 attacks, as officials sought to curtail access to information that might tip off Al Qaeda about America's vulnerabilities. Such worries have not faded; just this week the Department of Health and Human Services sought unsuccessfully to prevent publication of a scientific paper about the threat of a poisoned milk supply on the ground that it was "a road map for terrorists."

But across the political spectrum there is concern that the hoarding of information could backfire. Thomas H. Kean, chairman of the Sept. 11 commission and a former Republican governor of New Jersey, said the failure to prevent the 2001 attacks was rooted not in leaks of sensitive information but in the barriers to sharing information between agencies and with the public.

"You'd just be amazed at the kind of information that's classified - everyday information, things we all know from the newspaper," Mr. Kean said. "We're better off with openness. The best ally we have in protecting ourselves against terrorism is an informed public."

Mr. Kean said he could not legally disclose examples he discovered of unnecessary classification. But others cite cases of what they call secrecy running amok: the Central Intelligence Agency's court fight this year to withhold its budgets from the 1950's and 60's; the Defense Intelligence Agency's deletion of the fact that the Chilean dictator Augusto Pinochet was interested in "fencing, boxing and horseback riding"; and the Justice Department's insistence on blacking out a four-line quotation of a published Supreme Court decision.

Secrecy has long been denounced by liberal watchdog groups like the American Civil Liberties Union. But more conservatives are emerging as skeptics, including Senator John Cornyn, Republican of Texas, whose bill to strengthen the Freedom of Information Act passed the Senate last week. The bill, cosponsored by Senator Patrick J. Leahy, Democrat of Vermont, requires that any legislation creating new exemptions to the Freedom of Information Act explicitly disclose them. It is only part of overhaul efforts proposed by the two.

Mr. Cornyn, a former state attorney general, said he had been trying to persuade his colleagues that freedom of information was not just a concern of the news media. "The people should get the information they need to see if government is doing what they want," he said.

He gets no argument from J. William Leonard, who in his three years as director of the Information Security Oversight Office has waged a lonely battle against overclassification. "I've seen information that was classified that I've also seen published in third-grade textbooks," Mr. Leonard said.

Such missteps may come in part from inexperience. Since 2001, President Bush has extended the power to classify documents to the heads of the Environmental Protection Agency, the Department of Health and Human Services and the Department of Agriculture. At the Agriculture Department, where officials are concerned about agroterrorism, employees can visit the agency's Web site and easily print out a bright-yellow "sensitive security information" cover sheet.

Such labels for unclassified information deemed sensitive have multiplied in recent years, going beyond the traditional "for official use only" to "law enforcement sensitive," "homeland security sensitive" and other vague tags.

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"We find there's such a proliferation of these bogus categories," which lack clear rules or definitions, said Lawrence J. Halloran, an aide to Representative Christopher Shays, a Connecticut Republican who held a hearing on excessive secrecy in March.

The secrecy wave has reached obscure outposts of federal power. Wes Addington, a lawyer in Prestonsburg, Ky., who represents mine workers filing safety complaints, said the Mine Safety and Health Administration now denied him documents under the Freedom of Information Act that a few years ago were routinely provided.

"Honestly, I don't understand the reason," Mr. Addington said. "I don't see how releasing this stuff would hurt the government."

A spokeswoman for the safety agency, Suzanne Bohnert, said it began withholding inspectors' notes because their release could "harm ongoing enforcement matters."

Some opponents of secrecy say the Bush administration has created an atmosphere that discourages disclosure. Vice President Dick Cheney won a court battle to keep secret the records of his energy task force. Former Attorney General John Ashcroft issued a memorandum in October 2001 urging officials to be careful to protect sensitive information.

Thomas S. Blanton, director of the National Security Archive at George Washington University, said the administration viewed public access to information as encroaching on executive power.

But a spokesman for the National Security Council, Frederick L. Jones II, said the effect of the Ashcroft memorandum had been "greatly exaggerated" by critics. Mr. Jones blamed the increasing use of e-mail for the rapid rise in classified documents. He added that the president had nominated members for a planned Public Interest Declassification Board that would guard against excessive secrecy.

"The administration is proud of its record of openness," Mr. Jones said.

Mr. Blanton's group, which files hundreds of Freedom of Information requests each year, occasionally gets a glimpse of the arbitrariness of bureaucrats' decisions. In 1999, the Defense Intelligence Agency released its two-page Pinochet biography without deletions. Three years later, it released the same document with half the text deleted, including such comments as "Gen. Pinochet is conservative in his political thinking."

In a recent battle, Steven Aftergood, who directs the Project on Government Secrecy at the Federation of American Scientists, sought C.I.A. budgets for 1947 to 1970. A judge gave him only the 1963 budget, because it had already been released.

"I don't know any intelligence professional who says, 'I'll stake my integrity on the need to protect the 1962 intelligence budget,' " Mr. Aftergood said.

But a C.I.A. spokesman, Paul Gimigliano, said that releasing even old budgets could prove a slippery slope. "The budget remains classified to prevent America's adversaries from piecing together the national security priorities set for the C.I.A.," he said. "This is not secrecy for secrecy's sake."

Feds Increasingly Classify Documents (AP-Y2)

By KEVIN FREKING, Associated Press Writer

AP2, July 3, 2005

WASHINGTON - Driven largely by ongoing military operations in Iraq and Afghanistan, the federal government reports that the number of documents being classified jumped 10 percent last year to 15.6 million.

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The numbers come from the Information Security Oversight Office in its latest annual report to the president.

Meanwhile, the number of pages that the government declassified continued to drop. Last year, 28.4 million pages were declassified, a 34 percent drop from the previous year.

An increase in the number of documents being classified has raised concerns that the government is being too secretive, and the report notes that overclassification of documents has been a consistent issue for decades. However, the report stops short of saying that the trend runs counter to the nation's interest.

"It cannot be said conclusively from this report's data that recent increases in the number of classification decisions were due substantially to the phenomenon of overclassification," the report states.

The report, dated March 31, notes that classifying information is an essential and proven tool for defending the nation, but says that it can be a double-edged sword. For example, it said limits on information can contribute to friendly fire deaths on the battle field, and failure to share information contributed to the government's failure to intercept the plot that led to the Sept. 11 terrorist attacks.

"Simply put, secrecy comes at a price. For classification to work, agency officials must become more successful in factoring this reality into the overall risk equation when making classification decisions," the report said.

OTHER NEWS:

Vast Crowd Attends Rally For The Poor In Scotland (NYT)

By Lizette Alvarez

The New York Times, July 3, 2005

Wearing white as a symbol of hope and justice, more than 225,000 demonstrators encircled the heart of this graceful medieval city on Saturday and demanded an end to abject poverty around the world.

The radical and the peaceful, the curious and the committed, all poured into the streets here to deliver their message to the powerful leaders who will arrive at Gleneagles Hotel in Perthshire, nearby, for the Group of 8 summit meeting that starts Wednesday.

"Thirty thousand children die every day as a result of extreme poverty," said Richard Bennett, the chairman of the Make Poverty History campaign, the work of a coalition of 500 groups in Britain. "That is one every three seconds. It's totally avoidable, and the fact that it is avoidable makes it unacceptable."

Their list of particulars is not long, Mr. Bennett said at the protest, the first of several scheduled over the week. The activists and demonstrators want the wealthy of the world to do more for the wretched of the world, most notably in Africa. Specifically, they say, the world's richest countries should forgive the debts of the poorest countries, with no strings attached, equalize trade and put an end to harmful export subsidies and increase aid to poor countries while ensuring it gets funneled to the right people. The aid, activists say, should not come attached to cumbersome, unworkable requirements.

Buoyed by the sunny weather, the demonstrators spoke of their newfound hope that the British prime minister, Tony Blair, President Bush and the other leaders of the eight major industrialized countries were beginning to take note of the widening gap between rich and poor. The jubilant crowd blew whistles, banged drums, waved placards that read "Water Not War" and "Drop the Debt," donned kilts and flashed their white wrist bands, a symbol of the anti-poverty campaign.

At 3 p.m., the marchers - and many others in the city - halted for a two-minute silence. Shortly afterward, the marchers formed a white-clad human chain around the city center. In London, St. Paul's Cathedral was wrapped in white, and similar installations were planned in other cities around the world.

"Half the world is dying to eat and the other half is eating itself to death," said Elizabeth Hodgson, 49, a modern studies teacher at a high school in Livingston, not far from Edinburgh, who went to the march with her teenage daughter. "It won't be solved overnight, but there is no point in saying it will never be solved."

Cardinal Keith O'Brien, the head of Scotland's Catholics, read a message from the Vatican. He said that Pope Benedict XVI had called upon the summit meeting's leaders to do more for the poor of the world. The pope, he said, holds "ardent hope that the scourge of global poverty may one day be consigned to history."

Sitting on the grass at the rally on the Meadows, the city's largest park, Mike Dewar, a retired firefighter, said he had gone to the rally to help draw attention to the poverty that is ravaging the world but gets short shrift among the world's most pampered countries.

"They have to realize we're unhappy," he said, of the Group of 8 leaders. "They seem to be immune in their ivory towers. We don't all need money. Just a decent way to earn a living."

On the stage at the Meadows, Kathy Galloway, a human rights advocate from Glasgow, put it bluntly.

"This isn't about charity," she said, to the cheering crowd. "This is about justice."

'Make Poverty History' Protest Draws Tens Of Thousands (LAT)

By Ron Depasquale

The Los Angeles Times, July 3, 2005

Waves of anti-poverty protesters ringed Scotland's capital Saturday to demand more aid, debt relief and fair trade for poor nations, hoping to pressure world leaders ahead of this week's Group of 8 summit.

Colorfully costumed activists, parents carrying children on their backs and African immigrants massed together for the raucous "Make Poverty History" march, which lasted more than five hours. More than 200,000 people marched and gathered at the Meadows, a downtown park, police said.

Musicians from around the world, including British folk singer Billy Bragg, sang politically charged songs, while activists and religious leaders urged crowds to demonstrate throughout the week of the G-8 summit, when leaders of eight of the wealthiest countries will meet north of the city.

British Prime Minister Tony Blair, the summit host, has placed African aid at the top of the agenda, along with global warming.

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The Make Poverty History coalition, consisting of aid groups such as Oxfam and Christian Aid, coincided with Live 8 concerts around the world on a day that focused global attention on the developing world's plight. People in Edinburgh watched the concerts on a giant video screen.

Along the march, the sound of trumpets, drums and whistles mixed with chants like "Drop, drop, drop the debt!" A band of Kenyan immigrants — with "Fair Trade for Kenya" scrawled on their white T-shirts — danced and sang in Swahili, at one point linking together in a circle.

"We want fair trade — no more subsidies for American and European farmers," said Chege Wanjihia, a 31-year-old healthcare worker. "We don't want handouts. We're tired of handouts."

Brian Chiwara, a Zimbabwean immigrant in a synthetic leopard-skin cloak and feather headdress, said more aid should also bring added scrutiny of African leaders. He stood by a flag that read "Make Mugabe History," a reference to Zimbabwe's leader, Robert Mugabe, who has drawn global scorn for stifling political opposition.

"Just giving money to African governments without holding them accountable only enriches the ruling party," he said. "The U.K. and U.S. should empower Zimbabweans and help us become a democracy."

Aid organizations are working harder in African nations to make sure donated money is properly spent, said Make Poverty History coordinator Adrian Lovett of Oxfam. "We'll go there and count the number of schoolbooks in the schools if that's what it takes," he said.

At the rally, Bragg borrowed Bob Marley's song "One Love" and changed the chorus to "Let's drop the debt and it will be all right." Scottish Cardinal Keith Patrick O'Brien read a message from Pope Benedict XVI calling for the people of rich nations to "urge their leaders to fulfill the pledges made to reduce world poverty, especially in Africa."

British Chancellor of the Exchequer Gordon Brown endorsed the march at a Christian Aid rally and called the fight against poverty "the greatest moral crusade of our times."

"You are right to demand trade justice and you are right to say instead of being impoverished, Africa's poorest communities should be empowered," he said.

Edinburgh residents were supportive of the protesters' cause, if a bit nervous.

Some stores along the parade route were boarded closed, but many remained open.

"Hopefully they'll be only peaceful and joyful," said Robert Coulter, a 27-year-old barber. "But just in case they're not, we're putting up a 'Power to the People' sign."

Marchers Rally For G-8 Action On African Poverty (WT)

By Robert MacPherson

The Washington Times, July 3, 2005

More than 200,000 people marched and linked arms yesterday in the streets of Edinburgh, calling for action on African poverty at this week's Group of Eight (G-8) summit in nearby Gleneagles.

The Make Poverty History rally formed a walking band of white, the color of solidarity with Africa's poor, around the heart of the Scottish capital. It coincided with the Live 8 series of rock concerts around the world.

Both high-profile events were aimed at pressuring the G-8 leaders' summit, taking place from Wednesday to Friday, to agree to a package of aid, debt relief and trade reform to help lift African nations out of poverty.

Blowing whistles and beating drums, with a few Scottish bagpipes thrown in for good measure, the good-natured crowd formed a ring in the streets that ran around Edinburgh's famous hilltop castle.

At 3:00 p.m., the marchers stopped and held hands, forming a giant human chain beneath the castle. Then they observed a minute's silence in memory of the many millions who have died in poverty.

At the head of the march was Zimbabwean campaigner Amadou Kanoute, one of the few Africans in the overwhelmingly white crowd.

"We are at the front here today and that is the right place, because Africa has to be put at the front," he said. "It makes me feel so good to see the solidarity in the people here today."

Organizers estimated the day's turnout at more than 200,000 people making the demonstration the biggest in Scotland yet for a political cause. Local officials put their own figure at around 200,000 as well.

"This is way over our expectations," said Matt Phillips of Save the Children, a major British charity that is part of the Make Poverty History coalition. "It's been an amazing day with a sharp political edge."

Make Poverty History has three core demands: debt relief for Africa's poorest countries, significantly more and better aid from the West, and "trade justice" to enable Africa to sell more exports to rich countries.

The Associated Press reported that about 150 anarchists and anti-globalization protesters dressed in black joined the march, many wearing hoods or covering their faces with bandanas.

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Some had T-shirts bearing the anarchist symbol of the letter "A" inside a circle; one had a placard that said "No nation, no order."

Some pushed over a barricade and charged a line of police before running away down side streets. One activist threw a bottle while another tipped over a garbage can. Police described the incident as minor and said no one had been arrested, the AP reported.

Police fear a repeat of violent anti-globalization protests that have marred past G-8 summits, such as the 2001 event in Genoa, Italy, where an officer fatally shot a protester.

G-8 A Study In Power, Seclusion (AJC)

By Don Melvin

The Atlanta Journal-Constitution, July 3, 2005

This week, the leaders of the world's richest countries will gather at a posh golf resort in the cool of Scotland to tackle the issues of African poverty and global warming.

"Along with the threat from international terrorism and the spread of weapons of mass destruction, I believe they are the most serious problems facing the world today," British Prime Minister Tony Blair, the host and agenda-setter for the summit, wrote in The Economist magazine earlier this year.

The Group of Eight summit will bring him together with the heads of government of the United States, Canada, France, Japan, Russia, Germany and Italy. The meeting will begin Wednesday evening with a ceremonial dinner attended also by the leaders' wives and Queen Elizabeth II. It will end Friday afternoon with a news conference and what participants hope will be a joint statement of agreement.

The leaders will meet at the lush, 850-acre Gleneagles estate resort, where the amenities include a golf course, jogging and bicycling trails and guests can also ride horses, shoot, fish, play tennis and even engage in falconry. But the location has been chosen as much for its seclusion as its splendor, as with all the group's venues since police and protesters clashed violently at a World Trade Organization conference in Seattle in 1999.

Isolated site

Last year's G-8 summit was held on Georgia's Sea Island, where the surrounding water provided a natural barrier to protesters. Gleneagles lacks open water, but its rural isolation makes it easy to limit access to the site.

Though there are only eight official members of the G-8, many other officials from around the world will attend, including U.N. Secretary-General Kofi Annan and Jose Manuel Barroso, president of the European Commission. Also, 11 other heads of government will be on hand.

And there will be sideshows aplenty. Tens of thousands of demonstrators are expected to descend on Edinburgh, an hour's drive away. Many, gathering under the slogan "Make Poverty History," support Blair's initiative. Other, unrulier groups may protest globalization or promote anarchy.

Aides to the G-8 leaders have been meeting in London this weekend to try to hammer out, insofar as possible, the text of the communiqué their bosses will issue at the close of the conference.

Some areas of agreement are already known. G-8 finance ministers agreed last month to cancel as much as $55 billion in debt owed by 38 poor countries. Proponents of debt cancellation say the loans were often agreed to by corrupt leaders who are no longer in power and that the payment of debt service prevents those countries from spending on needs such as education, health care and infrastructure.

In addition, members of the European Union, largely at Britain's urging, agreed in May to double their annual development aid to $80 billion by 2010. Blair has been pressing the United States, Japan and Canada to do the same, and on Thursday, President Bush indicated that he wants to double U.S. aid to Africa.

But Blair seems unlikely to be able to get an agreement from all his guests to take specific steps to curb global warming. Bush does not agree that science has demonstrated that climate change poses a near-term problem or that it is caused by humans.

The United States has not ratified the Kyoto Protocol, an international agreement to reduce "greenhouse gas" emissions that was negotiated in Japan in 1997. More than 140 countries, including the other members of the G-8, have ratified the agreement.

It does seem possible, however, that the leaders will agree in Scotland to support the development of new technologies that do not produce greenhouse gases. That may be enough for Blair to claim success, said Nicholas Bayne, a former British diplomat who has written books about the G-8 summit process.

"I think Blair's objective was to bring the United States back into the international discussion of what to do about climate change," Bayne said. Scientists say the United States is the largest single emitter of greenhouse gases.

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Blair host again

Blair is one of the few heads of state ever to lead a second G-8 summit, having hosted the event in Birmingham, England, in 1998. His skill this time lies not so much in his decision to focus the agenda very narrowly as in announcing the subjects on which he would concentrate nearly two years ahead of time. That allowed all the participants to "orient their thinking," said John Kirton, a G-8 expert at the University of Toronto.

The annual summits began 30 years ago, in 1975, when French President Valery Giscard d'Estaing invited the leaders of the United States, Japan, Germany, Britain and Italy to Rambouillet, near Paris, to discuss economic problems. The group expanded to include Canada in 1976 and Russia in 1998.

Unlike most international bodies, the G-8 does not have a fixed structure. It is up to the country that has the presidency to set the agenda and organize the annual summit.

This year's schedule includes a fair amount of free time, which will allow leaders to hold one-on-one talks with one another. Bush told a London newspaper that his agenda also includes walking hand in hand with his wife through the Scottish mist.

At the end of the summits, the leaders sometimes pose for pictures wearing local clothing. Bush, however, said he will not wear a kilt.

Bush also ruled out eating haggis, a traditional Scottish dish of sheep or calf organs mixed with suet and oatmeal and boiled in the animal's stomach.

"I was briefed on haggis," Bush told The Times of London. "No."

Awakening Economic Powerhouses Eye G-8 (FLSUNSEN/AP)

By Tom Raum

South Florida Sun-Sentinel, July 3, 2005

The exclusive club of world leaders, known as the Group of Eight, has an identity crisis. It often is described as a collection of the richest countries or largest industrial democracies. It is neither.

The partnership is under pressure to open the door to new members; China, India and South Korea come to mind. Doing so would reflect the rapidly changing global economy and maintain the strategic role for which the group was organized in the first place.

Yet not one of the current members seems to want to make the first move toward expansion.

These strains will be on display in Gleneagles, Scotland, this week when President Bush meets with leaders from Britain, Canada, France, Germany, Italy, Japan and Russia for the group's 30th annual economic summit.

China's economy has surpassed Canada's and is racing to the front of the global pack. India, the world's largest democracy, is surging ahead, too.

Five other countries not in the G-8 club boast economies that are stronger than Russia's. They are Australia, Brazil, Mexico, South Korea and Spain.

"It's hard to talk meaningfully about the world economy any more without China being included," said Grant Aldonas, an international trade lawyer who was commerce undersecretary in Bush's first term. Aldonas said a strong case could be made for bringing in other nations with fast-growing economies.

British Prime Minister Tony Blair, this year's summit host, has invited leaders from Brazil, China, India, Mexico and South Africa to attend the summit. They will participate in a discussion on relieving poverty, particularly in Africa, and on climate change.

A former U.S. ambassador to the United Nations, Richard Holbrooke, suggested in a speech to the Asia Society in New York last month that the annual G-8 summit had become "a complete anachronism" because it includes Russia, Italy and Canada but neither China nor India.

By 2050, the countries with the top economies are expected to be the U.S., China, India, Japan, Britain, France, Germany and South Korea. Current club members Italy and Russia would not rank in the top 10.

So is it time to adjust the membership?

"My preference would be to expand it. It's very hard to knock countries off," said Gary Hufbauer, a trade economist at the Washington-based Institute for International Economics. Perhaps expanded to as many as 18 countries, he said.

"I see it happening in stages. I don't think they can admit another country without admitting China first. And the problem then becomes, if they admit China, they will really have to concede that democracy is not a central criteria," Hufbauer said.

The problem with inviting China, critics say, is that all current members have open-market democracies.

Yet democratic India is excluded despite having a dynamic economy and the expectation it will be a major player on the world stage for years to come.

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At the first economic summit in 1975, the participants were the U.S., Britain, France, Germany and Japan. It turned into the Group of Seven with invitations soon going out to Canada and Italy.

The European Union also sends a representative.

Russia became a full-fledged member in recent years. Earlier, Russian and Soviet presidents could attend the meetings as observers.

With Russian President Vladimir Putin hosting the 2006 summit, his G-8 partners have raised concerns about his recent steps to roll back democratic reforms. In addition, it has focused more attention on why Russia, No. 15 on the World Bank's most recent listing of world economies, is even a G-8 member.

The cloud of the Russian presidency and the rapid growth of many developing-world economies could bring enormous momentum to overhaul the G-8, said James Steinberg, deputy national security adviser in the Clinton administration.

"I see a kind of perfect storm coming together" that could set changes in motion beginning with the next summit, said Steinberg, who now works at the Brookings Institution, a Washington think tank. At a White House briefing on Thursday, the president's national security adviser sidestepped a question that dealt with the nature of Russia's participation and next year's meeting.

"Obviously, the question will be, what does President Putin want to try and accomplish under his chairmanship," said Stephen Hadley.

"There will be some conversations, obviously, in that part with others, but basically, that's pretty much the prerogative of the chair," Hadley said.

Failure Of Past Efforts Cloud The West's Attempt To Help (LAT)

By Robyn Dixon

The Los Angeles Times, July 3, 2005

It must have seemed a wonderful idea in the late 1970s: Build a modern carpet factory in Ihiala, in southeast Nigeria, putting in place one small cog in the country's hoped-for transition from a poor, backward nation to an African economic tiger.

The state of Anambra got a loan of $17 million from a Western bank, and a stretch of virgin land was selected. But not a single spadeful of dirt was ever turned. More than 25 years later, the loan is still being repaid.

Like the untouched land, Nigeria, and much of Africa, has not been transformed by the donor aid that has washed in during recent decades, most of which was stolen or wasted. Despite billions of dollars in grants and loans, Africa is the only continent sliding backward, worse off than it was 25 years ago.

Now, a combination of politics, goodwill and timing is giving Africa its biggest break on debt and aid in years. Finance ministers of the world's richest countries agreed last month to forgive $40 billion in debt in an attempt to lift 18 of the poorest countries out of poverty. Fourteen of those are in Africa.

A Group of 8 meeting in Gleneagles, Scotland, this week will finalize the debt deal and perhaps go further. If a British lobbying blitz succeeds, the G-8 could double total foreign aid to Africa.

So sweeping is the effort that no one can say whether it will work wonders or repeat mistakes of the past, when aid fostered dependency, not progress.

"We don't know. We don't really have a precedent for it," said Todd Moss, an analyst with the Washington-based Center for Global Development. The countries that have been most successful in reducing poverty, China and India, did so with little aid, he noted.

"The record of lots of aid leading to economic growth and transformation is an old idea from the '50s that's never been shown to work," Moss said. "I am very skeptical it will lead to sustained economic growth in Africa, absent of major changes inside some of these countries."

In some African countries, such as corruption-plagued Nigeria, people agree that debt relief rarely trickles down to those who need it most. "The common man will not benefit from any debt forgiveness by foreign creditors. It will be shared by the leadership," said Ernest Emefieh, 60, who runs an Internet cafe in Festac Town outside Lagos. "I do not support debt relief because we are not going to enjoy it."

But many economists and anti-poverty activists counter that lifting the yoke of debt is the only way to reduce hardship in the poorest nations. The World Bank is beginning to favor grants, not loans, for the neediest countries to prevent them from getting buried in debt.

"That's clearly the way we've got to go if we want to avoid building up another debt problem," said Max Lawson of Oxfam, one of the British aid agencies that strongly back 100% debt forgiveness for poor countries with good governance.

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The aid recipients' record of responsibility is key. The 18 countries that qualify for the G-8 relief plan have instituted reforms to combat poverty and corruption, and the debt forgiveness should provide free education, schools and clinics for about 120 million people. Twenty-two other countries may qualify later, with debt forgiveness potentially reaching $55 billion.

Since 1980, Africa's per-capita income has declined 25% and life expectancy has sunk to 46 years, the British Commission for Africa wrote this year.

African nations received $540 billion in loans from 1970 to 2002, according to the United Nations. Many countries spend more on servicing their debt than on health and education. But much of the money also vanishes in a fog of graft and neglect.

Some analysts question how much the West can do to end African poverty when countries make their own economic decisions and set their own budget priorities. Most concur that massive infusions of aid will be effective only if they are accompanied by trade and investment.

On the other hand, analysts such as Francis Kornegay of the Center for Policy Studies in Johannesburg argue that many more countries should have their debt wiped clean, even those with records of poor governance and entrenched corruption, including Nigeria, Angola, Congo and Sudan. These four do not now qualify for G-8 debt relief.

"These countries are very strategic. If they are stabilized, then the continent has a chance. If Nigeria becomes a failed state, which no one wants, you can imagine how that would set back West Africa and equatorial Africa," Kornegay said.

With $33 billion in foreign debt, Nigeria illustrates why there is widespread cynicism about forgiving African debt and pumping in aid. Why, critics ask, should creditors erase the debts of a country that brings in more than $25 billion annually from oil exports, while most of its people live on less than $1 a day? Won't the money be misused as it has been before?

Many Nigerians think it will. Father Gabriel Osu, spokesman for Lagos' Roman Catholic archdiocese, is angry that those who squandered loans have not been punished.

"As a patriot and on the basis of sentiment, we as a people need debt forgiveness. But on a reality basis, we don't deserve it," he said. "We took the loans, and we must pay them back. See … the vanity all around us. Does this support calls for debt relief?"

Nigeria is supposed to pay $2 billion a year to service its debt. It pays about half that, and officials lobbying for relief recently threatened to stop payments altogether in an Argentina-style default.

Such posturing might not seem likely to garner international sympathy, given Nigeria's oil wealth. But much of the revenue has been guzzled by mismanagement and corruption, leaving 95 million Nigerians in extreme poverty — out of a populace of 129 million. By comparison, about 120 million live in such conditions in the 18 countries chosen for debt relief by the G-8.

Moss and Kornegay argue that Nigeria merits a special deal because a small group of economic reformers, including President Olusegun Obasanjo and Finance Minister Ngozi Okonjo-Iweala, a former vice president of the World Bank, are struggling against powerful interests to put the country on the right track.

"You have an economic system that has deeply entrenched interests, where corruption, graft and patronage are part of the system, and their history of economic management has been awful. But … the country, which was a military dictatorship for 15 years, now has a fragile democracy," Moss said.

"And it has a very capable economic team in place that's trying desperately to reform the economy and to break the stranglehold of the thugs," he said. "If you want the reformers in Nigeria to succeed, we have to do something on debt."

The Western commitment to Africa will be tested when the World Trade Organization meets in Hong Kong in December. There is pressure on Europe and the U.S. to cut subsidies on cotton and sugar that make it nearly impossible for struggling African farmers to compete.

But substantial changes in agricultural subsidies are unlikely, and this could undermine efforts to fight poverty through debt relief. "This year for us is about aid, debt and trade," said Oxfam's Lawson. "If any one of those three falls through, it means their impact is lessened.

"If you've got debt relief and that releases money for you to process cotton, but because of subsidies in America you can't sell that cotton, then clearly the debt relief isn't as effective as it could have been," he said. "If aid is used to get kids into school for an education and when they get out there are no jobs, then clearly that's not going to work."

Moss says the key to raising Africa out of poverty is encouraging small farms and businesses.

"That's where the employment comes from, that's where the tax revenue comes from, that's where the wealth creation comes from," he said. "Now aid can play a role there and trade can play a role there and not having a debt burden can help, but none of those are magic bullets."

Among Ordinary Africans, G-8 Seems Out Of Touch (WP)

By Emily Wax

The Washington Post, July 3, 2005

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Peter Kanans, a coffee farmer whose house has no running water and a leaking roof, said he had a message for the leaders of the world's richest countries who will meet at the G-8 summit next week: Unfair trade practices are enriching African officials and international coffee chains while village farmers grow steadily poorer.

"Like many hardworking Africans, I have a serious bone to pick with the G-8," said Kanans, a slender man of 60 who has a college education but wears shredded flip-flops. This year, Kanans said, his crop netted about $300 -- less than his brother in Delaware spends in two months on takeout cappuccinos.

"Even if they cancel the debt, even if they give our governments aid money, ordinary Africans will not benefit," he said. "That money will only make the corrupt people richer and Africans international beggars for decades to come."

The G-8 conference of the eight major industrialized nations, which starts Wednesday in Scotland under the leadership of British Prime Minister Tony Blair, hopes to address trade imbalances in Africa and endorse two major plans championed by Blair that would double aid to the continent and cancel the debt of 14 African countries so they can use the money for such needs as health and education.

This weekend, 10 massive rock concerts, called Live 8, are being held in major cities from Philadelphia to Berlin to Johannesburg to rally support for debt relief and aid to Africa. The celebrity-studded events (Bono, Paul McCartney, Stevie Wonder and Senegalese superstar Youssou N'Dourare are among the artists appearing) are similar to the Live Aid concerts that were held in 1985 to raise money for world famine relief.

On the world's poorest continent, however, feelings about debt relief and aid money are far more nuanced than many Westerners may realize. Africans interviewed this week, from farmers to artists to health workers, say they are grateful for the outpouring of sentiment, and glad to hear that glamorous musicians and actors are championing their cause and that college students are wearing bracelets with the slogan, "Make Poverty History."

But they also said there was a dangerous disconnect between what the industrialized nations see as solutions and what Africans believe they need. Instead of debt relief and more aid, many Africans said they wanted the G-8 to focus on ending corruption and on improving roads, courts, banking and secondary education.

Another useful step, many Africans said, would be to end Western countries' trade subsidies for their own farmers, which make it impossible for African industries to do much more than survive. Debt relief, some asserted, is actually hush money to get free trade advocates off the backs of European countries, the United States and Japan, which offer huge subsidies to their corn, cattle and cotton farmers and thus undercut African farmers' ability to enter the market.

Ousmane Sembene, the prominent Senegalese-born filmmaker, shocked a crowd of earnest young people in London during a talk in early June when he condemned the G-8 and the Live 8 concerts as "fake," and added: "African heads of state who buy into that idea of aid are all liars. The only way for us to come out of poverty is to work hard."

Sembene used the example of cotton, which African countries grow but none of the G-8 countries buy. Instead, he said, they subsidize their own cotton farmers and then dump used clothing on the African markets, crippling Africa's domestic clothing industries.

"We make great cotton in Africa, but the West won't buy it. Instead they are selling us rags," he said. "Everywhere you go in Africa, in the big cities, you would think that you were in a Salvation Army store."

Corruption is an issue that Africans raised repeatedly in discussions about aid and debt relief. In Kenya, many people said they felt betrayed by the new government, which was elected on an anti-corruption platform in 2002. After taking office in early 2003, some said, cabinet officials voted themselves a 172 percent salary increase, putting them among the world's highest-paid ministers.

"Anyone who has spent any real amount of time in Africa knows that corruption is the reality. It's a disservice to ordinary Africans to not be honest about that," said Rose Mucheke, 35, a Kenyan health care worker in Nairobi. While her salary is barely enough to meet her monthly bills, she said bitterly, "the aid money will go into the pockets of corrupt officials to buy their fully loaded Mercedes-Benzes."

Kenya, ironically, does not qualify for immediate G-8 debt relief, because it technically has enough cash to pay its debts -- even though the average citizen lives on $1 per day. The 14 countries due to receive the relief are considerably poorer.

While international pop stars sing to promote relief of poverty and debt, African intellectuals and civil society leaders said they were lobbying hard to shift world attention to other issues, such as the need to link aid to a reduction in corruption and to decrease Western subsidies on agriculture.

"You can address poverty needs by filling someone's belly, giving them a doctor and clean water and a house. But that doesn't make them competitive in the world market," Ross Herbert, a researcher with the South African Institute of International Affairs, said from Johannesburg. "A strong element of aid is about national posturing. Then again, Africa needs so much help that we are taking what we can get. Debt relief is a start, but it's not a panacea."

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Herbert said he would like to see G-8 leaders focus on ensuring that aid money goes to developing institutions such as courts and banks, to promote confidence in the rule of law and stability for investors, and on building roads to help cut Africa's onerous transport costs for crops and other products.

The story of Peter Kanans is a case study in how corruption can sabotage even the most ambitious African families. His father was once a successful coffee farmer who sent his sons to college and donated land and money to build a three-story church in their town, 40 miles northeast of the capital, Nairobi.

Kanans got a degree in criminal justice, and rose to become a senior police official and an expert on terrorist bombings. But in the late 1980s, he said, he was fired when he tried to stop a Kenyan official named Nicholas Biwott from smuggling in cheap sugar from abroad without paying taxes. Newspaper reports from that time confirmed Kanans's story. Since then, Biwott has been the subject of numerous corruption investigations.

Kanans went back to farming and took over his father's coffee business. But he said he soon found that government-controlled cooperatives, which acted as liaisons between farmers and the large Western coffee companies, were skimming profits while giving farmers a drastically lower price. He also observed that Kenya was relying more and more on aid, even as its leaders grew richer.

His wife, though a midwife herself, died in childbirth, he said, because the hospital had received little of the aid that supposedly had been donated by foreign countries. His brother, a professor at Kenyatta University, became frustrated with the low pay and left to teach in Delaware.

Back in Kanans's village, many people started to get sick with HIV/AIDS. Kanans and his new wife suddenly found themselves feeding 20 orphans. Aid groups said money was being sent, but he said little reached them.

"Now, I find myself poorer than my father ever was," Kanans said, pointing to a hole in his pants. "All I want to say to G-8 is: Spend some time with the real people of Africa. You're welcome at my home anytime, if you don't mind life without running water."

The Congo Case (NYT)

By James Traub

The New York Times, July 3, 2005

In the last days of 1962, United Nations peacekeepers under the command of Maj. Gen. Dewan Prem Chand of India launched an offensive, rakishly titled Operation Grand Slam, against the secessionist army of Moise Tshombe in the Congolese province of Katanga. Within days, Chand's jet bombers and fighters had smashed the Katangese Air Force, and his men had overrun the rebel strongholds. Tshombe surrendered, and his rebellion, which was among the things that had kept Congo in a state of continual chaos after independence in 1960, largely collapsed. The U.N. remained in Congo for another 18 months. When the troops withdrew, Secretary General U Thant explained that "the United Nations cannot permanently protect the Congo or any other country from the internal tensions and disturbances created by its own organic growth toward unity and nationhood."

Forty-one years later, it is safe to say that while Thant may have been brutally honest about the U.N.'s limitations, he was unduly optimistic about Congo's prospects. The Democratic Republic of the Congo, to use its current and sadly self-mocking name, is on life support, attended around the clock by aid organizations, international bankers, diplomats and, above all, by a vast U.N. civilian and military operation costing $1 billion a year. Congo has in many ways retrogressed since 1960: few Congolese have access to roads, electricity, clean water, medical care or almost any other public services; Congo is a state in name only. Of course, the U.N. doesn't fight wars these days, but even if it did, Congo's problems can no longer be solved by jet fighters. The real problem, of course, is that tangle of "internal tensions and disturbances," which in a happier day seemed like a transitory stage of nationhood.

There is a welcome sense of possibility, even of optimism, about much of Africa just now. At the Gleneagles summit of the world's leading economic powers, the G-8, to be held later this week in Scotland, we may well be hearing a great deal about promising African countries like Ghana or Malawi, which need only timely and well-directed help from the West to prosper. It is a persuasive argument, and an urgent one. But it is also true that great swaths of the continent are occupied by countries -- Sudan, Sierra Leone, Burundi and, not least, Congo -- that, left to their own devices, are very likely to eat themselves up, and their neighbors as well. The international community has no choice but to intervene in these places. While we may know how to stand up to warlords and militias, even if the U.N. has trouble mustering the force needed to do the job, we don't really know what it means to "intervene" against a political culture that is corrupt, mendacious and self-perpetuating. This is a pathology for which the U.N., and the international community, will be avidly seeking a cure for many years to come.

n early May, I flew to South Kivu, an eastern province of Congo that borders Rwanda, in order to spend time with the Pakistani peacekeepers who patrol the area. South Kivu is one of the most heartbreaking regions of what is surely one of the world's most ill-starred nations. It is a startlingly lovely spot, more Hemingway than Conrad: green hills fading into distant, dark

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ridges; exceptionally well-fed cows grazing on the upper slopes; fields planted with corn, beans, cassava and bananas. South Kivu has abundant water and timber, gold and diamonds, copper and coltan (the mineral from which cellphone chips are made). And yet for all that -- in part because of all that -- the fundamental conditions of life are pitiful. As I was bouncing up a steep, rutted road, a soldier nudged me in the ribs and said, "Look, an ambulance." And there, momentarily stopped on the side of the road, were four weary men bearing on their shoulders a wooden cradle that held a woman wrapped in a thin blanket. It would be hours before they reached the nearest clinic, which was unlikely to have any medicine.

South Kivu was a victim of the same neglect that almost every part of Congo suffered during the 32-year kleptocracy of Mobutu Sese Seko. But the region has endured an extra measure of suffering owing to its proximity to Rwanda. In 1994, thousands of Rwandan Hutu génocidaires fled across the border before the advancing Tutsi forces, settling in the rural areas of South and North Kivu and living off smuggling, "taxes" on local markets, kidnapping and plunder. Starting in late 1966, the Rwandan Army poured over the border and massacred its Hutu adversaries as well as thousands of civilians. After the Hutu threat had been suppressed, the Rwandan Army remained in the Kivus, turning much of eastern Congo into an economic protectorate. And when the Rwandan troops finally left under international pressure, the 10,000 to 15,000 remaining members of the Democratic Forces for the Liberation of Rwanda, or F.D.L.R., as the Hutu militia called themselves, returned to their brutal exactions.

U.N. peacekeepers returned to Congo in 2000. Two years earlier, a savage civil war, which involved Congo's neighbors as well as myriad militia groups, had convulsed the entire Great Lakes region. The Security Council agreed to send 5,500 peacekeepers to enforce a very shaky cease-fire. It was a preposterously small number to clamp a lid on so immense a caldron -- the Kivus alone are three times as big as Sierra Leone, where the U.N. had more than twice the number of troops -- and I recall senior officials at the time grimly predicting that the U.N. Mission in Congo, known as Monuc after its French name, would disappear into the Congolese vastness and maybe take the whole peacekeeping enterprise with it. And their fears were soon validated. Peacekeepers were overwhelmed and humiliated on several occasions, most notoriously in Bunia, the chief city of the northeastern region of Ituri, in 2003. There, a small detachment of Uruguayan guards, who had been sent to protect the U.N. mission in the midst of a savage battle between rival militias, remained inside the U.N. compound while hundreds of civilians were murdered.

In May and June 2004, mutinous government troops affiliated with, and quite possibly aided by, the Rwandan government launched attacks on Bukavu, the capital of South Kivu. The city, like Bunia, was protected by poorly trained and equipped Uruguayan peacekeepers. Ordered to take up blocking positions, the Uruguayans instead surrendered the airport and allowed the rebels to take the city, where they indulged in rape, pillage and murder. The Uruguayans protected the hundreds of citizens who took shelter in their compound but refused to venture outside to halt the mayhem. A scathing report by a unit of the U.N. Department of Peacekeeping Operations blamed the civilian leadership of the mission no less than the peacekeepers themselves. William Lacy Swing, the veteran American diplomat who heads the U.N. mission in Congo, personally threatened to take military action if the rebels attacked the airport. But ultimately nothing was done.

The people of South Kivu loathed the Uruguayans, and thus the U.N. itself. When U.N. vehicles drove around Bukavu, local people glared at them and drew fingers across their throats. "The Uruguayans didn't come for peacekeeping," as one Bukavan told me. "They came for tourism." And that very much included sexual tourism. The Uruguayans were notorious for paying villagers -- including children -- for sex. But in this they were scarcely distinctive; U.N. investigations, which began only in the wake of news reports, found numerous instances of sexual abuse, including child prostitution, rape, the exchange of food for sex and other forms of exploitation, among both peacekeepers and civilian employees in Congo. The mission seemed to be a fiasco at every level.

The fall of Bukavu recalled in miniature the most sickening chapters of U.N. peacekeeping, including the slaughter in Srebrenica; indeed, the whole mission, with its failure to come to grips with a chaotic and brutal environment, felt very much like Bosnia redux. But here there was no NATO to save the U.N. with a bombing campaign. Following a request from Secretary General Kofi Annan, the Security Council agreed last fall to add 5,900 troops, principally in the form of new "Kivu brigades," and to give them a stronger mandate. In the Kivus, the Department of Peacekeeping Operations was able to replace a patchwork of national contingents of varying degrees of competence and enthusiasm with brigades of Indians and Pakistanis, among the most professional armies available to the U.N. Early this year, the Uruguayans gave way to a 3,000-man Pakistani brigade.

The area I was driving up to, Walungu, had been terrorized by the F.D.L.R. with almost complete impunity despite the presence of a Uruguayan contingent. At the local peacekeeping headquarters, an island of immaculate landscaping amid dusty squalor, I was greeted by Gen. Shujaat Ali Khan, the new brigade commander. Shujaat, a bluff, garrulous character with a thick black mustache set in a round, pudgy face, gave the impression that, nationality aside, he would have been quite happy serving 40-odd years ago under Dewan Prem Chand. He bridled at the restrictive rules of engagement that have governed peacekeeping ever since the first Congo venture, which, despite its eventual success, provoked a widespread backlash against

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war-fighting by the U.N. "We are not permitted to fly the attack helicopters at night," he complained. "We cannot fly with the doors open and so on." He could not just go and shoot bad guys.

Shujaat was prepared to forcibly disarm the F.D.L.R., but the Security Council resolution that governed Monuc would not permit that. He had to leave disarmament to the Congolese government troops in the area, and that would be a very unequal fight. The F.D.L.R. was a highly disciplined army, while the Congolese Army was barely a fighting force. The troops who had initially been assigned to work with the Pakistanis had instead devoted themselves to plunder, frequently in collaboration with the F.D.L.R. Shujaat had reached a deal with the regional commander in which his men would transport all 2,200 soldiers out of the area in exchange for other government troops actually willing to fight. "Now," he said, "it is as per our desire."

For all his bluster, Shujaat understood that his job was not to attack the F.D.L.R. troops but to suppress their brigandage so that life could return to something like normal. He appeared to be succeeding. Since the Pakistanis had arrived, the population of a camp in Walungu for "internally displaced people" had dwindled from 2,500 to 800. The ultimate goal was to make life so uncomfortable for the Hutu rebels that they would go back home (though it was plain that the hard core of génocidaires would never leave without a fight). Here, too, the situation was improving: At the end of March, in a major breakthrough, the F.D.L.R.'s political arm had pledged to end its armed struggle against the Rwandan government and to return home as long as its members were guaranteed "political space." Paul Kagame, the Rwandan president, had promised them a safe homecoming though not the political space, a commodity almost unknown in Rwanda. Shujaat, a worrier as well as a blunt realist, found the whole enterprise somewhat doubtful. "These fellows are having an excellent life raping the women and so forth," he told me. "Why should they go back and go to prison?"

Later that afternoon, I drove out with a squad of soldiers in open transports with machine-gun mounts. We stopped at a plateau ringed by steep green hills. Here the men would stay for the next 12 hours: if word of an attack came from any of the government soldiers they had posted in the local villages, they would bounce down the rutted lanes and confront the rebels with gunfire if necessary. Maj. Mohammed Younis, the commanding officer, pointed out the local villages along the ridge lines and said, "When we first began, in late March, we had three to four incidents every week." An F..D.L.R. raiding party would wait until nightfall and then attack a village, stealing food and raping women; they frequently kidnapped villagers, took them back to the forest and threatened to kill them if relatives didn't pay ransoms. But Operation Night Flash, as the Pakistanis called their nocturnal vigil, had at least temporarily closed down the crime wave. Younis said that there hadn't been an incident for close to a week.

As an almost impenetrable fog rolled in, we drove down to the village of Kanyola and stopped in a plaza before the parish church. A group of villagers materialized; one of them stepped forward to say that they had just found the bodies of two victims of a notorious F.D.L.R. kidnapping. Would we like to see them? Several minutes later, an old woman came trudging up the dirt lane from the village, bearing what appeared to be a large child on her back. When she drew closer, we could see that the child was in fact a gray-haired man. The woman, who said she was 65, had the stony mien of the endlessly suffering; only when invited to do so did she rest the corpse on the tailgate of one of our vehicles. The man, she said, was her husband. He and seven others had been kidnapped three weeks earlier. She had paid, he had been released and then he had died from natural causes on the way home; she had stumbled across his corpse. The man standing silently next to her, with a bullet wound in his arm, was her husband's brother, who had avoided capture in the same incident. Having told her tale, she bent over double in order to yank her husband's corpse onto her back, staggered for a moment, righted herself and then stoically bore her burden to the steps of the church.

Nothing else happened that night. Like a modern police force, the Pakistanis seemed to have reduced the crime rate by flooding the bad neighborhoods. And it wasn't only in South Kivu that peacekeepers had taken the fight to the enemy. In the Ituri region, scene of the most humiliating of Monuc's failures to protect civilians, peacekeepers in armored personnel carriers had conducted "cordon and search" operations that had led to the disarming of 12,000 of the estimated 15,000 militia members in the area. Violence continued both in Ituri and in South Kivu, but it was no longer apt to lead to another war or to derail the peace process. In the end, that was all peacekeeping could do. The rest was politics. And politics, it turned out, was much the harder part.

ongo's great problem is the same one that plagues so many African countries -- poor governance. But this technocratic term scarcely does justice to the self-perpetuating machine of immiseration that one Congolese leader after another has operated for over a century. King Leopold II of Belgium put the mechanism in motion in the 1880's when he reduced the tribes of the region to so many employees of companies devoted to sucking up Congo's treasures, principally ivory and rubber. The Belgians ultimately bequeathed the country a decent infrastructure, though they left it ludicrously unprepared for self-government. (At independence, none of Congo's 14 million citizens -- zero -- had university degrees in law, medicine or engineering.) Five years after independence, Mobutu toppled Congo's only elected president in a coup and instituted a home-grown version of Leopold's rapacity. Mobutu stole billions over the years, while the roads and hospitals and schools the Belgians had left behind

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disintegrated into the bush. Unlike the Belgian king, Mobutu lavished Congo's bounty on his collaborators, who frequently left a presidential audience with $5,000 or $10,000 in their pockets. Kabuya Lumuna, a former World Bank consultant who served as Mobutu's spokesman and deputy chief of cabinet in the last years, said: "Mobutu created an image for the Congolese people that enrichment through the state was normal practice. It is normal for a person to say: 'I have finished my studies. If I can't get a government post, I will live my entire life in poverty.'"

If the purpose of the state is to organize plunder, then a functioning civil service -- or for that matter, a private sector -- only makes the job harder. What Congo lacks is thus not only an effective apparatus -- customs officials, tax collectors, policemen -- but also a legitimate notion of politics. Something so deep-seated is almost by definition impossible for outsiders to import, yet a legitimate politics is unlikely to arise on its own, because the rewards of corruption are simply too lavish.

In 1997, Mobutu was overthrown by a guerrilla army originating in Katanga. The commander, Laurent Kabila, proved to be every bit as corrupt and brutal as Mobutu but lacked Mobutu's spirit of regal largess. And he was reckless: having gained the indispensable support of Rwanda as well as Uganda, he then shut them out of power. Kabila's former allies turned against him and were all too happy to support, and control, a Congolese militia force. What began as a war in the east in 1998 swelled into a Hobbesian war of all against all. Militias, pro- and antigovernment, rose up across the country. Angola and Zimbabwe entered on Kabila's side; whatever their strategic calculations, Congo's neighbors knew they could exploit the chaos to bite off their own chunk of the country's precious resources. It was civil war as mass plunder. Millions of peasants were forced to flee their villages, leading to as many as four million deaths, chiefly from malnourishment and disease. Kabila was murdered by one of his own bodyguards in 2001, and the Katangese entourage who had come to power replaced him with one of his sons, Joseph, then 29, a feckless character who had worked as a cabdriver in Tanzania and was considered acceptable to the outside world.

That outside world has not allowed the machinery of misery to simply grind on, as it would have until quite recently. In early 2003, after various truces had been signed and violated and hostilities had finally tapered off, President Thabo Mbeki of South Africa coaxed the combatants into forming a new government. Kabila's party, the People's Party for Reconstruction and Democracy, or P.P.R.D., would hold the presidency while vice presidencies and a portion of national and provincial offices would be parceled out among the major opposition forces, including the Congolese Rally for Democracy, or R.C.D., a party from the east essentially controlled by Rwanda; the Mayi-Mayi, an amorphous militia that had fought the R.C.D; and a party from the north organized by a wealthy businessman. The men who had provoked Congo's unspeakable civil war were thus given an opportunity to jockey for a share of its spoils. Through what is widely described as an adroit combination of horse trading and bribery, the P.P.R.D. succeeded in excluding Congo's one legitimate political party, which had formed in opposition to Mobutu, and in including two essentially compliant groups among the "opposition" parties.

he most unusual feature of Congo's power-sharing arrangement is that the warlords agreed to make diplomats from the major-donor countries as well as important African neighbors "co-responsible" for the transition, which is to say that outsiders would have the power to impede the inevitable attempts to corrupt the process. And just as the tribal militias and the F.D.L.R. in the east keep challenging the peacekeepers and forcing them to take a tougher line, so have the members of the transitional government confronted their diplomatic minders. Political failure has been, in fact, directly responsible for much of the continued violence and disorder. The parties to the power-sharing agreement had pledged to integrate their militias into a new national army. But since none of these parties had any real political base, the militias were their sole guarantee of power. And so army units, whatever their new name, tended to remain loyal to their old masters and prone to fighting one another -- as they had in Bukavu in 2004 -- rather than any supposedly common enemy. And since most of the $8 million a month that international donors gave the government to pay its soldiers disappeared in transit, the troops had few means of survival save predation, which in any case they were quite accustomed to from the civil-war period. William Swing, the American head of the U.N. mission, assured me that the chief figures in the government "recognize this, and they want to help." Others I spoke to took the view that it was precisely such heightened opportunities for graft that had lured the warlords into the government in the first place.

The U.N., which holds a nonvoting position on the international committee supporting the process, exercises substantial influence over Congolese affairs owing to its size, the reach of its mission and its impartial status. And Swing has played a crucial role in reassuring foreign capitals that Congo is on the right track. He is a great believer in "the process," for which the U.N. provides technical expertise and political guidance. "Of all the peacekeeping transitions in Africa," he told me in his big office in the U.N. compound in Kinshasa, "I don't know of any that's going better than this one." Swing is a classically optimistic American abroad, a calm veteran of innumerable African upheavals who has stayed in improbably wonderful trim despite his 70 years. His optimism, however, can feel dangerously like nonchalance. U.N. officials tried to force him out of office after his failure in Bukavu and his sluggish response to the sexual-abuse scandal, but after he mounted a campaign in Washington, the Bush administration pressured told Kofi Annan to keep him. And with a mild public chastisement, he was retained. Peacekeeping officials in New York fear that Swing's upbeat salesmanship sends the worst possible message to the principal actors. "My

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feeling," says an official who works with Monuc and thus declined to speak for attribution, "is that we're spending a billion dollars, these people are a bunch of crooks and they're stealing the country blind. We have a responsibility to be pushy."

The question of pushiness has dogged the U.N. and its partners, who seem to shuffle back and forth over some imaginary line of acceptable intervention. When I arrived in Kinshasa in early May, a major crisis was brewing over the constitution. A committee of foreign and Congolese experts had drafted a constitution and submitted it to Parliament, but legislators -- all of them appointed to their posts by the various warlords -- kept changing the document to transfer more and more power to the office of the president, until the constitution had become a virtual blueprint for dictatorship. I had been told repeatedly that Kabila's party, the P.P.R.D., had bribed legislators to, in effect, surrender their own powers. When I met with Azarias Ruberwa, one of the opposition leaders and easily the most highly regarded of the four vice presidents, he said, "The corruption in our country has become so pervasive that these legislators were paid $500 to change their votes -- not $5,000, $500." Ruberwa was outraged not so much at the sale of votes as at the willingness to subvert the nation for peanuts.

The U.N. was then gearing up for a staggeringly expensive and complex national election process, and the prospect of collaborating in what looked like constitutionally sanctioned Mobutuism appalled a number of officials. "We could spend several hundred million to elect a dictator," said Ross Mountain, Monuc's deputy special representative. "Normally you can get a dictator cheaper than that." But diplomats in Kinshasa made no attempt to block the process. Jean-Marie Guehenno, the head of U.N. peacekeeping, went to the Security Council in late April to alert it to this looming catastrophe, but he was firmly rebuffed. The nearly unanimous view was that the Congolese should be free to write their own constitution; it was a matter of sovereignty. And there it would have rested had not Guehenno, deeply alarmed, immediately spoken to senior diplomatic officials in Europe. A few days later, Javier Solana, the European Union's foreign policy chief, came to Congo to personally deliver the message that the constitution was unacceptable. Diplomats in Kinshasa bestirred themselves at the 11th hour to drive home the same point. Kabila, who knows that he cannot survive without international support, finally relented, and on May 13 Parliament adopted a new, more democratic Constitution.

The transition process has been agonizingly protracted. As originally envisioned, the election was to be held no later than June 30, but thanks to endless dithering, it probably won't be held before some time next year. Another opposition leader, Mbusa Nyamwisi, insisted that Kabila and his Katangese entourage, who effectively control Congo's public-sector companies and a range of mining operations, want to postpone the election as long as possible in order to keep the cash register ringing -- though the same can be said for the other leading parties, each with its own fiefs. No one can say for sure whether the Congolese people, who have been hearing for years that change is soon to come, will accept yet another promissory note.

Swing told me that he understands "the general frustration and impatience with the slowness of the transition," but said that he felt that the Congolese people will accept the delay in the electoral process as long as they see forward momentum. Swing's optimism may well prove justified, but when I relayed his views over lunch in a Kinshasa restaurant with a group of leading Congolese journalists and representatives of rights groups, I was greeted with hoots of derision. Belhard Mbuyi, a columnist for Soft, a local daily, said that when he had admonished villagers just outside of Kinshasa to be patient and to trust in the electoral process, they turned on him, saying, "That's what Kabila says; you must be for Kabila." It was, he said, all he could do to keep from being beaten to a pulp. "They've produced so many schedules in the past," Mbuyi said, "and none of them have been kept." Mbuyi fears an explosion of anger that no party will have the organization and legitimacy to control.

Even if the summer passes without incident and the Congolese go to the polls in due course, the election may do very little to legitimize the state in the eyes of the people. And the problem is not only Kabila and his party; few of the chief candidates will have any connection to the aspirations of the Congolese people. "That's why it's not enough to say to the people, 'Elections are coming,'" says a U.N. official based in Kinshasa who declined to be identified. "We have to say: 'We've heard your message that you can't stand these people who were in the bush for five years of war. They started the war, and now they're looting the money.'" The official says that the only way to prevent the election from deepening popular alienation is to sideline the current government, including Kabila, in favor of figures with greater legitimacy. Such conversations, he said, had not yet begun.

The optimistic view is that elections will bring to the fore a new generation of well-educated and forward-looking politicians. And in fact, I met several opposition leaders who seemed to be essentially free of the Mobutuist taint. But that, alas, cannot be said of Joseph Kabila, the likeliest winner of the election. (I was unable to meet with either Kabila or his senior advisers, who had decamped to Katanga in order to suppress an uprising that included members of Kabila's own elite security force.) Kabila has perpetrated no atrocities; he is plainly not the monster his father was. Congolese, including his own partners in government, tend to view him as an amiable nullity -- "The presidential space is absent," the leader of the Senate said -- but one who is answerable to the same men who surrounded his father after seizing power by brute force and who appear to have disposed of Kabila pere when he became a liability. Vice President Ruberwa, who says that he plans to run for president on a platform of good governance whether anyone pays attention or not, assumes that Kabila will use the vast wealth he has amassed to try to buy the

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election. "The danger," he said, "will come if the election is nevertheless seen by the world as legitimate. A thief can always be forced out of office, but if he is legitimized by an election, what can you say?"

Well, you could say, "That's sovereignty for you." The international community cannot force the Congolese people to choose the good guy, any more than they can bomb the bad guys into submission; those days are over. But the only Congolese official I met who talked about sovereignty was an unrepentant servitor to the Mobutu government. The Congolese I talked to want to be saved from themselves, or at least from their desperate predicament. Even those who accuse Monuc of spinelessness or complicity add immediately that of course the U.N. troops mustn't leave. They want more troops, not fewer, and more insistent political engagement. They want to see Kabila brought to heel, even if they aren't sure how.

What, then, is to be done? After all, the doctors of the international community, for all their wealth and know-how, cannot rid Congo of its poisons; this is the work of generations. And one argument we will be hearing from the Bush administration at the Gleneagles G-8 summit meeting is that corrupt countries have to change their own political culture before the world starts pouring in aid. That is true, but rather facile. For just as Monuc has begun demonstrating, at last, that there's plenty of space for action between passivity and warfare, so there is space between anticolonial deference and neocolonial dominion (though Congo presents a pretty strong case for the latter). And it is not just something that we owe to the Congolese. If we believe that in the post-9/11 world we can no longer afford to let failed states fester, then we plainly owe it to ourselves to stop the Congolese political class from preying on its people and to shape the nascent institutions of state in such a way as to give legitimate economic and political activity a decent shot at survival. Is that, in fact, a prescription for some kind of benevolent imperialism? If so, then bring it on.

Africa At The Summit (NYT)

The New York Times, July 3, 2005

"There can be no excuse, no defense, no justification for the plight of millions of our fellow human beings in Africa today. And there should be nothing that stands in our way in changing it." That ringing summons was issued by Britain's prime minister, Tony Blair, earlier this year, when he presented the compelling findings and lucid recommendations of his Commission for Africa. Later this week, we will see whether President Bush has the vision and compassion to meet those challenges, and grasp a historic opportunity to radically improve the life prospects of millions of those fellow human beings.

An unusual and mutually reinforcing set of possibilities is converging around this week's summit meeting of the world's richest countries in Scotland. If Mr. Bush is truly the compassionate conservative he says he is, he will not let the moment pass with the United States continuing to contribute far less than its share to the international effort to include Africa in the prosperity of the 21st century.

Africa is not looking for handouts. It is looking for help in nurturing the human capital, physical infrastructure and governmental capacities that are indispensable to modern development. Africa's poor are asking the world's rich countries for an admission ticket to the modern world. America, the world's richest country, would betray its values and its humanity by holding back.

To his great credit, Mr. Bush has been more attentive to the problems of Africa than his recent predecessors. He has increased overall assistance, stepped up spending on H.I.V./AIDS programs and created the Millennium Challenge Account to reward Africa's best-governed countries. Last week he promised further increases, including a program to fight malaria, and new teacher training and scholarship money to help girls attend school.

But so far there has been a discouraging gap between Mr. Bush's generous declarations and the money Washington has actually made available to Africa. The White House has failed to push the Republican-controlled Congress to fully finance Mr. Bush's aid programs and failed to spur its own aid appointees to get the money flowing to where it is most urgently needed.

At this point, America's total worldwide spending on all forms of foreign aid still amounts to only a relatively stingy 0.16 percent of this country's gross national income, one of the lowest proportions in the developed world. Most European countries represented at this week's summit meeting are already giving substantially higher percentages of their smaller national incomes. Many have promised to double those percentages between now and 2010. Mr. Bush needs to commit Washington to a substantially faster rate of increase to make America once again a leader in global development.

A brighter future for Africa will require more than just increased aid. The other recommendations made by Mr. Blair's commission are just as important. Rich-world agricultural subsidies make it possible for high-cost American, European and Japanese farmers to undersell efficient African producers even in their home markets; they must be phased out. Attention and money must be devoted to strengthening peace agreements and preventing conflicts before they erupt - a far cheaper and more humane approach than waiting to send help only after genocide and other atrocities start appearing on international television screens.

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Donors must also make certain that African governments are held accountable for how the money is spent. Western countries can fight corruption by urging their own companies to be more transparent about the money they pay to African governments for oil, diamonds and other valuable commodities and by pressing Western banks to better monitor and police suspicious deposits and fund transfers.

There is a desperate need for greater policy coherence in a period when many national governments, including Washington, are sensibly exhorting African governments to spend more on primary health care and education while international financial institutions largely controlled by those same Western governments have been pressing African countries to shrink their government payrolls, including teachers and health care workers.

Africa comes to this week's summit meeting proclaiming its commitment to be a responsible and constructive partner in its own development. It has made significant accomplishments over the past decade or so. These include a rising trend of multiparty elections across the continent (tyrannies like Zimbabwe's are now the exception, not the rule), an important reduction in the number and scope of destructive civil wars (Darfur being a tragic counterexample), the spread of enlightened economic management (notably in South Africa, Uganda and Ghana) and brave governmental forays against corruption in places like Nigeria.

Nurturing these positive trends and providing hope for Africa's millions, is, as Mr. Blair unflinchingly put it, "the fundamental moral challenge of our generation." We beseech Mr. Bush to embrace that challenge on behalf of the American people.

A Promise, And Pitfalls (LAT)

The Los Angeles Times, July 3, 2005

President Bush's announcement last week of a $1.2-billion package to fight malaria in Africa over the next five years showed an awareness of the disease's economic and human toll. That's progress; the United States has essentially ignored its devastating effects on Africa for decades, throwing in token sums that have enriched U.S. aid contractors but done next to nothing to reduce mortality from a plague that kills from 1 million to 3 million people a year.

Speaking at the Smithsonian Institution on Thursday, Bush announced a package of aid for Africa that also included a doubling of U.S. spending to $400 million for promoting education for girls and an additional $55 million over three years to improve legal protections for women. Welcome moves all, but also a defensive strategy. At the Group of 8 summit starting Wednesday in Gleneagles, Scotland, Bush will be asked to join an initiative by British Prime Minister Tony Blair to double overall aid to Africa. Bush now has a face-saving way to turn Blair down.

All that aside, Bush's malaria initiative is an inspirational commitment that — if implemented properly and fully funded by Congress — could save thousands of lives. Unfortunately, those are big "ifs."

Bush has made grand promises before on foreign aid but failed to wield his influence over the Republican-controlled Congress to get them funded, or to follow through to get the money used.

His biggest aid initiative, the Millennium Challenge Account, was initially touted as a sweeping commitment to Africa that would rise to $5 billion a year by 2006. For the 2006 budget, Bush requested $3 billion for the account, and last week a Senate subcommittee trimmed that to $1.8 billion. The previous year's commitment was less. Yet even that is misleading. To date only $400,000 from the account has actually been spent, though commitments have been signed to spend $610 million on four nations.

Assuming Bush can drum up the money to keep his $1.2-billion promise on malaria, there are serious questions about how it would be spent. At all costs, the administration should resist the traditional method of distributing foreign aid: giving it to the U.S. Agency for International Development.

In May, Senate hearings on USAID's anti-malaria spending turned up some shocking revelations, including the fact that just 5% of the agency's $90-million malaria budget is spent on concrete tools to fight the disease, such as insecticide-treated bed nets and drugs. The bulk of the money goes to nonprofit U.S. corporations that mostly provide high-priced consulting work to African governments or create public education campaigns to induce people to buy bed nets, which very few rural Africans can afford.

The administration promises to work with other governments and the Global Fund to Fight AIDS, Malaria and Tuberculosis, and that's a good sign. Bush should see this initiative as an experiment in distributing aid without USAID's involvement.

Now's Not The Time For Europe To Go Wobbly (WP)

By Ivo Daalder And James M. Goldgeier

The Washington Post, July 3, 2005

From the beginning, Europeans have greeted President Bush's "transformational diplomacy" with disdain. To them, the mess in Iraq demonstrates the failure of a policy that relies on speaking loudly and carrying a big stick. Instead of pursuing a

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policy of invasion, Western Europe has used the prospect of membership in the European Union to help transform the countries of Central and Eastern Europe into stable market democracies, thus continuing a process that saw Greece, Spain and Portugal join after they too pursued a democratic path.

The crisis in Europe that has emerged in recent weeks, first with the rejection of the European constitution by voters in France and the Netherlands and then with the breakdown of budget negotiations at last month's E.U. summit, has put the brakes on talk of continuing the enlargement process. The consequences of turning inward will not be temporary -- nor confined to Europe alone. Nations that had hoped to join instead face a future marked by economic decline, creeping authoritarianism, growing instability and possibly even violence. As for the European model of transformation -- recently heralded as the reason "Why Europe Will Run the 21st Century" -- it will lose its luster in other parts of the world, which looked to Europe's success as a way to direct their own future.

In the last 15 years, many east European countries reformed their economies, tackled corruption and opened their political systems in the expectation that E.U. membership would bring them the peace and prosperity their western neighbors had long enjoyed. That hope may now be lost for all remaining aspirants but Bulgaria and Romania, whose negotiations with the E.U. are far enough along that they may join in 2007. Turkey will have to rethink its assumption that the opening of formal accession talks on Oct. 3 would be the first sure step to membership down the road. The Balkan countries of Croatia, Macedonia and Bosnia will have to revise their hopes that the years of war could finally be put behind them as they joined Europe, paving the way perhaps for Serbia and Montenegro and a final resolution of the festering sore of Kosovo. And Ukrainians will have to think again about whether the 2004 Orange Revolution really heralded a new Euro-Atlantic orientation after years of increasingly corrupt and authoritarian rule.

For all of these countries, Europe's current crisis could not have come at a worse moment. Conflict over the future course of reform will be likely in them all, halting if not reversing the progress made to date. Europe's entire periphery will be that much more unstable -- with consequences for stability within the E.U. itself.

The growing resistance to enlargement is shortsighted. Let's remember what earlier enlargement did for Europe in just 15 years. A continent that produced World War I, World War II and the Cold War has been transformed into a Europe nearly whole and free and at peace. Never before have so many countries with so many people made such political and economic progress in such a short period of time as the countries imprisoned for decades behind the Iron Curtain. These gains are now being put at risk.

Take the Balkans. While the violence of the 1990s is behind us, the situation there remains fragile. For now, the ugly face of nationalism is being held in check as Bosnia, Croatia, Macedonia and Serbia have embarked on the reforms necessary to be considered for E.U. membership. Once that door closes, the political consensus in favor of reform will likely shatter as leaders fall back into their old ways. The situation in Kosovo remains particularly volatile -- with the only viable long-term solution being for both Kosovo and Serbia to join the larger Europe.

Turkey offers the more immediate challenge. While voters in France and the Netherlands made clear that they did not want Turkey to join their Union, can Europe really afford not to continue on a path that would lead to membership for the first primarily Muslim country? Consider what might be lost. Because of the need to satisfy the E.U.'s criteria, Ankara's leaders have already undertaken extraordinary reforms. On the political side, Turkey has abolished the death penalty, allowed much greater freedom of speech and introduced civilian control over military budgets. On the economic front, Ankara has slashed government subsidies. The government has reached out to the country's Kurdish minority and to neighboring Greece, with which relations are better than ever. All this might be lost if Europe fails to leave open the possibility of Turkey's membership.

Similarly, without the incentive of E.U. membership, Ukraine's new leaders may prove either not committed or not strong enough to root out corruption and reform the security services. These are tough challenges -- but ones that Ukraine's neighbors were determined to overcome once they realized this was the price they had to pay for entering Europe. If Ukraine fails to get a clear signal that its future lies with Europe, the hopes of the Orange Revolution will fade fast.

The consequences for Europe of a failure to keep the enlargement process moving are grave. Failure in Turkey might well inflame Muslim populations throughout Europe. And while many Europeans fear that Turkish membership brings Europe to the borders of Iran, Iraq and Syria, Europe cannot hope to play a stabilizing role in the broader Middle East if it does not help Turkey succeed.

After the bright hopes of last year, failure in Ukraine would be disastrous for the former Soviet Union as a whole, producing a sense of crisis not only for Ukraine's neighbors in the east but also for some of its E.U. neighbors in the west, potentially increasing Moscow's leverage over these nations.

There is too much at stake for Europe to accept risks like these. Washington must help its European friends in developing policies that minimize the damage. NATO's expansion policy, which has languished as E.U. enlargement took center stage, should be put back on the front burner to address the fears and aspirations of countries like Ukraine, Serbia and Bosnia. The

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E.U. must also create new kinds of association arrangements that fall short of membership, and thus do not evoke the kind of public opposition that full membership now does.

Unless the door to Europe is kept ajar, the instability that continues to bedevil Europe's periphery in the broader Middle East and the former Soviet Union will come to plague Europe itself and all that has been accomplished there. The consequences would be bad not just for Europe, but also for the United States, which needs a strong partner to address challenges emanating from Northern Africa, the Middle East and Eurasia.

Music, Politics Merge In Live 8 Concerts Across The Globe (KRT)

By Matthew Schofield

Knight Ridder, July 3, 2005

The new era of celebrity diplomacy kicked up its volume Saturday, with rock concerts on four continents aimed at forcing world leaders to increase African aid, cancel existing debt and open up trade.

The concerts, the beginning first in Tokyo with the last of the day ending in Barrie, Canada, attracted more than a million in person, and a potential television audience of billions. The effort was called Live 8, a counterweight to the G-8 summit scheduled to begin Wednesday in Gleneagles, Scotland. The G-8 is a group of the world's eight most powerful leaders. At their meeting this week, they are scheduled to address African economic and global climate issues.

In addition to the concerts, almost a quarter million protesters marched in Edinburgh, the nearest large city to the summit site, calling for an end to poverty.

Summit participants, including President Bush and British Prime Minister Tony Blair, have already preliminarily agreed to cancel $40 billion of debt in the world's poorest nations, and to increase direct aid moving toward the $25 billion to $50 billion called for by Live 8 organizers.

Critics of the effort claim that it focuses too much on aid and too little on job creation in Africa, that it is too patriarchal and that too few Africans are involved in an effort aimed at helping Africa.

The focus Saturday, however, was on stage. The driving force behind the effort, Bob Geldof, formerly of the Boomtown Rats and the organizer 20 years ago of Live Aid - the concert that raised about $150 million for African aid, had billed this not as a fund-raiser, but a consciousness raiser.

In a tribute to the first effort, the London concert began with rock group U2 and former Beatle Paul McCartney singing "Sgt. Pepper's Lonely Heart's Club Band," opening with the words, "It was 20 years ago today ... "

Before the London concert began in Hyde Park, as about 200,000 waited outside a quickly built stage framed by guitars with the body shaped like Africa and the necks twisted into figure eights, Geldof told reporters: "Everything that rock and roll is meant to be is happening now."

Later, during the performance, he would describe Saturday's concerts as part of the "long, long walk to justice."

Performers around the world mixed music with the political pleas, pop-star Madonna, in London, asked concertgoers, "Are you ready to start a revolution? Are you ready to change history?"

In Philadelphia, in a scene that was broadcast to concerts around the world, actor/singer Will Smith urged people around the world to snap their fingers at three-second intervals, noting that the pace represented the death rate for African children from poverty.

Not all of those on stage were artists, however.

In Johannesburg, former South African leader Nelson Mandela - in a message broadcast to other venues - called the worldwide event an "historic opportunity," for "a better future for all ... It is within your power to prevent a genocide against humanity."

And Microsoft billionaire Bill Gates noted in London, "If you show people the problems and you show them the solutions, they will be moved to act."

The G-8 includes the United States, United Kingdom, Canada, France, Italy, Germany, Japan and Russia, and there was a concert in each nation.

United Nations Secretary-General Kofi Annan, in London to show support for Live 8, said that there was great value in turning the world's eyes toward the problems of global poverty.

"On behalf of the poor, the voiceless and the weak, I say thank you," he said.

Off stage, Bono, of the rock group U2, said that they weren't there to change the world, but to energize the audience to take up the cause.

"The rock stars and hip hop stars can't change anything," he said. "But the audience can. They can put the politicians who do something in and out of office."

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City Of Brotherly Love Brings It On Home (WP)

By J. Freedom Du Lac And Teresa Wiltz

The Washington Post, July 3, 2005

It's not every day that you see this: A prepubescent girl in the middle of a Million Fan Mosh, squealing in apparent ecstasy and holding up a hand-drawn sign that declares "I (Heart) Linkin Park!!!!!!" A few feet to her left, a woman old enough to be her mother wearing a Toby Keith T-shirt. And nearby, a solemn-looking man holding his own stenciled statement that says: "Make Poverty History."

That unlikely brew of cause and cacophony was the hallmark of Live 8, the politically motivated pop festival that was staged Saturday in 10 cities around the world. The only U.S. edition was here, on the Benjamin Franklin Parkway in front of the Philadelphia Museum of Art.

Mayor John Street announced that 1 million people packed the 60 acres on and around the mile-long boulevard. If that number is remotely accurate, Live 8 would rank as the largest concert ever staged in North America.

No question, hundreds of thousands of people turned out for a musical smorgasbord that had the multiethnic rap-rockers Linkin Park and the country boy Keith sharing a stage with neosoul singer Alicia Keys, hair-metal relics Def Leppard and rap star Kanye West. (Not all at once, though.) United in cause, if nothing else, the disparate group of stars provided the draw -- and, every few minutes, the message, too:

Dear world leaders,

Rid Africa of debt. Now.

Signed,

The Billboard Top 40

"This is one of the most important things we will collectively or individually be a part of," singer Rob Thomas told the crowd. A sheepish look washing over his face, Thomas then introduced a relationship song by noting that "it doesn't have anything to do with" the issues at hand.

At least he acknowledged what was becoming increasingly obvious and awkward: That few of the performers chose material even remotely related to the core Live 8 message. Organizers did have the good sense to fill the show-closing slot with Stevie Wonder, who has long addressed human suffering and injustice in song; yet even Wonder's set included off-message love songs, such as "Signed, Sealed, Delivered I'm Yours."

The crowd was blessed with plenty of sunshine and relatively mild temperatures for July, although it didn't seem that way after a few hours in shoulder-to-shoulder formation. The show ran from a little before noon until nearly 7 p.m., about an hour longer than planned yet still relatively close to schedule for an event that came together in just 32 days.

By show's end, police reported four arrests for what were called minor incidents and five disorderly conduct citations. Thirty-eight people were transported to hospitals, primarily for heat-related problems, and about 300 concertgoers were treated and released at medical facilities at the concert site, according to Tom McNally, a spokesman for the city.

The technological difficulties of coordinating so many shows -- 10 on four continents -- became obvious early in the day, when the nine Jumbotrons in Philadelphia showed Paul McCartney and U2 performing "Sgt. Pepper's Lonely Hearts Club Band" in Hyde Park as audio bled in from Paris, where R&B singer Craig David was doing a severe disservice to the Beatles classic "Come Together." Throw in the distraction of a bass being sound-checked and you had a mash-up gone awry.

As if on cue, a mounted police officer's horse, trotting through the crowd, relieved itself at that very moment.

There were other glitches in Philadelphia, too. During the Black Eyed Peas' set, almost an entire verse of "Where Is the Love?" went unheard. Speakers popped and crackled during Destiny's Child's performance, appearing to strain under the weight of all that thunderous bass. (Or maybe that was the sound of all those jaws dropping when Beyonce Knowles sashayed onstage in a perilously short white skirt.)

The Jumbotrons were meant to connect concertgoers in the nether reaches of the parkway to the performers, but the screen operators often betrayed a wandering eye. The majority of West's electrifying set, for instance, was heard but not seen, as the screens flashed canned video images rather than the Chicago rapper-producer's actual performances of the smash hit "Jesus Walks" and the new anti-bling treatise, "Diamonds of Sierra Leone." It was a shame, as the set was one of the day's artistic high points.

Not that this was supposed to be about art.

Live 8 organizer Bob Geldof's goal was to make a social statement so grand, so loud, that the leaders of the industrialized world simply could not ignore it. So, with a few exceptions, Geldof booked the biggest artists, not necessarily the best.

How else to explain the ridiculous sight of Bon Jovi's Richie Sambora fretting over his anachronistic double-neck guitar? Or, worse: a choice slot for those piffle-rock masters, Maroon 5?

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At least fans weren't ripped off. As with the other Live 8s, the Philadelphia concert was free.

"We're not asking for your money," actor Don Cheadle said from the stage. "We're asking for your voice."

Cheadle then urged everybody to sign an online petition to pressure the G-8 participants, meeting this week in Scotland, to help Africa out of abject poverty.

Said actor-rapper (and Philly native) Will Smith: "We're calling on the eight most powerful leaders to do what they can to end. This. Tragedy."

These being megalomaniacal pop stars, of course, there were also calls made in the name of far less noble causes.

Having been carried onto the stage on a throne, Smith instructed the crowd to scream "Will's house!" every time he asked just where we were. He also detonated various pyrotechnics in an apparent effort to mark his territory. (It didn't work, as he was overshadowed by several artists, including West, the rock-rap group Linkin Park performing an explosive set with rap icon Jay-Z; Australian heartthrob Keith Urban, whose country-pop performance was a revelation -- even Bon Jovi.)

The Black Eyed Peas weren't nearly as braggadocious as Smith. That's never been the boho-pop-rap group's style. The group did, however, show off at least a hint of crassness when lead vocalist will.i.am introduced the last part of the group's set by saying: "We're going to do a song off our new record, 'Monkey Business.' " In mentioning their product by name, the Peas stood virtually alone.

To their credit, the Peas -- like the other Live 8 performers here and around the world -- did not receive a penny for having performed. But it wasn't exactly a net loss. The artists got to perform their hit songs -- typically three to a set -- before a global TV audience that organizers predicted would number more than 2 billion.

Backstage, according to the Philadelphia Inquirer, every performer received a token of the organizers' appreciation: a $3,000 Hugo Boss duffel bag, along with access to an impressive spread of swag, from $2,000 Gibson guitars to Bertolucci watches worth as much as $6,000.

Backstage, in the press tent, celebrities were shuttled in and out for a little picture-taking and a little espousing about the troubled state of affairs on the African continent.

Some didn't even bother with the espousing part. There was Anna Nicole Smith, she of the hyper-inflated chest and the newly Trimspa'd bod. It was announced that Ms. Smith would not be fielding questions. She was, however, more than happy to provide a photo op. Dressed in skinny jeans and a nearly absent pink top, she preened and posed, smiling and mute, her Mystic Tan gleaming. She shimmied and shook her implants, just as Jumbotrons began transmitting Will Smith's speech.

"Every three seconds, a child in Africa dies," he intoned onstage as the other Smith shook her investments.

The Rev. Al -- Sharpton, not Green -- was in the house, seemingly impervious to the heat with his shellacked hair and beige leisure suit. He came with a posse and an agenda: He and Mayor Street would be meeting the next day to form a "follow-up plan" to Live 8.

Someone from the press corps wanted to know how Sharpton remained so "fearless."

"You have to be committed," Sharpton said. "You have to be here for a reason, not just a season. I'm not always fearless."

Rita Marley, looking glam and way younger than her sixtysomething years in high heels and capris, was channeling her late husband, reggae giant Bob Marley. When asked a question, she spoke in lyric:

"Get up, stand up, stand up for your rights," she said, "Get up, stand up, don't give up the fight."

Kami, the HIV-positive puppet who appears on the South African version of "Sesame Street," was backstage, too. Reporters diligently asked the puppet questions and jotted down answers.

Out front, the show began 15 minutes before noon, when the British band Kaiser Chiefs bounded onstage after what seemed like endless hours of sound checks. Looking like they'd time-traveled from the first Live Aid (neck scarves! oh-so-'80s blazers! rolled-up jeans!), the group offered a rather ominous opener: "I Predict a Riot."

If nothing else, the show suggested a possible new Olympic sport: The 60-acre steeplechase. Police cleared the parkway overnight and kept eager fans at bay until daybreak, when the tree-lined boulevard was reopened to pedestrian traffic and a human autobahn materialized. "It was crazy -- totally insane," said Michael Lunt.

The 23-year-old had flown in from Salt Lake City overnight, arriving just in time to make a mad dash in the general direction of the stage. To get there, he had to avoid wires, fencing, vending trucks, 400 Port-a-Potties and tens of thousands of people along the way.

"There were already a ton of people here," said Lunt's friend, Jeff Johnson, 24, who had taken the train up from Washington's Union Station. "The floodgates opened, and everybody just started running. Whoever was fastest got up to the front."

The two Brigham Young University students must be fleet afoot, then: As the show began, Lunt and Johnson were positioned just behind the metal barricades 30 yards from the stage. They were the best spots in the house, at least for the hoi polloi. VIPs occupied the area immediately in front of the 60-by-120-foot stage and even got their own folding chairs.

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Lunt and Johnson hadn't slept since Thursday, and they clearly hadn't prepared for the marathon event. Neither was wearing sunscreen (which became evident by noon, as their faces turned a bright pink). Nor had they eaten since Friday, when Lunt had a small bag of pretzels on the plane and Johnson had a hot dog -- and now there was no food within grabbing distance. "We'll feed off the music, I guess," Lunt said.

And then, there was the bathroom issue. As in: how to go without losing those spots near the stage?

"We're pretty much stuck here," Johnson said. "I guess we'll have to go easy on the water. But it's worth it. It's a once-in-a-lifetime opportunity."

As fans wedged onto the parkway sang along to Destiny's Child's "Say My Name," a couple performed an erotic pas de deux, grinding to the music as the man yelled, "Owwwwww! Owwwwwww!" and others looked on in bemusement. There were those who attempted to picnic, bravely spreading out blankets on the grass -- only to have them trampled by the crowd.

As Wonder closed the show, the air was ripe with the fragrant aroma of day-long sweat and sunburned skin. Everyone got to their feet.Young girls swathed in the latest in boho-chic peasant skirts clutched tiny American flags. A contingent of rollerbladers danced with their helmets on. They'd been on hand to help, running water to police and firefighters. Now they were taking advantage of their access to get closer to the stage.

Backstage, singer Sarah McLachlan said that performing here was almost a "meditative" experience. "I've never gone by myself live in front of all these people," she said. "I almost started crying."

She said that as soon as she heard "a hint of a whisper" that Live 8 might be happening, she asked her manager to sign her up.

Wonder was the last to speak backstage, switching to a business suit emblazoned with gold brocade, evocative of Michael Jackson's court attire.

"How can you take the first continent of civilization, with all its natural resources, and not give back?" he said. "It's a joke."

Live 8 Concerts Rock The Globe For Africa (WT)

By Scott Galupo

The Washington Times, July 3, 2005

Hundreds of thousands turned out here yesterday for the U.S. installment of Live 8, a worldwide cluster of concerts performed in advance of the July 6 summit of Group of Eight leaders and designed to raise awareness of poverty in the developing world.

The six-hour concert, staged in front of the Philadelphia Museum of Art and stretching across 60 acres of the Benjamin Franklin Parkway, featured top American artists, such as the rock band Bon Jovi, country musician Toby Keith, rapper Jay-Z and R&B group Destiny's Child.

"With the stroke of a pen, eight men can make a world of difference for billions of people," said rapper-actor and concert host Will Smith, referring to the world leaders who will meet Wednesday in Gleneagles, Scotland.

Live 8 organizer Bob Geldof requested that performers ratchet down the kind of partisan rhetoric that characterized celebrities' involvement in the presidential election last year. Artists here complied for the most part, but, occasionally, lips loosened.

Before his performance, rapper Kayne West said the Iraq war, the AIDS epidemic in Africa and the South Asian tsunami made him wonder, "Are all of Hitler's dreams coming true -- to only have one race left?"

In addition to pop musicians, the event drew black actors, such as Chris Tucker and "Hotel Rwanda" star Don Cheadle. And the scantily clad reality-TV star Anna Nicole Smith posed for reporters, but chose not to answer questions, such as "Why are you here?"

Elsewhere across the globe, more than a million fans attended concerts in Tokyo, Moscow, Johannesburg, Berlin, Rome, Paris, Toronto, London and the southwest England town of Cornwall, where a concert featured African-based musicians.

None of the Live 8 concerts yesterday raised funds for the blighted African nations. Instead, Mr. Geldof, the driving force behind the Live Aid famine-relief concerts 20 years ago, said Live 8 represented a post-charity phase of a global anti-poverty campaign.

Mr. Geldof and fellow Live 8 organizers U2 frontman Bono and screenwriter Richard Curtis aim to convince the world's eight leading industrialized nations to cancel the debt of Africa's poorest countries, increase foreign-aid spending and open their markets to African exports.

"Don't make Africa more pathetic," said Rick Warren, author of "The Purpose Driven Life." "Africa doesn't need a handout. It needs a hand up."

The Live 8 concerts, London's in particular, were criticized for excluding nonwhite musicians. Philadelphia's lineup, meanwhile, was heavy on black hip-hop and R&B artists, such as Mr. West, the Black Eyed Peas and Alicia Keys.

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Record producer and Philadelphia event organizer Russell Simmons said "no big idea carries in America without hip-hop."

Benjamin Chavis of the Hip-Hop Summit Action Network said, "Hip-hop is a growing cultural phenomenon throughout Africa. We want to connect."

Attendance figures here were disputed primarily owing to the no-ticket, all-invitation nature of the event. (Concertgoers at London's Hyde Park, in contrast, were awarded tickets on a lottery basis.)

Thousands of people streamed through Philadelphia's center-city core -- which was closed to vehicle traffic -- just to be within reverberatory earshot of the music.

Veteran local promoter Larry Magid reported "no surprises" about midway through the afternoon.

"Are we good or what?" said local disc jockey Cindy Drew, boasting of the city's capacity to handle large crowds.

Crane-hoisted hoses sprayed the crush of people on the parkway, whose carnival-like perimeter was dominated by freelance T-shirt hawkers and a bevy of food vendors.

In fact, a minor pre-concert controversy here revolved around the seemingly disproportionate share -- 17 percent -- of minority set-aside vending spaces that were given to Philadelphia Mayor John F. Street's brother, T. Milton Street.

"There was no special arrangement for him," a spokesman for a food company partnering with Mr. Street told the Philadelphia Inquirer.

In Johannesburg, former South African President Nelson Mandela received a five-minute ovation, according to wire reports. "History and the generations to come will judge our leaders by the decisions they make in the coming weeks," Mr. Mandela said. "I say to all those leaders: Do not look the other way. Do not hesitate ... . It is within your power to prevent a genocide."

In Hyde Park, Paul McCartney and U2 opened the show jointly with a rendition of the Beatles classic "Sgt. Pepper's Lonely Hearts Club Band." Aptly enough, the song's first line evoked the anniversary of the original Live Aid: "It was 20 years ago today ... ."

Organizers estimated that up to 85 percent of the world's population had access to the Live 8 concerts through television, radio or online broadcasts. In parts of Europe, the concerts could be viewed on mobile phones, according to Ralph Simon, head of the London-based Mobilium Group.

Asked in Philadelphia if artists felt they were competing with the $200-million-raising-legacy of Live Aid, Def Leppard frontman Joe Elliott said, "We're not competing with anybody. Everybody wins today."

Musical Cry To Help Africa's Poor Is Heard Around Globe (NYT)

By Sarah Lyall

The New York Times, July 3, 2005

Hundreds of thousands of people gathered here and in nine other spots around the world on Saturday for a series of free concerts meant to persuade world leaders to give more money to fight poverty in Africa.

The concerts, held in South Africa as well as in each of the eight countries whose leaders will gather at the Group of 8 summit meeting in Scotland starting on Wednesday, were a triumph of logistical flexibility, extravagant idealism and strange juxtapositions.

In London, the preternaturally scruffy Sir Bob Geldof, the former Boomtown Rat and the events organizer, performed an old favorite, "I Don't Like Mondays," while the clean-cut billionaire Bill Gates told the cheering crowd that "some day in the future, all the people in the world will be able to lead a healthy life."

Conceived only in May and organized in haste, with additions popping up at the last minute - concerts in Moscow and Japan were announced just a few days ago - the Live 8 shows were intended to send a loud message to the leaders of the eight countries before their meeting.

In Philadelphia, an estimated 1.5 million people heard the rapper and actor Will Smith relay the sobering statistic that in Africa, one child dies every three seconds. In Johannesburg some 40,000 people gathered to listen to the music and to denounce the selfishness of the world's richest countries.

"They owe us," said the South African pop star Zola, speaking of Europe. "They are the ones who brought slavery, killed our ancestors. If anybody must pay, they must pay us back so that we can have jobs and education."

Elsewhere, some of the stars seemed unsure of the statistics they were citing - in London, performers could not agree whether 50,000 Africans die of poverty every day, or just 20,000 - but the sentiment was there. "This is our moment; this is our time; this is our chance to stand up for what's right," Bono of U2 told the crowd in Hyde Park, saying 3,000 Africans die every day of bites from disease-carrying mosquitoes.

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U2 led off the concert here, playing "Sgt. Pepper's Lonely Hearts Club Band" along with one of its composers, Sir Paul McCartney. The familiar opening line - "It was 20 years ago today" - was an affectionate reference to Live Aid, the multiact extravaganza staged in 1985, also by Sir Bob, to raise money directly for African famine relief.

Expectations for Live 8 were high, as was on-the-scene euphoria. Chris Martin, the charismatic frontman of Coldplay, which performed in London, called the concerts "the greatest thing that's ever been organized, probably, in the history of the world."

According to Sir Bob, who sweet-talked, strong-armed and shamed politicians and musicians into endorsing and taking part in the 10 concerts, the collective gatherings constituted "the largest mandate for action in history."

Among his "demands" were that the Group of 8 leaders increase aid to Africa by $25 billion, as well as send an additional $25 billion to impoverished non-African countries.

The concerts included more than 200 musical acts scheduled to play more than 69 hours of music. Organizers said 5.5 billion people would be able to watch or listen on the Internet and over 182 television stations and 2,000 radio networks and stations.

Enormous crowds turned out for the concerts in London and in Philadelphia, where a diverse and mellow crowd withstood 85-degree heat to listen to bands including Destiny's Child and the Black-Eyed Peas. But some of the other concerts - held in Barrie, Canada; Berlin; Johannesburg; the Eden Project, an ecological theme park in Cornwall, southwestern England; Moscow; Versailles, France; Philadelphia; Rome; and Chiba, Japan - proved not as well-attended as expected.

The concert in Japan drew just 10,000 spectators, in a stadium that holds twice that many. At the Circus Maximus in Rome, the crowd was estimated at about 200,000, and enthusiasm was high. "I wanted to raise their awareness about issues like canceling the debt," Isabella Dandina, a 40-year-old housewife, said of her three teenage children. She said she thought the initiative would jolt the Group of 8 leaders into action. "We're all voters, if you want to put it in blackmail terms," she said.

The mood was festive at the Brandenburg Gate in Berlin, too. "I can feel a sense of community among all the people," said 31-year-old Peter Gabriel, a computer engineer, "and many of the band leaders actually seem very convincing in what they say."

Many Africans were not aware that concerts were being held on their behalf. "I hope it's going to help us Africans," said Jane Waisaka, a hairdresser in Nairobi, "but I really don't know how."

Sir Bob has certainly been doing his best to prod politicians into paying attention, publicly berating Italy and Canada, saying they do not spend enough money on foreign aid.

The call was taken up at the concert in Barrie, a town about an hour north of Toronto, where the Canadian musician Tom Cochrane said onstage that foreign aid should represent 0.7 percent of the country's gross domestic product.

But a poll published Saturday said most Canadians agreed with their prime minister, Paul Martin, that spending should be kept in check so as to preserve the country's budget surplus.

"I'm sure Bob Geldof means well," the commentator Connie Woodcock wrote recently in the Toronto Sun, "but where does this second-string musician get off telling Paul Martin he doesn't like our foreign aid spending?"

Start To Make It Better, Live 8 Urges (LAT)

By Randy Lewis and Vanora Bennett

LAT -- Live 8, July 3, 2005

The day began here with Paul McCartney and U2 joining forces, climaxed with the emotionally charged reunion of iconic '70s rock band Pink Floyd and wrapped with an all-star cast singing the Beatles' "Hey Jude."

And that was just on one of the 10 stages around the world that were part of Saturday's Live 8 concert extravaganza to raise awareness about poverty in Africa.

American rock band Green Day powered through Queen's "We Are the Champions" in Berlin, husband-wife country music stars Tim McGraw and Faith Hill topped the bill in Rome, and in Canada, Neil Young delivered a tenacious rendition of his sardonic anthem "Rockin' in the Free World" in his first public performance since a brain aneurysm in March.

About 900,000 people turned out in nine countries for the free concerts, which were broadcast live on TV, radio and over the Internet in 140 countries to a potential audience estimated at more than 1 billion.

"This is our moment, this is our time," U2 singer Bono, one of the driving forces behind Live 8 and 1985's Live Aid, said in front of an estimated 200,000 people at London's Hyde Park. "This is our chance to stand up for what's right. We're not asking for charity. We're asking for justice."

Unlike the Live Aid concerts in London and Philadelphia two decades ago, at which fans were asked to open their hearts and their wallets to help famine victims in Africa, the thrust of Live 8 wasn't raising funds, but consciousness about the toll poverty is taking in Africa.

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Musicians and celebrity speakers urged audiences to pressure President Bush, British Prime Minister Tony Blair and leaders of other wealthy nations to take swift action when they meet for the annual Group of 8 summit Wednesday near Edinburgh, Scotland. About 220,000 people gathered there Saturday for a rally timed to coincide with the summit and the concerts.

Live 8 supporters want the G-8 to adopt a three-pronged program mirroring recommendations by Britain's Commission on Africa, of which Bob Geldof, organizer of Live 8 and Live Aid, is a member. It calls for canceling debts, increasing foreign aid and ending trade tariffs for impoverished African nations.

McCartney and U2, who sang the Beatles' "Sgt. Pepper's Lonely Hearts Club Band" on Saturday, were joined in London by other Live Aid veterans, including the Who, Madonna, Elton John and Sting.

At other venues, Stevie Wonder, Jay-Z, Celine Dion and more than 100 pop, rock and rap performers took the stage in Philadelphia, Moscow, Tokyo, Berlin, Rome, Paris, Toronto, Johannesburg, South Africa, and Cornwall, England. Many of the musicians were children when Live Aid was staged, and many watching the Live 8 shows hadn't been born.

"This is really the United Nations," U.N. Secretary-General Kofi Annan told the London audience on a warm afternoon. "The whole world has come together in solidarity with the poor. On the behalf of the poor, the voices of the weak have said thank you."

In Johannesburg, former South African President Nelson Mandela received a five-minute standing ovation from an audience of more than 8,000 after saying, "History and the generations to come will judge our leaders by the decisions they make in the coming weeks."

Anti-establishment rock stars even turned over stage time to one of the world's most famous capitalists and philanthropists, Microsoft Corp. co-founder Bill Gates, who received a hero's welcome. "We can do it," he said, "and when we do it, it will be the best thing humanity has ever done."

As chairman of this year's G-8 summit, Blair has promised to put the issue of poverty in Africa at the top of the group's agenda. Saturday's concerts were hastily mounted after being announced in May by Bono and Geldof.

In one of the day's most dramatic and emotional moments, Geldof addressed the skepticism directed at him about pop musicians and their fans attempting to influence world politics.

"Mahatma Gandhi freed a continent, Martin Luther King freed a people, Nelson Mandela freed a country," Geldof told the London crowd. "It does work — they will listen."

Then he brought out Birhan Woldu, a 24-year-old Ethiopian woman who he said was prominently featured in a documentary shown at Live Aid about the famine then gripping her country.

In that film, Woldu, then a toddler, had been wrapped in a burial shroud because nuns caring for the starving told her father she was within 15 minutes of death. She survived, and with the help of money and services generated by Live Aid, she grew up and recently took exams for a college degree in agricultural studies.

After she told the crowd, through an interpreter, "We Africans love you very much," Geldof defiantly said: "There — don't let them tell you this stuff doesn't work." He then introduced Madonna, who kissed Weldu.

In addition to Green Day, the Berlin lineup included Beach Boys founder Brian Wilson and rock band Audioslave. The concert in Johannesburg and a smaller event in Cornwall, heavy with African acts, were arranged after Geldof and other Live 8 organizers were criticized for including few black performers in London. Geldof noted the heavy rap and R&B contingent in Philadelphia, and said the priority was to get big-name acts that could draw a wide audience.

The Live 8 concert in France at the Palace of Versailles outside Paris featured the Cure, Italian tenor Andrea Bocelli, Latin pop star Shakira and numerous French pop acts that drew about 65,000 people. The show near Tokyo, added relatively late and headlined by Icelandic singer Björk and U.S. punk band Good Charlotte, pulled in about 10,000 people — half the capacity of the Makuhari Messe hall.

"What we did in the Beatles really overtook us and our intentions," McCartney said ahead of Saturday's performances. "When it is remembered and loved that way, you can only appreciate that something mighty has happened, way beyond anything we set out to do. I think the same thing is happening with Live 8 now."

Geldof had asked performers to refrain from criticizing world leaders, which resulted in a minimum of pointedly politicized pronouncements. In Philadelphia, rapper Jay-Z alluded to "billions of dollars being spent to kill people," and German punk rocker Campino told the Berlin audience, "We have to get Africa out of USA's headlock."

Times staff writer Lewis reported from Los Angeles and special correspondent Bennett from London. Times staff writers Achrene Sicakyuz in Paris, Christian Retzlaff in Berlin and Natasha Yefimova in Moscow contributed to this report.

Tone Deaf On Africa (NYT)

By William Easterly

The New York Times, July 3, 2005

BONO, Jeffrey Sachs, Tony Blair, rock bands, finance ministers and aid agencies have been vowing to "make poverty history" in Africa as the Group of 8 summit meeting in Scotland begins this week. The proponents of a comprehensive plan to end Africa's poverty say the solutions are easy. For example, Gordon Brown, Britain's chancellor of the Exchequer, says preventing the deaths of five million children over the next 10 years would cost just $3 more for each new mother in the world's poorest countries. All told, Tony Blair's Commission for Africa calls for $25 billion more in aid to Africa per year.

It's great that so many are finally noticing the tragedy of Africa. But sadly, historical evidence says that the solutions offered by big plans are not so easy. From 1960 to 2003, we spent $568 billion (in today's dollars) to end poverty in Africa. Yet these efforts still did not lift Africa from misery and stagnation.

Why don't big plans work? Because they miss the critical elements of feedback and accountability. If consumers like a product, its maker prospers; if they don't, the company goes out of business. If voters complain about public services to their local politician, the politician either fixes the problem or gets voted out of office. It doesn't always work, but it works well enough for rich people to get potato chips and paved roads.

For the poor, Professor Sachs and the United Nations Millennium Project propose everything from nitrogen-fixing leguminous trees to replenish the soil, to rainwater harvesting, to battery-charging stations, for, by my count, 449 interventions. Poor Africans have no market or democratic mechanisms to let planners in New York know which of the 449 interventions they need, whether they are satisfied with the results, or whether the goods ever arrived at all.

Take the nitrogen-fixing leguminous trees that cure exhausted soils. As one study pointed out, the trees don't grow well in shade, they can proliferate as weeds and they can wind up competing for soil nutrients, especially in arid areas. It's easy to decree a solution at the top, but it will never work without the detailed local knowledge at the bottom - which planners in New York cannot possibly process.

To make it worse, the United Nations agencies, the World Bank, the International Monetary Fund, and national aid agencies like the United States Agency for International Development are jointly responsible for these interventions to reach the Millennium Development Goals (which are various indicators of reduced poverty). Collective responsibility for big goals doesn't hold any one agency accountable if the effort fails; they can always point to others as the ones who are to blame.

Who took responsibility, for example, for missing the goal of universal primary school enrollment by 2000 set by a 1990 United Nations conference? Instead, it is now one of the Millennium Development Goals for 2015.

The sensible alternative is to concentrate on piecemeal solutions to poor people's problems. You can evaluate the results of a specific intervention by comparing them with conditions in another group without the intervention, and you can get feedback from those affected and hold an individual aid agency accountable.

The Dutch aid organization I.C.S. Africa distributed deworming drugs to schoolchildren in the Busia district of Kenya. Ninety-two percent of the children had intestinal worms that cause listlessness, malnutrition and pain. I.C.S. invited economists to evaluate its program, comparing those children who got the drugs with those who did not. The deworming drugs decreased school absenteeism by a quarter. "Pupils who had been miserable now became active and lifeful," said a schoolteacher.

Piecemeal projects have led to progress in other areas as well. Twenty-five percent of the population in African countries had access to clean water in 1970; 60 percent do so today. The enrollment rate in secondary school has gone from less than 5 percent to more than 30 percent over the last 40 years; over the same period, increased vaccination helped infant mortality fall by more than a third. Aid agencies are more accountable on visible piecemeal steps like water pipes and wells, school buildings and vaccinations - where individual contributions can be measured - than they are on nebulous goals like African poverty reduction, which depends on many players and many factors.

Piecemeal fixers do not promise the miracles that planners do; they just quietly deliver results. Accountability for aid would transfer power from planners to fixers, both African and foreign. Maybe then we can hold some aid agency accountable to get the full value of those three additional dollars to each new mother.

O.K., Japan Isn't Taking Over The World. But China... (NYT)

By Eduardo Porter

The New York Times, July 3, 2005

NOT even 20 years have passed since the apparently unstoppable Japanese economic juggernaut struck fear in the hearts of Americans, and now China has emerged to be seen as the new economic menace threatening the nation's vital strategic interests.

America's boom in the 1990's, coupled with Japan's decline into an economic quagmire through much of the decade, quelled most fears that the Japanese were going to eat our economic lunch.

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But now China has set out to snap up everything from Unocal to Maytag, not to mention a steady diet of United States Treasury bonds. And many of the leading voices who worried about Japan in the 1980's are warning that China presents a much bigger and more complex conundrum.

"In retrospect I probably did overstate the nature of the Japanese challenge," said Chalmers Johnson, a prominent expert on Asia who in the early 1990's argued that Japan was "the only nation with real leverage over the United States." But, he added, "China is several orders of magnitude different from Japan."

China is not only much bigger and more populous. Its economy is likely to become the largest in the world at some point in the next 50 years. As China keeps growing at a rubber-burning pace, competition with the United States over energy resources alone could cause substantial tension.

Americans' fear of Japan's ascendancy in the 1980's was inspired by economics and pride. The growing bilateral trade deficit, as Japanese companies acquired leadership in industries that were once dominated by American businesses, cast a pall on America's self-confidence. The Japanese purchase of high-profile American assets, whether Columbia Pictures or the Pebble Beach golf course, just rubbed it in.

Relations with China have a more complex geopolitical dimension. Unlike Japan, China is likely to become a military power. And it is not an unconditional ally. From Taiwan to the Middle East, the strategic interests of China diverge from America's. As it throws its weight around, to secure supplies of energy, say, or to avail itself of strategic technology, China can cause American policy makers no end of discomfort.

For instance, if the United States government were to block the China National Offshore Oil Corporation from acquiring Unocal, it might just push China into cutting energy deals that the United States government would rather it did not make with countries like Russia or Iran.

"Clearly the relationship between the United States and China is much more ambivalent than that between the United States and Japan," said Clyde V. Prestowitz, a trade negotiator during the Reagan administration who in the 1980's warned that Japan's ascent could eclipse the United States' power and compromise its prosperity.

Those differences might warrant a more careful review of deals like the attempted purchase of Unocal by China's state run oil company.

Robert B. Reich, the former secretary of labor in the Clinton administration who as a Harvard professor in the early 1990's argued that big Japanese investments in the United States were not threatening, says today that a Chinese acquisition of a potentially strategic asset like Unocal could be problematic.

"In economic terms there is no reason to block Chinese ownership of U.S. assets just as there was no reason to block Japan from buying U.S. assets in the 1980's," Mr. Reich said. "But in political terms in 2005 there may be a reason to take seriously the downside of China owning Unocal."

But even those most concerned about China's rise up the economic, political and military ladder recognize another, perhaps more important difference between China and 1980's Japan. The United States has a vested interest in China's success.

For starters, whereas Japan's success at the time was inevitably seen as America's failure, today American businesses are all rooting for China to succeed. Because they own a lot of it.

"It was virtually impossible for a foreigner to make an acquisition in Japan," Mr. Prestowitz said. "In China its 'y'all come.' American business is part of the China lobby, not the anti-China lobby."

Some of Japan's old foes view America's growing interdependence with China with suspicion. "Interdependence means dependence," said Susan J. Tolchin, a professor of public policy at George Mason University who in 1993 was the co-author of "Selling Our Security," which argued against allowing foreign investment in American technology companies. "If we lose our economic independence we are going to lose our independence of movement on foreign policy."

Yet most acknowledge that China's transformation from a struggling Communist state to a prosperous nation with a growing stake in the global system of market economies is in America's best interest. For example, if the Chinese central bank owns oodles of United States Treasury bonds, it has a reason not to want to destabilize the bond market.

"I cannot see how a rich bourgeois China could be not in our interest," Mr. Johnson said. "If we're interested in our security we should establish collaborative ties with China right now."

The difference in emphasis appears in a shift in Mr. Prestowitz's writing about Asia. In 1988, he published "Trading Places: How We Are Giving Our Future to Japan and How to Reclaim It." This year, he published "Three Billion New Capitalists: The Great Shift of Wealth and Power to the East."

Today, Mr. Prestowitz said, the biggest risk is not that China will succeed in rising to become an economic superpower. The biggest risk is that it will fail.

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The Chinese Invasion (LAT)

The Los Angeles Times, July 3, 2005

Even some people who were not alarmed when Japanese companies started snapping up famous American businesses 15 years ago are succumbing to alarm about Chinese companies doing the same thing today. The alarmists were wrong the last time, and the please-remain-calm types were right. Are there good reasons to think that things are different this time around?

The Japan scare came with a lot of xenophobia, verging on racism, and foolish analogies between Japan's military imperialism of World War II and the so-called economic imperialism of half a century later. That earlier Japanese imperialism had involved killing millions of foreigners in an attempt to rule half the world by military force. The later Japanese so-called imperialism involved selling high-quality goods to millions of willing foreigners and then investing part of the proceeds in job-producing assets in those foreign countries.

Anti-Japanese hysteria also featured quite a bit of anthropological poppycock about how the basic laws of economics don't apply to cultures that emphasize production over consumption. Or to novel forms of organization (remember the keiretsu?) that combine all the evils of socialism and corporate capitalism into a production machine that is too efficient to be tolerated. Virtues morphed into cheating: They work hard and save while we spend and borrow — it's not fair!

The current and growing anti-Chinese sentiment has the same basic causes: resentment at another country's economic success and fear that it threatens our own well-being. But there are distinctions in flavor. Yesterday's Japanophobia and today's Sinophobia draw from different themes of classic Western prejudice against the East. Japan was the wily Oriental with his devilish plots. China is the Asian hordes. It's not that they're so smart, it's just that there are so darn many of them, and they are all being orchestrated by a fiendish Communist Party. Peasants pour out of the countryside into huge factories where they work 20 hours a day for $3.25 and produce enough of everything to fill an entire Wal-Mart every 7.3 minutes…. And we, like fools, buy this stuff. It's not fair!

But it turned out that Japan was not one big, unstoppable economic machine. Its economy has been in the tank, while ours has thrived, for most of the period since the Japanophobia pandemic. The Japanese are not robots. A touching human weakness — vanity — caused them to overpay for prestigious American assets such as Rockefeller Center and Columbia Pictures, which they then managed badly. And who today feels humiliated because a major studio is named "Sony" — or even thinks of Sony as especially Japanese, or even foreign?

Old-fashioned economics has more to say about these episodes than cultural theorizing does. Economic point No. 1 is that if there is a problem, it's our fault, not theirs. When you spend more than you earn (or consume more than you produce), you go into debt. We've been doing that with a vengeance lately, both as individuals and as a society, through the government. Others then have your IOUs.

In international trade, these IOUs are known as "dollars," and they're ultimately only good for one thing: buying stuff from the United States. For misguided reasons of its own, China keeps its currency and consumer demand artificially low, resulting in a larger trade imbalance: We buy a lot more from them than they buy from us. But another way to look at it is that they send us all those lovely things on the shelves at Wal-Mart and we send them in exchange small pieces of paper. (Or actually not even that: just some electronic pulses representing pieces of paper called dollars.)

We complain about this. But when they start spending their dollars instead of hoarding them, we are horrified at what they are able to buy: IBM's ThinkPad computer line, the Maytag appliance brand name, an oil company (Unocal). But it is our own spendthrift ways that supply the dollars. If foreigners ever lost interest in accumulating or spending dollars, we would really be in trouble.

Economic point No. 2 is the golden oldie: Free trade is good, even if it is unilateral. The United States benefits from being open to anything China wishes to sell to us, whether or not China reciprocates. Trade is disruptive. But people tend to focus on the lost jobs and lose sight of the cheap shirts.

During the Japan fuss, this trade-off was often described as destroying a blue-collar worker's life so that a yuppie could drive a Lexus. But imports from China tend to be more down-market. They effectively raise the standard of living of the lowest-income Americans. The much smaller number of Americans who are hurt by trade deserve generous help from the vast majority who benefit from it. But restricting trade with China to help those few would harm the many.

Then there's globalization, the third economic reality. In the emerging world economy, American investors will own shares in Chinese companies that invest in Albania or Zambia, and so on. Already, much of what we are buying "from China" is being produced by U.S. companies there, and today's anti-Beijing chorus overlooks the extent to which our culture is changing China in our image.

Americans needn't fear the prospect of the world's largest country joining the global middle class. This — or the more prosaic possibility that some country might definitively unseat the United States as the world's richest country — is not some

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tragic possibility that Americans must acknowledge with good grace or world-weary resignation (like the British waving farewell to their empire). The wealth of other nations is good for Americans in the narrowest selfish terms.

Hamas Weighs Abbas' Offer To Join Cabinet (WT)

By Mohammed Daraghmeh

The Washington Times, July 3, 2005

Palestinian leader Mahmoud Abbas has asked his most formidable rival, the militant Islamic group Hamas, to join his Cabinet in advance of Israel's Gaza pullout, and the group is considering the offer, officials on both sides said yesterday.

Israel denounced the idea of Hamas' joining the Palestinian government, calling the group "a murderous terrorist organization."

Hamas has strong grass-roots support in Gaza and has demanded to help rule the area after Israel's pullout, slated to begin in August. The group was expected to make a strong showing in Palestinian parliamentary elections later this year and recently won municipal elections in several West Bank and Gaza districts. By incorporating Hamas into his government, Mr. Abbas hopes to improve prospects of a smooth takeover at a time when violence in Gaza has heated up.

Palestinian negotiator Saeb Erekat said this was not the first time Mr. Abbas has offered to bring the militant group into his Cabinet.

"Our policy is a policy of one authority, one gun, and we welcome all political parties to participate as such," Mr. Erekat said.

Mr. Abbas first invited Hamas to join his Cabinet two months ago, but Hamas rejected the offer because it was conditioned on the group's agreeing to a delay in parliamentary elections. The vote originally scheduled for July has been delayed until the end of the year.

Hamas' West Bank leader, Sheik Hassan Yousef, said the group was considering the latest offer from Mr. Abbas.

The United States considers Hamas a terrorist organization and refuses to deal with it.

Israel and the United States have demanded that Mr. Abbas disarm Hamas and other militants, a step he has refused to take for fear it would provoke bloodshed among Palestinians. He has chosen instead to co-opt militants.

"Hamas is a murderous terrorist organization responsible for countless acts of senseless violence against innocent civilians," Israeli Foreign Ministry spokesman Mark Regev said. "Hamas is no partner for us in any sort of political process."

The Palestinian leader has promised a smooth turnover in Gaza and a clampdown on militants who would fire on Israeli soldiers and about 8,500 Jewish settlers who will withdraw. He has also said he would not allow a land grab after the summer evacuation.

But a fragile truce Mr. Abbas reached with Israel in February has been unraveling as the pullout date approaches.

Mr. Abbas is to meet Palestinian militant leaders living in self-imposed exile in Damascus during a visit to Syria this week, his national security adviser, Jibril Rajoub, said yesterday.

Some West Bank Settlers Dig In Their Heels As Pullout Looms (LAT)

By Ken Ellingwood

The Los Angeles Times, July 3, 2005

Tile by tile, a new synagogue is rapidly taking form just steps from an outdoor basketball court where five families have moved into a makeshift neighborhood of military tents.

On a recent afternoon, there was plenty of room nearby for more arrivals beneath huge canopies that shade a rectangular dirt lot, lending it the appearance of an American fairground. If this Jewish settlement is soon to be evacuated, and the Israeli government insists it is, there is little sign its residents plan to go easily. Rather than packing up, Sanur's 31 families are busily fortifying their hold on the West Bank hilltop in anticipation of a last stand.

Volunteers from Jewish religious academies have rushed to join in building the synagogue, which awaits a roof and the rest of the tile floor. Backers have come from other strongholds of Jewish nationalist ideology in the West Bank.

Sanur is one of four settlements in the northern West Bank scheduled to be abandoned by Israel this summer, along with all 21 Jewish communities in the Gaza Strip. So far, most of the attention has focused on the withdrawal from Gaza, home to the vast majority of the estimated 8,000 settlers who are to be uprooted from both areas. The pullout is set to begin in mid-August.

Sanur and the three other isolated West Bank settlements, Homesh, Ganim and Kadim, have been largely overlooked in the turbulent national drama over the planned withdrawal, but military officials say settler resistance may prove especially tough in Sanur and Homesh.

Ganim and Kadim, secular communities about 10 miles to the north with 60 families between them, aren't expected to present much of a problem because many residents have said they are willing to leave and have started hunting for new homes.

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"Ninety-five percent of the people here will leave before August 15th," said Ganim resident Aharon Yarden, 40, who planned to move with his family to the Golan Heights.

Around Sanur and Homesh, a web of back roads, trails and canyons could make it difficult for the army to block the arrival of religious militants from other settlements in the northern West Bank, historically referred to by its biblical name, Samaria.

Settlers in Sanur say they expect 10,000 or more supporters to sweep in to help thwart the evacuation. Employing images of a dire military-style standoff, one right-wing Israeli lawmaker has compared Sanur to Stalingrad.

The evacuation "will be impossible," said Miriam Adler, a Sanur resident and spokeswoman for the community. "They just won't succeed."

Adler, 28, moved to Sanur with her husband 2 1/2 years ago from Kiryat Arba, a Jewish enclave near the West Bank city of Hebron known for its hard-line ideology.

At the time, Sanur had been all but deserted. Once a military post under Ottoman and British rule, Sanur was settled by Jews in 1978 and served as an artists' colony. But most of the secular residents fled after violence erupted between Israel and the Palestinians in September 2000.

Taking their place in rows of low, bunker-like stucco houses were young families ardent about religion and unflinching in their belief that Jews are the rightful heirs of all the biblical land of Israel. Some attend colleges and universities in the West Bank or in Israel. All wear the skullcaps and head scarves of the religiously observant.

To these residents, the battle against Israeli Prime Minister Ariel Sharon and his pullout plan hinges on passion and faith. Although Gaza has many settlers who are devout, it is the West Bank that has greater biblical significance and the lion's share of the 230,000 Jewish settlers, who draw extra fervor from being able to gesture across a valley to one site or another mentioned in the Old Testament.

"Sharon is temporary, and the land of Israel is eternal," Adler said, standing at the edge of the little tent village. "Whoever fights for ideology — and not interest — will win."

It is possible from here to gaze past a plain of Palestinian hay fields to Homesh, perched on a peak immediately above the Palestinian village of Burqa. From the backyard of a Jewish home in Homesh, one can hear a Palestinian vendor below touting his wares: tomatoes, oranges, apricots.

Homesh, with 55 families, is a collection of modest stucco houses hemmed by a wire security fence. Its residents are less uniformly religious than those in Sanur and more ambivalent about what to do next. Although all prefer to stay, a split has emerged between religious residents, who are determined to fight, and their secular neighbors, who say they will obey the government's edict.

A core of activists has organized protest events, including bringing in thousands of supporters during the springtime Passover holiday, and sought to make sure that backers will show up to thwart the withdrawal. Defense Minister Shaul Mofaz was heckled there during a recent meeting at which some residents had hoped to learn more about where they might move.

Menora Hazani, a devout, 28-year-old teacher and filmmaker in Homesh, said Sharon had deliberately focused attention on Gaza because pulling out of a slice of the West Bank, with scores of remaining settlements and relative proximity to large Israeli cities, was more problematic.

"Leaving the region here is much more catastrophic in security terms than leaving Gush Katif," Hazani said, referring to the main settlement block in Gaza.

Hazani, whose father, Benny Katsover, was a well-known settler leader, said she and her husband still hoped that the withdrawal would not take place. Hazani said, though, that if the police came to the door, officers would have to carry the family out. She said any resistance must be nonviolent.

Other Homesh residents say they are waiting for the government to tell them where to go and have no plans to put up a fight.

"I'm a law-abiding person," said Nina Korover, 58, who emigrated from Ukraine in 1992 and moved with her husband into a $30,000 house a year later.

She recalls how thirsty and drab the stony landscape appeared then. Now, Korover said, "there is nothing more beautiful than Homesh."

In one direction, the West Bank city of Nablus covers a hillside; in the other, Tel Aviv's skyscrapers punctuate the hazy glare of the Mediterranean.

Homesh has only three businesses, including a car parts factory. Most residents commute to work in Tel Aviv or coastal Netanya, about 30 miles away, or settlements in the West Bank.

Korover said about 30 Homesh families, about half of them from the former Soviet Union, had concluded that it was time to prepare to leave. The government said last week that the families had signed an agreement to move as a group to a community in Israel, but residents said the matter was still being negotiated.

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Korover's husband, Boris, died four years ago when a Palestinian driver steered a car into his. Leaving the home where the couple crafted a life after emigrating somehow feels like a betrayal, she said.

But Korover worries that religious hard-liners might be more interested in a confrontation with the government than in negotiation. "I don't want to leave my house, but if I have no choice — if they say I have to leave — I won't make a war," she said.

Iranian Leader Denies He Took Embassy Hostages (NYT)

By Michael Slackman

The New York Times, July 3, 2005

A shiny black Peugeot rolled to a stop, and there he was, Mahmoud Ahmadinejad, the president-elect of Iran, smiling through an open window, ready to greet a few of the people who have been coming to his street as a sort of pilgrimage since he won.

The security men tried to keep a cordon around the car, but the president-elect gave his casual smile, and told them to let the people through. He also let this reporter and an interpreter approach.

When asked the question preoccupying many Americans about him just now - Had he been among the students who sacked the United States Embassy in 1979 and held American hostages for 444 days? - his driver started to pull out, but Mr. Ahmadinejad stopped him and said he would answer.

"It is not true," he said. "It is only rumors."

The security men began to push again, and three women draped in flowing black chadors made their way up to the car.

One woman handed Mr. Ahmadinejad a blank piece of paper on which he wrote: "Stick to your Islamic values. God will help you."

And with that, he closed the window and was driven off.

Since the election a week ago, it has been nearly impossible to get a feel for Mahmoud Ahmadinejad, to take the measure of the man. He has refused all interviews, though he did hold one hourlong news conference. His spokesman has insisted that he was not among the students at the embassy.

He is generally described as an ultra-conservative. He has been a member of the Basij militia, which is made up of young bearded men who ride through the streets on motorcycles enforcing strict codes of behavior and dress, often brutally. He was also a member of the Revolutionary Guard during the war with Iraq. And of course he has recently been accused of being one of the student leaders who stormed the American Embassy in Tehran on Nov. 4, 1979, keeping 52 hostages.

Yet friends, supporters and neighbors here describe the diminutive, bearded man as humble and caring. Mr. Ahmadinejad has a small circle of aides, one that appears a bit overwhelmed by all the demands and preparations ahead. Nasser Hadian-Jazy, a political science professor at Tehran University, said that he had known the president-elect since childhood and that Mr. Ahmadinejad was not involved with the student hostage takers. He said they grew up together in East Tehran, and Mr. Hadian-Jazy described his old classmate as among the brightest in the neighborhood.

He called Mr. Ahmadinejad "self-confident, committed and absolutely incorruptible." He said he is very religious, but modern in his thinking. If there is a negative quality, Mr. Hadian-Jazy said, it is that he is very set in his views, and can be hard to persuade otherwise.

"If you can force him to sit down and listen, he has the capability to understand," the professor said.

While Mr. Ahmadinejad maintained a humble life style as the appointed mayor of Tehran, that is likely to change, if for no other reason than security. He lives at the end of a dead-end street, more of an alley that runs alongside a school. The alley opens onto a circle, with a small park in the middle with benches and a field of grass that now attracts those who come to ask favors of the president-elect, and serves as a spot for neighbors to socialize. These days, cars packed with sightseers drive around the circle, stopping to look down the alley, a far cry from the palatial and off-limit homes of other Iranian leaders.

On Friday, the day of prayer and rest in most Muslim countries, some of Mr. Ahmadinejad's neighbors sat on a bench, talking about their favorite son. It is almost a rule that when someone is asked about Mr. Ahmadinejad, the first thing said is that he is a modest person who has never lost touch with his roots. Security is very tight in the neighborhood, and with soldiers and plainclothes agents around, the neighbors were afraid to give their names.

One older man, who said he had lived in the neighborhood for 15 years, said that every year for the Iranian New Year, Mr. Ahmadinejad invited the neighbors over for a celebration. He is described as a devout man who lives in a three-bedroom house with two sons and a daughter. His family has little furniture, they said, and has machine-made carpets, not the more expensive hand-woven ones commonly owned by the better-off.

One son is finishing high school, and the two other children are studying in the university, the neighbors said.

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Since he became mayor of Tehran, the city has had a driver pick Mr. Ahmadinejad up for work every day. But on his days off, neighbors said, he still drives the same 1977 Peugeot, without air-conditioning, that is parked in the alleyway beside the house.

People are quick to offer stories about Mr. Ahmadinejad, almost as if he was a religious figure. They say, for example, that he always brought his own lunch to work because he did not want the city to have to pay for his meals.

At the municipal building, Ahmad Esmali's job is to deliver tea to the offices. "This mayor was better than the others," he said recently. "He saw managers and workers with one eye."

In the park on Friday, one neighbor said the mayor had given money to the local butcher, at a shop called Zand, so the butcher could give poor and needy people meat at a discount. Two young men working in the butcher shop said they believed it was true.

It is a common practice in many Middle Eastern cultures for leaders to have audiences with citizens seeking help, or to accept their petitions for assistance. Mr. Ahmadinejad appears to take that custom to heart.

A small security booth sits at the mouth of the alley leading to his house. As Mr. Ahmadinejad's car pulled out, a security agent handed the president-elect a pile of letters that had been delivered that morning, from people seeking some kind of help.

Ali Ghorbani, 29, had just driven up to deliver a letter to the guard booth when Mr. Ahmadinejad pulled up. Mr. Ghorbani wanted to ask for a loan so he and a friend could open a cultural center in Tehran. He was allowed to hand the letter directly to the president-elect. "I didn't have the faintest idea I would see him," Mr. Ghorbani said as he walked away. "He took the letter and told me I would have a reply in two weeks."

Iranian Accused In Killing Of Kurds (WT)

By William J. Kole

The Washington Times, July 3, 2005

Iran's newly elected president, already accused of taking American diplomats hostage 26 years ago, played a key role in the 1989 execution-style slayings of a Kurdish opposition leader and two associates in Vienna, an exiled Iranian dissident said yesterday.

Austria's daily Der Standard quoted a prominent Austrian politician as saying authorities have "very convincing" evidence linking Mahmoud Ahmadinejad to the attacks in Vienna, in which the Kurds were killed.

The reports follow recent accusations from some of the 52 Americans who were held hostage for 444 days in Iran beginning in 1979 that Mr. Ahmadinejad, a hard-line Islamist, was among the hostage-takers.

Neither Mr. Ahmadinejad nor his aides could be reached yesterday for comment on the claims about the Vienna killings, but the president-elect on Friday denied a role in the hostage-taking.

"It is not true," Mr. Ahmadinejad said. "It is only rumors."

Alireza Jafarzadeh, who runs Strategic Policy Consulting, a Washington-based think tank focusing on Iran and Iraq, said Mr. Ahmadinejad was a Revolutionary Guard commander who supplied the weapons used to gun down Iranian Kurdish politician Abdul-Rahman Ghassemlou and two colleagues on July 13, 1989, in Vienna.

Mr. Jafarzadeh is a former U.S. representative for the National Council of Resistance of Iran. The council is the political arm of the Mojahedin Khalq, a group that Washington and the European Union list as a terrorist organization.

Mr. Ghassemlou, the principal target, was secretary-general of the Democratic Party of Iranian Kurdistan. His delegation had been in Vienna for secret talks with envoys from the Tehran regime.

Mr. Jafarzadeh said his assessment was based on Iranian government sources "who have provided accurate information in the past." He said Mr. Ahmadinejad helped organize the Vienna attack while serving in the Revolutionary Guard's Ramazan garrison near the western Iranian city of Kermanshah.

"While he was there, he became involved in terrorist operations abroad, and he led many, many operations," Mr. Jafarzadeh said.

In 2002, Mr. Jafarzadeh disclosed information about two hidden nuclear sites in Iran that helped uncover nearly two decades of secret atomic activity and stoked fears that Tehran was trying to build a nuclear bomb.

Der Standard reported yesterday that Peter Pilz, a top official with Austria's Green Party, accused Mr. Ahmadinejad of traveling to Vienna a few days before the slayings to deliver the weapons to the Iranian commandos who carried out the killings. He said he wants a warrant issued for Mr. Ahmadinejad's arrest

Mr. Pilz could not be reached for comment yesterday, and calls to Austria's Interior Ministry and the nation's federal counterterrorism agency went unanswered.

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Mr. Pilz said an unidentified Iranian journalist living in France was contacted in 2001 by one of the reputed gunmen, described as a former revolutionary guard who has since died. The gunman's account -- which Mr. Pilz said strongly implicated Mr. Ahmadinejad -- was turned over to Austria's federal Office for Counterterrorism and Constitutional Protection.

In another development, a top Iranian former secret agent told the Associated Press in Tehran yesterday that the hostage-taker in a 1979 photograph that has come under intense scrutiny is not of Mr. Ahmadinejad, but a former militant who committed suicide in jail.

Saeed Hajjarian, a top adviser to departing President Mohammad Khatami, identified the man in the photo dating to the 1979 U.S. Embassy siege as Taqi Mohammadi.

Iran's newly elected president has been accused of being a major participant in the taking of American hostages at the embassy.

Six former U.S. hostages who saw the president-elect in photos or on television said they believe Mr. Ahmadinejad was among the hostage-takers. One said he was interrogated by Mr. Ahmadinejad.

The White House said it was taking their statements seriously. President Bush said "many questions" were raised by the accusations.

International media have compared photos of Mr. Ahmadinejad, who won a presidential runoff election the week before last, with a black-and-white picture of one of the hostage-takers, a young man with a thin, bearded face and dark hair that sweeps down across his forehead.

But Mr. Hajjarian said they were not the same person.

"This man is Taqi Mohammadi, a militant who later turned into a dissident and committed suicide in jail," he said, pointing to the 1979 photo.

Mr. Hajjarian's comment follows statements by a number of the former Iranian students who carried out the U.S. Embassy seizure and held Americans hostage that Mr. Ahmadinejad had no role in the operation.

For The Poor In Iran, Voting Was About Making Ends Meet (NYT)

By Michael Slackman

The New York Times, July 3, 2005

They had come from very different neighborhoods and backgrounds, but they were all there for the same reason: to buy government-subsidized food.

The line ran from the basement up the stairs and out the door.

Inside, sugar and rice were selling for about one-fifth of the retail price, a huge savings in a country where according to an opposition economist more than a quarter of the people live below the poverty line - which is defined as a family of five with an income of less than $278 a month.

"I cannot make ends meet," said Hossein Ganji, 49, who works behind a counter in the food distribution center. Mr. Ganji supports his wife and three children on about $150 a month.

"I am the only person that works in my family," he said. "All the others are unemployed."

This distribution center in a crowded basement in southern Tehran and many others like it around the country represent the kind of government assistance that many people here want more of - and that Mahmoud Ahmadinejad promised to provide in his successful campaign to become the next president of Iran.

Mr. Ahmadinejad, who catapulted to president-elect from near obscurity as the appointed mayor of Tehran, campaigned on a populist message, promising to redistribute the nation's wealth, hold down prices, raise salaries and lift state-supported benefits for the poor. He infused those pledges with the theme of social justice, which resonated in a society where aiding the poor is considered an obligation for the faithful.

His message came at the right time. In 1997 and again in 2001, voters focused their political will on social and democratic freedoms in electing Mohammad Khatami to the presidency. But his promised reforms were hardly carried out, and in the election last week voters appeared to have shifted focus to their pocketbooks. One candidate, Mehdi Karroubi, a former speaker of Parliament, just missed making it to the runoff election for president after promising to pay each family the equivalent of $60 a month if elected.

Average salaries run about $200 a month in Iran, with a salary of $300 to $500 considered generous. But costs are fast outstripping the ability to pay - government figures put annual inflation at about 15 percent, though on some products, merchants say prices rise far faster than that.

In a food store in central Tehran, the owner, Reza Karimi, said pomegranate paste had doubled in price to nearly $2; a bottle of olive oil rose to about $4 from $3, and in the last three months a little more than a pound of rice climbed to $1.80 from $1.30.

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The price of dairy products sold by a state-owned company jumped 17 percent on Wednesday alone, he said. "The prices will jump again next month," he said. "And when one company raises their prices, they all do."

Khodabaksh Jalili, 30, is typical of many people in southern Tehran who supported Mr. Ahmadinejad. He moved to the city from Asadabad, a village 200 miles west of Tehran, when the farm that had supported his family for generations failed because of drought and a shortage of supplies, he said.

He has a wife and two children and earns about $200 a month working in a food store. His rent is $50 a month, and he makes extra money on his day off ferrying passengers on his scooter. If he is lucky, he said, he takes in another $20 a month.

"I have very little," he said. "I am married eight years. I have never been to the cinema with my children."

Iran is awash in oil money, as the price of crude topped $60 a barrel this week, pumping billions into the government treasury. But this country's economy is still tied down by a system in which the state and a shadowy collection of foundations controlled by clerics monopolize the vast bulk of its industries, including oil.

With all that money effectively locked up and a state budget weighed down by subsidies, there is little to spur the kind of private sector growth and development that would help provide someone like Mr. Jalili with a job that could support a family.

Past presidents have tried to move the economy away from its dependence on oil revenue and to open Iran to investment, but they have been thwarted by more conservative powers intent on preserving the vestiges of a welfare state.

The clerics - who control vast wealth and power through the foundations, known as bonyads - are also unwilling to give that up, and they answer to Iran's supreme leader, Ayatollah Ali Khamenei, not to elected officials, limiting what any president can do.

The bonyads, which were set up after the 1979 revolution to control assets held by the former shah's family and associates, were to operate as nonprofit organizations dedicated to aiding the poor. Since then, they have amassed great wealth and now control a large swath of the nation's economy.

Though there has been some progress in the past eight years in opening the country to foreign investment, economists say the inability to change the fundamental structure of the economy has allowed unemployment and poverty to climb.

Rahim Oskui, who described himself as an opposition economist working for the Industrial Management Institute, a quasi-governmental agency, said the official figures of 10 percent unemployment and 27 percent living in poverty were most likely understated.

"It is very natural, that when a candidate comes chanting slogans of justice and welfare, which belong to 400 years ago, this population will follow along," Mr. Oskui said.

Iran is a country still making the transition from a village-based agricultural economy to a more industrial economy, he said, with both controlled by the government and the foundations. That change has created a political force of millions who have left their homes and social support networks in villages and towns in search of work in big cities, only to find themselves poor and disenfranchised, Mr. Oskui said.

"They are looking for a source that can help them out," he said.

Hamid Shahrabi, 31, is the kind of person Mr. Oskui was talking about. Because of Mr. Ahmadinejad's economic message, he said, he got involved in politics for the first time. "I never voted in a presidential election before," Mr. Shahrabi said. "This guy put his hand on the Koran and said he would work for poor people - so I worked for him and voted for him."

Mr. Shahrabi lives with his wife, Azam, 30, and two small children in a one-room apartment in southeastern Tehran. There is no furniture in the living room, just a carpet on the concrete floor, a few pillows along the walls and a small television on a stand. They turned a walk-in closet into a separate bedroom, where their 12-year-old daughter sleeps and where they keep their bed cushions during the day. On any given day, the family's refrigerator is almost empty, but for a pot of traditional Iranian stew - a mix of rice, meat and vegetables - three-day-old bread and some tomatoes. They survive on their government rations.

Mr. Shahrabi moved to the city from Arak, a province in central Iran, when he was 15 years old, following his brothers in search of work when the family farm was no longer making enough money. He found a job with a state-owned oil company, which he kept until he was laid off four years ago. He has not found work since, and rides around the city on his battered motor scooter making deliveries and carrying passengers for about $5 a day. Of that he has to set aside $3 a day for rent.

"I feel really ashamed in front of my family," Mr. Shahrabi said, without a trace of self-pity. "My doctor said I need to feed my daughter better. I cannot afford to buy my wife new dresses. My son always feels dizzy. The landlord has asked me to find another place to live."

The Ahmadinejad campaign message of economic hope - as well as social justice - captured the hearts not only of people like Mr. Shahrabi but also of middle-class families. Parts of the middle class have trouble meeting their own financial needs, although their support for Mr. Ahmadinejad also stems from having grown used to buying subsidized food, even if they can afford to pay market prices.

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At the distribution center in southern Tehran, Mohammed Javad Moradli, 50, said he backed Mr. Ahmadinejad because he was a religious man. His wife, Fatimeh Ghadani, 47, wrapped in a chador, nudged his arm. "It's also about the economy," she said. "We don't want slogans. We want deeds."

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USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Tuesday, July 05, 2005 8:07 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing 7/5/05
Attachments:	agnb050705.pdf; agnb050705.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, JULY 5, 2005 7:45 AM EST

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TERRORISM NEWS:

Saudis Say Top Al Qaeda Militant Killed. Saudi Arabia yesterday reported a top al Qaeda militant, Younis Muhammed Ibrahim al-Hayari, was killed in a clash with police. NBC Nightly News (7/3, story 3, 0:25, Seigenthaler) reported al-Hayari "died after exchanging gunfire and hurling hand grenades at police. He was known to be a top bomb maker linked to a number of terrorist attacks."

Reuters (7/4, Evans) reports al-Hayyari, a Moroccan national, was "at the top of its list of most wanted al Qaeda leaders" in Saudi Arabai. A senior Saudi official "described Hayyari, 36, who reportedly fought in Bosnia in the 1990s and came to Saudi Arabia in 2001, as a shadowy figure who was 'more of a strategic leader than field commander.'" He was "a link to al Qaeda outside Saudi Arabia, brought funds into the kingdom, and was friend to a Muslim scholar close to al Qaeda's leader in Iraq, Abu Musab al Zaraqawi, the official said."

The AP (7/4) reports the "clashes took place in the Rawdah district, an upscale neighborhood in eastern Riyadh, said Interior Ministry spokesman Lt. Gen. Mansour al-Turki." The Interior Ministry official "said security forces conducted two simultaneous operations in eastern Riyadh to capture suspects and killed Mr. Hayari after a shoot-out, while arresting three other suspected militants, who were not identified." The Washington Post (7/4, A13) also runs the AP story.

Prosecutors Test Limits In Putting Islam On The Stand. The Legal Times (7/4, Blum) reports, "In a recent criminal trial in Virginia, the prosecutor told the jury that the defendant couldn't be trusted to tell the truth, that he would lie to their faces — all because of his religious beliefs. … The defendant, an American citizen accused of supporting terrorism, was convicted. The religion in question, of course, was Islam." The Times continues, "Now, the Virginia attorney representing Ali Al-Timimi is pushing for a new trial, saying that prosecutors secured the guilty verdict by appealing to religious bigotry against Muslims. … The case illustrates the difficulty in prosecuting suspected terrorists who subscribe to a form of militant Islam, without airing tenets of the religion itself before a jury. And it raises the question of how far is too far when it comes to using a defendant's religious beliefs as evidence of criminal intent. The issue will likely continue to confront judges as more cases against accused terrorists come to trial. … Timimi's lawyer, Edward MacMahon Jr., is seeking to overturn Timimi's conviction, citing prosecutorial misconduct and the prejudicial impact of statements he says portrayed Islam as a violent religion. One specific objection: that Assistant U.S. Attorney Gordon Kromberg instructed the jury in his closing argument that Timimi, a devout Muslim, would lie to jurors because the jurors were kafir — or nonbelievers. … Judge Leonie Brinkema of the U.S. District Court for the Eastern District of Virginia is likely to consider MacMahon's motion when Timimi appears for sentencing July 13. … Kromberg declined to comment, citing Justice Department policy. Bryan Sierra, a spokesman for the Justice Department's Criminal Division, said that department officials would not comment on a pending case. In a court filing responding to MacMahon's charges, Kromberg maintains that Timimi's personal religious views were 'directly relevant' to the case."

Attorneys In Dispute Over Fees In Terror Suit. The Legal Times (7/4, Broida) reports, "Steven Perles and Thomas Fortune Fay made their reputation representing victims of terror attacks in lawsuits against countries that sponsor terrorism. But the two D.C. lawyers are now embroiled in a legal battle over the multimillion-dollar fees their successful litigation brought about, with Perles fending off charges he misused money in a trust account that belonged to both of them." The Times continues, "In a suit filed June 20, Fay accuses Perles of improperly using $1 million of his terror-case proceeds as a bond in another suit filed against Perles by a former employee, Anne-Marie Kagy, who is seeking her own share of the proceeds. In the Kagy case, U.S. Magistrate Judge Alan Kay concluded that Perles owes the former employee almost $1.5 million." The Times adds, "Fay and Perles worked as co-counsel in high-profile terrorism cases, including two against the government of Iran that yielded judgments of almost $600 million, of which $54 million has been collected. And, in fact, their lobbying efforts had made such suits possible: They persuaded Congress in 1996 to pass a law permitting terrorism victims to collect a portion of their judgments from the frozen assets of states that sponsor terrorism. … Both Fay and Perles declined to comment about the substantive issues in the lawsuit, since the litigation is still pending and Perles has yet to file a

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response to Fay's complaint. But both say they hope that Fay's suit will not affect three other terrorism cases against Libya, Sudan, and Iran in which they are currently collaborating."

Judge Sets August Trial Date For Hayats But Admits Delay Likely. The Lodi News-Sentinel (7/2, Bohm) reports, "At a Friday hearing in federal court, U.S. District Judge Garland E. Burrell Jr. set an Aug. 23 trial for Umer and Hamid Hayat, though he added, 'I don't know how realistic that's going to be.' It hinges on whether the federal Classified Information Procedures Act slows the case down, because even Burrell's own staff members would have to undergo extensive background checks before being allowed to handle sensitive documents. … Burrell set an Aug. 19 hearing on issues related to CIPA, and also set dates for attorneys to file motions related to CIPA procedures within the next two weeks. Additionally, he scheduled a July 15 hearing regarding whether the trial will have to be delayed." The AP (7/2, Thompson) also reports on the trial dates.

PATRIOT ACT:

ACLU Official Urges Patriot Act Reform. In an op-ed for the San Francisco Chronicle (7/4) Dorothy M. Ehrlich, executive director of the American Civil Liberties Union of Northern California, writes, "Patriotic Americans have a lot at stake this Fourth of July. After the glare of fireworks has faded, the true test of American patriotism moves to Congress, where both the House and Senate Judiciary Committees will prepare to debate the fate of the USA Patriot Act." Ehrlich continues, "It's a debate that has long been anticipated. … More than 400 boards of supervisors and town councils from Elko, Nev., to New York City spoke up. Seven state governments, including four 'red' states with Republican majorities, called for reform. … The outcry is all the more remarkable when you consider that three years ago, a bipartisan movement for Patriot Act reform was virtually unthinkable. In the aftermath of Sept. 11, the Bush administration, with former Attorney General John Ashcroft leading the charge, chose to demand unilateral power to limit civil liberties and diminish our privacy in a variety of ways." Ehrlich concludes, "The Patriot Act in its current form includes provisions that threaten the American legacy of liberty and privacy. But it can be fixed easily to restore meaningful checks and balances while properly focusing our limited anti- terrorism resources on foreign terrorists rather than ordinary Americans. … The question is, will Congress keep America safe and free by correcting the fundamental flaws in the Patriot Act? We'll find out when it resumes after the Fourth of July recess. Patriotism is so much more than flag-waving and pyrotechnics. It's about vigilantly guarding the fundamental American principles of justice and liberty that have come under siege with the Bush administration's determination to hold itself above the law. It's time to restore the basic checks and balances that are fundamental to our constitutional liberties. That's the kind of patriotism we yearn for today."

HOMELAND RESPONSE:

Pentagon, CIA Reach Understanding To Prevent Intelligence Overlaps. The expansion of the Defense Department's operations in intelligence matters has led the Pentagon and the CIA to reach a compromise on the division of labor between the two. The Washington Post (7/4, A2, Pincus) reports the "growing Pentagon intelligence activities at home and abroad have caused CIA Director Porter J. Goss and Defense Secretary Donald H. Rumsfeld to reach a new written agreement to prevent conflicts and overlap in spying, technical collection and analysis between their two organizations." Gen. Michael V. Hayden, deputy director of national intelligence, "told reporters last week that a classified memo of understanding between the agencies has been drafted and is awaiting the signatures of Goss and Rumsfeld." The document "sets out what the Defense Department and the CIA will do as part of the intelligence restructuring that is taking place under the aegis of the director of national intelligence (DNI), John D. Negroponte."

Pentagon Technology Experts To Use Decoys To Frustrate Hackers. The Washington Post (7/4, D5, Onley) reports two leading Pentagon "technologists propose defending the military's Global Information Grid by using decoy networks and 'honey pots' to fool hackers. The goal is to lure intruders into these areas and away from operational networks." Army Col. Carl W. Hunt, technology director for the Joint Task Force for Global Network Operations, and Doug Gardner, director of the applied technology unit of the joint task force, say "the diversion strategy, called Net Force Maneuver, would lead hackers 'to systems where we are prepared to receive them.'"

WPost Says Bush Plans For FBI Reform Are Significant. The Washington Post (7/4, A16) says in an

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editorial that President Bush's "reforms of the FBI, which follow recommendations from a commission he appointed to study intelligence failures concerning Iraqi weapons of mass destruction, are potentially profound and warrant public attention. In critical respects, they take the bureau in the right direction. The first question is whether they go far enough or whether they will end up being merely shifted boxes on the government's organizational chart. The second question is whether, in one particular area, they go too far." The bureau has "made more headway in developing intelligence capability than its fiercer critics acknowledge, but it remains, in its heart and soul, a police force. This culture may simply be too deeply rooted to be changed." But it also "is essential that FBI agents collecting intelligence domestically are not directed by the White House or top administration officials but, rather, by the FBI director overseen by the attorney general."

FBI Seen As Loser In Bush's Intelligence Reforms. The Los Angeles Times (7/5) editorializes, "The reforms that President Bush signed on to last week could at least theoretically end the warfare" between the CIA and the FBI, "resulting in agencies better able to focus on core missions. The job of persuading, or forcing, them to do so falls to the director of national intelligence, John D. Negroponte. With the president at his back, he might even succeed. Despite FBI Director Robert S. Mueller III's best efforts to resist change, his agency is the decided loser -- and the CIA the winner -- in the reorganization of the 15 agencies that have something to do with intelligence, as recommended by a presidential commission." The "FBI is smarting over the humiliation, but it could prove a boon for the bureau," because establishing "a separate office in the FBI that answers to Negroponte as well as Mueller will at least allow the rest of the FBI to get on with what it does best, tracking down domestic criminals."

Woman Arrested For Poison-Laced Death Threats To Mueller, Pistole, Justices. The AP (7/2) reports the FBI has arrested Barbara March of Bridgeport, Conn., for allegedly "mailing death threats, some laced with rat poison, to each of the U.S. Supreme Court justices and FBI Director Robert Mueller." March "was charged with one count of mailing a threatening letter," but "the charge could change with a federal grand jury investigation. Laboratory results determined that seven of the letters mailed to Supreme Court justices were laced with rat poison, the FBI said in an affidavit. The contents of two other letters sent to justices and two letters sent to Mueller and Deputy Director John S. Pistole are being analyzed by the FBI." WTNH-TV Hartford (7/1, 12:00 p.m.), WFSB-TV Hartford (7/1, 7:00 a.m.) and the New York Times (7/2, Stowe) also reported on March's arrest.

Los Alamos Labs Using Computer Modeling To Predict Impact Of Terror Attacks. The Washington Post (7/4, A1, Cha) reports in a front page story that scientists at the Los Alamos National Laboratory have "been constructing the most elaborate computer models of the United States ever attempted. There are virtual cities inhabited by millions of virtual individuals who go to work, shopping centers, soccer games and anywhere else their real life counterparts go. And there are virtual power grids, oil and gas lines, water pipelines, airplane and train systems, even a virtual Internet." The Post notes, "The information is so sensitive that most of the lab's work is classified, and the physical facility is secured with its own experimental technologies. If the simulations got into the wrong hands, the researchers say, they could be used as the ultimate weapon against Americans." Still, some "urban planners have criticized the project for its cost -- each simulation can cost tens of millions of dollars -- and have argued that such modeling can never be precise."

Small Plane Violated Airspace Restrictions Near Camp David Saturday. The Washington Post (7/4, B1, Raghavan, Ruane) reports a small plane "entered restricted airspace Saturday night around Camp David, where President Bush was spending the weekend, prompting federal officials to dispatch a fighter jet to intercept it and track it until it landed at an airport in Frederick." Authorities "questioned the pilot of the Cessna 172 and released him. The aircraft was among three small planes that violated the restricted airspace Saturday. The breaches illustrate how increasingly complicated it is for civilian pilots to traverse the most controlled airspace in the nation -- and for federal officials to protect it." Such incidents "are becoming so routine that the vast majority go unreported."

The Washington Times/AP (7/4) reports, "The pilot was forced to land and was questioned but was released late Saturday without being charged, Secret Service spokesman Jonathan Cherry said yesterday."

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Nichols Reportedly Talking To FBI About His Role In Oklahoma City Bombing. The AP (7/5, Murphy) reports that "Terry Nichols has been meeting with the FBI and has revealed additional details about his involvement in the 1995 attack that destroyed the Oklahoma City federal building, his mother said Sunday." Nichols "acknowledged that he helped Timothy McVeigh acquire ammonium nitrate fertilizer and racing fuel that were combined to make the explosive, and helped assemble the bomb components, said Nichols' mother, Joyce Wilt of Lapeer, Mich. 'That's the extent of it,' Wilt said in a telephone interview with The Associated Press. 'From there on, he had no knowledge.' … Wilt said she believes others were involved in the bombing and that the FBI is hiding it." The AP adds, "Gary Johnson, a spokesman for the FBI office in Oklahoma City, would not confirm any talks between Nichols and the agency."

OECD To Warn Insurers Unable To Bear Losses From "Mega-Terrorism." The Financial Times (7/5, Felsted) reports the Organisation for Economic Co-operation and Development "will warn" today that "insurers might be unable to bear losses from 'mega-terrorism.'" In some countries, claims "from attacks that could include a nuclear, chemical or biological incident could even outstrip the joint compensation capacity of insurers and governments." The estimates of "maximum losses resulting from a single terrorist attack range from $50bn to $250bn," compared to over $30 billion for the 9/11 attacks in New York.

DC Railroad Bridge Said To Demonstrate Vulnerability To Chemical Attack. The New York Times (7/5) says in an editorial that the "weakest point in America's defense against terrorism may be an inconspicuous little bridge a few blocks from the Capitol. Rail tanker cars filled with deadly chemicals pass over the bridge, at Second Street and E Street SW, on their journeys up and down the East Coast. The bridge is highly vulnerable to an explosion from below, and if deadly chemicals were released on it, they would endanger every member of Congress and as many as 250,000 other federal employees." The "vulnerability could be easily eliminated by a federal law barring the transportation of hazardous materials through Washington and other locations at high risk of a terrorist attack. But the railroads have fought such legislation, which would increase their costs. If the Bush administration and Congress are serious about homeland security, they will get a chemical transportation law passed at once."

WAR NEWS:

Gonzales Makes Quick Surprise Trip To Iraq. Amid speculation that he may be line for a promotion to the Supreme Court, Attorney General Gonzales yesterday made a surprise visit to Baghdad. ABC World News Tonight (7/3, story 6, 0:20, Moran) reported Gonzales met "with American troops and Justice Department officials there, several hundred of whom are training Iraqi judges, police and prison guards." The CBS Evening News (7/3, lead story, 2:25, Guida) reported that "though Gonzales was 6,000 miles from Washington, his name dominated Capitol conversations about the vacancy on the Supreme Court."

The Washington Post (7/5, 2:48 PM, Eggen) reports, "Attorney General Alberto R. Gonzales returned to Washington Monday after seven-hour visit to Baghdad that was aimed at highlighting the efforts to build a functional criminal justice system in Iraq. The trip also served to illustrate the severe dangers and obstacles that remain." The Post continues, "Gonzales had to travel to Iraq under intense secrecy and heavy guard out of fear insurgents would target him. After arriving at Baghdad airport early Sunday, he was temporarily stranded there while waiting out a sandstorm that had grounded helicopters. Insurgents have made the nine-mile road into the city's center too dangerous to drive." The Post adds, "His presence in Baghdad was not revealed publicly until he was safely inside the Green Zone, the walled compound of former palaces and parks that serve as a shaky refuge for coalition forces and the Iraqi government. … There Gonzales met with Prime Minister Ibrahim Jafari and other senior Iraqi officials to discuss plans for a joint task force to investigate the kidnappings and other serious offenses that contributed to the chaos outside the U.S. compound. … Hours earlier, Egypt's highest-ranking diplomat in Iraq, Ihab Sherif, disappeared after being accosted by two carloads of gunmen as he drove in Baghdad. … 'What we need to do is develop the expertise within the Iraqi community to prosecute assassinations, kidnappings and other serious crimes,' Gonzales said in an interview during the trip. 'This should improve the situation.'"

The Washington Post (7/4, A1, Eggen) reports, "Even as his name echoes in Washington as one of the most likely

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Supreme Court candidates, Attorney General Alberto R. Gonzales landed in war-torn Iraq on Sunday for an unannounced visit with some of the hundreds of Justice Department employees stationed here." The Post continues, "In an interview with The Washington Post on his way to the Iraqi capital, Gonzales said he would continue to be directly involved in making recommendations to President Bush for a possible successor to retiring Justice Sandra Day O'Connor. But Gonzales, a close friend and longtime confidant to Bush, declined to comment on his own chances or interest in the post. … 'There will be a group of people who will share their thoughts with the president about a nominee, and obviously I am part of those discussions,' Gonzales said. 'But I'm not going to talk about the details of those discussions or the recommendations or anything like that . . . I think the president is going to be deliberative in his decision.'" The Post adds, "Although Bush may 'take some time' to make a final call, Gonzales added, the president is adamant that a new justice be confirmed by October. The interviews with The Post and the Associated Press en route to Baghdad were Gonzales's first comments about the high court since O'Connor resigned Friday. … The trip is the first to Iraq by the top U.S. law enforcement officer since the Iraq invasion more than two years ago. Gonzales, who took the post in February, nearly had to cancel the final leg of his trip because helicopters were grounded by sandstorms and the road from the Baghdad airport to the U.S.-controlled Green Zone remains very dangerous."

The New York Times/Reuters (7/4) reports, A U.S. embassy spokesman said Gonzales met Prime Minister Ibrahim al-Jaafari and Iraq's justice and interior ministers during his previously unannounced flying visit. … The Department of Justice said Gonzales was also meeting some of the department's 400 staff in Iraq. … They include a large team of investigators that has been helping Iraq build a war crimes case against ousted leader Saddam Hussein and other members of his regime." Reuters adds, "Department spokeswoman Tasia Scolinos said Gonzales's meetings with members of the Iraqi government were 'to offer his support for what they are doing in terms of reconstituting or rebuilding the judicial system in Iraq.' … 'He's also meeting with the DOJ employees that are on the ground in Iraq just to express his support for what they're doing,' Scolinos said."

The Chicago Tribune (7/4, Madhani) reports, "Gunmen kidnapped Egypt's top diplomat in Iraq, authorities said Sunday, snatching the envoy in a busy commercial district in the capital. … The abduction came hours before a surprise visit to the capital by U.S. Atty. Gen. Alberto Gonzales, who met with Iraqi and American officials and U.S. troops." The Tribune adds, "Gonzales made his a surprise one-day visit to Baghdad to thank U.S. Justice Department officials and troops working in Iraq for their service. He also visited with several Iraqi officials, including Prime Minister Ibrahim al-Jaafari, according to the U.S. Embassy. … The unannounced visit, the latest of several by high-ranking Bush administration officials around past holidays, came as Gonzales' name has surfaced as a possible successor to Supreme Court Justice Sandra Day O'Connor, who on Friday announced her retirement."

The AP (7/4, Sherman) reports, "The United States will help Iraq investigate the killing and kidnapping of government officials, Attorney General Alberto Gonzales says. The informal agreement was disclosed as Gonzales made an unannounced and tightly guarded, six-hour visit Sunday to Baghdad. He met with Iraq's prime minister, Ibrahim al-Jaafari, as well as police and judicial officials." The AP continues, "Word of the arrangement followed the abduction on Saturday night of Egypt's top envoy to Iraq. … 'There are still some high-level crimes, murders and kidnappings that are not being prosecuted. One reason is that the evidence is not available,' Gonzales said in an interview en route back to Washington." The AP adds, "While details are still to be worked out, investigators from the FBI and other U.S. law enforcement agencies would join their Iraqi counterparts at crime scenes and in other aspects of the probes, aides to Gonzales said. … Gonzales praised Iraq's commitment to democracy in the face of sustained deadly attacks by insurgents and also used the trip to show support for U.S. troops in Iraq. … 'As we approach the Fourth of July weekend, I suspect there's some of you that are here that sometimes feel lonely and you sometimes wonder whether you are alone,' Gonzales told American soldiers at the U.S. Embassy. 'And I'm here to tell you that you are not alone, that the American people are very much with you.'"

The New York Times (7/4, Wong) reports, "American and Iraqi officials declined to specify when Mr. Gonzales had planned the trip or why, for a visit that lasted only six hours. But under his leadership, the Justice Department is playing an important role in the coming trials of Saddam Hussein and other officials of the former government. Mr. Sharif, who arrived here just a month ago, was seized as he was driving alone in his white Jeep Cherokee through the Jamia

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neighborhood of Baghdad, where he lived, an Interior Ministry official said. No group claimed responsibility for abducting him. … The Baghdad visit by Mr. Gonzales coincided with speculation that he may be nominated as a replacement for Justice Sandra Day O'Connor, who announced her resignation on Friday. His trip here to the heavily fortified American Embassy was a closely guarded secret, and reporters based here were not invited to meet with him. … He released a written statement that said, 'I am proud of the people of the Department of Justice who are contributing to this effort by helping Iraqis advance the rule of law.'"

The New York Daily News (7/4, McAuliff) reports, "After landing in Baghdad under tight security, Gonzales boosted Iraq's push for democracy and gave a pep talk to U.S. troops who were fighting while their families back home were preparing to celebrate Independence Day. … 'As we approach the Fourth of July weekend, I suspect there's some of you that are here that sometimes feel lonely and you sometimes wonder whether you are alone,' he told G.I.s. 'I'm here to tell you that you are not alone, that the American people are very much with you.' … Gonzales said his trip aimed to show Iraqis the U.S. commitment to their new government. 'We are doing a lot to promote democracy and the rule of law,' he said."

The Knight Ridder Newspapers (7/4, Fadel) reports, "Accompanying Gonzales was FBI Assistant Director Willie Hulon, who directs the FBI's counterterrorism division."

Agence France-Presse (7/5) reports that Gonazles "was accompanied by Max Wood, the embassy's newly-appointed justice attache, and Willie Hulon, director of the Federal Bureau of Investigation's counter-terrorism division, said the statement. … Former attorney general John Ashcroft never visited Iraq."

Gonzales Visits Iraq. Alberto Gonzales' trip to Iraq was widely covered by local TV. Usually, the coverage either mentioned that Gonzales made the trip in order to support US troops or to help the Iraqi government get off the ground. Often, stations mentioned that Gonzales was in Iraq for both those reasons. Some examples: NC8-CABLE-TV Washington, DC (7/3, 2:25 p.m.) reported, "Attorney General Alberto Gonzales made a surprise trip to Iraq today. It's his first visit to the new democracy. He says he chose the Independence Day weekend for his trip to show support both for US troops there and Iraq's fledgling government."

WTVT-TV Tampa (7/3, 7:10 a.m.) reported, "Gonzales made a surprise visit under heavy guard. He picked the July Fourth weekend to show support for US troops."

KABC-TV Los Angeles (7/4, 6:30 a.m.) reported that Gonzales praised democracy and "thanked the troops for brave service."

WNBC-TV New York (7/4, 5:41 a.m.) reported, "Iraq has accepted Gonzales' offer to help the investigation into the kidnappings and killings of top officials. Over the weekend, Egypt's diplomat was taken hostage."

WLS-TV Chicago (7/4, 5:02 a.m.) reported, "Gonzales says Iraq is now ready to accept American help investigating some crimes. He made the statement after completing a surprise six-hour visit to Baghdad. On his return flight, he talked about the agreement that the US would help investigate the kidnap and murder of Iraqi officials. Gonzales says some of these crimes aren't being prosecuted because Iraqi authorities haven't been able to gather enough evidence."

WPVI-TV Philadelphia (7/4, 6:07 a.m.) reported that Gonzales "met with the country's prime minister, as well as police and judicial officials." He "said Iraq is ready to accept US help to prosecute kidnappers and killers."

WSB-TV Atlanta (7/4, 5:49 a.m.) reported, "Gonzales says he made the trip to show support for US troops in Baghdad and offer FBI help to the Iraqis."

KDFW-TV Dallas (7/4, 8:04 a.m.) reported, "The nation's top lawyer told Iraqis the US will stand" by their fledgling government. Gonzales "promised to help support the young Iraqi justice system and police and he praised US troops." KPNX-TV Phoenix (7/4, 5:06 a.m.), KCPQ-TV Seattle (7/3, 10:08 p.m.), KMOV-TV St. Louis (7/3, 10:10 p.m.), and WRGB-TV Albany, New York (7/4, 6:11 a.m.) were among the many other stations that also covered the story, using much the same language as that used by the stations cited above.

On Independence Day, President Bush Calls For Resolve In Iraq. President Bush called on Americans to remember US troops fighting the war on terror in their celebrations for the holiday. In his remarks at Morgantown, West Virginia, the President also called for resolve and for seeing the Iraq mission through to the end. ABC and CBS covered Bush's remarks, while NBC mentioned the President's West Virginia trip in a story on the Supreme Court vacancy.

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ABC World News Tonight (7/4, story 4, 2:05, Gibson) reported, "The soldiers in Iraq and Afghanistan were on President Bush's mind this holiday. In West Virginia, he urged Americans to show their support for US forces overseas." Bush was shown saying, "There's so many ways to do so. You can fly the flag. Or send a letter to the troops in the field. Or help a military family down the street." The CBS Evening News (7/4, story 2, :40, Roberts) said the President "appealed to Americans to show resolve in Iraq." Bush was shown saying, "We pray for the families who have lost a loved one in freedom's cause, and we know that the best way to honor their sacrifice is to complete the mission so we will stay until the fight is won."

NBC Nightly News (7/4, story 5, 2:10, O'Donnell) reported, "This was a day for President Bush to simply wave the flag, marking the holiday in Morgantown, West Virginia." Bush: "And on Independence Day we remember that we also have essential responsibilities here at home."

The Charleston State Journal (7/5, Kaull) reports the President "spoke for about 20 minutes, mostly about the war in Iraq and the fight against terrorism. He drew parallels between America's War for Independence, which lasted eight years, and the struggle to establish democracy in Iraq." Bush also "thanked West Virginians for their patriotism. 'Coming to West Virginia is becoming a Fourth of July tradition for me,' he said.'" The Wheeling Intelligencer (7/5, King) adds, "It appears President George W. Bush now equates the Fourth of July with democracy, freedom and West Virginia."

CNN's Inside Politics (7/4, Franken) said Bush's speech "was really a repeat of last week's speech in which he was beginning to try and shore up support for the war in Iraq, which has been suffering from a lack of -- a dwindling lack of support in the United States. … But to reinforce the point that the war in Iraq has become a very contentious issue in the United States, a group of about 50 demonstrators appeared outside the hall where the president spoke." The New York Times (7/5, Kornblut) also says this morning that Bush reprised "his prime-time speech on Iraq the week before."

The Los Angeles Times (7/5, Chen) reports Bush asserted "that he has 'a comprehensive strategy' to win the struggle in Iraq and prevail in the global war on terrorism." Bush "has been under growing pressure, including from some Republican lawmakers, to articulate an exit strategy -- what the White House prefers to call 'a strategy for success' -- for Iraq." In his remarks, "however, Bush did not go beyond the points he made last Tuesday in a nationally televised prime-time address. … As he spoke, the shouts of a cluster of demonstrators could be heard, although their words were difficult to discern.":

The Washington Times (7/5, Curl) reports "several thousand students, veterans, civic leaders and members of the military packed West Virginia University's downtown campus for the ticketed event." The Pittsburgh Post-Gazette (7/5, O'Toole) notes the "cheering…audience," adding Bush "melded a salute to the troops with a defense of his war policies; a celebration of American independence with promises of democracy to come in the Middle East." Bush "was introduced yesterday by US Rep. Shelley Moore Capito, R-W.Va., who proclaimed that Bush's frequent visits had transformed him from a Texan to a Mountaineer. … The spotlight on Capito came as speculation continues that she will challenge [Sen. Robert] Byrd, the state's long-serving Democrat, in next year's election."

Meanwhile, Reuters (7/5, Bohan) notes Bush "also invoked the Revolutionary War as he cast the Iraq war as a struggle to help Iraqis achieve freedom." The AP (7/5, Hunt) adds, "With his approval ratings sagging and anxiety over the war rising, Bush has decided to devote more attention to explaining what he believes is at stake in Iraq and his strategy for dealing with it. … The president's communications effort has been complicated by the Supreme Court vacancy caused by the surprise retirement of Justice Sandra Day O'Connor."

Bush's Independence Day speech at West Virginia University received widespread local TV coverage across the nation, with several reports noting that it was Bush's third Independence Day speech in four years in the Mountain State. Some examples: WDIV-TV Detroit (7/4) reported, "In the President's third speech in four years at the school, he called on all Americans to show support for those troops serving in what he called the fight against terrorism." Bush was shown saying, "The men and women of our armed forces have always answered our nation's call."

WITI-TV Milwaukee (7/4) reported, "President Bush kicks off the Fourth with an appearance in West Virginia. There, he thanked America's war heroes for their service to the country. The President stopped in West Virginia on the Fourth. He says Americans need to do something to show their appreciation for the troops." KDKA-TV Pittsburgh (7/4) also said, "West Virginians are getting used to seeing President Bush on this holiday."

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WBBM-TV Chicago (7/4) reported, "President Bush is message to the nation is familiar. The US needs to support troops who are defending freedom in Iraq. As we report, the President again said those troops are not going anywhere any time soon. A colorful setting, a warm welcome for the President speaking on the campus of West Virginia University. He rallied to show extra support for the troops."

Knight Ridder (7/5, Silva) says Bush made "a repeat Independence Day visit to this mountainous realm that helped elect him and re-elect him." The Washington Post (7/5, Helderman) notes, "In all, 13 West Virginians have been killed in Iraq since the war began. A sailor from the state was also one of 16 troops killed last week when a MH-47 Chinook helicopter crashed in eastern Afghanistan."

US, Iraqi Troops Arrest Over 100 Suspected Insurgents. The CBS Evening News (7/4, story 2, :40, Roberts) reported, "In Iraq today, hundreds of US and Iraqi troops arrested at least 100 suspected militants in raids near the Baghdad airport. A suicide car-bomber struck an Iraqi army convoy in Fallujah, killing at least three civilians. And in Baghdad, a remote-control car bomb missed a US military convoy, but killed two Iraqi civilians."

Syrian Forces Clash With Militants Linked To Iraqi Insurgency. The New York Times (7/5, Fattah) reports that Syrian security forces "clashed early Monday in the hills overlooking Damascus with men believed to be militants connected to Iraq's insurgency." The predawn firefight on Qassioun Mountain "left one police officer dead and several others wounded. … It was the second clash in as many days between the Syrian authorities and people believed to be militants." The Times notes that Syria "has come under significant pressure" from the US "to seal its long border with Iraq, and has been accused of giving Iraqi insurgents safe harbor and of encouraging the insurgency. But in recent weeks, it has sought to highlight its own problem with militants as well as to show it has gotten serious about stamping out militancy."

Army Reservists Build Artificial Limbs For Iraqis. The CBS Evening News (7/4, story 8, 2:35, Roberts) reported, "Some Army Reservists in Iraq are using their civilian expertise to give injured Iraqis a new start." CBS (Dozier) added Captain Steve Lindsley and MP Sgt. Chris Cummings, who organized Operation Restoration, a program to build artificial limbs for wounded Iraqis. The group has "helped some 60 people. To keep the clinic open, Sergeant Cummings extended his tour by nine months."

Marine Reservists Profiled. NBC Nightly News (7/4, story 3, 2:05, Engel) profiled the regimen of the Marines of Kilo Company, "part of Regimental Combat Team 2 on patrol in the dangerous Sunni Triangle northwest of Baghdad." Engel: "At home, they're plumbers, cops, salesmen and students. Now, they are hunting down insurgents in the city of Hit."

Iraqi Prime Minister Rules Out Talks With Terrorists. The Washington Times (7/5, Martin) reports, "Iraqi Prime Minister Ibrahim al-Jaafari has ruled out talks with any terrorist or insurgent group that has the blood of Iraqi citizens on its hands. But, in a recent interview, Mr. al-Jaafari also held out an olive branch to other hard-line anti-government and anti-American militants whose opposition had not led to the deaths of Iraqis." Mr. "al-Jaafari said he would welcome bringing hard-line Sunni groups into a political dialogue and even into his government." Times adds, "The prime minister said it was also politically important to put former Iraqi strongman Saddam Hussein on trial quickly and to reach a rapid conviction and an imposition of the sentence passed by the court. He dismissed suggestions that the trial, and especially a death sentence, could inflame passions and increase terrorism."

Sunni Umbrella Group Urges Iraqi Members To Vote. The New York Times (7/5, Glanz) says "a major Sunni umbrella group called on its members on Monday to register for the next round of elections and take part 'despite our reservations.'" Adnan al-Dulaimi, the head of a group called the Sunni Endowment, "said in a briefing in Baghdad that clerics would be asked to issue fatwas, or religious rulings, essentially ordering Sunnis to vote in elections." The Times notes that Dulaimi also "explicitly renounced violence as a way for the Sunnis to regain power."

The Washington Post (7/5, Mosher, Fekeiki) adds "another pivotal Sunni group, the Iraqi Islamic Party, immediately voiced support for the proposal." Subhi Nawzen Tawfik, a political science professor at the University of Baghdad's International Studies Center, "called the initiative 'a very important development.'"

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Iraq Seen As Replacing Afghanistan As Prime Training Ground For Terrorists. Knight Ridder (7/5, Strobel) says that Iraq has replaced Afghanistan "as the prime training ground for foreign terrorists who could travel elsewhere across the globe and wreak havoc, according to U.S. counterterrorism officials and classified studies by the CIA and the State Department." Of particular concern, "are the urban combat techniques being learned and used by foreign fighters assaulting U.S. and Iraqi troops. There's already evidence that those tactics are being replicated elsewhere." Knight Ridder says that Iraq's emergence as a terrorist training ground "appears to challenge President Bush's rationale for invading and overthrowing leader Saddam Hussein in March 2003."

Iraqi Barbershops Targeted By Insurgents. The Washington Times (7/5, Karim) reports, "Baghdadis headed to the barbershop are going more often to the Shi'ite neighborhood of Sadr City than to mixed neighborhoods, where they could be shot by Sunni radicals who charge that clean shaven men want to look like US soldiers." According "to an Interior Ministry official, at least 20 barbers have been assassinated in areas like Shaab, Bayaa, Saidiyah and Baghdad al-Jadeeda over the past two months."

Diplomats Fear For Their Safety In Iraq. The Los Angeles Times (7/5, Daragahi) reports that he kidnapping of Ihab al-Sherif, "Egypt's top envoy in Baghdad," has "sent shivers through the capital's small diplomatic community and may further hamper Iraq's drive to restore full diplomatic relations with the world." U.S. and Iraqi officials "have accused the mostly Sunni Muslim nations of the Arab world of refusing to restore full diplomatic ties with Iraq because it has been led by Shiites since the handover of sovereignty last year." However, Demiye Haddad, "the Jordanian embassy's charge d'affaires, said security -- not politics -- is the issue." Diplomats "say they fear for their safety in Iraq, and are concerned that their nations could become targets of terrorists if they appear to warm up to Baghdad." Iraq's president, Jalal Talabani, "commended the Bush administration's efforts to change Iraq and the Middle East. The mass graves that Saddam Hussein left behind justified the war, he said."

Stateside Groups Lend Support To War Dogs In Iraq. The Washington Times (7/5, Haberkorn) reports that military war dogs in Iraq that help save lives by detecting bombs and traps and finding injured civilians are "getting chapped [noses] from the desert heat. When Amy Nichols, owner of Happy Tails Dog Spa in Tysons Corner, heard of the dogs' tale, she bought some lip balm for their noses and set up a donation box in front of her store. The doggy day care also is collecting flying discs, knotted ropes and treats to send to the hundreds of dogs serving in Iraq." The Times notes that by next week, Nichols "expects to send about 50 pounds of donations to the dog handlers in Iraq. Schools and animal advocacy groups across the nation have held collection drives to help the dogs in Iraq, and the US War Dogs Association has proposed a memorial for military working dogs and their handlers."

Two Navy SEALs Reportedly Killed In Eastern Afghanistan. One of the four Navy SEALs missing in the mountainous region of eastern Afghanistan was rescued over the weekend and is in stable condition. However, there is no official word on the remaining members of the team, and officials have told reporters on background that two of the Special Forces troops have been found dead. The networks all ran the story early in their newscasts. ABC World News Tonight (7/4, story 3, 2:10, Raddatz) reported, "Officials will say little about this, since one of the SEALs remains missing and the rescue efforts continue." The "loss of two more Navy SEALs would mean that, in less than a week, the SEALs have lost ten members, since 8 SEALs were killed on the rescue helicopter that crashed on Tuesday."

The CBS Evening News (7/4, lead story, 2:55, Orr) reported, "A US official tonight confirms that two of the four Navy commandos missing since Tuesday are dead," but the "search for the fourth missing SEAL goes on." NBC Nightly News (7/4, lead story, 1:45, Miklaszewski) reported, "The governor of Kunar Province announced that a second Navy SEAL had been found wounded and was being cared for in a remote Afghan village. But tonight, US military and Pentagon officials say there is no confirmation a second SEAL has been located."

US Officials Express Regret For Civilian Casualties In Afghanistan. The CBS Evening News (7/4, lead story, 2:55, Orr) reported the rescue operation "comes during a spike in Afghan violence. 45 US soldiers have been killed in the last three months along with 500 enemy fighters and more than 130 civilians." US officials "expressed regret that an air strike Friday on a terrorist compound killed an unknown number of civilians. But in a statement, said: 'When enemy forces move their families into the locations where they

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conduct terrorist operations, they put these innocent civilians at risk.'"

Taliban Said To Be Reemerging In Afghanistan. The Taliban and al Qaeda are thought to be making a bid to reemerge in Afghanistan, which is one reason for the recent upsurge in violence there. NBC Nightly News (7/4, story 2, 2:05, Allen) reported, "The Taliban has reemerged, supported by al Qaeda, a force estimated at some 20,000. US military officials say some of those fighters come over the mountains from Pakistan, with tactics imported from Iraq -- suicide bombs, roadside bombs, targeted assassinations, violence often directed at Afghan police, aide workers, anyone supporting the US and the new government." At least "45 US troops have died since early April, including 16 in the last week's chopper crash, the single deadliest day for American forces in Afghanistan."

Defense Department Considering Move Away From Two-War Strategy. Prompted by the ongoing conflict in Iraq, the Defense Department is reconsidering its current two-war strategy as part of its quadrennial review. The New York Times (7/5, Shanker, Schmitt) reports senior military planners are "weighing whether to shape the military to mount one conventional campaign while devoting more resources to defending American territory and antiterrorism efforts." The strategy shift will "determine the future size of the military as well as the fate of hundreds of billions of dollars in new weapons." The debate over the changes "reflects a growing recognition that the current burden of maintaining forces in Iraq and Afghanistan, along with the other demands of the global campaign against terrorism, may force a change in the assumptions that have been the foundation of all military planning." An "official designation of a counterterrorism role and a shift to a strategy that focuses on domestic defense would have a huge impact on the size and composition of the military." Strategies "that order the military to be prepared for two wars would argue for more high-technology weapons, in particular warplanes. An emphasis on one war and counterterrorism duties would require lighter, more agile forces - perhaps fewer troops, but more Special Operations units - and a range of other needs, such as intelligence, language and communications specialists." The "unusual mission in Iraq, which could last for years, has not just taken the slot for one of the two wars; it has upended the central concept of the two-war model."

DOJ:

Filling Top Post In New DOJ National Security Division Could Be Difficult. The Legal Times (7/4, Blum) reports, "The president's proposal to create a new National Security Division in the Justice Department, if adopted, would formalize the removal of the wall between intelligence gathering and criminal prosecution. But finding the right person to run the new section, which would bring together the DOJ's counterterrorism section, counterespionage section, and the Office of Intelligence Policy and Review, may not be easy." The Times continues, "Before the passage of the USA Patriot Act in 2001, intelligence agents and prosecutors rarely worked together. As a result, few lawyers have experience in both disciplines. 'There really aren't a lot of people who bridge both worlds,' says Suzanne Spaulding, a former CIA lawyer." The Times adds, "The post is unlikely to go to James Baker, who currently heads the Justice Department's intelligence office, or to counterterrorism chief Barry Sabin because both men are career officials without strong Republican ties. One senior DOJ official says the shuffle will not disrupt ongoing terrorism investigations: 'The advantage of putting those troops in the same division is that it will enable them to better take advantage of synergy the destruction of the wall has made possible.'"

CORPORATE SCANDALS:

DOJ To Continue HealthSouth Probe. The AP (7/4, Reeves) reports, "Federal prosecutors aren't done with HealthSouth Corp., despite the acquittal of ousted CEO Richard Scrushy in a $2.7 billion earnings overstatement. Two former executives who pleaded guilty in the accounting scheme are set for sentencing this summer, and two more indicted in the fraud are awaiting trial in Birmingham, where jurors last week found Scrushy not guilty." The AP continues, "HealthSouth, meanwhile, is still feeding information to prosecutors as it sorts out the aftermath of the financial debacle, and U.S. Attorney Alice Martin said her office is still investigating the long-running fraud at the rehabilitation and medical services chain." The AP adds, "A recent earnings restatement filed by HealthSouth with the Securities and Exchange Commission includes information about payments and perks offered to some health care providers that could

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have violated Medicare rules, Martin said in an interview with The Associated Press. … 'Now I'll turn my attention to some other things that have been on the back burner during the trial,' said Martin, declining to elaborate. … The acquittal of Scrushy on all 36 counts was a stinging defeat for FBI agents and prosecutors who spent more than two years on the case, and Martin said attorneys are eager to talk more with jurors to find out exactly where their case failed. … But Martin rejected the idea that Scrushy's acquittal meant the whole investigation was a failure. … 'Overall it's been an incredible success with 15 guilty pleas,' she said. 'Sometimes that last domino doesn't fall.'"

SEC To Pursue Civil Action Against Scrushy. The Washington Post (7/5, Johnson) reports that on Thursday, the SEC "will file court papers seeking a chance to pursue its case" against Richard Scrushy "for the earnings inflation at HealthSouth Corp." The SEC wants to forbid Scrushy "from serving as an officer or director of another public company. It is also seeking $786 million in penalties and disgorgement." One of Scrushy's attorneys, Arthur W. Leach, "said he hopes the jury verdict [in the criminal case] 'has caused [U.S. District Judge Inge] Johnson to have increased questions about the strength and the merit of the SEC case.'" Experts added, however, that the SEC "is charging Scrushy with failing to follow accounting procedures and other new allegations not contained in his criminal indictment." In addition, the SEC "may be able to sharpen its case based on lessons it gleans from the failed criminal prosecution."

German Brokerage Firm Is Investigated For Missing Funds. The Wall Street Journal (7/5, Taylor, Reilly) reports that "about €270 million, or roughly $320 million, in client funds hasn't been accounted for at a little-known German brokerage firm" called Phoenix Kapitaldienst GmbH. The Journal says the Phoenix "scam" operated for nearly a decade, and appears to be "one of Europe's biggest investment frauds -- potentially affecting as many as 30,000 investors." To cover up the fraud, Phoenix "simply wrote fake account statements and shredded documents." Prosecutors "have started proceedings against two directors of the company on charges of fraud in 6,940 cases related to the firm and arrested the two, one of whom they allege destroyed documents. A Frankfurt court appointed law firm Schultze & Braun to oversee insolvency proceedings at the firm."

Evan Greenberg Still Standing Despite Investigations. The Washington Post (7/5, Starkman) runs a lengthy piece on the many legal challenges facing Ace, Ltd. leader Evan Greenberg, noting that he is "staying on his feet despite investigations into the U.S. insurance industry that have toppled his brother and father." Greenberg "has acknowledged his own company's shortcomings and called for industry-wide reforms," but "he also said Ace has weathered an internal review of bid-rigging allegations without major findings of wrongdoing beyond those disclosed earlier this year." According to documents Ace filed in March with the SEC, "the company has received 43 subpoenas, civil demands and other queries from attorneys general in 10 jurisdictions, including the District, and 10 state insurance departments or other regulators, including Maryland's." There are also "ongoing state and federal investigations into accounting and business practices at AIG, where Evan Greenberg worked for 25 years, including the last three as chief operating officer under his father."

CRIMINAL LAW:

Email Shows Rove Was One Of Cooper's Sources. Newsweek (7/11, Isikoff) reports that Time magazine "agreed last week to turn over reporter Matthew Cooper's e-mails and computer notes to a special prosecutor investigating the leak of an undercover CIA agent's identity. … Now the story may be about to take another turn. The e-mails surrendered by Time Inc., which are largely between Cooper and his editors, show that one of Cooper's sources was White House deputy chief of staff Karl Rove, according to two lawyers who asked not to be identified because they are representing witnesses sympathetic to the White House. Cooper and a Time spokeswoman declined to comment. But in an interview with NEWSWEEK, Rove's lawyer, Robert Luskin, confirmed that Rove had been interviewed by Cooper for the article. It is unclear, however, what passed between Cooper and Rove." Luskin "told NEWSWEEK that Rove 'never knowingly disclosed classified information" and that "he did not tell any reporter that Valerie Plame worked for the CIA.' Luskin declined, however, to discuss any other details. He did say that Rove himself had testified before the grand jury 'two or three times' and signed a waiver authorizing reporters to testify about their conversations with him." Newsweek adds that "one of the two lawyers representing a

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witness sympathetic to the White House told NEWSWEEK that there was growing 'concern' in the White House that the prosecutor is interested in Rove."

Time (7/11, Saporito) reports that Luskin said Cooper "called Rove during the week before Novak's story appeared but declined to say what they discussed. … The lawyer said he has received repeated assurances from Fitzgerald's office that Rove is not a target in the case."

Rove Attorney Denies He Leaked Name Of CIA Agent. The CBS Evening News (7/3, story 4, :20, Roberts) reported, "Responding to a published report, the lawyer for White House aide Karl Rove denied today that his client leaked a CIA agent's name to Time magazine reporter Matt Cooper. Newsweek says e-mails surrendered by Time to a special prosecutor show that Rove was one of Cooper's sources."

In a story about the legal climate surrounding the issue of press confidentiality, the New York Times (7/4, Seelye) reports that "lawyers for the news media say that the legal climate for those seeking to protect confidential sources is turning chillier, with more subpoenas being issued to reporters. There is no database that tracks such subpoenas, and some prosecutors dispute that they are on the rise." But "a series of high-profile cases involving confidential sources has the news media on edge. … In the last year, more than two dozen reporters across the country have been subpoenaed or questioned about their confidential sources in cases before federal courts, according to the Newspaper Association of America."

Cunningham Made $400,000 In Boat Sale.

The San Diego Unioin-Tribune/Copley News Service (7/5, Kammer, Stern) reports, "Rep. Randy 'Duke' Cunningham made roughly a $400,000 profit by selling the boat he lived aboard in the nation's capital from 1997 to 2002 to a businessman convicted in a bid-rigging scheme. The man said he subsequently got advice from Cunningham about how to pursue a presidential pardon from the Bush administration. … The businessman further acknowledged that a mortgage company owned by his daughter and nephew provided Cunningham with two loans totaling $1.1 million so the congressman could buy his home in Rancho Santa Fe. The businessman said he eventually paid off one of those loans in partial payment for the yacht." Copley adds, "Cunningham bought the 65-foot flat-bottom riverboat Kelly C from then-Rep. Sonny Callahan, R-Ala., for $200,000 in 1997. Five years later, he sold the boat for $600,000 to Thomas Kontogiannis, the Long Island businessman said yesterday. … Kontogiannis defended the $600,000 price tag as 'a steal,' saying that he had received an appraisal for twice that amount." Copley adds, "The Kontogiannis family is a frequent contributor to Republican causes, including a $300 contribution to Cunningham in July 2002, the year of the sale. …Cunningham's financial dealings in recent weeks have embroiled him in a multitiered federal investigation and cast a shadow over his Washington career. … In a series of interviews with Copley News Service yesterday, Kontogiannis confirmed that he bought Cunningham's boat and that the congressman offered to help him explore the possibility of seeking a pardon from President Bush and the Justice Department. Cunningham then put him in touch with a Washington law firm and recommended 'two or three' lawyers to talk to, said the businessman."

Developer's Purchase Of Cunningham's Boat, Loan Not Documented. The Washington Post (7/5, A2, Babcock) reports Long Island developer Thomas T. Kontogiannis recently bought Rep. Randy Cunningham's "65-foot yacht, the Kelly C, and helped the California Republican finance a house." However, Kontogiannis says the "transactions are nothing like Cunningham's dealings on another house and yacht that are the subject of a federal investigation." However, the transactions between the Cunningham "and Kontogiannis are not fully documented in the public record or the congressman's financial disclosure. Cunningham, for example, is still listed as the owner of the Kelly C, with his address listed as the home he bought more than a year after Kontogiannis said he bought the yacht from the congressman." Kontogiannis "said in interviews this weekend that he bought the Kelly C, a boat on which Cunningham used to live while Congress was in session, for $600,000 in summer 2002." Then in late 2003, Kontogiannis said, "when Cunningham bought a $2.55 million home in Rancho Santa Fe, the congressman asked if a mortgage company owned by Kontogiannis's nephew and daughter could finance $1.1 million in mortgages."

Cunningham Cancels Independence Day Public Appearance. CNN's Inside Politics (7/11, Johns) reported, "Republican Congressman Duke Cunningham canceled a scheduled appearance today at a pancake breakfast in his home district. Cunningham is under investigation for selling this San Diego-area home to a defense contractor who later sold the house for a loss. A spokesman said Cunningham did

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not want to be a distraction at this morning's event." The AP (7/5, Hettena) says that on Friday, "the FBI raided Cunningham's San Diego-area home as authorities intensified their investigation of the congressman's financial dealings."

Indicted Tennessee Lawmaker Adds Scrushy Lawyer To Defense Team. The AP (7/4) reports state Sen. John Ford has retained "Attorney Donald Watkins, who helped former HealthSouth CEO Richard Scrushy win an acquittal on fraud charges last week," to defend him on federal bribery charges stemming from Operation Tennessee Waltz. The AP adds, "According to Watkins there are two reasons why the case looks good for Ford. 'The secret video tapes that the FBI made do not portray what really happened with the course of conduct of Senator Fords' dealings with the FBI and the entity created by the FBI.,' Watkins said. Watkins also said that the undercover operatives cooperating with the FBI have credibility issues."

Former Kansas County Official Pleads Guilty To Lying To FBI. The Kansas City Star (7/3, Thomas, Smith) reports, "Former Jackson County Executive Bill Waris pleaded guilty Saturday to lying to FBI agents in a criminal investigation that, according to documents, targets Katheryn Shields, the county's current top elected official." The Star adds, "In an agreement reached late Friday with federal prosecutors, Waris pledged to cooperate fully with the investigation. In return, said U.S. Attorney Todd Graves, the government dismissed parts of a Nov. 17, 2004, federal indictment against Waris and won't oppose any request for probation at his sentencing."

Cleveland Corruption Trial Jurors Remain Deadlocked. The Cleveland Plain Dealer (7/2, Tobin) reports, "The jury deciding the fate of Nate Gray remained deadlocked Friday night over charges that Gray traded public contracts for bribes. The jury sent notice to U.S. District Judge James Gwin that it had not agreed on any of the 59 counts of conspiracy, fraud and bribery against Gray, Cleveland City Councilman Joe Jones and New Orleans businessman Gilbert Jackson." The Plain Dealer notes, "One of the FBI agents working on the case slumped when Gwin read the note. Defense lawyers grinned and asked Gwin to declare a mistrial," but Gwin ordered the jurors "to return for more deliberations next week."

NYPD Detectives Accused In Mob Killings Seek Release On Bond. Newsday (7/2, DeStefano) reports, "Two ex-cops accused of being hitmen for the mob are not dangerous and should be let out of solitary confinement on bail, defense attorneys said Friday. In a 19-page bail application…lawyers for Louis Eppolito and Stephen Caracappa said the case…was 'slim' and that narcotics charges in the indictment had no connection to the racketeering charges." Newsday adds, "A bail hearing is scheduled in the case for Tuesday before Judge Jack B. Weinstein. Prosecutors had not filed a response to the defense papers as of late Friday." The New York Daily News (7/2, Marzulli) notes, "The defendants asked a federal judge yesterday to free them on $1 million bail and offered to put up their homes in Las Vegas and properties owned by their children and close relatives to secure the bond."

Alleged US Child Predator Arrested In Joint FBI-RCMP Investigation. The (Toronto) Globe and Mail (7/2, A4, Sher) reports, "A man whose picture appeared in a gallery of suspected child predators on the America's Most Wanted website was tracked down in Montreal this week after an international cyberhunt. … 'It was a great co-ordinated effort,' said Detective Sergeant Paul Gillespie of Toronto Police's sex-crime unit, which worked with the FBI, the RCMP and police in Quebec to locate the man." The Globe and Mail notes that at the outset "the FBI had few clues, except his approximate weight, hair colour and a couple of scars and tattoos on his arms. 'He's been out the longest,' said Arnold Bell, unit chief of the FBI's Innocent Images project. … About two weeks ago, members of Toronto's sex-crimes unit came across new pictures and a video from the same series in a newsgroup."

Former Illinois Death Row Inmate Faces New Charges. The AP (7/5, Robinson) reports, "Aaron Patterson walked out of prison 2 1/2 years ago, a free man with a pardon and a chance to start fresh. But the happy ending never came for Patterson, who faces fresh drug and weapon charges that could hand him a return trip to prison. These days, the 40-year-old Patterson sits in a federal jail awaiting the start of jury selection Tuesday." The AP continues, "His story of torture by police and 17 years on death row had helped launch an emotional campaign against the death penalty in Illinois." The AP adds, "Patterson was among four former death row inmates who were

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pardoned by former Gov. George Ryan in one of his last acts in office in January 2003. A day later the governor commuted the sentences of all 160 other death row inmates to life without parole. … Patterson insisted that he was tortured by police into confessing to a double murder he did not commit. The head of the unit that investigated his case, Lt. Jon Burge, was later fired for allegedly mistreating a suspect. … Ryan's actions were warmly applauded by opponents of the death penalty, who nominated the former governor for the Nobel Peace Prize. Patterson's claims have been echoed by dozens of others. … But the cheering for both Patterson and Ryan has long since faded. … The former governor is facing a racketeering indictment, and federal prosecutors are asking the judge — who by coincidence is U.S. District Judge Rebecca R. Pallmeyer, who also is handling Patterson's case — to bar his lawyers from using his moratorium on capital punishment to try to impress the jury. … Meanwhile, federal prosecutors say Patterson emerged from prison to become a leader of the South Side's P. Stones street gang."

Task Force Faces Big Challenge In Ohio Corruption Probe. The Toledo Blade (OH) (7/5, Wilkinson) reports, "In the month since its creation, the task force to investigate Tom Noe has been relatively quiet, slowly putting together a process while gathering information." The Blade continues, "What the four prosecutors face is daunting: Unraveling the complex world of Mr. Noe's coin business and political activity. The investigation will stretch across Ohio and the country." The Blade adds, "Together, the four prosecutors - two U.S. attorneys, two elected county prosecutors; one female, three male; one Democrat, three Republicans - will have to decide what charges will be sought and, if any are brought, who will prosecute them. … But despite the complexity of the case, its high profile, and the overlapping boundaries of their jurisdictions, they are confident that they'll get the job done. … 'You do the right thing,' said Gregory A. White, U.S. attorney for the Northern District of Ohio, based in Cleveland. 'You are comfortable with your process. We are progressing and confident about all the things that are going on. We are maintaining the integrity of this expanded investigation.'"

USA Today Examines Eric Rudolph's Letters To His Mother. In a front-page piece, USA Today (7/5, Morrison) reports on letters convicted bomber Eric Rudolph has written his mother. When Rudolph pleaded guilty on April 13, he released "a rambling, 11-page statement that condemns abortion and homosexuality and says he had 'nothing personal' against his victims," but his letters home, by contrast, "are cogent and well-written." The letters "reveal a thinker, clever and cunning, who details how he fooled locals and the feds during five years on the lam; an egoist who sees himself and his plight in the books that now take up his days; a zealot, unapologetic in his disgust for abortion and the government; a son who seems to deeply regret what his family has endured." In a letter his mother received April 21, he writes, "I don't believe that a government that sanctions, protects and promotes the murder of 50 million unborn children in the heinous practice of abortion has the moral authority to judge a man for murder."

Mexican Nationals' Murder Convictions Come Under Scrutiny. The Washington Times (7/4, Aynesworth) reports a criminal motion will be argued in Littlefield, TX, next month, following an investigation into whether "two Mexican nationals should serve life sentences or -- because of prosecutorial malfeasance and inadequate representation -- their 1998 murder convictions should be overturned." There also could be testimony that would "cast suspicion on two other men, one of whom reportedly had bragged to friends about the murder of a convenience-store clerk." The murder convictions of Jesus Ramirez and Alberto Sifuentes came seven years ago, after "prosecutions that offered no forensic evidence and no motives, but did have witnesses who since have been accused of perjury. The case has drawn considerable attention from the Mexican government."

Police Say A Blow To The Head Killed A Missing Oregon Boy. The NewYorkTimes/AP (7/4) reported "a four-year-old Oregon boy who police say was killed by his step-grandmother and left along a rural road in the foothills of the Cascade Range died from a blow to the head. An autopsy conducted a day after Christine Coffman led police to her step-grandson's body determined the cause of death to be blunt force head trauma, said Officer Kevin Krebs, a spokesman for the Milwaukie Police Department." Coffman was charged Saturday with aggravated murder in the death of Matal Sanchez, who had disappeared Wednesday from his home in the Portland suburb of Milwaukie.

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Police Find Remains In Montana Thought To Be Missing Boy. Police yesterday found remains in western Montana that were thought to be those of nine-year-old Dylan Groene, who was kidnapped along with his eight-year-old sister Shasta Groene. The girl's rescue from convicted pedophile Joseph Duncan has angered many advocates of tougher penalties for sexual offenders.

ABC World News Tonight (7/4, story 5, 2:35, Gibson) reported advocates "of stronger laws against sexual predators were outraged, as more details emerged about" Duncan. ABC (Karlinsky) added, "Questions are now being raised about why such a person, who has a record of sex crimes, dating back 25 years, was free in the first place. He was released in April on only $15,000 bail, after being charged with molesting a 6-year-old boy, at this Minnesota playground. Prosecutors urged that Duncan be kept in custody. The judge now says he doesn't remember if he knew Duncan was a level-three offender with a rape conviction and numerous parole violations, considered to be in high risk of re-offending." The CBS Evening News (7/4, story 6, 2:40, Bowers) reported, "Investigators are waiting on DNA analysis to confirm what we believe," that Shasta Groene told investigators "that her brother is dead."

Kidnapped Eight-Year-Old Girl Rescued In Idaho. Idaho authorities over the weekend rescued eight-year-old Shasta Groene, who was kidnapped after her mother, her mother's boyfriend, and her older brother were murdered. However, her nine-year-old brother Dylan remains unaccounted for. A convicted sex offender, Edward Duncan, was arrested in Shasta Groene's kidnapping, but has not yet been charged with any other crimes. The story received extensive coverage in all three network newscasts.

ABC World News Tonight (7/3, story 2, 2:05, Karlinsky) reported, "Duncan is no stranger to authorities who are now scouring his Fargo, ND, home. He is a registered sex offender who has done prison time for rape but more recently studied computer science at North Dakota State University. On his own website, he writes, 'My intent is to harm society as much as I can -- then die.'" Tim Fuhrman, FBI: "I don't think there is any question we will be involved in attempting to work on exploiting what may or may not be in any computer we may or may not find." The CBS Evening News (7/3, story 5, 2:15, Roberts) and NBC Nightly News (7/3, story 6, 2:30, Okwu) also reported the story. The story also was picked up by The New York Times/AP (7/4), among other media sources.

Police Unable To Trace Nearly Quarter Of Sex Offenders. ABC World News Tonight (7/3, story 3, 2:05, Moran) reported "the shock of the crime" in the Groene case "is compounded by the fact that the suspect is a convicted child molester: Almost one-quarter of all sex offenders fail to obey their state's registration requirements." That "means many of them are simply on the loose." ABC (Jamieson) added, "There are nearly 550,000 registered sex offenders in the United States, but police may not know where 100,000 of them are." Law enforcement groups "say police just don't have the time or the resources to track every sex offender. And studies show just 5% of convicted sex offenders are arrested again, a lower rate than other criminals. But that hasn't diminished public outrage. And states are moving aggressively to track sex offenders and prevent them from molesting again."

DC Cracks Down on Jaywalking, Holding Cell Phones While Driving. The Washington Post (7/4, Weiss) reported Washington, DC, has been cracking down on such things as jaywalking and holding a cell phone while driving. They are moves the Post said are making "some people wonder whether the District is turning into a Big Brother 'nanny state.'" However, "DC Council member Phil Mendelson (D-At Large) defended the actions, saying city leaders have to strike a balance between making urban life safe and livable and preserving the fun of city living. 'It's not always that the government is looking for ways to be more of a nanny,' he said."

Boy Killed In iPod Robbery. The NewYorkTimes (7/4, Medina, Sweeney) reports, "Two Brooklyn, NY, teenagers were arrested Sunday on charges that they robbed and killed a 15-year-old boy…when they stole his friend's iPod. "The victim, Christopher Rose, was walking with three other boys late Saturday afternoon when a large group of teenagers approached them and demanded that they turn over the iPod that one of the boys was carrying. A witness said "when the boys refused, one of the suspects began hitting them. Then someone stabbed Christopher twice in the chest." Law enforcement officials have warned in recent months that "iPods have prompted an increase in thefts on the subways, and that teenagers are particularly vulnerable targets of iPod thefts by other teenagers."

Carjackings Rise In PG County. The Washington Post (7/5, Thomas-Lester) reports on an April 24 carjacking

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that "was among 337 such crimes reported in Prince George's County as of June 30, a 47 percent jump from the 229 carjackings reported at the same time last year. In 2004, Prince George's reported the highest number of carjackings in Maryland: 563, compared with 492 for all of the state's other jurisdictions combined." County public safety director Vernon Herron says carjacking is considered "one of the highest priorities, along with homicides and other violent crimes." In several cases, "the carjackers have abducted car owners and resorted to violence. In one recent carjacking, a man who came to the aid of his girlfriend was shot."

CIVIL LAW:

Ohio US Attorney Asks Court to Unseal Filings In Herbal Supplement Case. The Cincinnati Enquirer (7/5, McNair) reports, "Ever since the government seized $24 million in bank accounts from herbal supplements kingpin Steven Warshak in March, the two sides have waged war in the secrecy of sealed court filings. … That could change, thanks to a request to open the case to public view - not by any news organization but by the government itself." The Enquirer continues, "The government's motives aren't available for anyone to see because its motion to unseal the case is, well, sealed. Fred Alverson, a spokesman for the U.S. Attorney's Office in Cincinnati, said the government is asking U.S. District Judge Susan Dlott to unseal everything except the affidavits backing the original request to freeze Warshak's assets. … 'Our motion is in response to a motion by them asking that certain documents be sealed or filed with redactions,' Alverson said. 'Our response is that these do not fit any of the Justice Department exceptions for documents to remain sealed in a civil case. ... They (the case files) should be open for the public to see.'" The Enquirer adds, "The government froze the $24 million at the same time federal agents with search warrants raided the Greater Cincinnati offices of Warshak's company, Berkeley Premium Nutraceuticals. The U.S. Postal Inspection Service led the raids. The asset freeze was supported by government claims that the $24 million was obtained by fraudulent means. … Several thousand consumers have filed complaints to the Ohio Attorney General's Office and Cincinnati Better Business Bureau since 2001 alleging that Berkeley billed their credit cards for penis enlargement pills and other products they had ordered for a 30-day free trial. Berkeley, based in Forest Park, said it amended its billing practices in August, prompting the number of complaints to shrink."

DOJ Sues Bulletproof-Vest Maker, Supplier For Fraud. The Wall Street Journal (7/5, Scannell) reports that DOJ filed suit in federal court in Washington against "a bulletproof-vest maker and a ballistic-fiber supplier, alleging they sold body armor knowing it was defective." The civil suit "named Second Chance Body Armor Inc. of Central Lake, Mich., and its fiber supplier, Japan's Toyobo Co., and related entities," alleging that "from 1998 until 2001 Toyobo and Second Chance 'kept silent as to the ever-mounting information in their possession that the [bullet-resistant] Zylon fabric degraded substantially faster than expected' when exposed to certain light, temperature and humidity conditions." The Journal notes that both companies "have been sued by law-enforcement groups, state attorneys general, a wounded police officer, and the widow of an officer who was killed while wearing a vest."

CIVIL RIGHTS:

Suits Against Detroit Police Officers Have Cost City $45 Million In Last Three Years. The Detroit Free Press (7.5, Swickard) reports, "Detroit has paid out almost $45 million over the past three years in police misconduct lawsuits, with more than half that amount going to pay cases involving officers with histories of past lawsuits, according to a City Council analysis." The Free Press continues, "The payouts are a costly jump since the last time police lawsuits were examined. A 2000 study found that the bill for the previous three years was $32 million and officials warned then that the trend of big payouts endangered the city's fiscal health." The Free Press adds, "The latest report on the multimillion dollar hemorrhage comes as the city struggles with a $300-million budget crisis that's forced hundreds of municipal layoffs. Firefighters and emergency medical technicians are among those laid off, but so far no police officers have lost their jobs. … Detroit police are currently under a federal consent degree mandating sweeping and costly changes in the way the department operates. The agreement came in 2003 after a U.S. Justice Department investigation that was spurred, in part, by Free Press reports detailing the high rate of civilians fatally shot by officers and constitutionally questionable practices of dragnet arrests and holding relatives to force suspects to surrender. …

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The study, by the council's research and analysis division, looked at police misconduct cases that came before the council from 1987 to 2004 and found the city paid out more than $188 million in that 18-year period. The payouts cover settlements including pretrial agreements, mediations, arbitrations and judgments."

Bloomberg's Response To Racially Charged Beating Noted. In his New York Times column (7/4), Bob Herbert wrote, "Early last Wednesday a neighborhood nitwit named Nicholas (Fat Nick) Minucci pummeled a fellow named Glenn Moore with a metal baseball bat, police said. Mr. Moore was walking around Howard Beach with a couple of friends. What they were up to is not real clear and not particularly relevant. … In any event, Mr. Moore and his friends, who are black, ended up being chased by Fat Nick and a couple of his friends, who are white. … The beating allegedly was accompanied by racial slurs. As bad as this incident was, it would never have risen to the status of a major news story in a city of eight million people except for the fact that it happened in Howard Beach, a nearly all-white residential area." Yet Herbert concludes that "the city is a different and a better place these days. Mayor Michael Bloomberg could not have responded faster to last week's attack if he had been wearing Rollerblades."

United Church Of Christ Backs Gay Marriage. ABC World News Tonight (7/4, story 7, :25, Gibson) reported, "The United Church of Christ today became the largest Christian denomination to endorse same-sex marriage. 80% of the members of the church's rulemaking body voted in favor of the endorsement, which is not binding on any of the church's 5,700 congregations. Leaders of the church acknowledge it may cause some of the congregations or some of the 1.3 million members to go elsewhere."

ANTITRUST:

Chinese Government Blasts US Congress Over Unocal Takeover Bid. The Washington Post (7/5, A1, Goodman) reports, "The Chinese government on Monday sharply criticized the United States for threatening to erect barriers aimed at preventing the attempted takeover of the American oil company Unocal Corp. by one of China's three largest energy firms, CNOOC Ltd. Four days after the House of Representatives overwhelmingly approved a resolution urging the Bush administration to block the proposed transaction as a threat to national security, China's Foreign Ministry excoriated Congress for injecting politics into what it characterized as a standard business matter. 'We demand that the U.S. Congress correct its mistaken ways of politicizing economic and trade issues and stop interfering in the normal commercial exchanges between enterprises of the two countries,' the Foreign Ministry said in a written statement.

Chevron Benefiting From Anti-China Rhetoric. The Wall Street Journal (7/5, Berman, Gold) reports, "With members of Congress suggesting resolutions, special hearings and potential laws to stymie Cnooc Ltd.'s ambitions, the pressure is now on the Chinese oil company to seize some momentum in its $18.5 billion takeover bid for Unocal Corp. The harsh response has even surprised people in the camp of Chevron Corp., whose $16 billion-plus deal is due to be voted on by Unocal shareholders in only five weeks. Amid an anti-Cnooc campaign in Washington, one person close to Chevron conceded, 'A lot of it is not organized; it came on its own. It's a freebie for every congressman to pile on China.'"

The New York Times (7/5, Mouawad, Barboza) reports, "The last thing Chevron wanted when it made its $16.8 billion offer for Unocal back in April was to be pitted in a takeover battle against the Chinese government. After all, one of the main reasons it went after Unocal, a California-based independent oil company with vast resources in Asia, was to sell oil and gas to the fastest-growing energy market in the world, China. But on June 22, when…Cnooc, countered with a higher bid for Unocal, Chevron found itself in a delicate position. Since then, Chevron's managers have gone into overdrive to portray the Chinese government-backed offer as unfair competition and to close their deal as quickly as possible. They have received support from many lawmakers in Washington, who have painted the Chinese offer as a threat to America's national security."

Chinese Likely To Boost Oil Production Thereby Helping US Consumers. The Washington Post (7/5) editorializes that China has "no interest in suppressing oil production to drive up prices; to the contrary, if China gains control of Unocal it will want to boost production as much as possible, which would push world prices downward and so help the United States. Those who refuse to draw comfort from this prospect argue that China might route all of Unocal's output to its own consumers, thereby depriving

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Americans of a source of energy. That is not actually practical, but even if it were, it would just mean that China would buy less on the open market than it would have otherwise. So there'd be less supply on the world market, but less demand also. The effect on U.S. gasoline prices would be zero."

CNOOC, Chevron Pursue Differing Strategies In UNOCAL Bid. The Wall Street Journal (7/4, Pottinger, Biers) reports, "In the competition to buy Unocal Corp., the prevailing bidder -- Chinese oil producer Cnooc Ltd or its US rival Chevron Corp. -- might be determined by timing as much as money. With Unocal shareholders scheduled to vote on Chevron's $16.6 billion cash-and-stock offer in just five weeks, Chevron's strategy seems to be this: Make Cnooc's bid appear destined for a lengthy and complicated regulatory review in the hope that Unocal shareholders support Chevron's deal -- even though Cnooc is offering nearly $2 billion more." The strategy of "Cnooc, China's biggest offshore oil and natural-gas producer, has been to do all it can to speed up a US regulatory review of its offer in hope of boosting Unocal shareholders' confidence that Cnooc's bid -- politically contentious in the US -- can win approval in reasonable time." The Journal adds, "Working in favor of Chevron are attitudes in the U.S. Congress, where recent attention on America's trade deficit has fueled hostility toward China." But "working in Cnooc's favor is Unocal shareholders' knowledge that U.S. regulators almost never block acquisitions on national-security grounds. If Cnooc can get the ball rolling on a formal regulatory review before Unocal's Aug. 10 shareholder vote, its bid stands a better chance of winning support from Unocal shareholders."

August Deals Face Tough Antitrust Scrutiny. The Deal (7/4, Lindell) reports, "The bidding war for August Technology Corp. may come down not to price but to antitrust concerns." The Deal continues, "Although the Bloomington, Minn., chip equipment maker on June 28 agreed to a $193 million deal with Rudolph Technologies Inc., industry rival KLA-Tencor Corp., which previously had bid $205 million for August Technology, has vowed to renew its pursuit. Seeking to thwart such a bid, Flanders, N.J.-based Rudolph said last week that a combination of KLA-Tencor and August Technology would pose antitrust risks. … But while Rudolph's offer for the company is likely to have an easier time with regulators, neither deal is a slam dunk, antitrust lawyers said. The review by the Department of Justice's Antitrust Division could hinge on how broadly enforcers define the market for semiconductor testing, inspection and metrology equipment, which is used to search for microscopic flaws in chips. The structure of this market and potential customer concerns also are likely to figure in whether the deals receive clearance." The Deal adds, "In sizing up the market affected by the sale of August Technology, antitrust enforcers will focus on the market for so-called macro defect inspection tools, which are used to spot problems with components used in semiconductor manufacturing, said Robert Doyle, an antitrust partner at Sheppard Mullin Richter & Hampton LLP. KLA-Tencor, the leader in that sector, has about 50% of that market, with August Technology and Rudolph each having roughly 25%. … One factor that may come into play is the small market for macro defect gear, which is worth roughly $70 million per year. That has led some risk arbitrageurs to speculate that the government would not closely review the deal. But such sentiments are more hopeful than realistic, said another antitrust lawyer. … Neither the Justice Department nor the Federal Trade Commission 'throws fish back because they are too small,' he said, requesting anonymity because he hasn't closely reviewed the specifics of the deal."

T-Mobile USA May Be Put Up For Sale. The Wall Street Journal (7/5, Singer, Pringle, Karnitschnig, Drucker) says that German telecom titan Deutsche Telekom AG "is exploring whether to sell its U.S. wireless operation, T-Mobile USA Inc., a move that could fetch as much as $30 billion and alter mobile-phone markets on both sides of the Atlantic." The company "has told investors in private meetings recently that it expects to make a decision by December." The Journal adds that the possibility of the sale "has intensified on the heels of drastic reshaping of the U.S. telecommunications and cable television market. In the past 18 months, a succession of acquisitions…have formed several huge communications companies that dwarf T-Mobile USA." Choosing to sell T-Mobile USA, however, "could prove to be a difficult option," as the most likely cellular buyer, Vodafone, "says it isn't interested even though the world's largest wireless carrier has long wanted to control a service provider in the U.S."

Singapore Investment Co. Plans To Buy Stake In Chinese Bank. The Wall Street Journal (7/5, Areddy) reports, "Singapore's state-owned investment

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company will join Bank of America Corp. as a strategic foreign investor in China Construction Bank, a government-owned property lender." A subsidiary of Temasek Holdings (Pte.) Ltd. "will pay $1 billion for shares in China's No. 3 lender when the bank conducts an initial public offering, the official Xinhua news agency reported late yesterday." Bank of America, of Charlotte, N.C., "agreed to invest $2.5 billion for the stake and an additional $500 million to maintain that level when China Construction goes public. The purchase by Bank of America worked out to about $305 million for 1% of the Chinese bank, while…Temasek [apparently] would be paying about $275 million per 1%."

Microsoft Settles Antitrust Matter With IBM. The Wall Street Journal (7/5, Guth, Forelle) says that Microsoft's agreement to settle an antitrust dispute with IBM "sweeps away some past differences but also highlights the growing rivalry between the two technology giants." IBM's "growing services arm gives the company a powerful platform from which to pitch products at the expense of Microsoft's." Furthermore, IBM "is also a major backer of open-source software, particularly the Linux operating system, which continues to be a thorn in Microsoft's side." On Friday, the two companies "said Microsoft will pay IBM $775 million in one lump sum and extend $75 million in credit toward Microsoft software that IBM will use internally." The settlement "is the latest in a quest by [Microsoft General Counsel Brad] Smith to resolve private claims resulting from Microsoft's antitrust battles in the 1990s with the U.S. government, including a broad suit filed by the Justice Department in 1998 and settled in 2002."

Mohawk To Buy Unilin. The Wall Street Journal (7/5, Singer) reports that Mohawk Industries Inc., "a maker of carpet and floor coverings, said it agreed to acquire Belgian flooring maker Unilin Holding NV for $2.65 billion." Mohawk, "based in Calhoun, Ga., beat out private-equity firms that also had been looking at Unilin." The Journal notes that private-equity firms' "merger-and-acquisition activity in Europe has increased substantially in the past few years, but recently trade buyers have been outbidding private equity in some big acquisitions."

T-Mobile Sale Said To Be Possible. The Wall Street Journal (7/5, A3, Singer, Pringle, Karnitschnig, Drucker) reports, "Deutsche Telekom AG is exploring whether to sell its US wireless operation, T-Mobile USA Inc., a move that could fetch as much as $30 billion and alter mobile-phone markets on both sides of the Atlantic."

Jury Rules For Boston Scientific In Patent Case Against J&J. The Wall Street Journal (7/5, Brickley) reports, "A Delaware jury ruled for Boston Scientific Corp. and against Johnson & Johnson in a key test of patents protecting drug-eluting-stent technology." The jury found that "J&J's Cypher stent trespasses on a Boston Scientific patent, which protects technology that allows drug coatings to be applied to stents, medical devices used in the treatment of cardiovascular disease." J&J's cardiovascular unit, Cordis Corp., "said in a statement that it would seek to have the verdict overturned, either by the judge who presided over the federal-court contest or by appeal to a different court." The finding of infringement against J&J, "the only other company with a major piece of the U.S. market for drug-eluting stents" is described as "a critical one for Boston Scientific."

ENVIRONMENT:

At G8, Bush To Oppose Effort To Reduce Greenhouse Gas Emissions. The Washington Times/Agence France-Presse (7/4) reports although the Group of Eight "has to tackle climate change, President Bush vowed to spurn any Kyoto-style deal on the 'significant' problem of global warming, he said in an interview to air" on Britain's ITV. Bush said that "global warming was 'a significant, long-term issue that we've got to deal with.'" But he said "any climate change agreement along the lines of the United Nations' Kyoto Protocol -- which the United States refused to sign -- would get short shrift." Bush said, "If this [draft plan under negotiation] looks like Kyoto, the answer is no. The Kyoto treaty would have wrecked our economy, if I can be blunt." Bush said he "wanted G-8 leaders to put Kyoto behind them and move on to supporting new technologies to limit global warming without harming businesses." He also "underlined the U.S. government's $20 billion investment in technologies such as zero-emission power stations and hydrogen-powered vehicles."

The Financial Times (7/4, Blitz, Beattie) reports the G8 leaders "look set to agree an accord to combat climate change at their summit this week, averting a rift between the US and France over global warming and intensifying pressure on China and India to curb greenhouse gas emissions." Prime Minister Tony Blair "is on the brink of

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brokering a global agreement on climate change, one which explicitly recognises that science compels the world to act to contain greenhouse gases." A "final draft of the accord to be agreed by the G8 heads including George W. Bush, US president, and Jacques Chirac, French president was hammered out by diplomatic 'sherpas' from each of the member states in London at the weekend." Though the US won't sign the Kyoto protocol, it "gave its backing at the weekend meeting to a final draft accord that meets the minimum demands made by Mr Chirac on climate change."

Bush Denies Softening His Views On Climate Change To Reward Blair. The Los Angeles Times (7/5, Daniszewski, Depasquale) reports that in advance of the G-8 summit, President Bush said "he would not substantially change his stance on global warming to reward British Prime Minister Tony Blair for his support of the war in Iraq." Bush said, "I really don't view our relationship as one of quid pro quo. Tony Blair made decisions on what he thought was best for keeping the peace and winning the war on terror, as I did." Bush reiterated his "opposition to the Kyoto Protocol that mandates targets for cutting greenhouse gas emissions," telling Britain's ITV1 television "that he would reject any measures that 'look like Kyoto.'" Bush "nevertheless acknowledged that human activity is at least partly behind the apparent warming of the planet in recent years. And he said that there may be other compromises the United States and other nations can make to reduce the amount of greenhouse gases being produced."

The Washington Post/Reuters (7/5, A10) report President Bush "told British Prime Minister Tony Blair to expect no favors" at the G-8 summit "in return for backing the war in Iraq." Reports that "a last-ditch round of negotiations by G-8 officials over the weekend would result in an accord in some way recognizing the science behind global warming were bolstered by French President Jacques Chirac, who said on Sunday that the G-8 leaders were 'heading toward an agreement.'" But Bush "was cautious. Environmental experts said that, rather than risk an open rift, the eight nations had decided on an accord offering the barest minimum on global warming."

The New York Times (7/5, Cowell) reports Bush is "generally seen to be at odds with Britain and most other members of the group on accepting the scientific evidence relating to the causes of global warming, and therefore on the need for immediate steps to reduce emissions of greenhouse gases." Bush's remarks "seemed to conflict with a forecast on Sunday by President Jacques Chirac of France that the member countries - the others are Canada, Germany, Italy, Japan and Russia - were 'heading toward an agreement' on global warming." At a news conference "in London on Monday, Sir Michael Jay, Mr. Blair's representative at talks by senior officials in advance of the meeting, said climate change 'was never going to be an easy discussion,' and added, 'There are differences of opinion, particularly about the science.'"

The Washington Times (7/5, Lakely) notes the trip to Europe is President Bush's "fourth journey to the Continent this year -- one of his presidency's few foreign trips during which Iraq and the war on terror will give way to the pleasantries of international diplomacy." The President is "expected to ignore politely Mr. Blair's pleas to join Europe in taking concrete steps to fight global warming, a diplomatic slight against the prime minister."

Mississippi Drought Divides Senate Appropriations Committee Members. The Washington Post (7/5, Murray) reports a severe drought, "now in its seventh year, is wreaking havoc up and down the Missouri, from the river's headwaters at Three Forks, Mont., to its confluence with the Mississippi River near St. Louis. One big casualty: a commercial shipping tradition that dates to Lewis and Clark." What the Missouri "needs most is a deluge of melted snow and rain, but Mother Nature is not cooperating. Absent that, the Senate Appropriations Committee is trying to alleviate the problem -- but members are badly split over what to do." Nearly "a third of the 28 committee members represent states that border the Missouri or have an economic stake in it, and they fall into two camps with very different interests: upstream and downstream." Sen. Byron L. Dorgan (D-N.D.) "and two fellow upstreamers, Sens. Conrad Burns (R-Mont.) and Tim Johnson (D-S.D.), want to retain more water in the upper Midwest reservoirs that were built after the Depression to control flooding and improve navigation." Sen. Christopher S. Bond (R-Mo.) "leads a downstream faction that also includes Sens. Sam Brownback (R-Kan.) and Tom Harkin (D-Iowa). They argue that holding more water in the reservoirs would end commercial navigation on the Missouri, jeopardize operations at 18 power plants and hinder shipping on the Mississippi -- one of the country's most important transportation corridors." The Mississippi angle "broadens

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the downstream coalition to include Senate Appropriations Committee Chairman Thad Cochran (R-Miss.); Mitch McConnell (Ky.), the No. 2 Republican in the Senate; and Sen. Mary Landrieu (D-La.)."

House Legislation Would Lessen Government's Duty To Protect Species. The New York Times (7/4, Barringer) says that "Republican critics of the Endangered Species Act in Congress have drafted legislation hedging the government's obligation to take all necessary steps to bring back to robust health any species on the brink of extinction." The legislation "envisions more limited government obligations: ensuring that the status of an endangered plant or animal gets no worse and helping to make it better." Jamie Clark, the executive vice president of Defenders of Wildlife, said the draft measure "'takes a wrecking ball to the whole Endangered Species Act' by changing its mission, disabling enforcement tools and loosening controls on agencies like the Forest Service and the Army Corps of Engineers." Jim Sims, the executive vice president of Partnership for the West, counters that "the draft has a 'common-sense' emphasis on incremental improvements that are achievable, rather than on long-term recovery that may take decades."

Administration Accused Of Trying To Subvert Endangered Species Act. The New York Times (7/5) editorializes, "The Endangered Species Act of 1973 is far and away the most controversial of all the landmark environmental statutes…especially…among those libertarians and property owners who think that commercial development is unduly restricted by the mandate to protect not only plants and animals, but also the habitats essential to their survival. The law is up for reauthorization again this year, and the pressures to weaken it are great. There are ways to streamline the law and make it less litigious that would not come at the expense of its core values and purpose. Regrettably, the Bush administration is not waiting for this debate to take place. Since the day they took office, Bush officials have tried to subvert the law administratively and in the courts."

FBI/DEA/ATF/USMS:

National Association Of Counties Survey Finds Meth Number One Illegal Drug Problem. USA Today (7/5, Leinwand) reports, "Methamphetamine is a bigger problem than cocaine, marijuana or heroin for most communities, according to a survey of law enforcement agencies in 500 counties in 45 states by the National Association of Counties. The survey, to be released today by the national group that represents county commissioners, supervisors and other top county officials, finds that methamphetamine is: The No. 1 illegal drug problem in the view of law enforcement agencies in 58% of the counties surveyed. Fewer than 20% see pot as the top problem. Behind an increase in other crimes. Agencies in 70% of the counties said the drug is driving up the number of robberies and burglaries. Seen as the top drug problem in every area of the country except the Northeast. There, law enforcement agencies consider heroin the No. 1 problem, ahead of pot, methamphetamine and cocaine. … The survey highlights a difference between what many local officials say is the biggest drug problem and where the federal government has targeted its prevention and eradication efforts." The association says in its survey, "On the national level, the federal government still considers marijuana as the No. 1 drug problem in America, but county law enforcement officials have a different perspective on this ranking." USA Today adds, "Congress is considering restricting the nationwide sale of products that contain the drug pseudoephedrine." ONDCP policy analyst David Murray said that "the Bush administration is developing a national response to the meth problem." However, he said, "the administration cannot neglect other drugs in the process." Murray said that "federal agencies, including the [DEA], are working to disrupt the supply of chemicals needed to make methamphetamine and stop the smugglers who carry it from Mexico and Canada." He said that "marijuana remains a top priority because it is the most commonly used illegal drug, with 15 million users, compared with about 1 million meth users." Murray said, "We do have to keep all drug threats in context, which means you cannot ignore marijuana."

"Colombianization Of Mexico" Now Becoming Reality With Increase In Drug-Related Violence. Newsweek (7/11, Contreras) reports, "The rising tide of lawlessness has stoked fears that a narcostate, where organized crime holds sway over Mexico's political elites, might one day emerge on the southern border of the United States." Ted Galen Carpenter, a defense and foreign-policy expert at the right-wing Cato Institute in Washington, said, "There are growing signs that the Colombianization of Mexico is now becoming a reality. If a

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similar process takes place in Mexico, it's going to be 10 times worse than in Colombia because Mexico is locked into the US economically to a much greater degree." Newsweek adds, "Officials on both sides of the US-Mexican border dismiss such warnings as overblown. Mexico's Attorney General Daniel Cabeza de Vaca told the newspaper El Universal last month that the country's drug cartels represented no immediate threat to national security, and in its latest annual report on the international narcotics trade the US State Department gave the Fox government high marks for 'its intensive counternarcotics and law enforcement effort.' If anything, say some US officials, the current turf wars between dueling cartels in a number of Mexican border states erupted in response to the vacuum created by the Fox government's arrest of two major kingpins in 2002 and 2003. Parallels with Colombia, where both leftist guerrillas and right-wing militias are also engaged in drug trafficking, do not bear close scrutiny in their judgment." Mike Braun, chief of operations for the DEA, said, "In Mexico you don't have insurgent groups or terrorist organizations that are involved in virtually every aspect of drug trafficking. We're getting greater cooperation from the Fox administration than from any previous Mexican government I know of." Newsweek notes, "The menace haunting the country's present and future stability starts with the letter C, but it's spelled 'corruption,' not 'Colombia.' Law enforcement is a notoriously low-paying career in Mexico, and an entry-level cop in a midsize city's police department makes as little as $135 a month. Confronted with a druglord's stark choice of plomo o plata (lead or money), many if not most Mexican policemen on the lower rungs of their agencies will opt for the bribe." Bruan added, "We're fine with respect to law enforcement at the central-government level, but the farther you get from the seat of power, the more problematic things can become in a place like Mexico."

The New York Times (7/5, Thompson) reports, "Killings and kidnappings happen almost every day in the city of Nuevo Laredo, about 150 miles north of this small town. Matamoros is quiet in comparison. The most common crime here these days, the police say, is robbery. But as recently as three years ago, this, too, was a capital of the drug war. People on the street said they are afraid that it could become one again. And here, like Colombia, society's first line of defense against the chaos -- the municipal police -- has proved to be its weakest." Anthony P. Placido, the acting assistant administrator for intelligence at the DEA, in a recent appearance before Congress, said, "Law enforcement in Mexico is all too often part of the problem rather than part of the solution. This is particularly true at the municipal and state levels of government." The Times adds, "Interviews with four municipal police officers in this city of 500,000 people across the Rio Grande from Brownsville, Tex., offer a glimpse inside a reality as harsh and persistent as Mexico's blazing summer sun. The officers -- a shift commander, two squad leaders and a recent graduate of the police academy -- were chosen by the minister of public security, Rubén González Chapa, to be interviewed for this article. … Not one of the officers denied that there were abuses and corruption in their ranks. They described officers taking bribes from drunks and prostitutes and accepting gifts from businessmen and residents for providing extra surveillance around their properties." The Times notes, "When asked, however, about the more egregious accusations by Mexican and United States officials that municipal police often serve as lookouts and hit men for the drug traffickers, the officers typically retreated into vague generalities. What they offered instead of the ugly details about police misdeeds was a look at where the abuses are born, describing a place sorely lacking incentives, not to mention basic equipment to uphold the law, and filled with humiliations that left many officers feeling loyal to no one but themselves. Money was the officers' biggest complaint."

Case Of Mistaken Identity Made In Arrest Of Suspected Juarez Drug Cartel Leader. The Los Angles Times (7/5, Dickerson) reports, "Mexican authorities said Monday that they thought they had arrested the leader of the Juarez drug cartel, but later said tests showed it was a case of mistaken identity. The determination that the detained man was not Vicente Carrillo Fuentes dashed hopes of a rare instance of good news for Mexico's anti-narcotics forces amid an upsurge of violence. It was also the second high-profile error in the last two weeks. In June, Mexican federal authorities detained a British citizen of Lebanese descent on suspicion that he was connected to terrorist organizations behind the Sept. 11 attacks. But that suspect, Amer Haykel, turned out to be simply a tourist."

The Dallas Morning News (7/5, Eaton, Corchado) reports, "Mexican authorities on Monday said they thought they had captured Vicente Carrillo Fuentes, one of the country's most wanted drug lords. But by the day's end, they had reversed course, calling it a case of mistaken identity. Agents had quietly arrested their subject on Saturday at

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Perisur, a Mexico City shopping center. He identified himself as Joaquín Romero Aparicio, but Mexican officials were almost sure that DNA tests would reveal his criminal identity." Presidential spokesman Rubén Aguilar said, "Right now, it is likely Vicente Carrillo Fuentes, but it isn't completely confirmed." The Morning News adds, "Vicente Carrillo Fuentes Earlier Monday, the prospect that Mr. Carrillo Fuentes, 42, had been arrested excited law enforcement officials and journalists on both sides of the US-Mexico border. Mr. Carrillo Fuentes and his lieutenants allegedly ordered the murders of dozens of US citizens and hundreds of Mexicans during a decade years-long reign of terror, American authorities say. The State Department had offered a reward of up to $5 million for information leading to the arrest or conviction of Mr. Carrillo Fuentes, suspected of leading the Juárez cartel."

The San Antonio Express-News (7/5, Schiller) reports, "A spokesman for President Vicente Fox said Monday officers believe they have captured Vicente Carrillo Fuentes, who is accused of running the powerful Juárez cartel. … But the arrested man's family and media reports late Monday night indicated it was a case of mistaken identity. DNA and fingerprint analyses were being conducted on the man, who was arrested Saturday at an upscale shopping center in the capital, spokesman Rúben Aguilar said. 'We have to prove that this is the guy,' he said. The Express-News adds, "Televisa network raised doubt by interviewing family members who said Romero is an architect and loving father who has nothing to do with drug trafficking. Televisa also showed a picture of Romero in which he appeared to look like a photo taken of Carrillo Fuentes. The network suggested the similarity of the two pictures -- and little other evidence -- prompted the arrest. Federal investigators could not be reached to comment on Televisa's assertions." Reuters (7/5, Bremer) and the AP (7/5, Lee) also reported this story.

Results Of Mexico's Stepped-Up Drug War Questioned. The Dallas Morning News (7/5, Samuels, Iliff) reports, "Mexico finally is fighting the war on drugs that the US government has demanded for decades: a frontal assault on drug barons, their organizations and their merchandise, using the police and military in concert with US intelligence. The results, Mexican and US authorities say, have been impressive. Forty-six thousand people jailed on drug charges, President Vicente Fox said in a recent speech, 97 tons of cocaine seized, more than a million marijuana plants destroyed. It's been four years, Mr. Fox and US officials said, of steady progress." The Morning News adds, "But a rising chorus of voices in Mexico and the US says the real results are record levels of violence, instability and corruption in Mexico, resurgent drug cartels, nearly 200 dead police officers and soldiers, along with millions of wasted dollars in a country where half the population of 105 million is poor. Mexico receives almost no aid from the US government. And the result in the US? No noticeable drop in the supply of cheap drugs – and an actual decline in the price of cocaine, according to a new UN report. Some analysts say Mexico's approach has not only failed to stanch the flow of drugs but is also destabilizing the young democracy. Mexico needs to turn back now, they say." Dave Murray, a policy analyst with the White House Office of National Drug Control Policy, said that "Washington understands the sacrifice being made by Mexico, but that it also is in Mexico's interest to fight the traffickers vigorously." Murray said, "It's been a horrendous fight for them. We have to salute their willingness to take on this fight." Murray added, "If drugs transit through your country and you think, 'Well it's just for those norteamericanos. The money comes to us, the drugs to them. What's the problem?' They soon discover drugs are left behind as payment in kind for services provided. And local traffickers soon become drug dealers. And to whom do they sell? To local kids. … The problems will become worse and worse as narcotraffickers corrode the system... and you will find them growing into a power within the nation that can actually threaten the legitimacy and viability of democratic governments." But that, critics say, is "just what is happening now with the stepped-up war."

"El Chapo" Proves To Be A Tough Adversary For Law Enforcement. The San Diego Union-Tribune/Copley News (7/2, Walker) reports, "The arrests in recent years of several drug traffickers – including Gulf cartel leader Cardenas, Tijuana cartel leader Benjamín Arellano Félix and the Amezcua brothers – strengthened other cartel leaders." DEA spokesman Misha Piastro said, "He is very ambitious and very active. He's extremely clever and he's willing to invest the time and money to do big projects." Copley News adds, "A 26-page federal indictment handed down against Guzmán 11 years ago in San Diego accused Guzmán, 51, of trying to ship seven tons of cocaine packed in cans of jalapeño chili peppers across the border at Tecate. The indictment also described a tunnel he ordered built in Otay Mesa, complete with railroad tracks and lighting, and accused him of building another tunnel that ended under a

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pool table in a Douglas, Ariz., bar. The table was raised and lowered with a hydraulic lift, Piastro said. The US government is offering a $5 million reward for Guzmán's capture, and DEA agents in San Diego staff a 24-hour hotline to collect tips on his whereabouts. Some of the tips that come through the hotline, which can be dialed from almost anywhere in Latin America, are valid. Others prove to be false. One caller reported – erroneously – that Guzmán had been spotted dancing the tango in Los Angeles. But another caller may have been Guzmán himself 'trying to verify that the hotline wasn't set up by his rivals,' Piastro said. 'It wouldn't be out of character for him to do something like that,' Piastro said. 'He's pretty brazen.' Guzmán has proved a tough adversary for Mexican law enforcement. 'We are looking for him everywhere, but it's difficult to determine where he is,' José Luis Santiago Vasconcelos, Mexico's deputy attorney general for organized crime, said during an interview with foreign correspondents earlier this year. 'He's not a subject that we see established in one place, living, defended by a big group of gunmen.'"

The Los Angeles Times (7/5, Boudreaux) reports, "Although US officials have repeatedly praised Mexico's anti-drug efforts under President Vicente Fox, including the arrest of 18 cartel leaders over the last four years, Guzman's elusiveness is an embarrassing symbol of the country's failure to stop the bloodshed or slow the flow of cocaine, heroin, marijuana and amphetamines into the United States. 'He is the last of the Mohicans,' said Jorge Chabat, a Mexico City expert on law enforcement issues. 'All the other big cartels have been decapitated. That is why they want him so badly.'" The Times adds, 'US authorities also want to get Shorty, who was indicted in 1995 in San Diego on charges of money laundering and conspiracy to import tons of cocaine. In December, federal authorities offered a $5-million reward for tips leading to his capture and are sharing intelligence with Mexican authorities. Since then, the dragnet has tightened with the arrests in Mexico of Guzman's 21-year-old son, a brother, two nephews and a niece, all accused of aiding his drug business. Nine houses and six vehicles belonging to him and his associates were seized in June. Rival drug traffickers are after him too. They killed another of his brothers and two of his associates in a Mexican prison last year. But so far the heat on Guzman has merely enhanced his mystique as an untouchable outlaw constantly on the move, escorted by 10 armed bodyguards and apparently shielded across Mexico by a web of corrupt officials to whom he once boasted paying a total of $5 million per month."

Nuevo Laredo Residents Trapped In Deadly War Between Rival Drug Cartels. The San Diego Union-Tribune/Copley News (7/2, Walker) reports, "For almost three years, people in this dusty border city of 500,000 have been trapped in a deadly war being waged by two drug cartels for control of the lucrative corridor between Nuevo Laredo and its US sister city, Laredo, Texas. One of the cartels is led by Joaquin 'El Chapo' Guzmán. … The other is headed by Osiel Cárdenas. … The two drug kingpins are vying for control of the most important commercial crossing between the United States and Mexico, according to law enforcement officials on both sides of the border. Roughly 9,000 tractor-trailers rumble over Nuevo Laredo's World Trade Bridge into the United States each day, accounting for almost 50 percent of the U.S.-Mexico commercial border traffic. The volume of truck traffic is so overwhelming that, US officials acknowledge, truckloads of narcotics slip through undetected. The violence has escalated in recent months as the cartels struggle to control this gateway into the United States."

Nuevo Laredo Families Desperate For Information About "Los Des-Aparecidos." The Houston Chronicle (7/4, Pinkerton) reports, "Nancy Segovia, an anxious 20-year-old wife and mother, searches for a husband who did not return from his job as a Nuevo Laredo policeman three weeks ago. Two Laredo men, William Slemaker, 52, and Pablo Cisneros, 49, search for their daughters, who vanished 10 months ago while visiting this violence-torn border city. Last week, the three stood in 100-degree-plus temperatures outside a Mexican military base, trying to learn whether their loved ones were among the 44 people rescued by federal agents from two safe houses operated by a drug cartel. The wife and fathers gathered with hundreds of others from both sides of the border, desperate for information about people known as los des- aparecidos, or the missing ones. The rescue operation June 29 raised the hopes of Segovia, Slemaker, Cisneros and many others looking for relatives who vanished, with no ransom demands, during a three-year turf war between rival drug cartels. Each was disappointed." The Chronicle adds, "In Nuevo Laredo, the faces of the missing stare out from homemade posters attached to street lights, taped to doorways of police stations or printed in newspaper ads. In a city that has seen more than 70 killings linked to the drug war so far this year, the missing are largely unknown to

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the public, and the local police seem to have done little to find them."

Mexican Authorities Abruptly End Search For Human Remains At Remote Ranch House Near Nuevo Laredo. The San Antonio Express-News (7/3, Zarazua) reports, "Federal police abruptly ended their search for human remains Saturday morning at a remote ranch house on the edge of town here, leaving the property without saying what, if anything, they'd found. All that was left inside the compound's cinderblock walls were piles of disturbed earth and a broken black metal gate. A small contingent of Mexican military troops remained outside the beige-colored compound this morning, but the troops leader said they were on 'routine patrol.' On Friday, an FBI spokesman said US agents who had been on the scene earlier this week believed the bones that had been found were those of animals. The FBI has since not returned here. The headline in one of today's afternoon dailies in Nuevo Laredo screamed 'NADA AUN,' or 'Nothing Yet.' Federal police spent all day Friday digging the patio of the ranch house in the sweltering heat in search of human remains believed to have been buried there by drug cartel hit men. The ranch house is about nine miles south of the Texas-Mexico border near the Nuevo Laredo highway leading to Monterrey."

Drug-Fueled Corruption Alleged In Highest Levels Of Venezuela's Security Forces. The Miami Herald (7/4, Dudley, Gunson) reports, "In [Bejuma, Venezuela], people still talk about the 'Bejuma massacre' in a whisper, partly because one man who spoke out is in a grave, partly because the killers were allegedly policemen. But the source of the fear can be summed up in a single word: drug trafficking, on the kind of massive level and involving corrupt government officials that has long been a profound problem in neighboring Colombia. Drug seizures in Venezuela doubled in the past four years. There are mounting allegations of drug-fueled corruption at the highest levels of the security forces, accompanied by what appears to be official indifference. Just last month, a suspected Colombian trafficker wanted in the United States escaped from a Venezuelan police lockup after allegedly bribing his guards." The Herald adds, "The rising drug trafficking has become yet another sore point in relations between the Bush administration and Venezuelan President Hugo Chávez, a fiery populist who has repeatedly accused the US government of trying to topple him. 'There are a few people who see [drugs] as a global problem, but those people are few and far between,' said one Western counter-drug official who asked for anonymity because he did not have official permission to speak publicly on the topic. Venezuela has long been a transit country for illegal Colombian drugs. But record seizures in 2004 that reached 32 tons of cocaine and 12 tons of heroin and marijuana put authorities on the alert."

US Envoy Sees Decline In Venezuelan Cooperation In Effort To Fight Terrorism, Drug Trafficking. The AP (7/4) reports, "A decline in cooperation between Venezuelan and U.S. authorities has weakened efforts to fight terrorism and drug trafficking, the US. ambassador to the South American country said." US Ambassador William Brownfield said in an interview broadcast Sunday on the Venezuelan television station Televen, "On the issue of illegal drugs, we have a situation where we have a reduction in cooperation between some police forces. I wish we could have more cooperation in passing along more information on matters of terrorism, the movement of specific people."

Reuters (7/4) reports, "Cooperation between Venezuela and the United States to fight terrorism and drug-trafficking has run into problems and could be improved, the U.S. ambassador to Caracas said on Sunday. William Brownfield said 'complicated problems' had emerged in the relationship between Venezuela, the world's No. 5 oil exporter, and its biggest energy client, the United States."

FBI, ATF Investigating Suspicious Fire At Florida Abortion Clinic This Morning. WPTV-TV West Palm Beach (7/5) reports on its Web site, "Agents from the FBI have joined investigators from the Bureau of Alcohol, Tobacco & Firearms this morning at the scene of a late night fire at the Presidential Women's clinic in West Palm Beach. The origin of the fire at the clinic which performs abortions appears to be suspicious. There were no injuries . West Palm Beach mayor Lois Frankel will issue a statement this morning as investigators and firefighters remain on the scene."

WPost Criticizes House's DC Gun Vote. The Washington Post (7/4) editorializes that a majority of the U.S. House of Representatives trampled "upon the right of self-determination" by overturning a city law and voting "to allow D.C. residents to keep in their homes loaded shotguns and rifles, as well as handguns bought before 1976, unbounded by trigger locks or disassembled. The deed itself makes a

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mockery of Congress as a federal body. If the action is allowed to stand, however, the consequences could be even worse: The nation's capital will become a deadlier place in which to live." The Post says "the notion of Congress encouraging citizens in the nation's capital to keep loaded and unprotected guns in their homes borders on insanity."

TAX:

Tax Court Procedure Called Into Question During Attorney's Fraud Trial. The National Law Journal (7/5, Coyle) reports, "A seven-year-old secret report by a special trial judge of the U.S. Tax Court in the lengthy and complex fraud trial of a renowned tax lawyer and his business partners found no fraud -- not even a suspicion of fraud -- by the three men, despite a subsequent Tax Court decision to the contrary." The Journal continues, "The conflict between the original report and the Tax Court decision has prompted some to raise ethical questions about Tax Court procedures and to call on Congress to examine them. … The Tax Court recently released the report after the U.S. Supreme Court held earlier this year that 'no statute authorizes, and the current text of [Tax Court] Rule 183 does not warrant,' the concealment of special trial judge reports by the Tax Court." The Journal adds, "The Supreme Court ruling -- Ballard v. Commissioner of Internal Revenue, No. 03-184, and Estate of Kanter v. Commissioner of Internal Revenue, No. 03-1034 -- followed years of litigation over the report in three federal circuits by lawyers for estate and tax attorney Burton W. Kanter and his business partners Claude Ballard and Robert Lisle, all of whom believed the report would exonerate them. … Special Trial Judge D. Irwin Couvillion oversaw the five-week trial in 1994 in which the government charged Kanter, Ballard and Lisle with $30 million in tax deficiencies and civil fraud penalties in three alleged kickback schemes. In his 300-page report, produced four years later, Couvillion, who did not have authority to issue the Tax Court's final decision, said the court 'cannot find or conclude' that the claimed kickback schemes existed or, if they did exist, that there was tax fraud in connection with them."

NYTimes Calls For Repeal Of Internet Sales Tax Exemption. The New York Times (7/5) editorializes, "Thirteen years is a long time to get a pass. A 1992 Supreme Court decision has exempted Internet retailers from the obligation to collect most sales taxes on the grounds that it would be unduly burdensome. Back then, the country's thousands of state and local taxing jurisdictions all had differing rules. But times have changed, and the law of the land should, too. … Online sales-tax collection can be done nationwide. Many retailers already collect the taxes. Now Congress should step up and pass a law overturning the court's exemption in states that have streamlined their tax systems. That would allow hard-pressed states to take in roughly $20 billion a year in annual sales tax revenue that is rightfully theirs, and perhaps much more, depending on the growth in online shopping. It would also help level the playing field between local and online retailers."

CONGRESS-ADMINISTRATION:

Speculation Grows About Possible Gonzales Nomination To Supreme Court. As Attorney General Alberto Gonzales visited Iraq over the weekend, speculation ran rampant that President Bush was considering him as a replacement for Supreme Court Justice Sandra Day O'Connor, who announced her retirement on Friday. So far, opposition to Gonzales has come from the GOP's evangelical conservative base, which is wary of the Attorney General because of rulings on abortion he made as a state Supreme Court justice in Texas. Both CBS and NBC ran full segments on the possibility of a Gonzales nomination, while ABC noted his trip to Iraq.

The AP (7/4, Sherman) reports Gonzales "deflected questions about his interest in serving on the Supreme Court and said Sunday that criticism about his conservative credentials did not bother him. 'Many of the people speaking probably don't have all the information about prospective nominees. What's important is what the president of the United States thinks about me,' Gonzales told reporters while flying to the Middle East."

The Washington Post (7/4, A1, Eggen) reports that in an interview with The Washington Post on his way to Iraq, "Gonzales said he would continue to be directly involved in making recommendations to President Bush for a possible successor to retiring Justice Sandra Day O'Connor. But Gonzales, a close friend and longtime confidant to Bush, declined to comment on his own chances or interest in the post. 'There will be a group of people who will share their thoughts with the president about a nominee, and obviously I am part of those discussions,' Gonzales said. 'But I'm not going to talk about the details of those discussions or the

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recommendations or anything like that...I think the president is going to be deliberative in his decision.'" Although Bush "may 'take some time' to make a final call, Gonzales added," the President "is adamant that a new justice be confirmed by October."

The CBS Evening News (7/3, lead story, 2:25, Guida) reported the "conservative base is already feeding President Bush plenty about one possible pick, Attorney General Alberto Gonzales, and it's not a spoonful of sugar. The right wing questions his stance on abortion, trying to derail any Gonzales bandwagon before it gets rolling." Some conservative groups "are already lining up against Gonzales." Jay Sekulow, American Center for Law & Justice: "There is concern on the right. There is no doubt about it. There's not a lot of enthusiasm." Guida: "But Senator Arlen Specter, Chairman of the Judiciary Committee that will review the nominee, suggested conservatives should hold their fire."

Asked on NBC's Meet the Press (7/3, Mitchell) to comment on conservative opposition to Gonzales, Specter said, "My reaction is that people ought to hold their fire and stand back and realize that it's President George W. Bush who was elected with the constitutional authority to make the designations. … I think the conservatives are entitled to express themselves, but I think they ought to have some respect for the president. And Attorney General Gonzales is a very well-qualified man, and I don't think he really deserved to be criticized." Reuters (7/4, Elsner) reports Hatch said on CBS' "Face The Nation" he "had spoken to Bush on Saturday and expected a nominee within a couple of days after Bush's return."

Sekulow said on CBS' Face the Nation (7/3, Roberts), "You know, it's interesting. We have the vacancy of Justice O'Connor, and at the same time, the court is taking one major life case involving parental notification. Alberto Gonzales, when he was a judge in the Texas Supreme Court, dealt with that issue, came out on the other side of it, where the conservative groups are. So there's some concern. There's also the issue of, he's the attorney general of the United States. He's doing a fantastic job, by the way. He was a great White House counsel, too. You're in the middle of a war on terror. … And the idea that we're going to switch the attorney general out in the middle of that, I find to be timing not particularly great."

NBC Nightly News (7/3, story 4, 2:10, Seigenthaler) said "some of the President's most conservative supporters don't want Gonzales at all." Conservatives "are putting pressure on Bush, saying Gonzales can't be trusted. But an advisor with close ties to the White House says that's only speculation." C. Boyden Gray, Committee for Justice: "If the President wants to nominate Judge Gonzales, he will. I don't think he's going to be constrained by these interest groups."

Gray was asked on Fox News Sunday (7/3, Wallace) to respond to Sunday's New York Times story that claimed he led a delegation to the White House warning President Bush not to nominate Attorney General Gonzales; Gray replied, "That was news to me. I don't think we discussed any individuals in that meeting, which was about process, not about people. And I would, of course, support Judge Gonzales if he were nominated. So I don't know where the story came from. … If the president wants to nominate him, he will, and he will be confirmed."

Sen. Orrin Hatch, asked on CBS' Face the Nation (7/3, Roberts) for his views on the potential nomination of Gonzales, said, "Let me just say this, I think that's pure bunk. Gonzales is a terrific human being, a good lawyer, a person who has more than shown that he's a good human being and a person who could handle the job. If the president chooses Alberto Gonzales, I think Alberto Gonzales will do the job, do it well. And I think we would all feel pretty good about it." But "some of the right-wing groups, of course, are trying to push the president into getting the most conservative person that they can get. And they don't consider Judge Gonzales to be as conservative as some of the others. But I can tell you, he's a person of integrity and a person of ability, a person with good temperance, you know, temperancy. He's a very fine man. And if he gets picked, I'm certainly going to support him."

In as preview of the upcoming Senate battle, the Los Angeles Times (7/4, Brownstein, Schmitt) reports that senators from both parties "jostled Sunday to define the rules of engagement in the political struggle…Bush's first Supreme Court nomination." In appearances across all the Sunday talk shows, "members of the Senate Judiciary Committee sparred about whether nominees should be asked their views on specific issues such as abortion, whether it was appropriate to apply more scrutiny to nominees who would change the court's balance of power, and what the circumstances, if any, might be that would justify a filibuster against Bush's eventual choice."

The New York Times (7/4, Hulse, Nagourney) reports "White House officials were privately encouraging lawmakers not to get drawn into speculation over candidates' names but

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to concentrate on calling for quick and fair consideration of whomever President Bush nominates. … Democrats called for a deliberate review of any nominee and pledged to press the eventual candidate on issues including abortion and same-sex marriage, while Republicans declared that such specific inquiries were out of line."

The AP (7/4, Yost) reports that "asked whether he would support a filibuster if a hard-liner is chosen, the judiciary committee's ranking Democrat, Sen. Patrick Leahy, said, 'I would hope that we don't reach that point.' 'That's why we're going to meet with the president in about a week, going to urge that he put somebody who would unite the country, not divide the country,' said Leahy."

The Minneapolis Star Tribune (7/4, O'Rourke) says "the top Republican and Democrat on the Senate Judiciary Committee appealed for restraint, at least until President Bush announces his choice in a week or so. 'We ought to tone down the rhetoric,'" said Specter. Leahy added, "Let's take it easy."

Sen. Joseph Biden, appearing on CBS' Face the Nation (7/3, Roberts), said, "I was chairman at the time of Bork and Thomas. And it is true, I did allow both to go out without recommendation. … I could have stopped each of them from getting a vote in the full Senate. But I didn't let them out because I believed that a filibuster was wrong. I let them out because I believe the Constitution says the Senate…must decide whether or not to let a vote occur, not a committee. … I have no intention of filibustering anybody. It depends on who the president sends. But I could see a circumstance. For example, if he sent up" Judge Janice Rogers Brown "I can assure you, that would be a very, very, very difficult fight, and she probably would be filibustered."

The Pittsburgh Post-Gazette (7/4, Mcgough) reports, "In the sort of 'gotcha' moment that has become common on Sunday television talk shows, George Stephanopoulos, the host of ABC's 'This Week,' yesterday confronted Sen. Edward Kennedy with Kennedy's own words from the 1967 debate over the confirmation of Thurgood Marshall for a seat on the US Supreme Court." Stephanopoulos "noted that Kennedy had told his colleagues that they shouldn't take Marshall's judicial philosophy into account but instead should limit their inquiry to the nominee's 'background, experience qualifications and temperament.'"

The New York Times (7/4, Kirkpatrick) reports "Bork, the former Supreme Court nominee whose rejection 18 years ago has hovered over every confirmation since, is back in the spotlight. … Defending the Senate's role in approving nominees, Senator Edward M. Kennedy, Democrat of Massachusetts, reprised in an appearance on ABC the speech he made attacking Mr. Bork shortly after his nomination. 'Can we imagine what this country would be like today if Judge Bork had gone onto the Supreme Court with his views about civil rights and other issues?' he said. 'It would be an entirely different America.'" Since then, however, "Bork has become an inspiration to many conservatives, who say they have organized and raised money to support the nomination of like-minded jurists."

Sen. Ted Kennedy writes in today's Washington Post (7/4, A17) that "the president should reject the pressure of the extreme factions of his party that want litmus tests for his nominee. This process shouldn't just be about whether the next justice would help roll back women's rights by overturning Roe v. Wade , the law of the land. It should be about something much more basic: protecting our core constitutional values for generations to come, the freedoms that we've fought for, bled for and died for. … I haven't always agreed with O'Connor. I didn't agree earlier this year that we should continue to execute juveniles. And I certainly didn't agree with her in Bush v. Gore." But "she was fair and tried to interpret the law. Unfortunately, many of those whom President Bush has nominated to the lower courts in the past four years have wanted to remake the law to suit their own ideologies . I hope the president will consult with the Senate and select a consensus nominee as dedicated to the Constitution as Sandra Day O'Connor."

The Washington Times (7/4, A1, Hurt) quotes Sen. Chuck Schumer saying, "I think the number one thing that I am interested in are the nominee's views." The notion of "picking apart a nominee to the federal bench based on his personal opinions about political matters is out of bounds, conservatives say. 'It's asking them to basically run on a political platform,' Sen. John Cornyn, Texas Republican, responded to Mr. Schumer yesterday."

The New York Times (7/4, Deutsch) asks whether "now that Justice O'Connor is leaving the court…the pendulum swing back to give employers the right to hire and fire as they please, or even encourage them to dismantle voluntary affirmative action programs." Neither "business leaders nor minority advocates," says the Times, "expect that to happen. Minorities and women, they note, make up an increasingly large part of the potential work force -- and of the consumer base."

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The Washington Post (7/4, A15, Lane) says in its "Full Court Press" column that while "O'Connor and her centrist legacy may have been at the center of attention because of her surprise retirement announcement Friday, the center of power during the term was one chair to her left, where Justice Anthony M. Kennedy -- the court's other center-right swing voter -- sits." In three "crucial cases" this term, Kennedy, "a 1988 appointee of President Ronald Reagan, defected from the five-member right-of-center bloc that Chief Justice William H. Rehnquist nominally leads." Kennedy "joined with the court's liberals to abolish the death penalty for juvenile offenders, to give local governments a green light to take private property for economic development and to endorse a broad theory of federal regulatory power that denied states the right to override a federal law against homegrown medical marijuana."

The New York Times (7/4, Greenhouse) adds that in this last term, "the court displayed a growing concern about the death penalty, with the majority suggesting that lower courts had taken the Supreme Court's impatience with prolonged appeals too far toward short-circuiting defendants' rights. The justices also gave broad interpretations to three federal antidiscrimination laws." Justice Stephen G. Breyer, adds the Times, "displaced…O'Connor at the court's center of gravity, casting the fewest dissenting votes." The AP (7/4, Holland) runs a similar story, saying "the power broker at the Supreme Court this term was the 'junior justice,' Stephen Breyer."

The Legal Times (7/4, Goldman) reports, "Justice Sandra Day O'Connor's surprise retirement leaves President George W. Bush in a bind: Can he possibly replace the first woman on the Supreme Court with a white male? … After all, prior to O'Connor's July 1 announcement, most of the smart money for a potential high court nominee was on middle-aged white judges such as John Roberts of the U.S. Court of Appeals for the D.C. Circuit and J. Michael Luttig of the 4th Circuit. But that was to replace Chief Justice William Rehnquist, who, at least for the moment, is staying. … 'Do you replace O'Connor with a woman, or with a Hispanic, so you have a new first?' says American University law professor Stephen Wermiel. 'The question is, who are you trying to appease? And are you looking for a fight — or looking to avoid a fight?'" The Times adds, "Competing interest groups lost no time in laying down markers, and rallying their troops. Hispanic activists, for one, and their interest groups say the opportunity is ripe for Bush to name the nation's first Hispanic justice. Nominating a Hispanic would also help the Republican Party woo a key and growing constituency that it has actively courted. … But the person some see as the leading Hispanic candidate, Attorney General Alberto Gonzales, is viewed as flatly unacceptable by the hard-line conservative and evangelical groups that take credit for Bush's presidential re-election victory. … 'He's not an ideological conservative; it's not a world he comes from,' notes one senior Republican Senate staffer. "And we don't believe he has convictions he will stand by. As one former Supreme Court clerk said to me, 'When the most charming man in Washington, [Justice] Stephen Breyer, comes calling, will Gonzales stand up for his beliefs?' … That may make someone like Judge Emilio Garza of the U.S. Court of Appeals for the 5th Circuit a more likely candidate. Garza is viewed as a passionate opponent of Roe v. Wade. And if the White House seeks a minority candidate, but not a Hispanic one, it could turn to former Deputy Attorney General Larry Thompson, now general counsel of PepsiCo."

In a column for the Weekly Standard (7/4), Fred Barnes writes, "Through a campaign aide, Bush answered a question about the kind of Supreme Court justice he admired. The answer was Antonin Scalia, a conservative. That was in 1999, as Bush was beginning his race for the presidency. He was asked a similar question later that year by Tim Russert on Meet the Press. The answer was the same--Scalia. Now jump to the summer of 2003 as Bush is preparing for his reelection campaign. Meeting with advisers at his ranch in Crawford, Texas, Bush said one of his top priorities is to create a diverse Republican party with many more Hispanics." Barnes continues, "Bush's comments point to the two directions he must choose between in selecting a nominee to replace Sandra Day O'Connor on the Supreme Court. The first--the Scalia direction--would be to pick a respected conservative jurist and thus move the ideological tilt of the court to the right. The second would be to choose Attorney General Alberto Gonzales or another Hispanic, a step unlikely to change the court's current ideological posture." Barnes adds, "The first would be in sync with the thrust of Bush's presidency. As Bush and his aides never tire of telling everyone, he came to the White House to do big things and achieve important changes. And transforming the Supreme Court into a more conservative body and shrinking the role of unelected judges in American life is one of his major goals. … Nominating a full-blown judicial conservative--there are plenty to choose from--would surely

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provoke a bitter confirmation struggle in the Senate. He might even lose the fight. But all of Bush's accomplishments have come over the strong opposition of Democrats or have drawn sharp criticism from them. This includes tax cuts, education reform, creation of a Homeland Security Department, and Iraq. Bush's motto, if he had one, should be no pain, no gain. … Naming Gonzales or another Hispanic to the high court would be in line with Bush's political goal of enlarging the Republican party. And picking Gonzales might indeed help in that regard. He would be the first Hispanic justice. A Gonzales nomination would also be personally satisfying to Bush. 'The president loves Alberto Gonzales and trusts him,' Texas Senator John Cornyn, a friend of both, said. Gonzales was Bush's White House counsel before becoming attorney general. … But there's a difference between trying to improve the position of a political party and seizing an historic opportunity to change both the role and the rulings of the federal judiciary. The first is a decision any president or politician would make. Given the furor the second could provoke, it's a decision only a few presidents would make. My guess is Bush is one of them."

Bush Defends Gonzales, Discusses O'Connor Vacancy. In a telephone interview with USA Today (7/5, Keen), President Bush "said Monday that special-interest groups running TV ads and mobilizing supporters for a fight over his choice of a successor to Supreme Court Justice Sandra Day O'Connor should 'tone down the heated rhetoric.'" In addition, he "forcefully defended Attorney General Alberto Gonzales, a prospect criticized by conservatives." Conservative groups, says USA Today, "have criticized Gonzales, who, as a member of the Texas Supreme Court, backed exceptions to a state law requiring teenagers to notify a parent before getting an abortion." Bush also "said he won't rush a decision but wants her successor to be on the bench when the Supreme Court resumes work in October."

USA Today (7/5) prints the transcript of the interview in today's edition. Bush said, "My call to the senators who will be leading the debate on either side is to help elevate this rhetoric so that the country will take a prideful look at the process, recognize there will be differences of opinion but that we can step back after it's over and say, 'That's the way we ought to conduct a debate on something as serious as a Supreme Court nominee.'" Asked if "the attacks on Gonzales are out of line," the President answered, "Al Gonzales is a great friend of mine. I'm the kind of person, when a friend gets attacked, I don't like it. We're lucky to have him as the attorney general, and I'm lucky to have him as a friend." He later said, "I'm considering a pretty good-sized group of people right now, and of course, there's a diverse group of citizens."

USA Today also quotes Bush saying, "I have reached out to members of the Senate and will continue to do so. And then there will be a period of time in which I myself will sit down with the prospective nominees. But I was very serious when I said we need to have this person on the bench prior to the beginning of the next session." However, says the Wall Street Journal (7/5, McKinnon, Cooper), "Bush's track record -- and a nearly unbroken record of presidential precedent -- suggest that in the end, lawmakers will have little say in whom the president nominates." The White House "made much of Mr. Bush's conversation last week with Senate Minority Leader Harry Reid, when the two men discussed potential nominees to the Supreme Court shortly before Justice O'Connor's retirement was announced," but "neither the Bush White House's operating style nor historical precedent suggests that those conversations will have much effect."

The O'Connor vacancy received extensive media coverage last night and this morning. Media stories indicate Christian Evangelicals are determined to see President Bush choose a Supreme Court nominee who supports their positions on issues as abortion, church-state cases, gay rights, and affirmative action. ABC World News Tonight (7/4, story 6, 2:30, Gibson) reported O'Connor's decision "to retire set off a weekend of intense preparation, by those who want to influence who will replace her. And among the places where the campaign to enlist support was strong, were at conservative Christian churches." ABC (Tapper) added, "Bush's dilemma is to find a nominee with appeal to the mainstream while also satisfying the Republican base of Christian conservatives, who clearly have expectations." Many of their leaders "worry the most prominent candidate for the court, Attorney General Alberto Gonzales, is not as conservative on some of these social issues as are others on the court."

NBC Nightly News (7/4, story 5, 2:10, O'Donnell) reported White House advisors say aides "have been preparing special files on potential Supreme Court nominees for the President to review aboard Air Force One." Bush's "conservative base flatly does not want a repeat" of the moderate O'Connor. Lanier Swann, Concerned Women for America: "What we would like to see is a jurist who is not a swing vote. We don't want to be surprised by his opinion."

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O'Donnell: "Democrats just as firm on the need for a moderate." But there may be "early agreement against one potential choice", Attorney General Gonzales. The "right fears Gonzales's position on abortion. The left worries about his role in writing policy on the treatment of war prisoners."

On CNN's Inside Politics (7/11), analyst William Schneider said "the new vacancy gives conservatives a shot at turning the majority on the court against abortion. They don't want to risk it with another stealth nominee, like [David] Souter, so they've begun to rally against Gonzales, even though there's no clear indication Bush will nominate him." Likewise, the Christian Science Monitor (7/5, Feldmann) says that "for social conservatives, long active in Republican politics, the moment of truth has finally arrived: a chance to move the US Supreme Court to the right, particularly on abortion, gay rights, and other divisive cultural issues." Turning to the Attorney General's potential nomination, the Monitor says that "while conservative, the genial Gonzales is not seen as a hard-liner. And there's the rub: To social conservatives, he does not represent a reliable vote to overturn Roe v. Wade." The New York Times (7/5, Bumiller, Kirpatrick) also reports "many prominent conservatives are using contacts with the White House to press against a nomination" of the Attorney General.

The New York Times (7/5, Purdum) adds Bush "faces a daunting historical reality: presidents don't always get what they bargain for when they grant even seemingly close allies lifetime tenure on a fiercely independent institution, where the hot-button issues of the future are hard to predict. … It is precisely to guard against such surprises -- and the likes of more recent Republican appointees who have disappointed their party's conservative wing, from the retiring Justice Sandra Day O'Connor to David H. Souter and Anthony M. Kennedy -- that many conservatives are now urging Mr. Bush to pick an established jurist or legal scholar with a defined philosophy, clear paper trail and unimpeachable credentials on questions from abortion to property rights."

Reuters (7/5, Whitesides) reports the nomination "creates a maze of political risks for…Bush, with a wrong move either angering his conservative base or igniting a partisan brawl that could sink the rest of his second-term agenda." Analysts, adds Reuters, "say the fight could pollute Washington's already strained atmosphere and turn off middle-of-the-road voters seen as crucial to Republican hopes to expand their majority in the 2006 congressional elections and win the 2008 White House race."

USA Today (7/5, Kiely) runs a similar story under the headline "For Bush, A Lot Riding On Court Appointment," calling Bush's upcoming pick "one of the most momentous decisions of his career." USA Today adds that "the intensity of Bush's commitment to social conservatives' agenda is unclear," and "conservatives and religious activists, whom Bush political adviser Karl Rove identified as being key to the president's re-election, are reminding the president that he owes them." The Wall Street Journal (7/5, Bravin, Cummings) also says "the first stage of the fight…is shaping up as a struggle within the conservative coalition over steering the White House choice. … Evangelical Christians are the most vocal."

The New York Times (7/5, Sanger) considers Bush's decision-process. "If the past is any guide," says the Times, "Mr. Bush will prove vague as he nears a decision. When considering other top appointments or big decisions, he has shown that he is not above sending conflicting signals to mask his intentions, or catering, at least rhetorically, to differing constituencies. And he has not shied from confrontation, as even he alluded to on Friday when, while praising Justice O'Connor, he also announced that his nominee deserved 'fair treatment, a fair hearing and a fair vote.'"

The Wall Street Journal (7/5, Mullins) analyzes the effect of the vacancy on the agenda currently before Congress. The Journal reports that Bob Stevenson, a spokesman for Senate Majority Leader Bill Frist, "said the confirmation process will have only a 'minimal' effect on the Republican agenda. Indeed, there will be little difference in the pace of action before the Judiciary Committee starts confirmation hearings, likely in September." That "leaves senators with just a month to reach a final deal with the House on highway legislation and to approve the Central American Free Trade Agreement, Mr. Bush's major trade initiative. When confirmation hearings begin, senators will find it more difficult to make progress on their priorities as senators shift attention to the judicial process, and time on the Senate calendar dwindles."

The Washington Post (7/5, Lane) focuses on the vacancy's effect on future decisions. O'Connor's past opinions "show that she would have played a pivotal role" in key issues. Now, "their outcome may hinge on the views of her successor. Learning those views may prove challenging to senators, if a nominee adheres to the practice of not answering questions about matters that are, or soon will be,

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before the court." Even if O'Connor "were replaced by a conservative opponent of Roe v. Wade , the 1973 ruling recognizing a right to abortion, Roe would still have the support of a five-justice majority. … Still, next term will present O'Connor's successor with a chance to answer important questions about the scope of Roe as well as other precedents." Analyzing the current court, meanwhile, the Wall Street Journal (7/5, Bravin) says "the successor to…O'Connor on the Supreme Court will enter an arena increasingly shaped by the competing legal theories of two justices: Antonin Scalia and Stephen Breyer."

The New York Times (7/5, Liptak) and the Christian Science Monitor (7/5, Richey) analyze O'Connor's legacy as the first woman in the Supreme Court,

Many Gonzales Aides Have Conservative Credentials. The Washington Post (7/5, A11, Eggen) reports "at least half a dozen" of Attorney General Alberto Gonzalez's "senior aides also worked under him when he ran the White House counsel's office." Former colleagues "now at Justice include his chief of staff, his deputy chief of staff, two senior counselors and the head of the legal policy office. In addition, the Bush administration's nominee to be Gonzales's second-in-command, Timothy E. Flanigan, also served as his White House deputy." Still, Justice officials are "quick to stress that this group of alumni is part of a broader circle of advisers that Gonzales relies upon, including holdovers from John D. Ashcroft's tenure and new hires who have not worked closely with him in the past." Gonzalez deputy chief of staff D. Kyle Sampson "said that 'talking about a White House mafia or something like that would not accurately characterize his openness and inclusiveness.'" The Post adds many Gonzalez aides "have extensive and deeply conservative credentials." Among them are chief of staff Theodore W. Ullyot, Associate Attorney General Robert D. McCallum, Tasia Scolinos, the director of public affairs, counselors Raul F. Yanes, Jeffrey Taylor, and Courtney Simmons Elwood, Rachel Brand, acting head of the department's influential Office of Legal Policy, Michael A. Battl , head of the Executive Office of U.S. Attorneys, and Deputy Attorney General-designate Timothy E. Flanigan.

Female Candidates Given Good Chance. The Wall Street Journal (7/5, Bravin, Cummings, Greenberger) says the retirement of O'Connor, "the first woman on the Supreme Court and one of two currently, is expected to raise the profile of female candidates." The two women "most often mentioned on Bush short lists are Edith Jones, 54 years old, a former general counsel of the Texas Republican party who was appointed by President Reagan in 1985 to serve on the US Appeals court in New Orleans, and Janice Rogers Brown, 55, the African-American daughter of sharecroppers who grew up Greenville, Ala. and attended segregated schools. After fierce resistance by Senate Democrats, she was recently confirmed to become an appeals court judge as a result of a deal between moderate Democrats and Republicans." The Journal adds, "Social conservatives are comfortable with Judge Jones, who passes their abortion litmus test with high grades."

Special Interest Groups Gear Up For Nomination Fight. CNN's Inside Politics (7/11, Franken) reported, "Just about every special-interest group in the world on either side of the political spectrum has geared up for" the coming fight over Bush's Supreme Court nominee. The groups have "spent months raising millions to get ready for a battle royale, which is going to be taking place without a doubt once the president names his nominee. He says he wants somebody to be on the court, a replacement for Justice O'Connor, by October. There's an awful lot of battle ahead before that occurs."

The Washington Post (7/5, Edsall) reports "participants predict the competition for cash will turn the Senate confirmation into the most expensive nomination fight in the nation's history, certain to break $50 million and, if the nominee is especially controversial, likely to approach $100 million. Most of the money raised would not be publicly reported." The Post adds, "With the exception of such groups as MoveOn PAC, many organizations active in the fight are tax-exempt and have few, if any, disclosure requirements." On the right, "Progress for America, which spent $45 million in behalf of the Bush 2004 campaign, is committed to spending $18 million for targeted radio and television ads; the allied Judicial Confirmation Network plans to spend $2 million to $3 million for grass-roots lobbying of key senators; and Tony Perkins, president of the Family Research Council, has vowed to put unspecified 'millions' behind a conservative nominee." On the left, "such groups as People for the American Way and MoveOn PAC already flexed their muscles in the debate over the 'nuclear option' proposal of Senate Majority Leader Bill Frist (R-Tenn.) to end filibusters of judicial nominees. With far lower levels of public interest, People for the American Way was able to collect $5 million for the filibuster issue, MoveOn raised $1.5 million and the Alliance for Justice raised $1 million."

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Deal On "Nuclear Option" Seen As Key Factor In Upcoming Battle. The Christian Science Monitor (7/5, Chaddock) reports this morning, "The decision of 14 senators -- whether to hold or abandon an agreement to keep the wheels of the judicial appointments moving -- is emerging as the wildcard in the looming confirmation fight over the US Supreme Court." Six weeks ago, recounts the Monitor, "the Gang of 14 stunned the Senate by a bipartisan pact to allow long-delayed votes on President Bush's most controversial nominees, while preserving the minority's right to filibuster under 'extraordinary circumstances.' … Now that pact meets its ultimate test: filling a seat on a Supreme Court closely divided on issues ranging from abortion to property rights." Democrats "say the nuclear option is off the table for a Supreme Court nomination fight. Republicans say it emphatically is not. In the end, it's the Gang of 14 who decide which side is right. The key question: How resilient is that pact and the trust that binds it?"

More Commentary. Robert Bork, a former judge of the US Court of Appeals whose Supreme Court nomination was rejected by a Democratic Senate in 1987 writes in the Wall Street Journal (7/5), "Democratic senators' filibusters of the president's previous judicial nominees demonstrate liberals' determination to retain the court as their political weapon. … The leaders of the Democratic Party in the Senate are making it the party of moral anarchy, and they will fight to keep the Court activist and liberal. The struggle over the Supreme Court is not just about law: it is about the future of our culture." Adds Bork, "To restore the Court's integrity will require a minimum of three appointments of men and women who have so firm an understanding of the judicial function that they will not drift left once on the bench. Choosing, and fighting for, the right man or woman to replace Justice O'Connor is the place to start."

Along similar lines, the Wall Street Journal (7/5) editorializes, "For liberals, the courts have become the preferred way to win policy victories now that Americans are consistently rejecting their agenda at the ballot box. Unlike Barbara Jordan and her colleagues 25 years ago, modern liberals are unlikely to be satisfied with a nominee who is a 'good lawyer and believes in the Constitution.'" But "the only way to stop 'borking' as a political strategy is to defy and defeat it. Mr. Bush told voters in 2000 and 2004 that he would nominate Justices in the mold of Antonin Scalia and Clarence Thomas. He owes it to the country, and his most loyal supporters, to keep that promise."

GOP Senators Crafting Compromise Stem Cell Legislation. Roll Call (7/5, Preston) reports, "A group of Republican Senators is working quietly on new embryonic stem-cell legislation intended to appease scientists while also avoiding a potentially politically damaging presidential veto. … The basis of the still-to-be drafted Senate bill would allow for federal funds to be used for embryonic stem-cell research, but would require that the embryo not be harmed during the process. Several Republicans said Congress should be promoting a technique currently used during genetic testing and in vitro fertilization that allows for a stem cell to be taken from the embryo without destroying it." Sen. Rick Santorum said, "Even though I question the potential of that research, nevertheless it is an area that the scientific community wants to do research and we want to make sure it is done in an ethical way." Santorum "said the discussions include Senate Majority Leader Bill Frist and Health, Education, Labor and Pensions Chairman Mike Enzi. Sen. Johnny Isakson "who is involved in the talks about the safe extraction of stem cells from embryos, said he thinks that this compromise bill would appease people on both sides of the debate."

California Stem Cell Research Institute Yet To Make Headway. The Wall Street Journal (7/5, Hamilton) reports that as Congress fights "over a bill that could expand federal funding for embryonic stem-cell research, California's newly minted $3 billion commitment to the field is still trying to get itself off the ground." Eight months "after a state ballot initiative, Proposition 71, established the California Institute for Regenerative Medicine, the stem-cell agency's main accomplishment has been to bootstrap itself into existence." The Institute's "real mission -- to funnel roughly $300 million a year into California-based stem-cell research and facilities over the next decade -- is stalled." The Institute's funding "is in limbo" because of a lawsuit, while it has "been beset with controversies over its accountability and openness, including an effort by state legislators -- now on hold -- to impose tougher standards on the effort."

FEMA Asks Floridians To Return Aid Overpayments. The Washington Post and the New York Times run an AP story this morning (7/4) reporting that the Federal Emergency Management Agency "has asked thousands of Floridians whose homes were damaged by last summer's four hurricanes to give back more than $27 million in aid overpayments." FEMA "earlier this year began mailing

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letters to residents in efforts to recoup the overpayments from people who received federal aid after Hurricanes Charley, Frances, Ivan and Jeanne hit Florida last August and September." According to data supplied to the Fort Myers News-Press through a Freedom of Information Act request, "the agency detailed 6,579 cases in which they say people owe a total of $27.2 million."

Pelosi Files Travel Reports On Three Previously Undisclosed Trips. In an indication that Democrats may not get the mileage out of the controversy over House Majority Leader Tom DeLay's travel at the expense of outside groups, House Minority Leader Nancy Pelosi on Friday filed reports on three previously undocumented trips. The Washington Post (7/5, A3, Allen) reports Rep. Pelosi "filed delinquent reports Friday" for the three trips "that were worth $8,580 and occurred as long as seven years ago." Pelosi's filing is "among hundreds of revisions from members of both parties who have amended missing or incomplete reports as scrutiny of lawmaker travel has intensified." The "most expensive trip was not reported on Pelosi's annual financial disclosure statement or on the travel disclosure form that is required within 30 days of a trip." House ethics committee members "have shown no appetite for taking up all those cases and are considering an amnesty for reporting violations, although not for serious matters such as accepting a trip from a lobbyist, which House rules forbid." The unreported trip "was a week-long 1999 visit to Taiwan, paid for by the Chinese National Association of Industry and Commerce, for 'meetings with government, military and business officials,' according to a filing Pelosi signed June 30. The flights cost $3,400 each for Pelosi and her husband. The hotel cost was $940. The sponsor, which has picked up trips for leaders of both parties, paid $300 for meals."

Federal Employees Concerned Salary Raises Will Be Less Frequent Due To Reforms. The Washington Post (7/5, A11, Lee) reports, "Here is why working for the federal government is so good: Federal civil servants, on average, have received a pay raise in every year but two since 1969, meaning they can pretty much bank on seeing their paychecks grow annually. But there is a cloud inside that silver lining: Average annual wages and salaries in the private sector have grown faster than civil service pay in the past 36 years, and so have consumer prices. … Many federal workers are growing increasingly anxious about their pay as the Bush administration prepares to toss out the 15-grade General Schedule, which links pay to longevity in a job, and replace it with a system that more directly ties salary increases to performance evaluations." Colleen M. Kelley, president of the National Treasury Employees Union, "said she fears that annual raises will suffer."

OTHER NEWS:

Settlement Expected In Wrongful Death Suit Involving Capitol Police. Roll Call (7/5, McArdle) reports, "A wrongful death suit brought by the wife of a Maryland man who died while in custody of the Capitol Police is likely headed toward settlement, a lawyer for the deceased's family said after a status hearing Thursday. After scheduling another status hearing for early October, U.S. District Judge James Robertson agreed, at the request of both sides, to refer the case to a magistrate judge, who could arbitrate a settlement agreement." Roll Call notes, "The original lawsuit was filed in U.S. District Court for the District of Columbia in November 2004 by the family of Brandywine, Md., resident Gary Thompson. Thompson died Feb. 9, 2004, after he was arrested by Capitol Police following a traffic accident outside Union Station. His widow, Lois Thompson, is seeking $50 million in compensatory damages, as well as legal fees." Roll Call adds, "According to the lawsuit, Capitol Police officers responding to an accident in which a van driven by Gary Thompson collided with a taxicab…found Thompson still in his vehicle hunched over the steering wheel. The family contends that Thompson, a diabetic, suffered from a diabetic seizure shortly before the accident occurred. … After removing Thompson from the vehicle, officers placed him on the ground on his stomach and handcuffed him. … Thompson then fell unconscious; when paramedics arrived, they were unable to locate a pulse. He was pronounced dead about an hour later at Washington Hospital Center." Roll Call relates, "The following month, the D.C. Office of the Chief Medical Examiner labeled the cause of death 'positional asphyxia,' meaning his chest and rib cage were not able to expand so that he could draw breath. The death was ruled a homicide."

Health Net Vows To Fight Louisiana Judgment. The Los Angeles Daily News (7/2, Hopkins) reported that Health Net "vowed Friday to keep up its legal

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fight" following a Louisiana court decision applying "$117 million in fines stemming from the failure of three former subsidiaries." Health Net "sold its Foundation Health Plans in Louisiana, Oklahoma and Texas in April 1999 to AmCareco Inc. for an undisclosed price. Within three years, state regulators took over all three and placed them into receivership. Alleging fraud, conspiracy, negligence and other crimes, the receivers then sued both companies. Health Net has maintained its innocence throughout, but faced a setback on Thursday when a Louisiana jury awarded the Texas receivers $52.4 million in compensatory damages and another $65 million in punitive charges Roughly $8 million of the compensatory damages would be paid by other parties in the suit, however." Health Net Vice President for Investor Relations David Olson said, "We continue to believe that the claims have no merit. We're going to continue to fight because we believe in our case. The fact of the matter is we sold them in 1999 and it was three years later that they became insolvent."

MarketWatch (7/1, Pritchard) reported that Health Net said it "continues to believe that the plaintiffs' claims have no merit and said it will 'continue to vigorously pursue all avenues of redress, including post-trial motions, appeals and its pending cross claims against other parties.'" The Portland Business Journal (7/2) reported that Health Net "said it will continue to vigorously pursue all avenues of redress, including post-trial motions, appeals and its pending cross claims against other parties." The Los Angeles Business Journal (7/1, Filus) also reported that Health Net "said it disagreed with the jury's decision and planned to appeal the judgment."

The Los Angeles Times (7/2) and the Hartford Courant (7/2) both ran a Bloomberg News brief on the Louisiana decision.

Merck Seeks Postponement Of First Vioxx Trial. The AP (7/4) reported that Merck is "asking a judge to delay the first wrongful death trial over its pain reliever Vioxx, saying it cannot receive a fair trial if the Texas case begins next week as scheduled. The company wants the trial postponed for at least 60 days, citing recent publicity about the drug. Merck withdrew the drug in September when research showed that patients who took it for 18 months or longer more than doubled their risk for heart attack and stroke. Since then, more than 2,400 Vioxx lawsuits have been filed nationwide." A hearing on Merck's motion is slated for today in Texas.

USA Today Backs "Health Courts" For Medical Legal Matters. USA Today (7/5) editorializes, "Physicians often abandon their best judgment if they think a test might protect them in a malpractice lawsuit." Defensive medicine "can reassure patients, but it isn't benign. It results in unnecessary cesarean sections, painful breast biopsies in women with lumps unlikely to be cancerous, and hospitalization of patients who don't need that level of care. The practice is pervasive and costs at least $60 billion a year, according to the Department of Health and Human Services -- paid by people's insurance premiums. … So far, the leading idea for a remedy has been President Bush's proposal to cap jury awards for pain and suffering, but it is stalled in the Senate and is a partial cure at best. Caps might lower malpractice insurance costs, but they don't tackle deeper problems. One intriguing idea, backed by the bipartisan legal reform group Common Good, is special 'health courts,' where judges experienced in medicine would try cases without juries. … The national malpractice roulette is inefficient and unjust. Health courts could show the way for quicker and fairer compensation to the deserving, and they might reduce the incentive for doctors to engage in defensive medicine that puts patients at risk. Starting the experiment is the right medicine for an ailing system."

Trial Lawyers Group's President Opposes Idea. In an opposing op-ed in USA Today (7/5), Association of Trial Lawyers of America President Todd A. Smith writes, "Replacing the basic fairness of individualized justice determined by the wisdom of 12 American men and women sitting on juries with one-size-fits-all 'health courts' is a bad idea and would impose huge additional burdens on state taxpayers. Our current legal system recognizes that each case has unique circumstances and gives juries -- your friends, neighbors and co-workers -- the responsibility to make fair decisions based on all the facts. The fundamental unfairness of health courts is the assumption that all similar injuries are the same. Would a typical American jury say the loss of a finger is worth more to a concert pianist than an office worker? Would 12 citizens decide reproductive systems are more important to people of child-bearing age than to elderly people? That's why we have juries."

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Victims, Descendants Pursue Lost Art Using SCOTUS Ruling. The Christian Science Monitor (7/5, Dotinga) reports on individuals who are taking on foreign governments "to force the return of artwork," such as that looted in the 1930s and 1940s by the Nazis. Although "some museums have returned plundered artwork to their owners or their descendants," other museums "seek support in European laws that emphasize statutes of limitations and the ownership rights of those who made purchases in 'good faith.'" The US Supreme Court "helped matters last year when it paved the way for Americans to sue foreign countries over stolen art." Even if American plaintiffs win their cases, however, "they'll face the challenge of convincing foreign governments to cough up the artwork." American lawyers who work on stolen art cases "say many disputes are handled privately, outside the court system. Bad publicity and the expense of hiring attorneys to fight lawsuits could convince foreign museums to try that route."

Iran Accuses US, Israel Of Lying About President-Elect. The AP (7/4, Dareini) reports Iran "accused the U.S. and Israel on Sunday of a smear campaign against its president-elect and warned Europe, which is in tricky nuclear negotiations with Tehran, not to join in the mudslinging." President-elect Mahmoud Ahmadinejad "has been accused of taking American hostages in 1979 when radical students seized the U.S. Embassy in Tehran. Iranian exiles and an Austrian politician are alleging he was involved in the 1989 slaying of a Kurdish leader and two associates in Vienna." But Iranian officials "have denied both allegations." Iranian Foreign Ministry spokesman Hamid Reza Asefi said, "The charges are so evidently false that they don't deserve an answer. It's clear that it's mere lies. Europeans should show their political maturity and not intertwine their interests with those of the Americans. They are advised to seriously avoid interference in this issue. We advise the Europeans not to fall into the trap of the Zionist media." The Washington Times (7/4) also runs the AP story.

Pakistani Supreme Court Overturns Acquittals Of Gang Rapists. NBC Nightly News (7/3, story 10, 2:25, Maceda) reported, "When Pakistan's Supreme Court overturned the acquittals this past week of 13 men accused of ordering and carrying out a so-called 'honoree', women's right's activists called it much more than a victory for the rape victim, 36-year-old Mukhtar Mai." Shahnaz Bokhari, women's right's activist:

As Many As Nine Defendants May Be Tried Jointly For Srebenica War Crimes. The New York Times (7/4, Simons) reports, "Prosecutors at the United Nations war crimes tribunal in The Hague are preparing a joint trial of nine of the highest-ranking officers accused of playing integral roles in the Srebrenica killings. Such a large joint trial would dwarf any other proceedings the court has held. All nine men face charges of war crimes and crimes against humanity, and five of them are accused of complicity to commit genocide. A joint trial is possible because eight of the generals and senior officers from the Bosnian Serb Army have arrived in The Hague in recent months, their 'voluntary surrender' largely a result of international pressure on the Serbian authorities. … Judges at the tribunal that deals with the former Yugoslavia must still approve prosecuting the men as a group, and no trial date has been set. Some lawyers who follow the court have said they fear that a joint trial could become a management nightmare, involving at least 18 defense lawyers and many prosecutors. Several defense lawyers have already objected to a joint trial."

Abbas Weighs Allowing Jordanian Troops Into West Bank. The Washington Times (7/5, Mitnick) reports, "Palestinian security chiefs and Jordanian officials are discussing sending a unit of the Jordanian military to the West Bank to boost stability after Israel's withdrawal. The deployment, backed by Palestinian Interior Minister Nasser Youssef, would strengthen Palestinian President Mahmoud Abbas' hand to enforce law and order on rogue bands of Palestinian militants that could undermine his administration." The Times adds, "Inviting the Jordanian troops across is a political decision that the Palestinian president has put off because it would signal a more confrontational approach toward militants."

Anti-Chavez Activist Faces 28 Years In Prison. The Christian Science Monitor (7/5, Ceaser) reports that Venezuelan political activist Maria Corina Machado could face up to 28 years in prison for "treason to the nation" and conspiracy. Machado, who works for Sumate, the organization that led last year's unsuccessful bid to recall President Hugo Chávez from office, has become "a cause célèbre for Chávez's opponents and a demon for his

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supporters. So when Machado met with President Bush in the White House May 31, it raised a firestorm of government criticism back in Caracas. Venezuela's foreign minister called the meeting 'a provocation,' and the interior minister charged that Machado was a puppet of the CIA, continuing the heated rhetoric that has characterized the relationship between the Bush administration and Venezuela's leftist leader."

Political Scandal In Brazil Intensifies. The Financial Times (7/5, Colitt) reports, "The political crisis in Brazil intensified on Monday as fresh allegations of improper fundraising threatened to force the resignation of figures close to President Luiz Inácio Lula da Silva." Lula da Silva's government is "at its weakest since it came to power in January 2003." The Times adds, "Over the weekend Mr Lula da Silva's Workers' party, or PT, admitted having received financial aid from Marcos Valerio de Souza, head of a publicity firm with government contracts and the chief suspect in pay-offs to legislators. Delubio Soares, the PT's treasurer, admitted giving misleading information about the party's relations with Mr de Souza. The PT had previously denied a financial relationship with Mr de Souza, a friend of Mr Soares. … The scandal has angered traditional supporters of the PT, which for most of its 25-year existence has campaigned under the banner of ethical politics."

Gay Couples Register To Marry In Spain. The New York Times (7/5, Mclean) reports, "The lines inside the Madrid Civil Registry, where capital residents apply for marriage licenses, swelled with gay and lesbian couples for the first time on Monday, four days after Parliament passed a law giving same-sex couples across Spain the right to marry and to adopt children. The vote makes Spain the first nation to remove all legal distinctions between same-sex and heterosexual unions, say advocates for marriage rights for gay couples. Belgium, Canada and the Netherlands have also legalized gay marriage, but only Canada's laws, which do not yet apply to all of the country, contain language as liberal as Spain's."

Five Countries To Face EU Suits Over Energy Markets. The Wall Street Journal (7/5) reports, "The European Commission is set to launch court cases against five European Union countries that have failed to pass laws deregulating national energy markets, as part of a crackdown on laggard governments, people familiar with the matter said. At a meeting today, the commission is expected to endorse a decision to sue Estonia, Greece, Ireland, Luxembourg and Spain at the European Court of Justice, a source said. The court has the power to impose heavy fines, but it usually takes about 20 months for it to deliver a verdict. … The court cases are the final step in the commission's legal process. The commission uses the courts only when governments have failed to heed two warnings to bring national legislation into line with EU law. Today, the commission will issue roughly 3,800 reprimands -- ranging from first warnings to suits -- to member governments."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Travels to Fredensborg, Denmark for G-8 Summit.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: OSCE PARLIAMENTARY ASSEMBLY _ The 14th Annual Session of the Organization for Security and Co-operation in Europe (OSCE) Parliamentary Assembly, whose participating states span the geographical area from Vancouver to Vladivostok, is held with the theme, ``30 Years Since Helsinki: Challenges Ahead." Location: JW Marriott Hotel, 14th St. and Pennsylvania Ave. NW.

EUROPE-US _ 10 a.m. The National Press Club hosts a Morning Newsmaker news conference with Jean-Louis Schneiter, the Mayor of Reims, France. He discusses relations between the peoples of Europe and the United States. Location: National Press Club, Zenger Room.

HUMAN RIGHTS _ 2 p.m. News conference by Kathy Kelly, co-founder of Voices in the Wilderness; Bill Quigley, attorney representing Voices in the Wilderness; and Bert Sacks, Voices delegate fined by the U.S. government for traveling to Iraq, in advance of a Wednesday court hearing on charges of taking medicine to Iraqis. Location: National Press Club, Murrow Room.

CATASTROPHIC TERRORISM _ 2:30 p.m. The United States Institute of Peace hosts a briefing on the Report of the Task Force on the United Nations, ``Deterring Death and Destruction: Catastrophic Terrorism and the Proliferation

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of Nuclear, Chemical and Biological Weapons," with speakers Thomas Pickering, Boeing Co., member of the Task Force; Robert Einhorn, CSIS, lead expert with the Task Force; and moderator Gary Matthews, U.S. Institute of Peace. Location: U.S. Institute of Peace, 2nd Floor Conference Room, 17th St. NW.

HIGHER EDUCATION-IRAQ _ 6 p.m. The American Association for the Advancement of Science (AAAS) hosts a panel discussion on ``The Future of Higher Education and Scientific Research in Iraq," with Dr. Beriwan Muslih Khailany, Iraq's Deputy Minister of Higher Education; Dr. Mosa Jawad Aziz Almosawe, President, University of Baghdad; and Dr. D.J. Patil, AAAS Defense Policy Fellow. Location: The American Association for the Advancement of Science, Auditorium, 12th and H Streets, NW.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"Bush Cool To Blair On Climate"
"This Diet Pill Contains Saturated Advertising"
"Mexico's Master Of Elusion"
"Planting A Seed Of Self-Sufficiency"
"Birders Discover They're The Ones Being Watched"
"Comet Show Leaves NASA Speechless"

USA Today:

"Deep Impact Crashes Into History"
"Eric Rudolph Eluded The Feds For Years. Now, For The First Time, His Mother Shares Letters The Serial Bomber Wrote From Jail."
"Bush Says To 'Tone Down' Rhetoric"

New York Times:

"Pentagon Weighs Strategy Change To Deter Terror"
"Spacecraft Hits Passing Comet, Just As Planned"
"O'Connor Leap Moved Women Up The Bench"
"Presidents, Choosing Justices, Can Wind Up With Surprises"
"Spy At Center Of Leak Case Still In Shadow"
"For Iranian Women, Dress Code Is Still Modest, But Golf Friendly"

Washington Post:

"China Tells Congress To Back Off Businesses"
"At D.C.'s Party, Spectacle and Security"
"Iraqi Clerics Plan Edict On Sunnis' Political Role"
"NASA Succeeds In Crashing Craft Into Comet"
"Nationals At RFK Stadium Is Summer's Hottest Ticket"
"'I'm Not Going to Come Home': One Marine's Third Iraq Tour"

Washington Times:

"Clearing The Books In Africa"
"Undiplomatic Sparks Fly On 4th In Kenya"
"Bush Heads To G-8 Summit In Scotland"
"Iraqi: No Talks With Killers"
"War Dogs Lap Up Support"
"Two Freed By Aruba In Missing Girl Probe"
"West Bank Plan Eyes Jordanians On Patrol"

Detroit Free-Press:

"Cop Suits Cost $44.7 Million"
"Urologist Faces 9 New Charges"
"Southfield Schools May Ban Blue Jeans"
"Gambling On The All-Star Game"
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"A City On The Move"

Dallas Morning News:

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Story Lineup From Last Night's Network News:

ABC: Deep Impact; Deep Impact-Analysis; Afghanistan-Missing SEALs; Iraq-July 4th Observations; ID-Sexual Predator; Evangelicals-Supreme Court Vacancy; UCC-Same Sex Marriage; TV-Learning; Commuter Tolls; Bowling.

CBS: Afghanistan-Missing Seals; Iraq-Militant Arrests; G-8 Summit; Deep Impact; Deep Impact-Analysis; ID-Sex Offender; Fallen Heroes; Iraq-Artificial Limbs; US-Newest Citizens; Benefits Of Laughter; Stram Obit; TN-Country Doctor.

NBC: Afghanistan-Missing SEALs; Afghan War-Status; Iraq-Marines On Patrol; G-8 Summit; Bush-Supreme Court Nominee; Deep Impact; Fuel-Efficiency Tips; Mississippi River Cleanup; Independence Day Celebrations.

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Story Lineup From This Morning's Radio News Broadcasts:

ABC: ID-Missing Boy; Aruba-Missing Girl; Afghanistan-Missing Navy SEALS; Bush-G-8 Summit; LA-Tropical Storm Watch.

CBS: Independence Day Celebrations; Bush-West Virginia; Pentagon-Readiness Strategy; Afghanistan-Missing Navy SEALS; ID-Missing Boy.

NPR: G-8 Meeting; African Leaders' Meeting; Bush-West Virginia; United Church Of Christ-Gay Marriage; NASA-Comet Intercept; LA-Tropical Storm Watch; Mexico-Tropical Storm; Foreign Currency Markets; Indonesia-Undersea Earthquake.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, JULY 5, 2005 7:45 AM EST

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TERRORISM NEWS:

Saudis Say Top Al Qaeda Militant Killed. Saudi Arabia yesterday reported a top al Qaeda militant, Younis Muhammed Ibrahim al-Hayari, was killed in a clash with police. NBC Nightly News (7/3, story 3, 0:25, Seigenthaler) reported al-Hayari "died after exchanging gunfire and hurling hand grenades at police. He was known to be a top bomb maker linked to a number of terrorist attacks."

Reuters (7/4, Evans) reports al-Hayyari, a Moroccan national, was "at the top of its list of most wanted al Qaeda leaders" in Saudi Arabai. A senior Saudi official "described Hayyari, 36, who reportedly fought in Bosnia in the 1990s and came to Saudi Arabia in 2001, as a shadowy figure who was 'more of a strategic leader than field commander.'" He was "a link to al Qaeda outside Saudi Arabia, brought funds into the kingdom, and was friend to a Muslim scholar close to al Qaeda's leader in Iraq, Abu Musab al Zaraqawi, the official said."

The AP (7/4) reports the "clashes took place in the Rawdah district, an upscale neighborhood in eastern Riyadh, said Interior Ministry spokesman Lt. Gen. Mansour al-Turki." The Interior Ministry official "said security forces conducted two simultaneous operations in eastern Riyadh to capture suspects and killed Mr. Hayari after a shoot-out, while arresting three other suspected militants, who were not identified." The Washington Post (7/4, A13) also runs the AP story.

Prosecutors Test Limits In Putting Islam On The Stand. The Legal Times (7/4, Blum) reports, "In a recent criminal trial in Virginia, the prosecutor told the jury that the defendant couldn't be trusted to tell the truth, that he would lie to their faces — all because of his religious beliefs. … The defendant, an American citizen accused of supporting terrorism, was convicted. The religion in question, of course, was Islam." The Times continues, "Now, the Virginia attorney representing Ali Al-Timimi is pushing for a new trial, saying that prosecutors secured the guilty verdict by appealing to religious bigotry against Muslims. … The case illustrates the difficulty in prosecuting suspected terrorists who subscribe to a form of militant Islam, without airing tenets of the religion itself before a jury. And it raises the question of how far is too far when it comes to using a defendant's religious beliefs as evidence of criminal intent. The issue will likely continue to confront judges as more cases against accused terrorists come to trial. … Timimi's lawyer, Edward MacMahon Jr., is seeking to overturn Timimi's conviction, citing prosecutorial misconduct and the prejudicial impact of statements he says portrayed Islam as a violent religion. One specific objection: that Assistant U.S. Attorney Gordon Kromberg instructed the jury in his closing argument that Timimi, a devout Muslim, would lie to jurors because the jurors were kafir — or nonbelievers. … Judge Leonie Brinkema of the U.S. District Court for the Eastern District of Virginia is likely to consider MacMahon's motion when Timimi appears for sentencing July 13. … Kromberg declined to comment, citing Justice Department policy. Bryan Sierra, a spokesman for the Justice Department's Criminal Division, said that department officials would not comment on a pending case. In a court filing responding to MacMahon's charges, Kromberg maintains that Timimi's personal religious views were 'directly relevant' to the case."

Attorneys In Dispute Over Fees In Terror Suit. The Legal Times (7/4, Broida) reports, "Steven Perles and Thomas Fortune Fay made their reputation representing victims of terror attacks in lawsuits against countries that sponsor terrorism. But the two D.C. lawyers are now embroiled in a legal battle over the multimillion-dollar fees their successful litigation brought about, with Perles fending off charges he misused money in a trust account that belonged to both of them." The Times continues, "In a suit filed June 20, Fay accuses Perles of improperly using $1 million of his terror-case proceeds as a bond in another suit filed against Perles by a former employee, Anne-Marie Kagy, who is seeking her own share of the proceeds. In the Kagy case, U.S. Magistrate Judge Alan Kay concluded that Perles owes the former employee almost $1.5 million." The Times adds, "Fay and Perles worked as co-counsel in high-profile terrorism cases, including two against the government of Iran that yielded judgments of almost $600 million, of which $54 million has been collected. And, in fact, their lobbying efforts had made such suits possible: They persuaded Congress in 1996 to pass a law permitting terrorism victims to collect a portion of their judgments from the frozen assets of states that sponsor terrorism. … Both Fay and Perles declined to comment about the substantive issues in the lawsuit, since the litigation is still pending and Perles has yet to file a response to Fay's complaint. But both say they hope that Fay's suit will not affect three other terrorism cases against Libya, Sudan, and Iran in which they are currently collaborating."

Judge Sets August Trial Date For Hayats But Admits Delay Likely. The Lodi News-Sentinel (7/2, Bohm) reports, "At a Friday hearing in federal court, U.S. District Judge Garland E. Burrell Jr. set an Aug. 23 trial for Umer and Hamid Hayat, though he added, 'I don't know how realistic that's going to be.' It hinges on whether the federal Classified Information Procedures Act slows the case down, because even Burrell's own staff members would have to

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undergo extensive background checks before being allowed to handle sensitive documents. … Burrell set an Aug. 19 hearing on issues related to CIPA, and also set dates for attorneys to file motions related to CIPA procedures within the next two weeks. Additionally, he scheduled a July 15 hearing regarding whether the trial will have to be delayed." The AP (7/2, Thompson) also reports on the trial dates.

PATRIOT ACT:

ACLU Official Urges Patriot Act Reform. In an op-ed for the San Francisco Chronicle (7/4) Dorothy M. Ehrlich, executive director of the American Civil Liberties Union of Northern California, writes, "Patriotic Americans have a lot at stake this Fourth of July. After the glare of fireworks has faded, the true test of American patriotism moves to Congress, where both the House and Senate Judiciary Committees will prepare to debate the fate of the USA Patriot Act." Ehrlich continues, "It's a debate that has long been anticipated. … More than 400 boards of supervisors and town councils from Elko, Nev., to New York City spoke up. Seven state governments, including four 'red' states with Republican majorities, called for reform. … The outcry is all the more remarkable when you consider that three years ago, a bipartisan movement for Patriot Act reform was virtually unthinkable. In the aftermath of Sept. 11, the Bush administration, with former Attorney General John Ashcroft leading the charge, chose to demand unilateral power to limit civil liberties and diminish our privacy in a variety of ways." Ehrlich concludes, "The Patriot Act in its current form includes provisions that threaten the American legacy of liberty and privacy. But it can be fixed easily to restore meaningful checks and balances while properly focusing our limited anti- terrorism resources on foreign terrorists rather than ordinary Americans. … The question is, will Congress keep America safe and free by correcting the fundamental flaws in the Patriot Act? We'll find out when it resumes after the Fourth of July recess. Patriotism is so much more than flag-waving and pyrotechnics. It's about vigilantly guarding the fundamental American principles of justice and liberty that have come under siege with the Bush administration's determination to hold itself above the law. It's time to restore the basic checks and balances that are fundamental to our constitutional liberties. That's the kind of patriotism we yearn for today."

HOMELAND RESPONSE:

Pentagon, CIA Reach Understanding To Prevent Intelligence Overlaps. The expansion of the Defense Department's operations in intelligence matters has led the Pentagon and the CIA to reach a compromise on the division of labor between the two. The Washington Post (7/4, A2, Pincus) reports the "growing Pentagon intelligence activities at home and abroad have caused CIA Director Porter J. Goss and Defense Secretary Donald H. Rumsfeld to reach a new written agreement to prevent conflicts and overlap in spying, technical collection and analysis between their two organizations." Gen. Michael V. Hayden, deputy director of national intelligence, "told reporters last week that a classified memo of understanding between the agencies has been drafted and is awaiting the signatures of Goss and Rumsfeld." The document "sets out what the Defense Department and the CIA will do as part of the intelligence restructuring that is taking place under the aegis of the director of national intelligence (DNI), John D. Negroponte."

Pentagon Technology Experts To Use Decoys To Frustrate Hackers. The Washington Post (7/4, D5, Onley) reports two leading Pentagon "technologists propose defending the military's Global Information Grid by using decoy networks and 'honey pots' to fool hackers. The goal is to lure intruders into these areas and away from operational networks." Army Col. Carl W. Hunt, technology director for the Joint Task Force for Global Network Operations, and Doug Gardner, director of the applied technology unit of the joint task force, say "the diversion strategy, called Net Force Maneuver, would lead hackers 'to systems where we are prepared to receive them.'"

WPost Says Bush Plans For FBI Reform Are Significant. The Washington Post (7/4, A16) says in an editorial that President Bush's "reforms of the FBI, which follow recommendations from a commission he appointed to study intelligence failures concerning Iraqi weapons of mass destruction, are potentially profound and warrant public attention. In critical respects, they take the bureau in the right direction. The first question is whether they go far enough or whether they will end up being merely shifted boxes on the government's organizational chart. The second question is whether, in one particular area, they go too far." The bureau has "made more headway in developing intelligence capability than its fiercer critics acknowledge, but it remains, in its heart and soul, a police force. This culture may simply be too deeply rooted to be changed." But it also "is essential that FBI agents collecting intelligence domestically are not directed by the White House or top administration officials but, rather, by the FBI director overseen by the attorney general."

FBI Seen As Loser In Bush's Intelligence Reforms. The Los Angeles Times (7/5) editorializes, "The reforms that President Bush signed on to last week could at least theoretically end the warfare" between the CIA and the FBI, "resulting in agencies better able to focus on core missions. The job of persuading, or forcing, them to do so falls to the director of national intelligence, John D. Negroponte. With

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the president at his back, he might even succeed. Despite FBI Director Robert S. Mueller III's best efforts to resist change, his agency is the decided loser -- and the CIA the winner -- in the reorganization of the 15 agencies that have something to do with intelligence, as recommended by a presidential commission." The "FBI is smarting over the humiliation, but it could prove a boon for the bureau," because establishing "a separate office in the FBI that answers to Negroponte as well as Mueller will at least allow the rest of the FBI to get on with what it does best, tracking down domestic criminals."

Woman Arrested For Poison-Laced Death Threats To Mueller, Pistole, Justices. The AP (7/2) reports the FBI has arrested Barbara March of Bridgeport, Conn., for allegedly "mailing death threats, some laced with rat poison, to each of the U.S. Supreme Court justices and FBI Director Robert Mueller." March "was charged with one count of mailing a threatening letter," but "the charge could change with a federal grand jury investigation. Laboratory results determined that seven of the letters mailed to Supreme Court justices were laced with rat poison, the FBI said in an affidavit. The contents of two other letters sent to justices and two letters sent to Mueller and Deputy Director John S. Pistole are being analyzed by the FBI." WTNH-TV Hartford (7/1, 12:00 p.m.), WFSB-TV Hartford (7/1, 7:00 a.m.) and the New York Times (7/2, Stowe) also reported on March's arrest.

Los Alamos Labs Using Computer Modeling To Predict Impact Of Terror Attacks. The Washington Post (7/4, A1, Cha) reports in a front page story that scientists at the Los Alamos National Laboratory have "been constructing the most elaborate computer models of the United States ever attempted. There are virtual cities inhabited by millions of virtual individuals who go to work, shopping centers, soccer games and anywhere else their real life counterparts go. And there are virtual power grids, oil and gas lines, water pipelines, airplane and train systems, even a virtual Internet." The Post notes, "The information is so sensitive that most of the lab's work is classified, and the physical facility is secured with its own experimental technologies. If the simulations got into the wrong hands, the researchers say, they could be used as the ultimate weapon against Americans." Still, some "urban planners have criticized the project for its cost -- each simulation can cost tens of millions of dollars -- and have argued that such modeling can never be precise."

Small Plane Violated Airspace Restrictions Near Camp David Saturday. The Washington Post (7/4, B1, Raghavan, Ruane) reports a small plane "entered restricted airspace Saturday night around Camp David, where President Bush was spending the weekend, prompting federal officials to dispatch a fighter jet to intercept it and track it until it landed at an airport in Frederick." Authorities "questioned the pilot of the Cessna 172 and released him. The aircraft was among three small planes that violated the restricted airspace Saturday. The breaches illustrate how increasingly complicated it is for civilian pilots to traverse the most controlled airspace in the nation -- and for federal officials to protect it." Such incidents "are becoming so routine that the vast majority go unreported."

The Washington Times/AP (7/4) reports, "The pilot was forced to land and was questioned but was released late Saturday without being charged, Secret Service spokesman Jonathan Cherry said yesterday."

Nichols Reportedly Talking To FBI About His Role In Oklahoma City Bombing. The AP (7/5, Murphy) reports that "Terry Nichols has been meeting with the FBI and has revealed additional details about his involvement in the 1995 attack that destroyed the Oklahoma City federal building, his mother said Sunday." Nichols "acknowledged that he helped Timothy McVeigh acquire ammonium nitrate fertilizer and racing fuel that were combined to make the explosive, and helped assemble the bomb components, said Nichols' mother, Joyce Wilt of Lapeer, Mich. 'That's the extent of it,' Wilt said in a telephone interview with The Associated Press. 'From there on, he had no knowledge.' … Wilt said she believes others were involved in the bombing and that the FBI is hiding it." The AP adds, "Gary Johnson, a spokesman for the FBI office in Oklahoma City, would not confirm any talks between Nichols and the agency."

OECD To Warn Insurers Unable To Bear Losses From "Mega-Terrorism." The Financial Times (7/5, Felsted) reports the Organisation for Economic Co-operation and Development "will warn" today that "insurers might be unable to bear losses from 'mega-terrorism.'" In some countries, claims "from attacks that could include a nuclear, chemical or biological incident could even outstrip the joint compensation capacity of insurers and governments." The estimates of "maximum losses resulting from a single terrorist attack range from $50bn to $250bn," compared to over $30 billion for the 9/11 attacks in New York.

DC Railroad Bridge Said To Demonstrate Vulnerability To Chemical Attack. The New York Times (7/5) says in an editorial that the "weakest point in America's defense against terrorism may be an inconspicuous little bridge a few blocks from the Capitol. Rail tanker cars filled with deadly chemicals pass over the bridge,

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at Second Street and E Street SW, on their journeys up and down the East Coast. The bridge is highly vulnerable to an explosion from below, and if deadly chemicals were released on it, they would endanger every member of Congress and as many as 250,000 other federal employees." The "vulnerability could be easily eliminated by a federal law barring the transportation of hazardous materials through Washington and other locations at high risk of a terrorist attack. But the railroads have fought such legislation, which would increase their costs. If the Bush administration and Congress are serious about homeland security, they will get a chemical transportation law passed at once."

WAR NEWS:

Gonzales Makes Quick Surprise Trip To Iraq. Amid speculation that he may be line for a promotion to the Supreme Court, Attorney General Gonzales yesterday made a surprise visit to Baghdad. ABC World News Tonight (7/3, story 6, 0:20, Moran) reported Gonzales met "with American troops and Justice Department officials there, several hundred of whom are training Iraqi judges, police and prison guards." The CBS Evening News (7/3, lead story, 2:25, Guida) reported that "though Gonzales was 6,000 miles from Washington, his name dominated Capitol conversations about the vacancy on the Supreme Court."

The Washington Post (7/5, 2:48 PM, Eggen) reports, "Attorney General Alberto R. Gonzales returned to Washington Monday after seven-hour visit to Baghdad that was aimed at highlighting the efforts to build a functional criminal justice system in Iraq. The trip also served to illustrate the severe dangers and obstacles that remain." The Post continues, "Gonzales had to travel to Iraq under intense secrecy and heavy guard out of fear insurgents would target him. After arriving at Baghdad airport early Sunday, he was temporarily stranded there while waiting out a sandstorm that had grounded helicopters. Insurgents have made the nine-mile road into the city's center too dangerous to drive." The Post adds, "His presence in Baghdad was not revealed publicly until he was safely inside the Green Zone, the walled compound of former palaces and parks that serve as a shaky refuge for coalition forces and the Iraqi government. … There Gonzales met with Prime Minister Ibrahim Jafari and other senior Iraqi officials to discuss plans for a joint task force to investigate the kidnappings and other serious offenses that contributed to the chaos outside the U.S. compound. … Hours earlier, Egypt's highest-ranking diplomat in Iraq, Ihab Sherif, disappeared after being accosted by two carloads of gunmen as he drove in Baghdad. … 'What we need to do is develop the expertise within the Iraqi community to prosecute assassinations, kidnappings and other serious crimes,' Gonzales said in an interview during the trip. 'This should improve the situation.'"

The Washington Post (7/4, A1, Eggen) reports, "Even as his name echoes in Washington as one of the most likely Supreme Court candidates, Attorney General Alberto R. Gonzales landed in war-torn Iraq on Sunday for an unannounced visit with some of the hundreds of Justice Department employees stationed here." The Post continues, "In an interview with The Washington Post on his way to the Iraqi capital, Gonzales said he would continue to be directly involved in making recommendations to President Bush for a possible successor to retiring Justice Sandra Day O'Connor. But Gonzales, a close friend and longtime confidant to Bush, declined to comment on his own chances or interest in the post. … 'There will be a group of people who will share their thoughts with the president about a nominee, and obviously I am part of those discussions,' Gonzales said. 'But I'm not going to talk about the details of those discussions or the recommendations or anything like that . . . I think the president is going to be deliberative in his decision.'" The Post adds, "Although Bush may 'take some time' to make a final call, Gonzales added, the president is adamant that a new justice be confirmed by October. The interviews with The Post and the Associated Press en route to Baghdad were Gonzales's first comments about the high court since O'Connor resigned Friday. … The trip is the first to Iraq by the top U.S. law enforcement officer since the Iraq invasion more than two years ago. Gonzales, who took the post in February, nearly had to cancel the final leg of his trip because helicopters were grounded by sandstorms and the road from the Baghdad airport to the U.S.-controlled Green Zone remains very dangerous."

The New York Times/Reuters (7/4) reports, A U.S. embassy spokesman said Gonzales met Prime Minister Ibrahim al-Jaafari and Iraq's justice and interior ministers during his previously unannounced flying visit. … The Department of Justice said Gonzales was also meeting some of the department's 400 staff in Iraq. … They include a large team of investigators that has been helping Iraq build a war crimes case against ousted leader Saddam Hussein and other members of his regime." Reuters adds, "Department spokeswoman Tasia Scolinos said Gonzales's meetings with members of the Iraqi government were 'to offer his support for what they are doing in terms of reconstituting or rebuilding the judicial system in Iraq.' … 'He's also meeting with the DOJ employees that are on the ground in Iraq just to express his support for what they're doing,' Scolinos said."

The Chicago Tribune (7/4, Madhani) reports, "Gunmen kidnapped Egypt's top diplomat in Iraq, authorities said Sunday, snatching the envoy in a busy commercial district in the capital. … The abduction came hours before a surprise visit to the capital by U.S. Atty. Gen. Alberto Gonzales, who met with Iraqi and American officials and U.S. troops." The

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Tribune adds, "Gonzales made his a surprise one-day visit to Baghdad to thank U.S. Justice Department officials and troops working in Iraq for their service. He also visited with several Iraqi officials, including Prime Minister Ibrahim al-Jaafari, according to the U.S. Embassy. … The unannounced visit, the latest of several by high-ranking Bush administration officials around past holidays, came as Gonzales' name has surfaced as a possible successor to Supreme Court Justice Sandra Day O'Connor, who on Friday announced her retirement."

The AP (7/4, Sherman) reports, "The United States will help Iraq investigate the killing and kidnapping of government officials, Attorney General Alberto Gonzales says. The informal agreement was disclosed as Gonzales made an unannounced and tightly guarded, six-hour visit Sunday to Baghdad. He met with Iraq's prime minister, Ibrahim al-Jaafari, as well as police and judicial officials." The AP continues, "Word of the arrangement followed the abduction on Saturday night of Egypt's top envoy to Iraq. … 'There are still some high-level crimes, murders and kidnappings that are not being prosecuted. One reason is that the evidence is not available,' Gonzales said in an interview en route back to Washington." The AP adds, "While details are still to be worked out, investigators from the FBI and other U.S. law enforcement agencies would join their Iraqi counterparts at crime scenes and in other aspects of the probes, aides to Gonzales said. … Gonzales praised Iraq's commitment to democracy in the face of sustained deadly attacks by insurgents and also used the trip to show support for U.S. troops in Iraq. … 'As we approach the Fourth of July weekend, I suspect there's some of you that are here that sometimes feel lonely and you sometimes wonder whether you are alone,' Gonzales told American soldiers at the U.S. Embassy. 'And I'm here to tell you that you are not alone, that the American people are very much with you.'"

The New York Times (7/4, Wong) reports, "American and Iraqi officials declined to specify when Mr. Gonzales had planned the trip or why, for a visit that lasted only six hours. But under his leadership, the Justice Department is playing an important role in the coming trials of Saddam Hussein and other officials of the former government. Mr. Sharif, who arrived here just a month ago, was seized as he was driving alone in his white Jeep Cherokee through the Jamia neighborhood of Baghdad, where he lived, an Interior Ministry official said. No group claimed responsibility for abducting him. … The Baghdad visit by Mr. Gonzales coincided with speculation that he may be nominated as a replacement for Justice Sandra Day O'Connor, who announced her resignation on Friday. His trip here to the heavily fortified American Embassy was a closely guarded secret, and reporters based here were not invited to meet with him. … He released a written statement that said, 'I am proud of the people of the Department of Justice who are contributing to this effort by helping Iraqis advance the rule of law.'"

The New York Daily News (7/4, McAuliff) reports, "After landing in Baghdad under tight security, Gonzales boosted Iraq's push for democracy and gave a pep talk to U.S. troops who were fighting while their families back home were preparing to celebrate Independence Day. … 'As we approach the Fourth of July weekend, I suspect there's some of you that are here that sometimes feel lonely and you sometimes wonder whether you are alone,' he told G.I.s. 'I'm here to tell you that you are not alone, that the American people are very much with you.' … Gonzales said his trip aimed to show Iraqis the U.S. commitment to their new government. 'We are doing a lot to promote democracy and the rule of law,' he said."

The Knight Ridder Newspapers (7/4, Fadel) reports, "Accompanying Gonzales was FBI Assistant Director Willie Hulon, who directs the FBI's counterterrorism division."

Agence France-Presse (7/5) reports that Gonazles "was accompanied by Max Wood, the embassy's newly-appointed justice attache, and Willie Hulon, director of the Federal Bureau of Investigation's counter-terrorism division, said the statement. … Former attorney general John Ashcroft never visited Iraq."

Gonzales Visits Iraq. Alberto Gonzales' trip to Iraq was widely covered by local TV. Usually, the coverage either mentioned that Gonzales made the trip in order to support US troops or to help the Iraqi government get off the ground. Often, stations mentioned that Gonzales was in Iraq for both those reasons. Some examples: NC8-CABLE-TV Washington, DC (7/3, 2:25 p.m.) reported, "Attorney General Alberto Gonzales made a surprise trip to Iraq today. It's his first visit to the new democracy. He says he chose the Independence Day weekend for his trip to show support both for US troops there and Iraq's fledgling government."

WTVT-TV Tampa (7/3, 7:10 a.m.) reported, "Gonzales made a surprise visit under heavy guard. He picked the July Fourth weekend to show support for US troops."

KABC-TV Los Angeles (7/4, 6:30 a.m.) reported that Gonzales praised democracy and "thanked the troops for brave service."

WNBC-TV New York (7/4, 5:41 a.m.) reported, "Iraq has accepted Gonzales' offer to help the investigation into the kidnappings and killings of top officials. Over the weekend, Egypt's diplomat was taken hostage."

WLS-TV Chicago (7/4, 5:02 a.m.) reported, "Gonzales says Iraq is now ready to accept American help investigating some crimes. He made the statement after completing a surprise six-hour visit to Baghdad. On his return flight, he talked about the agreement that the US would help investigate the kidnap and murder of Iraqi officials. Gonzales says some of these crimes aren't being prosecuted because

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Iraqi authorities haven't been able to gather enough evidence."

WPVI-TV Philadelphia (7/4, 6:07 a.m.) reported that Gonzales "met with the country's prime minister, as well as police and judicial officials." He "said Iraq is ready to accept US help to prosecute kidnappers and killers."

WSB-TV Atlanta (7/4, 5:49 a.m.) reported, "Gonzales says he made the trip to show support for US troops in Baghdad and offer FBI help to the Iraqis."

KDFW-TV Dallas (7/4, 8:04 a.m.) reported, "The nation's top lawyer told Iraqis the US will stand" by their fledgling government. Gonzales "promised to help support the young Iraqi justice system and police and he praised US troops." KPNX-TV Phoenix (7/4, 5:06 a.m.), KCPQ-TV Seattle (7/3, 10:08 p.m.), KMOV-TV St. Louis (7/3, 10:10 p.m.), and WRGB-TV Albany, New York (7/4, 6:11 a.m.) were among the many other stations that also covered the story, using much the same language as that used by the stations cited above.

On Independence Day, President Bush Calls For Resolve In Iraq. President Bush called on Americans to remember US troops fighting the war on terror in their celebrations for the holiday. In his remarks at Morgantown, West Virginia, the President also called for resolve and for seeing the Iraq mission through to the end. ABC and CBS covered Bush's remarks, while NBC mentioned the President's West Virginia trip in a story on the Supreme Court vacancy.

ABC World News Tonight (7/4, story 4, 2:05, Gibson) reported, "The soldiers in Iraq and Afghanistan were on President Bush's mind this holiday. In West Virginia, he urged Americans to show their support for US forces overseas." Bush was shown saying, "There's so many ways to do so. You can fly the flag. Or send a letter to the troops in the field. Or help a military family down the street." The CBS Evening News (7/4, story 2, :40, Roberts) said the President "appealed to Americans to show resolve in Iraq." Bush was shown saying, "We pray for the families who have lost a loved one in freedom's cause, and we know that the best way to honor their sacrifice is to complete the mission so we will stay until the fight is won."

NBC Nightly News (7/4, story 5, 2:10, O'Donnell) reported, "This was a day for President Bush to simply wave the flag, marking the holiday in Morgantown, West Virginia." Bush: "And on Independence Day we remember that we also have essential responsibilities here at home."

The Charleston State Journal (7/5, Kaull) reports the President "spoke for about 20 minutes, mostly about the war in Iraq and the fight against terrorism. He drew parallels between America's War for Independence, which lasted eight years, and the struggle to establish democracy in Iraq." Bush also "thanked West Virginians for their patriotism. 'Coming to West Virginia is becoming a Fourth of July tradition for me,' he said.'" The Wheeling Intelligencer (7/5, King) adds, "It appears President George W. Bush now equates the Fourth of July with democracy, freedom and West Virginia."

CNN's Inside Politics (7/4, Franken) said Bush's speech "was really a repeat of last week's speech in which he was beginning to try and shore up support for the war in Iraq, which has been suffering from a lack of -- a dwindling lack of support in the United States. … But to reinforce the point that the war in Iraq has become a very contentious issue in the United States, a group of about 50 demonstrators appeared outside the hall where the president spoke." The New York Times (7/5, Kornblut) also says this morning that Bush reprised "his prime-time speech on Iraq the week before."

The Los Angeles Times (7/5, Chen) reports Bush asserted "that he has 'a comprehensive strategy' to win the struggle in Iraq and prevail in the global war on terrorism." Bush "has been under growing pressure, including from some Republican lawmakers, to articulate an exit strategy -- what the White House prefers to call 'a strategy for success' -- for Iraq." In his remarks, "however, Bush did not go beyond the points he made last Tuesday in a nationally televised prime-time address. … As he spoke, the shouts of a cluster of demonstrators could be heard, although their words were difficult to discern.":

The Washington Times (7/5, Curl) reports "several thousand students, veterans, civic leaders and members of the military packed West Virginia University's downtown campus for the ticketed event." The Pittsburgh Post-Gazette (7/5, O'Toole) notes the "cheering…audience," adding Bush "melded a salute to the troops with a defense of his war policies; a celebration of American independence with promises of democracy to come in the Middle East." Bush "was introduced yesterday by US Rep. Shelley Moore Capito, R-W.Va., who proclaimed that Bush's frequent visits had transformed him from a Texan to a Mountaineer. … The spotlight on Capito came as speculation continues that she will challenge [Sen. Robert] Byrd, the state's long-serving Democrat, in next year's election."

Meanwhile, Reuters (7/5, Bohan) notes Bush "also invoked the Revolutionary War as he cast the Iraq war as a struggle to help Iraqis achieve freedom." The AP (7/5, Hunt) adds, "With his approval ratings sagging and anxiety over the war rising, Bush has decided to devote more attention to explaining what he believes is at stake in Iraq and his strategy for dealing with it. … The president's communications effort has been complicated by the Supreme Court vacancy caused by the surprise retirement of Justice Sandra Day O'Connor."

Bush's Independence Day speech at West Virginia University received widespread local TV coverage across the nation, with several reports noting that it was Bush's third

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Independence Day speech in four years in the Mountain State. Some examples: WDIV-TV Detroit (7/4) reported, "In the President's third speech in four years at the school, he called on all Americans to show support for those troops serving in what he called the fight against terrorism." Bush was shown saying, "The men and women of our armed forces have always answered our nation's call."

WITI-TV Milwaukee (7/4) reported, "President Bush kicks off the Fourth with an appearance in West Virginia. There, he thanked America's war heroes for their service to the country. The President stopped in West Virginia on the Fourth. He says Americans need to do something to show their appreciation for the troops." KDKA-TV Pittsburgh (7/4) also said, "West Virginians are getting used to seeing President Bush on this holiday."

WBBM-TV Chicago (7/4) reported, "President Bush is message to the nation is familiar. The US needs to support troops who are defending freedom in Iraq. As we report, the President again said those troops are not going anywhere any time soon. A colorful setting, a warm welcome for the President speaking on the campus of West Virginia University. He rallied to show extra support for the troops."

Knight Ridder (7/5, Silva) says Bush made "a repeat Independence Day visit to this mountainous realm that helped elect him and re-elect him." The Washington Post (7/5, Helderman) notes, "In all, 13 West Virginians have been killed in Iraq since the war began. A sailor from the state was also one of 16 troops killed last week when a MH-47 Chinook helicopter crashed in eastern Afghanistan."

US, Iraqi Troops Arrest Over 100 Suspected Insurgents. The CBS Evening News (7/4, story 2, :40, Roberts) reported, "In Iraq today, hundreds of US and Iraqi troops arrested at least 100 suspected militants in raids near the Baghdad airport. A suicide car-bomber struck an Iraqi army convoy in Fallujah, killing at least three civilians. And in Baghdad, a remote-control car bomb missed a US military convoy, but killed two Iraqi civilians."

Syrian Forces Clash With Militants Linked To Iraqi Insurgency. The New York Times (7/5, Fattah) reports that Syrian security forces "clashed early Monday in the hills overlooking Damascus with men believed to be militants connected to Iraq's insurgency." The predawn firefight on Qassioun Mountain "left one police officer dead and several others wounded. … It was the second clash in as many days between the Syrian authorities and people believed to be militants." The Times notes that Syria "has come under significant pressure" from the US "to seal its long border with Iraq, and has been accused of giving Iraqi insurgents safe harbor and of encouraging the insurgency. But in recent weeks, it has sought to highlight its own problem with militants as well as to show it has gotten serious about stamping out militancy."

Army Reservists Build Artificial Limbs For Iraqis. The CBS Evening News (7/4, story 8, 2:35, Roberts) reported, "Some Army Reservists in Iraq are using their civilian expertise to give injured Iraqis a new start." CBS (Dozier) added Captain Steve Lindsley and MP Sgt. Chris Cummings, who organized Operation Restoration, a program to build artificial limbs for wounded Iraqis. The group has "helped some 60 people. To keep the clinic open, Sergeant Cummings extended his tour by nine months."

Marine Reservists Profiled. NBC Nightly News (7/4, story 3, 2:05, Engel) profiled the regimen of the Marines of Kilo Company, "part of Regimental Combat Team 2 on patrol in the dangerous Sunni Triangle northwest of Baghdad." Engel: "At home, they're plumbers, cops, salesmen and students. Now, they are hunting down insurgents in the city of Hit."

Iraqi Prime Minister Rules Out Talks With Terrorists. The Washington Times (7/5, Martin) reports, "Iraqi Prime Minister Ibrahim al-Jaafari has ruled out talks with any terrorist or insurgent group that has the blood of Iraqi citizens on its hands. But, in a recent interview, Mr. al-Jaafari also held out an olive branch to other hard-line anti-government and anti-American militants whose opposition had not led to the deaths of Iraqis." Mr. "al-Jaafari said he would welcome bringing hard-line Sunni groups into a political dialogue and even into his government." Times adds, "The prime minister said it was also politically important to put former Iraqi strongman Saddam Hussein on trial quickly and to reach a rapid conviction and an imposition of the sentence passed by the court. He dismissed suggestions that the trial, and especially a death sentence, could inflame passions and increase terrorism."

Sunni Umbrella Group Urges Iraqi Members To Vote. The New York Times (7/5, Glanz) says "a major Sunni umbrella group called on its members on Monday to register for the next round of elections and take part 'despite our reservations.'" Adnan al-Dulaimi, the head of a group called the Sunni Endowment, "said in a briefing in Baghdad that clerics would be asked to issue fatwas, or religious rulings, essentially ordering Sunnis to vote in elections." The Times notes that Dulaimi also "explicitly renounced violence as a way for the Sunnis to regain power."

The Washington Post (7/5, Mosher, Fekeiki) adds "another pivotal Sunni group, the Iraqi Islamic Party, immediately voiced support for the proposal." Subhi Nawzen Tawfik, a political science professor at the University of

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Baghdad's International Studies Center, "called the initiative 'a very important development.'"

Iraq Seen As Replacing Afghanistan As Prime Training Ground For Terrorists. Knight Ridder (7/5, Strobel) says that Iraq has replaced Afghanistan "as the prime training ground for foreign terrorists who could travel elsewhere across the globe and wreak havoc, according to U.S. counterterrorism officials and classified studies by the CIA and the State Department." Of particular concern, "are the urban combat techniques being learned and used by foreign fighters assaulting U.S. and Iraqi troops. There's already evidence that those tactics are being replicated elsewhere." Knight Ridder says that Iraq's emergence as a terrorist training ground "appears to challenge President Bush's rationale for invading and overthrowing leader Saddam Hussein in March 2003."

Iraqi Barbershops Targeted By Insurgents. The Washington Times (7/5, Karim) reports, "Baghdadis headed to the barbershop are going more often to the Shi'ite neighborhood of Sadr City than to mixed neighborhoods, where they could be shot by Sunni radicals who charge that clean shaven men want to look like US soldiers." According "to an Interior Ministry official, at least 20 barbers have been assassinated in areas like Shaab, Bayaa, Saidiyah and Baghdad al-Jadeeda over the past two months."

Diplomats Fear For Their Safety In Iraq. The Los Angeles Times (7/5, Daragahi) reports that he kidnapping of Ihab al-Sherif, "Egypt's top envoy in Baghdad," has "sent shivers through the capital's small diplomatic community and may further hamper Iraq's drive to restore full diplomatic relations with the world." U.S. and Iraqi officials "have accused the mostly Sunni Muslim nations of the Arab world of refusing to restore full diplomatic ties with Iraq because it has been led by Shiites since the handover of sovereignty last year." However, Demiye Haddad, "the Jordanian embassy's charge d'affaires, said security -- not politics -- is the issue." Diplomats "say they fear for their safety in Iraq, and are concerned that their nations could become targets of terrorists if they appear to warm up to Baghdad." Iraq's president, Jalal Talabani, "commended the Bush administration's efforts to change Iraq and the Middle East. The mass graves that Saddam Hussein left behind justified the war, he said."

Stateside Groups Lend Support To War Dogs In Iraq. The Washington Times (7/5, Haberkorn) reports that military war dogs in Iraq that help save lives by detecting bombs and traps and finding injured civilians are "getting chapped [noses] from the desert heat. When Amy Nichols, owner of Happy Tails Dog Spa in Tysons Corner, heard of the dogs' tale, she bought some lip balm for their noses and set up a donation box in front of her store. The doggy day care also is collecting flying discs, knotted ropes and treats to send to the hundreds of dogs serving in Iraq." The Times notes that by next week, Nichols "expects to send about 50 pounds of donations to the dog handlers in Iraq. Schools and animal advocacy groups across the nation have held collection drives to help the dogs in Iraq, and the US War Dogs Association has proposed a memorial for military working dogs and their handlers."

Two Navy SEALs Reportedly Killed In Eastern Afghanistan. One of the four Navy SEALs missing in the mountainous region of eastern Afghanistan was rescued over the weekend and is in stable condition. However, there is no official word on the remaining members of the team, and officials have told reporters on background that two of the Special Forces troops have been found dead. The networks all ran the story early in their newscasts. ABC World News Tonight (7/4, story 3, 2:10, Raddatz) reported, "Officials will say little about this, since one of the SEALs remains missing and the rescue efforts continue." The "loss of two more Navy SEALs would mean that, in less than a week, the SEALs have lost ten members, since 8 SEALs were killed on the rescue helicopter that crashed on Tuesday."

The CBS Evening News (7/4, lead story, 2:55, Orr) reported, "A US official tonight confirms that two of the four Navy commandos missing since Tuesday are dead," but the "search for the fourth missing SEAL goes on." NBC Nightly News (7/4, lead story, 1:45, Miklaszewski) reported, "The governor of Kunar Province announced that a second Navy SEAL had been found wounded and was being cared for in a remote Afghan village. But tonight, US military and Pentagon officials say there is no confirmation a second SEAL has been located."

US Officials Express Regret For Civilian Casualties In Afghanistan. The CBS Evening News (7/4, lead story, 2:55, Orr) reported the rescue operation "comes during a spike in Afghan violence. 45 US soldiers have been killed in the last three months along with 500 enemy fighters and more than 130 civilians." US officials "expressed regret that an air strike Friday on a terrorist compound killed an unknown number of civilians. But in a statement, said: 'When enemy forces move their families into the locations where they conduct terrorist operations, they put these innocent civilians at risk.'"

Taliban Said To Be Reemerging In Afghanistan. The Taliban and al Qaeda are thought to be making a bid to reemerge in Afghanistan, which is one reason for the recent upsurge in violence there. NBC Nightly News (7/4, story 2, 2:05, Allen) reported, "The Taliban has reemerged, supported by al Qaeda, a force estimated at some 20,000. US military officials say some of those fighters come over the mountains from Pakistan, with tactics imported from Iraq -- suicide

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bombs, roadside bombs, targeted assassinations, violence often directed at Afghan police, aide workers, anyone supporting the US and the new government." At least "45 US troops have died since early April, including 16 in the last week's chopper crash, the single deadliest day for American forces in Afghanistan."

Defense Department Considering Move Away From Two-War Strategy. Prompted by the ongoing conflict in Iraq, the Defense Department is reconsidering its current two-war strategy as part of its quadrennial review. The New York Times (7/5, Shanker, Schmitt) reports senior military planners are "weighing whether to shape the military to mount one conventional campaign while devoting more resources to defending American territory and antiterrorism efforts." The strategy shift will "determine the future size of the military as well as the fate of hundreds of billions of dollars in new weapons." The debate over the changes "reflects a growing recognition that the current burden of maintaining forces in Iraq and Afghanistan, along with the other demands of the global campaign against terrorism, may force a change in the assumptions that have been the foundation of all military planning." An "official designation of a counterterrorism role and a shift to a strategy that focuses on domestic defense would have a huge impact on the size and composition of the military." Strategies "that order the military to be prepared for two wars would argue for more high-technology weapons, in particular warplanes. An emphasis on one war and counterterrorism duties would require lighter, more agile forces - perhaps fewer troops, but more Special Operations units - and a range of other needs, such as intelligence, language and communications specialists." The "unusual mission in Iraq, which could last for years, has not just taken the slot for one of the two wars; it has upended the central concept of the two-war model."

DOJ:

Filling Top Post In New DOJ National Security Division Could Be Difficult. The Legal Times (7/4, Blum) reports, "The president's proposal to create a new National Security Division in the Justice Department, if adopted, would formalize the removal of the wall between intelligence gathering and criminal prosecution. But finding the right person to run the new section, which would bring together the DOJ's counterterrorism section, counterespionage section, and the Office of Intelligence Policy and Review, may not be easy." The Times continues, "Before the passage of the USA Patriot Act in 2001, intelligence agents and prosecutors rarely worked together. As a result, few lawyers have experience in both disciplines. 'There really aren't a lot of people who bridge both worlds,' says Suzanne Spaulding, a former CIA lawyer." The Times adds, "The post is unlikely to go to James Baker, who currently heads the Justice Department's intelligence office, or to counterterrorism chief Barry Sabin because both men are career officials without strong Republican ties. One senior DOJ official says the shuffle will not disrupt ongoing terrorism investigations: 'The advantage of putting those troops in the same division is that it will enable them to better take advantage of synergy the destruction of the wall has made possible.'"

CORPORATE SCANDALS:

DOJ To Continue HealthSouth Probe. The AP (7/4, Reeves) reports, "Federal prosecutors aren't done with HealthSouth Corp., despite the acquittal of ousted CEO Richard Scrushy in a $2.7 billion earnings overstatement. Two former executives who pleaded guilty in the accounting scheme are set for sentencing this summer, and two more indicted in the fraud are awaiting trial in Birmingham, where jurors last week found Scrushy not guilty." The AP continues, "HealthSouth, meanwhile, is still feeding information to prosecutors as it sorts out the aftermath of the financial debacle, and U.S. Attorney Alice Martin said her office is still investigating the long-running fraud at the rehabilitation and medical services chain." The AP adds, "A recent earnings restatement filed by HealthSouth with the Securities and Exchange Commission includes information about payments and perks offered to some health care providers that could have violated Medicare rules, Martin said in an interview with The Associated Press. … 'Now I'll turn my attention to some other things that have been on the back burner during the trial,' said Martin, declining to elaborate. … The acquittal of Scrushy on all 36 counts was a stinging defeat for FBI agents and prosecutors who spent more than two years on the case, and Martin said attorneys are eager to talk more with jurors to find out exactly where their case failed. … But Martin rejected the idea that Scrushy's acquittal meant the whole investigation was a failure. … 'Overall it's been an incredible success with 15 guilty pleas,' she said. 'Sometimes that last domino doesn't fall.'"

SEC To Pursue Civil Action Against Scrushy. The Washington Post (7/5, Johnson) reports that on Thursday, the SEC "will file court papers seeking a chance to pursue its case" against Richard Scrushy "for the earnings inflation at HealthSouth Corp." The SEC wants to forbid Scrushy "from serving as an officer or director of another public company. It is also seeking $786 million in penalties and disgorgement." One of Scrushy's attorneys, Arthur W. Leach, "said he hopes the jury verdict [in the criminal case] 'has caused [U.S. District Judge Inge] Johnson to have increased questions about the strength and the merit of the SEC case.'" Experts added,

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however, that the SEC "is charging Scrushy with failing to follow accounting procedures and other new allegations not contained in his criminal indictment." In addition, the SEC "may be able to sharpen its case based on lessons it gleans from the failed criminal prosecution."

German Brokerage Firm Is Investigated For Missing Funds. The Wall Street Journal (7/5, Taylor, Reilly) reports that "about €270 million, or roughly $320 million, in client funds hasn't been accounted for at a little-known German brokerage firm" called Phoenix Kapitaldienst GmbH. The Journal says the Phoenix "scam" operated for nearly a decade, and appears to be "one of Europe's biggest investment frauds -- potentially affecting as many as 30,000 investors." To cover up the fraud, Phoenix "simply wrote fake account statements and shredded documents." Prosecutors "have started proceedings against two directors of the company on charges of fraud in 6,940 cases related to the firm and arrested the two, one of whom they allege destroyed documents. A Frankfurt court appointed law firm Schultze & Braun to oversee insolvency proceedings at the firm."

Evan Greenberg Still Standing Despite Investigations. The Washington Post (7/5, Starkman) runs a lengthy piece on the many legal challenges facing Ace, Ltd. leader Evan Greenberg, noting that he is "staying on his feet despite investigations into the U.S. insurance industry that have toppled his brother and father." Greenberg "has acknowledged his own company's shortcomings and called for industry-wide reforms," but "he also said Ace has weathered an internal review of bid-rigging allegations without major findings of wrongdoing beyond those disclosed earlier this year." According to documents Ace filed in March with the SEC, "the company has received 43 subpoenas, civil demands and other queries from attorneys general in 10 jurisdictions, including the District, and 10 state insurance departments or other regulators, including Maryland's." There are also "ongoing state and federal investigations into accounting and business practices at AIG, where Evan Greenberg worked for 25 years, including the last three as chief operating officer under his father."

CRIMINAL LAW:

Email Shows Rove Was One Of Cooper's Sources. Newsweek (7/11, Isikoff) reports that Time magazine "agreed last week to turn over reporter Matthew Cooper's e-mails and computer notes to a special prosecutor investigating the leak of an undercover CIA agent's identity. … Now the story may be about to take another turn. The e-mails surrendered by Time Inc., which are largely between Cooper and his editors, show that one of Cooper's sources was White House deputy chief of staff Karl Rove, according to two lawyers who asked not to be identified because they are representing witnesses sympathetic to the White House. Cooper and a Time spokeswoman declined to comment. But in an interview with NEWSWEEK, Rove's lawyer, Robert Luskin, confirmed that Rove had been interviewed by Cooper for the article. It is unclear, however, what passed between Cooper and Rove." Luskin "told NEWSWEEK that Rove 'never knowingly disclosed classified information" and that "he did not tell any reporter that Valerie Plame worked for the CIA.' Luskin declined, however, to discuss any other details. He did say that Rove himself had testified before the grand jury 'two or three times' and signed a waiver authorizing reporters to testify about their conversations with him." Newsweek adds that "one of the two lawyers representing a witness sympathetic to the White House told NEWSWEEK that there was growing 'concern' in the White House that the prosecutor is interested in Rove."

Time (7/11, Saporito) reports that Luskin said Cooper "called Rove during the week before Novak's story appeared but declined to say what they discussed. … The lawyer said he has received repeated assurances from Fitzgerald's office that Rove is not a target in the case."

Rove Attorney Denies He Leaked Name Of CIA Agent. The CBS Evening News (7/3, story 4, :20, Roberts) reported, "Responding to a published report, the lawyer for White House aide Karl Rove denied today that his client leaked a CIA agent's name to Time magazine reporter Matt Cooper. Newsweek says e-mails surrendered by Time to a special prosecutor show that Rove was one of Cooper's sources."

In a story about the legal climate surrounding the issue of press confidentiality, the New York Times (7/4, Seelye) reports that "lawyers for the news media say that the legal climate for those seeking to protect confidential sources is turning chillier, with more subpoenas being issued to reporters. There is no database that tracks such subpoenas, and some prosecutors dispute that they are on the rise." But "a series of high-profile cases involving confidential sources has the news media on edge. … In the last year, more than two dozen reporters across the country have been subpoenaed or questioned about their confidential sources in cases before federal courts, according to the Newspaper Association of America."

Cunningham Made $400,000 In Boat Sale. The San Diego Unioin-Tribune/Copley News Service (7/5, Kammer, Stern) reports, "Rep. Randy 'Duke' Cunningham made roughly a $400,000 profit by selling the boat he lived aboard in the nation's capital from 1997 to 2002 to a businessman convicted in a bid-rigging scheme. The man said he subsequently got advice from Cunningham about

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how to pursue a presidential pardon from the Bush administration. … The businessman further acknowledged that a mortgage company owned by his daughter and nephew provided Cunningham with two loans totaling $1.1 million so the congressman could buy his home in Rancho Santa Fe. The businessman said he eventually paid off one of those loans in partial payment for the yacht." Copley adds, "Cunningham bought the 65-foot flat-bottom riverboat Kelly C from then-Rep. Sonny Callahan, R-Ala., for $200,000 in 1997. Five years later, he sold the boat for $600,000 to Thomas Kontogiannis, the Long Island businessman said yesterday. … Kontogiannis defended the $600,000 price tag as 'a steal,' saying that he had received an appraisal for twice that amount." Copley adds, "The Kontogiannis family is a frequent contributor to Republican causes, including a $300 contribution to Cunningham in July 2002, the year of the sale. …Cunningham's financial dealings in recent weeks have embroiled him in a multitiered federal investigation and cast a shadow over his Washington career. … In a series of interviews with Copley News Service yesterday, Kontogiannis confirmed that he bought Cunningham's boat and that the congressman offered to help him explore the possibility of seeking a pardon from President Bush and the Justice Department. Cunningham then put him in touch with a Washington law firm and recommended 'two or three' lawyers to talk to, said the businessman."

Developer's Purchase Of Cunningham's Boat, Loan Not Documented. The Washington Post (7/5, A2, Babcock) reports Long Island developer Thomas T. Kontogiannis recently bought Rep. Randy Cunningham's "65-foot yacht, the Kelly C, and helped the California Republican finance a house." However, Kontogiannis says the "transactions are nothing like Cunningham's dealings on another house and yacht that are the subject of a federal investigation." However, the transactions between the Cunningham "and Kontogiannis are not fully documented in the public record or the congressman's financial disclosure. Cunningham, for example, is still listed as the owner of the Kelly C, with his address listed as the home he bought more than a year after Kontogiannis said he bought the yacht from the congressman." Kontogiannis "said in interviews this weekend that he bought the Kelly C, a boat on which Cunningham used to live while Congress was in session, for $600,000 in summer 2002." Then in late 2003, Kontogiannis said, "when Cunningham bought a $2.55 million home in Rancho Santa Fe, the congressman asked if a mortgage company owned by Kontogiannis's nephew and daughter could finance $1.1 million in mortgages."

Cunningham Cancels Independence Day Public Appearance. CNN's Inside Politics (7/11, Johns) reported, "Republican Congressman Duke Cunningham canceled a scheduled appearance today at a pancake breakfast in his home district. Cunningham is under investigation for selling this San Diego-area home to a defense contractor who later sold the house for a loss. A spokesman said Cunningham did not want to be a distraction at this morning's event." The AP (7/5, Hettena) says that on Friday, "the FBI raided Cunningham's San Diego-area home as authorities intensified their investigation of the congressman's financial dealings."

Indicted Tennessee Lawmaker Adds Scrushy Lawyer To Defense Team. The AP (7/4) reports state Sen. John Ford has retained "Attorney Donald Watkins, who helped former HealthSouth CEO Richard Scrushy win an acquittal on fraud charges last week," to defend him on federal bribery charges stemming from Operation Tennessee Waltz. The AP adds, "According to Watkins there are two reasons why the case looks good for Ford. 'The secret video tapes that the FBI made do not portray what really happened with the course of conduct of Senator Fords' dealings with the FBI and the entity created by the FBI.,' Watkins said. Watkins also said that the undercover operatives cooperating with the FBI have credibility issues."

Former Kansas County Official Pleads Guilty To Lying To FBI. The Kansas City Star (7/3, Thomas, Smith) reports, "Former Jackson County Executive Bill Waris pleaded guilty Saturday to lying to FBI agents in a criminal investigation that, according to documents, targets Katheryn Shields, the county's current top elected official." The Star adds, "In an agreement reached late Friday with federal prosecutors, Waris pledged to cooperate fully with the investigation. In return, said U.S. Attorney Todd Graves, the government dismissed parts of a Nov. 17, 2004, federal indictment against Waris and won't oppose any request for probation at his sentencing."

Cleveland Corruption Trial Jurors Remain Deadlocked. The Cleveland Plain Dealer (7/2, Tobin) reports, "The jury deciding the fate of Nate Gray remained deadlocked Friday night over charges that Gray traded public contracts for bribes. The jury sent notice to U.S. District Judge James Gwin that it had not agreed on any of the 59 counts of conspiracy, fraud and bribery against Gray, Cleveland City Councilman Joe Jones and New Orleans businessman Gilbert Jackson." The Plain Dealer notes, "One of the FBI agents working on the case slumped when Gwin read the note. Defense lawyers grinned and asked Gwin to declare a mistrial," but Gwin ordered the jurors "to return for more deliberations next week."

NYPD Detectives Accused In Mob Killings Seek Release On Bond. Newsday (7/2, DeStefano) reports, "Two ex-cops accused of being hitmen for the mob are not

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dangerous and should be let out of solitary confinement on bail, defense attorneys said Friday. In a 19-page bail application…lawyers for Louis Eppolito and Stephen Caracappa said the case…was 'slim' and that narcotics charges in the indictment had no connection to the racketeering charges." Newsday adds, "A bail hearing is scheduled in the case for Tuesday before Judge Jack B. Weinstein. Prosecutors had not filed a response to the defense papers as of late Friday." The New York Daily News (7/2, Marzulli) notes, "The defendants asked a federal judge yesterday to free them on $1 million bail and offered to put up their homes in Las Vegas and properties owned by their children and close relatives to secure the bond."

Alleged US Child Predator Arrested In Joint FBI-RCMP Investigation. The (Toronto) Globe and Mail (7/2, A4, Sher) reports, "A man whose picture appeared in a gallery of suspected child predators on the America's Most Wanted website was tracked down in Montreal this week after an international cyberhunt. … 'It was a great co-ordinated effort,' said Detective Sergeant Paul Gillespie of Toronto Police's sex-crime unit, which worked with the FBI, the RCMP and police in Quebec to locate the man." The Globe and Mail notes that at the outset "the FBI had few clues, except his approximate weight, hair colour and a couple of scars and tattoos on his arms. 'He's been out the longest,' said Arnold Bell, unit chief of the FBI's Innocent Images project. … About two weeks ago, members of Toronto's sex-crimes unit came across new pictures and a video from the same series in a newsgroup."

Former Illinois Death Row Inmate Faces New Charges. The AP (7/5, Robinson) reports, "Aaron Patterson walked out of prison 2 1/2 years ago, a free man with a pardon and a chance to start fresh. But the happy ending never came for Patterson, who faces fresh drug and weapon charges that could hand him a return trip to prison. These days, the 40-year-old Patterson sits in a federal jail awaiting the start of jury selection Tuesday." The AP continues, "His story of torture by police and 17 years on death row had helped launch an emotional campaign against the death penalty in Illinois." The AP adds, "Patterson was among four former death row inmates who were pardoned by former Gov. George Ryan in one of his last acts in office in January 2003. A day later the governor commuted the sentences of all 160 other death row inmates to life without parole. … Patterson insisted that he was tortured by police into confessing to a double murder he did not commit. The head of the unit that investigated his case, Lt. Jon Burge, was later fired for allegedly mistreating a suspect. … Ryan's actions were warmly applauded by opponents of the death penalty, who nominated the former governor for the Nobel Peace Prize. Patterson's claims have been echoed by dozens of others. … But the cheering for both Patterson and Ryan has long since faded. … The former governor is facing a racketeering indictment, and federal prosecutors are asking the judge — who by coincidence is U.S. District Judge Rebecca R. Pallmeyer, who also is handling Patterson's case — to bar his lawyers from using his moratorium on capital punishment to try to impress the jury. … Meanwhile, federal prosecutors say Patterson emerged from prison to become a leader of the South Side's P. Stones street gang."

Task Force Faces Big Challenge In Ohio Corruption Probe. The Toledo Blade (OH) (7/5, Wilkinson) reports, "In the month since its creation, the task force to investigate Tom Noe has been relatively quiet, slowly putting together a process while gathering information." The Blade continues, "What the four prosecutors face is daunting: Unraveling the complex world of Mr. Noe's coin business and political activity. The investigation will stretch across Ohio and the country." The Blade adds, "Together, the four prosecutors - two U.S. attorneys, two elected county prosecutors; one female, three male; one Democrat, three Republicans - will have to decide what charges will be sought and, if any are brought, who will prosecute them. … But despite the complexity of the case, its high profile, and the overlapping boundaries of their jurisdictions, they are confident that they'll get the job done. … 'You do the right thing,' said Gregory A. White, U.S. attorney for the Northern District of Ohio, based in Cleveland. 'You are comfortable with your process. We are progressing and confident about all the things that are going on. We are maintaining the integrity of this expanded investigation.'"

USA Today Examines Eric Rudolph's Letters To His Mother. In a front-page piece, USA Today (7/5, Morrison) reports on letters convicted bomber Eric Rudolph has written his mother. When Rudolph pleaded guilty on April 13, he released "a rambling, 11-page statement that condemns abortion and homosexuality and says he had 'nothing personal' against his victims," but his letters home, by contrast, "are cogent and well-written." The letters "reveal a thinker, clever and cunning, who details how he fooled locals and the feds during five years on the lam; an egoist who sees himself and his plight in the books that now take up his days; a zealot, unapologetic in his disgust for abortion and the government; a son who seems to deeply regret what his family has endured." In a letter his mother received April 21, he writes, "I don't believe that a government that sanctions, protects and promotes the murder of 50 million unborn children in the heinous practice of abortion has the moral authority to judge a man for murder."

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Mexican Nationals' Murder Convictions Come Under Scrutiny. The Washington Times (7/4, Aynesworth) reports a criminal motion will be argued in Littlefield, TX, next month, following an investigation into whether "two Mexican nationals should serve life sentences or -- because of prosecutorial malfeasance and inadequate representation -- their 1998 murder convictions should be overturned." There also could be testimony that would "cast suspicion on two other men, one of whom reportedly had bragged to friends about the murder of a convenience-store clerk." The murder convictions of Jesus Ramirez and Alberto Sifuentes came seven years ago, after "prosecutions that offered no forensic evidence and no motives, but did have witnesses who since have been accused of perjury. The case has drawn considerable attention from the Mexican government."

Police Say A Blow To The Head Killed A Missing Oregon Boy. The NewYorkTimes/AP (7/4) reported "a four-year-old Oregon boy who police say was killed by his step-grandmother and left along a rural road in the foothills of the Cascade Range died from a blow to the head. An autopsy conducted a day after Christine Coffman led police to her step-grandson's body determined the cause of death to be blunt force head trauma, said Officer Kevin Krebs, a spokesman for the Milwaukie Police Department." Coffman was charged Saturday with aggravated murder in the death of Matal Sanchez, who had disappeared Wednesday from his home in the Portland suburb of Milwaukie.

Police Find Remains In Montana Thought To Be Missing Boy. Police yesterday found remains in western Montana that were thought to be those of nine-year-old Dylan Groene, who was kidnapped along with his eight-year-old sister Shasta Groene. The girl's rescue from convicted pedophile Joseph Duncan has angered many advocates of tougher penalties for sexual offenders.

ABC World News Tonight (7/4, story 5, 2:35, Gibson) reported advocates "of stronger laws against sexual predators were outraged, as more details emerged about" Duncan. ABC (Karlinsky) added, "Questions are now being raised about why such a person, who has a record of sex crimes, dating back 25 years, was free in the first place. He was released in April on only $15,000 bail, after being charged with molesting a 6-year-old boy, at this Minnesota playground. Prosecutors urged that Duncan be kept in custody. The judge now says he doesn't remember if he knew Duncan was a level-three offender with a rape conviction and numerous parole violations, considered to be in high risk of re-offending." The CBS Evening News (7/4, story 6, 2:40, Bowers) reported, "Investigators are waiting on DNA analysis to confirm what we believe," that Shasta Groene told investigators "that her brother is dead."

Kidnapped Eight-Year-Old Girl Rescued In Idaho. Idaho authorities over the weekend rescued eight-year-old Shasta Groene, who was kidnapped after her mother, her mother's boyfriend, and her older brother were murdered. However, her nine-year-old brother Dylan remains unaccounted for. A convicted sex offender, Edward Duncan, was arrested in Shasta Groene's kidnapping, but has not yet been charged with any other crimes. The story received extensive coverage in all three network newscasts.

ABC World News Tonight (7/3, story 2, 2:05, Karlinsky) reported, "Duncan is no stranger to authorities who are now scouring his Fargo, ND, home. He is a registered sex offender who has done prison time for rape but more recently studied computer science at North Dakota State University. On his own website, he writes, 'My intent is to harm society as much as I can -- then die.'" Tim Fuhrman, FBI: "I don't think there is any question we will be involved in attempting to work on exploiting what may or may not be in any computer we may or may not find." The CBS Evening News (7/3, story 5, 2:15, Roberts) and NBC Nightly News (7/3, story 6, 2:30, Okwu) also reported the story. The story also was picked up by The New York Times/AP (7/4), among other media sources.

Police Unable To Trace Nearly Quarter Of Sex Offenders. ABC World News Tonight (7/3, story 3, 2:05, Moran) reported "the shock of the crime" in the Groene case "is compounded by the fact that the suspect is a convicted child molester: Almost one-quarter of all sex offenders fail to obey their state's registration requirements." That "means many of them are simply on the loose." ABC (Jamieson) added, "There are nearly 550,000 registered sex offenders in the United States, but police may not know where 100,000 of them are." Law enforcement groups "say police just don't have the time or the resources to track every sex offender. And studies show just 5% of convicted sex offenders are arrested again, a lower rate than other criminals. But that hasn't diminished public outrage. And states are moving aggressively to track sex offenders and prevent them from molesting again."

DC Cracks Down on Jaywalking, Holding Cell Phones While Driving. The Washington Post (7/4, Weiss) reported Washington, DC, has been cracking down on such things as jaywalking and holding a cell phone while driving. They are moves the Post said are making "some people wonder whether the District is turning into a Big Brother 'nanny state.'" However, "DC Council member Phil Mendelson (D-At Large) defended the actions, saying city leaders have to strike a balance between making urban life safe and livable and preserving the fun of city living. 'It's not

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always that the government is looking for ways to be more of a nanny,' he said."

Boy Killed In iPod Robbery. The NewYorkTimes (7/4, Medina, Sweeney) reports, "Two Brooklyn, NY, teenagers were arrested Sunday on charges that they robbed and killed a 15-year-old boy…when they stole his friend's iPod. "The victim, Christopher Rose, was walking with three other boys late Saturday afternoon when a large group of teenagers approached them and demanded that they turn over the iPod that one of the boys was carrying. A witness said "when the boys refused, one of the suspects began hitting them. Then someone stabbed Christopher twice in the chest." Law enforcement officials have warned in recent months that "iPods have prompted an increase in thefts on the subways, and that teenagers are particularly vulnerable targets of iPod thefts by other teenagers."

Carjackings Rise In PG County. The Washington Post (7/5, Thomas-Lester) reports on an April 24 carjacking that "was among 337 such crimes reported in Prince George's County as of June 30, a 47 percent jump from the 229 carjackings reported at the same time last year. In 2004, Prince George's reported the highest number of carjackings in Maryland: 563, compared with 492 for all of the state's other jurisdictions combined." County public safety director Vernon Herron says carjacking is considered "one of the highest priorities, along with homicides and other violent crimes." In several cases, "the carjackers have abducted car owners and resorted to violence. In one recent carjacking, a man who came to the aid of his girlfriend was shot."

CIVIL LAW:

Ohio US Attorney Asks Court to Unseal Filings In Herbal Supplement Case. The Cincinnati Enquirer (7/5, McNair) reports, "Ever since the government seized $24 million in bank accounts from herbal supplements kingpin Steven Warshak in March, the two sides have waged war in the secrecy of sealed court filings. … That could change, thanks to a request to open the case to public view - not by any news organization but by the government itself." The Enquirer continues, "The government's motives aren't available for anyone to see because its motion to unseal the case is, well, sealed. Fred Alverson, a spokesman for the U.S. Attorney's Office in Cincinnati, said the government is asking U.S. District Judge Susan Dlott to unseal everything except the affidavits backing the original request to freeze Warshak's assets. … 'Our motion is in response to a motion by them asking that certain documents be sealed or filed with redactions,' Alverson said. 'Our response is that these do not fit any of the Justice Department exceptions for documents to remain sealed in a civil case. ... They (the case files) should be open for the public to see.'" The Enquirer adds, "The government froze the $24 million at the same time federal agents with search warrants raided the Greater Cincinnati offices of Warshak's company, Berkeley Premium Nutraceuticals. The U.S. Postal Inspection Service led the raids. The asset freeze was supported by government claims that the $24 million was obtained by fraudulent means. … Several thousand consumers have filed complaints to the Ohio Attorney General's Office and Cincinnati Better Business Bureau since 2001 alleging that Berkeley billed their credit cards for penis enlargement pills and other products they had ordered for a 30-day free trial. Berkeley, based in Forest Park, said it amended its billing practices in August, prompting the number of complaints to shrink."

DOJ Sues Bulletproof-Vest Maker, Supplier For Fraud. The Wall Street Journal (7/5, Scannell) reports that DOJ filed suit in federal court in Washington against "a bulletproof-vest maker and a ballistic-fiber supplier, alleging they sold body armor knowing it was defective." The civil suit "named Second Chance Body Armor Inc. of Central Lake, Mich., and its fiber supplier, Japan's Toyobo Co., and related entities," alleging that "from 1998 until 2001 Toyobo and Second Chance 'kept silent as to the ever-mounting information in their possession that the [bullet-resistant] Zylon fabric degraded substantially faster than expected' when exposed to certain light, temperature and humidity conditions." The Journal notes that both companies "have been sued by law-enforcement groups, state attorneys general, a wounded police officer, and the widow of an officer who was killed while wearing a vest."

CIVIL RIGHTS:

Suits Against Detroit Police Officers Have Cost City $45 Million In Last Three Years. The Detroit Free Press (7.5, Swickard) reports, "Detroit has paid out almost $45 million over the past three years in police misconduct lawsuits, with more than half that amount going to pay cases involving officers with histories of past lawsuits, according to a City Council analysis." The Free Press continues, "The payouts are a costly jump since the last time police lawsuits were examined. A 2000 study found that the bill for the previous three years was $32 million and officials warned then that the trend of big payouts endangered the city's fiscal health." The Free Press adds, "The latest report on the multimillion dollar hemorrhage comes as the city struggles with a $300-million budget crisis that's forced hundreds of municipal layoffs. Firefighters and emergency medical technicians are among those laid off, but so far no police officers have lost their jobs. … Detroit police are

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currently under a federal consent degree mandating sweeping and costly changes in the way the department operates. The agreement came in 2003 after a U.S. Justice Department investigation that was spurred, in part, by Free Press reports detailing the high rate of civilians fatally shot by officers and constitutionally questionable practices of dragnet arrests and holding relatives to force suspects to surrender. … The study, by the council's research and analysis division, looked at police misconduct cases that came before the council from 1987 to 2004 and found the city paid out more than $188 million in that 18-year period. The payouts cover settlements including pretrial agreements, mediations, arbitrations and judgments."

Bloomberg's Response To Racially Charged Beating Noted. In his New York Times column (7/4), Bob Herbert wrote, "Early last Wednesday a neighborhood nitwit named Nicholas (Fat Nick) Minucci pummeled a fellow named Glenn Moore with a metal baseball bat, police said. Mr. Moore was walking around Howard Beach with a couple of friends. What they were up to is not real clear and not particularly relevant. … In any event, Mr. Moore and his friends, who are black, ended up being chased by Fat Nick and a couple of his friends, who are white. … The beating allegedly was accompanied by racial slurs. As bad as this incident was, it would never have risen to the status of a major news story in a city of eight million people except for the fact that it happened in Howard Beach, a nearly all-white residential area." Yet Herbert concludes that "the city is a different and a better place these days. Mayor Michael Bloomberg could not have responded faster to last week's attack if he had been wearing Rollerblades."

United Church Of Christ Backs Gay Marriage. ABC World News Tonight (7/4, story 7, :25, Gibson) reported, "The United Church of Christ today became the largest Christian denomination to endorse same-sex marriage. 80% of the members of the church's rulemaking body voted in favor of the endorsement, which is not binding on any of the church's 5,700 congregations. Leaders of the church acknowledge it may cause some of the congregations or some of the 1.3 million members to go elsewhere."

ANTITRUST:

Chinese Government Blasts US Congress Over Unocal Takeover Bid. The Washington Post (7/5, A1, Goodman) reports, "The Chinese government on Monday sharply criticized the United States for threatening to erect barriers aimed at preventing the attempted takeover of the American oil company Unocal Corp. by one of China's three largest energy firms, CNOOC Ltd. Four days after the House of Representatives overwhelmingly approved a resolution urging the Bush administration to block the proposed transaction as a threat to national security, China's Foreign Ministry excoriated Congress for injecting politics into what it characterized as a standard business matter. 'We demand that the U.S. Congress correct its mistaken ways of politicizing economic and trade issues and stop interfering in the normal commercial exchanges between enterprises of the two countries,' the Foreign Ministry said in a written statement.

Chevron Benefiting From Anti-China Rhetoric. The Wall Street Journal (7/5, Berman, Gold) reports, "With members of Congress suggesting resolutions, special hearings and potential laws to stymie Cnooc Ltd.'s ambitions, the pressure is now on the Chinese oil company to seize some momentum in its $18.5 billion takeover bid for Unocal Corp. The harsh response has even surprised people in the camp of Chevron Corp., whose $16 billion-plus deal is due to be voted on by Unocal shareholders in only five weeks. Amid an anti-Cnooc campaign in Washington, one person close to Chevron conceded, 'A lot of it is not organized; it came on its own. It's a freebie for every congressman to pile on China.'"

The New York Times (7/5, Mouawad, Barboza) reports, "The last thing Chevron wanted when it made its $16.8 billion offer for Unocal back in April was to be pitted in a takeover battle against the Chinese government. After all, one of the main reasons it went after Unocal, a California-based independent oil company with vast resources in Asia, was to sell oil and gas to the fastest-growing energy market in the world, China. But on June 22, when…Cnooc, countered with a higher bid for Unocal, Chevron found itself in a delicate position. Since then, Chevron's managers have gone into overdrive to portray the Chinese government-backed offer as unfair competition and to close their deal as quickly as possible. They have received support from many lawmakers in Washington, who have painted the Chinese offer as a threat to America's national security."

Chinese Likely To Boost Oil Production Thereby Helping US Consumers. The Washington Post (7/5) editorializes that China has "no interest in suppressing oil production to drive up prices; to the contrary, if China gains control of Unocal it will want to boost production as much as possible, which would push world prices downward and so help the United States. Those who refuse to draw comfort from this prospect argue that China might route all of Unocal's output to its own consumers, thereby depriving Americans of a source of energy. That is not actually practical, but even if it were, it would just mean that China would buy less on the open market than it would have otherwise. So there'd be less supply on the world market, but less demand also. The effect on U.S. gasoline prices would be zero."

CNOOC, Chevron Pursue Differing Strategies In UNOCAL Bid. The Wall Street Journal (7/4, Pottinger, Biers)

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reports, "In the competition to buy Unocal Corp., the prevailing bidder -- Chinese oil producer Cnooc Ltd or its US rival Chevron Corp. -- might be determined by timing as much as money. With Unocal shareholders scheduled to vote on Chevron's $16.6 billion cash-and-stock offer in just five weeks, Chevron's strategy seems to be this: Make Cnooc's bid appear destined for a lengthy and complicated regulatory review in the hope that Unocal shareholders support Chevron's deal -- even though Cnooc is offering nearly $2 billion more." The strategy of "Cnooc, China's biggest offshore oil and natural-gas producer, has been to do all it can to speed up a US regulatory review of its offer in hope of boosting Unocal shareholders' confidence that Cnooc's bid -- politically contentious in the US -- can win approval in reasonable time." The Journal adds, "Working in favor of Chevron are attitudes in the U.S. Congress, where recent attention on America's trade deficit has fueled hostility toward China." But "working in Cnooc's favor is Unocal shareholders' knowledge that U.S. regulators almost never block acquisitions on national-security grounds. If Cnooc can get the ball rolling on a formal regulatory review before Unocal's Aug. 10 shareholder vote, its bid stands a better chance of winning support from Unocal shareholders."

August Deals Face Tough Antitrust Scrutiny. The Deal (7/4, Lindell) reports, "The bidding war for August Technology Corp. may come down not to price but to antitrust concerns." The Deal continues, "Although the Bloomington, Minn., chip equipment maker on June 28 agreed to a $193 million deal with Rudolph Technologies Inc., industry rival KLA-Tencor Corp., which previously had bid $205 million for August Technology, has vowed to renew its pursuit. Seeking to thwart such a bid, Flanders, N.J.-based Rudolph said last week that a combination of KLA-Tencor and August Technology would pose antitrust risks. … But while Rudolph's offer for the company is likely to have an easier time with regulators, neither deal is a slam dunk, antitrust lawyers said. The review by the Department of Justice's Antitrust Division could hinge on how broadly enforcers define the market for semiconductor testing, inspection and metrology equipment, which is used to search for microscopic flaws in chips. The structure of this market and potential customer concerns also are likely to figure in whether the deals receive clearance." The Deal adds, "In sizing up the market affected by the sale of August Technology, antitrust enforcers will focus on the market for so-called macro defect inspection tools, which are used to spot problems with components used in semiconductor manufacturing, said Robert Doyle, an antitrust partner at Sheppard Mullin Richter & Hampton LLP. KLA-Tencor, the leader in that sector, has about 50% of that market, with August Technology and Rudolph each having roughly 25%. … One factor that may come into play is the small market for macro defect gear, which is worth roughly $70 million per year. That has led some risk arbitrageurs to speculate that the government would not closely review the deal. But such sentiments are more hopeful than realistic, said another antitrust lawyer. … Neither the Justice Department nor the Federal Trade Commission 'throws fish back because they are too small,' he said, requesting anonymity because he hasn't closely reviewed the specifics of the deal."

T-Mobile USA May Be Put Up For Sale. The Wall Street Journal (7/5, Singer, Pringle, Karnitschnig, Drucker) says that German telecom titan Deutsche Telekom AG "is exploring whether to sell its U.S. wireless operation, T-Mobile USA Inc., a move that could fetch as much as $30 billion and alter mobile-phone markets on both sides of the Atlantic." The company "has told investors in private meetings recently that it expects to make a decision by December." The Journal adds that the possibility of the sale "has intensified on the heels of drastic reshaping of the U.S. telecommunications and cable television market. In the past 18 months, a succession of acquisitions…have formed several huge communications companies that dwarf T-Mobile USA." Choosing to sell T-Mobile USA, however, "could prove to be a difficult option," as the most likely cellular buyer, Vodafone, "says it isn't interested even though the world's largest wireless carrier has long wanted to control a service provider in the U.S."

Singapore Investment Co. Plans To Buy Stake In Chinese Bank. The Wall Street Journal (7/5, Areddy) reports, "Singapore's state-owned investment company will join Bank of America Corp. as a strategic foreign investor in China Construction Bank, a government-owned property lender." A subsidiary of Temasek Holdings (Pte.) Ltd. "will pay $1 billion for shares in China's No. 3 lender when the bank conducts an initial public offering, the official Xinhua news agency reported late yesterday." Bank of America, of Charlotte, N.C., "agreed to invest $2.5 billion for the stake and an additional $500 million to maintain that level when China Construction goes public. The purchase by Bank of America worked out to about $305 million for 1% of the Chinese bank, while…Temasek [apparently] would be paying about $275 million per 1%."

Microsoft Settles Antitrust Matter With IBM. The Wall Street Journal (7/5, Guth, Forelle) says that Microsoft's agreement to settle an antitrust dispute with IBM "sweeps away some past differences but also highlights the growing rivalry between the two technology giants." IBM's "growing services arm gives the company a powerful platform from which to pitch products at the expense of Microsoft's." Furthermore, IBM "is also a major backer of open-source software, particularly the Linux operating system, which

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continues to be a thorn in Microsoft's side." On Friday, the two companies "said Microsoft will pay IBM $775 million in one lump sum and extend $75 million in credit toward Microsoft software that IBM will use internally." The settlement "is the latest in a quest by [Microsoft General Counsel Brad] Smith to resolve private claims resulting from Microsoft's antitrust battles in the 1990s with the U.S. government, including a broad suit filed by the Justice Department in 1998 and settled in 2002."

Mohawk To Buy Unilin. The Wall Street Journal (7/5, Singer) reports that Mohawk Industries Inc., "a maker of carpet and floor coverings, said it agreed to acquire Belgian flooring maker Unilin Holding NV for $2.65 billion." Mohawk, "based in Calhoun, Ga., beat out private-equity firms that also had been looking at Unilin." The Journal notes that private-equity firms' "merger-and-acquisition activity in Europe has increased substantially in the past few years, but recently trade buyers have been outbidding private equity in some big acquisitions."

T-Mobile Sale Said To Be Possible. The Wall Street Journal (7/5, A3, Singer, Pringle, Karnitschnig, Drucker) reports, "Deutsche Telekom AG is exploring whether to sell its US wireless operation, T-Mobile USA Inc., a move that could fetch as much as $30 billion and alter mobile-phone markets on both sides of the Atlantic."

Jury Rules For Boston Scientific In Patent Case Against J&J. The Wall Street Journal (7/5, Brickley) reports, "A Delaware jury ruled for Boston Scientific Corp. and against Johnson & Johnson in a key test of patents protecting drug-eluting-stent technology." The jury found that "J&J's Cypher stent trespasses on a Boston Scientific patent, which protects technology that allows drug coatings to be applied to stents, medical devices used in the treatment of cardiovascular disease." J&J's cardiovascular unit, Cordis Corp., "said in a statement that it would seek to have the verdict overturned, either by the judge who presided over the federal-court contest or by appeal to a different court." The finding of infringement against J&J, "the only other company with a major piece of the U.S. market for drug-eluting stents" is described as "a critical one for Boston Scientific."

ENVIRONMENT:

At G8, Bush To Oppose Effort To Reduce Greenhouse Gas Emissions. The Washington Times/Agence France-Presse (7/4) reports although the Group of Eight "has to tackle climate change, President Bush vowed to spurn any Kyoto-style deal on the 'significant' problem of global warming, he said in an interview to air" on Britain's ITV. Bush said that "global warming was 'a significant, long-term issue that we've got to deal with.'" But he said "any climate change agreement along the lines of the United Nations' Kyoto Protocol -- which the United States refused to sign -- would get short shrift." Bush said, "If this [draft plan under negotiation] looks like Kyoto, the answer is no. The Kyoto treaty would have wrecked our economy, if I can be blunt." Bush said he "wanted G-8 leaders to put Kyoto behind them and move on to supporting new technologies to limit global warming without harming businesses." He also "underlined the U.S. government's $20 billion investment in technologies such as zero-emission power stations and hydrogen-powered vehicles."

The Financial Times (7/4, Blitz, Beattie) reports the G8 leaders "look set to agree an accord to combat climate change at their summit this week, averting a rift between the US and France over global warming and intensifying pressure on China and India to curb greenhouse gas emissions." Prime Minister Tony Blair "is on the brink of brokering a global agreement on climate change, one which explicitly recognises that science compels the world to act to contain greenhouse gases." A "final draft of the accord to be agreed by the G8 heads including George W. Bush, US president, and Jacques Chirac, French president was hammered out by diplomatic 'sherpas' from each of the member states in London at the weekend." Though the US won't sign the Kyoto protocol, it "gave its backing at the weekend meeting to a final draft accord that meets the minimum demands made by Mr Chirac on climate change."

Bush Denies Softening His Views On Climate Change To Reward Blair. The Los Angeles Times (7/5, Daniszewski, Depasquale) reports that in advance of the G-8 summit, President Bush said "he would not substantially change his stance on global warming to reward British Prime Minister Tony Blair for his support of the war in Iraq." Bush said, "I really don't view our relationship as one of quid pro quo. Tony Blair made decisions on what he thought was best for keeping the peace and winning the war on terror, as I did." Bush reiterated his "opposition to the Kyoto Protocol that mandates targets for cutting greenhouse gas emissions," telling Britain's ITV1 television "that he would reject any measures that 'look like Kyoto.'" Bush "nevertheless acknowledged that human activity is at least partly behind the apparent warming of the planet in recent years. And he said that there may be other compromises the United States and other nations can make to reduce the amount of greenhouse gases being produced."

The Washington Post/Reuters (7/5, A10) report President Bush "told British Prime Minister Tony Blair to expect no favors" at the G-8 summit "in return for backing the war in Iraq." Reports that "a last-ditch round of negotiations

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by G-8 officials over the weekend would result in an accord in some way recognizing the science behind global warming were bolstered by French President Jacques Chirac, who said on Sunday that the G-8 leaders were 'heading toward an agreement.'" But Bush "was cautious. Environmental experts said that, rather than risk an open rift, the eight nations had decided on an accord offering the barest minimum on global warming."

The New York Times (7/5, Cowell) reports Bush is "generally seen to be at odds with Britain and most other members of the group on accepting the scientific evidence relating to the causes of global warming, and therefore on the need for immediate steps to reduce emissions of greenhouse gases." Bush's remarks "seemed to conflict with a forecast on Sunday by President Jacques Chirac of France that the member countries - the others are Canada, Germany, Italy, Japan and Russia - were 'heading toward an agreement' on global warming." At a news conference "in London on Monday, Sir Michael Jay, Mr. Blair's representative at talks by senior officials in advance of the meeting, said climate change 'was never going to be an easy discussion,' and added, 'There are differences of opinion, particularly about the science.'"

The Washington Times (7/5, Lakely) notes the trip to Europe is President Bush's "fourth journey to the Continent this year -- one of his presidency's few foreign trips during which Iraq and the war on terror will give way to the pleasantries of international diplomacy." The President is "expected to ignore politely Mr. Blair's pleas to join Europe in taking concrete steps to fight global warming, a diplomatic slight against the prime minister."

Mississippi Drought Divides Senate Appropriations Committee Members. The Washington Post (7/5, Murray) reports a severe drought, "now in its seventh year, is wreaking havoc up and down the Missouri, from the river's headwaters at Three Forks, Mont., to its confluence with the Mississippi River near St. Louis. One big casualty: a commercial shipping tradition that dates to Lewis and Clark." What the Missouri "needs most is a deluge of melted snow and rain, but Mother Nature is not cooperating. Absent that, the Senate Appropriations Committee is trying to alleviate the problem -- but members are badly split over what to do." Nearly "a third of the 28 committee members represent states that border the Missouri or have an economic stake in it, and they fall into two camps with very different interests: upstream and downstream." Sen. Byron L. Dorgan (D-N.D.) "and two fellow upstreamers, Sens. Conrad Burns (R-Mont.) and Tim Johnson (D-S.D.), want to retain more water in the upper Midwest reservoirs that were built after the Depression to control flooding and improve navigation." Sen. Christopher S. Bond (R-Mo.) "leads a downstream faction that also includes Sens. Sam Brownback (R-Kan.) and Tom Harkin (D-Iowa). They argue that holding more water in the reservoirs would end commercial navigation on the Missouri, jeopardize operations at 18 power plants and hinder shipping on the Mississippi -- one of the country's most important transportation corridors." The Mississippi angle "broadens the downstream coalition to include Senate Appropriations Committee Chairman Thad Cochran (R-Miss.); Mitch McConnell (Ky.), the No. 2 Republican in the Senate; and Sen. Mary Landrieu (D-La.)."

House Legislation Would Lessen Government's Duty To Protect Species. The New York Times (7/4, Barringer) says that "Republican critics of the Endangered Species Act in Congress have drafted legislation hedging the government's obligation to take all necessary steps to bring back to robust health any species on the brink of extinction." The legislation "envisions more limited government obligations: ensuring that the status of an endangered plant or animal gets no worse and helping to make it better." Jamie Clark, the executive vice president of Defenders of Wildlife, said the draft measure "'takes a wrecking ball to the whole Endangered Species Act' by changing its mission, disabling enforcement tools and loosening controls on agencies like the Forest Service and the Army Corps of Engineers." Jim Sims, the executive vice president of Partnership for the West, counters that "the draft has a 'common-sense' emphasis on incremental improvements that are achievable, rather than on long-term recovery that may take decades."

Administration Accused Of Trying To Subvert Endangered Species Act. The New York Times (7/5) editorializes, "The Endangered Species Act of 1973 is far and away the most controversial of all the landmark environmental statutes…especially…among those libertarians and property owners who think that commercial development is unduly restricted by the mandate to protect not only plants and animals, but also the habitats essential to their survival. The law is up for reauthorization again this year, and the pressures to weaken it are great. There are ways to streamline the law and make it less litigious that would not come at the expense of its core values and purpose. Regrettably, the Bush administration is not waiting for this debate to take place. Since the day they took office, Bush officials have tried to subvert the law administratively and in the courts."

FBI/DEA/ATF/USMS:

National Association Of Counties Survey Finds Meth Number One Illegal Drug Problem. USA Today (7/5, Leinwand) reports, "Methamphetamine is a

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bigger problem than cocaine, marijuana or heroin for most communities, according to a survey of law enforcement agencies in 500 counties in 45 states by the National Association of Counties. The survey, to be released today by the national group that represents county commissioners, supervisors and other top county officials, finds that methamphetamine is: The No. 1 illegal drug problem in the view of law enforcement agencies in 58% of the counties surveyed. Fewer than 20% see pot as the top problem. Behind an increase in other crimes. Agencies in 70% of the counties said the drug is driving up the number of robberies and burglaries. Seen as the top drug problem in every area of the country except the Northeast. There, law enforcement agencies consider heroin the No. 1 problem, ahead of pot, methamphetamine and cocaine. … The survey highlights a difference between what many local officials say is the biggest drug problem and where the federal government has targeted its prevention and eradication efforts." The association says in its survey, "On the national level, the federal government still considers marijuana as the No. 1 drug problem in America, but county law enforcement officials have a different perspective on this ranking." USA Today adds, "Congress is considering restricting the nationwide sale of products that contain the drug pseudoephedrine." ONDCP policy analyst David Murray said that "the Bush administration is developing a national response to the meth problem." However, he said, "the administration cannot neglect other drugs in the process." Murray said that "federal agencies, including the [DEA], are working to disrupt the supply of chemicals needed to make methamphetamine and stop the smugglers who carry it from Mexico and Canada." He said that "marijuana remains a top priority because it is the most commonly used illegal drug, with 15 million users, compared with about 1 million meth users." Murray said, "We do have to keep all drug threats in context, which means you cannot ignore marijuana."

"Colombianization Of Mexico" Now Becoming Reality With Increase In Drug-Related Violence.

Newsweek (7/11, Contreras) reports, "The rising tide of lawlessness has stoked fears that a narcostate, where organized crime holds sway over Mexico's political elites, might one day emerge on the southern border of the United States." Ted Galen Carpenter, a defense and foreign-policy expert at the right-wing Cato Institute in Washington, said, "There are growing signs that the Colombianization of Mexico is now becoming a reality. If a similar process takes place in Mexico, it's going to be 10 times worse than in Colombia because Mexico is locked into the US economically to a much greater degree." Newsweek adds, "Officials on both sides of the US-Mexican border dismiss such warnings as overblown. Mexico's Attorney General Daniel Cabeza de Vaca told the newspaper El Universal last month that the country's drug cartels represented no immediate threat to national security, and in its latest annual report on the international narcotics trade the US State Department gave the Fox government high marks for 'its intensive counternarcotics and law enforcement effort.' If anything, say some US officials, the current turf wars between dueling cartels in a number of Mexican border states erupted in response to the vacuum created by the Fox government's arrest of two major kingpins in 2002 and 2003. Parallels with Colombia, where both leftist guerrillas and right-wing militias are also engaged in drug trafficking, do not bear close scrutiny in their judgment." Mike Braun, chief of operations for the DEA, said, "In Mexico you don't have insurgent groups or terrorist organizations that are involved in virtually every aspect of drug trafficking. We're getting greater cooperation from the Fox administration than from any previous Mexican government I know of." Newsweek notes, "The menace haunting the country's present and future stability starts with the letter C, but it's spelled 'corruption,' not 'Colombia.' Law enforcement is a notoriously low-paying career in Mexico, and an entry-level cop in a midsize city's police department makes as little as $135 a month. Confronted with a druglord's stark choice of plomo o plata (lead or money), many if not most Mexican policemen on the lower rungs of their agencies will opt for the bribe." Bruan added, "We're fine with respect to law enforcement at the central-government level, but the farther you get from the seat of power, the more problematic things can become in a place like Mexico."

The New York Times (7/5, Thompson) reports, "Killings and kidnappings happen almost every day in the city of Nuevo Laredo, about 150 miles north of this small town. Matamoros is quiet in comparison. The most common crime here these days, the police say, is robbery. But as recently as three years ago, this, too, was a capital of the drug war. People on the street said they are afraid that it could become one again. And here, like Colombia, society's first line of defense against the chaos -- the municipal police -- has proved to be its weakest." Anthony P. Placido, the acting assistant administrator for intelligence at the DEA, in a recent appearance before Congress, said, "Law enforcement in Mexico is all too often part of the problem rather than part of the solution. This is particularly true at the municipal and state levels of government." The Times adds, "Interviews with four municipal police officers in this city of 500,000 people across the Rio Grande from Brownsville, Tex., offer a glimpse inside a reality as harsh and persistent as Mexico's blazing summer sun. The officers -- a shift commander, two squad leaders and a recent graduate of the police academy -- were chosen by the minister of public security, Rubén González Chapa, to be interviewed for this article. … Not one of the officers denied that there were abuses and corruption in their ranks.

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They described officers taking bribes from drunks and prostitutes and accepting gifts from businessmen and residents for providing extra surveillance around their properties." The Times notes, "When asked, however, about the more egregious accusations by Mexican and United States officials that municipal police often serve as lookouts and hit men for the drug traffickers, the officers typically retreated into vague generalities. What they offered instead of the ugly details about police misdeeds was a look at where the abuses are born, describing a place sorely lacking incentives, not to mention basic equipment to uphold the law, and filled with humiliations that left many officers feeling loyal to no one but themselves. Money was the officers' biggest complaint."

Case Of Mistaken Identity Made In Arrest Of Suspected Juarez Drug Cartel Leader. The Los Angles Times (7/5, Dickerson) reports, "Mexican authorities said Monday that they thought they had arrested the leader of the Juarez drug cartel, but later said tests showed it was a case of mistaken identity. The determination that the detained man was not Vicente Carrillo Fuentes dashed hopes of a rare instance of good news for Mexico's anti-narcotics forces amid an upsurge of violence. It was also the second high-profile error in the last two weeks. In June, Mexican federal authorities detained a British citizen of Lebanese descent on suspicion that he was connected to terrorist organizations behind the Sept. 11 attacks. But that suspect, Amer Haykel, turned out to be simply a tourist."

The Dallas Morning News (7/5, Eaton, Corchado) reports, "Mexican authorities on Monday said they thought they had captured Vicente Carrillo Fuentes, one of the country's most wanted drug lords. But by the day's end, they had reversed course, calling it a case of mistaken identity. Agents had quietly arrested their subject on Saturday at Perisur, a Mexico City shopping center. He identified himself as Joaquín Romero Aparicio, but Mexican officials were almost sure that DNA tests would reveal his criminal identity." Presidential spokesman Rubén Aguilar said, "Right now, it is likely Vicente Carrillo Fuentes, but it isn't completely confirmed." The Morning News adds, "Vicente Carrillo Fuentes Earlier Monday, the prospect that Mr. Carrillo Fuentes, 42, had been arrested excited law enforcement officials and journalists on both sides of the US-Mexico border. Mr. Carrillo Fuentes and his lieutenants allegedly ordered the murders of dozens of US citizens and hundreds of Mexicans during a decade years-long reign of terror, American authorities say. The State Department had offered a reward of up to $5 million for information leading to the arrest or conviction of Mr. Carrillo Fuentes, suspected of leading the Juárez cartel."

The San Antonio Express-News (7/5, Schiller) reports, "A spokesman for President Vicente Fox said Monday officers believe they have captured Vicente Carrillo Fuentes, who is accused of running the powerful Juárez cartel. … But the arrested man's family and media reports late Monday night indicated it was a case of mistaken identity. DNA and fingerprint analyses were being conducted on the man, who was arrested Saturday at an upscale shopping center in the capital, spokesman Rúben Aguilar said. 'We have to prove that this is the guy,' he said. The Express-News adds, "Televisa network raised doubt by interviewing family members who said Romero is an architect and loving father who has nothing to do with drug trafficking. Televisa also showed a picture of Romero in which he appeared to look like a photo taken of Carrillo Fuentes. The network suggested the similarity of the two pictures -- and little other evidence -- prompted the arrest. Federal investigators could not be reached to comment on Televisa's assertions." Reuters (7/5, Bremer) and the AP (7/5, Lee) also reported this story.

Results Of Mexico's Stepped-Up Drug War Questioned. The Dallas Morning News (7/5, Samuels, Iliff) reports, "Mexico finally is fighting the war on drugs that the US government has demanded for decades: a frontal assault on drug barons, their organizations and their merchandise, using the police and military in concert with US intelligence. The results, Mexican and US authorities say, have been impressive. Forty-six thousand people jailed on drug charges, President Vicente Fox said in a recent speech, 97 tons of cocaine seized, more than a million marijuana plants destroyed. It's been four years, Mr. Fox and US officials said, of steady progress." The Morning News adds, "But a rising chorus of voices in Mexico and the US says the real results are record levels of violence, instability and corruption in Mexico, resurgent drug cartels, nearly 200 dead police officers and soldiers, along with millions of wasted dollars in a country where half the population of 105 million is poor. Mexico receives almost no aid from the US government. And the result in the US? No noticeable drop in the supply of cheap drugs – and an actual decline in the price of cocaine, according to a new UN report. Some analysts say Mexico's approach has not only failed to stanch the flow of drugs but is also destabilizing the young democracy. Mexico needs to turn back now, they say." Dave Murray, a policy analyst with the White House Office of National Drug Control Policy, said that "Washington understands the sacrifice being made by Mexico, but that it also is in Mexico's interest to fight the traffickers vigorously." Murray said, "It's been a horrendous fight for them. We have to salute their willingness to take on this fight." Murray added, "If drugs transit through your country and you think, 'Well it's just for those norteamericanos. The money comes to us, the drugs to them. What's the problem?' They soon discover drugs are left behind as payment in kind for services provided. And local traffickers soon become drug dealers. And to whom do they sell? To local kids. … The problems will become worse and worse as narcotraffickers corrode the system... and you

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will find them growing into a power within the nation that can actually threaten the legitimacy and viability of democratic governments." But that, critics say, is "just what is happening now with the stepped-up war."

"El Chapo" Proves To Be A Tough Adversary For Law Enforcement. The San Diego Union-Tribune/Copley News (7/2, Walker) reports, "The arrests in recent years of several drug traffickers – including Gulf cartel leader Cardenas, Tijuana cartel leader Benjamín Arellano Félix and the Amezcua brothers – strengthened other cartel leaders." DEA spokesman Misha Piastro said, "He is very ambitious and very active. He's extremely clever and he's willing to invest the time and money to do big projects." Copley News adds, "A 26-page federal indictment handed down against Guzmán 11 years ago in San Diego accused Guzmán, 51, of trying to ship seven tons of cocaine packed in cans of jalapeño chili peppers across the border at Tecate. The indictment also described a tunnel he ordered built in Otay Mesa, complete with railroad tracks and lighting, and accused him of building another tunnel that ended under a pool table in a Douglas, Ariz., bar. The table was raised and lowered with a hydraulic lift, Piastro said. The US government is offering a $5 million reward for Guzmán's capture, and DEA agents in San Diego staff a 24-hour hotline to collect tips on his whereabouts. Some of the tips that come through the hotline, which can be dialed from almost anywhere in Latin America, are valid. Others prove to be false. One caller reported – erroneously – that Guzmán had been spotted dancing the tango in Los Angeles. But another caller may have been Guzmán himself 'trying to verify that the hotline wasn't set up by his rivals,' Piastro said. 'It wouldn't be out of character for him to do something like that,' Piastro said. 'He's pretty brazen.' Guzmán has proved a tough adversary for Mexican law enforcement. 'We are looking for him everywhere, but it's difficult to determine where he is,' José Luis Santiago Vasconcelos, Mexico's deputy attorney general for organized crime, said during an interview with foreign correspondents earlier this year. 'He's not a subject that we see established in one place, living, defended by a big group of gunmen.'"

The Los Angeles Times (7/5, Boudreaux) reports, "Although US officials have repeatedly praised Mexico's anti-drug efforts under President Vicente Fox, including the arrest of 18 cartel leaders over the last four years, Guzman's elusiveness is an embarrassing symbol of the country's failure to stop the bloodshed or slow the flow of cocaine, heroin, marijuana and amphetamines into the United States. 'He is the last of the Mohicans,' said Jorge Chabat, a Mexico City expert on law enforcement issues. 'All the other big cartels have been decapitated. That is why they want him so badly.'" The Times adds, 'US authorities also want to get Shorty, who was indicted in 1995 in San Diego on charges of money laundering and conspiracy to import tons of cocaine. In December, federal authorities offered a $5-million reward for tips leading to his capture and are sharing intelligence with Mexican authorities. Since then, the dragnet has tightened with the arrests in Mexico of Guzman's 21-year-old son, a brother, two nephews and a niece, all accused of aiding his drug business. Nine houses and six vehicles belonging to him and his associates were seized in June. Rival drug traffickers are after him too. They killed another of his brothers and two of his associates in a Mexican prison last year. But so far the heat on Guzman has merely enhanced his mystique as an untouchable outlaw constantly on the move, escorted by 10 armed bodyguards and apparently shielded across Mexico by a web of corrupt officials to whom he once boasted paying a total of $5 million per month."

Nuevo Laredo Residents Trapped In Deadly War Between Rival Drug Cartels. The San Diego Union-Tribune/Copley News (7/2, Walker) reports, "For almost three years, people in this dusty border city of 500,000 have been trapped in a deadly war being waged by two drug cartels for control of the lucrative corridor between Nuevo Laredo and its US sister city, Laredo, Texas. One of the cartels is led by Joaquin 'El Chapo' Guzmán. … The other is headed by Osiel Cárdenas. … The two drug kingpins are vying for control of the most important commercial crossing between the United States and Mexico, according to law enforcement officials on both sides of the border. Roughly 9,000 tractor-trailers rumble over Nuevo Laredo's World Trade Bridge into the United States each day, accounting for almost 50 percent of the U.S.-Mexico commercial border traffic. The volume of truck traffic is so overwhelming that, US officials acknowledge, truckloads of narcotics slip through undetected. The violence has escalated in recent months as the cartels struggle to control this gateway into the United States."

Nuevo Laredo Families Desperate For Information About "Los Des-Aparecidos." The Houston Chronicle (7/4, Pinkerton) reports, "Nancy Segovia, an anxious 20-year-old wife and mother, searches for a husband who did not return from his job as a Nuevo Laredo policeman three weeks ago. Two Laredo men, William Slemaker, 52, and Pablo Cisneros, 49, search for their daughters, who vanished 10 months ago while visiting this violence-torn border city. Last week, the three stood in 100-degree-plus temperatures outside a Mexican military base, trying to learn whether their loved ones were among the 44 people rescued by federal agents from two safe houses operated by a drug cartel. The wife and fathers gathered with hundreds of others from both sides of the border, desperate for information about people known as los des- aparecidos, or the missing ones. The rescue operation June 29 raised the hopes of Segovia, Slemaker, Cisneros and many others looking for relatives who vanished, with no ransom demands, during a three-year turf war between rival drug cartels. Each was disappointed." The Chronicle adds, "In Nuevo Laredo, the faces of the missing

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stare out from homemade posters attached to street lights, taped to doorways of police stations or printed in newspaper ads. In a city that has seen more than 70 killings linked to the drug war so far this year, the missing are largely unknown to the public, and the local police seem to have done little to find them."

Mexican Authorities Abruptly End Search For Human Remains At Remote Ranch House Near Nuevo Laredo. The San Antonio Express-News (7/3, Zarazua) reports, "Federal police abruptly ended their search for human remains Saturday morning at a remote ranch house on the edge of town here, leaving the property without saying what, if anything, they'd found. All that was left inside the compound's cinderblock walls were piles of disturbed earth and a broken black metal gate. A small contingent of Mexican military troops remained outside the beige-colored compound this morning, but the troops leader said they were on 'routine patrol.' On Friday, an FBI spokesman said US agents who had been on the scene earlier this week believed the bones that had been found were those of animals. The FBI has since not returned here. The headline in one of today's afternoon dailies in Nuevo Laredo screamed 'NADA AUN,' or 'Nothing Yet.' Federal police spent all day Friday digging the patio of the ranch house in the sweltering heat in search of human remains believed to have been buried there by drug cartel hit men. The ranch house is about nine miles south of the Texas-Mexico border near the Nuevo Laredo highway leading to Monterrey."

Drug-Fueled Corruption Alleged In Highest Levels Of Venezuela's Security Forces. The Miami Herald (7/4, Dudley, Gunson) reports, "In [Bejuma, Venezuela], people still talk about the 'Bejuma massacre' in a whisper, partly because one man who spoke out is in a grave, partly because the killers were allegedly policemen. But the source of the fear can be summed up in a single word: drug trafficking, on the kind of massive level and involving corrupt government officials that has long been a profound problem in neighboring Colombia. Drug seizures in Venezuela doubled in the past four years. There are mounting allegations of drug-fueled corruption at the highest levels of the security forces, accompanied by what appears to be official indifference. Just last month, a suspected Colombian trafficker wanted in the United States escaped from a Venezuelan police lockup after allegedly bribing his guards." The Herald adds, "The rising drug trafficking has become yet another sore point in relations between the Bush administration and Venezuelan President Hugo Chávez, a fiery populist who has repeatedly accused the US government of trying to topple him. 'There are a few people who see [drugs] as a global problem, but those people are few and far between,' said one Western counter-drug official who asked for anonymity because he did not have official permission to speak publicly on the topic. Venezuela has long been a transit country for illegal Colombian drugs. But record seizures in 2004 that reached 32 tons of cocaine and 12 tons of heroin and marijuana put authorities on the alert."

US Envoy Sees Decline In Venezuelan Cooperation In Effort To Fight Terrorism, Drug Trafficking. The AP (7/4) reports, "A decline in cooperation between Venezuelan and U.S. authorities has weakened efforts to fight terrorism and drug trafficking, the US. ambassador to the South American country said." US Ambassador William Brownfield said in an interview broadcast Sunday on the Venezuelan television station Televen, "On the issue of illegal drugs, we have a situation where we have a reduction in cooperation between some police forces. I wish we could have more cooperation in passing along more information on matters of terrorism, the movement of specific people."

Reuters (7/4) reports, "Cooperation between Venezuela and the United States to fight terrorism and drug-trafficking has run into problems and could be improved, the U.S. ambassador to Caracas said on Sunday. William Brownfield said 'complicated problems' had emerged in the relationship between Venezuela, the world's No. 5 oil exporter, and its biggest energy client, the United States."

FBI, ATF Investigating Suspicious Fire At Florida Abortion Clinic This Morning. WPTV-TV West Palm Beach (7/5) reports on its Web site, "Agents from the FBI have joined investigators from the Bureau of Alcohol, Tobacco & Firearms this morning at the scene of a late night fire at the Presidential Women's clinic in West Palm Beach. The origin of the fire at the clinic which performs abortions appears to be suspicious. There were no injuries . West Palm Beach mayor Lois Frankel will issue a statement this morning as investigators and firefighters remain on the scene."

WPost Criticizes House's DC Gun Vote. The Washington Post (7/4) editorializes that a majority of the U.S. House of Representatives trampled "upon the right of self-determination" by overturning a city law and voting "to allow D.C. residents to keep in their homes loaded shotguns and rifles, as well as handguns bought before 1976, unbounded by trigger locks or disassembled. The deed itself makes a mockery of Congress as a federal body. If the action is allowed to stand, however, the consequences could be even worse: The nation's capital will become a deadlier place in which to live." The Post says "the notion of Congress encouraging citizens in the nation's capital to keep loaded and unprotected guns in their homes borders on insanity."

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TAX:

Tax Court Procedure Called Into Question During Attorney's Fraud Trial. The National Law Journal (7/5, Coyle) reports, "A seven-year-old secret report by a special trial judge of the U.S. Tax Court in the lengthy and complex fraud trial of a renowned tax lawyer and his business partners found no fraud -- not even a suspicion of fraud -- by the three men, despite a subsequent Tax Court decision to the contrary." The Journal continues, "The conflict between the original report and the Tax Court decision has prompted some to raise ethical questions about Tax Court procedures and to call on Congress to examine them. … The Tax Court recently released the report after the U.S. Supreme Court held earlier this year that 'no statute authorizes, and the current text of [Tax Court] Rule 183 does not warrant,' the concealment of special trial judge reports by the Tax Court." The Journal adds, "The Supreme Court ruling -- Ballard v. Commissioner of Internal Revenue, No. 03-184, and Estate of Kanter v. Commissioner of Internal Revenue, No. 03-1034 -- followed years of litigation over the report in three federal circuits by lawyers for estate and tax attorney Burton W. Kanter and his business partners Claude Ballard and Robert Lisle, all of whom believed the report would exonerate them. … Special Trial Judge D. Irwin Couvillion oversaw the five-week trial in 1994 in which the government charged Kanter, Ballard and Lisle with $30 million in tax deficiencies and civil fraud penalties in three alleged kickback schemes. In his 300-page report, produced four years later, Couvillion, who did not have authority to issue the Tax Court's final decision, said the court 'cannot find or conclude' that the claimed kickback schemes existed or, if they did exist, that there was tax fraud in connection with them."

NYTimes Calls For Repeal Of Internet Sales Tax Exemption. The New York Times (7/5) editorializes, "Thirteen years is a long time to get a pass. A 1992 Supreme Court decision has exempted Internet retailers from the obligation to collect most sales taxes on the grounds that it would be unduly burdensome. Back then, the country's thousands of state and local taxing jurisdictions all had differing rules. But times have changed, and the law of the land should, too. … Online sales-tax collection can be done nationwide. Many retailers already collect the taxes. Now Congress should step up and pass a law overturning the court's exemption in states that have streamlined their tax systems. That would allow hard-pressed states to take in roughly $20 billion a year in annual sales tax revenue that is rightfully theirs, and perhaps much more, depending on the growth in online shopping. It would also help level the playing field between local and online retailers."

CONGRESS-ADMINISTRATION:

Speculation Grows About Possible Gonzales Nomination To Supreme Court. As Attorney General Alberto Gonzales visited Iraq over the weekend, speculation ran rampant that President Bush was considering him as a replacement for Supreme Court Justice Sandra Day O'Connor, who announced her retirement on Friday. So far, opposition to Gonzales has come from the GOP's evangelical conservative base, which is wary of the Attorney General because of rulings on abortion he made as a state Supreme Court justice in Texas. Both CBS and NBC ran full segments on the possibility of a Gonzales nomination, while ABC noted his trip to Iraq.

The AP (7/4, Sherman) reports Gonzales "deflected questions about his interest in serving on the Supreme Court and said Sunday that criticism about his conservative credentials did not bother him. 'Many of the people speaking probably don't have all the information about prospective nominees. What's important is what the president of the United States thinks about me,' Gonzales told reporters while flying to the Middle East."

The Washington Post (7/4, A1, Eggen) reports that in an interview with The Washington Post on his way to Iraq, "Gonzales said he would continue to be directly involved in making recommendations to President Bush for a possible successor to retiring Justice Sandra Day O'Connor. But Gonzales, a close friend and longtime confidant to Bush, declined to comment on his own chances or interest in the post. 'There will be a group of people who will share their thoughts with the president about a nominee, and obviously I am part of those discussions,' Gonzales said. 'But I'm not going to talk about the details of those discussions or the recommendations or anything like that...I think the president is going to be deliberative in his decision.'" Although Bush "may 'take some time' to make a final call, Gonzales added," the President "is adamant that a new justice be confirmed by October."

The CBS Evening News (7/3, lead story, 2:25, Guida) reported the "conservative base is already feeding President Bush plenty about one possible pick, Attorney General Alberto Gonzales, and it's not a spoonful of sugar. The right wing questions his stance on abortion, trying to derail any Gonzales bandwagon before it gets rolling." Some conservative groups "are already lining up against Gonzales." Jay Sekulow, American Center for Law & Justice: "There is concern on the right. There is no doubt about it. There's not a lot of enthusiasm." Guida: "But Senator Arlen Specter, Chairman of the Judiciary Committee that will review the nominee, suggested conservatives should hold their fire."

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Asked on NBC's Meet the Press (7/3, Mitchell) to comment on conservative opposition to Gonzales, Specter said, "My reaction is that people ought to hold their fire and stand back and realize that it's President George W. Bush who was elected with the constitutional authority to make the designations. … I think the conservatives are entitled to express themselves, but I think they ought to have some respect for the president. And Attorney General Gonzales is a very well-qualified man, and I don't think he really deserved to be criticized." Reuters (7/4, Elsner) reports Hatch said on CBS' "Face The Nation" he "had spoken to Bush on Saturday and expected a nominee within a couple of days after Bush's return."

Sekulow said on CBS' Face the Nation (7/3, Roberts), "You know, it's interesting. We have the vacancy of Justice O'Connor, and at the same time, the court is taking one major life case involving parental notification. Alberto Gonzales, when he was a judge in the Texas Supreme Court, dealt with that issue, came out on the other side of it, where the conservative groups are. So there's some concern. There's also the issue of, he's the attorney general of the United States. He's doing a fantastic job, by the way. He was a great White House counsel, too. You're in the middle of a war on terror. … And the idea that we're going to switch the attorney general out in the middle of that, I find to be timing not particularly great."

NBC Nightly News (7/3, story 4, 2:10, Seigenthaler) said "some of the President's most conservative supporters don't want Gonzales at all." Conservatives "are putting pressure on Bush, saying Gonzales can't be trusted. But an advisor with close ties to the White House says that's only speculation." C. Boyden Gray, Committee for Justice: "If the President wants to nominate Judge Gonzales, he will. I don't think he's going to be constrained by these interest groups."

Gray was asked on Fox News Sunday (7/3, Wallace) to respond to Sunday's New York Times story that claimed he led a delegation to the White House warning President Bush not to nominate Attorney General Gonzales; Gray replied, "That was news to me. I don't think we discussed any individuals in that meeting, which was about process, not about people. And I would, of course, support Judge Gonzales if he were nominated. So I don't know where the story came from. … If the president wants to nominate him, he will, and he will be confirmed."

Sen. Orrin Hatch, asked on CBS' Face the Nation (7/3, Roberts) for his views on the potential nomination of Gonzales, said, "Let me just say this, I think that's pure bunk. Gonzales is a terrific human being, a good lawyer, a person who has more than shown that he's a good human being and a person who could handle the job. If the president chooses Alberto Gonzales, I think Alberto Gonzales will do the job, do it well. And I think we would all feel pretty good about it." But "some of the right-wing groups, of course, are trying to push the president into getting the most conservative person that they can get. And they don't consider Judge Gonzales to be as conservative as some of the others. But I can tell you, he's a person of integrity and a person of ability, a person with good temperance, you know, temperancy. He's a very fine man. And if he gets picked, I'm certainly going to support him."

In as preview of the upcoming Senate battle, the Los Angeles Times (7/4, Brownstein, Schmitt) reports that senators from both parties "jostled Sunday to define the rules of engagement in the political struggle…Bush's first Supreme Court nomination." In appearances across all the Sunday talk shows, "members of the Senate Judiciary Committee sparred about whether nominees should be asked their views on specific issues such as abortion, whether it was appropriate to apply more scrutiny to nominees who would change the court's balance of power, and what the circumstances, if any, might be that would justify a filibuster against Bush's eventual choice."

The New York Times (7/4, Hulse, Nagourney) reports "White House officials were privately encouraging lawmakers not to get drawn into speculation over candidates' names but to concentrate on calling for quick and fair consideration of whomever President Bush nominates. … Democrats called for a deliberate review of any nominee and pledged to press the eventual candidate on issues including abortion and same-sex marriage, while Republicans declared that such specific inquiries were out of line."

The AP (7/4, Yost) reports that "asked whether he would support a filibuster if a hard-liner is chosen, the judiciary committee's ranking Democrat, Sen. Patrick Leahy, said, 'I would hope that we don't reach that point.' 'That's why we're going to meet with the president in about a week, going to urge that he put somebody who would unite the country, not divide the country,' said Leahy."

The Minneapolis Star Tribune (7/4, O'Rourke) says "the top Republican and Democrat on the Senate Judiciary Committee appealed for restraint, at least until President Bush announces his choice in a week or so. 'We ought to tone down the rhetoric,'" said Specter. Leahy added, "Let's take it easy."

Sen. Joseph Biden, appearing on CBS' Face the Nation (7/3, Roberts), said, "I was chairman at the time of Bork and Thomas. And it is true, I did allow both to go out without recommendation. … I could have stopped each of them from getting a vote in the full Senate. But I didn't let them out because I believed that a filibuster was wrong. I let them out because I believe the Constitution says the Senate…must decide whether or not to let a vote occur, not a committee. … I have no intention of filibustering anybody. It depends on who the president sends. But I could see a circumstance. For example, if he sent up" Judge Janice Rogers Brown "I

can assure you, that would be a very, very, very difficult fight, and she probably would be filibustered."

The Pittsburgh Post-Gazette (7/4, Mcgough) reports, "In the sort of 'gotcha' moment that has become common on Sunday television talk shows, George Stephanopoulos, the host of ABC's 'This Week,' yesterday confronted Sen. Edward Kennedy with Kennedy's own words from the 1967 debate over the confirmation of Thurgood Marshall for a seat on the US Supreme Court." Stephanopoulos "noted that Kennedy had told his colleagues that they shouldn't take Marshall's judicial philosophy into account but instead should limit their inquiry to the nominee's 'background, experience qualifications and temperament.'"

The New York Times (7/4, Kirkpatrick) reports "Bork, the former Supreme Court nominee whose rejection 18 years ago has hovered over every confirmation since, is back in the spotlight. … Defending the Senate's role in approving nominees, Senator Edward M. Kennedy, Democrat of Massachusetts, reprised in an appearance on ABC the speech he made attacking Mr. Bork shortly after his nomination. 'Can we imagine what this country would be like today if Judge Bork had gone onto the Supreme Court with his views about civil rights and other issues?' he said. 'It would be an entirely different America.'" Since then, however, "Bork has become an inspiration to many conservatives, who say they have organized and raised money to support the nomination of like-minded jurists."

Sen. Ted Kennedy writes in today's Washington Post (7/4, A17) that "the president should reject the pressure of the extreme factions of his party that want litmus tests for his nominee. This process shouldn't just be about whether the next justice would help roll back women's rights by overturning Roe v. Wade , the law of the land. It should be about something much more basic: protecting our core constitutional values for generations to come, the freedoms that we've fought for, bled for and died for. … I haven't always agreed with O'Connor. I didn't agree earlier this year that we should continue to execute juveniles. And I certainly didn't agree with her in Bush v. Gore." But "she was fair and tried to interpret the law. Unfortunately, many of those whom President Bush has nominated to the lower courts in the past four years have wanted to remake the law to suit their own ideologies . I hope the president will consult with the Senate and select a consensus nominee as dedicated to the Constitution as Sandra Day O'Connor."

The Washington Times (7/4, A1, Hurt) quotes Sen. Chuck Schumer saying, "I think the number one thing that I am interested in are the nominee's views." The notion of "picking apart a nominee to the federal bench based on his personal opinions about political matters is out of bounds, conservatives say. 'It's asking them to basically run on a political platform,' Sen. John Cornyn, Texas Republican, responded to Mr. Schumer yesterday."

The New York Times (7/4, Deutsch) asks whether "now that Justice O'Connor is leaving the court…the pendulum swing back to give employers the right to hire and fire as they please, or even encourage them to dismantle voluntary affirmative action programs." Neither "business leaders nor minority advocates," says the Times, "expect that to happen. Minorities and women, they note, make up an increasingly large part of the potential work force -- and of the consumer base."

The Washington Post (7/4, A15, Lane) says in its "Full Court Press" column that while "O'Connor and her centrist legacy may have been at the center of attention because of her surprise retirement announcement Friday, the center of power during the term was one chair to her left, where Justice Anthony M. Kennedy -- the court's other center-right swing voter -- sits." In three "crucial cases" this term, Kennedy, "a 1988 appointee of President Ronald Reagan, defected from the five-member right-of-center bloc that Chief Justice William H. Rehnquist nominally leads." Kennedy "joined with the court's liberals to abolish the death penalty for juvenile offenders, to give local governments a green light to take private property for economic development and to endorse a broad theory of federal regulatory power that denied states the right to override a federal law against homegrown medical marijuana."

The New York Times (7/4, Greenhouse) adds that in this last term, "the court displayed a growing concern about the death penalty, with the majority suggesting that lower courts had taken the Supreme Court's impatience with prolonged appeals too far toward short-circuiting defendants' rights. The justices also gave broad interpretations to three federal antidiscrimination laws." Justice Stephen G. Breyer, adds the Times, "displaced…O'Connor at the court's center of gravity, casting the fewest dissenting votes." The AP (7/4, Holland) runs a similar story, saying "the power broker at the Supreme Court this term was the 'junior justice,' Stephen Breyer."

The Legal Times (7/4, Goldman) reports, "Justice Sandra Day O'Connor's surprise retirement leaves President George W. Bush in a bind: Can he possibly replace the first woman on the Supreme Court with a white male? … After all, prior to O'Connor's July 1 announcement, most of the smart money for a potential high court nominee was on middle-aged white judges such as John Roberts of the U.S. Court of Appeals for the D.C. Circuit and J. Michael Luttig of the 4th Circuit. But that was to replace Chief Justice William Rehnquist, who, at least for the moment, is staying. … 'Do you replace O'Connor with a woman, or with a Hispanic, so you have a new first?' says American University law professor Stephen Wermiel. 'The question is, who are you trying to appease? And are you looking for a fight — or looking to avoid a fight?'" The Times adds, "Competing interest groups lost no time in laying down markers, and

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rallying their troops. Hispanic activists, for one, and their interest groups say the opportunity is ripe for Bush to name the nation's first Hispanic justice. Nominating a Hispanic would also help the Republican Party woo a key and growing constituency that it has actively courted. … But the person some see as the leading Hispanic candidate, Attorney General Alberto Gonzales, is viewed as flatly unacceptable by the hard-line conservative and evangelical groups that take credit for Bush's presidential re-election victory. … 'He's not an ideological conservative; it's not a world he comes from,' notes one senior Republican Senate staffer. "And we don't believe he has convictions he will stand by. As one former Supreme Court clerk said to me, 'When the most charming man in Washington, [Justice] Stephen Breyer, comes calling, will Gonzales stand up for his beliefs?' … That may make someone like Judge Emilio Garza of the U.S. Court of Appeals for the 5th Circuit a more likely candidate. Garza is viewed as a passionate opponent of Roe v. Wade. And if the White House seeks a minority candidate, but not a Hispanic one, it could turn to former Deputy Attorney General Larry Thompson, now general counsel of PepsiCo."

In a column for the Weekly Standard (7/4), Fred Barnes writes, "Through a campaign aide, Bush answered a question about the kind of Supreme Court justice he admired. The answer was Antonin Scalia, a conservative. That was in 1999, as Bush was beginning his race for the presidency. He was asked a similar question later that year by Tim Russert on Meet the Press. The answer was the same--Scalia. Now jump to the summer of 2003 as Bush is preparing for his reelection campaign. Meeting with advisers at his ranch in Crawford, Texas, Bush said one of his top priorities is to create a diverse Republican party with many more Hispanics." Barnes continues, "Bush's comments point to the two directions he must choose between in selecting a nominee to replace Sandra Day O'Connor on the Supreme Court. The first--the Scalia direction--would be to pick a respected conservative jurist and thus move the ideological tilt of the court to the right. The second would be to choose Attorney General Alberto Gonzales or another Hispanic, a step unlikely to change the court's current ideological posture." Barnes adds, "The first would be in sync with the thrust of Bush's presidency. As Bush and his aides never tire of telling everyone, he came to the White House to do big things and achieve important changes. And transforming the Supreme Court into a more conservative body and shrinking the role of unelected judges in American life is one of his major goals. … Nominating a full-blown judicial conservative--there are plenty to choose from--would surely provoke a bitter confirmation struggle in the Senate. He might even lose the fight. But all of Bush's accomplishments have come over the strong opposition of Democrats or have drawn sharp criticism from them. This includes tax cuts, education reform, creation of a Homeland Security Department, and Iraq. Bush's motto, if he had one, should be no pain, no gain. … Naming Gonzales or another Hispanic to the high court would be in line with Bush's political goal of enlarging the Republican party. And picking Gonzales might indeed help in that regard. He would be the first Hispanic justice. A Gonzales nomination would also be personally satisfying to Bush. 'The president loves Alberto Gonzales and trusts him,' Texas Senator John Cornyn, a friend of both, said. Gonzales was Bush's White House counsel before becoming attorney general. … But there's a difference between trying to improve the position of a political party and seizing an historic opportunity to change both the role and the rulings of the federal judiciary. The first is a decision any president or politician would make. Given the furor the second could provoke, it's a decision only a few presidents would make. My guess is Bush is one of them."

Bush Defends Gonzales, Discusses O'Connor Vacancy. In a telephone interview with USA Today (7/5, Keen), President Bush "said Monday that special-interest groups running TV ads and mobilizing supporters for a fight over his choice of a successor to Supreme Court Justice Sandra Day O'Connor should 'tone down the heated rhetoric.'" In addition, he "forcefully defended Attorney General Alberto Gonzales, a prospect criticized by conservatives." Conservative groups, says USA Today, "have criticized Gonzales, who, as a member of the Texas Supreme Court, backed exceptions to a state law requiring teenagers to notify a parent before getting an abortion." Bush also "said he won't rush a decision but wants her successor to be on the bench when the Supreme Court resumes work in October."

USA Today (7/5) prints the transcript of the interview in today's edition. Bush said, "My call to the senators who will be leading the debate on either side is to help elevate this rhetoric so that the country will take a prideful look at the process, recognize there will be differences of opinion but that we can step back after it's over and say, 'That's the way we ought to conduct a debate on something as serious as a Supreme Court nominee.'" Asked if "the attacks on Gonzales are out of line," the President answered, "Al Gonzales is a great friend of mine. I'm the kind of person, when a friend gets attacked, I don't like it. We're lucky to have him as the attorney general, and I'm lucky to have him as a friend." He later said, "I'm considering a pretty good-sized group of people right now, and of course, there's a diverse group of citizens."

USA Today also quotes Bush saying, "I have reached out to members of the Senate and will continue to do so. And then there will be a period of time in which I myself will sit down with the prospective nominees. But I was very serious when I said we need to have this person on the bench prior to the beginning of the next session." However, says the Wall Street Journal (7/5, McKinnon, Cooper), "Bush's track record

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-- and a nearly unbroken record of presidential precedent -- suggest that in the end, lawmakers will have little say in whom the president nominates." The White House "made much of Mr. Bush's conversation last week with Senate Minority Leader Harry Reid, when the two men discussed potential nominees to the Supreme Court shortly before Justice O'Connor's retirement was announced," but "neither the Bush White House's operating style nor historical precedent suggests that those conversations will have much effect."

The O'Connor vacancy received extensive media coverage last night and this morning. Media stories indicate Christian Evangelicals are determined to see President Bush choose a Supreme Court nominee who supports their positions on issues as abortion, church-state cases, gay rights, and affirmative action. ABC World News Tonight (7/4, story 6, 2:30, Gibson) reported O'Connor's decision "to retire set off a weekend of intense preparation, by those who want to influence who will replace her. And among the places where the campaign to enlist support was strong, were at conservative Christian churches." ABC (Tapper) added, "Bush's dilemma is to find a nominee with appeal to the mainstream while also satisfying the Republican base of Christian conservatives, who clearly have expectations." Many of their leaders "worry the most prominent candidate for the court, Attorney General Alberto Gonzales, is not as conservative on some of these social issues as are others on the court."

NBC Nightly News (7/4, story 5, 2:10, O'Donnell) reported White House advisors say aides "have been preparing special files on potential Supreme Court nominees for the President to review aboard Air Force One." Bush's "conservative base flatly does not want a repeat" of the moderate O'Connor. Lanier Swann, Concerned Women for America: "What we would like to see is a jurist who is not a swing vote. We don't want to be surprised by his opinion." O'Donnell: "Democrats just as firm on the need for a moderate." But there may be "early agreement against one potential choice", Attorney General Gonzales. The "right fears Gonzales's position on abortion. The left worries about his role in writing policy on the treatment of war prisoners."

On CNN's Inside Politics (7/11), analyst William Schneider said "the new vacancy gives conservatives a shot at turning the majority on the court against abortion. They don't want to risk it with another stealth nominee, like [David] Souter, so they've begun to rally against Gonzales, even though there's no clear indication Bush will nominate him." Likewise, the Christian Science Monitor (7/5, Feldmann) says that "for social conservatives, long active in Republican politics, the moment of truth has finally arrived: a chance to move the US Supreme Court to the right, particularly on abortion, gay rights, and other divisive cultural issues." Turning to the Attorney General's potential nomination, the Monitor says that "while conservative, the genial Gonzales is not seen as a hard-liner. And there's the rub: To social conservatives, he does not represent a reliable vote to overturn Roe v. Wade." The New York Times (7/5, Bumiller, Kirpatrick) also reports "many prominent conservatives are using contacts with the White House to press against a nomination" of the Attorney General.

The New York Times (7/5, Purdum) adds Bush "faces a daunting historical reality: presidents don't always get what they bargain for when they grant even seemingly close allies lifetime tenure on a fiercely independent institution, where the hot-button issues of the future are hard to predict. … It is precisely to guard against such surprises -- and the likes of more recent Republican appointees who have disappointed their party's conservative wing, from the retiring Justice Sandra Day O'Connor to David H. Souter and Anthony M. Kennedy -- that many conservatives are now urging Mr. Bush to pick an established jurist or legal scholar with a defined philosophy, clear paper trail and unimpeachable credentials on questions from abortion to property rights."

Reuters (7/5, Whitesides) reports the nomination "creates a maze of political risks for…Bush, with a wrong move either angering his conservative base or igniting a partisan brawl that could sink the rest of his second-term agenda." Analysts, adds Reuters, "say the fight could pollute Washington's already strained atmosphere and turn off middle-of-the-road voters seen as crucial to Republican hopes to expand their majority in the 2006 congressional elections and win the 2008 White House race."

USA Today (7/5, Kiely) runs a similar story under the headline "For Bush, A Lot Riding On Court Appointment," calling Bush's upcoming pick "one of the most momentous decisions of his career." USA Today adds that "the intensity of Bush's commitment to social conservatives' agenda is unclear," and "conservatives and religious activists, whom Bush political adviser Karl Rove identified as being key to the president's re-election, are reminding the president that he owes them." The Wall Street Journal (7/5, Bravin, Cummings) also says "the first stage of the fight…is shaping up as a struggle within the conservative coalition over steering the White House choice. … Evangelical Christians are the most vocal."

The New York Times (7/5, Sanger) considers Bush's decision-process. "If the past is any guide," says the Times, "Mr. Bush will prove vague as he nears a decision. When considering other top appointments or big decisions, he has shown that he is not above sending conflicting signals to mask his intentions, or catering, at least rhetorically, to differing constituencies. And he has not shied from confrontation, as even he alluded to on Friday when, while praising Justice O'Connor, he also announced that his nominee deserved 'fair treatment, a fair hearing and a fair vote.'"

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The Wall Street Journal (7/5, Mullins) analyzes the effect of the vacancy on the agenda currently before Congress. The Journal reports that Bob Stevenson, a spokesman for Senate Majority Leader Bill Frist, "said the confirmation process will have only a 'minimal' effect on the Republican agenda. Indeed, there will be little difference in the pace of action before the Judiciary Committee starts confirmation hearings, likely in September." That "leaves senators with just a month to reach a final deal with the House on highway legislation and to approve the Central American Free Trade Agreement, Mr. Bush's major trade initiative. When confirmation hearings begin, senators will find it more difficult to make progress on their priorities as senators shift attention to the judicial process, and time on the Senate calendar dwindles."

The Washington Post (7/5, Lane) focuses on the vacancy's effect on future decisions. O'Connor's past opinions "show that she would have played a pivotal role" in key issues. Now, "their outcome may hinge on the views of her successor. Learning those views may prove challenging to senators, if a nominee adheres to the practice of not answering questions about matters that are, or soon will be, before the court." Even if O'Connor "were replaced by a conservative opponent of Roe v. Wade , the 1973 ruling recognizing a right to abortion, Roe would still have the support of a five-justice majority. … Still, next term will present O'Connor's successor with a chance to answer important questions about the scope of Roe as well as other precedents." Analyzing the current court, meanwhile, the Wall Street Journal (7/5, Bravin) says "the successor to…O'Connor on the Supreme Court will enter an arena increasingly shaped by the competing legal theories of two justices: Antonin Scalia and Stephen Breyer."

The New York Times (7/5, Liptak) and the Christian Science Monitor (7/5, Richey) analyze O'Connor's legacy as the first woman in the Supreme Court,

Many Gonzales Aides Have Conservative Credentials. The Washington Post (7/5, A11, Eggen) reports "at least half a dozen" of Attorney General Alberto Gonzalez's "senior aides also worked under him when he ran the White House counsel's office." Former colleagues "now at Justice include his chief of staff, his deputy chief of staff, two senior counselors and the head of the legal policy office. In addition, the Bush administration's nominee to be Gonzales's second-in-command, Timothy E. Flanigan, also served as his White House deputy." Still, Justice officials are "quick to stress that this group of alumni is part of a broader circle of advisers that Gonzales relies upon, including holdovers from John D. Ashcroft's tenure and new hires who have not worked closely with him in the past." Gonzalez deputy chief of staff D. Kyle Sampson "said that 'talking about a White House mafia or something like that would not accurately characterize his openness and inclusiveness.'" The Post adds many Gonzalez aides "have extensive and deeply conservative credentials." Among them are chief of staff Theodore W. Ullyot, Associate Attorney General Robert D. McCallum, Tasia Scolinos, the director of public affairs, counselors Raul F. Yanes, Jeffrey Taylor, and Courtney Simmons Elwood, Rachel Brand, acting head of the department's influential Office of Legal Policy, Michael A. Battl , head of the Executive Office of U.S. Attorneys, and Deputy Attorney General-designate Timothy E. Flanigan.

Female Candidates Given Good Chance. The Wall Street Journal (7/5, Bravin, Cummings, Greenberger) says the retirement of O'Connor, "the first woman on the Supreme Court and one of two currently, is expected to raise the profile of female candidates." The two women "most often mentioned on Bush short lists are Edith Jones, 54 years old, a former general counsel of the Texas Republican party who was appointed by President Reagan in 1985 to serve on the US Appeals court in New Orleans, and Janice Rogers Brown, 55, the African-American daughter of sharecroppers who grew up Greenville, Ala. and attended segregated schools. After fierce resistance by Senate Democrats, she was recently confirmed to become an appeals court judge as a result of a deal between moderate Democrats and Republicans." The Journal adds, "Social conservatives are comfortable with Judge Jones, who passes their abortion litmus test with high grades."

Special Interest Groups Gear Up For Nomination Fight. CNN's Inside Politics (7/11, Franken) reported, "Just about every special-interest group in the world on either side of the political spectrum has geared up for" the coming fight over Bush's Supreme Court nominee. The groups have "spent months raising millions to get ready for a battle royale, which is going to be taking place without a doubt once the president names his nominee. He says he wants somebody to be on the court, a replacement for Justice O'Connor, by October. There's an awful lot of battle ahead before that occurs."

The Washington Post (7/5, Edsall) reports "participants predict the competition for cash will turn the Senate confirmation into the most expensive nomination fight in the nation's history, certain to break $50 million and, if the nominee is especially controversial, likely to approach $100 million. Most of the money raised would not be publicly reported." The Post adds, "With the exception of such groups as MoveOn PAC, many organizations active in the fight are tax-exempt and have few, if any, disclosure requirements." On the right, "Progress for America, which spent $45 million in behalf of the Bush 2004 campaign, is committed to spending $18 million for targeted radio and television ads; the allied Judicial Confirmation Network plans to spend $2 million to $3 million for grass-roots lobbying of key senators; and Tony Perkins, president of the Family Research Council, has vowed to put unspecified 'millions' behind a conservative

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nominee." On the left, "such groups as People for the American Way and MoveOn PAC already flexed their muscles in the debate over the 'nuclear option' proposal of Senate Majority Leader Bill Frist (R-Tenn.) to end filibusters of judicial nominees. With far lower levels of public interest, People for the American Way was able to collect $5 million for the filibuster issue, MoveOn raised $1.5 million and the Alliance for Justice raised $1 million."

Deal On "Nuclear Option" Seen As Key Factor In Upcoming Battle. The Christian Science Monitor (7/5, Chaddock) reports this morning, "The decision of 14 senators -- whether to hold or abandon an agreement to keep the wheels of the judicial appointments moving -- is emerging as the wildcard in the looming confirmation fight over the US Supreme Court." Six weeks ago, recounts the Monitor, "the Gang of 14 stunned the Senate by a bipartisan pact to allow long-delayed votes on President Bush's most controversial nominees, while preserving the minority's right to filibuster under 'extraordinary circumstances.' … Now that pact meets its ultimate test: filling a seat on a Supreme Court closely divided on issues ranging from abortion to property rights." Democrats "say the nuclear option is off the table for a Supreme Court nomination fight. Republicans say it emphatically is not. In the end, it's the Gang of 14 who decide which side is right. The key question: How resilient is that pact and the trust that binds it?"

More Commentary. Robert Bork, a former judge of the US Court of Appeals whose Supreme Court nomination was rejected by a Democratic Senate in 1987 writes in the Wall Street Journal (7/5), "Democratic senators' filibusters of the president's previous judicial nominees demonstrate liberals' determination to retain the court as their political weapon. … The leaders of the Democratic Party in the Senate are making it the party of moral anarchy, and they will fight to keep the Court activist and liberal. The struggle over the Supreme Court is not just about law: it is about the future of our culture." Adds Bork, "To restore the Court's integrity will require a minimum of three appointments of men and women who have so firm an understanding of the judicial function that they will not drift left once on the bench. Choosing, and fighting for, the right man or woman to replace Justice O'Connor is the place to start."

Along similar lines, the Wall Street Journal (7/5) editorializes, "For liberals, the courts have become the preferred way to win policy victories now that Americans are consistently rejecting their agenda at the ballot box. Unlike Barbara Jordan and her colleagues 25 years ago, modern liberals are unlikely to be satisfied with a nominee who is a 'good lawyer and believes in the Constitution.'" But "the only way to stop 'borking' as a political strategy is to defy and defeat it. Mr. Bush told voters in 2000 and 2004 that he would nominate Justices in the mold of Antonin Scalia and Clarence Thomas. He owes it to the country, and his most loyal supporters, to keep that promise."

GOP Senators Crafting Compromise Stem Cell Legislation. Roll Call (7/5, Preston) reports, "A group of Republican Senators is working quietly on new embryonic stem-cell legislation intended to appease scientists while also avoiding a potentially politically damaging presidential veto. … The basis of the still-to-be drafted Senate bill would allow for federal funds to be used for embryonic stem-cell research, but would require that the embryo not be harmed during the process. Several Republicans said Congress should be promoting a technique currently used during genetic testing and in vitro fertilization that allows for a stem cell to be taken from the embryo without destroying it." Sen. Rick Santorum said, "Even though I question the potential of that research, nevertheless it is an area that the scientific community wants to do research and we want to make sure it is done in an ethical way." Santorum "said the discussions include Senate Majority Leader Bill Frist and Health, Education, Labor and Pensions Chairman Mike Enzi. Sen. Johnny Isakson "who is involved in the talks about the safe extraction of stem cells from embryos, said he thinks that this compromise bill would appease people on both sides of the debate."

California Stem Cell Research Institute Yet To Make Headway. The Wall Street Journal (7/5, Hamilton) reports that as Congress fights "over a bill that could expand federal funding for embryonic stem-cell research, California's newly minted $3 billion commitment to the field is still trying to get itself off the ground." Eight months "after a state ballot initiative, Proposition 71, established the California Institute for Regenerative Medicine, the stem-cell agency's main accomplishment has been to bootstrap itself into existence." The Institute's "real mission -- to funnel roughly $300 million a year into California-based stem-cell research and facilities over the next decade -- is stalled." The Institute's funding "is in limbo" because of a lawsuit, while it has "been beset with controversies over its accountability and openness, including an effort by state legislators -- now on hold -- to impose tougher standards on the effort."

FEMA Asks Floridians To Return Aid Overpayments. The Washington Post and the New York Times run an AP story this morning (7/4) reporting that the Federal Emergency Management Agency "has asked thousands of Floridians whose homes were damaged by last summer's four hurricanes to give back more than $27 million in aid overpayments." FEMA "earlier this year began mailing letters to residents in efforts to recoup the overpayments from people who received federal aid after Hurricanes Charley, Frances, Ivan and Jeanne hit Florida last August and September." According to data supplied to the Fort Myers

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News-Press through a Freedom of Information Act request, "the agency detailed 6,579 cases in which they say people owe a total of $27.2 million."

Pelosi Files Travel Reports On Three Previously Undisclosed Trips. In an indication that Democrats may not get the mileage out of the controversy over House Majority Leader Tom DeLay's travel at the expense of outside groups, House Minority Leader Nancy Pelosi on Friday filed reports on three previously undocumented trips. The Washington Post (7/5, A3, Allen) reports Rep. Pelosi "filed delinquent reports Friday" for the three trips "that were worth $8,580 and occurred as long as seven years ago." Pelosi's filing is "among hundreds of revisions from members of both parties who have amended missing or incomplete reports as scrutiny of lawmaker travel has intensified." The "most expensive trip was not reported on Pelosi's annual financial disclosure statement or on the travel disclosure form that is required within 30 days of a trip." House ethics committee members "have shown no appetite for taking up all those cases and are considering an amnesty for reporting violations, although not for serious matters such as accepting a trip from a lobbyist, which House rules forbid." The unreported trip "was a week-long 1999 visit to Taiwan, paid for by the Chinese National Association of Industry and Commerce, for 'meetings with government, military and business officials,' according to a filing Pelosi signed June 30. The flights cost $3,400 each for Pelosi and her husband. The hotel cost was $940. The sponsor, which has picked up trips for leaders of both parties, paid $300 for meals."

Federal Employees Concerned Salary Raises Will Be Less Frequent Due To Reforms. The Washington Post (7/5, A11, Lee) reports, "Here is why working for the federal government is so good: Federal civil servants, on average, have received a pay raise in every year but two since 1969, meaning they can pretty much bank on seeing their paychecks grow annually. But there is a cloud inside that silver lining: Average annual wages and salaries in the private sector have grown faster than civil service pay in the past 36 years, and so have consumer prices. … Many federal workers are growing increasingly anxious about their pay as the Bush administration prepares to toss out the 15-grade General Schedule, which links pay to longevity in a job, and replace it with a system that more directly ties salary increases to performance evaluations." Colleen M. Kelley, president of the National Treasury Employees Union, "said she fears that annual raises will suffer."

OTHER NEWS:

Settlement Expected In Wrongful Death Suit Involving Capitol Police. Roll Call (7/5, McArdle) reports, "A wrongful death suit brought by the wife of a Maryland man who died while in custody of the Capitol Police is likely headed toward settlement, a lawyer for the deceased's family said after a status hearing Thursday. After scheduling another status hearing for early October, U.S. District Judge James Robertson agreed, at the request of both sides, to refer the case to a magistrate judge, who could arbitrate a settlement agreement." Roll Call notes, "The original lawsuit was filed in U.S. District Court for the District of Columbia in November 2004 by the family of Brandywine, Md., resident Gary Thompson. Thompson died Feb. 9, 2004, after he was arrested by Capitol Police following a traffic accident outside Union Station. His widow, Lois Thompson, is seeking $50 million in compensatory damages, as well as legal fees." Roll Call adds, "According to the lawsuit, Capitol Police officers responding to an accident in which a van driven by Gary Thompson collided with a taxicab…found Thompson still in his vehicle hunched over the steering wheel. The family contends that Thompson, a diabetic, suffered from a diabetic seizure shortly before the accident occurred. … After removing Thompson from the vehicle, officers placed him on the ground on his stomach and handcuffed him. … Thompson then fell unconscious; when paramedics arrived, they were unable to locate a pulse. He was pronounced dead about an hour later at Washington Hospital Center." Roll Call relates, "The following month, the D.C. Office of the Chief Medical Examiner labeled the cause of death 'positional asphyxia,' meaning his chest and rib cage were not able to expand so that he could draw breath. The death was ruled a homicide."

Health Net Vows To Fight Louisiana Judgment. The Los Angeles Daily News (7/2, Hopkins) reported that Health Net "vowed Friday to keep up its legal fight" following a Louisiana court decision applying "$117 million in fines stemming from the failure of three former subsidiaries." Health Net "sold its Foundation Health Plans in Louisiana, Oklahoma and Texas in April 1999 to AmCareco Inc. for an undisclosed price. Within three years, state regulators took over all three and placed them into receivership. Alleging fraud, conspiracy, negligence and other crimes, the receivers then sued both companies. Health Net has maintained its innocence throughout, but faced a setback on Thursday when a Louisiana jury awarded the Texas receivers $52.4 million in compensatory damages and another $65 million in punitive charges Roughly $8 million of the compensatory damages would be paid by other parties in the suit, however."

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Health Net Vice President for Investor Relations David Olson said, "We continue to believe that the claims have no merit. We're going to continue to fight because we believe in our case. The fact of the matter is we sold them in 1999 and it was three years later that they became insolvent."

MarketWatch (7/1, Pritchard) reported that Health Net said it "continues to believe that the plaintiffs' claims have no merit and said it will 'continue to vigorously pursue all avenues of redress, including post-trial motions, appeals and its pending cross claims against other parties.'" The Portland Business Journal (7/2) reported that Health Net "said it will continue to vigorously pursue all avenues of redress, including post-trial motions, appeals and its pending cross claims against other parties." The Los Angeles Business Journal (7/1, Filus) also reported that Health Net "said it disagreed with the jury's decision and planned to appeal the judgment."

The Los Angeles Times (7/2) and the Hartford Courant (7/2) both ran a Bloomberg News brief on the Louisiana decision.

Merck Seeks Postponement Of First Vioxx Trial. The AP (7/4) reported that Merck is "asking a judge to delay the first wrongful death trial over its pain reliever Vioxx, saying it cannot receive a fair trial if the Texas case begins next week as scheduled. The company wants the trial postponed for at least 60 days, citing recent publicity about the drug. Merck withdrew the drug in September when research showed that patients who took it for 18 months or longer more than doubled their risk for heart attack and stroke. Since then, more than 2,400 Vioxx lawsuits have been filed nationwide." A hearing on Merck's motion is slated for today in Texas.

USA Today Backs "Health Courts" For Medical Legal Matters. USA Today (7/5) editorializes, "Physicians often abandon their best judgment if they think a test might protect them in a malpractice lawsuit." Defensive medicine "can reassure patients, but it isn't benign. It results in unnecessary cesarean sections, painful breast biopsies in women with lumps unlikely to be cancerous, and hospitalization of patients who don't need that level of care. The practice is pervasive and costs at least $60 billion a year, according to the Department of Health and Human Services -- paid by people's insurance premiums. … So far, the leading idea for a remedy has been President Bush's proposal to cap jury awards for pain and suffering, but it is stalled in the Senate and is a partial cure at best. Caps might lower malpractice insurance costs, but they don't tackle deeper problems. One intriguing idea, backed by the bipartisan legal reform group Common Good, is special 'health courts,' where judges experienced in medicine would try cases without juries. … The national malpractice roulette is inefficient and unjust. Health courts could show the way for quicker and fairer compensation to the deserving, and they might reduce the incentive for doctors to engage in defensive medicine that puts patients at risk. Starting the experiment is the right medicine for an ailing system."

Trial Lawyers Group's President Opposes Idea. In an opposing op-ed in USA Today (7/5), Association of Trial Lawyers of America President Todd A. Smith writes, "Replacing the basic fairness of individualized justice determined by the wisdom of 12 American men and women sitting on juries with one-size-fits-all 'health courts' is a bad idea and would impose huge additional burdens on state taxpayers. Our current legal system recognizes that each case has unique circumstances and gives juries -- your friends, neighbors and co-workers -- the responsibility to make fair decisions based on all the facts. The fundamental unfairness of health courts is the assumption that all similar injuries are the same. Would a typical American jury say the loss of a finger is worth more to a concert pianist than an office worker? Would 12 citizens decide reproductive systems are more important to people of child-bearing age than to elderly people? That's why we have juries."

Victims, Descendants Pursue Lost Art Using SCOTUS Ruling. The Christian Science Monitor (7/5, Dotinga) reports on individuals who are taking on foreign governments "to force the return of artwork," such as that looted in the 1930s and 1940s by the Nazis. Although "some museums have returned plundered artwork to their owners or their descendants," other museums "seek support in European laws that emphasize statutes of limitations and the ownership rights of those who made purchases in 'good faith.'" The US Supreme Court "helped matters last year when it paved the way for Americans to sue foreign countries over stolen art." Even if American plaintiffs win their cases, however, "they'll face the challenge of convincing foreign governments to cough up the artwork." American lawyers who work on stolen art cases "say many disputes are handled privately, outside the court system. Bad publicity and the expense of hiring attorneys to fight lawsuits could convince foreign museums to try that route."

Iran Accuses US, Israel Of Lying About President-Elect. The AP (7/4, Dareini) reports Iran "accused the U.S. and Israel on Sunday of a smear campaign against its president-elect and warned Europe, which is in tricky nuclear negotiations with Tehran, not to join in the mudslinging." President-elect Mahmoud Ahmadinejad "has been accused of taking American hostages in 1979 when radical students seized the U.S. Embassy in Tehran. Iranian exiles and an Austrian politician are alleging he was involved

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in the 1989 slaying of a Kurdish leader and two associates in Vienna." But Iranian officials "have denied both allegations." Iranian Foreign Ministry spokesman Hamid Reza Asefi said, "The charges are so evidently false that they don't deserve an answer. It's clear that it's mere lies. Europeans should show their political maturity and not intertwine their interests with those of the Americans. They are advised to seriously avoid interference in this issue. We advise the Europeans not to fall into the trap of the Zionist media." The Washington Times (7/4) also runs the AP story.

Pakistani Supreme Court Overturns Acquittals Of Gang Rapists. NBC Nightly News (7/3, story 10, 2:25, Maceda) reported, "When Pakistan's Supreme Court overturned the acquittals this past week of 13 men accused of ordering and carrying out a so-called 'honoree', women's right's activists called it much more than a victory for the rape victim, 36-year-old Mukhtar Mai." Shahnaz Bokhari, women's right's activist:

As Many As Nine Defendants May Be Tried Jointly For Srebenica War Crimes. The New York Times (7/4, Simons) reports, "Prosecutors at the United Nations war crimes tribunal in The Hague are preparing a joint trial of nine of the highest-ranking officers accused of playing integral roles in the Srebrenica killings. Such a large joint trial would dwarf any other proceedings the court has held. All nine men face charges of war crimes and crimes against humanity, and five of them are accused of complicity to commit genocide. A joint trial is possible because eight of the generals and senior officers from the Bosnian Serb Army have arrived in The Hague in recent months, their 'voluntary surrender' largely a result of international pressure on the Serbian authorities. … Judges at the tribunal that deals with the former Yugoslavia must still approve prosecuting the men as a group, and no trial date has been set. Some lawyers who follow the court have said they fear that a joint trial could become a management nightmare, involving at least 18 defense lawyers and many prosecutors. Several defense lawyers have already objected to a joint trial."

Abbas Weighs Allowing Jordanian Troops Into West Bank. The Washington Times (7/5, Mitnick) reports, "Palestinian security chiefs and Jordanian officials are discussing sending a unit of the Jordanian military to the West Bank to boost stability after Israel's withdrawal. The deployment, backed by Palestinian Interior Minister Nasser Youssef, would strengthen Palestinian President Mahmoud Abbas' hand to enforce law and order on rogue bands of Palestinian militants that could undermine his administration." The Times adds, "Inviting the Jordanian troops across is a political decision that the Palestinian president has put off because it would signal a more confrontational approach toward militants."

Anti-Chavez Activist Faces 28 Years In Prison. The Christian Science Monitor (7/5, Ceaser) reports that Venezuelan political activist Maria Corina Machado could face up to 28 years in prison for "treason to the nation" and conspiracy. Machado, who works for Sumate, the organization that led last year's unsuccessful bid to recall President Hugo Chávez from office, has become "a cause célèbre for Chávez's opponents and a demon for his supporters. So when Machado met with President Bush in the White House May 31, it raised a firestorm of government criticism back in Caracas. Venezuela's foreign minister called the meeting 'a provocation,' and the interior minister charged that Machado was a puppet of the CIA, continuing the heated rhetoric that has characterized the relationship between the Bush administration and Venezuela's leftist leader."

Political Scandal In Brazil Intensifies. The Financial Times (7/5, Colitt) reports, "The political crisis in Brazil intensified on Monday as fresh allegations of improper fundraising threatened to force the resignation of figures close to President Luiz Inácio Lula da Silva." Lula da Silva's government is "at its weakest since it came to power in January 2003." The Times adds, "Over the weekend Mr Lula da Silva's Workers' party, or PT, admitted having received financial aid from Marcos Valerio de Souza, head of a publicity firm with government contracts and the chief suspect in pay-offs to legislators. Delubio Soares, the PT's treasurer, admitted giving misleading information about the party's relations with Mr de Souza. The PT had previously denied a financial relationship with Mr de Souza, a friend of Mr Soares. … The scandal has angered traditional supporters of the PT, which for most of its 25-year existence has campaigned under the banner of ethical politics."

Gay Couples Register To Marry In Spain. The New York Times (7/5, Mclean) reports, "The lines inside the Madrid Civil Registry, where capital residents apply for marriage licenses, swelled with gay and lesbian couples for the first time on Monday, four days after Parliament passed a law giving same-sex couples across Spain the right to marry and to adopt children. The vote makes Spain the first nation to remove all legal distinctions between same-sex and heterosexual unions, say advocates for marriage rights for gay couples. Belgium, Canada and the Netherlands have also legalized gay marriage, but only Canada's laws, which do not yet apply to all of the country, contain language as liberal as Spain's."

Five Countries To Face EU Suits Over Energy Markets. The Wall Street Journal (7/5) reports, "The

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European Commission is set to launch court cases against five European Union countries that have failed to pass laws deregulating national energy markets, as part of a crackdown on laggard governments, people familiar with the matter said. At a meeting today, the commission is expected to endorse a decision to sue Estonia, Greece, Ireland, Luxembourg and Spain at the European Court of Justice, a source said. The court has the power to impose heavy fines, but it usually takes about 20 months for it to deliver a verdict. … The court cases are the final step in the commission's legal process. The commission uses the courts only when governments have failed to heed two warnings to bring national legislation into line with EU law. Today, the commission will issue roughly 3,800 reprimands -- ranging from first warnings to suits -- to member governments."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Travels to Fredensborg, Denmark for G-8 Summit.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: OSCE PARLIAMENTARY ASSEMBLY _ The 14th Annual Session of the Organization for Security and Co-operation in Europe (OSCE) Parliamentary Assembly, whose participating states span the geographical area from Vancouver to Vladivostok, is held with the theme, ``30 Years Since Helsinki: Challenges Ahead." Location: JW Marriott Hotel, 14th St. and Pennsylvania Ave. NW.

EUROPE-US _ 10 a.m. The National Press Club hosts a Morning Newsmaker news conference with Jean-Louis Schneiter, the Mayor of Reims, France. He discusses relations between the peoples of Europe and the United States. Location: National Press Club, Zenger Room.

HUMAN RIGHTS _ 2 p.m. News conference by Kathy Kelly, co-founder of Voices in the Wilderness; Bill Quigley, attorney representing Voices in the Wilderness; and Bert Sacks, Voices delegate fined by the U.S. government for traveling to Iraq, in advance of a Wednesday court hearing on charges of taking medicine to Iraqis. Location: National Press Club, Murrow Room.

CATASTROPHIC TERRORISM _ 2:30 p.m. The United States Institute of Peace hosts a briefing on the Report of the Task Force on the United Nations, ``Deterring Death and Destruction: Catastrophic Terrorism and the Proliferation of Nuclear, Chemical and Biological Weapons," with speakers Thomas Pickering, Boeing Co., member of the Task Force; Robert Einhorn, CSIS, lead expert with the Task Force; and moderator Gary Matthews, U.S. Institute of Peace. Location: U.S. Institute of Peace, 2nd Floor Conference Room, 17th St. NW.

HIGHER EDUCATION-IRAQ _ 6 p.m. The American Association for the Advancement of Science (AAAS) hosts a panel discussion on ``The Future of Higher Education and Scientific Research in Iraq," with Dr. Beriwan Muslih Khailany, Iraq's Deputy Minister of Higher Education; Dr. Mosa Jawad Aziz Almosawe, President, University of Baghdad; and Dr. D.J. Patil, AAAS Defense Policy Fellow. Location: The American Association for the Advancement of Science, Auditorium, 12th and H Streets, NW.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"Bush Cool To Blair On Climate"
"This Diet Pill Contains Saturated Advertising"
"Mexico's Master Of Elusion"
"Planting A Seed Of Self-Sufficiency"
"Birders Discover They're The Ones Being Watched"
"Comet Show Leaves NASA Speechless"

USA Today:

"Deep Impact Crashes Into History"
"Eric Rudolph Eluded The Feds For Years. Now, For The First Time, His Mother Shares Letters The Serial Bomber Wrote From Jail."
"Bush Says To 'Tone Down' Rhetoric"

New York Times:

"Pentagon Weighs Strategy Change To Deter Terror"
"Spacecraft Hits Passing Comet, Just As Planned"
"O'Connor Leap Moved Women Up The Bench"
"Presidents, Choosing Justices, Can Wind Up With Surprises"
"Spy At Center Of Leak Case Still In Shadow"
"For Iranian Women, Dress Code Is Still Modest, But Golf Friendly"

Washington Post:

"China Tells Congress To Back Off Businesses"
"At D.C.'s Party, Spectacle and Security"
"Iraqi Clerics Plan Edict On Sunnis' Political Role"
"NASA Succeeds In Crashing Craft Into Comet"
"Nationals At RFK Stadium Is Summer's Hottest Ticket"
"'I'm Not Going to Come Home': One Marine's Third Iraq Tour"

Washington Times:

"Clearing The Books In Africa"

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"Undiplomatic Sparks Fly On 4th In Kenya"
"Bush Heads To G-8 Summit In Scotland"
"Iraqi: No Talks With Killers"
"War Dogs Lap Up Support"
"Two Freed By Aruba In Missing Girl Probe"
"West Bank Plan Eyes Jordanians On Patrol"

Detroit Free-Press:
"Cop Suits Cost $44.7 Million"
"Urologist Faces 9 New Charges"
"Southfield Schools May Ban Blue Jeans"
"Gambling On The All-Star Game"
"Iraq Is Now Seen As Top Terror Training Ground"

Atlanta Journal-Constitution:
"A City On The Move"

Dallas Morning News:
"School Financing Fought On 2 Fronts"
"Mexico: Cartel Leader Caught"
"Meet The New Boss: He's Getting Younger"
"Great Expectations Hang Over Blair As G-8 Nears"
"Banded Together"

Houston Chronicle:
"Clerics Urge Iraq Sunnis To Take Part In Elections"
"As NASA Evolves, What Will Replace The Shuttle?"
"NASA Probe Scores Bull's-Eye On Comet"
"Devices To Extend Life Fall Short"

Story Lineup From Last Night's Network News:
ABC: Deep Impact; Deep Impact-Analysis; Afghanistan-Missing SEALs; Iraq-July 4th Observations; ID-Sexual Predator; Evangelicals-Supreme Court Vacancy; UCC-Same Sex Marriage; TV-Learning; Commuter Tolls; Bowling.
CBS: Afghanistan-Missing Seals; Iraq-Militant Arrests; G-8 Summit; Deep Impact; Deep Impact-Analysis; ID-Sex Offender; Fallen Heroes; Iraq-Artificial Limbs; US-Newest Citizens; Benefits Of Laughter; Stram Obit; TN-Country Doctor.
NBC: Afghanistan-Missing SEALs; Afghan War-Status; Iraq-Marines On Patrol; G-8 Summit; Bush-Supreme Court Nominee; Deep Impact; Fuel-Efficiency Tips; Mississippi River Cleanup; Independence Day Celebrations.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: ID-Missing Boy; Aruba-Missing Girl; Afghanistan-Missing Navy SEALS; Bush-G-8 Summit; LA-Tropical Storm Watch.
CBS: Independence Day Celebrations; Bush-West Virginia; Pentagon-Readiness Strategy; Afghanistan-Missing Navy SEALS; ID-Missing Boy.
NPR: G-8 Meeting; African Leaders' Meeting; Bush-West Virginia; United Church Of Christ-Gay Marriage; NASA-Comet Intercept; LA-Tropical Storm Watch; Mexico-Tropical Storm; Foreign Currency Markets; Indonesia-Undersea Earthquake.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

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TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, JULY 5, 2005 7:45 AM EST

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TERRORISM NEWS:

Saudi Arabia Says Kills Top Al Qaeda Militant (REU-Y2)

By Dominic Evans

Reuters, July 5, 2005

Saudi Arabia's security forces killed the man at the top of its list of most wanted al Qaeda leaders in a clash in Riyadh on Sunday, the Interior Ministry said.

Moroccan national Younis Mohammad Ibrahim al-Hayyari, accused of involvement in a series of attacks in the world's biggest oil exporter, died after exchanging fire and hurling hand grenades at police, the ministry said.

Hayyari topped a list of 36 al Qaeda suspects released by Riyadh last week. The ministry said he had helped prepare explosives and played a part in several attacks in Saudi Arabia.

"He was recently nominated by his colleagues to be the leader of strife and corruption in the land after the death of his predecessors," the statement said.

A senior Saudi official described Hayyari, 36, who reportedly fought in Bosnia in the 1990s and came to Saudi Arabia in 2001, as a shadowy figure who was "more of a strategic leader than field commander."

He was a link to al Qaeda outside Saudi Arabia, brought funds into the kingdom, and was friend to a Muslim scholar close to al Qaeda's leader in Iraq, Abu Musab al Zaraqawi, the official said.

Saudi Arabia has been battling suspected al Qaeda militants since May 2003 when they launched a wave of violence with triple suicide bombings at Western housing compounds in Riyadh.

Interior Minister Prince Nayef said Sunday's operation was the result of extensive surveillance by Saudi security forces, and he pledged to pursue other suspected militants.

"God willing, we will reach the rest using the same method," he said after seeing wounded security officers.

De facto ruler Crown Prince Abdullah told President Bush in an Independence Day message that Saudi Arabia was determined to "work with its friends to uproot all factors of destruction and terrorism."

Al Qaeda is fighting to expel non-Muslims from the Gulf state, which is home to Islam's two holiest sites in Mecca and Medina, and wants to topple its pro-Western absolute monarchy.

The attacks have killed 91 foreign nationals and Saudi civilians and wounded 510 others, Saudi Arabia's ambassador to London Prince Turki al-Faisal said last week.

Forty-one security force members have been killed and 218 wounded, while 112 militants have been killed and 25 wounded, he said. He put material losses at 1 billion riyals ($270 million).

There have been fewer recent attacks, but last month gunmen killed a security officer in Mecca and diplomats say three helicopters were set on fire at a military base north of Riyadh.

LEADERS KILLED

Successive leaders of the Saudi wing of al Qaeda have been killed since 2003 and Saudi officials say their replacements are increasingly inexperienced. But Western counterterrorism experts say al Qaeda has shown a resilience and ability to regenerate.

One other man was arrested at the scene of Sunday's clash and two others surrendered in a simultaneous police raid in the same district of eastern Riyadh.

Prince Nayef described Hayyari as a "dangerous man" but said others on the wanted list were just as dangerous. The three captured men were not on the list, he added without elaborating.

Last week Saudi Arabia issued its new wanted list of al Qaeda suspects -- most of whom are Saudis but some are from Chad, Yemen, Morocco and Mauritania.

It offered a reward of up to 7 million riyals ($1.87 million) for anyone who helped authorities capture a militant or foil a planned attack.

One of the 36 suspects, Fayez Ayoub, flew back to Riyadh on Friday and surrendered to authorities. Newspapers have reported at least two others on the list have already been killed in neighboring Iraq, where insurgents are battling U.S. forces.

All but two men on a previous list of 26 wanted militants, published in December 2003, are believed dead or in custody.

Head Of Saudi Al Qaeda Killed In Clash In Riyadh (WSJ/AP)

Associated Press

The Wall Street Journal, July 5, 2005

Security forces killed the al Qaeda terrorist group's leader in Saudi Arabia during a fierce gun battle Sunday in the capital , Riyadh, an Interior Ministry official told this country's official news agency.

Younis Mohammed Ibrahim al-Hayari, a Moroccan, was killed during a dawn raid by security forces on an area where suspected militants were hiding, an Interior Ministry official was quoted by Saudi Press Agency as saying.

The clashes took place in the Rawdah district, an upscale neighborhood in eastern Riyadh, said Interior Ministry spokesman Lt. Gen. Mansour al-Turki.

The unidentified official quoted by SPA said Mr. Hayari headed Osama bin Laden's al Qaeda terror network in the kingdom, which has been ravaged by terrorist attacks during more than two years of violence.

"He [Mr. Hayari] was nominated by his peers, and following the death of those preceding him, to be the head of sedition and corruption in the land," the official said in the SPA report.

Mr. Hayari topped a list issued Tuesday of 36 most-wanted militants sought for participation in previous terror attacks in the kingdom dating back to 2003. On Wednesday, Saudi Interior Minister Prince Nayef warned that the possibility of more attacks. Mr. Hayari was believed to have had close ties to Abdul Karim al-Majati, an al Qaeda leader killed in April 2005.

The Interior Ministry official said security forces conducted two simultaneous operations in eastern Riyadh to capture suspects and killed Mr. Hayari after a shoot-out, while arresting three other suspected militants, who were not identified.

It said the first operation ended without incident and with two suspects surrendering. But in the second raid, militants engaged in a gun battle with troops and threw grenades before Mr. Hayari was killed and another extremist was arrested.

"The two operations have concluded, but we will continue to pursue all the terrorists," Lt. Gen. Turki said. The report said six security force personnel were slightly wounded in the gun battles while weapons, munitions, communications equipment, computers and documents were seized at both scenes.

According to information released by Saudi authorities earlier this week, Mr. Hayari entered Saudi Arabia five years ago for the annual hajj pilgrimage season but remained in the country with his wife and young daughter.

Saudi officials said Mr. Hayari, 36 years old, had regularly disguised himself to avoid capture and had been previously spotted in Riyadh.

This oil-rich kingdom has suffered a series of heavy terrorist attacks since May 2003 when suicide bombers attacked three housing estates for foreigners in the capital Riyadh.

The kingdom then launched a wave of retaliatory raids against the militants, and issued a list of 26 most-wanted in December 2003. Security forces have killed or captured 23 of the 26 figures on that list.

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Saudi Security Force Kills Al Qaeda Figure (WP/AP)

By Abdullah Al-shihri, Associated Press

The Washington Post, July 4, 2005

RIYADH, Saudi Arabia, July 3 -- Saudi anti-terrorism forces killed al Qaeda's top leader in the Persian Gulf kingdom in a gun battle Sunday, but experts warned that Saudi Arabia still faces a surge in attacks despite its two-year crackdown on extremists.

Officials said a 90-minute battle in the eastern Rawdah district, an upscale neighborhood in Riyadh, was the latest blow dealt to Osama bin Laden's group in Saudi Arabia, a U.S. ally. Many of al Qaeda's leaders have either been killed or captured since authorities launched an offensive against the group in 2003.

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Younis Mohammed Ibrahim Hayari, a Moroccan, was killed in a dawn raid by security forces in an area where suspected extremists were hiding, according to an Interior Ministry official quoted by the state-run Saudi Press Agency.

Three other suspects were arrested, a security official said, speaking on condition of anonymity because of the sensitivity of the issue. He said Hayari and the three other men were on a list of Saudi Arabia's 36 most wanted terrorists that was issued Tuesday.

The government news agency, quoting an unidentified official, reported that Hayari headed al Qaeda in Saudi Arabia.

Hayari "was nominated by his peers . . . to be the head of sedition and corruption in the land." the official said.

On Wednesday, the Saudi interior minister, Prince Nayef, warned of the possibility of more attacks.

Security forces "killed the leader less than four days after they issued the list. That is a major victory, both on the intelligence and the logistical levels. It's a major intelligence breakthrough," said Mustafa Alani, a terrorism expert at the Gulf Research Center in Dubai.

He claimed that the terror group had a leadership crisis and that Hayari's killing would hinder the group's operations.

"There is clearly a leadership vacuum in the kingdom for Saudi Arabia and this will demoralize the members who are in hiding," he said.

Hayari was believed to have had close ties to Abdul Karim Majati, an al Qaeda leader killed in April.

The Interior Ministry official said security forces conducted two simultaneous operations in eastern Riyadh to capture suspects and killed Hayari after a shootout.

This oil-rich kingdom has suffered a series of attacks since May 2003, when suicide bombers attacked three compounds housing foreigners in Riyadh. Saudi security forces then launched a wave of retaliatory raids against the extremists, and in December 2003 issued a list of 26 most wanted suspects; 23 of them have reportedly been killed or captured.

Putting Islam On The Stand (LEGALT)

By Vanessa Blum, Legal Times

Legal Times, July 4, 2005

In a recent criminal trial in Virginia, the prosecutor told the jury that the defendant couldn't be trusted to tell the truth, that he would lie to their faces — all because of his religious beliefs.

The defendant, an American citizen accused of supporting terrorism, was convicted. The religion in question, of course, was Islam.

Now, the Virginia attorney representing Ali Al-Timimi is pushing for a new trial, saying that prosecutors secured the guilty verdict by appealing to religious bigotry against Muslims.

The case illustrates the difficulty in prosecuting suspected terrorists who subscribe to a form of militant Islam, without airing tenets of the religion itself before a jury. And it raises the question of how far is too far when it comes to using a defendant's religious beliefs as evidence of criminal intent. The issue will likely continue to confront judges as more cases against accused terrorists come to trial.

Timimi's lawyer, Edward MacMahon Jr., is seeking to overturn Timimi's conviction, citing prosecutorial misconduct and the prejudicial impact of statements he says portrayed Islam as a violent religion. One specific objection: that Assistant U.S. Attorney Gordon Kromberg instructed the jury in his closing argument that Timimi, a devout Muslim, would lie to jurors because the jurors were kafir — or nonbelievers.

Judge Leonie Brinkema of the U.S. District Court for the Eastern District of Virginia is likely to consider MacMahon's motion when Timimi appears for sentencing July 13.

Kromberg declined to comment, citing Justice Department policy. Bryan Sierra, a spokesman for the Justice Department's Criminal Division, said that department officials would not comment on a pending case. In a court filing responding to MacMahon's charges, Kromberg maintains that Timimi's personal religious views were "directly relevant" to the case.

"While such an argument may be unfairly prejudicial in a case involving a typical bank robbery, drug trafficking, or mail fraud, Timimi was charged with much different offenses," the brief states. "In light of the charges against Timimi, the government's arguments were directly relevant to his prosecution and fairly made."

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But Georgetown law professor and civil rights advocate David Cole says mere relevance may not be enough to justify repeated references to a Muslim defendant's religion during trial. Federal judges should exclude such evidence if its value is outweighed by the danger of unfair prejudice to the defendant, Cole says.

"There has been a tremendous demonization of Islam since Sept. 11, and the sins of al Qaeda have been spread to Islam generally in popular culture," Cole says. "The risk is that there is so much prejudice in the population at large that references to the Muslim faith end up clouding a jury's ability to determine guilt or innocence."

US VERSUS THEM

Since the attacks of Sept. 11, MacMahon, who also represents convicted terrorist Zacarias Moussaoui, has received a crash course in Islam. But during a recent interview, it was a story from the Old Testament — the violent tale of the Battle of Jericho — that was on the 44-year-old Catholic's mind.

According to the Bible, Joshua leads a force of 40,000 to take over the land of Canaan. After sending spies into a brothel to gather intelligence, the force conquers the city and slaughters its inhabitants, claiming the land as its own.

"If I told the story to a crowd of Christians, would I be telling them to go lie or to kill or to seek out prostitutes? Would I be responsible for inciting a riot?" MacMahon asks.

Such an argument would sound absurd in a federal courtroom, MacMahon asserts. No jury would believe it. But when it comes to the religion of Islam and how it is being portrayed in court, he says, it is a different matter. According to the government's case, Timimi, a religious scholar and popular lecturer on Islamic issues, urged a group of Virginia followers in the days after the Sept. 11 attacks to join the Taliban and fight U.S. forces in Afghanistan.

MacMahon says that jurors sitting in such trials who are unfamiliar with the religion may not recognize an argument that plays on their own biases. There were no Muslims on the panel that convicted Timimi. And, in fact, since Sept. 11, there has not been a single Muslim juror on a major terrorism case. Some experts say the culture gap between Muslim defendants and jurors may open the door to verdicts based on stereotypes.

"A Muslim juror wouldn't necessarily be more sympathetic, but there would be an opportunity for that juror to educate others about cultural differences and to dispel prejudices that might be expressed in the jury room," says New York jury consultant Julie Howe.

"Just like there can be racial prejudice, I think there is religious prejudice out there against Muslims, in particular since 9/11," says Howe, who advised defense attorneys for Mohammed al-Moayad, a Yemeni cleric convicted in March 2005 of supporting al Qaeda and Hamas. "Some jurors are inclined to believe that Muslims are predisposed to violence."

The federal courts have repeatedly grappled with how racial bias affects juries. But when it comes to the sensitive issue of religion, experts say the line between acceptable trial rhetoric and prejudicial remarks can be a fuzzy one. Unlike race, an immutable physical characteristic, religious beliefs can factor into a defendant's intent, motives, and world view — concepts central to criminal prosecution.

Timimi's defense lawyers are basing their request for a new trial on statements Kromberg made in his closing argument, including the prosecutor's final words to the jury: "If you're a kafir, Timimi believes in time of war he's supposed to lie to you. Don't fall for it. Find him — find Sheik Ali Timimi — guilty as charged."

Another remark cited by the defense team targeted one of Timimi's key witnesses. The witness testified that Timimi never told followers that Muslims had an obligation to wage war against the United States. In his closing, Kromberg told jurors not to believe the witness because he had also testified that he considered Shiite Muslims nonbelievers who should have their heads lopped off.

MacMahon says Kromberg's remarks were gratuitous — no one in the case was charged with committing such acts of violence. MacMahon further argues that the comments created an us-against-them atmosphere in the Alexandria, Va., courtroom.

"It is clear to counsel that the point that the government was trying to make to the jury was that Muslims are religiously obligated to wage war against the United States, to lie, and to kill," MacMahon states in his motion for a new trial.

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Kromberg maintains that his remarks never referred to Islam in general but only to Timimi's beliefs. In a June 20 brief responding to MacMahon's claims, Kromberg states, "It is an insult to Muslims in America and around the world for Timimi to claim that the beliefs he . . . [holds] are shared by Muslims generally."

Even before the start of Timimi's trial, Kromberg and MacMahon wrangled over whether prosecutors would be allowed to tell jurors that Timimi had stated a view that Muslims could lie to the enemy if they were at war.

MacMahon sought to bar the testimony, citing a federal rule of evidence that explicitly prohibits lawyers from using witnesses' religious beliefs to undermine their credibility. But in a pretrial motion, Kromberg argued that Timimi's willingness to lie was not technically a religious belief but a political one, and that his statements should be admissible because they proved bias. In addition, Kromberg said that the evidentiary rule was inapplicable because Timimi did not testify at his trial.

Brinkema ruled from the bench, siding with the government.

Henry Klingeman, a former federal prosecutor in New Jersey, says it would be unfair to prevent government lawyers from using a defendant's own statements as evidence simply because those statements deal with religious subjects.

"I think this is going to be an issue that we see a lot of in the future," Klingeman says. "In a case where a defendant is saying, 'I'm peaceful because I'm a religious person' and placing their own religious views at issue, it would seem to me that lawyers should be permitted to inquire about those views."

MATTERS OF FAITH

Indeed, legal experts say, there is often no way to effectively prosecute those who support terrorist organizations without examining their religious beliefs.

"It's a very serious issue in these trials because terrorists are cloaking themselves in pseudo-religion," says Jeffrey Addicott, director of the Center for Terrorism Law at St. Mary's University School of Law in San Antonio.

"By and large, prosecutors have acted very judiciously," Addicott adds. "They understand this is a war on an extreme sect that cloaks its acts in religiosity and does not represent the vast majority of Muslims."

But MacMahon is not the only defense lawyer who questions the government's emphasis on Islam during terrorism trials.

INFLAMMATORY TERMS USED

One common gripe from the defense bar is prosecutors' frequent use of Islamic terms like jihad and fatwa, which have negative connotations in America. Another is the use of expert witnesses to school jurors in the history of Islam, much like a prosecutor might use an expert witness to provide background on the Mafia in an organized-crime case.

"Essentially, many jurors' first experience learning about Islam would be from the prosecutor," says Detroit civil rights lawyer Shereef Akeel. "They don't have any reference points to assess the prosecutor's credibility."

Akeel, who sat in the courtroom during the 2003 terrorism trial of four Detroit-area residents, says he was disturbed by prosecutors' frequent use of the phrase "economic jihad."

"Rather than focusing on the elements of a crime, they cloud it by sprinkling the facts with these foreign terms that seem frightening to a person not familiar with the religion," Akeel says.

To prevent religious bias from affecting jury deliberations, jury selection in terrorism trials is particularly rigorous. Not only must prospective jurors answer scores of questions about their feelings toward Islam and the Middle East, they also are asked to state their own religion — a question that is ordinarily considered irrelevant.

In the Timimi case, prospective jurors were asked nearly a dozen questions related to religion, including their personal religious preference, the religion they were raised in, and how often they attend religious services. They also were asked if they knew any Muslims or had any familiarity with Islamic practices.

Marjorie Fargo, president of Jury Services Inc. in Alexandria, was appointed by the court to serve as a jury consultant for Timimi's defense team. Fargo says that the vast majority of those who filled out jury questionnaires in the case associated the word jihad — a term she says was "bandied about" during the trial — with violence or terrorism.

"In the Muslim religion, you can wage a jihad against anything, and because there was lack of understanding on that, it could possibly affect a juror's interpretation of the evidence," Fargo says.

MacMahon says he would have preferred to keep Timimi's religious beliefs out of the trial altogether.

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"If prosecutors had wanted to try the case based solely on what happened, they could have," MacMahon says. "Instead, we learned about the Koran and all these religious concepts. It never stopped."

MacMahon adds, "The effect of it, and the exact reason the government does it, is that the defendant has to defend himself against an aura of criminality that is unrelated to the actual events of the case."

Vanessa Blum can be contacted at vblum@alm.com.

Lawyers War Over Fees In Terror Suit (LEGALT)

By Bethany Broida, Legal Times

Legal Times, July 4, 2005

Steven Perles and Thomas Fortune Fay made their reputation representing victims of terror attacks in lawsuits against countries that sponsor terrorism. But the two D.C. lawyers are now embroiled in a legal battle over the multimillion-dollar fees their successful litigation brought about, with Perles fending off charges he misused money in a trust account that belonged to both of them.

In a suit filed June 20, Fay accuses Perles of improperly using $1 million of his terror-case proceeds as a bond in another suit filed against Perles by a former employee, Anne-Marie Kagy, who is seeking her own share of the proceeds. In the Kagy case, U.S. Magistrate Judge Alan Kay concluded that Perles owes the former employee almost $1.5 million.

Fay and Perles worked as co-counsel in high-profile terrorism cases, including two against the government of Iran that yielded judgments of almost $600 million, of which $54 million has been collected. And, in fact, their lobbying efforts had made such suits possible: They persuaded Congress in 1996 to pass a law permitting terrorism victims to collect a portion of their judgments from the frozen assets of states that sponsor terrorism.

Both Fay and Perles declined to comment about the substantive issues in the lawsuit, since the litigation is still pending and Perles has yet to file a response to Fay's complaint. But both say they hope that Fay's suit will not affect three other terrorism cases against Libya, Sudan, and Iran in which they are currently collaborating.

"It is just a lawsuit right now, and I hope it stays that way," Fay says. "It is unfortunate."

LITIGATING FLATOW

Anne-Marie Kagy was a law student when she went to work at the Perles Law Firm. Through her attorney, she also declined to comment for this article, but according to court documents, she continued to work for Perles after graduation, and in 1996 approached him about a full-time position. Perles told Kagy that he could not pay her a base salary, but offered to let her work on some of his cases on a contingency basis, meaning she would get paid only if and when he did.

One of those cases involved a wrongful death claim on behalf of the family of Alisa Flatow. In April 1995, the young American student was killed by a suicide bomber who blew up a bus on the Gaza Strip. Flatow's father, Stephen, filed a lawsuit against the Islamic Republic of Iran charging that the terrorist who killed Flatow was acting as an agent of Iran and its Ministry of Information.

At the time, the lawsuit was unprecedented and the chances of recovering any money from the case were considered remote, at best.

In addition to her work on the Flatow case, Kagy also worked on a group of cases involving claims by Jewish American citizens who were forced into slave labor in Nazi concentration camps during World War II. About half of those cases ended with a judgment, and Perles paid Kagy a third of his net proceeds.

Perles' fee in those cases was capped, so the money recovered was nowhere near the multimillion-dollar judgment the attorneys sought in the Flatow case.

All told, court documents say, Kagy received about $20,000 over the course of three years for her work on the Holocaust cases. In addition, she was paid $50 an hour for her work on some of Perles' other non-contingency cases. Specific arrangements for Kagy's compensation in the Flatow matter were never agreed upon.

Kagy worked on the Flatow case for three years. At first, she assisted Perles and his co-counsel, Thomas Fay, a D.C. solo practitioner, in drafting the complaint and overseeing the effecting of service on Iran.

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After the Iranian government refused to defend itself against the suit, the documents say, Kagy took on the responsibility of researching and writing a comprehensive memorandum analyzing and refuting every conceivable defense Iran might have raised if it had chosen to defend the claim.

In the court documents, both Perles and Kagy acknowledge she contributed valuable services to the Flatow litigation. Both also agree that Kagy was entitled to some compensation for her work, in the event money was ever collected.

In March 1998, U.S. District Judge Royce Lamberth entered a judgment in favor of Flatow for $22.5 million in compensatory damages and $225 million in punitive damages, based in part on Kagy's memo.

As her work on the Flatow case wound down, Kagy began working on a similar case involving two other American students, Matthew Eisenfeld and Sara Duker, who were also killed by suicide bombers on an Israeli bus. Again, the families sued Iran, claiming the country provided financial support for the terrorists.

The number of hours Kagy spent on the Eisenfeld and Duker cases was a matter of dispute, but Kagy left the firm in 1999.

In July 2000, Lamberth awarded the Duker and Eisenfeld families $327 million, including $27 million in compensatory damages.

The following October, Congress authorized payment of compensatory damages to victims of terrorism in suits against Iran. The money came from Iranian credits with the Department of Defense representing overpayments for military equipment and the proceeds on rental property that the Iranians owned in the United States.

Both judgments were ultimately paid out in January 2001.

KAGY MAKES A CLAIM

In December 2000, Kagy notified Perles that since judgments on the cases had finally come through, she was entitled to $3 million — a third of Perles' share and what she considered her part of the contingency payments in the Flatow and Eisenfeld and Duker cases.

The following month, Perles filed suit in the U.S. District Court for the District of Columbia seeking a declaratory judgment and saying that he and Kagy had an oral agreement that she would receive an "unspecified multiple of her normal hourly rate."

At the time, Perles' attorney, Steven Schneebaum, now a partner at Greenberg Traurig, told Legal Times that Perles would be happy to pay Kagy $75,000 for her work on Flatow, an amount he says reflected her agreed-upon hourly rate. Schneebaum said that Kagy had no basis to seek more.

In response, Kagy filed a counterclaim, and a $2 million attorney's lien was placed against the net proceeds of the judgments in an account managed by Perles' attorney.

Since Perles and Fay were equal partners in both the Flatow and the Eisenfeld and Duker litigation, half of the money taken for the lien belonged to Fay.

The litigation wound its way through the courts, with Perles arguing that while Kagy should be compensated for her work in the Flatow case, she was not entitled to any of the proceeds in the Eisenfeld and Duker cases because of her "very limited participation."

"Her name is on the pleadings. She did the work," says Mark Cummings of Sher, Cummings and Ellis, who represents Kagy. "But to this day she has not been paid a dime on either Flatow or Eisenfeld and Duker."

On April 20, more than four years after the initial suits were filed, the court entered a final judgment finding Kagy was entitled to about $1.4 million — or a third of Perles' fee — in the Flatow case and about $47,000, based upon an hourly rate, for her work on the Eisenfeld and Duker case.

Neither side was happy with the outcome, and both immediately filed appeals, which are still pending.

FAY JOINS THE FIGHT

Despite his partnership with Perles, Fay was never named as a party in the dispute between Perles and Kagy. But with a final judgment of more than $1 million in Kagy's favor, Fay became worried about his half of the money that was subject to the lien.

Over the next few weeks, in a series of letters and face-to-face meetings with Perles and his attorney, Schneebaum, Fay requested that his portion of the money be returned from the trust account, where it was held since 2001.

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In a May 19 letter to Perles and Schneebaum, Fay wrote, "Let me note that the lien asserted by Ms. Kagy was upon the proceeds from the Flatow and Eisenfeld cases, not upon the Perles share. On that basis I agreed to deduct $2 million from the Fay and Perles joint net proceeds to cover the amount of the asserted lien. Obviously a number of issues remain open including the question of whether the entire amount being held is subject to enforcement upon any judgment entered against Steve Perles, but not against me."

As the weeks passed, Fay grew increasingly concerned when he learned that the balance in the lien account had dropped to $1.6 million and that about $425,000 was transferred from the account to pay for Perles' legal fees, something that Fay says in court documents occurred without his permission. In addition, he learned Perles planned to use the remainder of the money to secure the judgment while he appealed his case.

In another letter, on May 27, Fay wrote, "I repeat my request for return of one half of the original escrow deposit amount. I did not agree to pay half of Anne-Marie Kagy's compensation or half of any judgment entered on her behalf. "

In the interim, according to court documents, Perles filed his motion asking that the money from the original lien placed be used as a bond to secure the judgment during the appeal process.

In his motion, Perles asserted that the amount in the account was $1,339,675, slightly less than the amount of the judgment. He said he would commit to keeping $1.5 million in the account to satisfy both the judgment and any interest.

"There was $2 million that was supposed to be put aside in a trust and not touched," says Kagy's lawyer, Cummings. "We have a pretty serious problem with that."

Without a satisfactory response from Perles about the return of his money, and with the balance in the account declining, Fay filed a lawsuit June 20, accusing Perles and Greenberg Traurig, which handled the trust, of unauthorized use of funds, unjust enrichment, and conversion. In his suit, Fay asked not only for his money back plus interest, but damages as well.

"The total money wasn't there, and I guess that is what upset me," Fay says.

Based on some of the documents submitted in Fay's suit, Kagy filed her own motion June 29, opposing Perles' request to use the lien as bond for the appeal and accusing Perles of committing fraud on the court.

If it is determined that Perles misappropriated money from the joint trust account, he could face an investigation by the D.C. Bar. Bar Counsel Wallace "Gene" Shipp Jr. declined to comment specifically on the lawsuit between Fay and Perles, but said the conduct that is alleged is the type that could trigger a bar ethics probe.

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Trial Set For Lodi Father, Son (LODINEWS)

By Layla Bohm

Lodi News-Sentinel, July 2, 2005

A Lodi father and son accused of terrorism ties but charged only with lying to agents could stand trial in August, though that's only if matters of national security don't slow things down.

At a Friday hearing in federal court, U.S. District Judge Garland E. Burrell Jr. set an Aug. 23 trial for Umer and Hamid Hayat, though he added, "I don't know how realistic that's going to be."

It hinges on whether the federal Classified Information Procedures Act slows the case down, because even Burrell's own staff members would have to undergo extensive background checks before being allowed to handle sensitive documents. The act, signed into law by Congress in 1980, limits the disclosure of anything that could affect national security.

Burrell set an Aug. 19 hearing on issues related to CIPA, and also set dates for attorneys to file motions related to CIPA procedures within the next two weeks. Additionally, he scheduled a July 15 hearing regarding whether the trial will have to be delayed.

Under federal law, the Hayats are entitled to a trial within 70 days from the date they were indicted. A grand jury on June 16 indicted Hamid Hayat, 22, with two counts of lying to federal agents about attending a terrorist training camp in Pakistan. His father is charged with one count of lying about his son's involvement.

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Defense attorney Johnny Griffin III argued that the government has had since May 29, when Hamid Hayat boarded a plane from Pakistan headed to the United States and triggered an alert because he was on a no-fly list. He was interviewed, allowed to continue to the U.S., and both men were arrested a few days later.

"It's not fair to these men who are sitting in jail," Griffin said in court. "The government should have dotted its i's and crossed its t's before putting these men in jail and labeling them as terrorists."

Assistant U.S. Attorney Steve Lapham argued that his office has already turned over 400 videos, CDs and DVDs, along with more than 2,000 pages of documents that need to be translated from Urdu, Pashto and Arabic. The documents could contain important things, Lapham said, citing a small piece of paper with Arabic writing that was found in Hamid Hayat's wallet.

"It is a highly significant document. A document like that could be buried in 2,000 pages," he said.

Hamid Hayat's attorney, Wazhma Mojaddidi, bristled and denied the importance of the slip of paper. "Being a Muslim, I know it's a prayer. That's all it is," she told the judge.

Classified Procedures Act

The Classified Information Procedures Act applies to documents and information that could harm national security. In federal court Friday, Assistant U.S. Attorney Steve Lapham said it could involve a number of extra security measures in a criminal court case, including:

• Establishing a court security officer to oversee the handling of sensitive documents.

• Federal security clearances for any court personnel, including the judge's staff, who might handle the documents. Such clearances take 45 to 60 days.

• Similar clearances for defense attorneys.

• Sending prosecutors to personally look at the documents, as some probably cannot be sent through the mail, due to security risks.

Mojaddidi, who speaks several languages herself, said the rest of the documents were mere "fluff." Griffin likened them to "books and magazines, average stuff you'd expect to find in your catch-all drawer at home."

Attorneys argued back and forth over whether an August trial would be possible. Burrell, who will preside over the trial but had not handled the case previously, ultimately made no ruling Friday. He did tell U.S. attorneys that they need to put in writing their understanding of the CIPA process.

The Hayats, who stood beside their attorneys at Friday's court appearance, remain in the Sacramento County jail without bail.

August Trial Argued For Two Lodi Men (CCT)

By Don Thompson

The Contra Costa Times, July 2, 2005

SACRAMENTO - A federal judge set a trial date next month for a father and son charged with lying about terrorist activities, but prosecutors said they would seek a delay.

Prosecutors said they need more time to respond to a defense request for information and that national security concerns surrounding evidence in the case make an August trial unrealistic.

U.S. District Judge Garland Burrell Jr. on Friday set the trial for Aug. 23 and placed the burden on the government to prove why the two men should not be tried quickly.

Hamid Hayat, 22, and his father, Umer Hayat, 47, both of Lodi, are being held without bond on charges of lying to the FBI about whether the son attended an al Qaida training camp in Pakistan in 2003 and 2004.

Hamid Hayat was charged a month ago with two counts alleging he lied when he said he did not attend the camp. His father faces a single count of lying. The FBI said the elder Hayat later admitted paying for his son's flight to Pakistan and for the camp, which was run by the friend of a relative.

In responding to the defense request for information, prosecutors have requested information from 40 federal agencies, including two intelligence agencies. That almost certainly will lead the government to invoke the Classified Information Protection Act, requiring considerable court security precautions and delay, Assistant U.S. Attorney Steven Lapham said.

Burrell scheduled an Aug. 19 hearing on prosecutors' objection to the trial date.

Meanwhile, both sides spent more than an hour during Friday's hearing sparring over the significance of evidence against the two men.

Lapham said a slip of paper in Hamid Hayat's wallet with a single line in Arabic is "a very significant document" in proving his intent. Hayat's attorney, Wazhma Mojaddidi, said the paper merely contained a prayer.

Similarly, 2,000 pages written in three foreign languages and 400 videotapes, cassettes and compact discs seized from the Hayats' home may be significant once they are translated, Lapham said.

Mojaddidi, who speaks Urdu and Pashto, the primary languages in the material, described it as "fluff."

"We don't think that stuff is going to be relevant," she said.

PATRIOT ACT:

OPEN FORUM Patriotism Vs. The USA Patriot Act (SFC)

San Francisco Chronicle, July 4, 2005

Patriotic Americans have a lot at stake this Fourth of July. After the glare of fireworks has faded, the true test of American patriotism moves to Congress, where both the House and Senate Judiciary Committees will prepare to debate the fate of the USA Patriot Act.

It's a debate that has long been anticipated. When Congress passed the Patriot Act -- all 150 sections of it -- just weeks after the Sept. 11 terrorist attacks, many lawmakers understood that some of these broad new powers should only be temporary. They wisely agreed that many of the most controversial sections of the act (about 10 percent) would automatically expire in four years. Thus, as the Dec. 31 expiration (or "sunset") deadline approaches, congressional debate about the Patriot Act is finally beginning.

But the opportunity for a robust debate has been marred by a pre-emptive effort in the Senate, where the Select Intelligence Committee decided to hold its vote and debate on expanding the Patriot Act in secret. A copy of the unwise and unwarranted bill it approved was not made public until more than two weeks later.

Far worse than cloaking the legislative process in secrecy was the outcome. The Senate Select Intelligence Committee approved a bill that would make permanent virtually all of the controversial provisions Congress originally made temporary. What's more, the measure would give the FBI the power to write its own subpoenas to demand any kind of record, with no judicial approval and without making a showing to the court that there are facts that connect the records sought to a terrorist.

Clearly, the senators meeting behind closed doors didn't hear Americans calling for Patriot Act reform. More than 400 boards of supervisors and town councils from Elko, Nev., to New York City spoke up. Seven state governments, including four "red" states with Republican majorities, called for reform. Meanwhile, a new coalition, "Patriots to Restore Checks and Balances," brings together some unlikely allies, including the ACLU and the American Conservative Union.

The outcry is all the more remarkable when you consider that three years ago, a bipartisan movement for Patriot Act reform was virtually unthinkable. In the aftermath of Sept. 11, the Bush administration, with former Attorney General John Ashcroft leading the charge, chose to demand unilateral power to limit civil liberties and diminish our privacy in a variety of ways. Indeed, Ashcroft lashed out at those who questioned the administration's policies with such McCarthyist comebacks as, "Your tactics only aid terrorists, for they erode our national unity and diminish our resolve." His tough talk was backed by action: The administration issued an executive order lifting a ban against spying on and infiltrating domestic political and religious groups.

The Patriot Act in its current form includes provisions that threaten the American legacy of liberty and privacy. But it can be fixed easily to restore meaningful checks and balances while properly focusing our limited anti-terrorism resources on foreign terrorists rather than ordinary Americans. Bipartisan legislation, the Security and Freedom Enhanced Act, is a good place to start. The SAFE Act includes commonsense fixes such as requiring individual suspicion for searches of libraries, bookstores and other sensitive records; placing reasonable limits on "sneak and peek" searches, and helping to ensure that the expansive new wiretap powers do not allow eavesdropping on the conversations of innocent people.

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The question is, will Congress keep America safe and free by correcting the fundamental flaws in the Patriot Act? We'll find out when it resumes after the Fourth of July recess. Patriotism is so much more than flag-waving and pyrotechnics. It's about vigilantly guarding the fundamental American principles of justice and liberty that have come under siege with the Bush administration's determination to hold itself above the law. It's time to restore the basic checks and balances that are fundamental to our constitutional liberties. That's the kind of patriotism we yearn for today.

Dorothy M. Ehrlich is executive director of the American Civil Liberties Union of Northern California (www.aclunc.org).

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HOMELAND RESPONSE:

CIA, Pentagon Seek To Avoid Overlap (WP)

By Walter Pincus, Washington Post Staff Writer

The Washington Post, July 4, 2005

Growing Pentagon intelligence activities at home and abroad have caused CIA Director Porter J. Goss and Defense Secretary Donald H. Rumsfeld to reach a new written agreement to prevent conflicts and overlap in spying, technical collection and analysis between their two organizations, according to senior officials at both agencies.

Gen. Michael V. Hayden, deputy director of national intelligence, told reporters last week that a classified memo of understanding between the agencies has been drafted and is awaiting the signatures of Goss and Rumsfeld.

The document sets out what the Defense Department and the CIA will do as part of the intelligence restructuring that is taking place under the aegis of the director of national intelligence (DNI), John D. Negroponte. "We are trying to 'deconflict' the operations," Hayden said, and "coordinate them as closely as possible." Negroponte's office is also studying how new Pentagon operations fit into the DNI's overall role.

One issue is what constitutes traditional military activities such as battlefield preparations, under which military operatives clandestinely visit countries to gather information in preparation for any future conflict. Pentagon operatives allegedly have visited countries without prior CIA knowledge, although the local CIA station chief was supposed to have been told.

Under the reorganization just approved by President Bush, a senior CIA official will become what Hayden described as "the national humint [human intelligence] manager," coordinating all overseas spying activities whether carried on by the CIA, the Pentagon or the FBI.

As part of the response to potential terrorism, the Defense Intelligence Agency and the military services are expanding their human and technical collection of intelligence and their analytical capabilities. The DIA has 7,500 employees -- about half as many as the CIA -- but is planning to add nearly 1,000 over the next few years. As a result, it wants to send nearly that number to new facilities in Virginia, despite having just completed a new building at Bolling Air Force Base in the District.

The size of the new DIA building was planned almost 10 years ago, before the agency acquired new missions and personnel that "won't fit into the building," a senior Defense Department official said.

Some of the new DIA missions involve worldwide counterintelligence and data-collection programs that may overlap into the purview of CIA, the National Counterterrorism Center (NCTC), the Department of Homeland Security or other intelligence agencies based on the DNI reorganization.

White House homeland security adviser Frances Fragos Townsend, who was in charge of studying how to integrate intelligence restructuring recommended by the Silberman-Robb presidential commission, told reporters last week that Rumsfeld was reviewing the future role of a little-publicized Pentagon group known as the Counter Intelligence Field Activity (CIFA).

Formed in 2002, CIFA was established to oversee Defense Department counterintelligence investigations and training and to assess potential terrorist threats at home and abroad. It has gathered domestic and international data, including criminal, financial, credit and other records, as well as background information about foreign workers and scientists employed by the Defense Department and other U.S. agencies.

One of the Silberman-Robb panel recommendations was that CIFA be given "new counterespionage and law enforcement authorities to investigate national security matters and crimes including treason, espionage . . . or terrorist-directed sabotage."

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The panel said this authority could be granted to CIFA by a DNI directive. Townsend said the question was whether an enhanced CIFA should remain within the Pentagon.

Another new, little-known Pentagon initiative is the Partnership to Defeat Terrorism, which brings together a worldwide collection of think tanks, academics and private business leaders to try to develop an information-sharing base that could be used to protect the world's critical infrastructures -- including buildings, roads, industrial plants and computer systems related to financial institutions -- from terrorist attacks.

It has been placed under the Defense Department's Strategic Command, as part of the new missions given to that Pentagon unit by Rumsfeld. Senior officials in other intelligence agencies have questioned whether this function belongs in the Pentagon or elsewhere.

The Pentagon has been generous in providing one- and two-star officers to help staff the new DNI offices, senior administration officials said. Hayden confirmed that Defense has been "offering good talent" and that "the trick for us is to balance" the DNI staff among personnel from the 15 agencies that make up the intelligence community.

"I wish CIA and others would seize that opportunity because people are concerned about bureaucratic balance," said a senior DNI official who spoke on the condition of anonymity. A CIA official said Goss "was concentrating on protecting the diminished role of the agency."

Retired Vice Adm. John Redd has been nominated by President Bush to be director of the NCTC. If approved by the Senate, the Pentagon-experienced Redd will replace a CIA official, John Brennan, who directed establishment of the new agency, half of whose employees have come from the CIA.

The Counterterrorism Center, now a DNI agency, has also been assigned to plan strategic operations at home and abroad. After some internal discussions in which Pentagon officials attempted to get the strategic planning function removed from the NCTC, Negroponte has decided to put an Army officer, Brig. Gen. Jeffrey J. Schloesser, at the head of that office.

Now director of the Aviation Task Force for the Army's deputy chief of staff for operations, Schloesser also has a planning and special operations background, Hayden said.

"The test will be whether Schloesser, a uniformed officer, reports to only the NCTC director and the DNI, and not to the joint chiefs and not the Defense Department," said a senior DNI official. "He now represents the interagency effort."

Decoys Suggested For Pentagon Network (WP)

By Dawn S. Onley, Special To The Washington Post

The Washington Post, July 5, 2005

Two of the Pentagon's leading technologists propose defending the military's Global Information Grid by using decoy networks and "honey pots" to fool hackers.

The goal is to lure intruders into these areas and away from operational networks.

"No other enterprise in the world has responsibility for a communications network quite like the GIG," Army Col. Carl W. Hunt, technology director for the Joint Task Force for Global Network Operations, said at the Army Small Computer Program conference in Las Vegas last month. The Defense Department is developing the Global Information Grid as the next-generation information technology architecture to be used by the military and intelligence agencies.

Hunt and Doug Gardner, director of the applied technology unit of the joint task force, wrote a recent paper outlining ways to keep malicious intruders from penetrating the GIG. The paper was presented at the Institute of Electrical and Electronics Engineers Workshop on Information Assurance last month at the U.S. Military Academy in West Point, N.Y.

The diversion strategy, called Net Force Maneuver, would lead hackers "to systems where we are prepared to receive them," Hunt and Gardner wrote. It's a technique that technology experts outside the Pentagon have called a honey pot.

"These systems will collect information on methodologies, techniques and tools while providing a realistic 'playground' for the intruder," Hunt and Gardner wrote. "This playground will be devoid of real system information but will keep the intruder occupied. The goal here then is to ensure the intruder does not know which systems are real and which ones aren't."

Ross Stapleton-Gray, senior research analyst at Skaion Corp., a computer security company in North Chelmsford, Mass., said the idea has merit, but it wouldn't necessarily be easy for the Defense Department to achieve.

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Phantom Defense Department networks "would be an interesting challenge: They'd need to behave sufficiently realistically as to convince prospective attackers that they were authentic, yet not reveal too much about the real networks," he said.

Stapleton-Gray said he could imagine the Defense Department running a continuous simulation of parts of networks "in parallel with the real ones. When outsiders show up and start probing around the fake networks, you can track all their activities, even feed them information on fictional vulnerabilities, and see what they do."

Hunt and Gardner warned Defense officials that Net Force Maneuver is no silver bullet. They said it would need to be combined with other protective measures that are now being developed.

Dawn S. Onley is a senior writer for Government Computer News. For more on this and other topics concerning technology in government, go tohttp://www.gcn.com.

Intelligence Shuffle (WP)

Post

The Washington Post, July 5, 2005

IN MORE NORMAL times, a presidential decision to rearrange the structure of domestic intelligence gathering would be a big deal. Since Sept. 11, 2001, however, this country has seen the organizational charts of governmental counterterrorism efforts rearranged so extensively that President Bush's shuffling of the FBI's intelligence and counterterrorism authorities last week was almost a ho-hum event: Another day, another reorganization of American government.

But Mr. Bush's reforms of the FBI, which follow recommendations from a commission he appointed to study intelligence failures concerning Iraqi weapons of mass destruction, are potentially profound and warrant public attention. In critical respects, they take the bureau in the right direction. The first question is whether they go far enough or whether they will end up being merely shifted boxes on the government's organizational chart. The second question is whether, in one particular area, they go too far.

The president has directed that the FBI's key national security functions -- counterterrorism, counterintelligence and intelligence gathering -- be consolidated into a single National Security Service headed by a high-level bureau official. The integration of these functions, all of which are now partly under the jurisdiction of the director of national intelligence, John D. Negroponte, makes a lot of sense. For one thing, it will give the director a single hierarchy over whose chief he will have veto power. Moreover, in a world in which counterterrorism so dominates intelligence operations and collection, creating a unified national security infrastructure in the bureau seems like common sense.

A great part of the challenge of reforming the FBI since Sept. 11 has been transforming its law enforcement culture -- rooted in the collection of evidence for criminal prosecution -- into a credible intelligence organization capable of compiling, analyzing and sharing a far broader swath of information than might be useful for criminal purposes. If the FBI is to develop critical mass as an intelligence agency in the long run, creating a unified national security effort within it is a necessary part of the picture.

Whether this transformation is ultimately possible, however, remains an open question. The bureau has made more headway in developing intelligence capability than its fiercer critics acknowledge, but it remains, in its heart and soul, a police force. This culture may simply be too deeply rooted to be changed. At present, however, creating a domestic intelligence service is politically dicey; the step would have significant civil liberties implications and could create gaps in effectiveness that terrorists could exploit. Consequently, there is little choice but to proceed as the administration is proceeding -- that is, reform the bureau with an ongoing eye to whether the project is, at the end of the day, a fool's errand.

The other concern about Mr. Bush's order is that it potentially gives the director of national intelligence, a politically appointed intelligence official who works directly for the president, too much power over day-to-day operations of FBI agents. The president's memorandum requires the government to "develop procedures" by which the director of national intelligence can "communicate with the FBI's field offices" through the new head of the National Security Service. Whether this presents a problem depends entirely on what these procedures turn out to be. It is essential that FBI agents collecting intelligence domestically are not directed by the White House or top administration officials but, rather, by the FBI director overseen by the

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attorney general. In implementing the president's order, the administration must remember that whatever agency is responsible for domestic intelligence must be kept independent of politics.

An End To Spy Versus Spy? (LAT)

The Los Angeles Times, July 5, 2005

Like the title characters in the movie "Mr. and Mrs. Smith," the FBI and CIA have been an outwardly happy couple that are actually in perpetual combat. The reforms that President Bush signed on to last week could at least theoretically end the warfare, resulting in agencies better able to focus on core missions. The job of persuading, or forcing, them to do so falls to the director of national intelligence, John D. Negroponte.

With the president at his back, he might even succeed.

Despite FBI Director Robert S. Mueller III's best efforts to resist change, his agency is the decided loser — and the CIA the winner — in the reorganization of the 15 agencies that have something to do with intelligence, as recommended by a presidential commission.

The panel left the CIA mostly intact, and its leadership is already cobbling out an agreement over territory with the Pentagon's even larger intelligence apparatus.

The CIA is a winner here, as well — as coordinator of all use of human spies, including by the Pentagon. The commission's report focused its fire on the abysmal performance of the FBI, which has repeatedly been drubbed for its 9/11 failures and, most recently, for an expensive computer upgrade program that has proved a total bust.

The result is that Negroponte gets direct authority over new national security divisions at the FBI and the Justice Department, including budgetary power and appointments.

The FBI is smarting over the humiliation, but it could prove a boon for the bureau. Historically, the FBI's record on countering espionage plots, whether during World War II or the Cold War, is one of futility. It's a basic misfit — of cops who catch bank robbers trying to chase spies. Establishing a separate office in the FBI that answers to Negroponte as well as Mueller will at least allow the rest of the FBI to get on with what it does best, tracking down domestic criminals.

What's more, Negroponte won't be able to complain that he has powers only in name, not substance.

Congress tried and failed to persuade President George H.W. Bush in 1991 to appoint a director of national intelligence and reorganize the spy agencies. Even President Truman's Cold War invention of the CIA from the remains of World War II's elite spies was supposed to bring intelligence under a powerful single chief.

Negroponte, known as a ruthless policy operative, understands that history of failure. Unless he flexes the new muscles of his agency, he will end up as part of just another sequel.

Bridgeport Woman Charged With Threatening Supreme Court, FBI (AP)

AP, July 5, 2005

BRIDGEPORT, Conn. -- The FBI arrested a city woman accused of mailing death threats, some laced with rat poison, to each of the U.S. Supreme Court justices and FBI Director Robert Mueller.

Barbara March, 59, was charged with one count of mailing a threatening letter. A spokesman for the U.S. Attorney's office in Washington said Thursday the charge could change with a federal grand jury investigation.

Laboratory results determined that seven of the letters mailed to Supreme Court justices were laced with rat poison, the FBI said in an affidavit. The contents of two other letters sent to justices and two letters sent to Mueller and Deputy Director John S. Pistole are being analyzed by the FBI.

March, also known as Barbara McMahon and Bonnie McMahon, is being detained without bond at the York Correctional Institution in Niantic. A probable cause hearing has been set for July 11, but it will be canceled if an indictment is returned in Washington.

In 1985, March entered a no-contest plea and was found guilty of two counts of attempted murder and one count of carrying a pistol without a permit. She was charged with shooting at her brother, Richard March, and his wife.

Diane March was shot in the chest, and survived.

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Richard March contacted U.S. postal inspectors several days later and turned over a bottle of wine mailed to his 65-year-old mother. Tests by the State Toxicology Laboratory determined it was laced with Benadryl, which, mixed with alcohol, could be lethal.

Investigators at the time found rat poison among March's belongings.

March has been in state custody, the longest from Dec. 9, 1985, to June 29, 1989, except for two months during that time, said a spokesman for the state Department of Correction.

She was incarcerated in 1992 for about a month and again in 1994 for a month.

Bridgeport Woman Mailed Poison To Justices, F.B.I. Says (NYT)

By Stacey Stowe

The New York Times, July 2, 2005

HARTFORD, July 1 - Federal agents have charged a woman who rented a room in a homeless shelter in Bridgeport, Conn., and worked in a fast-food restaurant there with sending letters containing rat poison to justices of the United States Supreme Court and to top officials in the Federal Bureau of Investigation.

The woman, Barbara J. March, 59, was arrested June 24 on a criminal complaint issued by federal prosecutors in Washington. The investigators said she had mailed typewritten death threats in nine envelopes last spring to several justices and to the director and the deputy director of the F.B.I. Taped to each letter was a smashed baked good or a piece of candy that laboratory tests showed contained pellets of rat poison, they said. In May, two more letters were sent to the "remaining justices," according to the F.B.I complaint.

According to the complaint, the letters said: "We are (or I am) going to kill you. This is poisoned."

The F.B.I. said that it had linked Ms. March to the letters by the envelopes, which had return addresses of people who were her classmates and sorority sisters at Stetson University in DeLand, Fla., or who attended elementary or high school with Ms. March or her brother, according to the complaint, which was filed by Monica Patton, a special agent of the F.B.I.

Ms. March's arrest was first reported in The Connecticut Post on Friday.

Ms. March has been incarcerated about nine times in the last 20 years, said Brian Garnett, a spokesman for the State Department of Corrections. In 1985, she mailed wine reportedly containing poison to several relatives, including her mother, Ms. Patton said in her complaint. Two years later, Ms. March was convicted of attempted murder after shooting at her brother and sister-in-law.

But at Prospect House, a shelter and a subsidized apartment building in Bridgeport, where she has lived since 1999, Ms. March "had never caused a moment of trouble," said its director, Patricia Ginyard. A petite woman with long dark hair, Ms. March worked at a local fast-food restaurant, Ms. Ginyard said. Her arrest shocked residents and administrators at the home.

"I was floored," Ms. Ginyard said. "We were all like 'not little Barb.' "

David J. Wenc, the private lawyer appointed by the federal court for Ms. March, said he expected her to plead not guilty. She is being held at York Correctional Institution in Niantic.

Computers Simulate Terrorism's Extremes (WP)

By Ariana Eunjung Cha, Washington Post Staff Writer

The Washington Post, July 5, 2005

LOS ALAMOS, N.M.-- Deep inside the cave-like laboratories of the legendary research center that created the atomic bomb, scientists have begun work on a Manhattan Project of a different sort.

In the wake of Sept. 11, 2001, they have been constructing the most elaborate computer models of the United States ever attempted. There are virtual cities inhabited by millions of virtual individuals who go to work, shopping centers, soccer games and anywhere else their real life counterparts go. And there are virtual power grids, oil and gas lines, water pipelines, airplane and train systems, even a virtual Internet.

The scientists build them. And then they destroy them.

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On a recent weekday at the Los Alamos National Laboratory, researcher Steve Fernandez took several power-relay plants in the Pacific Northwest offline with a few clicks of his keyboard while Kristin Omberg and Brent Daniel were working up mathematical models that calculated the worst places to release biological agents in San Diego.

"We're trying to be the best terrorists we can be," said James P. Smith, who is working on simulations of a smallpox virus released in Portland, Ore. "Sometimes we finish and we're like, 'We're glad we're not terrorists.' "

The Los Alamos experiments are part of the Homeland Security Department's efforts to harness technology to aid the war on terrorism. Like government "data-mining" projects that use flight itineraries, credit card reports and other data and try to find patterns to predict who might be a likely terrorist, the simulations are attempts to guess the bigger picture.

The federal government is using the simulations to provide options in the event of a real terrorist attack. The information is so sensitive that most of the lab's work is classified, and the physical facility is secured with its own experimental technologies. If the simulations got into the wrong hands, the researchers say, they could be used as the ultimate weapon against Americans. "It would be a terrorist recipe for doing something terrible," Smith said.

Some urban planners have criticized the project for its cost -- each simulation can cost tens of millions of dollars -- and have argued that such modeling can never be precise. A book on public health threats by the Institute of Medicine of the National Academies, for example, notes that some critics say simulations "cannot provide clear evidence for or against any option." Advocates say the exercise is providing crucial information for protecting the country.

When planes crashed into the World Trade Center and Pentagon nearly four years ago, the government had little understanding of the weaknesses and interdependencies of power, water, transportation and telecommunications networks. Richard Clarke, the former counterterrorism czar under the Clinton and Bush administrations, warned that this opened the possibility of "cascade" failures--domino effects--that authorities had little power to stop.

In 2003, for example, the Nuclear Regulatory Commission revealed that a computer "worm" on the Internet penetrated the control systems of a nuclear power plant, disabling its safety mechanisms for about five hours. That same year, much of the East Coast and Midwest were hit with an electrical blackout that experts thought should have been limited to one area.

Clarke created a "critical infrastructure protection" group made up of the top officials from the government and from industry. The Los Alamos simulations are the cornerstone of their work.

The models have helped officials pinpoint and prioritize where changes need to be made. Fernandez's work has led to upgraded security at certain power plants. Omberg and Daniel have created biosensors--which can detect a wide variety of biological threats -- that have been placed in areas of major cities that the computer program calculated were vulnerable, such as near sports arenas or transportation hubs.

Smith's findings have been a major component of the debate over whether it's necessary to synthesize enough smallpox vaccine for the entire country. He found that in the event of an outbreak, targeted vaccination would work almost as well as mass vaccination if officials moved quickly to establish quarantine zones for those infected.

Traditionally, estimates of infection and deaths are made using a simple multiple that denotes how fast the disease spread. Smith's program is far more detailed and uses a mixture of mathematical data and basic psychology to simulate an area and the behavior of its population.

It begins by modeling every city block using census data, then populates the city using information on household income and age of residents. Next the scientists simulate people's movements on a daily basis by using data from diaries kept by commuters; foot traffic patterns on streets, malls and other public places; and public transportation schedules. The hope is to be able to see how different social interactions are in America in 2005 from other areas where the spread of disease has been studied -- such as in rural Africa, where communities are much more isolated, or in the United States in 1918 when some cities like Portland saw much traffic from soldiers on boats.

It turns out that the average person in Portland, population 1.6 million, has about five "activities" per day. That is, they might get up and drop the children off at school, go to work, buy gas, buy groceries and then pick up the children. The average travel time for each person is 30 minutes.

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"The thing that makes it unique is the estimate of who comes into contact with whom in a large urban area and how long the contacts last," said Stephen Eubank, a researcher at the Bioinformatics Institute at Virginia Tech who worked with Smith on the smallpox simulation.

The scientists continuously run the simulations, which operate about 100 times faster than real time, testing actions like closing the airport, quarantining a neighborhood or shutting down workplaces.

"It's like the movie 'Groundhog Day.' You could reach in and say what I did yesterday didn't work so well and let's see how something else works," Eubank said.

In one simulation, Smith unleashed the smallpox virus in a university building in downtown Portland, with several students becoming victims. Soon after the 10-day incubation period passed, hospitals throughout Portland began to report cases. Smith's computer chronicled the devastation. Day 1: 1,281 infected, zero dead. Day 35: 23,919 infected, 551 dead. Day 70: 380,582 infected, 12,499 dead.

Smith wondered: How would the results change if local officials closed the schools? If they started mass vaccination? If they locked down the whole city?

Smith programmed a cluster of computers to run through these scenarios and hundreds of others, trying to determine which response would save the most lives.

Each time the model is run, it produces more data than the contents of the Library of Congress. Some findings are obvious: that the invention of air transportation may be the biggest factor in the spread of disease. Others aren't as easy to guess: that shutting down schools may not help as much as expected because parents are likely to take their children to malls and playgrounds where they can come in contact with others who have been infected. It also turned out that the speed of intervention is much more important than the type of intervention.

If officials waited 10 days or more, Smith found, "We didn't get to enough people so a lot of people died. It was almost as bad as a "do nothing" strategy, which was depressing."

Eubank said that when he runs simulations for governors or mayors, they inevitably ask him to quarantine the whole city, to make sure residents stay in their houses.

"But if I had to do that I would basically be shooting anybody who walks out on their doorstep. That's not acceptable," Eubank said. "We are trying to understand the 'cost-benefit' tradeoff--if you implement a quarantine it may give you the benefit you're looking for but it may be too costly socially."

The biggest challenge simulation researchers face is that it's unlikely they'll ever know how accurate they were until a real attack occurs. The only system that's been tested against a real life event is Fernandez's program for how hurricanes will affect the electricity grid.

In September 2004, his team used the system to predict the route of Hurricane Frances based on historical information about similar hurricanes as well as its wind profile, intensity and other data 40 hours before landfall. He advised Florida officials to position emergency repair teams in parts of the state that he thought would receive the most damage--and he turned out to be correct. His computer was also right about the 11 days it would require to get power back up for 90 percent of the state, and about the estimate of damage: $28 billion; the final damage total was $27 billion.

Fernandez said the pinpoint accuracy of the Hurricane Frances simulation was just plain luck. The world is too complex, he said, to ever be captured that specifically in a computer program.

No matter how much money is spent, he said, or how long scientists work on the task, "we'll never understand all the interdependencies of life."

Fighter Jet Intercepts Plane Near Camp David (WP)

By Sudarsan Raghavan And Michael Ruane, Washington Post Staff Writers

The Washington Post, July 3, 2005

A small plane entered restricted airspace Saturday night around Camp David, where President Bush was spending the weekend, prompting federal officials to dispatch a fighter jet to intercept it and track it until it landed at an airport in Frederick.

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Authorities questioned the pilot of the Cessna 172 and released him. The aircraft was among three small planes that violated the restricted airspace Saturday. The breaches illustrate how increasingly complicated it is for civilian pilots to traverse the most controlled airspace in the nation -- and for federal officials to protect it.

In fact, such incidents are becoming so routine that the vast majority go unreported. Air defense officials said that since Sept. 11, 2001, they have sent fighter jets to respond to more than 2,000 violations of airspace across the United States.

Inside the so-called Air Defense Identification Zone, a 2,000-square-mile area of protected airspace around Washington, there are an average of two to three airspace violations a day when it's clear enough to fly small aircraft, said Laura Brown, a spokeswoman for the Federal Aviation Administration.

There were previous times when fighter jets intercepted small planes flying into the protected airspace around the Camp David retreat, said Lt. Jody Vazquez of the North American Aerospace Defense Command.

"This is not an uncommon thing to happen," Vazquez said. "We've had more than 2,000 threats, but a 9/11 has not occurred again. We consider this a success."

The complexity of the system continues to trigger the capital's alarm systems. On Wednesday, the Capitol was evacuated after a small, fast-flying plane breached Washington's restricted airspace. The intrusion disrupted a Senate vote and prompted Bush to be rushed to a safer location.

And on May 11, another small plane violated restricted airspace, prompting lawmakers and government workers to flee the Capitol, the White House and other buildings.

It was unknown yesterday whether Bush was moved from Camp David after Saturday night's incident. The White House referred calls to the Secret Service, which would not comment.

On most days, the small planes would not have been in violation. They were all flying well outside the three-nautical-mile no-fly zone that rings Camp David, which sits near Thurmont, north of Frederick.

But this past weekend, with Bush there, the radius of the restricted airspace was temporarily widened to 10 miles, part of a roster of post-Sept. 11 security measures.

"They weren't totally aware of the no-fly zone -- exactly where the borders were," said Cpl. K. Sherwood of the Maryland State Police, referring to the husband and wife who rented the plane, which was white with blue, maroon and yellow trim.

The plane bore at an altitude of 2,400 feet into the restricted airspace about 10:40 p.m. The couple apparently did not have the plane's radio on, said federal aviation officials, and had not filed a flight plan. Private planes require a distinct transponder code so authorities will know their identity, and pilots are required to maintain radio contact with the FAA as they approach restricted areas.

Air controllers watched the tiny blip on their radar screen as it moved deeper into the restricted airspace, but there was no way to contact the pilot, Vazquez said. So air defense personnel from NORAD dispatched an F-15 fighter jet to intercept and follow the Cessna. By then, it was 7 1/2 miles north of Camp David.

"We were just following the aircraft," Vazquez said. "The pilot was not responding to the radio."

Minutes later, the Cessna landed at Frederick Municipal Airport, where Secret Service agents were waiting to question the husband, the pilot. No charges were filed, and he was released, said Jonathan Cherry, an agency spokesman. Police yesterday would not identify the couple who had rented the plane, registered to Frederick-based Airworthy Aviation.

The first of the other two small planes that briefly breached the restricted airspace Saturday strayed inside the zone at 11:45 a.m. about eight miles south of Camp David and remained inside for about seven minutes, Brown said. It then flew out and landed in Lincoln Park, N.J.

The second plane skimmed the edge at 12:42 p.m. about 10 miles north of Camp David and left the restricted airspace after three minutes.

Both planes were tracked by radar, Brown said, and FAA investigators plan to question the violators. No fighter jets were dispatched in those incidents.

Jeff Myers, a spokesman with the Frederick-based Aircraft Owners and Pilots Association, which has more than 400,000 members nationwide, said such breaches by small planes "clearly" pose "no real threat" to the nation's security.

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"The issue here is not the damage that can be done. It's the fear of what might happen," he said. "If somebody wanted to do huge harm to the D.C. area, there are so many other ways of doing it than small planes.

"It's great to be worried about a threat, but let's be worried about the right threats," he added. "No small airplane has ever been used in an act of terror anywhere in the world."

Still, Myers said, there was no excuse for pilots in the region to be violating the airspace zones around Washington. His organization, he said, is trying to educate its members to better plan their flights and get permission to even go near restricted zones.

"We're frustrated by pilots who aren't heeding the warnings," Myers said. "And those warnings are plentiful."

Plane Gets Too Close To Bush Retreat (WT/AP)

The Washington Times, July 4, 2005

FREDERICK, Md. (AP) -- Federal authorities questioned and released a pilot Saturday night after a plane violated restricted airspace around Camp David, forcing a landing at Frederick's airport.

The small Cessna passenger plane was intercepted by fighter jets while traveling about eight miles northwest of Frederick at about 10:45 p.m., Federal Aviation Administration (FAA) spokeswoman Holly Baker told the Associated Press yesterday.

The pilot was forced to land and was questioned but was released late Saturday without being charged, Secret Service spokesman Jonathan Cherry said yesterday.

President Bush was spending the weekend at the presidential retreat near Thurmont, which is one of the off-limits zones in the Washington area.

The White House did not respond to questions about whether President Bush had to be evacuated from the area during the incident or was even aware of the plane.

Two F-16 jets forced the Cessna to land at the airport, the Frederick News-Post first reported. The newspaper said a man and woman were interviewed, but Mr. Cherry wouldn't comment on the report.

No one was taken into custody, said Maryland State Police Sgt. M.W. Jones, adding that the plane may have been rented at the airport.

Since September 11, 2001, hundreds of pilots have violated Washington's restricted airspace.

Private planes are not allowed to fly in the Air Defense Identification Zone, about 2,000 square miles radiating from the three airports around Washington, without a special transponder code and radio contact with the FAA. They are not allowed within 16 miles of the Washington Monument.

On Wednesday, the White House briefly went to red alert when a plane entered restricted airspace around Washington. Mr. Bush was hurried from his residence to a safer location and lawmakers were ordered to evacuate the U.S. Capitol.

Two fighter jets intercepted the twin-engine, propeller-driven plane eight miles northeast of the Capitol and escorted it to Winchester, Va.

On May 11, a private Cessna violated restricted airspace and sent lawmakers and other government workers scrambling from the Capitol, the White House and other federal buildings. That plane also was escorted to Frederick Municipal Airport.

Mother Says Nichols Revealed Bombing Role (WP/AP)

By Sean Murphy, The Associated Press

The Washington Post, July 4, 2005

OKLAHOMA CITY -- Bombing conspirator Terry Nichols has been meeting with the FBI and has revealed additional details about his involvement in the 1995 attack that destroyed the Oklahoma City federal building, his mother said Sunday.

Nichols, serving life in prison on federal and state convictions for the bombing that killed 168 people, acknowledged that he helped Timothy McVeigh acquire ammonium nitrate fertilizer and racing fuel that were combined to make the explosive, and helped assemble the bomb components, said Nichols' mother, Joyce Wilt of Lapeer, Mich.

"That's the extent of it," Wilt said in a telephone interview with The Associated Press. "From there on, he had no knowledge."

McVeigh was convicted of federal conspiracy and murder charges in the bombing and was executed on June 11, 2001.

Prosecutors have contended that Nichols willingly helped McVeigh plan and carry out the bombing. Wilt said she believes others were involved in the bombing and that the FBI is hiding it.

Wilt contends her son suffers from Asperger's Syndrome, a form of autism that allowed him to be easily manipulated by others. She said McVeigh took advantage of Nichols to get him to help with the bombing preparations and that he threatened to harm Nichols and his family if he didn't comply.

"Terry was just being protective of all of us," Wilt said. "It just breaks my heart, because he was a good kid. He got out in the world and people started taking advantage of him."

She said her son didn't know what McVeigh planned to do with the bomb.

"He didn't ask. People with that type of syndrome don't do that," Wilt said. "When you ask him to do something, he just does it."

Citing unidentified sources, The Oklahoman reported Sunday that Nichols acknowledged to the FBI that he robbed Arkansas gun dealer Roger Moore to help finance the bombing and that he thought McVeigh planned to bomb a monument to get back at the federal government.

Based on Nichols' statement this spring, the FBI recovered a .50-caliber sniper rifle taken in the robbery, the newspaper reported citing unnamed sources.

Prosecutors say Nichols stole an estimated $63,000 in weapons and other items from Moore's home that were then sold to help finance the terror plot. Moore, who underwent months of questioning after the bombing, was never charged and denies any involvement.

Gary Johnson, a spokesman for the FBI office in Oklahoma City, would not confirm any talks between Nichols and the agency. "We may make a statement in a few days regarding the recent media reports, but not at this point," Johnson said Sunday.

The lead defense attorney at Nichols' state trial, Brian Hermanson, said he had not been present for any such conversations and would not confirm if any took place, but said it wouldn't surprise him.

"He's not facing the death penalty. It's pretty logical," Hermanson said.

OECD Warns Of Unbearable Losses From Terrorism (FT)

By Andrea Felsted

Financial Times, July 5, 2005

Insurers might be unable to bear losses from “mega-terrorism”, the Organisation for Economic Co-operation and Development will warn on Tuesday.

In some countries, claims from attacks that could include a nuclear, chemical or biological incident could even outstrip the joint compensation capacity of insurers and governments, the OECD will warn. Estimates of maximum losses resulting from a single terrorist attack range from $50bn to $250bn. The attacks on New York on September 11 2001 resulted in insurance losses estimated at more than $30bn, according to the report.

Mega-terrorism would be an attack resulting in losses of more than $100bn the explosion of a dirty bomb, the spreading of poisonous gas or large-scale water contamination.

The OECD will say: “The losses associated with very large-scale terrorist attacks can remain beyond the capability of the private insurance and reinsurance industry to price and absorb alone.” In some countries mega-terrorism could result in losses beyond the level that insurers and governments could absorb without threatening national economic stability.

Risks from chemical, biological, radiological and nuclear attacks are generally excluded from insurance coverage and are often not fully covered by government-backed schemes. The OECD will urge governments to work with the insurance industry to develop ways to cover these.

It will warn that in some countries the economic and social impact of a large-scale attack could be greater than in 2001 because of the low take-up of terrorism insurance despite a stabilisation in the market for terrorism insurance since 2001. “In countries with low terrorism insurance take-up rates, a large-scale terrorist attack could be more damaging today than before 2001 since a far smaller portion of the risk would be spread across the national and international insurance and reinsurance community.”

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Member countries should rely on the private sector as far as possible to cover terrorism risks. But, government intervention might be needed if there is not enough capacity to cover risks in the private markets.

It will note that partnership arrangements between insurers and governments as in the UK, the US, Australia, France, Germany, the Netherlands and Spain have worked well in stabilising insurance markets after attacks.

The comments come just days after the Bush administration said it opposed an extension of the terrorism risk insurance programme enacted following the September 2001 attacks.

Washington's Deadly Bridge (NYT)

The New York Times, July 5, 2005

The weakest point in America's defense against terrorism may be an inconspicuous little bridge a few blocks from the Capitol. Rail tanker cars filled with deadly chemicals pass over the bridge, at Second Street and E Street SW, on their journeys up and down the East Coast. The bridge is highly vulnerable to an explosion from below, and if deadly chemicals were released on it, they would endanger every member of Congress and as many as 250,000 other federal employees.

This vulnerability could be easily eliminated by a federal law barring the transportation of hazardous materials through Washington and other locations at high risk of a terrorist attack. But the railroads have fought such legislation, which would increase their costs. If the Bush administration and Congress are serious about homeland security, they will get a chemical transportation law passed at once.

When antiterrorism experts try to predict what could happen in the next 9/11 attack, the dispersal of deadly chemicals is at or near the top of their list. An assault on a chemical plant or a rail car filled with chemicals would turn another unremarkable part of the infrastructure into a powerful instrument of death. An attack on a single rail tanker filled with chlorine could kill or seriously harm 100,000 people in less than an hour. Because of its location in the middle of official Washington, a chlorine leak from a rail tanker on the bridge at Second Street could endanger much of the federal government, including Congress and the Supreme Court.

Such an attack would be frighteningly simple to carry out. The 90-ton rail tanker cars that carry chlorine and other deadly chemicals are clearly labeled. Terrorists could wait for such a shipment to reach the bridge and then explode a truck bomb from below, causing the tanker to derail and crack open, releasing its deadly contents. On a recent visit, a member of the editorial board found virtually no barriers to such an attack. The bridge runs over a public street that has little traffic and plenty of space for a truck to lie in wait. We saw no sign that police or other security officers were protecting it.

Earlier this year, the City Council in Washington passed a law prohibiting the transport of ultrahazardous materials within 2.2 miles of the Capitol. But CSX, the railroad that operates the two main lines running through the district, has gone to court to challenge the law, which would add to its costs. It claims that city governments do not have the power to interfere with interstate rail shipping. A federal court has blocked the law from taking effect, though CSX has temporarily stopped shipping ultrahazardous materials on the rail line closest to the Capitol.

The Bush administration filed a brief supporting CSX in its challenge to Washington's law, and, incredibly, it has made no effort to do the job with federal regulation. When it comes to defending the nation from terrorism, the president and the Republican leadership in Congress have been unwilling to make large corporations, many of them big campaign donors, shoulder their share of the burden. Washington's residents and employees should not have to risk their lives to save CSX the cost of rerouting shipments of ultrahazardous materials.

There is a simple solution. Senator Joseph Biden, Democrat of Delaware, has introduced a bill aimed at keeping hazardous rail shipments out of areas like downtown Washington, where the terrorist threat is greatest. Any member of Congress who is not already supporting Mr. Biden's bill should take a short walk to Second Street and E Street SW for a reminder of why it is urgently needed.

WAR NEWS:

Gonzales Returns From Iraq Trip (WP)

DOJ_NMG_0001275

By Dan Eggen, Washington Post Staff Writer

The Washington Post, July 5, 2005

ABOARD AIR FORCE TWO, July 4 -- Attorney General Alberto R. Gonzales returned to Washington Monday after seven-hour visit to Baghdad that was aimed at highlighting the efforts to build a functional criminal justice system in Iraq. The trip also served to illustrate the severe dangers and obstacles that remain.

Gonzales had to travel to Iraq under intense secrecy and heavy guard out of fear insurgents would target him. After arriving at Baghdad airport early Sunday, he was temporarily stranded there while waiting out a sandstorm that had grounded helicopters. Insurgents have made the nine-mile road into the city's center too dangerous to drive.

His presence in Baghdad was not revealed publicly until he was safely inside the Green Zone, the walled compound of former palaces and parks that serve as a shaky refuge for coalition forces and the Iraqi government.

There Gonzales met with Prime Minister Ibrahim Jafari and other senior Iraqi officials to discuss plans for a joint task force to investigate the kidnappings and other serious offenses that contributed to the chaos outside the U.S. compound.

Hours earlier, Egypt's highest-ranking diplomat in Iraq, Ihab Sherif, disappeared after being accosted by two carloads of gunmen as he drove in Baghdad.

"What we need to do is develop the expertise within the Iraqi community to prosecute assassinations, kidnappings and other serious crimes," Gonzales said in an interview during the trip. "This should improve the situation."

Hundreds of people, including an estimated 200 foreigners, have been kidnapped since the Iraqi insurgency began two years ago.

"Challenges to the rule of law are certainly substantial," Army Lt. Gen. David Petraeus, who leads efforts to train and equip Iraqi security forces, remarked at the start of a meeting Sunday between Gonzales and military leaders at the U.S. Embassy in Baghdad.

Gonzales and other U.S. officials stressed during their brief visit that they believe a new anti-crime task force -- modeled loosely on the anti-terrorism and anti-gang task forces common in the United States -- will bring significant improvements. FBI agents and other U.S. investigators will help build evidence and identify suspects, but prosecutions would be left up to the new Iraqi courts, U.S. officials said.

The focus on a task force marks a shift in strategy by the Justice Department, which until now has attempted to keep U.S. prosecutors and FBI agents out of direct involvement in criminal cases involving Iraqis and other foreign citizens.

Gonzales and other officials sought to downplay any criticism of current Iraqi investigative efforts. "It's not that they can't do the job," said one senior Justice official, who declined to be identified discussing details of the negotiations between the two governments. "It's that the job is so difficult they need some assistance, and we can provide that."

The task force would likely include about 10 U.S. investigators, including representatives from the FBI, the U.S. Marshals Service and the Bureau of Alcohol, Tobacco, Firearms and Explosives.

Gonzales said after his closed meetings with Iraqis that there was "universal support" for the idea.

He also said that, despite continuing troubles, he found the trip to Baghdad "inspiring."

"These people are working under difficult and extreme circumstances, trying accomplish a very difficult task," he said, referring to Iraqi and U.S. investigators.

The Justice Department has about 100 prosecutors and staff and 400 contractors in Iraq, primarily helping to train judges, corrections officers and police officers. The FBI also has about 60 agents and analysts in Baghdad focused primarily on investigating insurgent attacks against U.S. forces.

Among those who traveled to Baghdad with Gonzales was Max Wood, the U.S. attorney for the Middle District of Georgia, who will lead Justice Department efforts in Iraq over the next year.

A special unit of Justice Department prosecutors and investigators in Baghdad is also helping Iraqi prosecutors compile evidence and build criminal cases against Saddam Hussein and other former members of the deposed government. Gonzales said he did not have any detailed discussions with Iraqi officials about plans for trials of Hussein and other suspects, saying such decisions are entirely up to the Iraqi government.

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Attorney General Makes Quick Trip To Iraqi Capital (WP)

By Dan Eggen, Washington Post Staff Writer

The Washington Post, July 4, 2005

BAGHDAD, July 3 -- Even as his name echoes in Washington as one of the most likely Supreme Court candidates, Attorney General Alberto R. Gonzales landed in war-torn Iraq on Sunday for an unannounced visit with some of the hundreds of Justice Department employees stationed here.

In an interview with The Washington Post on his way to the Iraqi capital, Gonzales said he would continue to be directly involved in making recommendations to President Bush for a possible successor to retiring Justice Sandra Day O'Connor. But Gonzales, a close friend and longtime confidant to Bush, declined to comment on his own chances or interest in the post.

"There will be a group of people who will share their thoughts with the president about a nominee, and obviously I am part of those discussions," Gonzales said. "But I'm not going to talk about the details of those discussions or the recommendations or anything like that . . . I think the president is going to be deliberative in his decision."

Although Bush may "take some time" to make a final call, Gonzales added, the president is adamant that a new justice be confirmed by October. The interviews with The Post and the Associated Press en route to Baghdad were Gonzales's first comments about the high court since O'Connor resigned Friday.

The trip is the first to Iraq by the top U.S. law enforcement officer since the Iraq invasion more than two years ago. Gonzales, who took the post in February, nearly had to cancel the final leg of his trip because helicopters were grounded by sandstorms and the road from the Baghdad airport to the U.S.-controlled Green Zone remains very dangerous.

About 500 Justice Department employees are stationed in Iraq, including some 400 contractors. About 60 FBI agents and analysts also are stationed here.

In meetings with U.S. and Iraqi officials, Gonzales announced plans to form a joint U.S.-Iraq task force to focus on an increasing number of violent crimes, including beheadings and kidnappings, that continue to go unsolved.

"One of the most important ways to fight terrorism is to promote democracy, and one of the most important ways to promote democracy is the rule of law," Gonzales said in the interview.

Gonzales, who spent about seven hours in Baghdad, also met with the prime minister, Ibrahim Jafari, and the interior minister, Bayan Jabr.

Gonzales, 49, has worked with Bush since his days as Texas governor and came to Washington as Bush's White House counsel in 2001. After a bruising confirmation battle for the attorney general post in which Gonzales came under fire from Democrats over detainee abuses, a Gonzales nomination to the Supreme Court would likely face opposition from conservative Republicans who dislike his previous positions on such issues as abortion and affirmative action.

Some of Bush's allies in the Senate and elsewhere rebuked conservative critics of Gonzales as a potential nominee. Several activist groups have said Gonzales is not tough enough in his stands against abortion and other matters, but Sen. Orrin G. Hatch (R-Utah) called the allegations "pure bunk." Hatch, a senior Judiciary Committee member, told CBS's "Face the Nation" that Gonzales "is a terrific human being, a good lawyer" who would do well on the court.

"But some of the right-wing groups, of course, are trying to push the president into getting the most conservative person that they can get, and they don't consider Judge Gonzales to be as conservative as some of the others," Hatch said. "But, I can tell you, he's a person of integrity . . . and if he gets picked, I'm certainly going to support him."

Speaking on ABC's "This Week," Sen. John Cornyn (R-Tex.) said: "I know Al Gonzales, and he's a good man. And he's doing an outstanding job as attorney general. But at this point, we're all engaged in a lot of speculation as to who the nominee might be, and we may all be wrong." Cornyn has also been mentioned as a potential nominee.

Justice aides said Gonzales's unannounced trip to Iraq -- which was held under wraps for security reasons until he was safely in the Green Zone -- had been planned for some time and was not connected to the Supreme Court vacancy.

The department's Office of Legal Policy is the main branch within the Justice Department that is vetting and researching potential candidates for the high court. But preparations for a Supreme Court vacancy began at the start of Bush's first term, and Gonzales -- first as White House counsel and now as attorney general -- has been at the center of most of those discussions.

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When asked whether he would accept the high court nomination if it was offered to him, Gonzales just smiled. "I love being attorney general," he said.

In a brief address to Justice and Defense department personnel, Gonzales said: "I'm here to tell you that you're not alone, that the American people are very much with you. I want you to know that we're thinking about you, we miss you and we look forward to the day that you can come home."

Staff writers Charles Babington and Susan Schmidt in Washington contributed to this report.

Attorney General Makes Surprise Baghdad Visit (NYT/REU)

By Reuters

The New York Times, July 4, 2005

BAGHDAD (Reuters) - U.S. Attorney General Alberto Gonzales made a surprise single-day visit to Baghdad on Sunday, meeting top officials and justice department employees.

A U.S. embassy spokesman said Gonzales met Prime Minister Ibrahim al-Jaafari and Iraq's justice and interior ministers during his previously unannounced flying visit.

The Department of Justice said Gonzales was also meeting some of the department's 400 staff in Iraq.

They include a large team of investigators that has been helping Iraq build a war crimes case against ousted leader Saddam Hussein and other members of his regime.

Department of Justice employees are also helping to train members of Iraq's judiciary.

Department spokeswoman Tasia Scolinos said Gonzales's meetings with members of the Iraqi government were ``to offer his support for what they are doing in terms of reconstituting or rebuilding the judicial system in Iraq."

``He's also meeting with the DOJ employees that are on the ground in Iraq just to express his support for what they're doing," Scolinos said.

The attorney general has been mentioned as a possible candidate to take the U.S. Supreme Court seat being vacated by Justice Sandra Day O'Connor, who announced her plans to retire last week.

Top Egypt Diplomat Seized In Iraq (CHIT)

By Aamer Madhani, Tribune Staff Reporter. Tribune News Services Contributed To This Report

Chicago Tribune, July 4, 2005

BAGHDAD -- Gunmen kidnapped Egypt's top diplomat in Iraq, authorities said Sunday, snatching the envoy in a busy commercial district in the capital.

The abduction came hours before a surprise visit to the capital by U.S. Atty. Gen. Alberto Gonzales, who met with Iraqi and American officials and U.S. troops.

About eight gunmen pistol-whipped the diplomat, Ihab al-Sherif, outside a bookstore in Baghdad's al-Jamaa neighborhood Saturday evening and then stuffed him into the trunk of a car, witnesses said.

Egyptian officials in Cairo confirmed Sunday that al-Sherif, 51, Egypt's chief of diplomatic mission in Iraq, was abducted.

Al-Sherif was widely expected to become Egypt's ambassador to Iraq when an embassy is established here.

Speaking to reporters, Egyptian Deputy Foreign Minister Hani Khallaf seemed to take a conciliatory tone with al-Sherif's captors.

"If the kidnappers want to send a certain message, then al-Sherif is the most trusted one to bring it to Egypt," Khallaf said. The Foreign Ministry said efforts were under way to discover who the captors were and to win the diplomat's release.

Witnesses said one of the gunmen shouted at passersby that al-Sherif was an "American" and was "pimping the Iraqi people."

"He was bleeding from the top of his head where one of the gunmen had hit him with the pistol," said Mustafa Adnan, 17, who peeked out of his nearby photography studio when he heard a scuffle starting. "He resisted the gunmen, but they were able to shove him into the trunk."

Minutes after the gunmen sped away with al-Sherif, witnesses stopped a U.S. convoy passing through the area to tell them about the incident.

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The U.S. soldiers quickly cordoned off the area in an attempt to find al-Sherif, said Mohammed Amin, 45, who watched the scene unfold through the window of the mobile phone shop he manages. But the gunmen were long gone.

Egyptian officials in Cairo would not reveal details of the kidnapping.

In Baghdad, the diplomatic mission's officials sealed off their compound and instructed Iraqi police to turn away reporters after news of the kidnapping broke Sunday.

Al-Sherif arrived in Iraq a little more than a month ago to serve as Egypt's top diplomat in Iraq. In June, Egyptian officials also stated their intention to turn their mission into a full-fledged embassy, and that al-Sherif would likely be elevated to the title of ambassador.

In July 2004, another Egyptian diplomat, Mohammed Mamdouh Helmi Qutb, was kidnapped in Baghdad. His captors freed him after the Egyptian government reiterated that they had no plans to deploy troops to Iraq.

Also Sunday, the U.S. military announced the capture of a Tunisian national suspected of importing suicide bombers into Iraq on behalf of the terrorist organization Al Qaeda in Iraq.

Imad Nassar Ahmed Amarah, also known as Abu Hamza, purportedly specialized in shuttling foreign fighters into Iraq for suicide missions in the Mosul area, the U.S. military said.

It said it has collected evidence suggesting that more than 100 suicide bombers have gone through safe houses under Amarah's control.

Gonzales made his a surprise one-day visit to Baghdad to thank U.S. Justice Department officials and troops working in Iraq for their service. He also visited with several Iraqi officials, including Prime Minister Ibrahim al-Jaafari, according to the U.S. Embassy.

The unannounced visit, the latest of several by high-ranking Bush administration officials around past holidays, came as Gonzales' name has surfaced as a possible successor to Supreme Court Justice Sandra Day O'Connor, who on Friday announced her retirement.

In violence Sunday, three police officers and a civilian were killed when a car bomb exploded near a police patrol near the northern city of Kirkuk, officials said.

Two American troops were wounded as a suicide attacker struck near a checkpoint in Ramadi in western Iraq.

Gonzales: FBI To Aid Iraqi Investigations (AP)

By MARK SHERMAN, Associated Press

AP, July 4, 2005

BAGHDAD, Iraq -- The United States will help Iraq investigate the killing and kidnapping of government officials, Attorney General Alberto Gonzales says. The informal agreement was disclosed as Gonzales made an unannounced and tightly guarded, six-hour visit Sunday to Baghdad. He met with Iraq's prime minister, Ibrahim al-Jaafari, as well as police and judicial officials.

Advertisement

Word of the arrangement followed the abduction on Saturday night of Egypt's top envoy to Iraq.

"There are still some high-level crimes, murders and kidnappings that are not being prosecuted. One reason is that the evidence is not available," Gonzales said in an interview en route back to Washington.

While details are still to be worked out, investigators from the FBI and other U.S. law enforcement agencies would join their Iraqi counterparts at crime scenes and in other aspects of the probes, aides to Gonzales said.

The attorney general's visit took place under extraordinary security precautions, including a news blackout until Gonzales was safely inside the heavily fortified Green Zone where Iraqi and U.S. officials work.

The visit was almost scrapped because bad weather temporarily grounded helicopters that were to take Gonzales and his entourage from the Baghdad airport to the city. Driving the eight miles from the airport -- a stretch that risks bombings and other attacks -- was considered too dangerous.

Gonzales praised Iraq's commitment to democracy in the face of sustained deadly attacks by insurgents and also used the trip to show support for U.S. troops in Iraq.

"As we approach the Fourth of July weekend, I suspect there's some of you that are here that sometimes feel lonely and you sometimes wonder whether you are alone," Gonzales told American soldiers at the U.S. Embassy. "And I'm here to tell you that you are not alone, that the American people are very much with you."

The attorney general condemned abuses by American soldiers at the Abu Ghraib prison outside Baghdad, blaming them on a few individuals, not official U.S. policy.

As White House counsel in President Bush's first term, Gonzales helped develop the administration's legal strategy in the fight against terror.

He wrote a memo in 2002 contending that Bush had the right to waive anti-torture laws and international treaties that provide protections to prisoners of war. Critics have said the memo helped lead to abuses of the type seen at Abu Ghraib, an allegation he has denied.

A few senior Justice Department officials accompanied Gonzales, including Max Wood, the U.S. attorney in Macon, Ga., who is beginning a posting as the senior U.S. law enforcement official in Iraq.

More than 400 Justice Department employees and contractors are working to train Iraqi judges, prosecutors, police and prison guards. A separate unit is working with the Iraqi tribunal preparing to try former President Saddam Hussein and others.

Some five dozen FBI agents and analysts also are on assignment in Iraq investigating roadside bombings and other attacks against U.S.-led coalition forces.

Top Egyptian Diplomat In Baghdad Is Kidnapped (NYT)

By Edward Wong

The New York Times, July 4, 2005

BAGHDAD, Iraq, July 3 - The top Egyptian diplomat in Iraq was kidnapped late Saturday by gunmen in western Baghdad, Iraqi officials said Sunday. It is the first abduction of the head of a diplomatic mission here, at a time when the American and Iraqi governments are vigorously pressing Arab nations to send ambassadors to Iraq.

Word of the kidnapping of the diplomat, Ihab al-Sharif, came on a day of at least one deadly car bombing and other insurgent mayhem, as well as an unannounced visit to Baghdad by Alberto R. Gonzales, the United States attorney general, who has been mentioned as a possible nominee for Supreme Court justice.

American and Iraqi officials declined to specify when Mr. Gonzales had planned the trip or why, for a visit that lasted only six hours. But under his leadership, the Justice Department is playing an important role in the coming trials of Saddam Hussein and other officials of the former government. Mr. Sharif, who arrived here just a month ago, was seized as he was driving alone in his white Jeep Cherokee through the Jamia neighborhood of Baghdad, where he lived, an Interior Ministry official said. No group claimed responsibility for abducting him.

Several Egyptians have been kidnapped and released in Baghdad in the last year, including one lower-ranking diplomat, as part of a rash of kidnappings of foreigners and Iraqis that in many instances are done for cash ransoms.

Mr. Sharif has been designated to become Egypt's ambassador, an appointment that would create a diplomatic bond between Iraq and one of the Arab world's most influential countries, and help bestow legitimacy on the Iraqi government. The kidnappers may have been trying to send a warning to Egypt and other Arab nations that are considering strengthening diplomatic ties.

The Egyptian Foreign Ministry said it "is hoping to discover the circumstances surrounding the incident and secure the safety of the Egyptian diplomat assigned to strengthen bilateral relations between the two sisterly nations."

The Iraqi Islamic Party, a prominent Sunni Arab political group, condemned the abduction and demanded the Egyptian's release. The insurgency here is largely led by Sunni Arabs, and the Iraqi Islamic Party is believed to have some influence among the fighters.

Less than two weeks ago, Secretary of State Condoleezza Rice publicly urged Iraq's Arab neighbors to send ambassadors to Iraq. Besides Egypt, only Jordan has committed to doing so. The White House is hoping stronger support by those countries, where a majority of Arabs are Sunnis, will help undercut the insurgency against the Iraqi government, which is dominated by Shiites.

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But Sunni leaders and diplomats in the Middle East have expressed concerns about both security and Iranian Shiite influence here. Arab leaders are also keenly aware that the American-led occupation of Iraq is unpopular in their own countries.

Three witnesses to the kidnapping were quoted by The Associated Press as saying about eight gunmen had surrounded Mr. Sharif on Rabie Street as he stopped to buy a newspaper. One gunman struck him on the head with a pistol butt and called him an "American spy," the witnesses were quoted as saying, and the assailants shoved him into a car trunk.

In violence on Sunday, a car bomb exploded beside a police patrol in the northern city of Kirkuk, killing two officers and wounding one, said Maj. Imad Abdullah of the Kirkuk police.

Gunmen opened fire on a police commander's car in Baghdad, killing his driver. Gunmen also killed a Public Works Ministry employee on Sunday, and killed a Shiite cleric named Adil al-Janabi and one of his bodyguards late on Saturday.

The Baghdad visit by Mr. Gonzales coincided with speculation that he may be nominated as a replacement for Justice Sandra Day O'Connor, who announced her resignation on Friday. His trip here to the heavily fortified American Embassy was a closely guarded secret, and reporters based here were not invited to meet with him.

He released a written statement that said, "I am proud of the people of the Department of Justice who are contributing to this effort by helping Iraqis advance the rule of law."

More than 400 Justice Department employees and contractors work in Iraq. They have been assigned to help set up the court system, conduct criminal investigations and advise the Iraqi tribunal overseeing the trials of Mr. Hussein and his aides.

Accompanying Mr. Gonzales were several American officials, including Max Wood, a United States attorney in Georgia who has been designated as the Justice Department's attaché to the American Embassy here. Willie Hulon, the head of the F.B.I.'s counterterrorism division, also arrived with Mr. Gonzales.

Mr. Gonzales's critics have accused him, in his previous job as White House counsel, of playing an important role in narrowing the legal definition of what constitutes torture, which ultimately contributed to prisoner abuse in Abu Ghraib and elsewhere. He also wrote a memorandum in January 2002 to the White House that said the Geneva Conventions did not apply to the war in Afghanistan and that described as "quaint" and "obsolete" several measures in the conventions.

At a regularly scheduled news conference in Baghdad, a spokesman for the Iraqi government, Laith Kubba, acknowledged Sunday that some Iraqi security forces had been responsible for torturing and abusing prisoners. Responding to a question about a report of those abuses in The Observer of London, he added that the government did not approve of such actions and was investigating reported incidents.

Mr. Kubba also criticized American troops for shooting and killing unarmed Iraqi civilians, citing the recent deaths of Yasser Salihee, a reporter for Knight Ridder, and Muhammad al-Sumaidaie, a cousin of Iraq's ambassador to the United Nations, Samir Sumaidaie. The American military has said it is investigating both incidents.

On Sunday, the mother of Muhammad al-Sumaidaie gave an account in a telephone interview with The New York Times of how, she said, American marines had entered her home on June 25 and killed her son.

Shortly after 10 a.m., marines entered the family home near the western town of Haditha to search for weapons, the mother, Sanaa Hashim Abdul Aziz, said. Muhammad, 21, an engineering student, took the marines into a bedroom to show them a Kalashnikov. "A few minutes later, we heard a gunshot, the sound of a single bullet being fired," Ms. Abdul Aziz said, her voice breaking.

The marines then took Muhammad's brother, Ali, 17, into the room. Ali "saw his brother lying in a pool of his blood," she said. "Ali was shocked to see his brother like that, and the marines asked him to then pick up the weapon that was lying on the ground next to his brother. He refused, and they started beating and interrogating him."

The marines left with the Kalashnikov and told neighbors they had killed a terrorist, Ms. Abdul Aziz said. The bullet that killed Muhammad had passed through his jaw, she added. Iraqi soldiers were standing outside the house but the marines did not let them enter, she said.

Samir Sumaidaie, the ambassador to the United Nations, said in an e-mail interview that he had "no idea whether the investigation is going to be serious or a whitewash," but that he would insist on a "credible, speedy and high-level inquiry that can be trusted to get at the truth."

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Gonzales Goes To Iraq To Pump Up The Troops (NYDN)

By Michael McAuliff

New York Daily News, July 4, 2005

While Conservatives were set to go to war against a possible nomination of Attorney General Alberto Gonzales to the Supreme Court, the nation's top lawman jetted off to the real war in Iraq yesterday.

After landing in Baghdad under tight security, Gonzales boosted Iraq's push for democracy and gave a pep talk to U.S. troops who were fighting while their families back home were preparing to celebrate Independence Day.

"As we approach the Fourth of July weekend, I suspect there's some of you that are here that sometimes feel lonely and you sometimes wonder whether you are alone," he told G.I.s. "I'm here to tell you that you are not alone, that the American people are very much with you."

Gonzales said his trip aimed to show Iraqis the U.S. commitment to their new government. "We are doing a lot to promote democracy and the rule of law," he said.

More than 400 Justice Department workers are in Iraq to train judges and law enforcement forces.

Iraqi Insurgents Seize Top Egyptian Diplomat (KRT)

By Leila Fadel, Knight Ridder Newspapers

Knight Ridder Newspapers, July 4, 2005

BAGHDAD, Iraq -- The Egyptian ambassador-designate Ihab al-Sherif, the first diplomat from an Arab nation to Iraq, was kidnapped from his upscale Mansour neighborhood late Saturday.

Sherif had been in the country only a few weeks after Egypt agreed to upgrade its mission to a full embassy complete with an ambassador. Sherif is the highest-ranking foreign diplomat to be kidnapped in Iraq. Another Egyptian diplomat was kidnapped briefly last year and released.

The seizure reflects an attempt by insurgents to thwart the fledging democracy's efforts to normalize relations with its neighbors.

The Egyptian embassy would not comment on Sherif's kidnapping and did not release any details to Iraq's ministry of the interior in Baghdad.

Egypt severed its diplomatic ties with Iraq after Saddam Hussein's army invaded Kuwait in 1990.

Meanwhile, as U.S. Attorney General Alberto Gonzales arrived in Baghdad on a surprise trip to visit with Justice Department personnel assigned to Iraq, new concerns were expressed over the killing of civilians by U.S. troops.

Laith Kuba, the spokesman for Prime Minister Ibrahim al Jaafari, criticized the American military following the deaths of Iraqi civilians in recent weeks.

The killings also were raised at a meeting of the Iraqi Parliament on Sunday during a divided debate on Iraqi sovereignty.

Many members were upset that Jaafari would not set a timetable for American troops to withdraw. Mahmoud Otthman, a Kurdish legislator, said at least 10 Iraqis have been killed in the last week by American soldiers.

"When sovereignty was transferred there was an agreement about foreign troops in Iraq," said Kuba, the president's spokesman. "There have been many recommendations, but these regulations have not been abided by. We are not going to take these incidents lightly."

Three journalists, including Knight Ridder's special correspondent Yasser Salihee, were shot by American soldiers. A cousin of Iraqi U.N. ambassador Samir al Sumaidai also was killed in Haditha during an offensive in the area.

Their deaths are under investigation, according to U.S. military officials in Baghdad.

Gonzales, who wrote the 2002 memo that eased restrictions on the use of torture of prisoners captured in Iraq and Afghanistan, spent the day meeting with Iraqi officials, including Jaafari, and U.S. military personnel. The Department of Justice has nearly 400 employees and contractors working in Iraq, assisting on legal and security issues.

Accompanying Gonzales was FBI Assistant Director Willie Hulon, who directs the FBI's counterterrorism division.

Over the past two years the U.S. military has continually refused to release the number of Iraqi civilians that have been killed since the war began.

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Iraq Body Count, a London based Web site that tracks deaths reported by the media or by officials, estimates the death toll of civilians since March 2003 between 22,787 and 25,814.

Many of those deaths came in the initial invasion and as the military has sought to control the insurgency. In addition, some deaths occur while soldiers are on patrol or at the numerous checkpoints designed to stop suicide bombers and the deployment of insurgents as well as the movement of weapons.

Human Rights Watch and the Committee to Protect Journalists have recommended that temporary and permanent checkpoints be marked more clearly to warn drivers of their presence. Examples include using spike strips, temporary speed bumps, flashing sirens and signs in English and Arabic.

"Until these investigations are complete it's premature to know what, if anything needs to happen," said Lt. Col. Steve Boylan, a top U.S. military spokesman in Iraq. "Recommendations will be made based on the investigation. But until that's completed it's just speculation and guesswork. We just don't know at this point."

The International Federation of Journalists called for independent investigations of the deaths of at least 17 journalists who have been killed by U.S. troops since the war began, the group said in a release issued Saturday.

US Attorney General Visits Iraq (AFP-Y2)

AFP, July 5, 2005

US Attorney General Alberto Gonzales arrived in Baghdad on his first trip to Iraq to meet with US and Iraqi officials, an embassy statement said.

"We recognise and thank the brave American men and women who are sacrificing to promote democracy in Iraq and to defend our freedom," he said upon arrival, according to the statement.

He was accompanied by Max Wood, the embassy's newly-appointed justice attache, and Willie Hulon, director of the Federal Bureau of Investigation's counter-terrorism division, said the statement.

Former attorney general John Ashcroft never visited Iraq.

"I am proud of the people of the Department of Justice who are contributing to this effort by helping Iraqis advance the rule of law," Gonzales said.

The US Justice Department has more than 400 employees and contractor personnel in Iraq helping the transitional government strengthen its law enforcement and justice system infrastructure.

The department also set up in May 2004 the Regime Crimes Liaison Office to support the Iraqi Special Tribunal, the court set up by the former US-led occupation authority to try ousted dictator Saddam Hussein and members of his regime.

Bush Visits Morgantown (CSJ)

By April Kaull

Charleston (WV) State Journal, July 5, 2005

President Bush visited West Virginia Monday for his third July Fourth visit in four years, and used the trip to ask Americans to stay the course in Iraq.

"The terrorists can kill the innocent, but they cannot stop the advance of freedom," the president told a cheering crowd at West Virginia University in Morgantown.

"Our strategy can be summed up this way: As Iraqis stand up, we will stand down, and then our troops can come home to a proud and grateful nation," he said to thousands at Woodburn Circle.

The president spoke for about 20 minutes, mostly about the war in Iraq and the fight against terrorism. He drew parallels between America's War for Independence, which lasted eight years, and the struggle to establish democracy in Iraq.

Our Founding Fathers faced terrible hardships, Bush said, but they kept their resolve and created a nation of liberty.

Two centuries later, "the Declaration of Independence has remained a revolutionary document."

Bush thanked West Virginians for their patriotism. "Coming to West Virginia is becoming a Fourth of July tradition for me," he said. "And every time I come here, I appreciate the beauty of West Virginia, and I appreciate being with decent, hardworking, patriotic Americans who call the Mountain State home.

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The president asked Americans to continue to support the troops, by flying a flag at home, helping a neighbor who has a family member in the military or visiting a Defense Department Web site.

Bush had special praise for two West Virginia soldiers:

Capt. Jeff Setzer, a Charleston police officer and a battery commander for the 201st Field Artillery Unit of the West Virginia National Guard. Setzer was in Baghdad during the elections in January, Bush said.

1st Lt. James McCormick of Scott Depot, who served 13 months in Iraq as part of the 518th Combat Gun Truck Company. McCormick earned the Bronze Star and two Purple Hearts during his tour. But Bush said McCormick wrote him a letter last week that said he would return to Iraq and continue the mission if needed.

"The men and women of America's Armed Forces are bringing great honor to the uniform they wear and to the nation they serve," Bush said. "And in this time of testing, our troops, whether they be stationed here or abroad, can know that the American people stand behind them all the way."

Air Force One landed at Morgantown's airport about 9:30 a.m. Monday, where he greeted U.S. Rep. Shelley Moore Capito, Mountaineers football coach Rich Rodriguez and other officials. He then was taken by motorcade to Woodburn Circle.

Bush's previous July Fourth visits were to Ripley in 2002 and Charleston in 2004.

Bush Brings His Message To W.Va. (WI)

By Joselyn King

Wheeling Intelligencer, July 5, 2005

MORGANTOWN, W.Va. - It appears President George W. Bush now equates the Fourth of July with democracy, freedom and West Virginia. Bush made his third Independence Day trip to the Mountain State Monday, addressing a large gathering outside outside West Virginia University's Woodburn Hall in Morgantown. On July 4, 2002, Bush spoke in Ripley, W.Va., and last year he made his Independence Day speech in Charleston.

"Coming to West Virginia is becoming a Fourth of July tradition for me," Bush told the crowd in Morgantown. "Every time I come here, I appreciate the beauty of West Virginia - and I appreciate being with decent, hardworking, patriotic Americans who call the Mountain State home."

Bush spoke about freedom and democracy Monday, and he urged Americans to support those troops currently fighting to bring these values to the Middle East. He reiterated his oft-used quote, "We will bring our enemies to justice, or bring justice to our enemies."

"Our enemies in this new war are men who celebrate murder, incite suicide and thirst for absolute power," Bush said. "They seek to spread their ideology of tyranny and oppression across the world. They seek to turn the Middle East into a haven for terror. They seek to drive America out of the region. These terrorists will not be stopped by negotiations, or concessions, or appeals to reason.

"In this war, there is only one option, and that is victory."

The U.S. strategy in the Middle East can be summed up this way, Bush added. "As Iraqis stand up, we will stand down, and then our troops can come home to a proud and grateful nation," he said.

Bush told the crowd that many West Virginian soldiers were "serving with skill and honor in the war on terrorism."

"Some of America's finest men and women have given their lives in the war on terror, and we remember them on Independence Day," he said. "We pray for the families who have lost a loved one in freedom's cause. And we know that the best way to honor their sacrifice is to complete the mission, so we will stay until the fight is won."

U.S. Rep. Shelly Moore-Capito, R-W.Va., introduced Bush in Morgantown.

"When the president wants to celebrate America and see what makes America great, he comes to West Virginia," she said. "He came into the presidency a Texan, and he has become a Mountaineer. Like you and me, he will always be free.

"We are proud to have him home where he belongs."

After the speech, Capito said Bush identifies with West Virginians.

"He loves West Virginia," she said. "He always gets a great reception here, and he feels confident with the people in West Virginia.

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"He also doesn't want to travel too far from Washington on Independence Day. He likes to be in a spot where his message will be received well, and this is a great thing that this is in West Virginia."

West Virginia Republican Party Chairman Robin Capehart of Wheeling added that the state's residents share Bush's values of spreading democracy.

"They love freedom - just like he does," Capehart said. He predicts Bush will return to West Virginia for Independence Day next year, and that he will make a number of visits to the state before his term ends.

Capehart, though, denied that Capito's appearance alongside the president was an indication that next year she will seek the Senate seat presently held by Democrat Robert C. Byrd.

"They have a very good relationship," Capehart said of Bush and Capito. "She is a big supporter of the president, and anytime you see him in the state you will see her with him."

Capito said Monday she will make no decision on her future political plans until this fall.

Bush Compares Challenges In Iraq To First Independence Day (NYT)

By Anne E. Kornblut

The New York Times, July 5, 2005

MORGANTOWN, W.Va., July 4 - The challenges that America faces in Iraq, President Bush said at an outdoor rally here on Monday, are like those that confronted the country on its first Independence Day.

"On July 4, 1776, more than five years of the Revolutionary War still lay ahead," Mr. Bush said.

"From the battle of New York, to the winter at Valley Forge, to the victory at Yorktown, our forefathers faced terrible losses and hardships. Yet they kept their resolve," he said. "They kept their faith in a future of liberty, and with their hard-won victory, we guaranteed a home for the Declaration's proposition that all are created equal."

Reprising his prime-time speech on Iraq the week before, President Bush declared an exit strategy in place.

"Our strategy can be summed up this way: As Iraqis stand up, we will stand down, and then our troops can come home to a proud and grateful nation," Mr. Bush said.

But for now, he said, they are fighting for a revolution as meaningful - and inevitable - as the one being waged 229 years ago. "Our men and women in uniform are defending America against the threats of the 21st century," he said. "The war we are fighting came to our shores on September the 11th, 2001. After that day, I made a pledge to the American people - we will not wait to be attacked again."

It was the third time in recent years that Mr. Bush had visited West Virginia on the July 4 holiday, drawn to its nearness and increasingly Republican electorate at a time when many in the state are also active in the military. Republicans, having won the state's five electoral votes in the last two presidential elections, are now eyeing the possibility that Representative Shelley Moore Capito, a Republican often targeted by Democrats, will challenge the revered Democratic senator from the state, Robert C. Byrd, who is up for re-election in 2006. Ms. Capito and her father, Archie A. Moore, Jr., the former governor, joined Mr. Bush onstage.

But after a weekend of intense focus on the Supreme Court vacancy left by Justice Sandra Day O'Connor and amid preparations for his attendance at the Group of 8 summit in Europe early Tuesday, President Bush avoided politics and kept to his patriotic message.

Karl Rove, his senior adviser, rode the flight from Washington to West Virginia but did not respond to requests for an interview over his reported role in a controversy that threatens to put two reporters in jail. Newsweek had reported over the weekend that Mr. Rove had talked to Matthew Cooper of Time magazine for an article about Valerie Plame, a C.I.A. operative whose name was illegally disclosed by an unidentified White House official in a case now under investigation.

The Newsweek article did not identify Mr. Rove as that source, but Bush critics have been eager to tie him to the leak. Outside the presidential rally in Morgantown, one protester made reference to the case, holding a sign that read: "Jail Karl Rove."

Several dozen other protesters demonstrated against the war in Iraq, chanting, "Please support our troops, not the president!"

But they were overwhelmed by Bush supporters. About 4,300 tickets to the event were given out by the Greater Morgantown Convention and Visitors' Bureau, according to its executive director, Stacey Brodak, who said the occasion brought great pride to

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the small college town just across the Pennsylvania border. The crowd, a sea of patriotic gear and military uniforms, gathered inside the campus green at West Virginia University for hours before the president arrived.

One local Bush supporter, Steve Smith, 57, a property manager, said he had left the house at 6 a.m. to get a good view. Like many in the crowd, Mr. Smith was wearing a vivid T-shirt that declared him "100 percent red-blooded American"; he described President Bush as "our greatest president ever."

Becky Dziekan, 52, said she had driven five hours from her home in Dayton, Ohio, to hear the president speak in the town where two of her daughters also live. "I wanted him to know he's not alone," said Ms. Dziekan, a Republican who voted for Mr. Bush.

But she stopped short of raving about his remarks. "For a celebration, it was sufficient. I mean, we're going to go have a picnic," she said. "I wouldn't want it for a State of the Union speech."

Bush Claims 'Comprehensive Strategy' For Iraq (LAT)

By Edwin Chen

The Los Angeles Times, July 5, 2005

MORGANTOWN, W.Va. — President Bush pledged Monday to keep U.S. forces in Iraq "until the fight is won," telling a Fourth of July crowd that he has "a comprehensive strategy" to win the struggle in Iraq and prevail in the global war on terrorism.

Making his third Independence Day visit to West Virginia in four years, the president also asked Americans to remain patient, saying: "We know that the freedom we defend is meant for all men and women, and for all times. And we know that when the work is hard, the proper response is not retreat; it is courage."

In recent weeks Bush has been under growing pressure, including from some Republican lawmakers, to articulate an exit strategy -- what the White House prefers to call "a strategy for success" -- for Iraq. In his remarks here, however, Bush did not go beyond the points he made last Tuesday in a nationally televised prime-time address from Fort Bragg, N.C.

"In this time of testing, our troops, whether they be stationed here or abroad, can know that the American people stand behind them all the way," Bush told several thousand ticket-holders on a sun-drenched, grassy quad at the downtown campus of West Virginia University.

"Some of America's finest men and women have given their lives in the war on terror, and we remember them on Independence Day. We pray for the families who have lost a loved one in freedom's cause. And we know that the best way to honor their sacrifice is to complete the mission, so we will stay until the fight is won," he declared, slamming his right fist on the lectern for emphasis.

As he spoke, the shouts of a cluster of demonstrators could be heard, although their words were difficult to discern.

White House aides were hard-pressed to explain Bush's penchant for visiting the Mountaineer State on Independence Day. "It's a great place to go for the Fourth of July," said deputy press secretary Dana Perino.

In his remarks, Bush noted that it had become "a tradition" for him to visit the state on July 4. West Virginia is historically a Democratic state, but in last November's presidential election, its voters backed Bush over Sen. John F. Kerry, D-Mass., by 56 percent to 43 percent.

In his remarks, the president again linked Iraq to the Sept. 11, 2001, terrorist attacks, and explained anew the Bush doctrine of taking pre-emptive strikes against terrorists and their allies "so we don't have to face them here at home."

Apparently referring to the growing levels of insurgent violence in Iraq, Bush called Iraq "the latest battlefield in the war of terror" and said: "Our work there is difficult and dangerous because terrorists from across the region are converging on Iraq to fight the rise of democracy."

He acknowledged that the "images of cruelty and suffering we see on television" are "difficult for our compassionate nation to watch.

"Yet the terrorist violence has not brought them any closer to achieving their strategic objectives," he said. "The terrorists tried to intimidate the Iraqi Governing Council, and they failed. They tried to delay the transfer of sovereignty to Iraq, and they failed. They tried to stop the free Iraqi elections, and they failed. They continue to kill in the hope that they will break the resolve of the American people, but they will fail."

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The president was back at the White House by lunchtime. He leaves Tuesday for Denmark and then Scotland, where he will attend the G8 meeting of the leaders of the world's eight leading industrialized nations.

Bush Speech Touches On History Of Freedom (WT)

By Joseph Curl

The Washington Times, July 5, 2005

President Bush yesterday used Independence Day to thank U.S. armed forces fighting in Iraq and Afghanistan, as he urged Americans to keep the resolve their forefathers have exhibited throughout history.

"During that hot summer in Philadelphia more than 200 years ago, from our desperate fight for independence to the darkest days of a civil war, to the hard-fought battles of the 20th century, there were many chances to lose our heart, our nerve, or our way," the president said in a speech at West Virginia University.

"But Americans have always held firm, because we have always believed in certain truths: We know that the freedom we defend is meant for all men and women, and for all times. And we know that when the work is hard, the proper response is not retreat; it is courage," he said.

Mr. Bush, with no tie and with his sleeves rolled up, pointed out that establishing a democracy from scratch -- which early Americans did and which Iraqis are attempting now -- is not easy.

"On July 4, 1776, more than five years of the Revolutionary War still lay ahead. From the battle of New York to the winter at Valley Forge, to the victory at Yorktown, our forefathers faced terrible losses and hardships. Yet, they kept their resolve," the president said.

Mr. Bush said he is troubled by the "images of cruelty and suffering we see on television," but added that terrorists and insurgents in Iraq have utterly failed to make progress on their goal of stopping freedom and democracy in the Middle East nation.

"The terrorists tried to intimidate the Iraqi Governing Council, and they failed," he said. "They tried to delay the transfer of sovereignty to Iraq, and they failed. They tried to stop the free Iraqi elections, and they failed. They continue to kill in the hope that they will break the resolve of the American people, but they will fail."

Mr. Bush said Iraqis are fighting alongside Americans, telling the cheering crowd, "As Iraqis stand up, we will stand down, and then our troops can come home to a proud and grateful nation."

"We will stay until the fight is won," he said, adding, "In this war, there's only one option, and that is victory."

Mr. Bush urged Americans to use this Fourth of July to "find a way to thank the men and women defending our freedom."

"At this time, when we celebrate our freedom, our troops have got to understand that the American people support them all the way. And on Independence Day, we remember that we also have essential responsibilities here at home, the unfinished work of American freedom."

Mr. Bush has made an Independence Day visit to West Virginia a tradition of sorts. This was his third time since he took office in 2001.

Several thousand students, veterans, civic leaders and members of the military packed West Virginia University's downtown campus for the ticketed event. A small group of protesters near the speech chanted "Bush lied, people died," with some waving banners calling for the president's impeachment.

Bush Defends Iraq Policy (PPG)

By James O'Toole

Pittsburgh Post-Gazette, July 5, 2005

MORGANTOWN, W.Va. -- Before a cheering West Virginia University audience, President Bush melded a salute to the troops with a defense of his war policies; a celebration of American independence with promises of democracy to come in the Middle East.

"On July 4, 1776, more than five years of the Revolutionary War still lay ahead," Bush said during yesterday's appearance. "From the battle of New York to the winter at Valley Forge, to the victory at Yorktown, our forefathers faced terrible losses and hardships. Yet they kept their resolve."

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Invoking the memory of Sept. 11, Bush said, "We're taking the fight to the terrorists abroad so we do not have to face them here at home.

"Iraq is the latest battlefield in the war on terror," Bush said later in his 20-minute address. "Our work there is difficult and dangerous because terrorists from across the region are converging on Iraq to fight the rise of democracy. ... Yet, the terrorist violence has not brought them any closer to achieving their strategic objectives. They continue to kill in the hope that they will break the resolve of the American people, but they will fail.

"The lesson of this experience is clear: The terrorists can kill the innocent, but they cannot stop the advance of freedom."

The tough tone of the holiday speech echoed the rhetoric of Bush's address last Tuesday in Fort Bragg, N.C., in which he again sought to explain and rally support for his strategy in Iraq.

Alluding to efforts to train the armed forces of the Iraqi government at a time when U.S. deaths there have climbed to more than 1,700, Bush said, "Our strategy can be summed up this way: as Iraqis stand up, we will stand down, and our troops can come home to a proud and grateful nation."

Under a hazy blue sky, the president spoke before a crowd of several thousand, many of whom had lined up hours before to cram themselves into Woodburn Circle, a grassy plaza surrounded by some of the oldest buildings on the university campus. He was flanked on the stage by servicemen and veterans from all branches of the service, while a National Guard band played the same patriotic medleys heard in parks and town squares across the country yesterday.

While public opinion surveys show continued erosion in support for his administration's conduct of the war, Bush urged the crowd to resolve to make some gesture to support the troops fighting abroad, such as sending a letter or seeking out a serviceman or woman's family.

"We pray for the families who have lost a loved one in freedom's cause. And we know that the best way to honor their sacrifice is to complete the mission, so we will stay until the fight is won," he said.

Reciting a litany of trials from American history, Bush said, "There were many chances to lose our heart, our nerve, or our way. But Americans have always held firm, because we have always believed in certain truths: We know that the freedom we defend is meant for all men and women, and for all times. And we know that when the work is hard, the proper response is not retreat; it is courage."

On a steamy morning, the crowd repeatedly treated Bush to rounds of applause -- a contrast to the more somber mood of the president's Fort Bragg audience last week. The high-spirited throng came ready to voice its approval.

Even before the president touched down, they offered cheers for technicians' sound checks, and a wave of anticipatory applause when an aide affixed the presidential seal to the lectern.

The presidential message got a tougher reception from scores of protesters corralled more than 100 yards away from Woodburn Circle. As Bush spoke, their chants of opposition were barely audible.

Ruth Kershner, a member of the WVU faculty, carried a sign that read, "[U.S.] Sen. [Robert] Byrd was right about you," an allusion to the veteran Democratic lawmaker's anti-war stance and his criticisms of Bush's rationale for the Iraq War.

As fellow protesters chanted, "Bush lies, thousands die," Rachel Spero, a junior psychology major, held aloft a sign that read, "War Begins with Dubya."

"I just thought on the Fourth of July, of all days, it was important to come out and make your political views known," Spero said.

As the audience streamed away after Bush's speech, supporters of the president shouted rebuttals at the demonstrators. Across University Avenue, the two groups competed in a generally peaceful shouting match.

Bush has spent three of the last four Independence Days in West Virginia.

As he spoke yesterday, he looked across the campus toward Oglebay Plaza, where a mast is enshrined from the U.S.S. West Virginia, the battleship that rests on the bottom of Pearl Harbor.

Bush was in Charleston for last year's Independence Day; in Ripley, W.Va., on July 4, 2002.

The state rewarded Bush with its electoral votes in each of his elections. To that end, he was here nine times during last year's election season on his way to a comfortable victory in a traditionally Democratic state.

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Bush was introduced yesterday by U.S. Rep. Shelley Moore Capito, R-W.Va., who proclaimed that Bush's frequent visits had transformed him from a Texan to a Mountaineer.

His last visit to the state was in the spring, when he came to promote his stalled proposal for changes in the Social Security system.

Among the other dignitaries on stage with Capito was her father, the colorful former Gov. Arch Moore, resplendent in a vivid green sport coat.

The spotlight on Capito came as speculation continues that she will challenge Byrd, the state's long-serving Democrat, in next year's election. Byrd, 87, who is in his eighth term, has not yet said whether he will seek another term, but his bid for re-election is widely anticipated.

Capito, the only Republican in the state's congressional delegation, also has held off on a formal announcement of her 2006 plans but is considered the most formidable potential challenger to the Appropriations Committee powerhouse.

Bush Urges U.S. Resolve On Iraq Despite Bloodshed (REU-Y2)

By Caren Bohan

Reuters, July 5, 2005

President Bush urged Americans on Monday to show resolve in the Iraq war despite the bloodshed, as he appealed for patriotic spirit on Independence Day.

Facing waning support for the Iraq war, Bush in a speech in West Virginia revived memories of the Sept. 11, 2001, attacks on America and said a retreat in Iraq would embolden militants who want to "break the resolve of the American people."

"Our work there is difficult and dangerous because terrorists from across the region are converging on Iraq to fight the rise of democracy," he said. But he added, "we will stay until the fight is won."

Bush also invoked the Revolutionary War as he cast the Iraq war as a struggle to help Iraqis achieve freedom.

"We know this great ideal of human freedom is entrusted to us in a special way, and the ideal of liberty is worth defending," he said.

Bush used a prime-time address at the Fort Bragg, North Carolina, Army base last week to try to ease growing concerns about the war that have pushed his approval ratings to the lowest levels of his presidency.

In the Fort Bragg address he rejected calls by some Democrats and even a few Republicans in Congress to set a timetable for the withdrawal of U.S. troops from Iraq.

His was criticized by many Democrats for mentioning Sept. 11 five times in his speech, even though no connection between the government of former Iraqi President Saddam Hussein and the Sept. 11 attacks was ever established.

The White House now calls Iraq the central front in the war on terrorism in part because the insurgency is led by Jordanian militant Abu Musab al-Zarqawi, who has sworn allegiance to al Qaeda leader Osama bin Laden.

On Monday Bush underscored themes from the Fort Bragg speech, saying his strategy was to train Iraqis to take over more of their own security.

"As Iraqis stand up, we will stand down," he said.

More than 1,700 Americans have been killed in the Iraq war and thousands have been wounded.

Bush said the celebration of the 229th anniversary of the signing of the Declaration of Independence was a reminder of the need to persevere despite difficulties.

He said that during Revolutionary War and conflicts that America faced in the following two centuries, "there were many chances to lose our heart, our nerve or our way."

"But Americans have always held firm ... We know that when the work is hard, the proper response is not retreat, it is courage."

Bush Urges Resolve In The War In Iraq (AP-Y2)

By Terence Hunt, Ap White House Correspondent

AP2, July 5, 2005

DOJ_NMG_0001289

President Bush, with an Independence Day appeal for patriotism, urged resolve in the war in Iraq on Monday and said that "the proper response is not retreat. It is courage."

Bush made a quick holiday visit to the West Virginia University campus and spoke outdoors at a grassy circle on a hot, humid day. The audience of a couple thousand people was restricted to ticket-holders who gave him an enthusiastic welcome. The shouts of several hundred protesters who were kept out of sight could be heard faintly during the address.

With his approval ratings sagging and anxiety over the war rising, Bush has decided to devote more attention to explaining what he believes is at stake in Iraq and his strategy for dealing with it.

His address reflected the same themes — and some of the same phrasing — of his prime-time address to the nation on Tuesday and his weekly radio address on Saturday.

The president's communications effort has been complicated by the Supreme Court vacancy caused by the surprise retirement of Justice Sandra Day O'Connor. Bush is expected to have to spend an increasing amount of time in selecting and selling his nominee in a tough Senate confirmation battle. He will take information about potential nominees when he sets out for Europe on Tuesday to visit Denmark and attend the annual summit of leading industrialized nations.

In his speech, Bush said that "times of war are times of great sacrifice" and that America remembers its fallen on Independence Day.

The war in Iraq has claimed the lives of more than 1,740 Americans, wounded 13,190 and cost more than $200 billion.

"We know that the best way to honor their sacrifice is to complete the mission," Bush said, "and so we will stay until the fight is won."

"As we celebrate the Fourth of July," he said, "we rededicate ourselves to the ideals that inspired our founders. During that hot summer in Philadelphia more than 200 years ago, from our desperate fight for independence to the darkest days of a civil war, to the hard-fought battles of the 20th century, there were many chances to lose our heart, our nerve, or our way.

"But Americans have always held firm, because we have always believed in certain truths," the president said. "We know that the freedom we defend is meant for all men and women, and for all times. And we know that when the work is hard, the proper response is not retreat. It is courage."

He called Iraq only the latest battlefield in the war on terror, and declared that "America will not tolerate regimes that harbor or support terrorists."

Bush said that insurgents won't win.

"They continue to kill in hope they will break the resolve of the American people but they will fail," Bush said.

Bush characterized the insurgents there as "men who celebrate murder" as they seek to spread their ideology and "turn the Middle East into a haven of terror."

Even though the television images of death "are "difficult for our compassionate nation to watch," he said, the insurgents are no closer to stopping the move toward democracy."

"Terrorists can kill the innocent but they cannot stop the advance of freedom," he said.

Bush has made Independence Day visits to West Virginia something of a tradition. It was his third July Fourth visit to the state in four years. He carried the state in 2000 and 2004.

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On the Net:

City of Morgantown: http://www.morgantown.com/overview.htm

Bush Again Urges Americans To Stand Firm On Iraq War (MACT/KRT)

By Mark Silva

The Macon Telegraph, July 5, 2005

MORGANTOWN, W.Va. - (KRT) - With a flag-draped clock tower for a backdrop in a politically friendly state on a sunny Fourth of July, President Bush defended the war in Iraq as part of a grand American quest for freedom spanning "from Bunker Hill to Baghdad."

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The president, making a repeat Independence Day visit to this mountainous realm that helped elect him and re-elect him, delivered a direct challenge to "finish the fight" in Iraq that terrorists carried to America on Sept. 11, 2001.

"From our desperate fight for independence to the darkest days of the Civil War, to the hard-fought battles of the 20th century, there were many chances to lose our heart, our nerve or our way," Bush said. "But Americans have always held firm.

"We know that when the work is hard, the proper response is not retreat. It is courage," he said, reiterating an argument for continuing the costly conflict in Iraq that he spelled out in a nationally televised address last week.

Yet even as he confronts waning public support for combat in Iraq and presses the war on terrorism that consumed his first term, the president's attention is shifting to a domestic matter that could prove just as central to his legacy: appointing a justice to the Supreme Court.

As he prepares to embark Tuesday for a European tour starting in Denmark, where he will thank the Danish prime minister for contributing military forces in Iraq, Bush will carry with him a file of candidates for a vacancy on the high court created by the surprise retirement Friday of Justice Sandra Day O'Connor.

Bush does not plan to name candidate to succeed O'Connor until after returning Friday night from a three-day summit of the Group of Eight industrial nations in Scotland. But well-financed conservative and liberal organizations already are gearing up for a battle over Bush's nominee.

"There is a lot of staff communication," White House spokeswoman Dana Perino said Monday of the screening of court candidates. "The legal team has been preparing materials for him to take on his trip."

Still, the president found time - as he did last year and on a previous Fourth of July - for a quick morning flight to Bush-backing West Virginia, where a few thousand people assembled on the hilly campus of a state university to see him.

Only a cluster of protesters chanting "Bush lied, people died" and signs stating "We support the troops, not the president" assembled on the perimeter of West Virginia University's flag-adorned green. One displayed a placard: "9/11 does not equal Iraq."

Most came to cheer the president on a hot, hazy holiday morning.

"George Washington used to drop by this part of the state, and I appreciate a warm welcome for another George W.," said Bush, without a tie and with his shirt sleeves rolled up. Poised on a grandstand in front of a brick clock tower framed by shingled mansard roofs, he said, "Stopping in West Virginia is becoming a Fourth of July tradition for me."

This supportive setting on a day set aside for patriotism and pride provided another stage for Bush's defense of the conflict in Iraq that has claimed more than 1,700 American lives.

As he has before, Bush strove to connect the war with the terrorist assaults on the United States and insisted that American troops will remain in Iraq until the nation can defend itself against a deadly insurgency there. But he also sought to connect the struggle of U.S. troops around Baghdad to the one fought in American colonies more than two centuries ago.

"We remember the band of patriots who risked their lives to bring freedom to a new colony. They kept their resolve, they kept their faith in a future of liberty," he said.

"At this hour, our men and women in uniform are defending America against the threats of the 21st century," the president said. "We know that the best way to honor their sacrifice is to complete their mission, so we will stay until the fight is won."

Maintaining that "the war we are fighting came to our shores on September the 11th, 2001," Bush said, "In this war there is only one option, and that is victory."

Vowing to fight terrorists abroad instead of at home, he said: "They continue to kill in the hope that they will break the resolve of the American people, but they will fail. ... The terrorists can kill the innocent, but they cannot stop the advance of freedom."

Bush Urges Persistence On Iraq (WP)

By Rosalind S. Helderman

The Washington Post, July 5, 2005

MORGANTOWN, W.Va., July 4 -- President Bush used his annual Independence Day speech to pay homage to America's fighting men and women and to urge the nation to remain firmly behind the effort in Iraq.

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In an appearance at West Virginia University, he acknowledged that continued violence in Iraq has been "hard for a compassionate nation to watch." But he compared today's hardships to those faced by Americans of past generations, including those who declared the country independent and fought the Revolutionary War 229 years ago.

"During that hot summer in Philadelphia more than 200 years ago, from our desperate fight for independence to the darkest days of a civil war, to the hard-fought battles of the 20th century, there were many chances to lose our heart, our nerve or our way," he said. "But Americans have always held firm, because we have always believed in certain truths: We know that the freedom we defend is meant for all men and women, and for all times."

Bush spoke to an outdoor audience of about 2,000 people -- restricted to ticket-holders. Outside the flag-and-bunting-draped event area, a knot of protesters gathered, carrying signs reading "Bush Lied" and chanting "We support our troops, not the president" and "Peace is patriotic."

This marked the third Fourth of July holiday in four years he has celebrated in West Virginia, and the second in a row. Last year, in the midst of his reelection campaign, Bush commemorated the day with an address at the state Capitol in Charleston.

In the year since, the president won reelection and Iraqis went to the polls in their first national election of the post-Saddam Hussein era. At the same time, violence in the country has continued. More than 870 U.S. troops -- including seven West Virginians -- have been killed in Iraq since the president's last Fourth of July address, and recent polls have shown weakening public support for the war. As a result, White House aides have said, Bush has concluded he must do more to refocus the nation's attention on the mission and its stakes.

Repeating themes he struck last week in a nationally televised speech before soldiers at Fort Bragg, N.C., Bush argued that Iraq has become a main arena in the larger battle against terrorism. "We're taking the fight to the terrorists abroad so we do not have to face them here at home," he said.

Speaking in front of a military band and the university's red-brick Woodburn Hall, he vowed that Iraqi insurgents who "continue to kill in the hope that they will break the resolve of the American people" will fail.

"We know that when the work is hard, the proper response is not retreat; it is courage," he said.

Bush said Americans will stay in Iraq until the country's security forces are capable of defending Iraq on their own. "Our strategy can be summed up this way -- as Iraqis stand up, we will stand down and then our troops can come home to a proud and grateful nation," he said.

In all, 13 West Virginians have been killed in Iraq since the war began. A sailor from the state was also one of 16 troops killed last week when a MH-47 Chinook helicopter crashed in eastern Afghanistan.

Syrians Clash With Fighters Linked To The Iraqi Insurgency (NYT)

By Hassan M. Fattah

The New York Times, July 5, 2005

CAIRO, July 4 - Syrian security forces clashed early Monday in the hills overlooking Damascus with men believed to be militants connected to Iraq's insurgency, the official Syrian news agency SANA reported.

Some of the militants were believed to have been former bodyguards for Saddam Hussein, the report said, but it gave no further details and did not say how it was known who they were or where they might have escaped to afterward.

The predawn firefight on scenic Qassioun Mountain left one police officer dead and several others wounded, the report said. It was the second clash in as many days between the Syrian authorities and people believed to be militants, perhaps from the same group.

On Sunday, border guards and security agents fought with a group along the Lebanese-Syrian border, leaving one of the suspected militants and two guards dead. More than 34 militants were later arrested in what appeared to be a sweep of the area, the news agency reported.

Syria has come under significant pressure from the United States to seal its long border with Iraq, and has been accused of giving Iraqi insurgents safe harbor and of encouraging the insurgency. But in recent weeks, it has sought to highlight its own problem with militants as well as to show it has gotten serious about stamping out militancy.

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Two people were arrested in the clash on Monday. They were identified as Sharif Ayed Saif al-Smadi, one of two fugitive brothers from Jordan wanted there on criminal charges, and Manal al-Smadi, the wife of the other brother, Muhammad. The brothers had ties to a group suspected of helping militants enter Iraq, The Associated Press reported.

Ms. Smadi later appeared on Al Arabiya television, apparently with permission of Syrian officials. She said the brothers had been in Iraq before the American-led invasion in 2003 and had joined the fedayeen, the militia Saddam Hussein sent to fight American troops.

SANA, the Syrian news agency, said the security officers had been on the militants' trail for several days. It was not immediately clear how many militants were involved in the clashes on Sunday and Monday.

Early last month, Syrian security officials announced the arrest of a number of members of the Levant Army, said to be plotting numerous attacks in Damascus. The group is believed to be tied to a suicide bombing of a community center in Qatar in March that left a Briton dead, and there have been reports that they have ties to the insurgency in Iraq.

Late last month, the government organized a tour for diplomats and reporters along Syria's southern border with Iraq, seeking to emphasize its concern about infiltrators coming in from Iraq. In all, some 7,000 Syrian soldiers patrol the length of the border with Iraq.

"The effort to prevent infiltrators is our main emphasis," said a Syrian border commander, who refused to identify himself.

Iraqi: No Talks With Killers (WT)

By Paul Martin

The Washington Times, July 5, 2005

LONDON -- Iraqi Prime Minister Ibrahim al-Jaafari has ruled out talks with any terrorist or insurgent group that has the blood of Iraqi citizens on its hands.

But, in a recent interview, Mr. al-Jaafari also held out an olive branch to other hard-line anti-government and anti-American militants whose opposition had not led to the deaths of Iraqis.

"We cannot make dialogue with anyone who has committed crimes against the Iraqi people," he said in London, after visits to Britain and the United States.

At the same time, Mr. al-Jaafari said he would welcome bringing hard-line Sunni groups into a political dialogue and even into his government.

"If they have not committed crimes against the Iraqi people, we open our hearts to them, and we are [already] in honest and genuine dialogue with them," he said.

He added: "We invite them to be part of the political process -- to exchange the gun for the pen."

The London Sunday Times reported on June 26 that insurgent commanders "apparently came face to face" with four U.S. officials during meetings last month at a villa some 25 miles north of Baghdad.

When asked on NBC's "Meet the Press" about the report of the two meetings, Defense Secretary Donald H. Rumsfeld said: "Oh, I would doubt it. I think there have probably been many more than that."

Three militant groups distanced themselves from the reports, denying they had ever negotiated, and in a Web site-posted communique, one group, Ansar al-Sunna, said it did not speak to Americans, it killed them.

It added that, even when the American forces leave, their associates in the Iraqi government would remain in Iraq and would be targeted.

Mr. Rumsfeld appeared to suggest that American meetings with hard-liners were designed to help the Iraqi interim administration headed by Mr. al-Jaafari.

"We see the government of Iraq is sovereign. They are the ones that are reaching out to the people who are not supporting the government," Mr. Rumsfeld said.

Yet Mr. al-Jaafari's line of willingness to negotiate appeared to be drawn far more stringently than that suggested by Mr. Rumsfeld.

Mr. al-Jaafari said that support for terrorist bombings and other atrocities was already waning and would decline further as more Sunni factions joined the government or forswore violence.

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He said the advancement of the political process, and especially the announcement of a new constitution and a subsequent election in December, would dampen violence further.

Aides said the new government was determined to implement the agreed timetable for that election, irrespective of the degree of violence prevalent in Iraq at the time.

The prime minister said it was also politically important to put former Iraqi strongman Saddam Hussein on trial quickly and to reach a rapid conviction and an imposition of the sentence passed by the court.

He dismissed suggestions that the trial, and especially a death sentence, could inflame passions and increase terrorism.

"It will definitely reduce the amount of violence, " Mr. al-Jaafari said.

He also rejected any suggestion that the country's president, currently Jalal Talabani, the veteran Kurdish leader, would exercise a prerogative to commute a death sentence.

Mr. Talabani had told an interviewer several weeks ago that he was opposed to capital punishment, even for Saddam, though he added: "I know I am in a minority of one in the current government."

Mr. al-Jaafari said Iraq wanted to act as a democracy and to ensure that any verdict reached by the court or tribunal was carried out without executive intervention.

"Saddam has to pay for his crimes," Mr. al-Jaafari said.

The prime minister is planning trips to Iran, Saudi Arabia and Syria in efforts to tighten border controls and reduce meddling by neighboring states.

He told The Washington Times last week that he expects violence to abate well within the next two years.

Sunni Group In Iraq Urges Members To Vote (NYT)

By James Glanz

The New York Times, July 5, 2005

BAGHDAD, Iraq, July 4 - In what might be a sign of a new political landscape, a major Sunni umbrella group called on its members on Monday to register for the next round of elections and take part "despite our reservations."

Adnan al-Dulaimi, the head of the group, called the Sunni Endowment, said in a briefing in Baghdad that clerics would be asked to issue fatwas, or religious rulings, essentially ordering Sunnis to vote in elections. Among its other functions, the Sunni Endowment is charged with oversight of Sunni Arab mosques and holy sites throughout Iraq, giving it wide influence among clerics.

"I ask all Sunni people to register their names for the next election, because we are in a political battle that depends on the vote," he said.

Sunni Arabs largely boycotted the January elections, producing a National Assembly with only a handful of Sunnis, leaving the ethnic group that ruled the country until 2003 with little influence in the government.

The next round of voting will include a referendum on a constitution, a document being hammered out in the National Assembly.

Perhaps as significant as his call for voting, Mr. Dulaimi explicitly renounced violence as a way for the Sunnis to regain power. Mr. Dulaimi's group, like many other Sunni groups, insists that Sunnis are not a minority in Iraq, despite various estimates suggesting that they make up about 20 percent of the population.

Iraq's ethnically based political strife was also on display on Monday in Kirkuk, in the north, where more than 2,000 Arabs and Turkmens demonstrated against the Kurdish rule that has settled on the city since the elections in January. A Kurdish slate won 26 of 41 seats in the city council and has made significant changes in how the city is run.

Important posts went overwhelmingly to Kurdish officials, said Ali Mehdi, a leader of the Turkmen front. The Turkmens were an Asian people put into place by the Turks to govern the area under Ottoman rule.

"The current administration, which is formed by Kurdish parties, does not represent the people of Kirkuk," Mr. Mehdi said at the demonstration, in Convention Square.

Muhammad Khalil, a city council member who serves as a spokesman for Arab members of the council, asserted that the refusal of the Kurdish bloc to compromise had forced other groups to form what he called a "shadow government" for the city.

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Marching in heavy security, people in the crowd raised banners denouncing federalism, the political decentralization favored by Kurds, who want the area to maintain a large degree of local control.

Baghdad was unusually quiet on American Independence Day, although an Interior Ministry official said at least two roadside bombs had gone off, killing at least three civilians and wounding three more. Both bombs exploded in the dangerous southern fringes of the city.

Further details emerged Monday from witnesses to the kidnapping of Ihab al-Sharif, Egypt's top diplomat in Iraq, from a Baghdad street on Sunday.

The owner of an appliance shop across the street from where gunmen surrounded Mr. Sharif as he got out of his Jeep Cherokee to buy a newspaper said the diplomat shrieked as four men dragged him toward the trunk of a black sedan.

One of the men struck Mr. Sharif in the head with a pistol so hard that he began to bleed, said an employee at Al Arjas photography lab, just a few feet from the kidnapping.

Taher al-Ani, owner of an air-conditioner shop near the same spot, said some of the men ran toward a gray car that was parked closeby with a driver. Some of the men stopped traffic to speed the escape before jumping in the car.

"The whole operation didn't take more than two minutes," said the employee at the photography lab. "The ambassador was not accompanied by guards."

Iraqi Clerics Plan Edict On Sunnis' Political Role (WP)

By Andy Mosher And Omar Fekeiki

The Washington Post, July 5, 2005

BAGHDAD, July 4 -- Several senior clerics of Iraq's disaffected Sunni Muslim minority will soon issue a decree calling on followers of the faith to vote in upcoming elections and help write a new constitution, a prominent Sunni leader said Monday. The step could draw Sunni Arabs away from the insurgency and into a political process they have steadfastly rejected.

Adnan Dulaimi, who heads the Sunni Endowment, the government agency responsible for Sunni religious affairs, said the framers of the religious edict, or fatwa , would seek the support of other groups in the fractious Sunni community before issuing it.

The push for the fatwa, together with National Assembly's formal approval Monday of adding 15 Sunnis to the committee writing a draft constitution, suggested that the slow and often contentious efforts to bring Sunni Arabs into the political sphere were beginning to bear fruit.

The Shiite Muslim-led government of Prime Minister Ibrahim Jafari has encouraged Sunni Arabs to embrace politics and to abandon the two-year-old insurgency dominated by Sunnis and foreign fighters.

Jafari's Shiite coalition won the most votes in the Jan. 30 elections, giving it a majority in the 275-seat National Assembly and putting Iraq's Shiite majority in power for the first time in the country's modern history. Sunni Arabs, who dominated political and military institutions until President Saddam Hussein was toppled by the U.S.-led invasion in 2003, largely boycotted the vote and emerged with only 17 assembly seats.

The Sunni Arab leadership, traditionally more divided than that of the Shiites, began moving away from rejection of the new government in March, when the influential Association of Muslim Scholars supported a fatwa calling on Sunnis to serve in Iraq's nascent security forces.

The proposed edict announced Monday would call for Sunni participation in writing the draft constitution, which is meant to be completed by Aug. 15, and for all Iraqis to vote in the next election, which would be held Dec. 15 if the constitution is prepared on time and ratified in an October referendum. The decree would also call for Sunnis to serve on the country's electoral commission.

The Association of Muslim Scholars did not comment Monday on the proposed fatwa. Its support, while crucial, could prove elusive. The association has maintained that no Iraqi government can be considered legitimate unless U.S. and other foreign military forces leave the country, or at least set a deadline for doing so. The Iraqi and U.S. governments have refused to take that step.

Dulaimi said in an interview Monday that "we will contact the Association of Muslim Scholars and urge them to join the initiative, and we hope to reach a compromise that satisfies all."

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Another pivotal Sunni group, the Iraqi Islamic Party, immediately voiced support for the proposal. Noting that the party was among the first Sunni organizations to encourage voting in the next election, Tariq Hashimi, the party's secretary general, said that Sunnis' respect for religious leadership ensured that "if a fatwa is issued to urge people to participate, this will help to improve the legal and political situation of the elections and the constitution. It will also help to end the confusion in the Iraqi community: People are confused whether the constitution and elections are legitimate or not."

Subhi Nawzen Tawfik, a political science professor at the University of Baghdad's International Studies Center, called the initiative "a very important development."

In addition to redressing the power imbalance brought on by the Sunnis' "strategic mistake" of staying away from the January election, Tawfik said the edict would appeal to Sunni insurgents who took up arms because they believed the current political system was imposed on Iraq by foreign powers.

"There is no doubt that the Sunnis make up the core of the real, original resistance against occupation, a distinction which no one can dispute," Tawfik said. "Thus, when the head of the Sunni Endowment calls for serious Sunni participation, and makes an appeal for calming down the situation, his appeal will be heeded."

In Iraq, mosques are owned and financed by the government. Dulaimi, as head of the endowment, functions not as a political figure in the government, but as a facilitator of religious life.

Abdul Rahman Nuaimi, a Sunni member of the National Assembly's constitution committee, said: "When an important figure in the community, like the head of the Sunni Endowment, urges people and clergymen to participate in the elections, this will help the process. This will help to move forward and defeat all the obstacles we face in the process of writing the constitution."

The move by the National Assembly Monday to add 15 Sunnis to the committee, expanding its membership to 71, was another key development in a constitution-writing process that is six weeks from a deadline for producing a draft document. Though the National Assembly was elected in January with the principal mandate of writing the document, the committee was not formed until May, and it initially included only two Sunni Arabs.

The expanded committee will hold its first meeting on Wednesday, and its chairman, Humam Hammoudi, said the new members would be shown "the drafts we have reached so far," the Reuters news agency reported.

Meanwhile, authorities said there was no sign of the whereabouts of Ihab Sherif, Egypt's top diplomat in Iraq, who disappeared Saturday night and is presumed to have been kidnapped. Egyptian officials told news services that Egypt had received no ransom demands or statements from anyone claiming to have abducted the envoy.

In Baghdad's western Bayaa neighborhood, a remote-controlled car bomb killed two civilians and narrowly missed a passing U.S. military patrol, witnesses said.

"I thought that it was a broken-down car that someone left there," said Ahmad Shihab, an employee with a government construction company that has a project near the site of the attack. "Then, after an American patrol passed by, it exploded. I saw black smoke first, then felt the impact. A huge blaze with metal parts splashed everywhere."

U.S. and Iraqi troops swept through a western Baghdad neighborhood on Monday, arresting about 100 suspected insurgents in a fresh crackdown near the city's airport, the Associated Press reported.

In the northern city of Mosul, gunmen killed police Capt. Ahmen Muayad, a bodyguard for the provincial governor, as he left his house Monday morning, according to police Gen. Saeed Mohammed. Another police officer, Lt. Ahmen Mutaz, was gunned down in the city center.

Iraq Seen Emerging As Prime Training Ground For Terrorists (KRT)

By Warren P. Strobel

Knight Ridder, July 5, 2005

WASHINGTON - Iraq has replaced Afghanistan as the prime training ground for foreign terrorists who could travel elsewhere across the globe and wreak havoc, according to U.S. counterterrorism officials and classified studies by the CIA and the State Department.

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Of particular concern, the officials and studies say, are the urban combat techniques being learned and used by foreign fighters assaulting U.S. and Iraqi troops. There's already evidence that those tactics are being replicated elsewhere.

Marine Corps Lt. Gen. James T. Conway told a Pentagon briefing last week that remotely detonated bombs known as improvised explosive devices, or IEDs - the insurgents' weapon of choice in Iraq - are an increasing threat to U.S. forces trying to stabilize Afghanistan.

The trend is "a little bit troubling," Conway said.

Iraq's emergence as a terrorist training ground appears to challenge President Bush's rationale for invading and overthrowing leader Saddam Hussein in March 2003.

"To complete the mission, we will prevent al-Qaida and other foreign terrorists from turning Iraq into what Afghanistan was under the Taliban, a safe haven from which they could launch attacks on America and our friends," the president said in a nationally televised address last Tuesday.

But Iraq wasn't a source of Islamic fundamentalist terrorism under Saddam and played no role in the Sept. 11, 2001, terrorist attacks. Critics argue that the U.S. invasion harmed, rather than helped, the war on terror by acting as a magnet and recruiting tool.

"Arguably, it's created new problems that we're going to be dealing with for a long time," said Steven Simon, a senior analyst at the RAND Corp. who served at the National Security Council under President Clinton.

Foreign fighters' growing experience with IEDs, in particular, "is a real problem if you think these guys are going to wind up in the streets of Europe and the Middle East, or even the United States at some point," Simon said.

The classified CIA and State Department assessments were completed in May and deal with what intelligence analysts are calling "bleed out" or "terrorist dispersal" from Iraq to surrounding countries.

The officials who described them did so on condition of anonymity because intelligence matters are involved.

The studies compare Iraq to Afghanistan in the 1980s, when the Soviet invasion drew Muslim fighters known as mujahedeen from around the world. After the Soviet defeat, many of them, including Osama bin Laden, built terrorist networks or fought for Islamic causes outside Afghanistan.

Foreign fighters make up only a fraction of the Iraqi insurgency, perhaps as little as 5 percent. Many are killed or captured, but their numbers are replenished by fresh recruits, who often transit via Syria.

U.S. ally Saudi Arabia is a prime potential destination for experienced fighters returning from Iraq, the study by the State Department's Intelligence and Research bureau concludes, according to officials familiar with its contents.

Yemen is another likely destination.

Saudi citizens are thought to make up the largest contingent of foreign fighters in Iraq, and the Saudi royal family has expressed alarm to the U.S. government over the prospect of battle-scarred militants returning to the oil-rich kingdom.

Other insurgents are believed to come from Syria, Jordan, Yemen, Egypt and elsewhere in North Africa.

Some current and former government experts said the comparison between Afghanistan's one-time role as a global terrorist training headquarters and Iraq today is "overstated," in the words of one U.S. official.

Arab veterans of the Afghan war were often welcomed home by their governments and state-run media, and they were portrayed as heroes for their role in forcing the Soviet Union to withdraw from Afghanistan in 1989, the State Department report notes.

By contrast, foreign insurgents leaving Iraq are likely to face imprisonment or worse in their home countries.

Nor is the outcome of the insurgency known. For now, fighters remain focused on attacking U.S. and Iraqi forces, not conducting terrorism elsewhere.

Still, the CIA report, roughly two dozen pages long, warns that veterans of Iraq could in some ways pose a more potent threat.

The report's existence was first reported by Newsweek and The New York Times.

"You're talking about people who have had exposure to a broader range of strategies and tactics than we saw in Afghanistan," said a U.S. counterterrorism official who has read the report.

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And, he said, "the people in Iraq come to the table more anti-American and more radicalized" than the fighters who went to Afghanistan two decades ago to fight Russian troops.

The reports are aimed at helping the Bush administration conduct contingency planning to deal with the "terrorist dispersal" threat.

Simon, the former counterterrorism official, said international coordination among law enforcement and intelligence agencies will be key.

Conway, the director of operations for the Joint Chiefs of Staff, acknowledged concern about Iraq's role as a terrorist training ground.

"I think it's a logical conclusion, if you look at the history of Afghanistan and what we saw come out of there," Conway said. "It is a concern, but there is not much we can do about it at this point in time," he said, noting that the military's principal focus is on combat operations in Iraq and Afghanistan.

Iraqi Barbers Face Unkindest Cut Of All, Targeting By Terrorists (WT)

By Ammar Karim, Agence France Presse

The Washington Times, July 5, 2005

BAGHDAD -- Baghdadis headed to the barbershop are going more often to the Shi'ite neighborhood of Sadr City than to mixed neighborhoods, where they could be shot by Sunni radicals who charge that clean shaven men want to look like U.S. soldiers.

"I have customers coming from far away," said Ali Habin, who was happy to see his barbershop packed with customers.

"Young men are coming from remote neighborhoods like Shaab and Ur, where there have been attacks targeting barbershops."

Northwestern Sadr City is solidly Shi'ite, and even Sunni insurgents don't dare venture there.

All Muslim clerics, including Shi'ite spiritual leader Grand Ayatollah Ali al-Husseini al-Sistani, say that shaving goes against Islamic law, but there have been no attacks in Shi'ite areas.

According to Dubai-based Al Arabiya television, Arabs spend $110 million a year at the barbershop and own 697 million razors of all kinds.

"Recently, there has been an increase in the number of attacks against barbershops, to the extent that it has become a daily occurrence, and we have to look for safer places," said Ammar Qassem, 20, who was halfway through a shave.

"In one day, four barbers were killed and others decided to close shop to avoid the same fate," said Mr. Qassem, who lives in the nearby Ashaab neighborhood.

In a shop that measures a minuscule 86 square feet, six other waiting clients nod in approval, and the barber did not hesitate to lay the blame at the feet of Salafists, or Sunni religious hard-liners.

"Those who carry out the attacks belong to Ansar al-Sunna or Wahhabi groups that are very active in the neighborhoods of Al-Jazair, Ashaab and Hay al-Ur," he charged.

The al Qaeda-linked Army of Ansar al-Sunna is one of a number of insurgent groups reported to have taken part in talks with U.S. representatives last month, although Internet statements posted in its name have denied it.

The strict Wahhabi version of Sunni Islam is the official religion of neighboring Saudi Arabia and provides inspiration for some of the militants fighting the Iraqi government and its U.S. backers.

Such is the terror in Baghdad that it is now common to see signs that say: "We apologize for not shaving beards or removing facial hair."

"I put this sign up after one of my friends in the same street was threatened. I've decided to quit shaving beards or removing facial hair to save my life, as well as those of my customers. I only cut hair, said Muhannad Ali Sahib, who owns a barbershop in the western Baghdad neighborhood of Zaiyunah.

According to an Interior Ministry official, at least 20 barbers have been assassinated in areas like Shaab, Bayaa, Saidiyah and Baghdad al-Jadeeda over the past two months.

Egyptian Envoy's Abduction Adds To Diplomatic Chill (LAT)

By Borzou Daragahi

The Los Angeles Times, July 5, 2005

BAGHDAD — The kidnapping of Egypt's top envoy in Baghdad has sent shivers through the capital's small diplomatic community and may further hamper Iraq's drive to restore full diplomatic relations with the world.

Ihab al-Sherif was abducted as he drove between his home and a store Saturday night, and there was no new information Monday about his whereabouts or any claim of responsibility. Al-Sherif, head of Egypt's diplomatic mission in Baghdad, was set to become a full-fledged ambassador, the first from an Arab country since the March 2003 U.S.-led invasion.

U.S. and Iraqi officials have accused the mostly Sunni Muslim nations of the Arab world of refusing to restore full diplomatic ties with Iraq because it has been led by Shiites since the handover of sovereignty last year.

But Demiye Haddad, the Jordanian embassy's charge d'affaires, said security -- not politics -- is the issue.

"All diplomats are targets here," Haddad said in an interview during a Fourth of July celebration on the grounds of the U.S. Embassy. "Jordan has demonstrated that we have stood by the new Iraq. When the safety of our ambassador is assured, we will bring an ambassador."

Even non-Arab countries such as Canada, which does not keep an embassy in Baghdad and has a skeleton staff of only two diplomats, have shunned Iraq.

Diplomats say they fear for their safety in Iraq, and are concerned that their nations could become targets of terrorists if they appear to warm up to Baghdad.

Police on Monday reported another abduction, this time of a female member of Baghdad's city council in the Kadhemiya district. Ahlam Ahmed Mahmoud Jabouri was grabbed in front of her home Sunday by two men in sky-blue Oldsmobile, an Interior Ministry official said.

Violence continued throughout the capital. A car bomb exploded on a street leading to Baghdad's treacherous airport road, killing a couple and injuring their son. A roadside bomb in the Zafarania district killed one civilian.

Nearly 250 U.S. and 600 Iraqi soldiers seized 100 suspected insurgents, including at least one Egyptian, during an early-morning raid in neighborhoods near the airport, the military said in a statement.

In the capital's well-fortified Green Zone, Iraq's political leaders joined U.S. military commanders and diplomats from the United States and other countries to commemorate Independence Day.

Jalal Talabani, Iraq's president, commended the Bush administration's efforts to change Iraq and the Middle East. The mass graves that Saddam Hussein left behind justified the war, he said. "It is the worst kind of WMD," or weapon of mass destruction, said the Kurdish leader. President Bush had cited the threat of weapons of mass destruction -- nuclear, chemical or biological weapons -- as a key rationale for the invasion, although none were found.

Prime Minister Ibrahim al-Jaafari praised America's democratic principles, and urged Iraqis not to allow violence to derail Iraq's freely elected government. "They should not allow the car bomb to change the nature of an elected government," he told about 250 guests gathered for an outdoor barbecue.

U.S. charge d'affaires David Satterfield, filling in for an ailing Ambassador Zalmay Khalilzad, said: "Perhaps nowhere in the world is the price of freedom so clear as here in Iraq."

War Dogs Lap Up Support (WT)

By Jen Haberkorn

The Washington Times, July 5, 2005

Military war dogs in Iraq help save lives by detecting bombs and traps and finding injured civilians, but their noses are getting chapped from the desert heat.

When Amy Nichols, owner of Happy Tails Dog Spa in Tysons Corner, heard of the dogs' tale, she bought some lip balm for their noses and set up a donation box in front of her store. The doggy day care also is collecting flying discs, knotted ropes and treats to send to the hundreds of dogs serving in Iraq.

Ms. Nichols had been looking for a cause to combine old-fashioned patriotism and dog care -- a cause close to the hearts of many of the store's customers.

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"People who take their dogs to day care are really generous and supportive," Ms. Nichols said. "We hear about the dogs and get choked up about it. They're all dog lovers here."

By next week, she expects to send about 50 pounds of donations to the dog handlers in Iraq.

Schools and animal advocacy groups across the nation have held collection drives to help the dogs in Iraq, and the U.S. War Dogs Association has proposed a memorial for military working dogs and their handlers.

"It's not important what's in the package; it's the idea of sending something to these men and women and their canines ... that people in the states care about them, worry about them and wish them a safe journey," said Ronald L. Aiello, president of the association and a former Marine scout handler in Vietnam.

The association also uses donations to send about 250 care packages per year to dog handlers. The packages might include beef jerky for the handler and vegetable jerky for the dog.

Ms. Nichols' drive is not associated with the group. She contacted Master Sgt. Chris Burgess, operations chief for the 2nd Military Police Battalion at Camp Fallujah in Iraq, who compiled a list of the dogs' needs.

"Thank you for all the support," he said in an e-mail to Ms. Nichols. "I know the handlers and the dogs will appreciate it very much."

Military working dogs -- many of them German shepherds, Dutch shepherds or Belgian Malinois -- have been used since World War II. The dogs keep U.S. troops safe, but also may remind troops of their pets at home and provide a morale boost, Mr. Aiello said.

Mr. Aiello's dog in Vietnam, Stormy, was responsible for checking buildings for explosives before the Marines entered. The handlers are responsible for caring for the four-legged soldiers and relaying their messages to the troops.

"They're fantastic animals," he said. "They do a great job of alerting to danger."

Military war dogs are performing the same service for U.S. troops in Iraq.

"The [breeds] are so smart, they need stuff to do," Ms. Nichols said. "They love having a job."

But they still need time to play and time to sharpen their skills, which is why they receive the flying discs, rubber toys and ropes. Their handlers asked for sunflower seeds, sugarless gum, energy drinks, crackers, meat sticks and beef jerky.

The three-year-old doggy day care is covering the shipping costs, which Ms. Nichols expects to reach $100 to $150.

"Look at what they're asking for ... Blistex and Goldfish crackers," she said. "We could walk across the street right now and get it. It's very basic stuff."

Pentagon Weighs Strategy Change To Deter Terror (NYT)

By Thom Shanker And Eric Schmitt

The New York Times, July 5, 2005

WASHINGTON, July 4 - The Pentagon's most senior planners are challenging the longstanding strategy that requires the armed forces to be prepared to fight two major wars at a time. Instead, they are weighing whether to shape the military to mount one conventional campaign while devoting more resources to defending American territory and antiterrorism efforts.

The consideration of these profound changes are at the center of the current top-to-bottom review of Pentagon strategy, as ordered by Congress every four years, and will determine the future size of the military as well as the fate of hundreds of billions of dollars in new weapons.

The intense debate reflects a growing recognition that the current burden of maintaining forces in Iraq and Afghanistan, along with the other demands of the global campaign against terrorism, may force a change in the assumptions that have been the foundation of all military planning.

The concern that the concentration of troops and weapons in Iraq and Afghanistan was limiting the Pentagon's ability to deal with other potential armed conflicts was underscored by Gen. Richard B. Myers, chairman of the Joint Chiefs of Staff, in a classified risk assessment to Congress this spring. But the current review is the first by the Pentagon in decades to seriously question the wisdom of the two-war strategy.

The two-war model provides enough people and weapons to mount a major campaign, like the Persian Gulf war of 1991 or the invasion of Iraq in 2003, while maintaining enough reserves to respond in a similar manner elsewhere.

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An official designation of a counterterrorism role and a shift to a strategy that focuses on domestic defense would have a huge impact on the size and composition of the military.

In a nutshell, strategies that order the military to be prepared for two wars would argue for more high-technology weapons, in particular warplanes. An emphasis on one war and counterterrorism duties would require lighter, more agile forces - perhaps fewer troops, but more Special Operations units - and a range of other needs, such as intelligence, language and communications specialists.

Civilian and military officials are trying to decide to what degree to acknowledge that operations like the continuing presence in Iraq - not a full-blown conventional war, but a prolonged commitment - may be such a burden that it would not be possible to also fight two full-scale campaigns elsewhere.

In effect, the unusual mission in Iraq, which could last for years, has not just taken the slot for one of the two wars; it has upended the central concept of the two-war model. It is neither a major conventional combat nor a mere peacekeeping operation. It does not require the full array of forces, especially from the Navy and the Air Force, of a conventional war, and it takes far more troops than peacekeeping ordinarily would.

The force of 138,000 troops in Iraq is only 13,000 smaller than it was at the height of the offensive on Baghdad two years ago, yet the administration describes the campaign not as a major conventional war, but as the leading effort in the nation's fight against terrorism.

"The war in Iraq requires a very large ground-force presence," said Loren Thompson, an analyst at the Lexington Institute, a policy research center in Arlington, Va. "War with China or North Korea or Iran, the other countries mentioned in the major review scenarios, would require a much more capable Navy and Air Force."

Mr. Thompson added that "what we need for conventional victory is different from what we need for fighting insurgents, and fighting insurgents has relatively little connection to stopping the spread of nuclear weapons. We can't afford it all."

The Pentagon's sweeping study, called the Quadrennial Defense Review, is not due to be completed until early next year, when it will be submitted to Congress with the administration's annual budget request. Yet debate over the review cannot ignore the mounting costs of the war in Iraq, approximately $5 billion a month.

A description of the major issues discussed in the classified review was gathered from interviews with more than a half-dozen civilian officials and military officers from across the armed services who are directly involved in the process.

The current military strategy is known by a numerical label, 1-4-2-1, with the first number representing the defense of American territory. That is followed by numbers representing the ability to deter hostilities in four critical areas of the world, and to swiftly defeat two adversaries in near-simultaneous major combat operations The final number stands for a requirement that the military retain the capability, at the same time, to decisively defeat one of those two adversaries, which would include capturing a capital and toppling a government.

"We have 1-4-2-1 now, and we are going to look at that," said Ryan Henry, who serves as principal deputy under secretary of defense for policy.

Asked where the military's heavy commitment to the fight against terrorism fits into the current strategy formula, Mr. Henry said, "It wasn't there when they came up with 1-4-2-1." If a new strategy emerges from the review, he said, it might be "something that doesn't have any numbers at all."

Several officials involved in the review characterized the debate as "an effort to create a construct that will bring a better balance" among domestic defense, the antiterrorism campaign and conventional military requirements.

After years of saying American forces were sufficient for a two-war strategy, "we've come to the realization that we're not," said another Defense Department official involved in the deliberations, who was granted anonymity because he could not otherwise discuss the talks, which are classified. "It's coming to grips with reality."

Senior leaders are trying to develop strategies that will do a better job of addressing the requirements of antiterrorism and domestic defense, while acknowledging that future American wars will most likely be irregular - against urban guerrillas and insurgents - rather than conventional.

Tentative proposals by midlevel staff members on holding a summer summit on the review have been shelved, and the debate is now driven by weekly meetings that officials say have brought new discipline to a sprawling process.

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Under Gordon R. England, nominated to succeed Paul D. Wolfowitz as deputy defense secretary, more than 150 questions that the review should address have been sorted into 36 major themes. They include such things as balancing reserve and active-duty forces; the role of other agencies in domestic security; combat medicine; the ability of foreign coastal powers to keep American forces at a distance; and the ability to attract people with important skills, such as a knowledge of the Arabic language.

The review is analyzing in detail what would happen if the United States had to fight China, North Korea or Iran.

In preparing for the review's presentation to Defense Secretary Donald H. Rumsfeld, the highest-level decisions are made at round-table discussions held about three times a month and managed by Mr. England and Gen. Peter Pace, vice chairman of the Joint Chiefs of Staff and the nominee to succeed General Myers as the chairman. Although no draft of the review has been presented to Mr. Rumsfeld, he already has, in broad terms, endorsed efforts that would transform the military into a lighter, more mobile force.

General Pace declined through a spokeswoman on Friday to discuss the review.

"Whether anybody believed we could actually fight two wars at once is open to debate," one senior military officer said. "But having it in the strategy raised enough uncertainty in the minds of our opponents that it served as a deterrent. Do we want to lose that? We don't want to give any adversary the confidence that they could take advantage of us while we're engaged in one major combat operation."

DOJ:

Inadmissible: Survey Yields Mixed Results For D.C. Firms; Reaction To The Creation Of A New National Security Division; And More (LEGALT)

Legal Times

Legal Times, July 4, 2005

SURVEY YIELDS MIXED RESULTS FOR D.C. FIRMS

The numbers are in and, no surprise, 2004 was again a very good year for the nation's largest and wealthiest law firms. That's according to the AmLaw 100, the annual survey of law firm financial data published in this month's edition of The American Lawyer, a sister publication of Legal Times. The survey found that revenue at the nation's 100 biggest law firms jumped 10 percent over 2003.

For firms with headquarters in the D.C. area, however, the survey is a mixed bag. Wilmer, Cutler & Pickering's merger with Boston-based Hale and Dorr last year vaulted the combined behemoth up the charts, making it the nation's 12th-largest law firm, as measured by gross revenue (the firms were No. 58 and 60 in 2003, respectively). But if Wilmer was the chart's biggest gainer, D.C. also has the distinction of being home to firms that took two of the largest falls. Dickstein Shapiro Morin & Oshinsky, which was No. 66 in 2003, tumbled off the chart. Howrey (formerly Howrey Simon Arnold & White) saw not only its name but its revenues reduced, causing the firm to drop from No. 44 to No. 61. Both firms' numbers were helped in 2003 by contingent fee windfalls. Akin Gump Strauss Hauer &Feld remained the most profitable regionally based firm, as measured by profits per partner. Its $920,000-per-partner figure was trailed closely by that of Finnegan, Henderson, Farabow, Garrett & Dunner at $895,000.

This year the magazine introduced a new metric to measure a law firm's financial performance: value per lawyer. That figure computes the average number of lawyers needed to generate $10 million in compensation to all partners (both equity and nonequity), giving high marks to firms with low overhead and efficient management. By that measure, Arnold &Porter and Hogan &Hartson were tops among locally based firms, each needing just 32 lawyers to generate $10 million to line the partners' pockets. McGuireWoods, by comparison, needed 44 lawyers. That figure looks good compared with that of troubled Coudert Brothers, which needed an army of 91. But the New York giants still tower over the D.C. region's home-grown firms. Wachtell, Lipton, Rosen & Katz, for example, couldn't even field a softball team with the seven lawyers it needed to generate $10 million in partner paychecks. — Jason McLure

SPY GAME

The president's proposal to create a new National Security Division in the Justice Department, if adopted, would formalize the removal of the wall between intelligence gathering and criminal prosecution. But finding the right person to run the new

section, which would bring together the DOJ's counterterrorism section, counterespionage section, and the Office of Intelligence Policy and Review, may not be easy. Before the passage of the USA Patriot Act in 2001, intelligence agents and prosecutors rarely worked together. As a result, few lawyers have experience in both disciplines. "There really aren't a lot of people who bridge both worlds," says Suzanne Spaulding, a former CIA lawyer. The post is unlikely to go to James Baker, who currently heads the Justice Department's intelligence office, or to counterterrorism chief Barry Sabin because both men are career officials without strong Republican ties. One senior DOJ official says the shuffle will not disrupt ongoing terrorism investigations: "The advantage of putting those troops in the same division is that it will enable them to better take advantage of synergy the destruction of the wall has made possible." — Vanessa Blum

DÉJÀ VU

The U.S. Chamber of Commerce will be heading back to court to fight Securities and Exchange Commission rules governing the independence of mutual fund boards, says the business lobby's general counsel Steve Bokat. Just days after the U.S. Court of Appeals for the D.C. Circuit ordered the SEC to reconsider its requirement that the chairman and 75 percent of a mutual fund board be independent from the company, the agency voted to reaffirm the same rules. This time, the business lobby says, the agency didn't deliberate long enough before its 3-2 vote on June 29. It was a coup of sorts for Republican SEC Chairman William Donaldson, who pushed the vote before stepping down on June 30. — Lily Henning

COMING HOME

The tune is a familiar one: top government lawyer leaves regulatory agency to cash in at former firm. But in the case of Stephen Cutler, the former director of the Security and Exchange Commission's Enforcement Division, the announcement last week that he'd return to Wilmer Cutler Pickering Hale and Dorr was by no means inevitable. After all, Cutler's two predecessors at the SEC had opted to go in-house on Wall Street at Credit Suisse First Boston Inc. and Deutsche Bank AG. Cutler says he spoke with investment banks as well as other law firms before deciding to return. To help woo Cutler back, the firm trotted out heavy-hitting partners Jamie Gorelick, Seth Waxman, and Charlene Barshefsky, and arranged a lunch at the Park Hyatt for Cutler with Wilmer's junior securities partners. Cutler, who will start in the fall, says the move was a "chance to join what I think of as the pre-eminent SEC practice in the country." It's likely that Cutler, who oversaw the investigations of WorldCom Inc., Tyco International Ltd., and Qwest Communications International Inc., also negotiated a pay package substantially more than the roughly $200,000 he was paid annually by the SEC. (Both Cutler and firm co-managing partner William Perlstein declined to discuss compensation arrangements.) Also last week, Wilmer announced the opening of its first West Coast office in Palo Alto, Calif. — Jason McLure

NEW PASTURES

Venable has picked up former longtime DLA Piper Rudnick Gray Cary partner Emilio Cividanes, a data privacy and intellectual property lawyer and lobbyist. Cividanes, 49, had been at Piper for nearly 17 years; at Venable he joins what Ian Volner, who chairs the firm's regulatory group, calls one of the largest advertising, marketing, and distribution practices in the country. "Milo adds a dimension to a practice that already includes about 40 lawyers," Volner says. Cividanes' departure follows the death last year of DLA Piper's Ronald Plesser, who had chaired the firm's electronic commerce and privacy practice group. "He was my mentor and my senior colleague for almost 16 years. When that happens, you have to revisit everything," says Cividanes, calling the Venable job an "excellent opportunity." Cividanes, who splits his time between lobbying, counseling, and litigation, represents, among other clients, Reed Elsevier's LexisNexis, Time Warner Cable, and the Direct Marketing Association. Along with Plesser, he was part of a team that represented the DMA in its ultimately unsuccessful bid to prevent the establishment of a national Do Not Call Registry. — T.R. Goldman

LAWYERING UP

A federal probe of a real estate transaction involving Rep. Randy "Duke" Cunningham (R.-Calif.) has been good for the local white collar bar. Last week, a grand jury in California served Cunningham with a subpoena for documents, following a host of news reports examining Cunningham's 2003 sale of his Del Mar, Calif., house to defense contractor MZM Inc. for $1.6 million. MZM sold the house within a year at a $700,000 loss. Cunningham, who sits on a defense appropriations subcommittee, also lived on a yacht moored in Washington, the Duke-Stir, that belongs to MZM founder Mitchell Wade. Cunningham, who has said he has "acted honorably and honestly" but admitted showing "poor judgment" in the home sale, has hired congressional

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investigations specialist K. Lee Blalack of O'Melveny &Myers to handle the matter. Wade, who resigned from MZM last month, has turned to a bipartisan team of partners at Wilmer Cutler Pickering Hale and Dorr: Reginald Brown, former Bush White House associate counsel; Howard Shapiro, who served as general counsel at the FBI for much of the Clinton administration; and former federal prosecutor Ronald Machen. MZM has retained Steptoe & Johnson's Mark Hulkower. — Jason McLure

CHUTZPAH

No one can deny John Marboah has guts. Marboah, aka Charles Boateng, is an illegal alien who used a fake name and Social Security number to get a construction job. He then filed a workers' compensation claim after being injured. Marboah, a citizen of the Netherlands, later sued his lawyers for $5 million, alleging they botched the paperwork in his compensation case. Marboah's true identity was exposed when he tried to re-enter the United States from Canada in 2002. In what one D.C. judge called "an unusual measure of audacity," Marboah continued to push the legal malpractice suit, arguing he still had a case because his compensation claim had been granted under his fake name. "It was a clear case of legal malpractice," says Benjamin Trichilo of Trichilo, Bancroft, McGavin, Horvath & Judkins, who represented Marboah in the malpractice suit. The D.C. Court of Appeals disagreed and last week ruled in favor of Marboah's former attorney, Alan Ackerman, and his firm. Marboah's deception led Judge Frank Schwelb to include a footnote, quoting Sir Walter Scott: "Oh, what a tangled web we weave when first we practice to deceive." — Bethany Broida

FLIPPING

Laura Flippin, formerly a special assistant to the president and executive secretary of the Homeland Security Council, has joined Paul, Hastings, Janofsky & Walker's litigation department as of counsel. Prior to serving in the Bush White House, Flippin was a deputy assistant attorney general in the Justice Department's Civil Division, overseeing immigration and consumer litigation. Flippin says her experience litigating against Fortune 500 companies has given her an insider's point of view: "My understanding of how the government looks at these cases and prosecutes them is a good foundation for expanding on a practice that I now have an insider's perspective on." Litigation department chair James Wareham says Flippin's government experience will be an asset to the global litigation practice. — Hilary Lewis

CORPORATE SCANDALS:

Feds To Continue HealthSouth Probe (AP)

By JAY REEVES, ASSOCIATED PRESS

AP, July 4, 2005

BIRMINGHAM, Ala. (AP) - Federal prosecutors aren't done with HealthSouth Corp., despite the acquittal of ousted CEO Richard Scrushy in a $2.7 billion earnings overstatement. Two former executives who pleaded guilty in the accounting scheme are set for sentencing this summer, and two more indicted in the fraud are awaiting trial in Birmingham, where jurors last week found Scrushy not guilty.

HealthSouth, meanwhile, is still feeding information to prosecutors as it sorts out the aftermath of the financial debacle, and U.S. Attorney Alice Martin said her office is still investigating the long-running fraud at the rehabilitation and medical services chain.

A recent earnings restatement filed by HealthSouth with the Securities and Exchange Commission includes information about payments and perks offered to some health care providers that could have violated Medicare rules, Martin said in an interview with The Associated Press.

"Now I'll turn my attention to some other things that have been on the back burner during the trial," said Martin, declining to elaborate.

The acquittal of Scrushy on all 36 counts was a stinging defeat for FBI agents and prosecutors who spent more than two years on the case, and Martin said attorneys are eager to talk more with jurors to find out exactly where their case failed.

But Martin rejected the idea that Scrushy's acquittal meant the whole investigation was a failure.

"Overall it's been an incredible success with 15 guilty pleas," she said. "Sometimes that last domino doesn't fall."

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Years of bogus accounting at the company Scrushy founded and ran for nearly two decades were revealed in March 2003, when the SEC filed a civil lawsuit accusing him and HealthSouth of a massive fraud.

HealthSouth fired Scrushy and cleaned out most of the company's top officers, with 15 one-time executives pleading guilty in the scam. HealthSouth never denied the fraud occurred, and neither did Scrushy.

But jurors didn't feel that the government had proved Scrushy was aware of and took part in the conspiracy with some of his closest, longest-serving aides.

By the time HealthSouth employees stopped confessing crimes, 15 people had struck plea deals and agreed to cooperate with prosecutors trying to unravel the crime. The executives-turned-felons included longtime Scrushy associate Aaron Beam, who helped Scrushy start HealthSouth in a one-room office in 1984.

Beam, the company's first finance chief, pleaded guilty to bank fraud in the scheme and was the first of five CFOs to take the stand and tie Scrushy to the fraud. Jurors rejected all that testimony, telling reporters afterward that all five men had credibility problems.

Now, Beam is scheduled to be sentenced on July 25 for his role in the fraud. Defense lawyer Donald Briskman said Beam fulfilled his part of the plea deal by taking the stand against his old colleague, and he expects prosecutors to honor their end of the bargain by recommending a lighter sentence.

"Despite what the result may have been, Mr. Beam testified accurately, completely and fully," Briskman said.

Beam and Will Hicks, a one-time HealthSouth vice president who also testified against Scrushy and also is set for sentencing on July 25, could receive probation based on the punishment handed down to 10 other HealthSouth executives sentenced so far. Only one was sent to prison, and that term was for only five months.

"I really don't want to speculate on any possible sentence," Briskman said.

The 11th U.S. Circuit Court of Appeals last month ordered a judge to explain his light sentences for two more former HealthSouth workers who pleaded guilty, former CFO Mike Martin and Richard Botts, a vice president, but the court didn't order tougher punishment for the two, who got probation. Still, prosecutors are renewing their request for prison for Martin and Botts.

Meanwhile, former HealthSouth president and director Jim Bennett and Hannibal "Sonny" Crumpler, a division controller, are awaiting trial. Bennett's attorneys have asked for a date as early as November, and Crumpler's case is set to begin Sept. 12.

HealthSouth repeatedly has said it is cooperating with authorities, but Martin said no decision has been made on whether to charge the corporation itself with a crime.

"The company has continued to self-report things that it found, and we are still looking into those," she said.

HealthSouth last month agreed to pay $100 million to settle the civil fraud charges filed by the SEC, and in January it reached a $325 million settlement with the Justice Department to resolve issues linked to Medicare billing practices.

SEC To Try To Pursue Scrushy In Civil Court (WP)

By Carrie Johnson

The Washington Post, July 5, 2005

Federal prosecutors last week failed in their attempt to hold former health care executive Richard M. Scrushy accountable for a $2.7 billion accounting fraud. Now the Securities and Exchange Commission is taking a crack.

Thursday, the SEC will file court papers seeking a chance to pursue its case against Scrushy for the earnings inflation at HealthSouth Corp. The agency wants to forbid Scrushy, 52, from serving as an officer or director of another public company. It is also seeking $786 million in penalties and disgorgement.

But whether the SEC will succeed where criminal authorities stumbled is far from clear, experts said.

U.S. District Judge Inge P. Johnson last week ordered the agency to "show cause . . . why this case should not be dismissed."

Two years ago, the same judge rejected the agency's attempt to freeze hundreds of millions of dollars in Scrushy's cash and property after an unusual 11-day hearing in Birmingham. The SEC sought to protect the assets so eventually they could be distributed to investors who lost money after the fraud came to light.

"Evidence of defendant Scrushy's involvement in the alleged scheme to inflate profits . . . is lacking," the judge wrote in a May 2003 opinion.

She added that testimony from former HealthSouth finance chiefs who pleaded guilty to taking part in the scheme lacked credibility and called a secret recording of Scrushy talking about the company's financial problems "ambivalent at best."

Similar doubts also were cited by jurors who last week acquitted Scrushy on three dozen fraud, conspiracy and money-laundering charges in a trial that featured testimony from all five of the company's former finance officials. Scrushy could have faced decades behind bars if he had been convicted.

Arthur W. Leach, a lawyer for Scrushy, said he hopes the jury verdict "has caused Judge Johnson to have increased questions about the strength and the merit of the SEC case." Leach noted that the judge in the criminal trial had ruled that Justice Department prosecutors and securities investigators had colluded in a way that violated Scrushy's rights -- a decision that resulted in Scrushy's SEC deposition being tossed out of the criminal case.

John Nester, an agency spokesman, declined to comment on the substance of the agency's argument but said the SEC would pursue its case.

"It's extremely rare that this situation happens, and it's something nobody at the SEC will be happy about," said Gregory S. Bruch, a former agency lawyer and a partner at Foley & Lardner LLP in the District. "Judges generally don't like the government taking multiple shots at people on the same set of facts."

Civil claims such as those filed by the SEC must be proved by a preponderance of the evidence -- a far lower burden than the reasonable-doubt standard necessary for a criminal conviction. Experts added that the agency is charging Scrushy with failing to follow accounting procedures and other new allegations not contained in his criminal indictment.

In addition, the SEC may be able to sharpen its case based on lessons it gleans from the failed criminal prosecution.

"I don't know how much mileage Scrushy can get out of this acquittal," said Steven R. Smith, a securities lawyer at Bryan Cave LLP.

Derek M. Meisner, a former SEC lawyer now at Kirkpatrick & Lockhart Nicholson Graham LLP, said agency officials might consider settling with Scrushy rather than trying their luck in court. Lawyers for Scrushy said last week that he wants to return to HealthSouth, where he remains a member of the board.

But the rehabilitation hospital company's new managers decreed that Scrushy, HealthSouth's largest individual shareholder, would not be welcome under any circumstances. Institutional shareholders and money managers have echoed that sentiment.

The company's board has been holding special committee meetings, without Scrushy, for the past two years. HealthSouth expects to hold a formal shareholder meeting as soon as its financial statements are up to date -- perhaps as early as the first quarter of 2006, spokesman Andy Brimmer said. The company does not plan to include Scrushy on the slate of board candidates.

German Broker Is Investigated For Millions In Missing Funds (WSJ)

By Edward Taylor And David Reilly

The Wall Street Journal, July 5, 2005

In what appears to be one of Europe's biggest investment frauds -- potentially affecting as many as 30,000 investors -- about €270 million, or roughly $320 million, in client funds hasn't been accounted for at a little-known German brokerage firm, lawyers probing the firm's activities said Friday.

Despite promising double-digit returns to investors, Phoenix Kapitaldienst GmbH was a scam that operated for nearly a decade, said Otto Lakies, a member of the law firm appointed to oversee Phoenix's insolvency proceedings and is trying to trace the funds. To cover up the fraud, the firm simply wrote fake account statements and shredded documents, he added. The ruse went undetected even during a special audit of the firm in 2002 ordered by German markets watchdog BaFin.

"It was a systematic deception, a fraud which should have been detected earlier because it was so...obvious," Mr. Lakies said.

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Some managers at Phoenix itself discovered the fraud in March when they uncovered a phantom account that purportedly contained €600 million. Their discovery came almost a year after the death of top Phoenix manager Dieter Breitkreuz, who was killed in a plane crash on April 7, 2004. These managers contacted BaFin, which on March 10 blocked the company's accounts and called in prosecutors.

Prosecutors have started proceedings against two directors of the company on charges of fraud in 6,940 cases related to the firm and arrested the two, one of whom they allege destroyed documents. A Frankfurt court appointed law firm Schultze & Braun to oversee insolvency proceedings at the firm; Mr. Lakies, its head of forensic services, has been trying to piece together what happened and find what money is left.

Phoenix couldn't be reached for comment.

Insolvency administrator Frank Schmitt of Schultze & Braun said he has accounted for €232 million of €500 million that individuals from Germany, Denmark and the United Kingdom invested with Phoenix. He said it was unlikely the remaining money would be recovered, but investigations are continuing. Much of the money had been paid out by Phoenix in salaries and profit-participation plans among employees, as well as in taxes, he said.

Lawyers at Schultze & Braun said that the fraud began in the early 1990s and that signs emerged as early as 1997.

Hoping To Avoid The Third Out (WP)

By Dean Starkman, Washington Post Staff Writer

The Washington Post, July 5, 2005

Evan G. Greenberg, the last member of his family to head a major insurance company, is walking a fine line, staying on his feet despite investigations into the U.S. insurance industry that have toppled his brother and father.

A son of industry icon Maurice R. "Hank" Greenberg, 50-year-old Evan heads Ace Ltd., a major Bermuda-based insurer that is one of the most profitable in the industry. The company is a big underwriter in Asia and a leading U.S. insurer against big corporate losses, such as those from asbestos claims.

Evan Greenberg has so far managed to keep a low profile and mollify authorities -- unlike his father, who was ousted in March after heading giant American International Group Inc. for 37 years, and older brother Jeffrey, who resigned last fall as chief executive of Marsh & McLennan Cos. after New York state Attorney General Eliot L. Spitzer filed civil bid-rigging charges against the company and publicly signaled his desire for Jeffrey W. Greenberg's ouster.

In comments to investors, Evan Greenberg has acknowledged his own company's shortcomings and called for industry-wide reforms. But he also said Ace has weathered an internal review of bid-rigging allegations without major findings of wrongdoing beyond those disclosed earlier this year. At the time of the disclosure, Ace fired three executives, suspended two others and forced the resignation of the head of its U.S. operations, who reported to Greenberg.

"We are an ethical company," he said on a conference call in May. "We have conducted ourselves in a fit and proper manner."

Greenberg has decided to fight a civil suit filed by Connecticut Attorney General Richard Blumenthal alleging that Ace paid an improper secret commission to Marsh to win a state contract to administer $80 million in workers' compensation claims.

Greenberg has said the company believes the case has no merit, and Ace has a filed a motion to dismiss the claim.

Some observers say the company is confident that Greenberg will weather the industry-wide investigations.

"ACE believes its CEO is not a focus of any investigation, despite having the last name Greenberg," J. Paul Newsome, an analyst for A.G. Edwards & Sons Inc., wrote in April. Newsome added recently that he has not learned anything since then to contradict that notion.

Greenberg and Ace, through a company spokesman, declined to comment.

The company faces plenty of questions. According to documents Ace filed in March with the Securities and Exchange Commission, the company has received 43 subpoenas, civil demands and other queries from attorneys general in 10 jurisdictions, including the District, and 10 state insurance departments or other regulators, including Maryland's.

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State authorities are investigating whether insurance firms took kickbacks or colluded with one another to increase prices. State and federal officials are also looking into whether companies misled investors by accounting for a type of insurance as a loan when there was no transfer of risk.

Greenberg himself has cautioned that the company is still conducting the second half of a two-part internal review into the company's use of "finite risk" insurance, an income-smoothing device misused by some companies to cover up problems on their books. Allegations of such misuse sparked investigations into AIG and Berkshire Hathaway Inc.'s General Re Corp. insurance unit. The internal review of Ace, by Mary Jo White, a former U.S. attorney for Manhattan and a partner at Debevoise & Plimpton LLP, is due in a month or so.

There are also ongoing state and federal investigations into accounting and business practices at AIG, where Evan Greenberg worked for 25 years, including the last three as chief operating officer under his father.

For a long time, Evan Greenberg was considered the least likely family member to run an insurance company. His father had run AIG since 1967 and turned it into the world's largest insurer. His brother Jeffrey, a graduate of Choate School in Connecticut, Brown University and Georgetown law school, joined a Marsh insurance-brokerage unit and rose quickly. He joined AIG in 1978 and was considered a potential successor to his father, until the two fell out and Jeffrey abruptly left in 1995. He later became head of Marsh, a big source of business for AIG.

Evan, by contrast, did not graduate from college and drifted after finishing at an alternative high school, working as a cook in a nursing home and as a bartender before joining an AIG subsidiary in Colorado in 1975.

Evan served in posts in Korea and Japan and was named to head AIG's foreign general insurance business. He returned to New York in the early 1990s and was named president and chief operating officer in 1997.

As part of his duties, Evan oversaw AIG's auto warranty business, which turned into a "disastrous" investment resulting in a $210 million loss by 1999, according to a civil fraud suit filed by Spitzer against AIG last month. In lengthy litigation brought in 1999 against AIG by a claims adjuster, Warrantech Automotive of Bedford, Tex., Evan Greenberg testified in a 2001 deposition that his father held him responsible for the debacle.

"I received the CEO's displeasure with the business, and how bad it was, routinely; his impatience, his unhappiness and his expectations," he said. The case was first highlighted in a USA Today article published in November.

In September 2000, Evan left.

"We wish Evan the very best in his future endeavors," his father said in AIG news release.

The auto warranty losses became a centerpiece of Spitzer's civil suit against AIG, which alleges that Maurice Greenberg and others arranged a "fraudulent and illegal scheme" beginning in April 2000 to disguise the auto warranty losses as investment losses. AIG says it is cooperating with all investigations. Maurice Greenberg has denied the allegations.

A year after leaving AIG, Evan Greenberg joined Ace, a company packed with AIG alumni and one of AIG's fiercest rivals.

Founded in 1985 to fill an underserved market insuring against large corporate losses, known as excess casualty, the company went on to mimic AIG's core business, commercial underwriting, and became one of the few to compete with AIG both in the United States and globally. The rivalry heated up in 1994, when a top AIG executive and protege of Maurice Greenberg, Brian Duperreault, left AIG to head Ace, taking several AIG executives with him. Maurice Greenberg often disparaged Ace to investors and analysts, sarcastically asking if it was "some kind of bandage," according to people who heard him.

Evan Greenberg was hired in November 2001 to head Ace's overseas unit, became president and chief operating officer in June 2003 and succeeded Duperreault as chief executive in May 2004. He was paid $7.2 million in salary, bonus and restricted stock last year, plus more than $214,000 as a housing allowance and more than $68,000 for personal travel on corporate aircraft, according to documents filed with the Securities and Exchange Commission.

A lawsuit filed by Spitzer in October against Marsh alleged that the New York-based brokerage conspired with Ace and other insurers to rig insurance bids for corporate customers. An Ace assistant vice president, Patricia Abrams, pleaded guilty in New York state court to a misdemeanor criminal complaint alleging that she attempted to restrain trade. She was charged with providing noncompetitive "b" quotes intended to fool insurance customers under a "rigged bidding process." Abrams is expected to cooperate with Spitzer in his criminal investigation of the industry, according to a person familiar with the matter who spoke on condition of anonymity because of the ongoing investigations.

A lawyer for Abrams did not return a telephone call.

Ace was not named as a defendant in the suit, although the suit said Ace and other companies "conspired unreasonably to restrain trade." Marsh settled its portion of the suit in January, apologizing and setting up an $850 million compensation fund.

In January, the head of Ace's U.S. unit, Susan Rivera, resigned after an e-mail to her was included in court papers as part of Spitzer's investigation. In the e-mail, Geoffrey G. Gregory, the president of Ace's casualty risk unit, warns that "b" quotes could "potentially be construed as simply providing the appearance of competition."

Rivera was also mentioned in a settlement agreement signed in April by Spitzer and Willis Group Holdings Ltd., another New York brokerage. Spitzer alleged that a former Willis official "personally convinced" Rivera to send him "fraudulent e-mails" to justify a $500,000 payment from Ace to Willis. The payment was a "contingent commission" intended to prod Willis to steer corporate clients to "favored" insurance companies, Spitzer alleged. A Willis spokesman declined to comment; the company paid $50 million to settle the investigation without a lawsuit being filed. Barry Ostrager, a lawyer for Rivera, said his client did nothing wrong and that the Spitzer allegations are a "mischaracterization of the historical facts."

Rivera had been recruited to Ace by Evan Greenberg, according to a person familiar with the matter who requested anonymity because of the ongoing investigation. Ace announced in November that it had fired Abrams and Gregory, and, last month, a third executive. A lawyer for Gregory declined to comment.

In the conference call with investors, Evan Greenberg said the company's problems in bid-rigging had been mostly confined to the excess casualty unit, plus "a few" examples of behavior that were "inconsistent" with the company's code of conduct.

Greenberg also acknowledged the fraught regulatory environment. Asked whether he expected regulators to show increased "vigilance" from now on, he said: "I don't know that there'll be any more vigilance than we have today. It's a pretty frickin' vigilant environment."

CRIMINAL LAW:

The Rove Factor? (NSWK)

By Michael Isikoff, Newsweek

Newsweek, July 3, 2005

Its legal appeals exhausted, Time magazine agreed last week to turn over reporter Matthew Cooper's e-mails and computer notes to a special prosecutor investigating the leak of an undercover CIA agent's identity. The case has been the subject of press controversy for two years. Saying "we are not above the law," Time Inc. Editor in Chief Norman Pearlstine decided to comply with a grand-jury subpoena to turn over documents related to the leak. But Cooper (and a New York Times reporter, Judith Miller) is still refusing to testify and faces jail this week.

At issue is the story of a CIA-sponsored trip taken by former ambassador (and White House critic) Joseph Wilson to investigate reports that Iraq was seeking to buy uranium from the African country of Niger. "Some government officials have noted to Time in interviews... that Wilson's wife, Valerie Plame, is a CIA official who monitors the proliferation of weapons of mass destruction," said Cooper's July 2003 Time online article.

Now the story may be about to take another turn. The e-mails surrendered by Time Inc., which are largely between Cooper and his editors, show that one of Cooper's sources was White House deputy chief of staff Karl Rove, according to two lawyers who asked not to be identified because they are representing witnesses sympathetic to the White House. Cooper and a Time spokeswoman declined to comment. But in an interview with NEWSWEEK, Rove's lawyer, Robert Luskin, confirmed that Rove had been interviewed by Cooper for the article. It is unclear, however, what passed between Cooper and Rove.

The controversy began three days before the Time piece appeared, when columnist Robert Novak, writing about Wilson's trip, reported that Wilson had been sent at the suggestion of his wife, who was identified by name as a CIA operative. The leak to Novak, apparently intended to discredit Wilson's mission, caused a furor when it turned out that Plame was an undercover agent. It is a crime to knowingly reveal the identity of an undercover CIA official. A special prosecutor was appointed and began subpoenaing reporters to find the source of the leak.

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Novak appears to have made some kind of arrangement with the special prosecutor, and other journalists who reported on the Plame story have talked to prosecutors with the permission of their sources. Cooper agreed to discuss his contact with Lewis (Scooter) Libby, Vice President Dick Cheney's top aide, after Libby gave him permission to do so. But Cooper drew the line when special prosecutor Patrick Fitzgerald asked about other sources.

Initially, Fitzgerald's focus was on Novak's sourcing, since Novak was the first to out Plame. But according to Luskin, Rove's lawyer, Rove spoke to Cooper three or four days before Novak's column appeared. Luskin told NEWSWEEK that Rove "never knowingly disclosed classified information" and that "he did not tell any reporter that Valerie Plame worked for the CIA." Luskin declined, however, to discuss any other details. He did say that Rove himself had testified before the grand jury "two or three times" and signed a waiver authorizing reporters to testify about their conversations with him. "He has answered every question that has been put to him about his conversations with Cooper and anybody else," Luskin said. But one of the two lawyers representing a witness sympathetic to the White House told NEWSWEEK that there was growing "concern" in the White House that the prosecutor is interested in Rove. Fitzgerald declined to comment.

In early October 2003, NEWSWEEK reported that immediately after Novak's column appeared in July, Rove called MSNBC "Hardball" host Chris Matthews and told him that Wilson's wife was "fair game." But White House spokesman Scott McClellan told reporters at the time that any suggestion that Rove had played a role in outing Plame was "totally ridiculous." On Oct. 10, McClellan was asked directly if Rove and two other White House aides had ever discussed Valerie Plame with any reporters. McClellan said he had spoken with all three, and "those individuals assured me they were not involved in this."

When To Give Up A Source (TIME)

By BILL SAPORITO

Time, July 3, 2005

For journalists, confidential sources can be as essential as ink. That's why so many were surprised last week when Norman Pearlstine, editor-in-chief of Time Inc., said he would reveal some confidential information about a big story. In a case involving TIME magazine White House correspondent Matthew Cooper, Pearlstine agreed to comply with a federal subpoena and surrender Cooper's notes and files relating to a story he had written that is part of an investigation into the disclosure of a CIA operative's identity. Time Inc. had appealed the case all the way to the Supreme Court, but when the court declined last week to hear the case, Pearlstine made the decision he calls "the most difficult I have made in more than 36 years in the news business."

Many in the media world quickly criticized the move as a capitulation to government pressure that could scare off future sources. "I can't think of a time," said Lucy Dalglish, executive director of the Reporters Committee for Freedom of the Press, "when a news organization has done something like this." Tom Rosenstiel, director of the Project for Excellence in Journalism, said Time Inc.'s decision signals that sources--and reporters--will now have to worry about media companies in addition to government prosecutors. "How will sources believe that journalists can keep their word?" he asked. But others pointed out that Time Inc. had run out of venues to fight the case. "Time Inc. fought this as hard as anyone could, with great lawyers, at great expense," said Newton Minow, former FCC chairman and professor emeritus at Northwestern University School of Law. "Once that happens, you have to obey the law."

The Cooper case evolved from an investigation by special counsel Patrick Fitzgerald, who set out to identify the unnamed Bush Administration sources cited by journalist Robert Novak in a July 2003 column that outed CIA officer Valerie Plame. Cooper subsequently wrote a piece for TIME's website saying that "some government officials" had provided him with information similar to what Novak had reported. Cooper suggested in his article that the sources were seeking to discredit Plame's husband, former Ambassador Joseph Wilson, who found evidence contradicting the Administration's prewar claim that Iraq had sought uranium in Africa for nuclear weapons. Judith Miller of the New York Times may have spoken to the same sources, though she didn't publish anything. (Nonetheless, she, like Cooper, could face jail time for declining to reveal her contacts.) The New York Times criticized Time Inc.'s decision to hand over material--publisher Arthur Sulzberger Jr. said he was "deeply disappointed"--and said it backed Miller's refusal to testify. Cooper was stoically diplomatic: "There's honor in obeying an order backed by the Supreme Court. There's honor in civil disobedience. I wish Time Inc. had tried to hold out longer against handing over papers that identified my sources. But there's surely principle in both decisions."

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After Time Inc. agreed to turn over the requested materials to Fitzgerald's office, speculation quickly surfaced over whose names would be identified. Much of that focused on Karl Rove, senior adviser to President George W. Bush. Rove's lawyer, Robert Luskin, said Cooper called Rove during the week before Novak's story appeared but declined to say what they discussed. Luskin said Rove "has never knowingly disclosed classified information." The lawyer said he has received repeated assurances from Fitzgerald's office that Rove is not a target in the case.

The investigation has been bizarre from the start. For one thing, it's still unclear whether any laws were broken in the Plame revelation. (Deliberately disclosing an operative's name is illegal but only if the government is actively trying to conceal its relationship with that person.) Yet Fitzgerald's wide-ranging investigation has involved subpoenas of at least five journalists, and several, including Cooper, NBC's Tim Russert and the Washington Post's Walter Pincus, have testified on at least a limited basis. The courts have repeatedly denied Cooper and Miller privilege to protect their sources. After the Supreme Court refused to hear the case, Pearlstine says he concluded that Time Inc. had an obligation to follow the law and obey the ruling. "An organization that prides itself on pointing its finger at people shouldn't be breaking the law itself," he said.

Some pundits have countered that an act of civil disobedience by Time Inc.--declining to follow an "unjust" ruling while being prepared to suffer the legal consequence--wouldn't be the same as placing oneself above the law. In Pearlstine's view, "when the courts rule that a citizen's obligation to testify before a grand jury takes precedence over the press's First Amendment right, to me, going against that finding would put us above the law." Others have questioned whether Time Inc. was putting corporate priorities over journalistic ones. Continued refusal to cooperate with the judge would have meant increased fines (well above the current $1,000-a-day penalty). Pearlstine vehemently dismissed the idea of any such calculation. "I am solely responsible for this decision, and the threat of fines never figured into my thinking," he said. He added that he did not consult with Time Inc. CEO Ann Moore or Richard Parsons, CEO of Time Warner, Time Inc.'s parent.

In handing over the requested materials, Pearlstine and Time Inc. made the argument that there was now no need for Cooper to testify because Cooper's files contain at least some of the information Fitzgerald has been seeking. In the interim, Cooper and Miller have asked Judge Thomas F. Hogan to sentence them, if it comes to that, to home confinement or, barring that, to federal prison camps, as opposed to maximum-security prisons or the notorious Washington jails.

Will Time Inc.'s actions alter the rules of journalism? Some think so. "This is going to be open season on journalists," says Dalglish. "Litigators are out there thinking, Why not subpoena them? I'm probably going to win." In Pearlstine's view, Time Inc.'s decision is a narrowly framed one that applies only to a case that involves a federal grand jury with access to secret testimony about a national-security issue. He says he still believes in the value of confidential sources--and fighting to keep them that way as far as the law allows.

Another way in which this case differs from a typical one is that unlike in a traditional whistle-blower scenario in which a source is being protected from potential retaliation, the source or sources being protected in the Cooper case may well have been retaliating against Wilson. "This was leading into a blind alley," says Jim Wheaton, who teaches media law at Stanford University and the University of California, Berkeley. "If the Supreme Court had taken the case, it was likely to say there's no privilege, period." Jay Rosen, chairman of New York University's journalism department, understood the logic of Time Inc.'s ultimate decision. "I find it hard to get worked up into the same outrage as others about the Time decision, which seems to me to be a practical decision," he told the Wall Street Journal.

In the future, the best hope for journalists may be a federal shield law, now in Congress, which would let reporters keep sources confidential under any circumstances. Thirty-one states and the District of Columbia have shield laws, while 18 additional states have similar protections. A federal law has been proposed by Senator Richard Lugar and Representative Mike Pence of Indiana, who have signed up dozens of co-sponsors. It's not that legislators love the media. But when it comes to advancing their politics, legislators can be world-class leakers and could have as much to lose as journalists. --With reporting by Mark Thompson and Viveca Novak/Washington and Nathan Thornburgh/New York

Journalists Say Threat Of Subpoena Intensifies (NYT)

By Katharine Q. Seelye

The New York Times, July 5, 2005

In 1991, when Timothy Phelps, a reporter for Newsday, and Nina Totenberg, a reporter for National Public Radio, broke the news that Anita Hill had accused Clarence Thomas, then a Supreme Court nominee, of sexual harassment, a special Senate counsel tried to subpoena the reporters' telephone records to unmask their confidential source.

The accusations prompted a second round of highly contentious confirmation hearings, but Senate leaders ultimately refused to give the special counsel permission to pursue the records, and eventually the matter was dropped.

Mr. Phelps, who is now Newsday's bureau chief in Washington, recalled his case last week after two courts, including the Supreme Court, ruled in two similar cases against journalists.

"We seemed to have pretty solid support for the stand we took, from the journalistic community, the legal community, the human rights community, the public," he said. "And I don't sense as much of that today, even in the journalistic community. The legal atmosphere, the corporate atmosphere, and the public atmosphere has changed."

Lawyers for the news media say that the legal climate for those seeking to protect confidential sources is turning chillier, with more subpoenas being issued to reporters. There is no database that tracks such subpoenas, and some prosecutors dispute that they are on the rise. But a series of high-profile cases involving confidential sources has the news media on edge.

"It does feel like open season," said Laura Handman, a First Amendment lawyer based in Washington. "There are more instances of courts ordering confidential sources to be disclosed," she said, adding that she believed the Bush administration's emphasis on secrecy was partly to blame. "This leads to more leak inquiries, which, in turn, leads to more subpoenas."

In the last year, more than two dozen reporters across the country have been subpoenaed or questioned about their confidential sources in cases before federal courts, according to the Newspaper Association of America. Paul J. Boyle, senior vice president of the association, said he believed that "the filing of subpoenas, as well as the letters and phone calls that media companies receive from prosecutors and civil litigants, is on the rise."

Kurt Wimmer, a media lawyer whose firm, Covington & Burling, represents 45 television stations in 40 states, said he had as many subpoenas against reporters in the first three months of this year as he had in all of last year.

He said those subpoenas were largely inspired by the looming prospect over the last several months that Judith Miller of The New York Times and Matthew Cooper of Time magazine would go to jail for refusing to testify in a grand jury investigation into the disclosure of the identity of a covert C.I.A. operative, Valerie Plame. The Supreme Court last week declined to hear the reporters' appeal, intensifying one of the biggest clashes between the news media and the courts in a generation.

"When the Supreme Court says there's nothing wrong with forcing reporters to testify and go to jail, other lawyers are looking at that and saying, 'Why shouldn't I subpoena a reporter?' " Mr. Wimmer said.

Others doubt that there have been more subpoenas recently, saying it may just seem that way because a handful of cases have become so prominent. They say that regardless of the numbers, there is nothing wrong with pursuing justice if a reporter has been manipulated by a source and published misleading information.

In another case last week, a federal appeals court in Washington upheld contempt orders against four reporters who had refused to disclose their confidential sources to Wen Ho Lee, an atomic scientist who had been suspected of passing secrets to the Chinese but pleaded guilty to a lesser charge. He is suing the government for giving information about him to those reporters, violating his privacy.

Brian A. Sun, a Los Angeles lawyer who represents Dr. Lee, said that while he did not see more subpoenas, just more publicity about them, he agreed that the Miller-Cooper case "could encourage other prosecutors to utilize the tools that they have had available to them." In Mr. Sun's view, what is behind these cases are leakers who have "less than altruistic motives" and are using reporters, while those reporters in turn are looking to break a big story.

The heightened interest in national security issues since the Sept. 11 terrorist attacks has drawn attention to some cases, said Martin London, a New York lawyer who has litigated several media cases and subpoenaed nearly a dozen reporters in 1972 on behalf of Spiro T. Agnew, the former vice president. At the same time, he said, high-profile scandals at various news organizations, including The New York Times and CBS News, have undermined confidence in the news media.

"I don't buy that there is any increase in subpoenas," Mr. London said. "The Miller-Cooper case is very unusual, it has a lot of wrinkles that are just sort of extraordinary. But it's perfectly reasonable in a post-9/11 world for the government to be concerned about the security of C.I.A. information."

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John Nowacki, a spokesman for the Justice Department, said the department would not comment on the use of subpoenas against reporters.

Mr. Boyle and others said there was a change after a 2003 ruling written by Richard Posner, an influential federal appeals court judge in Chicago, who said that lower courts had been misreading a 1972 Supreme Court decision, Branzburg v. Hayes. That case in fact rejected the idea of First Amendment protections for reporters, but media lawyers over three decades managed to convince judges otherwise.

"He seems to have freed some of his colleagues to pull back on the privilege," said Sandra Baron, executive director of the Media Law Resource Center.

Patrick J. Fitzgerald, the special prosecutor in the Miller-Cooper case, has served as something of a role model for those who are seeking information from reporters. Mr. Fitzgerald has employed a technique based on the idea that if a source no longer requires confidentiality, the reporter's pledge to keep it is moot. He has sought and obtained waivers from suspected sources releasing reporters of their confidentiality agreements, making it harder for reporters to claim they are bound by a pledge not to talk.

Through this approach, Mr. Fitzgerald obtained at least limited testimony from journalists including Tim Russert of NBC, Walter Pincus of The Washington Post and Mr. Cooper. Mr. Cooper was subpoenaed again and refused to testify, although Time Inc. has turned over his notes to the prosecutor, a decision with which Mr. Cooper said he disagreed. Mr. Cooper and Ms. Miller face another court hearing Wednesday to learn their fates.

Mr. Phelps, for one, lamented this turn of events and said it was only likely to chill potential sources in the future. "T he fact that some news organizations have cooperated in this case is going to put a little seed of doubt in people's minds about whether they can really depend on reporters or not," he said.

And there is a rising concern among reporters that those people might be right.

"The biggest fear that most reporters have now is not having their mail taken or their phone records taken without their being told," said John Solomon, who oversees investigative reporting for the Associated Press and who had both of those things happen to him, in 2002 and 2001, respectively. "The biggest concern is that they'll write about something and will be forced to talk about it."

Representative Mike Pence, the Indiana Republican who is pushing, so far unsuccessfully, for Congress to pass a federal law to protect journalists, said that fear was justified. "No reporter, as the law has evolved in the last 30 years, can give absolute assurance to any source that at no time will their identity be disclosed," he said.

In addition to the Lee and Miller-Cooper cases, there have been several other high-profile cases involving confidential sources. Jim Taricani, a reporter with WJAR, a television station in Providence, R.I., refused to reveal the identity of the person who leaked him an F.B.I. videotape of a politician taking a bribe. He was sentenced to six months of home detention in December and was released after four months.

Nine news organizations have been subpoenaed in the case involving Steven J. Hatfill, a scientist, who sued federal officials under the privacy act for naming him as a "person of interest" in the 2001 anthrax investigations. As many as 100 federal agents have waived any confidentiality agreements they had with the media in that case.

Ms. Miller of The New York Times and a colleague, Philip Shenon, are under subpoena for their phone records by a grand jury investigating the leak of information about a planned F.B.I. raid on an Islamic charity suspected of funding terrorism. In February, a federal district judge in New York held that the reporters had a right to keep their phone records confidential.

The cases come as polls show the public has a deepening distrust of the news media, although a study by the Pew Research Center last month found that 76 percent of Americans think the use of confidential sources is at least sometimes justified.

Michael Getler, the ombudsman for The Washington Post, cautioned between linking what he agrees is a rise in the number of legal proceedings over sources and the low regard in which the news media is held. "There clearly is a more widespread ideological assault from both sides on the press these days, and that may well be feeding some of the prosecutorial zeal," he said. "But I don't know that that is really the case. I don't think we know enough to say exactly what is driving individual prosecutors."

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Boat Sale By 'Duke' Made Him $400,000 (SDUT)

By Jerry Kammer And Marcus Stern, Copley News Service

The San Diego Union-Tribune, July 5, 2005

CITY ISLAND, N.Y. – Rep. Randy "Duke" Cunningham made roughly a $400,000 profit by selling the boat he lived aboard in the nation's capital from 1997 to 2002 to a businessman convicted in a bid-rigging scheme. The man said he subsequently got advice from Cunningham about how to pursue a presidential pardon from the Bush administration.

The businessman further acknowledged that a mortgage company owned by his daughter and nephew provided Cunningham with two loans totaling $1.1 million so the congressman could buy his home in Rancho Santa Fe. The businessman said he eventually paid off one of those loans in partial payment for the yacht.

Cunningham bought the 65-foot flat-bottom riverboat Kelly C from then-Rep. Sonny Callahan, R-Ala., for $200,000 in 1997. Five years later, he sold the boat for $600,000 to Thomas Kontogiannis, the Long Island businessman said yesterday.

Kontogiannis defended the $600,000 price tag as "a steal," saying that he had received an appraisal for twice that amount.

The Kontogiannis family is a frequent contributor to Republican causes, including a $300 contribution to Cunningham in July 2002, the year of the sale.

Cunningham's financial dealings in recent weeks have embroiled him in a multitiered federal investigation and cast a shadow over his Washington career.

In a series of interviews with Copley News Service yesterday, Kontogiannis confirmed that he bought Cunningham's boat and that the congressman offered to help him explore the possibility of seeking a pardon from President Bush and the Justice Department. Cunningham then put him in touch with a Washington law firm and recommended "two or three" lawyers to talk to, said the businessman.

"I said I have this problem and I was wondering if I can get a pardon out of it," said the 56-year-old real estate developer, who has more than a dozen companies. "He (Cunningham) said to me, 'I know nothing about these things, but I'll find the proper law firm and I'll let you know if they can help you.' "

Kontogiannis was among four people and five corporations pleading guilty in October 2002 to kickback and bribery charges in connection with a$6.3 million bid-rigging scheme involving contracts to provide computer services to New York public schools. Kontogiannis owned three of the companies. The defendants were ordered to repay the school board $4.8 million.

Kontogiannis said he went to Washington and talked to the law firm recommended by the congressman. But he said he then dropped the idea. "It's not worth the aggravation," he said, describing the process as too complicated.

U.S. Coast Guard records do not reflect the sale of the Kelly C from Cunningham to Kontogiannis, showing Cunningham as the boat's owner since 1997.

Kontogiannis said he never registered the yacht in his name because it is not seaworthy and he knew he would not be able to take it out on the ocean in its current condition.

He confirmed that he and Cunningham had talked about the congressman buying it back from him, at a price he did not disclose. But Kontogiannis said he dropped that idea when he saw how expensive it would be to acquire an ocean-worthy yacht.

That change of mind came after Cunningham visited the shipyard here with a long list of repairs to be made, but just before Cunningham became engulfed in controversies over his sale of his Del Mar-area house to Mitchell Wade, a defense contractor, who later resold the house at a $700,000 loss.

Cunningham's dealings with Wade are the subject of FBI and federal grand jury investigations.

Wade is the founder of MZM Inc., a Washington, D.C.-based company which has received $163 million in defense contracts since 2002. Cunningham, a member of the influential House defense appropriations subcommittee and Permanent Select Committee on Intelligence, has said that he supported funding requests benefiting MZM. Cunningham also has lived aboard Wade's 42-foot yacht, the Duke-Stir, since April 2004 in the same slip once occupied by the Kelly C.

Federal agents executed search warrants Friday at Cunningham's Rancho Santa Fe home, MZM's headquarters and Wade's yacht.

The boat at the center of this latest storm to rock Cunningham today sits forlornly on blocks in the shipyard of Consolidated Yachts at the end of Pilot Street not far from the Neptune Inn and Sammy's Fish Box restaurant.

Though gussied up recently with fresh coats of white paint and what Kontogiannis said was a $100,000 refurbishing overseen by his wife, the boat is far from ready for much ocean travel, according to workers at the shipyard.

Its last sea voyage came with Cunningham at the helm. That was late in 2002 when Cunningham delivered it to the Glen Cove Marina near here, according to Joe Weiser, Glen Cove's owner.

"He brought it here himself," Weiser said of Cunningham. "He gave me a picture of himself in his flight outfit."

Cunningham was a decorated pilot in Vietnam.

Attempts to reach Cunningham attorneys K. Lee Blalack and Mark Holscher for comment last night were unsuccessful. Nor did Cunningham spokesman Mark Olson respond to calls to his cell phone.

Kontogiannis said there is no comparison between the sale of Cunningham's Del Mar-area house to Wade and the sale of the Kelly C.

"There is no reason for me to avoid something. Everything is plain and simple for me," he said, adding about Cunningham's problems with MZM, "I don't know what the problem is that they have out there, but that is their problem."

The developer confirmed that a mortgage company owned by his daughter and nephew, Coastal Capital, provided the mortgage loans to the congressman when he bought his $2.55 million home in Rancho Santa Fe.

He insisted the loans were at "normal rates." Kontogiannis said he earlier this year paid off a $500,000 second mortgage on that home, primarily using money he said he owed Cunningham for the yacht.

"We accumulated all the money and paid the second mortgage off . . . on the fifteenth of March," he said.

Cunningham never listed the mortgage debt on his congressional financial disclosure forms, though he was not required to do so. (Members of Congress are are not required to list or provide details on their personal residences or personal property.)

Kontogiannis said the rate on the $500,000 loan was about 10 percent and the rate on a $595,000 loan was "maybe around 6 or 6¼."

Weiser said the Kelly C, whose twin engines are considered too small for a 65-foot yacht, never left its slip. Kontogiannis agreed that the flat-bottomed boat could not handle the ocean, and said he used it primarily for dockside parties.

"It's basically a party barge," said marina mechanic Wes Iencierz. "It's something you'd take out into a river, drop an anchor and have a party."

Iencierz confirmed yesterday that six weeks ago Cunningham showed up at the marina with his own mechanic in tow, clearly indicating that he intended to buy it back. Cunningham's mechanic handed him a long list of needed repairs.

Shipyard employees had derided the Kelly C when it arrived at the Glen Cove Marina around August 2002 because of its poor mechanical condition. The boat was rarely used while berthed at Glen Cove, according to marina employees.

Aboard the yacht yesterday, the repair list – or a similar list – could still be seen on the boat, which rests on wood blocks stacked three-high and is held aloft by adjustable metal braces.

The door to the interior has a stylized "C" etched in the glass and the signs of the $100,000 refurbishing could be seen in the blue carpeting, leather coach and well-crafted wood bar.

The list of repairs included work on engine impellers, running lights, the anchor light and the filters.

The co-owner of Consolidated Yachts clearly was uncertain about the future of the boat now that Cunningham has removed himself from the picture. "I could get stuck with the damn thing," said Wesly L. Rodstrom Jr. He said he called Cunningham called only a few days ago – either Thursday or Friday – to find out what was going on. "He said, 'Oh, I've got nothing to do with the boat.' "

Developer Helped Congressman By Buying Boat, Arranging Loan (WP)

By Charles R. Babcock

The Washington Post, July 5, 2005

Thomas T. Kontogiannis, a Long Island developer, says he doesn't particularly like politics, so he never does business with the federal government. Still, he hit it off with Rep. Randy "Duke" Cunningham years ago, and recently Kontogiannis bought Cunningham's 65-foot yacht, the Kelly C, and helped the California Republican finance a house.

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The developer says the transactions are nothing like Cunningham's dealings on another house and yacht that are the subject of a federal investigation. A federal grand jury is examining Cunningham's relationship with Mitchell J. Wade, a Washington defense contractor who bought a home from Cunningham, possibly at an inflated price, and then let the congressman stay rent-free on Wade's 42-foot boat, the Duke-Stir, while in Washington.

The transactions between the congressman and Kontogiannis are not fully documented in the public record or the congressman's financial disclosure. Cunningham, for example, is still listed as the owner of the Kelly C, with his address listed as the home he bought more than a year after Kontogiannis said he bought the yacht from the congressman.

Kontogiannis, of Glen Head, N.Y., said in interviews this weekend that he bought the Kelly C, a boat on which Cunningham used to live while Congress was in session, for $600,000 in summer 2002. Kontogiannis spent $100,000 more redecorating it the next year at the Glen Cove marina but didn't use it except for dockside parties, he said, because it wasn't stable in rough seas. Kontogiannis said he never got around to changing the title on the boat from Cunningham's name to his.

Then in late 2003, Kontogiannis said, when Cunningham bought a $2.55 million home in Rancho Santa Fe, the congressman asked if a mortgage company owned by Kontogiannis's nephew and daughter could finance $1.1 million in mortgages. The congressman bought that house shortly after Wade paid $1.675 million for Cunningham's previous home in Del Mar. Wade then sold that house for a $700,000 loss.

Kontogiannis said he recently paid off a $500,000 second mortgage on the Rancho Santa Fe home at the congressman's request, mostly with money he owed Cunningham for the yacht.

There is no mention of Kontogiannis's debt to Cunningham on the congressman's financial disclosure statements.

Cunningham's lawyers, K. Lee Blalack II and Mark Holscher, said in a written statement that the congressman's "business dealings with Mr. Kontogiannis have been entirely proper."

Cunningham called and visited the Long Island marina a month ago -- before news stories about Wade appeared -- to arrange for repairs so he could take the Kelly C back to Washington.

Kontogiannis, 56, said he had discussed reselling the Kelly C to Cunningham but decided against it. The source close to Cunningham said the congressman registered the boat this year using his new California address in anticipation of the resale. But that idea resale was jettisoned when San Diego area newspapers broke stories about the congressman's dealings with Wade.

The developer said his failure to record the change in title on the boat should not be taken as a sign that he was doing Cunningham a favor by paying for refurbishing his boat. "Why would I do that?" he said. "I don't need the man." Kontogiannis said he has never asked Cunningham for a favor.

The developer pleaded guilty to what he said was a misdemeanor state fraud charge in 2002 in connection with alleged bribes to a local school superintendent in return for $6 million in computer contracts. He said he agreed to pay $5 million in reimbursement.

Kontogiannis, who came to the United States from Greece in 1970, said he met Cunningham at a Washington function about 15 years ago. They talk a couple of times a year, he said. Cunningham was a Navy fighter pilot in Vietnam and an instructor at its Top Gun flight school.

Kontogiannis said he went to a party on the Kelly C around 1995, when it was owned by another congressman, and liked the steel-hull craft. After Cunningham bought it 1997, for a reported $200,000, Kontogiannis said he told the congressman: "If you ever decide to sell it, I'd love to buy it."

Cunningham "called and asked if I was still interested" in buying the boat, Kontogiannis said. He did so, he said, after getting the boat appraised at $1.2 million. The developer said he financed the transaction by giving the congressman about $30,000, assuming the payments on an existing $140,000 bank loan and financing the remaining $425,000 as a personal note that accumulated interest at the prime rate. He said a family company, Axxion LLC, made the payments on the bank loan.

The congressman approached him again in 2003 when Cunningham planned to buy the Rancho Santa Fe home, Kontogiannis said. The congressman asked if Coastal Capital, the company the developer said is owned by his nephew and daughter, could finance the mortgage at its wholesale price, which had a slightly lower interest rate than retail mortgage lenders. The decision was "a slam dunk," Kontogiannis said, because the house had been appraised at $2.55 million.

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Kontogiannis said Cunningham asked him last year to pay back the Kelly C loan, which was accruing interest at about 3 1/2 percent, by paying off the second mortgage on the house. Interest on the congressman's loan was accruing at 10 percent, though Cunningham wasn't making payments, he said.

The developer paid off the mortgage, he said, after Cunningham wrote him a check for $70,000 to make up the difference between what he owed on the boat and what Cunningham owed on the second mortgage.

As of late June, land records in California did not show the congressman had paid off the second mortgage. "I sent him a letter of satisfaction" in March, Kontogiannis said. "It's up to him to get it recorded."

Embattled Congressman Skips July 4th Event (AP-Y2)

By Seth Hettena, Associated Press Writer

AP2, July 5, 2005

Congressman Randy "Duke" Cunningham canceled his annual appearance at a July Fourth pancake breakfast in his district to avoid a media frenzy over the growing scandal shadowing the eight-term Republican.

Three days earlier, the FBI raided Cunningham's San Diego-area home as authorities intensified their investigation of the congressman's financial dealings.

The pancake breakfast was to have been Cunningham's first public event since last month's disclosure that the congressman sold his previous home to a defense contractor for what may have been an inflated price. Organizers received word Sunday the congressman would not attend.

"We thought it would be a media frenzy as well as possibly a lot of people with different agendas and we didn't want to distract from the spirit of the event," said Cunningham spokesman Mark Olson.

The event seemed tailor-made for the former Navy "Top Gun" fighter pilot and Vietnam war ace: A flag-waving crowd dressed in red, white and blue cheered speeches by a Navy chaplain and a Boy Scout color guard and a rendition of Lee Greenwood's "God Bless the USA."

On Friday, the FBI searched Cunningham's $2.55 million mansion in the exclusive community of Rancho Santa Fe as well as the 42-foot yacht, the "Duke Stir," owned by Mitchell Wade, the founder of the defense firm MZM Inc., and the company's offices.

Wade bought Cunningham's previous home, and Cunningham has resided on his yacht in Washington. If he was living on Wade's boat for free, that could be a violation of congressional ethics rules.

Wade bought Cunningham's house for $1.675 million in 2003 and sold it nearly a year later for a $975,000 — a $700,000 loss in one of the nation's hottest housing markets.

Cunningham has admitted he showed "poor judgment" in selling his home to Wade but said he acted honestly and predicted the investigation would clear him. MZM has said it is cooperating with the investigation. Wade has not commented publicly.

Scrushy's Attorney To Represent Ford (KNOXNS/AP)

Knoxville News Sentinel (TN), July 4, 2005

MEMPHIS - State Sen. John Ford is adding a big name to the legal team defending him in a federal bribery case.

Attorney Donald Watkins, who helped former HealthSouth CEO Richard Scrushy win an acquittal on fraud charges last week, will help out Ford, WPTY of Memphis reported.

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Ford was indicted last month in the Tennessee Waltz sting. He is accused of taking $55,000 in bribes from a fake company set up by the FBI. The investigation includes 2,000 hours of undercover tapes.

"We hope to have Senator Ford's freedom secured by next year," Watkins said.

Watkins' law firm is part of the trio of that defended Scrushy, who was accused of directing a $2.7 billion accounting fraud at his medical company. During trial, prosecutors played a secret tape recording that seemed to incriminate him, yet he was just found not guilty.

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The three firms from Alabama are joining his Memphis attorney, Mike Scholl. According to Watkins there are two reasons why the case looks good for Ford.

"The secret video tapes that the FBI made do not portray what really happened with the course of conduct of Senator Fords' dealings with the FBI and the entity created by the FBI.," Watkins said.

Watkins also said that the undercover operatives cooperating with the FBI have credibility issues.

Ford said it's been a painful experience but he's getting a lot of encouragement.

"I have overwhelming support in this community and throughout the state. Overwhelming," Ford said.

Waris Pleads Guilty To Lying To FBI (KCS)

By JUDY THOMAS and DEANN SMITH, The Kansas City Star

The Kansas City Star, July 5, 2005

Former Jackson County Executive Bill Waris pleaded guilty Saturday to lying to FBI agents in a criminal investigation that, according to documents, targets Katheryn Shields, the county's current top elected official.

Dressed in a gray suit and a white shirt, Waris admitted to U.S. Magistrate Judge Sarah W. Hays that he lied to FBI agents on March 12, 2004. That came in connection with an investigation into whether a county official offered a woman a county contract in exchange for the woman's husband withdrawing his application for a seat on the Jackson County Sports Complex Authority.

Waris declined to comment after the hearing, which came 72 hours before he was set to stand trial in federal court. During the 15-minute hearing, his attorney, John P. O'Connor, told the judge the guilty plea was "in his (Waris') best interest."

"This is a lesser charge in which the likelihood of going to jail is minimized," O'Connor said.

In an agreement reached late Friday with federal prosecutors, Waris pledged to cooperate fully with the investigation. In return, said U.S. Attorney Todd Graves, the government dismissed parts of a Nov. 17, 2004, federal indictment against Waris and won't oppose any request for probation at his sentencing.

"They haven't said that they are going to ask for probation, but I assume that they will," Graves said.

O'Connor declined to comment further on the case when contacted Saturday afternoon.

Shields has not been charged and has denied any wrongdoing. In grand jury transcripts, government officials have identified Shields as a target of the probe.

Reached by telephone Saturday morning, Shields' husband, Phil Cardarella, said she would have no comment and that they were unaware of Waris' guilty plea. He declined to identify her attorney.

"At this point, it would be premature for anyone to comment," Cardarella said.

The indictment that was dropped against Waris was on two felony charges of lying and obstructing justice, which are Class C and Class D felonies. The charge Waris pleaded guilty to Saturday was a Class D felony.

"The point of this prosecution wasn't to punish Mr. Waris to the maximum amount we could," Graves said. "The point of this prosecution was to send a message that you cannot lie to a federal agent, and that we want your cooperation and if we believe you've lied and are not cooperating, we will file an action in court."

Waris, 61, could receive a sentence of up to five years in prison without parole, plus a fine of up to $250,000. But sentencing guidelines allow the judge to sentence him to no jail time. Graves said a sentencing hearing would be scheduled after a pre-sentence investigation was completed by the U.S. Probation Office, possibly within 30 to 60 days.

Graves said the advantage of the plea agreement was that it forced Waris to provide substantial assistance to the federal investigation "by fully and truthfully disclosing everything he knows … including testifying before the grand jury or at trial. Mr. Waris clearly has information we are interested in. He is cooperating, and we find that to be significant."

The case against Waris — a former lobbyist for Jackson County and the Kansas City School District — was the unforeseen outgrowth of a controversy last year between Shields and Jackson County Prosecutor Mike Sanders over the county's anti-drug tax. The squabble eventually triggered a grand jury investigation into the tax and county contracts.

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The grand jury looked into whether Shields offered a $12,000, no-bid contract to Republican activist Catherine Nugent to raise funds for the Fort Osage Historical Society in exchange for her husband, Daniel Nugent, withdrawing from consideration for a seat on the sports authority.

Nugent has said she declined the offer. Her husband did not withdraw his application, and the Jackson County Legislature did not select him as one of the three finalists. Instead, former Kansas City Mayor Richard Berkley received the nomination and the appointment. He recently resigned, citing family reasons.

At Saturday's hearing, Assistant U.S. Attorney William Meiners outlined the government's case against Waris.

Prosecutors contend that on Oct. 6, 2003, a telephone conference call was made involving Shields and Catherine Nugent in which Waris and Jackson County Legislator Daniel Tarwater were present. Meiners alleged that during that call, Shields told Nugent that the fund-raising position was available and that the job was contingent on Daniel Nugent withdrawing his application for a seat on the sports authority.

Waris, when questioned on March 12, 2004, by the FBI, denied he was present during the conference call. At Saturday's hearing, he told the judge he had lied about that.

Even though Meiners in open court named Shields as present during the conference call, Graves repeatedly refused to comment on Shields during his news conference after the hearing. Graves did confirm, however, that Tarwater was not a target of the investigation, and said he has been cooperating "any way he could" since appearing before the grand jury.

Sanders declined comment Saturday afternoon.

Former U.S. Attorney Jean Paul Bradshaw said Saturday that typically Waris would have had to give prosecutors a statement before the plea agreement was finalized. Bradshaw said Meiners would not have outlined to a federal judge the prosecution's contention about the conference call without believing Waris would support it.

Political observers said it remained to be seen what impact Waris' guilty plea would have on Jackson County government.

"It puts everything on hold in terms of political fallout for the county government or any county officials," said political consultant and former county official Steve Glorioso. "I think it makes a lot of people anxious, not just Katheryn Shields. Bill Waris has tentacles into all levels of government …"

Several Jackson County legislators were shocked when told Saturday about Waris' plea.

Legislator Bob Stringfield said the county's credibility would take a hit, which he said would hinder the county's efforts to get support for improvements to Kauffman and Arrowhead stadiums.

Legislator Henry Rizzo said Waris' plea gave credence to the initial charges, and that his prayers were with Waris and his family.

"All of this is coming so fast, I don't know what to say," Rizzo said.

Legislator Fred Arbanas said he had not been following the case closely and could not comment.

Legislators Scott Burnett and Bob Spence said the Waris plea had no impact on county government.

"It is unfortunate that it occurred. I think we will have to see the rest of it play out. It is unfortunate he lied about it," Burnett said. "Nothing Waris pleaded to today has to do with her (Shields) directly."

State Sen. Victor Callahan, a former county legislator, called Waris' guilty plea "a sad day for the taxpayers."

Gray Jury Split; Judge Orders Further Work (CLPD)

By Mike Tobin, Plain Dealer Reporter

The Cleveland Plain Dealer, July 2, 2005

The jury deciding the fate of Nate Gray remained deadlocked Friday night over charges that Gray traded public contracts for bribes.

The jury sent notice to U.S. District Judge James Gwin that it had not agreed on any of the 59 counts of conspiracy, fraud and bribery against Gray, Cleveland City Councilman Joe Jones and New Orleans businessman Gilbert Jackson.

"We are not being unanimous on any count," jurors wrote to Gwin Friday morning. "The range of opinions on any counts do not lead us to believe further deliberations would bring us any closer."

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One of the FBI agents working on the case slumped when Gwin read the note. Defense lawyers grinned and asked Gwin to declare a mistrial.

Instead, Gwin told the 12 jurors to continue discussing the case.

They did, but they remained far apart hours later.

"We are unable to find common ground on most of the counts," jurors wrote in a separate note Friday afternoon. "Given the limited movement since Tuesday, we believe there is no way to ever reach a unanimous decision on all of the counts."

Gwin took the unusual step of keeping the jurors in court until 8 p.m., hours after they normally would have been sent home.

Instead of declaring a mistrial, he ordered them to return for more deliberations next week. Gwin ordered jurors not to discuss the case with friends or relatives during the long holiday weekend.

Gray, a close friend of former Mayor Michael R. White, appeared relieved by the jury's difficulties reaching a verdict. He has been cheerful throughout the three-week trial, often chatting with friends and relatives who stop by the courthouse.

Gray, Jones and Jackson are accused of being part of a conspiracy in which bribes were paid in exchange for public contracts in Cleveland, East Cleveland, Houston and New Orleans.

Jurors have debated the case for more than three days after sitting through two weeks of testimony. Much of the testimony focused on secretly recorded conversations between the three defendants and Ricardo Teamor, who has already pleaded guilty to paying bribes to Jones.

During Gray's trial, jurors also watched several secretly recorded meetings between Gray and former East Cleveland Mayor Emmanuel Onunwor, who has been found guilty of accepting bribes.

Gray was shown giving Onunwor envelopes of cash during several meetings. Onunwor told jurors the money was bribes for East Cleveland contracts, but Gray's lawyers said he was simply giving money to an old friend and expected nothing in return.

Much of the proceedings in court Friday took place with jurors out of the room and involved Cleveland City Councilman Zack Reed.

Reed has not been charged in the case, but he is close friends with Gray and Teamor.

Reed told reporters last week that he went to high school with one of the jurors in the Gray trial, even though jurors initially said they did not know any people on a long list of potential witnesses, including Reed. As a result, Gray's lawyers made a motion for a mistrial, but Gwin denied the request Friday.

Reed's attorney, Timothy Ivey, asked Gwin on Friday to seal transcripts of conversations between lawyers that focused on the juror Reed knows.

Because those conversations remain secret, lawyers in the case could not answer questions about what those conversations involved.

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Mafia Cops Not Dangerous And Should Get Bail, Attorneys Say (NYNSDY)

By ANTHONY M. DESTEFANO, STAFF WRITER

New York Newsday, July 5, 2005

Two ex-cops accused of being hitmen for the mob are not dangerous and should be let out of solitary confinement on bail, defense attorneys said Friday. In a 19-page bail application filed in federal court in Brooklyn, lawyers for Louis Eppolito and Stephen Caracappa said the case against the two former detectives was "slim" and that narcotics charges in the indictment had no connection to the racketeering charges.

"The government has not, and cannot, prove by clear and convincing evidence that Mr. Eppolito and Mr. Caracappa pose any present danger to a person or the community," said attorneys Bruce Cutler and Edward Hayes, who represent both men respectively.

The attorneys argued that even if there was evidence that Eppolito and Caracappa committed violent acts and might do o again that there are adequate conditions for bail.

Eppolito, 56, and Caracappa, 63, have been held in solitary confinement at the Brooklyn federal detention facility since they were brought back to New York to face a racketeering indictment returned in March.

They were charged with complicity in eight murders and other crimes at the behest of former acting Lucchese crime boss Anthony Casso. The indictment alleged that some of the homicides took place when both defendants were police officers.

A bail hearing is scheduled in the case for Tuesday before Judge Jack B. Weinstein. Prosecutors had not filed a response to the defense papers as of late Friday.

The defense attorneys argued at length in their latest submission that allegations that the officers sold methamphetamine and laundered money appeared to center around the actions of a government informant and accountant Steven Corso.

The attorneys said Corso misled and entrapped Eppolito and Caracappa in the narcotics charges after claiming he could get wealthy Hollywood "bigshots" to invest in Eppolito's screenplays.

Mob Cops Try For 1M Bail (NYDN)

By JOHN MARZULLI, DAILY NEWS STAFF WRITER

New York Daily News, July 2, 2005

Reputed Mafia cops Louis Eppolito and Stephen Caracappa want to be sprung from jail - and they are willing to pay up.

The defendants asked a federal judge yesterday to free them on $1 million bail and offered to put up their homes in Las Vegas and properties owned by their children and close relatives to secure the bond.

Eppolito and Caracappa are charged with selling out their badges to the Mafia and having a hand in eight gangland slayings between 1986 and 1991.

Their lawyers argue in court papers filed yesterday in Brooklyn Federal Court that allegations of mob ties were first made against the defendants in 1994 by Luchese crime boss Anthony (Gaspipe) Casso, and they never fled.

"They retired with many honors reflecting their dedication to law enforcement and extensive contributions to the safety and betterment of New York City," lawyers Edward Hayes and Bruce Cutler wrote.

Both are caged 23 hours a day and neither is in great shape. Eppolito underwent open heart surgery in December and Caracappa has battled lung cancer.

Besides the defendants' homes, Eppolito's two daughters, sister and sister-in-law are offering to post their homes, and Caracappa's brother, a retired NYPD lieutenant, and his 90-year-old mother are putting up their homes, too.

Federal Judge Jack Weinstein has been sympathetic to the defendants, ordering they be provided with thermal underpants and increasing their phone privileges.

Web Hunt Nabs Man In Montreal Wanted By FBI On Sex Charges (TG&M)

By JULIAN SHER

The (Toronto) Globe and Mail, July 2, 2005

MONTREAL -- A man whose picture appeared in a gallery of suspected child predators on the America's Most Wanted website was tracked down in Montreal this week after an international cyberhunt. He faces charges of sexual assault, incest and distribution of child pornography.

"It was a great co-ordinated effort," said Detective Sergeant Paul Gillespie of Toronto Police's sex-crime unit, which worked with the FBI, the RCMP and police in Quebec to locate the man.

"This shows the system for identifying victims and abusers is working. Canada is finally in the game," Det. Sgt. Gillespie added.

On Monday, police arrested a 32-year-old man in Montreal North, who cannot be named because one of the alleged victims is his seven-year-old daughter. He remains behind bars until a bail hearing on July 13.

In early 2004, the U.S. Federal Bureau of Investigation took the unusual step back of issuing "John Doe" warrants for several people whose names were not known, but whose images had been captured abusing children in pictures and video distributed on the Web. The FBI asked the TV-crime show America's Most Wanted to broadcast their faces. Viewers quickly identified them all, except for "Internet John Doe #4."

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Described as a man "who uses the Internet to distribute disgusting photos showing himself molesting young children," he was accused of engaging in "sadistic and violent conduct."

The FBI had few clues, except his approximate weight, hair colour and a couple of scars and tattoos on his arms.

"He's been out the longest," said Arnold Bell, unit chief of the FBI's Innocent Images project.

Although they assumed he was American, the FBI and Interpol also circulated the series of graphic pictures featuring the man that first appeared on the Web in 2002 to police agencies around the world.

About two weeks ago, members of Toronto's sex-crimes unit came across new pictures and a video from the same series in a newsgroup.

Detective Ian Lamond said they blew up a snippet of a poster in one of the pictures and saw a word in French. Det. Lamond, who lived in Montreal briefly and has family there, also spotted through a window in another picture a railing resembling one of the city's distinctive outside staircases.

"Based on all the pieces coming together, I had a really strong feeling that this was Montreal," he said.

The Toronto Police forwarded the information to the Sûreté du Québec, the provincial police, and to the RCMP's recently created National Child Exploitation Co-ordination Centre.

An alert investigator from the centre recognized one young girl in the photos from an old tip that had been passed on to Canada's National Tipline at http://www.cybertip.ca. The RCMP had a possible identification of the suspect, but the search was stalled without more clues.

"That lead looked like a dead end until the new photos," said Sergeant Robert Lajoie, who heads the centre. "It's a perfect example of why we need a central-contact point like we now have here to disseminate this kind of intelligence."

The RCMP quickly forwarded its new information to Montreal. Constable Chantal Mackels of the SQ said the Quebec police got the details last Wednesday and within 48 hours their cybercrime unit confirmed the suspect's identity and location.

Last Friday, June 24 -- a national holiday in Quebec -- police armed with a search warrant seized about 1,000 DVDs, CDs and computer disks at the man's home.

They made the formal arrest on Monday and the man's daughter was taken into the custody of youth-protection workers.Julian Sher is a Montreal journalist working on a book about child pornography Search globeandmail.com Search Site More Search Options/Archives Search Tips

Ex-Death Row Inmate Fights Fresh Charges (AP-Y2)

By Mike Robinson, Associated Press Writer

AP2, July 5, 2005

Aaron Patterson walked out of prison 2 1/2 years ago, a free man with a pardon and a chance to start fresh. But the happy ending never came for Patterson, who faces fresh drug and weapon charges that could hand him a return trip to prison. These days, the 40-year-old Patterson sits in a federal jail awaiting the start of jury selection Tuesday.

His story of torture by police and 17 years on death row had helped launch an emotional campaign against the death penalty in Illinois.

Patterson was among four former death row inmates who were pardoned by former Gov. George Ryan in one of his last acts in office in January 2003. A day later the governor commuted the sentences of all 160 other death row inmates to life without parole.

Patterson insisted that he was tortured by police into confessing to a double murder he did not commit. The head of the unit that investigated his case, Lt. Jon Burge, was later fired for allegedly mistreating a suspect.

Ryan's actions were warmly applauded by opponents of the death penalty, who nominated the former governor for the Nobel Peace Prize. Patterson's claims have been echoed by dozens of others.

But the cheering for both Patterson and Ryan has long since faded.

The former governor is facing a racketeering indictment, and federal prosecutors are asking the judge — who by coincidence is U.S. District Judge Rebecca R. Pallmeyer, who also is handling Patterson's case — to bar his lawyers from using his moratorium on capital punishment to try to impress the jury.

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Meanwhile, federal prosecutors say Patterson emerged from prison to become a leader of the South Side's P. Stones street gang.

A 13-count indictment charges him with brokering heroin sales to a federal informant and selling bags of marijuana out of his home. It also charges him with buying four guns, including a MAC-10 machine pistol.

Another alleged gang member, Mark Mannie, is also charged in some of the counts.

Patterson and his defense attorneys contend he was the victim of a setup after he dedicated his life to rooting out corruption in government and the police force. As for the gun charges, Patterson says that he never meant to buy real guns but wanted the kind of replicas that some people collect.

Chances are, Patterson won't even be allowed to sit in the courtroom for his own trial but instead will have to watch on closed-circuit TV from jail because of his frequent outbursts.

"I'm concerned that he could very well poison the proceedings," Pallmeyer said of Patterson, who was hustled out of the courtroom by federal marshals Friday following a series of leather-lunged, profanity-laced comments.

The tirades got worse after Pallmeyer turned down a last-minute bid by Patterson to fire his lawyers and serve as his own attorney.

"If you force me to go to trial like that, Your Honor, this is going to be another Chicago 7 trial — they're going to have to tie me to the chair and gag me," he said, referring to the riot conspiracy trial following the 1968 Democratic National Convention, when one defendant was gagged and tied to his chair.

Pallmeyer opted instead for a closed-circuit TV hookup at the correctional center where Patterson will be able to see the judge and witnesses but not be disruptive.

Two defense psychologists testified that Patterson's outbursts show he shouldn't go to trial at all — that he's mentally incompetent and suffering from post-traumatic stress disorder because of torture by Burge. A prosecution psychiatrist disagreed.

Competent or not, no one denies that Patterson has serious personality problems following his years on death row.

"He's deeply scarred," says defense attorney Standish E. Willis, who worked for years to secure Patterson's release from prison. "And he does need some help."

Task Force Faces Big Job In Noe Inquiry (TOLB)

By MIKE WILKINSON, BLADE STAFF WRITER

Toledo Blade (OH), July 5, 2005

In the month since its creation, the task force to investigate Tom Noe has been relatively quiet, slowly putting together a process while gathering information.

What the four prosecutors face is daunting: Unraveling the complex world of Mr. Noe's coin business and political activity. The investigation will stretch across Ohio and the country.

Together, the four prosecutors - two U.S. attorneys, two elected county prosecutors; one female, three male; one Democrat, three Republicans - will have to decide what charges will be sought and, if any are brought, who will prosecute them.

But despite the complexity of the case, its high profile, and the overlapping boundaries of their jurisdictions, they are confident that they'll get the job done.

"You do the right thing," said Gregory A. White, U.S. attorney for the Northern District of Ohio, based in Cleveland. "You are comfortable with your process. We are progressing and confident about all the things that are going on. We are maintaining the integrity of this expanded investigation."

As the task force gets off the ground, Mr. White knows he is working with peers: Greg Lockhart, the U.S. attorney for the Southern District of Ohio and a former Greene County assistant prosecutor; Julia Bates, Lucas County prosecutor, and Ron O'Brien, Franklin County prosecutor. Ms. Bates is the only Democrat.

"The beauty of this is we've created a cooperative effort to get this thing evaluated and explained in the most sensible, positive way," Ms. Bates said.

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Three of the four know each other quite well - Mr. O'Brien, Mr. White, and Ms. Bates all were county prosecutors at the same time. Mr. White was well-known in the state's county prosecutors' association for his work on the revamping of Ohio's criminal sentencing provisions.

When Ms. Bates was president of the association, she leaned on Mr. O'Brien to lead a training committee.

"We've been sort of a team for the good of the order since we've been in office," she said.

Although other state departments are investigating, as is the Jefferson County, Colorado, sheriff's department, the task force will be the primary criminal investigative unit. It is working with the Ohio inspector general and the Ohio Ethics Commission.

Tom Charles, the inspector general, was the first to announce an investigation of Mr. Noe in April. He has been studying Mr. Noe's business deal to manage two rare-coin funds for the Ohio Bureau of Workers' Compensation. David Freel, executive director of the Ethics Commission, has also been working closely on the matter.

The group will have its hands full.

Hundreds of boxes containing Mr. Noe's business records sit in Columbus, waiting to be deciphered. And the officials know they have something to look for: Mr. Noe's attorneys have said up to $13 million is missing from the $50 million coin investment.

In addition, the Ethics Commission is looking into a number of officials, including Gov. Bob Taft, who has said he had not properly disclosed some golf outings. The governor's former chief of staff, Brian Hicks, also is under investigation for having spent vacation time at Mr. Noe's Florida home.

'An important case'

Mr. White has conducted a number of public corruption cases throughout his career, winning convictions against Democrats and Republicans and is familiar with the difficult nature of high-profile cases.

"Some are larger than others. This one, the magnitude of it is yet to be determined. But it is a large case and an important case for the state of Ohio," Mr. White said.

Mr. Charles is the only one of the six who isn't a lawyer. He's a longtime police officer who served on the state highway patrol for 31 years and has worn out his share of patrol car tires and shoe leather.

After retiring from the patrol, he moved to the job of legislative inspector general before winning the job of inspector general about seven years ago. He was appointed first by Gov. George Voinovich and reappointed by Governor Taft.

Of the cast of investigative characters looking into the rare-coin scandal, Mr. Charles is the only apolitical figure, having been a political independent for longer than he has held his post, he said. He "would hope" a Democratic administration would hire him just as readily as a Republican one.

"I try to stay as much out of politics as you can. I probably, in a few years, will retire. I don't know that I will go to another post. I am what I am; I have no other aspiration, other than maybe to work for [California Gov.] Arnold Schwarzenegger someday," he said with a laugh.

In addition to providing ethics advice to state officials and employees, Mr. Freel is responsible for directing the Ethics Commission's investigations. He has prosecuted ethics violations, most notably in 1994 for the embezzlement of millions of dollars by the son of the former Columbiana County treasurer.

Varied experience

Mr. Lockhart has been a lifelong prosecutor. Handling those duties for the U.S. Justice Department in a large area of southern Ohio that includes Columbus, Cincinnati, and Dayton for the last 18 years, he helped send a Lancaster municipal judge to prison last year for arson, fraud, and money-laundering, and was involved in the 2003 investigation and conviction of a Columbus truck driver who admitted scrutinizing New York landmarks for al-Qaeda.

President Bush appointed Mr. Lockhart as U.S. attorney for the region in 2001. Before that, Mr. Lockhart served as a deputy U.S. attorney.

Earlier in his career, he spent 10 years as an assistant prosecutor in Greene County, working for several years under Mike DeWine, then the county prosecutor who now is the senior U.S. senator from Ohio.

In the investigation of potential wrongdoing at the Ohio Bureau of Workers' Compensation, he sees his role as secondary. Mr. White's division is investigating Mr. Noe's role in raising money for an October, 2003, fund-raiser in Columbus.

"At this time the lead is with the U.S. attorney's office in the northern district [Cleveland and Toledo] and the Lucas County prosecutor," Mr. Lockhart said.

But he is prepared to lend assistance where needed.

"We came together because of the interest of the state and law enforcement community in taking a look at what we had and who may or may not be involved," he added.

Few people in the Toledo area may have heard of Mr. O'Brien, but if they'd been watching Court TV earlier this year, they would have seen him while prosecuting Charles McCoy. Mr. McCoy was charged with a series of shootings between 2003 and 2004 along Columbus area roads that killed one person. A mistrial was declared in May because of a deadlocked jury. The case will be retried, although Mr. O'Brien will no longer seek the death penalty.

Cold-case work

Ms. Bates has spent her entire professional career in the Lucas County prosecutor's office, where she started as a law intern while she was attending the University of Toledo law school.

After passing the bar in 1976, she was hired full-time by Tony Pizza, who had just been appointed to the post. He was elected in 1976 and held the post until he retired in 1996. He was succeeded by Ms. Bates.

She is perhaps most proud of her office's work on the county's cold-case unit, which has unearthed new evidence on old cases and gotten several high-profile convictions.

In 1978, she lost one case that always bothered her, a rape charge against James Frazier. "For 28 years I thought about James Frazier out there…," she said.

Mr. Frazier was convicted last month of murder for a crime committed on March 2, 2004, and is to die by lethal injection.

Focused investigation

Now the focus is on Mr. Noe and wherever the case may lead.

As the six investigators pore over documents and interview people, they'll do so with the help of some of their peers from different counties and different agencies. They say that's fine - an investigation is an investigation, regardless of who the target is.

"We all trust each other. It transcends politics. It has to do with professionals who are doing their jobs and what they are sworn to do," Mr. White said.

Staff writers Joshua Boak, James Drew, Christopher Kirkpatrick, and Gary Pakulski contributed to this report.

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Eric Rudolph Eluded The Feds For Years. Now, For The First Time, His Mother Shares Letters The Serial Bomber Wrote From Jail. (USAT)

By Blake Morrison, Usa Today

USA Today, July 5, 2005

"Despite my many flaws, I still hope that you can find it in your loving selfless heart to forgive me. … And even though I cannot apologize for being who I am and expressing myself in the way that I did, it troubles me greatly that you had to experience any hardships because of my deeds."

SARASOTA, Fla. — Pat Rudolph reads the Mother's Day card from her son, the second youngest of six children. It feels so different from the others she opened this year. It came from prison, for one, and from a man she now struggles to understand.

He even signed it as a stranger might, with a middle initial and last name affixed to his first: "Your wayward son, Eric R. Rudolph."

She is 77 now, but these days, she feels years older — far more tired than when Eric Rudolph vanished into the mountains of North Carolina in 1998 and she feared she never would see him again. At least then she had his innocence to sustain her. That's what she believed, anyway.

The boy she raised would never do what the government said he had done: kill two people and wound more than a hundred by bombing two abortion clinics, a gay nightclub and the 1996 Summer Olympics in Atlanta. The man who did that, who hid a bomb in a backpack and sent masonry nails tearing through the Olympic crowd, couldn't be her son. She had reared him as a pacifist. No matter his views, he would never hurt others.

Then she heard the news in April. Her son would plead guilty to everything. To killing the off-duty police officer outside the clinic in Birmingham, Ala. To killing the woman at the Olympics. To maiming so many others.

Eric Rudolph, now 38, had confessed in exchange for four life sentences without parole. He would not be tried. He would not face death. He is scheduled to be sentenced July 18 for the bombing in Birmingham.

She hasn't seen him in the dozen weeks since he confessed; she often feels too ill to travel. And she talks with him sparingly; she cannot afford his collect calls. So she relies on his letters from jail — letters she shared with USA TODAY in hopes of showing a fuller picture of her son — to sate her need to know who he has become.

To date, he has granted no interviews and, through his mother, declined to talk to USA TODAY. When he pleaded guilty April 13, he released only a rambling, 11-page statement that condemns abortion and homosexuality and says he had "nothing personal" against his victims.

By contrast, his letters home — more than 200 pages in sloppy cursive — are cogent and well-written. More than his statement, they offer an unadorned glimpse into the mind of Eric Rudolph: why he did what he did, how he survived in the wild, and why he was caught.

They reveal a thinker, clever and cunning, who details how he fooled locals and the feds during five years on the lam; an egoist who sees himself and his plight in the books that now take up his days; a zealot, unapologetic in his disgust for abortion and the government; a son who seems to deeply regret what his family has endured.

"I get more of a feeling for him from the letters than when I'm with him," his mother says. "And that's what counts. The feeling."

Since a rookie cop caught Rudolph behind the Save-A-Lot grocery store in Murphy, N.C., two years ago, Pat Rudolph guesses that her son has gained about 30 pounds.

Worry and heartache have cost her just as many, and in the past few weeks, she has begun to see a therapist. She needs to talk, to figure things out. She has even been writing a book to try to explain her son, and herself, to the world.

Eric Rudolph is a monster, an American terrorist. That's what she has heard people say. And she can quarrel with them for only two reasons: because he is hers, and because she knows him. Or does she?

"I would so much like for us to see one another before I leave this place," he writes of his impending transfer from Alabama to a prison in Colorado. "And perhaps it will be for the last time, for distance may place an insurmountable obstacle between us."

As she reads his words again and again, she asks the same question as his victims and their families: Why? Perhaps, she worries, she is to blame.

Today, Pat Rudolph does what federal authorities did for more than five years: She searches for her son. They hunted for him in the mountains of North Carolina. She hopes to find him here, in these letters.

"The latest tour group just came through: The authorities here often bring a group of people, I know not who, up to the windows of my cellblock and peek in like tourists at a zoo viewing the latest exotic animal," he writes in an undated letter from his cell in Birmingham. "I try to ignore them and act nonchalant, but I must confess I have the urge to bounce around and scratch my armpits for their entertainment."

Pat Rudolph can't help but smile. In her mind's eye, she sees him there, playing the gorilla, and his lightheartedness lessens her load. That's the Eric she remembers. The witty teen who could mimic scenes from the movies; the intense boy who pitched Little League; the son she taught at home during his last two years of school.

Even then, his humor was dry, subtle, controlled. Still, he always could make her laugh. "One of his coaches in baseball used to call him 'Smiley,' because he didn't smile that much," she recalls. "But when he did, it was a beautiful smile."

She goes there for only a moment. Then … reality. He will always be an oddity now. Always caged. Always on display.

Ask some of the victims of his crimes and they'll say Rudolph's price is small — too small compared to theirs. He is alive, after all. Alice Hawthorne, 44, an entrepreneur from Albany, Ga., was killed in the Olympics bombing; Robert Sanderson, 35, an off-duty police officer working as a security guard, was killed in the Birmingham blast.

Emily Lyons survived. A nurse at the New Woman All Women Health Care Clinic in Birmingham, she was blinded and crippled when the nails from a Rudolph bomb tore through her in 1998. The day of the bombing, she says, Eric Rudolph "decided to be God." She is angry that prosecutors cut Rudolph a deal. "He deserves to die," she says.

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Since the blast seven years ago, Lyons, now 48, has had 21 operations. On her face. On her neck. On her legs. Almost everywhere. Her left eye is plastic; damage to her right keeps her from driving at night.

"That poor girl's been through it," Pat Rudolph says. "But what can I say that's going to heal her broken heart and broken body? Only that I'm sorry that my son did this thing. … The apology really needs to come from my son."

In his letters, Rudolph shows no such inclination. In one, sent about a week after the guilty plea, he becomes introspective about his choice to turn violent. It is the only clue in the letters about why he took this course, but his soul-searching seems no more than an intellectual exercise.

"Perhaps I should have found a peaceful outlet for my opposition to the government in Washington: maybe I should have been a lawyer and fought (for) decency in the face of this rotten system; perhaps I could have taken up teaching and sought to inculcate a healthy outlook in a decidedly unhealthy society," he writes. "But I didn't do any of these things, and I resorted to force to have my voice heard. However wrongheaded my tactical decision to resort to violence may have been, morally speaking my actions were justified."

The words pain Pat Rudolph, and she reacts like any mother might. She loves her son but hates his manner. And she believes — because it gives her strength — that some day her son will grow wiser.

"Many good people continue to send me money and books," Rudolph writes in an undated letter. "Most of them have, of course, an agenda; mostly born-again Christians looking to save my soul. I suppose the assumption is made that because I'm in here I must be a 'sinner' in need of salvation, and they would be glad to sell me a ticket to heaven, hawking this salvation like peanuts at a ballgame. I do appreciate their charity, but I could really do without the condescension. They have been so nice I would hate to break it to them that I really prefer Nietzsche to the Bible."

He took two years to tell his mother he was guilty. She heard it first from an assistant to one of his lawyers. Then she wept. "My heart sank," she remembers. "I didn't know what to do. What could I do? What could I say?" She managed only a few words to the assistant: "It's hard for me to believe this."

But a part of her knew, she says now. A part of her sensed it the first time she hugged him after he was caught on May 31, 2003. "I felt he was uneasy," she recalls. "It wasn't his usual grab-and-hug-you sort of thing." She never did ask him whether he'd done the bombings. She still hasn't. The phone calls and visits are monitored, the letters read by others.

With his guilty plea, however, his letters home changed, and he began to tell of his reasoning and of his crimes. "I don't believe that a government that sanctions, protects and promotes the murder of 50 million unborn children in the heinous practice of abortion has the moral authority to judge a man for murder," he writes in a letter she received April 21.

As Pat Rudolph reads those letters, she bridles at his righteous indignation. It is not her way.

His mother, who once studied to be a nun and joined with activist and pacifist Dorothy Day and the Catholic Workers Party in the 1950s, now sees herself as a libertarian. She once chose the words "anarchist" to describe her views but now believes in a limited government. Her Christian faith is more spiritual than religious, more about meditation than about prayer.

And as for abortion, Eric Rudolph's mother believes the decision belongs to the woman, not to the government.

She sees how her son views religion — not spiritually, but as a scholar might — and she thinks that's how he reconciles his actions.

Like the Koran to Muslim terrorists, parts of the Bible have been commandeered by her son to justify the unjustifiable, she says. As she explains, "You can find a scripture in there to suit anything."

Even so, for Eric Rudolph — a man who quoted a Biblical passage on hypocrisy when he pleaded guilty — the choice of Nietzsche over the Gospel is a curious one. Friedrich Nietzsche, the German philosopher, once declared "God is dead."

His mother says she recognizes the intellectual Eric, the son who spent only a few terms in college but loved history. The religious zealot, she says, is a mystery. "A lot of this fundamentalist kind of thinking is a recent thing with him," she says. "I don't know where all this occurred, because it's certainly not from me or from anyone else in the family. I just don't know where all of this came from."

She isn't alone. The man who once led the hunt for Rudolph, former FBI agent Woody Enderson, says that "no one really knew him. … I really don't know what led him to become the person he is."

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Much has been written about her husband's death from cancer when Eric was a teenager — how Pat and Bob Rudolph, Eric's father, went to Mexico in 1981 so Bob could be treated with laetrile, a drug banned in the USA. But Eric Rudolph, in a statement the day he pleaded guilty, dismissed the notion that his father's death left him angry at the government.

Another myth, Pat Rudolph says, is that the far-right Christian church in Missouri the family attended when Eric was 17 made her son hateful. The family stayed less than a year. "We were exploring a lot of things then, and it's something we looked into. But it wasn't right for us," she explains. "Just because you look at porn doesn't make you a child molester."

Her son's views on homosexuality also surprise her. One of Eric's brothers is gay.

"I'm starting Dostoevsky's The Brothers Karamazov, which is supposed to be the greatest novel of all time," Rudolph writes in an undated letter. "I've read his Crime and Punishment years ago, which I can honestly say was the best novel I have read to date. … He was tried and convicted of revolutionary activity by a Tsarist court and sentenced to death by firing squad. As he was being tied to the stake, he was given a last minute pardon and was sent to Siberia."

Perhaps this is how he views his life — a revolutionary spared from death but exiled to prison. His mother thinks so.

"I just finished reading Billy Budd by Melville," he writes in another undated letter. "It's a story about a good man sacrificed on the altar of military-legal expediency. It makes a powerful statement at the end of the novel about the relativity of history, and just who ends up being the good guy or bad guy depends on who gets to write the story."

Perhaps this is what gives him hope: that someday, his actions will be seen, not as terrorism, but as heroism. For now and to most, his mother understands, Eric Rudolph belongs among a small group of homegrown terrorists: the Unabomber, Ted Kaczynski; and the man who toppled the Oklahoma City federal building, Timothy McVeigh.

And Pat Rudolph, by the actions of her son, becomes the terrorist's mother. "I often think of Mrs. McVeigh," she says quietly. "What did that woman feel?"

"Here's a child that you fed at the breast for two years, almost …" Her voice wavers. "I'd always tried to do the right things by him, for him, and it was like a slap in the face.

"God have mercy on him," she whispers. "That's all I can say."

It is at these moments that she looks back to the letters. She sets aside the pages of dogma and picks out a few letters he has sent her. They are her favorites. They make her smile.

In them, Eric Rudolph doesn't talk politics. He tells stories of his time on the run. They are daring tales, and they leave her proud, almost tickled.

As she reads them, Pat Rudolph stops looking for answers. His words pull her back to the place where she raised him, back to the mountains of North Carolina and the chilly nights of October 1999, almost two years after he vanished.

Wednesday: Rudolph writes of close calls and life on the lam

Mexicans' Conviction Getting New Look (WT)

By Hugh Aynesworth, The Washington Times

The Washington Times, July 5, 2005

LITTLEFIELD, Texas -- A multifaceted criminal motion will be argued here next month, the culmination of a lengthy investigation into whether two Mexican nationals should serve life sentences in Texas prisons or -- because of prosecutorial malfeasance and inadequate representation -- their 1998 murder convictions should be overturned.

If the judge sees fit, there also could be testimony forthcoming in the habeas-corpus writ that would cast suspicion on two other men, one of whom reportedly had bragged to friends about the murder of a convenience-store clerk.

The capital-murder convictions of Jesus Ramirez and Alberto Sifuentes came in separate trials here seven years ago -- prosecutions that offered no forensic evidence and no motives, but did have witnesses who since have been accused of perjury.

The case has drawn considerable attention from the Mexican government -- enough that, one source said, Texas officials are feeling some pressure.

"With the case still in litigation, it would not be appropriate for us to comment," Jerry Strickland, spokesman for Texas Attorney General Greg Abbott, whose office is opposing the Mexican nationals' appeals, told The Washington Times.

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One Austin lawyer said yesterday he had been told the attorney general's team intended to interview some of the most important witnesses before the Aug. 2 hearing, possibly to determine strategy.

Some veteran lawyers said the prosecution cases were so weak that sanctions should be brought against the district attorney and his aides.

Lamb County District Attorney Mark Yarbrough and his assistant, Scott Say, likely will testify about their roles in the two prosecutions.

Barry F. McNeil, a partner in charge of Dallas' Haynes and Boone LLP law firm's pro-bono reinvestigation, charged that not only was the prosecution tainted by "testimony the D.A. knew was false," but also that the two men's attorneys were extremely derelict.

Among the charges to be explored here next month include:

• The state's No. 1 witness lied about seeing Sifuentes and Ramirez at the murder scene just minutes before the convenience-store clerk was killed.

• The prosecution refused to reveal -- as is required by law -- the fact that one of their witnesses, a career criminal facing charges of raping a child, had cut a deal for leniency to testify against Ramirez.

Autopsy: Head Trauma Killed Missing Boy (NYT/AP)

By The Associated Press

The New York Times, July 5, 2005

Filed at 1:11 a.m. ET

MILWAUKIE, Ore. (AP) -- A 4-year-old boy who police say was killed by his step-grandmother and left along a rural road in the foothills of the Cascade Range died from a blow to the head, authorities said Sunday.

An autopsy conducted a day after Christine Coffman led police to her step-grandson's body determined the cause of death to be blunt force head trauma, said Officer Kevin Krebs, a spokesman for the Milwaukie Police Department.

Krebs did not reveal how authorities believe the child was killed or how many times he had been struck. He also wouldn't say whether the boy was already dead when he was left in the woods, though he said the autopsy showed the child died from his injuries.

Coffman, 43, was charged Saturday with aggravated murder in the death of Matal Sanchez, who had disappeared Wednesday from his home in the Portland suburb of Milwaukie about 25 miles from where his body was found.

In the neighborhood of well-tended lawns and blooming trees, neighbors said they never suspected that Coffman, who appeared to be a doting grandmother, could be involved in the boy's disappearance. But her behavior on the day the child was reported missing raised questions.

Matal disappeared about the same time Coffman left the home, Krebs said. But when Coffman returned three hours later, the child wasn't with her and her clothes were stained with a red-colored substance.

"From the moment I saw that, I thought something was wrong," said Debbie Leader, a neighbor who shares a fenceline with the boy's family.

Holly Miller, 15, another neighbor, said Coffman appeared agitated. "I asked her if she was OK. She was just sitting there crying," Miller said.

Krebs confirmed that Coffman had a red residue on her clothes but declined to say whether it was blood.

Coffman was questioned while neighbors and authorities spent days searching for the boy. It wasn't until Saturday that she led detectives to the body near the town of Estacada in an area blanketed in heavy brush.

"The sad part is your family is the one you're supposed to be safest with," said Chuck Brittle, 46, a commercial flower grower, whose house lies a few miles away from where the body was found.

Coffman is being held without bail and is scheduled to be arraigned on Tuesday in Clackamas County Court. It wasn't immediately known if she had an attorney who could comment. The family wasn't at the home, which was cordoned off by police tape Sunday.

Human Remains Found In Missing Boy Search (NYT/AP)

By The Associated Press

The New York Times, July 5, 2005

COEUR D'ALENE, Idaho (AP) -- Seven weeks to the day after Shasta and Dylan Groene were reported missing, Shasta was seen cuddling in the arms of her father, while authorities said they had found human remains that might be her missing 9-year-old brother.

Kootenai County Sheriff Rocky Watson said Monday that "possible" human remains had been found at a site in western Montana, and would be sent to the FBI crime lab in Virginia for DNA analysis. That is expected to take three days.

Watson declined to answer questions, but the fact that he called a press conference at the place where reporters were following the Groene story indicated officials believe the remains were related.

"Unfortunately we believe Dylan to be deceased," Sheriff's Capt. Ben Wolfinger said after Watson's announcement. But until the remains are identified, they could not be certain, he said.

Dylan and Shasta, 8, had been missing since May 16, when the bound and bludgeoned bodies of their mother, older brother and mother's boyfriend were found at their rural home near here. Shasta was spotted by employees and customers early Saturday morning eating breakfast with a man at a Denny's restaurant in Coeur d'Alene.

Officers arrested the man, Joseph Edward Duncan III, 42, on suspicion of kidnapping and other charges. Duncan, from Fargo, N.D., is a violent sexual predator who has spent much of his adult life in prison.

Authorities planned to formally charge Duncan with kidnapping and being a fugitive from justice, and have said more charges were possible. A judge ruled Monday that there was probable cause to keep Duncan in jail until an initial court appearance Tuesday.

The sheriff's office released a photograph showing a smiling Shasta hugging her father Steve at Kootenai Medical Center. Another photo showed her holding a doll. The photos do not show any apparent injuries from her nearly six weeks of captivity.

"She's a much happier little girl right now," Wolfinger said, adding she was listed in good condition.

Officers have interviewed the girl a couple of times, but details of what happened to the children are agonizingly slow in coming. Duncan has refused to cooperate, officials said.

Major questions include: Was Duncan involved in the three initial slayings? Have the children been with him the whole time? And, if so, where have they been hiding?

"We've got a lot of questions left unanswered," Wolfinger said, and some 60 investigators from the local area, the Idaho State Patrol and the FBI are working the case.

Authorities have relied on information from Shasta, evidence from Duncan's stolen red Jeep Cherokee and some 100 new tips from the public in the search for the boy. The tips have poured in since photos of Duncan and the Jeep were released, and many are "vehicle-specific and Duncan-specific," Wolfinger said.

Watson said the remains were found at "one of the possible locations in western Montana," but did not elaborate about the site.

"Investigators continue to follow all of the other leads in this complex case," Watson said. "This case continues to be the No. 1 priority for all agencies involved."

Shasta has provided helpful information, but Wolfinger declined to say exactly what the girl was telling officers. "It's a slow process with Shasta," he said. "We're taking that very slowly."

The children were declared missing when authorities arrived at their home May 16 and found the bodies of their mother, Brenda Groene, 40, brother Slade Groene, 13, and their mother's boyfriend, Mark McKenzie, 37.

Authorities believe Duncan and the children remained in the Northwest during the past seven weeks, but Wolfinger declined to say where. He also would not say if there was any evidence others were accompanying Duncan.

Steven Groene on Sunday night spoke publicly for the first time about being reunited with his daughter, and thanked the community for its support. He said his daughter was watching movies and had a vanilla shake and pancakes for breakfast.

"Shasta is doing very well and we all are very hopeful that Dylan will come home safely," he said.

Officials have not said why they believe the Groene family was targeted. Steve Groene said he had never heard of Duncan before Saturday. Authorities searched Duncan's Fargo apartment.

Duncan, who was raised in Tacoma, Wash., had spent more than a decade in prison for sexually assaulting a 14-year-old boy at gunpoint and was a fugitive at the time of his arrest for allegedly molesting a 6-year-old boy in Minnesota.

A registered high-risk sex offender, Duncan was released on $15,000 bail earlier this year after being charged with molesting the boy. Police in Fargo had been looking for Duncan since May, when he failed to check in with a probation agent.

D.C.'s List Of Don'ts Grating On Some Nerves (WP)

By Eric M. Weiss, Washington Post Staff Writer

The Washington Post, July 5, 2005

A parking ticket on your windshield used to be as far as the stubby arm of District law would reach. But now, drivers are ticketed by robot cameras, holding a cell phone when driving is verboten and no one is allowed to have more than one drink at a time at city bars. Last week, D.C. police were handing out $10 tickets for jaywalking.

Jaywalking.

It makes some people wonder whether the District is turning into a Big Brother "nanny state." With these official efforts to make urban life safer, is there danger of Washington losing some of its buzz and the organic street life that makes a city a city?

"If there was no crime, everyone had a job and affordable housing, then the city can start being paternalistic," said Kevin Cuddy, 33, of Logan Circle, who was handed a warning Friday for jaywalking on 16th Street NW, even though 10 seconds were remaining on the crosswalk indicator when he stepped off the sidewalk. D.C. police say it is against the law to begin crossing the street when the red hand appears, regardless of the time left.

In addition to the jaywalking crackdown, District officials also are enforcing restrictions on tinted car windows and cyclists running red lights. Intersection monitors are posted at key gridlock points during rush hour. Jersey barriers surround many formerly accessible buildings in the city while surveillance cameras watch overhead. Children in vehicles must be strapped into car seats until age 8. District leaders are considering a ban on smoking in bars and restaurants.

D.C. Council member Phil Mendelson (D-At Large) defended the quality-of-life campaign, saying city leaders have to strike a balance between making urban life safe and livable and preserving the fun of city living.

"It's not always that the government is looking for ways to be more of a nanny," he said.

Yet for some Washingtonians, what's happening crosses the line between vigilance and intrusiveness. For them, it is as over-the-top as Metro police arresting a woman for eating a candy bar in a station, as happened last July.

"For a city of liberty, I don't know what's happening," said C. Peter "Buzz" Beler, longtime owner of the Prime Rib on K Street NW and an opponent of the proposed smoking ban. He recently had to pay an electronic speeding ticket but got away scot-free when he jaywalked Thursday.

In a buttoned-down region, the District has always been the place to party. For years, the minimum drinking age was 18, and the attitude in the streets seemed to be "anything goes." In the 1990s, the city was broke and practically lawless. Its mayor was arrested for smoking crack cocaine in a hotel room.

Today, the District has $1 billion in the bank, crime is down and the mayor is a bow-tied accountant. Downtown is revitalized, and empty nesters and young couples drawn to urban living are rehabilitating neighborhoods. And as in such cities as New York, political leaders are focusing on other, arguably lesser problems.

Dean Chandler, 34, of Hyattsville, who has been ticketed for jaywalking, said the crackdown is a natural result of all the changes the District has undergone in the past 15 years. He said he thinks city leaders are trying to "weed out" those they don't want to be part of the new, gentrifying District.

"It's changing," he said. "Everything was kind of loose. But now it is less the District of Columbia and more of an American city. People with power and influence come here, and now they are changing things."

But Mendelson said jaywalking is dangerous as well as illegal. He said the city is joining in a regional educational effort about pedestrian safety in reaction to a number of deaths. Each year in the District, pedestrians account for an average of 14 fatalities and nearly 800 injuries, according to the city's Department of Transportation. Eight pedestrians have been killed this year.

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Mendelson, chairman of the council's judiciary committee and a sponsor of the proposed smoking ban, said the city also has repealed rules that don't make sense, such as requiring permits for restaurants that put lighted candles on tables.

Those who study such things say the District's recently imposed restrictions and crackdowns are part of a trend of looking to government not just to protect life and liberty but to enforce society's rules of behavior.

"People are promiscuous about giving up other people's rights," said Eugene O'Donnell, a former police officer and prosecutor who is a professor at the John Jay College of Criminal Justice in New York. "Individually, it's hard to argue against these laws. The problem is when you aggregate it. It's a creeping sort of thing."

This uneasiness could be felt during a 12-hour D.C. Council hearing nearly three weeks ago on the proposed smoking ban. Proponents cited dozens of studies showing how dangerous smoking is and how a ban would protect workers. Opponents waved other studies showing how a ban would ruin the city's bar and restaurant industry.

But between the lines, the debate was about freedom: the freedom to light up a cigarette in their favorite bar vs. the freedom to enjoy a drink or a meal without inhaling a stranger's smoke.

"In reaction to the lawlessness of the past, there is a sense that any expression of spontaneity has been wiped out," said Joel Kotkin, author of "The City: A Global History." "You don't want people smoking crack on K Street, but you have to wonder at what point do you feel like you're in Disneyland."

2 Are Charged With Murder In IPod Theft (NYT)

By Jennifer Medina And Matthew Sweeney

The New York Times, July 5, 2005

Two Brooklyn teenagers were arrested early yesterday on charges that they robbed and killed a 15-year-old boy in the Farragut neighborhood when they stole his friend's iPod, the police said.

The victim, Christopher Rose, was walking with three other boys late Saturday afternoon when a large group of teenagers approached them and demanded that they turn over the iPod that one of the boys was carrying, according to the police and witnesses. When the boys refused, one of the suspects began hitting them, said Kenneth, 15, who was with Christopher at the time of the attack. Then someone stabbed Christopher twice in the chest.

Law enforcement officials have warned in recent months that iPods have prompted an increase in thefts on the subways, and that teenagers are particularly vulnerable targets of iPod thefts by other teenagers.

The police said yesterday that they had charged Darran Samuel, 16, and Daryl Stephen, 17, with murder, robbery and criminal possession of a weapon in connection with Christopher's death. Relatives of both boys, reached at their homes in Brooklyn, said the youths had no history of violence.

"Maybe they were the two who didn't run fast enough," said Daryl's aunt, who declined to give her name.

A man who described himself as an uncle of Darran's, but who also declined to give his name, described the youth as "weak and frail."

"There is no possible way he could have committed the crime of murder," he said, but added, "maybe in bad company and not good judgment."

Police officials said that they were still searching for other suspects, and that they had not yet recovered the iPod.

Christopher attended school in Bushkill, Pa., where his parents said they had sent him with the hope that he might be safer and receive a better education.

"We sent him out there to get away from this horrible life," Christopher's father, Errol Rose, said yesterday. "All these years - seven and a half years - I've been back and forth from Pennsylvania with this boy. He didn't last too long before they rubbed him out."

Christopher and his friends were on their way to the Port Authority Bus Terminal to catch a bus back to Pennsylvania on Saturday when they were attacked. Usually, someone would drive him to the subway or take him to the bus terminal, Mr. Rose said. But since he and his wife were attending a wedding, Mr. Rose said he gave Christopher permission to head back on his own. It was one of the few times the Roses had allowed Christopher to walk around the neighborhood alone.

Just before Christopher left his family's home, his father called to give him clear instructions.

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Mr. Rose said that Christopher and three friends - had planned to take the subway to the bus terminal, where they would catch a bus to Pennsylvania, arriving in time to watch a fireworks display. Traveling with Christopher were Kenneth and two brothers, Richard, 15, and Jonathan, 11, whose mother asked that their last name be withheld.

"Don't talk to strangers; if you need to talk to anybody, talk to someone in uniform," Mr. Rose recalled saying. He called Christopher back to emphasize his point. "Did you hear what I said?" he asked.

Christopher was stabbed to death just a few minutes later on 40th Street near Avenue D, a block and a half from his home.

Several teenagers approached Christopher and his three friends just after they began walking on Avenue D. Richard was showing Kenneth his iPod when one of the older boys approached them and demanded it, Kenneth said. Richard handed the iPod to Jonathan before turning back toward the Rose home. Several teenagers in another group, some riding bikes, began approaching them.

"There were like 15 or 20 of them, and there were more coming," Kenneth said yesterday. He spoke in front of the Rose family home with his back facing the news cameras, hiding his swollen and bruised right eye. "We were trying to get away."

Kenneth said that when he turned around to check on his friends, Christopher and Richard were fighting more than a dozen boys. The suspects then took the iPod, Kenneth's cellphone and Christopher's sneakers before running off.

At some point during the fight, Christopher was stabbed twice in the chest, and fell to the ground. "I can't think," Kenneth said. "Me and him were like brothers."

"I'm mad I can't do anything about it," he added.

The two were so close that their mothers were hesitant to separate them for the summer, so Kenneth, whose family lives in Pennsylvania, had planned to live with the Rose family in Brooklyn. The two were to help Christopher's mother at a social service agency for disabled children in East New York where she works, family members said.

Christopher had three older sisters. During the school year, he often returned to New York for weekends and holidays, his parents said. He spent a lot of time at the Brooklyn Tabernacle church, where he played basketball and participated in a youth group.

Family and friends poured into the Rose home yesterday, many coming from the church. They gathered inside the family's two-story home, some praying and some crying.

Many said Christopher was shy. A recent report card suggested that he speak up more in class.

"My husband was afraid the city was too rough for him," Sharon Rose, Christopher's mother, said. "Should I have stayed home yesterday? Should he have stayed down there for the summer? All kind of choices pop into your head."

Carjackers Have Pr. George's Residents Driving Scared (WP)

By Avis Thomas-lester

The Washington Post, July 5, 2005

Prince George's County resident Synetra Mendheim and her father, Terry, had noticed the car as they headed toward her white Mazda Millenia that Sunday morning, but they thought the men inside were waiting for a parking place.

It was 3:30 a.m., and Synetra Mendheim, 25, was going to Reagan National Airport for a flight to South Africa, where she would join other missionaries from her church to work with young AIDS patients. Terry had driven up from Virginia Beach to drive her to the airport. The plan was for Terry, in his late-model Mercedes, to follow Synetra to her mother's house nearby in Fort Washington, where she would drop off the Mazda and give one last kiss to her baby daughter, Kaylan, who had spent the night at her grandmother's house.

As Synetra Mendheim reached for her keys, three car doors opened and a shotgun cocked.

"Get on the ground! Get on the ground!" a man shouted, pointing the gun at her father. Synetra froze. Terry got on the ground and called her name.

"I thought, 'This cannot be happening,' " Synetra Mendheim said in an interview. "When my dad called my name, it snapped me back. I lay on the ground in an almost fetal position. I was so scared. I just wanted to curl into a ball so that I could protect myself."

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The April 24 carjacking, in the 7200 block of Jaywick Avenue in Fort Washington, was among 337 such crimes reported in Prince George's County as of June 30, a 47 percent jump from the 229 carjackings reported at the same time last year. In 2004, Prince George's reported the highest number of carjackings in Maryland: 563, compared with 492 for all of the state's other jurisdictions combined.

As police officials try to combat the problem, some county residents look over their shoulders in parking lots and curtail activities for fear that they will become the next victim. They avoid gas stations and limit nighttime trips to the grocery store and mall. They dig for their keys before they leave their offices and watch who lurks near their homes before they pull into their driveways or parking spaces.

"When I come home, I keep my car doors locked while the garage door goes down," said Mitchellville resident Ann Powell, a professor at Gallaudet University. "I don't get out of my car until the garage door is all the way down."

Mark Ricks, 38, of Laurel, a Web site designer, said he is careful about driving in areas where a number of people loiter, parks where other people can see him and is more apprehensive in parking garages.

"And I make it a habit to lock my doors when I first get into my car -- even before I put on my seat belt," he said. "I'm not going to say that I take an extra minute when going into the parking lot t0 look around, but it is kind of scary."

Law enforcement officials say they are working on solutions and acknowledge that concerns about carjacking, like other violent crimes, have affected some residents' quality of life.

"Carjacking is one of the highest priorities, along with homicides and other violent crimes," said Vernon R. Herron, the county public safety director. "It's terrifying. When someone is carjacked at gunpoint or by force, they are traumatized. It is something they will always remember."

Synetra Mendheim, who works as a receptionist at a Northwest Washington law firm, worries when she returns home from Bible study classes. After a recent evening out with girlfriends in Georgetown, she made all of them spend the night when they got back to her apartment for fear that they would meet up with carjackers in the parking lot. She was especially worried because police said that another man was carjacked a few minutes after she was on April 24 and that several other armed car thefts have occurred in the area.

"We got back to my apartment, but then we talked and hung out, so by the time they were ready to leave, it was almost 3 a.m., about the time I got carjacked," she said. "I said, 'Nobody is going anywhere. You're all staying right here.' "

She and her sister, Charlise Mendheim, 28, who shares the apartment, also refuse to get out of their cars if anyone is nearby on foot or in a car when they get home.

"We have a pact that if we see anybody, we ride around and then come back," said Synetra Mendheim. "We don't get out of the car while anybody is waiting and while anybody is standing around."

Averyl Bailey, 33, whose 2002 gold Land Rover Discovery was carjacked in the 8600 block of Devon Drive in Fort Washington as she returned home from choir practice June 20, said she no longer checks her mailbox at night. She was at the box, down the hill from her home, about 10:45 p.m. when a red car pulled up and three men approached her -- two of them armed with handguns.

Police are investigating the case as possibly connected to a gang of violent car thieves suspected in at least three carjackings in Clinton and Hyattsville since June 18. At some scenes, the men left in a silver Nissan Altima, which has subsequently been recovered in the District.

Detectives are also investigating carjacking as the motive in at least one unsolved homicide. They declined to identify the case.

Herron said the county's carjacking victims "cross every socioeconomic line." Victims who have been carjacked in recent months include an off-duty police officer whose silver 1995 Chevrolet Caprice was stolen at gunpoint about 6 p.m. June 18 in the 8000 block of Mike Shapiro Drive in Clinton.

In several cases, the carjackers have abducted car owners and resorted to violence. In one recent carjacking, a man who came to the aid of his girlfriend was shot. In March, a man standing next to his 2000 Toyota Avalon in the 2700 block of Crestwick Place in Suitland was abducted by the carjackers, driven to several locations and placed in the trunk. Police believe the

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carjackers committed several robberies while the victim was in the trunk. On May 5, Prince George's police chased a carjacking suspect into Southeast Washington and fatally shot him.

Cars have been recovered in many of the cases. The cars belonging to Bailey, the off-duty police officer and Synetra Mendheim have been recovered. Police also recovered a 2000 Chrysler 300M that was carjacked in the same parking lot on Jaywick Avenue a short time after Mendheim was robbed of her car. Two men have been arrested in the heist of Mendheim's car, and police told her that they were looking for three or four other suspects.

Synetra Mendheim is relieved that her story had a happy ending. When Terry Mendheim could not produce his wallet, his daughter pleaded with the robbers. Frantically searching for a reason, she said: "Please don't shoot him. He doesn't live here."

When the carjackers saw her curled in a ball, one of them kept snatching at her legs until she lay flat. She prayed, and they eventually drove away, taking her backpack and her luggage, which included a suitcase of jackets donated by church members for the children in South Africa.

Terry Mendheim checked his daughter for injuries, then made her a pledge. "You're still going," he said of the missionary trip. "I don't know how, but you're still going."

As police investigated the case, Synetra Mendheim's church, the Soul Factory in Forestville, mobilized to get her another passport and plane ticket. She went to Africa as planned, two days after the carjacking.

CIVIL LAW:

U.S. Attorney Asks Court To Unseal Berkeley Case (CINE)

By James McNair, Enquirer staff writer

The Cincinnati Enquirer, July 5, 2005

Ever since the government seized $24 million in bank accounts from herbal supplements kingpin Steven Warshak in March, the two sides have waged war in the secrecy of sealed court filings.

That could change, thanks to a request to open the case to public view - not by any news organization but by the government itself.

The government's motives aren't available for anyone to see because its motion to unseal the case is, well, sealed. Fred Alverson, a spokesman for the U.S. Attorney's Office in Cincinnati, said the government is asking U.S. District Judge Susan Dlott to unseal everything except the affidavits backing the original request to freeze Warshak's assets.

"Our motion is in response to a motion by them asking that certain documents be sealed or filed with redactions," Alverson said. "Our response is that these do not fit any of the Justice Department exceptions for documents to remain sealed in a civil case. ... They (the case files) should be open for the public to see."

The government froze the $24 million at the same time federal agents with search warrants raided the Greater Cincinnati offices of Warshak's company, Berkeley Premium Nutraceuticals. The U.S. Postal Inspection Service led the raids. The asset freeze was supported by government claims that the $24 million was obtained by fraudulent means.

Several thousand consumers have filed complaints to the Ohio Attorney General's Office and Cincinnati Better Business Bureau since 2001 alleging that Berkeley billed their credit cards for penis enlargement pills and other products they had ordered for a 30-day free trial. Berkeley, based in Forest Park, said it amended its billing practices in August, prompting the number of complaints to shrink.

During the dispute over Warshak's assets, the government filed an amended, more detailed - and sealed - complaint with the court.

Warshak's lawyers want Dlott to give him until July 14 to counter with an edited copy of the amended complaint. The lead lawyer listed on the response, Martin Pinales of Cincinnati, wouldn't say what Warshak wants edited from public view.

"I can't comment, nor do I comment on pending litigation," he said.

U.S. Sues Maker Of Body Armor, Its Fiber Supplier (WSJ)

By Kara Scannell

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The Wall Street Journal, July 5, 2005

The U.S. Justice Department sued a bulletproof-vest maker and a ballistic-fiber supplier, alleging they sold body armor knowing it was defective.

The complaint filed last week in federal court in Washington was brought on behalf of several federal agencies that bought thousands of vests made with Zylon, a bullet-resistant fiber. The civil suit named Second Chance Body Armor Inc. of Central Lake, Mich., and its fiber supplier, Japan's Toyobo Co., and related entities.

The suit alleges that from 1998 until 2001 Toyobo and Second Chance "kept silent as to the ever-mounting information in their possession that the Zylon fabric degraded substantially faster than expected" when exposed to certain light, temperature and humidity conditions.

The vests were the subject of a Wall Street Journal article on Nov. 15, 2004.

Both companies already have been sued by law-enforcement groups, state attorneys general, a wounded police officer, and the widow of an officer who was killed while wearing a vest.

"We think it will go a long way toward resolving the issue as to who's responsible for the issue," said Kevin Dougherty, a lawyer for Second Chance. He added the company believes Toyobo "is responsible for the problem of Zylon being defective."

Kent Jarrell, a spokesman for Toyobo, said: "We don't understand why we are a defendant in this lawsuit. This lawsuit is really all about Second Chance and the allegations made by a former employee about what Second Chance knew, when it knew it, and when it decided not to share critical information about the failure of its vests with Toyobo, the public and with investigating authorities. Second Chance was the bad actor, not Toyobo."

The complaint is based largely on information from Second Chance's former research director, Aaron Westrick, who filed a whistle-blower suit last year and testified as a witness in other suits about the company's knowledge of the test results. The company said he was laid off in a cost-cutting move. Mr. Westrick's lawyer has said his termination was retaliatory.

Second Chance marketed its Zylon vests under the brand names Ultima and Ultimax as the "world's thinnest, lightest, and strongest armor," and they were popular with law-enforcement officials. In 1998, federal employees bought more than 40,000 vests with some Zylon fiber.

The Justice Department alleges in the complaint that test results as early as 1998 showed that the Zylon fiber deteriorated "rapidly" when exposed to visible and fluorescent light. Quoting a document, the complaint says Second Chance told Toyobo that they both "must avoid even the perception of a possible problem" with Zylon. Additional testing in 2001 showed the vest's resistance broke down when exposed to high temperatures and humidity, making it less effective before the warranty expired.

"Despite this mounting evidence," Second Chance and Toyobo continued to sell them "knowing that these vests were defective," the complaint alleges. In September 2003, Second Chance said it would upgrade and replace potentially defective vests. The company filed for protection last October under Chapter 11 of the U.S. Bankruptcy Code, citing the costs of replacing vests and legal fees.

Last week, Second Chance recommended an additional 98,000 vests made with Zylon be replaced citing new research that showed they "may fail to perform and result in serious injury or death."

CIVIL RIGHTS:

Cop Suits Cost $44.7 Million (FREEP)

By Joe Swickard, Free Press Staff Writer

Detroit Free Press, July 5, 2005

Detroit has paid out almost $45 million over the past three years in police misconduct lawsuits, with more than half that amount going to pay cases involving officers with histories of past lawsuits, according to a City Council analysis.

The payouts are a costly jump since the last time police lawsuits were examined. A 2000 study found that the bill for the previous three years was $32 million and officials warned then that the trend of big payouts endangered the city's fiscal health.

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The latest report on the multimillion dollar hemorrhage comes as the city struggles with a $300-million budget crisis that's forced hundreds of municipal layoffs. Firefighters and emergency medical technicians are among those laid off, but so far no police officers have lost their jobs.

Detroit police are currently under a federal consent degree mandating sweeping and costly changes in the way the department operates. The agreement came in 2003 after a U.S. Justice Department investigation that was spurred, in part, by Free Press reports detailing the high rate of civilians fatally shot by officers and constitutionally questionable practices of dragnet arrests and holding relatives to force suspects to surrender.

The study, by the council's research and analysis division, looked at police misconduct cases that came before the council from 1987 to 2004 and found the city paid out more than $188 million in that 18-year period. The payouts cover settlements including pretrial agreements, mediations, arbitrations and judgments.

Tracking repeaters

Suits involving repeaters -- officers who have been named in more than one case -- account for more than $111 million, or about 60% of the settlement payouts since 1987.

In the period of 2002-04, settlements came to $44.7 million. Repeaters' cases cost just more than $24 million, or about 54% of the settlements.

"This is a lot of money being spent that shouldn't be spent," Council President Maryann Mahaffey said Monday. "There's a small number of repeaters and why are they not being taken care of?"

"These numbers are staggering," said Councilwoman Sheila Cockrel, who requested the study.

Detroit is self-insured, meaning the settlements come directly from municipal accounts and not from insurance companies. Money going to lawsuits, Mahaffey and Cockrel said, could have been spent on necessary services.

Cockrel and Mahaffey said repeaters' costs underscore the long-standing need for a computerized tracking system to monitor officers' performance and flag potentially dangerous behavior.

"Why in God's name don't we have an early warning system -- we have been asking for one for years," Cockrel said.

Mahaffey was equally put out: "Why on Earth -- I just don't understand it -- do you allow bad ones to remain? Good supervision means keeping track. I'm tired of hearing you can't fire under civil service. You can if you've kept track."

Not every repeater is a bad cop, Cockrel said. An officer's assignment might routinely place him or her at potentially troublesome incidents that result in lawsuits, she said.

"So I don't want to sweep up the good cops, too, but you can't get to these huge numbers without some bad actors on the force," Cockrel said.

In 2004, there were 332 repeaters in cases that came before the council. That was up from 256 in 2003 and 217 in 2002.

The report said a correlation between repeaters and settlement costs "is patently obvious from only a cursory review," and that the city on its own, or with the Justice Department, has to tackle the problem. A computerized risk-management system is required in the federal agreement. The city's progress is to be evaluated in the next monitor's report, expected this summer.

Mayoral spokeswoman Ceeon Quiett referred questions to police spokesman James Tate on Monday, but Tate could not be reached for comment.

In the past, police officials said aggressive lawyers seeking big paydays contributed to the big payouts and said the planned computer tracking would help cap costs.

The analysis, released Friday, was dogged by data problems and the report warns the full cost of bad cops is not known.

Records for dozens of cases -- many of them for 2004 -- are missing from the database.

The raw data for all of 1994 is missing, the report said. That year was left as zero in some calculations and in others, figures from earlier studies were used. Attempts are being made to reconstruct the missing information, according to a footnote in the analysis.

Holes in the data

Additionally, the report said the figures do not include payouts that were made without a lawsuit being started.

"Therefore the actual amount of money paid out by the City to resolve police misconduct cases could be higher," the report cautioned.

Mahaffey said missing data stymies reform.

"If you don't have the records, you don't have the information that shows where your needs are," she said.

The report does not name individual officers or specific lawsuits, nor does it examine the city's legal strategy and practices. It also does not evaluate the cases' merits.

However, it does point out there were three multimillion dollar settlements in 2004, the costliest year. The settlements -- $5.5 million, $4.5 million and $2.9 million -- all involved fatal crashes with police scout cars. In all, cases cost more than $22.1 million that year.

The second costliest year was 1990, with settlements exceeding $16.4 million. That figure included payouts for wrongful deaths and shootings, false arrest and use of excessive force.

Because of the holiday weekend, comparisons could not be made with other large cities' current costs. In 2000, though, the City of Chicago reported paying more than $17 million in cases from 1997 to1999 while Detroit paid about $33 million.

A Different New York (NYT)

By Bob Herbert

The New York Times, July 5, 2005

Yes, it was a hateful crime. And, yes, it happened in the Howard Beach section of Queens. But, no, this is not déjà vu.

Early last Wednesday a neighborhood nitwit named Nicholas (Fat Nick) Minucci pummeled a fellow named Glenn Moore with a metal baseball bat, police said. Mr. Moore was walking around Howard Beach with a couple of friends. What they were up to is not real clear and not particularly relevant. Maybe they were doing some 3 a.m. sightseeing. At least one is reported to have said he was looking for a car to steal.

In any event, Mr. Moore and his friends, who are black, ended up being chased by Fat Nick and a couple of his friends, who are white. When Mr. Moore tripped and fell, Fat Nick, according to the police, whaled on him with the bat, leaving him with a fractured skull.

The beating allegedly was accompanied by racial slurs. And some of Mr. Moore's belongings were stolen.

As bad as this incident was, it would never have risen to the status of a major news story in a city of eight million people except for the fact that it happened in Howard Beach, a nearly all-white residential area near Kennedy Airport. Howard Beach has never lived down the notoriety that resulted from the hideous death in 1986 of Michael Griffith, one of three black men who were stranded in the neighborhood after their car broke down. They were attacked by a gang of white youths who were enraged by their mere presence.

Mr. Griffith was struck by a car and killed as he ran onto a highway in an effort to flee the gang.

That incident ignited a prolonged period of turmoil that severely aggravated the already raw nerves of race relations in the city. Public officials, including the Queens district attorney, John Santucci, clashed openly with lawyers for the surviving victims. Eventually a special state prosecutor, Charles Hynes, who is now the Brooklyn district attorney, was named to handle the case.

That was New York then, when subway fares were a dollar, crime was out of control, and Gimbels was bidding the world adieu.

The city is a different and a better place these days. Mayor Michael Bloomberg could not have responded faster to last week's attack if he had been wearing Rollerblades. "I cannot stress it enough," he said. "We are going to live together, and nobody, nobody, should ever feel that they will be attacked because of their ethnicity, their orientation, their religion, where they live, their documented status, or anything else. Period. End of story."

The police moved just as fast. They quickly arrested Mr. Minucci, who is 19 and addicted to a gangster wannabe lifestyle. (He drives a $60,000 Cadillac S.U.V. and likes to cruise around flashing gold necklaces, Rolexes and other expensive bling.) The attack was deemed a hate crime, and Mr. Minucci was charged with first-degree assault. An alleged accomplice, Anthony Ench, 21, was also arrested, and a third man is being questioned.

The current Queens district attorney, Richard Brown, made it clear that anyone charged in the case would be vigorously prosecuted. And the Rev. Al Sharpton, who was the point person for the protests in the first Howard Beach case, praised the way the mayor, Police Commissioner Raymond Kelly and other officials have taken control of this one.

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A singular development in New York over the past several years, accelerated by the terrible experience of Sept. 11, 2001, has been a willingness to move beyond the chronic ethnic conflict and divisiveness of previous eras. People in and out of government have worked hard to address problems in constructive ways.

We may not be approaching nirvana, and Howard Beach can hardly be characterized as a haven of racial tolerance. But there are very few New Yorkers interested in revisiting the searing ethnic face-offs of the past.

Mr. Sharpton, who had lunch with several public officials in Howard Beach on Friday, said that "the tone of the city has changed - as I have changed" in 19 years and that this incident should not be allowed to spiral out of control or overshadow the substantial progress the city has made.

He said he was concerned about the attack, which is why he went to Howard Beach. But he pointedly noted, "We're not fighting for the right to steal cars."

A crime was committed in Howard Beach. The wisest response would be to investigate, prosecute and move on.

ANTITRUST:

China Tells Congress To Back Off Businesses (WP)

By Peter S. Goodman

The Washington Post, July 5, 2005

SHANGHAI, July 4 -- The Chinese government on Monday sharply criticized the United States for threatening to erect barriers aimed at preventing the attempted takeover of the American oil company Unocal Corp. by one of China's three largest energy firms, CNOOC Ltd.

Four days after the House of Representatives overwhelmingly approved a resolution urging the Bush administration to block the proposed transaction as a threat to national security, China's Foreign Ministry excoriated Congress for injecting politics into what it characterized as a standard business matter.

"We demand that the U.S. Congress correct its mistaken ways of politicizing economic and trade issues and stop interfering in the normal commercial exchanges between enterprises of the two countries," the Foreign Ministry said in a written statement. "CNOOC's bid to take over the U.S. Unocal company is a normal commercial activity between enterprises and should not fall victim to political interference. The development of economic and trade cooperation between China and the United States conforms to the interests of both sides."

Those words, the latest rhetorical volley in an escalating trade battle, officially elevated the takeover battle for Unocal into a bilateral issue involving Washington and Beijing, raising the stakes of the outcome.

CNOOC's bid comes as China's emerging force in the global economy continues to sow international tensions over competition for natural resources, impacts on the environment, trade balances and security relationships. The deal would be the latest in a string of Chinese purchases of foreign companies as Beijing encourages domestic firms to seek new markets abroad and secure raw materials for China's aggressive industrialization. The Chinese government has urged energy companies in particular to buy foreign oil fields as China's consumption soars, deepening worries about the country's access to supplies.

Already, CNOOC's bid has taken China across a new threshold: It has unleashed the first takeover battle between a Chinese company and a U.S. firm, the oil giant Chevron Corp., which has its own deal to buy Unocal, for $16.5 billion. If completed, CNOOC's purchase -- its bid is for $18.5 billion -- would be the largest foreign takeover ever made by a Chinese firm.

But as the price of oil continues to soar, underscoring the finite supply of global stocks, some members of Congress portray China's appetite for energy as a threat to U.S. interests. They are painting CNOOC's effort to buy Unocal as an attempt to siphon off oil that would otherwise land in the United States, a proposition that analysts call dubious because most of Unocal's outstanding contracts supply customers in Asia.

As the House adopted its resolution Thursday by a 398 to 15 vote, some noted that CNOOC remains under the majority control of the Communist Party-led state, suggesting that this alone made the deal a threat.

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"We cannot, in my opinion, afford to have a major U.S. energy supplier controlled by the Communist Chinese," said Rep. William J. Jefferson, a Louisiana Democrat. Monday's reply from Beijing reinforced what CNOOC has said from the beginning -- that the deal is nothing more than an attempt to expand its business opportunities and invest capital sensibly.

Long before CNOOC emerged with its unsolicited offer for Unocal, the United States-China relationship was already highly complex. There has been friction in recent months over China's roughly $160 billion trade surplus with the United States and surges this year in Chinese-made textiles reaching U.S. shores. Some U.S. trade groups accuse China of manipulating its currency, the yuan, to keep it artificially low, making Chinese goods unfairly cheap on world markets. The Bush administration has pressured China to allow its currency to float freely. China argues that it is being made a scapegoat for the decline of U.S. manufacturing.

Tensions also have grown over North Korea's pursuit of nuclear weapons. In Washington, some suggest that China is not doing enough to pressure North Korea, its longtime ally, to return to stalled talks, while propping up the regime in Pyongyang with food and fuel. Chinese officials have criticized the United States for demonizing North Korea and undermining the possibility of progress.

Taiwan is always a hot button. China claims the self-governing island as part of its territory and threatens to reclaim it by force if Taiwan's government moves toward declaring its independence. The United States is nominally pledged to come to Taiwan's aid in event of war.

The battle over Unocal has injected yet another factor into this already volatile relationship ahead of a planned visit to Washington by Chinese President Hu Jintao this fall.

But analysts say the issue has thus far produced little that could alter the relationship between the two governments, because Beijing has grown sophisticated at distinguishing between rhetoric from Capitol Hill -- where Thursday's resolution was nonbinding -- and policy from the White House, which has said little on the subject.

But whatever comes of the Unocal battle, tensions over Chinese investment are probably only beginning. Just as a rising Japan in the 1980s snapped up high-profile assets in the United States and provoked widespread American unease, China's expanding horizons are having a similar effect.

Moreover, key differences between Japan of that era and current-day China could make this go-round more combustible: Japan was a U.S. military ally and part of the same ideological bloc, whereas China is viewed by many in Washington as an adversary.

But the simplest reason for tension may be the amount of cash at China's disposal: As investment pours in and China's central bank buys dollars to maintain the value of its currency, the country has amassed $650 billion in foreign exchange reserves. China has plowed much of that money into U.S. Treasury bonds.

But the quest for Unocal and other foreign companies is being construed by some as a sign of diversification.

"We invest too much in U.S. federal bonds, and they don't make us much money," said Pan Rui, a professor at the Center for American Studies at Fudan University in Shanghai. "Now we're learning to invest more wisely, to try to invest in American companies and industries."

As Rancor Mounts, Cnooc Needs To Push Its Offer For Unocal (WSJ)

By Dennis K. Berman And Russell Gold

The Wall Street Journal, July 5, 2005

With members of Congress suggesting resolutions, special hearings and potential laws to stymie Cnooc Ltd.'s ambitions, the pressure is now on the Chinese oil company to seize some momentum in its $18.5 billion takeover bid for Unocal Corp.

The harsh response has even surprised people in the camp of Chevron Corp., whose $16 billion-plus deal is due to be voted on by Unocal shareholders in only five weeks. Amid an anti-Cnooc campaign in Washington, one person close to Chevron conceded, "A lot of it is not organized; it came on its own. It's a freebie for every congressman to pile on China."

Chevron believes that sentiment will work in its favor. The possibility that a Cnooc deal would fail to win quick regulatory approval in Washington makes Chevron's offer more attractive despite its lower price, Chevron Vice Chairman Peter Robertson said yesterday in an interview. "I think we have the better offer, and I think we'll prevail at the level we're at," Mr. Robertson said.

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Cnooc, China's biggest offshore oil and natural-gas producer, has used a light touch in public, keeping Chief Executive Fu Chengyu from the U.S. In a news release late last week, its chief financial officer promised that once the facts are known, "many misimpressions will be corrected."

Still, in Washington, an army of lobbyists led by Akin Gump Strauss Hauer & Feld, a well-connected Dallas law firm, has yet to stanch opposition to Cnooc.

Friday, the company filed a preliminary notice of its deal with the U.S. foreign-acquisition panel, called the Committee on Foreign Investment in the U.S. Seeking a review before Unocal and Cnooc have agreed to final terms is an unusual maneuver, but not without precedent. By law, the committee, known as CFIUS, is required to ask Unocal to submit its views on the matter, though Unocal had no role in Cnooc's initial notice, which consisted mainly of basic information such as annual reports and securities filings. A person close to Cnooc said the filing "sends a message to the government and to Unocal, that we will do everything we can to get this process started."

Todd M. Malan, executive director of the Organization for International Investment, a trade group of foreign companies with U.S. subsidiaries, says Cnooc's filing for a CFIUS review is smart strategically. "They are advancing their cause in a pretty zealous way," he says. "One of the main points that Chevron has been making is that the [CFIUS] process is long and opaque. If Cnooc gets the clock started, that provides some level of certainty."

But Cnooc's eagerness won't necessarily translate into government action, because the panel alone decides when the review begins. Tony Fratto, a spokesman for the Treasury Department, which runs the committee, has said that "CFIUS does not provide 'advisory opinions.' " It begins the process when it views "a transaction is likely to be successful," he said.

Congress, meanwhile, can taint shareholder sentiment by creating the impression of a drawn-out approval process. Thursday, the House of Representatives voted 333-92 to bar the Treasury from using any of its funds to "recommend approval" of the sale to Cnooc, which might have little bearing on any CFIUS review, given the bill wouldn't take effect until October, and the matter will be decided by then. A nonbinding resolution, adopted 398-15, expressed concern that such a sale "would threaten to impair" national security. Texas Republican Joe Barton said last week he would hold public hearings sometime after the Fourth of July congressional recess.

Against these political head winds, Cnooc will need to win support from the Unocal board and its management. Their blessing will be central to mollifying politicians.

Unocal is now studying Cnooc's all-cash offer, and could decide within the next two weeks, a person familiar with the matter said.

Cnooc does have some current leverage. As a person close to Cnooc points out, it would be difficult for Chevron to win Unocal given that its current bid -- which Friday stood at about $60 a share -- is nearly $6 below Unocal's current trading price of $65.84, and $7 below Cnooc's offer. "If Chevron doesn't raise its bid, we've got a strong hand," this person says.

Of course, some Unocal shareholders will want the best money they can get.

"If we had to vote today, I'm not accepting the Chevron deal," because Cnooc is offering considerably more money, says Jason Putnam, an energy analyst with Victory Capital Management Inc., one of the 10 largest Unocal shareholders. "I'm not as concerned about the Washington risk" as some are, he says.

Mr. Robertson contends that Chevron has other merits over Cnooc. Chevron has more experience and technology drilling for oil and natural gas in deep-water fields like those Unocal has in the Gulf of Mexico and in Indonesia. "We will produce more oil and gas from those assets in the deep-water Gulf of Mexico than Unocal would have and than Unocal and Cnooc together can. "

In Seeking Unocal, Chevron Ruffles An Asian Partner (NYT)

By Jad Mouawad And David Barboza

The New York Times, July 5, 2005

The last thing Chevron wanted when it made its $16.8 billion offer for Unocal back in April was to be pitted in a takeover battle against the Chinese government.

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After all, one of the main reasons it went after Unocal, a California-based independent oil company with vast resources in Asia, was to sell oil and gas to the fastest-growing energy market in the world, China. But on June 22, when the state-controlled China National Offshore Oil Corporation, or Cnooc, countered with a higher bid for Unocal, Chevron found itself in a delicate position.

Since then, Chevron's managers have gone into overdrive to portray the Chinese government-backed offer as unfair competition and to close their deal as quickly as possible. They have received support from many lawmakers in Washington, who have painted the Chinese offer as a threat to America's national security.

Now, Chevron must walk a fine line between fending off Cnooc's $18.5 billion bid for Unocal and the risk of alienating Cnooc, its largest partner in China. There, for example, the two companies have teamed up in a $35 billion agreement to ship liquefied natural gas over the next 25 years from several huge Australian fields where Chevron has part ownership to some of Cnooc's terminals in China. But now, the partners appear to be on a collision course.

Much is at stake for Chevron and its cautious chief executive, David J. O'Reilly. Since 2000, Chevron's oil production has declined every year, and the company has had trouble replacing the reserves it pumps out of the ground. On Wall Street, its share price trails its peers.

With a Unocal deal, Chevron, the second-largest American oil company after Exxon Mobil, hopes to reverse both trends. Mr. O'Reilly estimates the takeover would increase Chevron's proven reserves by 15 percent, to 13 billion barrels of oil equivalent, and expand its oil and gas production to 3 million barrels a day, up from about 2.5 million barrels a day in 2004. Chevron has said that it expected the merged company to grow by 6 percent a year from 2005 to 2009.

"Chevron wants it badly because they don't have near-term production growth," said Jay Saunders, an oil analyst at Deutsche Bank. "The fact they had to do this offer is a reflection of Chevron's challenges that its rivals don't have."

Chevron and Cnooc are now locked in a race against time - and a potentially costly bidding war - before Unocal shareholders vote on the Chevron offer on Aug. 10.

Since April 4, when its offer was formally endorsed by Unocal's board, Chevron has managed to secure the approval of both the Federal Trade Commission and the Securities and Exchange Commission in a record time. Cnooc faces an additional level of scrutiny on national security grounds by the Treasury Department's Committee on Foreign Investments in the United States, and last week it asked the government for a fast review of its offer.

While Chevron believes it still has the upper hand, its deal is far from assured. Cnooc is negotiating with Unocal on the terms of its offer in a bid to persuade the Unocal board to change its position and reverse its stance that favors Chevron.

In the days after Cnooc topped their bid, Chevron officials have used harsh language to describe their longtime partner.

Peter J. Robertson, Chevron's vice chairman, said Cnooc's bid was inferior and would not produce as much oil and gas because Cnooc lacked experience in deepwater drilling.

Mr. Robertson has also taken a stab at the Chinese government by saying that the bidding war with Cnooc was unfair because it was largely backed by loans from the largest state-controlled bank and Cnooc's government-controlled parent company. The loans are worth about $13 billion.

"Clearly, this is not a commercial competition," he said two days after the Chinese offer was made. "We are competing with the Chinese government, and I think that is wrong."

But he also dismissed suggestions that the battle would have any long-term effects on Chevron's relations with Cnooc. "We are partners with Cnooc, and we expect that to continue," he said in an interview last week.

For years, Chevron officials have become increasingly cozy with the Chinese government, praising its efforts and trumpeting its alliances with Cnooc. Mr. Robertson, in a speech in Beijing last October, said that China needed to ensure a stable and secure supply of affordable energy and that China would have to invest large amounts of its own capital in energy projects, both within China and around the world.

Now, analysts said Chevron's new hardball strategy could backfire.

Chevron "developed a very good relationship with both the government and the state-owned companies," said Han Xiaoping, the chief information officer at Falcon Power, an energy consulting firm in Beijing. "I think this is a strategic mistake that

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Chevron has made. It should have kept the whole deal as a normal commercial activity and shouldn't have used politics as an argument."

The battle is turning into a test for Mr. O'Reilly, Chevron's Dublin-born chairman and chief executive since 2000, and his biggest challenge since he successfully marshaled the $45.8 billion takeover of Texaco in 2001. That acquisition came amid a wave of megamergers in the oil industry, after BP's takeovers of both Amoco and the Atlantic Richfield Company and Exxon's purchase of Mobil.

"Dave was a very active rugby player when he was a kid. He's very competitive, but he's also very disciplined," said J. Robinson West, a friend of Mr. O'Reilly and the chairman of PFC Energy, an oil consultancy that counts both Chevron and Unocal as clients. "He doesn't want to lose the deal but he doesn't want to do anything silly, like overbidding."

Before securing the assent of Unocal's board, Mr. O'Reilly has had to increase his bid twice already. Some analysts expect he will be forced to raise his offer once more, even if marginally, to clinch the deal.

Talks between the two companies started on Jan. 6 when Mr. O'Reilly called Charles R. Williamson, his counterpart at Unocal, to ask if he would consider a friendly takeover offer.

The call came hours after the first news reports that China's third-largest government-controlled oil company was set to bid $13 billion for Unocal's Asian assets. The bid was a bombshell in the oil industry that highlighted the emergence of China as a powerful competitor in the global race for oil and gas reserves.

For Chevron, though, it was a chance to act. With Unocal on the market, Chevron could strengthen its reach in Asia, reverse its production decline and increase its reserves - all in one quick shot.

"It's a tremendous opportunity for us," Mr. Robertson said. "The company has slimmed itself down recently and focused on four or five world-class assets from which a super-major like Chevron can get the most."

The company has had to fight for Unocal. According to regulatory filings Chevron made to the S.E.C. in June, three companies have been quietly competing over Unocal for more than six months.

After Cnooc's initial opening to Unocal in December, and Chevron's talks with Unocal the next month, a third company, Eni of Italy, also approached Unocal. During the next four months, Unocal's board rejected four offers, two from Chevron, one from Cnooc and one from Eni, all deemed too low, before finally endorsing Chevron.

On Feb. 28, after Unocal's board turned down his first offer, Mr. O'Reilly dropped out of the race. He had offered 0.94 of a Chevron share in exchange for each Unocal share.

But on March 28, two days before another board meeting at Unocal, Mr. Williamson contacted Mr. O'Reilly to tell him his board would welcome a new proposal from Chevron if it was still interested. Mr. O'Reilly put his team to work again, and Chevron made a new offer of 1.03 of its shares for each Unocal share.

Meanwhile, Eni tentatively offered $58 a share in cash for each Unocal share but never came up with a written proposal. It finally dropped out of the race because some of its executives considered an acquisition too hazardous and the price too high.

As for Cnooc, whose first offer of $59 to $62 a share had been turned down informally earlier in March, its chief executive, Fu Chengyu, decided he needed more time to consider a higher offer and withdrew from the bidding - only temporarily, as it turned out.

At Chevron, according to the S.E.C. filings, Mr. O'Reilly was told by his negotiating team that Unocal would "look at his offer more favorably" if it included some cash. So on April 2, just hours before the deadline, Chevron's board met to approve an offer that included both cash and shares.

The next morning, executives from the two companies convened to consider Chevron's new proposal: 0.7725 of a Chevron share and $16.25 in cash for each Unocal share. Talks then lasted all day and extended into the night before Unocal's board finally approved the new offer. A merger agreement was signed at 4:30 a.m. Pacific time on April 4. Hours later, the two executives announced the deal. Since then, the value of Chevron's offer has dropped by $400 million because of a 4 percent decline in Chevron's share price.

Oil And Security (WP)

The Washington Post, July 5, 2005

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The bid by a Chinese state-owned firm for Unocal, a California-based oil and gas company, has triggered understandable concern. Oil is a strategic commodity; China has a dictatorial government. Last week an overwhelming majority of the House of Representatives voted for a measure that would impede the bid for Unocal. But however widespread and understandable, these concerns are mistaken. The reason is that China is an oil importer.

U.S. reliance on oil exporters with unsavory and potentially unstable governments is a genuine security problem. To meet global demand, all producers except Saudi Arabia are pumping oil at full capacity, which means that fairly modest disruptions -- an exceptionally cold winter in the Northern Hemisphere, for example, or an uptick of civil unrest in Nigeria's oil region -- can trigger a shortage. To stave off a price spike that could skewer the U.S. economy, the United States relies on Saudi Arabia to act as a swing producer; this gives the undemocratic Saudi regime troubling leverage. Add in the possibility that some other oil exporter -- Venezuela? -- might choose to withhold supply to blackmail the United States, and the argument for cutting domestic fuel consumption through auto mileage standards and other tools is clear.

Oil importers such as China are different, however. They have no interest in suppressing oil production to drive up prices; to the contrary, if China gains control of Unocal it will want to boost production as much as possible, which would push world prices downward and so help the United States. Those who refuse to draw comfort from this prospect argue that China might route all of Unocal's output to its own consumers, thereby depriving Americans of a source of energy. That is not actually practical, but even if it were, it would just mean that China would buy less on the open market than it would have otherwise. So there'd be less supply on the world market, but less demand also. The effect on U.S. gasoline prices would be zero.

China might pose a threat to U.S. oil security if it bought so many foreign oil fields and oil companies that it had more energy than it needed. This would put it in a position to satisfy its own consumption while hurting the United States by holding production down. But this is a far-fetched scenario. As of the end of 2004, China imported a hefty 3.2 million barrels of oil daily; by 2020, according to Booz Allen Hamilton, a management consultancy, this gap is likely to quintuple. China's stated goal is to lock in half of its imports by owning the sources or by signing long-term supply contracts. But it's not sure to achieve that ambition, let alone the far more extreme one of achieving an oil surplus. In any case, Unocal certainly isn't big enough to vault China into self-sufficiency. Its combined oil and gas output comes to around 450,000 "barrels of oil equivalent" each day, according to Booz Allen Hamilton. That's 15 percent of China's current import needs and 3 percent of the needs projected in 2020.

China's bid faces regulatory obstacles. The Chinese government proposes to finance the acquisition partly with interest-free government loans, and although this is a boon for Unocal's shareholders, some claim (almost certainly wrongly) that it violates World Trade Organization rules. Equally, some assert that Unocal's drilling technology may have military applications, so the bid may have to be reviewed on national security grounds. But however these debates play out, it's important that the temperature not be raised by spurious anxieties about oil security. Far from wanting to buy Unocal in order to gain leverage over this country, the Chinese are simply trying to protect their own economy against a future jump in oil prices. There's nothing wrong with that.

To Secure Unocal, Timing May Be Key (WSJ)

By Matt Pottinger In Beijing And John M. Biers In New York, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, July 5, 2005

In the competition to buy Unocal Corp., the prevailing bidder -- Chinese oil producer Cnooc Ltd or its U.S. rival Chevron Corp. -- might be determined by timing as much as money.

With Unocal shareholders scheduled to vote on Chevron's $16.6 billion cash-and-stock offer in just five weeks, Chevron's strategy seems to be this: Make Cnooc's bid appear destined for a lengthy and complicated regulatory review in the hope that Unocal shareholders support Chevron's deal -- even though Cnooc is offering nearly $2 billion more.

The strategy of Cnooc, China's biggest offshore oil and natural-gas producer, has been to do all it can to speed up a U.S. regulatory review of its offer in hope of boosting Unocal shareholders' confidence that Cnooc's bid -- politically contentious in the U.S. -- can win approval in reasonable time.

Working in favor of Chevron are attitudes in the U.S. Congress, where recent attention on America's trade deficit has fueled hostility toward China. On Thursday, the House of Representatives voted 333-92 to bar the Treasury from using any of its funds to

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"recommend approval" of the sale to Cnooc. A nonbinding resolution, adopted 398-15, expressed concern such a sale "would threaten to impair" U.S. national security. And one representative who has portrayed Cnooc's bid as a threat to U.S. interests has promised to schedule public hearings on the matter soon.

But working in Cnooc's favor is Unocal shareholders' knowledge that U.S. regulators almost never block acquisitions on national-security grounds. If Cnooc can get the ball rolling on a formal regulatory review before Unocal's Aug. 10 shareholder vote, its bid stands a better chance of winning support from Unocal shareholders.

To that end, Cnooc on Friday asked the U.S. panel in charge of investigating foreign acquisitions -- the Committee on Foreign Investment in the U.S. -- to begin a national-security review of its $18.5 billion all-cash bid for Unocal. The Chinese company, which is controlled by state-owned China National Offshore Oil Corp. and is listed on the New York and Hong Kong stock exchanges, said in a news release it is confident that the key committee, known as CFIUS, would see no reason to prevent Cnooc from buying Unocal.

"We believe that once all the facts are known and the commercial purpose and terms of the transaction are fully understood, many initial misimpressions will be corrected, and many doubts and questions will be favorably resolved," Cnooc Chief Financial Officer Yang Hua said in the press release.

It remains unclear how Cnooc's request will affect the timing of a review by CFIUS, which could take as long as 90 days once it begins. Tony Fratto, the acting assistant Treasury secretary for public affairs, said the committee needs to see filings from both Cnooc and Unocal as well as make a determination the transaction is likely to close before beginning a review.

"A CFIUS review may begin when the necessary information from a potential acquiring company and target company is filed with the Committee, and the Committee determines that a transaction is likely to be successful," Mr. Fratto said. "CFIUS does not provide 'advisory opinions'."

That could prove a high hurdle. Unocal is prohibited by the terms of its acquisition agreement with Chevron from accepting another bid until its shareholders vote on Chevron's bid. However, if CFIUS requests a filing from Unocal, the California-based company must comply within seven days, Cnooc said, citing the committee's rules.

Keith Shugarman, a lawyer at Goodwin Procter LLP in the U.S. who has advised clients on transactions considered by CFIUS, the committee rarely takes up contested deals. If CFIUS does take up the Unocal matter, it would begin with a 30-day review period followed by, if necessary, a 45-day investigation. Given congressional hostility toward a potential deal with the Chinese company, Mr. Shugarman said he expects the committee would undertake such an investigation.

But even an in-depth review by the panel would advance Cnooc's cause from its current status, he said. Under that time frame, the Cnooc review would be at an advanced stage by the scheduled Aug. 10 Unocal shareholder vote on Chevron's terms. "It definitely increases the credibility and viability of the [Cnooc] offer," Mr. Shugarman said.

August Deals Face Antitrust Risk (DEAL)

By Cecile Kohrs Lindell

The Deal, July 4, 2005

The bidding war for August Technology Corp. may come down not to price but to antitrust concerns.

Although the Bloomington, Minn., chip equipment maker on June 28 agreed to a $193 million deal with Rudolph Technologies Inc., industry rival KLA-Tencor Corp., which previously had bid $205 million for August Technology, has vowed to renew its pursuit. Seeking to thwart such a bid, Flanders, N.J.-based Rudolph said last week that a combination of KLA-Tencor and August Technology would pose antitrust risks.

But while Rudolph's offer for the company is likely to have an easier time with regulators, neither deal is a slam dunk, antitrust lawyers said. The review by the Department of Justice's Antitrust Division could hinge on how broadly enforcers define the market for semiconductor testing, inspection and metrology equipment, which is used to search for microscopic flaws in chips. The structure of this market and potential customer concerns also are likely to figure in whether the deals receive clearance.

In sizing up the market affected by the sale of August Technology, antitrust enforcers will focus on the market for so-called macro defect inspection tools, which are used to spot problems with components used in semiconductor manufacturing, said

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Robert Doyle, an antitrust partner at Sheppard Mullin Richter & Hampton LLP. KLA-Tencor, the leader in that sector, has about 50% of that market, with August Technology and Rudolph each having roughly 25%.

"If the market is defined narrowly, I'd suspect KLA could give up certain assets to make this deal work," Doyle said.

One factor that may come into play is the small market for macro defect gear, which is worth roughly $70 million per year. That has led some risk arbitrageurs to speculate that the government would not closely review the deal. But such sentiments are more hopeful than realistic, said another antitrust lawyer.

Neither the Justice Department nor the Federal Trade Commission "throws fish back because they are too small," he said, requesting anonymity because he hasn't closely reviewed the specifics of the deal. "Despite recent cases, both agencies look at what customers have to say. They wouldn't necessarily give it a pass if customers didn't complain. They would test the logic of what customers were saying."

Some customers have expressed reservations about the impact of KLA-Tencor buying August Technology, which could harm its bid, Doyle said.

The Antitrust Division also will examine if smaller technology makers with similar products could enter the market. But several antitrust lawyers said the August Technology merger would reduce the number of competitors in the sector from three to two, which typically arouses antitrust concerns. They said the deal resembles the FTC's 2000 challenge to H.J. Heinz Co.'s acquisition of Beech-Nut Nutrition Corp. Heinz wanted to acquire Beech-Nut so it could more effectively compete against Gerber AG in baby food sales.

A federal appeals court concluded the merger was illegal because competition between Heinz and Beech-Nut to gain shelf space, and thus to compete against Gerber, resulted in lower prices.

"Currently, smaller parties don't exert restraining power on a larger company's prices," one attorney said.

T-Mobile USA Could Go Up For Sale (WSJ)

By Jason Singer And David Pringle, Matthew Karnitschnig And Jesse Drucker

The Wall Street Journal, July 5, 2005

Deutsche Telekom AG is exploring whether to sell its U.S. wireless operation, T-Mobile USA Inc., a move that could fetch as much as $30 billion and alter mobile-phone markets on both sides of the Atlantic.

As the German telecom titan faces a huge bill to upgrade the technology used by its U.S. unit to keep pace with rivals, Deutsche Telekom's management board has been debating T-Mobile USA's fate, according to people close to the matter. The company has told investors in private meetings recently that it expects to make a decision by December.

The sale of T-Mobile USA has often been considered unlikely because Deutsche Telekom traditionally has said it saw its U.S. wireless operation as a growth engine. But the possibility has intensified on the heels of drastic reshaping of the U.S. telecommunications and cable television market. In the past 18 months, a succession of acquisitions -- including Cingular Wireless's acquisition of AT&T Wireless Services Inc., Sprint Corp.'s acquisition of Nextel Communications Inc., Verizon Communications Inc.'s planned acquisition of MCI Inc. and AT&T Corp.'s agreement to be acquired by SBC Communications Inc. -- have formed several huge communications companies that dwarf T-Mobile USA.

In addition, cable companies are expanding into the phone business, while phone companies are planning to offer television services, each offering consumers packages of numerous telecom and entertainment services, something T-Mobile USA is unable to do as it has no landline, broadband or television units in the U.S.

While that added competition could hurt T-Mobile in years to come, it could also provide an opportunity for a sale now to a cable company seeking its own wireless operations. And the U.S. phone market hasn't yet finished reshaping altogether, with some investors saying that Vodafone Group PLC's long-term role in its current wireless joint venture with Verizon remains a question mark.

Some top Deutsche Telekom executives have argued the company should sell T-Mobile USA and use the proceeds to make acquisitions in Europe instead of spending billions of dollars in the next few years to build a faster network in the U.S. to keep pace with rivals offering high-speed wireless Internet access, people close the situation say.

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Rivals like Verizon Wireless and Sprint have either started, or plan shortly, to start offering high-speed wireless data services at speeds comparable to wired digital subscriber lines, whereas T-Mobile USA has largely relied on the less costly Wi-Fi technology, which has more limited range.

T-Mobile USA's small position in the highly competitive U.S. market has some investors rooting for Deutsche Telekom to sell. "From a strategic position, I would rather have them exit the U.S. market, especially when you are faced with this huge upgrade," said Theo Maas, an Amsterdam-based fund manager with ABN Amro Asset Management who holds Deutsche Telekom shares.

While T-Mobile USA has been experiencing some of the fastest growth in the industry -- adding 4.2 million new subscribers during 2004 -- it is only the country's fourth-biggest national carrier, with about 18.3 million customers. It could be left behind by the two big U.S. wireless mergers of last year: Cingular Wireless's purchase of AT&T Wireless -- now with more than 50 million subscribers -- and the pending Sprint-Nextel merger, which, if approved by shareholders and regulators later this year, would serve more than 40 million wireless subscribers. That will make Sprint the country's third-biggest carrier, behind Cingular, a joint venture of SBC and BellSouth Corp, and Verizon Wireless, in which Verizon owns 55% and Vodafone the remainder.

As U.S. cable operators and telephone companies step up their competition, cable companies still need to offer a wireless service to fully compete. Comcast Corp., the country's biggest cable operator, has had talks with T-Mobile about a wireless reselling deal -- Comcast selling wireless service but using T-Mobile's network. A consortium of cable operators -- including Comcast -- is exploring its wireless options, which could include purchasing an entire operator.

Choosing to sell the T-Mobile USA, however, could prove to be a difficult option. The most likely cellular buyer, Vodafone says it isn't interested even though the world's largest wireless carrier has long wanted to control a service provider in the U.S.

But a purchase of T-Mobile USA isn't in the cards for Vodafone, says Bobby Leach, a spokesman for Vodafone, Newbury, England. "We are not interested in T-Mobile's U.S. assets," Mr. Leach says. "We have made clear our commitment to the Verizon Wireless partnership." Mr. Leach declined to comment further.

Verizon Wireless has refused to use Vodafone's brand and uses a different network technology than Vodafone, which makes it tricky to roll out services that work in both the U.S. and Europe.

T-Mobile USA, by contrast, uses the same technology as Vodafone. Vodafone has tried and failed to gain control of a U.S. carrier before. Last year, it lost a bidding war for AT&T Wireless Services Inc.

In addition, some Deutsche Telekom executives worry that following a sale of T-Mobile USA, shareholders would pressure management to return that money to them. Germany's cash-strapped government is the company's biggest shareholder and it might push management to distribute the proceeds of a sale.

Singapore State Firm Plans To Buy Stake In A Chinese Bank (WSJ)

By James T. Areddy

The Wall Street Journal, July 5, 2005

SHANGHAI -- Singapore's state-owned investment company will join Bank of America Corp. as a strategic foreign investor in China Construction Bank, a government-owned property lender, Chinese state media reported.

A subsidiary of Temasek Holdings (Pte.) Ltd. will pay $1 billion for shares in China's No. 3 lender when the bank conducts an initial public offering, the official Xinhua news agency reported late yesterday, quoting a spokesman for Beijing-based China Construction.

Also yesterday, China's Financial News said the total investment will be $1.4 billion for a 5.1% stake in China Construction. The reports said a deal with Temasek was signed July 1 in Beijing. China Construction declined to confirm or deny the reports.

Xinhua said Temasek, using its subsidiary Asia Financial Holdings Pte., will buy $1 billion in shares at the IPO, scheduled for as soon as late this year, and acquire other shares directly from the state agency that owns the bank, Central Huijin Investment Co. The pricing reported in the Financial News suggests the Singapore investor is getting shares at a discount to the price announced last month for Bank of America's 9% stake.

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Bank of America, of Charlotte, N.C., agreed to invest $2.5 billion for the stake and an additional $500 million to maintain that level when China Construction goes public. The purchase by Bank of America worked out to about $305 million for 1% of the Chinese bank, while, based on the Financial News report, Temasek would be paying about $275 million per 1%.

The state-owned Chinese bank had net assets at the end of last year totaling $23.5 billion, Xinhua reported.

Bank of America will have an option to eventually lift its stake in China Construction Bank to 19.9%, the maximum allowed for a single foreign investor in a Chinese bank.

Microsoft Accord To End IBM Case Highlights Rivalry (WSJ)

By Robert A. Guth And Charles Forelle, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, July 5, 2005

Microsoft Corp.'s agreement to settle an antitrust dispute with International Business Machines Corp. sweeps away some past differences but also highlights the growing rivalry between the two technology giants.

On Friday, the two companies said Microsoft will pay IBM $775 million in one lump sum and extend $75 million in credit toward Microsoft software that IBM will use internally.

The settlement resolves IBM claims that Microsoft overcharged and used discriminatory pricing on sales of software to IBM in the 1990s. Included in the pact is a resolution of claims that Microsoft's practices harmed IBM's OS/2 operating system and SmartSuite group of software applications.

But while the detente was applauded by executives on both sides, it won't likely usher in an era of new cooperation between the two companies. Perhaps more than many of Microsoft's historical rivals, IBM is increasingly perceived by the software maker as both an obstacle and a threat. IBM has a strong grip on the data centers of large corporations, an area that Microsoft has targeted for sales of its server software.

The settlement excludes any claims against Microsoft related to IBM's server hardware or software business, though IBM agreed not to assert claims for monetary damages for two years against Microsoft in the server area.

But a more fundamental difference between the two companies is also at issue. IBM's growing services arm gives the company a powerful platform from which to pitch products at the expense of Microsoft's. In IBM's model, Microsoft risks being relegated to just one supplier to large computer installations managed by IBM.

IBM is also a major backer of open-source software, particularly the Linux operating system, which continues to be a thorn in Microsoft's side. Other struggles between IBM and Microsoft loom in such areas as low-end data storage, Web-based application software and network security. And though the two companies in recent years have cooperated in areas that include Web services, both are vying to encourage third-party software developers to write applications for their respective platforms.

The differences were highlighted by the absence of any announcement of collaborative work between the two companies, unlike previous agreements that Microsoft reached to settle antitrust suits with Time Warner Inc. and Sun Microsystems Inc.

"This is an example of addressing one issue and we have further opportunities to both compete and collaborate," said Microsoft General Counsel Brad Smith of the IBM pact.

In a statement, Ed Lineen, IBM's general counsel, said the company is "pleased that we have amicably resolved these longstanding issues."

The IBM settlement is the latest in a quest by Mr. Smith to resolve private claims resulting from Microsoft's antitrust battles in the 1990s with the U.S. government, including a broad suit filed by the Justice Department in 1998 and settled in 2002.

Among other rulings in that case, a federal judge found that Microsoft had forced IBM and Gateway Inc. to pay higher prices than other computer makers for its Windows operating system, a ruling that paved the way for the companies to pursue claims against Microsoft without filing suit.

Other companies used evidence gathered in the government case as a basis for their own actions. Sun, for example, filed a suit that was settled in 2004 with a payment by Microsoft of nearly $2 billion.

With the IBM issues resolved, "we are getting increasingly close to saying that the 1990s are finally over," Mr. Smith, Microsoft's general counsel, said in an interview.

Mohawk To Buy Belgium's Unilin For $2.65 Billion (WSJ)

DOJ_NMG_0001348

By Jason Singer

The Wall Street Journal, July 5, 2005

Mohawk Industries Inc., a maker of carpet and floor coverings, said it agreed to acquire Belgian flooring maker Unilin Holding NV for $2.65 billion.

Mohawk, based in Calhoun, Ga., beat out private-equity firms that also had been looking at Unilin.

It is the latest instance of a victory over private-equity firms, which also had been looking at Unilin, by so-called trade buyers, or buyers in the same industry. Private-equity firms buy companies with a view to restructuring them and then either selling them or taking them public a few years later.

Private-equity firms' merger-and-acquisition activity in Europe has increased substantially in the past few years, but recently trade buyers have been outbidding private equity in some big acquisitions. For instance, earlier this year, Telefónica SA, Spain's biggest telecommunications concern, beat out private-equity firms to purchase Cesky Telecom of the Czech Republic.

Closely held Unilin, of Wielsbeke, Belgium, has 2,200 employees at 12 production facilities in Belgium, France, the Netherlands and the U.S. It makes wood-based panels, laminated panels, laminated flooring and roofing systems. The 45-year-old company put itself up for sale in March, citing the need for new investors as shareholders.

Mohawk, which was founded in 1878 and has about 34,000 employees, has made 18 acquisitions in the past 13 years, expanding its range of products to include rugs and mats, high-end bath rugs and woven throws, bedspreads and coverlets. Mohawk reported first-quarter sales of $1.49 billion, up 7.4% from a year earlier. Net profit in the quarter rose 5.6% to $70 million.

Unilin had annual sales of about $1.0 billion, Mohawk said. Unilin's current management will continue to operate the company, Mohawk said.

Unilin isn't the first European flooring maker to attract interested buyers. Forbo Holding AG of Switzerland drew the interest of private-equity firm CVC Capital Partners Ltd. in November, but the deal fell through after CVC was unsuccessful in buying enough of the company's shares in a tender process.

Mohawk was advised by Lehman Brothers Holdings Inc., while Unilin was advised by Goldman Sachs Group Inc.

Jury Finds For Boston Scientific In Stent-Patent Case Against J&J (WSJ)

By Peg Brickley, Dow Jones Newswires

The Wall Street Journal, July 5, 2005

WILMINGTON, Del. -- A Delaware jury ruled for Boston Scientific Corp. and against Johnson & Johnson in a key test of patents protecting drug-eluting-stent technology.

The jury said J&J's Cypher stent trespasses on a Boston Scientific patent, which protects technology that allows drug coatings to be applied to stents, medical devices used in the treatment of cardiovascular disease.

The jury also found J&J's Cypher, Bx Velocity, Bx Sonic and Genesis stents infringe a design patent held by Boston Scientific.

Boston Scientific, of Natick, Mass., lost two earlier patent fights with its rival in the multibillion-dollar stent market this year in the same court.

J&J's cardiovascular unit, Cordis Corp., said in a statement that it would seek to have the verdict overturned, either by the judge who presided over the federal-court contest or by appeal to a different court.

Boston Scientific Chief Operating Officer Paul LaViolette said in a statement that the company was "very pleased with the jury's verdict."

Friday's decision means J&J, of New Brunswick, N.J., will face a damages trial in August, around the same time Boston Scientific tries to fend off damages in the first of the two stent patent disputes that went to trial in June.

Both of the June stent patent-infringement trials involved the newest versions of the medical devices, Boston Scientific's Taxus Express and Liberté and J&J's Cypher.

An earlier case, decided in March, ended in an infringement finding for J&J and against Boston Scientific for its Nir stent, which is no longer marketed. Damages in that case remain to be resolved.

In their bare-metal version, stents are miniature scaffolds that prop unclogged arteries open after angioplasty treatment.

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Drug-eluting stents so significantly reduce rates at which treated vessels close up again that they have almost pushed the bare-metal versions off the market.

That made Friday's finding of infringement against J&J -- the only other company with a major piece of the U.S. market for drug-eluting stents -- a critical one for Boston Scientific.

ENVIRONMENT:

Bush To Reject Kyoto-style Deal At G-8 (WT/AFP)

The Washington Times, July 5, 2005

LONDON (Agence France-Presse) -- Although the Group of Eight has to tackle climate change, President Bush vowed to spurn any Kyoto-style deal on the "significant" problem of global warming, he said in an interview to air today.

Mr. Bush told Britain's ITV television ahead of the gathering Wednesday through Friday in Scotland that global warming was "a significant, long-term issue that we've got to deal with."

However, any climate change agreement along the lines of the United Nations' Kyoto Protocol -- which the United States refused to sign -- would get short shrift, he said.

Instead he offered up new technology as the way forward.

"If this [draft plan under negotiation] looks like Kyoto, the answer is no," Mr. Bush said. "The Kyoto treaty would have wrecked our economy, if I can be blunt."

The Kyoto Protocol requires industrialized countries that have ratified it to limit their emissions by a 2012 time frame as compared with a 1990 benchmark.

The president has opposed action against climate change since he took office in 2001 in favor of further studies of the phenomena -- despite significant global pressure that the world's largest consumer of fossil fuels change its policies.

British Prime Minister Tony Blair, who hosts the three-day gathering by Britain, Canada, Germany, France, Italy, Russia, Japan and the United States, wants to secure deals on climate change as well as African aid and debt.

French President Jacques Chirac said yesterday he was optimistic that a deal on climate change could be struck at the summit after informal talks with the German and Russian leaders in Russia.

"We are waiting to know the American position, which was ... far more moderate, or less demanding than ours. I hope we can find a sufficiently clear, firm agreement in this field," Mr. Chirac said.

Negotiators for the G-8 countries reportedly are drawing up draft plans on climate change.

The U.S. president said he wanted G-8 leaders to put Kyoto behind them and move on to supporting new technologies to limit global warming without harming businesses.

Mr. Bush underlined the U.S. government's $20 billion investment in technologies such as zero-emission power stations and hydrogen-powered vehicles.

"I think you can grow your economy and at the same time do a better job of harnessing greenhouse gases," he said. "That's exactly what I intend to talk to our partners about.

"My hope is -- and I think the hope of Tony Blair is -- to move beyond the Kyoto debate and to collaborate on new technologies," he said.

These would "enable the United States and other countries to diversify away from fossil fuels so that the air will be cleaner and that we have the economic and national security that comes from less dependence on foreign sources of oil," he said.

G8 Heads On Brink Of Climate Agreement (FT)

By James Blitz And Alan Beattie

Financial Times, July 5, 2005

The leaders of the Group of Eight industrial nations look set to agree an accord to combat climate change at their summit this week, averting a rift between the US and France over global warming and intensifying pressure on China and India to curb greenhouse gas emissions.

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As Tony Blair prepares to host the G8 leaders at the gathering in Gleneagles, the prime minister is on the brink of brokering a global agreement on climate change, one which explicitly recognises that science compels the world to act to contain greenhouse gases.

A final draft of the accord to be agreed by the G8 heads including George W. Bush, US president, and Jacques Chirac, French president was hammered out by diplomatic "sherpas" from each of the member states in London at the weekend.

The US continues to refuse to sign the Kyoto protocol, which sets international targets for the reduction of greenhouse gas emissions. However, the US gave its backing at the weekend meeting to a final draft accord that meets the minimum demands made by Mr Chirac on climate change.

"There is an acknowledgment in the text that the science compels us to act and that human activity contributes to climate change," said a senior diplomat from the G8, who also noted that the final text makes two explicit references to the Kyoto treaty as many G8 states requested.

Another G8 diplomat said the text acknowledged there was a consensus among scientists that climate change was taking place and that fossil fuels were an important part of the problem. "The idea is there in the text that we know enough now to slow climate change, to stop it and reverse it," he said.

Other G8 diplomats said the draft assists the US by framing the need to cut carbon emissions not only in terms of the battle to combat climate change but the need to preserve energy security.

Diplomats from several G8 countries on Sunday night warned that the communiqué could yet be altered by the G8 heads.

President Bush underlined US reservations in an interview recorded for British television last Wednesday.

"If this looks like Kyoto, the answer is 'no'. The Kyoto treaty would have wrecked our economy," he said in the interview, which was conducted last Wednesday for ITV and was scheduled for broadcast on Monday.

Mr Bush's comments underline what a success it will be for Mr Blair, who holds the G8 presidency, if the weekend text is approved. He is keen to get an overarching political statement on climate change agreed this week as part of an action plan that encourages China and India to import technologies that help reduce greenhouse gas emissions.

However, there was a setback for Mr Blair on the other main issue to be discussed at this week's summit development aid for Africa.

Most of the G8 governments are content to make a declaration that they are planning to "double" development aid for Africa by 2010. However, the UK was unable to persuade them to state that this would mean giving Africa $50bn by the end of the decade.

Max Lawson, policy adviser at Oxfam, said: "It is a step forward but people were expecting something extraordinary, and this isn't it."

Bush Maintains Stance On Global Warming (LAT)

By John Daniszewski And Ron Depasquale

The Los Angeles Times, July 5, 2005

LONDON — As world leaders prepared for a major summit, President Bush said Monday that he would not substantially change his stance on global warming to reward British Prime Minister Tony Blair for his support of the war in Iraq.

"I really don't view our relationship as one of quid pro quo," Bush said. "Tony Blair made decisions on what he thought was best for keeping the peace and winning the war on terror, as I did."

Reiterating his opposition to the Kyoto Protocol that mandates targets for cutting greenhouse gas emissions, Bush told Britain's ITV1 television that he would reject any measures that "look like Kyoto." Although the U.S. is the world's largest emitter of carbon dioxide, Bush has rejected the treaty because its provisions, he said, would "wreck the U.S. economy."

Blair is hosting the Group of Eight summit that begins Wednesday in Gleneagles, Scotland, and he has made fighting climate change and increasing assistance to Africa the top two priorities of the meeting.

The annual gathering has in recent years attracted protesters denouncing the Iraq war, globalization and capitalism. Demonstrators clashed with police Monday on the streets of Edinburgh, the nearest big city to the exclusive golf resort where

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Bush, Blair and the leaders of Canada, France, Germany, Italy, Japan and Russia will meet. Thousands of police were being rushed to the area to cope with an expected onslaught of demonstrators.

In the days leading up to the summit, aides to Bush have sought to dispel his image as an international cowboy. His administration has announced plans to double development aid to Africa by 2010, although not in the way Blair and other G-8 leaders had proposed.

While rejecting any "quid pro quo" on climate change, Bush nevertheless acknowledged that human activity is at least partly behind the apparent warming of the planet in recent years. And he said that there may be other compromises the United States and other nations can make to reduce the amount of greenhouse gases being produced.

In the past, European leaders have been frustrated that U.S. officials have disputed scientific evidence of accelerated warming, and questioned whether the phenomenon poses a real threat to the planet.

Asked in the interview whether climate change is "manmade," Bush replied, "To a certain extent it is, obviously."

"You know, look, there was a debate of Kyoto, and I made the decision -- as did a lot of other people in this country, by the way -- that the Kyoto treaty didn't suit our needs. In other words, the Kyoto treaty would have wrecked our economy, if I can be blunt."

Bush denied, though, that he was putting U.S. economic interests above the interests of the planet.

"My hope is ... to move beyond the Kyoto debate and to collaborate on new technologies that will enable the United States and other countries to diversity away from fossil fuels so that the air will be cleaner and that we have the economic and national security that comes from less dependence of foreign sources of oil," he said.

"To that end, we're investing in a lot of ... research on hydrogen-powered automobiles. I believe we'll be able to burn coal without emitting any greenhouse gases," he said, also citing his backing for "more nuclear power."

The Kyoto Protocol took effect in February with ratification by 141 countries -- including every industrialized nation except Australia and the United States. It aims to reduce greenhouse gas emissions to roughly 5 percent below 1990 levels by 2012.

In addition to economic concerns, Bush has rejected the pact because of objections to the way it divides emissions cutbacks between developed and undeveloped countries. However, American officials say the United States is making progress to meet its own goals for reducing carbon emissions.

British Foreign Minister Jack Straw said U.S. opposition to the Kyoto treaty was long-standing and well-known, but he remained optimistic that the meeting of the summit would still yield results.

"Each country comes to these negotiations ... with its own national perspective," Straw said at a news conference. But he said it was "remarkable how far sentiment has moved in the period since the prime minister identified aid to Africa and climate change as the key" issues to be addressed.

Lower-ranking government officials involved in the summit planning worked throughout the weekend, hammering out wording on communiques covering both climate change and aid to Africa. Michael Jay, a Foreign Office official, told reporters that the weekend talks had been "pretty intense" and that Britain remained hopeful that a "consensus agreement on climate change" will be signed at Gleneagles.

The Financial Times reported Monday that the eight countries would adopt a joint "action plan" on climate change, although it would stop short of making specific emission-reduction targets. The statement would also contain language referring to a growing consensus among scientists about the problem, the paper said.

On the subject of helping Africa, the leaders appear already to have reached an agreement to raise assistance and eliminate debt of the poorest African countries.

None of the official actions were likely to satisfy the street protesters who have been gathering in Scotland from around the world in anticipation of the summit.

In Edinburgh on Monday, protesters chanted, "We all live in a terrorist regime" to the tune of the Beatles' song "Yellow Submarine." Drummers and dancers clad in pink and purple led black-hooded anarchists on an unauthorized anti-capitalist march in downtown. . By 9 p.m., 60 people had been arrested, mostly on disorderly conduct charges, police said.

Thousands of police recruited from around Britain have converged on Scotland, hoping to cope with demonstrators expected to number in the tens of thousands by the first day of the summit.

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Police practiced their crowd-control techniques Monday, surrounding a group of protesters less than an hour into the march and herding them into a narrow side street before cordoning them off.

The marchers kept drumming, dancing and tossing confetti as bemused bystanders watched from apartments and offices. Some of the estimated 200 protesters tried periodically to ram through the rows of police, but got nowhere.

"We should have a right to protest in a democracy," said Erik, a Danish protester who did not give his last name. "But these (police) don't realize that."

The protesters chanted obscenities, with one man wearing a black dress and pink wig and waving a purple fan accusing the G-8 countries of promoting "wage slavery." "We are against the capitalist, consumer society, and there are alternatives to that," said the man, who gave his name as Susan.

John Knowles, a recent graduate of the University of Edinburgh who was caught up in the protests, called it all "a joke."

"They paid maybe 150 pounds to fly here, and they organized this through their broadband Internet. So maybe they like capitalism after all," he said of the marchers.

Some downtown businesses were boarded and shut, while police advised those still open to close. Certain roads were closed and patrolled by police on horseback.

Hoping to ward of protest vandalism, several bars and restaurants hung signs reading: "We are a family restaurant," and "We are not part of a major chain."

On Scotland's west coast, meanwhile, more than 600 protesters attempted to blockade a nuclear submarine base at Faslane, police said.

The protesters staged a sit-in, demanding that money spent on defense be redirected to fight poverty in the developing world. Four people were arrested, but the protest was concluded peacefully, a police spokeswoman said.

Bush Advises Blair Not To Expect Special Treatment At G-8 Summit (WP/REU)

By Reuters

The Washington Post, July 5, 2005

LONDON, July 4 -- President Bush told British Prime Minister Tony Blair to expect no favors at this week's Group of Eight summit of major industrialized countries in return for backing the war in Iraq. Blair, who has made tackling global warming and relieving African poverty the goals of his year-long presidency of the G-8, will host fellow leaders at the Gleneagles Hotel in Scotland from Wednesday to Friday.

"I really don't view our relationship as one of quid pro quo," Bush told Britain's ITV1 television in an interview. "Tony Blair made decisions on what he thought was best for keeping the peace and winning the war on terror, as I did."

Reports that a last-ditch round of negotiations by G-8 officials over the weekend would result in an accord in some way recognizing the science behind global warming were bolstered by French President Jacques Chirac, who said on Sunday that the G-8 leaders were "heading toward an agreement."

A Canadian official said late Monday that there had been "significant progress" on a climate change text, while Britain's top G-8 negotiator, Michael Jay, said he sensed a desire to reach an agreement.

But Bush was cautious. Environmental experts said that, rather than risk an open rift, the eight nations had decided on an accord offering the barest minimum on global warming.

"If this looks like Kyoto, the answer is no. The Kyoto treaty would have wrecked our economy," Bush said in the interview, recorded last Wednesday and broadcast on Monday.

The other G-8 members are Germany, Italy, Japan and Russia.

Meanwhile, during a protest Monday in Edinburgh, Scotland's capital, a small group of anarchists sparked scuffles between riot police and demonstrators.

At least two police officers were injured in clashes, and several people fainted in the crush. Police said there had been 30 arrests related to the protests.

The demonstrations began peacefully as protesters, banging drums and shaking bells, marched and danced into waiting police containment cordons.

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The demonstrations were part of a variety of protests that began Saturday with a 200,000-strong march through the city calling for an end to poverty in the developing world, especially Africa.

On Monday, black-clad and masked members of the Black Bloc, an anarchist group based in Germany and Scandinavia that has been prominent in protests at past G-8 summits, mingled with other demonstrators dressed as fairies and clowns.

On Eve Of Summit Talks, Leaders And Protesters Prepare (NYT)

By Alan Cowell

The New York Times, July 5, 2005

LONDON, July 4 - With some signs of discord after a weekend of free rock concerts and celebrity urgings to end Africa's poverty, politicians and protesters prepared Monday for the Group of 8 summit meeting later in the week.

The leaders of eight major industrial nations are to meet Wednesday through Friday at the luxurious Gleneagles golf estate north of Edinburgh, preoccupied by two main subjects - dealing with climate change and relieving African poverty through changes in policies on trade, aid and debt.

In Edinburgh on Monday police officers drawn from the estimated 10,000 on duty to guard the meeting fought running scuffles with several hundred antiglobalization protesters. No injuries were immediately reported.

In an interview broadcast Monday on British television, President Bush seemed to damp any expectation that he might reward Prime Minister Tony Blair, the conference host, for his support in the American effort to prevent terrorism.

"I really don't view our relationship as one of quid pro quo," Mr. Bush said. "Tony Blair made decisions on what he thought was best for keeping the peace and winning the war on terror, as I did. So I go to the G-8 not really trying to make him look bad or good but with an agenda that I think is best for our country."

Mr. Bush is generally seen to be at odds with Britain and most other members of the group on accepting the scientific evidence relating to the causes of global warming, and therefore on the need for immediate steps to reduce emissions of greenhouse gases. Indeed, the United States is held by other group members to be the world's biggest polluter.

Mr. Bush's remarks seemed to conflict with a forecast on Sunday by President Jacques Chirac of France that the member countries - the others are Canada, Germany, Italy, Japan and Russia - were "heading toward an agreement" on global warming.

At a news conference in London on Monday, Sir Michael Jay, Mr. Blair's representative at talks by senior officials in advance of the meeting, said climate change "was never going to be an easy discussion," and added, "There are differences of opinion, particularly about the science."

Asked about speculation that the meeting might split over climate change and produce two final statements - one of them representing the United States' view and one agreed by the others - he said, "I'm not going to rule in or rule out anything."

Mr. Bush maintained his opposition to deals like the Kyoto Protocol, which set targets for lowering greenhouse gas emissions and which the United States has refused to accept.

"If this looks like Kyoto, the answer is no," he said. "The Kyoto agreement would have wrecked our economy. I think you can grow your economy and at the same time do a better job of harnessing greenhouse gases. That's exactly what I want to talk to our partners about."

His only softening lay in remarks during the interview that climate change represented a "significant long-term issue that we've got to deal with" and that the problem was "to some extent" a result of human actions.

Environmental groups said those remarks fell short of acknowledging the scale of the problem.

At other talks in advance of the summit meeting, Group of 8 countries have apparently made some progress on increasing aid to Africa and canceling debt. But trade, said Sir Michael, the British representative, "is going to be one of the most difficult issues."

In part, that is because a change in trade rules would affect huge farm subsidies in both the United States and the European Union - an area in which Mr. Bush seemed to suggest the Europeans had more changes to make than the United States.

"We've got agricultural subsidies, not nearly to the extent that our friends in the E.U. have," he said.

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In support of more aid for Africa, campaigners like Sir Bob Geldof, a former rock singer, urged the leaders to heed the voices of millions of people who flocked to rock concerts across the globe over the weekend or took to the streets. More than 200,000 people demonstrated Saturday in Edinburgh to reinforce the slogan: Make Poverty History.

"We are asking them to be great," Sir Bob said Monday, referring to the eight leaders. He said it would be a "grotesque failure" if there was no breakthrough at the meeting.

In Edinburgh, the police said that by Monday night about 60 people had been arrested after skirmishes between protesters and officers wielding transparent riot shields. The day of protests paralyzed Princes Street, a main thoroughfare near Edinburgh Castle. Witnesses said the police, some on horseback, confronted protesters throwing paving stones and park benches. Television images showed young children and shoppers caught up in the fray.

The fighting raised worries among officers about the next few days, when tens of thousands more protesters plan to arrive in Edinburgh and attend a rock concert as the summit meeting formally opens Wednesday. The police said the violence had been set off by a number of protesters, including some from around Europe.

Protesters had billed a march through the city as a carnival, but Tom Halpin, a senior Scottish police officer, said the event had not been authorized. "Those involved were determined to cause as much disruption as possible," he told reporters. "We are facing a hard core of determined activists, supported by hangers-on."

The leaders of several African countries, including South Africa, Nigeria, Ethiopia, Tanzania, Ghana, Senegal and Algeria, are to meet Friday with Group of 8 leaders.

African leaders gathered Monday in Libya for a summit meeting of the African Union, whose president, Alpha Oumar Konare of Mali, said Africa would take part in major development meetings "proud, united and showing solidarity," Agence France-Presse reported.

But, voicing some skepticism, he said, "Too many promises have been made to us in the course of too many meetings, but none has ever been honored."

Mad Cows and Englishmen

By The New York Times

PARIS, July 4 -President Chirac joked about mad cow diseases and bad English food during a conversation on Sunday in Kaliningrad with President Vladimir V. Putin of Russia and Chancellor Gerhard Schröder of Germany, the French daily Libération reported Monday.

"The only thing they have ever done for European agriculture is mad cow," Mr. Chirac joked, eliciting laughter from Mr. Schröder and Mr. Putin, the newspaper said. As for British food, Mr. Chirac apparently said, "You can't trust people who cook as badly as that."

Asked to comment on the remarks, Mr. Chirac's chief spokesman, Jérôme Bonnafont, said, "No reaction whatsoever."

Relations between France and Britain have been even more strained than usual after the collapse of a European Union summit meeting last month in which Mr. Chirac and Prime Minister Tony Blair of Britain blamed each other for its failure. Mr. Blair is determined to cut European Union farm subsidies, which mainly benefit France, while Mr. Chirac and other leaders want Britain to give up a generous rebate it receives each year.

Bush Heads To G-8 Summit In Scotland (WT)

By James G. Lakely

The Washington Times, July 5, 2005

The once travel-shy President Bush lands in Europe today for his fourth journey to the Continent this year -- one of his presidency's few foreign trips during which Iraq and the war on terror will give way to the pleasantries of international diplomacy.

Mr. Bush already has trumped host British Prime Minister Tony Blair's first agenda item for the Group of Eight (G-8) summit in Gleneagles, Scotland -- financial aid to Africa. On the eve of his trip, Mr. Bush pledged billions to fight malaria and encourage economic development and political reform on the troubled continent.

But the president is expected to ignore politely Mr. Blair's pleas to join Europe in taking concrete steps to fight global warming, a diplomatic slight against the prime minister.

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The Guardian newspaper in London reported last week that Mr. Blair was considering issuing a final communique that states "there is now strong evidence that significant global warming is occurring and that human activity is contributing to this warming."

The Bush administration has stated for years that there is not enough scientific evidence to prove global warming is occurring, let alone that humans are responsible for it.

"Climate change is felt dearly in Europe and is one issue where we've ruptured the relationship," said Susan Rice, senior fellow of foreign-policy studies for the Brookings Institution. "If the president is seen as not having been as forward-leaning as the other leaders on this issue, it won't do much to improve relations greatly."

Mr. Bush also is expected to push the other leaders of the eight economic powers -- which include Britain, France, Germany, Russia, Canada, Japan and Italy, in addition to the United States -- to expand their African agenda to include stopping genocide in Sudan.

"Britain has a history in Africa," said Nile Gardiner, a fellow in Anglo-American relations for the Heritage Foundation. "A tougher line from the British government will have an impact on the African countries."

The Bush administration long has pushed the United Nations and members of the G-8 to link foreign aid to the rooting out of corruption in Africa.

Mr. Bush told the Times of London last week that he "can't in good faith" continue to send aid to Africa if he "can't guarantee the money is being spent properly."

"That's just not good stewardship of our own money, nor is it effective in helping people," he said.

Andrew Natsios, the director of the U.S. Agency for International Development, told Fox News last week the $1.2 billion to fight malaria and the $400 million for education programs would go only to governments that could be trusted to spend it wisely. If that aid is needed in nations the White House considers corrupt, it will be funneled through nongovernmental organizations.

One of Mr. Bush's biggest challenges, Mr. Gardiner said, will be to get the other economic powers -- which often chastise the United States for not spending enough on foreign aid -- to share his mind-set.

"The views of the American public on the dangers of foreign aid are now shared by the British public," Mr. Gardiner said. "There is a shared concern that foreign aid simply gets squandered by dictatorial regimes.

"I expect a pretty tough message by the Americans and the British to African governments that they have to clean up their act," he said.

Mr. Bush leaves for Denmark this morning to thank that country for its cooperation in the war on terror before heading to Scotland for the three-day summit that begins tomorrow.

Protests, which were lightly attended at last year's G-8 summit in Sea Island, Ga., are expected to attract tens of thousands of people to Scotland. Organizers are hoping to build on the momentum of this past weekend's Live 8 concerts that were designed to pressure the G-8 nations to dramatically increase their aid to Africa and forgive African nations' debts.

There was little indication that the concerts, held on four continents, had any effect on the thinking of the leaders, who did not mention the spectacle at their presummit weekend press conferences.

Mr. Blair also has set aside time at the summit to launch an initiative on the Middle East peace process, saying Friday he saw an "atmosphere of hope" in the conflict between Israelis and Palestinians.

Drought Along The Missouri Divides The Senate (WP)

By Shailagh Murray

The Washington Post, July 5, 2005

ALTON, Ill. -- Roger Blaske's great-grandfather worked the Missouri River. So did his grandfather, as well as his dad. But last year, Blaske sold the family barges. The river was just too low.

A severe drought, now in its seventh year, is wreaking havoc up and down the Missouri, from the river's headwaters at Three Forks, Mont., to its confluence with the Mississippi River near St. Louis. One big casualty: a commercial shipping tradition that dates to Lewis and Clark.

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"We've all seen droughts before -- but this one, it's serious," Blaske, 62 and retired, said while sitting on a park bench recently at a visitor center near the confluence.

What the Missouri needs most is a deluge of melted snow and rain, but Mother Nature is not cooperating. Absent that, the Senate Appropriations Committee is trying to alleviate the problem -- but members are badly split over what to do.

Nearly a third of the 28 committee members represent states that border the Missouri or have an economic stake in it, and they fall into two camps with very different interests: upstream and downstream.

"It's almost become a Hatfield-McCoy kind of fight, unfortunately," said Sen. Byron L. Dorgan (D-N.D.).

Dorgan and two fellow upstreamers, Sens. Conrad Burns (R-Mont.) and Tim Johnson (D-S.D.), want to retain more water in the upper Midwest reservoirs that were built after the Depression to control flooding and improve navigation. Over the decades, the six reservoirs, in the Dakotas, Montana and Nebraska, have become a vital regional resource, providing drinking water to many communities and spawning a lucrative fishing and boating industry.

Sen. Christopher S. Bond (R-Mo.) leads a downstream faction that also includes Sens. Sam Brownback (R-Kan.) and Tom Harkin (D-Iowa). They argue that holding more water in the reservoirs would end commercial navigation on the Missouri, jeopardize operations at 18 power plants and hinder shipping on the Mississippi -- one of the country's most important transportation corridors.

The Mississippi angle broadens the downstream coalition to include Senate Appropriations Committee Chairman Thad Cochran (R-Miss.); Mitch McConnell (Ky.), the No. 2 Republican in the Senate; and Sen. Mary Landrieu (D-La.).

The two sides are using hearings and legislation to duke it out. As the drought worsens, the remedies are getting more creative. Dorgan's latest idea: a federal buyout of the barge industry, which he says is worth about $8 million a year -- about a tenth of the revenue that Dorgan says the tourism industry generates on Lake Sakakawea, the Missouri River reservoir in the middle of his state.

Last year, Dorgan and Burns tried to hold back more reservoir water by adding a provision to the spending bill produced by the interior subcommittee, which the two senators control. The full committee passed the legislation, infuriating Bond. The former Missouri governor inserted language to block the provision in the veterans affairs and housing spending bill produced by the panel that he chairs. Both bills wound up on the Senate floor, with Bond eventually prevailing.

"There was a lot of fur flying," Dorgan recalled.

This year, the upstream senators have gone after the barge industry, arguing that too much water is being wasted to essentially prop up a dying industry. Dorgan complained that a third of the water annually shifted from reservoirs into the Missouri is needed solely to improve navigation for barges. During a recent hearing on the Army Corps of Engineers, he pressed John Paul Woodley Jr., assistant secretary of the Army for civil works, who is responsible for the Corps, to reassess its Missouri River priorities.

"I feel very strongly, as do many in the upstream states, that we are systematically cheated," Dorgan told Woodley. Dorgan said that although the drought is an act of nature, "the management of the river is another part of it, and we're tired of it, and it needs to be solved."

"I am deeply sympathetic with your views, Senator," Woodley said, noting that support for navigation is mandated by statute.

What no one disputes is that the drought is having a devastating effect on the river. Normally the Missouri River system contains about 58 million acre-feet of water, but the level has dropped to below 38 million acre-feet.

Upstream, the drought is costing small towns and Indian reservations drinking water. In Parshall, N.D., on the Fort Berthold Reservation, the Corps had to extend the town's waterline to reach Lake Sakakawea. When the water receded further, residents gave up and dug wells.

A reservation at Fort Yates, N.D., lost all water for a time.

Fishing is big business on the reservoirs, but access is increasingly limited, as the water's edge retreats further from the cabins and tackle shops that once sat on the shoreline. Boat docks on Montana's Fort Peck Reservoir -- noted for its walleye fishing -- are surrounded by grasslands, stranded a mile from the receding shoreline.

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The Missouri has never lived up to long-ago expectations that it would become a principal transportation corridor, similar to the Mississippi. In 1945, Congress authorized clearing a nine-foot-deep, 735-mile navigational channel from Sioux City, Iowa, to the confluence just north of St. Louis. Construction was completed in 1981.

The Army Corps of Engineers had projected that Missouri barge traffic, mostly agriculture-related, would increase steadily, to 5 million tons by 1980, from 1.1 million tons in 1960. Shipments exceeded projections in the early years, peaking at 3.3 million tons in 1977. But they have since declined. By 2000, annual barge traffic had fallen to 1.3 million tons -- or 74 percent below the original projections, according to research by C. Phillip Baumel of Iowa State University and Jerry Van Der Kamp, executive vice president of Agri Industries of West Des Moines.

Today, the barge industry has shriveled to a few companies. In 2004, the drought shortened the Missouri's eight-month shipping season by 47 days. For the past few years, barge operators have had to contend with an eight-foot-deep channel, a foot shallower than normal, which reduces the load they can carry by roughly the equivalent of their profit margin.

Barge operators tend to still see a bit of romance in river travel. Blaske started in the business as a deckhand during summer breaks from school. After college and a stint in shipyard management, he joined the family business in 1978. Soon, he was operating 85 barges, hauling fertilizer upstream and grain downstream, to and from Sioux City.

It was during an earlier drought in the 1980s that Blaske first recalls hearing complaints from the upstream folks. On the lower portion of the river, water levels had fallen, but barge traffic was not drastically affected, because the river channel was sufficiently deep. But the 1993 flood damaged the channel, and it wasn't fixed when the current drought struck in the late 1990s.

"You ran into a lot of stuff," Blaske said. His barges were damaged, shipments were delayed and customers started wondering, "Why should we even look at the river?"

A few niche businesses cannot get by without barges, and for now, they are the only customers. One company, Magnolia Marine, uses custom-built barges to haul a special type of asphalt. The nuclear power plant in Callaway, Mo., is using barges to ship replacement equipment that is too large for rail or trucks. But the barge industry's mainstay has always been agricultural products, and officials say those customers will not return until the river stabilizes.

"We're in a downward spiral," said Mike Wells, deputy director and chief of water resources at the Missouri Department of Natural Resources. He is urging barge operators to return to the river as soon as conditions improve. "We think there's a viable navigation industry if we can get the river back."

Bond is trying to protect the barge operators but says he also represents farmers and other shipping customers who must contend with higher freight costs for rail and trucks because of the loss of river commerce. "We have to have the competition," he said. His office is prepared to pounce if Dorgan acts on his buyout idea.

Bill Would Reduce Government's Role In Protecting Species (NYT)

By Felicity Barringer

The New York Times, July 4, 2005

WASHINGTON, July 3 - Republican critics of the Endangered Species Act in Congress have drafted legislation hedging the government's obligation to take all necessary steps to bring back to robust health any species on the brink of extinction.

The draft envisions more limited government obligations: ensuring that the status of an endangered plant or animal gets no worse and helping to make it better.

Representatives of environmental groups who have seen the draft legislation said that the change, achieved by redefining the act's interpretation of "conservation," would severely undercut the law.

The draft measure, said Jamie Rappaport Clark, the executive vice president of Defenders of Wildlife, "takes a wrecking ball to the whole Endangered Species Act" by changing its mission, disabling enforcement tools and loosening controls on agencies like the Forest Service and the Army Corps of Engineers.

But Jim Sims, the executive vice president of Partnership for the West, a group representing Western ranchers, farmers and industries, said that the draft has a "common-sense" emphasis on incremental improvements that are achievable, rather than on long-term recovery that may take decades. "The aspirational change is necessary," he said. "It's more important to incrementally improve the species' health as much as we can rather than set the bar at total and complete recovery, and nothing else."

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The draft legislation, prepared by the Republican staff of the House Resources Committee, also narrows the law's reach, potentially exempting many federal actions that are now subject to review. In addition, it requires that the authority to list subgroups of a species of fish or wildlife as endangered be used "only sparingly." The draft would automatically take the Endangered Species Act off the books in 2015.

Richard W. Pombo, Republican of California and chairman of the House Resources Committee, has long been a critic of the Endangered Species Act, although in recent months he has spoken more favorably of its goals, and indicated that his revisions would make them more achievable.

The draft legislation was given to The New York Times by a lawmaker opposed to its provisions, who requested anonymity because the legislation had not yet been introduced. It has been circulating among interest groups focused on the issue , which tends to pit environmental groups against a loose coalition of Western ranchers, farmers and business interests. Most lobbyists believe that the committee's legislation will provide the framework for rewriting and reauthorizing the act.

The law has been a magnet for controversy since its passage in 1973. It is credited with playing a major role in preventing the extinction of hundreds of species of plants, insects, animals and birds in the United States. Nonetheless, only a handful of the more than 1,200 species listed over the years have recovered sufficiently to permit their removal from the list.

The law, as interpreted by a series of federal judges in the past quarter-century, has been instrumental in blocking dam construction, ending most logging in the old-growth forests of the Pacific Northwest, overturning state or regional decisions on the allocation of scarce western water, and preventing some development on public and private land.

Over the past decade, efforts to rewrite the law failed to pass the House or were blocked by Senate Republicans, but Mr. Pombo said in a recent interview that he believed he could forge a consensus and win passage of the bill, given Republican gains in the House and the Senate in the last election.

Some of his supporters are not as sure. But Mr. Sims, of Partnership for the West, is not among them. "The prospects for some updating of the Endangered Species Act are very high in this Congress," he said.

"I think the chairman has a very reasonable marker out there with this draft," Mr. Sims added. "It's not too far to the left, not too far to the right. A number of my members don't think this goes far enough."

Environmental groups are gearing up their own campaign in opposition to the legislation as currently drafted.

They may find unusual allies in property-rights advocates who have focused their criticism on the bill's requirement that the government designate, and potentially restrict the use of, territory that is essential to a species' recovery. In a June 16 letter to Mr. Pombo, representatives of groups including the Competitive Enterprise Institute, Americans for Tax Reform and Gun Owners of America urged that the bill ensure that all property owners be compensated if their land values drop.

The draft legislation permits compensation only when a property owner shows that a government action diminishes a property's value by at least 50 percent.

On the issue of what constitutes the "best available science" for making and supporting decisions under the law, the draft measure takes the unusual step of giving one scientific method preference over another. It calls for "empirical data" - which can be hard to obtain when a species's numbers are small and scattered - to be used when possible. More common currently are studies based on statistical models of a species's number, range and viability.

The draft legislation also sets new restrictions for mapping the territory considered essential for the recovery of an endangered species. It would limit such territory, called "critical habitat," to areas currently occupied by the species; the law now allows for the inclusion of a larger portion of the species's historic range. In the new proposal, expansion of the current range is possible only if that range is inadequate to prevent the species's extinction.

"It shortchanges habitat protection," said Ms. Clark of Defenders of Wildlife. "And habitat destruction is the primary reason for most species becoming endangered." She added that the law "places almost overwhelming restrictions on sound science."

Mr. Sims, in turn, argued that some of the law's proponents care more about keeping land unused than ending threats of extinction. "This is the Endangered Species Act," he said. "I would argue that a great majority of the American people believe that a focus on efforts to recover a species are more important than efforts to lock up land."

An Endangered Act (NYT)

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The New York Times, July 5, 2005

The Endangered Species Act of 1973 is far and away the most controversial of all the landmark environmental statutes enacted during the Nixon years. It is especially so among those libertarians and property owners who think that commercial development is unduly restricted by the mandate to protect not only plants and animals, but also the habitats essential to their survival. The law is up for reauthorization again this year, and the pressures to weaken it are great. There are ways to streamline the law and make it less litigious that would not come at the expense of its core values and purpose.

Regrettably, the Bush administration is not waiting for this debate to take place. Since the day they took office, Bush officials have tried to subvert the law administratively and in the courts. They have slowed the process by which species are listed as threatened or endangered, cut scientists out of important wildlife decisions, encouraged and then sided with industry lawsuits against habitat designation, and tortured the very meaning of the act to evade its obligations.

The most recent example involves endangered salmon species in the Columbia and Snake River basins in the Pacific Northwest. These fish have long had trouble catching a break. A comprehensive recovery plan devised by the Clinton administration was tossed out by a federal judge, James Redden, who found the prescriptions too vague and the projected outcomes too speculative. But the Clinton administration never tried to shirk its lawful obligation to provide for the recovery of the species by settling, as this administration has, for the lesser goal of keeping the current rate of decline from getting any worse.

Nor did it descend to the same depths of casuistry. Among other things, the National Marine Fisheries Service proposes to include millions of hatchery-raised fish in its assessments of wild fish - a bit of mathematical gymnastics that would instantly make endangered wild salmon populations seem healthier than they are and thus ease the need for protection. No less preposterous is its argument that it cannot remove the dams on the lower Snake River - an option the Clinton administration held in reserve in case all other recovery measures failed - because they are immutable parts of the landscape, like a mountain.

An angry - indeed, flabbergasted - Judge Redden has now tossed out this plan as well. For good measure, he has ordered the government to increase the volume of water spilled over the dams this summer to ease the passage of young fish to the ocean and thus increase their chances of survival. Given the dwindling number of wild salmon, he was quite right to do so. The only downside is that the ruling has inflamed various members of Congress, and some of them are muttering darkly about legislative retaliation.

This would not be helpful, either for the salmon or for a broader discussion of the Endangered Species Act. In his recent ruling, Judge Redden invited all the stakeholders - the dam operators, the developers, the commercial fishermen and the Indian tribes that depend on salmon for their living - to get together to devise a common plan.

Any discussion of the law itself should be conducted with comparable transparency. It is a fundamentally sound statute with wide public support and a demonstrable record of success. By forcing a better balance between commerce and nature, it has often constrained human behavior in ways that lead to a healthier environment for everyone. The law, and our environment, deserve far better than the guerrilla warfare with which the opponents of the Endangered Species Act have tried to undermine it.

FBI/DEA/ATF/USMS:

Counties Say Meth Is Top Drug Threat (USAT)

By Donna Leinwand

USA Today, July 5, 2005

WASHINGTON — Methamphetamine is a bigger problem than cocaine, marijuana or heroin for most communities, according to a survey of law enforcement agencies in 500 counties in 45 states by the National Association of Counties.

The survey, to be released today by the national group that represents county commissioners, supervisors and other top county officials, finds that methamphetamine is:

•The No. 1 illegal drug problem in the view of law enforcement agencies in 58% of the counties surveyed. Fewer than 20% see pot as the top problem.

•Behind an increase in other crimes. Agencies in 70% of the counties said the drug is driving up the number of robberies and burglaries.

•Seen as the top drug problem in every area of the country except the Northeast. There, law enforcement agencies consider heroin the No. 1 problem, ahead of pot, methamphetamine and cocaine.

Meth, as it is called, is a form of speed that is usually smoked or injected. It can be quickly and highly addictive.

Methamphetamine can be made from basic ingredients, particularly cold medicines that contain pseudoephedrine and fertilizer made with anhydrous ammonia.

The survey highlights a difference between what many local officials say is the biggest drug problem and where the federal government has targeted its prevention and eradication efforts.

"On the national level, the federal government still considers marijuana as the No. 1 drug problem in America, but county law enforcement officials have a different perspective on this ranking," the association says in its survey.

Congress is considering restricting the nationwide sale of products that contain the drug pseudoephedrine.

David Murray, a policy analyst for the Office of National Drug Control Policy, says the Bush administration is developing a national response to the meth problem.

However, he says, the administration cannot neglect other drugs in the process.

Federal agencies, including the Drug Enforcement Administration, are working to disrupt the supply of chemicals needed to make methamphetamine and stop the smugglers who carry it from Mexico and Canada, Murray says.

He says marijuana remains a top priority because it is the most commonly used illegal drug, with 15 million users, compared with about 1 million meth users.

"We do have to keep all drug threats in context, which means you cannot ignore marijuana," he says.

Losing The Battle (NSWK)

By Joseph Contreras

Newsweek, July 11, 2005

The hostages were found just before dusk in three houses on the southeastern outskirts of the Mexican border town of Nuevo Laredo. Most had their hands bound, some had been blindfolded with tape over their eyes, and at least one had been tortured and had to be rushed to a local hospital. But not all and probably not even most of the 44 captives discovered by federal agents and Army troops early last week were innocent victims of a kidnapping ring. As the police investigation unfolded, Mexican authorities suspected the kidnappers and many of their hostages belonged to the drug-trafficking underworld that has terrorized Nuevo Laredo for the past two years. Some of the captives may have failed to settle debts with neighborhood drug dealers. Others were likely foot soldiers in the employ of rival trafficking syndicates, rounded up to provide valuable information. Perhaps most disturbing of all, some of the detainees said they had been initially snatched by municipal police officers who were paid $300 for each hostage.

The discovery of the kidnap victims was only the latest twist in the escalating drug wars plaguing Mexico today. Nearly 700 people have been killed in drug-related violence thus far this year. Last month, after the newly named police chief of Nuevo Laredo was murdered within hours of accepting the job, the government of President Vicente Fox launched a crackdown in three northern states regarded as strongholds of the country's leading drug-trafficking cartels. The rising tide of lawlessness has stoked fears that a narcostate, where organized crime holds sway over Mexico's political elites, might one day emerge on the southern border of the United States. "There are growing signs that the Colombianization of Mexico is now becoming a reality," says Ted Galen Carpenter, a defense and foreign-policy expert at the right-wing Cato Institute in Washington. "If a similar process takes place in Mexico, it's going to be 10 times worse than in Colombia because Mexico is locked into the U.S. economically to a much greater degree."

Officials on both sides of the U.S.-Mexican border dismiss such warnings as overblown. Mexico's Attorney General Daniel Cabeza de Vaca told the newspaper El Universal last month that the country's drug cartels represented no immediate threat to national security, and in its latest annual report on the international narcotics trade the U.S. State Department gave the Fox government high marks for "its intensive counternarcotics and law enforcement effort." If anything, say some U.S. officials, the current turf wars between dueling cartels in a number of Mexican border states erupted in response to the vacuum created by the Fox government's arrest of two major kingpins in 2002 and 2003. Parallels with Colombia, where both leftist guerrillas and right-

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wing militias are also engaged in drug trafficking, do not bear close scrutiny in their judgment. "In Mexico you don't have insurgent groups or terrorist organizations that are involved in virtually every aspect of drug trafficking," says Mike Braun, chief of operations for the U.S. Drug Enforcement Administration. "We're getting greater cooperation from the Fox administration than from any previous Mexican government I know of."

At the same time, Braun and other U.S. officials don't try to downplay the magnitude of the challenge facing them in Mexico. Up to 90 percent of all the cocaine consumed in the United States is smuggled through Mexico. The country ranks as the largest foreign supplier of marijuana and the second largest source of heroin for the American market. More than half the methamphetamines sold in the United States are made in Mexico, and Mexican-run labs that operate north of the border account for much of the remainder. Inside the United States, Mexican traffickers control 11 of the 13 largest urban markets and have acquired a fearsome reputation. "The Mexican cartels are the most dangerous trafficking organizations in the world," says one U.S. official in Mexico City who asked not to be identified for security reasons. "They'll kill you for a dime, and they have everyone paid off and scared to death."

And that goes to the heart of Mexico's drug problem. The menace haunting the country's present and future stability starts with the letter C, but it's spelled "corruption," not "Colombia." Law enforcement is a notoriously low-paying career in Mexico, and an entry-level cop in a midsize city's police department makes as little as $135 a month. Confronted with a druglord's stark choice of plomo o plata (lead or money), many if not most Mexican policemen on the lower rungs of their agencies will opt for the bribe. "We're fine with respect to law enforcement at the central-government level," says the DEA's Braun, "but the farther you get from the seat of power, the more problematic things can become in a place like Mexico."

Nowhere is that more evident than on the mean streets of Nuevo Laredo. The city of 300,000 is the busiest port of entry along the 3,100km-long U.S.-Mexico border, with an average of 6,000 trucks crossing into Texas each day. That makes the town a highly coveted entrepot for drug traffickers, and in the late 1990s the Gulf cartel led by Osiel Cardenas began recruiting troops from a military-intelligence battalion who had been posted to the area to combat the drug gangs. The city became a full-blown war zone in 2003 when Cardenas was arrested and a cartel based in the Pacific-coast state of Sinaloa sent a large contingent of hit men to do battle with his private army of ex-soldiers. In more recent times the city's entire 724-member police force was confined to its stations last month after some local cops opened fire on a convoy of federal agents dispatched from Mexico City to restore order in Nuevo Laredo.

The city's economic fortunes took a nose dive when the U.S. Embassy in Mexico City issued a travel advisory in January voicing alarm over the recent deaths and disappearances of more than two dozen American citizens in Nuevo Laredo. The ensuing collapse of the city's cross-border tourist trade has driven retail sales down by 50 percent, and real-estate prices have also tumbled. Convoys of soldiers in black berets and armed with assault rifles began patrolling the streets of the city three weeks ago, but the casualty toll in Nuevo —Laredo continues to rise. At the weekend, more than 50 people had died in drug-related violence since the start of the year. "There isn't a single place in the city where one feels safe," says Raymundo Ramos Vasquez, a Nuevo Laredo newspaper reporter who heads up an independent human-rights committee. "The government is losing the battle against drugs, and worst of all they aren't prepared to admit it."

To date, the spillover of drug-fueled carnage across the border has been kept to a minimum. The most serious long-term fallout from Mexico's narcowars may come from rising recreational drug use inside the country. According to the national Health Ministry, at least 570,000 Mexicans use narcotics on a regular basis, and consumption of crack and powder cocaine has risen sharply in recent years. "The greatest threat comes from the person who sells drugs outside our schools and corrupts our children," says Attorney General Cabeza de Vaca. "He is public enemy number one." But the street dealer is a mere minion in a multibillion-dollar industry dominated by Mexico's ruthless drug kingpins. And as long as Americans want to buy their merchandise and Mexican cops accept their payoffs, the country's cartels will retain the upper hand.

Corruption Hampers Mexican Police In Border Drug War (NYT)

By Ginger Thompson

The New York Times, July 5, 2005

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MATAMOROS, Mexico - A crooked cop is the oldest story in the book in Mexico. But this country has been forced to re-examine its police as it struggles against a devastating crime wave that in the last six months has taken more than 600 lives.

At least half those killings have happened in the six Mexican states along the border with the United States, where drug traffickers fighting for control of lucrative drug routes empty their automatic weapons on busy streets in the light of day. Lawlessness has become so brazen, and impunity so complete, that experts on the illegal drug trade have begun comparing northern Mexico to Colombia, where powerful cartels took over large parts of the country by corrupting or killing police officers, politicians, journalists and judges.

Killings and kidnappings happen almost every day in the city of Nuevo Laredo, about 150 miles north of this small town. Matamoros is quiet in comparison. The most common crime here these days, the police say, is robbery. But as recently as three years ago, this, too, was a capital of the drug war. People on the street said they are afraid that it could become one again.

And here, like Colombia, society's first line of defense against the chaos - the municipal police - has proved to be its weakest.

"Law enforcement in Mexico is all too often part of the problem rather than part of the solution," said Anthony P. Placido, the acting assistant administrator for intelligence at the United States Drug Enforcement Administration, in a recent appearance before Congress. "This is particularly true at the municipal and state levels of government."

Interviews with four municipal police officers in this city of 500,000 people across the Rio Grande from Brownsville, Tex., offer a glimpse inside a reality as harsh and persistent as Mexico's blazing summer sun. The officers - a shift commander, two squad leaders and a recent graduate of the police academy - were chosen by the minister of public security, Rubén González Chapa, to be interviewed for this article. Then Mr. González allowed each officer to be interviewed alone, on the condition that they not be identified because he did not want to jeopardize their standing among their superiors and colleagues.

Not one of the officers denied that there were abuses and corruption in their ranks. They described officers taking bribes from drunks and prostitutes and accepting gifts from businessmen and residents for providing extra surveillance around their properties. One of the squad leaders acknowledged carrying an unauthorized automatic pistol, rather than the revolver that was assigned to him. And the other acknowledged that sometimes he loses his temper and beats up suspects before bringing them to the station.

"I would feel ashamed to beat up a drunk," one of the squad leaders said. "But a thief, a murderer or a rapist, I have to admit, I am very tough with them."

When asked, however, about the more egregious accusations by Mexican and United States officials that municipal police often serve as lookouts and hit men for the drug traffickers, the officers typically retreated into vague generalities. What they offered instead of the ugly details about police misdeeds was a look at where the abuses are born, describing a place sorely lacking incentives, not to mention basic equipment to uphold the law, and filled with humiliations that left many officers feeling loyal to no one but themselves.

Money was the officers' biggest complaint. The starting salary for the typical municipal police officer is less than $350 a month, better than a factory worker but less than the average cab driver. They get only basic medical treatment if they get hurt on the job. And their families get just enough to bury them, less than $6,000, if they are killed on duty.

If the officers want equipment that works - a vest that stops automatic machine-gun fire or handcuffs that cannot be ripped apart - they have to buy their own. One of the squad leaders interviewed described how he and the three colleagues pooled their money to install air-conditioning in their patrol car so they could withstand the city's 110-degree temperatures. And he said he switched his cellphone service from month to month, depending on which company offered him the best rate per minute.

Officers here said they have to buy their own bullets. One officer, a seven-year veteran of the force, said he usually goes across the border to the Wal-Mart in Brownsville and sneaks the bullets back to Mexico. The Brownsville police stopped him twice and seized his ammunition, he said. He was too ashamed, he said, to tell them that he was also an officer. But he was even more ashamed, he said, because he did not feel like one of them.

"Everyone criticizes the police," he said. "They say we are worse than the criminals. They say they want professional police, but they do not treat us like professionals. They want us to respect our jobs. But no one respects us.

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"Those who love this shirt do the best we can," he added, tugging on the collar of his midnight blue uniform. "It is very hard to be straight."

When asked about the severe ammunition shortages and the bullet smuggling by his officers, Mr. González shrugged and said he had hired an ironsmith to refill spent bullet casings. And Mayor Baltazar Hinojosa Ochoa acknowledged the problem in an interview, saying: "Forget about bullets. Our police do not get good training, good equipment or good salaries." The police academy is one instructor and a classroom. And the officers said they get two visits to a firing range because there are not enough bullets for more.

"I would say about 30 percent of the officers know how to shoot," the recent academy graduate said. "The other 70 percent do not."

The Constitution classifies organized crime, including drug trafficking, as a federal offense. But there are fewer than 20 federal agents in Matamoros, a city about the size of Washington. So the first responders are usually the city's 600 municipal police officers - authorized mainly to enforce administrative offensives punishable by fines up to $40.

The two groups often do not work well together.

In Nuevo Laredo, four police officers have been killed in drug-related shootings since March, including the city's last two police chiefs. The second, Alejandro Domínguez, a former president of the local chamber of commerce, was shot to death hours after being sworn in.

A few days later, municipal police officers fired on federal agents who had arrived to investigate the chief's killing. The mayor suspended Nuevo Laredo's entire police force, about 730 officers, pending drug and polygraph tests. News reports from there indicate that almost half of the officers were receiving payments from leaders of the feared Gulf cartel. And President Vicente Fox, worried by the escalating violence and the concerns about local corruption, sent 1,000 soldiers and federal agents to patrol border cities as part of a special operation called Safe Mexico.

Still the killings continue. So do the confrontations between local and federal authorities.

In mid-June, federal agents stopped two municipal police officers here and accused them of illegally carrying military weapons, rather than their service revolvers. The municipal officers radioed for help. Almost the entire night shift, 104 officers, rushed to the scene.

One of the squad leaders interviewed said he told the federal agents to back off. "You are not going to leave here with those officers," he recalled telling them. "You are going to have to jump over me. And if you want to use your guns, then this is where I will die."

The bravado worked that time, the squad leader said, and the municipal officers were released. But more often than not, things go the other way.

He described attending community meetings where business leaders demand that the police crack down on crime - but who threaten to have them fired for detaining spouses or children caught drinking in public or behind the wheel of a car. When asked whether he had ever taken a bribe from a drug trafficker, the shift commander first answered the question with a question. "What would you say if a drug trafficker came to you and said: 'Help me and live. Do not help me, and die?' "

He demanded an answer, over and over again, refusing to say whether he had ever been approached with such a proposition. Then he pulled key chain from his pocket with a photo of his family, and he answered.

"I would tell them: 'I do not want to work with you. But I am not here to fight you, either. They do not pay me enough for that,' " the shift commander said. " 'Just do not bother me, or my family. I will not bother you, and we can all live in blessed peace.' "

Mexico Says Suspect Isn't Drug Kingpin (LAT)

By Marla Dickerson

The Los Angeles Times, July 5, 2005

MEXICO CITY — Mexican authorities said Monday that they thought they had arrested the leader of the Juarez drug cartel, but later said tests showed it was a case of mistaken identity.

The determination that the detained man was not Vicente Carrillo Fuentes dashed hopes of a rare instance of good news for Mexico's anti-narcotics forces amid an upsurge of violence.

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It was also the second high-profile error in the last two weeks.

In June, Mexican federal authorities detained a British citizen of Lebanese descent on suspicion that he was connected to terrorist organizations behind the Sept. 11 attacks. But that suspect, Amer Haykel, turned out to be simply a tourist.

Mexico's Federal Agency of Investigation reported that the suspect had been arrested at an upscale Mexico City shopping mall Saturday, said Ruben Aguilar, spokesman for President Vicente Fox.

Aguilar said prosecutors conducted fingerprint analysis and DNA tests to determine the identity of the man, who gave his name as Joaquín Romero Aparicio and who local media said had undergone extensive plastic surgery. As it turned out, he had given his true name.

Maria Romero, his sister, said, "My brother is a respectable person, married and with a family. He is an architect. They have done him an injustice. How is it possible that they have detained him without proof? I can assure you that my brother has nothing to do with drug trafficking. It's an injustice."

Carrillo's brother Amado, once considered the most powerful drug lord in Mexico, is believed to have died in 1997 during botched plastic surgery to change his appearance. Experts said capturing Vicente Carrillo Fuentes would have dealt another blow to a drug gang that had lost influence and cohesion since Amado's death. Another Carrillo brother, Rodolfo, 29, was killed by hit men in Sinaloa state in September.

The arrest of Carrillo would have been a boost for Fox, who has been under pressure from the United States to stem a tide of drug-related violence that has claimed more than 600 lives this year, many along the border. Bodies are turning up almost daily from Tijuana to Cancun, many of them bearing marks of torture and mutilation that are the calling cards of organized crime.

Fox has vowed the "mother of all battles" against narcotics traffickers, with 18 top leaders toppled during his administration. Veteran observers call that record impressive, but they say it has done nothing to restrict the flow of drugs into the United States and has ratcheted up tension among gangsters.

For example, authorities trace recent violence in the border town of Nuevo Laredo to the 2003 arrest of Osiel Cardenas, alleged leader of the Gulf cartel. Sensing the opportunity to take control of a key smuggling route to the United States, his rivals, led by Sinaloa-based Joaquin "El Chapo" Guzman, moved in, setting off a bloody turf war.

Jorge Chabat, a Mexico City political scientist and an expert on organized crime, said that though the United States would welcome the capture of Carrillo, his arrest could provoke even more killing as aspiring kingpins scramble to take his place.

The Juarez cartel, which takes its name from the border city of Ciudad Juarez, flourished in the 1990s under the leadership of Amado Carrillo.

Nicknamed the "Lord of the Skies," he became a legend by ditching the small boats and prop planes used by his predecessors, instead ferrying cocaine by the ton from South America in large jets.

But his death is believed to have loosened the confederation of traffickers that once formed the core of the cartel. The killing and jailing of major drug trade figures throughout Mexico have destabilized rival gangs as well, so that no cartel predominates.

Mexico: Arrested Man Isn't Drug Lord (DMN)

By Tracey Eaton And Alfredo Corchado, The Dallas Morning News

The Dallas Morning News, July 5, 2005

Mexican authorities on Monday said they thought they had captured Vicente Carrillo Fuentes, one of the country's most wanted drug lords. But by the day's end, they had reversed course, calling it a case of mistaken identity.

Agents had quietly arrested their subject on Saturday at Perisur, a Mexico City shopping center. He identified himself as Joaquín Romero Aparicio, but Mexican officials were almost sure that DNA tests would reveal his criminal identity.

“Right now, it is likely Vicente Carrillo Fuentes, but it isn't completely confirmed,” presidential spokesman Rubén Aguilar said.

But late in the day, the Los Angeles Times was reporting that Mr. Aguilar had gotten the wrong man.

Vicente Carrillo Fuentes

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Earlier Monday, the prospect that Mr. Carrillo Fuentes, 42, had been arrested excited law enforcement officials and journalists on both sides of the U.S.-Mexico border. Mr. Carrillo Fuentes and his lieutenants allegedly ordered the murders of dozens of U.S. citizens and hundreds of Mexicans during a decade years-long reign of terror, American authorities say.

The State Department had offered a reward of up to $5 million for information leading to the arrest or conviction of Mr. Carrillo Fuentes, suspected of leading the Juárez cartel.

Mr. Carrillo Fuentes would have been the latest in a series of high-profile drug suspects arrested or killed since Mr. President Vicente Fox took office in 2000. Almost 200 police officers and soldiers have been killed in the anti-drug crackdown.

For the past several weeks, American agents had been predicting that Mr. Carrillo Fuentes would be an appropriate "sacrificial lamb" for the Juárez cartel. The drug organization, once considered the most powerful in North America, has been under reorganization and, some say, in decline.

News of his arrest spread fast in the border city of Ciudad Juárez, which the cartel has terrorized for years.

"This is all part of the game," said Marisela Olvera Tapia, a housecleaner from Ciudad Juárez. "Maybe he didn't pay his dues, or maybe someone had to go and it was his time."

U.S. agents say Mr. Carrillo Fuentes' influence had been waning since last year, when his brother, Rodolfo, was assassinated by killers believed to be close to the drug lord's archenemy, Joaquín "El Chapo" Guzmán.

"At the time, the leaders formed an uneasy truce that basically said, 'Vicente, you can still be part of the gang, but you're not the player you used to be. Move aside if you want to stay alive. Otherwise you will face the same fate as that of your brother,' " the U.S. agent said.

The retired DEA agent said on condition of anonymity that even if Mr. Carrillo Fuentes' clout was declining, his arrest was "still a good catch. Look at all the damage he's done."

In September 2000, U.S. prosecutors in Texas charged Mr. Carrillo Fuentes with ordering the killings of 10 people, including seven who were found dead at ranches near Ciudad Juárez.

He was accused of ordering the killing of anyone thought to be supplying information on the cartel to U.S. authorities.

But Mexican officials weren't always so eager to help catch him. And in 1998, when U.S. officials in Texas described him as "an international star of the drug trafficking world," Mexican officials said they wouldn't be able to arrest him because they had no warrants for his arrest.

During the cartel's heyday, the organization funneled $500 million per year in bribes to local, state and federal police and elected public officials, experts say.

In the 1990s, the cartel generated at least $10 billion per year in drug sales in major markets such as Dallas, Houston, Chicago and New York, according to Charles Bowden, author of Down by the River, a book about the Mexican drug trade.

Until 1997, the group's leader was Mr. Carrillo Fuentes' older brother, Amado, nicknamed "Lord of the Skies" for his pioneering use of decommissioned passenger airliners in smuggling tons of cocaine to Mexico.

The elder brother died after botched plastic surgery in July 1997, and his brother – who is also suspected of having resorted to plastic surgery to change his appearance – took over leadership of the cartel, authorities say.

"He's a true binational drug trafficker who never understood borderlines," the former DEA agent said. "He was ruthless, vicious. His philosophy was shoot first and then ask questions later. He was nothing like his brother."

Mr. Carrillo Fuentes owned several homes, including one in El Paso where he once lived with his girlfriend and infant daughter, U.S. law enforcement officials said. He used a forged ID to travel between Juárez and El Paso, where his girlfriend lived with their child, law enforcement reports show.

This year, U.S. agents say, his gang began undergoing an overhaul. Another cartel leader, Juan José Esparragoza, also known as "El Azul," or Blue, consolidated his power by joining other top drug lords, including Ismael Zambada, the Beltran Leyva brothers and Mr. Guzmán, agents say.

The new organization is known as El Triangulo de Oro, or Triangle of Gold, named for Sinaloa, Chihuahua and Durango states. Or it's simply called the Alliance.

Phil Jordan, former director of the El Paso Intelligence Center, a federal counternarcotics agency, said Mr. Carrillo Fuentes' arrest would have "minimal impact" if he remained in Mexico.

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"To leave the guy in a Mexican jail where he can still run things would do little more than change his residence of operation," Mr. Jordan said. "What the Mexican government really needs to do is extradite Carrillo Fuentes to the United States as soon as possible. Without that, I don't foresee a decrease in violence."

Results of DNA tests to determine the identity of the man arrested Saturday are expected as early as today.

Juárez Kingpin May Be In A Cell (Express-News)

By Dane Schiller

The San Antonio Express-News, July 5, 2005

MEXICO CITY — The gang violence already rife along the Rio Grande might intensify after federal agents arrested a man believed to be a drug smuggling capo for whom the U.S. is offering a $5 million reward.

A spokesman for President Vicente Fox said Monday that officers believe they have captured Vicente Carrillo Fuentes, who is accused of running the powerful Juárez cartel. The cartel was made famous by Carrillo Fuentes' brother, who used large planes to smuggle Colombian cocaine and who died of complications from plastic surgery to conceal his identity.

DNA and fingerprint analyses were being conducted on the man, who was arrested Saturday at an upscale shopping center in the capital, spokesman Rúben Aguilar said.

"We have to prove that this is the guy," he said.

The arrested man identified himself as Joaquin Romero Aparicio, according to the national news agency. But authorities believe he is the 42-year-old brother of Amado Carrillo Fuentes, the legendary drug boss who was known as "Lord of the Skies" and died in July 1997.

Aguilar didn't share details of how agents learned the supposed boss was in Mexico City, how he was grabbed or why they believe he is Carrillo Fuentes.

Mexico's attorney general's office, the lead agency in the narcotics operation, declined to comment.

The arrest would mark a major victory for Fox, who vowed to fight the "mother of all wars" against the cartels.

Should the man prove to be Carrillo Fuentes, "this is a very important blow to the cartels," said Fernando Guzmán Pérez Peláez, a federal congressman who heads the chamber's National Security Commission.

As part of a nationwide operation launched June 11, soldiers and federal police are pressuring organized-crime gangsters — from street corners and barrooms to highways and ranches.

Part of the government's strategy is to keep fugitives on the run, deny cartels access to traditional smuggling routes and arrest their leaders.

But short-circuiting operations also creates opportunities for the ambitious and bold to climb the ranks.

"There is violence and violence and violence, but somebody is always able to step up and take the reins," a former U.S. federal agent said. "When you start taking down the big heads, there are always five or six splinter groups that pop up.".

The Juárez cartel, based out of Ciudad Juárez across the border from El Paso, is aligned with Joaquin "El Chapo" Guzmán Loera.

U.S. and Mexican authorities contend Guzman is Mexico's leading drug trafficker and is battling the Gulf (of Mexico) cartel for smuggling routes across the South Texas-Mexico border.

Vicente Carrillo Fuentes is wanted in Mexico, but also in the United States, where he is named in a 46-count federal indictment out of El Paso.

He is accused of cocaine trafficking, money laundering, witness tampering and ordering multiple murders to prevent informants from sharing information with U.S. law-enforcement authorities.

Identifying him is complicated, as the U.S. government believes he might have undergone surgery to alter his appearance — as his brother did, only to die of a medication overdose after surgery.

After Amado Carrillo Fuentes died, his Juárez cartel remained largely intact, as his brother Vicente and other key lieutenants were able to maintain control of specific geographic regions, according to a Drug Enforcement Administration report.

Guzmán Pérez, the congressman, noted that although authorities have captured "El Chapo" Guzmán, taking down his ally Carrillo Fuentes would be a direct hit on his operations.

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Carrillo Fuentes' arrest would mark the biggest victory for the Fox administration since the March 2003 arrest of Osiel Cardenas, head of the Gulf cartel. Cardenas, however, is said to continue to run his cartel from prison.

He was snatched from the city of Matamoros, across the border from Brownsville, after a series of fierce gunbattles.

"It is triumph, but just for the moment, as they are losing the war against the drug cartel," said José Antonio Crespo, a researcher in Mexico City who specializes in cartels and politics. "Once they put a cartel boss in prison, violence is unleashed as his lieutenants or rivals fight to be his successor. Of course there will be violence and it will splash on civilians and government employees."

The recently released United Nations World Drug Report 2005 says 77 percent of the cocaine destined for the United States passes through Central America and Mexico and that Mexican cartels control the majority of wholesale distribution within the United States.

The ongoing cartel battle has claimed at least 650 lives nationwide and about 70 in Nuevo Laredo, across the Rio Grande from Laredo.

As the busiest border crossing point for commercial traffic, Nuevo Laredo is the prime battleground for the cartel wars. Authorities contend the cartels often hide drugs in legitimate cargo.

Mexico Believes It Captured Drug Cartel Leader (REU)

By Catherine Bremer

Reuters, July 5, 2005

MEXICO CITY, July 4 (Reuters) - Mexico believes it may have captured Vicente Carrillo, boss of the powerful Juarez drug cartel, in what would be a major victory in a war on drug gangs responsible for an explosion of violence on the U.S. border.

But Mexico's main television network said Monday that DNA tests had showed the captured man was not Carrillo, one of Mexico's biggest drug barons and listed as one of the U.S. Drug Enforcement Administration's top 10 major international fugitives.

The suspect was arrested in a Mexico City shopping center on Saturday.

Prosecutors were carrying out DNA tests and fingerprint checks to confirm his identity because of the extensive plastic surgery Carrillo has reportedly used to change his face.

"We presume this is Vicente Carrillo, but it is not completely confirmed," government spokesman Ruben Aguilar said. "I can only confirm the (arrest), and during the day the attorney general's office will give details on the subject."

But a statement promised by the attorney general's office did not appear and the Televisa network said the man arrested was in fact an architect, Joaquin Romero Aparicio.

"They have finished the DNA tests and they are not compatible at all with this drug trafficker," Televisa said on its main night news show, without giving a source for its information.

The attorney general's office said a suspect who was possibly Carrillo had been arrested after a tip from a witness who was being protected, but said it could be several days before DNA tests confirm his identity.

"A person has been arrested and is being investigated, possibly Vicente Carrillo, but we still don't have information that allows us to determine if he is or not," a spokesman at the attorney general's office said.

"They are carrying out checks but they don't have the data yet. Waiting for the DNA results would mean a minimum of three days and then any extra time," he said.

BROTHER OF "LORD OF THE SKIES"

Carrillo, who runs the Juarez cartel along with sidekick Juan Jose Esparragoza, is the brother of cartel founder Amado Carrillo, whose own attempts to change his appearance with plastic surgery led to his death on the operating table in 1997.

The U.S. DEA's Web site describes Carrillo, a former police officer, as "armed and dangerous".

Based in the grim border city of Ciudad Juarez, notorious for a spate of brutal murders of women, the Juarez cartel is a confederation of clan-like crime families who smuggle Colombian cocaine and locally grown marijuana to the United States.

In its heyday in the 1990s, the cartel used a stripped Boeing 727 passenger jet to haul tons of cocaine north, earning Amado Carrillo the gangland tag of "El Senor de los Cielos" or "Lord of the Skies".

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More than 500 people have been killed so far this year in drug-related violence which has escalated since President Vicente Fox launched a "mother of all battles" on drug gangs at the start of the year.

Last month, troops arrested a brother of Joaquin Guzman, Mexico's most wanted man and leader of the Sinaloa cartel.

The government says it has made hundreds of other arrests this year in the northern states of Tamaulipas, Sinaloa and Baja California.

Aguilar also said on Monday that U.S. police had arrested Martin Rojas, suspected mastermind of the April murder of Raul Gibb, owner and editor of a newspaper in the state of Veracruz that published articles about an illicit fuel smuggling racket allegedly run by Rojas.

Alleged Mexico Drug Cartel Leader Arrested (AP)

By MORGAN LEE

The Associated Press, July 5, 2005

MEXICO CITY (AP) - Authorities believe they've arrested the leader of Mexico's most-powerful drug gang, but the suspect's family said Monday night that it was a case of mistaken identity.

Ruben Aguilar, President Vicente Fox's spokesman, said Mexico's Federal Agency of Investigation captured a man going by the name of Joaquin Romero in a Mexico City shopping mall on Saturday. He said the suspect was being fingerprinted and his DNA checked to confirm his real identity - but that he might be Vicente Carrillo Fuentes, believed to be the leader of the Juarez cartel.

``Right now, it is likely Vicente Carrillo Fuentes, but it isn't completely confirmed," Aguilar said.

Mexico's Attorney General's office didn't comment on Aguilar's announcement, however, and the Televisa network raised more doubt by interviewing family members who said Romero was an architect and loving father who had nothing to do with drug trafficking.

Televisa also showed a picture of Romero in which he appeared to look like a photo taken of Carrillo Fuentes. The network suggested that the similarity of the two pictures - and little other evidence - prompted the arrest.

Federal investigators could not be reached to comment on Televisa's assertions.

Drug leaders often use false names and change their appearance to avoid capture. Carrillo Fuentes' brother, Amado, led the cartel until 1997, when he was believed to have died during botched plastic surgery.

If the arrest is confirmed, it would be a blow to the Juarez cartel, the only drug gang that hasn't had a top leader arrested amid a nationwide crackdown.

As rival organizations - including the Gulf cartel and the feared Arellano Felix gang - lost their leaders to government operatives, the Juarez cartel flourished and has been waging a bloody battle for control of drug routes all along the U.S. border.

But U.S. and Mexican law enforcement authorities say Carrillo Fuentes' influence within the Juarez organization has been on the decline.

Juan Jose Esparragoza - also known as ``El Azul," or Blue - has worked his way to the top of the organization along with several other men with close ties to cocaine producers in Colombia, according to the Mexican Attorney General's office and the FBI.

The Juarez-based gang's power became legendary in the 1980s and 90s under Amado Carrillo - better known as ``The Lord of the Skies" - for flying planeloads of cocaine into the United States.

In recent months, the Juarez cartel's battle to control the few spots out of its reach along the U.S.-Mexico border - mainly the city of Tijuana to the west and the stretch of border between Nuevo Laredo and Matamoros to the east - has left scores dead and prompted U.S. officials to warn tourists about traveling to Mexico's northern border area.

Mexico Debates Stepped-up Drug War (DMN)

By Lennox Samuels And Laurence Iliff

The Dallas Morning News, July 5, 2005

MEXICO CITY – Mexico finally is fighting the war on drugs that the U.S. government has demanded for decades: a frontal assault on drug barons, their organizations and their merchandise, using the police and military in concert with U.S. intelligence.

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LOUIS DeLUCA/DMN Mexican government troops had to patrol the streets of Nuevo Laredo in June to control the violence attributed to rival drug trafficking factions.

The results, Mexican and U.S. authorities say, have been impressive. Forty-six thousand people jailed on drug charges, President Vicente Fox said in a recent speech, 97 tons of cocaine seized, more than a million marijuana plants destroyed. It's been four years, Mr. Fox and U.S. officials said, of steady progress.

But a rising chorus of voices in Mexico and the U.S. says the real results are record levels of violence, instability and corruption in Mexico, resurgent drug cartels, nearly 200 dead police officers and soldiers, along with millions of wasted dollars in a country where half the population of 105 million is poor. Mexico receives almost no aid from the U.S. government.

And the result in the U.S.? No noticeable drop in the supply of cheap drugs – and an actual decline in the price of cocaine, according to a new U.N. report.

Some analysts say Mexico's approach has not only failed to stanch the flow of drugs but is also destabilizing the young democracy. Mexico needs to turn back now, they say.

"The Americans pressure us to carry out a head-on drug war, and when the situation starts to get out of control, the Americans complain that there is violence on the border," said political commentator José Antonio Crespo. "There is no way of making them happy because they always have some reason not to be."

Before the violence spirals out of control, as it has in Colombia as a result of similar policies, Mr. Crespo said, Mexico should go back to pretending to fight an unwinnable war rather than fighting it in earnest.

"If the United States is not going to legalize drugs, then Mexico has to come to terms with the narcos," he said. "There were agreements in the past to let 80 percent of the drugs through, to allow some seizures for the Americans and for the media, and there was a lot less violence."

Mr. Fox said recently that is not an option.

"We have the strength, the capacity, the moral integrity to win this battle," Mr. Fox said June 24 to mark the international day on fighting drug abuse and trafficking. "What is at stake here is the future of our girls, boys and young people."

Mexico's interests

Dave Murray, a policy analyst with the White House Office of National Drug Control Policy, said Washington understands the sacrifice being made by Mexico, but that it also is in Mexico's interest to fight the traffickers vigorously.

"It's been a horrendous fight for them. We have to salute their willingness to take on this fight," said Mr. Murray. But turning a blind eye is not an option.

"If drugs transit through your country and you think, 'Well it's just for those norteamericanos. The money comes to us, the drugs to them. What's the problem?' They soon discover drugs are left behind as payment in kind for services provided. And local traffickers soon become drug dealers. And to whom do they sell? To local kids," said Mr. Murray.

"The problems will become worse and worse as narcotraffickers corrode the system ... and you will find them growing into a power within the nation that can actually threaten the legitimacy and viability of democratic governments."

But that, critics say, is just what is happening now with the stepped-up war.

Northern border cities such as Nuevo Laredo essentially have slipped out of the government's control despite increasing deployment of soldiers and federal police, some analysts say.

More drugs are getting left behind because of the drug fight, they say, and addiction is up at home.

The nightly accounting of deaths associated with the drug fight has made public security the No. 1 issue among Mexicans in recent months, overtaking unemployment and the lackluster economy, according to a public opinion survey by the Televisa TV network.

Tourism to the Texas-Mexico border is down. For Mexican critics of the policy, an upside is hard to find.

Even the U.S. State Department acknowledges that not much has changed.

"Despite its intense law enforcement efforts, Mexico is the leading transit country for cocaine and a major producer of heroin, methamphetamine, and marijuana destined for U.S. markets," said the 2005 International Narcotics Control Strategy Report.

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Further, it acknowledged: "As a result of the huge traffic in drugs, Mexican criminal organizations dominate operations, controlling most of the thirteen primary drug distribution centers in the U.S. The violence of warring Mexican cartels has spilled over the border from Mexico to U.S. sites on the other side."

Comprehensive plan

Some critics say the two countries need a more comprehensive anti-drug policy that focuses on demand as well as supply.

"The policy is working in part, in the sense that we are catching and arresting the drug lords," said Sigrid Arzt of the nongovernmental organization Democracy, Human Rights and Security. "The problem is that the policy has focused on beheading the cartels without additional strategies to deal with consumption and things the U.S. should do in its own territory, such as decreasing the market.

"There will always be someone in line to succeed these drug kingpins. I mean, this is a huge economic business."

Mexico's anti-drug policy should incorporate "prevention, education and information," said Ms. Arzt, founder and partner in the organization. She said the government must do a better job of explaining to Mexicans why the drug problem is such a serious issue.

"People hear that drugs is a national security problem," she said, "but no one truly grasps the dimensions of tolerating this. We need to have a culture of understanding. And the government must work on building confidence in the actions it is doing."

A State Department official expressed a similar reservation.

"One of the things that the Mexican government could do a better job of is coming to the public [and saying], 'We have to stay in this for the long haul, for our survival. Do you want your kids to grow up in a violent and dysfunctional place?' Maybe that's what's lacking," the official said, speaking on condition of anonymity.

U.S.-inspired drug policies have been "a negative in terms of cost" to such countries as Mexico and Colombia, said Gary S. Becker, economics professor at the University of Chicago. He said the drug war has hindered Colombia's economic growth rate and "the preoccupation with cartels has hurt the country."

"Mexico may be moving in that direction," said Dr. Becker, who won the Nobel Prize for economics in 1992. "This is a very expensive process for the U.S. and other countries, and there's little bang for the buck, as it were.

"My conclusion is that we have to look at more radical solutions such as legalization of drugs."

Dr. Becker acknowledged, however, that such a development is unlikely any time soon, noting that "the vast majority of politicians are unwilling to take on legalization in any serious way."

The State Department official said neither Mexico nor the U.S. can afford to let up despite the prospect of "a long, vicious, difficult struggle."

"What's the alternative? Just let them do whatever they want and we won't have the violence? No, because then you'll end up with complete control by criminal elements. I certainly don't want to belittle the sacrifices ... but do you really want organized crime running your country?"

Staff writer Michelle Mittelstadt in Washington contributed to this report.

Drugs, Guns And Money (SDUT/Copley News)

By S. Lynne Walker, Copley News Service

The San Diego Union-Tribune/Copley News, July 2, 2005

NUEVO LAREDO, Mexico – Every day at noon, church bells ring out across this city reminding people to pray for peace.

They peal for a respite from the violence that has claimed more than 70 lives this year, including Nuevo Laredo's newly appointed police chief.

They peal for the safe return of scores of residents who have disappeared and for the salvation of children who are being lured into the drug trade.

"At least 10 of every 100 families have been touched by violence. There is a culture of death here," said Father Jésus Salazar, a Catholic priest. "The only thing that is important to drug traffickers is the profit, the weapons, the power."

For almost three years, people in this dusty border city of 500,000 have been trapped in a deadly war being waged by two drug cartels for control of the lucrative corridor between Nuevo Laredo and its U.S. sister city, Laredo, Texas.

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One of the cartels is led by Joaquin "El Chapo" Guzmán, who escaped from a maximum-security prison in 2001 by hiding in a laundry cart. The other is headed by Osiel Cárdenas, who is locked in a maximum-security prison near Mexico City, but whose reach still extends to the border.

The two drug kingpins are vying for control of the most important commercial crossing between the United States and Mexico, according to law enforcement officials on both sides of the border.

Roughly 9,000 tractor-trailers rumble over Nuevo Laredo's World Trade Bridge into the United States each day, accounting for almost 50 percent of the U.S.-Mexico commercial border traffic. The volume of truck traffic is so overwhelming that, U.S. officials acknowledge, truckloads of narcotics slip through undetected.

The violence has escalated in recent months as the cartels struggle to control this gateway into the United States.

"Neither cartel has been able to gain the upper hand and neither one is going to give up because the prize is so valuable," said a U.S. official who spoke on the condition of anonymity.

Both traffickers have deployed squads of hit men to carry out brazen killings – often on busy city streets and sometimes in broad daylight, according to Mexican federal law enforcement officials.

Their lieutenants rented safe houses in neighborhoods throughout the city. And they flaunted their presence by driving through town in flashy pickup trucks and expensive cars, their faces hidden behind tinted glass.

The victims of the drug violence range from prominent public officials to teenagers.

Since January, six police commanders have been slain. On a sunny afternoon in June, a man linked by police to Cárdenas' cartel was shot dead in plain view of Nuevo Laredo Mayor Daniel Peña's City Hall office. That same weekend, shots were fired into a motel, an explosive device was thrown into one of the rooms and the occupants were kidnapped and never heard from again.

Often the victims are targeted because they are presumed to be loyal to the rival cartel. But sometimes they are ordinary citizens – a Popsicle seller, a bricklayer, a hair stylist – trapped in the midst of a gun battle.

"People say they live or die at the whim of the drug traffickers," said the U.S. official. "Everybody has become much more closed in, much more afraid. You can sense the psychological tension."

Restaurants and stores are closing. Retail sales are down. Unemployment is rising.

Some residents have sold their homes and moved to Mexico's interior. The head of the city's Public Security Commission now lives on the U.S. side of the border.

Those who stay sometimes find themselves wishing that one of the cartels would win, so the killing would stop and life in Nuevo Laredo would return to normal.

They can't go to weddings or parties for fear that drug traffickers will be among the guests. Teenagers are reluctant to strike up friendships because they might be meeting aspiring drug dealers. And little children talk about being narcos when they grow up, because narcos have the best trucks, the nicest jewelry, the most money.

"We are facing a difficult situation," Mayor Peña said.

To try to show that the city is safe, Peña drove his SUV along Nuevo Laredo's streets last week without the protection of bodyguards.

"We have to set aside our psychosis, our fear," he said. "We have to convince ourselves that Nuevo Laredo is a place where we can live in peace."

U.S. toll The violence in Nuevo Laredo has also affected the U.S. side of the border.

Convention groups once visited Laredo, Texas, so they could go on cross-border trips featuring shopping and margaritas, but numbers have fallen because promoters are uneasy about sending Americans into Mexico.

Since August, 42 Americans have disappeared while visiting Nuevo Laredo, said Jim Dickmeyer, press attache for the U.S. Embassy in Mexico. Nineteen have reappeared, four were apparently killed and 19 are still missing.

"People think that they can't come to Laredo without a bulletproof vest," said Laredo Mayor Betty Flores. "We don't have a beach, we have a border. And now that is hurting us."

The violence has strained relations between two cities whose ties are so deep that for 106 years they've celebrated George Washington's birthday by meeting on the international bridge for a neighborly embrace.

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Flores said she has been asking for U.S. federal assistance for four years, a request that has gone unanswered. When the Texas received $40 million from Homeland Security last year, Laredo's share was just $100,000.

"We haven't gotten the help we needed," Flores said. "There's still not enough attention on the southern border of the United States, from Brownsville to California."

Overlooked Today, Nuevo Laredo has no police chief or police force.

The last chief, Alejandro Domínguez, was gunned down June 8 outside his office just seven hours after taking the job.

Since his killing, the entire police force – 700 officers – has been detained for background checks and drug testing. Fox sent soldiers and federal agents to replace them, warning Mexicans that the fight to defeat the cartels would be "long and bitter."

Domínguez, who was head of Nuevo Laredo's Chamber of Commerce, was known as an honest, civic-minded man. He had once worked for the federal attorney general's office and believed he could resolve the city's growing crime problem.

He took the job when nobody else would, turning a deaf ear to his wife's plea that he give up the idea of being chief. The previous chief had quit in early May to become the City Council's secretary.

Jacobo Suneson, vice president of tourism at the Chamber of Commerce, said Domínguez "genuinely wanted to help."

Suneson sat beside Domínguez at Chamber meetings. "He thought he could clean it up," Suneson said of his colleague. "When this man gets assassinated seven hours into the job, what is the message? What they're trying to say is, 'Don't get in our way.' "

The swift and brutal killing of Domínguez reminded a stunned world that Mexico is still in the grip of drug cartels.

The arrests in recent years of several drug traffickers – including Gulf cartel leader Cardenas, Tijuana cartel leader Benjamín Arellano Félix and the Amezcua brothers – strengthened other cartel leaders. Guzmán, a short, chunky man with a moustache, is now considered one of Mexico's most powerful cartel bosses.

"He is very ambitious and very active," said Misha Piastro, a Drug Enforcement Administration spokesman in San Diego. "He's extremely clever and he's willing to invest the time and money to do big projects."

A 26-page federal indictment handed down against Guzmán 11 years ago in San Diego accused Guzmán, 51, of trying to ship seven tons of cocaine packed in cans of jalapeño chili peppers across the border at Tecate.

The indictment also described a tunnel he ordered built in Otay Mesa, complete with railroad tracks and lighting, and accused him of building another tunnel that ended under a pool table in a Douglas, Ariz., bar. The table was raised and lowered with a hydraulic lift, Piastro said.

The U.S. government is offering a $5 million reward for Guzmán's capture, and DEA agents in San Diego staff a 24-hour hotline to collect tips on his whereabouts.

Some of the tips that come through the hotline, which can be dialed from almost anywhere in Latin America, are valid. Others prove to be false.

One caller reported – erroneously – that Guzmán had been spotted dancing the tango in Los Angeles. But another caller may have been Guzmán himself "trying to verify that the hotline wasn't set up by his rivals," Piastro said.

"It wouldn't be out of character for him to do something like that," Piastro said. "He's pretty brazen."

Guzmán has proved a tough adversary for Mexican law enforcement.

"We are looking for him everywhere, but it's difficult to determine where he is," José Luis Santiago Vasconcelos, Mexico's deputy attorney general for organized crime, said during an interview with foreign correspondents earlier this year. "He's not a subject that we see established in one place, living, defended by a big group of gunmen."

For Nuevo Laredo's sidelined police force, Guzmán and his hit men have been fearsome targets.

Police officers are ill-equipped, under paid and threatened with losing their lives if they oppose the cartel bosses.

"There were very brave police trying to function in an inferno of battle around them," said the U.S. official who requested anonymity. "How can a normal person function in that kind of environment? You have to ask yourself what you would do if someone shoved a picture of your child in your face and said he could be hurt. What would you do?"

Even the federal agents patrolling Nuevo Laredo acknowledge they are no match for drug traffickers.

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"They have better weapons and better communications than us," said an armed agent of the Federal Agency of Investigation, the Mexican equivalent of the FBI, who declined to give his name for fear of being fired. "We don't have the tools we need. But we do the best we can."

Training officers Omar Pimentel is training a new generation of police officers to fight crime in Nuevo Laredo.

Pimentel, a 37-year-old former highway patrol officer who heads the city's police academy, will watch his first recruits graduate on Monday.

"I have dedicated myself to giving them quality training," he said, "so they will be career police, not police who fill their pockets."

Tall, slender and dressed in a pink Polo Ralph Lauren shirt, Pimentel is now being mentioned as the top candidate for the job of police chief.

Although he wants to continue his work at the academy he said "if they call me, if they invite me, I would take it with great pleasure."

His wife, who is pregnant with their second child, is terrified that her husband might accept the dangerous post.

Pimentel knows the job is risky and even admits the idea sometimes makes him nervous.

"The person that they designate has to be a person who knows what he is going to do, what he is going to say. He has to be very intelligent, very cautious not to have problems in his job."

Pimentel says his parents worry for his safety, too.

"They ask God to watch over me so everything comes out well."

Mexico's Master Of Elusion (LAT)

By Richard Boudreaux

The Los Angeles Times, July 5, 2005

BADIRAGUATO, Mexico — The voice was unmistakably his. Mexico's most wanted criminal was back in his rural stronghold in the western Sierra Madre.

But when 200 army paratroopers swooped in by helicopter minutes after the voice registered on a wiretap, he was gone. The soldiers found only a few ranch hands and the drug baron's Hummer and Dodge Ram pickup, which they blew up before retreating in frustration.

The November raid was the closest a government search party has come to Joaquin "El Chapo" Guzman since he slipped out of a maximum-security prison in a laundry cart 4 1/2 years ago.

On the lam with a satellite phone, laptop computer and AK-47 rifle, the 50-year-old fugitive has rebuilt his empire and started a war with rival smugglers that has claimed more than 600 lives this year. Although Mexican officials call him one of the most prolific, innovative and ruthless traffickers they have ever faced, his disappearing acts have made him a folk hero.

The 5-foot-6 kingpin's nickname means "Shorty," but there is nothing diminutive about the shadow he casts on Mexico and the United States. The story of his mercurial career and bid for underworld supremacy offers a glimpse of a violent industry that bedevils both countries.

Although U.S. officials have repeatedly praised Mexico's anti-drug efforts under President Vicente Fox, including the arrest of 18 cartel leaders over the last four years, Guzman's elusiveness is an embarrassing symbol of the country's failure to stop the bloodshed or slow the flow of cocaine, heroin, marijuana and amphetamines into the United States.

"He is the last of the Mohicans," said Jorge Chabat, a Mexico City expert on law enforcement issues. "All the other big cartels have been decapitated. That is why they want him so badly."

U.S. authorities also want to get Shorty, who was indicted in 1995 in San Diego on charges of money laundering and conspiracy to import tons of cocaine. In December, federal authorities offered a $5-million reward for tips leading to his capture and are sharing intelligence with Mexican authorities.

Since then, the dragnet has tightened with the arrests in Mexico of Guzman's 21-year-old son (nicknamed "Little Shorty"), a brother, two nephews and a niece, all accused of aiding his drug business. Nine houses and six vehicles belonging to him and his associates were seized in June.

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Rival drug traffickers are after him too. They killed another of his brothers and two of his associates in a Mexican prison last year.

But so far the heat on Guzman has merely enhanced his mystique as an untouchable outlaw constantly on the move, escorted by 10 armed bodyguards and apparently shielded across Mexico by a web of corrupt officials to whom he once boasted paying a total of $5 million per month.

By sport utility vehicle and private aircraft, he shuttles among safe houses in 16 of Mexico's 31 states, according to an army intelligence report. "He is practically a guerrilla of drugs," said Jose Luis Santiago Vasconcelos, Mexico's deputy attorney general for organized crime.

A ballad recorded by Los Buitres (The Vultures) and sold on CDs across the country is part of a popular narco-culture that glorifies Guzman's life on the run and the exploits of other kingpins.

He sleeps at times in homes, at times in tents

Radio and rifle at the foot of the bed

Sometimes his roof is a cave.

Guzman does seem to be everywhere.

"Once, on a single day, I got tips of sightings in Nuevo Laredo, Mochicahui, Badiraguato, Mexicali, Caborca and Agua Prieta," said J. Jesus Blancornelas, a Tijuana newspaper editor who is knowledgeable about the drug cartels. "Everyone thinks they are seeing him."

The difficulty of arresting Guzman becomes starkly evident in the isolated, mountainous terrain of Badiraguato, the 2,000-square-mile municipality in Sinaloa state where he was born.

His ranch at La Tuna is a five-hour drive on bad roads from Badiraguato's well-kept urban center. Between the ranch and the outside world are several thousand families who have lived for generations on the proceeds of marijuana and poppy cultivation. They complain of government neglect and defiantly replant their illegal crops as fast as the army destroys them.

"Some of them have benefited from his generosity," said Santiago Vasconcelos, the federal prosecutor. "They see him as a hero. They cover for him, and when any stranger comes into the communities, they warn him."

"It's similar to trying to find Osama bin Laden," a U.S. law enforcement official said.

Badiraguato's 29-man police force does nothing to stop his security detail from setting up checkpoints, people in the area say. "When the cops pass El Chapo on the road, they call him Boss," a resident said.

But most people here are reluctant to utter Guzman's name, much less acknowledge his comings and goings. "We do not know in the slightest whether or not this famous Chapo even exists," said Jose Luis Morales, the municipality's No. 2 official.

Residents who are willing to talk about him are unwilling to give their names. They say the drug baron spreads cash like a benevolent father, paying for public works and medical care for the needy. They say he shuns fancy jewelry, has a wife and several mistresses, comes home frequently and throws catered parties at the ranch but never stays long.

When federal police raided one of his parties, in November 2003, Guzman and his guests had been tipped off and left behind four hapless narco-balladeers of La Sombra Nortena (the Northern Shadow), who had been paid $4,000 to entertain. They and their sound man were arrested on charges of possessing marijuana and a firearm.

Guzman's illicit empire is proof that someone with a third-grade education can rise to the top in Mexico as long as his family is well connected.

A former mistress, Zulema Hernandez, told author Julio Scherer for a book about Mexico's prisons that Guzman felt deprived growing up and was haunted into his adulthood by "a terror of returning to poverty." As a boy, she said, he toiled on his grandfather's farm after his abusive father kicked him out of the house.

Poor or not, Guzman was a nephew of the late Pedro Aviles Perez, a founding father of the Sinaloa drug cartel. He eventually joined its payroll as an overseer of illicit crops.

The cartel's rise in the 1980s marked the birth of large-scale Mexican drug trafficking. Already producing and exporting marijuana and heroin, it took over the shipment of South American cocaine through Mexico to the U.S. Southwest after U.S. authorities closed off air and sea smuggling routes into Florida.

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Guzman rose quickly to become the cartel's import manager. It was his job to get planes, boats and trucks full of cocaine into Mexico, while his cousin Hector Palma took charge of moving the drugs by land to clients in the United States.

By 1989, Aviles was dead and cartel co-founder Miguel Angel Felix Gallardo was in prison. The cartel broke up, with Guzman and Palma taking a chunk of the operation that was moving up to 24 tons of cocaine a month, U.S. law enforcement officials say.

Guzman, the dominant of the two cousins, began to gain notoriety for two qualities: brutality and creativity.

Challenged by the Arellano Felix family for control of the cartel, Guzman went to war. The Arellanos, who were related to the imprisoned Felix Gallardo, set up base in Tijuana. In 1992, Guzman sent 40 gunmen to a Puerto Vallarta disco where the Arellanos were partying. Nine people died in the commando-style raid.

Meanwhile, Guzman devised innovative ways to move ever larger quantities of cocaine. He smuggled the powder inside fire extinguishers and set up phony food distribution warehouses so he could move it, truckloads at a time, in cans labeled chili peppers.

"He thinks big," Drug Enforcement Administration spokesman Misha Pilastro said. "When Chapo gets involved in a drug deal, we're talking about extremely large quantities. Tons."

First arrested in 1991, Guzman bribed the Mexico City police chief $50,000 to let him go. Later testimony in Mexico alleged that he enjoyed the protection of the country's top law enforcement officials at the time.

His imprisonment in 1993 resulted from his feud with the Arellanos, who had sent gunmen to ambush him at the Guadalajara airport. Instead, they shot the city's Roman Catholic cardinal, Juan Jesus Posadas Ocampo, whose death brought public pressure on the government to move against the drug barons. Guzman was arrested 16 days later in Guatemala.

Living in luxury at El Puente Grande, the maximum-security prison near Guadalajara, he allegedly kept his hand in business with messages passed through his lawyers. Shortly after Mexico's Supreme Court ruled that he could be extradited to the United States, he escaped.

The prison warden and more than 30 guards were implicated in what one narco-ballad immortalized as the "breakout of the millennium." Mexican officials have been trying to recapture him ever since.

Staying a step ahead of them, Guzman adapted to changes in the drug business during his 7 1/2-year imprisonment. Facing a federal administration less susceptible to bribery than its predecessors, he has made his operation more mobile and relied on corrupt local officials.

Despite being semiliterate (he once used a ghostwriter to pen love letters to a mistress), he has mastered the Internet as a tool to make multimillion-dollar deals without risky face-to-face meetings, U.S. officials say.

Equally important, Mexican authorities say, he has gained the financial and armed support of key Colombian traffickers who had lost faith in the Mexican cartels as the Fox administration infiltrated their ranks and captured their leaders.

"He was at the top of his game before he went to prison, and it was only a matter of time before he'd get back up there if he stayed alive," a U.S. law enforcement official said. "He's definitely back. He's strong. You can tell from the violence, he's more and more out there."

His rivals have fallen one by one since 2002. Ramon Arellano Felix is dead, and his brother Benjamin is in prison, along with Gulf cartel boss Osiel Cardenas, exposing their Baja California and Rio Grande territories to Guzman's forays.

One U.S. official says gangs led by Guzman and two allies now control all drug traffic along the Arizona and New Mexico borders and are fighting for gateways into Texas and California in a battle involving hundreds of gunmen.

U.S. officials say there is no evidence that the violence has diminished Guzman's operation or the overall flow of drugs from Mexico. But the Mexican manhunt is focused enough, they believe, that in the long run Shorty will go down. "He's a very high-profile target, and eventually he'll make a mistake and get caught," a U.S. official said.

To Guzman's neighbors in the Sierra Madre, the search is an exercise in futility.

Even with him gone, they say, little would change as long as Americans crave illegal drugs and Mexico remains a poor country with weak law enforcement. As they have for generations, the highlands of Sinaloa will keep producing narcotics and "other Chapo Guzmans," said Jose A. Rios, who once represented the state in Mexico's Congress.

For now, Chapo remains a fugitive and keeps popping up in the unlikeliest places.

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On a Saturday evening in early May, he strode brazenly into an upscale restaurant in Nuevo Laredo, a violent border city whose drug trade his gunmen are still fighting to control. The general had come to survey the battlefield.

With his bodyguards blocking the doors, Guzman instructed about 40 astonished customers to stay seated and refrain from using their cellphones. "Don't be alarmed," he said, according to witness accounts confirmed by the FBI. "Order whatever you want and I'll pay."

When he had finished dining, he plunked down thousands of dollars in cash, stood up calmly and vanished into the night.

Authorities Offer Little Help, Hope To Families Of Missing (HC)

By James Pinkerton

Houston Chronicle, July 4, 2005

NUEVO LAREDO, MEXICO - Nancy Segovia, an anxious 20-year-old wife and mother, searches for a husband who did not return from his job as a Nuevo Laredo policeman three weeks ago.

Two Laredo men, William Slemaker, 52, and Pablo Cisneros, 49, search for their daughters, who vanished 10 months ago while visiting this violence-torn border city.

Last week, the three stood in 100-degree-plus temperatures outside a Mexican military base, trying to learn whether their loved ones were among the 44 people rescued by federal agents from two safe houses operated by a drug cartel.

The wife and fathers gathered with hundreds of others from both sides of the border, desperate for information about people known as los des- aparecidos, or the missing ones.

The rescue operation June 29 raised the hopes of Segovia, Slemaker, Cisneros and many others looking for relatives who vanished, with no ransom demands, during a three-year turf war between rival drug cartels. Each was disappointed.

In Nuevo Laredo, the faces of the missing stare out from homemade posters attached to street lights, taped to doorways of police stations or printed in newspaper ads. In a city that has seen more than 70 killings linked to the drug war so far this year, the missing are largely unknown to the public, and the local police seem to have done little to find them.

Federal officials said in Mexico City last week that many of the 44 victims were seized by city police who turned them over to cartel gunmen. One of the police commanders in Nuevo Laredo's 450-member force, Moises de Anda, said he did not know whether officers were kidnappers but "If the federal agencies investigating this are saying that (police officers abducted many of the captives), then it's probably true."

"People go on patrol, and you don't know what they do."

At the end of a week that began with good news, the two fathers and the young wife again were left to continue their searches, armed with few clues.

Disappeared in SeptemberThere were no ransom calls to either the men or the policeman's family, adding to the speculation the kidnappings were ordered by two powerful drug gangs fighting for control of Nuevo Laredo and its smuggling routes into Texas.

"We're at a point where we ... want to get past this nightmare," said Slemaker, a railroad worker and truck driver. " We want them dead or alive — but God forbid they are dead."

He said his stepdaughter, Yvette Martinez, 28, was last heard from on Sept. 18 when she drove back from Nuevo Laredo with Brenda Cisneros, who was celebrating her 23rd birthday.

The two women were returning from a concert and could see the American flag next to the international bridge when they called a friend, Slemaker said.

Slemaker and Pablo Cisneros, who runs an automotive business in Laredo, were tired and frustrated after a promising lead seemed to evaporate.

Many theoriesThe evening before, they gave a Mexican federal police commander the location of a ranch outside Nuevo Laredo where more kidnapped victims were rumored to be held.

The commander, in the presence of a reporter, promised that a rescue would be mounted the next day. But it did not happen, and the men could not locate the official for a follow-up meeting.

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Meanwhile, federal police did search at least one ranch outside Nuevo Laredo last week but did not find anything of significance, U.S. officials said.

In the months Slemaker and Cisneros have searched for their daughters, they have heard theories.

"I've been told several times that Yvette and Brenda were given as gifts to the bosses of the cartels," Slemaker said. "And now they are being used to cook and clean for the kidnapped victims. Others say they are being drugged."

Official numbers of the missing are hard to come by in Nuevo Laredo, where state police and prosecutors have jurisdiction over kidnapping complaints.

Human rights attorney Arturo Solis, in nearby Reynosa, said the kidnappings will continue until there is a top-to-bottom reform of police agencies. "They have to fight the impunity and the corruption within the police," Solis said.

The Center for Border Studies and Human Rights Promotion, which Solis directs, reported that 193 people had been kidnapped through June in the border cities of the state of Tamaulipas. It counted 59 abductions in Nuevo Laredo, 38 in Reynosa and 62 in Matamoros, the three major cities in the state. The other 34 occurred in small towns and villages on the border.

Last year, there were 121 kidnappings in the state, including 46 in Nuevo Laredo.

A spokesman for the U.S. Embassy in Mexico City said 42 Americans have been reported missing in Tamaulipas since August. The bodies of four were later found, 19 people were returned, and 19 remain missing.

Early last month, international attention focused on Nuevo Laredo when a new police chief was shot to death within hours of taking the oath of office. When a group of federal agents sent to the city to investigate the assassination was fired on by municipal police, federal authorities surrounded their headquarters and disarmed the officers.

Since then, 79 have been dismissed from the force, and 41 remain confined in Mexico City pending investigation into their roles in the encounter with federal police.

On June 9, the day after the chief's assassination, Nuevo Laredo police officer Gabriel Galarza, 32, did not return to the home he shares with Segovia after working a 4 p.m.-midnight shift.

Life in limboSegovia is a clerk in the traffic division at Nuevo Laredo police headquarters. Her office is in the same building as the state police officers investigating her husband's disappearance.

"They say they don't know anything about what happened to him or his vehicle," Segovia said. "In truth, I don't think they're looking. I don't see that they're doing anything."

Segovia has moved in with her mother, who cares for her 1-year-old daughter.

Segovia said her routine has taken on a drab sameness. After working an eight-hour shift, she swings by the unfinished home she and her husband were building on an unpaved street. The subdivision is called The Will to Work and is a working-class neighborhood next to the city's automotive junkyards on the industrial west side.

Inside the two-bedroom home, Segovia has left a scribbled message on a notepad telling Galarza that she loves him and asking him to call her. It sits on the dining-room table, next to a loaded clip from his assault rifle he left behind, along with his bulletproof vest.

An entertainment center in the modest living room holds pictures of her husband in police fatigues, proudly displaying an assault rifle, standing next to their daughter. The latest bill for her husband's credit card lies on the mantel, and Segovia opened it to show they owe $750.

"If he was corrupt, doing bad, we wouldn't have all these payments, all these debts and bills, because we are struggling," Segovia said.

Sudden changeHer father-in-law, Santos Galarza, 53, has been helping Segovia look for his son and his missing car, a 1994 green Honda Civic. But he said city, state and federal authorities have been of little help.

"I think it (the disappearance) was related to his work because he didn't have any enemies," said the father.

Both father and wife suspect that the police officer may have witnessed a crime, perhaps one committed by fellow officers. They think it is not a coincidence that he was suddenly assigned to stand guard alone at a school, a different assignment from his usual patrol duties.

And the day before he disappeared, a fellow police officer failed to return home after working the same shift at the same school, said the officer's father.

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Mexican federal authorities say the 44 captives freed last Sunday had been abducted in the last two months. Most of them, a top prosecutor said, were working for one of the two contending drug cartels and had been targeted by their rivals. The prosecutor did not name the gangs.

Rafael Garcia, the second-in-command of the Mexican attorney general's office in Nuevo Laredo, said the families of kidnapping victims are afraid to report the abductions.

"Since (the rescue), we've had 20 or 30 people who have made anonymous reports of abductions," Garcia said. "They call, or they come by and leave information. But they won't file an official complaint, because they are afraid of reprisals."

In Laredo, prosecutor Robert Balli said the kidnappers are either from the same police agencies that investigate kidnappings or are wearing identical uniforms and driving cars with identical police insignia.

"When you've been kidnapped by people you believe are from a particular law enforcement agency, you don't feel comfortable going to the same agency to file a complaint," Balli said.

Despite the fear and disillusionment, some people say the federal search for kidnapping victims has given them a reason to hope the missing may yet be found.

"They are getting results, no matter who they find," said liquor-store clerk Ramiro Villalobos, 19.

He said his 14-year-old cousin, Jesus Antonio Barcenas, was abducted from his home in March 2001 by armed hooded men dressed in black.

"They never called for a ransom," he said. "I think it was narcotics traffickers who made a mistake."

Villalobos said the boy's family reported the abduction to the authorities, but in the four years since the police have not reported any progress.

"Hopefully, he's alive," Villalobos said.

Search At Border Ranch Abruptly Ends (Express-News)

By Jeorge Zarazua

The San Antonio Express-News, July 3, 2005

NUEVO LAREDO, Mexico — Federal police abruptly ended their search for human remains Saturday morning at a remote ranch house on the edge of town here, leaving the property without saying what, if anything, they'd found.

All that was left inside the compound's cinderblock walls were piles of disturbed earth and a broken black metal gate.

A small contingent of Mexican military troops remained outside the beige-colored compound this morning, but the troops leader said they were on "routine patrol."

On Friday, an FBI spokesman said U.S. agents who had been on the scene earlier this week believed the bones that had been found were those of animals.

The FBI has since not returned here.

The headline in one of today's afternoon dailies in Nuevo Laredo screamed "NADA AUN," or "Nothing Yet"

Federal police spent all day Friday digging the patio of the ranch house in the sweltering heat in search of human remains believed to have been buried there by drug cartel hit men.

The ranch house is about nine miles south of the Texas-Mexico border near the Nuevo Laredo highway leading to Monterrey.

Authorities feared the remote compound hidden deep in brush land was used as a drug-cartel killing factory, where enemies were taken to be shot and cremated in large metal drums. The border violence is believed to be the result of drug cartels battling for control of vital smuggling routes for marijuana, cocaine and other drugs into the United States.

Authorities gleaned a tip about the property while interrogating more than 40 prisoners who were rescued last Sunday from separate houses in Nuevo Laredo.

The hostages were freed only to be jailed by Mexican federal police, who believe they in fact are criminals with underworld ties.

One of the hostages is being investigated as a possible suspect in a 2004 fatal shooting of a Laredo man.

Agents of Mexico's version of the FBI, known by the initials AFI, raided the ranch house Tuesday.

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Noel Ramirez Mandujano, an investigator with Mexico's attorney general's office, said investigators found pieces of charred bone, 200-liter metal drums, blood-tainted clothing and numerous shell casings inside the compound.

The bones, which FBI agents had viewed, were sent to Mexico City for DNA testing, according to Ramirez.

Authorities have not announced results of that testing.

The search at the ranch house seemed exhaustive Friday, with federal police using a Bobcat earthmover and later a backhoe at night to scrap several feet deep into the ranch house's patio.

A German shepherd trained to sniff out bodies also was brought in Friday afternoon.

Mexican federal police remained late at the ranch house Friday, leaving about midnight.

This morning, the search was suspended and the backhoe retrieved.

Meanwhile, the violence in this border city caught in the middle of a bloody drug cartel turf war continued late Friday night.

A Laredo man attending a birthday party was gunned down shortly before midnight. Business owner Hector Vallejo Quiroz, 34, died at the scene.

More than 70 people have been killed here this year and authorities are bracing themselves for even more deaths as summer temperatures continue to climb into the 100s.

Drugs Linked To Armed Forces (MH)

By STEVEN DUDLEY AND PHIL GUNSON

The Miami Herald, July 4, 2005

BEJUMA, Venezuela - In this deceptively tranquil farming village, people still talk about the "Bejuma massacre" in a whisper, partly because one man who spoke out is in a grave, partly because the killers were allegedly policemen.

But the source of the fear can be summed up in a single word: drug trafficking, on the kind of massive level and involving corrupt government officials that has long been a profound problem in neighboring Colombia.

Drug seizures in Venezuela doubled in the past four years. There are mounting allegations of drug-fueled corruption at the highest levels of the security forces, accompanied by what appears to be official indifference. Just last month, a suspected Colombian trafficker wanted in the United States escaped from a Venezuelan police lockup after allegedly bribing his guards.

The rising drug trafficking has become yet another sore point in relations between the Bush administration and Venezuelan President Hugo Chávez, a fiery populist who has repeatedly accused the U.S. government of trying to topple him.

"There are a few people who see [drugs] as a global problem, but those people are few and far between," said one Western counter-drug official who asked for anonymity because he did not have official permission to speak publicly on the topic.

Venezuela has long been a transit country for illegal Colombian drugs. But record seizures in 2004 that reached 32 tons of cocaine and 12 tons of heroin and marijuana put authorities on the alert.

"The organizations have grown more sophisticated," Mildred Camero, former head of CONACUID, the drug-fighting arm of the Venezuelan government, told a news conference earlier this year.

CARTEL ALLEGATIONS

Still, CONACUID and other law enforcement agencies have arrested few major traffickers and say they know of no Venezuelan cartels -- information that numerous police and counter-drug officials in Colombia contradict.

Venezuelan authorities indeed at times blame their neighbors for the scourge. "We have problems because we have countries that produce [drugs] along our border and there are weaknesses along that border because it's nearly 1,300 miles long," Camero told the news conference.

Colombia's drugs flow to other parts of the world on land and air routes through areas such as the Venezuelan state of Carabobo, where Bejuma is located, on the Caribbean Coast. Police describe Carabobo as a key link in the chain that sends tons of cocaine, marijuana and growing amounts of heroin to the United States and Europe.

And with the growing volume has come more drug-related violence and corruption at increasingly higher levels.

"There's been a huge transformation," said a foreign diplomat in Caracas who asked that he not be identified because of the sensitivity of his job. ``The corruption is reaching levels we've just never seen before."

THE GONZALEZ CASE

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The problem was nowhere more visible than in the case of suspected trafficker Eudo González, who according to neighbors often threw parties for police and allowed them to use a firing range on his Bejuma ranch.

But the heavily armed police and intelligence officers who showed up at his gate on Feb. 11, 2004, were not looking to party. By the time they were done, González and at least five of his employees were dead -- killed in a "shootout" that left not a scratch on any of the cops.

González and his brother Hermágoras were well known to counter-drug officials. A court in Virginia indicted Eudo on heroin charges in the mid-1990s. And officials of two foreign lawenforcement agencies told The Herald he was involved in drugs, gun-running and money-laundering, and could be Venezuela's top trafficker.

But the González brothers allegedly enjoyed the friendship of law enforcement officials far beyond the parties at Eudo's ranch.

When the police killed Eudo, he was carrying a National Guard identification card signed by the Guard's former head of intelligence, Gen. Alexis Maneiro, according to reports published by Mauro Marcano, a newspaper columnist and local radio program host in the small town of Maturín. Marcano also served as a municipal councilman in Maturín, a town in the region east of Bejuma where Maneiro once headed the National Guard detachment.

JOURNALIST KILLED

Marcano, 55, who was shot and killed by a gunman in September as he left his apartment, had long alleged the existence of a drug-smuggling group dubbed the Cartel of the Suns after the insignias of rank worn by Venezuelan generals -- as U.S. generals wear stars.

One foreign diplomat in Caracas familiar with anti-drug operations described the cartel as ``a large group of generals in the army and the National Guard, especially . . . They control a certain number of shipments out of Colombia, and they get a cut of those shipments."

The Western counter-drug official who asked for anonymity estimated that the group might be responsible for three-to-five tons of cocaine a month and 20-30 kilograms of heroin.

Venezuelan government officials have said little on the topic.

After The Herald made several attempts to interview Gen. Frank Morgado, head of the National Guard's anti-narcotics command, about the Maneiro case, Morgado responded via fax that his unit "has no information relating to that matter." He suggested consulting ``the relevant authorities."

Maneiro did not return repeated Herald phone calls to his office.

But the National Guard's own commitment to the fight against drugs has come under question.

EXITING THE TASK FORCE

Earlier this year, Guardsmen unexpectedly seized U.S.-donated equipment and vehicles from a mixed police-and-judicial investigative unit and withdrew from the task force, which works closely with U.S. officials. After several weeks of haggling, the Guard returned the equipment but has not rejoined the task force.

And last month, the government abruptly removed Camero -- one of the key U.S. allies in the government, according to officials at the American embassy here -- from her post at CONACUID. Also ousted were two senior officials in the prosecutor's office with oversight of drug cases.

"There have been some recent bumps in the road," U.S. Ambassador to Venezuela William Brownfield acknowledged to The Herald last month.

Gen. Maneiro's career has not prospered since the Marcano killing. Shortly afterward, he was removed from his post as commander of the Guard's 7th Region, which includes Maturín, and assigned to run the National Guard academy in Caracas.

But investigators have not questioned him or any other senior military and police figures previously fingered by Marcano, according to Reporters Without Borders, a Paris-based independent group that tracks abuses against journalists.

"The investigation," said one of its recent reports, ``has come to a complete halt."

U.S. Envoy: Venezuela Cooperation Slipping (AP)

By Associated Press

DOJ_NMG_0001381

The Associated Press, July 4, 2005

CARACAS, Venezuela -- A decline in cooperation between Venezuelan and U.S. authorities has weakened efforts to fight terrorism and drug trafficking, the U.S. ambassador to the South American country said.

"On the issue of illegal drugs, we have a situation where we have a reduction in cooperation between some police forces," U.S. Ambassador William Brownfield said in an interview broadcast Sunday on the Venezuelan television station Televen.

"I wish we could have more cooperation in passing along more information on matters of terrorism, the movement of specific people, Brownfield said, without giving details.

U.S.-Venezuelan relations have been marked by tensions during President Hugo Chavez's more than six years in power.

Chavez's close ties to Cuban leader Fidel Castro and his frequent criticisms of the U.S. government have coincided with U.S. officials' repeated statements of concern about his increasing domination of Venezuelan politics.

U.S. officials have denied Chavez's repeated accusations of backing plots against him, including a short-lived coup in 2002.

The United States remains the top buyer of oil from Venezuela, the world's fifth-largest oil exporter.

Venezuela's location next to Colombia also has made it a major transit point for Colombian cocaine headed for the United States and Europe.

U.S. Sees Security Hitches With Venezuela (REU)

Reuters, July 4, 2005

CARACAS, Venezuela (Reuters) - Cooperation between Venezuela and the United States to fight terrorism and drug-trafficking has run into problems and could be improved, the U.S. ambassador to Caracas said on Sunday.

William Brownfield said "complicated problems" had emerged in the relationship between Venezuela, the world's No. 5 oil exporter, and its biggest energy client, the United States.

Venezuelan President Hugo Chavez, first elected in 1998, is a fierce opponent of U.S. policies he calls "imperialist."

President Bush's administration has criticized Chavez as an increasingly authoritarian ruler and a left-wing anti-U.S. troublemaker bent on trying to destabilize Latin America in alliance with Cuban President Fidel Castro.

"At this moment, in the area of drugs, we have a situation in which we've had a reduction in cooperation between some U.S. and Venezuelan police forces ... I wish we could cooperate more," Brownfield told Venezuela's Televen television channel.

He said there had been problems in obtaining extradition from Venezuela of drug-trafficking suspects. Tons of illegal drugs like cocaine and heroin are shipped across Venezuela each year from Colombia to U.S. and European markets.

"I wish we could have more collaboration in passing on more information about terrorism affairs, about the movement of specific persons," Brownfield added, without elaborating.

Chavez, who often accuses Bush of plotting to topple or kill him, has cut back Venezuela's military cooperation with Washington. U.S. officials say he has increased ties with anti-U.S. states such as Cuba, Iran and Libya.

Chavez says the Bush administration backed a short-lived coup against him in 2002. He has threatened to cut off oil supplies to the U.S. if Washington tries to invade or harm him.

In a television broadcast Sunday, the Venezuelan president said his intelligence services had detected a war games exercise being practiced by the U.S. military, code-named Balboa, which he said simulated an invasion of Venezuela.

"They had better not make the mistake, I'm telling them, because if they do they'll be sorry for 500 years," he said.

Brownfield repeated U.S. denials of these charges. "There has been no plan, is no plan and will be no plan for an assassination, an invasion, a coup, a sabotage of oil production or any other intervention," he said.

FBI Investigates Late Night Fire At West Palm Beach Abortion Clinic (WPTV-TV)

By WPTV staff

WPTV-TV, July 5, 2005

Agents from the FBI have joined investigators from the Bureau of Alcohol, Tobacco & Firearms this morning at the scene of a late night fire at the Presidential Women's clinic in West Palm Beach. The origin of the fire at the clinic which performs

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abortions appears to be suspicious. There were no injuries. West Palm Beach mayor Lois Frankel will issue a statement this morning as investigators and firefighters remain on the scene.

Guns Over Democracy (WP)

Post

The Washington Post, July 5, 2005

PARLIAMENTARIANS gathered in Washington this holiday weekend from Europe and North America arrived just in time to witness the U.S. House of Representatives -- on the eve of the anniversary commemorating the signing of the Declaration of Independence -- trample upon the right of self-determination. Morphing themselves into city council members, a House majority overturned a city law and voted to allow D.C. residents to keep in their homes loaded shotguns and rifles, as well as handguns bought before 1976, unbounded by trigger locks or disassembled. The deed itself makes a mockery of Congress as a federal body. If the action is allowed to stand, however, the consequences could be even worse: The nation's capital will become a deadlier place in which to live.

The gun safety law that the House voted to repeal makes all the sense in the world. It enjoys the full backing of the city's mayor, council, police chief and, most important of all, the city's residents. Perhaps residents and their leaders want the law on the books because they know, even if the House does not, that properly locked or secured guns help prevent gun violence and accidental shootings. Perhaps District residents support their gun safety laws because they now see crime in their city at a 20-year low. Perhaps they also resent this imposition of House judgment because District residents, through their elected leaders, are authorized under the Home Rule Act to make their own laws. But perhaps they are outraged most of all because they have no vote in Congress. At the very time that the House was telling Americans living in the District what their local laws should be, Del. Eleanor Holmes Norton (D), the District's representative on Capitol Hill, had to stand by and watch -- unable to express her views with a vote.

We hope opponents of the House action are successful in stopping the repeal in the Senate. Clearly the last thing D.C. police need is another obstacle to charging negligent gun owners with gun safety violations or more cases of children dying from playing with guns. The notion of Congress encouraging citizens in the nation's capital to keep loaded and unprotected guns in their homes borders on insanity. Ironically, this quashing of self-determination is taking place under the eyes of the 55-nation parliamentary assembly of the Organization for Security and Cooperation in Europe, which is conducting its annual meeting in the city. On Saturday a committee of the group overwhelmingly supported a resolution calling for equal voting rights for D.C. residents. The plight of the voteless District is plain for the world to see.

TAX:

Lawyer's Fraud Trial Sparks Questions About Tax Court Procedure (LAW)

By Marcia Coyle, The National Law Journal

Law.com, July 5, 2005

A seven-year-old secret report by a special trial judge of the U.S. Tax Court in the lengthy and complex fraud trial of a renowned tax lawyer and his business partners found no fraud -- not even a suspicion of fraud -- by the three men, despite a subsequent Tax Court decision to the contrary.

The conflict between the original report and the Tax Court decision has prompted some to raise ethical questions about Tax Court procedures and to call on Congress to examine them.

The Tax Court recently released the report after the U.S. Supreme Court held earlier this year that "no statute authorizes, and the current text of [Tax Court] Rule 183 does not warrant," the concealment of special trial judge reports by the Tax Court.

The Supreme Court ruling -- Ballard v. Commissioner of Internal Revenue, No. 03-184, and Estate of Kanter v. Commissioner of Internal Revenue, No. 03-1034 -- followed years of litigation over the report in three federal circuits by lawyers for estate and tax attorney Burton W. Kanter and his business partners Claude Ballard and Robert Lisle, all of whom believed the report would exonerate them.

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"One of the enormous frustrations about the case, now that we've seen what the presiding judge found, is that the taxpayers, who had their reputations severely damaged, have been litigating for years and have spent a fortune just to get to [the] point of having the original findings of the judge who presided at trial," said Richard Pildes of New York University School of Law, counsel to the estate of Burton Kanter. "Two of the three taxpayers have died."

Special Trial Judge D. Irwin Couvillion oversaw the five-week trial in 1994 in which the government charged Kanter, Ballard and Lisle with $30 million in tax deficiencies and civil fraud penalties in three alleged kickback schemes. In his 300-page report, produced four years later, Couvillion, who did not have authority to issue the Tax Court's final decision, said the court "cannot find or conclude" that the claimed kickback schemes existed or, if they did exist, that there was tax fraud in connection with them.

He also said that the transactions on which the government based its fraud allegations "amount to only respondent's suspicious [sic] of fraud. The Court, however, does not consider these transactions as even rising to the level of suspicion of fraud."

A year later, Senior Judge Howard A. Dawson issued the final decision, saying he was "adopting the opinion of Special Trial Judge D. Irvin Couvillion," but ruled for the government on the fraud and most of the tax liability issues.

UNKNOWN DIFFERENCES

Because Couvillion's original report was secret, no one would have known of the differences between the two but for another Tax Court judge and the chief special trial judge at the time who contacted Kanter's trial lawyer and informed him of the reversal of the findings of fact.

The Tax Court denied requests for the report, saying in an order, "Judge Dawson states and Special Trial Judge Couvillion agrees, that, after a meticulous and time-consuming review of the complex record in these cases, Judge Dawson adopted the findings of fact and opinion of Special Trial Judge Couvillion," and Dawson gave "due regard" to Couvillion's credibility findings.

'DISTURBING' DIFFERENCES

But the report is "very different" from the 1999 opinion, said tax scholar Leandra Lederman of the Indiana University School of Law-Bloomington.

"Most important, the original report did not find that the taxpayers committed fraud; the opinion did," she emphasized. "These differences are disturbing. They raise questions about what the Tax Court means in Rule 183 cases when it says it 'agrees with and adopts' the findings of the trier of fact. This type of question may undermine confidence in the Tax Court's practices in Rule 183 cases."

Tax Court Chief Judge Joel Gerber did not respond to a request for comment on Rule 183.

The 11th U.S. Circuit Court of Appeals in the Ballard case (Ballard is the only survivor) ordered the Tax Court to produce the report and the parties to brief what should happen next.

The 7th Circuit in the Kanter case sent his case back to the Tax Court over a strong dissent. The 5th Circuit in the Lisle case had much earlier overturned the fraud decision and sent the case back to the Tax Court on deficiency issues, where it remains.

"We want the fraud and deficiencies -- which total about $10 million -- reversed," said Steven S. Brown of Chicago's Martin, Brown & Sullivan, counsel to Ballard and Lisle. "We think the 11th Circuit has all it needs to make its decision. We want the Tax Court to vacate its opinion [in Lisle]."

Internet Sales Taxes (NYT)

The New York Times, July 5, 2005

Thirteen years is a long time to get a pass. A 1992 Supreme Court decision has exempted Internet retailers from the obligation to collect most sales taxes on the grounds that it would be unduly burdensome. Back then, the country's thousands of state and local taxing jurisdictions all had differing rules.

But times have changed, and the law of the land should, too. Last week, 18 state tax collectors met in Chicago to announce an interstate agreement establishing uniform sales tax rules. Starting in October, the group will offer free software that will allow any business to easily collect the required taxes online.

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The states' demonstration project will drive home the point that online sales-tax collection can be done nationwide. Many retailers already collect the taxes. Now Congress should step up and pass a law overturning the court's exemption in states that have streamlined their tax systems. That would allow hard-pressed states to take in roughly $20 billion a year in annual sales tax revenue that is rightfully theirs, and perhaps much more, depending on the growth in online shopping. It would also help level the playing field between local and online retailers.

No one in Congress has proposed legislation yet, but Senator Byron Dorgan, a North Dakota Democrat, and Senator Michael Enzi, a Wyoming Republican, are working on the issue. Still, anti-taxers are already grousing. Among their complaints is that collecting sales taxes online would represent a tax increase, which they oppose on principle. That's disingenuous. Online sales have always been taxable. But it's impossible for states to collect any sales tax directly from shoppers unless the shoppers voluntarily send in the tax. For the tax to be enforceable, it must be collected by retailers.

A related objection is that federal legislation should not be used to resolve a state-tax issue. That's totally off the point. The only way to address the Supreme Court ruling is for Congress to pass a federal law.

As if sensing the hollowness of those arguments, Web merchants are already gearing up for the day when they'll be required to collect sales tax. The New York Times reported last week that eBay and Amazon were duking it out over the level of online sales at which tax collection should apply. An eBay spokesman quoted in the article said businesses selling "in the range of $5 million" should be exempt from any collection obligation. Noting that a company doing $5 million in online sales is hardly a mom-and-pop, Amazon says that if there is an exemption, it should be much more limited. We don't see why any business should be exempt.

Lawmakers should not become distracted. Sales tax collection by online retailers is an idea whose time is way overdue.

CONGRESS-ADMINISTRATION:

Gonzales Deflects Queries About High Court (AP-Y2)

By Mark Sherman, Associated Press Writer

AP2, July 5, 2005

U.S. Attorney General Alberto Gonzales deflected questions about his interest in serving on the Supreme Court and said Sunday that criticism about his conservative credentials did not bother him.

"Many of the people speaking probably don't have all the information about prospective nominees. What's important is what the president of the United States thinks about me," Gonzales told reporters while flying to the Middle East.

"That's evident by the position he has asked me to fill," said Gonzales, who made a surprise one-day visit to Iraq.

Gonzales will help screen nominees even though he is widely thought to be under consideration by President Bush to replace retiring Justice Sandra Day O'Connor.

On a trip to see U.S. troops as well as Justice Department and Iraqi officials, Gonzales was asked by reporters if he was flattered to be considered a possible nominee. "I just look at the job that I do as attorney general. I'm happy in that job," he said.

Attorney general since February, Gonzales has been a Bush confidant since Bush became governor of Texas in 1995.

Gonzales was the governor's chief counsel for two years before Bush appointed him to be Texas secretary of state. In 1999, Bush appointed Gonzales to the Texas Supreme Court. He joined the Bush White House in 2001 as its top lawyer.

Gonzales, 49, would be the high court's first Hispanic justice if he were nominated by Bush and confirmed by the Senate.

During their association, Bush often has cited Gonzales's heritage and modest background. The son of migrant farm workers from Mexico, Gonzales grew up in a two-bedroom house in Houston with seven siblings.

Some conservatives are questioning whether Gonzales is too moderate, particularly on abortion and affirmative action. Liberals have criticized his role in determining the Bush administration's legal positions on the treatment of detainees and other terrorism-related policies.

The Justice Department's Office of Legal Policy, working with Gonzales, will make recommendations to Bush about prospective nominees. Gonzales said the White House has been at work since 2001 on potential nominees if there were a Supreme Court vacancy.

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When Bush was the likely Republican nominee for president in 2000, he turned to Dick Cheney to lead the search for a running mate. Ultimately, Cheney himself got the job.

Senators Call For Calm On U.S. High Court Nominee (REU-Y2)

By Alan Elsner

Reuters, July 4, 2005

As conservative and liberal interest groups gear up for a bruising and expensive battle over the next Supreme Court nominee, senior Republican and Democratic senators on Sunday pleaded for calm, calling on both sides to tone down the rhetoric.

Both sides are preparing for a bloody political battle following Friday's resignation of Justice Sandra Day O'Connor, the first woman ever appointed to the court.

Her decision to retire gave President Bush his first opportunity to nominate a member of the nine-member panel, which plays a central role in shaping the social, cultural and political fabric of the United States.

Bush's choice must be confirmed by the Senate, where Republicans hold 55 of the 100 seats but lack the 60 votes necessary to break a filibuster, or blocking tactic, if the minority decided to try to mount one.

Judiciary committee chairman Arlen Specter, a Pennsylvania Republican who will run confirmation hearings for Bush's eventual nominee, was one of several senators who appeared on Sunday talk shows to urge calm.

"It would be very useful for the country if the rhetoric were to be toned down," he said on NBC's "Meet the Press."

"We have laid plans for a professional approach where we're going to keep the rhetoric down," Specter added.

Vermont Sen. Patrick Leahy (news, bio, voting record), the ranking Democrat on the committee, echoed his sentiments. "Let's take it easy. I had a long talk with the President on Friday. He assured me then that he wants to consult as he has before," he said.

Bush is expected to move quickly on the nomination after he returns from the Group of Eight summit in Scotland at the end of next week.

Utah Republican Sen. Orrin Hatch (news, bio, voting record) said on CBS' "Face The Nation" he had spoken to Bush on Saturday and expected a nominee within a couple of days after Bush's return.

DISCUSS VACANCY

Bush has invited Specter, Leahy, and Senate Majority Leader Bill Frist and Minority Leader Harry Reid to meet him on Friday to discuss the vacancy.

Meanwhile, pressure groups on either extreme of the political spectrum have already started running TV commercials and say they could spent a combined $40 million to influence the choice, which is seen as pivotal since O'Connor was often the swing vote in crucial court decisions.

Conservatives have already launched a preemptive strike against Attorney General Alberto Gonzales, a Bush favorite said to be a front-runner for the post, whom they view as ideologically suspect.

Christian conservative leaders have urged the White House not to pick him. Gonzales would be the first Hispanic ever to serve on the court.

Hatch said of Gonzales: "Some of the right wing groups, of course, are trying to push the President into getting the most conservative person they can get and they don't consider Judge Gonzales to be as conservative as some of the others... If he gets picked I am certainly going to support him."

Democrats are urging Bush not to pick a fight by nominating someone they might regard as a conservative extremist. "I hope that it is a mainstream conservative ... someone who really speaks to the great bulk of Americans," California Democrat Dianne Feinstein said on "Fox News Sunday."

"I think the president would do well to reach into the mainstream, to try to bring people together over this appointment, and I think it's very do-able," she said.

Massachusetts Sen. Edward Kennedy (news, bio, voting record), the leading liberal voice in the Senate, said he preferred not to have a brawl but that decision was up to Bush.

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"We're all hopeful -- again, this is up to the President. If he wants to pick a judge, we want to be able to support him, but if he wants to have a fight about it, then that's going to be the case," he said.

Court Battle Lines Drawn (LAT)

By Ronald Brownstein And Richard B. Schmitt, Times Staff Writers

The Los Angeles Times, July 4, 2005

WASHINGTON — Senators from both parties jostled Sunday to define the rules of engagement in the political struggle over President Bush's first Supreme Court nomination.

In appearances on all the Sunday talk shows, members of the Senate Judiciary Committee sparred about whether nominees should be asked their views on specific issues such as abortion; whether it was appropriate to apply more scrutiny to nominees who would change the court's balance of power; and what circumstances, if any, might justify a filibuster against Bush's eventual choice.

The partisan disagreements on so many issues, before Bush has selected his nominee to succeed retiring Justice Sandra Day O'Connor, underscore the conflict that may be ahead if the president's choice does not attract broad bipartisan support.

Indeed, on Sunday, senators and representatives of conservative and liberal interest groups even disagreed on whether Bush should feel obligated to select a nominee acceptable to both parties.

Adding to the edgy tone were continued signs of divisions among conservatives about Atty. Gen. Alberto R. Gonzales, widely considered one of the leading contenders for the nomination. C. Boyden Gray, who heads a broad conservative coalition that is supportive of Bush's judicial appointments, said he would support Gonzales if nominated. But a leading social conservative said there was "not a lot of enthusiasm" on the right for his selection.

"There is concern on the right, there's no doubt about it," Jay Alan Sekulow, chief counsel for the American Center for Law and Justice, a conservative group that specializes in religious rights, said on CBS' "Face the Nation." He added that Gonzales, who made a surprise trip to Iraq over the weekend, was doing a "fantastic job" at the Justice Department — and that Bush should keep him there.

The right is wary of Gonzales, seeing him as a supporter of abortion rights and affirmative action, based on his decisions while a Texas Supreme Court justice and his actions as White House counsel.

Democrats, meanwhile, have said that Gonzales' role in developing Bush administration policies on handling detainees in U.S. prisons in Iraq and at Guantanamo Bay, Cuba, could cause difficulties similar to those that complicated his nomination as attorney general this year.

White House aides have said Bush will announce his choice for the court after he returns from this week's Group of 8 summit of industrialized nations in Scotland. Bush is to leave Tuesday and return Friday evening. He has scheduled a July 11 meeting on the court with Senate leaders from both parties, and Sen. Orrin G. Hatch (R-Utah), a former Judiciary Committee chairman, told CBS that he expected Bush to reveal his decision "maybe even the same day or within a day or two."

On ABC's "This Week," the current chairman, Sen. Arlen Specter (R-Pa.), said he would be flexible on whether to schedule the confirmation hearings for the nominee in August or September.

"Our duty is to get this confirmation done by the first Monday in October," Specter said. "That's when the court starts in session, and we are going to meet that duty."

Some of the sharpest exchanges Sunday involved whether the nominee should be required to disclose his or her views on specific issues that could come before the court, such as abortion or same-sex marriage.

One senior Senate GOP aide told The Times on Saturday that Republicans believed the nominee should not be pressed to disclose views on specific cases. On Sunday, the Washington Post reported that GOP aides to the Senate Judiciary Committee had circulated a memo making that argument.

Sen. John Cornyn (R-Texas) said Sunday on ABC: "It's completely inappropriate to ask nominees to make promises to politicians about how they're going to vote, should a case come before them. And it's also wrong to ask a judge — not knowing how the case would be postured, what the facts would be — to prejudge these issues before they have a chance to hear all the evidence."

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But Cornyn seemed to crack open the door to asking nominees about Roe vs. Wade, the decision that guaranteed legal access to abortion, and other Supreme Court precedents: "I think it's an appropriate question to ask what their views are on cases that have been decided and judicial opinions that have been written."

Appearing with Cornyn, Sen. Charles E. Schumer (D-N.Y.) said the panel had a responsibility to broadly probe the nominee's legal views and ideology.

"This is such an important position, the U.S. Supreme Court," Schumer said. "With a flick of a pen they can change people's lives. I think it's a dereliction of our responsibilities if we don't ask these kinds of questions."

Schumer added: "To take one person's writing 30 years ago and say that disqualifies them, that's wrong. But to then just say, 'OK, tell us where you went to law school and what your career was; and have you ever broken the law? You're on the Supreme Court' — no way."

Sen. Joseph R. Biden Jr. (D-Del.), chairman of the committee when his party last controlled the Senate, told CBS that he didn't think "we should be talking about the outcome of specific cases" but instead should assess "what methodology a judge will use" in deciding cases.

In a view rejected by Republicans and conservative activists, Biden also argued that this nomination called for additional scrutiny because the nominee could change the balance of power on a court where O'Connor had frequently functioned as the swing vote.

Biden said the likelihood that the nominee would shift the court's balance "probably" made it more likely that Senate Democrats would filibuster a choice that drew broad opposition in the party.

But Sen. Lindsey Graham (R-S.C.), one of the architects of the recent bipartisan deal by 14 moderates that preserved the filibuster for judicial nominations in "extraordinary circumstances," strongly warned Democrats against trying to use the delaying tactic on Bush's nominee. The filibuster allows a Senate minority to block consideration of legislation or a nomination with 41 votes.

Appearing on "Fox News Sunday," Graham said that disagreement with a nominee's legal views would not meet the deal's standard for filibustering judicial appointees.

"Ideological attacks are not an extraordinary circumstance," he said. "To me, it'd have to be a character problem, an ethics problem, some allegation about the qualifications of the person, not an ideological bent."

If Graham and one other Republican signatory changed their minds about the deal, GOP Senate leaders probably would have enough votes to ban filibusters of judicial appointments. Sen. John McCain (R-Ariz.), another of the deal's authors, has already issued similar warnings.

In one more clash, Democrats repeatedly urged Bush to nominate what they called a "consensus candidate." On ABC, for instance, Sen. Edward M. Kennedy of Massachusetts called on Bush to select "someone that can bring the country together, someone that can rally the Republicans and Democrats."

But on CBS, the conservative Sekulow ridiculed the idea that Bush needed to find a nominee who could appeal to both parties. "This idea that we've got to have a consensus candidate … is ridiculous," he said. "The president has the authority. The Senate can say yes or no."

Senators Clash On Questioning A Court Nominee (NYT)

By Carl Hulse And Adam Nagourney

The New York Times, July 4, 2005

WASHINGTON, July 3 - With a White House nomination of a new Supreme Court justice at least a week away, members of the Senate began sharpening their differences on Sunday as lawmakers battled over the proper line of questioning at confirmation hearings and the right of Democrats to filibuster a nominee they deem unacceptable.

As senators sparred in interviews, op-ed columns and television appearances, the Bush administration sought to keep its deliberations over a potential successor to Justice Sandra Day O'Connor out of public view. White House officials were privately encouraging lawmakers not to get drawn into speculation over candidates' names but to concentrate on calling for quick and fair consideration of whomever President Bush nominates. [Related Article]

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Conservative groups, meanwhile, continued to press their opposition to one frequently mentioned presidential favorite, Attorney General Alberto R. Gonzales.

Democrats called for a deliberate review of any nominee and pledged to press the eventual candidate on issues including abortion and same-sex marriage, while Republicans declared that such specific inquiries were out of line.

"All questions are legitimate," Senator Charles E. Schumer of New York, a Democratic member of the Judiciary Committee, said in an interview. "What is your view on Roe v. Wade? What is your view on gay marriage? They are going to try to get away with the idea that we're not going to know their views. But that's not going to work this time."

But Senator Jeff Sessions, an Alabama Republican who sits on the Judiciary Committee as well, said the push for such detailed positions was highly objectionable and suggested that Democrats might be forming a strategy of trying to derail a nomination on the ground of withholding information.

"You cannot ask a judge to prejudge a specific matter," Mr. Sessions said. He pointed to other cases in which Democrats had raised objections to Bush administration nominees in part on the ground that information was being withheld, including the nomination of John R. Bolton to be ambassador to the United Nations. "If the Democrats are pushing that, then they are trying to create an issue," he said.

And Senator Orrin G. Hatch, Republican of Utah and former chairman of the Judiciary Committee, said in an interview: "Any member of the committee can ask whatever they want, no matter how stupid. But I don't think nominees have to answer certain questions. They don't have to answer questions about how they are going to vote in the future. They don't have to answer stupid questions. They don't have to answer argumentative cases."

Mr. Hatch said senators in past confirmation hearings had tried, with varying degrees of success, to divine the views of potential justices on critical cases facing the court. "But never has it been to the degree that Senator Schumer is suggesting," he said.

A senior White House official, who insisted on anonymity in discussing the early phases of the nomination, echoed Mr. Sessions and other Republicans on the Judiciary Committee, saying, "There has been a long-term standard that the appropriateness of questioning does not include asking judges to take specific sides or positions regarding cases they may hear one day."

The arguments hinted at the partisan intensity of what will be the first Supreme Court confirmation hearings in nearly 11 years. And they reflected a central element of what is shaping up as a Republican confirmation strategy: shrink the target of attack on any nominee by limiting both the questions that may be posed and the time between the nomination and the hearings.

"I think we ought to have our business taken care of by the time the court reconvenes in October," said Senator John Cornyn, Republican of Texas and another Judiciary Committee member. "We need to get to work."

Beyond the push for late summer hearings, Republicans say they will try to limit the access senators would have to F.B.I. documents on the potential nominee - the unpredictable wild card in any judicial confirmation because even the White House cannot fully anticipate the outcome of the background investigation when the president makes his choice. They cite as precedent an agreement reached in 1992 between the first Bush White House and a Democratic chairman of the Judiciary Committee.

Democrats say that, because of the special significance of the Supreme Court, every senator, or at least the party leaders, needs a chance to review the full F.B.I. report to make a fully informed vote.

With official Washington on break for the Fourth of July holiday, much of the positioning and saber rattling took place - typically enough - on the Sunday talk shows, as members of the Senate and advocates from each side used the forums to lay out early arguments and positions. This was done with holiday accommodations: there were stand-ins for some of the usual Sunday morning hosts, and in one case, Senator Edward M. Kennedy, Democrat of Massachusetts, was interviewed by George Stephanopoulos of ABC News by remote from a home in Southampton, N.Y., where Mr. Kennedy was spending the holiday weekend.

The White House, notably, did not dispatch anyone onto the Sunday morning circuit, reflecting a decision by Mr. Bush's aides to try, as much as possible, to hold down speculation about the top contenders until Mr. Bush has announced his choice. Senator Joseph R. Biden Jr. of Delaware, the senior Democrat on the Judiciary Committee, held open the possibility of a filibuster

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against a nominee deemed out of the mainstream by Democrats. "I have no intention of filibustering, but he - it depends on who the president sends," Mr. Biden said on the CBS program "Face the Nation."

Mr. Hatch said in a later interview that he could not see "any circumstances where a filibuster would be appropriate." He warned that if Democrats tried to mount one, the Senate would most likely revert to the so-called nuclear option to bar the use of a filibuster to block judicial nominees. The Senate narrowly averted a showdown over the filibuster in May, and the tenuous nature of the compromise still looms over any Supreme Court confirmation hearings.

A nominee rejected this time would join 12 others rejected over the years by the Senate. At least 16 nominees withdrew, declined their nominations or had their votes postponed.

Democrats held up Justice O'Connor as the model justice that Mr. Bush should seek in looking to replace her, a notable contrast from what many of the same Democrats said about Ms. O'Connor in December 2000, when she voted with the majority in a 5-to-4 decision that ended the vote recounting in Florida and gave the White House to Mr. Bush.

"This is very bad for the Supreme Court, because their credibility is so diminished and their moral posture is so diminished that it could take years to pull them back from that," Senator Patrick J. Leahy, Democrat of Vermont, said at the time.

Of the Democrats' present-day sentiments, Mr. Hatch said that "she's suddenly the goddess of all jurists."

A central issue shaping up in these early maneuverings is what kind of questions are appropriate at the confirmation hearings. In his autobiography, Senator Arlen Specter, the Pennsylvania Republican who is now the Judiciary Committee chairman, wrote that "from my experience participating in Supreme Court nomination hearings, I have found that the better a nominee thinks his chances are, the less he will say at the hearing to minimize the risk."

Mr. Sessions said that a background form filled out by judicial nominees had a question to make certain that no one involved in the selection was asked how he or she would rule on specific cases. "You cannot demand a commitment from nominees," he said.

But some Democrats said it was entirely proper to question the nominee on matters that have long been before the court.

"There are many issues of well-established constitutional law on which millions of Americans rely every day, such as the right to fair treatment by the justice system, the right to equality in education and the workplace, and the right to privacy in our family and medical decisions," Mr. Kennedy said in a statement. "As part of the confirmation process, the American people will reasonably expect those questions to be asked and the nominees to answer them."

The dispute was not breaking entirely along partisan lines. Mr. Biden, for example, said that he would not ask the nominee questions about abortion, saying he considered them inappropriate in such hearings.

Republicans say that Justices Ruth Bader Ginsburg and Stephen G. Breyer both sidestepped specific questions on issues like the death penalty and abortion. The Democrats counter that since then, lower court nominees have answered questions about their personal views.

Democrats also sought to slow the Republican push for hearings, arguing that since Justice O'Connor had agreed to remain on the court until her successor was named there was no need to rush. "The strategy of the hard right is to avoid questions," Mr. Schumer said. "Their view is to do it quickly, focus on whether they have blemishes on their record, focus on their résumé not their views."

Senator Lindsey Graham, Republican of South Carolina, said on "Fox News Sunday" that the Senate had as much riding on the confirmation as Mr. Bush and the nominee. "Can we have a confirmation process that will hold the Senate up to the world and the nation as a deliberative body made up of men and women who are serious about their job, or will it break down into some food fight?" Mr. Graham asked. "I really think the Senate's reputation is at stake as much as anything else."

Bork's 1987 Hearings On Senators' Minds (AP-Y2)

By Pete Yost, Associated Press Writer

AP2, July 5, 2005

In the eyes of still-bitter conservatives, Robert Bork is the symbol of the Senate's advice-and-consent power gone haywire. To liberals and the Republican chairman of the Senate Judiciary Committee, Bork's confirmation hearings revealed extreme views that warranted rejection of the Supreme Court nominee.

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The memory of Bork's tumultuous Senate hearings 18 years ago are very much on the minds of senators as they call for dignified confirmation proceedings for whomever President Bush chooses as retiring Justice Sandra Day O'Connor's successor on the high court.

Bork himself weighed in Sunday. So did two of his opponents from 1987, Sens. Arlen Specter, R-Pa., and Edward Kennedy, D-Mass, who will both play important roles in determining whether O'Connor's replacement will be confirmed.

Specter is Judiciary Committee chairman. Kennedy, a committee member, says he's ready to fight if the president chooses someone who does not fit Kennedy's vision of a mainstream nominee.

Republicans on the committee are urging Democrats to give ample leeway to Bush's choice.

"Ruth Bader Ginsburg was a general counsel for the American Civil Liberties Union, yet she was overwhelmingly confirmed" during the Clinton administration, Sen. John Cornyn (news, bio, voting record), R-Texas, said on ABC's "This Week." Ginsburg "wasn't asked about her earlier writings on whether laws banning prostitution were unconstitutional," he added.

Specter and Kennedy said the country is better off without someone like Bork on the Supreme Court.

"Can we imagine what this country would be like today if Judge Bork had gone onto the Supreme Court with his views about civil rights and other issues?" Kennedy asked on ABC.

Bork suggested he is still being demonized by senators who opposed him in 1987.

"I think they recognized what they did and they have to keep justifying it, and they have to keep misrepresenting me," Bork said of the senators who sent his nomination down to defeat. Bork appeared on CNN's "Late Edition."

Senate Judiciary Committee members crystalized the debate over O'Connor's successor, making clear that a hard-line conservative would trigger a furious battle on Capitol Hill that could touch off a Democratic filibuster.

The division emerged amid a conservative lobbying campaign against one possible pick, Attorney General Alberto Gonzales, a longtime Texas friend of President Bush who is considered too moderate by right-wing Republicans.

"I don't think the social conservatives ought to prejudge Attorney General Gonzales. Attorney General Gonzales may not even be in the picture," Specter, R-Pa., said on ABC's "This Week."

On a trip to Iraq to visit U.S. troops and Justice Department and Iraqi officials, Gonzales deflected questions about being considered a possible nominee. "I just look at the job that I do as attorney general. I'm happy in that job," he said.

Specter said he thinks Bush will consider "the gender factor" in making a selection, and the fact that O'Connor was a pivotal swing vote.

However, it is unclear what the president will consider.

Bush has said in the past that conservative justices Antonin Scalia and Clarence Thomas are the kind of people he admires on the Supreme Court.

Bush was at Camp David, Md., mulling over his options, while Democratic Sen. Charles Schumer (news, bio, voting record) of New York was urging a summit between senators from both parties and the president.

Asked whether he would support a filibuster if a hard-liner is chosen, the Judiciary Committee's ranking Democrat, Sen. Patrick Leahy (news, bio, voting record) of Vermont, said, "I would hope that we don't reach that point."

"I have no intention of filibustering, but it depends on who the president sends," said Sen. Joseph Biden (news, bio, voting record), D-Del.

Leahy appeared on NBC's "Meet the Press" and Biden on CBS' "Face the Nation."

Senators Issue Call For Restraint On Court Vacancy (MINNST)

By Lawrence M. O'rourke, Star Tribune Washington Bureau Correspondent

Minneapolis Star Tribune, July 4, 2005

WASHINGTON, D.C. -- As conservative and liberal activist groups prepared Sunday for an expensive, all-out battle over the next U.S. Supreme Court justice, the top Republican and Democrat on the Senate Judiciary Committee appealed for restraint, at least until President Bush announces his choice in a week or so.

"We ought to tone down the rhetoric," said Sen. Arlen Specter, R-Pa., the committee chairman.

"Let's take it easy," said Sen. Patrick Leahy, of Vermont, the committee's ranking Democrat.

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The two men, along with Senate leaders Bill Frist, R-Tenn., and Harry Reid, D-Nev., have been invited to the White House to meet with the president on Friday after Bush returns from the Group of Eight summit in Scotland.

Attorney General Alberto Gonzales, a potential candidate for the Supreme Court vacancy being left by Justice Sandra Day O'Connor, made a surprise visit to Baghdad on Sunday. He told reporters that he would continue to be directly involved in advising Bush on the choice, despite possibly being considered himself.

Gonzales, who has already been opposed by some on the right as being too moderate, said that Bush might "take some time" in reaching his decision but wanted the next justice seated by the time the court starts a new session in October.

Democrats promoted the idea that Bush should pick a consensus candidate able to win overwhelmingly in the Senate.

Sen. Dianne Feinstein, D-Calif., urged him to appoint a "mainstream conservative, someone who really speaks to the great bulk of Americans."

Republicans said that Democratic nominees historically had been given ample leeway and that Republican nominees should be given the same consideration.

"Ruth Bader Ginsburg was a general counsel for the American Civil Liberties Union, yet she was overwhelmingly confirmed," Sen. John Cornyn, R-Texas, said.

Analysis: Ideological Battle Looms Over Supreme Court Vacancy (PPG)

By Michael Mcgough, Post-gazette National Bureau

Pittsburgh Post-Gazette, July 4, 2005

WASHINGTON -- In the sort of "gotcha" moment that has become common on Sunday television talk shows, George Stephanopoulos, the host of ABC's "This Week," yesterday confronted Sen. Edward Kennedy with Kennedy's own words from the 1967 debate over the confirmation of Thurgood Marshall for a seat on the U.S. Supreme Court.

Stephanopoulos noted that Kennedy had told his colleagues that they shouldn't take Marshall's judicial philosophy into account but instead should limit their inquiry to the nominee's "background, experience qualifications and temperament."

"If it was the right standard in 1967, isn't it the right standard now?" Stephanopoulos asked, referring to Kennedy's concerns about the philosophy of the man or woman President Bush might nominate to replace Sandra Day O'Connor.

The Massachusetts Democrat had a comeback -- that if the president focuses on ideology in picking a nominee, it's also fair game for the Senate. But the implication of Stephanopoulos' question was that Kennedy was following some famous political advice from onetime Louisiana Gov. Huey Long. "The time has come," Long once said, "for all good men to rise above principle."

Kennedy isn't the first participant in the run-up to the Supreme Court confirmation war to have enunciated a principle about the selection of a justice only to "rise above" it, and he won't be the last. And if one principle doesn't do the job, advocates will be happy to shift ground. And much as some observers lament that reality, it is unlikely to change so long as the Supreme Court has the final say on hot-button issues like abortion and affirmative action.

Consider the way the liberal group People for the American Way pirouetted on another issue -- whether a Supreme Court nominee should be similar in judicial philosophy to the justice he or she is replacing.

Last month, when it looked as if it would be the conservative Chief Justice William H. Rehnquist who would be stepping down, the liberal group's president, Ralph Neas, rejected the notion that liberals should not make a fuss if Bush replaced the very conservative Rehnquist with another conservative.

"There is no basis in constitutional law or history for reserving an ideological 'slot on the court,' " Neas said, adding that "each Supreme Court nominee should be evaluated based on standards of excellence, integrity and commitment to upholding the rights and legal protections that Americans enjoy under our Constitution and laws." As for ideology, Bush would be well advised, Neas said, to replace Rehnquist with a moderate conservative.

Now that it is O'Connor, the perennial swing vote, who is leaving the court, Neas' desired end result is the same -- a justice like O'Connor -- but the underlying principle has shifted. Last week, Neas called O'Connor's retirement "a critical moment for the Constitution" and warned that "replacing Justice O'Connor with another Justice [Antonin] Scalia would be a disaster for civil rights, privacy and the rights of individuals to be protected against abuse by government or corporate power."

So the philosophy of the departing justice is a consideration after all.

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It isn't just liberals like Kennedy or Neas who are flexible about the theory that should govern the Supreme Court selection process so long as the bottom line -- a congenial justice -- is guaranteed.

Appearing on "Face the Nation" yesterday, Sen. Orrin Hatch, R-Utah said that while Bush would consult with Democratic senators -- as President Bill Clinton famously did with Hatch before he made two high court nominations -- the choice of a nominee was basically the president's.

"The Constitution does not require consultation. It's a courtesy." said Hatch, the most senior Republican on the Senate Judiciary Committee.

What does the Constitution itself say? Article II directs that the president "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States."

For Democrats seeking to preserve O'Connor's centrist legacy, "advice and consent" means serious consultation between the White House and the Senate before a nomination is made and a choice that will win bipartisan support. For Republicans, Hatch said, it means an "up or down vote" -- no filibusters -- after the president makes what is essentially his choice.

The conservative interest groups that are determined that O'Connor's successor will not be the "moderate conservative" sought by Democrats -- or even a potential moderate, like Attorney General Alberto R. Gonzales -- make an additional, extra constitutional argument. They say Bush is bound by his campaign promises to appoint a justice in the mold of Scalia and Justice Clarence Thomas.

That the president should have wide latitude in choosing Supreme Court justices -- to the point of using the appointments to redeem campaign promises -- is not a strictly Republican view. Sen. John Kerry, D-Mass., in his unsuccessful presidential campaign, indicated that he wouldn't appoint justices who would undo the Roe v.Wade decision legalizing abortion. Kerry is unlikely to extend that notion of accountability to one's base to a decision by Bush to replace O'Connor with a critic of Roe.

While this gap between principle and practice might seem obvious -- it's the politics, stupid, as James Carville might say -- there have been times when Republicans and Democrats agreed that presidents should have considerable leeway in choosing Supreme Court justices and that the Senate should be willing to confirm nominee with adequate legal credentials and no ethical problems.

Sen. Charles Schumer of New York, a Democrat on the Senate Judiciary Committee, said yesterday on "This Week" that the Eisenhower administration was such a time. Kennedy, responding to Stephanopoulos' quote of his 1967 comments, said that things changed with President Ronald Reagan's failed 1987 nomination of Robert Bork to the high court. Because Bork's ideology was a key consideration in his selection by the White House, Kennedy said, it was a legitimate issue for the Senate to scrutinize.

Whether or not the Bork nomination was the turning point, ideology is on the table because, as Schumer said yesterday, "The U.S. Supreme Court with a flick of the pen [can] change people's lives." And it isn't just the two parties in the Senate that are preparing for war as if lives depended on the outcome. So are interest groups on the right and left.

In an editorial yesterday titled "Not a Campaign," The Washington Post plaintively noted that a seat on the court is "meant to be not merely apolitical but actively insulated from politics." But the editorial conceded that it was unlikely that "the war rooms will shut down and the campaign atmosphere give way to a serious discussion of -- and with -- the potential nominee."

Some observers are even more fatalistic. Michael Greve, head of the Federalism Project at the conservative American Enterprise Institute, believes that as long as the court has the final say on issues like abortion, a return to the dignified confirmations of the past is impossible.

"It's fashionable now to bemoan how controversial and contentious this nominations process has become, how many attempts there are to curb the courts," Greve told a seminar last month at the Brookings Institution. "But I think the source of those conflagrations and contentions is perfectly obvious ... . As Justice Scalia has explained, if you have a court that doesn't even try to act as a constitutional interpreter, if you have a court that tries to be the moral conscience of the nation, people will in the end, at the end of the day, insist on accountability."

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Greve said the only way out of the politicization of the confirmation process is "at the same time very easy and next to impossible. The easy way is one single sentence in one single Supreme Court decision saying, 'There is no constitutional right to abortion.' " But Greve added that a reversal of Roe v. Wade would be unlikely even if Bush were able to name two new justices.

Run-Up To Judicial Fight Puts A Spotlight On Bork (NYT)

By David D. Kirkpatrick

The New York Times, July 4, 2005

WASHINGTON, July 3 - Judge Robert H. Bork, the former Supreme Court nominee whose rejection 18 years ago has hovered over every confirmation since, is back in the spotlight.

Interviewed on CNN on Sunday about the vacancy to be left by Justice Sandra Day O'Connor's resignation, Mr. Bork squared off once again against his former nemesis, Senator Arlen Specter, the Pennsylvania Republican whose critical interrogation during the 1987 hearings helped doom Mr. Bork's nomination. "I know Specter, and the truth is not in him," Mr. Bork said on "Late Edition" on CNN.

Mr. Specter, appearing earlier on that program and several others, brought Mr. Bork up repeatedly. "I've been criticized a lot for questioning Judge Bork in one session for an hour and a half," Mr. Specter said, defending his criticism of Judge Bork's emphasis on the "original intent" of the Constitution's framers. "If his 'original intent' stood, we'd still be segregating the United States Senate with African-Americans on one side and Caucasians on the other side."

Defending the Senate's role in approving nominees, Senator Edward M. Kennedy, Democrat of Massachusetts, reprised in an appearance on ABC the speech he made attacking Mr. Bork shortly after his nomination. "Can we imagine what this country would be like today if Judge Bork had gone onto the Supreme Court with his views about civil rights and other issues?" he said. "It would be an entirely different America."

Since then, however, Mr. Bork has become an inspiration to many conservatives, who say they have organized and raised money to support the nomination of like-minded jurists, making "strict construction" and "original intent" their watchwords. With their ascendance in the White House and the Senate, many conservatives believe Mr. Bork's vindication is near.

On CNN and in an interview on Fox News on Friday, Mr. Bork defended himself once again against Mr. Specter's accusation that his legal philosophy would have precluded the ruling in Brown v. Board of Education that ultimately led to the end of segregation. "I have written, and he must know it, that Brown against Board of Education, the case that ended segregation, was a correct decision," Mr. Bork said.

"The problem is the court has made itself into a political institution. It's now gone well outside anything that's in the Constitution and begun to decide matters according to their preferences," he said. "When that happens, when it becomes a political institution, it becomes a political prize and both sides will fight for it."

Still, Mr. Bork said he had found some satisfaction in his defeat. He noted that "Borking" is now used as a verb meaning "to attack with unfair means," he said. "To have your name become a verb is to achieve a certain form of immortality."

Let The Senate Advise (WP)

By Edward M. Kennedy, Post

The Washington Post, July 5, 2005

Sandra Day O'Connor's retirement gives President Bush, elected by a divided nation that has become even more divided, a unique opportunity to unite us by choosing for the Supreme Court someone who can win support from a broad bipartisan majority in the Senate and whom the vast majority of Americans will be proud of.

Justice O'Connor's appointment to the high court is a useful model. Of the 20 Supreme Court nominations I have seen, hers was one of the most impressive. She was a Republican through and through who served the state of Arizona with distinction as assistant attorney general, state senator, trial judge and appellate judge. She was nominated by a Republican president, Ronald Reagan, and was opposed by activists who were even further to the right than he was, but Reagan stood by her. I'm sure Reagan understood the importance, for the good of the country, of avoiding a divisive battle over the first woman nominated for the Supreme Court.

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When her nomination reached the Senate floor, she was confirmed unanimously. For 24 years she has demonstrated that the Senate's confidence in her was eminently justified. She has faithfully applied her own extraordinary life experiences, her broad knowledge of the law and her dedication to the Constitution to complex issues. She had no agenda except being the best possible justice.

If Bush emulates Reagan, the appointment of a replacement for O'Connor can be an expeditious, cooperative and unifying process. The president can choose a nominee whom the Senate will strongly support, as the framers of the Constitution envisioned. Those wise men, meeting in Philadelphia in 1787, well remembered the events of 1776 that we celebrate today. They remembered what it was to live as subjects under a tyrannical monarch. They resolved that absolute power would never reside in any of our leaders, and they constructed the careful system of checks and balances that has prevented it ever since.

They returned time and time again at the Constitutional Convention to the question of who should appoint judges. Five times they voted not to give the president any role in such appointments, but to give that power solely to the Senate. There were many other suggestions. Benjamin Franklin thought the Scottish system of letting the lawyers choose judges might work; he said the best candidate was usually chosen, because other lawyers wanted to eliminate their strongest competitor. Our forefathers finally compromised and authorized the president to make appointments "with the advice and consent of the Senate."

The genius of their plan was obvious. If both the president and the Senate must agree on an appointment, there is a strong incentive to select people who can obtain a consensus in the nation and in the Senate. They spoke of the appointment power as a "joint" power, and that's what it's been for 218 years. "Joint" means cooperation and consultation and consensus. It means picking from a list of mainstream lawyers and judges who have demonstrated that they are dedicated to the Constitution and the rights it guarantees. It means avoiding candidates who would come to the court with personal, partisan or ideological agendas. It means ignoring the advice of those who prefer that the president pick fights with the Senate instead of picking judges with the Senate. It means taking seriously the "advice" part of "advice and consent" by sharing the names of prospective nominees with the leadership of both parties in the Senate, the Judiciary Committee, and other senators who will fairly reflect the balance of views in the Senate and the country.

Confirmation proceedings should not be partisan exercises or occasions for party discipline. The president must not expect that if he chooses the route of confrontation and conflict, senators in his party will march to the battle stations with him and support his nominee. At least three times while I have been in the Senate, a president who did so found that members of his own party would not place party above country and joined in rejecting a divisive nominee. That's because they understood then what the president and all of us must remember today -- that the Supreme Court, as the last line of defense for "liberty and justice for all" should always be above partisan politics.

The president should reject the pressure of the extreme factions of his party that want litmus tests for his nominee. This process shouldn't just be about whether the next justice would help roll back women's rights by overturning Roe v. Wade, the law of the land. It should be about something much more basic: protecting our core constitutional values for generations to come, the freedoms that we've fought for, bled for and died for. Because of Sandra Day O'Connor, the disabled are guaranteed access to our public courts. Teachers can't be fired for opposing discrimination against girls in our public schools. Patients can get a second opinion when an HMO tries to deny them care. Our water is cleaner and citizens can stop polluters who dump toxins into our waterways.

I haven't always agreed with O'Connor. I didn't agree earlier this year that we should continue to execute juveniles. And I certainly didn't agree with her in Bush v. Gore.

But she was fair and tried to interpret the law. Unfortunately, many of those whom President Bush has nominated to the lower courts in the past four years have wanted to remake the law to suit their own ideologies. I hope the president will consult with the Senate and select a consensus nominee as dedicated to the Constitution as Sandra Day O'Connor.

If the president consults with senators and listens to their advice, as the framers wanted presidents to do, we can have a nominee our children and grandchildren can all be proud of.

The writer is a Democratic senator from Massachusetts.

Politics Shadow Supreme Hopefuls (WT)

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By Charles Hurt, The Washington Times

The Washington Times, July 5, 2005

Senate Democrats said yesterday that they will demand to know the political views of any nominee President Bush names to replace retiring Supreme Court Justice Sandra Day O'Connor.

"I think the number one thing that I am interested in are the nominee's views," Sen. Charles E. Schumer, New York Democrat and Senate Judiciary Committee member, said yesterday on ABC's "This Week."

Such questions will ensure acrimonious confirmation hearings and conservatives have long argued that such questions -- political "litmus tests," they call them -- are improper and undermine the independence of the federal judiciary.

Democrats also warned Mr. Bush to pick a "consensus" or a "moderate conservative" nominee -- a far cry from Mr. Bush's re-election campaign pledge to name a conservative to the high court similar to sitting Supreme Court Justices Antonin Scalia and Clarence Thomas.

Sen. Edward M. Kennedy, Massachusetts Democrat, defended his 1987 decision to attack then-federal Judge Robert H. Bork based on his political views, including the famous "Robert Bork's America" speech on the Senate floor. And he said he would do the same thing if Mr. Bush sends an similarly conservative nominee to replace Justice O'Connor.

"When the president sent Robert Bork to the Senate Judiciary Committee for nomination ... it was very clear that he was selected primarily because of his judicial philosophy," Mr. Kennedy said on ABC. "They made it, really, an issue there, and it became the issue before the Judiciary Committee and the country."

"Again, this is up to the president," he said. "If he wants to pick a judge, we want to be able to support him, but if he wants to have a fight about it, then that's going to be the case."

The notion of picking apart a nominee to the federal bench based on his personal opinions about political matters is out of bounds, conservatives say.

"It's asking them to basically run on a political platform," Sen. John Cornyn, Texas Republican, responded to Mr. Schumer yesterday.

Mr. Cornyn said it's fine to ask a nominee to opine on a settled case, but asking about the merits of such issues as abortion or affirmative action is akin to requiring nominees to "make promises to politicians about how they're going to vote should a case come before them."

Mr. Schumer said "the courts have been the protectors of individual rights since the Republic was founded" and it would be wrong "to put someone on the bench when you know nothing about their views on civil rights, on women's rights, on environmental rights and on everything else."

Another Judiciary Committee Democrat said his colleagues will filibuster a nominee they deem unacceptable.

The Fallout From O'Connor's Resignation (NYT)

By Claudia H. Deutsch

The New York Times, July 5, 2005

Few people would dispute the impact that Sandra Day O'Connor, in her 24 years on the Supreme Court, has had on advancing the rights of women and minorities to equal hiring and education opportunities and to a bias-free workplace.

But now that Justice O'Connor is leaving the court, will the pendulum swing back to give employers the right to hire and fire as they please, or even encourage them to dismantle voluntary affirmative action programs?

Neither business leaders nor minority advocates expect that to happen. Minorities and women, they note, make up an increasingly large part of the potential work force - and of the consumer base.

"Sure, we worry that the balance will be tipped when it comes to court rulings affecting people of color, but we don't worry that industry will backtrack," said Harriet R. Michel, president of the Minority Supplier Development Council, which matches minority businesses with corporate customers. "The realities of the American marketplace are such that, if companies don't embrace supplier diversity, they are acting to the detriment of their bottom line."

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The same holds true for hiring policies, said Theodore M. Shaw, president of the NAACP Legal Defense and Education Fund. "From a dollars-and-cents standpoint," he said, "it is no longer economically realistic for companies to be lily-white and male."

In fact, many business leaders feel they have lost a friend in Justice O'Connor.

"I'd love for her to be replaced with a clone," said Roderick M. Hills, a former chairman of the Securities and Exchange Commission and now a co-chair of the judicial selection committee of the Committee for Economic Development, a nonpartisan group of business and academic leaders based in Washington. "She had an understanding of acceptable business conduct that was tempered by a real respect for the law."

Justice O'Connor was the swing vote in Davis v. Monroe County Board of Education, a 1999 case that made a school responsible for preventing harassment of students by other students, a ruling with implications for workplace harassment.

She sided with the majority in 1983 when the court ruled that employers must give men and women equal retirement benefits, in a case called Norris v. Arizona Governing Committee. She again sided with the majority in 1986, on Meritor Bank v. Vinson, a case that made it illegal for companies to countenance sexual harassment in their workplaces.

After the announcement of Justice O'Connor's resignation on Friday, civil rights advocacy groups rushed to issue statements of concern and vowed to fight for a replacement equally friendly to their cause.

"She's been the key vote in race cases for more than 20 years," said Mr. Shaw of the NAACP Legal Defense and Education Fund. Jocelyn C. Frye, director of legal and public policy at the National Partnership for Women and Families, also feels the loss. "She made it clear, in all her votes, that affirmative action is an appropriate and lawful remedy if it is done right, and that sexual harassment must be remedied in any context," she said.

Some legal experts say her track record was less clear. "On civil rights issues, sometimes she got it really right, but sometimes she got it really wrong," said Abigail Thernstrom, vice chair of the United States Commission on Civil Rights, an independent federal agency, as well as a senior fellow at the Manhattan Institute, a New York-based research group.

Ms. Thernstrom applauded Justice O'Connor's stance in Shaw vs. Reno, a 1993 decision that prohibited North Carolina from implementing a redistricting plan that would effectively have created two districts populated primarily by blacks. But she insists that Justice O'Connor was wrong in Grutter v. Bollinger, the 2003 case that affirmed the University of Michigan Law School's right to take race into consideration in accepting applicants. "She neglected all of the opinions she had enunciated in cases like Shaw," Ms. Thernstrom said.

Justice O'Connor showed sensitivity to affirmative action in certain areas of employment and education, but she also balanced that with her suspicions about the use of race as a criteria for hiring and government contracting. In 1989, she authored a 5-4 opinion that struck down a program, used by Richmond, Va., to set aside a percentage of municipal contracts along racial lines. In the decision, she wrote that the government may use racial preferences in hiring or awarding contracts only if it is rectifying cases of proven past discrimination.

She rarely showed an antipathy to business. Indeed, her majority decision in Grutter v. Bollinger was hailed by minority rights and business groups alike.

The minority groups saw it as guaranteeing better access to higher education; corporations, many of which registered as friends of the court, said it both assured a pipeline of qualified talent and safeguarded the legality of their own internal diversity programs.

Justice O'Connor's impact on the business world was by no means confined to areas of racial and gender equality. Nor were her opinions consistently pro- or anti-business. She was in the majority in 2003 when the court upheld the law restricting the flow of corporate "soft money," or unregulated contributions, to political parties. Many executives at the time said they welcomed the decision because it relieved them of feeling obliged to make large contributions when asked to do so by candidates and party officials.

She won kudos from business groups when she wrote the majority opinion in Gade v. National Solid Wastes Management Association, a 1992 ruling which forbids states from enforcing stricter worker-safety standards than called for by the government, and in Feist Publications v. Rural Telephone Service Company, a 1991 ruling that said consumer addresses and phone numbers in telephone directories are not protected by copyright law, and thus can be used by direct marketers.

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Some of her decisions pleased some business groups while alienating others. For example, 1997, in State Oil v. Kahn, Justice O'Connor wrote that there were circumstances under which price caps on products are not anticompetitive; it was a victory for manufacturers, but a defeat for retailers and wholesalers. She was, at times, a vocal dissenter when the court ruled against business interests. The court placed an upward limit on punitive damage awards only in 2003, in State Farm v. Campbell. Justice O'Connor had fought for such a limit for years.

"Business has lost its absolute best friend and most passionate advocate on the issue of limiting punitive damages," said Carter G. Phillips, a managing partner of the law firm Sidley Austin Brown & Wood.

Nor did Justice O'Connor march in lock step with civil rights advocates in areas of race and gender bias. In 1986, in Wygant v. Jackson Board of Education, she wrote the opinion that a school district must lay off teachers in order of seniority, even if that meant a disproportionate number of black teachers would lose their jobs.

"Hers was often a difficult vote to get, and she wrote many anti-affirmative action opinions," Mr. Shaw said, citing the Richmond, Va., case as a particular irritant. "But, in an increasingly conservative court, at least her vote was in play."

In Other News From The Middle, Some Shifts By Justice Kennedy (WP)

By Charles Lane, Washington Post Staff Writer

The Washington Post, July 5, 2005

All eyes were on Justice Sandra Day O'Connor after the Supreme Court wrapped up its term this week.

But while O'Connor and her centrist legacy may have been at the center of attention because of her surprise retirement announcement Friday, the center of power during the term was one chair to her left, where Justice Anthony M. Kennedy -- the court's other center-right swing voter -- sits.

In three crucial cases this term, Kennedy, a 1988 appointee of President Ronald Reagan, defected from the five-member right-of-center bloc that Chief Justice William H. Rehnquist nominally leads.

Kennedy joined with the court's liberals to abolish the death penalty for juvenile offenders, to give local governments a green light to take private property for economic development and to endorse a broad theory of federal regulatory power that denied states the right to override a federal law against homegrown medical marijuana.

O'Connor actually found herself in dissent in most of the court's big cases last term, voting to uphold the juvenile death penalty, to strike down Texas's display of the Ten Commandments, to forbid takings of private property for economic development and to uphold California's right to pass a medical marijuana law.

And she expressed that dissent in what was, for her, an unusually uncompromising tone; she seemed uninterested in keeping her options open for future cases, as she often did in the past.

In the marijuana case, for example, she accused the majority of "threaten[ing] to sweep all of productive human activity into federal regulatory reach."

In hindsight, this may have been a clue to her plans to retire. Referring to the property rights case, Richard J. Lazarus, a professor of law at Georgetown University, noted that it was very uncharacteristic of O'Connor. "It didn't read like an O'Connor opinion," he said. "It made me think she was in a different frame of mind."

For Kennedy's part, not only did he desert the conservative camp on crucial issues, he did so in spite of his past votes and writings on the court, which suggested that he might have come out the other way each time.

"What's up with Justice Kennedy?" Boston University law professor Randy Barnett asked at a forum on the recently concluded term sponsored by the American Constitution Society last week. "He's clearly crossed some kind of a Rubicon. That's the big news of this term."

Kennedy's rulings further angered conservative activists who were already upset with him because of his authorship of the court's opinion last year abolishing state laws against same-sex sodomy.

In a generally disappointing term for the right, some conservatives said the only bright spot in the court's Kennedy-supported leftward movement was that it will help them rally their base to urge President Bush to put a committed conservative on the court.

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"As grievous as some of the rulings are," said Jan LaRue, chief counsel of Concerned Women for America, a conservative group that focuses on social issues, "they have the good effect of awakening more Americans to how important each vote on the court is."

There could be two vacancies to fill if Rehnquist, 80 and suffering from thyroid cancer, follows his old friend O'Connor into retirement.

Rehnquist seemed frail last Monday and struggled to speak clearly through a special valve in his throat where doctors performed surgery in October to help him breathe. He seemed in good spirits, however, cracking a joke about the lengthy list of dissenting and concurring opinions in one case.

Rehnquist was being a good sport at the end of a term in which his influence seemed to ebb along with his physical health.

Of the 24 cases decided by a vote of 5 to 4, the conservative coalition of Rehnquist, O'Connor, Kennedy, Antonin Scalia and Clarence Thomas held together in only five, according to statistics compiled by the law firm Goldstein & Howe.

In the previous two terms, the conservative majority had held together in almost half of the 5 to 4 cases, the firm said.

Capital punishment, property rights, state sovereignty and more latitude for official expressions of religious sentiment have all been pet causes of the chief justice in his 33 years on the court. He has helped moved the court to the right on each of these issues during the past decade -- but found himself mostly in dissent on them this term.

Kennedy was the difference-maker in the death penalty case, writing the opinion for a five-member majority that found the country had formed a "national consensus" against executing offenders who were younger than 18 at the time of their crimes.

This implicitly repudiated a position Kennedy had taken in 1989, when he joined the court in upholding the practice. As recently as 2003, he had voted to reinstate a juvenile's death sentence that had been put on hold by an appeals court.

This time, he buttressed his argument with references to other countries' opposition to the juvenile death penalty, drawing fire from conservatives who saw him importing foreign law into the interpretation of the Constitution -- as he had previously done in striking down the sodomy laws.

Notably, Kennedy could have reached the same result in the death penalty case without making such references. "To add that separate section is an example of Kennedy's really declaring his independence from the conservative orthodoxy of originalism," Supreme Court litigator Paul Smith said at the American Constitution Society forum.

On property rights, Kennedy supplied a fifth vote to a four-member liberal bloc to uphold local governments' right to buy out private property when deemed necessary to promote broader economic development.

The property rights activists who brought the case had expected Kennedy's support, based in part on his generally pro-property-rights record on the court.

And in the medical marijuana case, Kennedy joined Scalia in breaking with a recent string of cases in which they and the court's other conservatives had struck down federal laws on the grounds that they exceeded Congress's power to regulate interstate commerce.

But whereas Scalia supplied a separate opinion explaining how his positions then and now could be reconciled, Kennedy simply cast his vote without further comment.

Even when Rehnquist had a majority including Kennedy -- as he did in upholding a six-foot stone monument of the Ten Commandments on the Texas Capitol grounds -- it was a shallow victory.

The fifth vote in his coalition came not from someone who agreed with his long-standing view that the commandments are generally permissible on government property, but from Justice Stephen G. Breyer, who accepted the monument on the much narrower basis that it had not aroused much controversy during its four-decade stay in Austin.

Court's Term A Turn Back To The Center (NYT)

By Linda Greenhouse

The New York Times, July 4, 2005

WASHINGTON, July 3 - Justice Sandra Day O'Connor's unexpected retirement announcement last week shifted public attention toward her legacy and the Supreme Court's future and away from the term that just concluded. But the term - apparently

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not the Rehnquist Court's last, after all - contained its share of notable developments that, taken together, cast a shadow of ambiguity over Chief Justice William H. Rehnquist's legacy.

The court's federalism revolution stalled, while the revival of property rights, which appeared to be taking off not long ago, crashed and burned on a riverbank in New London, Conn.

The court displayed a growing concern about the death penalty, with the majority suggesting that lower courts had taken the Supreme Court's impatience with prolonged appeals too far toward short-circuiting defendants' rights. The justices also gave broad interpretations to three federal antidiscrimination laws.

Justice Stephen G. Breyer displaced Justice O'Connor at the court's center of gravity, casting the fewest dissenting votes - 10, to Justice O'Connor's 11 - in the 74 cases that were decided with full opinions.

As the Rehnquist Court ended a 19th year and appeared poised, unexpectedly, to begin a 20th, it was almost as if a constitutional centripetal force had been at work in recent years, pulling the court back toward the middle in many areas of its docket, including federalism, affirmative action, religion and abortion. The result frustrated conservatives and raised the stakes for the appointment of Justice O'Connor's successor.

The court's six discrimination cases from this past term provide an example. Three were brought under the Constitution's guarantee of equal protection, and the others required an interpretation of three different federal statutes.

In all six cases, with Justice O'Connor in the majority in four, the court adopted a broader reading of the relevant provision, not necessarily handing victory to the particular individuals but keeping avenues of legal redress open for the future.

Beyond these case-specific trends, the voting patterns this term were unusual.

In recent terms, the five most conservative members of the court, Chief Justice Rehnquist, Justice O'Connor, and Justices Antonin Scalia, Anthony M. Kennedy and Clarence Thomas, displayed a striking degree of cohesion. They voted together, for example, in half of the 18 5-to-4 decisions in the 2003-2004 term. In the past five terms, their alliance in the most closely divided cases ranged from a low of just over one-third of the cases in one term to a high of 70 percent of them in another.

But in the latest term, which began Oct. 4 and ended June 27, the five voted together in only 18 percent of the cases decided by five-member majorities, 4 out of 22. (Four of the 22 cases were decided by votes of 5 to 3, with the chief justice not participating.)

Although theories were available to explain votes that looked anomalous, some of the alignments turned heads. For example, Justices Scalia and Kennedy joined Justice Breyer and Justices John Paul Stevens, David H. Souter and Ruth Bader Ginsburg to reject the states' rights position in the California medical marijuana case. Justice Breyer provided the crucial fifth vote for Chief Justice Rehnquist's opinion upholding the Ten Commandments monument on the grounds of the Texas State Capitol.

In 48 split decisions this past term, Justices Ginsburg and Breyer, President Bill Clinton's two Supreme Court appointments (and the only two current justices to have been appointed by a Democratic president), were on opposite sides in 11. Justices Scalia and Thomas, who are often mistakenly viewed as ideologically inseparable, were on opposite sides in 12.

After their 11 years together, what has gotten into these nine justices?

Nelson Lund of the George Mason University School of Law, who was a law clerk for Justice O'Connor during the court's 1987 term, said in an interview that there was a tendency to blame her for outcomes that have disappointed Professor Lund's fellow conservatives. "But the easy explanations are not quite adequate," he said.

Pointing out that courts proceed incrementally, informed by precedent and by the facts of each case, Professor Lund continued: "There is a deep current of common-law thinking that pervades our legal system. Our courts rarely make a lot of big lurches. Usually when they make a big step, it's because people didn't realize how big a step it was, and then they pull back."

Kathleen M. Sullivan, a liberal legal scholar and former dean of Stanford Law School, offered a similar observation. The court's recent behavior may be "as much psychological as jurisprudential," she said in an interview.

Professor Sullivan said some of the term's more surprising outcomes may reflect the fact that the Supreme Court, its membership stable while the lower federal courts have had considerable turnover, is now by some measures to the left of some of the federal appeals courts.

She said some justices may have been alarmed to find that the appeals courts were carrying their opinions further than intended or were applying them in unanticipated ways. This, in turn, may explain why in several decisions this year, including

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rulings for defendants in death penalty cases, the Supreme Court did not articulate new legal principles so much as correct what it saw as erroneous lower court opinions, a role it usually avoids. "The middle justices have seen themselves as guardians of the court's integrity even at the price of inconsistency," Professor Sullivan said.

The term was something of a triumph for Justice Stevens, the longest-serving associate justice and a vigorous 85-year-old who has no plans to retire; in fact, this week he is interviewing applicants for clerkships for the court's term that begins in October 2006.

Of his several major opinions, by far the sweetest for him must have been his majority opinion in Gonzales v. Raich, declaring that federal authority trumped California's medical marijuana initiative. Justice Stevens, a Republican named to the court by President Gerald Ford and now arguably the most liberal justice, has been adamant in resisting the states' rights tilt of the court in a series of federalism cases. He also wrote for the majority in the eminent domain case, Kelo v. City of New London, and in an important age discrimination case, Smith v. City of Jackson.

Justice Stevens filed one particularly notable dissenting opinion during the term, in a case that prohibited states from discriminating against out-of-state wineries. In Justice Stevens' view, the intent of the 21st Amendment, adopted in 1933, was to give states free rein in regulating alcohol use and commerce within their borders. To support his argument, he drew on a resource no other justice had available: a memory of the repeal of Prohibition. "My understanding (and recollection) of the historical context reinforces my conviction" about the meaning of the amendment, he said.

Course corrections were made by justices across the ideological spectrum, even in areas of the docket not usually seen as lightning rods. For example, the court upheld the federal beef marketing program that finances the "Beef, it's what's for dinner" advertising campaign through assessments on cattle producers, even on those who object to paying.

A Supreme Court decision fours years earlier had found that a similar program amounted to compelled speech in violation of the First Amendment. The decision used language that, if taken to a logical conclusion, suggested a new constitutional basis for attacking a range of government programs, even taxation.

So in an opinion by Justice Scalia, who had joined the earlier decision, the court tacked back, shutting the door on that First Amendment theory before it could gain momentum. Chief Justice Rehnquist also changed sides.

In the constant dynamic of stability and change inside the court, justices find different comfort levels. With Justice O'Connor's departure, change will now come, for the first time in 11 years, from outside the court as well.

Criminal Law and Sentencing

The court's continuing re-examination of the respective roles of judges and juries in criminal sentencing produced a transformation in federal guidelines.

The decision in United States v. Booker, No. 04-104, was really two separate 5-to-4 opinions supported by two different coalitions of justices. First, Justices Stevens, Scalia, Souter, Thomas and Ginsburg held that the federal sentencing guidelines were unconstitutional because they gave judges power that, under the Sixth Amendment's right to a trial by jury, belonged to the jurors - namely, the power to make the factual findings that determine the sentence.

A second coalition, composed of Chief Justice Rehnquist and Justices Breyer, Kennedy, O'Connor and Ginsburg, then ruled that the problem could be fixed by making the guidelines advisory rather than mandatory, restoring to federal judges some of the discretion that Congress had taken away 21 years earlier.

In another case, the court ruled 5 to 4 that the Constitution categorically bars capital punishment for crimes committed before the age of 18. Justice Kennedy's opinion in the case, Roper v. Simmons, No. 03-633, overturned a 1989 precedent that had set the age at 16. The Roper decision also concluded that the American public, as well as the world, had turned against the death penalty for juveniles. Justices Scalia, Thomas and O'Connor dissented, along with Chief Justice Rehnquist.

For only the third time in 20 years, the court overturned a death sentence on the ground that the defendant had received a constitutionally inadequate defense. Justice Souter's 5-to-4 opinion in Rompilla v. Beard, No. 04-5462, was joined by Justices Stevens, Ginsburg, Breyer and O'Connor.

In Deck v. Missouri, No. 04-5293, the court ruled 7 to 2 that it is unconstitutional to use shackles to restrain a prisoner during a death penalty sentencing hearing unless there is a particular reason for doing so. Justice Breyer said for the majority that shackling was inherently prejudicial and required "adequate justification." Justices Thomas and Scalia dissented.

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The court also ruled that in making a routine traffic stop, the police can allow a trained dog to sniff the car for drugs without the need for any particular suspicion of a narcotics violation. Justices Souter and Ginsburg dissented in the case, Illinois v. Caballes, No. 03-923, and the chief justice did not vote.

In Castle Rock v. Gonzales, No. 04-278, the court held that the police do not have a constitutional duty to enforce a court-issued domestic order of protection. The 7-to-2 decision overturned an appeals court ruling that allowed a woman to sue a Colorado police department for failing to take action after her estranged husband violated a restraining order by kidnapping their three daughters, whom he then murdered.

The mandatory arrest language on the order could not displace the police department's ordinary exercise of discretion, the court held in an opinion by Justice Scalia, over the dissenting votes of Justices Stevens and Ginsburg.

Property Rights

In what was perhaps the term's most disputed decision, the court ruled that fostering economic development is an appropriate use of the government's power of eminent domain. The 5-to-4 decision in Kelo v. City of New London, No. 04-108, upheld a plan in the economically depressed Connecticut city to replace an old residential neighborhood with office space and a conference hotel. The majority opinion by Justice Stevens was joined by Justices Kennedy, Souter, Ginsburg and Breyer.

The court also unanimously upheld Hawaii's rent-control law for gasoline stations, rejecting the oil companies' argument that limiting their rate of return amounted to an unconstitutional "taking" of private property. The case was Lingle v. Chevron U.S.A. Inc., No. 04-163.

Religion

Two decisions on government display of the Ten Commandments looked in opposite directions, with only Justice Breyer joining the majority in each of the 5-to-4 rulings.

In Van Orden v. Perry, No. 03-1500, the court found that the display of a six-foot-high Ten Commandments monument on the grounds of the Texas State Capitol did not amount to an unconstitutional "establishment" of religion. Chief Justice Rehnquist wrote the opinion, joined by Justices Breyer, Kennedy, Scalia and Thomas.

In McCreary County v. American Civil Liberties Union, No. 03-1693, the court held that the framed display of the Ten Commandments on the walls of two Kentucky county courthouses, although surrounded by other texts of historical interest and secular content, was unconstitutional. Justices Souter, O'Connor, Ginsburg and Stevens, along with Justice Breyer, voted in the majority.

Also, the court ruled unanimously that a new federal law, the Religious Land Use and Institutionalized Persons Act, does not violate the separation of church and state in requiring prison officials to meet inmates' religious needs. Justice Ginsburg's opinion in Cutter v. Wilkinson, No. 03-9877, warned, however, that prison security remained a "compelling state interest" and that demonstrated problems in accommodating inmates' requests would be resolved in favor of prison officials.

Discrimination

The federal law that bars sex discrimination in schools and colleges also prohibits school officials from retaliating against those who bring complaints of such discrimination, the court ruled in Jackson v. Birmingham Board of Education, No. 02-1672. The 5-to-4 decision expanded the scope of the law known as Title IX to include protection for whistle-blowers. Justice O'Connor's majority opinion was joined by Justices Stevens, Souter, Ginsburg and Breyer.

Also, employees who sue for age discrimination do not have to prove that the discrimination was intentional, the court ruled. The 5-to-3 decision in Smith v. City of Jackson, No. 03-1160, applied to the Age Discrimination in Employment Act, the "disparate impact" theory of liability long familiar under the laws against race and sex discrimination. Employees need not produce a smoking gun, but can win by showing that a policy has the effect of discriminating against older workers, regardless of an employer's motivation. The dissenters were Justices Thomas, Kennedy, and O'Connor. Chief Justice Rehnquist did not participate.

In Spector v. Norwegian Cruise Line Ltd., No. 03-1388, the court ruled 6 to 3 that the Americans With Disabilities Act protects the rights of passengers who sail on cruise ships that call at American ports, even ships that fly under foreign flags, as most do. However, ships will not be required to make major structural alterations. The dissenters were Justices Scalia and O'Connor and Chief Justice Rehnquist.

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The court also overturned a 20-year-old murder conviction in Texas on the ground that the jury selection had been infected by racial discrimination. The 6-to-3 decision in Miller-El v. Dretke, No. 03-9659, was the court's second ruling on behalf of the death row inmate, Thomas Miller-El. The dissenters were Justices Thomas and Scalia and Chief Justice Rehnquist.

In another case, the court ruled that a California prison policy that temporarily segregates new or newly transferred inmates by race, for the stated purpose of preventing gang violence, was constitutionally suspect and not entitled to the judicial deference that is usually accorded to prison administration policies. The vote in Johnson v. California, No. 03-636, was 5 to 3, with Chief Justice Rehnquist not participating. Justice Stevens said in his dissent that the policy was flatly unconstitutional. Justices Scalia and Thomas, dissenting on different grounds, said the court should have deferred to prison officials.

Federalism

Reasserting federal authority, the court upheld the power of Congress to prohibit and prosecute the possession and use of marijuana, even in California and the 10 other states that allowed it for medical purposes. A federal appeals court had ruled that the noncommercial cultivation and use of marijuana that did not cross state lines fell outside Congress's constitutional authority to regulate interstate commerce.

The vote in Gonzales v. Raich, No. 03-1454, was 6 to 3. The surprise was not that Justices Stevens, Ginsburg, Souter, and Breyer voted with the majority, but that Justices Kennedy and Scalia defected from their usual states' rights allies to vote to uphold federal power.

Rejecting state protectionism in the national wine market, the court overturned liquor laws in New York and Michigan and ruled that states that allow in-state wineries to ship directly to consumers must give the same privilege to out-of-state wineries. The vote in Granholm v. Heald, No. 03-1116, was 5 to 4, with Justices Kennedy, Scalia, Souter, Ginsburg and Breyer in the majority.

The court rejected a claim of federal pre-emption and allowed suits to go forward in state court claiming negligence in the design and manufacture of pesticides and herbicides. These products are regulated under a federal law, the Federal Insecticide, Fungicide and Rodenticide Act, and the Bush administration had argued that this statute, which does not allow private lawsuits in federal court, also implicitly blocked the states from opening their courts to such suits. The vote in Bates v. Dow AgroSciences L.L.C., No. 03-388, was 7 to 2, with Justices Thomas and Scalia dissenting.

Immigration

The court ruled unanimously that driving under the influence of alcohol, even when serious injury results, is not a "crime of violence" for which an immigrant should face automatic deportation. Chief Justice Rehnquist wrote the opinion in Leocal v. Ashcroft, No. 03-583, which rejected the Bush administration's interpretation of federal immigration law.

Meanwhile, Cubans who entered the United States during the Mariel boatlift in 1980 and subsequently committed crimes cannot be subjected to open-ended detention, the court ruled in a 7-to-2 decision. Although these Cubans, as many as 1,000 of the 125,000 who arrived in the boatlift, are now deportable, Cuba will not take them back. They may not be held for more than six months without a special reason, Justice Scalia said for the court in Clark v. Martinez, No. 03-878. Justice Thomas and Chief Justice Rehnquist dissented.

Immigrants from Somalia may be deported despite the lack of a centrally functioning government in Somalia to receive them, the court ruled 5 to 4 in Jama v. Immigration and Customs Enforcement, No. 03-674. The dissenters were Justices Souter, Stevens, Ginsburg and Breyer.

Business

The court unanimously overturned the criminal conviction of the accounting firm Arthur Andersen for shredding documents related to its work for Enron as that company was collapsing in 2001. Chief Justice Rehnquist said for the majority in Arthur Andersen v. United States, No. 04-368, that the judge's instructions to the jury failed to require the necessary proof that the firm knew its actions were wrong. The victory came too late for Andersen, which lost its clients and its licenses and now has 200 employees, down from 28,000, wrapping up the firm's affairs.

In another unanimous opinion, the court reinstated a copyright-infringement suit by Hollywood studios and the music industry against two file-sharing services whose software enables users to download copyrighted movies and songs.

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Overturning an appeals court ruling in favor of the services, Grokster and StreamCast Networks, the court held that a company shown to induce copyright infringement can be liable even if its products also have lawful uses. While sending the case, Metro-Goldwyn-Mayer Studios v. Grokster Ltd., No. 04-480, back to the lower courts, the justices made it clear that they believed the plaintiffs had presented ample evidence of inducement.

Upholding an interpretation by the Federal Communications Commission, the court ruled that cable companies do not have to allow rivals to offer high-speed Internet access over their systems. The 6-to-3 decision in National Cable & Telecommunications Association v. Brand X Internet Services, No. 04-277, was a victory for cable in the competition to provide broadband service. Justices Scalia, Souter and Ginsburg dissented.

In another case, the court ruled unanimously that federal bankruptcy law shields individual retirement accounts from creditors. The decision in Rousey v. Jacoway, No. 03-1407, extended the protection already provided to 401(k) accounts and company pension plans.

The court also raised the bar for investors bringing securities fraud cases. The mere accusation that a company's misrepresentations inflated the stock price is an insufficient basis for a suit, the court ruled unanimously in Dura Pharmaceuticals Inc. v. Broudo, No. 03-932. Instead, investors must claim at the outset that it was the artificially high stock price that actually caused their losses.

High Court's Junior Member A Power Broker (AP-Y2)

By Gina Holland, Associated Press Writer

AP2, July 5, 2005

The power broker at the Supreme Court this term was the "junior justice," Stephen Breyer. He was on the winning side in the 10 biggest cases of the year, covering capital punishment, medical marijuana, property rights and Ten Commandments displays.

By contrast, Chief Justice William H. Rehnquist was in the majority only three times as his conservative bloc splintered again and again.

Of course, the top news from the court was the retirement of Justice Sandra Day O'Connor. She announced on Friday that she would leave as soon as President Bush's nominee is confirmed.

It is the first vacancy on the court since 1994, the longest stretch since the early 1800s.

Bush could have a second seat to fill should the 80-year-old Rehnquist, who has thyroid cancer, decide to step down, too. The widower announced his illness in October and his future on the court is very much in doubt.

O'Connor's pending departure means Breyer finally will shed the "junior justice" title he has held for 11 years. As the newest member of the court, he is saddled with such menial duties as answering the door when justices hold weekly private meetings.

But there was nothing back bench about the performance by the Clinton appointee this session.

The 66-year-old former college professor and congressional lawyer was a pivotal vote in two cases that set a new standard for religious displays in government buildings.

Breyer, known for his amiable style, also is credited with working out a compromise that salvaged federal sentencing guidelines. It was an important decision because about 64,000 people are sentenced in federal courts each year.

"He has such a well-developed sense of diplomacy that it's not surprising to see his long-term moderate vision is now being embraced by the court," said Georgetown University law professor Neal Katyal, a former Breyer law clerk.

Among Breyer's surprises this term was his critical role in two Ten Commandments cases decided on the final day of the term. Together, the rulings made clear that overtly religious displays are unconstitutional, but historic ones are allowed. Breyer was the only justice in the majority on both.

"He has become the most pragmatic person on the court. He has a way of taking the temperature of society," said Marci Hamilton, a former O'Connor clerk whose new book is "God vs. The Gavel," about courts and religion.

Overall this session, the court ruled in about 80 cases; one-third of them were resolved on 5-4 votes.

Usually the five conservatives, sometimes known as the "Rehnquist five," vote together in about half of the 5-4 decisions. This year they were together in just five such rulings.

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O'Connor and Anthony Kennedy, both appointed by President Reagan, were not the swing voters they usually are on sharply divided issues.

"Almost all of the court's members found themselves in unusual alignments as novel questions came before them," said Thomas Goldstein, a lawyer who argues before the court and tracks voting trends.

Rehnquist disagreed with rulings that made it unconstitutional to execute juvenile murderers; said federal drug agents did not have to honor state medical marijuana laws; barred a Ten Commandments display in Kentucky; and empowered local governments to seize people's homes for use for projects that will generate tax revenue.

"This term confirms that Chief Justice Rehnquist's legacy on the court is more in the nature of a correction than a revolution," said Richard Garnett, a Notre Dame law professor and former Rehnquist clerk.

Breyer filed 11 dissents, although none in major cases. He read a dissent from the bench in one case, to demonstrate his dissatisfaction when the court ruled against a Tennessee death row inmate who wanted to pursue more appeals.

Overall, however, the court was sympathetic to claims that inmates had been treated unfairly. The court overturned the death sentences of four inmates. In a fifth case, the justices ruled that states cannot put to death killers who were not at least 18-years-old at the time of the crime.

Playing a pivotal role in the capital punishment cases, and others, was the court's oldest member, 85-year-old John Paul Stevens. Stevens presided on the bench while Rehnquist was receiving radiation and chemotherapy treatments. Rehnquist was off the bench for five months. He voted in most of the cases, however.

Stevens, on the court since 1975, had taken the unusual step of calling for an end to juvenile executions in 2002, but he did not have the votes to accomplish it. He called the executions a "relic of the past" and "inconsistent with evolving standards of decency in a civilized society." This time, Stevens prevailed with the vote of Kennedy.

"People forget that Justice Stevens has also been on the court a long time, building a legacy of his own," Garnett said.

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Political Calculus Of Replacing O'Connor (LEGALT)

By T.R. Goldman, Legal Times

Legal Times, July 4, 2005

Justice Sandra Day O'Connor's surprise retirement leaves President George W. Bush in a bind: Can he possibly replace the first woman on the Supreme Court with a white male?

After all, prior to O'Connor's July 1 announcement, most of the smart money for a potential high court nominee was on middle-aged white judges such as John Roberts of the U.S. Court of Appeals for the D.C. Circuit and J. Michael Luttig of the 4th Circuit. But that was to replace Chief Justice William Rehnquist, who, at least for the moment, is staying.

"Do you replace O'Connor with a woman, or with a Hispanic, so you have a new first?" says American University law professor Stephen Wermiel. "The question is, who are you trying to appease? And are you looking for a fight — or looking to avoid a fight?"

Competing interest groups lost no time in laying down markers, and rallying their troops. Hispanic activists, for one, and their interest groups say the opportunity is ripe for Bush to name the nation's first Hispanic justice. Nominating a Hispanic would also help the Republican Party woo a key and growing constituency that it has actively courted.

"It's been 10 years now since we've had a vacancy, and a lot has changed," notes Mickey Ibarra, a former Clinton administration official who now has his own lobby shop. "Hispanics are becoming the largest minority, and whether it's for a replacement of Rehnquist or O'Connor, consideration of a Hispanic seems like it has to be a must."

But the person some see as the leading Hispanic candidate, Attorney General Alberto Gonzales, is viewed as flatly unacceptable by the hard-line conservative and evangelical groups that take credit for Bush's presidential re-election victory.

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"He's not an ideological conservative; it's not a world he comes from," notes one senior Republican Senate staffer. "And we don't believe he has convictions he will stand by. As one former Supreme Court clerk said to me, 'When the most charming man in Washington, [Justice] Stephen Breyer, comes calling, will Gonzales stand up for his beliefs?"

That may make someone like Judge Emilio Garza of the U.S. Court of Appeals for the 5th Circuit a more likely candidate. Garza is viewed as a passionate opponent of Roe v. Wade. And if the White House seeks a minority candidate, but not a Hispanic one, it could turn to former Deputy Attorney General Larry Thompson, now general counsel of PepsiCo.

There is also the possibility of nominating a female justice to replace O'Connor. Here, the most likely candidates are two judges on the 5th Circuit — Edith Jones, who was appointed by President Ronald Reagan, and Edith Brown Clement, a 2001 Bush appointee.

Jones is considered by conservatives to be ideologically sound. But her lengthy paper trail and outspoken manner would give opponents plenty of ammunition.

In O'Connor's case, it isn't as simple as replacing a woman with another woman, or a minority with a minority. As the Court's most consistent swing vote, O'Connor's replacement could have a far greater impact on future Supreme Court decisions — about affirmative action, federalism, and abortion, for example — than Rehnquist's replacement would have.

"The significance could not be greater," says Elliot Mincberg, general counsel of People for the American Way, one of the leading liberal interest groups in the upcoming Supreme Court fight.

"It's not a question of being merely conservative," said Mincberg, about a possible O'Connor replacement. "It's a question of [a nominee] being so far to the right as to literally flip the Court in a whole range of areas."

And some interest groups are counting on that.

"We expect the president to be true to his word, as he has been with his appellate court nominations, and to name someone in the likeness of [Justices Antonin] Scalia and [Clarence] Thomas," says Jan LaRue, the chief counsel of Concerned Women for America, a conservative public policy women's organization, which claims 500,000 members.

Of course, Bush always retains the possibility of replacing O'Connor with one of several appellate court judges who had been considered strong possibilities if Rehnquist resigned, such as Roberts, Luttig, or Michael McConnell of the 10th Circuit.

"I think the smart move is to pick John Roberts," says American University's Wermiel. "I think Roberts will play very well in the nominations process. He's polished, accomplished, easygoing, and not intimidating."

If the White House wants a fight, it will find one. And if Bush does name a far-right ideological conservative, like Luttig or Jones or Garza, Senate Democrats would almost certainly filibuster the nominee.

In that case, the Senate would be right back to the ugly precipice where it found itself this spring, with Senate Majority Leader Bill Frist (R-Tenn.) threatening to use a parliamentary maneuver to eliminate the judicial filibuster.

That crisis was averted, at least for the time being, by a May 23 deal cut by seven moderate Democrats and seven moderate Republicans. The Democrats agreed not to filibuster a nominee, and the Republicans agreed not to eliminate the judicial filibuster, except in "extraordinary circumstances."

The White House may also have to appease the chairman of the Senate Judiciary Committee, Arlen Specter (R-Pa.), whose chairmanship was almost derailed earlier this year after his comments that a Supreme Court nominee who opposed abortion rights was not likely to win Senate confirmation.

"The stakes have changed," Wermiel notes. "Rehnquist was just going to be a dress rehearsal for this moment, for the swing vacancy. But we skipped the dress rehearsal and went to opening night."

Sean Rushton, the executive director of the Committee for Justice, a leading conservative judicial nominations interest group, says Bush should focus on substance, not ethnicity or gender.

"Find someone who fits the bill ideologically," he says. "But all things being equal, why not go with a woman or a Hispanic?"

Of course, Bush could always nominate a so-called mainstream conservative, one whom the Democrats could find very few reasons to filibuster. Indeed, at a brief Rose Garden announcement about O'Connor's resignation Friday, he spoke about wanting a "dignified process . . . characterized by fair treatment, a fair hearing and a fair vote."

Seth Rosenthal, the legal director of the liberal Alliance for Justice, notes that one way the president could avoid a knock-down, drag-out fight is to name one of the Republican-appointed "consensus nominees" recently identified by the Alliance. The

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four are: Judge Stanley Marcus of the 11th Circuit; Michael Mukasey, a federal trial judge in New York; Judge Edward Prado of the 5th Circuit; and Judge Ann Williams of the 7th Circuit.

O'Connor, Rosenthal says, was just such a selection.

"She's certainly a conservative on a host of issues, on states' rights, criminal justice issues, you name it," he says. "But she did not bring an ideological agenda to the bench. She decided things on a case-by-case basis. She decided things in an incremental way."

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Fred Barnes column: The Two Roads (WEEKSTAN)

Weekly Standard, July 4, 2005

THROUGH A CAMPAIGN AIDE, Bush answered a question about the kind of Supreme Court justice he admired. The answer was Antonin Scalia, a conservative. That was in 1999, as Bush was beginning his race for the presidency. He was asked a similar question later that year by Tim Russert on Meet the Press. The answer was the same--Scalia. Now jump to the summer of 2003 as Bush is preparing for his reelection campaign. Meeting with advisers at his ranch in Crawford, Texas, Bush said one of his top priorities is to create a diverse Republican party with many more Hispanics.

Bush's comments point to the two directions he must choose between in selecting a nominee to replace Sandra Day O'Connor on the Supreme Court. The first--the Scalia direction--would be to pick a respected conservative jurist and thus move the ideological tilt of the court to the right. The second would be to choose Attorney General Alberto Gonzales or another Hispanic, a step unlikely to change the court's current ideological posture.

The first would be in sync with the thrust of Bush's presidency. As Bush and his aides never tire of telling everyone, he came to the White House to do big things and achieve important changes. And transforming the Supreme Court into a more conservative body and shrinking the role of unelected judges in American life is one of his major goals.

Bush also prides himself on not doing the easy or politically popular thing. He could have sought minor adjustments in Social Security

to improve its solvency, but he chose to promote total reform. After routing al Qaeda terrorists in Afghanistan, he could have stopped and gone no further, preserving his high poll rating. Instead he deposed Saddam Hussein in Iraq.

Nominating a full-blown judicial conservative--there are plenty to choose from--would surely provoke a bitter confirmation struggle in the Senate. He might even lose the fight. But all of Bush's accomplishments have come over the strong opposition of Democrats or have drawn sharp criticism from them. This includes tax cuts, education reform, creation of a Homeland Security Department, and Iraq. Bush's motto, if he had one, should be no pain, no gain.

Placing another conservative on the high court, and perhaps several more if other resignations occur, would give Bush a lasting and extraordinarily significant legacy. And by nudging the court to the right Bush would merely be counteracting what President Clinton did with his two Supreme Court nominations. Clinton filled vacancies on the court with liberals Ruth Bader Ginsburg and Stephen Breyer. Each replaced a more conservative justice, Harry Blackmun and Byron White, respectively.

Naming Gonzales or another Hispanic to the high court would be in line with Bush's political goal of enlarging the Republican party. And picking Gonzales might indeed help in that regard. He would be the first Hispanic justice. A Gonzales nomination would also be personally satisfying to Bush. "The president loves Alberto Gonzales and trusts him," Texas Senator John Cornyn, a friend of both, said. Gonzales was Bush's White House counsel before becoming attorney general.

But there's a difference between trying to improve the position of a political party and seizing an historic opportunity to change both the role and the rulings of the federal judiciary. The first is a decision any president or politician would make. Given the furor the second could provoke, it's a decision only a few presidents would make. My guess is Bush is one of them.

Fred Barnes is executive editor of The Weekly Standard.

Cool Off Rhetoric On Court, Bush Says (USAT)

By Judy Keen

USA Today, July 5, 2005

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WASHINGTON — President Bush said Monday that special-interest groups running TV ads and mobilizing supporters for a fight over his choice of a successor to Supreme Court Justice Sandra Day O'Connor should "tone down the heated rhetoric." He forcefully defended Attorney General Alberto Gonzales, a prospect criticized by conservatives.

"Al Gonzales is a great friend of mine," Bush said in a phone interview. "When a friend gets attacked, I don't like it." (Related item: Q-and-A excerpts)

Conservative groups have criticized Gonzales, who, as a member of the Texas Supreme Court, backed exceptions to a state law requiring teenagers to notify a parent before getting an abortion.

In his first response to questions about the vacancy since O'Connor's surprise announcement Friday, Bush said he won't rush a decision but wants her successor to be on the bench when the Supreme Court resumes work in October.

He said he's considering — "a good-sized" number of prospects. "I will begin to hone in on a handful of candidates over the course of the next few weeks," he said. Then, he said, he will interview them himself.

Asked whether women and minorities are on his list, Bush said, "Of course there's a diverse group of citizens." He hasn't identified any potential nominees. Gonzales is Hispanic; the court has never had a Hispanic member.

Kay Daly of the Coalition for a Fair Judiciary, a coalition of conservative organizations, said her group is split on Gonzales. She said some think Gonzales' record "does not fit" the conservative mold of Justices Antonin Scalia and Clarence Thomas, whom Bush has repeatedly cited as models for his choice of a nominee to the high court.

O'Connor's resignation announcement was a surprise to the White House. Chief Justice William Rehnquist, who is battling cancer, was considered the most likely to depart.

O'Connor's decision immediately launched an aggressive effort by interest groups to influence Bush's choice of a replacement.

People for the American Way, a liberal group, is running a TV ad asking whether Bush will "follow history, choosing a judge who protects our fundamental rights and freedoms," or "divide the country." Progress for America, a conservative group, has sent 8.7 million e-mails telling supporters to ignore Democrats' attacks.

Richard Davis, a political science professor at Brigham Young University and author of Electing Justice: Fixing the Supreme Court Nomination Process, said the coming weeks will "look like a presidential campaign."

At stake are divisive issues such as abortion rights and affirmative action. Bush, who has said Americans aren't ready to ban abortion, declined to say whether he will name a justice who would vote to outlaw it. "As I have repeatedly said, I do not believe in a litmus test for my judges," he said.

Bush said lobbying won't affect him: "I feel no pressure except the pressure to put somebody on the bench who will bring dignity to the office, somebody who's got the intellect necessary to do the job, somebody of great integrity and somebody who will faithfully interpret the Constitution."

He cautioned against a partisan war. "I would hope that the groups involved in this process — the special-interest groups — will help tone down the heated rhetoric and focus on the nominee's credentials and philosophy," he said.

The Senate, which has been fighting for months about his nominees to federal courts, can "get rid of the bitterness and rancor that seem to have been prevalent in a lot of the recent debates," he said.

Q-and-A: Bush Wants Justice Of 'Great Integrity And Intellect' (USAT)

USA Today, July 5, 2005

President Bush spoke Monday with USA TODAY's Judy Keen about filling the vacancy on the Supreme Court. These excerpts have been edited for length. (Related item: Bush: 'Tone down' rhetoric)

Q: Do you want to move the Supreme Court in a more conservative direction?

A: This is a responsibility I take very seriously, and I have indicated in the course of two campaigns that I intend to nominate a person with great integrity and intellect and experience who will faithfully interpret the Constitution.

Q: Do you believe the court is not conservative enough?

A: I'm making the pick based upon the criterion I just outlined. I'm looking at a wide range of candidates, people from different walks of life. I will begin to hone in on a handful of candidates over the course of the next few weeks and then will submit

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my nomination. But I am looking for an individual able to do the job, of course, who will bring great judgment to the bench and one who has the philosophy that I just outlined.

Q: Are you considering waiting until August to announce your choice so opponents don't have a full month to attack while Congress is recessed?

A: I have reached out to members of the Senate and will continue to do so. And then there will be a period of time in which I myself will sit down with the prospective nominees. But I was very serious when I said we need to have this person on the bench prior to the beginning of the next session.

Q: Would you like the Senate to return in August to deal with the nomination?

A: Part of the consultative process with the Senate, of course, will be to determine how best to get a speedy resolution to the nomination. I look forward to consulting with the Senate to make sure that the dialogue and tone of the debate is one that will bring credit to the country. This is a good opportunity for the Senate to get rid of the bitterness and rancor that seem to have been prevalent in a lot of the recent debates.

Q: Should the Senate's agreement not to block votes on judicial nominees except under "extraordinary circumstances" apply?

A: I think all my judges should get an up or down vote on the floor of the Senate. I think there ought to be a good, fair hearing. I know there will be. I hope the language and tone of the debate is one that is uplifting. I would hope that the groups involved in this process — the special-interest groups — will help tone down the heated rhetoric and focus on the nominee's credentials and philosophy.

Q: You said Friday that you want a dignified process, but already interest groups are working hard to pressure you.

A: I feel no pressure except the pressure to put somebody on the bench who will bring dignity to the office, somebody who's got the intellect necessary to do the job, somebody of great integrity and somebody who will faithfully interpret the Constitution and laws of the country.

Q: What do you make of the tone of the dialogue already and in particular the attacks on Attorney General Alberto Gonzales, who's considered a possible nominee?

A: My call to the senators who will be leading the debate on either side is to help elevate this rhetoric so that the country will take a prideful look at the process, recognize there will be differences of opinion but that we can step back after it's over and say, "That's the way we ought to conduct a debate on something as serious as a Supreme Court nominee."

Q: Do you think the attacks on Gonzales are out of line?

A: Al Gonzales is a great friend of mine. I'm the kind of person, when a friend gets attacked, I don't like it. We're lucky to have him as the attorney general, and I'm lucky to have him as a friend.

Q: How many people are on your list? Does it include women and minorities?

A: I'm considering a pretty good-sized group of people right now, and of course, there's a diverse group of citizens.

Q: Do you feel any obligation to appoint a woman?

A: I feel an obligation to make sure I reach out to all our society, to people from different parts of our society. It's very important for the people to know that I'm interested in diversity on the court, and I'm also interested in making sure that the person I pick, regardless of who he or she is and regardless of the background of that person, is a person of great integrity, somebody who can do the job.

Q: You have said the American people are not ready for a change in Roe v. Wade. Do you still believe that, or is this your chance to overturn it?

A: As I have repeatedly said, I do not believe in a litmus test for my judges.

Bush Unlikely To Give Lawmakers Much Say In His Pick For Justice (WSJ)

By John D. Mckinnon And Christopher Cooper

The Wall Street Journal, July 5, 2005

WASHINGTON -- Senate moderates in both parties are demanding that President Bush seek their advice before nominating a successor to retiring Supreme Court Justice Sandra Day O'Connor.

But Mr. Bush's track record -- and a nearly unbroken record of presidential precedent -- suggest that in the end, lawmakers will have little say in whom the president nominates.

Within minutes of the announcement that Justice O'Connor was retiring, the White House said it planned to confer with Republicans and Democrats before choosing her successor. The White House made much of Mr. Bush's conversation last week with Senate Minority Leader Harry Reid, when the two men discussed potential nominees to the Supreme Court shortly before Justice O'Connor's retirement was announced.

"I would expect that he would be talking to the majority leader, the minority leader, the ranking members of the Judiciary Committee," presidential spokesman Scott McClellan said of Mr. Bush. "I think this will be an even more thorough process" of conferring between the White House and Congress than usual on nominations, Mr. McClellan added.

Through the Motions

But neither the Bush White House's operating style nor historical precedent suggests that those conversations will have much effect. "Bush will pick whomever he wants," said David Yalof, a University of Connecticut professor and author of a book about the Supreme Court nomination process. Mr. Bush might go through the motions with influential Senate moderates, Mr. Yalof added, but "if it could even be described as input, it's not going to be influence."

The issue of consultation sprang to the fore early in June as tensions in the Senate over judicial nominations boiled over. After Democratic threats to filibuster several of Mr. Bush's appellate-court picks, Republican conservatives sought to rewrite Senate rules and do away with the procedural device for blocking nominations. Ultimately, a group of 14 moderates from both parties reached an agreement among themselves to push through some of Mr. Bush's judicial nominees and limit filibusters to "extraordinary circumstances."

One section of the agreement called on the president to consult with Democrats and Republicans "prior to submitting a judicial nomination to the Senate for consideration." The language was negotiated by Robert Byrd (D., W.Va.) and John Warner (R., Va.), two of the Senate's veteran deal makers.

"I hope the president will...allow us to provide real advice," said Sen. Mary Landrieu, a Louisiana Democrat.

In an apparent effort to address the concern, Mr. Bush telephoned important senators of both parties Friday, not long after Justice O'Connor's announcement. His 14-minute call to Vermont Sen. Patrick Leahy, the top Democrat on the Judiciary Committee, interrupted the senator's own news conference.

Advice in Atrophy

If such gestures result in true collaboration it will mark a turnaround for the presidential appointment process.

"Traditionally that's just not been done that much," said John Maltese, a University of Georgia professor who wrote a book about the confirmation process. While the Constitution calls for the president to nominate and appoint justices with the "advice and consent" of the Senate, the "advice" part of the clause "has atrophied," he said.

Even President Lyndon Johnson, who had been Senate Democratic majority leader, had only perfunctory consultations with his former colleagues regarding his Supreme Court picks, according to Mr. Yalof.

If anything, the lack of consultation has grown more pronounced in recent decades, experts said, as the power of the presidency has increased in relation to Congress, and as the political stakes involved in federal court decisions have grown. During the 1970s and 1980s, Presidents Carter and Reagan fueled tension with Capitol Hill by taking steps to reduce senatorial influence over the selection of trial and appeals-court judges.

Clinton an Exception

The trend was interrupted during President Clinton's administration, when he consulted closely with Republican Sen. Orrin Hatch of Utah in the president's Supreme Court picks. Sen. Hatch advised Mr. Clinton that one possible candidate, Bruce Babbitt, was unlikely to pass muster with the Senate and Mr. Babbitt was dropped from consideration.

Several experts said they believe Mr. Clinton focused on other issues and didn't want to spend much political capital on the Supreme Court. Though he made two appointments to the high court, replacing moderates Byron White and Harry Blackmun, Mr. Clinton also had little chance of changing the balance of power.

Mr. Bush, by contrast, has a chance to tip the balance on a court that routinely casts 5-4 votes on the most politically charged issues, often with Justice O'Connor serving as the swing.

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The president has faced criticism that he doesn't even consult with his own party when pushing nominations -- or other legislative business -- through Congress. The nomination of John Bolton, Mr. Bush's choice for United Nations ambassador, has been stalled twice this year by Democrats and Republicans who have misgivings about Mr. Bolton's suitability for the job.

Some Republicans say the Gang of 14 agreement may force Mr. Bush to be more conciliatory in his choice of a nominee. But moderate Sen. Arlen Specter (R., Pa.), chairman of the Judiciary Committee, said that he wouldn't presume to impose his opinions on the president. The agreement's vague language on consultation has some Democrats saying it's unlikely to spark a successful filibuster battle.

Some Republican sympathizers even say that, paradoxically, the agreement may push Mr. Bush to be more hard-line in order to defend his constitutional power to nominate justices.

"If I were the president's lawyer I would say [the Gang of 14 agreement] can't possibly change the game," said Douglas Kmiec, a Pepperdine University law professor and former constitutional legal counsel in the Justice Department during the administrations of Presidents Reagan and George H.W. Bush. "I actually think the effect is to embolden the president, to make the choice he would most strongly favor."

Bush Faces Tough Choice To Fill Supreme Court Vacancy (CSM)

By Linda Feldmann

The Christian Science Monitor, July 5, 2005

WASHINGTON - For social conservatives, long active in Republican politics, the moment of truth has finally arrived: a chance to move the US Supreme Court to the right, particularly on abortion, gay rights, and other divisive cultural issues.

But, with the announced retirement of centrist Justice Sandra Day O'Connor, will President Bush do what he has long said he intended - nominate a justice in the mold of Antonin Scalia or Clarence Thomas, both strongly conservative?

Enter the politics of the day. The atmosphere in Washington is fiercely partisan, and Bush is struggling to carry out his bold second-term agenda. Social Security reform has stalled, and the public is increasingly skeptical of the Iraq war. Polls also show the public has little use for what it sees as arcane sideshows - such as the Terri Schiavo imbroglio - while Americans worry about the price of gas, healthcare, and soldiers dying overseas.

In short, even as religious-conservative activists like Pat Robertson insist that the top three moral issues for the second term are "judges, judges, and judges," Bush may well decide that now is not the time to add an incendiary Supreme Court nomination to the mix, political analysts say.

"For Bush it's not just judges, although judges matter," says Norman Ornstein, a resident scholar at the American Enterprise Institute. "But to go for a confrontational battle now - knowing you'll have another coming in six months or less, knowing that the public attitude probably will be, 'there they go again,' especially if he picks someone who's a real ideologue - there's a price to be paid for that."

So it is not by accident that one top name under consideration, and actively floated in the press by the administration, is Attorney General Alberto Gonzales. He has many things going for him: He would be the first Hispanic justice, allowing Bush to replace one historic first with another - and perhaps win over some Hispanic votes to the GOP. Gonzales has just survived the rigors of a Senate confirmation, which included close grilling over his drafting of the so-called "torture memos." And he is the trusted friend of a president who values loyalty highly, having served Bush in various positions since 1995, beginning with general counsel to the then-Texas governor.

While conservative, the genial Gonzales is not seen as a hard-liner. And there's the rub: To social conservatives, he does not represent a reliable vote to overturn Roe v. Wade, the 1973 abortion-rights ruling. Conservatives also disagree with his defense of affirmative action. But it is abortion - the central issue in the coming confirmation battle - that gives activists on both sides the most heartache. As a justice on the Texas Supreme Court, Gonzales voted in favor of a pregnant teen's right to abortion without notifying her parents.

If Bush nominates Gonzales, it is debatable which side will raise the bigger fuss, social conservatives or liberal activists. Liberals have made clear that they will closely scrutinize whomever Bush puts forward, not just on their record on abortion, but also on other issues such as civil liberties and the environment. Chances that liberals will oppose whomever is nominated are

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high. The question is, how hard to fight. If it's Gonzales, the opposition would likely be less intense than if it were a more straight-down-the-line conservative, analysts say.

From the social conservatives' perspective, the White House is well aware of the grassroots objections to Gonzales. Publicly, religious conservatives express confidence that Bush will "do the right thing" and name someone else they can support. Privately, one activist said, "I'd be a little surprised if the president was going into a fight knowing that all his troops weren't behind him."

Gary Bauer, another religious-conservative activist, says he's not worried that Gonzales might be nominated, because he trusts Bush to keep his word. "He's said so many times that Scalia and Thomas are his examples of good judges, so to me it didn't seem credible that Gonzales would be in that same category," says Mr. Bauer, head of the group American Values. "I do think that the president knows there are high expectations that he will attempt to bring the Supreme Court closer to the values of the people who have elected him twice."

When talk centered more on Chief Justice William Rehnquist as likely to retire first, many of the names bandied about were of solidly conservative white men. Now, says legal historian David Garrow, "all these encomiums to O'Connor as the first woman really make it, in presidential-legacy terms, a matter of much greater historical heft to name the first Hispanic to replace the first woman."

Other analysts insist that Bush does not have to name a woman or a minority to Justice O'Connor's seat. But when O'Connor announced her resignation on July 1, the White House made clear women were under consideration. One name that shot to the top in conservative circles was Edith Brown Clement, a conservative judge on the Fifth Circuit Court of Appeals.

Still, the Gonzales talk has not gone away. On conservative blogs, Mr. Garrow notes, the only question is whether Bush nominates Gonzales now or to replace Justice Rehnquist. Some religious conservatives agree that Gonzales is still in the running - despite the ramifications for Bush's base.

"I think it's a live option, only because the president has such confidence in him, and the president's confidence may in fact trump the lack of support in the grassroots," says Deal Hudson, a conservative Catholic activist.

Jim Guth, an expert on religion and politics at Furman University in Greenville, S.C., surmises that the better path for Bush might be to nominate someone now whom religious conservatives can support and save Gonzales for later. He mentions two possible names, Fourth Circuit Judge J. Harvie Wilkinson and Tenth Circuit Judge Michael McConnell, as filling that bill - while also not likely arousing a filibuster in the Senate.

Still, Professor Guth believes Bush could still finesse a Gonzales pick. "I've always been impressed with Mr. Bush's ability to stay in touch with rank-and-file conservative Protestants, think what they're thinking, make the moves that may not please the movement organizations but generally seem satisfactory or even appealing to more mainstream religious conservatives," Guth says. "As we go on through the new millennium, the movement organizations in some ways matter less and less."

One sure thing is that several more days of speculation lie ahead. The White House says Bush will not name a nominee until after he returns from Europe on July 8. More likely, he will wait at least until the following Monday, July 11.

As Official Washington Takes A Holiday, Combatants On Both Sides Carry On (NYT)

By Elisabeth Bumiller And David D. Kirkpatrick

The New York Times, July 5, 2005

WASHINGTON, July 4 - As President Bush prepared for a trip to Europe, advocacy groups continued mobilizing on Monday for an intense campaign to try to influence his selection of a successor to Justice Sandra Day O'Connor and sway any ensuing confirmation fight.

During a morning trip to deliver an Independence Day speech in Morgantown, W.Va., Mr. Bush said nothing publicly about his plans to fill the Supreme Court vacancy, and he remained at a quiet White House in the afternoon. He is to leave early Tuesday for a stop in Denmark before heading to Scotland for a summit meeting of leaders of the world's chief industrialized democracies.

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Administration officials said staff members in the White House counsel's office continued to prepare profiles on the top Supreme Court contenders for Mr. Bush to take with him to Europe. But the West Wing was largely deserted on Monday afternoon as a groundskeeper on a large mower rumbled over the North Lawn.

While most of the White House staff had taken off for the holiday, though, conservative and liberal advocacy groups spent the weekend polling, preparing television advertisements and completing research on prospective nominees.

"It's been a very busy 72 hours," said Ralph G. Neas, president of People for the American Way, who is leading a coalition of liberal groups poised to oppose Mr. Bush's nominee.

Mr. Neas said People for the American Way would begin televising an advertisement this week as part of what he described as the "preselection message campaign" aimed at senators, the public, the media and, he said, Mr. Bush.

"Our founding fathers gave justices lifetime appointments to free them from partisan politics," the narrator says in that advertisement. "Now the question is, Will President Bush follow history, choosing a judge who protects our fundamental rights and freedoms? Or will he divide the country, trying to force through a judge who threatens our basic rights as Americans?"

Mr. Neas said the advertisement would be shown on national cable television and in swing states whose senators are expected to come under pressure, a list that is likely to include Pennsylvania, Maine, Nebraska and Florida. He said that the scope of the campaign would be dictated to some extent by the amount of money the group raised over the next few days, but that early indications were that its coffers would be flush.

Mr. Neas said his organization had finished examining the records of possible nominees and could produce new advertisements if necessary. "Assuming it's one of the couple of dozen who have been mentioned," he said, "we are ready to go."

He declared that his group was not "looking for a fight" with Mr. Bush. But, referring to Justices Clarence Thomas and Antonin Scalia, he also said, "I'm sure that if he one more time chooses confrontation over collaboration and, say, if he replaces a mainstream conservative like Sandra Day O'Connor with someone like Thomas or Scalia, a right-wing ideologue, that would mean a constitutional crisis."

Progress for America, a conservative group that has pledged to spend $18 million to defend whomever the president nominates, said it was gathering family photographs of a list of potential picks so that it could televise positive biographical commercials within two days of Mr. Bush's announcement of his nominee, which could come as early as next week.

"We are ramping up our research efforts to take a look at potential nominees and be ready and up with ads in support of that person," said Jessica Boulanger, a spokeswoman for the group.

Ms. Boulanger said paid staff members of Progress for America were working with conservative talk-radio hosts in 21 states and organizing letters to newspaper editors.

Another conservative group, the Judicial Confirmation Network, also has local organizers in many states. Their goal is to lay the groundwork for counterattacks on liberal groups likely to criticize a conservative nominee. "The message is, The only nominee that would be acceptable to the liberal left is Ted Kennedy," Ms. Boulanger said.

Networks of conservative organizations including the Arlington Group, a conservative Christian alliance formed two years ago to oppose same-sex marriage, are speaking regularly in conference calls to plot strategy.

Many prominent conservatives are using contacts with the White House to press against a nomination of Attorney General Alberto R. Gonzales, a presidential confidant frequently mentioned as a Supreme Court contender. Conservatives, who suspect that Mr. Gonzales is not strongly opposed to abortion, are reluctant to criticize him directly because he is a friend of Mr. Bush. Instead, many are arguing that his current work as attorney general would force him to recuse himself from important cases involving the federal government.

Others are taking a blunter approach. Adam McManus, a San Antonio radio host who says his program reaches 50,000 listeners, has been urging them to call the president about Mr. Gonzales.

"The values votes - conservative Christians in particular - were the ones who brought George W. Bush to the presidential dance, and he needs to remain loyal to his conservative base," Mr. McManus said in an interview. "Now is the time to strike while the iron is hot, to e-mail him, to call him, to write letters. We need to, by the thousands, let him know that he needs to do right by his commitment to protect the lives of unborn babies."

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Interest groups on both the right and the left also wasted no time in asking supporters to open their checkbooks for the battle ahead.

In e-mail to supporters, the National Right to Life Committee wrote, "Please contribute to National Right to Life's grass-roots effort."

On the opposing side, the abortion rights group Naral Pro-Choice America posted a picture of Mr. Bush on its Web page and declared, "Don't let his choice end yours!" Below Mr. Bush's photograph were the words "Help fund the fight!"

Since Justice O'Connor announced on Friday that she was retiring, People for the American Way has similarly sent out 500,000 letters and e-mail messages that include a pitch for contributions.

Silent on the skirmishing over the court, Mr. Bush instead used the Fourth of July holiday to compare the challenges of the war in Iraq to those faced by American revolutionaries in 1776.

"On July 4, 1776, more than five years of the Revolutionary War still lay ahead," he said in an outdoor rally at West Virginia University, in Morgantown.

"From the Battle of New York to the winter at Valley Forge to the victory at Yorktown, our forefathers faced terrible losses and hardships," Mr. Bush added. "Yet they kept their resolve. They kept their faith in a future of liberty, and with their hard-won victory we guaranteed a home for the Declaration's proposition that all are created equal."

He said that "at this hour, our men and women in uniform are defending America against the threats of the 21st century," and declared once again that "Iraq is the latest battlefield in the war on terror."

The president is to return from Europe late Friday and meet with a bipartisan group of senators next Monday to discuss the Supreme Court vacancy. The earliest he could name a nominee will be later next week, and some Republicans say he could wait until the following week or even August.

Presidents, Choosing Justices, Can Wind Up With Surprises (NYT)

By Todd S. Purdum

The New York Times, July 5, 2005

WASHINGTON, July 4 - In July 1902, confident that he had found a judge opposed to "big railroad men and other members of large corporations," Theodore Roosevelt named Oliver Wendell Holmes Jr. as his first appointee to the Supreme Court, delighted with a choice that their fellow Republican, Senator Henry Cabot Lodge of Massachusetts, called "our kind right through."

Twenty months (and many convivial dinners at the White House) later, in the middle of an election year, Justice Holmes voted against his progressive president in the biggest railroad trust-busting case of the time, United States v. Northern Securities. "I could carve out of a banana a judge with more backbone than that," an enraged Roosevelt declared.

As President Bush prepares to fill a vacancy that conservatives hope (and liberals fear) could shape the Supreme Court for a generation, he faces a daunting historical reality: presidents don't always get what they bargain for when they grant even seemingly close allies lifetime tenure on a fiercely independent institution, where the hot-button issues of the future are hard to predict.

"The biggest damn fool mistake I ever made," Dwight D. Eisenhower said of his appointment of Chief Justice Earl Warren, who discomfited him with the Brown v. Board of Education ruling ordering desegregation of public schools, and other liberal opinions. Harry S. Truman was even more scathing about Justice Tom C. Clark, a Truman appointee who voted against his 1952 seizure of the steel industry to avert a strike.

"It isn't so much that he's a bad man," Truman later told the oral historian Merle Miller. "It's just that he's such a dumb son of a bitch."

It is precisely to guard against such surprises - and the likes of more recent Republican appointees who have disappointed their party's conservative wing, from the retiring Justice Sandra Day O'Connor to David H. Souter and Anthony M. Kennedy - that many conservatives are now urging Mr. Bush to pick an established jurist or legal scholar with a defined philosophy, clear paper trail and unimpeachable credentials on questions from abortion to property rights.

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"He's not guaranteed of getting what he's hoping for, but he can maximize his chances," said Edward Lazarus, a former clerk to Justice Harry A. Blackmun and the author of "Closed Chambers: The Rise, Fall and Future of the Modern Supreme Court." "The way to maximize your chances is to pick someone who is really deeply ideological and has spent a long time thinking about the issues, either a judge or a scholar or someone with a long track record and well-formed ideology."

Justices Antonin Scalia and Clarence Thomas, whom Mr. Bush has cited as his models, have ruled predictably - and often in lockstep. Many of the federal appellate court judges believed to be among the candidates Mr. Bush is now considering would appear to fit the same mold.

But even one of the conservative movement's favorite candidates, Judge J. Michael Luttig of the Court of Appeals for the Fourth Circuit in Richmond, Va., agreed to invalidate a Virginia ban on a form of abortion that the law calls partial birth - a restriction he had previously upheld - after the Supreme Court struck down a similar law in Nebraska. As a member of the Supreme Court, would he feel even more bound by its precedents and traditions?

No less an expert than Chief Justice William H. Rehnquist suggested in a speech more than 20 years ago that any president's ability to pack the court with like-minded justices is inherently limited. While a new justice might feel "strongly loyal to the president who appointed him," Justice Rehnquist told a Minnesota law school audience in 1984, "institutional pressures" within the court itself tend to "weaken and diffuse the outside loyalties of any new appointee."

He added that the court "is an institution far more dominated by centrifugal forces, pushing towards individuality and independence, than it is by centripetal forces pulling for hierarchical ordering and institutional unity."

Presidents as far back as Thomas Jefferson and James Madison have been surprised or disappointed by decisions of their appointees to the court. But perhaps the most famous example was Abraham Lincoln, who named his secretary of the treasury, Salmon P. Chase, as chief justice primarily to ensure that the court would uphold the constitutionality of the legislation by which the federal government had financed the Civil War, and which Mr. Chase had helped draft.

"We cannot ask a man what he will do, and if we should, and he should answer us, we would despise him," Lincoln said, by way of explaining his choice. "Therefore we must take a man whose opinions are known."

Perhaps in one of his perennially unsuccessful efforts to win the Democratic presidential nomination, Justice Chase wrote the court's opinion finding the legislation unconstitutional. But the decision was also, Chief Justice Rehnquist noted, "a textbook example of the proposition that one may look at a legal question differently as a judge than one did as a member of the executive branch."

It is just that reality that so concerns some conservatives about the prospect that Mr. Bush might name Attorney General Alberto R. Gonzales, whose views on issues like abortion are less known. That is why Republican and Democratic senators are already jousting pre-emptively over just how detailed their questioning about any nominee's views on issues should be. To the impassioned advocates on both sides, every detail might be telling.

More than 60 years ago, Zechariah Chafee, a leading legal historian, suggested that the best place to look for signs of a nominee's judicial attitudes was "not in his file of clients or in his safe-deposit box but at the books in his private library at home."

While some legal scholars like Laurence H. Tribe of Harvard have argued that presidents do have enormous power to influence the Supreme Court, others remain skeptical. Richard D. Friedman, of the University of Michigan Law School, said that "the dynamic of the court can be very important, the nine justices speaking to each other and, very importantly, to their clerks."

Harlan Fiske Stone, appointed by Calvin Coolidge, whom he had served as attorney general, eventually came under the influence of Justices Holmes and Louis D. Brandeis "and moved quite steadily left," Professor Friedman said.

The court's slow turnover also all but guarantees that presidents will have limited vacancies to fill. Since 1869, when the number of seats was set at nine, only William Howard Taft and Franklin D. Roosevelt managed to name a majority of justices in a single term, and only Dwight D. Eisenhower did so over the course of two terms. Moreover, Franklin Roosevelt's appointees were nothing like a bloc, and at least one of them, Felix Frankfurter, a prominent liberal law professor, proved surprisingly conservative on the bench.

"I just think what Mr. Justice Frankfurter did when he was a professor and private citizen overlooks the fact that once he got on the court, the job is completely different," said William T. Coleman Jr., who clerked for him in 1948-49 and went on to become Gerald R. Ford's secretary of transportation. He noted that when Mr. Ford appointed Justice John Paul Stevens, who now often

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votes with the two Democratic appointees on the court, "we read every opinion he'd ever written, but it's really the quality of the person you look for."

"President Ford told me just three weeks ago that one of the decisions he was proudest of was his appointment of Mr. Justice Stevens," Mr. Coleman added. "And that doesn't mean he has decided every case the way President Ford wanted."

Bush Faces Political Risk With Supreme Court Choice (REU-Y2)

By John Whitesides, Political Correspondent

Reuters, July 5, 2005

The potentially explosive choice of a new Supreme Court justice creates a maze of political risks for President Bush, with a wrong move either angering his conservative base or igniting a partisan brawl that could sink the rest of his second-term agenda.

The retirement of Justice Sandra Day O'Connor, a crucial swing vote on the divided nine-member court, gives Bush and conservatives a long-awaited opportunity to dramatically shift the court to the right on hot-button social issues like abortion, affirmative action and civil liberties.

But Democrats and interest groups on the left promise an all-out battle to block any nominee they view as too conservative. They have called on Bush to appoint a new justice in the mold of O'Connor, an appointee of President Ronald Reagan who at times sided against the court's most conservative members on a series of crucial 5-4 votes.

Both sides are marshaling money and manpower for an epic political war. Analysts say the fight could pollute Washington's already strained atmosphere and turn off middle-of-the-road voters seen as crucial to Republican hopes to expand their majority in the 2006 congressional elections and win the 2008 White House race.

A prolonged Senate confirmation battle also could make it tough for Bush to build support for languishing initiatives like the war in Iraq and the revamping of Social Security, analysts said.

"Bush has to decide if he wants to keep the base happy and maybe sacrifice his dreams for unity on Iraq -- as well as much of his domestic legislative agenda," said Bruce Buchanan, a professor at the University of Texas.

Keeping conservatives happy has been a key component of Bush's political strategy, and he has made a series of conservative judicial appointments to lower courts that have drawn Democratic opposition. But the chance to dramatically shift the Supreme Court to the right has raised the stakes even higher.

"This was going to be an intense battle whoever retired," said Brian McCabe, president of the conservative Progress for America, which plans an $18 million blitz on behalf of Bush's nominee. "But it is certainly more intense now."

'DEFINING MOMENT' FOR BUSH

Conservatives have pressed Bush to appoint a new justice in the image of Justices Antonin Scalia and Clarence Thomas, the court's most conservative members and the two justices Bush says he admires most.

They also have told the White House that Attorney General Alberto Gonzales would not be acceptable because of questions about his views on abortion.

"President Bush must nominate someone whose judicial philosophy is crystal clear," said James Dobson, founder of the conservative religious group Focus on the Family.

"And no one has been clearer about this than the president himself, who said during his campaign that he would appoint justices in the mold of Clarence Thomas or Antonin Scalia," Dobson said.

On the left, liberal interest groups say their hope is that Bush will appoint a judge who evaluates issues on a case-by-case basis, rather than a strict ideologue.

"It's a defining moment for President Bush," said Elliot Mincberg, legal director for the liberal People for the American Way, which is leading the coalition of interest groups prepared to challenge Bush's choice.

"It may be the president's last real chance to fulfill his pledge to the American people to be a uniter, not a divider," he said. "Does he decide to pick a judge or pick a fight?"

Buchanan said Bush has the ability to be pragmatic on crucial political issues, as he showed on legislative compromises over tax cuts, the Homeland Security Department and school vouchers.

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"He's also got a contrarian streak that suggests he might try to surprise people," Buchanan said. "And he certainly has a strong incentive to move to the center in order to preserve the chance for forward progress on other high priority measures."

For Bush, A Lot Riding On Court Appointment (USAT)

By Kathy Kiely

USA Today, July 5, 2005

WASHINGTON — When President Bush returns from the Group of 8 summit in Europe at the end of this week, he'll face one of the most momentous decisions of his career.

The person he picks to replace Justice Sandra Day O'Connor on the Supreme Court will help determine how he's viewed in history books. The selection could resolve a question in contemporary American politics: How conservative is George Bush?

The intensity of Bush's commitment to social conservatives' agenda is unclear. For example, the president says he backs a constitutional amendment to ban gay marriage, but he has never made it a top legislative priority. He opposes abortion but has said repeatedly that the country isn't ready to ban it.

Now conservatives and religious activists, whom Bush political adviser Karl Rove identified as being key to the president's re-election, are reminding the president that he owes them. "We really expect that the president will keep his promise, which he made repeatedly in both campaigns, that he would put forth nominees in the profile of Thomas and Scalia," says Jan LaRue, chief counsel of Concerned Women for America, a conservative group. The reference was to Justices Clarence Thomas and Antonin Scalia, the high court's two most conservative justices.

Making such an appointment would trigger a fight in the Senate, where Democrats control enough votes to block a presidential nominee by filibuster. Even some Republicans have balked at an effort to take that power away.

Bush has a history of compromising. As governor of Texas, he forged alliances with Democrats to move his agenda. His first major legislative accomplishment as president, the No Child Left Behind Act establishing tough new standards for elementary and secondary schools, was a bipartisan effort. To secure Democratic support, Bush forced conservatives in his party to back off demands for school vouchers that would have helped send children to private or religious schools.

Filling a Supreme Court vacancy is a high-stakes decision that involves complicated issues. Some of the factors he'll be weighing:

•History. Few decisions a president makes have more potential to extend his influence than a lifetime appointment to the Supreme Court.

O'Connor, who announced her retirement Friday, was appointed by President Reagan, who died last year. Chief Justice William Rehnquist was appointed by President Nixon, who died in 1994. Ron Klain, an adviser who participated in the deliberations that led to President Clinton's two Supreme Court picks, Ruth Bader Ginsburg and Stephen Breyer, says the decision is influenced more by a sense of legacy than by outside lobbying.

"The president knew he was making a choice for history," Klain says.

•Diversity. Bush will be filling a seat that was occupied by the court's first woman. Some conservative activists argue that that shouldn't make a difference in choosing a replacement. Kay Daly, president of the Coalition for a Fair Judiciary, mocked the idea that "there has to be a for-ladies-only sign" on the seat.

But the gender issue could prompt Bush to add more female candidates to his list or to make his own historic first, by appointing a Hispanic.

In interviews over the weekend, Senate Judiciary Committee Chairman Arlen Specter warned conservative groups not to make snap judgments about Attorney General Alberto Gonzales, a longtime Bush friend.

•Politics. Though he won re-election last year and Republicans gained seats in the Senate, the president isn't approaching the Supreme Court appointment with a high approval rating. Forty-five percent of Americans approve of the job he's doing, according to a USA TODAY/CNN/Gallup Poll taken June 24-26.

•Democrats. The Senate recently rebuffed an effort to eliminate the filibuster for judicial nominees. That leaves Democrats, who control 44 of the Senate's 100 votes, in a position to block a Bush nominee by engaging in a filibuster, an extended debate designed to prevent a vote. It takes 60 votes to end a filibuster. Bush needs to find a candidate who can pick up some Democratic

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support, or try to break up the "Gang of 14." The "gang" is a bipartisan group of senators who agreed to preserve the Senate's ability to filibuster judicial nominees so long as it's used only in extraordinary circumstances. Members of the group, who plan to meet again next week, are resisting efforts to divide them.

Sen. Ben Nelson, D-Neb., one of the group, says the Supreme Court vacancy is different from any of the more than 200 lower-court vacancies Bush has filled, sometimes over objections from Democrats. "This is so significant that we ought to have the advice and consent of the Senate," Nelson says.

On Friday, Bush called Senate Democratic leader Harry Reid of Nevada and Sen. Patrick Leahy, the top-ranking Democrat on the Judiciary Committee, to invite them to the White House next week.

Bringing key members of the opposition party into the decision-making process could smooth the way for the president's nominee, says Leon Panetta, Clinton's White House chief of staff.

"What you don't want to do is blindside people," Panetta says. "You're almost guaranteed problems if you do."

Divided Ranks In High Court Battle, First Phase Plays Out Among Conservatives (WSJ)

By Jess Bravin And Jeanne Cummings

The Wall Street Journal, July 5, 2005

WASHINGTON -- The first stage of the fight over replacing Supreme Court Justice Sandra Day O'Connor is shaping up as a struggle within the conservative coalition over steering the White House choice.

Administration officials have said Mr. Bush won't announce a nominee until he meets with Senate leaders from both parties next week, after returning from a summit with world leaders in Scotland. So while the public fireworks over the July 4 weekend centered on the battle between left and right over the ultimate candidate, the immediate vacuum has triggered intense jockeying among Republican factions trying to fill the void.

Evangelical Christians are the most vocal. They considered Justice O'Connor -- a Reagan appointee who announced her retirement Friday -- to have been a disaster for their cause. She was the court's pivotal swing vote on issues such as upholding certain abortion rights and, just last week, limiting public displays of the Ten Commandments.

"On almost every issue, she has been against us," says Tony Perkins, president of the Family Research Council, one of the leading religious activist groups in the court fight. One of his primary goals: a new justice very different from Justice O'Connor.

For the business community, however, the departure of Justice O'Connor, 75 years old, is the loss of an ally who took a skeptical view of big jury awards, claims allowed under the Americans With Disabilities Act and employment and government-contract quotas. "We felt she was a very business-friendly person because of her very practical approach," says Stan Anderson, of the U.S. Chamber of Commerce. "We are clearly going to miss her, and we hope a candidate of the same kind of stature, philosophy and discipline is nominated to replace her."

Meanwhile, the handful of Republican moderates who brokered an uneasy bipartisan truce in the Senate last month over judicial nominees is hoping Mr. Bush's first choice for the high court won't be so extreme as to shatter that calm. Many women argue that Justice O'Connor, the first female justice, should be succeeded by another woman. President Bush's political advisers see a chance for Republicans to make gains among the rapidly growing Hispanic voting bloc by appointing the first Hispanic to the bench. But the most likely Hispanic choice -- Bush confidant and Attorney General Alberto Gonzales -- draws fire from the religious right because of an opinion he issued involving a state abortion regulation.

Mr. Bush would have an easier time of pleasing his far-flung coalition if he had two vacancies to fill. And he may still get that chance soon. The ailing chief justice, William Rehnquist, surprised court watchers by declining to announce his own retirement last week. But the Washington rumor mill remains abuzz over the possibility that the 80-year-old, battling thyroid cancer, will retire sometime this summer.

Beyond Mr. Gonzales, the short list includes two women with conservative records, Edith Jones and Edith Clement, both of the Fifth U.S. Circuit Court of Appeals in New Orleans. Judge John Roberts, a Republican appointee on the District of Columbia Circuit Court of Appeals with a limited paper trail, gets frequent mention. Michael McConnell, on the 10th Circuit Court of Appeals in Denver, wins points from the religious right for his opposition to Roe v. Wade, and from the business community for his experience as a telecommunications lawyer.

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So far, Mr. Bush and his aides have said little about their plans. The president spent much of the weekend closeted at Camp David to review candidates.

Activists are stepping into the vacuum. Mr. Perkins of the Family Research Council, who has hired three new lobbyists with legal expertise, plans to help activate members of 20,000 churches to lobby the Senate and emailed his own one million members on the matter last week.

Business groups are mobilizing as well. After Justice O'Connor announced her retirement Friday, John Engler, the former Republican governor of Michigan and currently president of the National Association of Manufacturers, made hasty calls to complete a 10-person committee to assess any White House nominee. The panel would review a candidate's rulings on such corporate issues as intellectual property rights, jury awards and federal versus state regulatory jurisdiction. A conference call is scheduled for later this week to set up a strategy and timetable for meetings once Mr. Bush announces his nominee.

"If the business community wants to be heard it can be," says C. Boyden Gray, a former White House counsel to the first Bush administration who is now organizing business lobbyists for the confirmation process. "This shouldn't be an abortion debate."

The White House would like a new justice in place by October, when the court begins its next session. Once Mr. Bush sends the name to the Senate, the Judiciary Committee will likely need a month to conduct its own research and give the American Bar Association time to assess the candidate. Senate Judiciary Committee Chairman Arlen Specter has said he'd like to hold hearings by September. The nominee might then get a final Senate vote before October -- unless Democrats derail the process by trying to filibuster the nominee.

While the White House may not have a name to put forth yet, Mr. Bush has been carefully preparing for this moment practically from the day a split Supreme Court authorized his presidency more than four years ago. Previous administrations have considered judicial appointments secondary to other political goals and thus been more willing to negotiate over them. Not so for the Bush team. "If you look at what's been done with lower court nominees, there hasn't been that kind of horse-trading -- 'We'll nominate this person if we get your support on Social Security reform,' " says David Leitch, a former deputy counsel to Mr. Bush.

Indeed, major Bush initiatives such as Social Security are facing uncertain outcomes. So Supreme Court appointments may be Mr. Bush's best chance to cement a domestic legacy in his second term -- particularly replacing a frequent swing vote like Justice O'Connor.

Added Significance

Justice O'Connor has frequently tipped the balance of the court on social issues, and so the question of her successor has taken on added significance for social conservatives. She was the primary mover behind a 1992 compromise ruling upholding abortion rights, and thus angered the churches and religious activists in the 1990s that helped President Bush secure a second term last year.

And there are already hot-button social cases on the docket for the court's next term, beginning in October, where an O'Connor successor could make a difference. One involves a New Hampshire statute requiring parental notification before pregnant minors could obtain an abortion.

A second case the court will hear later this year tests the reach of federal power to block a state policy social conservatives oppose: physician-assisted suicide. To stymie Oregon's voter-approved Death With Dignity Act, the Bush administration warned that doctors who prescribe drugs to terminally ill patients seeking to end their lives might face prosecution under the federal Controlled Substances Act. The Ninth Circuit in San Francisco ruled that would overstep federal authority, prompting the Bush administration's appeal to the Supreme Court. In a dissent this past term, Justice O'Connor backed the rights of states to allow the use of marijuana for medicinal purposes, and her logic there parallels Oregon's position in the assisted-suicide case.

While many O'Connor rules have riled social conservatives, corporate lobbyists were largely pleased with the legacy of Justice O'Connor, who, as a Republican legislator in Arizona before joining the bench, was keenly tuned to the needs of business. In a 2003 case, State Farm Mutual Automobile Insurance Co. v. Campbell, Justice O'Connor joined a 6-3 majority in striking as excessive a $145 million punitive award against the insurance firm when the plaintiff was awarded just $1 million in compensatory damages. That ruling went further to suggest that a 1-to-1 ratio in punitive and compensatory damages seemed

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more appropriate in most cases. Two of the dissenters were the justices most widely embraced by social conservatives, Clarence Thomas and Antonin Scalia. They said the court had no authority to limit jury awards.

There are also intellectual disagreements within the conservative camp about the appropriate judicial philosophy to seek in a nominee. In vetting candidates, administration aides likely will be "focusing on those who take a very restrained view of the expansion of due-process rights," says John Yoo, a University of California, Berkeley, law professor who served in Mr. Bush's Justice Department. Many of the controversial liberal decisions of the 1950s and 1960s under the court led by Chief Justice Earl Warren, he notes, were drawn from the Fifth Amendment's due-process clause.

But Mr. Yoo says there may be a conflict between the views of conservative intellectuals who have dominated the administration's legal policies, and the social objectives of the president's political base. For example, Mr. Yoo says, social conservatives might support a federal law saying "any hospital that is connected to interstate commerce cannot remove a feeding tube." Conservative intellectuals likely would view such a statute as exceeding Congress's power over interstate commerce.

A second vacancy would change the dynamics of the nomination process. If Mr. Rehnquist were to retire, Mr. Bush could, for example, appease evangelicals more easily by nominating one justice who generates great excitement among the religious right while tapping another they don't trust as much. Mr. Bush also would have another variable to play with. He could choose either to name a new chief justice from outside the court, or he could promote a sitting justice and then bring in a new associate justice. A decision to elevate either Antonin Scalia or Clarence Thomas to chief would get an enthusiastic reception among social conservatives and could persuade them to compromise on an outside pick.

Two vacancies would also give Mr. Bush more room to bargain with Senate Democrats, who would find it hard to try and block both choices at the same time.

"We tend to look at the court as a whole," said Sen. Charles Schumer, a New York Democrat and Judiciary Committee member. "I've always said it would be an excellent Supreme Court that had one Scalia and one Brennan and not five of each," he said, referring to the current leader of the court's right wing and the liberal late justice who wrote many of the Warren Court's most significant opinions.

'Two Ediths'

When speculation in recent weeks centered on a possible Rehnquist retirement, the short lists circulating around Washington contained mainly conservative men. But the departure of Justice O'Connor has shifted the calculus to raise the profiles of several women candidates. Most often mentioned are the "two Ediths" who serve on the New Orleans appellate court.

Judge Edith Jones, 54, is a former general counsel of the Texas Republican party who was appointed by President Reagan in 1985. In a 1993 case, she upheld a Mississippi law that in general prohibits minors from obtaining abortions without the consent of both parents. Last year, in another abortion case, Judge Jones went out of her way to write that the Supreme Court's seminal abortion-rights case, Roe v. Wade, was "an exercise in raw judicial power" that should be re-examined.

Judge Jones also was a member of the 1997 federal bankruptcy-law review commission that spawned the pro-creditor overhaul of the code ultimately passed by Congress earlier this year. In a dissent from a commission's report that urged more protections for debtors, Judge Jones said that the majority report "ignores creditors' complaints that their interests are systematically shortchanged by the (report), while those of debtors are enhanced."

Judge Clement, 57, was elevated to the Fifth Circuit by President Bush in 2001, 10 years after the elder President Bush appointed her a district judge. Although her appellate record is shorter than Judge Jones's, she already has proven a reliable conservative vote. In 2002, for instance, she joined Judge Jones and other judges in dissenting from an opinion upholding an armed-robbery conviction under the federal Hobbs Act. Those dissenters concluded that because the crimes affected local stores in Fort Worth, Texas, they lacked enough relation to interstate commerce to trigger federal jurisdiction.

Bush aides say he is eager, at some point in his term, to place on the bench Attorney General Gonzales, who served in then-Texas Gov. Bush's cabinet, and was appointed by Gov. Bush to the Texas Supreme Court. Some Republican strategists argue that a historic appointment of the first Mexican-American justice will handcuff Democratic dissenters. A group of seven moderate Democrats agreed last month to prevent a filibuster of a Bush court nominee except under "extraordinary circumstances." It might be politically difficult to argue that a Gonzales nomination meets that standard for justifying a filibuster.

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The greatest challenge to a Gonzales nomination now comes not from liberals, but from social conservatives, who question how he would rule on affirmative-action disputes and fret about his imprecise record on abortion. Some social conservatives are unhappy with a 2000 opinion Mr. Gonzales, as a Texas judge, wrote concerning a state law that requires parental notification before minors can obtain abortions. They believe he construed an exception to the law too broadly.

If Mr. Gonzales, a son of migrant Mexican crop pickers, isn't tapped to succeed Justice O'Connor, but remains on the Bush short list for a future vacancy, he may face pressure to better establish his conservative bona fides -- particularly on abortion -- to win a future nomination. To do so, he could follow in the footsteps of his predecessor, John Ashcroft, the leading hero for religious conservatives in the first Bush term, who tried to subpoena records of abortion clinics for late-term operations and filed friend-of-the-court briefs on behalf of groups suing to uphold legal limits on such procedures.

Even before Mr. Bush has made his choice, advertising wars between the left and right already have begun. Bush allies are running commercials warning that Democrats will say bad things about any nominee. Meanwhile, liberal groups are urging Mr. Bush to fulfill his 2000 pledge to be a "uniter, not a divider" by putting forth a centrist candidate who reflects Justice O'Connor's swing-vote history.

Within hours of the surprise O'Connor announcement, the abortion-rights group NARAL Pro-Choice America sent instant messages to 800,000 online supporters while MoveOn.org, a liberal online organization, launched an emergency donation drive for television advertising. Friday night, they regrouped over Chinese take-out food to assess reports coming in from field teams in Pennsylvania, Florida, Rhode Island and elsewhere, the homes of key swing Republican senators.

Meanwhile, conservatives jumped on a series of conference calls to ratchet up their lobbying campaign. Mr. Reid, the Senate minority leader, already has called the president "a loser," the ad says, so there's not limit to what they will use against a would-be appointment to the high court.

In Reading Bush On Court, Words Don't Always Help (NYT)

By David E. Sanger

The New York Times, July 5, 2005

WASHINGTON, July 3 - In the days just before his first inauguration, in 2001, George Bush gave a brief insight into what he looks for in crucial appointments.

"I understand the Western mentality, and I want the Western mentality represented in this administration," Mr. Bush said in an interview at his ranch in Crawford, Tex. He was talking about Clinton-era efforts to restrict development and logging in national forests.

Those listening carefully to the newly elected president understood the code: "Western mentality" meant that land ownership rights were paramount in his mind, and eventually he did away with Mr. Clinton's rules.

Suddenly, the code words Mr. Bush has refined in four and a half years since he took office are about to be examined as never before. As he considers his choices for filling the first Supreme Court vacancy of his presidency, he can expect that his every utterance on judicial philosophy will be freighted with new meaning.

There have been many times in his presidency that his views of the judiciary were very clear. While he rejected the idea of a litmus test for Supreme Court nominees during last year's campaign, he has denounced "activist judges" who "legislate from the bench."

And earlier this year, Mr. Bush rushed back from his ranch during the Congressional Easter break to sign legislation in the middle of the night to intervene to save the life of Terri Schiavo at a time when Republicans and conservatives were criticizing the judiciary for allowing her feeding tube to be removed.

From now on, everything he says, especially in his interactions with reporters at the Group of 8 summit meeting in Scotland this week, will be dissected. Will he put his highest priority on a "Western mentality," which he shared with Justice Sandra Day O'Connor, who liked to call herself a "cowgirl from Arizona"?

Or will he talk anew about diversity, which might seem to give an edge to Attorney General Alberto R. Gonzales, whose life story Mr. Bush often recites in glowing terms, but who also gives heartburn to Mr. Bush's conservative base?

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If the past is any guide, Mr. Bush will prove vague as he nears a decision. When considering other top appointments or big decisions, he has shown that he is not above sending conflicting signals to mask his intentions, or catering, at least rhetorically, to differing constituencies. And he has not shied from confrontation, as even he alluded to on Friday when, while praising Justice O'Connor, he also announced that his nominee deserved "fair treatment, a fair hearing and a fair vote."

In the interview in January 2001, as he was polishing his first inaugural address, Mr. Bush made it clear that in his mind, confirmation battles were not to be avoided. He said he viewed them as part of the atmospheric noise of Washington, like traffic in front of the Lincoln Memorial.

"He could end up being a lightning rod," Mr. Bush said of John Ashcroft, then his choice for attorney general and a favorite of social conservatives. But he quickly added that in a world of so many cable stations, anyone could become a lightning rod. "If it had not been him, it would have been somebody else," he said. "That's just part of the process."

This weekend a senior aide to Mr. Bush, who would not allow his name to be used in describing the president's thinking and who cautioned that he had no idea whom the president was going to pick, said Mr. Bush believed that "more than ever." He pointed to Mr. Bush's unwillingness to back down on the nomination of a hard-core ideologue, John R. Bolton, as his nominee for ambassador to the United Nations, even though Mr. Bolton appears to have little chance of taking up the post unless Mr. Bush makes a recess appointment, circumventing the Senate.

"In Bush's view," the aide said, "to surrender on a confirmation is to invite the other side to do worse to you next time." (Mr. Bolton, in one of those curiosities of Washington history, was on the team that tried - unsuccessfully - to manage the nomination of Robert H. Bork to the Supreme Court in 1987.)

Mr. Bush's most commonly used statement about judges of all stripes sounds a lot like what he said in April when he was asked about comments by the House Republican leader, Representative Tom DeLay of Texas, that Congress should crack down on unaccountable judges.

"I believe in an independent judiciary," Mr. Bush said, seeming to distance himself considerably from Mr. DeLay. "I believe in proper checks and balances." And then he added: "And we'll continue to put judges on the bench who strictly and faithfully interpret the Constitution."

But when his opponent in the last election, Senator John Kerry, said that he would never appoint anyone to the Supreme Court who would overturn the right to abortion, Mr. Bush bristled. "I will not have a litmus test," he declared, reverting to language from the 2000 election. "I will pick judges who will interpret the Constitution, but I'll have no litmus tests."

The exchange was an example of how careful he has been not to say how he would balance the pressure from evangelical Christians, who played a crucial role in securing his re-election, and his oft-stated desire to reduce partisan bickering in Washington. At his first news conference after his re-election, he played a variation on this favorite dance, saying that when a vacancy occurred on the Supreme Court he would choose "somebody who knows the difference between personal opinion and the strict interpretation of the law."

To students of Mr. Bush's philosophy, that phrase is another set of code words. "It might just sound like he wants conservatives," said Kenneth L. Manning, an associate professor at the University of Massachusetts, Dartmouth, who has conducted a detailed study of the ideological direction of Federal District Court judges appointed by Mr. Bush.

To Professor Manning, that means Mr. Bush does not want judges to create rights the way the Supreme Court established a right to privacy in Griswold v. Connecticut four decades ago. That case found in the Constitution a right to use contraception, establishing a foundation for what later became a right to abortion in Roe v. Wade.

Which leads to Mr. Bush's reference to the Dred Scott case, at a debate in St. Louis last year. That was a case, Mr. Bush said, "where judges years ago said that the Constitution allowed slavery because of personal property rights," and he called that judicial activism. "That's personal opinion," Mr. Bush said. "That's not what the Constitution says. The Constitution of the United States says we're all - you know, it doesn't say that. It doesn't speak to the equality of America."

If the president's words were less than clear, his meaning was plain to dedicated opponents of abortion. To them, opposing Dred Scott is shorthand for opposing Roe v. Wade, which they believe will be overturned one day as an erroneous violation of basic human rights.

The other way to examine Mr. Bush's proclivities is not through what he says, but through what he has done.

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Professor Manning's study, conducted with Robert A. Carp of the University of Houston and Ronald Stidham of Appalachian State University, concluded that as a group, Mr. Bush's appointees so far have been the most conservative of any group of judicial appointees since before Franklin D. Roosevelt's presidency. No surprise there. But Professor Manning said that Mr. Bush "doesn't get much credit" for the fact that he has also appointed the most diverse group of judges of any president except Bill Clinton.

He has found conservative women, Hispanics and blacks, the study found, in numbers never seen before. "Bush puts ideology first," Professor Manning concluded, "but diversity is a close second."

Confirmation Will Sidetrack Judiciary Committee (WSJ)

By Brody Mullins

The Wall Street Journal, July 5, 2005

WASHINGTON -- A Supreme Court confirmation is expected to sidetrack work on matters before the Senate Judiciary Committee such as a bailout for asbestos makers and immigration overhauls. A possible court fight also could affect Social Security retooling, tax reductions, spending cuts and other White House priorities.

Mr. Bush and Republican leaders in the Senate hope to usher the nominee through weeks of hearings and votes by Sept. 30 so the Supreme Court can open its next session in early October with a full complement of justices. But that is also the deadline for two other Republican priorities -- a budget-reconciliation package and legislation to fund the federal government -- that could falter if a court battle arises.

The budget bill includes tax cuts, Medicare changes and language to permit oil and gas drilling in a strip of Alaska's Arctic National Wildlife Refuge. The funding bills could spark additional skirmishes over the scope and reach of the federal government, such as funding for community development, public television and programs for the poor.

Bob Stevenson, a spokesman for Senate Majority Leader Bill Frist, said the confirmation process will have only a "minimal" effect on the Republican agenda. Indeed, there will be little difference in the pace of action before the Judiciary Committee starts confirmation hearings, likely in September.

That leaves senators with just a month to reach a final deal with the House on highway legislation and to approve the Central American Free Trade Agreement, Mr. Bush's major trade initiative. When confirmation hearings begin, senators will find it more difficult to make progress on their priorities as senators shift attention to the judicial process, and time on the Senate calendar dwindles.

Senators are scheduled to take a monthlong August holiday. When they return, there will be a crush of issues and only a few months before the end of the year.

That means that Finance Committee Chairman Charles Grassley of Iowa may have an even harder time bringing a Social Security overhaul bill to the Senate floor this year. Sen. Pete Domenici (R., N.M.), chairman of the Energy and Natural Resources panel, will have a limited window to reach a deal with the House on energy legislation. Banking Committee Chairman Richard Shelby of Alabama may not find the time on the Senate floor for a vote on a measure to tighten oversight of mortgage giants Fannie Mae and Freddie Mac, whose accounting problems have drawn the notice of lawmakers and financial regulators.

Fall Cases On Hot-Button Issues May Hinge On The New Justice (WP)

By Charles Lane

The Washington Post, July 5, 2005

Abortion. Physician-assisted suicide. Gay rights. How will the Supreme Court handle those issues without Justice Sandra Day O'Connor, the centrist swing voter who announced her retirement from the court last week after a 24-year tenure?

Actually, it probably won't take long to find out. The abortion rights of teenagers, administration efforts to override a state right-to-die law, and the military's "don't ask, don't tell" policy are all on the docket for the court term that begins Oct. 3.

O'Connor's past opinions show that she would have played a pivotal role in these cases. Now, their outcome may hinge on the views of her successor. Learning those views may prove challenging to senators, if a nominee adheres to the practice of not answering questions about matters that are, or soon will be, before the court.

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"One of the fascinating dances in the confirmation process is going to be how much you can get a nominee to answer, even about relatively recent precedents, when the issues are presented in cases that are pending on the docket," said Douglas W. Kmiec, a professor of constitutional law at Pepperdine University.

The retirement of O'Connor, who often cast the deciding vote in the court's cases, could portend great change at the court, especially if President Bush replaces her with a steadfastly conservative nominee, as many expect.

If O'Connor's career teaches anything, it is that a justice's initial votes on the court are not necessarily a reliable guide to what that justice will do in the course of a long, life-tenured career. In her first years, she leaned heavily against abortion and affirmative action, only to tack in the other direction later.

Even if O'Connor were replaced by a conservative opponent of Roe v. Wade , the 1973 ruling recognizing a right to abortion, Roe would still have the support of a five-justice majority. Any challenge to its core holding would take years to bubble up from lower courts.

Still, next term will present O'Connor's successor with a chance to answer important questions about the scope of Roe as well as other precedents.

For example, a 1992 Supreme Court decision, co-written by O'Connor, set forth a test for the constitutionality of state abortion regulations, saying they must not impose an "undue burden" on exercising the right to abortion.

The court defined an undue burden as a law that "in a large fraction of cases" puts a "substantial obstacle" in the way of someone seeking an abortion.

At the same time, the court has said that states may pass laws requiring minors to notify their parents of plans to terminate a pregnancy, as long as they permit minors to seek a court's permission when informing their parents is impossible or dangerous.

The court has never clarified whether O'Connor's "undue burden" test means that parental-notification laws, which are on the books in 33 states, must include an explicit exception for cases in which the pregnant girl's health is at risk.

But in Ayotte v. Planned Parenthood , No. 04-1144, which is to be argued in December and decided by mid-2006, the court will rule on a New Hampshire law that has no health exception. The U.S. Court of Appeals for the 1st Circuit, based in Boston, ruled last year that the New Hampshire law is unconstitutional and cannot go into effect.

In its appeal, however, New Hampshire said the 1st Circuit applied the wrong legal standard. It cited a 1987 Supreme Court ruling that suggests opponents of the law must show that the law would limit abortion rights not just in some or most cases but in all cases.

If the justices affirm the ruling of the 1st Circuit, striking down the law, the effect will be to fortify and entrench Supreme Court precedents on abortion rights. If the court rules in favor of New Hampshire law, it will open the door to other states to adopt similar legislation.

Any elucidation of the court's view of its doctrine of a health exception could also affect the federal ban on the procedure critics call "partial birth" abortion. Enacted by Congress with Bush's support in 2003, it included no exception to protect the woman's health. But three district courts have found it unconstitutional under a 5 to 4 Supreme Court ruling in 2000, joined by O'Connor, that said such bans must include a health exception.

The government's appeals are pending, and conflicting decisions by appeals courts could lead to a Supreme Court case in the early years of O'Connor's successor.

In October, physician-assisted suicide will be before the court in Gonzales v. Oregon , No. 04-623. The administration has appealed a lower court's order barring the Justice Department from taking away the prescribing rights of Oregon doctors who prescribe lethal doses of drugs to terminally ill patients who have chosen to die under that state's 11-year-old Death With Dignity Act.

Assisted suicide is an intensely emotional issue, both for advocates of a "right to die," who see it as many people's only means of a dignified death, and for conservative Christians, who see it as a form of murder.

Opposition to laws such as Oregon's was a favorite cause of former attorney general John D. Ashcroft, who issued a November 2001 directive determining that assisting suicide is not a "legitimate medical purpose" under federal drug-control law -- and that the Drug Enforcement Administration could act against any physician who authorized drugs to help someone die.

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The directive overturned a 1998 decision by President Bill Clinton's attorney general, Janet Reno, that permitted Oregon doctors to assist in suicides.

Strictly speaking, the case does not involve any assertion of a constitutionally protected right to die. The court unanimously refused to recognize such a right in 1997, ruling that it should be left to the states to determine whether legalized assisted suicide is wise policy.

Rather, the case is framed by the parties as a clash between federal power to regulate drugs and states' power to regulate the practice of medicine.

But the practical effect of the Ashcroft directive is to make Oregon's law a dead letter -- and O'Connor might have been sympathetic to Oregon. She vigorously dissented from the court's 6 to 3 ruling last month in which it upheld a federal override of California's medical marijuana law. In the 1997 case, Washington v. Glucksberg , the court was ruling on state bans on assisted suicide. O'Connor was one of five justices who wrote or signed concurring opinions implying that they might not strike down a state law such as the Oregon one that permits assisted suicide.

"Death will be different for each of us," she wrote. "For many the last days will be spent in physical pain . . . some will seek medication to alleviate that pain and other symptoms."

In Rumsfeld v. FAIR , No. 04-1152, to be argued in November, the question is whether some law schools may curb military recruiters' access to their students in protest of the U.S. armed forces' ban on openly gay members.

The court is being asked to rule on the constitutionality of the Solomon Amendment, a federal law that requires universities to give military recruiters equal access or risk millions of dollars in federal funding.

Legal analysts generally expect a win for the government, but the case will create a high-profile forum in which both opponents and supporters of the "don't ask, don't tell" policy can fight out this particular battle of the culture wars.

Scalia, Breyer: High Court Polar Opposites (WSJ)

By Jess Bravin

The Wall Street Journal, July 5, 2005

WASHINGTON -- The successor to Justice Sandra Day O'Connor on the Supreme Court will enter an arena increasingly shaped by the competing legal theories of two justices: Antonin Scalia and Stephen Breyer.

Each member of the high court has principles behind his or her decisions, of course, and writes opinions setting forth that reasoning. Moreover, in the course of hundreds of cases, the nine justices line up in different and sometimes unpredictable ways. But in more than a decade together, Justice Scalia, appointed in 1986 by President Reagan, and Justice Breyer, appointed in 1994 by President Clinton, have come to represent for many lawyers two poles of jurisprudence.

"Breyer and Scalia have much more coherent theories of what the law should be and take those theories and reason down to the cases," says Paul Rosenzweig, a senior legal research fellow at the Heritage Foundation, a conservative think tank. Justice O'Connor "tended to reason the opposite way...adjudicating each case in front of her on its particular facts rather than on a grand or overarching theory of law."

Justice Scalia contends the only legitimate way to interpret the Constitution is to determine what the text meant at the time it was adopted, an approach that worries some corporate lawyers since there is nothing in the Constitution, for instance, that protects business from huge punitive-damage awards.

Justice Breyer argues that judges should discern the purposes behind constitutional provisions and apply them to modern circumstances the founders never envisioned.

That difference has emerged at various flash points, most recently in a spirited debate over the relevance of foreign jurisprudence to interpreting the Constitution. Justice Scalia says foreign authority has no relevance whatsoever, while Justice Breyer says how other countries confront similar issues can help inform American legal reasoning.

Frustrated Fans

Conservatives revere Justice Scalia, and liberals take solace in Justice Breyer, but each judge claims his method tracks the Constitution, not politics -- and each, on occasion, has managed to frustrate his usual constituency, if not raise questions about his own doctrinal consistency.

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In a March speech, Justice Scalia sought to distance his jurisprudence from a political agenda. "Conservatives are willing to grow the Constitution to cover their favorite causes just as liberals are," he said at the Woodrow Wilson International Center for Scholars in Washington. "I say, 'A pox on both their houses.' "

Indeed, Justice Scalia considers it a violation of the First Amendment to prohibit destruction of the American flag and has voted to invalidate sentencing guidelines that allowed judges to punish convicted defendants for factors not proved to a jury. "Though I'm a law-and-order type, I can't do all the mean, conservative things I would like to do to this society," he said. "When I find the original meaning of the Constitution, I am handcuffed."

Justice Scalia has fashioned perhaps the most coherent response to the expansive view of rights the court adopted in the 1950s and '60s under Chief Justice Earl Warren. Sometimes called the "living Constitution," the Warren court's approach enraged conservatives who saw it as a cover for judges reading their own liberal preferences into the 18th-century document.

In speeches, Justice Scalia repeatedly has singled out a line from a 1958 Warren opinion that tied the Eighth Amendment ban on "cruel and unusual punishments" to "the evolving standards of decency that mark the progress of a maturing society."

Articulating a Vision

"I detest that phrase," Justice Scalia said in January at an appearance with Justice Breyer at American University. "I'm afraid that societies don't always mature. Sometimes they rot."

Nonetheless, the court went on to cite the "evolving standards" test in March, when, in a 5-4 decision that saw Justice Breyer in the majority and Justice Scalia in dissent, it ruled unconstitutional the death penalty for juveniles.

"The Constitution is not a living organism, for Pete's sake; it's a legal document, and like all legal documents, it says some things and it doesn't say others," Justice Scalia said in his March speech.

This view isn't embraced by many law professors. Justice Scalia says they consider his method of limiting constitutional analysis to the document's original meaning -- called originalism -- to be "some kind of weird affliction."

Still, Justice Scalia's message has resonated with the public, says Clyde Spillenger, a law professor at the University of California, Los Angeles. "The only jurisprudence that has made it into the public sphere is Scalia's originalism," he says. Now, however, "Breyer has taken up the challenge. He has seen the need to articulate a vision as well as decide cases."

Justice Breyer, who calls his approach "active liberty," will publish a mass-market book under that title in October, when the Supreme Court convenes for its next term. In an October 2001 lecture at New York University, Justice Breyer laid out his theory, all but chastising Justice Scalia by name.

"My approach differs from that of judges who would place nearly exclusive interpretive weight upon language, history, tradition and precedent," he said. Such judges "may believe that these more 'original' sources will more readily yield rules," but since "history and tradition are open to competing claims and rival interpretations," their approach "simply channels subjectivity into a choice about which history?"

Considering Consequences

Justice Breyer argues that in addition to individual provisions, judges should focus on "constitutional objectives" derived from considering "the document as a whole." Moreover, they should place "considerable weight on consequences -- consequences valued in terms of basic constitutional purposes."

The difference emerges starkly in certain cases, such as those concerning regulation of political-campaign finance. Justice Scalia, recalling the Stamp Act that helped provoke the American Revolution, has argued that restrictions on campaign contributions or fund raising amount to an unconstitutional restriction on free speech. But the court has been more equivocal, in 1976 striking down a limit on campaign expenditures, but in 2003 upholding the McCain-Feingold law that restricted certain political contributions.

"The nation's founders did not speak directly about campaign contributions," Justice Breyer said in his NYU speech. And in a 2000 concurrence upholding a state campaign-finance law, he wrote that both sides could claim legitimate constitutional interests -- the right of wealthy forces to promote their political interests within a democratic framework that functions best when less powerful voices aren't drowned out. Even as they restrict funding of some political speech, campaign-finance laws can encourage "public participation and open discussion that the First Amendment itself presupposes," he wrote.

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That consequentialist approach made the difference in last week's Ten Commandments opinions, where in separate 5-4 majorities the court upheld the placement of a decades-old monolith amid other monuments on the grounds of Texas's state capitol, but found unconstitutional framed copies of the Decalogue recently installed in Kentucky courthouses by religiously motivated local officials.

All Bets Are Off

Only Justice Breyer was in both majorities. He explained his position as based "on the basic purposes" of the First Amendment's religion clauses, which he read as aiming to avoid "religiously based divisiveness." Removing an old stone marker that had attracted no controversy for years might provoke such divisiveness -- as would allowing current-day local officials to get away with posting religious materials in public buildings.

Justice Scalia found that all such displays were permissible, based on his view that the framers themselves often made religious references, whereas placing such symbols on public property fell short of the prohibition of a governmental "establishment of religion."

While conservatives expect the new justice will hew to Justice Scalia's approach and disdain that of Justice Breyer, Mr. Rosenzweig of the Heritage Foundation notes there is no guarantee how a life-tenured justice will turn out.

On a frequently divided court, "he or she may be a third pole," he says.

O'Connor Leap Moved Women Up The Bench (NYT)

By Adam Liptak

The New York Times, July 5, 2005

When President Ronald Reagan decided to nominate Sandra Day O'Connor as the first woman ever to the Supreme Court in 1981, he did not have a lot of other women to choose from. The bench, one might say, was not deep.

"The pool of well-credentialed women lawyers was minuscule at the time," said Patrick J. Schiltz, a law professor at the University of St. Thomas in Minneapolis who served as a law clerk for Justice Antonin Scalia. "They had to reach for O'Connor. She wasn't even on the high court in Arizona. She was on a middle-level appellate court. Has there been another nominee to the Supreme Court from a midlevel state appeals court?"

The answer, it seems, is no. "You would be very hard pressed to find anyone in the history of the court who was elevated from that role," said Kermit L. Hall, the president of the State University of New York at Albany and the editor of "The Oxford Companion to the Supreme Court of the United States." "It speaks volumes to the presence of women on the bench at that time. O'Connor really opened up a set of opportunities that really would not have existed without her."

A look at the courts shows the breadth of change across the quarter of a century bookmarked by Justice O'Connor's nomination and her retirement. In 1981, Mr. Reagan's first year in office, there were almost 700 active federal judges, and 48 were women, some of them semiretired. Today, according to the Federal Judicial Center, there are 201 women and 622 men among active federal judges. As late as the beginning of the administration of Jimmy Carter in 1977, there were fewer than 10 women on the federal bench, according to the administrative office of the federal courts.

Roberta C. Ramo, who became the first woman to be president of the American Bar Association in 1995, recalls what a breakthrough the O'Connor nomination was in 1981.

"It makes me tear up right now just to think about it," Ms. Ramo said. "She was a woman who had led a life that included having children, stopped practicing for a while, suffered discrimination, was a legislator, was a judge. That was terribly meaningful."

Justice O'Connor, who had served as a trial judge for five years in Phoenix and then for less than two years on the state court of appeals, one step down from the Arizona Supreme Court, made her way at a time when women who were lawyers were often lucky to get job offers, much less judicial appointments.

Eleanor Smeal, who was the president of the National Organization for Women in 1981, said the O'Connor nomination was a turning point.

"At that time women were a very teeny percentage of judges," Ms. Smeal said. "We were begging male judges to give us our rights, and we wanted someone on the inside."

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The first woman to serve on the federal bench was Florence Ellinwood Allen, appointed to the federal appeals court in Cincinnati by Franklin D. Roosevelt in 1934. Harry S. Truman appointed the first woman to be a federal trial judge, Burnita Shelton Matthew, in 1949.

Because of Justice O'Connor's conservative reputation on certain issues, some women's groups were wary of her at the outset, fearful that she would oppose legal protections for abortion and interpret federal laws addressing sex discrimination narrowly. But her rulings in those areas have generally found approval with women's groups.

That is not to say women who are judges are more likely to side with women who appear before them than men are, said Cass R. Sunstein, a law professor at the University of Chicago who has studied judges' voting patterns.

"In sex discrimination and sexual harassment cases," Mr. Sunstein said, "women judges are no more sympathetic to female plaintiffs than men judges. But Democratic appointees are more sympathetic to female plaintiffs than Republican appointees."

Justice O'Connor was one of 5 women in a class of 102 students who graduated from Stanford Law School in 1952, at a time when tuition was $220, said Catherine Nardone, an associate dean there. The class of 2007 has 71 women and 95 men, and they pay more than $35,000 a year.

In 1981, according to the American Bar Association, 36 percent of law school students were women. Last year, it was 48 percent.

But the change in law schools is not reflected in the upper ranks of the big law firms, said Larry Kramer, the dean of Stanford Law School. "In the profession," Mr. Kramer said, "this is definitely still an issue. Partnerships in law firms haven't kept pace."

About 16 percent of law firm partners are women, according to a 2003 bar association report.

That represents substantial progress. Justice O'Connor was refused a job at every law firm to which she applied and was offered secretarial jobs instead, even though she had graduated near the top of her class.

There is much room for improvement on law school faculties, too, Mr. Kramer said. Of 43 law professors at Stanford, 13 are women.

In all, said Deborah Rhode, a law professor at Stanford, "Women's representation in status, income and security have increased, but they're still overrepresented at the bottom and underrepresented at the top."

Justice O'Connor's successor will face legal issues of grave concern to women, but most of the ones likely to reach the court soon will be incremental. The core right to abortion, supported by six of the current justices, appears secure in the short term, although the constitutionality of various restrictions is likely to arise. The court will also continue to shape the contours of laws prohibiting sex discrimination, including one concerning discriminatory practices in school athletic programs.

Justice O'Connor's unexpected resignation has upended the conventional wisdom about the relevant criteria for the next nominee. There had been much talk of racial and ethnic diversity and almost none concerning the implications of candidates' gender. That has changed.

"Until the middle of last week, when the White House started hearing rumors that Justice O'Connor would resign," said Thomas C. Goldstein, who argues frequently before the court and is an authority on it, "every name on the short list was a boy. Every name on the long list was a boy."

Ms. Smeal, now the president of the Feminist Majority Foundation, a women's rights group, said the question should not be whether Justice O'Connor's seat ought to be filled by a woman but why half of the nine justices are not women. The other woman on the court is Ruth Bader Ginsburg, who was appointed by Bill Clinton. "We're asking for another woman," Ms. Smeal said. "We should have at least four. We should not be allowed to go back to one. The era of tokenism is over."

Although the pool of female judges is much larger today than it was in 1981, the relevant group remains small.

"The number of prominent conservative Republican female federal appellate judges," Professor Schiltz said, "gets to be a very, very small pool."

The women most frequently mentioned as being considered for Justice O'Connor's seat all sit on federal appeals courts. They include Judges Edith Brown Clement, Edith H. Jones and Priscilla R. Owen, all of the United States Court of Appeals for the

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Fifth Circuit, in New Orleans, and Judge Janice Rogers Brown of the United States Court of Appeals for the District of Columbia Circuit.

There has been no serious talk, this time, of the need to scour the state lower courts to find a woman suitable for the nation's highest court.

The Imprint That O'Connor Leaves On The High Court (CSM)

By Warren Richey

The Christian Science Monitor, July 5, 2005

WASHINGTON - In 1981, when Sandra Day O'Connor became the first woman appointed to the US Supreme Court, she was by no means the most qualified individual in the country for the job.

She was not a partner in a major law firm. She had never clerked for a Supreme Court justice. She had never argued a case or even attended a session at the high court. Nor had she served as a federal trial judge or federal appeals court judge.

It wasn't that Ms. O'Connor lacked the competence or intelligence to have performed all those jobs: She graduated third in her class at Stanford Law School. But in the 1950s, the law belonged to men, and those who pulled the levers of power could not see beyond O'Connor's gender.

She was discouraged. But she never quit.

As her 24-year Supreme Court career demonstrates, Justice O'Connor, who announced her retirement last Friday, had other qualifications that helped mold and prepare her to become one of the most influential and important figures in American law.

Now, as she plans to leave the court upon confirmation of a successor, scholars, historians, and some of her own former clerks are assessing her place in history.

O'Connor helped break down gender stereotypes and open doors for women in legal and other professions. But perhaps more important, she quickly moved past the "first woman" label and became a centrist leader on the court.

"When you become the first sister in a group of brethren, I think it had to have been a difficult beginning," says RonNell Andersen Jones, who clerked for O'Connor during the 2003-04 term. But she says O'Connor soldiered through by focusing on her role as a justice.

"She genuinely thought of herself as one of nine members of the court - as a person who had a job to do and one vote to cast."

Charles Blanchard, a lawyer in Phoenix who clerked for O'Connor in 1986-87, agrees. "Her real accomplishment in opening doors for women is not that she was the first woman Supreme Court justice, but that she so quickly transcended that," he says.

"She didn't decide issues for women from a woman's perspective," adds Marci Hamilton, a law professor at Yeshiva University's Cardozo School of Law in New York and a 1989-90 O'Connor clerk. "She was always an independent-minded, strong-willed individual who made decisions based on her own internal moral compass."

She also says, "That is a wonderful role model for anybody, but also for women moving up the ranks." 'The most powerful woman'

O'Connor's vote has often been decisive.

She is sometimes referred to as the most powerful woman in America because of her role as a key swing voter on the sharply divided court. When the court divides 4-4 on a hot-button issue, O'Connor frequently breaks the deadlock, and the resulting law mirrors her view of how the matter should be resolved.

The power of her position has been closely watched in part because of a single issue: abortion. O'Connor seemed poised to overturn the Roe v. Wade precedent in the early 1980s just after she joined the court. But she later helped preserve Roe's essential holding in 1992 by joining forces at the center of the court with Justices David Souter and Anthony Kennedy.

In a string of other cases, she has exercised similar power to shift the direction of the law - sometimes by wielding a single vote.

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Her influence was evident in 2000 when her vote tipped the balance in striking down a ban on so-called "partial-birth" abortions, and in 2003 when she provided the crucial fifth vote to uphold the constitutionality of affirmative action in university admissions.

In 2004, she was once again in the driver's seat at the center of the court, writing that American citizens detained as enemy combatants in the war on terror must be provided a level of due process in the civilian courts. "A state of war is not a blank check for the president when it comes to the rights of the nation's citizens," she wrote.

On the conservative side, her vote has been crucial to the conservative wing's federalism revival and in upholding school vouchers in 2002. She also joined her conservative colleagues in Bush v. Gore, voting in December 2000 to halt the Florida recount in the presidential election.

In matters of church and state, O'Connor has also played an important role, particularly with her development of the so-called endorsement test to determine whether certain government actions involving religion violate the First Amendment's establishment clause. Elements of O'Connor's test are evident in both the majority and minority positions in the two recent Ten Commandments decisions, analysts say. Her conservative critics

Over the years, O'Connor has voted consistently in a number of areas, but conservative critics say she is too unpredictable in high-profile, blockbuster cases. They say it appears she is attempting to do what she believes is best, rather than simply ruling in accordance with the dictates of the law and the Constitution.

These critics say her pragmatic, case-by-case approach in many areas has fostered confusion among lawyers and lower-court judges who can never be sure what the law is until O'Connor has ruled in each case.

In contrast, Justice Antonin Scalia is seen as seeking to develop a jurisprudence of binding principles - bright-line tests and rules that can consistently be applied across a range of cases. This difference in approach has frequently placed the two justices on a collision course in major cases.

"Scalia has often described his view of the rule of law as the law of rules," says Eugene Volokh, a 1993-94 O'Connor clerk and now a UCLA School of Law professor. "I think Justice O'Connor's view is the work of the law is making law work," he says.

"Sometimes she likes clear, bright-line rules," Professor Volokh says. "Sometimes she thinks they just don't fit with the complexity of the world."

One example of O'Connor's concern about the potential damage that can be done by bright-line rules arises in a case involving the religious use of peyote by native Americans. In a 1990 decision written by Justice Scalia, the court announced that the First Amendment's free exercise of religion clause does not protect the religious use of peyote against enforcement of general antidrug laws.

O'Connor disagreed. She believes that the First Amendment requires the government to avoid interfering in religious worship unless it is absolutely necessary to achieve a major government objective.

"Although it may provide a bright line, the rule the court declared ... does not faithfully serve the purpose of the Constitution," O'Connor wrote in 1997. She said the court would never adopt a similar rule limiting the First Amendment's free-speech protections, and should not encumber a portion of the same amendment only a few words away.

"Given the centrality of freedom of speech and religion to the American concept of personal liberty," she wrote, "it is altogether reasonable to conclude that both should be treated with the highest degree of respect." O'Connor's beginnings

O'Connor was nominated in 1981 to the seat vacated by Potter Stewart. In naming O'Connor, President Reagan fulfilled a 1980 campaign pledge to name a woman to the high court.

Her nomination was confirmed by the Senate 99 to 0. She was sworn in as a justice on Sept. 25, 1981.

Analysts say that several aspects of O'Connor's early life laid the foundation for her later work at the high court. Among them: her childhood on a remote cattle ranch in Arizona, her public service in Arizona as a lawmaker, and her work as a state trial judge and appeals court judge.

But perhaps most important was her search for work in 1952. After graduating third in her Stanford Law School class, she was unable to find a job as a private-sector lawyer because none of the major firms in California would consider hiring a woman. Only one firm offered her a spot - as a secretary.

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Thirty years later, among those involved in her selection as a Supreme Court nominee was William French Smith, then attorney general. In the 1950s, Mr. Smith was a partner in the California law firm that declined to hire O'Connor as a lawyer but offered her work as a secretary.

Ms. Jones, who is also a recent law-school graduate, says she never once thought her gender might be a roadblock to a legal career. "I am embarrassed at how much I took it for granted," she says.

"It was good for me to be able to sit down with Justice O'Connor and hear her say, 'I graduated way at the top of my Stanford Law School class and couldn't get a job except as a secretary at a law firm. No one would take me seriously, and I had to make my own opportunities for myself.' "

Jones adds, "It gives you a nice appreciation of how very far we've come in what amounts to one lifetime."

For Gonzales, A Familiar Cast At The Table (WP)

By Dan Eggen

The Washington Post, July 5, 2005

For Attorney General Alberto R. Gonzales, some meetings at the Justice Department must feel similar to those he held when he was President Bush's chief lawyer. After all, at least half a dozen of his senior aides also worked under him when he ran the White House counsel's office.

Former colleagues now at Justice include his chief of staff, his deputy chief of staff, two senior counselors and the head of the legal policy office. In addition, the Bush administration's nominee to be Gonzales's second-in-command, Timothy E. Flanigan, also served as his White House deputy.

But Justice officials are quick to stress that this group of alumni is part of a broader circle of advisers that Gonzales relies upon, including holdovers from John D. Ashcroft's tenure and new hires who have not worked closely with him in the past.

D. Kyle Sampson, his deputy chief of staff, said that "talking about a White House mafia or something like that would not accurately characterize his openness and inclusiveness."

"I like to think he just did a dang good job of hiring us all in the first place," said Sampson, who worked for Gonzales before coming to Justice in 2003 under Ashcroft. "I just think it's a matter of good lawyers he happens to know and be comfortable with."

Even as Gonzales is still cementing his team in place, of course, he is widely reported to be on the short list as a potential Supreme Court nominee. His chances are enhanced by his close relationship with Bush, who has been his boss since Bush was Texas governor. But Gonzales is viewed with suspicion by many within the Republican Party's conservative base, who disagree with moderate legal positions he has taken on issues such as abortion and affirmative action.

Many of his closest aides, by contrast, have extensive and deeply conservative credentials. Many are young lawyers with impressive résumés and fast-rising careers. Justice officials declined to speculate on what might happen to them if Gonzales moves on to the high court.

The key members of Gonzales's inner circle at Justice include:

· Theodore W. Ullyot , 38, chief of staff, had been a deputy assistant and deputy staff secretary for Bush at the White House. From 2003 to 2004, he worked in the counsel's office under Gonzales. Earlier, he was senior vice president and general counsel at AOL Time Warner Europe and a partner at Kirkland & Ellis.

Ullyot is one of the many "Luttigators" who work in the senior ranks of Justice, having clerked for federal appellate judge J. Michael Luttig, the prominent conservative frequently mentioned as a potential Supreme Court nominee. Ullyot also clerked for another hero in GOP legal circles, Supreme Court Justice Antonin Scalia.

"His leadership style is to listen and engage," Ullyot said of Gonzales. "Our job on the staff is to make sure that he's hearing from all the people that he needs to be hearing from."

· D. Kyle Sampson , 35, deputy chief of staff, came to Justice in 2003 from Gonzales's shop at the White House, and was a counselor to Ashcroft. He learned the ropes on the Hill by working as counsel to Sen. Orrin G. Hatch (R-Utah) on the Senate Judiciary Committee.

Like Ullyot and several other senior aides at Justice, Sampson is a graduate of the University of Chicago Law School, the alma mater of many prominent conservatives.

· Robert D. McCallum , 59, associate attorney general, arrived at Justice the week after the Sept. 11, 2001, attacks. Although he had not worked closely with Gonzales in the past, the Yale Law School alumnus has enjoyed a higher public profile in recent months than he did during the Ashcroft years.

McCallum also has found himself at the center of controversy in recent weeks over the department's decision to drastically scale back a proposed penalty in the government's tobacco lawsuit.

McCallum echoes the comments of others who have worked with Gonzales, saying he "encourages a very vigorous internal debate and deliberation" on issues.

· Tasia Scolinos , 33, is the director of public affairs and, like all of Gonzales's closest aides, a lawyer. She is directly involved in mapping out public relations strategies and in preparing the attorney general for media events, Hill testimony and other public appearances.

Scolinos came to Justice from the Department of Homeland Security, where she was senior director of communications.

"The Department of Justice has a wide portfolio, and many of those issues are very important," said Scolinos, a graduate of Claremont McKenna College and Georgetown University law school. "We try to use the prestige of the attorney general's office to talk about and focus on issues that need attention."

· Raul F. Yanes , 39, senior counselor, worked with Gonzales as an associate counsel at the White House from 2003 until he moved to Justice to work for the new attorney general.

Yanes spent most of his career in private practice at Davis Polk & Wardwell in New York and is a graduate of Harvard Law School.

· Jeffrey Taylor , 40, a Harvard Law graduate, is also a counselor to Gonzales. Taylor previously worked in private practice and as a federal prosecutor in San Diego.

Like Sampson, Taylor worked for Hatch in the Senate and first came to Justice as a counselor to Ashcroft in 2002.

· Courtney Simmons Elwood , 37, another counselor, worked with Gonzales at the White House counsel's office from 2001 to 2002 and then served as deputy counsel in Vice President Cheney's office from 2003 until arriving at Justice in February.

She also clerked for Luttig and is a graduate of Yale Law School.

· Rachel Brand , 32, currently serves as acting head of the department's influential Office of Legal Policy and is awaiting formal confirmation from the Senate.

A graduate of the University of Minnesota and Harvard Law School, she served as an associate White House counsel and clerked for Justice Anthony M. Kennedy.

· Michael A. Battle , 49, is the new head of the Executive Office of U.S. Attorneys, a liaison-type position that Gonzales intends to turn to in his bid to push for prosecutions of gang violence, obscenity and other crimes, according to aides.

Battle is a former public defender and family court judge who gained national attention as the U.S. attorney in Buffalo prosecuting the "Lackawanna Six," a group of Yemeni men convicted on terrorism charges after admitting they had trained at an al Qaeda camp before the Sept. 11 attacks.

· Timothy E. Flanigan , 51, is not technically a Gonzales aide yet, but he is certain to be one of the most important players at Justice if he is confirmed to replace James B. Comey as deputy attorney general. Flanigan was Gonzales's deputy at the White House from 2001 to 2002 before going to work for Tyco International Inc. as general counsel.

Officials have said Flanigan was closely involved in some of the most controversial decisions linked to Gonzales's office after the Sept. 11 attacks -- including the finding that the Geneva Conventions' protections do not apply to suspected terrorists captured on the battlefield and a since-retracted Justice memo narrowing the definition of what constitutes torture.

Flanigan was part of the litigation team representing the Bush campaign during the 2000 election dispute and previously worked at Justice during the administration of President George H.W. Bush.

Profiles Of Jones, Brown Rise In Wake Of O'Connor Retirement (WSJ)

By Jess Bravin, Jeanne Cummings And Robert S. Greenberger

The Wall Street Journal, July 5, 2005

The retirement of Justice Sandra Day O'Connor, the first woman on the Supreme Court and one of two currently, is expected to raise the profile of female candidates.

The two women most often mentioned on Bush short lists are Edith Jones, 54 years old, a former general counsel of the Texas Republican party who was appointed by President Reagan in 1985 to serve on the U.S. Appeals court in New Orleans, and Janice Rogers Brown, 55, the African-American daughter of sharecroppers who grew up Greenville, Ala. and attended segregated schools. After fierce resistance by Senate Democrats, she was recently confirmed to become an appeals court judge as a result of a deal between moderate Democrats and Republicans.

Social conservatives are comfortable with Judge Jones, who passes their abortion litmus test with high grades. In a 1993 case, writing for the majority, she upheld a Mississippi law that prohibits certain minors from obtaining abortions without the consent of both parents, saying it doesn't unduly burden the right to seek an abortion. In another abortion case, Judge Jones, who agreed on a narrow technicality with an abortion-rights decision, nevertheless went out of her way in a concurring opinion to say that the Supreme Court's seminal abortion-rights case, Roe v. Wade, was "an exercise in raw judicial power."

On another issue, she also ruled that a female police officer's work environment wasn't hostile simply because there were some derogatory references to her in a police newsletter's satirical column. And in a case involving capital murder, Judge Jones said that the fact that a defendant's attorney fell asleep during parts of the prosecutor's presentation wasn't sufficient grounds for ruling that he was inadequately represented.

Judge Jones also was a member of the 1997 federal bankruptcy law review commission that spawned the pro-creditor overhaul of the code ultimately passed by Congress earlier this year. In a dissent from a commission's report that urged more protections for debtors, Judge Jones said that the majority report "ignores creditors' complaints that their interests are systematically shortchanged by the (report), while those of debtors are enhanced."

The Senate Democrats' fierce opposition to Judge Brown reflected her staunch conservatism. In a speech in 1999, she said, "Where government advances – and it advances relentlessly – freedom is imperiled, community impoverished religion marginalized and civilization itself jeopardized." At her nomination hearing last November for a seat on the U.S. Appeals Court for the District of Columbia, Vermont Sen. Patrick Leahy, the ranking Democrat on the Judiciary committee, called her an "agenda-driven judge whose respect for precedent and rules …changing depending on the subject matter."

In a case of interest to business, Judge Brown dissented from her colleagues' view that Nike Inc. could be sued under California law for inaccurate comments it made in defense of its overseas labor practices. She said the California statute involved in the lawsuit unconstitutionally limited free speech. Several experts, including Harvard Law School professor Laurence Tribe, a liberal, agreed with her view.

Other Candidates

One frequently mentioned candidate as an associate justice or chief justice is federal Circuit Judge J. Michael Luttig, who was appointed to the court by the first President Bush in 1991. He is considered to be more ideologically conservative than another name often mentioned, federal Circuit Judge J. Harvie Wilkinson III. Judge Luttig is close friends with Justices Antonin Scalia and Clarence Thomas.

Writing for the majority in a 1992 appeals court decision, Judge Luttig affirmed a first-degree murder conviction based on strong circumstantial evidence but no direct evidence. "He is very tough in criminal cases, very hard on crime and supports the death penalty," said Rodney Smolla, a law professor at University of Richmond Law School. Judge Luttig's own father was murdered in April, 1994, during a robbery outside his East Texas home. When he was once asked by defense lawyers to recuse himself from a death-penalty case, Judge Luttig refused, saying that all judges are formed by their life experiences.

In a 1993 ruling, he said that a prisoner needed to produce hard evidence of serious or significant physical or emotional injury in order to win a case based on a constitutional violation of the prohibition of "cruel and unusual punishment." In a First Amendment case, Judge Luttig, in a concurring opinion, argued that the First Amendment protected the right of a group to have a confederate flag on their Virginia license plates, even though it was offensive to other citizens.

Meanwhile, Mr. Bush has also made known his desire to elevate the first Hispanic to the court, and a top choice would be Emilio Garza of the New Orleans appeals court. Judge Garza, 55, was appointed by President Reagan to a U.S. district court and by President George H.W. Bush to the appeals court. Beyond his anti-abortion views, he is known for voting in a 1999 case to

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affirm the right of a policeman to arrest and handcuff a woman for violating Texas' seat-belt law. The woman was driving with her young children. The Supreme Court later affirmed the decision.

In a decision involving a lawsuit under the Americans with Disabilities Act against El Paso, Texas and the Texas secretary of state for refusing to make ballots accessible for the blind, Judge Garza ruled that the ADA didn't cover Texas state officials. The ADA has been a frequent target of the Rehnquist court, which has limited its reach significantly.

Federal Circuit Judge John Roberts was sworn two years ago for a seat on the influential U.S. Court of Appeals for the District of Columbia, which handles complex cases involving the federal government. A Harvard college and Harvard Law School honors graduate, the brainy and likeable Mr. Roberts joins Mr. Wilkinson on lists for a possible chief justice pick.

He is widely admired by Democrats, as well as Republicans. "I think he's the conservative equivalent to a Ruth Bader Ginsburg or Stephen Breyer," says Bradford Berenson, a former Bush White House official, referring to two Supreme Court justices who are considered moderates. Also, because the D.C. appeals court rarely handles abortion actions or cases involving religious issues, he is a blank slate on social cases -- a trait that could ease his acceptance to Democrats but make it harder for him to win support from social conservatives and evangelicals.

Vacancy Starts A Fundraising Race (WP)

By Thomas B. Edsall

The Washington Post, July 5, 2005

The effort to fill the Supreme Court seat being vacated by Justice Sandra Day O'Connor has already become a fundraising magnet for both left and right that promises to rival the 2004 presidential campaign for the rate of cash flow, if not total dollars raised.

The prospect of shifting the Supreme Court to the right has fueled a quest for dollars by conservative and liberal interest groups that will halt only if President Bush does the unexpected and nominates someone acceptable to all sides.

Under the scenario of an ideological battle, participants predict the competition for cash will turn the Senate confirmation into the most expensive nomination fight in the nation's history, certain to break $50 million and, if the nominee is especially controversial, likely to approach $100 million.

Most of the money raised would not be publicly reported. With the exception of such groups as MoveOn PAC, many organizations active in the fight are tax-exempt and have few, if any, disclosure requirements.

The nomination process will pit two lobbying and interest-group coalitions that have repeatedly gone head to head during the Bush administration over tax cuts, energy legislation, and class-action and bankruptcy measures. While the business-social-conservative coalition has repeatedly defeated the liberal-labor alliance, the outcome of a far more visible nomination fight would be highly unpredictable.

On the right, Progress for America, which spent $45 million in behalf of the Bush 2004 campaign, is committed to spending $18 million for targeted radio and television ads; the allied Judicial Confirmation Network plans to spend $2 million to $3 million for grass-roots lobbying of key senators; and Tony Perkins, president of the Family Research Council, has vowed to put unspecified "millions" behind a conservative nominee.

"The focus of Progress for America is crystal clear," said spokeswoman Jessica Boulanger. "That is to defend the president's nominee from attacks from the left."

The spending by these groups only touches the surface of the expected investment in a conservative nominee by James Dobson's Focus on the Family, by Jay Sekulow's American Center for Law and Justice, by the hundreds of programs broadcast on Christian radio, and by the vast network of other organizations, including the Christian Coalition, the Free Congress Foundation, the Southern Baptist Ethics and Religious Liberty Commission, Concerned Women for America, and business groups such as the National Association of Manufacturers.

On the left, such groups as People for the American Way and MoveOn PAC already flexed their muscles in the debate over the "nuclear option" proposal of Senate Majority Leader Bill Frist (R-Tenn.) to end filibusters of judicial nominees.

With far lower levels of public interest, People for the American Way was able to collect $5 million for the filibuster issue, MoveOn raised $1.5 million and the Alliance for Justice raised $1 million.

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"The $1.5 million was just a warm-up for what's to come," said Ben Brandzel, MoveOn's advocacy director. "That was a preparatory round, with far less attention and little focus on the threat to our rights, and $1.5 million was no sweat."

Just as there are hundreds of groups on the right prepared to spend money and time on the nomination, there are a host of counterparts on the left, including the AFL-CIO and its member unions, civil rights organizations, gay and lesbian groups, environmental lobbies, and the well-heeled trial lawyer bar.

Abortion rights groups are expecting the nomination fight to help them regain vitality. With Roe v. Wade on the books for 32 years, many younger women are relatively unaware of the fact that abortion was illegal in most of the United States, liberal women's rights leaders say.

"NARAL Pro-Choice America surpassed its fundraising goals in the hours following Justice O'Connor's announcement," said President Nancy Keenan. Donors "are deeply concerned that President Bush will choose to further divide this nation by nominating a radical right-wing conservative."

Moderation is not the tone of fundraising appeals in the nomination contest. "This is big, people. Huge," NARAL wrote to supporters. "It's true, there is no freedom without choice. Without choice, we are not free."

In private, leaders of organizations on both the left and the right acknowledge that the more controversial the nominee Bush selects, the more money each side will raise.

The money will finance lobbying campaigns conducted in the halls of Congress, on radio and television, in senators' home-state town meetings, in pressure from business and civil rights leaders -- at every leverage point the two sides can find.

The left and right have already designated target senators and put in place the tools of political warfare to mobilize troops at the grass-roots level. Progress for America, for example, has targeted 21 states, including all the states that cast majorities for Bush and have a Democratic Senate incumbent up for reelection in 2006.

In addition, virtually every group is investing in the states of Republican senators who prevented adoption of the nuclear option ending judicial filibusters and in those of Republican moderates who might vote against a very conservative nominee. These key states include Maine, Pennsylvania, Ohio, Arizona and Rhode Island.

Senate Pact Shapes High-court Fight (CSM)

By Gail Russell Chaddock

The Christian Science Monitor, July 5, 2005

WASHINGTON - The decision of 14 senators - whether to hold or abandon an agreement to keep the wheels of the judicial appointments moving - is emerging as the wildcard in the looming confirmation fight over the US Supreme Court.

Six weeks ago, the Gang of 14 stunned the Senate by a bipartisan pact to allow long-delayed votes on President Bush's most controversial nominees, while preserving the minority's right to filibuster under "extraordinary circumstances." The deal opened the door to a quick confirmation of six of the president's nominees. It also sidelined, for a time, GOP plans to force a change in Senate rules to end filibusters on judicial nominations, dubbed the "nuclear option."

Now that pact meets its ultimate test: filling a seat on a Supreme Court closely divided on issues ranging from abortion to property rights. Democrats say the nuclear option is off the table for a Supreme Court nomination fight. Republicans say it emphatically is not. In the end, it's the Gang of 14 who decide which side is right.

The key question: How resilient is that pact and the trust that binds it? That hinges on whether the seven Democrats and seven Republicans end up on opposite sides regarding the definition of "extraordinary circumstances."

Members of the Gang of 14 say they don't want to be a shadow Senate Judiciary Committee or to break with their own party leadership. "The 14 do not expect the president to consult with us as a group. We're not trying to become the Judiciary Committee or the arbiters of all these nominees," says Sen. Mark Pryor (D) of Arkansas, one of seven Democrats signing the May 23 agreement.

If the pact holds, minority Democrats will be unable to filibuster a Bush nominee on party lines. Nor will Republicans be able to take the filibuster option permanently off the table. That agreement has two elements: each painstakingly negotiated. Outside groups and party leaders have tried to interpret that agreement, but, in the end, it comes down to the good will and judgment of the 14 who signed it. So far, members say that good will is holding.

An early test of the viability of the agreement is whether the president consults with senators, both Democratic and Republican, before submitting a judicial nomination for confirmation. "Such a return to the early practices of our government may well serve to reduce the rancor that unfortunately accompanies the advice and consent process in the Senate," said the 14 in their May 23 agreement.

In a bid to interpret that agreement, Sen. Charles Schumer (D) of New York, a member of the Senate Judiciary Committee, said in a press briefing on Friday that such consultation must involve "real, face-to-face, back-and-forth consultation." Republican leaders insist the choice is up to President Bush and that it need not be negotiated in advance with Democrats.

But, in fact, the terms of the agreement within the Gang of 14 sets a relatively low standard of the advice function, according to Sen. John Warner (R) of Virginia, who with Sen. Robert Byrd (D) of West Virginia, drafted this piece of the resolution.

The key document used in negotiating the language on consultation was an excerpt from Federalist No. 66, written by Alexander Hamilton in 1788. It reads, in part: "It will be the office of the President to nominate, and, with the advice and consent of the Senate, to appoint. There will, of course, be no exertion of choice on the part of the Senate. They may defeat one choice of the Executive, and oblige him to make another; but they cannot themselves choose - they can only ratify or reject the choice of the President."

The other key element in the Gang of 14 agreement is how senators interpret their commitment to filibuster a judicial nominee only under "extraordinary circumstances." Democrats on the Judiciary Committee say that ideology must be a factor in making that assessment. On Sunday, Sen. Lindsey Graham, one of the GOP signatories, said it was not. "Based on what we've done in the past with [Bush nominees since May 23], ideological attacks are not an 'extraordinary circumstance,' " he said on Fox News.

But Democrats who signed the agreement are leaving their options open. "I'm leaving open my judgment as to what 'extraordinary circumstances' involves," says Sen. Ben Nelson (D) of Nebraska. He says there will be "no surprises," and that members of the Gang of 14 have ongoing discussions on this point.

A test case of the agreement is whether a nominee as conservative as Janice Rogers Brown, confirmed to the D.C. Circuit Court of Appeals, could get past a filibuster threat for the Supreme Court. Senator Pryor says it's not clear. "Every nomination is different.... I would hope that Janice Rogers Brown would not ever be considered for the US Supreme Court. But I'd like to reserve judgment on that. I may be wrong about her. She may get on the D.C. circuit and be a wonderful surprise. I may change my mind on her over time. Let her have some time to develop there and show what sort of judge she may be," he said.

The 14 signatories include Republicans John Warner of Virginia, John McCain of Arizona, Olympia Snowe and Susan Collins of Maine, Mike DeWine of Ohio, Lindsey Graham of South Carolina, and Lincoln Chafee of Rhode Island; and Democrats Robert Byrd of West Virginia, Joseph Lieberman of Connecticut, Ben Nelson of Nebraska, Mary Landrieu of Louisiana, Daniel Inouye of Hawaii, Mark Pryor of Arkansas, and Ken Salazar of Colorado.

Four of the Democrats (Nelson, Byrd, Landrieu, and Pryor) are from largely Republican States, and could be targeted in elections by conservative ads if the accord falters.

Their Will Be Done (WSJ)

By Robert H. Bork

The Wall Street Journal, July 5, 2005

What do the nomination of a replacement for Sandra Day O'Connor, constitutional law, and moral chaos have to do with one another? A good deal more than you may think.

In Federalist 2, John Jay wrote of America that "Providence has been pleased to give this one connected country to one united people -- a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government, very similar in their manners and customs . . . ." Such a people enjoy the same moral assumptions, the cement that forms a society rather than a cluster of groups. Though Jay's conditions have long been obsolete, until recently Americans did possess a large body of common moral assumptions rooted in our original Anglo-Protestant culture, and expressed in law. Now, however, a variety of disintegrating influences are undermining that unanimity, not

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least among them is the capture of constitutional law by an extreme liberationist philosophy. America is becoming a cacophony of voices proclaiming different, or no, truths.

Alexis de Tocqueville observed that "If each undertook himself to form all his opinions and to pursue the truth in isolation down paths cleared by him alone, it is not probable that a great number of men would ever unite in any common belief. . . . [W]ithout common ideas there is no common action, and without common action men still exist, but a social body does not."

Contrast Tocqueville with Justices Harry Blackmun and Anthony Kennedy. Blackmun wanted to create a constitutional right to homosexual sodomy because of the asserted "'moral fact' that a person belongs to himself and not others nor to society as a whole." Justice Kennedy, writing for six justices, did invent that right, declaring that "At the heart of [constitutional] liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life." Neither of these vaporings has the remotest basis in the actual Constitution and neither has any definable meaning other than that a common morality may not be sustained by law if a majority of justices prefer that each individual follow his own desires.

Once the justices depart, as most of them have, from the original understanding of the principles of the Constitution, they lack any guidance other than their own attempts at moral philosophy, a task for which they have not even minimal skills. Yet when it rules in the name of the Constitution, whether it rules truly or not, the Court is the most powerful branch of government in domestic policy. The combination of absolute power, disdain for the historic Constitution, and philosophical incompetence is lethal.

The Court's philosophy reflects, or rather embodies and advances, the liberationist spirit of our times. In moral matters, each man is a separate sovereignty. In its insistence on radical personal autonomy, the Court assaults what remains of our stock of common moral beliefs. That is all the more insidious because the public and the media take these spurious constitutional rulings as not merely legal conclusions but moral teachings supposedly incarnate in our most sacred civic document. That teaching is the desirability, as the sociologist Robert Nisbet put it, of the "break-up of social molecules into atoms, of a generalized nihilism toward society and culture as the result of individualistic hedonism and the fragmenting effect of both state and economy." He noted that both Edmund Burke and Tocqueville placed much of the blame for such developments on the intellectual class -- in our time dominant in, for example, the universities, the media, church bureaucracies, and foundation staffs -- a class to which judges belong and to whose opinions they respond. Thus ever-expanding rights continually deplete America's bank of common morality.

Consider just a few of the Court's accomplishments: The justices have weakened the authority of other institutions, public and private, such as schools, businesses, and churches; assisted in sapping the vitality of religion through a transparently false interpretation of the establishment clause; denigrated marriage and family; destroyed taboos about vile language in public; protected as free speech the basest pornography, including computer-simulated child pornography; weakened political parties and permitted prior restraints on political speech, violating the core of the First Amendment's guarantee of freedom of speech; created a right to abortion virtually on demand, invalidating the laws of all 50 states; whittled down capital punishment, on the path, apparently, to abolishing it entirely; mounted a campaign to normalize homosexuality, culminating soon, it seems obvious, in a right to homosexual marriage; permitted racial and gender discrimination at the expense of white males; and made the criminal justice system needlessly slow and complex, tipping the balance in favor of criminals. Justice O'Connor, a warm, down-to-earth, and very likeable person, joined many, though not all, of these bold attempts to remake America. Whatever one may think of these outcomes as matters of policy, not one is authorized by the Constitution and some are directly contrary to it. All of them, however, are consistent with the left-liberal liberationist impulse that advances moral anarchy.

Democratic senators' filibusters of the president's previous judicial nominees demonstrate liberals' determination to retain the court as their political weapon. They claim that conservative critics of the Court threaten the independence of the judiciary, as though independence is a warrant to abandon the Constitution for personal predilection. The Court's critics are not angry without cause; they have been provoked. The Court has converted itself from a legal institution to a political one, and has made so many basic and unsettling changes in American government, life, and culture that a counterattack was inevitable, and long overdue. If the critics' rhetoric is sometimes overheated, it is less so than that of some Democratic senators and their interest-group allies. The leaders of the Democratic Party in the Senate are making it the party of moral anarchy, and they will fight to keep the Court activist and liberal. The struggle over the Supreme Court is not just about law: it is about the future of our culture.

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To restore the Court's integrity will require a minimum of three appointments of men and women who have so firm an understanding of the judicial function that they will not drift left once on the bench. Choosing, and fighting for, the right man or woman to replace Justice O'Connor is the place to start. That will be difficult, but the stakes are the legitimate scope of self-government and an end to judicially imposed moral disorder.

Mr. Bork, a former judge of the U.S. Court of Appeals (D.C. Circuit), is a fellow at the Hudson Institute and editor of "A Country I Do Not Recognize: The Legal Assault on American Values," forthcoming from the Hoover Institution Press.

After O'Connor (WSJ)

The Wall Street Journal, July 5, 2005

When President Reagan nominated Sandra Day O'Connor for the Supreme Court in 1981, former Texas Congresswoman Barbara Jordan, a Democrat, declared, "I don't know the lady, but if she's a good lawyer and believes in the Constitution, she'll be all right."

And so Justice O'Connor was confirmed unanimously as the 102nd Justice of the U.S. Supreme Court and the first woman to sit on the highest court in the land. Twenty-four years later, her retirement has set the judicial-appointment process in motion again for the first time in 11 years. On Friday President Bush called for a "dignified" confirmation process, meaning no repeat of the attempts to annihilate Robert Bork and Clarence Thomas. By way of contrast, Barbara Jordan's comment seems like a relic of a more gracious past.

Hours after Justice O'Connor's announcement, MoveOn.org was predicting a nominee who is "an extremist who will undermine the rights of individuals and families." Ted Kennedy was already ratcheting up his end-of-days rhetoric. Mr. Bush shouldn't let these threats deter him from choosing someone who will move the Court in the direction that voters have endorsed in two Presidential elections in a row.

Justice O'Connor is being hailed as the Court's "swing" Justice, but her legacy is more complicated. She has been a conservative on property rights and federalism, most recently in her Kelo dissent, where she took vigorous issue with the Court's extension of government's eminent domain power to include the taking of private property for private economic development. Replacing her with a "moderate" could actually mean a more liberal court on those issues.

Where she drifted left over the years -- and where her written opinions often sowed confusion -- was on social issues, notably church-state and racial matters. She focused more on the facts of a particular case than on determining bright-line rules that citizens could understand and legislatures could follow in the future. Before the Ten Commandments decision came down last month, Beltway wags joked that Justice O'Connor would find five of the 10 unconstitutional.

Her muddled 2003 rulings on racial preferences at the University of Michigan is a case in point. On one hand, she found a "compelling governmental interest" in ensuring diversity, but she also expressed the hope that 25 years hence it would no longer be needed. Even here, however, she opposed the most blatant race-based schemes, which would put her to the right of Attorney General Alberto Gonzales, judging from what we know about his role in influencing the government brief in the Michigan cases.

She also moved left on abortion over the years, but her departure does not put Roe v. Wade in jeopardy, notwithstanding claims on the left. Justice O'Connor provided the fifth vote in Casey, reaffirming Roe and a woman's right to abortion, but Ruth Bader Ginsburg has since joined the Court as the sixth vote in favor of Roe. On the other hand, the Carhart partial-birth abortion case -- a 5-4 decision overturning Nebraska's ban -- could well be overturned. But then two-thirds of Americans support laws banning that procedure, and it is the Court's extremism that has blocked just about any regulation of abortion even up to the time of birth.

Mr. Bush has had five years to evaluate possible nominees to the Supreme Court and there are many highly qualified candidates -- male and female, on the appeals courts and elsewhere. Liberals who are demanding that he replace Justice O'Connor with a non-conservative are ignoring the recent history of Supreme Court nominations. When President Clinton named liberal Ruth Bader Ginsburg to replace Byron White, who had voted against Roe, Republicans didn't object even though that clearly moved the Court to the left on abortion and most other issues.

Mr. Bush has often said he'd like to appoint a Hispanic to the Court, and there are several fine candidates, including Miguel Estrada, whose nomination to the D.C. Circuit Court of Appeals was filibustered during Mr. Bush's first Administration. As a war

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President, Mr. Bush will also want someone who has a healthy respect for executive power in fighting terrorism -- such as the Fourth Circuit's J. Harvie Wilkinson. This argues against Mr. Gonzales who, as former White House counsel and now head of the Justice Department, would have to recuse himself from most if not all of the war-on-terror cases. A series of 4-4 rulings would be bad for the country on what promises to be a fundamental legal debate in the coming years and could be a matter of national survival.

Any nominee will provide a test of the recent Senate deal barring a filibuster except in "extraordinary circumstances." If words mean anything, they ought to allow a filibuster only in the case of something truly unusual, such as an ethical scandal. They shouldn't include judicial philosophy, although the left is already trying to redefine them that way. The only time the filibuster has been used against a Supreme Court nominee was LBJ's choice of Abe Fortas, who faced corruption charges, and even then it was used mainly to gauge Senate support.

Justice O'Connor served 24 terms, and the average tenure for recent Justices is 19.5 years, or five Presidential terms, so the stakes are enormous. For liberals, the courts have become the preferred way to win policy victories now that Americans are consistently rejecting their agenda at the ballot box. Unlike Barbara Jordan and her colleagues 25 years ago, modern liberals are unlikely to be satisfied with a nominee who is a "good lawyer and believes in the Constitution."

But the only way to stop "borking" as a political strategy is to defy and defeat it. Mr. Bush told voters in 2000 and 2004 that he would nominate Justices in the mold of Antonin Scalia and Clarence Thomas. He owes it to the country, and his most loyal supporters, to keep that promise.

Common Ground On Stem Cells? (RC)

By Mark Preston

Roll Call, July 5, 2005

Senators Seek Consensus Bill A group of Republican Senators is working quietly on new embryonic stem-cell legislation intended to appease scientists while also avoiding a potentially politically damaging presidential veto.

President Bush is opposed to providing federal funds for embryonic stem-cell research that causes the embryo to be destroyed. Bush has vowed to veto any stem-cell bill that he believes does not honor the sanctity of life.

The stem-cell issue is being framed by advocates on either side as one of morality and hope, and it has prompted a division in the Republican ruling majority in Congress. Against the objections of GOP leaders, the House approved a measure in May that would allow federal funds to be used for embryonic stem-cell research.

The Senate is expected to approve the bill at some point later this year, putting Bush in the position of having to follow through on his veto threat — a power he has not yet used in his presidency — unless another option is presented.

The basis of the still-to-be drafted Senate bill would allow for federal funds to be used for embryonic stem-cell research, but would require that the embryo not be harmed during the process.

Several Republicans said Congress should be promoting a technique currently used during genetic testing and in vitro fertilization that allows for a stem cell to be taken from the embryo without destroying it.

“We are trying to see if we can find some ground that allows for research to continue,” said Senate Republican Conference Chairman Rick Santorum (Pa.). “Even though I question the potential of that research, nevertheless it is an area that the scientific community wants to do research and we want to make sure it is done in an ethical way.”

Santorum said the discussions include Senate Majority Leader Bill Frist (R-Tenn.) and Health, Education, Labor and Pensions Chairman Mike Enzi (R-Wyo.) as well as rank-and-file Members.

Enzi’s panel approved a different stem-cell measure last week that promotes the use of stem cells extracted from cord blood and bone marrow. A similar bill has already passed the House, but many people do not believe these cells hold as much healing potential as embryonic stem cells.

Sen. Johnny Isakson (R-Ga.), who is involved in the talks about the safe extraction of stem cells from embryos, said he thinks that this compromise bill would appease people on both sides of the debate.

“My position is, if there is a way to develop a stem cell without destroying an embryo, then that is where [the National Institutes of Health] should be making their investment, because the ethical and moral questions to me go away,” Isakson said.

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Many Republicans such as Sen. Sam Brownback (Kan.), advocate the use of adult and cord blood stem cells but are ardent opponents of harming an embryo for its stem cells.

But researchers argue that embryonic stem cells are more valuable than adult and cord blood stem cells and might be used in the future to treat diseases. While embryonic stem-cell research is not outlawed, advocates of the procedure contend that federal funding is crucial to help speed up research.

Brownback said he would oppose any measure that would result in harming an embryo.

"To me this about life," Brownback said. "However it plays out this is about life. You can't compromise about that. You have got to stand for life."

In addition to prompting a scientific debate, the stem-cell question has a significant political undercurrent that could be a part of the issues discussed in the 2006 elections.

Sen. Barbara Boxer (D-Calif.) predicted that Congressional Republicans would pay a political price in November 2006 if Bush vetoes an embryonic stem-cell research bill.

"By him being so stubborn about it, it is sad for the country but it is going to be very harmful, I think, for the Republicans," Boxer said.

Senate Minority Leader Harry Reid (D-Nev.) called on Frist last week to schedule a Senate debate on the embryonic stem-cell bill following the July Fourth Congressional recess.

Some Republicans grudgingly acknowledged that a presidential veto might not be received well by many voters. They compared such a scenario to the GOP's decision to involve Congress in the Terri Schiavo matter earlier this year. Schiavo, a brain-damaged Florida woman, was at the center of a bitter family struggle over whether her feeding tube should be removed. Despite Congress' intervention, Schiavo's feeding tube was removed and she eventually died.

"The party took a hit on the whole Schiavo incident, and this has the same potential," said Sen. Lincoln Chafee (R-R.I.).

Sen. Trent Lott (R-Miss.) warned Democrats not to try to politicize the stem-cell debate. The Mississippi Republican said any attempt to do so would make him and perhaps other Republicans who currently support embryonic stem-cell research to withdraw their support.

"Not only would it make me not want to, but I am just going to say, 'No, I ain't going to do it,'" Lott said.

Sen. George Allen (R-Va.), who is involved in the discussions to forge a compromise bill, said this just might be a way to promote scientific research, while sidestepping a potentially divisive battle over the use of embryonic stem cells.

"This is a way to ethically federally fund promising scientific research," Allen said. "This may be a way of getting the parties together."

California Stem-Cell Agency Gets Off To Inauspicious Start (WSJ)

By David P. Hamilton

The Wall Street Journal, July 5, 2005

As politicians in Washington tussle over a bill that could expand federal funding for embryonic stem-cell research, California's newly minted $3 billion commitment to the field is still trying to get itself off the ground.

Eight months after a state ballot initiative, Proposition 71, established the California Institute for Regenerative Medicine, the stem-cell agency's main accomplishment has been to bootstrap itself into existence.

The institute has staked out a new permanent headquarters site in San Francisco, selected an interim president and put together several panels of experts to help evaluate funding requests and determine research standards. But its real mission -- to funnel roughly $300 million a year into California-based stem-cell research and facilities over the next decade -- is stalled.

Thanks to a lawsuit that has delayed a planned sale of state bonds, the institute's main source of funding is in limbo. The stem-cell agency has been subsisting on an initial loan from the state and couldn't even hire additional support staff until philanthropists offered it a $5 million gift earlier this month. In the meantime, it has been beset with controversies over its accountability and openness, including an effort by state legislators -- now on hold -- to impose tougher standards on the effort.

It wasn't supposed to be this way. Robert Klein II, a Silicon Valley real-estate developer who drafted much of Proposition 71 and led the fight for its passage, designed the program as a durable oasis in which stem-cell science could flourish, insulated

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from California's political turbulence. Instead, Proposition 71 created one of the most peculiar and largely unaccountable government research agencies in the country, which in turn has fueled varying degrees of resistance from both opponents and supporters of stem-cell research.

"Scientists and universities have been burned so often by changing political winds that they are unwilling to take risks without a guarantee of stability," says Mr. Klein, who now, in effect, directs the program as chairman of the agency's 29-member oversight board.

Stability is exactly what Proposition 71 appeared to deliver. Unlike most government research programs, the California stem-cell institute doesn't have to ask a legislature for annual funding; instead, its substantial budget is supposed to flow automatically from the sale of state bonds. California legislators can't tamper with the program for at least three years, and any changes after that will require 70% supermajorities in both houses and the governor's signature.

Furthermore, the proposition shielded some activities of the stem-cell institute from public scrutiny under California's strong sunshine laws. Members of the oversight board, who wield final authority over the program, serve fixed terms but can't be fired or replaced for any reason short of actual misconduct.

The lawsuit against the institute and its oversight board takes direct aim at some of these provisions, charging that they violate the California constitution because the stem-cell agency isn't under the exclusive control of the state. Although the suit was filed by a group of Proposition 71 opponents who say they aren't challenging the stem-cell research for moral reasons, the plaintiffs are represented by the Life Legal Defense Foundation, an antiabortion group. State officials say the suit is without merit and call it an ideological attack on stem-cell research itself.

Whether or not they are right, the uncertainty created by the suit poses a threat to the sale of the state bonds that are supposed to fund the stem-cell institute. Investors are unlikely to purchase the bonds if the state might lose the suit, forcing California officials to consider alternatives.

The state treasurer's office, for instance, has drawn up a plan to issue as much as $200 million of "bond anticipation notes," which are short-term instruments that would be paid off with the proceeds from a subsequent bond issue -- if and when such an issue takes place. If the state were to lose the lawsuit, however, buyers of the notes could face the loss of their investment.

It isn't clear that typical investors will be willing to assume the enormous risk associated with these notes. So Mr. Klein anticipates marketing $100 million of the notes directly to philanthropic foundations with an interest in stem-cell research. He calls this pitch a "no-lose" proposition for the foundations, since their investments will further medical research whether or not the anticipation notes are actually repaid, but he admits that persuading individual foundations to sign on to the novel financing scheme has been slow work.

Funds from the anticipation notes will be needed by September, when the stem-cell institute hopes to begin a $15 million fellowship program to train 200 junior stem-cell scientists. The money would also cover an initial round of "seed money" research grants that the institute hopes to award in the late fall.

Despite its financial strains, the institute has found the cash to hire its own lobbyist and other consultants, as well as to pay six-figure salaries to several of its initial staff hires -- some of them former aides to Mr. Klein -- which critics have assailed as excessive. Mr. Klein says the outside help was necessary to fill in staffing gaps at the institute, which still has only 15 employees.

The institute has managed to turn aside for now a legislative effort to impose stricter conflict-of-interest and accountability measures on the program. Earlier this year, Democratic state Sen. Deborah Ortiz, an early proponent of a stem-cell ballot initiative and a vocal supporter of Proposition 71, introduced a state constitutional amendment to fill what she called "gaps" in the law that might undermine public confidence in the program. Because of the way the proposition was structured, such an amendment is the only way to impose new rules on the stem-cell agency.

The institute's oversight board quickly rallied against the measure that Zach Hall, the institute's interim president, said would "cripple" the program. It held a special public meeting in the state capital to discuss the measure, then dispersed its members to lobby individual legislators and their staffs.

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The Senate's Democratic leadership subsequently agreed to hold off while the institute crafted its own tighter rules, which it has begun to do. If lawmakers aren't satisfied, the proposed amendment is likely to move forward, although state voters would still need to ratify it in next year's primary election.

In the meantime, Mr. Klein faces some restlessness among members of his oversight committee. Last week, he and his allies narrowly turned aside an effort to elect Jeff Sheehy, a representative for AIDS patients who was appointed to the board by a Senate leader, as chairman of a newly formed legislative-liaison committee. Mr. Klein won the chairmanship by a single vote.

FEMA Seeks Return Of $27 Million In Fla. Hurricane Aid (WP/AP)

Associated Press

The Washington Post, July 4, 2005

FORT MYERS, Fla. -- The Federal Emergency Management Agency has asked thousands of Floridians whose homes were damaged by last summer's four hurricanes to give back more than $27 million in aid overpayments.

FEMA earlier this year began mailing letters to residents in efforts to recoup the overpayments from people who received federal aid after Hurricanes Charley, Frances, Ivan and Jeanne hit Florida last August and September.

According to data supplied to the Fort Myers News-Press through a Freedom of Information Act request, the agency detailed 6,579 cases in which they say people owe a total of $27.2 million.

Many of the problems stem from FEMA providing money for items that were later covered by property insurance policies, from more than one person from the same household applying for benefits or from processing errors.

FEMA has committed more than $5 billion to Florida's hurricane recovery.

Hurricane Victims Asked To Repay Millions (NYT/AP)

By The Associated Press

The New York Times, July 4, 2005

FORT MYERS, Fla., July 3 (AP) - The Federal Emergency Management Agency has asked thousands of Floridians whose homes suffered hurricane damage last summer to give back $27 million in aid overpayments.

The agency began mailing letters to residents this year to recoup overpayments from people who received federal aid after Hurricanes Charley, Frances, Ivan and Jeanne hit Florida last August and September.

According to data supplied to The News-Press of Fort Myers, the agency found 6,579 cases in which they say people owe a total of $27.2 million.

Many of the problems stem from the agency's providing money for items that were later covered by property insurance policies, more than one person from the same household applying for benefits or processing errors.

Nicol Andrews, a spokeswoman, said the $27 million was less than 1 percent of the more than $5 billion the agency had committed.

"Our mission is to get in there and help out and address immediate needs, food, shelter, clothing," Ms. Andrews said Sunday. "Months after or quite a while after, we go back, and, as is our obligation to the taxpayers, we try to recoup funds that were distributed in error."

The agency is asking one Escambia County household to return $50,723, saying the award was made for a home that was not a primary residence.

Pelosi Turns In Delinquent Reports For 3 Sponsor-Funded Trips (WP)

By Mike Allen

The Washington Post, July 5, 2005

House Minority Leader Nancy Pelosi (D-Calif.) filed delinquent reports Friday for three trips she accepted from outside sponsors that were worth $8,580 and occurred as long as seven years ago, according to copies of the documents.

The filing is among hundreds of revisions from members of both parties who have amended missing or incomplete reports as scrutiny of lawmaker travel has intensified.

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The most expensive trip was not reported on Pelosi's annual financial disclosure statement or on the travel disclosure form that is required within 30 days of a trip.

A more common violation among members filing corrections was to list a trip on the annual statement but not file the more detailed form about a specific trip. The House ethics committee plans to examine the tardy disclosures after being stalled since January in partisan disputes.

Committee members have shown no appetite for taking up all those cases and are considering an amnesty for reporting violations, although not for serious matters such as accepting a trip from a lobbyist, which House rules forbid. The data firm PoliticalMoneyLine calculates that members of Congress have received more than $18 million in travel from private organizations in the past five years, with Democrats taking 3,458 trips and Republicans taking 2,666.

Pelosi, who was elected House Democratic leader in November 2002, said in a letter to the ethics committee: "Although the current travel issue has focused on trips that have taken place since 2000, I have further reviewed my record of privately funded travel prior to becoming part of the Democratic Leadership." She said that "as a result," she was filing three forms, two for trips that she had reported on her annual statements.

The unreported trip was a week-long 1999 visit to Taiwan, paid for by the Chinese National Association of Industry and Commerce, for "meetings with government, military and business officials," according to a filing Pelosi signed June 30. The flights cost $3,400 each for Pelosi and her husband. The hotel cost was $940. The sponsor, which has picked up trips for leaders of both parties, paid $300 for meals.

Pelosi said she had provided "a good faith estimate" of the cost of the other two trips, since her "office records for that period do not indicate the costs." In 1998, NBC paid for a $200 trip to New York for a "Meet the Press" appearance, according to the filing. In 1999, the American Israel Public Affairs Committee paid $300 for transportation to Delray Beach, Fla., and $40 for meals for Pelosi to appear at a reception and briefing.

Rep. Jack Kingston (R-Ga.), vice chairman of the House Republican Conference, said the filing is new evidence that the focus on House Majority Leader Tom DeLay (R-Tex.) has been disproportionate. "Democrats have just as many substantive questions," Kingston said.

Federal Workers Anxious Over Pay (WP)

By Christopher Lee

The Washington Post, July 5, 2005

Here is why working for the federal government is so good: Federal civil servants, on average, have received a pay raise in every year but two since 1969, meaning they can pretty much bank on seeing their paychecks grow annually.

But there is a cloud inside that silver lining: Average annual wages and salaries in the private sector have grown faster than civil service pay in the past 36 years, and so have consumer prices.

So while federal work has a lot to recommend it, pay is not one of the big draws, said Beth Moten, chief lobbyist for the American Federation of Government Employees. "Overall it's probably a negative," Moten said. "I don't think that salaries are comparable with similar occupations in the private sector. People come because they are public-service-minded."

In a recent survey by the Office of Personnel Management, 62 percent of federal workers said they were either "very satisfied" or "satisfied" with their pay. About 21 percent said they were "dissatisfied" or "very dissatisfied," and the rest said they were "neither satisfied nor dissatisfied."

Many federal workers are growing increasingly anxious about their pay as the Bush administration prepares to toss out the 15-grade General Schedule, which links pay to longevity in a job, and replace it with a system that more directly ties salary increases to performance evaluations.

Starting this summer, such systems will be phased in over several years at the departments of Defense and Homeland Security, which together employ more than 900,000 civilian workers. And Bush administration officials want similar changes throughout government.

Colleen M. Kelley, president of the National Treasury Employees Union, said she fears that annual raises will suffer.

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"I think in part it will come from a lack of funding," Kelley said. "I'm worried about what they will do with the money and whether there will be any recognition at all of the necessity for an annual adjustment that allows federal employees to even have a potential for staying even, from a buying-power standpoint."

At a briefing on the new DHS system earlier this year, Ronald P. Sanders, an associate director at the Office of Personnel Management, said pay increases will be determined both by the available money and by annual performance ratings. "Every employee who is 'fully successful' or better will be eligible to get a performance pay increase every year," Sanders said.

Even under the current system, with its long track record of pay increases, Moten said her members "know that you have to fight for the pay raise every year."

This year it is a fight that the federal employee unions and their allies in Congress appear to be winning. Last week, the House approved a 3.1 percent pay raise for the federal government's 1.8 million civilian employees. The pay raise, which would take effect in January and would be identical to what Congress is providing the military next year, was included in a fiscal 2006 spending bill for the departments of Transportation, the Treasury, and Housing and Urban Development.

The House vote swept aside the recommendation of President Bush, who had proposed a 2.3 percent raise for federal civilian employees and a 3.1 percent raise for the military. While the Senate has not taken up the pay-raise question, the House's action provides a strong signal that federal workers can expect to receive the 3.1 percent increase next year.

Since 1969, federal employees, on average, have received an annual pay hike of at least 2 percent in every year except 1983 and 1986, when there was no increase, according to a recent Congressional Research Service report. The overall pay scales for workers in General Schedule positions has increased by 357 percent during that period. That's higher than the 281 percent increase in congressional pay over the same time frame, although lawmakers' salaries -- $162,100 for most members of the House and Senate -- are far higher than the average federal worker's pay.

Average private-sector salaries have risen faster than federal pay, growing by 522 percent since 1969. Prices also have climbed faster, rising by 410 percent over the period, according to the CRS report.

The Federal Employees Pay Comparability Act of 1990 was designed to bring federal salaries in line with those in the private sector. But the act has been only partly implemented, in part because the Clinton and Bush administrations have taken issue with its methodology and cost. So Congress and the White House instead negotiate the federal pay raise each year.

OTHER NEWS:

Settlement Likely In Wrongful Death Suit (RC)

By John Mcardle, Roll Call Staff

Roll Call, July 5, 2005

A wrongful death suit brought by the wife of a Maryland man who died while in custody of the Capitol Police is likely headed toward settlement, a lawyer for the deceased's family said after a status hearing Thursday.

After scheduling another status hearing for early October, U.S. District Judge James Robertson agreed, at the request of both sides, to refer the case to a magistrate judge, who could arbitrate a settlement agreement. After agreeing to refer the case, Robertson said, "hopefully that means you'll never come back here."

The original lawsuit was filed in U.S. District Court for the District of Columbia in November 2004 by the family of Brandywine, Md., resident Gary Thompson. Thompson died Feb. 9, 2004, after he was arrested by Capitol Police following a traffic accident outside Union Station. His widow, Lois Thompson, is seeking $50 million in compensatory damages, as well as legal fees.

"We're hopeful to get this resolved in the next three months," Thompson family attorney Jimmy Bell said after the hearing. "It's a sad situation that Mr. Thompson had to die unnecessarily. Settling this case will start the healing process for the family and ensure some accountability so something like this never happens again."

The U.S. Attorney's Office, which is representing the Capitol Police, would not comment. "The Department of Justice's policy is not to comment on settlement negotiations," said office spokesman Channing Phillips.

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According to the lawsuit, Capitol Police officers responding to an accident in which a van driven by Gary Thompson collided with a taxicab near the corner of Columbus Circle and E Street Northeast, found Thompson still in his vehicle hunched over the steering wheel. The family contends that Thompson, a diabetic, suffered from a diabetic seizure shortly before the accident occurred.

The officers attempted to remove Thompson from his vehicle and when he refused, because he was "in medical crisis," they began to hit Thompson to force him to release the steering wheel, the suit states.

After removing Thompson from the vehicle, officers placed him on the ground on his stomach and handcuffed him. Bell asserts that officers continued to force Thompson to the ground as he attempted to raise his head to breathe.

Thompson then fell unconscious; when paramedics arrived, they were unable to locate a pulse. He was pronounced dead about an hour later at Washington Hospital Center.

The following month, the D.C. Office of the Chief Medical Examiner labeled the cause of death "positional asphyxia," meaning his chest and rib cage were not able to expand so that he could draw breath. The death was ruled a homicide.

The initial complaint and one expert opinion for the case contend that the Capitol Police violated "proper arrest procedures," which resulted in Thompson's death.

Earlier this year, the U.S. Attorney's Office was unsuccessful in its motion to dismiss the case on the grounds of "contributory negligence" on the part of Thompson.

Health Net Will Fight Judgments (NYDN)

By Brent Hopkins

New York Daily News, July 5, 2005

WOODLAND HILLS -- Facing $117 million in fines stemming from the failure of three former subsidiaries, Health Net Inc. vowed Friday to keep up its legal fight.

The managed care company sold its Foundation Health Plans in Louisiana, Oklahoma and Texas in April 1999 to AmCareco Inc. for an undisclosed price. Within three years, state regulators took over all three and placed them into receivership. Alleging fraud, conspiracy, negligence and other crimes, the receivers then sued both companies.

Health Net has maintained its innocence throughout, but faced a setback on Thursday when a Louisiana jury awarded the Texas receivers $52.4 million in compensatory damages and another $65 million in punitive charges. Roughly $8 million of the compensatory damages would be paid by other parties in the suit, however.

"We continue to believe that the claims have no merit," said David Olson. "We're going to continue to fight because we believe in our case. The fact of the matter is we sold them in 1999 and it was three years later that they became insolvent."

The plaintiffs allege Health Net knew its plans were in poor financial shape when it sold them, then extracted an additional $8 million in payments that forced them into insolvency. The extremely litigious sale has already resulted in numerous settlements from parties involved in the transfer, with Health Net remaining the lone holdout.

"We're hopeful that the jury sent a message to Health Net and that the judge will send one to get this over with," said Marlon Harrison, the receiver for AmCare Health Plans of Louisiana. "To drag this out even more will just cost the receiverships more time and money."

Thursday's award represents only the Texas portion of the case, with plaintiffs in the other two states seeking an additional $30 million in compensatory awards and punitive damages, as well. Harrison said he expected a ruling from the judge by the end of next week.

"We're really happy with the verdict and for the people who received the damages," said Jessica Fisher, a spokeswoman for the Oklahoma Department of Insurance. "We're looking forward to an award for the people in Oklahoma, as well."

Shares of Health Net closed at $37.53 on Friday, down 63 cents.

Market Pulse: Health Net To Appeal $117M Jury Award In La. (MWATCH)

By Carolyn Pritchard

MarketWatch, July 1, 2005

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SAN FRANCISCO (MarketWatch) -- Health Net Inc. said Friday that a jury in Baton Rouge, La. state court a day earlier awarded $117 million in damages -- $52.4 million in compensatory damages and $65 million in punitive damages -- in a case against the company arising from the 1999 sale of three of its health plan subsidiaries in which plaintiffs allege fraud, negligence, conspiracy and breach of fiduciary duty, among other claims. Thursday's verdict involved the sale of the health care company's former Texas unit; a separate judgment is pending regarding the sale of two others. Health Net said it continues to believe that the plaintiffs' claims have no merit and said it will "continue to vigorously pursue all avenues of redress, including post-trial motions, appeals and its pending cross claims against other parties."

Louisiana Jury Rules Against Health Net (BIZJOURN)

Business Journals, July 1, 2005

A jury in Baton Rouge, La., state court Thursday awarded $117 million to plaintiffs who sued Health Net Inc. in a case involving the sale of Health Net's former Texas health plan subsidiary.

The plaintiffs will receive $52.4 million compensatory damages and $65 million in punitive damages.

The jury allocated 15 percent of the compensatory damages to other parties, which leads Health Net (NYSE: HNT) to expect a "downward adjustment to the verdict in an amount to be determined."

The case stems from Health Net's 1999 sale of three subsidiaries to AmCareco. Three years later, the plans came under state review and were accused of fraud and conspiracy, among other claims.

The verdict applies only to a Texas case, and the judge will rule separately on cases in Oklahoma and Louisiana.

Health Net said it will continue to vigorously pursue all avenues of redress, including post-trial motions, appeals and its pending cross claims against other parties.

Woodland Hills, Calif.-based Health Net is one of the largest health insurance providers in Oregon.

Health Net Hit With $117 Million Judgment In Fraud Case (LABIZ)

By SARAH FILUS, Los Angeles Business Journal Staff

LA Business Journal, July 5, 2005

Health Net Inc., the Woodland Hills-based health maintenance organization, was hit Friday with a $117 million judgment in a case accusing it of fraud in the 1999 sale of three health plans.

A Louisiana jury awarded $52.4 million in compensatory damages and $65 million in punitive damages in a lawsuit brought by the receivers of three former Health Net subsidiaries that went bankrupt in 2002, three years after their sale to Houston-based AmCareco Inc.

The receivers sued AmCareco, Health Net, and other parties charging them with fraud, negligence, conspiracy, and breach of fiduciary duty among other claims. Friday's judgment only involved the sale of Health Net's former Texas health plan.

The other two cases, involving plans in Oklahoma and Louisiana, are being tried by a Texas judge. The plaintiffs in those cases are seeking about $30 million in compensatory damages along with punitive damages.

Health Net plans said it disagreed with the jury's decision and planned to appeal the judgment, which it would partially share. The jury said other parties must pay 15 percent of the compensatory damages.

"The plaintiffs attempted to reach back to the original sale. It took three years to happen when we weren't involved," said David Olson, senior vice president of corporate communications for Health Net.

Health Net Fined In Texas HMO's Collapse (LAT)

The Los Angeles Times, July 5, 2005

A Louisiana jury ordered Health Net Inc. to pay $117.4 million in the collapse of a Texas health maintenance organization the company sold in 1999.

Attorneys for the Texas receiver said Woodland Hills-based Health Net allowed AmCareco Inc. to buy the company with the HMO's own money, leaving the plan insolvent.

Shares of Health Net fell 63 cents to $37.53.

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Health Net Loses Case In Louisiana (HARTC)

By Bloomberg News

The Hartford Courant, July 2, 2005

Health Net Inc. was ordered by a Louisiana jury to pay $117.4 million over the collapse of a Texas business the company sold in 1999.

The Texas health maintenance organization, and others acquired by AmCareCo. Inc. in Louisiana and Oklahoma, went into receivership in 2002. Attorneys for the Texas receiver said AmCareCo. used the HMOs' own money to buy them from Health Net, leaving the plans insolvent.

"They took the reserves out and left the HMOs broke," said attorney Jim George, of George & Brothers in Austin, Texas. "It left medical bills of $52 million unpaid in Texas."

A Baton Rouge, La., jury found Thursday that Health Net committed fraud, and the panel awarded $52.4 million in damages and $65 million in punitive damages to the Texas receiver.

Claims by the Louisiana and Oklahoma health plans, which are seeking more than $30 million, will be heard by a judge. Health Net, which is based in Woodland Hills, Calif., and has operations in Connecticut, said there is no merit in the lawsuits and it will appeal.

"Health Net has vigorously contested all of the plaintiffs' claims since they were filed," spokesman David Olson said in an interview. "AmCareCo had adequate financial resources."

George said Health Net, then called Foundation Health System Inc., used a leveraged buyout to sell the health plans to AmCare. Reserves earmarked to pay medical claims went to Health Net, he said.

"Doing a leveraged buyout with an insurance company is inappropriate," George said. "It's like a bank having an LBO with the depositors' money."

Merck Seeks Postponement In Vioxx Trial (AP)

By Theresa Agovino, AP Business Writer

AP, July 5, 2005

SAGAPONACK, N.Y. (AP) -- Merck & Co. is asking a judge to delay the first wrongful death trial over its pain reliever Vioxx, saying it cannot receive a fair trial if the Texas case begins next week as scheduled.

The company wants the trial postponed for at least 60 days, citing recent publicity about the drug. Merck withdrew the drug in September when research showed that patients who took it for 18 months or longer more than doubled their risk for heart attack and stroke. Since then, more than 2,400 Vioxx lawsuits have been filed nationwide.

A hearing on Merck's motion is slated for Tuesday in Wharton, Texas. Mark Lanier, a Houston attorney for a woman suing New Jersey-based Merck over her husband's 2001 death, said he will oppose a delay.

In the motion, which was filed Friday, Merck said a lawsuit brought Thursday by Texas Attorney General Greg Abbott seeking $250 million in damages for Vioxx purchases has "effectively eliminated any possibility Merck can receive a fair trial beginning July 11."

It also noted that a law firm which helped the attorney general's office on the lawsuit represents at least six plaintiffs suing the company.

"The timing of the (state) lawsuit is hardly a coincidence," according to Merck's motion.

The filing also said a story in the "national media" which cited a privileged attorney-client communication could prejudice a jury against it. The Associated Press reported June 22 that Merck scientists had contacted company attorneys in 2000 about reformulating Vioxx over concerns it could cause negative cardiovascular side effects.

Lanier said Monday that Merck signed an agreement with him in May not to postpone the trial for any reason other than the health of the lead attorneys.

He also said he would oppose the motion for a delay because the story about the Texas attorney general's lawsuit did not receive prominent coverage in the Houston Chronicle -- the region's major newspaper -- and that the newspaper in Brazoria County did not publish the AP article. The suit is expected to be heard in that county, south of Houston.

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'Health Courts' Offer Cure (USAT)

USA Today, July 5, 2005

A child falls and gets a nasty bump on the head. Worried parents rush the child to the emergency room. Observation for a couple of hours might be the right choice, but chances are doctors will order an expensive CT scan.

Physicians often abandon their best judgment if they think a test might protect them in a malpractice lawsuit. In the bump-on-the-head case, a CT scan provides cover if a trial lawyer someday asks, "Why didn't you do more to rule out bleeding in the brain?"

Such defensive medicine can reassure patients, but it isn't benign. It results in unnecessary cesarean sections, painful breast biopsies in women with lumps unlikely to be cancerous, and hospitalization of patients who don't need that level of care.

The practice is pervasive and costs at least $60 billion a year, according to the Department of Health and Human Services — paid by people's insurance premiums.

A survey of 824 Pennsylvania doctors, published June 1, found 93% admit to risk aversion tactics such as over-ordering tests, abandoning high-risk procedures and avoiding the sickest of patients. This is just a symptom of an unhealthy medical liability system that forces some doctors out of practice and encourages others to hide mistakes instead of learn from them.

So far, the leading idea for a remedy has been President Bush's proposal to cap jury awards for pain and suffering, but it is stalled in the Senate and is a partial cure at best. Caps might lower malpractice insurance costs, but they don't tackle deeper problems.

One intriguing idea, backed by the bipartisan legal reform group Common Good, is special "health courts," where judges experienced in medicine would try cases without juries. Rep. Mac Thornberry, R-Texas, and Sens. Mike Enzi, R-Wyo., and Max Baucus, D-Mont., have introduced bills to let states experiment with these courts. Among the potential advantages:

• Eliminating hired guns. Judges could pick impartial experts to guide them, instead of the present system of dueling experts hired by each side. Unlike juries, judges would issue written opinions that establish precedents and standards of care.

• More consistent awards. Juries sometimes base awards more on sympathy than facts. An injury worth $100,000 in one place might bring a $2 million award, or nothing at all, in another. Health courts could make awards based on a schedule of benefits, similar to workers' compensation, that would be fairer and more consistent.

Opponents say the right to trial by jury is too important to give up. But special courts already handle tax, bankruptcy, maritime and family disputes without juries.

The national malpractice roulette is inefficient and unjust. Health courts could show the way for quicker and fairer compensation to the deserving, and they might reduce the incentive for doctors to engage in defensive medicine that puts patients at risk.

Starting the experiment is the right medicine for an ailing system.

Juries Remain Best Medicine (USAT)

By Todd A. Smith

USA Today, July 5, 2005

Replacing the basic fairness of individualized justice determined by the wisdom of 12 American men and women sitting on juries with one-size-fits-all "health courts" is a bad idea and would impose huge additional burdens on state taxpayers.

Our current legal system recognizes that each case has unique circumstances and gives juries — your friends, neighbors and co-workers — the responsibility to make fair decisions based on all the facts.

The fundamental unfairness of health courts is the assumption that all similar injuries are the same. Would a typical American jury say the loss of a finger is worth more to a concert pianist than an office worker? Would 12 citizens decide reproductive systems are more important to people of child-bearing age than to elderly people? That's why we have juries.

Forcing states to create huge new legal bureaucracies and pay for well-qualified experts (now paid for by parties in the case) would be prohibitively expensive — imposing additional taxes on states already struggling with budget shortfalls.

Replacing juries with health courts insults the hard-working Americans who do their civic duty serving on juries. We routinely trust juries to decide complex matters: massive corporate fraud in the Enron case and even life and death in criminal

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trials. Medical malpractice cases, in which patients have been maimed or killed by the negligence of hospitals or the greed of insurance companies, should be treated no differently.

Special courts are not the answer to problems in the heath or civil justice systems.

Patient-safety reform could reduce the 100,000 Americans killed every year by preventable medical errors. Insurance reform would help doctors with unconscionably inflated insurance premiums. Common-sense reform would ensure that only deserving cases go to trial, and quickly. Frivolous defenses by insurance companies to delay compensating victims should be stopped.

Health courts — radical surgery when more benign treatment is called for — would be less fair to victims of medical negligence and more expensive for taxpayers. Whether as a full-blown radical change of our legal system or a pilot project, an unfair and bad idea is still an unfair and bad idea.

Todd A. Smith is president of the Association of Trial Lawyers of America.

US Lawsuits Pursue Lost Art (CSM)

By Randy Dotinga

The Christian Science Monitor, July 5, 2005

SAN DIEGO - Growing up as a young boy in Germany, Claude Cassirer had a front seat to the sophisticated culture of prewar Berlin. He'd sit in his grandmother's parlor, soaking in the conversation, the fine furniture and a striking Pissarro painting of rainy-day Paris, a reminder of his family's close ties to impressionist painters.

"Before Hitler, we led a very pleasant life," recalls Mr. Cassirer, a retired photographer who lives near San Diego. "Then all of a sudden my father didn't have the options he had, and my grandparents were threatened with concentration camps."

His immediate family fled Germany, leaving the painting to the Nazis, and Cassirer didn't see it again until 2000, when a friend discovered it in an art book. Upon hearing the news, "I nearly fainted," says Cassirer. "It means my whole life; it means my whole past."

Five years later, the painting, claimed by a Madrid museum, is the focus of an international legal dispute that spotlights America's growing reputation as the friendliest place on earth for people looking to reclaim stolen art.

Armed with a new US Supreme Court precedent, Cassirer and others are taking on foreign governments - in this case, Spain - to force the return of artwork. But the plaintiffs face big obstacles, ranging from resistant museums and murky ownership records to less-than-sympathetic European law. And then there's the matter of enforcement: if you win a lawsuit against Austria or the city of Amsterdam - both defendants in current cases - how do you collect?

Thieves have been running off with art for millenniums, at least since early Egyptians started robbing tombs. But looting took on an official flavor in the 1930s and 1940s as the ruling Nazis plundered art collections in both Germany and occupied countries.

Some Jewish families were left with nothing; others, like the Cassirers, got a pittance for their possessions. Hundreds of thousands of artworks landed in Nazi hands.

The 1897 Pissarro painting "Rue Saint-Honore, Afternoon, Rain Effect" now sits in the world-renowned Thyssen-Bornemisza Museum. According to the Cassirer family, it's worth an estimated $15 million to $20 million.

The worth of other paintings at stake in international lawsuits is estimated in the hundreds of millions of dollars. Some critics accuse the claimants of greed and fear the artwork will vanish from public view.

But money is hardly the sole motivation for those seeking to recover stolen art, according to Louis Marchesano, curator of prints and drawings at the Getty Research Institute in Los Angeles. Families, he says, are trying to reunite with their past.

"It has to do with the social or cultural identity that's attached to the very act of collecting," he says. "You had these bourgeois, upper- and middle-class collectors, in Germany and other countries. They were identifying themselves as people of taste, people of culture. By stripping these people of their possessions, the Nazis were dehumanizing them as part of a larger campaign."

In both the US and abroad, some museums have returned plundered artwork to their owners or their descendants, especially during in the 1990s when art stolen during the Holocaust became a cause célèbre. But other museums seek support

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in European laws that emphasize statutes of limitations and the ownership rights of those who made purchases in "good faith," says Willi Korte, a Washington D.C. investigator who specializes in stolen art.

That's where the US comes in. "If you want to sue, you sue in this country," Mr. Korte says.

The Supreme Court helped matters last year when it paved the way for Americans to sue foreign countries over stolen art. The case revolved around a family's claims to six paintings by Austrian artist Gustav Klimt that were allegedly stolen by Nazis and landed in the Austrian National Gallery.

Another case, involving claims by the family of Russian artist Kasimir Malevich to his paintings at Amsterdam's Stedelijk Museum, is now working its way through a US federal district court. Even if American plaintiffs win their cases, they'll face the challenge of convincing foreign governments to cough up the artwork. The US could seize foreign assets or grab the paintings if they travel here, but that would be an extreme move.

There's another possibility, however. American lawyers who work on stolen art cases say many disputes are handled privately, outside the court system. Bad publicity and the expense of hiring attorneys to fight lawsuits could convince foreign museums to try that route. Ultimately, "the point of these [legal] efforts is to generate pressure that these people come back to the bargaining table," Korte says. "At the least, you can cause the other side considerable financial pain."

Cassirer plans to continue his fight.

Iran: U.S., Israel Waging Smear Campaign (AP-Y2)

By Ali Akbar Dareini, Associated Press Writer

AP2, July 5, 2005

Iran accused the U.S. and Israel on Sunday of a smear campaign against its president-elect and warned Europe, which is in tricky nuclear negotiations with Tehran, not to join in the mudslinging.

The ultraconservative Mahmoud Ahmadinejad, who won a landslide presidential election victory, has been accused of taking American hostages in 1979 when radical students seized the U.S. Embassy in Tehran. Iranian exiles and an Austrian politician are alleging he was involved in the 1989 slaying of a Kurdish leader and two associates in Vienna.

Iranian officials have denied both allegations.

"The charges are so evidently false that they don't deserve an answer. It's clear that it's mere lies," Iranian Foreign Ministry spokesman Hamid Reza Asefi said Sunday at a news conference in Tehran.

"Europeans should show their political maturity and not intertwine their interests with those of the Americans. They are advised to seriously avoid interference in this issue," Asefi warned. "We advise the Europeans not to fall into the trap of the Zionist media."

The Iranian warning came as France, Germany and Britain lead European Union efforts to persuade Tehran to permanently halt nuclear enrichment activities, which the United States claims are part of Iran's plan to develop a nuclear arsenal.

Iran rejects the U.S. claims and insists it is pursuing nuclear technology for peaceful purposes, such as generating power. Uranium enriched to low levels can be used for energy while highly enriched uranium can be used in bombs.

President Bush has said the claims swirling around Ahmadinejad are not his primary concern and he instead wants the Europeans to make clear to the new leader that a nuclear-armed Iran will not be tolerated.

Israel's ambassador to Washington, Daniel Ayalon, said Monday that Ahmadinejad was more extreme than his rivals. He insisted Iran must be stopped from developing nuclear weapons, a task that he said should be assigned to the U.N. Security Council.

The Europeans are offering economic incentives in hopes of persuading Iran to permanently freeze its enrichment program on its own to avoid U.N. intervention and possible sanctions.

Ahmadinejad, the former mayor of Tehran, has said Iran will not curtail its nuclear program and will restart uranium enrichment activities, which it voluntarily suspended in November as part of negotiations with the Europeans.

Asefi said the wave of allegations against Ahmadinejad was an expression of disappointment over the June 24 presidential runoff vote. Ahmadinejad defeated former President Ayatollah Hashemi Rafsanjani, who was perceived as more moderate.

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"That the result of the election was not predictable for them should not serve as a reason not to accept it," the spokesman said. "We can't dissolve the whole nation and create another nation to follow their wish."

In 1979, Ahmadinejad was a member of the Office of Strengthening Unity, the student organization that planned the Tehran Embassy takeover. Six former hostages who saw the president-elect in a 1979 photo or on television said they believe Ahmadinejad was among the captors who held them for 444 days and one said he was interrogated by the new president.

Ahmadinejad has denied he was one of the hostage takers.

On Saturday, Saeed Hajjarian, a top former secret agent and a senior adviser to outgoing reformist President Mohammad Khatami, also denied the allegation and identified the captor in the pictures as a former militant who committed suicide in prison years ago.

A different set of allegations against Ahmadinejad emerged on Saturday in Austria. The newspaper Der Standard quoted a top official in Austria's Green Party as saying authorities have "very convincing" evidence linking Ahmadinejad to the 1989 slaying of Abdul-Rahman Ghassemlou, an Iranian opposition Kurdish leader, in Vienna. Exiled Iranian dissidents made the same accusations.

But Hajjarian denied those allegations as well.

"I'm opposed to Ahmadinejad's policies and thinking but he was not involved in the hostage drama nor in the assassination of an Iranian opposition Kurdish leader in Vienna," Hajjarian told The Associated Press on Saturday.

Though Hajjarian said the president-elect was not involved in either incident, he has been at loggerheads with the hard-line Ahmadinejad and did accuse him of financial wrongdoing while previously serving as governor of Ardabil province in northwestern Iran before he was mayor of Tehran. No official charges have been brought against Ahmadinejad.

Mohammad Reza Bahonar, a senior hard-liner close to Ahmadinejad, publicly acknowledged this week that Intelligence Minister Ali Yunesi had opposed Ahmadinejad's appointment as Tehran mayor because there was a "dossier" against him. But he did not explain the nature of the case.

Iran Sees Smears From U.S., Israel (WT/AP)

By Ali Akbar Dareini, Associated Press

The Washington Times, July 5, 2005

TEHRAN -- Iran accused the U.S. and Israel yesterday of a smear campaign against its president-elect and warned Europe, which is in sensitive nuclear negotiations with Tehran, not to join in the mudslinging.

The ultraconservative Mahmoud Ahmadinejad, who won a landslide presidential election victory, has been accused of being one of the radical students who seized the U.S. Embassy in Tehran, taking American hostages, in 1979. Iranian exiles and an Austrian politician are reputing he was involved in the 1989 slaying of a Kurdish leader and two associates in Vienna.

Iranian officials have denied both accusations.

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Details Of Srebrenica Emerge As Hague Prepares For A Trial (NYT)

By Marlise Simons

The New York Times, July 5, 2005

THE HAGUE - To carry out mass murder in Bosnia, the organizers devised an elaborate ruse. They stole the blue helmets and white vehicles of United Nations peacekeepers so they could trick and capture their victims. They blocked access roads to keep away outsiders like Red Cross workers and journalists.

On July 11, 1995, as gunshots rang in the night, the Bosnian Serb military leader, Gen. Ratko Mladic, met in a local hotel with a man summoned to speak for the frightened people in the mountain town of Srebrenica. "I guarantee that all those who surrender their weapons will live," the general said. "I need a clear answer so I can decide both as a man and as a commander."

But the next morning, a five-day killing frenzy began. By the time it was over, the Bosnian Serb Army and police forces had systematically tracked down and executed close to 8,000 boys and men.

General Mladic and the Bosnian Serb political leader, Radovan Karadzic, who were indicted as the main architects of Europe's worst massacre since World War II, have evaded capture. But many men from their inner circle are now in jail.

Prosecutors at the United Nations war crimes tribunal in The Hague are preparing a joint trial of nine of the highest-ranking officers accused of playing integral roles in the Srebrenica killings. Such a large joint trial would dwarf any other proceedings the court has held.

All nine men face charges of war crimes and crimes against humanity, and five of them are accused of complicity to commit genocide.

A joint trial is possible because eight of the generals and senior officers from the Bosnian Serb Army have arrived in The Hague in recent months, their "voluntary surrender" largely a result of international pressure on the Serbian authorities. One remains at large.

Judges at the tribunal that deals with the former Yugoslavia must still approve prosecuting the men as a group, and no trial date has been set. Some lawyers who follow the court have said they fear that a joint trial could become a management nightmare, involving at least 18 defense lawyers and many prosecutors. Several defense lawyers have already objected to a joint trial.

But prosecutors argue that trying the men together would avoid much duplication, minimize hardship for victims and witnesses and ensure consistency in dealing with crimes committed during the same campaign.

Prosecutors also say their case has been strengthened by a cache of documents that NATO troops obtained recently from the archives of one of the main military entities, the Drina Corps. The archives are said to include statements and papers signed by several of the accused.

Until now, the trials dealing with the wars of the 1990's that tore up Yugoslavia have been short on a paper trail and have had to rely heavily on witnesses' testimony.

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Much of what happened at Srebrenica, which had been a United Nations protectorate, is now known. Crucial details came out during two trials of three high-ranking officers who are now serving long sentences. Another three men - two senior officers and a soldier in a firing squad - pleaded guilty and provided lengthy testimony.

The picture painted during those many hours in court shows that the capture and killing of the men and boys of Srebrenica were coordinated by the military security and intelligence branch of the Bosnian Serb Army and militarized police. The forces were supplied and paid by a special department of the Serbian government in Belgrade, whose president was Slobodan Milosevic. His war crimes trial here is now in its fourth year.

The killing at Srebrenica began soon after General Mladic's troops had overwhelmed the 300 United Nations peacekeepers protecting about 40,000 people who had sought refuge in the town or already lived there.

The Bosnian Serb troops immediately separated more than 1,000 unarmed Bosnian Muslim men and boys from the families that had fled to the town. Several thousand others, former fighters as well as civilians, were ambushed as they tried to escape though the woods. Others unknowingly surrendered to Serbs disguised as United Nations peacekeepers, witnesses have testified.

The captives were executed at various places in the area, at a warehouse, on a farm, near a dam, on the banks of a river. Many bodies were later found in mass graves with their hands tied behind their backs. The Red Cross list of the missing has close to 8,000 names.

"It was a huge logistical undertaking, moving prisoners, then moving bodies and to do all of this out of sight of the U.N. and the press," said a prosecutor who has long worked on the case. Under tribunal rules, only official spokesmen, not prosecutors, can speak for publication.

If the group trial goes forward, the accused will include those thought to be "the real hands-on guys, the guys on the ground that made all this possible," the prosecutor said. Among them are Ljubomir Borovcanin, a police commander charged with capturing and killing fleeing men. In court, prosecutors have shown a photograph of him during the operation, wearing a United Nations helmet.

Two of the other defendants from General Mladic's inner circle are Col. Ljubisa Beara, the security and intelligence chief of the army's main staff, and one of his deputies, Lt. Col. Vujadin Popovic. Their indictment says they supervised the deportation of women and children and saw to it that men and teenage boys were rounded up, put in temporary holding facilities and taken to the killing fields.

A radio intercept from July 15, during the killing, seems to record the rate of progress. On the tape, played in court during an earlier trial, a man identifying himself as Colonel Beara reports to his boss and asks for assistance, because "I have 3,500 parcels to distribute," a reference, prosecutors say, to captives and bodies to be disposed of.

On the afternoon of July 17, on another radio intercept played in court, Colonel Popovic calls his boss, Gen. Radislav Krstic, from a farm where, on that day, in a span of five hours, an estimated 1,200 captives were executed.

"Hello, it's Popovic, boss," he says. "Everything has been brought to an end. That job is done. No problems. I am here at the place. Can I just take a little break, take a shower? Basically that all gets an A. The grade is an A."

That night, according to the intercepts, Colonel Popovic called General Krstic again, but could not reach him. By then, 500 more prisoners had been killed, at a cultural center at Pilice. On the intercept, the man identifying himself as Colonel Popovic says: "Tell the general I finished the job. I was there on the spot." He adds, "It was horrible, horrible."

Among the questions that prosecutors hope to answer in any future trial dealing with Srebrenica is when, how and by whom the decision to commit the mass killings was made. They will also be looking for another crucial piece of the puzzle: what exactly was Mr. Milosevic's role in the killings and deportations of Muslims during three years of war in Bosnia that ended in late 1995.

Another trial already under way is dealing with war crimes by the Muslim forces before the fall of Srebrenica. But the prosecution says that while war crimes were committed by Serbs, Croats and Bosnians during the wars of the early 1990's, evidence is overwhelming that most were committed by Serbs and that the gravest crime of all took place at Srebrenica.

Mark Harmon, the lead prosecutor in the case against General Krstic, who was sentenced to 35 years in prison, told the judges in that trial that Srebrenica was about "the triumph of evil - a story about how officers and soldiers of the Bosnian Serb

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Army, men who professed to be professional soldiers, men who professed to represent the ideals of a distinguished Serbian past, organized, planned and willingly participated in genocide."

West Bank Plan Eyes Jordanians On Patrol (WT)

By Joshua Mitnick

The Washington Times, July 5, 2005

TEL AVIV -- Palestinian security chiefs and Jordanian officials are discussing sending a unit of the Jordanian military to the West Bank to boost stability after Israel's withdrawal.

The deployment, backed by Palestinian Interior Minister Nasser Youssef, would strengthen Palestinian President Mahmoud Abbas' hand to enforce law and order on rogue bands of Palestinian militants that could undermine his administration. For Jordan, the plan represents its most active role in the West Bank since former King Hussein forswore all claims to the territories in 1987.

Composed of Jordanian citizens of Palestinian origin, the Bader Brigade is formally considered an armed wing of the Palestine Liberation Organization, but the troops are trained and commanded by the Jordanian military.

"From the beginning of the discussions on disengagement, there's been an agreement" with Jordan, said Tawfiq Abu Khousa, a spokesman for the Palestinian Interior Ministry. "Now it only depends on the Israelis to give approval for them to come over. They are ready for every position that they are assigned to by the Palestinians."

The spokesman said that approximately 1,500 Bader soldiers could be dispatched to the West Bank. A Jordanian government spokesman, Asmaa Khodhor, told reporters last month that the government is waiting for a green light from the Palestinians to dispatch the forces.

Israeli consent is not a forgone conclusion. If Israel were to agree to such a plan, it would mark the first time it has permitted any foreign security forces into the Palestinian territories since the West Bank and Gaza were first conquered by the Jewish state in 1967.

Observers say such a landmark decision is almost certain to stir political opposition from right-wing opponents of the disengagement, although some Israeli security specialists are thought to support extending an invitation to the Jordanian forces.

"It puts security into the hands of a more credible force," said Shmuel Bar, an authority on the Middle East at the Herzliya Interdisciplinary Center. "The worst Jordanian force is better than the best trained Palestinian force."

The troops would most likely be deployed near the city of Jenin, a city known as a hotbed of militancy and lawlessness. Israel's planned withdrawal from four settlements in the northern West Bank will place a large region under Palestinian control, posing a challenge to Mr. Abbas' aspiration to encourage law and order.

Inviting the Jordanian troops across is a political decision that the Palestinian president has put off because it would signal a more confrontational approach toward militants.

"Then you can maintain the semblance of authority in these cities that will be evacuated," said Said Zeedani, a political analyst. "Then you can cope with the phenomenon of armed groups."

But Mr. Abbas isn't keen on facing down militants just yet. The Palestinian president is trying to convince armed groups like Hamas to join his government. Over the weekend, the Islamic militants reportedly rejected Mr. Abbas' offer. Hamas is also likely to be uncomfortable with the presence of the Bader unit patrolling the West Bank.

The Bader force was trained by the Jordanians as one part of the Palestinian army in exile. Similar Palestinian units were set up in Arab militaries around the region.

Mr. Bar said the soldiers are loyal to Jordan's Hashemite monarchy. But Palestinian officials and observers said that once they cross the border into the West Bank, they would be placed under the command of Mr. Youssef.

"They are forces of the army of Palestine, which are in Jordan," Mr. Abu Khousa said. "They will help in the disengagement, in creating order, and security, everything."

Anti-Chávez Leader Under Fire (CSM)

By Mike Ceaser

The Christian Science Monitor, July 5, 2005

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CARACAS, VENEZUELA - Maria Corina Machado doesn't hesitate when asked her feelings about the possibility of going to prison for up to 28 years for "treason to the nation" and conspiracy.

"I'm scared, I'm very scared; I have three kids," the political activist says softly, sitting in her small office in the Caracas headquarters of Sumate, the organization that led last year's unsuccessful bid to recall President Hugo Chávez from office.

Mr. Chávez's landslide victory in that vote only added to the troubles of Ms. Machado, Sumate's vice president and the woman who has come to symbolize the anti-Chávez opposition. Machado is facing criminal charges for allegedly endorsing the April 2002 coup which unseated Chávez for 48 hours, and for Sumate's having accepted US government funds. She is due in court Wednesday for a hearing.

Machado has become a cause célèbre for Chávez's opponents and a demon for his supporters. So when Machado met with President Bush in the White House May 31, it raised a firestorm of government criticism back in Caracas. Venezuela's foreign minister called the meeting "a provocation," and the interior minister charged that Machado was a puppet of the CIA, continuing the heated rhetoric that has characterized the relationship between the Bush administration and Venezuela's leftist leader.

The anti-Machado sentiments have even infused rank-and-file Chávez supporters. "She's sold out her country," says Milagros Medina, who sells pro-Chávez books on a central Caracas plaza. Machado "should be in prison."

It's a lot to handle for someone who says she got into the politics by happenstance and that her goal is not to oppose Chávez but to strengthen Venezuela's democracy. The daughter of an affluent Caracas family, Machado worked after college as an industrial engineer before leaving to raise her family. She also founded an organization to help orphans. In 2002, a friend invited her to create a pro-democracy group. "I decided to drop everything else," she recalls.

Soon, Sumate had a list of 40,000 vol- unteers across the country, Machado says.

But Sumate's pro-democracy pretensions are no more than a front for its anti-Chávez goals, say observers. Sumate is "a thoroughly anti-Chávez group," says Larry Birns, director of the liberal Council on Hemispheric Affairs in Washington. During the anti-Chávez recall effort, Sumate "did everything required of a political campaign. They played a coordinated role."

Machado does not hide her disdain for the populist president, who she says has profoundly damaged Venezuela's democratic institutions. Chávez's critics say his government has packed the Supreme Court, used government institutions to retaliate against political opponents, and passed laws restricting media freedoms and the right to protest.

On this particular day, Machado has just returned to Caracas from a trip visiting regional Sumate organizers, and struggles to stave off discouragement. Many volunteers are afraid of government retaliation, she says, and Sumate's warnings that Venezuela's electoral system is being compromised, including the addition of foreigners to voter rolls, have fallen on deaf ears.

"In many other countries where the rule of law is respected, this would have been a real big issue," notes Machado, who says her responsibilities as Sumate's second in command and as a single mother leave her time for only three hours of sleep a night. "We expected a big reaction" to the warning. "But you know what happened? Nothing!"

Her frustration reflects the mood of the opposition, which is still trying to pick itself up from Chávez's victory in last August's referendum. The charismatic and controversial president enjoys 70 percent support in polls and has a campaign chest filled by record world petroleum prices. The disparate opposition, meanwhile, lacks a single candidate or message to rally around. Some say that Machado, articulate and passionate about her ideas, could be the candidate to unite and motivate the opposition. She denies interest.

But that discussion will become moot if Machado goes to prison. She faces a charge of treason for allegedly signing the manifesto which dissolved the nation's democratic institutions during the ephemeral 2002 coup. Machado says she had simply visited the presidential palace and wrote her name on what she believed to be a sign-in sheet. The conspiracy charge against Machado and other Sumate directors stems from $53,000 the organization received from the US Congress-funded National Endowment for Democracy. Machado makes no apologies.

"It is legal, it is our right," she says of the foreign funds. "We have to do it, because if we concede, then the government has achieved what it wanted; they have intimidated us." But, Machado says, 95 percent of Sumate's funding comes from Venezuelans.

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Machado vows she will see the trial through. Meanwhile, she is trying to continue her work. "If you're going to fight for democracy, this is something which you have to do every day, all day long," she says.

Fundraising Scandal In Brazil Puts Pressure On Lula (FT)

By Raymond Colitt

Financial Times, July 5, 2005

The political crisis in Brazil intensified on Monday as fresh allegations of improper fundraising threatened to force the resignation of figures close to President Luiz Inácio Lula da Silva.

Full media coverage, including live broadcasts of congressional inquiries into complaints of corruption at several state enterprises and an alleged scheme to buy legislators' support, have left Mr Lula da Silva's government at its weakest since it came to power in January 2003.

On Monday, after weeks of stability, the Bovespa stock index fell just over 1 per cent in late trading, while the Real lost 0.4 per cent against the US dollar.

Over the weekend Mr Lula da Silva's Workers' party, or PT, admitted having received financial aid from Marcos Valerio de Souza, head of a publicity firm with government contracts and the chief suspect in pay-offs to legislators. Delubio Soares, the PT's treasurer, admitted giving misleading information about the party's relations with Mr de Souza. The PT had previously denied a financial relationship with Mr de Souza, a friend of Mr Soares.

Last month José Dirceu, Mr Lula da Silva's chief of staff, became the first high-level casualty of the scandal.

Silvio Pereira, PT secretary- general, resigned on Monday. Mr Soares and José Genoino, the PT president, are also under pressure to stand down and the re-election of Mr Lula da Silva in October next year considered all but certain only a few months ago is in doubt. “Not running for re-election may be the way out for the PT and for Lula,” Cristovam Buarque, an influential PT senator, suggested.

The scandal has angered traditional supporters of the PT, which for most of its 25-year existence has campaigned under the banner of ethical politics.

“The leadership ignored its base they thought they could do what they wanted with the party,” said Ivan Valente, a PT congressman. “Genoino has to go.” Mr Lula da Silva is expected to announce a cabinet reshuffle soon in an effort to rebuild his divided alliance of leftwing and centrist parties that form Brazil's governing coalition.

Opposition leaders claim the relationship with Mr de Souza was part of a broader scheme in which the PT used public funds to finance itself and its allies and to help secure a congressional majority. “It is shocking. Money from government coffers is paying for the liabilities of a political party,” said Alberto Goldman, head of the PSDB, the opposition party in the lower house. The PT denies the allegations.

The government is also suspected of appointing political allies, rather than civil servants, to public enterprises, to be able to reward constituents and parties with public works contracts.

“The PT attempted to secure power at all costs. They wanted to go too far too fast,” said Amaury de Souza, political analyst with MCM consultants.

There has been growing evidence in recent weeks of irregularities in at least two state enterprises: the postal service and the reinsurance institute (IRB).

Congress, meanwhile, has become a battlefield, with five congressional investigations into corruption claims involving government and opposition parties.

As part of the expected reshuffle, the centrist PMDB party says it has been promised two additional ministries in exchange for votes from the majority of its faction in the lower house.

Most analysts believe this will provide little lasting support. Many PMDB candidates face the PT in several gubernatorial elections next year and are eager to distance themselves from the government. “The survival of the alliance will depend on electoral calculations, not cabinet posts,” says Walder de Goes, a political scientist in Bras´lia. “And there the government is looking increasingly weak.”

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For now, many analysts believe the effect of the crisis on the economy remains limited. “There is a tremendous amount of noise, but when all is said and done we still see little chance of major changes in economic policy,” said Mario Mesquita, chief economist for ABN Amro Brazil.

First Gay Couples Apply For Marriage Under New Spanish Law (NYT)

By Renwick Mclean

The New York Times, July 5, 2005

MADRID, July 4 - When Ramón Vizcaíno and Luis Ibarcena tried to apply for a marriage license here two months ago, they caused a minor scandal.

Confusing news reports had led them to believe that Spain had legalized gay marriage, they said, when, in fact, it had only passed a preliminary vote in Parliament.

"The people there were very surprised to see two men asking about marriage," said Mr. Vizcaíno, a 38-year-old security guard. "They looked at us like we were crazy."

But on Monday, the baffled faces and dismissive tones gave way to smiles and handshakes, as the men became one of the first gay couples to seek government authorization to wed under Spain's new marriage law, which took effect on Sunday.

"This means we are no longer second-class citizens," Mr. Vizcaíno said in an interview Monday. "We have always had the same obligations as other citizens. We deserve the same rights, too."

The lines inside the Madrid Civil Registry, where capital residents apply for marriage licenses, swelled with gay and lesbian couples for the first time on Monday, four days after Parliament passed a law giving same-sex couples across Spain the right to marry and to adopt children.

The vote makes Spain the first nation to remove all legal distinctions between same-sex and heterosexual unions, say advocates for marriage rights for gay couples. Belgium, Canada and the Netherlands have also legalized gay marriage, but only Canada's laws, which do not yet apply to all of the country, contain language as liberal as Spain's.

Near the close of business on Monday, Boti G. Rodrigo, an official at the registry, said that only four gay couples had formally applied for marriage licenses but that many more had come seeking information about the process.

"We expect that the number of same-sex couples will be disproportionately high for weeks, if not months to come," she said.

Ms. Rodrigo said that most of the couples requesting information on Monday had been together for years.

Parliament's decision to legalize gay marriage has provoked tremendous animosity among religious conservatives in Spain, a predominantly Roman Catholic country.

In a speech before Pope Benedict XVI in Rome on Monday, the archbishop of Madrid, Cardinal Antonio María Rouco Varela, condemned the law, saying it was evidence of a society in which "not only is faith denied, but also human reason itself."

Ricardo Blázquez, the president of the Conference of Catholic Bishops, also denounced the law on Monday, saying at a news conference near Madrid that it "throws moral and human order into confusion."

Many of the gay couples interviewed on Monday said they had grown up in Catholic households but were no longer practicing Catholics, in part because of the church's opposition to gay marriage. But Mr. Ibarcena, 32, the partner of Mr. Vizcaíno and also a security guard, said he still attended church regularly.

"I stand up and challenge them when they say things that are anti-gay," he said. "I haven't given up on them yet."

EU Members To Face Energy Suits (WSJ/DJN)

By Dow Jones Newswires

The Wall Street Journal, July 5, 2005

BRUSSELS -- The European Commission is set to launch court cases against five European Union countries that have failed to pass laws deregulating national energy markets, as part of a crackdown on laggard governments, people familiar with the matter said.

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At a meeting today, the commission is expected to endorse a decision to sue Estonia, Greece, Ireland, Luxembourg and Spain at the European Court of Justice, a source said. The court has the power to impose heavy fines, but it usually takes about 20 months for it to deliver a verdict.

The EU has made the electricity sector one of its main targets in its industry-by-industry deregulation of Europe's former monopolies. From July 2007, all 25 member nations are obliged to fully open their electricity markets, but governments are struggling to implement the market-opening rules.

The court cases are the final step in the commission's legal process. The commission uses the courts only when governments have failed to to heed two warnings to bring national legislation into line with EU law. Today, the commission will issue roughly 3,800 reprimands -- ranging from first warnings to suits -- to member governments.

The "infringements" cover the failure to either fully implement or properly apply laws and regulations across a range of industry sectors.

The commission will notify EU governments of the decisions it has taken. The information won't be communicated to the media immediately because of the volume of cases involved, a person familiar with the matter said.

The commission in March said it was poised to file suits against as many as 10 countries unless they speedily adopted legislation deregulating their energy markets. Belgium, Germany, Latvia and Lithuania have since come into line. Portugal is still having problems but will probably win a two-month extension, according to a person familiar with the matter.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

Saudi Arabia Says Kills Top Al Qaeda Militant (REU-Y2)

By Dominic Evans

Reuters, July 5, 2005

Saudi Arabia's security forces killed the man at the top of its list of most wanted al Qaeda leaders in a clash in Riyadh on Sunday, the Interior Ministry said.

Moroccan national Younis Mohammad Ibrahim al-Hayyari, accused of involvement in a series of attacks in the world's biggest oil exporter, died after exchanging fire and hurling hand grenades at police, the ministry said.

Hayyari topped a list of 36 al Qaeda suspects released by Riyadh last week. The ministry said he had helped prepare explosives and played a part in several attacks in Saudi Arabia.

"He was recently nominated by his colleagues to be the leader of strife and corruption in the land after the death of his predecessors," the statement said.

A senior Saudi official described Hayyari, 36, who reportedly fought in Bosnia in the 1990s and came to Saudi Arabia in 2001, as a shadowy figure who was "more of a strategic leader than field commander."

He was a link to al Qaeda outside Saudi Arabia, brought funds into the kingdom, and was friend to a Muslim scholar close to al Qaeda's leader in Iraq, Abu Musab al Zaraqawi, the official said.

Saudi Arabia has been battling suspected al Qaeda militants since May 2003 when they launched a wave of violence with triple suicide bombings at Western housing compounds in Riyadh.

Interior Minister Prince Nayef said Sunday's operation was the result of extensive surveillance by Saudi security forces, and he pledged to pursue other suspected militants.

"God willing, we will reach the rest using the same method," he said after seeing wounded security officers.

De facto ruler Crown Prince Abdullah told President Bush in an Independence Day message that Saudi Arabia was determined to "work with its friends to uproot all factors of destruction and terrorism."

Al Qaeda is fighting to expel non-Muslims from the Gulf state, which is home to Islam's two holiest sites in Mecca and Medina, and wants to topple its pro-Western absolute monarchy.

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The attacks have killed 91 foreign nationals and Saudi civilians and wounded 510 others, Saudi Arabia's ambassador to London Prince Turki al-Faisal said last week.

Forty-one security force members have been killed and 218 wounded, while 112 militants have been killed and 25 wounded, he said. He put material losses at 1 billion riyals ($270 million).

There have been fewer recent attacks, but last month gunmen killed a security officer in Mecca and diplomats say three helicopters were set on fire at a military base north of Riyadh.

LEADERS KILLED

Successive leaders of the Saudi wing of al Qaeda have been killed since 2003 and Saudi officials say their replacements are increasingly inexperienced. But Western counterterrorism experts say al Qaeda has shown a resilience and ability to regenerate.

One other man was arrested at the scene of Sunday's clash and two others surrendered in a simultaneous police raid in the same district of eastern Riyadh.

Prince Nayef described Hayyari as a "dangerous man" but said others on the wanted list were just as dangerous. The three captured men were not on the list, he added without elaborating.

Last week Saudi Arabia issued its new wanted list of al Qaeda suspects -- most of whom are Saudis but some are from Chad, Yemen, Morocco and Mauritania.

It offered a reward of up to 7 million riyals ($1.87 million) for anyone who helped authorities capture a militant or foil a planned attack.

One of the 36 suspects, Fayez Ayoub, flew back to Riyadh on Friday and surrendered to authorities. Newspapers have reported at least two others on the list have already been killed in neighboring Iraq, where insurgents are battling U.S. forces.

All but two men on a previous list of 26 wanted militants, published in December 2003, are believed dead or in custody.

Head Of Saudi Al Qaeda Killed In Clash In Riyadh (WSJ/AP)

Associated Press

The Wall Street Journal, July 5, 2005

Security forces killed the al Qaeda terrorist group's leader in Saudi Arabia during a fierce gun battle Sunday in the capital, Riyadh, an Interior Ministry official told this country's official news agency.

Younis Mohammed Ibrahim al-Hayari, a Moroccan, was killed during a dawn raid by security forces on an area where suspected militants were hiding, an Interior Ministry official was quoted by Saudi Press Agency as saying.

The clashes took place in the Rawdah district, an upscale neighborhood in eastern Riyadh, said Interior Ministry spokesman Lt. Gen. Mansour al-Turki.

The unidentified official quoted by SPA said Mr. Hayari headed Osama bin Laden's al Qaeda terror network in the kingdom, which has been ravaged by terrorist attacks during more than two years of violence.

"He [Mr. Hayari] was nominated by his peers, and following the death of those preceding him, to be the head of sedition and corruption in the land," the official said in the SPA report.

Mr. Hayari topped a list issued Tuesday of 36 most-wanted militants sought for participation in previous terror attacks in the kingdom dating back to 2003. On Wednesday, Saudi Interior Minister Prince Nayef warned that the possibility of more attacks. Mr. Hayari was believed to have had close ties to Abdul Karim al-Majati, an al Qaeda leader killed in April 2005.

The Interior Ministry official said security forces conducted two simultaneous operations in eastern Riyadh to capture suspects and killed Mr. Hayari after a shoot-out, while arresting three other suspected militants, who were not identified.

It said the first operation ended without incident and with two suspects surrendering. But in the second raid, militants engaged in a gun battle with troops and threw grenades before Mr. Hayari was killed and another extremist was arrested.

"The two operations have concluded, but we will continue to pursue all the terrorists," Lt. Gen. Turki said. The report said six security force personnel were slightly wounded in the gun battles while weapons, munitions, communications equipment, computers and documents were seized at both scenes.

According to information released by Saudi authorities earlier this week, Mr. Hayari entered Saudi Arabia five years ago for the annual hajj pilgrimage season but remained in the country with his wife and young daughter.

Saudi officials said Mr. Hayari, 36 years old, had regularly disguised himself to avoid capture and had been previously spotted in Riyadh.

This oil-rich kingdom has suffered a series of heavy terrorist attacks since May 2003 when suicide bombers attacked three housing estates for foreigners in the capital Riyadh.

The kingdom then launched a wave of retaliatory raids against the militants, and issued a list of 26 most-wanted in December 2003. Security forces have killed or captured 23 of the 26 figures on that list.

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Saudi Security Force Kills Al Qaeda Figure (WP/AP)

By Abdullah Al-shihri, Associated Press

The Washington Post, July 4, 2005

RIYADH, Saudi Arabia, July 3 -- Saudi anti-terrorism forces killed al Qaeda's top leader in the Persian Gulf kingdom in a gun battle Sunday, but experts warned that Saudi Arabia still faces a surge in attacks despite its two-year crackdown on extremists.

Officials said a 90-minute battle in the eastern Rawdah district, an upscale neighborhood in Riyadh, was the latest blow dealt to Osama bin Laden's group in Saudi Arabia, a U.S. ally. Many of al Qaeda's leaders have either been killed or captured since authorities launched an offensive against the group in 2003.

Younis Mohammed Ibrahim Hayari, a Moroccan, was killed in a dawn raid by security forces in an area where suspected extremists were hiding, according to an Interior Ministry official quoted by the state-run Saudi Press Agency.

Three other suspects were arrested, a security official said, speaking on condition of anonymity because of the sensitivity of the issue. He said Hayari and the three other men were on a list of Saudi Arabia's 36 most wanted terrorists that was issued Tuesday.

The government news agency, quoting an unidentified official, reported that Hayari headed al Qaeda in Saudi Arabia.

Hayari "was nominated by his peers . . . to be the head of sedition and corruption in the land." the official said.

On Wednesday, the Saudi interior minister, Prince Nayef, warned of the possibility of more attacks.

Security forces "killed the leader less than four days after they issued the list. That is a major victory, both on the intelligence and the logistical levels. It's a major intelligence breakthrough," said Mustafa Alani, a terrorism expert at the Gulf Research Center in Dubai.

He claimed that the terror group had a leadership crisis and that Hayari's killing would hinder the group's operations.

"There is clearly a leadership vacuum in the kingdom for Saudi Arabia and this will demoralize the members who are in hiding," he said.

Hayari was believed to have had close ties to Abdul Karim Majati, an al Qaeda leader killed in April.

The Interior Ministry official said security forces conducted two simultaneous operations in eastern Riyadh to capture suspects and killed Hayari after a shootout.

This oil-rich kingdom has suffered a series of attacks since May 2003, when suicide bombers attacked three compounds housing foreigners in Riyadh. Saudi security forces then launched a wave of retaliatory raids against the extremists, and in December 2003 issued a list of 26 most wanted suspects; 23 of them have reportedly been killed or captured.

Putting Islam On The Stand (LEGALT)

By Vanessa Blum, Legal Times

Legal Times, July 4, 2005

In a recent criminal trial in Virginia, the prosecutor told the jury that the defendant couldn't be trusted to tell the truth, that he would lie to their faces — all because of his religious beliefs.

The defendant, an American citizen accused of supporting terrorism, was convicted. The religion in question, of course, was Islam.

Now, the Virginia attorney representing Ali Al-Timimi is pushing for a new trial, saying that prosecutors secured the guilty verdict by appealing to religious bigotry against Muslims.

The case illustrates the difficulty in prosecuting suspected terrorists who subscribe to a form of militant Islam, without airing tenets of the religion itself before a jury. And it raises the question of how far is too far when it comes to using a defendant's religious beliefs as evidence of criminal intent. The issue will likely continue to confront judges as more cases against accused terrorists come to trial.

Timimi's lawyer, Edward MacMahon Jr., is seeking to overturn Timimi's conviction, citing prosecutorial misconduct and the prejudicial impact of statements he says portrayed Islam as a violent religion. One specific objection: that Assistant U.S. Attorney Gordon Kromberg instructed the jury in his closing argument that Timimi, a devout Muslim, would lie to jurors because the jurors were kafir — or nonbelievers.

Judge Leonie Brinkema of the U.S. District Court for the Eastern District of Virginia is likely to consider MacMahon's motion when Timimi appears for sentencing July 13.

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Kromberg declined to comment, citing Justice Department policy. Bryan Sierra, a spokesman for the Justice Department's Criminal Division, said that department officials would not comment on a pending case. In a court filing responding to MacMahon's charges, Kromberg maintains that Timimi's personal religious views were "directly relevant" to the case.

"While such an argument may be unfairly prejudicial in a case involving a typical bank robbery, drug trafficking, or mail fraud, Timimi was charged with much different offenses," the brief states. "In light of the charges against Timimi, the government's arguments were directly relevant to his prosecution and fairly made."

But Georgetown law professor and civil rights advocate David Cole says mere relevance may not be enough to justify repeated references to a Muslim defendant's religion during trial. Federal judges should exclude such evidence if its value is outweighed by the danger of unfair prejudice to the defendant, Cole says.

"There has been a tremendous demonization of Islam since Sept. 11, and the sins of al Qaeda have been spread to Islam generally in popular culture," Cole says. "The risk is that there is so much prejudice in the population at large that references to the Muslim faith end up clouding a jury's ability to determine guilt or innocence."

US VERSUS THEM

Since the attacks of Sept. 11, MacMahon, who also represents convicted terrorist Zacarias Moussaoui, has received a crash course in Islam. But during a recent interview, it was a story from the Old Testament — the violent tale of the Battle of Jericho — that was on the 44-year-old Catholic's mind.

According to the Bible, Joshua leads a force of 40,000 to take over the land of Canaan. After sending spies into a brothel to gather intelligence, the force conquers the city and slaughters its inhabitants, claiming the land as its own.

"If I told the story to a crowd of Christians, would I be telling them to go lie or to kill or to seek out prostitutes? Would I be responsible for inciting a riot?" MacMahon asks.

Such an argument would sound absurd in a federal courtroom, MacMahon asserts. No jury would believe it. But when it comes to the religion of Islam and how it is being portrayed in court, he says, it is a different matter. According to the government's case, Timimi, a religious scholar and popular lecturer on Islamic issues, urged a group of Virginia followers in the days after the Sept. 11 attacks to join the Taliban and fight U.S. forces in Afghanistan.

MacMahon says that jurors sitting in such trials who are unfamiliar with the religion may not recognize an argument that plays on their own biases. There were no Muslims on the panel that convicted Timimi. And, in fact, since Sept. 11, there has not been a single Muslim juror on a major terrorism case. Some experts say the culture gap between Muslim defendants and jurors may open the door to verdicts based on stereotypes.

"A Muslim juror wouldn't necessarily be more sympathetic, but there would be an opportunity for that juror to educate others about cultural differences and to dispel prejudices that might be expressed in the jury room," says New York jury consultant Julie Howe.

"Just like there can be racial prejudice, I think there is religious prejudice out there against Muslims, in particular since 9/11," says Howe, who advised defense attorneys for Mohammed al-Moayad, a Yemeni cleric convicted in March 2005 of supporting al Qaeda and Hamas. "Some jurors are inclined to believe that Muslims are predisposed to violence."

The federal courts have repeatedly grappled with how racial bias affects juries. But when it comes to the sensitive issue of religion, experts say the line between acceptable trial rhetoric and prejudicial remarks can be a fuzzy one. Unlike race, an immutable physical characteristic, religious beliefs can factor into a defendant's intent, motives, and world view — concepts central to criminal prosecution.

Timimi's defense lawyers are basing their request for a new trial on statements Kromberg made in his closing argument, including the prosecutor's final words to the jury: "If you're a kafir, Timimi believes in time of war he's supposed to lie to you. Don't fall for it. Find him — find Sheik Ali Timimi — guilty as charged."

Another remark cited by the defense team targeted one of Timimi's key witnesses. The witness testified that Timimi never told followers that Muslims had an obligation to wage war against the United States. In his closing, Kromberg told jurors not to believe the witness because he had also testified that he considered Shiite Muslims nonbelievers who should have their heads lopped off.

MacMahon says Kromberg's remarks were gratuitous — no one in the case was charged with committing such acts of violence. MacMahon further argues that the comments created an us-against-them atmosphere in the Alexandria, Va., courtroom.

"It is clear to counsel that the point that the government was trying to make to the jury was that Muslims are religiously obligated to wage war against the United States, to lie, and to kill," MacMahon states in his motion for a new trial.

Kromberg maintains that his remarks never referred to Islam in general but only to Timimi's beliefs. In a June 20 brief responding to MacMahon's claims, Kromberg states, "It is an insult to Muslims in America and around the world for Timimi to claim that the beliefs he . . . [holds] are shared by Muslims generally."

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Even before the start of Timimi's trial, Kromberg and MacMahon wrangled over whether prosecutors would be allowed to tell jurors that Timimi had stated a view that Muslims could lie to the enemy if they were at war.

MacMahon sought to bar the testimony, citing a federal rule of evidence that explicitly prohibits lawyers from using witnesses' religious beliefs to undermine their credibility. But in a pretrial motion, Kromberg argued that Timimi's willingness to lie was not technically a religious belief but a political one, and that his statements should be admissible because they proved bias. In addition, Kromberg said that the evidentiary rule was inapplicable because Timimi did not testify at his trial.

Brinkema ruled from the bench, siding with the government.

Henry Klingeman, a former federal prosecutor in New Jersey, says it would be unfair to prevent government lawyers from using a defendant's own statements as evidence simply because those statements deal with religious subjects.

"I think this is going to be an issue that we see a lot of in the future," Klingeman says. "In a case where a defendant is saying, 'I'm peaceful because I'm a religious person' and placing their own religious views at issue, it would seem to me that lawyers should be permitted to inquire about those views."

MATTERS OF FAITH

Indeed, legal experts say, there is often no way to effectively prosecute those who support terrorist organizations without examining their religious beliefs.

"It's a very serious issue in these trials because terrorists are cloaking themselves in pseudo-religion," says Jeffrey Addicott, director of the Center for Terrorism Law at St. Mary's University School of Law in San Antonio.

"By and large, prosecutors have acted very judiciously," Addicott adds. "They understand this is a war on an extreme sect that cloaks its acts in religiosity and does not represent the vast majority of Muslims."

But MacMahon is not the only defense lawyer who questions the government's emphasis on Islam during terrorism trials.

INFLAMMATORY TERMS USED

One common gripe from the defense bar is prosecutors' frequent use of Islamic terms like jihad and fatwa, which have negative connotations in America. Another is the use of expert witnesses to school jurors in the history of Islam, much like a prosecutor might use an expert witness to provide background on the Mafia in an organized-crime case.

"Essentially, many jurors' first experience learning about Islam would be from the prosecutor," says Detroit civil rights lawyer Shereef Akeel. "They don't have any reference points to assess the prosecutor's credibility."

Akeel, who sat in the courtroom during the 2003 terrorism trial of four Detroit-area residents, says he was disturbed by prosecutors' frequent use of the phrase "economic jihad."

"Rather than focusing on the elements of a crime, they cloud it by sprinkling the facts with these foreign terms that seem frightening to a person not familiar with the religion," Akeel says.

To prevent religious bias from affecting jury deliberations, jury selection in terrorism trials is particularly rigorous. Not only must prospective jurors answer scores of questions about their feelings toward Islam and the Middle East, they also are asked to state their own religion — a question that is ordinarily considered irrelevant.

In the Timimi case, prospective jurors were asked nearly a dozen questions related to religion, including their personal religious preference, the religion they were raised in, and how often they attend religious services. They also were asked if they knew any Muslims or had any familiarity with Islamic practices.

Marjorie Fargo, president of Jury Services Inc. in Alexandria, was appointed by the court to serve as a jury consultant for Timimi's defense team. Fargo says that the vast majority of those who filled out jury questionnaires in the case associated the word jihad — a term she says was "bandied about" during the trial — with violence or terrorism.

"In the Muslim religion, you can wage a jihad against anything, and because there was lack of understanding on that, it could possibly affect a juror's interpretation of the evidence," Fargo says.

MacMahon says he would have preferred to keep Timimi's religious beliefs out of the trial altogether.

"If prosecutors had wanted to try the case based solely on what happened, they could have," MacMahon says. "Instead, we learned about the Koran and all these religious concepts. It never stopped."

MacMahon adds, "The effect of it, and the exact reason the government does it, is that the defendant has to defend himself against an aura of criminality that is unrelated to the actual events of the case."

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Lawyers War Over Fees In Terror Suit (LEGALT)

By Bethany Broida, Legal Times

Legal Times, July 4, 2005

Steven Perles and Thomas Fortune Fay made their reputation representing victims of terror attacks in lawsuits against countries that sponsor terrorism. But the two D.C. lawyers are now embroiled in a legal battle over the multimillion-dollar fees

their successful litigation brought about, with Perles fending off charges he misused money in a trust account that belonged to both of them.

In a suit filed June 20, Fay accuses Perles of improperly using $1 million of his terror-case proceeds as a bond in another suit filed against Perles by a former employee, Anne-Marie Kagy, who is seeking her own share of the proceeds. In the Kagy case, U.S. Magistrate Judge Alan Kay concluded that Perles owes the former employee almost $1.5 million.

Fay and Perles worked as co-counsel in high-profile terrorism cases, including two against the government of Iran that yielded judgments of almost $600 million, of which $54 million has been collected. And, in fact, their lobbying efforts had made such suits possible: They persuaded Congress in 1996 to pass a law permitting terrorism victims to collect a portion of their judgments from the frozen assets of states that sponsor terrorism.

Both Fay and Perles declined to comment about the substantive issues in the lawsuit, since the litigation is still pending and Perles has yet to file a response to Fay's complaint. But both say they hope that Fay's suit will not affect three other terrorism cases against Libya, Sudan, and Iran in which they are currently collaborating.

"It is just a lawsuit right now, and I hope it stays that way," Fay says. "It is unfortunate."

LITIGATING FLATOW

Anne-Marie Kagy was a law student when she went to work at the Perles Law Firm. Through her attorney, she also declined to comment for this article, but according to court documents, she continued to work for Perles after graduation, and in 1996 approached him about a full-time position. Perles told Kagy that he could not pay her a base salary, but offered to let her work on some of his cases on a contingency basis, meaning she would get paid only if and when he did.

One of those cases involved a wrongful death claim on behalf of the family of Alisa Flatow. In April 1995, the young American student was killed by a suicide bomber who blew up a bus on the Gaza Strip. Flatow's father, Stephen, filed a lawsuit against the Islamic Republic of Iran charging that the terrorist who killed Flatow was acting as an agent of Iran and its Ministry of Information.

At the time, the lawsuit was unprecedented and the chances of recovering any money from the case were considered remote, at best.

In addition to her work on the Flatow case, Kagy also worked on a group of cases involving claims by Jewish American citizens who were forced into slave labor in Nazi concentration camps during World War II. About half of those cases ended with a judgment, and Perles paid Kagy a third of his net proceeds.

Perles' fee in those cases was capped, so the money recovered was nowhere near the multimillion-dollar judgment the attorneys sought in the Flatow case.

All told, court documents say, Kagy received about $20,000 over the course of three years for her work on the Holocaust cases. In addition, she was paid $50 an hour for her work on some of Perles' other non-contingency cases. Specific arrangements for Kagy's compensation in the Flatow matter were never agreed upon.

Kagy worked on the Flatow case for three years. At first, she assisted Perles and his co-counsel, Thomas Fay, a D.C. solo practitioner, in drafting the complaint and overseeing the effecting of service on Iran.

After the Iranian government refused to defend itself against the suit, the documents say, Kagy took on the responsibility of researching and writing a comprehensive memorandum analyzing and refuting every conceivable defense Iran might have raised if it had chosen to defend the claim.

In the court documents, both Perles and Kagy acknowledge she contributed valuable services to the Flatow litigation. Both also agree that Kagy was entitled to some compensation for her work, in the event money was ever collected.

In March 1998, U.S. District Judge Royce Lamberth entered a judgment in favor of Flatow for $22.5 million in compensatory damages and $225 million in punitive damages, based in part on Kagy's memo.

As her work on the Flatow case wound down, Kagy began working on a similar case involving two other American students, Matthew Eisenfeld and Sara Duker, who were also killed by suicide bombers on an Israeli bus. Again, the families sued Iran, claiming the country provided financial support for the terrorists.

The number of hours Kagy spent on the Eisenfeld and Duker cases was a matter of dispute, but Kagy left the firm in 1999.

In July 2000, Lamberth awarded the Duker and Eisenfeld families $327 million, including $27 million in compensatory damages.

The following October, Congress authorized payment of compensatory damages to victims of terrorism in suits against Iran. The money came from Iranian credits with the Department of Defense representing overpayments for military equipment and the proceeds on rental property that the Iranians owned in the United States.

Both judgments were ultimately paid out in January 2001.

KAGY MAKES A CLAIM

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In December 2000, Kagy notified Perles that since judgments on the cases had finally come through, she was entitled to $3 million — a third of Perles' share and what she considered her part of the contingency payments in the Flatow and Eisenfeld and Duker cases.

The following month, Perles filed suit in the U.S. District Court for the District of Columbia seeking a declaratory judgment and saying that he and Kagy had an oral agreement that she would receive an "unspecified multiple of her normal hourly rate."

At the time, Perles' attorney, Steven Schneebaum, now a partner at Greenberg Traurig, told Legal Times that Perles would be happy to pay Kagy $75,000 for her work on Flatow, an amount he says reflected her agreed-upon hourly rate. Schneebaum said that Kagy had no basis to seek more.

In response, Kagy filed a counterclaim, and a $2 million attorney's lien was placed against the net proceeds of the judgments in an account managed by Perles' attorney.

Since Perles and Fay were equal partners in both the Flatow and the Eisenfeld and Duker litigation, half of the money taken for the lien belonged to Fay.

The litigation wound its way through the courts, with Perles arguing that while Kagy should be compensated for her work in the Flatow case, she was not entitled to any of the proceeds in the Eisenfeld and Duker cases because of her "very limited participation."

"Her name is on the pleadings. She did the work," says Mark Cummings of Sher, Cummings and Ellis, who represents Kagy. "But to this day she has not been paid a dime on either Flatow or Eisenfeld and Duker."

On April 20, more than four years after the initial suits were filed, the court entered a final judgment finding Kagy was entitled to about $1.4 million — or a third of Perles' fee — in the Flatow case and about $47,000, based upon an hourly rate, for her work on the Eisenfeld and Duker case.

Neither side was happy with the outcome, and both immediately filed appeals, which are still pending.

FAY JOINS THE FIGHT

Despite his partnership with Perles, Fay was never named as a party in the dispute between Perles and Kagy. But with a final judgment of more than $1 million in Kagy's favor, Fay became worried about his half of the money that was subject to the lien.

Over the next few weeks, in a series of letters and face-to-face meetings with Perles and his attorney, Schneebaum, Fay requested that his portion of the money be returned from the trust account, where it was held since 2001.

In a May 19 letter to Perles and Schneebaum, Fay wrote, "Let me note that the lien asserted by Ms. Kagy was upon the proceeds from the Flatow and Eisenfeld cases, not upon the Perles share. On that basis I agreed to deduct $2 million from the Fay and Perles joint net proceeds to cover the amount of the asserted lien. Obviously a number of issues remain open including the question of whether the entire amount being held is subject to enforcement upon any judgment entered against Steve Perles, but not against me."

As the weeks passed, Fay grew increasingly concerned when he learned that the balance in the lien account had dropped to $1.6 million and that about $425,000 was transferred from the account to pay for Perles' legal fees, something that Fay says in court documents occurred without his permission. In addition, he learned Perles planned to use the remainder of the money to secure the judgment while he appealed his case.

In another letter, on May 27, Fay wrote, "I repeat my request for return of one half of the original escrow deposit amount. I did not agree to pay half of Anne-Marie Kagy's compensation or half of any judgment entered on her behalf. "

In the interim, according to court documents, Perles filed his motion asking that the money from the original lien placed be used as a bond to secure the judgment during the appeal process.

In his motion, Perles asserted that the amount in the account was $1,339,675, slightly less than the amount of the judgment. He said he would commit to keeping $1.5 million in the account to satisfy both the judgment and any interest.

"There was $2 million that was supposed to be put aside in a trust and not touched," says Kagy's lawyer, Cummings. "We have a pretty serious problem with that."

Without a satisfactory response from Perles about the return of his money, and with the balance in the account declining, Fay filed a lawsuit June 20, accusing Perles and Greenberg Traurig, which handled the trust, of unauthorized use of funds, unjust enrichment, and conversion. In his suit, Fay asked not only for his money back plus interest, but damages as well.

"The total money wasn't there, and I guess that is what upset me," Fay says.

Based on some of the documents submitted in Fay's suit, Kagy filed her own motion June 29, opposing Perles' request to use the lien as bond for the appeal and accusing Perles of committing fraud on the court.

If it is determined that Perles misappropriated money from the joint trust account, he could face an investigation by the D.C. Bar. Bar Counsel Wallace "Gene" Shipp Jr. declined to comment specifically on the lawsuit between Fay and Perles, but said the conduct that is alleged is the type that could trigger a bar ethics probe.

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Trial Set For Lodi Father, Son (LODINEWS)

By Layla Bohm

Lodi News-Sentinel, July 2, 2005

A Lodi father and son accused of terrorism ties but charged only with lying to agents could stand trial in August, though that's only if matters of national security don't slow things down.

At a Friday hearing in federal court, U.S. District Judge Garland E. Burrell Jr. set an Aug. 23 trial for Umer and Hamid Hayat, though he added, "I don't know how realistic that's going to be."

It hinges on whether the federal Classified Information Procedures Act slows the case down, because even Burrell's own staff members would have to undergo extensive background checks before being allowed to handle sensitive documents. The act, signed into law by Congress in 1980, limits the disclosure of anything that could affect national security.

Burrell set an Aug. 19 hearing on issues related to CIPA, and also set dates for attorneys to file motions related to CIPA procedures within the next two weeks. Additionally, he scheduled a July 15 hearing regarding whether the trial will have to be delayed.

Under federal law, the Hayats are entitled to a trial within 70 days from the date they were indicted. A grand jury on June 16 indicted Hamid Hayat, 22, with two counts of lying to federal agents about attending a terrorist training camp in Pakistan. His father is charged with one count of lying about his son's involvement.

Defense attorney Johnny Griffin III argued that the government has had since May 29, when Hamid Hayat boarded a plane from Pakistan headed to the United States and triggered an alert because he was on a no-fly list. He was interviewed, allowed to continue to the U.S., and both men were arrested a few days later.

"It's not fair to these men who are sitting in jail," Griffin said in court. "The government should have dotted its i's and crossed its t's before putting these men in jail and labeling them as terrorists."

Assistant U.S. Attorney Steve Lapham argued that his office has already turned over 400 videos, CDs and DVDs, along with more than 2,000 pages of documents that need to be translated from Urdu, Pashto and Arabic. The documents could contain important things, Lapham said, citing a small piece of paper with Arabic writing that was found in Hamid Hayat's wallet.

"It is a highly significant document. A document like that could be buried in 2,000 pages," he said.

Hamid Hayat's attorney, Wazhma Mojaddidi, bristled and denied the importance of the slip of paper. "Being a Muslim, I know it's a prayer. That's all it is," she told the judge.

Classified Procedures Act

The Classified Information Procedures Act applies to documents and information that could harm national security. In federal court Friday, Assistant U.S. Attorney Steve Lapham said it could involve a number of extra security measures in a criminal court case, including:

· Establishing a court security officer to oversee the handling of sensitive documents.

· Federal security clearances for any court personnel, including the judge's staff, who might handle the documents. Such clearances take 45 to 60 days.

· Similar clearances for defense attorneys.

· Sending prosecutors to personally look at the documents, as some probably cannot be sent through the mail, due to security risks.

Mojaddidi, who speaks several languages herself, said the rest of the documents were mere "fluff." Griffin likened them to "books and magazines, average stuff you'd expect to find in your catch-all drawer at home."

Attorneys argued back and forth over whether an August trial would be possible. Burrell, who will preside over the trial but had not handled the case previously, ultimately made no ruling Friday. He did tell U.S. attorneys that they need to put in writing their understanding of the CIPA process.

The Hayats, who stood beside their attorneys at Friday's court appearance, remain in the Sacramento County jail without bail.

August Trial Argued For Two Lodi Men (CCT)

By Don Thompson

The Contra Costa Times, July 2, 2005

SACRAMENTO - A federal judge set a trial date next month for a father and son charged with lying about terrorist activities, but prosecutors said they would seek a delay.

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Prosecutors said they need more time to respond to a defense request for information and that national security concerns surrounding evidence in the case make an August trial unrealistic.

U.S. District Judge Garland Burrell Jr. on Friday set the trial for Aug. 23 and placed the burden on the government to prove why the two men should not be tried quickly.

Hamid Hayat, 22, and his father, Umer Hayat, 47, both of Lodi, are being held without bond on charges of lying to the FBI about whether the son attended an al Qaida training camp in Pakistan in 2003 and 2004.

Hamid Hayat was charged a month ago with two counts alleging he lied when he said he did not attend the camp. His father faces a single count of lying. The FBI said the elder Hayat later admitted paying for his son's flight to Pakistan and for the camp, which was run by the friend of a relative.

In responding to the defense request for information, prosecutors have requested information from 40 federal agencies, including two intelligence agencies. That almost certainly will lead the government to invoke the Classified Information Protection Act, requiring considerable court security precautions and delay, Assistant U.S. Attorney Steven Lapham said.

Burrell scheduled an Aug. 19 hearing on prosecutors' objection to the trial date.

Meanwhile, both sides spent more than an hour during Friday's hearing sparring over the significance of evidence against the two men.

Lapham said a slip of paper in Hamid Hayat's wallet with a single line in Arabic is "a very significant document" in proving his intent. Hayat's attorney, Wazhma Mojaddidi, said the paper merely contained a prayer.

Similarly, 2,000 pages written in three foreign languages and 400 videotapes, cassettes and compact discs seized from the Hayats' home may be significant once they are translated, Lapham said.

Mojaddidi, who speaks Urdu and Pashto, the primary languages in the material, described it as "fluff."

"We don't think that stuff is going to be relevant," she said.

PATRIOT ACT:

OPEN FORUM Patriotism Vs. The USA Patriot Act (SFC)

San Francisco Chronicle, July 4, 2005

Patriotic Americans have a lot at stake this Fourth of July. After the glare of fireworks has faded, the true test of American patriotism moves to Congress, where both the House and Senate Judiciary Committees will prepare to debate the fate of the USA Patriot Act.

It's a debate that has long been anticipated. When Congress passed the Patriot Act -- all 150 sections of it -- just weeks after the Sept. 11 terrorist attacks, many lawmakers understood that some of these broad new powers should only be temporary. They wisely agreed that many of the most controversial sections of the act (about 10 percent) would automatically expire in four years. Thus, as the Dec. 31 expiration (or "sunset") deadline approaches, congressional debate about the Patriot Act is finally beginning.

But the opportunity for a robust debate has been marred by a pre-emptive effort in the Senate, where the Select Intelligence Committee decided to hold its vote and debate on expanding the Patriot Act in secret. A copy of the unwise and unwarranted bill it approved was not made public until more than two weeks later.

Far worse than cloaking the legislative process in secrecy was the outcome. The Senate Select Intelligence Committee approved a bill that would make permanent virtually all of the controversial provisions Congress originally made temporary. What's more, the measure would give the FBI the power to write its own subpoenas to demand any kind of record, with no judicial approval and without making a showing to the court that there are facts that connect the records sought to a terrorist.

Clearly, the senators meeting behind closed doors didn't hear Americans calling for Patriot Act reform. More than 400 boards of supervisors and town councils from Elko, Nev., to New York City spoke up. Seven state governments, including four "red" states with Republican majorities, called for reform. Meanwhile, a new coalition, "Patriots to Restore Checks and Balances," brings together some unlikely allies, including the ACLU and the American Conservative Union.

The outcry is all the more remarkable when you consider that three years ago, a bipartisan movement for Patriot Act reform was virtually unthinkable. In the aftermath of Sept. 11, the Bush administration, with former Attorney General John Ashcroft leading the charge, chose to demand unilateral power to limit civil liberties and diminish our privacy in a variety of ways. Indeed, Ashcroft lashed out at those who questioned the administration's policies with such McCarthyist comebacks as, "Your tactics only aid terrorists, for they erode our national unity and diminish our resolve." His tough talk was backed by action: The administration issued an executive order lifting a ban against spying on and infiltrating domestic political and religious groups.

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The Patriot Act in its current form includes provisions that threaten the American legacy of liberty and privacy. But it can be fixed easily to restore meaningful checks and balances while properly focusing our limited anti- terrorism resources on foreign terrorists rather than ordinary Americans. Bipartisan legislation, the Security and Freedom Enhanced Act, is a good place to start. The SAFE Act includes commonsense fixes such as requiring individual suspicion for searches of libraries, bookstores and other sensitive records; placing reasonable limits on "sneak and peek" searches, and helping to ensure that the expansive new wiretap powers do not allow eavesdropping on the conversations of innocent people.

The question is, will Congress keep America safe and free by correcting the fundamental flaws in the Patriot Act? We'll find out when it resumes after the Fourth of July recess. Patriotism is so much more than flag-waving and pyrotechnics. It's about vigilantly guarding the fundamental American principles of justice and liberty that have come under siege with the Bush administration's determination to hold itself above the law. It's time to restore the basic checks and balances that are fundamental to our constitutional liberties. That's the kind of patriotism we yearn for today.

Dorothy M. Ehrlich is executive director of the American Civil Liberties Union of Northern California (www.aclunc.org).

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HOMELAND RESPONSE:

CIA, Pentagon Seek To Avoid Overlap (WP)

By Walter Pincus, Washington Post Staff Writer

The Washington Post, July 4, 2005

Growing Pentagon intelligence activities at home and abroad have caused CIA Director Porter J. Goss and Defense Secretary Donald H. Rumsfeld to reach a new written agreement to prevent conflicts and overlap in spying, technical collection and analysis between their two organizations, according to senior officials at both agencies.

Gen. Michael V. Hayden, deputy director of national intelligence, told reporters last week that a classified memo of understanding between the agencies has been drafted and is awaiting the signatures of Goss and Rumsfeld.

The document sets out what the Defense Department and the CIA will do as part of the intelligence restructuring that is taking place under the aegis of the director of national intelligence (DNI), John D. Negroponte. "We are trying to 'deconflict' the operations," Hayden said, and "coordinate them as closely as possible." Negroponte's office is also studying how new Pentagon operations fit into the DNI's overall role.

One issue is what constitutes traditional military activities such as battlefield preparations, under which military operatives clandestinely visit countries to gather information in preparation for any future conflict. Pentagon operatives allegedly have visited countries without prior CIA knowledge, although the local CIA station chief was supposed to have been told.

Under the reorganization just approved by President Bush, a senior CIA official will become what Hayden described as "the national humint [human intelligence] manager," coordinating all overseas spying activities whether carried on by the CIA, the Pentagon or the FBI.

As part of the response to potential terrorism, the Defense Intelligence Agency and the military services are expanding their human and technical collection of intelligence and their analytical capabilities. The DIA has 7,500 employees -- about half as many as the CIA -- but is planning to add nearly 1,000 over the next few years. As a result, it wants to send nearly that number to new facilities in Virginia, despite having just completed a new building at Bolling Air Force Base in the District.

The size of the new DIA building was planned almost 10 years ago, before the agency acquired new missions and personnel that "won't fit into the building," a senior Defense Department official said.

Some of the new DIA missions involve worldwide counterintelligence and data-collection programs that may overlap into the purview of CIA, the National Counterterrorism Center (NCTC), the Department of Homeland Security or other intelligence agencies based on the DNI reorganization.

White House homeland security adviser Frances Fragos Townsend, who was in charge of studying how to integrate intelligence restructuring recommended by the Silberman-Robb presidential commission, told reporters last week that Rumsfeld was reviewing the future role of a little-publicized Pentagon group known as the Counter Intelligence Field Activity (CIFA).

Formed in 2002, CIFA was established to oversee Defense Department counterintelligence investigations and training and to assess potential terrorist threats at home and abroad. It has gathered domestic and international data, including criminal, financial, credit and other records, as well as background information about foreign workers and scientists employed by the Defense Department and other U.S. agencies.

One of the Silberman-Robb panel recommendations was that CIFA be given "new counterespionage and law enforcement authorities to investigate national security matters and crimes including treason, espionage . . . or terrorist-directed sabotage."

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The panel said this authority could be granted to CIFA by a DNI directive. Townsend said the question was whether an enhanced CIFA should remain within the Pentagon.

Another new, little-known Pentagon initiative is the Partnership to Defeat Terrorism, which brings together a worldwide collection of think tanks, academics and private business leaders to try to develop an information-sharing base that could be used to protect the world's critical infrastructures -- including buildings, roads, industrial plants and computer systems related to financial institutions -- from terrorist attacks.

It has been placed under the Defense Department's Strategic Command, as part of the new missions given to that Pentagon unit by Rumsfeld. Senior officials in other intelligence agencies have questioned whether this function belongs in the Pentagon or elsewhere.

The Pentagon has been generous in providing one- and two-star officers to help staff the new DNI offices, senior administration officials said. Hayden confirmed that Defense has been "offering good talent" and that "the trick for us is to balance" the DNI staff among personnel from the 15 agencies that make up the intelligence community.

"I wish CIA and others would seize that opportunity because people are concerned about bureaucratic balance," said a senior DNI official who spoke on the condition of anonymity. A CIA official said Goss "was concentrating on protecting the diminished role of the agency."

Retired Vice Adm. John Redd has been nominated by President Bush to be director of the NCTC. If approved by the Senate, the Pentagon-experienced Redd will replace a CIA official, John Brennan, who directed establishment of the new agency, half of whose employees have come from the CIA.

The Counterterrorism Center, now a DNI agency, has also been assigned to plan strategic operations at home and abroad. After some internal discussions in which Pentagon officials attempted to get the strategic planning function removed from the NCTC, Negroponte has decided to put an Army officer, Brig. Gen. Jeffrey J. Schloesser, at the head of that office.

Now director of the Aviation Task Force for the Army's deputy chief of staff for operations, Schloesser also has a planning and special operations background, Hayden said.

"The test will be whether Schloesser, a uniformed officer, reports to only the NCTC director and the DNI, and not to the joint chiefs and not the Defense Department," said a senior DNI official. "He now represents the interagency effort."

Decoys Suggested For Pentagon Network (WP)

By Dawn S. Onley, Special To The Washington Post

The Washington Post, July 5, 2005

Two of the Pentagon's leading technologists propose defending the military's Global Information Grid by using decoy networks and "honey pots" to fool hackers.

The goal is to lure intruders into these areas and away from operational networks.

"No other enterprise in the world has responsibility for a communications network quite like the GIG," Army Col. Carl W. Hunt, technology director for the Joint Task Force for Global Network Operations, said at the Army Small Computer Program conference in Las Vegas last month. The Defense Department is developing the Global Information Grid as the next-generation information technology architecture to be used by the military and intelligence agencies.

Hunt and Doug Gardner, director of the applied technology unit of the joint task force, wrote a recent paper outlining ways to keep malicious intruders from penetrating the GIG. The paper was presented at the Institute of Electrical and Electronics Engineers Workshop on Information Assurance last month at the U.S. Military Academy in West Point, N.Y.

The diversion strategy, called Net Force Maneuver, would lead hackers "to systems where we are prepared to receive them," Hunt and Gardner wrote. It's a technique that technology experts outside the Pentagon have called a honey pot.

"These systems will collect information on methodologies, techniques and tools while providing a realistic 'playground' for the intruder," Hunt and Gardner wrote. "This playground will be devoid of real system information but will keep the intruder occupied. The goal here then is to ensure the intruder does not know which systems are real and which ones aren't."

Ross Stapleton-Gray, senior research analyst at Skaion Corp., a computer security company in North Chelmsford, Mass., said the idea has merit, but it wouldn't necessarily be easy for the Defense Department to achieve.

Phantom Defense Department networks "would be an interesting challenge: They'd need to behave sufficiently realistically as to convince prospective attackers that they were authentic, yet not reveal too much about the real networks," he said.

Stapleton-Gray said he could imagine the Defense Department running a continuous simulation of parts of networks "in parallel with the real ones. When outsiders show up and start probing around the fake networks, you can track all their activities, even feed them information on fictional vulnerabilities, and see what they do."

Hunt and Gardner warned Defense officials that Net Force Maneuver is no silver bullet. They said it would need to be combined with other protective measures that are now being developed.

Dawn S. Onley is a senior writer for Government Computer News. For more on this and other topics concerning technology in government, go tohttp://www.gcn.com.

Intelligence Shuffle (WP)

Post

The Washington Post, July 5, 2005

IN MORE NORMAL times, a presidential decision to rearrange the structure of domestic intelligence gathering would be a big deal. Since Sept. 11, 2001, however, this country has seen the organizational charts of governmental counterterrorism efforts rearranged so extensively that President Bush's shuffling of the FBI's intelligence and counterterrorism authorities last week was almost a ho-hum event: Another day, another reorganization of American government.

But Mr. Bush's reforms of the FBI, which follow recommendations from a commission he appointed to study intelligence failures concerning Iraqi weapons of mass destruction, are potentially profound and warrant public attention. In critical respects, they take the bureau in the right direction. The first question is whether they go far enough or whether they will end up being merely shifted boxes on the government's organizational chart. The second question is whether, in one particular area, they go too far.

The president has directed that the FBI's key national security functions -- counterterrorism, counterintelligence and intelligence gathering -- be consolidated into a single National Security Service headed by a high-level bureau official. The integration of these functions, all of which are now partly under the jurisdiction of the director of national intelligence, John D. Negroponte, makes a lot of sense. For one thing, it will give the director a single hierarchy over whose chief he will have veto power. Moreover, in a world in which counterterrorism so dominates intelligence operations and collection, creating a unified national security infrastructure in the bureau seems like common sense.

A great part of the challenge of reforming the FBI since Sept. 11 has been transforming its law enforcement culture -- rooted in the collection of evidence for criminal prosecution -- into a credible intelligence organization capable of compiling, analyzing and sharing a far broader swath of information than might be useful for criminal purposes. If the FBI is to develop critical mass as an intelligence agency in the long run, creating a unified national security effort within it is a necessary part of the picture.

Whether this transformation is ultimately possible, however, remains an open question. The bureau has made more headway in developing intelligence capability than its fiercer critics acknowledge, but it remains, in its heart and soul, a police force. This culture may simply be too deeply rooted to be changed. At present, however, creating a domestic intelligence service is politically dicey; the step would have significant civil liberties implications and could create gaps in effectiveness that terrorists could exploit. Consequently, there is little choice but to proceed as the administration is proceeding -- that is, reform the bureau with an ongoing eye to whether the project is, at the end of the day, a fool's errand.

The other concern about Mr. Bush's order is that it potentially gives the director of national intelligence, a politically appointed intelligence official who works directly for the president, too much power over day-to-day operations of FBI agents. The president's memorandum requires the government to "develop procedures" by which the director of national intelligence can "communicate with the FBI's field offices" through the new head of the National Security Service. Whether this presents a problem depends entirely on what these procedures turn out to be. It is essential that FBI agents collecting intelligence domestically are not directed by the White House or top administration officials but, rather, by the FBI director overseen by the attorney general. In implementing the president's order, the administration must remember that whatever agency is responsible for domestic intelligence must be kept independent of politics.

An End To Spy Versus Spy? (LAT)

The Los Angeles Times, July 5, 2005

Like the title characters in the movie "Mr. and Mrs. Smith," the FBI and CIA have been an outwardly happy couple that are actually in perpetual combat. The reforms that President Bush signed on to last week could at least theoretically end the warfare, resulting in agencies better able to focus on core missions. The job of persuading, or forcing, them to do so falls to the director of national intelligence, John D. Negroponte.

With the president at his back, he might even succeed.

Despite FBI Director Robert S. Mueller III's best efforts to resist change, his agency is the decided loser — and the CIA the winner — in the reorganization of the 15 agencies that have something to do with intelligence, as recommended by a presidential commission.

The panel left the CIA mostly intact, and its leadership is already cobbling out an agreement over territory with the Pentagon's even larger intelligence apparatus.

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The CIA is a winner here, as well — as coordinator of all use of human spies, including by the Pentagon. The commission's report focused its fire on the abysmal performance of the FBI, which has repeatedly been drubbed for its 9/11 failures and, most recently, for an expensive computer upgrade program that has proved a total bust.

The result is that Negroponte gets direct authority over new national security divisions at the FBI and the Justice Department, including budgetary power and appointments.

The FBI is smarting over the humiliation, but it could prove a boon for the bureau. Historically, the FBI's record on countering espionage plots, whether during World War II or the Cold War, is one of futility. It's a basic misfit — of cops who catch bank robbers trying to chase spies. Establishing a separate office in the FBI that answers to Negroponte as well as Mueller will at least allow the rest of the FBI to get on with what it does best, tracking down domestic criminals.

What's more, Negroponte won't be able to complain that he has powers only in name, not substance.

Congress tried and failed to persuade President George H.W. Bush in 1991 to appoint a director of national intelligence and reorganize the spy agencies. Even President Truman's Cold War invention of the CIA from the remains of World War II's elite spies was supposed to bring intelligence under a powerful single chief.

Negroponte, known as a ruthless policy operative, understands that history of failure. Unless he flexes the new muscles of his agency, he will end up as part of just another sequel.

Bridgeport Woman Charged With Threatening Supreme Court, FBI (AP)

AP, July 5, 2005

BRIDGEPORT, Conn. -- The FBI arrested a city woman accused of mailing death threats, some laced with rat poison, to each of the U.S. Supreme Court justices and FBI Director Robert Mueller.

Barbara March, 59, was charged with one count of mailing a threatening letter. A spokesman for the U.S. Attorney's office in Washington said Thursday the charge could change with a federal grand jury investigation.

Laboratory results determined that seven of the letters mailed to Supreme Court justices were laced with rat poison, the FBI said in an affidavit. The contents of two other letters sent to justices and two letters sent to Mueller and Deputy Director John S. Pistole are being analyzed by the FBI.

March, also known as Barbara McMahon and Bonnie McMahon, is being detained without bond at the York Correctional Institution in Niantic. A probable cause hearing has been set for July 11, but it will be canceled if an indictment is returned in Washington.

In 1985, March entered a no-contest plea and was found guilty of two counts of attempted murder and one count of carrying a pistol without a permit. She was charged with shooting at her brother, Richard March, and his wife.

Diane March was shot in the chest, and survived.

Richard March contacted U.S. postal inspectors several days later and turned over a bottle of wine mailed to his 65-year-old mother. Tests by the State Toxicology Laboratory determined it was laced with Benadryl, which, mixed with alcohol, could be lethal.

Investigators at the time found rat poison among March's belongings.

March has been in state custody, the longest from Dec. 9, 1985, to June 29, 1989, except for two months during that time, said a spokesman for the state Department of Correction.

She was incarcerated in 1992 for about a month and again in 1994 for a month.

Bridgeport Woman Mailed Poison To Justices, F.B.I. Says (NYT)

By Stacey Stowe

The New York Times, July 2, 2005

HARTFORD, July 1 - Federal agents have charged a woman who rented a room in a homeless shelter in Bridgeport, Conn., and worked in a fast-food restaurant there with sending letters containing rat poison to justices of the United States Supreme Court and to top officials in the Federal Bureau of Investigation.

The woman, Barbara J. March, 59, was arrested June 24 on a criminal complaint issued by federal prosecutors in Washington. The investigators said she had mailed typewritten death threats in nine envelopes last spring to several justices and to the director and the deputy director of the F.B.I. Taped to each letter was a smashed baked good or a piece of candy that laboratory tests showed contained pellets of rat poison, they said. In May, two more letters were sent to the "remaining justices," according to the F.B.I complaint.

According to the complaint, the letters said: "We are (or I am) going to kill you. This is poisoned."

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The F.B.I. said that it had linked Ms. March to the letters by the envelopes, which had return addresses of people who were her classmates and sorority sisters at Stetson University in DeLand, Fla., or who attended elementary or high school with Ms. March or her brother, according to the complaint, which was filed by Monica Patton, a special agent of the F.B.I.

Ms. March's arrest was first reported in The Connecticut Post on Friday.

Ms. March has been incarcerated about nine times in the last 20 years, said Brian Garnett, a spokesman for the State Department of Corrections. In 1985, she mailed wine reportedly containing poison to several relatives, including her mother, Ms. Patton said in her complaint. Two years later, Ms. March was convicted of attempted murder after shooting at her brother and sister-in-law.

But at Prospect House, a shelter and a subsidized apartment building in Bridgeport, where she has lived since 1999, Ms. March "had never caused a moment of trouble," said its director, Patricia Ginyard. A petite woman with long dark hair, Ms. March worked at a local fast-food restaurant, Ms. Ginyard said. Her arrest shocked residents and administrators at the home.

"I was floored," Ms. Ginyard said. "We were all like 'not little Barb.' "

David J. Wenc, the private lawyer appointed by the federal court for Ms. March, said he expected her to plead not guilty. She is being held at York Correctional Institution in Niantic.

Computers Simulate Terrorism's Extremes (WP)

By Ariana Eunjung Cha, Washington Post Staff Writer

The Washington Post, July 5, 2005

LOS ALAMOS, N.M.-- Deep inside the cave-like laboratories of the legendary research center that created the atomic bomb, scientists have begun work on a Manhattan Project of a different sort.

In the wake of Sept. 11, 2001, they have been constructing the most elaborate computer models of the United States ever attempted. There are virtual cities inhabited by millions of virtual individuals who go to work, shopping centers, soccer games and anywhere else their real life counterparts go. And there are virtual power grids, oil and gas lines, water pipelines, airplane and train systems, even a virtual Internet.

The scientists build them. And then they destroy them.

On a recent weekday at the Los Alamos National Laboratory, researcher Steve Fernandez took several power-relay plants in the Pacific Northwest offline with a few clicks of his keyboard while Kristin Omberg and Brent Daniel were working up mathematical models that calculated the worst places to release biological agents in San Diego.

"We're trying to be the best terrorists we can be," said James P. Smith, who is working on simulations of a smallpox virus released in Portland, Ore. "Sometimes we finish and we're like, 'We're glad we're not terrorists.' "

The Los Alamos experiments are part of the Homeland Security Department's efforts to harness technology to aid the war on terrorism. Like government "data-mining" projects that use flight itineraries, credit card reports and other data and try to find patterns to predict who might be a likely terrorist, the simulations are attempts to guess the bigger picture.

The federal government is using the simulations to provide options in the event of a real terrorist attack. The information is so sensitive that most of the lab's work is classified, and the physical facility is secured with its own experimental technologies. If the simulations got into the wrong hands, the researchers say, they could be used as the ultimate weapon against Americans. "It would be a terrorist recipe for doing something terrible," Smith said.

Some urban planners have criticized the project for its cost -- each simulation can cost tens of millions of dollars -- and have argued that such modeling can never be precise. A book on public health threats by the Institute of Medicine of the National Academies, for example, notes that some critics say simulations "cannot provide clear evidence for or against any option." Advocates say the exercise is providing crucial information for protecting the country.

When planes crashed into the World Trade Center and Pentagon nearly four years ago, the government had little understanding of the weaknesses and interdependencies of power, water, transportation and telecommunications networks. Richard Clarke, the former counterterrorism czar under the Clinton and Bush administrations, warned that this opened the possibility of "cascade" failures--domino effects--that authorities had little power to stop.

In 2003, for example, the Nuclear Regulatory Commission revealed that a computer "worm" on the Internet penetrated the control systems of a nuclear power plant, disabling its safety mechanisms for about five hours. That same year, much of the East Coast and Midwest were hit with an electrical blackout that experts thought should have been limited to one area.

Clarke created a "critical infrastructure protection" group made up of the top officials from the government and from industry. The Los Alamos simulations are the cornerstone of their work.

The models have helped officials pinpoint and prioritize where changes need to be made. Fernandez's work has led to upgraded security at certain power plants. Omberg and Daniel have created biosensors--which can detect a wide variety of

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biological threats -- that have been placed in areas of major cities that the computer program calculated were vulnerable, such as near sports arenas or transportation hubs.

Smith's findings have been a major component of the debate over whether it's necessary to synthesize enough smallpox vaccine for the entire country. He found that in the event of an outbreak, targeted vaccination would work almost as well as mass vaccination if officials moved quickly to establish quarantine zones for those infected.

Traditionally, estimates of infection and deaths are made using a simple multiple that denotes how fast the disease spread. Smith's program is far more detailed and uses a mixture of mathematical data and basic psychology to simulate an area and the behavior of its population.

It begins by modeling every city block using census data, then populates the city using information on household income and age of residents. Next the scientists simulate people's movements on a daily basis by using data from diaries kept by commuters; foot traffic patterns on streets, malls and other public places; and public transportation schedules. The hope is to be able to see how different social interactions are in America in 2005 from other areas where the spread of disease has been studied -- such as in rural Africa, where communities are much more isolated, or in the United States in 1918 when some cities like Portland saw much traffic from soldiers on boats.

It turns out that the average person in Portland, population 1.6 million, has about five "activities" per day. That is, they might get up and drop the children off at school, go to work, buy gas, buy groceries and then pick up the children. The average travel time for each person is 30 minutes.

"The thing that makes it unique is the estimate of who comes into contact with whom in a large urban area and how long the contacts last," said Stephen Eubank, a researcher at the Bioinformatics Institute at Virginia Tech who worked with Smith on the smallpox simulation.

The scientists continuously run the simulations, which operate about 100 times faster than real time, testing actions like closing the airport, quarantining a neighborhood or shutting down workplaces.

"It's like the movie 'Groundhog Day.' You could reach in and say what I did yesterday didn't work so well and let's see how something else works," Eubank said.

In one simulation, Smith unleashed the smallpox virus in a university building in downtown Portland, with several students becoming victims. Soon after the 10-day incubation period passed, hospitals throughout Portland began to report cases. Smith's computer chronicled the devastation. Day 1: 1,281 infected, zero dead. Day 35: 23,919 infected, 551 dead. Day 70: 380,582 infected, 12,499 dead.

Smith wondered: How would the results change if local officials closed the schools? If they started mass vaccination? If they locked down the whole city?

Smith programmed a cluster of computers to run through these scenarios and hundreds of others, trying to determine which response would save the most lives.

Each time the model is run, it produces more data than the contents of the Library of Congress. Some findings are obvious: that the invention of air transportation may be the biggest factor in the spread of disease. Others aren't as easy to guess: that shutting down schools may not help as much as expected because parents are likely to take their children to malls and playgrounds where they can come in contact with others who have been infected. It also turned out that the speed of intervention is much more important than the type of intervention.

If officials waited 10 days or more, Smith found, "We didn't get to enough people so a lot of people died. It was almost as bad as a "do nothing" strategy, which was depressing."

Eubank said that when he runs simulations for governors or mayors, they inevitably ask him to quarantine the whole city, to make sure residents stay in their houses.

"But if I had to do that I would basically be shooting anybody who walks out on their doorstep. That's not acceptable," Eubank said. "We are trying to understand the 'cost-benefit' tradeoff--if you implement a quarantine it may give you the benefit you're looking for but it may be too costly socially."

The biggest challenge simulation researchers face is that it's unlikely they'll ever know how accurate they were until a real attack occurs. The only system that's been tested against a real life event is Fernandez's program for how hurricanes will affect the electricity grid.

In September 2004, his team used the system to predict the route of Hurricane Frances based on historical information about similar hurricanes as well as its wind profile, intensity and other data 40 hours before landfall. He advised Florida officials to position emergency repair teams in parts of the state that he thought would receive the most damage--and he turned out to be correct. His computer was also right about the 11 days it would require to get power back up for 90 percent of the state, and about the estimate of damage: $28 billion; the final damage total was $27 billion.

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Fernandez said the pinpoint accuracy of the Hurricane Frances simulation was just plain luck. The world is too complex, he said, to ever be captured that specifically in a computer program.

No matter how much money is spent, he said, or how long scientists work on the task, "we'll never understand all the interdependencies of life."

Fighter Jet Intercepts Plane Near Camp David (WP)

By Sudarsan Raghavan And Michael Ruane, Washington Post Staff Writers

The Washington Post, July 3, 2005

A small plane entered restricted airspace Saturday night around Camp David, where President Bush was spending the weekend, prompting federal officials to dispatch a fighter jet to intercept it and track it until it landed at an airport in Frederick.

Authorities questioned the pilot of the Cessna 172 and released him. The aircraft was among three small planes that violated the restricted airspace Saturday. The breaches illustrate how increasingly complicated it is for civilian pilots to traverse the most controlled airspace in the nation -- and for federal officials to protect it.

In fact, such incidents are becoming so routine that the vast majority go unreported. Air defense officials said that since Sept. 11, 2001, they have sent fighter jets to respond to more than 2,000 violations of airspace across the United States.

Inside the so-called Air Defense Identification Zone, a 2,000-square-mile area of protected airspace around Washington, there are an average of two to three airspace violations a day when it's clear enough to fly small aircraft, said Laura Brown, a spokeswoman for the Federal Aviation Administration.

There were previous times when fighter jets intercepted small planes flying into the protected airspace around the Camp David retreat, said Lt. Jody Vazquez of the North American Aerospace Defense Command.

"This is not an uncommon thing to happen," Vazquez said. "We've had more than 2,000 threats, but a 9/11 has not occurred again. We consider this a success."

The complexity of the system continues to trigger the capital's alarm systems. On Wednesday, the Capitol was evacuated after a small, fast-flying plane breached Washington's restricted airspace. The intrusion disrupted a Senate vote and prompted Bush to be rushed to a safer location.

And on May 11, another small plane violated restricted airspace, prompting lawmakers and government workers to flee the Capitol, the White House and other buildings.

It was unknown yesterday whether Bush was moved from Camp David after Saturday night's incident. The White House referred calls to the Secret Service, which would not comment.

On most days, the small planes would not have been in violation. They were all flying well outside the three-nautical-mile no-fly zone that rings Camp David, which sits near Thurmont, north of Frederick.

But this past weekend, with Bush there, the radius of the restricted airspace was temporarily widened to 10 miles, part of a roster of post-Sept. 11 security measures.

"They weren't totally aware of the no-fly zone -- exactly where the borders were," said Cpl. K. Sherwood of the Maryland State Police, referring to the husband and wife who rented the plane, which was white with blue, maroon and yellow trim.

The plane bore at an altitude of 2,400 feet into the restricted airspace about 10:40 p.m. The couple apparently did not have the plane's radio on, said federal aviation officials, and had not filed a flight plan. Private planes require a distinct transponder code so authorities will know their identity, and pilots are required to maintain radio contact with the FAA as they approach restricted areas.

Air controllers watched the tiny blip on their radar screen as it moved deeper into the restricted airspace, but there was no way to contact the pilot, Vazquez said. So air defense personnel from NORAD dispatched an F-15 fighter jet to intercept and follow the Cessna. By then, it was 7 1/2 miles north of Camp David.

"We were just following the aircraft," Vazquez said. "The pilot was not responding to the radio."

Minutes later, the Cessna landed at Frederick Municipal Airport, where Secret Service agents were waiting to question the husband, the pilot. No charges were filed, and he was released, said Jonathan Cherry, an agency spokesman. Police yesterday would not identify the couple who had rented the plane, registered to Frederick-based Airworthy Aviation.

The first of the other two small planes that briefly breached the restricted airspace Saturday strayed inside the zone at 11:45 a.m. about eight miles south of Camp David and remained inside for about seven minutes, Brown said. It then flew out and landed in Lincoln Park, N.J.

The second plane skimmed the edge at 12:42 p.m. about 10 miles north of Camp David and left the restricted airspace after three minutes.

Both planes were tracked by radar, Brown said, and FAA investigators plan to question the violators. No fighter jets were dispatched in those incidents.

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Jeff Myers, a spokesman with the Frederick-based Aircraft Owners and Pilots Association, which has more than 400,000 members nationwide, said such breaches by small planes "clearly" pose "no real threat" to the nation's security.

"The issue here is not the damage that can be done. It's the fear of what might happen," he said. "If somebody wanted to do huge harm to the D.C. area, there are so many other ways of doing it than small planes.

"It's great to be worried about a threat, but let's be worried about the right threats," he added. "No small airplane has ever been used in an act of terror anywhere in the world."

Still, Myers said, there was no excuse for pilots in the region to be violating the airspace zones around Washington. His organization, he said, is trying to educate its members to better plan their flights and get permission to even go near restricted zones.

"We're frustrated by pilots who aren't heeding the warnings," Myers said. "And those warnings are plentiful."

Plane Gets Too Close To Bush Retreat (WT/AP)

The Washington Times, July 4, 2005

FREDERICK, Md. (AP) -- Federal authorities questioned and released a pilot Saturday night after a plane violated restricted airspace around Camp David, forcing a landing at Frederick's airport.

The small Cessna passenger plane was intercepted by fighter jets while traveling about eight miles northwest of Frederick at about 10:45 p.m., Federal Aviation Administration (FAA) spokeswoman Holly Baker told the Associated Press yesterday.

The pilot was forced to land and was questioned but was released late Saturday without being charged, Secret Service spokesman Jonathan Cherry said yesterday.

President Bush was spending the weekend at the presidential retreat near Thurmont, which is one of the off-limits zones in the Washington area.

The White House did not respond to questions about whether President Bush had to be evacuated from the area during the incident or was even aware of the plane.

Two F-16 jets forced the Cessna to land at the airport, the Frederick News-Post first reported. The newspaper said a man and woman were interviewed, but Mr. Cherry wouldn't comment on the report.

No one was taken into custody, said Maryland State Police Sgt. M.W. Jones, adding that the plane may have been rented at the airport.

Since September 11, 2001, hundreds of pilots have violated Washington's restricted airspace.

Private planes are not allowed to fly in the Air Defense Identification Zone, about 2,000 square miles radiating from the three airports around Washington, without a special transponder code and radio contact with the FAA. They are not allowed within 16 miles of the Washington Monument.

On Wednesday, the White House briefly went to red alert when a plane entered restricted airspace around Washington. Mr. Bush was hurried from his residence to a safer location and lawmakers were ordered to evacuate the U.S. Capitol.

Two fighter jets intercepted the twin-engine, propeller-driven plane eight miles northeast of the Capitol and escorted it to Winchester, Va.

On May 11, a private Cessna violated restricted airspace and sent lawmakers and other government workers scrambling from the Capitol, the White House and other federal buildings. That plane also was escorted to Frederick Municipal Airport.

Mother Says Nichols Revealed Bombing Role (WP/AP)

By Sean Murphy, The Associated Press

The Washington Post, July 4, 2005

OKLAHOMA CITY -- Bombing conspirator Terry Nichols has been meeting with the FBI and has revealed additional details about his involvement in the 1995 attack that destroyed the Oklahoma City federal building, his mother said Sunday.

Nichols, serving life in prison on federal and state convictions for the bombing that killed 168 people, acknowledged that he helped Timothy McVeigh acquire ammonium nitrate fertilizer and racing fuel that were combined to make the explosive, and helped assemble the bomb components, said Nichols' mother, Joyce Wilt of Lapeer, Mich.

"That's the extent of it," Wilt said in a telephone interview with The Associated Press. "From there on, he had no knowledge."

McVeigh was convicted of federal conspiracy and murder charges in the bombing and was executed on June 11, 2001.

Prosecutors have contended that Nichols willingly helped McVeigh plan and carry out the bombing. Wilt said she believes others were involved in the bombing and that the FBI is hiding it.

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Wilt contends her son suffers from Asperger's Syndrome, a form of autism that allowed him to be easily manipulated by others. She said McVeigh took advantage of Nichols to get him to help with the bombing preparations and that he threatened to harm Nichols and his family if he didn't comply.

"Terry was just being protective of all of us," Wilt said. "It just breaks my heart, because he was a good kid. He got out in the world and people started taking advantage of him."

She said her son didn't know what McVeigh planned to do with the bomb.

"He didn't ask. People with that type of syndrome don't do that," Wilt said. "When you ask him to do something, he just does it."

Citing unidentified sources, The Oklahoman reported Sunday that Nichols acknowledged to the FBI that he robbed Arkansas gun dealer Roger Moore to help finance the bombing and that he thought McVeigh planned to bomb a monument to get back at the federal government.

Based on Nichols' statement this spring, the FBI recovered a .50-caliber sniper rifle taken in the robbery, the newspaper reported citing unnamed sources.

Prosecutors say Nichols stole an estimated $63,000 in weapons and other items from Moore's home that were then sold to help finance the terror plot. Moore, who underwent months of questioning after the bombing, was never charged and denies any involvement.

Gary Johnson, a spokesman for the FBI office in Oklahoma City, would not confirm any talks between Nichols and the agency. "We may make a statement in a few days regarding the recent media reports, but not at this point," Johnson said Sunday.

The lead defense attorney at Nichols' state trial, Brian Hermanson, said he had not been present for any such conversations and would not confirm if any took place, but said it wouldn't surprise him.

"He's not facing the death penalty. It's pretty logical," Hermanson said.

OECD Warns Of Unbearable Losses From Terrorism (FT)

By Andrea Felsted

Financial Times, July 5, 2005

Insurers might be unable to bear losses from “mega-terrorism”, the Organisation for Economic Co-operation and Development will warn on Tuesday .

In some countries, claims from attacks that could include a nuclear, chemical or biological incident could even outstrip the joint compensation capacity of insurers and governments, the OECD will warn. Estimates of maximum losses resulting from a single terrorist attack range from $50bn to $250bn. The attacks on New York on September 11 2001 resulted in insurance losses estimated at more than $30bn, according to the report.

Mega-terrorism would be an attack resulting in losses of more than $100bn the explosion of a dirty bomb, the spreading of poisonous gas or large-scale water contamination.

The OECD will say: “The losses associated with very large-scale terrorist attacks can remain beyond the capability of the private insurance and reinsurance industry to price and absorb alone.” In some countries mega-terrorism could result in losses beyond the level that insurers and governments could absorb without threatening national economic stability.

Risks from chemical, biological, radiological and nuclear attacks are generally excluded from insurance coverage and are often not fully covered by government-backed schemes. The OECD will urge governments to work with the insurance industry to develop ways to cover these.

It will warn that in some countries the economic and social impact of a large-scale attack could be greater than in 2001 because of the low take-up of terrorism insurance despite a stabilisation in the market for terrorism insurance since 2001. “In countries with low terrorism insurance take-up rates, a large-scale terrorist attack could be more damaging today than before 2001 since a far smaller portion of the risk would be spread across the national and international insurance and reinsurance community.”

Member countries should rely on the private sector as far as possible to cover terrorism risks. But, government intervention might be needed if there is not enough capacity to cover risks in the private markets.

It will note that partnership arrangements between insurers and governments as in the UK, the US, Australia, France, Germany, the Netherlands and Spain have worked well in stabilising insurance markets after attacks.

The comments come just days after the Bush administration said it opposed an extension of the terrorism risk insurance programme enacted following the September 2001 attacks.

Washington's Deadly Bridge (NYT)

DOJ_NMG_0001478

The New York Times, July 5, 2005

The weakest point in America's defense against terrorism may be an inconspicuous little bridge a few blocks from the Capitol. Rail tanker cars filled with deadly chemicals pass over the bridge, at Second Street and E Street SW, on their journeys up and down the East Coast. The bridge is highly vulnerable to an explosion from below, and if deadly chemicals were released on it, they would endanger every member of Congress and as many as 250,000 other federal employees.

This vulnerability could be easily eliminated by a federal law barring the transportation of hazardous materials through Washington and other locations at high risk of a terrorist attack. But the railroads have fought such legislation, which would increase their costs. If the Bush administration and Congress are serious about homeland security, they will get a chemical transportation law passed at once.

When antiterrorism experts try to predict what could happen in the next 9/11 attack, the dispersal of deadly chemicals is at or near the top of their list. An assault on a chemical plant or a rail car filled with chemicals would turn another unremarkable part of the infrastructure into a powerful instrument of death. An attack on a single rail tanker filled with chlorine could kill or seriously harm 100,000 people in less than an hour. Because of its location in the middle of official Washington, a chlorine leak from a rail tanker on the bridge at Second Street could endanger much of the federal government, including Congress and the Supreme Court.

Such an attack would be frighteningly simple to carry out. The 90-ton rail tanker cars that carry chlorine and other deadly chemicals are clearly labeled. Terrorists could wait for such a shipment to reach the bridge and then explode a truck bomb from below, causing the tanker to derail and crack open, releasing its deadly contents. On a recent visit, a member of the editorial board found virtually no barriers to such an attack. The bridge runs over a public street that has little traffic and plenty of space for a truck to lie in wait. We saw no sign that police or other security officers were protecting it.

Earlier this year, the City Council in Washington passed a law prohibiting the transport of ultrahazardous materials within 2.2 miles of the Capitol. But CSX, the railroad that operates the two main lines running through the district, has gone to court to challenge the law, which would add to its costs. It claims that city governments do not have the power to interfere with interstate rail shipping. A federal court has blocked the law from taking effect, though CSX has temporarily stopped shipping ultrahazardous materials on the rail line closest to the Capitol.

The Bush administration filed a brief supporting CSX in its challenge to Washington's law, and, incredibly, it has made no effort to do the job with federal regulation. When it comes to defending the nation from terrorism, the president and the Republican leadership in Congress have been unwilling to make large corporations, many of them big campaign donors, shoulder their share of the burden. Washington's residents and employees should not have to risk their lives to save CSX the cost of rerouting shipments of ultrahazardous materials.

There is a simple solution. Senator Joseph Biden, Democrat of Delaware, has introduced a bill aimed at keeping hazardous rail shipments out of areas like downtown Washington, where the terrorist threat is greatest. Any member of Congress who is not already supporting Mr. Biden's bill should take a short walk to Second Street and E Street SW for a reminder of why it is urgently needed.

WAR NEWS:

Gonzales Returns From Iraq Trip (WP)

By Dan Eggen, Washington Post Staff Writer

The Washington Post, July 5, 2005

ABOARD AIR FORCE TWO, July 4 -- Attorney General Alberto R. Gonzales returned to Washington Monday after seven-hour visit to Baghdad that was aimed at highlighting the efforts to build a functional criminal justice system in Iraq. The trip also served to illustrate the severe dangers and obstacles that remain.

Gonzales had to travel to Iraq under intense secrecy and heavy guard out of fear insurgents would target him. After arriving at Baghdad airport early Sunday, he was temporarily stranded there while waiting out a sandstorm that had grounded helicopters. Insurgents have made the nine-mile road into the city's center too dangerous to drive.

His presence in Baghdad was not revealed publicly until he was safely inside the Green Zone, the walled compound of former palaces and parks that serve as a shaky refuge for coalition forces and the Iraqi government.

There Gonzales met with Prime Minister Ibrahim Jafari and other senior Iraqi officials to discuss plans for a joint task force to investigate the kidnappings and other serious offenses that contributed to the chaos outside the U.S. compound.

Hours earlier, Egypt's highest-ranking diplomat in Iraq, Ihab Sherif, disappeared after being accosted by two carloads of gunmen as he drove in Baghdad.

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"What we need to do is develop the expertise within the Iraqi community to prosecute assassinations, kidnappings and other serious crimes," Gonzales said in an interview during the trip. "This should improve the situation."

Hundreds of people, including an estimated 200 foreigners, have been kidnapped since the Iraqi insurgency began two years ago.

"Challenges to the rule of law are certainly substantial," Army Lt. Gen. David Petraeus, who leads efforts to train and equip Iraqi security forces, remarked at the start of a meeting Sunday between Gonzales and military leaders at the U.S. Embassy in Baghdad.

Gonzales and other U.S. officials stressed during their brief visit that they believe a new anti-crime task force -- modeled loosely on the anti-terrorism and anti-gang task forces common in the United States -- will bring significant improvements. FBI agents and other U.S. investigators will help build evidence and identify suspects, but prosecutions would be left up to the new Iraqi courts, U.S. officials said.

The focus on a task force marks a shift in strategy by the Justice Department, which until now has attempted to keep U.S. prosecutors and FBI agents out of direct involvement in criminal cases involving Iraqis and other foreign citizens.

Gonzales and other officials sought to downplay any criticism of current Iraqi investigative efforts. "It's not that they can't do the job," said one senior Justice official, who declined to be identified discussing details of the negotiations between the two governments. "It's that the job is so difficult they need some assistance, and we can provide that."

The task force would likely include about 10 U.S. investigators, including representatives from the FBI, the U.S. Marshals Service and the Bureau of Alcohol, Tobacco, Firearms and Explosives.

Gonzales said after his closed meetings with Iraqis that there was "universal support" for the idea.

He also said that, despite continuing troubles, he found the trip to Baghdad "inspiring."

"These people are working under difficult and extreme circumstances, trying accomplish a very difficult task," he said, referring to Iraqi and U.S. investigators.

The Justice Department has about 100 prosecutors and staff and 400 contractors in Iraq, primarily helping to train judges, corrections officers and police officers. The FBI also has about 60 agents and analysts in Baghdad focused primarily on investigating insurgent attacks against U.S. forces.

Among those who traveled to Baghdad with Gonzales was Max Wood, the U.S. attorney for the Middle District of Georgia, who will lead Justice Department efforts in Iraq over the next year.

A special unit of Justice Department prosecutors and investigators in Baghdad is also helping Iraqi prosecutors compile evidence and build criminal cases against Saddam Hussein and other former members of the deposed government. Gonzales said he did not have any detailed discussions with Iraqi officials about plans for trials of Hussein and other suspects, saying such decisions are entirely up to the Iraqi government.

Attorney General Makes Quick Trip To Iraqi Capital (WP)

By Dan Eggen, Washington Post Staff Writer

The Washington Post, July 4, 2005

BAGHDAD, July 3 -- Even as his name echoes in Washington as one of the most likely Supreme Court candidates, Attorney General Alberto R. Gonzales landed in war-torn Iraq on Sunday for an unannounced visit with some of the hundreds of Justice Department employees stationed here.

In an interview with The Washington Post on his way to the Iraqi capital, Gonzales said he would continue to be directly involved in making recommendations to President Bush for a possible successor to retiring Justice Sandra Day O'Connor. But Gonzales, a close friend and longtime confidant to Bush, declined to comment on his own chances or interest in the post.

"There will be a group of people who will share their thoughts with the president about a nominee, and obviously I am part of those discussions," Gonzales said. "But I'm not going to talk about the details of those discussions or the recommendations or anything like that . . . I think the president is going to be deliberative in his decision."

Although Bush may "take some time" to make a final call, Gonzales added, the president is adamant that a new justice be confirmed by October. The interviews with The Post and the Associated Press en route to Baghdad were Gonzales's first comments about the high court since O'Connor resigned Friday.

The trip is the first to Iraq by the top U.S. law enforcement officer since the Iraq invasion more than two years ago. Gonzales, who took the post in February, nearly had to cancel the final leg of his trip because helicopters were grounded by sandstorms and the road from the Baghdad airport to the U.S.-controlled Green Zone remains very dangerous.

About 500 Justice Department employees are stationed in Iraq, including some 400 contractors. About 60 FBI agents and analysts also are stationed here.

In meetings with U.S. and Iraqi officials, Gonzales announced plans to form a joint U.S.-Iraq task force to focus on an increasing number of violent crimes, including beheadings and kidnappings, that continue to go unsolved.

"One of the most important ways to fight terrorism is to promote democracy, and one of the most important ways to promote democracy is the rule of law," Gonzales said in the interview.

Gonzales, who spent about seven hours in Baghdad, also met with the prime minister, Ibrahim Jafari, and the interior minister, Bayan Jabr.

Gonzales, 49, has worked with Bush since his days as Texas governor and came to Washington as Bush's White House counsel in 2001. After a bruising confirmation battle for the attorney general post in which Gonzales came under fire from Democrats over detainee abuses, a Gonzales nomination to the Supreme Court would likely face opposition from conservative Republicans who dislike his previous positions on such issues as abortion and affirmative action.

Some of Bush's allies in the Senate and elsewhere rebuked conservative critics of Gonzales as a potential nominee. Several activist groups have said Gonzales is not tough enough in his stands against abortion and other matters, but Sen. Orrin G. Hatch (R-Utah) called the allegations "pure bunk." Hatch, a senior Judiciary Committee member, told CBS's "Face the Nation" that Gonzales "is a terrific human being, a good lawyer" who would do well on the court.

"But some of the right-wing groups, of course, are trying to push the president into getting the most conservative person that they can get, and they don't consider Judge Gonzales to be as conservative as some of the others," Hatch said. "But, I can tell you, he's a person of integrity . . . and if he gets picked, I'm certainly going to support him."

Speaking on ABC's "This Week," Sen. John Cornyn (R-Tex.) said: "I know Al Gonzales, and he's a good man. And he's doing an outstanding job as attorney general. But at this point, we're all engaged in a lot of speculation as to who the nominee might be, and we may all be wrong." Cornyn has also been mentioned as a potential nominee.

Justice aides said Gonzales's unannounced trip to Iraq -- which was held under wraps for security reasons until he was safely in the Green Zone -- had been planned for some time and was not connected to the Supreme Court vacancy.

The department's Office of Legal Policy is the main branch within the Justice Department that is vetting and researching potential candidates for the high court. But preparations for a Supreme Court vacancy began at the start of Bush's first term, and Gonzales -- first as White House counsel and now as attorney general -- has been at the center of most of those discussions.

When asked whether he would accept the high court nomination if it was offered to him, Gonzales just smiled. "I love being attorney general," he said.

In a brief address to Justice and Defense department personnel, Gonzales said: "I'm here to tell you that you're not alone, that the American people are very much with you. I want you to know that we're thinking about you, we miss you and we look forward to the day that you can come home."

Staff writers Charles Babington and Susan Schmidt in Washington contributed to this report.

Attorney General Makes Surprise Baghdad Visit (NYT/REU)

By Reuters

The New York Times, July 4, 2005

BAGHDAD (Reuters) - U.S. Attorney General Alberto Gonzales made a surprise single-day visit to Baghdad on Sunday, meeting top officials and justice department employees.

A U.S. embassy spokesman said Gonzales met Prime Minister Ibrahim al-Jaafari and Iraq's justice and interior ministers during his previously unannounced flying visit.

The Department of Justice said Gonzales was also meeting some of the department's 400 staff in Iraq.

They include a large team of investigators that has been helping Iraq build a war crimes case against ousted leader Saddam Hussein and other members of his regime.

Department of Justice employees are also helping to train members of Iraq's judiciary.

Department spokeswoman Tasia Scolinos said Gonzales's meetings with members of the Iraqi government were ``to offer his support for what they are doing in terms of reconstituting or rebuilding the judicial system in Iraq."

``He's also meeting with the DOJ employees that are on the ground in Iraq just to express his support for what they're doing," Scolinos said.

The attorney general has been mentioned as a possible candidate to take the U.S. Supreme Court seat being vacated by Justice Sandra Day O'Connor, who announced her plans to retire last week.

Top Egypt Diplomat Seized In Iraq (CHIT)

By Aamer Madhani, Tribune Staff Reporter. Tribune News Services Contributed To This Report

Chicago Tribune, July 4, 2005

BAGHDAD -- Gunmen kidnapped Egypt's top diplomat in Iraq, authorities said Sunday, snatching the envoy in a busy commercial district in the capital.

The abduction came hours before a surprise visit to the capital by U.S. Atty. Gen. Alberto Gonzales, who met with Iraqi and American officials and U.S. troops.

About eight gunmen pistol-whipped the diplomat, Ihab al-Sherif, outside a bookstore in Baghdad's al-Jamaa neighborhood Saturday evening and then stuffed him into the trunk of a car, witnesses said.

Egyptian officials in Cairo confirmed Sunday that al-Sherif, 51, Egypt's chief of diplomatic mission in Iraq, was abducted.

Al-Sherif was widely expected to become Egypt's ambassador to Iraq when an embassy is established here.

Speaking to reporters, Egyptian Deputy Foreign Minister Hani Khallaf seemed to take a conciliatory tone with al-Sherif's captors.

"If the kidnappers want to send a certain message, then al-Sherif is the most trusted one to bring it to Egypt," Khallaf said. The Foreign Ministry said efforts were under way to discover who the captors were and to win the diplomat's release.

Witnesses said one of the gunmen shouted at passersby that al-Sherif was an "American" and was "pimping the Iraqi people."

"He was bleeding from the top of his head where one of the gunmen had hit him with the pistol," said Mustafa Adnan, 17, who peeked out of his nearby photography studio when he heard a scuffle starting. "He resisted the gunmen, but they were able to shove him into the trunk."

Minutes after the gunmen sped away with al-Sherif, witnesses stopped a U.S. convoy passing through the area to tell them about the incident.

The U.S. soldiers quickly cordoned off the area in an attempt to find al-Sherif, said Mohammed Amin, 45, who watched the scene unfold through the window of the mobile phone shop he manages. But the gunmen were long gone.

Egyptian officials in Cairo would not reveal details of the kidnapping.

In Baghdad, the diplomatic mission's officials sealed off their compound and instructed Iraqi police to turn away reporters after news of the kidnapping broke Sunday.

Al-Sherif arrived in Iraq a little more than a month ago to serve as Egypt's top diplomat in Iraq. In June, Egyptian officials also stated their intention to turn their mission into a full-fledged embassy, and that al-Sherif would likely be elevated to the title of ambassador.

In July 2004, another Egyptian diplomat, Mohammed Mamdouh Helmi Qutb, was kidnapped in Baghdad. His captors freed him after the Egyptian government reiterated that they had no plans to deploy troops to Iraq.

Also Sunday, the U.S. military announced the capture of a Tunisian national suspected of importing suicide bombers into Iraq on behalf of the terrorist organization Al Qaeda in Iraq.

Imad Nassar Ahmed Amarah, also known as Abu Hamza, purportedly specialized in shuttling foreign fighters into Iraq for suicide missions in the Mosul area, the U.S. military said.

It said it has collected evidence suggesting that more than 100 suicide bombers have gone through safe houses under Amarah's control.

Gonzales made his a surprise one-day visit to Baghdad to thank U.S. Justice Department officials and troops working in Iraq for their service. He also visited with several Iraqi officials, including Prime Minister Ibrahim al-Jaafari, according to the U.S. Embassy.

The unannounced visit, the latest of several by high-ranking Bush administration officials around past holidays, came as Gonzales' name has surfaced as a possible successor to Supreme Court Justice Sandra Day O'Connor, who on Friday announced her retirement.

In violence Sunday, three police officers and a civilian were killed when a car bomb exploded near a police patrol near the northern city of Kirkuk, officials said.

Two American troops were wounded as a suicide attacker struck near a checkpoint in Ramadi in western Iraq.

Gonzales: FBI To Aid Iraqi Investigations (AP)

By MARK SHERMAN, Associated Press

AP, July 4, 2005

BAGHDAD, Iraq -- The United States will help Iraq investigate the killing and kidnapping of government officials, Attorney General Alberto Gonzales says. The informal agreement was disclosed as Gonzales made an unannounced and tightly guarded, six-hour visit Sunday to Baghdad. He met with Iraq's prime minister, Ibrahim al-Jaafari, as well as police and judicial officials.

Advertisement

Word of the arrangement followed the abduction on Saturday night of Egypt's top envoy to Iraq.

"There are still some high-level crimes, murders and kidnappings that are not being prosecuted. One reason is that the evidence is not available," Gonzales said in an interview en route back to Washington.

While details are still to be worked out, investigators from the FBI and other U.S. law enforcement agencies would join their Iraqi counterparts at crime scenes and in other aspects of the probes, aides to Gonzales said.

The attorney general's visit took place under extraordinary security precautions, including a news blackout until Gonzales was safely inside the heavily fortified Green Zone where Iraqi and U.S. officials work.

The visit was almost scrapped because bad weather temporarily grounded helicopters that were to take Gonzales and his entourage from the Baghdad airport to the city. Driving the eight miles from the airport -- a stretch that risks bombings and other attacks -- was considered too dangerous.

Gonzales praised Iraq's commitment to democracy in the face of sustained deadly attacks by insurgents and also used the trip to show support for U.S. troops in Iraq.

"As we approach the Fourth of July weekend, I suspect there's some of you that are here that sometimes feel lonely and you sometimes wonder whether you are alone," Gonzales told American soldiers at the U.S. Embassy. "And I'm here to tell you that you are not alone, that the American people are very much with you."

The attorney general condemned abuses by American soldiers at the Abu Ghraib prison outside Baghdad, blaming them on a few individuals, not official U.S. policy.

As White House counsel in President Bush's first term, Gonzales helped develop the administration's legal strategy in the fight against terror.

He wrote a memo in 2002 contending that Bush had the right to waive anti-torture laws and international treaties that provide protections to prisoners of war. Critics have said the memo helped lead to abuses of the type seen at Abu Ghraib, an allegation he has denied.

A few senior Justice Department officials accompanied Gonzales, including Max Wood, the U.S. attorney in Macon, Ga., who is beginning a posting as the senior U.S. law enforcement official in Iraq.

More than 400 Justice Department employees and contractors are working to train Iraqi judges, prosecutors, police and prison guards. A separate unit is working with the Iraqi tribunal preparing to try former President Saddam Hussein and others.

Some five dozen FBI agents and analysts also are on assignment in Iraq investigating roadside bombings and other attacks against U.S.-led coalition forces.

Top Egyptian Diplomat In Baghdad Is Kidnapped (NYT)

By Edward Wong

The New York Times, July 4, 2005

BAGHDAD, Iraq, July 3 - The top Egyptian diplomat in Iraq was kidnapped late Saturday by gunmen in western Baghdad, Iraqi officials said Sunday. It is the first abduction of the head of a diplomatic mission here, at a time when the American and Iraqi governments are vigorously pressing Arab nations to send ambassadors to Iraq.

Word of the kidnapping of the diplomat, Ihab al-Sharif, came on a day of at least one deadly car bombing and other insurgent mayhem, as well as an unannounced visit to Baghdad by Alberto R. Gonzales, the United States attorney general, who has been mentioned as a possible nominee for Supreme Court justice.

American and Iraqi officials declined to specify when Mr. Gonzales had planned the trip or why, for a visit that lasted only six hours. But under his leadership, the Justice Department is playing an important role in the coming trials of Saddam Hussein and other officials of the former government. Mr. Sharif, who arrived here just a month ago, was seized as he was driving alone in his white Jeep Cherokee through the Jamia neighborhood of Baghdad, where he lived, an Interior Ministry official said. No group claimed responsibility for abducting him.

Several Egyptians have been kidnapped and released in Baghdad in the last year, including one lower-ranking diplomat, as part of a rash of kidnappings of foreigners and Iraqis that in many instances are done for cash ransoms.

Mr. Sharif has been designated to become Egypt's ambassador, an appointment that would create a diplomatic bond between Iraq and one of the Arab world's most influential countries, and help bestow legitimacy on the Iraqi government. The kidnappers may have been trying to send a warning to Egypt and other Arab nations that are considering strengthening diplomatic ties.

The Egyptian Foreign Ministry said it "is hoping to discover the circumstances surrounding the incident and secure the safety of the Egyptian diplomat assigned to strengthen bilateral relations between the two sisterly nations."

The Iraqi Islamic Party, a prominent Sunni Arab political group, condemned the abduction and demanded the Egyptian's release. The insurgency here is largely led by Sunni Arabs, and the Iraqi Islamic Party is believed to have some influence among the fighters.

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Less than two weeks ago, Secretary of State Condoleezza Rice publicly urged Iraq's Arab neighbors to send ambassadors to Iraq. Besides Egypt, only Jordan has committed to doing so. The White House is hoping stronger support by those countries, where a majority of Arabs are Sunnis, will help undercut the insurgency against the Iraqi government, which is dominated by Shiites.

But Sunni leaders and diplomats in the Middle East have expressed concerns about both security and Iranian Shiite influence here. Arab leaders are also keenly aware that the American-led occupation of Iraq is unpopular in their own countries.

Three witnesses to the kidnapping were quoted by The Associated Press as saying about eight gunmen had surrounded Mr. Sharif on Rabie Street as he stopped to buy a newspaper. One gunman struck him on the head with a pistol butt and called him an "American spy," the witnesses were quoted as saying, and the assailants shoved him into a car trunk.

In violence on Sunday, a car bomb exploded beside a police patrol in the northern city of Kirkuk, killing two officers and wounding one, said Maj. Imad Abdullah of the Kirkuk police.

Gunmen opened fire on a police commander's car in Baghdad, killing his driver. Gunmen also killed a Public Works Ministry employee on Sunday, and killed a Shiite cleric named Adil al-Janabi and one of his bodyguards late on Saturday.

The Baghdad visit by Mr. Gonzales coincided with speculation that he may be nominated as a replacement for Justice Sandra Day O'Connor, who announced her resignation on Friday. His trip here to the heavily fortified American Embassy was a closely guarded secret, and reporters based here were not invited to meet with him.

He released a written statement that said, "I am proud of the people of the Department of Justice who are contributing to this effort by helping Iraqis advance the rule of law."

More than 400 Justice Department employees and contractors work in Iraq. They have been assigned to help set up the court system, conduct criminal investigations and advise the Iraqi tribunal overseeing the trials of Mr. Hussein and his aides.

Accompanying Mr. Gonzales were several American officials, including Max Wood, a United States attorney in Georgia who has been designated as the Justice Department's attaché to the American Embassy here. Willie Hulon, the head of the F.B.I.'s counterterrorism division, also arrived with Mr. Gonzales.

Mr. Gonzales's critics have accused him, in his previous job as White House counsel, of playing an important role in narrowing the legal definition of what constitutes torture, which ultimately contributed to prisoner abuse in Abu Ghraib and elsewhere. He also wrote a memorandum in January 2002 to the White House that said the Geneva Conventions did not apply to the war in Afghanistan and that described as "quaint" and "obsolete" several measures in the conventions.

At a regularly scheduled news conference in Baghdad, a spokesman for the Iraqi government, Laith Kubba, acknowledged Sunday that some Iraqi security forces had been responsible for torturing and abusing prisoners. Responding to a question about a report of those abuses in The Observer of London, he added that the government did not approve of such actions and was investigating reported incidents.

Mr. Kubba also criticized American troops for shooting and killing unarmed Iraqi civilians, citing the recent deaths of Yasser Salihee, a reporter for Knight Ridder, and Muhammad al-Sumaidaie, a cousin of Iraq's ambassador to the United Nations, Samir Sumaidaie. The American military has said it is investigating both incidents.

On Sunday, the mother of Muhammad al-Sumaidaie gave an account in a telephone interview with The New York Times of how, she said, American marines had entered her home on June 25 and killed her son.

Shortly after 10 a.m., marines entered the family home near the western town of Haditha to search for weapons, the mother, Sanaa Hashim Abdul Aziz, said. Muhammad, 21, an engineering student, took the marines into a bedroom to show them a Kalashnikov. "A few minutes later, we heard a gunshot, the sound of a single bullet being fired," Ms. Abdul Aziz said, her voice breaking.

The marines then took Muhammad's brother, Ali, 17, into the room. Ali "saw his brother lying in a pool of his blood," she said. "Ali was shocked to see his brother like that, and the marines asked him to then pick up the weapon that was lying on the ground next to his brother. He refused, and they started beating and interrogating him."

The marines left with the Kalashnikov and told neighbors they had killed a terrorist, Ms. Abdul Aziz said. The bullet that killed Muhammad had passed through his jaw, she added. Iraqi soldiers were standing outside the house but the marines did not let them enter, she said.

Samir Sumaidaie, the ambassador to the United Nations, said in an e-mail interview that he had "no idea whether the investigation is going to be serious or a whitewash," but that he would insist on a "credible, speedy and high-level inquiry that can be trusted to get at the truth."

Gonzales Goes To Iraq To Pump Up The Troops (NYDN)

By Michael McAuliff

New York Daily News, July 4, 2005

While Conservatives were set to go to war against a possible nomination of Attorney General Alberto Gonzales to the Supreme Court, the nation's top lawman jetted off to the real war in Iraq yesterday.

After landing in Baghdad under tight security, Gonzales boosted Iraq's push for democracy and gave a pep talk to U.S. troops who were fighting while their families back home were preparing to celebrate Independence Day.

"As we approach the Fourth of July weekend, I suspect there's some of you that are here that sometimes feel lonely and you sometimes wonder whether you are alone," he told G.I.s. "I'm here to tell you that you are not alone, that the American people are very much with you."

Gonzales said his trip aimed to show Iraqis the U.S. commitment to their new government. "We are doing a lot to promote democracy and the rule of law," he said.

More than 400 Justice Department workers are in Iraq to train judges and law enforcement forces.

Iraqi Insurgents Seize Top Egyptian Diplomat (KRT)

By Leila Fadel, Knight Ridder Newspapers

Knight Ridder Newspapers, July 4, 2005

BAGHDAD, Iraq -- The Egyptian ambassador-designate Ihab al-Sherif, the first diplomat from an Arab nation to Iraq, was kidnapped from his upscale Mansour neighborhood late Saturday.

Sherif had been in the country only a few weeks after Egypt agreed to upgrade its mission to a full embassy complete with an ambassador. Sherif is the highest-ranking foreign diplomat to be kidnapped in Iraq. Another Egyptian diplomat was kidnapped briefly last year and released.

The seizure reflects an attempt by insurgents to thwart the fledging democracy's efforts to normalize relations with its neighbors.

The Egyptian embassy would not comment on Sherif's kidnapping and did not release any details to Iraq's ministry of the interior in Baghdad.

Egypt severed its diplomatic ties with Iraq after Saddam Hussein's army invaded Kuwait in 1990.

Meanwhile, as U.S. Attorney General Alberto Gonzales arrived in Baghdad on a surprise trip to visit with Justice Department personnel assigned to Iraq, new concerns were expressed over the killing of civilians by U.S. troops.

Laith Kuba, the spokesman for Prime Minister Ibrahim al Jaafari, criticized the American military following the deaths of Iraqi civilians in recent weeks.

The killings also were raised at a meeting of the Iraqi Parliament on Sunday during a divided debate on Iraqi sovereignty.

Many members were upset that Jaafari would not set a timetable for American troops to withdraw. Mahmoud Otthman, a Kurdish legislator, said at least 10 Iraqis have been killed in the last week by American soldiers.

"When sovereignty was transferred there was an agreement about foreign troops in Iraq," said Kuba, the president's spokesman. "There have been many recommendations, but these regulations have not been abided by. We are not going to take these incidents lightly."

Three journalists, including Knight Ridder's special correspondent Yasser Salihee, were shot by American soldiers. A cousin of Iraqi U.N. ambassador Samir al Sumaidai also was killed in Haditha during an offensive in the area.

Their deaths are under investigation, according to U.S. military officials in Baghdad.

Gonzales, who wrote the 2002 memo that eased restrictions on the use of torture of prisoners captured in Iraq and Afghanistan, spent the day meeting with Iraqi officials, including Jaafari, and U.S. military personnel. The Department of Justice has nearly 400 employees and contractors working in Iraq, assisting on legal and security issues.

Accompanying Gonzales was FBI Assistant Director Willie Hulon, who directs the FBI's counterterrorism division.

Over the past two years the U.S. military has continually refused to release the number of Iraqi civilians that have been killed since the war began.

Iraq Body Count, a London based Web site that tracks deaths reported by the media or by officials, estimates the death toll of civilians since March 2003 between 22,787 and 25,814.

Many of those deaths came in the initial invasion and as the military has sought to control the insurgency. In addition, some deaths occur while soldiers are on patrol or at the numerous checkpoints designed to stop suicide bombers and the deployment of insurgents as well as the movement of weapons.

Human Rights Watch and the Committee to Protect Journalists have recommended that temporary and permanent checkpoints be marked more clearly to warn drivers of their presence. Examples include using spike strips, temporary speed bumps, flashing sirens and signs in English and Arabic.

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"Until these investigations are complete it's premature to know what, if anything needs to happen," said Lt. Col. Steve Boylan, a top U.S. military spokesman in Iraq. "Recommendations will be made based on the investigation. But until that's completed it's just speculation and guesswork. We just don't know at this point."

The International Federation of Journalists called for independent investigations of the deaths of at least 17 journalists who have been killed by U.S. troops since the war began, the group said in a release issued Saturday.

US Attorney General Visits Iraq (AFP-Y2)

AFP, July 5, 2005

US Attorney General Alberto Gonzales arrived in Baghdad on his first trip to Iraq to meet with US and Iraqi officials, an embassy statement said.

"We recognise and thank the brave American men and women who are sacrificing to promote democracy in Iraq and to defend our freedom," he said upon arrival, according to the statement.

He was accompanied by Max Wood, the embassy's newly-appointed justice attache, and Willie Hulon, director of the Federal Bureau of Investigation's counter-terrorism division, said the statement.

Former attorney general John Ashcroft never visited Iraq.

"I am proud of the people of the Department of Justice who are contributing to this effort by helping Iraqis advance the rule of law," Gonzales said.

The US Justice Department has more than 400 employees and contractor personnel in Iraq helping the transitional government strengthen its law enforcement and justice system infrastructure.

The department also set up in May 2004 the Regime Crimes Liaison Office to support the Iraqi Special Tribunal, the court set up by the former US-led occupation authority to try ousted dictator Saddam Hussein and members of his regime.

Bush Visits Morgantown (CSJ)

By April Kaull

Charleston (WV) State Journal, July 5, 2005

President Bush visited West Virginia Monday for his third July Fourth visit in four years, and used the trip to ask Americans to stay the course in Iraq.

"The terrorists can kill the innocent, but they cannot stop the advance of freedom," the president told a cheering crowd at West Virginia University in Morgantown.

"Our strategy can be summed up this way: As Iraqis stand up, we will stand down, and then our troops can come home to a proud and grateful nation," he said to thousands at Woodburn Circle.

The president spoke for about 20 minutes, mostly about the war in Iraq and the fight against terrorism. He drew parallels between America's War for Independence, which lasted eight years, and the struggle to establish democracy in Iraq.

Our Founding Fathers faced terrible hardships, Bush said, but they kept their resolve and created a nation of liberty.

Two centuries later, "the Declaration of Independence has remained a revolutionary document."

Bush thanked West Virginians for their patriotism. "Coming to West Virginia is becoming a Fourth of July tradition for me," he said. "And every time I come here, I appreciate the beauty of West Virginia, and I appreciate being with decent, hardworking, patriotic Americans who call the Mountain State home.

The president asked Americans to continue to support the troops, by flying a flag at home, helping a neighbor who has a family member in the military or visiting a Defense Department Web site.

Bush had special praise for two West Virginia soldiers:

Capt. Jeff Setzer, a Charleston police officer and a battery commander for the 201st Field Artillery Unit of the West Virginia National Guard. Setzer was in Baghdad during the elections in January, Bush said.

1st Lt. James McCormick of Scott Depot, who served 13 months in Iraq as part of the 518th Combat Gun Truck Company. McCormick earned the Bronze Star and two Purple Hearts during his tour. But Bush said McCormick wrote him a letter last week that said he would return to Iraq and continue the mission if needed.

"The men and women of America's Armed Forces are bringing great honor to the uniform they wear and to the nation they serve," Bush said. "And in this time of testing, our troops, whether they be stationed here or abroad, can know that the American people stand behind them all the way."

Air Force One landed at Morgantown's airport about 9:30 a.m. Monday, where he greeted U.S. Rep. Shelley Moore Capito, Mountaineers football coach Rich Rodriguez and other officials. He then was taken by motorcade to Woodburn Circle.

Bush's previous July Fourth visits were to Ripley in 2002 and Charleston in 2004.

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Bush Brings His Message To W.Va. (WI)

By Joselyn King

Wheeling Intelligencer, July 5, 2005

MORGANTOWN, W.Va. - It appears President George W. Bush now equates the Fourth of July with democracy, freedom and West Virginia. Bush made his third Independence Day trip to the Mountain State Monday, addressing a large gathering outside outside West Virginia University's Woodburn Hall in Morgantown. On July 4, 2002, Bush spoke in Ripley, W.Va., and last year he made his Independence Day speech in Charleston.

"Coming to West Virginia is becoming a Fourth of July tradition for me," Bush told the crowd in Morgantown. "Every time I come here, I appreciate the beauty of West Virginia - and I appreciate being with decent, hardworking, patriotic Americans who call the Mountain State home."

Bush spoke about freedom and democracy Monday, and he urged Americans to support those troops currently fighting to bring these values to the Middle East. He reiterated his oft-used quote, "We will bring our enemies to justice, or bring justice to our enemies."

"Our enemies in this new war are men who celebrate murder, incite suicide and thirst for absolute power," Bush said. "They seek to spread their ideology of tyranny and oppression across the world. They seek to turn the Middle East into a haven for terror. They seek to drive America out of the region. These terrorists will not be stopped by negotiations, or concessions, or appeals to reason.

"In this war, there is only one option, and that is victory."

The U.S. strategy in the Middle East can be summed up this way, Bush added. "As Iraqis stand up, we will stand down, and then our troops can come home to a proud and grateful nation," he said.

Bush told the crowd that many West Virginian soldiers were "serving with skill and honor in the war on terrorism."

"Some of America's finest men and women have given their lives in the war on terror, and we remember them on Independence Day," he said. "We pray for the families who have lost a loved one in freedom's cause. And we know that the best way to honor their sacrifice is to complete the mission, so we will stay until the fight is won."

U.S. Rep. Shelly Moore-Capito, R-W.Va., introduced Bush in Morgantown.

"When the president wants to celebrate America and see what makes America great, he comes to West Virginia," she said. "He came into the presidency a Texan, and he has become a Mountaineer. Like you and me, he will always be free.

"We are proud to have him home where he belongs."

After the speech, Capito said Bush identifies with West Virginians.

"He loves West Virginia," she said. "He always gets a great reception here, and he feels confident with the people in West Virginia.

"He also doesn't want to travel too far from Washington on Independence Day. He likes to be in a spot where his message will be received well, and this is a great thing that this is in West Virginia."

West Virginia Republican Party Chairman Robin Capehart of Wheeling added that the state's residents share Bush's values of spreading democracy.

"They love freedom - just like he does," Capehart said. He predicts Bush will return to West Virginia for Independence Day next year, and that he will make a number of visits to the state before his term ends.

Capehart, though, denied that Capito's appearance alongside the president was an indication that next year she will seek the Senate seat presently held by Democrat Robert C. Byrd.

"They have a very good relationship," Capehart said of Bush and Capito. "She is a big supporter of the president, and anytime you see him in the state you will see her with him."

Capito said Monday she will make no decision on her future political plans until this fall.

Bush Compares Challenges In Iraq To First Independence Day (NYT)

By Anne E. Kornblut

The New York Times, July 5, 2005

MORGANTOWN, W.Va., July 4 - The challenges that America faces in Iraq, President Bush said at an outdoor rally here on Monday, are like those that confronted the country on its first Independence Day.

"On July 4, 1776, more than five years of the Revolutionary War still lay ahead," Mr. Bush said.

"From the battle of New York, to the winter at Valley Forge, to the victory at Yorktown, our forefathers faced terrible losses and hardships. Yet they kept their resolve," he said. "They kept their faith in a future of liberty, and with their hard-won victory, we guaranteed a home for the Declaration's proposition that all are created equal."

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Reprising his prime-time speech on Iraq the week before, President Bush declared an exit strategy in place.

"Our strategy can be summed up this way: As Iraqis stand up, we will stand down, and then our troops can come home to a proud and grateful nation," Mr. Bush said.

But for now, he said, they are fighting for a revolution as meaningful - and inevitable - as the one being waged 229 years ago. "Our men and women in uniform are defending America against the threats of the 21st century," he said. "The war we are fighting came to our shores on September the 11th, 2001. After that day, I made a pledge to the American people - we will not wait to be attacked again."

It was the third time in recent years that Mr. Bush had visited West Virginia on the July 4 holiday, drawn to its nearness and increasingly Republican electorate at a time when many in the state are also active in the military. Republicans, having won the state's five electoral votes in the last two presidential elections, are now eyeing the possibility that Representative Shelley Moore Capito, a Republican often targeted by Democrats, will challenge the revered Democratic senator from the state, Robert C. Byrd, who is up for re-election in 2006. Ms. Capito and her father, Archie A. Moore, Jr., the former governor, joined Mr. Bush onstage.

But after a weekend of intense focus on the Supreme Court vacancy left by Justice Sandra Day O'Connor and amid preparations for his attendance at the Group of 8 summit in Europe early Tuesday, President Bush avoided politics and kept to his patriotic message.

Karl Rove, his senior adviser, rode the flight from Washington to West Virginia but did not respond to requests for an interview over his reported role in a controversy that threatens to put two reporters in jail. Newsweek had reported over the weekend that Mr. Rove had talked to Matthew Cooper of Time magazine for an article about Valerie Plame, a C.I.A. operative whose name was illegally disclosed by an unidentified White House official in a case now under investigation.

The Newsweek article did not identify Mr. Rove as that source, but Bush critics have been eager to tie him to the leak. Outside the presidential rally in Morgantown, one protester made reference to the case, holding a sign that read: "Jail Karl Rove."

Several dozen other protesters demonstrated against the war in Iraq, chanting, "Please support our troops, not the president!"

But they were overwhelmed by Bush supporters. About 4,300 tickets to the event were given out by the Greater Morgantown Convention and Visitors' Bureau, according to its executive director, Stacey Brodak, who said the occasion brought great pride to the small college town just across the Pennsylvania border. The crowd, a sea of patriotic gear and military uniforms, gathered inside the campus green at West Virginia University for hours before the president arrived.

One local Bush supporter, Steve Smith, 57, a property manager, said he had left the house at 6 a.m. to get a good view. Like many in the crowd, Mr. Smith was wearing a vivid T-shirt that declared him "100 percent red-blooded American"; he described President Bush as "our greatest president ever."

Becky Dziekan, 52, said she had driven five hours from her home in Dayton, Ohio, to hear the president speak in the town where two of her daughters also live. "I wanted him to know he's not alone," said Ms. Dziekan, a Republican who voted for Mr. Bush.

But she stopped short of raving about his remarks. "For a celebration, it was sufficient. I mean, we're going to go have a picnic," she said. "I wouldn't want it for a State of the Union speech."

Bush Claims 'Comprehensive Strategy' For Iraq (LAT)

By Edwin Chen

The Los Angeles Times, July 5, 2005

MORGANTOWN, W.Va. — President Bush pledged Monday to keep U.S. forces in Iraq "until the fight is won," telling a Fourth of July crowd that he has "a comprehensive strategy" to win the struggle in Iraq and prevail in the global war on terrorism.

Making his third Independence Day visit to West Virginia in four years, the president also asked Americans to remain patient, saying: "We know that the freedom we defend is meant for all men and women, and for all times. And we know that when the work is hard, the proper response is not retreat; it is courage."

In recent weeks Bush has been under growing pressure, including from some Republican lawmakers, to articulate an exit strategy -- what the White House prefers to call "a strategy for success" -- for Iraq. In his remarks here, however, Bush did not go beyond the points he made last Tuesday in a nationally televised prime-time address from Fort Bragg, N.C.

"In this time of testing, our troops, whether they be stationed here or abroad, can know that the American people stand behind them all the way," Bush told several thousand ticket-holders on a sun-drenched, grassy quad at the downtown campus of West Virginia University.

"Some of America's finest men and women have given their lives in the war on terror, and we remember them on Independence Day. We pray for the families who have lost a loved one in freedom's cause. And we know that the best way to

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honor their sacrifice is to complete the mission, so we will stay until the fight is won," he declared, slamming his right fist on the lectern for emphasis.

As he spoke, the shouts of a cluster of demonstrators could be heard, although their words were difficult to discern.

White House aides were hard-pressed to explain Bush's penchant for visiting the Mountaineer State on Independence Day. "It's a great place to go for the Fourth of July," said deputy press secretary Dana Perino.

In his remarks, Bush noted that it had become "a tradition" for him to visit the state on July 4. West Virginia is historically a Democratic state, but in last November's presidential election, its voters backed Bush over Sen. John F. Kerry, D-Mass., by 56 percent to 43 percent.

In his remarks, the president again linked Iraq to the Sept. 11, 2001, terrorist attacks, and explained anew the Bush doctrine of taking pre-emptive strikes against terrorists and their allies "so we don't have to face them here at home."

Apparently referring to the growing levels of insurgent violence in Iraq, Bush called Iraq "the latest battlefield in the war of terror" and said: "Our work there is difficult and dangerous because terrorists from across the region are converging on Iraq to fight the rise of democracy."

He acknowledged that the "images of cruelty and suffering we see on television" are "difficult for our compassionate nation to watch.

"Yet the terrorist violence has not brought them any closer to achieving their strategic objectives," he said. "The terrorists tried to intimidate the Iraqi Governing Council, and they failed. They tried to delay the transfer of sovereignty to Iraq, and they failed. They tried to stop the free Iraqi elections, and they failed. They continue to kill in the hope that they will break the resolve of the American people, but they will fail."

The president was back at the White House by lunchtime. He leaves Tuesday for Denmark and then Scotland, where he will attend the G8 meeting of the leaders of the world's eight leading industrialized nations.

Bush Speech Touches On History Of Freedom (WT)

By Joseph Curl

The Washington Times, July 5, 2005

President Bush yesterday used Independence Day to thank U.S. armed forces fighting in Iraq and Afghanistan, as he urged Americans to keep the resolve their forefathers have exhibited throughout history.

"During that hot summer in Philadelphia more than 200 years ago, from our desperate fight for independence to the darkest days of a civil war, to the hard-fought battles of the 20th century, there were many chances to lose our heart, our nerve, or our way," the president said in a speech at West Virginia University.

"But Americans have always held firm, because we have always believed in certain truths: We know that the freedom we defend is meant for all men and women, and for all times. And we know that when the work is hard, the proper response is not retreat; it is courage," he said.

Mr. Bush, with no tie and with his sleeves rolled up, pointed out that establishing a democracy from scratch -- which early Americans did and which Iraqis are attempting now -- is not easy.

"On July 4, 1776, more than five years of the Revolutionary War still lay ahead. From the battle of New York to the winter at Valley Forge, to the victory at Yorktown, our forefathers faced terrible losses and hardships. Yet, they kept their resolve," the president said.

Mr. Bush said he is troubled by the "images of cruelty and suffering we see on television," but added that terrorists and insurgents in Iraq have utterly failed to make progress on their goal of stopping freedom and democracy in the Middle East nation.

"The terrorists tried to intimidate the Iraqi Governing Council, and they failed," he said. "They tried to delay the transfer of sovereignty to Iraq, and they failed. They tried to stop the free Iraqi elections, and they failed. They continue to kill in the hope that they will break the resolve of the American people, but they will fail."

Mr. Bush said Iraqis are fighting alongside Americans, telling the cheering crowd, "As Iraqis stand up, we will stand down, and then our troops can come home to a proud and grateful nation."

"We will stay until the fight is won," he said, adding, "In this war, there's only one option, and that is victory."

Mr. Bush urged Americans to use this Fourth of July to "find a way to thank the men and women defending our freedom."

"At this time, when we celebrate our freedom, our troops have got to understand that the American people support them all the way. And on Independence Day, we remember that we also have essential responsibilities here at home, the unfinished work of American freedom."

Mr. Bush has made an Independence Day visit to West Virginia a tradition of sorts. This was his third time since he took office in 2001.

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Several thousand students, veterans, civic leaders and members of the military packed West Virginia University's downtown campus for the ticketed event. A small group of protesters near the speech chanted "Bush lied, people died," with some waving banners calling for the president's impeachment.

Bush Defends Iraq Policy (PPG)

By James O'Toole

Pittsburgh Post-Gazette, July 5, 2005

MORGANTOWN, W.Va. -- Before a cheering West Virginia University audience, President Bush melded a salute to the troops with a defense of his war policies; a celebration of American independence with promises of democracy to come in the Middle East.

"On July 4, 1776, more than five years of the Revolutionary War still lay ahead," Bush said during yesterday's appearance. "From the battle of New York to the winter at Valley Forge, to the victory at Yorktown, our forefathers faced terrible losses and hardships. Yet they kept their resolve."

Invoking the memory of Sept. 11, Bush said, "We're taking the fight to the terrorists abroad so we do not have to face them here at home.

"Iraq is the latest battlefield in the war on terror," Bush said later in his 20-minute address. "Our work there is difficult and dangerous because terrorists from across the region are converging on Iraq to fight the rise of democracy. ... Yet, the terrorist violence has not brought them any closer to achieving their strategic objectives. They continue to kill in the hope that they will break the resolve of the American people, but they will fail.

"The lesson of this experience is clear: The terrorists can kill the innocent, but they cannot stop the advance of freedom."

The tough tone of the holiday speech echoed the rhetoric of Bush's address last Tuesday in Fort Bragg, N.C., in which he again sought to explain and rally support for his strategy in Iraq.

Alluding to efforts to train the armed forces of the Iraqi government at a time when U.S. deaths there have climbed to more than 1,700, Bush said, "Our strategy can be summed up this way: as Iraqis stand up, we will stand down, and our troops can come home to a proud and grateful nation."

Under a hazy blue sky, the president spoke before a crowd of several thousand, many of whom had lined up hours before to cram themselves into Woodburn Circle, a grassy plaza surrounded by some of the oldest buildings on the university campus. He was flanked on the stage by servicemen and veterans from all branches of the service, while a National Guard band played the same patriotic medleys heard in parks and town squares across the country yesterday.

While public opinion surveys show continued erosion in support for his administration's conduct of the war, Bush urged the crowd to resolve to make some gesture to support the troops fighting abroad, such as sending a letter or seeking out a serviceman or woman's family.

"We pray for the families who have lost a loved one in freedom's cause. And we know that the best way to honor their sacrifice is to complete the mission, so we will stay until the fight is won," he said.

Reciting a litany of trials from American history, Bush said, "There were many chances to lose our heart, our nerve, or our way. But Americans have always held firm, because we have always believed in certain truths: We know that the freedom we defend is meant for all men and women, and for all times. And we know that when the work is hard, the proper response is not retreat; it is courage."

On a steamy morning, the crowd repeatedly treated Bush to rounds of applause -- a contrast to the more somber mood of the president's Fort Bragg audience last week. The high-spirited throng came ready to voice its approval.

Even before the president touched down, they offered cheers for technicians' sound checks, and a wave of anticipatory applause when an aide affixed the presidential seal to the lectern.

The presidential message got a tougher reception from scores of protesters corralled more than 100 yards away from Woodburn Circle. As Bush spoke, their chants of opposition were barely audible.

Ruth Kershner, a member of the WVU faculty, carried a sign that read, "[U.S.] Sen. [Robert] Byrd was right about you," an allusion to the veteran Democratic lawmaker's anti-war stance and his criticisms of Bush's rationale for the Iraq War.

As fellow protesters chanted, "Bush lies, thousands die," Rachel Spero, a junior psychology major, held aloft a sign that read, "War Begins with Dubya."

"I just thought on the Fourth of July, of all days, it was important to come out and make your political views known," Spero said.

As the audience streamed away after Bush's speech, supporters of the president shouted rebuttals at the demonstrators. Across University Avenue, the two groups competed in a generally peaceful shouting match.

Bush has spent three of the last four Independence Days in West Virginia.

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As he spoke yesterday, he looked across the campus toward Oglebay Plaza, where a mast is enshrined from the U.S.S. West Virginia, the battleship that rests on the bottom of Pearl Harbor.

Bush was in Charleston for last year's Independence Day; in Ripley, W.Va., on July 4, 2002.

The state rewarded Bush with its electoral votes in each of his elections. To that end, he was here nine times during last year's election season on his way to a comfortable victory in a traditionally Democratic state.

Bush was introduced yesterday by U.S. Rep. Shelley Moore Capito, R-W.Va., who proclaimed that Bush's frequent visits had transformed him from a Texan to a Mountaineer.

His last visit to the state was in the spring, when he came to promote his stalled proposal for changes in the Social Security system.

Among the other dignitaries on stage with Capito was her father, the colorful former Gov. Arch Moore, resplendent in a vivid green sport coat.

The spotlight on Capito came as speculation continues that she will challenge Byrd, the state's long-serving Democrat, in next year's election. Byrd, 87, who is in his eighth term, has not yet said whether he will seek another term, but his bid for re-election is widely anticipated.

Capito, the only Republican in the state's congressional delegation, also has held off on a formal announcement of her 2006 plans but is considered the most formidable potential challenger to the Appropriations Committee powerhouse.

Bush Urges U.S. Resolve On Iraq Despite Bloodshed (REU-Y2)

By Caren Bohan

Reuters, July 5, 2005

President Bush urged Americans on Monday to show resolve in the Iraq war despite the bloodshed, as he appealed for patriotic spirit on Independence Day.

Facing waning support for the Iraq war, Bush in a speech in West Virginia revived memories of the Sept. 11, 2001, attacks on America and said a retreat in Iraq would embolden militants who want to "break the resolve of the American people."

"Our work there is difficult and dangerous because terrorists from across the region are converging on Iraq to fight the rise of democracy," he said. But he added, "we will stay until the fight is won."

Bush also invoked the Revolutionary War as he cast the Iraq war as a struggle to help Iraqis achieve freedom.

"We know this great ideal of human freedom is entrusted to us in a special way, and the ideal of liberty is worth defending," he said.

Bush used a prime-time address at the Fort Bragg, North Carolina, Army base last week to try to ease growing concerns about the war that have pushed his approval ratings to the lowest levels of his presidency.

In the Fort Bragg address he rejected calls by some Democrats and even a few Republicans in Congress to set a timetable for the withdrawal of U.S. troops from Iraq.

His was criticized by many Democrats for mentioning Sept. 11 five times in his speech, even though no connection between the government of former Iraqi President Saddam Hussein and the Sept. 11 attacks was ever established.

The White House now calls Iraq the central front in the war on terrorism in part because the insurgency is led by Jordanian militant Abu Musab al-Zarqawi, who has sworn allegiance to al Qaeda leader Osama bin Laden.

On Monday Bush underscored themes from the Fort Bragg speech, saying his strategy was to train Iraqis to take over more of their own security.

"As Iraqis stand up, we will stand down," he said.

More than 1,700 Americans have been killed in the Iraq war and thousands have been wounded.

Bush said the celebration of the 229th anniversary of the signing of the Declaration of Independence was a reminder of the need to persevere despite difficulties.

He said that during Revolutionary War and conflicts that America faced in the following two centuries, "there were many chances to lose our heart, our nerve or our way."

"But Americans have always held firm ... We know that when the work is hard, the proper response is not retreat, it is courage."

Bush Urges Resolve In The War In Iraq (AP-Y2)

By Terence Hunt, Ap White House Correspondent

AP2, July 5, 2005

President Bush, with an Independence Day appeal for patriotism, urged resolve in the war in Iraq on Monday and said that "the proper response is not retreat. It is courage."

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Bush made a quick holiday visit to the West Virginia University campus and spoke outdoors at a grassy circle on a hot, humid day. The audience of a couple thousand people was restricted to ticket-holders who gave him an enthusiastic welcome. The shouts of several hundred protesters who were kept out of sight could be heard faintly during the address.

With his approval ratings sagging and anxiety over the war rising, Bush has decided to devote more attention to explaining what he believes is at stake in Iraq and his strategy for dealing with it.

His address reflected the same themes — and some of the same phrasing — of his prime-time address to the nation on Tuesday and his weekly radio address on Saturday.

The president's communications effort has been complicated by the Supreme Court vacancy caused by the surprise retirement of Justice Sandra Day O'Connor. Bush is expected to have to spend an increasing amount of time in selecting and selling his nominee in a tough Senate confirmation battle. He will take information about potential nominees when he sets out for Europe on Tuesday to visit Denmark and attend the annual summit of leading industrialized nations.

In his speech, Bush said that "times of war are times of great sacrifice" and that America remembers its fallen on Independence Day.

The war in Iraq has claimed the lives of more than 1,740 Americans, wounded 13,190 and cost more than $200 billion.

"We know that the best way to honor their sacrifice is to complete the mission," Bush said, "and so we will stay until the fight is won."

"As we celebrate the Fourth of July," he said, "we rededicate ourselves to the ideals that inspired our founders. During that hot summer in Philadelphia more than 200 years ago, from our desperate fight for independence to the darkest days of a civil war, to the hard-fought battles of the 20th century, there were many chances to lose our heart, our nerve, or our way.

"But Americans have always held firm, because we have always believed in certain truths," the president said. "We know that the freedom we defend is meant for all men and women, and for all times. And we know that when the work is hard, the proper response is not retreat. It is courage."

He called Iraq only the latest battlefield in the war on terror, and declared that "America will not tolerate regimes that harbor or support terrorists."

Bush said that insurgents won't win.

"They continue to kill in hope they will break the resolve of the American people but they will fail," Bush said.

Bush characterized the insurgents there as "men who celebrate murder" as they seek to spread their ideology and "turn the Middle East into a haven of terror."

Even though the television images of death "are "difficult for our compassionate nation to watch," he said, the insurgents are no closer to stopping the move toward democracy."

"Terrorists can kill the innocent but they cannot stop the advance of freedom," he said.

Bush has made Independence Day visits to West Virginia something of a tradition. It was his third July Fourth visit to the state in four years. He carried the state in 2000 and 2004.

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On the Net:

City of Morgantown: http://www.morgantown.com/overview.htm

Bush Again Urges Americans To Stand Firm On Iraq War (MACT/KRT)

By Mark Silva

The Macon Telegraph, July 5, 2005

MORGANTOWN, W.Va. - (KRT) - With a flag-draped clock tower for a backdrop in a politically friendly state on a sunny Fourth of July, President Bush defended the war in Iraq as part of a grand American quest for freedom spanning "from Bunker Hill to Baghdad."

The president, making a repeat Independence Day visit to this mountainous realm that helped elect him and re-elect him, delivered a direct challenge to "finish the fight" in Iraq that terrorists carried to America on Sept. 11, 2001.

"From our desperate fight for independence to the darkest days of the Civil War, to the hard-fought battles of the 20th century, there were many chances to lose our heart, our nerve or our way," Bush said. "But Americans have always held firm.

"We know that when the work is hard, the proper response is not retreat. It is courage," he said, reiterating an argument for continuing the costly conflict in Iraq that he spelled out in a nationally televised address last week.

Yet even as he confronts waning public support for combat in Iraq and presses the war on terrorism that consumed his first term, the president's attention is shifting to a domestic matter that could prove just as central to his legacy: appointing a justice to the Supreme Court.

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As he prepares to embark Tuesday for a European tour starting in Denmark, where he will thank the Danish prime minister for contributing military forces in Iraq, Bush will carry with him a file of candidates for a vacancy on the high court created by the surprise retirement Friday of Justice Sandra Day O'Connor.

Bush does not plan to name candidate to succeed O'Connor until after returning Friday night from a three-day summit of the Group of Eight industrial nations in Scotland. But well-financed conservative and liberal organizations already are gearing up for a battle over Bush's nominee.

"There is a lot of staff communication," White House spokeswoman Dana Perino said Monday of the screening of court candidates. "The legal team has been preparing materials for him to take on his trip."

Still, the president found time - as he did last year and on a previous Fourth of July - for a quick morning flight to Bush-backing West Virginia, where a few thousand people assembled on the hilly campus of a state university to see him.

Only a cluster of protesters chanting "Bush lied, people died" and signs stating "We support the troops, not the president" assembled on the perimeter of West Virginia University's flag-adorned green. One displayed a placard: "9/11 does not equal Iraq."

Most came to cheer the president on a hot, hazy holiday morning.

"George Washington used to drop by this part of the state, and I appreciate a warm welcome for another George W.," said Bush, without a tie and with his shirt sleeves rolled up. Poised on a grandstand in front of a brick clock tower framed by shingled mansard roofs, he said, "Stopping in West Virginia is becoming a Fourth of July tradition for me."

This supportive setting on a day set aside for patriotism and pride provided another stage for Bush's defense of the conflict in Iraq that has claimed more than 1,700 American lives.

As he has before, Bush strove to connect the war with the terrorist assaults on the United States and insisted that American troops will remain in Iraq until the nation can defend itself against a deadly insurgency there. But he also sought to connect the struggle of U.S. troops around Baghdad to the one fought in American colonies more than two centuries ago.

"We remember the band of patriots who risked their lives to bring freedom to a new colony. They kept their resolve, they kept their faith in a future of liberty," he said.

"At this hour, our men and women in uniform are defending America against the threats of the 21st century," the president said. "We know that the best way to honor their sacrifice is to complete their mission, so we will stay until the fight is won."

Maintaining that "the war we are fighting came to our shores on September the 11th, 2001," Bush said, "In this war there is only one option, and that is victory."

Vowing to fight terrorists abroad instead of at home, he said: "They continue to kill in the hope that they will break the resolve of the American people, but they will fail. ... The terrorists can kill the innocent, but they cannot stop the advance of freedom."

Bush Urges Persistence On Iraq (WP)

By Rosalind S. Helderman

The Washington Post, July 5, 2005

MORGANTOWN, W.Va., July 4 -- President Bush used his annual Independence Day speech to pay homage to America's fighting men and women and to urge the nation to remain firmly behind the effort in Iraq.

In an appearance at West Virginia University, he acknowledged that continued violence in Iraq has been "hard for a compassionate nation to watch." But he compared today's hardships to those faced by Americans of past generations, including those who declared the country independent and fought the Revolutionary War 229 years ago.

"During that hot summer in Philadelphia more than 200 years ago, from our desperate fight for independence to the darkest days of a civil war, to the hard-fought battles of the 20th century, there were many chances to lose our heart, our nerve or our way," he said. "But Americans have always held firm, because we have always believed in certain truths: We know that the freedom we defend is meant for all men and women, and for all times."

Bush spoke to an outdoor audience of about 2,000 people -- restricted to ticket-holders. Outside the flag-and-bunting-draped event area, a knot of protesters gathered, carrying signs reading "Bush Lied" and chanting "We support our troops, not the president" and "Peace is patriotic."

This marked the third Fourth of July holiday in four years he has celebrated in West Virginia, and the second in a row. Last year, in the midst of his reelection campaign, Bush commemorated the day with an address at the state Capitol in Charleston.

In the year since, the president won reelection and Iraqis went to the polls in their first national election of the post-Saddam Hussein era. At the same time, violence in the country has continued. More than 870 U.S. troops -- including seven West Virginians -- have been killed in Iraq since the president's last Fourth of July address, and recent polls have shown weakening

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public support for the war. As a result, White House aides have said, Bush has concluded he must do more to refocus the nation's attention on the mission and its stakes.

Repeating themes he struck last week in a nationally televised speech before soldiers at Fort Bragg, N.C., Bush argued that Iraq has become a main arena in the larger battle against terrorism. "We're taking the fight to the terrorists abroad so we do not have to face them here at home," he said.

Speaking in front of a military band and the university's red-brick Woodburn Hall, he vowed that Iraqi insurgents who "continue to kill in the hope that they will break the resolve of the American people" will fail.

"We know that when the work is hard, the proper response is not retreat; it is courage," he said.

Bush said Americans will stay in Iraq until the country's security forces are capable of defending Iraq on their own. "Our strategy can be summed up this way -- as Iraqis stand up, we will stand down and then our troops can come home to a proud and grateful nation," he said.

In all, 13 West Virginians have been killed in Iraq since the war began. A sailor from the state was also one of 16 troops killed last week when a MH-47 Chinook helicopter crashed in eastern Afghanistan.

Syrians Clash With Fighters Linked To The Iraqi Insurgency (NYT)

By Hassan M. Fattah

The New York Times, July 5, 2005

CAIRO, July 4 - Syrian security forces clashed early Monday in the hills overlooking Damascus with men believed to be militants connected to Iraq's insurgency, the official Syrian news agency SANA reported.

Some of the militants were believed to have been former bodyguards for Saddam Hussein, the report said, but it gave no further details and did not say how it was known who they were or where they might have escaped to afterward.

The predawn firefight on scenic Qassioun Mountain left one police officer dead and several others wounded, the report said. It was the second clash in as many days between the Syrian authorities and people believed to be militants, perhaps from the same group.

On Sunday, border guards and security agents fought with a group along the Lebanese-Syrian border, leaving one of the suspected militants and two guards dead. More than 34 militants were later arrested in what appeared to be a sweep of the area, the news agency reported.

Syria has come under significant pressure from the United States to seal its long border with Iraq, and has been accused of giving Iraqi insurgents safe harbor and of encouraging the insurgency. But in recent weeks, it has sought to highlight its own problem with militants as well as to show it has gotten serious about stamping out militancy.

Two people were arrested in the clash on Monday. They were identified as Sharif Ayed Saif al-Smadi, one of two fugitive brothers from Jordan wanted there on criminal charges, and Manal al-Smadi, the wife of the other brother, Muhammad. The brothers had ties to a group suspected of helping militants enter Iraq, The Associated Press reported.

Ms. Smadi later appeared on Al Arabiya television, apparently with permission of Syrian officials. She said the brothers had been in Iraq before the American-led invasion in 2003 and had joined the fedayeen, the militia Saddam Hussein sent to fight American troops.

SANA, the Syrian news agency, said the security officers had been on the militants' trail for several days. It was not immediately clear how many militants were involved in the clashes on Sunday and Monday.

Early last month, Syrian security officials announced the arrest of a number of members of the Levant Army, said to be plotting numerous attacks in Damascus. The group is believed to be tied to a suicide bombing of a community center in Qatar in March that left a Briton dead, and there have been reports that they have ties to the insurgency in Iraq.

Late last month, the government organized a tour for diplomats and reporters along Syria's southern border with Iraq, seeking to emphasize its concern about infiltrators coming in from Iraq. In all, some 7,000 Syrian soldiers patrol the length of the border with Iraq.

"The effort to prevent infiltrators is our main emphasis," said a Syrian border commander, who refused to identify himself.

Iraqi: No Talks With Killers (WT)

By Paul Martin

The Washington Times, July 5, 2005

LONDON -- Iraqi Prime Minister Ibrahim al-Jaafari has ruled out talks with any terrorist or insurgent group that has the blood of Iraqi citizens on its hands.

But, in a recent interview, Mr. al-Jaafari also held out an olive branch to other hard-line anti-government and anti-American militants whose opposition had not led to the deaths of Iraqis.

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"We cannot make dialogue with anyone who has committed crimes against the Iraqi people," he said in London, after visits to Britain and the United States.

At the same time, Mr. al-Jaafari said he would welcome bringing hard-line Sunni groups into a political dialogue and even into his government.

"If they have not committed crimes against the Iraqi people, we open our hearts to them, and we are [already] in honest and genuine dialogue with them," he said.

He added: "We invite them to be part of the political process -- to exchange the gun for the pen."

The London Sunday Times reported on June 26 that insurgent commanders "apparently came face to face" with four U.S. officials during meetings last month at a villa some 25 miles north of Baghdad.

When asked on NBC's "Meet the Press" about the report of the two meetings, Defense Secretary Donald H. Rumsfeld said: "Oh, I would doubt it. I think there have probably been many more than that."

Three militant groups distanced themselves from the reports, denying they had ever negotiated, and in a Web site-posted communique, one group, Ansar al-Sunna, said it did not speak to Americans, it killed them.

It added that, even when the American forces leave, their associates in the Iraqi government would remain in Iraq and would be targeted.

Mr. Rumsfeld appeared to suggest that American meetings with hard-liners were designed to help the Iraqi interim administration headed by Mr. al-Jaafari.

"We see the government of Iraq is sovereign. They are the ones that are reaching out to the people who are not supporting the government," Mr. Rumsfeld said.

Yet Mr. al-Jaafari's line of willingness to negotiate appeared to be drawn far more stringently than that suggested by Mr. Rumsfeld.

Mr. al-Jaafari said that support for terrorist bombings and other atrocities was already waning and would decline further as more Sunni factions joined the government or forswore violence.

He said the advancement of the political process, and especially the announcement of a new constitution and a subsequent election in December, would dampen violence further.

Aides said the new government was determined to implement the agreed timetable for that election, irrespective of the degree of violence prevalent in Iraq at the time.

The prime minister said it was also politically important to put former Iraqi strongman Saddam Hussein on trial quickly and to reach a rapid conviction and an imposition of the sentence passed by the court.

He dismissed suggestions that the trial, and especially a death sentence, could inflame passions and increase terrorism.

"It will definitely reduce the amount of violence, " Mr. al-Jaafari said.

He also rejected any suggestion that the country's president, currently Jalal Talabani, the veteran Kurdish leader, would exercise a prerogative to commute a death sentence.

Mr. Talabani had told an interviewer several weeks ago that he was opposed to capital punishment, even for Saddam, though he added: "I know I am in a minority of one in the current government."

Mr. al-Jaafari said Iraq wanted to act as a democracy and to ensure that any verdict reached by the court or tribunal was carried out without executive intervention.

"Saddam has to pay for his crimes," Mr. al-Jaafari said.

The prime minister is planning trips to Iran, Saudi Arabia and Syria in efforts to tighten border controls and reduce meddling by neighboring states.

He told The Washington Times last week that he expects violence to abate well within the next two years.

Sunni Group In Iraq Urges Members To Vote (NYT)

By James Glanz

The New York Times, July 5, 2005

BAGHDAD, Iraq, July 4 - In what might be a sign of a new political landscape, a major Sunni umbrella group called on its members on Monday to register for the next round of elections and take part "despite our reservations."

Adnan al-Dulaimi, the head of the group, called the Sunni Endowment, said in a briefing in Baghdad that clerics would be asked to issue fatwas, or religious rulings, essentially ordering Sunnis to vote in elections. Among its other functions, the Sunni Endowment is charged with oversight of Sunni Arab mosques and holy sites throughout Iraq, giving it wide influence among clerics.

"I ask all Sunni people to register their names for the next election, because we are in a political battle that depends on the vote," he said.

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Sunni Arabs largely boycotted the January elections, producing a National Assembly with only a handful of Sunnis, leaving the ethnic group that ruled the country until 2003 with little influence in the government.

The next round of voting will include a referendum on a constitution, a document being hammered out in the National Assembly.

Perhaps as significant as his call for voting, Mr. Dulaimi explicitly renounced violence as a way for the Sunnis to regain power. Mr. Dulaimi's group, like many other Sunni groups, insists that Sunnis are not a minority in Iraq, despite various estimates suggesting that they make up about 20 percent of the population.

Iraq's ethnically based political strife was also on display on Monday in Kirkuk, in the north, where more than 2,000 Arabs and Turkmens demonstrated against the Kurdish rule that has settled on the city since the elections in January. A Kurdish slate won 26 of 41 seats in the city council and has made significant changes in how the city is run.

Important posts went overwhelmingly to Kurdish officials, said Ali Mehdi, a leader of the Turkmen front. The Turkmens were an Asian people put into place by the Turks to govern the area under Ottoman rule.

"The current administration, which is formed by Kurdish parties, does not represent the people of Kirkuk," Mr. Mehdi said at the demonstration, in Convention Square.

Muhammad Khalil, a city council member who serves as a spokesman for Arab members of the council, asserted that the refusal of the Kurdish bloc to compromise had forced other groups to form what he called a "shadow government" for the city.

Marching in heavy security, people in the crowd raised banners denouncing federalism, the political decentralization favored by Kurds, who want the area to maintain a large degree of local control.

Baghdad was unusually quiet on American Independence Day, although an Interior Ministry official said at least two roadside bombs had gone off, killing at least three civilians and wounding three more. Both bombs exploded in the dangerous southern fringes of the city.

Further details emerged Monday from witnesses to the kidnapping of Ihab al-Sharif, Egypt's top diplomat in Iraq, from a Baghdad street on Sunday.

The owner of an appliance shop across the street from where gunmen surrounded Mr. Sharif as he got out of his Jeep Cherokee to buy a newspaper said the diplomat shrieked as four men dragged him toward the trunk of a black sedan.

One of the men struck Mr. Sharif in the head with a pistol so hard that he began to bleed, said an employee at Al Arjas photography lab, just a few feet from the kidnapping.

Taher al-Ani, owner of an air-conditioner shop near the same spot, said some of the men ran toward a gray car that was parked closeby with a driver. Some of the men stopped traffic to speed the escape before jumping in the car.

"The whole operation didn't take more than two minutes," said the employee at the photography lab. "The ambassador was not accompanied by guards."

Iraqi Clerics Plan Edict On Sunnis' Political Role (WP)

By Andy Mosher And Omar Fekeiki

The Washington Post, July 5, 2005

BAGHDAD, July 4 -- Several senior clerics of Iraq's disaffected Sunni Muslim minority will soon issue a decree calling on followers of the faith to vote in upcoming elections and help write a new constitution, a prominent Sunni leader said Monday. The step could draw Sunni Arabs away from the insurgency and into a political process they have steadfastly rejected.

Adnan Dulaimi, who heads the Sunni Endowment, the government agency responsible for Sunni religious affairs, said the framers of the religious edict, or fatwa , would seek the support of other groups in the fractious Sunni community before issuing it.

The push for the fatwa, together with National Assembly's formal approval Monday of adding 15 Sunnis to the committee writing a draft constitution, suggested that the slow and often contentious efforts to bring Sunni Arabs into the political sphere were beginning to bear fruit.

The Shiite Muslim-led government of Prime Minister Ibrahim Jafari has encouraged Sunni Arabs to embrace politics and to abandon the two-year-old insurgency dominated by Sunnis and foreign fighters.

Jafari's Shiite coalition won the most votes in the Jan. 30 elections, giving it a majority in the 275-seat National Assembly and putting Iraq's Shiite majority in power for the first time in the country's modern history. Sunni Arabs, who dominated political and military institutions until President Saddam Hussein was toppled by the U.S.-led invasion in 2003, largely boycotted the vote and emerged with only 17 assembly seats.

The Sunni Arab leadership, traditionally more divided than that of the Shiites, began moving away from rejection of the new government in March, when the influential Association of Muslim Scholars supported a fatwa calling on Sunnis to serve in Iraq's nascent security forces.

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The proposed edict announced Monday would call for Sunni participation in writing the draft constitution, which is meant to be completed by Aug. 15, and for all Iraqis to vote in the next election, which would be held Dec. 15 if the constitution is prepared on time and ratified in an October referendum. The decree would also call for Sunnis to serve on the country's electoral commission.

The Association of Muslim Scholars did not comment Monday on the proposed fatwa. Its support, while crucial, could prove elusive. The association has maintained that no Iraqi government can be considered legitimate unless U.S. and other foreign military forces leave the country, or at least set a deadline for doing so. The Iraqi and U.S. governments have refused to take that step.

Dulaimi said in an interview Monday that "we will contact the Association of Muslim Scholars and urge them to join the initiative, and we hope to reach a compromise that satisfies all."

Another pivotal Sunni group, the Iraqi Islamic Party, immediately voiced support for the proposal. Noting that the party was among the first Sunni organizations to encourage voting in the next election, Tariq Hashimi, the party's secretary general, said that Sunnis' respect for religious leadership ensured that "if a fatwa is issued to urge people to participate, this will help to improve the legal and political situation of the elections and the constitution. It will also help to end the confusion in the Iraqi community: People are confused whether the constitution and elections are legitimate or not."

Subhi Nawzen Tawfik, a political science professor at the University of Baghdad's International Studies Center, called the initiative "a very important development."

In addition to redressing the power imbalance brought on by the Sunnis' "strategic mistake" of staying away from the January election, Tawfik said the edict would appeal to Sunni insurgents who took up arms because they believed the current political system was imposed on Iraq by foreign powers.

"There is no doubt that the Sunnis make up the core of the real, original resistance against occupation, a distinction which no one can dispute," Tawfik said. "Thus, when the head of the Sunni Endowment calls for serious Sunni participation, and makes an appeal for calming down the situation, his appeal will be heeded."

In Iraq, mosques are owned and financed by the government. Dulaimi, as head of the endowment, functions not as a political figure in the government, but as a facilitator of religious life.

Abdul Rahman Nuaimi, a Sunni member of the National Assembly's constitution committee, said: "When an important figure in the community, like the head of the Sunni Endowment, urges people and clergymen to participate in the elections, this will help the process. This will help to move forward and defeat all the obstacles we face in the process of writing the constitution."

The move by the National Assembly Monday to add 15 Sunnis to the committee, expanding its membership to 71, was another key development in a constitution-writing process that is six weeks from a deadline for producing a draft document. Though the National Assembly was elected in January with the principal mandate of writing the document, the committee was not formed until May, and it initially included only two Sunni Arabs.

The expanded committee will hold its first meeting on Wednesday, and its chairman, Humam Hammoudi, said the new members would be shown "the drafts we have reached so far," the Reuters news agency reported.

Meanwhile, authorities said there was no sign of the whereabouts of Ihab Sherif, Egypt's top diplomat in Iraq, who disappeared Saturday night and is presumed to have been kidnapped. Egyptian officials told news services that Egypt had received no ransom demands or statements from anyone claiming to have abducted the envoy.

In Baghdad's western Bayaa neighborhood, a remote-controlled car bomb killed two civilians and narrowly missed a passing U.S. military patrol, witnesses said.

"I thought that it was a broken-down car that someone left there," said Ahmad Shihab, an employee with a government construction company that has a project near the site of the attack. "Then, after an American patrol passed by, it exploded. I saw black smoke first, then felt the impact. A huge blaze with metal parts splashed everywhere."

U.S. and Iraqi troops swept through a western Baghdad neighborhood on Monday, arresting about 100 suspected insurgents in a fresh crackdown near the city's airport, the Associated Press reported.

In the northern city of Mosul, gunmen killed police Capt. Ahmen Muayad, a bodyguard for the provincial governor, as he left his house Monday morning, according to police Gen. Saeed Mohammed. Another police officer, Lt. Ahmen Mutaz, was gunned down in the city center.

Iraq Seen Emerging As Prime Training Ground For Terrorists (KRT)

By Warren P. Strobel
Knight Ridder, July 5, 2005

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WASHINGTON - Iraq has replaced Afghanistan as the prime training ground for foreign terrorists who could travel elsewhere across the globe and wreak havoc, according to U.S. counterterrorism officials and classified studies by the CIA and the State Department.

Of particular concern, the officials and studies say, are the urban combat techniques being learned and used by foreign fighters assaulting U.S. and Iraqi troops. There's already evidence that those tactics are being replicated elsewhere.

Marine Corps Lt. Gen. James T. Conway told a Pentagon briefing last week that remotely detonated bombs known as improvised explosive devices, or IEDs - the insurgents' weapon of choice in Iraq - are an increasing threat to U.S. forces trying to stabilize Afghanistan.

The trend is "a little bit troubling," Conway said.

Iraq's emergence as a terrorist training ground appears to challenge President Bush's rationale for invading and overthrowing leader Saddam Hussein in March 2003.

"To complete the mission, we will prevent al-Qaida and other foreign terrorists from turning Iraq into what Afghanistan was under the Taliban, a safe haven from which they could launch attacks on America and our friends," the president said in a nationally televised address last Tuesday.

But Iraq wasn't a source of Islamic fundamentalist terrorism under Saddam and played no role in the Sept. 11, 2001, terrorist attacks. Critics argue that the U.S. invasion harmed, rather than helped, the war on terror by acting as a magnet and recruiting tool.

"Arguably, it's created new problems that we're going to be dealing with for a long time," said Steven Simon, a senior analyst at the RAND Corp. who served at the National Security Council under President Clinton.

Foreign fighters' growing experience with IEDs, in particular, "is a real problem if you think these guys are going to wind up in the streets of Europe and the Middle East, or even the United States at some point," Simon said.

The classified CIA and State Department assessments were completed in May and deal with what intelligence analysts are calling "bleed out" or "terrorist dispersal" from Iraq to surrounding countries.

The officials who described them did so on condition of anonymity because intelligence matters are involved.

The studies compare Iraq to Afghanistan in the 1980s, when the Soviet invasion drew Muslim fighters known as mujahedeen from around the world. After the Soviet defeat, many of them, including Osama bin Laden, built terrorist networks or fought for Islamic causes outside Afghanistan.

Foreign fighters make up only a fraction of the Iraqi insurgency, perhaps as little as 5 percent. Many are killed or captured, but their numbers are replenished by fresh recruits, who often transit via Syria.

U.S. ally Saudi Arabia is a prime potential destination for experienced fighters returning from Iraq, the study by the State Department's Intelligence and Research bureau concludes, according to officials familiar with its contents.

Yemen is another likely destination.

Saudi citizens are thought to make up the largest contingent of foreign fighters in Iraq, and the Saudi royal family has expressed alarm to the U.S. government over the prospect of battle-scarred militants returning to the oil-rich kingdom.

Other insurgents are believed to come from Syria, Jordan, Yemen, Egypt and elsewhere in North Africa.

Some current and former government experts said the comparison between Afghanistan's one-time role as a global terrorist training headquarters and Iraq today is "overstated," in the words of one U.S. official.

Arab veterans of the Afghan war were often welcomed home by their governments and state-run media, and they were portrayed as heroes for their role in forcing the Soviet Union to withdraw from Afghanistan in 1989, the State Department report notes.

By contrast, foreign insurgents leaving Iraq are likely to face imprisonment or worse in their home countries.

Nor is the outcome of the insurgency known. For now, fighters remain focused on attacking U.S. and Iraqi forces, not conducting terrorism elsewhere.

Still, the CIA report, roughly two dozen pages long, warns that veterans of Iraq could in some ways pose a more potent threat.

The report's existence was first reported by Newsweek and The New York Times.

"You're talking about people who have had exposure to a broader range of strategies and tactics than we saw in Afghanistan," said a U.S. counterterrorism official who has read the report.

And, he said, "the people in Iraq come to the table more anti-American and more radicalized" than the fighters who went to Afghanistan two decades ago to fight Russian troops.

The reports are aimed at helping the Bush administration conduct contingency planning to deal with the "terrorist dispersal" threat.

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Simon, the former counterterrorism official, said international coordination among law enforcement and intelligence agencies will be key.

Conway, the director of operations for the Joint Chiefs of Staff, acknowledged concern about Iraq's role as a terrorist training ground.

"I think it's a logical conclusion, if you look at the history of Afghanistan and what we saw come out of there," Conway said. "It is a concern, but there is not much we can do about it at this point in time," he said, noting that the military's principal focus is on combat operations in Iraq and Afghanistan.

Iraqi Barbers Face Unkindest Cut Of All, Targeting By Terrorists (WT)

By Ammar Karim, Agence France Presse

The Washington Times, July 5, 2005

BAGHDAD -- Baghdadis headed to the barbershop are going more often to the Shi'ite neighborhood of Sadr City than to mixed neighborhoods, where they could be shot by Sunni radicals who charge that clean shaven men want to look like U.S. soldiers.

"I have customers coming from far away," said Ali Habin, who was happy to see his barbershop packed with customers.

"Young men are coming from remote neighborhoods like Shaab and Ur, where there have been attacks targeting barbershops."

Northwestern Sadr City is solidly Shi'ite, and even Sunni insurgents don't dare venture there.

All Muslim clerics, including Shi'ite spiritual leader Grand Ayatollah Ali al-Husseini al-Sistani, say that shaving goes against Islamic law, but there have been no attacks in Shi'ite areas.

According to Dubai-based Al Arabiya television, Arabs spend $110 million a year at the barbershop and own 697 million razors of all kinds.

"Recently, there has been an increase in the number of attacks against barbershops, to the extent that it has become a daily occurrence, and we have to look for safer places," said Ammar Qassem, 20, who was halfway through a shave.

"In one day, four barbers were killed and others decided to close shop to avoid the same fate," said Mr. Qassem, who lives in the nearby Ashaab neighborhood.

In a shop that measures a minuscule 86 square feet, six other waiting clients nod in approval, and the barber did not hesitate to lay the blame at the feet of Salafists, or Sunni religious hard-liners.

"Those who carry out the attacks belong to Ansar al-Sunna or Wahhabi groups that are very active in the neighborhoods of Al-Jazair, Ashaab and Hay al-Ur," he charged.

The al Qaeda-linked Army of Ansar al-Sunna is one of a number of insurgent groups reported to have taken part in talks with U.S. representatives last month, although Internet statements posted in its name have denied it.

The strict Wahhabi version of Sunni Islam is the official religion of neighboring Saudi Arabia and provides inspiration for some of the militants fighting the Iraqi government and its U.S. backers.

Such is the terror in Baghdad that it is now common to see signs that say: "We apologize for not shaving beards or removing facial hair."

"I put this sign up after one of my friends in the same street was threatened. I've decided to quit shaving beards or removing facial hair to save my life, as well as those of my customers. I only cut hair, said Muhannad Ali Sahib, who owns a barbershop in the western Baghdad neighborhood of Zaiyunah.

According to an Interior Ministry official, at least 20 barbers have been assassinated in areas like Shaab, Bayaa, Saidiyah and Baghdad al-Jadeeda over the past two months.

Egyptian Envoy's Abduction Adds To Diplomatic Chill (LAT)

By Borzou Daragahi

The Los Angeles Times, July 5, 2005

BAGHDAD — The kidnapping of Egypt's top envoy in Baghdad has sent shivers through the capital's small diplomatic community and may further hamper Iraq's drive to restore full diplomatic relations with the world.

Ihab al-Sherif was abducted as he drove between his home and a store Saturday night, and there was no new information Monday about his whereabouts or any claim of responsibility. Al-Sherif, head of Egypt's diplomatic mission in Baghdad, was set to become a full-fledged ambassador, the first from an Arab country since the March 2003 U.S.-led invasion.

U.S. and Iraqi officials have accused the mostly Sunni Muslim nations of the Arab world of refusing to restore full diplomatic ties with Iraq because it has been led by Shiites since the handover of sovereignty last year.

But Demiye Haddad, the Jordanian embassy's charge d'affaires, said security -- not politics -- is the issue.

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"All diplomats are targets here," Haddad said in an interview during a Fourth of July celebration on the grounds of the U.S. Embassy. "Jordan has demonstrated that we have stood by the new Iraq. When the safety of our ambassador is assured, we will bring an ambassador."

Even non-Arab countries such as Canada, which does not keep an embassy in Baghdad and has a skeleton staff of only two diplomats, have shunned Iraq.

Diplomats say they fear for their safety in Iraq, and are concerned that their nations could become targets of terrorists if they appear to warm up to Baghdad.

Police on Monday reported another abduction, this time of a female member of Baghdad's city council in the Kadhemiya district. Ahlam Ahmed Mahmoud Jabouri was grabbed in front of her home Sunday by two men in sky-blue Oldsmobile, an Interior Ministry official said.

Violence continued throughout the capital. A car bomb exploded on a street leading to Baghdad's treacherous airport road, killing a couple and injuring their son. A roadside bomb in the Zafarania district killed one civilian.

Nearly 250 U.S. and 600 Iraqi soldiers seized 100 suspected insurgents, including at least one Egyptian, during an early-morning raid in neighborhoods near the airport, the military said in a statement.

In the capital's well-fortified Green Zone, Iraq's political leaders joined U.S. military commanders and diplomats from the United States and other countries to commemorate Independence Day.

Jalal Talabani, Iraq's president, commended the Bush administration's efforts to change Iraq and the Middle East. The mass graves that Saddam Hussein left behind justified the war, he said. "It is the worst kind of WMD," or weapon of mass destruction, said the Kurdish leader. President Bush had cited the threat of weapons of mass destruction -- nuclear, chemical or biological weapons -- as a key rationale for the invasion, although none were found.

Prime Minister Ibrahim al-Jaafari praised America's democratic principles, and urged Iraqis not to allow violence to derail Iraq's freely elected government. "They should not allow the car bomb to change the nature of an elected government," he told about 250 guests gathered for an outdoor barbecue.

U.S. charge d'affaires David Satterfield, filling in for an ailing Ambassador Zalmay Khalilzad, said: "Perhaps nowhere in the world is the price of freedom so clear as here in Iraq."

War Dogs Lap Up Support (WT)

By Jen Haberkorn

The Washington Times, July 5, 2005

Military war dogs in Iraq help save lives by detecting bombs and traps and finding injured civilians, but their noses are getting chapped from the desert heat.

When Amy Nichols, owner of Happy Tails Dog Spa in Tysons Corner, heard of the dogs' tale, she bought some lip balm for their noses and set up a donation box in front of her store. The doggy day care also is collecting flying discs, knotted ropes and treats to send to the hundreds of dogs serving in Iraq.

Ms. Nichols had been looking for a cause to combine old-fashioned patriotism and dog care -- a cause close to the hearts of many of the store's customers.

"People who take their dogs to day care are really generous and supportive," Ms. Nichols said. "We hear about the dogs and get choked up about it. They're all dog lovers here."

By next week, she expects to send about 50 pounds of donations to the dog handlers in Iraq.

Schools and animal advocacy groups across the nation have held collection drives to help the dogs in Iraq, and the U.S. War Dogs Association has proposed a memorial for military working dogs and their handlers.

"It's not important what's in the package; it's the idea of sending something to these men and women and their canines ... that people in the states care about them, worry about them and wish them a safe journey," said Ronald L. Aiello, president of the association and a former Marine scout handler in Vietnam.

The association also uses donations to send about 250 care packages per year to dog handlers. The packages might include beef jerky for the handler and vegetable jerky for the dog.

Ms. Nichols' drive is not associated with the group. She contacted Master Sgt. Chris Burgess, operations chief for the 2nd Military Police Battalion at Camp Fallujah in Iraq, who compiled a list of the dogs' needs.

"Thank you for all the support," he said in an e-mail to Ms. Nichols. "I know the handlers and the dogs will appreciate it very much."

Military working dogs -- many of them German shepherds, Dutch shepherds or Belgian Malinois -- have been used since World War II. The dogs keep U.S. troops safe, but also may remind troops of their pets at home and provide a morale boost, Mr. Aiello said.

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Mr. Aiello's dog in Vietnam, Stormy, was responsible for checking buildings for explosives before the Marines entered. The handlers are responsible for caring for the four-legged soldiers and relaying their messages to the troops.

"They're fantastic animals," he said. "They do a great job of alerting to danger."

Military war dogs are performing the same service for U.S. troops in Iraq.

"The [breeds] are so smart, they need stuff to do," Ms. Nichols said. "They love having a job."

But they still need time to play and time to sharpen their skills, which is why they receive the flying discs, rubber toys and ropes. Their handlers asked for sunflower seeds, sugarless gum, energy drinks, crackers, meat sticks and beef jerky.

The three-year-old doggy day care is covering the shipping costs, which Ms. Nichols expects to reach $100 to $150.

"Look at what they're asking for ... Blistex and Goldfish crackers," she said. "We could walk across the street right now and get it. It's very basic stuff."

Pentagon Weighs Strategy Change To Deter Terror (NYT)

By Thom Shanker And Eric Schmitt

The New York Times, July 5, 2005

WASHINGTON, July 4 - The Pentagon's most senior planners are challenging the longstanding strategy that requires the armed forces to be prepared to fight two major wars at a time. Instead, they are weighing whether to shape the military to mount one conventional campaign while devoting more resources to defending American territory and antiterrorism efforts.

The consideration of these profound changes are at the center of the current top-to-bottom review of Pentagon strategy, as ordered by Congress every four years, and will determine the future size of the military as well as the fate of hundreds of billions of dollars in new weapons.

The intense debate reflects a growing recognition that the current burden of maintaining forces in Iraq and Afghanistan, along with the other demands of the global campaign against terrorism, may force a change in the assumptions that have been the foundation of all military planning.

The concern that the concentration of troops and weapons in Iraq and Afghanistan was limiting the Pentagon's ability to deal with other potential armed conflicts was underscored by Gen. Richard B. Myers, chairman of the Joint Chiefs of Staff, in a classified risk assessment to Congress this spring. But the current review is the first by the Pentagon in decades to seriously question the wisdom of the two-war strategy.

The two-war model provides enough people and weapons to mount a major campaign, like the Persian Gulf war of 1991 or the invasion of Iraq in 2003, while maintaining enough reserves to respond in a similar manner elsewhere.

An official designation of a counterterrorism role and a shift to a strategy that focuses on domestic defense would have a huge impact on the size and composition of the military.

In a nutshell, strategies that order the military to be prepared for two wars would argue for more high-technology weapons, in particular warplanes. An emphasis on one war and counterterrorism duties would require lighter, more agile forces - perhaps fewer troops, but more Special Operations units - and a range of other needs, such as intelligence, language and communications specialists.

Civilian and military officials are trying to decide to what degree to acknowledge that operations like the continuing presence in Iraq - not a full-blown conventional war, but a prolonged commitment - may be such a burden that it would not be possible to also fight two full-scale campaigns elsewhere.

In effect, the unusual mission in Iraq, which could last for years, has not just taken the slot for one of the two wars; it has upended the central concept of the two-war model. It is neither a major conventional combat nor a mere peacekeeping operation. It does not require the full array of forces, especially from the Navy and the Air Force, of a conventional war, and it takes far more troops than peacekeeping ordinarily would.

The force of 138,000 troops in Iraq is only 13,000 smaller than it was at the height of the offensive on Baghdad two years ago, yet the administration describes the campaign not as a major conventional war, but as the leading effort in the nation's fight against terrorism.

"The war in Iraq requires a very large ground-force presence," said Loren Thompson, an analyst at the Lexington Institute, a policy research center in Arlington, Va. "War with China or North Korea or Iran, the other countries mentioned in the major review scenarios, would require a much more capable Navy and Air Force."

Mr. Thompson added that "what we need for conventional victory is different from what we need for fighting insurgents, and fighting insurgents has relatively little connection to stopping the spread of nuclear weapons. We can't afford it all."

The Pentagon's sweeping study, called the Quadrennial Defense Review, is not due to be completed until early next year, when it will be submitted to Congress with the administration's annual budget request. Yet debate over the review cannot ignore the mounting costs of the war in Iraq, approximately $5 billion a month.

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A description of the major issues discussed in the classified review was gathered from interviews with more than a half-dozen civilian officials and military officers from across the armed services who are directly involved in the process.

The current military strategy is known by a numerical label, 1-4-2-1, with the first number representing the defense of American territory. That is followed by numbers representing the ability to deter hostilities in four critical areas of the world, and to swiftly defeat two adversaries in near-simultaneous major combat operations The final number stands for a requirement that the military retain the capability, at the same time, to decisively defeat one of those two adversaries, which would include capturing a capital and toppling a government.

"We have 1-4-2-1 now, and we are going to look at that," said Ryan Henry, who serves as principal deputy under secretary of defense for policy.

Asked where the military's heavy commitment to the fight against terrorism fits into the current strategy formula, Mr. Henry said, "It wasn't there when they came up with 1-4-2-1." If a new strategy emerges from the review, he said, it might be "something that doesn't have any numbers at all."

Several officials involved in the review characterized the debate as "an effort to create a construct that will bring a better balance" among domestic defense, the antiterrorism campaign and conventional military requirements.

After years of saying American forces were sufficient for a two-war strategy, "we've come to the realization that we're not," said another Defense Department official involved in the deliberations, who was granted anonymity because he could not otherwise discuss the talks, which are classified. "It's coming to grips with reality."

Senior leaders are trying to develop strategies that will do a better job of addressing the requirements of antiterrorism and domestic defense, while acknowledging that future American wars will most likely be irregular - against urban guerrillas and insurgents - rather than conventional.

Tentative proposals by midlevel staff members on holding a summer summit on the review have been shelved, and the debate is now driven by weekly meetings that officials say have brought new discipline to a sprawling process.

Under Gordon R. England, nominated to succeed Paul D. Wolfowitz as deputy defense secretary, more than 150 questions that the review should address have been sorted into 36 major themes. They include such things as balancing reserve and active-duty forces; the role of other agencies in domestic security; combat medicine; the ability of foreign coastal powers to keep American forces at a distance; and the ability to attract people with important skills, such as a knowledge of the Arabic language.

The review is analyzing in detail what would happen if the United States had to fight China, North Korea or Iran.

In preparing for the review's presentation to Defense Secretary Donald H. Rumsfeld, the highest-level decisions are made at round-table discussions held about three times a month and managed by Mr. England and Gen. Peter Pace, vice chairman of the Joint Chiefs of Staff and the nominee to succeed General Myers as the chairman. Although no draft of the review has been presented to Mr. Rumsfeld, he already has, in broad terms, endorsed efforts that would transform the military into a lighter, more mobile force.

General Pace declined through a spokeswoman on Friday to discuss the review.

"Whether anybody believed we could actually fight two wars at once is open to debate," one senior military officer said. "But having it in the strategy raised enough uncertainty in the minds of our opponents that it served as a deterrent. Do we want to lose that? We don't want to give any adversary the confidence that they could take advantage of us while we're engaged in one major combat operation."

DOJ:

Inadmissible: Survey Yields Mixed Results For D.C. Firms; Reaction To The Creation Of A New National Security Division; And More (LEGALT)

Legal Times

Legal Times, July 4, 2005

SURVEY YIELDS MIXED RESULTS FOR D.C. FIRMS

The numbers are in and, no surprise, 2004 was again a very good year for the nation's largest and wealthiest law firms. That's according to the AmLaw 100, the annual survey of law firm financial data published in this month's edition of The American Lawyer, a sister publication of Legal Times. The survey found that revenue at the nation's 100 biggest law firms jumped 10 percent over 2003.

For firms with headquarters in the D.C. area, however, the survey is a mixed bag. Wilmer, Cutler & Pickering's merger with Boston-based Hale and Dorr last year vaulted the combined behemoth up the charts, making it the nation's 12th-largest law firm,

as measured by gross revenue (the firms were No. 58 and 60 in 2003, respectively). But if Wilmer was the chart's biggest gainer, D.C. also has the distinction of being home to firms that took two of the largest falls. Dickstein Shapiro Morin & Oshinsky, which was No. 66 in 2003, tumbled off the chart. Howrey (formerly Howrey Simon Arnold & White) saw not only its name but its revenues reduced, causing the firm to drop from No. 44 to No. 61. Both firms' numbers were helped in 2003 by contingent fee windfalls. Akin Gump Strauss Hauer &Feld remained the most profitable regionally based firm, as measured by profits per partner. Its $920,000-per-partner figure was trailed closely by that of Finnegan, Henderson, Farabow, Garrett & Dunner at $895,000.

This year the magazine introduced a new metric to measure a law firm's financial performance: value per lawyer. That figure computes the average number of lawyers needed to generate $10 million in compensation to all partners (both equity and nonequity), giving high marks to firms with low overhead and efficient management. By that measure, Arnold &Porter and Hogan &Hartson were tops among locally based firms, each needing just 32 lawyers to generate $10 million to line the partners' pockets. McGuireWoods, by comparison, needed 44 lawyers. That figure looks good compared with that of troubled Coudert Brothers, which needed an army of 91. But the New York giants still tower over the D.C. region's home-grown firms. Wachtell, Lipton, Rosen & Katz, for example, couldn't even field a softball team with the seven lawyers it needed to generate $10 million in partner paychecks. — Jason McLure

SPY GAME

The president's proposal to create a new National Security Division in the Justice Department, if adopted, would formalize the removal of the wall between intelligence gathering and criminal prosecution. But finding the right person to run the new section, which would bring together the DOJ's counterterrorism section, counterespionage section, and the Office of Intelligence Policy and Review, may not be easy. Before the passage of the USA Patriot Act in 2001, intelligence agents and prosecutors rarely worked together. As a result, few lawyers have experience in both disciplines. "There really aren't a lot of people who bridge both worlds," says Suzanne Spaulding, a former CIA lawyer. The post is unlikely to go to James Baker, who currently heads the Justice Department's intelligence office, or to counterterrorism chief Barry Sabin because both men are career officials without strong Republican ties. One senior DOJ official says the shuffle will not disrupt ongoing terrorism investigations: "The advantage of putting those troops in the same division is that it will enable them to better take advantage of synergy the destruction of the wall has made possible." — Vanessa Blum

DÉJÀ VU

The U.S. Chamber of Commerce will be heading back to court to fight Securities and Exchange Commission rules governing the independence of mutual fund boards, says the business lobby's general counsel Steve Bokat. Just days after the U.S. Court of Appeals for the D.C. Circuit ordered the SEC to reconsider its requirement that the chairman and 75 percent of a mutual fund board be independent from the company, the agency voted to reaffirm the same rules. This time, the business lobby says, the agency didn't deliberate long enough before its 3-2 vote on June 29. It was a coup of sorts for Republican SEC Chairman William Donaldson, who pushed the vote before stepping down on June 30. — Lily Henning

COMING HOME

The tune is a familiar one: top government lawyer leaves regulatory agency to cash in at former firm. But in the case of Stephen Cutler, the former director of the Security and Exchange Commission's Enforcement Division, the announcement last week that he'd return to Wilmer Cutler Pickering Hale and Dorr was by no means inevitable. After all, Cutler's two predecessors at the SEC had opted to go in-house on Wall Street at Credit Suisse First Boston Inc. and Deutsche Bank AG. Cutler says he spoke with investment banks as well as other law firms before deciding to return. To help woo Cutler back, the firm trotted out heavy-hitting partners Jamie Gorelick, Seth Waxman, and Charlene Barshefsky, and arranged a lunch at the Park Hyatt for Cutler with Wilmer's junior securities partners. Cutler, who will start in the fall, says the move was a "chance to join what I think of as the pre-eminent SEC practice in the country." It's likely that Cutler, who oversaw the investigations of WorldCom Inc., Tyco International Ltd., and Qwest Communications International Inc., also negotiated a pay package substantially more than the roughly $200,000 he was paid annually by the SEC. (Both Cutler and firm co-managing partner William Perlstein declined to discuss compensation arrangements.) Also last week, Wilmer announced the opening of its first West Coast office in Palo Alto, Calif. — Jason McLure

NEW PASTURES

Venable has picked up former longtime DLA Piper Rudnick Gray Cary partner Emilio Cividanes, a data privacy and intellectual property lawyer and lobbyist. Cividanes, 49, had been at Piper for nearly 17 years; at Venable he joins what Ian Volner, who chairs the firm's regulatory group, calls one of the largest advertising, marketing, and distribution practices in the country. "Milo adds a dimension to a practice that already includes about 40 lawyers," Volner says. Cividanes' departure follows the death last year of DLA Piper's Ronald Plesser, who had chaired the firm's electronic commerce and privacy practice group. "He was my mentor and my senior colleague for almost 16 years. When that happens, you have to revisit everything," says

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Cividanes, calling the Venable job an "excellent opportunity." Cividanes, who splits his time between lobbying, counseling, and litigation, represents, among other clients, Reed Elsevier's LexisNexis, Time Warner Cable, and the Direct Marketing Association. Along with Plesser, he was part of a team that represented the DMA in its ultimately unsuccessful bid to prevent the establishment of a national Do Not Call Registry. — T.R. Goldman

LAWYERING UP

A federal probe of a real estate transaction involving Rep. Randy "Duke" Cunningham (R.-Calif.) has been good for the local white collar bar. Last week, a grand jury in California served Cunningham with a subpoena for documents, following a host of news reports examining Cunningham's 2003 sale of his Del Mar, Calif., house to defense contractor MZM Inc. for $1.6 million. MZM sold the house within a year at a $700,000 loss. Cunningham, who sits on a defense appropriations subcommittee, also lived on a yacht moored in Washington, the Duke-Stir, that belongs to MZM founder Mitchell Wade. Cunningham, who has said he has "acted honorably and honestly" but admitted showing "poor judgment" in the home sale, has hired congressional investigations specialist K. Lee Blalack of O'Melveny &Myers to handle the matter. Wade, who resigned from MZM last month, has turned to a bipartisan team of partners at Wilmer Cutler Pickering Hale and Dorr: Reginald Brown, former Bush White House associate counsel; Howard Shapiro, who served as general counsel at the FBI for much of the Clinton administration; and former federal prosecutor Ronald Machen. MZM has retained Steptoe & Johnson's Mark Hulkower. — Jason McLure

CHUTZPAH

No one can deny John Marboah has guts. Marboah, aka Charles Boateng, is an illegal alien who used a fake name and Social Security number to get a construction job. He then filed a workers' compensation claim after being injured. Marboah, a citizen of the Netherlands, later sued his lawyers for $5 million, alleging they botched the paperwork in his compensation case. Marboah's true identity was exposed when he tried to re-enter the United States from Canada in 2002. In what one D.C. judge called "an unusual measure of audacity," Marboah continued to push the legal malpractice suit, arguing he still had a case because his compensation claim had been granted under his fake name. "It was a clear case of legal malpractice," says Benjamin Trichilo of Trichilo, Bancroft, McGavin, Horvath & Judkins, who represented Marboah in the malpractice suit. The D.C. Court of Appeals disagreed and last week ruled in favor of Marboah's former attorney, Alan Ackerman, and his firm. Marboah's deception led Judge Frank Schwelb to include a footnote, quoting Sir Walter Scott: "Oh, what a tangled web we weave when first we practice to deceive." — Bethany Broida

FLIPPING

Laura Flippin, formerly a special assistant to the president and executive secretary of the Homeland Security Council, has joined Paul, Hastings, Janofsky & Walker's litigation department as of counsel. Prior to serving in the Bush White House, Flippin was a deputy assistant attorney general in the Justice Department's Civil Division, overseeing immigration and consumer litigation. Flippin says her experience litigating against Fortune 500 companies has given her an insider's point of view: "My understanding of how the government looks at these cases and prosecutes them is a good foundation for expanding on a practice that I now have an insider's perspective on." Litigation department chair James Wareham says Flippin's government experience will be an asset to the global litigation practice. — Hilary Lewis

CORPORATE SCANDALS:

Feds To Continue HealthSouth Probe (AP)

By JAY REEVES, ASSOCIATED PRESS

AP, July 4, 2005

BIRMINGHAM, Ala. (AP) - Federal prosecutors aren't done with HealthSouth Corp., despite the acquittal of ousted CEO Richard Scrushy in a $2.7 billion earnings overstatement. Two former executives who pleaded guilty in the accounting scheme are set for sentencing this summer, and two more indicted in the fraud are awaiting trial in Birmingham, where jurors last week found Scrushy not guilty.

HealthSouth, meanwhile, is still feeding information to prosecutors as it sorts out the aftermath of the financial debacle, and U.S. Attorney Alice Martin said her office is still investigating the long-running fraud at the rehabilitation and medical services chain.

A recent earnings restatement filed by HealthSouth with the Securities and Exchange Commission includes information about payments and perks offered to some health care providers that could have violated Medicare rules, Martin said in an interview with The Associated Press.

"Now I'll turn my attention to some other things that have been on the back burner during the trial," said Martin, declining to elaborate.

The acquittal of Scrushy on all 36 counts was a stinging defeat for FBI agents and prosecutors who spent more than two years on the case, and Martin said attorneys are eager to talk more with jurors to find out exactly where their case failed.

But Martin rejected the idea that Scrushy's acquittal meant the whole investigation was a failure.

"Overall it's been an incredible success with 15 guilty pleas," she said. "Sometimes that last domino doesn't fall."

Years of bogus accounting at the company Scrushy founded and ran for nearly two decades were revealed in March 2003, when the SEC filed a civil lawsuit accusing him and HealthSouth of a massive fraud.

HealthSouth fired Scrushy and cleaned out most of the company's top officers, with 15 one-time executives pleading guilty in the scam. HealthSouth never denied the fraud occurred, and neither did Scrushy.

But jurors didn't feel that the government had proved Scrushy was aware of and took part in the conspiracy with some of his closest, longest-serving aides.

By the time HealthSouth employees stopped confessing crimes, 15 people had struck plea deals and agreed to cooperate with prosecutors trying to unravel the crime. The executives-turned-felons included longtime Scrushy associate Aaron Beam, who helped Scrushy start HealthSouth in a one-room office in 1984.

Beam, the company's first finance chief, pleaded guilty to bank fraud in the scheme and was the first of five CFOs to take the stand and tie Scrushy to the fraud. Jurors rejected all that testimony, telling reporters afterward that all five men had credibility problems.

Now, Beam is scheduled to be sentenced on July 25 for his role in the fraud. Defense lawyer Donald Briskman said Beam fulfilled his part of the plea deal by taking the stand against his old colleague, and he expects prosecutors to honor their end of the bargain by recommending a lighter sentence.

"Despite what the result may have been, Mr. Beam testified accurately, completely and fully," Briskman said.

Beam and Will Hicks, a one-time HealthSouth vice president who also testified against Scrushy and also is set for sentencing on July 25, could receive probation based on the punishment handed down to 10 other HealthSouth executives sentenced so far. Only one was sent to prison, and that term was for only five months.

"I really don't want to speculate on any possible sentence," Briskman said.

The 11th U.S. Circuit Court of Appeals last month ordered a judge to explain his light sentences for two more former HealthSouth workers who pleaded guilty, former CFO Mike Martin and Richard Botts, a vice president, but the court didn't order tougher punishment for the two, who got probation. Still, prosecutors are renewing their request for prison for Martin and Botts.

Meanwhile, former HealthSouth president and director Jim Bennett and Hannibal "Sonny" Crumpler, a division controller, are awaiting trial. Bennett's attorneys have asked for a date as early as November, and Crumpler's case is set to begin Sept. 12.

HealthSouth repeatedly has said it is cooperating with authorities, but Martin said no decision has been made on whether to charge the corporation itself with a crime.

"The company has continued to self-report things that it found, and we are still looking into those," she said.

HealthSouth last month agreed to pay $100 million to settle the civil fraud charges filed by the SEC, and in January it reached a $325 million settlement with the Justice Department to resolve issues linked to Medicare billing practices.

SEC To Try To Pursue Scrushy In Civil Court (WP)

By Carrie Johnson

The Washington Post, July 5, 2005

Federal prosecutors last week failed in their attempt to hold former health care executive Richard M. Scrushy accountable for a $2.7 billion accounting fraud. Now the Securities and Exchange Commission is taking a crack.

Thursday, the SEC will file court papers seeking a chance to pursue its case against Scrushy for the earnings inflation at HealthSouth Corp. The agency wants to forbid Scrushy, 52, from serving as an officer or director of another public company. It is also seeking $786 million in penalties and disgorgement.

But whether the SEC will succeed where criminal authorities stumbled is far from clear, experts said.

U.S. District Judge Inge P. Johnson last week ordered the agency to "show cause . . . why this case should not be dismissed."

Two years ago, the same judge rejected the agency's attempt to freeze hundreds of millions of dollars in Scrushy's cash and property after an unusual 11-day hearing in Birmingham. The SEC sought to protect the assets so eventually they could be distributed to investors who lost money after the fraud came to light.

"Evidence of defendant Scrushy's involvement in the alleged scheme to inflate profits . . . is lacking," the judge wrote in a May 2003 opinion.

She added that testimony from former HealthSouth finance chiefs who pleaded guilty to taking part in the scheme lacked credibility and called a secret recording of Scrushy talking about the company's financial problems "ambivalent at best."

Similar doubts also were cited by jurors who last week acquitted Scrushy on three dozen fraud, conspiracy and money-laundering charges in a trial that featured testimony from all five of the company's former finance officials. Scrushy could have faced decades behind bars if he had been convicted.

Arthur W. Leach, a lawyer for Scrushy, said he hopes the jury verdict "has caused Judge Johnson to have increased questions about the strength and the merit of the SEC case." Leach noted that the judge in the criminal trial had ruled that Justice Department prosecutors and securities investigators had colluded in a way that violated Scrushy's rights -- a decision that resulted in Scrushy's SEC deposition being tossed out of the criminal case.

John Nester, an agency spokesman, declined to comment on the substance of the agency's argument but said the SEC would pursue its case.

"It's extremely rare that this situation happens, and it's something nobody at the SEC will be happy about," said Gregory S. Bruch, a former agency lawyer and a partner at Foley & Lardner LLP in the District. "Judges generally don't like the government taking multiple shots at people on the same set of facts."

Civil claims such as those filed by the SEC must be proved by a preponderance of the evidence -- a far lower burden than the reasonable-doubt standard necessary for a criminal conviction. Experts added that the agency is charging Scrushy with failing to follow accounting procedures and other new allegations not contained in his criminal indictment.

In addition, the SEC may be able to sharpen its case based on lessons it gleans from the failed criminal prosecution.

"I don't know how much mileage Scrushy can get out of this acquittal," said Steven R. Smith, a securities lawyer at Bryan Cave LLP.

Derek M. Meisner, a former SEC lawyer now at Kirkpatrick & Lockhart Nicholson Graham LLP, said agency officials might consider settling with Scrushy rather than trying their luck in court. Lawyers for Scrushy said last week that he wants to return to HealthSouth, where he remains a member of the board.

But the rehabilitation hospital company's new managers decreed that Scrushy, HealthSouth's largest individual shareholder, would not be welcome under any circumstances. Institutional shareholders and money managers have echoed that sentiment.

The company's board has been holding special committee meetings, without Scrushy, for the past two years. HealthSouth expects to hold a formal shareholder meeting as soon as its financial statements are up to date -- perhaps as early as the first quarter of 2006, spokesman Andy Brimmer said. The company does not plan to include Scrushy on the slate of board candidates.

German Broker Is Investigated For Millions In Missing Funds (WSJ)

By Edward Taylor And David Reilly

The Wall Street Journal, July 5, 2005

In what appears to be one of Europe's biggest investment frauds -- potentially affecting as many as 30,000 investors -- about €270 million, or roughly $320 million, in client funds hasn't been accounted for at a little-known German brokerage firm, lawyers probing the firm's activities said Friday.

Despite promising double-digit returns to investors, Phoenix Kapitaldienst GmbH was a scam that operated for nearly a decade, said Otto Lakies, a member of the law firm appointed to oversee Phoenix's insolvency proceedings and is trying to trace the funds. To cover up the fraud, the firm simply wrote fake account statements and shredded documents, he added. The ruse went undetected even during a special audit of the firm in 2002 ordered by German markets watchdog BaFin.

"It was a systematic deception, a fraud which should have been detected earlier because it was so...obvious," Mr. Lakies said.

Some managers at Phoenix itself discovered the fraud in March when they uncovered a phantom account that purportedly contained €600 million. Their discovery came almost a year after the death of top Phoenix manager Dieter Breitkreuz, who was killed in a plane crash on April 7, 2004. These managers contacted BaFin, which on March 10 blocked the company's accounts and called in prosecutors.

Prosecutors have started proceedings against two directors of the company on charges of fraud in 6,940 cases related to the firm and arrested the two, one of whom they allege destroyed documents. A Frankfurt court appointed law firm Schultze & Braun to oversee insolvency proceedings at the firm; Mr. Lakies, its head of forensic services, has been trying to piece together what happened and find what money is left.

Phoenix couldn't be reached for comment.

Insolvency administrator Frank Schmitt of Schultze & Braun said he has accounted for €232 million of €500 million that individuals from Germany, Denmark and the United Kingdom invested with Phoenix. He said it was unlikely the remaining money

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would be recovered, but investigations are continuing. Much of the money had been paid out by Phoenix in salaries and profit-participation plans among employees, as well as in taxes, he said.

Lawyers at Schultze & Braun said that the fraud began in the early 1990s and that signs emerged as early as 1997.

Hoping To Avoid The Third Out (WP)

By Dean Starkman, Washington Post Staff Writer

The Washington Post, July 5, 2005

Evan G. Greenberg, the last member of his family to head a major insurance company, is walking a fine line, staying on his feet despite investigations into the U.S. insurance industry that have toppled his brother and father.

A son of industry icon Maurice R. "Hank" Greenberg, 50-year-old Evan heads Ace Ltd., a major Bermuda-based insurer that is one of the most profitable in the industry. The company is a big underwriter in Asia and a leading U.S. insurer against big corporate losses, such as those from asbestos claims.

Evan Greenberg has so far managed to keep a low profile and mollify authorities -- unlike his father, who was ousted in March after heading giant American International Group Inc. for 37 years, and older brother Jeffrey, who resigned last fall as chief executive of Marsh & McLennan Cos. after New York state Attorney General Eliot L. Spitzer filed civil bid-rigging charges against the company and publicly signaled his desire for Jeffrey W. Greenberg's ouster.

In comments to investors, Evan Greenberg has acknowledged his own company's shortcomings and called for industry-wide reforms. But he also said Ace has weathered an internal review of bid-rigging allegations without major findings of wrongdoing beyond those disclosed earlier this year. At the time of the disclosure, Ace fired three executives, suspended two others and forced the resignation of the head of its U.S. operations, who reported to Greenberg.

"We are an ethical company," he said on a conference call in May. "We have conducted ourselves in a fit and proper manner."

Greenberg has decided to fight a civil suit filed by Connecticut Attorney General Richard Blumenthal alleging that Ace paid an improper secret commission to Marsh to win a state contract to administer $80 million in workers' compensation claims.

Greenberg has said the company believes the case has no merit, and Ace has a filed a motion to dismiss the claim.

Some observers say the company is confident that Greenberg will weather the industry-wide investigations.

"ACE believes its CEO is not a focus of any investigation, despite having the last name Greenberg," J. Paul Newsome, an analyst for A.G. Edwards & Sons Inc., wrote in April. Newsome added recently that he has not learned anything since then to contradict that notion.

Greenberg and Ace, through a company spokesman, declined to comment.

The company faces plenty of questions. According to documents Ace filed in March with the Securities and Exchange Commission, the company has received 43 subpoenas, civil demands and other queries from attorneys general in 10 jurisdictions, including the District, and 10 state insurance departments or other regulators, including Maryland's.

State authorities are investigating whether insurance firms took kickbacks or colluded with one another to increase prices. State and federal officials are also looking into whether companies misled investors by accounting for a type of insurance as a loan when there was no transfer of risk.

Greenberg himself has cautioned that the company is still conducting the second half of a two-part internal review into the company's use of "finite risk" insurance, an income-smoothing device misused by some companies to cover up problems on their books. Allegations of such misuse sparked investigations into AIG and Berkshire Hathaway Inc.'s General Re Corp. insurance unit. The internal review of Ace, by Mary Jo White, a former U.S. attorney for Manhattan and a partner at Debevoise & Plimpton LLP, is due in a month or so.

There are also ongoing state and federal investigations into accounting and business practices at AIG, where Evan Greenberg worked for 25 years, including the last three as chief operating officer under his father.

For a long time, Evan Greenberg was considered the least likely family member to run an insurance company. His father had run AIG since 1967 and turned it into the world's largest insurer. His brother Jeffrey, a graduate of Choate School in Connecticut, Brown University and Georgetown law school, joined a Marsh insurance-brokerage unit and rose quickly. He joined AIG in 1978 and was considered a potential successor to his father, until the two fell out and Jeffrey abruptly left in 1995. He later became head of Marsh, a big source of business for AIG.

Evan, by contrast, did not graduate from college and drifted after finishing at an alternative high school, working as a cook in a nursing home and as a bartender before joining an AIG subsidiary in Colorado in 1975.

Evan served in posts in Korea and Japan and was named to head AIG's foreign general insurance business. He returned to New York in the early 1990s and was named president and chief operating officer in 1997.

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As part of his duties, Evan oversaw AIG's auto warranty business, which turned into a "disastrous" investment resulting in a $210 million loss by 1999, according to a civil fraud suit filed by Spitzer against AIG last month. In lengthy litigation brought in 1999 against AIG by a claims adjuster, Warrantech Automotive of Bedford, Tex., Evan Greenberg testified in a 2001 deposition that his father held him responsible for the debacle.

"I received the CEO's displeasure with the business, and how bad it was, routinely; his impatience, his unhappiness and his expectations," he said. The case was first highlighted in a USA Today article published in November.

In September 2000, Evan left.

"We wish Evan the very best in his future endeavors," his father said in AIG news release.

The auto warranty losses became a centerpiece of Spitzer's civil suit against AIG, which alleges that Maurice Greenberg and others arranged a "fraudulent and illegal scheme" beginning in April 2000 to disguise the auto warranty losses as investment losses. AIG says it is cooperating with all investigations. Maurice Greenberg has denied the allegations.

A year after leaving AIG, Evan Greenberg joined Ace, a company packed with AIG alumni and one of AIG's fiercest rivals.

Founded in 1985 to fill an underserved market insuring against large corporate losses, known as excess casualty, the company went on to mimic AIG's core business, commercial underwriting, and became one of the few to compete with AIG both in the United States and globally. The rivalry heated up in 1994, when a top AIG executive and protege of Maurice Greenberg, Brian Duperreault, left AIG to head Ace, taking several AIG executives with him. Maurice Greenberg often disparaged Ace to investors and analysts, sarcastically asking if it was "some kind of bandage," according to people who heard him.

Evan Greenberg was hired in November 2001 to head Ace's overseas unit, became president and chief operating officer in June 2003 and succeeded Duperreault as chief executive in May 2004. He was paid $7.2 million in salary, bonus and restricted stock last year, plus more than $214,000 as a housing allowance and more than $68,000 for personal travel on corporate aircraft, according to documents filed with the Securities and Exchange Commission.

A lawsuit filed by Spitzer in October against Marsh alleged that the New York-based brokerage conspired with Ace and other insurers to rig insurance bids for corporate customers. An Ace assistant vice president, Patricia Abrams, pleaded guilty in New York state court to a misdemeanor criminal complaint alleging that she attempted to restrain trade. She was charged with providing noncompetitive "b" quotes intended to fool insurance customers under a "rigged bidding process." Abrams is expected to cooperate with Spitzer in his criminal investigation of the industry, according to a person familiar with the matter who spoke on condition of anonymity because of the ongoing investigations.

A lawyer for Abrams did not return a telephone call.

Ace was not named as a defendant in the suit, although the suit said Ace and other companies "conspired unreasonably to restrain trade." Marsh settled its portion of the suit in January, apologizing and setting up an $850 million compensation fund.

In January, the head of Ace's U.S. unit, Susan Rivera, resigned after an e-mail to her was included in court papers as part of Spitzer's investigation. In the e-mail, Geoffrey G. Gregory, the president of Ace's casualty risk unit, warns that "b" quotes could "potentially be construed as simply providing the appearance of competition."

Rivera was also mentioned in a settlement agreement signed in April by Spitzer and Willis Group Holdings Ltd., another New York brokerage. Spitzer alleged that a former Willis official "personally convinced" Rivera to send him "fraudulent e-mails" to justify a $500,000 payment from Ace to Willis. The payment was a "contingent commission" intended to prod Willis to steer corporate clients to "favored" insurance companies, Spitzer alleged. A Willis spokesman declined to comment; the company paid $50 million to settle the investigation without a lawsuit being filed. Barry Ostrager, a lawyer for Rivera, said his client did nothing wrong and that the Spitzer allegations are a "mischaracterization of the historical facts."

Rivera had been recruited to Ace by Evan Greenberg, according to a person familiar with the matter who requested anonymity because of the ongoing investigation. Ace announced in November that it had fired Abrams and Gregory, and, last month, a third executive. A lawyer for Gregory declined to comment.

In the conference call with investors, Evan Greenberg said the company's problems in bid-rigging had been mostly confined to the excess casualty unit, plus "a few" examples of behavior that were "inconsistent" with the company's code of conduct.

Greenberg also acknowledged the fraught regulatory environment. Asked whether he expected regulators to show increased "vigilance" from now on, he said: "I don't know that there'll be any more vigilance than we have today. It's a pretty frickin' vigilant environment."

CRIMINAL LAW:

The Rove Factor? (NSWK)

By Michael Isikoff, Newsweek
Newsweek, July 3, 2005

Its legal appeals exhausted, Time magazine agreed last week to turn over reporter Matthew Cooper's e-mails and computer notes to a special prosecutor investigating the leak of an undercover CIA agent's identity. The case has been the subject of press controversy for two years. Saying "we are not above the law," Time Inc. Editor in Chief Norman Pearlstine decided to comply with a grand-jury subpoena to turn over documents related to the leak. But Cooper (and a New York Times reporter, Judith Miller) is still refusing to testify and faces jail this week.

At issue is the story of a CIA-sponsored trip taken by former ambassador (and White House critic) Joseph Wilson to investigate reports that Iraq was seeking to buy uranium from the African country of Niger. "Some government officials have noted to Time in interviews... that Wilson's wife, Valerie Plame, is a CIA official who monitors the proliferation of weapons of mass destruction," said Cooper's July 2003 Time online article.

Now the story may be about to take another turn. The e-mails surrendered by Time Inc., which are largely between Cooper and his editors, show that one of Cooper's sources was White House deputy chief of staff Karl Rove, according to two lawyers who asked not to be identified because they are representing witnesses sympathetic to the White House. Cooper and a Time spokeswoman declined to comment. But in an interview with NEWSWEEK, Rove's lawyer, Robert Luskin, confirmed that Rove had been interviewed by Cooper for the article. It is unclear, however, what passed between Cooper and Rove.

The controversy began three days before the Time piece appeared, when columnist Robert Novak, writing about Wilson's trip, reported that Wilson had been sent at the suggestion of his wife, who was identified by name as a CIA operative. The leak to Novak, apparently intended to discredit Wilson's mission, caused a furor when it turned out that Plame was an undercover agent. It is a crime to knowingly reveal the identity of an undercover CIA official. A special prosecutor was appointed and began subpoenaing reporters to find the source of the leak.

Novak appears to have made some kind of arrangement with the special prosecutor, and other journalists who reported on the Plame story have talked to prosecutors with the permission of their sources. Cooper agreed to discuss his contact with Lewis (Scooter) Libby, Vice President Dick Cheney's top aide, after Libby gave him permission to do so. But Cooper drew the line when special prosecutor Patrick Fitzgerald asked about other sources.

Initially, Fitzgerald's focus was on Novak's sourcing, since Novak was the first to out Plame. But according to Luskin, Rove's lawyer, Rove spoke to Cooper three or four days before Novak's column appeared. Luskin told NEWSWEEK that Rove "never knowingly disclosed classified information" and that "he did not tell any reporter that Valerie Plame worked for the CIA." Luskin declined, however, to discuss any other details. He did say that Rove himself had testified before the grand jury "two or three times" and signed a waiver authorizing reporters to testify about their conversations with him. "He has answered every question that has been put to him about his conversations with Cooper and anybody else," Luskin said. But one of the two lawyers representing a witness sympathetic to the White House told NEWSWEEK that there was growing "concern" in the White House that the prosecutor is interested in Rove. Fitzgerald declined to comment.

In early October 2003, NEWSWEEK reported that immediately after Novak's column appeared in July, Rove called MSNBC "Hardball" host Chris Matthews and told him that Wilson's wife was "fair game." But White House spokesman Scott McClellan told reporters at the time that any suggestion that Rove had played a role in outing Plame was "totally ridiculous." On Oct. 10, McClellan was asked directly if Rove and two other White House aides had ever discussed Valerie Plame with any reporters. McClellan said he had spoken with all three, and "those individuals assured me they were not involved in this."

When To Give Up A Source (TIME)

By BILL SAPORITO
Time, July 3, 2005

For journalists, confidential sources can be as essential as ink. That's why so many were surprised last week when Norman Pearlstine, editor-in-chief of Time Inc., said he would reveal some confidential information about a big story. In a case involving TIME magazine White House correspondent Matthew Cooper, Pearlstine agreed to comply with a federal subpoena and surrender Cooper's notes and files relating to a story he had written that is part of an investigation into the disclosure of a CIA operative's identity. Time Inc. had appealed the case all the way to the Supreme Court, but when the court declined last week to hear the case, Pearlstine made the decision he calls "the most difficult I have made in more than 36 years in the news business."

Many in the media world quickly criticized the move as a capitulation to government pressure that could scare off future sources. "I can't think of a time," said Lucy Dalglish, executive director of the Reporters Committee for Freedom of the Press, "when a news organization has done something like this." Tom Rosenstiel, director of the Project for Excellence in Journalism, said Time Inc.'s decision signals that sources--and reporters--will now have to worry about media companies in addition to

government prosecutors. "How will sources believe that journalists can keep their word?" he asked. But others pointed out that Time Inc. had run out of venues to fight the case. "Time Inc. fought this as hard as anyone could, with great lawyers, at great expense," said Newton Minow, former FCC chairman and professor emeritus at Northwestern University School of Law. "Once that happens, you have to obey the law."

The Cooper case evolved from an investigation by special counsel Patrick Fitzgerald, who set out to identify the unnamed Bush Administration sources cited by journalist Robert Novak in a July 2003 column that outed CIA officer Valerie Plame. Cooper subsequently wrote a piece for TIME's website saying that "some government officials" had provided him with information similar to what Novak had reported. Cooper suggested in his article that the sources were seeking to discredit Plame's husband, former Ambassador Joseph Wilson, who found evidence contradicting the Administration's prewar claim that Iraq had sought uranium in Africa for nuclear weapons. Judith Miller of the New York Times may have spoken to the same sources, though she didn't publish anything. (Nonetheless, she, like Cooper, could face jail time for declining to reveal her contacts.) The New York Times criticized Time Inc.'s decision to hand over material--publisher Arthur Sulzberger Jr. said he was "deeply disappointed"--and said it backed Miller's refusal to testify. Cooper was stoically diplomatic: "There's honor in obeying an order backed by the Supreme Court. There's honor in civil disobedience. I wish Time Inc. had tried to hold out longer against handing over papers that identified my sources. But there's surely principle in both decisions."

After Time Inc. agreed to turn over the requested materials to Fitzgerald's office, speculation quickly surfaced over whose names would be identified. Much of that focused on Karl Rove, senior adviser to President George W. Bush. Rove's lawyer, Robert Luskin, said Cooper called Rove during the week before Novak's story appeared but declined to say what they discussed. Luskin said Rove "has never knowingly disclosed classified information." The lawyer said he has received repeated assurances from Fitzgerald's office that Rove is not a target in the case.

The investigation has been bizarre from the start. For one thing, it's still unclear whether any laws were broken in the Plame revelation. (Deliberately disclosing an operative's name is illegal but only if the government is actively trying to conceal its relationship with that person.) Yet Fitzgerald's wide-ranging investigation has involved subpoenas of at least five journalists, and several, including Cooper, NBC's Tim Russert and the Washington Post's Walter Pincus, have testified on at least a limited basis. The courts have repeatedly denied Cooper and Miller privilege to protect their sources. After the Supreme Court refused to hear the case, Pearlstine says he concluded that Time Inc. had an obligation to follow the law and obey the ruling. "An organization that prides itself on pointing its finger at people shouldn't be breaking the law itself," he said.

Some pundits have countered that an act of civil disobedience by Time Inc.--declining to follow an "unjust" ruling while being prepared to suffer the legal consequence--wouldn't be the same as placing oneself above the law. In Pearlstine's view, "when the courts rule that a citizen's obligation to testify before a grand jury takes precedence over the press's First Amendment right, to me, going against that finding would put us above the law." Others have questioned whether Time Inc. was putting corporate priorities over journalistic ones. Continued refusal to cooperate with the judge would have meant increased fines (well above the current $1,000-a-day penalty). Pearlstine vehemently dismissed the idea of any such calculation. "I am solely responsible for this decision, and the threat of fines never figured into my thinking," he said. He added that he did not consult with Time Inc. CEO Ann Moore or Richard Parsons, CEO of Time Warner, Time Inc.'s parent.

In handing over the requested materials, Pearlstine and Time Inc. made the argument that there was now no need for Cooper to testify because Cooper's files contain at least some of the information Fitzgerald has been seeking. In the interim, Cooper and Miller have asked Judge Thomas F. Hogan to sentence them, if it comes to that, to home confinement or, barring that, to federal prison camps, as opposed to maximum-security prisons or the notorious Washington jails.

Will Time Inc.'s actions alter the rules of journalism? Some think so. "This is going to be open season on journalists," says Dalglish. "Litigators are out there thinking, Why not subpoena them? I'm probably going to win." In Pearlstine's view, Time Inc.'s decision is a narrowly framed one that applies only to a case that involves a federal grand jury with access to secret testimony about a national-security issue. He says he still believes in the value of confidential sources--and fighting to keep them that way as far as the law allows.

Another way in which this case differs from a typical one is that unlike in a traditional whistle-blower scenario in which a source is being protected from potential retaliation, the source or sources being protected in the Cooper case may well have been retaliating against Wilson. "This was leading into a blind alley," says Jim Wheaton, who teaches media law at Stanford University and the University of California, Berkeley. "If the Supreme Court had taken the case, it was likely to say there's no privilege, period." Jay Rosen, chairman of New York University's journalism department, understood the logic of Time Inc.'s ultimate decision. "I find it hard to get worked up into the same outrage as others about the Time decision, which seems to me to be a practical decision," he told the Wall Street Journal.

In the future, the best hope for journalists may be a federal shield law, now in Congress, which would let reporters keep sources confidential under any circumstances. Thirty-one states and the District of Columbia have shield laws, while 18

additional states have similar protections. A federal law has been proposed by Senator Richard Lugar and Representative Mike Pence of Indiana, who have signed up dozens of co-sponsors. It's not that legislators love the media. But when it comes to advancing their politics, legislators can be world-class leakers and could have as much to lose as journalists. --With reporting by Mark Thompson and Viveca Novak/Washington and Nathan Thornburgh/New York

Journalists Say Threat Of Subpoena Intensifies (NYT)

By Katharine Q. Seelye

The New York Times, July 5, 2005

In 1991, when Timothy Phelps, a reporter for Newsday, and Nina Totenberg, a reporter for National Public Radio, broke the news that Anita Hill had accused Clarence Thomas, then a Supreme Court nominee, of sexual harassment, a special Senate counsel tried to subpoena the reporters' telephone records to unmask their confidential source.

The accusations prompted a second round of highly contentious confirmation hearings, but Senate leaders ultimately refused to give the special counsel permission to pursue the records, and eventually the matter was dropped.

Mr. Phelps, who is now Newsday's bureau chief in Washington, recalled his case last week after two courts, including the Supreme Court, ruled in two similar cases against journalists.

"We seemed to have pretty solid support for the stand we took, from the journalistic community, the legal community, the human rights community, the public," he said. "And I don't sense as much of that today, even in the journalistic community. The legal atmosphere, the corporate atmosphere, and the public atmosphere has changed."

Lawyers for the news media say that the legal climate for those seeking to protect confidential sources is turning chillier, with more subpoenas being issued to reporters. There is no database that tracks such subpoenas, and some prosecutors dispute that they are on the rise. But a series of high-profile cases involving confidential sources has the news media on edge.

"It does feel like open season," said Laura Handman, a First Amendment lawyer based in Washington. "There are more instances of courts ordering confidential sources to be disclosed," she said, adding that she believed the Bush administration's emphasis on secrecy was partly to blame. "This leads to more leak inquiries, which, in turn, leads to more subpoenas."

In the last year, more than two dozen reporters across the country have been subpoenaed or questioned about their confidential sources in cases before federal courts, according to the Newspaper Association of America. Paul J. Boyle, senior vice president of the association, said he believed that "the filing of subpoenas, as well as the letters and phone calls that media companies receive from prosecutors and civil litigants, is on the rise."

Kurt Wimmer, a media lawyer whose firm, Covington & Burling, represents 45 television stations in 40 states, said he had as many subpoenas against reporters in the first three months of this year as he had in all of last year.

He said those subpoenas were largely inspired by the looming prospect over the last several months that Judith Miller of The New York Times and Matthew Cooper of Time magazine would go to jail for refusing to testify in a grand jury investigation into the disclosure of the identity of a covert C.I.A. operative, Valerie Plame. The Supreme Court last week declined to hear the reporters' appeal, intensifying one of the biggest clashes between the news media and the courts in a generation.

"When the Supreme Court says there's nothing wrong with forcing reporters to testify and go to jail, other lawyers are looking at that and saying, 'Why shouldn't I subpoena a reporter?' " Mr. Wimmer said.

Others doubt that there have been more subpoenas recently, saying it may just seem that way because a handful of cases have become so prominent. They say that regardless of the numbers, there is nothing wrong with pursuing justice if a reporter has been manipulated by a source and published misleading information.

In another case last week, a federal appeals court in Washington upheld contempt orders against four reporters who had refused to disclose their confidential sources to Wen Ho Lee, an atomic scientist who had been suspected of passing secrets to the Chinese but pleaded guilty to a lesser charge. He is suing the government for giving information about him to those reporters, violating his privacy.

Brian A. Sun, a Los Angeles lawyer who represents Dr. Lee, said that while he did not see more subpoenas, just more publicity about them, he agreed that the Miller-Cooper case "could encourage other prosecutors to utilize the tools that they have had available to them." In Mr. Sun's view, what is behind these cases are leakers who have "less than altruistic motives" and are using reporters, while those reporters in turn are looking to break a big story.

The heightened interest in national security issues since the Sept. 11 terrorist attacks has drawn attention to some cases, said Martin London, a New York lawyer who has litigated several media cases and subpoenaed nearly a dozen reporters in 1972 on behalf of Spiro T. Agnew, the former vice president. At the same time, he said, high-profile scandals at various news organizations, including The New York Times and CBS News, have undermined confidence in the news media.

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"I don't buy that there is any increase in subpoenas," Mr. London said. "The Miller-Cooper case is very unusual, it has a lot of wrinkles that are just sort of extraordinary. But it's perfectly reasonable in a post-9/11 world for the government to be concerned about the security of C.I.A. information."

John Nowacki, a spokesman for the Justice Department, said the department would not comment on the use of subpoenas against reporters.

Mr. Boyle and others said there was a change after a 2003 ruling written by Richard Posner, an influential federal appeals court judge in Chicago, who said that lower courts had been misreading a 1972 Supreme Court decision, Branzburg v. Hayes. That case in fact rejected the idea of First Amendment protections for reporters, but media lawyers over three decades managed to convince judges otherwise.

"He seems to have freed some of his colleagues to pull back on the privilege," said Sandra Baron, executive director of the Media Law Resource Center.

Patrick J. Fitzgerald, the special prosecutor in the Miller-Cooper case, has served as something of a role model for those who are seeking information from reporters. Mr. Fitzgerald has employed a technique based on the idea that if a source no longer requires confidentiality, the reporter's pledge to keep it is moot. He has sought and obtained waivers from suspected sources releasing reporters of their confidentiality agreements, making it harder for reporters to claim they are bound by a pledge not to talk.

Through this approach, Mr. Fitzgerald obtained at least limited testimony from journalists including Tim Russert of NBC, Walter Pincus of The Washington Post and Mr. Cooper. Mr. Cooper was subpoenaed again and refused to testify, although Time Inc. has turned over his notes to the prosecutor, a decision with which Mr. Cooper said he disagreed. Mr. Cooper and Ms. Miller face another court hearing Wednesday to learn their fates.

Mr. Phelps, for one, lamented this turn of events and said it was only likely to chill potential sources in the future. "The fact that some news organizations have cooperated in this case is going to put a little seed of doubt in people's minds about whether they can really depend on reporters or not," he said.

And there is a rising concern among reporters that those people might be right.

"The biggest fear that most reporters have now is not having their mail taken or their phone records taken without their being told," said John Solomon, who oversees investigative reporting for the Associated Press and who had both of those things happen to him, in 2002 and 2001, respectively. "The biggest concern is that they'll write about something and will be forced to talk about it."

Representative Mike Pence, the Indiana Republican who is pushing, so far unsuccessfully, for Congress to pass a federal law to protect journalists, said that fear was justified. "No reporter, as the law has evolved in the last 30 years, can give absolute assurance to any source that at no time will their identity be disclosed," he said.

In addition to the Lee and Miller-Cooper cases, there have been several other high-profile cases involving confidential sources. Jim Taricani, a reporter with WJAR, a television station in Providence, R.I., refused to reveal the identity of the person who leaked him an F.B.I. videotape of a politician taking a bribe. He was sentenced to six months of home detention in December and was released after four months.

Nine news organizations have been subpoenaed in the case involving Steven J. Hatfill, a scientist, who sued federal officials under the privacy act for naming him as a "person of interest" in the 2001 anthrax investigations. As many as 100 federal agents have waived any confidentiality agreements they had with the media in that case.

Ms. Miller of The New York Times and a colleague, Philip Shenon, are under subpoena for their phone records by a grand jury investigating the leak of information about a planned F.B.I. raid on an Islamic charity suspected of funding terrorism. In February, a federal district judge in New York held that the reporters had a right to keep their phone records confidential.

The cases come as polls show the public has a deepening distrust of the news media, although a study by the Pew Research Center last month found that 76 percent of Americans think the use of confidential sources is at least sometimes justified.

Michael Getler, the ombudsman for The Washington Post, cautioned between linking what he agrees is a rise in the number of legal proceedings over sources and the low regard in which the news media is held. "There clearly is a more widespread ideological assault from both sides on the press these days, and that may well be feeding some of the prosecutorial zeal," he said. "But I don't know that that is really the case. I don't think we know enough to say exactly what is driving individual prosecutors."

Boat Sale By 'Duke' Made Him $400,000 (SDUT)

By Jerry Kammer And Marcus Stern, Copley News Service

The San Diego Union-Tribune, July 5, 2005

CITY ISLAND, N.Y. – Rep. Randy "Duke" Cunningham made roughly a $400,000 profit by selling the boat he lived aboard in the nation's capital from 1997 to 2002 to a businessman convicted in a bid-rigging scheme. The man said he subsequently got advice from Cunningham about how to pursue a presidential pardon from the Bush administration.

The businessman further acknowledged that a mortgage company owned by his daughter and nephew provided Cunningham with two loans totaling $1.1 million so the congressman could buy his home in Rancho Santa Fe. The businessman said he eventually paid off one of those loans in partial payment for the yacht.

Cunningham bought the 65-foot flat-bottom riverboat Kelly C from then-Rep. Sonny Callahan, R-Ala., for $200,000 in 1997. Five years later, he sold the boat for $600,000 to Thomas Kontogiannis, the Long Island businessman said yesterday.

Kontogiannis defended the $600,000 price tag as "a steal," saying that he had received an appraisal for twice that amount.

The Kontogiannis family is a frequent contributor to Republican causes, including a $300 contribution to Cunningham in July 2002, the year of the sale.

Cunningham's financial dealings in recent weeks have embroiled him in a multitiered federal investigation and cast a shadow over his Washington career.

In a series of interviews with Copley News Service yesterday, Kontogiannis confirmed that he bought Cunningham's boat and that the congressman offered to help him explore the possibility of seeking a pardon from President Bush and the Justice Department. Cunningham then put him in touch with a Washington law firm and recommended "two or three" lawyers to talk to, said the businessman.

"I said I have this problem and I was wondering if I can get a pardon out of it," said the 56-year-old real estate developer, who has more than a dozen companies. "He (Cunningham) said to me, 'I know nothing about these things, but I'll find the proper law firm and I'll let you know if they can help you.' "

Kontogiannis was among four people and five corporations pleading guilty in October 2002 to kickback and bribery charges in connection with a$6.3 million bid-rigging scheme involving contracts to provide computer services to New York public schools. Kontogiannis owned three of the companies. The defendants were ordered to repay the school board $4.8 million.

Kontogiannis said he went to Washington and talked to the law firm recommended by the congressman. But he said he then dropped the idea. "It's not worth the aggravation," he said, describing the process as too complicated.

U.S. Coast Guard records do not reflect the sale of the Kelly C from Cunningham to Kontogiannis, showing Cunningham as the boat's owner since 1997.

Kontogiannis said he never registered the yacht in his name because it is not seaworthy and he knew he would not be able to take it out on the ocean in its current condition.

He confirmed that he and Cunningham had talked about the congressman buying it back from him, at a price he did not disclose. But Kontogiannis said he dropped that idea when he saw how expensive it would be to acquire an ocean-worthy yacht.

That change of mind came after Cunningham visited the shipyard here with a long list of repairs to be made, but just before Cunningham became engulfed in controversies over his sale of his Del Mar-area house to Mitchell Wade, a defense contractor, who later resold the house at a $700,000 loss.

Cunningham's dealings with Wade are the subject of FBI and federal grand jury investigations.

Wade is the founder of MZM Inc., a Washington, D.C.-based company which has received $163 million in defense contracts since 2002. Cunningham, a member of the influential House defense appropriations subcommittee and Permanent Select Committee on Intelligence, has said that he supported funding requests benefiting MZM. Cunningham also has lived aboard Wade's 42-foot yacht, the Duke-Stir, since April 2004 in the same slip once occupied by the Kelly C.

Federal agents executed search warrants Friday at Cunningham's Rancho Santa Fe home, MZM's headquarters and Wade's yacht.

The boat at the center of this latest storm to rock Cunningham today sits forlornly on blocks in the shipyard of Consolidated Yachts at the end of Pilot Street not far from the Neptune Inn and Sammy's Fish Box restaurant.

Though gussied up recently with fresh coats of white paint and what Kontogiannis said was a $100,000 refurbishing overseen by his wife, the boat is far from ready for much ocean travel, according to workers at the shipyard.

Its last sea voyage came with Cunningham at the helm. That was late in 2002 when Cunningham delivered it to the Glen Cove Marina near here, according to Joe Weiser, Glen Cove's owner.

"He brought it here himself," Weiser said of Cunningham. "He gave me a picture of himself in his flight outfit."

Cunningham was a decorated pilot in Vietnam.

Attempts to reach Cunningham attorneys K. Lee Blalack and Mark Holscher for comment last night were unsuccessful. Nor did Cunningham spokesman Mark Olson respond to calls to his cell phone.

Kontogiannis said there is no comparison between the sale of Cunningham's Del Mar-area house to Wade and the sale of the Kelly C.

"There is no reason for me to avoid something. Everything is plain and simple for me," he said, adding about Cunningham's problems with MZM, "I don't know what the problem is that they have out there, but that is their problem."

The developer confirmed that a mortgage company owned by his daughter and nephew, Coastal Capital, provided the mortgage loans to the congressman when he bought his $2.55 million home in Rancho Santa Fe.

He insisted the loans were at "normal rates." Kontogiannis said he earlier this year paid off a $500,000 second mortgage on that home, primarily using money he said he owed Cunningham for the yacht.

"We accumulated all the money and paid the second mortgage off . . . on the fifteenth of March," he said.

Cunningham never listed the mortgage debt on his congressional financial disclosure forms, though he was not required to do so. (Members of Congress are are not required to list or provide details on their personal residences or personal property.)

Kontogiannis said the rate on the $500,000 loan was about 10 percent and the rate on a $595,000 loan was "maybe around 6 or 6¼."

Weiser said the Kelly C, whose twin engines are considered too small for a 65-foot yacht, never left its slip. Kontogiannis agreed that the flat-bottomed boat could not handle the ocean, and said he used it primarily for dockside parties.

"It's basically a party barge," said marina mechanic Wes Iencierz. "It's something you'd take out into a river, drop an anchor and have a party."

Iencierz confirmed yesterday that six weeks ago Cunningham showed up at the marina with his own mechanic in tow, clearly indicating that he intended to buy it back. Cunningham's mechanic handed him a long list of needed repairs.

Shipyard employees had derided the Kelly C when it arrived at the Glen Cove Marina around August 2002 because of its poor mechanical condition. The boat was rarely used while berthed at Glen Cove, according to marina employees.

Aboard the yacht yesterday, the repair list – or a similar list – could still be seen on the boat, which rests on wood blocks stacked three-high and is held aloft by adjustable metal braces.

The door to the interior has a stylized "C" etched in the glass and the signs of the $100,000 refurbishing could be seen in the blue carpeting, leather coach and well-crafted wood bar.

The list of repairs included work on engine impellers, running lights, the anchor light and the filters.

The co-owner of Consolidated Yachts clearly was uncertain about the future of the boat now that Cunningham has removed himself from the picture. "I could get stuck with the damn thing," said Wesly L. Rodstrom Jr. He said he called Cunningham called only a few days ago – either Thursday or Friday – to find out what was going on. "He said, 'Oh, I've got nothing to do with the boat.' "

Developer Helped Congressman By Buying Boat, Arranging Loan (WP)

By Charles R. Babcock

The Washington Post, July 5, 2005

Thomas T. Kontogiannis, a Long Island developer, says he doesn't particularly like politics, so he never does business with the federal government. Still, he hit it off with Rep. Randy "Duke" Cunningham years ago, and recently Kontogiannis bought Cunningham's 65-foot yacht, the Kelly C, and helped the California Republican finance a house.

The developer says the transactions are nothing like Cunningham's dealings on another house and yacht that are the subject of a federal investigation. A federal grand jury is examining Cunningham's relationship with Mitchell J. Wade, a Washington defense contractor who bought a home from Cunningham, possibly at an inflated price, and then let the congressman stay rent-free on Wade's 42-foot boat, the Duke-Stir, while in Washington.

The transactions between the congressman and Kontogiannis are not fully documented in the public record or the congressman's financial disclosure. Cunningham, for example, is still listed as the owner of the Kelly C, with his address listed as the home he bought more than a year after Kontogiannis said he bought the yacht from the congressman.

Kontogiannis, of Glen Head, N.Y., said in interviews this weekend that he bought the Kelly C, a boat on which Cunningham used to live while Congress was in session, for $600,000 in summer 2002. Kontogiannis spent $100,000 more redecorating it the next year at the Glen Cove marina but didn't use it except for dockside parties, he said, because it wasn't stable in rough seas. Kontogiannis said he never got around to changing the title on the boat from Cunningham's name to his.

Then in late 2003, Kontogiannis said, when Cunningham bought a $2.55 million home in Rancho Santa Fe, the congressman asked if a mortgage company owned by Kontogiannis's nephew and daughter could finance $1.1 million in mortgages. The congressman bought that house shortly after Wade paid $1.675 million for Cunningham's previous home in Del Mar. Wade then sold that house for a $700,000 loss.

Kontogiannis said he recently paid off a $500,000 second mortgage on the Rancho Santa Fe home at the congressman's request, mostly with money he owed Cunningham for the yacht.

There is no mention of Kontogiannis's debt to Cunningham on the congressman's financial disclosure statements.

Cunningham's lawyers, K. Lee Blalack II and Mark Holscher, said in a written statement that the congressman's "business dealings with Mr. Kontogiannis have been entirely proper."

Cunningham called and visited the Long Island marina a month ago -- before news stories about Wade appeared -- to arrange for repairs so he could take the Kelly C back to Washington.

Kontogiannis, 56, said he had discussed reselling the Kelly C to Cunningham but decided against it. The source close to Cunningham said the congressman registered the boat this year using his new California address in anticipation of the resale. But that idea resale was jettisoned when San Diego area newspapers broke stories about the congressman's dealings with Wade.

The developer said his failure to record the change in title on the boat should not be taken as a sign that he was doing Cunningham a favor by paying for refurbishing his boat. "Why would I do that?" he said. "I don't need the man." Kontogiannis said he has never asked Cunningham for a favor.

The developer pleaded guilty to what he said was a misdemeanor state fraud charge in 2002 in connection with alleged bribes to a local school superintendent in return for $6 million in computer contracts. He said he agreed to pay $5 million in reimbursement.

Kontogiannis, who came to the United States from Greece in 1970, said he met Cunningham at a Washington function about 15 years ago. They talk a couple of times a year, he said. Cunningham was a Navy fighter pilot in Vietnam and an instructor at its Top Gun flight school.

Kontogiannis said he went to a party on the Kelly C around 1995, when it was owned by another congressman, and liked the steel-hull craft. After Cunningham bought it 1997, for a reported $200,000, Kontogiannis said he told the congressman: "If you ever decide to sell it, I'd love to buy it."

Cunningham "called and asked if I was still interested" in buying the boat, Kontogiannis said. He did so, he said, after getting the boat appraised at $1.2 million. The developer said he financed the transaction by giving the congressman about $30,000, assuming the payments on an existing $140,000 bank loan and financing the remaining $425,000 as a personal note that accumulated interest at the prime rate. He said a family company, Axxion LLC, made the payments on the bank loan.

The congressman approached him again in 2003 when Cunningham planned to buy the Rancho Santa Fe home, Kontogiannis said. The congressman asked if Coastal Capital, the company the developer said is owned by his nephew and daughter, could finance the mortgage at its wholesale price, which had a slightly lower interest rate than retail mortgage lenders. The decision was "a slam dunk," Kontogiannis said, because the house had been appraised at $2.55 million.

Kontogiannis said Cunningham asked him last year to pay back the Kelly C loan, which was accruing interest at about 3 1/2 percent, by paying off the second mortgage on the house. Interest on the congressman's loan was accruing at 10 percent, though Cunningham wasn't making payments, he said.

The developer paid off the mortgage, he said, after Cunningham wrote him a check for $70,000 to make up the difference between what he owed on the boat and what Cunningham owed on the second mortgage.

As of late June, land records in California did not show the congressman had paid off the second mortgage. "I sent him a letter of satisfaction" in March, Kontogiannis said. "It's up to him to get it recorded."

Embattled Congressman Skips July 4th Event (AP-Y2)

By Seth Hettena, Associated Press Writer

AP2, July 5, 2005

Congressman Randy "Duke" Cunningham canceled his annual appearance at a July Fourth pancake breakfast in his district to avoid a media frenzy over the growing scandal shadowing the eight-term Republican.

Three days earlier, the FBI raided Cunningham's San Diego-area home as authorities intensified their investigation of the congressman's financial dealings.

The pancake breakfast was to have been Cunningham's first public event since last month's disclosure that the congressman sold his previous home to a defense contractor for what may have been an inflated price. Organizers received word Sunday the congressman would not attend.

"We thought it would be a media frenzy as well as possibly a lot of people with different agendas and we didn't want to distract from the spirit of the event," said Cunningham spokesman Mark Olson.

The event seemed tailor-made for the former Navy "Top Gun" fighter pilot and Vietnam war ace: A flag-waving crowd dressed in red, white and blue cheered speeches by a Navy chaplain and a Boy Scout color guard and a rendition of Lee Greenwood's "God Bless the USA."

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On Friday, the FBI searched Cunningham's $2.55 million mansion in the exclusive community of Rancho Santa Fe as well as the 42-foot yacht, the "Duke Stir," owned by Mitchell Wade, the founder of the defense firm MZM Inc., and the company's offices.

Wade bought Cunningham's previous home, and Cunningham has resided on his yacht in Washington. If he was living on Wade's boat for free, that could be a violation of congressional ethics rules.

Wade bought Cunningham's house for $1.675 million in 2003 and sold it nearly a year later for a $975,000 — a $700,000 loss in one of the nation's hottest housing markets.

Cunningham has admitted he showed "poor judgment" in selling his home to Wade but said he acted honestly and predicted the investigation would clear him. MZM has said it is cooperating with the investigation. Wade has not commented publicly.

Scrushy's Attorney To Represent Ford (KNOXNS/AP)

Knoxville News Sentinel (TN), July 4, 2005

MEMPHIS - State Sen. John Ford is adding a big name to the legal team defending him in a federal bribery case.

Attorney Donald Watkins, who helped former HealthSouth CEO Richard Scrushy win an acquittal on fraud charges last week, will help out Ford, WPTY of Memphis reported.

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Ford was indicted last month in the Tennessee Waltz sting. He is accused of taking $55,000 in bribes from a fake company set up by the FBI. The investigation includes 2,000 hours of undercover tapes.

"We hope to have Senator Ford's freedom secured by next year," Watkins said.

Watkins' law firm is part of the trio of that defended Scrushy, who was accused of directing a $2.7 billion accounting fraud at his medical company. During trial, prosecutors played a secret tape recording that seemed to incriminate him, yet he was just found not guilty.

The three firms from Alabama are joining his Memphis attorney, Mike Scholl. According to Watkins there are two reasons why the case looks good for Ford.

"The secret video tapes that the FBI made do not portray what really happened with the course of conduct of Senator Fords' dealings with the FBI and the entity created by the FBI.," Watkins said.

Watkins also said that the undercover operatives cooperating with the FBI have credibility issues.

Ford said it's been a painful experience but he's getting a lot of encouragement.

"I have overwhelming support in this community and throughout the state. Overwhelming," Ford said.

Waris Pleads Guilty To Lying To FBI (KCS)

By JUDY THOMAS and DEANN SMITH, The Kansas City Star

The Kansas City Star, July 5, 2005

Former Jackson County Executive Bill Waris pleaded guilty Saturday to lying to FBI agents in a criminal investigation that, according to documents, targets Katheryn Shields, the county's current top elected official.

Dressed in a gray suit and a white shirt, Waris admitted to U.S. Magistrate Judge Sarah W. Hays that he lied to FBI agents on March 12, 2004. That came in connection with an investigation into whether a county official offered a woman a county contract in exchange for the woman's husband withdrawing his application for a seat on the Jackson County Sports Complex Authority.

Waris declined to comment after the hearing, which came 72 hours before he was set to stand trial in federal court. During the 15-minute hearing, his attorney, John P. O'Connor, told the judge the guilty plea was "in his (Waris') best interest."

"This is a lesser charge in which the likelihood of going to jail is minimized," O'Connor said.

In an agreement reached late Friday with federal prosecutors, Waris pledged to cooperate fully with the investigation. In return, said U.S. Attorney Todd Graves, the government dismissed parts of a Nov. 17, 2004, federal indictment against Waris and won't oppose any request for probation at his sentencing.

"They haven't said that they are going to ask for probation, but I assume that they will," Graves said.

O'Connor declined to comment further on the case when contacted Saturday afternoon.

Shields has not been charged and has denied any wrongdoing. In grand jury transcripts, government officials have identified Shields as a target of the probe.

Reached by telephone Saturday morning, Shields' husband, Phil Cardarella, said she would have no comment and that they were unaware of Waris' guilty plea. He declined to identify her attorney.

"At this point, it would be premature for anyone to comment," Cardarella said.

The indictment that was dropped against Waris was on two felony charges of lying and obstructing justice, which are Class C and Class D felonies. The charge Waris pleaded guilty to Saturday was a Class D felony.

"The point of this prosecution wasn't to punish Mr. Waris to the maximum amount we could," Graves said. "The point of this prosecution was to send a message that you cannot lie to a federal agent, and that we want your cooperation and if we believe you've lied and are not cooperating, we will file an action in court."

Waris, 61, could receive a sentence of up to five years in prison without parole, plus a fine of up to $250,000. But sentencing guidelines allow the judge to sentence him to no jail time. Graves said a sentencing hearing would be scheduled after a pre-sentence investigation was completed by the U.S. Probation Office, possibly within 30 to 60 days.

Graves said the advantage of the plea agreement was that it forced Waris to provide substantial assistance to the federal investigation "by fully and truthfully disclosing everything he knows … including testifying before the grand jury or at trial. Mr. Waris clearly has information we are interested in. He is cooperating, and we find that to be significant."

The case against Waris — a former lobbyist for Jackson County and the Kansas City School District — was the unforeseen outgrowth of a controversy last year between Shields and Jackson County Prosecutor Mike Sanders over the county's anti-drug tax. The squabble eventually triggered a grand jury investigation into the tax and county contracts.

The grand jury looked into whether Shields offered a $12,000, no-bid contract to Republican activist Catherine Nugent to raise funds for the Fort Osage Historical Society in exchange for her husband, Daniel Nugent, withdrawing from consideration for a seat on the sports authority.

Nugent has said she declined the offer. Her husband did not withdraw his application, and the Jackson County Legislature did not select him as one of the three finalists. Instead, former Kansas City Mayor Richard Berkley received the nomination and the appointment. He recently resigned, citing family reasons.

At Saturday's hearing, Assistant U.S. Attorney William Meiners outlined the government's case against Waris.

Prosecutors contend that on Oct. 6, 2003, a telephone conference call was made involving Shields and Catherine Nugent in which Waris and Jackson County Legislator Daniel Tarwater were present. Meiners alleged that during that call, Shields told Nugent that the fund-raising position was available and that the job was contingent on Daniel Nugent withdrawing his application for a seat on the sports authority.

Waris, when questioned on March 12, 2004, by the FBI, denied he was present during the conference call. At Saturday's hearing, he told the judge he had lied about that.

Even though Meiners in open court named Shields as present during the conference call, Graves repeatedly refused to comment on Shields during his news conference after the hearing. Graves did confirm, however, that Tarwater was not a target of the investigation, and said he has been cooperating "any way he could" since appearing before the grand jury.

Sanders declined comment Saturday afternoon.

Former U.S. Attorney Jean Paul Bradshaw said Saturday that typically Waris would have had to give prosecutors a statement before the plea agreement was finalized. Bradshaw said Meiners would not have outlined to a federal judge the prosecution's contention about the conference call without believing Waris would support it.

Political observers said it remained to be seen what impact Waris' guilty plea would have on Jackson County government.

"It puts everything on hold in terms of political fallout for the county government or any county officials," said political consultant and former county official Steve Glorioso. "I think it makes a lot of people anxious, not just Katheryn Shields. Bill Waris has tentacles into all levels of government …"

Several Jackson County legislators were shocked when told Saturday about Waris' plea.

Legislator Bob Stringfield said the county's credibility would take a hit, which he said would hinder the county's efforts to get support for improvements to Kauffman and Arrowhead stadiums.

Legislator Henry Rizzo said Waris' plea gave credence to the initial charges, and that his prayers were with Waris and his family.

"All of this is coming so fast, I don't know what to say," Rizzo said.

Legislator Fred Arbanas said he had not been following the case closely and could not comment.

Legislators Scott Burnett and Bob Spence said the Waris plea had no impact on county government.

"It is unfortunate that it occurred. I think we will have to see the rest of it play out. It is unfortunate he lied about it," Burnett said. "Nothing Waris pleaded to today has to do with her (Shields) directly."

State Sen. Victor Callahan, a former county legislator, called Waris' guilty plea "a sad day for the taxpayers."

Gray Jury Split; Judge Orders Further Work (CLPD)

By Mike Tobin, Plain Dealer Reporter

The Cleveland Plain Dealer, July 2, 2005

The jury deciding the fate of Nate Gray remained deadlocked Friday night over charges that Gray traded public contracts for bribes.

The jury sent notice to U.S. District Judge James Gwin that it had not agreed on any of the 59 counts of conspiracy, fraud and bribery against Gray, Cleveland City Councilman Joe Jones and New Orleans businessman Gilbert Jackson.

"We are not being unanimous on any count," jurors wrote to Gwin Friday morning. "The range of opinions on any counts do not lead us to believe further deliberations would bring us any closer."

One of the FBI agents working on the case slumped when Gwin read the note. Defense lawyers grinned and asked Gwin to declare a mistrial.

Instead, Gwin told the 12 jurors to continue discussing the case.

They did, but they remained far apart hours later.

"We are unable to find common ground on most of the counts," jurors wrote in a separate note Friday afternoon. "Given the limited movement since Tuesday, we believe there is no way to ever reach a unanimous decision on all of the counts."

Gwin took the unusual step of keeping the jurors in court until 8 p.m., hours after they normally would have been sent home.

Instead of declaring a mistrial, he ordered them to return for more deliberations next week. Gwin ordered jurors not to discuss the case with friends or relatives during the long holiday weekend.

Gray, a close friend of former Mayor Michael R. White, appeared relieved by the jury's difficulties reaching a verdict. He has been cheerful throughout the three-week trial, often chatting with friends and relatives who stop by the courthouse.

Gray, Jones and Jackson are accused of being part of a conspiracy in which bribes were paid in exchange for public contracts in Cleveland, East Cleveland, Houston and New Orleans.

Jurors have debated the case for more than three days after sitting through two weeks of testimony. Much of the testimony focused on secretly recorded conversations between the three defendants and Ricardo Teamor, who has already pleaded guilty to paying bribes to Jones.

During Gray's trial, jurors also watched several secretly recorded meetings between Gray and former East Cleveland Mayor Emmanuel Onunwor, who has been found guilty of accepting bribes.

Gray was shown giving Onunwor envelopes of cash during several meetings. Onunwor told jurors the money was bribes for East Cleveland contracts, but Gray's lawyers said he was simply giving money to an old friend and expected nothing in return.

Much of the proceedings in court Friday took place with jurors out of the room and involved Cleveland City Councilman Zack Reed.

Reed has not been charged in the case, but he is close friends with Gray and Teamor.

Reed told reporters last week that he went to high school with one of the jurors in the Gray trial, even though jurors initially said they did not know any people on a long list of potential witnesses, including Reed. As a result, Gray's lawyers made a motion for a mistrial, but Gwin denied the request Friday.

Reed's attorney, Timothy Ivey, asked Gwin on Friday to seal transcripts of conversations between lawyers that focused on the juror Reed knows.

Because those conversations remain secret, lawyers in the case could not answer questions about what those conversations involved.

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Mafia Cops Not Dangerous And Should Get Bail, Attorneys Say (NYNSDY)

By ANTHONY M. DESTEFANO, STAFF WRITER

New York Newsday, July 5, 2005

Two ex-cops accused of being hitmen for the mob are not dangerous and should be let out of solitary confinement on bail, defense attorneys said Friday. In a 19-page bail application filed in federal court in Brooklyn, lawyers for Louis Eppolito and Stephen Caracappa said the case against the two former detectives was "slim" and that narcotics charges in the indictment had no connection to the racketeering charges.

"The government has not, and cannot, prove by clear and convincing evidence that Mr. Eppolito and Mr. Caracappa pose any present danger to a person or the community," said attorneys Bruce Cutler and Edward Hayes, who represent both men respectively.

The attorneys argued that even if there was evidence that Eppolito and Caracappa committed violent acts and might do o again that there are adequate conditions for bail.

Eppolito, 56, and Caracappa, 63, have been held in solitary confinement at the Brooklyn federal detention facility since they were brought back to New York to face a racketeering indictment returned in March.

They were charged with complicity in eight murders and other crimes at the behest of former acting Lucchese crime boss Anthony Casso. The indictment alleged that some of the homicides took place when both defendants were police officers.

A bail hearing is scheduled in the case for Tuesday before Judge Jack B. Weinstein. Prosecutors had not filed a response to the defense papers as of late Friday.

The defense attorneys argued at length in their latest submission that allegations that the officers sold methamphetamine and laundered money appeared to center around the actions of a government informant and accountant Steven Corso.

The attorneys said Corso misled and entrapped Eppolito and Caracappa in the narcotics charges after claiming he could get wealthy Hollywood "bigshots" to invest in Eppolito's screenplays.

Mob Cops Try For 1M Bail (NYDN)

By JOHN MARZULLI, DAILY NEWS STAFF WRITER

New York Daily News, July 2, 2005

Reputed Mafia cops Louis Eppolito and Stephen Caracappa want to be sprung from jail - and they are willing to pay up.

The defendants asked a federal judge yesterday to free them on $1 million bail and offered to put up their homes in Las Vegas and properties owned by their children and close relatives to secure the bond.

Eppolito and Caracappa are charged with selling out their badges to the Mafia and having a hand in eight gangland slayings between 1986 and 1991.

Their lawyers argue in court papers filed yesterday in Brooklyn Federal Court that allegations of mob ties were first made against the defendants in 1994 by Luchese crime boss Anthony (Gaspipe) Casso, and they never fled.

"They retired with many honors reflecting their dedication to law enforcement and extensive contributions to the safety and betterment of New York City," lawyers Edward Hayes and Bruce Cutler wrote.

Both are caged 23 hours a day and neither is in great shape. Eppolito underwent open heart surgery in December and Caracappa has battled lung cancer.

Besides the defendants' homes, Eppolito's two daughters, sister and sister-in-law are offering to post their homes, and Caracappa's brother, a retired NYPD lieutenant, and his 90-year-old mother are putting up their homes, too.

Federal Judge Jack Weinstein has been sympathetic to the defendants, ordering they be provided with thermal underpants and increasing their phone privileges.

Web Hunt Nabs Man In Montreal Wanted By FBI On Sex Charges (TG&M)

By JULIAN SHER

The (Toronto) Globe and Mail, July 2, 2005

MONTREAL -- A man whose picture appeared in a gallery of suspected child predators on the America's Most Wanted website was tracked down in Montreal this week after an international cyberhunt. He faces charges of sexual assault, incest and distribution of child pornography.

"It was a great co-ordinated effort," said Detective Sergeant Paul Gillespie of Toronto Police's sex-crime unit, which worked with the FBI, the RCMP and police in Quebec to locate the man.

"This shows the system for identifying victims and abusers is working. Canada is finally in the game," Det. Sgt. Gillespie added.

On Monday, police arrested a 32-year-old man in Montreal North, who cannot be named because one of the alleged victims is his seven-year-old daughter. He remains behind bars until a bail hearing on July 13.

In early 2004, the U.S. Federal Bureau of Investigation took the unusual step back of issuing "John Doe" warrants for several people whose names were not known, but whose images had been captured abusing children in pictures and video distributed on the Web. The FBI asked the TV-crime show America's Most Wanted to broadcast their faces. Viewers quickly identified them all, except for "Internet John Doe #4."

Described as a man "who uses the Internet to distribute disgusting photos showing himself molesting young children," he was accused of engaging in "sadistic and violent conduct."

The FBI had few clues, except his approximate weight, hair colour and a couple of scars and tattoos on his arms.

"He's been out the longest," said Arnold Bell, unit chief of the FBI's Innocent Images project.

Although they assumed he was American, the FBI and Interpol also circulated the series of graphic pictures featuring the man that first appeared on the Web in 2002 to police agencies around the world.

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About two weeks ago, members of Toronto's sex-crimes unit came across new pictures and a video from the same series in a newsgroup.

Detective Ian Lamond said they blew up a snippet of a poster in one of the pictures and saw a word in French. Det. Lamond, who lived in Montreal briefly and has family there, also spotted through a window in another picture a railing resembling one of the city's distinctive outside staircases.

"Based on all the pieces coming together, I had a really strong feeling that this was Montreal," he said.

The Toronto Police forwarded the information to the Sûreté du Québec, the provincial police, and to the RCMP's recently created National Child Exploitation Co-ordination Centre.

An alert investigator from the centre recognized one young girl in the photos from an old tip that had been passed on to Canada's National Tipline at http://www.cybertip.ca. The RCMP had a possible identification of the suspect, but the search was stalled without more clues.

"That lead looked like a dead end until the new photos," said Sergeant Robert Lajoie, who heads the centre. "It's a perfect example of why we need a central-contact point like we now have here to disseminate this kind of intelligence."

The RCMP quickly forwarded its new information to Montreal. Constable Chantal Mackels of the SQ said the Quebec police got the details last Wednesday and within 48 hours their cybercrime unit confirmed the suspect's identity and location.

Last Friday, June 24 -- a national holiday in Quebec -- police armed with a search warrant seized about 1,000 DVDs, CDs and computer disks at the man's home.

They made the formal arrest on Monday and the man's daughter was taken into the custody of youth-protection workers.Julian Sher is a Montreal journalist working on a book about child pornography Search globeandmail.com Search Site More Search Options/Archives Search Tips

Ex-Death Row Inmate Fights Fresh Charges (AP-Y2)

By Mike Robinson, Associated Press Writer

AP2, July 5, 2005

Aaron Patterson walked out of prison 2 1/2 years ago, a free man with a pardon and a chance to start fresh. But the happy ending never came for Patterson, who faces fresh drug and weapon charges that could hand him a return trip to prison. These days, the 40-year-old Patterson sits in a federal jail awaiting the start of jury selection Tuesday.

His story of torture by police and 17 years on death row had helped launch an emotional campaign against the death penalty in Illinois.

Patterson was among four former death row inmates who were pardoned by former Gov. George Ryan in one of his last acts in office in January 2003. A day later the governor commuted the sentences of all 160 other death row inmates to life without parole.

Patterson insisted that he was tortured by police into confessing to a double murder he did not commit. The head of the unit that investigated his case, Lt. Jon Burge, was later fired for allegedly mistreating a suspect.

Ryan's actions were warmly applauded by opponents of the death penalty, who nominated the former governor for the Nobel Peace Prize. Patterson's claims have been echoed by dozens of others.

But the cheering for both Patterson and Ryan has long since faded.

The former governor is facing a racketeering indictment, and federal prosecutors are asking the judge — who by coincidence is U.S. District Judge Rebecca R. Pallmeyer, who also is handling Patterson's case — to bar his lawyers from using his moratorium on capital punishment to try to impress the jury.

Meanwhile, federal prosecutors say Patterson emerged from prison to become a leader of the South Side's P. Stones street gang.

A 13-count indictment charges him with brokering heroin sales to a federal informant and selling bags of marijuana out of his home. It also charges him with buying four guns, including a MAC-10 machine pistol.

Another alleged gang member, Mark Mannie, is also charged in some of the counts.

Patterson and his defense attorneys contend he was the victim of a setup after he dedicated his life to rooting out corruption in government and the police force. As for the gun charges, Patterson says that he never meant to buy real guns but wanted the kind of replicas that some people collect.

Chances are, Patterson won't even be allowed to sit in the courtroom for his own trial but instead will have to watch on closed-circuit TV from jail because of his frequent outbursts.

"I'm concerned that he could very well poison the proceedings," Pallmeyer said of Patterson, who was hustled out of the courtroom by federal marshals Friday following a series of leather-lunged, profanity-laced comments.

The tirades got worse after Pallmeyer turned down a last-minute bid by Patterson to fire his lawyers and serve as his own attorney.

"If you force me to go to trial like that, Your Honor, this is going to be another Chicago 7 trial — they're going to have to tie me to the chair and gag me," he said, referring to the riot conspiracy trial following the 1968 Democratic National Convention, when one defendant was gagged and tied to his chair.

Pallmeyer opted instead for a closed-circuit TV hookup at the correctional center where Patterson will be able to see the judge and witnesses but not be disruptive.

Two defense psychologists testified that Patterson's outbursts show he shouldn't go to trial at all — that he's mentally incompetent and suffering from post-traumatic stress disorder because of torture by Burge. A prosecution psychiatrist disagreed.

Competent or not, no one denies that Patterson has serious personality problems following his years on death row.

"He's deeply scarred," says defense attorney Standish E. Willis, who worked for years to secure Patterson's release from prison. "And he does need some help."

Task Force Faces Big Job In Noe Inquiry (TOLB)

By MIKE WILKINSON, BLADE STAFF WRITER

Toledo Blade (OH), July 5, 2005

In the month since its creation, the task force to investigate Tom Noe has been relatively quiet, slowly putting together a process while gathering information.

What the four prosecutors face is daunting: Unraveling the complex world of Mr. Noe's coin business and political activity. The investigation will stretch across Ohio and the country.

Together, the four prosecutors - two U.S. attorneys, two elected county prosecutors; one female, three male; one Democrat, three Republicans - will have to decide what charges will be sought and, if any are brought, who will prosecute them.

But despite the complexity of the case, its high profile, and the overlapping boundaries of their jurisdictions, they are confident that they'll get the job done.

"You do the right thing," said Gregory A. White, U.S. attorney for the Northern District of Ohio, based in Cleveland. "You are comfortable with your process. We are progressing and confident about all the things that are going on. We are maintaining the integrity of this expanded investigation."

As the task force gets off the ground, Mr. White knows he is working with peers: Greg Lockhart, the U.S. attorney for the Southern District of Ohio and a former Greene County assistant prosecutor; Julia Bates, Lucas County prosecutor, and Ron O'Brien, Franklin County prosecutor. Ms. Bates is the only Democrat.

"The beauty of this is we've created a cooperative effort to get this thing evaluated and explained in the most sensible, positive way," Ms. Bates said.

Three of the four know each other quite well - Mr. O'Brien, Mr. White, and Ms. Bates all were county prosecutors at the same time. Mr. White was well-known in the state's county prosecutors' association for his work on the revamping of Ohio's criminal sentencing provisions.

When Ms. Bates was president of the association, she leaned on Mr. O'Brien to lead a training committee.

"We've been sort of a team for the good of the order since we've been in office," she said.

Although other state departments are investigating, as is the Jefferson County, Colorado, sheriff's department, the task force will be the primary criminal investigative unit. It is working with the Ohio inspector general and the Ohio Ethics Commission.

Tom Charles, the inspector general, was the first to announce an investigation of Mr. Noe in April. He has been studying Mr. Noe's business deal to manage two rare-coin funds for the Ohio Bureau of Workers' Compensation. David Freel, executive director of the Ethics Commission, has also been working closely on the matter.

The group will have its hands full.

Hundreds of boxes containing Mr. Noe's business records sit in Columbus, waiting to be deciphered. And the officials know they have something to look for: Mr. Noe's attorneys have said up to $13 million is missing from the $50 million coin investment.

In addition, the Ethics Commission is looking into a number of officials, including Gov. Bob Taft, who has said he had not properly disclosed some golf outings. The governor's former chief of staff, Brian Hicks, also is under investigation for having spent vacation time at Mr. Noe's Florida home.

'An important case'

Mr. White has conducted a number of public corruption cases throughout his career, winning convictions against Democrats and Republicans and is familiar with the difficult nature of high-profile cases.

"Some are larger than others. This one, the magnitude of it is yet to be determined. But it is a large case and an important case for the state of Ohio," Mr. White said.

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Mr. Charles is the only one of the six who isn't a lawyer. He's a longtime police officer who served on the state highway patrol for 31 years and has worn out his share of patrol car tires and shoe leather.

After retiring from the patrol, he moved to the job of legislative inspector general before winning the job of inspector general about seven years ago. He was appointed first by Gov. George Voinovich and reappointed by Governor Taft.

Of the cast of investigative characters looking into the rare-coin scandal, Mr. Charles is the only apolitical figure, having been a political independent for longer than he has held his post, he said. He "would hope" a Democratic administration would hire him just as readily as a Republican one.

"I try to stay as much out of politics as you can. I probably, in a few years, will retire. I don't know that I will go to another post. I am what I am; I have no other aspiration, other than maybe to work for [California Gov.] Arnold Schwarzenegger someday," he said with a laugh.

In addition to providing ethics advice to state officials and employees, Mr. Freel is responsible for directing the Ethics Commission's investigations. He has prosecuted ethics violations, most notably in 1994 for the embezzlement of millions of dollars by the son of the former Columbiana County treasurer.

Varied experience

Mr. Lockhart has been a lifelong prosecutor. Handling those duties for the U.S. Justice Department in a large area of southern Ohio that includes Columbus, Cincinnati, and Dayton for the last 18 years, he helped send a Lancaster municipal judge to prison last year for arson, fraud, and money-laundering, and was involved in the 2003 investigation and conviction of a Columbus truck driver who admitted scrutinizing New York landmarks for al-Qaeda.

President Bush appointed Mr. Lockhart as U.S. attorney for the region in 2001. Before that, Mr. Lockhart served as a deputy U.S. attorney.

Earlier in his career, he spent 10 years as an assistant prosecutor in Greene County, working for several years under Mike DeWine, then the county prosecutor who now is the senior U.S. senator from Ohio.

In the investigation of potential wrongdoing at the Ohio Bureau of Workers' Compensation, he sees his role as secondary. Mr. White's division is investigating Mr. Noe's role in raising money for an October, 2003, fund-raiser in Columbus.

"At this time the lead is with the U.S. attorney's office in the northern district [Cleveland and Toledo] and the Lucas County prosecutor," Mr. Lockhart said.

But he is prepared to lend assistance where needed.

"We came together because of the interest of the state and law enforcement community in taking a look at what we had and who may or may not be involved," he added.

Few people in the Toledo area may have heard of Mr. O'Brien, but if they'd been watching Court TV earlier this year, they would have seen him while prosecuting Charles McCoy. Mr. McCoy was charged with a series of shootings between 2003 and 2004 along Columbus area roads that killed one person. A mistrial was declared in May because of a deadlocked jury. The case will be retried, although Mr. O'Brien will no longer seek the death penalty.

Cold-case work

Ms. Bates has spent her entire professional career in the Lucas County prosecutor's office, where she started as a law intern while she was attending the University of Toledo law school.

After passing the bar in 1976, she was hired full-time by Tony Pizza, who had just been appointed to the post. He was elected in 1976 and held the post until he retired in 1996. He was succeeded by Ms. Bates.

She is perhaps most proud of her office's work on the county's cold-case unit, which has unearthed new evidence on old cases and gotten several high-profile convictions.

In 1978, she lost one case that always bothered her, a rape charge against James Frazier. "For 28 years I thought about James Frazier out there…," she said.

Mr. Frazier was convicted last month of murder for a crime committed on March 2, 2004, and is to die by lethal injection.

Focused investigation

Now the focus is on Mr. Noe and wherever the case may lead.

As the six investigators pore over documents and interview people, they'll do so with the help of some of their peers from different counties and different agencies. They say that's fine - an investigation is an investigation, regardless of who the target is.

"We all trust each other. It transcends politics. It has to do with professionals who are doing their jobs and what they are sworn to do," Mr. White said.

Staff writers Joshua Boak, James Drew, Christopher Kirkpatrick, and Gary Pakulski contributed to this report.

Contact Mike Wilkinson at: mwilkinson@theblade.com or 419-724-6104.

Eric Rudolph Eluded The Feds For Years. Now, For The First Time, His Mother Shares Letters The Serial Bomber Wrote From Jail. (USAT)

By Blake Morrison, Usa Today

USA Today, July 5, 2005

"Despite my many flaws, I still hope that you can find it in your loving selfless heart to forgive me. … And even though I cannot apologize for being who I am and expressing myself in the way that I did, it troubles me greatly that you had to experience any hardships because of my deeds."

SARASOTA, Fla. — Pat Rudolph reads the Mother's Day card from her son, the second youngest of six children. It feels so different from the others she opened this year. It came from prison, for one, and from a man she now struggles to understand.

He even signed it as a stranger might, with a middle initial and last name affixed to his first: "Your wayward son, Eric R. Rudolph."

She is 77 now, but these days, she feels years older — far more tired than when Eric Rudolph vanished into the mountains of North Carolina in 1998 and she feared she never would see him again. At least then she had his innocence to sustain her. That's what she believed, anyway.

The boy she raised would never do what the government said he had done: kill two people and wound more than a hundred by bombing two abortion clinics, a gay nightclub and the 1996 Summer Olympics in Atlanta. The man who did that, who hid a bomb in a backpack and sent masonry nails tearing through the Olympic crowd, couldn't be her son. She had reared him as a pacifist. No matter his views, he would never hurt others.

Then she heard the news in April. Her son would plead guilty to everything. To killing the off-duty police officer outside the clinic in Birmingham, Ala. To killing the woman at the Olympics. To maiming so many others.

Eric Rudolph, now 38, had confessed in exchange for four life sentences without parole. He would not be tried. He would not face death. He is scheduled to be sentenced July 18 for the bombing in Birmingham.

She hasn't seen him in the dozen weeks since he confessed; she often feels too ill to travel. And she talks with him sparingly; she cannot afford his collect calls. So she relies on his letters from jail — letters she shared with USA TODAY in hopes of showing a fuller picture of her son — to sate her need to know who he has become.

To date, he has granted no interviews and, through his mother, declined to talk to USA TODAY. When he pleaded guilty April 13, he released only a rambling, 11-page statement that condemns abortion and homosexuality and says he had "nothing personal" against his victims.

By contrast, his letters home — more than 200 pages in sloppy cursive — are cogent and well-written. More than his statement, they offer an unadorned glimpse into the mind of Eric Rudolph: why he did what he did, how he survived in the wild, and why he was caught.

They reveal a thinker, clever and cunning, who details how he fooled locals and the feds during five years on the lam; an egoist who sees himself and his plight in the books that now take up his days; a zealot, unapologetic in his disgust for abortion and the government; a son who seems to deeply regret what his family has endured.

"I get more of a feeling for him from the letters than when I'm with him," his mother says. "And that's what counts. The feeling."

Since a rookie cop caught Rudolph behind the Save-A-Lot grocery store in Murphy, N.C., two years ago, Pat Rudolph guesses that her son has gained about 30 pounds.

Worry and heartache have cost her just as many, and in the past few weeks, she has begun to see a therapist. She needs to talk, to figure things out. She has even been writing a book to try to explain her son, and herself, to the world.

Eric Rudolph is a monster, an American terrorist. That's what she has heard people say. And she can quarrel with them for only two reasons: because he is hers, and because she knows him. Or does she?

"I would so much like for us to see one another before I leave this place," he writes of his impending transfer from Alabama to a prison in Colorado. "And perhaps it will be for the last time, for distance may place an insurmountable obstacle between us."

As she reads his words again and again, she asks the same question as his victims and their families: Why? Perhaps, she worries, she is to blame.

Today, Pat Rudolph does what federal authorities did for more than five years: She searches for her son. They hunted for him in the mountains of North Carolina. She hopes to find him here, in these letters.

"The latest tour group just came through: The authorities here often bring a group of people, I know not who, up to the windows of my cellblock and peek in like tourists at a zoo viewing the latest exotic animal," he writes in an undated letter from his cell in Birmingham. "I try to ignore them and act nonchalant, but I must confess I have the urge to bounce around and scratch my armpits for their entertainment."

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Pat Rudolph can't help but smile. In her mind's eye, she sees him there, playing the gorilla, and his lightheartedness lessens her load. That's the Eric she remembers. The witty teen who could mimic scenes from the movies; the intense boy who pitched Little League; the son she taught at home during his last two years of school.

Even then, his humor was dry, subtle, controlled. Still, he always could make her laugh. “One of his coaches in baseball used to call him ‘Smiley,' because he didn't smile that much,” she recalls. “But when he did, it was a beautiful smile.”

She goes there for only a moment. Then … reality. He will always be an oddity now. Always caged. Always on display.

Ask some of the victims of his crimes and they'll say Rudolph's price is small — too small compared to theirs. He is alive, after all. Alice Hawthorne, 44, an entrepreneur from Albany, Ga., was killed in the Olympics bombing; Robert Sanderson, 35, an off-duty police officer working as a security guard, was killed in the Birmingham blast.

Emily Lyons survived. A nurse at the New Woman All Women Health Care Clinic in Birmingham, she was blinded and crippled when the nails from a Rudolph bomb tore through her in 1998. The day of the bombing, she says, Eric Rudolph “decided to be God.” She is angry that prosecutors cut Rudolph a deal. “He deserves to die,” she says.

Since the blast seven years ago, Lyons, now 48, has had 21 operations. On her face. On her neck. On her legs. Almost everywhere. Her left eye is plastic; damage to her right keeps her from driving at night.

“That poor girl's been through it,” Pat Rudolph says. “But what can I say that's going to heal her broken heart and broken body? Only that I'm sorry that my son did this thing. … The apology really needs to come from my son.”

In his letters, Rudolph shows no such inclination. In one, sent about a week after the guilty plea, he becomes introspective about his choice to turn violent. It is the only clue in the letters about why he took this course, but his soul-searching seems no more than an intellectual exercise.

“Perhaps I should have found a peaceful outlet for my opposition to the government in Washington: maybe I should have been a lawyer and fought (for) decency in the face of this rotten system; perhaps I could have taken up teaching and sought to inculcate a healthy outlook in a decidedly unhealthy society,” he writes. “But I didn't do any of these things, and I resorted to force to have my voice heard. However wrongheaded my tactical decision to resort to violence may have been, morally speaking my actions were justified.”

The words pain Pat Rudolph, and she reacts like any mother might. She loves her son but hates his manner. And she believes — because it gives her strength — that some day her son will grow wiser.

“Many good people continue to send me money and books,” Rudolph writes in an undated letter. “Most of them have, of course, an agenda; mostly born-again Christians looking to save my soul. I suppose the assumption is made that because I'm in here I must be a ‘sinner' in need of salvation, and they would be glad to sell me a ticket to heaven, hawking this salvation like peanuts at a ballgame. I do appreciate their charity, but I could really do without the condescension. They have been so nice I would hate to break it to them that I really prefer Nietzsche to the Bible.”

He took two years to tell his mother he was guilty. She heard it first from an assistant to one of his lawyers. Then she wept. “My heart sank,” she remembers. “I didn't know what to do. What could I do? What could I say?” She managed only a few words to the assistant: “It's hard for me to believe this.”

But a part of her knew, she says now. A part of her sensed it the first time she hugged him after he was caught on May 31, 2003. “I felt he was uneasy,” she recalls. “It wasn't his usual grab-and-hug-you sort of thing.” She never did ask him whether he'd done the bombings. She still hasn't. The phone calls and visits are monitored, the letters read by others.

With his guilty plea, however, his letters home changed, and he began to tell of his reasoning and of his crimes. “I don't believe that a government that sanctions, protects and promotes the murder of 50 million unborn children in the heinous practice of abortion has the moral authority to judge a man for murder,” he writes in a letter she received April 21.

As Pat Rudolph reads those letters, she bridles at his righteous indignation. It is not her way.

His mother, who once studied to be a nun and joined with activist and pacifist Dorothy Day and the Catholic Workers Party in the 1950s, now sees herself as a libertarian. She once chose the words “anarchist” to describe her views but now believes in a limited government. Her Christian faith is more spiritual than religious, more about meditation than about prayer.

And as for abortion, Eric Rudolph's mother believes the decision belongs to the woman, not to the government.

She sees how her son views religion — not spiritually, but as a scholar might — and she thinks that's how he reconciles his actions.

Like the Koran to Muslim terrorists, parts of the Bible have been commandeered by her son to justify the unjustifiable, she says. As she explains, “You can find a scripture in there to suit anything.”

Even so, for Eric Rudolph — a man who quoted a Biblical passage on hypocrisy when he pleaded guilty — the choice of Nietzsche over the Gospel is a curious one. Friedrich Nietzsche, the German philosopher, once declared “God is dead.”

His mother says she recognizes the intellectual Eric, the son who spent only a few terms in college but loved history. The religious zealot, she says, is a mystery. “A lot of this fundamentalist kind of thinking is a recent thing with him,” she says. “I don't

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know where all this occurred, because it's certainly not from me or from anyone else in the family. I just don't know where all of this came from."

She isn't alone. The man who once led the hunt for Rudolph, former FBI agent Woody Enderson, says that "no one really knew him. … I really don't know what led him to become the person he is."

Much has been written about her husband's death from cancer when Eric was a teenager — how Pat and Bob Rudolph, Eric's father, went to Mexico in 1981 so Bob could be treated with laetrile, a drug banned in the USA. But Eric Rudolph, in a statement the day he pleaded guilty, dismissed the notion that his father's death left him angry at the government.

Another myth, Pat Rudolph says, is that the far-right Christian church in Missouri the family attended when Eric was 17 made her son hateful. The family stayed less than a year. "We were exploring a lot of things then, and it's something we looked into. But it wasn't right for us," she explains. "Just because you look at porn doesn't make you a child molester."

Her son's views on homosexuality also surprise her. One of Eric's brothers is gay.

"I'm starting Dostoevsky's The Brothers Karamazov, which is supposed to be the greatest novel of all time," Rudolph writes in an undated letter. "I've read his Crime and Punishment years ago, which I can honestly say was the best novel I have read to date. … He was tried and convicted of revolutionary activity by a Tsarist court and sentenced to death by firing squad. As he was being tied to the stake, he was given a last minute pardon and was sent to Siberia."

Perhaps this is how he views his life — a revolutionary spared from death but exiled to prison. His mother thinks so.

"I just finished reading Billy Budd by Melville," he writes in another undated letter. "It's a story about a good man sacrificed on the altar of military-legal expediency. It makes a powerful statement at the end of the novel about the relativity of history, and just who ends up being the good guy or bad guy depends on who gets to write the story."

Perhaps this is what gives him hope: that someday, his actions will be seen, not as terrorism, but as heroism. For now and to most, his mother understands, Eric Rudolph belongs among a small group of homegrown terrorists: the Unabomber, Ted Kaczynski; and the man who toppled the Oklahoma City federal building, Timothy McVeigh.

And Pat Rudolph, by the actions of her son, becomes the terrorist's mother. "I often think of Mrs. McVeigh," she says quietly. "What did that woman feel?"

"Here's a child that you fed at the breast for two years, almost …" Her voice wavers. "I'd always tried to do the right things by him, for him, and it was like a slap in the face.

"God have mercy on him," she whispers. "That's all I can say."

It is at these moments that she looks back to the letters. She sets aside the pages of dogma and picks out a few letters he has sent her. They are her favorites. They make her smile.

In them, Eric Rudolph doesn't talk politics. He tells stories of his time on the run. They are daring tales, and they leave her proud, almost tickled.

As she reads them, Pat Rudolph stops looking for answers. His words pull her back to the place where she raised him, back to the mountains of North Carolina and the chilly nights of October 1999, almost two years after he vanished.

Wednesday: Rudolph writes of close calls and life on the lam

Mexicans' Conviction Getting New Look (WT)

By Hugh Aynesworth, The Washington Times

The Washington Times, July 5, 2005

LITTLEFIELD, Texas -- A multifaceted criminal motion will be argued here next month, the culmination of a lengthy investigation into whether two Mexican nationals should serve life sentences in Texas prisons or -- because of prosecutorial malfeasance and inadequate representation -- their 1998 murder convictions should be overturned.

If the judge sees fit, there also could be testimony forthcoming in the habeas-corpus writ that would cast suspicion on two other men, one of whom reportedly had bragged to friends about the murder of a convenience-store clerk.

The capital-murder convictions of Jesus Ramirez and Alberto Sifuentes came in separate trials here seven years ago -- prosecutions that offered no forensic evidence and no motives, but did have witnesses who since have been accused of perjury.

The case has drawn considerable attention from the Mexican government -- enough that, one source said, Texas officials are feeling some pressure.

"With the case still in litigation, it would not be appropriate for us to comment," Jerry Strickland, spokesman for Texas Attorney General Greg Abbott, whose office is opposing the Mexican nationals' appeals, told The Washington Times.

One Austin lawyer said yesterday he had been told the attorney general's team intended to interview some of the most important witnesses before the Aug. 2 hearing, possibly to determine strategy.

Some veteran lawyers said the prosecution cases were so weak that sanctions should be brought against the district attorney and his aides.

Lamb County District Attorney Mark Yarbrough and his assistant, Scott Say, likely will testify about their roles in the two prosecutions.

Barry F. McNeil, a partner in charge of Dallas' Haynes and Boone LLP law firm's pro-bono reinvestigation, charged that not only was the prosecution tainted by "testimony the D.A. knew was false," but also that the two men's attorneys were extremely derelict.

Among the charges to be explored here next month include:

· The state's No. 1 witness lied about seeing Sifuentes and Ramirez at the murder scene just minutes before the convenience-store clerk was killed.

· The prosecution refused to reveal -- as is required by law -- the fact that one of their witnesses, a career criminal facing charges of raping a child, had cut a deal for leniency to testify against Ramirez.

Autopsy: Head Trauma Killed Missing Boy (NYT/AP)

By The Associated Press

The New York Times, July 5, 2005

Filed at 1:11 a.m. ET

MILWAUKIE, Ore. (AP) -- A 4-year-old boy who police say was killed by his step-grandmother and left along a rural road in the foothills of the Cascade Range died from a blow to the head, authorities said Sunday.

An autopsy conducted a day after Christine Coffman led police to her step-grandson's body determined the cause of death to be blunt force head trauma, said Officer Kevin Krebs, a spokesman for the Milwaukie Police Department.

Krebs did not reveal how authorities believe the child was killed or how many times he had been struck. He also wouldn't say whether the boy was already dead when he was left in the woods, though he said the autopsy showed the child died from his injuries.

Coffman, 43, was charged Saturday with aggravated murder in the death of Matal Sanchez, who had disappeared Wednesday from his home in the Portland suburb of Milwaukie about 25 miles from where his body was found.

In the neighborhood of well-tended lawns and blooming trees, neighbors said they never suspected that Coffman, who appeared to be a doting grandmother, could be involved in the boy's disappearance. But her behavior on the day the child was reported missing raised questions.

Matal disappeared about the same time Coffman left the home, Krebs said. But when Coffman returned three hours later, the child wasn't with her and her clothes were stained with a red-colored substance.

"From the moment I saw that, I thought something was wrong," said Debbie Leader, a neighbor who shares a fenceline with the boy's family.

Holly Miller, 15, another neighbor, said Coffman appeared agitated. "I asked her if she was OK. She was just sitting there crying," Miller said.

Krebs confirmed that Coffman had a red residue on her clothes but declined to say whether it was blood.

Coffman was questioned while neighbors and authorities spent days searching for the boy. It wasn't until Saturday that she led detectives to the body near the town of Estacada in an area blanketed in heavy brush.

"The sad part is your family is the one you're supposed to be safest with," said Chuck Brittle, 46, a commercial flower grower, whose house lies a few miles away from where the body was found.

Coffman is being held without bail and is scheduled to be arraigned on Tuesday in Clackamas County Court. It wasn't immediately known if she had an attorney who could comment. The family wasn't at the home, which was cordoned off by police tape Sunday.

Human Remains Found In Missing Boy Search (NYT/AP)

By The Associated Press

The New York Times, July 5, 2005

COEUR D'ALENE, Idaho (AP) -- Seven weeks to the day after Shasta and Dylan Groene were reported missing, Shasta was seen cuddling in the arms of her father, while authorities said they had found human remains that might be her missing 9-year-old brother.

Kootenai County Sheriff Rocky Watson said Monday that "possible" human remains had been found at a site in western Montana, and would be sent to the FBI crime lab in Virginia for DNA analysis. That is expected to take three days.

Watson declined to answer questions, but the fact that he called a press conference at the place where reporters were following the Groene story indicated officials believe the remains were related.

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"Unfortunately we believe Dylan to be deceased," Sheriff's Capt. Ben Wolfinger said after Watson's announcement. But until the remains are identified, they could not be certain, he said.

Dylan and Shasta, 8, had been missing since May 16, when the bound and bludgeoned bodies of their mother, older brother and mother's boyfriend were found at their rural home near here. Shasta was spotted by employees and customers early Saturday morning eating breakfast with a man at a Denny's restaurant in Coeur d'Alene.

Officers arrested the man, Joseph Edward Duncan III, 42, on suspicion of kidnapping and other charges. Duncan, from Fargo, N.D., is a violent sexual predator who has spent much of his adult life in prison.

Authorities planned to formally charge Duncan with kidnapping and being a fugitive from justice, and have said more charges were possible. A judge ruled Monday that there was probable cause to keep Duncan in jail until an initial court appearance Tuesday.

The sheriff's office released a photograph showing a smiling Shasta hugging her father Steve at Kootenai Medical Center. Another photo showed her holding a doll. The photos do not show any apparent injuries from her nearly six weeks of captivity.

"She's a much happier little girl right now," Wolfinger said, adding she was listed in good condition.

Officers have interviewed the girl a couple of times, but details of what happened to the children are agonizingly slow in coming. Duncan has refused to cooperate, officials said.

Major questions include: Was Duncan involved in the three initial slayings? Have the children been with him the whole time? And, if so, where have they been hiding?

"We've got a lot of questions left unanswered," Wolfinger said, and some 60 investigators from the local area, the Idaho State Patrol and the FBI are working the case.

Authorities have relied on information from Shasta, evidence from Duncan's stolen red Jeep Cherokee and some 100 new tips from the public in the search for the boy. The tips have poured in since photos of Duncan and the Jeep were released, and many are "vehicle-specific and Duncan-specific," Wolfinger said.

Watson said the remains were found at "one of the possible locations in western Montana," but did not elaborate about the site.

"Investigators continue to follow all of the other leads in this complex case," Watson said. "This case continues to be the No. 1 priority for all agencies involved."

Shasta has provided helpful information, but Wolfinger declined to say exactly what the girl was telling officers. "It's a slow process with Shasta," he said. "We're taking that very slowly."

The children were declared missing when authorities arrived at their home May 16 and found the bodies of their mother, Brenda Groene, 40, brother Slade Groene, 13, and their mother's boyfriend, Mark McKenzie, 37.

Authorities believe Duncan and the children remained in the Northwest during the past seven weeks, but Wolfinger declined to say where. He also would not say if there was any evidence others were accompanying Duncan.

Steven Groene on Sunday night spoke publicly for the first time about being reunited with his daughter, and thanked the community for its support. He said his daughter was watching movies and had a vanilla shake and pancakes for breakfast.

"Shasta is doing very well and we all are very hopeful that Dylan will come home safely," he said.

Officials have not said why they believe the Groene family was targeted. Steve Groene said he had never heard of Duncan before Saturday. Authorities searched Duncan's Fargo apartment.

Duncan, who was raised in Tacoma, Wash., had spent more than a decade in prison for sexually assaulting a 14-year-old boy at gunpoint and was a fugitive at the time of his arrest for allegedly molesting a 6-year-old boy in Minnesota.

A registered high-risk sex offender, Duncan was released on $15,000 bail earlier this year after being charged with molesting the boy. Police in Fargo had been looking for Duncan since May, when he failed to check in with a probation agent.

D.C.'s List Of Don'ts Grating On Some Nerves (WP)

By Eric M. Weiss, Washington Post Staff Writer

The Washington Post, July 5, 2005

A parking ticket on your windshield used to be as far as the stubby arm of District law would reach. But now, drivers are ticketed by robot cameras, holding a cell phone when driving is verboten and no one is allowed to have more than one drink at a time at city bars. Last week, D.C. police were handing out $10 tickets for jaywalking.

Jaywalking.

It makes some people wonder whether the District is turning into a Big Brother "nanny state." With these official efforts to make urban life safer, is there danger of Washington losing some of its buzz and the organic street life that makes a city a city?

"If there was no crime, everyone had a job and affordable housing, then the city can start being paternalistic," said Kevin Cuddy, 33, of Logan Circle, who was handed a warning Friday for jaywalking on 16th Street NW, even though 10 seconds were

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remaining on the crosswalk indicator when he stepped off the sidewalk. D.C. police say it is against the law to begin crossing the street when the red hand appears, regardless of the time left.

In addition to the jaywalking crackdown, District officials also are enforcing restrictions on tinted car windows and cyclists running red lights. Intersection monitors are posted at key gridlock points during rush hour. Jersey barriers surround many formerly accessible buildings in the city while surveillance cameras watch overhead. Children in vehicles must be strapped into car seats until age 8. District leaders are considering a ban on smoking in bars and restaurants.

D.C. Council member Phil Mendelson (D-At Large) defended the quality-of-life campaign, saying city leaders have to strike a balance between making urban life safe and livable and preserving the fun of city living.

"It's not always that the government is looking for ways to be more of a nanny," he said.

Yet for some Washingtonians, what's happening crosses the line between vigilance and intrusiveness. For them, it is as over-the-top as Metro police arresting a woman for eating a candy bar in a station, as happened last July.

"For a city of liberty, I don't know what's happening," said C. Peter "Buzz" Beler, longtime owner of the Prime Rib on K Street NW and an opponent of the proposed smoking ban. He recently had to pay an electronic speeding ticket but got away scot-free when he jaywalked Thursday.

In a buttoned-down region, the District has always been the place to party. For years, the minimum drinking age was 18, and the attitude in the streets seemed to be "anything goes." In the 1990s, the city was broke and practically lawless. Its mayor was arrested for smoking crack cocaine in a hotel room.

Today, the District has $1 billion in the bank, crime is down and the mayor is a bow-tied accountant. Downtown is revitalized, and empty nesters and young couples drawn to urban living are rehabilitating neighborhoods. And as in such cities as New York, political leaders are focusing on other, arguably lesser problems.

Dean Chandler, 34, of Hyattsville, who has been ticketed for jaywalking, said the crackdown is a natural result of all the changes the District has undergone in the past 15 years. He said he thinks city leaders are trying to "weed out" those they don't want to be part of the new, gentrifying District.

"It's changing," he said. "Everything was kind of loose. But now it is less the District of Columbia and more of an American city. People with power and influence come here, and now they are changing things."

But Mendelson said jaywalking is dangerous as well as illegal. He said the city is joining in a regional educational effort about pedestrian safety in reaction to a number of deaths. Each year in the District, pedestrians account for an average of 14 fatalities and nearly 800 injuries, according to the city's Department of Transportation. Eight pedestrians have been killed this year.

Mendelson, chairman of the council's judiciary committee and a sponsor of the proposed smoking ban, said the city also has repealed rules that don't make sense, such as requiring permits for restaurants that put lighted candles on tables.

Those who study such things say the District's recently imposed restrictions and crackdowns are part of a trend of looking to government not just to protect life and liberty but to enforce society's rules of behavior.

"People are promiscuous about giving up other people's rights," said Eugene O'Donnell, a former police officer and prosecutor who is a professor at the John Jay College of Criminal Justice in New York. "Individually, it's hard to argue against these laws. The problem is when you aggregate it. It's a creeping sort of thing."

This uneasiness could be felt during a 12-hour D.C. Council hearing nearly three weeks ago on the proposed smoking ban. Proponents cited dozens of studies showing how dangerous smoking is and how a ban would protect workers. Opponents waved other studies showing how a ban would ruin the city's bar and restaurant industry.

But between the lines, the debate was about freedom: the freedom to light up a cigarette in their favorite bar vs. the freedom to enjoy a drink or a meal without inhaling a stranger's smoke.

"In reaction to the lawlessness of the past, there is a sense that any expression of spontaneity has been wiped out," said Joel Kotkin, author of "The City: A Global History." "You don't want people smoking crack on K Street, but you have to wonder at what point do you feel like you're in Disneyland."

2 Are Charged With Murder In IPod Theft (NYT)

By Jennifer Medina And Matthew Sweeney

The New York Times, July 5, 2005

Two Brooklyn teenagers were arrested early yesterday on charges that they robbed and killed a 15-year-old boy in the Farragut neighborhood when they stole his friend's iPod, the police said.

The victim, Christopher Rose, was walking with three other boys late Saturday afternoon when a large group of teenagers approached them and demanded that they turn over the iPod that one of the boys was carrying, according to the police and

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witnesses. When the boys refused, one of the suspects began hitting them, said Kenneth, 15, who was with Christopher at the time of the attack. Then someone stabbed Christopher twice in the chest.

Law enforcement officials have warned in recent months that iPods have prompted an increase in thefts on the subways, and that teenagers are particularly vulnerable targets of iPod thefts by other teenagers.

The police said yesterday that they had charged Darran Samuel, 16, and Daryl Stephen, 17, with murder, robbery and criminal possession of a weapon in connection with Christopher's death. Relatives of both boys, reached at their homes in Brooklyn, said the youths had no history of violence.

"Maybe they were the two who didn't run fast enough," said Daryl's aunt, who declined to give her name.

A man who described himself as an uncle of Darran's, but who also declined to give his name, described the youth as "weak and frail."

"There is no possible way he could have committed the crime of murder," he said, but added, "maybe in bad company and not good judgment."

Police officials said that they were still searching for other suspects, and that they had not yet recovered the iPod.

Christopher attended school in Bushkill, Pa., where his parents said they had sent him with the hope that he might be safer and receive a better education.

"We sent him out there to get away from this horrible life," Christopher's father, Errol Rose, said yesterday. "All these years - seven and a half years - I've been back and forth from Pennsylvania with this boy. He didn't last too long before they rubbed him out."

Christopher and his friends were on their way to the Port Authority Bus Terminal to catch a bus back to Pennsylvania on Saturday when they were attacked. Usually, someone would drive him to the subway or take him to the bus terminal, Mr. Rose said. But since he and his wife were attending a wedding, Mr. Rose said he gave Christopher permission to head back on his own. It was one of the few times the Roses had allowed Christopher to walk around the neighborhood alone.

Just before Christopher left his family's home, his father called to give him clear instructions.

Mr. Rose said that Christopher and three friends - had planned to take the subway to the bus terminal, where they would catch a bus to Pennsylvania, arriving in time to watch a fireworks display. Traveling with Christopher were Kenneth and two brothers, Richard, 15, and Jonathan, 11, whose mother asked that their last name be withheld.

"Don't talk to strangers; if you need to talk to anybody, talk to someone in uniform," Mr. Rose recalled saying. He called Christopher back to emphasize his point. "Did you hear what I said?" he asked.

Christopher was stabbed to death just a few minutes later on 40th Street near Avenue D, a block and a half from his home.

Several teenagers approached Christopher and his three friends just after they began walking on Avenue D. Richard was showing Kenneth his iPod when one of the older boys approached them and demanded it, Kenneth said. Richard handed the iPod to Jonathan before turning back toward the Rose home. Several teenagers in another group, some riding bikes, began approaching them.

"There were like 15 or 20 of them, and there were more coming," Kenneth said yesterday. He spoke in front of the Rose family home with his back facing the news cameras, hiding his swollen and bruised right eye. "We were trying to get away."

Kenneth said that when he turned around to check on his friends, Christopher and Richard were fighting more than a dozen boys. The suspects then took the iPod, Kenneth's cellphone and Christopher's sneakers before running off.

At some point during the fight, Christopher was stabbed twice in the chest, and fell to the ground. "I can't think," Kenneth said. "Me and him were like brothers."

"I'm mad I can't do anything about it," he added.

The two were so close that their mothers were hesitant to separate them for the summer, so Kenneth, whose family lives in Pennsylvania, had planned to live with the Rose family in Brooklyn. The two were to help Christopher's mother at a social service agency for disabled children in East New York where she works, family members said.

Christopher had three older sisters. During the school year, he often returned to New York for weekends and holidays, his parents said. He spent a lot of time at the Brooklyn Tabernacle church, where he played basketball and participated in a youth group.

Family and friends poured into the Rose home yesterday, many coming from the church. They gathered inside the family's two-story home, some praying and some crying.

Many said Christopher was shy. A recent report card suggested that he speak up more in class.

"My husband was afraid the city was too rough for him," Sharon Rose, Christopher's mother, said. "Should I have stayed home yesterday? Should he have stayed down there for the summer? All kind of choices pop into your head."

Carjackers Have Pr. George's Residents Driving Scared (WP)

By Avis Thomas-lester

The Washington Post, July 5, 2005

Prince George's County resident Synetra Mendheim and her father, Terry, had noticed the car as they headed toward her white Mazda Millenia that Sunday morning, but they thought the men inside were waiting for a parking place.

It was 3:30 a.m., and Synetra Mendheim, 25, was going to Reagan National Airport for a flight to South Africa, where she would join other missionaries from her church to work with young AIDS patients. Terry had driven up from Virginia Beach to drive her to the airport. The plan was for Terry, in his late-model Mercedes, to follow Synetra to her mother's house nearby in Fort Washington, where she would drop off the Mazda and give one last kiss to her baby daughter, Kaylan, who had spent the night at her grandmother's house.

As Synetra Mendheim reached for her keys, three car doors opened and a shotgun cocked.

"Get on the ground! Get on the ground!" a man shouted, pointing the gun at her father. Synetra froze. Terry got on the ground and called her name.

"I thought, 'This cannot be happening,' " Synetra Mendheim said in an interview. "When my dad called my name, it snapped me back. I lay on the ground in an almost fetal position. I was so scared. I just wanted to curl into a ball so that I could protect myself."

The April 24 carjacking, in the 7200 block of Jaywick Avenue in Fort Washington, was among 337 such crimes reported in Prince George's County as of June 30, a 47 percent jump from the 229 carjackings reported at the same time last year. In 2004, Prince George's reported the highest number of carjackings in Maryland: 563, compared with 492 for all of the state's other jurisdictions combined.

As police officials try to combat the problem, some county residents look over their shoulders in parking lots and curtail activities for fear that they will become the next victim. They avoid gas stations and limit nighttime trips to the grocery store and mall. They dig for their keys before they leave their offices and watch who lurks near their homes before they pull into their driveways or parking spaces.

"When I come home, I keep my car doors locked while the garage door goes down," said Mitchellville resident Ann Powell, a professor at Gallaudet University. "I don't get out of my car until the garage door is all the way down."

Mark Ricks, 38, of Laurel, a Web site designer, said he is careful about driving in areas where a number of people loiter, parks where other people can see him and is more apprehensive in parking garages.

"And I make it a habit to lock my doors when I first get into my car -- even before I put on my seat belt," he said. "I'm not going to say that I take an extra minute when going into the parking lot t0 look around, but it is kind of scary."

Law enforcement officials say they are working on solutions and acknowledge that concerns about carjacking, like other violent crimes, have affected some residents' quality of life.

"Carjacking is one of the highest priorities, along with homicides and other violent crimes," said Vernon R. Herron, the county public safety director. "It's terrifying. When someone is carjacked at gunpoint or by force, they are traumatized. It is something they will always remember."

Synetra Mendheim, who works as a receptionist at a Northwest Washington law firm, worries when she returns home from Bible study classes. After a recent evening out with girlfriends in Georgetown, she made all of them spend the night when they got back to her apartment for fear that they would meet up with carjackers in the parking lot. She was especially worried because police said that another man was carjacked a few minutes after she was on April 24 and that several other armed car thefts have occurred in the area.

"We got back to my apartment, but then we talked and hung out, so by the time they were ready to leave, it was almost 3 a.m., about the time I got carjacked," she said. "I said, 'Nobody is going anywhere. You're all staying right here.' "

She and her sister, Charlise Mendheim, 28, who shares the apartment, also refuse to get out of their cars if anyone is nearby on foot or in a car when they get home.

"We have a pact that if we see anybody, we ride around and then come back," said Synetra Mendheim. "We don't get out of the car while anybody is waiting and while anybody is standing around."

Averyl Bailey, 33, whose 2002 gold Land Rover Discovery was carjacked in the 8600 block of Devon Drive in Fort Washington as she returned home from choir practice June 20, said she no longer checks her mailbox at night. She was at the box, down the hill from her home, about 10:45 p.m. when a red car pulled up and three men approached her -- two of them armed with handguns.

Police are investigating the case as possibly connected to a gang of violent car thieves suspected in at least three carjackings in Clinton and Hyattsville since June 18. At some scenes, the men left in a silver Nissan Altima, which has subsequently been recovered in the District.

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Detectives are also investigating carjacking as the motive in at least one unsolved homicide. They declined to identify the case.

Herron said the county's carjacking victims "cross every socioeconomic line." Victims who have been carjacked in recent months include an off-duty police officer whose silver 1995 Chevrolet Caprice was stolen at gunpoint about 6 p.m. June 18 in the 8000 block of Mike Shapiro Drive in Clinton.

In several cases, the carjackers have abducted car owners and resorted to violence. In one recent carjacking, a man who came to the aid of his girlfriend was shot. In March, a man standing next to his 2000 Toyota Avalon in the 2700 block of Crestwick Place in Suitland was abducted by the carjackers, driven to several locations and placed in the trunk. Police believe the carjackers committed several robberies while the victim was in the trunk. On May 5, Prince George's police chased a carjacking suspect into Southeast Washington and fatally shot him.

Cars have been recovered in many of the cases. The cars belonging to Bailey, the off-duty police officer and Synetra Mendheim have been recovered. Police also recovered a 2000 Chrysler 300M that was carjacked in the same parking lot on Jaywick Avenue a short time after Mendheim was robbed of her car. Two men have been arrested in the heist of Mendheim's car, and police told her that they were looking for three or four other suspects.

Synetra Mendheim is relieved that her story had a happy ending. When Terry Mendheim could not produce his wallet, his daughter pleaded with the robbers. Frantically searching for a reason, she said: "Please don't shoot him. He doesn't live here."

When the carjackers saw her curled in a ball, one of them kept snatching at her legs until she lay flat. She prayed, and they eventually drove away, taking her backpack and her luggage, which included a suitcase of jackets donated by church members for the children in South Africa.

Terry Mendheim checked his daughter for injuries, then made her a pledge. "You're still going," he said of the missionary trip. "I don't know how, but you're still going."

As police investigated the case, Synetra Mendheim's church, the Soul Factory in Forestville, mobilized to get her another passport and plane ticket. She went to Africa as planned, two days after the carjacking.

CIVIL LAW:

U.S. Attorney Asks Court To Unseal Berkeley Case (CINE)

By James McNair, Enquirer staff writer

The Cincinnati Enquirer, July 5, 2005

Ever since the government seized $24 million in bank accounts from herbal supplements kingpin Steven Warshak in March, the two sides have waged war in the secrecy of sealed court filings.

That could change, thanks to a request to open the case to public view - not by any news organization but by the government itself.

The government's motives aren't available for anyone to see because its motion to unseal the case is, well, sealed. Fred Alverson, a spokesman for the U.S. Attorney's Office in Cincinnati, said the government is asking U.S. District Judge Susan Dlott to unseal everything except the affidavits backing the original request to freeze Warshak's assets.

"Our motion is in response to a motion by them asking that certain documents be sealed or filed with redactions," Alverson said. "Our response is that these do not fit any of the Justice Department exceptions for documents to remain sealed in a civil case. ... They (the case files) should be open for the public to see."

The government froze the $24 million at the same time federal agents with search warrants raided the Greater Cincinnati offices of Warshak's company, Berkeley Premium Nutraceuticals. The U.S. Postal Inspection Service led the raids. The asset freeze was supported by government claims that the $24 million was obtained by fraudulent means.

Several thousand consumers have filed complaints to the Ohio Attorney General's Office and Cincinnati Better Business Bureau since 2001 alleging that Berkeley billed their credit cards for penis enlargement pills and other products they had ordered for a 30-day free trial. Berkeley, based in Forest Park, said it amended its billing practices in August, prompting the number of complaints to shrink.

During the dispute over Warshak's assets, the government filed an amended, more detailed - and sealed - complaint with the court.

Warshak's lawyers want Dlott to give him until July 14 to counter with an edited copy of the amended complaint. The lead lawyer listed on the response, Martin Pinales of Cincinnati, wouldn't say what Warshak wants edited from public view.

"I can't comment, nor do I comment on pending litigation," he said.

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U.S. Sues Maker Of Body Armor, Its Fiber Supplier (WSJ)

By Kara Scannell

The Wall Street Journal, July 5, 2005

The U.S. Justice Department sued a bulletproof-vest maker and a ballistic-fiber supplier, alleging they sold body armor knowing it was defective.

The complaint filed last week in federal court in Washington was brought on behalf of several federal agencies that bought thousands of vests made with Zylon, a bullet-resistant fiber. The civil suit named Second Chance Body Armor Inc. of Central Lake, Mich., and its fiber supplier, Japan's Toyobo Co., and related entities.

The suit alleges that from 1998 until 2001 Toyobo and Second Chance "kept silent as to the ever-mounting information in their possession that the Zylon fabric degraded substantially faster than expected" when exposed to certain light, temperature and humidity conditions.

The vests were the subject of a Wall Street Journal article on Nov. 15, 2004.

Both companies already have been sued by law-enforcement groups, state attorneys general, a wounded police officer, and the widow of an officer who was killed while wearing a vest.

"We think it will go a long way toward resolving the issue as to who's responsible for the issue," said Kevin Dougherty, a lawyer for Second Chance. He added the company believes Toyobo "is responsible for the problem of Zylon being defective."

Kent Jarrell, a spokesman for Toyobo, said: "We don't understand why we are a defendant in this lawsuit. This lawsuit is really all about Second Chance and the allegations made by a former employee about what Second Chance knew, when it knew it, and when it decided not to share critical information about the failure of its vests with Toyobo, the public and with investigating authorities. Second Chance was the bad actor, not Toyobo."

The complaint is based largely on information from Second Chance's former research director, Aaron Westrick, who filed a whistle-blower suit last year and testified as a witness in other suits about the company's knowledge of the test results. The company said he was laid off in a cost-cutting move. Mr. Westrick's lawyer has said his termination was retaliatory.

Second Chance marketed its Zylon vests under the brand names Ultima and Ultimax as the "world's thinnest, lightest, and strongest armor," and they were popular with law-enforcement officials. In 1998, federal employees bought more than 40,000 vests with some Zylon fiber.

The Justice Department alleges in the complaint that test results as early as 1998 showed that the Zylon fiber deteriorated "rapidly" when exposed to visible and fluorescent light. Quoting a document, the complaint says Second Chance told Toyobo that they both "must avoid even the perception of a possible problem" with Zylon. Additional testing in 2001 showed the vest's resistance broke down when exposed to high temperatures and humidity, making it less effective before the warranty expired.

"Despite this mounting evidence," Second Chance and Toyobo continued to sell them "knowing that these vests were defective," the complaint alleges. In September 2003, Second Chance said it would upgrade and replace potentially defective vests. The company filed for protection last October under Chapter 11 of the U.S. Bankruptcy Code, citing the costs of replacing vests and legal fees.

Last week, Second Chance recommended an additional 98,000 vests made with Zylon be replaced citing new research that showed they "may fail to perform and result in serious injury or death."

CIVIL RIGHTS:

Cop Suits Cost $44.7 Million (FREEP)

By Joe Swickard, Free Press Staff Writer

Detroit Free Press, July 5, 2005

Detroit has paid out almost $45 million over the past three years in police misconduct lawsuits, with more than half that amount going to pay cases involving officers with histories of past lawsuits, according to a City Council analysis.

The payouts are a costly jump since the last time police lawsuits were examined. A 2000 study found that the bill for the previous three years was $32 million and officials warned then that the trend of big payouts endangered the city's fiscal health.

The latest report on the multimillion dollar hemorrhage comes as the city struggles with a $300-million budget crisis that's forced hundreds of municipal layoffs. Firefighters and emergency medical technicians are among those laid off, but so far no police officers have lost their jobs.

Detroit police are currently under a federal consent degree mandating sweeping and costly changes in the way the department operates. The agreement came in 2003 after a U.S. Justice Department investigation that was spurred, in part, by

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Free Press reports detailing the high rate of civilians fatally shot by officers and constitutionally questionable practices of dragnet arrests and holding relatives to force suspects to surrender.

The study, by the council's research and analysis division, looked at police misconduct cases that came before the council from 1987 to 2004 and found the city paid out more than $188 million in that 18-year period. The payouts cover settlements including pretrial agreements, mediations, arbitrations and judgments.

Tracking repeaters

Suits involving repeaters -- officers who have been named in more than one case -- account for more than $111 million, or about 60% of the settlement payouts since 1987.

In the period of 2002-04, settlements came to $44.7 million. Repeaters' cases cost just more than $24 million, or about 54% of the settlements.

"This is a lot of money being spent that shouldn't be spent," Council President Maryann Mahaffey said Monday. "There's a small number of repeaters and why are they not being taken care of?"

"These numbers are staggering," said Councilwoman Sheila Cockrel, who requested the study.

Detroit is self-insured, meaning the settlements come directly from municipal accounts and not from insurance companies. Money going to lawsuits, Mahaffey and Cockrel said, could have been spent on necessary services.

Cockrel and Mahaffey said repeaters' costs underscore the long-standing need for a computerized tracking system to monitor officers' performance and flag potentially dangerous behavior.

"Why in God's name don't we have an early warning system -- we have been asking for one for years," Cockrel said.

Mahaffey was equally put out: "Why on Earth -- I just don't understand it -- do you allow bad ones to remain? Good supervision means keeping track. I'm tired of hearing you can't fire under civil service. You can if you've kept track."

Not every repeater is a bad cop, Cockrel said. An officer's assignment might routinely place him or her at potentially troublesome incidents that result in lawsuits, she said.

"So I don't want to sweep up the good cops, too, but you can't get to these huge numbers without some bad actors on the force," Cockrel said.

In 2004, there were 332 repeaters in cases that came before the council. That was up from 256 in 2003 and 217 in 2002.

The report said a correlation between repeaters and settlement costs "is patently obvious from only a cursory review," and that the city on its own, or with the Justice Department, has to tackle the problem. A computerized risk-management system is required in the federal agreement. The city's progress is to be evaluated in the next monitor's report, expected this summer.

Mayoral spokeswoman Ceeon Quiett referred questions to police spokesman James Tate on Monday, but Tate could not be reached for comment.

In the past, police officials said aggressive lawyers seeking big paydays contributed to the big payouts and said the planned computer tracking would help cap costs.

The analysis, released Friday, was dogged by data problems and the report warns the full cost of bad cops is not known.

Records for dozens of cases -- many of them for 2004 -- are missing from the database.

The raw data for all of 1994 is missing, the report said. That year was left as zero in some calculations and in others, figures from earlier studies were used. Attempts are being made to reconstruct the missing information, according to a footnote in the analysis.

Holes in the data

Additionally, the report said the figures do not include payouts that were made without a lawsuit being started.

"Therefore the actual amount of money paid out by the City to resolve police misconduct cases could be higher," the report cautioned.

Mahaffey said missing data stymies reform.

"If you don't have the records, you don't have the information that shows where your needs are," she said.

The report does not name individual officers or specific lawsuits, nor does it examine the city's legal strategy and practices. It also does not evaluate the cases' merits.

However, it does point out there were three multimillion dollar settlements in 2004, the costliest year. The settlements -- $5.5 million, $4.5 million and $2.9 million -- all involved fatal crashes with police scout cars. In all, cases cost more than $22.1 million that year.

The second costliest year was 1990, with settlements exceeding $16.4 million. That figure included payouts for wrongful deaths and shootings, false arrest and use of excessive force.

Because of the holiday weekend, comparisons could not be made with other large cities' current costs. In 2000, though, the City of Chicago reported paying more than $17 million in cases from 1997 to1999 while Detroit paid about $33 million.

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A Different New York (NYT)

By Bob Herbert

The New York Times, July 5, 2005

Yes, it was a hateful crime. And, yes, it happened in the Howard Beach section of Queens. But, no, this is not déjà vu.

Early last Wednesday a neighborhood nitwit named Nicholas (Fat Nick) Minucci pummeled a fellow named Glenn Moore with a metal baseball bat, police said. Mr. Moore was walking around Howard Beach with a couple of friends. What they were up to is not real clear and not particularly relevant. Maybe they were doing some 3 a.m. sightseeing. At least one is reported to have said he was looking for a car to steal.

In any event, Mr. Moore and his friends, who are black, ended up being chased by Fat Nick and a couple of his friends, who are white. When Mr. Moore tripped and fell, Fat Nick, according to the police, whaled on him with the bat, leaving him with a fractured skull.

The beating allegedly was accompanied by racial slurs. And some of Mr. Moore's belongings were stolen.

As bad as this incident was, it would never have risen to the status of a major news story in a city of eight million people except for the fact that it happened in Howard Beach, a nearly all-white residential area near Kennedy Airport. Howard Beach has never lived down the notoriety that resulted from the hideous death in 1986 of Michael Griffith, one of three black men who were stranded in the neighborhood after their car broke down. They were attacked by a gang of white youths who were enraged by their mere presence.

Mr. Griffith was struck by a car and killed as he ran onto a highway in an effort to flee the gang.

That incident ignited a prolonged period of turmoil that severely aggravated the already raw nerves of race relations in the city. Public officials, including the Queens district attorney, John Santucci, clashed openly with lawyers for the surviving victims. Eventually a special state prosecutor, Charles Hynes, who is now the Brooklyn district attorney, was named to handle the case.

That was New York then, when subway fares were a dollar, crime was out of control, and Gimbels was bidding the world adieu.

The city is a different and a better place these days. Mayor Michael Bloomberg could not have responded faster to last week's attack if he had been wearing Rollerblades. "I cannot stress it enough," he said. "We are going to live together, and nobody, nobody, should ever feel that they will be attacked because of their ethnicity, their orientation, their religion, where they live, their documented status, or anything else. Period. End of story."

The police moved just as fast. They quickly arrested Mr. Minucci, who is 19 and addicted to a gangster wannabe lifestyle. (He drives a $60,000 Cadillac S.U.V. and likes to cruise around flashing gold necklaces, Rolexes and other expensive bling.) The attack was deemed a hate crime, and Mr. Minucci was charged with first-degree assault. An alleged accomplice, Anthony Ench, 21, was also arrested, and a third man is being questioned.

The current Queens district attorney, Richard Brown, made it clear that anyone charged in the case would be vigorously prosecuted. And the Rev. Al Sharpton, who was the point person for the protests in the first Howard Beach case, praised the way the mayor, Police Commissioner Raymond Kelly and other officials have taken control of this one.

A singular development in New York over the past several years, accelerated by the terrible experience of Sept. 11, 2001, has been a willingness to move beyond the chronic ethnic conflict and divisiveness of previous eras. People in and out of government have worked hard to address problems in constructive ways.

We may not be approaching nirvana, and Howard Beach can hardly be characterized as a haven of racial tolerance. But there are very few New Yorkers interested in revisiting the searing ethnic face-offs of the past.

Mr. Sharpton, who had lunch with several public officials in Howard Beach on Friday, said that "the tone of the city has changed - as I have changed" in 19 years and that this incident should not be allowed to spiral out of control or overshadow the substantial progress the city has made.

He said he was concerned about the attack, which is why he went to Howard Beach. But he pointedly noted, "We're not fighting for the right to steal cars."

A crime was committed in Howard Beach. The wisest response would be to investigate, prosecute and move on.

ANTITRUST:

China Tells Congress To Back Off Businesses (WP)

By Peter S. Goodman

The Washington Post, July 5, 2005

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SHANGHAI, July 4 -- The Chinese government on Monday sharply criticized the United States for threatening to erect barriers aimed at preventing the attempted takeover of the American oil company Unocal Corp. by one of China's three largest energy firms, CNOOC Ltd.

Four days after the House of Representatives overwhelmingly approved a resolution urging the Bush administration to block the proposed transaction as a threat to national security, China's Foreign Ministry excoriated Congress for injecting politics into what it characterized as a standard business matter.

"We demand that the U.S. Congress correct its mistaken ways of politicizing economic and trade issues and stop interfering in the normal commercial exchanges between enterprises of the two countries," the Foreign Ministry said in a written statement. "CNOOC's bid to take over the U.S. Unocal company is a normal commercial activity between enterprises and should not fall victim to political interference. The development of economic and trade cooperation between China and the United States conforms to the interests of both sides."

Those words, the latest rhetorical volley in an escalating trade battle, officially elevated the takeover battle for Unocal into a bilateral issue involving Washington and Beijing, raising the stakes of the outcome.

CNOOC's bid comes as China's emerging force in the global economy continues to sow international tensions over competition for natural resources, impacts on the environment, trade balances and security relationships. The deal would be the latest in a string of Chinese purchases of foreign companies as Beijing encourages domestic firms to seek new markets abroad and secure raw materials for China's aggressive industrialization. The Chinese government has urged energy companies in particular to buy foreign oil fields as China's consumption soars, deepening worries about the country's access to supplies.

Already, CNOOC's bid has taken China across a new threshold: It has unleashed the first takeover battle between a Chinese company and a U.S. firm, the oil giant Chevron Corp., which has its own deal to buy Unocal, for $16.5 billion. If completed, CNOOC's purchase -- its bid is for $18.5 billion -- would be the largest foreign takeover ever made by a Chinese firm.

But as the price of oil continues to soar, underscoring the finite supply of global stocks, some members of Congress portray China's appetite for energy as a threat to U.S. interests. They are painting CNOOC's effort to buy Unocal as an attempt to siphon off oil that would otherwise land in the United States, a proposition that analysts call dubious because most of Unocal's outstanding contracts supply customers in Asia.

As the House adopted its resolution Thursday by a 398 to 15 vote, some noted that CNOOC remains under the majority control of the Communist Party-led state, suggesting that this alone made the deal a threat.

"We cannot, in my opinion, afford to have a major U.S. energy supplier controlled by the Communist Chinese," said Rep. William J. Jefferson, a Louisiana Democrat. Monday's reply from Beijing reinforced what CNOOC has said from the beginning -- that the deal is nothing more than an attempt to expand its business opportunities and invest capital sensibly.

Long before CNOOC emerged with its unsolicited offer for Unocal, the United States-China relationship was already highly complex. There has been friction in recent months over China's roughly $160 billion trade surplus with the United States and surges this year in Chinese-made textiles reaching U.S. shores. Some U.S. trade groups accuse China of manipulating its currency, the yuan, to keep it artificially low, making Chinese goods unfairly cheap on world markets. The Bush administration has pressured China to allow its currency to float freely. China argues that it is being made a scapegoat for the decline of U.S. manufacturing.

Tensions also have grown over North Korea's pursuit of nuclear weapons. In Washington, some suggest that China is not doing enough to pressure North Korea, its longtime ally, to return to stalled talks, while propping up the regime in Pyongyang with food and fuel. Chinese officials have criticized the United States for demonizing North Korea and undermining the possibility of progress.

Taiwan is always a hot button. China claims the self-governing island as part of its territory and threatens to reclaim it by force if Taiwan's government moves toward declaring its independence. The United States is nominally pledged to come to Taiwan's aid in event of war.

The battle over Unocal has injected yet another factor into this already volatile relationship ahead of a planned visit to Washington by Chinese President Hu Jintao this fall.

But analysts say the issue has thus far produced little that could alter the relationship between the two governments, because Beijing has grown sophisticated at distinguishing between rhetoric from Capitol Hill -- where Thursday's resolution was nonbinding -- and policy from the White House, which has said little on the subject.

But whatever comes of the Unocal battle, tensions over Chinese investment are probably only beginning. Just as a rising Japan in the 1980s snapped up high-profile assets in the United States and provoked widespread American unease, China's expanding horizons are having a similar effect.

Moreover, key differences between Japan of that era and current-day China could make this go-round more combustible: Japan was a U.S. military ally and part of the same ideological bloc, whereas China is viewed by many in Washington as an adversary.

But the simplest reason for tension may be the amount of cash at China's disposal: As investment pours in and China's central bank buys dollars to maintain the value of its currency, the country has amassed $650 billion in foreign exchange reserves. China has plowed much of that money into U.S. Treasury bonds.

But the quest for Unocal and other foreign companies is being construed by some as a sign of diversification.

"We invest too much in U.S. federal bonds, and they don't make us much money," said Pan Rui, a professor at the Center for American Studies at Fudan University in Shanghai. "Now we're learning to invest more wisely, to try to invest in American companies and industries."

As Rancor Mounts, Cnooc Needs To Push Its Offer For Unocal (WSJ)

By Dennis K. Berman And Russell Gold

The Wall Street Journal, July 5, 2005

With members of Congress suggesting resolutions, special hearings and potential laws to stymie Cnooc Ltd.'s ambitions, the pressure is now on the Chinese oil company to seize some momentum in its $18.5 billion takeover bid for Unocal Corp.

The harsh response has even surprised people in the camp of Chevron Corp., whose $16 billion-plus deal is due to be voted on by Unocal shareholders in only five weeks. Amid an anti-Cnooc campaign in Washington, one person close to Chevron conceded, "A lot of it is not organized; it came on its own. It's a freebie for every congressman to pile on China."

Chevron believes that sentiment will work in its favor. The possibility that a Cnooc deal would fail to win quick regulatory approval in Washington makes Chevron's offer more attractive despite its lower price, Chevron Vice Chairman Peter Robertson said yesterday in an interview. "I think we have the better offer, and I think we'll prevail at the level we're at," Mr. Robertson said.

Cnooc, China's biggest offshore oil and natural-gas producer, has used a light touch in public, keeping Chief Executive Fu Chengyu from the U.S. In a news release late last week, its chief financial officer promised that once the facts are known, "many misimpressions will be corrected."

Still, in Washington, an army of lobbyists led by Akin Gump Strauss Hauer & Feld, a well-connected Dallas law firm, has yet to stanch opposition to Cnooc.

Friday, the company filed a preliminary notice of its deal with the U.S. foreign-acquisition panel, called the Committee on Foreign Investment in the U.S. Seeking a review before Unocal and Cnooc have agreed to final terms is an unusual maneuver, but not without precedent. By law, the committee, known as CFIUS, is required to ask Unocal to submit its views on the matter, though Unocal had no role in Cnooc's initial notice, which consisted mainly of basic information such as annual reports and securities filings. A person close to Cnooc said the filing "sends a message to the government and to Unocal, that we will do everything we can to get this process started."

Todd M. Malan, executive director of the Organization for International Investment, a trade group of foreign companies with U.S. subsidiaries, says Cnooc's filing for a CFIUS review is smart strategically. "They are advancing their cause in a pretty zealous way," he says. "One of the main points that Chevron has been making is that the [CFIUS] process is long and opaque. If Cnooc gets the clock started, that provides some level of certainty."

But Cnooc's eagerness won't necessarily translate into government action, because the panel alone decides when the review begins. Tony Fratto, a spokesman for the Treasury Department, which runs the committee, has said that "CFIUS does not provide 'advisory opinions.' " It begins the process when it views "a transaction is likely to be successful," he said.

Congress, meanwhile, can taint shareholder sentiment by creating the impression of a drawn-out approval process. Thursday, the House of Representatives voted 333-92 to bar the Treasury from using any of its funds to "recommend approval" of the sale to Cnooc, which might have little bearing on any CFIUS review, given the bill wouldn't take effect until October, and the matter will be decided by then. A nonbinding resolution, adopted 398-15, expressed concern that such a sale "would threaten to impair" national security. Texas Republican Joe Barton said last week he would hold public hearings sometime after the Fourth of July congressional recess.

Against these political head winds, Cnooc will need to win support from the Unocal board and its management. Their blessing will be central to mollifying politicians.

Unocal is now studying Cnooc's all-cash offer, and could decide within the next two weeks, a person familiar with the matter said.

Cnooc does have some current leverage. As a person close to Cnooc points out, it would be difficult for Chevron to win Unocal given that its current bid -- which Friday stood at about $60 a share -- is nearly $6 below Unocal's current trading price of $65.84, and $7 below Cnooc's offer. "If Chevron doesn't raise its bid, we've got a strong hand," this person says.

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Of course, some Unocal shareholders will want the best money they can get.

"If we had to vote today, I'm not accepting the Chevron deal," because Cnooc is offering considerably more money, says Jason Putnam, an energy analyst with Victory Capital Management Inc., one of the 10 largest Unocal shareholders. "I'm not as concerned about the Washington risk" as some are, he says.

Mr. Robertson contends that Chevron has other merits over Cnooc. Chevron has more experience and technology drilling for oil and natural gas in deep-water fields like those Unocal has in the Gulf of Mexico and in Indonesia. "We will produce more oil and gas from those assets in the deep-water Gulf of Mexico than Unocal would have and than Unocal and Cnooc together can. "

In Seeking Unocal, Chevron Ruffles An Asian Partner (NYT)

By Jad Mouawad And David Barboza

The New York Times, July 5, 2005

The last thing Chevron wanted when it made its $16.8 billion offer for Unocal back in April was to be pitted in a takeover battle against the Chinese government.

After all, one of the main reasons it went after Unocal, a California-based independent oil company with vast resources in Asia, was to sell oil and gas to the fastest-growing energy market in the world, China. But on June 22, when the state-controlled China National Offshore Oil Corporation, or Cnooc, countered with a higher bid for Unocal, Chevron found itself in a delicate position.

Since then, Chevron's managers have gone into overdrive to portray the Chinese government-backed offer as unfair competition and to close their deal as quickly as possible. They have received support from many lawmakers in Washington, who have painted the Chinese offer as a threat to America's national security.

Now, Chevron must walk a fine line between fending off Cnooc's $18.5 billion bid for Unocal and the risk of alienating Cnooc, its largest partner in China. There, for example, the two companies have teamed up in a $35 billion agreement to ship liquefied natural gas over the next 25 years from several huge Australian fields where Chevron has part ownership to some of Cnooc's terminals in China. But now, the partners appear to be on a collision course.

Much is at stake for Chevron and its cautious chief executive, David J. O'Reilly. Since 2000, Chevron's oil production has declined every year, and the company has had trouble replacing the reserves it pumps out of the ground. On Wall Street, its share price trails its peers.

With a Unocal deal, Chevron, the second-largest American oil company after Exxon Mobil, hopes to reverse both trends. Mr. O'Reilly estimates the takeover would increase Chevron's proven reserves by 15 percent, to 13 billion barrels of oil equivalent, and expand its oil and gas production to 3 million barrels a day, up from about 2.5 million barrels a day in 2004. Chevron has said that it expected the merged company to grow by 6 percent a year from 2005 to 2009.

"Chevron wants it badly because they don't have near-term production growth," said Jay Saunders, an oil analyst at Deutsche Bank. "The fact they had to do this offer is a reflection of Chevron's challenges that its rivals don't have."

Chevron and Cnooc are now locked in a race against time - and a potentially costly bidding war - before Unocal shareholders vote on the Chevron offer on Aug. 10.

Since April 4, when its offer was formally endorsed by Unocal's board, Chevron has managed to secure the approval of both the Federal Trade Commission and the Securities and Exchange Commission in a record time. Cnooc faces an additional level of scrutiny on national security grounds by the Treasury Department's Committee on Foreign Investments in the United States, and last week it asked the government for a fast review of its offer.

While Chevron believes it still has the upper hand, its deal is far from assured. Cnooc is negotiating with Unocal on the terms of its offer in a bid to persuade the Unocal board to change its position and reverse its stance that favors Chevron.

In the days after Cnooc topped their bid, Chevron officials have used harsh language to describe their longtime partner.

Peter J. Robertson, Chevron's vice chairman, said Cnooc's bid was inferior and would not produce as much oil and gas because Cnooc lacked experience in deepwater drilling.

Mr. Robertson has also taken a stab at the Chinese government by saying that the bidding war with Cnooc was unfair because it was largely backed by loans from the largest state-controlled bank and Cnooc's government-controlled parent company. The loans are worth about $13 billion.

"Clearly, this is not a commercial competition," he said two days after the Chinese offer was made. "We are competing with the Chinese government, and I think that is wrong."

But he also dismissed suggestions that the battle would have any long-term effects on Chevron's relations with Cnooc. "We are partners with Cnooc, and we expect that to continue," he said in an interview last week.

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For years, Chevron officials have become increasingly cozy with the Chinese government, praising its efforts and trumpeting its alliances with Cnooc. Mr. Robertson, in a speech in Beijing last October, said that China needed to ensure a stable and secure supply of affordable energy and that China would have to invest large amounts of its own capital in energy projects, both within China and around the world.

Now, analysts said Chevron's new hardball strategy could backfire.

Chevron "developed a very good relationship with both the government and the state-owned companies," said Han Xiaoping, the chief information officer at Falcon Power, an energy consulting firm in Beijing. "I think this is a strategic mistake that Chevron has made. It should have kept the whole deal as a normal commercial activity and shouldn't have used politics as an argument."

The battle is turning into a test for Mr. O'Reilly, Chevron's Dublin-born chairman and chief executive since 2000, and his biggest challenge since he successfully marshaled the $45.8 billion takeover of Texaco in 2001. That acquisition came amid a wave of megamergers in the oil industry, after BP's takeovers of both Amoco and the Atlantic Richfield Company and Exxon's purchase of Mobil.

"Dave was a very active rugby player when he was a kid. He's very competitive, but he's also very disciplined," said J. Robinson West, a friend of Mr. O'Reilly and the chairman of PFC Energy, an oil consultancy that counts both Chevron and Unocal as clients. "He doesn't want to lose the deal but he doesn't want to do anything silly, like overbidding."

Before securing the assent of Unocal's board, Mr. O'Reilly has had to increase his bid twice already. Some analysts expect he will be forced to raise his offer once more, even if marginally, to clinch the deal.

Talks between the two companies started on Jan. 6 when Mr. O'Reilly called Charles R. Williamson, his counterpart at Unocal, to ask if he would consider a friendly takeover offer.

The call came hours after the first news reports that China's third-largest government-controlled oil company was set to bid $13 billion for Unocal's Asian assets. The bid was a bombshell in the oil industry that highlighted the emergence of China as a powerful competitor in the global race for oil and gas reserves.

For Chevron, though, it was a chance to act. With Unocal on the market, Chevron could strengthen its reach in Asia, reverse its production decline and increase its reserves - all in one quick shot.

"It's a tremendous opportunity for us," Mr. Robertson said. "The company has slimmed itself down recently and focused on four or five world-class assets from which a super-major like Chevron can get the most."

The company has had to fight for Unocal. According to regulatory filings Chevron made to the S.E.C. in June, three companies have been quietly competing over Unocal for more than six months.

After Cnooc's initial opening to Unocal in December, and Chevron's talks with Unocal the next month, a third company, Eni of Italy, also approached Unocal. During the next four months, Unocal's board rejected four offers, two from Chevron, one from Cnooc and one from Eni, all deemed too low, before finally endorsing Chevron.

On Feb. 28, after Unocal's board turned down his first offer, Mr. O'Reilly dropped out of the race. He had offered 0.94 of a Chevron share in exchange for each Unocal share.

But on March 28, two days before another board meeting at Unocal, Mr. Williamson contacted Mr. O'Reilly to tell him his board would welcome a new proposal from Chevron if it was still interested. Mr. O'Reilly put his team to work again, and Chevron made a new offer of 1.03 of its shares for each Unocal share.

Meanwhile, Eni tentatively offered $58 a share in cash for each Unocal share but never came up with a written proposal. It finally dropped out of the race because some of its executives considered an acquisition too hazardous and the price too high.

As for Cnooc, whose first offer of $59 to $62 a share had been turned down informally earlier in March, its chief executive, Fu Chengyu, decided he needed more time to consider a higher offer and withdrew from the bidding - only temporarily, as it turned out.

At Chevron, according to the S.E.C. filings, Mr. O'Reilly was told by his negotiating team that Unocal would "look at his offer more favorably" if it included some cash. So on April 2, just hours before the deadline, Chevron's board met to approve an offer that included both cash and shares.

The next morning, executives from the two companies convened to consider Chevron's new proposal: 0.7725 of a Chevron share and $16.25 in cash for each Unocal share. Talks then lasted all day and extended into the night before Unocal's board finally approved the new offer. A merger agreement was signed at 4:30 a.m. Pacific time on April 4. Hours later, the two executives announced the deal. Since then, the value of Chevron's offer has dropped by $400 million because of a 4 percent decline in Chevron's share price.

Oil And Security (WP)

The Washington Post, July 5, 2005

DOJ_NMG_0001538

The bid by a Chinese state-owned firm for Unocal, a California-based oil and gas company, has triggered understandable concern. Oil is a strategic commodity; China has a dictatorial government. Last week an overwhelming majority of the House of Representatives voted for a measure that would impede the bid for Unocal. But however widespread and understandable, these concerns are mistaken. The reason is that China is an oil importer.

U.S. reliance on oil exporters with unsavory and potentially unstable governments is a genuine security problem. To meet global demand, all producers except Saudi Arabia are pumping oil at full capacity, which means that fairly modest disruptions -- an exceptionally cold winter in the Northern Hemisphere, for example, or an uptick of civil unrest in Nigeria's oil region -- can trigger a shortage. To stave off a price spike that could skewer the U.S. economy, the United States relies on Saudi Arabia to act as a swing producer; this gives the undemocratic Saudi regime troubling leverage. Add in the possibility that some other oil exporter -- Venezuela? -- might choose to withhold supply to blackmail the United States, and the argument for cutting domestic fuel consumption through auto mileage standards and other tools is clear.

Oil importers such as China are different, however. They have no interest in suppressing oil production to drive up prices; to the contrary, if China gains control of Unocal it will want to boost production as much as possible, which would push world prices downward and so help the United States. Those who refuse to draw comfort from this prospect argue that China might route all of Unocal's output to its own consumers, thereby depriving Americans of a source of energy. That is not actually practical, but even if it were, it would just mean that China would buy less on the open market than it would have otherwise. So there'd be less supply on the world market, but less demand also. The effect on U.S. gasoline prices would be zero.

China might pose a threat to U.S. oil security if it bought so many foreign oil fields and oil companies that it had more energy than it needed. This would put it in a position to satisfy its own consumption while hurting the United States by holding production down. But this is a far-fetched scenario. As of the end of 2004, China imported a hefty 3.2 million barrels of oil daily; by 2020, according to Booz Allen Hamilton, a management consultancy, this gap is likely to quintuple. China's stated goal is to lock in half of its imports by owning the sources or by signing long-term supply contracts. But it's not sure to achieve that ambition, let alone the far more extreme one of achieving an oil surplus. In any case, Unocal certainly isn't big enough to vault China into self-sufficiency. Its combined oil and gas output comes to around 450,000 "barrels of oil equivalent" each day, according to Booz Allen Hamilton. That's 15 percent of China's current import needs and 3 percent of the needs projected in 2020.

China's bid faces regulatory obstacles. The Chinese government proposes to finance the acquisition partly with interest-free government loans, and although this is a boon for Unocal's shareholders, some claim (almost certainly wrongly) that it violates World Trade Organization rules. Equally, some assert that Unocal's drilling technology may have military applications, so the bid may have to be reviewed on national security grounds. But however these debates play out, it's important that the temperature not be raised by spurious anxieties about oil security. Far from wanting to buy Unocal in order to gain leverage over this country, the Chinese are simply trying to protect their own economy against a future jump in oil prices. There's nothing wrong with that.

To Secure Unocal, Timing May Be Key (WSJ)

By Matt Pottinger In Beijing And John M. Biers In New York, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, July 5, 2005

In the competition to buy Unocal Corp., the prevailing bidder -- Chinese oil producer Cnooc Ltd or its U.S. rival Chevron Corp. -- might be determined by timing as much as money.

With Unocal shareholders scheduled to vote on Chevron's $16.6 billion cash-and-stock offer in just five weeks, Chevron's strategy seems to be this: Make Cnooc's bid appear destined for a lengthy and complicated regulatory review in the hope that Unocal shareholders support Chevron's deal -- even though Cnooc is offering nearly $2 billion more.

The strategy of Cnooc, China's biggest offshore oil and natural-gas producer, has been to do all it can to speed up a U.S. regulatory review of its offer in hope of boosting Unocal shareholders' confidence that Cnooc's bid -- politically contentious in the U.S. -- can win approval in reasonable time.

Working in favor of Chevron are attitudes in the U.S. Congress, where recent attention on America's trade deficit has fueled hostility toward China. On Thursday, the House of Representatives voted 333-92 to bar the Treasury from using any of its funds to "recommend approval" of the sale to Cnooc. A nonbinding resolution, adopted 398-15, expressed concern such a sale "would threaten to impair" U.S. national security. And one representative who has portrayed Cnooc's bid as a threat to U.S. interests has promised to schedule public hearings on the matter soon.

But working in Cnooc's favor is Unocal shareholders' knowledge that U.S. regulators almost never block acquisitions on national-security grounds. If Cnooc can get the ball rolling on a formal regulatory review before Unocal's Aug. 10 shareholder vote, its bid stands a better chance of winning support from Unocal shareholders.

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To that end, Cnooc on Friday asked the U.S. panel in charge of investigating foreign acquisitions -- the Committee on Foreign Investment in the U.S. -- to begin a national-security review of its $18.5 billion all-cash bid for Unocal. The Chinese company, which is controlled by state-owned China National Offshore Oil Corp. and is listed on the New York and Hong Kong stock exchanges, said in a news release it is confident that the key committee, known as CFIUS, would see no reason to prevent Cnooc from buying Unocal.

"We believe that once all the facts are known and the commercial purpose and terms of the transaction are fully understood, many initial misimpressions will be corrected, and many doubts and questions will be favorably resolved," Cnooc Chief Financial Officer Yang Hua said in the press release.

It remains unclear how Cnooc's request will affect the timing of a review by CFIUS, which could take as long as 90 days once it begins. Tony Fratto, the acting assistant Treasury secretary for public affairs, said the committee needs to see filings from both Cnooc and Unocal as well as make a determination the transaction is likely to close before beginning a review.

"A CFIUS review may begin when the necessary information from a potential acquiring company and target company is filed with the Committee, and the Committee determines that a transaction is likely to be successful," Mr. Fratto said. "CFIUS does not provide 'advisory opinions'."

That could prove a high hurdle. Unocal is prohibited by the terms of its acquisition agreement with Chevron from accepting another bid until its shareholders vote on Chevron's bid. However, if CFIUS requests a filing from Unocal, the California-based company must comply within seven days, Cnooc said, citing the committee's rules.

Keith Shugarman, a lawyer at Goodwin Procter LLP in the U.S. who has advised clients on transactions considered by CFIUS, the committee rarely takes up contested deals. If CFIUS does take up the Unocal matter, it would begin with a 30-day review period followed by, if necessary, a 45-day investigation. Given congressional hostility toward a potential deal with the Chinese company, Mr. Shugarman said he expects the committee would undertake such an investigation.

But even an in-depth review by the panel would advance Cnooc's cause from its current status, he said. Under that time frame, the Cnooc review would be at an advanced stage by the scheduled Aug. 10 Unocal shareholder vote on Chevron's terms. "It definitely increases the credibility and viability of the [Cnooc] offer," Mr. Shugarman said.

August Deals Face Antitrust Risk (DEAL)

By Cecile Kohrs Lindell

The Deal, July 4, 2005

The bidding war for August Technology Corp. may come down not to price but to antitrust concerns.

Although the Bloomington, Minn., chip equipment maker on June 28 agreed to a $193 million deal with Rudolph Technologies Inc., industry rival KLA-Tencor Corp., which previously had bid $205 million for August Technology, has vowed to renew its pursuit. Seeking to thwart such a bid, Flanders, N.J.-based Rudolph said last week that a combination of KLA-Tencor and August Technology would pose antitrust risks.

But while Rudolph's offer for the company is likely to have an easier time with regulators, neither deal is a slam dunk, antitrust lawyers said. The review by the Department of Justice's Antitrust Division could hinge on how broadly enforcers define the market for semiconductor testing, inspection and metrology equipment, which is used to search for microscopic flaws in chips. The structure of this market and potential customer concerns also are likely to figure in whether the deals receive clearance.

In sizing up the market affected by the sale of August Technology, antitrust enforcers will focus on the market for so-called macro defect inspection tools, which are used to spot problems with components used in semiconductor manufacturing, said Robert Doyle, an antitrust partner at Sheppard Mullin Richter & Hampton LLP. KLA-Tencor, the leader in that sector, has about 50% of that market, with August Technology and Rudolph each having roughly 25%.

"If the market is defined narrowly, I'd suspect KLA could give up certain assets to make this deal work," Doyle said.

One factor that may come into play is the small market for macro defect gear, which is worth roughly $70 million per year. That has led some risk arbitrageurs to speculate that the government would not closely review the deal. But such sentiments are more hopeful than realistic, said another antitrust lawyer.

Neither the Justice Department nor the Federal Trade Commission "throws fish back because they are too small," he said, requesting anonymity because he hasn't closely reviewed the specifics of the deal. "Despite recent cases, both agencies look at what customers have to say. They wouldn't necessarily give it a pass if customers didn't complain. They would test the logic of what customers were saying."

Some customers have expressed reservations about the impact of KLA-Tencor buying August Technology, which could harm its bid, Doyle said.

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The Antitrust Division also will examine if smaller technology makers with similar products could enter the market. But several antitrust lawyers said the August Technology merger would reduce the number of competitors in the sector from three to two, which typically arouses antitrust concerns. They said the deal resembles the FTC's 2000 challenge to H.J. Heinz Co.'s acquisition of Beech-Nut Nutrition Corp. Heinz wanted to acquire Beech-Nut so it could more effectively compete against Gerber AG in baby food sales.

A federal appeals court concluded the merger was illegal because competition between Heinz and Beech-Nut to gain shelf space, and thus to compete against Gerber, resulted in lower prices.

"Currently, smaller parties don't exert restraining power on a larger company's prices," one attorney said.

T-Mobile USA Could Go Up For Sale (WSJ)

By Jason Singer And David Pringle, Matthew Karnitschnig And Jesse Drucker

The Wall Street Journal, July 5, 2005

Deutsche Telekom AG is exploring whether to sell its U.S. wireless operation, T-Mobile USA Inc., a move that could fetch as much as $30 billion and alter mobile-phone markets on both sides of the Atlantic.

As the German telecom titan faces a huge bill to upgrade the technology used by its U.S. unit to keep pace with rivals, Deutsche Telekom's management board has been debating T-Mobile USA's fate, according to people close to the matter. The company has told investors in private meetings recently that it expects to make a decision by December.

The sale of T-Mobile USA has often been considered unlikely because Deutsche Telekom traditionally has said it saw its U.S. wireless operation as a growth engine. But the possibility has intensified on the heels of drastic reshaping of the U.S. telecommunications and cable television market. In the past 18 months, a succession of acquisitions -- including Cingular Wireless's acquisition of AT&T Wireless Services Inc., Sprint Corp.'s acquisition of Nextel Communications Inc., Verizon Communications Inc.'s planned acquisition of MCI Inc. and AT&T Corp.'s agreement to be acquired by SBC Communications Inc. -- have formed several huge communications companies that dwarf T-Mobile USA.

In addition, cable companies are expanding into the phone business, while phone companies are planning to offer television services, each offering consumers packages of numerous telecom and entertainment services, something T-Mobile USA is unable to do as it has no landline, broadband or television units in the U.S.

While that added competition could hurt T-Mobile in years to come, it could also provide an opportunity for a sale now to a cable company seeking its own wireless operations. And the U.S. phone market hasn't yet finished reshaping altogether, with some investors saying that Vodafone Group PLC's long-term role in its current wireless joint venture with Verizon remains a question mark.

Some top Deutsche Telekom executives have argued the company should sell T-Mobile USA and use the proceeds to make acquisitions in Europe instead of spending billions of dollars in the next few years to build a faster network in the U.S. to keep pace with rivals offering high-speed wireless Internet access, people close the situation say.

Rivals like Verizon Wireless and Sprint have either started, or plan shortly, to start offering high-speed wireless data services at speeds comparable to wired digital subscriber lines, whereas T-Mobile USA has largely relied on the less costly Wi-Fi technology, which has more limited range.

T-Mobile USA's small position in the highly competitive U.S. market has some investors rooting for Deutsche Telekom to sell. "From a strategic position, I would rather have them exit the U.S. market, especially when you are faced with this huge upgrade," said Theo Maas, an Amsterdam-based fund manager with ABN Amro Asset Management who holds Deutsche Telekom shares.

While T-Mobile USA has been experiencing some of the fastest growth in the industry -- adding 4.2 million new subscribers during 2004 -- it is only the country's fourth-biggest national carrier, with about 18.3 million customers. It could be left behind by the two big U.S. wireless mergers of last year: Cingular Wireless's purchase of AT&T Wireless -- now with more than 50 million subscribers -- and the pending Sprint-Nextel merger, which, if approved by shareholders and regulators later this year, would serve more than 40 million wireless subscribers. That will make Sprint the country's third-biggest carrier, behind Cingular, a joint venture of SBC and BellSouth Corp, and Verizon Wireless, in which Verizon owns 55% and Vodafone the remainder.

As U.S. cable operators and telephone companies step up their competition, cable companies still need to offer a wireless service to fully compete. Comcast Corp., the country's biggest cable operator, has had talks with T-Mobile about a wireless reselling deal -- Comcast selling wireless service but using T-Mobile's network. A consortium of cable operators -- including Comcast -- is exploring its wireless options, which could include purchasing an entire operator.

Choosing to sell the T-Mobile USA, however, could prove to be a difficult option. The most likely cellular buyer, Vodafone says it isn't interested even though the world's largest wireless carrier has long wanted to control a service provider in the U.S.

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But a purchase of T-Mobile USA isn't in the cards for Vodafone, says Bobby Leach, a spokesman for Vodafone, Newbury, England. "We are not interested in T-Mobile's U.S. assets," Mr. Leach says. "We have made clear our commitment to the Verizon Wireless partnership." Mr. Leach declined to comment further.

Verizon Wireless has refused to use Vodafone's brand and uses a different network technology than Vodafone, which makes it tricky to roll out services that work in both the U.S. and Europe.

T-Mobile USA, by contrast, uses the same technology as Vodafone. Vodafone has tried and failed to gain control of a U.S. carrier before. Last year, it lost a bidding war for AT&T Wireless Services Inc.

In addition, some Deutsche Telekom executives worry that following a sale of T-Mobile USA, shareholders would pressure management to return that money to them. Germany's cash-strapped government is the company's biggest shareholder and it might push management to distribute the proceeds of a sale.

Singapore State Firm Plans To Buy Stake In A Chinese Bank (WSJ)

By James T. Areddy

The Wall Street Journal, July 5, 2005

SHANGHAI -- Singapore's state-owned investment company will join Bank of America Corp. as a strategic foreign investor in China Construction Bank, a government-owned property lender, Chinese state media reported.

A subsidiary of Temasek Holdings (Pte.) Ltd. will pay $1 billion for shares in China's No. 3 lender when the bank conducts an initial public offering, the official Xinhua news agency reported late yesterday, quoting a spokesman for Beijing-based China Construction.

Also yesterday, China's Financial News said the total investment will be $1.4 billion for a 5.1% stake in China Construction. The reports said a deal with Temasek was signed July 1 in Beijing. China Construction declined to confirm or deny the reports.

Xinhua said Temasek, using its subsidiary Asia Financial Holdings Pte., will buy $1 billion in shares at the IPO, scheduled for as soon as late this year, and acquire other shares directly from the state agency that owns the bank, Central Huijin Investment Co. The pricing reported in the Financial News suggests the Singapore investor is getting shares at a discount to the price announced last month for Bank of America's 9% stake.

Bank of America, of Charlotte, N.C., agreed to invest $2.5 billion for the stake and an additional $500 million to maintain that level when China Construction goes public. The purchase by Bank of America worked out to about $305 million for 1% of the Chinese bank, while, based on the Financial News report, Temasek would be paying about $275 million per 1%.

The state-owned Chinese bank had net assets at the end of last year totaling $23.5 billion, Xinhua reported.

Bank of America will have an option to eventually lift its stake in China Construction Bank to 19.9%, the maximum allowed for a single foreign investor in a Chinese bank.

Microsoft Accord To End IBM Case Highlights Rivalry (WSJ)

By Robert A. Guth And Charles Forelle, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, July 5, 2005

Microsoft Corp.'s agreement to settle an antitrust dispute with International Business Machines Corp. sweeps away some past differences but also highlights the growing rivalry between the two technology giants.

On Friday, the two companies said Microsoft will pay IBM $775 million in one lump sum and extend $75 million in credit toward Microsoft software that IBM will use internally.

The settlement resolves IBM claims that Microsoft overcharged and used discriminatory pricing on sales of software to IBM in the 1990s. Included in the pact is a resolution of claims that Microsoft's practices harmed IBM's OS/2 operating system and SmartSuite group of software applications.

But while the detente was applauded by executives on both sides, it won't likely usher in an era of new cooperation between the two companies. Perhaps more than many of Microsoft's historical rivals, IBM is increasingly perceived by the software maker as both an obstacle and a threat. IBM has a strong grip on the data centers of large corporations, an area that Microsoft has targeted for sales of its server software.

The settlement excludes any claims against Microsoft related to IBM's server hardware or software business, though IBM agreed not to assert claims for monetary damages for two years against Microsoft in the server area.

But a more fundamental difference between the two companies is also at issue. IBM's growing services arm gives the company a powerful platform from which to pitch products at the expense of Microsoft's. In IBM's model, Microsoft risks being relegated to just one supplier to large computer installations managed by IBM.

IBM is also a major backer of open-source software, particularly the Linux operating system, which continues to be a thorn in Microsoft's side. Other struggles between IBM and Microsoft loom in such areas as low-end data storage, Web-based

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application software and network security. And though the two companies in recent years have cooperated in areas that include Web services, both are vying to encourage third-party software developers to write applications for their respective platforms.

The differences were highlighted by the absence of any announcement of collaborative work between the two companies, unlike previous agreements that Microsoft reached to settle antitrust suits with Time Warner Inc. and Sun Microsystems Inc.

"This is an example of addressing one issue and we have further opportunities to both compete and collaborate," said Microsoft General Counsel Brad Smith of the IBM pact.

In a statement, Ed Lineen, IBM's general counsel, said the company is "pleased that we have amicably resolved these longstanding issues."

The IBM settlement is the latest in a quest by Mr. Smith to resolve private claims resulting from Microsoft's antitrust battles in the 1990s with the U.S. government, including a broad suit filed by the Justice Department in 1998 and settled in 2002.

Among other rulings in that case, a federal judge found that Microsoft had forced IBM and Gateway Inc. to pay higher prices than other computer makers for its Windows operating system, a ruling that paved the way for the companies to pursue claims against Microsoft without filing suit.

Other companies used evidence gathered in the government case as a basis for their own actions. Sun, for example, filed a suit that was settled in 2004 with a payment by Microsoft of nearly $2 billion.

With the IBM issues resolved, "we are getting increasingly close to saying that the 1990s are finally over," Mr. Smith, Microsoft's general counsel, said in an interview.

Mohawk To Buy Belgium's Unilin For $2.65 Billion (WSJ)

By Jason Singer

The Wall Street Journal, July 5, 2005

Mohawk Industries Inc., a maker of carpet and floor coverings, said it agreed to acquire Belgian flooring maker Unilin Holding NV for $2.65 billion.

Mohawk, based in Calhoun, Ga., beat out private-equity firms that also had been looking at Unilin.

It is the latest instance of a victory over private-equity firms, which also had been looking at Unilin, by so-called trade buyers, or buyers in the same industry. Private-equity firms buy companies with a view to restructuring them and then either selling them or taking them public a few years later.

Private-equity firms' merger-and-acquisition activity in Europe has increased substantially in the past few years, but recently trade buyers have been outbidding private equity in some big acquisitions. For instance, earlier this year, Telefónica SA, Spain's biggest telecommunications concern, beat out private-equity firms to purchase Cesky Telecom of the Czech Republic.

Closely held Unilin, of Wielsbeke, Belgium, has 2,200 employees at 12 production facilities in Belgium, France, the Netherlands and the U.S. It makes wood-based panels, laminated panels, laminated flooring and roofing systems. The 45-year-old company put itself up for sale in March, citing the need for new investors as shareholders.

Mohawk, which was founded in 1878 and has about 34,000 employees, has made 18 acquisitions in the past 13 years, expanding its range of products to include rugs and mats, high-end bath rugs and woven throws, bedspreads and coverlets. Mohawk reported first-quarter sales of $1.49 billion, up 7.4% from a year earlier. Net profit in the quarter rose 5.6% to $70 million.

Unilin had annual sales of about $1.0 billion, Mohawk said. Unilin's current management will continue to operate the company, Mohawk said.

Unilin isn't the first European flooring maker to attract interested buyers. Forbo Holding AG of Switzerland drew the interest of private-equity firm CVC Capital Partners Ltd. in November, but the deal fell through after CVC was unsuccessful in buying enough of the company's shares in a tender process.

Mohawk was advised by Lehman Brothers Holdings Inc., while Unilin was advised by Goldman Sachs Group Inc.

Jury Finds For Boston Scientific In Stent-Patent Case Against J&J (WSJ)

By Peg Brickley, Dow Jones Newswires

The Wall Street Journal, July 5, 2005

WILMINGTON, Del. -- A Delaware jury ruled for Boston Scientific Corp. and against Johnson & Johnson in a key test of patents protecting drug-eluting-stent technology.

The jury said J&J's Cypher stent trespasses on a Boston Scientific patent, which protects technology that allows drug coatings to be applied to stents, medical devices used in the treatment of cardiovascular disease.

The jury also found J&J's Cypher, Bx Velocity, Bx Sonic and Genesis stents infringe a design patent held by Boston Scientific.

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Boston Scientific, of Natick, Mass., lost two earlier patent fights with its rival in the multibillion-dollar stent market this year in the same court.

J&J's cardiovascular unit, Cordis Corp., said in a statement that it would seek to have the verdict overturned, either by the judge who presided over the federal-court contest or by appeal to a different court.

Boston Scientific Chief Operating Officer Paul LaViolette said in a statement that the company was "very pleased with the jury's verdict."

Friday's decision means J&J, of New Brunswick, N.J., will face a damages trial in August, around the same time Boston Scientific tries to fend off damages in the first of the two stent patent disputes that went to trial in June.

Both of the June stent patent-infringement trials involved the newest versions of the medical devices, Boston Scientific's Taxus Express and Liberté and J&J's Cypher.

An earlier case, decided in March, ended in an infringement finding for J&J and against Boston Scientific for its Nir stent, which is no longer marketed. Damages in that case remain to be resolved.

In their bare-metal version, stents are miniature scaffolds that prop unclogged arteries open after angioplasty treatment.

Drug-eluting stents so significantly reduce rates at which treated vessels close up again that they have almost pushed the bare-metal versions off the market.

That made Friday's finding of infringement against J&J -- the only other company with a major piece of the U.S. market for drug-eluting stents -- a critical one for Boston Scientific.

ENVIRONMENT:

Bush To Reject Kyoto-style Deal At G-8 (WT/AFP)

The Washington Times, July 5, 2005

LONDON (Agence France-Presse) -- Although the Group of Eight has to tackle climate change, President Bush vowed to spurn any Kyoto-style deal on the "significant" problem of global warming, he said in an interview to air today.

Mr. Bush told Britain's ITV television ahead of the gathering Wednesday through Friday in Scotland that global warming was "a significant, long-term issue that we've got to deal with."

However, any climate change agreement along the lines of the United Nations' Kyoto Protocol -- which the United States refused to sign -- would get short shrift, he said.

Instead he offered up new technology as the way forward.

"If this [draft plan under negotiation] looks like Kyoto, the answer is no," Mr. Bush said. "The Kyoto treaty would have wrecked our economy, if I can be blunt."

The Kyoto Protocol requires industrialized countries that have ratified it to limit their emissions by a 2012 time frame as compared with a 1990 benchmark.

The president has opposed action against climate change since he took office in 2001 in favor of further studies of the phenomena -- despite significant global pressure that the world's largest consumer of fossil fuels change its policies.

British Prime Minister Tony Blair, who hosts the three-day gathering by Britain, Canada, Germany, France, Italy, Russia, Japan and the United States, wants to secure deals on climate change as well as African aid and debt.

French President Jacques Chirac said yesterday he was optimistic that a deal on climate change could be struck at the summit after informal talks with the German and Russian leaders in Russia.

"We are waiting to know the American position, which was ... far more moderate, or less demanding than ours. I hope we can find a sufficiently clear, firm agreement in this field," Mr. Chirac said.

Negotiators for the G-8 countries reportedly are drawing up draft plans on climate change.

The U.S. president said he wanted G-8 leaders to put Kyoto behind them and move on to supporting new technologies to limit global warming without harming businesses.

Mr. Bush underlined the U.S. government's $20 billion investment in technologies such as zero-emission power stations and hydrogen-powered vehicles.

"I think you can grow your economy and at the same time do a better job of harnessing greenhouse gases," he said. "That's exactly what I intend to talk to our partners about.

"My hope is -- and I think the hope of Tony Blair is -- to move beyond the Kyoto debate and to collaborate on new technologies," he said.

These would "enable the United States and other countries to diversify away from fossil fuels so that the air will be cleaner and that we have the economic and national security that comes from less dependence on foreign sources of oil," he said.

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G8 Heads On Brink Of Climate Agreement (FT)

By James Blitz And Alan Beattie

Financial Times, July 5, 2005

The leaders of the Group of Eight industrial nations look set to agree an accord to combat climate change at their summit this week, averting a rift between the US and France over global warming and intensifying pressure on China and India to curb greenhouse gas emissions.

As Tony Blair prepares to host the G8 leaders at the gathering in Gleneagles, the prime minister is on the brink of brokering a global agreement on climate change, one which explicitly recognises that science compels the world to act to contain greenhouse gases.

A final draft of the accord to be agreed by the G8 heads including George W. Bush, US president, and Jacques Chirac, French president was hammered out by diplomatic "sherpas" from each of the member states in London at the weekend.

The US continues to refuse to sign the Kyoto protocol, which sets international targets for the reduction of greenhouse gas emissions. However, the US gave its backing at the weekend meeting to a final draft accord that meets the minimum demands made by Mr Chirac on climate change.

"There is an acknowledgment in the text that the science compels us to act and that human activity contributes to climate change," said a senior diplomat from the G8, who also noted that the final text makes two explicit references to the Kyoto treaty as many G8 states requested.

Another G8 diplomat said the text acknowledged there was a consensus among scientists that climate change was taking place and that fossil fuels were an important part of the problem. "The idea is there in the text that we know enough now to slow climate change, to stop it and reverse it," he said.

Other G8 diplomats said the draft assists the US by framing the need to cut carbon emissions not only in terms of the battle to combat climate change but the need to preserve energy security.

Diplomats from several G8 countries on Sunday night warned that the communiqué could yet be altered by the G8 heads.

President Bush underlined US reservations in an interview recorded for British television last Wednesday.

"If this looks like Kyoto, the answer is 'no'. The Kyoto treaty would have wrecked our economy," he said in the interview, which was conducted last Wednesday for ITV and was scheduled for broadcast on Monday.

Mr Bush's comments underline what a success it will be for Mr Blair, who holds the G8 presidency, if the weekend text is approved. He is keen to get an overarching political statement on climate change agreed this week as part of an action plan that encourages China and India to import technologies that help reduce greenhouse gas emissions.

However, there was a setback for Mr Blair on the other main issue to be discussed at this week's summit development aid for Africa.

Most of the G8 governments are content to make a declaration that they are planning to "double" development aid for Africa by 2010. However, the UK was unable to persuade them to state that this would mean giving Africa $50bn by the end of the decade.

Max Lawson, policy adviser at Oxfam, said: "It is a step forward but people were expecting something extraordinary, and this isn't it."

Bush Maintains Stance On Global Warming (LAT)

By John Daniszewski And Ron Depasquale

The Los Angeles Times, July 5, 2005

LONDON — As world leaders prepared for a major summit, President Bush said Monday that he would not substantially change his stance on global warming to reward British Prime Minister Tony Blair for his support of the war in Iraq.

"I really don't view our relationship as one of quid pro quo," Bush said. "Tony Blair made decisions on what he thought was best for keeping the peace and winning the war on terror, as I did."

Reiterating his opposition to the Kyoto Protocol that mandates targets for cutting greenhouse gas emissions, Bush told Britain's ITV1 television that he would reject any measures that "look like Kyoto." Although the U.S. is the world's largest emitter of carbon dioxide, Bush has rejected the treaty because its provisions, he said, would "wreck the U.S. economy."

Blair is hosting the Group of Eight summit that begins Wednesday in Gleneagles, Scotland, and he has made fighting climate change and increasing assistance to Africa the top two priorities of the meeting.

The annual gathering has in recent years attracted protesters denouncing the Iraq war, globalization and capitalism. Demonstrators clashed with police Monday on the streets of Edinburgh, the nearest big city to the exclusive golf resort where

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Bush, Blair and the leaders of Canada, France, Germany, Italy, Japan and Russia will meet. Thousands of police were being rushed to the area to cope with an expected onslaught of demonstrators.

In the days leading up to the summit, aides to Bush have sought to dispel his image as an international cowboy. His administration has announced plans to double development aid to Africa by 2010, although not in the way Blair and other G-8 leaders had proposed.

While rejecting any "quid pro quo" on climate change, Bush nevertheless acknowledged that human activity is at least partly behind the apparent warming of the planet in recent years. And he said that there may be other compromises the United States and other nations can make to reduce the amount of greenhouse gases being produced.

In the past, European leaders have been frustrated that U.S. officials have disputed scientific evidence of accelerated warming, and questioned whether the phenomenon poses a real threat to the planet.

Asked in the interview whether climate change is "manmade," Bush replied, "To a certain extent it is, obviously."

"You know, look, there was a debate of Kyoto, and I made the decision -- as did a lot of other people in this country, by the way -- that the Kyoto treaty didn't suit our needs. In other words, the Kyoto treaty would have wrecked our economy, if I can be blunt."

Bush denied, though, that he was putting U.S. economic interests above the interests of the planet.

"My hope is ... to move beyond the Kyoto debate and to collaborate on new technologies that will enable the United States and other countries to diversity away from fossil fuels so that the air will be cleaner and that we have the economic and national security that comes from less dependence of foreign sources of oil," he said.

"To that end, we're investing in a lot of ... research on hydrogen-powered automobiles. I believe we'll be able to burn coal without emitting any greenhouse gases," he said, also citing his backing for "more nuclear power."

The Kyoto Protocol took effect in February with ratification by 141 countries -- including every industrialized nation except Australia and the United States. It aims to reduce greenhouse gas emissions to roughly 5 percent below 1990 levels by 2012.

In addition to economic concerns, Bush has rejected the pact because of objections to the way it divides emissions cutbacks between developed and undeveloped countries. However, American officials say the United States is making progress to meet its own goals for reducing carbon emissions.

British Foreign Minister Jack Straw said U.S. opposition to the Kyoto treaty was long-standing and well-known, but he remained optimistic that the meeting of the summit would still yield results.

"Each country comes to these negotiations ... with its own national perspective," Straw said at a news conference. But he said it was "remarkable how far sentiment has moved in the period since the prime minister identified aid to Africa and climate change as the key" issues to be addressed.

Lower-ranking government officials involved in the summit planning worked throughout the weekend, hammering out wording on communiques covering both climate change and aid to Africa. Michael Jay, a Foreign Office official, told reporters that the weekend talks had been "pretty intense" and that Britain remained hopeful that a "consensus agreement on climate change" will be signed at Gleneagles.

The Financial Times reported Monday that the eight countries would adopt a joint "action plan" on climate change, although it would stop short of making specific emission-reduction targets. The statement would also contain language referring to a growing consensus among scientists about the problem, the paper said.

On the subject of helping Africa, the leaders appear already to have reached an agreement to raise assistance and eliminate debt of the poorest African countries.

None of the official actions were likely to satisfy the street protesters who have been gathering in Scotland from around the world in anticipation of the summit.

In Edinburgh on Monday, protesters chanted, "We all live in a terrorist regime" to the tune of the Beatles' song "Yellow Submarine." Drummers and dancers clad in pink and purple led black-hooded anarchists on an unauthorized anti-capitalist march in downtown. . By 9 p.m., 60 people had been arrested, mostly on disorderly conduct charges, police said.

Thousands of police recruited from around Britain have converged on Scotland, hoping to cope with demonstrators expected to number in the tens of thousands by the first day of the summit.

Police practiced their crowd-control techniques Monday, surrounding a group of protesters less than an hour into the march and herding them into a narrow side street before cordoning them off.

The marchers kept drumming, dancing and tossing confetti as bemused bystanders watched from apartments and offices. Some of the estimated 200 protesters tried periodically to ram through the rows of police, but got nowhere.

"We should have a right to protest in a democracy," said Erik, a Danish protester who did not give his last name. "But these (police) don't realize that."

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The protesters chanted obscenities, with one man wearing a black dress and pink wig and waving a purple fan accusing the G-8 countries of promoting "wage slavery." "We are against the capitalist, consumer society, and there are alternatives to that," said the man, who gave his name as Susan.

John Knowles, a recent graduate of the University of Edinburgh who was caught up in the protests, called it all "a joke."

"They paid maybe 150 pounds to fly here, and they organized this through their broadband Internet. So maybe they like capitalism after all," he said of the marchers.

Some downtown businesses were boarded and shut, while police advised those still open to close. Certain roads were closed and patrolled by police on horseback.

Hoping to ward of protest vandalism, several bars and restaurants hung signs reading: "We are a family restaurant," and "We are not part of a major chain."

On Scotland's west coast, meanwhile, more than 600 protesters attempted to blockade a nuclear submarine base at Faslane, police said.

The protesters staged a sit-in, demanding that money spent on defense be redirected to fight poverty in the developing world. Four people were arrested, but the protest was concluded peacefully, a police spokeswoman said.

Bush Advises Blair Not To Expect Special Treatment At G-8 Summit (WP/REU)

By Reuters

The Washington Post, July 5, 2005

LONDON, July 4 -- President Bush told British Prime Minister Tony Blair to expect no favors at this week's Group of Eight summit of major industrialized countries in return for backing the war in Iraq. Blair, who has made tackling global warming and relieving African poverty the goals of his year-long presidency of the G-8, will host fellow leaders at the Gleneagles Hotel in Scotland from Wednesday to Friday.

"I really don't view our relationship as one of quid pro quo," Bush told Britain's ITV1 television in an interview. "Tony Blair made decisions on what he thought was best for keeping the peace and winning the war on terror, as I did."

Reports that a last-ditch round of negotiations by G-8 officials over the weekend would result in an accord in some way recognizing the science behind global warming were bolstered by French President Jacques Chirac, who said on Sunday that the G-8 leaders were "heading toward an agreement."

A Canadian official said late Monday that there had been "significant progress" on a climate change text, while Britain's top G-8 negotiator, Michael Jay, said he sensed a desire to reach an agreement.

But Bush was cautious. Environmental experts said that, rather than risk an open rift, the eight nations had decided on an accord offering the barest minimum on global warming.

"If this looks like Kyoto, the answer is no. The Kyoto treaty would have wrecked our economy," Bush said in the interview, recorded last Wednesday and broadcast on Monday.

The other G-8 members are Germany, Italy, Japan and Russia.

Meanwhile, during a protest Monday in Edinburgh, Scotland's capital, a small group of anarchists sparked scuffles between riot police and demonstrators.

At least two police officers were injured in clashes, and several people fainted in the crush. Police said there had been 30 arrests related to the protests.

The demonstrations began peacefully as protesters, banging drums and shaking bells, marched and danced into waiting police containment cordons.

The demonstrations were part of a variety of protests that began Saturday with a 200,000-strong march through the city calling for an end to poverty in the developing world, especially Africa.

On Monday, black-clad and masked members of the Black Bloc, an anarchist group based in Germany and Scandinavia that has been prominent in protests at past G-8 summits, mingled with other demonstrators dressed as fairies and clowns.

On Eve Of Summit Talks, Leaders And Protesters Prepare (NYT)

By Alan Cowell

The New York Times, July 5, 2005

LONDON, July 4 - With some signs of discord after a weekend of free rock concerts and celebrity urgings to end Africa's poverty, politicians and protesters prepared Monday for the Group of 8 summit meeting later in the week.

The leaders of eight major industrial nations are to meet Wednesday through Friday at the luxurious Gleneagles golf estate north of Edinburgh, preoccupied by two main subjects - dealing with climate change and relieving African poverty through changes in policies on trade, aid and debt.

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In Edinburgh on Monday police officers drawn from the estimated 10,000 on duty to guard the meeting fought running scuffles with several hundred antiglobalization protesters. No injuries were immediately reported.

In an interview broadcast Monday on British television, President Bush seemed to damp any expectation that he might reward Prime Minister Tony Blair, the conference host, for his support in the American effort to prevent terrorism.

"I really don't view our relationship as one of quid pro quo," Mr. Bush said. "Tony Blair made decisions on what he thought was best for keeping the peace and winning the war on terror, as I did. So I go to the G-8 not really trying to make him look bad or good but with an agenda that I think is best for our country."

Mr. Bush is generally seen to be at odds with Britain and most other members of the group on accepting the scientific evidence relating to the causes of global warming, and therefore on the need for immediate steps to reduce emissions of greenhouse gases. Indeed, the United States is held by other group members to be the world's biggest polluter.

Mr. Bush's remarks seemed to conflict with a forecast on Sunday by President Jacques Chirac of France that the member countries - the others are Canada, Germany, Italy, Japan and Russia - were "heading toward an agreement" on global warming.

At a news conference in London on Monday, Sir Michael Jay, Mr. Blair's representative at talks by senior officials in advance of the meeting, said climate change "was never going to be an easy discussion," and added, "There are differences of opinion, particularly about the science."

Asked about speculation that the meeting might split over climate change and produce two final statements - one of them representing the United States' view and one agreed by the others - he said, "I'm not going to rule in or rule out anything."

Mr. Bush maintained his opposition to deals like the Kyoto Protocol, which set targets for lowering greenhouse gas emissions and which the United States has refused to accept.

"If this looks like Kyoto, the answer is no," he said. "The Kyoto agreement would have wrecked our economy. I think you can grow your economy and at the same time do a better job of harnessing greenhouse gases. That's exactly what I want to talk to our partners about."

His only softening lay in remarks during the interview that climate change represented a "significant long-term issue that we've got to deal with" and that the problem was "to some extent" a result of human actions.

Environmental groups said those remarks fell short of acknowledging the scale of the problem.

At other talks in advance of the summit meeting, Group of 8 countries have apparently made some progress on increasing aid to Africa and canceling debt. But trade, said Sir Michael, the British representative, "is going to be one of the most difficult issues."

In part, that is because a change in trade rules would affect huge farm subsidies in both the United States and the European Union - an area in which Mr. Bush seemed to suggest the Europeans had more changes to make than the United States.

"We've got agricultural subsidies, not nearly to the extent that our friends in the E.U. have," he said.

In support of more aid for Africa, campaigners like Sir Bob Geldof, a former rock singer, urged the leaders to heed the voices of millions of people who flocked to rock concerts across the globe over the weekend or took to the streets. More than 200,000 people demonstrated Saturday in Edinburgh to reinforce the slogan: Make Poverty History.

"We are asking them to be great," Sir Bob said Monday, referring to the eight leaders. He said it would be a "grotesque failure" if there was no breakthrough at the meeting.

In Edinburgh, the police said that by Monday night about 60 people had been arrested after skirmishes between protesters and officers wielding transparent riot shields. The day of protests paralyzed Princes Street, a main thoroughfare near Edinburgh Castle. Witnesses said the police, some on horseback, confronted protesters throwing paving stones and park benches. Television images showed young children and shoppers caught up in the fray.

The fighting raised worries among officers about the next few days, when tens of thousands more protesters plan to arrive in Edinburgh and attend a rock concert as the summit meeting formally opens Wednesday. The police said the violence had been set off by a number of protesters, including some from around Europe.

Protesters had billed a march through the city as a carnival, but Tom Halpin, a senior Scottish police officer, said the event had not been authorized. "Those involved were determined to cause as much disruption as possible," he told reporters. "We are facing a hard core of determined activists, supported by hangers-on."

The leaders of several African countries, including South Africa, Nigeria, Ethiopia, Tanzania, Ghana, Senegal and Algeria, are to meet Friday with Group of 8 leaders.

African leaders gathered Monday in Libya for a summit meeting of the African Union, whose president, Alpha Oumar Konare of Mali, said Africa would take part in major development meetings "proud, united and showing solidarity," Agence France-Presse reported.

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But, voicing some skepticism, he said, "Too many promises have been made to us in the course of too many meetings, but none has ever been honored."

Mad Cows and Englishmen

By The New York Times

PARIS, July 4 -President Chirac joked about mad cow diseases and bad English food during a conversation on Sunday in Kaliningrad with President Vladimir V. Putin of Russia and Chancellor Gerhard Schröder of Germany, the French daily Libération reported Monday.

"The only thing they have ever done for European agriculture is mad cow," Mr. Chirac joked, eliciting laughter from Mr. Schröder and Mr. Putin, the newspaper said. As for British food, Mr. Chirac apparently said, "You can't trust people who cook as badly as that."

Asked to comment on the remarks, Mr. Chirac's chief spokesman, Jérôme Bonnafont, said, "No reaction whatsoever."

Relations between France and Britain have been even more strained than usual after the collapse of a European Union summit meeting last month in which Mr. Chirac and Prime Minister Tony Blair of Britain blamed each other for its failure. Mr. Blair is determined to cut European Union farm subsidies, which mainly benefit France, while Mr. Chirac and other leaders want Britain to give up a generous rebate it receives each year.

Bush Heads To G-8 Summit In Scotland (WT)

By James G. Lakely

The Washington Times, July 5, 2005

The once travel-shy President Bush lands in Europe today for his fourth journey to the Continent this year -- one of his presidency's few foreign trips during which Iraq and the war on terror will give way to the pleasantries of international diplomacy.

Mr. Bush already has trumped host British Prime Minister Tony Blair's first agenda item for the Group of Eight (G-8) summit in Gleneagles, Scotland -- financial aid to Africa. On the eve of his trip, Mr. Bush pledged billions to fight malaria and encourage economic development and political reform on the troubled continent.

But the president is expected to ignore politely Mr. Blair's pleas to join Europe in taking concrete steps to fight global warming, a diplomatic slight against the prime minister.

The Guardian newspaper in London reported last week that Mr. Blair was considering issuing a final communique that states "there is now strong evidence that significant global warming is occurring and that human activity is contributing to this warming."

The Bush administration has stated for years that there is not enough scientific evidence to prove global warming is occurring, let alone that humans are responsible for it.

"Climate change is felt dearly in Europe and is one issue where we've ruptured the relationship," said Susan Rice, senior fellow of foreign-policy studies for the Brookings Institution. "If the president is seen as not having been as forward-leaning as the other leaders on this issue, it won't do much to improve relations greatly."

Mr. Bush also is expected to push the other leaders of the eight economic powers -- which include Britain, France, Germany, Russia, Canada, Japan and Italy, in addition to the United States -- to expand their African agenda to include stopping genocide in Sudan.

"Britain has a history in Africa," said Nile Gardiner, a fellow in Anglo-American relations for the Heritage Foundation. "A tougher line from the British government will have an impact on the African countries."

The Bush administration long has pushed the United Nations and members of the G-8 to link foreign aid to the rooting out of corruption in Africa.

Mr. Bush told the Times of London last week that he "can't in good faith" continue to send aid to Africa if he "can't guarantee the money is being spent properly."

"That's just not good stewardship of our own money, nor is it effective in helping people," he said.

Andrew Natsios, the director of the U.S. Agency for International Development, told Fox News last week the $1.2 billion to fight malaria and the $400 million for education programs would go only to governments that could be trusted to spend it wisely. If that aid is needed in nations the White House considers corrupt, it will be funneled through nongovernmental organizations.

One of Mr. Bush's biggest challenges, Mr. Gardiner said, will be to get the other economic powers -- which often chastise the United States for not spending enough on foreign aid -- to share his mind-set.

"The views of the American public on the dangers of foreign aid are now shared by the British public," Mr. Gardiner said. "There is a shared concern that foreign aid simply gets squandered by dictatorial regimes.

"I expect a pretty tough message by the Americans and the British to African governments that they have to clean up their act," he said.

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Mr. Bush leaves for Denmark this morning to thank that country for its cooperation in the war on terror before heading to Scotland for the three-day summit that begins tomorrow.

Protests, which were lightly attended at last year's G-8 summit in Sea Island, Ga., are expected to attract tens of thousands of people to Scotland. Organizers are hoping to build on the momentum of this past weekend's Live 8 concerts that were designed to pressure the G-8 nations to dramatically increase their aid to Africa and forgive African nations' debts.

There was little indication that the concerts, held on four continents, had any effect on the thinking of the leaders, who did not mention the spectacle at their presummit weekend press conferences.

Mr. Blair also has set aside time at the summit to launch an initiative on the Middle East peace process, saying Friday he saw an "atmosphere of hope" in the conflict between Israelis and Palestinians.

Drought Along The Missouri Divides The Senate (WP)

By Shailagh Murray

The Washington Post, July 5, 2005

ALTON, Ill. -- Roger Blaske's great-grandfather worked the Missouri River. So did his grandfather, as well as his dad. But last year, Blaske sold the family barges. The river was just too low.

A severe drought, now in its seventh year, is wreaking havoc up and down the Missouri, from the river's headwaters at Three Forks, Mont., to its confluence with the Mississippi River near St. Louis. One big casualty: a commercial shipping tradition that dates to Lewis and Clark.

"We've all seen droughts before -- but this one, it's serious," Blaske, 62 and retired, said while sitting on a park bench recently at a visitor center near the confluence.

What the Missouri needs most is a deluge of melted snow and rain, but Mother Nature is not cooperating. Absent that, the Senate Appropriations Committee is trying to alleviate the problem -- but members are badly split over what to do.

Nearly a third of the 28 committee members represent states that border the Missouri or have an economic stake in it, and they fall into two camps with very different interests: upstream and downstream.

"It's almost become a Hatfield-McCoy kind of fight, unfortunately," said Sen. Byron L. Dorgan (D-N.D.).

Dorgan and two fellow upstreamers, Sens. Conrad Burns (R-Mont.) and Tim Johnson (D-S.D.), want to retain more water in the upper Midwest reservoirs that were built after the Depression to control flooding and improve navigation. Over the decades, the six reservoirs, in the Dakotas, Montana and Nebraska, have become a vital regional resource, providing drinking water to many communities and spawning a lucrative fishing and boating industry.

Sen. Christopher S. Bond (R-Mo.) leads a downstream faction that also includes Sens. Sam Brownback (R-Kan.) and Tom Harkin (D-Iowa). They argue that holding more water in the reservoirs would end commercial navigation on the Missouri, jeopardize operations at 18 power plants and hinder shipping on the Mississippi -- one of the country's most important transportation corridors.

The Mississippi angle broadens the downstream coalition to include Senate Appropriations Committee Chairman Thad Cochran (R-Miss.); Mitch McConnell (Ky.), the No. 2 Republican in the Senate; and Sen. Mary Landrieu (D-La.).

The two sides are using hearings and legislation to duke it out. As the drought worsens, the remedies are getting more creative. Dorgan's latest idea: a federal buyout of the barge industry, which he says is worth about $8 million a year -- about a tenth of the revenue that Dorgan says the tourism industry generates on Lake Sakakawea, the Missouri River reservoir in the middle of his state.

Last year, Dorgan and Burns tried to hold back more reservoir water by adding a provision to the spending bill produced by the interior subcommittee, which the two senators control. The full committee passed the legislation, infuriating Bond. The former Missouri governor inserted language to block the provision in the veterans affairs and housing spending bill produced by the panel that he chairs. Both bills wound up on the Senate floor, with Bond eventually prevailing.

"There was a lot of fur flying," Dorgan recalled.

This year, the upstream senators have gone after the barge industry, arguing that too much water is being wasted to essentially prop up a dying industry. Dorgan complained that a third of the water annually shifted from reservoirs into the Missouri is needed solely to improve navigation for barges. During a recent hearing on the Army Corps of Engineers, he pressed John Paul Woodley Jr., assistant secretary of the Army for civil works, who is responsible for the Corps, to reassess its Missouri River priorities.

"I feel very strongly, as do many in the upstream states, that we are systematically cheated," Dorgan told Woodley. Dorgan said that although the drought is an act of nature, "the management of the river is another part of it, and we're tired of it, and it needs to be solved."

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"I am deeply sympathetic with your views, Senator," Woodley said, noting that support for navigation is mandated by statute.

What no one disputes is that the drought is having a devastating effect on the river. Normally the Missouri River system contains about 58 million acre-feet of water, but the level has dropped to below 38 million acre-feet.

Upstream, the drought is costing small towns and Indian reservations drinking water. In Parshall, N.D., on the Fort Berthold Reservation, the Corps had to extend the town's waterline to reach Lake Sakakawea. When the water receded further, residents gave up and dug wells.

A reservation at Fort Yates, N.D., lost all water for a time.

Fishing is big business on the reservoirs, but access is increasingly limited, as the water's edge retreats further from the cabins and tackle shops that once sat on the shoreline. Boat docks on Montana's Fort Peck Reservoir -- noted for its walleye fishing -- are surrounded by grasslands, stranded a mile from the receding shoreline.

The Missouri has never lived up to long-ago expectations that it would become a principal transportation corridor, similar to the Mississippi. In 1945, Congress authorized clearing a nine-foot-deep, 735-mile navigational channel from Sioux City, Iowa, to the confluence just north of St. Louis. Construction was completed in 1981.

The Army Corps of Engineers had projected that Missouri barge traffic, mostly agriculture-related, would increase steadily, to 5 million tons by 1980, from 1.1 million tons in 1960. Shipments exceeded projections in the early years, peaking at 3.3 million tons in 1977. But they have since declined. By 2000, annual barge traffic had fallen to 1.3 million tons -- or 74 percent below the original projections, according to research by C. Phillip Baumel of Iowa State University and Jerry Van Der Kamp, executive vice president of Agri Industries of West Des Moines.

Today, the barge industry has shriveled to a few companies. In 2004, the drought shortened the Missouri's eight-month shipping season by 47 days. For the past few years, barge operators have had to contend with an eight-foot-deep channel, a foot shallower than normal, which reduces the load they can carry by roughly the equivalent of their profit margin.

Barge operators tend to still see a bit of romance in river travel. Blaske started in the business as a deckhand during summer breaks from school. After college and a stint in shipyard management, he joined the family business in 1978. Soon, he was operating 85 barges, hauling fertilizer upstream and grain downstream, to and from Sioux City.

It was during an earlier drought in the 1980s that Blaske first recalls hearing complaints from the upstream folks. On the lower portion of the river, water levels had fallen, but barge traffic was not drastically affected, because the river channel was sufficiently deep. But the 1993 flood damaged the channel, and it wasn't fixed when the current drought struck in the late 1990s.

"You ran into a lot of stuff," Blaske said. His barges were damaged, shipments were delayed and customers started wondering, "Why should we even look at the river?"

A few niche businesses cannot get by without barges, and for now, they are the only customers. One company, Magnolia Marine, uses custom-built barges to haul a special type of asphalt. The nuclear power plant in Callaway, Mo., is using barges to ship replacement equipment that is too large for rail or trucks. But the barge industry's mainstay has always been agricultural products, and officials say those customers will not return until the river stabilizes.

"We're in a downward spiral," said Mike Wells, deputy director and chief of water resources at the Missouri Department of Natural Resources. He is urging barge operators to return to the river as soon as conditions improve. "We think there's a viable navigation industry if we can get the river back."

Bond is trying to protect the barge operators but says he also represents farmers and other shipping customers who must contend with higher freight costs for rail and trucks because of the loss of river commerce. "We have to have the competition," he said. His office is prepared to pounce if Dorgan acts on his buyout idea.

Bill Would Reduce Government's Role In Protecting Species (NYT)

By Felicity Barringer

The New York Times, July 4, 2005

WASHINGTON, July 3 - Republican critics of the Endangered Species Act in Congress have drafted legislation hedging the government's obligation to take all necessary steps to bring back to robust health any species on the brink of extinction.

The draft envisions more limited government obligations: ensuring that the status of an endangered plant or animal gets no worse and helping to make it better.

Representatives of environmental groups who have seen the draft legislation said that the change, achieved by redefining the act's interpretation of "conservation," would severely undercut the law.

The draft measure, said Jamie Rappaport Clark, the executive vice president of Defenders of Wildlife, "takes a wrecking ball to the whole Endangered Species Act" by changing its mission, disabling enforcement tools and loosening controls on agencies like the Forest Service and the Army Corps of Engineers.

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But Jim Sims, the executive vice president of Partnership for the West, a group representing Western ranchers, farmers and industries, said that the draft has a "common-sense" emphasis on incremental improvements that are achievable, rather than on long-term recovery that may take decades. "The aspirational change is necessary," he said. "It's more important to incrementally improve the species' health as much as we can rather than set the bar at total and complete recovery, and nothing else."

The draft legislation, prepared by the Republican staff of the House Resources Committee, also narrows the law's reach, potentially exempting many federal actions that are now subject to review. In addition, it requires that the authority to list subgroups of a species of fish or wildlife as endangered be used "only sparingly." The draft would automatically take the Endangered Species Act off the books in 2015.

Richard W. Pombo, Republican of California and chairman of the House Resources Committee, has long been a critic of the Endangered Species Act, although in recent months he has spoken more favorably of its goals, and indicated that his revisions would make them more achievable.

The draft legislation was given to The New York Times by a lawmaker opposed to its provisions, who requested anonymity because the legislation had not yet been introduced. It has been circulating among interest groups focused on the issue, which tends to pit environmental groups against a loose coalition of Western ranchers, farmers and business interests. Most lobbyists believe that the committee's legislation will provide the framework for rewriting and reauthorizing the act.

The law has been a magnet for controversy since its passage in 1973. It is credited with playing a major role in preventing the extinction of hundreds of species of plants, insects, animals and birds in the United States. Nonetheless, only a handful of the more than 1,200 species listed over the years have recovered sufficiently to permit their removal from the list.

The law, as interpreted by a series of federal judges in the past quarter-century, has been instrumental in blocking dam construction, ending most logging in the old-growth forests of the Pacific Northwest, overturning state or regional decisions on the allocation of scarce western water, and preventing some development on public and private land.

Over the past decade, efforts to rewrite the law failed to pass the House or were blocked by Senate Republicans, but Mr. Pombo said in a recent interview that he believed he could forge a consensus and win passage of the bill, given Republican gains in the House and the Senate in the last election.

Some of his supporters are not as sure. But Mr. Sims, of Partnership for the West, is not among them. "The prospects for some updating of the Endangered Species Act are very high in this Congress," he said.

"I think the chairman has a very reasonable marker out there with this draft," Mr. Sims added. "It's not too far to the left, not too far to the right. A number of my members don't think this goes far enough."

Environmental groups are gearing up their own campaign in opposition to the legislation as currently drafted.

They may find unusual allies in property-rights advocates who have focused their criticism on the bill's requirement that the government designate, and potentially restrict the use of, territory that is essential to a species' recovery. In a June 16 letter to Mr. Pombo, representatives of groups including the Competitive Enterprise Institute, Americans for Tax Reform and Gun Owners of America urged that the bill ensure that all property owners be compensated if their land values drop.

The draft legislation permits compensation only when a property owner shows that a government action diminishes a property's value by at least 50 percent.

On the issue of what constitutes the "best available science" for making and supporting decisions under the law, the draft measure takes the unusual step of giving one scientific method preference over another. It calls for "empirical data" - which can be hard to obtain when a species's numbers are small and scattered - to be used when possible. More common currently are studies based on statistical models of a species's number, range and viability.

The draft legislation also sets new restrictions for mapping the territory considered essential for the recovery of an endangered species. It would limit such territory, called "critical habitat," to areas currently occupied by the species; the law now allows for the inclusion of a larger portion of the species's historic range. In the new proposal, expansion of the current range is possible only if that range is inadequate to prevent the species's extinction.

"It shortchanges habitat protection," said Ms. Clark of Defenders of Wildlife. "And habitat destruction is the primary reason for most species becoming endangered." She added that the law "places almost overwhelming restrictions on sound science."

Mr. Sims, in turn, argued that some of the law's proponents care more about keeping land unused than ending threats of extinction. "This is the Endangered Species Act," he said. "I would argue that a great majority of the American people believe that a focus on efforts to recover a species are more important than efforts to lock up land."

An Endangered Act (NYT)

The New York Times, July 5, 2005

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The Endangered Species Act of 1973 is far and away the most controversial of all the landmark environmental statutes enacted during the Nixon years. It is especially so among those libertarians and property owners who think that commercial development is unduly restricted by the mandate to protect not only plants and animals, but also the habitats essential to their survival. The law is up for reauthorization again this year, and the pressures to weaken it are great. There are ways to streamline the law and make it less litigious that would not come at the expense of its core values and purpose.

Regrettably, the Bush administration is not waiting for this debate to take place. Since the day they took office, Bush officials have tried to subvert the law administratively and in the courts. They have slowed the process by which species are listed as threatened or endangered, cut scientists out of important wildlife decisions, encouraged and then sided with industry lawsuits against habitat designation, and tortured the very meaning of the act to evade its obligations.

The most recent example involves endangered salmon species in the Columbia and Snake River basins in the Pacific Northwest. These fish have long had trouble catching a break. A comprehensive recovery plan devised by the Clinton administration was tossed out by a federal judge, James Redden, who found the prescriptions too vague and the projected outcomes too speculative. But the Clinton administration never tried to shirk its lawful obligation to provide for the recovery of the species by settling, as this administration has, for the lesser goal of keeping the current rate of decline from getting any worse.

Nor did it descend to the same depths of casuistry. Among other things, the National Marine Fisheries Service proposes to include millions of hatchery-raised fish in its assessments of wild fish - a bit of mathematical gymnastics that would instantly make endangered wild salmon populations seem healthier than they are and thus ease the need for protection. No less preposterous is its argument that it cannot remove the dams on the lower Snake River - an option the Clinton administration held in reserve in case all other recovery measures failed - because they are immutable parts of the landscape, like a mountain.

An angry - indeed, flabbergasted - Judge Redden has now tossed out this plan as well. For good measure, he has ordered the government to increase the volume of water spilled over the dams this summer to ease the passage of young fish to the ocean and thus increase their chances of survival. Given the dwindling number of wild salmon, he was quite right to do so. The only downside is that the ruling has inflamed various members of Congress, and some of them are muttering darkly about legislative retaliation.

This would not be helpful, either for the salmon or for a broader discussion of the Endangered Species Act. In his recent ruling, Judge Redden invited all the stakeholders - the dam operators, the developers, the commercial fishermen and the Indian tribes that depend on salmon for their living - to get together to devise a common plan.

Any discussion of the law itself should be conducted with comparable transparency. It is a fundamentally sound statute with wide public support and a demonstrable record of success. By forcing a better balance between commerce and nature, it has often constrained human behavior in ways that lead to a healthier environment for everyone. The law, and our environment, deserve far better than the guerrilla warfare with which the opponents of the Endangered Species Act have tried to undermine it.

FBI/DEA/ATF/USMS:

Counties Say Meth Is Top Drug Threat (USAT)

By Donna Leinwand

USA Today, July 5, 2005

WASHINGTON — Methamphetamine is a bigger problem than cocaine, marijuana or heroin for most communities, according to a survey of law enforcement agencies in 500 counties in 45 states by the National Association of Counties.

The survey, to be released today by the national group that represents county commissioners, supervisors and other top county officials, finds that methamphetamine is:

·The No. 1 illegal drug problem in the view of law enforcement agencies in 58% of the counties surveyed. Fewer than 20% see pot as the top problem.

·Behind an increase in other crimes. Agencies in 70% of the counties said the drug is driving up the number of robberies and burglaries.

·Seen as the top drug problem in every area of the country except the Northeast. There, law enforcement agencies consider heroin the No. 1 problem, ahead of pot, methamphetamine and cocaine.

Meth, as it is called, is a form of speed that is usually smoked or injected. It can be quickly and highly addictive.

Methamphetamine can be made from basic ingredients, particularly cold medicines that contain pseudoephedrine and fertilizer made with anhydrous ammonia.

The survey highlights a difference between what many local officials say is the biggest drug problem and where the federal government has targeted its prevention and eradication efforts.

“On the national level, the federal government still considers marijuana as the No. 1 drug problem in America, but county law enforcement officials have a different perspective on this ranking,” the association says in its survey.

Congress is considering restricting the nationwide sale of products that contain the drug pseudoephedrine.

David Murray, a policy analyst for the Office of National Drug Control Policy, says the Bush administration is developing a national response to the meth problem.

However, he says, the administration cannot neglect other drugs in the process.

Federal agencies, including the Drug Enforcement Administration, are working to disrupt the supply of chemicals needed to make methamphetamine and stop the smugglers who carry it from Mexico and Canada, Murray says.

He says marijuana remains a top priority because it is the most commonly used illegal drug, with 15 million users, compared with about 1 million meth users.

“We do have to keep all drug threats in context, which means you cannot ignore marijuana,” he says.

Losing The Battle (NSWK)

By Joseph Contreras

Newsweek, July 11, 2005

The hostages were found just before dusk in three houses on the southeastern outskirts of the Mexican border town of Nuevo Laredo. Most had their hands bound, some had been blindfolded with tape over their eyes, and at least one had been tortured and had to be rushed to a local hospital. But not all and probably not even most of the 44 captives discovered by federal agents and Army troops early last week were innocent victims of a kidnapping ring. As the police investigation unfolded, Mexican authorities suspected the kidnappers and many of their hostages belonged to the drug-trafficking underworld that has terrorized Nuevo Laredo for the past two years. Some of the captives may have failed to settle debts with neighborhood drug dealers. Others were likely foot soldiers in the employ of rival trafficking syndicates, rounded up to provide valuable information. Perhaps most disturbing of all, some of the detainees said they had been initially snatched by municipal police officers who were paid $300 for each hostage.

The discovery of the kidnap victims was only the latest twist in the escalating drug wars plaguing Mexico today. Nearly 700 people have been killed in drug-related violence thus far this year. Last month, after the newly named police chief of Nuevo Laredo was murdered within hours of accepting the job, the government of President Vicente Fox launched a crackdown in three northern states regarded as strongholds of the country's leading drug-trafficking cartels. The rising tide of lawlessness has stoked fears that a narcostate, where organized crime holds sway over Mexico's political elites, might one day emerge on the southern border of the United States. "There are growing signs that the Colombianization of Mexico is now becoming a reality," says Ted Galen Carpenter, a defense and foreign-policy expert at the right-wing Cato Institute in Washington. "If a similar process takes place in Mexico, it's going to be 10 times worse than in Colombia because Mexico is locked into the U.S. economically to a much greater degree."

Officials on both sides of the U.S.-Mexican border dismiss such warnings as overblown. Mexico's Attorney General Daniel Cabeza de Vaca told the newspaper El Universal last month that the country's drug cartels represented no immediate threat to national security, and in its latest annual report on the international narcotics trade the U.S. State Department gave the Fox government high marks for "its intensive counternarcotics and law enforcement effort." If anything, say some U.S. officials, the current turf wars between dueling cartels in a number of Mexican border states erupted in response to the vacuum created by the Fox government's arrest of two major kingpins in 2002 and 2003. Parallels with Colombia, where both leftist guerrillas and right-wing militias are also engaged in drug trafficking, do not bear close scrutiny in their judgment. "In Mexico you don't have insurgent groups or terrorist organizations that are involved in virtually every aspect of drug trafficking," says Mike Braun, chief of operations for the U.S. Drug Enforcement Administration. "We're getting greater cooperation from the Fox administration than from any previous Mexican government I know of."

At the same time, Braun and other U.S. officials don't try to downplay the magnitude of the challenge facing them in Mexico. Up to 90 percent of all the cocaine consumed in the United States is smuggled through Mexico. The country ranks as the largest foreign supplier of marijuana and the second largest source of heroin for the American market. More than half the methamphetamines sold in the United States are made in Mexico, and Mexican-run labs that operate north of the border account for much of the remainder. Inside the United States, Mexican traffickers control 11 of the 13 largest urban markets and have acquired a fearsome reputation. "The Mexican cartels are the most dangerous trafficking organizations in the world," says one U.S. official in Mexico City who asked not to be identified for security reasons. "They'll kill you for a dime, and they have everyone paid off and scared to death."

And that goes to the heart of Mexico's drug problem. The menace haunting the country's present and future stability starts with the letter C, but it's spelled "corruption," not "Colombia." Law enforcement is a notoriously low-paying career in Mexico, and

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an entry-level cop in a midsize city's police department makes as little as $135 a month. Confronted with a druglord's stark choice of plomo o plata (lead or money), many if not most Mexican policemen on the lower rungs of their agencies will opt for the bribe. "We're fine with respect to law enforcement at the central-government level," says the DEA's Braun, "but the farther you get from the seat of power, the more problematic things can become in a place like Mexico."

Nowhere is that more evident than on the mean streets of Nuevo Laredo. The city of 300,000 is the busiest port of entry along the 3,100km-long U.S.-Mexico border, with an average of 6,000 trucks crossing into Texas each day. That makes the town a highly coveted entrepot for drug traffickers, and in the late 1990s the Gulf cartel led by Osiel Cardenas began recruiting troops from a military-intelligence battalion who had been posted to the area to combat the drug gangs. The city became a full-blown war zone in 2003 when Cardenas was arrested and a cartel based in the Pacific-coast state of Sinaloa sent a large contingent of hit men to do battle with his private army of ex-soldiers. In more recent times the city's entire 724-member police force was confined to its stations last month after some local cops opened fire on a convoy of federal agents dispatched from Mexico City to restore order in Nuevo Laredo.

The city's economic fortunes took a nose dive when the U.S. Embassy in Mexico City issued a travel advisory in January voicing alarm over the recent deaths and disappearances of more than two dozen American citizens in Nuevo Laredo. The ensuing collapse of the city's cross-border tourist trade has driven retail sales down by 50 percent, and real-estate prices have also tumbled. Convoys of soldiers in black berets and armed with assault rifles began patrolling the streets of the city three weeks ago, but the casualty toll in Nuevo —Laredo continues to rise. At the weekend, more than 50 people had died in drug-related violence since the start of the year. "There isn't a single place in the city where one feels safe," says Raymundo Ramos Vasquez, a Nuevo Laredo newspaper reporter who heads up an independent human-rights committee. "The government is losing the battle against drugs, and worst of all they aren't prepared to admit it."

To date, the spillover of drug-fueled carnage across the border has been kept to a minimum. The most serious long-term fallout from Mexico's narcowars may come from rising recreational drug use inside the country. According to the national Health Ministry, at least 570,000 Mexicans use narcotics on a regular basis, and consumption of crack and powder cocaine has risen sharply in recent years. "The greatest threat comes from the person who sells drugs outside our schools and corrupts our children," says Attorney General Cabeza de Vaca. "He is public enemy number one." But the street dealer is a mere minion in a multibillion-dollar industry dominated by Mexico's ruthless drug kingpins. And as long as Americans want to buy their merchandise and Mexican cops accept their payoffs, the country's cartels will retain the upper hand.

Corruption Hampers Mexican Police In Border Drug War (NYT)

By Ginger Thompson

The New York Times, July 5, 2005

MATAMOROS, Mexico - A crooked cop is the oldest story in the book in Mexico. But this country has been forced to re-examine its police as it struggles against a devastating crime wave that in the last six months has taken more than 600 lives.

At least half those killings have happened in the six Mexican states along the border with the United States, where drug traffickers fighting for control of lucrative drug routes empty their automatic weapons on busy streets in the light of day. Lawlessness has become so brazen, and impunity so complete, that experts on the illegal drug trade have begun comparing northern Mexico to Colombia, where powerful cartels took over large parts of the country by corrupting or killing police officers, politicians, journalists and judges.

Killings and kidnappings happen almost every day in the city of Nuevo Laredo, about 150 miles north of this small town. Matamoros is quiet in comparison. The most common crime here these days, the police say, is robbery. But as recently as three years ago, this, too, was a capital of the drug war. People on the street said they are afraid that it could become one again.

And here, like Colombia, society's first line of defense against the chaos - the municipal police - has proved to be its weakest.

"Law enforcement in Mexico is all too often part of the problem rather than part of the solution," said Anthony P. Placido, the acting assistant administrator for intelligence at the United States Drug Enforcement Administration, in a recent appearance before Congress. "This is particularly true at the municipal and state levels of government."

Interviews with four municipal police officers in this city of 500,000 people across the Rio Grande from Brownsville, Tex., offer a glimpse inside a reality as harsh and persistent as Mexico's blazing summer sun. The officers - a shift commander, two squad leaders and a recent graduate of the police academy - were chosen by the minister of public security, Rubén González Chapa, to be interviewed for this article. Then Mr. González allowed each officer to be interviewed alone, on the condition that they not be identified because he did not want to jeopardize their standing among their superiors and colleagues.

Not one of the officers denied that there were abuses and corruption in their ranks. They described officers taking bribes from drunks and prostitutes and accepting gifts from businessmen and residents for providing extra surveillance around their

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properties. One of the squad leaders acknowledged carrying an unauthorized automatic pistol, rather than the revolver that was assigned to him. And the other acknowledged that sometimes he loses his temper and beats up suspects before bringing them to the station.

"I would feel ashamed to beat up a drunk," one of the squad leaders said. "But a thief, a murderer or a rapist, I have to admit, I am very tough with them."

When asked, however, about the more egregious accusations by Mexican and United States officials that municipal police often serve as lookouts and hit men for the drug traffickers, the officers typically retreated into vague generalities. What they offered instead of the ugly details about police misdeeds was a look at where the abuses are born, describing a place sorely lacking incentives, not to mention basic equipment to uphold the law, and filled with humiliations that left many officers feeling loyal to no one but themselves.

Money was the officers' biggest complaint. The starting salary for the typical municipal police officer is less than $350 a month, better than a factory worker but less than the average cab driver. They get only basic medical treatment if they get hurt on the job. And their families get just enough to bury them, less than $6,000, if they are killed on duty.

If the officers want equipment that works - a vest that stops automatic machine-gun fire or handcuffs that cannot be ripped apart - they have to buy their own. One of the squad leaders interviewed described how he and the three colleagues pooled their money to install air-conditioning in their patrol car so they could withstand the city's 110-degree temperatures. And he said he switched his cellphone service from month to month, depending on which company offered him the best rate per minute.

Officers here said they have to buy their own bullets. One officer, a seven-year veteran of the force, said he usually goes across the border to the Wal-Mart in Brownsville and sneaks the bullets back to Mexico. The Brownsville police stopped him twice and seized his ammunition, he said. He was too ashamed, he said, to tell them that he was also an officer. But he was even more ashamed, he said, because he did not feel like one of them.

"Everyone criticizes the police," he said. "They say we are worse than the criminals. They say they want professional police, but they do not treat us like professionals. They want us to respect our jobs. But no one respects us.

"Those who love this shirt do the best we can," he added, tugging on the collar of his midnight blue uniform. "It is very hard to be straight."

When asked about the severe ammunition shortages and the bullet smuggling by his officers, Mr. González shrugged and said he had hired an ironsmith to refill spent bullet casings. And Mayor Baltazar Hinojosa Ochoa acknowledged the problem in an interview, saying: "Forget about bullets. Our police do not get good training, good equipment or good salaries." The police academy is one instructor and a classroom. And the officers said they get two visits to a firing range because there are not enough bullets for more.

"I would say about 30 percent of the officers know how to shoot," the recent academy graduate said. "The other 70 percent do not."

The Constitution classifies organized crime, including drug trafficking, as a federal offense. But there are fewer than 20 federal agents in Matamoros, a city about the size of Washington. So the first responders are usually the city's 600 municipal police officers - authorized mainly to enforce administrative offensives punishable by fines up to $40.

The two groups often do not work well together.

In Nuevo Laredo, four police officers have been killed in drug-related shootings since March, including the city's last two police chiefs. The second, Alejandro Domínguez, a former president of the local chamber of commerce, was shot to death hours after being sworn in.

A few days later, municipal police officers fired on federal agents who had arrived to investigate the chief's killing. The mayor suspended Nuevo Laredo's entire police force, about 730 officers, pending drug and polygraph tests. News reports from there indicate that almost half of the officers were receiving payments from leaders of the feared Gulf cartel. And President Vicente Fox, worried by the escalating violence and the concerns about local corruption, sent 1,000 soldiers and federal agents to patrol border cities as part of a special operation called Safe Mexico.

Still the killings continue. So do the confrontations between local and federal authorities.

In mid-June, federal agents stopped two municipal police officers here and accused them of illegally carrying military weapons, rather than their service revolvers. The municipal officers radioed for help. Almost the entire night shift, 104 officers, rushed to the scene.

One of the squad leaders interviewed said he told the federal agents to back off. "You are not going to leave here with those officers," he recalled telling them. "You are going to have to jump over me. And if you want to use your guns, then this is where I will die."

The bravado worked that time, the squad leader said, and the municipal officers were released. But more often than not, things go the other way.

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He described attending community meetings where business leaders demand that the police crack down on crime - but who threaten to have them fired for detaining spouses or children caught drinking in public or behind the wheel of a car. When asked whether he had ever taken a bribe from a drug trafficker, the shift commander first answered the question with a question. "What would you say if a drug trafficker came to you and said: 'Help me and live. Do not help me, and die?' "

He demanded an answer, over and over again, refusing to say whether he had ever been approached with such a proposition. Then he pulled key chain from his pocket with a photo of his family, and he answered.

"I would tell them: 'I do not want to work with you. But I am not here to fight you, either. They do not pay me enough for that,' " the shift commander said. " 'Just do not bother me, or my family. I will not bother you, and we can all live in blessed peace.' "

Mexico Says Suspect Isn't Drug Kingpin (LAT)

By Marla Dickerson

The Los Angeles Times, July 5, 2005

MEXICO CITY — Mexican authorities said Monday that they thought they had arrested the leader of the Juarez drug cartel, but later said tests showed it was a case of mistaken identity.

The determination that the detained man was not Vicente Carrillo Fuentes dashed hopes of a rare instance of good news for Mexico's anti-narcotics forces amid an upsurge of violence.

It was also the second high-profile error in the last two weeks.

In June, Mexican federal authorities detained a British citizen of Lebanese descent on suspicion that he was connected to terrorist organizations behind the Sept. 11 attacks. But that suspect, Amer Haykel, turned out to be simply a tourist.

Mexico's Federal Agency of Investigation reported that the suspect had been arrested at an upscale Mexico City shopping mall Saturday, said Ruben Aguilar, spokesman for President Vicente Fox.

Aguilar said prosecutors conducted fingerprint analysis and DNA tests to determine the identity of the man, who gave his name as Joaquín Romero Aparicio and who local media said had undergone extensive plastic surgery. As it turned out, he had given his true name.

Maria Romero, his sister, said, "My brother is a respectable person, married and with a family. He is an architect. They have done him an injustice. How is it possible that they have detained him without proof? I can assure you that my brother has nothing to do with drug trafficking. It's an injustice."

Carrillo's brother Amado, once considered the most powerful drug lord in Mexico, is believed to have died in 1997 during botched plastic surgery to change his appearance. Experts said capturing Vicente Carrillo Fuentes would have dealt another blow to a drug gang that had lost influence and cohesion since Amado's death. Another Carrillo brother, Rodolfo, 29, was killed by hit men in Sinaloa state in September.

The arrest of Carrillo would have been a boost for Fox, who has been under pressure from the United States to stem a tide of drug-related violence that has claimed more than 600 lives this year, many along the border. Bodies are turning up almost daily from Tijuana to Cancun, many of them bearing marks of torture and mutilation that are the calling cards of organized crime.

Fox has vowed the "mother of all battles" against narcotics traffickers, with 18 top leaders toppled during his administration. Veteran observers call that record impressive, but they say it has done nothing to restrict the flow of drugs into the United States and has ratcheted up tension among gangsters.

For example, authorities trace recent violence in the border town of Nuevo Laredo to the 2003 arrest of Osiel Cardenas, alleged leader of the Gulf cartel. Sensing the opportunity to take control of a key smuggling route to the United States, his rivals, led by Sinaloa-based Joaquin "El Chapo" Guzman, moved in, setting off a bloody turf war.

Jorge Chabat, a Mexico City political scientist and an expert on organized crime, said that though the United States would welcome the capture of Carrillo, his arrest could provoke even more killing as aspiring kingpins scramble to take his place.

The Juarez cartel, which takes its name from the border city of Ciudad Juarez, flourished in the 1990s under the leadership of Amado Carrillo.

Nicknamed the "Lord of the Skies," he became a legend by ditching the small boats and prop planes used by his predecessors, instead ferrying cocaine by the ton from South America in large jets.

But his death is believed to have loosened the confederation of traffickers that once formed the core of the cartel. The killing and jailing of major drug trade figures throughout Mexico have destabilized rival gangs as well, so that no cartel predominates.

Mexico: Arrested Man Isn't Drug Lord (DMN)

By Tracey Eaton And Alfredo Corchado, The Dallas Morning News

DOJ_NMG_0001557

The Dallas Morning News, July 5, 2005

Mexican authorities on Monday said they thought they had captured Vicente Carrillo Fuentes, one of the country's most wanted drug lords. But by the day's end, they had reversed course, calling it a case of mistaken identity.

Agents had quietly arrested their subject on Saturday at Perisur, a Mexico City shopping center. He identified himself as Joaquín Romero Aparicio, but Mexican officials were almost sure that DNA tests would reveal his criminal identity.

"Right now, it is likely Vicente Carrillo Fuentes, but it isn't completely confirmed," presidential spokesman Rubén Aguilar said.

But late in the day, the Los Angeles Times was reporting that Mr. Aguilar had gotten the wrong man.

Vicente Carrillo Fuentes

Earlier Monday, the prospect that Mr. Carrillo Fuentes, 42, had been arrested excited law enforcement officials and journalists on both sides of the U.S.-Mexico border. Mr. Carrillo Fuentes and his lieutenants allegedly ordered the murders of dozens of U.S. citizens and hundreds of Mexicans during a decade years-long reign of terror, American authorities say.

The State Department had offered a reward of up to $5 million for information leading to the arrest or conviction of Mr. Carrillo Fuentes, suspected of leading the Juárez cartel.

Mr. Carrillo Fuentes would have been the latest in a series of high-profile drug suspects arrested or killed since Mr. President Vicente Fox took office in 2000. Almost 200 police officers and soldiers have been killed in the anti-drug crackdown.

For the past several weeks, American agents had been predicting that Mr. Carrillo Fuentes would be an appropriate "sacrificial lamb" for the Juárez cartel. The drug organization, once considered the most powerful in North America, has been under reorganization and, some say, in decline.

News of his arrest spread fast in the border city of Ciudad Juárez, which the cartel has terrorized for years.

"This is all part of the game," said Marisela Olvera Tapia, a housecleaner from Ciudad Juárez. "Maybe he didn't pay his dues, or maybe someone had to go and it was his time."

U.S. agents say Mr. Carrillo Fuentes' influence had been waning since last year, when his brother, Rodolfo, was assassinated by killers believed to be close to the drug lord's archenemy, Joaquín "El Chapo" Guzmán.

"At the time, the leaders formed an uneasy truce that basically said, 'Vicente, you can still be part of the gang, but you're not the player you used to be. Move aside if you want to stay alive. Otherwise you will face the same fate as that of your brother,' " the U.S. agent said.

The retired DEA agent said on condition of anonymity that even if Mr. Carrillo Fuentes' clout was declining, his arrest was "still a good catch. Look at all the damage he's done."

In September 2000, U.S. prosecutors in Texas charged Mr. Carrillo Fuentes with ordering the killings of 10 people, including seven who were found dead at ranches near Ciudad Juárez.

He was accused of ordering the killing of anyone thought to be supplying information on the cartel to U.S. authorities.

But Mexican officials weren't always so eager to help catch him. And in 1998, when U.S. officials in Texas described him as "an international star of the drug trafficking world," Mexican officials said they wouldn't be able to arrest him because they had no warrants for his arrest.

During the cartel's heyday, the organization funneled $500 million per year in bribes to local, state and federal police and elected public officials, experts say.

In the 1990s, the cartel generated at least $10 billion per year in drug sales in major markets such as Dallas, Houston, Chicago and New York, according to Charles Bowden, author of Down by the River, a book about the Mexican drug trade.

Until 1997, the group's leader was Mr. Carrillo Fuentes' older brother, Amado, nicknamed "Lord of the Skies" for his pioneering use of decommissioned passenger airliners in smuggling tons of cocaine to Mexico.

The elder brother died after botched plastic surgery in July 1997, and his brother – who is also suspected of having resorted to plastic surgery to change his appearance – took over leadership of the cartel, authorities say.

"He's a true binational drug trafficker who never understood borderlines," the former DEA agent said. "He was ruthless, vicious. His philosophy was shoot first and then ask questions later. He was nothing like his brother."

Mr. Carrillo Fuentes owned several homes, including one in El Paso where he once lived with his girlfriend and infant daughter, U.S. law enforcement officials said. He used a forged ID to travel between Juárez and El Paso, where his girlfriend lived with their child, law enforcement reports show.

This year, U.S. agents say, his gang began undergoing an overhaul. Another cartel leader, Juan José Esparragoza, also known as "El Azul," or Blue, consolidated his power by joining other top drug lords, including Ismael Zambada, the Beltran Leyva brothers and Mr. Guzmán, agents say.

The new organization is known as El Triangulo de Oro, or Triangle of Gold, named for Sinaloa, Chihuahua and Durango states. Or it's simply called the Alliance.

Phil Jordan, former director of the El Paso Intelligence Center, a federal counternarcotics agency, said Mr. Carrillo Fuentes' arrest would have "minimal impact" if he remained in Mexico.

"To leave the guy in a Mexican jail where he can still run things would do little more than change his residence of operation," Mr. Jordan said. "What the Mexican government really needs to do is extradite Carrillo Fuentes to the United States as soon as possible. Without that, I don't foresee a decrease in violence."

Results of DNA tests to determine the identity of the man arrested Saturday are expected as early as today.

Juárez Kingpin May Be In A Cell (Express-News)

By Dane Schiller

The San Antonio Express-News, July 5, 2005

MEXICO CITY — The gang violence already rife along the Rio Grande might intensify after federal agents arrested a man believed to be a drug smuggling capo for whom the U.S. is offering a $5 million reward.

A spokesman for President Vicente Fox said Monday that officers believe they have captured Vicente Carrillo Fuentes, who is accused of running the powerful Juárez cartel. The cartel was made famous by Carrillo Fuentes' brother, who used large planes to smuggle Colombian cocaine and who died of complications from plastic surgery to conceal his identity.

DNA and fingerprint analyses were being conducted on the man, who was arrested Saturday at an upscale shopping center in the capital, spokesman Rúben Aguilar said.

"We have to prove that this is the guy," he said.

The arrested man identified himself as Joaquin Romero Aparicio, according to the national news agency. But authorities believe he is the 42-year-old brother of Amado Carrillo Fuentes, the legendary drug boss who was known as "Lord of the Skies" and died in July 1997.

Aguilar didn't share details of how agents learned the supposed boss was in Mexico City, how he was grabbed or why they believe he is Carrillo Fuentes.

Mexico's attorney general's office, the lead agency in the narcotics operation, declined to comment.

The arrest would mark a major victory for Fox, who vowed to fight the "mother of all wars" against the cartels.

Should the man prove to be Carrillo Fuentes, "this is a very important blow to the cartels," said Fernando Guzmán Pérez Peláez, a federal congressman who heads the chamber's National Security Commission.

As part of a nationwide operation launched June 11, soldiers and federal police are pressuring organized-crime gangsters — from street corners and barrooms to highways and ranches.

Part of the government's strategy is to keep fugitives on the run, deny cartels access to traditional smuggling routes and arrest their leaders.

But short-circuiting operations also creates opportunities for the ambitious and bold to climb the ranks.

"There is violence and violence and violence, but somebody is always able to step up and take the reins," a former U.S. federal agent said. "When you start taking down the big heads, there are always five or six splinter groups that pop up.".

The Juárez cartel, based out of Ciudad Juárez across the border from El Paso, is aligned with Joaquin "El Chapo" Guzmán Loera.

U.S. and Mexican authorities contend Guzman is Mexico's leading drug trafficker and is battling the Gulf (of Mexico) cartel for smuggling routes across the South Texas-Mexico border.

Vicente Carrillo Fuentes is wanted in Mexico, but also in the United States, where he is named in a 46-count federal indictment out of El Paso.

He is accused of cocaine trafficking, money laundering, witness tampering and ordering multiple murders to prevent informants from sharing information with U.S. law-enforcement authorities.

Identifying him is complicated, as the U.S. government believes he might have undergone surgery to alter his appearance — as his brother did, only to die of a medication overdose after surgery.

After Amado Carrillo Fuentes died, his Juárez cartel remained largely intact, as his brother Vicente and other key lieutenants were able to maintain control of specific geographic regions, according to a Drug Enforcement Administration report.

Guzmán Pérez, the congressman, noted that although authorities have captured "El Chapo" Guzmán, taking down his ally Carrillo Fuentes would be a direct hit on his operations.

Carrillo Fuentes' arrest would mark the biggest victory for the Fox administration since the March 2003 arrest of Osiel Cardenas, head of the Gulf cartel. Cardenas, however, is said to continue to run his cartel from prison.

He was snatched from the city of Matamoros, across the border from Brownsville, after a series of fierce gunbattles.

"It is triumph, but just for the moment, as they are losing the war against the drug cartel," said José Antonio Crespo, a researcher in Mexico City who specializes in cartels and politics. "Once they put a cartel boss in prison, violence is unleashed as

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his lieutenants or rivals fight to be his successor. Of course there will be violence and it will splash on civilians and government employees."

The recently released United Nations World Drug Report 2005 says 77 percent of the cocaine destined for the United States passes through Central America and Mexico and that Mexican cartels control the majority of wholesale distribution within the United States.

The ongoing cartel battle has claimed at least 650 lives nationwide and about 70 in Nuevo Laredo, across the Rio Grande from Laredo.

As the busiest border crossing point for commercial traffic, Nuevo Laredo is the prime battleground for the cartel wars. Authorities contend the cartels often hide drugs in legitimate cargo.

Mexico Believes It Captured Drug Cartel Leader (REU)

By Catherine Bremer

Reuters, July 5, 2005

MEXICO CITY, July 4 (Reuters) - Mexico believes it may have captured Vicente Carrillo, boss of the powerful Juarez drug cartel, in what would be a major victory in a war on drug gangs responsible for an explosion of violence on the U.S. border.

But Mexico's main television network said Monday that DNA tests had showed the captured man was not Carrillo, one of Mexico's biggest drug barons and listed as one of the U.S. Drug Enforcement Administration's top 10 major international fugitives.

The suspect was arrested in a Mexico City shopping center on Saturday.

Prosecutors were carrying out DNA tests and fingerprint checks to confirm his identity because of the extensive plastic surgery Carrillo has reportedly used to change his face.

"We presume this is Vicente Carrillo, but it is not completely confirmed," government spokesman Ruben Aguilar said. "I can only confirm the (arrest), and during the day the attorney general's office will give details on the subject."

But a statement promised by the attorney general's office did not appear and the Televisa network said the man arrested was in fact an architect, Joaquin Romero Aparicio.

"They have finished the DNA tests and they are not compatible at all with this drug trafficker," Televisa said on its main night news show, without giving a source for its information.

The attorney general's office said a suspect who was possibly Carrillo had been arrested after a tip from a witness who was being protected, but said it could be several days before DNA tests confirm his identity.

"A person has been arrested and is being investigated, possibly Vicente Carrillo, but we still don't have information that allows us to determine if he is or not," a spokesman at the attorney general's office said.

"They are carrying out checks but they don't have the data yet. Waiting for the DNA results would mean a minimum of three days and then any extra time," he said.

BROTHER OF "LORD OF THE SKIES"

Carrillo, who runs the Juarez cartel along with sidekick Juan Jose Esparragoza, is the brother of cartel founder Amado Carrillo, whose own attempts to change his appearance with plastic surgery led to his death on the operating table in 1997.

The U.S. DEA's Web site describes Carrillo, a former police officer, as "armed and dangerous".

Based in the grim border city of Ciudad Juarez, notorious for a spate of brutal murders of women, the Juarez cartel is a confederation of clan-like crime families who smuggle Colombian cocaine and locally grown marijuana to the United States.

In its heyday in the 1990s, the cartel used a stripped Boeing 727 passenger jet to haul tons of cocaine north, earning Amado Carrillo the gangland tag of "El Senor de los Cielos" or "Lord of the Skies".

More than 500 people have been killed so far this year in drug-related violence which has escalated since President Vicente Fox launched a "mother of all battles" on drug gangs at the start of the year.

Last month, troops arrested a brother of Joaquin Guzman, Mexico's most wanted man and leader of the Sinaloa cartel.

The government says it has made hundreds of other arrests this year in the northern states of Tamaulipas, Sinaloa and Baja California.

Aguilar also said on Monday that U.S. police had arrested Martin Rojas, suspected mastermind of the April murder of Raul Gibb, owner and editor of a newspaper in the state of Veracruz that published articles about an illicit fuel smuggling racket allegedly run by Rojas.

Alleged Mexico Drug Cartel Leader Arrested (AP)

By MORGAN LEE

The Associated Press, July 5, 2005

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MEXICO CITY (AP) - Authorities believe they've arrested the leader of Mexico's most-powerful drug gang, but the suspect's family said Monday night that it was a case of mistaken identity.

Ruben Aguilar, President Vicente Fox's spokesman, said Mexico's Federal Agency of Investigation captured a man going by the name of Joaquin Romero in a Mexico City shopping mall on Saturday. He said the suspect was being fingerprinted and his DNA checked to confirm his real identity - but that he might be Vicente Carrillo Fuentes, believed to be the leader of the Juarez cartel.

``Right now, it is likely Vicente Carrillo Fuentes, but it isn't completely confirmed," Aguilar said.

Mexico's Attorney General's office didn't comment on Aguilar's announcement, however, and the Televisa network raised more doubt by interviewing family members who said Romero was an architect and loving father who had nothing to do with drug trafficking.

Televisa also showed a picture of Romero in which he appeared to look like a photo taken of Carrillo Fuentes. The network suggested that the similarity of the two pictures - and little other evidence - prompted the arrest.

Federal investigators could not be reached to comment on Televisa's assertions.

Drug leaders often use false names and change their appearance to avoid capture. Carrillo Fuentes' brother, Amado, led the cartel until 1997, when he was believed to have died during botched plastic surgery.

If the arrest is confirmed, it would be a blow to the Juarez cartel, the only drug gang that hasn't had a top leader arrested amid a nationwide crackdown.

As rival organizations - including the Gulf cartel and the feared Arellano Felix gang - lost their leaders to government operatives, the Juarez cartel flourished and has been waging a bloody battle for control of drug routes all along the U.S. border.

But U.S. and Mexican law enforcement authorities say Carrillo Fuentes' influence within the Juarez organization has been on the decline.

Juan Jose Esparragoza - also known as ``El Azul," or Blue - has worked his way to the top of the organization along with several other men with close ties to cocaine producers in Colombia, according to the Mexican Attorney General's office and the FBI.

The Juarez-based gang's power became legendary in the 1980s and 90s under Amado Carrillo - better known as ``The Lord of the Skies" - for flying planeloads of cocaine into the United States.

In recent months, the Juarez cartel's battle to control the few spots out of its reach along the U.S.-Mexico border - mainly the city of Tijuana to the west and the stretch of border between Nuevo Laredo and Matamoros to the east - has left scores dead and prompted U.S. officials to warn tourists about traveling to Mexico's northern border area.

Mexico Debates Stepped-up Drug War (DMN)

By Lennox Samuels And Laurence Iliff

The Dallas Morning News, July 5, 2005

MEXICO CITY – Mexico finally is fighting the war on drugs that the U.S. government has demanded for decades: a frontal assault on drug barons, their organizations and their merchandise, using the police and military in concert with U.S. intelligence.

LOUIS DeLUCA/DMN Mexican government troops had to patrol the streets of Nuevo Laredo in June to control the violence attributed to rival drug trafficking factions.

The results, Mexican and U.S. authorities say, have been impressive. Forty-six thousand people jailed on drug charges, President Vicente Fox said in a recent speech, 97 tons of cocaine seized, more than a million marijuana plants destroyed. It's been four years, Mr. Fox and U.S. officials said, of steady progress.

But a rising chorus of voices in Mexico and the U.S. says the real results are record levels of violence, instability and corruption in Mexico, resurgent drug cartels, nearly 200 dead police officers and soldiers, along with millions of wasted dollars in a country where half the population of 105 million is poor. Mexico receives almost no aid from the U.S. government.

And the result in the U.S.? No noticeable drop in the supply of cheap drugs – and an actual decline in the price of cocaine, according to a new U.N. report.

Some analysts say Mexico's approach has not only failed to stanch the flow of drugs but is also destabilizing the young democracy. Mexico needs to turn back now, they say.

"The Americans pressure us to carry out a head-on drug war, and when the situation starts to get out of control, the Americans complain that there is violence on the border," said political commentator José Antonio Crespo. "There is no way of making them happy because they always have some reason not to be."

Before the violence spirals out of control, as it has in Colombia as a result of similar policies, Mr. Crespo said, Mexico should go back to pretending to fight an unwinnable war rather than fighting it in earnest.

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"If the United States is not going to legalize drugs, then Mexico has to come to terms with the narcos," he said. "There were agreements in the past to let 80 percent of the drugs through, to allow some seizures for the Americans and for the media, and there was a lot less violence."

Mr. Fox said recently that is not an option.

"We have the strength, the capacity, the moral integrity to win this battle," Mr. Fox said June 24 to mark the international day on fighting drug abuse and trafficking. "What is at stake here is the future of our girls, boys and young people."

Mexico's interests

Dave Murray, a policy analyst with the White House Office of National Drug Control Policy, said Washington understands the sacrifice being made by Mexico, but that it also is in Mexico's interest to fight the traffickers vigorously.

"It's been a horrendous fight for them. We have to salute their willingness to take on this fight," said Mr. Murray. But turning a blind eye is not an option.

"If drugs transit through your country and you think, 'Well it's just for those norteamericanos. The money comes to us, the drugs to them. What's the problem?' They soon discover drugs are left behind as payment in kind for services provided. And local traffickers soon become drug dealers. And to whom do they sell? To local kids," said Mr. Murray.

"The problems will become worse and worse as narcotraffickers corrode the system ... and you will find them growing into a power within the nation that can actually threaten the legitimacy and viability of democratic governments."

But that, critics say, is just what is happening now with the stepped-up war.

Northern border cities such as Nuevo Laredo essentially have slipped out of the government's control despite increasing deployment of soldiers and federal police, some analysts say.

More drugs are getting left behind because of the drug fight, they say, and addiction is up at home.

The nightly accounting of deaths associated with the drug fight has made public security the No. 1 issue among Mexicans in recent months, overtaking unemployment and the lackluster economy, according to a public opinion survey by the Televisa TV network.

Tourism to the Texas-Mexico border is down. For Mexican critics of the policy, an upside is hard to find.

Even the U.S. State Department acknowledges that not much has changed.

"Despite its intense law enforcement efforts, Mexico is the leading transit country for cocaine and a major producer of heroin, methamphetamine, and marijuana destined for U.S. markets," said the 2005 International Narcotics Control Strategy Report.

Further, it acknowledged: "As a result of the huge traffic in drugs, Mexican criminal organizations dominate operations, controlling most of the thirteen primary drug distribution centers in the U.S. The violence of warring Mexican cartels has spilled over the border from Mexico to U.S. sites on the other side."

Comprehensive plan

Some critics say the two countries need a more comprehensive anti-drug policy that focuses on demand as well as supply.

"The policy is working in part, in the sense that we are catching and arresting the drug lords," said Sigrid Arzt of the nongovernmental organization Democracy, Human Rights and Security. "The problem is that the policy has focused on beheading the cartels without additional strategies to deal with consumption and things the U.S. should do in its own territory, such as decreasing the market.

"There will always be someone in line to succeed these drug kingpins. I mean, this is a huge economic business."

Mexico's anti-drug policy should incorporate "prevention, education and information," said Ms. Arzt, founder and partner in the organization. She said the government must do a better job of explaining to Mexicans why the drug problem is such a serious issue.

"People hear that drugs is a national security problem," she said, "but no one truly grasps the dimensions of tolerating this. We need to have a culture of understanding. And the government must work on building confidence in the actions it is doing."

A State Department official expressed a similar reservation.

"One of the things that the Mexican government could do a better job of is coming to the public [and saying], 'We have to stay in this for the long haul, for our survival. Do you want your kids to grow up in a violent and dysfunctional place?' Maybe that's what's lacking," the official said, speaking on condition of anonymity.

U.S.-inspired drug policies have been "a negative in terms of cost" to such countries as Mexico and Colombia, said Gary S. Becker, economics professor at the University of Chicago. He said the drug war has hindered Colombia's economic growth rate and "the preoccupation with cartels has hurt the country."

"Mexico may be moving in that direction," said Dr. Becker, who won the Nobel Prize for economics in 1992. "This is a very expensive process for the U.S. and other countries, and there's little bang for the buck, as it were.

"My conclusion is that we have to look at more radical solutions such as legalization of drugs."

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Dr. Becker acknowledged, however, that such a development is unlikely any time soon, noting that "the vast majority of politicians are unwilling to take on legalization in any serious way."

The State Department official said neither Mexico nor the U.S. can afford to let up despite the prospect of "a long, vicious, difficult struggle."

"What's the alternative? Just let them do whatever they want and we won't have the violence? No, because then you'll end up with complete control by criminal elements. I certainly don't want to belittle the sacrifices ... but do you really want organized crime running your country?"

Staff writer Michelle Mittelstadt in Washington contributed to this report.

Drugs, Guns And Money (SDUT/Copley News)

By S. Lynne Walker, Copley News Service

The San Diego Union-Tribune/Copley News, July 2, 2005

NUEVO LAREDO, Mexico – Every day at noon, church bells ring out across this city reminding people to pray for peace.

They peal for a respite from the violence that has claimed more than 70 lives this year, including Nuevo Laredo's newly appointed police chief.

They peal for the safe return of scores of residents who have disappeared and for the salvation of children who are being lured into the drug trade.

"At least 10 of every 100 families have been touched by violence. There is a culture of death here," said Father Jésus Salazar, a Catholic priest. "The only thing that is important to drug traffickers is the profit, the weapons, the power."

For almost three years, people in this dusty border city of 500,000 have been trapped in a deadly war being waged by two drug cartels for control of the lucrative corridor between Nuevo Laredo and its U.S. sister city, Laredo, Texas.

One of the cartels is led by Joaquin "El Chapo" Guzmán, who escaped from a maximum-security prison in 2001 by hiding in a laundry cart. The other is headed by Osiel Cárdenas, who is locked in a maximum-security prison near Mexico City, but whose reach still extends to the border.

The two drug kingpins are vying for control of the most important commercial crossing between the United States and Mexico, according to law enforcement officials on both sides of the border.

Roughly 9,000 tractor-trailers rumble over Nuevo Laredo's World Trade Bridge into the United States each day, accounting for almost 50 percent of the U.S.-Mexico commercial border traffic. The volume of truck traffic is so overwhelming that, U.S. officials acknowledge, truckloads of narcotics slip through undetected.

The violence has escalated in recent months as the cartels struggle to control this gateway into the United States.

"Neither cartel has been able to gain the upper hand and neither one is going to give up because the prize is so valuable," said a U.S. official who spoke on the condition of anonymity.

Both traffickers have deployed squads of hit men to carry out brazen killings – often on busy city streets and sometimes in broad daylight, according to Mexican federal law enforcement officials.

Their lieutenants rented safe houses in neighborhoods throughout the city. And they flaunted their presence by driving through town in flashy pickup trucks and expensive cars, their faces hidden behind tinted glass.

The victims of the drug violence range from prominent public officials to teenagers.

Since January, six police commanders have been slain. On a sunny afternoon in June, a man linked by police to Cárdenas' cartel was shot dead in plain view of Nuevo Laredo Mayor Daniel Peña's City Hall office. That same weekend, shots were fired into a motel, an explosive device was thrown into one of the rooms and the occupants were kidnapped and never heard from again.

Often the victims are targeted because they are presumed to be loyal to the rival cartel. But sometimes they are ordinary citizens – a Popsicle seller, a bricklayer, a hair stylist – trapped in the midst of a gun battle.

"People say they live or die at the whim of the drug traffickers," said the U.S. official. "Everybody has become much more closed in, much more afraid. You can sense the psychological tension."

Restaurants and stores are closing. Retail sales are down. Unemployment is rising.

Some residents have sold their homes and moved to Mexico's interior. The head of the city's Public Security Commission now lives on the U.S. side of the border.

Those who stay sometimes find themselves wishing that one of the cartels would win, so the killing would stop and life in Nuevo Laredo would return to normal.

They can't go to weddings or parties for fear that drug traffickers will be among the guests. Teenagers are reluctant to strike up friendships because they might be meeting aspiring drug dealers. And little children talk about being narcos when they grow up, because narcos have the best trucks, the nicest jewelry, the most money.

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"We are facing a difficult situation," Mayor Peña said.

To try to show that the city is safe, Peña drove his SUV along Nuevo Laredo's streets last week without the protection of bodyguards.

"We have to set aside our psychosis, our fear," he said. "We have to convince ourselves that Nuevo Laredo is a place where we can live in peace."

U.S. toll The violence in Nuevo Laredo has also affected the U.S. side of the border.

Convention groups once visited Laredo, Texas, so they could go on cross-border trips featuring shopping and margaritas, but numbers have fallen because promoters are uneasy about sending Americans into Mexico.

Since August, 42 Americans have disappeared while visiting Nuevo Laredo, said Jim Dickmeyer, press attache for the U.S. Embassy in Mexico. Nineteen have reappeared, four were apparently killed and 19 are still missing.

"People think that they can't come to Laredo without a bulletproof vest," said Laredo Mayor Betty Flores. "We don't have a beach, we have a border. And now that is hurting us."

The violence has strained relations between two cities whose ties are so deep that for 106 years they've celebrated George Washington's birthday by meeting on the international bridge for a neighborly embrace.

Flores said she has been asking for U.S. federal assistance for four years, a request that has gone unanswered. When the Texas received $40 million from Homeland Security last year, Laredo's share was just $100,000.

"We haven't gotten the help we needed," Flores said. "There's still not enough attention on the southern border of the United States, from Brownsville to California."

Overlooked Today, Nuevo Laredo has no police chief or police force.

The last chief, Alejandro Domínguez, was gunned down June 8 outside his office just seven hours after taking the job.

Since his killing, the entire police force – 700 officers – has been detained for background checks and drug testing. Fox sent soldiers and federal agents to replace them, warning Mexicans that the fight to defeat the cartels would be "long and bitter."

Domínguez, who was head of Nuevo Laredo's Chamber of Commerce, was known as an honest, civic-minded man. He had once worked for the federal attorney general's office and believed he could resolve the city's growing crime problem.

He took the job when nobody else would, turning a deaf ear to his wife's plea that he give up the idea of being chief. The previous chief had quit in early May to become the City Council's secretary.

Jacobo Suneson, vice president of tourism at the Chamber of Commerce, said Domínguez "genuinely wanted to help."

Suneson sat beside Domínguez at Chamber meetings. "He thought he could clean it up," Suneson said of his colleague. "When this man gets assassinated seven hours into the job, what is the message? What they're trying to say is, 'Don't get in our way.' "

The swift and brutal killing of Domínguez reminded a stunned world that Mexico is still in the grip of drug cartels.

The arrests in recent years of several drug traffickers – including Gulf cartel leader Cardenas, Tijuana cartel leader Benjamín Arellano Félix and the Amezcua brothers – strengthened other cartel leaders. Guzmán, a short, chunky man with a moustache, is now considered one of Mexico's most powerful cartel bosses.

"He is very ambitious and very active," said Misha Piastro, a Drug Enforcement Administration spokesman in San Diego. "He's extremely clever and he's willing to invest the time and money to do big projects."

A 26-page federal indictment handed down against Guzmán 11 years ago in San Diego accused Guzmán, 51, of trying to ship seven tons of cocaine packed in cans of jalapeño chili peppers across the border at Tecate.

The indictment also described a tunnel he ordered built in Otay Mesa, complete with railroad tracks and lighting, and accused him of building another tunnel that ended under a pool table in a Douglas, Ariz., bar. The table was raised and lowered with a hydraulic lift, Piastro said.

The U.S. government is offering a $5 million reward for Guzmán's capture, and DEA agents in San Diego staff a 24-hour hotline to collect tips on his whereabouts.

Some of the tips that come through the hotline, which can be dialed from almost anywhere in Latin America, are valid. Others prove to be false.

One caller reported – erroneously – that Guzmán had been spotted dancing the tango in Los Angeles. But another caller may have been Guzmán himself "trying to verify that the hotline wasn't set up by his rivals," Piastro said.

"It wouldn't be out of character for him to do something like that," Piastro said. "He's pretty brazen."

Guzmán has proved a tough adversary for Mexican law enforcement.

"We are looking for him everywhere, but it's difficult to determine where he is," José Luis Santiago Vasconcelos, Mexico's deputy attorney general for organized crime, said during an interview with foreign correspondents earlier this year. "He's not a subject that we see established in one place, living, defended by a big group of gunmen."

For Nuevo Laredo's sidelined police force, Guzmán and his hit men have been fearsome targets.

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Police officers are ill-equipped, under paid and threatened with losing their lives if they oppose the cartel bosses.

"There were very brave police trying to function in an inferno of battle around them," said the U.S. official who requested anonymity. "How can a normal person function in that kind of environment? You have to ask yourself what you would do if someone shoved a picture of your child in your face and said he could be hurt. What would you do?"

Even the federal agents patrolling Nuevo Laredo acknowledge they are no match for drug traffickers.

"They have better weapons and better communications than us," said an armed agent of the Federal Agency of Investigation, the Mexican equivalent of the FBI, who declined to give his name for fear of being fired. "We don't have the tools we need. But we do the best we can."

Training officers Omar Pimentel is training a new generation of police officers to fight crime in Nuevo Laredo.

Pimentel, a 37-year-old former highway patrol officer who heads the city's police academy, will watch his first recruits graduate on Monday.

"I have dedicated myself to giving them quality training," he said, "so they will be career police, not police who fill their pockets."

Tall, slender and dressed in a pink Polo Ralph Lauren shirt, Pimentel is now being mentioned as the top candidate for the job of police chief.

Although he wants to continue his work at the academy he said "if they call me, if they invite me, I would take it with great pleasure."

His wife, who is pregnant with their second child, is terrified that her husband might accept the dangerous post.

Pimentel knows the job is risky and even admits the idea sometimes makes him nervous.

"The person that they designate has to be a person who knows what he is going to do, what he is going to say. He has to be very intelligent, very cautious not to have problems in his job."

Pimentel says his parents worry for his safety, too.

"They ask God to watch over me so everything comes out well."

Mexico's Master Of Elusion (LAT)

By Richard Boudreaux

The Los Angeles Times, July 5, 2005

BADIRAGUATO, Mexico — The voice was unmistakably his. Mexico's most wanted criminal was back in his rural stronghold in the western Sierra Madre.

But when 200 army paratroopers swooped in by helicopter minutes after the voice registered on a wiretap, he was gone. The soldiers found only a few ranch hands and the drug baron's Hummer and Dodge Ram pickup, which they blew up before retreating in frustration.

The November raid was the closest a government search party has come to Joaquin "El Chapo" Guzman since he slipped out of a maximum-security prison in a laundry cart 4 1/2 years ago.

On the lam with a satellite phone, laptop computer and AK-47 rifle, the 50-year-old fugitive has rebuilt his empire and started a war with rival smugglers that has claimed more than 600 lives this year. Although Mexican officials call him one of the most prolific, innovative and ruthless traffickers they have ever faced, his disappearing acts have made him a folk hero.

The 5-foot-6 kingpin's nickname means "Shorty," but there is nothing diminutive about the shadow he casts on Mexico and the United States. The story of his mercurial career and bid for underworld supremacy offers a glimpse of a violent industry that bedevils both countries.

Although U.S. officials have repeatedly praised Mexico's anti-drug efforts under President Vicente Fox, including the arrest of 18 cartel leaders over the last four years, Guzman's elusiveness is an embarrassing symbol of the country's failure to stop the bloodshed or slow the flow of cocaine, heroin, marijuana and amphetamines into the United States.

"He is the last of the Mohicans," said Jorge Chabat, a Mexico City expert on law enforcement issues. "All the other big cartels have been decapitated. That is why they want him so badly."

U.S. authorities also want to get Shorty, who was indicted in 1995 in San Diego on charges of money laundering and conspiracy to import tons of cocaine. In December, federal authorities offered a $5-million reward for tips leading to his capture and are sharing intelligence with Mexican authorities.

Since then, the dragnet has tightened with the arrests in Mexico of Guzman's 21-year-old son (nicknamed "Little Shorty"), a brother, two nephews and a niece, all accused of aiding his drug business. Nine houses and six vehicles belonging to him and his associates were seized in June.

Rival drug traffickers are after him too. They killed another of his brothers and two of his associates in a Mexican prison last year.

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But so far the heat on Guzman has merely enhanced his mystique as an untouchable outlaw constantly on the move, escorted by 10 armed bodyguards and apparently shielded across Mexico by a web of corrupt officials to whom he once boasted paying a total of $5 million per month.

By sport utility vehicle and private aircraft, he shuttles among safe houses in 16 of Mexico's 31 states, according to an army intelligence report. "He is practically a guerrilla of drugs," said Jose Luis Santiago Vasconcelos, Mexico's deputy attorney general for organized crime.

A ballad recorded by Los Buitres (The Vultures) and sold on CDs across the country is part of a popular narco-culture that glorifies Guzman's life on the run and the exploits of other kingpins.

He sleeps at times in homes, at times in tents

Radio and rifle at the foot of the bed

Sometimes his roof is a cave.

Guzman does seem to be everywhere.

"Once, on a single day, I got tips of sightings in Nuevo Laredo, Mochicahui, Badiraguato, Mexicali, Caborca and Agua Prieta," said J. Jesus Blancornelas, a Tijuana newspaper editor who is knowledgeable about the drug cartels. "Everyone thinks they are seeing him."

The difficulty of arresting Guzman becomes starkly evident in the isolated, mountainous terrain of Badiraguato, the 2,000-square-mile municipality in Sinaloa state where he was born.

His ranch at La Tuna is a five-hour drive on bad roads from Badiraguato's well-kept urban center. Between the ranch and the outside world are several thousand families who have lived for generations on the proceeds of marijuana and poppy cultivation. They complain of government neglect and defiantly replant their illegal crops as fast as the army destroys them.

"Some of them have benefited from his generosity," said Santiago Vasconcelos, the federal prosecutor. "They see him as a hero. They cover for him, and when any stranger comes into the communities, they warn him."

"It's similar to trying to find Osama bin Laden," a U.S. law enforcement official said.

Badiraguato's 29-man police force does nothing to stop his security detail from setting up checkpoints, people in the area say. "When the cops pass El Chapo on the road, they call him Boss," a resident said.

But most people here are reluctant to utter Guzman's name, much less acknowledge his comings and goings. "We do not know in the slightest whether or not this famous Chapo even exists," said Jose Luis Morales, the municipality's No. 2 official.

Residents who are willing to talk about him are unwilling to give their names. They say the drug baron spreads cash like a benevolent father, paying for public works and medical care for the needy. They say he shuns fancy jewelry, has a wife and several mistresses, comes home frequently and throws catered parties at the ranch but never stays long.

When federal police raided one of his parties, in November 2003, Guzman and his guests had been tipped off and left behind four hapless narco-balladeers of La Sombra Nortena (the Northern Shadow), who had been paid $4,000 to entertain. They and their sound man were arrested on charges of possessing marijuana and a firearm.

Guzman's illicit empire is proof that someone with a third-grade education can rise to the top in Mexico as long as his family is well connected.

A former mistress, Zulema Hernandez, told author Julio Scherer for a book about Mexico's prisons that Guzman felt deprived growing up and was haunted into his adulthood by "a terror of returning to poverty." As a boy, she said, he toiled on his grandfather's farm after his abusive father kicked him out of the house.

Poor or not, Guzman was a nephew of the late Pedro Aviles Perez, a founding father of the Sinaloa drug cartel. He eventually joined its payroll as an overseer of illicit crops.

The cartel's rise in the 1980s marked the birth of large-scale Mexican drug trafficking. Already producing and exporting marijuana and heroin, it took over the shipment of South American cocaine through Mexico to the U.S. Southwest after U.S. authorities closed off air and sea smuggling routes into Florida.

Guzman rose quickly to become the cartel's import manager. It was his job to get planes, boats and trucks full of cocaine into Mexico, while his cousin Hector Palma took charge of moving the drugs by land to clients in the United States.

By 1989, Aviles was dead and cartel co-founder Miguel Angel Felix Gallardo was in prison. The cartel broke up, with Guzman and Palma taking a chunk of the operation that was moving up to 24 tons of cocaine a month, U.S. law enforcement officials say.

Guzman, the dominant of the two cousins, began to gain notoriety for two qualities: brutality and creativity.

Challenged by the Arellano Felix family for control of the cartel, Guzman went to war. The Arellanos, who were related to the imprisoned Felix Gallardo, set up base in Tijuana. In 1992, Guzman sent 40 gunmen to a Puerto Vallarta disco where the Arellanos were partying. Nine people died in the commando-style raid.

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Meanwhile, Guzman devised innovative ways to move ever larger quantities of cocaine. He smuggled the powder inside fire extinguishers and set up phony food distribution warehouses so he could move it, truckloads at a time, in cans labeled chili peppers.

"He thinks big," Drug Enforcement Administration spokesman Misha Pilastro said. "When Chapo gets involved in a drug deal, we're talking about extremely large quantities. Tons."

First arrested in 1991, Guzman bribed the Mexico City police chief $50,000 to let him go. Later testimony in Mexico alleged that he enjoyed the protection of the country's top law enforcement officials at the time.

His imprisonment in 1993 resulted from his feud with the Arellanos, who had sent gunmen to ambush him at the Guadalajara airport. Instead, they shot the city's Roman Catholic cardinal, Juan Jesus Posadas Ocampo, whose death brought public pressure on the government to move against the drug barons. Guzman was arrested 16 days later in Guatemala.

Living in luxury at El Puente Grande, the maximum-security prison near Guadalajara, he allegedly kept his hand in business with messages passed through his lawyers. Shortly after Mexico's Supreme Court ruled that he could be extradited to the United States, he escaped.

The prison warden and more than 30 guards were implicated in what one narco-ballad immortalized as the "breakout of the millennium." Mexican officials have been trying to recapture him ever since.

Staying a step ahead of them, Guzman adapted to changes in the drug business during his 7 1/2-year imprisonment. Facing a federal administration less susceptible to bribery than its predecessors, he has made his operation more mobile and relied on corrupt local officials.

Despite being semiliterate (he once used a ghostwriter to pen love letters to a mistress), he has mastered the Internet as a tool to make multimillion-dollar deals without risky face-to-face meetings, U.S. officials say.

Equally important, Mexican authorities say, he has gained the financial and armed support of key Colombian traffickers who had lost faith in the Mexican cartels as the Fox administration infiltrated their ranks and captured their leaders.

"He was at the top of his game before he went to prison, and it was only a matter of time before he'd get back up there if he stayed alive," a U.S. law enforcement official said. "He's definitely back. He's strong. You can tell from the violence, he's more and more out there."

His rivals have fallen one by one since 2002. Ramon Arellano Felix is dead, and his brother Benjamin is in prison, along with Gulf cartel boss Osiel Cardenas, exposing their Baja California and Rio Grande territories to Guzman's forays.

One U.S. official says gangs led by Guzman and two allies now control all drug traffic along the Arizona and New Mexico borders and are fighting for gateways into Texas and California in a battle involving hundreds of gunmen.

U.S. officials say there is no evidence that the violence has diminished Guzman's operation or the overall flow of drugs from Mexico. But the Mexican manhunt is focused enough, they believe, that in the long run Shorty will go down. "He's a very high-profile target, and eventually he'll make a mistake and get caught," a U.S. official said.

To Guzman's neighbors in the Sierra Madre, the search is an exercise in futility.

Even with him gone, they say, little would change as long as Americans crave illegal drugs and Mexico remains a poor country with weak law enforcement. As they have for generations, the highlands of Sinaloa will keep producing narcotics and "other Chapo Guzmans," said Jose A. Rios, who once represented the state in Mexico's Congress.

For now, Chapo remains a fugitive and keeps popping up in the unlikeliest places.

On a Saturday evening in early May, he strode brazenly into an upscale restaurant in Nuevo Laredo, a violent border city whose drug trade his gunmen are still fighting to control. The general had come to survey the battlefield.

With his bodyguards blocking the doors, Guzman instructed about 40 astonished customers to stay seated and refrain from using their cellphones. "Don't be alarmed," he said, according to witness accounts confirmed by the FBI. "Order whatever you want and I'll pay."

When he had finished dining, he plunked down thousands of dollars in cash, stood up calmly and vanished into the night.

Authorities Offer Little Help, Hope To Families Of Missing (HC)

By James Pinkerton

Houston Chronicle, July 4, 2005

NUEVO LAREDO, MEXICO - Nancy Segovia, an anxious 20-year-old wife and mother, searches for a husband who did not return from his job as a Nuevo Laredo policeman three weeks ago.

Two Laredo men, William Slemaker, 52, and Pablo Cisneros, 49, search for their daughters, who vanished 10 months ago while visiting this violence-torn border city.

Last week, the three stood in 100-degree-plus temperatures outside a Mexican military base, trying to learn whether their loved ones were among the 44 people rescued by federal agents from two safe houses operated by a drug cartel.

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The wife and fathers gathered with hundreds of others from both sides of the border, desperate for information about people known as los des- aparecidos, or the missing ones.

The rescue operation June 29 raised the hopes of Segovia, Slemaker, Cisneros and many others looking for relatives who vanished, with no ransom demands, during a three-year turf war between rival drug cartels. Each was disappointed.

In Nuevo Laredo, the faces of the missing stare out from homemade posters attached to street lights, taped to doorways of police stations or printed in newspaper ads. In a city that has seen more than 70 killings linked to the drug war so far this year, the missing are largely unknown to the public, and the local police seem to have done little to find them.

Federal officials said in Mexico City last week that many of the 44 victims were seized by city police who turned them over to cartel gunmen. One of the police commanders in Nuevo Laredo's 450-member force, Moises de Anda, said he did not know whether officers were kidnappers but "If the federal agencies investigating this are saying that (police officers abducted many of the captives), then it's probably true."

"People go on patrol, and you don't know what they do."

At the end of a week that began with good news, the two fathers and the young wife again were left to continue their searches, armed with few clues.

Disappeared in SeptemberThere were no ransom calls to either the men or the policeman's family, adding to the speculation the kidnappings were ordered by two powerful drug gangs fighting for control of Nuevo Laredo and its smuggling routes into Texas.

"We're at a point where we ... want to get past this nightmare," said Slemaker, a railroad worker and truck driver. " We want them dead or alive — but God forbid they are dead."

He said his stepdaughter, Yvette Martinez, 28, was last heard from on Sept. 18 when she drove back from Nuevo Laredo with Brenda Cisneros, who was celebrating her 23rd birthday.

The two women were returning from a concert and could see the American flag next to the international bridge when they called a friend, Slemaker said.

Slemaker and Pablo Cisneros, who runs an automotive business in Laredo, were tired and frustrated after a promising lead seemed to evaporate.

Many theoriesThe evening before, they gave a Mexican federal police commander the location of a ranch outside Nuevo Laredo where more kidnapped victims were rumored to be held.

The commander, in the presence of a reporter, promised that a rescue would be mounted the next day. But it did not happen, and the men could not locate the official for a follow-up meeting.

Meanwhile, federal police did search at least one ranch outside Nuevo Laredo last week but did not find anything of significance, U.S. officials said.

In the months Slemaker and Cisneros have searched for their daughters, they have heard theories.

"I've been told several times that Yvette and Brenda were given as gifts to the bosses of the cartels," Slemaker said. "And now they are being used to cook and clean for the kidnapped victims. Others say they are being drugged."

Official numbers of the missing are hard to come by in Nuevo Laredo, where state police and prosecutors have jurisdiction over kidnapping complaints.

Human rights attorney Arturo Solis, in nearby Reynosa, said the kidnappings will continue until there is a top-to-bottom reform of police agencies. "They have to fight the impunity and the corruption within the police," Solis said.

The Center for Border Studies and Human Rights Promotion, which Solis directs, reported that 193 people had been kidnapped through June in the border cities of the state of Tamaulipas. It counted 59 abductions in Nuevo Laredo, 38 in Reynosa and 62 in Matamoros, the three major cities in the state. The other 34 occurred in small towns and villages on the border.

Last year, there were 121 kidnappings in the state, including 46 in Nuevo Laredo.

A spokesman for the U.S. Embassy in Mexico City said 42 Americans have been reported missing in Tamaulipas since August. The bodies of four were later found, 19 people were returned, and 19 remain missing.

Early last month, international attention focused on Nuevo Laredo when a new police chief was shot to death within hours of taking the oath of office. When a group of federal agents sent to the city to investigate the assassination was fired on by municipal police, federal authorities surrounded their headquarters and disarmed the officers.

Since then, 79 have been dismissed from the force, and 41 remain confined in Mexico City pending investigation into their roles in the encounter with federal police.

On June 9, the day after the chief's assassination, Nuevo Laredo police officer Gabriel Galarza, 32, did not return to the home he shares with Segovia after working a 4 p.m.-midnight shift.

Life in limboSegovia is a clerk in the traffic division at Nuevo Laredo police headquarters. Her office is in the same building as the state police officers investigating her husband's disappearance.

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"They say they don't know anything about what happened to him or his vehicle," Segovia said. "In truth, I don't think they're looking. I don't see that they're doing anything."

Segovia has moved in with her mother, who cares for her 1-year-old daughter.

Segovia said her routine has taken on a drab sameness. After working an eight-hour shift, she swings by the unfinished home she and her husband were building on an unpaved street. The subdivision is called The Will to Work and is a working-class neighborhood next to the city's automotive junkyards on the industrial west side.

Inside the two-bedroom home, Segovia has left a scribbled message on a notepad telling Galarza that she loves him and asking him to call her. It sits on the dining-room table, next to a loaded clip from his assault rifle he left behind, along with his bulletproof vest.

An entertainment center in the modest living room holds pictures of her husband in police fatigues, proudly displaying an assault rifle, standing next to their daughter. The latest bill for her husband's credit card lies on the mantel, and Segovia opened it to show they owe $750.

"If he was corrupt, doing bad, we wouldn't have all these payments, all these debts and bills, because we are struggling," Segovia said.

Sudden changeHer father-in-law, Santos Galarza, 53, has been helping Segovia look for his son and his missing car, a 1994 green Honda Civic. But he said city, state and federal authorities have been of little help.

"I think it (the disappearance) was related to his work because he didn't have any enemies," said the father.

Both father and wife suspect that the police officer may have witnessed a crime, perhaps one committed by fellow officers. They think it is not a coincidence that he was suddenly assigned to stand guard alone at a school, a different assignment from his usual patrol duties.

And the day before he disappeared, a fellow police officer failed to return home after working the same shift at the same school, said the officer's father.

Mexican federal authorities say the 44 captives freed last Sunday had been abducted in the last two months. Most of them, a top prosecutor said, were working for one of the two contending drug cartels and had been targeted by their rivals. The prosecutor did not name the gangs.

Rafael Garcia, the second-in-command of the Mexican attorney general's office in Nuevo Laredo, said the families of kidnapping victims are afraid to report the abductions.

"Since (the rescue), we've had 20 or 30 people who have made anonymous reports of abductions," Garcia said. "They call, or they come by and leave information. But they won't file an official complaint, because they are afraid of reprisals."

In Laredo, prosecutor Robert Balli said the kidnappers are either from the same police agencies that investigate kidnappings or are wearing identical uniforms and driving cars with identical police insignia.

"When you've been kidnapped by people you believe are from a particular law enforcement agency, you don't feel comfortable going to the same agency to file a complaint," Balli said.

Despite the fear and disillusionment, some people say the federal search for kidnapping victims has given them a reason to hope the missing may yet be found.

"They are getting results, no matter who they find," said liquor-store clerk Ramiro Villalobos, 19.

He said his 14-year-old cousin, Jesus Antonio Barcenas, was abducted from his home in March 2001 by armed hooded men dressed in black.

"They never called for a ransom," he said. "I think it was narcotics traffickers who made a mistake."

Villalobos said the boy's family reported the abduction to the authorities, but in the four years since the police have not reported any progress.

"Hopefully, he's alive," Villalobos said.

Search At Border Ranch Abruptly Ends (Express-News)

By Jeorge Zarazua

The San Antonio Express-News, July 3, 2005

NUEVO LAREDO, Mexico — Federal police abruptly ended their search for human remains Saturday morning at a remote ranch house on the edge of town here, leaving the property without saying what, if anything, they'd found.

All that was left inside the compound's cinderblock walls were piles of disturbed earth and a broken black metal gate.

A small contingent of Mexican military troops remained outside the beige-colored compound this morning, but the troops leader said they were on "routine patrol."

On Friday, an FBI spokesman said U.S. agents who had been on the scene earlier this week believed the bones that had been found were those of animals.

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The FBI has since not returned here.

The headline in one of today's afternoon dailies in Nuevo Laredo screamed "NADA AUN," or "Nothing Yet"

Federal police spent all day Friday digging the patio of the ranch house in the sweltering heat in search of human remains believed to have been buried there by drug cartel hit men.

The ranch house is about nine miles south of the Texas-Mexico border near the Nuevo Laredo highway leading to Monterrey.

Authorities feared the remote compound hidden deep in brush land was used as a drug-cartel killing factory, where enemies were taken to be shot and cremated in large metal drums. The border violence is believed to be the result of drug cartels battling for control of vital smuggling routes for marijuana, cocaine and other drugs into the United States.

Authorities gleaned a tip about the property while interrogating more than 40 prisoners who were rescued last Sunday from separate houses in Nuevo Laredo.

The hostages were freed only to be jailed by Mexican federal police, who believe they in fact are criminals with underworld ties.

One of the hostages is being investigated as a possible suspect in a 2004 fatal shooting of a Laredo man.

Agents of Mexico's version of the FBI, known by the initials AFI, raided the ranch house Tuesday.

Noel Ramirez Mandujano, an investigator with Mexico's attorney general's office, said investigators found pieces of charred bone, 200-liter metal drums, blood-tainted clothing and numerous shell casings inside the compound.

The bones, which FBI agents had viewed, were sent to Mexico City for DNA testing, according to Ramirez.

Authorities have not announced results of that testing.

The search at the ranch house seemed exhaustive Friday, with federal police using a Bobcat earthmover and later a backhoe at night to scrap several feet deep into the ranch house's patio.

A German shepherd trained to sniff out bodies also was brought in Friday afternoon.

Mexican federal police remained late at the ranch house Friday, leaving about midnight.

This morning, the search was suspended and the backhoe retrieved.

Meanwhile, the violence in this border city caught in the middle of a bloody drug cartel turf war continued late Friday night.

A Laredo man attending a birthday party was gunned down shortly before midnight. Business owner Hector Vallejo Quiroz, 34, died at the scene.

More than 70 people have been killed here this year and authorities are bracing themselves for even more deaths as summer temperatures continue to climb into the 100s.

Drugs Linked To Armed Forces (MH)

By STEVEN DUDLEY AND PHIL GUNSON

The Miami Herald, July 4, 2005

BEJUMA, Venezuela - In this deceptively tranquil farming village, people still talk about the "Bejuma massacre" in a whisper, partly because one man who spoke out is in a grave, partly because the killers were allegedly policemen.

But the source of the fear can be summed up in a single word: drug trafficking, on the kind of massive level and involving corrupt government officials that has long been a profound problem in neighboring Colombia.

Drug seizures in Venezuela doubled in the past four years. There are mounting allegations of drug-fueled corruption at the highest levels of the security forces, accompanied by what appears to be official indifference. Just last month, a suspected Colombian trafficker wanted in the United States escaped from a Venezuelan police lockup after allegedly bribing his guards.

The rising drug trafficking has become yet another sore point in relations between the Bush administration and Venezuelan President Hugo Chávez, a fiery populist who has repeatedly accused the U.S. government of trying to topple him.

"There are a few people who see [drugs] as a global problem, but those people are few and far between," said one Western counter-drug official who asked for anonymity because he did not have official permission to speak publicly on the topic.

Venezuela has long been a transit country for illegal Colombian drugs. But record seizures in 2004 that reached 32 tons of cocaine and 12 tons of heroin and marijuana put authorities on the alert.

"The organizations have grown more sophisticated," Mildred Camero, former head of CONACUID, the drug-fighting arm of the Venezuelan government, told a news conference earlier this year.

CARTEL ALLEGATIONS

Still, CONACUID and other law enforcement agencies have arrested few major traffickers and say they know of no Venezuelan cartels -- information that numerous police and counter-drug officials in Colombia contradict.

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Venezuelan authorities indeed at times blame their neighbors for the scourge. "We have problems because we have countries that produce [drugs] along our border and there are weaknesses along that border because it's nearly 1,300 miles long," Camero told the news conference.

Colombia's drugs flow to other parts of the world on land and air routes through areas such as the Venezuelan state of Carabobo, where Bejuma is located, on the Caribbean Coast. Police describe Carabobo as a key link in the chain that sends tons of cocaine, marijuana and growing amounts of heroin to the United States and Europe.

And with the growing volume has come more drug-related violence and corruption at increasingly higher levels.

"There's been a huge transformation," said a foreign diplomat in Caracas who asked that he not be identified because of the sensitivity of his job. ``The corruption is reaching levels we've just never seen before."

THE GONZALEZ CASE

The problem was nowhere more visible than in the case of suspected trafficker Eudo González, who according to neighbors often threw parties for police and allowed them to use a firing range on his Bejuma ranch.

But the heavily armed police and intelligence officers who showed up at his gate on Feb. 11, 2004, were not looking to party. By the time they were done, González and at least five of his employees were dead -- killed in a "shootout" that left not a scratch on any of the cops.

González and his brother Hermágoras were well known to counter-drug officials. A court in Virginia indicted Eudo on heroin charges in the mid-1990s. And officials of two foreign lawenforcement agencies told The Herald he was involved in drugs, gun-running and money-laundering, and could be Venezuela's top trafficker.

But the González brothers allegedly enjoyed the friendship of law enforcement officials far beyond the parties at Eudo's ranch.

When the police killed Eudo, he was carrying a National Guard identification card signed by the Guard's former head of intelligence, Gen. Alexis Maneiro, according to reports published by Mauro Marcano, a newspaper columnist and local radio program host in the small town of Maturín. Marcano also served as a municipal councilman in Maturín, a town in the region east of Bejuma where Maneiro once headed the National Guard detachment.

JOURNALIST KILLED

Marcano, 55, who was shot and killed by a gunman in September as he left his apartment, had long alleged the existence of a drug-smuggling group dubbed the Cartel of the Suns after the insignias of rank worn by Venezuelan generals -- as U.S. generals wear stars.

One foreign diplomat in Caracas familiar with anti-drug operations described the cartel as ``a large group of generals in the army and the National Guard, especially . . . They control a certain number of shipments out of Colombia, and they get a cut of those shipments."

The Western counter-drug official who asked for anonymity estimated that the group might be responsible for three-to-five tons of cocaine a month and 20-30 kilograms of heroin.

Venezuelan government officials have said little on the topic.

After The Herald made several attempts to interview Gen. Frank Morgado, head of the National Guard's anti-narcotics command, about the Maneiro case, Morgado responded via fax that his unit "has no information relating to that matter." He suggested consulting ``the relevant authorities."

Maneiro did not return repeated Herald phone calls to his office.

But the National Guard's own commitment to the fight against drugs has come under question.

EXITING THE TASK FORCE

Earlier this year, Guardsmen unexpectedly seized U.S.-donated equipment and vehicles from a mixed police-and-judicial investigative unit and withdrew from the task force, which works closely with U.S. officials. After several weeks of haggling, the Guard returned the equipment but has not rejoined the task force.

And last month, the government abruptly removed Camero -- one of the key U.S. allies in the government, according to officials at the American embassy here -- from her post at CONACUID. Also ousted were two senior officials in the prosecutor's office with oversight of drug cases.

"There have been some recent bumps in the road," U.S. Ambassador to Venezuela William Brownfield acknowledged to The Herald last month.

Gen. Maneiro's career has not prospered since the Marcano killing. Shortly afterward, he was removed from his post as commander of the Guard's 7th Region, which includes Maturín, and assigned to run the National Guard academy in Caracas.

But investigators have not questioned him or any other senior military and police figures previously fingered by Marcano, according to Reporters Without Borders, a Paris-based independent group that tracks abuses against journalists.

"The investigation," said one of its recent reports, ``has come to a complete halt."

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U.S. Envoy: Venezuela Cooperation Slipping (AP)

By Associated Press

The Associated Press, July 4, 2005

CARACAS, Venezuela -- A decline in cooperation between Venezuelan and U.S. authorities has weakened efforts to fight terrorism and drug trafficking, the U.S. ambassador to the South American country said.

"On the issue of illegal drugs, we have a situation where we have a reduction in cooperation between some police forces," U.S. Ambassador William Brownfield said in an interview broadcast Sunday on the Venezuelan television station Televen.

"I wish we could have more cooperation in passing along more information on matters of terrorism, the movement of specific people, Brownfield said, without giving details.

U.S.-Venezuelan relations have been marked by tensions during President Hugo Chavez's more than six years in power.

Chavez's close ties to Cuban leader Fidel Castro and his frequent criticisms of the U.S. government have coincided with U.S. officials' repeated statements of concern about his increasing domination of Venezuelan politics.

U.S. officials have denied Chavez's repeated accusations of backing plots against him, including a short-lived coup in 2002.

The United States remains the top buyer of oil from Venezuela, the world's fifth-largest oil exporter.

Venezuela's location next to Colombia also has made it a major transit point for Colombian cocaine headed for the United States and Europe.

U.S. Sees Security Hitches With Venezuela (REU)

Reuters, July 4, 2005

CARACAS, Venezuela (Reuters) - Cooperation between Venezuela and the United States to fight terrorism and drug-trafficking has run into problems and could be improved, the U.S. ambassador to Caracas said on Sunday.

William Brownfield said "complicated problems" had emerged in the relationship between Venezuela, the world's No. 5 oil exporter, and its biggest energy client, the United States.

Venezuelan President Hugo Chavez, first elected in 1998, is a fierce opponent of U.S. policies he calls "imperialist."

President Bush's administration has criticized Chavez as an increasingly authoritarian ruler and a left-wing anti-U.S. troublemaker bent on trying to destabilize Latin America in alliance with Cuban President Fidel Castro.

"At this moment, in the area of drugs, we have a situation in which we've had a reduction in cooperation between some U.S. and Venezuelan police forces ... I wish we could cooperate more," Brownfield told Venezuela's Televen television channel.

He said there had been problems in obtaining extradition from Venezuela of drug-trafficking suspects. Tons of illegal drugs like cocaine and heroin are shipped across Venezuela each year from Colombia to U.S. and European markets.

"I wish we could have more collaboration in passing on more information about terrorism affairs, about the movement of specific persons," Brownfield added, without elaborating.

Chavez, who often accuses Bush of plotting to topple or kill him, has cut back Venezuela's military cooperation with Washington. U.S. officials say he has increased ties with anti-U.S. states such as Cuba, Iran and Libya.

Chavez says the Bush administration backed a short-lived coup against him in 2002. He has threatened to cut off oil supplies to the U.S. if Washington tries to invade or harm him.

In a television broadcast Sunday, the Venezuelan president said his intelligence services had detected a war games exercise being practiced by the U.S. military, code-named Balboa, which he said simulated an invasion of Venezuela.

"They had better not make the mistake, I'm telling them, because if they do they'll be sorry for 500 years," he said.

Brownfield repeated U.S. denials of these charges. "There has been no plan, is no plan and will be no plan for an assassination, an invasion, a coup, a sabotage of oil production or any other intervention," he said.

FBI Investigates Late Night Fire At West Palm Beach Abortion Clinic (WPTV-TV)

By WPTV staff

WPTV-TV, July 5, 2005

Agents from the FBI have joined investigators from the Bureau of Alcohol, Tobacco & Firearms this morning at the scene of a late night fire at the Presidential Women's clinic in West Palm Beach. The origin of the fire at the clinic which performs abortions appears to be suspicious. There were no injuries. West Palm Beach mayor Lois Frankel will issue a statement this morning as investigators and firefighters remain on the scene.

Guns Over Democracy (WP)

Post

DOJ_NMG_0001572

The Washington Post, July 5, 2005

PARLIAMENTARIANS gathered in Washington this holiday weekend from Europe and North America arrived just in time to witness the U.S. House of Representatives -- on the eve of the anniversary commemorating the signing of the Declaration of Independence -- trample upon the right of self-determination. Morphing themselves into city council members, a House majority overturned a city law and voted to allow D.C. residents to keep in their homes loaded shotguns and rifles, as well as handguns bought before 1976, unbounded by trigger locks or disassembled. The deed itself makes a mockery of Congress as a federal body. If the action is allowed to stand, however, the consequences could be even worse: The nation's capital will become a deadlier place in which to live.

The gun safety law that the House voted to repeal makes all the sense in the world. It enjoys the full backing of the city's mayor, council, police chief and, most important of all, the city's residents. Perhaps residents and their leaders want the law on the books because they know, even if the House does not, that properly locked or secured guns help prevent gun violence and accidental shootings. Perhaps District residents support their gun safety laws because they now see crime in their city at a 20-year low. Perhaps they also resent this imposition of House judgment because District residents, through their elected leaders, are authorized under the Home Rule Act to make their own laws. But perhaps they are outraged most of all because they have no vote in Congress. At the very time that the House was telling Americans living in the District what their local laws should be, Del. Eleanor Holmes Norton (D), the District's representative on Capitol Hill, had to stand by and watch -- unable to express her views with a vote.

We hope opponents of the House action are successful in stopping the repeal in the Senate. Clearly the last thing D.C. police need is another obstacle to charging negligent gun owners with gun safety violations or more cases of children dying from playing with guns. The notion of Congress encouraging citizens in the nation's capital to keep loaded and unprotected guns in their homes borders on insanity. Ironically, this quashing of self-determination is taking place under the eyes of the 55-nation parliamentary assembly of the Organization for Security and Cooperation in Europe, which is conducting its annual meeting in the city. On Saturday a committee of the group overwhelmingly supported a resolution calling for equal voting rights for D.C. residents. The plight of the voteless District is plain for the world to see.

TAX:

Lawyer's Fraud Trial Sparks Questions About Tax Court Procedure (LAW)

By Marcia Coyle, The National Law Journal

Law.com, July 5, 2005

A seven-year-old secret report by a special trial judge of the U.S. Tax Court in the lengthy and complex fraud trial of a renowned tax lawyer and his business partners found no fraud -- not even a suspicion of fraud -- by the three men, despite a subsequent Tax Court decision to the contrary.

The conflict between the original report and the Tax Court decision has prompted some to raise ethical questions about Tax Court procedures and to call on Congress to examine them.

The Tax Court recently released the report after the U.S. Supreme Court held earlier this year that "no statute authorizes, and the current text of [Tax Court] Rule 183 does not warrant," the concealment of special trial judge reports by the Tax Court.

The Supreme Court ruling -- Ballard v. Commissioner of Internal Revenue, No. 03-184, and Estate of Kanter v. Commissioner of Internal Revenue, No. 03-1034 -- followed years of litigation over the report in three federal circuits by lawyers for estate and tax attorney Burton W. Kanter and his business partners Claude Ballard and Robert Lisle, all of whom believed the report would exonerate them.

"One of the enormous frustrations about the case, now that we've seen what the presiding judge found, is that the taxpayers, who had their reputations severely damaged, have been litigating for years and have spent a fortune just to get to [the] point of having the original findings of the judge who presided at trial," said Richard Pildes of New York University School of Law, counsel to the estate of Burton Kanter. "Two of the three taxpayers have died."

Special Trial Judge D. Irwin Couvillion oversaw the five-week trial in 1994 in which the government charged Kanter, Ballard and Lisle with $30 million in tax deficiencies and civil fraud penalties in three alleged kickback schemes. In his 300-page report, produced four years later, Couvillion, who did not have authority to issue the Tax Court's final decision, said the court "cannot find or conclude" that the claimed kickback schemes existed or, if they did exist, that there was tax fraud in connection with them.

He also said that the transactions on which the government based its fraud allegations "amount to only respondent's suspicious [sic] of fraud. The Court, however, does not consider these transactions as even rising to the level of suspicion of fraud."

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A year later, Senior Judge Howard A. Dawson issued the final decision, saying he was "adopting the opinion of Special Trial Judge D. Irvin Couvillion," but ruled for the government on the fraud and most of the tax liability issues.

UNKNOWN DIFFERENCES

Because Couvillion's original report was secret, no one would have known of the differences between the two but for another Tax Court judge and the chief special trial judge at the time who contacted Kanter's trial lawyer and informed him of the reversal of the findings of fact.

The Tax Court denied requests for the report, saying in an order, "Judge Dawson states and Special Trial Judge Couvillion agrees, that, after a meticulous and time-consuming review of the complex record in these cases, Judge Dawson adopted the findings of fact and opinion of Special Trial Judge Couvillion," and Dawson gave "due regard" to Couvillion's credibility findings.

'DISTURBING' DIFFERENCES

But the report is "very different" from the 1999 opinion, said tax scholar Leandra Lederman of the Indiana University School of Law-Bloomington.

"Most important, the original report did not find that the taxpayers committed fraud; the opinion did," she emphasized. "These differences are disturbing. They raise questions about what the Tax Court means in Rule 183 cases when it says it 'agrees with and adopts' the findings of the trier of fact. This type of question may undermine confidence in the Tax Court's practices in Rule 183 cases."

Tax Court Chief Judge Joel Gerber did not respond to a request for comment on Rule 183.

The 11th U.S. Circuit Court of Appeals in the Ballard case (Ballard is the only survivor) ordered the Tax Court to produce the report and the parties to brief what should happen next.

The 7th Circuit in the Kanter case sent his case back to the Tax Court over a strong dissent. The 5th Circuit in the Lisle case had much earlier overturned the fraud decision and sent the case back to the Tax Court on deficiency issues, where it remains.

"We want the fraud and deficiencies -- which total about $10 million -- reversed," said Steven S. Brown of Chicago's Martin, Brown & Sullivan, counsel to Ballard and Lisle. "We think the 11th Circuit has all it needs to make its decision. We want the Tax Court to vacate its opinion [in Lisle]."

Internet Sales Taxes (NYT)

The New York Times, July 5, 2005

Thirteen years is a long time to get a pass. A 1992 Supreme Court decision has exempted Internet retailers from the obligation to collect most sales taxes on the grounds that it would be unduly burdensome. Back then, the country's thousands of state and local taxing jurisdictions all had differing rules.

But times have changed, and the law of the land should, too. Last week, 18 state tax collectors met in Chicago to announce an interstate agreement establishing uniform sales tax rules. Starting in October, the group will offer free software that will allow any business to easily collect the required taxes online.

The states' demonstration project will drive home the point that online sales-tax collection can be done nationwide. Many retailers already collect the taxes. Now Congress should step up and pass a law overturning the court's exemption in states that have streamlined their tax systems. That would allow hard-pressed states to take in roughly $20 billion a year in annual sales tax revenue that is rightfully theirs, and perhaps much more, depending on the growth in online shopping. It would also help level the playing field between local and online retailers.

No one in Congress has proposed legislation yet, but Senator Byron Dorgan, a North Dakota Democrat, and Senator Michael Enzi, a Wyoming Republican, are working on the issue. Still, anti-taxers are already grousing. Among their complaints is that collecting sales taxes online would represent a tax increase, which they oppose on principle. That's disingenuous. Online sales have always been taxable. But it's impossible for states to collect any sales tax directly from shoppers unless the shoppers voluntarily send in the tax. For the tax to be enforceable, it must be collected by retailers.

A related objection is that federal legislation should not be used to resolve a state-tax issue. That's totally off the point. The only way to address the Supreme Court ruling is for Congress to pass a federal law.

As if sensing the hollowness of those arguments, Web merchants are already gearing up for the day when they'll be required to collect sales tax. The New York Times reported last week that eBay and Amazon were duking it out over the level of online sales at which tax collection should apply. An eBay spokesman quoted in the article said businesses selling "in the range of $5 million" should be exempt from any collection obligation. Noting that a company doing $5 million in online sales is hardly a mom-and-pop, Amazon says that if there is an exemption, it should be much more limited. We don't see why any business should be exempt.

Lawmakers should not become distracted. Sales tax collection by online retailers is an idea whose time is way overdue.

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CONGRESS-ADMINISTRATION:

Gonzales Deflects Queries About High Court (AP-Y2)

By Mark Sherman, Associated Press Writer

AP2, July 5, 2005

U.S. Attorney General Alberto Gonzales deflected questions about his interest in serving on the Supreme Court and said Sunday that criticism about his conservative credentials did not bother him.

"Many of the people speaking probably don't have all the information about prospective nominees. What's important is what the president of the United States thinks about me," Gonzales told reporters while flying to the Middle East.

"That's evident by the position he has asked me to fill," said Gonzales, who made a surprise one-day visit to Iraq.

Gonzales will help screen nominees even though he is widely thought to be under consideration by President Bush to replace retiring Justice Sandra Day O'Connor.

On a trip to see U.S. troops as well as Justice Department and Iraqi officials, Gonzales was asked by reporters if he was flattered to be considered a possible nominee. "I just look at the job that I do as attorney general. I'm happy in that job," he said.

Attorney general since February, Gonzales has been a Bush confidant since Bush became governor of Texas in 1995.

Gonzales was the governor's chief counsel for two years before Bush appointed him to be Texas secretary of state. In 1999, Bush appointed Gonzales to the Texas Supreme Court. He joined the Bush White House in 2001 as its top lawyer.

Gonzales, 49, would be the high court's first Hispanic justice if he were nominated by Bush and confirmed by the Senate.

During their association, Bush often has cited Gonzales's heritage and modest background. The son of migrant farm workers from Mexico, Gonzales grew up in a two-bedroom house in Houston with seven siblings.

Some conservatives are questioning whether Gonzales is too moderate, particularly on abortion and affirmative action. Liberals have criticized his role in determining the Bush administration's legal positions on the treatment of detainees and other terrorism-related policies.

The Justice Department's Office of Legal Policy, working with Gonzales, will make recommendations to Bush about prospective nominees. Gonzales said the White House has been at work since 2001 on potential nominees if there were a Supreme Court vacancy.

When Bush was the likely Republican nominee for president in 2000, he turned to Dick Cheney to lead the search for a running mate. Ultimately, Cheney himself got the job.

Senators Call For Calm On U.S. High Court Nominee (REU-Y2)

By Alan Elsner

Reuters, July 4, 2005

As conservative and liberal interest groups gear up for a bruising and expensive battle over the next Supreme Court nominee, senior Republican and Democratic senators on Sunday pleaded for calm, calling on both sides to tone down the rhetoric.

Both sides are preparing for a bloody political battle following Friday's resignation of Justice Sandra Day O'Connor, the first woman ever appointed to the court.

Her decision to retire gave President Bush his first opportunity to nominate a member of the nine-member panel, which plays a central role in shaping the social, cultural and political fabric of the United States.

Bush's choice must be confirmed by the Senate, where Republicans hold 55 of the 100 seats but lack the 60 votes necessary to break a filibuster, or blocking tactic, if the minority decided to try to mount one.

Judiciary committee chairman Arlen Specter, a Pennsylvania Republican who will run confirmation hearings for Bush's eventual nominee, was one of several senators who appeared on Sunday talk shows to urge calm.

"It would be very useful for the country if the rhetoric were to be toned down," he said on NBC's "Meet the Press."

"We have laid plans for a professional approach where we're going to keep the rhetoric down," Specter added.

Vermont Sen. Patrick Leahy (news, bio, voting record), the ranking Democrat on the committee, echoed his sentiments. "Let's take it easy. I had a long talk with the President on Friday. He assured me then that he wants to consult as he has before," he said.

Bush is expected to move quickly on the nomination after he returns from the Group of Eight summit in Scotland at the end of next week.

Utah Republican Sen. Orrin Hatch (news, bio, voting record) said on CBS' "Face The Nation" he had spoken to Bush on Saturday and expected a nominee within a couple of days after Bush's return.

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DISCUSS VACANCY

Bush has invited Specter, Leahy, and Senate Majority Leader Bill Frist and Minority Leader Harry Reid to meet him on Friday to discuss the vacancy.

Meanwhile, pressure groups on either extreme of the political spectrum have already started running TV commercials and say they could spent a combined $40 million to influence the choice, which is seen as pivotal since O'Connor was often the swing vote in crucial court decisions.

Conservatives have already launched a preemptive strike against Attorney General Alberto Gonzales, a Bush favorite said to be a front-runner for the post, whom they view as ideologically suspect.

Christian conservative leaders have urged the White House not to pick him. Gonzales would be the first Hispanic ever to serve on the court.

Hatch said of Gonzales: "Some of the right wing groups, of course, are trying to push the President into getting the most conservative person they can get and they don't consider Judge Gonzales to be as conservative as some of the others... If he gets picked I am certainly going to support him."

Democrats are urging Bush not to pick a fight by nominating someone they might regard as a conservative extremist. "I hope that it is a mainstream conservative ... someone who really speaks to the great bulk of Americans," California Democrat Dianne Feinstein said on "Fox News Sunday."

"I think the president would do well to reach into the mainstream, to try to bring people together over this appointment, and I think it's very do-able," she said.

Massachusetts Sen. Edward Kennedy (news, bio, voting record), the leading liberal voice in the Senate, said he preferred not to have a brawl but that decision was up to Bush.

"We're all hopeful -- again, this is up to the President. If he wants to pick a judge, we want to be able to support him, but if he wants to have a fight about it, then that's going to be the case," he said.

Court Battle Lines Drawn (LAT)

By Ronald Brownstein And Richard B. Schmitt, Times Staff Writers

The Los Angeles Times, July 4, 2005

WASHINGTON — Senators from both parties jostled Sunday to define the rules of engagement in the political struggle over President Bush's first Supreme Court nomination.

In appearances on all the Sunday talk shows, members of the Senate Judiciary Committee sparred about whether nominees should be asked their views on specific issues such as abortion; whether it was appropriate to apply more scrutiny to nominees who would change the court's balance of power; and what circumstances, if any, might justify a filibuster against Bush's eventual choice.

The partisan disagreements on so many issues, before Bush has selected his nominee to succeed retiring Justice Sandra Day O'Connor, underscore the conflict that may be ahead if the president's choice does not attract broad bipartisan support.

Indeed, on Sunday, senators and representatives of conservative and liberal interest groups even disagreed on whether Bush should feel obligated to select a nominee acceptable to both parties.

Adding to the edgy tone were continued signs of divisions among conservatives about Atty. Gen. Alberto R. Gonzales, widely considered one of the leading contenders for the nomination. C. Boyden Gray, who heads a broad conservative coalition that is supportive of Bush's judicial appointments, said he would support Gonzales if nominated. But a leading social conservative said there was "not a lot of enthusiasm" on the right for his selection.

"There is concern on the right, there's no doubt about it," Jay Alan Sekulow, chief counsel for the American Center for Law and Justice, a conservative group that specializes in religious rights, said on CBS' "Face the Nation." He added that Gonzales, who made a surprise trip to Iraq over the weekend, was doing a "fantastic job" at the Justice Department — and that Bush should keep him there.

The right is wary of Gonzales, seeing him as a supporter of abortion rights and affirmative action, based on his decisions while a Texas Supreme Court justice and his actions as White House counsel.

Democrats, meanwhile, have said that Gonzales' role in developing Bush administration policies on handling detainees in U.S. prisons in Iraq and at Guantanamo Bay, Cuba, could cause difficulties similar to those that complicated his nomination as attorney general this year.

White House aides have said Bush will announce his choice for the court after he returns from this week's Group of 8 summit of industrialized nations in Scotland. Bush is to leave Tuesday and return Friday evening. He has scheduled a July 11 meeting on the court with Senate leaders from both parties, and Sen. Orrin G. Hatch (R-Utah), a former Judiciary Committee chairman, told CBS that he expected Bush to reveal his decision "maybe even the same day or within a day or two."

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On ABC's "This Week," the current chairman, Sen. Arlen Specter (R-Pa.), said he would be flexible on whether to schedule the confirmation hearings for the nominee in August or September.

"Our duty is to get this confirmation done by the first Monday in October," Specter said. "That's when the court starts in session, and we are going to meet that duty."

Some of the sharpest exchanges Sunday involved whether the nominee should be required to disclose his or her views on specific issues that could come before the court, such as abortion or same-sex marriage.

One senior Senate GOP aide told The Times on Saturday that Republicans believed the nominee should not be pressed to disclose views on specific cases. On Sunday, the Washington Post reported that GOP aides to the Senate Judiciary Committee had circulated a memo making that argument.

Sen. John Cornyn (R-Texas) said Sunday on ABC: "It's completely inappropriate to ask nominees to make promises to politicians about how they're going to vote, should a case come before them. And it's also wrong to ask a judge — not knowing how the case would be postured, what the facts would be — to prejudge these issues before they have a chance to hear all the evidence."

But Cornyn seemed to crack open the door to asking nominees about Roe vs. Wade, the decision that guaranteed legal access to abortion, and other Supreme Court precedents: "I think it's an appropriate question to ask what their views are on cases that have been decided and judicial opinions that have been written."

Appearing with Cornyn, Sen. Charles E. Schumer (D-N.Y.) said the panel had a responsibility to broadly probe the nominee's legal views and ideology.

"This is such an important position, the U.S. Supreme Court," Schumer said. "With a flick of a pen they can change people's lives. I think it's a dereliction of our responsibilities if we don't ask these kinds of questions."

Schumer added: "To take one person's writing 30 years ago and say that disqualifies them, that's wrong. But to then just say, 'OK, tell us where you went to law school and what your career was; and have you ever broken the law? You're on the Supreme Court' — no way."

Sen. Joseph R. Biden Jr. (D-Del.), chairman of the committee when his party last controlled the Senate, told CBS that he didn't think "we should be talking about the outcome of specific cases" but instead should assess "what methodology a judge will use" in deciding cases.

In a view rejected by Republicans and conservative activists, Biden also argued that this nomination called for additional scrutiny because the nominee could change the balance of power on a court where O'Connor had frequently functioned as the swing vote.

Biden said the likelihood that the nominee would shift the court's balance "probably" made it more likely that Senate Democrats would filibuster a choice that drew broad opposition in the party.

But Sen. Lindsey Graham (R-S.C.), one of the architects of the recent bipartisan deal by 14 moderates that preserved the filibuster for judicial nominations in "extraordinary circumstances," strongly warned Democrats against trying to use the delaying tactic on Bush's nominee. The filibuster allows a Senate minority to block consideration of legislation or a nomination with 41 votes.

Appearing on "Fox News Sunday," Graham said that disagreement with a nominee's legal views would not meet the deal's standard for filibustering judicial appointees.

"Ideological attacks are not an extraordinary circumstance," he said. "To me, it'd have to be a character problem, an ethics problem, some allegation about the qualifications of the person, not an ideological bent."

If Graham and one other Republican signatory changed their minds about the deal, GOP Senate leaders probably would have enough votes to ban filibusters of judicial appointments. Sen. John McCain (R-Ariz.), another of the deal's authors, has already issued similar warnings.

In one more clash, Democrats repeatedly urged Bush to nominate what they called a "consensus candidate." On ABC, for instance, Sen. Edward M. Kennedy of Massachusetts called on Bush to select "someone that can bring the country together, someone that can rally the Republicans and Democrats."

But on CBS, the conservative Sekulow ridiculed the idea that Bush needed to find a nominee who could appeal to both parties. "This idea that we've got to have a consensus candidate … is ridiculous," he said. "The president has the authority. The Senate can say yes or no."

Senators Clash On Questioning A Court Nominee (NYT)

By Carl Hulse And Adam Nagourney
The New York Times, July 4, 2005

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WASHINGTON, July 3 - With a White House nomination of a new Supreme Court justice at least a week away, members of the Senate began sharpening their differences on Sunday as lawmakers battled over the proper line of questioning at confirmation hearings and the right of Democrats to filibuster a nominee they deem unacceptable.

As senators sparred in interviews, op-ed columns and television appearances, the Bush administration sought to keep its deliberations over a potential successor to Justice Sandra Day O'Connor out of public view. White House officials were privately encouraging lawmakers not to get drawn into speculation over candidates' names but to concentrate on calling for quick and fair consideration of whomever President Bush nominates. [Related Article]

Conservative groups, meanwhile, continued to press their opposition to one frequently mentioned presidential favorite, Attorney General Alberto R. Gonzales.

Democrats called for a deliberate review of any nominee and pledged to press the eventual candidate on issues including abortion and same-sex marriage, while Republicans declared that such specific inquiries were out of line.

"All questions are legitimate," Senator Charles E. Schumer of New York, a Democratic member of the Judiciary Committee, said in an interview. "What is your view on Roe v. Wade? What is your view on gay marriage? They are going to try to get away with the idea that we're not going to know their views. But that's not going to work this time."

But Senator Jeff Sessions, an Alabama Republican who sits on the Judiciary Committee as well, said the push for such detailed positions was highly objectionable and suggested that Democrats might be forming a strategy of trying to derail a nomination on the ground of withholding information.

"You cannot ask a judge to prejudge a specific matter," Mr. Sessions said. He pointed to other cases in which Democrats had raised objections to Bush administration nominees in part on the ground that information was being withheld, including the nomination of John R. Bolton to be ambassador to the United Nations. "If the Democrats are pushing that, then they are trying to create an issue," he said.

And Senator Orrin G. Hatch, Republican of Utah and former chairman of the Judiciary Committee, said in an interview: "Any member of the committee can ask whatever they want, no matter how stupid. But I don't think nominees have to answer certain questions. They don't have to answer questions about how they are going to vote in the future. They don't have to answer stupid questions. They don't have to answer argumentative cases."

Mr. Hatch said senators in past confirmation hearings had tried, with varying degrees of success, to divine the views of potential justices on critical cases facing the court. "But never has it been to the degree that Senator Schumer is suggesting," he said.

A senior White House official, who insisted on anonymity in discussing the early phases of the nomination, echoed Mr. Sessions and other Republicans on the Judiciary Committee, saying, "There has been a long-term standard that the appropriateness of questioning does not include asking judges to take specific sides or positions regarding cases they may hear one day."

The arguments hinted at the partisan intensity of what will be the first Supreme Court confirmation hearings in nearly 11 years. And they reflected a central element of what is shaping up as a Republican confirmation strategy: shrink the target of attack on any nominee by limiting both the questions that may be posed and the time between the nomination and the hearings.

"I think we ought to have our business taken care of by the time the court reconvenes in October," said Senator John Cornyn, Republican of Texas and another Judiciary Committee member. "We need to get to work."

Beyond the push for late summer hearings, Republicans say they will try to limit the access senators would have to F.B.I. documents on the potential nominee - the unpredictable wild card in any judicial confirmation because even the White House cannot fully anticipate the outcome of the background investigation when the president makes his choice. They cite as precedent an agreement reached in 1992 between the first Bush White House and a Democratic chairman of the Judiciary Committee.

Democrats say that, because of the special significance of the Supreme Court, every senator, or at least the party leaders, needs a chance to review the full F.B.I. report to make a fully informed vote.

With official Washington on break for the Fourth of July holiday, much of the positioning and saber rattling took place - typically enough - on the Sunday talk shows, as members of the Senate and advocates from each side used the forums to lay out early arguments and positions. This was done with holiday accommodations: there were stand-ins for some of the usual Sunday morning hosts, and in one case, Senator Edward M. Kennedy, Democrat of Massachusetts, was interviewed by George Stephanopoulos of ABC News by remote from a home in Southampton, N.Y., where Mr. Kennedy was spending the holiday weekend.

The White House, notably, did not dispatch anyone onto the Sunday morning circuit, reflecting a decision by Mr. Bush's aides to try, as much as possible, to hold down speculation about the top contenders until Mr. Bush has announced his choice. Senator Joseph R. Biden Jr. of Delaware, the senior Democrat on the Judiciary Committee, held open the possibility of a

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filibuster against a nominee deemed out of the mainstream by Democrats. "I have no intention of filibustering, but he - it depends on who the president sends," Mr. Biden said on the CBS program "Face the Nation."

Mr. Hatch said in a later interview that he could not see "any circumstances where a filibuster would be appropriate." He warned that if Democrats tried to mount one, the Senate would most likely revert to the so-called nuclear option to bar the use of a filibuster to block judicial nominees. The Senate narrowly averted a showdown over the filibuster in May, and the tenuous nature of the compromise still looms over any Supreme Court confirmation hearings.

A nominee rejected this time would join 12 others rejected over the years by the Senate. At least 16 nominees withdrew, declined their nominations or had their votes postponed.

Democrats held up Justice O'Connor as the model justice that Mr. Bush should seek in looking to replace her, a notable contrast from what many of the same Democrats said about Ms. O'Connor in December 2000, when she voted with the majority in a 5-to-4 decision that ended the vote recounting in Florida and gave the White House to Mr. Bush.

"This is very bad for the Supreme Court, because their credibility is so diminished and their moral posture is so diminished that it could take years to pull them back from that," Senator Patrick J. Leahy, Democrat of Vermont, said at the time.

Of the Democrats' present-day sentiments, Mr. Hatch said that "she's suddenly the goddess of all jurists."

A central issue shaping up in these early maneuverings is what kind of questions are appropriate at the confirmation hearings. In his autobiography, Senator Arlen Specter, the Pennsylvania Republican who is now the Judiciary Committee chairman, wrote that "from my experience participating in Supreme Court nomination hearings, I have found that the better a nominee thinks his chances are, the less he will say at the hearing to minimize the risk."

Mr. Sessions said that a background form filled out by judicial nominees had a question to make certain that no one involved in the selection was asked how he or she would rule on specific cases. "You cannot demand a commitment from nominees," he said.

But some Democrats said it was entirely proper to question the nominee on matters that have long been before the court.

"There are many issues of well-established constitutional law on which millions of Americans rely every day, such as the right to fair treatment by the justice system, the right to equality in education and the workplace, and the right to privacy in our family and medical decisions," Mr. Kennedy said in a statement. "As part of the confirmation process, the American people will reasonably expect those questions to be asked and the nominees to answer them."

The dispute was not breaking entirely along partisan lines. Mr. Biden, for example, said that he would not ask the nominee questions about abortion, saying he considered them inappropriate in such hearings.

Republicans say that Justices Ruth Bader Ginsburg and Stephen G. Breyer both sidestepped specific questions on issues like the death penalty and abortion. The Democrats counter that since then, lower court nominees have answered questions about their personal views.

Democrats also sought to slow the Republican push for hearings, arguing that since Justice O'Connor had agreed to remain on the court until her successor was named there was no need to rush. "The strategy of the hard right is to avoid questions," Mr. Schumer said. "Their view is to do it quickly, focus on whether they have blemishes on their record, focus on their résumé not their views."

Senator Lindsey Graham, Republican of South Carolina, said on "Fox News Sunday" that the Senate had as much riding on the confirmation as Mr. Bush and the nominee. "Can we have a confirmation process that will hold the Senate up to the world and the nation as a deliberative body made up of men and women who are serious about their job, or will it break down into some food fight?" Mr. Graham asked. "I really think the Senate's reputation is at stake as much as anything else."

Bork's 1987 Hearings On Senators' Minds (AP-Y2)

By Pete Yost, Associated Press Writer

AP2, July 5, 2005

In the eyes of still-bitter conservatives, Robert Bork is the symbol of the Senate's advice-and-consent power gone haywire. To liberals and the Republican chairman of the Senate Judiciary Committee, Bork's confirmation hearings revealed extreme views that warranted rejection of the Supreme Court nominee.

The memory of Bork's tumultuous Senate hearings 18 years ago are very much on the minds of senators as they call for dignified confirmation proceedings for whomever President Bush chooses as retiring Justice Sandra Day O'Connor's successor on the high court.

Bork himself weighed in Sunday. So did two of his opponents from 1987, Sens. Arlen Specter, R-Pa., and Edward Kennedy, D-Mass, who will both play important roles in determining whether O'Connor's replacement will be confirmed.

Specter is Judiciary Committee chairman. Kennedy, a committee member, says he's ready to fight if the president chooses someone who does not fit Kennedy's vision of a mainstream nominee.

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Republicans on the committee are urging Democrats to give ample leeway to Bush's choice.

"Ruth Bader Ginsburg was a general counsel for the American Civil Liberties Union, yet she was overwhelmingly confirmed" during the Clinton administration, Sen. John Cornyn (news, bio, voting record), R-Texas, said on ABC's "This Week." Ginsburg "wasn't asked about her earlier writings on whether laws banning prostitution were unconstitutional," he added.

Specter and Kennedy said the country is better off without someone like Bork on the Supreme Court.

"Can we imagine what this country would be like today if Judge Bork had gone onto the Supreme Court with his views about civil rights and other issues?" Kennedy asked on ABC.

Bork suggested he is still being demonized by senators who opposed him in 1987.

"I think they recognized what they did and they have to keep justifying it, and they have to keep misrepresenting me," Bork said of the senators who sent his nomination down to defeat. Bork appeared on CNN's "Late Edition."

Senate Judiciary Committee members crystalized the debate over O'Connor's successor, making clear that a hard-line conservative would trigger a furious battle on Capitol Hill that could touch off a Democratic filibuster.

The division emerged amid a conservative lobbying campaign against one possible pick, Attorney General Alberto Gonzales, a longtime Texas friend of President Bush who is considered too moderate by right-wing Republicans.

"I don't think the social conservatives ought to prejudge Attorney General Gonzales. Attorney General Gonzales may not even be in the picture," Specter, R-Pa., said on ABC's "This Week."

On a trip to Iraq to visit U.S. troops and Justice Department and Iraqi officials, Gonzales deflected questions about being considered a possible nominee. "I just look at the job that I do as attorney general. I'm happy in that job," he said.

Specter said he thinks Bush will consider "the gender factor" in making a selection, and the fact that O'Connor was a pivotal swing vote.

However, it is unclear what the president will consider.

Bush has said in the past that conservative justices Antonin Scalia and Clarence Thomas are the kind of people he admires on the Supreme Court.

Bush was at Camp David, Md., mulling over his options, while Democratic Sen. Charles Schumer (news, bio, voting record) of New York was urging a summit between senators from both parties and the president.

Asked whether he would support a filibuster if a hard-liner is chosen, the Judiciary Committee's ranking Democrat, Sen. Patrick Leahy (news, bio, voting record) of Vermont, said, "I would hope that we don't reach that point."

"I have no intention of filibustering, but it depends on who the president sends," said Sen. Joseph Biden (news, bio, voting record), D-Del.

Leahy appeared on NBC's "Meet the Press" and Biden on CBS' "Face the Nation."

Senators Issue Call For Restraint On Court Vacancy (MINNST)

By Lawrence M. O'rourke, Star Tribune Washington Bureau Correspondent

Minneapolis Star Tribune, July 4, 2005

WASHINGTON, D.C. -- As conservative and liberal activist groups prepared Sunday for an expensive, all-out battle over the next U.S. Supreme Court justice, the top Republican and Democrat on the Senate Judiciary Committee appealed for restraint, at least until President Bush announces his choice in a week or so.

"We ought to tone down the rhetoric," said Sen. Arlen Specter, R-Pa., the committee chairman.

"Let's take it easy," said Sen. Patrick Leahy, of Vermont, the committee's ranking Democrat.

The two men, along with Senate leaders Bill Frist, R-Tenn., and Harry Reid, D-Nev., have been invited to the White House to meet with the president on Friday after Bush returns from the Group of Eight summit in Scotland.

Attorney General Alberto Gonzales, a potential candidate for the Supreme Court vacancy being left by Justice Sandra Day O'Connor, made a surprise visit to Baghdad on Sunday. He told reporters that he would continue to be directly involved in advising Bush on the choice, despite possibly being considered himself.

Gonzales, who has already been opposed by some on the right as being too moderate, said that Bush might "take some time" in reaching his decision but wanted the next justice seated by the time the court starts a new session in October.

Democrats promoted the idea that Bush should pick a consensus candidate able to win overwhelmingly in the Senate.

Sen. Dianne Feinstein, D-Calif., urged him to appoint a "mainstream conservative, someone who really speaks to the great bulk of Americans."

Republicans said that Democratic nominees historically had been given ample leeway and that Republican nominees should be given the same consideration.

"Ruth Bader Ginsburg was a general counsel for the American Civil Liberties Union, yet she was overwhelmingly confirmed," Sen. John Cornyn, R-Texas, said.

Analysis: Ideological Battle Looms Over Supreme Court Vacancy (PPG)

By Michael Mcgough, Post-gazette National Bureau

Pittsburgh Post-Gazette, July 4, 2005

WASHINGTON -- In the sort of "gotcha" moment that has become common on Sunday television talk shows, George Stephanopoulos, the host of ABC's "This Week," yesterday confronted Sen. Edward Kennedy with Kennedy's own words from the 1967 debate over the confirmation of Thurgood Marshall for a seat on the U.S. Supreme Court.

Stephanopoulos noted that Kennedy had told his colleagues that they shouldn't take Marshall's judicial philosophy into account but instead should limit their inquiry to the nominee's "background, experience qualifications and temperament."

"If it was the right standard in 1967, isn't it the right standard now?" Stephanopoulos asked, referring to Kennedy's concerns about the philosophy of the man or woman President Bush might nominate to replace Sandra Day O'Connor.

The Massachusetts Democrat had a comeback -- that if the president focuses on ideology in picking a nominee, it's also fair game for the Senate. But the implication of Stephanopoulos' question was that Kennedy was following some famous political advice from onetime Louisiana Gov. Huey Long. "The time has come," Long once said, "for all good men to rise above principle."

Kennedy isn't the first participant in the run-up to the Supreme Court confirmation war to have enunciated a principle about the selection of a justice only to "rise above" it, and he won't be the last. And if one principle doesn't do the job, advocates will be happy to shift ground. And much as some observers lament that reality, it is unlikely to change so long as the Supreme Court has the final say on hot-button issues like abortion and affirmative action.

Consider the way the liberal group People for the American Way pirouetted on another issue -- whether a Supreme Court nominee should be similar in judicial philosophy to the justice he or she is replacing.

Last month, when it looked as if it would be the conservative Chief Justice William H. Rehnquist who would be stepping down, the liberal group's president, Ralph Neas, rejected the notion that liberals should not make a fuss if Bush replaced the very conservative Rehnquist with another conservative.

"There is no basis in constitutional law or history for reserving an ideological 'slot on the court,' " Neas said, adding that "each Supreme Court nominee should be evaluated based on standards of excellence, integrity and commitment to upholding the rights and legal protections that Americans enjoy under our Constitution and laws." As for ideology, Bush would be well advised, Neas said, to replace Rehnquist with a moderate conservative.

Now that it is O'Connor, the perennial swing vote, who is leaving the court, Neas' desired end result is the same -- a justice like O'Connor -- but the underlying principle has shifted. Last week, Neas called O'Connor's retirement "a critical moment for the Constitution" and warned that "replacing Justice O'Connor with another Justice [Antonin] Scalia would be a disaster for civil rights, privacy and the rights of individuals to be protected against abuse by government or corporate power."

So the philosophy of the departing justice is a consideration after all.

It isn't just liberals like Kennedy or Neas who are flexible about the theory that should govern the Supreme Court selection process so long as the bottom line -- a congenial justice -- is guaranteed.

Appearing on "Face the Nation" yesterday, Sen. Orrin Hatch, R-Utah said that while Bush would consult with Democratic senators -- as President Bill Clinton famously did with Hatch before he made two high court nominations -- the choice of a nominee was basically the president's.

"The Constitution does not require consultation. It's a courtesy." said Hatch, the most senior Republican on the Senate Judiciary Committee.

What does the Constitution itself say? Article II directs that the president "shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States."

For Democrats seeking to preserve O'Connor's centrist legacy, "advice and consent" means serious consultation between the White House and the Senate before a nomination is made and a choice that will win bipartisan support. For Republicans, Hatch said, it means an "up or down vote" -- no filibusters -- after the president makes what is essentially his choice.

The conservative interest groups that are determined that O'Connor's successor will not be the "moderate conservative" sought by Democrats -- or even a potential moderate, like Attorney General Alberto R. Gonzales -- make an additional, extra constitutional argument. They say Bush is bound by his campaign promises to appoint a justice in the mold of Scalia and Justice Clarence Thomas.

That the president should have wide latitude in choosing Supreme Court justices -- to the point of using the appointments to redeem campaign promises -- is not a strictly Republican view. Sen. John Kerry, D-Mass., in his unsuccessful presidential campaign, indicated that he wouldn't appoint justices who would undo the Roe v.Wade decision legalizing abortion. Kerry is unlikely to extend that notion of accountability to one's base to a decision by Bush to replace O'Connor with a critic of Roe.

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While this gap between principle and practice might seem obvious -- it's the politics, stupid, as James Carville might say -- there have been times when Republicans and Democrats agreed that presidents should have considerable leeway in choosing Supreme Court justices and that the Senate should be willing to confirm nominee with adequate legal credentials and no ethical problems.

Sen. Charles Schumer of New York, a Democrat on the Senate Judiciary Committee, said yesterday on "This Week" that the Eisenhower administration was such a time. Kennedy, responding to Stephanopoulos' quote of his 1967 comments, said that things changed with President Ronald Reagan's failed 1987 nomination of Robert Bork to the high court. Because Bork's ideology was a key consideration in his selection by the White House, Kennedy said, it was a legitimate issue for the Senate to scrutinize.

Whether or not the Bork nomination was the turning point, ideology is on the table because, as Schumer said yesterday, "The U.S. Supreme Court with a flick of the pen [can] change people's lives." And it isn't just the two parties in the Senate that are preparing for war as if lives depended on the outcome. So are interest groups on the right and left.

In an editorial yesterday titled "Not a Campaign," The Washington Post plaintively noted that a seat on the court is "meant to be not merely apolitical but actively insulated from politics." But the editorial conceded that it was unlikely that "the war rooms will shut down and the campaign atmosphere give way to a serious discussion of -- and with -- the potential nominee."

Some observers are even more fatalistic. Michael Greve, head of the Federalism Project at the conservative American Enterprise Institute, believes that as long as the court has the final say on issues like abortion, a return to the dignified confirmations of the past is impossible.

"It's fashionable now to bemoan how controversial and contentious this nominations process has become, how many attempts there are to curb the courts," Greve told a seminar last month at the Brookings Institution. "But I think the source of those conflagrations and contentions is perfectly obvious ... . As Justice Scalia has explained, if you have a court that doesn't even try to act as a constitutional interpreter, if you have a court that tries to be the moral conscience of the nation, people will in the end, at the end of the day, insist on accountability."

Greve said the only way out of the politicization of the confirmation process is "at the same time very easy and next to impossible. The easy way is one single sentence in one single Supreme Court decision saying, 'There is no constitutional right to abortion.' " But Greve added that a reversal of Roe v. Wade would be unlikely even if Bush were able to name two new justices.

Run-Up To Judicial Fight Puts A Spotlight On Bork (NYT)

By David D. Kirkpatrick

The New York Times, July 4, 2005

WASHINGTON, July 3 - Judge Robert H. Bork, the former Supreme Court nominee whose rejection 18 years ago has hovered over every confirmation since, is back in the spotlight.

Interviewed on CNN on Sunday about the vacancy to be left by Justice Sandra Day O'Connor's resignation, Mr. Bork squared off once again against his former nemesis, Senator Arlen Specter, the Pennsylvania Republican whose critical interrogation during the 1987 hearings helped doom Mr. Bork's nomination. "I know Specter, and the truth is not in him," Mr. Bork said on "Late Edition" on CNN.

Mr. Specter, appearing earlier on that program and several others, brought Mr. Bork up repeatedly. "I've been criticized a lot for questioning Judge Bork in one session for an hour and a half," Mr. Specter said, defending his criticism of Judge Bork's emphasis on the "original intent" of the Constitution's framers. "If his 'original intent' stood, we'd still be segregating the United States Senate with African-Americans on one side and Caucasians on the other side."

Defending the Senate's role in approving nominees, Senator Edward M. Kennedy, Democrat of Massachusetts, reprised in an appearance on ABC the speech he made attacking Mr. Bork shortly after his nomination. "Can we imagine what this country would be like today if Judge Bork had gone onto the Supreme Court with his views about civil rights and other issues?" he said. "It would be an entirely different America."

Since then, however, Mr. Bork has become an inspiration to many conservatives, who say they have organized and raised money to support the nomination of like-minded jurists, making "strict construction" and "original intent" their watchwords. With their ascendance in the White House and the Senate, many conservatives believe Mr. Bork's vindication is near.

On CNN and in an interview on Fox News on Friday, Mr. Bork defended himself once again against Mr. Specter's accusation that his legal philosophy would have precluded the ruling in Brown v. Board of Education that ultimately led to the end of segregation. "I have written, and he must know it, that Brown against Board of Education, the case that ended segregation, was a correct decision," Mr. Bork said.

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"The problem is the court has made itself into a political institution. It's now gone well outside anything that's in the Constitution and begun to decide matters according to their preferences," he said. "When that happens, when it becomes a political institution, it becomes a political prize and both sides will fight for it."

Still, Mr. Bork said he had found some satisfaction in his defeat. He noted that "Borking" is now used as a verb meaning "to attack with unfair means," he said. "To have your name become a verb is to achieve a certain form of immortality."

Let The Senate Advise (WP)

By Edward M. Kennedy, Post

The Washington Post, July 5, 2005

Sandra Day O'Connor's retirement gives President Bush, elected by a divided nation that has become even more divided, a unique opportunity to unite us by choosing for the Supreme Court someone who can win support from a broad bipartisan majority in the Senate and whom the vast majority of Americans will be proud of.

Justice O'Connor's appointment to the high court is a useful model. Of the 20 Supreme Court nominations I have seen, hers was one of the most impressive. She was a Republican through and through who served the state of Arizona with distinction as assistant attorney general, state senator, trial judge and appellate judge. She was nominated by a Republican president, Ronald Reagan, and was opposed by activists who were even further to the right than he was, but Reagan stood by her. I'm sure Reagan understood the importance, for the good of the country, of avoiding a divisive battle over the first woman nominated for the Supreme Court.

When her nomination reached the Senate floor, she was confirmed unanimously. For 24 years she has demonstrated that the Senate's confidence in her was eminently justified. She has faithfully applied her own extraordinary life experiences, her broad knowledge of the law and her dedication to the Constitution to complex issues. She had no agenda except being the best possible justice.

If Bush emulates Reagan, the appointment of a replacement for O'Connor can be an expeditious, cooperative and unifying process. The president can choose a nominee whom the Senate will strongly support, as the framers of the Constitution envisioned. Those wise men, meeting in Philadelphia in 1787, well remembered the events of 1776 that we celebrate today. They remembered what it was to live as subjects under a tyrannical monarch. They resolved that absolute power would never reside in any of our leaders, and they constructed the careful system of checks and balances that has prevented it ever since.

They returned time and time again at the Constitutional Convention to the question of who should appoint judges. Five times they voted not to give the president any role in such appointments, but to give that power solely to the Senate. There were many other suggestions. Benjamin Franklin thought the Scottish system of letting the lawyers choose judges might work; he said the best candidate was usually chosen, because other lawyers wanted to eliminate their strongest competitor. Our forefathers finally compromised and authorized the president to make appointments "with the advice and consent of the Senate."

The genius of their plan was obvious. If both the president and the Senate must agree on an appointment, there is a strong incentive to select people who can obtain a consensus in the nation and in the Senate. They spoke of the appointment power as a "joint" power, and that's what it's been for 218 years. "Joint" means cooperation and consultation and consensus. It means picking from a list of mainstream lawyers and judges who have demonstrated that they are dedicated to the Constitution and the rights it guarantees. It means avoiding candidates who would come to the court with personal, partisan or ideological agendas. It means ignoring the advice of those who prefer that the president pick fights with the Senate instead of picking judges with the Senate. It means taking seriously the "advice" part of "advice and consent" by sharing the names of prospective nominees with the leadership of both parties in the Senate, the Judiciary Committee, and other senators who will fairly reflect the balance of views in the Senate and the country.

Confirmation proceedings should not be partisan exercises or occasions for party discipline. The president must not expect that if he chooses the route of confrontation and conflict, senators in his party will march to the battle stations with him and support his nominee. At least three times while I have been in the Senate, a president who did so found that members of his own party would not place party above country and joined in rejecting a divisive nominee. That's because they understood then what the president and all of us must remember today -- that the Supreme Court, as the last line of defense for "liberty and justice for all" should always be above partisan politics.

The president should reject the pressure of the extreme factions of his party that want litmus tests for his nominee. This process shouldn't just be about whether the next justice would help roll back women's rights by overturning Roe v. Wade , the law of the land. It should be about something much more basic: protecting our core constitutional values for generations to come, the freedoms that we've fought for, bled for and died for. Because of Sandra Day O'Connor, the disabled are guaranteed access to our public courts. Teachers can't be fired for opposing discrimination against girls in our public schools. Patients can get a

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second opinion when an HMO tries to deny them care. Our water is cleaner and citizens can stop polluters who dump toxins into our waterways.

I haven't always agreed with O'Connor. I didn't agree earlier this year that we should continue to execute juveniles. And I certainly didn't agree with her in Bush v. Gore .

But she was fair and tried to interpret the law. Unfortunately, many of those whom President Bush has nominated to the lower courts in the past four years have wanted to remake the law to suit their own ideologies. I hope the president will consult with the Senate and select a consensus nominee as dedicated to the Constitution as Sandra Day O'Connor.

If the president consults with senators and listens to their advice, as the framers wanted presidents to do, we can have a nominee our children and grandchildren can all be proud of.

The writer is a Democratic senator from Massachusetts.

Politics Shadow Supreme Hopefuls (WT)

By Charles Hurt, The Washington Times

The Washington Times, July 5, 2005

Senate Democrats said yesterday that they will demand to know the political views of any nominee President Bush names to replace retiring Supreme Court Justice Sandra Day O'Connor.

"I think the number one thing that I am interested in are the nominee's views," Sen. Charles E. Schumer, New York Democrat and Senate Judiciary Committee member, said yesterday on ABC's "This Week."

Such questions will ensure acrimonious confirmation hearings and conservatives have long argued that such questions -- political "litmus tests," they call them -- are improper and undermine the independence of the federal judiciary.

Democrats also warned Mr. Bush to pick a "consensus" or a "moderate conservative" nominee -- a far cry from Mr. Bush's re-election campaign pledge to name a conservative to the high court similar to sitting Supreme Court Justices Antonin Scalia and Clarence Thomas.

Sen. Edward M. Kennedy, Massachusetts Democrat, defended his 1987 decision to attack then-federal Judge Robert H. Bork based on his political views, including the famous "Robert Bork's America" speech on the Senate floor. And he said he would do the same thing if Mr. Bush sends an similarly conservative nominee to replace Justice O'Connor.

"When the president sent Robert Bork to the Senate Judiciary Committee for nomination ... it was very clear that he was selected primarily because of his judicial philosophy," Mr. Kennedy said on ABC. "They made it, really, an issue there, and it became the issue before the Judiciary Committee and the country."

"Again, this is up to the president," he said. "If he wants to pick a judge, we want to be able to support him, but if he wants to have a fight about it, then that's going to be the case."

The notion of picking apart a nominee to the federal bench based on his personal opinions about political matters is out of bounds, conservatives say.

"It's asking them to basically run on a political platform," Sen. John Cornyn, Texas Republican, responded to Mr. Schumer yesterday.

Mr. Cornyn said it's fine to ask a nominee to opine on a settled case, but asking about the merits of such issues as abortion or affirmative action is akin to requiring nominees to "make promises to politicians about how they're going to vote should a case come before them."

Mr. Schumer said "the courts have been the protectors of individual rights since the Republic was founded" and it would be wrong "to put someone on the bench when you know nothing about their views on civil rights, on women's rights, on environmental rights and on everything else."

Another Judiciary Committee Democrat said his colleagues will filibuster a nominee they deem unacceptable.

The Fallout From O'Connor's Resignation (NYT)

By Claudia H. Deutsch

The New York Times, July 5, 2005

Few people would dispute the impact that Sandra Day O'Connor, in her 24 years on the Supreme Court, has had on advancing the rights of women and minorities to equal hiring and education opportunities and to a bias-free workplace.

But now that Justice O'Connor is leaving the court, will the pendulum swing back to give employers the right to hire and fire as they please, or even encourage them to dismantle voluntary affirmative action programs?

Neither business leaders nor minority advocates expect that to happen. Minorities and women, they note, make up an increasingly large part of the potential work force - and of the consumer base.

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"Sure, we worry that the balance will be tipped when it comes to court rulings affecting people of color, but we don't worry that industry will backtrack," said Harriet R. Michel, president of the Minority Supplier Development Council, which matches minority businesses with corporate customers. "The realities of the American marketplace are such that, if companies don't embrace supplier diversity, they are acting to the detriment of their bottom line."

The same holds true for hiring policies, said Theodore M. Shaw, president of the NAACP Legal Defense and Education Fund. "From a dollars-and-cents standpoint," he said, "it is no longer economically realistic for companies to be lily-white and male."

In fact, many business leaders feel they have lost a friend in Justice O'Connor.

"I'd love for her to be replaced with a clone," said Roderick M. Hills, a former chairman of the Securities and Exchange Commission and now a co-chair of the judicial selection committee of the Committee for Economic Development, a nonpartisan group of business and academic leaders based in Washington. "She had an understanding of acceptable business conduct that was tempered by a real respect for the law."

Justice O'Connor was the swing vote in Davis v. Monroe County Board of Education, a 1999 case that made a school responsible for preventing harassment of students by other students, a ruling with implications for workplace harassment.

She sided with the majority in 1983 when the court ruled that employers must give men and women equal retirement benefits, in a case called Norris v. Arizona Governing Committee. She again sided with the majority in 1986, on Meritor Bank v. Vinson, a case that made it illegal for companies to countenance sexual harassment in their workplaces.

After the announcement of Justice O'Connor's resignation on Friday, civil rights advocacy groups rushed to issue statements of concern and vowed to fight for a replacement equally friendly to their cause.

"She's been the key vote in race cases for more than 20 years," said Mr. Shaw of the NAACP Legal Defense and Education Fund. Jocelyn C. Frye, director of legal and public policy at the National Partnership for Women and Families, also feels the loss. "She made it clear, in all her votes, that affirmative action is an appropriate and lawful remedy if it is done right, and that sexual harassment must be remedied in any context," she said.

Some legal experts say her track record was less clear. "On civil rights issues, sometimes she got it really right, but sometimes she got it really wrong," said Abigail Thernstrom, vice chair of the United States Commission on Civil Rights, an independent federal agency, as well as a senior fellow at the Manhattan Institute, a New York-based research group.

Ms. Thernstrom applauded Justice O'Connor's stance in Shaw vs. Reno, a 1993 decision that prohibited North Carolina from implementing a redistricting plan that would effectively have created two districts populated primarily by blacks. But she insists that Justice O'Connor was wrong in Grutter v. Bollinger, the 2003 case that affirmed the University of Michigan Law School's right to take race into consideration in accepting applicants. "She neglected all of the opinions she had enunciated in cases like Shaw," Ms. Thernstrom said.

Justice O'Connor showed sensitivity to affirmative action in certain areas of employment and education, but she also balanced that with her suspicions about the use of race as a criteria for hiring and government contracting. In 1989, she authored a 5-4 opinion that struck down a program, used by Richmond, Va., to set aside a percentage of municipal contracts along racial lines. In the decision, she wrote that the government may use racial preferences in hiring or awarding contracts only if it is rectifying cases of proven past discrimination.

She rarely showed an antipathy to business. Indeed, her majority decision in Grutter v. Bollinger was hailed by minority rights and business groups alike.

The minority groups saw it as guaranteeing better access to higher education; corporations, many of which registered as friends of the court, said it both assured a pipeline of qualified talent and safeguarded the legality of their own internal diversity programs.

Justice O'Connor's impact on the business world was by no means confined to areas of racial and gender equality. Nor were her opinions consistently pro- or anti-business. She was in the majority in 2003 when the court upheld the law restricting the flow of corporate "soft money," or unregulated contributions, to political parties. Many executives at the time said they welcomed the decision because it relieved them of feeling obliged to make large contributions when asked to do so by candidates and party officials.

She won kudos from business groups when she wrote the majority opinion in Gade v. National Solid Wastes Management Association, a 1992 ruling which forbids states from enforcing stricter worker-safety standards than called for by the government, and in Feist Publications v. Rural Telephone Service Company, a 1991 ruling that said consumer addresses and phone numbers in telephone directories are not protected by copyright law, and thus can be used by direct marketers.

Some of her decisions pleased some business groups while alienating others. For example, 1997, in State Oil v. Kahn, Justice O'Connor wrote that there were circumstances under which price caps on products are not anticompetitive; it was a victory for manufacturers, but a defeat for retailers and wholesalers. She was, at times, a vocal dissenter when the court ruled

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against business interests. The court placed an upward limit on punitive damage awards only in 2003, in State Farm v. Campbell. Justice O'Connor had fought for such a limit for years.

"Business has lost its absolute best friend and most passionate advocate on the issue of limiting punitive damages," said Carter G. Phillips, a managing partner of the law firm Sidley Austin Brown & Wood.

Nor did Justice O'Connor march in lock step with civil rights advocates in areas of race and gender bias. In 1986, in Wygant v. Jackson Board of Education, she wrote the opinion that a school district must lay off teachers in order of seniority, even if that meant a disproportionate number of black teachers would lose their jobs.

"Hers was often a difficult vote to get, and she wrote many anti-affirmative action opinions," Mr. Shaw said, citing the Richmond, Va., case as a particular irritant. "But, in an increasingly conservative court, at least her vote was in play."

In Other News From The Middle, Some Shifts By Justice Kennedy (WP)

By Charles Lane, Washington Post Staff Writer

The Washington Post, July 5, 2005

All eyes were on Justice Sandra Day O'Connor after the Supreme Court wrapped up its term this week.

But while O'Connor and her centrist legacy may have been at the center of attention because of her surprise retirement announcement Friday, the center of power during the term was one chair to her left, where Justice Anthony M. Kennedy -- the court's other center-right swing voter -- sits.

In three crucial cases this term, Kennedy, a 1988 appointee of President Ronald Reagan, defected from the five-member right-of-center bloc that Chief Justice William H. Rehnquist nominally leads.

Kennedy joined with the court's liberals to abolish the death penalty for juvenile offenders, to give local governments a green light to take private property for economic development and to endorse a broad theory of federal regulatory power that denied states the right to override a federal law against homegrown medical marijuana.

O'Connor actually found herself in dissent in most of the court's big cases last term, voting to uphold the juvenile death penalty, to strike down Texas's display of the Ten Commandments, to forbid takings of private property for economic development and to uphold California's right to pass a medical marijuana law.

And she expressed that dissent in what was, for her, an unusually uncompromising tone; she seemed uninterested in keeping her options open for future cases, as she often did in the past.

In the marijuana case, for example, she accused the majority of "threaten[ing] to sweep all of productive human activity into federal regulatory reach."

In hindsight, this may have been a clue to her plans to retire. Referring to the property rights case, Richard J. Lazarus, a professor of law at Georgetown University, noted that it was very uncharacteristic of O'Connor. "It didn't read like an O'Connor opinion," he said. "It made me think she was in a different frame of mind."

For Kennedy's part, not only did he desert the conservative camp on crucial issues, he did so in spite of his past votes and writings on the court, which suggested that he might have come out the other way each time.

"What's up with Justice Kennedy?" Boston University law professor Randy Barnett asked at a forum on the recently concluded term sponsored by the American Constitution Society last week. "He's clearly crossed some kind of a Rubicon. That's the big news of this term."

Kennedy's rulings further angered conservative activists who were already upset with him because of his authorship of the court's opinion last year abolishing state laws against same-sex sodomy.

In a generally disappointing term for the right, some conservatives said the only bright spot in the court's Kennedy-supported leftward movement was that it will help them rally their base to urge President Bush to put a committed conservative on the court.

"As grievous as some of the rulings are," said Jan LaRue, chief counsel of Concerned Women for America, a conservative group that focuses on social issues, "they have the good effect of awakening more Americans to how important each vote on the court is."

There could be two vacancies to fill if Rehnquist, 80 and suffering from thyroid cancer, follows his old friend O'Connor into retirement.

Rehnquist seemed frail last Monday and struggled to speak clearly through a special valve in his throat where doctors performed surgery in October to help him breathe. He seemed in good spirits, however, cracking a joke about the lengthy list of dissenting and concurring opinions in one case.

Rehnquist was being a good sport at the end of a term in which his influence seemed to ebb along with his physical health.

Of the 24 cases decided by a vote of 5 to 4, the conservative coalition of Rehnquist, O'Connor, Kennedy, Antonin Scalia and Clarence Thomas held together in only five, according to statistics compiled by the law firm Goldstein & Howe.

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In the previous two terms, the conservative majority had held together in almost half of the 5 to 4 cases, the firm said.

Capital punishment, property rights, state sovereignty and more latitude for official expressions of religious sentiment have all been pet causes of the chief justice in his 33 years on the court. He has helped moved the court to the right on each of these issues during the past decade -- but found himself mostly in dissent on them this term.

Kennedy was the difference-maker in the death penalty case, writing the opinion for a five-member majority that found the country had formed a "national consensus" against executing offenders who were younger than 18 at the time of their crimes.

This implicitly repudiated a position Kennedy had taken in 1989, when he joined the court in upholding the practice. As recently as 2003, he had voted to reinstate a juvenile's death sentence that had been put on hold by an appeals court.

This time, he buttressed his argument with references to other countries' opposition to the juvenile death penalty, drawing fire from conservatives who saw him importing foreign law into the interpretation of the Constitution -- as he had previously done in striking down the sodomy laws.

Notably, Kennedy could have reached the same result in the death penalty case without making such references. "To add that separate section is an example of Kennedy's really declaring his independence from the conservative orthodoxy of originalism," Supreme Court litigator Paul Smith said at the American Constitution Society forum.

On property rights, Kennedy supplied a fifth vote to a four-member liberal bloc to uphold local governments' right to buy out private property when deemed necessary to promote broader economic development.

The property rights activists who brought the case had expected Kennedy's support, based in part on his generally pro-property-rights record on the court.

And in the medical marijuana case, Kennedy joined Scalia in breaking with a recent string of cases in which they and the court's other conservatives had struck down federal laws on the grounds that they exceeded Congress's power to regulate interstate commerce.

But whereas Scalia supplied a separate opinion explaining how his positions then and now could be reconciled, Kennedy simply cast his vote without further comment.

Even when Rehnquist had a majority including Kennedy -- as he did in upholding a six-foot stone monument of the Ten Commandments on the Texas Capitol grounds -- it was a shallow victory.

The fifth vote in his coalition came not from someone who agreed with his long-standing view that the commandments are generally permissible on government property, but from Justice Stephen G. Breyer, who accepted the monument on the much narrower basis that it had not aroused much controversy during its four-decade stay in Austin.

Court's Term A Turn Back To The Center (NYT)

By Linda Greenhouse

The New York Times, July 4, 2005

WASHINGTON, July 3 - Justice Sandra Day O'Connor's unexpected retirement announcement last week shifted public attention toward her legacy and the Supreme Court's future and away from the term that just concluded. But the term - apparently not the Rehnquist Court's last, after all - contained its share of notable developments that, taken together, cast a shadow of ambiguity over Chief Justice William H. Rehnquist's legacy.

The court's federalism revolution stalled, while the revival of property rights, which appeared to be taking off not long ago, crashed and burned on a riverbank in New London, Conn.

The court displayed a growing concern about the death penalty, with the majority suggesting that lower courts had taken the Supreme Court's impatience with prolonged appeals too far toward short-circuiting defendants' rights. The justices also gave broad interpretations to three federal antidiscrimination laws.

Justice Stephen G. Breyer displaced Justice O'Connor at the court's center of gravity, casting the fewest dissenting votes - 10, to Justice O'Connor's 11 - in the 74 cases that were decided with full opinions.

As the Rehnquist Court ended a 19th year and appeared poised, unexpectedly, to begin a 20th, it was almost as if a constitutional centripetal force had been at work in recent years, pulling the court back toward the middle in many areas of its docket, including federalism, affirmative action, religion and abortion. The result frustrated conservatives and raised the stakes for the appointment of Justice O'Connor's successor.

The court's six discrimination cases from this past term provide an example. Three were brought under the Constitution's guarantee of equal protection, and the others required an interpretation of three different federal statutes.

In all six cases, with Justice O'Connor in the majority in four, the court adopted a broader reading of the relevant provision, not necessarily handing victory to the particular individuals but keeping avenues of legal redress open for the future.

Beyond these case-specific trends, the voting patterns this term were unusual.

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In recent terms, the five most conservative members of the court, Chief Justice Rehnquist, Justice O'Connor, and Justices Antonin Scalia, Anthony M. Kennedy and Clarence Thomas, displayed a striking degree of cohesion. They voted together, for example, in half of the 18 5-to-4 decisions in the 2003-2004 term. In the past five terms, their alliance in the most closely divided cases ranged from a low of just over one-third of the cases in one term to a high of 70 percent of them in another.

But in the latest term, which began Oct. 4 and ended June 27, the five voted together in only 18 percent of the cases decided by five-member majorities, 4 out of 22. (Four of the 22 cases were decided by votes of 5 to 3, with the chief justice not participating.)

Although theories were available to explain votes that looked anomalous, some of the alignments turned heads. For example, Justices Scalia and Kennedy joined Justice Breyer and Justices John Paul Stevens, David H. Souter and Ruth Bader Ginsburg to reject the states' rights position in the California medical marijuana case. Justice Breyer provided the crucial fifth vote for Chief Justice Rehnquist's opinion upholding the Ten Commandments monument on the grounds of the Texas State Capitol.

In 48 split decisions this past term, Justices Ginsburg and Breyer, President Bill Clinton's two Supreme Court appointments (and the only two current justices to have been appointed by a Democratic president), were on opposite sides in 11. Justices Scalia and Thomas, who are often mistakenly viewed as ideologically inseparable, were on opposite sides in 12.

After their 11 years together, what has gotten into these nine justices?

Nelson Lund of the George Mason University School of Law, who was a law clerk for Justice O'Connor during the court's 1987 term, said in an interview that there was a tendency to blame her for outcomes that have disappointed Professor Lund's fellow conservatives. "But the easy explanations are not quite adequate," he said.

Pointing out that courts proceed incrementally, informed by precedent and by the facts of each case, Professor Lund continued: "There is a deep current of common-law thinking that pervades our legal system. Our courts rarely make a lot of big lurches. Usually when they make a big step, it's because people didn't realize how big a step it was, and then they pull back."

Kathleen M. Sullivan, a liberal legal scholar and former dean of Stanford Law School, offered a similar observation. The court's recent behavior may be "as much psychological as jurisprudential," she said in an interview.

Professor Sullivan said some of the term's more surprising outcomes may reflect the fact that the Supreme Court, its membership stable while the lower federal courts have had considerable turnover, is now by some measures to the left of some of the federal appeals courts.

She said some justices may have been alarmed to find that the appeals courts were carrying their opinions further than intended or were applying them in unanticipated ways. This, in turn, may explain why in several decisions this year, including rulings for defendants in death penalty cases, the Supreme Court did not articulate new legal principles so much as correct what it saw as erroneous lower court opinions, a role it usually avoids. "The middle justices have seen themselves as guardians of the court's integrity even at the price of inconsistency," Professor Sullivan said.

The term was something of a triumph for Justice Stevens, the longest-serving associate justice and a vigorous 85-year-old who has no plans to retire; in fact, this week he is interviewing applicants for clerkships for the court's term that begins in October 2006.

Of his several major opinions, by far the sweetest for him must have been his majority opinion in Gonzales v. Raich, declaring that federal authority trumped California's medical marijuana initiative. Justice Stevens, a Republican named to the court by President Gerald Ford and now arguably the most liberal justice, has been adamant in resisting the states' rights tilt of the court in a series of federalism cases. He also wrote for the majority in the eminent domain case, Kelo v. City of New London, and in an important age discrimination case, Smith v. City of Jackson.

Justice Stevens filed one particularly notable dissenting opinion during the term, in a case that prohibited states from discriminating against out-of-state wineries. In Justice Stevens' view, the intent of the 21st Amendment, adopted in 1933, was to give states free rein in regulating alcohol use and commerce within their borders. To support his argument, he drew on a resource no other justice had available: a memory of the repeal of Prohibition. "My understanding (and recollection) of the historical context reinforces my conviction" about the meaning of the amendment, he said.

Course corrections were made by justices across the ideological spectrum, even in areas of the docket not usually seen as lightning rods. For example, the court upheld the federal beef marketing program that finances the "Beef, it's what's for dinner" advertising campaign through assessments on cattle producers, even on those who object to paying.

A Supreme Court decision fours years earlier had found that a similar program amounted to compelled speech in violation of the First Amendment. The decision used language that, if taken to a logical conclusion, suggested a new constitutional basis for attacking a range of government programs, even taxation.

So in an opinion by Justice Scalia, who had joined the earlier decision, the court tacked back, shutting the door on that First Amendment theory before it could gain momentum. Chief Justice Rehnquist also changed sides.

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In the constant dynamic of stability and change inside the court, justices find different comfort levels. With Justice O'Connor's departure, change will now come, for the first time in 11 years, from outside the court as well.

Criminal Law and Sentencing

The court's continuing re-examination of the respective roles of judges and juries in criminal sentencing produced a transformation in federal guidelines.

The decision in United States v. Booker, No. 04-104, was really two separate 5-to-4 opinions supported by two different coalitions of justices. First, Justices Stevens, Scalia, Souter, Thomas and Ginsburg held that the federal sentencing guidelines were unconstitutional because they gave judges power that, under the Sixth Amendment's right to a trial by jury, belonged to the jurors - namely, the power to make the factual findings that determine the sentence.

A second coalition, composed of Chief Justice Rehnquist and Justices Breyer, Kennedy, O'Connor and Ginsburg, then ruled that the problem could be fixed by making the guidelines advisory rather than mandatory, restoring to federal judges some of the discretion that Congress had taken away 21 years earlier.

In another case, the court ruled 5 to 4 that the Constitution categorically bars capital punishment for crimes committed before the age of 18. Justice Kennedy's opinion in the case, Roper v. Simmons, No. 03-633, overturned a 1989 precedent that had set the age at 16. The Roper decision also concluded that the American public, as well as the world, had turned against the death penalty for juveniles. Justices Scalia, Thomas and O'Connor dissented, along with Chief Justice Rehnquist.

For only the third time in 20 years, the court overturned a death sentence on the ground that the defendant had received a constitutionally inadequate defense. Justice Souter's 5-to-4 opinion in Rompilla v. Beard, No. 04-5462, was joined by Justices Stevens, Ginsburg, Breyer and O'Connor.

In Deck v. Missouri, No. 04-5293, the court ruled 7 to 2 that it is unconstitutional to use shackles to restrain a prisoner during a death penalty sentencing hearing unless there is a particular reason for doing so. Justice Breyer said for the majority that shackling was inherently prejudicial and required "adequate justification." Justices Thomas and Scalia dissented.

The court also ruled that in making a routine traffic stop, the police can allow a trained dog to sniff the car for drugs without the need for any particular suspicion of a narcotics violation. Justices Souter and Ginsburg dissented in the case, Illinois v. Caballes, No. 03-923, and the chief justice did not vote.

In Castle Rock v. Gonzales, No. 04-278, the court held that the police do not have a constitutional duty to enforce a court-issued domestic order of protection. The 7-to-2 decision overturned an appeals court ruling that allowed a woman to sue a Colorado police department for failing to take action after her estranged husband violated a restraining order by kidnapping their three daughters, whom he then murdered.

The mandatory arrest language on the order could not displace the police department's ordinary exercise of discretion, the court held in an opinion by Justice Scalia, over the dissenting votes of Justices Stevens and Ginsburg.

Property Rights

In what was perhaps the term's most disputed decision, the court ruled that fostering economic development is an appropriate use of the government's power of eminent domain. The 5-to-4 decision in Kelo v. City of New London, No. 04-108, upheld a plan in the economically depressed Connecticut city to replace an old residential neighborhood with office space and a conference hotel. The majority opinion by Justice Stevens was joined by Justices Kennedy, Souter, Ginsburg and Breyer.

The court also unanimously upheld Hawaii's rent-control law for gasoline stations, rejecting the oil companies' argument that limiting their rate of return amounted to an unconstitutional "taking" of private property. The case was Lingle v. Chevron U.S.A. Inc., No. 04-163.

Religion

Two decisions on government display of the Ten Commandments looked in opposite directions, with only Justice Breyer joining the majority in each of the 5-to-4 rulings.

In Van Orden v. Perry, No. 03-1500, the court found that the display of a six-foot-high Ten Commandments monument on the grounds of the Texas State Capitol did not amount to an unconstitutional "establishment" of religion. Chief Justice Rehnquist wrote the opinion, joined by Justices Breyer, Kennedy, Scalia and Thomas.

In McCreary County v. American Civil Liberties Union, No. 03-1693, the court held that the framed display of the Ten Commandments on the walls of two Kentucky county courthouses, although surrounded by other texts of historical interest and secular content, was unconstitutional. Justices Souter, O'Connor, Ginsburg and Stevens, along with Justice Breyer, voted in the majority.

Also, the court ruled unanimously that a new federal law, the Religious Land Use and Institutionalized Persons Act, does not violate the separation of church and state in requiring prison officials to meet inmates' religious needs. Justice Ginsburg's opinion in Cutter v. Wilkinson, No. 03-9877, warned, however, that prison security remained a "compelling state interest" and that demonstrated problems in accommodating inmates' requests would be resolved in favor of prison officials.

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Discrimination

The federal law that bars sex discrimination in schools and colleges also prohibits school officials from retaliating against those who bring complaints of such discrimination, the court ruled in Jackson v. Birmingham Board of Education, No. 02-1672. The 5-to-4 decision expanded the scope of the law known as Title IX to include protection for whistle-blowers. Justice O'Connor's majority opinion was joined by Justices Stevens, Souter, Ginsburg and Breyer.

Also, employees who sue for age discrimination do not have to prove that the discrimination was intentional, the court ruled. The 5-to-3 decision in Smith v. City of Jackson, No. 03-1160, applied to the Age Discrimination in Employment Act, the "disparate impact" theory of liability long familiar under the laws against race and sex discrimination. Employees need not produce a smoking gun, but can win by showing that a policy has the effect of discriminating against older workers, regardless of an employer's motivation. The dissenters were Justices Thomas, Kennedy, and O'Connor. Chief Justice Rehnquist did not participate.

In Spector v. Norwegian Cruise Line Ltd., No. 03-1388, the court ruled 6 to 3 that the Americans With Disabilities Act protects the rights of passengers who sail on cruise ships that call at American ports, even ships that fly under foreign flags, as most do. However, ships will not be required to make major structural alterations. The dissenters were Justices Scalia and O'Connor and Chief Justice Rehnquist.

The court also overturned a 20-year-old murder conviction in Texas on the ground that the jury selection had been infected by racial discrimination. The 6-to-3 decision in Miller-El v. Dretke, No. 03-9659, was the court's second ruling on behalf of the death row inmate, Thomas Miller-El. The dissenters were Justices Thomas and Scalia and Chief Justice Rehnquist.

In another case, the court ruled that a California prison policy that temporarily segregates new or newly transferred inmates by race, for the stated purpose of preventing gang violence, was constitutionally suspect and not entitled to the judicial deference that is usually accorded to prison administration policies. The vote in Johnson v. California, No. 03-636, was 5 to 3, with Chief Justice Rehnquist not participating. Justice Stevens said in his dissent that the policy was flatly unconstitutional. Justices Scalia and Thomas, dissenting on different grounds, said the court should have deferred to prison officials.

Federalism

Reasserting federal authority, the court upheld the power of Congress to prohibit and prosecute the possession and use of marijuana, even in California and the 10 other states that allowed it for medical purposes. A federal appeals court had ruled that the noncommercial cultivation and use of marijuana that did not cross state lines fell outside Congress's constitutional authority to regulate interstate commerce.

The vote in Gonzales v. Raich, No. 03-1454, was 6 to 3. The surprise was not that Justices Stevens, Ginsburg, Souter, and Breyer voted with the majority, but that Justices Kennedy and Scalia defected from their usual states' rights allies to vote to uphold federal power.

Rejecting state protectionism in the national wine market, the court overturned liquor laws in New York and Michigan and ruled that states that allow in-state wineries to ship directly to consumers must give the same privilege to out-of-state wineries. The vote in Granholm v. Heald, No. 03-1116, was 5 to 4, with Justices Kennedy, Scalia, Souter, Ginsburg and Breyer in the majority.

The court rejected a claim of federal pre-emption and allowed suits to go forward in state court claiming negligence in the design and manufacture of pesticides and herbicides. These products are regulated under a federal law, the Federal Insecticide, Fungicide and Rodenticide Act, and the Bush administration had argued that this statute, which does not allow private lawsuits in federal court, also implicitly blocked the states from opening their courts to such suits. The vote in Bates v. Dow AgroSciences L.L.C., No. 03-388, was 7 to 2, with Justices Thomas and Scalia dissenting.

Immigration

The court ruled unanimously that driving under the influence of alcohol, even when serious injury results, is not a "crime of violence" for which an immigrant should face automatic deportation. Chief Justice Rehnquist wrote the opinion in Leocal v. Ashcroft, No. 03-583, which rejected the Bush administration's interpretation of federal immigration law.

Meanwhile, Cubans who entered the United States during the Mariel boatlift in 1980 and subsequently committed crimes cannot be subjected to open-ended detention, the court ruled in a 7-to-2 decision. Although these Cubans, as many as 1,000 of the 125,000 who arrived in the boatlift, are now deportable, Cuba will not take them back. They may not be held for more than six months without a special reason, Justice Scalia said for the court in Clark v. Martinez, No. 03-878. Justice Thomas and Chief Justice Rehnquist dissented.

Immigrants from Somalia may be deported despite the lack of a centrally functioning government in Somalia to receive them, the court ruled 5 to 4 in Jama v. Immigration and Customs Enforcement, No. 03-674. The dissenters were Justices Souter, Stevens, Ginsburg and Breyer.

Business

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The court unanimously overturned the criminal conviction of the accounting firm Arthur Andersen for shredding documents related to its work for Enron as that company was collapsing in 2001. Chief Justice Rehnquist said for the majority in Arthur Andersen v. United States, No. 04-368, that the judge's instructions to the jury failed to require the necessary proof that the firm knew its actions were wrong. The victory came too late for Andersen, which lost its clients and its licenses and now has 200 employees, down from 28,000, wrapping up the firm's affairs.

In another unanimous opinion, the court reinstated a copyright-infringement suit by Hollywood studios and the music industry against two file-sharing services whose software enables users to download copyrighted movies and songs.

Overturning an appeals court ruling in favor of the services, Grokster and StreamCast Networks, the court held that a company shown to induce copyright infringement can be liable even if its products also have lawful uses. While sending the case, Metro-Goldwyn-Mayer Studios v. Grokster Ltd., No. 04-480, back to the lower courts, the justices made it clear that they believed the plaintiffs had presented ample evidence of inducement.

Upholding an interpretation by the Federal Communications Commission, the court ruled that cable companies do not have to allow rivals to offer high-speed Internet access over their systems. The 6-to-3 decision in National Cable & Telecommunications Association v. Brand X Internet Services, No. 04-277, was a victory for cable in the competition to provide broadband service. Justices Scalia, Souter and Ginsburg dissented.

In another case, the court ruled unanimously that federal bankruptcy law shields individual retirement accounts from creditors. The decision in Rousey v. Jacoway, No. 03-1407, extended the protection already provided to 401(k) accounts and company pension plans.

The court also raised the bar for investors bringing securities fraud cases. The mere accusation that a company's misrepresentations inflated the stock price is an insufficient basis for a suit, the court ruled unanimously in Dura Pharmaceuticals Inc. v. Broudo, No. 03-932. Instead, investors must claim at the outset that it was the artificially high stock price that actually caused their losses.

High Court's Junior Member A Power Broker (AP-Y2)

By Gina Holland, Associated Press Writer

AP2, July 5, 2005

The power broker at the Supreme Court this term was the "junior justice," Stephen Breyer. He was on the winning side in the 10 biggest cases of the year, covering capital punishment, medical marijuana, property rights and Ten Commandments displays.

By contrast, Chief Justice William H. Rehnquist was in the majority only three times as his conservative bloc splintered again and again.

Of course, the top news from the court was the retirement of Justice Sandra Day O'Connor. She announced on Friday that she would leave as soon as President Bush's nominee is confirmed.

It is the first vacancy on the court since 1994, the longest stretch since the early 1800s.

Bush could have a second seat to fill should the 80-year-old Rehnquist, who has thyroid cancer, decide to step down, too. The widower announced his illness in October and his future on the court is very much in doubt.

O'Connor's pending departure means Breyer finally will shed the "junior justice" title he has held for 11 years. As the newest member of the court, he is saddled with such menial duties as answering the door when justices hold weekly private meetings.

But there was nothing back bench about the performance by the Clinton appointee this session.

The 66-year-old former college professor and congressional lawyer was a pivotal vote in two cases that set a new standard for religious displays in government buildings.

Breyer, known for his amiable style, also is credited with working out a compromise that salvaged federal sentencing guidelines. It was an important decision because about 64,000 people are sentenced in federal courts each year.

"He has such a well-developed sense of diplomacy that it's not surprising to see his long-term moderate vision is now being embraced by the court," said Georgetown University law professor Neal Katyal, a former Breyer law clerk.

Among Breyer's surprises this term was his critical role in two Ten Commandments cases decided on the final day of the term. Together, the rulings made clear that overtly religious displays are unconstitutional, but historic ones are allowed. Breyer was the only justice in the majority on both.

"He has become the most pragmatic person on the court. He has a way of taking the temperature of society," said Marci Hamilton, a former O'Connor clerk whose new book is "God vs. The Gavel," about courts and religion.

Overall this session, the court ruled in about 80 cases; one-third of them were resolved on 5-4 votes.

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Usually the five conservatives, sometimes known as the "Rehnquist five," vote together in about half of the 5-4 decisions. This year they were together in just five such rulings.

O'Connor and Anthony Kennedy, both appointed by President Reagan, were not the swing voters they usually are on sharply divided issues.

"Almost all of the court's members found themselves in unusual alignments as novel questions came before them," said Thomas Goldstein, a lawyer who argues before the court and tracks voting trends.

Rehnquist disagreed with rulings that made it unconstitutional to execute juvenile murderers; said federal drug agents did not have to honor state medical marijuana laws; barred a Ten Commandments display in Kentucky; and empowered local governments to seize people's homes for use for projects that will generate tax revenue.

"This term confirms that Chief Justice Rehnquist's legacy on the court is more in the nature of a correction than a revolution," said Richard Garnett, a Notre Dame law professor and former Rehnquist clerk.

Breyer filed 11 dissents, although none in major cases. He read a dissent from the bench in one case, to demonstrate his dissatisfaction when the court ruled against a Tennessee death row inmate who wanted to pursue more appeals.

Overall, however, the court was sympathetic to claims that inmates had been treated unfairly. The court overturned the death sentences of four inmates. In a fifth case, the justices ruled that states cannot put to death killers who were not at least 18-years-old at the time of the crime.

Playing a pivotal role in the capital punishment cases, and others, was the court's oldest member, 85-year-old John Paul Stevens. Stevens presided on the bench while Rehnquist was receiving radiation and chemotherapy treatments. Rehnquist was off the bench for five months. He voted in most of the cases, however.

Stevens, on the court since 1975, had taken the unusual step of calling for an end to juvenile executions in 2002, but he did not have the votes to accomplish it. He called the executions a "relic of the past" and "inconsistent with evolving standards of decency in a civilized society." This time, Stevens prevailed with the vote of Kennedy.

"People forget that Justice Stevens has also been on the court a long time, building a legacy of his own," Garnett said.

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On the Net:

Supreme Court: http://www.supremecourtus.gov/

Political Calculus Of Replacing O'Connor (LEGALT)

By T.R. Goldman, Legal Times

Legal Times, July 4, 2005

Justice Sandra Day O'Connor's surprise retirement leaves President George W. Bush in a bind: Can he possibly replace the first woman on the Supreme Court with a white male?

After all, prior to O'Connor's July 1 announcement, most of the smart money for a potential high court nominee was on middle-aged white judges such as John Roberts of the U.S. Court of Appeals for the D.C. Circuit and J. Michael Luttig of the 4th Circuit. But that was to replace Chief Justice William Rehnquist, who, at least for the moment, is staying.

"Do you replace O'Connor with a woman, or with a Hispanic, so you have a new first?" says American University law professor Stephen Wermiel. "The question is, who are you trying to appease? And are you looking for a fight — or looking to avoid a fight?"

Competing interest groups lost no time in laying down markers, and rallying their troops. Hispanic activists, for one, and their interest groups say the opportunity is ripe for Bush to name the nation's first Hispanic justice. Nominating a Hispanic would also help the Republican Party woo a key and growing constituency that it has actively courted.

"It's been 10 years now since we've had a vacancy, and a lot has changed," notes Mickey Ibarra, a former Clinton administration official who now has his own lobby shop. "Hispanics are becoming the largest minority, and whether it's for a replacement of Rehnquist or O'Connor, consideration of a Hispanic seems like it has to be a must."

But the person some see as the leading Hispanic candidate, Attorney General Alberto Gonzales, is viewed as flatly unacceptable by the hard-line conservative and evangelical groups that take credit for Bush's presidential re-election victory.

"He's not an ideological conservative; it's not a world he comes from," notes one senior Republican Senate staffer. "And we don't believe he has convictions he will stand by. As one former Supreme Court clerk said to me, 'When the most charming man in Washington, [Justice] Stephen Breyer, comes calling, will Gonzales stand up for his beliefs?"

That may make someone like Judge Emilio Garza of the U.S. Court of Appeals for the 5th Circuit a more likely candidate. Garza is viewed as a passionate opponent of Roe v. Wade. And if the White House seeks a minority candidate, but not a Hispanic one, it could turn to former Deputy Attorney General Larry Thompson, now general counsel of PepsiCo.

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There is also the possibility of nominating a female justice to replace O'Connor. Here, the most likely candidates are two judges on the 5th Circuit — Edith Jones, who was appointed by President Ronald Reagan, and Edith Brown Clement, a 2001 Bush appointee.

Jones is considered by conservatives to be ideologically sound. But her lengthy paper trail and outspoken manner would give opponents plenty of ammunition.

In O'Connor's case, it isn't as simple as replacing a woman with another woman, or a minority with a minority. As the Court's most consistent swing vote, O'Connor's replacement could have a far greater impact on future Supreme Court decisions — about affirmative action, federalism, and abortion, for example — than Rehnquist's replacement would have.

"The significance could not be greater," says Elliot Mincberg, general counsel of People for the American Way, one of the leading liberal interest groups in the upcoming Supreme Court fight.

"It's not a question of being merely conservative," said Mincberg, about a possible O'Connor replacement. "It's a question of [a nominee] being so far to the right as to literally flip the Court in a whole range of areas."

And some interest groups are counting on that.

"We expect the president to be true to his word, as he has been with his appellate court nominations, and to name someone in the likeness of [Justices Antonin] Scalia and [Clarence] Thomas," says Jan LaRue, the chief counsel of Concerned Women for America, a conservative public policy women's organization, which claims 500,000 members.

Of course, Bush always retains the possibility of replacing O'Connor with one of several appellate court judges who had been considered strong possibilities if Rehnquist resigned, such as Roberts, Luttig, or Michael McConnell of the 10th Circuit.

"I think the smart move is to pick John Roberts," says American University's Wermiel. "I think Roberts will play very well in the nominations process. He's polished, accomplished, easygoing, and not intimidating."

If the White House wants a fight, it will find one. And if Bush does name a far-right ideological conservative, like Luttig or Jones or Garza, Senate Democrats would almost certainly filibuster the nominee.

In that case, the Senate would be right back to the ugly precipice where it found itself this spring, with Senate Majority Leader Bill Frist (R-Tenn.) threatening to use a parliamentary maneuver to eliminate the judicial filibuster.

That crisis was averted, at least for the time being, by a May 23 deal cut by seven moderate Democrats and seven moderate Republicans. The Democrats agreed not to filibuster a nominee, and the Republicans agreed not to eliminate the judicial filibuster, except in "extraordinary circumstances."

The White House may also have to appease the chairman of the Senate Judiciary Committee, Arlen Specter (R-Pa.), whose chairmanship was almost derailed earlier this year after his comments that a Supreme Court nominee who opposed abortion rights was not likely to win Senate confirmation.

"The stakes have changed," Wermiel notes. "Rehnquist was just going to be a dress rehearsal for this moment, for the swing vacancy. But we skipped the dress rehearsal and went to opening night."

Sean Rushton, the executive director of the Committee for Justice, a leading conservative judicial nominations interest group, says Bush should focus on substance, not ethnicity or gender.

"Find someone who fits the bill ideologically," he says. "But all things being equal, why not go with a woman or a Hispanic?"

Of course, Bush could always nominate a so-called mainstream conservative, one whom the Democrats could find very few reasons to filibuster. Indeed, at a brief Rose Garden announcement about O'Connor's resignation Friday, he spoke about wanting a "dignified process . . . characterized by fair treatment, a fair hearing and a fair vote."

Seth Rosenthal, the legal director of the liberal Alliance for Justice, notes that one way the president could avoid a knock-down, drag-out fight is to name one of the Republican-appointed "consensus nominees" recently identified by the Alliance. The four are: Judge Stanley Marcus of the 11th Circuit; Michael Mukasey, a federal trial judge in New York; Judge Edward Prado of the 5th Circuit; and Judge Ann Williams of the 7th Circuit.

O'Connor, Rosenthal says, was just such a selection.

"She's certainly a conservative on a host of issues, on states' rights, criminal justice issues, you name it," he says. "But she did not bring an ideological agenda to the bench. She decided things on a case-by-case basis. She decided things in an incremental way."

T.R. Goldman can be reached at tgoldman@alm.com. Reporter Anna Palmer contributed to this report.

Fred Barnes column: The Two Roads (WEEKSTAN)

Weekly Standard, July 4, 2005

THROUGH A CAMPAIGN AIDE, Bush answered a question about the kind of Supreme Court justice he admired. The answer was Antonin Scalia, a conservative. That was in 1999, as Bush was beginning his race for the presidency. He was asked

a similar question later that year by Tim Russert on Meet the Press. The answer was the same--Scalia. Now jump to the summer of 2003 as Bush is preparing for his reelection campaign. Meeting with advisers at his ranch in Crawford, Texas, Bush said one of his top priorities is to create a diverse Republican party with many more Hispanics.

Bush's comments point to the two directions he must choose between in selecting a nominee to replace Sandra Day O'Connor on the Supreme Court. The first--the Scalia direction--would be to pick a respected conservative jurist and thus move the ideological tilt of the court to the right. The second would be to choose Attorney General Alberto Gonzales or another Hispanic, a step unlikely to change the court's current ideological posture.

The first would be in sync with the thrust of Bush's presidency. As Bush and his aides never tire of telling everyone, he came to the White House to do big things and achieve important changes. And transforming the Supreme Court into a more conservative body and shrinking the role of unelected judges in American life is one of his major goals.

Bush also prides himself on not doing the easy or politically popular thing. He could have sought minor adjustments in Social Security

to improve its solvency, but he chose to promote total reform. After routing al Qaeda terrorists in Afghanistan, he could have stopped and gone no further, preserving his high poll rating. Instead he deposed Saddam Hussein in Iraq.

Nominating a full-blown judicial conservative--there are plenty to choose from--would surely provoke a bitter confirmation struggle in the Senate. He might even lose the fight. But all of Bush's accomplishments have come over the strong opposition of Democrats or have drawn sharp criticism from them. This includes tax cuts, education reform, creation of a Homeland Security Department, and Iraq. Bush's motto, if he had one, should be no pain, no gain.

Placing another conservative on the high court, and perhaps several more if other resignations occur, would give Bush a lasting and extraordinarily significant legacy. And by nudging the court to the right Bush would merely be counteracting what President Clinton did with his two Supreme Court nominations. Clinton filled vacancies on the court with liberals Ruth Bader Ginsburg and Stephen Breyer. Each replaced a more conservative justice, Harry Blackmun and Byron White, respectively.

Naming Gonzales or another Hispanic to the high court would be in line with Bush's political goal of enlarging the Republican party. And picking Gonzales might indeed help in that regard. He would be the first Hispanic justice. A Gonzales nomination would also be personally satisfying to Bush. "The president loves Alberto Gonzales and trusts him," Texas Senator John Cornyn, a friend of both, said. Gonzales was Bush's White House counsel before becoming attorney general.

But there's a difference between trying to improve the position of a political party and seizing an historic opportunity to change both the role and the rulings of the federal judiciary. The first is a decision any president or politician would make. Given the furor the second could provoke, it's a decision only a few presidents would make. My guess is Bush is one of them.

Fred Barnes is executive editor of The Weekly Standard.

Cool Off Rhetoric On Court, Bush Says (USAT)

By Judy Keen

USA Today, July 5, 2005

WASHINGTON — President Bush said Monday that special-interest groups running TV ads and mobilizing supporters for a fight over his choice of a successor to Supreme Court Justice Sandra Day O'Connor should "tone down the heated rhetoric." He forcefully defended Attorney General Alberto Gonzales, a prospect criticized by conservatives.

"Al Gonzales is a great friend of mine," Bush said in a phone interview. "When a friend gets attacked, I don't like it." (Related item: Q-and-A excerpts)

Conservative groups have criticized Gonzales, who, as a member of the Texas Supreme Court, backed exceptions to a state law requiring teenagers to notify a parent before getting an abortion.

In his first response to questions about the vacancy since O'Connor's surprise announcement Friday, Bush said he won't rush a decision but wants her successor to be on the bench when the Supreme Court resumes work in October.

He said he's considering — "a good-sized" number of prospects. "I will begin to hone in on a handful of candidates over the course of the next few weeks," he said. Then, he said, he will interview them himself.

Asked whether women and minorities are on his list, Bush said, "Of course there's a diverse group of citizens." He hasn't identified any potential nominees. Gonzales is Hispanic; the court has never had a Hispanic member.

Kay Daly of the Coalition for a Fair Judiciary, a coalition of conservative organizations, said her group is split on Gonzales. She said some think Gonzales' record "does not fit" the conservative mold of Justices Antonin Scalia and Clarence Thomas, whom Bush has repeatedly cited as models for his choice of a nominee to the high court.

O'Connor's resignation announcement was a surprise to the White House. Chief Justice William Rehnquist, who is battling cancer, was considered the most likely to depart.

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O'Connor's decision immediately launched an aggressive effort by interest groups to influence Bush's choice of a replacement.

People for the American Way, a liberal group, is running a TV ad asking whether Bush will "follow history, choosing a judge who protects our fundamental rights and freedoms," or "divide the country." Progress for America, a conservative group, has sent 8.7 million e-mails telling supporters to ignore Democrats' attacks.

Richard Davis, a political science professor at Brigham Young University and author of Electing Justice: Fixing the Supreme Court Nomination Process, said the coming weeks will "look like a presidential campaign."

At stake are divisive issues such as abortion rights and affirmative action. Bush, who has said Americans aren't ready to ban abortion, declined to say whether he will name a justice who would vote to outlaw it. "As I have repeatedly said, I do not believe in a litmus test for my judges," he said.

Bush said lobbying won't affect him: "I feel no pressure except the pressure to put somebody on the bench who will bring dignity to the office, somebody who's got the intellect necessary to do the job, somebody of great integrity and somebody who will faithfully interpret the Constitution."

He cautioned against a partisan war. "I would hope that the groups involved in this process — the special-interest groups — will help tone down the heated rhetoric and focus on the nominee's credentials and philosophy," he said.

The Senate, which has been fighting for months about his nominees to federal courts, can "get rid of the bitterness and rancor that seem to have been prevalent in a lot of the recent debates," he said.

Q-and-A: Bush Wants Justice Of 'Great Integrity And Intellect' (USAT)

USA Today, July 5, 2005

President Bush spoke Monday with USA TODAY's Judy Keen about filling the vacancy on the Supreme Court. These excerpts have been edited for length. (Related item: Bush: 'Tone down' rhetoric)

Q: Do you want to move the Supreme Court in a more conservative direction?

A: This is a responsibility I take very seriously, and I have indicated in the course of two campaigns that I intend to nominate a person with great integrity and intellect and experience who will faithfully interpret the Constitution.

Q: Do you believe the court is not conservative enough?

A: I'm making the pick based upon the criterion I just outlined. I'm looking at a wide range of candidates, people from different walks of life. I will begin to hone in on a handful of candidates over the course of the next few weeks and then will submit my nomination. But I am looking for an individual able to do the job, of course, who will bring great judgment to the bench and one who has the philosophy that I just outlined.

Q: Are you considering waiting until August to announce your choice so opponents don't have a full month to attack while Congress is recessed?

A: I have reached out to members of the Senate and will continue to do so. And then there will be a period of time in which I myself will sit down with the prospective nominees. But I was very serious when I said we need to have this person on the bench prior to the beginning of the next session.

Q: Would you like the Senate to return in August to deal with the nomination?

A: Part of the consultative process with the Senate, of course, will be to determine how best to get a speedy resolution to the nomination. I look forward to consulting with the Senate to make sure that the dialogue and tone of the debate is one that will bring credit to the country. This is a good opportunity for the Senate to get rid of the bitterness and rancor that seem to have been prevalent in a lot of the recent debates.

Q: Should the Senate's agreement not to block votes on judicial nominees except under "extraordinary circumstances" apply?

A: I think all my judges should get an up or down vote on the floor of the Senate. I think there ought to be a good, fair hearing. I know there will be. I hope the language and tone of the debate is one that is uplifting. I would hope that the groups involved in this process — the special-interest groups — will help tone down the heated rhetoric and focus on the nominee's credentials and philosophy.

Q: You said Friday that you want a dignified process, but already interest groups are working hard to pressure you.

A: I feel no pressure except the pressure to put somebody on the bench who will bring dignity to the office, somebody who's got the intellect necessary to do the job, somebody of great integrity and somebody who will faithfully interpret the Constitution and laws of the country.

Q: What do you make of the tone of the dialogue already and in particular the attacks on Attorney General Alberto Gonzales, who's considered a possible nominee?

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A: My call to the senators who will be leading the debate on either side is to help elevate this rhetoric so that the country will take a prideful look at the process, recognize there will be differences of opinion but that we can step back after it's over and say, "That's the way we ought to conduct a debate on something as serious as a Supreme Court nominee."

Q: Do you think the attacks on Gonzales are out of line?

A: Al Gonzales is a great friend of mine. I'm the kind of person, when a friend gets attacked, I don't like it. We're lucky to have him as the attorney general, and I'm lucky to have him as a friend.

Q: How many people are on your list? Does it include women and minorities?

A: I'm considering a pretty good-sized group of people right now, and of course, there's a diverse group of citizens.

Q: Do you feel any obligation to appoint a woman?

A: I feel an obligation to make sure I reach out to all our society, to people from different parts of our society. It's very important for the people to know that I'm interested in diversity on the court, and I'm also interested in making sure that the person I pick, regardless of who he or she is and regardless of the background of that person, is a person of great integrity, somebody who can do the job.

Q: You have said the American people are not ready for a change in Roe v. Wade. Do you still believe that, or is this your chance to overturn it?

A: As I have repeatedly said, I do not believe in a litmus test for my judges.

Bush Unlikely To Give Lawmakers Much Say In His Pick For Justice (WSJ)

By John D. Mckinnon And Christopher Cooper

The Wall Street Journal, July 5, 2005

WASHINGTON -- Senate moderates in both parties are demanding that President Bush seek their advice before nominating a successor to retiring Supreme Court Justice Sandra Day O'Connor.

But Mr. Bush's track record -- and a nearly unbroken record of presidential precedent -- suggest that in the end, lawmakers will have little say in whom the president nominates.

Within minutes of the announcement that Justice O'Connor was retiring, the White House said it planned to confer with Republicans and Democrats before choosing her successor. The White House made much of Mr. Bush's conversation last week with Senate Minority Leader Harry Reid, when the two men discussed potential nominees to the Supreme Court shortly before Justice O'Connor's retirement was announced.

"I would expect that he would be talking to the majority leader, the minority leader, the ranking members of the Judiciary Committee," presidential spokesman Scott McClellan said of Mr. Bush. "I think this will be an even more thorough process" of conferring between the White House and Congress than usual on nominations, Mr. McClellan added.

Through the Motions

But neither the Bush White House's operating style nor historical precedent suggests that those conversations will have much effect. "Bush will pick whomever he wants," said David Yalof, a University of Connecticut professor and author of a book about the Supreme Court nomination process. Mr. Bush might go through the motions with influential Senate moderates, Mr. Yalof added, but "if it could even be described as input, it's not going to be influence."

The issue of consultation sprang to the fore early in June as tensions in the Senate over judicial nominations boiled over. After Democratic threats to filibuster several of Mr. Bush's appellate-court picks, Republican conservatives sought to rewrite Senate rules and do away with the procedural device for blocking nominations. Ultimately, a group of 14 moderates from both parties reached an agreement among themselves to push through some of Mr. Bush's judicial nominees and limit filibusters to "extraordinary circumstances."

One section of the agreement called on the president to consult with Democrats and Republicans "prior to submitting a judicial nomination to the Senate for consideration." The language was negotiated by Robert Byrd (D., W.Va.) and John Warner (R., Va.), two of the Senate's veteran deal makers.

"I hope the president will...allow us to provide real advice," said Sen. Mary Landrieu, a Louisiana Democrat.

In an apparent effort to address the concern, Mr. Bush telephoned important senators of both parties Friday, not long after Justice O'Connor's announcement. His 14-minute call to Vermont Sen. Patrick Leahy, the top Democrat on the Judiciary Committee, interrupted the senator's own news conference.

Advice in Atrophy

If such gestures result in true collaboration it will mark a turnaround for the presidential appointment process.

"Traditionally that's just not been done that much," said John Maltese, a University of Georgia professor who wrote a book about the confirmation process. While the Constitution calls for the president to nominate and appoint justices with the "advice and consent" of the Senate, the "advice" part of the clause "has atrophied," he said.

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Even President Lyndon Johnson, who had been Senate Democratic majority leader, had only perfunctory consultations with his former colleagues regarding his Supreme Court picks, according to Mr. Yalof.

If anything, the lack of consultation has grown more pronounced in recent decades, experts said, as the power of the presidency has increased in relation to Congress, and as the political stakes involved in federal court decisions have grown. During the 1970s and 1980s, Presidents Carter and Reagan fueled tension with Capitol Hill by taking steps to reduce senatorial influence over the selection of trial and appeals-court judges.

Clinton an Exception

The trend was interrupted during President Clinton's administration, when he consulted closely with Republican Sen. Orrin Hatch of Utah in the president's Supreme Court picks. Sen. Hatch advised Mr. Clinton that one possible candidate, Bruce Babbitt, was unlikely to pass muster with the Senate and Mr. Babbitt was dropped from consideration.

Several experts said they believe Mr. Clinton focused on other issues and didn't want to spend much political capital on the Supreme Court. Though he made two appointments to the high court, replacing moderates Byron White and Harry Blackmun, Mr. Clinton also had little chance of changing the balance of power.

Mr. Bush, by contrast, has a chance to tip the balance on a court that routinely casts 5-4 votes on the most politically charged issues, often with Justice O'Connor serving as the swing.

The president has faced criticism that he doesn't even consult with his own party when pushing nominations -- or other legislative business -- through Congress. The nomination of John Bolton, Mr. Bush's choice for United Nations ambassador, has been stalled twice this year by Democrats and Republicans who have misgivings about Mr. Bolton's suitability for the job.

Some Republicans say the Gang of 14 agreement may force Mr. Bush to be more conciliatory in his choice of a nominee. But moderate Sen. Arlen Specter (R., Pa.), chairman of the Judiciary Committee, said that he wouldn't presume to impose his opinions on the president. The agreement's vague language on consultation has some Democrats saying it's unlikely to spark a successful filibuster battle.

Some Republican sympathizers even say that, paradoxically, the agreement may push Mr. Bush to be more hard-line in order to defend his constitutional power to nominate justices.

"If I were the president's lawyer I would say [the Gang of 14 agreement] can't possibly change the game," said Douglas Kmiec, a Pepperdine University law professor and former constitutional legal counsel in the Justice Department during the administrations of Presidents Reagan and George H.W. Bush. "I actually think the effect is to embolden the president, to make the choice he would most strongly favor."

Bush Faces Tough Choice To Fill Supreme Court Vacancy (CSM)

By Linda Feldmann

The Christian Science Monitor, July 5, 2005

WASHINGTON - For social conservatives, long active in Republican politics, the moment of truth has finally arrived: a chance to move the US Supreme Court to the right, particularly on abortion, gay rights, and other divisive cultural issues.

But, with the announced retirement of centrist Justice Sandra Day O'Connor, will President Bush do what he has long said he intended - nominate a justice in the mold of Antonin Scalia or Clarence Thomas, both strongly conservative?

Enter the politics of the day. The atmosphere in Washington is fiercely partisan, and Bush is struggling to carry out his bold second-term agenda. Social Security reform has stalled, and the public is increasingly skeptical of the Iraq war. Polls also show the public has little use for what it sees as arcane sideshows - such as the Terri Schiavo imbroglio - while Americans worry about the price of gas, healthcare, and soldiers dying overseas.

In short, even as religious-conservative activists like Pat Robertson insist that the top three moral issues for the second term are "judges, judges, and judges," Bush may well decide that now is not the time to add an incendiary Supreme Court nomination to the mix, political analysts say.

"For Bush it's not just judges, although judges matter," says Norman Ornstein, a resident scholar at the American Enterprise Institute. "But to go for a confrontational battle now - knowing you'll have another coming in six months or less, knowing that the public attitude probably will be, 'there they go again,' especially if he picks someone who's a real ideologue - there's a price to be paid for that."

So it is not by accident that one top name under consideration, and actively floated in the press by the administration, is Attorney General Alberto Gonzales. He has many things going for him: He would be the first Hispanic justice, allowing Bush to replace one historic first with another - and perhaps win over some Hispanic votes to the GOP. Gonzales has just survived the rigors of a Senate confirmation, which included close grilling over his drafting of the so-called "torture memos." And he is the trusted friend of a president who values loyalty highly, having served Bush in various positions since 1995, beginning with general counsel to the then-Texas governor.

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While conservative, the genial Gonzales is not seen as a hard-liner. And there's the rub: To social conservatives, he does not represent a reliable vote to overturn Roe v. Wade, the 1973 abortion-rights ruling. Conservatives also disagree with his defense of affirmative action. But it is abortion - the central issue in the coming confirmation battle - that gives activists on both sides the most heartache. As a justice on the Texas Supreme Court, Gonzales voted in favor of a pregnant teen's right to abortion without notifying her parents.

If Bush nominates Gonzales, it is debatable which side will raise the bigger fuss, social conservatives or liberal activists. Liberals have made clear that they will closely scrutinize whomever Bush puts forward, not just on their record on abortion, but also on other issues such as civil liberties and the environment. Chances that liberals will oppose whomever is nominated are high. The question is, how hard to fight. If it's Gonzales, the opposition would likely be less intense than if it were a more straight-down-the-line conservative, analysts say.

From the social conservatives' perspective, the White House is well aware of the grassroots objections to Gonzales. Publicly, religious conservatives express confidence that Bush will "do the right thing" and name someone else they can support. Privately, one activist said, "I'd be a little surprised if the president was going into a fight knowing that all his troops weren't behind him."

Gary Bauer, another religious-conservative activist, says he's not worried that Gonzales might be nominated, because he trusts Bush to keep his word. "He's said so many times that Scalia and Thomas are his examples of good judges, so to me it didn't seem credible that Gonzales would be in that same category," says Mr. Bauer, head of the group American Values. "I do think that the president knows there are high expectations that he will attempt to bring the Supreme Court closer to the values of the people who have elected him twice."

When talk centered more on Chief Justice William Rehnquist as likely to retire first, many of the names bandied about were of solidly conservative white men. Now, says legal historian David Garrow, "all these encomiums to O'Connor as the first woman really make it, in presidential-legacy terms, a matter of much greater historical heft to name the first Hispanic to replace the first woman."

Other analysts insist that Bush does not have to name a woman or a minority to Justice O'Connor's seat. But when O'Connor announced her resignation on July 1, the White House made clear women were under consideration. One name that shot to the top in conservative circles was Edith Brown Clement, a conservative judge on the Fifth Circuit Court of Appeals.

Still, the Gonzales talk has not gone away. On conservative blogs, Mr. Garrow notes, the only question is whether Bush nominates Gonzales now or to replace Justice Rehnquist. Some religious conservatives agree that Gonzales is still in the running - despite the ramifications for Bush's base.

"I think it's a live option, only because the president has such confidence in him, and the president's confidence may in fact trump the lack of support in the grassroots," says Deal Hudson, a conservative Catholic activist.

Jim Guth, an expert on religion and politics at Furman University in Greenville, S.C., surmises that the better path for Bush might be to nominate someone now whom religious conservatives can support and save Gonzales for later. He mentions two possible names, Fourth Circuit Judge J. Harvie Wilkinson and Tenth Circuit Judge Michael McConnell, as filling that bill - while also not likely arousing a filibuster in the Senate.

Still, Professor Guth believes Bush could still finesse a Gonzales pick. "I've always been impressed with Mr. Bush's ability to stay in touch with rank-and-file conservative Protestants, think what they're thinking, make the moves that may not please the movement organizations but generally seem satisfactory or even appealing to more mainstream religious conservatives," Guth says. "As we go on through the new millennium, the movement organizations in some ways matter less and less."

One sure thing is that several more days of speculation lie ahead. The White House says Bush will not name a nominee until after he returns from Europe on July 8. More likely, he will wait at least until the following Monday, July 11.

As Official Washington Takes A Holiday, Combatants On Both Sides Carry On (NYT)

By Elisabeth Bumiller And David D. Kirkpatrick

The New York Times, July 5, 2005

WASHINGTON, July 4 - As President Bush prepared for a trip to Europe, advocacy groups continued mobilizing on Monday for an intense campaign to try to influence his selection of a successor to Justice Sandra Day O'Connor and sway any ensuing confirmation fight.

During a morning trip to deliver an Independence Day speech in Morgantown, W.Va., Mr. Bush said nothing publicly about his plans to fill the Supreme Court vacancy, and he remained at a quiet White House in the afternoon. He is to leave early Tuesday for a stop in Denmark before heading to Scotland for a summit meeting of leaders of the world's chief industrialized democracies.

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Administration officials said staff members in the White House counsel's office continued to prepare profiles on the top Supreme Court contenders for Mr. Bush to take with him to Europe. But the West Wing was largely deserted on Monday afternoon as a groundskeeper on a large mower rumbled over the North Lawn.

While most of the White House staff had taken off for the holiday, though, conservative and liberal advocacy groups spent the weekend polling, preparing television advertisements and completing research on prospective nominees.

"It's been a very busy 72 hours," said Ralph G. Neas, president of People for the American Way, who is leading a coalition of liberal groups poised to oppose Mr. Bush's nominee.

Mr. Neas said People for the American Way would begin televising an advertisement this week as part of what he described as the "preselection message campaign" aimed at senators, the public, the media and, he said, Mr. Bush.

"Our founding fathers gave justices lifetime appointments to free them from partisan politics," the narrator says in that advertisement. "Now the question is, Will President Bush follow history, choosing a judge who protects our fundamental rights and freedoms? Or will he divide the country, trying to force through a judge who threatens our basic rights as Americans?"

Mr. Neas said the advertisement would be shown on national cable television and in swing states whose senators are expected to come under pressure, a list that is likely to include Pennsylvania, Maine, Nebraska and Florida. He said that the scope of the campaign would be dictated to some extent by the amount of money the group raised over the next few days, but that early indications were that its coffers would be flush.

Mr. Neas said his organization had finished examining the records of possible nominees and could produce new advertisements if necessary. "Assuming it's one of the couple of dozen who have been mentioned," he said, "we are ready to go."

He declared that his group was not "looking for a fight" with Mr. Bush. But, referring to Justices Clarence Thomas and Antonin Scalia, he also said, "I'm sure that if he one more time chooses confrontation over collaboration and, say, if he replaces a mainstream conservative like Sandra Day O'Connor with someone like Thomas or Scalia, a right-wing ideologue, that would mean a constitutional crisis."

Progress for America, a conservative group that has pledged to spend $18 million to defend whomever the president nominates, said it was gathering family photographs of a list of potential picks so that it could televise positive biographical commercials within two days of Mr. Bush's announcement of his nominee, which could come as early as next week.

"We are ramping up our research efforts to take a look at potential nominees and be ready and up with ads in support of that person," said Jessica Boulanger, a spokeswoman for the group.

Ms. Boulanger said paid staff members of Progress for America were working with conservative talk-radio hosts in 21 states and organizing letters to newspaper editors.

Another conservative group, the Judicial Confirmation Network, also has local organizers in many states. Their goal is to lay the groundwork for counterattacks on liberal groups likely to criticize a conservative nominee. "The message is, The only nominee that would be acceptable to the liberal left is Ted Kennedy," Ms. Boulanger said.

Networks of conservative organizations including the Arlington Group, a conservative Christian alliance formed two years ago to oppose same-sex marriage, are speaking regularly in conference calls to plot strategy.

Many prominent conservatives are using contacts with the White House to press against a nomination of Attorney General Alberto R. Gonzales, a presidential confidant frequently mentioned as a Supreme Court contender. Conservatives, who suspect that Mr. Gonzales is not strongly opposed to abortion, are reluctant to criticize him directly because he is a friend of Mr. Bush. Instead, many are arguing that his current work as attorney general would force him to recuse himself from important cases involving the federal government.

Others are taking a blunter approach. Adam McManus, a San Antonio radio host who says his program reaches 50,000 listeners, has been urging them to call the president about Mr. Gonzales.

"The values votes - conservative Christians in particular - were the ones who brought George W. Bush to the presidential dance, and he needs to remain loyal to his conservative base," Mr. McManus said in an interview. "Now is the time to strike while the iron is hot, to e-mail him, to call him, to write letters. We need to, by the thousands, let him know that he needs to do right by his commitment to protect the lives of unborn babies."

Interest groups on both the right and the left also wasted no time in asking supporters to open their checkbooks for the battle ahead.

In e-mail to supporters, the National Right to Life Committee wrote, "Please contribute to National Right to Life's grass-roots effort."

On the opposing side, the abortion rights group Naral Pro-Choice America posted a picture of Mr. Bush on its Web page and declared, "Don't let his choice end yours!" Below Mr. Bush's photograph were the words "Help fund the fight!"

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Since Justice O'Connor announced on Friday that she was retiring, People for the American Way has similarly sent out 500,000 letters and e-mail messages that include a pitch for contributions.

Silent on the skirmishing over the court, Mr. Bush instead used the Fourth of July holiday to compare the challenges of the war in Iraq to those faced by American revolutionaries in 1776.

"On July 4, 1776, more than five years of the Revolutionary War still lay ahead," he said in an outdoor rally at West Virginia University, in Morgantown.

"From the Battle of New York to the winter at Valley Forge to the victory at Yorktown, our forefathers faced terrible losses and hardships," Mr. Bush added. "Yet they kept their resolve. They kept their faith in a future of liberty, and with their hard-won victory we guaranteed a home for the Declaration's proposition that all are created equal."

He said that "at this hour, our men and women in uniform are defending America against the threats of the 21st century," and declared once again that "Iraq is the latest battlefield in the war on terror."

The president is to return from Europe late Friday and meet with a bipartisan group of senators next Monday to discuss the Supreme Court vacancy. The earliest he could name a nominee will be later next week, and some Republicans say he could wait until the following week or even August.

Presidents, Choosing Justices, Can Wind Up With Surprises (NYT)

By Todd S. Purdum

The New York Times, July 5, 2005

WASHINGTON, July 4 - In July 1902, confident that he had found a judge opposed to "big railroad men and other members of large corporations," Theodore Roosevelt named Oliver Wendell Holmes Jr. as his first appointee to the Supreme Court, delighted with a choice that their fellow Republican, Senator Henry Cabot Lodge of Massachusetts, called "our kind right through."

Twenty months (and many convivial dinners at the White House) later, in the middle of an election year, Justice Holmes voted against his progressive president in the biggest railroad trust-busting case of the time, United States v. Northern Securities. "I could carve out of a banana a judge with more backbone than that," an enraged Roosevelt declared.

As President Bush prepares to fill a vacancy that conservatives hope (and liberals fear) could shape the Supreme Court for a generation, he faces a daunting historical reality: presidents don't always get what they bargain for when they grant even seemingly close allies lifetime tenure on a fiercely independent institution, where the hot-button issues of the future are hard to predict.

"The biggest damn fool mistake I ever made," Dwight D. Eisenhower said of his appointment of Chief Justice Earl Warren, who discomfited him with the Brown v. Board of Education ruling ordering desegregation of public schools, and other liberal opinions. Harry S. Truman was even more scathing about Justice Tom C. Clark, a Truman appointee who voted against his 1952 seizure of the steel industry to avert a strike.

"It isn't so much that he's a bad man," Truman later told the oral historian Merle Miller. "It's just that he's such a dumb son of a bitch."

It is precisely to guard against such surprises - and the likes of more recent Republican appointees who have disappointed their party's conservative wing, from the retiring Justice Sandra Day O'Connor to David H. Souter and Anthony M. Kennedy - that many conservatives are now urging Mr. Bush to pick an established jurist or legal scholar with a defined philosophy, clear paper trail and unimpeachable credentials on questions from abortion to property rights.

"He's not guaranteed of getting what he's hoping for, but he can maximize his chances," said Edward Lazarus, a former clerk to Justice Harry A. Blackmun and the author of "Closed Chambers: The Rise, Fall and Future of the Modern Supreme Court." "The way to maximize your chances is to pick someone who is really deeply ideological and has spent a long time thinking about the issues, either a judge or a scholar or someone with a long track record and well-formed ideology."

Justices Antonin Scalia and Clarence Thomas, whom Mr. Bush has cited as his models, have ruled predictably - and often in lockstep. Many of the federal appellate court judges believed to be among the candidates Mr. Bush is now considering would appear to fit the same mold.

But even one of the conservative movement's favorite candidates, Judge J. Michael Luttig of the Court of Appeals for the Fourth Circuit in Richmond, Va., agreed to invalidate a Virginia ban on a form of abortion that the law calls partial birth - a restriction he had previously upheld - after the Supreme Court struck down a similar law in Nebraska. As a member of the Supreme Court, would he feel even more bound by its precedents and traditions?

No less an expert than Chief Justice William H. Rehnquist suggested in a speech more than 20 years ago that any president's ability to pack the court with like-minded justices is inherently limited. While a new justice might feel "strongly loyal to

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the president who appointed him," Justice Rehnquist told a Minnesota law school audience in 1984, "institutional pressures" within the court itself tend to "weaken and diffuse the outside loyalties of any new appointee."

He added that the court "is an institution far more dominated by centrifugal forces, pushing towards individuality and independence, than it is by centripetal forces pulling for hierarchical ordering and institutional unity."

Presidents as far back as Thomas Jefferson and James Madison have been surprised or disappointed by decisions of their appointees to the court. But perhaps the most famous example was Abraham Lincoln, who named his secretary of the treasury, Salmon P. Chase, as chief justice primarily to ensure that the court would uphold the constitutionality of the legislation by which the federal government had financed the Civil War, and which Mr. Chase had helped draft.

"We cannot ask a man what he will do, and if we should, and he should answer us, we would despise him," Lincoln said, by way of explaining his choice. "Therefore we must take a man whose opinions are known."

Perhaps in one of his perennially unsuccessful efforts to win the Democratic presidential nomination, Justice Chase wrote the court's opinion finding the legislation unconstitutional. But the decision was also, Chief Justice Rehnquist noted, "a textbook example of the proposition that one may look at a legal question differently as a judge than one did as a member of the executive branch."

It is just that reality that so concerns some conservatives about the prospect that Mr. Bush might name Attorney General Alberto R. Gonzales, whose views on issues like abortion are less known. That is why Republican and Democratic senators are already jousting pre-emptively over just how detailed their questioning about any nominee's views on issues should be. To the impassioned advocates on both sides, every detail might be telling.

More than 60 years ago, Zechariah Chafee, a leading legal historian, suggested that the best place to look for signs of a nominee's judicial attitudes was "not in his file of clients or in his safe-deposit box but at the books in his private library at home."

While some legal scholars like Laurence H. Tribe of Harvard have argued that presidents do have enormous power to influence the Supreme Court, others remain skeptical. Richard D. Friedman, of the University of Michigan Law School, said that "the dynamic of the court can be very important, the nine justices speaking to each other and, very importantly, to their clerks."

Harlan Fiske Stone, appointed by Calvin Coolidge, whom he had served as attorney general, eventually came under the influence of Justices Holmes and Louis D. Brandeis "and moved quite steadily left," Professor Friedman said.

The court's slow turnover also all but guarantees that presidents will have limited vacancies to fill. Since 1869, when the number of seats was set at nine, only William Howard Taft and Franklin D. Roosevelt managed to name a majority of justices in a single term, and only Dwight D. Eisenhower did so over the course of two terms. Moreover, Franklin Roosevelt's appointees were nothing like a bloc, and at least one of them, Felix Frankfurter, a prominent liberal law professor, proved surprisingly conservative on the bench.

"I just think what Mr. Justice Frankfurter did when he was a professor and private citizen overlooks the fact that once he got on the court, the job is completely different," said William T. Coleman Jr., who clerked for him in 1948-49 and went on to become Gerald R. Ford's secretary of transportation. He noted that when Mr. Ford appointed Justice John Paul Stevens, who now often votes with the two Democratic appointees on the court, "we read every opinion he'd ever written, but it's really the quality of the person you look for."

"President Ford told me just three weeks ago that one of the decisions he was proudest of was his appointment of Mr. Justice Stevens," Mr. Coleman added. "And that doesn't mean he has decided every case the way President Ford wanted."

Bush Faces Political Risk With Supreme Court Choice (REU-Y2)

By John Whitesides, Political Correspondent

Reuters, July 5, 2005

The potentially explosive choice of a new Supreme Court justice creates a maze of political risks for President Bush, with a wrong move either angering his conservative base or igniting a partisan brawl that could sink the rest of his second-term agenda.

The retirement of Justice Sandra Day O'Connor, a crucial swing vote on the divided nine-member court, gives Bush and conservatives a long-awaited opportunity to dramatically shift the court to the right on hot-button social issues like abortion, affirmative action and civil liberties.

But Democrats and interest groups on the left promise an all-out battle to block any nominee they view as too conservative. They have called on Bush to appoint a new justice in the mold of O'Connor, an appointee of President Ronald Reagan who at times sided against the court's most conservative members on a series of crucial 5-4 votes.

Both sides are marshaling money and manpower for an epic political war. Analysts say the fight could pollute Washington's already strained atmosphere and turn off middle-of-the-road voters seen as crucial to Republican hopes to expand their majority in the 2006 congressional elections and win the 2008 White House race.

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A prolonged Senate confirmation battle also could make it tough for Bush to build support for languishing initiatives like the war in Iraq and the revamping of Social Security, analysts said.

"Bush has to decide if he wants to keep the base happy and maybe sacrifice his dreams for unity on Iraq -- as well as much of his domestic legislative agenda," said Bruce Buchanan, a professor at the University of Texas.

Keeping conservatives happy has been a key component of Bush's political strategy, and he has made a series of conservative judicial appointments to lower courts that have drawn Democratic opposition. But the chance to dramatically shift the Supreme Court to the right has raised the stakes even higher.

"This was going to be an intense battle whoever retired," said Brian McCabe, president of the conservative Progress for America, which plans an $18 million blitz on behalf of Bush's nominee. "But it is certainly more intense now."

'DEFINING MOMENT' FOR BUSH

Conservatives have pressed Bush to appoint a new justice in the image of Justices Antonin Scalia and Clarence Thomas, the court's most conservative members and the two justices Bush says he admires most.

They also have told the White House that Attorney General Alberto Gonzales would not be acceptable because of questions about his views on abortion.

"President Bush must nominate someone whose judicial philosophy is crystal clear," said James Dobson, founder of the conservative religious group Focus on the Family.

"And no one has been clearer about this than the president himself, who said during his campaign that he would appoint justices in the mold of Clarence Thomas or Antonin Scalia," Dobson said.

On the left, liberal interest groups say their hope is that Bush will appoint a judge who evaluates issues on a case-by-case basis, rather than a strict ideologue.

"It's a defining moment for President Bush," said Elliot Mincberg, legal director for the liberal People for the American Way, which is leading the coalition of interest groups prepared to challenge Bush's choice.

"It may be the president's last real chance to fulfill his pledge to the American people to be a uniter, not a divider," he said. "Does he decide to pick a judge or pick a fight?"

Buchanan said Bush has the ability to be pragmatic on crucial political issues, as he showed on legislative compromises over tax cuts, the Homeland Security Department and school vouchers.

"He's also got a contrarian streak that suggests he might try to surprise people," Buchanan said. "And he certainly has a strong incentive to move to the center in order to preserve the chance for forward progress on other high priority measures."

For Bush, A Lot Riding On Court Appointment (USAT)

By Kathy Kiely

USA Today, July 5, 2005

WASHINGTON — When President Bush returns from the Group of 8 summit in Europe at the end of this week, he'll face one of the most momentous decisions of his career.

The person he picks to replace Justice Sandra Day O'Connor on the Supreme Court will help determine how he's viewed in history books. The selection could resolve a question in contemporary American politics: How conservative is George Bush?

The intensity of Bush's commitment to social conservatives' agenda is unclear. For example, the president says he backs a constitutional amendment to ban gay marriage, but he has never made it a top legislative priority. He opposes abortion but has said repeatedly that the country isn't ready to ban it.

Now conservatives and religious activists, whom Bush political adviser Karl Rove identified as being key to the president's re-election, are reminding the president that he owes them. "We really expect that the president will keep his promise, which he made repeatedly in both campaigns, that he would put forth nominees in the profile of Thomas and Scalia," says Jan LaRue, chief counsel of Concerned Women for America, a conservative group. The reference was to Justices Clarence Thomas and Antonin Scalia, the high court's two most conservative justices.

Making such an appointment would trigger a fight in the Senate, where Democrats control enough votes to block a presidential nominee by filibuster. Even some Republicans have balked at an effort to take that power away.

Bush has a history of compromising. As governor of Texas, he forged alliances with Democrats to move his agenda. His first major legislative accomplishment as president, the No Child Left Behind Act establishing tough new standards for elementary and secondary schools, was a bipartisan effort. To secure Democratic support, Bush forced conservatives in his party to back off demands for school vouchers that would have helped send children to private or religious schools.

Filling a Supreme Court vacancy is a high-stakes decision that involves complicated issues. Some of the factors he'll be weighing:

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·History. Few decisions a president makes have more potential to extend his influence than a lifetime appointment to the Supreme Court.

O'Connor, who announced her retirement Friday, was appointed by President Reagan, who died last year. Chief Justice William Rehnquist was appointed by President Nixon, who died in 1994. Ron Klain, an adviser who participated in the deliberations that led to President Clinton's two Supreme Court picks, Ruth Bader Ginsburg and Stephen Breyer, says the decision is influenced more by a sense of legacy than by outside lobbying.

"The president knew he was making a choice for history," Klain says.

·Diversity. Bush will be filling a seat that was occupied by the court's first woman. Some conservative activists argue that that shouldn't make a difference in choosing a replacement. Kay Daly, president of the Coalition for a Fair Judiciary, mocked the idea that "there has to be a for-ladies-only sign" on the seat.

But the gender issue could prompt Bush to add more female candidates to his list or to make his own historic first, by appointing a Hispanic.

In interviews over the weekend, Senate Judiciary Committee Chairman Arlen Specter warned conservative groups not to make snap judgments about Attorney General Alberto Gonzales, a longtime Bush friend.

·Politics. Though he won re-election last year and Republicans gained seats in the Senate, the president isn't approaching the Supreme Court appointment with a high approval rating. Forty-five percent of Americans approve of the job he's doing, according to a USA TODAY/CNN/Gallup Poll taken June 24-26.

·Democrats. The Senate recently rebuffed an effort to eliminate the filibuster for judicial nominees. That leaves Democrats, who control 44 of the Senate's 100 votes, in a position to block a Bush nominee by engaging in a filibuster, an extended debate designed to prevent a vote. It takes 60 votes to end a filibuster. Bush needs to find a candidate who can pick up some Democratic support, or try to break up the "Gang of 14." The "gang" is a bipartisan group of senators who agreed to preserve the Senate's ability to filibuster judicial nominees so long as it's used only in extraordinary circumstances. Members of the group, who plan to meet again next week, are resisting efforts to divide them.

Sen. Ben Nelson, D-Neb., one of the group, says the Supreme Court vacancy is different from any of the more than 200 lower-court vacancies Bush has filled, sometimes over objections from Democrats. "This is so significant that we ought to have the advice and consent of the Senate," Nelson says.

On Friday, Bush called Senate Democratic leader Harry Reid of Nevada and Sen. Patrick Leahy, the top-ranking Democrat on the Judiciary Committee, to invite them to the White House next week.

Bringing key members of the opposition party into the decision-making process could smooth the way for the president's nominee, says Leon Panetta, Clinton's White House chief of staff.

"What you don't want to do is blindside people," Panetta says. "You're almost guaranteed problems if you do."

Divided Ranks In High Court Battle, First Phase Plays Out Among Conservatives (WSJ)

By Jess Bravin And Jeanne Cummings

The Wall Street Journal, July 5, 2005

WASHINGTON -- The first stage of the fight over replacing Supreme Court Justice Sandra Day O'Connor is shaping up as a struggle within the conservative coalition over steering the White House choice.

Administration officials have said Mr. Bush won't announce a nominee until he meets with Senate leaders from both parties next week, after returning from a summit with world leaders in Scotland. So while the public fireworks over the July 4 weekend centered on the battle between left and right over the ultimate candidate, the immediate vacuum has triggered intense jockeying among Republican factions trying to fill the void.

Evangelical Christians are the most vocal. They considered Justice O'Connor -- a Reagan appointee who announced her retirement Friday -- to have been a disaster for their cause. She was the court's pivotal swing vote on issues such as upholding certain abortion rights and, just last week, limiting public displays of the Ten Commandments.

"On almost every issue, she has been against us," says Tony Perkins, president of the Family Research Council, one of the leading religious activist groups in the court fight. One of his primary goals: a new justice very different from Justice O'Connor.

For the business community, however, the departure of Justice O'Connor, 75 years old, is the loss of an ally who took a skeptical view of big jury awards, claims allowed under the Americans With Disabilities Act and employment and government-contract quotas. "We felt she was a very business-friendly person because of her very practical approach," says Stan Anderson, of the U.S. Chamber of Commerce. "We are clearly going to miss her, and we hope a candidate of the same kind of stature, philosophy and discipline is nominated to replace her."

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Meanwhile, the handful of Republican moderates who brokered an uneasy bipartisan truce in the Senate last month over judicial nominees is hoping Mr. Bush's first choice for the high court won't be so extreme as to shatter that calm. Many women argue that Justice O'Connor, the first female justice, should be succeeded by another woman. President Bush's political advisers see a chance for Republicans to make gains among the rapidly growing Hispanic voting bloc by appointing the first Hispanic to the bench. But the most likely Hispanic choice -- Bush confidant and Attorney General Alberto Gonzales -- draws fire from the religious right because of an opinion he issued involving a state abortion regulation.

Mr. Bush would have an easier time of pleasing his far-flung coalition if he had two vacancies to fill. And he may still get that chance soon. The ailing chief justice, William Rehnquist, surprised court watchers by declining to announce his own retirement last week. But the Washington rumor mill remains abuzz over the possibility that the 80-year-old, battling thyroid cancer, will retire sometime this summer.

Beyond Mr. Gonzales, the short list includes two women with conservative records, Edith Jones and Edith Clement, both of the Fifth U.S. Circuit Court of Appeals in New Orleans. Judge John Roberts, a Republican appointee on the District of Columbia Circuit Court of Appeals with a limited paper trail, gets frequent mention. Michael McConnell, on the 10th Circuit Court of Appeals in Denver, wins points from the religious right for his opposition to Roe v. Wade, and from the business community for his experience as a telecommunications lawyer.

So far, Mr. Bush and his aides have said little about their plans. The president spent much of the weekend closeted at Camp David to review candidates.

Activists are stepping into the vacuum. Mr. Perkins of the Family Research Council, who has hired three new lobbyists with legal expertise, plans to help activate members of 20,000 churches to lobby the Senate and emailed his own one million members on the matter last week.

Business groups are mobilizing as well. After Justice O'Connor announced her retirement Friday, John Engler, the former Republican governor of Michigan and currently president of the National Association of Manufacturers, made hasty calls to complete a 10-person committee to assess any White House nominee. The panel would review a candidate's rulings on such corporate issues as intellectual property rights, jury awards and federal versus state regulatory jurisdiction. A conference call is scheduled for later this week to set up a strategy and timetable for meetings once Mr. Bush announces his nominee.

"If the business community wants to be heard it can be," says C. Boyden Gray, a former White House counsel to the first Bush administration who is now organizing business lobbyists for the confirmation process. "This shouldn't be an abortion debate."

The White House would like a new justice in place by October, when the court begins its next session. Once Mr. Bush sends the name to the Senate, the Judiciary Committee will likely need a month to conduct its own research and give the American Bar Association time to assess the candidate. Senate Judiciary Committee Chairman Arlen Specter has said he'd like to hold hearings by September. The nominee might then get a final Senate vote before October -- unless Democrats derail the process by trying to filibuster the nominee.

While the White House may not have a name to put forth yet, Mr. Bush has been carefully preparing for this moment practically from the day a split Supreme Court authorized his presidency more than four years ago. Previous administrations have considered judicial appointments secondary to other political goals and thus been more willing to negotiate over them. Not so for the Bush team. "If you look at what's been done with lower court nominees, there hasn't been that kind of horse-trading -- 'We'll nominate this person if we get your support on Social Security reform,' " says David Leitch, a former deputy counsel to Mr. Bush.

Indeed, major Bush initiatives such as Social Security are facing uncertain outcomes. So Supreme Court appointments may be Mr. Bush's best chance to cement a domestic legacy in his second term -- particularly replacing a frequent swing vote like Justice O'Connor.

Added Significance

Justice O'Connor has frequently tipped the balance of the court on social issues, and so the question of her successor has taken on added significance for social conservatives. She was the primary mover behind a 1992 compromise ruling upholding abortion rights, and thus angered the churches and religious activists in the 1990s that helped President Bush secure a second term last year.

And there are already hot-button social cases on the docket for the court's next term, beginning in October, where an O'Connor successor could make a difference. One involves a New Hampshire statute requiring parental notification before pregnant minors could obtain an abortion.

A second case the court will hear later this year tests the reach of federal power to block a state policy social conservatives oppose: physician-assisted suicide. To stymie Oregon's voter-approved Death With Dignity Act, the Bush administration warned that doctors who prescribe drugs to terminally ill patients seeking to end their lives might face prosecution under the federal

Controlled Substances Act. The Ninth Circuit in San Francisco ruled that would overstep federal authority, prompting the Bush administration's appeal to the Supreme Court. In a dissent this past term, Justice O'Connor backed the rights of states to allow the use of marijuana for medicinal purposes, and her logic there parallels Oregon's position in the assisted-suicide case.

While many O'Connor rules have riled social conservatives, corporate lobbyists were largely pleased with the legacy of Justice O'Connor, who, as a Republican legislator in Arizona before joining the bench, was keenly tuned to the needs of business. In a 2003 case, State Farm Mutual Automobile Insurance Co. v. Campbell, Justice O'Connor joined a 6-3 majority in striking as excessive a $145 million punitive award against the insurance firm when the plaintiff was awarded just $1 million in compensatory damages. That ruling went further to suggest that a 1-to-1 ratio in punitive and compensatory damages seemed more appropriate in most cases. Two of the dissenters were the justices most widely embraced by social conservatives, Clarence Thomas and Antonin Scalia. They said the court had no authority to limit jury awards.

There are also intellectual disagreements within the conservative camp about the appropriate judicial philosophy to seek in a nominee. In vetting candidates, administration aides likely will be "focusing on those who take a very restrained view of the expansion of due-process rights," says John Yoo, a University of California, Berkeley, law professor who served in Mr. Bush's Justice Department. Many of the controversial liberal decisions of the 1950s and 1960s under the court led by Chief Justice Earl Warren, he notes, were drawn from the Fifth Amendment's due-process clause.

But Mr. Yoo says there may be a conflict between the views of conservative intellectuals who have dominated the administration's legal policies, and the social objectives of the president's political base. For example, Mr. Yoo says, social conservatives might support a federal law saying "any hospital that is connected to interstate commerce cannot remove a feeding tube." Conservative intellectuals likely would view such a statute as exceeding Congress's power over interstate commerce.

A second vacancy would change the dynamics of the nomination process. If Mr. Rehnquist were to retire, Mr. Bush could, for example, appease evangelicals more easily by nominating one justice who generates great excitement among the religious right while tapping another they don't trust as much. Mr. Bush also would have another variable to play with. He could choose either to name a new chief justice from outside the court, or he could promote a sitting justice and then bring in a new associate justice. A decision to elevate either Antonin Scalia or Clarence Thomas to chief would get an enthusiastic reception among social conservatives and could persuade them to compromise on an outside pick.

Two vacancies would also give Mr. Bush more room to bargain with Senate Democrats, who would find it hard to try and block both choices at the same time.

"We tend to look at the court as a whole," said Sen. Charles Schumer, a New York Democrat and Judiciary Committee member. "I've always said it would be an excellent Supreme Court that had one Scalia and one Brennan and not five of each," he said, referring to the current leader of the court's right wing and the liberal late justice who wrote many of the Warren Court's most significant opinions.

'Two Ediths'

When speculation in recent weeks centered on a possible Rehnquist retirement, the short lists circulating around Washington contained mainly conservative men. But the departure of Justice O'Connor has shifted the calculus to raise the profiles of several women candidates. Most often mentioned are the "two Ediths" who serve on the New Orleans appellate court.

Judge Edith Jones, 54, is a former general counsel of the Texas Republican party who was appointed by President Reagan in 1985. In a 1993 case, she upheld a Mississippi law that in general prohibits minors from obtaining abortions without the consent of both parents. Last year, in another abortion case, Judge Jones went out of her way to write that the Supreme Court's seminal abortion-rights case, Roe v. Wade, was "an exercise in raw judicial power" that should be re-examined.

Judge Jones also was a member of the 1997 federal bankruptcy-law review commission that spawned the pro-creditor overhaul of the code ultimately passed by Congress earlier this year. In a dissent from a commission's report that urged more protections for debtors, Judge Jones said that the majority report "ignores creditors' complaints that their interests are systematically shortchanged by the (report), while those of debtors are enhanced."

Judge Clement, 57, was elevated to the Fifth Circuit by President Bush in 2001, 10 years after the elder President Bush appointed her a district judge. Although her appellate record is shorter than Judge Jones's, she already has proven a reliable conservative vote. In 2002, for instance, she joined Judge Jones and other judges in dissenting from an opinion upholding an armed-robbery conviction under the federal Hobbs Act. Those dissenters concluded that because the crimes affected local stores in Fort Worth, Texas, they lacked enough relation to interstate commerce to trigger federal jurisdiction.

Bush aides say he is eager, at some point in his term, to place on the bench Attorney General Gonzales, who served in then-Texas Gov. Bush's cabinet, and was appointed by Gov. Bush to the Texas Supreme Court. Some Republican strategists argue that a historic appointment of the first Mexican-American justice will handcuff Democratic dissenters. A group of seven

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moderate Democrats agreed last month to prevent a filibuster of a Bush court nominee except under "extraordinary circumstances." It might be politically difficult to argue that a Gonzales nomination meets that standard for justifying a filibuster.

The greatest challenge to a Gonzales nomination now comes not from liberals, but from social conservatives, who question how he would rule on affirmative-action disputes and fret about his imprecise record on abortion. Some social conservatives are unhappy with a 2000 opinion Mr. Gonzales, as a Texas judge, wrote concerning a state law that requires parental notification before minors can obtain abortions. They believe he construed an exception to the law too broadly.

If Mr. Gonzales, a son of migrant Mexican crop pickers, isn't tapped to succeed Justice O'Connor, but remains on the Bush short list for a future vacancy, he may face pressure to better establish his conservative bona fides -- particularly on abortion -- to win a future nomination. To do so, he could follow in the footsteps of his predecessor, John Ashcroft, the leading hero for religious conservatives in the first Bush term, who tried to subpoena records of abortion clinics for late-term operations and filed friend-of-the-court briefs on behalf of groups suing to uphold legal limits on such procedures.

Even before Mr. Bush has made his choice, advertising wars between the left and right already have begun. Bush allies are running commercials warning that Democrats will say bad things about any nominee. Meanwhile, liberal groups are urging Mr. Bush to fulfill his 2000 pledge to be a "uniter, not a divider" by putting forth a centrist candidate who reflects Justice O'Connor's swing-vote history.

Within hours of the surprise O'Connor announcement, the abortion-rights group NARAL Pro-Choice America sent instant messages to 800,000 online supporters while MoveOn.org, a liberal online organization, launched an emergency donation drive for television advertising. Friday night, they regrouped over Chinese take-out food to assess reports coming in from field teams in Pennsylvania, Florida, Rhode Island and elsewhere, the homes of key swing Republican senators.

Meanwhile, conservatives jumped on a series of conference calls to ratchet up their lobbying campaign. Mr. Reid, the Senate minority leader, already has called the president "a loser," the ad says, so there's not limit to what they will use against a would-be appointment to the high court.

In Reading Bush On Court, Words Don't Always Help (NYT)

By David E. Sanger

The New York Times, July 5, 2005

WASHINGTON, July 3 - In the days just before his first inauguration, in 2001, George Bush gave a brief insight into what he looks for in crucial appointments.

"I understand the Western mentality, and I want the Western mentality represented in this administration," Mr. Bush said in an interview at his ranch in Crawford, Tex. He was talking about Clinton-era efforts to restrict development and logging in national forests.

Those listening carefully to the newly elected president understood the code: "Western mentality" meant that land ownership rights were paramount in his mind, and eventually he did away with Mr. Clinton's rules.

Suddenly, the code words Mr. Bush has refined in four and a half years since he took office are about to be examined as never before. As he considers his choices for filling the first Supreme Court vacancy of his presidency, he can expect that his every utterance on judicial philosophy will be freighted with new meaning.

There have been many times in his presidency that his views of the judiciary were very clear. While he rejected the idea of a litmus test for Supreme Court nominees during last year's campaign, he has denounced "activist judges" who "legislate from the bench."

And earlier this year, Mr. Bush rushed back from his ranch during the Congressional Easter break to sign legislation in the middle of the night to intervene to save the life of Terri Schiavo at a time when Republicans and conservatives were criticizing the judiciary for allowing her feeding tube to be removed.

From now on, everything he says, especially in his interactions with reporters at the Group of 8 summit meeting in Scotland this week, will be dissected. Will he put his highest priority on a "Western mentality," which he shared with Justice Sandra Day O'Connor, who liked to call herself a "cowgirl from Arizona"?

Or will he talk anew about diversity, which might seem to give an edge to Attorney General Alberto R. Gonzales, whose life story Mr. Bush often recites in glowing terms, but who also gives heartburn to Mr. Bush's conservative base?

If the past is any guide, Mr. Bush will prove vague as he nears a decision. When considering other top appointments or big decisions, he has shown that he is not above sending conflicting signals to mask his intentions, or catering, at least rhetorically, to differing constituencies. And he has not shied from confrontation, as even he alluded to on Friday when, while praising Justice O'Connor, he also announced that his nominee deserved "fair treatment, a fair hearing and a fair vote."

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In the interview in January 2001, as he was polishing his first inaugural address, Mr. Bush made it clear that in his mind, confirmation battles were not to be avoided. He said he viewed them as part of the atmospheric noise of Washington, like traffic in front of the Lincoln Memorial.

"He could end up being a lightning rod," Mr. Bush said of John Ashcroft, then his choice for attorney general and a favorite of social conservatives. But he quickly added that in a world of so many cable stations, anyone could become a lightning rod. "If it had not been him, it would have been somebody else," he said. "That's just part of the process."

This weekend a senior aide to Mr. Bush, who would not allow his name to be used in describing the president's thinking and who cautioned that he had no idea whom the president was going to pick, said Mr. Bush believed that "more than ever." He pointed to Mr. Bush's unwillingness to back down on the nomination of a hard-core ideologue, John R. Bolton, as his nominee for ambassador to the United Nations, even though Mr. Bolton appears to have little chance of taking up the post unless Mr. Bush makes a recess appointment, circumventing the Senate.

"In Bush's view," the aide said, "to surrender on a confirmation is to invite the other side to do worse to you next time." (Mr. Bolton, in one of those curiosities of Washington history, was on the team that tried - unsuccessfully - to manage the nomination of Robert H. Bork to the Supreme Court in 1987.)

Mr. Bush's most commonly used statement about judges of all stripes sounds a lot like what he said in April when he was asked about comments by the House Republican leader, Representative Tom DeLay of Texas, that Congress should crack down on unaccountable judges.

"I believe in an independent judiciary," Mr. Bush said, seeming to distance himself considerably from Mr. DeLay. "I believe in proper checks and balances." And then he added: "And we'll continue to put judges on the bench who strictly and faithfully interpret the Constitution."

But when his opponent in the last election, Senator John Kerry, said that he would never appoint anyone to the Supreme Court who would overturn the right to abortion, Mr. Bush bristled. "I will not have a litmus test," he declared, reverting to language from the 2000 election. "I will pick judges who will interpret the Constitution, but I'll have no litmus tests."

The exchange was an example of how careful he has been not to say how he would balance the pressure from evangelical Christians, who played a crucial role in securing his re-election, and his oft-stated desire to reduce partisan bickering in Washington. At his first news conference after his re-election, he played a variation on this favorite dance, saying that when a vacancy occurred on the Supreme Court he would choose "somebody who knows the difference between personal opinion and the strict interpretation of the law."

To students of Mr. Bush's philosophy, that phrase is another set of code words. "It might just sound like he wants conservatives," said Kenneth L. Manning, an associate professor at the University of Massachusetts, Dartmouth, who has conducted a detailed study of the ideological direction of Federal District Court judges appointed by Mr. Bush.

To Professor Manning, that means Mr. Bush does not want judges to create rights the way the Supreme Court established a right to privacy in Griswold v. Connecticut four decades ago. That case found in the Constitution a right to use contraception, establishing a foundation for what later became a right to abortion in Roe v. Wade.

Which leads to Mr. Bush's reference to the Dred Scott case, at a debate in St. Louis last year. That was a case, Mr. Bush said, "where judges years ago said that the Constitution allowed slavery because of personal property rights," and he called that judicial activism. "That's personal opinion," Mr. Bush said. "That's not what the Constitution says. The Constitution of the United States says we're all - you know, it doesn't say that. It doesn't speak to the equality of America."

If the president's words were less than clear, his meaning was plain to dedicated opponents of abortion. To them, opposing Dred Scott is shorthand for opposing Roe v. Wade, which they believe will be overturned one day as an erroneous violation of basic human rights.

The other way to examine Mr. Bush's proclivities is not through what he says, but through what he has done.

Professor Manning's study, conducted with Robert A. Carp of the University of Houston and Ronald Stidham of Appalachian State University, concluded that as a group, Mr. Bush's appointees so far have been the most conservative of any group of judicial appointees since before Franklin D. Roosevelt's presidency. No surprise there. But Professor Manning said that Mr. Bush "doesn't get much credit" for the fact that he has also appointed the most diverse group of judges of any president except Bill Clinton.

He has found conservative women, Hispanics and blacks, the study found, in numbers never seen before. "Bush puts ideology first," Professor Manning concluded, "but diversity is a close second."

Confirmation Will Sidetrack Judiciary Committee (WSJ)

By Brody Mullins

The Wall Street Journal, July 5, 2005

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WASHINGTON -- A Supreme Court confirmation is expected to sidetrack work on matters before the Senate Judiciary Committee such as a bailout for asbestos makers and immigration overhauls. A possible court fight also could affect Social Security retooling, tax reductions, spending cuts and other White House priorities.

Mr. Bush and Republican leaders in the Senate hope to usher the nominee through weeks of hearings and votes by Sept. 30 so the Supreme Court can open its next session in early October with a full complement of justices. But that is also the deadline for two other Republican priorities -- a budget-reconciliation package and legislation to fund the federal government -- that could falter if a court battle arises.

The budget bill includes tax cuts, Medicare changes and language to permit oil and gas drilling in a strip of Alaska's Arctic National Wildlife Refuge. The funding bills could spark additional skirmishes over the scope and reach of the federal government, such as funding for community development, public television and programs for the poor.

Bob Stevenson, a spokesman for Senate Majority Leader Bill Frist, said the confirmation process will have only a "minimal" effect on the Republican agenda. Indeed, there will be little difference in the pace of action before the Judiciary Committee starts confirmation hearings, likely in September.

That leaves senators with just a month to reach a final deal with the House on highway legislation and to approve the Central American Free Trade Agreement, Mr. Bush's major trade initiative. When confirmation hearings begin, senators will find it more difficult to make progress on their priorities as senators shift attention to the judicial process, and time on the Senate calendar dwindles.

Senators are scheduled to take a monthlong August holiday. When they return, there will be a crush of issues and only a few months before the end of the year.

That means that Finance Committee Chairman Charles Grassley of Iowa may have an even harder time bringing a Social Security overhaul bill to the Senate floor this year. Sen. Pete Domenici (R., N.M.), chairman of the Energy and Natural Resources panel, will have a limited window to reach a deal with the House on energy legislation. Banking Committee Chairman Richard Shelby of Alabama may not find the time on the Senate floor for a vote on a measure to tighten oversight of mortgage giants Fannie Mae and Freddie Mac, whose accounting problems have drawn the notice of lawmakers and financial regulators.

Fall Cases On Hot-Button Issues May Hinge On The New Justice (WP)

By Charles Lane

The Washington Post, July 5, 2005

Abortion. Physician-assisted suicide. Gay rights. How will the Supreme Court handle those issues without Justice Sandra Day O'Connor, the centrist swing voter who announced her retirement from the court last week after a 24-year tenure?

Actually, it probably won't take long to find out. The abortion rights of teenagers, administration efforts to override a state right-to-die law, and the military's "don't ask, don't tell" policy are all on the docket for the court term that begins Oct. 3.

O'Connor's past opinions show that she would have played a pivotal role in these cases. Now, their outcome may hinge on the views of her successor. Learning those views may prove challenging to senators, if a nominee adheres to the practice of not answering questions about matters that are, or soon will be, before the court.

"One of the fascinating dances in the confirmation process is going to be how much you can get a nominee to answer, even about relatively recent precedents, when the issues are presented in cases that are pending on the docket," said Douglas W. Kmiec, a professor of constitutional law at Pepperdine University.

The retirement of O'Connor, who often cast the deciding vote in the court's cases, could portend great change at the court, especially if President Bush replaces her with a steadfastly conservative nominee, as many expect.

If O'Connor's career teaches anything, it is that a justice's initial votes on the court are not necessarily a reliable guide to what that justice will do in the course of a long, life-tenured career. In her first years, she leaned heavily against abortion and affirmative action, only to tack in the other direction later.

Even if O'Connor were replaced by a conservative opponent of Roe v. Wade , the 1973 ruling recognizing a right to abortion, Roe would still have the support of a five-justice majority. Any challenge to its core holding would take years to bubble up from lower courts.

Still, next term will present O'Connor's successor with a chance to answer important questions about the scope of Roe as well as other precedents.

For example, a 1992 Supreme Court decision, co-written by O'Connor, set forth a test for the constitutionality of state abortion regulations, saying they must not impose an "undue burden" on exercising the right to abortion.

The court defined an undue burden as a law that "in a large fraction of cases" puts a "substantial obstacle" in the way of someone seeking an abortion.

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At the same time, the court has said that states may pass laws requiring minors to notify their parents of plans to terminate a pregnancy, as long as they permit minors to seek a court's permission when informing their parents is impossible or dangerous.

The court has never clarified whether O'Connor's "undue burden" test means that parental-notification laws, which are on the books in 33 states, must include an explicit exception for cases in which the pregnant girl's health is at risk.

But in Ayotte v. Planned Parenthood , No. 04-1144, which is to be argued in December and decided by mid-2006, the court will rule on a New Hampshire law that has no health exception. The U.S. Court of Appeals for the 1st Circuit, based in Boston, ruled last year that the New Hampshire law is unconstitutional and cannot go into effect.

In its appeal, however, New Hampshire said the 1st Circuit applied the wrong legal standard. It cited a 1987 Supreme Court ruling that suggests opponents of the law must show that the law would limit abortion rights not just in some or most cases but in all cases.

If the justices affirm the ruling of the 1st Circuit, striking down the law, the effect will be to fortify and entrench Supreme Court precedents on abortion rights. If the court rules in favor of New Hampshire law, it will open the door to other states to adopt similar legislation.

Any elucidation of the court's view of its doctrine of a health exception could also affect the federal ban on the procedure critics call "partial birth" abortion. Enacted by Congress with Bush's support in 2003, it included no exception to protect the woman's health. But three district courts have found it unconstitutional under a 5 to 4 Supreme Court ruling in 2000, joined by O'Connor, that said such bans must include a health exception.

The government's appeals are pending, and conflicting decisions by appeals courts could lead to a Supreme Court case in the early years of O'Connor's successor.

In October, physician-assisted suicide will be before the court in Gonzales v. Oregon , No. 04-623. The administration has appealed a lower court's order barring the Justice Department from taking away the prescribing rights of Oregon doctors who prescribe lethal doses of drugs to terminally ill patients who have chosen to die under that state's 11-year-old Death With Dignity Act.

Assisted suicide is an intensely emotional issue, both for advocates of a "right to die," who see it as many people's only means of a dignified death, and for conservative Christians, who see it as a form of murder.

Opposition to laws such as Oregon's was a favorite cause of former attorney general John D. Ashcroft, who issued a November 2001 directive determining that assisting suicide is not a "legitimate medical purpose" under federal drug-control law -- and that the Drug Enforcement Administration could act against any physician who authorized drugs to help someone die.

The directive overturned a 1998 decision by President Bill Clinton's attorney general, Janet Reno, that permitted Oregon doctors to assist in suicides.

Strictly speaking, the case does not involve any assertion of a constitutionally protected right to die. The court unanimously refused to recognize such a right in 1997, ruling that it should be left to the states to determine whether legalized assisted suicide is wise policy.

Rather, the case is framed by the parties as a clash between federal power to regulate drugs and states' power to regulate the practice of medicine.

But the practical effect of the Ashcroft directive is to make Oregon's law a dead letter -- and O'Connor might have been sympathetic to Oregon. She vigorously dissented from the court's 6 to 3 ruling last month in which it upheld a federal override of California's medical marijuana law. In the 1997 case, Washington v. Glucksberg , the court was ruling on state bans on assisted suicide. O'Connor was one of five justices who wrote or signed concurring opinions implying that they might not strike down a state law such as the Oregon one that permits assisted suicide.

"Death will be different for each of us," she wrote. "For many the last days will be spent in physical pain . . . some will seek medication to alleviate that pain and other symptoms."

In Rumsfeld v. FAIR , No. 04-1152, to be argued in November, the question is whether some law schools may curb military recruiters' access to their students in protest of the U.S. armed forces' ban on openly gay members.

The court is being asked to rule on the constitutionality of the Solomon Amendment, a federal law that requires universities to give military recruiters equal access or risk millions of dollars in federal funding.

Legal analysts generally expect a win for the government, but the case will create a high-profile forum in which both opponents and supporters of the "don't ask, don't tell" policy can fight out this particular battle of the culture wars.

Scalia, Breyer: High Court Polar Opposites (WSJ)

By Jess Bravin

The Wall Street Journal, July 5, 2005

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WASHINGTON -- The successor to Justice Sandra Day O'Connor on the Supreme Court will enter an arena increasingly shaped by the competing legal theories of two justices: Antonin Scalia and Stephen Breyer.

Each member of the high court has principles behind his or her decisions, of course, and writes opinions setting forth that reasoning. Moreover, in the course of hundreds of cases, the nine justices line up in different and sometimes unpredictable ways. But in more than a decade together, Justice Scalia, appointed in 1986 by President Reagan, and Justice Breyer, appointed in 1994 by President Clinton, have come to represent for many lawyers two poles of jurisprudence.

"Breyer and Scalia have much more coherent theories of what the law should be and take those theories and reason down to the cases," says Paul Rosenzweig, a senior legal research fellow at the Heritage Foundation, a conservative think tank. Justice O'Connor "tended to reason the opposite way...adjudicating each case in front of her on its particular facts rather than on a grand or overarching theory of law."

Justice Scalia contends the only legitimate way to interpret the Constitution is to determine what the text meant at the time it was adopted, an approach that worries some corporate lawyers since there is nothing in the Constitution, for instance, that protects business from huge punitive-damage awards.

Justice Breyer argues that judges should discern the purposes behind constitutional provisions and apply them to modern circumstances the founders never envisioned.

That difference has emerged at various flash points, most recently in a spirited debate over the relevance of foreign jurisprudence to interpreting the Constitution. Justice Scalia says foreign authority has no relevance whatsoever, while Justice Breyer says how other countries confront similar issues can help inform American legal reasoning.

Frustrated Fans

Conservatives revere Justice Scalia, and liberals take solace in Justice Breyer, but each judge claims his method tracks the Constitution, not politics -- and each, on occasion, has managed to frustrate his usual constituency, if not raise questions about his own doctrinal consistency.

In a March speech, Justice Scalia sought to distance his jurisprudence from a political agenda. "Conservatives are willing to grow the Constitution to cover their favorite causes just as liberals are," he said at the Woodrow Wilson International Center for Scholars in Washington. "I say, 'A pox on both their houses.' "

Indeed, Justice Scalia considers it a violation of the First Amendment to prohibit destruction of the American flag and has voted to invalidate sentencing guidelines that allowed judges to punish convicted defendants for factors not proved to a jury. "Though I'm a law-and-order type, I can't do all the mean, conservative things I would like to do to this society," he said. "When I find the original meaning of the Constitution, I am handcuffed."

Justice Scalia has fashioned perhaps the most coherent response to the expansive view of rights the court adopted in the 1950s and '60s under Chief Justice Earl Warren. Sometimes called the "living Constitution," the Warren court's approach enraged conservatives who saw it as a cover for judges reading their own liberal preferences into the 18th-century document.

In speeches, Justice Scalia repeatedly has singled out a line from a 1958 Warren opinion that tied the Eighth Amendment ban on "cruel and unusual punishments" to "the evolving standards of decency that mark the progress of a maturing society."

Articulating a Vision

"I detest that phrase," Justice Scalia said in January at an appearance with Justice Breyer at American University. "I'm afraid that societies don't always mature. Sometimes they rot."

Nonetheless, the court went on to cite the "evolving standards" test in March, when, in a 5-4 decision that saw Justice Breyer in the majority and Justice Scalia in dissent, it ruled unconstitutional the death penalty for juveniles.

"The Constitution is not a living organism, for Pete's sake; it's a legal document, and like all legal documents, it says some things and it doesn't say others," Justice Scalia said in his March speech.

This view isn't embraced by many law professors. Justice Scalia says they consider his method of limiting constitutional analysis to the document's original meaning -- called originalism -- to be "some kind of weird affliction."

Still, Justice Scalia's message has resonated with the public, says Clyde Spillenger, a law professor at the University of California, Los Angeles. "The only jurisprudence that has made it into the public sphere is Scalia's originalism," he says. Now, however, "Breyer has taken up the challenge. He has seen the need to articulate a vision as well as decide cases."

Justice Breyer, who calls his approach "active liberty," will publish a mass-market book under that title in October, when the Supreme Court convenes for its next term. In an October 2001 lecture at New York University, Justice Breyer laid out his theory, all but chastising Justice Scalia by name.

"My approach differs from that of judges who would place nearly exclusive interpretive weight upon language, history, tradition and precedent," he said. Such judges "may believe that these more 'original' sources will more readily yield rules," but since "history and tradition are open to competing claims and rival interpretations," their approach "simply channels subjectivity into a choice about which history?"

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Considering Consequences

Justice Breyer argues that in addition to individual provisions, judges should focus on "constitutional objectives" derived from considering "the document as a whole." Moreover, they should place "considerable weight on consequences -- consequences valued in terms of basic constitutional purposes."

The difference emerges starkly in certain cases, such as those concerning regulation of political-campaign finance. Justice Scalia, recalling the Stamp Act that helped provoke the American Revolution, has argued that restrictions on campaign contributions or fund raising amount to an unconstitutional restriction on free speech. But the court has been more equivocal, in 1976 striking down a limit on campaign expenditures, but in 2003 upholding the McCain-Feingold law that restricted certain political contributions.

"The nation's founders did not speak directly about campaign contributions," Justice Breyer said in his NYU speech. And in a 2000 concurrence upholding a state campaign-finance law, he wrote that both sides could claim legitimate constitutional interests -- the right of wealthy forces to promote their political interests within a democratic framework that functions best when less powerful voices aren't drowned out. Even as they restrict funding of some political speech, campaign-finance laws can encourage "public participation and open discussion that the First Amendment itself presupposes," he wrote.

That consequentialist approach made the difference in last week's Ten Commandments opinions, where in separate 5-4 majorities the court upheld the placement of a decades-old monolith amid other monuments on the grounds of Texas's state capitol, but found unconstitutional framed copies of the Decalogue recently installed in Kentucky courthouses by religiously motivated local officials.

All Bets Are Off

Only Justice Breyer was in both majorities. He explained his position as based "on the basic purposes" of the First Amendment's religion clauses, which he read as aiming to avoid "religiously based divisiveness." Removing an old stone marker that had attracted no controversy for years might provoke such divisiveness -- as would allowing current-day local officials to get away with posting religious materials in public buildings.

Justice Scalia found that all such displays were permissible, based on his view that the framers themselves often made religious references, whereas placing such symbols on public property fell short of the prohibition of a governmental "establishment of religion."

While conservatives expect the new justice will hew to Justice Scalia's approach and disdain that of Justice Breyer, Mr. Rosenzweig of the Heritage Foundation notes there is no guarantee how a life-tenured justice will turn out.

On a frequently divided court, "he or she may be a third pole," he says.

O'Connor Leap Moved Women Up The Bench (NYT)

By Adam Liptak

The New York Times, July 5, 2005

When President Ronald Reagan decided to nominate Sandra Day O'Connor as the first woman ever to the Supreme Court in 1981, he did not have a lot of other women to choose from. The bench, one might say, was not deep.

"The pool of well-credentialed women lawyers was minuscule at the time," said Patrick J. Schiltz, a law professor at the University of St. Thomas in Minneapolis who served as a law clerk for Justice Antonin Scalia. "They had to reach for O'Connor. She wasn't even on the high court in Arizona. She was on a middle-level appellate court. Has there been another nominee to the Supreme Court from a midlevel state appeals court?"

The answer, it seems, is no. "You would be very hard pressed to find anyone in the history of the court who was elevated from that role," said Kermit L. Hall, the president of the State University of New York at Albany and the editor of "The Oxford Companion to the Supreme Court of the United States." "It speaks volumes to the presence of women on the bench at that time. O'Connor really opened up a set of opportunities that really would not have existed without her."

A look at the courts shows the breadth of change across the quarter of a century bookmarked by Justice O'Connor's nomination and her retirement. In 1981, Mr. Reagan's first year in office, there were almost 700 active federal judges, and 48 were women, some of them semiretired. Today, according to the Federal Judicial Center, there are 201 women and 622 men among active federal judges. As late as the beginning of the administration of Jimmy Carter in 1977, there were fewer than 10 women on the federal bench, according to the administrative office of the federal courts.

Roberta C. Ramo, who became the first woman to be president of the American Bar Association in 1995, recalls what a breakthrough the O'Connor nomination was in 1981.

"It makes me tear up right now just to think about it," Ms. Ramo said. "She was a woman who had led a life that included having children, stopped practicing for a while, suffered discrimination, was a legislator, was a judge. That was terribly meaningful."

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Justice O'Connor, who had served as a trial judge for five years in Phoenix and then for less than two years on the state court of appeals, one step down from the Arizona Supreme Court, made her way at a time when women who were lawyers were often lucky to get job offers, much less judicial appointments.

Eleanor Smeal, who was the president of the National Organization for Women in 1981, said the O'Connor nomination was a turning point.

"At that time women were a very teeny percentage of judges," Ms. Smeal said. "We were begging male judges to give us our rights, and we wanted someone on the inside."

The first woman to serve on the federal bench was Florence Ellinwood Allen, appointed to the federal appeals court in Cincinnati by Franklin D. Roosevelt in 1934. Harry S. Truman appointed the first woman to be a federal trial judge, Burnita Shelton Matthew, in 1949.

Because of Justice O'Connor's conservative reputation on certain issues, some women's groups were wary of her at the outset, fearful that she would oppose legal protections for abortion and interpret federal laws addressing sex discrimination narrowly. But her rulings in those areas have generally found approval with women's groups.

That is not to say women who are judges are more likely to side with women who appear before them than men are, said Cass R. Sunstein, a law professor at the University of Chicago who has studied judges' voting patterns.

"In sex discrimination and sexual harassment cases," Mr. Sunstein said, "women judges are no more sympathetic to female plaintiffs than men judges. But Democratic appointees are more sympathetic to female plaintiffs than Republican appointees."

Justice O'Connor was one of 5 women in a class of 102 students who graduated from Stanford Law School in 1952, at a time when tuition was $220, said Catherine Nardone, an associate dean there. The class of 2007 has 71 women and 95 men, and they pay more than $35,000 a year.

In 1981, according to the American Bar Association, 36 percent of law school students were women. Last year, it was 48 percent.

But the change in law schools is not reflected in the upper ranks of the big law firms, said Larry Kramer, the dean of Stanford Law School. "In the profession," Mr. Kramer said, "this is definitely still an issue. Partnerships in law firms haven't kept pace."

About 16 percent of law firm partners are women, according to a 2003 bar association report.

That represents substantial progress. Justice O'Connor was refused a job at every law firm to which she applied and was offered secretarial jobs instead, even though she had graduated near the top of her class.

There is much room for improvement on law school faculties, too, Mr. Kramer said. Of 43 law professors at Stanford, 13 are women.

In all, said Deborah Rhode, a law professor at Stanford, "Women's representation in status, income and security have increased, but they're still overrepresented at the bottom and underrepresented at the top."

Justice O'Connor's successor will face legal issues of grave concern to women, but most of the ones likely to reach the court soon will be incremental. The core right to abortion, supported by six of the current justices, appears secure in the short term, although the constitutionality of various restrictions is likely to arise. The court will also continue to shape the contours of laws prohibiting sex discrimination, including one concerning discriminatory practices in school athletic programs.

Justice O'Connor's unexpected resignation has upended the conventional wisdom about the relevant criteria for the next nominee. There had been much talk of racial and ethnic diversity and almost none concerning the implications of candidates' gender. That has changed.

"Until the middle of last week, when the White House started hearing rumors that Justice O'Connor would resign," said Thomas C. Goldstein, who argues frequently before the court and is an authority on it, "every name on the short list was a boy. Every name on the long list was a boy."

Ms. Smeal, now the president of the Feminist Majority Foundation, a women's rights group, said the question should not be whether Justice O'Connor's seat ought to be filled by a woman but why half of the nine justices are not women. The other woman on the court is Ruth Bader Ginsburg, who was appointed by Bill Clinton. "We're asking for another woman," Ms. Smeal said. "We should have at least four. We should not be allowed to go back to one. The era of tokenism is over."

Although the pool of female judges is much larger today than it was in 1981, the relevant group remains small.

"The number of prominent conservative Republican female federal appellate judges," Professor Schiltz said, "gets to be a very, very small pool."

The women most frequently mentioned as being considered for Justice O'Connor's seat all sit on federal appeals courts. They include Judges Edith Brown Clement, Edith H. Jones and Priscilla R. Owen, all of the United States Court of Appeals for

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the Fifth Circuit, in New Orleans, and Judge Janice Rogers Brown of the United States Court of Appeals for the District of Columbia Circuit.

There has been no serious talk, this time, of the need to scour the state lower courts to find a woman suitable for the nation's highest court.

The Imprint That O'Connor Leaves On The High Court (CSM)

By Warren Richey

The Christian Science Monitor, July 5, 2005

WASHINGTON - In 1981, when Sandra Day O'Connor became the first woman appointed to the US Supreme Court, she was by no means the most qualified individual in the country for the job.

She was not a partner in a major law firm. She had never clerked for a Supreme Court justice. She had never argued a case or even attended a session at the high court. Nor had she served as a federal trial judge or federal appeals court judge.

It wasn't that Ms. O'Connor lacked the competence or intelligence to have performed all those jobs: She graduated third in her class at Stanford Law School. But in the 1950s, the law belonged to men, and those who pulled the levers of power could not see beyond O'Connor's gender.

She was discouraged. But she never quit.

As her 24-year Supreme Court career demonstrates, Justice O'Connor, who announced her retirement last Friday, had other qualifications that helped mold and prepare her to become one of the most influential and important figures in American law.

Now, as she plans to leave the court upon confirmation of a successor, scholars, historians, and some of her own former clerks are assessing her place in history.

O'Connor helped break down gender stereotypes and open doors for women in legal and other professions. But perhaps more important, she quickly moved past the "first woman" label and became a centrist leader on the court.

"When you become the first sister in a group of brethren, I think it had to have been a difficult beginning," says RonNell Andersen Jones, who clerked for O'Connor during the 2003-04 term. But she says O'Connor soldiered through by focusing on her role as a justice.

"She genuinely thought of herself as one of nine members of the court - as a person who had a job to do and one vote to cast."

Charles Blanchard, a lawyer in Phoenix who clerked for O'Connor in 1986-87, agrees. "Her real accomplishment in opening doors for women is not that she was the first woman Supreme Court justice, but that she so quickly transcended that," he says.

"She didn't decide issues for women from a woman's perspective," adds Marci Hamilton, a law professor at Yeshiva University's Cardozo School of Law in New York and a 1989-90 O'Connor clerk. "She was always an independent-minded, strong-willed individual who made decisions based on her own internal moral compass."

She also says, "That is a wonderful role model for anybody, but also for women moving up the ranks." 'The most powerful woman'

O'Connor's vote has often been decisive.

She is sometimes referred to as the most powerful woman in America because of her role as a key swing voter on the sharply divided court. When the court divides 4-4 on a hot-button issue, O'Connor frequently breaks the deadlock, and the resulting law mirrors her view of how the matter should be resolved.

The power of her position has been closely watched in part because of a single issue: abortion. O'Connor seemed poised to overturn the Roe v. Wade precedent in the early 1980s just after she joined the court. But she later helped preserve Roe's essential holding in 1992 by joining forces at the center of the court with Justices David Souter and Anthony Kennedy.

In a string of other cases, she has exercised similar power to shift the direction of the law - sometimes by wielding a single vote.

Her influence was evident in 2000 when her vote tipped the balance in striking down a ban on so-called "partial-birth" abortions, and in 2003 when she provided the crucial fifth vote to uphold the constitutionality of affirmative action in university admissions.

In 2004, she was once again in the driver's seat at the center of the court, writing that American citizens detained as enemy combatants in the war on terror must be provided a level of due process in the civilian courts. "A state of war is not a blank check for the president when it comes to the rights of the nation's citizens," she wrote.

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On the conservative side, her vote has been crucial to the conservative wing's federalism revival and in upholding school vouchers in 2002. She also joined her conservative colleagues in Bush v. Gore, voting in December 2000 to halt the Florida recount in the presidential election.

In matters of church and state, O'Connor has also played an important role, particularly with her development of the so-called endorsement test to determine whether certain government actions involving religion violate the First Amendment's establishment clause. Elements of O'Connor's test are evident in both the majority and minority positions in the two recent Ten Commandments decisions, analysts say. Her conservative critics

Over the years, O'Connor has voted consistently in a number of areas, but conservative critics say she is too unpredictable in high-profile, blockbuster cases. They say it appears she is attempting to do what she believes is best, rather than simply ruling in accordance with the dictates of the law and the Constitution.

These critics say her pragmatic, case-by-case approach in many areas has fostered confusion among lawyers and lower-court judges who can never be sure what the law is until O'Connor has ruled in each case.

In contrast, Justice Antonin Scalia is seen as seeking to develop a jurisprudence of binding principles - bright-line tests and rules that can consistently be applied across a range of cases. This difference in approach has frequently placed the two justices on a collision course in major cases.

"Scalia has often described his view of the rule of law as the law of rules," says Eugene Volokh, a 1993-94 O'Connor clerk and now a UCLA School of Law professor. "I think Justice O'Connor's view is the work of the law is making law work," he says.

"Sometimes she likes clear, bright-line rules," Professor Volokh says. "Sometimes she thinks they just don't fit with the complexity of the world."

One example of O'Connor's concern about the potential damage that can be done by bright-line rules arises in a case involving the religious use of peyote by native Americans. In a 1990 decision written by Justice Scalia, the court announced that the First Amendment's free exercise of religion clause does not protect the religious use of peyote against enforcement of general antidrug laws.

O'Connor disagreed. She believes that the First Amendment requires the government to avoid interfering in religious worship unless it is absolutely necessary to achieve a major government objective.

"Although it may provide a bright line, the rule the court declared ... does not faithfully serve the purpose of the Constitution," O'Connor wrote in 1997. She said the court would never adopt a similar rule limiting the First Amendment's free-speech protections, and should not encumber a portion of the same amendment only a few words away.

"Given the centrality of freedom of speech and religion to the American concept of personal liberty," she wrote, "it is altogether reasonable to conclude that both should be treated with the highest degree of respect." O'Connor's beginnings

O'Connor was nominated in 1981 to the seat vacated by Potter Stewart. In naming O'Connor, President Reagan fulfilled a 1980 campaign pledge to name a woman to the high court.

Her nomination was confirmed by the Senate 99 to 0. She was sworn in as a justice on Sept. 25, 1981.

Analysts say that several aspects of O'Connor's early life laid the foundation for her later work at the high court. Among them: her childhood on a remote cattle ranch in Arizona, her public service in Arizona as a lawmaker, and her work as a state trial judge and appeals court judge.

But perhaps most important was her search for work in 1952. After graduating third in her Stanford Law School class, she was unable to find a job as a private-sector lawyer because none of the major firms in California would consider hiring a woman. Only one firm offered her a spot - as a secretary.

Thirty years later, among those involved in her selection as a Supreme Court nominee was William French Smith, then attorney general. In the 1950s, Mr. Smith was a partner in the California law firm that declined to hire O'Connor as a lawyer but offered her work as a secretary.

Ms. Jones, who is also a recent law-school graduate, says she never once thought her gender might be a roadblock to a legal career. "I am embarrassed at how much I took it for granted," she says.

"It was good for me to be able to sit down with Justice O'Connor and hear her say, 'I graduated way at the top of my Stanford Law School class and couldn't get a job except as a secretary at a law firm. No one would take me seriously, and I had to make my own opportunities for myself.' "

Jones adds, "It gives you a nice appreciation of how very far we've come in what amounts to one lifetime."

For Gonzales, A Familiar Cast At The Table (WP)

By Dan Eggen

The Washington Post, July 5, 2005

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For Attorney General Alberto R. Gonzales, some meetings at the Justice Department must feel similar to those he held when he was President Bush's chief lawyer. After all, at least half a dozen of his senior aides also worked under him when he ran the White House counsel's office.

Former colleagues now at Justice include his chief of staff, his deputy chief of staff, two senior counselors and the head of the legal policy office. In addition, the Bush administration's nominee to be Gonzales's second-in-command, Timothy E. Flanigan, also served as his White House deputy.

But Justice officials are quick to stress that this group of alumni is part of a broader circle of advisers that Gonzales relies upon, including holdovers from John D. Ashcroft's tenure and new hires who have not worked closely with him in the past.

D. Kyle Sampson, his deputy chief of staff, said that "talking about a White House mafia or something like that would not accurately characterize his openness and inclusiveness."

"I like to think he just did a dang good job of hiring us all in the first place," said Sampson, who worked for Gonzales before coming to Justice in 2003 under Ashcroft. "I just think it's a matter of good lawyers he happens to know and be comfortable with."

Even as Gonzales is still cementing his team in place, of course, he is widely reported to be on the short list as a potential Supreme Court nominee. His chances are enhanced by his close relationship with Bush, who has been his boss since Bush was Texas governor. But Gonzales is viewed with suspicion by many within the Republican Party's conservative base, who disagree with moderate legal positions he has taken on issues such as abortion and affirmative action.

Many of his closest aides, by contrast, have extensive and deeply conservative credentials. Many are young lawyers with impressive résumés and fast-rising careers. Justice officials declined to speculate on what might happen to them if Gonzales moves on to the high court.

The key members of Gonzales's inner circle at Justice include:

· Theodore W. Ullyot , 38, chief of staff, had been a deputy assistant and deputy staff secretary for Bush at the White House. From 2003 to 2004, he worked in the counsel's office under Gonzales. Earlier, he was senior vice president and general counsel at AOL Time Warner Europe and a partner at Kirkland & Ellis.

Ullyot is one of the many "Luttigators" who work in the senior ranks of Justice, having clerked for federal appellate judge J. Michael Luttig, the prominent conservative frequently mentioned as a potential Supreme Court nominee. Ullyot also clerked for another hero in GOP legal circles, Supreme Court Justice Antonin Scalia.

"His leadership style is to listen and engage," Ullyot said of Gonzales. "Our job on the staff is to make sure that he's hearing from all the people that he needs to be hearing from."

· D. Kyle Sampson , 35, deputy chief of staff, came to Justice in 2003 from Gonzales's shop at the White House, and was a counselor to Ashcroft. He learned the ropes on the Hill by working as counsel to Sen. Orrin G. Hatch (R-Utah) on the Senate Judiciary Committee.

Like Ullyot and several other senior aides at Justice, Sampson is a graduate of the University of Chicago Law School, the alma mater of many prominent conservatives.

· Robert D. McCallum , 59, associate attorney general, arrived at Justice the week after the Sept. 11, 2001, attacks. Although he had not worked closely with Gonzales in the past, the Yale Law School alumnus has enjoyed a higher public profile in recent months than he did during the Ashcroft years.

McCallum also has found himself at the center of controversy in recent weeks over the department's decision to drastically scale back a proposed penalty in the government's tobacco lawsuit.

McCallum echoes the comments of others who have worked with Gonzales, saying he "encourages a very vigorous internal debate and deliberation" on issues.

· Tasia Scolinos , 33, is the director of public affairs and, like all of Gonzales's closest aides, a lawyer. She is directly involved in mapping out public relations strategies and in preparing the attorney general for media events, Hill testimony and other public appearances.

Scolinos came to Justice from the Department of Homeland Security, where she was senior director of communications.

"The Department of Justice has a wide portfolio, and many of those issues are very important," said Scolinos, a graduate of Claremont McKenna College and Georgetown University law school. "We try to use the prestige of the attorney general's office to talk about and focus on issues that need attention."

· Raul F. Yanes , 39, senior counselor, worked with Gonzales as an associate counsel at the White House from 2003 until he moved to Justice to work for the new attorney general.

Yanes spent most of his career in private practice at Davis Polk & Wardwell in New York and is a graduate of Harvard Law School.

· Jeffrey Taylor , 40, a Harvard Law graduate, is also a counselor to Gonzales. Taylor previously worked in private practice and as a federal prosecutor in San Diego.

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Like Sampson, Taylor worked for Hatch in the Senate and first came to Justice as a counselor to Ashcroft in 2002.

· Courtney Simmons Elwood , 37, another counselor, worked with Gonzales at the White House counsel's office from 2001 to 2002 and then served as deputy counsel in Vice President Cheney's office from 2003 until arriving at Justice in February.

She also clerked for Luttig and is a graduate of Yale Law School.

· Rachel Brand , 32, currently serves as acting head of the department's influential Office of Legal Policy and is awaiting formal confirmation from the Senate.

A graduate of the University of Minnesota and Harvard Law School, she served as an associate White House counsel and clerked for Justice Anthony M. Kennedy.

· Michael A. Battle , 49, is the new head of the Executive Office of U.S. Attorneys, a liaison-type position that Gonzales intends to turn to in his bid to push for prosecutions of gang violence, obscenity and other crimes, according to aides.

Battle is a former public defender and family court judge who gained national attention as the U.S. attorney in Buffalo prosecuting the "Lackawanna Six," a group of Yemeni men convicted on terrorism charges after admitting they had trained at an al Qaeda camp before the Sept. 11 attacks.

· Timothy E. Flanigan , 51, is not technically a Gonzales aide yet, but he is certain to be one of the most important players at Justice if he is confirmed to replace James B. Comey as deputy attorney general. Flanigan was Gonzales's deputy at the White House from 2001 to 2002 before going to work for Tyco International Inc. as general counsel.

Officials have said Flanigan was closely involved in some of the most controversial decisions linked to Gonzales's office after the Sept. 11 attacks -- including the finding that the Geneva Conventions' protections do not apply to suspected terrorists captured on the battlefield and a since-retracted Justice memo narrowing the definition of what constitutes torture.

Flanigan was part of the litigation team representing the Bush campaign during the 2000 election dispute and previously worked at Justice during the administration of President George H.W. Bush.

Profiles Of Jones, Brown Rise In Wake Of O'Connor Retirement (WSJ)

By Jess Bravin, Jeanne Cummings And Robert S. Greenberger

The Wall Street Journal, July 5, 2005

The retirement of Justice Sandra Day O'Connor, the first woman on the Supreme Court and one of two currently, is expected to raise the profile of female candidates.

The two women most often mentioned on Bush short lists are Edith Jones, 54 years old, a former general counsel of the Texas Republican party who was appointed by President Reagan in 1985 to serve on the U.S. Appeals court in New Orleans, and Janice Rogers Brown, 55, the African-American daughter of sharecroppers who grew up Greenville, Ala. and attended segregated schools. After fierce resistance by Senate Democrats, she was recently confirmed to become an appeals court judge as a result of a deal between moderate Democrats and Republicans.

Social conservatives are comfortable with Judge Jones, who passes their abortion litmus test with high grades. In a 1993 case, writing for the majority, she upheld a Mississippi law that prohibits certain minors from obtaining abortions without the consent of both parents, saying it doesn't unduly burden the right to seek an abortion. In another abortion case, Judge Jones, who agreed on a narrow technicality with an abortion-rights decision, nevertheless went out of her way in a concurring opinion to say that the Supreme Court's seminal abortion-rights case, Roe v. Wade, was "an exercise in raw judicial power."

On another issue, she also ruled that a female police officer's work environment wasn't hostile simply because there were some derogatory references to her in a police newsletter's satirical column. And in a case involving capital murder, Judge Jones said that the fact that a defendant's attorney fell asleep during parts of the prosecutor's presentation wasn't sufficient grounds for ruling that he was inadequately represented.

Judge Jones also was a member of the 1997 federal bankruptcy law review commission that spawned the pro-creditor overhaul of the code ultimately passed by Congress earlier this year. In a dissent from a commission's report that urged more protections for debtors, Judge Jones said that the majority report "ignores creditors' complaints that their interests are systematically shortchanged by the (report), while those of debtors are enhanced."

The Senate Democrats' fierce opposition to Judge Brown reflected her staunch conservatism. In a speech in 1999, she said, "Where government advances – and it advances relentlessly – freedom is imperiled, community impoverished religion marginalized and civilization itself jeopardized." At her nomination hearing last November for a seat on the U.S. Appeals Court for the District of Columbia, Vermont Sen. Patrick Leahy, the ranking Democrat on the Judiciary committee, called her an "agenda-driven judge whose respect for precedent and rules …changing depending on the subject matter."

In a case of interest to business, Judge Brown dissented from her colleagues' view that Nike Inc. could be sued under California law for inaccurate comments it made in defense of its overseas labor practices. She said the California statute involved

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in the lawsuit unconstitutionally limited free speech. Several experts, including Harvard Law School professor Laurence Tribe, a liberal, agreed with her view.

Other Candidates

One frequently mentioned candidate as an associate justice or chief justice is federal Circuit Judge J. Michael Luttig, who was appointed to the court by the first President Bush in 1991. He is considered to be more ideologically conservative than another name often mentioned, federal Circuit Judge J. Harvie Wilkinson III. Judge Luttig is close friends with Justices Antonin Scalia and Clarence Thomas.

Writing for the majority in a 1992 appeals court decision, Judge Luttig affirmed a first-degree murder conviction based on strong circumstantial evidence but no direct evidence. "He is very tough in criminal cases, very hard on crime and supports the death penalty," said Rodney Smolla, a law professor at University of Richmond Law School. Judge Luttig's own father was murdered in April, 1994, during a robbery outside his East Texas home. When he was once asked by defense lawyers to recuse himself from a death-penalty case, Judge Luttig refused, saying that all judges are formed by their life experiences.

In a 1993 ruling, he said that a prisoner needed to produce hard evidence of serious or significant physical or emotional injury in order to win a case based on a constitutional violation of the prohibition of "cruel and unusual punishment." In a First Amendment case, Judge Luttig, in a concurring opinion, argued that the First Amendment protected the right of a group to have a confederate flag on their Virginia license plates, even though it was offensive to other citizens.

Meanwhile, Mr. Bush has also made known his desire to elevate the first Hispanic to the court, and a top choice would be Emilio Garza of the New Orleans appeals court. Judge Garza, 55, was appointed by President Reagan to a U.S. district court and by President George H.W. Bush to the appeals court. Beyond his anti-abortion views, he is known for voting in a 1999 case to affirm the right of a policeman to arrest and handcuff a woman for violating Texas' seat-belt law. The woman was driving with her young children. The Supreme Court later affirmed the decision.

In a decision involving a lawsuit under the Americans with Disabilities Act against El Paso, Texas and the Texas secretary of state for refusing to make ballots accessible for the blind, Judge Garza ruled that the ADA didn't cover Texas state officials. The ADA has been a frequent target of the Rehnquist court, which has limited its reach significantly.

Federal Circuit Judge John Roberts was sworn two years ago for a seat on the influential U.S. Court of Appeals for the District of Columbia, which handles complex cases involving the federal government. A Harvard college and Harvard Law School honors graduate, the brainy and likeable Mr. Roberts joins Mr. Wilkinson on lists for a possible chief justice pick.

He is widely admired by Democrats, as well as Republicans. "I think he's the conservative equivalent to a Ruth Bader Ginsburg or Stephen Breyer," says Bradford Berenson, a former Bush White House official, referring to two Supreme Court justices who are considered moderates. Also, because the D.C. appeals court rarely handles abortion actions or cases involving religious issues, he is a blank slate on social cases -- a trait that could ease his acceptance to Democrats but make it harder for him to win support from social conservatives and evangelicals.

Vacancy Starts A Fundraising Race (WP)

By Thomas B. Edsall

The Washington Post, July 5, 2005

The effort to fill the Supreme Court seat being vacated by Justice Sandra Day O'Connor has already become a fundraising magnet for both left and right that promises to rival the 2004 presidential campaign for the rate of cash flow, if not total dollars raised.

The prospect of shifting the Supreme Court to the right has fueled a quest for dollars by conservative and liberal interest groups that will halt only if President Bush does the unexpected and nominates someone acceptable to all sides.

Under the scenario of an ideological battle, participants predict the competition for cash will turn the Senate confirmation into the most expensive nomination fight in the nation's history, certain to break $50 million and, if the nominee is especially controversial, likely to approach $100 million.

Most of the money raised would not be publicly reported. With the exception of such groups as MoveOn PAC, many organizations active in the fight are tax-exempt and have few, if any, disclosure requirements.

The nomination process will pit two lobbying and interest-group coalitions that have repeatedly gone head to head during the Bush administration over tax cuts, energy legislation, and class-action and bankruptcy measures. While the business-social-conservative coalition has repeatedly defeated the liberal-labor alliance, the outcome of a far more visible nomination fight would be highly unpredictable.

On the right, Progress for America, which spent $45 million in behalf of the Bush 2004 campaign, is committed to spending $18 million for targeted radio and television ads; the allied Judicial Confirmation Network plans to spend $2 million to $3 million

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for grass-roots lobbying of key senators; and Tony Perkins, president of the Family Research Council, has vowed to put unspecified "millions" behind a conservative nominee.

"The focus of Progress for America is crystal clear," said spokeswoman Jessica Boulanger. "That is to defend the president's nominee from attacks from the left."

The spending by these groups only touches the surface of the expected investment in a conservative nominee by James Dobson's Focus on the Family, by Jay Sekulow's American Center for Law and Justice, by the hundreds of programs broadcast on Christian radio, and by the vast network of other organizations, including the Christian Coalition, the Free Congress Foundation, the Southern Baptist Ethics and Religious Liberty Commission, Concerned Women for America, and business groups such as the National Association of Manufacturers.

On the left, such groups as People for the American Way and MoveOn PAC already flexed their muscles in the debate over the "nuclear option" proposal of Senate Majority Leader Bill Frist (R-Tenn.) to end filibusters of judicial nominees.

With far lower levels of public interest, People for the American Way was able to collect $5 million for the filibuster issue, MoveOn raised $1.5 million and the Alliance for Justice raised $1 million.

"The $1.5 million was just a warm-up for what's to come," said Ben Brandzel, MoveOn's advocacy director. "That was a preparatory round, with far less attention and little focus on the threat to our rights, and $1.5 million was no sweat."

Just as there are hundreds of groups on the right prepared to spend money and time on the nomination, there are a host of counterparts on the left, including the AFL-CIO and its member unions, civil rights organizations, gay and lesbian groups, environmental lobbies, and the well-heeled trial lawyer bar.

Abortion rights groups are expecting the nomination fight to help them regain vitality. With Roe v. Wade on the books for 32 years, many younger women are relatively unaware of the fact that abortion was illegal in most of the United States, liberal women's rights leaders say.

"NARAL Pro-Choice America surpassed its fundraising goals in the hours following Justice O'Connor's announcement," said President Nancy Keenan. Donors "are deeply concerned that President Bush will choose to further divide this nation by nominating a radical right-wing conservative."

Moderation is not the tone of fundraising appeals in the nomination contest. "This is big, people. Huge," NARAL wrote to supporters. "It's true, there is no freedom without choice. Without choice, we are not free."

In private, leaders of organizations on both the left and the right acknowledge that the more controversial the nominee Bush selects, the more money each side will raise.

The money will finance lobbying campaigns conducted in the halls of Congress, on radio and television, in senators' home-state town meetings, in pressure from business and civil rights leaders -- at every leverage point the two sides can find.

The left and right have already designated target senators and put in place the tools of political warfare to mobilize troops at the grass-roots level. Progress for America, for example, has targeted 21 states, including all the states that cast majorities for Bush and have a Democratic Senate incumbent up for reelection in 2006.

In addition, virtually every group is investing in the states of Republican senators who prevented adoption of the nuclear option ending judicial filibusters and in those of Republican moderates who might vote against a very conservative nominee. These key states include Maine, Pennsylvania, Ohio, Arizona and Rhode Island.

Senate Pact Shapes High-court Fight (CSM)

By Gail Russell Chaddock

The Christian Science Monitor, July 5, 2005

WASHINGTON - The decision of 14 senators - whether to hold or abandon an agreement to keep the wheels of the judicial appointments moving - is emerging as the wildcard in the looming confirmation fight over the US Supreme Court.

Six weeks ago, the Gang of 14 stunned the Senate by a bipartisan pact to allow long-delayed votes on President Bush's most controversial nominees, while preserving the minority's right to filibuster under "extraordinary circumstances." The deal opened the door to a quick confirmation of six of the president's nominees. It also sidelined, for a time, GOP plans to force a change in Senate rules to end filibusters on judicial nominations, dubbed the "nuclear option."

Now that pact meets its ultimate test: filling a seat on a Supreme Court closely divided on issues ranging from abortion to property rights. Democrats say the nuclear option is off the table for a Supreme Court nomination fight. Republicans say it emphatically is not. In the end, it's the Gang of 14 who decide which side is right.

The key question: How resilient is that pact and the trust that binds it? That hinges on whether the seven Democrats and seven Republicans end up on opposite sides regarding the definition of "extraordinary circumstances."

Members of the Gang of 14 say they don't want to be a shadow Senate Judiciary Committee or to break with their own party leadership. "The 14 do not expect the president to consult with us as a group. We're not trying to become the Judiciary

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Committee or the arbiters of all these nominees," says Sen. Mark Pryor (D) of Arkansas, one of seven Democrats signing the May 23 agreement.

If the pact holds, minority Democrats will be unable to filibuster a Bush nominee on party lines. Nor will Republicans be able to take the filibuster option permanently off the table. That agreement has two elements: each painstakingly negotiated. Outside groups and party leaders have tried to interpret that agreement, but, in the end, it comes down to the good will and judgment of the 14 who signed it. So far, members say that good will is holding.

An early test of the viability of the agreement is whether the president consults with senators, both Democratic and Republican, before submitting a judicial nomination for confirmation. "Such a return to the early practices of our government may well serve to reduce the rancor that unfortunately accompanies the advice and consent process in the Senate," said the 14 in their May 23 agreement.

In a bid to interpret that agreement, Sen. Charles Schumer (D) of New York, a member of the Senate Judiciary Committee, said in a press briefing on Friday that such consultation must involve "real, face-to-face, back-and-forth consultation." Republican leaders insist the choice is up to President Bush and that it need not be negotiated in advance with Democrats.

But, in fact, the terms of the agreement within the Gang of 14 sets a relatively low standard of the advice function, according to Sen. John Warner (R) of Virginia, who with Sen. Robert Byrd (D) of West Virginia, drafted this piece of the resolution.

The key document used in negotiating the language on consultation was an excerpt from Federalist No. 66, written by Alexander Hamilton in 1788. It reads, in part: "It will be the office of the President to nominate, and, with the advice and consent of the Senate, to appoint. There will, of course, be no exertion of choice on the part of the Senate. They may defeat one choice of the Executive, and oblige him to make another; but they cannot themselves choose - they can only ratify or reject the choice of the President."

The other key element in the Gang of 14 agreement is how senators interpret their commitment to filibuster a judicial nominee only under "extraordinary circumstances." Democrats on the Judiciary Committee say that ideology must be a factor in making that assessment. On Sunday, Sen. Lindsey Graham, one of the GOP signatories, said it was not. "Based on what we've done in the past with [Bush nominees since May 23], ideological attacks are not an 'extraordinary circumstance,' " he said on Fox News.

But Democrats who signed the agreement are leaving their options open. "I'm leaving open my judgment as to what 'extraordinary circumstances' involves," says Sen. Ben Nelson (D) of Nebraska. He says there will be "no surprises," and that members of the Gang of 14 have ongoing discussions on this point.

A test case of the agreement is whether a nominee as conservative as Janice Rogers Brown, confirmed to the D.C. Circuit Court of Appeals, could get past a filibuster threat for the Supreme Court. Senator Pryor says it's not clear. "Every nomination is different.... I would hope that Janice Rogers Brown would not ever be considered for the US Supreme Court. But I'd like to reserve judgment on that. I may be wrong about her. She may get on the D.C. circuit and be a wonderful surprise. I may change my mind on her over time. Let her have some time to develop there and show what sort of judge she may be," he said.

The 14 signatories include Republicans John Warner of Virginia, John McCain of Arizona, Olympia Snowe and Susan Collins of Maine, Mike DeWine of Ohio, Lindsey Graham of South Carolina, and Lincoln Chafee of Rhode Island; and Democrats Robert Byrd of West Virginia, Joseph Lieberman of Connecticut, Ben Nelson of Nebraska, Mary Landrieu of Louisiana, Daniel Inouye of Hawaii, Mark Pryor of Arkansas, and Ken Salazar of Colorado.

Four of the Democrats (Nelson, Byrd, Landrieu, and Pryor) are from largely Republican States, and could be targeted in elections by conservative ads if the accord falters.

Their Will Be Done (WSJ)

By Robert H. Bork

The Wall Street Journal, July 5, 2005

What do the nomination of a replacement for Sandra Day O'Connor, constitutional law, and moral chaos have to do with one another? A good deal more than you may think.

In Federalist 2, John Jay wrote of America that "Providence has been pleased to give this one connected country to one united people -- a people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government, very similar in their manners and customs . . . ." Such a people enjoy the same moral assumptions, the cement that forms a society rather than a cluster of groups. Though Jay's conditions have long been obsolete, until recently Americans did possess a large body of common moral assumptions rooted in our original Anglo-Protestant culture, and expressed in law. Now, however, a variety of disintegrating influences are undermining that unanimity,

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not least among them is the capture of constitutional law by an extreme liberationist philosophy. America is becoming a cacophony of voices proclaiming different, or no, truths.

Alexis de Tocqueville observed that "If each undertook himself to form all his opinions and to pursue the truth in isolation down paths cleared by him alone, it is not probable that a great number of men would ever unite in any common belief. . . . [W]ithout common ideas there is no common action, and without common action men still exist, but a social body does not."

Contrast Tocqueville with Justices Harry Blackmun and Anthony Kennedy. Blackmun wanted to create a constitutional right to homosexual sodomy because of the asserted "'moral fact' that a person belongs to himself and not others nor to society as a whole." Justice Kennedy, writing for six justices, did invent that right, declaring that "At the heart of [constitutional] liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life." Neither of these vaporings has the remotest basis in the actual Constitution and neither has any definable meaning other than that a common morality may not be sustained by law if a majority of justices prefer that each individual follow his own desires.

Once the justices depart, as most of them have, from the original understanding of the principles of the Constitution, they lack any guidance other than their own attempts at moral philosophy, a task for which they have not even minimal skills. Yet when it rules in the name of the Constitution, whether it rules truly or not, the Court is the most powerful branch of government in domestic policy. The combination of absolute power, disdain for the historic Constitution, and philosophical incompetence is lethal.

The Court's philosophy reflects, or rather embodies and advances, the liberationist spirit of our times. In moral matters, each man is a separate sovereignty. In its insistence on radical personal autonomy, the Court assaults what remains of our stock of common moral beliefs. That is all the more insidious because the public and the media take these spurious constitutional rulings as not merely legal conclusions but moral teachings supposedly incarnate in our most sacred civic document. That teaching is the desirability, as the sociologist Robert Nisbet put it, of the "break-up of social molecules into atoms, of a generalized nihilism toward society and culture as the result of individualistic hedonism and the fragmenting effect of both state and economy." He noted that both Edmund Burke and Tocqueville placed much of the blame for such developments on the intellectual class -- in our time dominant in, for example, the universities, the media, church bureaucracies, and foundation staffs -- a class to which judges belong and to whose opinions they respond. Thus ever-expanding rights continually deplete America's bank of common morality.

Consider just a few of the Court's accomplishments: The justices have weakened the authority of other institutions, public and private, such as schools, businesses, and churches; assisted in sapping the vitality of religion through a transparently false interpretation of the establishment clause; denigrated marriage and family; destroyed taboos about vile language in public; protected as free speech the basest pornography, including computer-simulated child pornography; weakened political parties and permitted prior restraints on political speech, violating the core of the First Amendment's guarantee of freedom of speech; created a right to abortion virtually on demand, invalidating the laws of all 50 states; whittled down capital punishment, on the path, apparently, to abolishing it entirely; mounted a campaign to normalize homosexuality, culminating soon, it seems obvious, in a right to homosexual marriage; permitted racial and gender discrimination at the expense of white males; and made the criminal justice system needlessly slow and complex, tipping the balance in favor of criminals. Justice O'Connor, a warm, down-to-earth, and very likeable person, joined many, though not all, of these bold attempts to remake America. Whatever one may think of these outcomes as matters of policy, not one is authorized by the Constitution and some are directly contrary to it. All of them, however, are consistent with the left-liberal liberationist impulse that advances moral anarchy.

Democratic senators' filibusters of the president's previous judicial nominees demonstrate liberals' determination to retain the court as their political weapon. They claim that conservative critics of the Court threaten the independence of the judiciary, as though independence is a warrant to abandon the Constitution for personal predilection. The Court's critics are not angry without cause; they have been provoked. The Court has converted itself from a legal institution to a political one, and has made so many basic and unsettling changes in American government, life, and culture that a counterattack was inevitable, and long overdue. If the critics' rhetoric is sometimes overheated, it is less so than that of some Democratic senators and their interest-group allies. The leaders of the Democratic Party in the Senate are making it the party of moral anarchy, and they will fight to keep the Court activist and liberal. The struggle over the Supreme Court is not just about law: it is about the future of our culture.

To restore the Court's integrity will require a minimum of three appointments of men and women who have so firm an understanding of the judicial function that they will not drift left once on the bench. Choosing, and fighting for, the right man or woman to replace Justice O'Connor is the place to start. That will be difficult, but the stakes are the legitimate scope of self-government and an end to judicially imposed moral disorder.

Mr. Bork, a former judge of the U.S. Court of Appeals (D.C. Circuit), is a fellow at the Hudson Institute and editor of "A Country I Do Not Recognize: The Legal Assault on American Values," forthcoming from the Hoover Institution Press.

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After O'Connor (WSJ)

The Wall Street Journal, July 5, 2005

When President Reagan nominated Sandra Day O'Connor for the Supreme Court in 1981, former Texas Congresswoman Barbara Jordan, a Democrat, declared, "I don't know the lady, but if she's a good lawyer and believes in the Constitution, she'll be all right."

And so Justice O'Connor was confirmed unanimously as the 102nd Justice of the U.S. Supreme Court and the first woman to sit on the highest court in the land. Twenty-four years later, her retirement has set the judicial-appointment process in motion again for the first time in 11 years. On Friday President Bush called for a "dignified" confirmation process, meaning no repeat of the attempts to annihilate Robert Bork and Clarence Thomas. By way of contrast, Barbara Jordan's comment seems like a relic of a more gracious past.

Hours after Justice O'Connor's announcement, MoveOn.org was predicting a nominee who is "an extremist who will undermine the rights of individuals and families." Ted Kennedy was already ratcheting up his end-of-days rhetoric. Mr. Bush shouldn't let these threats deter him from choosing someone who will move the Court in the direction that voters have endorsed in two Presidential elections in a row.

Justice O'Connor is being hailed as the Court's "swing" Justice, but her legacy is more complicated. She has been a conservative on property rights and federalism, most recently in her Kelo dissent, where she took vigorous issue with the Court's extension of government's eminent domain power to include the taking of private property for private economic development. Replacing her with a "moderate" could actually mean a more liberal court on those issues.

Where she drifted left over the years -- and where her written opinions often sowed confusion -- was on social issues, notably church-state and racial matters. She focused more on the facts of a particular case than on determining bright-line rules that citizens could understand and legislatures could follow in the future. Before the Ten Commandments decision came down last month, Beltway wags joked that Justice O'Connor would find five of the 10 unconstitutional.

Her muddled 2003 rulings on racial preferences at the University of Michigan is a case in point. On one hand, she found a "compelling governmental interest" in ensuring diversity, but she also expressed the hope that 25 years hence it would no longer be needed. Even here, however, she opposed the most blatant race-based schemes, which would put her to the right of Attorney General Alberto Gonzales, judging from what we know about his role in influencing the government brief in the Michigan cases.

She also moved left on abortion over the years, but her departure does not put Roe v. Wade in jeopardy, notwithstanding claims on the left. Justice O'Connor provided the fifth vote in Casey, reaffirming Roe and a woman's right to abortion, but Ruth Bader Ginsburg has since joined the Court as the sixth vote in favor of Roe. On the other hand, the Carhart partial-birth abortion case -- a 5-4 decision overturning Nebraska's ban -- could well be overturned. But then two-thirds of Americans support laws banning that procedure, and it is the Court's extremism that has blocked just about any regulation of abortion even up to the time of birth.

Mr. Bush has had five years to evaluate possible nominees to the Supreme Court and there are many highly qualified candidates -- male and female, on the appeals courts and elsewhere. Liberals who are demanding that he replace Justice O'Connor with a non-conservative are ignoring the recent history of Supreme Court nominations. When President Clinton named liberal Ruth Bader Ginsburg to replace Byron White, who had voted against Roe, Republicans didn't object even though that clearly moved the Court to the left on abortion and most other issues.

Mr. Bush has often said he'd like to appoint a Hispanic to the Court, and there are several fine candidates, including Miguel Estrada, whose nomination to the D.C. Circuit Court of Appeals was filibustered during Mr. Bush's first Administration. As a war President, Mr. Bush will also want someone who has a healthy respect for executive power in fighting terrorism -- such as the Fourth Circuit's J. Harvie Wilkinson. This argues against Mr. Gonzales who, as former White House counsel and now head of the Justice Department, would have to recuse himself from most if not all of the war-on-terror cases. A series of 4-4 rulings would be bad for the country on what promises to be a fundamental legal debate in the coming years and could be a matter of national survival.

Any nominee will provide a test of the recent Senate deal barring a filibuster except in "extraordinary circumstances." If words mean anything, they ought to allow a filibuster only in the case of something truly unusual, such as an ethical scandal. They shouldn't include judicial philosophy, although the left is already trying to redefine them that way. The only time the filibuster has been used against a Supreme Court nominee was LBJ's choice of Abe Fortas, who faced corruption charges, and even then it was used mainly to gauge Senate support.

Justice O'Connor served 24 terms, and the average tenure for recent Justices is 19.5 years, or five Presidential terms, so the stakes are enormous. For liberals, the courts have become the preferred way to win policy victories now that Americans are

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consistently rejecting their agenda at the ballot box. Unlike Barbara Jordan and her colleagues 25 years ago, modern liberals are unlikely to be satisfied with a nominee who is a "good lawyer and believes in the Constitution."

But the only way to stop "borking" as a political strategy is to defy and defeat it. Mr. Bush told voters in 2000 and 2004 that he would nominate Justices in the mold of Antonin Scalia and Clarence Thomas. He owes it to the country, and his most loyal supporters, to keep that promise.

Common Ground On Stem Cells? (RC)

By Mark Preston

Roll Call, July 5, 2005

Senators Seek Consensus Bill A group of Republican Senators is working quietly on new embryonic stem-cell legislation intended to appease scientists while also avoiding a potentially politically damaging presidential veto.

President Bush is opposed to providing federal funds for embryonic stem-cell research that causes the embryo to be destroyed. Bush has vowed to veto any stem-cell bill that he believes does not honor the sanctity of life.

The stem-cell issue is being framed by advocates on either side as one of morality and hope, and it has prompted a division in the Republican ruling majority in Congress. Against the objections of GOP leaders, the House approved a measure in May that would allow federal funds to be used for embryonic stem-cell research.

The Senate is expected to approve the bill at some point later this year, putting Bush in the position of having to follow through on his veto threat — a power he has not yet used in his presidency — unless another option is presented.

The basis of the still-to-be drafted Senate bill would allow for federal funds to be used for embryonic stem-cell research, but would require that the embryo not be harmed during the process.

Several Republicans said Congress should be promoting a technique currently used during genetic testing and in vitro fertilization that allows for a stem cell to be taken from the embryo without destroying it.

“We are trying to see if we can find some ground that allows for research to continue,” said Senate Republican Conference Chairman Rick Santorum (Pa.). “Even though I question the potential of that research, nevertheless it is an area that the scientific community wants to do research and we want to make sure it is done in an ethical way.”

Santorum said the discussions include Senate Majority Leader Bill Frist (R-Tenn.) and Health, Education, Labor and Pensions Chairman Mike Enzi (R-Wyo.) as well as rank-and-file Members.

Enzi’s panel approved a different stem-cell measure last week that promotes the use of stem cells extracted from cord blood and bone marrow. A similar bill has already passed the House, but many people do not believe these cells hold as much healing potential as embryonic stem cells.

Sen. Johnny Isakson (R-Ga.), who is involved in the talks about the safe extraction of stem cells from embryos, said he thinks that this compromise bill would appease people on both sides of the debate.

“My position is, if there is a way to develop a stem cell without destroying an embryo, then that is where [the National Institutes of Health] should be making their investment, because the ethical and moral questions to me go away,” Isakson said.

Many Republicans such as Sen. Sam Brownback (Kan.), advocate the use of adult and cord blood stem cells but are ardent opponents of harming an embryo for its stem cells.

But researchers argue that embryonic stem cells are more valuable than adult and cord blood stem cells and might be used in the future to treat diseases. While embryonic stem-cell research is not outlawed, advocates of the procedure contend that federal funding is crucial to help speed up research.

Brownback said he would oppose any measure that would result in harming an embryo.

“To me this about life,” Brownback said. “However it plays out this is about life. You can’t compromise about that. You have got to stand for life.”

In addition to prompting a scientific debate, the stem-cell question has a significant political undercurrent that could be a part of the issues discussed in the 2006 elections.

Sen. Barbara Boxer (D-Calif.) predicted that Congressional Republicans would pay a political price in November 2006 if Bush vetoes an embryonic stem-cell research bill.

“By him being so stubborn about it, it is sad for the country but it is going to be very harmful, I think, for the Republicans,” Boxer said.

Senate Minority Leader Harry Reid (D-Nev.) called on Frist last week to schedule a Senate debate on the embryonic stem-cell bill following the July Fourth Congressional recess.

Some Republicans grudgingly acknowledged that a presidential veto might not be received well by many voters. They compared such a scenario to the GOP’s decision to involve Congress in the Terri Schiavo matter earlier this year. Schiavo, a

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brain-damaged Florida woman, was at the center of a bitter family struggle over whether her feeding tube should be removed. Despite Congress' intervention, Schiavo's feeding tube was removed and she eventually died.

"The party took a hit on the whole Schiavo incident, and this has the same potential," said Sen. Lincoln Chafee (R-R.I.).

Sen. Trent Lott (R-Miss.) warned Democrats not to try to politicize the stem-cell debate. The Mississippi Republican said any attempt to do so would make him and perhaps other Republicans who currently support embryonic stem-cell research to withdraw their support.

"Not only would it make me not want to, but I am just going to say, 'No, I ain't going to do it,'" Lott said.

Sen. George Allen (R-Va.), who is involved in the discussions to forge a compromise bill, said this just might be a way to promote scientific research, while sidestepping a potentially divisive battle over the use of embryonic stem cells.

"This is a way to ethically federally fund promising scientific research," Allen said. "This may be a way of getting the parties together."

California Stem-Cell Agency Gets Off To Inauspicious Start (WSJ)

By David P. Hamilton

The Wall Street Journal, July 5, 2005

As politicians in Washington tussle over a bill that could expand federal funding for embryonic stem-cell research, California's newly minted $3 billion commitment to the field is still trying to get itself off the ground.

Eight months after a state ballot initiative, Proposition 71, established the California Institute for Regenerative Medicine, the stem-cell agency's main accomplishment has been to bootstrap itself into existence.

The institute has staked out a new permanent headquarters site in San Francisco, selected an interim president and put together several panels of experts to help evaluate funding requests and determine research standards. But its real mission -- to funnel roughly $300 million a year into California-based stem-cell research and facilities over the next decade -- is stalled.

Thanks to a lawsuit that has delayed a planned sale of state bonds, the institute's main source of funding is in limbo. The stem-cell agency has been subsisting on an initial loan from the state and couldn't even hire additional support staff until philanthropists offered it a $5 million gift earlier this month. In the meantime, it has been beset with controversies over its accountability and openness, including an effort by state legislators -- now on hold -- to impose tougher standards on the effort.

It wasn't supposed to be this way. Robert Klein II, a Silicon Valley real-estate developer who drafted much of Proposition 71 and led the fight for its passage, designed the program as a durable oasis in which stem-cell science could flourish, insulated from California's political turbulence. Instead, Proposition 71 created one of the most peculiar and largely unaccountable government research agencies in the country, which in turn has fueled varying degrees of resistance from both opponents and supporters of stem-cell research.

"Scientists and universities have been burned so often by changing political winds that they are unwilling to take risks without a guarantee of stability," says Mr. Klein, who now, in effect, directs the program as chairman of the agency's 29-member oversight board.

Stability is exactly what Proposition 71 appeared to deliver. Unlike most government research programs, the California stem-cell institute doesn't have to ask a legislature for annual funding; instead, its substantial budget is supposed to flow automatically from the sale of state bonds. California legislators can't tamper with the program for at least three years, and any changes after that will require 70% supermajorities in both houses and the governor's signature.

Furthermore, the proposition shielded some activities of the stem-cell institute from public scrutiny under California's strong sunshine laws. Members of the oversight board, who wield final authority over the program, serve fixed terms but can't be fired or replaced for any reason short of actual misconduct.

The lawsuit against the institute and its oversight board takes direct aim at some of these provisions, charging that they violate the California constitution because the stem-cell agency isn't under the exclusive control of the state. Although the suit was filed by a group of Proposition 71 opponents who say they aren't challenging the stem-cell research for moral reasons, the plaintiffs are represented by the Life Legal Defense Foundation, an antiabortion group. State officials say the suit is without merit and call it an ideological attack on stem-cell research itself.

Whether or not they are right, the uncertainty created by the suit poses a threat to the sale of the state bonds that are supposed to fund the stem-cell institute. Investors are unlikely to purchase the bonds if the state might lose the suit, forcing California officials to consider alternatives.

The state treasurer's office, for instance, has drawn up a plan to issue as much as $200 million of "bond anticipation notes," which are short-term instruments that would be paid off with the proceeds from a subsequent bond issue -- if and when such an issue takes place. If the state were to lose the lawsuit, however, buyers of the notes could face the loss of their investment.

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It isn't clear that typical investors will be willing to assume the enormous risk associated with these notes. So Mr. Klein anticipates marketing $100 million of the notes directly to philanthropic foundations with an interest in stem-cell research. He calls this pitch a "no-lose" proposition for the foundations, since their investments will further medical research whether or not the anticipation notes are actually repaid, but he admits that persuading individual foundations to sign on to the novel financing scheme has been slow work.

Funds from the anticipation notes will be needed by September, when the stem-cell institute hopes to begin a $15 million fellowship program to train 200 junior stem-cell scientists. The money would also cover an initial round of "seed money" research grants that the institute hopes to award in the late fall.

Despite its financial strains, the institute has found the cash to hire its own lobbyist and other consultants, as well as to pay six-figure salaries to several of its initial staff hires -- some of them former aides to Mr. Klein -- which critics have assailed as excessive. Mr. Klein says the outside help was necessary to fill in staffing gaps at the institute, which still has only 15 employees.

The institute has managed to turn aside for now a legislative effort to impose stricter conflict-of-interest and accountability measures on the program. Earlier this year, Democratic state Sen. Deborah Ortiz, an early proponent of a stem-cell ballot initiative and a vocal supporter of Proposition 71, introduced a state constitutional amendment to fill what she called "gaps" in the law that might undermine public confidence in the program. Because of the way the proposition was structured, such an amendment is the only way to impose new rules on the stem-cell agency.

The institute's oversight board quickly rallied against the measure that Zach Hall, the institute's interim president, said would "cripple" the program. It held a special public meeting in the state capital to discuss the measure, then dispersed its members to lobby individual legislators and their staffs.

The Senate's Democratic leadership subsequently agreed to hold off while the institute crafted its own tighter rules, which it has begun to do. If lawmakers aren't satisfied, the proposed amendment is likely to move forward, although state voters would still need to ratify it in next year's primary election.

In the meantime, Mr. Klein faces some restlessness among members of his oversight committee. Last week, he and his allies narrowly turned aside an effort to elect Jeff Sheehy, a representative for AIDS patients who was appointed to the board by a Senate leader, as chairman of a newly formed legislative-liaison committee. Mr. Klein won the chairmanship by a single vote.

FEMA Seeks Return Of $27 Million In Fla. Hurricane Aid (WP/AP)

Associated Press

The Washington Post, July 4, 2005

FORT MYERS, Fla. -- The Federal Emergency Management Agency has asked thousands of Floridians whose homes were damaged by last summer's four hurricanes to give back more than $27 million in aid overpayments.

FEMA earlier this year began mailing letters to residents in efforts to recoup the overpayments from people who received federal aid after Hurricanes Charley, Frances, Ivan and Jeanne hit Florida last August and September.

According to data supplied to the Fort Myers News-Press through a Freedom of Information Act request, the agency detailed 6,579 cases in which they say people owe a total of $27.2 million.

Many of the problems stem from FEMA providing money for items that were later covered by property insurance policies, from more than one person from the same household applying for benefits or from processing errors.

FEMA has committed more than $5 billion to Florida's hurricane recovery.

Hurricane Victims Asked To Repay Millions (NYT/AP)

By The Associated Press

The New York Times, July 4, 2005

FORT MYERS, Fla., July 3 (AP) - The Federal Emergency Management Agency has asked thousands of Floridians whose homes suffered hurricane damage last summer to give back $27 million in aid overpayments.

The agency began mailing letters to residents this year to recoup overpayments from people who received federal aid after Hurricanes Charley, Frances, Ivan and Jeanne hit Florida last August and September.

According to data supplied to The News-Press of Fort Myers, the agency found 6,579 cases in which they say people owe a total of $27.2 million.

Many of the problems stem from the agency's providing money for items that were later covered by property insurance policies, more than one person from the same household applying for benefits or processing errors.

Nicol Andrews, a spokeswoman, said the $27 million was less than 1 percent of the more than $5 billion the agency had committed.

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"Our mission is to get in there and help out and address immediate needs, food, shelter, clothing," Ms. Andrews said Sunday. "Months after or quite a while after, we go back, and, as is our obligation to the taxpayers, we try to recoup funds that were distributed in error."

The agency is asking one Escambia County household to return $50,723, saying the award was made for a home that was not a primary residence.

Pelosi Turns In Delinquent Reports For 3 Sponsor-Funded Trips (WP)

By Mike Allen

The Washington Post, July 5, 2005

House Minority Leader Nancy Pelosi (D-Calif.) filed delinquent reports Friday for three trips she accepted from outside sponsors that were worth $8,580 and occurred as long as seven years ago, according to copies of the documents.

The filing is among hundreds of revisions from members of both parties who have amended missing or incomplete reports as scrutiny of lawmaker travel has intensified.

The most expensive trip was not reported on Pelosi's annual financial disclosure statement or on the travel disclosure form that is required within 30 days of a trip.

A more common violation among members filing corrections was to list a trip on the annual statement but not file the more detailed form about a specific trip. The House ethics committee plans to examine the tardy disclosures after being stalled since January in partisan disputes.

Committee members have shown no appetite for taking up all those cases and are considering an amnesty for reporting violations, although not for serious matters such as accepting a trip from a lobbyist, which House rules forbid. The data firm PoliticalMoneyLine calculates that members of Congress have received more than $18 million in travel from private organizations in the past five years, with Democrats taking 3,458 trips and Republicans taking 2,666.

Pelosi, who was elected House Democratic leader in November 2002, said in a letter to the ethics committee: "Although the current travel issue has focused on trips that have taken place since 2000, I have further reviewed my record of privately funded travel prior to becoming part of the Democratic Leadership." She said that "as a result," she was filing three forms, two for trips that she had reported on her annual statements.

The unreported trip was a week-long 1999 visit to Taiwan, paid for by the Chinese National Association of Industry and Commerce, for "meetings with government, military and business officials," according to a filing Pelosi signed June 30. The flights cost $3,400 each for Pelosi and her husband. The hotel cost was $940. The sponsor, which has picked up trips for leaders of both parties, paid $300 for meals.

Pelosi said she had provided "a good faith estimate" of the cost of the other two trips, since her "office records for that period do not indicate the costs." In 1998, NBC paid for a $200 trip to New York for a "Meet the Press" appearance, according to the filing. In 1999, the American Israel Public Affairs Committee paid $300 for transportation to Delray Beach, Fla., and $40 for meals for Pelosi to appear at a reception and briefing.

Rep. Jack Kingston (R-Ga.), vice chairman of the House Republican Conference, said the filing is new evidence that the focus on House Majority Leader Tom DeLay (R-Tex.) has been disproportionate. "Democrats have just as many substantive questions," Kingston said.

Federal Workers Anxious Over Pay (WP)

By Christopher Lee

The Washington Post, July 5, 2005

Here is why working for the federal government is so good: Federal civil servants, on average, have received a pay raise in every year but two since 1969, meaning they can pretty much bank on seeing their paychecks grow annually.

But there is a cloud inside that silver lining: Average annual wages and salaries in the private sector have grown faster than civil service pay in the past 36 years, and so have consumer prices.

So while federal work has a lot to recommend it, pay is not one of the big draws, said Beth Moten, chief lobbyist for the American Federation of Government Employees. "Overall it's probably a negative," Moten said. "I don't think that salaries are comparable with similar occupations in the private sector. People come because they are public-service-minded."

In a recent survey by the Office of Personnel Management, 62 percent of federal workers said they were either "very satisfied" or "satisfied" with their pay. About 21 percent said they were "dissatisfied" or "very dissatisfied," and the rest said they were "neither satisfied nor dissatisfied."

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Many federal workers are growing increasingly anxious about their pay as the Bush administration prepares to toss out the 15-grade General Schedule, which links pay to longevity in a job, and replace it with a system that more directly ties salary increases to performance evaluations.

Starting this summer, such systems will be phased in over several years at the departments of Defense and Homeland Security, which together employ more than 900,000 civilian workers. And Bush administration officials want similar changes throughout government.

Colleen M. Kelley, president of the National Treasury Employees Union, said she fears that annual raises will suffer.

"I think in part it will come from a lack of funding," Kelley said. "I'm worried about what they will do with the money and whether there will be any recognition at all of the necessity for an annual adjustment that allows federal employees to even have a potential for staying even, from a buying-power standpoint."

At a briefing on the new DHS system earlier this year, Ronald P. Sanders, an associate director at the Office of Personnel Management, said pay increases will be determined both by the available money and by annual performance ratings. "Every employee who is 'fully successful' or better will be eligible to get a performance pay increase every year," Sanders said.

Even under the current system, with its long track record of pay increases, Moten said her members "know that you have to fight for the pay raise every year."

This year it is a fight that the federal employee unions and their allies in Congress appear to be winning. Last week, the House approved a 3.1 percent pay raise for the federal government's 1.8 million civilian employees. The pay raise, which would take effect in January and would be identical to what Congress is providing the military next year, was included in a fiscal 2006 spending bill for the departments of Transportation, the Treasury, and Housing and Urban Development.

The House vote swept aside the recommendation of President Bush, who had proposed a 2.3 percent raise for federal civilian employees and a 3.1 percent raise for the military. While the Senate has not taken up the pay-raise question, the House's action provides a strong signal that federal workers can expect to receive the 3.1 percent increase next year.

Since 1969, federal employees, on average, have received an annual pay hike of at least 2 percent in every year except 1983 and 1986, when there was no increase, according to a recent Congressional Research Service report. The overall pay scales for workers in General Schedule positions has increased by 357 percent during that period. That's higher than the 281 percent increase in congressional pay over the same time frame, although lawmakers' salaries -- $162,100 for most members of the House and Senate -- are far higher than the average federal worker's pay.

Average private-sector salaries have risen faster than federal pay, growing by 522 percent since 1969. Prices also have climbed faster, rising by 410 percent over the period, according to the CRS report.

The Federal Employees Pay Comparability Act of 1990 was designed to bring federal salaries in line with those in the private sector. But the act has been only partly implemented, in part because the Clinton and Bush administrations have taken issue with its methodology and cost. So Congress and the White House instead negotiate the federal pay raise each year.

OTHER NEWS:

Settlement Likely In Wrongful Death Suit (RC)

By John Mcardle, Roll Call Staff

Roll Call, July 5, 2005

A wrongful death suit brought by the wife of a Maryland man who died while in custody of the Capitol Police is likely headed toward settlement, a lawyer for the deceased's family said after a status hearing Thursday.

After scheduling another status hearing for early October, U.S. District Judge James Robertson agreed, at the request of both sides, to refer the case to a magistrate judge, who could arbitrate a settlement agreement. After agreeing to refer the case, Robertson said, "hopefully that means you'll never come back here."

The original lawsuit was filed in U.S. District Court for the District of Columbia in November 2004 by the family of Brandywine, Md., resident Gary Thompson. Thompson died Feb. 9, 2004, after he was arrested by Capitol Police following a traffic accident outside Union Station. His widow, Lois Thompson, is seeking $50 million in compensatory damages, as well as legal fees.

"We're hopeful to get this resolved in the next three months," Thompson family attorney Jimmy Bell said after the hearing. "It's a sad situation that Mr. Thompson had to die unnecessarily. Settling this case will start the healing process for the family and ensure some accountability so something like this never happens again."

The U.S. Attorney's Office, which is representing the Capitol Police, would not comment. "The Department of Justice's policy is not to comment on settlement negotiations," said office spokesman Channing Phillips.

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According to the lawsuit, Capitol Police officers responding to an accident in which a van driven by Gary Thompson collided with a taxicab near the corner of Columbus Circle and E Street Northeast, found Thompson still in his vehicle hunched over the steering wheel. The family contends that Thompson, a diabetic, suffered from a diabetic seizure shortly before the accident occurred.

The officers attempted to remove Thompson from his vehicle and when he refused, because he was “in medical crisis,” they began to hit Thompson to force him to release the steering wheel, the suit states.

After removing Thompson from the vehicle, officers placed him on the ground on his stomach and handcuffed him. Bell asserts that officers continued to force Thompson to the ground as he attempted to raise his head to breathe.

Thompson then fell unconscious; when paramedics arrived, they were unable to locate a pulse. He was pronounced dead about an hour later at Washington Hospital Center.

The following month, the D.C. Office of the Chief Medical Examiner labeled the cause of death “positional asphyxia,” meaning his chest and rib cage were not able to expand so that he could draw breath. The death was ruled a homicide.

The initial complaint and one expert opinion for the case contend that the Capitol Police violated “proper arrest procedures,” which resulted in Thompson’s death.

Earlier this year, the U.S. Attorney’s Office was unsuccessful in its motion to dismiss the case on the grounds of “contributory negligence” on the part of Thompson.

Health Net Will Fight Judgments (NYDN)

By Brent Hopkins

New York Daily News, July 5, 2005

WOODLAND HILLS -- Facing $117 million in fines stemming from the failure of three former subsidiaries, Health Net Inc. vowed Friday to keep up its legal fight.

The managed care company sold its Foundation Health Plans in Louisiana, Oklahoma and Texas in April 1999 to AmCareco Inc. for an undisclosed price. Within three years, state regulators took over all three and placed them into receivership. Alleging fraud, conspiracy, negligence and other crimes, the receivers then sued both companies.

Health Net has maintained its innocence throughout, but faced a setback on Thursday when a Louisiana jury awarded the Texas receivers $52.4 million in compensatory damages and another $65 million in punitive charges. Roughly $8 million of the compensatory damages would be paid by other parties in the suit, however.

"We continue to believe that the claims have no merit," said David Olson. "We're going to continue to fight because we believe in our case. The fact of the matter is we sold them in 1999 and it was three years later that they became insolvent."

The plaintiffs allege Health Net knew its plans were in poor financial shape when it sold them, then extracted an additional $8 million in payments that forced them into insolvency. The extremely litigious sale has already resulted in numerous settlements from parties involved in the transfer, with Health Net remaining the lone holdout.

"We're hopeful that the jury sent a message to Health Net and that the judge will send one to get this over with," said Marlon Harrison, the receiver for AmCare Health Plans of Louisiana. "To drag this out even more will just cost the receiverships more time and money."

Thursday's award represents only the Texas portion of the case, with plaintiffs in the other two states seeking an additional $30 million in compensatory awards and punitive damages, as well. Harrison said he expected a ruling from the judge by the end of next week.

"We're really happy with the verdict and for the people who received the damages," said Jessica Fisher, a spokeswoman for the Oklahoma Department of Insurance. "We're looking forward to an award for the people in Oklahoma, as well."

Shares of Health Net closed at $37.53 on Friday, down 63 cents.

Market Pulse: Health Net To Appeal $117M Jury Award In La. (MWATCH)

By Carolyn Pritchard

MarketWatch, July 1, 2005

SAN FRANCISCO (MarketWatch) -- Health Net Inc. said Friday that a jury in Baton Rouge, La. state court a day earlier awarded $117 million in damages -- $52.4 million in compensatory damages and $65 million in punitive damages -- in a case against the company arising from the 1999 sale of three of its health plan subsidiaries in which plaintiffs allege fraud, negligence, conspiracy and breach of fiduciary duty, among other claims. Thursday's verdict involved the sale of the health care company's former Texas unit; a separate judgment is pending regarding the sale of two others. Health Net said it continues to believe that the plaintiffs' claims have no merit and said it will "continue to vigorously pursue all avenues of redress, including post-trial motions, appeals and its pending cross claims against other parties."

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Louisiana Jury Rules Against Health Net (BIZJOURN)

Business Journals, July 1, 2005

A jury in Baton Rouge, La., state court Thursday awarded $117 million to plaintiffs who sued Health Net Inc. in a case involving the sale of Health Net's former Texas health plan subsidiary.

The plaintiffs will receive $52.4 million compensatory damages and $65 million in punitive damages.

The jury allocated 15 percent of the compensatory damages to other parties, which leads Health Net (NYSE: HNT) to expect a "downward adjustment to the verdict in an amount to be determined."

The case stems from Health Net's 1999 sale of three subsidiaries to AmCareco. Three years later, the plans came under state review and were accused of fraud and conspiracy, among other claims.

The verdict applies only to a Texas case, and the judge will rule separately on cases in Oklahoma and Louisiana.

Health Net said it will continue to vigorously pursue all avenues of redress, including post-trial motions, appeals and its pending cross claims against other parties.

Woodland Hills, Calif.-based Health Net is one of the largest health insurance providers in Oregon.

Health Net Hit With $117 Million Judgment In Fraud Case (LABIZ)

By SARAH FILUS, Los Angeles Business Journal Staff

LA Business Journal, July 5, 2005

Health Net Inc., the Woodland Hills-based health maintenance organization, was hit Friday with a $117 million judgment in a case accusing it of fraud in the 1999 sale of three health plans.

A Louisiana jury awarded $52.4 million in compensatory damages and $65 million in punitive damages in a lawsuit brought by the receivers of three former Health Net subsidiaries that went bankrupt in 2002, three years after their sale to Houston-based AmCareco Inc.

The receivers sued AmCareco, Health Net, and other parties charging them with fraud, negligence, conspiracy, and breach of fiduciary duty among other claims. Friday's judgment only involved the sale of Health Net's former Texas health plan.

The other two cases, involving plans in Oklahoma and Louisiana, are being tried by a Texas judge. The plaintiffs in those cases are seeking about $30 million in compensatory damages along with punitive damages.

Health Net plans said it disagreed with the jury's decision and planned to appeal the judgment, which it would partially share. The jury said other parties must pay 15 percent of the compensatory damages.

"The plaintiffs attempted to reach back to the original sale. It took three years to happen when we weren't involved," said David Olson, senior vice president of corporate communications for Health Net.

Health Net Fined In Texas HMO's Collapse (LAT)

The Los Angeles Times, July 5, 2005

A Louisiana jury ordered Health Net Inc. to pay $117.4 million in the collapse of a Texas health maintenance organization the company sold in 1999.

Attorneys for the Texas receiver said Woodland Hills-based Health Net allowed AmCareco Inc. to buy the company with the HMO's own money, leaving the plan insolvent.

Shares of Health Net fell 63 cents to $37.53.

Health Net Loses Case In Louisiana (HARTC)

By Bloomberg News

The Hartford Courant, July 2, 2005

Health Net Inc. was ordered by a Louisiana jury to pay $117.4 million over the collapse of a Texas business the company sold in 1999.

The Texas health maintenance organization, and others acquired by AmCareCo. Inc. in Louisiana and Oklahoma, went into receivership in 2002. Attorneys for the Texas receiver said AmCareCo. used the HMOs' own money to buy them from Health Net, leaving the plans insolvent.

"They took the reserves out and left the HMOs broke," said attorney Jim George, of George & Brothers in Austin, Texas. "It left medical bills of $52 million unpaid in Texas."

A Baton Rouge, La., jury found Thursday that Health Net committed fraud, and the panel awarded $52.4 million in damages and $65 million in punitive damages to the Texas receiver.

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Claims by the Louisiana and Oklahoma health plans, which are seeking more than $30 million, will be heard by a judge. Health Net, which is based in Woodland Hills, Calif., and has operations in Connecticut, said there is no merit in the lawsuits and it will appeal.

"Health Net has vigorously contested all of the plaintiffs' claims since they were filed," spokesman David Olson said in an interview. "AmCareCo had adequate financial resources."

George said Health Net, then called Foundation Health System Inc., used a leveraged buyout to sell the health plans to AmCare. Reserves earmarked to pay medical claims went to Health Net, he said.

"Doing a leveraged buyout with an insurance company is inappropriate," George said. "It's like a bank having an LBO with the depositors' money."

Merck Seeks Postponement In Vioxx Trial (AP)

By Theresa Agovino, AP Business Writer

AP, July 5, 2005

SAGAPONACK, N.Y. (AP) -- Merck & Co. is asking a judge to delay the first wrongful death trial over its pain reliever Vioxx, saying it cannot receive a fair trial if the Texas case begins next week as scheduled.

The company wants the trial postponed for at least 60 days, citing recent publicity about the drug. Merck withdrew the drug in September when research showed that patients who took it for 18 months or longer more than doubled their risk for heart attack and stroke. Since then, more than 2,400 Vioxx lawsuits have been filed nationwide.

A hearing on Merck's motion is slated for Tuesday in Wharton, Texas. Mark Lanier, a Houston attorney for a woman suing New Jersey-based Merck over her husband's 2001 death, said he will oppose a delay.

In the motion, which was filed Friday, Merck said a lawsuit brought Thursday by Texas Attorney General Greg Abbott seeking $250 million in damages for Vioxx purchases has "effectively eliminated any possibility Merck can receive a fair trial beginning July 11."

It also noted that a law firm which helped the attorney general's office on the lawsuit represents at least six plaintiffs suing the company.

"The timing of the (state) lawsuit is hardly a coincidence," according to Merck's motion.

The filing also said a story in the "national media" which cited a privileged attorney-client communication could prejudice a jury against it. The Associated Press reported June 22 that Merck scientists had contacted company attorneys in 2000 about reformulating Vioxx over concerns it could cause negative cardiovascular side effects.

Lanier said Monday that Merck signed an agreement with him in May not to postpone the trial for any reason other than the health of the lead attorneys.

He also said he would oppose the motion for a delay because the story about the Texas attorney general's lawsuit did not receive prominent coverage in the Houston Chronicle -- the region's major newspaper -- and that the newspaper in Brazoria County did not publish the AP article. The suit is expected to be heard in that county, south of Houston.

'Health Courts' Offer Cure (USAT)

USA Today, July 5, 2005

A child falls and gets a nasty bump on the head. Worried parents rush the child to the emergency room. Observation for a couple of hours might be the right choice, but chances are doctors will order an expensive CT scan.

Physicians often abandon their best judgment if they think a test might protect them in a malpractice lawsuit. In the bump-on-the-head case, a CT scan provides cover if a trial lawyer someday asks, "Why didn't you do more to rule out bleeding in the brain?"

Such defensive medicine can reassure patients, but it isn't benign. It results in unnecessary cesarean sections, painful breast biopsies in women with lumps unlikely to be cancerous, and hospitalization of patients who don't need that level of care.

The practice is pervasive and costs at least $60 billion a year, according to the Department of Health and Human Services — paid by people's insurance premiums.

A survey of 824 Pennsylvania doctors, published June 1, found 93% admit to risk aversion tactics such as over-ordering tests, abandoning high-risk procedures and avoiding the sickest of patients. This is just a symptom of an unhealthy medical liability system that forces some doctors out of practice and encourages others to hide mistakes instead of learn from them.

So far, the leading idea for a remedy has been President Bush's proposal to cap jury awards for pain and suffering, but it is stalled in the Senate and is a partial cure at best. Caps might lower malpractice insurance costs, but they don't tackle deeper problems.

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One intriguing idea, backed by the bipartisan legal reform group Common Good, is special "health courts," where judges experienced in medicine would try cases without juries. Rep. Mac Thornberry, R-Texas, and Sens. Mike Enzi, R-Wyo., and Max Baucus, D-Mont., have introduced bills to let states experiment with these courts. Among the potential advantages:

· Eliminating hired guns. Judges could pick impartial experts to guide them, instead of the present system of dueling experts hired by each side. Unlike juries, judges would issue written opinions that establish precedents and standards of care.

· More consistent awards. Juries sometimes base awards more on sympathy than facts. An injury worth $100,000 in one place might bring a $2 million award, or nothing at all, in another. Health courts could make awards based on a schedule of benefits, similar to workers' compensation, that would be fairer and more consistent.

Opponents say the right to trial by jury is too important to give up. But special courts already handle tax, bankruptcy, maritime and family disputes without juries.

The national malpractice roulette is inefficient and unjust. Health courts could show the way for quicker and fairer compensation to the deserving, and they might reduce the incentive for doctors to engage in defensive medicine that puts patients at risk.

Starting the experiment is the right medicine for an ailing system.

Juries Remain Best Medicine (USAT)

By Todd A. Smith

USA Today, July 5, 2005

Replacing the basic fairness of individualized justice determined by the wisdom of 12 American men and women sitting on juries with one-size-fits-all "health courts" is a bad idea and would impose huge additional burdens on state taxpayers.

Our current legal system recognizes that each case has unique circumstances and gives juries — your friends, neighbors and co-workers — the responsibility to make fair decisions based on all the facts.

The fundamental unfairness of health courts is the assumption that all similar injuries are the same. Would a typical American jury say the loss of a finger is worth more to a concert pianist than an office worker? Would 12 citizens decide reproductive systems are more important to people of child-bearing age than to elderly people? That's why we have juries.

Forcing states to create huge new legal bureaucracies and pay for well-qualified experts (now paid for by parties in the case) would be prohibitively expensive — imposing additional taxes on states already struggling with budget shortfalls.

Replacing juries with health courts insults the hard-working Americans who do their civic duty serving on juries. We routinely trust juries to decide complex matters: massive corporate fraud in the Enron case and even life and death in criminal trials. Medical malpractice cases, in which patients have been maimed or killed by the negligence of hospitals or the greed of insurance companies, should be treated no differently.

Special courts are not the answer to problems in the heath or civil justice systems.

Patient-safety reform could reduce the 100,000 Americans killed every year by preventable medical errors. Insurance reform would help doctors with unconscionably inflated insurance premiums. Common-sense reform would ensure that only deserving cases go to trial, and quickly. Frivolous defenses by insurance companies to delay compensating victims should be stopped.

Health courts — radical surgery when more benign treatment is called for — would be less fair to victims of medical negligence and more expensive for taxpayers. Whether as a full-blown radical change of our legal system or a pilot project, an unfair and bad idea is still an unfair and bad idea.

Todd A. Smith is president of the Association of Trial Lawyers of America.

US Lawsuits Pursue Lost Art (CSM)

By Randy Dotinga

The Christian Science Monitor, July 5, 2005

SAN DIEGO - Growing up as a young boy in Germany, Claude Cassirer had a front seat to the sophisticated culture of prewar Berlin. He'd sit in his grandmother's parlor, soaking in the conversation, the fine furniture and a striking Pissarro painting of rainy-day Paris, a reminder of his family's close ties to impressionist painters.

"Before Hitler, we led a very pleasant life," recalls Mr. Cassirer, a retired photographer who lives near San Diego. "Then all of a sudden my father didn't have the options he had, and my grandparents were threatened with concentration camps."

His immediate family fled Germany, leaving the painting to the Nazis, and Cassirer didn't see it again until 2000, when a friend discovered it in an art book. Upon hearing the news, "I nearly fainted," says Cassirer. "It means my whole life; it means my whole past."

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Five years later, the painting, claimed by a Madrid museum, is the focus of an international legal dispute that spotlights America's growing reputation as the friendliest place on earth for people looking to reclaim stolen art.

Armed with a new US Supreme Court precedent, Cassirer and others are taking on foreign governments - in this case, Spain - to force the return of artwork. But the plaintiffs face big obstacles, ranging from resistant museums and murky ownership records to less-than-sympathetic European law. And then there's the matter of enforcement: if you win a lawsuit against Austria or the city of Amsterdam - both defendants in current cases - how do you collect?

Thieves have been running off with art for millenniums, at least since early Egyptians started robbing tombs. But looting took on an official flavor in the 1930s and 1940s as the ruling Nazis plundered art collections in both Germany and occupied countries.

Some Jewish families were left with nothing; others, like the Cassirers, got a pittance for their possessions. Hundreds of thousands of artworks landed in Nazi hands.

The 1897 Pissarro painting "Rue Saint-Honore, Afternoon, Rain Effect" now sits in the world-renowned Thyssen-Bornemisza Museum. According to the Cassirer family, it's worth an estimated $15 million to $20 million.

The worth of other paintings at stake in international lawsuits is estimated in the hundreds of millions of dollars. Some critics accuse the claimants of greed and fear the artwork will vanish from public view.

But money is hardly the sole motivation for those seeking to recover stolen art, according to Louis Marchesano, curator of prints and drawings at the Getty Research Institute in Los Angeles. Families, he says, are trying to reunite with their past.

"It has to do with the social or cultural identity that's attached to the very act of collecting," he says. "You had these bourgeois, upper- and middle-class collectors, in Germany and other countries. They were identifying themselves as people of taste, people of culture. By stripping these people of their possessions, the Nazis were dehumanizing them as part of a larger campaign."

In both the US and abroad, some museums have returned plundered artwork to their owners or their descendants, especially during in the 1990s when art stolen during the Holocaust became a cause célèbre. But other museums seek support in European laws that emphasize statutes of limitations and the ownership rights of those who made purchases in "good faith," says Willi Korte, a Washington D.C. investigator who specializes in stolen art.

That's where the US comes in. "If you want to sue, you sue in this country," Mr. Korte says.

The Supreme Court helped matters last year when it paved the way for Americans to sue foreign countries over stolen art. The case revolved around a family's claims to six paintings by Austrian artist Gustav Klimt that were allegedly stolen by Nazis and landed in the Austrian National Gallery.

Another case, involving claims by the family of Russian artist Kasimir Malevich to his paintings at Amsterdam's Stedelijk Museum, is now working its way through a US federal district court. Even if American plaintiffs win their cases, they'll face the challenge of convincing foreign governments to cough up the artwork. The US could seize foreign assets or grab the paintings if they travel here, but that would be an extreme move.

There's another possibility, however. American lawyers who work on stolen art cases say many disputes are handled privately, outside the court system. Bad publicity and the expense of hiring attorneys to fight lawsuits could convince foreign museums to try that route. Ultimately, "the point of these [legal] efforts is to generate pressure that these people come back to the bargaining table," Korte says. "At the least, you can cause the other side considerable financial pain."

Cassirer plans to continue his fight.

Iran: U.S., Israel Waging Smear Campaign (AP-Y2)

By Ali Akbar Dareini, Associated Press Writer

AP2, July 5, 2005

Iran accused the U.S. and Israel on Sunday of a smear campaign against its president-elect and warned Europe, which is in tricky nuclear negotiations with Tehran, not to join in the mudslinging.

The ultraconservative Mahmoud Ahmadinejad, who won a landslide presidential election victory, has been accused of taking American hostages in 1979 when radical students seized the U.S. Embassy in Tehran. Iranian exiles and an Austrian politician are alleging he was involved in the 1989 slaying of a Kurdish leader and two associates in Vienna.

Iranian officials have denied both allegations.

"The charges are so evidently false that they don't deserve an answer. It's clear that it's mere lies," Iranian Foreign Ministry spokesman Hamid Reza Asefi said Sunday at a news conference in Tehran.

"Europeans should show their political maturity and not intertwine their interests with those of the Americans. They are advised to seriously avoid interference in this issue," Asefi warned. "We advise the Europeans not to fall into the trap of the Zionist media."

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The Iranian warning came as France, Germany and Britain lead European Union efforts to persuade Tehran to permanently halt nuclear enrichment activities, which the United States claims are part of Iran's plan to develop a nuclear arsenal.

Iran rejects the U.S. claims and insists it is pursuing nuclear technology for peaceful purposes, such as generating power. Uranium enriched to low levels can be used for energy while highly enriched uranium can be used in bombs.

President Bush has said the claims swirling around Ahmadinejad are not his primary concern and he instead wants the Europeans to make clear to the new leader that a nuclear-armed Iran will not be tolerated.

Israel's ambassador to Washington, Daniel Ayalon, said Monday that Ahmadinejad was more extreme than his rivals. He insisted Iran must be stopped from developing nuclear weapons, a task that he said should be assigned to the U.N. Security Council.

The Europeans are offering economic incentives in hopes of persuading Iran to permanently freeze its enrichment program on its own to avoid U.N. intervention and possible sanctions.

Ahmadinejad, the former mayor of Tehran, has said Iran will not curtail its nuclear program and will restart uranium enrichment activities, which it voluntarily suspended in November as part of negotiations with the Europeans.

Asefi said the wave of allegations against Ahmadinejad was an expression of disappointment over the June 24 presidential runoff vote. Ahmadinejad defeated former President Ayatollah Hashemi Rafsanjani, who was perceived as more moderate.

"That the result of the election was not predictable for them should not serve as a reason not to accept it," the spokesman said. "We can't dissolve the whole nation and create another nation to follow their wish."

In 1979, Ahmadinejad was a member of the Office of Strengthening Unity, the student organization that planned the Tehran Embassy takeover. Six former hostages who saw the president-elect in a 1979 photo or on television said they believe Ahmadinejad was among the captors who held them for 444 days and one said he was interrogated by the new president.

Ahmadinejad has denied he was one of the hostage takers.

On Saturday, Saeed Hajjarian, a top former secret agent and a senior adviser to outgoing reformist President Mohammad Khatami, also denied the allegation and identified the captor in the pictures as a former militant who committed suicide in prison years ago.

A different set of allegations against Ahmadinejad emerged on Saturday in Austria. The newspaper Der Standard quoted a top official in Austria's Green Party as saying authorities have "very convincing" evidence linking Ahmadinejad to the 1989 slaying of Abdul-Rahman Ghassemlou, an Iranian opposition Kurdish leader, in Vienna. Exiled Iranian dissidents made the same accusations.

But Hajjarian denied those allegations as well.

"I'm opposed to Ahmadinejad's policies and thinking but he was not involved in the hostage drama nor in the assassination of an Iranian opposition Kurdish leader in Vienna," Hajjarian told The Associated Press on Saturday.

Though Hajjarian said the president-elect was not involved in either incident, he has been at loggerheads with the hard-line Ahmadinejad and did accuse him of financial wrongdoing while previously serving as governor of Ardabil province in northwestern Iran before he was mayor of Tehran. No official charges have been brought against Ahmadinejad.

Mohammad Reza Bahonar, a senior hard-liner close to Ahmadinejad, publicly acknowledged this week that Intelligence Minister Ali Yunesi had opposed Ahmadinejad's appointment as Tehran mayor because there was a "dossier" against him. But he did not explain the nature of the case.

Iran Sees Smears From U.S., Israel (WT/AP)

By Ali Akbar Dareini, Associated Press

The Washington Times, July 5, 2005

TEHRAN -- Iran accused the U.S. and Israel yesterday of a smear campaign against its president-elect and warned Europe, which is in sensitive nuclear negotiations with Tehran, not to join in the mudslinging.

The ultraconservative Mahmoud Ahmadinejad, who won a landslide presidential election victory, has been accused of being one of the radical students who seized the U.S. Embassy in Tehran, taking American hostages, in 1979. Iranian exiles and an Austrian politician are reputing he was involved in the 1989 slaying of a Kurdish leader and two associates in Vienna.

Iranian officials have denied both accusations.

"The charges are so evidently false that they don't deserve an answer. It's clear that it's mere lies," Iranian Foreign Ministry spokesman Hamid Reza Asefi said yesterday at a press conference in Tehran.

"Europeans should show their political maturity and not intertwine their interests with those of the Americans. They are advised to seriously avoid interference in this issue," Mr. Asefi warned. "We advise the Europeans not to fall into the trap of the Zionist media."

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The Iranian warning came as France, Germany and Britain lead efforts by the European Union to persuade Tehran to permanently halt nuclear enrichment activities, which the United States claims are part of Iran's plan to develop a nuclear arsenal.

The Europeans are offering economic incentives in hopes of persuading Iran to permanently freeze its enrichment program on its own to avoid U.N. intervention and sanctions.

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Details Of Srebrenica Emerge As Hague Prepares For A Trial (NYT)

By Marlise Simons

The New York Times, July 5, 2005

THE HAGUE - To carry out mass murder in Bosnia, the organizers devised an elaborate ruse. They stole the blue helmets and white vehicles of United Nations peacekeepers so they could trick and capture their victims. They blocked access roads to keep away outsiders like Red Cross workers and journalists.

On July 11, 1995, as gunshots rang in the night, the Bosnian Serb military leader, Gen. Ratko Mladic, met in a local hotel with a man summoned to speak for the frightened people in the mountain town of Srebrenica. "I guarantee that all those who surrender their weapons will live," the general said. "I need a clear answer so I can decide both as a man and as a commander."

But the next morning, a five-day killing frenzy began. By the time it was over, the Bosnian Serb Army and police forces had systematically tracked down and executed close to 8,000 boys and men.

General Mladic and the Bosnian Serb political leader, Radovan Karadzic, who were indicted as the main architects of Europe's worst massacre since World War II, have evaded capture. But many men from their inner circle are now in jail.

Prosecutors at the United Nations war crimes tribunal in The Hague are preparing a joint trial of nine of the highest-ranking officers accused of playing integral roles in the Srebrenica killings. Such a large joint trial would dwarf any other proceedings the court has held.

All nine men face charges of war crimes and crimes against humanity, and five of them are accused of complicity to commit genocide.

A joint trial is possible because eight of the generals and senior officers from the Bosnian Serb Army have arrived in The Hague in recent months, their "voluntary surrender" largely a result of international pressure on the Serbian authorities. One remains at large.

Judges at the tribunal that deals with the former Yugoslavia must still approve prosecuting the men as a group, and no trial date has been set. Some lawyers who follow the court have said they fear that a joint trial could become a management nightmare, involving at least 18 defense lawyers and many prosecutors. Several defense lawyers have already objected to a joint trial.

But prosecutors argue that trying the men together would avoid much duplication, minimize hardship for victims and witnesses and ensure consistency in dealing with crimes committed during the same campaign.

Prosecutors also say their case has been strengthened by a cache of documents that NATO troops obtained recently from the archives of one of the main military entities, the Drina Corps. The archives are said to include statements and papers signed by several of the accused.

Until now, the trials dealing with the wars of the 1990's that tore up Yugoslavia have been short on a paper trail and have had to rely heavily on witnesses' testimony.

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Much of what happened at Srebrenica, which had been a United Nations protectorate, is now known. Crucial details came out during two trials of three high-ranking officers who are now serving long sentences. Another three men - two senior officers and a soldier in a firing squad - pleaded guilty and provided lengthy testimony.

The picture painted during those many hours in court shows that the capture and killing of the men and boys of Srebrenica were coordinated by the military security and intelligence branch of the Bosnian Serb Army and militarized police. The forces were supplied and paid by a special department of the Serbian government in Belgrade, whose president was Slobodan Milosevic. His war crimes trial here is now in its fourth year.

The killing at Srebrenica began soon after General Mladic's troops had overwhelmed the 300 United Nations peacekeepers protecting about 40,000 people who had sought refuge in the town or already lived there.

The Bosnian Serb troops immediately separated more than 1,000 unarmed Bosnian Muslim men and boys from the families that had fled to the town. Several thousand others, former fighters as well as civilians, were ambushed as they tried to escape though the woods. Others unknowingly surrendered to Serbs disguised as United Nations peacekeepers, witnesses have testified.

The captives were executed at various places in the area, at a warehouse, on a farm, near a dam, on the banks of a river. Many bodies were later found in mass graves with their hands tied behind their backs. The Red Cross list of the missing has close to 8,000 names.

"It was a huge logistical undertaking, moving prisoners, then moving bodies and to do all of this out of sight of the U.N. and the press," said a prosecutor who has long worked on the case. Under tribunal rules, only official spokesmen, not prosecutors, can speak for publication.

If the group trial goes forward, the accused will include those thought to be "the real hands-on guys, the guys on the ground that made all this possible," the prosecutor said. Among them are Ljubomir Borovcanin, a police commander charged with capturing and killing fleeing men. In court, prosecutors have shown a photograph of him during the operation, wearing a United Nations helmet.

Two of the other defendants from General Mladic's inner circle are Col. Ljubisa Beara, the security and intelligence chief of the army's main staff, and one of his deputies, Lt. Col. Vujadin Popovic. Their indictment says they supervised the deportation of women and children and saw to it that men and teenage boys were rounded up, put in temporary holding facilities and taken to the killing fields.

A radio intercept from July 15, during the killing, seems to record the rate of progress. On the tape, played in court during an earlier trial, a man identifying himself as Colonel Beara reports to his boss and asks for assistance, because "I have 3,500 parcels to distribute," a reference, prosecutors say, to captives and bodies to be disposed of.

On the afternoon of July 17, on another radio intercept played in court, Colonel Popovic calls his boss, Gen. Radislav Krstic, from a farm where, on that day, in a span of five hours, an estimated 1,200 captives were executed.

"Hello, it's Popovic, boss," he says. "Everything has been brought to an end. That job is done. No problems. I am here at the place. Can I just take a little break, take a shower? Basically that all gets an A. The grade is an A."

That night, according to the intercepts, Colonel Popovic called General Krstic again, but could not reach him. By then, 500 more prisoners had been killed, at a cultural center at Pilice. On the intercept, the man identifying himself as Colonel Popovic says: "Tell the general I finished the job. I was there on the spot." He adds, "It was horrible, horrible."

Among the questions that prosecutors hope to answer in any future trial dealing with Srebrenica is when, how and by whom the decision to commit the mass killings was made. They will also be looking for another crucial piece of the puzzle: what exactly was Mr. Milosevic's role in the killings and deportations of Muslims during three years of war in Bosnia that ended in late 1995.

Another trial already under way is dealing with war crimes by the Muslim forces before the fall of Srebrenica. But the prosecution says that while war crimes were committed by Serbs, Croats and Bosnians during the wars of the early 1990's, evidence is overwhelming that most were committed by Serbs and that the gravest crime of all took place at Srebrenica.

Mark Harmon, the lead prosecutor in the case against General Krstic, who was sentenced to 35 years in prison, told the judges in that trial that Srebrenica was about "the triumph of evil - a story about how officers and soldiers of the Bosnian Serb Army, men who professed to be professional soldiers, men who professed to represent the ideals of a distinguished Serbian past, organized, planned and willingly participated in genocide."

West Bank Plan Eyes Jordanians On Patrol (WT)

By Joshua Mitnick

The Washington Times, July 5, 2005

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TEL AVIV -- Palestinian security chiefs and Jordanian officials are discussing sending a unit of the Jordanian military to the West Bank to boost stability after Israel's withdrawal.

The deployment, backed by Palestinian Interior Minister Nasser Youssef, would strengthen Palestinian President Mahmoud Abbas' hand to enforce law and order on rogue bands of Palestinian militants that could undermine his administration. For Jordan, the plan represents its most active role in the West Bank since former King Hussein forswore all claims to the territories in 1987.

Composed of Jordanian citizens of Palestinian origin, the Bader Brigade is formally considered an armed wing of the Palestine Liberation Organization, but the troops are trained and commanded by the Jordanian military.

"From the beginning of the discussions on disengagement, there's been an agreement" with Jordan, said Tawfiq Abu Khousa, a spokesman for the Palestinian Interior Ministry. "Now it only depends on the Israelis to give approval for them to come over. They are ready for every position that they are assigned to by the Palestinians."

The spokesman said that approximately 1,500 Bader soldiers could be dispatched to the West Bank. A Jordanian government spokesman, Asmaa Khodhor, told reporters last month that the government is waiting for a green light from the Palestinians to dispatch the forces.

Israeli consent is not a forgone conclusion. If Israel were to agree to such a plan, it would mark the first time it has permitted any foreign security forces into the Palestinian territories since the West Bank and Gaza were first conquered by the Jewish state in 1967.

Observers say such a landmark decision is almost certain to stir political opposition from right-wing opponents of the disengagement, although some Israeli security specialists are thought to support extending an invitation to the Jordanian forces.

"It puts security into the hands of a more credible force," said Shmuel Bar, an authority on the Middle East at the Herzliya Interdisciplinary Center. "The worst Jordanian force is better than the best trained Palestinian force."

The troops would most likely be deployed near the city of Jenin, a city known as a hotbed of militancy and lawlessness. Israel's planned withdrawal from four settlements in the northern West Bank will place a large region under Palestinian control, posing a challenge to Mr. Abbas' aspiration to encourage law and order.

Inviting the Jordanian troops across is a political decision that the Palestinian president has put off because it would signal a more confrontational approach toward militants.

"Then you can maintain the semblance of authority in these cities that will be evacuated," said Said Zeedani, a political analyst. "Then you can cope with the phenomenon of armed groups."

But Mr. Abbas isn't keen on facing down militants just yet. The Palestinian president is trying to convince armed groups like Hamas to join his government. Over the weekend, the Islamic militants reportedly rejected Mr. Abbas' offer. Hamas is also likely to be uncomfortable with the presence of the Bader unit patrolling the West Bank.

The Bader force was trained by the Jordanians as one part of the Palestinian army in exile. Similar Palestinian units were set up in Arab militaries around the region.

Mr. Bar said the soldiers are loyal to Jordan's Hashemite monarchy. But Palestinian officials and observers said that once they cross the border into the West Bank, they would be placed under the command of Mr. Youssef.

"They are forces of the army of Palestine, which are in Jordan," Mr. Abu Khousa said. "They will help in the disengagement, in creating order, and security, everything."

Anti-Chávez Leader Under Fire (CSM)

By Mike Ceaser

The Christian Science Monitor, July 5, 2005

CARACAS, VENEZUELA - Maria Corina Machado doesn't hesitate when asked her feelings about the possibility of going to prison for up to 28 years for "treason to the nation" and conspiracy.

"I'm scared, I'm very scared; I have three kids," the political activist says softly, sitting in her small office in the Caracas headquarters of Sumate, the organization that led last year's unsuccessful bid to recall President Hugo Chávez from office.

Mr. Chávez's landslide victory in that vote only added to the troubles of Ms. Machado, Sumate's vice president and the woman who has come to symbolize the anti-Chávez opposition. Machado is facing criminal charges for allegedly endorsing the April 2002 coup which unseated Chávez for 48 hours, and for Sumate's having accepted US government funds. She is due in court Wednesday for a hearing.

Machado has become a cause célèbre for Chávez's opponents and a demon for his supporters. So when Machado met with President Bush in the White House May 31, it raised a firestorm of government criticism back in Caracas. Venezuela's foreign minister called the meeting "a provocation," and the interior minister charged that Machado was a puppet of the CIA,

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continuing the heated rhetoric that has characterized the relationship between the Bush administration and Venezuela's leftist leader.

The anti-Machado sentiments have even infused rank-and-file Chávez supporters. "She's sold out her country," says Milagros Medina, who sells pro-Chávez books on a central Caracas plaza. Machado "should be in prison."

It's a lot to handle for someone who says she got into the politics by happenstance and that her goal is not to oppose Chávez but to strengthen Venezuela's democracy. The daughter of an affluent Caracas family, Machado worked after college as an industrial engineer before leaving to raise her family. She also founded an organization to help orphans. In 2002, a friend invited her to create a pro-democracy group. "I decided to drop everything else," she recalls.

Soon, Sumate had a list of 40,000 vol- unteers across the country, Machado says.

But Sumate's pro-democracy pretensions are no more than a front for its anti-Chávez goals, say observers. Sumate is "a thoroughly anti-Chávez group," says Larry Birns, director of the liberal Council on Hemispheric Affairs in Washington. During the anti-Chávez recall effort, Sumate "did everything required of a political campaign. They played a coordinated role."

Machado does not hide her disdain for the populist president, who she says has profoundly damaged Venezuela's democratic institutions. Chávez's critics say his government has packed the Supreme Court, used government institutions to retaliate against political opponents, and passed laws restricting media freedoms and the right to protest.

On this particular day, Machado has just returned to Caracas from a trip visiting regional Sumate organizers, and struggles to stave off discouragement. Many volunteers are afraid of government retaliation, she says, and Sumate's warnings that Venezuela's electoral system is being compromised, including the addition of foreigners to voter rolls, have fallen on deaf ears.

"In many other countries where the rule of law is respected, this would have been a real big issue," notes Machado, who says her responsibilities as Sumate's second in command and as a single mother leave her time for only three hours of sleep a night. "We expected a big reaction" to the warning. "But you know what happened? Nothing!"

Her frustration reflects the mood of the opposition, which is still trying to pick itself up from Chávez's victory in last August's referendum. The charismatic and controversial president enjoys 70 percent support in polls and has a campaign chest filled by record world petroleum prices. The disparate opposition, meanwhile, lacks a single candidate or message to rally around. Some say that Machado, articulate and passionate about her ideas, could be the candidate to unite and motivate the opposition. She denies interest.

But that discussion will become moot if Machado goes to prison. She faces a charge of treason for allegedly signing the manifesto which dissolved the nation's democratic institutions during the ephemeral 2002 coup. Machado says she had simply visited the presidential palace and wrote her name on what she believed to be a sign-in sheet. The conspiracy charge against Machado and other Sumate directors stems from $53,000 the organization received from the US Congress-funded National Endowment for Democracy. Machado makes no apologies.

"It is legal, it is our right," she says of the foreign funds. "We have to do it, because if we concede, then the government has achieved what it wanted; they have intimidated us." But, Machado says, 95 percent of Sumate's funding comes from Venezuelans.

Machado vows she will see the trial through. Meanwhile, she is trying to continue her work. "If you're going to fight for democracy, this is something which you have to do every day, all day long," she says.

Fundraising Scandal In Brazil Puts Pressure On Lula (FT)

By Raymond Colitt

Financial Times, July 5, 2005

The political crisis in Brazil intensified on Monday as fresh allegations of improper fundraising threatened to force the resignation of figures close to President Luiz Inácio Lula da Silva.

Full media coverage, including live broadcasts of congressional inquiries into complaints of corruption at several state enterprises and an alleged scheme to buy legislators' support, have left Mr Lula da Silva's government at its weakest since it came to power in January 2003.

On Monday, after weeks of stability, the Bovespa stock index fell just over 1 per cent in late trading, while the Real lost 0.4 per cent against the US dollar.

Over the weekend Mr Lula da Silva's Workers' party, or PT, admitted having received financial aid from Marcos Valerio de Souza, head of a publicity firm with government contracts and the chief suspect in pay-offs to legislators. Delubio Soares, the PT's treasurer, admitted giving misleading information about the party's relations with Mr de Souza. The PT had previously denied a financial relationship with Mr de Souza, a friend of Mr Soares.

Last month José Dirceu, Mr Lula da Silva's chief of staff, became the first high-level casualty of the scandal.

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Silvio Pereira, PT secretary- general, resigned on Monday. Mr Soares and José Genoino, the PT president, are also under pressure to stand down and the re-election of Mr Lula da Silva in October next year considered all but certain only a few months ago is in doubt. “Not running for re-election may be the way out for the PT and for Lula,” Cristovam Buarque, an influential PT senator, suggested.

The scandal has angered traditional supporters of the PT, which for most of its 25-year existence has campaigned under the banner of ethical politics.

“The leadership ignored its base they thought they could do what they wanted with the party,” said Ivan Valente, a PT congressman. “Genoino has to go.” Mr Lula da Silva is expected to announce a cabinet reshuffle soon in an effort to rebuild his divided alliance of leftwing and centrist parties that form Brazil's governing coalition.

Opposition leaders claim the relationship with Mr de Souza was part of a broader scheme in which the PT used public funds to finance itself and its allies and to help secure a congressional majority. “It is shocking. Money from government coffers is paying for the liabilities of a political party,” said Alberto Goldman, head of the PSDB, the opposition party in the lower house. The PT denies the allegations.

The government is also suspected of appointing political allies, rather than civil servants, to public enterprises, to be able to reward constituents and parties with public works contracts.

“The PT attempted to secure power at all costs. They wanted to go too far too fast,” said Amaury de Souza, political analyst with MCM consultants.

There has been growing evidence in recent weeks of irregularities in at least two state enterprises: the postal service and the reinsurance institute (IRB).

Congress, meanwhile, has become a battlefield, with five congressional investigations into corruption claims involving government and opposition parties.

As part of the expected reshuffle, the centrist PMDB party says it has been promised two additional ministries in exchange for votes from the majority of its faction in the lower house.

Most analysts believe this will provide little lasting support. Many PMDB candidates face the PT in several gubernatorial elections next year and are eager to distance themselves from the government. “The survival of the alliance will depend on electoral calculations, not cabinet posts,” says Walder de Goes, a political scientist in Bras´lia. “And there the government is looking increasingly weak.”

For now, many analysts believe the effect of the crisis on the economy remains limited. “There is a tremendous amount of noise, but when all is said and done we still see little chance of major changes in economic policy,” said Mario Mesquita, chief economist for ABN Amro Brazil.

First Gay Couples Apply For Marriage Under New Spanish Law (NYT)

By Renwick Mclean

The New York Times, July 5, 2005

MADRID, July 4 - When Ramón Vizcaíno and Luis Ibarcena tried to apply for a marriage license here two months ago, they caused a minor scandal.

Confusing news reports had led them to believe that Spain had legalized gay marriage, they said, when, in fact, it had only passed a preliminary vote in Parliament.

"The people there were very surprised to see two men asking about marriage," said Mr. Vizcaíno, a 38-year-old security guard. "They looked at us like we were crazy."

But on Monday, the baffled faces and dismissive tones gave way to smiles and handshakes, as the men became one of the first gay couples to seek government authorization to wed under Spain's new marriage law, which took effect on Sunday.

"This means we are no longer second-class citizens," Mr. Vizcaíno said in an interview Monday. "We have always had the same obligations as other citizens. We deserve the same rights, too."

The lines inside the Madrid Civil Registry, where capital residents apply for marriage licenses, swelled with gay and lesbian couples for the first time on Monday, four days after Parliament passed a law giving same-sex couples across Spain the right to marry and to adopt children.

The vote makes Spain the first nation to remove all legal distinctions between same-sex and heterosexual unions, say advocates for marriage rights for gay couples. Belgium, Canada and the Netherlands have also legalized gay marriage, but only Canada's laws, which do not yet apply to all of the country, contain language as liberal as Spain's.

Near the close of business on Monday, Boti G. Rodrigo, an official at the registry, said that only four gay couples had formally applied for marriage licenses but that many more had come seeking information about the process.

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"We expect that the number of same-sex couples will be disproportionately high for weeks, if not months to come," she said.

Ms. Rodrigo said that most of the couples requesting information on Monday had been together for years.

Parliament's decision to legalize gay marriage has provoked tremendous animosity among religious conservatives in Spain, a predominantly Roman Catholic country.

In a speech before Pope Benedict XVI in Rome on Monday, the archbishop of Madrid, Cardinal Antonio María Rouco Varela, condemned the law, saying it was evidence of a society in which "not only is faith denied, but also human reason itself."

Ricardo Blázquez, the president of the Conference of Catholic Bishops, also denounced the law on Monday, saying at a news conference near Madrid that it "throws moral and human order into confusion."

Many of the gay couples interviewed on Monday said they had grown up in Catholic households but were no longer practicing Catholics, in part because of the church's opposition to gay marriage. But Mr. Ibarcena, 32, the partner of Mr. Vizcaíno and also a security guard, said he still attended church regularly.

"I stand up and challenge them when they say things that are anti-gay," he said. "I haven't given up on them yet."

EU Members To Face Energy Suits (WSJ/DJN)

By Dow Jones Newswires

The Wall Street Journal, July 5, 2005

BRUSSELS -- The European Commission is set to launch court cases against five European Union countries that have failed to pass laws deregulating national energy markets, as part of a crackdown on laggard governments, people familiar with the matter said.

At a meeting today, the commission is expected to endorse a decision to sue Estonia, Greece, Ireland, Luxembourg and Spain at the European Court of Justice, a source said. The court has the power to impose heavy fines, but it usually takes about 20 months for it to deliver a verdict.

The EU has made the electricity sector one of its main targets in its industry-by-industry deregulation of Europe's former monopolies. From July 2007, all 25 member nations are obliged to fully open their electricity markets, but governments are struggling to implement the market-opening rules.

The court cases are the final step in the commission's legal process. The commission uses the courts only when governments have failed to to heed two warnings to bring national legislation into line with EU law. Today, the commission will issue roughly 3,800 reprimands -- ranging from first warnings to suits -- to member governments.

The "infringements" cover the failure to either fully implement or properly apply laws and regulations across a range of industry sectors.

The commission will notify EU governments of the decisions it has taken. The information won't be communicated to the media immediately because of the volume of cases involved, a person familiar with the matter said.

The commission in March said it was poised to file suits against as many as 10 countries unless they speedily adopted legislation deregulating their energy markets. Belgium, Germany, Latvia and Lithuania have since come into line. Portugal is still having problems but will probably win a two-month extension, according to a person familiar with the matter.

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Magnuson, Cynthia

From: Magnuson, Cynthia
Sent: Tuesday, July 05, 2005 11:19 AM
To: Allen, Gary (CIV); Apisson, Elizabeth M; Baxter, Felix (CIV); Boyle, Brian D; Branda, Joyce (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Eubanks, Sharon (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D. (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Madden, Kevin; Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Miller, Charles S; Morgan, Julian (CIV); Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Rivera, Jennifer (CIV); Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Sierra, Bryan; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wiggins, Mike; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 7/5/05 Civil Division News

US sues Japan's Toyobo, US firm for defective body armor - report

Toyobo rejects allegations of conspiracy over body armor defects

Whistle-blower rewarded with $1.6 million; Little-known law awarded Racine man share of settlement in fraud case

Opinion: On tobacco suit discount, the smoke hasn't cleared

Russian astrologer brings case against NASA comet probe

Devoted to God, but Not the Pledge; Beliefs Drive Man's Opposition to Oath In Virginia Schools

Suit over death denied

Metabolife, former supplement giant, files for bankruptcy

Cobell Speech Inspires, Shames

AFX Asia Focus
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July 5, 2005

US sues Japan's Toyobo, US firm for defective body armor - report

HONG KONG (AFX) - The US Justice Department has sued a bulletproof-vest maker and a ballistic-fiber supplier, alleging they sold the body armor knowing it was defective, the Wall Street Journal reported.

It said in its online edition the complaint filed last week in federal court in Washington was brought on behalf of several federal agencies that bought thousands of vests made with Zylon, a bullet-resistant fiber.

The civil suit was brought against Second Chance Body Armor Inc of Michigan, and its fiber supplier, Toyobo Co of Japan, and related entities.

The Justice Department allege that between 1998 and 2001 Toyobo and Second Chance 'kept silent as to the ever-mounting information in their possession that the Zylon fabric degraded substantially faster than expected' when exposed to certain light, temperature and humidity conditions.

Second Chance and Toyobo have already been sued by law-enforcement groups, state attorneys general, a wounded police officer, and the widow of an officer who was killed while wearing a vest.

The report quoted lawyers and spokespeople for the two firms, each laying responsibility for the defects on the other.

END

Japan Economic Newswire Plus
July 3, 2005

Toyobo rejects allegations of conspiracy over body armor defects

Washington Toyobo Co., a Japanese maker of protective synthetic fiber, on Saturday denied allegations that it conspired with Second Chance Body Armor Inc. to hide evidence that their bullet-resistant police vests could be defective.

"There was no conspiracy here," Kent Jarrell, a U.S. spokesman for Toyobo, said in a statement. "It was a scheme carried out by one company. Second Chance deceived Toyobo, the law enforcement community, and investing authorities, including the Department of Justice."

But Second Chance said Toyobo is ultimately responsible for problems with the vests containing Zylon fiber.

The U.S. government Friday sued Second Chance, the top U.S. supplier of bullet-resistant police vests, and Toyobo, which manufactures Zylon, for alleged conspiracy.

The two companies knew that the vests' ability to stop bullets was overstated but Second Chance sold them anyway to local, state and federal police, according to the lawsuit in the U.S. district court in Washington.

The government also alleged that they kept silent for nearly three years in the face of mounting evidence that the Zylon fabric degraded faster than they acknowledged when exposed to light, heat and humidity.

According to the lawsuit, the U.S. company stopped selling certain models and disclosed safety problems only after a police officer was killed and another seriously wounded while wearing Second Chance vests made of Zylon in June 2003.

END

The Milwaukee Journal Sentinel
July 3, 2005

Whistle-blower rewarded with $1.6 million; Little-known law awarded Racine man share of settlement in fraud case

By GINA BARTON

A 62-year-old Racine man is about to become a millionaire for blowing the whistle on a contractor who he says was cheating the federal government.

Gerald R. Rademacher, a former district sales manager for Softview Computer Products, is set to receive $1.575 million from the U.S. government, which will come from a $9 million legal settlement paid by the company.

Rademacher filed suit against Softview, which later merged with the New York-based Humanscale, on the government's behalf in June 2003. A federal law known as the False Claims Act allows employees to file such suits and to collect part of the damages if they are successful.

Rademacher's suit claimed that Humanscale was overcharging the federal government for computer accessories. Jeffrey A. Belkin, the Atlanta-based attorney who represents the company, did not return telephone messages left Friday. The settlement agreement, filed Thursday, says that Humanscale denies the allegations and does not admit wrongdoing. Rather, the company has agreed to pay the government $9 million, "to avoid the delay, uncertainty, inconvenience and expense of protracted litigation of these claims," the settlement document says.

Government cost at issue

Rademacher's suit levels several allegations against his former employer. According to the suit, the General Services Administration, in charge of purchasing for federal government agencies, demands certification from vendors that they are giving the government their best prices. Between 1998 and 2004, Humanscale gave lower prices to other customers, the suit claims. For example, 9- to 14-inch anti-radiation computer screens were sold to the government for $77. Meanwhile, Toyota Motor Products got 14-inch screens for $52 and AT&T Corp. and Chase Manhattan Bank paid $66 for the screens, the suit says.

Rademacher also alleged that the company had misrepresented itself as a small, Washington, D.C.-based business owned by a woman, which gave it an edge in winning contracts. In reality, Rademacher's suit says, the Washington, D.C., facility was one of many district sales offices for the larger company, principally owned by a man.

Finally, the suit alleged that the company failed to disclose that one of its products contained a part manufactured outside the United States.

According to the company's Web site, *www.humanscale.com,* Humanscale was founded in 1982 and "is generally recognized as the leading manufacturer of ergonomic products for the office."

"Humanscale serves, among others, the majority of Fortune 1000 companies," the site says. "Our products are available through retailers, contract furniture dealers and direct via our 14 sales offices in the United States. We also maintain offices in London, Prague and China, which oversee our worldwide distribution network. Manufacturing facilities are located in New Jersey, California and Dublin, Ireland."

Authorities alerted in 2000

Rademacher, who is now retired, worked for the company from 1992 until 1999, when he resigned to take care of his ailing father, said his attorney, Paul Scott of San Francisco. Rademacher first approached the government about the over-charging in 2000, Scott said.

"Mr. Rademacher is a courageous man who showed a great deal of resolve in pursuing this matter and is very deserving of the reward he received," Scott said.

The government took over the case against Humanscale earlier this year.

Percentage awarded

The government does not choose to take over all cases under the False Claims Act, Scott said. When it does, the whistle-blower can collect between 15% and 25%. When it doesn't, the whistle-blower gets 25% to 30%.

"In my view, this is an important statute that people sometimes don't realize is available to them to address fraud," Scott said.

END

The Boston Globe
July 5, 2005

Opinion: On tobacco suit discount, the smoke hasn't cleared

By Peter S. Canellos, Globe Staff

WASHINGTON -- It's hard to believe today -- with the Justice Department slashing the proposed penalty in its tobacco lawsuit and the stocks of tobacco makers rated a strong "buy" -- but just eight years ago the state attorney generals felt they had the smoking industry on the ropes.

"We had to punish this industry in such a way that everybody in this country and everybody in this world would recognize that they had paid a higher price than any other corporation in history because, frankly, this corporation has done more harm than any other corporation in history," declared Michael Moore, then the attorney general of Mississippi, in announcing the multistate settlement of lawsuits for medical costs caused by smoking.

The final agreement, worth $246 billion over 25 years, was a boon to state budgets, helping offset recession-generated shortfalls. But it now appears to have been a boon for tobacco companies as well -- a way of showing just enough contrition to erase the memories of all those decades when the industry had claimed cigarette smoking wasn't dangerous.

The settlement also eliminated the uncertainty of decades of state litigation and quelled just enough public outrage to allow the industry's allies in Congress to block resolutions that would have allowed the Food and Drug Administration to regulate tobacco as a drug.

Then, last week, the Justice Department ended nine months of testimony in the once-ballyhooed federal case against tobacco companies by requesting just $14 billion in damages over five years -- rather than the $130 billion it had been seeking. A leaked memo reported that the litigation team that had pursued the case for six years was not in favor of reducing the penalty. The request for the reduction came from Bush administration appointees at the Justice Department.

The Justice Department insists that the change was based on legal concerns, but critics in Congress led by Representative Martin T. Meehan, Democrat of Lowell, are demanding an investigation.

"The Justice Department's approach to tobacco litigation should be based on the facts of the case and not the political connections of the tobacco industry," said Meehan, whose office has compiled a list of ties between Justice Department leaders and law firms that have represented Big Tobacco.

The Justice Department's retreat also was a blow to former Massachusetts attorney general Scott Harshbarger, one of the nation's leading advocates of the tobacco settlement of the 1990s.

Harshbarger and the other state attorneys general who pursued the settlement faced criticism from some antismoking activists, who had argued for a knockout blow against the industry, rather than an incremental victory. At the time, Harshbarger said, he believed the state settlement would be the first of many dominos to fall against the tobacco industry.

But instead he acknowledged: "They lived to fight another day. It gives more support to those who wanted radical reform. They can say, 'That's the problem with incremental reform. You don't deal with the devil. You gotta take them down.' "

The history of the past eight years has made for speculation about what might have happened if the attorneys general had not settled. The industry would have had to fight more than two dozen big-ticket lawsuits in courts around the country, knowing that even if they had won a lot of them, they could still be hit with enormous penalties in the ones they had lost. And once they started losing, more states would have filed actions, investors would have gotten nervous, and the industry would have been in deep trouble.

Then again, the tobacco companies might never have been hit with damages that amounted to the $246 billion they agreed to pay, and the legal chaos that resulted from so many separate cases might have prompted Congress to step in to settle the matter. The industry's friends in Congress might have ensured that the legislation wasn't all that harmful to the companies, and they might have simply gone about their business.

Looking back, Harshbarger defends the settlement, believing that the Massachusetts portion was more than it could have gotten on its own. But he, like other supporters, winces when he realizes that the smoking industry is alive and well.

Last week, Standard & Poor's Equity Research urged investors to buy shares of the three largest cigarette makers, arguing, "With such a large cut in the monetary remedies sought [by the Justice Department], we believe the risk to the industry's cash flow has lessened, improving the security of the average dividend yield of 5 percent."

The stock of Altria Group, the maker of Marlboros, among other brands, hit an all-time high.

Peter S. Canellos is the Globe's Washington bureau chief. National Perspective is his weekly analysis of events in the capital and beyond.

END

AP
July 5, 2005

Russian astrologer brings case against NASA comet probe

MOSCOW_NASA's mission that sent a space probe smashing into a comet raised more than cosmic dust _ it also brought a lawsuit from a Russian astrologer.

Marina Bai has sued the U.S. space agency, claiming the Deep Impact probe that punched a crater into the comet Tempel 1 late Sunday "ruins the natural balance of forces in the universe," the newspaper Izvestia reported Tuesday. A Moscow court has postponed hearings on the case until late July, the paper said.

The probe's comet crash sent up a cloud of debris that scientists hope to examine to learn how the solar system was formed.

Bai is seeking damages totaling 8.7 billion rubles (US$300 million; euro252 million) _ the approximate equivalent of the mission's cost _ for her "moral sufferings," Izvestia said, citing her lawyer Alexander Molokhov. She earlier told the paper that the experiment would "deform her horoscope."

NASA representatives in Russia could not immediately be reached for comment.

Scientists say the crash did not significantly alter the comet's orbit around the sun and said the experiment does not pose any danger to Earth.

END

Washington Post
Monday, July 4, 2005

Devoted to God, but Not the Pledge; Beliefs Drive Man's Opposition to Oath In Virginia Schools

By Rosalind S. Helderman
Washington Post Staff Writer

Edward R. Myers used to ride motorcycles and fly his own airplane.

But all that seemed too dangerous after he got married and had children. So the Sterling man took up a new pastime: suing the government.

He has pursued deeply held religious convictions in courtrooms in Loudoun County, Alexandria and North Carolina. He is most passionate about his opposition to reciting the Pledge of Allegiance in public schools, which Myers believes unconstitutionally mingles God and government and dilutes his religion.

A software engineer with no legal training, he plunked down $100 to file a suit in federal court in 2002, figuring he'd represent himself and make a point. He lost at the U.S. District Court level. But three years later, Myers's case has been taken on by a prominent civil liberties attorney and stands poised to help decide the Pledge of Allegiance's legality in schools nationwide.

At the moment, he awaits a ruling from the U.S. Court of Appeals for the 4th Circuit on the matter. Win or lose, the case's next stop could be the U.S. Supreme Court.

Last year, the justices heard from Michael Newdow, a California atheist who had successfully argued in lower courts that the pledge was unconstitutional for including the words "under God." But the justices ruled Newdow's case was invalid because he did not have custody of his daughter. That left Myers at the tip of the spear for the still-unsettled legal question.

Custody is no issue for Myers -- he lives on a quiet cul-de-sac behind a Kohl's department store with his wife and three sons. Myers argues that he is also a slipperier target for the political right, which pilloried Newdow for trying to divorce God from public life.

Myers, 46, is intensely religious, tracing his ancestry to Anabaptist Mennonites who fled Europe in the 1600s over the separation of church and state. He grew up on a Pennsylvania farm and attended Mennonite churches until he moved from Fairfax County to Loudoun 12 years ago and the commute to a Washington church became too much. Now he and his family attend Catholic services each week.

Members of the Mennonite tradition oppose saying oaths to any entity but God, he said. Followers believe in trying to stay apart from the secular world and feel religion is sullied when mixed with government.

"To me, it's heresy," he said. "Government is about keeping civil order. Church is about loving and worshiping God. You don't mix . . . loving God because of free choice with something that's about duty and where you were born."

Children in Virginia public schools are required by law to recite the pledge each day. Those opposed are allowed to stand or sit quietly rather than participate -- an option Myers's two school-aged sons exercise. But forcing them to listen still violates their rights, he said.

Government lawyers have argued that the recitation of "under God" in the Pledge of Allegiance has become so routine that it holds a historical and not a religious meaning. For Myers, that notion is demeaning to God and confusing to his children.

Those views have gained the soft-spoken code developer some unlikely admirers.

Joe Glover, president of the Christian, conservative Family Policy Network, said he and Myers have much in common. The group lobbied for a Virginia law that requires posting "In God We Trust" in all government buildings -- coincidentally, another of Myers's targets. Shortly after oral arguments in March, Glover called Myers and the two spoke for an hour.

"Not wanting the state to establish who God is? We're in agreement on that," he said. "I would hope that evangelicals especially would not jump to conclusions about Ed Myers. I hope they would think through his presuppositions and not assume he's trying to be a fly in the ointment."

Myers's activism has made him quite an irritant to his local government. School officials declined to comment on Myers but said they have spent $64,000 since June 2003 fighting his case.

Outside the courtroom, Myers said, he tries to perform an act or two of what he considers free speech each year to protest what he believes is society's excessive flag adoration.

In 2003, he affixed stickers with pictures of a burning U.S. flag on his children's school bus while it sat idle in a parking lot to protest flag stickers the county put on the bus not long after the Sept. 11, 2001, terrorist attacks. For that stunt, he was arrested and charged with trespassing and tampering with the bus. He spent a day defending himself in court, losing the case but persuading a jury to fine him only $1 for each of the six charges.

He has tried to buy an ad in the school yearbook to explain his beliefs. It was rejected. He stuffed brochures into teachers' mailboxes. He sued the sheriff's office because its uniforms didn't technically conform to state law.

Despite all that, Myers said it's important to him to prove that people with unconventional opinions can be good neighbors. It's a "dualism," he said, that lets him volunteer for the school chess club while exchanging legal letters with the principal. The family participates in homeowner association activities. His wife was president of the PTO.

"At neighborhood cookouts, it's friendly debate," said Sonya Kalian, a close friend who lived near the family for a decade. "It's, 'How can you believe that, Ed?' And, 'Can you pass another Coors Light?' "

It hasn't always been that comfortable, he said. He spoke about his beliefs at a School Board meeting in November 2001, causing a board member to respond, voice shaking with emotion, that as an Army veteran he had a "great deal of trouble" with the speech and that it was "ill-timed" coming so soon after Sept. 11. After that, Myers received anonymous nasty calls and death threats.

His wife, who declined to be interviewed, is uncomfortable with the attention, he said. He said making people mad is no fun but making them think is exactly that.

"If people don't take risks," he said, "we don't have progress."

END

Deseret Morning News
July 2, 2005

Suit over death denied

Wendy Leonard, Deseret Morning News

A Provo man's appeal for redress in a case against the federal government for the death of his Marine son has been denied by a federal appeals court.

Tenth U.S. Circuit Court of Appeals Judge John Porfilio declared Tuesday that the August 2002 death of Pfc. Jeremy Ross Purcell "arose out of or was in the course of activity incident to service, and thus was not redressible."

Purcell was killed in an accident during a military training operation at Camp Pendleton, Calif. Reports say he was fatally wounded when another participant mistakenly used live ammunition instead of the blanks that were intended for the training exercise. The 19-year-old was shot four times in the chest.

In a plea agreement, the Marine who fired at Purcell pleaded guilty to negligent homicide and was sentenced in August 2003 to one year in military jail.

Jon Purcell, Jeremy's father, filed a lawsuit last year, claiming his son's death was the result of "a complete and total institutional failure" on the part of the U.S. Marine Corps. His case was later dismissed under federal precedent set in the 1950 Feres vs. the U.S. case, which found "the government is not liable . . . for injuries to servicemen where the injuries arise out of or are in the course of activity incident to service."

Purcell plans to plead his case all the way to the Supreme Court "because there was so much negligence," he said. "My son's death was totally preventable."

He said in order for the court to hear his case, it would have to overturn its decision in the Feres case.

"It's an issue the Supreme Court needs to hear anyway," he said. Purcell, who isn't satisfied with the military action since his son's death, said he is confident that if the same accident happened in any city, county or state venue, that entity would have to pay.

"They use the Feres doctrine to protect themselves," he said.

The district court affirmed that the accident involving Purcell was determined to have occurred in the course of military training exercises, which "clearly falls within the scope of the doctrine," according to Tuesday's decision.

Purcell said his persistence is not to obtain closure from his son's "wrongful death" but to alert attention to the negligence on the part of the U.S. military. He said he won't stop until something is done to prevent such negligence.

END

AP
July 2, 2005

Metabolife, former supplement giant, files for bankruptcy

By SETH HETTENA
Associated Press Writer

SAN DIEGO_Metabolife International Inc., once one of the nation's largest retailers of herbal supplements, said Friday it has filed for federal bankruptcy protection in the face of a federal prosecution and a host of lawsuits over a popular diet supplement containing the now-banned herb ephedra.

Ephedra was key to Metabolife's rapid success and the ultimate cause of its collapse.

The San Diego company said it was driven into Chapter 11 by the "staggering" costs of defending more than 360 lawsuits nationwide involving the sale of company products containing ephedra, a stimulant linked to 155 deaths and dozens of heart attacks. Metabolife and its insurer have spent about $40 million defending the company.

About 200 of the lawsuits were consolidated in New York. A federal judge there refused June 2 to approve a multimillion-dollar class action settlement, leaving Metabolife unable to pay for the continuing cost of defending itself.

The lawsuits will be folded into the bankruptcy proceeding.

Metabolife said it had proposed selling its remaining business for $23.5 million to Ideasphere Inc., a nutrition firm in Grand Rapids, Mich. The company's bankruptcy attorney, David Osias, said the amount available to creditors could be higher if Metabolife's insurance policies are included.

Michael Ellis, a convicted drug felon who founded the company in 1995, also faces federal criminal charges of lying to the U.S. Food and Drug Administration about the safety of Metabolife 356, the company's best-selling ephedra supplement.

In the petition, Metabolife acknowledged that it also is under investigation for understating its income in 1997 and 1998. The Internal Revenue Service is seeking nearly $1 million in taxes and penalties for those years, according to the petition.

Metabolife's revenues have plummeted as concern has mounted over the safety of ephedra. Metabolife stopped selling the Chinese herb in December 2003 _ the same month the Bush administration banned its sale.

In its heyday in 1999, Metabolife earned more than $24 million on revenues that topped $350 million. That same year, Ellis offered to pay the Russian government $15 million to put Metabolife's logo on an International Space Station rocket.

Last year, the company posted an $11 million loss on revenues of less than $47 million, according to the bankruptcy filing.

In its petition, Metabolife listed 659 creditors. Its top 20 creditors are owed more than $6.4 million.

The criminal charges stem from letters Ellis and a company lawyer wrote to federal regulators in 1998 and 1999 claiming no customer had registered even a single health complaint. According to prosecutors, the company was receiving a cascade of complaints, including 18 heart attacks, 26 strokes, 43 seizures and five deaths.

While his customers were getting sick, Ellis was getting rich. Between 1999 and 2001, Ellis and two other company owners were paid a total of $146 million, Metabolife's vice president of finance testified in a deposition. Ellis paid cash for his $2.2 million mansion in Rancho Santa Fe and a 200-acre mountain cattle ranch.

Ellis also is accused of illegally having guns and ammunition, which he could not possess because he is a convicted felon. Ellis' conviction stems from a 1988 raid on a methamphetamine lab.

END

Great Falls Tribune
Cobell Speech Inspires, Shames

7/4/05

When you're owed billions of dollars by the government, it isn't easy to collect.

"It's our money. It doesn't belong to anyone else," said Elouise Cobell, lead plaintiff in the Indian Trust Fund lawsuit, which she described as the largest class action case ever filed against the U.S. government.

Sunday at the University of Great Falls, Cobell, a Blackfeet member, explained why she took on the U.S. Department of the Interior on behalf of more than 300,000 American Indians. She told the stories that drive her to continue her fight. Her talk, to roughly 60 people, was one of several presentations given Sunday as part of Explore the Big Sky's Indian Symposium.

In 1996, Cobell filed suit against the Interior Department for mismanaging individual American Indian trust accounts to the tune of $170 billion.

At the time, Cobell believed she needed three years to wrap up the lawsuit, she said.

Last month, nine years after filing, plaintiffs said they would settle for $27.5 billion lump sum payment.

At the time, a Department spokesperson said the sum was based on "mythical numbers," according to an earlier Tribune story.

Cobell, who is a banker and the executive director of the Native American Community Development Association in Browning, believes that no one should have to sue for the three things she is asking.

First, the suit asks the government to fix its flawed accounting system.

"This is not rocket science," she said. "This is fixing accounting systems."

The lawsuit also asks that the government give an accounting to individual Indians, and it asks for restitution as needed.

Twice during her hourlong talk, the audience erupted into spontaneous applause — once for her courage and once for her intellect.

Cobell took a visitor's tour of Washington, D.C., just days before she filed the lawsuit.
She walked past the Lincoln Memorial. Everywhere she went, she saw "government, government, government."

Her adversary's power bore down on her. She felt goosebumps, she said: "I was so frightened."
She walked back to her hotel, called a friend, and expressed her doubt.

"I don't know if I can do this," she told her friend.

"If not you, who?" her friend said.

Cobell stepped up.

"I've never looked back since," Cobell said, and the audience clapped.

When Cobell filed the lawsuit, in 1996, her detractors told her she didn't understand government.
One year later, a national foundation gave Cobell an award for understanding quite a lot.

The John D. and Catherine T. MacArthur Foundation granted her a fellowship commonly called a "genius grant."

Again, the audience applauded.

During the struggle, that has lasted nearly a decade, people ask Cobell what keeps her going.
"The stories that I tell you about are the stories that drive me," she said.

She grew up without television. Instead, neighbors and family gathered together in the evenings and listened to stories.

One thread tied together much of what she heard, she said: "If I could only get my money from the Indian agent."

The U.S. Bureau of Indian Affairs traditionally stationed Indian agents, or federal liaisons, on reservations, ostensibly to oversee Indians' welfare.

Cobell's aunt once needed money to take her uncle to the hospital.

The aunt took a wagon to the Indian Agent's office. It was early November, and snow rose up to her aunt's chest.

"She said they kept them outside all day, and it was cold," Cobell said.

She didn't receive her check until April.

"That was the treatment that the government gave individual Indian people," Cobell said.

Daily, she sees another reminder. On her drive to Browning, she passes by a place called Ghost Ridge.

There, 500 Blackfeet Indians — "my people," she said — starved to death because of an Interior Department agent's refusal to furnish food.

Repeated success propels her, too.

"We are winning," she said. "We are winning, winning, every step of the way."

Cobell first suspected the government of mismanaging tribal accounts when she served as treasurer of the Blackfeet Indian Nation in 1976.

Eventually, Cobell realized that tribes can hire attorneys. She turned her attention to individual accounts because individuals still had trouble collecting their money from the Indian agent. "What about the underrepresented people who could not fight back?" she asked herself.

Over the years, money that belonged to those individuals poured into the treasury.

"They used it to reduce national debt," she said.

Meanwhile, its rightful owners live in "sheer poverty," she said.

In 1999, Cobell won the first part of the case.

"For once, in the history of the United States, the Indian issues have risen to the top," she said.
After Cobell's talk, Rep. Sue Dickenson, D-Great Falls, said she feels admiration for Cobell's persistence and courage.

She feels differently about the defendant.

"I just feel a great deal of shame for what our government has done," she said.

James Nason, a University of Washington professor and another symposium speaker, described Cobell's story as a "staggeringly awful" one of government corruption and neglect.

"It's just astonishing that it actually occurred," he said.

He finds irony in how the government deemed American Indians incompetent to manage trust accounts, then lost billions of dollars from the same.

After the talk, Cobell stayed to talk with several listeners.

Carolyn Rogers, of Bozeman, leaned over to her: "You are one impressive woman."

END

From: McDowell, Cynthia
Sent: Wednesday, July 06, 2005 1:45 PM
To: Andrea Bottner; Andrew Emrich; Brad Schlozman; Bruce Mcdonald; Carl Nichols; Carl Peed; Cheri Nolan; Clifford White; Crystal Roberts; Cybele Daley; Dan Meron; David Higbee; Deborah Rhodes; Deborah Spagnoli; Domingo Herraiz; Donald Gambatesa; Edward McNally; Elizabeth Kessler; Gregory Katsas; Howard Nielson; Jeffrey Bucholtz; Jeffrey Clark; Jeffrey Taylor; John Richter; Jonathan Cohn; Joseph Bianco; Kelly Johnson; Kristi Macklin; Kyle Sampson; Laura Parsky; Lily Swenson; Luis Reyes; Makan Delrahim; MaryBeth Buchanan; Michael Battle; Mike Wiggins; Monica Goodling; Neil Gorsuch; Nicholas Tzitzon; Pat O'Brien; Patrick Hofer; Patrick Philbin; Paul Clement; Rachel Brand; Raul Yanes; Rebecca Seidel; Richard Hertling; Richard Morrison; Robert Flores; Rod Rosenstein; Sean McLaughlin; Sharee Freeman; Steve Bradbury; Steven McFarland; Stuart Nash; Tasia Scolinos; Theodore Ullyot; Thomas Barnett; Tracy Henke; Uttam Dhillon; Wan Kim; Amy Grimsrud; Andrew Beach; Angela Williamson; Ben Curtis; Ben Porritt; Beth Collins Cook; Bruce Taylor; C. Kevin Marshall; Candice Chiu; Carrie Nelson; Connor Flaherty; Courtney Elwood; Cynthia Magnuson; Cynthia McKnight; Deborah Underhill; Denise Gitsham; Ebony Lee; Elizabeth Apisson; Eric Akers; Eric Holland; Evan Gilbert; Gordon Todd; Grant Nichols; Jaclyn Lesch; James OConnell; Jan Williams; Jana White; Janet Potter; Jason Torchinsky; Jennifer Korn; Jessica Gavora; John Eddy; John Nowacki; Jonathan Ganter; Julie Warren; Kerri Strug; Kevin Madden; Kiahna Sellers; Kimberly Smith; Lara Reynolds; Lindsey de la Torre; Mark Metcalf; Mary Neumayr; Matt David; Matt Dummermuth; Matt Robinson; Matt Roper; Matthew Miranda; Michael Costigan; Michael Tierney; Molly Donlin; Natalie Voris; Neal Jungeblut; Omar Vargas; Patrick McArthur; Price Roe; Raquel Sours; Rena Comisac; Robert Coughlin; Ryan Bounds; Sandra Malloy; Shane Chambers; Stephanie McNees; Stuart Nash; Theodore Cooperstein; Tim Racicot; Trent Luckinbill; Tucker McNeil; Wanda Martinson; William Otis; William Woodruff
Subject: THE APPOINTEES FRIDAY WEEKLY - July 8, 20025

THE APPOINTEES FRIDAY WEEKLY

Friday, July 8, 2005

==========

Dear Appointees, *presenting the "early edition"...*

- ***VIP TOUR for DOJ Appointees:*** **Gilbert Stuart Exhibit - Friday, July 22**
- *Home State Info:* State Societies Provide a Bit of Home

- *Half Price D.C. Theater Ticket Outlet:* TICKETplace
- ***Sports Group Tickets:*** **Legg Mason Tennis Classic, Semi-finals, Saturday, August 6, 7:00 PM match**
- *Area Event:* USA and City of Alexandria, Virginia, Celebration and Fireworks on Saturday, July 9
- *DOJ Info:* Emergency Power Interruption at RFK Main Building - Saturday, July 9
- *DOJ Info:* DOJ Visitor Emergency Information Cards by SEPS
- *DOJ Info:* Input Needed Re *Justice Cafe's* Private Dining Room, *The Rotunda*
- *Tidbits: P*ac Man turns 25
- *Thursdays:* Penn Quarter Farmers Market, 8th Street NW by Teasism, 3:00-7:00 p.m. (behind Navy Memorial)
- *Friday, July 8:* Live Jazz, National Gallery of Art's Sculpture Garden, 9th & Constitution Avenue. July 8: Reginald Cyntje Group, Jazz Trombone, 5:00-8:00 p.m.

Regards,

The DOJ Office of White House Liaison
Jan Williams, John Eddy, and Cynthia McDowell

~

VIP TOUR for DOJ Appointees

Private Tour of THE AMERICAN PRESIDENTS BY GILBERT STUART Exhibit

The National Gallery of Art, Washington, D.C.

FRIDAY, JULY 22, 2005, 11:00 AM -12:00 PM

Through the courtesy of the Trustees of the National Gallery of Art, the U.S. Department of Justice appointees are invited to view the exhibition, Gilbert Stuart, on **FRIDAY, JULY 15, 2005**, from 11:00 a.m. until noon**.**

An RSVP is required to be given to Cynthia McDowell by WEDNESDAY, JULY 20, by 12:00 NOON. Only 30 spots are available on a first-come, first-served basis.

Admission to the National Gallery of Art and to all its exhibitions, tour and other public educational programs is free of charge. Any charge or request for contributions is unrelated to the National Gallery of Art.

~

Home State Info:

STATE SOCIETIES PROVIDE A BIT OF HOME

State Societies are social organizations of native and adopted state residents living in our Nation's Capital. They are primarily nonpartisan social organizations that function as "booster clubs" to celebrate the history, culture, traditions, schools, customs, and the economy of America's states and territories. They have their own Board of Directors and many have a website with related links noting their activities along with facts on their state's government, U.S. Congressional delegation, businesses and commerce, cuisine, shopping, and 'news from home.'

Membership is usually open to any state native or aficionado 'with an interest in good times, great people, and the unique culture and way of life we miss.' They have minimal dues (often $25 per year) and meet several times per year at social functions around something akin to the state (i.e.: the Texas State Society has a Spring event named after President Lyndon Johnson Reception; the Nebraska State Society meets at a local pub to watch the Cornhusker football games, etc.).

They are a wonderful way to keep connected with those from your native state while in Washington, D.C. Please take a minute to locate your native state's State Society. Below are two organizations and their websites that will help you.

DOJ_NMG_0001652

National Conference of State Societies (NCSS):
NCSS is an association of 55 state and territorial societies based in the National Capital area.
Contact information for the 55 societies is listed on the website below as it matures. As of March, 2002, twenty-seven state societies have their own web sites.

For a directory of State Societies, go to <http://www.statesocieties.org/director/index.htm>
Examples:
California - www.cssdc.org <http://www.cssdc.org>
Florida - www.FloridaStateSociety.org <http://www.FloridaStateSociety.org>
Illinois - www.IllinoisStateSociety.org <http://www.IllinoisStateSociety.org>
Kentucky - www.KentuckySociety.org <http://www.KentuckySociety.org>
Minnesota - www.Mnstatesociety.org <http://www.Mnstatesociety.org>
Nebraska - www.NebraskaSociety.org <http://www.NebraskaSociety.org>
Texas - www.TexasStateSociety.org <http://www.TexasStateSociety.org>
Virginia - www.Virginiastatesociety.org <http://www.Virginiastatesociety.org>

Regional State Society Consortiums:
One regional State Society consortium with links to the individual State Society links is South Link. ***www.southlink.com <http://www.southlink.com>*** Its website reads, "Southlink.com was formed to serve the needs of the extensive Southern community in the Washington D.C. area. There are approximately 40 non-profit groups in the D.C. area representing the 13 southern states. These groups consist of Alumni chapters, state societies, and other unique Southern groups (such as the Southeastern Conference Capital Kickoff

~
Half Price D.C. Theater Ticket Outlet:
TICKETplace PROVIDES SAME DAY HALF-PRICE TICKETS TO D.C. THEATER

TICKETplace is a one stop shop for same day, half-price D.C. theater, dance, music, concerts, lectures and more. Check the menu board at TICKETplae for an up-to-the minute listing of available tickets. All tickets sold on a first-come, first-served basis.
LOCATION: 407 Seventh Street, N.W. (at D Street).
METRO: Archives/Navy Memorial Metro Station (Yellow/Green Lines).
HOURS: Open Tuesday through Friday 11:00 AM-6:00 PM; Saturday 10:00 AM-5:00 PM (sells for Saturday, Sunday, Monday); Closed Sunday-Monday.
PH: 202.842.5387. ONLINE SALES: www.Ticketplace.org. See www.cultural-alliance.org/tickets.
PAYMENT METHODS: American Express, Discover, Mastercard, VISA, debit cards. Cannot accept cash, travelers or personal tchecks. A service charge of 12% of the full price is added to all half-price tickets. A photo ID must be presented with all purchases.

~
Sports Group Tickets:
LEGG MASON TENNIS CLASSIC Semifinals on August 6

The U.S. Open Series, Legg Mason Tennis Classic tournament will run July 30-August 7. Presented by GEICO and in cooperation with Mercedes-Benz, it is held at the William H.G. FitzGerald Tennis Center in Washington, D.C.'s Rock Creek Park and benefits the Washington Tennis & Education Foundation. Confirmed players include Andre Agassi, Andy Roddick, James Blak, and doubles champions Bob and Mike Bryan, identical twins.

For the Semifinals play (singles and doubles) on Saturday, August 6, 2005, at 7:00 PM, group tickets are possible at $30 (vs. $35) in the upper reserved section, if 30 tickets are sold. If you are interested, please

DOJ_NMG_0001653

contact Cynthia McDowell at 514-9376 by WEDNESDAY, JULY 20, at 12 NOON. Family and friends of DOJ appointees are welcome to also attend.

~

Area Event:

USA and ALEXANDRIA FIREWORKS on JULY 9

Alexandria's birthday celebration for the USA and the City of Alexandria begins at 4:00 p.m. at Oronoco Bay Park (Union and Madison Streets, Old Town Alexandria) with a festival celebrating Alexandria's ethnic diversity. The Alexandria Symphony's salute to the Big Band era starts at 9:00 PM. Fireworks begin at 10:00 PM. Free! See www.alexsym.org or 703-883-4686.

~

DOJ Info:

EMERGENCY POWER INTERRUPTION IN MAIN - Saturday, July 9

On Saturday, July 9th between 5:00 a.m. and 10:00 a.m., the emergency switchboard for the north side (Pennsylvania Avenue side) of the RFK MAIN Justice Building will be de-energized to replace a faulty breaker. The temporary outage will not affect building power to offices or corridors; however, all elevators on the north side of the building (passenger elevators 1, 2, 3 and 4 along with freight elevators 31 and 40) will not be in service during the outage. The upper floors and basement levels may be accessed by using the stairwells or any elevator on the south side of the building. If you have any questions concerning this temporary outage, please contact Justice Building Services at 514-2186 or 514-1611.

~

DOJ Info:

VISITOR EMERGENCY INFORMATION CARDS at the Robert F Kennedy Main Justice Building

In an effort to promote emergency awareness, **the Security and Emergency Planning Staff (SEPS) has prepared a Visitor Emergency Information Card that will be provided to all visitors upon arrival at the RFK Visitors Center.** This card will provide clear instructions for emergency situations, such as building evacuations and shelter-in-place. In addition, employees who sponsor visitors with disabilities (either escorted or unescorted) should know that some emergency procedures may be different:

- **If hearing impaired**, a visitor will not be able to hear the public address system instructions, so please stay with your visitor and communicate the instructions using written notes, sign, or other means.
- **If a visitor is blind or has impaired vision**, it may be necessary to escort the visitor to the closest exit or area of safe refuge.
- **For evacuations**, inform visitors with a mobility disability of the "safe-haven" areas located at stairwells 3, 4, 5, 7, 8 and 10 on all floors. These safe-havens are intended to provide a safe refuge during emergencies. Once it is determined that the elevators in the affected area are safe to operate, persons with disabilities may use the elevator to evacuate the building or remain there until the Area Monitor, Fire Department, or other emergency personnel directs them from the safe-haven area out of the building or back to their meeting.
- All employees should **be aware of the quickest route** to their component's staging area outside the building or to a designated shelter-in-place location. Please refer to the RFK Occupant Emergency Plan on the DOJNet, or contact your RFK component area monitor for additional information.

DOJ_NMG_0001654

For Questions, please contact Joan Kendrall, Associate Director, Emergency Management Operations and Policy Group, SEPS, on 616-7663.

~

DOJ Info:

INPUT NEEDED RE JUSTICE CAFE's PRIVATE DINING ROOM, The Rotunda

RFK Main's new *Justice Café* has a general dining area and a separate dining room that has been named The Rotunda. Seating capacity in The Rotunda is 32 people in its current configuration (maximum seating capacity is 40). Currently, the room can be reserved for groups of 10 or more people and when the room is not reserved, all employees can use it for general dining.

Under consideration are several options for the best use of The Rotunda and decisionmakers want to hear directly from DOJ employees before a decision is made. Please take a moment to respond to the survey by clicking on the following http://10.173.2.12/justice_cafe_survey.php.

~

Tidbits:

The Video game of PAC MAN TURNS 25!

"It all began in Japan, when Toru Iwatani, a designer at Namco, caught inspiration from a pizza that was missing a slice. Puck-Man was born. After a name change, it debuted in the United States in 1980. Its success spawned a romantic interest (Ms. Pac-Man), a child (Junior Pac-Man), a cartoon and hundreds of products. The phenomenon even reached pop music charts in 1982 with "Pac-Man Fever" by Buckner & Garcia. The ghost-wary hero with an insatiable appetite for dots turns 25 this month." *Express/Matt Slagle (AP)*

~

Have a great week!

Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317
Washington, D.C. 20530
Tel: (202) 514-9376, Fax: (202) 514-3546

DOJ_NMG_0001655

Image not available for this document, ID: 0.7.10316.78858-000001

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Wednesday, July 6, 2005 4:45 PM
To: Swenson, Lily F; Henke, Tracy (SMO)
Cc: Reyes, Luis (SMO); Gorsuch, Neil M
Subject: FW: Proposed Memo to OJP & OVW
Attachments: 501 c 3 memo2.doc

Give me your thoughts and rec on this memo proposal. Robt.

-----Original Message-----
From: McFarland, Steven T (ODAG)
Sent: Wednesday, July 06, 2005 4:37 PM
To: McCallum, Robert (SMO)
Cc: Swenson, Lily F; Moore, Miriam (ODAG); Vargas, Omar (ODAG)
Subject: Proposed Memo to OJP & OVW

Dear Associate AG McCallum:
This office is responsible for ensuring that state agencies that administer DOJ formula and block grants to the states understand and implement 28 CFR Part 38, the DOJ regulation requiring "Equal Treatment for Faith Based Organizations", 69 Fed. Reg. 2836 (1/21/04).

We believe that state agencies need clarification of the fact that, with only one exception, an NGO need not have obtained tax-exempt status from the IRS in order to participate in DOJ grants and contracts.

If you find it satisfactory, would you consider issuing the attached memorandum under your name to the DOJ component agencies that oversee formula grant programs - - namely OJP and OVW?

Thank you for your consideration and collaboration.

Steven T. McFarland
Director
Task Force on Faith-Based And Community Initiatives
U.S. Department of Justice
950 Pennsylvania Avenue NW, Rm. 4409
Washington, D.C. 20530
(202) 514-2987
Fax (202) 616-9627
Steven.T.McFarland@usdoj.gov

Memorandum

TO: Directors
State Administering Agencies

From: Robert D. McCallum, Jr.
Associate Attorney General

Re: Implementation of 28 C.F.R. Part 38

This memorandum concerns implementation by State Administering Agencies of the requirements of 28 C.F.R Part 38, the Department of Justice (DOJ) regulation governing AEqual Treatment for Faith Based Organizations,@ which was adopted on January 21, 2004 at 69 Federal Register 2836.[1] The Department has recently been asked whether the Department requires that sub-recipients of formula funding have tax-exempt nonprofit status under 26 U.S.C. 501(c)(3).

The short answer: No; with one exception, formula grants administered by the DOJ and open to nonprofits do not require that applicants have been granted federal tax-exempt status.

In those programs in which nonprofit organizations are eligible subrecipients, only one formula grant statute administered by DOJ,[2] including the Office of Justice Programs and the Office on Violence Against Women, specifies how an organization must document its nonprofit status in order to be eligible for a subgrant of formula funds.[3] All other grant statutes have other methods of determining the nonprofit status of an organization.
As an example, the S.T.O.P. Violence Against Women Formula Grant Program administered by OVW4 is a program in which nonprofit organizations are eligible subrecipients. 28 C.F.R. ' 38.2(g) notes that in grant programs in which an applicant must show that it is a nonprofit organization, an organization that is applying for a sub-award under any formula grant program can establish its nonprofit

[1] A summary of the regulation entitled AEqual Treatment for Faith-based Organizations,@ 28 C.F.R Part 38, can be obtained by visiting http://www.ojp.usdoj.gov/fbci/reginfo. State Administering agencies are invited to review the regulation in its entirety, particularly as it concerns the funding of inherently religious activities.

[2] See discussion infra re JJDP Act for the one exception.

[3] Formula grants administered by DOJ include the Justice Assistance Grant Program, the Victims of Crime Act Formula Grants, and the S.T.O.P. Formula Grants.

[4] 42 U.S.C. ' 3796gg - 3796gg-5

status in any one of four separate methods:

(1) Proof that the Internal Revenue recognizes the applicant has the status of a 501(c)(3);

(2) A statement from a State taxing body or the State secretary of state certifying that:
(i) The organization is a nonprofit organization operating within the State; and
(ii) No part of its net earnings may lawfully benefit any private shareholder or individual;

(3) A certified copy of the applicant=s certificate of incorporation or similar document that clearly establishes the nonprofit status of the applicant; or

(4) Any item described in (1) through (3) if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

The Juvenile Justice and Delinquency Prevention Act (JJDP Act), Pub. L. No. 93-415, Title I, is the only formula grant statute administered by the Department that clearly indicates that only organizations with 501(c)(3) status are eligible for a sub-grant as a nonprofit organization. In its definitional section[5] the JJDP Act clearly indicates that Athe term >nonprofit organization= means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. ' 501(c)(3)] that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 [26 U.S.C. ' 501(a)].@ Accordingly, by statute, any sub-grant of JJDP funds that goes to a nonprofit organization must be awarded to an organization that has attained 501(c)(3) recognition from the Internal Revenue Service.

The eligibility of nonprofits without 501(c)(3) is an important element of the Department=s implementation of the President=s Faith-based and Community Initiative as it provides State Administering Agencies with the flexibility to support grass roots community organizations and groups, whether faith-based or not, that serve crime victims and ex-offenders, and help to prevent crime.

If you have further questions regarding these requirements, discuss them with your state=s grant manager.

[5] 42 U.S.C. § 5603(23)

DOJ_NMG_0001659

McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Thursday, July 7, 2005 1:42 PM
To: McFarland, Steven T (ODAG)
Cc: Swenson, Lily F; Moore, Miriam (ODAG); Vargas, Omar (ODAG); Henke, Tracy (SMO); Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: RE: Proposed Memo to OJP & OVW

Steven: I have asked Tracy and Lily to look the memo over and give me their comments. I will get back to you on it next week as I am traveling tomorrow. Robt.

-----Original Message-----
From: McFarland, Steven T (ODAG)
Sent: Wednesday, July 06, 2005 4:37 PM
To: McCallum, Robert (SMO)
Cc: Swenson, Lily F; Moore, Miriam (ODAG); Vargas, Omar (ODAG)
Subject: Proposed Memo to OJP & OVW

<< File: 501 c 3 memo2.doc >>
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If you find it satisfactory, would you consider issuing the attached memorandum under your name to the DOJ component agencies that oversee formula grant programs - - namely OJP and OVW?

Thank you for your consideration and collaboration.

Steven T. McFarland
Director
Task Force on Faith-Based And Community Initiatives
U.S. Department of Justice
950 Pennsylvania Avenue NW, Rm. 4409
Washington, D.C. 20530
(202) 514-2987
Fax (202) 616-9627
Steven.T.McFarland@usdoj.gov

McFarland, Steven T (ODAG)

From: McFarland, Steven T (ODAG)
Sent: Thursday, July 07, 2005 2:15 PM
To: McCallum, Robert (SMO)
Cc: Swenson, Lily F; Moore, Miriam (ODAG); Vargas, Omar (ODAG); Henke, Tracy (SMO); Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: RE: Proposed Memo to OJP & OVW

Great. THanks so much, Robert.

Steven T. McFarland
Director
Task Force on Faith-Based And Community Initiatives
U.S. Department of Justice
950 Pennsylvania Avenue NW, Rm. 4409
Washington, D.C. 20530
(202) 514-2987
Fax (202) 616-9627
Steven.T.McFarland@usdoj.gov

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Thursday, July 07, 2005 1:42 PM
To: McFarland, Steven T (ODAG)
Cc: Swenson, Lily F; Moore, Miriam (ODAG); Vargas, Omar (ODAG); Henke, Tracy (SMO); Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: RE: Proposed Memo to OJP & OVW

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Sent: Wednesday, July 06, 2005 4:37 PM
To: McCallum, Robert (SMO)
Cc: Swenson, Lily F; Moore, Miriam (ODAG); Vargas, Omar (ODAG)
Subject: Proposed Memo to OJP & OVW

<< File: 501 c 3 memo2.doc >>
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(202) 514-2987
Fax (202) 616-9627
Steven.T.McFarland@usdoj.gov

Magnuson, Cynthia

From: Magnuson, Cynthia
Sent: Wednesday, July 13, 2005 11:17 AM
To: Allen, Gary (CIV); Apisson, Elizabeth M; Baxter, Felix (CIV); Boyle, Brian D; Branda, Joyce (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Eubanks, Sharon (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D. (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Madden, Kevin; Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Miller, Charles S; Morgan, Julian (CIV); Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Rivera, Jennifer (CIV); Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Sierra, Bryan; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wiggins, Mike; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 7/13/05 Civil Division News

State Sues to Force Testing in Oil Spills; US Blocked Law That Required Check for Alcohol

Court Considers Canada Cattle Imports

Japanese company settles class-action over bulletproof vests

Case challenges U.S. anti-terrorism laws

U.S. Berated Over Indians' Treatment; Judge Orders Interior Dept. to Send Written Warnings About Its Credibility

Judge condemns Interior Department as a callous and clueless agency

Jacksonville plea in alleged fraud against black farmers' fund

PwC to Pay $41M in Travel-Billing Suit

Boston Globe (MA)
July 13, 2005

State Sues to Force Testing in Oil Spills; US Blocked Law That Required Check for Alcohol

Stephanie Ebbert, Globe Staff

Two years after an oil spill ravaged Buzzards Bay, Attorney General Thomas F. Reilly's office is seeking a court order requiring the US Coast Guard to establish alcohol- testing procedures for tugboat operators involved in oil spills.

Massachusetts enacted a law requiring such tests last year, but the federal government sued to block it. While that case continues in court, the attorney general is arguing that the Coast Guard should be compelled to finalize its own rules on alcohol testing, which Congress called for in 1998.

"The Coast Guard has had seven years to institute an adequate alcohol-testing program that would work to prevent these accidents, yet has failed to do so," said a statement Reilly issued. "That is unacceptable. The federal government should be our partner in protecting our coastal communities, not fighting us every step of the way."

Reilly's office countersued in April and filed a motion in US District Court yesterday asking the court to require the Coast Guard to establish federal rules.

In April 2003, a tugboat operated by Bouchard Transportation Co. ran aground in Buzzards Bay when its operator left the helm unattended. There was no evidence that the operator had been drinking, but an alcohol test was not conducted for 18 hours, making the results inconclusive.

The vessel spilled 98,000 gallons of oil, killing hundreds of birds and closing contaminated shellfish beds for months.

After the spill, the Legislature enacted a law designed to improve marine safety and stiffen penalties against polluters by imposing alcohol testing for operators involved in crashes and requiring barge operators to seek tugboat escorts. The law calls for testing within two hours of an accident, whenever possible.

But the federal government opposed the Massachusetts law, saying the state has no right to interfere with interstate commerce.

"Having a state and federal law regulating the same issues may negatively impact maritime safety practices and places unnecessarily redundant and potentially harmful burdens on interstate commerce," said US Coast Guard spokeswoman Jolie Shifflet. "The federal government has the responsibility for regulating interstate commerce so that there's a consistent standard for vessels that operate in Massachusetts and Virginia and go back and forth."

In yesterday's filing, the attorney general's office accused the Coast Guard of ignoring a congressional mandate to reduce the chance of oil spills.

"While the Coast Guard now states that it `could' finalize a rule by the end of 2005, it does not commit to do so," says the state's filing in federal district court. "If left unrectified, the Coast Guard's position threatens to create a regulatory `no man's land' of unabated risk."

In 2002, the National Transportation Safety Board focused attention on the issue by declaring that alcohol testing after marine accidents was its "Most Wanted" regulation to improve marine safety and save lives.

The Coast Guard issued "guidance" asking its field offices to conduct the tests within two hours whenever possible.

Shifflet said that the final rule is now complete, but must still be reviewed by three agencies before it can take effect. She attributed the delays in part to the Coast Guard's focus on writing transportation security regulations after the Sept. 11, 2001 terrorist attacks.

"There have been some things we have not been able to do, but we do have to manage the resources that we have," she said.

END

AP
July 13, 2005

Court Considers Canada Cattle Imports

By DAVID KRAVETS
Associated Press Writer

SAN FRANCISCO_Whether it's protecting profits or consumer health, the U.S. meat industry has a lot riding on the government's effort to reopen the border to Canadian cattle.

The U.S. Department of Agriculture insists it's safe to resume the imports, despite a ruling by a Montana federal judge who sided with ranchers warning about dire economic and health consequences from a mad cow outbreak in the United States. Feedlots and packers maintain that ranchers are only concerned about their profits.

A panel from the San Francisco-based 9th U.S. Circuit Court of Appeals travels to Seattle on Wednesday to hear the Bush administration's challenge to the judge's ruling.

The dispute between ranchers _ whose profits have improved slightly without Canadian competition _ and feedlots and packers _ which have fewer cows to slaughter without Canadian supplies _ became more complicated two weeks ago, when the government revealed that a 12-year-old cow born in Texas tested positive for mad cow disease.

Ranchers, who back the ban put in place after a Canadian-born cow tested positive for mad cow disease in Washington state in 2003, said the infected Texas cow shows the continued need for a closed border, to prevent an epidemic.

But Philip Olsson of the National Meat Association, a trade group representing packers, processors, equipment manufacturers and suppliers, said the Texas cow deflates the ranchers' argument that consumers would lose their appetite for U.S. meat if Canadian cattle were allowed in.

"They're not telling anybody not to eat their meat now, are they?" Olsson asked.

Some industry watchdogs say the argument is really all about profits, not consumer health. After all, Canadian and American cattle had been crossbreeding for so many years before the borders were closed that they are equally at risk, according to The Center for Media and Democracy in Madison, Wis., an advocacy group that has closely followed the issue.

Jon Wooster, who operates a family owned cattle ranch in central California, said he now sells his cattle for more than 80 cents a pound, and had been getting more than $1 _ up from about 70 cents right before Canadian cows were banned.

On the other side, profits have declined at packers and feedlots, which have fewer cows to feed and process. They say Canada's cattle is safe, and that the ranchers' are more interested in monopolizing supplies than protecting the meat-eating public.

Cody Easterday, who runs a feedlot in Washington state that has been in his family for three generations, said he may go out of business rather than purchase cows 1,500 miles away in the Midwest _ compared to about 550 miles in Alberta.

"It's pretty bleak," he said. "The local processor here is only running about 24 hours a week, compared to 40 to 48 hours a week before. We all know that the cattle from Canada is safe. This is protectionism."

The National Meat Association says its members have lost $1.7 billion in revenue because of fewer cows

being processed in the U.S., idling some packing houses and prompting layoffs. In 2002, Canada shipped 1.6 million cattle to the United States, its largest foreign market.

Meanwhile, Americans' appetite for beef is being supplemented by imports, including Canadian beef processed to remove parts susceptible to mad cow disease _ including brains, bones, eyes and spinal cords _ before crossing the border.

Canada and the United States each test about 1 percent of the herd at slaughter, compared to 25 percent by the European Union and 100 percent in Japan, said Diane Farsetta, a senior researcher at the center whose work supported the 1997 book, "Mad Cow USA: Could the Nightmare Happen Here?"

"Just looking at it strictly from the health perspective, neither Canada nor the United States is doing what it needs to do," Farsetta said. "There is an artificial political and economic distinction being made between the two countries right now."

Mad cow disease is the common name for bovine spongiform encephalopathy, or BSE. People who eat meat tainted with BSE can contract a degenerative, fatal brain disorder called variant Creutzfeldt-Jakob disease. More than 150 people died from it following a 1986 outbreak in the United Kingdom.

END

AP
July 13, 2005

Japanese company settles class-action over bulletproof vests

By YURI KAGEYAMA
AP Business Writer

TOKYO_Toyobo Co. is paying US$29 million to settle a class-action lawsuit in the United States that had demanded damages from the Japanese textile manufacturer for bulletproof vests suspected of defects, the company said Wednesday.

Toyobo received a preliminary approval for the settlement from the Oklahoma District Court in Mayes, Oklahoma, although a final approval has not yet been granted in the case involving some 150,000 bullet-resistant vests, said a company official, who requested anonymity.

Other lawsuits are still pending against Toyobo, which supplied the fiber called Zylon for the vests, and Second Chance Body Armor Inc., based in Central Lake, Michigan, which supplied the vests, including one filed by the family of a California police officer killed while wearing the vest.

Wednesday's settlement covers class-action in West Virginia, Missouri, Louisiana, New Jersey, California and Michigan, in addition to Oklahoma, according to Toyobo.

Earlier this month, the U.S. government sued Second Chance and Osaka-based Toyobo, contending they conspired to hide evidence the vests could be defective.

Only after the officer was killed and a Pennsylvania officer seriously wounded while wearing Second Chance vests in June 2003 did the company stop selling certain models and disclose safety problems, the federal lawsuit said.

Toyobo and Second Chance have blamed each other.

Toyobo says the problem was caused by the design and production of the vests, not the Zylon material.

Toyobo supplies eight other companies with Zylon for bulletproof vests, and there hasn't been a single accident in the other vests, the official said.

Toyobo offered the settlement because it wanted to avoid a long legal fight and to deal responsibly with the possibly defective vests, he said. Under the settlement, the plaintiffs can buy bulletproof vests from Armor Holdings Inc. at a discount.

Second Chance, which has since declared bankruptcy, is facing lawsuits by states, police agencies and individuals. Second Chance is also suing Toyobo, alleging that the material is behind the problem vests.

Toyobo is taking a 4.4 billion yen (US$39.7 million; euro33 million) special charge to cover the costs of the settlement and US$9.4 million in legal fees during the first half of this fiscal year, the company said in a statement. That will not change its full-year forecast for a 12.5 billion yen (US$113 million; euro93 million) profit for the fiscal year ending March 31, 2006, it said.

END

UPI News
July 13, 2005

Case challenges U.S. anti-terrorism laws

PORTLAND, Ore., Jul 12, 2005 (United Press International via COMTEX) --A Portland, Ore., lawyer held as a suspect but later cleared in the Madrid terror bombings goes to court this week in a closely watched civil liberties battle.

Brandon Mayfield, a 38-year-old Muslim convert, was held for two weeks last year when he was mistakenly linked to a fingerprint found at the scene of the Madrid rail station bombings.

The FBI later apologized and cleared Mayfield of wrongdoing.

Mayfield will ask a federal judge to allow him to interview federal agents and have access to the documents used to build a case against him in his civil rights lawsuit, The Oregonian reported.

The case centers on the Foreign Intelligence Surveillance Act of 1979, which allows the government to collect information on suspected foreign operatives, and the USA Patriot Act, which allows that information to be used in criminal prosecutions.

Separately, Mayfield's attorneys go before the 9th U.S. Circuit Court of Appeals in an effort to get back everything that federal agents took from his home and office.

END

Washington Post
Wednesday, July 13, 2005

U.S. Berated Over Indians' Treatment; Judge Orders Interior Dept. to Send Written Warnings About Its Credibility

By Evelyn Nieves
Washington Post Staff Writer

In a scathing rebuke of the federal government's treatment of Native Americans, a federal judge yesterday ordered the Interior Department to include notices in its correspondence with Indians whose land the government holds in trust, warning them that the government's information may not be credible.

U.S. District Judge Royce C. Lamberth, who has presided for nearly 10 years over a class-action suit on behalf of 500,000 Indians whose land the government has leased to mining, ranching and timber interests, issued one of his most strongly worded opinions on the case.

Lamberth ruled that the government essentially has to tell trust-account holders the information it sends them is not reliable. He also described in his 34-page opinion the history of the lawsuit as proof that the government continues to treat Indians "as if they were somehow less than deserving of the respect that should be afforded to everyone in a society where all people are supposed to be equal."

Lamberth wrote: "For those harboring hope that the stories of murder, dispossession, forced marches, assimilationist policy programs, and other incidents of cultural genocide against the Indians are merely the echoes of a horrible, bigoted government-past that has been sanitized by the good deeds of more recent history, this case serves as an appalling reminder of the evils that result when large numbers of the politically powerless are placed at the mercy of institutions engendered and controlled by a politically powerful few."

The Interior Department, in a statement, said the opinion "contains intemperate rhetoric uncommon to jurisprudence, but made common in this case" and pointed out that the District Court's opinion has been overturned in the three most recent appeals filed.

Since 1996, when Eloise Cobell, a member of the Blackfeet Indians of Montana, brought the class-action lawsuit against Interior seeking a complete accounting of the money collected and distributed in the trust accounts dating to 1879, Lamberth has found that the federal government has not lived up to its responsibilities in handling the trust accounts or the lawsuit. He has held two interior secretaries, Gale A. Norton of the Bush administration and Bruce Babbitt of the Clinton administration, in contempt of court.

Yesterday, he wrote that "the entire record in this case tells the dreary story of Interior's degenerate tenure as Trustee-Delegate for the Indian trust, a story shot through with bureaucratic blunders, flubs, goofs and foul-ups, and peppered with scandals, deception, dirty tricks and outright villainy, the end of which is nowhere in sight."

Elliot Levitas, an attorney for the plaintiffs, said the opinion could be a turning point in the case. The ruling will require the agency to notify individual trust-account holders who were not aware of the suit that they have a place to turn to if they suspect the government has been withholding money or information.

"I predict that as a result of that, we'll be getting information from class members who will tell us about misconduct, misdeeds and mismanagement that we've not heard before. That will help us pursue the litigation," Levitas said. "I think that the public and the Congress are going to be enlightened, and be motivated to see that this injustice is ended and that the taint on our government be removed."

END

AP
July 13, 2005

Judge condemns Interior Department as a callous and clueless agency

By JOHN HEILPRIN
Associated Press Writer

WASHINGTON_The Interior Department was ordered Tuesday _ by a judge who called it a "pathetic outpost" _ to admit it can't provide accurate information about lost royalties owed to American Indians.

In a scathing condemnation of the government's treatment of American Indians, U.S. District Judge Royce Lamberth directed the department to enclose notices in its correspondence saying information provided on trust assets may not be credible.

Interior officials called Lamberth's language "intemperate rhetoric uncommon to jurisprudence but made common in this case."

The notices also are meant to alert people that they may be members of the class-action lawsuit brought by lead plaintiff Eloise Cobell in 1996 on behalf of more than 300,000 American Indians. Under Lamberth's order, the notices must say: "Evidence introduced in the Cobell case shows that any information related to (American Indian trust accounts) ... from the Department of the Interior may be unreliable."

Lamberth has been locked in a nine-year battle with Interior _ both Secretary Gale Norton and her Clinton administration predecessor, Bruce Babbitt _ over the department's inability to come up with an accurate accounting of what American Indians are owed. The judge has held both administrators in contempt of court.

Lamberth wrote in his opinion Tuesday that "one would expect, or at least hope, that the modern Interior Department and its modern administrators would manage it in a way that reflects our modern understandings of how the government should treat people.

"Alas, our 'modern' Interior Department has time and again demonstrated that it is a dinosaur _ the morally and culturally oblivious hand-me-down of a disgracefully racist and imperialist government that should have been buried a century ago, the last pathetic outpost of the indifference and Anglocentrism we thought we had left behind."

Tina Kreisher, the Interior Department's communications director, responded to the judge's opinion with a statement saying that the agency's "historical accounting efforts have consumed approximately $100 million in taxpayer funding and have found a net error of approximately $15,000.

"Although our accounting efforts are not complete, the accounting firms have not found any evidence of systemic fraud or accounting system error," the statement said. "The facts, to date, do not support the rhetoric being advanced in this case."

Calculating payments of oil, gas, grazing and timber royalties from American Indian lands dating back to when the trust fund was created in 1887 and adding accrued interest, Indian plaintiffs in a suit against the government say they are owed at least $27.5 billion.

Lamberth's decisions in the case have occasionally been reversed by a federal appeals court. For example, it threw out a plan he had for making the Interior Department account for the money and told Lamberth he could no longer "micromanage" how the system gets fixed.

Lamberth's 34-page opinion accompanied a three-page order.

He wrote: "For those harboring hope that the stories of murder, dispossession, forced marches, assimilationist policy programs, and other incidents of cultural genocide against the Indians are merely the echoes of a horrible, bigoted government-past that has been sanitized by the good deeds of more recent history, this case serves as an appalling reminder of the evils that result when large numbers of the politically powerless are placed at the mercy of institutions engendered and controlled by a politically powerful few."

END

AP
July 13, 2005

Jacksonville plea in alleged fraud against black farmers' fund

JACKSONVILLE, Fla._A college administrator pleaded guilty Tuesday to passing friends and relatives off as farmers to collect $50,000 in settlement payments to black farmers who had wrongly been denied government loans.

Emma Okari Brooks, 55, is one of three people accused of conspiracy to submit false claims to the U.S. Department of Agriculture to collect $400,000 from a national settlement reached with black farmers in a 1997 loan discrimination case.

Each was also originally charged with making fraudulent claims to receive payments from a government agency.

Brooks, who runs an agricultural extension program at Michigan State University and is the former vice president for academic affairs at Edward Waters College in Jacksonville, was arrested in April in Michigan.

She faces up to 10 years in prison. Prosecutors dropped eight other fraud counts as part of the plea agreement.

Daniel Anekwu, the former senior vice president for business and finance of Edward Waters College, pleaded guilty in May.

Brooks and Anekwu each agreed to testify against Kimberly Colston Woodruff, of Tallahassee, who has not been arrested and may have left Florida.

Brooks remained free on bond pending sentencing, which was scheduled for August.

Brooks' attorney said a group from Arkansas that spoke at black churches nationwide promoted the farm loan settlement as a legal way to get compensated for past discrimination, even for those with only ancestral ties to farming.

"These were people who announced that this was a program to answer past discrimination," attorney Wade Rolle said. "It was educated people teaching other people how to commit fraud."

Assistant U.S. Attorney Arnold Corsmeier said the settlement was designed to compensate black farmers who had been denied farm loans because of discrimination.

END

WebCPA
PwC to Pay $41M in Travel-Billing Suit

7/13/05

PricewaterhouseCoopers will pay $41.9 million in civil penalties to settle claims that it over-billed the government for travel-related expenses.

The U.S. Justice Department announced Monday that the settlement involves bills paid directly by the Defense Department and other federal agencies that used PwC, as well as inflated bills passed on to the government by contractors working on federal projects.
The agreement follows a federal False Claims Act lawsuit that was filed in 2001, which prompted an investigation by the U.S. Attorney's Office. A company spokesman told Reuters that PwC had already changed the policy before becoming aware of the government investigation.

PricewaterhouseCoopers previously paid $54.5 million to settle its share of a class-action lawsuit over travel-billing issues in another case filed in 2001 in state court in Texarkana, Ark., which accused the firm and others of over-billing clients by charging them the full face amount of travel costs, while receiving back-end rebates from vendors.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, July 13, 2005 4:39 PM
To: Bradbury, Steve
Subject: RE: Comments on Specter legislation

Thanks very much for the quick turnaround. I will pass this along to DoD for their reference as they requested. But I don't think they will sharing any of this with the Hill. For the time being at least, our position remains that no legislation is required.

-----Original Message-----
From: Bradbury, Steve
Sent: Wednesday, July 13, 2005 3:11 PM
To: Gorsuch, Neil M
Cc: Nielson, Howard; Marshall, C. Kevin; Boardman, Michelle; Prestes, Brian; Sobota, Luke
Subject: Comments on Specter legislation

Neil: As discussed, attached are OLC's comments on this proposed legislation. Please let me know if you'd like me to send this to anyone else at this time, and please let us know if we can be of further assistance. Steve

<< File: Comments on Specter bill (7-13-05).doc >>

@dodgc.osd.mil

From: @dodgc.osd.mil
Sent: Wednesday, July 20, 2005 7:04 AM
To: Yanes, Raul; Philbin, Patrick (ODAG); Gorsuch, Neil M; @dodgc.osd.mil; @dodgc.osd.mil; Brett_C._Gerry@who.eop.gov
Subject: Fw: Specter Legislation
Attachments: Finalfinalbill.doc

Not yet filed. Word is that he's waiting to let Graham and McCain go first before countering with this piece.

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: CIV, OSD-LA @osd.mil>
To: CIV, OSD < @osd.pentagon.mil>; CIV, @osd.mil> OSD-LA @osd.mil>; CIV, OSD-POLICY @osd.mil>; DoD OGC @dodgc.osd.mil>; (OARDEC)' @navy.mil>; OARDEC @navy.mil> DoD OGC @dodgc.osd.mil>; DoD OGC @dodgc.osd.mil>; DoD OGC @dodgc.osd.mil>; DoD OGC @dodgc.osd.mil> DoD OGC @dodgc.osd.mil> CIV, OSD-OASD-PA @osd.mil> CIV, OSD-POLICY @osd.mil>; JCS VDJS @js.pentagon.mil>; OSD-CIO @osd.mil> DoD OGC @dodgc.osd.mil> DoD OGC @dodgc.osd.mil>; @usdoj.gov < @usdoj.gov>
Sent: Wed Jul 20 06:33:41 2005
Subject: Specter Legislation

<<Finalfinalbill.doc>> Attached is the final version of Senator Specter's proposed legislation on detainees.

Respectfully,

Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

TITLE III—PROCEDURES FOR THE ADJUDICATION OF CASES INVOLVING UNPRIVILEGED COMBATANTS

SEC. 301. SHORT TITLE; AUTHORITY; FINDINGS.

(a) Short Title.—This title may be cited as the "Unprivileged Combatant Act of 2005".

(b) Authority.—The requirements, conditions, and restrictions established by this title are made under the authority of Congress under clauses 1, 10, 11, 12, 13, 14, and 18 of article I, section 8 of the Constitution of the United States.

(c) Findings.—Congress finds the following:

(1) Article I, section 8, of the Constitution provides that the Congress has the power to "constitute Tribunals inferior to the Supreme Court; ... define and punish ... Offenses against the Law of Nations; ... make Rules concerning Captures on Land and Water; ... make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof".

(2) The Supreme Court has repeatedly recognized the validity of traditional military tribunals convened as a component of warfighting. ~~, a~~As stated in Madsen v. Kinsella, 343 U.S. 341~~,~~ (1952), "~~[s]~~Since our nation's earliest days, such tribunals have been constitutionally recognized agencies for meeting many urgent governmental responsibilities related to war....They have taken many forms and borne many names. Neither their procedure nor their jurisdiction has been prescribed by statute. It has been adapted in each instance to the need that called it forth." Madsen, citing In re Yamashita, 327 U.S. 1 (1946).

(3) The President has inherent authority to convene military tribunals arising from his role as Commander and Chief of the Armed Forces under article II of the Constitution and from title 10 of the United States Code. Due to the extraordinary circumstances of the ongoing war on terrorism, it is appropriate for Congress to provide additional and explicit authorization of and procedures for military tribunals to adjudicate and punish offenses relating to the war on terrorism.

(4) This title provides discretionary authority to the President to employ procedures for adjudicating detention of unprivileged combatants. These procedures constitute "a meaningful opportunity to contest the factual basis for that detention before a neutral decisionmaker." Hamdi v. Rumsfeld, __ U.S. __ (2004) (O'Connor, J.). It is the intent of Congres that ~~is in direct response to the United State Supreme Court's ruling in Rasul v. Bush.~~ if the President uses the procedures for adjudicating the detention of unprivileged combatants specified in Sections 309 through 311 of this title, such unprivileged ~~With the passage of this title, the 109th Congress will have addressed the concerns of the Supreme Court's Rasul majority, and therefore alien enemy~~ combatants ~~detained or prosecuted under this title~~ may not challenge their detention~~s~~ in the ~~Federal~~ courts of the United States via ~~the~~ habeas corpus or

any other statute.

SEC. 302. DEFINITIONS.

As used in this title, the following definitions apply:

(1) CLASSIFICATION TRIBUNAL.—The term "classification tribunal" means any tribunal conducted under section 309 or any related proceeding.

~~(2) CLASSIFICATION TRIBUNAL BOARD.—The term "classification tribunal board" means a board established pursuant to section 309(d).~~

(3) CLASSIFIED INFORMATION.—The term "classified information" has the same meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.).

(4) COMMISSION.—The term "commission" means a military commission established pursuant to section 303.

~~(5) CRIMINAL PROSECUTION.—The term "criminal prosecution" means a prosecution for a violation of any criminal law, including subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice) or pursuant to the Department of Defenses Military Commission Instruction number two.~~

(6) DESIGNEE.—The term "designee" means an enemy combatant ~~person~~ who has been in the custody of the Department of Defense outside of the theater of war of initial detention for not less than 180 consecutive days after the date of enactment of this title and who has not been charged with a criminal offense during that period.

(7) INTERNATIONAL TERRORISM.—The term "international terrorism" has the same meaning given that term in section 101(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(c)).

(8) JUDGE.—The term "judge" shall refer to a United States military judge designated by the Secretary of Defense to hear cases under this title.

(9) PROTECTED INFORMATION.—The term "protected information" means information—

(A) that is classified information;

(B) protected by law or rule from unauthorized disclosure;

(C) the disclosure of which may endanger the physical safety of participants in Commission proceedings, including prospective witnesses;

(D) concerning intelligence and law enforcement sources, methods, or activities; or

(E) the disclosure of which would otherwise jeopardize national security interests.

(10) UNITED STATES PERSON.—The term "United States person" has the same meaning given that term in section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(c)).

(11) UNPRIVILEGED COMBATANT.—The term "unprivileged combatant" means an individual—

(A) who has been designated as an enemy combatant by a Combatant Status Review Tribunal prior to the enactment of this title; or

(B) who a Field Tribunal or Classification Tribunal conducted by the armed forces of the United States ~~military~~ as provided in this title determines—

(i) is not entitled to the protections set out in the Convention Relative to the Treatment of Prisoners of War, done at Geneva, August 12, 1948 (6 UST 3516) (referred to in this Act as the "Geneva Convention"); and

(ii) either—

(I) knowingly assists, conspires with, or solicits for a group or an individual hostile to the United States;

(II) knowingly attempts to assist others in taking up arms against the United States;

(III) conspires with or solicits others to take up arms against the United States; or

(IV) has taken up arms against, or intentionally assisted combat operations against, the United States.

SEC. 303. ~~AUTHORIZING~~ ESTABLISHING MILITARY COMMISSIONS.

The President may ~~is authorized to~~ establish military commissions for the trial of individuals for offenses as provided in this title.

SEC. 304. JURISDICTION.

(a) Unprivileged Combatants.—This title establishes ~~exclusive~~ jurisdiction ~~to hear any matter~~over any offenses specified in subsection 304(b) involving an unprivileged ~~unprivileged~~ combatant who has been detained by the Department of Defense for not less than 180 consecutive days at Guantanamo Bay, Cuba, or any other location not located within the theater of war, as defined by the Department of Defense.

(b) Offenses.—

(1) CRIMINAL PROSECUTIONS.—A commission shall have jurisdiction to hear any criminal prosecution involving international terrorism, including any offense under chapter 113B of title 18, United States Code.

(2) OFFENSES AGAINST THE LAWS OF WAR.—A commission shall have ~~exclusive~~ jurisdiction over violations of the laws of war committed by unprivileged combatants.

(3) OTHER OFFENSES.—A commission shall have jurisdiction over other offenses traditionally triable by military commissions or ~~pursuant to~~defined in ~~the~~ Department of Defense~~'s~~ Military Commission Instruction number two.

SEC. 305. APPELLATE JURISDICTION.

(a) Final Decisions.—The Military Commission Review Panel designated by the Secretary of Defense shall have exclusive jurisdiction of appeals from all final decisions of a ~~classification tribunal board or~~ commission under this title and may appeal the ruling of a classification tribunal on the basis of insufficient evidence pursuant to 308(b) of this Act.

(b) Review by Supreme Court.—

(1) CERTIORARI.—The decisions of the Military Commission Review Panel are subject to review by the Supreme Court by writ of certiorari.

(2) EXEMPTION FROM CERTAIN PETITION REQUIREMENTS.—A person who files a petition for a writ of certiorari under paragraph (1) shall not be required to submit—

(A) prepayment of any fees and costs or security therefor; or

(B) the affidavit required by section 1915(a) of title 28, United States Code.

SEC. 306. MILITARY COMMISSIONS.

(a) Commission Personnel.—

(1) MEMBERS.—

(A) APPOINTMENT.—The Secretary of Defense shall designate no less than 12 United States officers who have experience as military judges ~~military judges~~ to serve as members of a commission and to assume other duties assigned in this Act.

(B) NUMBER OF MEMBERS.—Each commission shall consist of at least 3 military officers, at least one of whom shall be a military judge~~s~~.

(C) ALTERNATE MEMBERS.—For each such commission, there shall also be at least 1 ~~or 2~~ alternate member~~s~~. The alternate member or members shall attend all sessions of the commission. In case of incapacity, resignation, or removal of any member, an alternate member shall take the place of that member.

(D) QUALIFICATIONS.—Each member and alternate member of the commission shall be a military officer.

(E) PRESIDING OFFICER.—

(i) IN GENERAL.—From among the members of the commission, the Secretary of Defense shall designate a presiding officer who is a military judge to preside over the proceedings of that commission.

(ii) DUTIES.—The duties of the presiding officer shall be as follows:

(I) The presiding officer shall admit or exclude evidence at trial in accordance with the rules of this title. The presiding officer shall have authority to close proceedings or portions of proceedings in accordance with this title or for any other reason necessary for the

conduct of a full and fair trial.

(II) The presiding officer shall ensure that the discipline, dignity, and decorum of the proceedings are maintained, shall exercise control over the proceedings to ensure proper implementation of the President's Military Order and this title, and shall have authority to act upon any contempt or breach of commission rules and procedures. Any attorney authorized to appear before a commission who is thereafter found not to satisfy the requirements for eligibility or who fails to comply with laws, rules, regulations, or other orders applicable to the commission proceedings or any other individual who violates such laws, rules, regulations, or orders may be disciplined as the presiding officer deems appropriate, including revocation of eligibility to appear before that commission. The Court may further revoke that attorney's or any other person's eligibility to appear before any other commission convened under this title.

(III) The presiding officer shall ensure the expeditious conduct of the trial. In no circumstance shall accommodation of counsel be allowed to delay proceedings unreasonably.

(IV) The presiding officer may certify interlocutory questions to the Appointing Authority ~~Military Commission Review Panel for the Armed Forces~~ as the presiding officer deems appropriate.

(b) ~~Powers~~ Authority of a Commission.—The authority of ~~A~~a commission includes the authority ~~shall have the following powers~~:

(1) To summon witnesses to the trial and to require their attendance and testimony and to put questions to them.

(2) To require the production of documents and other evidentiary material.

(3) To administer oaths to witnesses.

(4) To appoint officers for the carrying out of any task designated by the commission, including the power to have evidence taken.

~~***Comment: Evan: I recommend deleting Section 307 – not sure what the point is. To whom does the SecDef provide this information?***~~

~~*SEC. 307. PERSONS IN CUSTODY.*~~

~~***(a) Guantanamo Bay.—***~~

~~***(1) IN GENERAL.—Not later than 60 days after the date of enactment of this title, the Secretary of Defense develop a complete listing of all persons who—***~~

~~***(A) are being detained by the Department of Defense at Guantanamo Bay, Cuba; and***~~

~~***(B) the Government wishes to continue to detain as an unprivileged combatant.***~~

~~*(2) UPDATED LIST.—The Secretary of Defense shall update the list of the persons identified under paragraph (1) at least once every 60 days after the date the list described in paragraph (1) is completed.*~~

~~*(b) Status of Non-Guantanamo Bay Detainees.—*~~

~~*(1) IN GENERAL.—Not later than 6 months180 days after the date of enactment of this Act, the Secretary of Defense shall certify with respect to each designee, being found to be an unprivileged combatant under section 308 of this title and who is detained outside of the theater of war as defined by the Department of Defense—*~~

~~*(A) where the designee was captured;*~~

~~*(B) the basis for asserting the designee is an unprivileged combatant;*~~

~~*(C) whether it is the judgment of the Department of Defense that the national security of the United States, including the security of the Armed Forces of the United States and its allies, requires that the designee must continue to be detained; and*~~

~~*(D) whether the designee is a United States citizen and, if not, has any lawful immigration status under the immigration laws of the United States.*~~

~~*(2) NEW DESIGNEES.—For any designee taken into custody by the United States after the date of enactment of this title, the Secretary of Defense shall provide and certify the information required under paragraph (1) not later than 180 days after the date on which such designee is taken into custody so long as the detainee was found to be an unprivileged combatant under section 308.*~~

SEC. 30~~8~~7. FIELD TRIBUNALS.

(a) In General.—Should any doubt arise as to the status of an enemy ~~Not more than 30 days after a suspected unprivileged~~ combatant detained by ~~has been detained by~~ the armed forces of the United States ~~forces~~, the Department of Defense ~~shall~~ may conduct a field tribunal within 30 days after initial detention in order to determine whether the detainee is an unprivileged combatant and whether the detainee is entitled to the ~~rights~~ protections afforded by ~~under~~ the Geneva Convention.

(b) Procedures.—The procedures governing ~~a~~ field tribunals shall ~~shall~~ be promulgated by the Secretary ~~Department~~ of Defense.

SEC. 30~~9~~8. CLASSIFICATION TRIBUNALS.

(a) Classification Tribunal.—The Secretary of Defense may appoint a classification tribunal, which shall consist solely of neutral and impartial officers of the armed forces of the United States, at least one of whom shall be an attorney.

(~~a~~b) ~~In General~~Standards.—A designee shall be released ~~and repatriated~~ to his country of citizenship or provided some other disposition consistent with domestic and international obligations and U.S. foreign policy if ~~an appropriate country unless~~ a classification tribunal ~~board~~ finds that the prosecution was not able to show by a preponderance of the evidence that—

(1) the ~~detainee~~ designee is ~~not~~ a threat to the national security ~~interest~~ of the United States; ~~or~~and

(2) there are ~~no~~ reasonable grounds to believe that if released the designee ~~person~~ would take up arms against the United States.

~~[(b) Compliance With Geneva Convention.—If a Classification Tribu8nal finds that the detainee is~~~~To be a privileged combatant entitled to provisions under the Geneva Convention, then the detainee must be treated in compliance with the Geneva conventions.?]~~

~~(c) Citizen of the United States.—If a detainee is found to be a citizen of the United States of America, the detainee shall not be held or tried under this title.~~

~~(d) Classification Tribunal Board.—A classification tribunal shall be conducted by a board appointed by the Secretary of Defense and consist solely of line officers, one of whom shall be an attorney.~~

(c~~e~~) Continued detention ~~Determination~~.—

(1) IN GENERAL.—If a classification tribunal ~~board~~ finds that a designee does not ~~person~~ meet~~s~~ the ~~requirements~~ standards set forth in~~of~~ subsection (~~a~~b), the classification tribunal ~~board~~ shall order that the designee shall continue to be detained by the Department of Defense, subject to periodic review under subsection (~~h~~f).

(2) TIME PERIOD.—The time period for ~~the~~ detention ~~of a detainee~~ under paragraph (1) may not exceed the time period that the armed forces of the United States ~~forces~~ are engaged in ~~combat operations as defined by the Department of Defense in the nation or theater where the detainee was captured~~active hostilities, as defined by the Department of Defense ~~so long as the detainee is found to be a lawful combatant~~. ***Comment: "Active hostilities" is the phrase used in the Geneva Convention.***

~~(3) CONCLUSION OF COMBAT.—At the conclusion of combat operations within a given theater or nation—~~

~~(A) a lawful combatant that was captured in that area shall be either indicted under this title or repatriated to the appropriate country; and~~

~~(B) an unlawful combatant may~~ continue to ~~be detained pursuant to subsection (a)~~pursuant to 309(a)~~.~~

(d~~f~~) Considerations.—

(1) IN GENERAL.—In making a determination under subsection (b~~a~~), a ~~classification tribunal board~~classification tribunal shall consider any information brought to its attention regarding the need for continued detention, including—

(A) the designee's alleged position or rank in any hostile organization;

(B) the activities of that hostile organization;

(C) any statements made by the designee in response to interrogation; and

(D) the designee's history of violence or terrorist activity.

(2) ~~PRIMA FACIE EVIDENCE~~~~REBUTTABLE PRESUMPTION~~PRIMA FACIE EVIDENCE.—If the Government represents that a designee was captured during a military engagement while taking up arms against, or supporting military operations against, the ~~A~~armed ~~f~~Forces of the United States or its allies, there shall be ~~a rebuttable presumption~~Prima Facie evidence ~~prima facie evidence~~ that, if released, the designee would take up arms against the United States.

(~~e~~g) Timing.—If the Secretary of Defense appoints a classification tribunal, ~~A~~a designee shall be afforded a classification tribunal as soon as is reasonably practicable but no~~t~~ later than 180 days after the designee~~'s~~ is detained within the parameters of this Act ~~capture and not later than 30 days after the distance is listed under section 307~~, unless the designee has already been determined to be an enemy combatant by a Combatant Status Review Tribunal prior to the effective date of this Act or unless the proceeding is continued pursuant to section 311.

(~~f~~h) Periodic Review.—

(1) IN GENERAL.—

(A) ANNUAL REVIEW.—The Administrative Review Board established ~~designated~~ by the Secretary ~~Department~~ of Defense shall review an order authorizing the Government to continue to detain a person under subsection (c~~e~~) annually to determine whether there are changed circumstances that warrant affording the person a new tribunal under subsection (a) or any other remedy the Board deems appropriate.

~~(B) ACTION PERIOD.—A detainee apprehended during a military engagement while taking up arms against, or supporting military operations against, the Armed Forces of the United States or its allies may be detained until the cessation of armed hostilities in the nation or region in which they were captured.~~

(2) ARGUMENT.—The Government and the designee may be heard regarding the review under paragraph (1).

SEC. 3~~10~~09. CLASSIFICATION TRIBUNAL PROCEDURES.

(a) Designees.—

(1) IN GENERAL.—A designee shall not be required to testify or present any evidence at a classification tribunal.

(2) PRESENCE.—A designee shall be entitled to be present at the classification tribunal hearing to the maximum extent possible but shall not be entitled to be present during the presentation of protected information.

(b) ~~Counsel~~Assistance.—

(1) IN GENERAL.—A designee is entitled to the assistance of ~~a military officer~~counsel ~~counsel admitted to practice under this title~~ at every stage of the classification tribunal, including the periodic review of orders under subsection (e).

~~(2) RIGHT TO APPOINTED COUNSEL.—A designee who is unable to obtain counsel is entitled to have counsel admitted to practice before a commission under this title.~~

(3) REFUSAL OF ~~COUNSEL~~ASSISTANCE.—A designee may waive ~~assistance~~counsel ~~counsel~~ but shall not therefore be entitled to receive access to protected or classified information.

(c) Discovery.—

(1) GOVERNMENT'S DISCLOSURE.—Not later than 3 days prior to the classification tribunal, the Government shall make available for inspection by counsel for the designee any affidavit or affirmation the Government intends to offer in support of continuing to detain the designee. A ~~classification tribunal board~~classification tribunal shall maintain a copy of any submissions made by the Government for inspection by the designee and for transmittal, if necessary, to that tribunal.

(2) DESIGNEE'S DISCLOSURE.—If the designee chooses to submit any evidence, such evidence~~, including a list of any witnesses the designee intends to call,~~ shall be made available to the Government for inspection not later than 3 days prior to the classification tribunal hearing.

(d) Evidence.—

(1) IN GENERAL.—The Federal Rules of Evidence shall not apply to a classification tribunal.

(2) ADMISSIBILITY STANDARD.—Evidence shall be admitted if the ~~classification tribunal board~~classification tribunal determines the evidence would have probative value to a reasonable person.

(3) AFFIDAVIT OR AFFIRMATION.—The Government may proceed by proffer and submit any relevant information by affidavit or affirmation, unless decided unreliable by the members of the ~~classification tribunal board~~classification tribunal.

(4) CROSS-EXAMINATION.—

(A) GOVERNMENT WITNESSES.—If a Government chooses to call witnesses, the designee may cross-examine those witnesses on all relevant facts.

~~(B) DESIGNEE WITNESSES.—If a designee calls any witnesses, they shall be subject to cross-examination.~~

(C) DESIGNEE.—If the designee chooses to testify, the designee shall be subject to cross-examination.

(e) Defenses.—A designee may challenge whether the designee satisfies the elements required under subsection (a).

(f) Proceedings.—

(1) IN GENERAL.—A classification tribunal shall be closed to the public.

(2) SECURITY CLEARANCES.—Each person present at a classification tribunal, other than the designee, shall possess a security clearance appropriate to the level of any classified information being presented.

(3) PUBLIC INFORMATION REGARDING PROCEEDINGS.—After the ~~classification tribunal board~~classification tribunal rules~~ in the classification tribunal~~, the parties shall propose an un~~-non~~classified summary to that ~~board~~tribunal. The tribunal ~~board~~ shall publicly release a summary, containing any information considered by ~~generated at~~ the tribunal that ~~which~~ can be disclosed in a manner consistent with the Classified Information Procedures Act (18 U.S.C. App.) and the national security of the United States.

(g) Reinstituting Classification Proceedings.—

(1) IN GENERAL.—If a matter involving the classification tribunal of a designee is dismissed without prejudice by the classification tribunal or withdrawn by the Government at, or prior to, the classification tribunal, the Government may reinstitute the matter with the tribunal board that dismissed or permitted the withdrawal of the matter.

(2) TIME LIMIT.—A complaint reinstituting proceedings under paragraph (1) shall be filed not later than 10 days after the dismissal or withdrawal of the matter.

(3) NUMBER.—The Government may reinstitute proceedings under paragraph (1) not more than twice and only if approved by the ranking member on the ~~classification tribunal board~~classification tribunal.

SEC. 31~~1~~0. CONTINUANCE OF CLASSIFICATION TRIBUNALS.

(a) Continuances.—

(1) IN GENERAL.—A ~~classification tribunal board~~classification tribunal may, for cause shown, grant a continuance of a classification tribunal.

(2) CONTINUANCE.—

(A) IN GENERAL.—Upon motion of the Government, the ~~classification tribunal board~~classification tribunal may grant a continuance for as long as necessary, but no longer than a 6-month period, under paragraph (1) if the ~~classification tribunal board~~classification tribunal determines that the individual being detained is a high level individual in the execution, planning, or ~~or~~ financing of terrorist activities or the individual possesses information vital to the safety of the United States or its citizens.

(B) SUBSEQUENT CONTINUANCES.—The Government may obtain subsequent continuances for additional 6-month periods so long as the ~~classification tribunal board~~classification tribunal finds such continuances are necessary to the informational gathering purposes as it related to the national security of the United States.

(3) EX PARTE APPLICATIONS.—

(A) IN GENERAL.—The Government may move for a continuance under paragraph (1) ex parte.

(B) DESIGNEE RIGHTS.—A designee—

(i) is not entitled to representation by counsel in connection with any such ex parte motion; and

(ii) shall not be given notice of the request for a hearing prior to the ruling of the ~~classification tribunal board~~classification tribunal on the Government's request for a continuance pursuant to paragraph (2).

(b) Grant of Continuance.—For each continuance granted under subsection (a), the ~~classification tribunal board~~classification tribunal shall note on the record of the proceedings—

(1) the grounds for granting each such continuance;

(2) the identity of the party requesting the continuance;

(3) the new date and time for the tribunal hearing; and

(4) the reasons that the date under paragraph (3) was chosen.

SEC. 31~~2~~1. MILITARY COMMISSION ~~CRIMINAL~~ PROSECUTION PROCEDURES GENERALLY.

(a) Counsel.—

(1) IN GENERAL.—A defendant in a military commission ~~criminal~~ proceeding under this title has a right to be represented by military counsel admitted to practice before a commission under this title.

(2) APPOINTED MILITARY COUNSEL.—

(A) IN GENERAL.—A defendant who is unable to obtain counsel is entitled to have counsel appointed and to be represented by such counsel at every stage of the proceeding subsequent to being indicted.

(B) APPOINTMENT PROCEDURE.—The Secretary of Defense shall determine the rules for appointing counsel to practice before ~~the~~ a commission.

(b) Discovery.—

(1) CLASSIFIED DOCUMENTS AND OBJECTS.—The Government shall provide the defense with access to evidence the Government intends to introduce at trial and with access to evidence known to the Government ~~or which should be known to the Government~~ that tends to exculpate the accused. Information disclosed to the defense may not be disclosed to the defendant if it is classified as defined by this title. The defense may submit classified information for review under section 312(b)(2).

~~*Comment: Make the following subsection (2) a separate Section to highlight it. It doesn't belong in this Section.*~~

~~*[(2) SEPARATE COMMISSION CONCERNING CLASSIFIED INFORMATION. A commission shall conduct a thorough review of the classification system for national security information relevant to the detention and prosecution of detainees, including the policy, procedures, and practices of the system. The commission shall make recommendations to the Department of Defense as to the*~~

declassification of such information relevant to the trial of detainees [Secretary of Defense?]]

(~~3~~2) REGULATING DISCOVERY.—

(A) IN GENERAL.—A commission may, for good cause, deny, restrict, or defer discovery or inspection, or grant other appropriate relief.

(B) EX PARTE REQUEST.—A party may make an ex parte request in writing that a commission deny, restrict, or defer discovery or inspection under subparagraph (A). If the ~~a~~ commission grants a request under this subparagraph, the Commission shall preserve the entire text of the party's request under seal.

(C) FAILURE TO COMPLY.—If a party fails to comply with the rules of discovery applicable to a commission, the commission may—

(i) order that party to permit the discovery or inspection, specify its time, place, and manner, and prescribe other just terms and conditions; or

(ii) grant a continuance.

(c) Open Proceedings.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a proceeding before a commission shall be open to the public.

(2) CLASSIFIED INFORMATION.—

(A) IN GENERAL.—Upon motion by the Government, a proceeding before a commission shall be closed to the public if necessary to avoid disclosure of classified information.

(B) NONDISCLOSURE.—A participant in a proceeding closed pursuant to ~~priority under~~ subparagraph (A) shall not disclose any information presented during such ~~a~~ closed proceeding ~~session~~ to individuals excluded from such proceeding or part thereof, including the defendant.

(3) OTHER BASES.—A commission may order that a hearing be held, in whole or in part, in camera, if the commission determines—

(A) it is appropriate for the security of a witness or a Government employee or to protect public safety; or

(B) that an open hearing would deter a witness from testifying freely or prevent the witness from testifying at all.

(4) EXTRAJUDICIAL STATEMENTS.—At the discretion of a commission, the commission may issue an order limiting extrajudicial statements by the parties.

(d) Protected Information.—

(1) IN GENERAL.—A commission may issue protective orders as necessary to safeguard protected information in a proceeding before that commission.

(2) NOTIFICATION.—As soon as practicable, a party shall notify a commission of any intent to offer evidence including protected information .

(3) TRIAL RECORD.—

(A) IN GENERAL.—All exhibits admitted as evidence but containing protected information shall be sealed and annexed to the record of trial.

(B) PROTECTED INFORMATION NOT ADMITTED.—Any protected information not admitted as evidence, but reviewed by a commission in camera and withheld from the defendant's counsel over objection shall be sealed and annexed to the record of the trial, with any associated motions and responses and any materials submitted in support thereof, as additional exhibits.

(e) Record of Trial.—

(1) REQUIREMENT FOR RECORD.—A record of each proceeding by a commission shall be prepared promptly after the conclusion of the trial.

(2) VERBATIM TRANSCRIPT.—The record of trial shall include a verbatim written transcript of all sessions of the trial.

(3) EXHIBITS AND OTHER EVIDENCE.—The record of trial shall also include all exhibits and other real or demonstrative evidence, except that photographs may be substituted for any large written or graphic exhibits and any other real or demonstrative evidence. If a photograph is substituted for an exhibit or other evidence, the Government shall retain the original exhibit or other evidence, respectively, until no further appeal of the results of the trial is authorized.

(4) CLASSIFIED INFORMATION.—In the case of a conviction of a charge on which classified information is admitted as evidence by a commission, the copy of the record of trial submitted to the commission shall include the classified information.

Comment: Delete the following heading for 313 and combine with the previous Section (312).

SEC. 31~~3~~2. TRIAL PROCEDURES FOR UNPRIVILEGED COMBATANTS.

(a) Specialized Procedures.—

(1) STANDARD OF PROOF.—All ~~3~~ members of a commission shall agree that the defendant is guilty beyond a reasonable doubt for a defendant to be found guilty.

[(2) EVIDENCE.—]

[(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the Secretary of Defense ~~Military Commission~~ shall draft supplementary rules to govern the proceedings under this subsection.]

[(B) STANDARD.—Evidence is admissible if the Commission determines that the evidence would have probative value to a reasonable person.~~[Secretary of Defense?]]~~

(3) FORM OF TRIAL.—Any trial under this subsection shall take place before at least 2 military officers ~~or attorneys~~ and at least one military judge.

(4) BAD ACTS.—Other bad acts may be considered if they would have fallen

within the definition under this title of either terrorism or terrorist activity and they are deemed to be relevant by a commission including propensity.

(b) Custody.—The Secretary ~~Department~~ of Defense shall retain custody of any person determined ~~by a commission~~ to be an enemy ~~unlawful~~ combatant~~s~~ after the person has been either convicted or sentenced in accordance with this title, unless the Secretary ~~Department~~ of Defense deems otherwise. Decisions made by a military commission with respect ~~in regards~~ to the ~~a designee~~ guilt or innocence of a designee may be considered by a tribunal when assessing the need to continue the detention of a designee.

SEC. 3143. COMMUNICATION WITH PERSONS IN CUSTODY.

An individual detained, indicted, or convicted under this title shall only be permitted to communicate with the interpreter assigned to the individual, the counsel representing the individual, prison personnel, and any other individual approved by the Secretary of Defense.

SEC. 314. SEPARATE COMMISSION CONCERNING CLASSIFIED INFORMATION.

A commission shall conduct a thorough review of the classification system for national security information relevant to the detention and prosecution of detainees, including the policy, procedures, and practices of the system. The commission shall make recommendations to the Department of Defense as to the declassification of such information.

~~***Comment: Evan: I recommend deleting Section 315, because it requires civilian counsel and conflicts with Section 312(a)(2)(B).***~~

~~SEC. 315. COMMISSION COUNSEL.~~

~~(a) In General.—A person shall be admitted to practice before a commission if the person—~~

~~(1) is a United States citizen;~~

~~(2) has been admitted to the practice of law in a State, district, territory, or possession of the United States, or before a Federal court;~~

~~(3) has not been sanctioned or otherwise the subject of disciplinary action by any court, bar, or other competent governmental authority for misconduct;~~

~~(4) is eligible for access to information classified at the level of secret as defined by the Department of Defense; and~~

~~(5) signs a written agreement to comply with all applicable regulations or instructions for counsel, including any rules of court for conduct during the course of proceedings.~~

~~(b) Consultation With Colleagues.—Any person admitted under subsection (a) shall not confer with any colleague who does not have the appropriate clearance.~~

1 ~~(c) Security Clearance.—~~

2 ~~(1) EXPEDITED CONSIDERATION.—The Secretary of Defense shall ensure that a person~~
3 ~~seeking to be admitted under subsection (a) is timely processed for the security clearance~~
4 ~~required for access to materials necessary for providing a defendant with effective~~
5 ~~assistance of counsel.~~

6 ~~(2) COUNSEL INELIGIBLE FOR CLEARANCE.—If the Secretary of Defense determines a~~
7 ~~person is not eligible for the necessary security clearance, the person shall not be~~
8 ~~permitted to represent an individual in any proceeding before the Commission. The~~
9 ~~determination of the Secretary of Defense shall be final and is not subject to appeal to, or~~
10 ~~other review by, any court of the United States.~~

11 ~~(d) Travel Expenses.—The Secretary of Defense shall reimburse any person not~~
12 ~~employed by the Government who is representing an individual before the Commission~~
13 ~~for travel away from the home or regular place of business of the person in connection~~
14 ~~with such representation. The rates for the payment of travel expenses under this~~
15 ~~subsection shall be those authorized for employees of agencies under subchapter I of~~
16 ~~chapter 57 of title 5, United States Code.~~

Philbin, Patrick (ODAG)

From:	Philbin, Patrick (ODAG)
Sent:	Wednesday, July 20, 2005 10:23 AM
To:	Gorsuch, Neil M
Subject:	FW: Specter Legislation
Attachments:	Finalfinalbill.doc

Neil,

I'm not sure that I got all the DOJ comments on the Specter legislation from you. If I did, I misplaced them -- could you please shoot them to me?
Thx.

Patrick F. Philbin
Associate Deputy Attorney General
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C.
(202) 514-3744
fax: (202) 307-0097
[redacted]

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Wednesday, July 20, 2005 7:04 AM
To: Yanes, Raul; Philbin, Patrick (ODAG); Gorsuch, Neil M;
[redacted]@dodgc.osd.mil; [redacted]@dodgc.osd.mil;
Brett_C._Gerry@who.eop.gov
Subject: Fw: Specter Legislation

Not yet filed. Word is that he's waiting to let Graham and McCain go first before countering with this piece.

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Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: [redacted] CIV, OSD-LA [redacted] @osd.mil>
To: CIV, OSD < [redacted] @osd.pentagon.mil>; [redacted] CIV, [redacted] @osd.mil> [redacted] OSD-LA [redacted] @osd.mil>; [redacted] CIV, OSD-POLICY [redacted] @osd.mil> [redacted] DoD OGC [redacted] @dodgc.osd.mil>; [redacted] (OARDEC)' [redacted] @navy.mil> [redacted] OARDEC [redacted] @navy.mil> [redacted] DoD OGC [redacted] @dodgc.osd.mil>; [redacted] DoD OGC [redacted] @dodgc.osd.mil> [redacted] DoD OGC [redacted] @dodgc.osd.mil>; [redacted] DoD OGC [redacted] @dodgc.osd.mil>; [redacted] DoD OGC [redacted] @dodgc.osd.mil>; [redacted] CIV, OSD-OASD-PA [redacted] @osd.mil>; [redacted] CIV, OSD-POLICY < [redacted] @osd.mil>; [redacted] JCS VDJS < [redacted] @js.pentagon.mil>; [redacted] OSD-CIO [redacted] @osd.mil>; [redacted] DoD OGC [redacted] @dodgc.osd.mil> [redacted] DoD OGC [redacted] @dodgc.osd.mil>; [redacted] @usdoj.gov < [redacted] @usdoj.gov>
Sent: Wed Jul 20 06:33:41 2005
Subject: Specter Legislation

<<Finalfinalbill.doc>> Attached is the final version of Senator Specter's proposed legislation on detainees.

Respectfully,

[redacted]

Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
[redacted]

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

TITLE III—PROCEDURES FOR THE ADJUDICATION OF CASES INVOLVING UNPRIVILEGED COMBATANTS

SEC. 301. SHORT TITLE; AUTHORITY; FINDINGS.

(a) Short Title.—This title may be cited as the "Unprivileged Combatant Act of 2005".

(b) Authority.—The requirements, conditions, and restrictions established by this title are made under the authority of Congress under clauses 1, 10, 11, 12, 13, 14, and 18 of article I, section 8 of the Constitution of the United States.

(c) Findings.—Congress finds the following:

(1) Article I, section 8, of the Constitution provides that the Congress has the power to "constitute Tribunals inferior to the Supreme Court; ... define and punish ... Offenses against the Law of Nations; ... make Rules concerning Captures on Land and Water; ... make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof".

(2) The Supreme Court has repeatedly recognized the validity of traditional military tribunals convened as a component of warfighting. ~~, a~~As stated in Madsen v. Kinsella, 343 U.S. 341~~,~~ (1952), "~~[s]~~Since our nation's earliest days, such tribunals have been constitutionally recognized agencies for meeting many urgent governmental responsibilities related to war....They have taken many forms and borne many names. Neither their procedure nor their jurisdiction has been prescribed by statute. It has been adapted in each instance to the need that called it forth." Madsen, citing In re Yamashita, 327 U.S. 1 (1946).

(3) The President has inherent authority to convene military tribunals arising from his role as Commander and Chief of the Armed Forces under article II of the Constitution and from title 10 of the United States Code. Due to the extraordinary circumstances of the ongoing war on terrorism, it is appropriate for Congress to provide additional and explicit authorization of and procedures for military tribunals to adjudicate and punish offenses relating to the war on terrorism.

(4) This title provides discretionary authority to the President to employ procedures for adjudicating detention of unprivileged combatants. These procedures constitute "a meaningful opportunity to contest the factual basis for that detention before a neutral decisionmaker." Hamdi v. Rumsfeld, __ U.S. __ (2004) (O'Connor, J.). It is the intent of Congres that ~~is in direct response to the United State Supreme Court's ruling in Rasul v. Bush.~~ if the President uses the procedures for adjudicating the detention of unprivileged combatants specified in Sections 309 through 311 of this title, such unprivileged ~~With the passage of this title, the 109th Congress will have addressed the concerns of the Supreme Court's Rasul majority, and therefore alien enemy~~ combatants ~~detained or prosecuted under this title~~ may not challenge their detention~~s~~ in the ~~Federal~~ courts of the United States via ~~the~~ habeas corpus or

any other statute.

SEC. 302. DEFINITIONS.

As used in this title, the following definitions apply:

(1) CLASSIFICATION TRIBUNAL.—The term "classification tribunal" means any tribunal conducted under section 309 or any related proceeding.

~~(2) CLASSIFICATION TRIBUNAL BOARD.—The term "classification tribunal board" means a board established pursuant to section 309(d).~~

(3) CLASSIFIED INFORMATION.—The term "classified information" has the same meaning given that term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.).

(4) COMMISSION.—The term "commission" means a military commission established pursuant to section 303.

~~(5) CRIMINAL PROSECUTION.—The term "criminal prosecution" means a prosecution for a violation of any criminal law, including subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice) or pursuant to the Department of Defenses Military Commission Instruction number two.~~

(6) DESIGNEE.—The term "designee" means an enemy combatant ~~person~~ who has been in the custody of the Department of Defense outside of the theater of war of initial detention for not less than 180 consecutive days after the date of enactment of this title and who has not been charged with a criminal offense during that period.

(7) INTERNATIONAL TERRORISM.—The term "international terrorism" has the same meaning given that term in section 101(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(c)).

(8) JUDGE.—The term "judge" shall refer to a United States military judge designated by the Secretary of Defense to hear cases under this title.

(9) PROTECTED INFORMATION.—The term "protected information" means information—

(A) that is classified information;

(B) protected by law or rule from unauthorized disclosure;

(C) the disclosure of which may endanger the physical safety of participants in Commission proceedings, including prospective witnesses;

(D) concerning intelligence and law enforcement sources, methods, or activities; or

(E) the disclosure of which would otherwise jeopardize national security interests.

(10) UNITED STATES PERSON.—The term "United States person" has the same meaning given that term in section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(c)).

(11) UNPRIVILEGED COMBATANT.—The term "unprivileged combatant" means an individual—

(A) who has been designated as an enemy combatant by a Combatant Status Review Tribunal prior to the enactment of this title; or

(B) who a Field Tribunal or Classification Tribunal conducted by the armed forces of the United States ~~military~~ as provided in this title determines—

(i) is not entitled to the protections set out in the Convention Relative to the Treatment of Prisoners of War, done at Geneva, August 12, 1948 (6 UST 3516) (referred to in this Act as the "Geneva Convention"); and

(ii) either—

(I) knowingly assists, conspires with, or solicits for a group or an individual hostile to the United States;

(II) knowingly attempts to assist others in taking up arms against the United States;

(III) conspires with or solicits others to take up arms against the United States; or

(IV) has taken up arms against, or intentionally assisted combat operations against, the United States.

SEC. 303. ~~AUTHORIZING~~ ESTABLISHING MILITARY COMMISSIONS.

The President may ~~is authorized to~~ establish military commissions for the trial of individuals for offenses as provided in this title.

SEC. 304. JURISDICTION.

(a) Unprivileged Combatants.—This title establishes ~~exclusive~~ jurisdiction ~~to hear any matter~~over any offenses specified in subsection 304(b) involving an unprivileged ~~unprivileged~~ combatant who has been detained by the Department of Defense for not less than 180 consecutive days at Guantanamo Bay, Cuba, or any other location not located within the theater of war, as defined by the Department of Defense.

(b) Offenses.—

(1) CRIMINAL PROSECUTIONS.—A commission shall have jurisdiction to hear any criminal prosecution involving international terrorism, including any offense under chapter 113B of title 18, United States Code.

(2) OFFENSES AGAINST THE LAWS OF WAR.—A commission shall have ~~exclusive~~ jurisdiction over violations of the laws of war committed by unprivileged combatants.

(3) OTHER OFFENSES.—A commission shall have jurisdiction over other offenses traditionally triable by military commissions or ~~pursuant to~~defined in ~~the~~ Department of Defense~~'s~~ Military Commission Instruction number two.

SEC. 305. APPELLATE JURISDICTION.

(a) Final Decisions.—The Military Commission Review Panel designated by the Secretary of Defense shall have exclusive jurisdiction of appeals from all final decisions of a ~~classification tribunal board or~~ commission under this title and may appeal the ruling of a classification tribunal on the basis of insufficient evidence pursuant to 308(b) of this Act.

(b) Review by Supreme Court.—

(1) CERTIORARI.—The decisions of the Military Commission Review Panel are subject to review by the Supreme Court by writ of certiorari.

(2) EXEMPTION FROM CERTAIN PETITION REQUIREMENTS.—A person who files a petition for a writ of certiorari under paragraph (1) shall not be required to submit—

(A) prepayment of any fees and costs or security therefor; or

(B) the affidavit required by section 1915(a) of title 28, United States Code.

SEC. 306. MILITARY COMMISSIONS.

(a) Commission Personnel.—

(1) MEMBERS.—

(A) APPOINTMENT.—The Secretary of Defense shall designate no less than 12 United States officers who have experience as military judges ~~military judges~~ to serve as members of a commission and to assume other duties assigned in this Act.

(B) NUMBER OF MEMBERS.—Each commission shall consist of at least 3 military officers, at least one of whom shall be a military judge~~s~~.

(C) ALTERNATE MEMBERS.—For each such commission, there shall also be at least 1 ~~or 2~~ alternate member~~s~~. The alternate member or members shall attend all sessions of the commission. In case of incapacity, resignation, or removal of any member, an alternate member shall take the place of that member.

(D) QUALIFICATIONS.—Each member and alternate member of the commission shall be a military officer.

(E) PRESIDING OFFICER.—

(i) IN GENERAL.—From among the members of the commission, the Secretary of Defense shall designate a presiding officer who is a military judge to preside over the proceedings of that commission.

(ii) DUTIES.—The duties of the presiding officer shall be as follows:

(I) The presiding officer shall admit or exclude evidence at trial in accordance with the rules of this title. The presiding officer shall have authority to close proceedings or portions of proceedings in accordance with this title or for any other reason necessary for the

conduct of a full and fair trial.

(II) The presiding officer shall ensure that the discipline, dignity, and decorum of the proceedings are maintained, shall exercise control over the proceedings to ensure proper implementation of the President's Military Order and this title, and shall have authority to act upon any contempt or breach of commission rules and procedures. Any attorney authorized to appear before a commission who is thereafter found not to satisfy the requirements for eligibility or who fails to comply with laws, rules, regulations, or other orders applicable to the commission proceedings or any other individual who violates such laws, rules, regulations, or orders may be disciplined as the presiding officer deems appropriate, including revocation of eligibility to appear before that commission. The Court may further revoke that attorney's or any other person's eligibility to appear before any other commission convened under this title.

(III) The presiding officer shall ensure the expeditious conduct of the trial. In no circumstance shall accommodation of counsel be allowed to delay proceedings unreasonably.

(IV) The presiding officer may certify interlocutory questions to the Appointing Authority ~~Military Commission Review Panel for the Armed Forces~~ as the presiding officer deems appropriate.

(b) ~~Powers~~ Authority of a Commission.—The authority of ~~A~~a commission includes the authority ~~shall have the following powers~~:

(1) To summon witnesses to the trial and to require their attendance and testimony and to put questions to them.

(2) To require the production of documents and other evidentiary material.

(3) To administer oaths to witnesses.

(4) To appoint officers for the carrying out of any task designated by the commission, including the power to have evidence taken.

~~***Comment: Evan: I recommend deleting Section 307 – not sure what the point is. To whom does the SecDef provide this information?***~~

~~*SEC. 307. PERSONS IN CUSTODY.*~~

~~***(a) Guantanamo Bay.—***~~

~~***(1) IN GENERAL.—Not later than 60 days after the date of enactment of this title, the Secretary of Defense develop a complete listing of all persons who—***~~

~~***(A) are being detained by the Department of Defense at Guantanamo Bay, Cuba; and***~~

~~***(B) the Government wishes to continue to detain as an unprivileged combatant.***~~

~~*(2) UPDATED LIST.—The Secretary of Defense shall update the list of the persons identified under paragraph (1) at least once every 60 days after the date the list described in paragraph (1) is completed.*~~

~~*(b) Status of Non-Guantanamo Bay Detainees.—*~~

~~*(1) IN GENERAL.—Not later than 6 months180 days after the date of enactment of this Act, the Secretary of Defense shall certify with respect to each designee, being found to be an unprivileged combatant under section 308 of this title and who is detained outside of the theater of war as defined by the Department of Defense—*~~

~~*(A) where the designee was captured;*~~

~~*(B) the basis for asserting the designee is an unprivileged combatant;*~~

~~*(C) whether it is the judgment of the Department of Defense that the national security of the United States, including the security of the Armed Forces of the United States and its allies, requires that the designee must continue to be detained; and*~~

~~*(D) whether the designee is a United States citizen and, if not, has any lawful immigration status under the immigration laws of the United States.*~~

~~*(2) NEW DESIGNEES.—For any designee taken into custody by the United States after the date of enactment of this title, the Secretary of Defense shall provide and certify the information required under paragraph (1) not later than 180 days after the date on which such designee is taken into custody so long as the detainee was found to be an unprivileged combatant under section 308.*~~

SEC. 30~~8~~7. FIELD TRIBUNALS.

(a) In General.—Should any doubt arise as to the status of an enemy ~~Not more than 30 days after a suspected unprivileged~~ combatant detained by ~~has been detained by~~ the armed forces of the United States ~~forces~~, the Department of Defense ~~shall~~ may conduct a field tribunal within 30 days after initial detention in order to determine whether the detainee is an unprivileged combatant and whether the detainee is entitled to the ~~rights~~ protections afforded by ~~under~~ the Geneva Convention.

(b) Procedures.—The procedures governing ~~a~~ field tribunals shall ~~shall~~ be promulgated by the Secretary ~~Department~~ of Defense.

SEC. 30~~9~~8. CLASSIFICATION TRIBUNALS.

(a) Classification Tribunal.—The Secretary of Defense may appoint a classification tribunal, which shall consist solely of neutral and impartial officers of the armed forces of the United States, at least one of whom shall be an attorney.

(~~a~~b) ~~In General~~Standards.—A designee shall be released ~~and repatriated~~ to his country of citizenship or provided some other disposition consistent with domestic and international obligations and U.S. foreign policy if ~~an appropriate country unless~~ a classification tribunal ~~board~~ finds that the prosecution was not able to show by a preponderance of the evidence that—

(1) the ~~detainee~~ designee is ~~not~~ a threat to the national security ~~interest~~ of the United States; ~~or~~and

(2) there are ~~no~~ reasonable grounds to believe that if released the designee ~~person~~ would take up arms against the United States.

~~[(b) Compliance With Geneva Convention.—If a Classification Tribu8nal finds that the detainee is~~~~To be a privileged combatant entitled to provisions under the Geneva Convention, then the detainee must be treated in compliance with the Geneva conventions.?]~~

~~(c) Citizen of the United States.—If a detainee is found to be a citizen of the United States of America, the detainee shall not be held or tried under this title.~~

~~(d) Classification Tribunal Board.—A classification tribunal shall be conducted by a board appointed by the Secretary of Defense and consist solely of line officers, one of whom shall be an attorney.~~

(c~~e~~) Continued detention ~~Determination~~.—

(1) IN GENERAL.—If a classification tribunal ~~board~~ finds that a designee does not ~~person~~ meet~~s~~ the ~~requirements~~ standards set forth in~~of~~ subsection (~~a~~b), the classification tribunal ~~board~~ shall order that the designee shall continue to be detained by the Department of Defense, subject to periodic review under subsection (~~h~~f).

(2) TIME PERIOD.—The time period for ~~the~~ detention ~~of a detainee~~ under paragraph (1) may not exceed the time period that the armed forces of the United States ~~forces~~ are engaged in ~~combat operations as defined by the Department of Defense in the nation or theater where the detainee was captured~~active hostilities, as defined by the Department of Defense ~~so long as the detainee is found to be a lawful combatant~~. ***Comment: "Active hostilities" is the phrase used in the Geneva Convention.***

~~(3) CONCLUSION OF COMBAT.—At the conclusion of combat operations within a given theater or nation—~~

~~(A) a lawful combatant that was captured in that area shall be either indicted under this title or repatriated to the appropriate country; and~~

~~(B) an unlawful combatant may~~ continue to ~~be detained pursuant to subsection (a)~~pursuant to 309(a)~~.~~

(d~~f~~) Considerations.—

(1) IN GENERAL.—In making a determination under subsection (b~~a~~), a ~~classification tribunal board~~classification tribunal shall consider any information brought to its attention regarding the need for continued detention, including—

(A) the designee's alleged position or rank in any hostile organization;

(B) the activities of that hostile organization;

(C) any statements made by the designee in response to interrogation; and

(D) the designee's history of violence or terrorist activity.

(2) ~~PRIMA FACIE EVIDENCE~~~~REBUTTABLE PRESUMPTION~~PRIMA FACIE EVIDENCE.—If the Government represents that a designee was captured during a military engagement while taking up arms against, or supporting military operations against, the ~~A~~armed ~~f~~Forces of the United States or its allies, there shall be ~~a rebuttable presumption~~Prima Facie evidence ~~prima facie evidence~~ that, if released, the designee would take up arms against the United States.

(~~e~~g) Timing.—If the Secretary of Defense appoints a classification tribunal, ~~A~~a designee shall be afforded a classification tribunal as soon as is reasonably practicable but no~~t~~ later than 180 days after the designee~~'s~~ is detained within the parameters of this Act ~~capture and not later than 30 days after the distance is listed under section 307~~, unless the designee has already been determined to be an enemy combatant by a Combatant Status Review Tribunal prior to the effective date of this Act or unless the proceeding is continued pursuant to section 311.

(~~f~~h) Periodic Review.—

(1) IN GENERAL.—

(A) ANNUAL REVIEW.—The Administrative Review Board established ~~designated~~ by the Secretary ~~Department~~ of Defense shall review an order authorizing the Government to continue to detain a person under subsection (c~~e~~) annually to determine whether there are changed circumstances that warrant affording the person a new tribunal under subsection (a) or any other remedy the Board deems appropriate.

~~(B) ACTION PERIOD.—A detainee apprehended during a military engagement while taking up arms against, or supporting military operations against, the Armed Forces of the United States or its allies may be detained until the cessation of armed hostilities in the nation or region in which they were captured.~~

(2) ARGUMENT.—The Government and the designee may be heard regarding the review under paragraph (1).

SEC. 3~~10~~09. CLASSIFICATION TRIBUNAL PROCEDURES.

(a) Designees.—

(1) IN GENERAL.—A designee shall not be required to testify or present any evidence at a classification tribunal.

(2) PRESENCE.—A designee shall be entitled to be present at the classification tribunal hearing to the maximum extent possible but shall not be entitled to be present during the presentation of protected information.

(b) ~~Counsel~~Assistance.—

(1) IN GENERAL.—A designee is entitled to the assistance of ~~a military officer~~counsel ~~counsel admitted to practice under this title~~ at every stage of the classification tribunal, including the periodic review of orders under subsection (e).

~~(2) RIGHT TO APPOINTED COUNSEL.—A designee who is unable to obtain counsel is entitled to have counsel admitted to practice before a commission under this title.~~

(3) REFUSAL OF ~~COUNSEL~~ASSISTANCE.—A designee may waive ~~assistance~~counsel ~~counsel~~ but shall not therefore be entitled to receive access to protected or classified information.

(c) Discovery.—

(1) GOVERNMENT'S DISCLOSURE.—Not later than 3 days prior to the classification tribunal, the Government shall make available for inspection by counsel for the designee any affidavit or affirmation the Government intends to offer in support of continuing to detain the designee. A ~~classification tribunal board~~classification tribunal shall maintain a copy of any submissions made by the Government for inspection by the designee and for transmittal, if necessary, to that tribunal.

(2) DESIGNEE'S DISCLOSURE.—If the designee chooses to submit any evidence, such evidence~~, including a list of any witnesses the designee intends to call,~~ shall be made available to the Government for inspection not later than 3 days prior to the classification tribunal hearing.

(d) Evidence.—

(1) IN GENERAL.—The Federal Rules of Evidence shall not apply to a classification tribunal.

(2) ADMISSIBILITY STANDARD.—Evidence shall be admitted if the ~~classification tribunal board~~classification tribunal determines the evidence would have probative value to a reasonable person.

(3) AFFIDAVIT OR AFFIRMATION.—The Government may proceed by proffer and submit any relevant information by affidavit or affirmation, unless decided unreliable by the members of the ~~classification tribunal board~~classification tribunal.

(4) CROSS-EXAMINATION.—

(A) GOVERNMENT WITNESSES.—If a Government chooses to call witnesses, the designee may cross-examine those witnesses on all relevant facts.

~~(B) DESIGNEE WITNESSES.—If a designee calls any witnesses, they shall be subject to cross-examination.~~

(C) DESIGNEE.—If the designee chooses to testify, the designee shall be subject to cross-examination.

(e) Defenses.—A designee may challenge whether the designee satisfies the elements required under subsection (a).

(f) Proceedings.—

(1) IN GENERAL.—A classification tribunal shall be closed to the public.

(2) SECURITY CLEARANCES.—Each person present at a classification tribunal, other than the designee, shall possess a security clearance appropriate to the level of any classified information being presented.

(3) PUBLIC INFORMATION REGARDING PROCEEDINGS.—After the ~~classification tribunal board~~classification tribunal rules~~ in the classification tribunal~~, the parties shall propose an un~~-non~~classified summary to that ~~board~~tribunal. The tribunal ~~board~~ shall publicly release a summary, containing any information considered by ~~generated at~~ the tribunal that ~~which~~ can be disclosed in a manner consistent with the Classified Information Procedures Act (18 U.S.C. App.) and the national security of the United States.

(g) Reinstituting Classification Proceedings.—

(1) IN GENERAL.—If a matter involving the classification tribunal of a designee is dismissed without prejudice by the classification tribunal or withdrawn by the Government at, or prior to, the classification tribunal, the Government may reinstitute the matter with the tribunal board that dismissed or permitted the withdrawal of the matter.

(2) TIME LIMIT.—A complaint reinstituting proceedings under paragraph (1) shall be filed not later than 10 days after the dismissal or withdrawal of the matter.

(3) NUMBER.—The Government may reinstitute proceedings under paragraph (1) not more than twice and only if approved by the ranking member on the ~~classification tribunal board~~classification tribunal.

SEC. 31~~1~~0. CONTINUANCE OF CLASSIFICATION TRIBUNALS.

(a) Continuances.—

(1) IN GENERAL.—A ~~classification tribunal board~~classification tribunal may, for cause shown, grant a continuance of a classification tribunal.

(2) CONTINUANCE.—

(A) IN GENERAL.—Upon motion of the Government, the ~~classification tribunal board~~classification tribunal may grant a continuance for as long as necessary, but no longer than a 6-month period, under paragraph (1) if the ~~classification tribunal board~~classification tribunal determines that the individual being detained is a high level individual in the execution, planning, or ~~or~~ financing of terrorist activities or the individual possesses information vital to the safety of the United States or its citizens.

(B) SUBSEQUENT CONTINUANCES.—The Government may obtain subsequent continuances for additional 6-month periods so long as the ~~classification tribunal board~~classification tribunal finds such continuances are necessary to the informational gathering purposes as it related to the national security of the United States.

(3) EX PARTE APPLICATIONS.—

(A) IN GENERAL.—The Government may move for a continuance under paragraph (1) ex parte.

(B) DESIGNEE RIGHTS.—A designee—

(i) is not entitled to representation by counsel in connection with any such ex parte motion; and

(ii) shall not be given notice of the request for a hearing prior to the ruling of the ~~classification tribunal board~~classification tribunal on the Government's request for a continuance pursuant to paragraph (2).

(b) Grant of Continuance.—For each continuance granted under subsection (a), the ~~classification tribunal board~~classification tribunal shall note on the record of the proceedings—

(1) the grounds for granting each such continuance;

(2) the identity of the party requesting the continuance;

(3) the new date and time for the tribunal hearing; and

(4) the reasons that the date under paragraph (3) was chosen.

SEC. 31~~2~~1. MILITARY COMMISSION ~~CRIMINAL~~ PROSECUTION PROCEDURES GENERALLY.

(a) Counsel.—

(1) IN GENERAL.—A defendant in a military commission ~~criminal~~ proceeding under this title has a right to be represented by military counsel admitted to practice before a commission under this title.

(2) APPOINTED MILITARY COUNSEL.—

(A) IN GENERAL.—A defendant who is unable to obtain counsel is entitled to have counsel appointed and to be represented by such counsel at every stage of the proceeding subsequent to being indicted.

(B) APPOINTMENT PROCEDURE.—The Secretary of Defense shall determine the rules for appointing counsel to practice before ~~the~~ a commission.

(b) Discovery.—

(1) CLASSIFIED DOCUMENTS AND OBJECTS.—The Government shall provide the defense with access to evidence the Government intends to introduce at trial and with access to evidence known to the Government ~~or which should be known to the Government~~ that tends to exculpate the accused. Information disclosed to the defense may not be disclosed to the defendant if it is classified as defined by this title. The defense may submit classified information for review under section 312(b)(2).

~~*Comment: Make the following subsection (2) a separate Section to highlight it. It doesn't belong in this Section.*~~

~~*[(2) SEPARATE COMMISSION CONCERNING CLASSIFIED INFORMATION. A commission shall conduct a thorough review of the classification system for national security information relevant to the detention and prosecution of detainees, including the policy, procedures, and practices of the system. The commission shall make recommendations to the Department of Defense as to the*~~

declassification of such information relevant to the trial of detainees [Secretary of Defense?]]

(~~3~~2) REGULATING DISCOVERY.—

(A) IN GENERAL.—A commission may, for good cause, deny, restrict, or defer discovery or inspection, or grant other appropriate relief.

(B) EX PARTE REQUEST.—A party may make an ex parte request in writing that a commission deny, restrict, or defer discovery or inspection under subparagraph (A). If the ~~a~~ commission grants a request under this subparagraph, the Commission shall preserve the entire text of the party's request under seal.

(C) FAILURE TO COMPLY.—If a party fails to comply with the rules of discovery applicable to a commission, the commission may—

(i) order that party to permit the discovery or inspection, specify its time, place, and manner, and prescribe other just terms and conditions; or

(ii) grant a continuance.

(c) Open Proceedings.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a proceeding before a commission shall be open to the public.

(2) CLASSIFIED INFORMATION.—

(A) IN GENERAL.—Upon motion by the Government, a proceeding before a commission shall be closed to the public if necessary to avoid disclosure of classified information.

(B) NONDISCLOSURE.—A participant in a proceeding closed pursuant to ~~priority under~~ subparagraph (A) shall not disclose any information presented during such ~~a~~ closed proceeding ~~session~~ to individuals excluded from such proceeding or part thereof, including the defendant.

(3) OTHER BASES.—A commission may order that a hearing be held, in whole or in part, in camera, if the commission determines—

(A) it is appropriate for the security of a witness or a Government employee or to protect public safety; or

(B) that an open hearing would deter a witness from testifying freely or prevent the witness from testifying at all.

(4) EXTRAJUDICIAL STATEMENTS.—At the discretion of a commission, the commission may issue an order limiting extrajudicial statements by the parties.

(d) Protected Information.—

(1) IN GENERAL.—A commission may issue protective orders as necessary to safeguard protected information in a proceeding before that commission.

(2) NOTIFICATION.—As soon as practicable, a party shall notify a commission of any intent to offer evidence including protected information .

(3) TRIAL RECORD.—

(A) IN GENERAL.—All exhibits admitted as evidence but containing protected information shall be sealed and annexed to the record of trial.

(B) PROTECTED INFORMATION NOT ADMITTED.—Any protected information not admitted as evidence, but reviewed by a commission in camera and withheld from the defendant's counsel over objection shall be sealed and annexed to the record of the trial, with any associated motions and responses and any materials submitted in support thereof, as additional exhibits.

(e) Record of Trial.—

(1) REQUIREMENT FOR RECORD.—A record of each proceeding by a commission shall be prepared promptly after the conclusion of the trial.

(2) VERBATIM TRANSCRIPT.—The record of trial shall include a verbatim written transcript of all sessions of the trial.

(3) EXHIBITS AND OTHER EVIDENCE.—The record of trial shall also include all exhibits and other real or demonstrative evidence, except that photographs may be substituted for any large written or graphic exhibits and any other real or demonstrative evidence. If a photograph is substituted for an exhibit or other evidence, the Government shall retain the original exhibit or other evidence, respectively, until no further appeal of the results of the trial is authorized.

(4) CLASSIFIED INFORMATION.—In the case of a conviction of a charge on which classified information is admitted as evidence by a commission, the copy of the record of trial submitted to the commission shall include the classified information.

Comment: Delete the following heading for 313 and combine with the previous Section (312).

SEC. 31~~3~~2. TRIAL PROCEDURES FOR UNPRIVILEGED COMBATANTS.

(a) Specialized Procedures.—

(1) STANDARD OF PROOF.—All ~~3~~ members of a commission shall agree that the defendant is guilty beyond a reasonable doubt for a defendant to be found guilty.

~~[~~(2) EVIDENCE.~~—]~~

~~[~~(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the Secretary of Defense ~~Military Commission~~ shall draft supplementary rules to govern the proceedings under this subsection.~~]~~

~~[~~(B) STANDARD.—Evidence is admissible if the Commission determines that the evidence would have probative value to a reasonable person.~~[Secretary of Defense?]]~~

(3) FORM OF TRIAL.—Any trial under this subsection shall take place before at least 2 military officers ~~or attorneys~~ and at least one military judge.

(4) BAD ACTS.—Other bad acts may be considered if they would have fallen

within the definition under this title of either terrorism or terrorist activity and they are deemed to be relevant by a commission including propensity.

(b) Custody.—The Secretary ~~Department~~ of Defense shall retain custody of any person determined ~~by a commission~~ to be an enemy ~~unlawful~~ combatant~~s~~ after the person has been either convicted or sentenced in accordance with this title, unless the Secretary ~~Department~~ of Defense deems otherwise. Decisions made by a military commission with respect ~~in regards~~ to the ~~a designee~~ guilt or innocence of a designee may be considered by a tribunal when assessing the need to continue the detention of a designee.

SEC. 3143. COMMUNICATION WITH PERSONS IN CUSTODY.

An individual detained, indicted, or convicted under this title shall only be permitted to communicate with the interpreter assigned to the individual, the counsel representing the individual, prison personnel, and any other individual approved by the Secretary of Defense.

SEC. 314. SEPARATE COMMISSION CONCERNING CLASSIFIED INFORMATION.

A commission shall conduct a thorough review of the classification system for national security information relevant to the detention and prosecution of detainees, including the policy, procedures, and practices of the system. The commission shall make recommendations to the Department of Defense as to the declassification of such information.

~~***Comment: Evan: I recommend deleting Section 315, because it requires civilian counsel and conflicts with Section 312(a)(2)(B).***~~

~~SEC. 315. COMMISSION COUNSEL.~~

~~(a) In General.—A person shall be admitted to practice before a commission if the person—~~

~~(1) is a United States citizen;~~

~~(2) has been admitted to the practice of law in a State, district, territory, or possession of the United States, or before a Federal court;~~

~~(3) has not been sanctioned or otherwise the subject of disciplinary action by any court, bar, or other competent governmental authority for misconduct;~~

~~(4) is eligible for access to information classified at the level of secret as defined by the Department of Defense; and~~

~~(5) signs a written agreement to comply with all applicable regulations or instructions for counsel, including any rules of court for conduct during the course of proceedings.~~

~~(b) Consultation With Colleagues.—Any person admitted under subsection (a) shall not confer with any colleague who does not have the appropriate clearance.~~

1 ~~(c) Security Clearance.—~~

2 ~~(1) EXPEDITED CONSIDERATION.—The Secretary of Defense shall ensure that a person~~
3 ~~seeking to be admitted under subsection (a) is timely processed for the security clearance~~
4 ~~required for access to materials necessary for providing a defendant with effective~~
5 ~~assistance of counsel.~~

6 ~~(2) COUNSEL INELIGIBLE FOR CLEARANCE.—If the Secretary of Defense determines a~~
7 ~~person is not eligible for the necessary security clearance, the person shall not be~~
8 ~~permitted to represent an individual in any proceeding before the Commission. The~~
9 ~~determination of the Secretary of Defense shall be final and is not subject to appeal to, or~~
10 ~~other review by, any court of the United States.~~

11 ~~(d) Travel Expenses.—The Secretary of Defense shall reimburse any person not~~
12 ~~employed by the Government who is representing an individual before the Commission~~
13 ~~for travel away from the home or regular place of business of the person in connection~~
14 ~~with such representation. The rates for the payment of travel expenses under this~~
15 ~~subsection shall be those authorized for employees of agencies under subchapter I of~~
16 ~~chapter 57 of title 5, United States Code.~~

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Friday, July 22, 2005 4:51 PM
To: Gorsuch, Neil M; [redacted]@who.eop.gov
Subject: FW:
Attachments: tmp.htm

> -----Original Message-----
> From: [redacted] Ms DoD OGC
> Sent: Thursday, July 21, 2005 21:15
> To: [redacted] Mr, DoD OGC; [redacted] Ms, DoD OGC
> Cc: [redacted] Ms, DoD OGC
> Subject: Nuclear option?
>
> White House threatens veto on detainee policies > Thu Jul 21, 2005 7:45 PM ET
>
> By Vicki Allen
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> Sen. Edward Kennedy of Massachusetts said the Pentagon's own > investigations into detainee abuses left "huge gaps. ... The military > reviewing itself, that's not good enough." > Pentagon "talking points" against the special detainee commission > circulating around the Capitol said the issue had been "thoroughly > investigated" and "a new open-ended investigation" would add "nothing but > political theater." > The talking points said reforms were under way, and the Pentagon "has the > matter well in hand. The department and the services are doing everything > possible to address this challenge."
>
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>[redacted]
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> Room 3B652
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From: [redacted] Ms DoD OGC

Sent: Thursday, July 21, 2005 21:15

To: [redacted] Mr, DoD OGC; [redacted] Ms, DoD OGC

Cc: [redacted] Ms, DoD OGC

Subject: Nuclear option?

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Thu Jul 21, 2005 7:45 PM ET

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 22, 2005 6:10 PM
To: Yanes, Raul; Elwood, Courtney
Subject: Detainees
Attachments: FW: Graham Amendment.msg; FW:.msg

FYI - More from DOD on impending legislation. A potential showdown seems to be brewing.

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Friday, July 22, 2005 4:51 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW:
Attachments: tmp.htm

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-----Original Message-----

From: Hecker, Karen, Ms DoD OGC

Sent: Thursday, July 21, 2005 21:15

To: Jimenez, Frank, Mr, DoD OGC; Becker, Grace, Ms, DoD OGC

Cc: Beaver, Diane, Ms, DoD OGC

Subject: Nuclear option?

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The talking points said reforms were under way, and the Pentagon "has the matter well in hand. The department and the services are doing everything possible to address this challenge."

Karen L. Hecker
Office of the DoD General Counsel (Legal Counsel)

Room 3B652
(703) 571-9349
(703) 614-6745 (fax)

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[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Friday, July 22, 2005 4:52 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: Graham Amendment
Attachments: tmp.htm; ARM05G10_xml.pdf

First languge we've seen from Graham.

-----Original Message-----
From: Marrone, Christian, CIV, OSD-LA
Sent: Friday, July 22, 2005 16:51
To: [redacted] CIV, OSD; [redacted] CIV, OSD-LA; [redacted] OSD-LA; [redacted] DoD OGC; [redacted] DoD OGC [redacted] OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] DoD OGC; [redacted] (OARDEC)'; [redacted] DoD OGC; [redacted] OARDEC; [redacted] DoD OGC; [redacted] DoD OGC [redacted] DoD OGC; [redacted] DoD OGC; [redacted] OSD-CIO; [redacted] JCS VDJS; [redacted] CIV, OSD-OASD-PA; [redacted] OASD-PA
Cc: [redacted]
Subject: Graham Amendment

Attached is Senator Graham's amendment on detainee legal processes.
Highlights include:

1) Gives a detainee a JAG before the Annual Review Board

2) CSRT shall consider the reliability of info provided by the prosecution derived from sources held in foreign custody i.e. if torture was involved

3) CSRT must assess whether detainee is lawful or unlawful combatant

4) Does not address Habeas issue.

Respectfully,

[redacted]

Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
[redacted]

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AMENDMENT NO._____ Calendar No._____

Purpose: To authorize the President to utilize the Combatant Status Review Tribunals and Annual Review Board to determine the status of detainees held at Guantanamo Bay, Cuba.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRAHAM

Viz:

1 At the end of subtitle G of title X, add the following:

2 **SEC. 1073. AUTHORITY TO UTILIZE COMBATANT STATUS**
3 **REVIEW TRIBUNALS AND ANNUAL REVIEW**
4 **BOARD TO DETERMINE STATUS OF DETAIN-**
5 **EES AT GUANTANAMO BAY, CUBA.**

6 (a) AUTHORITY.—The President is authorized to uti-
7 lize the Combatant Status Review Tribunals and a noticed

1 Annual Review Board, and the procedures thereof as spec-
2 ified in subsection (b), currently in operation at Guanta-
3 namo Bay, Cuba, in order to determine the status of the
4 detainees held at Guantanamo Bay, including whether any
5 such detainee is a lawful enemy combatant or an unlawful
6 enemy combatant.

7 (b) PROCEDURES.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the procedures specified in this subsection
10 are as follows:

11 (A) For the Combatant Status Review Tri-
12 bunals, the memorandum of the Secretary of
13 the Navy of July 29, 2004, regarding the imple-
14 mentation of Combatant Status Review Tri-
15 bunal procedures for Enemy Combatants de-
16 tained at Guantanamo Bay Naval Base, Cuba.

17 (B) For the Annual Review Board, the De-
18 partment of Defense Designated Civilian Offi-
19 cial Memorandum dated September 14, 2004,
20 regarding the Implementation of Administrative
21 Review Procedures for Enemy Combatants De-
22 tained at U.S. Naval Base Guantanamo Bay,
23 Cuba.

1 (2) EXCEPTION.—The exceptions provided in
2 this paragraph for the procedures specified in para-
3 graph (1) are as follows:
4 (A) The Combatant Status Review Tri-
5 bunal shall consider the reliability of informa-
6 tion provided by the prosecution derived from
7 sources held in foreign custody. The consider-
8 ation of such information shall include consider-
9 ation of the methods, if known, by which such
10 information was obtained.
11 (B) A detainee shall be provided a military
12 judge advocate for purposes of the Annual Re-
13 view Board.
14 (C) The Designated Civilian Official shall
15 be an officer of the United States Government
16 whose appointment to office was made by the
17 President, by and with the advise and consent
18 of the Senate.
19 (3) MODIFICATION OF PROCEDURES.—The
20 President may modify the procedures and require-
21 ments set forth under paragraphs (1) and (2). Any
22 modification of such procedures or requirements
23 may not go into effect until 30 days after the date
24 on which the President notifies the congressional de-
25 fense committees of the modification.

1 (c) DEFINITIONS.—In this section:

2 (1) The term ''lawful enemy combatant'' means
3 person engaging in war or other armed conflict
4 against the United States or its allies on behalf of
5 a state party to the Geneva Convention Relative to
6 the Treatment of Prisoners of War, dated August
7 12, 1949, who meets the criteria of a prisoner of
8 war under Article 4 of that Convention.

9 (2) The term ''unlawful enemy combatant''
10 means a person engaging in war, other armed con-
11 flict, or hostile acts (including, but not limited to,
12 acts of terrorism) against the United States or its
13 allies, who does not meet the criteria of a prisoner
14 of war under Article 4 of the Geneva Convention
15 Relative to the Treatment of Prisoners of War,
16 dated August 12, 1949.

First languge we've seen from Graham.

-----Original Message-----
From: [redacted] CIV, OSD-LA
Sent: [redacted]
To: [redacted] CIV, OSD; [redacted] CIV, OSD-LA; [redacted] OSD-LA; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] OARDEC; [redacted] DoD OGC; [redacted] DoD OGC [redacted] DoD OGC; [redacted] DoD OGC; [redacted] OSD-CIO; [redacted] JCS [redacted] CIV, OSD-OASD-PA; [redacted] SES, OASD-PA
Cc: [redacted] CIV, OSD-LA
Subject: Graham Amendment

Attached is Senator Graham's amendment on detainee legal processes. Highlights include:

1) Gives a detainee a JAG before the Annual Review Board
2) CSRT shall consider the reliability of info provided by the prosecution derived from sources held in foreign custody i.e. if torture was involved
3) CSRT must assess whether detainee is lawful or unlawful combatant
4) Does not address Habeas issue.

Respectfully,

[redacted]

Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
[redacted]

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 22, 2005 6:11 PM
To: McCallum, Robert (SMO)
Subject: FW: Detainees
Attachments: FW: Graham Amendment.msg; FW:.msg

FYI - More from DOD on impending legislation. A potential showdown seems to be brewing.

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Friday, July 22, 2005 4:51 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW:
Attachments: tmp.htm

> -----Original Message-----
> From: [redacted]DoD OGC
> Sent: Thursday, July 21, 2005 21:15
> To: [redacted]DoD OGC; [redacted]DoD OGC
> Cc: [redacted]DoD OGC
> Subject: Nuclear option?
>
> White House threatens veto on detainee policies > Thu Jul 21, 2005 7:45 PM ET
>
> By Vicki Allen
> WASHINGTON (Reuters) - The White House on Thursday threatened to veto a > massive Senate bill for $442 billion in next year's defense programs if it > moves to regulate the Pentagon's treatment of detainees or sets up a > commission to investigate operations at Guantanamo Bay prison and > elsewhere.
> The Bush administration, under fire for the indefinite detention of enemy > combatants at Guantanamo Bay in Cuba and questions over whether its > policies led to horrendous abuses at Abu Ghraib prison in Iraq, put > lawmakers on notice it did not want them legislating on the matter.
> In a statement, the White House said such amendments would "interfere with > the protection of Americans from terrorism by diverting resources from the > war." > "If legislation is presented that would restrict the president's authority > to protect Americans effectively from terrorist attack and bring > terrorists to justice," the bill could be vetoed, the statement said.
> Arizona Republican Sen. John McCain, who endured torture as a prisoner of > war in Vietnam, said after meeting at the Capitol with Vice President Dick > Cheney that he still intended to offer amendments next week "on the > standard of treatment of prisoners." > South Carolina Republican Sen. Lindsey Graham, who was working on > legislation defining the legal status of enemy combatants being held in > Guantanamo, also said he would offer an amendment.
> They were working with Armed Services Committee Chairman John Warner of > Virginia on amendments intended to prevent further abuses in the wake of > the scandal over sexual abuse and mistreatment of prisoners at Abu Ghraib > prison and harsh, degrading interrogations at Guantanamo.
> Possible measures included barring the holding of "ghost" detainees whose > names are not disclosed, codifying a ban against cruel, inhumane or > degrading treatment, and using the Army manual as a basis for all > interrogations.
> Democrats on Thursday said they would push an amendment to establish an > independent national commission to investigate policies that led to abuses > of prisoners at Abu Ghraib, Guantanamo and elsewhere.
> Sen. Carl Levin of Michigan, the Armed Services Committee's top Democrat, > said the commission on detainee abuses was needed because "the most > serious scandal in recent military history needs

an objective > investigation." > Levin said the commission should be modeled on the bipartisan commission > that probed the Sept. 11, 2001, attacks.
> Sen. Edward Kennedy of Massachusetts said the Pentagon's own > investigations into detainee abuses left "huge gaps. ... The military > reviewing itself, that's not good enough." > Pentagon "talking points" against the special detainee commission > circulating around the Capitol said the issue had been "thoroughly > investigated" and "a new open-ended investigation" would add "nothing but > political theater." > The talking points said reforms were under way, and the Pentagon "has the > matter well in hand. The department and the services are doing everything > possible to address this challenge."
>
>
> [redacted]
> Office of the DoD General Counsel [redacted]
>
[redacted]
>
>
> This message may contain information protected by the attorney-client, > attorney work product, deliberative process, or other privilege. Do not > disseminate without prior approval from the Office of the DoD General > Counsel.
>
>

-----Original Message-----

From: Hecker, Karen, Ms DoD OGC

Sent: Thursday, July 21, 2005 21:15

To: Jimenez, Frank, Mr, DoD OGC; Becker, Grace, Ms, DoD OGC

Cc: Beaver, Diane, Ms, DoD OGC

Subject: Nuclear option?

White House threatens veto on detainee policies
Thu Jul 21, 2005 7:45 PM ET

By Vicki Allen
WASHINGTON (Reuters) - The White House on Thursday threatened to veto a massive Senate bill for $442 billion in next year's defense programs if it moves to regulate the Pentagon's treatment of detainees or sets up a commission to investigate operations at Guantanamo Bay prison and elsewhere.

The Bush administration, under fire for the indefinite detention of enemy combatants at Guantanamo Bay in Cuba and questions over whether its policies led to horrendous abuses at Abu Ghraib prison in Iraq, put lawmakers on notice it did not want them legislating on the matter.

In a statement, the White House said such amendments would "interfere with the protection of Americans from terrorism by diverting resources from the war."

"If legislation is presented that would restrict the president's authority to protect Americans effectively from terrorist attack and bring terrorists to justice," the bill could be vetoed, the statement said.

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Office of the DoD General Counsel (Legal Counsel)

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@dodgc.osd.mil

From: @dodgc.osd.mil
Sent: Friday, July 22, 2005 4:52 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: Graham Amendment
Attachments: tmp.htm; ARM05G10_xml.pdf

First languge we've seen from Graham.

-----Original Message-----
From: CIV, OSD-LA
Sent: Friday, July 22, 2005 16:51
To: CIV, OSD; CIV, OSD-LA; OSD-LA; DoD OGC; DoD OGC; OSD-POLICY; CIV, OSD-POLICY; CIV, OSD-POLICY; DoD OGC; RADM (OARDEC)'; DoD OGC; OARDEC; DoD OGC DoD OGC; DoD OGC; DoD OGC; OSD-CIO; JCS VDJS; CIV, OSD-OASD-PA; SES, OASD-PA
Cc: CIV, OSD-LA
Subject: Graham Amendment

Attached is Senator Graham's amendment on detainee legal processes.
Highlights include:

1) Gives a detainee a JAG before the Annual Review Board

2) CSRT shall consider the reliability of info provided by the prosecution derived from sources held in foreign custody i.e. if torture was involved

3) CSRT must assess whether detainee is lawful or unlawful combatant

4) Does not address Habeas issue.

Respectfully,

Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300

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AMENDMENT NO._____ Calendar No._____

Purpose: To authorize the President to utilize the Combatant Status Review Tribunals and Annual Review Board to determine the status of detainees held at Guantanamo Bay, Cuba.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRAHAM

Viz:

1 At the end of subtitle G of title X, add the following:

2 **SEC. 1073. AUTHORITY TO UTILIZE COMBATANT STATUS**
3 **REVIEW TRIBUNALS AND ANNUAL REVIEW**
4 **BOARD TO DETERMINE STATUS OF DETAIN-**
5 **EES AT GUANTANAMO BAY, CUBA.**

6 (a) AUTHORITY.—The President is authorized to uti-
7 lize the Combatant Status Review Tribunals and a noticed

1 Annual Review Board, and the procedures thereof as spec-
2 ified in subsection (b), currently in operation at Guanta-
3 namo Bay, Cuba, in order to determine the status of the
4 detainees held at Guantanamo Bay, including whether any
5 such detainee is a lawful enemy combatant or an unlawful
6 enemy combatant.

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8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the procedures specified in this subsection
10 are as follows:

11 (A) For the Combatant Status Review Tri-
12 bunals, the memorandum of the Secretary of
13 the Navy of July 29, 2004, regarding the imple-
14 mentation of Combatant Status Review Tri-
15 bunal procedures for Enemy Combatants de-
16 tained at Guantanamo Bay Naval Base, Cuba.

17 (B) For the Annual Review Board, the De-
18 partment of Defense Designated Civilian Offi-
19 cial Memorandum dated September 14, 2004,
20 regarding the Implementation of Administrative
21 Review Procedures for Enemy Combatants De-
22 tained at U.S. Naval Base Guantanamo Bay,
23 Cuba.

(2) EXCEPTION.—The exceptions provided in this paragraph for the procedures specified in paragraph (1) are as follows:

(A) The Combatant Status Review Tribunal shall consider the reliability of information provided by the prosecution derived from sources held in foreign custody. The consideration of such information shall include consideration of the methods, if known, by which such information was obtained.

(B) A detainee shall be provided a military judge advocate for purposes of the Annual Review Board.

(C) The Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advise and consent of the Senate.

(3) MODIFICATION OF PROCEDURES.—The President may modify the procedures and requirements set forth under paragraphs (1) and (2). Any modification of such procedures or requirements may not go into effect until 30 days after the date on which the President notifies the congressional defense committees of the modification.

1 (c) DEFINITIONS.—In this section:

2 (1) The term ''lawful enemy combatant'' means
3 person engaging in war or other armed conflict
4 against the United States or its allies on behalf of
5 a state party to the Geneva Convention Relative to
6 the Treatment of Prisoners of War, dated August
7 12, 1949, who meets the criteria of a prisoner of
8 war under Article 4 of that Convention.

9 (2) The term ''unlawful enemy combatant''
10 means a person engaging in war, other armed con-
11 flict, or hostile acts (including, but not limited to,
12 acts of terrorism) against the United States or its
13 allies, who does not meet the criteria of a prisoner
14 of war under Article 4 of the Geneva Convention
15 Relative to the Treatment of Prisoners of War,
16 dated August 12, 1949.

First languge we've seen from Graham.

-----Original Message-----
From: [redacted] OSD-LA
Sent: Friday, July 22, 2005 16:51
To: [redacted] CIV, OSD; [redacted] CIV, OSD-LA; [redacted] OSD-LA; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] CIV, OSD-POLICY; [redacted] DoD OGC; [redacted] (OARDEC)' [redacted] DoD OGC; [redacted] OARDEC [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] OSD-CIO; [redacted] JCS [redacted] CIV, OSD-OASD-PA; [redacted] OASD-PA
Cc: [redacted] CIV, OSD-LA
Subject: Graham Amendment

Attached is Senator Graham's amendment on detainee legal processes. Highlights include:

1) Gives a detainee a JAG before the Annual Review Board
2) CSRT shall consider the reliability of info provided by the prosecution derived from sources held in foreign custody i.e. if torture was involved
3) CSRT must assess whether detainee is lawful or unlawful combatant
4) Does not address Habeas issue.

Respectfully,

[redacted]

Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
[redacted]

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[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Monday, July 25, 2005 1:15 PM
To: Gorsuch, Neil M
Subject: FW: McCain Amendments
Attachments: tmp.htm; Retired Military ltr in Support of McCain amendments July 22 2005.doc; Army Field Manual amdt.pdf; CID amendment.pdf

-----Original Message-----
From: [redacted] DoD OGC
Sent: Monday, July 25, 2005 13:13
To: [redacted] DoD OGC; [redacted] DoD OGC [redacted]
Cc: [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC [redacted] DoD OGC [redacted]
Subject: FW: McCain Amendments

[redacted] yes, please work this one as well as a Levin one on an independent commission and a Graham one on various detainee-related matters.

We'll need to work this fast. Please coordinate with Michael Fucci and others as necessary.

[redacted]
Deputy General Counsel
[redacted]

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

-----Original Message-----
From: [redacted] DoD OGC
Sent: Monday, July 25, 2005 11:27
To: [redacted] DoD OGC
Subject: FW: McCain Amendments

Is there anything I need to do concerning this legislation?

[redacted]

-----Original Message-----

From: [redacted] CIV, OSD-LA
Sent: Monday, July 25, 2005 11:28
To: [redacted] CIV, OSD; [redacted] CIV, OSD-LA; [redacted] OSD-LA; [redacted] OSD-POLICY; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] OSD-CIO; [redacted] OCLL; [redacted] OCLL; [redacted] OSD-OASD-PA [redacted] CIV, OSD-LA [redacted]
Subject: McCain Amendments

Attached are McCain's amendments on the topic of interrogation along with a letter of support. Below, I have highlighted the relevant portions of the amendments.

1. Amendment on Army Field Manual: The Army Field Manual on Interrogation (FM 34-52) shall serve as the basis for the interrogation of all persons in DOD custody or a DOD facility.

* The Army Field Manual amendment does not cast the Field Manual in stone. The Manual could be changed at any time.

* The amendment also requires each detainee in a DOD facility to be registered with the ICRC.

2. Amendment on cruel, inhumane, and degrading treatment: No individual in the custody or under the physical control of the USG, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment.

* Seeks to reduce confusion in the field through simple, clear interpretations.

* The amendment requires no change in our current interrogation and detention practices. It would merely codify a prohibition against treatment that the administration.

Respectfully,

[redacted]

Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
[redacted]

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AMENDMENT NO. ____ Calendar No. ____

Purpose: To provide for uniform standards for the interrogation of persons under the detention of the Department of Defense.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MCCAIN

Viz:

1 At the end of subtitle G of title X, add the following:

2 **SEC. 1073. UNIFORM STANDARDS FOR THE INTERROGA-**
3 **TION OF PERSONS UNDER THE DETENTION**
4 **OF THE DEPARTMENT OF DEFENSE.**

5 (a) LIMITATION ON INTERROGATION TECHNIQUES.—
6 (1) IN GENERAL.—No person in the custody or
7 under the effective control of the Department of De-

DOJ_NMG_0001740

1 fense or under detention in a Department of De-
2 fense facility shall be subject to any treatment or
3 technique of interrogation not authorized by and
4 listed in the United States Army Field Manual on
5 Intelligence Interrogation.

6 (2) APPLICABILITY.—Paragraph (1) shall not
7 apply to with respect to any person in the custody
8 or under the effective control of the Department of
9 Defense pursuant to a criminal law or immigration
10 law of the United States.

11 (3) CONSTRUCTION.—Nothing in this sub-
12 section shall be construed to affect the rights under
13 the United States Constitution of any person in the
14 custody or under the physical jurisdiction of the
15 United States.

16 (b) PROHIBITION ON INCLUSION OF CERTAIN INTER-
17 ROGATION TECHNIQUES IN ARMY FIELD MANUAL.—No
18 interrogation technique may be included as an authorized
19 interrogation technique within the United States Army
20 Field Manual on Intelligence Interrogation if such tech-
21 nique constitutes torture or cruel, inhumane, or degrading
22 treatment or punishment that is prohibited by the Con-
23 stitution, laws, or treaties of the United States.

24 (c) NOTICE TO CONGRESS OF REVISION OF ARMY
25 FIELD MANUAL.—Not later than 30 days before issuing

DOJ_NMG_0001741

1 any revision to the United States Army Field Manual on
2 Intelligence Interrogation, including an authorization of
3 additional interrogation techniques, the Secretary of De-
4 fense shall submit to the congressional defense committees
5 a report on such revision.

6 (d) REGISTRATION WITH INTERNATIONAL RED
7 CROSS.—Each individual described in subsection (a) who
8 is a national of a foreign country shall be registered with
9 the International Committee of the Red Cross.

DOJ_NMG_0001742

AMENDMENT NO._____ Calendar No._____

Purpose: To prohibit cruel, inhuman, or degrading treatment or punishment of persons under the custody or control of the United States Government.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MCCAIN

Viz:

1 At the end of subtitle G of title X, add the following:

2 **SEC. 1073. PROHIBITION ON CRUEL, INHUMAN, OR DE-**
3 **GRADING TREATMENT OR PUNISHMENT OF**
4 **PERSONS UNDER CUSTODY OR CONTROL OF**
5 **THE UNITED STATES GOVERNMENT.**

6 (a) IN GENERAL.—No individual in the custody or
7 under the physical control of the United States Govern-
8 ment, regardless of nationality or physical location, shall

be subject to cruel, inhuman, or degrading treatment or punishment.

(b) CONSTRUCTION.—Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) LIMITATION ON SUPERSEDURE.—The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this section, the term ''cruel, inhuman, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

Ambassador Douglas "Pete" Peterson
Rear Admiral John D. Hutson (Ret. USN)
Brigadier General James Cullen (Ret. USA)
Brigadier General David M. Brahms (Ret. USMC)
Lieutenant General Claudia J. Kennedy (Ret. USA)
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Commander Frederick C. Baldock (Ret. USN)
Commander Phillip N. Butler (Ret. USN)
Brigadier General David R. Irvine (Ret. USA)

July 22, 2005

Dear Senator McCain:

We strongly support your proposed amendments to the Defense Department Authorization bill concerning detainee policy, including requiring all interrogations of detainees in DOD custody to conform to the U.S. Army's Field Manual on Intelligence Interrogation (FM 34-52), and prohibiting the use of torture and cruel, inhuman and degrading treatment by any U.S. government agency.

The abuse of prisoners hurts America's cause in the war on terror, endangers U.S. service members who might be captured by the enemy, and is anathema to the values Americans have held dear for generations. For many years, those values have been embodied in the Army Field Manual. The Manual applies the wisdom and experience gained by military interrogators in conflicts against both regular and irregular foes. It authorizes techniques that have proven effective in extracting life-saving information from the most hardened enemy prisoners. It also recognizes that torture and cruel treatment are ineffective methods, because they induce prisoners to say what their interrogators want to hear, even if it is not true, while bringing discredit upon the United States.

It is now apparent that the abuse of prisoners in Abu Ghraib, Guantanamo and elsewhere took place in part because our men and women in uniform were given ambiguous instructions, which in some cases authorized treatment that went beyond what was allowed by the Army Field Manual. Administration officials confused matters further by declaring that U.S. personnel are not bound by longstanding prohibitions of cruel treatment when interrogating non-U.S. citizens on foreign soil. As a result, we suddenly had one set of rules for interrogating prisoners of war, and another for "enemy combatants;" one set for Guantanamo, and another for Iraq; one set for our military, and another for the CIA. Our service members were denied clear guidance, and left to take the blame when things went wrong. They deserve better than that.

The United States should have one standard for interrogating enemy prisoners that is effective, lawful, and humane. Fortunately, America already has the gold standard in the Army Field Manual. Had the Manual been followed across the board, we would have been spared the pain of the prisoner abuse scandal. It should be followed consistently from now on. And when agencies other than DOD detain and interrogate prisoners, there should be no legal loopholes permitting cruel or degrading treatment.

The amendments proposed by Senator McCain would achieve these goals while preserving our nation's ability to fight the war on terror. They reflect the experience and highest traditions of the United States military. We urge the Congress to support this effort.

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-----Original Message-----
From: [redacted] DoD OGC
Sent: Monday, July 25, 2005 13:13
To: [redacted] DoD OGC; [redacted] DoD OGC
Cc: [redacted] DoD OGC [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC, [redacted] DoD OGC [redacted]
Subject: FW: McCain Amendments

[redacted] yes, please work this one as well as a Levin one on an independent commission and a Graham one on various detainee-related matters.

We'll need to work this fast. Please coordinate with [redacted] and others as necessary.

[redacted]

Deputy General Counsel

[redacted]

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-----Original Message-----
From: [redacted] DoD OGC
Sent: Monday, July 25, 2005 11:27
To: [redacted] DoD OGC
Subject: FW: McCain Amendments

Is there anything I need to do concerning this legislation?

[redacted]

-----Original Message-----
From: [redacted] CIV, OSD-LA
Sent: Monday, July 25, 2005 11:28
To: [redacted] CIV, OSD, [redacted] CIV, OSD-LA; [redacted] OSD-LA [redacted] CIV, [redacted] OSD-POLICY; [redacted] DoD OGC, [redacted] DoD OGC [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC; [redacted] DoD OGC [redacted] OSD-CIO; [redacted] OCLL [redacted] OCLL; [redacted] CIV, OSD-OASD-PA
Cc: [redacted] CIV, OSD-LA [redacted]
Subject: McCain Amendments

Attached are McCain's amendments on the topic of interrogation along with a letter of support. Below, I have highlighted the relevant portions of the amendments.

1. **Amendment on Army Field Manual**: The Army Field Manual on Interrogation (FM 34-52) shall serve as the basis for the interrogation of all persons in DOD custody or a DOD facility.
   - The Army Field Manual amendment does not cast the Field Manual in stone. The Manual could be *changed at any time*.
   - The amendment also requires each detainee in a DOD facility to be registered with the ICRC.

2. **Amendment on cruel, inhumane, and degrading treatment**: No individual in the custody or under the physical control of the USG, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment.

- Seeks to reduce confusion in the field through simple, clear interpretations.
- The amendment requires *no change* in our current interrogation and detention practices. It would merely codify a prohibition against treatment that the administration.

Respectfully,

[redacted]
Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
[redacted]

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 1:37 PM
To: Elwood, Courtney; Yanes, Raul
Subject: FYI
Attachments: FW: McCain Amendments.msg; Proposed Rasul habeas fix.msg

More from DOD.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
e-mail: neil.gorsuch@usdoj.gov

jimenezf@dodgc.osd.mil

From:	jimenezf@dodgc.osd.mil
Sent:	Monday, July 25, 2005 1:15 PM
To:	Gorsuch, Neil M
Subject:	FW: McCain Amendments
Attachments:	tmp.htm; Retired Military ltr in Support of McCain amendments July 22 2005.doc; Army Field Manual amdt.pdf; CID amendment.pdf

-----Original Message-----
From: Allen, Charles, Mr, DoD OGC
Sent: Monday, July 25, 2005 13:13
To: Beaver, Diane, Ms, DoD OGC; Fucci, Michael, Mr, DoD OGC
Cc: Printer, Norman, Mr, DoD OGC; Davidson, Eliana, Ms, DoD OGC; Allen, Charles, Mr, DoD OGC; Choi, Christine, Ms, DoD OGC; Jimenez, Frank, Mr, DoD OGC
Subject: FW: McCain Amendments

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Chuck

Charles A. Allen
Deputy General Counsel
(International Affairs)
703-695-2604

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Sent: Monday, July 25, 2005 11:27
To: Allen, Charles, Mr, DoD OGC
Subject: FW: McCain Amendments

Is there anything I need to do concerning this legislation?

Diane Beaver
-----Original Message-----

From: Marrone, Christian, CIV, OSD-LA
Sent: Monday, July 25, 2005 11:28
To: Geren, Pete, CIV, OSD; Broome, David, CIV, OSD-LA; Cathey, Jeffrey, CAPT, OSD-LA; Waxman, Matthew, CIV, OSD-POLICY; Haynes, WJ, Hon, DoD OGC; Dell'Orto, Dan, Mr, DoD OGC; Allen, Charles, Mr, DoD OGC; Davidson, Eliana, Ms, DoD OGC; Beaver, Diane, Ms, DoD OGC; Printer, Norman, Mr, DoD OGC; Lambert, Mike, CAPT, OSD-CIO; Pede, Charles N COL OCLL; Ingold, Bernie Mr OCLL; Di Rita, Larry, CIV, OSD-OASD-PA
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Respectfully,

Christian P. Marrone, Esq.
Special Assistant to the Assistant Secretary of Defense
Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
Phone: (703) 693-0305
Fax: (703) 697-8299
Cell: (703) 380-9563

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AMENDMENT NO. ____ Calendar No. ____

Purpose: To provide for uniform standards for the interrogation of persons under the detention of the Department of Defense.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MCCAIN

Viz:

1 At the end of subtitle G of title X, add the following:

2 **SEC. 1073. UNIFORM STANDARDS FOR THE INTERROGA-**
3 **TION OF PERSONS UNDER THE DETENTION**
4 **OF THE DEPARTMENT OF DEFENSE.**

5 (a) LIMITATION ON INTERROGATION TECHNIQUES.—
6 (1) IN GENERAL.—No person in the custody or
7 under the effective control of the Department of De-

DOJ_NMG_0001756

1 fense or under detention in a Department of De-
2 fense facility shall be subject to any treatment or
3 technique of interrogation not authorized by and
4 listed in the United States Army Field Manual on
5 Intelligence Interrogation.

6 (2) APPLICABILITY.—Paragraph (1) shall not
7 apply to with respect to any person in the custody
8 or under the effective control of the Department of
9 Defense pursuant to a criminal law or immigration
10 law of the United States.

11 (3) CONSTRUCTION.—Nothing in this sub-
12 section shall be construed to affect the rights under
13 the United States Constitution of any person in the
14 custody or under the physical jurisdiction of the
15 United States.

16 (b) PROHIBITION ON INCLUSION OF CERTAIN INTER-
17 ROGATION TECHNIQUES IN ARMY FIELD MANUAL.—No
18 interrogation technique may be included as an authorized
19 interrogation technique within the United States Army
20 Field Manual on Intelligence Interrogation if such tech-
21 nique constitutes torture or cruel, inhumane, or degrading
22 treatment or punishment that is prohibited by the Con-
23 stitution, laws, or treaties of the United States.

24 (c) NOTICE TO CONGRESS OF REVISION OF ARMY
25 FIELD MANUAL.—Not later than 30 days before issuing

DOJ_NMG_0001757

1 any revision to the United States Army Field Manual on
2 Intelligence Interrogation, including an authorization of
3 additional interrogation techniques, the Secretary of De-
4 fense shall submit to the congressional defense committees
5 a report on such revision.

6 (d) REGISTRATION WITH INTERNATIONAL RED
7 CROSS.—Each individual described in subsection (a) who
8 is a national of a foreign country shall be registered with
9 the International Committee of the Red Cross.

DOJ_NMG_0001758

AMENDMENT NO._____ Calendar No._____

Purpose: To prohibit cruel, inhuman, or degrading treatment or punishment of persons under the custody or control of the United States Government.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

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2. **Amendment on cruel, inhumane, and degrading treatment**: No individual in the custody or under the physical control of the USG, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment.

- Seeks to reduce confusion in the field through simple, clear interpretations.
- The amendment requires *no change* in our current interrogation and detention practices. It would merely codify a prohibition against treatment that the administration.

Respectfully,

Christian P. Marrone, Esq.
Special Assistant to the Assistant Secretary of Defense
Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
Phone: (703) 693-0305
Fax: (703) 697-8299
Cell: (703) 380-9563

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jimenezf@dodgc.osd.mil

From:	jimenezf@dodgc.osd.mil
Sent:	Monday, July 25, 2005 12:59 PM
To:	Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov; Heckerk@dodgc.osd.mil; hemingwt@dodgc.osd.mil
Subject:	Proposed Rasul habeas fix
Attachments:	HEN05696_xml.pdf

To be offered by Senator Kyl.

AMENDMENT NO._____ Calendar No._____

Purpose: To address the detention of enemy combatants.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. KYL

Viz:

1 On page 286, between lines 7 and 8, insert the fol-
2 lowing:

3 **SEC. 1073. DETENTION OF ENEMY COMBATANTS.**

4 (a) IN GENERAL.—Section 2241 of title 28, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 ''(e) No court, justice, or judge shall have jurisdiction
8 to consider—

1 "(1) an application for a writ of habeas corpus
2 filed on behalf an alien who is detained as an enemy
3 combatant by the Secretary of Defense; or
4 "(2) any other action challenging any aspect of
5 the detention of an alien who is detained by the Sec-
6 retary of Defense as an enemy combatant, if the
7 alien has been afforded an opportunity to challenge
8 such detention pursuant to procedures established by
9 the Secretary of Defense.".
10 (b) APPLICATION.—The amendments made by this
11 section shall apply to any application or other action pend-
12 ing on or after the date of enactment of this Act.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 1:37 PM
To: McCallum, Robert (SMO)
Subject: FW: FYI
Attachments: FW: McCain Amendments.msg; Proposed Rasul habeas fix.msg

Much legislation is in the works on the detainee front...

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 1:37 PM
To: Elwood, Courtney; Yanes, Raul
Subject: FYI

More from DOD.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
e-mail: neil.gorsuch@usdoj.gov

jimenezf@dodgc.osd.mil

From:	jimenezf@dodgc.osd.mil
Sent:	Monday, July 25, 2005 1:15 PM
To:	Gorsuch, Neil M
Subject:	FW: McCain Amendments
Attachments:	tmp.htm; Retired Military ltr in Support of McCain amendments July 22 2005.doc; Army Field Manual amdt.pdf; CID amendment.pdf

-----Original Message-----
From: Allen, Charles, Mr, DoD OGC
Sent: Monday, July 25, 2005 13:13
To: Beaver, Diane, Ms, DoD OGC; Fucci, Michael, Mr, DoD OGC
Cc: Printer, Norman, Mr, DoD OGC; Davidson, Eliana, Ms, DoD OGC; Allen, Charles, Mr, DoD OGC; Choi, Christine, Ms, DoD OGC; Jimenez, Frank, Mr, DoD OGC
Subject: FW: McCain Amendments

Diane, yes, please work this one as well as a Levin one on an independent commission and a Graham one on various detainee-related matters.

We'll need to work this fast. Please coordinate with Michael Fucci and others as necessary.

Chuck

Charles A. Allen
Deputy General Counsel
(International Affairs)
703-695-2604

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-----Original Message-----
From: Beaver, Diane, Ms, DoD OGC
Sent: Monday, July 25, 2005 11:27
To: Allen, Charles, Mr, DoD OGC
Subject: FW: McCain Amendments

Is there anything I need to do concerning this legislation?

Diane Beaver
-----Original Message-----

From: Marrone, Christian, CIV, OSD-LA
Sent: Monday, July 25, 2005 11:28
To: Geren, Pete, CIV, OSD; Broome, David, CIV, OSD-LA; Cathey, Jeffrey, CAPT, OSD-LA; Waxman, Matthew, CIV, OSD-POLICY; Haynes, WJ, Hon, DoD OGC; Dell'Orto, Dan, Mr, DoD OGC; Allen, Charles, Mr, DoD OGC; Davidson, Eliana, Ms, DoD OGC; Beaver, Diane, Ms, DoD OGC; Printer, Norman, Mr, DoD OGC; Lambert, Mike, CAPT, OSD-CIO; Pede, Charles N COL OCLL; Ingold, Bernie Mr OCLL; Di Rita, Larry, CIV, OSD-OASD-PA
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Subject: McCain Amendments

Attached are McCain's amendments on the topic of interrogation along with a letter of support. Below, I have highlighted the relevant portions of the amendments.

1. Amendment on Army Field Manual: The Army Field Manual on Interrogation (FM 34-52) shall serve as the basis for the interrogation of all persons in DOD custody or a DOD facility.

* The Army Field Manual amendment does not cast the Field Manual in stone. The Manual could be changed at any time.

* The amendment also requires each detainee in a DOD facility to be registered with the ICRC.

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AMENDMENT NO. ____ Calendar No. ____

Purpose: To provide for uniform standards for the interrogation of persons under the detention of the Department of Defense.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MCCAIN

Viz:

At the end of subtitle G of title X, add the following:

SEC. 1073. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) LIMITATION ON INTERROGATION TECHNIQUES.—

(1) IN GENERAL.—No person in the custody or under the effective control of the Department of De-

DOJ_NMG_0001775

1 fense or under detention in a Department of De-
2 fense facility shall be subject to any treatment or
3 technique of interrogation not authorized by and
4 listed in the United States Army Field Manual on
5 Intelligence Interrogation.

6 (2) APPLICABILITY.—Paragraph (1) shall not
7 apply to with respect to any person in the custody
8 or under the effective control of the Department of
9 Defense pursuant to a criminal law or immigration
10 law of the United States.

11 (3) CONSTRUCTION.—Nothing in this sub-
12 section shall be construed to affect the rights under
13 the United States Constitution of any person in the
14 custody or under the physical jurisdiction of the
15 United States.

16 (b) PROHIBITION ON INCLUSION OF CERTAIN INTER-
17 ROGATION TECHNIQUES IN ARMY FIELD MANUAL.—No
18 interrogation technique may be included as an authorized
19 interrogation technique within the United States Army
20 Field Manual on Intelligence Interrogation if such tech-
21 nique constitutes torture or cruel, inhumane, or degrading
22 treatment or punishment that is prohibited by the Con-
23 stitution, laws, or treaties of the United States.

24 (c) NOTICE TO CONGRESS OF REVISION OF ARMY
25 FIELD MANUAL.—Not later than 30 days before issuing

DOJ_NMG_0001776

1 any revision to the United States Army Field Manual on
2 Intelligence Interrogation, including an authorization of
3 additional interrogation techniques, the Secretary of De-
4 fense shall submit to the congressional defense committees
5 a report on such revision.

6 (d) REGISTRATION WITH INTERNATIONAL RED
7 CROSS.—Each individual described in subsection (a) who
8 is a national of a foreign country shall be registered with
9 the International Committee of the Red Cross.

DOJ_NMG_0001777

AMENDMENT NO._____ Calendar No._____

Purpose: To prohibit cruel, inhuman, or degrading treatment or punishment of persons under the custody or control of the United States Government.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MCCAIN

Viz:

1 At the end of subtitle G of title X, add the following:

2 **SEC. 1073. PROHIBITION ON CRUEL, INHUMAN, OR DE-**
3 **GRADING TREATMENT OR PUNISHMENT OF**
4 **PERSONS UNDER CUSTODY OR CONTROL OF**
5 **THE UNITED STATES GOVERNMENT.**

6 (a) IN GENERAL.—No individual in the custody or
7 under the physical control of the United States Govern-
8 ment, regardless of nationality or physical location, shall

be subject to cruel, inhuman, or degrading treatment or punishment.

(b) CONSTRUCTION.—Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) LIMITATION ON SUPERSEDURE.—The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this section, the term ''cruel, inhuman, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

Ambassador Douglas "Pete" Peterson
Rear Admiral John D. Hutson (Ret. USN)
Brigadier General James Cullen (Ret. USA)
Brigadier General David M. Brahms (Ret. USMC)
Lieutenant General Claudia J. Kennedy (Ret. USA)
Rear Admiral Don Guter (Ret. USN)
General Richard O'Meara (Ret. USA)
Major General Melvyn Montano (Ret. USAF Nat. Guard)
Commander Frederick C. Baldock (Ret. USN)
Commander Phillip N. Butler (Ret. USN)
Brigadier General David R. Irvine (Ret. USA)

July 22, 2005

Dear Senator McCain:

We strongly support your proposed amendments to the Defense Department Authorization bill concerning detainee policy, including requiring all interrogations of detainees in DOD custody to conform to the U.S. Army's Field Manual on Intelligence Interrogation (FM 34-52), and prohibiting the use of torture and cruel, inhuman and degrading treatment by any U.S. government agency.

The abuse of prisoners hurts America's cause in the war on terror, endangers U.S. service members who might be captured by the enemy, and is anathema to the values Americans have held dear for generations. For many years, those values have been embodied in the Army Field Manual. The Manual applies the wisdom and experience gained by military interrogators in conflicts against both regular and irregular foes. It authorizes techniques that have proven effective in extracting life-saving information from the most hardened enemy prisoners. It also recognizes that torture and cruel treatment are ineffective methods, because they induce prisoners to say what their interrogators want to hear, even if it is not true, while bringing discredit upon the United States.

It is now apparent that the abuse of prisoners in Abu Ghraib, Guantanamo and elsewhere took place in part because our men and women in uniform were given ambiguous instructions, which in some cases authorized treatment that went beyond what was allowed by the Army Field Manual. Administration officials confused matters further by declaring that U.S. personnel are not bound by longstanding prohibitions of cruel treatment when interrogating non-U.S. citizens on foreign soil. As a result, we suddenly had one set of rules for interrogating prisoners of war, and another for "enemy combatants;" one set for Guantanamo, and another for Iraq; one set for our military, and another for the CIA. Our service members were denied clear guidance, and left to take the blame when things went wrong. They deserve better than that.

The United States should have one standard for interrogating enemy prisoners that is effective, lawful, and humane. Fortunately, America already has the gold standard in the Army Field Manual. Had the Manual been followed across the board, we would have been spared the pain of the prisoner abuse scandal. It should be followed consistently from now on. And when agencies other than DOD detain and interrogate prisoners, there should be no legal loopholes permitting cruel or degrading treatment.

The amendments proposed by Senator McCain would achieve these goals while preserving our nation's ability to fight the war on terror. They reflect the experience and highest traditions of the United States military. We urge the Congress to support this effort.

Ambassador Douglas "Pete" Peterson

Rear Admiral John D. Hutson (Ret. USN)

Brigadier General James Cullen (Ret. USA)

Brigadier General David M. Brahms (Ret. USMC)

Lieutenant General Claudia J. Kennedy (Ret. USA)

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Major General Melvyn Montano (Ret. USAF Nat. Guard)

Commander Frederick C. Baldock (Ret. USN)

Commander Phillip N. Butler (Ret. USN)

Brigadier General David R. Irvine (Ret. USA)

Ambassador Douglas "Pete" Peterson

Ambassador Peterson served as the ambassador to the Socialist Republic of Vietnam until 2001. Prior to his diplomatic posting, Ambassador Peterson served three terms as a member of the United States House of Representatives, representing the Second Congressional District of Florida. He served 26 years in the United States Air Force having served in worldwide assignments as a fighter pilot and commander. He is a distinguished combat veteran of the Vietnam War and was incarcerated as a POW during that conflict for more than six years. He completed his military service in 1981 and has extensive experience in the private sector.

Rear Admiral John D. Hutson (Ret. USN)

Admiral John D. Hutson served as the Navy's Judge Advocate General from 1997 to 2000. Admiral Hutson now serves as President and Dean of the Franklin Pierce Law Center in Concord, New Hampshire.

Brigadier General James Cullen (Ret. USA)

General Cullen is a retired Brigadier General in the United States Army Reserve Judge Advocate General's Corps and last served as the Chief Judge (IMA) of the U.S. Army Court of Criminal Appeals. He currently practices law in New York City.

Brigadier General David M. Brahms (Ret. USMC)

General Brahms served in the Marine Corps from 1963-1988. He served as the Marine Corps' senior legal adviser from 1983 until his retirement in 1988. General Brahms currently practices law in Carlsbad, California and sits on the board of directors of the Judge Advocates Association.

Lieutenant General Claudia J. Kennedy (Ret. USA)

General Kennedy is the first and only woman to achieve the rank of three-star general in the United States Army. Kennedy served as Deputy Chief of Staff for Army Intelligence, Commander of the U.S. Army Recruiting Command, and as Commander of the 703d military intelligence brigade in Kunia, Hawaii.

Rear Admiral Don Guter (Ret. USN)

Admiral Guter served as the Navy's Judge Advocate General from 2000 to 2002. Admiral Guter is currently CEO of Vinson Hall Corporation/Executive Director of the Navy Marine Coast Guard Residence Foundation in McLean, Virginia.

General Richard O'Meara (Ret. USA)

Brigadier General Richard O'Meara is a combat decorated veteran who fought in Vietnam before earning his law degree and joining the Army's Judge Advocate General Corps. He retired from the Army Reserves in 2002 and now teaches courses on Human Rights and History at Kean University and at Monmouth University.

Major General Melvyn Montano (Ret. USAF Nat. Guard)

General Montano was the adjutant general in charge of the National Guard in New Mexico from 1994 to 1999. He served in Vietnam and was the first Hispanic Air National Guard officer appointed as an adjutant general in the country.

Commander Frederick C. Baldock (Ret. USN)

Commander Baldock was a Navy pilot and is a combat veteran of the Vietnam War. His plane was shot down over North Vietnam in 1966, and he spent seven years in captivity as a POW.

Commander Phillip N. Butler (Ret. USN)

Commander Butler was a Navy pilot and is a combat veteran of the Vietnam War. His plane was shot down over North Vietnam in 1965, and he spent nearly eight years in captivity as a POW.

Brigadier General David R. Irvine (Ret. USA)

General Irvine is a retired Army Reserve strategic intelligence officer and taught prisoner interrogation and military law for 18 years with the Sixth Army Intelligence School. He last served as Deputy Commander for the 96th Regional Readiness Command, and currently practices law in Salt Lake City, Utah.

-----Original Message-----
From: Allen, Charles, Mr, DoD OGC
Sent: Monday, July 25, 2005 13:13
To: Beaver, Diane, Ms, DoD OGC; Fucci, Michael, Mr, DoD OGC
Cc: Printer, Norman, Mr, DoD OGC; Davidson, Eliana, Ms, DoD OGC; Allen, Charles, Mr, DoD OGC; Choi, Christine, Ms, DoD OGC; Jimenez, Frank, Mr, DoD OGC
Subject: FW: McCain Amendments

Diane, yes, please work this one as well as a Levin one on an independent commission and a Graham one on various detainee-related matters.

We'll need to work this fast. Please coordinate with Michael Fucci and others as necessary.

Chuck

Charles A. Allen
Deputy General Counsel
(International Affairs)
703-695-2604

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Sent: Monday, July 25, 2005 11:27
To: Allen, Charles, Mr, DoD OGC
Subject: FW: McCain Amendments

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Diane Beaver
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From: Marrone, Christian, CIV, OSD-LA
Sent: Monday, July 25, 2005 11:28
To: Geren, Pete, CIV, OSD; Broome, David, CIV, OSD-LA; Cathey, Jeffrey, CAPT, OSD-LA; Waxman, Matthew, CIV, OSD-POLICY; Haynes, WJ, Hon, DoD OGC; Dell'Orto, Dan, Mr, DoD OGC; Allen, Charles, Mr, DoD OGC; Davidson, Eliana, Ms, DoD OGC; Beaver, Diane, Ms, DoD OGC; Printer, Norman, Mr, DoD OGC; Lambert, Mike, CAPT, OSD-CIO; Pede, Charles N COL OCLL; Ingold, Bernie Mr OCLL; Di Rita, Larry, CIV, OSD-OASD-PA
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Attached are McCain's amendments on the topic of interrogation along with a letter of support. Below, I have highlighted the relevant portions of the amendments.

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McCallum, Robert (SMO)

From: McCallum, Robert (SMO)
Sent: Monday, July 25, 2005 1:42 PM
To: Gorsuch, Neil M
Subject: FW: FYI
Attachments: FW: McCain Amendments.msg; Proposed Rasul habeas fix.msg

I don't know about you but I'm overwhelmed with all the different proposals. OLA and OLP need to determine what process DOJ needs to follow to keep track of and assess the various provisions and what strategy DOJ needs to follow in dealing with those that we determine to be harmful and/or unsound policy. Robt.

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From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 1:37 PM
To: McCallum, Robert (SMO)
Subject: FW: FYI

Much legislation is in the works on the detainee front...

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From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 1:37 PM
To: Elwood, Courtney; Yanes, Raul
Subject: FYI

More from DOD.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
e-mail: neil.gorsuch@usdoj.gov

jimenezf@dodgc.osd.mil

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Cc: Printer, Norman, Mr, DoD OGC; Davidson, Eliana, Ms, DoD OGC; Allen, Charles, Mr, DoD OGC; Choi, Christine, Ms, DoD OGC; Jimenez, Frank, Mr, DoD OGC
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Fax: (703) 697-8299
Cell: (703) 380-9563

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AMENDMENT NO. ____ Calendar No. ____

Purpose: To provide for uniform standards for the interrogation of persons under the detention of the Department of Defense.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MCCAIN

Viz:

At the end of subtitle G of title X, add the following:

SEC. 1073. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) LIMITATION ON INTERROGATION TECHNIQUES.—

(1) IN GENERAL.—No person in the custody or under the effective control of the Department of De-

DOJ_NMG_0001794

1 fense or under detention in a Department of De-
2 fense facility shall be subject to any treatment or
3 technique of interrogation not authorized by and
4 listed in the United States Army Field Manual on
5 Intelligence Interrogation.

6 (2) APPLICABILITY.—Paragraph (1) shall not
7 apply to with respect to any person in the custody
8 or under the effective control of the Department of
9 Defense pursuant to a criminal law or immigration
10 law of the United States.

11 (3) CONSTRUCTION.—Nothing in this sub-
12 section shall be construed to affect the rights under
13 the United States Constitution of any person in the
14 custody or under the physical jurisdiction of the
15 United States.

16 (b) PROHIBITION ON INCLUSION OF CERTAIN INTER-
17 ROGATION TECHNIQUES IN ARMY FIELD MANUAL.—No
18 interrogation technique may be included as an authorized
19 interrogation technique within the United States Army
20 Field Manual on Intelligence Interrogation if such tech-
21 nique constitutes torture or cruel, inhumane, or degrading
22 treatment or punishment that is prohibited by the Con-
23 stitution, laws, or treaties of the United States.

24 (c) NOTICE TO CONGRESS OF REVISION OF ARMY
25 FIELD MANUAL.—Not later than 30 days before issuing

DOJ_NMG_0001795

1 any revision to the United States Army Field Manual on
2 Intelligence Interrogation, including an authorization of
3 additional interrogation techniques, the Secretary of De-
4 fense shall submit to the congressional defense committees
5 a report on such revision.

6 (d) REGISTRATION WITH INTERNATIONAL RED
7 CROSS.—Each individual described in subsection (a) who
8 is a national of a foreign country shall be registered with
9 the International Committee of the Red Cross.

DOJ_NMG_0001796

AMENDMENT NO._____ Calendar No._____

Purpose: To prohibit cruel, inhuman, or degrading treatment or punishment of persons under the custody or control of the United States Government.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MCCAIN

Viz:

1 At the end of subtitle G of title X, add the following:

2 **SEC. 1073. PROHIBITION ON CRUEL, INHUMAN, OR DE-**
3 **GRADING TREATMENT OR PUNISHMENT OF**
4 **PERSONS UNDER CUSTODY OR CONTROL OF**
5 **THE UNITED STATES GOVERNMENT.**

6 (a) IN GENERAL.—No individual in the custody or
7 under the physical control of the United States Govern-
8 ment, regardless of nationality or physical location, shall

be subject to cruel, inhuman, or degrading treatment or punishment.

(b) CONSTRUCTION.—Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) LIMITATION ON SUPERSEDURE.—The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this section, the term ''cruel, inhuman, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

Ambassador Douglas "Pete" Peterson
Rear Admiral John D. Hutson (Ret. USN)
Brigadier General James Cullen (Ret. USA)
Brigadier General David M. Brahms (Ret. USMC)
Lieutenant General Claudia J. Kennedy (Ret. USA)
Rear Admiral Don Guter (Ret. USN)
General Richard O'Meara (Ret. USA)
Major General Melvyn Montano (Ret. USAF Nat. Guard)
Commander Frederick C. Baldock (Ret. USN)
Commander Phillip N. Butler (Ret. USN)
Brigadier General David R. Irvine (Ret. USA)

July 22, 2005

Dear Senator McCain:

We strongly support your proposed amendments to the Defense Department Authorization bill concerning detainee policy, including requiring all interrogations of detainees in DOD custody to conform to the U.S. Army's Field Manual on Intelligence Interrogation (FM 34-52), and prohibiting the use of torture and cruel, inhuman and degrading treatment by any U.S. government agency.

The abuse of prisoners hurts America's cause in the war on terror, endangers U.S. service members who might be captured by the enemy, and is anathema to the values Americans have held dear for generations. For many years, those values have been embodied in the Army Field Manual. The Manual applies the wisdom and experience gained by military interrogators in conflicts against both regular and irregular foes. It authorizes techniques that have proven effective in extracting life-saving information from the most hardened enemy prisoners. It also recognizes that torture and cruel treatment are ineffective methods, because they induce prisoners to say what their interrogators want to hear, even if it is not true, while bringing discredit upon the United States.

It is now apparent that the abuse of prisoners in Abu Ghraib, Guantanamo and elsewhere took place in part because our men and women in uniform were given ambiguous instructions, which in some cases authorized treatment that went beyond what was allowed by the Army Field Manual. Administration officials confused matters further by declaring that U.S. personnel are not bound by longstanding prohibitions of cruel treatment when interrogating non-U.S. citizens on foreign soil. As a result, we suddenly had one set of rules for interrogating prisoners of war, and another for "enemy combatants;" one set for Guantanamo, and another for Iraq; one set for our military, and another for the CIA. Our service members were denied clear guidance, and left to take the blame when things went wrong. They deserve better than that.

The United States should have one standard for interrogating enemy prisoners that is effective, lawful, and humane. Fortunately, America already has the gold standard in the Army Field Manual. Had the Manual been followed across the board, we would have been spared the pain of the prisoner abuse scandal. It should be followed consistently from now on. And when agencies other than DOD detain and interrogate prisoners, there should be no legal loopholes permitting cruel or degrading treatment.

The amendments proposed by Senator McCain would achieve these goals while preserving our nation's ability to fight the war on terror. They reflect the experience and highest traditions of the United States military. We urge the Congress to support this effort.

Ambassador Douglas "Pete" Peterson

Rear Admiral John D. Hutson (Ret. USN)

Brigadier General James Cullen (Ret. USA)

Brigadier General David M. Brahms (Ret. USMC)

Lieutenant General Claudia J. Kennedy (Ret. USA)

Rear Admiral Don Guter (Ret. USN)

General Richard O'Meara (Ret. USA)

Major General Melvyn Montano (Ret. USAF Nat. Guard)

Commander Frederick C. Baldock (Ret. USN)

Commander Phillip N. Butler (Ret. USN)

Brigadier General David R. Irvine (Ret. USA)

Ambassador Douglas "Pete" Peterson

Ambassador Peterson served as the ambassador to the Socialist Republic of Vietnam until 2001. Prior to his diplomatic posting, Ambassador Peterson served three terms as a member of the United States House of Representatives, representing the Second Congressional District of Florida. He served 26 years in the United States Air Force having served in worldwide assignments as a fighter pilot and commander. He is a distinguished combat veteran of the Vietnam War and was incarcerated as a POW during that conflict for more than six years. He completed his military service in 1981 and has extensive experience in the private sector.

Rear Admiral John D. Hutson (Ret. USN)

Admiral John D. Hutson served as the Navy's Judge Advocate General from 1997 to 2000. Admiral Hutson now serves as President and Dean of the Franklin Pierce Law Center in Concord, New Hampshire.

Brigadier General James Cullen (Ret. USA)

General Cullen is a retired Brigadier General in the United States Army Reserve Judge Advocate General's Corps and last served as the Chief Judge (IMA) of the U.S. Army Court of Criminal Appeals. He currently practices law in New York City.

Brigadier General David M. Brahms (Ret. USMC)

General Brahms served in the Marine Corps from 1963-1988. He served as the Marine Corps' senior legal adviser from 1983 until his retirement in 1988. General Brahms currently practices law in Carlsbad, California and sits on the board of directors of the Judge Advocates Association.

Lieutenant General Claudia J. Kennedy (Ret. USA)

General Kennedy is the first and only woman to achieve the rank of three-star general in the United States Army. Kennedy served as Deputy Chief of Staff for Army Intelligence, Commander of the U.S. Army Recruiting Command, and as Commander of the 703d military intelligence brigade in Kunia, Hawaii.

Rear Admiral Don Guter (Ret. USN)

Admiral Guter served as the Navy's Judge Advocate General from 2000 to 2002. Admiral Guter is currently CEO of Vinson Hall Corporation/Executive Director of the Navy Marine Coast Guard Residence Foundation in McLean, Virginia.

General Richard O'Meara (Ret. USA)

Brigadier General Richard O'Meara is a combat decorated veteran who fought in Vietnam before earning his law degree and joining the Army's Judge Advocate General Corps. He retired from the Army Reserves in 2002 and now teaches courses on Human Rights and History at Kean University and at Monmouth University.

Major General Melvyn Montano (Ret. USAF Nat. Guard)

General Montano was the adjutant general in charge of the National Guard in New Mexico from 1994 to 1999. He served in Vietnam and was the first Hispanic Air National Guard officer appointed as an adjutant general in the country.

Commander Frederick C. Baldock (Ret. USN)

Commander Baldock was a Navy pilot and is a combat veteran of the Vietnam War. His plane was shot down over North Vietnam in 1966, and he spent seven years in captivity as a POW.

Commander Phillip N. Butler (Ret. USN)

Commander Butler was a Navy pilot and is a combat veteran of the Vietnam War. His plane was shot down over North Vietnam in 1965, and he spent nearly eight years in captivity as a POW.

Brigadier General David R. Irvine (Ret. USA)

General Irvine is a retired Army Reserve strategic intelligence officer and taught prisoner interrogation and military law for 18 years with the Sixth Army Intelligence School. He last served as Deputy Commander for the 96th Regional Readiness Command, and currently practices law in Salt Lake City, Utah.

-----Original Message-----
From: Allen, Charles, Mr, DoD OGC
Sent: Monday, July 25, 2005 13:13
To: Beaver, Diane, Ms, DoD OGC; Fucci, Michael, Mr, DoD OGC
Cc: Printer, Norman, Mr, DoD OGC; Davidson, Eliana, Ms, DoD OGC; Allen, Charles, Mr, DoD OGC; Choi, Christine, Ms, DoD OGC; Jimenez, Frank, Mr, DoD OGC
Subject: FW: McCain Amendments

Diane, yes, please work this one as well as a Levin one on an independent commission and a Graham one on various detainee-related matters.

We'll need to work this fast. Please coordinate with Michael Fucci and others as necessary.

Chuck

Charles A. Allen
Deputy General Counsel
(International Affairs)
703-695-2604

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-----Original Message-----
From: Beaver, Diane, Ms, DoD OGC
Sent: Monday, July 25, 2005 11:27
To: Allen, Charles, Mr, DoD OGC
Subject: FW: McCain Amendments

Is there anything I need to do concerning this legislation?

Diane Beaver
-----Original Message-----
From: Marrone, Christian, CIV, OSD-LA
Sent: Monday, July 25, 2005 11:28
To: Geren, Pete, CIV, OSD; Broome, David, CIV, OSD-LA; Cathey, Jeffrey, CAPT, OSD-LA; Waxman, Matthew, CIV, OSD-POLICY; Haynes, WJ, Hon, DoD OGC; Dell'Orto, Dan, Mr, DoD OGC; Allen, Charles, Mr, DoD OGC; Davidson, Eliana, Ms, DoD OGC; Beaver, Diane, Ms, DoD OGC; Printer, Norman, Mr, DoD OGC; Lambert, Mike, CAPT, OSD-CIO; Pede, Charles N COL OCLL; Ingold, Bernie Mr OCLL; Di Rita, Larry, CIV, OSD-OASD-PA
Cc: Stanley, Daniel, CIV, OSD-LA
Subject: McCain Amendments

Attached are McCain's amendments on the topic of interrogation along with a letter of support. Below, I have highlighted the relevant portions of the amendments.

1. <u>Amendment on Army Field Manual</u>: The Army Field Manual on Interrogation (FM 34-52) shall serve as the basis for the interrogation of all persons in DOD custody or a DOD facility.

- The Army Field Manual amendment does not cast the Field Manual in stone. The Manual could be *changed at any time*.
- The amendment also requires each detainee in a DOD facility to be registered with the ICRC.

2. <u>Amendment on cruel, inhumane, and degrading treatment</u>: No individual in the custody or under the physical control of the USG, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment.

- Seeks to reduce confusion in the field through simple, clear interpretations.
- The amendment requires *no change* in our current interrogation and detention practices. It would merely codify a prohibition against treatment that the administration.

Respectfully,

Christian P. Marrone, Esq.
Special Assistant to the Assistant Secretary of Defense
Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
Phone: (703) 693-0305
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jimenezf@dodgc.osd.mil

From:	jimenezf@dodgc.osd.mil
Sent:	Monday, July 25, 2005 12:59 PM
To:	Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov; Heckerk@dodgc.osd.mil; hemingwt@dodgc.osd.mil
Subject:	Proposed Rasul habeas fix
Attachments:	HEN05696_xml.pdf

To be offered by Senator Kyl.

AMENDMENT NO._____ Calendar No._____

Purpose: To address the detention of enemy combatants.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. KYL

Viz:

1 On page 286, between lines 7 and 8, insert the fol-
2 lowing:

3 **SEC. 1073. DETENTION OF ENEMY COMBATANTS.**

4 (a) IN GENERAL.—Section 2241 of title 28, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 ''(e) No court, justice, or judge shall have jurisdiction
8 to consider—

1 ''(1) an application for a writ of habeas corpus
2 filed on behalf an alien who is detained as an enemy
3 combatant by the Secretary of Defense; or
4 ''(2) any other action challenging any aspect of
5 the detention of an alien who is detained by the Sec-
6 retary of Defense as an enemy combatant, if the
7 alien has been afforded an opportunity to challenge
8 such detention pursuant to procedures established by
9 the Secretary of Defense.''.
10 (b) APPLICATION.—The amendments made by this
11 section shall apply to any application or other action pend-
12 ing on or after the date of enactment of this Act.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 1:44 PM
To: McCallum, Robert (SMO)
Subject: RE: FYI

Agreed. Think we especially need an assessment of whether something is likely to pass. And, if so, whether it will pass in a form that the President will or will not veto (eg as approp rider, as some have threatened). I will mention this in a cover email to OLP and OLA...

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Monday, July 25, 2005 1:42 PM
To: Gorsuch, Neil M
Subject: FW: FYI

I don't know about you but I'm overwhelmed with all the different proposals. OLA and OLP need to determine what process DOJ needs to follow to keep track of and assess the various provisions and what strategy DOJ needs to follow in dealing with those that we determine to be harmful and/or unsound policy. Robt.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 1:37 PM
To: McCallum, Robert (SMO)
Subject: FW: FYI

Much legislation is in the works on the detainee front...

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 1:37 PM
To: Elwood, Courtney; Yanes, Raul
Subject: FYI

More from DOD.

<< Message: FW: McCain Amendments >> << Message: Proposed Rasul habeas fix >>

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 1:50 PM
To: Moschella, William; Brand, Rachel
Cc: Elwood, Courtney; Yanes, Raul; McCallum, Robert (SMO)
Subject: Detainee Legislation
Attachments: Proposed Rasul habeas fix.msg; FW:.msg; FW:.msg

Since Friday, DoD has forwarded a series of proposed detainee bills apparently circulating in the Senate. The WH has announced that it opposes such legislation. I wanted you to have these, and will pass along anything else I receive along these lines. Can you help assess for us how (if at all) we should be responding? Esp. to potentially harmful/unsound policy? Thanks, NMG

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 22, 2005 6:10 PM
To: Yanes, Raul; Elwood, Courtney
Subject: Detainees
Attachments: FW: Graham Amendment.msg; FW:.msg

FYI - More from DOD on impending legislation. A potential showdown seems to be brewing.

jimenezf@dodgc.osd.mil

From: jimenezf@dodgc.osd.mil
Sent: Friday, July 22, 2005 4:51 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW:
Attachments: tmp.htm

> -----Original Message-----
> From: Hecker, Karen, Ms DoD OGC
> Sent: Thursday, July 21, 2005 21:15
> To: Jimenez, Frank, Mr, DoD OGC; Becker, Grace, Ms, DoD OGC
> Cc: Beaver, Diane, Ms, DoD OGC
> Subject: Nuclear option?
>
> White House threatens veto on detainee policies > Thu Jul 21, 2005 7:45 PM ET
>
> By Vicki Allen
> WASHINGTON (Reuters) - The White House on Thursday threatened to veto a > massive Senate bill for $442 billion in next year's defense programs if it > moves to regulate the Pentagon's treatment of detainees or sets up a > commission to investigate operations at Guantanamo Bay prison and > elsewhere.
> The Bush administration, under fire for the indefinite detention of enemy > combatants at Guantanamo Bay in Cuba and questions over whether its > policies led to horrendous abuses at Abu Ghraib prison in Iraq, put > lawmakers on notice it did not want them legislating on the matter.
> In a statement, the White House said such amendments would "interfere with > the protection of Americans from terrorism by diverting resources from the > war." > "If legislation is presented that would restrict the president's authority > to protect Americans effectively from terrorist attack and bring > terrorists to justice," the bill could be vetoed, the statement said.
> Arizona Republican Sen. John McCain, who endured torture as a prisoner of > war in Vietnam, said after meeting at the Capitol with Vice President Dick > Cheney that he still intended to offer amendments next week "on the > standard of treatment of prisoners." > South Carolina Republican Sen. Lindsey Graham, who was working on > legislation defining the legal status of enemy combatants being held in > Guantanamo, also said he would offer an amendment.
> They were working with Armed Services Committee Chairman John Warner of > Virginia on amendments intended to prevent further abuses in the wake of > the scandal over sexual abuse and mistreatment of prisoners at Abu Ghraib > prison and harsh, degrading interrogations at Guantanamo.
> Possible measures included barring the holding of "ghost" detainees whose > names are not disclosed, codifying a ban against cruel, inhumane or > degrading treatment, and using the Army manual as a basis for all > interrogations.
> Democrats on Thursday said they would push an amendment to establish an > independent national commission to investigate policies that led to abuses > of prisoners at Abu Ghraib, Guantanamo and elsewhere.
> Sen. Carl Levin of Michigan, the Armed Services Committee's top Democrat, > said the commission on detainee abuses was needed because "the most > serious scandal in recent military history needs

an objective > investigation." > Levin said the commission should be modeled on the bipartisan commission > that probed the Sept. 11, 2001, attacks.
> Sen. Edward Kennedy of Massachusetts said the Pentagon's own > investigations into detainee abuses left "huge gaps. ... The military > reviewing itself, that's not good enough." > Pentagon "talking points" against the special detainee commission > circulating around the Capitol said the issue had been "thoroughly > investigated" and "a new open-ended investigation" would add "nothing but > political theater." > The talking points said reforms were under way, and the Pentagon "has the > matter well in hand. The department and the services are doing everything > possible to address this challenge."
>
>
> Karen L. Hecker
> Office of the DoD General Counsel (Legal Counsel)
>
> Room 3B652
> (703) 571-9349
> (703) 614-6745 (fax)
>
>
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>
>

-----Original Message-----

From: Hecker, Karen, Ms DoD OGC

Sent: Thursday, July 21, 2005 21:15

To: Jimenez, Frank, Mr, DoD OGC; Becker, Grace, Ms, DoD OGC

Cc: Beaver, Diane, Ms, DoD OGC

Subject: Nuclear option?

White House threatens veto on detainee policies
Thu Jul 21, 2005 7:45 PM ET

By Vicki Allen
WASHINGTON (Reuters) - The White House on Thursday threatened to veto a massive Senate bill for $442 billion in next year's defense programs if it moves to regulate the Pentagon's treatment of detainees or sets up a commission to investigate operations at Guantanamo Bay prison and elsewhere.

The Bush administration, under fire for the indefinite detention of enemy combatants at Guantanamo Bay in Cuba and questions over whether its policies led to horrendous abuses at Abu Ghraib prison in Iraq, put lawmakers on notice it did not want them legislating on the matter.

In a statement, the White House said such amendments would "interfere with the protection of Americans from terrorism by diverting resources from the war."

"If legislation is presented that would restrict the president's authority to protect Americans effectively from terrorist attack and bring terrorists to justice," the bill could be vetoed, the statement said.

Arizona Republican Sen. John McCain, who endured torture as a prisoner of war in Vietnam, said after meeting at the Capitol with Vice President Dick Cheney that he still intended to offer amendments next week "on the standard of treatment of prisoners."

South Carolina Republican Sen. Lindsey Graham, who was working on legislation defining the legal status of enemy combatants being held in Guantanamo, also said he would offer an amendment.

They were working with Armed Services Committee Chairman John Warner of Virginia on amendments intended to prevent further abuses in the wake of the scandal over sexual abuse and mistreatment of prisoners at Abu Ghraib prison and harsh, degrading interrogations at Guantanamo.

Possible measures included barring the holding of "ghost" detainees whose names are not disclosed, codifying a ban against cruel, inhumane or degrading treatment, and using the Army manual as a basis for all interrogations.

Democrats on Thursday said they would push an amendment to establish an independent national commission to investigate policies that led to abuses of prisoners at Abu Ghraib, Guantanamo and elsewhere.

Sen. Carl Levin of Michigan, the Armed Services Committee's top Democrat, said the commission on detainee abuses was needed because "the most serious scandal in recent military history needs an objective investigation."

Levin said the commission should be modeled on the bipartisan commission that probed the Sept. 11, 2001, attacks.
Sen. Edward Kennedy of Massachusetts said the Pentagon's own investigations into detainee abuses left "huge

Sen. Edward Kennedy of Massachusetts said the Pentagon's own investigations into detainee abuses left "huge gaps. ... The military reviewing itself, that's not good enough."

Pentagon "talking points" against the special detainee commission circulating around the Capitol said the issue had been "thoroughly investigated" and "a new open-ended investigation" would add "nothing but political theater."

The talking points said reforms were under way, and the Pentagon "has the matter well in hand. The department and the services are doing everything possible to address this challenge."

Karen L. Hecker
Office of the DoD General Counsel (Legal Counsel)

Room 3B652
(703) 571-9349
(703) 614-6745 (fax)

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jimenezf@dodgc.osd.mil

From:	jimenezf@dodgc.osd.mil
Sent:	Friday, July 22, 2005 4:52 PM
To:	Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject:	FW: Graham Amendment
Attachments:	tmp.htm; ARM05G10_xml.pdf

First languge we've seen from Graham.

-----Original Message-----
From: Marrone, Christian, CIV, OSD-LA
Sent: Friday, July 22, 2005 16:51
To: Geren, Pete, CIV, OSD; Broome, David, CIV, OSD-LA; Cathey, Jeffrey, CAPT, OSD-LA; Dell'Orto, Dan, Mr, DoD OGC; Haynes, WJ, Hon, DoD OGC; Waxman, Matthew, CIV, OSD-POLICY; Liotta, Alan, CIV, OSD-POLICY; Wolf, Kendal, CIV, OSD-POLICY; Jimenez, Frank, Mr, DoD OGC; 'Mcgarrah, James RADM (OARDEC)'; Hemingway, Thomas, BG, DoD OGC; Brady, Michael J LT OARDEC; Hecker, Karen, Ms DoD OGC; Becker, Grace, Ms, DoD OGC; Beaver, Diane, Ms, DoD OGC; Printer, Norman, Mr, DoD OGC; Lambert, Mike, CAPT, OSD-CIO; Maples, Michael D, MG, JCS VDJS; Di Rita, Larry, CIV, OSD-OASD-PA; Ruff, Eric, SES, OASD-PA
Cc: Stanley, Daniel, CIV, OSD-LA
Subject: Graham Amendment

Attached is Senator Graham's amendment on detainee legal processes.
Highlights include:

1) Gives a detainee a JAG before the Annual Review Board

2) CSRT shall consider the reliability of info provided by the prosecution derived from sources held in foreign custody i.e. if torture was involved

3) CSRT must assess whether detainee is lawful or unlawful combatant

4) Does not address Habeas issue.

Respectfully,

Christian P. Marrone, Esq.
Special Assistant to the Assistant Secretary of Defense
Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300

Phone: (703) 693-0305
Fax: (703) 697-8299
Cell: (703) 380-9563

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AMENDMENT NO._____ Calendar No._____

Purpose: To authorize the President to utilize the Combatant Status Review Tribunals and Annual Review Board to determine the status of detainees held at Guantanamo Bay, Cuba.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRAHAM

Viz:

1 At the end of subtitle G of title X, add the following:

2 **SEC. 1073. AUTHORITY TO UTILIZE COMBATANT STATUS**
3 **REVIEW TRIBUNALS AND ANNUAL REVIEW**
4 **BOARD TO DETERMINE STATUS OF DETAIN-**
5 **EES AT GUANTANAMO BAY, CUBA.**

6 (a) AUTHORITY.—The President is authorized to uti-
7 lize the Combatant Status Review Tribunals and a noticed

1 Annual Review Board, and the procedures thereof as spec-
2 ified in subsection (b), currently in operation at Guanta-
3 namo Bay, Cuba, in order to determine the status of the
4 detainees held at Guantanamo Bay, including whether any
5 such detainee is a lawful enemy combatant or an unlawful
6 enemy combatant.

7 (b) PROCEDURES.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the procedures specified in this subsection
10 are as follows:

11 (A) For the Combatant Status Review Tri-
12 bunals, the memorandum of the Secretary of
13 the Navy of July 29, 2004, regarding the imple-
14 mentation of Combatant Status Review Tri-
15 bunal procedures for Enemy Combatants de-
16 tained at Guantanamo Bay Naval Base, Cuba.

17 (B) For the Annual Review Board, the De-
18 partment of Defense Designated Civilian Offi-
19 cial Memorandum dated September 14, 2004,
20 regarding the Implementation of Administrative
21 Review Procedures for Enemy Combatants De-
22 tained at U.S. Naval Base Guantanamo Bay,
23 Cuba.

1 (2) EXCEPTION.—The exceptions provided in
2 this paragraph for the procedures specified in para-
3 graph (1) are as follows:
4 (A) The Combatant Status Review Tri-
5 bunal shall consider the reliability of informa-
6 tion provided by the prosecution derived from
7 sources held in foreign custody. The consider-
8 ation of such information shall include consider-
9 ation of the methods, if known, by which such
10 information was obtained.
11 (B) A detainee shall be provided a military
12 judge advocate for purposes of the Annual Re-
13 view Board.
14 (C) The Designated Civilian Official shall
15 be an officer of the United States Government
16 whose appointment to office was made by the
17 President, by and with the advise and consent
18 of the Senate.
19 (3) MODIFICATION OF PROCEDURES.—The
20 President may modify the procedures and require-
21 ments set forth under paragraphs (1) and (2). Any
22 modification of such procedures or requirements
23 may not go into effect until 30 days after the date
24 on which the President notifies the congressional de-
25 fense committees of the modification.

1 (c) DEFINITIONS.—In this section:

2 (1) The term ''lawful enemy combatant'' means
3 person engaging in war or other armed conflict
4 against the United States or its allies on behalf of
5 a state party to the Geneva Convention Relative to
6 the Treatment of Prisoners of War, dated August
7 12, 1949, who meets the criteria of a prisoner of
8 war under Article 4 of that Convention.

9 (2) The term ''unlawful enemy combatant''
10 means a person engaging in war, other armed con-
11 flict, or hostile acts (including, but not limited to,
12 acts of terrorism) against the United States or its
13 allies, who does not meet the criteria of a prisoner
14 of war under Article 4 of the Geneva Convention
15 Relative to the Treatment of Prisoners of War,
16 dated August 12, 1949.

First languge we've seen from Graham.

-----Original Message-----
From: Marrone, Christian, CIV, OSD-LA
Sent: Friday, July 22, 2005 16:51
To: Geren, Pete, CIV, OSD; Broome, David, CIV, OSD-LA; Cathey, Jeffrey, CAPT, OSD-LA; Dell'Orto, Dan, Mr, DoD OGC; Haynes, WJ, Hon, DoD OGC; Waxman, Matthew, CIV, OSD-POLICY; Liotta, Alan, CIV, OSD-POLICY; Wolf, Kendal, CIV, OSD-POLICY; Jimenez, Frank, Mr, DoD OGC; 'Mcgarrah, James RADM (OARDEC)'; Hemingway, Thomas, BG, DoD OGC; Brady, Michael J LT OARDEC; Hecker, Karen, Ms DoD OGC; Becker, Grace, Ms, DoD OGC; Beaver, Diane, Ms, DoD OGC; Printer, Norman, Mr, DoD OGC; Lambert, Mike, CAPT, OSD-CIO; Maples, Michael D, MG, JCS VDJS; Di Rita, Larry, CIV, OSD-OASD-PA; Ruff, Eric, SES, OASD-PA
Cc: Stanley, Daniel, CIV, OSD-LA
Subject: Graham Amendment

Attached is Senator Graham's amendment on detainee legal processes. Highlights include:

1) Gives a detainee a JAG before the Annual Review Board
2) CSRT shall consider the reliability of info provided by the prosecution derived from sources held in foreign custody i.e. if torture was involved
3) CSRT must assess whether detainee is lawful or unlawful combatant
4) Does not address Habeas issue.

Respectfully,

Christian P. Marrone, Esq.
Special Assistant to the Assistant Secretary of Defense
Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
Phone: (703) 693-0305
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, July 22, 2005 6:10 PM
To: Yanes, Raul; Elwood, Courtney
Subject: Detainees
Attachments: FW: Graham Amendment.msg; FW:.msg

FYI - More from DOD on impending legislation. A potential showdown seems to be brewing.

jimenezf@dodgc.osd.mil

From: jimenezf@dodgc.osd.mil
Sent: Friday, July 22, 2005 4:51 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW:
Attachments: tmp.htm

> -----Original Message-----
> From: Hecker, Karen, Ms DoD OGC
> Sent: Thursday, July 21, 2005 21:15
> To: Jimenez, Frank, Mr, DoD OGC; Becker, Grace, Ms, DoD OGC
> Cc: Beaver, Diane, Ms, DoD OGC
> Subject: Nuclear option?
>
> White House threatens veto on detainee policies > Thu Jul 21, 2005 7:45 PM ET
>
> By Vicki Allen
> WASHINGTON (Reuters) - The White House on Thursday threatened to veto a > massive Senate bill for $442 billion in next year's defense programs if it > moves to regulate the Pentagon's treatment of detainees or sets up a > commission to investigate operations at Guantanamo Bay prison and > elsewhere.
> The Bush administration, under fire for the indefinite detention of enemy > combatants at Guantanamo Bay in Cuba and questions over whether its > policies led to horrendous abuses at Abu Ghraib prison in Iraq, put > lawmakers on notice it did not want them legislating on the matter.
> In a statement, the White House said such amendments would "interfere with > the protection of Americans from terrorism by diverting resources from the > war." > "If legislation is presented that would restrict the president's authority > to protect Americans effectively from terrorist attack and bring > terrorists to justice," the bill could be vetoed, the statement said.
> Arizona Republican Sen. John McCain, who endured torture as a prisoner of > war in Vietnam, said after meeting at the Capitol with Vice President Dick > Cheney that he still intended to offer amendments next week "on the > standard of treatment of prisoners." > South Carolina Republican Sen. Lindsey Graham, who was working on > legislation defining the legal status of enemy combatants being held in > Guantanamo, also said he would offer an amendment.
> They were working with Armed Services Committee Chairman John Warner of > Virginia on amendments intended to prevent further abuses in the wake of > the scandal over sexual abuse and mistreatment of prisoners at Abu Ghraib > prison and harsh, degrading interrogations at Guantanamo.
> Possible measures included barring the holding of "ghost" detainees whose > names are not disclosed, codifying a ban against cruel, inhumane or > degrading treatment, and using the Army manual as a basis for all > interrogations.
> Democrats on Thursday said they would push an amendment to establish an > independent national commission to investigate policies that led to abuses > of prisoners at Abu Ghraib, Guantanamo and elsewhere.
> Sen. Carl Levin of Michigan, the Armed Services Committee's top Democrat, > said the commission on detainee abuses was needed because "the most > serious scandal in recent military history needs

an objective > investigation." > Levin said the commission should be modeled on the bipartisan commission > that probed the Sept. 11, 2001, attacks.
> Sen. Edward Kennedy of Massachusetts said the Pentagon's own > investigations into detainee abuses left "huge gaps. ... The military > reviewing itself, that's not good enough." > Pentagon "talking points" against the special detainee commission > circulating around the Capitol said the issue had been "thoroughly > investigated" and "a new open-ended investigation" would add "nothing but > political theater." > The talking points said reforms were under way, and the Pentagon "has the > matter well in hand. The department and the services are doing everything > possible to address this challenge."
>
>
> Karen L. Hecker
> Office of the DoD General Counsel (Legal Counsel)
>
> Room 3B652
> (703) 571-9349
> (703) 614-6745 (fax)
>
>
> This message may contain information protected by the attorney-client, > attorney work product, deliberative process, or other privilege. Do not > disseminate without prior approval from the Office of the DoD General > Counsel.
>
>

-----Original Message-----

From: Hecker, Karen, Ms DoD OGC

Sent: Thursday, July 21, 2005 21:15

To: Jimenez, Frank, Mr, DoD OGC; Becker, Grace, Ms, DoD OGC

Cc: Beaver, Diane, Ms, DoD OGC

Subject: Nuclear option?

White House threatens veto on detainee policies
Thu Jul 21, 2005 7:45 PM ET

By Vicki Allen
WASHINGTON (Reuters) - The White House on Thursday threatened to veto a massive Senate bill for $442 billion in next year's defense programs if it moves to regulate the Pentagon's treatment of detainees or sets up a commission to investigate operations at Guantanamo Bay prison and elsewhere.

The Bush administration, under fire for the indefinite detention of enemy combatants at Guantanamo Bay in Cuba and questions over whether its policies led to horrendous abuses at Abu Ghraib prison in Iraq, put lawmakers on notice it did not want them legislating on the matter.

In a statement, the White House said such amendments would "interfere with the protection of Americans from terrorism by diverting resources from the war."

"If legislation is presented that would restrict the president's authority to protect Americans effectively from terrorist attack and bring terrorists to justice," the bill could be vetoed, the statement said.

Arizona Republican Sen. John McCain, who endured torture as a prisoner of war in Vietnam, said after meeting at the Capitol with Vice President Dick Cheney that he still intended to offer amendments next week "on the standard of treatment of prisoners."

South Carolina Republican Sen. Lindsey Graham, who was working on legislation defining the legal status of enemy combatants being held in Guantanamo, also said he would offer an amendment.

They were working with Armed Services Committee Chairman John Warner of Virginia on amendments intended to prevent further abuses in the wake of the scandal over sexual abuse and mistreatment of prisoners at Abu Ghraib prison and harsh, degrading interrogations at Guantanamo.

Possible measures included barring the holding of "ghost" detainees whose names are not disclosed, codifying a ban against cruel, inhumane or degrading treatment, and using the Army manual as a basis for all interrogations.

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Levin said the commission should be modeled on the bipartisan commission that probed the Sept. 11, 2001, attacks.
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Sen. Edward Kennedy of Massachusetts said the Pentagon's own investigations into detainee abuses left "huge gaps. ... The military reviewing itself, that's not good enough."

Pentagon "talking points" against the special detainee commission circulating around the Capitol said the issue had been "thoroughly investigated" and "a new open-ended investigation" would add "nothing but political theater."

The talking points said reforms were under way, and the Pentagon "has the matter well in hand. The department and the services are doing everything possible to address this challenge."

Karen L. Hecker
Office of the DoD General Counsel (Legal Counsel)

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jimenezf@dodgc.osd.mil

From:	jimenezf@dodgc.osd.mil
Sent:	Friday, July 22, 2005 4:52 PM
To:	Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject:	FW: Graham Amendment
Attachments:	tmp.htm; ARM05G10_xml.pdf

First languge we've seen from Graham.

-----Original Message-----
From: Marrone, Christian, CIV, OSD-LA
Sent: Friday, July 22, 2005 16:51
To: Geren, Pete, CIV, OSD; Broome, David, CIV, OSD-LA; Cathey, Jeffrey, CAPT, OSD-LA; Dell'Orto, Dan, Mr, DoD OGC; Haynes, WJ, Hon, DoD OGC; Waxman, Matthew, CIV, OSD-POLICY; Liotta, Alan, CIV, OSD-POLICY; Wolf, Kendal, CIV, OSD-POLICY; Jimenez, Frank, Mr, DoD OGC; 'Mcgarrah, James RADM (OARDEC)'; Hemingway, Thomas, BG, DoD OGC; Brady, Michael J LT OARDEC; Hecker, Karen, Ms DoD OGC; Becker, Grace, Ms, DoD OGC; Beaver, Diane, Ms, DoD OGC; Printer, Norman, Mr, DoD OGC; Lambert, Mike, CAPT, OSD-CIO; Maples, Michael D, MG, JCS VDJS; Di Rita, Larry, CIV, OSD-OASD-PA; Ruff, Eric, SES, OASD-PA
Cc: Stanley, Daniel, CIV, OSD-LA
Subject: Graham Amendment

Attached is Senator Graham's amendment on detainee legal processes.
Highlights include:

1) Gives a detainee a JAG before the Annual Review Board

2) CSRT shall consider the reliability of info provided by the prosecution derived from sources held in foreign custody i.e. if torture was involved

3) CSRT must assess whether detainee is lawful or unlawful combatant

4) Does not address Habeas issue.

Respectfully,

Christian P. Marrone, Esq.
Special Assistant to the Assistant Secretary of Defense
Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300

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AMENDMENT NO._____ Calendar No._____

Purpose: To authorize the President to utilize the Combatant Status Review Tribunals and Annual Review Board to determine the status of detainees held at Guantanamo Bay, Cuba.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRAHAM

Viz:

1 At the end of subtitle G of title X, add the following:

2 **SEC. 1073. AUTHORITY TO UTILIZE COMBATANT STATUS**
3 **REVIEW TRIBUNALS AND ANNUAL REVIEW**
4 **BOARD TO DETERMINE STATUS OF DETAIN-**
5 **EES AT GUANTANAMO BAY, CUBA.**

6 (a) AUTHORITY.—The President is authorized to uti-
7 lize the Combatant Status Review Tribunals and a noticed

1 Annual Review Board, and the procedures thereof as spec-
2 ified in subsection (b), currently in operation at Guanta-
3 namo Bay, Cuba, in order to determine the status of the
4 detainees held at Guantanamo Bay, including whether any
5 such detainee is a lawful enemy combatant or an unlawful
6 enemy combatant.

7 (b) PROCEDURES.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the procedures specified in this subsection
10 are as follows:

11 (A) For the Combatant Status Review Tri-
12 bunals, the memorandum of the Secretary of
13 the Navy of July 29, 2004, regarding the imple-
14 mentation of Combatant Status Review Tri-
15 bunal procedures for Enemy Combatants de-
16 tained at Guantanamo Bay Naval Base, Cuba.

17 (B) For the Annual Review Board, the De-
18 partment of Defense Designated Civilian Offi-
19 cial Memorandum dated September 14, 2004,
20 regarding the Implementation of Administrative
21 Review Procedures for Enemy Combatants De-
22 tained at U.S. Naval Base Guantanamo Bay,
23 Cuba.

(2) EXCEPTION.—The exceptions provided in this paragraph for the procedures specified in paragraph (1) are as follows:

(A) The Combatant Status Review Tribunal shall consider the reliability of information provided by the prosecution derived from sources held in foreign custody. The consideration of such information shall include consideration of the methods, if known, by which such information was obtained.

(B) A detainee shall be provided a military judge advocate for purposes of the Annual Review Board.

(C) The Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advise and consent of the Senate.

(3) MODIFICATION OF PROCEDURES.—The President may modify the procedures and requirements set forth under paragraphs (1) and (2). Any modification of such procedures or requirements may not go into effect until 30 days after the date on which the President notifies the congressional defense committees of the modification.

1 (c) DEFINITIONS.—In this section:

2 (1) The term ''lawful enemy combatant'' means
3 person engaging in war or other armed conflict
4 against the United States or its allies on behalf of
5 a state party to the Geneva Convention Relative to
6 the Treatment of Prisoners of War, dated August
7 12, 1949, who meets the criteria of a prisoner of
8 war under Article 4 of that Convention.

9 (2) The term ''unlawful enemy combatant''
10 means a person engaging in war, other armed con-
11 flict, or hostile acts (including, but not limited to,
12 acts of terrorism) against the United States or its
13 allies, who does not meet the criteria of a prisoner
14 of war under Article 4 of the Geneva Convention
15 Relative to the Treatment of Prisoners of War,
16 dated August 12, 1949.

First languge we've seen from Graham.

-----Original Message-----
From: Marrone, Christian, CIV, OSD-LA
Sent: Friday, July 22, 2005 16:51
To: Geren, Pete, CIV, OSD; Broome, David, CIV, OSD-LA; Cathey, Jeffrey, CAPT, OSD-LA; Dell'Orto, Dan, Mr, DoD OGC; Haynes, WJ, Hon, DoD OGC; Waxman, Matthew, CIV, OSD-POLICY; Liotta, Alan, CIV, OSD-POLICY; Wolf, Kendal, CIV, OSD-POLICY; Jimenez, Frank, Mr, DoD OGC; 'Mcgarrah, James RADM (OARDEC)'; Hemingway, Thomas, BG, DoD OGC; Brady, Michael J LT OARDEC; Hecker, Karen, Ms DoD OGC; Becker, Grace, Ms, DoD OGC; Beaver, Diane, Ms, DoD OGC; Printer, Norman, Mr, DoD OGC; Lambert, Mike, CAPT, OSD-CIO; Maples, Michael D, MG, JCS VDJS; Di Rita, Larry, CIV, OSD-OASD-PA; Ruff, Eric, SES, OASD-PA
Cc: Stanley, Daniel, CIV, OSD-LA
Subject: Graham Amendment

Attached is Senator Graham's amendment on detainee legal processes. Highlights include:

1) Gives a detainee a JAG before the Annual Review Board
2) CSRT shall consider the reliability of info provided by the prosecution derived from sources held in foreign custody i.e. if torture was involved
3) CSRT must assess whether detainee is lawful or unlawful combatant
4) Does not address Habeas issue.

Respectfully,

Christian P. Marrone, Esq.
Special Assistant to the Assistant Secretary of Defense
Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
Phone: (703) 693-0305
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 1:37 PM
To: Elwood, Courtney; Yanes, Raul
Subject: FYI
Attachments: FW: McCain Amendments.msg; Proposed Rasul habeas fix.msg

More from DOD.

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
e-mail: neil.gorsuch@usdoj.gov

jimenezf@dodgc.osd.mil

From:	jimenezf@dodgc.osd.mil
Sent:	Monday, July 25, 2005 1:15 PM
To:	Gorsuch, Neil M
Subject:	FW: McCain Amendments
Attachments:	tmp.htm; Retired Military ltr in Support of McCain amendments July 22 2005.doc; Army Field Manual amdt.pdf; CID amendment.pdf

-----Original Message-----
From: Allen, Charles, Mr, DoD OGC
Sent: Monday, July 25, 2005 13:13
To: Beaver, Diane, Ms, DoD OGC; Fucci, Michael, Mr, DoD OGC
Cc: Printer, Norman, Mr, DoD OGC; Davidson, Eliana, Ms, DoD OGC; Allen, Charles, Mr, DoD OGC; Choi, Christine, Ms, DoD OGC; Jimenez, Frank, Mr, DoD OGC
Subject: FW: McCain Amendments

Diane, yes, please work this one as well as a Levin one on an independent commission and a Graham one on various detainee-related matters.

We'll need to work this fast. Please coordinate with Michael Fucci and others as necessary.

Chuck

Charles A. Allen
Deputy General Counsel
(International Affairs)
703-695-2604

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-----Original Message-----
From: Beaver, Diane, Ms, DoD OGC
Sent: Monday, July 25, 2005 11:27
To: Allen, Charles, Mr, DoD OGC
Subject: FW: McCain Amendments

Is there anything I need to do concerning this legislation?

Diane Beaver
-----Original Message-----

From: Marrone, Christian, CIV, OSD-LA
Sent: Monday, July 25, 2005 11:28
To: Geren, Pete, CIV, OSD; Broome, David, CIV, OSD-LA; Cathey, Jeffrey, CAPT, OSD-LA; Waxman, Matthew, CIV, OSD-POLICY; Haynes, WJ, Hon, DoD OGC; Dell'Orto, Dan, Mr, DoD OGC; Allen, Charles, Mr, DoD OGC; Davidson, Eliana, Ms, DoD OGC; Beaver, Diane, Ms, DoD OGC; Printer, Norman, Mr, DoD OGC; Lambert, Mike, CAPT, OSD-CIO; Pede, Charles N COL OCLL; Ingold, Bernie Mr OCLL; Di Rita, Larry, CIV, OSD-OASD-PA
Cc: Stanley, Daniel, CIV, OSD-LA
Subject: McCain Amendments

Attached are McCain's amendments on the topic of interrogation along with a letter of support. Below, I have highlighted the relevant portions of the amendments.

1. Amendment on Army Field Manual: The Army Field Manual on Interrogation (FM 34-52) shall serve as the basis for the interrogation of all persons in DOD custody or a DOD facility.

* The Army Field Manual amendment does not cast the Field Manual in stone. The Manual could be changed at any time.

* The amendment also requires each detainee in a DOD facility to be registered with the ICRC.

2. Amendment on cruel, inhumane, and degrading treatment: No individual in the custody or under the physical control of the USG, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment.

* Seeks to reduce confusion in the field through simple, clear interpretations.

* The amendment requires no change in our current interrogation and detention practices. It would merely codify a prohibition against treatment that the administration.

Respectfully,

Christian P. Marrone, Esq.
Special Assistant to the Assistant Secretary of Defense
Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
Phone: (703) 693-0305
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AMENDMENT NO. ____ Calendar No. ____

Purpose: To provide for uniform standards for the interrogation of persons under the detention of the Department of Defense.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MCCAIN

Viz:

1 At the end of subtitle G of title X, add the following:

2 **SEC. 1073. UNIFORM STANDARDS FOR THE INTERROGA-**
3 **TION OF PERSONS UNDER THE DETENTION**
4 **OF THE DEPARTMENT OF DEFENSE.**

5 (a) LIMITATION ON INTERROGATION TECHNIQUES.—
6 (1) IN GENERAL.—No person in the custody or
7 under the effective control of the Department of De-

DOJ_NMG_0001841

1 fense or under detention in a Department of De-
2 fense facility shall be subject to any treatment or
3 technique of interrogation not authorized by and
4 listed in the United States Army Field Manual on
5 Intelligence Interrogation.

6 (2) APPLICABILITY.—Paragraph (1) shall not
7 apply to with respect to any person in the custody
8 or under the effective control of the Department of
9 Defense pursuant to a criminal law or immigration
10 law of the United States.

11 (3) CONSTRUCTION.—Nothing in this sub-
12 section shall be construed to affect the rights under
13 the United States Constitution of any person in the
14 custody or under the physical jurisdiction of the
15 United States.

16 (b) PROHIBITION ON INCLUSION OF CERTAIN INTER-
17 ROGATION TECHNIQUES IN ARMY FIELD MANUAL.—No
18 interrogation technique may be included as an authorized
19 interrogation technique within the United States Army
20 Field Manual on Intelligence Interrogation if such tech-
21 nique constitutes torture or cruel, inhumane, or degrading
22 treatment or punishment that is prohibited by the Con-
23 stitution, laws, or treaties of the United States.

24 (c) NOTICE TO CONGRESS OF REVISION OF ARMY
25 FIELD MANUAL.—Not later than 30 days before issuing

DOJ_NMG_0001842

1 any revision to the United States Army Field Manual on
2 Intelligence Interrogation, including an authorization of
3 additional interrogation techniques, the Secretary of De-
4 fense shall submit to the congressional defense committees
5 a report on such revision.

6 (d) REGISTRATION WITH INTERNATIONAL RED
7 CROSS.—Each individual described in subsection (a) who
8 is a national of a foreign country shall be registered with
9 the International Committee of the Red Cross.

DOJ_NMG_0001843

AMENDMENT NO._____ Calendar No._____

Purpose: To prohibit cruel, inhuman, or degrading treatment or punishment of persons under the custody or control of the United States Government.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MCCAIN

Viz:

1 At the end of subtitle G of title X, add the following:

2 **SEC. 1073. PROHIBITION ON CRUEL, INHUMAN, OR DE-**
3 **GRADING TREATMENT OR PUNISHMENT OF**
4 **PERSONS UNDER CUSTODY OR CONTROL OF**
5 **THE UNITED STATES GOVERNMENT.**

6 (a) IN GENERAL.—No individual in the custody or
7 under the physical control of the United States Govern-
8 ment, regardless of nationality or physical location, shall

be subject to cruel, inhuman, or degrading treatment or punishment.

(b) CONSTRUCTION.—Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) LIMITATION ON SUPERSEDURE.—The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this section, the term ''cruel, inhuman, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

Ambassador Douglas "Pete" Peterson
Rear Admiral John D. Hutson (Ret. USN)
Brigadier General James Cullen (Ret. USA)
Brigadier General David M. Brahms (Ret. USMC)
Lieutenant General Claudia J. Kennedy (Ret. USA)
Rear Admiral Don Guter (Ret. USN)
General Richard O'Meara (Ret. USA)
Major General Melvyn Montano (Ret. USAF Nat. Guard)
Commander Frederick C. Baldock (Ret. USN)
Commander Phillip N. Butler (Ret. USN)
Brigadier General David R. Irvine (Ret. USA)

July 22, 2005

Dear Senator McCain:

We strongly support your proposed amendments to the Defense Department Authorization bill concerning detainee policy, including requiring all interrogations of detainees in DOD custody to conform to the U.S. Army's Field Manual on Intelligence Interrogation (FM 34-52), and prohibiting the use of torture and cruel, inhuman and degrading treatment by any U.S. government agency.

The abuse of prisoners hurts America's cause in the war on terror, endangers U.S. service members who might be captured by the enemy, and is anathema to the values Americans have held dear for generations. For many years, those values have been embodied in the Army Field Manual. The Manual applies the wisdom and experience gained by military interrogators in conflicts against both regular and irregular foes. It authorizes techniques that have proven effective in extracting life-saving information from the most hardened enemy prisoners. It also recognizes that torture and cruel treatment are ineffective methods, because they induce prisoners to say what their interrogators want to hear, even if it is not true, while bringing discredit upon the United States.

It is now apparent that the abuse of prisoners in Abu Ghraib, Guantanamo and elsewhere took place in part because our men and women in uniform were given ambiguous instructions, which in some cases authorized treatment that went beyond what was allowed by the Army Field Manual. Administration officials confused matters further by declaring that U.S. personnel are not bound by longstanding prohibitions of cruel treatment when interrogating non-U.S. citizens on foreign soil. As a result, we suddenly had one set of rules for interrogating prisoners of war, and another for "enemy combatants;" one set for Guantanamo, and another for Iraq; one set for our military, and another for the CIA. Our service members were denied clear guidance, and left to take the blame when things went wrong. They deserve better than that.

The United States should have one standard for interrogating enemy prisoners that is effective, lawful, and humane. Fortunately, America already has the gold standard in the Army Field Manual. Had the Manual been followed across the board, we would have been spared the pain of the prisoner abuse scandal. It should be followed consistently from now on. And when agencies other than DOD detain and interrogate prisoners, there should be no legal loopholes permitting cruel or degrading treatment.

The amendments proposed by Senator McCain would achieve these goals while preserving our nation's ability to fight the war on terror. They reflect the experience and highest traditions of the United States military. We urge the Congress to support this effort.

Ambassador Douglas "Pete" Peterson

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Brigadier General James Cullen (Ret. USA)

Brigadier General David M. Brahms (Ret. USMC)

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Commander Frederick C. Baldock (Ret. USN)

Commander Phillip N. Butler (Ret. USN)

Brigadier General David R. Irvine (Ret. USA)

Ambassador Douglas "Pete" Peterson

Ambassador Peterson served as the ambassador to the Socialist Republic of Vietnam until 2001. Prior to his diplomatic posting, Ambassador Peterson served three terms as a member of the United States House of Representatives, representing the Second Congressional District of Florida. He served 26 years in the United States Air Force having served in worldwide assignments as a fighter pilot and commander. He is a distinguished combat veteran of the Vietnam War and was incarcerated as a POW during that conflict for more than six years. He completed his military service in 1981 and has extensive experience in the private sector.

Rear Admiral John D. Hutson (Ret. USN)

Admiral John D. Hutson served as the Navy's Judge Advocate General from 1997 to 2000. Admiral Hutson now serves as President and Dean of the Franklin Pierce Law Center in Concord, New Hampshire.

Brigadier General James Cullen (Ret. USA)

General Cullen is a retired Brigadier General in the United States Army Reserve Judge Advocate General's Corps and last served as the Chief Judge (IMA) of the U.S. Army Court of Criminal Appeals. He currently practices law in New York City.

Brigadier General David M. Brahms (Ret. USMC)

General Brahms served in the Marine Corps from 1963-1988. He served as the Marine Corps' senior legal adviser from 1983 until his retirement in 1988. General Brahms currently practices law in Carlsbad, California and sits on the board of directors of the Judge Advocates Association.

Lieutenant General Claudia J. Kennedy (Ret. USA)

General Kennedy is the first and only woman to achieve the rank of three-star general in the United States Army. Kennedy served as Deputy Chief of Staff for Army Intelligence, Commander of the U.S. Army Recruiting Command, and as Commander of the 703d military intelligence brigade in Kunia, Hawaii.

Rear Admiral Don Guter (Ret. USN)

Admiral Guter served as the Navy's Judge Advocate General from 2000 to 2002. Admiral Guter is currently CEO of Vinson Hall Corporation/Executive Director of the Navy Marine Coast Guard Residence Foundation in McLean, Virginia.

General Richard O'Meara (Ret. USA)

Brigadier General Richard O'Meara is a combat decorated veteran who fought in Vietnam before earning his law degree and joining the Army's Judge Advocate General Corps. He retired from the Army Reserves in 2002 and now teaches courses on Human Rights and History at Kean University and at Monmouth University.

Major General Melvyn Montano (Ret. USAF Nat. Guard)

General Montano was the adjutant general in charge of the National Guard in New Mexico from 1994 to 1999. He served in Vietnam and was the first Hispanic Air National Guard officer appointed as an adjutant general in the country.

Commander Frederick C. Baldock (Ret. USN)

Commander Baldock was a Navy pilot and is a combat veteran of the Vietnam War. His plane was shot down over North Vietnam in 1966, and he spent seven years in captivity as a POW.

Commander Phillip N. Butler (Ret. USN)

Commander Butler was a Navy pilot and is a combat veteran of the Vietnam War. His plane was shot down over North Vietnam in 1965, and he spent nearly eight years in captivity as a POW.

Brigadier General David R. Irvine (Ret. USA)

General Irvine is a retired Army Reserve strategic intelligence officer and taught prisoner interrogation and military law for 18 years with the Sixth Army Intelligence School. He last served as Deputy Commander for the 96th Regional Readiness Command, and currently practices law in Salt Lake City, Utah.

-----Original Message-----
From: Allen, Charles, Mr, DoD OGC
Sent: Monday, July 25, 2005 13:13
To: Beaver, Diane, Ms, DoD OGC; Fucci, Michael, Mr, DoD OGC
Cc: Printer, Norman, Mr, DoD OGC; Davidson, Eliana, Ms, DoD OGC; Allen, Charles, Mr, DoD OGC; Choi, Christine, Ms, DoD OGC; Jimenez, Frank, Mr, DoD OGC
Subject: FW: McCain Amendments

Diane, yes, please work this one as well as a Levin one on an independent commission and a Graham one on various detainee-related matters.

We'll need to work this fast. Please coordinate with Michael Fucci and others as necessary.

Chuck

Charles A. Allen
Deputy General Counsel
(International Affairs)
703-695-2604

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

-----Original Message-----
From: Beaver, Diane, Ms, DoD OGC
Sent: Monday, July 25, 2005 11:27
To: Allen, Charles, Mr, DoD OGC
Subject: FW: McCain Amendments

Is there anything I need to do concerning this legislation?

Diane Beaver
-----Original Message-----
From: Marrone, Christian, CIV, OSD-LA
Sent: Monday, July 25, 2005 11:28
To: Geren, Pete, CIV, OSD; Broome, David, CIV, OSD-LA; Cathey, Jeffrey, CAPT, OSD-LA; Waxman, Matthew, CIV, OSD-POLICY; Haynes, WJ, Hon, DoD OGC; Dell'Orto, Dan, Mr, DoD OGC; Allen, Charles, Mr, DoD OGC; Davidson, Eliana, Ms, DoD OGC; Beaver, Diane, Ms, DoD OGC; Printer, Norman, Mr, DoD OGC; Lambert, Mike, CAPT, OSD-CIO; Pede, Charles N COL OCLL; Ingold, Bernie Mr OCLL; Di Rita, Larry, CIV, OSD-OASD-PA
Cc: Stanley, Daniel, CIV, OSD-LA
Subject: McCain Amendments

Attached are McCain's amendments on the topic of interrogation along with a letter of support. Below, I have highlighted the relevant portions of the amendments.

1. **Amendment on Army Field Manual**: The Army Field Manual on Interrogation (FM 34-52) shall serve as the basis for the interrogation of all persons in DOD custody or a DOD facility.

- The Army Field Manual amendment does not cast the Field Manual in stone. The Manual could be *changed at any time*.
- The amendment also requires each detainee in a DOD facility to be registered with the ICRC.

2. **Amendment on cruel, inhumane, and degrading treatment**: No individual in the custody or under the physical control of the USG, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment.

- Seeks to reduce confusion in the field through simple, clear interpretations.
- The amendment requires *no change* in our current interrogation and detention practices. It would merely codify a prohibition against treatment that the administration.

Respectfully,

Christian P. Marrone, Esq.
Special Assistant to the Assistant Secretary of Defense
Legislative Affairs
1300 Defense Pentagon, Room 3D918
Washington, D.C. 20310-1300
Phone: (703) 693-0305
Fax: (703) 697-8299
Cell: (703) 380-9563

CAUTION: This message may contain information protected by the attorney client, attorney work product, deliberative process, or other privilege. No dissemination of this email message is authorized without the prior written approval of the Office of the Assistant Secretary of Defense for Legislative Affairs. The guidance contained in this email message is unofficial. If official guidance is required, a written request must be submitted. The Office of the Assistant Secretary of Defense for Legislative Affairs provides no assurance as to the integrity of this message's content after it has been sent to and received by the intended mail recipient.

jimenezf@dodgc.osd.mil

From:	jimenezf@dodgc.osd.mil
Sent:	Monday, July 25, 2005 12:59 PM
To:	Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov; Heckerk@dodgc.osd.mil; hemingwt@dodgc.osd.mil
Subject:	Proposed Rasul habeas fix
Attachments:	HEN05696_xml.pdf

To be offered by Senator Kyl.

AMENDMENT NO._____ Calendar No._____

Purpose: To address the detention of enemy combatants.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. KYL

Viz:

1 On page 286, between lines 7 and 8, insert the fol-
2 lowing:

3 **SEC. 1073. DETENTION OF ENEMY COMBATANTS.**

4 (a) IN GENERAL.—Section 2241 of title 28, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 ''(e) No court, justice, or judge shall have jurisdiction
8 to consider—

1 "(1) an application for a writ of habeas corpus
2 filed on behalf an alien who is detained as an enemy
3 combatant by the Secretary of Defense; or
4 "(2) any other action challenging any aspect of
5 the detention of an alien who is detained by the Sec-
6 retary of Defense as an enemy combatant, if the
7 alien has been afforded an opportunity to challenge
8 such detention pursuant to procedures established by
9 the Secretary of Defense.".
10 (b) APPLICATION.—The amendments made by this
11 section shall apply to any application or other action pend-
12 ing on or after the date of enactment of this Act.

jimenezf@dodgc.osd.mil

From:	jimenezf@dodgc.osd.mil
Sent:	Monday, July 25, 2005 3:14 PM
To:	Scolinos, Tasia; Gorsuch, Neil M
Subject:	FW: fyi, from the national review media blog
Attachments:	tmp.htm

-----Original Message-----
From: Di Rita, Larry, CIV, OSD-OASD-PA
Sent: Monday, July 25, 2005 15:16
To: Dell'Orto, Dan, Mr, DoD OGC; Jimenez, Frank, Mr, DoD OGC
Cc: Richard, Joseph, Col OASD-PA; Thorp, Frank, CAPT, OCJCS/PA
Subject: fyi, from the national review media blog

BM_070720

The Markup
NY Times Falsely Accuses Government of Lawlessness 07/25 02:07 PM <http://media.nationalreview.com/070720.asp>

New York Times reporter Kate Zernike messed up when she wrote this story <http://www.nytimes.com/2005/07/23/politics/23abuse.html> , entitled, "Government Defies an Order to Release Iraq Abuse Photos." The story, which ran in the Times on Saturday, is incorrect. The government has not defied any order to release Iraq abuse photos. There never was an order to release Iraq abuse photos.

Zernike reports:

Lawyers for the Defense Department are refusing to cooperate with a federal judge's order to release secret photographs and videotapes related to the Abu Ghraib prison abuse scandal.

Wrong. The court order in <http://www.aclu.org/Files/OpenFile.cfm?id=18396> question, issued after the American Civil Liberties Union filed a Freedom of Information Act request for the remaining photos and videotapes from the Abu Ghraib prison abuse investigation, only directed the military to prepare the photos and videotapes for release, pending further legal action. The court ordered the military to redact the photos and videos by July 22nd - to remove any identifying features from the prisoners in order to protect their privacy. The government complied with the order, but then filed a sealed brief invoking FOIA exemption 7F <http://www.usdoj.gov/oip/exemption7f.htm> , which allows government documents to be exempt from FOIA if their disclosure could reasonably be expected to endanger the life of any individual. As Pentagon spokesman Lt. Col. John Skinner explained:

The official release of these images, many of which are already widely available on the Internet, could

only further inflame anger around the world and endanger our men and women on the front lines in the war on terror. One only has to go back to the false flushed-Koran story to realize that these are the types of images that have fueled the propaganda machines that radicals use to justify acts of terror.

Zernike reports:

In early June, Judge Alvin K. Hellerstein of Federal District Court in Manhattan ordered the release of the additional photographs, part of a Freedom of Information Act lawsuit filed by the American Civil Liberties Union to determine the extent of abuse at American military prisons in Iraq and Afghanistan and at Guantánamo Bay, Cuba.

Wrong again. I contacted the U.S. Attorney's office that is representing the military in this case. A spokesman responded:

The Government did not defy a court order. The July 22nd deadline was for complete redaction for all the photos and videos; there was no order requiring their release.

I also contacted the ALCU to find out if there was some other court order to release the photos that I didn't know about. A spokeswoman responded:

Within the context of the broader lawsuit, our goal is to have the photos made public, but the order was just to have the photos redacted.

The ACLU's press <http://www.aclu.org/SafeandFree/SafeandFree.cfm?ID=18811&c=206> release, while technically accurate, is misleading. However, the Times reporting is flatly incorrect. I e-mailed both Zernike and Times public editor Byron Calame this morning. As of this afternoon I haven't received a response.

No matter how you feel about the release of the Abu Ghraib photographs, the Times has accused the government of lawlessness - a charge that is unsupported by the facts. The Times owes its readers a correction, and Calame should explain how this error occurred.

UPDATE: 2:20 p.m.: I just received an e-mail from Kate Zernike. Here's her take on the mistake:

I'm pretty sure the story said just that, that the judge told them to redact the photos to avoid identifying details. The error is, I believe, that they're to be turned over to the court, not released in the same manner that the earlier docs have been (i.e. publicly.) And that we'll correct.

So the Times will be issuing a correction, which is good news. But that still doesn't square with the government's version of the story, which is that the government has not "defied" any court order. I can't find anything in the order directing the government to turn over the photos and tapes to the court. But I'm not a lawyer - is an order to turn over the photos and tapes just understood in these cases?

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Sent: Monday, July 25, 2005 15:16
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Cc: Richard, Joseph, Col OASD-PA; Thorp, Frank, CAPT, OCJCS/PA
Subject: fyi, from the national review media blog

THE MARKUP

NY *Times* Falsely Accuses Government of Lawlessness

07/25 02:07 PM

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Zernike reports:

> Lawyers for the Defense Department are refusing to cooperate with a federal judge's order to release secret photographs and videotapes related to the Abu Ghraib prison abuse scandal.

Wrong. The court order in question, issued after the American Civil Liberties Union filed a Freedom of Information Act request for the remaining photos and videotapes from the Abu Ghraib prison abuse investigation, only directed the military to prepare the photos and videotapes for release, pending further legal action. The court ordered the military to redact the photos and videos by July 22nd - to remove any identifying features from the prisoners in order to protect their privacy. The government complied with the order, but then filed a sealed brief invoking FOIA exemption 7F, which allows government documents to be exempt from FOIA if their disclosure could reasonably be expected to endanger the life of any individual. As Pentagon spokesman Lt. Col. John Skinner explained:

> The official release of these images, many of which are already widely available on the Internet, could only further inflame anger around the world and endanger our men and women on the front lines in the war on terror. One only has to go back to the false flushed-Koran story to realize that these are the types of images that have fueled the propaganda machines that radicals use to justify acts of terror.

Zernike reports:

> In early June, Judge Alvin K. Hellerstein of Federal District Court in Manhattan ordered the release of the additional photographs, part of a Freedom of Information Act lawsuit filed by the American Civil Liberties Union to determine the extent of abuse at American military prisons in Iraq and Afghanistan and at Guantánamo Bay, Cuba.

Wrong again. I contacted the U.S. Attorney's office that is representing the military in this case. A spokesman responded:

> The Government did not defy a court order. The July 22nd deadline was for complete redaction for all the photos and videos; there was no order requiring their release.

I also contacted the ALCU to find out if there was some other court order to release the photos that I didn't know about. A spokeswoman responded:

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 3:16 PM
To: Yanes, Raul
Subject: RE: Detainee Legislation

Agreed. Hope the return to Darby and Detainees hasn't proven too painful after a week at the beach with kids (though merely saying that seems awfully painful)!

-----Original Message-----
From: Yanes, Raul
Sent: Monday, July 25, 2005 2:08 PM
To: Gorsuch, Neil M
Subject: RE: Detainee Legislation

Once you have collected views on this, I think we should bring it back to the AG for a discussion of overall strategy.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 1:50 PM
To: Moschella, William; Brand, Rachel
Cc: Elwood, Courtney; Yanes, Raul; McCallum, Robert (SMO)
Subject: Detainee Legislation

Since Friday, DoD has forwarded a series of proposed detainee bills apparently circulating in the Senate. The WH has announced that it opposes such legislation. I wanted you to have these, and will pass along anything else I receive along these lines. Can you help assess for us how (if at all) we should be responding? Esp. to potentially harmful/unsound policy? Thanks, NMG

<< Message: FYI >> << Message: Detainees >> << Message: Detainees >>

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
e-mail: neil.gorsuch@usdoj.gov

Elwood, Courtney

From: Elwood, Courtney
Sent: Monday, July 25, 2005 3:17 PM
To: Gorsuch, Neil M; Moschella, William; Brand, Rachel
Cc: Yanes, Raul; McCallum, Robert (SMO)
Subject: RE: Detainee Legislation

I was under the impression that we had been directed not provide anyone outside the Dept. with our views regarding legislation on detainees. But perhaps my understanding is mistaken. If so, please let me know.

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From: Gorsuch, Neil M
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To: Moschella, William; Brand, Rachel
Cc: Elwood, Courtney; Yanes, Raul; McCallum, Robert (SMO)
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<< Message: FYI >> << Message: Detainees >> << Message: Detainees >>

Neil M. Gorsuch
Principal Deputy Associate Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 5706
Washington, D.C. 20530
direct dial: (202) 305-1434
cell: (202) 532-5384
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 3:35 PM
To: Elwood, Courtney; Moschella, William; Brand, Rachel
Cc: Yanes, Raul; McCallum, Robert (SMO)
Subject: RE: Detainee Legislation

Those are the marching directions as I understand them. While are are not talking externally, with all these new bills now being introduced, internally we may need to decide whether and how we are going to respond to the inevitable requests for testimony, views, etc. Guidance from our legislative experts would be very helpful.

-----Original Message-----
From: Elwood, Courtney
Sent: Monday, July 25, 2005 3:17 PM
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Cc: Yanes, Raul; McCallum, Robert (SMO)
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cell: (202) 532-5384
e-mail: neil.gorsuch@usdoj.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 5:27 PM
To: Yanes, Raul
Subject: FW: fyi, from the national review media blog
Attachments: tmp.htm

FYI

-----Original Message-----
From: jimenezf@dodgc.osd.mil [mailto:jimenezf@dodgc.osd.mil]
Sent: Monday, July 25, 2005 3:15 PM
To: Scolinos, Tasia; Gorsuch, Neil M
Subject: FW: fyi, from the national review media blog

-----Original Message-----
From: Di Rita, Larry, CIV, OSD-OASD-PA
Sent: Monday, July 25, 2005 15:16
To: Dell'Orto, Dan, Mr, DoD OGC; Jimenez, Frank, Mr, DoD OGC
Cc: Richard, Joseph, Col OASD-PA; Thorp, Frank, CAPT, OCJCS/PA
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BM_070720

The Markup
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and videotapes from the Abu Ghraib prison abuse investigation, only directed the military to prepare the photos and videotapes for release, pending further legal action. The court ordered the military to redact the photos and videos by July 22nd - to remove any identifying features from the prisoners in order to protect their privacy. The government complied with the order, but then filed a sealed brief invoking FOIA exemption 7F <http://www.usdoj.gov/oip/exemption7f.htm> , which allows government documents to be exempt from FOIA if their disclosure could reasonably be expected to endanger the life of any individual. As Pentagon spokesman Lt. Col. John Skinner explained:

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-----Original Message-----
From: Di Rita, Larry, CIV, OSD-OASD-PA
Sent: Monday, July 25, 2005 15:16
To: Dell'Orto, Dan, Mr, DoD OGC; Jimenez, Frank, Mr, DoD OGC
Cc: Richard, Joseph, Col OASD-PA; Thorp, Frank, CAPT, OCJCS/PA
Subject: fyi, from the national review media blog

THE MARKUP

NY *Times* Falsely Accuses Government of Lawlessness

07/25 02:07 PM

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, July 25, 2005 6:19 PM
To: Brett Gerry (E-mail)
Subject: NYT article on detainees

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07/25 02:07 PM <http://media.nationalreview.com/070720.asp>

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From: Gorsuch, Neil M
Sent: Tuesday, July 26, 2005 4:14 PM
To: Wiggins, Mike
Subject: FW: NYT article on detainees

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McDowell, Cynthia

From: McDowell, Cynthia
Sent: Thursday, July 28, 2005 2:10 PM
To: Andrea Bottner; Andrew Emrich; Brad Schlozman; Bruce Mcdonald; Carl Nichols; Carl Peed; Cheri Nolan; Clifford White; Crystal Roberts; Cybele Daley; Dan Meron; Deborah Rhodes; Deborah Spagnoli; Domingo Herraiz; Donald Gambatesa; Edward McNally; Elizabeth Kessler; Gregory Katsas; Howard Nielson; Jeffrey Bucholtz; Jeffrey Clark; Jeffrey Taylor; John Richter; Jonathan Cohn; Joseph Bianco; Kelly Johnson; Kristi Macklin; Kyle Sampson; Laura Parsky; Lily Swenson; Luis Reyes; Makan Delrahim; Michael Battle; Monica Goodling; Neil Gorsuch; Nicholas Tzitzon; Pat O'Brien; Patrick Hofer; Patrick Philbin; Paul Clement; Rachel Brand; Raul Yanes; Rebecca Seidel; Richard Hertling; Richard Morrison; Robert Flores; Rod Rosenstein; Sean McLaughlin; Sharee Freeman; Steve Bradbury; Steven McFarland; Stuart Nash; Tasia Scolinos; Theodore Ullyot; Thomas Barnett; Tracy Henke; Uttam Dhillon; Wan Kim; Alex MacLean; Amy Grimsrud; Andrew Ames; Andrew Beach; Angela Williamson; Asheesh Agarwal; Ben Curtis; Beth Collins Cook; Brian Cohen; Bruce Taylor; C. Kevin Marshall; Candice Chiu; Carrie Nelson; Connor Flaherty; Courtney Elwood; Cynthia Magnuson; Cynthia McKnight; Deborah Underhill; Ebony Lee; Elizabeth Apisson; Eric Akers; Eric Holland; Evan Gilbert; Gordon Todd; Grant Nichols; Jaclyn Lesch; James OConnell; Jan Williams; Jana White; Janet Potter; Jason Torchinsky; Jennifer Korn; Jessica Gavora; John Eddy; John Irving; John Nowacki; Julie Warren; Kerri Strug; Kiahna Sellers; Kimberly Smith; Lara Reynolds; Lindsey de la Torre; Mark Metcalf; Mary Neumayr; Matt David; Matt Robinson; Matt Roper; Matthew Miranda; Michael Costigan; Michael Tierney; Miriam Moore; Molly Donlin; Natalie Voris; Neal Jungeblut; Omar Vargas; Patrick McArthur; Price Roe; Raquel Sours; Rena Comisac; Ryan Bounds; Sandra Malloy; Shane Chambers; Stephanie McNees; Stuart Nash; Theodore Cooperstein; Tim Racicot; Trent Luckinbill; Tucker McNeil; Wanda Martinson; William Otis; William Woodruff
Subject: The DOJ Newsletter - July 2005 Edition

The DOJ Newsletter

July 2005 Edition

Welcome to the Appointee Staff of …

The Office of Solicitor General

... ***Paul Clement*** *(U.S. Solicitor General). Mr.* Clement has argued over 25 cases before the United States Supreme Court and many of the key cases in the lower courts involving challenges to the President's conduct of the war on terrorism. Before his confirmation in June 2005, he served as Acting Solicitor General and Principal Deputy Solicitor General and also was an adjunct professor at the Georgetown University Law Center. Before joining the Justice Department, Paul was a partner in the Washington, D.C., office of King & Spalding, where he headed the firm's appellate practice. Previously, he served as Chief Counsel of the U.S. Senate Subcommittee on the Constitution, Federalism and Property Rights. He clerked for Justice Antonin Scalia of the U.S. Supreme Court and Judge Laurence H. Silberman of the U.S. Court of Appeals for the D.C. Circuit. Paul is a native of Cedarburg, Wisconsin. He graduated *magna cum laude* from Harvard Law School, holds a Master's Degree in economics from Cambridge University and a Bachelor's Degree *summa cum laude* from the Georgetown University School of Foreign Service. He is married to Alexandra Clement and they have three sons. He is an avid biker and may be seen biking into work in fair weather.

... ***Janet Potter*** *(Executive Assistant to the U.S. Solicitor General).* Janet joined the Department of Justice in 2001 as Confidential Assistant to Attorney General Ashcroft with prior service in the U.S. Senate. She helped organize the National Prayer Breakfast for two years prior to joining the Senate, and before that, served some seventeen years in mission work overseas, mostly in Europe. Janet is a native of Kansas City, Missouri, who received her undergraduate degree in Psychology from a private college in Missouri and went on to receive a diploma in counseling from the University of the Nations. She finds this education helpful, she says, in her work at the Department of Justice. Janet loves shopping, most genres of movies and live theater (Did anyone else see Cyrano de Bergerac at the Shakespeare Theatre… one of her favorites of all time).

The Office of the Associate Attorney General

…**Robert D. McCallum, Jr.** (Associate Attorney General). Mr. McCallum joined the U.S. Department of Justice in 2001 as Assistant Attorney General, Civil Division, and has also served as Acting Associate Attorney General and Acting Deputy Attorney General. He was an active partner with Alston & Bird law firm prior to joining the U.S. Department of Justice. He is an alumnus of Yale University (National Merit Scholarship, Gordon Brown Prize, Varsity Basketball and Varsity Tennis), Christ Church, Oxford, England (Rhodes Scholarship, First Class Honors, John Radcliffe Exhibition, "Blues" in basketball and tennis), and earned his J.D. at Yale Law School (NCAA Post-Graduate Scholarship). Mr. McCallum is married to the former Mary "Mimi" Rankin Weems of Memphis, Tennessee, and they have two children. His former hobby was tennis; his current hobby is robust hiking.

…**Neil M. Gorsuch** (Principal Deputy Associate Attorney General). Prior to joining the U.S. Department of Justice, Neil was a partner at the Washington, D.C. firm of Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC, where he specialized in complex trial and appellate litigation. Previously, he clerked for Justice Byron R. White and Justice Anthony M. Kennedy on the U.S. Supreme Court, and for Judge David B. Sentelle on the U.S. Court of Appeals for the D.C. Circuit. He is an alumnus of Columbia University, received his J.D. from Harvard Law

School, and received his D.Phil. in legal philosophy from Oxford University where he studied as a Marshall Scholar. Neil is a fourth generation Coloradoan, is married to Louise Gorsuch (a Brit and a fellow student at Oxford who he somehow convinced to move "across the pond") and they have two daughters, Emma (5) and Belinda (3). Pets: "the usual dog and cat." Hobbies: include fly fishing, skiing, tennis, and participating in the Council on Foreign Relations.

…Tracy A. Henke (Deputy Associate Attorney General). Prior to joining the Office of the Associate Attorney General, Tracy served as Acting Assistant Attorney General and Principal Deputy Assistant Attorney General for the Office of Justice Programs. Prior to joining the U.S. Department of Justice, Ms. Henke served as Senior Policy Advisor to Senator Christopher S. Bond. The President intends to nominate Ms. Henke to be Executive Director of the Office of State and Local Government Coordination and Preparedness at the Department of Homeland Security. Tracy is a native Missourian and is an alumnae of the University of Missouri, Columbia.

…J. Michael Wiggins (Deputy Associate Attorney General). Prior to joining the U.S. Department of Justice, Mike served at Kilpatrick Stockton LLP in Atlanta, Georgia. He hails from Alabama, is an alumnus of Saint Bernard College and earned his J.D. from the University of Georgia School of Law where he was first in his class and SGA President. He then clerked for the Honorable J. L. Edmondson, 11th Circuit. Mike is married to Erika Birg and loves to hunt and fish.

…**Elizabeth A. Kessler** (Deputy Associate Attorney General). Prior to joining the Office of the Associate Attorney General, Elizabeth served as a Deputy General Counsel at the U.S. Department of Energy, served as a Senate Judiciary Committee staffer, and in earlier DOJ career positions as a Bristow Fellow in the Office of the Solicitor General and then staff attorney in the Civil Division, Appellate Staff. Elizabeth is an alumnae of Columbia College, Yale University and received her J.D. from Yale Law School. She calls Maryland her native state (at this point), is married to Scott Hembrough and they have two great children, Eric (3) and Isabel (2). Her hobby? Biking to work.

… **Lily Fu Swenson** (Deputy Associate Attorney General). Prior to joining the U.S. Department of Justice, Lily served as the D.C. Hiring Partner at Mayer, Brown, Rowe & Maw LLP, and served as Law Clerk to the Honorable Michael S. Kanne, U.S. Court of Appeals for the Seventh Circuit. Lily hails from Chicago, Illinois, and is an alumnae of the University of Wisconsin at Madison and the University of Minnesota Law School. She started running a few years ago and loves it, having participated in a few road races with hopes to do more. Lily enjoys watching sports and holds season tickets to both the Nationals and the Capitals. It's reported that, typical of many attorneys, her collection of books and records is big (and ever growing); Lily tries to read as much fiction and poetry as she can. What does she do for relaxed fun? A bit of karaoke!

…Luis Reyes (Chief of Staff and Deputy Associate Attorney General). Prior to joining the Office of the Associate Attorney General, Luis served as Counselor to the Assistant Attorney General for the Department's Civil Rights Division; and as Counsel to the Assistant Attorney General for the Civil Division. He joined the Department of Justice in 2001, after serving as an

Assistant Attorney General for the State of Texas for three years under then state Attorney General John Cornyn. Luis proudly hails from "The Great State of Texas" (Austin), is a graduate of the University of Texas at Austin and the University of Texas School of Law. Like any good Texan, he enjoys a good steak, live music, playing golf, baseball, and watching college football. He's also been known to go on phases where he runs regularly (in between the holidays). His dog, Smokey the German Sheppard, is with his brother back in Texas. Spare time is usually filled with practicing the guitar and piano, and visiting Texas, of course.

Congratulations are in order to these employees upon these happy events in their lives.

Recent Marriages …

...Best Wishes to **Kristi Remington Macklin** (Deputy Assistant Attorney General, Office of Legal Policy) and her new husband Gil Macklin. The couple married on April 30 in Washington, D.C. and enjoyed their honeymoon in St. Lucia. They met while working together for the House Committee on Government Reform in 1998.

Family Additions…

…Congratulations to **Rena Comisac** (CRM) and her husband,Marc, upon the birth of their second child and first daughter, Katherine Lois Comisac, a/k/a "Kelcie," born on July 2, 2005, at 9:48 p.m. At birth, Kelcie weighed 8 lbs, 4.3 oz and measured 20 inches long. Her big brother, Parker (age 3), loves her a lot, but their cat, Captain Calico, may be pushed right over the edge (he spent most of his time hiding from Parker as it was!). The family is at home in Alexandria Virginia's Rosemont neighborhood.

…Congratulations to **Richard Morrison** (TAX) and his wife, Rebecca, upon the birth of their first born, Maximilian Casimir Morrison, known as "Max." He was born May 27, 2005, a healthy 7 lbs. 11 oz. and is reported to have a headful of black hair, smiles a lot, and basically is enjoying his baby-dom. The Morrison's met in Chicago, married in October 2003, and live in Arlington, Virginia.

…Congratulations to **Patrick O'Brien** (ODAG) and his wife, Maureen, upon the birth of their second born, Margaret Theresa" Maggie." Maggie weighed in at 8 lbs., measured 20" and joins her18-month old sister, Molly (who thinks she is the greatest new toy she could ever imagine…).

Wedding Anniversaries…

…Congratulations to **Carl Peed** and his wife, Charlotte, upon their 31 years of marriage! Together they have enjoyed raising three beautiful daughters and 31 wonderful years together. Carl says Charlotte is a trooper as she weathered (beautifully) his 30 years in law enforcement. The Peed's hail from Fairfax County, Virginia, and Carl joined DOJ in September, 2001 (one week before 9-11-01), as Director of Community-Oriented Policing Services.

~

Everyone is welcome to share their good news as it happens - and we hope they will! If you have news of a recent engagement or marriage, family addition or other items, simply email your item to

Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317
Washington, D.C. 20530
Tel: [redacted] Fax: (202) 514-3546

Rubin, Jim (ENRD)

From: Rubin, Jim (ENRD)
Sent: Thursday, July 28, 2005 5:28 PM
To: Gorsuch, Neil M; Kessler, Elizabeth A
Cc: Johnson, Kelly A. (ENRD); McAtamney, James A; Oppenheimer, Peter (ENRD); Milius, Pauline (ENRD)
Subject: fyi, here is copy of a letter apparently winging its way to the AG on the Marine Transportation System . . .
Attachments: Attorney General_Final.pdf

As you will see, it asks for the AG to designate someone to serve as agency rep on the MTS Coordinating Body at "assistant secretary level or above." (If you feel we really need to appoint someone at this level, perhaps we can do it in name only, and have that rep delegate any meeting attendance responsibilities to one of us underlings!) Pls advise on how you wish us to handle. This letter will no doubt go into Exec Sec and take its time coming to us all, but wanted to give you a heads up.

THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

JUL 28 2005

The Honorable Alberto R. Gonzales
Attorney General
U.S. Department of Justice
Washington, DC 20530-0001

Dear Mr. ~~Attorney General~~ ALBERTO:

Thank you for sending your Associate Attorney General, Mr. Robert D. McCallum, Jr., as your representative to the inaugural meeting of the Committee on the Marine Transportation System (CMTS) on July 11. I am glad that we were able to have a productive meeting. As part of the meeting, the Committee authorized a Coordinating Board specifically responsible for improving our Nation's Marine Transportation System (MTS) and approved the CMTS Charter.

To continue this process, we are planning to convene a meeting of the authorized Coordinating Board soon. Please forward the name of your designee (Assistant Secretary or higher) to the Coordinating Board no later than Friday, August 12 to Under Secretary of Transportation for Policy, Jeffrey N. Shane. Only by bringing together persons at the highest levels who have an interest in the MTS can we begin to address the needs of this critical system.

In addition, it is important that the CMTS Charter, which we agreed to at the meeting, be formally adopted. Therefore, please sign the enclosed CMTS charter on the appropriate line and return it to the Department of Transportation.

I appreciate your willingness to help improve our MTS and look forward to working with you on this endeavor. I will contact you in the near future regarding your involvement in the Committee's next steps. If I can provide further information or assistance, please feel free to call me or Jeffrey N. Shane, Under Secretary of Transportation for Policy, at (202) 366-1815.

Sincerely yours,

Norman Y. Mineta

Enclosure

CHARTER FOR THE COMMITTEE ON THE MARINE TRANSPORTATION SYSTEM

I. Parties

The parties to this Charter are: the U.S. Department of Transportation, the U.S. Department of Commerce, the U.S. Department of Defense, the U.S. Department of Homeland Security, the U.S. Department of the Treasury, the U.S. Department of State, the U.S. Department of the Interior, the U.S. Department of Agriculture, the U.S. Department of Justice, the U.S. Department of Labor, the Environmental Protection Agency, the Office of Management and Budget, and the Federal Maritime Commission.

II. Authority

The authority to establish this Committee derives from a directive by the President in the U.S. Ocean Action Plan, issued, December 17, 2004, "Supporting Marine Transportation."

III. Purpose

A. To create a partnership of Federal agencies with responsibility for the Marine Transportation System (MTS) - waterways, ports and their intermodal connections – to ensure the development and implementation of national MTS policies consistent with national needs and report to the President its views and recommendations for improving the MTS.

B. The partnership established by this Charter, to be known as the Committee on the Marine Transportation System (CMTS), and its constituent sub-organizations described in paragraphs VI-VIII below, will be responsible for the following:

- improving Federal MTS coordination and policies;
- promoting the environmentally sound integration of marine transportation with other modes of transportation and with other ocean, coastal, and Great Lakes uses;
- developing outcome-based goals and strategic objectives for the safety, security, efficiency, economic vitality, environmental health, and reliability of the MTS for commercial and national defense requirements, as well as a method for monitoring progress towards those goals;
- coordinating budget and regulatory activities that impact the MTS; and
- recommending strategies and implement plans to maintain and improve the MTS.

IV. Organization

The CMTS is a Federal cabinet-level inter-agency organization that reports to the President and is supported by three sub-organizations: the Coordinating Board (CB), the Executive Secretariat (ES), and Integrated Action Teams (IATs).

A. The Committee on the Marine Transportation System

1. The Committee is comprised of the heads of Federal agencies, or their senior level designees. Through the Committee each member agency has a unique capacity to work collaboratively on MTS matters. The Committee will meet as appropriate, but not less than twice a year, to address nationally significant MTS issues. The Committee or any of its members can identify proposed agenda items.

2. Membership

The Committee will be chaired by the Secretary, Department of Transportation (DOT). The following Heads of Agencies, or their senior level designees, also serve as Committee members.

- Secretary of Commerce;
- Secretary of Defense;
- Secretary of Homeland Security;
- Secretary of the Treasury;
- Secretary of State;
- Secretary of the Interior;
- Secretary of Agriculture;
- Attorney General;
- Secretary of Labor;
- Administrator of the Environmental Protection Agency;
- Chairman of the Federal Maritime Commission; and
- the head of any other Federal agency that the Committee Chair, with the approval of a majority of the voting members of the Committee, determines can further the purpose and activities of the Committee

3. Ex-officio members of the Committee, who can participate as non-voting members include the:

- Director, Office of Management and Budget;
- Chairman, Council on Environmental Quality;
- Assistant to the President for Homeland Security;
- Assistant to the President for Domestic Policy; and
- Assistant to the President for Economic Policy

DOJ_NMG_0001880

4. Consultation

In carrying out its functions and activities under this Charter, the Committee will consult with the Marine Transportation System National Advisory Council (MTSNAC), Congressional representatives and staff members, the public, and other interested parties.

B. Coordinating Board (CB)

1. The CB will be comprised of senior-level representatives designated by each Committee member. The CB will assist Committee members in exercising their duties and responsibilities in accordance with this Charter. The chair of the CB will be rotated among the Commandant of the U. S. Coast Guard, the Chief of the U. S. Army Corps of Engineers, the Maritime Administrator and the National Oceanic and Atmospheric Administration Administrator. The CB will meet periodically to assist the Committee in formulating its recommendations and will report directly to the Committee.

2. The Coordinating Board is responsible for:

- creating and implementing the joint strategic plan for improving the MTS;
- coordinating and integrating the work of each IAT;
- recommending interagency procedures and mechanisms to achieve coordination of the partnering agencies' MTS activities and programs, including budget and appropriations requests, research and development studies and projects, and acquisitions for products and services;
- selecting lead agency for each IAT; and
- overseeing data acquisition and management for the MTS to support performance metrics.

C. Executive Secretariat (ES)

1. The ES is the staff body of the CMTS, made up of Federal employees from CMTS member agencies. The ES Director will be an employee of the Department of Transportation who reports directly to the Under Secretary of Transportation for Policy. The ES serves as a technical advisory body to the CB and the IATs. The Director shall keep the CB informed of all developments, including matters to be brought before the Committee, necessary for the CB to fulfill its responsibilities. The ES Director is the Executive Secretary to the CB.

2. The Executive Secretariat is responsible for:

- ensuring liaison, coordination, collaboration, and clear communications among member agencies, other stakeholders, and the CB;
- presenting consolidated agency interests to the CB on operational and policy issues;
- providing staff support to the CMTS; and

DOJ_NMG_0001881

- preparing a work plan and operating budget for implementing its responsibilities.

D. Integrated Action Teams (IAT)

1. IATs are responsible for the execution of the strategies developed within the joint strategic plan. An IAT will be created as needed, and could be either temporary or permanent in nature depending upon the issue or challenge that the team has been formed to resolve. The members of each IAT shall include representatives from the lead agency, member agencies and other organizations required to satisfy the mission of the IAT.

2. Each IAT lead agency shall:

- prepare an IAT action plan governing its work that aligns with the joint strategic plan. Each action plan shall include, but is not limited to, the following tasks:
  - Survey each Agency's MTS-related policies and programs including inter-agency and international agreements, and identify opportunities and methodologies for collaboration;
  - Facilitate inter-agency sharing and distribution of information;
  - Propose recommendations for interagency MTS research and development coordination.
- implement and manage the action plan, including oversight of the agencies involved in the effort; and
- provide status reports to the CB and the ES Director on the performance of its action plan, including technical, financial and schedule aspects.

V. Agency Responsibilities

Each Agency shall fund the costs of its own participation in the CMTS. Specific resources and funding commitments between member agencies shall be addressed in separate interagency funding agreements executed under the Economy Act (31 U.S.C. §1535) or other appropriate authority.

VI. Other Provisions

A. Nothing in this charter shall be construed to requite the obligation of any budgetary resources on the part of member agencies.

B. The terms of this charter will become effective on August 11, 2005.

C. This charter may be modified upon the mutual written consent of all Parties to this Charter, as specified in Paragraph 1.

D. The terms of this charter will remain in effect until terminated by the President of the United States.

DOJ_NMG_0001882

VII. Signatures

Norman Y. Mineta, Secretary U.S. Department of Transportation	Date
Carlos M. Gutierrez, Secretary U.S. Department of Commerce	Date
Donald H. Rumsfeld, Secretary U.S. Department of Defense	Date
Michael Chertoff, Secretary U.S. Department of Homeland Security	Date
John W. Snow, Secretary U.S. Department of the Treasury	Date
Condoleeza Rice, Secretary U.S. Department of State	Date
Gale A. Norton, Secretary U.S. Department of the Interior	Date
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Alberto R. Gonzales, Attorney General U.S. Department of Justice	Date

DOJ_NMG_0001883

Elaine L. Chao, Secretary U.S. Department of Labor	Date
Stephen L. Johnson, Administrator U.S. Environmental Protection Agency	Date
Steven R. Blust, Chairman Federal Maritime Commission	Date
Joshua B. Bolten, Director Office of Management and Budget	Date
James L. Connaughton, Chairman Council on Environmental Quality	Date
Frances Frago Townsend, Assistant to the President for Homeland Security and Counterterrorism	Date
Claude Allen, Assistant to the President for Domestic Policy	Date
Allan B. Hubbard, Assistant to the President for Economic Policy	Date

DOJ_NMG_0001884

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, July 28, 2005 5:31 PM
To: McCallum, Robert (SMO); Kessler, Elizabeth A
Subject: FW: fyi, here is copy of a letter apparently winging its way to the AG on the Marine Transportation System . . .
Attachments: Attorney General_Final.pdf

I would think that someone from our office would more than suffice.

-----Original Message-----
From: Rubin, Jim (ENRD)
Sent: Thursday, July 28, 2005 5:28 PM
To: Gorsuch, Neil M; Kessler, Elizabeth A
Cc: Johnson, Kelly A. (ENRD); McAtamney, James A; Oppenheimer, Peter (ENRD); Milius, Pauline (ENRD)
Subject: fyi, here is copy of a letter apparently winging its way to the AG on the Marine Transportation System . . .

As you will see, it asks for the AG to designate someone to serve as agency rep on the MTS Coordinating Body at "assistant secretary level or above." (If you feel we really need to appoint someone at this level, perhaps we can do it in name only, and have that rep delegate any meeting attendance responsibilities to one of us underlings!) Pls advise on how you wish us to handle. This letter will no doubt go into Exec Sec and take its time coming to us all, but wanted to give you a heads up.

THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

JUL 28 2005

The Honorable Alberto R. Gonzales
Attorney General
U.S. Department of Justice
Washington, DC 20530-0001

Dear Mr. ~~Attorney General~~ ALBERTO:

Thank you for sending your Associate Attorney General, Mr. Robert D. McCallum, Jr., as your representative to the inaugural meeting of the Committee on the Marine Transportation System (CMTS) on July 11. I am glad that we were able to have a productive meeting. As part of the meeting, the Committee authorized a Coordinating Board specifically responsible for improving our Nation's Marine Transportation System (MTS) and approved the CMTS Charter.

To continue this process, we are planning to convene a meeting of the authorized Coordinating Board soon. Please forward the name of your designee (Assistant Secretary or higher) to the Coordinating Board no later than Friday, August 12 to Under Secretary of Transportation for Policy, Jeffrey N. Shane. Only by bringing together persons at the highest levels who have an interest in the MTS can we begin to address the needs of this critical system.

In addition, it is important that the CMTS Charter, which we agreed to at the meeting, be formally adopted. Therefore, please sign the enclosed CMTS charter on the appropriate line and return it to the Department of Transportation.

I appreciate your willingness to help improve our MTS and look forward to working with you on this endeavor. I will contact you in the near future regarding your involvement in the Committee's next steps. If I can provide further information or assistance, please feel free to call me or Jeffrey N. Shane, Under Secretary of Transportation for Policy, at (202) 366-1815.

Sincerely yours,

Norman Y. Mineta

Enclosure

CHARTER FOR THE COMMITTEE ON THE MARINE TRANSPORTATION SYSTEM

I. Parties

The parties to this Charter are: the U.S. Department of Transportation, the U.S. Department of Commerce, the U.S. Department of Defense, the U.S. Department of Homeland Security, the U.S. Department of the Treasury, the U.S. Department of State, the U.S. Department of the Interior, the U.S. Department of Agriculture, the U.S. Department of Justice, the U.S. Department of Labor, the Environmental Protection Agency, the Office of Management and Budget, and the Federal Maritime Commission.

II. Authority

The authority to establish this Committee derives from a directive by the President in the U.S. Ocean Action Plan, issued, December 17, 2004, "Supporting Marine Transportation."

III. Purpose

A. To create a partnership of Federal agencies with responsibility for the Marine Transportation System (MTS) - waterways, ports and their intermodal connections – to ensure the development and implementation of national MTS policies consistent with national needs and report to the President its views and recommendations for improving the MTS.

B. The partnership established by this Charter, to be known as the Committee on the Marine Transportation System (CMTS), and its constituent sub-organizations described in paragraphs VI-VIII below, will be responsible for the following:

- improving Federal MTS coordination and policies;
- promoting the environmentally sound integration of marine transportation with other modes of transportation and with other ocean, coastal, and Great Lakes uses;
- developing outcome-based goals and strategic objectives for the safety, security, efficiency, economic vitality, environmental health, and reliability of the MTS for commercial and national defense requirements, as well as a method for monitoring progress towards those goals;
- coordinating budget and regulatory activities that impact the MTS; and
- recommending strategies and implement plans to maintain and improve the MTS.

IV. Organization

The CMTS is a Federal cabinet-level inter-agency organization that reports to the President and is supported by three sub-organizations: the Coordinating Board (CB), the Executive Secretariat (ES), and Integrated Action Teams (IATs).

A. The Committee on the Marine Transportation System

1. The Committee is comprised of the heads of Federal agencies, or their senior level designees. Through the Committee each member agency has a unique capacity to work collaboratively on MTS matters. The Committee will meet as appropriate, but not less than twice a year, to address nationally significant MTS issues. The Committee or any of its members can identify proposed agenda items.

2. Membership

The Committee will be chaired by the Secretary, Department of Transportation (DOT). The following Heads of Agencies, or their senior level designees, also serve as Committee members.

- Secretary of Commerce;
- Secretary of Defense;
- Secretary of Homeland Security;
- Secretary of the Treasury;
- Secretary of State;
- Secretary of the Interior;
- Secretary of Agriculture;
- Attorney General;
- Secretary of Labor;
- Administrator of the Environmental Protection Agency;
- Chairman of the Federal Maritime Commission; and
- the head of any other Federal agency that the Committee Chair, with the approval of a majority of the voting members of the Committee, determines can further the purpose and activities of the Committee

3. Ex-officio members of the Committee, who can participate as non-voting members include the:

- Director, Office of Management and Budget;
- Chairman, Council on Environmental Quality;
- Assistant to the President for Homeland Security;
- Assistant to the President for Domestic Policy; and
- Assistant to the President for Economic Policy

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4. Consultation

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DOJ_NMG_0001889

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DOJ_NMG_0001890

VII. Signatures

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Carlos M. Gutierrez, Secretary U.S. Department of Commerce	Date
Donald H. Rumsfeld, Secretary U.S. Department of Defense	Date
Michael Chertoff, Secretary U.S. Department of Homeland Security	Date
John W. Snow, Secretary U.S. Department of the Treasury	Date
Condoleeza Rice, Secretary U.S. Department of State	Date
Gale A. Norton, Secretary U.S. Department of the Interior	Date
Mike Johanns, Secretary U.S. Department of Agriculture	Date
Alberto R. Gonzales, Attorney General U.S. Department of Justice	Date

DOJ_NMG_0001891

Elaine L. Chao, Secretary U.S. Department of Labor	Date
Stephen L. Johnson, Administrator U.S. Environmental Protection Agency	Date
Steven R. Blust, Chairman Federal Maritime Commission	Date
Joshua B. Bolten, Director Office of Management and Budget	Date
James L. Connaughton, Chairman Council on Environmental Quality	Date
Frances Frago Townsend, Assistant to the President for Homeland Security and Counterterrorism	Date
Claude Allen, Assistant to the President for Domestic Policy	Date
Allan B. Hubbard, Assistant to the President for Economic Policy	Date

DOJ_NMG_0001892

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 03, 2005 8:09 AM
To: Reyes, Luis (SMO)
Subject: division of labor
Attachments: OASG Component Responsibilities.doc

I've tried to summarize our discussions for a post-Wiggins world. Could you review this and give me any thoughts? Should I share this with Robert?

August 3, 2005

OASG Component Responsibilities

Tracy A. Henke	Office of Justice Programs Community Oriented Policing Services Office on Violence Against Women
Elizabeth A. Kessler	Environment & Natural Resources Division Office of Information & Privacy International Trade/Tribunals Foreign Claims Settlement Commission Department Document Committee
Luis A. Reyes	Tax Division Civil Rights Division Community Relations Service Assist with terrorism-related litigation Judicial/Rules Committee/Bar Outreach Budget matters Weekly reporting
Jeffrey M. Senger	Tobacco-related litigation Indian and Tribal Trust Matters (including *Cobell*) Legislative/Interagency clearance Civil Justice Statistics Initiative Office of Consumer Litigation
Lily Fu Swenson	Antitrust Division Civil Division (except OIL, tobacco, *Cobell*, terrorism and Office of Consumer Litigation) Executive office for U.S. Trustees Grant & Assistance Advisory Board Intellectual Property Task Force Web/Privacy initiatives

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, August 03, 2005 10:47 AM
To: McCallum, Robert (SMO)
Subject: OASG component responsibilities
Attachments: OASG Component Responsibilities.doc

Robert,

This seeks to summarize the results of my conversations with the team about the division of labor in a post-Wiggins world. I think all are happy with something like this, but it merits your review and final yea or nay as I think folks would appreciate the guidance.

After having looked to see how it's been done in the past w/r/t the pdag, I haven't assigned myself any particular components on the theory that I will likely touch many of them -- not on the theory that I bear no responsibility!

NMG

August 3, 2005

OASG Component Responsibilities

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Newmark, Andrea (CIV)

From:	Newmark, Andrea (CIV)
Sent:	Thursday, August 04, 2005 5:33 PM
To:	Gorsuch, Neil M; Meron, Daniel (CIV); Nichols, Carl (CIV); Hunt, Jody (CIV); Shapiro, Elizabeth (CIV); Bhattacharyya, Rupa (CIV); Goulka, Jeremiah (CIV)
Cc:	Wiggins, Mike; Lane, Sean; Skinner, Peter
Subject:	ACLU FOIA - DOS document summary

Neil: Here is the summary of the State Department documents to be released this week. Please notify Sean and Peter directly when they may release them. Thanks. Andrea

---

From: Goulka, Jeremiah (CIV)
Sent: Thursday, August 04, 2005 4:58 PM
To: Newmark, Andrea (CIV)

This package includes DoS decision letters and accompanying documents referred to NSC and DoD, from segments ER3, Genev1, Genev2, L12, L38, and PRM001, and referred to DOJ and FBI, from segments JUS001 and FBI1. All documents are redacted.

CABLES

--Report of 6/2002 meeting between ASD Crouch and Swedish defense and foreign ministry officials regarding NATO and terrorism.

--two 8/05/02 cables providing talking points regarding transfer of detainees to Guantanamo from third courntries.

-- 10/01/02 cable providing American embassy and consulates in Afghanistan with forman guidance on handing inquiries by Afghan family members of detainees at GTMO.

-- two 11/2002 cables providing guidance on communications between GTMO detainees and their wives and families.

EMAILS

--8/29/02 email forwarding note regarding ICRC access in Afghanistan

-- 1/15/03 email forwarding a report on ICRC interest in Bagram detainees

COVER SHEET

--Cover page to nonreleased document regarding conditions for access to detainees at GTMO, 10/9/02.

TALKING POINTS

-- Undated, heavily redacted, talking points on detainee policy and status, and investigations of Abu Ghraib.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 04, 2005 5:40 PM
To: Newmark, Andrea (CIV)
Subject: RE: ACLU FOIA - DOS document summary

Anything sensitive in these? Descriptions this time are a little general.

-----Original Message-----
From: Newmark, Andrea (CIV)
Sent: Thursday, August 04, 2005 5:33 PM
To: Gorsuch, Neil M; Meron, Daniel (CIV); Nichols, Carl (CIV); Hunt, Jody (CIV); Shapiro, Elizabeth (CIV); Bhattacharyya, Rupa (CIV); Goulka, Jeremiah (CIV)
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TALKING POINTS

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 04, 2005 5:45 PM
To: Brett Gerry (E-mail)
Subject: FW: ACLU FOIA - DOS document summary

FYI. Descriptions are poor, but reviewers say materials are "sterile." Plan tomorrow morning to give ok to release.

-----Original Message-----
From: Newmark, Andrea (CIV)
Sent: Thursday, August 04, 2005 5:33 PM
To: Gorsuch, Neil M; Meron, Daniel (CIV); Nichols, Carl (CIV); Hunt, Jody (CIV); Shapiro, Elizabeth (CIV); Bhattacharyya, Rupa (CIV); Goulka, Jeremiah (CIV)
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Sent: Thursday, August 04, 2005 5:45 PM
To: Newmark, Andrea (CIV)
Subject: RE: ACLU FOIA - DOS document summary

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To: Gorsuch, Neil M; Meron, Daniel (CIV); Nichols, Carl (CIV); Hunt, Jody (CIV); Shapiro, Elizabeth (CIV); Bhattacharyya, Rupa (CIV); Goulka, Jeremiah (CIV)
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, August 04, 2005 5:46 PM
To: Yanes, Raul
Subject: FW: ACLU FOIA - DOS document summary

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Subject: RE: ACLU FOIA - DOS document summary

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-- two 11/2002 cables providing guidance on communications between GTMO detainees and their wives and families.

EMAILS

--8/29/02 email forwarding note regarding ICRC access in Afghanistan

-- 1/15/03 email forwarding a report on ICRC interest in Bagram detainees

COVER SHEET

--Cover page to nonreleased document regarding conditions for access to detainees at GTMO, 10/9/02.

TALKING POINTS

-- Undated, heavily redacted, talking points on detainee policy and status, and investigations of Abu Ghraib.

USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Friday, August 5, 2005 8:56 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing 8/5/05
Attachments:	agnb050805.pdf; agnb050805.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, AUGUST 5, 2005 7:45 AM EDT

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TERRORISM NEWS:

Bush Reiterates Commitment To War Against Terrorism. In remarks to reporters at his Crawford, Texas, ranch yesterday, President Bush addressed the threat delivered by al Qaeda leader Ayman al Zawahiri and paid tribute to the 21 Marines from a Brook Park, Ohio Reserve unit who have been killed in action this week. Al Zawahiri's threat came, ominously, four weeks to the day after the initial July 7 suicide bombings on the London subway, and left authorities in Britain and the US on edge over the possibility of additional attacks; Zawahiri's tapes have preceded several terrorist actions. President Bush used al Zawahiri's invocation of Iraq to refocus on that country's role in the war on terror. The President's response was generally characterized as strong or defiant and was reported widely in both TV news broadcasts and the nation's leading newspapers Friday morning.

The story was the lead on each of the networks. CBS only addressed the new videotape in a brief at the top of its newscast, but referred to it again later in stories on Iraq and on security in England. The CBS Evening News (8/4, story 2, 2:30, Martin) reported, "A new videotape from al Qaeda's number two, Ayman Al-Zawahiri, vows tens of thousands of Americans would die in Iraq if the US does not withdraw immediately. President Bush responded with a vow of his own." Bush: "We will stay the course. We will complete the job in Iraq."

ABC World News Tonight (8/4, lead story, 2:30, Vargas) reported Zawahiri "has been in hiding for nearly four years. In today's tape, he appears to have aged. But his message was as fiery and defiant as ever." ABC (Wright) added, "Zawahiri specifically mentioned the London bombings, and blamed them on British Prime Minister Tony Blair. 'Blair has brought you destruction in central London,' he said. 'You spilled rivers of blood in our countries, so we exploded the volcanoes of anger in yours.' Zawahiri demanded the immediate withdrawal of foreign troops from Iraq. The British government refused to comment, but today, in Crawford, Texas, President Bush was defiant." President Bush was shown saying, "We will stay the course. We will complete the job in Iraq."

NBC Nightly News (8/4, lead story, 2:25, Brown) reported Zawahiri directly linked "the London bombings to the involvement of British forces in Iraq" and warned "more attacks are on the way," but President Bush "responded strongly, saying the US will not back down." NBC (Gregory) added, "President Bush, in Crawford today, seized on the Al-Zawahiri tape to strengthen US resolve at a time of falling support for the war. Mr. Bush said it's a fresh reminder that Iraq is part of the war on terror." Bush: "And part of their goal is to drive us out of the broader Middle East, precisely what this Zawahiri said. In other words, he's threatening. I vowed then that we would stay on the offense against these people." Gregory: "The President, however, sought today to cast the struggle in Iraq as a broader clash between ideologies, freedom versus the tyranny of the terrorists."

The CBS Evening News (8/4, lead story, 0:30, Schieffer) reported, "In what may be the most brazen threat yet, Osama bin Laden's deputy commander said today that al Qaeda will kill thousands of American military people and set off more attacks in London if United States and Great Britain do not pull out of Iraq. President Bush said the threat makes it even clearer that we are at war and he vowed to stay on the offensive." USA Today (8/5, Diamond) described Bush's direct response to the videotaped threats as "an unusual move."

The Washington Post (8/5, A7, Vandehei) says "Bush struck a defiant tone, saying the United States will stay on the offensive to 'complete the job in Iraq.' He spoke dismissively of Zawahiri, his followers and their ideology and said the twin U.S. strategies to defeat terrorists inside and outside Iraq are working." He had "hoped to turn attention to his domestic agenda this month," but "once again found himself consoling families, defending the war and insisting the United States will not reduce troop levels until it is clear the Iraqi army is strong enough to fend off the insurgents."

The Washington Times (8/5, A1, Curl) in a front page story reports, "President Bush yesterday vowed that America will not be swayed by a surge in U.S. deaths in Iraq or a new threat from a top al Qaeda leader." The Financial Times (8/5, Spiegel) adds, "President George W. Bush dismissed the threats, saying the US would 'complete the job' in Iraq."

The Washington Post (8/5, A1, Sullivan) in a front page story focusing on the videotape and the reaction in London quotes Bush saying the comments "make it clear Iraq is a part of this war on terror, and we're at war. He's saying, you know, leave. … People like Zawahiri have a ideology that is dark, dim, backwards. He's threatening. They have come up

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against a nation that will defend itself." Meanwhile, "CRS Al Qaeda tape expert Christopher Blanchard "called the tape an example of 'pragmatic messianism' by Zawahiri. 'Al Qaeda's fractured leadership apparently continues to believe that it can undermine support for current U.S. policies by directly addressing and threatening the American people,' he said."

The Christian Science Monitor (8/5, Murphy) reports, "The video is another Al Qaeda message apparently intended to turn Western democracies against their leaders by explaining acts of terrorism as rational decisions from a group with specific political goals. It challenges the position of British Prime Minister Tony Blair and Bush administration officials, who have insisted that the London attacks have nothing to do with Iraq and that terror attacks will continue regardless of policy."

The Kansas City Star (8/5, Hurst) notes, "The black turban -- a change from the white turban he has worn in past videos -- is 'a sign that it's time of war,' said Montasser el-Zayat, an Egyptian attorney who defends Islamic radicals and who spent three years in prison with al-Zawahri. The prophet Muhammad and his followers wore black turbans during their invasions in the Arabian Peninsula, he said."

And the Financial Times (8/5, Spiegel) says experts believe the videotaped message "may be part of a campaign to reassert themselves, even as they remain isolated by US and Pakistani forces." The Times continues, "Since April 2004 there have been at least nine tapes from al-Qaeda's two leaders – Mr al-Zawahiri and Osama bin Laden – all of which have drawn close scrutiny from security agencies and terrorism analysts, since Mr bin Laden has repeatedly said his public statements were important sources for those wishing to understand the network's ideology and political goals."

Bush Pays Tribute To US Casualties In Iraq. The President also addressed the sacrifice made by the members of the 3rd Battalion, 25th Marine Regiment, which is based in Brook Park, Ohio. ABC World News Tonight (8/4, story 2, :25, Vargas) reported President Bush said the town has "suffered mightily, but that residents should take comfort, knowing the sacrifice was made in what he called a 'noble cause.'"

Some articles briefly noted President Bush's condolences while describing the impact of the recent casualties on their families in the US. USA Today (8/5, Cauchon, Brook) reports, "Marines and family members describe the men of the Ohio company as deeply committed, even gung-ho. Some men who'd left the unit rejoined when they heard it was going to Iraq, said Master Sgt. Steve Walter. Others joined Lima Company, rather than units closer to their homes because they wanted to be in the infantry."

The New York Times (8/5, Kifner) adds, "Michael Bigelow…who had served in Iraq with a Marine reserve unit based in Cincinnati from last August to March, said he sensed a change in the troops' attitudes. They shifted, he said, from believing they were helping the Iraqis to simply wanting to protect each other."

Reliance On National Guard Focuses Impact Of Casualties On Communities. USA Today (8/5, A1, Moniz) in a front page story notes, "The Pentagon's reliance on National Guard and Reserve troops to fight the war in Iraq has brought clusters of combat deaths to U.S. towns for the first time in more than 50 years." And the recent casualties "highlight the risks to part-time military units, which earlier this year hit a peak of about 40% of U.S. troop strength in Iraq."

Bad News From Iraq May Have Political Impact On Swing States Like Ohio. NBC Nightly News (8/4, story 3, 2:15, Brown) reported, "Sentiment is turning against the war in this political swing state as the death toll climbs." NBC (Quintanilla) added, "A majority of Ohioans, 53%, disapproved of the President's Iraq policy as of April." While "measuring the political fallout from those killed in action is delicate, some say tactless," in a state "that tipped the last presidential election, and that this week nearly awarded a Congressional seat to an underdog Democrat in a safe Republican district, some analysts see early signs of a shift." Prof. John Mueller, Ohio State University: "It's a very close state, so almost anything bad, from the Republican standpoint, could switch it over to the Democratic side."

The CBS Evening News (8/4, story 3, 2:15, Pitts) reported, "Is the war in Iraq still worth it? That's the question" Cpl. Edward Augustine Schroeder's "parents now ask." Rosemary Palmer, mother: "The reason we're speaking out is because we want to make sure his death counts for something." Pitts: "You're not saying come home?" Schroeder: "No, we're saying either do the job or come home." Pitts: "The Schroeders believe there should be more troops in Iraq to crush the insurgents once and for all. And they're not only ones. Brook Park, Ohio is a place where patriotism is more then a punch line."

The AP (8/5, Raum) reports, "The deadly recent attacks on American troops in Iraq are increasing the pressure on President Bush to develop an exit strategy. The U.S. death toll from the war is now over 1,800, and a new AP-Ipsos poll shows the lowest approval yet for Bush's handling of Iraq, just

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38 percent." And Bush's "fellow Republicans are growing nervous as they head into an election year." The President "suggested his resolve was only strengthened by" yesterday's videotaped threat" but there "has been little outward sign of progress in U.S.-led efforts to defeat the insurgency and to beef up the Iraqi army and police."

The Dallas Morning News (8/5, Jackson) also says "Bush may face increasing political pressure over Iraq, given the spasm of violence that has killed at least 24 Americans in Iraq in recent days."

Feinstein Urges US To Reach Out To Moderate Muslims. Sen. Dianne Feinstein in an op-ed in the Washington Times (8/5) writes, "I believe it is even more important the United States and our allies redouble our efforts in the war against terrorism. This means continuing to seek out and kill or capture key members of al Qaeda. This means remaining vigilant in our efforts to prevent and interdict terrorist operations. And it means improving our gathering and sharing of intelligence." In addition, the US "must develop strong relationships with moderate Muslims at the highest levels. President Bush and Secretary of State Condoleezza Rice should invest the time and energy to develop close ties with those in the Muslim world who are a force for peace and reconciliation, not of fanaticism and violence."

Expert Supports Administration Strategy To Continue Commitment In Iraq. Anthony Cordesman, chair of strategy at the Center for Strategic Studies, in an op-ed in the Financial Times (8/5) writes, "Despite Iraq's considerable problems, the country's new leaders have sought to be inclusive and have resisted ethnic and religious purges and confrontations. The political process has moved forward. Despite economic problems, Iraqis largely remain optimistic about their future. The situation is fragile but certainly not hopeless." It is in this context that "all the conflicting media reports about looming US withdrawals should be kept. No one can guarantee that a 'success strategy' will work, but the Bush administration and senior commanders in Iraq still see continuing commitment as a better option than any form of 'exit strategy.' Anyone who talks seriously to the policymakers and military planners involved knows they are not trying to rush US forces out before the political process stabilises and before Iraqi forces can take over a large part of the mission."

Columnist Claims War Against Iraq Unnecessary. Al Neuharth in his column marking the anniversary of the US atomic attack on Hiroshima in WWII in USA Today (8/5) concludes by criticizing Bush's decision to go to war against Iraq writing, "Truman will be remembered as the president who brought us both victory and peace in a war that was justified and necessary. By contrast, self-proclaimed 'War President' George Bush has brought us neither victory nor peace in the Iraq war, which former president Jimmy Carter this week called 'unnecessary and unjust.'"

WSJ Applauds Return Of Clear Rhetoric In War Against Terrorism. The Wall Street Journal (8/5) in an editorial applauds President Bush's return to characterizing the effort to combat extremism as a "war on terror" noting Bush's response in a "speech Mr. Bush gave last year in Fort Myers, Florida, after Richard Holbrooke, John Kerry's foreign policy adviser, called the war on terror a 'metaphor': 'Anyone who thinks we are fighting a metaphor does not understand the enemy we face. You cannot win a war if you are not convinced we're even in one.'"

Maryland Man Arrested For Training In Pakistani Terror Camp. The New York Times (8/5, Preston), Baltimore Sun (8/5, Dolan), Washington Post (8/5, A4, Rich), AP (8/5, Neumeister), Newsday (8/5, DeStefano) and Reuters (8/5) report the FBI and NYPD on Thursday announced the arrest of Mahmud Faruq Brent of Baltimore on a charge of conspiracy to aid terrorism. Brent allegedly admitted in a conversation taped by the FBI that he trained at a terror camp in Pakistan run by al Qaeda-affiliated terror group Lashkar-e-Taiba.

The Times reports Brent "was an associate of Tarik Shah, a New York jazz musician who was arrested on May 28 on terrorism charges in a federal sting operation." Brent's Baltimore "home was searched early yesterday afternoon by agents from the Baltimore Joint Terrorism Task Force." The Times notes, "There are no allegations that Mr. Brent or Mr. Shah were actively planning any violent terrorist action." The Sun adds, "According to the complaint, Shah agreed to meet with Brent at a hotel near Columbia and secretly record the conversation for the FBI. According to the federal complaint, Shah said he wanted to travel, and Brent replied that his 'connections were kinda gone.' He said his only connection was 'doing time now.'"

The Post reports, "The complaint also links Brent to Seifullah Chapman, a member of the 'Virginia jihad network' who has been sentenced to 65 years in prison for conspiring to support Lashkar-e-Taiba and other offenses. … The complaint says Chapman wrote a letter in support of an

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application for an expedited passport that Brent filed in 2000." Newsday adds, "Brent was recorded saying that he had watched videotapes of Muslim brothers 'suffering' and the experience 'kind of like pushed me over the, over the edge...about going there,' according to the…complaint." The AP notes that Brent "allegedly boasted that he had agreed to provide whatever assistance was necessary" to LET.

London Police Out In Force On Anniversary Of Subway Bombings. London police were out in force yesterday to patrol the city's transportation systems. The city was on edge because yesterday was the four week anniversary of the July 7th attacks and because of al Qaeda number Ayman al-Zawahiri's videotaped threat that more attacks against the British would be forthcoming.

The CBS Evening News (8/4, story 4, 2:30, Schieffer) reported, "In London, the police were out in force. There was fear terrorists may strike again so police were out in force and on the highest state of alert." CBS (MacVicar) added, "More than 6,000 British police deployed today. Detectives back in uniform, plain clothes officers riding the Underground looking for would-be bombers. A month after the first bombings, two weeks after the second attempts, it's another jittery Thursday in London." London police "have been tight-lipped about last night investigation results were revealed in New York by the commissioner of the NYPD."

NBC Nightly News (8/4, story 4, 0:25, Brown) reported, "With intelligence warnings of a possible third wave of attacks, British police launched their largest security operation since World War II today, assigning thousands of officers to patrol the London Underground and those famous double-decker buses."

British police have mounted their "largest security campaign since World War II, says the New York Times (8/5, Van Natta). The "most recent information came from a cellular phone text message intercepted recently and the interrogation of a suspected terrorist being held outside Britain, said senior counterterrorism and intelligence officials based in Britain, Europe and the United States. The actual text of the message was not made available. The officials said the information was not specific about the timing of such an attack, or whether the team was already in place."

The Los Angeles Times (8/5, Fleishman) adds that "the largest police presence in decades" has gripped London.

The Atlanta Journal-Constitution/AP (8/5, Lawless) says it is clear "that the attacks have changed the city," adding that there are "of fraying in London's famously diverse social fabric, too. London police have recorded a 600 percent increase in crimes motivated by religious hatred since the suicide bombings." Officials "stressed there was no specific intelligence pointing to a third attack, but mounted an operation involving 6,000 officers aimed at reassuring the public. … Officers armed with automatic rifles and pistols patrolled stations and streets. Police helicopters hovered above, and traffic was heavier than normal."

Rumsfeld Dismisses Claims US War In Iraq Responsible For London Attacks. The AP (8/5, Pearson) reports, "Defense Secretary Donald H. Rumsfeld on Thursday rejected as "nonsense" the notion that recent terrorist attacks in London were retaliation for the U.S.-led war in Iraq." At a speech before the Los Angeles World Affairs Council Rumsfeld said, "Some people seem confused about the motivations and intentions of terrorists and about our coalition's defense of the still young democracies in Afghanistan and Iraq."

Muslim Fatwa Against Extremism Criticized As Too Vague. The Washington Times/AP (8/5, Zoll) reports, "The fatwa condemning religious extremism recently issued by American Muslim groups was so broad it was meaningless, and should have denounced specific terrorist groups including al Qaeda, critics within the U.S. Muslim community say." The AP adds, "Critics also say the declaration seemed geared more toward improving the faith's image rather than starting an honest discussion about Islamic teaching." But CAIR spokesman Ibrahim Hooper "said no specific groups were named because 'it would have been a laundry list.'"

Columnist Says London Bombings Has Caused Americans To Reassess War On Terror. Daniel Henninger writes in the Wall Street Journal (8/5) that in the four weeks since the July 7 bombings in London, "I have talked about it, on the West Coast and East Coast, with people one could describe as 'non-Bush voters.' To a man and woman, they say in so many words that the time has come to 'get tough on the terrorists.' One event, London, appears to have caused an internal reassessment among some Americans formerly ambivalent about the war on terror. … What happened? Reality happened. … Americans were able to absorb London more clinically, observers from afar. London also happened to an English-speaking people, so every televised comment back to the U.S., from the first witnesses to the police reports of apprehended and named terrorists, was understood and internalized. Then the British

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media, God bless them, reduced the madness to one, right cliché: The bombers are our neighbors. Three years in, the battle lines finally come clear." Henninger adds, "The London bombings imprinted on hard-wired political minds the crude fact that Islamic terrorists have reduced the taking of lives they don't like to a banality."

Al Qaeda, Taliban Appear To Be Regrouping, Despite Musharraf's Claim. Pakistani President Pervez Musharraf has said that his forces have destroyed Al Qaeda sanctuaries and that the last remnants of al Qaeda are on the run. But, the New York Times (8/5, Rohde, Sengupta) reports that "with less than two months before parliamentary elections in Afghanistan, Al Qaeda, the Taliban and their assorted allies appear to be regrouping in the rugged tribal redoubts in this country's northwest and unleashing ever more frequent attacks on both sides of the border, Afghan and Pakistani officials say. Attacks in Afghanistan's south and east have grown in number, ruthlessness and sophistication. Meanwhile, Pakistan's tribal areas, particularly North and South Waziristan, have been engulfed in fresh violence."

Pakistani Court Calls Islamic Bill Unconstitutional. The New York Times (8/5, Times) reports, "Pakistan's Supreme Court ruled Thursday that some parts of a bill passed by the Islamist-led legislature in the North-West Frontier Province were unconstitutional, prompting the Islamists to say they would write a new draft. The proposed bill - known as the accountability bill - set off a huge outcry in the country." The conflict over the legislation "is part of a tussle between the government of Gen. Pervez Musharraf, the president, who says he is trying to extricate the country from religious extremism, and the Islamic parties."

US Urged To Press Musharraf To Step Up Campaign Against Taliban. The New York Times (8/5) says in an editorial that Afghanistan is "out of the headlines, but its war against the Taliban goes on. These days, it is not going well. One of the most important reasons for that is the ambivalence of Pakistan, the nation that originally helped create, nurture and train the Taliban. Even now, Pakistan's military ruler, Gen. Pervez Musharraf, seems to invest far more energy in explaining his government's tolerance of Taliban activities than he does in trying to shut them down." Washington "has been understandably reluctant to push" Musharraf "for more consistency, not wanting to risk losing the help he does offer. Pakistan's passive enabling of the Taliban, however, is too important and dangerous for Washington to overlook. The current Taliban offensive is killing American soldiers - at least 38 have died in action so far this year, as well as hundreds of Afghans. It also endangers next month's parliamentary elections."

FBI Intercepts Show Al Arian, Fariz Praising Suicide Bombings In Israel. The AP (8/5) reports, "Sami Al-Arian expressed 'pride' after learning of a 1994 suicide bombing attack that killed three Israelis, according to testimony Thursday" at his trial. "Investigators intercepted a fax sent to Al-Arian's home bearing the logo of the Palestinian Islamic Jihad and claiming responsibility for an attack near Netzarim, Gaza Strip. … Al-Arian faxed a message to the Damascus headquarters of the group that read: 'Pride and glory overwhelmed us. May God bless your efforts and accept our martyrs,' according to transcripts and testimony Thursday from FBI agent Kerry Myers. Similarly, co-defendant Hatem Naji Fariz expressed pleasure during a wiretapped phone call upon hearing of another suicide attack, at Beit Lid, Israel, in 1995, which killed 22."

The Tampa Tribune (8/5, Silvestrini) adds that jurors also heard transcripts of al Arian's telephone conversations about "the fact that Islamic Jihad members outside the Middle East were not getting paid. … Al-Arian also faxed a proposal to unite the Islamic Jihad and Hamas to a phone number in the United Arab Emirates."

South African Gets Three Years For Illegal Technology Transfers. Asher Karni, a South African black market arms trader, has been sentenced by a federal judge to three years in prison for selling blacklisted US electronic components to companies in Pakistan and India. The Los Angeles Times (8/5, Meyer) reports that US District Judge Robert Urbina said "he wanted to warn others that the illegal sale of U.S. high-tech products could help foreign governments or terrorists obtain nuclear weapons." The Times adds, "After hearing Karni apologize for selling blacklisted U.S. electronic components to companies in Pakistan and India, U.S. District Judge Richard M. Urbina told the former Israeli army major that no amount of contrition could make up for the potential threat posed by his actions. … Urbina shaved six years off the maximum term Karni could have received under complex federal sentencing guidelines, saying he was doing so because of Karni's cooperation."

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PATRIOT ACT:

Patriot Act Amendment Would Boost Anti-Terror Funding To Cities. The AP (8/4, Barrett) reports, "Two New York lawmakers are trying to use the Patriot Act to get cities and regions at risk of terror attacks more federal help, a new legislative tactic designed to sidestep opposition from some senators from rural states." The AP continues, "House members Nita Lowey, D-Westchester, and John Sweeney, R-Clifton Park, have seen past efforts blocked in the Senate, where small states have greater influence. … Lowey and Sweeney are trying to change the way the government doles out security aid, so more of it is distributed based on risk. They've already helped engineer three successful House votes to change the funding formula, including one overwhelming 409-10 vote, but so far the Senate has failed to pass similar measures. … 'It is very frustrating that the Senate has not been able to understand the error of their actions,' said Lowey, who is hoping that by attaching her measure to the reauthorized Patriot Act — a top priority of the White House and Republican leaders — she and Sweeney may break the legislative logjam. … 'This change is going to come, it's just a question of when and it's just a question of that small minority recognizing this is a question of national defense and not about pork,' said Sweeney. 'This really has nothing to do with New York City, this has to do with threat and threat information.'" The AP notes, "In the years since the 2001 attacks, the government has distributed a minimum percentage, some 0.75 percent, of security dollars to each state. For the current budget year, that meant about $11 million for each state before additional money was offered based on risk factors. … Sweeney and Lowey's amendment to the Patriot Act would lower that minimum percentage, freeing up more money to be distributed by risk. That money most often goes to protect metropolitan areas and critical infrastructure around the country."

HOMELAND RESPONSE:

DOJ Effort To Monitor Airline Passengers' Phone, Internet Use Meets Legal Challenge. Government Executive (8/5, Strohm) reports, "Two privacy groups asked the Federal Communications Commission this week to reject a proposal that would give the Justice Department sweeping new powers to eavesdrop on cell phone calls and Internet usage by airline passengers." GE continues, "The Justice and the Homeland Security departments submitted several proposals to the FCC in May and July seeking authority to monitor the electronic communications of airline passengers. The proposals would allow Justice to record all electronic activity without a court order, identify any user by seat number, and automatically interrupt or shut down any communication." GE adds, "In a petition filed Wednesday, the Center for Democracy and Technology and the Electronic Frontier Foundation argue that the FCC does not have jurisdiction to address the full range of constitutional, privacy and civil liberties concerns that are raised by the proposal. The groups also say the proposal would place undefined burdens on industry to comply. … CDT and EFF say that any action by the commission would violate the Constitution as well as the Administrative Procedures Act and the Communications Assistance for Law Enforcement Act. The groups claim that Justice is trying to do an end run around Congress and get the FCC to give it new authorities without proper public debate."

Officials See Continued Threat Of Al Qaeda Suicide Attacks In US. Government sources say al Qaeda remains focused on attacking targets in the US and that suicide bombings remain a "preferred method of attack." The New York Times (8/5, Lichtblau) reports that the attacks on London's transit system last month "have prompted American officials to reassess potential threats to targets in the United States. Their conclusions, circulated among law enforcement officials by the Department of Homeland Security and the Federal Bureau of Investigation, differ little from many earlier assessments since the Sept. 11 attacks but make clear that officials see Al Qaeda as a continued threat at home." Intelligence officials "are also concerned that terrorists linked to Al Qaeda or other terrorist groups may again turn to airplanes as a method of attack by sending operatives to flight training schools or using 'an increased number of operatives' in the aviation industry to evade tightened airport security measures." The Times adds, "Still another target considered vulnerable by intelligence officials are high-rise apartment buildings."

New Pentagon Anti-Terror Strategy Sparks Civil Liberties Concerns. The Christian Science

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Monitor (8/5, Regan) reports in its "Terrorism & Security" column that the Pentagon has developed a "a new counterterrorism strategy 'that would increase military activities on American soil, particularly in the area of intelligence gathering.' FoxNews reported Monday that this has caused a great deal of concern among civil liberties advocates who fear the possibility of the military 'encroaching' on domestic law." The plan, "known as the 'Strategy for Homeland Defense and Support,' was released in early July without background briefings or a formal news conference. The document says the US government must have a 'a multi-layered, preventive approach to national defense' in order to counter an 'unconventional' enemy like Al Qaeda, which can attack anywhere at any time."

Federal Civil Liberties Board Slow To Start Up. The Washington Post/Reuters (8/5, Drees), reports, "A civil-liberties board ordered by the U.S. Congress last year has never met to discuss its job of protecting rights in the fight against terrorism, and critics say it is a toothless, underfunded shell with inadequate support from President Bush." Reuters continues, "Lawmakers including some Republicans, civil-rights advocates, a member of the Sept. 11 Commission and a member of the Privacy and Civil Liberties Oversight Board have expressed concerns." Reuters adds, "Lanny Davis, the only prominent liberal among the five people Bush nominated after a six-month delay, said he had not received a call from anyone related to the board since it was formally announced in June. Davis said he could not comment on specifics because the members had not yet met. … All four other panel members declined to comment." Reuters notes, "The inactivity comes at a time when Congress is nearing reauthorization of several provisions of the Patriot Act, a controversial law that gave the government new powers to go after suspected terrorists. … Asked why it was taking so long to set the board up, Connecticut Republican Rep. Christopher Shays charged, 'It's not a priority for the administration.'"

11th Circuit Rules Domestic Terror Acts Can Bring Tougher Penalties. The Miami Daily Business Review (8/5, Jones) reports, "Terrorism against civilians does not need to cross international boundaries for a terrorist to receive a longer sentence than suggested by federal sentencing guidelines, the 11th U.S. Circuit Court of Appeals has ruled." The Review continues, "The unanimous decision reversed a Fort Lauderdale, Fla., federal judge's finding that he could not reach a higher sentence by treating Stephen John Jordi as a terrorist on his guilty plea in an alleged plot to firebomb abortion clinics in Florida." The Review adds, "The three-judge panel's unanimous ruling Monday could open the door to stiffer sentences for domestic terrorism against civilians. … Although recent U.S. Supreme Court decisions have made federal sentencing guidelines advisory rather than mandatory, guidelines must still be considered before a judge decides a sentence." The Review notes, "The panel agreed with prosecutors that U.S. District Judge James I. Cohn could have gone higher than the guidelines. At issue in U.S. v. Jordi are rules developed by the U.S. Sentencing Commission to help judges interpret the guidelines. … 'The district court determined the guideline range and then improperly determined that it could not grant an upward departure,' wrote U.S. District Judge L. Scott Coogler of Alabama who was sitting on the panel by designation. 'As a result, the guidelines were improperly applied and, thus, were not appropriately consulted.' … Under the guidelines, an enhancement, or increased sentence, for a particular offense is an option when crimes like murder, kidnapping and arson were committed in an attempt to intimidate the government. … In Jordi's case, the government invoked a footnote allowing judges to consider an 'upward departure,' which is at the judge's discretion."

Civil Rights Groups Seek Meetings With FBI, DHS About Iranian-American Surveillance. The AP (8/5) reports, "Civil rights groups are creating what they call a 'safety net' for Iranian-Americans. Organizers of a campaign called 'Iranian-American Know Your Rights' will hold town-hall meetings and try to bring together Iranian-Americans with FBI and Department of Homeland Security representatives. The first meeting is planned for Los Angeles later in August or September." National Legal Sanctuary for Community Advancement president Banafsheh Akhlaghi said, "In the last 10 months, our office has received an unprecedented number of Iranian-American calls...saying they're being subjected to FBI interviews and surveillance, security-clearance denials after they've had them for 25 years." The San Jose Mercury News (8/5, Corcoran) also reports in the initiative and includes Akhlaghi's allegation about FBI surveillance.

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New York City Sued Over Subway Searches. The New York Civil Liberties Union has sued New York City's police department calling the random searches of subway riders' bags in the wake of the bombings on London's transit system unconstitutional. The Washington Post (8/5, A3, Garcia) says the suit, filed in federal court on behalf of five subway passengers "alleges that the program violates constitutional rights that protect against illegal searches and guarantee due process." The Post adds, "Gail Donoghue, special counsel in the city's legal department, called the NYCLU 'shortsighted' and said in a written statement that the program 'preserves the important balance between protecting our City and preserving individual rights.' City police officials said they have received no complaints about the policy."

The Atlanta Journal-Constitution/AP (8/5, Neumeister) that Donna Lieberman, executive director of the NYCLU said her groups wants police "to stop terrorists and improve safety, but not with useless measures designed to give subway riders a false sense of security. Christopher Dunn, the New York Civil Liberties Union's associate legal director, said the policy announced July 21 was akin to a random search of people's bags and packages on public streets and a violation of a fundamental civil right."

DHS To Conduct Gas Tests In New York's Subways. A Department of Homeland Security-sponsored project will seek to answer how harmful gases will disperse through midtown Manhattan's and the subway tunnels under them. Long Island Newsday (8/5, Nelson) reports that the simulation, which will begin as early as Saturday, will use "colorless, odorless and harmless 'tracer' gases." It follows "a smaller effort in March that focused on the Madison Square Garden area. … Scientists will release the gases at four of eight possible locations above ground, depending on the wind, within an office building and on a subway platform of the Broadway line at 50th Street and Seventh Avenue. Six separate experiments are planned over the next three weeks, with specific dates dependent on the weather, and the subway portion planned for the final three release dates."

Eight Charged In California DMV Fraudulent Document Scheme. The San Francisco Chronicle (8/5, Lee) reports San Francisco US Attorney Kevin Ryan on Thursday announced that "eight people, including four employees of the state Department of Motor Vehicles office in Oakland, have been charged in a scheme in which some of the DMV workers allegedly accepted thousands of dollars in bribes in exchange for providing driver licenses, identification cards and registration stickers for cars that did not pass smog tests." Veronica Rivera, "who is not a DMV employee, allegedly served as a 'broker' of fraudulently obtained documents," obtaining "social security numbers that her clients could use in their DMV applications." Bay City News Wires (8/4) notes, "The prosecution is the result of a two-year investigation by the FBI, the DMV, the Internal Revenue Service and the California Highway Patrol."

Judge Jails Virginia Document Fraud Suspect Over Manslaughter Conviction. The Hampton Roads Virginian Pilot (8/5, McGlone) reports US Magistrate James E. Bradberry on Thursday ordered Guatemalan Margarito Diaz "jailed on charges of producing phony immigration documents after learning that he had been convicted of manslaughter 15 years ago but had never been deported." Diaz and Perfecto Perez are "charged in an investigation of mass-produced phony identifications used by illegal immigrants to remain in the country and obtain employment." Bradberry "had harsh words for immigration officials, questioning why Diaz was allowed to remain in the country. … 'It's only 9/11 that all of a sudden has gotten them off their butts,'" he said. The Virginian Pilot notes, "Agents from Immigration and Customs Enforcement, the FBI and the Virginia State Police conducted the raids" in which Diaz and Perez were arrested.

Professor Says US Should Rethink Priorities In Terror Prevention. Arthur Kellerman, a professor and chair of emergency medicine at the Emory University School of Medicine in Atlanta, writes in the Washington Post (8/5, A15), "One of the fundamental responsibilities of government is to coolly and dispassionately assess health threats against the populace and take decisive action to counter these threats. Faced with the twin specters of mass casualties from international terrorism and emerging biological threats, our government has failed to take effective action on either front." Rather than "strengthen our nation's beleaguered emergency and trauma care system to meet this threat, the federal government has turned a blind eye to the problem. Across the United States, underfunded emergency rooms and trauma centers lack sufficient beds to meet their daily mission, much less absorb large numbers of victims from a terrorist attack."

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WAR NEWS:

Military Cites Statistics Showing Decline In Suicide Attacks. The New York Times (8/5, Smith) reports, "A day after losing 15 marines in fighting along the Euphrates River, the American military command here said Thursday that suicide attacks had declined as a result of its three-month campaign to stem the flow of foreign fighters coming down the river valley from Syria." American command spokesman Brig. Gen. C. Donald Alston "said 13 car bombings occurred in Iraq last week, only three of which were suicide bombings, the lowest weekly figures since the current counterinsurgency campaign in western Anbar Province began. The military regards car bombings, suicide bombings in particular, as a rough measure of foreign fighter activity because it contends that most of the suicide bombers are foreign militants."

The AP (8/5, Tran) adds, "Alston warned that militants will likely rally their forces in a concerted effort to derail the country's political progress, including a referendum on the constitution in October and an election in December."

The Financial Times (8/5, MacDonald) reports that although "civilians make an easy target, the guerrillas have also producing more sophisticated devices to keep up the pressure on US patrols, Gen Alston said." The Times adds, "Shaped charges, for example, can direct the force of a blast to maximise its effect. Some of the devices being used most recently in western Iraq are reportedly of a type previously used by Hizbollah, the south Lebanese resistance group."

In contrast, the Washington Post (8/5, A6, Finer) reports, "The start of August has been among the bloodiest stretches for American forces since the 2003 invasion of Iraq, and non-active-duty service members have been hit hardest. Twenty-one Marines killed in three separate incidents this week were reservists, and the soldiers killed Wednesday were from the Georgia National Guard."

Four US Soldiers Killed In Iraq. The US military reported four additional casualties in Iraq yesterday. NBC Nightly News (8/4, story 2, 2:15, Brown) reported the casualties include "a Marine killed in the same area where 14 Marines lost their lives yesterday." ABC World News Tonight (8/4, story 4, :15, Vargas) reported, "Three soldiers were killed in a roadside bombing in Baghdad." The CBS Evening News (8/4, story 2, 2:30, Martin) reported the three Americans killed in Baghdad were "reportedly members of a Georgia National Guard brigade which has suffered 11 dead in the past two weeks."

US Military Says Iran A Source Of Deadly Shaped Charges In Iraq. US authorities in Iraq have intercepted a shipment of high explosive shaped charges that originated in Iran. The insurgents' use of shaped charges, which concentrate the force of an explosion to penetrate armored vehicles, as well as the increased sophistication and size of other improvised explosive devices, have taken a toll on US forces in Iraq.

NBC Nightly News (8/4, story 2, 2:15, Miklaszewski) reported, "Some of the most sophisticated of these deadly weapons are reportedly coming from Iran. US military and intelligence officials tell NBC News American soldiers intercepted a large shipment of high explosives smuggled into northeastern Iraq from Iran only last week. The officials say the shipment contained dozens of so-called shaped charges manufactured recently." Intelligence officials "believe the high explosives were shipped into Iraq by the Iranian Revolutionary Guard, or the terrorist group Hezbollah, but are convinced it could not have happened without the full consent of the Iranian government. And today Defense Secretary Rumsfeld accused Iran of attempting to derail the democratic process in Iraq." Rumsfeld: "The last thing the Iranians want is to see Iraq succeed as a democracy."

The CBS Evening News (8/4, story 2, 2:30, Martin) reported, "Many of the bombs are homemade, using artillery shells, of which there is a seemingly unlimited supply. But just last week, US forces intercepted a shipment from Iran containing professionally made explosive devices specifically designed to penetrate the armor which protects American vehicles."

ABC World News Tonight (8/4, story 3, 2:00, Marquez) reported, "The military says this week alone, they discovered 115 improvised bombs, but there are others they missed. American forces travel on Iraq's roads every day, making them a target. With so many casualties in one bombing, some now question, should the US allow so many troops to travel in a single vehicle at one time."

UN Resolution Calls For Neighbors To Stop Flow Of Arms Into Iraq. The Washington Times (8/5, Pisik) reports, "The U.N. Security Council voted unanimously yesterday to condemn recent 'shameless and horrific attacks' in Iraq and called on Iraq's neighbors to halt the flow of terrorists and weapons." US Ambassador John Bolton said,

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"This resolution highlights the critical importance of cooperation among all member states to halt the flow of terrorists, weapons and terrorist financing to Iraq." He "called on Iran and Syria to honor international commitments to promote stability in the region."

Jaafari Unveils Plan For Increasing Border Security. Knight Ridder (8/5, Allam, Chin) reports, "The Iraqi government on Thursday announced an ambitious plan for improved border protection and intelligence gathering and for the formation of an elite Iraqi force to prepare the embattled country for an eventual drawdown of American troops." Iraqi Prime Minister Ibrahim al-Jaafari "said multinational forces would stay in Iraq" but the "security plan 'is an entirely Iraqi plan, with an Iraqi perspective, Iraqi timing and an Iraqi way of dealing with matters.'"

Iraqi Women Urge US Lawmakers To Help Protect Their Rights. Iraqi women yesterday urged US lawmakers to help assure that women's rights are protected in their country's new constitution. The Washington Times (8/5, Behn) reports that as delegates prepare to meet in Baghdad in 10 days to present the final draft, "it is still not clear how large a role will be given to Islamic Shariah law, which traditionally subordinates women to men." During a visit to Washington yesterday, Basma Fakri, president of the Women's Alliance for a Democratic Iraq, "said it was entirely appropriate for President Bush, the Senate and House to let Iraq's constitutional negotiators know 'that Iraq should be free.'" The Times adds, "The appeal has had some success in Washington, where the House passed a resolution last week that 'strongly encourages Iraq's Transitional National Assembly to adopt a constitution that grants women equal rights under the law and to work to protect such rights.' The resolution also 'pledges to support the efforts of Iraqi women to fully participate in a democratic Iraq.'"

LATimes Warns Against Placing "Too Much Significance" On Iraqi Constitution. The Los Angeles Times (8/5) editorializes, "With the US death toll now past 1,800, the need for a constitution that knits together Iraq's three disparate groups," the Kurds, Sunni Arabs and Shiites, "is ever more evident. The interim assembly is writing the country's basic law and is supposed to publish it a week from Monday," but "it would be a mistake to infuse Aug. 15 with too much significance. There have been other supposedly transformative events — the capture of Saddam Hussein in December 2003, the transfer of sovereignty from US occupiers to Iraqis in June 2004, the Iraqi parliamentary elections last January — that have failed to end the violence in Iraq."

McCain Effort To Formalize Rules For Prisoner Treatment Meets Resistance. USA Today (8/5) reports Sen. John McCain, "the nation's most celebrated ex-POW, has a crisp message for the Bush White House and Pentagon about how to treat detainees: You've got it wrong." McCain is "sponsoring a pair of amendments to the defense bill awaiting the return of Congress in September. In short, the amendments would: Bar the military from treating detainees in 'cruel, inhuman or degrading' ways;" and "require military interrogators to stick to interrogation methods laid out in the Army field manual, the traditional guidepost." Though this "might sound uncontroversial, but the White House and Pentagon are fiercely resisting McCain's measures." Vice President Cheney "describes the amendments as intrusions on presidential authority. From the Pentagon's perspective, McCain wants to solve a problem that has already been taken care of."

Pentagon Says Military Commanders Should Not Have "Hands Tied" In Interrogations. In a USA Today op-ed (8/5), Pentagon spokesman Lawrence DiRita says, "Since the Sept. 11 attacks, interrogations of captured terrorists have provided valuable information helping the United States understand the organizational structure of al-Qaeda, its methods and locations for terrorist recruitment, and the extent of its presence in this country." Some "want to limit this authority by making Congress — not military commanders, the secretary of Defense and the commander in chief — the arbiter of standards for interrogating captured terrorists." Now is "not the time to tie the hands of military commanders. We must have the flexibility to adapt to a ruthless, thinking enemy."

US To Begin Transferring Guantanamo Prisoners To Afghanistan. The New York Times/Reuters (8/5) reports the US "will return about 110 Afghan prisoners now at Guantánamo Bay, Cuba, to Afghanistan, where the Afghan government will decide whether to detain or release them, American and Afghan officials said Thursday." The Pentagon said "an additional 350 Afghans detained by the American military at Bagram Air Base in Afghanistan would be handed over to the Afghan

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government after other facilities were built and guards trained."

The Washington Post (8/5, A1, White, Wright) reports officials said the Bush Administration is "negotiating the transfer of nearly 70 percent of the detainees at the U.S. detention facility in Guantanamo Bay, Cuba, to three countries as part of a plan" to "share the burden of keeping suspected terrorists behind bars." Pierre-Richard Prosper, "ambassador at large for war crimes, who led a U.S. delegation to the Middle East this week," said agreements to those made with Afghanistan "are being pursued with Saudi Arabia and Yemen, whose nationals make up a significant percentage of the Guantanamo population." Senior US officials "said yesterday's agreement is the first major step toward whittling down the Guantanamo population to a core group of people the United States expects to hold indefinitely."

USA Today (8/5, Komarow) reports the transfer of "up to 110 Afghan inmates from Guantanamo Bay, Cuba, to their home country" is the "biggest single step yet toward reducing the population of the prison camp." The deal "comes as some members of Congress are pressing the Bush administration to close the Guantanamo prison."

The Los Angeles Times (8/5, Richter) reports the agreement "will move the Bush administration a step closer to dealing with the troublesome diplomatic problems caused by the Guantanamo Bay prison. The indefinite detentions of about 510 Guantanamo Bay prisoners are viewed in many parts of the world and by critics in the United States as human rights violations, and administration officials have debated whether to close the facility amid charges that detainees have been abused."

UN Oil For Food Probe To Accuse Former Director Of Taking Kickbacks. The Washington Post (8/5, A10, Lynch) reports a UN-established inquiry "into corruption in the $64 billion oil-for-food program will accuse the defunct program's director, Benon V. Sevan, of receiving cash kickbacks for steering lucrative Iraqi oil contracts to an Egyptian oil trader, according to Sevan's lawyer." Attorney Eric Lewis said former Federal Reserve chairman Paul A. Volcker, "who is heading the independent inquiry committee, is to release a third interim report Tuesday" and that it will "also accuse Sevan, of Cyprus, of refusing to cooperate." Lewis said Sevan "is being made a scapegoat to deflect criticism of Secretary General Kofi Annan" and the allegations "are 'flatly false.'"

The Washington Times/AP (8/5, Wadhams) reports although the "amount of money Mr. Sevan is thought to have taken isn't known, the findings would be a major blow to the United Nations because of his stature in the organization and the control he had over the oil-for-food program." But attorney Lewis "denied the charges in a statement that appeared timed to pre-empt the investigation's report." The New York Times (8/5) also runs the AP story.

Army Commanders Under Budget Crunch. Knight Ridder (8/5, Galloway) reports Army commanders "seem to be taking early and unusual measures to keep the lights on and basic services working." At Fort Rucker, Ala., "the home of Army Aviation for half a century, temporary stop-work orders were issued Monday to 120 contract employees, who were sent home to wait without pay for further developments." The "end-of-the-year money problem is perennial, and hardly confined to the Army." But the "problem is compounded this year because Congress recessed for its summer break without passing the Defense Appropriations Act. Senate Majority Leader Bill Frist, R-Tenn., stopped consideration of the bill after the White House objected to provisions that would have required drafting new rules for the treatment of suspected terrorists at Guantanamo Bay, Cuba, and other facilities."

Warner Reportedly Upset With Frist Move On Defense Authorization Bill. The Washington Times (8/5, Gertz, Scarborough) reports in its "Inside the Ring" column that Senate Armed Services Committee Chairman John Warner "is not all that pleased these days" with Senate Majority Leader Bill Frist, because Frist "yanked Mr. Warner's cherished defense authorization bill off the floor last month, when he could not get 60 votes to end debate. To Mr. Frist, the gambit worked. He fought off unwanted Democratic amendments to the defense bill and then won passage of a pro-gun legislation. Asked about the Warner-Frist relationship, the chairman's spokesman, John Ullyot, said, 'He intends to work with the Senate leadership to get a bill authorized this fall. Senator Warner has a very good working relationship with Majority Leader Frist.'"

Basra Undergoing An Economic, Religious Renaissance. Since Saddam Hussein's fall, Basra "is enjoying an economic and religious renaissance, even as the rise of conservative Shiite Islam has put a chill on its traditionally flourishing cultural scene." Knight Ridder (8/5,

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Fadel) reports, "The city flaunts its Shiite identity in the streets, after decades of oppression under Saddam. Portraits of Imam Ali and Imam Hussein, two of the most prominent historical Shiite figures as well as Iraq's major Shiite clerics, are hot items at outdoor markets. A portrait of Jesus appears occasionally among the religious paraphernalia. Many Shiite Iraqis who lived in exile in Iran have flooded back into the country."

Clubs Provide Respite For Baghdad's Wealthy And Middle Classes. USA Today (8/5) reports on Baghdad's Hunting Club, which was once "an exclusive refuge for privileged members of [Saddam Hussein's] government and supporters of the regime. … Today, the Hunting Club is still exclusive, but membership is based on educational achievement and ability to pay dues, club director Hassanain Fadhil says. The club offers respite from the city's daily violence and summer heat." USA adds, "Today, there are 32 clubs in Baghdad. Most have swimming pools, restaurants and halls for weddings or other occasions. Annual dues at the more popular clubs can be hundreds of dollars per year for a family membership, so membership is generally limited to middle class and wealthy Iraqis."

US Urged To Bring Opportunity, Dignity To Iraq's Youth. Ed O'Connell, a senior research analyst at Rand Corp. working in Iraq and the Middle East, writes in the Washington Post (8/5, A15) that the West "must do a better job of bringing opportunity and dignity" Iraq's youth, adding, "If we can't, the terrorists will continue to prey upon such vulnerable young people, convincing them that the path to glory and dignity lies along the road of suicide bombings and explosive devices. It seems obvious that the success of the terrorist movement rests on the vulnerability of youth worldwide. In military parlance, halting this trend would be considered the deep fight." O'Connell adds, "President Bush's longtime aide Karen Hughes is coming on board to improve America's image in the Muslim world. I propose that Hughes make promoting life and opportunity for Muslim youth one of her top initiatives."

Pentagon To Release Coffin Photos. As part of a legal settlement announced yesterday, the Pentagon has agreed to make available as quickly as possible some photos of the coffins of US service members killed in Iraq. The New York Times (8/5, Files) reports that the agreement "runs counter to a longstanding Pentagon policy that bars the public release of such photographs. But in response to requests under the Freedom of Information Act, the Pentagon has already released hundreds of such photographs this year, and it agreed under the settlement to continue to do so." The settlement was announced by Ralph Begleiter, a journalism professor at the University of Delaware who was a lead plaintiff in the current suit.

The Washington Post (8/5, A3, Tyson) adds, "The decision was called a victory for open government by the National Security Archive, a nongovernmental research group here that helped the litigation."

Pentagon Removes Political Messages From Web Site. The Washington Post (8/5, D5, MacMillan, Specht) reports that the Pentagon "has removed messages containing political commentary from a Web site designed for people to show their support for U.S. forces serving in Iraq and Afghanistan. Most of the postings at America Supports You (http://americasupportsyou.mil) express love and encouragement…without partisan asides. But among the 60,000-plus messages were at least a few dozen -- found with the site's search function -- that equated troop support with backing the Bush administration's political goals. Still others lambasted Democratic politicians such as John F. Kerry and Edward M. Kennedy, the senators from Massachusetts." The decision to remove such messages "reflects a policy posted on the site last week warning that political speech will be barred."

General Says NATO Will Be Ready To Take Over For US In Afghanistan In 2006. The Long Island Newsday/AP (8/5) reports that a NATO general said yesterday that a NATO-led international force will be ready to assume responsibility for security all across Afghanistan by the end of next year." The move would free up many of the 17,6000 US troops currently battling militants in Afghanistan. The PA notes that the announcement "follows a surge in fighting between U.S.-led forces and Taliban rebels ahead of elections next month. The bloodshed has led the military to rush in an airborne infantry battalion of about 700 troops on standby in Fort Bragg, N.C."

DOJ:

Comey To Join Lockheed Martin As Senior VP, General Counsel. The Wall Street Journal (8/5,

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Squeo) reports, "The nation's No. 2 law-enforcement official, Deputy Attorney General James Comey, is expected to join Lockheed Martin Corp. as senior vice president and general counsel when he leaves the government this month, according to people familiar with the matter." The Journal continues, "Mr. Comey, perhaps best known in recent years for spearheading a crackdown on corporate fraud, previously had prosecuted numerous organized-crime and terrorism cases, including those involving crime boss John Gambino and the 1996 Khobar Towers terrorist attack on a U.S. military facility in Saudi Arabia. President Bush appointed him to the senior Justice Department post in December 2003." The Journal notes, "Separately, David N. Kelley, who succeeded Mr. Comey as U.S. Attorney for the Southern District of New York in early 2004, is leaving that post to join law firm Cahill Gordon & Reindel LLP. He will start at the firm in the fall as a litigation group partner."

The AP (8/5) reports, "Comey, 44, will join Lockheed in October, replacing Frank Menaker Jr., 65, as its top lawyer. Comey, who was appointed in 2003 by President Bush, said in April that he planned to leave the Justice Department in the fall."

Reuters (8/5) reports, "Comey, the No. 2 U.S. legal official behind Attorney General Alberto Gonzales, led the Justice Department's Corporate Fraud Task Force, overseeing prosecutions of executives at Adelphia Communications Corp. , ImClone Systems Inc. and WorldCom. He also handled a number of high-profile terror and drug cases. … Before serving in Washington, Comey was U.S. attorney for the Southern District of New York, where he made his name prosecuting an organized crime case against the Gambino family."

CORPORATE SCANDALS:

US Investigating Bribery Allegations Against DaimlerChrysler. The Wall Street Journal (8/5, Wilke, Power) reports, "The Justice Department is pursuing a criminal investigation of allegations that DaimlerChrysler AG's Mercedes unit paid bribes in at least a dozen countries and that senior executives may have been aware of the practice. The investigation is an escalation of a civil inquiry by the Securities and Exchange Commission that was disclosed late last year. That inquiry was triggered by a former Chrysler accountant in Detroit who alleged in a lawsuit last year that the company kept dozens of secret bank accounts to bribe foreign officials." The paper adds, "German federal authorities joined the investigation as well, people close to the case said, after the July 22 suicide of Rudi Kornmayer, managing director of the company's plant in Nigeria. The 53-year-old executive shot himself in a park in Esslingen, Germany, police said. Investigators are reviewing a suicide note that refers to the bribery inquiry, those close to the case said. DaimlerChrysler operations in Latin America and Africa are among those under scrutiny, a person close to the case said, but the nature and purpose of the alleged payments hasn't been disclosed. In financial disclosures on July 28, DaimlerChrysler reported it has identified 'accounts, transactions and related payments that are subject to special scrutiny.' The company said it is cooperating fully with investigators and 'voluntarily sharing...information from its own internal investigation' in response to subpoenas from US authorities. A spokesman at DaimlerChrysler's Stuttgart, Germany, headquarters declined to amplify that statement."

SEC Asks Judge To Allow Scrushy Case To Proceed. Bloomberg News (8/5) reports, "HealthSouth Corp. founder Richard Scrushy should face civil-fraud charges for his role in 'one of the largest financial frauds in U.S. history,' the Securities and Exchange Commission said Thursday in urging a judge to let the case proceed." Bloomberg continues, "The SEC's filing in federal court in Birmingham, Ala., called Scrushy "desperate" for asking last month that the lawsuit be dismissed because of the agency's collaboration with the Justice Department. Any guidance given to the SEC was within acceptable rules, the agency said. … 'Scrushy wants this court to create new law, from scratch, that would obligate the SEC to keep suspects apprised of developments in parallel DOJ investigations,' the SEC said. 'Scrushy wants the SEC to become the con man's ear in the Justice Department.'" Bloomberg adds, "Scrushy is accused by the SEC of lying to investors and signing false financial reports. The lawsuit is one of several stemming from fraud that happened under Scrushy's watch from 1996 to 2002 at HealthSouth, the largest U.S. operator of rehabilitation medicine services. Scrushy, who is fighting to regain control of the company he started in 1984, was acquitted June 28 of criminal charges."

Greenberg Takes On AGI Directors. The New York Times (8/5, Anderson) reports, "Maurice R. Greenberg, the former chairman and chief executive of the giant insurer

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American International Group, has challenged the rationale for its $4 billion income restatement, calling many of the items 'exaggerated and unnecessary.'" The paper adds, "In a document presented to regulators yesterday, Mr. Greenberg's lawyers point to many people, including the company's audit committee and PricewaterhouseCoopers, as being equally responsible for overseeing the company's complex accounting. It suggests that the company's huge restatement was carried out to justify Mr. Greenberg's ouster earlier this year." The Times continues, "The document, known as a white paper, is a gamble for Mr. Greenberg. He is named in a suit brought by the New York attorney general, Eliot Spitzer, which claims that he and others manipulated AIG's financial statements and misled regulators, and he continues to be under criminal and civil investigation by federal authorities. In late May, AIG restated five years of results, lowering its net income over that time by $4 billion, or 10 percent." Robert A. Mintz, head of the white-collar defense practice of the law firm McCarter & English and a former federal prosecutor, said, the paper is "a shot across the bow of the regulators who clearly are contemplating bringing criminal charges. It's a signal that this is clearly a winnable fight and it's far from a black and white case."

The Wall Street Journal (8/5, Francis, McDonald) reports, "Attorneys for former American International Group Inc. Chairman and Chief Executive Maurice R. 'Hank' Greenberg defended many of the accounting decisions made on his watch, telling regulators that the company's auditor and current AIG executives knew of moves the company recently reversed. In a 51-page document, the lawyers say that AIG's longtime auditor, PricewaterhouseCoopers LLP, Chief Executive Martin J. Sullivan and Chief Financial Officer Steven J. Bensinger, among others, were aware of accounting moves that the company has reversed under pressure from regulators." The Journal adds, "The document suggests current managers are eager to take sizable charges now partly to make the firm's future results looks stronger by comparison. The changes behind the restatement 'may be an effort by new management to set the bar as low as possible on the investment community's expectations of AIG's earnings going forward,' according to the document. The outside directors also have 'an interest in legitimizing their removal of Mr. Greenberg,' the document says."

Cox Says He'll Be Investor Advocate At SEC. The Wall Street Journal (8/5, Solomon) reports that in "his first day on the job, Securities and Exchange Commission Chairman Christopher Cox sought to allay concerns that he'll kowtow to business, telling SEC staff that 'the Department of Commerce serves our country's businesses. We are the investors' advocate.'" Cox's arrival has been "viewed with skepticism by some who fear he may take a more business-friendly approach to regulation and enforcement than his predecessor, William Donaldson." But at "a staff meeting yesterday morning, Mr. Cox told staffers those predictions 'often have as much factual basis as a WorldCom prospectus' and said anyone who tries to take advantage of the investing public 'will find themselves a powerful adversary in the SEC.'"

The Financial Times (8/5, Parker) reports Cox "signalled on Thursday that providing investors with more user-friendly financial information would be a theme of his leadership." Cox "complained about the lack of 'plain English' in company proxy statements and mutual fund prospectuses. He also warned that the SEC faced some 'truly thorny issues' in implementing rules on stock trading, hedge fund oversight and mutual fund governance that were finalised by William Donaldson, his predecessor."

Stock Options Could Give Managers Incentive To Cheat. In a column on stock options given to chief executives for the New York Times (8/5), Floyd Norris writes, "It appears that really big options grants make it more likely that companies will fudge their numbers and that companies with such grants are more likely to go broke." Norris continues, "One study, to be presented this weekend at a meeting of the Academy of Management in Honolulu, compared 435 companies that were forced to restate their financial statements with similar companies that did not run into such problems. The report found that the higher the proportion of the boss's pay in stock options, the more likely the company was to be forced to restate profits. For companies where bosses got 92 percent or more of their pay in options, about a fifth ended up faking their books within five years." Norris adds, "That conclusion would be more persuasive if the authors, Jared Harris, a doctoral candidate at the University of Minnesota, and Philip Bromley, a management professor there, had looked at all companies that are so generous with options. But it makes a lot of sense. Those executives whose well-being most depends on the

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stock going up are most likely to do what they can to arrange that, by fair means or foul." The Times says the study also found it isn't just options "that seem to correlate with fraud." Norris notes that according to the study, "Bosses of companies that are doing much worse than their competitors may feel a need to cheat. And companies that turn in a very good year have a propensity for faking numbers the next year."

Delphi Eyes Major Restructuring To Avoid Bankruptcy. The Wall Street Journal (8/5, White) reports, "Delphi Corp. Chairman and Chief Executive Officer Robert S. 'Steve' Miller said the automotive supplier is in discussions with former parent General Motors Corp. and the United Auto Workers about a comprehensive restructuring of Delphi's unprofitable US operations aimed at avoiding bankruptcy reorganization." Miller, a veteran leader of large-scale corporate restructurings, said in an interview with the Journal that discussions with GM and the union "are very constructive and give me hope that we can restructure out of court." The paper adds "But Mr. Miller said that if Delphi can't reach agreements with GM and the UAW that substantially cut its US labor costs and allow for restructuring or sale of unprofitable businesses, the company can't continue on its current course until September 2007, when its current UAW contract expires. The paper notes Delphi had a $403 million loss in the first quarter, and has forecast a loss for the year. Miller told the Journal, "We don't have the wherewithal to go another two years losing money at that rate." Miller took over Delphi July 1, succeeding former Chairman and Chief Executive Officer J.T. Battenberg III, who announced his retirement in February.

Morgan Stanley Board Slow To React To Management Problems. The Wall Street Journal (8/5, Davis, Smith) reports, "On a sunny day in early June, near the top of a 60-story glass tower with panoramic views of Boston, three independent Morgan Stanley directors heard a stern critique from money managers at the hedge fund Highfields Capital Management LP. Morgan Stanley Chief Executive Philip Purcell risked being ousted in a proxy fight the next spring, the Highfields managers said. Yet the Morgan Stanley board had allowed two designated successors to leave and the firm was suffering an alarming exodus of talent, they said." The paper adds, "The meeting with Highfields was the last significant event before directors and Mr. Purcell decided he should step down, according to interviews with two people knowledgeable about board deliberations. On June 13 he announced he would resign and he left the firm on June 30. Based on interviews with directors, investors and others, a picture emerges of a board that came to grips painfully slowly with the extent of Mr. Purcell's unpopularity. By some directors' own accounts, the board initially misjudged attacks on Mr. Purcell by retired Morgan Stanley executives, seeing the complaints as carping about his personal style rather than as an issue that threatened the company's performance." The Journal adds, "The tale serves as a caution for boards in an era when their role in corporate governance is drawing more scrutiny. The damage from delay when directors fail to spread their antennae widely is especially great at a Wall Street securities firm like Morgan Stanley, where the most valuable assets can walk out the door and never return."

Federal Bank Regulators Plan Examiner Restrictions. Dow Jones Newswires (8/5) reports, "U.S. regulators on Thursday proposed rules to enforce a new law restricting senior bank examiners from working for the banks they supervise for one year after leaving their jobs." Dow Jones continues, "Starting Dec. 17 the job restriction, included in an intelligence and anti- terrorism law enacted late last year, would apply to examiners at the Office of the Comptroller of the Currency, the Federal Reserve, the Federal Deposit Insurance Corp. and the Office of Thrift Supervision." Dow Jones adds, "The legal requirement followed a year-long probe by the Senate Permanent Subcommittee on Investigations into money laundering allegations involving Riggs Bank N.A., which has since been acquired by PNC Financial Services Group. … The Senate subcommittee found the OCC was slow to respond while Riggs helped corrupt leaders from Chile and Equatorial Guinea. Questions surrounded R. Ashley Lee, the regulatory agency's examiner in-charge at Riggs from 1998 to 2002, who left to become Riggs' chief risk officer. Lee was put on leave while the U.S. Justice Department investigated ethics violations. … The proposed restriction would apply to employees of bank regulators who serve as senior examiners for two or more months during their final year of employment with the agencies."

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CRIMINAL LAW:

Former AIPAC Officials Charged Over Leaked Pentagon Classified Information. The Washington Post (8/5, A1, Eggen, Stockwell) reports, "Two former employees of an influential pro-Israel lobbying group were indicted yesterday on charges that they illegally received and passed on classified information to foreign officials and reporters over a period of five years, part of a case that has complicated relations between the United States and one of its closest allies." The Post continues, "Although no foreign government is named in the indictment, U.S. government sources have identified Israel as the country at the center of the probe. The Israeli Embassy in Washington also confirmed yesterday that it has been 'approached' by investigators in the case." The Post adds, "The 26-page indictment, handed up in U.S. District Court in Alexandria, represents the first formal allegations of criminal wrongdoing against the former employees of the American Israel Public Affairs Committee. AIPAC is widely recognized as one of the most powerful lobbying organizations in Washington and has carefully cultivated close ties to Congress and the Bush administration."

The New York Times (8/5, Johnston) reports, "The indictment accused Steven J. Rosen and Keith Weissman, formerly senior staff members at the American Israel Public Affairs Committee, with improperly disclosing national security information beginning in April 1999. The group dismissed the two men last April." The Times continues, "As the committee's director of foreign policy issues, Mr. Rosen was a highly visible figure in Washington who helped the organization define its lobbying agenda on the Middle East and forged important relationships with powerful conservatives in the Bush administration. Mr. Weissman was a senior Middle East analyst." The Times adds, "The charges in the long-running inquiry were expected, but nevertheless unusual. Neither Mr. Rosen nor Mr. Weissman, who have denied any wrongdoing, held security clearances. … They were not government employees and they operated in a foreign policy world in which private lobbyists, public officials and journalists often trade delicate information about executive branch decision-making that is related to other countries."

Knight Ridder (8/5, McCaffrey, Strobel) reports, "U.S. Attorney Paul McNulty said the men were attempting to influence U.S. foreign policy. He said trafficking in information is commonplace in the nation's capital but a 'clear line separates classified information from everything else. … Today's charges are about crossing that clear line,' McNulty said." Knight Ridder continues, "The indictment paints a more detailed picture of the case against Pentagon analyst Lawrence Franklin, who was charged in May with leaking classified information to the pro-Israel lobbyists about possible attacks by Iran on U.S. forces in Iraq. … Franklin, who worked on the Iran desk in Secretary of Defense Donald Rumsfeld's office, had also been charged with three counts of communication of national defense information to persons not entitled to receive it. In Thursday's indictment, Rosen was charged with aiding and abetting Franklin in one of those counts by passing along written classified information." The AP (8/5, Sherman) reports that McNulty "said the men apparently were motivated by a desire to advance their personal agendas and careers by trading on prized information. 'The facts alleged today tell a story of individuals who put their own interests and their own views of foreign policy ahead of American national security,' McNulty said at a news conference. … Although the indictment refers to other U.S. officials who gave Rosen classified materials, McNulty said no other charges are planned, but noted the investigation continues."

The Financial Times (8/5, Sevastopulo) reports, "John Nassikas, a lawyer representing Mr Weissman, said: 'We are disappointed that the government has decided to pursue these charges, which Mr Weissman strongly denies.' … Abbe Lowell, a lawyer for Mr Rosen, said: 'We expect that the trial will show that this prosecution represents a misguided attempt to criminalise the public's right to participate in the political process.'"

Reuters (8/4, Vicini) and Bloomberg News (8/5) USA Today (8/5, 4A, Locy), the Los Angeles Times (8/5, Schmitt), and the Washington Times (8/5, Seper) also report on the indictments.

US Charges Missouri Man In First Camcorder Movie Piracy Indictment. The New York Times/Reuters (8/5) reports, "A Missouri man is the first to be indicted under a new federal law that prohibits people from secretly videotaping movies when they are shown in theaters, the U.S. Justice Department said on Thursday." Reuters continues, "Curtis Salisbury, 19, used a camcorder to make copies of recent releases 'The Perfect Man' and

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'Bewitched' and then distributed them through illicit computer networks that specialize in piracy, the Justice Department said. … A law that took effect in April prohibits such behavior." Reuters adds, "Salisbury also downloaded several movies and software programs from the computer network, the Justice Department said. … Salisbury, who faces up to 17 years in prison, could not be reached for comment."

The Hollywood Reporter (8/5, Boliek) reports, "One section of the new law, known as the Artists Rights and Theft Prevention Act, criminalizes the use of recording equipment to make copies of movies in theaters. … 'Camcording movies in theaters for online distribution is a crime,' U.S. Attorney Kevin Ryan said. 'This case represents the first prosecution under the Family Entertainment Copyright Act and demonstrates that the U.S. Attorney's office and its CHIP (Computer Hacking and Intellectual Property) Unit will aggressively employ the tools provided by Congress and the president to combat the theft of intellectual property.'" The Reporter continues, "The statute also prohibits the infringement of a work being prepared for commercial distribution by making it available on a computer network accessible to members of the public, where the individual knows the work was intended for commercial distribution. The indictment represents the first use of those provisions by federal prosecutors. … MPAA president and CEO Dan Glickman said the indictment proved the need for the new law. … 'Over 90% of initial releases that are pirated are a result of people camcording in movie theaters,' Glickman said. 'That's why we worked with Congress and the president to pass crucial legislation strengthening penalties against people who camcord movies in theaters and make them available to the public on the Internet. The creative works of the entertainment industry belong to the millions of people who make them and are not for others to steal or unlawfully distribute.'"

Bloomberg News (8/5) reports, "Federal prosecutors are investigating sites on the Internet used to distribute pirated movies, games and software. … Last month, four people were charged in San Jose with copyright violations as part of a nationwide crackdown on the sites."

US Charges Former Chicago Park Official With Taking Kickbacks. The Chicago Tribune (8/5, O'Connor, Ford) reports former Chicago Park District director of natural resources Shirley McMayon "official accepted cash, vacations to ski resorts, a pricey bicycle and even a manicure for steering millions of dollars in work at Millennium Park to a suburban landscaping company, federal authorities charged Thursday. … Michael Lowecki, the company owner, and Kevin Haas, its former chief operations officer, were also charged in the indictment." The Tribune notes FBI Chicago SAC Robert Grant said the McMayon probe "has led to other investigative leads that are aggressively under investigation." The Chicago Sun Times (8/5, Warmbir, Herrmann, Korecki, Novak) notes McMayon, "allegedly received more than $120,000 in cash plus free vacations, computers and other goodies for steering about $8 million in Park District landscaping work to…James Michael Inc. In all, more than $137,000 in cash and benefits went into her pocket from 2000 to 2002, prosecutors allege.

Reuters (8/4) reports, "McMayon, 47, is accused of accepting free ski trips, spa visits, and tickets to a Green Bay Packers football game in exchange for steering $8 million worth of contracts to James Michael Inc. and executives Michael Lowecki and Kevin Haas. … 'We should be having contracts on the basis of merit,' said local U.S. Attorney Patrick Fitzgerald. 'The system has been compromised.' … Since being appointed the top prosecutor in Northern Illinois in 2001, Fitzgerald has unearthed corruption at all levels of state and local government, touching the administrations of former Republican Gov. George Ryan and Chicago Mayor Richard Daley."

Former Baltimore VA Employee Sentenced To Prison For Bribery. The Baltimore Sun (8/5) reports former Department of Veterans Affairs Baltimore Regional Office employee Frank McCreary on Thursday was sentenced to a year and a day in prison for taking bribes on VA contracts. "McCreary's co-defendant in the case, Carmelo Vizzi…owned a home improvement business that bid on contracts offered by the VA." Vizzi "bribed McCreary by paying him between $250 and $600 per contract awarded," and "in return, Vizzi received inside information on the lowest bid so he could underbid the competition." The Sun notes, "The FBI and Veterans Administration-Inspector General investigated the case."

Two More Sentenced In Ongoing New Orleans Ticket-Fixing Probe. The New Orleans Times Picayune (8/4, Yee) reports, "A former Orleans Parish Traffic Court reporter was sentenced Wednesday to jail, and a former courthouse guard received probation, a fine and

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community service in a ticket-fixing scam still under investigation by federal officials. Court reporter Glenda Hamlin and guard Bobby Grant are the fourth and fifth court employees to be sentenced," and US Attorney Jim Letten declared, "The investigation is not over." The Times Picayune notes, "Grant and Hamlin were in a group of 10 that took advantage of the city's computerized traffic records, accessible only to certain staff members," to dismiss traffic citations in exchange for bribes.

Jury Selected For Gotti Racketeering Trial. New York Newsday (8/5, Destefano) reports, "A group of seven women and five men made the final cut Thursday as jurors who will decide the fate of John 'Junior' Gotti, the son of the late mob boss whose federal racketeering trial begins Monday in Manhattan." Newsday continues, "Shortly after Thursday's lunch break, prosecutors and defense attorneys, along with federal Judge Shira Scheindlin, made the final pick of 12 regular jurors and six alternates. One male alternate was later excused, leaving five for the trial. … The panel of regular jurors contains six whites, two blacks and four Hispanics. One Hispanic man said he was on disability for depression, a Hispanic woman is hoping to be a state court officer, while one white male said he worked in engineering. … 'It was a very painstaking process, but ultimately we have 12 very carefully examined and, ultimately in our view, open-minded and fair jurors,' Gotti's defense attorney Jeffrey Lichtman told reporters outside court. … 'In the end, that is all John and myself ever want in a jury,' Lichtman said. Jury selection had begun on Monday." Newsday notes, "Gotti, who officials said supervised the Gambino crime family after his father's imprisonment in 1992, is on trial for assorted racketeering charges, including the attempted kidnapping of Guardian Angels founder and radio talk show host Curtis Sliwa. Also on trial with Gotti are Michael 'Mikey Y' Yannotti and Louis 'Louie Black' Mariani. … Assistant U.S. Attorney Michael McGovern disclosed that the first witness he expects to call Monday will be former Gambino soldier Frank Fappiano, an admitted hitman who has turned government witness. Fappiano last year testified at the trial of Gotti's uncle Peter, who was convicted of federal racketeering charges."

ABA Group To Consider Endorsing Reporter Confidentiality Law. The San Diego Union-Tribune/AP (8/5, Holland) reports, "The American Bar Association has resurrected a plan to endorse federal protection for journalists who refuse to reveal their sources to prosecutors, following the high-profile jailing of one reporter and threats against others." The AP continues, "The nations' largest lawyers group, which declined 30 years ago to back a reporter shield law, was debating that issue and others at its annual meeting running through Tuesday in Chicago. … ABA members were hearing from Attorney General Alberto Gonzales and Supreme Court Justices John Paul Stevens and Stephen Breyer." The AP adds, "Endorsement of the shield law would allow the organization to lobby Congress, where bills are pending to protect reporters. … 'This is a ripe topic,' said Landis Best, a media layer in New York who worked on the proposal. 'Not just lawyers and not just journalists are talking about it.' … Best said that many states have laws that prevent punishments of reporters who keep sources private, but a national law is needed to encourage federal government whistle-blowers and others to provide information to the news media." The AP notes, "Not all lawyers support the proposal. … 'The national government has certain kinds of compelling interests that conflict with the right of the press to keep their sources confidential, like national defense and security,' said John Yoo, a law professor at the University of California, Berkeley, who worked in the Bush Justice Department from 2001-03. … 'It's hard to see the ABA getting people in Congress to place the right to protect anonymous sources above national security,' he said."

Man Held In Idaho Kidnapping-Murder Suspected In 1997 Murder Of California Boy. The AP (8/5, Jablon) reports, "A convicted sex offender accused of murdering three people in Idaho and killing one of the two children authorities said he abducted from the home is now being investigated in the 1997 kidnapping death of a 10-year-old California boy." The AP continues, "Joseph Edward Duncan III, 42, is linked by a single fingerprint to the scene of the killing of Anthony Martinez, Sheriff Bob Doyle told a press conference on Wednesday." The AP adds, "Duncan was arrested last month after people at an Idaho restaurant spotted 8-year-old Shasta Groene, who went missing with her 9-year-old brother Dylan in May. Dylan's body was later found in Montana. … FBI agents involved in the Idaho investigation contacted Riverside authorities on July 14, and said Duncan mentioned the name Martinez and the general area." The AP notes, "Investigators flew to Idaho to fingerprint Duncan. They tried to interview him but he refused to talk. Confirmation of

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the fingerprint match was received Monday, the sheriff said. … 'We're pretty confident that he's our suspect. ... This is huge,' Doyle said. 'We followed up 15,000 leads over eight years. You can imagine the elation that everybody has.'"

CIVIL LAW:

1789 Copy Of Bill Of Rights Returned To North Carolina. The Long Island Newsday/AP (8/5, Dalesio) reports, "An original copy of the Bill of Rights that was given to North Carolina by George Washington back in 1789 was returned to the state Thursday, culminating a bitter legal tug-of-war over the historic document." The AP continues, "Gov. Mike Easley accepted the weathered document after a judge ordered federal marshals to turn it over to the state -- the first time North Carolina has had possession of the document since the end of the Civil War. … 'North Carolina's stolen Bill of Rights may have been out of state for nearly 140 years, but never out of mind,' Easley said in a statement." The AP adds, "Easley signed a receipt accepting possession of the document, in an ivory-colored frame, from U.S. marshals during a quickly announced ceremony inside the antebellum state Capitol from which the document was stolen by an invading Union soldier in 1865. The document is one of the original 13 delivered to the colonies for review before the final Bill of Rights was approved in 1789. … The stolen document was sold by the Union soldier in 1866 to an Ohio buyer, whose family sold it to Connecticut antiques dealer Wayne Pratt in 2000 for $200,000. … In March 2003, an FBI agent posing as a museum buyer pretended to purchase the paper from Pratt and his investor, Robert V. Matthews, for $5 million. Instead, the agent presented a seizure warrant signed by the judge in the case. … U.S. District Court Judge Terrence Boyle last year awarded the document to North Carolina, but in January, the 4th U.S. Circuit Court of Appeals in Richmond, Va., told the judge to reconsider. … Boyle determined the document should return to the possession of the person or entity who owned it before the government's sting operation. He ruled Thursday that Pratt had the clearest right to possession, but had relinquished the claim to North Carolina."

Tobacco Companies Sued Under Medicare Law. The Wall Street Journal (8/5, Goldfarb) reports a conservative seniors group "filed suit against big U.S. tobacco companies, seeking to recover billions of dollars spent on smoking-related diseases by Medicare, the federal health-insurance program for the elderly." The case "relies on a little-known but recently strengthened provision of Medicare law that allows someone to sue on behalf of Medicare when it pays medical expenses that another party had a legal obligation to cover -- for example, when a corporate health plan has agreed to cover the expenses, or when a business or other party injured the Medicare beneficiary and is liable." If the suit "prevails, Medicare collects the damages and the party bringing the suit is eligible for an equal amount. One reason for the provision is that the government doesn't have the resources to prosecute every case."

CIVIL RIGHTS:

Head Of California Youth Prison Removed For Use Of Force. The AP (8/5, Thompson) reports, "The superintendent at the state's most notorious youth prison is being removed from his post for using unreasonable force against a ward and failing to report the incident, corrections officials said Thursday." The AP continues, "Steve Kruse has been on administrative leave since shortly after the May 27 incident at Stockton's N.A. Chaderjian Youth Correctional Facility. His appointment as superintendent will be terminated Wednesday. … Kruse's removal adds to turmoil at the facility, which remains under federal investigation. Justice Department spokesman Eric Holland said Thursday an investigation 'is active and ongoing' into whether the civil rights of wards at the facility are being violated." The AP adds, "The termination was detailed in a quarterly investigative report released Thursday by Matthew Cate, the prison system's independent inspector general. Kruse was not identified by name in the redacted public report, but he was identified as the employee by numerous corrections employees and by previous reports on the incident. … The inspector general found that Kruse grabbed a handcuffed ward's hair and jaw as he was being escorted to another living unit after a fight involving 44 youths at the prison. … Though the ward was struggling with his escorts, and Kruse said he believed he was using reasonable force in line with department policy, investigators concluded the ward was already safely under others' control."

DOJ Mediator Working To Relieve Racial Strife In Montana Town. The Havre (MT) Daily News (8/5, Kline) reports, "Local government officials,

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business leaders and residents have been meeting with a U.S. Department of Justice mediator who is in town this week to address what some perceive as racial discrimination in and around Havre." The News continues, "Mediator Grace Sage is employed by the Justice Department's Community Relations Service and is gathering information to determine whether a problem exists in Havre and what can be done to bridge gaps between neighbors. … The mediator told the Rocky Boy tribal council Tuesday she visited Havre in late June and returned because 'it was well within the jurisdiction' of what she does."

The Great Falls (MT) Tribune (8/4, Miller) reports that Sage "interviewed Havre Mayor Bob Rice and some City Council members Wednesday morning. She met briefly on Tuesday with the Chippewa-Cree Business Committee at the nearby Rocky Boy's Reservation. … Sage declined to be interviewed by the press. Community Relations Service Director Sharee Freeman in Washington, D.C., said confidentiality and the mediation process prohibit her from releasing details about Sage's itinerary." The Tribune adds, "The Community Relations Service is the federal 'peacemaker' in conflicts involving matters of race, color or national origin. It was created under the 1964 Civil Rights Act. … Sage first visited Havre in June. That trip came in the wake of a report by University of Montana journalism students describing examples of shoddy treatment Indians receives in Havre."

Voting Rights Act Turns 40. The Atlanta Journal-Constitution (8/5, Kemper, Baxter) reports, "Supporters and critics of the Voting Rights Act of 1965 agree on just one thing: It worked. … The law was adopted amid the violence and bloodshed of the civil rights movement to abolish racism at the ballot box and guarantee black Americans the right to vote." The AJC continues, "Black voter turnout since then has varied with the perceived importance of each election, and the last two presidential elections set records for minority participation. Meanwhile, the number of African-Americans elected to public office has increased sixfold." The AJC adds, "Key provisions of the Voting Rights Act are up for reauthorization in 2007, though with its 40th anniversary Saturday, the act is already the subject of intense congressional maneuvering. The Rev. Jesse Jackson will lead a march in Atlanta on the anniversary and has launched a national petition drive to urge the White House to extend the provisions of the law. … 'We know there's a scheme afoot to make the Voting Rights Act invalid by rebooting the Supreme Court,' Jackson said Thursday at a news conference in Atlanta on plans for the march. 'We deserve better.'"

Knight Ridder (8/5, Ruggeri) reports, "The act, amended three times and up for renewal in 2007, remains one of the key pieces of legislation for racial equality. Because it banned discriminatory practices, long gone are the literacy tests and violence that once threatened blacks at the polls. … But on the eve of the act's 40th anniversary on Saturday, not everyone agrees that it has banished discrimination from the voting booth. Turnout rates for black voters still lag behind those of whites, and blacks remain represented at disproportionately low rates by black officials. Cases of attempted voter disenfranchisement have been documented as recently as the last presidential election." Knight Ridder adds, "Given the facts, experts and legislators agree, the federal law was a major steppingstone for equality. But minorities still have a long way to go. … 'The Voting Rights Act enabled black people, generally, to be able to register and cast their vote without fear of bodily harm or economic pressures,' said former Rep. Bill Clay, D-Mo., a civil rights activist who lobbied Congress to pass the act. … 'The fear now is that there is lack of enforcement,' said Clay, who in 1968 became the first African-American from Missouri elected to Congress. He retired in 2000." Knight Ridder notes, "In a speech Tuesday on the Voting Rights Act, Attorney General Alberto Gonzales said 124 election fraud investigations are going on nationwide and dozens of other cases have been closed after investigation. That shows, he said, that enforcing the act is a priority of the Justice Department. … 'The president has directed the full power and might of the Justice Department to enforce the Voting Rights Act,' he said. 'Our goal is to make voting easier and cheating harder.'"

USA Today (8/5, Eversley) reports, "Now, with key parts of the act due to expire in 2007, a debate is building over how far America has come in ensuring racial equality and whether protections for minority voters should be renewed or changed. The Voting Rights Act requires jurisdictions in 16 states with past discrimination problems, mostly in the South, to have changes in voting rules cleared by the Justice Department or a federal judge. The impact of that part of the law, called Section 5, can be seen in the dramatic increases in registered voters and officeholders among minorities since the mid-1960s." USA Today continues, "Two other provisions are up for renewal. One allows the US government to send

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poll observers to jurisdictions where there have been alleged voting-rights violations. The other provision, added in 1975 in response to the rising number of Latino voters, requires bilingual ballots and language assistance in areas with large numbers of residents who do not speak English." The paper notes, "There appears to be widespread support in Congress for renewing the act, and the White House has expressed support for it. Still, lively debates are likely when the Senate Judiciary Committee begins hearings on it in September. Democrats such as Sen. Edward Kennedy of Massachusetts and Rep. Raul Grijalva of Arizona are pushing for a stronger law. Among other things, they cite complaints about a lack of voting machines in heavily minority precincts in Ohio during the 2004 elections, and alleged voting irregularities in Florida four years earlier that they say wrongly kept some blacks off of voter registration lists. The Senate panel also is likely to consider proposals to make it more difficult for governments to concentrate minorities in single voting districts, thereby reducing their power."

More Commentary. The Austin American-Statesman (8/5) editorializes, "Even after 40 years, the act is no mere symbol. As U.S. Attorney General Alberto Gonzales noted in a speech in Austin earlier this week, enforcing the Voting Rights Act is a priority at the Justice Department. He said 124 election fraud investigations are ongoing. … Key enforcement provisions in the act are up for reauthorization by Congress in 2007. One of those provisions requires southern states (including Texas) to get Justice Department approval before changing electoral procedures or boundaries. Another requires foreign language ballots in certain districts with large numbers of non-English speakers." The A-S continues, "Congress should reauthorize those provisions when they expire. They are still necessary, still being enforced. Four decades hasn't erased all the vestiges of racism and discrimination in the South, and election miscarriages are still a problem. But reauthorization has run into political trouble. The creation of secure political districts protected by the Voting Rights Act vastly increased the number of minority elected officials locally, statewide and nationally." The A-S concludes, "Reauthorization carries other consequences. A push to make it apply nationally, and not just in the southern states, could doom it to failure in Congress. And attempts to strengthen it to ensure that minority districts are maintained could keep the GOP in power indefinitely. … Political wrangling, however, shouldn't undo the good that was done 40 years ago when the act became law. Its enforcement provisions should be reauthorized by Congress, lest America forget a painful lesson."

WPost Recommends Scholarships For Victims Of Discrimination. The Washington Post (8/5) editorializes, "More than most southern states, Virginia has surmounted its segregationist past, not least by becoming, in 1989, the first state to elect an African American governor, L. Douglas Wilder. (Mr. Wilder is now mayor of Richmond, capital of the old Confederacy.) This year the commonwealth has struck another blow to repudiate a unique event in US history and one of segregation's worst chapters: the decision to close some Virginia public schools rather than comply with court-ordered integration after the Supreme Court's 1954 ruling in Brown v. Board of Education. In recent months, dozens of black Virginians, mostly in their fifties and sixties, have been granted the first state scholarships, up to $5,500 each, to get what they were denied five decades ago: a public education." The paper adds, "If there is an inspirational note to this story, it belongs to Ken Woodley, the crusading editor of the Farmville Herald in Prince Edward County, who almost single-handedly conceived the idea of scholarships, campaigned for it in print and personally urged it on [Governor] Warner and hesitant lawmakers. In 1959, Mr. Woodley's own newspaper led the local chorus of opposition to integration, denouncing it as a communist plot against racial purity and the American way. Now the newspaper, under the same family ownership, has backed Mr. Woodley, and the state scholarships, to the hilt. That is a measure of Virginia's progress, and a credit to it."

5th Circuit Rules U Of Texas Can Block Dating E-Mails. The AP (8/5) reports, "The University of Texas didn't violate the free-speech rights of an online dating service when it blocked thousands of unsolicited e-mails, a federal appeals court says." The AP continues, "The 5th U.S. Circuit Court of Appeals also found that although White Buffalo Ventures LLC, which operates LonghornSingles.com, complied with the requirements of the federal anti-spam law, known as CAN-SPAM, the university can still set its own anti-spam policy." The AP adds, "White Buffalo had sued the university over 59,000 messages blocked by spam filters in 2003. The Austin-based service had legally obtained the addresses from UT but the university blocked the e-mail messages, saying White Buffalo was part of a larger spam problem that had crashed the computer system. … The

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university said it was also responding to complaints from students and faculty. … The court, in a ruling Tuesday, determined that White Buffalo complied with federal law and that its e-mails were not illegal. However, CAN-SPAM does not supersede protection measures employed by an Internet service provider, and the court interpreted ISPs to include the university."

Santorum Disagrees With Bush On "Intelligent Design." In a contrarian move, Sen. Rick Santorum, any advocate of social conservative positions, is publicly disagreeing with President Bush on teaching the "intelligent design" theory. The Washington Post/Reuters (8/5, Hurdle) reports that Santorum "said intelligent design, which is backed by many religious conservatives, lacked scientific credibility and should not be taught in science classes." Bush told reporters from Texas on Monday "that 'both sides' in the debate over intelligent design and evolution should be taught in schools 'so people can understand what the debate is about.'" Santorum told National Public Radio, "I think I would probably tailor that a little more than what the president has suggested. I'm not comfortable with intelligent design being taught in the science classroom."

Columnist Calls Intelligence Design Theory An Attempt To Create Confusion. Paul Krugman writes in the New York Times (8/5), "You might have thought that a strategy of creating doubt about inconvenient research results could work only in soft fields like economics. But it turns out that the strategy works equally well when deployed against the hard sciences. … Which brings us…to intelligent design. Some of America's most powerful politicians have a deep hatred for Darwinism. … But what if creationists do to evolutionary theory what corporate interests did to global warming: create a widespread impression that the scientific consensus has shaky foundations? … The important thing to remember is that like supply-side economics or global-warming skepticism, intelligent design doesn't have to attract significant support from actual researchers to be effective. All it has to do is create confusion, to make it seem as if there really is a controversy about the validity of evolutionary theory. That, together with the political muscle of the religious right, may be enough to start a process that ends with banishing Darwin from the classroom."

Pataki Vetoes Bill That Would Relax Rules On Morning After Pill. The New York Times (8/5, Baker) reports, "As promised earlier this week, Gov. George E. Pataki vetoed a bill on Thursday that would have made the so-called morning-after pill available to women and girls without a prescription. The veto came just hours after the State Assembly delivered the bill to his desk. … In his veto message, the governor emphasized that his main concern was that the measure would not prevent minors from getting the drug before they consulted a doctor or other medical professional. He said his veto was 'based solely on a desire to protect the health and safety of our youngest and most vulnerable women.' He also named other concerns: that the bill did not limit purchases to a single dose and that men could buy it and use it to persuade young girls to have unprotected sex."

The AP (8/5, Humbert) notes, "Advocates for the bill have said they believe Pataki, with an eye on seeking the 2008 Republican presidential nomination, is using the veto to appeal to conservatives. 'This was driven by politics,' said Kelli Conlin, executive director of the New York chapter of National Abortion Rights Action League." The FDA "plans to decide by Sept. 1 whether the morning-after pill can be sold without a doctor's prescription. Seven states already permit over-the-counter sales." Massachusetts Gov. Mitt Romney (R), "who also is eyeing the 2008 GOP presidential nomination, vetoed similar legislation last month."

ANTITRUST:

Lucent Receives Subpoenas In DOJ Antitrust Probe. The Washington Post/AP (8/5), reports, "Lucent Technologies Inc. Thursday said it received two subpoenas related to federal investigations into potential antitrust violations and sales of telecommunications equipment to the federal government." The AP continues, "The telecom-equipment vendor said in a filing with the Securities and Exchange Commission that one of the subpoenas it received related to an investigation by the Department of Justice into potential antitrust and other violations in connection with the federal E-Rate program." The AP adds, "Lucent said the subpoena requires the company to produce documents before a grand jury of the U.S. District Court in Georgia."

Dow Jones Newswires (8/5) reports, "The Murray Hill, N.J., company said the other subpoena was from the Office of Inspector General, General Services Administration, and relates to a federal investigation into certain sales to the

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federal government of telecommunications equipment and associated maintenance services. … Lucent said it received both subpoenas during the three months ended June 30."

TheStreet.com (8/5, Staff) reports, "The company indicated that one (subpoena) was a Justice Department inquiry into the so-called federal E-rate program. Lucent said it must produce documents before a federal grand jury in Georgia. … The second subpoena relates to a federal investigation into certain sales to the federal government of telecommunications equipment and related maintenance services, Lucent said. The company said it "is too early for us to determine whether either of these matters will have a material effect on our business, financial position, results of operations or cash flows.""

ENVIRONMENT/INDIAN AFFAIRS:

Homeowners Can Get Up To $500 Tax Credit Under New Energy Legislation. Knight Ridder (8/5, Martinez) reports making "energy-efficient improvements to your home could net you a $500 rebate from the government." The credit is "buried in the 1,724-page energy bill that President Bush has said he'll sign next week. It gives consumers a credit off the bottom line of their 2006 or 2007 taxes equal to 10 percent of their energy-saving purchases." The "maximum over the two years is $500 and applies to any owner-occupied home or condominium. It's probably a good deal for you, although it's pretty complicated."

Columnist Says Real Energy Policy Needed. Thomas Friedman in his column in the New York Times (8/5) writes, "An energy bill that doesn't enjoin our auto companies to sharply improve their mileage standards is just not serious," but rather what energy expert Gal Luft calls "'the sum of all lobbies.' While it contains some useful provisions, it also contains massive pork slabs dished out to the vested interests who need them least - like oil companies - and has no overarching strategy to deal with the new world" where the "global economic playing field is being leveled" and "we are in a war" being "financed by medieval regimes sustained by our oil purchases." All that is needed "to get consumers and Detroit to change their behavior and adopt" existent "technologies that could make a difference" is "a gasoline tax of $2 a gallon." It "seems as though only a big crisis will force our country to override all the cynical lobbies and change our energy usage" but it seems that 9/11 wasn't enough.

Indian Trust Fund Suit Against Interior Department Apparently Far From Settlement. The Washington Post (8/5, A13, Nieves) reports, "Nine years have ticked away since Elouise Cobell sued the government on behalf of as many as 500,000 Native Americans whose land the United States was supposed to manage. But the end of what has become the longest, largest class action lawsuit against the federal government remains nowhere in sight." The Post continues, "Last week, a major court victory was still fresh; Judge Royce C. Lamberth had issued his most scathing critique of the Interior Department's handling of the Indians and the case. Lamberth cited Interior's 'mismanagement, falsification, spite and obstinate litigiousness,' among other failings, and his disgust was palpable. … 'Perhaps Interior's past and present leaders have been evil people, deriving their pleasure from inflicting harm on society's most vulnerable,' he wrote in the extraordinary, 34-page July 12 ruling, which agreed with the plaintiffs' claim that the department's information was unreliable. … But Cobell was preoccupied by a bill to settle the case that was introduced July 20 by Sens. John McCain (R-Ariz.) and Byron L. Dorgan (N.D.), chairman and ranking Democrat, respectively, of the Indian Affairs Committee. The bill, which the senators called 'a starting point,' was far from the remedy Indian leaders had hoped for, Cobell said. And she testified to that point. … 'This bill proposes a formula for accounting that looks at the trust records from 1980 to 2005,' Cobell said when she returned here from testifying. 'The judge has already ruled that Interior has to make an accounting going back to the beginning.'" The Post notes, "Cobell v. Norton (for Interior Secretary Gale A. Norton) dates to 1996, but the complicated debacle some members of Congress have likened to a 'Federal Enron' traces its origins back more than a hundred years. … Under a forced arrangement, in 1887 the government divided much tribal land across the country, which it had not already taken, into separate, private allotments for Indians. It then leased individuals' land, which ranged from 40 to 160 acres, usually to oil, gas, timber, grazing or coal interests. The Treasury Department placed the fees into a trust and was -- and remains -- responsible for doling out checks to the individual Indian trust beneficiaries. … But from the beginning, the plaintiffs say -- and the government has conceded until recently -- the basic recordkeeping for these lands was botched."

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FBI/DEA/ATF/USMS:

US Authorities Struggle To Combat Fast-Growing MS-13. ABC World News Tonight (8/4, story 8, 2:50, Vargas) reported on the "fastest growing, and perhaps the most violent gang, in America: MS-13. … The FBI says the gang is now spreading from the nation's cities into the suburbs." ABC (Thomas) added, in Maryland, Prince Georges County Police Sgt. George Norris "now estimates there are now 1,000 MS-13 gang members in his county alone." Residents in "neatly manicured Northern Virginia are scared. Linda Paz…was nearly beheaded in 2003 after the gang learned she was helping police in a murder investigation. … What concerns police here most is that MS-13 is no longer just a violent street gang. They are now a highly-organized criminal enterprise, dealing in drugs, guns, and human smuggling. US officials say MS-13 must be stopped, now," but "the problem is, many of the MS-13 members who are deported come right back to the US."

Compton Officials, Residents Vow To Fight Rising Gang Violence. The Los Angeles Times (8/5, Garvey) reports, "Compton officials — joined by an array of community activists and religious leaders — announced Thursday that they plan to seek gang injunctions and start offering rewards of $500 or more for information leading to arrests and convictions, measures intended to help stem this year's rapidly rising homicide count. … At the current pace, Compton's homicide rate would far surpass recent highs in major American cities." Civil rights activist Royce Esters said, "We need the FBI, ATF, the DEA to come in here." Compton Sheriff's Capt. Eric Hamilton "said that some of those agencies were at work in the community and that he was open to more partnerships. But he said that such agencies had come into Compton before without lasting change. 'In my opinion the key is the folks who are out here,' he said, gesturing to the audience."

LATimes Urges Broad Effort Against Compton Gangs. The Los Angeles Times (8/5) editorializes, "All parties in Compton — including the police and the City Council — should resist the temptation to bicker and be prepared to work together. The Sheriff's Department should work harder to recruit deputies who are Compton residents or have a vested interest in the community. The community should be more willing to cooperate with law enforcement in helping to solve crimes." The Times adds, "Even a modest increase in federal and state gang-prevention programs would help cities such as Compton become safer and better places to live. It is the larger community…that must acknowledge that gang violence is not merely a local problem but a societal one."

Miami School Employees Accused In OxyContin Case. The Washington Times (8/5, Seper) reports, "A federal grand jury in Miami has returned an 84-count indictment charging 29 persons, mostly Miami-Dade County Public Schools employees, with conspiracy to possess the pain killer OxyContin with the intent to distribute and to obtain the drug with counterfeit or fraudulent prescriptions. Named in the indictment are a doctor from Miami-Dade County, five county school bus drivers, 13 county school bus attendants, two county school custodians, a cook, a county school cashier and a former county school bus driver. Five unspecified persons also were indicted." The Times adds, " US Drug Enforcement Administration (DEA) spokesman Garrison K. Courtney said the indictment also includes charges of health care fraud and conspiracy to commit health care fraud." DEA agent Mark R. Trouville, who heads the agency's Miami field division, said "The DEA is committed to working with our local counterparts in combating the drug dealers who stalk this community and endanger the welfare and safety of our children. We will continue to make federal resources available for Miami-Dade County and other communities to help curb the flow of drugs in their neighborhoods and to protect our children. DEA has zero tolerance for drug traffickers who work with or around our children."

The AP (8/5, Anderson) reports, "School bus drivers, attendants and other co-workers were charged by federal prosecutors Thursday with taking part in an illegal drug ring involving the powerful painkiller OxyContin." The AP continues, "According to the indictment, Miami-Dade school employees were among 29 people who used more than 100 forged or fraudulent prescriptions to obtain thousands of tablets of OxyContin from South Florida pharmacies." The AP adds, "No teachers were involved, and there was no evidence of drug sales to children, U.S. Attorney R. Alexander Acosta said. … The school workers were recruited to use their health-insurance cards as part of the scheme, prosecutors said. … Of those charged in the grand jury indictment, five are Miami-Dade school bus drivers, 13 are school bus attendants and one is a former school bus driver now driving a city bus.

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Two school custodians, a cook and a cashier were also charged, along with a Miami doctor and five other people."

The Miami Herald (8/5, Yanez) reports, "Miami-Dade School bus drivers, custodians, a cook and a cashier were among the 29 people arrested today for taking part in a scheme to sell the powerful painkiller OxyContin on the street, the US Attorney's Office announced." US Attorney R. Alexander Acosta said, "We have no evidence that children or teachers were involved in this scheme. But these are not the type of people we want around our children." The Herald adds, "Of those charged in the early morning round-up, five were school bus drivers, 13 were bus attendants, two were custodians, one cook and one a school cashier, the US Attorney's Office said. A Miami doctor and five others were also charged."

The South Florida Sun-Sentinel (8/5, Rodriguez) reports, "A central figure in the case was Dr. Ronald E. Harris, prosecutors said. Authorities identified Harris last year as Florida's top prescriber of OxyContin to Medicaid patients. He was charged last year with drug trafficking after selling undercover police officers 10 OxyContin prescriptions without proof of any medical need. He is awaiting trial. Officials with the [DEA] said Harris' arrest prompted their investigation of the school system employees. Investigators said the operation was traced back to January 2003, when Harris began selling prescriptions to Ian Stuart and Johnny Blocker, identified as the ring's leaders. Blocker, a bus attendant, paid colleagues for their school employee insurance information to obtain and pay for the prescription drugs, authorities said." The Sun-Sentinel adds, "The ringleaders paid school employees up to $100 per prescription, and up to $400 if they went to the pharmacy to obtain the pills personally, said the DEA's special agent-in-charge, Mark Trouville. Most of the prescriptions were filled in the Hollywood and Hallandale areas. Employees then sold the pills to a street dealer, who resold them for as much as $80 a pill."

CNN.com (8/5) reports, "In an 84-count indictment, a federal grand jury in Miami charged them with 'conspiracy to possess oxycodone with the intent to distribute and to obtain oxycodone with counterfeited or fraudulent prescriptions, health care fraud and conspiracy to commit health care fraud.' In all, about 100 phony prescriptions were filled at 50 pharmacies in Miami-Dade and Broward counties, representing thousands of pills believed to have been sold on the street, said Alicia Valle, a spokeswoman for the US attorney in Miami. She said none of the pills, which one defendant claimed to have sold for as much as $34 apiece, has been confiscated."

WBZL-TV Miami (8/4, 10:04 PM) reported, "Federal agents arrested 29 people on charges of operating a distribution ring for the powerful pain killer OxyContin. Here's what is even more disturbing about the case -- those arrested include school bus drivers, bus attendants and other Miami Dade school employees charged with being part of a drug operation that put the dangerous pain killer OxyContin on the streets of South Florida. They allegedly used illegal prescriptions to get the drug, then passed it up the chain of command for sale on the drug market. For now, as school starts, we felt it prudent and necessary to take action, on the information we already had. Agents say they were paid up to $400 for each bottle of OxyContin they delivered. The [DEA] and the Florida Department of Law Enforcement were out in the wee hours of Thursday morning to make sure they could find the people they were looking for, before they got their days started. The DEA says, there were 30 OxyContin-related deaths in Miami Dade last year, 674, across Florida. Prosecutors say the drug operation generated more than 100 illegal prescriptions and then they went to 50 area pharmacies."

WTVJ-TV Miami (8/4, 11:06 PM) reported, "These are the same who were about to begin the school year transporting and feeding your kids. Instead they are in hot water with the feds charged with being part of a drug operation that put the drug OxyContin on the streets. They used illegal prescriptions to get the drug. Now as school starts we felt it prudent and necessary to take action on the information we had. The DEA says there were 30 OxyContin-related deaths last year. Prosecutors say the drug operation generated illegal prescriptions and the ring leaders ended up with the drugs and collected $34 for each tablet. Some of the employees were paid… simply to allow their name and insurance card to be used."

WFOR-TV Miami (8/4, 11:16 PM) reported, "Five Miami-Dade school bus drivers, 13 Miami-Dade school bus attendants --22 in all, they are all accused of this painkiller conspiracy. For two years, investigators say they watched as employees went to the school doctor who was none insane scheme and got prescriptions for OxyContin. They would sell the prescriptions for cash to co defendants. Reporter: at no time, as far as the government knows, were any of the drugs sold to kids."

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WSVN-TV Miami (8/4, 10:07 PM) reported, "A major OxyContin bust -- grand jury indicting 29 people. Among those accused in illegal drug ring several Miami-Dade school employees charged with getting the pain killer and trying to sell it."

WPLG-TV Miami (8/4, 5:02 PM) reported, " Major drug sting nets 29 in OxyContin bust, many who work for Miami schools in the illegal sale of OxyContin, series of early morning raids, all but one are employed by Miami school system."

MLB Commissioner Renews Call For Tougher Penalties For Steroid Users. The New York Times (8/5, Wilson) reports, "Baseball Commissioner Bud Selig renewed his call yesterday for tougher penalties for players caught using steroids and for independent administration of the game's drug-testing program. At the same time, a leader of the House Committee on Government Reform, which held nationally televised hearings earlier this year about the issue of steroid use, pressed for an outside investigation into the history of the problem in baseball. Selig's statement, in a news release, appeared to be designed to put pressure on the Major League Baseball Players Association, which had balked at his proposal in April for a "three-strikes-and-you're-out" steroids policy. Selig made his recommendation in a letter on April 25 to Donald Fehr, executive director of the union. Fehr had said that the existing program, established in January when the union agreed to reopen the collective bargaining agreement, needed time to work. He said that further changes should be negotiated in the collective bargaining process."

USA Today (8/5, Bodley) reports, "Commissioner Bud Selig on Thursday used the high-profile 10-day suspension of Baltimore Orioles first baseman Rafael Palmeiro this week to urge the players union to accept his April 25 proposal calling for a strong steroids testing program. Selig said in a statement he is saddened by this week's violations -- Seattle pitcher Ryan Franklin was also suspended for 10 days – 'but they underscore the need for an even tougher policy. There is a deeper issue confronting baseball. It is the integrity of the game and that transcends the viability of the current program."

The Los Angeles Times (8/5, Brown) reports, "In the wake of this week's high-profile suspensions of Baltimore Oriole first baseman Rafael Palmeiro and Seattle Mariner pitcher Ryan Franklin, the commissioner's office issued a three-paragraph release that read, in part: 'The intensity that I feel about this issue is greater today than it has ever been and the time is past due for the Players' Association to accept my proposal to eliminate steroids and other performance-enhancing substances from our game.' Union chief Don Fehr has been meeting with players and team player representatives for much of the summer, in part to discuss the possibility of a new policy."

MLB, Palmeiro Continue To Fight Over Privacy Issues In Steroid Case. The Baltimore Sun (8/5, Barker) reports, "Major League Baseball and Rafael Palmeiro continued to snipe at each other over privacy issues in his steroid case Thursday, making it hard to believe it has been only three weeks since baseball bought a congratulatory newspaper ad to mark the Oriole's 3,000th hit. Baseball seems embarrassed not only that Palmeiro failed a steroid test, but that his abbreviated explanation -- that the drug use was accidental -- has quickly become a national punch line. And it has." Popular culture expert Robert J. Thompson of Syracuse University said, "You can't watch a stand-up comedian without hearing about it. In the court of public culture, it's automatically-assumed guilt." The Sun adds, "The baseball commissioner's office, which has been distancing itself from Palmeiro and his defense, Thursday issued a statement saying the recent steroid-related suspensions of Palmeiro and others show that the sport's drug program needs more teeth."

Palmiero Calls Off 3,000th Hit Pre-Game Ceremonies. The Baltimore Sun (8/5) reports, "The Orioles announced today that the scheduled pre-game ceremonies on Aug. 14 to honor Rafael Palmeiro's 3,000th hit will not be held at the request of Palmeiro. 'Through his agent, Rafael has specifically requested that the planned event not be held,' said Joe Foss, Orioles vice chairman and chief operating officer. 'Given the circumstances, the club is in agreement with Rafael's wish to not move forward with the ceremonies.'"

Sweeney Urges Players Association To Accept MLB's Commissioner's Recommendation. In a letter to the editor in the New York Times (8/5), Rep. John Sweeney writes, "The current testing system does not guarantee that we fully understand the scope of the problem. The public is not notified of what drug an athlete tests positive for. Some drugs are not found in supplements, and there can be no legitimate excuse of unknowing ingestion. Major League Baseball's testing process is secretive, and the penalties are not stemming the tide of steroid use. If baseball wants to

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regain credibility, the players association should accept the recommendations that Commissioner Bud Selig has proposed, as well as allow an independent entity to conduct testing and provide for full transparency."

Monday's Announcement On Palmiero's Failed Drug Test Leaves Fans Guessing. In a column in the Baltimore Sun (8/5), Peter Schmuck writes, "The new drug program does function under a veil of confidentiality, which is intended to protect the privacy of the player, but it defeats the purpose of the supposedly tougher anti-steroid measures if that veil also is used to provide cover for a player who wants to maintain his innocence in the face of a damning test result." Schmuck adds, "Baseball's war on performance-enhancing drugs cleared an important public relations hurdle when a superstar player finally tested positive and accepted his 10-game suspension, but wasn't the real goal of the anti-steroid crusade to create a transparent system that restored full public faith in the national pastime? And if so, why did Monday's stunning announcement still leave us all guessing?"

WSJournal Looks To Distinguish Different Baseball Eras. The Wall Street Journal (8/5) editorializes, "So here's a modest proposal. Baseball's fans know about the "dead-ball" era prior to 1920 and the "live-ball" era that followed. Whatever the much-debated cause, stats before and after were like night and day. So let's designate post-1995 the 'live-player' era. Professional sports are now populated with chemicalized robots who are often fun to watch. But they are different than what went before. We can call this the 'live-player era,' let the old heroes rest in peace and argue into the night about the new heroes like Mr. Palmeiro."

Sequoia National Forest On Track For Record Marijuana Plants Seizure. WCAU-TV Philadelphia (8//4) reported in a story on its website, "Last year, Sequoia National Forest topped the list for marijuana cultivation on US Forest Service lands. And this year, they are on track to surpass that amount. But officials have been taking steps to fight the problem, raiding several farms in the past three days. Miles and miles of lush greenery surround the Sequoia National Forest. But hidden beneath these towering trees is a darker side full of these marijuana plants. 'It's becoming epidemic,' says one person familiar with the problem. She says people have grown pot in the forest for more than 30 years. But the problem has worsened over the last 10 years. 'They go to quite a bit...I mean they will hike everything up there. … I mean it's just amazing.' When officials say that this is big money, they are not kidding. In fact about a pound of this stuff could yield about $4,000 in California and across the country you'd get up to twice as much. Over the past week, county and forest authorities have recovered about 34,000 plants, bringing the total street value, to just under $136 million."

President Bush Lauds Colombia's Efforts To Fight Drug Cartels. The Dallas Morning News (8/5, Jackson) reports, "President Bush on Thursday lauded c and armed guerrillas, though some observers said the Latin American ally has a long way to go. Welcoming President Alvaro Uribe to his ranch in Crawford, Mr. Bush said the U.S. anti-drug initiative known as Plan Colombia 'is producing results' that include lower levels of crime." Bush said after the meeting, "Our two nations are working together to fight drug trafficking and terrorism, and to promote security, democracy and the rule of law throughout the Americas." Uribe "thanked the US for its help, including more than $4 billion in aid since 2000." Uribe said, "Colombia faces a threat from terrorism, funded by drug trafficking. This is a threat that can affect the entire neighborhood, that can affect our entire continent."

The San Antonio Express-News (8/5, Martin) reports, "President Bush pledged continued US aid to fight narco-terrorism in Colombia, telling President Alvaro Uribe on Thursday that success against cocaine traffickers was essential for democracy in the Americas. 'America will continue to stand with the people of Colombia,' Bush told a news conference at his Prairie Chapel Ranch here. And he vowed to push Congress to approve more funds 'so Colombia can build on its progress and win its war against the narco-terrorists.' Uribe was in Texas to promote trade and seek additional US aid. He met with Bush at the president's sprawling ranch where the two leaders discussed the violence that has ripped at the heart of the Andean nation for 41 years." Uribe said in Spanish after the leaders emerged from meetings during the one-day visit, "We have made progress, and we are winning, but we have not won yet."

The Washington Post (8/5, A7, VandeHei) reports,"Uribe came to Crawford looking for a political lift and continued assistance from the United States. Uribe's government is at war with rebels, funded largely by the drug trade, who have kidnapped and killed thousands of people in an attempt to impose a Marxist-style ideology in Colombia. In their private

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meeting, Bush said, they talked about terrorism, trade and human rights. Like US relations with many nations involved in the war on terror, the relationship with Colombia is complicated by charges that the Uribe government encourages -- or turns a blind eye to -- abuses against its people and the spirit of democracy." Uribe said, "This was discussed with great seriousness and with great respect." The Post adds, "

Reuters (8/5, Wilson) reports, "Bush said Bogota's strategy to reduce the illegal drug trade, revitalize Colombia's economy, strengthen its democratic institutions and improve the security of its people was working." Bush told reporters, "And we'll ask the Congress to sustain our commitment to follow-on programs for Plan Colombia so Colombia can build on its progress and win its war against the narcoterrorists."

The AP (8/5, Riechmann) reports, "For Uribe, the trek to Texas came at a critical moment in Colombia where rebels, funded by narcotics trade, kidnapping and extortion, have been struggling to topple the government and establish a Marxist-style state. Outlawed right-wing paramilitary forces also have been battling the rebels. The 40-year-old conflict kills more than 3,000 people every year, mostly civilians, with allegations that human rights abuses are being committed on all sides."

Uribe Proposes Coca, Opium Purchase Plan. The Washington Times (8/5, Gentile) reports, "Colombian President Alvaro Uribe, who met with President Bush in Texas yesterday, has implemented a program to buy coca plants from small-time growers who otherwise would sell their crops to drug traffickers to make cocaine. Farmers also can turn over opium poppies, the plants used to make heroin. Under the plan, farmers can go to the nearest police station or army outpost and turn over the plants to officers and soldiers. Prices for the crop will be negotiated on the spot." Uribe said of the program earlier this week, "Hand over the coca and take the cash, similar to a country fair: Hand over the pig, take the cash." The Times adds, "The farmers must sign a legally binding agreement to halt cultivation, said Mr. Uribe, who has made a name for himself as a hard-liner bent on cracking down on the nation's Marxist rebels and cooperating with the United States on drug eradication. … Uribe's coca and opium purchase plan is available only in Colombia's central Meta region, where an ongoing battle between the military and rebels has forced small coca farmers to seek new buyers for their crops.'

Bush Warns Uribe To Honor Stated Commitment To Human Rights. The Los Angeles Times (8/5, Chen) reports, "President Bush urged Congress to continue supporting Colombia's efforts to combat narco-terrorism Thursday even as he warned visiting Colombian President Alvaro Uribe that the United States expected Uribe's government to honor its stated commitment to human rights." Bush said, "We did talk about human rights. I talked about human rights. We talked about specific cases, and I listened intently and believe that he is interested in following through on these cases." The Times adds, "Victims' advocacy groups in Colombia have said that a new so-called Justice and Peace law is too weak. They claim that the measure — which governs the process of dismantling Colombia's paramilitary groups and re-integrating them into Colombian society — allows members to escape charges of atrocities committed against civilians."

Two Leaders Of Colombia's Far-Right Paramilitaries Testify About Congressional Friends." Reuters (8/5, Webb) reports, "Two leaders of Colombia's far-right paramilitaries were summoned before the Supreme Court on Thursday to explain a comment that a third of the country's lawmakers were friends of the outlawed group. Salvatore Mancuso and Vicente Castano, whose illegal United Self-Defense Forces of Colombia is in peace talks with the government, were ordered to testify after Castano made the remark to news magazine Semana in June, the government said. 'I think I can say that more than 35 percent of Congress are friends,' Castano had told Semana. Mancuso, a former AUC military commander, was summoned because he had made a similar remark in 2002 and appeared first before the closed session. The burly former rancher, who surrendered his weapons to the government in December, was able to travel to the capital Bogota due to immunity from arrest granted by his status as a negotiator in the two-year-old talks."

Klansman Pleads Guilty To Making Pipe Bombs For Hate Crimes. The Chattanooga (TN) Chattanoogan (8/5) reports, "A Klu Klux Klansman from South Pittsburg entered guilty pleas Thursday in connection with constructing pipe bombs for use in blowing up Hispanic immigrants." The Chattanoogan continues, "Daniel James Schertz, 27, pleaded guilty to six counts in an appearance before Federal Judge Curtis Collier. … Prosecutor James Brooks said he faces up to 10 years on five of the counts and

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20 years on another." The Chattanoogan adds, "The pleas were to manufacturing explosives, transporting explosives, teaching others how to make explosives, and possessing a Ruger pistol while under a restraining order. … In an affidavit, ATF Agent Mike Connors said between October 2004 and April 1 of this year, he and a confidential informant investigated activities of Schertz related to his membership in the Ku Klux Klan. … The agent said on April 1 he bought five pipe bombs from Schertz for $750 at his residence at 245 Beene Cemetery Road."

The New York Times/AP (8/5, Press) reports that Schertz also was accused of building and transferring two pipe bombs to the informant in March to harm Haitians in Florida. The AP adds Schertz said yesterday he was he was guilty of all six charges, including teaching and demonstrating how to make a weapon of mass destruction and interstate transport of explosive material with intent to kill or injure. Mike Caputo, Schertz's attorney, said the plea agreement allowed Schertz to "avoid a harsher sentence."

ATF Rules Tennessee Church Fire Arson. WTVF-TV, CBS 5, Nashville, TN (8/5) reports, "The fire that destroyed the Pentecostal Church of Jesus Christ in Columbia Tuesday night was intentionally set according to fire investigators." WTVF-TV continues, "The fire started around 11:30 p.m. Tuesday, two hours after a night service ended at the church. … Several fire departments fought the fire for four hours, and investigators began looking into the cause of the blaze as soon as the flames were extinguished." WTVF-TV adds, "Thursday, officials from the ATF said that after examining the scene and conducting several interviews, they determined that the fire was intentionally set. … 'A house of worship is a place of peace and where community members come together. Arson puts many at risk of injury or death, including police and fire personnel. The Columbia community can be assured that the combined resources used in this investigation will continue to work vigorously to ultimately bring those responsible to justice', said ATF Special Agent James Cavanaugh."

IMMIGRATION:

DeLay Says He Would Support Strict Immigration Legislation. The Houston Chronicle (8/5, Hegstrom) reports, "House Majority Leader Tom DeLay criticized the city of Houston's 'sanctuary' policy toward illegal immigrants in a speech Thursday night. Speaking to a packed house of Fort Bend County Republican faithful, DeLay said he supported the concept behind legislation introduced by U.S. Rep. Tom Tancredo, R-Colo., that would withhold federal funding from cities such as Houston that refuse to enforce immigration law. The Chronicle continues, "DeLay, who is seen as a key player on upcoming immigration reform legislation in Congress, said he would support a guest-worker program that would allow immigrants to come legally to the United States and then go home. But he said the government needs to step up enforcement of immigration laws first. … DeLay indicated that he would support legislation even stricter than [Sen. John] Cornyn's."

The Galveston County Daily News (8/5, Aulds) reports each time DeLay expressed his views on protecting the border "the crowd, which included local Republican Party chairman Chris Stevens and a bevy of county GOP movers and shakers, interrupted DeLay's comments with boisterous applause."

FBP Head Says California Vigil Will End When New BP Agents Arrive. The Washington Times (8/5, Seper) reports Andy Ramirez, head of the California-based Friends of the Border Patrol, said yesterday that a "border vigil in California next month will man observation posts along the US-Mexico border until they are relieved by newly hired US Border Patrol agents or National Guard troops. … Mr. Ramirez said the California volunteers want to call the country's attention to the 'real plight of those who live along the border who are being overrun by illegal aliens and drug smugglers.' He said it was 'imperative to send a message to Washington, D.C., that open borders and the havoc they create is unacceptable to our citizens.'"

Planning Commission Rejects Proposal For Day-Laborer Sight In DC Suburb. The Washington Post (8/5, B1, Morello) reports, "The Herndon Planning Commission rejected yesterday a controversial proposal to build a tax-supported day-laborer site near a residential neighborhood, but the Town Council still will have the final say and remains on track for a vote later this month. Officials with the social agency that wants to run the site for up to 150 workers said they are still trying to digest the accumulated criticisms of the plan that preceded the commission's 4 to 3 denial in a vote taken at 2:30 a.m. 'It's been given a blow, but it's not dead,' said Bill Threlkeld, director of Project Hope and Harmony, the umbrella group that has applied for permission to build and operate the site, where contractors and homeowners could

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meet laborers seeking jobs." The Post adds, "Herndon's struggle to cope with a day-laborer site has become a contentious chapter in the national debate over immigration policy."

Long Island Community Seen As Flashpoint In Immigration Debate. The New York Times/AP (8/5, Press) reports Farmingville, New York, "has become an unlikely flashpoint in the national debate over illegal immigration, with Hispanics beaten, harassed and evicted in recent weeks." The AP continues, "immigrants, many of whom are believed to have entered the country illegally, have been a source of tension among longtime residents since at least the late 1990s, but things have gotten worse this summer -- so bad that the head of the Mexican Consulate in New York City said Farmingville was 'clearly a red zone after the Arizona border' in the abuse of immigrants. … So far, at least six houses have been shut by authorities -- including three last Friday -- leaving more than 100 men homeless, advocates said." The AP adds, "residents are largely cheering the crackdown on immigrants."

Crapo Says Border Security Requires Tight Control, Manpower, Technology. Sen. Mike Crapo, in an op-ed in the DC Examiner (8/5) writes, "In May, Secretary of Homeland Security Michael Chertoff stated, 'The issue of securing the border is a homeland security issue, it's an immigration issue and it's also a humanitarian issue.' He is absolutely correct: discussions about securing our 5,500-mile Canadian border, 1,900-mile Mexican border and 95,000 miles of shoreline are only meaningful in the context of defense, immigration and respect for human life. As the Homeland Security Appropriations bill goes to conference, Congress is developing a comprehensive strengthening of our borders as a major component of this legislation. Border security requires tight controls at our borders and follow-up by manpower and technology within our borders." Crapo adds, "effective border security is well-funded and reinforced by laws that carry tough legal consequences for those who break them. Various border and immigration components must be strengthened including more agents, immigration investigators and other enforcement personnel; quality training for these positions; hardware and infrastructure to augment job success, including unmanned aerial vehicles, high-tech sensors and advanced physical barriers; technology upgrades for cargo inspection and identification of fraudulent immigration documents; additional capacity at temporary detention centers."

HChronicle Criticizes Culberson's Call For Armed Border Militia. The Houston Chronicle (8/5) editorializes, "Republicans and Democrats agree on little these days, but the combined effects of 9/11 and a newly globalized economy have forged consensus on at least one issue: the need for better border control." The Chronicle continues, "several federal lawmakers are crafting thoughtful, bipartisan proposals to solve this complex problem. US Rep. John Culberson's plan to create armed border militias is not one of them." The Chronicle notes, "asked in a phone interview how an armed civilian could possibly confront and overcome drug traffickers or terrorists, Culberson said, 'It's probably going to require a very heavy caliber.'"

Columnist Says To Protect Constitution, Congress Must Protect Borders. Rich Tucker, in his column on Townhall.com (8/5) writes, "Congress is ignoring one of its most important jobs -- one that actually is in the Constitution. It's not adequately 'providing for the common defense' because it's not protecting our borders. Nobody knows how many illegal immigrants now live in the United States. Recent estimates range from 11 million to 20 million. Faced with that problem, you'd expect Congress to do everything possible to shore up our borders and stop the flow of new illegals. Sadly, it's not." Tucker continues, "it's time for Congress to get serious about protecting our borders and cracking down on illegal immigration. Until lawmakers do that, their discussions about protecting the Constitution will amount to little more than hot air."

TAX:

Jury Convicts Pair Of Tax Evasion On Chemical Sales. The Asbury Park (NJ) Press (8/5, Quirk) reports, "A Colts Neck (NJ) man was convicted of tax evasion and wire fraud in connection with a scheme to sell vast amounts of an ozone-depleting chemical, which was used to produce methamphetamine in California labs, according to the U.S. Department of Justice." The Press continues, "William Rubenstein and Dov Shellef, of Great Neck, N.Y., were convicted July 28 of conspiring to evade approximately $1.9 million in excise taxes due on sales of a chemical called trichlorotrifluoroethane (CFC-113), law enforcement officials said yesterday. The jury returned the guilty verdicts after a five-week trial before U.S. District Judge Joanna Seybert in Central Islip, N.Y. … Shellef also was convicted of 87 counts of wire fraud, tax evasion, subscribing

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to false tax returns and money laundering." The Press adds, "The investigation began as federal Environmental Protection Agency and Drug Enforcement Administration agents traced the supply of CFC-113 to California "meth labs" that used the product for the illegal manufacture of methamphetamine. … According to the Department of Justice, the investigation revealed that a company called All Discount Lab Supplies was selling CFC-113 to individuals who used the product in meth labs. The principals of All Discount Labs have since pleaded guilty to selling CFC-113 with reasonable cause to believe it was being used for illegal manufacture of methamphetamine. … Although Shellef and Rubenstein were not indicted on drug charges, the investigation revealed that they were major suppliers of CFC-113 to All Discount Labs."

KPMG Hopes To Avoid Criminal Trial In Tax Shelter Probe. The Financial Times (8/5, Parker) reports, "KPMG, one of the big four accounting firms, is increasingly confident it can avoid a criminal trial in the US relating to its past sales of tax avoidance schemes to clients." The Times continues, "KPMG's US business is in talks with the Department of Justice about a 'deferred prosecution agreement', under which it would be put on probation and criminal charges held in abeyance, according to people briefed about the case." The Times adds, "No decisions have been taken, but the people said a settlement between KPMG and the justice department could also involve a fine of as much as $500m. KPMG is desperate to avoid an indictment because Andersen, once the world's biggest accounting firm, was destroyed after prosecutors pressed obstruction of justice charges against it in 2002. … The firm declined to comment on Thursday, but it has previously acknowledged the existence of an investigation by federal prosecutors into tax services sold to clients covering a period from 1996 to 2002." The Times notes, "The terms of any settlement between KPMG and the justice department would probably involve KPMG committing itself to internal reforms affecting its tax practice and to monitoring by an independent consultant. … KPMG made a plea to avoid indictment in a written submission to the justice department in June, when it highlighted how a criminal trial could have a negative impact on its partnerships outside the US, said one person briefed about the case. Andersen's international network of partnerships collapsed after the indictment of its US business. … KPMG reinforced its plea in a meeting between its lawyers and James Comey, deputy attorney-general, and David Kelley, attorney for the southern district of New York, also in June, said another person briefed about the case."

CONGRESS-ADMINISTRATION:

Roberts Aided Gay Rights Advocates In 1996 Supreme Court Case. While an attorney in private practice in 1996, Supreme Court nominee John Roberts advised a group of gay rights advocates who were challenging a Colorado initiative that permitted employers and landlords to refuse to hire or rent housing on the basis of sexual orientation. Several Christian right groups who support Roberts' nomination were on the opposing side in that dispute. The story was reported on ABC last night, as well as several of the major dailies today.

ABC World News Tonight (8/4, story 7, 2:30, Vargas) reported, "This may still cause concern among some of his staunchest supporters." ABC (Harris) added, "The gay activists prevailed in what one leader called a major legal victory. While Roberts only apparently worked on the case for a few hours behind the scenes, many of the same Christian conservative groups that are now supporting his nomination were on the opposite side of that fight." Radio host Rush Limbaugh "argued the liberal media is using the story to divide the right." Limbaugh: "This is the Supreme Court. This is the ruling body of government as far as the left is concerned. And they are scared to death of this guy." The White House "said today that it knew about Roberts' work on behalf of the gay rights activists before the President nominated him. They said it raised no flags, no red flags, and that they believed Roberts' explanation: He was a lawyer, the gay activists were his clients."

The New York Times (8/5, A1, Stolberg, Kirkpatrick) reports lawyers involved in the case said Roberts "did provide invaluable strategic guidance working pro bono to formulate legal theories and coach them in moot court sessions." The White House "immediately sought to reassure Judge Roberts's conservative backers, telephoning prominent leaders, including Richard Land of the Southern Baptist Convention, but it appeared that not all of them had been convinced." The "reports of his involvement echoed on conservative talk shows Thursday, generating outrage and disbelief."

The Los Angeles Times (8/5, Reynolds) reports "partisans on both sides" were "asking whether Roberts'

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assistance to what is usually considered a liberal cause was an aberration from his otherwise conservative record or a sign his views might be more nuanced than commonly thought." Social and religious conservatives "expressed dismay about his participation in the case but said they are not convinced it amounted to an endorsement of gay rights -- a movement they strongly oppose." The White House "sought to play down Roberts' participation in the case, known as Romer vs. Evans, in which the Supreme Court in 1996 voted 6-3 to strike down a voter-approved Colorado initiative that would have allowed employers and landlords to exclude gays from jobs and housing." American Enterprise Institute fellow Norman Ornstein said "the Romer controversy is likely to help Roberts win more support from moderates."

The Washington Post (8/5, A2, Becker, Grunwald) reports that as a private lawyer, Roberts "represented homeless Washingtonians who had lost their government benefits because of city budget cuts. He advocated environmental protections for Lake Tahoe, Glacier Bay and the Grand Canyon. He spent 25 hours assisting a convicted murderer with a death penalty appeal. He even helped gay rights activists win a landmark Supreme Court anti-discrimination case." At "first blush, these cases would seem to complicate any image of the Supreme Court nominee as a down-the-line conservative. But as details have emerged in recent days, conservative groups have been busy spreading the word to their members and the broader public about what they should think of Roberts's work in private practice: Pay it no mind." Now, as "liberal and conservative activists pick over his career for evidence of his political and legal philosophy, neither side seems to attach much importance to his diverse practice. And some activists on both sides remain secure in their conviction that he is an emphatic conservative who will move the high court to the right -- never mind his client list."

Roberts Denounced Abortion Clinic Bombers. Knight Ridder (8/5, Hutcheson) reports that as "a legal adviser to President Reagan, Supreme Court nominee John G. Roberts Jr. joined a scathing denunciation of abortion-clinic bombers and urged Reagan to stay out of an effort to post tributes to God in Kentucky schools." Roberts' advice, found "in documents Knight Ridder obtained before their public release later this month, might help him counter critics who portray him as a doctrinaire conservative. Abortion-rights groups and organizations that advocate a clear separation between church and state oppose his nomination." The documents obtained by Knight Ridder "were leaked by an administration official who wanted to show the nominee as a servant of the law, not of conservative ideology."

Roberts Pushed Conservative Legal Agenda As Aide To Solicitor General. The Los Angeles Times (8/5, Savage) reports that while serving as assistant to Solicitor General Kenneth Starr in the first Bush Administration, Roberts "for 3 1/2 years pressed a strongly conservative legal agenda." Starr and Roberts "argued for limiting the scope of civil-rights laws, ending race-based affirmative action, restoring some prayers to public schools and overruling Roe v. Wade, the case that established a woman's right to have an abortion." The White House "so far has refused to provide the memos and other supporting documentation" from Roberts' tenure in the solicitor general's office, "claiming a lawyer-client privilege. As a result, Roberts' legal philosophy during that highly politicized period can only be gleaned from the public files. They suggest a strongly, although not uniformly, conservative approach to issues."

White House Campaigning On Two Tracks For Roberts Nomination. The Washington Times (8/5, A1, Sammon) reports President Bush "and his strategists are using the politically fallow month of August to conduct a coordinated campaign to sustain momentum" for Roberts' nomination. The effort has "two tracks -- a public offensive that includes the president openly stumping for his nominee and a behind-the-scenes blitz designed to keep Senate Democrats on the defensive." At the start of his August vacation, Bush said, "Roberts needs to get his hearing done and the confirmation completed so he can be seated before the Supreme Court reconvenes in early October." The President is "expected to reiterate that sentiment during numerous day trips to various states from his 1,600-acre ranch in Crawford, Texas." Meanwhile, White House operatives, "working closely with the Republican National Committee, are quietly urging regional interest groups in key states to keep up the pressure on Senate Democrats. The groups are writing letters asking for meetings with their senators while they are home for the August recess." Several Republican strategists "who spoke to The Washington Times said the idea is for the groups to demand consultations with their senators because Mr. Bush had consulted with those senators on the nomination. The effort is targeted at Democrats in conservative states such as Arkansas and Louisiana, rather than liberal states such as Massachusetts." The interest groups "range from local chapters of the Chamber of Commerce and Fraternal Order of Police to less

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well-known groups such as the Colorado Catholic Lawyers Guild, which has requested a meeting with Sen. Ken Salazar, Colorado Democrat."

Womens' Rights Groups In Disarray. The Wall Street Journal (8/5, Cummings) reports, "Internal squabbles, declining membership and complacency during the Clinton years have left most women's rights groups in weakened shape for the clash" over Roberts' nomination. The National Organization for Women's "political donations shriveled to $44,000 in 2004 from $327,000 in 1992. Planned Parenthood Federation of America Inc., facing a revolt among affiliates in part because of the politicization of the group, ousted its president in January and hasn't taken a position on the Roberts nomination. NARAL Pro-Choice America's new president was still on an introductory tour to affiliates and donors around the country when the Supreme Court fight started."

With Senate In Recess, Interest Groups Step Up Ad Campaigns. Bloomberg (8/5) reports interest groups "are stepping up the campaign over U.S. Supreme Court nominee John G. Roberts, airing new advertisements designed to shape public opinion before next month's Senate Judiciary Committee confirmation hearings." IndependentCourt.org, "a coalition of 75 liberal groups including People for the American Way, this week began running national television ads that demand more information on Roberts's positions on issues." Meanwhile, the Committee for Justice, "which supports the nomination, will counter with radio ads targeting about 10 states represented by moderate Democratic senators, said Sean Rushton, the group's executive director."

WPost Says White House, Senate Democrats Should Reach Accommodation On Roberts Documents. The Washington Post (8/5, A14) says in an editorial that the Democratic senators' request "to see memos written by" Roberts "during his service in the solicitor general's office requires a difficult balancing of legitimate interests: the executive branch's need for confidentiality against a full and informed Senate confirmation proceeding. The request is more measured than the far-reaching demand for solicitor general memos during the nomination of Miguel A. Estrada to the U.S. Court of Appeals for the D.C. Circuit earlier in the Bush administration. It should not simply be defied. But neither is the administration wrong to try to protect internal deliberations within one of the government's most critical legal offices. Accommodation should be possible, provided it is sought in good faith by both sides."

Rehnquist Briefly Hospitalized For Fever, Released. Chief Justice William Rehnquist, who is battling thyroid cancer, was briefly hospitalized for a fever and released, his third visit this year.

ABC World News Tonight (8/4, story 9, :20, Vargas), the CBS Evening News (8/4, story 10, 0:15, Schieffer), and NBC Nightly News (8/4, story 9, 0:15, Brown) all briefly mentioned Rehnquist's hospital visit.

The Washington Times (8/5, Hurt) reports the hospitalization "is likely to spawn further speculation that his retirement from the high court could come at any time." The New York Times (8/5, Altman) reports the chief justice "went home in the early evening without the court or the hospital providing information about the source of the fever. It was the second time in less than a month that the chief justice, 80, had gone to Virginia Hospital Center in Arlington because of a fever."

The Washington Post (8/5, A4, Eggen) reports Rehnquist, "who vowed just three weeks ago to keep working 'as my health permits,' was admitted for 'evaluation' and allowed to go home, according to Supreme Court spokesman Ed Turner."

Bush's Loyalty Said To Cloud Political Judgment. Knight Ridder (8/5, Douglas) reports President Bush's "loyalty to his friends extends from the baseball diamond to the White House, where he's backed beleaguered Deputy Chief of Staff Karl Rove, who's mired in an investigation over who leaked the name of an undercover CIA officer, and to John Bolton, whom Bush appointed ambassador to the United Nations despite Senate reservations." But his "quick and unequivocal defense of" Baltimore Oriole first baseman Rafael Palmeiro – "who's now the subject of a congressional investigation - has raised questions about whether Bush's loyalty undercuts his political judgment." Several analysts "said the Palmeiro situation illustrates that point. Bush took a strong stand against steroids in his 2004 State of the Union address, demanding that major league sports take tougher action to eliminate steroid use by athletes." But when "news of Palmeiro's positive drug test and 10-day suspension by Major League Baseball became public, Bush almost instantly backed the ballplayer."

Bush Also Said To Reject Facts, Reason. In his Los Angeles Times column (8/5), Jonathan Chait says President Bush's statement of belief in Rafael Palmeiro "perfectly

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crystallizes Bush's thinking. Facts don't matter to him. What matters is how he feels about the person in question. In 2001, for instance, Bush met with Russian President Vladimir V. Putin, and the two hit it off. As Bush later told Peggy Noonan, Putin recounted to him a story involving a cross given to him by his mother." The point "isn't just that Bush refuses to engage with facts he finds inconvenient. (Many fail that test.) It's that Bush rejects reason itself."

European Allies Have Muted Reaction To Bolton Appointment. In a Financial Times op-ed (8/5), Philip Stephens says the "response among allies to Mr Bush's decision to override a recalcitrant Senate and press ahead with the appointment" of John Bolton to be UN Ambassador "was curiously muted. You could say the decision had been widely discounted." The appointment is "seen as yesterday's story, a codicil to a troubled phase in transatlantic relations now left behind." One European diplomat said that "at the UN, the expectation (perhaps hope?) is that Mr Bolton will implement policy rather than shape it. It is the policy that matters."

NYT Gives Bolton Advice On Adjusting To City. The New York Times (8/5, Haberman) reports in a tongue-in-cheek story that Bolton "could probably use friendly advice about getting along with his new neighbors." Many "of his fellow diplomats are not likely to embrace him, given the harsh remarks he has made about the United Nations. When Secretary General Kofi Annan welcomed the new American ambassador the other day, he smiled through teeth so gritted that he may need an orthodontist." Among the "tips" the Times offers is that since Russia "announced that it would bar journalists from ABC News because of unhappiness with their reporting, an action that amounted to an expulsion order," Bolton, "considering his own relationship with the news media, he may already be thinking of a possible retaliatory measure - like suggesting that ABC News also be tossed out of New York."

Bush To Meet With Economic Advisers Monday. The Wall Street Journal (8/5, Harwood) reports in its "Washington Wire" column that after he signs the energy bill in Albuquerque on Monday, President Bush "will join economic advisers Hubbard and Bernanke Tuesday to assess conditions. Fears of a 'soft patch' fade, as data on industrial output, capital spending and services portray an economy 'firing on all cylinders,' says UBS economist Larry Hatheway. Still, wage increases lag behind despite low unemployment, and high gas prices still damp consumer spirits. A break in house-price increases remains a risk; mortgage rates inch up but stay low. Today's July jobless report will give more clues to the labor market's health."

White House Said To Be Expanding Search For Greenspan Replacement. The Dallas Morning News (8/5, Dimartino) reports, "Investors woke Thursday morning to the surprising news that the White House is said to be broadening its search for a replacement for Federal Reserve Chairman Alan Greenspan, who is due to retire in January." The three candidates "most often cited to fill the post include Ben Bernanke, former Fed governor and current chairman of the President's Council of Economic Advisers. Martin Feldstein of Harvard University and R. Glenn Hubbard of Columbia University have been the other two leading candidates." But a Wall Street Journal report says that "though the leading three candidates have not been ruled out, concerns persist about Mr. Greenspan's successor's ability to function within the financial markets and use business and markets contacts to move beyond the confines of economic data to set monetary policy." Among the "alternate candidates mentioned in the Journal article is former Bush advisor Lawrence Lindsey."

Castle-DeGette Stem Cell Research Bill Called "Extremely Dangerous." Charles Krauthammer writes in the Washington Post (8/5, A15), "It is a good idea to expand federal funding of embryonic stem cell research. It is a bad idea to do that without prohibiting research that uses embryos created specifically to be used in research and destroyed. What is deeply troubling about the Castle-DeGette stem cell bill, which passed the House and will soon roar through the Senate, is that it combines the good with the bad: expansion with no limit." Krauthammer calls the Castle-DeGette bill "extremely dangerous," adding that it "expands the reach for a morally problematic area of research -- without drawing any serious moral lines. … We finally have a chance to enact this grand compromise -- but only if a majority of senators insist that the welcome expansion provided in the Castle-DeGette bill, which will yield a near endless supply of embryonic stem cells, cannot take place unless the door is firmly closed now, while we still have the chance, on the manufacture of human embryos for research and destruction."

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Columnist Says Bush Is "Hamstringing" Stem Cell Research. Eugene Robinson writes in the Washington Post (8/5, A15) that President Bush "insists on hamstringing American scientists who are trying to explore the potential medical benefits of therapies involving embryonic stem cells. … While our leaders disagree, stem cell technology is being developed and advanced in laboratories all around the world, especially in Asia. South Korean researchers have arguably pushed farther than anyone else. At the moment it's still a long shot that embryonic stem cells will prove to be a panacea, but if they do it's increasingly likely that the key discoveries will be made elsewhere -- not in the United States. And there's no real reason for Bush's position except politics."

Frist' Stance On Stem Cell Research Decried. David Gelernter writes in the Los Angeles Times (8/5), "I would love to join Senate Majority Leader Bill Frist and many other conservatives who have decided to support federal funding for wide-ranging research in a hugely promising new area — embryonic stem cells. I'd love to, but I can't. … Why would anyone oppose Frist's new position? Because embryos are potential infants just as infants are potential adults. The human embryo is a tightly closed bud that will bloom one day if we let it. The difference between bud and blossom is only luck and time. If it seems OK to destroy embryos but not full-term fetuses, that's only because embryos look less human." Gelernter adds, "I have permanent, debilitating injuries that stem cell research might conceivably help. But rejecting research that might help you personally is dirt-easy compared to rejecting research that might help a suffering family member. When Americans campaign for unrestricted stem cell research out of despairing love, I can't blame them any more than I can blame Terri Schiavo's parents for pleading for their daughter's life. How much do our moral scruples really matter to us in the end? An agonizing question. But I can't line up with Frist, much as I would like to."

NYTimes Says Gravity In Stem Cell Research May be Shifting Abroad. An editorial in the New York Times (8/5) says that "the Koreans are truly a force to be reckoned with in cloning and stem cell research. This team was the first to clone human embryos and extract stem cells from them, and now it is the first to clone a dog, perhaps the most difficult feat in mammalian cloning. The center of gravity in cloning and stem cell research may be shifting abroad while American efforts are slowed by taboos and financing restrictions."

Bush Approval At 42% In AP/Ipsos Poll. An AP/Ipsos poll of 1,000 adults (+/-3%) taken August 1-3 shows:

Bush Approval

- 42% said they "approve" of the way George W. Bush is handling his job as president; 55% said "disapprove"; 2% have mixed feelings.
- In a similar poll taken in July, 42% said they "approve" of the way George W. Bush is handling his job as president; 56% said "disapprove"; 1% have mixed feelings; 2% were not sure.
- 41% said they "approve" of Bush's handling of "the economy"; 56% said "disapprove"; 2% have mixed feelings; 1% were not sure.
- 37% said they "approve" of Bush's handling of "domestic issues, like health care, education and the environment"; 60% said "disapprove"; 2% have mixed feelings; 2% were not sure.
- 47% said they "approve" of Bush's handling of "foreign policy issues and the war on terrorism"; 51% said "disapprove"; 1% have mixed feelings.
- 38% said they "approve" of Bush's handling of "the situation in Iraq"; 59% said "disapprove"; 2% have mixed feelings; 1% were not sure.
- 33% said they "approve" of Bush's handling of "Social Security"; 63% said "disapprove"; 2% have mixed feelings; 1% were not sure.
- 37% said "things in this country are heading in the right direction"; 59% said they are "off on the wrong track"; 4% were not sure.

Congressional Approval

- 33% said they "approve" of the way Congress is handling its job; 62% said "disapprove"; 3% have mixed feelings; 2% were not sure.

Bush Qualities

- 63% said that "likeable" is a word that described Bush; 36% said it is not; 1% were not sure.
- 48% said that "honest" is a word that described Bush; 50% said it is not; 2% were not sure.
- 64% said that "strong" is a word that described Bush; 35% said it is not; 1% were not sure.
- 56% said that "intelligent" is a word that described Bush; 43% said it is not; 1% were not sure.
- 56% said that "arrogant" is a word that described Bush; 43% said it is not; 1% were not sure.
- 55% said that "dependable" is a word that described Bush; 43% said it is not; 2% were not sure.

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Republicans Press Corzine For Details On Financial Dealings With Union Leader. The New York Times (8/5, Kocieniewski) reports that New Jersey GOP leaders "called Thursday for Senator Jon S. Corzine to disclose any other financial dealings he may have had with a union leader to whom he gave $470,000. Their statements came after news reports that in 2002 Mr. Corzine provided a $470,000 mortgage to Carla Katz, president of Communications Workers of America Local 1034, which represents 9,000 state workers and will be among the labor groups lobbying the next governor for billions of dollars in wages and benefits." Corzine, the Democratic candidate for governor, said Wednesday that "he and Ms. Katz were dating at the time he made the loan. He forgave the debt in December 2004, several months after they ended their relationship, he said." Corzine and Katz "said this week that their past relationship and financial dealings would not prevent them from representing their constituents, but they declined to say whether they had other financial interactions." Douglas R. Forrester, the GOP candidate for governor, "called that response inadequate, saying New Jersey voters had the right to know whether their official duties as governor and union leader might be swayed by their personal and financial relationship. 'I think they should disclose everything, especially if there is any ongoing financial arrangement,' he said. 'It suggests an all-too-familiar pattern in New Jersey of public officials entangling themselves in relationships that are not private matters but in direct conflict with the public interest.'"

The Washington Post/AP (8/5, A4) notes, "Speaking after a news conference Thursday on an unrelated matter, Corzine said the loan would not hamper his administration's ability to negotiate with the union. 'I don't think there's a conflict,' said Corzine. … 'The relationship has ended.' The mortgage was found among public documents and land records filed with Hunterdon County. Katz was living in a more than 200-year-old home at the time of the loan and used the money to buy out her ex-husband." Corzine "said he forgave the loan after his romance with Katz ended in July 2004 because she did not have the means to repay it. He declined to say whether he had given Katz or any of her relatives any other financial help. 'I'm a public official, but I also have a private life,' Corzine said." The Washington Times (8/5, Harper) also reports on the details of the Corzine loan in its "Inside Politics" column.

NASA Decides To Forego Fourth Spacewalk, Clears Shuttle Discovery To Land. ABC World News Tonight (8/4, story 6, 2:05, Vargas) reported, "Turning now to the space shuttle Discovery, NASA announced today that a fourth repair space walk will not be necessary. There were fears that a torn thermal blanket on the outside of the shuttle could break off and damage it on reentry. Today, NASA gave the shuttle the all-clear to return to earth on Monday." ABC (Berman) added, "Mission control gave the word to the Discovery crew this afternoon."

NBC Nightly News (8/4, story 6, 0:50, Brown) reported, "Discovery has been given a clean bill of health after engineers took a close look at that piece of thermal blanket. It appears it ripped on liftoff. NASA believes the probability of it causing any problem on re-entry is remote. The shuttle is now scheduled to return to earth early Monday morning."

The CBS Evening News (8/4, story 5, 0:30, Schieffer) reported, "NASA decided today not to send the Discovery astronauts back out to make another repair on the shuttle. They were considering removing a torn heat shield blanket below a cockpit window. But engineers said today the shuttle should be safe to fly home in without the fix. The crew beamed back some spectacular views of the Earth today as they paused to honor the seven astronauts killed two-and-a-half years ago in the shuttle Columbia disaster."

The New York Times (8/5, Schwartz) reports that "NASA has decided against a fourth spacewalk for the Discovery astronauts that would have involved repairing an insulating blanket that had pulled out near the commander's window." NASA communications officer Julie Payette "told the astronauts at midday. Ms. Payette said mission managers had decided, after a lengthy analysis, that the blanket did not pose a threat and so another spacewalk would not be necessary. 'There is no issue,' Ms. Payette, who is also an astronaut, said." The Times adds that "the damage was apparently caused by a strike by debris during launching, mission managers have said."

The Washington Post (8/5, A3, Gugliotta) says that according to Wayne Hale, "the engineers found that even if the entire blanket tore away at the worst possible time, it had only a 1.5 percent chance of striking Discovery, and, at worst, it could put a hole in the orbiter's rudder brake but not disable it. 'We have released Discovery to reenter,' Hale told reporters in a news conference at Johnson Space Center. 'We have decided not to take any action on the thermal blanket because we have determined it is a negligible risk at

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this time.' Formal clearance for reentry is an important milestone in any shuttle flight -- particularly for Discovery, the first shuttle to fly since Columbia disintegrated over Texas 2 1/2 years ago, killing all seven astronauts aboard."

NIH Ethics Officials' Scrutiny Of Scientists' Outside Employment Said To Be Lax. The Los Angeles Times (8/5, Willman) reports ethics officials at the National Institutes of Health "often approved senior scientists' requests to moonlight for drug companies and other outside organizations without gathering adequate documentation to help judge whether the arrangements posed conflicts of interest, federal inspectors have found." In "81% of the recent outside arrangements reviewed by the inspector general of the U.S. Department of Health and Human Services, ethics officials were found to have approved the deals on the basis of limited information."

OTHER NEWS:

Schwarzenegger To Return Donation From Group With Ties To Gambling Project. The Wall Street Journal/AP (8/5) reports that California Gov. Arnold Schwarzenegger (R) "will return a $50,000 donation from a group that is a partner in a tribal casino project after questions were raised about the governor's pledge to limit political contributions, an aide said. The governor received a $50,000 contribution last week from Yuba County Entertainment LLC, a partner in a proposed hotel-and-casino development near Olivehurst." The AP "questioned the donation because Mr. Schwarzenegger made a promise during the 2003 recall campaign not to accept campaign contributions from groups that negotiate directly with his office. He specifically identified Indian tribal gambling as among those special interests. 'After reviewing the nature of the business and realizing there is a connection to a potential Indian gaming location, we feel it is most appropriate to return the funds,' said Marty Wilson, who oversees fundraising for Mr. Schwarzenegger's political committee, called the California Recovery Team."

Novak Storms Off CNN Set During Appearance With Carville. The Washington Times (8/5, Harper) reports in its "Inside Politics" column that columnist Robert Novak stormed off the set yesterday during an appearance with political consultant James Carville on CNN's "Inside Politics." Novak "cursed with vigor" at Carville and, "yes, the barnyard obscenity he used made it onto the air." The two had been discussing Rep. Katherine Harris' "recent accusations that a magazine had doctored photos of her to yield an unattractive outcome. Was Mr. Novak simply defending her honor? Most think he was peeved because another round of Valerie Plame questions was imminent — by virtue of the fact that apologetic CNN host Ed Henry later told viewers, 'I had told him in advance that we would ask him about the CIA leak investigation. Hopefully, we'll be able to ask him about that in the future.'" The Times adds, "CNN wasn't pleased. Spokeswoman Edie Emery called the longtime CNN commentator's behavior 'inexcusable and unacceptable,' adding that Mr. Novak had apologized to CNN, and the network was apologizing to viewers."

European Negotiators Make New Nuclear Proposal To Iran. The New York Times (8/5, A1, Weisman) reports, "European negotiators have prepared" a "much more detailed and specific" proposal "than the more general offers floated by the Europeans earlier this year" which will "be transmitted by the end of this weekend," that "raises the possibility of Iran acquiring nuclear reactors and fuel, and of achieving a full political and economic relationship with the West, if it ends nuclear activities suspected to be part of a weapons program." Western diplomats who have read it said "it presented a full spectrum of relationships for Iran with the West, from technology sharing to trade preferences to security guarantees, if the Tehran government cooperates on nuclear matters, and also on improving human rights and combating terrorism," and included "a pledge by Iran to end the uranium conversion and enrichment activities that Iran insists are its prerogative under international accords governing nuclear technology," and "bar Iran from operating a 'closed' nuclear fuel cycle."

Administration Gives Proposal Approval, Wants More. The New York Times (8/5, A1, Weisman) reports that the offer has the "tacit approval of the Bush administration," which still "maintains that it cannot establish a normal relationship with Iran unless it changes its conduct, not simply in the nuclear sphere but in what the United States and the Europeans say is support of terrorism, particularly against Israel, and its interference in Iraq." The "view shared in Europe and Washington is that while Iran may have the right to enrich uranium as a signatory to the Nonproliferation Treaty, which governs peaceful nuclear technology in nearly all countries with civilian nuclear programs, Iran has forfeited

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that right because it has been found over the years to be engaging in clandestine activities."

Iranian Response Likely To Be Negative. The New York Times (8/5, A1, Weisman) reported that "there is considerable doubt that Iran will accept it, at least right away." A "senior Iranian official, reached by telephone on Thursday, said when told about the contents of the proposal that it seemed to fall far short of what Iran wanted," and the Financial Times (8/5, Bozorgmehr, Dinmore) adds, "a senior European diplomat in Tehran conceded that the 'proposal is not the one Iranians want'."

The New York Times (8/5, A1, Weisman) notes the problem is "Iran's anger that it is being asked to give up activities allowed to other countries is at the heart of its repeated announcement that, like it or not, it will resume such work when it chooses." The Financial Times (8/5, Bozorgmehr, Dinmore) adds, "Senior Iranian officials told the Financial Times that talks with France, Germany and the UK – the EU3 – would be over if their latest proposed incentives do not give approval for Tehran to resume work at a key facility at Isfahan." Senior Iranian officials said "Iran had not decided finally when to break IAEA seals at the facility. While members of the negotiating team want Iran to wait for inspectors from the IAEA to come and monitor, other hard-line decision-makers 'who now have the upper hand' want an immediate start."

The Christian Science Monitor (8/5, Lafranchi) reports that while the lead Iranian negotiator in the talks, Hassan Rohani, in a letter to the EU3 foreign ministers, "said that Iran is intent on pursuing both the negotiations with the Europeans and its nuclear program," some experts say "this is part of the same strategy that has allowed Iran - not to mention North Korea - to advance in nuclear know-how."

Showdown Unlikely. While The EU3 and US have promised action if Iran resumes its nuclear activities, very little may actually happen. The New York Times (8/5, A1, Weisman) reports that one senior official involved in the talks said "this means the end of this round of talks with Europe. Iran has decided to resume activities in Isfahan and no one at home and abroad can stop it." The Financial Times (8/5, Bozorgmehr, Dinmore) adds, "The EU3, backed by the US, have warned Iran that ending any part of the suspension would lead them to refer the issue to the UN Security Council." However, "some analysts and diplomats are skeptical the Bush administration can win enough support for serious measures to be taken against Iran." Ray Takeyh, analyst at the independent US Council on Foreign Relations noted "The American case will be represented by a non-confirmed ambassador who has been accused of distorting intelligence on proliferation issues."

The Christian Science Monitor (8/5, Lafranchi), adds Daniel Brumberg, an Iran expert at Georgetown University in Washington said "the US and its allies are not in a position to talk about real, meaningful measures to punish Iran … The Europeans 'are trying to play it tough, but the Iranians know it would be difficult for them to ever go through with it.' At the same time, he says the Bush administration is not united on how far and how fast to proceed on Iran- not to mention the 'delicate factor' of Iran's influence in Iraq and the cooperation the US needs for progress there."

Experts See New Iranian President's Agenda As Last Chance For Regime. The Wall Street Journal (8/5, Fassihi) reports that Iran's president-elect "is expected to name to his cabinet…well-educated technocrats -- and die-hard loyalists to the hard-line clerical regime that rules the country. The group, called usolgaran or 'principalists,' in a reference to the group's commitment to the principles of Islam, is rapidly rising to power in Iran. Some political analysts see them as the regime's last hope for regaining popularity and staying in power," and "the success of this domestic agenda [to improve the life of the poor] is intertwined with foreign policy. It may hinge, above all, on whether Iran's government will back off from its nuclear-enrichment program," and avoid economic sanctions.

Author Explains Last Iranian Election Results. The Wall Street Journal (8/5, Trachtenberg) reports that graphic novelist Marjane Satrapi said the ruling clerics did so well in the last election because "many didn't vote because they didn't want to participate. Also, 15% of the population is fanatics." Finally, "the guy who won lives where the poor live and says he isn't corrupt and will share the money."

Korean Nuclear Talks Reach Stalemate. The Wall Street Journal (8/5, Fairclough) reports, "Talks aimed at persuading North Korea to give up its nuclear-weapons ambitions teetered on the brink of collapse, with Pyongyang insisting it wouldn't give in to demands that it also abandon atomic-energy programs." Kim Kye Gwan, Pyongyang's chief envoy to the talks said "the talks were at a 'stalemate,' but…Pyongyang would keep negotiating." Diplomats said "progress depends on North Korea's willingness to agree to

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the joint statement of principles that has, generally, been approved by the other parties." The Washington Post (8/5, A10) adds that Christopher Hill, assistant secretary of state for East Asian and Pacific affairs and the chief U.S. delegate, said "the United States is insisting on clarity, leaving no room for diplomatic ambiguity or the papering over of disagreements."

Former Reagan Official Urges Administration To Prepare For "Nuclear Dispersion." Fred C. Ikle, former undersecretary of defense for policy in the Reagan administration, in an op-ed in the Wall Street Journal (8/5, Ikle) urges the Administration to, "While we still have time…think ahead about ways to avert our annihilation from within. To prevail, we must develop the needed technologies and prepare the right strategy -- political and military"- to deal with the inevitable "nuclear dispersion." Because, "there is nothing now discernible that would prevent it from happening," and there are "two overarching and profoundly serious problems" connected to it. "We have become habituated to -- indeed, utterly dependent on -- a world order predicated on the non-use of nuclear weapons. This order might end abruptly," as "gradually, but inexorably, it will become easier for terrorist organizations, insurgent groups, doomsday cults and nihilist gangs to acquire the wherewithal to make nuclear bombs."

AWOL Israeli Shoots Up Bus, Kills Four. The media widely reported that Eden Natan Zada, a Jewish settler absent without leave from the Israeli army, opened fire Thursday on a public bus traveling to an Arab town in northern Israel, killing at least four people and wounding 12. NBC Nightly News (8/4, story 5, 1:40, Fletcher) reported, "Then, furious Arabs rushed the soldier and beat him to death. Eden Natan Zaada was a 19-year-old, extreme, right-wing settler. His father said he deserted from his army unit three weeks ago. He was upset by Israel's plan to pull all the settlers out of Gaza later this month and give the land back to the Palestinians." The Washington Post (8/5, A1, Wilson) reports that Israeli police officials suggested the attack was intended "to derail the government's planned evacuation of Jewish settlements in the Gaza Strip…West Bank." Zada "had recently moved to a West Bank settlement known as a stronghold of religious extremists opposed to the evacuation plan." The attack also was condemned by leaders of the Yesha Council.

The New York Times (8/5, Myre) adds that the military "initially identified [Zada] as Eden Tzuberi." While "Jewish militants have carried out a number of attacks against Arabs in the past…most were directed against Palestinians in the West Bank rather than Arabs who are Israeli citizens." The Washington Times (8/5, Mitnick) adds, "A security officer said he had handcuffed the attacker after he had emptied his gun clip, but within minutes, the crowd reached him to take revenge. Several policemen who arrived on the scene to restore order were also injured," while "25 Palestinians and two Israelis were killed in rioting that followed."

The Kansas City Star (8/5, Stevens) also covers the story. ABC World News Tonight (8/4, story 5, :30, Vargas) adds, "There are concerns that the incident will touch off more extremist violence less than two weeks before the evacuation of settlers from Gaza."

Israeli Response Forceful, Palestinian Response Restrained. The Washington Post (8/5, A1, Wilson) reports that Prime Minister Ariel Sharon "called the shooting 'a reprehensible act by a bloodthirsty Jewish terrorist who sought to attack innocent Israeli citizens.'" The New York Times (8/5, Myre) adds that Issam Makhoul, an Arab member of Israel's Parliament, said "Israeli political leaders had 'been questioning the legitimacy of our citizenship in the past few years, and today someone took the initiative and acted on this.'"

USA Today (8/5, Gutman) adds that Ghazi Hamid, editor of the militant group Hamas' weekly Al-Risala, said "his group 'remains committed to the withdrawal and will not respond to this incident.'" Still, Jerusalem Police Chief Superintendent Raffi Yaffe said, "fearing retaliatory riots by Palestinians, police raised the alert…to the second-highest level and deployed more forces, especially around the Temple Mount." Knight Ridder (8/5, Nissenbaum) adds, "Saeb Erekat, a senior Palestinian leader, called the attack 'a very dangerous incident' and urged Israel to press ahead with the settlement shutdown 'in a peaceful and orderly manner.'" Similarly, "Shaul Goldstein, a settlement leader who has helped organize weeks of largely peaceful protests that have brought out tens of thousands of activists, denounced Zaada as 'a crazy man…a lunatic'" and "a terrorist just like any other terrorist with Hamas or Islamic Jihad," adding "there is no purpose on Earth that can justify the killing of innocent people."

Disengagement Protests Raise Fears Of Violence, Response Is Testing Civil Liberties. The CBS Evening

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News (8/4, story 9, 2:25, Schieffer) reported that with the Gaza withdrawal "less than two weeks away, most settlers and their supporters have resigned themselves to its inevitability. But as the deadline approaches, there's concern that extremists may resort to violence, and things like rabbinical curses may make that more likely. How many people here actually believe in such things? Not many. But how many might see the curse as a religious seal of approval for assassination? It only takes one."

The Christian Science Monitor (8/5, Prusher) adds that the "political necessity of carrying out the disengagement plan and the desire to implement it in as orderly a fashion as possible may be pushing Israeli officials to take measures that, some critics say, are more reminiscent of a police state than of a free country." Right-wing activists say "in a democracy, they should be free to protest." Critics say they are "violating the law in [a] bid to prevent the execution of a major political decision that was made by the Knesset." Israel's Supreme Court, in a case this week, "rejected a petition from two right-wing activists who tried to appeal the army's evacuation of antidisengagement groups who were holed up in a hotel" in Gaza, ruling that "the activists were not expressing themselves but delivering a 'severe blow to democracy.'"

Palestine To Cover Israeli Pull Out, Israel Lacks Confidence. USA Today (8/5, Gutman) reports that the Palestinian Authority intends to deploy thousands of troops, "along with tens of thousands of police and militiamen to help secure Israel's evacuation" and is "committed to thwarting Palestinian militants from launching rockets on Jewish settlers and Israeli soldiers during the pullout." However, statements like that of Col. Jamal Kayed, commander of the Palestinian National Security Forces in the southern half of Gaza saying he "will not start a civil war by killing strugglers for freedom," worry Israel. Israeli Deputy Defense Minister Zeev Boim says they "will not hesitate to use land, sea and air forces with full severity to respond to a terror attack."

China Limits CNOOC Bid News. The Wall Street Journal (8/5, Pottinger) reports, "China is heavily restricting domestic news coverage of Cnooc Ltd.'s failed bid to buy American oil company Unocal Corp., a move apparently aimed at muffling criticism of the U.S. before next month's summit meeting between Chinese President Hu Jintao and President Bush." The "Chinese people, however, are aware" the bid failed, and "the lack of strongly critical news coverage didn't prevent many Chinese from tracking Cnooc's troubles in America or from drawing conclusions about it. Negative comments about the U.S. were posted on numerous Internet chat rooms."

China Daily Says US Is "Not A Free Economy." The Wall Street Journal (8/5) reports that an editorial in yesterday's China Daily said "the idea of the United States as a self-appointed champion of the free market has become questionable," as "the unjustified U.S. opposition, largely politically motivated, will...poison the current prevailing mood" and "demonstrated to the world that the United States is not a free economy as it claimed to be." Instead, "American business is defined by political needs" with "regulatory concerns fuelled by bogus fears and hidden interests."

CNOOC Still Looking For Energy Sources, Natural Gas Expected Next. The New York Times (8/5, Lague, Tribune) reports that oil industry experts say Cnooc "is preparing to mount an aggressive international search for oil and gas supplies in the aftermath of its failed bid for Unocal." Energy market experts now expect it "to explore opportunities throughout the Asia-Pacific region, Central Asia, Russia and West Africa to find energy supplies for China's booming economy, with "signs that it will concentrate on investment in natural gas reserves in Asia." Two possible targets are "Woodside Petroleum of Australia, which operates the North West Shelf natural gas project and owns 16.7 percent of it; and the Gorgon natural gas development, led by Chevron."

Niger Famine More Intense Version Of Normal Problems. The New York Times (8/5, A1, Wines) reports that some international aid officials and charity workers "say that Niger's miseries this year are merely a worsened version of its perennial ones" although that "in no way minimizes the urgency of Niger's current disaster - erratic rainfall and severe food shortages in the agricultural and herding belts." Most of those who die "will be young children," with "one in five" infants "dying - the result, many say, of a belated response by the outside world to a disaster predicted in detail nine months ago."

Famine Aid Hard To Raise In Advance. NBC Nightly News (8/4, story 8, 2:30, Taibbi) reported the famine was a "crisis in the making, one United Nations official said, that should have been averted." Mark Malloch Brown, secretary general's chief of staff: "What is happening was largely foreseeable as early as November." Taibbi: "Last November. But despite appeals for donations then, the Christmas

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tsunami, and then the violence-plagued famine in Darfur, Sudan, diverted attention from Niger."

The CBS Evening News (8/4, story 6, 2:10, Schieffer) reported, "Today, a United Nations aircraft delivered more than 200 tons of emergency supplies. Niger has been asking for help since last fall, but it is only now that significant amounts of aid have begun arriving." CBS (Roth) added, "Eight months ago, the government and the UN were sounding alarms, warning this would happen. But relief agencies say it's taken pictures like these to wake up the world's donors." The Los Angeles Times (8/5, Dixon) reports that while aid agencies acknowledge that, "in the best of circumstances…hunger shadows Niger," the famine's toll was made worse by "the long-standing problems faced by international relief agencies" that "it is much easier to raise money once starvation has set in and children are dying than to prod donors to prevent a looming crisis."

Violence, Divisions Resurface In Sudan With Garang's Death. The Washington Post (8/5, A6, Wax) reports, "Mob violence, looting and ethnic tensions…erupted after" former rebel leader John Garang's "death in a helicopter crash," taking on "the very themes of the civil war that ended in January." Ollie Dinar, an African scholar in Khartoum said "the mood of the country is manipulated in this divide-and-rule fashion … Sudan's government has once again won. The people are now attacking each other instead of the government." He added that "images of southerners burning and looting have been played repeatedly on government television stations, provoking Arabs in Khartoum to fight back." The New York Times (8/5, Lacey) adds, "Mr. Garang's widow, Rebecca, used [his] memorial service in Kurmuk to call for calm, urging those wishing to honor her husband not to work against the peace agreement he signed with the government in January."

WPost Urges Support For Mayardit, Keep Peace Process Moving. In an editorial, the Washington Post (8/5) argues that the "Bush administration and its allies should encourage and support" Salva Kiir Mayardit. The "speed and smoothness of his emergence as the new southern leader…holds out the hope that he can fill Mr. Garang's shoes ably," even though Garang's strongman approach to leadership "excluded orderly preparation for a succession and may leave other leaders without the stature necessary to persuade ordinary citizens to trust in a peace deal with the hated government." As "so far, all parties appear to be responding as they ought to" the "challenge now -- both for Sudan's leaders and for the United States and other outsiders -- is to keep the north-south peace process moving in the hope that this violence will die down."

Coup Likely To Alter US-Mauritanian Relations. The Wall Street Journal (8/5, Trofimov) reports, "Mauritania's new ruling junta has consolidated its hold over one of America's and Israel's most collaborative allies in the Arab world." While "The U.S, the African Union and the European Union all condemned the coup," as "street celebrations erupted in the Mauritanian capital of Nouakchott, it seemed increasingly unlikely that" the former president will return to power. Alain Antil, an Africa specialist at the French Institute for International Relations in Paris said the junta "can't really carry out reforms, because" as military officers of the former government, "they themselves are part and parcel of the regime." Instead, he "expects the new junta to curtail the Israeli connections and to scale down cooperation with Washington," as the "relationship with Israel, which was denounced by the Arab League and regularly criticized on pan-Arab TV stations, became the rallying point for the Mauritanian opposition."

Junta Reassures World No Change In Foreign Policy. The New York Times/AP (8/5) reports, "The junta had indicated in statements Wednesday it planned no changes in foreign policy," and Col. Ely Ould Mohamed Vall's, the country's top leader, meetings with the U.S. and French ambassadors "appeared designed to assure the international community it had nothing to fear from the new regime." He "assured the ambassadors that his junta would quickly arrange elections. The junta has promised to yield to democratic rule within two years," and "many Mauritanians applauded the ouster of President Maaoya Sid'Ahmed Ould Taya, saying he was a brutal dictator and that they hoped the junta would keep its promise to usher in democracy."

Planned Turkish Auction Of Erdemir Provokes Backlash. The New York Times (8/5, Landler) reports that Turkey recently put Erdemir, a "state-controlled company, its biggest steel maker, on the auction block," but "the auction process has run into an unexpected surge of opposition from political leaders and business executives, who argue that privatizing the company is not necessary, given its profits" and that "Turkey cannot afford to surrender a strategic asset, especially when Europeans seem

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increasingly reluctant to admit the Turks into their club of nations." Workers also "fear they could lose their jobs under a foreign owner." National opposition is "robust and well organized," and "there is a receptive audience for dark warnings about foreigners taking advantage of Turks."

Fox Admits Anti-Crime Effort Has Failed To Produce Desired Results. Mexican President Vicente Fox said Thursday that his anti-crime operation strategy has failed to produce the desired results, and promised to intensify the effort in the coming days. The Dallas Morning News (8/5, Corchado) reports that the comments from Fox's spokesman "were the first official confirmation that violence has worsened since Operation Safe Mexico began June 13, and they buttress concerns expressed by both U.S. and Mexican law enforcement officials of a sense of increased lawlessness. They point to escalating violence not just along the U.S.-Mexico border but also in the key states of Guerrero and Jalisco. No details were offered on how Mr. Fox will beef up his campaign."

Britain Gave Israel Aid For Nukes. The Washington Times (8/5, Strange) reports, "Ministers in Prime Minister Harold Macmillan's government were unaware of a deal, detailed by declassified papers, where, in 1958, Britain "secretly sold Israel" 20 tons of heavy water, "a key ingredient for its nuclear program" and "vital to plutonium production," without a "'peaceful use only' condition." Instead, "the deal…apparently was conducted entirely by civil servants" and "was kept secret from the Americans." Washington had refused to sell Israel heavy water "without a guarantee that it would be used for exclusively peaceful purposes."

Author Says IRA's Criminal Existence Causes Instability. Ed Moloney, author of A Secret History of the I.R.A., in an op-ed in the New York Times (8/5) argues, "While the I.R.A.'s war against Britain has diminished during the last eight years, the organization's drift into racketeering has accelerated … Rooting out the forces behind paramilitary racketeering is not only the right thing to do, it is the sensible course as well." The IRA's "refusal to begin disbanding is one big reason instability [in Ireland] still exists," and their "willingness to disarm transparently, was made largely irrelevant" by "the events that provoked last week's statement - the robbery of more than $50 million from a Belfast bank last December and the subsequent killing of a Belfast Catholic, Robert McCartney," which showed all those crimes "needed was a few motivated members. The problem was not I.R.A. weapons but the I.R.A. itself."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — In Crawford Texas.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: UK-IRAQ _ 9 a.m. United Kingdom Royal Marines Maj. Gen. J. B. Dutton, commander of Multinational Division Southeast, will brief live from Iraq regarding ongoing security operations in southeastern Iraq. Location: DOD Briefing Studio, Pentagon 2E579.

VETERANS-MENTAL HEALTH _ 7:30 p.m. The My G.I.F.T. (Getting Involved For our Troops) Foundation is hosting its 1st Annual My G.I.F.T. gala to honor ``differently-abled" veterans. The Foundation, Founded by the Rev. Patricia Spearman, focuses on designing, developing and ensuring a comprehensive, culturally competent mental health system that readily responds to the special needs of veterans. Location: The Galleria at Lafayette Centre, 1155 21st St. NW.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"New Chapter In The Mystery Of Marilyn: Her Own Words?"
"Major Cuts At Hospital Urged"
"With Starr, Roberts Pushed Reagan Agenda"
"Focus On Suspect In Idaho Slayings Widens"
"In Niger, Hunger Hits Crisis Level"
"Israeli On Bus Kills 4 Arabs"
"Four Weeks On, London Teems With Police"

USA Today:

"Clusters Of Casualties Strike Towns"
"Talent-Laden Trojans Set Sail With Revamped Coaching Staff"
"Work On Shuttle Fuel Tank Probed"

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New York Times:
"Offer By Europe Would Give Iran Nuclear Future"
"Niger's Anguish Is Reflected In Its Dying Children"
"Court Nominee Advised Group On Gay Rights"
"Israel Lobbyists Facing Charges In Secrets Case"
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Story Lineup From Last Night's Network News:
ABC: Zawahiri Terror Threat; Bush-Marine KIAs; Iraq-Lethal Roadside Bombing; Iraq-US KIAs; Israeli Arabs Killed; Space Shuttle Cleared; Roberts-Gay Rights; Hispanic Gang; Rehnquist Hospitalized; Violent Video Game; Yellowstone Wolf Watchers.
CBS: Bush-Zawahiri Tape; Iraq-Insurgent Bombs; Bush-Marine KIAs; London Bombing Investigation; Space Shuttle Cleared; Niger Food Crisis; Fallen Heroes; Israeli Arabs Killed; Gaza Withdrawal Resistance; Rehnquist Hospitalized; Prosthetic Limb Covers; Coma Recovery.
NBC: Bush-Zawahiri Tape; Iran-Insurgent Support; Iraq-Ohio Politics; London-Transit Security; Israel Arabs Killed; Space Shuttle Cleared; Niger Food Crisis; Niger Crisis-Origin; Rehnquist Hospitalized; AZ-Defective Border Cameras; Stock Market; Kansas-Chess Popularity.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Zawahiri Video; AP Poll; Rehnquist-Hospital Visit; Roberts; Space Shuttle.
CBS: Rehnquist Hospitalized; Russia-Trapped Deep Sea Vessel; Space Shuttle; NJ-Terror Arrest; Bush-Iraq; WA-Plane Collision.
NPR: Space Shuttle; Rumsfeld-London Bombings; NJ-Terror Arrest; London Bombings; Apple-iTunes Expansion; China-Reporter Detained; Foreign Stock Markets.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, AUGUST 5, 2005 7:45 AM EDT

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TERRORISM NEWS:

Bush Reiterates Commitment To War Against Terrorism. In remarks to reporters at his Crawford, Texas, ranch yesterday, President Bush addressed the threat delivered by al Qaeda leader Ayman al Zawahiri and paid tribute to the 21 Marines from a Brook Park, Ohio Reserve unit who have been killed in action this week. Al Zawahiri's threat came, ominously, four weeks to the day after the initial July 7 suicide bombings on the London subway, and left authorities in Britain and the US on edge over the possibility of additional attacks; Zawahiri's tapes have preceded several terrorist actions. President Bush used al Zawahiri's invocation of Iraq to refocus on that country's role in the war on terror. The President's response was generally characterized as strong or defiant and was reported widely in both TV news broadcasts and the nation's leading newspapers Friday morning.

The story was the lead on each of the networks. CBS only addressed the new videotape in a brief at the top of its newscast, but referred to it again later in stories on Iraq and on security in England. The CBS Evening News (8/4, story 2, 2:30, Martin) reported, "A new videotape from al Qaeda's number two, Ayman Al-Zawahiri, vows tens of thousands of Americans would die in Iraq if the US does not withdraw immediately. President Bush responded with a vow of his own." Bush: "We will stay the course. We will complete the job in Iraq."

ABC World News Tonight (8/4, lead story, 2:30, Vargas) reported Zawahiri "has been in hiding for nearly four years. In today's tape, he appears to have aged. But his message was as fiery and defiant as ever." ABC (Wright) added, "Zawahiri specifically mentioned the London bombings, and blamed them on British Prime Minister Tony Blair. 'Blair has brought you destruction in central London,' he said. 'You spilled rivers of blood in our countries, so we exploded the volcanoes of anger in yours.' Zawahiri demanded the immediate withdrawal of foreign troops from Iraq. The British government refused to comment, but today, in Crawford, Texas, President Bush was defiant." President Bush was shown saying, "We will stay the course. We will complete the job in Iraq."

NBC Nightly News (8/4, lead story, 2:25, Brown) reported Zawahiri directly linked "the London bombings to the involvement of British forces in Iraq" and warned "more attacks are on the way," but President Bush "responded strongly, saying the US will not back down." NBC (Gregory) added, "President Bush, in Crawford today, seized on the Al-Zawahiri tape to strengthen US resolve at a time of falling support for the war. Mr. Bush said it's a fresh reminder that Iraq is part of the war on terror." Bush: "And part of their goal is to drive us out of the broader Middle East, precisely what this Zawahiri said. In other words, he's threatening. I vowed then that we would stay on the offense against these people." Gregory: "The President, however, sought today to cast the struggle in Iraq as a broader clash between ideologies, freedom versus the tyranny of the terrorists."

The CBS Evening News (8/4, lead story, 0:30, Schieffer) reported, "In what may be the most brazen threat yet, Osama bin Laden's deputy commander said today that al Qaeda will kill thousands of American military people and set off more attacks in London if United States and Great Britain do not pull out of Iraq. President Bush said the threat makes it even clearer that we are at war and he vowed to stay on the offensive." USA Today (8/5, Diamond) described Bush's direct response to the videotaped threats as "an unusual move."

The Washington Post (8/5, A7, Vandehei) says "Bush struck a defiant tone, saying the United States will stay on the offensive to 'complete the job in Iraq.' He spoke dismissively of Zawahiri, his followers and their ideology and said the twin U.S. strategies to defeat terrorists inside and outside Iraq are working." He had "hoped to turn attention to his domestic agenda this month," but "once again found himself consoling families, defending the war and insisting the United States will not reduce troop levels until it is clear the Iraqi army is strong enough to fend off the insurgents."

The Washington Times (8/5, A1, Curl) in a front page story reports, "President Bush yesterday vowed that America will not be swayed by a surge in U.S. deaths in Iraq or a new threat from a top al Qaeda leader." The Financial Times (8/5, Spiegel) adds, "President George W. Bush dismissed the threats, saying the US would 'complete the job' in Iraq."

The Washington Post (8/5, A1, Sullivan) in a front page story focusing on the videotape and the reaction in London quotes Bush saying the comments "make it clear Iraq is a part of this war on terror, and we're at war. He's saying, you know, leave. … People like Zawahiri have a ideology that is dark, dim, backwards. He's threatening. They have come up against a nation that will defend itself." Meanwhile, "CRS Al Qaeda tape expert Christopher Blanchard "called the tape an example of 'pragmatic messianism' by Zawahiri. 'Al Qaeda's fractured leadership apparently continues to believe that it can undermine support for current U.S. policies by directly addressing and threatening the American people,' he said."

The Christian Science Monitor (8/5, Murphy) reports, "The video is another Al Qaeda message apparently intended to turn Western democracies against their leaders by explaining acts of terrorism as rational decisions from a group with specific political goals. It challenges the position of British Prime Minister Tony Blair and Bush administration officials, who have insisted that the London attacks have

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nothing to do with Iraq and that terror attacks will continue regardless of policy."

The Kansas City Star (8/5, Hurst) notes, "The black turban -- a change from the white turban he has worn in past videos -- is 'a sign that it's time of war,' said Montasser el-Zayat, an Egyptian attorney who defends Islamic radicals and who spent three years in prison with al-Zawahri. The prophet Muhammad and his followers wore black turbans during their invasions in the Arabian Peninsula, he said."

And the Financial Times (8/5, Spiegel) says experts believe the videotaped message "may be part of a campaign to reassert themselves, even as they remain isolated by US and Pakistani forces." The Times continues, "Since April 2004 there have been at least nine tapes from al-Qaeda's two leaders – Mr al-Zawahiri and Osama bin Laden – all of which have drawn close scrutiny from security agencies and terrorism analysts, since Mr bin Laden has repeatedly said his public statements were important sources for those wishing to understand the network's ideology and political goals."

Bush Pays Tribute To US Casualties In Iraq. The President also addressed the sacrifice made by the members of the 3rd Battalion, 25th Marine Regiment, which is based in Brook Park, Ohio. ABC World News Tonight (8/4, story 2, :25, Vargas) reported President Bush said the town has "suffered mightily, but that residents should take comfort, knowing the sacrifice was made in what he called a 'noble cause.'"

Some articles briefly noted President Bush's condolences while describing the impact of the recent casualties on their families in the US. USA Today (8/5, Cauchon, Brook) reports, "Marines and family members describe the men of the Ohio company as deeply committed, even gung-ho. Some men who'd left the unit rejoined when they heard it was going to Iraq, said Master Sgt. Steve Walter. Others joined Lima Company, rather than units closer to their homes because they wanted to be in the infantry."

The New York Times (8/5, Kifner) adds, "Michael Bigelow…who had served in Iraq with a Marine reserve unit based in Cincinnati from last August to March, said he sensed a change in the troops' attitudes. They shifted, he said, from believing they were helping the Iraqis to simply wanting to protect each other."

Reliance On National Guard Focuses Impact Of Casualties On Communities. USA Today (8/5, A1, Moniz) in a front page story notes, "The Pentagon's reliance on National Guard and Reserve troops to fight the war in Iraq has brought clusters of combat deaths to U.S. towns for the first time in more than 50 years." And the recent casualties "highlight the risks to part-time military units, which earlier this year hit a peak of about 40% of U.S. troop strength in Iraq."

Bad News From Iraq May Have Political Impact On Swing States Like Ohio. NBC Nightly News (8/4, story 3, 2:15, Brown) reported, "Sentiment is turning against the war in this political swing state as the death toll climbs." NBC (Quintanilla) added, "A majority of Ohioans, 53%, disapproved of the President's Iraq policy as of April." While "measuring the political fallout from those killed in action is delicate, some say tactless," in a state "that tipped the last presidential election, and that this week nearly awarded a Congressional seat to an underdog Democrat in a safe Republican district, some analysts see early signs of a shift." Prof. John Mueller, Ohio State University: "It's a very close state, so almost anything bad, from the Republican standpoint, could switch it over to the Democratic side."

The CBS Evening News (8/4, story 3, 2:15, Pitts) reported, "Is the war in Iraq still worth it? That's the question" Cpl. Edward Augustine Schroeder's "parents now ask." Rosemary Palmer, mother: "The reason we're speaking out is because we want to make sure his death counts for something." Pitts: "You're not saying come home?" Schroeder: "No, we're saying either do the job or come home." Pitts: "The Schroeders believe there should be more troops in Iraq to crush the insurgents once and for all. And they're not only ones. Brook Park, Ohio is a place where patriotism is more then a punch line."

The AP (8/5, Raum) reports, "The deadly recent attacks on American troops in Iraq are increasing the pressure on President Bush to develop an exit strategy. The U.S. death toll from the war is now over 1,800, and a new AP-Ipsos poll shows the lowest approval yet for Bush's handling of Iraq, just 38 percent." And Bush's "fellow Republicans are growing nervous as they head into an election year." The President "suggested his resolve was only strengthened by" yesterday's videotaped threat" but there "has been little outward sign of progress in U.S.-led efforts to defeat the insurgency and to beef up the Iraqi army and police."

The Dallas Morning News (8/5, Jackson) also says "Bush may face increasing political pressure over Iraq, given the spasm of violence that has killed at least 24 Americans in Iraq in recent days."

Feinstein Urges US To Reach Out To Moderate Muslims. Sen. Dianne Feinstein in an op-ed in the Washington Times (8/5) writes, "I believe it is even more important the United States and our allies redouble our efforts in the war against terrorism. This means continuing to seek out and kill or capture key members of al Qaeda. This means remaining vigilant in our efforts to prevent and interdict terrorist operations. And it means improving our gathering and sharing of intelligence." In addition, the US "must develop strong relationships with moderate Muslims at the highest levels. President Bush and Secretary of State Condoleezza Rice should invest the time and energy to develop close ties with those in the Muslim world who are a

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force for peace and reconciliation, not of fanaticism and violence."

Expert Supports Administration Strategy To Continue Commitment In Iraq. Anthony Cordesman, chair of strategy at the Center for Strategic Studies, in an op-ed in the Financial Times (8/5) writes, "Despite Iraq's considerable problems, the country's new leaders have sought to be inclusive and have resisted ethnic and religious purges and confrontations. The political process has moved forward. Despite economic problems, Iraqis largely remain optimistic about their future. The situation is fragile but certainly not hopeless." It is in this context that "all the conflicting media reports about looming US withdrawals should be kept. No one can guarantee that a 'success strategy' will work, but the Bush administration and senior commanders in Iraq still see continuing commitment as a better option than any form of 'exit strategy.' Anyone who talks seriously to the policymakers and military planners involved knows they are not trying to rush US forces out before the political process stabilises and before Iraqi forces can take over a large part of the mission."

Columnist Claims War Against Iraq Unnecessary. Al Neuharth in his column marking the anniversary of the US atomic attack on Hiroshima in WWII in USA Today (8/5) concludes by criticizing Bush's decision to go to war against Iraq writing, "Truman will be remembered as the president who brought us both victory and peace in a war that was justified and necessary. By contrast, self-proclaimed 'War President' George Bush has brought us neither victory nor peace in the Iraq war, which former president Jimmy Carter this week called 'unnecessary and unjust.'"

WSJ Applauds Return Of Clear Rhetoric In War Against Terrorism. The Wall Street Journal (8/5) in an editorial applauds President Bush's return to characterizing the effort to combat extremism as a "war on terror" noting Bush's response in a "speech Mr. Bush gave last year in Fort Myers, Florida, after Richard Holbrooke, John Kerry's foreign policy adviser, called the war on terror a 'metaphor': 'Anyone who thinks we are fighting a metaphor does not understand the enemy we face. You cannot win a war if you are not convinced we're even in one.'"

Maryland Man Arrested For Training In Pakistani Terror Camp. The New York Times (8/5, Preston), Baltimore Sun (8/5, Dolan), Washington Post (8/5, A4, Rich), AP (8/5, Neumeister), Newsday (8/5, DeStefano) and Reuters (8/5) report the FBI and NYPD on Thursday announced the arrest of Mahmud Faruq Brent of Baltimore on a charge of conspiracy to aid terrorism. Brent allegedly admitted in a conversation taped by the FBI that he trained at a terror camp in Pakistan run by al Qaeda-affiliated terror group Lashkar-e-Taiba.

The Times reports Brent "was an associate of Tarik Shah, a New York jazz musician who was arrested on May 28 on terrorism charges in a federal sting operation." Brent's Baltimore "home was searched early yesterday afternoon by agents from the Baltimore Joint Terrorism Task Force." The Times notes, "There are no allegations that Mr. Brent or Mr. Shah were actively planning any violent terrorist action." The Sun adds, "According to the complaint, Shah agreed to meet with Brent at a hotel near Columbia and secretly record the conversation for the FBI. According to the federal complaint, Shah said he wanted to travel, and Brent replied that his 'connections were kinda gone.' He said his only connection was 'doing time now.'"

The Post reports, "The complaint also links Brent to Seifullah Chapman, a member of the 'Virginia jihad network' who has been sentenced to 65 years in prison for conspiring to support Lashkar-e-Taiba and other offenses. … The complaint says Chapman wrote a letter in support of an application for an expedited passport that Brent filed in 2000." Newsday adds, "Brent was recorded saying that he had watched videotapes of Muslim brothers 'suffering' and the experience 'kind of like pushed me over the, over the edge...about going there,' according to the…complaint." The AP notes that Brent "allegedly boasted that he had agreed to provide whatever assistance was necessary" to LET.

London Police Out In Force On Anniversary Of Subway Bombings. London police were out in force yesterday to patrol the city's transportation systems. The city was on edge because yesterday was the four week anniversary of the July 7th attacks and because of al Qaeda number Ayman al-Zawahiri's videotaped threat that more attacks against the British would be forthcoming.

The CBS Evening News (8/4, story 4, 2:30, Schieffer) reported, "In London, the police were out in force. There was fear terrorists may strike again so police were out in force and on the highest state of alert." CBS (MacVicar) added, "More than 6,000 British police deployed today. Detectives back in uniform, plain clothes officers riding the Underground looking for would-be bombers. A month after the first bombings, two weeks after the second attempts, it's another jittery Thursday in London." London police "have been tight-lipped about last night investigation results were revealed in New York by the commissioner of the NYPD."

NBC Nightly News (8/4, story 4, 0:25, Brown) reported, "With intelligence warnings of a possible third wave of attacks, British police launched their largest security operation since World War II today, assigning thousands of officers to patrol the London Underground and those famous double-decker buses."

British police have mounted their "largest security campaign since World War II, says the New York Times (8/5,

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Van Natta). The "most recent information came from a cellular phone text message intercepted recently and the interrogation of a suspected terrorist being held outside Britain, said senior counterterrorism and intelligence officials based in Britain, Europe and the United States. The actual text of the message was not made available. The officials said the information was not specific about the timing of such an attack, or whether the team was already in place."

The Los Angeles Times (8/5, Fleishman) adds that "the largest police presence in decades" has gripped London.

The Atlanta Journal-Constitution/AP (8/5, Lawless) says it is clear "that the attacks have changed the city," adding that there are "of fraying in London's famously diverse social fabric, too. London police have recorded a 600 percent increase in crimes motivated by religious hatred since the suicide bombings." Officials "stressed there was no specific intelligence pointing to a third attack, but mounted an operation involving 6,000 officers aimed at reassuring the public. … Officers armed with automatic rifles and pistols patrolled stations and streets. Police helicopters hovered above, and traffic was heavier than normal."

Rumsfeld Dismisses Claims US War In Iraq Responsible For London Attacks. The AP (8/5, Pearson) reports, "Defense Secretary Donald H. Rumsfeld on Thursday rejected as "nonsense" the notion that recent terrorist attacks in London were retaliation for the U.S.-led war in Iraq." At a speech before the Los Angeles World Affairs Council Rumsfeld said, "Some people seem confused about the motivations and intentions of terrorists and about our coalition's defense of the still young democracies in Afghanistan and Iraq."

Muslim Fatwa Against Extremism Criticized As Too Vague. The Washington Times/AP (8/5, Zoll) reports, "The fatwa condemning religious extremism recently issued by American Muslim groups was so broad it was meaningless, and should have denounced specific terrorist groups including al Qaeda, critics within the U.S. Muslim community say." The AP adds, "Critics also say the declaration seemed geared more toward improving the faith's image rather than starting an honest discussion about Islamic teaching." But CAIR spokesman Ibrahim Hooper "said no specific groups were named because 'it would have been a laundry list.'"

Columnist Says London Bombings Has Caused Americans To Reassess War On Terror. Daniel Henninger writes in the Wall Street Journal (8/5) that in the four weeks since the July 7 bombings in London, "I have talked about it, on the West Coast and East Coast, with people one could describe as 'non-Bush voters.' To a man and woman, they say in so many words that the time has come to 'get tough on the terrorists.' One event, London, appears to have caused an internal reassessment among some Americans formerly ambivalent about the war on terror. … What happened? Reality happened. … Americans were able to absorb London more clinically, observers from afar. London also happened to an English-speaking people, so every televised comment back to the U.S., from the first witnesses to the police reports of apprehended and named terrorists, was understood and internalized. Then the British media, God bless them, reduced the madness to one, right cliché: The bombers are our neighbors. Three years in, the battle lines finally come clear." Henninger adds, "The London bombings imprinted on hard-wired political minds the crude fact that Islamic terrorists have reduced the taking of lives they don't like to a banality."

Al Qaeda, Taliban Appear To Be Regrouping, Despite Musharraf's Claim. Pakistani President Pervez Musharraf has said that his forces have destroyed Al Qaeda sanctuaries and that the last remnants of al Qaeda are on the run. But, the New York Times (8/5, Rohde, Sengupta) reports that "with less than two months before parliamentary elections in Afghanistan, Al Qaeda, the Taliban and their assorted allies appear to be regrouping in the rugged tribal redoubts in this country's northwest and unleashing ever more frequent attacks on both sides of the border, Afghan and Pakistani officials say. Attacks in Afghanistan's south and east have grown in number, ruthlessness and sophistication. Meanwhile, Pakistan's tribal areas, particularly North and South Waziristan, have been engulfed in fresh violence."

Pakistani Court Calls Islamic Bill Unconstitutional. The New York Times (8/5, Times) reports, "Pakistan's Supreme Court ruled Thursday that some parts of a bill passed by the Islamist-led legislature in the North-West Frontier Province were unconstitutional, prompting the Islamists to say they would write a new draft. The proposed bill - known as the accountability bill - set off a huge outcry in the country." The conflict over the legislation "is part of a tussle between the government of Gen. Pervez Musharraf, the president, who says he is trying to extricate the country from religious extremism, and the Islamic parties."

US Urged To Press Musharraf To Step Up Campaign Against Taliban. The New York Times (8/5) says in an editorial that Afghanistan is "out of the headlines, but its war against the Taliban goes on. These days, it is not going well. One of the most important reasons for that is the ambivalence of Pakistan, the nation that originally helped create, nurture and train the Taliban. Even now, Pakistan's military ruler, Gen. Pervez Musharraf, seems to invest far more energy in explaining his government's tolerance of Taliban activities than he does in trying to shut them down." Washington "has been understandably reluctant to push" Musharraf "for more consistency, not wanting to risk losing the help he does offer. Pakistan's passive enabling of the Taliban, however, is too important and dangerous for Washington to overlook. The current Taliban offensive is killing American soldiers - at least 38 have died in action so

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far this year, as well as hundreds of Afghans. It also endangers next month's parliamentary elections."

FBI Intercepts Show Al Arian, Fariz Praising Suicide Bombings In Israel. The AP (8/5) reports, "Sami Al-Arian expressed 'pride' after learning of a 1994 suicide bombing attack that killed three Israelis, according to testimony Thursday" at his trial. "Investigators intercepted a fax sent to Al-Arian's home bearing the logo of the Palestinian Islamic Jihad and claiming responsibility for an attack near Netzarim, Gaza Strip. … Al-Arian faxed a message to the Damascus headquarters of the group that read: 'Pride and glory overwhelmed us. May God bless your efforts and accept our martyrs,' according to transcripts and testimony Thursday from FBI agent Kerry Myers. Similarly, co-defendant Hatem Naji Fariz expressed pleasure during a wiretapped phone call upon hearing of another suicide attack, at Beit Lid, Israel, in 1995, which killed 22."

The Tampa Tribune (8/5, Silvestrini) adds that jurors also heard transcripts of al Arian's telephone conversations about "the fact that Islamic Jihad members outside the Middle East were not getting paid. … Al-Arian also faxed a proposal to unite the Islamic Jihad and Hamas to a phone number in the United Arab Emirates."

South African Gets Three Years For Illegal Technology Transfers. Asher Karni, a South African black market arms trader, has been sentenced by a federal judge to three years in prison for selling blacklisted US electronic components to companies in Pakistan and India. The Los Angeles Times (8/5, Meyer) reports that US District Judge Robert Urbina said "he wanted to warn others that the illegal sale of U.S. high-tech products could help foreign governments or terrorists obtain nuclear weapons." The Times adds, "After hearing Karni apologize for selling blacklisted U.S. electronic components to companies in Pakistan and India, U.S. District Judge Richard M. Urbina told the former Israeli army major that no amount of contrition could make up for the potential threat posed by his actions. … Urbina shaved six years off the maximum term Karni could have received under complex federal sentencing guidelines, saying he was doing so because of Karni's cooperation."

PATRIOT ACT:

Patriot Act Amendment Would Boost Anti-Terror Funding To Cities. The AP (8/4, Barrett) reports, "Two New York lawmakers are trying to use the Patriot Act to get cities and regions at risk of terror attacks more federal help, a new legislative tactic designed to sidestep opposition from some senators from rural states." The AP continues, "House members Nita Lowey, D-Westchester, and John Sweeney, R-Clifton Park, have seen past efforts blocked in the Senate, where small states have greater influence. … Lowey and Sweeney are trying to change the way the government doles out security aid, so more of it is distributed based on risk. They've already helped engineer three successful House votes to change the funding formula, including one overwhelming 409-10 vote, but so far the Senate has failed to pass similar measures. … 'It is very frustrating that the Senate has not been able to understand the error of their actions,' said Lowey, who is hoping that by attaching her measure to the reauthorized Patriot Act — a top priority of the White House and Republican leaders — she and Sweeney may break the legislative logjam. … 'This change is going to come, it's just a question of when and it's just a question of that small minority recognizing this is a question of national defense and not about pork,' said Sweeney. 'This really has nothing to do with New York City, this has to do with threat and threat information.'" The AP notes, "In the years since the 2001 attacks, the government has distributed a minimum percentage, some 0.75 percent, of security dollars to each state. For the current budget year, that meant about $11 million for each state before additional money was offered based on risk factors. … Sweeney and Lowey's amendment to the Patriot Act would lower that minimum percentage, freeing up more money to be distributed by risk. That money most often goes to protect metropolitan areas and critical infrastructure around the country."

HOMELAND RESPONSE:

DOJ Effort To Monitor Airline Passengers' Phone, Internet Use Meets Legal Challenge. Government Executive (8/5, Strohm) reports, "Two privacy groups asked the Federal Communications Commission this week to reject a proposal that would give the Justice Department sweeping new powers to eavesdrop on cell phone calls and Internet usage by airline passengers." GE continues, "The Justice and the Homeland Security departments submitted several proposals to the FCC in May and July seeking authority to monitor the electronic communications of airline passengers. The proposals would allow Justice to record all electronic activity without a court order, identify any user by seat number, and automatically interrupt or shut down any communication." GE adds, "In a petition filed Wednesday, the Center for Democracy and Technology and the Electronic Frontier Foundation argue that the FCC does not have jurisdiction to address the full range of constitutional, privacy and civil liberties concerns that are raised by the proposal. The groups also say the proposal

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would place undefined burdens on industry to comply. … CDT and EFF say that any action by the commission would violate the Constitution as well as the Administrative Procedures Act and the Communications Assistance for Law Enforcement Act. The groups claim that Justice is trying to do an end run around Congress and get the FCC to give it new authorities without proper public debate."

Officials See Continued Threat Of Al Qaeda Suicide Attacks In US. Government sources say al Qaeda remains focused on attacking targets in the US and that suicide bombings remain a "preferred method of attack." The New York Times (8/5, Lichtblau) reports that the attacks on London's transit system last month "have prompted American officials to reassess potential threats to targets in the United States. Their conclusions, circulated among law enforcement officials by the Department of Homeland Security and the Federal Bureau of Investigation, differ little from many earlier assessments since the Sept. 11 attacks but make clear that officials see Al Qaeda as a continued threat at home." Intelligence officials "are also concerned that terrorists linked to Al Qaeda or other terrorist groups may again turn to airplanes as a method of attack by sending operatives to flight training schools or using 'an increased number of operatives' in the aviation industry to evade tightened airport security measures." The Times adds, "Still another target considered vulnerable by intelligence officials are high-rise apartment buildings."

New Pentagon Anti-Terror Strategy Sparks Civil Liberties Concerns. The Christian Science Monitor (8/5, Regan) reports in its "Terrorism & Security" column that the Pentagon has developed a "a new counterterrorism strategy 'that would increase military activities on American soil, particularly in the area of intelligence gathering.' FoxNews reported Monday that this has caused a great deal of concern among civil liberties advocates who fear the possibility of the military 'encroaching' on domestic law." The plan, "known as the 'Strategy for Homeland Defense and Support,' was released in early July without background briefings or a formal news conference. The document says the US government must have a 'a multi-layered, preventive approach to national defense' in order to counter an 'unconventional' enemy like Al Qaeda, which can attack anywhere at any time."

Federal Civil Liberties Board Slow To Start Up. The Washington Post/Reuters (8/5, Drees), reports, "A civil-liberties board ordered by the U.S. Congress last year has never met to discuss its job of protecting rights in the fight against terrorism, and critics say it is a toothless, underfunded shell with inadequate support from President Bush." Reuters continues, "Lawmakers including some Republicans, civil-rights advocates, a member of the Sept. 11 Commission and a member of the Privacy and Civil Liberties Oversight Board have expressed concerns." Reuters adds, "Lanny Davis, the only prominent liberal among the five people Bush nominated after a six-month delay, said he had not received a call from anyone related to the board since it was formally announced in June. Davis said he could not comment on specifics because the members had not yet met. … All four other panel members declined to comment." Reuters notes, "The inactivity comes at a time when Congress is nearing reauthorization of several provisions of the Patriot Act, a controversial law that gave the government new powers to go after suspected terrorists. … Asked why it was taking so long to set the board up, Connecticut Republican Rep. Christopher Shays charged, 'It's not a priority for the administration.'"

11th Circuit Rules Domestic Terror Acts Can Bring Tougher Penalties. The Miami Daily Business Review (8/5, Jones) reports, "Terrorism against civilians does not need to cross international boundaries for a terrorist to receive a longer sentence than suggested by federal sentencing guidelines, the 11th U.S. Circuit Court of Appeals has ruled." The Review continues, "The unanimous decision reversed a Fort Lauderdale, Fla., federal judge's finding that he could not reach a higher sentence by treating Stephen John Jordi as a terrorist on his guilty plea in an alleged plot to firebomb abortion clinics in Florida." The Review adds, "The three-judge panel's unanimous ruling Monday could open the door to stiffer sentences for domestic terrorism against civilians. … Although recent U.S. Supreme Court decisions have made federal sentencing guidelines advisory rather than mandatory, guidelines must still be considered before a judge decides a sentence." The Review notes, "The panel agreed with prosecutors that U.S. District Judge James I. Cohn could have gone higher than the guidelines. At issue in U.S. v. Jordi are rules developed by the U.S. Sentencing Commission to help judges interpret the guidelines. … 'The district court determined the guideline range and then improperly determined that it could not grant an upward departure,' wrote U.S. District Judge L. Scott Coogler of Alabama who was sitting on the panel by designation. 'As a result, the guidelines were improperly applied and, thus, were not appropriately consulted.' … Under the guidelines, an enhancement, or increased sentence, for a particular offense is an option when crimes like murder, kidnapping and arson were committed in an attempt to intimidate the government. … In Jordi's case, the government invoked a footnote allowing judges to consider an 'upward departure,' which is at the judge's discretion."

Civil Rights Groups Seek Meetings With FBI, DHS About Iranian-American Surveillance. The

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AP (8/5) reports, "Civil rights groups are creating what they call a 'safety net' for Iranian-Americans. Organizers of a campaign called 'Iranian-American Know Your Rights' will hold town-hall meetings and try to bring together Iranian-Americans with FBI and Department of Homeland Security representatives. The first meeting is planned for Los Angeles later in August or September." National Legal Sanctuary for Community Advancement president Banafsheh Akhlaghi said, "In the last 10 months, our office has received an unprecedented number of Iranian-American calls...saying they're being subjected to FBI interviews and surveillance, security-clearance denials after they've had them for 25 years." The San Jose Mercury News (8/5, Corcoran) also reports in the initiative and includes Akhlaghi's allegation about FBI surveillance.

New York City Sued Over Subway Searches. The New York Civil Liberties Union has sued New York City's police department calling the random searches of subway riders' bags in the wake of the bombings on London's transit system unconstitutional. The Washington Post (8/5, A3, Garcia) says the suit, filed in federal court on behalf of five subway passengers "alleges that the program violates constitutional rights that protect against illegal searches and guarantee due process." The Post adds, "Gail Donoghue, special counsel in the city's legal department, called the NYCLU 'shortsighted' and said in a written statement that the program 'preserves the important balance between protecting our City and preserving individual rights.' City police officials said they have received no complaints about the policy."

The Atlanta Journal-Constitution/AP (8/5, Neumeister) that Donna Lieberman, executive director of the NYCLU said her groups wants police "to stop terrorists and improve safety, but not with useless measures designed to give subway riders a false sense of security. Christopher Dunn, the New York Civil Liberties Union's associate legal director, said the policy announced July 21 was akin to a random search of people's bags and packages on public streets and a violation of a fundamental civil right."

DHS To Conduct Gas Tests In New York's Subways. A Department of Homeland Security-sponsored project will seek to answer how harmful gases will disperse through midtown Manhattan's and the subway tunnels under them. Long Island Newsday (8/5, Nelson) reports that the simulation, which will begin as early as Saturday, will use "colorless, odorless and harmless 'tracer' gases." It follows "a smaller effort in March that focused on the Madison Square Garden area. … Scientists will release the gases at four of eight possible locations above ground, depending on the wind, within an office building and on a subway platform of the Broadway line at 50th Street and Seventh Avenue. Six separate experiments are planned over the next three weeks, with specific dates dependent on the weather, and the subway portion planned for the final three release dates."

Eight Charged In California DMV Fraudulent Document Scheme. The San Francisco Chronicle (8/5, Lee) reports San Francisco US Attorney Kevin Ryan on Thursday announced that "eight people, including four employees of the state Department of Motor Vehicles office in Oakland, have been charged in a scheme in which some of the DMV workers allegedly accepted thousands of dollars in bribes in exchange for providing driver licenses, identification cards and registration stickers for cars that did not pass smog tests." Veronica Rivera, "who is not a DMV employee, allegedly served as a 'broker' of fraudulently obtained documents," obtaining "social security numbers that her clients could use in their DMV applications." Bay City News Wires (8/4) notes, "The prosecution is the result of a two-year investigation by the FBI, the DMV, the Internal Revenue Service and the California Highway Patrol."

Judge Jails Virginia Document Fraud Suspect Over Manslaughter Conviction. The Hampton Roads Virginian Pilot (8/5, McGlone) reports US Magistrate James E. Bradberry on Thursday ordered Guatemalan Margarito Diaz "jailed on charges of producing phony immigration documents after learning that he had been convicted of manslaughter 15 years ago but had never been deported." Diaz and Perfecto Perez are "charged in an investigation of mass-produced phony identifications used by illegal immigrants to remain in the country and obtain employment." Bradberry "had harsh words for immigration officials, questioning why Diaz was allowed to remain in the country. … 'It's only 9/11 that all of a sudden has gotten them off their butts,'" he said. The Virginian Pilot notes, "Agents from Immigration and Customs Enforcement, the FBI and the Virginia State Police conducted the raids" in which Diaz and Perez were arrested.

Professor Says US Should Rethink Priorities In Terror Prevention. Arthur Kellerman, a professor and chair of emergency medicine at the Emory University School of Medicine in Atlanta, writes in the Washington Post (8/5, A15), "One of the fundamental responsibilities of government is to coolly and dispassionately assess health threats against the populace and take decisive action to counter these threats. Faced with the twin specters of mass casualties from international terrorism and emerging biological threats, our government has failed to take effective action on either front." Rather than "strengthen our nation's beleaguered emergency and trauma care system to meet this threat, the federal government has turned a blind eye to the problem. Across the United States, underfunded emergency rooms and

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trauma centers lack sufficient beds to meet their daily mission, much less absorb large numbers of victims from a terrorist attack."

WAR NEWS:

Military Cites Statistics Showing Decline In Suicide Attacks. The New York Times (8/5, Smith) reports, "A day after losing 15 marines in fighting along the Euphrates River, the American military command here said Thursday that suicide attacks had declined as a result of its three-month campaign to stem the flow of foreign fighters coming down the river valley from Syria." American command spokesman Brig. Gen. C. Donald Alston "said 13 car bombings occurred in Iraq last week, only three of which were suicide bombings, the lowest weekly figures since the current counterinsurgency campaign in western Anbar Province began. The military regards car bombings, suicide bombings in particular, as a rough measure of foreign fighter activity because it contends that most of the suicide bombers are foreign militants."

The AP (8/5, Tran) adds, "Alston warned that militants will likely rally their forces in a concerted effort to derail the country's political progress, including a referendum on the constitution in October and an election in December."

The Financial Times (8/5, MacDonald) reports that although "civilians make an easy target, the guerrillas have also producing more sophisticated devices to keep up the pressure on US patrols, Gen Alston said." The Times adds, "Shaped charges, for example, can direct the force of a blast to maximise its effect. Some of the devices being used most recently in western Iraq are reportedly of a type previously used by Hizbollah, the south Lebanese resistance group."

In contrast, the Washington Post (8/5, A6, Finer) reports, "The start of August has been among the bloodiest stretches for American forces since the 2003 invasion of Iraq, and non-active-duty service members have been hit hardest. Twenty-one Marines killed in three separate incidents this week were reservists, and the soldiers killed Wednesday were from the Georgia National Guard."

Four US Soldiers Killed In Iraq. The US military reported four additional casualties in Iraq yesterday. NBC Nightly News (8/4, story 2, 2:15, Brown) reported the casualties include "a Marine killed in the same area where 14 Marines lost their lives yesterday." ABC World News Tonight (8/4, story 4, :15, Vargas) reported, "Three soldiers were killed in a roadside bombing in Baghdad." The CBS Evening News (8/4, story 2, 2:30, Martin) reported the three Americans killed in Baghdad were "reportedly members of a Georgia National Guard brigade which has suffered 11 dead in the past two weeks."

US Military Says Iran A Source Of Deadly Shaped Charges In Iraq. US authorities in Iraq have intercepted a shipment of high explosive shaped charges that originated in Iran. The insurgents' use of shaped charges, which concentrate the force of an explosion to penetrate armored vehicles, as well as the increased sophistication and size of other improvised explosive devices, have taken a toll on US forces in Iraq.

NBC Nightly News (8/4, story 2, 2:15, Miklaszewski) reported, "Some of the most sophisticated of these deadly weapons are reportedly coming from Iran. US military and intelligence officials tell NBC News American soldiers intercepted a large shipment of high explosives smuggled into northeastern Iraq from Iran only last week. The officials say the shipment contained dozens of so-called shaped charges manufactured recently." Intelligence officials "believe the high explosives were shipped into Iraq by the Iranian Revolutionary Guard, or the terrorist group Hezbollah, but are convinced it could not have happened without the full consent of the Iranian government. And today Defense Secretary Rumsfeld accused Iran of attempting to derail the democratic process in Iraq." Rumsfeld: "The last thing the Iranians want is to see Iraq succeed as a democracy."

The CBS Evening News (8/4, story 2, 2:30, Martin) reported, "Many of the bombs are homemade, using artillery shells, of which there is a seemingly unlimited supply. But just last week, US forces intercepted a shipment from Iran containing professionally made explosive devices specifically designed to penetrate the armor which protects American vehicles."

ABC World News Tonight (8/4, story 3, 2:00, Marquez) reported, "The military says this week alone, they discovered 115 improvised bombs, but there are others they missed. American forces travel on Iraq's roads every day, making them a target. With so many casualties in one bombing, some now question, should the US allow so many troops to travel in a single vehicle at one time."

UN Resolution Calls For Neighbors To Stop Flow Of Arms Into Iraq. The Washington Times (8/5, Pisik) reports, "The U.N. Security Council voted unanimously yesterday to condemn recent 'shameless and horrific attacks' in Iraq and called on Iraq's neighbors to halt the flow of terrorists and weapons." US Ambassador John Bolton said, "This resolution highlights the critical importance of cooperation among all member states to halt the flow of terrorists, weapons and terrorist financing to Iraq." He "called on Iran and Syria to honor international commitments to promote stability in the region."

Jaafari Unveils Plan For Increasing Border Security. Knight Ridder (8/5, Allam, Chin) reports, "The Iraqi government on Thursday announced an ambitious plan for improved border protection and intelligence gathering and for

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the formation of an elite Iraqi force to prepare the embattled country for an eventual drawdown of American troops." Iraqi Prime Minister Ibrahim al-Jaafari "said multinational forces would stay in Iraq" but the "security plan 'is an entirely Iraqi plan, with an Iraqi perspective, Iraqi timing and an Iraqi way of dealing with matters.'"

Iraqi Women Urge US Lawmakers To Help Protect Their Rights. Iraqi women yesterday urged US lawmakers to help assure that women's rights are protected in their country's new constitution. The Washington Times (8/5, Behn) reports that as delegates prepare to meet in Baghdad in 10 days to present the final draft, "it is still not clear how large a role will be given to Islamic Shariah law, which traditionally subordinates women to men." During a visit to Washington yesterday, Basma Fakri, president of the Women's Alliance for a Democratic Iraq, "said it was entirely appropriate for President Bush, the Senate and House to let Iraq's constitutional negotiators know 'that Iraq should be free.'" The Times adds, "The appeal has had some success in Washington, where the House passed a resolution last week that 'strongly encourages Iraq's Transitional National Assembly to adopt a constitution that grants women equal rights under the law and to work to protect such rights.' The resolution also 'pledges to support the efforts of Iraqi women to fully participate in a democratic Iraq.'"

LATimes Warns Against Placing "Too Much Significance" On Iraqi Constitution. The Los Angeles Times (8/5) editorializes, "With the US death toll now past 1,800, the need for a constitution that knits together Iraq's three disparate groups," the Kurds, Sunni Arabs and Shiites, "is ever more evident. The interim assembly is writing the country's basic law and is supposed to publish it a week from Monday," but "it would be a mistake to infuse Aug. 15 with too much significance. There have been other supposedly transformative events — the capture of Saddam Hussein in December 2003, the transfer of sovereignty from US occupiers to Iraqis in June 2004, the Iraqi parliamentary elections last January — that have failed to end the violence in Iraq."

McCain Effort To Formalize Rules For Prisoner Treatment Meets Resistance. USA Today (8/5) reports Sen. John McCain, "the nation's most celebrated ex-POW, has a crisp message for the Bush White House and Pentagon about how to treat detainees: You've got it wrong." McCain is "sponsoring a pair of amendments to the defense bill awaiting the return of Congress in September. In short, the amendments would: Bar the military from treating detainees in 'cruel, inhuman or degrading' ways;" and "require military interrogators to stick to interrogation methods laid out in the Army field manual, the traditional guidepost." Though this "might sound uncontroversial, but the White House and Pentagon are fiercely resisting McCain's measures." Vice President Cheney "describes the amendments as intrusions on presidential authority. From the Pentagon's perspective, McCain wants to solve a problem that has already been taken care of."

Pentagon Says Military Commanders Should Not Have "Hands Tied" In Interrogations. In a USA Today op-ed (8/5), Pentagon spokesman Lawrence DiRita says, "Since the Sept. 11 attacks, interrogations of captured terrorists have provided valuable information helping the United States understand the organizational structure of al-Qaeda, its methods and locations for terrorist recruitment, and the extent of its presence in this country." Some "want to limit this authority by making Congress — not military commanders, the secretary of Defense and the commander in chief — the arbiter of standards for interrogating captured terrorists." Now is "not the time to tie the hands of military commanders. We must have the flexibility to adapt to a ruthless, thinking enemy."

US To Begin Transferring Guantanamo Prisoners To Afghanistan. The New York Times/Reuters (8/5) reports the US "will return about 110 Afghan prisoners now at Guantánamo Bay, Cuba, to Afghanistan, where the Afghan government will decide whether to detain or release them, American and Afghan officials said Thursday." The Pentagon said "an additional 350 Afghans detained by the American military at Bagram Air Base in Afghanistan would be handed over to the Afghan government after other facilities were built and guards trained."

The Washington Post (8/5, A1, White, Wright) reports officials said the Bush Administration is "negotiating the transfer of nearly 70 percent of the detainees at the U.S. detention facility in Guantanamo Bay, Cuba, to three countries as part of a plan" to "share the burden of keeping suspected terrorists behind bars." Pierre-Richard Prosper, "ambassador at large for war crimes, who led a U.S. delegation to the Middle East this week," said agreements to those made with Afghanistan "are being pursued with Saudi Arabia and Yemen, whose nationals make up a significant percentage of the Guantanamo population." Senior US officials "said yesterday's agreement is the first major step toward whittling down the Guantanamo population to a core group of people the United States expects to hold indefinitely."

USA Today (8/5, Komarow) reports the transfer of "up to 110 Afghan inmates from Guantanamo Bay, Cuba, to their home country" is the "biggest single step yet toward reducing the population of the prison camp." The deal "comes as

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some members of Congress are pressing the Bush administration to close the Guantanamo prison."

The Los Angeles Times (8/5, Richter) reports the agreement "will move the Bush administration a step closer to dealing with the troublesome diplomatic problems caused by the Guantanamo Bay prison. The indefinite detentions of about 510 Guantanamo Bay prisoners are viewed in many parts of the world and by critics in the United States as human rights violations, and administration officials have debated whether to close the facility amid charges that detainees have been abused."

UN Oil For Food Probe To Accuse Former Director Of Taking Kickbacks. The Washington Post (8/5, A10, Lynch) reports a UN-established inquiry "into corruption in the $64 billion oil-for-food program will accuse the defunct program's director, Benon V. Sevan, of receiving cash kickbacks for steering lucrative Iraqi oil contracts to an Egyptian oil trader, according to Sevan's lawyer." Attorney Eric Lewis said former Federal Reserve chairman Paul A. Volcker, "who is heading the independent inquiry committee, is to release a third interim report Tuesday" and that it will "also accuse Sevan, of Cyprus, of refusing to cooperate." Lewis said Sevan "is being made a scapegoat to deflect criticism of Secretary General Kofi Annan" and the allegations "are 'flatly false.'"

The Washington Times/AP (8/5, Wadhams) reports although the "amount of money Mr. Sevan is thought to have taken isn't known, the findings would be a major blow to the United Nations because of his stature in the organization and the control he had over the oil-for-food program." But attorney Lewis "denied the charges in a statement that appeared timed to pre-empt the investigation's report." The New York Times (8/5) also runs the AP story.

Army Commanders Under Budget Crunch. Knight Ridder (8/5, Galloway) reports Army commanders "seem to be taking early and unusual measures to keep the lights on and basic services working." At Fort Rucker, Ala., "the home of Army Aviation for half a century, temporary stop-work orders were issued Monday to 120 contract employees, who were sent home to wait without pay for further developments." The "end-of-the-year money problem is perennial, and hardly confined to the Army." But the "problem is compounded this year because Congress recessed for its summer break without passing the Defense Appropriations Act. Senate Majority Leader Bill Frist, R-Tenn., stopped consideration of the bill after the White House objected to provisions that would have required drafting new rules for the treatment of suspected terrorists at Guantanamo Bay, Cuba, and other facilities."

Warner Reportedly Upset With Frist Move On Defense Authorization Bill. The Washington Times (8/5, Gertz, Scarborough) reports in its "Inside the Ring" column that Senate Armed Services Committee Chairman John Warner "is not all that pleased these days" with Senate Majority Leader Bill Frist, because Frist "yanked Mr. Warner's cherished defense authorization bill off the floor last month, when he could not get 60 votes to end debate. To Mr. Frist, the gambit worked. He fought off unwanted Democratic amendments to the defense bill and then won passage of a pro-gun legislation. Asked about the Warner-Frist relationship, the chairman's spokesman, John Ullyot, said, 'He intends to work with the Senate leadership to get a bill authorized this fall. Senator Warner has a very good working relationship with Majority Leader Frist.'"

Basra Undergoing An Economic, Religious Renaissance. Since Saddam Hussein's fall, Basra "is enjoying an economic and religious renaissance, even as the rise of conservative Shiite Islam has put a chill on its traditionally flourishing cultural scene." Knight Ridder (8/5, Fadel) reports, "The city flaunts its Shiite identity in the streets, after decades of oppression under Saddam. Portraits of Imam Ali and Imam Hussein, two of the most prominent historical Shiite figures as well as Iraq's major Shiite clerics, are hot items at outdoor markets. A portrait of Jesus appears occasionally among the religious paraphernalia. Many Shiite Iraqis who lived in exile in Iran have flooded back into the country."

Clubs Provide Respite For Baghdad's Wealthy And Middle Classes. USA Today (8/5) reports on Baghdad's Hunting Club, which was once "an exclusive refuge for privileged members of [Saddam Hussein's] government and supporters of the regime. … Today, the Hunting Club is still exclusive, but membership is based on educational achievement and ability to pay dues, club director Hassanain Fadhil says. The club offers respite from the city's daily violence and summer heat." USA adds, "Today, there are 32 clubs in Baghdad. Most have swimming pools, restaurants and halls for weddings or other occasions. Annual dues at the more popular clubs can be hundreds of dollars per year for a family membership, so membership is generally limited to middle class and wealthy Iraqis."

US Urged To Bring Opportunity, Dignity To Iraq's Youth. Ed O'Connell, a senior research analyst at Rand Corp. working in Iraq and the Middle East, writes in the Washington Post (8/5, A15) that the West "must do a better job of bringing opportunity and dignity" Iraq's youth, adding, "If we can't, the terrorists will continue to prey upon such vulnerable young people, convincing them that the path to glory and dignity lies along the road of suicide bombings and explosive devices. It seems obvious that the success of the

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terrorist movement rests on the vulnerability of youth worldwide. In military parlance, halting this trend would be considered the deep fight." O'Connell adds, "President Bush's longtime aide Karen Hughes is coming on board to improve America's image in the Muslim world. I propose that Hughes make promoting life and opportunity for Muslim youth one of her top initiatives."

Pentagon To Release Coffin Photos. As part of a legal settlement announced yesterday, the Pentagon has agreed to make available as quickly as possible some photos of the coffins of US service members killed in Iraq. The New York Times (8/5, Files) reports that the agreement "runs counter to a longstanding Pentagon policy that bars the public release of such photographs. But in response to requests under the Freedom of Information Act, the Pentagon has already released hundreds of such photographs this year, and it agreed under the settlement to continue to do so." The settlement was announced by Ralph Begleiter, a journalism professor at the University of Delaware who was a lead plaintiff in the current suit.

The Washington Post (8/5, A3, Tyson) adds, "The decision was called a victory for open government by the National Security Archive, a nongovernmental research group here that helped the litigation."

Pentagon Removes Political Messages From Web Site. The Washington Post (8/5, D5, MacMillan, Specht) reports that the Pentagon "has removed messages containing political commentary from a Web site designed for people to show their support for U.S. forces serving in Iraq and Afghanistan. Most of the postings at America Supports You (http://americasupportsyou.mil) express love and encouragement…without partisan asides. But among the 60,000-plus messages were at least a few dozen -- found with the site's search function -- that equated troop support with backing the Bush administration's political goals. Still others lambasted Democratic politicians such as John F. Kerry and Edward M. Kennedy, the senators from Massachusetts." The decision to remove such messages "reflects a policy posted on the site last week warning that political speech will be barred."

General Says NATO Will Be Ready To Take Over For US In Afghanistan In 2006. The Long Island Newsday/AP (8/5) reports that a NATO general said yesterday that a NATO-led international force will be ready to assume responsibility for security all across Afghanistan by the end of next year." The move would free up many of the 17,6000 US troops currently battling militants in Afghanistan. The PA notes that the announcement "follows a surge in fighting between U.S.-led forces and Taliban rebels ahead of elections next month. The bloodshed has led the military to rush in an airborne infantry battalion of about 700 troops on standby in Fort Bragg, N.C."

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Comey To Join Lockheed Martin As Senior VP, General Counsel. The Wall Street Journal (8/5, Squeo) reports, "The nation's No. 2 law-enforcement official, Deputy Attorney General James Comey, is expected to join Lockheed Martin Corp. as senior vice president and general counsel when he leaves the government this month, according to people familiar with the matter." The Journal continues, "Mr. Comey, perhaps best known in recent years for spearheading a crackdown on corporate fraud, previously had prosecuted numerous organized-crime and terrorism cases, including those involving crime boss John Gambino and the 1996 Khobar Towers terrorist attack on a U.S. military facility in Saudi Arabia. President Bush appointed him to the senior Justice Department post in December 2003." The Journal notes, "Separately, David N. Kelley, who succeeded Mr. Comey as U.S. Attorney for the Southern District of New York in early 2004, is leaving that post to join law firm Cahill Gordon & Reindel LLP. He will start at the firm in the fall as a litigation group partner."

The AP (8/5) reports, "Comey, 44, will join Lockheed in October, replacing Frank Menaker Jr., 65, as its top lawyer. Comey, who was appointed in 2003 by President Bush, said in April that he planned to leave the Justice Department in the fall."

Reuters (8/5) reports, "Comey, the No. 2 U.S. legal official behind Attorney General Alberto Gonzales, led the Justice Department's Corporate Fraud Task Force, overseeing prosecutions of executives at Adelphia Communications Corp. , ImClone Systems Inc. and WorldCom. He also handled a number of high-profile terror and drug cases. … Before serving in Washington, Comey was U.S. attorney for the Southern District of New York, where he made his name prosecuting an organized crime case against the Gambino family."

CORPORATE SCANDALS:

US Investigating Bribery Allegations Against DaimlerChrysler. The Wall Street Journal (8/5, Wilke, Power) reports, "The Justice Department is pursuing a criminal investigation of allegations that DaimlerChrysler AG's Mercedes unit paid bribes in at least a dozen countries and that senior executives may have been aware of the practice. The investigation is an escalation of a civil inquiry by the Securities and Exchange Commission that was disclosed late last year. That inquiry was triggered by a former Chrysler

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accountant in Detroit who alleged in a lawsuit last year that the company kept dozens of secret bank accounts to bribe foreign officials." The paper adds, "German federal authorities joined the investigation as well, people close to the case said, after the July 22 suicide of Rudi Kornmayer, managing director of the company's plant in Nigeria. The 53-year-old executive shot himself in a park in Esslingen, Germany, police said. Investigators are reviewing a suicide note that refers to the bribery inquiry, those close to the case said. DaimlerChrysler operations in Latin America and Africa are among those under scrutiny, a person close to the case said, but the nature and purpose of the alleged payments hasn't been disclosed. In financial disclosures on July 28, DaimlerChrysler reported it has identified 'accounts, transactions and related payments that are subject to special scrutiny.' The company said it is cooperating fully with investigators and 'voluntarily sharing...information from its own internal investigation' in response to subpoenas from US authorities. A spokesman at DaimlerChrysler's Stuttgart, Germany, headquarters declined to amplify that statement."

SEC Asks Judge To Allow Scrushy Case To Proceed. Bloomberg News (8/5) reports, "HealthSouth Corp. founder Richard Scrushy should face civil-fraud charges for his role in 'one of the largest financial frauds in U.S. history,' the Securities and Exchange Commission said Thursday in urging a judge to let the case proceed." Bloomberg continues, "The SEC's filing in federal court in Birmingham, Ala., called Scrushy "desperate" for asking last month that the lawsuit be dismissed because of the agency's collaboration with the Justice Department. Any guidance given to the SEC was within acceptable rules, the agency said. … 'Scrushy wants this court to create new law, from scratch, that would obligate the SEC to keep suspects apprised of developments in parallel DOJ investigations,' the SEC said. 'Scrushy wants the SEC to become the con man's ear in the Justice Department.'" Bloomberg adds, "Scrushy is accused by the SEC of lying to investors and signing false financial reports. The lawsuit is one of several stemming from fraud that happened under Scrushy's watch from 1996 to 2002 at HealthSouth, the largest U.S. operator of rehabilitation medicine services. Scrushy, who is fighting to regain control of the company he started in 1984, was acquitted June 28 of criminal charges."

Greenberg Takes On AGI Directors. The New York Times (8/5, Anderson) reports, "Maurice R. Greenberg, the former chairman and chief executive of the giant insurer American International Group, has challenged the rationale for its $4 billion income restatement, calling many of the items 'exaggerated and unnecessary.'" The paper adds, "In a document presented to regulators yesterday, Mr. Greenberg's lawyers point to many people, including the company's audit committee and PricewaterhouseCoopers, as being equally responsible for overseeing the company's complex accounting. It suggests that the company's huge restatement was carried out to justify Mr. Greenberg's ouster earlier this year." The Times continues, "The document, known as a white paper, is a gamble for Mr. Greenberg. He is named in a suit brought by the New York attorney general, Eliot Spitzer, which claims that he and others manipulated AIG's financial statements and misled regulators, and he continues to be under criminal and civil investigation by federal authorities. In late May, AIG restated five years of results, lowering its net income over that time by $4 billion, or 10 percent." Robert A. Mintz, head of the white-collar defense practice of the law firm McCarter & English and a former federal prosecutor, said, the paper is "a shot across the bow of the regulators who clearly are contemplating bringing criminal charges. It's a signal that this is clearly a winnable fight and it's far from a black and white case."

The Wall Street Journal (8/5, Francis, McDonald) reports, "Attorneys for former American International Group Inc. Chairman and Chief Executive Maurice R. 'Hank' Greenberg defended many of the accounting decisions made on his watch, telling regulators that the company's auditor and current AIG executives knew of moves the company recently reversed. In a 51-page document, the lawyers say that AIG's longtime auditor, PricewaterhouseCoopers LLP, Chief Executive Martin J. Sullivan and Chief Financial Officer Steven J. Bensinger, among others, were aware of accounting moves that the company has reversed under pressure from regulators." The Journal adds, "The document suggests current managers are eager to take sizable charges now partly to make the firm's future results looks stronger by comparison. The changes behind the restatement 'may be an effort by new management to set the bar as low as possible on the investment community's expectations of AIG's earnings going forward,' according to the document. The outside directors also have 'an interest in legitimizing their removal of Mr. Greenberg,' the document says."

Cox Says He'll Be Investor Advocate At SEC. The Wall Street Journal (8/5, Solomon) reports that in "his first day on the job, Securities and Exchange Commission Chairman Christopher Cox sought to allay concerns that he'll kowtow to business, telling SEC staff that 'the Department of Commerce serves our country's businesses. We are the investors' advocate.'" Cox's arrival has been "viewed with skepticism by some who fear he may take a more business-friendly approach to regulation and enforcement than his predecessor, William Donaldson." But at "a staff meeting yesterday morning, Mr. Cox told staffers those predictions 'often have as much factual basis as a WorldCom prospectus' and said anyone who tries to take advantage of

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the investing public 'will find themselves a powerful adversary in the SEC.'"

The Financial Times (8/5, Parker) reports Cox "signalled on Thursday that providing investors with more user-friendly financial information would be a theme of his leadership." Cox "complained about the lack of 'plain English' in company proxy statements and mutual fund prospectuses. He also warned that the SEC faced some 'truly thorny issues' in implementing rules on stock trading, hedge fund oversight and mutual fund governance that were finalised by William Donaldson, his predecessor."

Stock Options Could Give Managers Incentive To Cheat. In a column on stock options given to chief executives for the New York Times (8/5), Floyd Norris writes, "It appears that really big options grants make it more likely that companies will fudge their numbers and that companies with such grants are more likely to go broke." Norris continues, "One study, to be presented this weekend at a meeting of the Academy of Management in Honolulu, compared 435 companies that were forced to restate their financial statements with similar companies that did not run into such problems. The report found that the higher the proportion of the boss's pay in stock options, the more likely the company was to be forced to restate profits. For companies where bosses got 92 percent or more of their pay in options, about a fifth ended up faking their books within five years." Norris adds, "That conclusion would be more persuasive if the authors, Jared Harris, a doctoral candidate at the University of Minnesota, and Philip Bromley, a management professor there, had looked at all companies that are so generous with options. But it makes a lot of sense. Those executives whose well-being most depends on the stock going up are most likely to do what they can to arrange that, by fair means or foul." The Times says the study also found it isn't just options "that seem to correlate with fraud." Norris notes that according to the study, "Bosses of companies that are doing much worse than their competitors may feel a need to cheat. And companies that turn in a very good year have a propensity for faking numbers the next year."

Delphi Eyes Major Restructuring To Avoid Bankruptcy. The Wall Street Journal (8/5, White) reports, "Delphi Corp. Chairman and Chief Executive Officer Robert S. 'Steve' Miller said the automotive supplier is in discussions with former parent General Motors Corp. and the United Auto Workers about a comprehensive restructuring of Delphi's unprofitable US operations aimed at avoiding bankruptcy reorganization." Miller, a veteran leader of large-scale corporate restructurings, said in an interview with the Journal that discussions with GM and the union "are very constructive and give me hope that we can restructure out of court." The paper adds "But Mr. Miller said that if Delphi can't reach agreements with GM and the UAW that substantially cut its US labor costs and allow for restructuring or sale of unprofitable businesses, the company can't continue on its current course until September 2007, when its current UAW contract expires. The paper notes Delphi had a $403 million loss in the first quarter, and has forecast a loss for the year. Miller told the Journal, "We don't have the wherewithal to go another two years losing money at that rate." Miller took over Delphi July 1, succeeding former Chairman and Chief Executive Officer J.T. Battenberg III, who announced his retirement in February.

Morgan Stanley Board Slow To React To Management Problems. The Wall Street Journal (8/5, Davis, Smith) reports, "On a sunny day in early June, near the top of a 60-story glass tower with panoramic views of Boston, three independent Morgan Stanley directors heard a stern critique from money managers at the hedge fund Highfields Capital Management LP. Morgan Stanley Chief Executive Philip Purcell risked being ousted in a proxy fight the next spring, the Highfields managers said. Yet the Morgan Stanley board had allowed two designated successors to leave and the firm was suffering an alarming exodus of talent, they said." The paper adds, "The meeting with Highfields was the last significant event before directors and Mr. Purcell decided he should step down, according to interviews with two people knowledgeable about board deliberations. On June 13 he announced he would resign and he left the firm on June 30. Based on interviews with directors, investors and others, a picture emerges of a board that came to grips painfully slowly with the extent of Mr. Purcell's unpopularity. By some directors' own accounts, the board initially misjudged attacks on Mr. Purcell by retired Morgan Stanley executives, seeing the complaints as carping about his personal style rather than as an issue that threatened the company's performance." The Journal adds, "The tale serves as a caution for boards in an era when their role in corporate governance is drawing more scrutiny. The damage from delay when directors fail to spread their antennae widely is especially great at a Wall Street securities firm like Morgan Stanley, where the most valuable assets can walk out the door and never return."

Federal Bank Regulators Plan Examiner Restrictions. Dow Jones Newswires (8/5) reports, "U.S. regulators on Thursday proposed rules to enforce a new law restricting senior bank examiners from working for the banks they supervise for one year after leaving their jobs." Dow Jones continues, "Starting Dec. 17 the job restriction, included in an intelligence and anti- terrorism law enacted late

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last year, would apply to examiners at the Office of the Comptroller of the Currency, the Federal Reserve, the Federal Deposit Insurance Corp. and the Office of Thrift Supervision." Dow Jones adds, "The legal requirement followed a year-long probe by the Senate Permanent Subcommittee on Investigations into money laundering allegations involving Riggs Bank N.A., which has since been acquired by PNC Financial Services Group. … The Senate subcommittee found the OCC was slow to respond while Riggs helped corrupt leaders from Chile and Equatorial Guinea. Questions surrounded R. Ashley Lee, the regulatory agency's examiner in-charge at Riggs from 1998 to 2002, who left to become Riggs' chief risk officer. Lee was put on leave while the U.S. Justice Department investigated ethics violations. … The proposed restriction would apply to employees of bank regulators who serve as senior examiners for two or more months during their final year of employment with the agencies."

CRIMINAL LAW:

Former AIPAC Officials Charged Over Leaked Pentagon Classified Information. The Washington Post (8/5, A1, Eggen, Stockwell) reports, "Two former employees of an influential pro-Israel lobbying group were indicted yesterday on charges that they illegally received and passed on classified information to foreign officials and reporters over a period of five years, part of a case that has complicated relations between the United States and one of its closest allies." The Post continues, "Although no foreign government is named in the indictment, U.S. government sources have identified Israel as the country at the center of the probe. The Israeli Embassy in Washington also confirmed yesterday that it has been 'approached' by investigators in the case." The Post adds, "The 26-page indictment, handed up in U.S. District Court in Alexandria, represents the first formal allegations of criminal wrongdoing against the former employees of the American Israel Public Affairs Committee. AIPAC is widely recognized as one of the most powerful lobbying organizations in Washington and has carefully cultivated close ties to Congress and the Bush administration."

The New York Times (8/5, Johnston) reports, "The indictment accused Steven J. Rosen and Keith Weissman, formerly senior staff members at the American Israel Public Affairs Committee, with improperly disclosing national security information beginning in April 1999. The group dismissed the two men last April." The Times continues, "As the committee's director of foreign policy issues, Mr. Rosen was a highly visible figure in Washington who helped the organization define its lobbying agenda on the Middle East and forged important relationships with powerful conservatives in the Bush administration. Mr. Weissman was a senior Middle East analyst." The Times adds, "The charges in the long-running inquiry were expected, but nevertheless unusual. Neither Mr. Rosen nor Mr. Weissman, who have denied any wrongdoing, held security clearances. … They were not government employees and they operated in a foreign policy world in which private lobbyists, public officials and journalists often trade delicate information about executive branch decision-making that is related to other countries."

Knight Ridder (8/5, McCaffrey, Strobel) reports, "U.S. Attorney Paul McNulty said the men were attempting to influence U.S. foreign policy. He said trafficking in information is commonplace in the nation's capital but a 'clear line separates classified information from everything else. … Today's charges are about crossing that clear line,' McNulty said." Knight Ridder continues, "The indictment paints a more detailed picture of the case against Pentagon analyst Lawrence Franklin, who was charged in May with leaking classified information to the pro-Israel lobbyists about possible attacks by Iran on U.S. forces in Iraq. … Franklin, who worked on the Iran desk in Secretary of Defense Donald Rumsfeld's office, had also been charged with three counts of communication of national defense information to persons not entitled to receive it. In Thursday's indictment, Rosen was charged with aiding and abetting Franklin in one of those counts by passing along written classified information." The AP (8/5, Sherman) reports that McNulty "said the men apparently were motivated by a desire to advance their personal agendas and careers by trading on prized information. 'The facts alleged today tell a story of individuals who put their own interests and their own views of foreign policy ahead of American national security,' McNulty said at a news conference. … Although the indictment refers to other U.S. officials who gave Rosen classified materials, McNulty said no other charges are planned, but noted the investigation continues."

The Financial Times (8/5, Sevastopulo) reports, "John Nassikas, a lawyer representing Mr Weissman, said: 'We are disappointed that the government has decided to pursue these charges, which Mr Weissman strongly denies.' … Abbe Lowell, a lawyer for Mr Rosen, said: 'We expect that the trial will show that this prosecution represents a misguided attempt to criminalise the public's right to participate in the political process.'"

Reuters (8/4, Vicini) and Bloomberg News (8/5) USA Today (8/5, 4A, Locy), the Los Angeles Times (8/5, Schmitt), and the Washington Times (8/5, Seper) also report on the indictments.

US Charges Missouri Man In First Camcorder Movie Piracy Indictment. The New York

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Times/Reuters (8/5) reports, "A Missouri man is the first to be indicted under a new federal law that prohibits people from secretly videotaping movies when they are shown in theaters, the U.S. Justice Department said on Thursday." Reuters continues, "Curtis Salisbury, 19, used a camcorder to make copies of recent releases 'The Perfect Man' and 'Bewitched' and then distributed them through illicit computer networks that specialize in piracy, the Justice Department said. … A law that took effect in April prohibits such behavior." Reuters adds, "Salisbury also downloaded several movies and software programs from the computer network, the Justice Department said. … Salisbury, who faces up to 17 years in prison, could not be reached for comment."

The Hollywood Reporter (8/5, Boliek) reports, "One section of the new law, known as the Artists Rights and Theft Prevention Act, criminalizes the use of recording equipment to make copies of movies in theaters. … 'Camcording movies in theaters for online distribution is a crime,' U.S. Attorney Kevin Ryan said. 'This case represents the first prosecution under the Family Entertainment Copyright Act and demonstrates that the U.S. Attorney's office and its CHIP (Computer Hacking and Intellectual Property) Unit will aggressively employ the tools provided by Congress and the president to combat the theft of intellectual property.'" The Reporter continues, "The statute also prohibits the infringement of a work being prepared for commercial distribution by making it available on a computer network accessible to members of the public, where the individual knows the work was intended for commercial distribution. The indictment represents the first use of those provisions by federal prosecutors. … MPAA president and CEO Dan Glickman said the indictment proved the need for the new law. … 'Over 90% of initial releases that are pirated are a result of people camcording in movie theaters,' Glickman said. 'That's why we worked with Congress and the president to pass crucial legislation strengthening penalties against people who camcord movies in theaters and make them available to the public on the Internet. The creative works of the entertainment industry belong to the millions of people who make them and are not for others to steal or unlawfully distribute.'"

Bloomberg News (8/5) reports, "Federal prosecutors are investigating sites on the Internet used to distribute pirated movies, games and software. … Last month, four people were charged in San Jose with copyright violations as part of a nationwide crackdown on the sites."

US Charges Former Chicago Park Official With Taking Kickbacks. The Chicago Tribune (8/5, O'Connor, Ford) reports former Chicago Park District director of natural resources Shirley McMayon "official accepted cash, vacations to ski resorts, a pricey bicycle and even a manicure for steering millions of dollars in work at Millennium Park to a suburban landscaping company, federal authorities charged Thursday. … Michael Lowecki, the company owner, and Kevin Haas, its former chief operations officer, were also charged in the indictment." The Tribune notes FBI Chicago SAC Robert Grant said the McMayon probe "has led to other investigative leads that are aggressively under investigation." The Chicago Sun Times (8/5, Warmbir, Herrmann, Korecki, Novak) notes McMayon, "allegedly received more than $120,000 in cash plus free vacations, computers and other goodies for steering about $8 million in Park District landscaping work to…James Michael Inc. In all, more than $137,000 in cash and benefits went into her pocket from 2000 to 2002, prosecutors allege.

Reuters (8/4) reports, "McMayon, 47, is accused of accepting free ski trips, spa visits, and tickets to a Green Bay Packers football game in exchange for steering $8 million worth of contracts to James Michael Inc. and executives Michael Lowecki and Kevin Haas. … 'We should be having contracts on the basis of merit,' said local U.S. Attorney Patrick Fitzgerald. 'The system has been compromised.' … Since being appointed the top prosecutor in Northern Illinois in 2001, Fitzgerald has unearthed corruption at all levels of state and local government, touching the administrations of former Republican Gov. George Ryan and Chicago Mayor Richard Daley."

Former Baltimore VA Employee Sentenced To Prison For Bribery. The Baltimore Sun (8/5) reports former Department of Veterans Affairs Baltimore Regional Office employee Frank McCreary on Thursday was sentenced to a year and a day in prison for taking bribes on VA contracts. "McCreary's co-defendant in the case, Carmelo Vizzi…owned a home improvement business that bid on contracts offered by the VA." Vizzi "bribed McCreary by paying him between $250 and $600 per contract awarded," and "in return, Vizzi received inside information on the lowest bid so he could underbid the competition." The Sun notes, "The FBI and Veterans Administration-Inspector General investigated the case."

Two More Sentenced In Ongoing New Orleans Ticket-Fixing Probe. The New Orleans Times Picayune (8/4, Yee) reports, "A former Orleans Parish Traffic Court reporter was sentenced Wednesday to jail, and a former courthouse guard received probation, a fine and community service in a ticket-fixing scam still under investigation by federal officials. Court reporter Glenda Hamlin and guard Bobby Grant are the fourth and fifth court employees to be sentenced," and US Attorney Jim Letten declared, "The investigation is not over." The Times Picayune notes, "Grant and Hamlin were in a group of 10 that took advantage of the

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city's computerized traffic records, accessible only to certain staff members," to dismiss traffic citations in exchange for bribes.

Jury Selected For Gotti Racketeering Trial. New York Newsday (8/5, Destefano) reports, "A group of seven women and five men made the final cut Thursday as jurors who will decide the fate of John 'Junior' Gotti, the son of the late mob boss whose federal racketeering trial begins Monday in Manhattan." Newsday continues, "Shortly after Thursday's lunch break, prosecutors and defense attorneys, along with federal Judge Shira Scheindlin, made the final pick of 12 regular jurors and six alternates. One male alternate was later excused, leaving five for the trial. … The panel of regular jurors contains six whites, two blacks and four Hispanics. One Hispanic man said he was on disability for depression, a Hispanic woman is hoping to be a state court officer, while one white male said he worked in engineering. … 'It was a very painstaking process, but ultimately we have 12 very carefully examined and, ultimately in our view, open-minded and fair jurors,' Gotti's defense attorney Jeffrey Lichtman told reporters outside court. … 'In the end, that is all John and myself ever want in a jury,' Lichtman said. Jury selection had begun on Monday." Newsday notes, "Gotti, who officials said supervised the Gambino crime family after his father's imprisonment in 1992, is on trial for assorted racketeering charges, including the attempted kidnapping of Guardian Angels founder and radio talk show host Curtis Sliwa. Also on trial with Gotti are Michael 'Mikey Y' Yannotti and Louis 'Louie Black' Mariani. … Assistant U.S. Attorney Michael McGovern disclosed that the first witness he expects to call Monday will be former Gambino soldier Frank Fappiano, an admitted hitman who has turned government witness. Fappiano last year testified at the trial of Gotti's uncle Peter, who was convicted of federal racketeering charges."

ABA Group To Consider Endorsing Reporter Confidentiality Law. The San Diego Union-Tribune/AP (8/5, Holland) reports, "The American Bar Association has resurrected a plan to endorse federal protection for journalists who refuse to reveal their sources to prosecutors, following the high-profile jailing of one reporter and threats against others." The AP continues, "The nations' largest lawyers group, which declined 30 years ago to back a reporter shield law, was debating that issue and others at its annual meeting running through Tuesday in Chicago. … ABA members were hearing from Attorney General Alberto Gonzales and Supreme Court Justices John Paul Stevens and Stephen Breyer." The AP adds, "Endorsement of the shield law would allow the organization to lobby Congress, where bills are pending to protect reporters. … 'This is a ripe topic,' said Landis Best, a media layer in New York who worked on the proposal. 'Not just lawyers and not just journalists are talking about it.' … Best said that many states have laws that prevent punishments of reporters who keep sources private, but a national law is needed to encourage federal government whistle-blowers and others to provide information to the news media." The AP notes, "Not all lawyers support the proposal. … 'The national government has certain kinds of compelling interests that conflict with the right of the press to keep their sources confidential, like national defense and security,' said John Yoo, a law professor at the University of California, Berkeley, who worked in the Bush Justice Department from 2001-03. … 'It's hard to see the ABA getting people in Congress to place the right to protect anonymous sources above national security,' he said."

Man Held In Idaho Kidnapping-Murder Suspected In 1997 Murder Of California Boy. The AP (8/5, Jablon) reports, "A convicted sex offender accused of murdering three people in Idaho and killing one of the two children authorities said he abducted from the home is now being investigated in the 1997 kidnapping death of a 10-year-old California boy." The AP continues, "Joseph Edward Duncan III, 42, is linked by a single fingerprint to the scene of the killing of Anthony Martinez, Sheriff Bob Doyle told a press conference on Wednesday." The AP adds, "Duncan was arrested last month after people at an Idaho restaurant spotted 8-year-old Shasta Groene, who went missing with her 9-year-old brother Dylan in May. Dylan's body was later found in Montana. … FBI agents involved in the Idaho investigation contacted Riverside authorities on July 14, and said Duncan mentioned the name Martinez and the general area." The AP notes, "Investigators flew to Idaho to fingerprint Duncan. They tried to interview him but he refused to talk. Confirmation of the fingerprint match was received Monday, the sheriff said. … 'We're pretty confident that he's our suspect. ... This is huge,' Doyle said. 'We followed up 15,000 leads over eight years. You can imagine the elation that everybody has.'"

CIVIL LAW:

1789 Copy Of Bill Of Rights Returned To North Carolina. The Long Island Newsday/AP (8/5, Dalesio) reports, "An original copy of the Bill of Rights that was given to North Carolina by George Washington back in 1789 was returned to the state Thursday, culminating a bitter legal tug-of-war over the historic document." The AP continues, "Gov. Mike Easley accepted the weathered document after a judge ordered federal marshals to turn it over to the state -- the first time North Carolina has had possession of the document since the end of the Civil War. … 'North Carolina's stolen Bill of Rights may have been out of state for nearly 140 years, but never out of mind,' Easley said in a statement." The AP adds,

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"Easley signed a receipt accepting possession of the document, in an ivory-colored frame, from U.S. marshals during a quickly announced ceremony inside the antebellum state Capitol from which the document was stolen by an invading Union soldier in 1865. The document is one of the original 13 delivered to the colonies for review before the final Bill of Rights was approved in 1789. … The stolen document was sold by the Union soldier in 1866 to an Ohio buyer, whose family sold it to Connecticut antiques dealer Wayne Pratt in 2000 for $200,000. … In March 2003, an FBI agent posing as a museum buyer pretended to purchase the paper from Pratt and his investor, Robert V. Matthews, for $5 million. Instead, the agent presented a seizure warrant signed by the judge in the case. … U.S. District Court Judge Terrence Boyle last year awarded the document to North Carolina, but in January, the 4th U.S. Circuit Court of Appeals in Richmond, Va., told the judge to reconsider. … Boyle determined the document should return to the possession of the person or entity who owned it before the government's sting operation. He ruled Thursday that Pratt had the clearest right to possession, but had relinquished the claim to North Carolina."

Tobacco Companies Sued Under Medicare Law. The Wall Street Journal (8/5, Goldfarb) reports a conservative seniors group "filed suit against big U.S. tobacco companies, seeking to recover billions of dollars spent on smoking-related diseases by Medicare, the federal health-insurance program for the elderly." The case "relies on a little-known but recently strengthened provision of Medicare law that allows someone to sue on behalf of Medicare when it pays medical expenses that another party had a legal obligation to cover -- for example, when a corporate health plan has agreed to cover the expenses, or when a business or other party injured the Medicare beneficiary and is liable." If the suit "prevails, Medicare collects the damages and the party bringing the suit is eligible for an equal amount. One reason for the provision is that the government doesn't have the resources to prosecute every case."

CIVIL RIGHTS:

Head Of California Youth Prison Removed For Use Of Force. The AP (8/5, Thompson) reports, "The superintendent at the state's most notorious youth prison is being removed from his post for using unreasonable force against a ward and failing to report the incident, corrections officials said Thursday." The AP continues, "Steve Kruse has been on administrative leave since shortly after the May 27 incident at Stockton's N.A. Chaderjian Youth Correctional Facility. His appointment as superintendent will be terminated Wednesday. … Kruse's removal adds to turmoil at the facility, which remains under federal investigation. Justice Department spokesman Eric Holland said Thursday an investigation 'is active and ongoing' into whether the civil rights of wards at the facility are being violated." The AP adds, "The termination was detailed in a quarterly investigative report released Thursday by Matthew Cate, the prison system's independent inspector general. Kruse was not identified by name in the redacted public report, but he was identified as the employee by numerous corrections employees and by previous reports on the incident. … The inspector general found that Kruse grabbed a handcuffed ward's hair and jaw as he was being escorted to another living unit after a fight involving 44 youths at the prison. … Though the ward was struggling with his escorts, and Kruse said he believed he was using reasonable force in line with department policy, investigators concluded the ward was already safely under others' control."

DOJ Mediator Working To Relieve Racial Strife In Montana Town. The Havre (MT) Daily News (8/5, Kline) reports, "Local government officials, business leaders and residents have been meeting with a U.S. Department of Justice mediator who is in town this week to address what some perceive as racial discrimination in and around Havre." The News continues, "Mediator Grace Sage is employed by the Justice Department's Community Relations Service and is gathering information to determine whether a problem exists in Havre and what can be done to bridge gaps between neighbors. … The mediator told the Rocky Boy tribal council Tuesday she visited Havre in late June and returned because 'it was well within the jurisdiction' of what she does."

The Great Falls (MT) Tribune (8/4, Miller) reports that Sage "interviewed Havre Mayor Bob Rice and some City Council members Wednesday morning. She met briefly on Tuesday with the Chippewa-Cree Business Committee at the nearby Rocky Boy's Reservation. … Sage declined to be interviewed by the press. Community Relations Service Director Sharee Freeman in Washington, D.C., said confidentiality and the mediation process prohibit her from releasing details about Sage's itinerary." The Tribune adds, "The Community Relations Service is the federal 'peacemaker' in conflicts involving matters of race, color or national origin. It was created under the 1964 Civil Rights Act. … Sage first visited Havre in June. That trip came in the wake of a report by University of Montana journalism students describing examples of shoddy treatment Indians receives in Havre."

Voting Rights Act Turns 40. The Atlanta Journal-Constitution (8/5, Kemper, Baxter) reports, "Supporters and critics of the Voting Rights Act of 1965 agree on just one thing: It worked. … The law was adopted amid the violence and bloodshed of the civil rights movement to abolish racism

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at the ballot box and guarantee black Americans the right to vote." The AJC continues, "Black voter turnout since then has varied with the perceived importance of each election, and the last two presidential elections set records for minority participation. Meanwhile, the number of African-Americans elected to public office has increased sixfold." The AJC adds, "Key provisions of the Voting Rights Act are up for reauthorization in 2007, though with its 40th anniversary Saturday, the act is already the subject of intense congressional maneuvering. The Rev. Jesse Jackson will lead a march in Atlanta on the anniversary and has launched a national petition drive to urge the White House to extend the provisions of the law. … 'We know there's a scheme afoot to make the Voting Rights Act invalid by rebooting the Supreme Court,' Jackson said Thursday at a news conference in Atlanta on plans for the march. 'We deserve better.'"

Knight Ridder (8/5, Ruggeri) reports, "The act, amended three times and up for renewal in 2007, remains one of the key pieces of legislation for racial equality. Because it banned discriminatory practices, long gone are the literacy tests and violence that once threatened blacks at the polls. … But on the eve of the act's 40th anniversary on Saturday, not everyone agrees that it has banished discrimination from the voting booth. Turnout rates for black voters still lag behind those of whites, and blacks remain represented at disproportionately low rates by black officials. Cases of attempted voter disenfranchisement have been documented as recently as the last presidential election." Knight Ridder adds, "Given the facts, experts and legislators agree, the federal law was a major steppingstone for equality. But minorities still have a long way to go. … 'The Voting Rights Act enabled black people, generally, to be able to register and cast their vote without fear of bodily harm or economic pressures,' said former Rep. Bill Clay, D-Mo., a civil rights activist who lobbied Congress to pass the act. … 'The fear now is that there is lack of enforcement,' said Clay, who in 1968 became the first African-American from Missouri elected to Congress. He retired in 2000." Knight Ridder notes, "In a speech Tuesday on the Voting Rights Act, Attorney General Alberto Gonzales said 124 election fraud investigations are going on nationwide and dozens of other cases have been closed after investigation. That shows, he said, that enforcing the act is a priority of the Justice Department. … 'The president has directed the full power and might of the Justice Department to enforce the Voting Rights Act,' he said. 'Our goal is to make voting easier and cheating harder.'"

USA Today (8/5, Eversley) reports, "Now, with key parts of the act due to expire in 2007, a debate is building over how far America has come in ensuring racial equality and whether protections for minority voters should be renewed or changed. The Voting Rights Act requires jurisdictions in 16 states with past discrimination problems, mostly in the South, to have changes in voting rules cleared by the Justice Department or a federal judge. The impact of that part of the law, called Section 5, can be seen in the dramatic increases in registered voters and officeholders among minorities since the mid-1960s." USA Today continues, "Two other provisions are up for renewal. One allows the US government to send poll observers to jurisdictions where there have been alleged voting-rights violations. The other provision, added in 1975 in response to the rising number of Latino voters, requires bilingual ballots and language assistance in areas with large numbers of residents who do not speak English." The paper notes, "There appears to be widespread support in Congress for renewing the act, and the White House has expressed support for it. Still, lively debates are likely when the Senate Judiciary Committee begins hearings on it in September. Democrats such as Sen. Edward Kennedy of Massachusetts and Rep. Raul Grijalva of Arizona are pushing for a stronger law. Among other things, they cite complaints about a lack of voting machines in heavily minority precincts in Ohio during the 2004 elections, and alleged voting irregularities in Florida four years earlier that they say wrongly kept some blacks off of voter registration lists. The Senate panel also is likely to consider proposals to make it more difficult for governments to concentrate minorities in single voting districts, thereby reducing their power."

More Commentary. The Austin American-Statesman (8/5) editorializes, "Even after 40 years, the act is no mere symbol. As U.S. Attorney General Alberto Gonzales noted in a speech in Austin earlier this week, enforcing the Voting Rights Act is a priority at the Justice Department. He said 124 election fraud investigations are ongoing. … Key enforcement provisions in the act are up for reauthorization by Congress in 2007. One of those provisions requires southern states (including Texas) to get Justice Department approval before changing electoral procedures or boundaries. Another requires foreign language ballots in certain districts with large numbers of non-English speakers." The A-S continues, "Congress should reauthorize those provisions when they expire. They are still necessary, still being enforced. Four decades hasn't erased all the vestiges of racism and discrimination in the South, and election miscarriages are still a problem. But reauthorization has run into political trouble. The creation of secure political districts protected by the Voting Rights Act vastly increased the number of minority elected officials locally, statewide and nationally." The A-S concludes, "Reauthorization carries other consequences. A push to make it apply nationally, and not just in the southern states, could doom it to failure in Congress. And attempts to strengthen it to ensure that minority districts are maintained could keep the GOP in power indefinitely. … Political wrangling, however, shouldn't undo the good that was done 40 years ago when the act

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became law. Its enforcement provisions should be reauthorized by Congress, lest America forget a painful lesson."

WPost Recommends Scholarships For Victims Of Discrimination. The Washington Post (8/5) editorializes, "More than most southern states, Virginia has surmounted its segregationist past, not least by becoming, in 1989, the first state to elect an African American governor, L. Douglas Wilder. (Mr. Wilder is now mayor of Richmond, capital of the old Confederacy.) This year the commonwealth has struck another blow to repudiate a unique event in US history and one of segregation's worst chapters: the decision to close some Virginia public schools rather than comply with court-ordered integration after the Supreme Court's 1954 ruling in Brown v. Board of Education. In recent months, dozens of black Virginians, mostly in their fifties and sixties, have been granted the first state scholarships, up to $5,500 each, to get what they were denied five decades ago: a public education." The paper adds, "If there is an inspirational note to this story, it belongs to Ken Woodley, the crusading editor of the Farmville Herald in Prince Edward County, who almost single-handedly conceived the idea of scholarships, campaigned for it in print and personally urged it on [Governor] Warner and hesitant lawmakers. In 1959, Mr. Woodley's own newspaper led the local chorus of opposition to integration, denouncing it as a communist plot against racial purity and the American way. Now the newspaper, under the same family ownership, has backed Mr. Woodley, and the state scholarships, to the hilt. That is a measure of Virginia's progress, and a credit to it."

5th Circuit Rules U Of Texas Can Block Dating E-Mails. The AP (8/5) reports, "The University of Texas didn't violate the free-speech rights of an online dating service when it blocked thousands of unsolicited e-mails, a federal appeals court says." The AP continues, "The 5th U.S. Circuit Court of Appeals also found that although White Buffalo Ventures LLC, which operates LonghornSingles.com, complied with the requirements of the federal anti-spam law, known as CAN-SPAM, the university can still set its own anti-spam policy." The AP adds, "White Buffalo had sued the university over 59,000 messages blocked by spam filters in 2003. The Austin-based service had legally obtained the addresses from UT but the university blocked the e-mail messages, saying White Buffalo was part of a larger spam problem that had crashed the computer system. … The university said it was also responding to complaints from students and faculty. … The court, in a ruling Tuesday, determined that White Buffalo complied with federal law and that its e-mails were not illegal. However, CAN-SPAM does not supersede protection measures employed by an Internet service provider, and the court interpreted ISPs to include the university."

Santorum Disagrees With Bush On "Intelligent Design." In a contrarian move, Sen. Rick Santorum, any advocate of social conservative positions, is publicly disagreeing with President Bush on teaching the "intelligent design" theory. The Washington Post/Reuters (8/5, Hurdle) reports that Santorum "said intelligent design, which is backed by many religious conservatives, lacked scientific credibility and should not be taught in science classes." Bush told reporters from Texas on Monday "that 'both sides' in the debate over intelligent design and evolution should be taught in schools 'so people can understand what the debate is about.'" Santorum told National Public Radio, "I think I would probably tailor that a little more than what the president has suggested. I'm not comfortable with intelligent design being taught in the science classroom."

Columnist Calls Intelligence Design Theory An Attempt To Create Confusion. Paul Krugman writes in the New York Times (8/5), "You might have thought that a strategy of creating doubt about inconvenient research results could work only in soft fields like economics. But it turns out that the strategy works equally well when deployed against the hard sciences. … Which brings us…to intelligent design. Some of America's most powerful politicians have a deep hatred for Darwinism. … But what if creationists do to evolutionary theory what corporate interests did to global warming: create a widespread impression that the scientific consensus has shaky foundations? … The important thing to remember is that like supply-side economics or global-warming skepticism, intelligent design doesn't have to attract significant support from actual researchers to be effective. All it has to do is create confusion, to make it seem as if there really is a controversy about the validity of evolutionary theory. That, together with the political muscle of the religious right, may be enough to start a process that ends with banishing Darwin from the classroom."

Pataki Vetoes Bill That Would Relax Rules On Morning After Pill. The New York Times (8/5, Baker) reports, "As promised earlier this week, Gov. George E. Pataki vetoed a bill on Thursday that would have made the so-called morning-after pill available to women and girls without a prescription. The veto came just hours after the State Assembly delivered the bill to his desk. … In his veto message, the governor emphasized that his main concern was that the measure would not prevent minors from getting the drug before they consulted a doctor or other medical professional. He said his veto was 'based solely on a desire to protect the health and safety of our youngest and most vulnerable women.' He also named other concerns: that the

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bill did not limit purchases to a single dose and that men could buy it and use it to persuade young girls to have unprotected sex."

The AP (8/5, Humbert) notes, "Advocates for the bill have said they believe Pataki, with an eye on seeking the 2008 Republican presidential nomination, is using the veto to appeal to conservatives. 'This was driven by politics,' said Kelli Conlin, executive director of the New York chapter of National Abortion Rights Action League." The FDA "plans to decide by Sept. 1 whether the morning-after pill can be sold without a doctor's prescription. Seven states already permit over-the-counter sales." Massachusetts Gov. Mitt Romney (R), "who also is eyeing the 2008 GOP presidential nomination, vetoed similar legislation last month."

ANTITRUST:

Lucent Receives Subpoenas In DOJ Antitrust Probe. The Washington Post/AP (8/5), reports, "Lucent Technologies Inc. Thursday said it received two subpoenas related to federal investigations into potential antitrust violations and sales of telecommunications equipment to the federal government." The AP continues, "The telecom-equipment vendor said in a filing with the Securities and Exchange Commission that one of the subpoenas it received related to an investigation by the Department of Justice into potential antitrust and other violations in connection with the federal E-Rate program." The AP adds, "Lucent said the subpoena requires the company to produce documents before a grand jury of the U.S. District Court in Georgia."

Dow Jones Newswires (8/5) reports, "The Murray Hill, N.J., company said the other subpoena was from the Office of Inspector General, General Services Administration, and relates to a federal investigation into certain sales to the federal government of telecommunications equipment and associated maintenance services. … Lucent said it received both subpoenas during the three months ended June 30."

TheStreet.com (8/5, Staff) reports, "The company indicated that one (subpoena) was a Justice Department inquiry into the so-called federal E-rate program. Lucent said it must produce documents before a federal grand jury in Georgia. … The second subpoena relates to a federal investigation into certain sales to the federal government of telecommunications equipment and related maintenance services, Lucent said. The company said it "is too early for us to determine whether either of these matters will have a material effect on our business, financial position, results of operations or cash flows.""

ENVIRONMENT/INDIAN AFFAIRS:

Homeowners Can Get Up To $500 Tax Credit Under New Energy Legislation. Knight Ridder (8/5, Martinez) reports making "energy-efficient improvements to your home could net you a $500 rebate from the government." The credit is "buried in the 1,724-page energy bill that President Bush has said he'll sign next week. It gives consumers a credit off the bottom line of their 2006 or 2007 taxes equal to 10 percent of their energy-saving purchases." The "maximum over the two years is $500 and applies to any owner-occupied home or condominium. It's probably a good deal for you, although it's pretty complicated."

Columnist Says Real Energy Policy Needed. Thomas Friedman in his column in the New York Times (8/5) writes, "An energy bill that doesn't enjoin our auto companies to sharply improve their mileage standards is just not serious," but rather what energy expert Gal Luft calls "'the sum of all lobbies.' While it contains some useful provisions, it also contains massive pork slabs dished out to the vested interests who need them least - like oil companies - and has no overarching strategy to deal with the new world" where the "global economic playing field is being leveled" and "we are in a war" being "financed by medieval regimes sustained by our oil purchases." All that is needed "to get consumers and Detroit to change their behavior and adopt" existent "technologies that could make a difference" is "a gasoline tax of $2 a gallon." It "seems as though only a big crisis will force our country to override all the cynical lobbies and change our energy usage" but it seems that 9/11 wasn't enough.

Indian Trust Fund Suit Against Interior Department Apparently Far From Settlement. The Washington Post (8/5, A13, Nieves) reports, "Nine years have ticked away since Elouise Cobell sued the government on behalf of as many as 500,000 Native Americans whose land the United States was supposed to manage. But the end of what has become the longest, largest class action lawsuit against the federal government remains nowhere in sight." The Post continues, "Last week, a major court victory was still fresh; Judge Royce C. Lamberth had issued his most scathing critique of the Interior Department's handling of the Indians and the case. Lamberth cited Interior's 'mismanagement, falsification, spite and obstinate litigiousness,' among other failings, and his disgust was palpable. … 'Perhaps Interior's past and present leaders have been evil people, deriving their pleasure from inflicting harm on society's most vulnerable,' he wrote in the extraordinary, 34-page July 12 ruling, which agreed with the plaintiffs' claim that the department's information was unreliable. … But Cobell was preoccupied by a bill to settle

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the case that was introduced July 20 by Sens. John McCain (R-Ariz.) and Byron L. Dorgan (N.D.), chairman and ranking Democrat, respectively, of the Indian Affairs Committee. The bill, which the senators called 'a starting point,' was far from the remedy Indian leaders had hoped for, Cobell said. And she testified to that point. … 'This bill proposes a formula for accounting that looks at the trust records from 1980 to 2005,' Cobell said when she returned here from testifying. 'The judge has already ruled that Interior has to make an accounting going back to the beginning.'" The Post notes, "Cobell v. Norton (for Interior Secretary Gale A. Norton) dates to 1996, but the complicated debacle some members of Congress have likened to a 'Federal Enron' traces its origins back more than a hundred years. … Under a forced arrangement, in 1887 the government divided much tribal land across the country, which it had not already taken, into separate, private allotments for Indians. It then leased individuals' land, which ranged from 40 to 160 acres, usually to oil, gas, timber, grazing or coal interests. The Treasury Department placed the fees into a trust and was -- and remains -- responsible for doling out checks to the individual Indian trust beneficiaries. … But from the beginning, the plaintiffs say -- and the government has conceded until recently -- the basic recordkeeping for these lands was botched."

FBI/DEA/ATF/USMS:

US Authorities Struggle To Combat Fast-Growing MS-13. ABC World News Tonight (8/4, story 8, 2:50, Vargas) reported on the "fastest growing, and perhaps the most violent gang, in America: MS-13. … The FBI says the gang is now spreading from the nation's cities into the suburbs." ABC (Thomas) added, in Maryland, Prince Georges County Police Sgt. George Norris "now estimates there are now 1,000 MS-13 gang members in his county alone." Residents in "neatly manicured Northern Virginia are scared. Linda Paz…was nearly beheaded in 2003 after the gang learned she was helping police in a murder investigation. … What concerns police here most is that MS-13 is no longer just a violent street gang. They are now a highly-organized criminal enterprise, dealing in drugs, guns, and human smuggling. US officials say MS-13 must be stopped, now," but "the problem is, many of the MS-13 members who are deported come right back to the US."

Compton Officials, Residents Vow To Fight Rising Gang Violence. The Los Angeles Times (8/5, Garvey) reports, "Compton officials — joined by an array of community activists and religious leaders — announced Thursday that they plan to seek gang injunctions and start offering rewards of $500 or more for information leading to arrests and convictions, measures intended to help stem this year's rapidly rising homicide count. … At the current pace, Compton's homicide rate would far surpass recent highs in major American cities." Civil rights activist Royce Esters said, "We need the FBI, ATF, the DEA to come in here." Compton Sheriff's Capt. Eric Hamilton "said that some of those agencies were at work in the community and that he was open to more partnerships. But he said that such agencies had come into Compton before without lasting change. 'In my opinion the key is the folks who are out here,' he said, gesturing to the audience."

LATimes Urges Broad Effort Against Compton Gangs. The Los Angeles Times (8/5) editorializes, "All parties in Compton — including the police and the City Council — should resist the temptation to bicker and be prepared to work together. The Sheriff's Department should work harder to recruit deputies who are Compton residents or have a vested interest in the community. The community should be more willing to cooperate with law enforcement in helping to solve crimes." The Times adds, "Even a modest increase in federal and state gang-prevention programs would help cities such as Compton become safer and better places to live. It is the larger community…that must acknowledge that gang violence is not merely a local problem but a societal one."

Miami School Employees Accused In OxyContin Case. The Washington Times (8/5, Seper) reports, "A federal grand jury in Miami has returned an 84-count indictment charging 29 persons, mostly Miami-Dade County Public Schools employees, with conspiracy to possess the pain killer OxyContin with the intent to distribute and to obtain the drug with counterfeit or fraudulent prescriptions. Named in the indictment are a doctor from Miami-Dade County, five county school bus drivers, 13 county school bus attendants, two county school custodians, a cook, a county school cashier and a former county school bus driver. Five unspecified persons also were indicted." The Times adds, " US Drug Enforcement Administration (DEA) spokesman Garrison K. Courtney said the indictment also includes charges of health care fraud and conspiracy to commit health care fraud." DEA agent Mark R. Trouville, who heads the agency's Miami field division, said "The DEA is committed to working with our local counterparts in combating the drug dealers who stalk this community and endanger the welfare and safety of our children. We will continue to make federal resources available for Miami-Dade County and other communities to help curb the flow of drugs in their neighborhoods and to protect our children. DEA has zero tolerance for drug traffickers who work with or around our children."

The AP (8/5, Anderson) reports, "School bus drivers, attendants and other co-workers were charged by federal

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prosecutors Thursday with taking part in an illegal drug ring involving the powerful painkiller OxyContin." The AP continues, "According to the indictment, Miami-Dade school employees were among 29 people who used more than 100 forged or fraudulent prescriptions to obtain thousands of tablets of OxyContin from South Florida pharmacies." The AP adds, "No teachers were involved, and there was no evidence of drug sales to children, U.S. Attorney R. Alexander Acosta said. … The school workers were recruited to use their health-insurance cards as part of the scheme, prosecutors said. … Of those charged in the grand jury indictment, five are Miami-Dade school bus drivers, 13 are school bus attendants and one is a former school bus driver now driving a city bus. Two school custodians, a cook and a cashier were also charged, along with a Miami doctor and five other people."

The Miami Herald (8/5, Yanez) reports, "Miami-Dade School bus drivers, custodians, a cook and a cashier were among the 29 people arrested today for taking part in a scheme to sell the powerful painkiller OxyContin on the street, the US Attorney's Office announced." US Attorney R. Alexander Acosta said, "We have no evidence that children or teachers were involved in this scheme. But these are not the type of people we want around our children." The Herald adds, "Of those charged in the early morning round-up, five were school bus drivers, 13 were bus attendants, two were custodians, one cook and one a school cashier, the US Attorney's Office said. A Miami doctor and five others were also charged."

The South Florida Sun-Sentinel (8/5, Rodriguez) reports, "A central figure in the case was Dr. Ronald E. Harris, prosecutors said. Authorities identified Harris last year as Florida's top prescriber of OxyContin to Medicaid patients. He was charged last year with drug trafficking after selling undercover police officers 10 OxyContin prescriptions without proof of any medical need. He is awaiting trial. Officials with the [DEA] said Harris' arrest prompted their investigation of the school system employees. Investigators said the operation was traced back to January 2003, when Harris began selling prescriptions to Ian Stuart and Johnny Blocker, identified as the ring's leaders. Blocker, a bus attendant, paid colleagues for their school employee insurance information to obtain and pay for the prescription drugs, authorities said." The Sun-Sentinel adds, "The ringleaders paid school employees up to $100 per prescription, and up to $400 if they went to the pharmacy to obtain the pills personally, said the DEA's special agent-in-charge, Mark Trouville. Most of the prescriptions were filled in the Hollywood and Hallandale areas. Employees then sold the pills to a street dealer, who resold them for as much as $80 a pill."

CNN.com (8/5) reports, "In an 84-count indictment, a federal grand jury in Miami charged them with 'conspiracy to possess oxycodone with the intent to distribute and to obtain oxycodone with counterfeited or fraudulent prescriptions, health care fraud and conspiracy to commit health care fraud.' In all, about 100 phony prescriptions were filled at 50 pharmacies in Miami-Dade and Broward counties, representing thousands of pills believed to have been sold on the street, said Alicia Valle, a spokeswoman for the US attorney in Miami. She said none of the pills, which one defendant claimed to have sold for as much as $34 apiece, has been confiscated."

WBZL-TV Miami (8/4, 10:04 PM) reported, "Federal agents arrested 29 people on charges of operating a distribution ring for the powerful pain killer OxyContin. Here's what is even more disturbing about the case -- those arrested include school bus drivers, bus attendants and other Miami Dade school employees charged with being part of a drug operation that put the dangerous pain killer OxyContin on the streets of South Florida. They allegedly used illegal prescriptions to get the drug, then passed it up the chain of command for sale on the drug market. For now, as school starts, we felt it prudent and necessary to take action, on the information we already had. Agents say they were paid up to $400 for each bottle of OxyContin they delivered. The [DEA] and the Florida Department of Law Enforcement were out in the wee hours of Thursday morning to make sure they could find the people they were looking for, before they got their days started. The DEA says, there were 30 OxyContin-related deaths in Miami Dade last year, 674, across Florida. Prosecutors say the drug operation generated more than 100 illegal prescriptions and then they went to 50 area pharmacies."

WTVJ-TV Miami (8/4, 11:06 PM) reported, "These are the same who were about to begin the school year transporting and feeding your kids. Instead they are in hot water with the feds charged with being part of a drug operation that put the drug OxyContin on the streets. They used illegal prescriptions to get the drug. Now as school starts we felt it prudent and necessary to take action on the information we had. The DEA says there were 30 OxyContin-related deaths last year. Prosecutors say the drug operation generated illegal prescriptions and the ring leaders ended up with the drugs and collected $34 for each tablet. Some of the employees were paid… simply to allow their name and insurance card to be used."

WFOR-TV Miami (8/4, 11:16 PM) reported, "Five Miami-Dade school bus drivers, 13 Miami-Dade school bus attendants --22 in all, they are all accused of this painkiller conspiracy. For two years, investigators say they watched as employees went to the school doctor who was none insane scheme and got prescriptions for OxyContin. They would sell the prescriptions for cash to co defendants. Reporter: at no time, as far as the government knows, were any of the drugs sold to kids."

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WSVN-TV Miami (8/4, 10:07 PM) reported, "A major OxyContin bust -- grand jury indicting 29 people. Among those accused in illegal drug ring several Miami-Dade school employees charged with getting the pain killer and trying to sell it."

WPLG-TV Miami (8/4, 5:02 PM) reported, " Major drug sting nets 29 in OxyContin bust, many who work for Miami schools in the illegal sale of OxyContin, series of early morning raids, all but one are employed by Miami school system."

MLB Commissioner Renews Call For Tougher Penalties For Steroid Users. The New York Times (8/5, Wilson) reports, "Baseball Commissioner Bud Selig renewed his call yesterday for tougher penalties for players caught using steroids and for independent administration of the game's drug-testing program. At the same time, a leader of the House Committee on Government Reform, which held nationally televised hearings earlier this year about the issue of steroid use, pressed for an outside investigation into the history of the problem in baseball. Selig's statement, in a news release, appeared to be designed to put pressure on the Major League Baseball Players Association, which had balked at his proposal in April for a "three-strikes-and-you're-out" steroids policy. Selig made his recommendation in a letter on April 25 to Donald Fehr, executive director of the union. Fehr had said that the existing program, established in January when the union agreed to reopen the collective bargaining agreement, needed time to work. He said that further changes should be negotiated in the collective bargaining process."

USA Today (8/5, Bodley) reports, "Commissioner Bud Selig on Thursday used the high-profile 10-day suspension of Baltimore Orioles first baseman Rafael Palmeiro this week to urge the players union to accept his April 25 proposal calling for a strong steroids testing program. Selig said in a statement he is saddened by this week's violations -- Seattle pitcher Ryan Franklin was also suspended for 10 days – 'but they underscore the need for an even tougher policy. There is a deeper issue confronting baseball. It is the integrity of the game and that transcends the viability of the current program."

The Los Angeles Times (8/5, Brown) reports, "In the wake of this week's high-profile suspensions of Baltimore Oriole first baseman Rafael Palmeiro and Seattle Mariner pitcher Ryan Franklin, the commissioner's office issued a three-paragraph release that read, in part: 'The intensity that I feel about this issue is greater today than it has ever been and the time is past due for the Players' Association to accept my proposal to eliminate steroids and other performance-enhancing substances from our game.' Union chief Don Fehr has been meeting with players and team player representatives for much of the summer, in part to discuss the possibility of a new policy."

MLB, Palmeiro Continue To Fight Over Privacy Issues In Steroid Case. The Baltimore Sun (8/5, Barker) reports, "Major League Baseball and Rafael Palmeiro continued to snipe at each other over privacy issues in his steroid case Thursday, making it hard to believe it has been only three weeks since baseball bought a congratulatory newspaper ad to mark the Oriole's 3,000th hit. Baseball seems embarrassed not only that Palmeiro failed a steroid test, but that his abbreviated explanation -- that the drug use was accidental -- has quickly become a national punch line. And it has." Popular culture expert Robert J. Thompson of Syracuse University said, "You can't watch a stand-up comedian without hearing about it. In the court of public culture, it's automatically-assumed guilt." The Sun adds, "The baseball commissioner's office, which has been distancing itself from Palmeiro and his defense, Thursday issued a statement saying the recent steroid-related suspensions of Palmeiro and others show that the sport's drug program needs more teeth."

Palmiero Calls Off 3,000th Hit Pre-Game Ceremonies. The Baltimore Sun (8/5) reports, "The Orioles announced today that the scheduled pre-game ceremonies on Aug. 14 to honor Rafael Palmeiro's 3,000th hit will not be held at the request of Palmeiro. 'Through his agent, Rafael has specifically requested that the planned event not be held,' said Joe Foss, Orioles vice chairman and chief operating officer. 'Given the circumstances, the club is in agreement with Rafael's wish to not move forward with the ceremonies.'"

Sweeney Urges Players Association To Accept MLB's Commissioner's Recommendation. In a letter to the editor in the New York Times (8/5), Rep. John Sweeney writes, "The current testing system does not guarantee that we fully understand the scope of the problem. The public is not notified of what drug an athlete tests positive for. Some drugs are not found in supplements, and there can be no legitimate excuse of unknowing ingestion. Major League Baseball's testing process is secretive, and the penalties are not stemming the tide of steroid use. If baseball wants to regain credibility, the players association should accept the recommendations that Commissioner Bud Selig has proposed, as well as allow an independent entity to conduct testing and provide for full transparency."

Monday's Announcement On Palmiero's Failed Drug Test Leaves Fans Guessing. In a column in the Baltimore Sun (8/5), Peter Schmuck writes, "The new drug program does function under a veil of confidentiality, which is intended to protect the privacy of the player, but it defeats the purpose of the supposedly tougher anti-steroid measures if that veil also is used to provide cover for a player who wants to maintain his innocence in the face of a damning test result." Schmuck adds, "Baseball's war on performance-

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enhancing drugs cleared an important public relations hurdle when a superstar player finally tested positive and accepted his 10-game suspension, but wasn't the real goal of the anti-steroid crusade to create a transparent system that restored full public faith in the national pastime? And if so, why did Monday's stunning announcement still leave us all guessing?"

WSJournal Looks To Distinguish Different Baseball Eras. The Wall Street Journal (8/5) editorializes, "So here's a modest proposal. Baseball's fans know about the "dead-ball" era prior to 1920 and the "live-ball" era that followed. Whatever the much-debated cause, stats before and after were like night and day. So let's designate post-1995 the 'live-player' era. Professional sports are now populated with chemicalized robots who are often fun to watch. But they are different than what went before. We can call this the 'live-player era,' let the old heroes rest in peace and argue into the night about the new heroes like Mr. Palmeiro."

Sequoia National Forest On Track For Record Marijuana Plants Seizure. WCAU-TV Philadelphia (8//4) reported in a story on its website, "Last year, Sequoia National Forest topped the list for marijuana cultivation on US Forest Service lands. And this year, they are on track to surpass that amount. But officials have been taking steps to fight the problem, raiding several farms in the past three days. Miles and miles of lush greenery surround the Sequoia National Forest. But hidden beneath these towering trees is a darker side full of these marijuana plants. 'It's becoming epidemic,' says one person familiar with the problem. She says people have grown pot in the forest for more than 30 years. But the problem has worsened over the last 10 years. 'They go to quite a bit...I mean they will hike everything up there. … I mean it's just amazing.' When officials say that this is big money, they are not kidding. In fact about a pound of this stuff could yield about $4,000 in California and across the country you'd get up to twice as much. Over the past week, county and forest authorities have recovered about 34,000 plants, bringing the total street value, to just under $136 million."

President Bush Lauds Colombia's Efforts To Fight Drug Cartels. The Dallas Morning News (8/5, Jackson) reports, "President Bush on Thursday lauded c and armed guerrillas, though some observers said the Latin American ally has a long way to go. Welcoming President Alvaro Uribe to his ranch in Crawford, Mr. Bush said the U.S. anti-drug initiative known as Plan Colombia 'is producing results' that include lower levels of crime." Bush said after the meeting, "Our two nations are working together to fight drug trafficking and terrorism, and to promote security, democracy and the rule of law throughout the Americas." Uribe "thanked the US for its help, including more than $4 billion in aid since 2000." Uribe said, "Colombia faces a threat from terrorism, funded by drug trafficking. This is a threat that can affect the entire neighborhood, that can affect our entire continent."

The San Antonio Express-News (8/5, Martin) reports, "President Bush pledged continued US aid to fight narco-terrorism in Colombia, telling President Alvaro Uribe on Thursday that success against cocaine traffickers was essential for democracy in the Americas. 'America will continue to stand with the people of Colombia,' Bush told a news conference at his Prairie Chapel Ranch here. And he vowed to push Congress to approve more funds 'so Colombia can build on its progress and win its war against the narco-terrorists.' Uribe was in Texas to promote trade and seek additional US aid. He met with Bush at the president's sprawling ranch where the two leaders discussed the violence that has ripped at the heart of the Andean nation for 41 years." Uribe said in Spanish after the leaders emerged from meetings during the one-day visit, "We have made progress, and we are winning, but we have not won yet."

The Washington Post (8/5, A7, VandeHei) reports,"Uribe came to Crawford looking for a political lift and continued assistance from the United States. Uribe's government is at war with rebels, funded largely by the drug trade, who have kidnapped and killed thousands of people in an attempt to impose a Marxist-style ideology in Colombia. In their private meeting, Bush said, they talked about terrorism, trade and human rights. Like US relations with many nations involved in the war on terror, the relationship with Colombia is complicated by charges that the Uribe government encourages -- or turns a blind eye to -- abuses against its people and the spirit of democracy." Uribe said, "This was discussed with great seriousness and with great respect." The Post adds, "

Reuters (8/5, Wilson) reports, "Bush said Bogota's strategy to reduce the illegal drug trade, revitalize Colombia's economy, strengthen its democratic institutions and improve the security of its people was working." Bush told reporters, "And we'll ask the Congress to sustain our commitment to follow-on programs for Plan Colombia so Colombia can build on its progress and win its war against the narcoterrorists."

The AP (8/5, Riechmann) reports, "For Uribe, the trek to Texas came at a critical moment in Colombia where rebels, funded by narcotics trade, kidnapping and extortion, have been struggling to topple the government and establish a Marxist-style state. Outlawed right-wing paramilitary forces also have been battling the rebels. The 40-year-old conflict kills more than 3,000 people every year, mostly civilians, with allegations that human rights abuses are being committed on all sides."

Uribe Proposes Coca, Opium Purchase Plan. The Washington Times (8/5, Gentile) reports, "Colombian

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President Alvaro Uribe, who met with President Bush in Texas yesterday, has implemented a program to buy coca plants from small-time growers who otherwise would sell their crops to drug traffickers to make cocaine. Farmers also can turn over opium poppies, the plants used to make heroin. Under the plan, farmers can go to the nearest police station or army outpost and turn over the plants to officers and soldiers. Prices for the crop will be negotiated on the spot." Uribe said of the program earlier this week, "Hand over the coca and take the cash, similar to a country fair: Hand over the pig, take the cash." The Times adds, "The farmers must sign a legally binding agreement to halt cultivation, said Mr. Uribe, who has made a name for himself as a hard-liner bent on cracking down on the nation's Marxist rebels and cooperating with the United States on drug eradication. … Uribe's coca and opium purchase plan is available only in Colombia's central Meta region, where an ongoing battle between the military and rebels has forced small coca farmers to seek new buyers for their crops.'

Bush Warns Uribe To Honor Stated Commitment To Human Rights. The Los Angeles Times (8/5, Chen) reports, "President Bush urged Congress to continue supporting Colombia's efforts to combat narco-terrorism Thursday even as he warned visiting Colombian President Alvaro Uribe that the United States expected Uribe's government to honor its stated commitment to human rights." Bush said, "We did talk about human rights. I talked about human rights. We talked about specific cases, and I listened intently and believe that he is interested in following through on these cases." The Times adds, "Victims' advocacy groups in Colombia have said that a new so-called Justice and Peace law is too weak. They claim that the measure — which governs the process of dismantling Colombia's paramilitary groups and re-integrating them into Colombian society — allows members to escape charges of atrocities committed against civilians."

Two Leaders Of Colombia's Far-Right Paramilitaries Testify About Congressional Friends." Reuters (8/5, Webb) reports, "Two leaders of Colombia's far-right paramilitaries were summoned before the Supreme Court on Thursday to explain a comment that a third of the country's lawmakers were friends of the outlawed group. Salvatore Mancuso and Vicente Castano, whose illegal United Self-Defense Forces of Colombia is in peace talks with the government, were ordered to testify after Castano made the remark to news magazine Semana in June, the government said. 'I think I can say that more than 35 percent of Congress are friends,' Castano had told Semana. Mancuso, a former AUC military commander, was summoned because he had made a similar remark in 2002 and appeared first before the closed session. The burly former rancher, who surrendered his weapons to the government in December, was able to travel to the capital Bogota due to immunity from arrest granted by his status as a negotiator in the two-year-old talks."

Klansman Pleads Guilty To Making Pipe Bombs For Hate Crimes. The Chattanooga (TN) Chattanoogan (8/5) reports, "A Klu Klux Klansman from South Pittsburg entered guilty pleas Thursday in connection with constructing pipe bombs for use in blowing up Hispanic immigrants." The Chattanoogan continues, "Daniel James Schertz, 27, pleaded guilty to six counts in an appearance before Federal Judge Curtis Collier. … Prosecutor James Brooks said he faces up to 10 years on five of the counts and 20 years on another." The Chattanoogan adds, "The pleas were to manufacturing explosives, transporting explosives, teaching others how to make explosives, and possessing a Ruger pistol while under a restraining order. … In an affidavit, ATF Agent Mike Connors said between October 2004 and April 1 of this year, he and a confidential informant investigated activities of Schertz related to his membership in the Ku Klux Klan. … The agent said on April 1 he bought five pipe bombs from Schertz for $750 at his residence at 245 Beene Cemetery Road."

The New York Times/AP (8/5, Press) reports that Schertz also was accused of building and transferring two pipe bombs to the informant in March to harm Haitians in Florida. The AP adds Schertz said yesterday he was he was guilty of all six charges, including teaching and demonstrating how to make a weapon of mass destruction and interstate transport of explosive material with intent to kill or injure. Mike Caputo, Schertz's attorney, said the plea agreement allowed Schertz to "avoid a harsher sentence."

ATF Rules Tennessee Church Fire Arson. WTVF-TV, CBS 5, Nashville, TN (8/5) reports, "The fire that destroyed the Pentecostal Church of Jesus Christ in Columbia Tuesday night was intentionally set according to fire investigators." WTVF-TV continues, "The fire started around 11:30 p.m. Tuesday, two hours after a night service ended at the church. … Several fire departments fought the fire for four hours, and investigators began looking into the cause of the blaze as soon as the flames were extinguished." WTVF-TV adds, "Thursday, officials from the ATF said that after examining the scene and conducting several interviews, they determined that the fire was intentionally set. … 'A house of worship is a place of peace and where community members come together. Arson puts many at risk of injury or death, including police and fire personnel. The Columbia community can be assured that the combined resources used in this investigation will continue to work vigorously to ultimately bring those responsible to justice', said ATF Special Agent James Cavanaugh."

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IMMIGRATION:

DeLay Says He Would Support Strict Immigration Legislation. The Houston Chronicle (8/5, Hegstrom) reports, "House Majority Leader Tom DeLay criticized the city of Houston's 'sanctuary' policy toward illegal immigrants in a speech Thursday night. Speaking to a packed house of Fort Bend County Republican faithful, DeLay said he supported the concept behind legislation introduced by U.S. Rep. Tom Tancredo, R-Colo., that would withhold federal funding from cities such as Houston that refuse to enforce immigration law. The Chronicle continues, "DeLay, who is seen as a key player on upcoming immigration reform legislation in Congress, said he would support a guest-worker program that would allow immigrants to come legally to the United States and then go home. But he said the government needs to step up enforcement of immigration laws first. … DeLay indicated that he would support legislation even stricter than [Sen. John] Cornyn's."

The Galveston County Daily News (8/5, Aulds) reports each time DeLay expressed his views on protecting the border "the crowd, which included local Republican Party chairman Chris Stevens and a bevy of county GOP movers and shakers, interrupted DeLay's comments with boisterous applause."

FBP Head Says California Vigil Will End When New BP Agents Arrive. The Washington Times (8/5, Seper) reports Andy Ramirez, head of the California-based Friends of the Border Patrol, said yesterday that a "border vigil in California next month will man observation posts along the US-Mexico border until they are relieved by newly hired US Border Patrol agents or National Guard troops. … Mr. Ramirez said the California volunteers want to call the country's attention to the 'real plight of those who live along the border who are being overrun by illegal aliens and drug smugglers.' He said it was 'imperative to send a message to Washington, D.C., that open borders and the havoc they create is unacceptable to our citizens.'"

Planning Commission Rejects Proposal For Day-Laborer Sight In DC Suburb. The Washington Post (8/5, B1, Morello) reports, "The Herndon Planning Commission rejected yesterday a controversial proposal to build a tax-supported day-laborer site near a residential neighborhood, but the Town Council still will have the final say and remains on track for a vote later this month. Officials with the social agency that wants to run the site for up to 150 workers said they are still trying to digest the accumulated criticisms of the plan that preceded the commission's 4 to 3 denial in a vote taken at 2:30 a.m. 'It's been given a blow, but it's not dead,' said Bill Threlkeld, director of Project Hope and Harmony, the umbrella group that has applied for permission to build and operate the site, where contractors and homeowners could meet laborers seeking jobs." The Post adds, "Herndon's struggle to cope with a day-laborer site has become a contentious chapter in the national debate over immigration policy."

Long Island Community Seen As Flashpoint In Immigration Debate. The New York Times/AP (8/5, Press) reports Farmingville, New York, "has become an unlikely flashpoint in the national debate over illegal immigration, with Hispanics beaten, harassed and evicted in recent weeks." The AP continues, "immigrants, many of whom are believed to have entered the country illegally, have been a source of tension among longtime residents since at least the late 1990s, but things have gotten worse this summer -- so bad that the head of the Mexican Consulate in New York City said Farmingville was 'clearly a red zone after the Arizona border' in the abuse of immigrants. … So far, at least six houses have been shut by authorities -- including three last Friday -- leaving more than 100 men homeless, advocates said." The AP adds, "residents are largely cheering the crackdown on immigrants."

Crapo Says Border Security Requires Tight Control, Manpower, Technology. Sen. Mike Crapo, in an op-ed in the DC Examiner (8/5) writes, "In May, Secretary of Homeland Security Michael Chertoff stated, 'The issue of securing the border is a homeland security issue, it's an immigration issue and it's also a humanitarian issue.' He is absolutely correct: discussions about securing our 5,500-mile Canadian border, 1,900-mile Mexican border and 95,000 miles of shoreline are only meaningful in the context of defense, immigration and respect for human life. As the Homeland Security Appropriations bill goes to conference, Congress is developing a comprehensive strengthening of our borders as a major component of this legislation. Border security requires tight controls at our borders and follow-up by manpower and technology within our borders." Crapo adds, "effective border security is well-funded and reinforced by laws that carry tough legal consequences for those who break them. Various border and immigration components must be strengthened including more agents, immigration investigators and other enforcement personnel; quality training for these positions; hardware and infrastructure to augment job success, including unmanned aerial vehicles, high-tech sensors and advanced physical barriers; technology upgrades for cargo inspection and identification of fraudulent immigration documents; additional capacity at temporary detention centers."

HChronicle Criticizes Culberson's Call For Armed Border Militia. The Houston Chronicle (8/5) editorializes, "Republicans and Democrats agree on little these days, but the combined effects of 9/11 and a newly globalized economy have forged consensus on at least one issue: the need for better border control." The Chronicle continues, "several

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federal lawmakers are crafting thoughtful, bipartisan proposals to solve this complex problem. US Rep. John Culberson's plan to create armed border militias is not one of them." The Chronicle notes, "asked in a phone interview how an armed civilian could possibly confront and overcome drug traffickers or terrorists, Culberson said, 'It's probably going to require a very heavy caliber.'"

Columnist Says To Protect Constitution, Congress Must Protect Borders. Rich Tucker, in his column on Townhall.com (8/5) writes, "Congress is ignoring one of its most important jobs -- one that actually is in the Constitution. It's not adequately 'providing for the common defense' because it's not protecting our borders. Nobody knows how many illegal immigrants now live in the United States. Recent estimates range from 11 million to 20 million. Faced with that problem, you'd expect Congress to do everything possible to shore up our borders and stop the flow of new illegals. Sadly, it's not." Tucker continues, "it's time for Congress to get serious about protecting our borders and cracking down on illegal immigration. Until lawmakers do that, their discussions about protecting the Constitution will amount to little more than hot air."

TAX:

Jury Convicts Pair Of Tax Evasion On Chemical Sales. The Asbury Park (NJ) Press (8/5, Quirk) reports, "A Colts Neck (NJ) man was convicted of tax evasion and wire fraud in connection with a scheme to sell vast amounts of an ozone-depleting chemical, which was used to produce methamphetamine in California labs, according to the U.S. Department of Justice." The Press continues, "William Rubenstein and Dov Shellef, of Great Neck, N.Y., were convicted July 28 of conspiring to evade approximately $1.9 million in excise taxes due on sales of a chemical called trichlorotrifluoroethane (CFC-113), law enforcement officials said yesterday. The jury returned the guilty verdicts after a five-week trial before U.S. District Judge Joanna Seybert in Central Islip, N.Y. … Shellef also was convicted of 87 counts of wire fraud, tax evasion, subscribing to false tax returns and money laundering." The Press adds, "The investigation began as federal Environmental Protection Agency and Drug Enforcement Administration agents traced the supply of CFC-113 to California "meth labs" that used the product for the illegal manufacture of methamphetamine. … According to the Department of Justice, the investigation revealed that a company called All Discount Lab Supplies was selling CFC-113 to individuals who used the product in meth labs. The principals of All Discount Labs have since pleaded guilty to selling CFC-113 with reasonable cause to believe it was being used for illegal manufacture of methamphetamine. … Although Shellef and Rubenstein were not indicted on drug charges, the investigation revealed that they were major suppliers of CFC-113 to All Discount Labs."

KPMG Hopes To Avoid Criminal Trial In Tax Shelter Probe. The Financial Times (8/5, Parker) reports, "KPMG, one of the big four accounting firms, is increasingly confident it can avoid a criminal trial in the US relating to its past sales of tax avoidance schemes to clients." The Times continues, "KPMG's US business is in talks with the Department of Justice about a 'deferred prosecution agreement', under which it would be put on probation and criminal charges held in abeyance, according to people briefed about the case." The Times adds, "No decisions have been taken, but the people said a settlement between KPMG and the justice department could also involve a fine of as much as $500m. KPMG is desperate to avoid an indictment because Andersen, once the world's biggest accounting firm, was destroyed after prosecutors pressed obstruction of justice charges against it in 2002. … The firm declined to comment on Thursday, but it has previously acknowledged the existence of an investigation by federal prosecutors into tax services sold to clients covering a period from 1996 to 2002." The Times notes, "The terms of any settlement between KPMG and the justice department would probably involve KPMG committing itself to internal reforms affecting its tax practice and to monitoring by an independent consultant. … KPMG made a plea to avoid indictment in a written submission to the justice department in June, when it highlighted how a criminal trial could have a negative impact on its partnerships outside the US, said one person briefed about the case. Andersen's international network of partnerships collapsed after the indictment of its US business. … KPMG reinforced its plea in a meeting between its lawyers and James Comey, deputy attorney-general, and David Kelley, attorney for the southern district of New York, also in June, said another person briefed about the case."

CONGRESS-ADMINISTRATION:

Roberts Aided Gay Rights Advocates In 1996 Supreme Court Case. While an attorney in private practice in 1996, Supreme Court nominee John Roberts advised a group of gay rights advocates who were challenging a Colorado initiative that permitted employers and landlords to refuse to hire or rent housing on the basis of sexual orientation. Several Christian right groups who support Roberts' nomination were on the opposing side in that dispute. The story was reported on ABC last night, as well as several of the major dailies today.

ABC World News Tonight (8/4, story 7, 2:30, Vargas) reported, "This may still cause concern among some of his staunchest supporters." ABC (Harris) added, "The gay

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activists prevailed in what one leader called a major legal victory. While Roberts only apparently worked on the case for a few hours behind the scenes, many of the same Christian conservative groups that are now supporting his nomination were on the opposite side of that fight." Radio host Rush Limbaugh "argued the liberal media is using the story to divide the right." Limbaugh: "This is the Supreme Court. This is the ruling body of government as far as the left is concerned. And they are scared to death of this guy." The White House "said today that it knew about Roberts' work on behalf of the gay rights activists before the President nominated him. They said it raised no flags, no red flags, and that they believed Roberts' explanation: He was a lawyer, the gay activists were his clients."

The New York Times (8/5, A1, Stolberg, Kirkpatrick) reports lawyers involved in the case said Roberts "did provide invaluable strategic guidance working pro bono to formulate legal theories and coach them in moot court sessions." The White House "immediately sought to reassure Judge Roberts's conservative backers, telephoning prominent leaders, including Richard Land of the Southern Baptist Convention, but it appeared that not all of them had been convinced." The "reports of his involvement echoed on conservative talk shows Thursday, generating outrage and disbelief."

The Los Angeles Times (8/5, Reynolds) reports "partisans on both sides" were "asking whether Roberts' assistance to what is usually considered a liberal cause was an aberration from his otherwise conservative record or a sign his views might be more nuanced than commonly thought." Social and religious conservatives "expressed dismay about his participation in the case but said they are not convinced it amounted to an endorsement of gay rights -- a movement they strongly oppose." The White House "sought to play down Roberts' participation in the case, known as Romer vs. Evans, in which the Supreme Court in 1996 voted 6-3 to strike down a voter-approved Colorado initiative that would have allowed employers and landlords to exclude gays from jobs and housing." American Enterprise Institute fellow Norman Ornstein said "the Romer controversy is likely to help Roberts win more support from moderates."

The Washington Post (8/5, A2, Becker, Grunwald) reports that as a private lawyer, Roberts "represented homeless Washingtonians who had lost their government benefits because of city budget cuts. He advocated environmental protections for Lake Tahoe, Glacier Bay and the Grand Canyon. He spent 25 hours assisting a convicted murderer with a death penalty appeal. He even helped gay rights activists win a landmark Supreme Court anti-discrimination case." At "first blush, these cases would seem to complicate any image of the Supreme Court nominee as a down-the-line conservative. But as details have emerged in recent days, conservative groups have been busy spreading the word to their members and the broader public about what they should think of Roberts's work in private practice: Pay it no mind." Now, as "liberal and conservative activists pick over his career for evidence of his political and legal philosophy, neither side seems to attach much importance to his diverse practice. And some activists on both sides remain secure in their conviction that he is an emphatic conservative who will move the high court to the right -- never mind his client list."

Roberts Denounced Abortion Clinic Bombers. Knight Ridder (8/5, Hutcheson) reports that as "a legal adviser to President Reagan, Supreme Court nominee John G. Roberts Jr. joined a scathing denunciation of abortion-clinic bombers and urged Reagan to stay out of an effort to post tributes to God in Kentucky schools." Roberts' advice, found "in documents Knight Ridder obtained before their public release later this month, might help him counter critics who portray him as a doctrinaire conservative. Abortion-rights groups and organizations that advocate a clear separation between church and state oppose his nomination." The documents obtained by Knight Ridder "were leaked by an administration official who wanted to show the nominee as a servant of the law, not of conservative ideology."

Roberts Pushed Conservative Legal Agenda As Aide To Solicitor General. The Los Angeles Times (8/5, Savage) reports that while serving as assistant to Solicitor General Kenneth Starr in the first Bush Administration, Roberts "for 3 1/2 years pressed a strongly conservative legal agenda." Starr and Roberts "argued for limiting the scope of civil-rights laws, ending race-based affirmative action, restoring some prayers to public schools and overruling Roe v. Wade, the case that established a woman's right to have an abortion." The White House "so far has refused to provide the memos and other supporting documentation" from Roberts' tenure in the solicitor general's office, "claiming a lawyer-client privilege. As a result, Roberts' legal philosophy during that highly politicized period can only be gleaned from the public files. They suggest a strongly, although not uniformly, conservative approach to issues."

White House Campaigning On Two Tracks For Roberts Nomination. The Washington Times (8/5, A1, Sammon) reports President Bush "and his strategists are using the politically fallow month of August to conduct a coordinated campaign to sustain momentum" for Roberts' nomination. The effort has "two tracks -- a public offensive that includes the president openly stumping for his nominee and a behind-the-scenes blitz designed to keep Senate Democrats on the defensive." At the start of his August vacation, Bush said, "Roberts needs to get his hearing done and the confirmation completed so he can be seated before the Supreme Court reconvenes in early October." The President is "expected to reiterate that sentiment during numerous day trips to various states from his 1,600-acre

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ranch in Crawford, Texas." Meanwhile, White House operatives, "working closely with the Republican National Committee, are quietly urging regional interest groups in key states to keep up the pressure on Senate Democrats. The groups are writing letters asking for meetings with their senators while they are home for the August recess." Several Republican strategists "who spoke to The Washington Times said the idea is for the groups to demand consultations with their senators because Mr. Bush had consulted with those senators on the nomination. The effort is targeted at Democrats in conservative states such as Arkansas and Louisiana, rather than liberal states such as Massachusetts." The interest groups "range from local chapters of the Chamber of Commerce and Fraternal Order of Police to less well-known groups such as the Colorado Catholic Lawyers Guild, which has requested a meeting with Sen. Ken Salazar, Colorado Democrat."

Womens' Rights Groups In Disarray. The Wall Street Journal (8/5, Cummings) reports, "Internal squabbles, declining membership and complacency during the Clinton years have left most women's rights groups in weakened shape for the clash" over Roberts' nomination. The National Organization for Women's "political donations shriveled to $44,000 in 2004 from $327,000 in 1992. Planned Parenthood Federation of America Inc., facing a revolt among affiliates in part because of the politicization of the group, ousted its president in January and hasn't taken a position on the Roberts nomination. NARAL Pro-Choice America's new president was still on an introductory tour to affiliates and donors around the country when the Supreme Court fight started."

With Senate In Recess, Interest Groups Step Up Ad Campaigns. Bloomberg (8/5) reports interest groups "are stepping up the campaign over U.S. Supreme Court nominee John G. Roberts, airing new advertisements designed to shape public opinion before next month's Senate Judiciary Committee confirmation hearings." IndependentCourt.org, "a coalition of 75 liberal groups including People for the American Way, this week began running national television ads that demand more information on Roberts's positions on issues." Meanwhile, the Committee for Justice, "which supports the nomination, will counter with radio ads targeting about 10 states represented by moderate Democratic senators, said Sean Rushton, the group's executive director."

WPost Says White House, Senate Democrats Should Reach Accommodation On Roberts Documents. The Washington Post (8/5, A14) says in an editorial that the Democratic senators' request "to see memos written by" Roberts "during his service in the solicitor general's office requires a difficult balancing of legitimate interests: the executive branch's need for confidentiality against a full and informed Senate confirmation proceeding. The request is more measured than the far-reaching demand for solicitor general memos during the nomination of Miguel A. Estrada to the U.S. Court of Appeals for the D.C. Circuit earlier in the Bush administration. It should not simply be defied. But neither is the administration wrong to try to protect internal deliberations within one of the government's most critical legal offices. Accommodation should be possible, provided it is sought in good faith by both sides."

Rehnquist Briefly Hospitalized For Fever, Released. Chief Justice William Rehnquist, who is battling thyroid cancer, was briefly hospitalized for a fever and released, his third visit this year.

ABC World News Tonight (8/4, story 9, :20, Vargas), the CBS Evening News (8/4, story 10, 0:15, Schieffer), and NBC Nightly News (8/4, story 9, 0:15, Brown) all briefly mentioned Rehnquist's hospital visit.

The Washington Times (8/5, Hurt) reports the hospitalization "is likely to spawn further speculation that his retirement from the high court could come at any time." The New York Times (8/5, Altman) reports the chief justice "went home in the early evening without the court or the hospital providing information about the source of the fever. It was the second time in less than a month that the chief justice, 80, had gone to Virginia Hospital Center in Arlington because of a fever."

The Washington Post (8/5, A4, Eggen) reports Rehnquist, "who vowed just three weeks ago to keep working 'as my health permits,' was admitted for 'evaluation' and allowed to go home, according to Supreme Court spokesman Ed Turner."

Bush's Loyalty Said To Cloud Political Judgment. Knight Ridder (8/5, Douglas) reports President Bush's "loyalty to his friends extends from the baseball diamond to the White House, where he's backed beleaguered Deputy Chief of Staff Karl Rove, who's mired in an investigation over who leaked the name of an undercover CIA officer, and to John Bolton, whom Bush appointed ambassador to the United Nations despite Senate reservations." But his "quick and unequivocal defense of" Baltimore Oriole first baseman Rafael Palmeiro – "who's now the subject of a congressional investigation - has raised questions about whether Bush's loyalty undercuts his political judgment." Several analysts "said the Palmeiro situation illustrates that point. Bush took a strong stand against steroids in his 2004 State of the Union address, demanding that major league sports take tougher action to eliminate steroid use by athletes." But when "news of Palmeiro's positive drug test and 10-day suspension by Major League Baseball became public, Bush almost instantly backed the ballplayer."

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Bush Also Said To Reject Facts, Reason. In his Los Angeles Times column (8/5), Jonathan Chait says President Bush's statement of belief in Rafael Palmeiro "perfectly crystallizes Bush's thinking. Facts don't matter to him. What matters is how he feels about the person in question. In 2001, for instance, Bush met with Russian President Vladimir V. Putin, and the two hit it off. As Bush later told Peggy Noonan, Putin recounted to him a story involving a cross given to him by his mother." The point "isn't just that Bush refuses to engage with facts he finds inconvenient. (Many fail that test.) It's that Bush rejects reason itself."

European Allies Have Muted Reaction To Bolton Appointment. In a Financial Times op-ed (8/5), Philip Stephens says the "response among allies to Mr Bush's decision to override a recalcitrant Senate and press ahead with the appointment" of John Bolton to be UN Ambassador "was curiously muted. You could say the decision had been widely discounted." The appointment is "seen as yesterday's story, a codicil to a troubled phase in transatlantic relations now left behind." One European diplomat said that "at the UN, the expectation (perhaps hope?) is that Mr Bolton will implement policy rather than shape it. It is the policy that matters."

NYT Gives Bolton Advice On Adjusting To City. The New York Times (8/5, Haberman) reports in a tongue-in-cheek story that Bolton "could probably use friendly advice about getting along with his new neighbors." Many "of his fellow diplomats are not likely to embrace him, given the harsh remarks he has made about the United Nations. When Secretary General Kofi Annan welcomed the new American ambassador the other day, he smiled through teeth so gritted that he may need an orthodontist." Among the "tips" the Times offers is that since Russia "announced that it would bar journalists from ABC News because of unhappiness with their reporting, an action that amounted to an expulsion order," Bolton, "considering his own relationship with the news media, he may already be thinking of a possible retaliatory measure - like suggesting that ABC News also be tossed out of New York."

Bush To Meet With Economic Advisers Monday. The Wall Street Journal (8/5, Harwood) reports in its "Washington Wire" column that after he signs the energy bill in Albuquerque on Monday, President Bush "will join economic advisers Hubbard and Bernanke Tuesday to assess conditions. Fears of a 'soft patch' fade, as data on industrial output, capital spending and services portray an economy 'firing on all cylinders,' says UBS economist Larry Hatheway. Still, wage increases lag behind despite low unemployment, and high gas prices still damp consumer spirits. A break in house-price increases remains a risk; mortgage rates inch up but stay low. Today's July jobless report will give more clues to the labor market's health."

White House Said To Be Expanding Search For Greenspan Replacement. The Dallas Morning News (8/5, Dimartino) reports, "Investors woke Thursday morning to the surprising news that the White House is said to be broadening its search for a replacement for Federal Reserve Chairman Alan Greenspan, who is due to retire in January." The three candidates "most often cited to fill the post include Ben Bernanke, former Fed governor and current chairman of the President's Council of Economic Advisers. Martin Feldstein of Harvard University and R. Glenn Hubbard of Columbia University have been the other two leading candidates." But a Wall Street Journal report says that "though the leading three candidates have not been ruled out, concerns persist about Mr. Greenspan's successor's ability to function within the financial markets and use business and markets contacts to move beyond the confines of economic data to set monetary policy." Among the "alternate candidates mentioned in the Journal article is former Bush advisor Lawrence Lindsey."

Castle-DeGette Stem Cell Research Bill Called "Extremely Dangerous." Charles Krauthammer writes in the Washington Post (8/5, A15), "It is a good idea to expand federal funding of embryonic stem cell research. It is a bad idea to do that without prohibiting research that uses embryos created specifically to be used in research and destroyed. What is deeply troubling about the Castle-DeGette stem cell bill, which passed the House and will soon roar through the Senate, is that it combines the good with the bad: expansion with no limit." Krauthammer calls the Castle-DeGette bill "extremely dangerous," adding that it "expands the reach for a morally problematic area of research -- without drawing any serious moral lines. … We finally have a chance to enact this grand compromise -- but only if a majority of senators insist that the welcome expansion provided in the Castle-DeGette bill, which will yield a near endless supply of embryonic stem cells, cannot take place unless the door is firmly closed now, while we still have the chance, on the manufacture of human embryos for research and destruction."

Columnist Says Bush Is "Hamstringing" Stem Cell Research. Eugene Robinson writes in the Washington Post (8/5, A15) that President Bush "insists on hamstringing American scientists who are trying to explore the potential medical benefits of therapies involving embryonic stem cells. … While our leaders disagree, stem cell technology is being developed and advanced in laboratories all around the world, especially in Asia. South Korean researchers have arguably pushed farther than anyone else. At the moment it's still a

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long shot that embryonic stem cells will prove to be a panacea, but if they do it's increasingly likely that the key discoveries will be made elsewhere -- not in the United States. And there's no real reason for Bush's position except politics."

Frist' Stance On Stem Cell Research Decried. David Gelernter writes in the Los Angeles Times (8/5), "I would love to join Senate Majority Leader Bill Frist and many other conservatives who have decided to support federal funding for wide-ranging research in a hugely promising new area — embryonic stem cells. I'd love to, but I can't. … Why would anyone oppose Frist's new position? Because embryos are potential infants just as infants are potential adults. The human embryo is a tightly closed bud that will bloom one day if we let it. The difference between bud and blossom is only luck and time. If it seems OK to destroy embryos but not full-term fetuses, that's only because embryos look less human." Gelernter adds, "I have permanent, debilitating injuries that stem cell research might conceivably help. But rejecting research that might help you personally is dirt-easy compared to rejecting research that might help a suffering family member. When Americans campaign for unrestricted stem cell research out of despairing love, I can't blame them any more than I can blame Terri Schiavo's parents for pleading for their daughter's life. How much do our moral scruples really matter to us in the end? An agonizing question. But I can't line up with Frist, much as I would like to."

NYTimes Says Gravity In Stem Cell Research May be Shifting Abroad. An editorial in the New York Times (8/5) says that "the Koreans are truly a force to be reckoned with in cloning and stem cell research. This team was the first to clone human embryos and extract stem cells from them, and now it is the first to clone a dog, perhaps the most difficult feat in mammalian cloning. The center of gravity in cloning and stem cell research may be shifting abroad while American efforts are slowed by taboos and financing restrictions."

Bush Approval At 42% In AP/Ipsos Poll. An AP/Ipsos poll of 1,000 adults (+/-3%) taken August 1-3 shows:

Bush Approval

- 42% said they "approve" of the way George W. Bush is handling his job as president; 55% said "disapprove"; 2% have mixed feelings.
- In a similar poll taken in July, 42% said they "approve" of the way George W. Bush is handling his job as president; 56% said "disapprove"; 1% have mixed feelings; 2% were not sure.
- 41% said they "approve" of Bush's handling of "the economy"; 56% said "disapprove"; 2% have mixed feelings; 1% were not sure.
- 37% said they "approve" of Bush's handling of "domestic issues, like health care, education and the environment"; 60% said "disapprove"; 2% have mixed feelings; 2% were not sure.
- 47% said they "approve" of Bush's handling of "foreign policy issues and the war on terrorism"; 51% said "disapprove"; 1% have mixed feelings.
- 38% said they "approve" of Bush's handling of "the situation in Iraq"; 59% said "disapprove"; 2% have mixed feelings; 1% were not sure.
- 33% said they "approve" of Bush's handling of "Social Security"; 63% said "disapprove"; 2% have mixed feelings; 1% were not sure.
- 37% said "things in this country are heading in the right direction"; 59% said they are "off on the wrong track"; 4% were not sure.

Congressional Approval

- 33% said they "approve" of the way Congress is handling its job; 62% said "disapprove"; 3% have mixed feelings; 2% were not sure.

Bush Qualities

- 63% said that "likeable" is a word that described Bush; 36% said it is not; 1% were not sure.
- 48% said that "honest" is a word that described Bush; 50% said it is not; 2% were not sure.
- 64% said that "strong" is a word that described Bush; 35% said it is not; 1% were not sure.
- 56% said that "intelligent" is a word that described Bush; 43% said it is not; 1% were not sure.
- 56% said that "arrogant" is a word that described Bush; 43% said it is not; 1% were not sure.
- 55% said that "dependable" is a word that described Bush; 43% said it is not; 2% were not sure.

Republicans Press Corzine For Details On Financial Dealings With Union Leader. The New York Times (8/5, Kocieniewski) reports that New Jersey GOP leaders "called Thursday for Senator Jon S. Corzine to disclose any other financial dealings he may have had with a union leader to whom he gave $470,000. Their statements came after news reports that in 2002 Mr. Corzine provided a $470,000 mortgage to Carla Katz, president of Communications Workers of America Local 1034, which represents 9,000 state workers and will be among the labor groups lobbying the next governor for billions of dollars in wages and benefits." Corzine, the Democratic candidate for governor, said Wednesday that "he and Ms. Katz were dating at the time he made the loan. He forgave the debt in December 2004, several months after they ended their relationship, he said." Corzine and Katz "said this week that their past relationship and financial dealings would not prevent them from representing their constituents, but they

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declined to say whether they had other financial interactions." Douglas R. Forrester, the GOP candidate for governor, "called that response inadequate, saying New Jersey voters had the right to know whether their official duties as governor and union leader might be swayed by their personal and financial relationship. 'I think they should disclose everything, especially if there is any ongoing financial arrangement,' he said. 'It suggests an all-too-familiar pattern in New Jersey of public officials entangling themselves in relationships that are not private matters but in direct conflict with the public interest.'"

The Washington Post/AP (8/5, A4) notes, "Speaking after a news conference Thursday on an unrelated matter, Corzine said the loan would not hamper his administration's ability to negotiate with the union. 'I don't think there's a conflict,' said Corzine. … 'The relationship has ended.' The mortgage was found among public documents and land records filed with Hunterdon County. Katz was living in a more than 200-year-old home at the time of the loan and used the money to buy out her ex-husband." Corzine "said he forgave the loan after his romance with Katz ended in July 2004 because she did not have the means to repay it. He declined to say whether he had given Katz or any of her relatives any other financial help. 'I'm a public official, but I also have a private life,' Corzine said." The Washington Times (8/5, Harper) also reports on the details of the Corzine loan in its "Inside Politics" column.

NASA Decides To Forego Fourth Spacewalk, Clears Shuttle Discovery To Land. ABC World News Tonight (8/4, story 6, 2:05, Vargas) reported, "Turning now to the space shuttle Discovery, NASA announced today that a fourth repair space walk will not be necessary. There were fears that a torn thermal blanket on the outside of the shuttle could break off and damage it on reentry. Today, NASA gave the shuttle the all-clear to return to earth on Monday." ABC (Berman) added, "Mission control gave the word to the Discovery crew this afternoon."

NBC Nightly News (8/4, story 6, 0:50, Brown) reported, "Discovery has been given a clean bill of health after engineers took a close look at that piece of thermal blanket. It appears it ripped on liftoff. NASA believes the probability of it causing any problem on re-entry is remote. The shuttle is now scheduled to return to earth early Monday morning."

The CBS Evening News (8/4, story 5, 0:30, Schieffer) reported, "NASA decided today not to send the Discovery astronauts back out to make another repair on the shuttle. They were considering removing a torn heat shield blanket below a cockpit window. But engineers said today the shuttle should be safe to fly home in without the fix. The crew beamed back some spectacular views of the Earth today as they paused to honor the seven astronauts killed two-and-a-half years ago in the shuttle Columbia disaster."

The New York Times (8/5, Schwartz) reports that "NASA has decided against a fourth spacewalk for the Discovery astronauts that would have involved repairing an insulating blanket that had pulled out near the commander's window." NASA communications officer Julie Payette "told the astronauts at midday. Ms. Payette said mission managers had decided, after a lengthy analysis, that the blanket did not pose a threat and so another spacewalk would not be necessary. 'There is no issue,' Ms. Payette, who is also an astronaut, said." The Times adds that "the damage was apparently caused by a strike by debris during launching, mission managers have said."

The Washington Post (8/5, A3, Gugliotta) says that according to Wayne Hale, "the engineers found that even if the entire blanket tore away at the worst possible time, it had only a 1.5 percent chance of striking Discovery, and, at worst, it could put a hole in the orbiter's rudder brake but not disable it. 'We have released Discovery to reenter,' Hale told reporters in a news conference at Johnson Space Center. 'We have decided not to take any action on the thermal blanket because we have determined it is a negligible risk at this time.' Formal clearance for reentry is an important milestone in any shuttle flight -- particularly for Discovery, the first shuttle to fly since Columbia disintegrated over Texas 2 1/2 years ago, killing all seven astronauts aboard."

NIH Ethics Officials' Scrutiny Of Scientists' Outside Employment Said To Be Lax. The Los Angeles Times (8/5, Willman) reports ethics officials at the National Institutes of Health "often approved senior scientists' requests to moonlight for drug companies and other outside organizations without gathering adequate documentation to help judge whether the arrangements posed conflicts of interest, federal inspectors have found." In "81% of the recent outside arrangements reviewed by the inspector general of the U.S. Department of Health and Human Services, ethics officials were found to have approved the deals on the basis of limited information."

OTHER NEWS:

Schwarzenegger To Return Donation From Group With Ties To Gambling Project. The Wall Street Journal/AP (8/5) reports that California Gov. Arnold Schwarzenegger (R) "will return a $50,000 donation from a group that is a partner in a tribal casino project after questions were raised about the governor's pledge to limit political contributions, an aide said. The governor received a $50,000 contribution last week from Yuba County Entertainment LLC, a partner in a proposed hotel-and-casino development near

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Olivehurst." The AP "questioned the donation because Mr. Schwarzenegger made a promise during the 2003 recall campaign not to accept campaign contributions from groups that negotiate directly with his office. He specifically identified Indian tribal gambling as among those special interests. 'After reviewing the nature of the business and realizing there is a connection to a potential Indian gaming location, we feel it is most appropriate to return the funds,' said Marty Wilson, who oversees fundraising for Mr. Schwarzenegger's political committee, called the California Recovery Team."

Novak Storms Off CNN Set During Appearance With Carville. The Washington Times (8/5, Harper) reports in its "Inside Politics" column that columnist Robert Novak stormed off the set yesterday during an appearance with political consultant James Carville on CNN's "Inside Politics." Novak "cursed with vigor" at Carville and, "yes, the barnyard obscenity he used made it onto the air." The two had been discussing Rep. Katherine Harris' "recent accusations that a magazine had doctored photos of her to yield an unattractive outcome. Was Mr. Novak simply defending her honor? Most think he was peeved because another round of Valerie Plame questions was imminent — by virtue of the fact that apologetic CNN host Ed Henry later told viewers, 'I had told him in advance that we would ask him about the CIA leak investigation. Hopefully, we'll be able to ask him about that in the future.'" The Times adds, "CNN wasn't pleased. Spokeswoman Edie Emery called the longtime CNN commentator's behavior 'inexcusable and unacceptable,' adding that Mr. Novak had apologized to CNN, and the network was apologizing to viewers."

European Negotiators Make New Nuclear Proposal To Iran. The New York Times (8/5, A1, Weisman) reports, "European negotiators have prepared" a "much more detailed and specific" proposal "than the more general offers floated by the Europeans earlier this year" which will "be transmitted by the end of this weekend," that "raises the possibility of Iran acquiring nuclear reactors and fuel, and of achieving a full political and economic relationship with the West, if it ends nuclear activities suspected to be part of a weapons program." Western diplomats who have read it said "it presented a full spectrum of relationships for Iran with the West, from technology sharing to trade preferences to security guarantees, if the Tehran government cooperates on nuclear matters, and also on improving human rights and combating terrorism," and included "a pledge by Iran to end the uranium conversion and enrichment activities that Iran insists are its prerogative under international accords governing nuclear technology," and "bar Iran from operating a 'closed' nuclear fuel cycle."

Administration Gives Proposal Approval, Wants More. The New York Times (8/5, A1, Weisman) reports that the offer has the "tacit approval of the Bush administration," which still "maintains that it cannot establish a normal relationship with Iran unless it changes its conduct, not simply in the nuclear sphere but in what the United States and the Europeans say is support of terrorism, particularly against Israel, and its interference in Iraq." The "view shared in Europe and Washington is that while Iran may have the right to enrich uranium as a signatory to the Nonproliferation Treaty, which governs peaceful nuclear technology in nearly all countries with civilian nuclear programs, Iran has forfeited that right because it has been found over the years to be engaging in clandestine activities."

Iranian Response Likely To Be Negative. The New York Times (8/5, A1, Weisman) reported that "there is considerable doubt that Iran will accept it, at least right away." A "senior Iranian official, reached by telephone on Thursday, said when told about the contents of the proposal that it seemed to fall far short of what Iran wanted," and the Financial Times (8/5, Bozorgmehr, Dinmore) adds, "a senior European diplomat in Tehran conceded that the 'proposal is not the one Iranians want'."

The New York Times (8/5, A1, Weisman) notes the problem is "Iran's anger that it is being asked to give up activities allowed to other countries is at the heart of its repeated announcement that, like it or not, it will resume such work when it chooses." The Financial Times (8/5, Bozorgmehr, Dinmore) adds, "Senior Iranian officials told the Financial Times that talks with France, Germany and the UK – the EU3 – would be over if their latest proposed incentives do not give approval for Tehran to resume work at a key facility at Isfahan." Senior Iranian officials said "Iran had not decided finally when to break IAEA seals at the facility. While members of the negotiating team want Iran to wait for inspectors from the IAEA to come and monitor, other hard-line decision-makers 'who now have the upper hand' want an immediate start."

The Christian Science Monitor (8/5, Lafranchi) reports that while the lead Iranian negotiator in the talks, Hassan Rohani, in a letter to the EU3 foreign ministers, "said that Iran is intent on pursuing both the negotiations with the Europeans and its nuclear program," some experts say "this is part of the same strategy that has allowed Iran - not to mention North Korea - to advance in nuclear know-how."

Showdown Unlikely. While The EU3 and US have promised action if Iran resumes its nuclear activities, very little may actually happen. The New York Times (8/5, A1, Weisman) reports that one senior official involved in the talks said "this means the end of this round of talks with Europe. Iran has decided to resume activities in Isfahan and no one at home and abroad can stop it." The Financial Times (8/5, Bozorgmehr, Dinmore) adds, "The EU3, backed by the US,

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have warned Iran that ending any part of the suspension would lead them to refer the issue to the UN Security Council." However, "some analysts and diplomats are skeptical the Bush administration can win enough support for serious measures to be taken against Iran." Ray Takeyh, analyst at the independent US Council on Foreign Relations noted "The American case will be represented by a non-confirmed ambassador who has been accused of distorting intelligence on proliferation issues."

The Christian Science Monitor (8/5, Lafranchi), adds Daniel Brumberg, an Iran expert at Georgetown University in Washington said "the US and its allies are not in a position to talk about real, meaningful measures to punish Iran … The Europeans 'are trying to play it tough, but the Iranians know it would be difficult for them to ever go through with it.' At the same time, he says the Bush administration is not united on how far and how fast to proceed on Iran- not to mention the 'delicate factor' of Iran's influence in Iraq and the cooperation the US needs for progress there."

Experts See New Iranian President's Agenda As Last Chance For Regime. The Wall Street Journal (8/5, Fassihi) reports that Iran's president-elect "is expected to name to his cabinet…well-educated technocrats -- and die-hard loyalists to the hard-line clerical regime that rules the country. The group, called usolgaran or 'principalists,' in a reference to the group's commitment to the principles of Islam, is rapidly rising to power in Iran. Some political analysts see them as the regime's last hope for regaining popularity and staying in power," and "the success of this domestic agenda [to improve the life of the poor] is intertwined with foreign policy. It may hinge, above all, on whether Iran's government will back off from its nuclear-enrichment program," and avoid economic sanctions.

Author Explains Last Iranian Election Results. The Wall Street Journal (8/5, Trachtenberg) reports that graphic novelist Marjane Satrapi said the ruling clerics did so well in the last election because "many didn't vote because they didn't want to participate. Also, 15% of the population is fanatics." Finally, "the guy who won lives where the poor live and says he isn't corrupt and will share the money."

Korean Nuclear Talks Reach Stalemate. The Wall Street Journal (8/5, Fairclough) reports, "Talks aimed at persuading North Korea to give up its nuclear-weapons ambitions teetered on the brink of collapse, with Pyongyang insisting it wouldn't give in to demands that it also abandon atomic-energy programs." Kim Kye Gwan, Pyongyang's chief envoy to the talks said "the talks were at a 'stalemate,' but…Pyongyang would keep negotiating." Diplomats said "progress depends on North Korea's willingness to agree to the joint statement of principles that has, generally, been approved by the other parties." The Washington Post (8/5, A10) adds that Christopher Hill, assistant secretary of state for East Asian and Pacific affairs and the chief U.S. delegate, said "the United States is insisting on clarity, leaving no room for diplomatic ambiguity or the papering over of disagreements."

Former Reagan Official Urges Administration To Prepare For "Nuclear Dispersion." Fred C. Ikle, former undersecretary of defense for policy in the Reagan administration, in an op-ed in the Wall Street Journal (8/5, Ikle) urges the Administration to, "While we still have time…think ahead about ways to avert our annihilation from within. To prevail, we must develop the needed technologies and prepare the right strategy -- political and military"- to deal with the inevitable "nuclear dispersion." Because, "there is nothing now discernible that would prevent it from happening," and there are "two overarching and profoundly serious problems" connected to it. "We have become habituated to -- indeed, utterly dependent on -- a world order predicated on the non-use of nuclear weapons. This order might end abruptly," as "gradually, but inexorably, it will become easier for terrorist organizations, insurgent groups, doomsday cults and nihilist gangs to acquire the wherewithal to make nuclear bombs."

AWOL Israeli Shoots Up Bus, Kills Four. The media widely reported that Eden Natan Zada, a Jewish settler absent without leave from the Israeli army, opened fire Thursday on a public bus traveling to an Arab town in northern Israel, killing at least four people and wounding 12. NBC Nightly News (8/4, story 5, 1:40, Fletcher) reported, "Then, furious Arabs rushed the soldier and beat him to death. Eden Natan Zaada was a 19-year-old, extreme, right-wing settler. His father said he deserted from his army unit three weeks ago. He was upset by Israel's plan to pull all the settlers out of Gaza later this month and give the land back to the Palestinians." The Washington Post (8/5, A1, Wilson) reports that Israeli police officials suggested the attack was intended "to derail the government's planned evacuation of Jewish settlements in the Gaza Strip…West Bank." Zada "had recently moved to a West Bank settlement known as a stronghold of religious extremists opposed to the evacuation plan." The attack also was condemned by leaders of the Yesha Council.

The New York Times (8/5, Myre) adds that the military "initially identified [Zada] as Eden Tzuberi." While "Jewish militants have carried out a number of attacks against Arabs in the past…most were directed against Palestinians in the West Bank rather than Arabs who are Israeli citizens." The Washington Times (8/5, Mitnick) adds, "A security officer said he had handcuffed the attacker after he had emptied his gun clip, but within minutes, the crowd reached him to take revenge. Several policemen who arrived on the scene to

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restore order were also injured," while "25 Palestinians and two Israelis were killed in rioting that followed."

The Kansas City Star (8/5, Stevens) also covers the story. ABC World News Tonight (8/4, story 5, :30, Vargas) adds, "There are concerns that the incident will touch off more extremist violence less than two weeks before the evacuation of settlers from Gaza."

Israeli Response Forceful, Palestinian Response Restrained. The Washington Post (8/5, A1, Wilson) reports that Prime Minister Ariel Sharon "called the shooting 'a reprehensible act by a bloodthirsty Jewish terrorist who sought to attack innocent Israeli citizens.'" The New York Times (8/5, Myre) adds that Issam Makhoul, an Arab member of Israel's Parliament, said "Israeli political leaders had 'been questioning the legitimacy of our citizenship in the past few years, and today someone took the initiative and acted on this.'"

USA Today (8/5, Gutman) adds that Ghazi Hamid, editor of the militant group Hamas' weekly Al-Risala, said "his group 'remains committed to the withdrawal and will not respond to this incident.'" Still, Jerusalem Police Chief Superintendent Raffi Yaffe said, "fearing retaliatory riots by Palestinians, police raised the alert…to the second-highest level and deployed more forces, especially around the Temple Mount." Knight Ridder (8/5, Nissenbaum) adds, "Saeb Erekat, a senior Palestinian leader, called the attack 'a very dangerous incident' and urged Israel to press ahead with the settlement shutdown 'in a peaceful and orderly manner.'" Similarly, "Shaul Goldstein, a settlement leader who has helped organize weeks of largely peaceful protests that have brought out tens of thousands of activists, denounced Zaada as 'a crazy man…a lunatic'" and "a terrorist just like any other terrorist with Hamas or Islamic Jihad," adding "there is no purpose on Earth that can justify the killing of innocent people."

Disengagement Protests Raise Fears Of Violence, Response Is Testing Civil Liberties. The CBS Evening News (8/4, story 9, 2:25, Schieffer) reported that with the Gaza withdrawal "less than two weeks away, most settlers and their supporters have resigned themselves to its inevitability. But as the deadline approaches, there's concern that extremists may resort to violence, and things like rabbinical curses may make that more likely. How many people here actually believe in such things? Not many. But how many might see the curse as a religious seal of approval for assassination? It only takes one."

The Christian Science Monitor (8/5, Prusher) adds that the "political necessity of carrying out the disengagement plan and the desire to implement it in as orderly a fashion as possible may be pushing Israeli officials to take measures that, some critics say, are more reminiscent of a police state than of a free country." Right-wing activists say "in a democracy, they should be free to protest." Critics say they are "violating the law in [a] bid to prevent the execution of a major political decision that was made by the Knesset." Israel's Supreme Court, in a case this week, "rejected a petition from two right-wing activists who tried to appeal the army's evacuation of antidisengagement groups who were holed up in a hotel" in Gaza, ruling that "the activists were not expressing themselves but delivering a 'severe blow to democracy.'"

Palestine To Cover Israeli Pull Out, Israel Lacks Confidence. USA Today (8/5, Gutman) reports that the Palestinian Authority intends to deploy thousands of troops, "along with tens of thousands of police and militiamen to help secure Israel's evacuation" and is "committed to thwarting Palestinian militants from launching rockets on Jewish settlers and Israeli soldiers during the pullout." However, statements like that of Col. Jamal Kayed, commander of the Palestinian National Security Forces in the southern half of Gaza saying he "will not start a civil war by killing strugglers for freedom," worry Israel. Israeli Deputy Defense Minister Zeev Boim says they "will not hesitate to use land, sea and air forces with full severity to respond to a terror attack."

China Limits CNOOC Bid News. The Wall Street Journal (8/5, Pottinger) reports, "China is heavily restricting domestic news coverage of Cnooc Ltd.'s failed bid to buy American oil company Unocal Corp., a move apparently aimed at muffling criticism of the U.S. before next month's summit meeting between Chinese President Hu Jintao and President Bush." The "Chinese people, however, are aware" the bid failed, and "the lack of strongly critical news coverage didn't prevent many Chinese from tracking Cnooc's troubles in America or from drawing conclusions about it. Negative comments about the U.S. were posted on numerous Internet chat rooms."

China Daily Says US Is "Not A Free Economy." The Wall Street Journal (8/5) reports that an editorial in yesterday's China Daily said "the idea of the United States as a self-appointed champion of the free market has become questionable," as "the unjustified U.S. opposition, largely politically motivated, will...poison the current prevailing mood" and "demonstrated to the world that the United States is not a free economy as it claimed to be." Instead, "American business is defined by political needs" with "regulatory concerns fuelled by bogus fears and hidden interests."

CNOOC Still Looking For Energy Sources, Natural Gas Expected Next. The New York Times (8/5, Lague, Tribune) reports that oil industry experts say Cnooc "is preparing to mount an aggressive international search for oil and gas supplies in the aftermath of its failed bid for Unocal." Energy market experts now expect it "to explore opportunities throughout the Asia-Pacific region, Central Asia, Russia and West Africa to find energy supplies for China's booming economy, with "signs that it will concentrate on investment in

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natural gas reserves in Asia." Two possible targets are "Woodside Petroleum of Australia, which operates the North West Shelf natural gas project and owns 16.7 percent of it; and the Gorgon natural gas development, led by Chevron."

Niger Famine More Intense Version Of Normal Problems. The New York Times (8/5, A1, Wines) reports that some international aid officials and charity workers "say that Niger's miseries this year are merely a worsened version of its perennial ones" although that "in no way minimizes the urgency of Niger's current disaster - erratic rainfall and severe food shortages in the agricultural and herding belts." Most of those who die "will be young children," with "one in five" infants "dying - the result, many say, of a belated response by the outside world to a disaster predicted in detail nine months ago."

Famine Aid Hard To Raise In Advance. NBC Nightly News (8/4, story 8, 2:30, Taibbi) reported the famine was a "crisis in the making, one United Nations official said, that should have been averted." Mark Malloch Brown, secretary general's chief of staff: "What is happening was largely foreseeable as early as November." Taibbi: "Last November. But despite appeals for donations then, the Christmas tsunami, and then the violence-plagued famine in Darfur, Sudan, diverted attention from Niger."

The CBS Evening News (8/4, story 6, 2:10, Schieffer) reported, "Today, a United Nations aircraft delivered more than 200 tons of emergency supplies. Niger has been asking for help since last fall, but it is only now that significant amounts of aid have begun arriving." CBS (Roth) added, "Eight months ago, the government and the UN were sounding alarms, warning this would happen. But relief agencies say it's taken pictures like these to wake up the world's donors." The Los Angeles Times (8/5, Dixon) reports that while aid agencies acknowledge that, "in the best of circumstances…hunger shadows Niger," the famine's toll was made worse by "the long-standing problems faced by international relief agencies" that "it is much easier to raise money once starvation has set in and children are dying than to prod donors to prevent a looming crisis."

Violence, Divisions Resurface In Sudan With Garang's Death. The Washington Post (8/5, A6, Wax) reports, "Mob violence, looting and ethnic tensions…erupted after" former rebel leader John Garang's "death in a helicopter crash," taking on "the very themes of the civil war that ended in January." Ollie Dinar, an African scholar in Khartoum said "the mood of the country is manipulated in this divide-and-rule fashion … Sudan's government has once again won. The people are now attacking each other instead of the government." He added that "images of southerners burning and looting have been played repeatedly on government television stations, provoking Arabs in Khartoum to fight back." The New York Times (8/5, Lacey) adds, "Mr. Garang's widow, Rebecca, used [his] memorial service in Kurmuk to call for calm, urging those wishing to honor her husband not to work against the peace agreement he signed with the government in January."

WPost Urges Support For Mayardit, Keep Peace Process Moving. In an editorial, the Washington Post (8/5) argues that the "Bush administration and its allies should encourage and support" Salva Kiir Mayardit. The "speed and smoothness of his emergence as the new southern leader…holds out the hope that he can fill Mr. Garang's shoes ably," even though Garang's strongman approach to leadership "excluded orderly preparation for a succession and may leave other leaders without the stature necessary to persuade ordinary citizens to trust in a peace deal with the hated government." As "so far, all parties appear to be responding as they ought to" the "challenge now -- both for Sudan's leaders and for the United States and other outsiders -- is to keep the north-south peace process moving in the hope that this violence will die down."

Coup Likely To Alter US-Mauritanian Relations. The Wall Street Journal (8/5, Trofimov) reports, "Mauritania's new ruling junta has consolidated its hold over one of America's and Israel's most collaborative allies in the Arab world." While "The U.S, the African Union and the European Union all condemned the coup," as "street celebrations erupted in the Mauritanian capital of Nouakchott, it seemed increasingly unlikely that" the former president will return to power. Alain Antil, an Africa specialist at the French Institute for International Relations in Paris said the junta "can't really carry out reforms, because" as military officers of the former government, "they themselves are part and parcel of the regime." Instead, he "expects the new junta to curtail the Israeli connections and to scale down cooperation with Washington," as the "relationship with Israel, which was denounced by the Arab League and regularly criticized on pan-Arab TV stations, became the rallying point for the Mauritanian opposition."

Junta Reassures World No Change In Foreign Policy. The New York Times/AP (8/5) reports, "The junta had indicated in statements Wednesday it planned no changes in foreign policy," and Col. Ely Ould Mohamed Vall's, the country's top leader, meetings with the U.S. and French ambassadors "appeared designed to assure the international community it had nothing to fear from the new regime." He "assured the ambassadors that his junta would quickly arrange elections. The junta has promised to yield to democratic rule within two years," and "many Mauritanians applauded the ouster of President Maaoya Sid'Ahmed Ould Taya, saying he was a brutal dictator and that they hoped the junta would keep its promise to usher in democracy."

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Planned Turkish Auction Of Erdemir Provokes Backlash. The New York Times (8/5, Landler) reports that Turkey recently put Erdemir, a "state-controlled company, its biggest steel maker, on the auction block," but "the auction process has run into an unexpected surge of opposition from political leaders and business executives, who argue that privatizing the company is not necessary, given its profits" and that "Turkey cannot afford to surrender a strategic asset, especially when Europeans seem increasingly reluctant to admit the Turks into their club of nations." Workers also "fear they could lose their jobs under a foreign owner." National opposition is "robust and well organized," and "there is a receptive audience for dark warnings about foreigners taking advantage of Turks."

Fox Admits Anti-Crime Effort Has Failed To Produce Desired Results. Mexican President Vicente Fox said Thursday that his anti-crime operation strategy has failed to produce the desired results, and promised to intensify the effort in the coming days. The Dallas Morning News (8/5, Corchado) reports that the comments from Fox's spokesman "were the first official confirmation that violence has worsened since Operation Safe Mexico began June 13, and they buttress concerns expressed by both U.S. and Mexican law enforcement officials of a sense of increased lawlessness. They point to escalating violence not just along the U.S.-Mexico border but also in the key states of Guerrero and Jalisco. No details were offered on how Mr. Fox will beef up his campaign."

Britain Gave Israel Aid For Nukes. The Washington Times (8/5, Strange) reports, "Ministers in Prime Minister Harold Macmillan's government were unaware of a deal, detailed by declassified papers, where, in 1958, Britain "secretly sold Israel" 20 tons of heavy water, "a key ingredient for its nuclear program" and "vital to plutonium production," without a "'peaceful use only' condition." Instead, "the deal…apparently was conducted entirely by civil servants" and "was kept secret from the Americans." Washington had refused to sell Israel heavy water "without a guarantee that it would be used for exclusively peaceful purposes."

Author Says IRA's Criminal Existence Causes Instability. Ed Moloney, author of A Secret History of the I.R.A., in an op-ed in the New York Times (8/5) argues, "While the I.R.A.'s war against Britain has diminished during the last eight years, the organization's drift into racketeering has accelerated … Rooting out the forces behind paramilitary racketeering is not only the right thing to do, it is the sensible course as well." The IRA's "refusal to begin disbanding is one big reason instability [in Ireland] still exists," and their "willingness to disarm transparently, was made largely irrelevant" by "the events that provoked last week's statement - the robbery of more than $50 million from a Belfast bank last December and the subsequent killing of a Belfast Catholic, Robert McCartney," which showed all those crimes "needed was a few motivated members. The problem was not I.R.A. weapons but the I.R.A. itself."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — In Crawford Texas.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: UK-IRAQ _ 9 a.m. United Kingdom Royal Marines Maj. Gen. J. B. Dutton, commander of Multinational Division Southeast, will brief live from Iraq regarding ongoing security operations in southeastern Iraq. Location: DOD Briefing Studio, Pentagon 2E579.

VETERANS-MENTAL HEALTH _ 7:30 p.m. The My G.I.F.T. (Getting Involved For our Troops) Foundation is hosting its 1st Annual My G.I.F.T. gala to honor ``differently-abled'' veterans. The Foundation, Founded by the Rev. Patricia Spearman, focuses on designing, developing and ensuring a comprehensive, culturally competent mental health system that readily responds to the special needs of veterans. Location: The Galleria at Lafayette Centre, 1155 21st St. NW.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"New Chapter In The Mystery Of Marilyn: Her Own Words?"
"Major Cuts At Hospital Urged"
"With Starr, Roberts Pushed Reagan Agenda"
"Focus On Suspect In Idaho Slayings Widens"
"In Niger, Hunger Hits Crisis Level"
"Israeli On Bus Kills 4 Arabs"
"Four Weeks On, London Teems With Police"

USA Today:

"Clusters Of Casualties Strike Towns"
"Talent-Laden Trojans Set Sail With Revamped Coaching Staff"
"Work On Shuttle Fuel Tank Probed"

New York Times:

"Offer By Europe Would Give Iran Nuclear Future"

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"Niger's Anguish Is Reflected In Its Dying Children"
"Court Nominee Advised Group On Gay Rights"
"Israel Lobbyists Facing Charges In Secrets Case"
"Gulf Hurricanes Are Latest Kink In The Oil Chain"
"From The Catskills' Last House Jester, Kosher Corn"

Washington Post:
"Al Qaeda No. 2 Blames Blair, Issues Warning"
"In Outer Suburbs, Lighting Up The Night"
"Afghanistan Agrees To Accept Detainees"
"Jewish Settler Kills Four Israeli Arabs In Attack On Bus"
"U.S. Indicts 2 In Case Of Divulged Secrets"
"Why The Red Delicious No Longer Is"

Washington Times:
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"GOP To Make Push For Roberts"
"Israeli Deserter Kills Four On Bus"
"Mazzilli Fired By Sinking Orioles"
"Herndon Mayor Supports Center"
"Muslim Edict Slammed For Not Condemning Al Qaeda"

Detroit Free Press:
"Using Pain To Heal Others"
"Women Voters Desert Mayor"
"Sales Of Chrysler's Diesels Are On The Rise"
"Iacocca, Snoop Dig Chrysler"
"Wayne Co. Law Fines For Fake Islamic Diet Ads"

Atlanta Journal-Constitution:
"Voting Rights Act: Renewal Of Good Faith"
"The Fifth Man"
"Strife Racks Hawks Brass"
"Bin Laden No. 2 Warns U.S., Britain"

Dallas Morning News:
"Craddick: Time To End Session"
"Peek At Roberts' Past Clashes With His Image"
"Dallas Police Get A Huge Grant"
"Cellphone Users, Rescuers Enter ICE Age"
"When Ransom Insurance Goes Awry"

Houston Chronicle:
"BP Moves To Improve Safety At U.S. Plants"
"Reclaiming Coastal Graveyard"
"Change Of Guard At Exxon Mobil"
"'We Are Wasting Time And Money'"
"Israeli Army Deserter Opens Fire Inside Bus"

Story Lineup From Last Night's Network News:
ABC: Zawahiri Terror Threat; Bush-Marine KIAs; Iraq-Lethal Roadside Bombing; Iraq-US KIAs; Israeli Arabs Killed; Space Shuttle Cleared; Roberts-Gay Rights; Hispanic Gang; Rehnquist Hospitalized; Violent Video Game; Yellowstone Wolf Watchers.
CBS: Bush-Zawahiri Tape; Iraq-Insurgent Bombs; Bush-Marine KIAs; London Bombing Investigation; Space Shuttle Cleared; Niger Food Crisis; Fallen Heroes; Israeli Arabs Killed; Gaza Withdrawal Resistance; Rehnquist Hospitalized; Prosthetic Limb Covers; Coma Recovery.
NBC: Bush-Zawahiri Tape; Iran-Insurgent Support; Iraq-Ohio Politics; London-Transit Security; Israel Arabs Killed; Space Shuttle Cleared; Niger Food Crisis; Niger Crisis-Origin; Rehnquist Hospitalized; AZ-Defective Border Cameras; Stock Market; Kansas-Chess Popularity.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Zawahiri Video; AP Poll; Rehnquist-Hospital Visit; Roberts; Space Shuttle.
CBS: Rehnquist Hospitalized; Russia-Trapped Deep Sea Vessel; Space Shuttle; NJ-Terror Arrest; Bush-Iraq; WA-Plane Collision.
NPR: Space Shuttle; Rumsfeld-London Bombings; NJ-Terror Arrest; London Bombings; Apple-iTunes Expansion; China-Reporter Detained; Foreign Stock Markets.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, AUGUST 5, 2005 7:45 AM EST

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TERRORISM NEWS:

Al-Qaeda Vows More Attacks Against U.S., Britain (USAT)

By John Diamond

USA Today, August 5, 2005

WASHINGTON — Great Britain and the United States must leave Iraq immediately or face more terrorist attacks, al-Qaeda's No. 2 man said on a videotape broadcast on an Arab satellite network Thursday.

On the tape, broadcast on Al-Jazeera, Ayman al-Zawahiri, deputy to al-Qaeda leader Osama bin Laden, jabbed his finger at the camera and promised more violent attacks as long as U.S., British and other non-Muslim forces remain in Iraq. The message came one month after terrorists linked to al-Qaeda bombed three subway trains and a bus in London on July 7. The attacks killed 52 people and the four bombers.

"Our message to you is clear, strong and final: There will be no salvation until you withdraw from our land, stop stealing our oil and resources and end support for infidel, corrupt rulers," Zawahiri said. The last remark was probably a reference to the

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Saudi royal family, long a target of al-Qaeda attacks, and to the newly elected and Shiite-dominated government in Iraq, which is fighting al-Qaeda allies mounting a violent insurgency.

U.S. intelligence, though still conducting voice analysis, has determined the tape was recorded recently and is genuine, CIA spokesman Paul Gimigliano said.

In an unusual move, President Bush responded directly to the broadcast. He called Zawahiri an apostle of an "ideology that is dark, dim and backwards."

In London, about 6,000 police officers conducted a massive security sweep on streets and in the subway system. Deputy Chief Constable Andy Trotter said police were not responding to a specific terrorist threat but seeking to reassure the public it was safe to travel.

The tape is "good propaganda" for military Islamists, said terrorism expert Brian Jenkins of the RAND Corp. think tank. He said al-Qaeda doesn't expect the United States to withdraw from Iraq.

Instead, Jenkins said, the tape is meant to tell Muslim audiences al-Qaeda is "still here. We are still running things."

Gimigliano said Zawahiri's tape follows an al-Qaeda pattern of issuing videotaped statements after terrorist attacks. "They're identifying with success and hoping to inspire more," Gimigliano said. This was the third videotape from Zawahiri this year. He appeared somewhat grayer than in previous tapes. He issued an audiotape in February.

Zawahiri's reference to the London attacks indicates the tape was made in the past month. Taahir Hoorzook from the Qatar-based Al-Jazeera told the Associated Press that the tape appeared at one of the network's offices, but he didn't specify which one.

In the excerpts aired by Al-Jazeera, Zawahiri sat in sunlight before a tan cloth background. He said future attacks would dwarf those of the past, a threat al-Qaeda has made before. He indicated the focus will be on domestic targets, including more in London, as well as against U.S. troops in Iraq and Afghanistan.

A major question confronting Western intelligence is whether Zawahiri and bin Laden are calling the shots on terrorist attacks or merely taking credit after the fact for the actions of loosely affiliated terrorist groups. Ben Venski of the think tank IntelCenter, which closely tracks al-Qaeda statements, said it would be foolish to assume al-Qaeda is not directing attacks. RAND's Jenkins said that if al-Qaeda can get propaganda tapes into the hands of Al-Jazeera, it can probably also communicate secretly with its own operatives.

Future attacks, Zawahiri said, "will make you forget the horrible things in Vietnam and Afghanistan." The Egyptian doctor demanded "immediate withdrawal" from Iraq and said if forces remained, they would suffer "tens of thousands of dead, and double that figure in disabled and wounded."

Bush Defiant After New Terrorist Threats (WP)

By Jim Vandehei

The Washington Post, August 5, 2005

CRAWFORD, Tex. -- President Bush said Thursday that the United States will not be bullied by this week's killings of 25 service members in Iraq or what he called the "dark, dim, backwards" views propagated by al Qaeda's number two commander, Ayman Zawahiri, and other terrorists.

Speaking shortly after Zawahiri broadcast a new taped warning that the United States and its allies would suffer thousands of deaths if it did not pull out of Iraq, Bush struck a defiant tone, saying the United States will stay on the offensive to "complete the job in Iraq." He spoke dismissively of Zawahiri, his followers and their ideology and said the twin U.S. strategies to defeat terrorists inside and outside Iraq are working.

"We owe it to the American people, and other freedom-loving countries, to bring these killers to justice," Bush said in a news conference at his ranch here, where he met with Colombian President Alvaro Uribe. Terrorism was at the top of their agenda.

Bush, who hoped to turn attention to his domestic agenda this month, once again found himself consoling families, defending the war and insisting the United States will not reduce troop levels until it is clear the Iraqi army is strong enough to fend off the insurgents.

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Some administration officials have been urging Bush to adopt a new language on terrorism, putting less emphasis on terms like "war" and more on the idea that the United States and allies are engaged in a long-term ideological struggle to push the Islamic world toward a peaceful and democratic future. On Thursday, however, Bush did not temper his words as he denounced "killers" intent on imposing "their dark vision on the world."

For the second straight day, Bush paid tribute to the 21 U.S. Marines from an Ohio regiment who were killed this week in combat, 14 of whom were blown up by a powerful roadside bomb on Wednesday. The people of Brook Park, where many of the soldiers were from, "have suffered mightily over the last couple of days," he said. The overall U.S. death toll topped 1,800 this week. "We're laying the foundation for peace for generations to come," Bush said. A new Associated Press-Ipsos poll shows approval for Bush's handling of Iraq at its lowest level yet -- 38 percent.

One week after a top U.S. commander suggested U.S. troops might begin to pull out next year if sufficient progress is made toward creating a new government and Iraqi military, Bush said the drawdown will begin "as soon as possible" but did not affix a timetable for such action.

In the short news conference, Bush also said he was confident that NASA officials would make wise decisions in bringing the Discovery space shuttle mission to a safe and successful conclusion. It's "important for the American people to understand, that, one, exploration is important; two, there will be some good coming out of exploration; and, three, that we've got a new vision embraced by NASA and its pioneers," he said. The rest of Bush's day was spent on his ranch, where he played host to Uribe for private talks and a family lunch.

Uribe faces his own terrorist threat at home, one that is jeopardizing the stability of both Colombia's government and its economic markets. He came to Crawford looking for a political lift and continued assistance from the United States. "The great enemy of Colombian democracy is terrorism," Uribe said.

Uribe's government is at war with rebels, funded largely by the drug trade, who have kidnapped and killed thousands of people in an attempt to impose a Marxist-style ideology in Colombia. In their private meeting, Bush said, they talked about terrorism, trade and human rights. Like U.S. relations with many nations involved in the war on terror, the relationship with Colombia is complicated by charges that the Uribe government encourages -- or turns a blind eye to -- abuses against its people and the spirit of democracy. "This was discussed with great seriousness and with great respect," Uribe said.

In the days leading up to Bush and Uribe's meeting, Amnesty International and other human rights groups challenged Bush to demand Uribe address questions about government collusion with paramilitary groups and provide impartial investigations of human rights violations.

The State Department announced this week that Colombia has met the human right standards required to receive U.S. financial assistance. The United States has provided more than $3 billion in assistance to Colombia over the past five years to help the government clamp down on cocaine and heroin production and defeat the leftist insurgency. About 25 percent of U.S. aid is conditioned on meeting human rights standards.

Of his talks with Uribe, Bush said: "I listened intensely and believe that he is interested in following through . . . so that the world will hear loud and clear that Colombia is a nation of law and human rights and human dignity."

Human rights advocates were distressed, criticizing Bush for being too credulous toward his visitor. "President Bush betrays his stated commitment to uphold human rights when he accepts President Uribe's rhetoric at face value," William F. Schulz, executive director of Amnesty International USA, said in a statement.

Bush Stands Firm In Face Of Mounting Toll (WT)

By Joseph Curl

The Washington Times, August 5, 2005

CRAWFORD, Texas -- President Bush yesterday vowed that America will not be swayed by a surge in U.S. deaths in Iraq or a new threat from a top al Qaeda leader who warns that the United States will suffer tens of thousands of military dead if it does not withdraw.

DOJ_NMG_0002001

"We will stay on the offense against these people," the president said of the comments by Ayman al-Zawahri, al Qaeda's second in command. "They're terrorists and they're killers and they will kill innocent people ... so they can impose their dark vision on the world," Mr. Bush said as he stood alongside Colombian President Alvaro Uribe.

Al-Zawahri -- who Mr. Bush said was "part of the team that attacked us" on September 11, 2001 -- yesterday warned Britain and the United States of more attacks in a new videotape shown on Al Jazeera television and rebroadcast around the world.

"These policies [of British Prime Minister Tony Blair] will bring them more destruction after the explosions of London," al-Zawahri said, four weeks to the day after 52 persons were killed by four suicide attackers in transport bombings.

Al-Zawahri demanded that "all the infidel armies withdraw from the land of Muhammad," accused the U.S. and its allies of "stealing our oil and wealth," and compared the military situation in Afghanistan and Iraq to the war in Vietnam.

"If you go on with the same policy of aggression against Muslims, you will see, God willing, what will make you forget the horrible things in Vietnam," he said.

But Mr. Bush vowed to "stay the course" in Iraq.

"We owe it to the American people and other freedom-loving countries to bring these killers to justice," he told reporters at his Texas ranch.

Mr. Bush said al Qaeda's "goal is to drive us out of the broader Middle East."

"The comments by the number two man of al Qaeda make it clear Iraq is a part of this war on terror, and we're at war. He's saying, you know, leave ... as I have told the American people, the people like Zawahri have an ideology that is dark, dim, backwards," Mr. Bush said. "He's threatening. They have come up against a nation that will defend itself."

The president said he will not give in to "thugs" because "we've had these kinds of clashes before and we have prevailed."

"We have prevailed because we're right, we have prevailed because we adhere to a hopeful philosophy, and we have prevailed because we would not falter," he said.

Mr. Bush invited the Colombian president to his ranch -- the 14th world leader to be bestowed such an honor -- to talk about terrorism and the problem of narcotics trafficking, which funds many terror cells.

Mr. Uribe said that both he and Mr. Bush consider the war against international terrorism a top priority of both their countries.

"The great enemy of Colombian democracy is terrorism ... and our great partner in defeating it has been the government and people of the United States," he said in Spanish. "U.S. cooperation has been exemplary. It has gone beyond rhetoric. ... All democratic countries should know that."

Mr. Bush vowed continued U.S. aid to help Colombia fight narco-terrorism and to allow the country to continue to build its budding economy. "America will continue to stand with the people of Colombia," he said.

Their meeting came just a day after the State Department announced Colombia has met human rights standards needed to qualify for full funding of future U.S. assistance programs.

During a short question-and-answer session with reporters, Mr. Bush also paid tribute to Marines who died over the past few days in bombings in Iraq, including a community from near Columbus, Ohio, which suffered more than 20 dead.

He said that the community of Brook Park "suffered mightily in the last couple of days. ... I hope they can take comfort in the fact that millions of their fellow citizens pray for them."

Mr. Bush also reminded Americans that there has been progress in Iraq, where 8 million people risked their lives in January to vote in free elections "in the face of Zawahris and Zarqawis and these killers."

He reiterated his plan to bring U.S. troops home "as soon as possible," which he said "means when those Iraqis are prepared to fight."

"As Iraq stands up, our coalition will stand down. The Iraqis want to live in a free society. Zawahri doesn't want them to live in a free society. And that's the clash of ideologies -- freedom versus tyranny," he said.

Al-Qaeda Deputy Blames Blair For London Bombs (FT)

By Peter Spiegel And Ft Reporters

Financial Times, August 5, 2005

DOJ_NMG_0002002

The UK's support for the US-led occupation of Iraq is the reason for the recent bombing campaign in London, according to a video issued on Thursday by Al-Qaeda's second in command, Ayman al-Zawahiri.

The deputy leader of Al-Qaeda blamed Tony Blair, UK prime minister, for the attacks and threatened that more would follow.

"Blair has brought to you destruction in central London and there will more of that, God willing," Mr al-Zawahiri said.

Four weeks to the day after the first deadly London bombs, Osama bin Laden's deputy made his remarks in video footage aired on the pan-Arab television station al-Jazeera.

Mr Al-Zawahiri, an Egyptian, also warned the US of further attacks, saying the horrors would be worse than Vietnam.

"As for you, the Americans, what you have seen in New York and Washington, what losses that you see in Afghanistan and Iraq, despite the media blackout, is merely the losses of the initial clashes,'' he said. "If you go on with the same policy of aggression against Muslims, you will see, with God's will, what will make you forget the horrible things in Vietnam and Afghanistan."

President George W. Bush dismissed the threats, saying the US would "complete the job" in Iraq.

"The comments by the number two man of al-Qaeda make it clear Iraq is a part of this war on terror, and we're at war," he said at his ranch in Crawford, Texas. "People like Zawahiri have an ideology that is dark, dim, backwards."

Mr Al-Zawahiri said Osama bin Laden had offered a truce to Western countries, asking them to pull out their armies from Iraq and Afghanistan in order to live in peace.

"To the people of the crusader coalition ... our blessed Sheikh Osama has offered you a truce so that you leave Muslim land. As he said you will not dream of security until we live it as a reality in Palestine and until all your infidel armies leave Prophet Mohammad's lands," he said.

"Our message to you is clear, strong and final: there will be no salvation until you withdraw from our land, stop stealing our oil and resources and end support for infidel [Arab] rulers," Mr Al-Zawahiri added.

Al-Qaeda has increasingly used the Iraq campaign as a lightning rod for its followers in video and audio tapes issued to the news media. In December, Mr bin Laden released a tape endorsing the insurgency and its suspected leader, Abu Musab al-Zarqawi, who Mr bin Laden dubbed the "imir" of the al-Qaeda organisation "in the land of the two rivers."

The new tape by al-Zawahiri also follows a recent trend by al-Qaeda's senior leadership to attempt to influence internal politics of countries involved in Iraq. In November, just days ahead of the US presidential election, Mr bin Laden issued a video tape blaming George W. Bush and the US government for provoking terrorist attacks against the west.

"[American policy] means the throwing of millions of pounds of bombs and explosives at millions of children in Iraq, as Bush junior did, in order to remove an old agent and replace him with a new puppet to assist in the pilfering of Iraq's oil and other outrages," Mr bin Laden said in the November tape.

"Is defending oneself, and punishing the aggressor in kind, objectionable terrorism? If it is such, then it is unavoidable for us."

In addition, the March 11, 2004 bombings in Madrid occurred just days before the Spanish election; at the time, Spain had thousands of troops in Iraq.

Despite the attempts by al-Qaeda's leadership to maintain a high profile, however, it is not clear whether recent bombing campaigns in Western countries are directly linked to the shadowy organisation.

Italian police investigating Hamdi Issac, the Ethiopian-born Briton who was arrested in Rome and is suspected of involvement in the July 21 attempted bombings, suggested that Mr Issac and the other bombers were probably unconnected to any larger terrorism network, raising the possibility that there is a new breed of Islamic militants that has no link to al-Qaeda structures.

US intelligence says the senior leadership group surrounding Osama bin Laden remains isolated, unable to direct or to commission specific attacks on western targets. However, experts and officials believe that Mr bin Laden and his deputy may be using audio and video tapes to radicalise western Muslims in targeted countries.

Despite mounting evidence that a majority of Britons see a link between the bombs and British policy in the Middle East and Afghanistan, Mr Blair has insisted that the occupation of Iraq is no "justification" for terrorism.

DOJ_NMG_0002003

Mr al-Zawahiri's video statement on Thursday came on a day when police again flooded the UK capital to reassure Londoners.

Al Qaeda's No. 2 Blames Blair, Issues Warning (WP)

By Kevin Sullivan

The Washington Post, August 5, 2005

LONDON, Aug. 4 -- Al Qaeda's second-in-command said in a video statement Thursday that the London transit bombings were retribution for British military intervention in Muslim countries and warned of "more destruction" if Britain doesn't withdraw. He also threatened new attacks on Americans.

The statement from Ayman Zawahiri was issued on a day in which London commuters rode trains and buses amid some of the tightest security since World War II, due to fears of a repeat of the attacks of July 7 and 21. No attack occurred. Instead, the four-week anniversary of the July 7 explosions brought the first statement clearly from al Qaeda about the violence.

Prime Minister Tony Blair "has brought you destruction in central London and, God willing, will bring more destruction," Zawahiri said, addressing the "English people" in a statement broadcast on the al-Jazeera satellite television channel.

"Our message to you is crystal clear: Your salvation will only come in your withdrawal from our land, in stopping the robbing of our oil and resources, and in stopping your support for the corrupt and corrupting leaders."

Officials at the prime minister's Downing Street office provided no comment. Blair has previously rejected claims that the transit bombings were a result of Britain's role in the Iraq war, and politicians across the spectrum have stood by him.

Zawahiri, wearing a white tunic and black turban and posed next to a rifle, did not directly assert al Qaeda's responsibility for the attacks. But he said that since Britons "shed rivers of blood in our land, we exploded volcanoes of anger in your land."

His statement accused U.S. leaders of concealing from Americans that "there is no exit from Iraq except in immediate withdrawal." He called the casualties of Sept. 11, 2001, "merely the losses from the initial clashes."

President Bush, speaking in Crawford, Tex., said that the comments "make it clear Iraq is a part of this war on terror, and we're at war. He's saying, you know, leave. . . . People like Zawahiri have a ideology that is dark, dim, backwards. He's threatening. They have come up against a nation that will defend itself."

British police are questioning at least 17 people in connection with the attacks of July 21, including four men suspected of carrying bombs onto three subway trains and a double-decker bus. Those bombs failed to explode, but startled Londoners into thinking that the July 7 explosions, in which four presumed bombers and 52 other people died, might have been the beginning of a coordinated campaign of violence.

Investigators are attempting to determine if the bombers in the two plots were linked or directed by al Qaeda or some other international group.

"I tend to think it's not al Qaeda-linked, but it's al Qaeda-inspired," said Rime Allaf, a Middle East specialist at Chatham House, a private foreign affairs research center in London. "Al Qaeda's not shy about claiming responsibility."

Zawahiri has issued three previous statements this year by audio or video recording. The CIA and the National Counterterrorism Center were studying the latest, and U.S. officials said it appeared to be authentic. It differs from the past three videos in that Zawahiri wears a black turban rather than a white one and appears to be outside in front of a light-colored cloth rather than in a studio-like setting.

Christopher Blanchard, an analyst who has closely followed al Qaeda's public statements at the Congressional Research Service, called the tape an example of "pragmatic messianism" by Zawahiri. "Al Qaeda's fractured leadership apparently continues to believe that it can undermine support for current U.S. policies by directly addressing and threatening the American people," he said.

The first person to be charged in the bombings was ordered by a London judge Thursday to be held in custody until a hearing on Aug. 11. Ismael Abdurahman, 23, is charged with withholding information from police about one of the suspects in the July 21 attacks.

On Thursday, police charged two London sisters with similar offenses.

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In New York on Wednesday evening, Police Commissioner Raymond Kelly told a gathering of business leaders that the bombs were made of easily obtained ingredients, the Associated Press reported. "It's . . . like these terrorists went to a hardware store or some beauty supply store," Kelly said.

Kelly said the bombers transported the bombs in beverage coolers to keep them from degrading, and that the bombs were probably detonated by cell phone alarms. Kelly said the information came from New York detectives who went to London to monitor the investigation.

London police were on extremely high alert Thursday, fearing that other bombers might follow an established pattern. The July 21 attacks occurred exactly two weeks after the July 7 bombings, and Thursday was two weeks after the second attack. Police were stationed at most subway entrances around the city, and public address systems on subway cars repeatedly warned passengers to be vigilant and report suspicious packages or people.

Thursday also marked the first time London's subway was operating at full capacity since the first bombs exploded during morning rush hour on July 7.

In interviews, many subway riders said they were not afraid. "You're more likely to get run over by a bus than to be killed in a terror attack," said Rob Parker, 36, a management consultant catching a train at the St. James's Park subway station. He said the al Qaeda tape was worrisome, but he would not alter his commuting routine because of it.

He did not hold the British government responsible for provoking the violence. "At the end of the day, we're a democracy and we voted to put people in office and make decisions," Parker said. "No one has a crystal ball. I thought that the Iraq war was the right thing to do."

London pollster and political analyst Stephen Shakespeare said the al Qaeda warning would probably boost Blair's political standing, which has already been helped by the government's firm, organized response to the bombings and a wave of national solidarity in the face of attack. The message will undermine critics who say he has overstated the threat, Shakespeare said.

The potential effect on Britain's 1.6 million Muslims is less clear. Shakespeare said his organization's recent polls show that while most feel loyal to Britain, about a third of Muslims polled feel a "divided loyalty" and 5 or 6 percent support the bombings.

Inayat Bunglawala, spokesman for the Muslim Council of Britain, a coalition of moderate Muslim groups, said the tape was probably intended to "incite others to go from being disaffected to taking up bombs."

"But I don't think it will contribute to that," he said. "What will contribute is the policies our country has been engaged in. We have always viewed Iraq as a disaster area for our country. . . . The solution is to remove the sources of anger among Muslim youth."

But Allaf, the Middle East specialist, said she believed the tape would add to the radicalization of Muslim youth in Britain. The most notable aspect of Zawahiri's address, she said, was that it was "logical and lucid" and would appeal to a wider audience than the rhetoric of "crazy mullahs."

Al Qaeda To West: It's About Policies (CSM)

By Dan Murphy

The Christian Science Monitor, August 5, 2005

BAGHDAD - With an AK-47 at his side, Ayman al-Zawahiri, Al Qaeda's No. 2, appeared in a videotape broadcast Thursday and claimed that the 7/7 bombings were payback for British participation in America's "policy of aggression against Muslims."

The video is another Al Qaeda message apparently intended to turn Western democracies against their leaders by explaining acts of terrorism as rational decisions from a group with specific political goals. It challenges the position of British Prime Minister Tony Blair and Bush administration officials, who have insisted that the London attacks have nothing to do with Iraq and that terror attacks will continue regardless of policy.

"By linking the bombings to Iraq, he basically sent the message that no matter what Blair says, Iraq is the reason," says Bob Ayers, a counterterrorism expert at Chatham House, a think tank in London. "He's calling Blair a liar."

This latest tape was released on a day when an unprecedented police security operation was under way in London.

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While Mr. Zawahiri didn't directly take credit for the London attacks, he promised more attacks on Britain, the US, and other allies, saying "tens of thousands" more American troops will be killed in Iraq if there isn't an immediate withdrawal.

It was one of three taped statements, all aired on Al Jazeera, that Zawahiri has made since the end of February, a pattern of rising communication from the Al Qaeda leaders that appears to belie statements from Pakistani President Pervez Musharraf that Osama bin Laden and his aides are on the run.

Zawahiri, an Egyptian exile whose terrorist career began at home and who hates the Egyptian regime of Hosni Mubarak, did not mention the terrorist attack on Egypt's resort town of Sharm el-Sheikh on July 23. The omission, analysts speculate, suggests the tape was made before the Sharm attacks, and the second subway attacks in London.

While some of his audio and video tapes seem generally targeted at mobilizing Al Qaeda's "base," filled with Islamic illusions and glorification of martyrs designed to reassure adherents and draw new members, this communication from Al Qaeda's chief ideologue falls into a category of tapes that targets primarily a Western audience.

Rather than casting his jihad as an inevitable clash of civilizations, he frames acts of terrorism as justified by the US-led wars in Iraq and Afghanistan and offers to end attacks on the West if a full withdrawal is made from "Muslim lands."

"Blair has brought to you destruction in central London, and he will bring you more destruction, God willing," Zawahiri said, addressing the British people.

"As for you Americans, what you have seen in New York and Washington, what losses you see in Afghanistan and Iraq, despite the media blackout, are merely the losses of the initial clashes," he said. "If you go on with the same policy of aggression against Muslims, you will see, God willing, things that will make you forget the horrors of Vietnam and Afghanistan."

"To the people of the crusader coalition ... our blessed Sheikh Osama has offered you a truce so that you leave Muslim land. As he said you will not dream of security until we live it as a reality in Palestine," he said. "Our message to you is clear, strong and final: There will be no salvation until you withdraw from our land, stop stealing our oil and resources and end support for infidel [Arab] rulers."

Analysts cautioned that Zawahiri's statement is not evidence of direct Al Qaeda knowledge of the London attacks, and said it probably fits into Al Qaeda's evolution into an ideological motivator, rather than organizer, of attacks.

"Such messages are usually a call-to-arms, sort of top-down guidance to go forth and do your thing," says Ayers. He says while Al Qaeda was "tightly organized" before the invasion of Afghanistan, the dispersal of members since has left a "confederation of groups that adhere to the same fundamental principles.... essentially they are functionally autonomous groups."

Magnus Ranstorp, a terrorism expert at St. Andrews University in Scotland, agrees. "This is more of him rallying the troops - giving the green light to carry out attacks.... Here we have a clarion call to action. It is serving as an inspiration for like-minded extremists."

Some analysts, though, see it as an oblique claim of responsibility. "In many ways, this videotape can almost be seen as a claim of responsibility, bin Laden style," says Evan Kohlmann, a terrorism expert and author in New York. "When Al Qaeda is responsible for a big operation like the embassy bombings, 9/11, or London, it is much more characteristic for them to issue a statement such as this one, hinting at Al Qaeda involvement without removing that shadowy mystical aura that Al Qaeda leaders love to propagate."

Both Messrs. Kohlmann and Ranstorp point out that Zawahiri tapes are frequently followed by new attacks. "Zawahiri's latest ode may once again herald renewed terrorist violence. Even beyond the West, countries like Saudi Arabia, the UAE, Kuwait, and Pakistan are steeling themselves for possible future strikes," says Kohlmann.

The coordinated bombings of Madrid's train system in March 2004, which killed more than 200 people, came just days before elections in Spain that brought to power Prime Minister Jose Luis Rodriguez Zapatero, who had vowed to pull Spanish troops from the US coalition in Iraq. Though it's not clear whether that attack swayed voters enough to alter the result of the election, it's seen that way on jihadi websites.

US intelligence analysts say it's likely that bin Laden and Zawahiri are living in the mountains along the lawless border between Pakistan and Afghanistan, something that President Musharraf appeared to confirm at a press conference last month. He said Pakistani troops in the Waziristan region had obliterated Al Qaeda's "command and communications" infrastructure, and said the group is now relying on couriers who take "months" to carry messages out of the region.

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But this video was recorded since the first London attack, less than a month ago. It shows Zawahiri sitting on the ground, outside, with a brown backdrop. "It is also a reminder that the US has failed in its mission to bring the ultimate mastermind to justice," says Ranstorp.

Ranstorp notes that Zawahiri has made repeated threats against Pakistan. "There is a duality to the message," he says. "There's the focus of making Iraq like Vietnam for the Americans, but there's also a threat to Pakistan. It could accelerate the confrontation between Musharraf and the the extremist religious elements."

Al-Qaida's No. 2 Threatens London, U.S. (KCS)

By Steven R. Hurst

The Kansas City Star, August 5, 2005

CAIRO, Egypt - Al-Qaida's No. 2 embraced the London suicide bombings Thursday, warned Britain that more destruction lies ahead and promised tens of thousands of U.S. casualties in Iraq in a brazen assertion of the terror group's global reach.

Ayman al-Zawahri also renewed terror threats to other countries with troops in Iraq and Afghanistan, claiming they had shunned Osama bin Laden's offer last year of a truce if foreign forces left the battleground.

In the tape, parts of which were broadcast by Al-Jazeera, al-Zawahri made no direct claim that al-Qaida carried out the July 7 attacks in the British capital, but sought instead to blame the carnage on Prime Minister Tony Blair's decision to deploy and keep troops in Iraq. Britain maintains 8,500 forces mainly in southern Iraq.

"Blair has brought to you destruction in central London, and he will bring more of that, God willing," al-Zawahri said.

President Bush dismissed al-Zawahri's threat, saying, "We will stay on the offense against these people. They're terrorists and they're killers and they will kill innocent people ... so they can impose their dark vision on the world."

In London, Blair's Downing Street office declined to comment.

Jeremy Bennie, a terrorism analyst for Jane's Defense Weekly, said al-Zawahri appeared to be trying to put an al-Qaida stamp on the July 7 attacks on the London transit system. The bombings killed 56 people, including four attackers.

"He has tacitly taken responsibility by claiming al-Qaida is in control of the situation, even as most people aren't really sure bin Laden and al-Zawahri still are capable of organizing such an attack," Bennie said by telephone.

Thursday marked the seventh time al-Zawahri has used videotapes or audiotapes to speak for al-Qaida since the Sept. 11, 2001, attacks in the United States. The latest appearance followed the Egyptian physician's pattern of issuing threats of further death and destruction if the United States and its allies in Iraq and Afghanistan refuse to withdraw troops from the region, including Saudi Arabia - home to two of Islam's holiest shrines.

Al-Zawahri issued the fresh threats with a Kalashnikov rifle propped against a woven cloth background that moved with the wind and showed the sunlight, suggesting the scene was filmed outdoors. He wore a white robe and black turban and emphatically wagged his finger while speaking.

The black turban - a change from the white turban he has worn in past videos - is "a sign that it's time of war," said Montasser el-Zayat, an Egyptian attorney who defends Islamic radicals and who spent three years in prison with al-Zawahri. The prophet Muhammad and his followers wore black turbans during their invasions in the Arabian Peninsula, he said.

Al-Zawahri is "exploiting the whole atmosphere following London and Sharm el-Sheik explosions to carry out the sort of instigation that propels more operations," el-Zayat said. At least 64 people were killed in the July 23 attacks in the Egyptian Red Sea resort of Sharm el-Sheik.

As the Iraqi insurgency led by bin Laden's Jordanian comrade Abu Musab al-Zarqawi continues to kill Iraqis and Americans, al-Zawahri promised more savagery.

"What you have seen in New York and Washington, you Americans, and the losses you see in Afghanistan and Iraq - despite all the media blackout - are merely the losses from the initial clashes," he said.

"If you go on with the same policy of aggression against Muslims, you will see, God willing, what will make you forget the horrible things in Vietnam," he said.

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"There is no exit from Iraq except in immediate withdrawal. Any delay in taking that decision means nothing but more dead, more losses," he said. "If you don't leave today, certainly you will leave tomorrow, but after tens of thousands of dead and double the number of disabled and wounded."

Al-Zawahri threatened other nations who have sent troops alongside U.S. forces in Iraq and Afghanistan, saying they "will harvest the fruits of their cooperation soon, God willing."

He also called for Arab militaries, intellectuals and businessmen to start working to get rid of "corrupt" regimes in the Middle East and "start prepare for change, starting now, whatever it takes of time or effort."

Bennie said al-Zawahri may have been using the video as a vehicle for reissuing an offer of a truce.

"This seems to say you have another chance to pull out and you won't be hit again," the analyst said, declaring the statement coercive and not credible.

He noted that most observers believed the March 11, 2004, Madrid train attacks, which killed 191 people, were designed to push Spaniards to vote for the Socialist opposition in elections three days later. In the voting, the Conservative government which had sent troops to Iraq was swept from power. The new government ordered Spanish troops to return home.

"That didn't prevent a foiled attempt to bomb a high-speed train carrying a thousand people after the election. And members of the cell still had the wherewithal to blow themselves up when cornered," Bennie said.

Taahir Hoorzook, of the media relations department in Al-Jazeera, said the broadcaster received the new tape Thursday at one of its offices, though he would not specify its location.

The tape is about five minutes long and Al-Jazeera aired only 10 percent of it, he said. The rest was rhetoric that "we found not newsworthy," Hoorzook said.

Video Messages Aim To Reassert Al-Qaeda Leadership (FT)

By Peter Spiegel

Financial Times, August 5, 2005

The videotape of al-Qaeda deputy Ayman al-Zawahiri broadcast on Thursday is the latest in a series of recent messages sent by the terrorism network's top leaders that analysts believe may be part of a campaign to reassert themselves, even as they remain isolated by US and Pakistani forces.

Since April 2004 there have been at least nine tapes from al-Qaeda's two leaders – Mr al-Zawahiri and Osama bin Laden – all of which have drawn close scrutiny from security agencies and terrorism analysts, since Mr bin Laden has repeatedly said his public statements were important sources for those wishing to understand the network's ideology and political goals.

A report sent to Capitol Hill in June by the Congressional Research Service (CRS), the non-partisan analysis agency, found that despite Mr bin Laden's limited ability to provide command and control to al-Qaeda operatives he and other leaders have stepped up their issuance of such tapes.

Given the increased public profile of foreign fighters in Iraq, and the concomitant rise of Abu Musab al-Zarqawi, the Jordanian militant believed to be leading the Iraqi insurgency, the CRS report said there was a growing belief that Mr bin Laden and his aides were trying to use the public pronouncements to return themselves to the centre of the jihadist campaign.

"The ideological content and highly political tone of the recent statements have led some terrorism analysts to speculate that the messages may signal a renewed attempt by bin Laden and his associates to create a lasting leadership role for themselves and the al-Qaeda organisation as the vanguard of an emerging, loosely organised internationalist movement," the report stated.

"Others have argued that the presently limited operational capabilities of al-Qaeda's central leaders have inspired them to revive ideological outreach efforts."

As part of that effort, the tapes have increasingly used Iraq as a touchstone for the jihadi cause. Many of them are addressed directly to Western audiences, in what appears to be an effort to discourage support for European and US foreign policies in the Islamic world.

DOJ_NMG_0002008

Mr Zawahiri used that tactic again yesterday, blaming the London attacks on the policies of Tony Blair, the British prime minister. Mr bin Laden took a similar attack before the November US presidential elections, in which he blamed President George W. Bush's policies in Iraq for continued attacks on US interests.

The CRS argued that the shift towards Iraq was a reflection of Mr bin Laden's "pragmatic messianism", in which his overall goals the expulsion of Western forces and influences from the Muslim world, and the creation of a pan-Islamic state ruled by religious law remain constant, but his short-term tactical goals shift.

The report notes that Mr bin Laden has, in the past, cited the presence of US troops in Saudi Arabia – since withdrawn – and the ongoing Arab-Israeli conflict as rallying cries, only to drop the causes in later appeals. Similarly, Mr bin Laden's earlier broadcasts mentioned Iraq only on occasion, but analysts note that since a December tape, in which the al-Qaeda leader specifically embraced Mr Zarqawi, mentions of Iraq have increased.

Despite the repeated mention of Iraq, analysts emphasise that the underlying ideology of al-Qaeda has not changed and continues to focus on getting rid of Western influences from the Middle East and creating a puritanical Islamic state.

That theme was repeated by Mr Zawahiri's broadcast yesterday. Although the attack on Mr Blair was prominent in the excerpts broadcast on al-Jazeera, the Arabic television news channel, much of it was dedicated to al-Qaeda's insistence that attacks will continue until allied forces are withdrawn.

Unit That Lost 9 Men Wednesday 'was Like A Family' (USAT)

By Dennis Cauchon And Tom Vanden Brook

USA Today, August 5, 2005

COLUMBUS, Ohio — The Marine reservists — about 160 of them — came to an industrial park here one weekend a month to train. The men of Lima Company — cops, college students, former active duty Marines — were sent to Iraq in March.

Sixteen from Lima Company have been killed in action since then, the highest death toll in any Marine reserve unit serving in Iraq, said Capt. Chris Logan, a Marine spokesman. Nine Marines from the company were among 14 killed Wednesday by a roadside bomb.

"It was like a family," said Kristin Earhart, fighting back tears as she stood outside Lima Company headquarters. Her boyfriend, Lance Cpl. Dustin Derga, 24, died in a firefight on May 8.

Earhart was comforted by her best friend, Ashley Boots, who was engaged to another Lima Company Marine, Lance Cpl. Nicholas Erdy. Three days later Erdy was killed.

Erdy and Derga were best friends, too, dating a pair of best friends. Now the men are gone, and the women are struggling to recover from the loss. "It's been difficult," says Earhart, a senior airman in the Ohio Air National Guard.

The men of Lima Company, part of the Marines' 3rd Battalion, 25th Regiment, came from all over Ohio and beyond.

Marines and family members describe the men of the Ohio company as deeply committed, even gung-ho. Some men who'd left the unit rejoined when they heard it was going to Iraq, said Master Sgt. Steve Walter. Others joined Lima Company, rather than units closer to their homes because they wanted to be in the infantry.

The battalion is part of a dangerous operation to disrupt the movement of insurgents and weapons from the border with Syria to central Iraq.

Lima Company was activated in January and trained for two months before leaving the USA. Once in Iraq, the Marines were assigned to Security And Stabilization Operations and began a dangerous tour of duty.

"The casualties have been very high for us," said Lima Company Gunnery Sgt. Larry Bowman, who was sent home after being injured in May. "The area we were in the Al-Anbar province, the Marines called the wild wild West."

The training and combat have brought the unit together.

"You never have friends like you have when you're in an infantry unit in harm's way," says Walter, a Columbus police officer in civilian life.

President Bush and Defense Secretary Donald Rumsfeld paid tribute Thursday to the fallen Marines. The Defense Department released the names of 13 of those killed Wednesday. They are Lance Corporals: Timothy M. Bell Jr., 22, of West Chesterfield, Ohio; Eric J. Bernholtz, 23, of Grove City, Ohio; Nicholas William B. Bloem, 20, of Belgrade, Mont.; Michael

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Cifuentes, 25, of Fairfield, Ohio; Grant Fraser, 22, of Anchorage, Alaska; Aaron Reed, 21, of Chillicothe, Ohio, Edward Schroeder, 23, of Columbus, Ohio; Kevin Waruinge, 22, of Tampa, Fla.; William Wightman, 22, of Sabina, Ohio; Cpl. David Kenneth J. Kreuter, 26, of Cincinnati; Cpl. David S. Stewart, 24, of Bogalusa, La.; Sgt. Bradley J. Harper, 25, of Dresden, Ohio; Sgt. Justin F. Hoffman, 27, of Delaware, Ohio.

Eight of them were from Lima Company: Bell, Bernholtz, Cifuentes, Hoffman, Kreuter, Reed, Schroeder and Wightman.

Missy Luttrell says her nephew, "Brett" Wightman, was gung-ho from an early age.

"I can remember plain as day, he was 3, and playing with his G.I. Joes," she remembered Thursday. "He said, 'Aunt Missy, I'm going to be one of these guys some day.' And he was."

Wightman was a superb athlete in high school, she said, captain of his football team as a fullback who also excelled in track.

"He's a very funny, bright, good-looking kid," Luttrell said. "Just look at his picture."

At Miami University in Oxford, Ohio, faculty and staff grieved Thursday for Cifuentes. A member of the marching band as an undergraduate, Cifuentes continued his studies as a graduate student and planned to become a teacher.

He was engaged to another Miami graduate, Tara Reynolds. The couple planned to marry next year.

"He was extremely devoted and focused young man," said Jeffrey Wanko, an assistant professor of teacher education.

Tom Fennell, president of the Acacia fraternity, where Cifuentes had been an adviser, recalled him as "a great guy, who went above and beyond."

Aaron Reed ran track and cross-country and was president of the class of 2001 at Southeastern High School in Chillicothe.

Principal Leonard Steyer said that staff at the school had been stopping by Reed's mother's home to offer help with chores on her farm. The two-story brick farmhouse sits at the end of a dusty gravel road, flanked by four silos and fields of tall corn.

Columbus Mayor Michael Coleman's youngest son, Lance Cpl. J.D. Coleman, is in Lima Company.

"When the phone rings, we are not sure what is going to be said on the other end," the mayor said.

Lima Company is scheduled to return home in September or October, Logan said.

Confronting Their Losses, Ohio Families Are Shaken (NYT)

By John Kifner

The New York Times, August 5, 2005

COLUMBUS, Ohio, Aug. 4 - In tiny farming communities and the edges of gritty Rust Belt cities across central Ohio, families, neighbors and friends took in the news that 20 Marine reservists serving with units based here and in a Cleveland suburb were killed in Iraq this week with a mixture of pride in the young men's dedication and a growing unease with the war.

People were hanging American flags all over Sabina, population 2,800, where the corn and soybean fields were bursting along Ohio Route 22, to honor Lance Cpl. William Brett Wightman, 22, who was killed on Wednesday along with 13 other marines and an Iraqi interpreter when a roadside bomb blew up their lightly armored amphibious troop carrier in the hard-fought western province of Anbar.

"I could feel it," his mother, Pam Saville, said of the moment she heard the news that the marines from Lima Company, based in Columbus, were killed. "It was something inside me.

"Brett's unit has been hit so hard recently," Mrs. Saville said, recalling two marines killed in July and another five Ohio reservists from the same company in May.

"And at that moment," she went on, " I felt proud of Brett, but also angry about our country being there."

Sitting nearby, shaking with anger and clutching her younger step-brother's dress uniform, Stephanie Finley spoke of the bravado the young marines shared.

"When I talked to him a month ago, he said he loved what he was doing," Ms. Finley said. "He said he would go back if he had to.

"I love my brother, and that's why I tried to talk him out of going in the Marines. I didn't want him to go to Iraq because I don't believe in what we're doing there."

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And, despite Sabina's patriotic display of flags, Ms. Finley's doubts seemed shared by a number of people in the small town where nearly everyone knew Corporal Wightman.

"With that young man getting killed, it's close to home now," said Ronald Simmons, a retired carpenter and lifelong Sabina resident. "I don't like it. I'm ready for the troops to come home."

After graduating from the local high school, Mr. Wightman worked for about a year for a concrete company, Gradeco Paving, run by Tom and Cathy Woods.

"His loss feels so close," Ms. Woods said of the tight-knit relationships in the town. "For a while now, I've felt we have done what we can do in Iraq. It's time to bring the soldiers home."

Michael Bigelow, a friend of the Wightman family, who had served in Iraq with a Marine reserve unit based in Cincinnati from last August to March, said he sensed a change in the troops' attitudes. They shifted, he said, from believing they were helping the Iraqis to simply wanting to protect each other.

"Losing Brett makes me want to go back to Iraq," Mr. Bigelow said. "But to go back for the other soldiers. I feel like we're beating a dead horse over there."

The marines killed in the two incidents this week - the roadside bombing on Wednesday, and an ambush on Monday which killed six Marine snipers working on foot - were serving with the Third Battalion, 25th Marines, Fourth Marine Division, which was mobilized last January and arrived in Iraq in March to be attached to the Second Marine Expeditionary Force.

In the standard Marine formation, the battalion has a headquarters and service element, which is based in the Cleveland suburb of Brook Park, three rifle companies, including Lima, based in Columbus and a weapons company, which has heavier fire power like mortars and machine guns, which is based in Akron. The snipers came from the headquarters element, but one of the Monday casualties, Lance Cpl. Daniel N. Deyarmin, was reportedly attached to the weapons company.

Pentagon officials still have not released all the names, but marines here said that because of the practice of mixing in or attaching marines from other units, not all of the casualties would actually be from Ohio. Sometimes the troops are originally part of other commands, but added to a unit because special skills - like a sniper - are needed or sometimes simply to fill out a unit to its proper number.

Thus, while the six troops killed in Monday's ambush were operating in three-man sniper teams, one of the men, Lance Cpl. Roger D. Castleberry, 26, actually came from another reserve unit based in Texas.

Master Sgt. Stephen Walter of Lima Company said that 5 of the 14 killed in the improvised explosive device attack on Wednesday were not part of the original mobilization from the Marine armory here near Rickenbacker International Airport. That would include the crew of the amphibious vehicle, usually three marines.

Speaking at his ranch in Texas on Thursday, President Bush paid tribute to the marines from Brook Park.

"The people of Brook Park and the family members of those who lost their life I hope they can take comfort in the fact that millions of their fellow citizens pray for them, hope they also take comfort in the understanding that the sacrifice was made in a noble cause," Mr. Bush said.

For some parents, their sadness was tempered with pride in what their sons had become.

"My son was the last of the John Waynes, but tougher," said Timothy Bell, of West Chester, Ohio.

His son, Timothy Jr., 22, was a lance corporal who was one of the Lima company casualties. His stepmother, Vivien Bell, said that his parting words when he left for Iraq were, simply, "This is what I was born to do."

Rosemary Palmer, a teacher in the Cleveland schools, and her husband, Paul Schroeder, a business consultant, on the other hand, had long opposed the war and had tried to persuade their son, Edward Schroeder, 23, known as Augie, not to join the Marines.

But after Sept. 11, Ms. Palmer said in an interview Thursday at their modest green-shingled home where a bright red Marine Corps flag with its gold eagle, globe and anchor flew, "I knew Augie would step up."

He had always volunteered, as a Boy Scout, an emergency medical technician, a lifeguard, a player, it seemed, on almost all the school teams. He wanted to be a policeman, or, maybe, his mother said, a stand-up comic.

The couple were preparing to go to the funeral of one of the marines who had been killed on Monday when news came of the deaths at Haditha, a dusty town near the Syrian border. Like Mrs. Saville, she had a mother's intuition.

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"We knew," she told reporters later, of the moment when the two marines, in their pressed uniforms arrived at the door. "They didn't even get a chance to knock."

"Every time one of these kids gets killed, a little piece of us died," she said. "Even if it wasn't your kid, it was one of his buddies.

"It's not faceless marines fighting the war. Augie fought it. We want people to see Augie's picture and say 'Damn, that could have been my kid.' "

Clusters Of Casualties Strike Towns (USAT)

By Dave Moniz

USA Today, August 5, 2005

WASHINGTON — The Pentagon's reliance on National Guard and Reserve troops to fight the war in Iraq has brought clusters of combat deaths to U.S. towns for the first time in more than 50 years.

The deaths of 19 Marine reservists from an Ohio unit in the past week highlight the risks to part-time military units, which earlier this year hit a peak of about 40% of U.S. troop strength in Iraq.

Since the Civil War, when entire towns shared in the grief of combat losses, the active-duty military has shifted away from using locally based units. The heavy use of Guard and Reserve units in Iraq has undercut a tradition that kept most of these troops out of combat since World War II and Korea. The military also restricted the number of family members required to serve in combat following World War II after multiple siblings died in battle.

When a large number of casualties hits a community, it causes “a pocket of trauma,” says Jim Martin, a retired Army colonel who teaches military culture at Bryn Mawr College in Pennsylvania. “It's aunts, uncles, nephews, nieces, boyfriends and girlfriends. … It's not just 20 families, it's 200 families.”

In January, four Marine reservists from a combat engineer unit in Lynchburg, Va., were killed in an ambush near Baghdad. In May 2004, five men from a Navy Reserve unit in Jacksonville died in a mortar attack near Ramadi. Two days earlier, two other members of that unit were killed.

Such concentrations of casualties were once common, as during the Normandy invasion on June 6, 1944, when 19 men from a Bedford, Va., unit were killed.

Few Guard and Reserve troops were deployed during the Vietnam War. After that war, the Pentagon shifted large numbers of critical support jobs to the Guard and Reserves. That made it difficult to go to war without part-time units.

Guard and Reserve troops were mobilized broadly for the 1991 Persian Gulf War, which ended with relatively few casualties. One exception: a missile attack that killed 13 Pennsylvania reservists.

Deadly Attacks Put New Pressure On Bush (AJC/AP)

By Tom Raum, Associated Press Writer

The Atlanta Journal-Constitution, August 5, 2005

WASHINGTON — The deadly recent attacks on American troops in Iraq are increasing the pressure on President Bush to develop an exit strategy. The U.S. death toll from the war is now over 1,800, and a new AP-Ipsos poll shows the lowest approval yet for Bush's handling of Iraq, just 38 percent.

The president's fellow Republicans are growing nervous as they head into an election year.

Yet the administration must also confront the possibility that a U.S. drawdown of troops — tentatively planned to begin next spring — could further embolden the insurgents and throw Iraq into civil war.

"We will stay the course. We will complete the job in Iraq," Bush pledged anew during a news conference on his Texas ranch with Colombian President Alvaro Uribe.

Bush suggested his resolve was only strengthened by a videotaped warning earlier Thursday from al-Qaida's second-in-command, Ayman al-Zawahri, threatening more terror attacks in Britain and tens of thousands of U.S. military deaths if the United States doesn't withdraw.

There has been little outward sign of progress in U.S.-led efforts to defeat the insurgency and to beef up the Iraqi army and police so they can take over security responsibilities and allow an orderly withdrawal of American forces.

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Particularly lethal bombings over the past few weeks, including a roadside bomb that claimed the lives of 14 Marines on Wednesday, have made the situation look even bleaker than U.S. military experts suggest it is.

That translates into a continued erosion of public support for Bush's Iraq policy at home.

An AP-Ipsos poll taken Monday through Wednesday indicated that just 38 percent of Americans approve of Bush's handling of Iraq. A year ago, the public was evenly divided on Iraq, and Bush's stance on the war and terrorism helped him to election victory.

Bush has lost support most dramatically among younger women, especially those who live in the suburbs, and among men with a high school education or less.

Despite the horrific headlines, many military analysts say that attacks on U.S. troops have actually remained constant in recent weeks while attacks on Iraqi civilians have increased.

"As tragic as they are, they don't establish a pattern that says U.S. casualties are getting consistently worse," said Anthony H. Cordesman, an Iraq expert and former Pentagon intelligence official. He attributed recent deaths of Marines to the fact that "these are more aggressive military patrols going into hostile areas."

Even so, Bush faces a real dilemma, said Cordesman, now with the Center for Strategic and International Studies. "The president's legacy, if he fails in Iraq, historically is an absolute disaster. President Bush and the Bush administration can scarcely ignore that problem."

"If you pull out troops too quickly now, and you see the situation in Iraq collapse before the midterm elections, the impact is going to be far more serious than if you keep the troops in at reasonable levels," Cordesman said.

Regardless of whether attacks against U.S. troops are increasing overall or remaining constant, the deaths over the past few days of Marines in western Iraq — including multiple losses for the community of Brook Park, Ohio — underscore that things in Iraq are not going well.

Jeff Mers, commander of a VFW post that has raised money and sent care packages to the Columbus-based Marine company that suffered the heaviest losses, said that even before this week's attacks, he and other veterans were dazed from attending funerals.

"I think I've been to nine of these just in central Ohio in the past few months," he said.

Bush called the fallen Marines a "grim reminder" that America is still at war.

The war will be a major factor in the 2006 midterm congressional races and could be one in the 2008 presidential race, said Stephen Cimbala, a Pennsylvania State University political scientist who has studied the impact of wars on American politics.

"If you look at it from a Republican point of view, by the 2006 congressional elections, you're going to want to have a timetable in place for withdrawal of U.S. forces and their replacement by Iraqis. And by the fall of 2008, you will want to have most U.S. forces out of there," Cimbala said.

President: Tape Proves Iraq Part Of Terror War (DMN)

By David Jackson

The Dallas Morning News, August 5, 2005

CRAWFORD, Texas – While paying tribute to the Marines who have fallen in Iraq this week, President Bush said Thursday that the latest al-Qaeda tape makes clear that "Iraq is a part of this war on terror."

Al-Qaeda terrorists "will kill innocent people trying to get us to withdraw from the world so they can impose their dark vision on the world," Mr. Bush said after a meeting with Colombian President Alvaro Uribe.

Mr. Bush may face increasing political pressure over Iraq, given the spasm of violence that has killed at least 24 Americans in Iraq in recent days. That includes a roadside bomb near Syria that killed 14 Marines.

He singled out the Cleveland suburb where many of the killed Marines came from, saying the people of Brook Park, Ohio, have "suffered mightily over the last couple of days."

"I hope they can take comfort in the fact that millions of their fellow citizens pray for them," he said.

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Mr. Bush added, "I hope they also take comfort in the understanding that the sacrifice was made in a noble cause," a phrase he used for the second time in two days.

In a new videotape broadcast Thursday, Ayman al-Zawahiri, top aide to al-Qaeda leader Osama bin Laden, promised tens of thousands American deaths if the U.S. did not withdraw from Iraq and other Muslim countries.

He also threatened more attacks in London, saying British Prime Minister Tony Blair would be to blame for his support of the Iraq effort.

Mr. Bush, noting al-Qaeda's role in the terrorist attacks of 9-11, said, "I vowed then that we would stay on the offense against these people."

That includes Iraq, where Mr. Bush said a growing democracy would spread to other parts of the Middle East, bringing freedom and reducing the appeal of terrorism.

"We're laying the foundation of peace for generations to come," he said.

Critics of the Iraq war said there is no evidence Saddam Hussein's government was involved in 9-11 or had a working partnership with al-Qaeda.

Some anti-war activists plan a demonstration for Saturday near the presidential ranch in Crawford.

"We want our loved ones' sacrifices to be honored by bringing our nation's sons and daughters home from the travesty that is Iraq IMMEDIATELY," said a statement from one of the protest organizers, Gold Star Families for Peace.

Terror War Strategies (WT)

By Dianne Feinstein

The Washington Times, August 5, 2005

We have watched terrorism grow with increasing malevolence over the past decade. Today, no country is secure. No individual is beyond its bounds.

A virulent, radical ideology has spread throughout the globe that says terror is acceptable, that targeting innocents is not just allowed but a "duty" of its followers.

Let me quote from Osama bin Laden's 1998 fatwa against the United States and the West:

"The ruling to kill the Americans and their allies -- civilians and military -- is an individual duty for every Muslim who can do it in any country in which it is possible to do it, in order to liberate the al-Aqsa Mosque and the holy mosque from their grip, and in order for their armies to move out of all the lands of Islam, defeated and unable to threaten any Muslim."

This is what we face and fight against. The threat has not diminished in the nearly four years since September 11, 2001.

I believe it is even more important the United States and our allies redouble our efforts in the war against terrorism. This means continuing to seek out and kill or capture key members of al Qaeda. This means remaining vigilant in our efforts to prevent and interdict terrorist operations. And it means improving our gathering and sharing of intelligence.

I also believe the United States must develop strong relationships with moderate Muslims at the highest levels. President Bush and Secretary of State Condoleezza Rice should invest the time and energy to develop close ties with those in the Muslim world who are a force for peace and reconciliation, not of fanaticism and violence.

This could take many forms:

• Developing a Muslim council with which the president confers monthly.

• High-level meetings with leading moderate Muslim figures during administration travel to the Middle East.

• Financial investment in Muslim programs and schools that encourage tolerance and diversity.

• Revamping Radio Sawa to include more sophisticated news programming on issues that appeal to young people.

• Sponsoring forums and trips to the U.S. for elected centrist Muslim individuals to spend time with U.S. legislators.

• Relying on intelligence community operatives to undercut the message and political activities of radical clerics who preach hatred of the West.

But the United States and our allies cannot win this battle alone. A key part of the solution lies within the Islamic community as well. Muslim religious leaders must join the battle against terror. They have to fight this virulent ideology.

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Too often terrorists are nurtured and protected. This begins in religious schools (madrassas), where this violent ideology is frequently taught. It continues when terrorists find shelter and camaraderie in mosques, bookstores and meeting places.

What else can explain that Osama bin Laden, Ayman al Zawahiri, Mullah Omar, Abu Musab Zarqawi, Hamza Rabi'a, and dozens of other terrorist leaders are still at large?

To be sure, there are a few who are speaking out:

• In the wake of the London bombings, for instance, the Grand Mufti of Saudi Arabia, Sheik Abdul Aziz Al-Asheikh, said operations "targeting peaceful people are not condoned by Islam and are indeed prohibited by our religion."

• The Muslim Council of Britain, said it "utterly condemns the perpetrators of what appears to be a series of coordinated attacks."

• The Fiqh Council of North America issued a fatwa this week in Washington denouncing those who commit terror in the name of Islam.

• Prince Turki al-Faisal, Saudi Arabia's incoming ambassador to the United States, has said, "Muslim scholars must come out loudly and strongly against suicidal bombing regardless of where, when and why they have happened."

• And a group of 170 Muslim religious leaders has agreed decrees by bin Laden and other Islamacists are not legitimate, because they are not trained within the traditional eight schools of Islamic jurisprudence.

But as Prince al-Faisal has said, these messages have not "resonated enough in the world media." What's clear to me is there needs to be a clarion call from those clerics who are in fact trained in Islamic jurisprudence to denounce terror and issue religious decrees (fatwas) against the targeting of innocents -- over and over again.

This needs to go out on radio, on TV, in newspapers, on the street and in the mosques.

The United States cannot relent in the war against terror, and I don't suggest we do so. But I strongly believe the carnage ultimately can be stopped from within the Islamic world.

Without strong, intense and constant denunciation within the Muslim community, I am afraid this terror will only metastasize and spread.

So I hope our government, our allies and all governments who deplore terror would urge the leaders of the Muslim faith to step forward and ostracize those who kill and maim innocents in the name of Islam.

Dianne Feinstein is a Democratic member of the United States Senate from California.

America Has Two Choices In Iraq: Exit Or Success (FT)

By Anthony Cordesman

Financial Times, August 5, 2005

No one can question the fact that the months since the Iraqi election have been grim. Whatever US politicians may say, US intelligence experts see no decline in the insurgency in Iraq. Insurgent tactics have changed to focus increasingly on Iraqi officials and -military, security and police personnel. Bloody suicide bombings of Shias, Kurds and Sunnis supporting the government have been combined with more ambushes, kidnappings and assassinations of Americans, Britons, Iraqis and any other target that could help push the country towards civil war, paralyse the political process and drive foreigners out. There are bad days and good ones, and a single improvised bomb can kill 14 US troops, as we saw this week.

The political process remains highly uncertain. No one knows whether a constitution will be drafted on time and, if so, whether it will resolve any critical issues, and whether enough provinces will vote to support it. The prospect of yet another government and election is equally uncertain. Tensions between Arab Sunni and Shia are growing, alongside Kurdish demands for federalism and control of oil revenue. The role of religion in the state is a significant issue. Basra risks becoming a Shia fundamentalist enclave, and tensions in Baghdad, Mosul and Kirkuk are high.

Economic success seems equally distant. Regardless of US-led efforts to put a spin on current developments, far too much of the aid process is a failure. Once wartime profiteering is subtracted, most areas of the economy are in decline and unemployment is at the crisis level – particularly in the Sunni areas that are the source of most insurgency. Electricity, water and other services are barely creeping back to prewar levels, and crime is a big economic and personal problem – one with more impact on the lives of many -Iraqis than the insurgency.

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Yet, the odds are still far too close to call in Iraq. The insurgents have no sanctuaries and do not seem to be increasing in number. They win no battles. The number of trained Iraqi forces has expanded from about 96,000 in 2004 to more than 173,000, and is rapidly growing towards a target of 270,000. The number of Iraqi combat battalions available has gone from just one in July 2004 to more than 100 today. More than 40 per cent of these battalions can play a useful role in security efforts and a handful can stand alone in demanding missions. If Coalition and Iraqi government plans succeed, they will reach serious numbers of deployable battalions by year-end and by 2006, will be a major force of military, security and police units.

Despite Iraq's considerable problems, the country's new leaders have sought to be inclusive and have resisted ethnic and religious purges and confrontations. The political process has moved forward. Despite economic problems, Iraqis largely remain optimistic about their future. The situation is fragile but certainly not hopeless.

This is the context in which all the conflicting media reports about looming US withdrawals should be kept. No one can guarantee that a "success strategy" will work, but the Bush administration and senior commanders in Iraq still see continuing commitment as a better option than any form of "exit strategy". Anyone who talks seriously to the policymakers and military planners involved knows they are not trying to rush US forces out before the political process stabilises and before Iraqi forces can take over a large part of the mission.

Even then, US planners are talking only of phased reductions. The Bush administration would like to reduce US forces from about 130,000 to well below 100,000 no later than the summer of 2006, and by early 2006 if possible. It would like to reduce the profile of Coalition forces in dealing with Iraqis by the end of 2006, if possible. "Possible", however, means reacting to the pace of Iraqi success – not some fixed time-table for reductions. It also means leaving strong elements of US forces as long as they are needed, and sustaining US military and economic aid for five to 10 years. Furthermore, senior administration officials know too well how the Bush legacy from the kind of exit that meant defeat would be viewed, and how a move towards such failure would affect the mid-term election in November 2006. In short, the Bush administration is still pursuing a success strategy rather than an exit strategy. It could fail, as could the effort to create a modern and more democratic Iraq. But it also could succeed.

The writer, chair of strategy at the Center for Strategic Studies in Washington, is author of Iraqi Force Development, (CSIS/Praeger) to be published in November

Was Hiroshima Hell Or High-water Mark? (USAT)

By Al Neuharth

USA Today, August 5, 2005

Sixty years ago this weekend, Aug. 6, 1945, a single atomic bomb was dropped from a U.S. B-29 on Hiroshima, Japan. Eight days later, World War II ended.

The anniversary has sparked renewed debate over whether President Harry Truman did the right thing in unleashing the big bomb or whether we should have fought the war to its end the conventional way. Facts:

•The A-bomb on Hiroshima and another dropped on Nagasaki three days later killed 210,000 Japanese.

•Before those bombs, 1.1 million Japanese and more than 102,000 U.S. military died in the Pacific war.

•Hundreds of thousands or perhaps millions more Japanese military and civilians and U.S. military would have died if a land invasion of Japan had taken place.

The A-bomb led to much deadlier nuclear weapons. Both the United States and the U.S.S.R. (basically Russia) developed tens of thousands of them during the Cold War. Now, six other countries — China, France, Great Britain, India, Israel and Pakistan — each have dozens or hundreds of nuclear warheads. North Korea claims it has a few too. But the certainty of retaliation and mass destruction has kept nuclear weapons possessors from using them.

The A-bomb indeed was hell for Japanese who lived in or near Hiroshima and Nagasaki. But it also was the high-water mark of WWII because it ended the hell for all others fighting that conflict.

Truman will be remembered as the president who brought us both victory and peace in a war that was justified and necessary. By contrast, self-proclaimed "War President" George Bush has brought us neither victory nor peace in the Iraq war, which former president Jimmy Carter this week called "unnecessary and unjust."

GWOT That? (WSJ)

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The Wall Street Journal, August 5, 2005

Words matter. Which is why we are glad to see that in a speech in Grapevine, Texas, on Wednesday, President Bush employed the phrase "war on terror" five times and the word "war" 15 times, 13 in reference to the global war on terror and two citing World War II.

The news here is that Mr. Bush's choice of words is being widely interpreted as a rebuke of National Security Adviser Stephen Hadley, Defense Secretary Donald Rumsfeld and Joint Chiefs Chairman General Richard Myers, who lately have been favoring the formulation "global struggle against violent extremism" over "global war on terror." Or, in Beltwayese, G-SAVE vs. GWOT.

The G-SAVE crowd is not wrong. Defeating Islamic terrorism will require diplomatic, economic and political means as well as military ones -- as the President himself has said repeatedly. But to quote from another speech Mr. Bush gave last year in Fort Myers, Florida, after Richard Holbrooke, John Kerry's foreign policy adviser, called the war on terror a "metaphor": "Anyone who thinks we are fighting a metaphor does not understand the enemy we face. You cannot win a war if you are not convinced we're even in one." Calling it anything less than "war" also runs the risk of minimizing the sacrifices of America's service men and women.

To those who are not persuaded that the U.S. is at war, may we suggest a ride on the London Underground, a night at a Bali hotel, or a visit to Ground Zero in downtown Manhattan? These are the many faces of the global war on terror.

Maryland Man Tied To Terrorism Plot (NYT)

By Julia Preston

The New York Times, August 5, 2005

A Maryland man was arrested yesterday and accused of conspiring to aid terrorism by training to become a jihadist fighter in camps in Pakistan, federal authorities said.

The man, Mahmud Faruq Brent, was accused of traveling to Pakistan in the months after the Sept. 11, 2001, attacks to receive training in camps operated by Lashkar-e-Taiba, a group loosely affiliated with Al Qaeda whose primary goal is to fight against Indian forces in the disputed province of Kashmir.

The Pakistani group was declared a foreign terrorist organization by the United States in December 2001.

Mr. Brent, who the authorities said also went by the name of Mahmud al Mutazzim, was an associate of Tarik Shah, a New York jazz musician who was arrested on May 28 on terrorism charges in a federal sting operation.

According to a criminal complaint against Mr. Brent that was unsealed yesterday, Mr. Brent, in telephone calls and in at least one meeting, described his stay in the camps to Mr. Shah.

Mr. Brent told Mr. Shah that he had been in the mountains in Pakistan training with "the mujahadeen, the fighters," the complaint says.

Although Mr. Brent has a home in Baltimore, he was arrested in Newark. His home was searched early yesterday afternoon by agents from the Baltimore Joint Terrorism Task Force. He made his first court appearance late yesterday before a magistrate judge in Federal District Court in Manhattan.

The complaint says that Mr. Shah, who was also a martial arts expert, trained Mr. Brent in martial arts when the two men lived in Beacon, N.Y., in 2001 before the Sept. 11 attacks. In recent months, the two men had discussed plans to make a martial arts training video for Muslims in the United States interested in becoming militants, the complaint says.

There are no allegations that Mr. Brent or Mr. Shah were actively planning any violent terrorist action.

The arrest of Mr. Brent is the latest episode in the investigation of Mr. Shah, 42, and an associate, Rafiq Sabir, 50, a medical doctor from Boca Raton, Fla., who was arrested on the same day as Mr. Shah.

He and Dr. Sabir were accused of swearing an oath of allegiance to Al Qaeda. Mr. Shah was charged with offering to provide martial arts training to jihad fighters, while Dr. Sabir was accused of offering medical assistance.

Both men have pleaded not guilty to the charges, which resulted from an undercover operation in which an F.B.I. agent posed as a recruiter for Al Qaeda.

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Federal agents linked Mr. Brent to Mr. Shah through a telephone number for Mr. Brent in an address book belonging to Mr. Shah that the New York police found during a search after Mr. Shah's arrest in December 2003 on larceny charges.

The complaint against Mr. Brent shows that Mr. Shah, although he has vehemently denied the charges against him, cooperated briefly with the authorities. On the day he was arrested, Mr. Shah called Mr. Brent on instructions from F.B.I. agents and arranged to meet him that day at a hotel near Columbia, Md., the complaint says. Federal agents made a video recording of the meeting.

During their meeting, the complaint says, Mr. Brent described to Mr. Shah how difficult it had been to reach the camps and said that all his connections to Pakistan were "kinda gone."

But he said that his visit to the camps had been "one of the better decisions of my life" and that he hoped that "Allah would bless him" for his efforts. Passport records show that Mr. Brent was in Pakistan from February to June 2002.

The complaint says that Mr. Shah has no cooperation agreement with the government at this time.

Md. Man Charged With Supporting Terrorist Group (BSUN)

By Matthew Dolan, Sun Staff

The Baltimore Sun, August 5, 2005

A Baltimore County man was charged with providing support to a terrorist organization, federal prosecutors in New York announced today.

Mahmud Faruq Brent, also known as Mahmud Al Mutazzim, has been charged in a criminal complaint with one count of conspiracy to provide material support or resources to the Lashkar-e-Taiba foreign terrorist organization.

Brent was scheduled to appear in U.S. District Court in New York City this afternoon. The FBI searched his home in Gwynn Oak earlier today.

The complaint alleges that Brent, of Gwynn Oak, conspired to provide material support or resources to Lashkar-e-Taiba from 2001 until May of this year by attending a terrorist training camp in Pakistan.

Lashkar was designated as a Foreign Terrorist Organization by the U.S. government in December 2001.

The complaint also alleges that Brent received martial arts training from Tarik Shah, who is presently under indictment in the Southern District of New York on similar charges.

Federal prosecutors accuse Shah of being in possession of an address book containing telephone numbers for "Mahmud Almutazzim" and "Sayfullah." Telephone records reveal that one of the numbers listed for "Almutazzim" was one listed to Brent's wife at his home in Gwynn Oak.

The number for "Sayfullah" was linked to an address used by Seifullah Chapman, prosecutors said. Chapman has already been convicted in the Eastern District of Virginia on terrorism and firearms charges as part of the Virginia Jihad Network prosecutions.

In a recorded conversation with an undercover FBI agent, Shah allegedly mentioned the names of several students with whom he had studied martial arts and who had gone overseas to training camps in Afghanistan and Yemen. Among the students was "Mahmud Al Mutazzim," according to court papers.

It is alleged, among other things, that Shah reported that Al Mutazzim had told him how "difficult" it was to be back in the United States and not to be in training. Shah allegedly said that Al Mutazzim could be trusted because he was a longtime student of his who, after leaving school, started "seeking the way to become Mujahideen."

According to the criminal complaint, Shah also allegedly told the undercover agent that he intended to call Al Mutazzim to enlist his help to prepare a demonstration video to be used for martial arts training of jihadists.

Phone records reveal a subsequent 16-minute telephone call between phones used by Shah and Al Mutazzim, court papers say.

Shah admitted after his arrest in May that he had trained Al Mutazzim in martial arts when they both lived in Beacon, N.Y., in 2001. Together, court papers say, they often watched martial arts training videos and other videos about jihad in Bosnia.

During this period, Al Mutazzim allegedly introduced Shah to Seifullah Chapman in the Washington area.

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Prosecutors said that later, when Al Mutazzim returned to the United States in or about 2002, he mentioned to Shah that he had gone to a "camp."

The complaint says that after his arrest, Shah agreed to meet with Brent at a hotel near Columbia and secretly record the conversation for the FBI. According to the federal complaint, Shah said he wanted to travel, and Brent replied that his "connections were kinda gone." He said his only connection was "doing time now."

In that recording, according to prosecutors, Brent said that he didn't know names but that the camps he had attended were "really organized."

Md. Man Accused Of Plot To Aid Terrorists (WP)

By Eric Rich

The Washington Post, August 5, 2005

Federal authorities yesterday charged a Baltimore County resident with conspiring to support a terrorist organization, alleging that he said during a conversation secretly recorded by the FBI that he had attended a terrorist training camp in Pakistan.

Mahmud Faruq Brent, a U.S. citizen who once worked as a paramedic in Silver Spring, is accused of supporting Lashkar-e-Taiba, a militant Islamic group that the U.S. government has designated a terrorist organization. Brent was arrested in Newark yesterday morning and appeared later in federal court in Manhattan.

A criminal complaint filed there says the FBI listened in during a conversation between Brent, who also uses the name Mahmud Al Mutazzim, and Tarik Shah of New York, a jazz musician and self-described martial arts expert. Shah was arrested in May and has pleaded not guilty to charges that he provided material support to al Qaeda.

The complaint against Brent alleges that Shah told authorities after his arrest that he had trained Brent in martial arts and that Brent was committed to jihad. The complaint says Shah agreed to arrange a meeting with Brent at a hotel near Columbia. The FBI monitored that meeting using video and audio surveillance, the complaint says.

According to the complaint, Brent said during the meeting that he had traveled to Pakistan and trained with mujaheddin. Brent called the decision to go to the camps "one of the better decisions in my life" and urged Shah to seek similar training, the complaint says.

Brent spoke of the difficulties he encountered in reaching the camps and said Shah's decision would come down to a question of "how much" he was willing to "sacrifice" and whether he was willing to "take a risk," the complaint says. Brent said that he was moved by videotapes of Muslims "suffering" and that the tapes "kind of like pushed me over the, over the edge," it says.

An attorney for Brent did not return phone calls late yesterday seeking comment. Attempts to reach his family members at phone numbers listed in the complaint and elsewhere were unsuccessful.

The complaint also links Brent to Seifullah Chapman, a member of the "Virginia jihad network" who has been sentenced to 65 years in prison for conspiring to support Lashkar-e-Taiba and other offenses. Chapman was charged with taking part in paramilitary training, including playing paintball in the Virginia countryside, to prepare for holy war abroad. The complaint says Chapman wrote a letter in support of an application for an expedited passport that Brent filed in 2000.

The complaint says that Lashkar-e-Taiba translates roughly as "Army of the Pure" and that the group claims to have trained thousands of militants to fight in Afghanistan, Kashmir, Chechnya, Kosovo and elsewhere. The United States designated it a foreign terrorist organization in 2001 after the Indian government blamed it for an attack on parliament that killed 12.

Md. Man Accused In Terrorist Support Plan (PHI)

By Larry Neumeister

The Philadelphia Inquirer, August 5, 2005

NEW YORK - A Maryland man was charged with conspiring to help a terrorist organization after describing the time he spent at a terrorist training camp in Pakistan as "one of the better decisions in my life," prosecutors said Thursday.

Mahmud Faruq Brent, of Gwynn Oak, Md., allegedly boasted that he had agreed to provide whatever assistance was necessary.

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Authorities began investigating Brent after they found an address book with telephone numbers for him when they arrested Tarik Shah, 42, of New York. Shah pleaded not guilty to terrorism charges earlier this summer.

Brent was charged in a criminal complaint filed in federal court in Manhattan with conspiracy to provide material support to the Lashkar-e-Taiba organization, which the U.S. designated a terrorist organization in 2001.

Brent was charged after Shah agreed to meet with him and let the FBI record the encounter, according to a news release by federal prosecutors, the FBI and New York police.

During the taped conversation at a hotel in Columbia, Md., Brent indicated he had traveled to Pakistan and into the mountains for training "and stuff" with "the mujahideen, the fighters," the release said.

Brent was being held in Manhattan and was scheduled to appear in court later Thursday. A telephone call to his lawyer was not immediately returned.

Man Charged With Conspiring To Support Terror Group (NYNSDY)

By Anthony M. Destefano, Staff Writer

New York Newsday, August 5, 2005

In an offshoot of an earlier case involving a Bronx musician, federal investigators in Manhattan Thursday announced the arrest of a Maryland man on charges he provided material support to a terrorist group in Pakistan.

In a criminal complaint unsealed in federal district court in Manhattan, Mahmud Faruq Brent of Gwynn Oak, Md., was charged with conspiring to provide material support or resources to the group Lashkar-e-Taiba for more than four years.

The group, also known by the initials LET, was designated by the United States as a terrorist group in late 2001.

Officials also said that they were led to Brent by Tarik Shah, a musician and martial arts trainer who was arrested in May on similar charges of aiding al-Qaida. After Shah was arrested on May 28, he provided more details about Brent, who was also known by the moniker "Mahmud Al Mutazzim," according to a statement released by federal prosecutors in Manhattan.

Shah admitted after his arrest that he had trained Brent in martial arts in 2001 in Beacon, N.Y., officials said. After his arrest, Shah then agreed to tape record a conversation he had with Brent in a hotel room near Columbia, Md., said officials. During the conversation, Brent indicated that he had gone to a training camp to train with mujahedeen and had pledged to provide whatever "assistance" he could in the hopes of being blessed by God, investigators said.

Brent was recorded saying that he had watched videotapes of Muslim brothers "suffering" and the experience "kind of like pushed me over the, over the edge ... about going there," according to the 13-page complaint filed Thursday.

When Brent indicated he had traveled to Pakistan he said that he didn't stay in the cities but had gone to mountains to train with "the mujahideen, the fighters," the complaint stated.

The complaint stated the travel records indicated that Brent had traveled to Pakistan in February 2002 and stayed about four months. He then traveled from the United Arab Emirates back to the United States in November 2002, according to the complaint.

Officials didn't have a date of birth for Brent. The complaint stated that a records check showed that Brent had been working as a paramedic at the Medical Services Company in Silver Spring, Md., from December 2003 to about November 2004.

An arraignment for Brent was scheduled for late Thursday before federal magistrate-judge Frank Maas in Manhattan.

NY Accuses Maryland Man Of Supporting Terror Group (REU)

Reuters, August 4, 2005

NEW YORK (Reuters) - The FBI and New York police on Thursday announced the arrest of a Maryland man accused of conspiring to provide material support to the militant Lashkar-e-Taiba group.

Mahmud Faruq Brent, of Gwynn Oak, Maryland, attended a terrorist training camp in Pakistan run by Lashkar, according to the federal complaint.

Lashkar-e-Taiba, a Pakistan-based Kashmiri separatist group, was designated by the United States as a foreign terrorist organization in December 2001.

An address book and telephone records tied Brent, also known as Mahmud Al Mutazzim, to New York martial arts expert Tarik Shah, who is facing similar federal charges in New York.

After Shah's arrest on May 28, he admitted he had trained Al Mutazzim in martial arts and had talked with him about their experiences in overseas training camps.

The day of his arrest, Shah, who pleaded not guilty to charges at his arraignment in New York federal court in June, met with Brent in Maryland and allowed the FBI to record their talk and ruminations about the training camps.

Court papers also said telephone records showed a connection between Brent and Seifullah Chapman, who has been convicted in the Virginia of multiple terrorism and firearms charges as part of the Virginia Jihad Network prosecutions.

Shah was arrested in May along with a Florida doctor, accused of conspiring to aid al Qaeda members. Prosecutors said the men were taped pledging support to Osama bin Laden.

Joining in the investigation that led to Brent's arrest were members of the New Jersey and Maryland Joint Terrorism Task Forces.

Britain Goes On High Alert, Spurred By Hint Of Attack (NYT)

By Don Van Natta Jr.

The New York Times, August 5, 2005

LONDON, Aug. 4 - Exactly four weeks after a team of bombers attacked London with a deadly strike, the British police on Thursday mounted their largest security campaign here since World War II as intelligence officials said they had picked up information that another team might be planning a synchronized bombing in London or elsewhere in Britain.

The most recent information came from a cellular phone text message intercepted recently and the interrogation of a suspected terrorist being held outside Britain, said senior counterterrorism and intelligence officials based in Britain, Europe and the United States. The actual text of the message was not made available. The officials said the information was not specific about the timing of such an attack, or whether the team was already in place.

A senior American police official said he was told by his counterpart in Scotland Yard that the latest intelligence information was "specific enough to worry them that something is coming."

A senior intelligence official based in Europe, who spoke on condition of anonymity, said, "The British have told us - they feel sure there will be a third wave of attacks."

Scotland Yard officials declined to comment about the latest intelligence or about the intensifying speculation in the British press. Earlier this week The Sunday Times reported that "a third Islamist terror cell is planning multiple suicide bomb attacks against tube trains and other 'soft' targets in central London."

A Metropolitan Police spokesman, who spoke on condition of anonymity, would only say, "We have to assume there are more people of the same mind-set who want to attack London."

On Thursday, British officials said they were surprised that new details about explosives used in the two attacks in London had been disclosed in New York City during a briefing that police officials gave to local security directors. The officials said they were not consulted by the New York police before the briefing on Wednesday.

Paul J. Browne, the New York City Police Department's chief spokesman, said he was in error when he told reporters that department officials had cleared the material in the briefing with their British counterparts. The error, he said, resulted in a misunderstanding he had with another New York police official. But Mr. Browne said the department was comfortable with the briefing and noted that the information provided to the security directors came from open sources and was not classified.

Also on Thursday, a videotape was broadcast showing Ayman al-Zawahiri, Al Qaeda's deputy to Osama bin Laden, declaring that there would be more bloodshed in London. Mr. Zawahiri said any additional terror attacks would be the fault of the British prime minister, Tony Blair. "Blair has brought to you destruction in central London, and he will bring more of that, God willing," Mr. Zawahiri said in the tape, which was broadcast on the satellite channel Al Jazeera. The tape's authenticity could not be immediately verified.

He also threatened more attacks against the United States unless it withdrew its troops from Muslim countries. "Our message to you is clear, strong and final - there will be no salvation until you withdraw from our land, stop stealing our oil and resources and end support for infidel rulers," Mr. Zawahiri said.

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President Bush said the videotaped comments by Mr. Zawahiri "make it clear that Iraq is a part of this war on terror, and we're at war." Mr. Bush, speaking during a joint appearance at his ranch with the president of Colombia, Álvaro Uribe, said that Mr. Zawahiri and people like him "have a ideology that is dark, dim, backwards."

"They're terrorists and they're killers," he said. "And they will kill innocent people trying to get us to withdraw from the world so they can impose their dark vision on the world."

So far, there has been no link established between Al Qaeda and either attack in London.

Two other American officials played down the significance of the cellphone text, saying that British investigators are so concerned about another attack that some pieces of information take on added significance. A high-ranking American law enforcement official said he was aware of the reports of a cellphone text and a human source confirming the worry about another attack, but he added, "I think the immediacy of it has been toned down."

Both the police and the public are clearly jittery about the possibility of an attack. Some commuters acknowledged on Thursday that they had changed their habits as a result.

"I'm really scared about getting on the tube," said Philippa Embley, 25, a personal assistant who travels during off-peak hours from her home in Surrey to work in north London. "Still, because it's not rush hour, I feel it's a bit safer."

On Thursday, a glorious summer day in the capital, an estimated 6,000 police officers from the Metropolitan Police and British Transport Police patrolled the London Underground and the city's red double-decker buses. The extraordinary show of force came exactly four weeks after a team of four terrorists used bombs to kill 52 people and themselves on three subway trains and a city bus. Exactly two weeks ago, another four-man bombing team tried a copycat attack but their homemade bombs failed to explode. They fled, but all four suspects, British citizens of East African descent, were captured last week in one of Britain's largest international manhunts.

Passenger traffic on London's subways is down 15 percent, or 450,000 passengers a day, and down as much as 30 percent on weekends, according to government figures. Bus passenger numbers have remained steady at about six million per day.

Officials for Transport for London, the city's public transport authority, said the downturn in passengers correlated with the lines and stations closed because of the July 7 attacks. "Now that the network is largely back in action, we're expecting things to climb back to normal," said Richard Dodd, a spokesman for Transport for London.

Also on Thursday, the first person charged in connection with the botched bombing attacks was ordered by a British court to remain in custody. Ismael Abdurahman, 23, from southeast London, appeared at a 10-minute hearing in Bow Street Magistrate's Court before being led to jail. Mr. Abdurahman is charged with withholding information and helping a suspected bomber, Hussain Osman, also known as Hamdi Issac, with avoiding capture in the first several days after July 21. Mr. Osman had fled to Italy after the July 21 attacks. He is being held in Rome awaiting extradition to Britain, where he is expected to face terrorism charges.

The police also charged two women under antiterrorism laws with failing to give the police information after the July 21 attacks, Reuters reported. The police said the women, Yeshshiembet Girma, 28, and Muluemebet Girma, 21, of London, would appear in court on Friday. They were arrested on July 27 in a raid in the Stockwell area of south London.

Londoners Use Public Transport Warily (LAT)

By Jeffrey Fleishman

The Los Angeles Times, August 5, 2005

LONDON — It was a quiet, jittery morning, one that had become all too common.

Six thousand police officers blanketed the city Thursday, four weeks after blasts shattered subway cars and a bus, two weeks since a second attempt to bomb the Underground. Commuters streamed past bomb-sniffing dogs. They hurried beneath sniper scopes, studied the faces of people around them. They wriggled in their seats and some swallowed hard when trains clattered away from platforms and roared through tunnels toward the next stop.

It was a morning to cope, a morning of new threats. Many Londoners feared militants would strike again on the four-week anniversary of the July 7 attack. The rush hour was uneventful, but then came another jolt. In a videotape broadcast Thursday,

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Ayman Zawahiri, Osama bin Laden's lieutenant, told Britain that Prime Minister Tony Blair's support of U.S. policies in the Middle East had "brought you destruction to the heart of London, and he will bring you more destruction, God willing."

The ride out of London was more nerve-wracking than the journey in.

The city's Piccadilly subway line reopened stops that had been closed by bomb damage. But many commuters chose alternate routes, bypassing the yellow florescent jackets and the black guns of police. Since July 7, when four bombs killed 56 people and left grainy photos of militants lingering on TV, subway riders have dropped by 30 percent on weekends and as much as 15 percent on weekdays, according to the city's transportation service.

"I was on the tube, and a white guy next to me was staring at a dark-skinned guy," said Anetta Bentley, a shop worker in Notting Hill. "The dark-skinned guy look at him and said, `Why you looking at me? Why you looking at me? You want to check my rucksack.' But everyone was looking at him and his rucksack. We couldn't help it. It's strange and not easy getting back to normal."

Above the Covent Garden subway stop, Ismael Abdurahman, 23, appeared in Bow Street Magistrate's Court wearing a navy blue jacket and matching pants. He blew a kiss to two women sitting in the gallery and became the first suspect indicted in connection with the July 23 failed bombings of the same subway system. He is charged with withholding information that allowed alleged bomber Hamdi Issac to escape to Italy.

"The defendant will be contesting the charge as he has no involvement in any terrorist activity whatsoever," said Abdurahman's lawyer, Anne Faul. Judge Timothy Workman denied bail and Abdurahman, facing a maximum penalty of five years in prison, waved again to the two women, one of them weeping, before he was led away. Two other suspects were charged later in the day with the same offense of withholding information on the alleged attackers, according to the BBC.

The subways rattled on. Double-decker buses meandered through traffic, past Hyde Park and Kensington Gardens, skirting the fringes of Buckingham Palace. Cell phones rang, tourists unfolded maps and the largest police presence in decades gripped the city. Farther north, beyond Ladbroke Grove and Queens Way, Richard Moss, an electrical engineering student, walked with a backpack on an overpass above rusty train tracks. He knew that July 7 and July 21 were both Thursdays, and wondered what would happen this Thursday.

"Some Londoners are apprehensive. Others are moving forward and getting on with their lives," he said. "But we're doing these things individually. We've somehow lost a sense of community. Instead of cultures coming together and fusing, we're doing it all apart and we've got to stop that.

"I'm not scared to take the subways or buses, but my girlfriend is. She has that sense of not being sure. You used to know what terrorists looked like, but now they look like everybody. My uncle lives about 10 minutes that way (he pointed west) and two of the guys they arrested in the bombings lived right next door to him and he didn't even know."

A man was talking on a TV in a nearby cafe. He wore a black turban and a white tunic. A rifle leaned next to him.

In a five-minute long tape delivered to Al-Jazeera Thursday, Zawahiri talked about destruction and threatened Britain and the United States. "If you go on with the same policy of aggression against Muslims," he warned, "You will see horror that will make you forget what you had seen in Vietnam."

"There is no exit from Iraq except in immediate withdrawal," said Zawahiri. "Any delay in taking that decision means nothing but more dead, more losses."

Blair's office declined to comment, but in a news conference at his Crawford, Texas ranch, President Bush responded: "They're terrorists and they're killers. And they will kill innocent people trying to get us to withdraw from the world so they can impose their dark vision on the world. We will stay the course; we will complete the job in Iraq."

Two Women Charged In London Bomb Probe (AJC/AP)

By Jill Lawless, Associated Press Writer

The Atlanta Journal-Constitution, August 5, 2005

LONDON — British police investigating the botched London subway attack of July 21 said Thursday they had charged two sisters for failing to disclose information under anti-terror laws. The city's nerves were further rattled by a message from al-Qaida warning of more bloodshed, but people made efforts to carry on.

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In a show of force, officers armed with submachine guns patrolled uncrowded subway stations and police helicopters hovered over city streets as one of the busiest Underground lines reopened Thursday — four weeks to the day after suicide bombers killed 52 people.

Undercover officers mixed with a lighter-than-usual load of subway commuters — many Londoners no doubt mindful that terrorists had attempted similar attacks exactly two weeks after the deadly July 7 transit bombings.

"People didn't seem frightened or apprehensive, they were just reading their newspapers and getting on with things, just as the English do," said commuter Pat Wish.

It is clear, however, that the attacks have changed the city.

London's transport authority said subway ridership — normally 3 million passengers daily — had fallen between 5 percent and 15 percent on weekdays and 30 percent on weekends. Hotels have reported cancelations and large downtown stores say sales are down.

There are signs of fraying in London's famously diverse social fabric, too. London police have recorded a 600 percent increase in crimes motivated by religious hatred since the suicide bombings.

"I'm a little bit anxious, I suppose," said Robert Allen, 20, as he waited to board a subway at King's Cross station. "I can't help feeling wary of people who get on the train, and watching what they're doing."

Officials stressed there was no specific intelligence pointing to a third attack, but mounted an operation involving 6,000 officers aimed at reassuring the public. Both the July 7 bombings and the July 21 failed attacks occurred on Thursdays.

Officers armed with automatic rifles and pistols patrolled stations and streets. Police helicopters hovered above, and traffic was heavier than normal.

"This is a major threat and we are doing everything we can, both covert and undercover policing, to try to stop another attack," said Deputy Chief Constable Andy Trotter of the Transport Police.

In a message broadcast Thursday, al-Qaida No. 2 Ayman al-Zawahri linked the attacks to Prime Minister Tony Blair's decision to send troops to Iraq. "Blair has brought to you destruction in central London, and he will bring more of that, God willing," al-Zawahri said.

He did not directly claim responsibility for the attacks in London.

Blair's Downing Street office declined to comment, but Blair has strongly rejected any links between the attacks and Britain's presence in Iraq.

Many Britons feel differently.

"The war in Iraq has turned into a quagmire that neither side can win, and now it's spreading to Britain via these terrorist bombings," said Shawn Fahy, a 23-year-old store clerk.

Police have not established firm links between the London bombings and al-Qaida, or between the two sets of bombings. In both cases, attackers targeted three subway trains and a bus, but on July 21 the devices failed to explode fully and no one was hurt.

Transport authorities on Thursday reopened the Piccadilly Line, the subway line worst-hit on July 7. Service had been suspended over much of the route since a bomb exploded on a train near King's Cross station, killing 26 commuters and the attacker.

Mayor Ken Livingstone said the reopening was "a major milestone in London's recovery."

But morning rush hour was noticeably lighter on the Tube. Commuters granted the rare luxury of a seat buried themselves in newspapers or listened to headphones as the train passed the spot between King's Cross and Russell Square stations where the bomber struck.

"The trains are really empty, which is a bit spooky," said Christine Hough, 51, an Underground employee. "People aren't coming back in the numbers that were expected."

Meanwhile, police charged sisters Yeshshiembet Girma, 29, and Muluemebet Girma, 21, of separate addresses in south London, with failing to disclose information under anti-terror laws.

The women, who were arrested July 27, were the second and third people to be charged in Britain in connection with the July 21 attacks. They were to appear in court on Friday.

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The first person appeared in court Thursday. Ismael Abdurahman, 23, from southeast London, faces charges of withholding information that helped suspected subway bomber Hamdi Issac avoid capture.

Issac, suspected of trying to blow up a subway train July 21, later was detained in Rome. Britain has asked that Issac, also known as Osman Hussain, be extradited. His lawyer said a hearing was set for Aug. 17.

London police are continuing to detain 12 other suspects without charge, and Italy has three suspects. Police believe they have all the July 21 bombers in custody. There have been no arrests in the July 7 attacks, in which the four bombers are believed to have died.

At a briefing Wednesday, New York Police Commissioner Raymond Kelly said the bombers used a peroxide-based explosive called HMDT, or hexamethylene triperoxide diamine, that can be made using ordinary ingredients such as hair bleach. New York officials said the explosives were stored in a commercial refrigerator, transported in beverage coolers and set off with cell phones.

"Initially it was thought that perhaps the materials were high-end military explosives that were smuggled, but it turns out not to be the case," Kelly said. "It's more like these terrorists went to a hardware store or some beauty supply store."

Police spokesman Paul Browne initially said the department had clearance to present the information. On Thursday, however, he said he had been mistaken but insisted "all the information in the briefing was from open and unclassified sources."

Rumsfeld: London Attacks Not Retaliation (AJC/AP)

By Ryan Pearson, Associated Press Writer

The Atlanta Journal-Constitution, August 5, 2005

LOS ANGELES — Defense Secretary Donald H. Rumsfeld on Thursday rejected as "nonsense" the notion that recent terrorist attacks in London were retaliation for the U.S.-led war in Iraq.

"Some people seem confused about the motivations and intentions of terrorists and about our coalition's defense of the still young democracies in Afghanistan and Iraq," Rumsfeld said in a speech to the Los Angeles World Affairs Council.

"They seem to cling to the discredited theory that the recent attacks in London and elsewhere, for example, are really in retaliation for the war in Iraq or for the so-called occupation of Afghanistan," he added. "That is nonsense."

In a videotape broadcast earlier Thursday, the second-in-command for the al-Qaida terrorist network, Ayman al-Zawahri, threatened more destruction in London, saying that British Prime Minister Tony Blair would be to blame.

Al-Zawahri also threatened the United States with tens of thousands of military dead if it does not withdraw its troops from Iraq immediately.

In his speech, Rumsfeld reiterated his oft-stated assertion that Syria is helping the insurgency in Iraq. He said it is acting as a haven for Baathist former members of the Saddam Hussein regime who fled Baghdad after the U.S. invasion, and allowing insurgents to cross its border with Iraq. He said the Syrians are making a mistake.

"What they're doing is harmful ultimately to themselves," he said. "They're going to have to live in that neighborhood, and Iraq doesn't like what Syria is doing. And Iraq is going to be in that neighborhood for a very long time and it's a bigger country and it will be a more powerful country."

Rumsfeld, meanwhile, paid tribute to the 21 Marines killed this week in Iraq, including the 14 killed Wednesday by a single roadside bomb near the city of Haditha in western Iraq.

"Patriots, they were determined to stop the terrorists from reclaiming Iraq and from launching more attacks on our people," he said. "Our nation needed them, called on them in battle, and mourns them now in death."

Rumsfeld spoke broadly about President Bush's rationale for fighting in Iraq and Afghanistan — "the only way to defeat terrorism is to go after them where they are" — but said little about the administration's plan for turning over the security mission in Iraq to the Iraqis. He did suggest that the goal is within reach.

"Once Iraq is safely in the hands of the Iraqi people, and a government that they elected under a new constitution ... , our troops will be able to ... come home with the honor they will have earned," he said, without elaborating.

In response to a question from his audience about the U.S. military strategy in Iraq, Rumsfeld said that a key to getting U.S. forces out of Iraq is getting enough Iraqi government forces trained to take over.

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"We're passing off pieces of real estate to the Iraqis as fast as they are capable of taking it over," he said.

Muslim Edict Slammed For Not Condemning Al Qaeda (WT/AP)

By Rachel Zoll, Associated Press

The Washington Times, August 5, 2005

The fatwa condemning religious extremism recently issued by American Muslim groups was so broad it was meaningless, and should have denounced specific terrorist groups including al Qaeda, critics within the U.S. Muslim community say.

Critics also say the declaration seemed geared more toward improving the faith's image rather than starting an honest discussion about Islamic teaching.

"The bulk of the Islamic tradition as it exists does stand against these lunatic, savage attacks on civilians," said Omid Safi, a Colgate University religion professor and chairman of the Progressive Muslim Union, an American reform group.

"But I would be more inclined to say there are elements of extremism in many parts of our tradition. Rather than simply saying these are not a part of Islam, I would acknowledge that these trends are there and do away with them."

Muqtedar Khan, a political scientist at the University of Delaware and author of "American Muslims: Bridging Faith and Freedom," said it appeared the main aim of last week's fatwa was protecting U.S. Muslim groups from criticism. And the edict may have fallen short of even that goal, he said.

"They should have been at least specific about events, if not individuals or organizations. They did not condemn al Qaeda or [Osama] bin Laden. It would have had more punch to end all these claims that American Muslims are not doing enough to end terrorism if they had," Mr. Khan said.

Ibrahim Hooper, spokesman for the Council on American-Islamic Relations, a Washington-based group that endorsed the fatwa, said no specific groups were named because "it would have been a laundry list."

"I think you can safely regard anyone listed on the State Department list [of terrorist groups] as included," Mr. Hooper said. That list includes the Islamic militant group Hamas, which many Palestinians believe is waging a legitimate fight against Israel.

"It's not likely that someone who is already considering some act of terrorism would be dissuaded by this, but you never know if you're going to prevent someone from going on the ideological road that would lead them to this activity," Mr. Hooper said.

Muslims around the world have been under renewed pressure to denounce terrorism following last month's deadly bombings in Britain and Egypt, along with the drumbeat of insurgent attacks on civilians and coalition troops in Iraq.

The U.S. fatwa, written by the Fiqh Council of North America, an advisory committee on Islamic law, said nothing in Islam justifies terrorism targeting civilians. The council further declared that Muslims were obligated to help law enforcement protect civilians from attacks.

Fiqh Council chairman Muzammil H. Siddiqi said the edict applied even when a Muslim country has been taken over by a foreign power. In Britain last month, two groups of Muslim leaders separately denounced the July 7 London attacks, but one said suicide bombing could still be justified against an occupying power, while another said it could not.

"Occupation is wrong, of course, but at the same time this is not the way," Mr. Siddiqi said.

Yet Abdullahi An-Na'im, who specializes in Islamic law and human rights at Emory University, said the American fatwa was misleading. He said the scholars could not say "in good faith" that Islamic law, called Shariah, required Muslims to assist an invader.

"What is Shariah's position on an invasion or occupation of a Muslim country by a non-Muslim country? Put bluntly in those terms, I don't think that any credible scholar could say this is legitimate," Mr. An-Na'im said. "If the same group of scholars were asked to issue a fatwa over the U.S. invasion and occupation of Iraq, which is the underlying thing, what would that fatwa be and how would Americans feel about it?"

The debate is complicated by the fact that Islam has no ordained clergy or central authority, like a pope, who can hand down definitive teaching.

Islamic leaders with conflicting views on violence regularly claim they are authorized to issue the edicts. Islam in America itself is a mix of millions of immigrants and U.S.-born converts with diverse outlooks.

London's Bombs Go Off Inside America's Head (WSJ)

DOJ_NMG_0002026

By Daniel Henninger

The Wall Street Journal, August 5, 2005

On September 11, 2001, Islamic terrorists flew two planes into the World Trade Center, one into the Pentagon and one into rural Pennsylvania. In just over an hour, they killed nearly 3,000 Americans. Not more than a year later, nothing was more important in the lives of many Americans than that they extinguish the Patriot Act and drive George Bush and every remnant of his presidency from office, including the "unconstitutional" war on terror.

March 11, 2004, terrorists cut from the same Islamic cloth as September 11 blew up four Spanish commuter trains, covering Madrid's main station with parts of 191 dead people and 1,460 others, often horribly wounded. But the needle hardly moved in the politics of "George Bush's war on terror." In the U.S., nothing was more important than "closing" a holding pen for Islamic terrorists in Cuba.

July 7, 2005: the London bombings. In the four weeks since this happened, I have talked about it, on the West Coast and East Coast, with people one could describe as "non-Bush voters." To a man and woman, they say in so many words that the time has come to "get tough on the terrorists." One event, London, appears to have caused an internal reassessment among some Americans formerly ambivalent about the war on terror.

Profiling, a forbidden thought in some political quarters since hyper-thyroidic New Jersey state cops were rousting black people on the turnpike, is a subject for polite company. After years of reading how our "policies" were creating Islamic recruits to jihad, the London bombing has created recruits for the war on terror.

What happened?

Reality happened. September 11 was, in a sense, unreal. T.S. Eliot reflected in 1922 on "unreal" post-war London: "I had not thought death had undone so many/Sighs, short and infrequent, were exhaled/And each man fixed his eyes before his feet." I think for some, what happened that day -- passenger planes flown into buildings, the slow death of the towers -- was just too much, off the charts, a trauma and a personal concussion. Something like that.

July 7 London was more comprehensible. Americans were able to absorb London more clinically, observers from afar. London also happened to an English-speaking people, so every televised comment back to the U.S., from the first witnesses to the police reports of apprehended and named terrorists, was understood and internalized. Then the British media, God bless them, reduced the madness to one, right cliché: The bombers are our neighbors. Three years in, the battle lines finally come clear.

The American psyche, or some part of it, has seemed disinclined to believe terrorists could be anything other than invaders from another planet. Seasonal, like the hurricanes. No matter that the Lackawanna Six, who pleaded guilty to terrorism charges, were as much "the neighbors" in upstate New York as the bombers from London's suburbs. No matter that the trial of the 1993 World Trade Center bombers revealed they too were "the neighbors," or worse, a fifth column.

No matter. Within a year of September 11, one of the most controversial, bitterly contested parts of the Patriot Act was the provision on surveillance of books checked out at the library.

We had become captive to the wrong media cliché. Saying 9/11 "changed everything" meant nothing. That allowed another cliché to take hold and define the policy debate after 9/11: Whatever else, we can't "sacrifice our fundamental values." (I think much of this had to do with the fact that the opposition personally didn't like the Patriot Act's designated evangelist, John Ashcroft, especially after hearing he held Bible readings at work.)

The London bombings imprinted on hard-wired political minds the crude fact that Islamic terrorists have reduced the taking of lives they don't like to a banality. They play cricket or go rafting, and then they blow up the neighbors. It was easier than ever to connect the dots of the July 7 narrative: The London "neighbors" look like they're out to get us.

No, we are not going to flush John Locke and Thomas Jefferson down the toilet. "Speech," no matter how stupid, will remain free and protected; vocalized incitement to violence against the neighbors won't. Some of the Patriot Act's most aggressive measures, such as searches of personal and business records, almost surely will be sunsetted in the final bill. Courts will pre-clear and review some investigations. The FBI Director himself must press his seal to library and bookstore searches. * * *

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Tony Blair said last week that after September 11 much of the world "turned over and went back to sleep again." So why won't Ambien and Valium induce again the sleep of fatal innocence? The sleeper cells, if they're sharp, will play cricket and pump gas for two years while the West's politicians and editorialists convince the new anti-terror recruits that the war's tactics are still worse than the threat.

I think the burden for preventing that, for consolidating the new center-left recruits, lies with President Bush. The post-9/11 slumber was both psychological and political. It became a partisan mindset. London was electroshock therapy. Mr. Bush needs to speak to his public opposition, suggest some understanding of their former discomfort and restate the stakes. Why? Because the widest and deepest possible popular opposition to Islam's homicidal strain is crucial to ending it. Their primary target is the public will. They need to see, not now but two years from now, amid a presidential election, that on July 7, they blew it.

Qaeda On The Run? Raids Seem To Belie Pakistani's Word (NYT)

By David Rohde And Somini Sengupta

The New York Times, August 5, 2005

ISLAMABAD, Pakistan, Aug. 4 - President Pervez Musharraf has declared that his forces have smashed sanctuaries of Al Qaeda and have its last remnants "on the run" in his country's remote tribal reaches.

"They are in penny pockets in the mountains," he said in an interview on Friday of last week in his official military office. "We have severed their vertical and horizontal communication lines."

Yet with less than two months before parliamentary elections in Afghanistan, Al Qaeda, the Taliban and their assorted allies appear to be regrouping in the rugged tribal redoubts in this country's northwest and unleashing ever more frequent attacks on both sides of the border, Afghan and Pakistani officials say.

Attacks in Afghanistan's south and east have grown in number, ruthlessness and sophistication. Meanwhile, Pakistan's tribal areas, particularly North and South Waziristan, have been engulfed in fresh violence: in the last two months, Pakistani government installations have increasingly come under fire, and tribal leaders seen to be colluding with the authorities have become ripe assassination targets.

United States intelligence officials have repeatedly said that Osama bin Laden is likely to be holed up in the Hindu Kush mountains along the frontier. Lately, Afghan and Pakistani officials have traded barbs about who is harboring whom, and who has failed to find them.

In Afghanistan, aides to President Hamid Karzai have grown increasingly vocal about what they call Pakistan's accommodation of pro-Taliban forces.

The Afghan government had believed that Pakistan was cooperating in stemming the Taliban insurgency after presidential elections passed peacefully last October, said Javed Ludin, chief of staff to President Karzai. But recent attacks, he charged, showed the opposite.

"We were mistaken, and in fact they were preparing," Mr. Ludin said of the Taliban.

General Musharraf's strategy against militants hiding in Pakistan's lawless mountains, as well as its urban swamps, has once more come under sharp scrutiny. Investigators looking into the July 7 London bombings are still trying to determine what two of the four bombers did, and whom they met, when they arrived in the Pakistani port city of Karachi last winter.

At the same time, though American officials are unbowed in their public support of the general, the increased attacks on Pakistani, Afghan and American forces along the border have raised fresh questions about his ability to neutralize militant groups operating there.

In the interview and at an earlier news conference for foreign journalists last Friday, General Musharraf made it clear that he had chosen to act cautiously against militancy for fear of inciting a popular uprising against his government.

"I don't bluff, but I do act with realism," he said at the news conference. "There are a lot of gray areas. Those gray areas have to be addressed with a lot of prudence and a lot of understanding."

Critics question the intentions and effectiveness of his three-and-a-half-year-old counterinsurgency strategy. Some wonder whether the general's foot soldiers, namely in the army and intelligence services, fully buy into his American-backed agenda,

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particularly as American policy on everything from Iraq to Israel to Guantánamo Bay feeds anti-American fire in this country. General Musharraf, as a result, finds himself having to tread carefully to not be seen as an American stooge.

Others point out that General Musharraf's drive to quash militancy comes in the face of a quarter-century-long practice of using many of those same Islamic guerrillas as part of Pakistani foreign policy.

General Musharraf himself acknowledged on Friday that Pakistani soldiers and intelligence agents trained, armed and dispatched up to 30,000 mujahedeen fighters, Pakistanis and foreigners, to topple the Soviets in Afghanistan in the 1980's. The tribal areas were the birthplace of that movement, which at the time had the support of the United States.

In his nation's defense, General Musharraf also angrily points out that Pakistan, for the first time, has dispatched troops to the lawless, semiautonomous tribal areas in an attempt to flush out Taliban and Al Qaeda fighters. Today, nearly 75,000 are said to patrol the border, and 250 have been killed.

The resurgent Taliban, the Pakistanis insist, are blossoming inside Afghanistan. Whatever the case, violence on Pakistan's side of the border has taken a vicious turn upward.

In recent weeks, at least one intelligence official and two tribal leaders known for helping government authorities against militants operating in their areas have been killed. Ten days ago, in a series of coordinated attacks, 40 rockets were fired in the direction of army and paramilitary posts across North Waziristan. On Thursday, five Pakistani soldiers were killed in a land mine blast in North Waziristan.

Asad Munir, the Peshawar-based secretary to the governor responsible for the tribal regions, said last week that he suspected fighters loyal to the Taliban, Al Qaeda and the renegade Afghan mujahedeen leader Gulbuddin Hekmatyar.

Mr. Munir said he believed the attacks were most likely being directed by commanders operating on both sides of the border. North Waziristan alone, he said, sheltered roughly 150 such commanders.

"The chilling effect is basically your informers, your sources dry up," he said. "Locally, people would be reluctant to meet an army officer or someone from intelligence agencies out of sheer fear."

In a telephone interview last week from an unnamed location in South Waziristan, a militant commander who refused to be identified for fear of undermining his group's operations boasted that his fighters were indeed crossing into Afghanistan, using routes beyond the two Waziristans.

"There are countless tracks and routes," he said. "We are better organized and better skilled to fight an enemy that is high-tech and sophisticated. To fight a snake you have to come down to the level of a snake."

The current setbacks come after years of warnings that senior Al Qaeda leaders, including possibly Mr. bin Laden, are using the tribal areas as a safe haven.

In 2002, a senior Pakistani official described South Waziristan as the hub of Al Qaeda operations worldwide. In 2004 Pakistani investigators said a Pakistani computer engineer confessed to receiving messages by courier from Al Qaeda leaders hiding in South Waziristan, and relaying them to operatives via the Internet.

After a military offensive in South Waziristan in 2004, Pakistani officials boasted that they had cleaned up the area. A year later, even Pakistan's staunchest backers say they are no longer sure of Pakistan's control over South Waziristan. There are also new questions about whether militant operations are now being guided from inside North Waziristan. Several infiltrations into Afghanistan have originated from around Miram Shah there.

United States forces, who roam inside Afghanistan, are prohibited from operating on the ground on the Pakistani side of the border. Still, Pakistani officials said this month that 24 suspected fighters killed by American forces were found on the Pakistani side of the border; whether American troops chased them in "hot pursuit" remains unclear.

In the southern Afghan province of Zabul, a former Taliban field commander who identified himself as Mullah Said Mir said Wednesday that he was among a group of fighters who crossed back and forth from the Pakistani city of Quetta.

At a militant training camp in Quetta, he said, he had witnessed, as recently as a month ago, Taliban fighters training young Afghans with remote control bombs.

Pakistani Court Rules Against Islamic Bill (NYT)

By The New York Times

DOJ_NMG_0002029

The New York Times, August 5, 2005

ISLAMABAD, Pakistan, Aug. 4 - Pakistan's Supreme Court ruled Thursday that some parts of a bill passed by the Islamist-led legislature in the North-West Frontier Province were unconstitutional, prompting the Islamists to say they would write a new draft.

The proposed bill - known as the accountability bill - set off a huge outcry in the country.

Human rights advocates and moderate elements of Pakistani civil society cringe at the thought of restricting the personal freedom that the Constitution guarantees. Many Pakistanis also view the bill as an effort similar to that of the former Taliban rulers in neighboring Afghanistan to impose strict enforcement of Islamic codes of conduct on everyday life.

But the measure's proponents, an alliance of conservative Islamic parties, see the move as a step toward putting into effect the Islamic laws they promised their supporters.

The conflict over the legislation is part of a tussle between the government of Gen. Pervez Musharraf, the president, who says he is trying to extricate the country from religious extremism, and the Islamic parties.

The assembly of the North-West Frontier Province passed the bill in July over opposition protests. It would empower religious police to ensure that residents of the province comply with Islamic values.

Afghanistan's Forgotten War (NYT)

The New York Times, August 5, 2005

Afghanistan is out of the headlines, but its war against the Taliban goes on. These days, it is not going well. One of the most important reasons for that is the ambivalence of Pakistan, the nation that originally helped create, nurture and train the Taliban. Even now, Pakistan's military ruler, Gen. Pervez Musharraf, seems to invest far more energy in explaining his government's tolerance of Taliban activities than he does in trying to shut them down.

General Musharraf has provided logistical help to Pentagon operations and cooperation to American law enforcement agencies trying to track down Al Qaeda leaders. But his aid has been frustratingly selective. He has been an intermittent collaborator in the fight against international terrorism rather than a fully committed ally. Washington has been understandably reluctant to push him for more consistency, not wanting to risk losing the help he does offer.

Pakistan's passive enabling of the Taliban, however, is too important and dangerous for Washington to overlook. The current Taliban offensive is killing American soldiers - at least 38 have died in action so far this year, as well as hundreds of Afghans. It also endangers next month's parliamentary elections.

Successful elections are crucial to extending the geographical reach of Afghanistan's new national institutions. And they can provide needed political accountability for President Hamid Karzai, who now rules without an elected Parliament. Afghanistan will be a functioning democracy only when citizens can take their grievances against the central government to elected local representatives instead of to armed local warlords. Those grievances are real. Some governors and police chiefs Mr. Karzai has appointed are thuggish and corrupt. Antidrug efforts go after poor farmers while traffickers thrive. Alternative development lags. A lack of judges stymies the rule of law.

Earlier this year, there were reasons to be hopeful about Afghanistan's future. The presidential election had gone off remarkably smoothly, and the absence of major attacks on polling places suggested that Pakistan was at last responding to Washington's pleas to rein in the Taliban. Mr. Karzai had begun easing notorious warlords out of cabinet ministries and provincial governorships. More money was being directed at antinarcotics efforts.

But once the snows began to melt this March, Taliban fighters started showing up in greater numbers and with suspiciously sophisticated gear in regions of Afghanistan that border Pakistan. Afghan military and intelligence officers are convinced that they are coming from Pakistani training camps.

General Musharraf says that he has sent tens of thousands of troops to police border areas. Yet well-supplied Taliban fighters keep showing up to battle American troops in Afghanistan. He insists that the training camps are still shut down and that he is committed to thwarting the Taliban, but says he must proceed cautiously so he doesn't inflame militant groups in Pakistan. That would be more persuasive had the general not spent close to six years marginalizing mainstream parties and cutting deals with Islamic extremists to reinforce his rule.

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When questioned about why he has repeatedly violated his promises to restore civilian democracy, General Musharraf argues that he must retain power because Pakistan needs his strong and effective hand. Washington needs to ask him why that strong hand seems so helpless against the Taliban.

Tampa Prof Expressed 'Pride' In Suicide Bombing In Gaza Strip (BRAH)

The Bradenton Herald, August 5, 2005

TAMPA, Fla. - Sami Al-Arian expressed "pride" after learning of a 1994 suicide bombing attack that killed three Israelis, according to testimony Thursday in the former college professor's trial on charges of supporting a pro-Palestinian terrorist group.

Investigators intercepted a fax sent to Al-Arian's home bearing the logo of the Palestinian Islamic Jihad and claiming responsibility for an attack near Netzarim, Gaza Strip. A man on a bicycle carrying a bomb blew himself up among a group of Israelis.

Al-Arian faxed a message to the Damascus headquarters of the group that read: "Pride and glory overwhelmed us. May God bless your efforts and accept our martyrs," according to transcripts and testimony Thursday from FBI agent Kerry Myers.

Similarly, co-defendant Hatem Naji Fariz expressed pleasure during a wiretapped phone call upon hearing of another suicide attack, at Beit Lid, Israel, in 1995, which killed 22, saying the attack was accomplished by the "jihad movement" and commenting, "the whole world is pleased...", according to transcripts.

Myers, who is expected to be on the witness stand for weeks, has not been cross-examined by defense attorneys.

Al-Arian, Fariz and two others face a 53-count indictment alleging they used various charitable and educational entities in Tampa as fundraising fronts for the PIJ, which has claimed responsibility for more than 100 deaths in Israel, the West Bank and Gaza Strip.

The defendants deny they were involved in supporting any violent acts and say they are being persecuted for pro-Palestinian views unpopular in the United States.

Talks Centered On Payment To Jihad Members (TAMPTRIB)

By ELAINE SILVESTRINI

Tampa Tribune, August 5, 2005

TAMPA - Prosecutors read more transcripts of telephone conversations and faxes to jurors at the Sami Al-Arian trial Thursday morning.

The conversations centered on the fact that Islamic Jihad members outside the Middle East were not getting paid. They included Ramadan Shallah, Sameeh Hammoudeh and Bashir Nafi.

Al-Arian also faxed a proposal to unite the Islamic Jihad and Hamas to a phone number in the United Arab Emirates. And he received faxes from Islamic Jihad headquarters in Damascus, Syria, describing a recent attack and the arrests of Islamic Jihad members in the occupied territories of Israel.

Man Gets 3 Years For Sales Linked To Nuclear Arms (LAT)

By Josh Meyer

The Los Angeles Times, August 5, 2005

WASHINGTON — A federal judge sentenced black market trader Asher Karni to three years in prison Thursday, saying he wanted to warn others that the illegal sale of U.S. high-tech products could help foreign governments or terrorists obtain nuclear weapons.

After hearing Karni apologize for selling blacklisted U.S. electronic components to companies in Pakistan and India, U.S. District Judge Richard M. Urbina told the former Israeli army major that no amount of contrition could make up for the potential threat posed by his actions.

"I want you to know how serious I think your conduct was," Urbina told Karni, emphasizing that he was sentencing him to a prison term longer than that requested by his defense lawyers to send a message to the public.

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Citing Karni's extensive cooperation in an ongoing nuclear trafficking investigation, lawyers for the South Africa-based businessman had sought a 19-month sentence. That would have freed Karni immediately because he has been in federal custody since his arrest Jan. 1, 2004, at Denver International Airport.

Urbina shaved six years off the maximum term Karni could have received under complex federal sentencing guidelines, saying he was doing so because of Karni's cooperation.

But the judge said he was deeply troubled by Karni's central role in a conspiracy to sell U.S. high-tech components to firms in Pakistan and India that Washington believes are part of those countries' nuclear-weapons and missile programs.

Assistant U.S. Atty. Jay I. Bratt told the judge that Karni sold blacklisted products to entities in Pakistan and India on at least 17 occasions, a much larger number than authorities had previously disclosed.

Bratt, a veteran prosecutor in the U.S. Attorney's Office transnational/major crimes section, described the Karni case as perhaps the most serious threat to national security that he has encountered.

Urbina said he was most alarmed by Karni's admitted use in 2003 of a web of intermediaries to buy 200 precision electrical switches, known as triggered spark gaps, from a Massachusetts firm and then ship them to a business associate in Islamabad, the Pakistani capital.

At the time, Urbina said, Karni and the associate, Humayun Khan, knew that the U.S. government prohibited the sale of the components to Pakistan because of their potential use in detonating nuclear warheads. The two men went to great lengths to camouflage the end user, the judge said.

But two Commerce Department agents had received a tip from an informant in South Africa and were monitoring the shipment. They disabled the first shipment of 66 spark gaps before Karni received them and forwarded them to Khan, and later used Karni's cooperation to obtain a grand jury indictment of the Islamabad arms merchant, who had close ties to the Pakistani military.

Khan, who is no relation to Pakistani scientist Abdul Qadeer Khan, who operated a global network that smuggled nuclear technology, has denied wrongdoing in interviews with the Los Angeles Times. U.S. authorities would not say Thursday whether they had requested his extradition from Pakistan. Pakistani officials also have had no comment on the case, except to deny trying to illegally purchase U.S. technology for their nuclear weapons program.

Bratt said in court Thursday that the U.S. government still did not know for whom Khan was purchasing the spark gaps or where the disabled components were.

But Bratt told the judge that the buyer was either the government of Pakistan and its nuclear program, another country that Pakistan was secretly helping with its nuclear program or a Pakistani political organization that supported "jihadist elements" or other rogue groups.

"The choices for the true recipient of the triggered spark gaps are not comforting," Bratt said.

He also told Urbina that, based on wiretapped conversations with several of his employees, Karni appeared to have tried to continue his trafficking operations even while in federal custody after his arrest.

Urbina, like Bratt, stopped short of specifically identifying the Islamabad government as the end user of the components Karni sent to Pakistan.

But he said unnamed foreign governments and terrorists "have become incredibly creative in finding ways to wreak death and destruction. These are incredibly malevolent people who wish to be armed with very bad things," such as nuclear weapons.

In the courtroom for Karni's sentencing were the two Commerce Department agents who have been investigating him and his alleged co-conspirators for the last two years.

The agents, James Brigham and David Poole, said they could not comment on the case or on their continuing investigation, for which they have tried to travel to Pakistan to conduct interviews.

They and others have been unable to do so, authorities have confirmed, in part because the departments of Commerce and Homeland Security have failed to gain adequate support from within the Bush administration to pressure Pakistan into letting them in the country.

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PATRIOT ACT:

NY Lawmakers Try Prying Anti-terror Dollars From Washington (AP)

By DEVLIN BARRETT, The Associated Press

AP, August 4, 2005

WASHINGTON (AP) — Two New York lawmakers are trying to use the Patriot Act to get cities and regions at risk of terror attacks more federal help, a new legislative tactic designed to sidestep opposition from some senators from rural states.

Advertisement

House members Nita Lowey, D-Westchester, and John Sweeney, R-Clifton Park, have seen past efforts blocked in the Senate, where small states have greater influence.

Lowey and Sweeney are trying to change the way the government doles out security aid, so more of it is distributed based on risk. They've already helped engineer three successful House votes to change the funding formula, including one overwhelming 409-10 vote, but so far the Senate has failed to pass similar measures.

"It is very frustrating that the Senate has not been able to understand the error of their actions," said Lowey, who is hoping that by attaching her measure to the reauthorized Patriot Act — a top priority of the White House and Republican leaders — she and Sweeney may break the legislative logjam.

"This change is going to come, it's just a question of when and it's just a question of that small minority recognizing this is a question of national defense and not about pork," said Sweeney. "This really has nothing to do with New York City, this has to do with threat and threat information."

In the years since the 2001 attacks, the government has distributed a minimum percentage, some 0.75 percent, of security dollars to each state. For the current budget year, that meant about $11 million for each state before additional money was offered based on risk factors.

Sweeney and Lowey's amendment to the Patriot Act would lower that minimum percentage, freeing up more money to be distributed by risk. That money most often goes to protect metropolitan areas and critical infrastructure around the country.

Sen. Susan Collins, chairwoman of the Senate Homeland Security Committee, has worked to make the minimum 0.55 percent, not nearly as low as Sweeney and Lowey would like.

Collins, R-Maine, argues her approach strikes the right balance between protecting cities and securing rural areas, and still boosts money for urban areas. Advocates for cities, including members of the 9/11 commission, contend much more of the money should be distributed based on risk.

Sweeney represents a mostly rural district but has been one of the loudest voices in the House for changing the way security funds are distributed.

"We need to change the culture of `just grab whatever pot of money you can and bring it home,' because we have to reduce our vulnerability," said Sweeney.

Senate and House negotiators must meet later this year to hammer out differences between the House and Senate versions of the Patriot Act reauthorization bill. The House version contains the Sweeney and Lowey amendment.

The Bush administration has pushed for the quick passage of the bill to reauthorize key provisions of the Patriot Act. The act was passed in response to the Sept. 11 attacks, and some provisions are set to expire at the end of the year.

The Patriot Act allowed expanded surveillance of terror suspects, increased use of material witness warrants to hold suspects incommunicado, and permitted secret proceedings in immigration cases.

The act has been criticized by some conservatives and liberals as weakening civil liberties.

Rep. Peter King, R-N.Y., has spent the week meeting with intelligence officials in the Middle East, and said the anti-terror work being done in other countries proves the need of extending the Patriot Act.

"Law enforcement has to have strong powers because it is such a treacherous enemy and we can't have our hands tied behind our backs in any way," King said in a telephone interview from Egypt.

King has also visited with security officials from Jordan, Israel, and Austria.

HOMELAND RESPONSE:

Justice Department Effort To Eavesdrop On Airline Passengers Challenged (GOVEXEC)

By Chris Strohm

Government Executive, August 5, 2005

Two privacy groups asked the Federal Communications Commission this week to reject a proposal that would give the Justice Department sweeping new powers to eavesdrop on cell phone calls and Internet usage by airline passengers.

The Justice and the Homeland Security departments submitted several proposals to the FCC in May and July seeking authority to monitor the electronic communications of airline passengers. The proposals would allow Justice to record all electronic activity without a court order, identify any user by seat number, and automatically interrupt or shut down any communication.

In a petition filed Wednesday, the Center for Democracy and Technology and the Electronic Frontier Foundation argue that the FCC does not have jurisdiction to address the full range of constitutional, privacy and civil liberties concerns that are raised by the proposal. The groups also say the proposal would place undefined burdens on industry to comply.

CDT and EFF say that any action by the commission would violate the Constitution as well as the Administrative Procedures Act and the Communications Assistance for Law Enforcement Act. The groups claim that Justice is trying to do an end run around Congress and get the FCC to give it new authorities without proper public debate.

The Justice Department did not return a telephone call seeking comment Thursday.

"The commission should decline DoJ's requests, and should instead defer to Congress, which is the only body that can in the first instance consider the constitutional and policy problems raised by such unprecedented proposals," the groups wrote.

"We do not dispute the fact that law enforcement is able, under existing laws and without any action by the commission, to obtain a court order that permits the interception of the electronic communications of people in airplanes," the groups added. "Instead, the critical issues are whether the commission has any statutory authority whatsoever to impose anticipatory, full-time and warrantless interception of information about all communications of all airline passengers--a proposal seemingly drawn directly from George Orwell's 1984--and whether law enforcement should be given extraordinarily invasive design control over air-to-ground communications."

Assessments Find Threat Of Suicide Attacks In U.S. (NYT)

By Eric Lichtblau

The New York Times, August 5, 2005

WASHINGTON, Aug. 4 - Confidential government assessments say that Al Qaeda remains intent on attacking targets in the United States and that suicide bombings are clearly "a preferred method of attack among extremists" in the wake of last month's terror attacks in London.

The July 7 attacks on the London transit system, as well as others overseas, have prompted American officials to reassess potential threats to targets in the United States. Their conclusions, circulated among law enforcement officials by the Department of Homeland Security and the Federal Bureau of Investigation, differ little from many earlier assessments since the Sept. 11 attacks but make clear that officials see Al Qaeda as a continued threat at home.

Although American intelligence officials "do not believe the London attack necessarily presumes a similar attack against rail or mass transit targets in the United States, there has been consistent threat reporting for some time suggesting that terrorists may have an interest in targeting mass transit systems," according to a security bulletin on July 20.

A second security bulletin also prepared after the London bombings warned that in addition to setting off bombs on trains and subways, Al Qaeda might seek to derail trains or crash a truck carrying flammable material into trains.

Intelligence officials are also concerned that terrorists linked to Al Qaeda or other terrorist groups may again turn to airplanes as a method of attack by sending operatives to flight training schools or using "an increased number of operatives" in the aviation industry to evade tightened airport security measures.

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Still another target considered vulnerable by intelligence officials are high-rise apartment buildings. In one potential terrorist plot that officials have previously linked to ones considered by Jose Padilla, an American citizen now imprisoned as an enemy combatant, the bulletin says Al Qaeda may consider renting rooms in a high-rise building and using natural gas as an explosive to destroy it. But it cautions that the feasibility of such a plot is questionable.

The bulletin suggests that fresh intelligence collected as recently as this spring showed that Al Qaeda "remains interested in striking the homeland to undermine U.S. security and damage the U.S. economy." Since the London bombings, American officials have tightened security at many mass transit systems and have been combing leads from Queens to Oregon in search of possible connections to the attacks. So far, officials say they have found no hard evidence to suggest any complicity or knowledge by anyone in the United States, nor have they found any evidence to suggest plans under way for an attack here.

"We have no specific credible information to indicate that an attack in the United States is imminent or that Al Qaeda operatives are in the United States to conduct a homeland attack," one of the intelligence bulletins concluded.

With federal officials seeking to provide law enforcement officers with quicker and more useful information to guard against terror attacks, some local officials have become more aggressive in developing their own policies and procedures.

A group of police chiefs, frustrated by what they see as the slow pace of information from federal officials, has begun creating a network to share terrorist-related intelligence.

And the International Association of Chiefs of Police, with 20,000 members worldwide, has issued new training guidelines to its members advising them to have officers shoot a suicide bomber in the head to avoid a life-threatening detonation.

The new guidelines, which were developed before the London bombings and first reported Thursday by The Washington Post, represent a more deadly posture in dealing with the threat of possible suicide bombers, said Joseph Estey, who is president of the chiefs' association and the police chief in Hartford, Vt.

"These are new circumstances for us to deal with, and this is an aggressive policy to respond to a narrow set of circumstances," Chief Estey said in an interview Thursday. If an officer believes he is confronting a suicide bomber who may be about to explode a bomb, he said, the new guidelines "call for a head shot, which unfortunately is the securest way of disabling someone who may have a suicide device and may try to detonate it."

Chief Estey acknowledged that the shooting death last month in a London subway of a Brazilian man, whom the police mistakenly thought was a suicide bomber, underscored the tragic possibilities if the police make the wrong decision.

For an officer to make a spot decision on whether someone is a would-be suicide bomber "is a real tough question, and there are situations where you're not sure," he said. "But when you're making those decisions on the fly, you have to have the greater public good in mind and try to save other people's lives."

US Military To Increase Domestic Surveillance (CSM)

By Tom Regan

The Christian Science Monitor, August 5, 2005

The US Defense Department has developed a new counterterrorism strategy "that would increase military activities on American soil, particularly in the area of intelligence gathering." FoxNews reported Monday that this has caused a great deal of concern among civil liberties advocates who fear the possibility of the military "encroaching" on domestic law. "Do we want, as a free people, with the notion of privacy enshrined in the Constitution and based on the very clear limits and defined role of government, to be in a society where not just the police, but the military are on the street corners gathering intelligence on citizens, sharing that data, manipulating that data?" asked former Rep. Bob Barr (R) of Georgia, a constitutional law expert and civil libertarian. The plan, known as the "Strategy for Homeland Defense and Support," was released in early July without background briefings or a formal news conference. The document says the US government must have a "a multi-layered, preventive approach to national defense" in order to counter an "unconventional" enemy like Al Qaeda, which can attack anywhere at any time.

The Washington Post reported last month that the plan does not ask for new legal authority to use US military forces on US soil (which is prohibited by the Posse Comitatus act of 1848), and draws a "distinct line" between a leading role in overseas operations and a support role in domestic affairs.

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In a related development, The New York Times reported in July that senior Pentagon planners are "challenging" the idea the US needs to be able to fight two wars on two fronts at the same time. Instead, they want to focus on fighting just one war, and "devoting more resources to defending American territory and antiterrorism efforts." In a nutshell, strategies that order the military to be prepared for two wars would argue for more high-technology weapons, in particular warplanes. An emphasis on one war and counterterrorism duties would require lighter, more agile forces - perhaps fewer troops, but more Special Operations units - and a range of other needs, such as intelligence, language and communications specialists. It's well-known that Secretary of Defense Donald Rumsfeld has long favored a "lighter, more agile force."

But critics of the Pentagon's new counterterrorism strategy still don't like what they see. Timothy H. Edgar, a national security specialist with the American Civil Liberties Union, said that while certain sections of the document have language that limits military action, they seem at odds with other sections. "They seem to be trying to have it both ways," Mr. Edgar told the Post.

Meanwhile, Mr. Barr says the Pentagon's plan is yet another attempt to revive the failed Total Information Awareness (TIA) project, which he called a "massive, centralized information database using public and private records of individuals" that was killed by Congress in 2002. "This is TIA back with a vengeance," said Barr. "What they have come up with here is a much vaguer and much broader concept that sounds more innocuous. [The Pentagon] is getting much smarter in how to sell these things." James Carafano, a homeland security analyst with the conservative Heritage Foundation, disagreed with Barr, telling Fox News that "there is nothing new here" in the Pentagon's plan. "There are no new threats to privacy or constitutionality. I just think it's about doing [intelligence] more efficiently and effectively."

FloridaToday.com argued in an editorial Tuesday that there is already evidence that the government is abusing existing law to subvert the First Amendment rights of those opposed to the US government's policies. Last month, the FBI was forced under the Freedom of Information Act to reveal it has collected at least 3,500 pages of files on groups that have opposed Bush White House policies on the Patriot Act, Iraq war, civil rights and the environment.

Among those targeted were the American Civil Liberties Union and Greenpeace. The FBI won't say what's in the files, and the ACLU has filed a lawsuit we hope it wins to find out.

Meanwhile the ACLU is criticizing the FBI's plans to "create a National Security Service within the FBI that reports to the Director of National Intelligence." "Spies and cops have different roles and operate under different rules for a very important reason: to ensure that our law enforcement agencies stay within the Constitution, [said Mr. Edgar]. This proposal could erode the FBI's law enforcement ethic and put parts of the FBI under the effective control of a spymaster who reports to the president - not the attorney general."

Also, in recent interviews with FoxNews former intelligence agents for the US military and the CIA claimed the "intelligence community" ignored threats from Osama bin Laden that were "detailed in television documentaries, books and all over the Internet in scores of languages" before 9/11 because they were "open source." These agents say this overreliance on 'secret' information "has caused an institutional bias against publicly available information that could otherwise help identify terrorist threats across the globe before the damage is done." "Everything we needed to know to prevent 9/11 was either known to elements of the US government but not shared across agency boundaries, or openly published in foreign language media we chose to ignore," said Robert Steele, a former clandestine officer who now heads Open Source Solutions Network Inc., a global provider of open source networking and analysis training.

"[Al Qaeda] was publishing its plans and intentions publicly for years," Steele said. "All of the literature is quite clear." Finally, the Associated Press reported Wednesday that government watchdogs are investigating "slow responses" by the FBI to requests from local law enforcement officials and if these incidents show "FBI reluctance to adjust to law enforcement changes emphasizing cooperation after the Sept. 11, 2001, attacks."

Civil-liberties Board Struggles Into Existence (WP/REU)

By Caroline Drees, Security Correspondent, Reuters

The Washington Post, August 5, 2005

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WASHINGTON (Reuters) - A civil-liberties board ordered by the U.S. Congress last year has never met to discuss its job of protecting rights in the fight against terrorism, and critics say it is a toothless, underfunded shell with inadequate support from President Bush.

Lawmakers including some Republicans, civil-rights advocates, a member of the Sept. 11 Commission and a member of the Privacy and Civil Liberties Oversight Board have expressed concerns.

Lanny Davis, the only prominent liberal among the five people Bush nominated after a six-month delay, said he had not received a call from anyone related to the board since it was formally announced in June. Davis said he could not comment on specifics because the members had not yet met.

All four other panel members declined to comment.

The inactivity comes at a time when Congress is nearing reauthorization of several provisions of the Patriot Act, a controversial law that gave the government new powers to go after suspected terrorists.

Asked why it was taking so long to set the board up, Connecticut Republican Rep. Christopher Shays charged, "It's not a priority for the administration."

The intelligence reform law of December 2004 called for the oversight board in response to a recommendation from the Sept. 11 Commission, which feared increased governmental powers needed to fight terrorism could erode civil liberties.

Top White House officials have said the board would address those concerns, and get the resources needed to do the job.

But almost eight months after its inception, the critics say the panel still only exists on paper, and lacks the money, power and presidential backing to ensure the entire government respects Americans' rights.

The Bush-appointed panel "is a very watered-down board without the kinds of powers which I believe are necessary to provide credibility and authority, such as independent subpoena power ... and a bipartisan process in selection," said Richard Ben-Veniste, a former Sept. 11 commissioner.

WATCHDOG

"We don't think the board serves as a credible watchdog," said Tim Edgar, national security policy counsel at the American Civil Liberties Union.

One frequent complaint concerns the board's budget. Bush requested $750,000, which Congress doubled to $1.5 million.

The Department of Homeland Security's privacy office, with a similar mission limited to that department, alone has a roughly $13 million budget, said Bennie Thompson, the top Democrat on the U.S. House of Representatives Homeland Security Committee.

"I don't think you can do it for a million and a half," Shays said.

Critics, including Thompson, also ask why it took Bush half a year to nominate the five board members when it acted much faster to implement other, more complex parts of the 2004 law. The U.S. Senate must still confirm the chairman and vice chairman after it returns from its summer recess.

Shays, New York Democratic Rep. Carolyn Maloney and other lawmakers have proposed an amendment granting the panel greater independence and powers, including subpoena authority.

Right now, Maloney said, "It does not have teeth. It does not have enforcement. It does not have strength behind it."

Asked for comment, the White House sent a copy of a June letter to Republican Sen. Susan Collins and Democratic Sen. Joe Lieberman that said it would ensure the board had the resources to fulfill its mission and would re-examine the issue once the panel was up and running.

The two senators had written to the White House expressing concerns about the board's budget, as well as delays in setting it up and implementing other parts of the 2004 law.

"As we work to make America safer, it is equally important that we are careful to preserve the very liberties that we seek to protect," Collins told Reuters. "The board is critical in this regard."

Mary Fetchet, whose son died in the World Trade Center on Sept. 11, 2001, criticized the slow pace, "I am really shocked that in many instances in Washington I feel that there's this attempt to go back to the status quo, while I feel there should be a sense of urgency."

Under 11th Circuit Ruling, Domestic Terror Acts Can Bring Stiffer Penalties (LAW)

By Carl Jones, Daily Business Review

Law.com, August 5, 2005

Terrorism against civilians does not need to cross international boundaries for a terrorist to receive a longer sentence than suggested by federal sentencing guidelines, the 11th U.S. Circuit Court of Appeals has ruled.

The unanimous decision reversed a Fort Lauderdale, Fla., federal judge's finding that he could not reach a higher sentence by treating Stephen John Jordi as a terrorist on his guilty plea in an alleged plot to firebomb abortion clinics in Florida.

The three-judge panel's unanimous ruling Monday could open the door to stiffer sentences for domestic terrorism against civilians.

Although recent U.S. Supreme Court decisions have made federal sentencing guidelines advisory rather than mandatory, guidelines must still be considered before a judge decides a sentence.

The panel agreed with prosecutors that U.S. District Judge James I. Cohn could have gone higher than the guidelines. At issue in U.S. v. Jordi are rules developed by the U.S. Sentencing Commission to help judges interpret the guidelines.

"The district court determined the guideline range and then improperly determined that it could not grant an upward departure," wrote U.S. District Judge L. Scott Coogler of Alabama who was sitting on the panel by designation. "As a result, the guidelines were improperly applied and, thus, were not appropriately consulted."

Under the guidelines, an enhancement, or increased sentence, for a particular offense is an option when crimes like murder, kidnapping and arson were committed in an attempt to intimidate the government.

In Jordi's case, the government invoked a footnote allowing judges to consider an "upward departure," which is at the judge's discretion.

The Coconut Creek man was arrested in November 2003 just before the firebombing campaign was to begin. Jordi had checked out possible targets in South Florida but later shifted his focus north.

Jordi corresponded with imprisoned anti-abortion activist Paul Hill, who fatally shot a doctor and volunteer escort outside a Pensacola, Fla., women's clinic in 1994. Hill was executed in September 2003.

"I do not have the means to kill abortion doctors, but I do have the means to bomb clinics," Jordi told an informant. "Maybe that way I can dissuade other doctors from performing abortions."

He was indicted on charges of attempted arson, distributing information on the manufacture of an explosive device and possessing an unlicensed handgun silencer.

The government dropped the other charges in exchange for Jordi's guilty plea to attempted arson, which carries a five-year sentence by statute.

But Assistant U.S. Attorney John Schlesinger, now a Miami-Dade Circuit judge, argued that Jordi should receive a stiffer sentence because his plans to target churches he thought were too liberal, abortion clinics and gay bars were meant to "intimidate and coerce a civilian population."

Prosecutors contended that qualified him for an increased sentence under the sentencing guidelines applying the Antiterrorism and Death Penalty Act of 1996 and asked for a prison term of seven to 10 years.

At Jordi's sentencing hearing, Cohn said, "A higher sentencing range would more appropriately address the seriousness of the defendant's conduct." But he agreed with Assistant Federal Defenders Anne Lyons and Michael Spivack that the statutory definition of terrorism required that the crime "transcend national boundaries."

Cohn denied the government request for a harsher sentence than advised by the guidelines handbook and imposed a five-year prison term, setting the stage for the government's appeal.

The 11th Circuit said geography is not an issue in the sentencing guidelines for terrorism targeting civilians. The panel said guidelines require a two-pronged test: intent to scare civilians and whether the underlying crime is listed in the anti-terrorism law.

The 11th Circuit quoted the sentencing commission's reasoning in the U.S. Sentencing Guidelines manual: "The amendment adds an encouraged, structured upward departure ... for offenses that involve terrorism but do not otherwise qualify as offenses that involved or were intended to promote 'federal crimes of terrorism' for purposes of the terrorism adjustment."

Circuit Judges Joel Dubina and Charles Wilson also heard the appeal.

Jordi's sentence was vacated and his case was sent back to Cohn for resentencing.

'Safety Net' Group Created For Iranian-Americans (SFChron/AP)

San Francisco Chronicle/AP, August 4, 2005

Civil rights groups are creating what they call a "safety net" for Iranian-Americans.

Organizers of a campaign called "Iranian-American Know Your Rights" will hold town-hall meetings and try to bring together Iranian-Americans with FBI and Department of Homeland Security representatives.

The first meeting is planned for Los Angeles later in August or September.

"In the last 10 months, our office has received an unprecedented number of Iranian-American calls ... saying they're being subjected to FBI interviews and surveillance, security-clearance denials after they've had them for 25 years," said Banafsheh Akhlaghi, president of the National Legal Sanctuary for Community Advancement, a San Francisco civil rights group.

Valerie Smith, a spokeswoman for the Department of Homeland Security in Washington D.C., said Thursday the organization is "deeply committed to preserving civil rights and liberties."

She said Homeland Security leaders have met with similar groups and relayed their concerns.

"We attempt to foster relationships with communities — it's one of the most important things we can do," she said.

Rights Groups Focus On Iranians (MERCN)

By Katherine Corcoran

The San Jose Mercury News, August 5, 2005

Several prominent civil rights groups are coming together to create a safety net for Iranian-Americans, who have reported a spate of discrimination cases in the Bay Area in recent months -- from more FBI interrogations to loss of longtime security clearances.

Called Iranian American Know Your Rights, the campaign is designed to get information to a community, largely in the South Bay and on the Peninsula, that is traditionally highly educated and professional, but also very low profile.

``In the last 10 months, our office has received an unprecedented number of Iranian-American calls . . . saying they're being subjected to FBI interviews and surveillance, security-clearance denials after they've had them for 25 years," said Banafsheh Akhlaghi, president of the National Legal Sanctuary for Community Advancement, a San Francisco-based civil rights group for Muslims and people of Middle Eastern and South Asian heritage.

167 complaints

Akhlaghi said the rise coincides with the Bush administration's tough talk on Iran, the same phenomenon that occurred among Afghans and Iraqis in this country just before the United States declared war on their home countries. Her office has received 167 complaint calls since last fall, and for the first time since Sept. 11, 2001, the vast majority are from Iranian-Americans.

In her previous work as an immigration attorney, most calls have come from residents of other Middle Eastern or South Asian communities.

``Each time the government speaks out about one of these countries, it seeps into the society as well," she said.

Like other immigrant communities, many Iranian-Americans are afraid to report discrimination cases, particularly to federal agencies.

Services listed

The campaign includes spreading information about services available to help fight discrimination through the Internet and Iranian and mainstream media. They also plan town-hall meetings, bringing members of the Iranian-American community together with representatives of the FBI and Department of Homeland Security to build better relations. The first such meeting is planned for Los Angeles later in August or September.

Along with the National Legal Sanctuary and the ACLU, groups involved include Amnesty International, the Lawyers Committee for Civil Rights, the federal Equal Opportunity Employment Commission and the Iranian American Political Action

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Committee. The groups are focusing on fighting racial profiling, providing free legal representation and offering help with employment discrimination.

The campaign is part of an overall effort since Sept. 11, 2001, to track discrimination and hate crimes against Middle Eastern and South Asian communities. But Bay Area Iranian-Americans require special efforts, said Dalia Hashad of the American Civil Liberties Union.

Iranians are Persian, not Arabic, and speak Farsi.

``We weren't reaching the communities through our traditional outreach," Hashad said, ``going to mosques and putting stuff out in Arabic."

New York Police Sued Over Subway Searches (WP)

By Michelle Garcia

The Washington Post, August 5, 2005

NEW YORK, Aug 4 -- The New York Civil Liberties Union sued the city's police department Thursday, calling the random search of subway riders' bags unconstitutional and ineffective.

The lawsuit -- filed in a federal court on behalf of five subway passengers, including the son of a retired police captain and a naturalized citizen -- alleges that the program violates constitutional rights that protect against illegal searches and guarantee due process.

New York City's transit system is the first in the nation to institute regular, random checks of passenger bags. The searches began July 21, after terrorist suicide bombings two weeks earlier in London's transit system killed 52 bystanders. Critics not aligned with civil liberties activists also say the searches are ineffective but say they want police to begin racial profiling of passengers to emphasize searches of young men of Middle Eastern or Asian descent.

Civil liberties advocates said searches that are not based on suspicion do little to protect the public, particularly when mass-transit riders who refuse to submit to the searches are allowed to enter the subway system at another station.

"People are allowed to walk away, ensuring that only innocent people are searched," said Donna Lieberman, executive director of the NYCLU, who called the searches a "civil liberties surcharge on a Metrocard."

The searches are performed on a rough mathematical formula of one out of five to 10 people depending on foot traffic, according to police officials.

New York subways move 4.7 million passengers, nearly half of the nation's mass-transit riders. New Jersey riders boarding trains to New York recently became subjected to similar searches.

Gail Donoghue, special counsel in the city's legal department, called the NYCLU "shortsighted" and said in a written statement that the program "preserves the important balance between protecting our City and preserving individual rights."

City police officials said they have received no complaints about the policy.

The Supreme Court has approved the use of checkpoints in special circumstances, but in 2000 the court ruled that random searches could not be employed for the "ordinary enterprise of investigating crimes."

A plaintiff in the NYCLU lawsuit, Joseph Gehring Jr., the son of a retired police captain and a "lifelong Republican," said he began avoiding police checkpoints after his bags were searched. "I've been forced to act like a criminal in my own city when I have done nothing wrong," said Gehring, who lamented a lack of opposition by New Yorkers to the program. "We are becoming accustomed to having our liberties taken away."

New York state Assemblyman Dov Hikind (D) plans to introduce legislation in the state legislature within two months that will empower police officers to single out people based on national origin and ethnicity.

"Police officers need to keep specific attention to young people -- Middle Eastern, South Asian -- based on a profile that is so obvious," Hikind said.

New York City Council member James S. Oddo (R) said he will introduce a nonbinding resolution in support of the legislation.

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On a Manhattan-bound subway, Princess Alexander, 38, offered her conditional support for the police searches, saying, "This is what we have to live with right now." But Alexander, an office manager, said she is opposed to racial profiling. "We have been singled out," said Alexander, who is black.

NYC Sued Over Police Subway Bag Searches (AJC/AP)

By Larry Neumeister, Associated Press Writer

The Atlanta Journal-Constitution, August 5, 2005

NEW YORK — Five city subway riders and a civil liberties group sued the city Thursday to stop random police inspections of bags in subways, calling the searches ineffective, unconstitutional and a publicity stunt that does not enhance safety.

"It's a needle-in-the-haystack approach to law enforcement," said Donna Lieberman, executive director of the New York Civil Liberties Union, which filed the lawsuit in U.S. District Court in Manhattan.

She and other members of the group who spoke at a news conference to announce the lawsuit said they want police to stop terrorists and improve safety, but not with useless measures designed to give subway riders a false sense of security.

Christopher Dunn, the New York Civil Liberties Union's associate legal director, said the policy announced July 21 was akin to a random search of people's bags and packages on public streets and a violation of a fundamental civil right.

But Gail Donoghue, a city lawyer, said the subway searches meet all legal requirements and preserve "the important balance between protecting our city and preserving individual rights."

She added, "We believe the NYCLU is shortsighted in failing to recognize this. We are confident our position will prevail in court."

Spot checks by the NYCLU since the policy began show that police conduct the searches at few stations with little effect since anyone can refuse the search and enter the subway's 468 stations at another point, he said.

As a result, he said, only innocent people are subjected to the unreasonable search and seizure that the Constitution outlaws.

"What is the point of searching a bunch of grandmas going down the subway steps with their Macy's bags?" he asked.

Mayor Michael Bloomberg said he was disappointed that the NYCLU was challenging the tactic.

"The plan that we've come up with, where it's random and fair to everybody and adds to the security of this city, is the appropriate thing, and I'm just sorry that they've chosen to go in this direction," he said.

Among five plaintiffs was Brendan MacWade, 32, who escaped the World Trade Center towers after they were struck by hijacked planes on Sept. 11, 2001.

"I want to catch terrorists as much as any politicians or officials but this policy does not work," he said.

Homeland Security To Conduct Gas Tests In Midtown, Subways (NSDY)

By Bryn Nelson

Long Island Newsday, August 5, 2005

Amid heightened anti-terrorism vigilance in New York City's subways, a mammoth Department of Homeland Security-sponsored project starting as early as Saturday will seek to answer how harmful gases might disperse through midtown's streets and the warren of subway tunnels beneath them.

The simulation, which will use colorless, odorless and harmless "tracer" gases, follows a smaller effort in March that focused on the Madison Square Garden area. This time, a team of more than 150 researchers and volunteers working on the Urban Dispersion Program's second field study will fan out over a much larger section of midtown, ranging from 37th to 59th streets and from 10th to Third avenues, and including stations along the Broadway subway line and other lines in the area.

Scientists will release the gases at four of eight possible locations above ground, depending on the wind, within an office building and on a subway platform of the Broadway line at 50th Street and Seventh Avenue.

Six separate experiments are planned over the next three weeks, with specific dates dependent on the weather, and the subway portion planned for the final three release dates.

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"We'll be looking at the interaction of the subways in how the gases are dispersed," said Paul Kalb, a senior research engineer at Brookhaven National Laboratory. "If we release on the ground level, the street level, some of the material may be drawn into the subways and moved around that way."

Likewise, releasing a gas in the subway will tell researchers whether that gas remains within the tunnel system or drifts up to street level, and how it disperses.

One of the substances is known as PFT, or perfluorocarbon tracer gas, a safe and extensively used labeling compound. Jerry Allwine, the project's lead scientist and an engineer with the Pacific Northwest National Laboratory in Richland, Wash., said the second type of benign tracer gas, known as sulfur hexafluoride, also has been used for years. With it, scientists can measure exposure rates at one-second intervals.

To collect the reams of data expected from the experiments, electronic monitors will be positioned on rooftops, in subway stations, in baskets hanging from lampposts, in a half-dozen unmarked vans, and in the pockets of volunteers simulating the movements of pedestrians and subway riders.

Another experiment in a midtown office building will analyze how air flows inside and exchanges with the air outside.

For more information, see http://urbandispersion.pnl.gov.

Eight Charged In DMV Bribe Scheme (SFC)

By Henry K. Lee, Chronicle Staff Writer

San Francisco Chronicle, August 5, 2005

(08-04) 12:14 PDT Oakland (SF Chronicle) -- Eight people, including four employees of the state Department of Motor Vehicles office in Oakland, have been charged in a scheme in which some of the DMV workers allegedly accepted thousands of dollars in bribes in exchange for providing driver licenses, identification cards and registration stickers for cars that did not pass smog tests, authorities said today.

Four of the defendants, including three DMV employees, appeared in U.S. District Court in Oakland this morning on charges that they accepted bribes to sell identification documents to non-U.S. citizens. All four were ordered to return to court Friday for further proceedings.

"The federal charges unsealed today allege that public employees accepted cash bribes to provide seemingly valid driver licenses to individuals not lawfully present in the United States," San Francisco U.S. Attorney Kevin Ryan said in a statement. "Upon learning of these allegations, federal and state law enforcement agencies aggressively pursued this investigation in an effort to identify all the employees engaging in such conduct."

The DMV employees who appeared in court were Brachelle Fifer, 43, Stephanie Davis, 37, and Leneka Pendergrass, 27, all of Oakland. They were immediately released from custody, and all three declined comment outside court.

Another DMV employee, Frances Aliganga, 53, of Fairfield and Veronica Rivera, 53, of Daly City were indicted on charges of conspiring to defraud the DMV. Rivera, who is not a DMV employee, allegedly served as a "broker" of fraudulently obtained documents.

From about November 2003 through June 2005, authorities said, Rivera recruited individuals who were living illegally in the United States and offered to sell them a California driver license or ID card for $3,000 to $4,500 each.

Rivera allegedly provided fraudulently obtained -- but real -- social security numbers that her clients could use in their DMV applications. After accepting approximately half of the bribe payment in cash, Rivera arranged for her clients to meet with DMV employee Aliganga, who along with Fifer, Davis and Pendergrass worked at the DMV office at 5300 Claremont Ave. in Oakland, according to the indictment.

Aliganga processed the clients' applications, provided them with temporary driver licenses and had valid driver licenses mailed to them, authorities said.

To bypass legal requirements, Aliganga entered into DMV computers information indicating that clients had provided proof of legal presence when no such documentation had been provided. Federal prosecutors said she entered fraudulent social security numbers for some clients and had driver licenses issued to clients who had not taken either a written or driving examination.

In return for her circumventing required steps and falsifying information, Aliganga received from Rivera a share of the cash bribe that each client paid to Rivera, authorities said. According to the indictment, Aliganga's and Rivera's scheme resulted in the issuance of more than 200 fraudulent California driver licenses and ID cards.

Fifer was charged with conspiring to commit fraud for entering false information into the DMV computer system to circumvent legal requirements, including proof of citizenship, to issue driver licenses to clients who paid cash bribes. She accepted $100 in cash each time she helped one of Rivera's clients get a license, and Aliganga also paid Fifer as part of the scheme, authorities said.

Davis and Shahid Hamid, 45, an Oakland video store owner who is not a DMV employee, were charged with selling vehicle registration stickers to individuals whose vehicles never passed a required smog test and selling California driver licenses to individuals who had taken neither a written examination nor a driving examination.

Hamid, sometimes in connection with another individual, then worked with and through DMV employee Davis, who processed the fraudulent vehicle registration or fraudulent driver license in exchange for a cash payment, typically $100 to $200 to bypass the smog requirements and $500 to issue a fraudulent driver license.

Pendergrass and non-DMV employees Keith Williams, 40, and Adrian Gomez Zepeda, 31, both of Oakland, were charged with providing California driver licenses and identification cards to individuals by illegally obtaining the identity of another person and issuing driver licenses to their clients that reflected the name and personal identifiers of another individual.

To execute the scheme, the two allowed their clients to circumvent various required DMV procedures, authorities said. Williams and Zepeda also allegedly recruited individuals willing to pay hundreds of dollars to obtain a fraudulent driver license or to register a vehicle that could not pass California smog requirements.

The fraudulent driver licenses and vehicle registrations allegedly were then processed by Pendergrass.

8 Charged In DMV Bribery Scheme (BAYCITY)

Bay City News Wires, August 5, 2005

OAKLAND, Calif. -- The U.S. attorney's office announced Thursday that eight people, including four California Department of Motor Vehicles employees, have been charged in an alleged scheme to provide false identification documents to more than 200 non-U.S. citizens.

Prosecutors allege that DMV employees accepted bribes of up to $4,500 in exchange for providing California driver's licenses and identification cards to people who are in the United States illegally.

In an indictment returned on July 14 and unsealed Thursday, DMV employee Frances Aliganga, 53, of Fairfield, and alleged broker Veronica Rivera, 53, of Daly City, are charged with conspiring to defraud the DMV, the state of California and the people of California of "the right to Aliganga's honest services."

According to the indictment, from about November 2003 through June 2005, Rivera, who was not a DMV employee, recruited non-citizens and offered to sell them a California driver's license or identification card for $3,000 to $4,500 each.

Rivera allegedly provided fraudulently obtained, but real, Social Security numbers the clients could use in their DMV applications. After accepting approximately half of the bribe payment in cash, Rivera allegedly arranged for her clients to meet with Aliganga, who was a licensing and registration examiner at the DMV office in Oakland.

According to the indictment, Aliganga then processed these clients' applications and provided them with temporary driver licenses, and then caused valid driver's licenses to be mailed to them.

The indictment alleges that Aliganga entered into DMV computers that clients had provided proof of legal presence when, in fact, no such documentation was provided. She also is accused of entering fraudulent Social Security numbers for some clients. Some clients never took, let alone passed, written or driving exams.

Rivera gave Aliganga a share of the cash bribe that each client paid her, prosecutors said.

U.S. Attorney Kevin Ryan said in a statement, "Law enforcement has taken, and will continue to take, appropriate measures to minimize potential threats posed by this alleged conduct."

A second criminal complaint alleges that Brachelle Fifer, 43, of Oakland, input false information into the DMV computer system to circumvent legal requirements, including proof of citizenship, to issue driver's licenses to clients who paid cash bribes.

The complaint alleges that Fifer accepted $100 in cash each time she helped one of Rivera's clients get a California driver's license, and that Aliganga also paid Fifer for her role in the scheme.

A third complaint alleges that DMV employee Stephanie Denise Davis, 37, of Oakland, and Shahid Hamid, 45, of Oakland, sold vehicle registration stickers to individuals whose vehicles never passed a required smog test. They are also accused of selling driver's licenses to people who never took written or driving tests.

In a fourth complaint, DMV employee Leneka Pendergrass, 27, of Oakland, and non-DMV employees Keith Williams, 40, of Oakland, and Adrian Gomez Zepeda, 31, are charged with conspiring to provide California driver's licenses and identification cards to individuals by illegally using the identities of other people.

All four of the charged DMV employees -- Aliganga, Fifer, Davis, and Pendergrass -- were employed at the branch at 5300 Claremont Ave. in Oakland.

Aliganga and Rivera were previously charged by a criminal complaint and appeared before Magistrate Judge Wayne D. Brazil in Oakland in late June.

Rivera was released on a $500,000 bond secured by her home and various property of her relatives. Aliganga remains in custody.

Aliganga and Rivera are scheduled to appear before U.S. District Court Judge Claudia Wilken in Oakland on Monday.

Fifer, Davis, Hamid and Pendergrass were arrested Wednesday and were set to make their initial appearances before Brazil Thursday morning in Oakland. Zepeda is in custody on unrelated state charges.

The prosecution is the result of a two-year investigation by the FBI, the DMV, the Internal Revenue Service and the California Highway Patrol.

2 Jailed In Immigration Papers Plot (VP)

By TIM MCGLONE, The Virginian-Pilot

Virginian-Pilot, August 5, 2005

NORFOLK — A federal judge Thursday ordered a Central American man jailed on charges of producing phony immigration documents after learning that he had been convicted of manslaughter 15 years ago but had never been deported.

Margarito Diaz is one of two men charged in an investigation of mass-produced phony identifications used by illegal immigrants to remain in the country and obtain employment.

Federal authorities arrested Diaz this week after executing a search warrant at his residence in Accomac in Accomack County. Another suspect, Perfecto Perez, was arrested after a similar raid at his home in Parksley, also in Accomack County.

Assistant U.S. Attorney Michael C. Moore said in court that Diaz "admitted he was involved in the large-scale production of documents."

The phony documents, Moore added, would have put illegal immigrants "on the fast track to U.S. citizenship."

Diaz has remained in this country despite a deportation order in 1990 following his conviction for involuntary manslaughter and failing to stop and provide aid at an accident, according to Moore and state court records. Moore said Diaz was involved in an alcohol-related fatal crash.

Records in Northampton County Circuit Court show that Diaz was convicted after being tried in 1989. Moore said Diaz served one year and 10 months in prison. Further details of the fatal crash were unavailable.

Court records show that Diaz is from Guatemala and that he has had an application for asylum pending at an immigration court in Northern Virginia. Immigration officials did not return calls for more information .

Magistrate James E. Bradberry ordered Diaz and Perez jailed without bond. But Bradberry had harsh words for immigration officials, questioning why Diaz was allowed to remain in the country. Immigration "has done absolutely nothing in the last 10 years," Bradberry said.

"It's only 9/11 that all of a sudden has gotten them off their butts," he added, referring to the 2001 terrorist attacks.

Agents from Immigration and Customs Enforcement, the FBI and the Virginia State Police conducted the raids.

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At Diaz's home, agents found equipment, including a laminating machine, and paperwork capable of producing 500 fake identifications, including Social Security cards and permanent resident cards, Moore said. They also found $30,000 and a gun, he said.

Undercover agents in October had purchased two pairs of the documents from Diaz and in June purchased two pairs from Perez, according to court records. Each pair cost $120. Authorities said they were operating independently of each other.

Authorities would not comment on how many fake documents may have been sold or whether any were used in South Hampton Roads.

There have been numerous cases in recent years of illegal immigrants caught with phony work papers at area shipyards and military bases.

Diaz said in court papers that he worked in construction, earning $1,600 a month. He said he pays $375 a month for rent and supports three children.

Perez said in court records that he works for a Perdue chicken plant earning $1,800 a month and that he supports two children.

Reach Tim McGlone at (757) 446-2343 or tim.mcglone@pilotonline.com.

Still Not Ready In The ER (WP)

By Arthur Kellerman

The Washington Post, August 5, 2005

One of the fundamental responsibilities of government is to coolly and dispassionately assess health threats against the populace and take decisive action to counter these threats.

Faced with the twin specters of mass casualties from international terrorism and emerging biological threats, our government has failed to take effective action on either front.

International terrorism's weapon of choice is explosives -- improvised and otherwise. The London attacks and the devastating Madrid bombings are only some of the more recent examples. Over the past decade terrorist bombings have caused many civilian deaths and injuries in Israel, Russia, Bali, Colombia, Iraq, Spain, Egypt, Yemen, Kenya, Tanzania, Argentina, Afghanistan, the Philippines and other places, including two U.S. embassies in Africa.

But unfortunately, rather than strengthen our nation's beleaguered emergency and trauma care system to meet this threat, the federal government has turned a blind eye to the problem. Across the United States, underfunded emergency rooms and trauma centers lack sufficient beds to meet their daily mission, much less absorb large numbers of victims from a terrorist attack. Few ambulance personnel know how to assess a blast scene or properly evaluate multiple casualties from a bombing. The tiny amount of federal funding ($3.5 million) devoted to trauma systems planning and development is being targeted for elimination by the House.

One reason we are so ill-prepared is that the bulk of federal preparedness funds have been poured into bioterrorism, a frightening but less likely threat. Over the past three years, billions in taxpayer dollars have been spent to purchase "sniffer stations," mount an ill-fated and ultimately unsuccessful vaccination campaign against smallpox, and stockpile antibiotics. There are 17 federally funded Centers for Public Health Preparedness in the United States that focus exclusively on biological and other exotic weapons of mass destruction. There is not one focused on civilian injuries from explosives.

But at least we are safer from biological agents, right? Well, no. Two years after SARS had a devastating impact in Southeast Asia and in Toronto -- arguably one of the most medically sophisticated cities in the world -- we are woefully unprepared to handle a recurrence of severe acute respiratory syndrome. We are even less capable of meeting a far more deadly threat: the emergence of a pandemic strain of influenza from Southeast Asia.

In 1918-19 the Spanish flu killed 20 million to 40 million people worldwide -- more than 500,000 in the United States alone. Many of the victims were young, healthy adults. Despite knowledge that pandemic strains occur every 10 to 50 years, and despite increasingly worrisome reports from Southeast Asia, we are woefully unprepared to protect the United States from an outbreak of pandemic flu. Federal officials are "meeting," but a national plan for countering pandemic flu has not progressed beyond the draft stage. State-level planning and preparedness efforts vary widely; no specific deadline exists for their completion. Despite

overwhelming evidence that many hospitals are already diverting ambulances because of overcrowding, the Health Resources and Services Administration does not plan a meeting to discuss the lack of hospital "surge capacity" before next fall.

A year after the flu vaccine debacle, the United States still lacks sufficient production to meet its needs. Six to eight months of lead time are required to create a new vaccine. The virulence of the avian strain emerging in Southeast Asia is posing huge technical challenges to vaccine makers. Our approach to distributing vaccine and antiviral agents is woefully inadequate. Front-line paramedics, nurses and ER doctors lack adequate protective equipment for respiratory pathogens. Many cannot even get a shot of flu vaccine. America's most mission-critical hospital resources are struggling to meet daily demands, much less the additional burden of an epidemic.

It is ironic that our government's single-minded focus on "bioterrorism" has left us less well prepared to handle either an emerging biological threat (such as SARS or avian influenza) or a terrorist strike (which will most likely involve the use of explosives). Unless we quickly rethink our priorities and broadly allocate resources to meet the most plausible threats to the U.S. population, our only option will be a "faith-based initiative."

Pray that nothing happens.

The writer is professor and chair of emergency medicine at the Emory University School of Medicine in Atlanta.

WAR NEWS:

U.S. Contends Campaign Has Cut Suicide Attacks (NYT)

By Craig S. Smith

The New York Times, August 5, 2005

BAGHDAD, Iraq, Aug. 4 - A day after losing 15 marines in fighting along the Euphrates River, the American military command here said Thursday that suicide attacks had declined as a result of its three-month campaign to stem the flow of foreign fighters coming down the river valley from Syria.

Brig. Gen. C. Donald Alston, chief spokesman for the American command, said 13 car bombings occurred in Iraq last week, only three of which were suicide bombings, the lowest weekly figures since the current counterinsurgency campaign in western Anbar Province began. The military regards car bombings, suicide bombings in particular, as a rough measure of foreign fighter activity because it contends that most of the suicide bombers are foreign militants.

"When I look at the bar charts, the statistics are a clear indication that the tempo of suicide attacks has decreased," General Alston said, noting that the percentage of car bombings involving suicide bombers was as high as 60 percent a few months ago. He expressed optimism that the flow of foreign fighters was ebbing. "This is not an expanding insurgency," he said.

Fourteen marines were killed when a roadside bomb hit their vehicle on Wednesday near Haditha, in western Iraq, and the American military said Thursday that another marine was killed Wednesday by small arms fire during operations in Ramadi, a volatile city about 70 miles farther down the Euphrates, west of Baghdad.

At least 24 marines have been killed in the last week in fighting along the Euphrates, one of the bloodiest periods for American forces in months.

The explosives that killed the marines and an Iraqi civilian near Haditha on Wednesday were three antitank mines stacked atop one another and buried under a highway on which the American vehicle was traveling, an American military officer in Washington said Thursday. It was unclear whether the mines had been remotely detonated or had been triggered using a fuse, said the officer, who spoke on the condition of anonymity because the conclusion about the cause of the blast was preliminary and under review.

The marines were in an amphibious assault vehicle. A Marine spokesman, Austin Johnson, said Thursday that the Marines have about 100 of the vehicles in Iraq, and that each has been reinforced with corrugated steel armor plates. The undercarriages have no additional protection, although Marine officials are discussing how to add such protection. But several senior military officials said Thursday that there would have been no effective protection against a triple-stacked mine. The United Nations Security Council passed a resolution on Thursday condemning terrorist attacks in Iraq. In his first public remarks as the new

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American ambassador to the United Nations, John R. Bolton urged Syria, Iran and other member states to cooperate in preventing the flow of terrorists, weapons and money to Iraq.

Foreign fighters, mostly Saudis and Egyptians, senior American military officers said, have been entering Iraq from Syria along Iraq's vast western border.

Most of those fighters are believed to enter north of where the Euphrates River crosses into Iraq. Because the American military presence has until recently been on the south side of the river, the north side had become something of a sanctuary for insurgents moving foreign fighters south along the river to Baghdad and north across desert tracks to Mosul.

Only a few bridges cross the Euphrates between the Syrian border and Haditha, a small farming town where an American Marine base protects a dam and a hydroelectric plant that supplies power to Baghdad. Even fewer of the bridges are substantial enough for armored vehicles to cross the Euphrates safely.

The American military began addressing the flow of foreign fighters in May with a major operation along the Syrian border north of the Euphrates. The military said it had killed at least 125 foreign fighters in those operations, convincing Gen. George W. Casey Jr., the top American commander in Iraq, that it was time to focus on the area.

A combat outpost was built on the north side of the river near Rawah to give logistical support to special operations forces moving by helicopter on raids on the north side of the river, General Alston said. An Army quick reaction force was sent to aid the raiders if they had trouble. An Iraqi unit was based nearby to control the bridge and help patrol the area.

"Now we own the Rawah bridge, and they can't move across the river," a senior officer in Baghdad, who agreed to describe the campaign on the condition of anonymity, said Wednesday, adding that "the operations are making it harder and harder for them to move around."

The marines based at Haditha have begun a major hunt for insurgents south of the river.

Operations and intelligence officers say they do not believe that more than a few dozen insurgents operate in the area but that the new military presence north of the river has caused a response.

"We struck a nerve," the senior officer said.

Prime Minister Ibrahim al-Jaafari announced Thursday that his government had drawn up a 12-point plan for improving security in the country, including turbulent Anbar Province. He said the specifics would remain secret, but that the initiative was necessary to spur Iraqi forces toward assuming full responsibility for security in much of the country as soon as possible.

A suicide bomber blew himself up at noon on Thursday about 30 miles south of Kirkuk in the north, killing four other people, including two members of a Shiite militia, said an Iraqi army officer in the region. The militia members, loyal to the Shiite cleric Moktada al-Sadr, were traveling south in a convoy and later attacked a village near the scene of the bombing, the official said.

Three policemen were reported killed in Kirkuk in a separate car bombing, Iraq's Interior Ministry said.

Kirkuk is one of Iraq's main oil centers. Its future will be hotly debated at a meeting of Iraq's political leaders beginning Friday in Baghdad. Kurds want the government to force out Arabs who were resettled in the city under Saddam Hussein. But despite an agreement by the transitional government last year to move Arabs out, the current, elected government of Mr. Jafaari has resisted the plan.

The new American ambassador, Zalmay Khalilzad, angered many Kurds in a surprise visit to the city on Wednesday when he told the City Council that the United States would not support the deportation of Arabs.

"We cannot accept this statement and consider it as a tool to marginalize the Kurds in the city," said Babakr Kirkukli, a senior Kurdish politician and member of the council.

Two bodies bearing marks of torture were found Thursday in eastern Baghdad, the Iraqi Interior Ministry reported, and in Amiriya in western Baghdad, a roadside bomb wounded two civilians. In a separate incident in Amiriya, armed men attacked a convoy of cars belonging to Mehdi al-Hafidh, a former minister of the transitional government that left power after elections this year. One guard was killed. Mr. Hafidh was not in the convoy.

In neighboring Jordan, the government arrested 17 men it said were linked to Al Qaeda in Iraq and were plotting to attack American military personnel who frequent Jordan's five-star hotels while on leave in Iraq, The Associated Press reported.

U.S. Defends Operations In Western Iraq (NSDY/AP)

By Tini Tran, Associated Press Writer

Long Island Newsday, August 5, 2005

BAGHDAD, Iraq -- The U.S. military defended its operations in western Iraq, insisting it is reducing insurgent attacks despite the deaths of 14 Marines in a huge bombing. Four more U.S. service members were killed in action, the military said Thursday.

Iraq's prime minister sought to assure his demoralized public that the government is on top of the security situation, announcing a new plan for restoring order and declaring "we are in a state of war."

U.S. military spokesman Brig. Gen. Donald Alston said American military operations in Anbar province, which includes the area where the Marines died, have succeeded in disrupting insurgent activities.

"We still have deaths. We still have suicide car bombs," he said. "But the numbers we see indicate (the insurgents) can't generate the same tempo, and I think that's because we've had some degree of effect in interdicting these forces."

Alston cited figures showing there were 13 car bombs in Iraq last week -- the lowest weekly number since April. "There's a clear indication to me that the tempo has decreased."

U.S. troops have stepped up operations in recent months in Anbar province, the center of the Sunni Arab-dominated insurgency and a major avenue for foreign fighters infiltrating the country from Syria.

Alston warned that militants will likely rally their forces in a concerted effort to derail the country's political progress, including a referendum on the constitution in October and an election in December.

U.S. commanders have warned that although the number of vehicle and roadside bombings are decreasing, they are increasing in potency and sophistication. Bombs on the roads or planted in vehicles account for 70-80 percent of the U.S. deaths in Iraq, command spokesman Lt. Col. Steven Boylan said.

The blast that killed the 14 Marines and their civilian translator on Wednesday was so powerful that it flipped the 25-ton vehicle and engulfed it in a huge fireball. The extremist Ansar al-Sunnah Army claimed responsibility in a Web posting and said its fighters used two bombs to destroy the vehicle.

A roadside bomb late Wednesday killed three U.S. soldiers in Baghdad, the U.S. command said. A Marine was killed Wednesday by small arms fire in Ramadi, the capital of Anbar province 70 miles west of Baghdad, the command added.

Officials in Georgia said the three soldiers killed in Baghdad were assigned to the 48th Brigade of the Georgia National Guard. The 48th has lost 11 soldiers since arriving in Iraq in May.

At least 1,826 members of the U.S. military have died since the Iraq war started in March 2003, according to an Associated Press count.

During a news conference Thursday, Prime Minister Ibrahim al-Jaafari announced a new 12-point security plan. He gave few details but said it included steps to improve intelligence, protect infrastructure and prevent foreign fighters from entering the country.

"We will not hesitate in saying this: We are in a state of war. It is one of the most dangerous types of war because it is not a conventional or a war of borders," he said.

Al-Jaafari noted that the United States and its coalition partners were trying to boost Iraqi forces to take over security from multinational forces.

"The people believe that they should depend on themselves and it is a matter of time. Iraq is now taking major steps in training its forces," he said.

Earlier in the day, Interior Minister Bayan Jabr said Iraqi security forces have started a nationwide operation to protect the country's estimated 544 voter registration centers for the constitutional referendum and election.

In Washington, Sen. Joseph Biden, the ranking Democrat on the Senate Foreign Relations Committee, called the Iraq campaign a tough situation "that's going to get tougher before it gets easier."

"The truth of the matter is that we've made some pretty significant miscalculations in term of policy from the outset, and we leave these Marines in a very, very tough spot," Biden said Thursday on CBS's "The Early Show."

Battle For Control Of Western Iraq's Routes Escalates (FT)

By Neil MacDonald

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Financial Times, August 5, 2005

Iraqi insurgent bombers have dragged US armoured patrols into an escalating battle over the highways and back roads of western Iraq, a senior US military spokesman said on Thursday.

However, despite a series of lethal attacks on US forces this week in western Iraq, which have claimed the lives of 28 US soldiers in the past four days, US commanders saw no reason to change their overall approach to the counter-insurgency battle, the spokesman said.

Brigadier General Donald Alston also denied that Haditha, the Euphrates valley town around which most of the attacks have taken place, was becoming "another Falluja" referring to the insurgent stronghold that was subject to a US military siege in November last year.

Nevertheless, Brig Gen Alston said the size of the bomb that killed 14 marines aboard an amphibious assault vehicle near Haditha on Wednesday showed that the insurgents continued to adapt their attacks on US forces.

The bomb, or improvised explosive device, killed all but one of 15 marine reservists aboard an amphibious assault vehicle, along with their interpreter

Brig Gen Alston said the size of the device indicated that the insurgents "have been motivated" to increase the potency of their bombs after the US had, in turn, upgraded the armour protecting their vehicles.

A roadside bomb late on Wednesday killed three US soldiers in Baghdad, the US command said. A marine was killed the same day by small arms fire in Ramadi. Both sides in Iraq's two-year-old guerrilla war were constantly adapting their practices to gain the advantage, Brig Gen Alston said. "We're never static when it comes to protecting our forces."

The deadly attacks on marine reservists around Haditha have raised questions about whether these lightly protected shock troops are adequately equipped for the protracted counter-insurgency battle that has unfolded in the Euphrates valley since May.

While the destroyed marine vehicle was lighter than the Bradley infantry carriers in use with the US army, its armoured protection exceeded the minimum protection previously allowed on US combat vehicles.

Higher armour standards for all US combat vehicles this year reflected a high-level decision "to respond to this threat posed by the terrorists", Gen Alson said. "Naturally, in response, the terrorists try to adapt."

While civilians make an easy target, the guerrillas have also producing more sophisticated devices to keep up the pressure on US patrols, Gen Alston said.

Shaped charges, for example, can direct the force of a blast to maximise its effect. Some of the devices being used most recently in western Iraq are reportedly of a type previously used by Hizbollah, the south Lebanese resistance group.

U.S. Toll Rises By 4 In Iraq; Reserves Hit Hard In Recent Attacks (WP)

By Jonathan Finer

The Washington Post, August 5, 2005

BAGHDAD, Aug. 4 -- The U.S. military said Thursday that four more GIs were killed Wednesday, a Marine in the central city of Ramadi and three soldiers in a car bombing in southwest Baghdad.

Their deaths, along with those of 14 Marines in western Iraq announced earlier, brought Wednesday's U.S. toll to 18.

The start of August has been among the bloodiest stretches for American forces since the 2003 invasion of Iraq, and non-active-duty service members have been hit hardest. Twenty-one Marines killed in three separate incidents this week were reservists, and the soldiers killed Wednesday were from the Georgia National Guard.

About 30 percent of the 138,000 U.S. troops in Iraq are from the National Guard and reserves.

The news of more U.S. fatalities came on a day in which the Iraqi prime minister announced a new security plan and said Iraqi forces were making the country safer, while the top U.S. military spokesman in Iraq told reporters that data showed the tempo of insurgent attacks was decreasing.

"The security situation is improving, especially Iraqi security forces with regard to both quality and quantity," said Prime Minister Ibrahim Jafari, who outlined a 12-point security program for Iraq on Thursday afternoon.

Under the new plan, four separate intelligence services will be consolidated into a central operation, and responsibility for security of the country's infrastructure -- such as oil pipelines and the power grid -- will be put in the hands of Deputy Prime

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Minister Ahmed Chalabi. Jafari provided few other details, beyond general pledges to do things such as secure Iraq's borders and improve relations with its neighbors.

At a news conference later, Air Force Brig. Gen. Donald Alston, the military spokesman, said the insurgents "can't generate the same tempo" of attacks as in previous months. The 13 car bombs detonated across Iraq last week represented the fewest since April, Alston said, although he declined to provide data for other forms of insurgent attacks such as roadside bombs.

"This is not an expanding insurgency," Alston added. "What we are seeing is probably the opposite."

Insurgent tactics have gotten more effective and sophisticated, Alston acknowledged, saying the rebels have modified their attacks to counteract improvements in the armor applied to U.S. vehicles, using larger and more lethal forms of explosives. "What we are seeing is an adaptive enemy," he said.

In Baghdad, the three soldiers killed Wednesday night were from the 48th Brigade of the Georgia National Guard, which arrived in Iraq in May. A spokeswoman with the unit, 2nd Lt. Selena Owens, said another soldier was seriously wounded.

The 48th Brigade has lost 11 members in insurgent attacks in less than two weeks and another in a noncombat incident. Thursday evening, she said, soldiers held a memorial service for four soldiers killed by a roadside bomb Saturday.

Elsewhere in Iraq on Thursday, three policemen were killed in the northern city of Kirkuk, and 20 miles to the south, in Daquq, a suicide car bomb detonated near a convoy of vehicles bearing followers of Shiite Muslim cleric Moqtada Sadr. Four were killed and five wounded, according to Iraqi army Lt. Col. Halkot Omar.

U.N. Condemns Attacks In Iraq As 'Horrific' (WT)

By Betsy Pisik

The Washington Times, August 5, 2005

NEW YORK -- The U.N. Security Council voted unanimously yesterday to condemn recent "shameless and horrific attacks" in Iraq and called on Iraq'sneighbors to halt the flow of terrorists and weapons.

The U.S.- and British-sponsored resolution "condemns without reservation and in the strongest terms the terrorist attacks that have taken place in Iraq, and regards any act of terrorism as a threat to peace and security."

The council met one day after 14 Marines and their civilian interpreter were killed in western Iraq during a particularly bloody week for U.S. forces.

"This resolution highlights the critical importance of cooperation among all member states to halt the flow of terrorists, weapons and terrorist financing to Iraq," said U.S. Ambassador John R. Bolton in his first council appearance since being appointed by President Bush.

Mr. Bolton called on Iran and Syria to honor international commitments to promote stability in the region.

Iraqi Ambassador Samir Sumaida'ie said, "Iraq is paying in blood and treasure, the blood of its innocent civilians and the wealth it badly needs for reconstruction and healing, in a fight against this multiheaded modern-day monster."

Britain, Brazil, France, Greece, China, Romania, Algeria and Argentina also spoke in support of the resolution, which warns that "acts of terrorism must not be allowed to disrupt Iraq's political and economic transition currently taking place."

Russian Deputy Ambassador Alexander Konuzin endorsed the resolution, but also called for a "time frame and conditions for the withdrawal of all foreign forces" from Iraq.

"Without solving these items, the reasons for the continuation of terrorist activity in Iraq will not be ended," Mr. Konuzin said.

American military commanders are concerned that insurgents are pouring over the borders, primarily from Iran and Syria.

Attacks against Iraqi civilians and security forces, as well as U.S. forces, have intensified in recent weeks: foreign diplomats have been kidnapped and killed; Iraqi officials and drafters of a constitution have been assassinated; Iraqi police stations and markets have been targeted.

Since Monday, 21 U.S. Marines and soldiers have died in increasingly ferocious and sophisticated attacks.

Mr. Sumaida'ie, the Iraqi ambassador, told reporters after the council session that Syria had assured Baghdad that it is trying to stem the flow of terrorists "but we keep seeing this."

Mr. Sumaida'ie, whose nephew was killed during a raid by U.S. forces two months ago, said that Iraq's security is foremost the responsibility of the Iraqi government.

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Most of the attacks are carried out by Saddamists, Islamists and organized crime cells, the ambassador said.

Iraq's Prime Minister Unveils Plan For Better Border Security (KRT)

By Hannah Allam And Richard Chin

Knight Ridder, August 5, 2005

BAGHDAD, Iraq - The Iraqi government on Thursday announced an ambitious plan for improved border protection and intelligence gathering and for the formation of an elite Iraqi force to prepare the embattled country for an eventual drawdown of American troops.

Iraqi Prime Minister Ibrahim al-Jaafari's announcement of the 12-point security program follows a particularly bloody week for U.S. forces battling Sunni Muslim insurgents in western Iraq. At least 24 Marines have been killed in action in the last week, underscoring the sophistication and persistence of an enemy that fledgling Iraqi forces are so far unable to combat on their own.

President Bush, speaking in Crawford, Texas, dismissed a threat by Ayman al-Zawahri, the No. 2 al-Qaida leader, to kill tens of thousands of U.S. troops in Iraq.

"We will stay the course," Bush said. "We will complete the job in Iraq. And the job is this: We'll help the Iraqis develop a democracy."

Bush also expressed condolences for the families of the Marines killed in Iraq.

"I hope they can take comfort in the fact that millions of their fellow citizens pray for them. I hope they also take comfort in the understanding that the sacrifice was made in a noble cause," Bush said.

In Baghdad, al-Jaafari said multinational forces would stay in Iraq.

"The multinational forces have a role to play. If not, we would have already asked them to leave," al-Jaafari told a news conference in Baghdad. The security plan "is an entirely Iraqi plan, with an Iraqi perspective, Iraqi timing and an Iraqi way of dealing with matters."

Also on Thursday, the U.S. military said three soldiers died when their vehicle was hit by a car bomb in southwest Baghdad Wednesday night and that a Marine was shot to death in Ramadi, the capital of the volatile Anbar province west of Baghdad.

The Marine was killed Wednesday, the same day 14 other Marines and their Iraqi translator died in the town of Haditha when their armored vehicle was ripped apart in the deadliest roadside bombing of a U.S. combat vehicle since the war began.

The Army of Ansar al-Sunnah, a well-known insurgent group with ties to al-Qaida, claimed responsibility for the attack in an Internet posting Thursday that couldn't be verified.

On Monday, six Marines died near Haditha when their foot patrol came under small-arms fire, and a Marine fighting near Hit was killed by a suicide car bombing.

The bombing in Haditha destroyed a lightly armored amphibious assault vehicle used by Marines that was designed to carry troops from ship to shore for use in land operations and wasn't intended for day-to-day inland patrolling, according to military analysts.

But military spokesman U.S. Brig. Gen. Donald Alston said Thursday that the vehicles had "Level 2" protection, which is described in a military press release as a vehicle with improved armoring.

"That decision by the leadership to deploy that much armor was in response to the threat imposed by the terrorists," he said.

Alston said, however, that it was a "quite potent" bomb that hit the Marines.

He said insurgents have been improving their bomb technology and tactics in response to the increased armoring.

"I think what we're seeing here is an adaptive enemy," he said. "We're seeing occasionally these exceptional bombs. We do not see this kind of lethality every day."

Alston said the attacks show that the military is pressuring the insurgency in the Euphrates River valley.

"This is ground that they need to sustain themselves and they are being denied that ground," he said.

He said in the last couple weeks the number of car bombings has decreased to its lowest level in the last few months.

He warned that insurgents may step up their efforts in response to a new constitution that Iraqi leaders are developing.

But he said, "This is not an expanding insurgency."

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"What we're seeing is probably the opposite," Alston said.

Alston also lashed out at a video posted on the Internet that allegedly shows one of the Marines killed near Haditha.

"The shameful act of exploiting dead bodies to promote their cause is deplorable," he said.

Iraq's premier offered few details on the 12-point security plan.

One of the cornerstones of the plan is better coordination among Iraq's intelligence agencies. Among the other measures: the formation of an elite Iraqi quick-reaction force, the creation of a War Information Office to counter insurgent propaganda, and increased security along Iraq's borders - especially with Syria, Saudi Arabia and Iran - to staunch the flow of insurgents and weapons.

In other violence Thursday:

-Gunmen stormed the Baghdad home of Haider Mohammed al-Dujaili, the director of public relations for Deputy Prime Minister Ahmad Chalabi, and executed him in front of his wife and children.

-Two Iraqi commandos from the elite Wolf Brigade were killed in a car bombing near a Shiite shrine in the city of Daquq, north of Baghdad. The blast also killed two members of a visiting delegation from the rebel cleric Muqtada al-Sadr's Mahdi Army militia.

-Iraq's former planning minister, Mahdi al-Hafidh, survived an assassination attempt on Baghdad's notorious airport road. Gunmen opened fire on his car, injuring one of his guards and three civilian passers-by, according to Iraqi authorities.

Chin reports for the St. Paul Pioneer Press. Knight Ridder Newspapers special correspondent Mohammed al Awsy contributed to this report.

Iraqi Women Urge U.S. To Protect Their Rights (WT)

By Sharon Behn

The Washington Times, August 5, 2005

Iraqi women took their fight for equal rights to American lawmakers yesterday, urging them to use their influence to see that women's rights are protected in the new constitution.

With just 10 days until delegates in Baghdad present the final draft of Iraq's basic law, it is still not clear how large a role will be given to Islamic Shariah law, which traditionally subordinates women to men.

"The [American] men and women, the brave people who went there to free [Iraqis] from Saddam [Hussein], they didn't free them to put them under another dictatorship; that is very clear to all of us," said Basma Fakri, president of the Women's Alliance for a Democratic Iraq.

During an appearance in Washington yesterday, she said it was entirely appropriate for President Bush, the Senate and House to let Iraq's constitutional negotiators know "that Iraq should be free."

"That was the mission. We don't want to go back in time, we don't want to create another dictatorship. That should be clear and loud to the Iraqi government and to the constitutional committee," she said.

The appeal has had some success in Washington, where the House passed a resolution last week that "strongly encourages Iraq's Transitional National Assembly to adopt a constitution that grants women equal rights under the law and to work to protect such rights."

The resolution also "pledges to support the efforts of Iraqi women to fully participate in a democratic Iraq."

However, with Congress in recess during the crucial last two weeks of the constitution-writing process, little more pressure is likely. Calls to several congressional offices yesterday found mainly staffers who were unwilling or unable to comment on the issue.

One exception was the office of Rep. Frank R. Wolf, Virginia Republican. Spokesman Dan Scandling said Mr. Wolf sent a letter to the Bush administration Wednesday night "expressing concern about religious freedoms and other potential rights' erosion" in Iraq.

Early drafts of the new Iraqi constitution said Shariah law, which sharply limits women's rights to own and inherit property among other things, should be the main source of all law in Iraq. The drafts also declared that women will hold at least 25 percent of legislative seats only in the first two terms.

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A draft that became public on Wednesday amended the key clause to say that Islam would be "one of the main sources" of the law. The Iraqi women welcomed the change but said continued pressure was needed.

The women also are demanding that all international treaties regarding human rights and women's rights be honored in the constitution, and that guarantees of female representation in the parliament and government be made permanent.

"The draft constitution as we have seen is a cause for alarm and a call for action," Miss Fakri said.

Tanya Gilly-Khailany, representing the Foundation for the Defense of Democracies, said women's rights activists have presented their case to U.S. officials, the United Nations, British Foreign Minister Jack Straw and the European Union.

Zainab al-Suwaij, executive director of the American Islamic Congress, rejected arguments put forward by officials of Iraq's dominant Shi'ite coalition that Iraq's culture was not ready to go beyond Shariah law.

"Iraq has a very high population of educated people and they are all aware of women's rights, and we are not asking for anything beyond the norm of our culture and religion," she said.

Women had many rights in the early years of Saddam Hussein's rule and were active in the workplace, but these rights steadily deteriorated toward the end of his dictatorship as he tried to court Islamic support.

The insurgency, which has targeted all sectors of Iraq's society, also has hit women hard, killing professional women and threatening those not wearing Islamic head coverings. Christian women regularly wear scarves and long skirts to avoid being targeted on the streets.

The Enemy Of Hope (LAT)

The Los Angeles Times, August 5, 2005

U.S. generals have warned for months that insurgents in Iraq are increasing the sophistication of their tactics to match countermeasures by U.S. forces. Wednesday's roadside bombing that killed 14 Marines demonstrates the truth of that message — and the ever more deadly danger to American troops.

With the U.S. death toll now past 1,800, the need for a constitution that knits together Iraq's three disparate groups is ever more evident. The interim assembly is writing the country's basic law and is supposed to publish it a week from Monday. Kurds, Sunni Arabs and Shiites are arguing over fundamental issues, including the role of Islamic law and the rights of women.

A constitution will be a step forward. But it would be a mistake to infuse Aug. 15 with too much significance. There have been other supposedly transformative events — the capture of Saddam Hussein in December 2003, the transfer of sovereignty from U.S. occupiers to Iraqis in June 2004, the Iraqi parliamentary elections last January — that have failed to end the violence in Iraq.

Agreement on important issues, followed by approval of the constitution and new elections for a national assembly by year's end, could well give Iraqis a sense that they are represented by lawmakers in a way that was impossible under Hussein. And that could weaken support for the militants who kill not just U.S. troops but Iraqi civilians as well.

Against this hope, however, lies the horrific reality of this week. The servicemen killed Wednesday were from the same Ohio Reserve unit that lost five Marines in Iraq on Monday. Their deaths brought to Brook Park the sorrow so often felt in military towns, such as Camp Pendleton, that are home to regular forces.

The 14 Marines killed were riding in a troop carrier in western Iraq, an entry route for fighters from Syria.

A huge roadside bomb flipped the 25-ton vehicle over and sent it into flames. Military spokesman Brig. Gen. Carter Ham said recent months brought a decrease in the number of attacks from improvised explosive devices but an increase in the power and lethality of the explosives planted in the path of U.S. vehicles. New weapons have been modified to concentrate the area of an explosion and increase the likelihood that it can penetrate armored vehicles.

The U.N. Security Council on Thursday condemned the violence in Iraq and urged other nations to prevent the movement of fighters, weapons and terrorist financing into the country. That would be a help in fighting insurgents.

Longer term, Iraq needs more trained police and soldiers to help U.S. forces and eventually replace them, and an elected, representative government that can make Iraqis safe in their homes and on the streets — and satisfy neighboring countries that the threat of an invasion from Baghdad is part of the past.

Voice Of Experience (USAT)

DOJ_NMG_0002053

USA Today, August 5, 2005

During the Vietnam War, Navy Lt. Cmdr. John McCain was held captive for 5½ years in North Vietnam, where he was placed in solitary confinement and tortured repeatedly. McCain, now a Republican senator from Arizona and the nation's most celebrated ex-POW, has a crisp message for the Bush White House and Pentagon about how to treat detainees: You've got it wrong.

As a fix, McCain is sponsoring a pair of amendments to the defense bill awaiting the return of Congress in September. In short, the amendments would:

•Bar the military from treating detainees in "cruel, inhuman or degrading" ways.

•Require military interrogators to stick to interrogation methods laid out in the Army field manual, the traditional guidepost.

This might sound uncontroversial, but the White House and Pentagon are fiercely resisting McCain's measures.

Vice President Cheney describes the amendments as intrusions on presidential authority. From the Pentagon's perspective, McCain wants to solve a problem that has already been taken care of.

Last month, however, top military brass offered Congress conflicting testimony about what interrogation methods are allowed. If they can't keep that straight, McCain wonders, how can lower-ranked military interrogators? A classified annex in the new Army manual will solve the problem of terrorists knowing the techniques, the senator says.

McCain and the senators who support him worry about the consequences of the constant trickle of horror stories. Recent reports cast more doubt on claims that the use of dogs and other abuses at Iraq's Abu Ghraib prison were isolated incidents confined to lower-level deviants working the night shift.

This week, The Washington Post reported on the death of an Iraqi general who, in November 2003, was beaten and then stuffed headfirst into a sleeping bag, where he died.

In June, Time laid out disturbing details behind the questioning of Mohamed al-Kahtani in late 2002 at the U.S. prison camp in Guantanamo Bay, Cuba, which included treating the suspected Saudi terrorist as a dog.

It's tempting to support a "whatever it takes" policy for interrogating suspects believed to have knowledge of terror plots. But a former POW like McCain recognizes the downsides.

Abusing terror suspects only invites abuse of captured U.S. soldiers in current and future conflicts. Moreover, the abuses undermine the critical public diplomacy part of the war on terror by convincing Muslims that U.S. commitment to justice and human rights is hollow.

The Pentagon is making some progress. On Thursday, it announced that Afghans held at Guantanamo Bay would be returned to their country. That should help ease the international focus on Guantanamo.

More is needed. McCain's legislation would provide clear standards for the treatment of detainees and prisoners, something that's been sorely lacking. In a recent exchange about his amendments, McCain answered a senator who questioned whether terrorists should be treated as POWs. Replied McCain: This is not about terrorists. This is about who we are.

If Bush administration officials want to get past the prisoner-abuse scandals, they should listen to someone who learned those lessons the hard way at the Hanoi Hilton.

Don't Tie Our Hands (USAT)

By Lawrence Di Rita

USA Today, August 5, 2005

Intelligence is one of America's most important tool in the global war on terror. Since the Sept. 11 attacks, interrogations of captured terrorists have provided valuable information helping the United States understand the organizational structure of al-Qaeda, its methods and locations for terrorist recruitment, and the extent of its presence in this country. Intelligence from detainees has stopped attacks and saved American lives.

This kind of valuable, actionable intelligence has come from the rigorous, professional and humane interrogations of captured terrorists and their affiliates and supporters — interrogations that have saved countless American lives.

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In a joint resolution after the 9/11 attacks, the Congress recognized the president's "authority under the Constitution to take actions to deter and prevent acts of international terrorism against the United States." That authority was strongly re-affirmed by the U.S. Court of Appeals last month with regard to the military trials of enemy combatants.

But some want to limit this authority by making Congress — not military commanders, the secretary of Defense and the commander in chief — the arbiter of standards for interrogating captured terrorists.

This proposed change, which would essentially limit interrogation methods to those published in a U.S. Army field manual, would hamper the country's ability to readily adapt and update interrogation methods to obtain intelligence from al-Qaeda detainees who we know are trained to resist known interrogation techniques, and trained to allege that they were abused by their interrogators.

America's enemies are dangerously familiar with many of the U.S. Army-approved procedures for interrogations. While the Army field manual properly serves as the basis for interrogations, restricting techniques to those published in the manual would make it still easier for captured terrorists to anticipate and resist interrogations.

The U.S. military has successfully detained and interrogated nearly 70,000 individuals since 9/11. The vast majority of these interrogations have been conducted professionally and with impressive results. Where policies were violated, people are being held accountable and, where necessary, procedures revised and improved. The concerns behind well-intended but unneeded legislation are taken and addressed with energy.

Now is not the time to tie the hands of military commanders. We must have the flexibility to adapt to a ruthless, thinking enemy.

Lawrence Di Rita is special assistant to the secretary of Defense and chief spokesman for the Defense Department.

U.S. Plans To Transfer Afghan Prisoners (NYT/REU)

By Reuters

The New York Times, August 5, 2005

WASHINGTON, Aug. 4 (Reuters) - The United States will return about 110 Afghan prisoners now at Guantánamo Bay, Cuba, to Afghanistan, where the Afghan government will decide whether to detain or release them, American and Afghan officials said Thursday.

The Pentagon said an additional 350 Afghans detained by the American military at Bagram Air Base in Afghanistan would be handed over to the Afghan government after other facilities were built and guards trained.

The agreement on the "gradual transfer" of Afghan prisoners, among about 510 terrorism suspects held at the United States Naval Base at Guantánamo Bay, was reached after President Hamid Karzai of Afghanistan said during a visit to Washington last spring that he wanted custody of his countrymen.

Although Washington has already handed over hundreds of Afghans captured since American and coalition forces helped topple the Taliban, Thursday's formal agreement is expected to speed up the process for the rest.

Only four of the hundreds of prisoners held at Guantánamo have been charged with crimes. Most were swept up during the fighting in Afghanistan and held for three years, prompting complaints by human rights groups and charges from former prisoners that they were tortured.

Afghanistan Agrees To Accept Detainees (WP)

By Josh White And Robin Wright

The Washington Post, August 5, 2005

The Bush administration is negotiating the transfer of nearly 70 percent of the detainees at the U.S. detention facility in Guantanamo Bay, Cuba, to three countries as part of a plan, officials said, to share the burden of keeping suspected terrorists behind bars.

U.S. officials announced yesterday that they have reached an agreement with the government of Afghanistan to transfer most of its nationals to Kabul's "exclusive" control and custody. There are 110 Afghan detainees at Guantanamo and 350 more at the Bagram airfield near Kabul. Their transfers could begin in the next six months.

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Pierre-Richard Prosper, ambassador at large for war crimes, who led a U.S. delegation to the Middle East this week, said similar agreements are being pursued with Saudi Arabia and Yemen, whose nationals make up a significant percentage of the Guantanamo population. Prosper held talks in Saudi Arabia on Sunday and Monday, but negotiations were cut off after the announcement of King Fahd's death.

The decision to move more than 20 percent of the detainees at Guantanamo to Afghanistan and to largely clear out the detention center at Bagram is part of a broader plan to significantly reduce the population of "enemy combatants" in U.S. custody. Senior U.S. officials said yesterday's agreement is the first major step toward whittling down the Guantanamo population to a core group of people the United States expects to hold indefinitely.

"This is not an effort to shut down Guantanamo. Rather, the arrangement we have reached with the government of Afghanistan is the latest step in what has long been our policy -- that we need to keep dangerous enemy combatants off the battlefield," Matthew Waxman, deputy assistant secretary of defense for detainee affairs, said shortly after leaving Kabul with Prosper. "We, the U.S., don't want to be the world's jailer. We think a more prudent course is to shift that burden onto our coalition partners."

The negotiations come amid intense international and domestic pressure on U.S. detention operations, with allegations of mistreatment and abuse as well as concern that detainees have been held for years without being prosecuted for their alleged crimes. Legal problems have also plagued the prosecutorial process at Guantanamo, which has been blocked for months as detainees' attorneys present challenges in U.S. federal courts.

"The Guantanamo issue is clearly a liability for the Bush administration, and emptying it has become a priority," said John Sifton, a specialist on Afghanistan and detainee issues at Human Rights Watch, an international monitoring group. "It's not a victory for human rights if a whole set of people deprived of their liberty are then moved to another place and continued to be deprived of their liberty unlawfully."

The agreement with Afghanistan is the largest of its kind so far. Prosper said yesterday that the U.S. government is working to send 129 Saudis and 107 Yemenis from Guantanamo to the custody of their home countries. If the U.S. government is able to arrange the transfer of detainees who came from all three countries, the population at the U.S. facility will drop by 68 percent, from 510 to 164.

Because the United States could hold on to those detainees who are considered by officials to pose the greatest terrorist threat, the numbers could change slightly. Negotiations depend on the cooperation of the other nations.

"We're now engaging the countries with the largest populations, so we expect to see the largest potential movement from Guantanamo," Prosper said in an interview from Dubai. "So if we can reach an understanding with these countries that will allow us to return them with the greatest assurances, then this will be the biggest movement yet out of Guantanamo."

Prosper and Waxman said that before such transfers can occur, the detainees' home countries must commit to taking steps that will prevent enemy combatants from re-engaging in hostile activity, and commit to treating the detainees humanely.

A major obstacle to the transfer of detainees to Afghanistan is infrastructure. U.S. officials have agreed to help Afghanistan build an appropriate prison and to train its guards.

One possible interim solution under consideration is that Afghan detainees at Guantanamo could be transferred to Bagram until permanent facilities are built. Prosper said such facilities could allow a gradual transfer over the next six months.

The United States considers all the remaining detainees to be medium- or high-risk and therefore not eligible for release once handed over, as has happened with about 70 detainees released earlier to about a dozen countries.

Over the past year, U.S. military authorities have released several dozen Afghans that have been determined as not posing a threat. But President Hamid Karzai has repeatedly called on the United States to hand over all Afghan citizens. He raised the issue during a meeting with President Bush in May.

"I don't expect it will be too long before the actual transfer of detainees will start. It should be a matter of months to build the facilities," said Karim Rahimi, a spokesman for Karzai.

Senior military officials and members of Congress have said in recent days that the goal is to reduce the population at Guantanamo to a point at which the detainees who are the highest security risks can be held at the modern prison buildings

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there, while the rest of the facility could be "mothballed" for possible future use. Guantanamo's Camp V and the future Camp VI are modeled after U.S. domestic prisons.

In a military fact sheet about "the future" of Guantanamo, developed in early July, defense officials indicated that the operational priority of the facility is to shift from intelligence gathering to long-term detention.

The document noted that "the significant majority of detainees are no longer regularly interrogated" and that officials expect the population to decrease.

"The way that we've looked at it is that in waging the war against al Qaeda and the Taliban, we will continue to capture enemy fighters and need to prevent them from returning to the battlefield," Waxman said. "But it need not be the U.S. who detains them for the long term."

Afghans Held At Guantanamo Will Be Sent To Home Country (USAT)

By Steven Komarow

USA Today, August 5, 2005

WASHINGTON — The Bush administration agreed Thursday to transfer up to 110 Afghan inmates from Guantanamo Bay, Cuba, to their home country, the biggest single step yet toward reducing the population of the prison camp.

The deal comes as some members of Congress are pressing the Bush administration to close the Guantanamo prison. The facility was built after the Sept. 11 attacks and the invasion of Afghanistan to hold suspects in the war on terrorism. Sens. Edward Kennedy, D-Mass., Chuck Hagel, R-Neb., and others say the prison has become a recruiting tool for anti-American terrorist groups because it has gained a reputation for cruelty.

Matthew Waxman, deputy assistant secretary of Defense for detainee affairs, said the agreement was not a prelude to closing the Guantanamo prison. However, he said the administration hopes to make similar arrangements with other countries. “We, the United States, don't want to be the world's jailer,” he said.

The arrangement is the result of weeks of talks that followed a visit to Washington in May by Afghan President Hamid Karzai. During the visit, President Bush turned down Karzai's request to take custody of Afghan citizens being held by U.S. forces, including the 110 at Guantanamo and about 350 at a U.S. facility in Afghanistan.

Defense Secretary Donald Rumsfeld said in June that the United States doesn't want to hold detainees at Guantanamo but couldn't send them home because their countries lack proper holding facilities. Under the terms of the new arrangement, the United States will help Afghanistan build prison space to hold the men, as well as train the guards. The Afghan government will “ensure that they do not pose a continuing threat,” but it will have full authority to release detainees as it sees fit. Waxman said those terms could be replicated in other agreements.

The United States has transferred more than 200 Guantanamo detainees to about a dozen countries, some for continued incarceration and others for release. The Afghan transfers, which would take place as prison space becomes available, would cut the current population of about 510 by about a fifth. Besides Afghans, the prison's largest groups are Saudis and Yemeni.

Air Force Maj. Todd Vician, a Pentagon spokesman, said the agreement does not alter the U.S. position that Guantanamo's detainees are dangerous. “Don't confuse transfer with release,” he said.

Vician said the timing will depend on when Afghanistan is ready to take the detainees. Karzai has complained of mistreatment of the detainees and has said most were not terrorists.

Karzai's spokesman, Karim Rahimi, told the Associated Press in Kabul that the agreement means all Afghans held by the U.S. military will be transferred.

However, the joint declaration says only that “many” detainees will be transferred, giving the United States flexibility to keep considered especially dangerous or who might still provide valuable information.

U.S. To Repatriate 110 Afghans Jailed At Guantanamo Bay (LAT)

By Paul Richter

The Los Angeles Times, August 5, 2005

DOJ_NMG_0002057

WASHINGTON — U.S. military officials will gradually hand over 110 Afghan prisoners to Afghanistan's government in the largest repatriation of detainees from the U.S. naval base at Guantanamo Bay, Cuba, since it was converted to a military prison for terrorism suspects three years ago, the Pentagon said Thursday.

In addition, U.S. authorities plan to turn over about 350 other Afghans who are in U.S. custody in Afghanistan after new prison space is built to accommodate them, officials said. Under a new agreement between the countries, Afghan authorities would then decide which prisoners to detain and which to release, Pentagon officials said.

The agreement will move the Bush administration a step closer to dealing with the troublesome diplomatic problems caused by the Guantanamo Bay prison.

The indefinite detentions of about 510 Guantanamo Bay prisoners are viewed in many parts of the world and by critics in the United States as human rights violations, and administration officials have debated whether to close the facility amid charges that detainees have been abused.

The agreement to release the Afghans also will help relieve domestic political pressure on Afghan President Hamid Karzai, whose fragile government has faced demonstrations and popular unrest on the issue. Karzai, a close U.S. ally, pressed President Bush during a visit to the United States in May to release more prisoners.

Most of the detainees in question were swept up by U.S. forces that invaded Afghanistan in 2001 to fight the Taliban government and its Al Qaeda allies. Four detainees held at the base have been charged with crimes under a controversial military commission system that has been challenged in U.S. courts.

Pentagon officials portrayed the repatriation as part of a long-term effort to turn over as many detainees as possible to their home countries.

Bryan Whitman, a Pentagon spokesman, said the agreement with Afghanistan reflected "ongoing efforts to transfer detainees to their home countries, as appropriate, and when we receive the assurances that the … detainees do not pose a continuing threat."

The U.S. military already has returned hundreds of Afghans taken prisoner in the region. U.S. officials have released or transferred more than 240 Guantanamo Bay detainees to about a dozen home countries. U.S. officials have acknowledged that a few of the released Afghans have rejoined the Taliban-led insurgency.

A senior defense official said Thursday's announcement should not be seen as a sign that the Pentagon was going to return prisoners to their native countries either to be quickly released or to be tortured.

"We're not cutting corners in terms of letting dangerous people go free," the official said. "And we're not cutting corners in terms of getting assurances from other countries that the prisoners will be treated humanely."

The official said the transfer of prisoners to Afghan authorities would happen when the Afghan government proved it was capable of handling a large detainee population.

"We're not going to put them on a plane, drop them in Kabul, tell them 'good luck,' and send them on their way," the official said. "That doesn't serve our interests, and it doesn't serve the interests of the Afghan government."

In Kabul, a spokesman for Karzai, Karim Rahimi, told Associated Press that the returnees would include "all Afghan detainees that are with the U.S. forces."

The 350 prisoners being held in Afghanistan are under U.S. control at Bagram air base, north of the capital Kabul.

Under the agreement, U.S. authorities will provide money to build new prison space in Afghanistan, and will train Afghan personnel to manage the facilities.

The announcement came after a meeting in Kabul between Karzai, Pierre-Richard Prosper, the U.S. ambassador at large for war crimes, and Matthew Waxman, the Pentagon's deputy assistant secretary for detainee affairs.

In his May visit, Karzai and Bush discussed violent demonstrations in Afghanistan over the detainees, and Karzai sought U.S. concessions on the issue.

U.S. officials had blamed the demonstrations on a magazine report that suggested U.S. military personnel had desecrated prisoners' Korans. Although the report, in Newsweek, was retracted, an Army report in June documented several instances of Koran desecration.

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Pentagon officials have said for some time that they want to increase the number of repatriations, but have been held back by a series of problems.

Some countries, such as Afghanistan, haven't had the money or prison space to accommodate detainees. U.S. authorities have been unwilling to send prisoners back to other countries because, under the home countries' laws, the detainees would be freed.

U.S. authorities were reluctant to repatriate others for fear that in their home countries they might be treated in ways that would be unacceptably harsh by U.S. standards.

Bush administration officials debated as recently as June whether to close the Guantanamo Bay prison as a way of relieving a public relations headache. Even Bush seemed to suggest at one point that closing it was a possibility.

But defenders of the current system, including Vice President Dick Cheney, convinced others in the administration that keeping Guantanamo Bay open was the best option.

They argued that the United States would need a substitute facility that would look much like Guantanamo Bay.

They also maintained that the detainees had yielded valuable intelligence information, and noted that U.S. taxpayers had paid about $300 million to build the prison.

Oil-for-Food Probe To Accuse Director (WP)

By Colum Lynch

The Washington Post, August 5, 2005

UNITED NATIONS, Aug. 4 -- A U.N.-established inquiry into corruption in the $64 billion oil-for-food program will accuse the defunct program's director, Benon V. Sevan, of receiving cash kickbacks for steering lucrative Iraqi oil contracts to an Egyptian oil trader, according to Sevan's lawyer.

Former U.S. Federal Reserve chairman Paul A. Volcker, who is heading the independent inquiry committee, is to release a third interim report Tuesday that the lawyer, Eric L. Lewis, said in a statement will also accuse Sevan, of Cyprus, of refusing to cooperate.

Lewis said Sevan is being made a scapegoat to deflect criticism of Secretary General Kofi Annan. Lewis said that the allegations, which were outlined in a confidential letter from the Volcker committee to Sevan last week, are "flatly false" and that he is going public to get his client's side of the story out before Volcker issues the report. "Mr. Sevan never took anything from anyone," he said.

The Volcker committee has been investigating misconduct in the United Nations' largest humanitarian program for more than a year, and previously accused Sevan of improperly directing business to an associate. But next week's report will represent the first time that the committee will accuse Sevan of benefiting from those activities.

The letter, portions of which were read to The Washington Post, accused Sevan of having "corruptly . . . derived personal pecuniary benefit from the oil for food program." It accused Sevan of receiving "cash proceeds from the sale of oil" from 1998 to 2002 by Iraq to the Africa Middle East Petroleum Co. (AMEP), which is registered in Panama.

The letter alleged that Sevan, working in concert with a friend, profited "with knowledge that some of the oil from which he benefited was purchased by means of payment to Iraq of an illegal surcharge in violation of U.N. sanctions and the oil for food program."

Michael Holtzman, a spokesman for Volcker, declined to comment on the letter's authenticity, saying that the committee will release its findings on Sevan's role in the oil-for-food program as scheduled on Tuesday. But a senior investigator said last week that the report will move "the ball further" on its investigation into suspected payments to Sevan. The investigator said the amounts under scrutiny may appear small to billionaire oil traders but could provide "a nice cushion" for international civil servants.

The committee previously expressed suspicion in a February report about $160,000 deposited into a Cyprus bank account controlled by Sevan's aunt.

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Lewis acknowledged that Sevan, who is in Cyprus, has declined Volcker's requests for face-to-face interviews. Lewis said that the committee's investigators had used a previous session to catch Sevan off guard with hard-to-answer questions about events that occurred six years earlier, and then accused him of lying when he did not answer them accurately.

Lewis said the panel had applied a "double standard" in its investigation into allegations that Annan directed business to a Swiss firm that paid Annan's son, Kojo, while it engaged in millions of dollars in business through the oil-for-food program. He noted that investigators gave Annan the benefit of the doubt when he did not report two meetings he had held with the firm's chairman until confronted with records of the meetings.

Lewis insisted that Sevan has been cooperating, providing more than 80 boxes of professional and private documents, as well as bank, real estate and telephone records, and also offering to respond in writing to written questions. Lewis said Sevan "has made his professional and financial life an open book."

Lewis accused the Volcker inquiry of denying Sevan due process in a year-long investigation that has relied heavily on dubious top former Iraqi officials who remain in custody and whose full testimony has not been made available to Sevan. He also said that Volcker's panel has hindered Sevan from cross-examining witnesses or from accessing the documents and testimony he needs to defend himself.

"The committee set out from the beginning of its politically charged investigation to scapegoat him and spare others to whom he reported," Lewis said.

The program was established in December 1996 to allow Iraq, which had been subject to U.N. economic sanctions since its 1990 invasion of Kuwait, to sell oil to buy food, medicine and other humanitarian goods. The program eased the sanctions' burden on ordinary Iraqis, but it also gave the former Iraqi government an opportunity to skim billions of dollars in illicit kickbacks from companies trading with Iraq through the humanitarian program.

The revelations triggered a U.N. investigation and several congressional probes into U.N. management of the program. The U.S. attorney's office of the southern district of New York and the Manhattan district attorney's office have also begun criminal investigations into the program, including Sevan's role.

Annan appointed Volcker in April 2004 to look into allegations that senior U.N. officials, including Sevan, had improperly benefited from the program. A February report by Volcker concluded that Sevan had engaged in "a grave conflict of interest" by soliciting lucrative rights to buy Iraqi oil on behalf of AMEP's Egyptian president, a cousin of former secretary general Boutros Boutros-Ghali. That report also indicated that payments may have been channeled through Boutros-Ghali's brother-in-law. There is no evidence linking Boutros-Ghali, whose role in creating the program is also being scrutinized, to the alleged payoffs.

Report To Accuse Sevan Of Kickbacks (WT/AP)

By Nick Wadhams, Associated Press

The Washington Times, August 5, 2005

NEW YORK -- Investigators have concluded that the United Nations' former chief of the Iraq oil-for-food program, Benon Sevan, took kickbacks under the $64 billion program and refused to cooperate with their probe, his attorney said yesterday.

Although the amount of money Mr. Sevan is thought to have taken isn't known, the findings would be a major blow to the United Nations because of his stature in the organization and the control he had over the oil-for-food program.

Eric Lewis, the attorney, denied the charges in a statement that appeared timed to pre-empt the investigation's report.

"The committee's allegations are baseless," he said. "Mr. Sevan never took a penny, as he has said from the beginning."

The United Nations-appointed Independent Inquiry Committee, led by former Federal Reserve chief Paul Volcker, plans to release its findings about Mr. Sevan on Tuesday. The world body is paying Mr. Sevan a symbolic $1 a year to keep him on the payroll so he will cooperate.

Mr. Volcker's committee refused to comment yesterday on Mr. Lewis' assertions.

"Our final judgment on [Mr. Sevan] will be rendered on Tuesday," said committee spokesman Mike Holtzman.

The oil-for-food program, started in December 1996 to help ordinary Iraqis cope with U.N. sanctions imposed after dictator Saddam Hussein's 1990 invasion of Kuwait, quickly became a lifeline for 90 percent of the country's citizens.

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Under the program, Saddam's regime could sell oil, provided the proceeds were used to buy humanitarian goods or pay war reparations.

In a bid to curry favor and end the sanctions, Saddam is suspected of giving former government officials, activists, journalists and U.N. officials vouchers for Iraqi oil that could be resold at a profit.

Mr. Lewis said the committee has concluded that a small trading company called African Middle East Petroleum (AMEP) paid Mr. Sevan for his help in winning lucrative oil contracts from Saddam's regime.

Mr. Volcker's team has been investigating the oil-for-food program for more than a year. The committee concluded in February that Mr. Sevan solicited oil allocations from Saddam's regime on behalf of AMEP from 1998 to 2001. It accused Mr. Sevan, who has refused to meet with investigators since February, of a "grave conflict of interest."

The team found $160,000 in what it called "unexplained funds" belonging to Mr. Sevan, who said the funds came from an aunt in his native Cyprus.

After the February report, U.N. Secretary-General Kofi Annan announced disciplinary proceedings against Mr. Sevan but said he would wait until the report came out before making a decision.

Kickbacks Alleged In Oil-for-Food Probe (NYT/AP)

By The Associated Press

The New York Times, August 5, 2005

Filed at 6:26 p.m. ET

NEW YORK (AP) -- Investigators have concluded that the former chief of the Iraq oil-for-food program, Benon Sevan, took kickbacks under the $64 billion humanitarian operation and refused to cooperate with their probe, his lawyer said Thursday.

While the amount of money Sevan allegedly took wasn't immediately known -- and may be as little as $160,000 -- the findings would be a major blow because of his stature in the organization and the control he had over it. Sevan is also being investigated by the Manhattan District Attorney's office and could face criminal charges.

The Independent Inquiry Committee plans to release its findings about Sevan on Tuesday, and had sent advance notice to Sevan's lawyer, Eric Lewis, last week. Lewis revealed the findings early and vehemently denied both claims against Sevan, whom the U.N. is paying a symbolic one dollar a year to keep him on payroll so he'll cooperate.

"The fact is, the committee's allegations are baseless," Lewis said in a statement. "Mr. Sevan never took a penny, as he has said from the beginning."

The committee, led by former U.S. Federal Reserve Chairman Paul Volcker, refused to comment on Lewis' claims. Committee spokesman Mike Holtzman had said earlier Sevan would be one subject of the Tuesday report.

"Our final judgment on him will be rendered on Tuesday," Holtzman said.

The oil-for-food program, launched in December 1996 to help ordinary Iraqis cope with U.N. sanctions imposed after Saddam Hussein's 1990 invasion of Kuwait, quickly became a lifeline for 90 percent of the country's population of 26 million.

Under the program, Saddam's regime could sell oil, provided the proceeds went to buy humanitarian goods or pay war reparations. Saddam's government decided on the goods it wanted, who should provide them and who could buy Iraqi oil. But the Security Council committee overseeing sanctions monitored the contracts.

In a bid to curry favor and end sanctions, Saddam allegedly gave former government officials, activists, journalists and U.N. officials vouchers for Iraqi oil that could then be resold at a profit.

According to Lewis, the committee will find that a small trading company called African Middle East Petroleum Co. Ltd. Inc. paid Sevan in exchange for his helping it win oil contracts from Saddam Hussein's regime. It will say that he acted "in concert" with a friend named Fred Nadler, who is the brother-in-law of former U.N. Secretary-General Boutros Boutros-Ghali.

Lewis said the letter of findings that Volcker's team sent to him does not spell how much he got in kickbacks.

Volcker's team has been investigating oil-for-food for more than a year. In an interim report released in February, the committee concluded that Sevan solicited oil allocations from Saddam Hussein's regime on behalf of the company, known as AMEP, between 1998 and 2001. It said Nadler was essentially his middleman and accused Sevan of a "grave conflict of interest."

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In its report, Volcker's team mentioned $160,000 in "unexplained funds" belonging to Sevan. Sevan had disclosed the money earlier, saying it was from an aunt in Cyprus.

Lewis said Volcker's committee will also say that Sevan refused to cooperate with its investigators, apparently because he would not meet face-to-face with them in recent months. Lewis acknowledged that Sevan had refused to do so since January because investigators accused him of lying or changing his testimony when he didn't remember meetings or phone calls he'd had years before.

He said instead Sevan had agreed to respond to written questions.

Lewis accused Volcker's team of treating Sevan unfairly by concealing evidence from him, relying on secret interviews with jailed members of Saddam's former regime and questioning his integrity when he couldn't remember phone calls that took place years before.

He said it was trying to look tough and appease critics in the United States who have accused it of bungling the investigation.

"The IIC wants cartoon villains, not the truth," Lewis said in the statement. "Mr. Sevan has now reached a point in his dealings with the IIC where he questions the Committee's commitment to objective and evenhanded fact-finding and doubts he can receive a fair hearing in this forum."

After the February report, U.N. Secretary-General Kofi Annan announced disciplinary proceedings against Sevan but said he would wait until the report came out before making a decision.

It is almost certain that Sevan would be fired if the United Nations accepts the Volcker committee claims.

Cash Crunch Forces Army Base To Send Contract Workers Home (KRT)

By Joseph L. Galloway

Knight Ridder, August 5, 2005

WASHINGTON - Robbing Peter to pay Paul is a historic tool in the arcane process of balancing military budgets, but this year Army commanders seem to be taking early and unusual measures to keep the lights on and basic services working.

At one base, Fort Rucker, Ala., the home of Army Aviation for half a century, temporary stop-work orders were issued Monday to 120 contract employees, who were sent home to wait without pay for further developments.

Disappearing with those employees were such services as mowing the grass, maintaining the chemical-parts washers for flight line mechanics, providing government cars and the gasoline they run on, photography and graphic services, photocopying services, storage of household goods for families on the move and counseling for families in crisis.

Officers at Fort Rucker even lost service to their hand-held BlackBerry e-mail devices.

One of the key goals of Army transformation is to privatize upward of 60,000 jobs, replacing uniformed soldiers with civilians under contract and thus freeing soldiers to join the global war on terrorism. But if the Army runs short of money at year's end, the civilians are sent home and the jobs go undone. The budget year for the military ends Sept. 30.

Army spokesman Lt. Col. Barry Johnson described the actions at Fort Rucker as "remedial measures that have no impact on the safety and health of our soldiers and families." He added that Fort Rucker had to take more and stronger measures than other bases have to date.

The Army's new head of installation management, Lt. Gen. David Barno, said he'd "redirected $20 million to Fort Rucker" on Thursday to help it deal with its shortage of cash and that he expected that some of the money would be used to re-establish contract services.

Barno told Knight Ridder he was in the process of "talking face to face with all the facilities managers in the Army, by video conference." He said he talked to 11 managers Thursday and that "none of them were at the point of stopping any services."

Barno blamed part of the problem on large increases in the cost of fuel this year. The Army has spent $720 million more on fuel than had been budgeted. Fuel is a key expense at Fort Rucker, which trains nearly 3,000 helicopter pilots a year for the Army and other services.

"In none of this is there any risk to our ability to fight the wars we are fighting," Barno said. He also said the developments didn't pose any real threat to the Army's job-privatization program.

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"What we don't want is soldiers out there cutting grass when we are in the middle of a war," said Barno, a former U.S. ground commander in Afghanistan.

The end-of-the-year money problem is perennial, and hardly confined to the Army. In past years, the Navy has been forced to ground squadrons of jet fighters when it ran out of money for fuel.

The problem is compounded this year because Congress recessed for its summer break without passing the Defense Appropriations Act. Senate Majority Leader Bill Frist, R-Tenn., stopped consideration of the bill after the White House objected to provisions that would have required drafting new rules for the treatment of suspected terrorists at Guantanamo Bay, Cuba, and other facilities.

Inside The Ring (WT)

By Bill Gertz And Rowan Scarborough

The Washington Times, August 5, 2005

Sleeper cell

Among the 520 detainees at Guantanamo Bay is a U.S.-educated Kuwaiti who has not offered much in the way of details about how al Qaeda operates.

The man went to college in South Florida and speaks excellent English. He traveled to Afghanistan sometime before the October 2001 invasion and was captured on the battlefield.

U.S. officials think he was in America to set up al Qaeda "sleeper cells," such as the ones that carried out the September 11 attacks. But so far, he has not admitted to such activity nor provided names of possible cellmates.

French option

We hear from a reliable defense source that senior French military officials do not think ongoing efforts will stop Iran from developing nuclear weapons.

Instead, the French high command talks privately of containing Iran once it becomes a nuclear power.

President Bush, of course, has other ideas. He wants European negotiators to insist that Tehran's Islamic hard-liners end the country's nuclear weapons ambitions.

More than a few retired U.S. military officers say they would not be surprised if Mr. Bush ordered air strikes on Iran's nuclear facilities if no commitment comes by late 2008 as the president's second, and final, term ends.

Pantano's release

The Marine Corps has approved a request from 1st Lt. Ilario Pantano to resign, effective Aug. 26.

The Corps had wanted Lt. Pantano to return to Iraq, after its murder case against him crumbled during a pretrial hearing and after the investigating officer slammed the government's main witness as unreliable.

The Corps accused Lt. Pantano of slaying two Iraqi insurgent suspects in April 2004; Lt. Pantano said he fired in self-defense, a claim that was borne out by evidence uncovered by his defense attorney, Charles Gittins.

After the charges were dropped, Lt. Pantano submitted his resignation. His unit, meanwhile, went back to the volatile Anbar Province, doing what Lt. Pantano's platoon was doing a year before — hunting down insurgents.

Mr. Gittins declined to comment on the officer's plans. Lt. Pantano's story is compelling. Born in New York City, he served as a Marine in the 1991 Persian Gulf War and then worked as a stockbroker and TV producer until the September 11 attacks. He volunteered to rejoin the Marines because he wanted to fight terrorists and found himself in Anbar leading a platoon of young Marines.

Navy's X-Craft

The Navy this week added the first of a new type of high-technology, low-cost coastal patrol boat known as the Littoral Surface Craft-Experimental (LSC-X), or X-Craft.

The ship, known as the Sea Fighter, can move at speeds of up to 50 knots and has a range of some 4,000 nautical miles.

The ship joined the Navy's 3rd Fleet in San Diego and is the first of a series of low-cost weapons being promoted by Rep. Duncan Hunter, California Republican and chairman of the House Armed Services Committee. The new catamaran-design hull is meant for high speed in coastal waters.

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Defense officials say the X-Craft could be a valuable weapon if any conflict breaks out with China over Taiwan. The Navy says the X-Craft is needed to deal with 21st-century threats.

"Today's absence of a global naval threat to the United States has replaced the need to fight conflicts in the open ocean with the requirement to project sea-based power ashore," the Navy said of the new boat.

The boat will be used for battle force protection, mine countermeasures, anti-submarine warfare, amphibious assault support and humanitarian support missions.

"This is the wave of the future," Mr. Hunter said. "We make a lot of speeches about military transformation, but this ship is real transformation."

Gitmo react

Spokesmen for Democratic Sens. Edward M. Kennedy of Massachusetts and Daniel K. Akaka of Hawaii have gotten back to us about the senators' recent trip to Guantanamo Bay.

A spokeswoman for Mr. Kennedy said the staff member traveling with the senator did not remember receiving any complaints from the soldiers who met with the senator.

A spokeswoman for Mr. Akaka said the senator had a good meeting with Hawaii-origin soldiers and could not remember any complaints coming his way from service members. "For the most part, it was very positive," the spokeswoman said.

We reported that some prison staff complained about the anti-Gitmo statements uttered by some Democratic senators. Mr. Kennedy is a leading critic of how terror suspects are treated at Guantanamo.

Warner ire

Senate Armed Services Committee Chairman John W. Warner, Virginia Republican, was one of the earliest to come out for Sen. Bill Frist of Tennessee as Senate majority leader.

But he is not all that pleased these days with Mr. Frist. That's because the majority leader yanked Mr. Warner's cherished defense authorization bill off the floor last month, when he could not get 60 votes to end debate.

To Mr. Frist, the gambit worked. He fought off unwanted Democratic amendments to the defense bill and then won passage of a pro-gun legislation.

Asked about the Warner-Frist relationship, the chairman's spokesman, John Ullyot, said, "He intends to work with the Senate leadership to get a bill authorized this fall. Senator Warner has a very good working relationship with Majority Leader Frist."

Warner's staff

Judy Ansley, director of the Senate Armed Services Committee majority staff, is leaving this month to take a post at the National Security Council, European division.

Committee Chairman John W. Warner, Virginia Republican, is bringing a former senior staffer, Charles Abell, out of the Pentagon to take her place. Mr. Abell is now principal deputy undersecretary of defense for personnel and readiness. Next year will be Mr. Warner's last as chairman because of term limits. Sen. John McCain, Arizona Republican, is next in line.

Once-liberal Basra Trades Cultural Freedom For Security (KRT)

By Leila Fadel

Knight Ridder, August 5, 2005

BASRA, Iraq - Statues of generals from Saddam Hussein's Baath party once lined up on the corniche, a walkway along the Shatt al Arab waterway in this southern port city. They pointed menacingly across the water to Iran, and ships at anchor obscured the view of the blue horizon and the illuminating light of the moon.

Saddam and his military brass are now gone, and families instead fill the walkway that looks out over open waters in this city once brutally oppressed by the deposed dictator.

Basra is enjoying an economic and religious renaissance, even as the rise of conservative Shiite Islam has put a chill on its traditionally flourishing cultural scene.

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Men dressed in the traditional white gowns called dishdashas dangle their legs over the railing as they eat sandwiches from nearby vendors, who rent water pipes and sell fresh nuts to sightseers. Women and children lay blankets in the grass, eat homemade sandwiches and drink sodas from a cooler.

As dusk approaches life begins in Basra, about 350 miles from the violent capital city of Baghdad. People don't need to hide from insurgent gunmen and suicide bombers, who roam the capital's dark streets.

New stores are opening in the city center to serve the droves of people shopping and eating out. One restaurant, G Core, had its grand opening in the main shopping district less than two weeks ago, and dozens of people crowded into the fast-food restaurant built with faux marble and modern steel stools. They enjoyed the complimentary burgers and fries in a classy version of a fast-food joint in the United States.

Taxis are easy to spot but often already full. At 9 p.m. supermarkets are filled with men and women running errands.

The city flaunts its Shiite identity in the streets, after decades of oppression under Saddam. Portraits of Imam Ali and Imam Hussein, two of the most prominent historical Shiite figures as well as Iraq's major Shiite clerics, are hot items at outdoor markets. A portrait of Jesus appears occasionally among the religious paraphernalia.

Many Shiite Iraqis who lived in exile in Iran have flooded back into the country. Miraad Jaber, 35, was exiled when she was a child. Now she sits in a Basra park with her daughters, whom she raised in Iran.

"Loving this country was a problem. I was exiled for more than 25 years," she said. "I felt homesick for the heat of Basra."

Jaber is happy to take her daughters out at night.

"The Islamist parties control the security situation, and it makes it safe," she said.

But the parties are also a source of fear in the birthplace of much of Iraq's poetry and music. Basra is called "the Mother of the Oud," a Middle Eastern lute, in a famous Iraqi song. Residents of other Iraqi cities know that the best dancers come from this land of dates and palm trees.

But in the music district of Saymar the oud is silent now and the drums are lonely, hanging in the breeze with no musicians to play them. There's more fear than joy here.

Moustafa Dawood and Ahmed Aboud own a small music shop. They surround themselves with rows of colorful drums. Golden trumpets hang in a wood and glass cabinet lined with red velvet. The handmade instruments put their lives at risk.

The store next door has been firebombed four times, the store behind them was bombed twice and many of their colleagues have been beaten in the streets by men in police patrol cars and men who attach themselves to Shiite religious parties, they said. The provincial council is dominated by these parties, including the Badr Organization, a political group derived from the armed military wing of the Supreme Council for the Islamic Revolution in Iraq, the Shiite political group that plays a leading role in Iraq's governing coalition.

Sometimes, men rent an instrument from the shop, sign it out in the old, beat-up blue journal and then bring it back in pieces, calling their business haram, or forbidden.

"Ever since we opened our eyes for the first time, we played music," Aboud said behind an old wooden desk in his store.

"But we don't want to be beaten with the butt of a gun," Dawood added.

Now they stash their instruments in the trunk of their car as they head to a wedding or to beat the drums at religious Shiite ceremonies such as Ashura, which commemorates the slaughter of Hussein, the son of Ali, at the Battle of Karbala.

Two years ago they would strum and drum on music row as they left their shop for a wedding, and would keep blowing into trumpets and beating drums until the celebration ended.

A collage of photos in the shop shows Dawood and 19 colleagues smiling and playing music in happier times, next to a picture of Imam Ali. Maybe he'll become a taxi driver or a chickpea street vendor, he said.

"We were fatter then. Now we are scared and thin," Dawood said.

In the once more liberal city many restaurants are divided now for single men and for families, liquor stores are closed and ice cream shops are the place to hang out. They light up the city center at night, but no bachelors walk inside. They stand at service windows and wait for a cone rather than mingle with young women inside eating multicolored scoops in plastic cups with their families.

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Haifa Ali drank strawberry juice on a recent Saturday night with her two daughters and son on Al Jazaer street, a busy shopping and restaurant area.

"Life is beautiful," she said as she sipped her juice, unafraid in the bustling night. "But these Islamist parties are pressuring our daughters to veil."

One of her daughters, Walaa Tahsin, 20, is the sole unveiled woman in the shop.

"She's a rebel," said her sister, Wissam Tahsin, 24. "To avoid gossip I put it on."

Ali chose to cover her hair, but today's social and political pressures in the southern city have pushed her daughter to wear the veil.

"It's peaceful but there is no fun for them," she said. "I pray and fast and cover, but it's not good to pressure young people. It should be their choice."

Across the city a newly opened park is filled with children late into the evening on a recent weekend. A woman sits with her 40-day-old child, children play on the swings and large families drink from juice boxes and talk, an unfamiliar sight for travelers from the capital.

The people remain unchanged in Basra, as war after war passes through this city of blue skies and towering palm trees weighed down by dates.

They welcome strangers into their homes for Basra's famous fish, Zubaidi (pomfret). They offer tea and cold soda and describe the sweetness of the golden dates.

Garbage still fills the streets but homes have electricity for 10 to 12 hours a day, compared with as few as four to five before the war.

They never know when another war will come. But they will always open the door and insist on cooking a meal for a stranger as they talk about their city of dates, poetry and culture.

"I am the daughter of Basra," Ali said. "We will never lose our kindness."

Clubs Provide A Getaway From Turmoil Of Baghdad (USAT)

USA Today, August 5, 2005

BAGHDAD — Under Saddam Hussein's rule, the Hunting Club was an exclusive refuge for privileged members of his government and supporters of the regime. Food and recreation were plentiful, even when much of the country was struggling during sanctions imposed by the United Nations in 1990-2003.

Today, the Hunting Club is still exclusive, but membership is based on educational achievement and ability to pay dues, club director Hassanain Fadhil says.

The club offers respite from the city's daily violence and summer heat. The pools — there are separate facilities for men and women — provide an escape from the daily power outages that leave much of the city sweltering. The club also has a sauna, restaurants, sports fields and large banquet halls.

Retiree Salim Sa'doun, 50, says he uses the pool frequently. “I am happy to be a member of the Hunting Club and to achieve my dream,” he said. Midday, the restaurants are filled with families and friends huddled over tables of kebab and other local fare.

Clubs became popular in the capital during the 1960s, says Muhammed Sa'eed, a manager at the Yarmouk Club. Today, there are 32 clubs in Baghdad. Most have swimming pools, restaurants and halls for weddings or other occasions. Annual dues at the more popular clubs can be hundreds of dollars per year for a family membership, so membership is generally limited to middle class and wealthy Iraqis.

The Yarmouk Club was established in 1960 for army officers and their families. After the war, the Iraqi Islamic Party protected it from looters. Later, people who lived in the neighborhood took over the facility and turned it into a community center with paid memberships.

The club has gymnasiums, restaurants, a soccer team and tennis courts. Once supported by the government, Yarmouk and other clubs have to be self-sustaining today. Sa'eed, the Yarmouk manager, says the club derives much of its income from renting out its banquet facilities for weddings and other occasions.

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The Jadriya Club was practically the private domain of Saddam's sons, Uday and Qusay. Anyone who wanted a membership had to get approval from Uday, says Ihab Adwar, deputy director of the club.

The luxurious club was looted of furnishings and some of Uday's finest horses in the chaos after the U.S.-led invasion. Today, the facility is struggling to get back on its feet with a new clientele.

"We think that the club will start to be profitable after no less than 10 years," Adwar says.

A Future Beyond A Funeral (WP)

By Ed O'Connell

The Washington Post, August 5, 2005

BAGHDAD -- Touring a print shop downtown last summer, I tried to draw out one of the workers, a shy boy of 17 or so, about his daily life. Head down and hands behind his back, he spoke of the searing emptiness facing Iraqi youth; there are no discos, few cafes and little opportunity to interact with the opposite sex. His parents had banned visits to the local mosque after work, for fear he might be recruited by insurgents. So he returned every evening to an overcrowded home shared by many relatives and retreated upstairs to sit on the edge of his bed. "I . . . stare at the wall for a few hours," he said. And it struck me that Iraq's youth are experiencing a living death, one in which ending the pain of everyday life might be an attractive option.

The West must do a better job of bringing opportunity and dignity to these Muslim youths. If we can't, the terrorists will continue to prey upon such vulnerable young people, convincing them that the path to glory and dignity lies along the road of suicide bombings and explosive devices. It seems obvious that the success of the terrorist movement rests on the vulnerability of youth worldwide. In military parlance, halting this trend would be considered the deep fight.

Take a walk along the dusty roads at the Baghdad Correctional Facility (Abu Ghraib), which is now mostly outdoors, and you'll see many ghostlike faces -- local teenagers who took $50 or $100 to plant an IED, shoot a mortar or fire a machine gun at coalition troops. No one told them that if they didn't die, they would end up penned in with 20 other lost souls in a tent surrounded by barbed wire. For the foreigners in their midst, inglorious imprisonment in a faraway land was surely not what the young jihadists had signed up for. Angered as I might have been by their attacks on my countrymen, I still wondered, How do we rehabilitate some of these wayward souls? Or are they simply lost causes? And, more important, how do we persuade them not to join the insurgency in the first place?

One enemy video I obtained last summer shows a teenage boy awakened in the middle of the night and brought to a field to say his last goodbyes to his comrades before carrying out his suicide bombing mission. Toting their weapons, they circle around him. The bomber looks tired and somewhat reluctant, but forces a smile. The terrorist leaders have staged the ultimate act for him. He could not back down, even if he wanted to. It is tantamount to forced suicide.

Another enemy video shows an attack from the triggerman's vantage point as he patiently waits for the right moment to detonate a bomb inside an old car a hundred yards down a busy Baghdad street. After U.S. soldiers pass by, a young boy and a girl walk between them and the car. Yet the bomber does not hesitate to detonate, and in the last frame, a fireball roars up the street toward the boy and girl. In Iraq, the young insurgents-for-hire are increasingly killing other Iraqi youths.

If the terrorists place no value on life, then we must give Iraq's youth something to live for. We know that terrorists recruit Muslim youths when they make pilgrimages to holy sites. We know they often convince these young people that joining the insurgency is a way to redeem past sins or a family's lost dignity. Yet we are failing to give Iraq's young people much to feel dignified about. Western companies are making massive profits providing services to the coalition; why aren't we building an entrepreneurial class from within the ranks of Iraq's young? As it is, these kids walk their own land with sticks, picking up garbage in Baghdad's once attractive parks.

The West must help bring opportunity and hope to the young people of the Muslim world. President Bush's longtime aide Karen Hughes is coming on board to improve America's image in the Muslim world. I propose that Hughes make promoting life and opportunity for Muslim youth one of her top initiatives. She should start by focusing on entrepreneurial opportunities, recreational activities and the opening of doors for young women. Recall the long lines of Iraqi women in black chadors waiting to vote in January's elections? This scene surprised many Americans, but not me. Mothers are revered in Iraq -- they bring life. While we dawdled, failing to take advantage of the momentum created by the success of the first Iraqi national elections, Iraqi

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mothers were acting. They began to openly challenge the terrorists and local insurgents for taking their children and tearing their families and communities apart. In this high-stakes battle we need all Iraqi mothers on our side -- Sunni, Shiite and Kurd.

We should recruit Islamic social, political and religious leaders to join us in this initiative. We must not be condescending in our approach. We must be open and show our Muslim partners that even a powerful nation such as ours has social problems with its youth.

Muslim youths must be allowed to imagine the power of building a life rather than just existing. With Muslim leaders as partners we can shatter the culture of despair and nothingness that breeds thinking about death among the young. Promoting a culture of life and opportunity is the real battle we cannot afford to lose.

The writer, a retired lieutenant colonel in the Air Force, is a senior research analyst at Rand Corp. working in Iraq and the Middle East.

Pentagon Agrees To Issue Photos Of Coffins Of Iraq War Dead (NYT)

By John Files

The New York Times, August 5, 2005

WASHINGTON, Aug. 4 - Under the terms of a legal settlement announced on Thursday, the Pentagon will make available "as expeditiously as possible" some photographs of the coffins of service members killed in Iraq. The agreement runs counter to a longstanding Pentagon policy that bars the public release of such photographs. But in response to requests under the Freedom of Information Act, the Pentagon has already released hundreds of such photographs this year, and it agreed under the settlement to continue to do so.

The agreement responded to a Freedom of Information Act suit filed in October in Federal District Court here that sought all photographs and video images that showed coffins or similar items that held the remains of American military personnel at Dover Air Force Base, Del., beginning in February 2003.

The Pentagon has strictly enforced a policy barring news photographs showing the coffins. That policy has been in place since the Persian Gulf war in 1991, and President Bush has said it protects the privacy of the families of the dead.

Ralph Begleiter, a journalism professor at the University of Delaware who was a lead plaintiff in the current suit, said the Pentagon's agreement to release the photographs represented a "significant victory for the honor of those who have made the ultimate sacrifice in war for their country, as well as for their families, for all service personnel and for the American people."

The settlement was announced by Mr. Begleiter, along with the National Security Archive, a research institute on foreign affairs that is affiliated with George Washington University, which provided counsel for the case. The archive has used the Freedom of Information Act in other cases to obtain information about government operations.

The Pentagon issued a statement, saying, "As with all information, including images, the Department of Defense has an obligation and a responsibility to strike a balance between our strong desire to be as transparent as possible and the legitimate concerns to protect the privacy of military families and as necessary, operational security."

But there was no indication that the government would permit news organizations to begin taking such photographs.

Under President Bill Clinton, the policy against taking such photographs was not rigorously enforced, and Mr. Clinton took part in numerous ceremonies that honored dead service members. Under Mr. Bush, the Pentagon issued a directive in March 2003 stating that there would be no news coverage of "deceased military personnel returning to or departing from" air bases.

In June 2004, that policy won the backing of the Senate, when lawmakers defeated a Democratic measure to instruct the Pentagon to allow such pictures.

Lawsuit Forces Release Of More Casualty Images (WP)

By Ann Scott Tyson

The Washington Post, August 5, 2005

In response to a lawsuit, the Pentagon has released a few dozen new and uncensored images of flag-draped coffins of U.S. troops and agreed to process "as expeditiously as possible" future Freedom of Information Act (FOIA) requests for photo and video images of returning war casualties.

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The decision was called a victory for open government by the National Security Archive, a nongovernmental research group here that helped the litigation. "We forced the Pentagon to admit that release of these images was not a mistake but was in fact required by law," said Thomas Blanton, director of the archive, which posted the images on its Web site yesterday. As a result, he said the parties to the suit agreed July 28 to dismiss the case.

University of Delaware professor Ralph Begleiter sued in October 2004, and in April the Pentagon released 721 images of coffins taken by military photographers in Iraq, Afghanistan and elsewhere. The latest release includes five new images as well as 27 others that had been censored with black rectangles, obscuring the faces of chaplains and service members in honor ceremonies.

Since the Persian Gulf War, the government has gradually tightened restrictions on the public release of images of returning war casualties, most recently at the onset of the Iraq war. The policy has sparked intense debate among the public and military. Some contend the images honor U.S. military sacrifice; others consider them tantamount to an antiwar statement.

The latest controversy arose after Dover Air Force Base, the main port for returning U.S. military remains, released 350 images -- including airplane cargo bays filled with flag-draped coffins -- during a spike in fighting in Iraq in April 2004. The Pentagon said that decision, in response to a FOIA request, was a mistake and ordered that no more photographs be released.

Begleiter's suit was filed to demonstrate that under the act, such photographs must be released as long as they do not harm national security or violate privacy laws.

The Pentagon yesterday said "further consideration" of a Begleiter appeal led it to release the latest photographs in an "unredacted form," meaning without the blacked-out faces. "The Department of Defense has an obligation and a responsibility to strike a balance between our strong desire to be as transparent as possible and the legitimate concerns to protect the privacy of military families and as necessary, operational security," a spokesman said.

Pentagon Web Site Bans Politics (WP)

By Robert Macmillan And Mary Specht

The Washington Post, August 5, 2005

The Defense Department has removed messages containing political commentary from a Web site designed for people to show their support for U.S. forces serving in Iraq and Afghanistan.

Most of the postings at America Supports You (http://americasupportsyou.mil) express love and encouragement -- "The greatest nation in the world is kept that way by men and women like you," reads one message -- without partisan asides.

But among the 60,000-plus messages were at least a few dozen -- found with the site's search function -- that equated troop support with backing the Bush administration's political goals. Still others lambasted Democratic politicians such as John F. Kerry and Edward M. Kennedy, the senators from Massachusetts.

One message said: "I thank you Mr. President for all you have done and standing up to the one's who don't believe in you. My theory is that if they don't like it here; we will pay their way out. Can you put that in the budget?"

Another said: "I show my support verbally in public and by donations to the RNC and reelect George W. Bush campaigns."

Both those messages, visible on the site two weeks ago, are gone.

The decision to remove such messages reflects a policy posted on the site last week warning that political speech will be barred. Last month the Wall Street Journal reported that two antiwar messages had disappeared from the site, but at the time the site had no posted policy on political statements.

Now, "we are not including messages with political commentary -- pro or con," said Allison Barber, deputy assistant defense secretary and creator of the Web site, which opened in November. "Frankly, this a site to support the troops and thankfully, our men and women in the military volunteer to defend our country no matter who is in political office."

Yesterday, though, several messages remained that both support and oppose the Bush administration and the U.S. military presence in Iraq and Afghanistan. For example, one said: "We very much support the troops serving but do not support the administration's handling of the conflicts where they are currently asked to serve. Please, bring them home as soon as possible."

Posting political content on Web site operated and financed by the government may not violate any rules, several experts said, but they warned that it creates an image problem.

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The military "should not be seen as promoting a political agenda," said Lawrence M. Noble, head of the Center for Responsive Politics and former general counsel for the Federal Election Commission.

MacMillan is a staff writer for washingtonpost.com. Specht is a news intern for washingtonpost.com.

NATO Will Be Ready In 2006 To Take Over From U.S. Forces In Afghanistan, General Says (NSDY/AP)

The Associated Press

Long Island Newsday, August 5, 2005

KABUL, Afghanistan -- A NATO-led international force is set to expand and will be ready to assume responsibility for security across all of Afghanistan by the end of next year, freeing up many of the 17,600 American troops battling militants here, a NATO general said Thursday.

The announcement follows a surge in fighting between U.S.-led forces and Taliban rebels ahead of elections next month. The bloodshed has led the military to rush in an airborne infantry battalion of about 700 troops on standby in Fort Bragg, N.C.

On Thursday, a roadside bomb exploded near a U.S. military vehicle in eastern Afghanistan, killing an American service member and wounding another as well as an Afghan soldier, a U.S. military statement said.

Washington has long urged NATO to move forward with a plan to expand its 10,000-strong force into Afghanistan's volatile south and east.

"We are in a position that we can take over the responsibility for all of Afghanistan in the course of the next year," said Gen. Gerhard Back, who oversees the International Security Assistance Force mission from his base in Brunssum, the Netherlands.

He said he expects the deployment of extra NATO forces to relieve a "substantial" number of troops from the U.S.-led coalition, which also includes some 3,100 soldiers from 19 other nations.

Back said NATO troops would need "more robust" rules of engagement, which govern when and how forces can engage the insurgents.

He spoke to reporters after a ceremony marking the change of the command of ISAF, the NATO-led force, from a Turkish general to Italian Lt. Gen. Mauro Del Vecchio. The force is made up of troops from 36 nations.

ISAF already maintains security in the capital, Kabul, and the country's north and west. It plans to increase its size by an unspecified amount and take over from the U.S.-led coalition in the violence-wracked south early next year, before gradually moving into the east.

ISAF spokesman Riccardo Cristoni said most American troops who stay in Afghanistan after NATO takes responsibility for security nationwide would come under NATO command.

But he said it was not clear whether the United States would also keep a separate force dedicated to hunting Osama bin Laden and other al-Qaida leaders believed to be hiding along the mountainous Afghan-Pakistani border.

U.S. military spokeswoman Lt. Cindy Moore said commanders were still planning how many troops would remain here next year.

Washington has long sought to reduce the number of its troops in Afghanistan. In May, Maj. Gen. Jason Kamiya, the operational commander of U.S. forces in Afghanistan, said he was optimistic there would be a "modest reduction" this summer -- but that has not happened.

NATO has also boosted the size of its force in the past few weeks in response to the violence and in preparation for legislative elections on Sept. 18. It plans to bring in another 2,000 troops before the vote.

More than 900 people have been killed in fighting since March, when winter snows melted on mountain passes the insurgents use and the rebels launched major offensives across the country.

Afghan, NATO and American officials have warned that the spike in fighting may threaten the elections, which is the next key step toward democracy after a quarter-century of war.

"Some sources of instability like Taliban, al-Qaida and other elements might still pose a danger to the democratic process in Afghanistan," said Hikmet Cetin, the top civilian representative for NATO in Afghanistan. "We are aware that at the critical juncture for Afghans' future, the security situation could not be taken for granted."

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The attack that killed the U.S. service member Thursday occurred near a base at Urgun in Paktika province, which borders Pakistan. It came just over a week after two other U.S. service members were killed in separate attacks.

The death brings to 174 the number of U.S. troops killed in and around Afghanistan since Operation Enduring Freedom began in 2001.

DOJ:

Deputy Attorney General Comey To Take Post At Lockheed Martin (WSJ)

By Anne Marie Squeo, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, August 5, 2005

The nation's No. 2 law-enforcement official, Deputy Attorney General James Comey, is expected to join Lockheed Martin Corp. as senior vice president and general counsel when he leaves the government this month, according to people familiar with the matter.

Mr. Comey, perhaps best known in recent years for spearheading a crackdown on corporate fraud, previously had prosecuted numerous organized-crime and terrorism cases, including those involving crime boss John Gambino and the 1996 Khobar Towers terrorist attack on a U.S. military facility in Saudi Arabia. President Bush appointed him to the senior Justice Department post in December 2003.

Separately, David N. Kelley, who succeeded Mr. Comey as U.S. Attorney for the Southern District of New York in early 2004, is leaving that post to join law firm Cahill Gordon & Reindel LLP. He will start at the firm in the fall as a litigation group partner.

Mr. Comey's hiring by Lockheed, which will take effect Oct. 1, will add legal firepower to the executive team at the nation's largest defense contractor, which often faces a variety of legal claims, ranging from environmental cleanups to false claims and securities suits.

Directors at Lockheed, Bethesda, Md., are expected to vote on Mr. Comey's compensation this morning. Mr. Comey declined to comment.

Mr. Comey, 44 years old, is expected to be succeeded at the Justice Department by Timothy Flanigan, general counsel at Tyco International Ltd. and former White House deputy counsel.

At the Justice Department, Mr. Comey has overseen day-to-day operations, serving as the point person at department headquarters for U.S. attorneys nationwide and leading the Corporate Fraud Task Force, an interagency group created by the president amid numerous corporate-accounting scandals. To that end, federal prosecutors have charged more than 1,300 individuals with various related crimes since the group's formation in July 2002.

As U.S. Attorney in Manhattan, Mr.Comey directed corporate-fraud cases involving WorldCom Inc., Adelphia Communications Corp. and ImClone Systems Inc., as well as aiding the government's response to the Sept. 11, 2001, terrorist attacks. From 1996 to 2001, he was the managing Assistant U.S. Attorney in Richmond, Va.

The departure of Mr. Kelley, 45, a career prosecutor, was expected. He is a Democrat and presidents usually nominate U.S. attorneys from their own party. Mr. Kelley will be succeeded by Michael J. Garcia, whom President Bush nominated earlier this year. Mr. Garcia, a top Department of Homeland Security official, was confirmed by the Senate.

--Kara Scannell contributed to this article.

Lockheed Names Justice Department's Comey To GC Post (AP)

AP, August 5, 2005

Lockheed Martin Corp., the nation's largest defense contractor, said Thursday that the second-ranking official at the Justice Department will become the company's general counsel.

Deputy Attorney General James Comey, 44, will join Lockheed in October, replacing Frank Menaker Jr., 65, as its top lawyer. Comey, who was appointed in 2003 by President Bush, said in April that he planned to leave the Justice Department in the fall.

At Justice, he led the agency's corporate fraud task force, overseeing the prosecution of firms such as WorldCom and Enron Corp. He had served earlier as U.S. Attorney for the Southern District of New York, and handled the investigation of the 1996 bombing of the Khobar Towers in Saudi Arabia while working at the U.S. attorney's office in Virginia.

Menaker, who has served as general counsel at Lockheed since March 1995, will retire at the end of January 2006.

Lockheed also said the former deputy secretary of Homeland Security, James Loy, was elected to the company's board of directors. Loy was also the first director of the Transportation Security Administration.

Lockheed shares fell 13 cents to close at $62.82 Thursday on the New York Stock Exchange.

U.S. Deputy AG Comey To Join Lockheed Martin (REU)

Reuters, August 5, 2005

U.S. Deputy Attorney General James Comey, who made his name prosecuting corporate executives, is to join the nation's No. 1 defense contractor Lockheed Martin Corp. as general counsel, a source familiar with the matter said on Thursday.

Comey, the No. 2 U.S. legal official behind Attorney General Alberto Gonzales, led the Justice Department's Corporate Fraud Task Force, overseeing prosecutions of executives at Adelphia Communications Corp. , ImClone Systems Inc. and WorldCom. He also handled a number of high-profile terror and drug cases.

The Lockheed appointment is set to start on Oct. 1. The move was first reported in The Wall Street Journal.

Comey, who was named Deputy Attorney General in October 2003, said in April he planned to resign and move into the private sector.

Before serving in Washington, Comey was U.S. attorney for the Southern District of New York, where he made his name prosecuting an organized crime case against the Gambino family.

CORPORATE SCANDALS:

U.S. Probes Allegations Of Bribery At DaimlerChrysler (WSJ)

By John R. Wilke And Stephen Power

The Wall Street Journal, August 5, 2005

The Justice Department is pursuing a criminal investigation of allegations that DaimlerChrysler AG's Mercedes unit paid bribes in at least a dozen countries and that senior executives may have been aware of the practice.

The investigation is an escalation of a civil inquiry by the Securities and Exchange Commission that was disclosed late last year. That inquiry was triggered by a former Chrysler accountant in Detroit who alleged in a lawsuit last year that the company kept dozens of secret bank accounts to bribe foreign officials.

The investigation comes at a difficult time for DaimlerChrysler. Last week, Chief Executive Jürgen Schrempp unexpectedly said he would retire at the end of this year, well ahead of the April 2008 expiration of his contract, amid weak financial results and other setbacks at the company, the world's fifth-largest auto maker as measured by sales.

German federal authorities joined the investigation as well, people close to the case said, after the July 22 suicide of Rudi Kornmayer, managing director of the company's plant in Nigeria. The 53-year-old executive shot himself in a park in Esslingen, Germany, police said. Investigators are reviewing a suicide note that refers to the bribery inquiry, those close to the case said.

DaimlerChrysler operations in Latin America and Africa are among those under scrutiny, a person close to the case said, but the nature and purpose of the alleged payments hasn't been disclosed.

In financial disclosures on July 28, DaimlerChrysler reported it has identified "accounts, transactions and related payments that are subject to special scrutiny." The company said it is cooperating fully with investigators and "voluntarily sharing...information from its own internal investigation" in response to subpoenas from U.S. authorities.

A spokesman at DaimlerChrysler's Stuttgart, Germany, headquarters declined to amplify that statement or discuss the death of Mr. Kornmayer, who headed the company's Nigerian operations. A Justice Department spokesman declined to comment.

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Historically, there has been recurring tension between the U.S. and foreign companies over enforcement of U.S. anti-corruption laws. Foreign bribes by companies or individuals were outlawed by the 1977 Foreign Corrupt Practices Act, and in recent years the U.S. has pushed other countries to adopt similar laws. But bribery remains common in parts of Africa and Latin America, and in many oil-producing nations.

Bribery is illegal across the European Union. But before passage of the Organization for Economic Cooperation and Development Anti-Bribery Convention in 1997, several European governments, including Germany's, openly allowed tax deductions for bribery overseas, according to Transparency International, a Berlin-based nonprofit group dedicated to fighting corruption. Germany's parliament ratified the convention in 1999.

The U.S. has stepped up enforcement of its anti-bribery law in recent years, and a growing number of companies have been disclosing possible foreign bribery in the wake of the 2002 Sarbanes-Oxley corporate-accountability law. The largest such case to date was settled earlier this year, when defense contractor Titan Corp. paid $28.5 million in fines and other penalties for $3.5 million in alleged bribes in the African nation of Benin, part of which was used in a presidential election campaign to secure the award of a telecommunications contract, according to a government filing in federal court in San Diego. The bribery investigation had derailed a planned acquisition of Titan by Lockheed Martin Corp.

The DaimlerChrysler inquiry stems from a wrongful-dismissal lawsuit filed in U.S. District Court in Detroit last year and settled last month. The plaintiff in that case, former Chrysler accountant David Bazzetta, alleged he was fired in part because he complained to superiors about secret bank accounts kept by the company's Mercedes unit.

Mr. Bazzetta said he first learned of the accounts at a corporate audit executive committee meeting in Stuttgart in July 2001. At the time Mr. Bazzetta's allegations were disclosed, Dieter Zetsche, then-CEO of Chrysler Group, told The Wall Street Journal "there is no evidence supporting" the allegations.

Mr. Bazzetta also claimed, according to court filings, that a senior audit manager told the group that foreign bribery had once been a "common practice" and that Mercedes managers in a few countries were resisting efforts to "wind down" the practice to come into compliance with U.S. law. DaimlerBenz AG and Chrysler Corp. merged in 1998; the company is subject to U.S. bribery law because its shares are listed on the New York Stock Exchange.

Mr. Bazzetta said in his lawsuit that he was told by his supervisor to "forget what was said" and that "issues that arise in corporate audit must remain in corporate audit." He also said he was told that Mr. Schrempp and other executives had been briefed by a senior auditor on 40 secret accounts that still existed and that the money was "buried deep within [the] balance sheet." The accounts still existed, Mr. Bazzetta asserted in his lawsuit, "because the chief executives of the business units not only favored this practice but believed it a necessary cost of doing business."

Terms of the settlement between Mr. Bazzetta and DaimlerChrysler are confidential, said his attorney, Sue Ellen Eisenberg of law firm Eisenberg & Bogas, Bloomfield Hills, Mich. Mr. Bazzetta later met with investigators and provided further details of the 2001 meeting. She said Mr. Bazzetta would not comment. Mr. Bazzetta's suit doesn't say how the accounts were used by country managers or whether they still are in existence.

In its SEC filing last week, DaimlerChrysler said it "has not yet reached any definitive conclusions as to whether, or to what extent, these transactions and payments may constitute violations of applicable law." If the Justice Department or SEC find that violations have occurred, the company said, "They could seek criminal or civil sanctions, including monetary penalties against DaimlerChrysler and certain of its employees, as well as changes to its business practices and compliance programs."

DaimlerChrysler also announced $17.8 million in adjustments to "certain payable accounts related to consolidated subsidiaries." The changes are insignificant given DaimlerChrysler's vast size, but may be a clue to the size of the alleged improper payments. Company officials declined to explain the accounting changes or detail how they relate to the bribery investigation. The statement also said, "It is possible that further adjustments may be required as the company completes its investigation."

The DaimlerChrysler investigation comes amid probes at other high-profile German companies that have put some of the country's traditional corporate practices under a microscope. German prosecutors are looking into allegations that a former Volkswagen AG executive set up phony businesses abroad to enrich himself at the expense of Volkswagen business partners,

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and that the company's personnel department gave union leaders unrestricted access to a corporate travel account that paid for plush hotels and other perks.

While allegations of corruption at Volkswagen and other companies have garnered widespread publicity in Germany recently, most corporations are more sensitive to perceptions of wrongdoing, and have tightened ethics codes to prohibit behavior that would previously have been tolerated, said Dagmar Schröder, managing director of Transparency International's Germany chapter.

SEC Urges Judge To Let Scrushy Case Proceed (LAT/BLOOM)

By From Bloomberg News

The Los Angeles Times, August 5, 2005

HealthSouth Corp. founder Richard Scrushy should face civil-fraud charges for his role in "one of the largest financial frauds in U.S. history," the Securities and Exchange Commission said Thursday in urging a judge to let the case proceed.

The SEC's filing in federal court in Birmingham, Ala., called Scrushy "desperate" for asking last month that the lawsuit be dismissed because of the agency's collaboration with the Justice Department. Any guidance given to the SEC was within acceptable rules, the agency said.

"Scrushy wants this court to create new law, from scratch, that would obligate the SEC to keep suspects apprised of developments in parallel DOJ investigations," the SEC said. "Scrushy wants the SEC to become the con man's ear in the Justice Department."

Scrushy is accused by the SEC of lying to investors and signing false financial reports. The lawsuit is one of several stemming from fraud that happened under Scrushy's watch from 1996 to 2002 at HealthSouth, the largest U.S. operator of rehabilitation medicine services. Scrushy, who is fighting to regain control of the company he started in 1984, was acquitted June 28 of criminal charges.

Arthur Leach, Scrushy's lawyer, said he hadn't yet read the SEC filing and couldn't comment.

Greenberg Fires Back At Directors (NYT)

By Jenny Anderson

The New York Times, August 5, 2005

Maurice R. Greenberg, the former chairman and chief executive of the giant insurer American International Group, has challenged the rationale for its $4 billion income restatement, calling many of the items "exaggerated and unnecessary."

In a document presented to regulators yesterday, Mr. Greenberg's lawyers point to many people, including the company's audit committee and PricewaterhouseCoopers, as being equally responsible for overseeing the company's complex accounting. It suggests that the company's huge restatement was carried out to justify Mr. Greenberg's ouster earlier this year.

The document, known as a white paper, is a gamble for Mr. Greenberg. He is named in a suit brought by the New York attorney general, Eliot Spitzer, which claims that he and others manipulated A.I.G.'s financial statements and misled regulators, and he continues to be under criminal and civil investigation by federal authorities. In late May, A.I.G. restated five years of results, lowering its net income over that time by $4 billion, or 10 percent.

The paper is "a shot across the bow of the regulators who clearly are contemplating bringing criminal charges," said Robert A. Mintz, head of the white-collar defense practice of the law firm McCarter & English and a former federal prosecutor. "It's a signal that this is clearly a winnable fight and it's far from a black and white case."

Mr. Greenberg's lawyers challenge many of the restatement items and question what they call the board's rash judgment to force Mr. Greenberg's resignation before any charges were brought. The intense regulatory environment, they write, does not explain the whole picture.

"The rush to judgment may also be explained in part by the outside directors' interest in legitimizing their removal of Mr. Greenberg," the paper says, "whose 38-year record in creating stockholder value is beyond dispute in American business history and by understanding the long-held ambitions of at least one or two such directors to take a leading role at A.I.G."

Chris Winans, an A.I.G. spokesman, said: "We have not been given access to the so-called white paper and we have no comment on it. We stand by our decision as fully disclosed in our recent 10(k) filing with the S.E.C."

Darren Dopp, a spokesman for Mr. Spitzer, said, "We'll let the case and the facts speak for themselves."

Among the items that the paper challenges are an $850 million charge for asbestos and environmental reserves and a decision to expense already awarded long-term compensation. It also examines the role played by both A.I.G.'s audit committee and PricewaterhouseCoopers for approving many of the transactions now deemed improper.

A spokesman for PricewaterhouseCoopers could not be reached for comment.

Mr. Greenberg's lawyers question A.I.G.'s reversal on how to account for stock awarded to A.I.G. employees by Starr International, a private company that ultimately became a vehicle to offer incentive compensation to A.I.G. employees. In its 10(k) filing, A.I.G. states that it did not previously expense the compensation because "the amounts had been determined not to be material."

As a result of that program, A.I.G. stockholders enjoyed a lower rate of dilution than other companies because Starr International, rather than A.I.G., could offer the compensation. According to the paper, Starr International has offered information to A.I.G. that would enable it to save hundreds of millions of dollars through a tax deduction. A.I.G. has not responded to that offer, Mr. Greenberg's lawyers wrote.

"These changes to the form 10(k) may be an attempt by new management to set the bar as low as possible on the investment community's expectations of A.I.G.'s earnings going forward," the paper says.

The report does not detail Mr. Greenberg's role in a so-called finite insurance transaction with General Re, a subsidiary of Berkshire Hathaway, which Mr. Spitzer accuses Mr. Greenberg of orchestrating solely to dress up A.I.G.'s financials.

The report says the accounting community continues to debate the issue of when finite reinsurance contracts qualify as reinsurance accounting, calling the issue "complex and highly subjective."

But the document does not address Mr. Greenberg's motives in seeking the transaction. His lawyers say they have not received the documents necessary to review the matter properly.

The report takes shots at various individuals inside A.I.G. Mr. Spitzer's complaint alleges that management made accounting adjustments, known as top-level adjustments, to improve its results. Mr. Greenberg's lawyers say no top-level entries were made without consultation with PricewaterhouseCoopers, adding that Martin J. Sullivan, the current chief executive of A.I.G., was "involved in certain top-level adjustments to general insurance loss reserves."

Mr. Sullivan has not been accused of any wrongdoing. Through Mr. Winans, he declined to comment.

Greenberg Defends AIG's Accounting, Rebuts Allegations (WSJ)

By Theo Francis And Ian McDonald

The Wall Street Journal, August 5, 2005

Attorneys for former American International Group Inc. Chairman and Chief Executive Maurice R. "Hank" Greenberg defended many of the accounting decisions made on his watch, telling regulators that the company's auditor and current AIG executives knew of moves the company recently reversed.

In a 51-page document, the lawyers say that AIG's longtime auditor, PricewaterhouseCoopers LLP, Chief Executive Martin J. Sullivan and Chief Financial Officer Steven J. Bensinger, among others, were aware of accounting moves that the company has reversed under pressure from regulators.

In late May AIG restated five years of financial results, shaving its reported profit through 2004 by 10%, or $3.9 billion, and cutting its net worth by 3%. The company's shares have fallen 16% since it disclosed state and federal subpoenas in February.

The document suggests current managers are eager to take sizable charges now partly to make the firm's future results looks stronger by comparison. The changes behind the restatement "may be an effort by new management to set the bar as low as possible on the investment community's expectations of AIG's earnings going forward," according to the document. The outside directors also have "an interest in legitimizing their removal of Mr. Greenberg," the document says.

The document, which was reviewed by The Wall Street Journal, marks Mr. Greenberg's first detailed attempt since he was forced out in March to rebut allegations that he and others improperly manipulated AIG's books to burnish the company's otherwise strong results. Those allegations are made in AIG's latest annual report and in a lawsuit filed in May by the New York

attorney general and the state insurance department against the company, Mr. Greenberg and another former executive. The latest document first was described in an editorial published yesterday in the Journal.

An AIG spokesman said the company stands by its restatement. "We have not been given access to the so-called white paper...and we have no comment on it," he said. Messrs. Sullivan and Bensinger also had no comment, he said. AIG has said that an internal review this year turned up new information that led the company to re-evaluate past accounting decisions. A PricewaterhouseCoopers spokesman said the firm hasn't seen the document and declined to comment.

AIG and New York regulators are in the early stages of settlement talks, people familiar with the talks say. Mr. Greenberg's attorneys previously have said he would contest the New York lawsuit's allegations, as has an attorney for the other defendant.

A spokesman for the New York attorney general's office confirmed receiving the document but declined to comment. A New York insurance department spokesman declined to comment and said the agency hadn't received the document from Mr. Greenberg's legal team.

The attorneys argue in the document that Mr. Greenberg was "not responsible for developing and implementing the accounting policies of AIG." Other top officials knew of many decisions, the document states. Both PricewaterhouseCoopers and AIG's interim chairman, Frank Zarb, for example, knew of the accounting treatment AIG used for "covered calls," derivative transactions that AIG in May said had been improperly booked, the document says. Mr. Zarb couldn't be reached to comment.

In criticizing AIG's decision to increase its reserves for liabilities related to asbestos and pollution losses -- a move that reduced net income by $850 million -- the document notes that Mr. Bensinger, now financial chief, had been responsible for presenting AIG's earlier figures to ratings companies.

New SEC Chief Vows Agency Will Be 'Investors' Advocate' (WSJ)

By Deborah Solomon

The Wall Street Journal, August 5, 2005

In his first day on the job, Securities and Exchange Commission Chairman Christopher Cox sought to allay concerns that he'll kowtow to business, telling SEC staff that "the Department of Commerce serves our country's businesses. We are the investors' advocate."

The arrival of Mr. Cox, a former Republican congressman from Southern California, has been viewed with skepticism by some who fear he may take a more business-friendly approach to regulation and enforcement than his predecessor, William Donaldson.

At a staff meeting yesterday morning, Mr. Cox told staffers those predictions "often have as much factual basis as a WorldCom prospectus" and said anyone who tries to take advantage of the investing public "will find themselves a powerful adversary in the SEC."

His brief remarks underscored the delicate balancing act that awaits Mr. Cox, who will have to weigh the needs of investors against the growing concerns of business that the SEC has become too aggressive. He acknowledged that the SEC "faces some thorny issues" as it looks to implement controversial new rules, including an overhaul of stock trading, the registration of hedge-fund advisers and new mutual-fund governance requirements. Mr. Donaldson pushed those rules through on a 3-2 vote with the support of the SEC's two Democratic commissioners and over the objections of Republican Commissioners Paul Atkins and Cynthia Glassman.

Mr. Cox didn't offer specifics of his own agenda yesterday other than to say he wants to improve disclosure both on Wall Street and within the SEC. He said he wants the SEC to renew its focus on the "plain English" doctrine, implemented under former Chairman Arthur Levitt, intended to make Wall Street documents more intelligible to investors. He said that same goal should also apply to the SEC's written rules and regulations, which can be massive and hard to understand. "The SEC has to practice what it preaches," he said.

Mr. Cox is expected to spend some time getting up to speed on the SEC's activities and initiatives and is also expected to start interviewing staff for several open positions, including the agency's head of investment management and its market-regulation division.

New SEC Chief Vows To Reduce Jargon (FT)

By Andrew Parker

Financial Times, August 5, 2005

Christopher Cox, the new Republican chairman of the Securities and Exchange Commission, signalled on Thursday that providing investors with more user-friendly financial information would be a theme of his leadership.

Mr Cox, on his first day as the chief US financial regulator, complained about the lack of "plain English" in company proxy statements and mutual fund prospectuses.

He also warned that the SEC faced some "truly thorny issues" in implementing rules on stock trading, hedge fund oversight and mutual fund governance that were finalised by William Donaldson, his predecessor.

Mr Cox used a speech at the SEC headquarters in Washington to set out his concerns about the lack of comprehensible information for retail investors.

"When a company issues a proxy statement, should the millions of ordinary Americans who own the company's stock be able to read and understand it?" he asked.

"It is all well and good that their broker's lawyer could understand it. But what about the individual investors themselves - is disclosure for them too?"

Mr Cox praised an initiative on plain English in financial information by Arthur Levitt, the former Democratic chairman of the SEC.

"Chairman Levitt's vision was dead-on," he said. "How hard do you think it would be today to find offensive legalese in almost any mutual fund prospectus or proxy statement?"

He also emphasised the need for the SEC to practise what it preached, and to make sure its own rules and publications contained plain English. Mr Cox joked about speculation, running up to the Senate's confirmation of him as SEC chairman last week, on whether the regulator would be business-friendly or investor-friendly under his leadership.

As a Republican congressman for the past 17 years, he developed a business-friendly legislative track record. Mr Cox on Thursday said the SEC was "the investor's advocate". "During my chairmanship, anyone who attempts to drive a wedge between the interests of business and interests of investors in that business will find themselves confronted by a relentless and powerful adversary in the Securities and Exchange Commission," he said.

He added that it should not be necessary for the interests of business and investors to be in conflict, given that shareholders owned companies.

Mr Cox signalled that he would retain Linda Thomsen, who was appointed SEC director of enforcement in May by Mr Donaldson.

The senior SEC staff serve at the pleasure of the chairman, and there has been media speculation that Mr Cox might want changes to personnel.

Stock Options: Do They Make Bosses Cheat? (NYT)

The New York Times, August 5, 2005

QUESTION for shareholders: If the company's directors give lots of options to the chief executive, should you be happy or nervous?

The traditional answer from academia was that big options grants were good. They aligned the interests of executives with shareholders, and they helped to offset the tendency of executives to avoid risky but potentially profitable investments.

But it turns out that the conclusions were based more on optimistic theories than data. Now, with option grants having become the largest portion of chief executive compensation - worth more than either salary or bonus for the average boss - analysis of data on corporate performance provides some disturbing results.

It appears that really big options grants make it more likely that companies will fudge their numbers and that companies with such grants are more likely to go broke.

One study, to be presented this weekend at a meeting of the Academy of Management in Honolulu, compared 435 companies that were forced to restate their financial statements with similar companies that did not run into such problems.

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The report found that the higher the proportion of the boss's pay in stock options, the more likely the company was to be forced to restate profits. For companies where bosses got 92 percent or more of their pay in options, about a fifth ended up faking their books within five years.

That conclusion would be more persuasive if the authors, Jared Harris, a doctoral candidate at the University of Minnesota, and Philip Bromley, a management professor there, had looked at all companies that are so generous with options.

But it makes a lot of sense. Those executives whose well-being most depends on the stock going up are most likely to do what they can to arrange that, by fair means or foul.

IT is not just options that seem to correlate with fraud, the study found. Bosses of companies that are doing much worse than their competitors may feel a need to cheat. And companies that turn in a very good year have a propensity for faking numbers the next year.

"A firm with an exceptional year faces a difficult problem," the authors write. "If the high performance the year before was partly luck, then the firm may be unable to replicate the high performance, but the market will view failing to do so negatively. Trying to equal past performance, such firms may resort to financial misrepresentation."

Another study that shows the dangers of excessive options comes from Moody's, the bond rating service. The study's authors, Kenneth A. Bertsch and Christopher Mann, found that companies with the highest-paid bosses, adjusted for things like company size and performance, were far more likely to default on debt or to suffer major cuts in bond ratings.

There is, they note, a relatively benign explanation: such companies are taking risks to benefit shareholders, and while some of the risks do not work out, others do. But they offer two other possible explanations. One is that high management pay reflects weak board oversight. The other is that incentive pay packages can "create an environment that ultimately leads to fraud."

Stock options may not produce fraud but they do magnify its rewards. As the Harris-Bromley article notes: "It is easy to be honest if $1 is at stake; it is harder to be honest if $10 million is available."

The lesson for corporate boards is that if they think it is a good idea to lavish stock options on top management, they also need to be vigilant in putting in safeguards to prevent and discover fraud. As Mr. Harris put it, "it does look like the more options you pay your C.E.O., the more likely the firm is to cheat."

Delphi Negotiates With GM, UAW About Big Revamp (WSJ)

By Joseph B. White

The Wall Street Journal, August 5, 2005

Delphi Corp. Chairman and Chief Executive Officer Robert S. "Steve" Miller said the automotive supplier is in discussions with former parent General Motors Corp. and the United Auto Workers about a comprehensive restructuring of Delphi's unprofitable U.S. operations aimed at avoiding bankruptcy reorganization.

Mr. Miller, a veteran leader of large-scale corporate restructurings, said discussions with GM and the union "are very constructive and give me hope that we can restructure out of court." But Mr. Miller said that if Delphi can't reach agreements with GM and the UAW that substantially cut its U.S. labor costs and allow for restructuring or sale of unprofitable businesses, the company can't continue on its current course until September 2007, when its current UAW contract expires.

Delphi had a $403 million loss in the first quarter, and has forecast a loss for the year. "We don't have the wherewithal to go another two years losing money at that rate," Mr. Miller said in an interview at Delphi headquarters. Mr. Miller took the helm at Delphi July 1, succeeding former Chairman and Chief Executive Officer J.T. Battenberg III, who announced his retirement in February.

Delphi had $28.62 billion in revenue and a $4.75 billion loss in 2004. Delphi has been wrestling with management turmoil linked to revelations of accounting irregularities. The company at the end of last month restated earnings for 2001 through 2003. The Securities and Exchange Commission is investigating. No Delphi executives have been charged with wrongdoing.

Delphi's operating crisis became acute during the first half of this year as GM, which accounts for 49% of Delphi's total business, slashed production amid slowing sales.

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One result of the GM cuts is that Delphi has about 4,000 UAW workers who are laid off but receiving pay and benefits from Delphi under the master UAW contract. Delphi President Rodney O'Neal, in comments at an industry conference earlier this week, said payments to laid-off workers are costing Delphi $300 million to $400 million a year.

Most of Delphi's roughly 25,000 UAW workers earn the same wages and benefits as GM hourly workers. Most of Delphi's supplier competitors pay even their unionized U.S. workers a fraction of Delphi's $27-an-hour rate. Delphi's pension plan is $4.7 billion underfunded, according to a July 29 report by analysts at Standard & Poor's Corp. The company has a retiree health-care liability of $10 billion.

Mr. Miller said a $2.8 billion refinancing plan completed in June has given the company time to "come to an orderly resolution" of restructuring talks with GM and the union.

A GM spokesman said the company wouldn't comment on talks with Delphi. Union officials couldn't be reached.

GM doesn't have equity ties to Delphi, and Delphi employees aren't GM employees. However, GM could be liable for a portion of pension and retiree health benefits for Delphi's UAW employees, should Delphi seek a bankruptcy-court reorganization and terminate its pension plans. Delphi workers also have a limited right to return to GM, if GM has job openings.

Moreover, GM would have an incentive to avoid the potential disruption to its operations from a Delphi collapse. For example, a bankruptcy court could order GM to pay Delphi higher prices.

What will be critical to Delphi's effort to avoid a bankruptcy reorganization, Mr. Miller said, is the support of Delphi's suppliers and customers. Suppliers could demand immediate payment for goods delivered to Delphi. Potential customers could decide not to award Delphi business for fear that the company would fail to perform.

Mr. Miller didn't disclose specifics for his restructuring plan. He said Delphi will concentrate on high-technology products -- including nonautomotive ventures.

Delayed Reaction At Morgan Stanley, Board Slowly Faced Its Purcell Problem (WSJ)

By Ann Davis And Randall Smith

The Wall Street Journal, August 5, 2005

On a sunny day in early June, near the top of a 60-story glass tower with panoramic views of Boston, three independent Morgan Stanley directors heard a stern critique from money managers at the hedge fund Highfields Capital Management LP.

Morgan Stanley Chief Executive Philip Purcell risked being ousted in a proxy fight the next spring, the Highfields managers said. Yet the Morgan Stanley board had allowed two designated successors to leave and the firm was suffering an alarming exodus of talent, they said.

The meeting with Highfields was the last significant event before directors and Mr. Purcell decided he should step down, according to interviews with two people knowledgeable about board deliberations. On June 13 he announced he would resign and he left the firm on June 30.

Based on interviews with directors, investors and others, a picture emerges of a board that came to grips painfully slowly with the extent of Mr. Purcell's unpopularity. By some directors' own accounts, the board initially misjudged attacks on Mr. Purcell by retired Morgan Stanley executives, seeing the complaints as carping about his personal style rather than as an issue that threatened the company's performance.

The tale serves as a caution for boards in an era when their role in corporate governance is drawing more scrutiny. The damage from delay when directors fail to spread their antennae widely is especially great at a Wall Street securities firm like Morgan Stanley, where the most valuable assets can walk out the door and never return.

That's precisely what happened during the three months between the first stirrings of revolt in March and Mr. Purcell's resignation in June: Dozens of key Morgan Stanley staffers quit and joined rival companies or are considering starting their own firms. Replacing those people is an issue that Mr. Purcell's successor, John Mack, is trying to address.

As this year dawned, directors had reason to believe all was calm at Morgan Stanley. The firm was a big player in the dot-com boom of the late 1990s and had suffered in the collapse. But in 2003 and 2004, Morgan Stanley's profits rebounded and the stock price climbed back somewhat.

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"Performance had turned up," says recently named lead director Miles Marsh, a mild-mannered native of South Africa who used to lead a paper-products company. Earnings per share rose 18% in 2004 and Morgan Stanley was No. 1 in stock underwriting, he notes.

When eight prominent Morgan Stanley alumni called for Mr. Purcell's removal in a March 3 letter, many of the directors saw little more than sour grapes. It was well-known that many Morgan Stanley old-timers had an animus toward Mr. Purcell, who led Dean Witter, Discover & Co. into its merger with Morgan Stanley in 1997. Mr. Purcell nudged out Mr. Mack, a Morgan Stanley veteran, in 2001 by not ceding the CEO job as Mr. Mack thought they had agreed.

"It struck us that the complaints against Phil were more personal than based on performance," says Michael Miles, a former CEO of Philip Morris Cos. Mr. Miles was one of Dean Witter's directors when it went public in 1993 and since the Morgan Stanley merger has chaired the committee that recommends new directors and oversees board procedure.

On March 14, the directors solicited views from about a dozen top executives, asking them what they thought of Morgan Stanley's strategy and leadership. Star investment banker Joseph Perella was at a conference in Mexico with 60 clients. In a 20-minute call, Mr. Perella told three directors he believed Mr. Purcell's leadership style wasn't working, according to a person told of the call at the time. A spokesman for Mr. Perella, Tim Metz, declined to comment.

Mr. Perella said Mr. Purcell, who lived in New York during the week but typically returned to his family's home near Chicago on weekends, had little involvement in Manhattan's civic or charitable affairs and was little-known among clients and employees.

"But Joe, these are all soft issues," Mr. Marsh responded, people familiar with the call said. Mr. Marsh asked Mr. Perella to focus on "hard" issues such as business strategy and execution, according to a person familiar with the conversation.

One director even sought to squelch a doubter on the board. At a mid-March board meeting, Laura D'Andrea Tyson, a former Clinton administration economic official who is dean of the London Business School, said directors should take the criticism of Mr. Purcell's record more seriously. Director Charles Knight, former CEO of Emerson Electric Co., rebuked Ms. Tyson, calling her comment inappropriate, people familiar with the exchange say.

Depth of Feeling

Several encounters suggest directors misunderstood the depth of feeling among people in Morgan Stanley's institutional securities business, which underwrites and trades stocks and bonds as well as advising corporations on mergers. That business, the traditional core of Morgan Stanley, generates 60% of the firm's profits.

At one point Mr. Miles compared Mr. Purcell to management icon Jack Welch, the former head of General Electric Co., and the dissidents to lower-level employees. "Can you imagine 10 engineers from the GE engine plant in Cincinnati who don't like how the engine division is being operated writing a letter to the GE board saying Jack Welch should be fired?" Mr. Miles asked some bankers, say people familiar with his remarks. Mr. Miles meant to refer to Mr. Welch's more controversial early years as chief executive, when his cost cuts earned him the nickname "Neutron Jack."

In fact, the dissidents included a former chairman and a former president of Morgan Stanley. On April 2, Mr. Perella spoke for an hour with Mr. Miles and said the troops were in disarray, according to people familiar with the conversation. Mr. Perella asked about arranging a meeting between bankers and directors, these people say. The meeting had been suggested by Paul Taubman, co-head of mergers and acquisitions.

Mr. Miles responded tartly that if the purpose of the meeting was to tell directors that Mr. Purcell should resign, it wouldn't be much of a meeting because the board is "100% behind Phil." He advised Mr. Perella to tell his people to "go back to work." And he urged Mr. Perella to "put the genie back in the bottle" by helping quell the dissent, people familiar with the discussion say.

On April 13, Mr. Perella and the head of investment banking, Terry Meguid, resigned. Mr. Perella went on to land an assignment advising MBNA Corp. on its purchase by Bank of America Corp. -- a $35 billion deal announced in June that Morgan Stanley wasn't involved in.

The week after Mr. Perella resigned, Messrs. Miles and Purcell visited the Baltimore headquarters of T. Rowe Price Group Inc., a shareholder and client. The two men said Morgan Stanley's business was fine and the problem was the alumni attack itself, according to people familiar with the meeting. Mr. Purcell gave himself a grade of 8 out of 10 and said the firm needed to get out of the newspapers, these people say.

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Some T. Rowe officials were taken aback at the way Mr. Purcell didn't take responsibility for the firm's flagging morale. People at the meeting recall T. Rowe analyst Jeff Arricale blurting: "No, Phil, you're the problem!" Mr. Miles, while praising management's performance, bristled when someone implied that the board was too stubborn about considering new leadership. "The board is not in Phil's pocket. There are no wallflowers here," he said, according to people at the meeting.

The board took steps to interview more employees. On the weekend of April 23 and 24, Messrs. Miles and Marsh secretly contacted Raymond McGuire, Morgan Stanley's other co-head of mergers. Mr. McGuire, who himself would leave the firm in May to join Citigroup Inc., urged them to talk to others to get "a true picture of the state of affairs," according to people familiar with the discussion.

The following week, directors interviewed around 50 employees in one-on-one sessions in New York and London and in telephone calls to Asia and elsewhere. They got an earful. One of those interviewed was Mr. Taubman, the co-head of mergers. Around that time, people who talked to him say, Mr. Taubman was bringing up a recent announcement by the directors that there was no compelling reason to remove Mr. Purcell. These people say Mr. Taubman asked: What was the compelling reason for Mr. Purcell to be the CEO? Mr. Taubman declined to comment.

The tide was turning. Mr. Marsh, the former paper executive, says that after the interviews, "it became apparent to us that a management change seemed inevitable. The situation had progressed to a point where we could not go back."

New Divisions

A board meeting on Saturday, April 30, at a suburban Chicago office park housing Morgan Stanley's credit-card operations exposed new divisions among the directors. The board and Mr. Purcell agreed on modest governance changes. Mr. Purcell said those moves plus the hiring of a new vice chairman, merger lawyer David Heleniak from Shearman & Sterling, would be enough to calm the storm, say people familiar with the meeting.

At one stage, the outside directors asked Mr. Purcell and his co-presidents with board seats to leave the room. Mr. Knight, the director who had clashed with Ms. Tyson in March, and Klaus Zumwinkel, chairman of the management board of Germany's Deutsche Post AG, said they supported Mr. Purcell and didn't see any reason to discuss the matter since the board had already decided on it, according to several accounts of the meeting. Messrs. Knight and Zumwinkel had to leave early. They declined through spokesmen to comment for this article.

The attempt to cut off debate bothered some other directors, people familiar with the meeting say. Once Messrs. Knight and Zumwinkel left, the discussion turned more freewheeling. Mr. Miles, who had recently declared the board's 100% support for Mr. Purcell, now encouraged open debate. The directors who had interviewed Morgan Stanley employees briefed the others on what they had heard.

Howard Davies, director of the London School of Economics and Political Science, said employees in London whom he had interviewed felt company morale was unlikely to improve under Mr. Purcell. "I'm not sure we're going to get though this problem without change," he told the others, a person familiar with the meeting says. Ms. Tyson said she might quit the board if it refused to go beyond modest governance changes and Mr. Davies was considering a similar move. But both were persuaded to stay as they heard other directors including Mr. Marsh show an openness to bigger changes, say people familiar with the meeting.

Mr. Marsh argued that management had to be accountable for the firm's lack of cohesion. He questioned the wisdom of backing Mr. Purcell, asking: "Do you think we're really doing the right thing here?"

Publicly, the board gave no hint of the developing split to avoid worsening the uproar. It announced on the night of Sunday, May 1, that directors had "unanimously" concluded a management change wasn't in shareholders' interest.

As May wore on, says Mr. Marsh, it became apparent that "the level of noise was not abating." In mid-May, a Florida state jury found Morgan Stanley had defrauded financier Ronald Perelman, and the firm was ordered to pay $1.45 billion. The judge angrily accused Morgan Stanley of withholding evidence. Mr. Davies, an audit committee member, soon began questioning members of the legal department about how the Florida lawsuit had been handled.

As the board continued to mull Mr. Purcell's fate, the exodus continued. Among others, a nine-person team of derivatives specialists and traders who had been working to build new products for individual investors left for Wachovia Corp. Mr. McGuire jumped to Citigroup on May 23.

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The next day, Highfields sent a letter urging directors to choose a new leader. Highfields, which owned 2.5 million Morgan shares as of March 31, had a history of publicly challenging managers including a confrontation in 2001 with Enron Corp.'s then-CEO, Jeffrey Skilling.

On June 3, three directors -- Mr. Marsh, Mr. Knight and Robert Kidder, former CEO of Borden Chemical Inc. -- sat down with Highfields founders Jonathon Jacobson and Richard Grubman in the Highfields office on the 51st floor of the John Hancock tower in Boston.

In a businesslike presentation, without attacking Mr. Purcell personally, one of the Highfields founders warned the directors they had "a bigger problem than you know you have," people familiar with the meeting say. Messrs. Jacobson and Grubman asked if the directors were ready to fight a proxy battle in 2006 when alumni might urge shareholders to withhold support for Mr. Purcell's re-election. The Highfields team noted that Mr. Purcell had failed to identify his own successors, pushing them out instead. It was urgent to solve the succession issue quickly, they said.

This time, the directors didn't push back. While a few were still perceived as holdouts for Mr. Purcell, the chief executive had heard about the Highfields meeting and was signaling that he was prepared to step down, say people familiar with the matter. The board convened an emergency meeting in Chicago on Wednesday, June 8, to discuss his departure, and continued negotiating his exit through the weekend.

Mr. Marsh says the board tried to act as quickly as possible. "The decision to change leadership was resolved in a three-month period from April to June." he says. "It's very important for a board to achieve consensus and that often takes some time."

As the end neared, directors awarded Mr. Purcell about $44 million in exit pay plus a $62.3 million retirement package. It gave a co-president, Stephen Crawford, closely aligned with Mr. Purcell $32 million when he resigned in July.

Now a pension fund has sued directors for continuing to support Mr. Purcell as the franchise deteriorated and for approving the lavish pay deals. Some institutional shareholders are discussing an effort to vote out the directors at next spring's annual meeting.

US Regulators Plan 1-Year Job Restriction On Bank Examiners (DOWJONES)

Dow Jones Newswires, August 5, 2005

WASHINGTON -(Dow Jones)- U.S. regulators on Thursday proposed rules to enforce a new law restricting senior bank examiners from working for the banks they supervise for one year after leaving their jobs.

Starting Dec. 17 the job restriction, included in an intelligence and anti-terrorism law enacted late last year, would apply to examiners at the Office of the Comptroller of the Currency, the Federal Reserve, the Federal Deposit Insurance Corp. and the Office of Thrift Supervision.

The legal requirement followed a year-long probe by the Senate Permanent Subcommittee on Investigations into money laundering allegations involving Riggs Bank N.A., which has since been acquired by PNC Financial Services Group (PNC) (PNC).

The Senate subcommittee found the OCC was slow to respond while Riggs helped corrupt leaders from Chile and Equatorial Guinea. Questions surrounded R. Ashley Lee, the regulatory agency's examiner in-charge at Riggs from 1998 to 2002, who left to become Riggs' chief risk officer. Lee was put on leave while the U.S. Justice Department investigated ethics violations.

The proposed restriction would apply to employees of bank regulators who serve as senior examiners for two or more months during their final year of employment with the agencies.

These individuals would be barred for one year from knowingly accepting compensation "as an employee, officer, director or consultant from that institution or holding company, or from certain related entities," the regulators said in a joint statement. Potential penalties for violation would include a ban on employment in the banking industry for up to five years and fines of up to $250,000.

The regulators are accepting public comment on their proposal for 60 days from its publication in the Federal Register Friday.

-By Campion Walsh; Dow Jones Newswires; 202 862 9249; campion.walsh@ dowjones.com

CRIMINAL LAW:

U.S. Indicts 2 In Case Of Divulged Secrets (WP)

By Dan Eggen And Jamie Stockwell

The Washington Post, August 5, 2005

Two former employees of an influential pro-Israel lobbying group were indicted yesterday on charges that they illegally received and passed on classified information to foreign officials and reporters over a period of five years, part of a case that has complicated relations between the United States and one of its closest allies.

Although no foreign government is named in the indictment, U.S. government sources have identified Israel as the country at the center of the probe. The Israeli Embassy in Washington also confirmed yesterday that it has been "approached" by investigators in the case.

The 26-page indictment, handed up in U.S. District Court in Alexandria, represents the first formal allegations of criminal wrongdoing against the former employees of the American Israel Public Affairs Committee. AIPAC is widely recognized as one of the most powerful lobbying organizations in Washington and has carefully cultivated close ties to Congress and the Bush administration.

The indictment also recasts the government's allegations against Lawrence A. Franklin, a Defense Department analyst who had already been charged with disclosing secret information about possible attacks on U.S. forces in Iraq and other topics. One of six original counts was dropped against Franklin, 58, of Kearneysville, W.Va.

Former AIPAC director of foreign policy issues Steven J. Rosen, 63, of Silver Spring was indicted on two counts related to unlawful disclosure of "national defense information" obtained from Franklin and other unidentified government officials since 1999 on topics including Iran, Saudi Arabia and al Qaeda. A former AIPAC analyst, Keith Weissman, 53, of Bethesda, was indicted on one count of conspiracy to illegally communicate classified information.

Rosen was instrumental in making AIPAC a formidable political force and helped pioneer the strategy of lobbying the executive branch as energetically as Capitol Hill, beginning in the Reagan administration. The FBI's long-running investigation -- which has involved clandestine wiretaps and other surveillance dating back several years -- has angered many political supporters of Israel and has caused friction between the two governments.

AIPAC fired Rosen and Weissman but continues to pay their legal fees. "AIPAC dismissed Rosen and Weissman because they engaged in conduct that was not part of their jobs, and because this conduct did not comport in any way with the standards that AIPAC expects of its employees," said Patrick Dorton, a spokesman for AIPAC.

A spokesman for the Israeli Embassy in Washington, David Siegel, said that Israel was formally approached by U.S. investigators in the case several weeks ago and that "we've expressed our willingness to cooperate in this process." He denied any wrongdoing by embassy diplomats.

Attorneys for Rosen and Weissman also vigorously disputed the charges.

"The charges in the indictment announced today are entirely unjustified," Abbe Lowell, Rosen's attorney, said in a statement. Lowell said he expects the trial to "show that this prosecution represents a misguided attempt to criminalize the public's right to participate in the political process."

Weissman's attorney, John Nissikas, said in a statement: "We are disappointed that the government has decided to pursue these charges, which Mr. Weissman strongly denies."

Franklin's attorney, Plato Cacheris, said the charges were "not welcome but expected." Cacheris said he may request that Franklin be prosecuted separately from the others.

The indictment alleges that, beginning in April 1999, Rosen and, later, Weissman sought to influence people in the United States government, including Franklin, with whom they first met in February 2003, and used those contacts to gather sensitive and classified information.

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In announcing the charges in Alexandria, U.S. Attorney Paul J. McNulty said that while "Washington is a town in which the flow of information is virtually nonstop," there is a clear distinction in the law that "separates classified information from everything else."

"Today's charges are about crossing that line," McNulty said. "Those entrusted with safeguarding our nation's secrets must remain faithful to that trust. Those not authorized to receive classified information must resist the temptation to acquire it, no matter what their motivation might be."

The motivation of Rosen and Weissman McNulty said, was simply to "advance their foreign policy agendas and personal careers."

McNulty said prosecutors had no immediate plans to charge anyone else in the case but said the investigation was continuing. In addition to unidentified U.S. and foreign government officials, the indictment refers to an unknown number of journalists who were in contact with Rosen and, in some cases, allegedly received classified information. Sources familiar with the case have said that one of the reporters in contact with Rosen and Weissman was Glenn Kessler of The Washington Post.

Rosen faces up to 20 years in prison and Weissman faces up to 10 years; both are scheduled to appear in court Aug. 16. Franklin, who pleaded not guilty to the earlier charges, faces up to 45 years in prison if convicted on all counts, officials said.

Israel Lobbyists Facing Charges In Secrets Case (NYT)

By David Johnston

The New York Times, August 5, 2005

WASHINGTON, Aug. 4 - Two former officials of a pro-Israel lobbying group were charged in an indictment filed Thursday with illegally conspiring to gather and disclose classified national security information to journalists and an unnamed foreign power that government officials identified as Israel.

The indictment accused Steven J. Rosen and Keith Weissman, formerly senior staff members at the American Israel Public Affairs Committee, with improperly disclosing national security information beginning in April 1999. The group dismissed the two men last April.

As the committee's director of foreign policy issues, Mr. Rosen was a highly visible figure in Washington who helped the organization define its lobbying agenda on the Middle East and forged important relationships with powerful conservatives in the Bush administration. Mr. Weissman was a senior Middle East analyst.

The charges in the long-running inquiry were expected, but nevertheless unusual. Neither Mr. Rosen nor Mr. Weissman, who have denied any wrongdoing, held security clearances.

They were not government employees and they operated in a foreign policy world in which private lobbyists, public officials and journalists often trade delicate information about executive branch decision-making that is related to other countries.

The indictment did not accuse any journalist of wrongdoing, but cited several conversations that Mr. Rosen and Mr. Weissman had with unidentified journalists as "overt acts" that furthered the conspiracy. Government officials have said investigators want to interview reporters who talked with either of the two men. It is not clear who the journalists are or whether any them have been interviewed.

The indictment said the two men had disclosed classified information about a number of subjects, including American policy in Iran, terrorism in central Asia, Al Qaeda and the 1996 bombing of the Khobar Towers apartment in Saudi Arabia, which killed 23 Americans, mainly military personnel.

Mr. Rosen and Mr. Weissman were each charged with a single count of conspiracy; Mr. Rosen was also charged with an additional count of passing classified information. The government has never offered a motive for the actions the men are accused of taking. The indictment said Mr. Rosen and Mr. Weissman had seemed keenly aware of the delicateness of information they had obtained from at least three American officials, including Lawrence A. Franklin, a former Defense Department analyst who met the two men in February 2003. The indictment did not name the other two American officials.

Mr. Franklin has already been charged in the case, and he was the subject of additional charges in Thursday's indictment. Mr. Franklin, Mr. Rosen and Mr. Weissman are scheduled to be arraigned on Aug. 16 before Judge T. S. Ellis III of Federal District Court in Alexandria, Va.

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The indictment charged that Mr. Franklin, Mr. Rosen and Mr. Weissman had talked about the classified nature of the material they shared, referring to it in conversations with each other, as well as with foreign officials and journalists, as "extremely sensitive" or "secret." At one point, the indictment said, Mr. Franklin seemed to know that he was disclosing secrets, warning Mr. Rosen and Mr. Weissman against discussing classified information about possible attacks on American forces in Iraq.

The offenses charged in the indictment fall under the Espionage Act, but no one has been charged with spying. Although the statutes do not explicitly apply only to government officials with security clearances, prosecutors have not often pursued cases like the one against Mr. Rosen and Mr. Weissman. They are accused of transferring classified information to journalists and foreign government officials that could be "used to the injury" of the United States or "to the advantage" another country.

Among the meetings with journalists, the indictment charged, was one that occurred in December 2000 after Mr. Rosen and Mr. Weissman met with an unidentified American official. It said that Mr. Rosen met with an unidentified "member of the media" to whom he gave classified information dealing with United States strategy options involving an unnamed Middle Eastern country and internal American deliberations about those options.

The indictment contained additional charges against Mr. Franklin, an expert on Iran. It accused him of using his position as a desk officer to gather information to hand over to Mr. Rosen or Mr. Weissman, or to an unidentified foreign official, who government officials and lawyers involved in the case have said was Naor Gilon, an Israeli Embassy political officer. The indictment refers to two other foreign government officials, but does not identify them. Both are Israelis, a government official said.

Lawyers for Mr. Rosen and Mr. Weissman said the charges were unfounded. Abbe Lowell, a lawyer for Mr. Rosen, said in a statement: "The charges in the indictment announced today are entirely unjustified. We expect that the trial will show that this prosecution represents a misguided effort to criminalize the public's right to participate in the political process."

John N. Nassikas III, a lawyer for Mr. Weissman, said in a statement that "we are disappointed that the government has decided to pursue these charges, which Mr. Weissman strongly denies."

Plato Cacheris, a lawyer for Mr. Franklin said, "It's not a welcome event, but were not surprised by it."

The United States attorney in Alexandria, Va., Paul J. McNulty, said in a statement that the case was about the protection of national security material.

"When it comes to classified information, there is clear line in the law," Mr. McNulty said. "Today's charges are about crossing that line. Those entrusted with safeguarding our nation's secrets must remain faithful to the trust. Those not authorized to receive classified information must resist the temptation to acquire it, no matter what their motivation may be."

The indictment does not suggest that Aipac, as an organization, is suspected of any wrongdoing. Patrick Dorton, a spokesman for the group, said: "Aipac dismissed Rosen and Weissman because they engaged in conduct that was not part of their jobs, and because this conduct did not comport in any way with the standards that Aipac expects of its employees. Aipac could not condone or tolerate the conduct of the two employees under any circumstances. The organization does not seek, use, or request anything but legally-obtained appropriate information as part of its work."

The charges left unanswered a delicate question. It is unclear what action, if any, the government plans to take against any embassy official who met with Mr. Franklin, Mr. Rosen or Mr. Weissman. Israeli officials have said in the past that it had no part in the case, and a spokesman for the embassy has said that Israeli diplomats conduct themselves in accord with established practices.

So far, there is no indication that any Israeli diplomats have been expelled, although. Mr. Gilon has moved to another post outside of Washington. Efforts to reach an embassy spokesman on Thursday were unsuccessful.

Mr. Franklin's trial had been scheduled for September, but that date is almost certain to be postponed in light of the new charges. He was initially charged in May in a complaint that accused him of passing highly classified information about possible attacks on American forces in Iraq to Mr. Rosen and Mr. Weissman. When he was indicted in June, he was accused of meeting more than a dozen times with an Israeli Embassy official.

Former Officials With Pro-Israel Group Indicted (KRT)

By Shannon Mccaffrey And Warren P. Strobel

Knight Ridder, August 5, 2005

WASHINGTON - (KRT) - The Justice Department indicted two top former officials with a prominent pro-Israel lobbying group Thursday for allegedly conspiring to communicate classified defense information.

U.S. Attorney Paul McNulty said the men were attempting to influence U.S. foreign policy. He said trafficking in information is commonplace in the nation's capital but a "clear line separates classified information from everything else."

"Today's charges are about crossing that clear line," McNulty said.

The indictment paints a more detailed picture of the case against Pentagon analyst Lawrence Franklin, who was charged in May with leaking classified information to the pro-Israel lobbyists about possible attacks by Iran on U.S. forces in Iraq.

The indictment charges Steven Rosen, former foreign policy director for the American Israel Public Affairs Committee, with conspiring to communicate classified information.

Franklin, who worked on the Iran desk in Secretary of Defense Donald Rumsfeld's office, had also been charged with three counts of communication of national defense information to persons not entitled to receive it. In Thursday's indictment, Rosen was charged with aiding and abetting Franklin in one of those counts by passing along written classified information.

Keith Weissman, a former senior Middle East analyst with AIPAC, was charged with one count of conspiracy to communicate classified national defense information.

Lawyers for Rosen and Weissman denied the allegations.

Rosen's attorney, Abbe Lowell, called the charges "entirely unjustified."

"We expect that the trial will show that this prosecution represents a misguided attempt to criminalize the public's right to participate in the political process," Lowell said in a statement.

Weissman's attorney, John Nassikas, said, "We are disappointed that the government has decided to pursue these charges, which Mr. Weissman strongly denies. We look forward to challenging them vigorously in court both factually and legally."

People sympathetic to Rosen and Weissman have argued that while Franklin allegedly violated his government security vows, the two former AIPAC employees did little more than trade in information, which is the stuff of daily business in Washington.

AIPAC fired Rosen and Weissman earlier this year.

The Israeli government has denied trying to pry secrets from the United States, with officials pointing out that, given the close ties between the two countries, it has no need to spy.

"We're fully confident in the conduct of our diplomats," said Israeli Embassy spokesman David Siegel.

One of the Israeli diplomats whom Franklin allegedly met with, Naor Gilon, recently returned home as "part of the normal diplomatic rotation," Siegel said.

Thursday's indictment adds some new facts to a case that has been shrouded in uncertainty from the beginning.

It charges that Rosen, 63, of Silver Spring, Md., and Weissman, 53, of Bethesda, Md., dealt in secret information as far back as 1999, several years before they are alleged to have met Franklin. Rosen met with "Foreign Official 1" - presumably an Israeli diplomat - on April 13, 1999, and disclosed sensitive intelligence he had picked up regarding terrorist activities in central Asia, it alleges.

Franklin and Rosen first made contact in a phone call on Aug. 15, 2002, after Rosen sought out someone at the Defense Department with expertise on Iran, the indictment alleges.

The three men met at a restaurant in Arlington, Va., in February 2003. In a phone call on the way to that initial meeting, Rosen said he was excited to meet with the "Pentagon guy," who he described as a "real insider."

They remained in contact over the next several months, meeting at various restaurants, and Weissman and Franklin attended a Baltimore Orioles game together, according to the indictment.

Franklin also faxed classified information to Rosen from a Pentagon fax machine, authorities allege.

Rosen and Weissman allegedly fed much of the sensitive information they received to journalists, on topics ranging from the 1996 Khobar Towers bombing in Saudi Arabia to U.S. policy toward Iran. They continued to provide information to reporters even after being contacted by the FBI, the indictment charges.

McNulty said the investigation, which he described as "several years" old, is ongoing. He said there's no basis to charge other individuals, but wouldn't rule that out in the future.

Franklin, 58, of Kearnysville, W.Va., pleaded not guilty to the charges filed against him in May. His lawyer, Plato Cacheris, didn't immediately return a phone call seeking comment.

Two Charged In Pentagon Information Leak (AP)

By MARK SHERMAN, Associated Press Writer

AP, August 5, 2005

WASHINGTON (AP) - Two former employees of a pro-Israel lobbying organization were indicted Thursday on charges they conspired to obtain and disclose classified U.S. defense information.

An indictment unsealed in U.S. District Court in Alexandria, Va., named Steven Rosen, formerly the director of foreign policy issues for the American Israel Public Affairs Committee, and Keith Weissman, the organization's former senior Iran analyst.

The five-count indictment also spells out in greater detail the government's case against Pentagon analyst Lawrence A. Franklin, who already was facing charges that he leaked classified military information to an Israeli official and the AIPAC employees.

Rosen and Weissman disclosed sensitive information as far back as 1999 on a variety of topics that included terrorist activities in Central Asia, the bombing of the Khobar Towers in Saudi Arabia, al-Qaida and U.S. policy in Iran, the indictment said. Among their contacts were U.S. and foreign government officials and reporters, the indictment said.

Lawyers for Rosen and Weissman denied the accusations. ``The charges in the indictment announced today are entirely unjustified," said Abbe Lowell, Rosen's attorney. John Nassikas, Weissman's lawyer, said, ``We are disappointed that the government has decided to pursue these charges, which Mr. Weissman strongly denies."

Franklin's relationship with the men dates to 2003, the indictment said. Franklin pleaded innocent to the charges when his indictment was first unsealed in June.

Paul McNulty, the U.S. attorney in Alexandria, said the men apparently were motivated by a desire to advance their personal agendas and careers by trading on prized information. ``The facts alleged today tell a story of individuals who put their own interests and their own views of foreign policy ahead of American national security," McNulty said at a news conference.

Although the indictment refers to other U.S. officials who gave Rosen classified materials, McNulty said no other charges are planned, but noted the investigation continues.

Plato Cacheris, Franklin's lawyer, said he had been expecting additional charges. He said Franklin cooperated with investigators for three months in 2004.

The FBI's long-running investigation has focused on whether Franklin, of Kearneysville, W.Va., passed classified U.S. material on Iran to AIPAC, the influential main pro-Israel lobbying organization in Washington, and whether that group in turn passed it on to Israel. Both AIPAC and Israel deny any wrongdoing. Franklin has pleaded innocent.

AIPAC fired Rosen and Weissman in April. Rosen, quoted in The New Yorker magazine last month, denied knowingly receiving classified information.

Associated Press reporter Matthew Barakat in Alexandria, Va., contributed to this report.

On the Net:

FBI: http://www.fbi.gov

American Israel Public Affairs Committee: http://www.aipac.org/

Ex-lobby Group Workers Charged With Handing Over US Secrets (FT)

By Demetri Sevastopulo In Washington

Financial Times, August 5, 2005

The Justice Department on Thursday charged two former employees of a powerful pro-Israel lobbying organisation with illegally receiving classified information and disseminating it to a foreign government official.

DOJ_NMG_0002087

Steven Rosen, former foreign policy director at the American Israel Public Affairs Committee (Aipac), and Keith Weissman, a former Aipac Middle East analyst, were also charged with passing classified information to the media. Aipac, which has said it is not under investigation, fired the two men in April.

The charges are the latest development in a Federal Bureau of Investigation probe into Larry Franklin, a former Pentagon Iran analyst, who has already been charged with giving the Aipac officials classified information about potential attacks on US forces in Iraq. Mr Franklin, who co-operated with prosecutors earlier in the FBI investigation, has also been charged with providing classified information to a foreign government official and the media, and with illegally keeping classified documents at his home.

"When it comes to classified information, there is a clear line in the law," said Paul McNulty, the US attorney prosecuting the case.

"Today's charges are about crossing that line. Those entrusted with safeguarding our nation's secrets must remain faithful to that trust. Those not authorised to receive classified information must resist the temptation to acquire it, no matter what their motivation may be," he said.

John Nassikas, a lawyer representing Mr Weissman, said: "We are disappointed that the government has decided to pursue these charges, which Mr Weissman strongly denies."

Abbe Lowell, a lawyer for Mr Rosen, said: "We expect that the trial will show that this prosecution represents a misguided attempt to criminalise the public's right to participate in the political process."

The indictment, which accuses Mr Weissman and Mr Rosen of conspiring with Mr Franklin to provide classified information illegally to people not entitled to receive it, says Mr Rosen gave a foreign government official information about terrorist activities in Central Asia. Mr Weissman is accused of giving the same official classified information about the 1996 Khobar Towers bombing in Saudi Arabia.

The indictment said Mr Franklin illegally provided information to people not entitled to it "in an effort to advance his own personal foreign policy agenda".

Additional reporting by Scott Heiser

Pro-Israel Lobbyists Charged In US Pentagon Case (REU)

By James Vicini

Reuters, August 4, 2005

ALEXANDRIA, Va. (Reuters) - A federal grand jury indicted two former officials of the pro-Israel lobbying group AIPAC Thursday on charges they received classified national defense information from a Pentagon analyst, court documents show.

The indictment charges Steven Rosen, the former foreign policy director for the American Israel Public Affairs Committee, with receiving classified information from analyst Lawrence Franklin and helping Franklin pass on written classified information.

AIPAC's former senior Middle East analyst, Keith Weissman, also was charged with receiving classified information.

Franklin, who worked on the Iran desk within the Office of the Secretary of Defense at the time the government says he disclosed the information, had already been charged with disclosing top-secret information about potential attacks on U.S. forces in Iraq to the two AIPAC employees.

Thursday's indictment also charges him with giving the information to an unidentified diplomat and to Rosen and Weissman, whom AIPAC fired in April.

It accuses Franklin of disclosing to a foreign diplomat classified information about a Middle Eastern country's activities in Iraq. Sources familiar with the investigation have said the diplomat was an Israeli.

Franklin pleaded not guilty to the original charges.

Abbe Lowell, attorney for Rosen, said the charges were unjustified.

"We expect that the trial will show that this prosecution represents a misguided attempt to criminalize the public's right to participate in the political process," Lowell said.

Weissman's attorney, John Nissikas, said in a statement, "We are disappointed that the government has decided to pursue these charges, which Mr. Weissman strongly denies."

The Israeli diplomat in Washington who met several times with Franklin has been identified as Naor Gilon, head of the political department at Israeli Embassy in Washington and a specialist on proliferation issues.

Gilon returned to Israel a few days ago as part of a long-scheduled rotation, according to an Israeli official in Washington.

U.S. investigators want to question Gilon and other Israeli diplomats about their contacts with Franklin, officials said. (Additional reporting by Deborah Charles and Adam Entous)

Former Pro-Israel Lobbyists Charged In Documents Case (Update2) (BLOOM)

Bloomberg News, August 5, 2005

Aug. 4 (Bloomberg) -- Two former employees of the leading pro-Israel lobbying group in Washington were charged with conspiring to disclose classified U.S. defense information to foreign government officials and members of the media.

Steve Rosen, 63, a former policy director at the American Israel Public Affairs Committee, and Keith Weissman, 53, a former senior Iran analyst, were indicted today by a federal grand jury in Alexandria, Virginia. They are accused of gathering sensitive government information and conspiring to pass it along to people unauthorized to receive it.

``Washington is a town where information flows virtually non-stop," U.S. Attorney Paul McNulty said at a press conference, held an hour after the indictment was handed down. ``But there is a clear line in the law, and that clear line separates classified information from other types of information."

Also indicted today was Lawrence Franklin, 58, a U.S. Defense Department analyst who was charged in June with giving classified information to unauthorized persons. Today's indictment supersedes and modifies earlier charges against him.

If convicted, the three men face five to 10 years in prison on each of five charges, McNulty said. Franklin, Rosen and Weissman, who aren't in custody, will be arraigned Aug. 16.

``The charges in the indictment announced today are entirely unjustified," Rosen's lawyer Abbe Lowell said in a statement. ``We expect that the trial will show that this prosecution represents a misguided attempt to criminalize the public's right to participate in the political process."

Weissman's attorney John Nassikas said his client ``strongly denies" the charges.

`Mix of Motivations'

Franklin a former colonel in the U.S. Air Force Reserve, is accused of handing over classified information about ``a Middle Eastern country," identified in press reports as Iran, to Rosen and Weissman in meetings in 2003 and 2004. He did so for a ``mix of motivations," including a desire to advance his career and his ``personal foreign policy agenda," McNulty said. Franklin wasn't accused of receiving any payment.

More than 80 classified documents were found during a search of Franklin's home in Kearneysville, West Virginia, and a search of his Pentagon office a year ago yielded a classified document containing the information allegedly disclosed, according to a Justice Department criminal complaint.

Rosen and Weissman are accused of receiving the information and passing some of it to an unidentified member of the media. Rosen is also accused of disclosing information obtained from Franklin to a Washington-based think tank, while Weissman gave information to another AIPAC employee, according to the indictment.

AIPAC, which has lobbied Congress and the White House for more than half a century on behalf of Israel, ``did the right thing" and fired Rosen and Weissman this year after an investigation into whether they received classified information from Franklin, McNulty said.

AIPAC

The lobbying group dismissed Rosen and Weissman ``because they engaged in conduct that was not part of their jobs, and because this conduct did not comport in any way with the standards that AIPAC expects of its employees," AIPAC spokesman Patrick Dorton said. ``AIPAC could not condone or tolerate the conduct of the two employees under any circumstances."

The group doesn't seek anything but ``legally obtained, appropriate information" as part of its work, he said.

The investigation is continuing, though McNulty said there is ``no basis for charging anyone else with unlawful disclosure of classified information, at this time."

The case is U.S. v. Franklin, 05cr225, U.S. District Court for the Eastern District of Virginia.

To contact the reporters on this story: Cary O'Reilly in Washington at caryoreilly@bloomberg.net. Janine Zacharia in Washington at jzacharia@bloomberg.net. Last Updated: August 4, 2005 18:08 EDT

3 Accused Of Disclosing Secrets On Mideast (USAT)

By Toni Locy

USA Today, August 5, 2005

WASHINGTON -- Two former officials of a pro-Israel lobbying group and a former Pentagon analyst were charged Thursday with disclosing U.S. government secrets about the Middle East.

In a five-count indictment, a federal grand jury in Alexandria, Va., accused Steven Rosen, 63, and Keith Weissman, 53, of using their positions at the American Israel Public Affairs Committee (AIPAC) to develop a relationship with the Defense Department analyst to obtain classified information that they shared with unnamed foreign officials and reporters. The committee is the most powerful pro-Israel lobby in Washington.

The grand jury said the secrets dated to 1999 and dealt with terrorist activity in Central Asia, a 1996 attack in Saudi Arabia that killed 19 U.S. servicemembers, al-Qaeda and U.S. strategy in the Middle East.

The Pentagon analyst, Lawrence Franklin, 58, had been charged earlier this year with illegally keeping more than 80 classified documents in his home in Kearneysville, W.Va. Thursday's indictment adds charges against Franklin, who had cooperated with the FBI before a plea deal fell apart. The grand jury said he also passed secrets to an unnamed foreign official "in an effort to advance his own personal foreign policy agenda."

Franklin's lawyer, Plato Cacheris, did not return phone calls. Weissman's attorney, John Nassikas, said his client denies the charges. Rosen's attorney, Abbe Lowell, called the charges "entirely unjustified."

Some of the charges against Rosen, who was AIPAC's foreign policy director, and Weissman, the group's senior Middle East analyst, are based on a July 2004 meeting between Franklin and Weissman while Franklin was an FBI informant. AIPAC fired Rosen and Weissman in April.

Daniel Ayalon, Israel's ambassador to the United States, said there is no need for Israelis to spy here because "the cooperation is so close and intense" between the U.S. and Israeli governments.

2 Lobbyists Indicted In Secrets Case (LAT)

By Richard B. Schmitt

The Los Angeles Times, August 5, 2005

WASHINGTON — Two former employees of the nation's most influential pro-Israel lobbying organization were indicted Thursday, accused of engaging in a five-year conspiracy to collect and disseminate U.S. defense secrets.

The federal indictment provides details of encounters the two men had with former Pentagon analyst Lawrence A. Franklin, who was indicted on similar charges in June and was named again Thursday.

But it also paints a picture of a conspiracy that was broader than previously thought, asserting that the onetime aides at the American Israel Public Affairs Committee obtained information from two other unidentified U.S. government officials.

The men are alleged to have passed secrets, including classified information about Al Qaeda and a draft presidential directive concerning U.S. policy toward Iran, to unnamed foreign government officials — believed to be employees of the Israeli Embassy in Washington — and to journalists.

The goal, prosecutors said Thursday, was to "influence persons within and outside the United States government."

A spokesman for the Israeli Embassy, David Siegel, said officials there had broken no laws. He also said that the Israeli government had begun cooperating with federal investigators in the probe.

"We are fully confident in the professionalism of our diplomats," Siegel said. "They conduct themselves in full accordance with diplomatic practice, and we have seen no information that would suggest anything to the contrary.

"The U.S. and Israel share a very strong relationship, and we would have no reason to resort to any wrongdoing," he said. "We have information-sharing at the highest levels on national security issues all the time."

Siegel said the U.S. government had recently approached the embassy, seeking its assistance in the investigation. "We have expressed our willingness to cooperate in the process, and contacts will continue," he said.

The case has hurt the standing of AIPAC, one of Washington's most powerful lobbying groups, and has raised questions about the proper boundaries of sharing sensitive defense information with a close ally. Prosecutors said the case illustrated how a public official had betrayed a trust, and how private lobbyists had succumbed to the temptation of breaking the law to obtain information.

"When it comes to classified information, there is a clear line in the law," said Paul J. McNulty, the U.S. attorney for the eastern district of Virginia in Alexandria, where the grand jury indictment was unsealed Thursday. "Today's charges are about crossing that line."

McNulty said the investigation was continuing and did not rule out the possibility that others might be charged.

Named in the indictment Thursday were Steven J. Rosen, AIPAC's longtime director of foreign policy issues, and Keith Weissman, a senior Middle East analyst. Both were charged with conspiring to "communicate national defense information to persons not entitled to receive it." Rosen was separately charged with improperly communicating classified information.

The indictment also incorporates allegations in the previous indictment against Franklin that had detailed his dealings with Rosen and Weissman without identifying them by name.

Franklin, Rosen and Weissman are scheduled to be arraigned in federal court in Alexandria on Aug. 16.

A spokesman for AIPAC, Patrick Dorton, said Thursday that Rosen and Weissman had been dismissed by the lobbying group earlier this year "because they engaged in conduct that was not part of their jobs and because their conduct did not comport in any way with the standards that AIPAC expects of its employees."

AIPAC, he said, "does not seek, use or request anything but legally obtained appropriate information as part of its work."

Rosen's lawyer, Abbe Lowell, called the federal charges "a misguided attempt to criminalize the public's right to participate in the political process."

John N. Nassikas, an attorney for Weissman, described his client as "an honest, respected foreign policy analyst and Middle East expert" who was looking forward to contesting the charges in court.

Thursday's charges revealed that federal investigators have been tracking AIPAC and its dealings with the U.S. and Israeli governments for longer than previously thought. Earlier court filings had indicated that investigators were mainly interested in the contacts Rosen and Weissman had with Franklin, who emerged in late 2002 as a potential conduit for information.

But the indictment alleges that the plot to collect and disseminate U.S. secrets began as early as 1999 when, on separate occasions, Rosen obtained intelligence concerning what the indictment describes as "terrorist activities in Central Asia," and Weissman obtained a secret FBI report on the 1996 bombing of the Khobar Towers complex in Saudi Arabia that killed 19 U.S. servicemen. In each instance, the information was shared with a person whom the indictment calls "Foreign Official 1."

The indictment also describes instances where Rosen and Weissman disclosed classified information after meeting with other unnamed U.S. government officials, including a December 2000 meeting in which the men were leaked "information about classified United States strategy options against a Middle Eastern country."

In March 2002, the indictment says, Rosen obtained classified information about Al Qaeda from one of the unnamed government officials, later disclosing it to a person identified only as "Foreign Official 2."

According to the indictment, the contacts with Franklin began in August 2002, after Rosen called the Defense Department seeking the name of a person with expertise on Iran. He was referred to Franklin, a mid-level analyst who had long been working to harden U.S. policy toward Iran.

Six months later, over breakfast at an Arlington restaurant, Franklin allegedly disclosed to Rosen and Weissman the contents of a classified draft presidential directive on Iran policy. Rosen subsequently passed the information along to the unnamed foreign officials, as well as "a senior fellow at a Washington, D.C., think tank" and members of the media, the indictment alleges. "I'm not supposed to know this," Rosen is said to have told a journalist.

At another meeting, in June 2003, Franklin gave Rosen and Weissman "highly classified" information related to attacks on U.S. forces in Iraq, the indictment alleges.

Ultimately, Franklin agreed to cooperate with the FBI, which monitored a July 2004 meeting outside a department store. During that meeting, Franklin allegedly told Weissman that he had new, highly classified information about plans by Iranian agents to kidnap and kill Israeli intelligence agents in northern Iraq.

Weissman and Rosen passed along that information to a third foreign official who is not named in the indictment but whom sources have identified as Naor Gilon, a former political counselor at the Israeli Embassy in Washington. Gilon recently returned to Israel as part of a normal diplomatic rotation, the embassy said.

The indictment contends that over a two-year period starting in August 2002, Franklin leaked information to the foreign official sources identified as Gilon during meetings at several locations in the Washington area, including the officers' athletic club at the Pentagon and a sandwich shop near the State Department.

FBI agents confronted Rosen and Weissman in August 2004. The indictment says both men "falsely" denied that Franklin had provided them classified information.

Pro-Israel Lobbyists Charged With Disclosing U.S. Secrets (WT)

By Jerry Seper

The Washington Times, August 5, 2005

Two former employees of a pro-Israel lobbying group were indicted yesterday by a federal grand jury in Virginia on charges of illegally receiving and disclosing classified U.S. defense information they obtained from a veteran Pentagon analyst -- who was arrested in May on charges of leaking secret documents.

Steven J. Rosen, of Silver Spring, a 63-year-old former director of foreign policy issues for the American Israel Public Affairs Committee (AIPAC), and Keith Weissman, of Bethesda, a 53-year-old former senior Iran analyst at the organization, were accused of receiving national defense information and giving it to unauthorized persons, including an agent of a foreign government.

The analyst, Lawrence A. Franklin, 58, of Kearneysville, W. Va., was arrested by the FBI on charges of illegally disclosing classified information -- nearly two years after he first was identified as suspected of having passed national security documents involving Iran to AIPAC.

Mr. Franklin, who has pleaded not guilty in the case, has been a Defense Department employee since 1979 and held a "top secret" security clearance.

"Those entrusted with safeguarding our nation's secrets must remain faithful to that trust," said U.S. Attorney Paul J. McNulty. "Those not authorized to receive classified information must resist the temptation to acquire it, no matter what their motivation may be."

Arraignment for the three men is scheduled for Aug. 16 before U.S. District Court Judge T.S. Ellis III in Alexandria.

The indictment said Mr. Rosen and Mr. Weissman, in an effort to "influence persons within and outside the United States," cultivated relationships with Mr. Franklin and others "to gather sensitive U.S. government information, including classified information relating to the national defense."

It said the two men disclosed sensitive information as far back as 1999 on a variety of topics, including terrorist activities in Central Asia, the bombing of the Khobar Towers complex in Saudi Arabia, the activities of terror network al Qaeda, and U.S. policy in Iran, to American and foreign government officials and reporters. The indictment said their relationship with Mr. Franklin began in February 2003.

Mr. Franklin has been under investigation by the FBI for more than three years, accused of handing over classified Defense Department documents on Iran to officials at AIPAC, which then were passed to Israel.

The FBI began surveillance of Mr. Franklin, Mr. Rosen and Mr. Weissman more than two years ago. The surveillance also is thought to have targeted Naor Gilon, a political adviser at the Israeli Embassy in the District. Last year, FBI agents copied Mr. Rosen's computer hard drive at his AIPAC office after interviews with him and Mr. Weissman.

AIPAC and the Israeli Embassy have denied any wrongdoing. Attorneys for Mr. Rosen and Mr. Weissman, who left AIPAC in April, have denied any wrongdoing by their clients.

An affidavit by FBI agent Catherine M. Hanna said Mr. Franklin gave a classified document on potential attacks on U.S. forces in Iraq to two unidentified persons with whom he met for lunch June 26, 2003, at an Arlington restaurant.

U.S. Charges Man In Camcorder - Piracy Crackdown (NYT/REU)

By Reuters

The New York Times, August 5, 2005

Filed at 9:58 p.m. ET

WASHINGTON (Reuters) - A Missouri man is the first to be indicted under a new federal law that prohibits people from secretly videotaping movies when they are shown in theaters, the U.S. Justice Department said on Thursday.

Curtis Salisbury, 19, used a camcorder to make copies of recent releases ``The Perfect Man'' and ``Bewitched'' and then distributed them through illicit computer networks that specialize in piracy, the Justice Department said.

A law that took effect in April prohibits such behavior.

Salisbury also downloaded several movies and software programs from the computer network, the Justice Department said.

Salisbury, who faces up to 17 years in prison, could not be reached for comment.

Entertainment-industry insiders and tech-savvy hackers use ``warez'' networks, as they're commonly known, to distribute movies, music and software for free, often before they're released to the public.

The files then end up on peer-to-peer networks like Kazaa, where they can be downloaded by millions of people, or burned onto discs and sold on street corners.

Law enforcement officials say most participants in warez networks are generally not motivated by profit. In this instance, Salisbury sought payment for the movies he uploaded, the Justice Department said.

The Justice Department has targeted warez networks before, most recently in a June 30 raid that involved more than a dozen countries.

Salisbury, of St. Charles, Missouri, was arrested as part of that effort. He has been charged with conspiracy and copyright infringement, along with two violations of the camcorder law.

Camcorder piracy accounts for over 90 percent of movies that turn up on the Internet while they're still in theaters, said the head of a movie-industry trade group.

``The creative works of the entertainment industry belong to the millions of people who make them and are not for others to steal or unlawfully distribute,'' said Dan Glickman, head of the Motion Picture Association of America.

Reuters/VNU

First Suspect Indicted Under Camcorder Law (HOLLYREP)

By Brooks Boliek

Hollywood Reporter, August 5, 2005

WASHINGTON -- Justice Department officials announced on Thursday the first indictment under a law enacted this year that makes it a federal crime to camcord a movie.

The United States Attorney for the Northern District of California officially charged Curtis Salisbury, 19, of St. Charles, Mo., in a five-count indictment alleging that he used a camcorder in movie theaters to copy recent theatrical releases, then uploaded the copies to a computer network for distribution. Two of the counts were made under the Family Entertainment and Copyright Act of 2005, which President Bush signed in April.

One section of the new law, known as the Artists Rights and Theft Prevention Act, criminalizes the use of recording equipment to make copies of movies in theaters.

"Camcording movies in theaters for online distribution is a crime," U.S. Attorney Kevin Ryan said. "This case represents the first prosecution under the Family Entertainment Copyright Act and demonstrates that the U.S. Attorney's office and its CHIP (Computer Hacking and Intellectual Property) Unit will aggressively employ the tools provided by Congress and the president to combat the theft of intellectual property."

The statute also prohibits the infringement of a work being prepared for commercial distribution by making it available on a computer network accessible to members of the public, where the individual knows the work was intended for commercial distribution. The indictment represents the first use of those provisions by federal prosecutors.

In addition to allegedly camcording and uploading the movies "The Perfect Man" and "Bewitched" to the warez server, the indictment also alleges Salisbury illegally downloaded the movie "Madagascar" and the software video editing programs Sony Sound Forge V8.0, Adobe Premier Pro V7.0 and Adobe Premier Pro V1.5 Proper.

MPAA president and CEO Dan Glickman said the indictment proved the need for the new law.

"Over 90% of initial releases that are pirated are a result of people camcording in movie theaters," Glickman said. "That's why we worked with Congress and the president to pass crucial legislation strengthening penalties against people who camcord movies in theaters and make them available to the public on the Internet. The creative works of the entertainment industry be long to the millions of people who make them and are not for others to steal or unlawfully distribute."

According to the indictment, Salisbury communicated with others about ways to remove identifying features on a film that reveal the originating theater. Additionally, he allegedly discussed receiving payment for the films that he would provide, indicating that he would like to be paid by money order at a post office box when the film is ready for release.

If convicted, he faces three to five years in prison and a fine of $250,000 -- or twice the value of the property involved in the transaction, whichever is greater -- as well as a three-year term of supervised release and a $100 mandatory special assessment.

The prosecution against Salisbury is part of continuing FBI investigation known locally as Operation Copycat, which to date has resulted in the indictments of five individuals in the Northern District of California and the execution of more than 40 searches nationwide. Operation Copycat is the local and largest part of the coordinated international law-enforcement action known as Operation Site Down, which is targeting online piracy.

The indictment is an indication of the seriousness which the government takes intellectual property theft, said MPAA worldwide anti-piracy director John Malcolm.

"We want to thank the U.S. Attorney's Office and the FBI for their efforts to crack down on movie pirates," he said. "Their attention to this growing phenomenon is crucial in our fight to protect copyrights."

Man Is Charged Under New U.S. Film Piracy Law (LAT/BLOOM)

By From Bloomberg News

The Los Angeles Times, August 5, 2005

A Missouri man has been accused in an indictment of making video recordings of movies in theaters, the first time someone has been charged under a new federal law outlawing the practice.

Curtis Salisbury, 19, of St. Charles was accused of copying Universal Pictures' "The Perfect Man" and Columbia Pictures' "Bewitched" and distributing the movies over the Internet, the U.S. attorney's office in San Francisco said. The indictment Wednesday in San Jose is part of a crackdown on online piracy, officials said.

The Family Entertainment and Copyright Act of 2005, which was signed into law in April by President Bush, makes it a crime to use recording equipment to copy a movie in a theater. Piracy costs the movie industry about $3.5 billion a year in lost sales, according to the Motion Picture Assn. of America.

"The Perfect Man" opened the weekend of June 19, and "Bewitched" opened a week later.

Salisbury could not be reached for comment.

Federal prosecutors are investigating sites on the Internet used to distribute pirated movies, games and software.

Last month, four people were charged in San Jose with copyright violations as part of a nationwide crackdown on the sites.

U.S. Ties Kickbacks To Park District Work (CHIT)

By Matt O'connor And And Liam Ford, Tribune Staff Reporters

Chicago Tribune, August 5, 2005

A former Chicago Park District official accepted cash, vacations to ski resorts, a pricey bicycle and even a manicure for steering millions of dollars in work at Millennium Park to a suburban landscaping company, federal authorities charged Thursday.

Shirley McMayon, the Park District's former director of natural resources, pocketed more than $137,000 in financial benefits from two executives of James Michael Inc., the Mundelein-based landscaper, an indictment charged.

DOJ_NMG_0002094

In return for the payoffs, McMayon, 47, now of Park City, Utah, improperly used her influence to steer about $8 million in Park District work to the firm between 2000 and 2004, authorities charged.

Michael Lowecki, the company owner, and Kevin Haas, its former chief operations officer, were also charged in the indictment.

"They used the Park District coffers as sort of their personal playground," U.S. Atty. Patrick Fitzgerald said at a news conference announcing the charges.

Fitzgerald said that "one of the kickers in this case" was that the contractors didn't pay for the most of the bribes themselves, instead padding their invoices to pass the cost of about $60,000 in payoffs to taxpayers. Among the phony invoices was a bill for about $10,000 for a non-existent global positioning system, he said.

"This is the $10,000 GPS that can't be found," Fitzgerald quipped.

The indictment marked yet another public corruption probe launched by federal investigators. The U.S. investigation of City Hall for political influence in hiring and contracts has been heating up, and former Gov. George Ryan is set to go on trial soon on bribery-related charges.

It is the first federal investigation to reach into the Park District since a former contract-compliance officer was convicted in Operation Silver Shovel in 2000 of falsely certifying a government mole's business as a woman-owned enterprise.

At the news conference, Robert Grant, the special agent in charge of the FBI in Chicago, said the case against McMayon "has led to other investigative leads that are aggressively under investigation."

In a telephone interview, Tim Mitchell, the Park District's general superintendent and chief executive officer, said his office learned of the investigation when it was subpoenaed for records by federal prosecutors in January.

McMayon, known as "Shirl," had resigned her $92,700-a-year post in November, citing personal reasons, Mitchell said.

Jacquelyn Heard, a spokeswoman for Mayor Richard Daley, said that McMayon expressed interest in a job at City Hall "but never saw the mayor on it" and wasn't offered a position.

McMayon pocketed cash and checks totaling about $123,800 and took vacations worth about $7,300 with her family to Wisconsin Dells, Wis., Galena, Ill., and ski resorts in Michigan and Utah--all paid for by Lowecki and Haas, the government alleged. She also was given tickets to a Green Bay Packers football game during a paid vacation to a resort in Elkhart Lake, Wis., authorities said.

Vacations at the Dells

McMayon vacationed for free at one resort at the Dells in May 2000, complained about the accommodations to Lowecki and Haas, and was placed in a more expensive lodge for another Dells vacation two months later, according to the charges and sources.

The landscapers also spent more than $22,000 to pay off McMayon's loan on her 1999 Dodge Durango and paid $250 for her massage, manicure and haircut at a Mario Tricoci salon, about $1,500 for a LeMond Buenos Aires bicycle and more than $4,000 for two computers.

The charges disappointed Roger Post, general manager of Christy Webber Landscapes, which has done limited work for the Park District in recent years.

"We play by the rules, and obviously others were not," Post said. "If people were winning contracts for reasons other than the best bid, it makes you angry."

Outside James Michael's offices Thursday, a handful of former employees picketed, complaining they had been retaliated against for joining a union.

McMayon and Lowecki were each charged with nine counts of fraud and bribery. Haas was charged with two counts of fraud.

McMayon's lawyer, Donald Young, said he expects that McMayon will resolve the charges before trial. "She has been cooperating with the government," Young said.

A lawyer for Lowecki, 45, of Libertyville didn't return telephone calls seeking comment. Attorney Michael Ettinger, who represents Haas, 56, of Gurnee said his client is cooperating in the investigation and expects to plead guilty. Haas left the landscaping firm in November 2001, well before the alleged kickback scheme ended.

Prosecutors Scott Levine and Nancy Miller said McMayon supervised an evaluation committee that made recommendations to the Park District board as to which companies should get contracts. "She was then able to direct more work to James Michael than to other contractors," Levine said at the news conference.

According to a civil lawsuit in Lake County, an attorney for James Michael indicated the firm first obtained "very large" contracts from the Park District in 1999 and 2000 and went through "almost an explosion" in its business. Its business quickly grew about fivefold to $10 million, the lawyer said.

A stray check

In a deposition in that lawsuit, Carleen Haake, a bookkeeper for James Michael, testified she discovered that the firm had paid off McMayon's car loan when she found the check on a copying machine at the office. "They left their original on the glass," she said.

The firm primarily worked at Millennium Park, planting trees and shrubs and mowing lawns, and also installed Christmas lights at the park, Buckingham Fountain and other locations, authorities said.

Millennium Park has become a major Chicago tourist attraction, but during construction, it was mired in controversy as its cost ballooned to about $490 million, more than half to be paid by taxpayers.

Before working at the Park District, McMayon was horticulture manager for the Golden Nugget Mirage Resorts in Las Vegas, according to a biography of her in a 2001 issue of Illinois Parks and Recreation magazine. A graduate of the University of Southwest Louisiana with a degree in horticulture, she also had been director of horticulture for a foundation in Louisiana and had owned a landscaping business.

Her attorney said she is now working at a golf course in Utah.

McMayon was hired by the Chicago Park District in July 1999 as deputy director of landscaping and was promoted to head the new Department of Natural Resources in early 2001.

McMayon was often the public face for beautification efforts in Chicago parks, traveling to conferences across the country and abroad.

Tribune staff reporters Charles Sheehan, Gary Washburn and Lolly Bowean and freelance reporter Barbara Bell contributed to this report.

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News Feds: Bribes Unlocked Parks Coffers (CHIST)

By STEVE WARMBIR, ANDREW HERRMANN, NATASHA KORECKI AND TIM NOVAK, Staff Reporters

Chicago Sun-Times, August 5, 2005

When high-ranking Chicago Park District official Shirley McMayon oversaw acres of trees, lawns and gardens, she got her hands dirty -- with bribe money, federal prosecutors charged Thursday.

McMayon, 47, a horticulturist now living in Park City, Utah, allegedly received more than $120,000 in cash plus free vacations, computers and other goodies for steering about $8 million in Park District landscaping work to a Mundelein company, James Michael Inc. In all, more than $137,000 in cash and benefits went into her pocket from 2000 to 2002, prosecutors allege.

A substantial portion of the landscaping and lighting work was at the city's crown jewel, Millennium Park. But the company did work at other prominent spots, including Garfield, Grant, Jackson, Lincoln, Marquette parks and Gold Star Memorial Park, which commemorates fallen officers. The company bedecked Buckingham Fountain with winter holiday lights. It no longer has Park District contracts.

Chicago Park District Supt. Tim Mitchell, who started in January 2004, said Thursday internal changes make it harder to defraud the district.

"It's very disappointing, but it also angers me because there are a lot of good, hardworking people working six, seven days a week here," Mitchell said.

The landscape company's owner, Michael Lowecki, 45, of Libertyville, and its former controller, John Kevin Haas, 56, of Gurnee allegedly paid the bribes to McMayon, who once oversaw horticulture at some Las Vegas casinos.

Subsidizing the bribes were the taxpayers themselves.

The landscaping company allegedly covered about half the bribes by submitting phony invoices to the Park District for items it never delivered.

2 suspects cooperating

"The defendants in this case used the Park District's coffers as a personal playground," U.S. Attorney Patrick Fitzgerald said.

At times, Lowecki allegedly transferred money straight into McMayon's bank account.

"Some bribes are less subtle than others," Fitzgerald said.

McMayon is cooperating, and her case is expected to be resolved before trial, said her attorney, Donald Young. At one point during the investigation, she wore a wire, recording Lowecki on tape allegedly agreeing to continue the bribe payments.

Haas, represented by Michael Ettinger and Stephen Simonian, is cooperating, too, and is expected to plead guilty.

"My client has led a law-abiding life," Ettinger said. "He's a good man. He made a mistake."

Lowecki's attorney, Elliot Samuels, defended his client, saying he's hardworking and called Millennium Park a point of pride.

"He did an honest day's work," Samuels said.

Allegations of wrongdoing against the landscaping company came to light more than a year ago in a civil case. In that case, filed in Lake County in 2003, James Michael Inc. sued a former sales worker there for stealing money.

In a deposition in the case, conducted by Lowecki's own civil attorney, a James Michael employee admitted writing checks to McMayon, said attorney Jed Stone. Stone represents the former worker being sued.

"I think there's little question that the landscape company was involved in bizarre conduct," Stone said.

Ex-official At Chicago Parks Took Bribes-prosecutor (REU)

Reuters, August 4, 2005

CHICAGO (Reuters) - Federal prosecutors broadened their probe of public corruption in Illinois and Chicago on Thursday, announcing charges against a former park district official for accepting bribes from a landscaping firm.

Shirley McMayon, who was director of natural resources for the Chicago Park District, was indicted by a grand jury with receiving $137,000 in bribes from a suburban landscaping firm in exchange for contracts for work on Chicago's downtown Millennium Park.

The luxurious $475 million park -- which features outdoor sculpture and a Frank Gehry-designed concert stage -- was hit by numerous cost overruns before opening last summer.

McMayon, 47, is accused of accepting free ski trips, spa visits, and tickets to a Green Bay Packers football game in exchange for steering $8 million worth of contracts to James Michael Inc. and executives Michael Lowecki and Kevin Haas.

"We should be having contracts on the basis of merit," said local U.S. Attorney Patrick Fitzgerald. "The system has been compromised."

Since being appointed the top prosecutor in Northern Illinois in 2001, Fitzgerald has unearthed corruption at all levels of state and local government, touching the administrations of former Republican Gov. George Ryan and Chicago Mayor Richard Daley.

These were the first federal charges involving the parks department of the nation's third-largest city after guilty pleas won from workers in various city public works departments.

Fitzgerald, who is also in charge of the Justice Department probe of the leak of a CIA operative's name to journalists, urged other contractors using unfair tactics to come forward before they become targets of investigators.

McMayon, who left her job in December, was charged with nine counts of fraud and bribery, with penalties ranging from five to 20 years in prison and $250,000 fines for each. Haas, who is cooperating with investigators, was charged with two fraud counts, and Lowecki with five fraud counts and three bribery counts.

DOJ_NMG_0002097

Ex-VA Employee Gets Prison Term In Bribery Case (BSUN)

By A Sun Staff Writer

The Baltimore Sun, August 5, 2005

A guilty plea to a bribery conspiracy charge netted a Crofton man one year and one day in prison, Maryland's U.S. Attorney Rod J. Rosenstein said today.

In addition to the prison term, Judge Frederick J. Motz sentenced Frank McCreary, 42, to two years of supervised release.

McCreary was a Realty Specialist with the Department of Veterans Affairs (VA) Regional Office in Baltimore, Rosenstein said. McCreary's duties included soliciting bids from and awarding contracts to contractors for repair work to VA-owned houses, he said.

McCreary's co-defendant in the case, Carmelo Vizzi, 48, of Perry Hall, owned a home improvement business that bid on contracts offered by the VA.

According to court documents, between November 1999 and January 2003, McCreary steered property repair contracts to Vizzi in exchange for money. In cases in which approved contractors were required to submit sealed bids to the VA, Vizzi bribed McCreary by paying him between $250 and $600 per contract awarded, court documents state.

In return, Vizzi received inside information on the lowest bid so he could underbid the competition, the documents state. Rosenstein said the profit to Vizzi's contracting company from sealed bid jobs awarded by McCreary that involved bribes was approximately $355,462. He said McCreary also created fictitious invoices and submitted them to the VA for payment and received money from Vizzi after the invoices were processed.

Vizzi previously pleaded guilty to conspiracy to commit bribery and was sentenced to two years in prison.

The FBI and Veterans Administration-Inspector General investigated the case, which was prosecuted by Assistant U.S. Attorney Bonnie S. Greenberg.

2 Sentenced Over Fixing Of Tickets (NOTP)

By April Yee, Staff Writer

New Orleans Times-Picayune, August 5, 2005

A former Orleans Parish Traffic Court reporter was sentenced Wednesday to jail, and a former courthouse guard received probation, a fine and community service in a ticket-fixing scam still under investigation by federal officials.

Court reporter Glenda Hamlin and guard Bobby Grant are the fourth and fifth court employees to be sentenced in the ongoing probe.

Grant, who monitored the South Broad Street courthouse for a decade, was sentenced to a year of probation, a $250 fine and 100 hours of community service by U.S. District Judge Ivan L.R. Lemelle.

Another federal judge sentenced Hamlin, a six-year Section D court reporter, to three months in jail, a $250 fine and two months of house arrest. She must wear an electronic monitoring device.

"When you have corruption and bribery in government, it taints the whole government," U.S. District Judge Eldon Fallon said before handing down Hamlin's sentence. "You're in a position of trust. A lot of people depend on you, and you act for the government. You've got that mantle about you."

Grant and Hamlin were in a group of 10 that took advantage of the city's computerized traffic records, accessible only to certain staff members, prosecutors said. With citations dismissed for bribes, the state and city lost out on related fines and court costs. Nor will law enforcement agencies and insurance companies see the citation on the individual's driving record.

Grant was indicted Feb. 24 and pled guilty March 29 to fraud connected with computers. He admitted to taking a $200 bribe in September to arrange the dismissal of outstanding traffic citations, then went to an employee in Traffic Court's Section D who wiped out the citations and split the cash with him.

Hamlin worked in Section D, along with another court reporter and a minute clerk who were indicted for similar charges.

"I know they all interacted," U.S. Attorney Jim Letten said, but he did not say whether Grant had gone to Hamlin to have the tickets erased. Hamlin was indicted March 24 for computer fraud that allegedly happened during the same period that Grant contacted a Section D employee. Grant pleaded guilty April 27.

DOJ_NMG_0002098

"I just want to apologize for my behavior," Hamlin told Fallon. Her parents looked on silently, following her out of the courtroom after the sentencing to sit in the empty hallway.

Both Grant and Hamlin had entered plea bargains, with the understanding that in return for prosecutors' pledge not to charge them further in the ticket-fixing scam, they would "submit to interviews whenever and wherever requested by law enforcement authorities" and "be completely truthful."

Grant's sentence "was exactly what was called for by law," said Assistant U.S. Attorney Al Winters, senior litigation counsel in the cases. He declined to comment on Hamlin's sentence.

Others have been convicted and sentenced in the scam, and several others remain to be sentenced.

Minute clerk Mickey Torregano was put on three years of probation in June. On Thursday, former Assistant City Attorney Edwin Burks was sentenced to three years of probation and a $1,000 fine. James W. Lee, who oversaw traffic violators as they cleaned court buildings for their community service requirement, must pay a $250 fine and perform 100 hours of community service.

"The investigation is not over," Letten said. The probe has lasted more than a year and a half, with video and audio records and testimony from cooperation witnesses.

. . . . . .

April Yee can be reached at ayee@timespicayune.com or (504) 826-3321.

Jurors For Gotti Trail Picked (NYNSDY)

By Anthony M. Destefano, Staff Writer

New York Newsday, August 5, 2005

A group of seven women and five men made the final cut Thursday as jurors who will decide the fate of John "Junior" Gotti, the son of the late mob boss whose federal racketeering trial begins Monday in Manhattan.

Shortly after Thursday's lunch break, prosecutors and defense attorneys, along with federal Judge Shira Scheindlin, made the final pick of 12 regular jurors and six alternates. One male alternate was later excused, leaving five for the trial.

The panel of regular jurors contains six whites, two blacks and four Hispanics. One Hispanic man said he was on disability for depression, a Hispanic woman is hoping to be a state court officer, while one white male said he worked in engineering.

"It was a very painstaking process, but ultimately we have 12 very carefully examined and, ultimately in our view, open-minded and fair jurors," Gotti's defense attorney Jeffrey Lichtman told reporters outside court.

"In the end, that is all John and myself ever want in a jury," Lichtman said. Jury selection had begun on Monday.

A bespectacled Gotti, who is being held without bail, stood and stretched just before court marshals escorted him back to a holding cell. He didn't comment about the jury.

Asked if his client was going to testify, Lichtman responded cryptically by saying a "trial is a fluid endeavor and we will be making decisions on the fly."

Gotti, who officials said supervised the Gambino crime family after his father's imprisonment in 1992, is on trial for assorted racketeering charges, including the attempted kidnapping of Guardian Angels founder and radio talk show host Curtis Sliwa. Also on trial with Gotti are Michael "Mikey Y" Yannotti and Louis "Louie Black" Mariani.

Assistant U.S. Attorney Michael McGovern disclosed that the first witness he expects to call Monday will be former Gambino soldier Frank Fappiano, an admitted hitman who has turned government witness. Fappiano last year testified at the trial of Gotti's uncle Peter, who was convicted of federal racketeering charges.

Scheindlin is scheduled Friday to announce her decision about whether the judy gets to hear excerpts from Gotti's 1999 plea to federal charges.

Scheindlin also said she will be ruling on whether evidence of an alleged extortion of Russo's On The Bay restaurant in Howard Beach could be introduced to the jury. Prosecutors said in court that there is no direct evidence that Gotti received any proceeds from such an extortion. But they want to argue that he was part of the Gambino family administration that benefited from the payoffs.

Lawyers' Group To Weigh In On Reporter Confidentiality (SDUT)

By Gina Holland, ASSOCIATED PRESS

The San Diego Union-Tribune, August 5, 2005

WASHINGTON – The American Bar Association has resurrected a plan to endorse federal protection for journalists who refuse to reveal their sources to prosecutors, following the high-profile jailing of one reporter and threats against others.

The nations' largest lawyers group, which declined 30 years ago to back a reporter shield law, was debating that issue and others at its annual meeting running through Tuesday in Chicago.

ABA members were hearing from Attorney General Alberto Gonzales and Supreme Court Justices John Paul Stevens and Stephen Breyer.

Meeting topics include stem cell research, subject of a showdown between the White House and Congress, and the rights of terminally ill patients, prominent this fall when the Supreme Court takes up Oregon's physician-assisted suicide law.

Of course, the unofficial buzz is about high court nominee John Roberts.

Roberts, an ABA member, has not been particularly active in the group, which over the years has angered conservatives with policy positions supporting abortion rights and a freeze on capital punishment.

The ABA's president, Robert Grey Jr., said Roberts' nomination will not be part of the meetings because a committee has not finished reviewing his background and qualifications.

For more than 50 years the association has done examinations of people chosen for federal judgeships, focusing on competence, integrity and temperament. President Bush in 2001 ended the ABA's preferential role in vetting prospective judicial nominees.

Separately, the group's policy-making board will begin taking policy votes on Monday. Endorsement of the shield law would allow the organization to lobby Congress, where bills are pending to protect reporters.

"This is a ripe topic," said Landis Best, a media layer in New York who worked on the proposal. "Not just lawyers and not just journalists are talking about it."

New York Times reporter Judith Miller has been in jail a month in Virginia for refusing to testify to a grand jury investigating the leak of the identity of undercover CIA officer Valerie Plame.

In June, a federal appeals court upheld civil contempt findings against four journalists, including an Associated Press reporter, whose confidential sources pointed to scientist Wen Ho Lee as an espionage suspect.

Best said that many states have laws that prevent punishments of reporters who keep sources private, but a national law is needed to encourage federal government whistle-blowers and others to provide information to the news media.

Not all lawyers support the proposal.

"The national government has certain kinds of compelling interests that conflict with the right of the press to keep their sources confidential, like national defense and security," said John Yoo, a law professor at the University of California, Berkeley, who worked in the Bush Justice Department from 2001-03.

"It's hard to see the ABA getting people in Congress to place the right to protect anonymous sources above national security," he said.

The subject came before the group after the Supreme Court ruled in 1972 that reporters had no constitutional right to withhold information from grand juries.

A group studied the matter and urged ABA's leaders to endorse a national shield law. It failed 157-122 in 1974.

A report being submitted at the meeting in Chicago says that reporter-source relationships help the public and should be treated like other associations.

"The attorney-client relationship as well as those between physician and patient, priest and penitent, and spouse and spouse, are all protected by our legal system," the report says. "The reporter-source relationship ... should be no less protected."

Man Held In Idaho Abduction-murders Probed In 1997 Murder Of 10-year-old Calif. Boy (FINDLAW/AP)

By Robert Jablon, Associated Press Writer

Find Law, August 5, 2005

DOJ_NMG_0002100

(AP) - RIVERSIDE, California-A convicted sex offender accused of murdering three people in Idaho and killing one of the two children authorities said he abducted from the home is now being investigated in the 1997 kidnapping death of a 10-year-old California boy.

Joseph Edward Duncan III, 42, is linked by a single fingerprint to the scene of the killing of Anthony Martinez, Sheriff Bob Doyle told a press conference on Wednesday.

Duncan was arrested last month after people at an Idaho restaurant spotted 8-year-old Shasta Groene, who went missing with her 9-year-old brother Dylan in May. Dylan's body was later found in Montana.

FBI agents involved in the Idaho investigation contacted Riverside authorities on July 14, and said Duncan mentioned the name Martinez and the general area.

Investigators flew to Idaho to fingerprint Duncan. They tried to interview him but he refused to talk. Confirmation of the fingerprint match was received Monday, the sheriff said.

"We're pretty confident that he's our suspect. ... This is huge," Doyle said. "We followed up 15,000 leads over eight years. You can imagine the elation that everybody has."

In April 1997, Anthony Martinez was forced into a white car in Beaumont as his friends watched. The children were playing when a stranger offered them a dollar to help find his lost cat. Sixteen days later a forest ranger found the boy's nude, bound body in a desert area about 70 miles (110 kilometers) to the east.

The kidnapper was described at the time as blue-eyed and mustachioed. Before the end of that April, authorities had evaluated more than 100 people as suspects.

Duncan has been charged in Idaho with kidnapping and murdering Shasta's mother, Brenda Groene, 40, her boyfriend Mark McKenzie, 37, and Shasta's 13-year-old brother, Slade, at their home outside Coeur d'Alene.

Federal prosecutors have said they will file charges in the abduction of the children and Dylan's death.

Authorities also have said Shasta and Dylan were sexually assaulted. While it is The Associated Press' policy not to identify alleged victims of sexual assault in most cases, the search for Shasta and her brother was so heavily publicized that their names are widely known.

Duncan was sentenced to 20 years in prison for sexually assaulting a 14-year-old boy in Tacoma, Washington, in 1980. Authorities said Duncan was paroled in 1994 and moved into a halfway house in Seattle.

Documents show he got a job as a phone solicitor for a publishing company, went to counseling and later got a second job with a small software company.

In 1996, Duncan tested positive for marijuana during a routine urine test, and he was arrested, then released on parole again, records show. In 1997, he again tested positive for marijuana use, records show. He disappeared with his girlfriend's car, according to parole reports.

He was captured and returned to prison in 1997. He was released in 2000 and enrolled that year at North Dakota State University. At the time of his arrest, Duncan was a fugitive charged with molesting a 6-year-old boy in Minnesota.

CIVIL LAW:

N.C. Wins Back 1789 Copy Of Bill Of Rights (NSDY/AP)

By Emery P. Dalesio, Associated Press Writer

Long Island Newsday, August 5, 2005

RALEIGH, N.C. -- An original copy of the Bill of Rights that was given to North Carolina by George Washington back in 1789 was returned to the state Thursday, culminating a bitter legal tug-of-war over the historic document.

Gov. Mike Easley accepted the weathered document after a judge ordered federal marshals to turn it over to the state -- the first time North Carolina has had possession of the document since the end of the Civil War.

"North Carolina's stolen Bill of Rights may have been out of state for nearly 140 years, but never out of mind," Easley said in a statement.

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Easley signed a receipt accepting possession of the document, in an ivory-colored frame, from U.S. marshals during a quickly announced ceremony inside the antebellum state Capitol from which the document was stolen by an invading Union soldier in 1865. The document is one of the original 13 delivered to the colonies for review before the final Bill of Rights was approved in 1789.

The stolen document was sold by the Union soldier in 1866 to an Ohio buyer, whose family sold it to Connecticut antiques dealer Wayne Pratt in 2000 for $200,000.

In March 2003, an FBI agent posing as a museum buyer pretended to purchase the paper from Pratt and his investor, Robert V. Matthews, for $5 million. Instead, the agent presented a seizure warrant signed by the judge in the case.

Pratt relinquished his ownership claim to the document and has agreed to donate the document to North Carolina. Matthews continues to claim partial ownership of the paper, which has been valued at up to $40 million.

U.S. District Court Judge Terrence Boyle last year awarded the document to North Carolina, but in January, the 4th U.S. Circuit Court of Appeals in Richmond, Va., told the judge to reconsider.

Boyle determined the document should return to the possession of the person or entity who owned it before the government's sting operation. He ruled Thursday that Pratt had the clearest right to possession, but had relinquished the claim to North Carolina.

"It's just thievery; it's absolute thievery," said Matthews' attorney, Mike Stratton of New Haven, Conn. "Bob Matthews paid real money, $200,000, to buy a document that's been in private hands for 140 years."

A North Carolina legislative leader praised the decision.

"Justice is finally being done, and we're delighted to have it returned," Senate Majority Leader Tony Rand said on the Senate floor.

Easley said the Bill of Rights will be displayed in the state Museum of History.

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Martha Waggoner in Raleigh, N.C., contributed to this story.

Seniors Group Sues Big Tobacco To Recover Money For Medicare (WSJ)

By Zachary A. Goldfarb

The Wall Street Journal, August 5, 2005

WASHINGTON -- A conservative seniors group filed suit against big U.S. tobacco companies, seeking to recover billions of dollars spent on smoking-related diseases by Medicare, the federal health-insurance program for the elderly.

The case relies on a little-known but recently strengthened provision of Medicare law that allows someone to sue on behalf of Medicare when it pays medical expenses that another party had a legal obligation to cover -- for example, when a corporate health plan has agreed to cover the expenses, or when a business or other party injured the Medicare beneficiary and is liable. If the suit prevails, Medicare collects the damages and the party bringing the suit is eligible for an equal amount. One reason for the provision is that the government doesn't have the resources to prosecute every case.

The lawsuit is the first national action since the Medicare as Second Payer statute was strengthened in 2003. The statute was conceived in the 1980s by the Reagan administration, and the 2003 amendment clarified that if a business or other group injures a Medicare beneficiary, it must be the first payer for medical expenses. Medicare picks up the tab as second payer only if the first payer cannot cover the full expense. The law also seemed to expand the criteria for proving liability for an injury, though that has been disputed. "If someone offers a product or service that injures people and drives up Medicare's costs, Medicare deserves a fair chance to fight back," the amendment's sponsor, Sen. Charles Grassley (R., Iowa), said yesterday.

By taking the action, United Seniors Association Inc., a free-market group that has supported initiatives backed by the pharmaceutical and energy industries, is looking to open the door to a flood of suits against the industry. The group says it would like to reclaim at least $60 billion it estimates Medicare has spent on treatment for smoking-related diseases in the past five years, the statute of limitations on the law.

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"Our motivation is one of taxpayer protection," said Charles Jarvis, the group's chairman and chief executive. "Considering how badly the taxpayers have been injured financially, we believe the responsible parties -- the tobacco companies -- should be reimbursing the taxpayer to the greatest amount possible under the law."

Seeking to prove that tobacco companies are liable, the suit, filed in U.S. District Court in Boston, draws a link between nicotine addiction and smoking-related diseases such as lung cancer and emphysema. It argues that "addiction is the key...[to] the prolonged use of cigarettes that commonly causes these diseases," and that the defendants hid the addictive nature of their products and sought to enhance their addictiveness. The suit concludes: "The Medicare beneficiaries who have suffered from or are suffering from diseases attributable to smoking the defendants' cigarettes did not consent to being exposed to the addictive properties of the defendants' cigarettes."

The suit names Philip Morris USA, a subsidiary of Altria Group; Lorillard Tobacco Co.; Liggett Group Inc.; and R.J. Reynolds Tobacco Co. and two of its subsidiaries. An Altria lawyer said he thought the case would be dismissed, and David Howard, an R.J. Reynolds spokesman, said, "Virtually all courts have rejected third-party health-care reimbursement claims, and in the rulings they've stated that they lack standing to sue because claims by the third parties are too remote from any alleged injury." Lorillard and Liggett declined to comment.

Yesterday's suit doesn't seeking to recover Medicare payments in Florida, where a similar suit has been filed. Last week, the plaintiffs in the Florida case -- two individuals -- were dealt a setback when a judge dismissed it, ruling that liability has to be proven in other cases first. The plaintiffs are appealing.

In 1998, the tobacco industry settled for more than $200 billion with most states for claims related to Medicaid, the health-insurance program for the poor and disabled. Since then, the industry has launched a counteroffensive in the courts. The number of suits against Altria, for example, has fallen roughly 60% in the past five years, and the federal government has had a rocky time in its current attempt to prosecute the companies on civil racketeering charges. That and other cases still loom.

CIVIL RIGHTS:

Calif. Youth Prison Head Removed For Force (AP)

By DON THOMPSON, Associated Press Writer

AP, August 5, 2005

SACRAMENTO, Calif. (AP) - The superintendent at the state's most notorious youth prison is being removed from his post for using unreasonable force against a ward and failing to report the incident, corrections officials said Thursday.

Steve Kruse has been on administrative leave since shortly after the May 27 incident at Stockton's N.A. Chaderjian Youth Correctional Facility. His appointment as superintendent will be terminated Wednesday.

Kruse's removal adds to turmoil at the facility, which remains under federal investigation. Justice Department spokesman Eric Holland said Thursday an investigation "is active and ongoing" into whether the civil rights of wards at the facility are being violated.

The termination was detailed in a quarterly investigative report released Thursday by Matthew Cate, the prison system's independent inspector general. Kruse was not identified by name in the redacted public report, but he was identified as the employee by numerous corrections employees and by previous reports on the incident.

The inspector general found that Kruse grabbed a handcuffed ward's hair and jaw as he was being escorted to another living unit after a fight involving 44 youths at the prison.

Though the ward was struggling with his escorts, and Kruse said he believed he was using reasonable force in line with department policy, investigators concluded the ward was already safely under others' control.

Neither Kruse nor any employees present immediately reported the incident, which Cate said violated use-of-force rules and a new policy intended to break an informal "code of silence" to cover up wrongdoing.

The Department of Corrections and Rehabilitation is scheduled to submit on Friday its response to a scathing report this spring by the prison system's independent inspector general.

DOJ_NMG_0002103

Further reports are due this fall to a federal judge after national experts found deplorable conditions throughout the youth prison system.

Local Leaders Share Views With Federal Mediator (HAVREDN)

By Larry Kline, Havre Daily News

Havre (MT) Daily News, August 5, 2005

Local government officials, business leaders and residents have been meeting with a U.S. Department of Justice mediator who is in town this week to address what some perceive as racial discrimination in and around Havre.

Mediator Grace Sage is employed by the Justice Department's Community Relations Service and is gathering information to determine whether a problem exists in Havre and what can be done to bridge gaps between neighbors.

The mediator told the Rocky Boy tribal council Tuesday she visited Havre in late June and returned because "it was well within the jurisdiction" of what she does.

Before her June visit, Sage had read a University of Montana School of Journalism Native News Project, which included accounts of mistreatment of Native Americans in some Havre businesses. She also had received an invitation from Havre resident Charlie Grant.

Tribal council member and state Rep. Jonathan Windy Boy, D-Rocky Boy, asked what the end result of her visits would be.

"The expectation is to have people agree there is a problem and ... come together to solve it," she told him. "What we can do is get people on board for mediation, counseling or perhaps training."

Windy Boy was designated as the tribal council's contact person for the mediator.

He offered his opinion on the issue in an interview Wednesday.

"It's always been here," Windy Boy said. "It's been more subtle than it was 50 years ago." Windy Boy remembers seeing signs in business windows that read "No dogs or Indians allowed."

"It's just like any group," he said. "There's always a couple that make it bad for the rest of the community. I'm not saying the whole town is like that. It exists at a certain level."

Racism in Montana is not confined to Havre, he added.

"I've been followed around in stores (in other cities)," Windy Boy said. "This isn't the only town that deals with this."

During the 2005 legislative session, he and a companion were in a Wal-Mart at 2 a.m., and his granddaughter was in need of a diaper. At the checkout, a worker "told us that he hoped she wouldn't pull out her WIC," or Special Supplemental Nutrition Program for Women, Infants and Children vouchers.

"For us to think it doesn't exist in our state, we're fooling ourselves," he added. "It's here in our society." The mediator met individually with city officials and Havre City Council members Wednesday. She declined to be interviewed, but officials later discussed the conversations they had with her.

"She asked for my perceptions," Havre Mayor Bob Rice said. "She said she wasn't judging the community on the word of a few people."

The Native News Project article about Havre did not adequately describe how things are in the city, Rice said.

"I thought that story was very slanted," Rice said.

Discrimination does exist in Havre, just as it does elsewhere, Rice said.

"It's been there and people know about it," he said. "We do have some people that are racist in this town. You have them everywhere. This is a good community. It's unfortunate that this came out the way it did."

Rice said new business ventures being planned for Havre and Rocky Boy will help Native Americans and ease tensions.

"I think Wal-Mart will help," he said about the retail chain's plans to build a supercenter west of Havre. "That's 275 jobs."

The reservation is working on plans for a large casino and an ethanol plant. There is a lot of oil and gas exploration going on right now, Rice said. Those are all positives for the residents of both communities, he added.

City Council member Jack Brandon, who was raised in Chinook, said things have changed over the years.

"I saw more prejudice growing up in Chinook than you would see today," Brandon said. "I think we're better today at judging someone on their merits than we used to be.

"I don't think anything astonishing is going to come out of" Sage's visit, he added. "Hopefully people are more aware that these things do exist and they do something about it."

City Council member Allen "Woody" Woodwick agreed that attitudes have changed, though prejudice does exist to a degree today.

"We have a problem in town, but I hesitate to call it racism," Woodwick said. "More of a prejudice, (which isn't) strictly racial. I do believe it's improved some. You make a little progress here and a little progress there. I don't think there's a magic wand that will make it all go away. I think we need to have some continuing education. We need to just keep working together to overcome it. There's not an ordinance we can draft that tells everybody to be nice to each other. It still boils down to individuals treating each other with respect."

Woodwick and Brandon agreed that the Havre Public Schools' system of organizing its elementary schools by grade level, rather than by neighborhood, ensures that children of different economic and social backgrounds form strong bonds of friendship early in life.

Rocky Boy resident Lloyd Top Sky, who expects to meet soon with Sage, said Native American people face discrimination from white people and also discriminate against each other.

The people in power at Rocky Boy watch out more for family members than the rest of their constituents, he said.

"We're all the same, but on the other hand we're not the same. They discriminate against me because of my name. It's an unfair system," Top Sky said.

"You see it going on even more," he added. "They fund certain people for higher education. Housing's the same way. It's all on the shoulders of the boards and who sits on the boards, but the tribal council?"

"It probably exists," Windy Boy said when asked about Top Sky's comments. "I'm in a position of power, and I try not to conduct business as such. I do whatever it takes to try to help people. I go out of my way to help people.

"If it exists, the constituents would know more than anybody," he added.

The discrimination continues outside of the reservation's border, Top Sky said.

"We seem to be targeted more than anyone else at the city level," he said. "We're always in the paper. We get pulled over more often."

Havre police Lt. Russ Ostwalt said today that Native Americans and other minorities are not targeted by the department.

"There's nothing like that going on here," Ostwalt said. "We have two Native Americans on our Police Department and three females."

Any complaints of that nature are taken seriously, he said, and investigated within the department. Officers receive training on such issues at the state academy and continue their education while employed, he added.

Discrimination is not limited to local government employees, Top Sky said.

"I see it almost every day," he said. "I never said anything. I used to absorb it and leave. I think a lot of the people out here are that way."

Windy Boy said area residents need to cooperate, regardless of their differences.

"We need to continue to move forward collaboratively," he said. "We're not going anywhere, and Havre isn't going anywhere."

Also, Indians contribute a significant amount of dollars toward Havre's economy, and that needs to be acknowledged, he said.

"The level of dollars that Rocky Boy and Fort Belknap bring to (Havre) needs to be recognized," Windy Boy said. "Otherwise, a lot of people are going to start going to Great Falls."

Hill County Commissioner Mike Anderson, a Havre native, said racism is not a widespread problem.

"There are small factions on both sides of the issue, but generally I think that most people aren't discriminatory against other minorities," Anderson said.

He said the mediator had "quite a list" of people to talk to in and around Havre.

"She just wanted to get everybody's input," Anderson said. "She'll see what commonalities there are and come up with some ideas on what can be done to help."

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Havre Area Chamber of Commerce executive director Debbie Vandeberg said the chamber board met with the mediator Wednesday and is keeping the dialogue confidential.

Rice said the chamber has a new idea regarding possible solutions to the issue and may not go forward with resurrecting the defunct Native American Affairs Committee, which consisted of representatives of local and tribal governments, business leaders and community members when it was created 10 years ago. It stopped meeting about six years ago, and Vandeberg, city officials and tribal council members have said they want to revive it.

Vandeberg said the board is making a decision about the status of the committee today. She would not comment further.

Racial Mediator Visits Havre (GFT)

By JARED MILLER, Tribune Regional Reporter

Great Falls (MT) Tribune, August 4, 2005

HAVRE — Officials in Havre and on the Rocky Boy's Reservation are hopeful that a federal mediator visiting this week will help ease racial tensions, but some area residents said the battle against racism will be a tough fight.

Grace Sage, a mediator from the U.S. Justice Department Community Relations Service, interviewed Havre Mayor Bob Rice and some City Council members Wednesday morning. She met briefly on Tuesday with the Chippewa-Cree Business Committee at the nearby Rocky Boy's Reservation.

Sage declined to be interviewed by the press. Community Relations Service Director Sharee Freeman in Washington, D.C., said confidentiality and the mediation process prohibit her from releasing details about Sage's itinerary.

The Community Relations Service is the federal "peacemaker" in conflicts involving matters of race, color or national origin. It was created under the 1964 Civil Rights Act.

Sage first visited Havre in June. That trip came in the wake of a report by University of Montana journalism students describing examples of shoddy treatment Indians receives in Havre.

The report included quotes from a clothing store employee who pays extra attention to Indian shoppers to prevent theft. A bartender explained how to tell between a "good Indian" and a "bad Indian" by the way they dress and carry themselves.

Fearing the report might spur retaliation against Indians, concerned citizens contacted the Department of Justice.

Mayor Rice spoke with the mediator for about 20 minutes. He said afterward that he's glad she came to Havre.

"I told her that I was pretty much ashamed of the criticism," Rice said. "I said we have bad people on both sides here, and we do."

Rice also stands firm on his conviction that the UM report was a "highly slanted" account and said he's "deeply hurt by it."

"This is a good community," Rice said. "I think it's unfortunate that this had to come out the way it did."

Rice met with the Chippewa-Cree Business Committee after UM published the report to talk about race issues. He subsequently accepted an invitation to speak at the Rocky Boy Powwow this weekend.

Sage met with the Chippewa-Cree Business Committee on Tuesday, council Chairman John Chance Houle said.

The visit was cut short because Sage was not listed on the agenda, and the council had a full schedule that day, Houle said.

The council later appointed Councilman Jonathan Windy Boy to represent the reservation in future meetings between the Indian and non-Indian leaders, Houle said.

In an interview earlier this week, Windy Boy, who also is a state legislator, said the effort to address racism in Havre is "long overdue."

"I know there has been attempts in the past, but it's something that's needed to get better coordination on the local level," said Windy Boy, who is hopeful that the mediator will achieve results.

Some Havre-area residents interviewed Wednesday were less optimistic that the mediator could help bridge what they see as a formidable racial divide.

Jerrad Gomke, a non-Indian who lives west of Havre, acknowledged that racism against Indians exists in Havre. He doesn't think efforts by the mediator will help.

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"I think she (the mediator) knows what she's going to find — that there is some racism because we live so close to the reservation," Gomke said. "It will just blow over once she leaves."

Beulah Branson, a Frazer-area resident shopping in Havre on Wednesday, said she's also skeptical.

"I think it's fine if they want to try. I don't know how much good it will do," said Branson, who is white. "Surfacely, there might be some change."

Dolores Stump, a tribal member from the nearby Fort Belknap Reservation, said she doubts Indians will ever fully escape racist treatment in Havre. She doesn't think mediation will help.

"It's always been racist up here," said Stump, who shops in Havre about twice a month. "There's certain places you can't go to eat. It's always going to be."

Meanwhile, the Havre Area Chamber of Commerce was set to meet Wednesday night to consider its response to the charges of racism by local businesses.

The chamber initially planned to revive a Native American Affairs Committee, which was created in the 1990s to address similar race issues. It's unclear if that will now occur.

"They are formalizing some alternatives that sound pretty good," Chamber Executive Director Debbie Vandeberg said.

Voting Rights Act: Renewal Of Good Faith (AJC)

By Bob Kemper In Washington, Tom Baxter In Atlanta, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, August 5, 2005

Supporters and critics of the Voting Rights Act of 1965 agree on just one thing: It worked.

The law was adopted amid the violence and bloodshed of the civil rights movement to abolish racism at the ballot box and guarantee black Americans the right to vote.

Black voter turnout since then has varied with the perceived importance of each election, and the last two presidential elections set records for minority participation. Meanwhile, the number of African-Americans elected to public office has increased sixfold.

Key provisions of the Voting Rights Act are up for reauthorization in 2007, though with its 40th anniversary Saturday, the act is already the subject of intense congressional maneuvering. The Rev. Jesse Jackson will lead a march in Atlanta on the anniversary and has launched a national petition drive to urge the White House to extend the provisions of the law.

"We know there's a scheme afoot to make the Voting Rights Act invalid by rebooting the Supreme Court," Jackson said Thursday at a news conference in Atlanta on plans for the march. "We deserve better."

Political posturing

There is talk in Congress of strong bipartisan support for renewing the act, but political tensions remain that may well boil over into a raucous showdown.

Democratic National Committee Chairman Howard Dean is using the reauthorization effort to portray Republicans as intolerant and to mobilize Democrats to retake the House and Senate in next year's elections. Dean has accused Republicans of "hypocrisy" if they don't support the voting rights act.

But Abigail Thernstrom, vice-chairwoman of the U.S. Commission on Civil Rights and an opponent of reauthorization, argues that Republicans have if anything been timid in avoiding a battle over the issue.

Republican congressional leaders, including House Speaker Dennis Hastert and Senate Majority Leader Bill Frist, have tried to blunt Democratic attacks by publicly praising the act and, at one point, suggesting they might reauthorize it before 2007, possibly in time for the 2006 election campaigns.

U.S. Attorney General Alberto Gonzales said Tuesday the administration looked forward to working on the reauthorization.

Yet racial and partisan tensions over the issue erupted Wednesday in a Fulton County Commission meeting when Commissioner Emma Darnell introduced a resolution in favor of reauthorization. The four black Democrats on the County Commission voted for it; the three white Republicans, including Chairwoman Karen Handel, voted against.

Not without controversy

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While several provisions of the Voting Rights Act are up for reauthorization, the one most likely to spark controversy is Section 5. It requires nine states — including Georgia — and parts of seven others, each with a long history of discrimination at the ballot box before 1965, to get the approval of the federal government before enacting any changes in their electoral laws. That includes alterations in the boundaries of congressional districts and moving a polling station.

If a congressional battle develops, it could be led by Southern Republicans, some of whom argue the restrictions should either be dropped or be applied to all states.

Brian Robinson, spokesman for Rep. Lynn Westmoreland, (R-Ga.), said, "The congressman feels quite strongly that Section 5 should apply to every state in the nation or it should apply to none of them."

Sen. Johnny Isakson (R-Ga.) took the same position in his 2004 election campaign and said last week he sticks by it.

Need for Section 5?

The Reagan administration raised similar concerns in 1982 when the act was last reauthorized, saying Section 5 had outlived its usefulness and was an unnecessary intrusion by the federal government into state matters.

"Section 5, which was very controversial even in 1965, was intended as a temporary provision, really only to last five years, until this 'emergency' had passed," said Edward Blum of the Center for Equal Opportunity, a conservative think tank. "To say that we still have that emergency or even the shadow of that emergency in 2005 really stretches where race relations really are in this country today."

While they boast of the act's positive impact, those who want Section 5 renewed cite allegations of intimidation of traditionally Democratic black voters in the 2000 and 2004 elections.

"In some quarters there have been deliberate, systemic efforts to suppress minority voters," said Rep. John Lewis, an Atlanta Democrat whose beating by police on the Edmund Pettus Bridge in Selma, Ala., in 1965 helped spark adoption of the Voting Rights Act a few months later.

"That reminds me of the Old South," said Lewis, who will join Saturday's march in Atlanta.

Democrats advocating the reauthorization of key sections of the act said they hoped to pass it with bipartisan support. Congressional Republicans, following President Bush's lead in courting black voters, pledged to lead the way.

Rep. Mel Watt (D-N.C.), chairman of the Congressional Black Caucus, said he was working with Rep. James Sensenbrenner (R-Wis.), the chairman of the House Judiciary Committee, to ensure that nothing is done to weaken the act.

Kennedy, Specter allies

Sen. Edward Kennedy (D-Mass.) said he and Sen. Arlen Specter (R-Pa.), chairman of the Senate Judiciary Committee, would co-sponsor the reauthorization bill this fall to ensure support for it on both sides of the aisle.

Frist, a Tennessee Republican, after a congressional pilgrimage to Selma and Montgomery led by Lewis last year, said he was moved to introduce a measure that would make the Voting Rights Act permanent.

Some civil rights lawyers are suspicious and said the changes suggested by Republicans could lead to the act being ruled unconstitutional by the Supreme Court.

The act focuses on race, so federal law requires that a clear record of discrimination be established in jurisdictions covered by the act and that those jurisdictions be strictly monitored.

Civil rights lawyers said it would be impossible to establish evidence of discrimination in all states. So if the law is expanded and made permanent, they said, the Supreme Court is likely to strike it down.

"It's a Trojan Horse," said Theodore Shaw of the NAACP's Legal Defense and Educational Fund. "It sounds like a good idea [but] it is a threat."

Thernstrom, who has written extensively against the reauthorization of the act, said a court challenge is likely if Section 5 is extended, because it was originally intended as a temporary measure, and conditions have changed dramatically since 1965.

ID requirement reviewed

Because of the Voting Rights Act, Georgia had to have its recently redrawn congressional districts approved by the Justice Department before they could be made permanent.

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The federal government is now reviewing a Georgia law that would require voters to present a photo ID to cast their ballots. The law must pass muster with the federal governement even though it has been adopted by the state Legislature and signed by the governor.

Fulton County officials invoked the Voting Rights Act this year in an effort to prevent Sandy Springs from becoming a city, saying it would hurt black people living in other parts of the county. The federal government disagreed and allowed Sandy Springs to incorporate.

The Voting Rights Act re-emerges on Capitol Hill at a time when African-American participation in national elections has reached near-record levels — despite charges that minority voters have been prevented from voting or had their votes discounted in certain places.

The Civil Rights Project at Harvard University, an organization devoted to civil rights research, found after the 2000 presidential election that nearly 2 million votes were not counted and that a disproportionately high number of those came from predominantly black counties.

Civil rights groups around the country reported during the 2004 campaign that black voters were receiving letters and phone calls falsely telling them they were ineligible to vote. Polling stations in predominantly minority precincts reported a shortage of voting machines, and in some cases polls closed while people were waiting in line to vote.

Despite those obstacles, nearly 54 percent of registered black voters cast ballots in 2000 and more than 56 percent in 2004, according to census figures.

Staff writer Add Seymour Jr. contributed to this article.

40 Years Later, Black Electorate Still Has Long Way To Go (CLE/KRT)

By Amanda Ruggeri

Knight Ridder, August 5, 2005

WASHINGTON - (KRT) - When President Lyndon B. Johnson signed the Voting Rights Act, he sought to banish hurdles that kept African-Americans from voting - and, as he told Congress, that barred them from "the full blessings of American life."

The act, amended three times and up for renewal in 2007, remains one of the key pieces of legislation for racial equality. Because it banned discriminatory practices, long gone are the literacy tests and violence that once threatened blacks at the polls.

But on the eve of the act's 40th anniversary on Saturday, not everyone agrees that it has banished discrimination from the voting booth. Turnout rates for black voters still lag behind those of whites, and blacks remain represented at disproportionately low rates by black officials. Cases of attempted voter disenfranchisement have been documented as recently as the last presidential election.

Given the facts, experts and legislators agree, the federal law was a major steppingstone for equality. But minorities still have a long way to go.

"The Voting Rights Act enabled black people, generally, to be able to register and cast their vote without fear of bodily harm or economic pressures," said former Rep. Bill Clay, D-Mo., a civil rights activist who lobbied Congress to pass the act.

"The fear now is that there is lack of enforcement," said Clay, who in 1968 became the first African-American from Missouri elected to Congress. He retired in 2000.

Kenneth Warren, a political scientist at St. Louis University, agreed that many obstacles still exist for minority voters. As a frequent expert witness at court hearings on voting practices, Warren said discrimination, at least in subtle forms, still pervades politics.

In Ohio in the election last year, for example, voting machines were transferred out of Columbus and into the suburbs. As a result, residents of areas heavily populated by minorities had to wait up to 10 hours to vote, whereas people from more affluent, Republican-leaning regions had little trouble voting.

In a speech Tuesday on the Voting Rights Act, Attorney General Alberto Gonzales said 124 election fraud investigations are going on nationwide and dozens of other cases have been closed after investigation. That shows, he said, that enforcing the act is a priority of the Justice Department.

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"The president has directed the full power and might of the Justice Department to enforce the Voting Rights Act," he said. "Our goal is to make voting easier and cheating harder."

Despite violations, experts and politicians agree that the Voting Rights Act's positive effect cannot be denied, particularly in the South.

After the passage in 1870 of the 15th Amendment to the Constitution, guaranteeing every citizen's right to vote regardless of race, many Southern states passed strict voter qualification laws. Literacy tests and poll taxes became commonplace. Rep. John Lewis, D-Ga., said it was nearly impossible to vote in the South unless you were white.

He cited one occasion in which a man was asked to give the number of bubbles in a bar of soap. Another time, he said, poll officials targeted a black man in Alabama who happened to hold a doctorate in philosophical theology. "He failed the so-called literacy test," said Lewis, a longtime civil rights activist. "He was told he could not read or write well enough."

Statistics from before and after the Voting Rights Act's passage show significant changes in black political participation, particularly in the South. In the 1964 presidential election, Southern blacks voted 15 percent less than their counterparts in the North. But by last year, the difference was negligible, with some Southern states - including Alabama, Kentucky and South Carolina - exceeding the national black turnout rate of 56.3 percent.

Nationwide, the number of black elected officials has jumped from 1,469 in 1970, the first year the information was collected, to a high of 9,101 in 2001.

Despite the increase of black officials, blacks still make up only 2 percent of all elected officials in the nation. And voters from other minority groups still struggle as well, said Rep. Robert Menendez, D-N.J.

Menendez, along with many other legislators, is already strategizing for the act's extension in 2007. He said one of the most important goals of extension is the reauthorization of key provisions, such as the one that provides assistance to communities proficient in a language other than English.

"One citizen unfairly discouraged from voting is one too many," Menendez said.

Speaking at the Lyndon B. Johnson Memorial Library in Austin, Texas, Gonzales said the Bush administration looks forward to working with Congress on the act's extension, and particularly with regard to minority language provisions.

In his book "Freedom is Not Enough: Black Voters, Black Candidates, and American Presidential Politics," political analyst Ronald Walters says one particular statistic shows how much further minorities have to go to reach parity with whites: According to census figures, the highest turnout of black voters was 58.5 percent. That record was set in 1964, a year before the Voting Rights Act was passed.

The statistic is little-known. It is also contested by political scientists like Warren, who say that because census figures rely on citizens' own reporting of whether they voted, the numbers are often inflated.

But Walters said the census remains the most accurate way of determining voter turnout. Furthermore, he said, the number is less surprising within the context of the 1964 election. President John F. Kennedy had just been assassinated, and Johnson promised to carry on his legacy of civil rights. Americans overwhelmingly responded, turning out to the polls in record numbers. Because no election since has been quite so emotional, neither whites nor blacks have reached that level of political participation again.

Lewis agreed that the events of 1964 pulled blacks to the polls, despite formidable barriers.

"There was a feeling, I think, more than anything else, that people had to go out and vote like they'd never voted before," Lewis said. "And there is this need in America - and not just in the African-American community, but among all Americans - to bring us back to this point again."

In the last election, the population came close. Fifty-six percent of eligible African-Americans voted, along with 60 percent of whites.

Walters said the election last year was especially impressive because it showed the decrease in the disparity between white and black voter turnout. Even in 1964, the gap was nearly 13 percentage points, with nearly 71 percent of eligible white voters flocking to the polls.

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The question, Walters said, is whether African-Americans will realize their full potential as a political bloc. As he celebrates the anniversary of one of the biggest steps toward that potential, he said he encourages African-Americans to strategize for the future.

"We've voted, we've done well," he said. "But now, how do we get more power out of this vote?"

For Miss. Town, Voting Law Helped (USAT)

By Melanie Eversley

USA Today, August 5, 2005

KILMICHAEL, Miss. — For years, black residents here grumbled about bad roads and poor municipal services in their part of town, but they didn't count on the all-white governing board for much help.

Then came the local elections of 2001, when an unprecedented number of African-American candidates brought Kilmichael, population 830, to the cusp of a historic change in leadership. Three weeks before the election, however, the town's mayor and five-member Board of Aldermen canceled the elections.

The Justice Department, calling the move a violation of the Voting Rights Act, stepped in. Two years later, Kilmichael finally voted — and elected its first black mayor, along with three black aldermen.

The episode was a reminder of how the Voting Rights Act — which hits its 40th anniversary Saturday — remains a hedge against discriminatory election practices long after the civil-rights battles in the South. Now, with key parts of the act due to expire in 2007, a debate is building over how far America has come in ensuring racial equality and whether protections for minority voters should be renewed or changed.

The Voting Rights Act requires jurisdictions in 16 states with past discrimination problems, mostly in the South, to have changes in voting rules cleared by the Justice Department or a federal judge. The impact of that part of the law, called Section 5, can be seen in the dramatic increases in registered voters and officeholders among minorities since the mid-1960s.

Two other provisions are up for renewal. One allows the U.S. government to send poll observers to jurisdictions where there have been alleged voting-rights violations. The other provision, added in 1975 in response to the rising number of Latino voters, requires bilingual ballots and language assistance in areas with large numbers of residents who do not speak English.

There appears to be widespread support in Congress for renewing the act, and the White House has expressed support for it. Still, lively debates are likely when the Senate Judiciary Committee begins hearings on it in September.

Democrats such as Sen. Edward Kennedy of Massachusetts and Rep. Raul Grijalva of Arizona are pushing for a stronger law. Among other things, they cite complaints about a lack of voting machines in heavily minority precincts in Ohio during the 2004 elections, and alleged voting irregularities in Florida four years earlier that they say wrongly kept some blacks off of voter registration lists.

The Senate panel also is likely to consider proposals to make it more difficult for governments to concentrate minorities in single voting districts, thereby reducing their power.

“My hope is that there would be strong bipartisan support for renewal,” said Barbara Arnwine, executive director for the Lawyers' Committee for Civil Rights Under Law.

So far, the chief critics of renewing the act have been conservative groups such as the Center for Equal Opportunity, and a few Republicans such as Abigail Thernstrom of the U.S. Commission on Civil Rights. They say the law was needed at a time when poll taxes and literacy tests often were used to keep blacks from voting in the South, but no longer.

In Kilmichael, the new era of leadership now is a mix of old and new. Mary McCaskill Young, who became the town's first black mayor when she beat incumbent Tommy Rushing in the special election in 2003, lost to Rushing in the town's general election in June. And a black alderman did not seek re-election. There now are two blacks on the Board of Aldermen.

Rushing rejects the notion that white town officials canceled the 2001 election because it appeared that blacks would win elections. He says officials merely wanted to switch from a system in which board members were elected at-large, to one in which voters would choose only a representative for their district.

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The town didn't reschedule the election, and the Justice Department forced it to hold one in 2003 in which aldermen were elected from districts. Jewel Harrison, chairman of the local Democratic Party, says the U.S. government's use of the Voting Rights Act helped ensure equality in Kilmichael.

"I think it put everyone on notice that you just can't do things and get away with it," he said.

Increasingly, Voting Rights Act probes stem from complaints by Latinos, who make up about 14% of the U.S. population and are the nation's fastest-growing ethnic group. (Blacks make up about 12.8%.)

The eastern Pennsylvania city of Reading, long known for its German immigrant population, has attracted a growing number of Latinos. Some families came from Puerto Rico and Mexico in the 1930s and 1940s to work for mushroom growers and steel mills. More recently, many have moved from New York. In the 2000 Census, 37.3% of Reading's nearly 81,000 residents were Latino, up from 18.5% in 1990.

In Reading, there have been complaints about Spanish-speaking residents being harassed at the polls, and accusations that they have been turned away or belittled if they could not read ballot directions or speak English fluently. In 2003, the Justice Department accused Berks County, Pa., of discriminating against Spanish-speaking voters.

Some parts of the Voting Rights Act cited in the Berks County case apply only to people from Puerto Rico and do not expire in 2007. But they are similar to the language provision that is up for renewal.

In 2003, Justice ordered examiners to monitor county elections through June 2007. The county also must provide bilingual election materials, interpreters and other aids for Spanish-speaking voters.

Berks County Commissioner Mark Scott opposed the order. He said his family members from Germany did not need the kind of help that Justice has ordered for Latinos.

"People are capable of a lot more than they are giving themselves credit for," he said.

Those on both sides of the debate say clashes such as the one in Reading are more likely as the nation's demographics change. "I fully support the (Justice Department) coming in," said Jonathan Encarnacion of Centro Hispano, a community group in Reading. "It was something that had to be brought to the surface."

EDITORIAL NOTEBOOK Keep The Voting Rights Act (AAS)

Austin American-Statesman, August 5, 2005

In these early years of the 21st century, it's difficult to comprehend how thoroughly and systematically minorities, especially African Americans, were once denied the right to vote.

In the South, blacks faced poll taxes and literacy tests designed to keep them from voting. Denying and suppressing the minority vote was politics as usual in many southern states, racial discrimination on a national scale.

President Lyndon B. Johnson changed that political landscape forever when he signed the Voting Rights Act of 1965 into law 40 years ago Saturday. Since that day, the act has served as a weapon against discrimination and a reminder of an ugly period in American life.

Even after 40 years, the act is no mere symbol. As U.S. Attorney General Alberto Gonzales noted in a speech in Austin earlier this week, enforcing the Voting Rights Act is a priority at the Justice Department. He said 124 election fraud investigations are ongoing.

Key enforcement provisions in the act are up for reauthorization by Congress in 2007. One of those provisions requires southern states (including Texas) to get Justice Department approval before changing electoral procedures or boundaries. Another requires foreign language ballots in certain districts with large numbers of non-English speakers.

Congress should reauthorize those provisions when they expire. They are still necessary, still being enforced. Four decades hasn't erased all the vestiges of racism and discrimination in the South, and election miscarriages are still a problem. But reauthorization has run into political trouble. The creation of secure political districts protected by the Voting Rights Act vastly increased the number of minority elected officials locally, statewide and nationally.

It also gave rise to Republican majorities and increased Republican power in the South and in Washington. Texas, for example, has solid black and Hispanic congressional districts, but no Democrat in statewide office.

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Reauthorization carries other consequences. A push to make it apply nationally, and not just in the southern states, could doom it to failure in Congress. And attempts to strengthen it to ensure that minority districts are maintained could keep the GOP in power indefinitely.

Political wrangling, however, shouldn't undo the good that was done 40 years ago when the act became law. Its enforcement provisions should be reauthorized by Congress, lest America forget a painful lesson.

Repaying Segregation's Debt (WP)

The Washington Post, August 5, 2005

More than most southern states, Virginia has surmounted its segregationist past, not least by becoming, in 1989, the first state to elect an African American governor, L. Douglas Wilder. (Mr. Wilder is now mayor of Richmond, capital of the old Confederacy.) This year the commonwealth has struck another blow to repudiate a unique event in U.S. history and one of segregation's worst chapters: the decision to close some Virginia public schools rather than comply with court-ordered integration after the Supreme Court's 1954 ruling in Brown v. Board of Education . In recent months, dozens of black Virginians, mostly in their fifties and sixties, have been granted the first state scholarships, up to $5,500 each, to get what they were denied five decades ago: a public education.

The scholarships, which follow a resolution by the General Assembly two years ago expressing its "profound regret" at the school closings, do not heal the wounds inflicted by what was then known in Virginia as its policy of "massive resistance" to integration.

In southern Virginia's Prince Edward County, the most zealously anti-segregationist jurisdiction of the day, many black children went unschooled from 1959 to 1963, and some never got to resume their education; others attended makeshift lessons in churches or were sent far away to live with relatives or even strangers so they could continue going to school. Shortchanged by the state, they were unprepared for higher education and certain jobs and careers they might otherwise have had.

Nothing that Virginia can do will fully compensate for that disgraceful episode. Still, the scholarships are an appropriate and admirable act of contrition. As Gov. Mark R. Warner said, "This at least goes a partial way to [repay] the debt we owe to these folks." Even some whites will be eligible for the scholarships; as children they were also denied an education, being unable to afford the private academy established to serve them after the public schools were closed. More than 80 people, many of them still residents of Prince Edward, have already received scholarships for high school or college courses; several thousand more are eligible to apply. John Kluge, a Charlottesville media baron and philanthropist, has matched the state's own $1 million appropriation to fund the scholarship program.

If there is an inspirational note to this story, it belongs to Ken Woodley, the crusading editor of the Farmville Herald in Prince Edward County, who almost single-handedly conceived the idea of scholarships, campaigned for it in print and personally urged it on Mr. Warner and hesitant lawmakers.

In 1959, Mr. Woodley's own newspaper led the local chorus of opposition to integration, denouncing it as a communist plot against racial purity and the American way. Now the newspaper, under the same family ownership, has backed Mr. Woodley, and the state scholarships, to the hilt. That is a measure of Virginia's progress, and a credit to it.

Court Rules UT Can Block Dating E-Mails (FINDLAW/AP)

Find Law, August 5, 2005

(AP) - AUSTIN, Texas-The University of Texas didn't violate the free-speech rights of an online dating service when it blocked thousands of unsolicited e-mails, a federal appeals court says.

The 5th U.S. Circuit Court of Appeals also found that although White Buffalo Ventures LLC, which operates LonghornSingles.com, complied with the requirements of the federal anti-spam law, known as CAN-SPAM, the university can still set its own anti-spam policy.

White Buffalo had sued the university over 59,000 messages blocked by spam filters in 2003. The Austin-based service had legally obtained the addresses from UT but the university blocked the e-mail messages, saying White Buffalo was part of a larger spam problem that had crashed the computer system.

The university said it was also responding to complaints from students and faculty.

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The court, in a ruling Tuesday, determined that White Buffalo complied with federal law and that its e-mails were not illegal. However, CAN-SPAM does not supersede protection measures employed by an Internet service provider, and the court interpreted ISPs to include the university.

Leading Republican Differs With Bush On Evolution (WP/REU)

By Jon Hurdle, Reuters

The Washington Post, August 5, 2005

PHILADELPHIA (Reuters) - A leading Republican senator allied with the religious right differed on Thursday with President Bush's support for teaching an alternative to the theory of evolution known as "intelligent design."

Republican Sen. Rick Santorum, a possible 2008 presidential contender who faces a tough re-election fight next year in Pennsylvania, said intelligent design, which is backed by many religious conservatives, lacked scientific credibility and should not be taught in science classes.

Bush told reporters from Texas on Monday that "both sides" in the debate over intelligent design and evolution should be taught in schools "so people can understand what the debate is about."

"I think I would probably tailor that a little more than what the president has suggested," Santorum, the third-ranking Republican member of the U.S. Senate, told National Public Radio. "I'm not comfortable with intelligent design being taught in the science classroom."

Evangelical Christians have launched campaigns in at least 18 states to make public schools teach intelligent design alongside Charles Darwin's theory of evolution.

Proponents of intelligent design argue that nature is so complex that it could not have occurred by random natural selection, as held by Darwin's 1859 theory of evolution, and so must be the work of an unnamed "intelligent cause."

Santorum is the third-ranking member of the U.S. Senate and has championed causes of the religious right including opposition to gay marriage and abortion.

He is expected to face a stiff challenge from Democrat Bob Casey in his quest for re-election next year in Pennsylvania, a major battleground state in recent presidential elections.

The controversy over intelligent design is a hot topic in Pennsylvania, where the Dover Area School District in south central Pennsylvania has included the theory in its biology curriculum.

The American Civil Liberties Union has sued to block the policy, calling it a violation of the constitutional separation of church and state.

Most Americans believe that God created human beings or guided the process of evolution, according to a CBS poll last November. Two-thirds said they wanted creationism taught alongside evolution in schools.

SCIENCE CURRICULUM

Critics, including many science teachers, say intelligent design cannot be scientifically tested and has no place in a science curriculum.

Santorum sided in part with intelligent-design proponents in saying that there were gaps in the theory of evolution.

"What we should be teaching are the problems and holes -- and I think there are legitimate problems and holes -- in the theory of evolution. What we need to do is to present those fairly, from a scientific point of view," he said in the interview.

"As far as intelligent design is concerned, I really don't believe it has risen to the level of a scientific theory at this point that we would want to teach it alongside of evolution."

Santorum had proposed an unsuccessful measure in 2001 that would have required discussing the "controversy" of evolution when the theory is taught in classes.

Bush's science adviser, John Marburger, was quoted in The New York Times this week as saying intelligent design was not a scientific concept, and that Bush's remarks should be interpreted to mean he thinks the concept should be taught as part of the "social context" in science classes.

Design For Confusion (NYT)

By Paul Krugman

The New York Times, August 5, 2005

I'd like to nominate Irving Kristol, the neoconservative former editor of The Public Interest, as the father of "intelligent design." No, he didn't play any role in developing the doctrine. But he is the father of the political strategy that lies behind the intelligent design movement - a strategy that has been used with great success by the economic right and has now been adopted by the religious right.

Back in 1978 Mr. Kristol urged corporations to make "philanthropic contributions to scholars and institutions who are likely to advocate preservation of a strong private sector." That was delicately worded, but the clear implication was that corporations that didn't like the results of academic research, however valid, should support people willing to say something more to their liking.

Mr. Kristol led by example, using The Public Interest to promote supply-side economics, a doctrine whose central claim - that tax cuts have such miraculous positive effects on the economy that they pay for themselves - has never been backed by evidence. He would later concede, or perhaps boast, that he had a "cavalier attitude toward the budget deficit."

"Political effectiveness was the priority," he wrote in 1995, "not the accounting deficiencies of government."

Corporations followed his lead, pouring a steady stream of money into think tanks that created a sort of parallel intellectual universe, a world of "scholars" whose careers are based on toeing an ideological line, rather than on doing research that stands up to scrutiny by their peers.

You might have thought that a strategy of creating doubt about inconvenient research results could work only in soft fields like economics. But it turns out that the strategy works equally well when deployed against the hard sciences.

The most spectacular example is the campaign to discredit research on global warming. Despite an overwhelming scientific consensus, many people have the impression that the issue is still unresolved. This impression reflects the assiduous work of conservative think tanks, which produce and promote skeptical reports that look like peer-reviewed research, but aren't. And behind it all lies lavish financing from the energy industry, especially ExxonMobil.

There are several reasons why fake research is so effective. One is that nonscientists sometimes find it hard to tell the difference between research and advocacy - if it's got numbers and charts in it, doesn't that make it science?

Even when reporters do know the difference, the conventions of he-said-she-said journalism get in the way of conveying that knowledge to readers. I once joked that if President Bush said that the Earth was flat, the headlines of news articles would read, "Opinions Differ on Shape of the Earth." The headlines on many articles about the intelligent design controversy come pretty close.

Finally, the self-policing nature of science - scientific truth is determined by peer review, not public opinion - can be exploited by skilled purveyors of cultural resentment. Do virtually all biologists agree that Darwin was right? Well, that just shows that they're elitists who think they're smarter than the rest of us.

Which brings us, finally, to intelligent design. Some of America's most powerful politicians have a deep hatred for Darwinism. Tom DeLay, the House majority leader, blamed the theory of evolution for the Columbine school shootings. But sheer political power hasn't been enough to get creationism into the school curriculum. The theory of evolution has overwhelming scientific support, and the country isn't ready - yet - to teach religious doctrine in public schools.

But what if creationists do to evolutionary theory what corporate interests did to global warming: create a widespread impression that the scientific consensus has shaky foundations?

Creationists failed when they pretended to be engaged in science, not religious indoctrination: "creation science" was too crude to fool anyone. But intelligent design, which spreads doubt about evolution without being too overtly religious, may succeed where creation science failed.

The important thing to remember is that like supply-side economics or global-warming skepticism, intelligent design doesn't have to attract significant support from actual researchers to be effective. All it has to do is create confusion, to make it seem as if there really is a controversy about the validity of evolutionary theory. That, together with the political muscle of the religious right, may be enough to start a process that ends with banishing Darwin from the classroom.

Bill Easing Rules On Pill Is Vetoed By Pataki (NYT)

DOJ_NMG_0002115

By Al Baker

The New York Times, August 5, 2005

ALBANY, Aug. 4 - As promised earlier this week, Gov. George E. Pataki vetoed a bill on Thursday that would have made the so-called morning-after pill available to women and girls without a prescription. The veto came just hours after the State Assembly delivered the bill to his desk.

Proponents of the emergency contraception bill, including abortion-rights advocates, most Democrats and some leading Republican colleagues of the governor, had urged him to sign the bill, saying it would help prevent more than 80,000 abortions in New York each year. Opponents of the bill, particularly conservatives, pointed out that its main flaw was that minors would have access to the drug, which prevents pregnancy after sex.

In his veto message, the governor emphasized that his main concern was that the measure would not prevent minors from getting the drug before they consulted a doctor or other medical professional. He said his veto was "based solely on a desire to protect the health and safety of our youngest and most vulnerable women."

He also named other concerns: that the bill did not limit purchases to a single dose and that men could buy it and use it to persuade young girls to have unprotected sex.

The governor also struck a conciliatory note, underlining his support for making emergency contraception available, and he stressed that he would work on a revised bill for the State Legislature to pass when it returns to Albany. "We can do better," Mr. Pataki said in his message. "We can increase women's access to emergency contraception while protecting our children."

Many supporters of the bill said Mr. Pataki's veto amounted to political opportunism, since he has long been a supporter of abortion rights but is now exploring the possibility of a bid for the Republican presidential nomination. Aides to the governor have repeatedly disputed that notion.

"I think it's lousy," Kelli M. Conlin, executive director of Naral Pro-Choice New York, said of the veto. "I think he did the wrong thing; it was politically motivated, and the only thing that gives us solace is that women are eventually going to have access to this important pregnancy prevention tool. It's either going to be through the F.D.A. or a new administration in Albany, but we will win."

Proponents have said that women need to get the pill quickly enough for it to be effective on weekends, when seeing a doctor can be difficult. JoAnn M. Smith, president of Family Planning Advocates of New York State, said young people "are the people who need it most."

Senator Nicholas A. Spano, a Westchester County Republican who sponsored the bill, said he was encouraged that "the governor is indicating his support of the concept," and said he understood the governor's concerns about minors. He said he was committed to reducing the number of abortions in New York and thought there was hope of reaching agreement with the governor. "I don't think any of those are fatal problems," Mr. Spano said of the governor's veto message.

Pataki Vetoes Morning-After Pill Bill (AJC/AP)

By Marc Humbert, Associated Press Writer

The Atlanta Journal-Constitution, August 5, 2005

ALBANY, N.Y. — Republican Gov. George Pataki vetoed legislation Thursday that would have allowed pharmacists to dispense the so-called "morning-after pill" without prescriptions.

Pataki, who had announced Sunday that he would veto the measure, said he was most upset that the bill did not require minors to see a physician.

"We can do better," said the governor, who pledged to work with sponsors of the legislation to come up with a proposal he would sign.

Advocates for the bill have said they believe Pataki, with an eye on seeking the 2008 Republican presidential nomination, is using the veto to appeal to conservatives.

"This was driven by politics," said Kelli Conlin, executive director of the New York chapter of National Abortion Rights Action League.

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The morning-after pill contains a higher dose of regular contraception hormones. It prevents pregnancy by delaying a woman's ovulation or preventing fertilization. It also can thin the lining of the uterus, making it difficult for a fertilized egg to implant. Anti-abortion groups see interfering with a fertilized egg as abortion.

The Food and Drug Administration plans to decide by Sept. 1 whether the morning-after pill can be sold without a doctor's prescription. Seven states already permit over-the-counter sales.

Emergency contraceptives can reduce the chance of pregnancy by 89 percent if taken within 72 hours of intercourse, and supporters said making them available without a prescription would help more women get the pills in time.

"As we all know, accidents don't happen during doctors' office hours," Adrienne Verrilli of the Sexuality Information and Education Council said. "They occur at night and on weekends when doctors are difficult to reach."

The governor said he wanted a limit on the number of pills that could be dispensed at one time and did not want men to be able to get them, as would have been permitted under the vetoed legislation.

He also said the bill should require patients getting the morning-after pill to receive counseling on the health risks of unprotected sex.

"I know that there are many New Yorkers who sincerely disagree with this position, and I respect and appreciate their views. But my action today is based solely on a desire to protect the health and safety of our youngest and most vulnerable women."

Republican Gov. Mitt Romney of Massachusetts, who also is eyeing the 2008 GOP presidential nomination, vetoed similar legislation last month.

ANTITRUST:

Lucent Subpoenaed In Antitrust Probe (WP/AP)

The Associated Press

The Washington Post, August 5, 2005

WASHINGTON -- Lucent Technologies Inc. Thursday said it received two subpoenas related to federal investigations into potential antitrust violations and sales of telecommunications equipment to the federal government.

The telecom-equipment vendor said in a filing with the Securities and Exchange Commission that one of the subpoenas it received related to an investigation by the Department of Justice into potential antitrust and other violations in connection with the federal E-Rate program.

Lucent said the subpoena requires the company to produce documents before a grand jury of the U.S. District Court in Georgia.

The Murray Hill, N.J., company said the other subpoena was from the Office of Inspector General, General Services Administration, and relates to a federal investigation into certain sales to the federal government of telecommunications equipment and associated maintenance services.

Lucent said it received both subpoenas during the three months ended June 30.

As previously reported, the Justice Department has announced that several companies have been indicted for defrauding the federal E-rate program that dispenses billions of dollars in subsidies for Internet and telecom service in schools and libraries.

The $2.25 billion-a-year E-Rate program is funded by the Universal Service Fund, which is paid for through fees levied on telecom companies. E-Rate is run by Universal Service Administrative Co., which was set up by the Federal Communications Commission.

The fraud schemes alleged by the Justice Department occurred between 1998 and 2003. Charges range from scheming to defraud the FCC and Universal Service Administrative by including the cost of noncovered equipment and fees with those covered by the program to rigging of bids.

Avaya Inc., which was spun off from Lucent in 2000, said in May that it received a subpoena to produce documents for the period from 1997 to 2005 before a grand jury of the U.S. District Court in South Carolina relating to an investigation of potential antitrust violations in connection with the E-Rate program.

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Avaya said it also received a subpoena from the General Services Administration for billing records from 1990 to 2005 corresponding to sales of telecom equipment and maintenance services.

Lucent: Got Subpoenas Tied To Federal Probes (DOWJONES)

Dow Jones Newswires, August 5, 2005

WASHINGTON -(Dow Jones)- Lucent Technologies Inc. (LU) (LU) said Thursday that it received two subpoenas related to federal investigations into potential antitrust violations and sales of telecommunications equipment to the federal government.

The telecom-equipment vendor said in a filing with the Securities and Exchange Commission that one of the subpoenas it received related to an investigation by the U.S. Department of Justice into potential antitrust and other violations in connection with the federal E-Rate program.

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Avaya said it also received a subpoena from the General Services Administration for billing records from 1990 to 2005 corresponding to sales of telecom equipment and maintenance services.

Lucent said in Thursday's filing that it's too early to determine whether these matters will have a material impact on the company's business.

-By Nicolas Brulliard; Dow Jones Newswires; 202-862-1351; nicolas.brulliard@ dowjones.com

Lucent Gets Subpoenas (STREET)

By TSC Staff

TheStreet.com, August 5, 2005

Lucent (LU:NYSE - news - research) was subpoenaed in an ongoing government probe of a federal program to provide schools and libraries with Internet access.

The Murray Hill, N.J., company said in a Securities and Exchange Commission filing Thursday afternoon that it got subpoenas in two separate matters during the quarter ended June 30. The company indicated that one was a Justice Department inquiry into the so-called federal E-rate program. Lucent said it must produce documents before a federal grand jury in Georgia.

The second subpoena relates to a federal investigation into certain sales to the federal government of telecommunications equipment and related maintenance services, Lucent said. The company said it "is too early for us to determine whether either of these matters will have a material effect on our business, financial position, results of operations or cash flows."

Lucent's former corporate offspring Avaya (AV:NYSE - news - research) got similar subpoenas in May, the Record of Hackensack, N.J., reported. Avaya was spun out of Lucent in 2000.

On Thursday, Lucent slipped a nickel to $2.88.

ENVIRONMENT/INDIAN AFFAIRS:

There's A $500 Energy-conservation Prize Waiting For You In The New Federal Energy Bill (KRT)

By Andres R. Martinez

Knight Ridder, August 5, 2005

WASHINGTON - Making energy-efficient improvements to your home could net you a $500 rebate from the government.

The offer's buried in the 1,724-page energy bill that President Bush has said he'll sign next week. It gives consumers a credit off the bottom line of their 2006 or 2007 taxes equal to 10 percent of their energy-saving purchases. The maximum over the two years is $500 and applies to any owner-occupied home or condominium. It's probably a good deal for you, although it's pretty complicated.

Home energy conservation experts say you'll make the most out of the tax credit - and save even more on home energy costs in the long run - with the following approach.

First, pull together your utility bills and figure out what you're spending on energy now. If you have a neighbor with a similar residence, ask what he or she is spending on utilities. If you're a lot higher, you've got a lot to save. Note that if you're in a condo, you'll be eligible for a pro-rated share of any building upgrades.

For most homeowners, the fastest way to earn the rebate - plus long-haul savings - is a "no-brainer," said home energy auditor Lee O'Neil, president of NSpects of Chantilly, Va.: "Have the air sealing (draft protection) and attic insulation done."

This work is relatively cheap - $2,000 to $3,000 for an average single-family home - compared with five times that for replacing old windows. Moreover, the small print of the new law lets homeowners deduct up to $300 for insulation and eliminating drafts, which is what air sealing is all about. The maximum deduction for new windows is $200.

How good a deal this or any other energy-conservation outlay is for you depends on three factors: how much energy you're wasting, how much the improvement costs and how much savings you'll net.

The Environmental Protection Agency helps you figure this out with a nifty interactive Web site that asks you to describe your home, right down to the direction it faces, the window area on each side and the kinds of appliances you've got. It doesn't ask your latitude, which it gets from your ZIP code, but it asks you to detail your energy spending. Ultimately, it comes up with the ways that you can save the most.

The site is http://advisor.lbl.gov/hit/Controller. It's a demanding exercise but more than worth the time - literally.

The new tax rebate applies only to products that are more energy efficient than the minimum federal requirement. Such products bear the government-certified Energy Star label or a 2000 IECC label, indicating that they meet the International Energy Conservation Code.

Among the graded items are windows, heat pumps, water heaters, cooling system components, insulation and doors. For a complete list, go to www.energystar.gov then click on "Products" on the left side.

Energy Star dishwashers, laundry machines and refrigerators qualify for a separate rebate. Dishwashers earn up to $100 based on efficiency, washing machines $100 and refrigerators between $75 and $175. Keep in mind that energy-conserving appliances are often more expensive.

For whatever energy-saving products or services you buy, save your receipts for your taxes, just as you would your charitable deductions. The rebate period begins Jan. 1, 2006, and ends Dec. 31, 2007. You can claim a total of $500 for purchases made between those dates.

Here are some other tips:

-You can still claim a rebate if you replace an Energy Star appliance with another Energy Star appliance. It may not save you much beyond the tax credit, however.

-Don't buy something just because the rebate makes it attractive. "You want an improvement that will save you money over its lifetime in energy costs," said Lowell Ungar, an analyst with the Alliance to Save Energy, a Washington conservation group.

-You may be able to get help from your utility companies. Many offer free advice on-line; some even make house calls.

-If you want independent expert advice, consider getting a certified energy auditor to do a home inspection. It'll cost $300 to $500, though, and that's not covered by the rebate. To find an energy auditor, go to the National Association of State Energy Officials at www.natresnet.org. Click on "Consumer Resources" on the left side.

-Some of the smartest fixes don't cost much money at all. Caulking drafty windows and doors can cut energy costs by 10 percent, according to the U.S. Department of Energy. Yearly maintenance of your heating and cooling systems, which usually costs about $100, can reduce your energy bill by 30 percent or more. Replacing incandescent light bulbs with compact fluorescent ones can cut lighting bills by up to 50 percent, according to the Energy Department. None of these fixes rate a rebate, however.

For more tips on making your home energy efficient visit: www.eere.energy.gov/consumerinfo/

You can also call the Department of Energy's Information Center for the tips in booklet form. The phone number is 1-877-EERE-INF (1-877-337-3463).

Too Much Pork And Too Little Sugar (NYT)

By Thomas L. Friedman

The New York Times, August 5, 2005

Wow, I am so relieved that Congress has finally agreed on an energy bill. Now that's out of the way, maybe Congress will focus on solving our energy problem.

Sorry to be so cynical, but an energy bill that doesn't enjoin our auto companies to sharply improve their mileage standards is just not serious. This bill is what the energy expert Gal Luft calls "the sum of all lobbies." While it contains some useful provisions, it also contains massive pork slabs dished out to the vested interests who need them least - like oil companies - and has no overarching strategy to deal with the new world.

And the world has changed in the past few years. First, the global economic playing field is being leveled, and millions of people who were out of the game - from China, India and the former Soviet empire - are now walking onto the field, each dreaming of a house, a car, a toaster and a microwave. As they move from low-energy to high-energy consumers, they are becoming steadily rising competitors with us for oil.

Second, we are in a war. It is a war against open societies mounted by Islamo-fascists, who are nurtured by mosques, charities and madrasas preaching an intolerant brand of Islam and financed by medieval regimes sustained by our oil purchases.

Yes, we are financing both sides in the war on terrorism: our soldiers and the fascist terrorists. George Bush's failure, on the morning after 9/11, to call on Americans to accept a gasoline tax to curb our oil imports was one of the greatest wasted opportunities in U.S. history.

Does the energy bill begin to remedy that? Hardly. It doesn't really touch the auto companies, which have used most of the technological advances of the last two decades to make our cars bigger and faster, rather than more fuel-efficient. Congress even rejected the idea of rating tires for fuel efficiency, which might have encouraged consumers to buy the most fuel-efficient treads.

The White House? It blocked an amendment that would have required the president to find ways to cut oil use by one million barrels a day by 2015 - on the grounds that it might have required imposing better fuel economy on our carmakers.

We need a strategic approach to energy. We need to redesign work so more people work at home instead of driving in; we need to reconfigure our cars and mass transit; we need a broader definition of what we think of as fuel. And we need a tax policy that both entices, and compels, U.S. firms to be innovative with green energy solutions. This is going to be a huge global industry - as China and India become high-impact consumers - and we should lead it.

Many technologies that could make a difference are already here - from hybrid engines to ethanol. All that is needed is a gasoline tax of $2 a gallon to get consumers and Detroit to change their behavior and adopt them. As Representative Edward Markey noted, auto fuel economy peaked at 26.5 miles per gallon in 1986, and "we've been going backward every since" - even though we have the technology to change that right now. "This is not rocket science," he rightly noted. "It's auto mechanics."

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It's also imagination. "During the 1973 Arab oil embargo Brazil was importing almost 80 percent of its fuel supply," notes Mr. Luft, director of the Institute for the Analysis of Global Security. "Within three decades it cut its dependence by more than half. ... During that period the Brazilians invested massively in a sugar-based ethanol industry to the degree that about a third of the fuel they use in their vehicles is domestically grown. They also created a fleet that can accommodate this fuel." Half the new cars sold this year in Brazil will run on any combination of gasoline and ethanol. "Bringing hydrocarbons and carbohydrates to live happily together in the same fuel tank," he added, "has not only made Brazil close to energy independence, but has also insulated the Brazilian economy from the harming impact of the current spike in oil prices."

The new energy bill includes support for corn-based ethanol, but, bowing to the dictates of the U.S. corn and sugar lobbies (which oppose sugar imports), it ignores Brazilian-style sugar-based ethanol, even though it takes much less energy to make and produces more energy than corn-based ethanol. We are ready to import oil from Saudi Arabia but not sugar from Brazil.

The sum of all lobbies. ...

It seems as though only a big crisis will force our country to override all the cynical lobbies and change our energy usage. I thought 9/11 was that crisis. It sure was for me, but not, it seems, for this White House, Congress or many Americans. Do we really have to wait for something bigger in order to get smarter?

Indians Continue Wait For Accounts' Resolution (WP)

By Evelyn Nieves

The Washington Post, August 5, 2005

BROWNING, Mont. -- Nine years have ticked away since Elouise Cobell sued the government on behalf of as many as 500,000 Native Americans whose land the United States was supposed to manage. But the end of what has become the longest, largest class action lawsuit against the federal government remains nowhere in sight.

Sometimes, when Cobell returns home here to the Blackfeet Indian Reservation in northwest Montana from Washington, where the case is being heard in U.S. District Court, she feels buoyed by a development she thinks might help settle the case once and for all. But the feeling is fleeting.

Last week, a major court victory was still fresh; Judge Royce C. Lamberth had issued his most scathing critique of the Interior Department's handling of the Indians and the case. Lamberth cited Interior's "mismanagement, falsification, spite and obstinate litigiousness," among other failings, and his disgust was palpable.

"Perhaps Interior's past and present leaders have been evil people, deriving their pleasure from inflicting harm on society's most vulnerable," he wrote in the extraordinary, 34-page July 12 ruling, which agreed with the plaintiffs' claim that the department's information was unreliable.

But Cobell was preoccupied by a bill to settle the case that was introduced July 20 by Sens. John McCain (R-Ariz.) and Byron L. Dorgan (N.D.), chairman and ranking Democrat, respectively, of the Indian Affairs Committee. The bill, which the senators called "a starting point," was far from the remedy Indian leaders had hoped for, Cobell said. And she testified to that point.

"This bill proposes a formula for accounting that looks at the trust records from 1980 to 2005," Cobell said when she returned here from testifying. "The judge has already ruled that Interior has to make an accounting going back to the beginning."

Cobell v. Norton (for Interior Secretary Gale A. Norton) dates to 1996, but the complicated debacle some members of Congress have likened to a "Federal Enron" traces its origins back more than a hundred years.

Under a forced arrangement, in 1887 the government divided much tribal land across the country, which it had not already taken, into separate, private allotments for Indians. It then leased individuals' land, which ranged from 40 to 160 acres, usually to oil, gas, timber, grazing or coal interests. The Treasury Department placed the fees into a trust and was -- and remains -- responsible for doling out checks to the individual Indian trust beneficiaries.

But from the beginning, the plaintiffs say -- and the government has conceded until recently -- the basic recordkeeping for these lands was botched.

In 1994, six years after Congress began oversight hearings into the mismanagement of Indian trusts going back for decades, it passed a law ordering a special trustee to monitor the accounting of the trusts and creating a plan for reforming the

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system. The 1996 lawsuit followed after the first special trustee resigned in protest of what he said were attempts to obstruct his efforts to reconcile accounts.

Norton and her predecessor, Bruce Babbitt, have said it is impossible to provide a full historical accounting of the trusts -- there are said to be about 300,000 accounts, incorporating perhaps 500,000 individual beneficiaries, with combined balances in the trust of $500 million to $800 million.

But Interior officials say that as they perform a historical accounting of the trusts ordered by Lamberth -- an effort costing $100 million so far -- their research, performed by using statistical sampling, has shown that the trust holders are owed little for their land. "If you use the facts that we have found so far in the accounting process, the number would be very, very low," James E. Cason, the associate deputy secretary for the Interior, told the Indian Affairs Committee last month.

"In court, the plaintiffs seek a historical accounting but are now working hard to prevent that accounting from occurring," Cason added. "In Congress, they argue against providing funding for that accounting; in court, they argue that the accounting is impossible. . . . Instead of an accounting, they want lots of money."

This stance, fairly new in the history of the lawsuit, infuriates the plaintiffs. What they object to, they say, is the Interior Department's taking money from already underfunded Indian health and education programs to fund its defense against the lawsuit. And they say Interior is basing its accounting on records that date only since 1985.

Interior officials say the Indians keep shifting their figures on the amount of money the government owes them -- from more than $100 billion at one point to, most recently, $27.5 billion (the figure the plaintiffs announced in June as acceptable to settle the case). But the plaintiffs say their figure has changed because as court testimony from Interior officials and court findings have shown, no one can be sure what is owed to trust holders.

Last week the plaintiffs pleaded with the judge to keep computers holding trust data shut down. They argued that the information remained as vulnerable to hackers as it was four years ago, when Lamberth ordered a shutdown of all computers in the Interior Department after an Inspector General's report showed that a computer hacker could move or change trust account balances with ease. The judge has not yet ruled on the matter.

From the start of the Indian trusts, accounting has been a problem. Allotment holders would receive Treasury checks with no additional paperwork. They were not told who leased their land, what it was used for, how much was used, or the price the company paid for obtaining the land's oil, timber or other resource. Allottees complained that they received checks -- sometimes for as little as 2 cents -- that the government did not explain. Many say that practice continues.

Recent history has also revealed problems.

In 1999, Treasury's financial management office destroyed 162 boxes of trust documents as Interior officials were telling the court they were searching for the records. A court-appointed master assigned to oversee the preservation production of documents found that Treasury violated ethical rules for not reporting the documents' destruction for 16 months. He called the trust system "clearly out of control."

In a ruling in 1999 ordering Interior to make a full accounting of the trust, Lamberth declared that "it would be difficult to find a more historically mismanaged federal program."

In 2001, after a 19-month investigation, a federal monitor assigned to provide the judge with assessments of Interior's representations called the department's efforts to provide an accounting in compliance with his order a sham marked by unrealistic responses and evasion.

Last month, when McCain and Dorgan introduced their bill on the Senate floor, Dorgan said: "The Cobell litigation has brought to light a very disturbing problem: The federal government may not know the proper balances of these accounts nor have sufficient documentation to determine the value of these accounts."

The government acknowledges one failure of recordkeeping. As original allotment holders died and their land was inherited by more and more heirs, the paperwork involved in keeping track of beneficiaries proved onerous. Nearly 50,000 active accounts, with a balance of nearly $74 million, languish because, the government says, the beneficiaries' "whereabouts are unknown."

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Cobell, a banker and accountant, said her husband began receiving trust checks a year ago with no documentation. "He doesn't know what they're for," she said, "but he was told they go back from three years ago. He was one of those 'whereabouts unknown,' though we've lived here forever."

Interior has appealed every major ruling in the case. Last week, it appealed Lamberth's July 12 order, in which he ordered Interior to include notices in its correspondence with Indians whose land the government holds in trust, warning them that the government's information may not be credible. Interior was issued a stay pending a ruling next month.

FBI/DEA/ATF/USMS:

Compton To Crack Down On Gangs, Officials Tell Forum (LAT)

By Megan Garvey

The Los Angeles Times, August 5, 2005

Compton officials — joined by an array of community activists and religious leaders — announced Thursday that they plan to seek gang injunctions and start offering rewards of $500 or more for information leading to arrests and convictions, measures intended to help stem this year's rapidly rising homicide count.

Addressing a standing-room-only crowd in the City Council chambers, Mayor Eric J. Perrodin said his community would not tolerate continued violence.

"We are putting criminals and gang members on notice: It's time to pack your bags. Crime is not accepted in Compton," he said.

He told residents that the city also was planning to aggressively pursue abatement of drug houses and rundown properties, and would renew its focus on gang intervention programs.

The meeting was held the night after Michael Buchanan, 18, of Los Angeles was shot to death about 11 p.m. as he walked to his parked car on Evers Avenue.

Buchanan's death was the third slaying in the last week and the city's 43rd this year — more than all of last year. At least another four killings have occurred in unincorporated areas within blocks of the city limits.

At the current pace, Compton's homicide rate would far surpass recent highs in major American cities.

The killings, which have come alongside a rise in gang-related shootings, have residents fearful.

Thursday night, people filled every seat. Some stood in the back or sat on steps or benches outside and listened to the meeting over loudspeakers.

The panel, seated at tables that stretched the width of the room, was made up of City Council members; officials from the Los Angeles County Sheriff's Department, which patrols Compton; representatives of Los Angeles County Superior Court; nonprofit organizers; pastors; a priest; and ministers from the Nation of Islam.

"We've buried so many children, we've just buried so many children," said Father Stan Bosch, a pastor at Our Lady of Victory/Sacred Heart Church in Compton, his voice trembling. "But I believe we are the hope."

Speaking of racial tensions in the city of 96,000, where Latinos now outnumber African Americans, Bosch said the community needed to reach across ethnic barriers. "I really believe there is healing when we let those boundaries drop and we know each other by name — not by gang name, but by Bobby and Billy and Pedro."

The forum, called Making Neighborhoods Safer, was billed as a chance for community members to offer ideas to prevent and solve crime.

The variety of questions underscored a long list of problems troubling Compton residents, including gang violence, prostitution, graffiti and a lack of guidance or jobs for young people.

But it also revealed many long-standing tensions between the community and law enforcement: the desire of residents to see criminals arrested and prosecuted, the fear of possible police abuse and the hope that their young people can instead be steered in the right direction.

Minister Tony Muhammad, the West Coast representative of the Nation of Islam, expressed concerns about any get-tough approach to crime, cautioning that many young black men wrongly fall into broad concepts of what gang members look like.

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He also questioned deputies' difficulties in solving homicides in the community, given that fewer than a dozen arrests have been made in connection with this year's slayings.

"Let an officer get killed, they catch the shooter in eight hours," Muhammad said. "But a brown or black brother get killed and you can't find anyone who'd talk to you? Watch out, Compton."

Other speakers said that their focus now lay primarily with the victims and that strong action was needed.

"We've got to stop playing with these people and get them off the street," said Royce Esters, president of the civil rights group National Assn. for Equal Justice in America.

"They're killing our sons and daughters. We've got to stop fooling around. I'm saying we need a multitask force, we need the FBI, ATF, the DEA to come in here," Esters said.

Capt. Eric Hamilton, who heads the Compton sheriff's station, said that some of those agencies were at work in the community and that he was open to more partnerships.

But he said that such agencies had come into Compton before without lasting change.

"In my opinion the key is the folks who are out here," he said, gesturing to the audience. "What are you going to do? It's terrible that we've had these murders, terrible. But if you're just here for the dialogue, then it's just an exercise."

The Cancer In Compton (LAT)

The Los Angeles Times, August 5, 2005

The city of Compton has a chance this year to return to the top of the charts — but not with the rap songs that once put the city on the map. With 42 homicides so far in 2005, Compton is on a pace to displace New Orleans as the nation's murder capital.

As always, condemnation of the violence is widespread, as is agreement that something must be done to stop it. And as always, the hard question is what exactly that something is.

At its current pace, Compton, which has about 96,000 residents, would have a murder rate of about 7.5 per 10,000 residents this year. (In New Orleans, there were about 5.6 homicides last year for every 10,000 residents.) The Sheriff's Department, which has been under contract to police Compton since its municipal force was disbanded five years ago, attributes the rise to increased activity among Compton's numerous gangs. Authorities also worry that violence in Compton could spread to many of the surrounding neighborhoods of Los Angeles after a hard-won decrease in violent crime throughout the city.

It's clear that Compton needs more police; it has about 70 officers patrolling an area roughly the size of the LAPD's Southeast Division, which has triple the force. Yet Compton, which spends more than $12 million on its Sheriff's Department contract, is cash-strapped, and federal grants for public safety are increasingly scarce. Moreover, even if the city were to receive more money, Compton's police would still have to win over residents worried about their professionalism. It was only three months ago that deputies shot 120 times at an unarmed suspect in a residential neighborhood.

As justified as their suspicions may be, however, the people of Compton must also realize that a larger force, with better-trained officers, would make their community safer. All parties in Compton — including the police and the City Council — should resist the temptation to bicker and be prepared to work together.

The Sheriff's Department should work harder to recruit deputies who are Compton residents or have a vested interest in the community. The community should be more willing to cooperate with law enforcement in helping to solve crimes.

Mutual trust between the police and the community is key to successful gang prevention and mentorship programs similar to those in Inglewood and East Palo Alto.

First Lady Laura Bush has spoken eloquently about the importance of giving teenagers, especially boys, more hope and greater opportunities. Her focus on the problem is refreshing, but the administration must go beyond rhetoric. Even a modest increase in federal and state gang-prevention programs would help cities such as Compton become safer and better places to live.

It is the larger community — and by that we mean the city and the region — that must acknowledge that gang violence is not merely a local problem but a societal one.

School Employees Charged In Drug Case (WT)

By Jerry Seper

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The Washington Times, August 5, 2005

A federal grand jury in Miami has returned an 84-count indictment charging 29 persons, mostly Miami-Dade County Public Schools employees, with conspiracy to possess the pain killer OxyContin with the intent to distribute and to obtain the drug with counterfeit or fraudulent prescriptions.

Named in the indictment are a doctor from Miami-Dade County, five county school bus drivers, 13 county school bus attendants, two county school custodians, a cook, a county school cashier and a former county school bus driver. Five unspecified persons also were indicted.

U.S. Drug Enforcement Administration (DEA) spokesman Garrison K. Courtney said the indictment also includes charges of health care fraud and conspiracy to commit health care fraud.

"The DEA is committed to working with our local counterparts in combating the drug dealers who stalk this community and endanger the welfare and safety of our children," said DEA agent Mark R. Trouville, who heads the agency's Miami field division.

"We will continue to make federal resources available for Miami-Dade County and other communities to help curb the flow of drugs in their neighborhoods and to protect our children," he said. "DEA has zero tolerance for drug traffickers who work with or around our children."

According to the indictment, handed up July 29 but made public yesterday, beginning in January 2003, three of the suspects recruited others, some of whom were Miami-Dade schools employees, to participate in the conspiracy by providing their insurance identification information.

The indictment says some obtained prescriptions for OxyContin that were medically unnecessary from a co-defendant who is a physician. At a later date, some of those charged forged and counterfeited prescriptions for OxyContin using a variety of insurance identification information.

Some of those charged, the indictment says, presented the forged and counterfeit prescriptions at pharmacies in Miami-Dade and Broward counties to obtain OxyContin. They are accused of selling the filled prescriptions for cash.

In addition, the indictment says, others submitted insurance claims to UnitedHealth Group, fraudulently claiming reimbursement for the cost of the prescriptions. It says nearly 100 forged, counterfeit or medically unnecessary prescriptions for the prescription OxyContin -- accounting for thousands of OxyContin tablets -- were presented to the pharmacies.

"Public school employees hold special positions of trust," said U.S. Attorney R. Alexander Acosta, whose office will prosecute the case. "They serve as role models for our children. Their actions, as much as their words, teach what is right and what is wrong.

"There is no evidence here that these individuals distributed controlled substances to children in their care. These school employees are charged, however, with violating federal drug laws, and that is something that we in Dade County cannot tolerate in our school employees."

Mr. Courtney said each of those charged faces 20 years in prison and $1 million fines, if convicted.

29 Charged In OxyContin Ring At School (FINDLAW/AP)

By Curt Anderson, Associated Press Writer

Find Law, August 5, 2005

(AP) - MIAMI-School bus drivers, attendants and other co-workers were charged by federal prosecutors Thursday with taking part in an illegal drug ring involving the powerful painkiller OxyContin.

According to the indictment, Miami-Dade school employees were among 29 people who used more than 100 forged or fraudulent prescriptions to obtain thousands of tablets of OxyContin from South Florida pharmacies.

No teachers were involved, and there was no evidence of drug sales to children, U.S. Attorney R. Alexander Acosta said.

The school workers were recruited to use their health-insurance cards as part of the scheme, prosecutors said.

Of those charged in the grand jury indictment, five are Miami-Dade school bus drivers, 13 are school bus attendants and one is a former school bus driver now driving a city bus. Two school custodians, a cook and a cashier were also charged, along with a Miami doctor and five other people.

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Miami-Dade school officials had no immediate comment on the 84-count indictment, which came days before classes begin Monday.

Those charged face up to 20 years in prison and a $1 million fine for each count of possession of OxyContin with intent to distribute, as well as additional prison time for fraud charges, prosecutors said.

OxyContin is legal if prescribed for treatment of severe chronic pain. But it has become an increasing problem on the black market because crushing the time-release tablets and snorting or injecting the powder yields an immediate, heroin-like high. Hundreds of deaths are blamed each year on overdoses.

On the Net:

http://www.dadeschools.net

22 School Employees Arrested In OxyContin Scheme (MH)

By Luisa Yanez

The Miami Herald, August 5, 2005

Miami-Dade School bus drivers, custodians, a cook and a cashier were among the 29 people arrested today for taking part in a scheme to sell the powerful painkiller OxyContin on the street, the U.S. Attorney's Office announced.

"We have no evidence that children or teachers were involved in this scheme," said U.S. Attorney R. Alexander Acosta. ``But these are not the type of people we want around our children."

Joseph Garcia, a spokesman for Miami-Dade schools, said the district learned of the arrests, and the nearly two-year investigation, today. Monday is the first day of school in Miami-Dade County.

"First, we're shocked, then we're grateful that these people were arrested before the start of the school year," Garcia said.

He said disciplinary action will begin immediately against the 22 school employees.

Of those charged in the early morning round-up, five were school bus drivers, 13 were bus attendants, two were custodians, one cook and one a school cashier, the U.S. Attorney's Office said. A Miami doctor and five others were also charged.

The scheme worked something like this:

The school employees were recruited to go to a doctor and use their name and insurance to purchase prescriptions for OxyContin. The doctor was on the take.

The employees then sold the prescriptions to a contact, who then resold the tablets to a street dealer. The tablets were sold on the street for as much as $80 apiece.

OxyContin is legal if prescribed for treatment of chronic pain.

Miami-Dade police the Drug Enforcement Administration and the Florida Department of Law Enforcement took part in the investigation.

22 Miami-Dade School Workers Face Charges For Selling Oxycodone (FLSUNSEN)

By Ihosvani Rodriguez, Miami Bureau

South Florida Sun-Sentinel, August 5, 2005

Federal agents on Thursday rounded up 22 Miami-Dade County school system employees accused of being part of a prescription drug ring that illegally obtained and sold thousands of tablets of the painkiller oxycodone since 2003.

Officials found no evidence the school employees sold the drug to students or used the highly addictive painkillers at work. The employees included five bus drivers, 13 bus attendants, a cook, two custodians and a cashier. A Miami-Dade transit bus driver who was arrested worked previously as a school bus driver.

Authorities unsealed a federal grand jury indictment on Thursday that contained a total of 84 counts against 29 people. The lengthy list of charges includes conspiracy to distribute oxycodone and committing health-care fraud.

Among those charged was a Miami-Dade doctor arrested last year for writing illegal prescriptions for the drug commonly known by its commercial name, OxyContin. Prosecutors said no teachers were involved in the plot.

Investigators said they rushed to make the arrests before next week's start of the school year and expect more arrests to follow, U.S. Attorney R. Alexander Acosta said.

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"We needed to take action quickly," Acosta said.

Officials with Miami Dade Schools said they plan to place the employees on administrative leave and replace them before next week.

Schools spokesman Joseph Garcia said there was no indication the bus drivers were under the influence of drugs while working. He said drivers must take a drug test before employment and after an accident and also submit to random drug tests.

A central figure in the case was Dr. Ronald E. Harris, prosecutors said. Authorities identified Harris last year as Florida's top prescriber of OxyContin to Medicaid patients. He was charged last year with drug trafficking after selling undercover police officers 10 OxyContin prescriptions without proof of any medical need. He is awaiting trial.

Officials with the U.S. Drug Enforcement Administration said Harris' arrest prompted their investigation of the school system employees.

Investigators said the operation was traced back to January 2003, when Harris began selling prescriptions to Ian Stuart and Johnny Blocker, identified as the ring's leaders. Blocker, a bus attendant, paid colleagues for their school employee insurance information to obtain and pay for the prescription drugs, authorities said.

The ringleaders paid school employees up to $100 per prescription, and up to $400 if they went to the pharmacy to obtain the pills personally, said the DEA's special agent-in-charge, Mark Trouville. Most of the prescriptions were filled in the Hollywood and Hallandale areas. Employees then sold the pills to a street dealer, who resold them for as much as $80 a pill.

Altogether, more than 100 forged or medically unnecessary prescriptions for OxyContin were presented to pharmacies, the indictment says. The school system's insurance company, UnitedHealth Group, doled out more than $50,000 to pay for the drugs, according to the indictment.

OxyContin, prescribed for chronic pain, has become a huge force in the black market in recent years. Abusers usually crush the tablets and either snort or inject the powder for an immediate, heroin-like high.

A report released in June by the Florida Medical Examiners Commission said 340 Floridians died from oxcodone overdoses in 2004. The figures include 48 deaths in Broward, 35 in Palm Beach County and 11 in Miami-Dade.

School Workers Charged In Drug Ring Bust (CNN.com)

CNN.com, August 5, 2005

MIAMI (CNN) -- Federal officials on Thursday arrested 29 people in the Miami-Dade County area, including a number of low-level school employees, and charged them with attempting to obtain the narcotic OxyContin to distribute it.

Among the school employees arrested were five bus drivers, 13 bus attendants, two custodians, a cook and a cashier.

The others include a former school bus driver who now is a Miami-Dade County Transit bus driver, a doctor, a sheet metal worker and four others.

"There is no evidence here that these individuals distributed controlled substances to children in their care," said R. Alexander Acosta, U.S. attorney for the Southern District of Florida. "These school employees are charged, however, with violating federal drug laws, and that is something that we in Dade County cannot tolerate in our school employees."

OxyContin is a form of the narcotic analgesic oxycodone.

In an 84-count indictment, a federal grand jury in Miami charged them with "conspiracy to possess oxycodone with the intent to distribute and to obtain oxycodone with counterfeited or fraudulent prescriptions, health care fraud and conspiracy to commit health care fraud."

In all, about 100 phony prescriptions were filled at 50 pharmacies in Miami-Dade and Broward counties, representing thousands of pills believed to have been sold on the street, said Alicia Valle, a spokeswoman for the U.S. attorney in Miami.

She said none of the pills, which one defendant claimed to have sold for as much as $34 apiece, has been confiscated.

Officials allege that, beginning around January 2003, three defendants recruited the others to join in the conspiracy by providing their insurance identification information.

"At a later date, some defendants forged and counterfeited prescriptions for OxyContin using their own and their co-defendants' insurance identification information," officials said.

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Defendants submitted insurance claims to United Health Group, seeking reimbursement for the drug's cost to a tune of about $50,000, the indictment alleges.

One defendant, a Miami doctor identified as Ronald Eugene Harris, has been charged with writing prescriptions that were medically unnecessary.

Authorities say he dropped out of the scheme, and the other defendants changed their modus operandi, stealing prescriptions from another unnamed physician and forging them. The second doctor has not been charged.

Harris last year voluntarily relinquished his license and agreed never to reapply for it, according to the Web site of the Florida Department of Health.

The accused could face maximum penalties of up to 20 years in prison and a $1 million fine for each count of possession with intent to distribute.

The narcotic has been blamed for 340 deaths last year in Florida, 11 of them in Miami.

Selig Renews Call For Tougher Rule On Steroids Users (NYT)

By Duff Wilson

The New York Times, August 5, 2005

Baseball Commissioner Bud Selig renewed his call yesterday for tougher penalties for players caught using steroids and for independent administration of the game's drug-testing program.

At the same time, a leader of the House Committee on Government Reform, which held nationally televised hearings earlier this year about the issue of steroid use, pressed for an outside investigation into the history of the problem in baseball.

Selig's statement, in a news release, appeared to be designed to put pressure on the Major League Baseball Players Association, which had balked at his proposal in April for a "three-strikes-and-you're-out" steroids policy. Selig made his recommendation in a letter on April 25 to Donald Fehr, executive director of the union.

Fehr had said that the existing program, established in January when the union agreed to reopen the collective bargaining agreement, needed time to work. He said that further changes should be negotiated in the collective bargaining process.

He had no comment on Selig's statement yesterday. Fehr has been traveling around the country to meet with players to talk about a variety of issues, including Selig's proposal. Union officials are expected to meet with management before the end of the month.

This week's suspension of Rafael Palmeiro, one of four players with more than 3,000 hits and 500 home runs, has allowed Selig to renew his push. Palmeiro tested positive for stanozolol, a powerful, short-acting steroid, according to a person in baseball with direct knowledge of the test result. That person did not want to be identified because of confidentiality provisions in the testing policy.

In March, Palmeiro testified to Congress that he had never used steroids. On Wednesday, Palmeiro said through his agent that there was another side to this story that he would tell soon.

Henry A. Waxman of California, the ranking Democrat on the House committee, endorsed Selig's call for tougher penalties and independent administration of testing.

"However, I'm disappointed that he isn't trying to find out how this scandal was allowed to happen," Waxman said in a telephone interview. "I think we need a thorough, broad and independent investigation so that we can restore baseball's credibility."

Selig has been considering an in-depth investigation, like the Dowd Report on Pete Rose and gambling in baseball, to try to get to the bottom of the steroids scandal. Congressional leaders indicated in April that they would defer their own plans for an examination of past steroid use if the leaders of the game appointed an independent investigator.

"I'm waiting to hear back from them on that," Waxman said. "I think the Palmeiro matter has even made a greater urgency for this to happen."

Richard Levin, a spokesman for Selig, said yesterday that he had not heard of any progress in the possibility of baseball investigating past steroid use. "The last I heard it was put on hold, and I haven't heard anything since then," Levin said.

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Philip Schiliro, chief of staff for Waxman and the Democrats on the committee, said, "As far as we understood, baseball is continuing to think about it, the union is continuing to think about it, and Congressman Waxman's view is that right now is the time to do it."

Waxman said he would still consider having Congressional staff members investigate the matter if baseball leaders failed to do so. But he added that he had not talked about the subject this week with Tom Davis, Republican of Virginia and chairman of the committee. A spokesman for Davis said he would not have any comment yesterday.

Such an investigation could determine whether some of the game's most hallowed records, including the single-season home run mark set by Mark McGwire and broken by Barry Bonds, were tainted.

Anabolic steroids enhance size, strength, endurance and recovery. Their use is illegal under baseball rules and federal law. Yesterday, the Baltimore Orioles, at Palmeiro's request, canceled a ceremony planned for Aug. 14 to honor him for reaching 3,000 career hits.

Waxman pointed to an interview in The Philadelphia Inquirer yesterday in which Joe Morgan, a highly respected Hall of Famer and an ESPN announcer, blasted steroid users and said the game had tolerated and profited from the abuses during the long-ball era after the 1994 strike. He dismissed the idea that modern power-hitting records could be designated with a footnote about drug use.

"There's not a big enough asterisk to handle all of this," Morgan was quoted as saying, adding, "If you are going to let people into the Hall who have done steroids, then you have to let Pete Rose in, because this has hurt baseball more than what Pete did."

Selig is proposing discipline of 50 games for a first offense, 100 games for a second offense and a lifetime ban for a third offense. The same penalties are proposed for all professional sports by the Drug Free Sports Act, which passed the House Committee on Energy and Commerce on June 29 and awaits further action by Congress. Under the current policy, a player is suspended 10 days for a first offense, 30 for a second, 60 for a third and a year for a fourth. The penalty for a fifth offense could be a lifetime ban.

Eight major league players have been suspended for steroid use this year.

"While I believe the suspensions show that the current program is working, they underscore the need for an even tougher policy," Selig said in his statement yesterday. "There is a deeper issue confronting baseball. It is the integrity of the game and that transcends the viability of the current program."

The statement also said baseball should turn over the administration of its program to an independent authority.

"The intensity that I feel about this issue is greater today than it has ever been," the statement said, "and the time is past due for the Players Association to accept my proposal to eliminate steroids and other performance-enhancing substances from our game."

Selig Urges Acceptance Of Tougher Steroids Policy (USAT)

By Hal Bodley

USA Today, August 5, 2005

Commissioner Bud Selig on Thursday used the high-profile 10-day suspension of Baltimore Orioles first baseman Rafael Palmeiro this week to urge the players union to accept his April 25 proposal calling for a strong steroids testing program.

Selig said in a statement he is saddened by this week's violations — Seattle pitcher Ryan Franklin was also suspended for 10 days — "but they underscore the need for an even tougher policy. There is a deeper issue confronting baseball. It is the integrity of the game and that transcends the viability of the current program."

Palmeiro, one of only four players to reach 3,000 hits and 500 home runs, was suspended on Monday after testing positive for the powerful steroid stanozolol, a baseball person familiar with the process told USA TODAY. Another person familiar with the testing program said the test took place in the second week of May.

Stanozolol, known by its brand name Winstrol, is a strength-building steroid that can be ingested or injected, but is not available in over-the-counter supplements.

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Selig, in Thursday's statement, said "there exists some doubt in the public sector about our sincerity in eliminating steroids from the game. That is wrong. We must create an understanding everywhere that when we say we need to rid the game of steroids, we mean it.

"The best way is to put in place the program that I proposed to the Players Association more than three months ago. We must increase the levels of discipline to 50 games for a first offense, 100 games for a second and a lifetime ban for a third. And, probably most important, we must turn over the administration of our program to an independent authority to, once and for all, end the debate about the transparency of our policy.

"The intensity that I feel about this issue is greater today than it has ever been and the time is past due for the Players Association to accept my proposal to eliminate steroids and other performance-enhancing substances from our game."

Union chief Don Fehr, who has been polling major leaguers about Selig's proposal, has yet to respond publicly to the commissioner's request.

Selig Calls For Stricter Tests (LAT)

By Tim Brown

The Los Angeles Times, August 5, 2005

Commissioner Bud Selig called again for stricter drug testing in baseball Thursday, attempting to pressure the players' union into acceding to his plan for a three-strikes-and-you're-out policy.

In the wake of this week's high-profile suspensions of Baltimore Oriole first baseman Rafael Palmeiro and Seattle Mariner pitcher Ryan Franklin, the commissioner's office issued a three-paragraph release that read, in part:

"The intensity that I feel about this issue is greater today than it has ever been and the time is past due for the Players' Association to accept my proposal to eliminate steroids and other performance-enhancing substances from our game."

Union chief Don Fehr has been meeting with players and team player representatives for much of the summer, in part to discuss the possibility of a new policy.

The collective-bargaining agreement expires after the 2006 season but the joint drug-prevention and treatment program runs through 2008.

Shortly after a March congressional hearing at which the current policy was roundly criticized as too lenient, Selig said he would champion a program in which the progression of positive tests would result in suspensions of 50 games, 100 games and a lifetime ban.

A first positive under the existing plan, which was instituted only five months ago, results in a 10-day suspension. Eight major leaguers have been suspended, as have 78 minor leaguers, who serve a 15-game penalty for a first-time offense.

Selig did not mention Palmeiro specifically. On Thursday, the Orioles announced that a pregame ceremony scheduled for Aug. 14 celebrating his 3,000th hit would not be held, per Palmeiro's request.

Joe Foss, Oriole vice chairman and chief operating officer, said in a statement, "Given the circumstances, the club is in agreement with Rafael's wish to not move forward with the ceremonies."

The prominence of Palmeiro, who recently joined Hank Aaron, Willie Mays and Eddie Murray as the only players to have at least 500 home runs and 3,000 hits, has again drawn attention to baseball's policy, however. Many congressional leaders, including members of the House Government Reform Committee, have demanded a more stringent and transparent policy, one that more closely follows the Olympic model.

Congress also is investigating Palmeiro, who tested positive for the steroid stanolozol approximately two months after testifying before the Government Reform Committee that he had never used steroids.

"I am saddened by the recent announcements of violations of baseball's drug program," the statement from Selig read. "Back in March, I said that everyone who tests positive will be suspended and that has come to pass. While I believe the suspensions show that the current program is working, they underscore the need for an even tougher policy. There is a deeper issue confronting baseball. It is the integrity of the game and that transcends the viability of the current program.

"There exists some doubt in the public sector about our sincerity in eliminating steroids from the game. That is wrong. We must create an understanding everywhere that when we say we need to rid the game of steroids, we mean it. The best way is to

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put in place the program that I proposed to the Players' Association more than three months ago. We must increase the levels of discipline to 50 games for a first offense, 100 games for a second and a lifetime ban for a third. And, probably most important, we must turn over the administration of our program to an independent authority to, once and for all, end the debate about the transparency of our policy."

Baseball, Palmeiro At Odds (BSUN)

By Jeff Barker

The Baltimore Sun, August 5, 2005

Major League Baseball and Rafael Palmeiro continued to snipe at each other over privacy issues in his steroid case Thursday, making it hard to believe it has been only three weeks since baseball bought a congratulatory newspaper ad to mark the Oriole's 3,000th hit.

Baseball seems embarrassed not only that Palmeiro failed a steroid test, but that his abbreviated explanation - that the drug use was accidental - has quickly become a national punch line.

And it has.

"You can't watch a stand-up comedian without hearing about it," said popular culture expert Robert J. Thompson of Syracuse University. "In the court of public culture, it's automatically-assumed guilt."

The baseball commissioner's office, which has been distancing itself from Palmeiro and his defense, Thursday issued a statement saying the recent steroid-related suspensions of Palmeiro and others show that the sport's drug program needs more teeth.

"While I believe the suspensions show that the current program is working, they underscore the need for an even tougher policy," commissioner Bud Selig said. "There is a deeper issue confronting baseball. It is the integrity of the game, and that transcends the viability of the current program."

Selig has been pushing the Major League Baseball Players Association -so far unsuccessfully -to agree to a new steroids regimen that would include a suspension of 50 games for a first violation, 100 for a second and a lifetime ban for a third offense.

Under the current system, Palmeiro received a suspension of 10 days for an initial violation.

The baseball players union has issues of its own. The union is concerned that baseball, as part of its anti-steroids push, may have violated Palmeiro's privacy rights by leaking information to the media about when Palmeiro failed his drug test and which steroid - it was stanozolol - was uncovered.

Palmeiro's agent, Arn Tellem, has expressed a similar concern, accusing baseball of breaking confidentiality rules and undermining "the integrity" of the drug testing program.

Thursday, baseball denied breaking any rules.

"No information about this test became public until after Mr. Palmeiro's grievance was fully litigated and decided," Rob Manfred, Major League Baseball executive vice president, said in an e-mailed response to a Sun inquiry. "After the decision, Baseball put out its standard press release and said nothing more. Only the player has been talking about the underlying facts publicly," Manfred said.

Tellem offered no immediate reply. But his office e-mailed a copy of a New York Times article from Wednesday identifying the banned substance found in Palmeiro's system. The newspaper attributed the information to "a person in baseball."

The clear suggestion from Tellem's office was that baseball was behind the leak.

Baseball spokesman Richard Levin has said he doesn't know where the disclosures originated.

Among those interested in the leaks is Rep. Henry Waxman of California, the top-ranking Democrat on the House Government Reform Committee, which is examining Palmeiro's case.

Waxman said Thursday that the committee would look into the leaks as it gathered facts broadly in Palmeiro's case.

Palmeiro knew about his failed drug test as he chased his 3,000th hit last month. Baseball took out a full-page ad in USA Today to congratulate him.

On March 17, Palmeiro told the congressional committee he never used steroids. He also asked to join the Zero Tolerance Roundtable, an advisory group comprising steroid experts and representatives from various sports.

"You have to realize he asked us to go on it [the roundtable]. He sent in a request," Waxman said. "I guess his idea of zero tolerance is a little more tolerant than we expected it to be."

Palmeiro Calls Off 3,000th Hit Ceremony (BSUN)

The Baltimore Sun, August 5, 2005

The Orioles announced today that the scheduled pre-game ceremonies on Aug. 14 to honor Rafael Palmeiro's 3,000th hit will not be held at the request of Palmeiro.

"Through his agent, Rafael has specifically requested that the planned event not be held," said Joe Foss, Orioles vice chairman and chief operating officer. "Given the circumstances, the club is in agreement with Rafael's wish to not move forward with the ceremonies."

Palmeiro is serving a 10-day suspension for testing positive for steroids. The Orioles' first baseman is also being investigated for perjury after he denied using steroids in his testimony before a House committee.

Palmeiro can return to the Orioles' lineup on Aug. 11.

Steroids In Baseball: The Palmeiro Furor (5 Letters) (NYT)

The New York Times, August 5, 2005

To the Editor:

Re "Baseball Bars Longtime Star for Steroid Use" (front page, Aug. 2):

If Bud Selig, the baseball commissioner, wants to stop or seriously discourage the use of steroids, the solution is simple. Once a player has tested positive for steroids, that player's records should be erased from the annals of baseball and the opportunity for that player to enter the Hall of Fame should be denied.

Rafael Palmeiro's 10-day suspension is a joke. How much of a deterrent to use steroids is a 10-day suspension? Selig, the players and the fans alike must recognize that cheating is not acceptable and definitely must not be condoned, no matter what the excuse may be.

James E. Mangino

North Haven, Conn., Aug. 3, 2005 •

To the Editor:

If baseball wanted to make a strong statement about its integrity and its values, it would immediately install Roger Maris in the Hall of Fame.

By doing so, baseball would be saying: "Here is a man who broke a sacred baseball record that stood for 34 years before he broke it, and that then stood for 37 years until it was broken, if indeed it was legitimately broken. He did it with nothing but a bat and his God-given talents."

What a perfect way for baseball to show what sort of man and performance it reveres!

Robert Lukas

Stony Point, N.Y., Aug. 2, 2005 •

To the Editor:

The only good thing to come out of the baseball steroid fiasco is the thorough embarrassment suffered by the members of Congress who inserted themselves into this controversy.

There is no federal question here, yet sanctimonious politicians held hearings to give Rafael Palmeiro a platform to heroically deny steroid use, to the chirping approval of Tom Davis and Henry Waxman.

Now their faces are covered with egg, yet they still insist on grasping onto the coattails of popular opinion. They should be laughed right out of the hearing room.

In doing bad, Palmeiro did some good.

Larry Maxcy

Yucca Valley, Calif., Aug. 2, 2005 •

To the Editor:

DOJ_NMG_0002132

Murray Chass ("Stupidity and Steroids Come in Many Forms," On Baseball column, Aug. 3) misses the broader point on the steroids issue. Due diligence, not zealotry, is what motivates the actions of Congress. The current policy requires a minimum of only one mandatory random drug test and possible additional testing per year.

Studies show that more than half a million children nationwide have admitted to using steroids. That's a real problem that, if not addressed immediately, will only continue to grow.

The current testing system does not guarantee that we fully understand the scope of the problem. The public is not notified of what drug an athlete tests positive for. Some drugs are not found in supplements, and there can be no legitimate excuse of unknowing ingestion.

Major League Baseball's testing process is secretive, and the penalties are not stemming the tide of steroid use.

If baseball wants to regain credibility, the players association should accept the recommendations that Commissioner Bud Selig has proposed, as well as allow an independent entity to conduct testing and provide for full transparency.

John Sweeney
Member of Congress
20th District, N.Y.
Washington, Aug. 3, 2005 •

To the Editor:

Re "Palmeiro Case Centers on Popular Drug" (Sports pages, Aug. 3):

That professional athletes like Rafael Palmeiro are allegedly taking illegal performance-enhancing steroids is regrettable. But to continually hint without proof that dietary supplements are the cause of failed drug screens serves no one.

If there is verifiable information that a dietary supplement contains a substance that is not listed on the label, as some have suggested, the Food and Drug Administration can and should remove that product from the marketplace.

Professional athletes receive training advice from a battery of experts, including physicians and nutritionists. They and their handlers know what substances, including dietary supplements, they can and cannot take without risking their eligibility to compete.

David Seckman
Exec. Dir. and Chief Executive
National Nutritional Foods Assn.
Washington, Aug. 3, 2005

Steroids Guesswork Raises Unintentional Questions (BSUN)

By Peter Schmuck
The Baltimore Sun, August 5, 2005

ANAHEIM, Calif. -- There is an empty locker between Sammy Sosa and Miguel Tejada in the visitors clubhouse at Angel Stadium, and it shouldn't be too difficult to guess whose nameplate was supposed to be above it.

Save the real guessing for Major League Baseball's steroid policy, which was supposed to restore confidence in the sport in the wake of the BALCO scandal and a string of other troubling revelations, but -- with this latest shocking development -- has only generated more questions about the supposed transparency of the upgraded testing program.

The new system does not require baseball officials to identify the offending substance, so we are left to wait for the tawdry details to leak out piecemeal, which is what happened late last night when several publications, citing unnamed sources, reported Rafael Palmeiro's performance-enhancing drug of choice was stanozolol -- a potent steroid that experts doubt could have been ingested accidentally.

It was another startling body blow for fans who still wanted to believe that Palmeiro was somehow the victim a cruel mistake, but those reports remain unconfirmed and the fact that they are allowed to float around undisputed further diminishes the credibility of whole setup.

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Orioles second baseman Brian Roberts pondered the mysteries of the situation yesterday afternoon and summed up what a lot of players were thinking on the day after Palmeiro's impressive career was soiled by the announcement that he tested positive for a banned substance.

"With as much as we know today, you can look at it and say, 'Who knows? Maybe that could have been me,'" Roberts said. "When you're not getting answers about what people are caught for, how do you know?"

It's a fair question.

Palmeiro and agent Arn Tellem hid behind a confidentiality agreement when they were asked on Monday's conference call what substance Palmeiro ingested, making it that much harder to believe his contention that whatever was in his system got there unintentionally. Now, apparently, we know why.

Roberts was not criticizing Palmeiro. Quite the contrary. He was explaining why he and his teammates remain supportive of their tainted teammate, even as the rest of the baseball world seems to be convinced that he's just another steroid cheat delivering the standard steroid cheat excuse.

"Until we start getting answers, I don't believe in accusing someone when I don't have a clue what the facts are," Roberts said. "I guess somebody has the answers, but we don't."

The new drug program does function under a veil of confidentiality, which is intended to protect the privacy of the player, but it defeats the purpose of the supposedly tougher anti-steroid measures if that veil also is used to provide cover for a player who wants to maintain his innocence in the face of a damning test result.

I'm not saying that player is Palmeiro, but the small mathematical possibility that he was the victim of some sort of supplement contamination or labeling mix-up got a lot smaller when people started throwing around the name of the steroid that sunk Olympic gold medal sprinter Ben Johnson in 1988.

Of course, a red flag already had been raised when Palmeiro declined to provide any information to bolster his claim that the steroid violation was unintentional.

"I would feel that he was being much more honest if he explained exactly what happened ... what did you take," said Hall of Famer Jim Palmer. "Major League Baseball and Raffy have a pact, but there is nothing that says the player can't say anything."

Tellem insisted Monday that all parties are bound by a confidentiality pledge, but it's hard to imagine that it would be in anyone's interest to deny a player the right to defend his good name.

"If you're a Hall of Fame player, it only takes a moment to damage your image," Palmer said. "If you took something accidentally, I think you would do anything you could to clarify the situation. I hope he does that. I hope he does it for baseball. I hope he does it for himself."

Baseball's war on performance-enhancing drugs cleared an important public relations hurdle when a superstar player finally tested positive and accepted his 10-game suspension, but wasn't the real goal of the anti-steroid crusade to create a transparent system that restored full public faith in the national pastime?

And if so, why did Monday's stunning announcement still leave us all guessing?

Baseball's 'Live-Player' Era (WSJ)

The Wall Street Journal, August 5, 2005

Did Rafael Palmeiro use steroids or didn't he? He said he didn't, and the President of the United States says he believes him.

Why should we care? We care because baseball is the "national pastime," and its meticulous rules, lore and personalities have become an ineffable metaphor for life itself in America. We admire magnificent lifetime achievements, and few are more magnificent than that of Baltimore Orioles first baseman Rafael Palmeiro's combined career total of 500 home runs and 3,000 base hits. If you know baseball, you know that is an astounding and rare human feat.

Baseball now has suspended Mr. Palmeiro for using a banned substance, widely believed to be a steroid, and an arbitrator ruled against his appeal. Mr. Palmeiro said it made "no sense" for him to take drugs in the same year he'd arrive at one of baseball's highest plateaus. George W. Bush, who as owner of the Texas Rangers knew Mr. Palmeiro, says, "I believe him."

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We don't know whom to believe. We do know that we have become fatigued by the steroids issue -- the debates between libertarians (who cares?) and purists (it ain't fair).

So here's a modest proposal. Baseball's fans know about the "dead-ball" era prior to 1920 and the "live-ball" era that followed. Whatever the much-debated cause, stats before and after were like night and day. So let's designate post-1995 the "live-player" era. Professional sports are now populated with chemicalized robots who are often fun to watch. But they are different than what went before. We can call this the "live-player" era, let the old heroes rest in peace and argue into the night about the new heroes like Mr. Palmeiro.

National Forest Yields Record Pot Busts (WCAU-TV)

WCAU-TV Philadelphia, August 4, 2005

Northern California forest officials say it's a title they're not proud of.

Video: Pictures From Record Pot Busts In Sequoia National Forest

Slideshow: Pot Grows In Sequoia National Forest

Last year, Sequoia National Forest topped the list for marijuana cultivation on U.S. Forest Service lands. And this year, they are on track to surpass that amount.

But officials have been taking steps to fight the problem, raiding several farms in the past three days.

Miles and miles of lush greenery surround the Sequoia National Forest. But hidden beneath these towering trees is a darker side full of these marijuana plants.

"It's becoming epidemic," says one person familiar with the problem. She says people have grown pot in the forest for more than 30 years.

But the problem has worsened over the last 10 years.

"They go to quite a bit...I mean they will hike everything up there. … I mean it's just amazing."

When officials say that this is big money, they are not kidding.

In fact about a pound of this stuff could yield about $4,000 in California and across the country you'd get up to twice as much.

Over the past week, county and forest authorities have recovered about 34,000 plants, bringing the total street value, to just under $136 million.

"We'd like to think we're making a dent," said one service official. "Obviously for every plant that comes out of the ground we're collecting, that's money that's not going to the drug cartel's hands."

But raids like this one aren't just about taking the drugs off the streets. It's also about helping the forest bounce back.

The pot that was seized was driven to an undisclosed location in the county, where it will be destroyed.

Bush Praises Colombia's Drug War (DMN)

By David Jackson, The Dallas Morning News

The Dallas Morning News, August 5, 2005

CRAWFORD, Texas – President Bush on Thursday lauded Colombia's efforts to fight drug cartels and armed guerrillas, though some observers said the Latin American ally has a long way to go.

Welcoming President Alvaro Uribe to his ranch in Crawford, Mr. Bush said the U.S. anti-drug initiative known as Plan Colombia "is producing results" that include lower levels of crime.

"Our two nations are working together to fight drug trafficking and terrorism," Mr. Bush said after the meeting, "and to promote security, democracy and the rule of law throughout the Americas."

Mr. Uribe, considered Mr. Bush's best friend in Latin America, largely for his vocal support of the Iraq war, thanked the U.S. for its help, including more than $4 billion in aid since 2000.

"Colombia faces a threat from terrorism, funded by drug trafficking," Mr. Uribe said. "This is a threat that can affect the entire neighborhood, that can affect our entire continent."

Colombia remains locked in a four-decade war with left-wing guerrillas seeking to topple the government. The government is also trying to dismantle right-wing paramilitary groups that are battling the leftists.

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The fighters on both the left and right are backed by the various drug cartels. And all the armed organizations, including government security forces, have been accused of human rights abuses.

"The problems are profound," said John Walsh, a senior associate with the Washington Office on Latin America, which analyzes the impact of foreign policy on human rights. "The war rages on. And the drug trafficking – and the extent to which it funds armed groups – is as strong as ever."

Mr. Uribe is seeking to eliminate the rightist paramilitary groups through an amnesty program called Justice and Peace. But that initiative has been criticized as going easy on people suspected of drug running and murder.

In a recent report, Human Rights Watch stated that, "while a genuine demobilization of paramilitaries is obviously an important objective, the process as currently structured is unlikely to achieve its aims. To the contrary, it is likely to compound the country's problems."

Mr. Bush did not mention the Justice and Peace plan during his remarks but said that Colombia is interested in protecting human rights. Before Mr. Uribe's visit, the State Department announced that Colombia is meeting the human rights standards necessary to continue receiving full funding of U.S. aid programs.

The two leaders seemed to get on well. Mr. Bush spoke Spanish to the Colombian press corps and later took his counterpart for a spin around the ranch in a presidential pickup. Asked if he had a driver's license, Mr. Bush replied: "Si."

As the two presidents met, analysts said there is little evidence of a slowdown in Colombian cartel production of cocaine and heroin.

A recent report by the White House Office of National Drug Control Policy said that, despite a major aerial spraying campaign, there were more acres of coca production at the end of 2004 than the year before.

Some analysts also pointed out that the American market maintains the Colombian cartels that finance the Colombian wars.

"Anybody who says drug consumption in the United States is a victimless crime hasn't been to Colombia," said Victor Hinojosa, who teaches international politics at Baylor University. "The only law drug traffickers don't break is the law of supply and demand."

Bush Welcomes Colombian Leader (Express-News)

By Gary Martin

The San Antonio Express-News, August 5, 2005

CRAWFORD — President Bush pledged continued U.S. aid to fight narco-terrorism in Colombia, telling President Alvaro Uribe on Thursday that success against cocaine traffickers was essential for democracy in the Americas.

"America will continue to stand with the people of Colombia," Bush told a news conference at his Prairie Chapel Ranch here.

And he vowed to push Congress to approve more funds "so Colombia can build on its progress and win its war against the narco-terrorists."

Uribe was in Texas to promote trade and seek additional U.S. aid. He met with Bush at the president's sprawling ranch where the two leaders discussed the violence that has ripped at the heart of the Andean nation for 41 years.

"We have made progress, and we are winning, but we have not won yet," Uribe said in Spanish after the leaders emerged from meetings during the one-day visit.

The news conference came on a day that saw additional U.S. troop fatalities in Iraq, and growing apprehension about the problem-plagued space shuttle Discovery's anticipated return from orbit.

Bush expressed confidence in NASA, just days after he talked with the crew and watched on television the dramatic repairs made to the craft.

"Like a lot of Americans, I was amazed at the procedures that took place," he said.

Terrorism was the theme of comments by Bush and Uribe on Colombia's continued fight with armed groups, some tied to narco-traffickers.

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And the president's support for the Colombian government, even without additional aid, is a significant gesture, said Phil McClean with the Center for Strategic and International Studies in Washington.

"It's to keep the momentum going," said McLean, a former deputy assistant secretary of state for South America who once served as chief of mission in Bogota.

The trip to the ranch also was expected to boost Uribe's political standing at home.

Bush rewards allies of the United States with visits to his ranch, and the meeting between the two leaders was seen as a diplomatic plum for Uribe, whose recently passed "Justice and Peace" law has been criticized by human rights groups.

Over 70,000 civilians have been killed in the past 20 years at the hands of Colombia's armed groups. Human rights groups say the most pressing concern is the violence against women, often sexually assaulted and mutilated before being killed.

"Despite, or perhaps because of the administration's close working relationship with Uribe, the U.S. has failed to use its leverage and influence with the Colombian government to ensure an end to human rights violations by the Colombian military," said Dr. William Schulz, Amnesty International USA executive director.

Dr. Victor Hinojosa, an expert on Latin America at Baylor University, said the scope of the violence and death makes Colombia "the great humanitarian crisis no one has heard about."

But Bush used a joint news conference here to applaud Uribe for the progress being made against armed groups in Colombia, including right-wing paramilitaries and the Marxist guerillas tied to the narcotics trade.

Bush said violent crime in Colombia is down to its lowest levels in 16 years, and the number of kidnappings, murders and terrorist attacks have declined significantly.

"Our strategic partnership is vital to the security, prosperity and freedom of both our countries and the Americas," Bush said.

The United States has sent $3.5 billion in aid to Colombia since 2000 to curb narcotics trafficking and battle with the armed groups accountable for 70 percent of the country's violent deaths.

Earlier this week, Secretary of State Condoleezza Rice certified Colombia's record on human rights, a measure sought by Congress. The action will release $70 million in funds for programs to combat narco-terrorism.

The Colombian president's trip to Texas included a stop in Houston on Wednesday where he sought foreign investment in the country's burgeoning oil and gas industry.

Uribe spoke to Texas business leaders about the need for growing trade between the two countries to ensure democratic growth in the Andean region.

His meeting with Bush included talks about a free trade agreement, similar to the pact with Central American nations approved by the House of Representatives last week.

He arrived at Bush's ranch in a helicopter. The president and first lady Laura Bush greeted the Colombian couple, shook hands and patted backs before jumping into a Ford 4X4 pickup for a quick trip through the prairie fields and back to the house for meetings and lunch.

The president and first lady served Uribe and wife, Lina, chilled avocado soup, pecan-smoked tenderloin with roasted summer vegetables and a tomato and cucumber salad.

Bush is spending the month of August at his Texas ranch. He will travel to Albuquerque, N.M., on Monday to sign the long-awaited energy bill. The president travels to the Chicago area on Wednesday to sign the transportation bill.

Bush Vows To Sustain Aid For Colombia Drug War (REU)

By Patricia Wilson

Reuters, August 5, 2005

CRAWFORD, Texas, Aug 4 (Reuters) - U.S. President George W. Bush pledged on Thursday to sustain funding for Colombia's fight against drugs and violence even as a senior State Department official said Washington would like to reduce its anti-narcotics aid.

As a close partner in the region, Colombian President Alvaro Uribe paid a coveted visit to the president's Texas ranch where the two leaders stood side by side on a barren patch of land outside Bush's new office under a blazing sun and declared themselves united in the war on terror.

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"We have made progress and we are winning, but we have not won yet," Uribe said. "We cannot leave this task half finished, we must take it all the way to the end."

According to Colombian government figures, killings have declined by 34 percent and kidnappings by 56 percent since Uribe was elected in 2002. Uribe stressed the importance of continuing U.S. cooperation in the four-decades-old conflict with leftist rebels.

The United States has provided more than $3 billion in assistance to Colombia over the past five years as part of an effort to wipe out cocaine and heroin production and crush the long-running leftist insurgency.

A senior State Department official said the United States wanted to reduce its anti-narcotics aid for Bogota after its massive assistance program, Plan Colombia, lapses later this year.

"We would like them to share more of the burden," said the official, who did not want to be identified because the governments had been discussing the assistance in private.

Washington is waiting for Bogota to make a formal request for how much aid it needs following Plan Colombia, the official added.

Critics say the Uribe administration spent hundreds of millions of dollars a year of U.S. aid largely on military hardware and beefing up the armed forces rather than tackling the problems that spawned the guerrilla movements.

BACKING BOGOTA'S STRATEGY

Bush said Bogota's strategy to reduce the illegal drug trade, revitalize Colombia's economy, strengthen its democratic institutions and improve the security of its people was working.

"And we'll ask the Congress to sustain our commitment to follow-on programs for Plan Colombia so Colombia can build on its progress and win its war against the narcoterrorists," Bush told reporters before getting behind the wheel of his white pickup truck to give Uribe a tour of his 1,600-acre (650-hectare) ranch.

Their meeting came in the same week Secretary of State Condoleezza Rice certified Colombia was respecting human rights and distancing itself from paramilitary groups sufficiently to allow U.S. aid to be given to its military.

The decision means about $62 million can be handed over to Colombia as part of the U.S. government's budgets for the 2004 and 2005 fiscal years that run October to October.

A quarter of U.S. aid for the Colombian military is conditioned on its human rights record. Each year, the United States has certified the funds can be handed over.

Uribe said he and Bush discussed human rights "with great seriousness and with great respect."

"I listened intensely and believe that he is interested in following through ... so that the world will hear loud and clear that Colombia is a nation of law and human rights and human dignity," Bush said. (Additional reporting by Saul Hudson)

Bush Welcomes Colombia's Uribe At Ranch (AP)

By DEB RIECHMANN

The Associated Press, August 5, 2005

CRAWFORD, Texas (AP) - President Bush gave Colombia President Alvaro Uribe a hearty handshake and several friendly pats on the back as he welcomed him to his Texas ranch on Thursday, a gesture that underscores his closeness with Washington's close Latin America partner.

Drug trafficking, terrorism and trade topped the agenda for the meeting at the ranch where Bush likes to conduct homespun diplomacy away for the formality of the White House and Washington.

For Bush, Uribe's visit on Thursday was a way to bolster the leader of a nation that is fighting terrorists and drug lords and working to build better trade relations with the United States.

For Uribe, the trek to Texas came at a critical moment in Colombia where rebels, funded by narcotics trade, kidnapping and extortion, have been struggling to topple the government and establish a Marxist-style state. Outlawed right-wing paramilitary forces also have been battling the rebels. The 40-year-old conflict kills more than 3,000 people every year, mostly civilians, with allegations that human rights abuses are being committed on all sides.

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Uribe was meeting with Bush after recently signing the ``justice and peace" law, which aims to dismantle paramilitary forces that also are heavily involved in drug trafficking and reintegrate them into the legal side of Colombian society. Critics say the new law goes too easy on criminals.

On his way to his meeting with Bush, Uribe stopped Wednesday in Houston to try to assure foreign investors that his country is stable and brimming with economic opportunity despite civil strife. Colombian officials have been holding meetings in Houston and other cities asking foreign investors to help develop new, unexplored oil fields in the South American country.

``In terms of security, we are winning but we haven't won yet," Uribe said in Houston. ``Without security, there is no possibility for investment, for new jobs."

If official visits are evidence of the closeness of U.S.-Colombia relations, then it's clear the two nations are fast friends. Bush visited Colombia in November 2004, Secretary of State Condoleezza Rice was in Bogota in April, the department's third-ranking official was in Colombia last week and now Uribe's visit.

Uribe is hoping the United States will continue sending money to help train and equip Colombian police and armed forces to fight guerillas and paramilitary groups.

Their meeting comes just a day after the State Department announced that Colombia's government and armed forces have met human rights standards needed to qualify for full funding of U.S. assistance programs. Colombia has received more than $3 billion in U.S. aid during the past five years as part of an effort to wipe out cocaine and heroin production and crush the long-running leftist insurgency.

Congress imposed conditions on U.S. assistance to push Colombia to curb human rights abuses. Failing to meet the standards would have meant a cut of about $70 million, according to a State Department estimate.

Amnesty International USA quickly challenged the certification made by Rice.

``This decision is a major blow to the promotion of human rights in Colombia and is based on only the narrowest reading of the law and the thinnest of evidence," said Dr. William F. Schulz, executive director of the group.

During a speech on Wednesday, Nicholas Burns, the State Department's third-ranking official, defended the controversial ``justice and peace" plan, saying it will help ``dismantle the criminal structures of demobilized illegal armed groups, provide for peace with justice and permit continued extradition."

The initiative, however, has been sharply criticized by Human Rights Watch.

The Colombian government is allowing groups that have committed thousands of atrocities, including massacres, killings and kidnappings, to launder illegal fortunes and legitimize their political power, says Jose Miguel Vivanco, Human Rights Watch's director for the Americas.

``The government's approach to demobilization allows paramilitary commanders to put on a show of disarming some troops," Vivanco said. ``But the government has not truly attempted to dismantle their mafia-like networks, seize their illegally acquired fortunes or ensure a full cessation of abuses.'

Uribe Proposes Buying Coca To Foil Drug Trade (WT)

By Carmen Gentile, The Washington Times

The Washington Times, August 5, 2005

RIO DE JANEIRO -- Colombian President Alvaro Uribe, who met with President Bush in Texas yesterday, has implemented a program to buy coca plants from small-time growers who otherwise would sell their crops to drug traffickers to make cocaine.

Farmers also can turn over opium poppies, the plants used to make heroin.

Under the plan, farmers can go to the nearest police station or army outpost and turn over the plants to officers and soldiers. Prices for the crop will be negotiated on the spot.

"Hand over the coca and take the cash, similar to a country fair: Hand over the pig, take the cash," Mr. Uribe said of the program earlier this week.

The farmers must sign a legally binding agreement to halt cultivation, said Mr. Uribe, who has made a name for himself as a hard-liner bent on cracking down on the nation's Marxist rebels and cooperating with the United States on drug eradication.

Yesterday, Mr. Uribe visited Mr. Bush at his ranch in Crawford, Texas, to discuss bilateral efforts in the war on drugs.

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Mr. Bush is urging Congress to renew Plan Colombia, a five-year-old anti-drug-trafficking program started under President Clinton.

The United States has given Colombia more than $3 billion in anti-drug aid.

Mr. Uribe's coca and opium purchase plan is available only in Colombia's central Meta region, where an ongoing battle between the military and rebels has forced small coca farmers to seek new buyers for their crops.

Rebels in the region typically traffic in the coca to finance their armed struggle against the Colombian government. Mr. Uribe said recent military operations have forced the rebels into hiding, leaving the farmers without buyers.

The program has come under harsh criticism from lawmakers such as Colombian Sen. Rafael Pardo, who said it would encourage small farmers to grow more coca just so they could sell it to the government, a guaranteed and steady paying customer.

Mr. Pardo -- who is a likely presidential candidate in next year's elections -- and other critics say farmers will find ways to continue cultivating illegal crops and selling them to the government, the rebels or right-wing paramilitaries that also produce cocaine for income, or all three.

"People are obviously going to plant more to sell more to the government," said an official in a human rights group in Medellin, the cocaine-producing capital of Colombia.

The program is also likely to ruffle feathers in Washington, where lawmakers recently approved a bill increasing the funding to Colombia for drug eradication.

In the past five years, the United States has spent $3.3 billion on coca-plant eradication through equipment and military training for Colombian soldiers. The plan involves aerial spraying of existing coca crops and encouraging farmers to adopt a legal crop.

Despite U.S. efforts, a recent White House report showed that coca production increased in Colombia last year.

A separate report by the United Nations said drug production has declined in Colombia in the past few years, but was on the rise in other Andean countries, such as Peru and Bolivia.

"Our current approach is the wrong approach," said Rep. Jim McGovern, Massachusetts Democrat. "We are spending a lot of money down there, and there is no accountability."

Bush Warns Colombian Leader On Human Rights (LAT)

By Edwin Chen

The Los Angeles Times, August 5, 2005

CRAWFORD, Texas — President Bush urged Congress to continue supporting Colombia's efforts to combat narco-terrorism Thursday even as he warned visiting Colombian President Alvaro Uribe that the United States expected Uribe's government to honor its stated commitment to human rights.

"We did talk about human rights. I talked about human rights," Bush told reporters as Uribe visited the president's Texas ranch. "We talked about specific cases, and I listened intently and believe that he is interested in following through on these cases."

Victims' advocacy groups in Colombia have said that a new so-called Justice and Peace law is too weak. They claim that the measure — which governs the process of dismantling Colombia's paramilitary groups and re-integrating them into Colombian society — allows members to escape charges of atrocities committed against civilians.

In his own remarks, Uribe renewed his commitment to the rule of law and to bring about "transparency" in his government. "We have a democratic government that has full respect for public freedom and that fully intends to defeat terrorism," he said.

Bush said he would ask Congress to "sustain our commitment to follow-on programs for Plan Colombia, so Colombia can build on its progress and win its war against the narco-terrorists."

Plan Colombia is an aid program begun under President Clinton to crack down on drug trafficking and curb the decades-long conflict among the government, Marxist rebels and right-wing militias. Under the plan, the United States has poured more than $3.3 billion in aid into Colombia, the vast majority in the form of law enforcement and military assistance.

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In June, a House committee approved the administration's request for $734.5 million for next year as part of a foreign aid bill.

Though the plan has been credited with reducing killings, massacres of villagers and kidnappings blamed on drug trafficking since 2002, some U.S. lawmakers and groups such as Human Rights Watch and Amnesty International have said far more needs to be done.

"Despite, or perhaps because of, the administration's close working relationship with Uribe, the U.S. has failed to use its leverage and influence with the Colombian government to ensure an end to human rights violations by the Colombian military," said William F. Schulz, executive director of Amnesty International USA.

"This support is based on half-truths that disguise myriad flaws in Colombian justice," Schultz said in a statement.

Victor Hinojosa, a Baylor University political scientist who specializes in U.S.-Colombian affairs, called Colombia "the greatest humanitarian crisis no one has heard about.'"

At the same time, by granting Uribe a coveted and high-profile visit to his ranch, Bush signaled support for a leader who has strongly backed Bush's Iraq policy, Hinojosa said. "Symbols matter," he said. "And this [visit] is an important symbol that he has U.S. support."

Colombia Warlords Testify About Congress "friends" (REU)

By Jason Webb

Reuters, August 5, 2005

BOGOTA, Colombia, Aug 4 (Reuters) - Two leaders of Colombia's far-right paramilitaries were summoned before the Supreme Court on Thursday to explain a comment that a third of the country's lawmakers were friends of the outlawed group.

Salvatore Mancuso and Vicente Castano, whose illegal United Self-Defense Forces of Colombia is in peace talks with the government, were ordered to testify after Castano made the remark to news magazine Semana in June, the government said.

"I think I can say that more than 35 percent of Congress are friends," Castano had told Semana.

Mancuso, a former AUC military commander, was summoned because he had made a similar remark in 2002 and appeared first before the closed session.

The burly former rancher, who surrendered his weapons to the government in December, was able to travel to the capital Bogota due to immunity from arrest granted by his status as a negotiator in the two-year-old talks.

Asked before the session about a comment he made in 2002, which was widely interpreted to mean the illegal group exercised influence over 30 percent of Colombia's congress, Mancuso told local radio he was merely referring to legislators from areas under paramilitary control.

"That 30 percent was just the percentage of the population and the electorate living in areas protected by the self-defense forces," Mancuso told Radio W.

"We don't have employees or representatives or congressmen who take orders. No. But there are congressmen who understand the nation's problems and the problems of the forgotten rural Colombia."

The AUC has its origins in vigilante gangs set up by cocaine traffickers and cattle ranchers to defend themselves from Marxist rebels and has evolved into an illegal army with uniforms, command structure and control of a large portion of Colombia's huge cocaine trade.

While it often cooperated with sectors of the armed forces to kill leftist guerrillas and their suspected sympathizers, the AUC also took advantage of government military weakness to set itself up as the de facto authority in extensive parts of the country.

Thousands of people are killed every year in Colombia's war, which has dragged on since 1964.

Under President Alvaro Uribe, Colombia's military has grown in strength, and the government began peace talks with the AUC. More than 6,000 paramilitaries have disarmed.

Uribe, who has also launched offensives against Marxist rebels, is enthusiastically backed by the United States which provides hundreds of millions of dollars of military aid a year. Confirming his status as the closest U.S. ally in Latin America, U.S. President George W. Bush met with Uribe at his Texas ranch on Thursday.

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Under a law passed by Colombia's Congress, paramilitary leaders will face criminal proceedings for their organization's many crimes, which include thousands of killings as well as kidnapping, extortion and torture. But jail time is limited to a maximum of eight years.

KKK Member Pleads Guilty On Making Pipe Bombs To Blow Up Hispanics (CHATT)

Chattanooga (TN) Chattanoogan, August 5, 2005

A Klu Klux Klansman from South Pittsburg entered guilty pleas Thursday in connection with constructing pipe bombs for use in blowing up Hispanic immigrants.

Daniel James Schertz, 27, pleaded guilty to six counts in an appearance before Federal Judge Curtis Collier.

Prosecutor James Brooks said he faces up to 10 years on five of the counts and 20 years on another.

Sentencing is Nov. 4 at 2 p.m.

The pleas were to manufacturing explosives, transporting explosives, teaching others how to make explosives, and possessing a Ruger pistol while under a restraining order.

In an affidavit, ATF Agent Mike Connors said between October 2004 and April 1 of this year, he and a confidential informant investigated activities of Schertz related to his membership in the Ku Klux Klan.

The agent said on April 1 he bought five pipe bombs from Schertz for $750 at his residence at 245 Beene Cemetery Road.

He said he and the informant walked to a shed on the property and he saw two partially completed pipe bombs lying on a workbench. He said Schertz was wearing rubber gloves and appeared to have been working on the pipe bombs.

He said Schertz picked up a black container of gunpowder and "said it was more powerful than the last stuff he used."

The agent said he observed various bomb components in the shed, including spark plugs, spark plug wires, gunpowder, packages of screws and several more pipes still wrapped in plastic.

Agt. Connors said Schertz said he needed to go to Lowe's to get five end caps to complete the pipe bombs.

He said on the way to Lowe's, Schertz began talking about acquiring firearms and accessories. He reached to his right side, ejected the magazine from his Ruger semi-automatic pistol, and said, "These will go right through a vest."

The affidavit says Schertz gave advice on using the pipe bombs to blow up a bus transporting Hispanic workers. He said he would like to "take care of" another specific group of Hispanic immigrants.

They returned to the shed and Schertz completed the pipe bombs, it was stated. He was then paid the $750.

Authorities said Schertz's ex-wife, Shauna Schertz, had a protective order against him.

Ex-Klansman Pleads Guilty In Bomb Building (NYT/AP)

By The Associated Press

The New York Times, August 5, 2005

Filed at 10:10 p.m. ET

CHATTANOOGA, Tenn. (AP) -- A former Ku Klux Klansman charged with building pipe bombs to use against Mexicans and Haitians changed his plea to guilty Thursday.

Daniel Schertz, 27, built five pipe bombs and sold them to an undercover federal agent and a confidential informant for $750 in April, authorities said.

The bombs were to be "detonated on a bus carrying Mexican workers to work in Florida" according to a plea agreement filed Thursday. Schertz also was accused of building and transferring two pipe bombs to the informant in March to harm Haitians in Florida.

Schertz said Thursday that he was guilty of all six charges, including teaching and demonstrating how to make a weapon of mass destruction and interstate transport of explosive material with intent to kill or injure.

Interstate transport of explosives carries a minimum sentence of 10 years, while the other charges combined carry a maximum sentence of 60 years, Assistant U.S. Attorney James Brooks said.

Schertz's attorney, Mike Caputo, said the plea agreement allowed him to "avoid a harsher sentence."

Schertz's former Klan leader, White Knights Imperial Wizard Billy Jeffery, has said Schertz was "banished" from the Klan in mid-May for unrelated disobedience.

Church Fire Ruled Arson (WTVF-TV)

WTVF-TV, CBS 5, Nashville, TN, August 5, 2005

The fire that destroyed the Pentecostal Church of Jesus Christ in Columbia Tuesday night was intentionally set according to fire investigators.

The fire started around 11:30 p.m. Tuesday, two hours after a night service ended at the church.

Several fire departments fought the fire for four hours, and investigators began looking into the cause of the blaze as soon as the flames were extinguished.

Thursday, officials from the ATF said that after examining the scene and conducting several interviews, they determined that the fire was intentionally set.

"A house of worship is a place of peace and where community members come together. Arson puts many at risk of injury or death, including police and fire personnel. The Columbia community can be assured that the combined resources used in this investigation will continue to work vigorously to ultimately bring those responsible to justice", said ATF Special Agent James Cavanaugh.

Church members built the 14,000 square foot church almost 10 years ago, and said they just paid the loan on it two months ago. ATF officials estimated the damage to the church at more than $2 million.

A $1,500 reward has been offered for information leading to the arrest of the person or people responsible for fire. Anyone with information has been asked to call the Arson Hotline at 1-800-762-3017 or the ATF Arson Hotline at 1-888-ATF-FIRE (1-888-283-3473).

IMMIGRATION:

DeLay Criticizes Houston's Policy On Illegal Immigrants (HC)

By Edward Hegstrom

Houston Chronicle, August 5, 2005

SUGAR LAND - House Majority Leader Tom DeLay criticized the city of Houston's "sanctuary" policy toward illegal immigrants in a speech Thursday night.

Speaking to a packed house of Fort Bend County Republican faithful, DeLay said he supported the concept behind legislation introduced by U.S. Rep. Tom Tancredo, R-Colo., that would withhold federal funding from cities such as Houston that refuse to enforce immigration law.

"It greatly concerns me that the police chief in Houston, Texas, has created a sanctuary in Houston by announcing that he is not going to enforce our laws," the Sugar Land Republican said, in response to a question about Tancredo's bill.

"That is unacceptable, and we hope to address it through Tancredo's legislation or other legislation."

Since 1992, a Houston Police Department policy has officially forbidden officers from enforcing immigration laws in most cases.

Mayor Bill White has said he supports continuing the policy, because he believes immigration is a federal matter and he wants to free police up to protect the city from violent criminals.

Police in Katy also have a court-ordered policy forbidding them from enforcing immigration laws. The order came as the result of a federal lawsuit filed after a 1994 police operation to pick up day laborers.

DeLay, who is seen as a key player on upcoming immigration reform legislation in Congress, said he would support a guest-worker program that would allow immigrants to come legally to the United States and then go home. But he said the government needs to step up enforcement of immigration laws first.

"Before Congress takes any significant legislation, we must secure our nation's borders," he said.

Two major proposalsTwo major pieces of immigration are expected to be considered when Congress returns in September.

One proposal, sponsored by Senators Edward Kennedy, D-Mass., and John McCain, R-Ariz., would allow some illegal immigrants to work toward becoming legal residents and then citizens of the United States.

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Senators John Cornyn, R-Texas, and Jon Kyle, R-Ariz., propose a tougher bill that would allow illegal immigrants to become guest workers, meaning they would have to go home after working here three years or more.

Cornyn and Kyle also propose tougher enforcement, including increased patrols at the border and new requirements on employers seeking to hire workers.

DeLay indicated that he would support legislation even stricter than Cornyn's. He does not believe illegal immigrants already in the country should qualify, and he does not believe guest workers should be allowed to bring their families.

Asked if he would support McCain-Kennedy, he said: "It's not going to do very well in the House, I'll guarantee that."

Places for detaineesDeLay noted that until now, even the federal government has not rounded up illegal immigrants in U.S. cities, because federal agents had no place to detain them. But he said that is changing under the new leadership at the Department of Homeland Security.

He encouraged local police to round up illegal immigrants, and promised that the federal government will find places to house them.

"If you pick up 50 or 100 of them, you can call the National Guard," he said. "Put them in tents."

He also said he did not support educating illegal immigrants or having their U.S.-born children become automatically U.S. citizens. But he said those would be harder to repeal.

DeLay also said he strongly supports legal immigration, which he says makes this country stronger.

He said immigration is a top issue among his constituents.

edward.hegstrom@chron.com

DeLay Pushes Border Security, Sales Tax (GalvestonNews)

By T J Aulds

Galveston County Daily News, August 5, 2005

LA MARQUE — House Majority Leader Tom DeLay received a warm welcome during his first official visit to the city since, thanks to redistricting, he became the area's congressman.

Speaking to the La Marque Rotary Club, which saw increased attendance from neighboring clubs, DeLay spent much of the time introducing himself and his political philosophy.

He spun tales of his early days as a Fort Bend County businessman, who, while running for state office would not even admit he was a Republican, and his ascension to Majority Leader of the U.S. Congress.

Talk of replacing the federal tax system with a national sales tax, tougher standards and accountability for federal judges, border security and the issue of eminent domain seemed to resonate the audience.

He reiterated, too, the continued push for the GOP majority's " most ambitious agenda" with emphasis on homeland security and border issues.

DeLay, whose 22nd Congressional District includes La Marque, portions of Texas City, Santa Fe and much of the North County, got ovations for his views about border security.

"First we need to convince the American people we will secure the border," he said. "Any guest worker program will come later."

He voiced his support of a proposal that would see the governor "deputize people on the border" to assist Border Patrol agents.

Each time the crowd, which included local Republican Party chairman Chris Stevens and a bevy of county GOP movers and shakers, interrupted DeLay's comments with boisterous applause.

But, as has become the norm, DeLay couldn't come to town without meeting with protest.

Santa Fe resident John Fafoutakis was the lone picket outside Gulf Greyhound Park, where the meeting was held.

The Navy veteran who said protesting at DeLay functions was a hobby, held up a sign chastising the congressman for what he called a lack of support for veterans hospitals and medical clinics.

"How come the VA has to constantly fight for its survival with these guys in Congress," said Fafoutakis. "They should be taking care of veterans and each time the funding gets cut by the very people who are putting our troops in harm's way again."

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DeLay said the protestor's anger was misplaced.

"The VA has gotten the funding it needs, we have always been there for the VA and its hospitals," DeLay said.

Border Vigil To Stand Until New Agents Hired (WT)

By Jerry Seper, The Washington Times

The Washington Times, August 5, 2005

Civilian volunteers scheduled to begin a border vigil in California next month will man observation posts along the U.S.-Mexico border until they are relieved by newly hired U.S. Border Patrol agents or National Guard troops, an organizer said yesterday.

"Our borders are not under the operational control of our government. Instead, they are controlled by alien and drug smugglers," said Andy Ramirez, head of the California-based Friends of the Border Patrol (FBP), which has organized the vigil.

"Our mission is to provide a safe living environment for our local citizens until the U.S. government provides the security for which it is responsible," Mr. Ramirez said. "The FBP volunteers will stand their posts until properly relieved."

More than 3,000 civilian volunteers -- including former Border Patrol agents, retired police officers, military personnel and pilots -- have signed up to patrol the U.S.-Mexico border in California beginning Sept. 16 -- Mexican Independence Day.

The vigil was called to highlight what organizers said is the failure of Congress and the White House to secure U.S. borders.

The volunteers are expected to set up observation posts near Calexico, Calif., in an area known as Smuggler's Gulch, and at the Border Field State Park, just north of Tijuana, Mexico. The exact locations of all the sites and patrol areas have not been made public.

The vigil has received the endorsement of James W. Gilchrist, who organized the Minuteman Project in Arizona in April that targeted a 23-mile section of the U.S.-Mexico border. He said the U.S. government has failed to do anything about what he termed a "border crisis."

"President Bush ... says the most solemn duty of the American president is to protect the American people: Mr. Bush, tell it to someone else," he said. "You are derelict of your constitutional oath and duty to protect us by leaving our borders unsecured."

A total of 857 volunteers participated in the 30-day Minuteman vigil, during which they protested lax U.S. immigration-enforcement policies by trying to reduce the flow of illegal aliens along popular immigration and drug-smuggling corridors near Naco, Ariz.

Their goal was to show that increased manpower on the border effectively would deter illegal entry. Organizers said the protest directly resulted in Border Patrol arrests of 349 illegal aliens. Border Patrol field agents said the flow of illegal aliens through the targeted area dropped from 500 apprehensions a day to about 15 a day.

Mr. Ramirez said the California volunteers want to call the country's attention to the "real plight of those who live along the border who are being overrun by illegal aliens and drug smugglers." He said it was "imperative to send a message to Washington, D.C., that open borders and the havoc they create is unacceptable to our citizens."

Day-Laborer Site Rebuffed (WP)

By Carol Morello, Washington Post Staff Writer

The Washington Post, August 5, 2005

The Herndon Planning Commission rejected yesterday a controversial proposal to build a tax-supported day-laborer site near a residential neighborhood, but the Town Council still will have the final say and remains on track for a vote later this month.

Officials with the social agency that wants to run the site for up to 150 workers said they are still trying to digest the accumulated criticisms of the plan that preceded the commission's 4 to 3 denial in a vote taken at 2:30 a.m.

"It's been given a blow, but it's not dead," said Bill Threlkeld, director of Project Hope and Harmony, the umbrella group that has applied for permission to build and operate the site, where contractors and homeowners could meet laborers seeking jobs.

Proponents say the challenge will be to address concerns expressed by residents without making so many concessions that day laborers will not want to use the site. Mayor Michael L. O'Reilly said the council, which will take up the matter in two weeks, is almost certain to demand several conditions.

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"We will look at the application to see where change is feasible and realistic," said Joel Mills, a member of Project Hope and Harmony's executive council. "But there is a concern that so many conditions will be placed on how we operate that it becomes less and less feasible to do it successfully."

The designated site on the Loudoun County border would replace an informal site around a 7-Eleven parking lot. Several similar sites have been created throughout the region, including in Silver Spring and Langley Park.

In Herndon, an ordinance is being drafted that would make it a misdemeanor to solicit jobs curbside, but the town cannot legally outlaw day-laborer activity without zoning a site where it is permissible.

Herndon's struggle to cope with a day-laborer site has become a contentious chapter in the national debate over immigration policy. An unknown number of day laborers are in the country illegally; some estimates say as many as 85 percent of day laborers in Herndon are illegal.

Hundreds of critics have spoken out at public hearings like the one that stretched over seven hours Wednesday night into yesterday morning. Residents of nearby developments in Loudoun County as well as Herndon, several of them legal immigrants, said that they feared having strangers traipse through their neighborhoods en route to the site and that they worried its presence would decrease their property values. Others said they did not want their tax dollars used to support an enterprise that helps people who are in the country illegally.

After hearing the last of 130 speakers over the course of two nights, planning commissioners voted on a series of conditions. Among them were a limit of 100 laborers instead of 150, and a requirement that the site be closed on Sundays and federal holidays.

Frequently the debate veered from neighborhood concerns into a discussion of national immigration policy and assimilation.

"This is the United States of America, not the Diverse States of America," said William Tirrell Sr., a commission member who introduced most of the conditions. "We don't segregate ourselves in little pods of people. I'm not a hyphenated American. I'm an American. We need to take these folks and make them part of us. But I will not support tax dollars being used to support an illegal enterprise."

After approving the conditions, the commission voted not to recommend it.

The nonbinding vote was more a signal of the panel's displeasure than a serious hurdle. With some regularity, Herndon's council differs with the planning commission.

Ann V. Hull, a council member who often has criticized day-laborer sites, said she expects Project Hope and Harmony to modify its proposal to address the issues that opponents have raised. She also said she wants the group to justify the prediction that the official site can work.

But O'Reilly, who campaigned last year on a promise to improve the day-laborer situation, said he believes the concerns can be alleviated with a few modifications.

"I do believe this site can work and would work effectively," he said. "We're committed to trying to solve this problem."

Illegal Immigrants, Long Islanders Clash (NYT/AP)

By The Associated Press

The New York Times, August 5, 2005

FARMINGVILLE, N.Y. (AP) -- This middle-class Long Island community an hour from New York City and 2,000 miles from the Mexican border has become an unlikely flashpoint in the national debate over illegal immigration, with Hispanics beaten, harassed and evicted in recent weeks.

For more than a decade, immigrants from Mexico or Central America have been drawn to Long Island by the prospect of jobs. Many stand on street corners in Farmingville, waiting for contractors, landscapers and others to offer them a day's work at about $10 an hour. Then at night they go back to their illegally overcrowded single-family homes.

The immigrants, many of whom are believed to have entered the country illegally, have been a source of tension among longtime residents since at least the late 1990s, but things have gotten worse this summer -- so bad that the head of the Mexican Consulate in New York City said Farmingville was "clearly a red zone after the Arizona border" in the abuse of immigrants.

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In late June, two men were charged with a hate crime for allegedly berating a Mexican woman and her husband as the couple backed their van out of a parking lot. Within weeks, two more suspects were arrested and accused of yelling racial epithets and throwing a beer bottle at a Hispanic day laborer.

That same day, four people demonstrating at a 7-Eleven in support of day laborers were arrested when they surrounded an anti-immigration protester's car and refused to let him out.

Police are also investigating an attack in nearby Patchogue on a 61-year-old Ecuadorean man. He was beaten by three men who supposedly asked if he had a green card.

The tension was ratcheted up in mid-June, when officials in the town of Brookhaven, which includes Farmingville, and Suffolk County police began evicting men from overcrowded houses, citing health and safety violations. Dozens of people were jammed into the tiny one-family homes.

So far, at least six houses have been shut by authorities -- including three last Friday -- leaving more than 100 men homeless, advocates said.

Advocates claimed the immigrants have been thrown into the streets without warning. One advocate called it "ethnic cleansing."

"Many local officials have punted, saying this is a federal issue and we can't do anything about it. Well, there are some things you can do," Suffolk County Executive Steve Levy responded. "Crack down on those contractors, crack down on illegal housing and create a better relationship with immigration officials."

Levy complained that it is the Mexican government's "failed policies, both economically and otherwise, that have been pushing millions of his residents over the border for a better life in America."

Arturo Sarukhan, head of the Mexican Consulate in New York City, agreed that Mexico needs to solve its economic problems so that its citizens do not leave for a better life in America. But he said officials on Long Island must realize that the day laborers are here to stay and "there is a need to work together."

"At the end of the day, they may or may not like it, but it is the reality," he said.

A spokeswoman for the Town of Brookhaven estimated there are 150 houses, each with dozens of suspected illegal workers, in Farmingville, though some landlords have pre-emptively evicted some tenants for fear of trouble with the law.

"If they're going to throw anybody out of an apartment, they have to give them time," said Carlos Tenorio, a 26-year-old day laborer from Mexico City who has been in Farmingville for about nine months. "These people are not the cause of the problem."

Farmingville saw immigration-related violence a few years ago. In 2000, two Mexican men were beaten by two locals who promised them work. On the Fourth of July 2003, a Mexican family barely escaped with their lives after teens set their house ablaze by shooting fireworks through a window. But tensions appeared to ease after three of the assailants were sent to prison -- two of them for 25 years.

Residents are largely cheering the crackdown on immigrants.

"I think they are doing a terrific job," said Terry Sherwood, who complained that residents in the jammed houses often drink late into the night and urinate and defecate on lawns and backyards. "I don't care who they are, what color they are. I don't care where they come from. Why should people have to live this way?"

Lisa Marino placed a Mexican flag on her front lawn in solidarity with the workers but also applauded efforts by officials to curb illegal housing.

"There's a lack of assimilation," she said of the workers. "You don't leave garbage out, you don't whistle at neighbors. They need to understand that, but by keeping them marginalized, they don't learn that."

Nadia Marin-Molina, an advocate for the day laborers, understands the concerns expressed by neighbors, but insisted "it's a two-way street."

"Some of these same people who are complaining are the people who benefit from the work these guys do," she said. "Because every house has landscaping done, or has to have some job done on their roof, or some painting done."

A Strategy On Border Security (DCExaminer)

By Mike Crapo

DC Examiner, August 5, 2005

In May, Secretary of Homeland Security Michael Chertoff stated, "The issue of securing the border is a homeland security issue, it's an immigration issue and it's also a humanitarian issue." He is absolutely correct: discussions about securing our 5,500-mile Canadian border, 1,900-mile Mexican border and 95,000 miles of shoreline are only meaningful in the context of defense, immigration and respect for human life. As the Homeland Security Appropriations bill goes to conference, Congress is developing a comprehensive strengthening of our borders as a major component of this legislation. Border security requires tight controls at our borders and follow-up by manpower and technology within our borders.

Annually:

- 16 million cargo containers enter the U.S.
- 500 million people cross our borders, 330 million are non-citizens
- 11 million undocumented aliens live in the U.S.

These numbers represent an enormous and daunting risk that requires us to be proactive in vigilance and preparation. Our borders will be strong, secure and meaningful when they represent freedom and protection for those in compliance with the law.

Effective border security is well-funded and reinforced by laws that carry tough legal consequences for those who break them. Various border and immigration components must be strengthened including more agents, immigration investigators and other enforcement personnel; quality training for these positions; hardware and infrastructure to augment job success, including unmanned aerial vehicles, high-tech sensors and advanced physical barriers; technology upgrades for cargo inspection and identification of fraudulent immigration documents; additional capacity at temporary detention centers.

The FY 2006 Homeland Security Appropriations bill aims to fund 1,000 new border patrol agents, 300 additional immigration investigators and 460 new detention and enforcement agents and officers. This would raise the total numbers to 12,500 border patrol agents, 6,100 criminal investigators, 2,700 immigration enforcement agents and detention officers.

The legislation provides additional funds for training, operations of the fourth northern border airwing and replacement of aging helicopters. More than 2,200 new detention facility beds will be added bringing the total to 22,700 and 41 ports, up from 19, will be utilizing the new Container Security Initiative to screen high-risk cargo before it leaves foreign ports. The bill funds camera and sensor technology and construction along the Mexican and Canadian borders, and calls for the development of advanced radiation portal monitors.

The creation of the Department of Homeland Security has allowed us to integrate homeland defense, focusing particular attention on border security. Funds have been allocated to develop radiological, biological, chemical and nuclear countermeasures, biosurveillance and threat and vulnerability assessments. It has been four years since an attack and while the events in London are only the latest indicators that this war isn't over, our law enforcement has been very successful in deterrence efforts. They are to be commended on their vigilance, while ensuring that individual liberties and freedoms have been meticulously safe-guarded and defended.

It's the responsibility of the federal government to protect us at home. Truly successful homeland defense has another component - personal vigilance. Americans can contribute by being alert. If you see something that doesn't look right, report it. The combination of watchful citizens, effective laws and adequate personnel and resources will preserve our homeland freedom.

Mike Crapo is a Republican senator from Idaho.

Rep. Culberson's Call For Armed State Militias On The Border Is A Reckless Approach To Dangerous Problem. (HC)

Houston Chronicle, August 5, 2005

Republicans and Democrats agree on little these days, but the combined effects of 9/11 and a newly globalized economy have forged consensus on at least one issue: the need for better border control.

The United States' long southern frontier, lawmakers agree, is unacceptably porous. Across it come illegal migrants seeking work, drug runners hauling their wares and terrorists bent on killing U.S. citizens. Recognizing that most illegal border

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crossers fall in the first category, several federal lawmakers are crafting thoughtful, bipartisan proposals to solve this complex problem. U.S. Rep. John Culberson's plan to create armed border militias is not one of them.

Last week Culberson introduced a bill that would allow state governors to establish and deploy armed citizen militias on the Canadian and Mexican borders. Billed mainly as an antiterrorist measure, the legislation would also allow militia members to detain ordinary illegal immigrants.

In essence, the militias would be official versions, with police powers, of the Minutemen Civil Defense Corps. That private group patrolled the Arizona border briefly this spring and plans to film Houston day labor sites this fall.

Authorized by the federal government, the militias would be open to all Americans but give priority to residents from border states. As Culberson envisions it, the law would deputize "tens of thousands, if not hundreds of thousands of law-abiding citizens" as auxiliary border guards. Co-sponsored by 46 House members, Culberson's plan would be funded by $6.8 billion in Homeland Security money reserved for emergency workers.

President Bush has called the unofficial Minutemen "vigilantes," but their movement is eminently sensible in at least one respect. It doesn't involve guns. Letting states arm civilians to address a federal problem migrates into a different sphere, one with reckless disregard for the consequences. Culberson's proposal requires states to reject militia hopefuls who have a history of mental illness or crime. However, the militias' very mandate, to "use any means and any force authorized by law," presupposes the use of violent force — otherwise, the proposal would not call for militias to bear arms.

Asked in a phone interview how an armed civilian could possibly confront and overcome drug traffickers or terrorists, Culberson said, "It's probably going to require a very heavy caliber."

Migrants who have trudged 30 miles across a desert are unlikely to have the energy or weaponry for a shootout. Drug runners, on the other hand, would not hesitate to open fire. They have done so frequently after encountering Border Patrol agents.

Armed, amateur border guards have no business confronting either quarry. It takes more than a few weeks of study to master arrest and detainment procedures, immigration and criminal law and search protocols. In the remote, hard-to-monitor expanse of the borderlands, accidental and wrongful deaths inevitably would follow.

Even as a gesture to fearful constituents and not intended to become law, Culberson's invocation of armed civilians enforcing federal policy deflects attention from more constructive proposals to manage the problem of illegal immigration. That 46 fellow lawmakers find Culberson's plan promising is troubling. It's no coincidence that Hispanic groups, law enforcement officers and the Minutemen themselves have all rejected the plan as impractical.

The answer to understaffed federal security agencies, including the Border Patrol, lies in allocating federal money to hire more professionals. The answer to our nation's immigration problems is not nearly so plain. Only one thing is certain: It does not involve civilians with guns.

A Serious Stop Sign (TOWNHALL)

By Rich Tucker

TownHall.com, August 5, 2005

When John Roberts comes before the Senate for his confirmation hearings, there's sure to be plenty of hand wringing about Roe v. Wade. Never mind that the so-called right to privacy isn't found in the Constitution. By digging into the tiny details of the legal arguments involved, lawmakers hope to show us how devoted they are to doing their jobs.

Meanwhile, Congress is ignoring one of its most important jobs -- one that actually is in the Constitution. It's not adequately "providing for the common defense" because it's not protecting our borders.

Nobody knows how many illegal immigrants now live in the United States. Recent estimates range from 11 million to 20 million. Faced with that problem, you'd expect Congress to do everything possible to shore up our borders and stop the flow of new illegals. Sadly, it's not.

Several months ago a correspondent from southern California decided to visit the Mexican border. He found that "in the (populated, highly-patrolled, well-fenced, URBAN) west end of San Diego County there were 10 agents patrolling a 10-mile zone. One four-mile swath had zero agents."

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One agent per mile of border? No wonder those few agents are overwhelmed. This isn't a lack of ability -- it's a lack of effort. The government is making no serious attempt to stop the flood of illegals.

My correspondent, a nurse at an L.A.-area hospital, was so appalled he decided to join a Minuteman patrol team and help the Border Patrol protect the frontier. With just a few volunteers on the scene, the picture a few weeks later was much different. "We shut down four miles of border with 16 people, eight large flashlights, and four cell phones, and didn't pull out until sunup," he reports.

The solution, then, is simple. "Just having enough people would solve the problem instantly. My estimate is that if someone got 500 people to show up per night statewide, the entire illegal traffic along the border of 150 miles from Yuma to the Pacific Ocean could be stopped dead," the man writes. "California wouldn't have an illegal immigration problem." And, thus, neither would the rest of the nation. But it's up to Congress to act, to provide enough agents and position them along the borders.

Illegal immigrants cause a wealth of problems. "Many gang members come to this country from overseas, or from other parts of the North and South American continent," Homeland Security Secretary Michael Chertoff notes. In fact, Chertoff says immigration officers have detained more than 1,000 alleged gang members since February, and he estimates 950 of them were illegals.

This is a local problem as well. The town of Herndon, Va. is inundated with day laborers. They gather at a convenience store and wait for employers to offer them jobs. The town, resigned to the idea that it can't prevent the workers from gathering, is considering whether to set aside a designated gathering place. "Our choice is between having a regulated site and an unregulated site," Mayor Michael L. O'Reilly told The Washington Post. "Given those options, I'm in favor of a regulated site."

The paper noted that, "an unknown number of [the day laborers] are in the country illegally." But the only reason we don't know how many of those waiting for jobs are illegals is because we haven't checked.

Here's a simple solution: Local police should take note of the license plate number every time a car picks up day laborers. Pass that information along to the IRS to see if the driver filed 1099 forms for the laborers he hired. The attraction of hiring day laborers is that employers can pay them cash. No questions asked, no forms filed.

But federal law requires that employers collect Social Security taxes on everyone they employ. Crack down on the employers, force them to check for Social Security numbers, and you'll drastically cut down on the number of illegal immigrants getting jobs.

"This country has a great Constitution. It's supposed to be justice for all. Some people think it's just justice for them," Lucio Escobar, a 47-year-old Herndon resident who immigrated from El Salvador 30 years ago, told the Post.

Well, the Constitution does guarantee justice for all -- all U.S. citizens. It's time for Congress to get serious about protecting our borders and cracking down on illegal immigration. Until lawmakers do that, their discussions about protecting the Constitution will amount to little more than hot air.

Rich Tucker is an editor in Washington D.C. and a columnist for Townhall.com

TAX:

Colts Neck Man Convicted Of Tax Evasion (APP)

By JAMES A. QUIRK, STAFF WRITER

Asbury Park (NJ) Press, August 5, 2005

A Colts Neck man was convicted of tax evasion and wire fraud in connection with a scheme to sell vast amounts of an ozone-depleting chemical, which was used to produce methamphetamine in California labs, according to the U.S. Department of Justice.

William Rubenstein and Dov Shellef, of Great Neck, N.Y., were convicted July 28 of conspiring to evade approximately $1.9 million in excise taxes due on sales of a chemical called trichlorotrifluoroethane (CFC-113), law enforcement officials said yesterday. The jury returned the guilty verdicts after a five-week trial before U.S. District Judge Joanna Seybert in Central Islip, N.Y.

Shellef also was convicted of 87 counts of wire fraud, tax evasion, subscribing to false tax returns and money laundering.

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The investigation began as federal Environmental Protection Agency and Drug Enforcement Administration agents traced the supply of CFC-113 to California "meth labs" that used the product for the illegal manufacture of methamphetamine.

According to the Department of Justice, the investigation revealed that a company called All Discount Lab Supplies was selling CFC-113 to individuals who used the product in meth labs. The principals of All Discount Labs have since pleaded guilty to selling CFC-113 with reasonable cause to believe it was being used for illegal manufacture of methamphetamine.

Although Shellef and Rubenstein were not indicted on drug charges, the investigation revealed that they were major suppliers of CFC-113 to All Discount Labs.

According to the Justice Department, the federal Clean Air Act banned the continued importation and production of CFCs in the U.S. in 1996, though manufacturers were permitted to sell and export chemicals that had been stockpiled prior to the ban. CFCs are used primarily as refrigerants and industrial solvents, and when released travel into the upper atmosphere and destroy ozone.

CFCs are subject to a substantial excise tax, which is imposed to discourage their use and to promote the transition to more ozone-friendly replacement products. The excise tax applied to domestic sales of stockpiled CFCs, but not sales for export.

The Department of Justice gave the following account:

Shellef owned two businesses involved in the purchase and sale of CFC-113; Rubenstein also controlled two businesses involved in the purchase, packaging, warehousing, shipping and sale of CFC-113. Both men purchased large quantities of the chemical. Both men told the chemical manufacturers that they intended to export the CFC-113, and thus the manufacturers did not collect or pay any excise tax on the product.

Beginning July 1997, Shellef and Rubenstein, knowing that they had purchased the CFC-113 tax-free, illegally diverted the product to a number of domestic customers. To conceal these sales, the men removed references to the original manufacturers on drums of the chemical, and relabeled the product. In addition, they created false shipping documents. For all the domestic sales of CFC-113, the unpaid excise taxes totaled approximately $1.9 million.

Rubenstein and Shellef face maximum sentences of 25 years in prison and $500,000 in fines.

KPMG Confident Of Avoiding Tax Trial (FT)

By Andrew Parker

Financial Times, August 5, 2005

KPMG, one of the big four accounting firms, is increasingly confident it can avoid a criminal trial in the US relating to its past sales of tax avoidance schemes to clients.

KPMG's US business is in talks with the Department of Justice about a "deferred prosecution agreement", under which it would be put on probation and criminal charges held in abeyance, according to people briefed about the case.

No decisions have been taken, but the people said a settlement between KPMG and the justice department could also involve a fine of as much as $500m. KPMG is desperate to avoid an indictment because Andersen, once the world's biggest accounting firm, was destroyed after prosecutors pressed obstruction of justice charges against it in 2002.

The firm declined to comment on Thursday, but it has previously acknowledged the existence of an investigation by federal prosecutors into tax services sold to clients covering a period from 1996 to 2002.

KPMG's US business said on June 16 that it took "full responsibility for the unlawful conduct by former KPMG partners during that period, and we deeply regret that it occurred". Robert Bennett, a partner at Skadden, Arps, Slate, Meagher & Flom, which is representing KPMG, said: "We are fully co-operating with the Department of Justice." He declined to comment further.

The terms of any settlement between KPMG and the justice department would probably involve KPMG committing itself to internal reforms affecting its tax practice and to monitoring by an independent consultant.

KPMG made a plea to avoid indictment in a written submission to the justice department in June, when it highlighted how a criminal trial could have a negative impact on its partnerships outside the US, said one person briefed about the case. Andersen's international network of partnerships collapsed after the indictment of its US business.

KPMG reinforced its plea in a meeting between its lawyers and James Comey, deputy attorney-general, and David Kelley, attorney for the southern district of New York, also in June, said another person briefed about the case.

Federal prosecutors in Mr Kelley's office are leading the investigation into KPMG. His spokesman declined to comment.

A report in February by the Senate permanent sub-committee on investigations concluded that between 1998 and 2003 its US business developed products that were "at times, illegal, or potentially abusive".

The sub-committee said the IRS had calculated in 2002 that three KPMG schemes had resulted in people claiming losses on their tax returns of $5.8bn.

But the report accepted that since 2003 KPMG had dismantled its "abusive tax shelter practice" and strengthened compliance.

CONGRESS-ADMINISTRATION:

Court Nominee Advised Group On Gay Rights (NYT)

By Sheryl Gay Stolberg And David D. Kirkpatrick

The New York Times, August 5, 2005

WASHINGTON, Aug. 4 - Judge John G. Roberts Jr., the Supreme Court nominee, gave advice to advocates for gay rights a decade ago, helping them win a landmark 1996 ruling protecting gay men and lesbians from state-sanctioned discrimination.

Judge Roberts, at the time an appellate lawyer for the Washington firm of Hogan & Hartson, did not write legal briefs or argue the case, lawyers involved said. But they said he did provide invaluable strategic guidance working pro bono to formulate legal theories and coach them in moot court sessions.

Judge Roberts did not disclose his role in the case to the Senate Judiciary Committee, which asked about pro bono work in a questionnaire. News of his participation was first reported Thursday in The Los Angeles Times, and it set off an immediate scramble on both the left and the right, upending perceptions of the nominee in both camps.

The White House immediately sought to reassure Judge Roberts's conservative backers, telephoning prominent leaders, including Richard Land of the Southern Baptist Convention, but it appeared that not all of them had been convinced.

The 1996 case, Romer v. Evans, is considered a touchstone in the culture wars, and it produced what the gay rights movement considers its most significant legal victory. By a 6-to-3 vote, the Supreme Court struck down a provision of the Colorado Constitution that nullified existing civil rights protections for gay men and lesbians and also barred the passage of new antidiscrimination laws.

"It's one more piece of the puzzle as we keep trying to find out who John Roberts is," said Kevin Cathcart, executive director of Lambda Legal, the advocacy group that helped bring the Romer case. "Where does this fit in on his judicial philosophy and his view of the Constitution?"

Indeed, Judge Roberts's participation seems to stand in contrast to the picture that has emerged from his days as a young lawyer with the Reagan administration, when he advocated a more conservative approach to civil rights and voting rights. Lawyers in the Romer case said Thursday that Judge Roberts had not discussed its substance with them, but seemed to approach it more as an intellectual challenge.

Even so, reports of his involvement echoed on conservative talk shows Thursday, generating outrage and disbelief. "There's no question this is going to upset people on the right," Rush Limbaugh told his radio listeners. "There's no question the people on the right are going to say: 'Wait a minute. Wait a minute! The guy is doing pro bono work and helping gay activists?' "

A White House spokeswoman, Erin Healy, said Judge Roberts's involvement was minimal. "As in any other case," Ms. Healy said, "it is wrong to equate legal work product with personal opinions."

The lead plaintiffs' lawyer in the Romer case, Jean Dubofsky, said Thursday that she sought out Judge Roberts at the recommendation of Walter Dellinger, then a senior official in the Justice Department under President Bill Clinton. Ms. Dubofsky, a former justice of the Colorado Supreme Court, said she was specifically seeking a conservative who could provide her an insider's road map, of sorts, helping her to anticipate objections from some of the court's more conservative members, like Justice Antonin Scalia and Chief Justice William H. Rehnquist.

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Judge Roberts, who once clerked for Justice Rehnquist and now serves on the United States Court of Appeals for the District of Columbia Circuit, spent about six hours on the case, Ms. Dubofsky said. "He told me, 'You have to know how to count and to get five votes, you're going to have to pick up the middle.' "

And then, she said, Judge Roberts provided explicit instructions on how to do just that, telling her that she would have to prove to the court it did not have to overturn a previous case, Bowers v. Hardwick, which upheld a ban on homosexual sodomy. He peppered her with questions in a moot court session.

"So when I was asked by Justice Scalia if they would have to overturn Bowers v. Hardwick to rule my way, I said no," Ms. Dubofsky said, adding, "In this particular case if you wanted to get the U.S. Supreme Court turned around on gay rights issues, you didn't have to win every gay rights case floating around out there."

Ultimately, in a forceful opinion by Justice Anthony M. Kennedy, the court said the Colorado provision had put the state's gay men and lesbians in a "solitary class," singling them out in violation of the Constitution's equal protection guarantee in a manner that was so sweeping as to be inexplicable on any basis other than animus. Chief Justice Rehnquist and Justices Scalia and Clarence Thomas, the justices to whom Judge Roberts is most often compared, issued a blistering dissent.

The Romer case proved to be the first step in the Supreme Court's ultimate disavowal of the Bowers decision in its 2003 ruling in the case of Lawrence v. Texas. That ruling, which overturned a Texas sodomy law, has drawn the ire of conservatives at a time when the Supreme Court is expecting still more cases involving gay rights. In November, the court is scheduled to hear a case that grows out of the military's "don't ask, don't tell" policy toward gay service members. The question is whether Congress can withhold federal money from universities that restrict military recruiters' access to their students, in an effort to support gay rights. Judge Roberts would join in hearing that case, should he be confirmed by the first Monday in October, as Republicans hope.

Judge Roberts did not mention the Romer case in the response he filed to a questionnaire from the Senate Judiciary Committee, which asked about pro bono work. Committee Democrats said they were not troubled by the omission, because it did not appear that Judge Roberts had spent a significant amount of time on the case. He did list two other cases, including one in which he represented welfare recipients in the District of Columbia who were challenging cuts in their benefits.

Walter A. Smith, who was in charge of pro bono work at Hogan & Hartson from 1993 to 1997, and who worked extensively on the Romer case, said about a dozen lawyers at the firm assisted. He said he had little trouble recruiting Judge Roberts.

"It looked like a challenging, interesting, provocative, important case," said Mr. Smith, who is now the executive director of the D. C. Appleseed Center, a nonpartisan public interest legal group. "Everybody knew that, and I think he believed it was worth his time."

Mr. Smith said part of his job was to match lawyers with cases that would intrigue them, and that his initial instinct was that Judge Roberts would be willing, despite his conservative bent. In the past, Judge Roberts has made it a point to note that lawyers do not always agree with their clients.

"Every good lawyer knows that if there is something in his client's cause that so personally offends you, morally, religiously, if it so offends you that you think it would undermine your ability to do your duty as a lawyer, then you shouldn't take it on, and John wouldn't have," he said. "So at a minimum he had no concerns that would rise to that level."

Liberal critics of Judge Roberts, however, continued to assail him on Thursday as a foe of civil rights. "John Roberts was a key member of a right-wing policy team that waged a comprehensive assault on fundamental constitutional rights," said Ralph Neas, president of People for the American Way, a liberal advocacy group, "and that is most relevant to his qualification to be on the Supreme Court."

While some conservatives, including Dr. Land of the Southern Baptist Convention, said they were unconcerned about Judge Roberts's involvement in the Romer case, others signaled that the report had at least raised questions in their eyes.

James C. Dobson, chairman of the evangelical group Focus on the Family, said Judge Roberts's work in the case was "not welcome news to those of us who advocate for traditional values," though he said it did not necessarily mean that Judge Roberts shared the plaintiffs' views.

Colleen Parro, executive director of the Republican National Coalition for Life and one of the few conservatives to raise questions about Judge Roberts, said his work on the case was "cause for more caution and less optimism" about his nomination.

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Partisans Are Unsure About Roberts' Work On Gays' Case (LAT)

By Maura Reynolds

The Los Angeles Times, August 5, 2005

WASHINGTON — Supporters and opponents of Supreme Court nominee John G. Roberts were caught off guard Wednesday by news that he worked behind the scenes years ago to assist a gay rights group win a key case before the nation's highest court.

Debate erupted on conservative and liberal Web sites, with partisans on both sides asking whether Roberts' assistance to what is usually considered a liberal cause was an aberration from his otherwise conservative record or a sign his views might be more nuanced than commonly thought.

Social and religious conservatives expressed dismay about his participation in the case but said they are not convinced it amounted to an endorsement of gay rights -- a movement they strongly oppose.

"While this is certainly not welcome news to those of us who advocate for traditional values, it is by no means a given that John Roberts' personal views are reflected in his involvement in this case," the political arm of Focus on the Family, a national organization of conservative Christian, said in a statement. "That's what lawyers do -- represent their firm's clients, whether they agree with what those clients stand for or not."

The White House sought to play down Roberts' participation in the case, known as Romer vs. Evans, in which the Supreme Court in 1996 voted 6-3 to strike down a voter-approved Colorado initiative that would have allowed employers and landlords to exclude gays from jobs and housing.

Roberts, then a lawyer at the Washington firm of Hogan & Hartson, helped gay rights activists prepare their challenge to the initiative as part of his firm's pro bono work.

Roberts did not mention his work on the case in responding to a Senate Judiciary Committee questionnaire that asked for examples of his pro bono work. Roberts' involvement in the case was first reported by the Los Angeles Times on Wednesday.

White House spokeswoman Dana Perino said Roberts spent less than 10 hours on the case while devoting more than 200 hours to two other pro bono cases in which he was lead counsel.

"There is clearly a difference" between his assistance in the Colorado case and his other pro bono work, Perino said.

Jean Dubofsky, the lead lawyer for gay activists challenging the Colorado initiative, told the Times that Roberts gave her "absolutely crucial" advice in how to argue the case before the Supreme Court.

Some conservative supporters of Roberts denounced Wednesday's focus on the case as an effort to set Republicans against each other.

"The Romer imbroglio is a red herring meant to divide the right," said Sean Rushton, executive director of the Committee for Justice, which helps coordinate strategy on judicial nominations for conservative groups.

Similarly, liberal activists insisted the revelation did not change their concern that Roberts is not as supportive of civil rights as they would like.

"A primary issue for us is to what degree, if any, this work reflects on the judicial philosophy Judge Roberts would bring to the Supreme Court," said Kevin Cathcart, executive director of Lambda Legal, a major gay rights advocacy group.

Cathcart said his group remains concerned about Roberts' "much more extensive advocacy of positions that we oppose."

Still, the revelation is awkward for both sides in the political battle over Roberts, now a judge on the U.S. Court of Appeals for the District of Columbia circuit. He was nominated by President Bush for the Supreme Court in late July to replace Sandra Day O'Connor, who is retiring.

Some conservative activists have expressed concerns that he may become an "unreliable" justice like David Souter or Anthony Kennedy, who were appointed by Republican presidents but who have not consistently supported conservative positions on the bench.

But Grover Norquist, president of Americans for Tax Reform and a central figure among GOP activists, said any conservative who withdrew support of Roberts over his participation in the Colorado case would be wrongheaded.

"The whole case that conservatives have been trying to make is that your personal feelings ought not to count" when you rule from the bench, Norquist said.

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"There may be people who will say -- I want (him) to share my world view and try to impose it on his decisions," Norquist added. "Those people are not a useful part of the effort."

Some liberal activists consider Roberts to be more of a conservative ideologue than he acknowledges, citing in particular his work in the Reagan administration to limit school busing and other programs that sought to promote civil rights for minorities.

"I'm interested in seeing his involvement in this (Colorado) case, but it doesn't diminish our overall concern," said Nan Aron, president of the liberal Alliance for Justice. "A picture is just beginning to emerge of his views, but it's too early to make an overall assessment of his judicial philosophy."

Norm Ornstein, a fellow at the American Enterprise Institute who is an expert on relations between the White House and Congress, predicted that Roberts' role in the Colorado case would unnerve ideologues on the right and the left.

"It reinforces the notion that the guy is a lawyer's lawyer," Ornstein said. "To whatever degree people are trying to view Roberts as an ideologue whose first instinct is to take his world view and impose it on whatever decision he's taking -- this cuts against it."

The result, Ornstein said, is that the Romer controversy is likely to help Roberts win more support from moderates.

"This means (he has) an ability to put himself in someone else's shoes," Ornstein said. "That is something that has distinguished the more careful and modest justices from the more expansive, wide-ranging and reckless ones."

Lawyers involved in the Colorado case described Roberts role as small but crucial to the outcome.

Walter A. Smith, Jr., the partner at Hogan and Hartson who ran the firm's pro bono program, said Roberts took part in the firm's initial meeting to consider accepting the case and that his participation, as in all the firm's pro bono cases, was voluntary.

"Anyone who didn't want to work on a case for whatever matter, they didn't have to," Smith said. "He was in on the takeoff and he was in on the landing and was helpful in both."

Smith also said that from a lawyer's point of view, the battle over the Colorado initiative was more a case about equal protection than about rights for gays and lesbians.

He said the critical issue for Roberts -- and eventually for the Supreme Court -- was whether the Colorado initiative took away ordinary rights and legal protections from a disadvantaged group, whether they were a sexual, racial or social minority.

"Does such a law violate the equal protection clause of the constitution? To that extent, it was not a gay rights issue," Smith said.

In Private Practice, Roberts's Record Is Mixed (WP)

By Jo Becker And Michael Grunwald

The Washington Post, August 5, 2005

As a private lawyer, John G. Roberts Jr. represented homeless Washingtonians who had lost their government benefits because of city budget cuts. He advocated environmental protections for Lake Tahoe, Glacier Bay and the Grand Canyon. He spent 25 hours assisting a convicted murderer with a death penalty appeal. He even helped gay rights activists win a landmark Supreme Court anti-discrimination case.

At first blush, these cases would seem to complicate any image of the Supreme Court nominee as a down-the-line conservative. But as details have emerged in recent days, conservative groups have been busy spreading the word to their members and the broader public about what they should think of Roberts's work in private practice: Pay it no mind.

At second blush, Roberts's role is hardly surprising, say people who have worked with him or studied his career. For more than a decade, he practiced appellate law at the Washington firm Hogan & Hartson in a distinctly non-ideological fashion. Now, as liberal and conservative activists pick over his career for evidence of his political and legal philosophy, neither side seems to attach much importance to his diverse practice. And some activists on both sides remain secure in their conviction that he is an emphatic conservative who will move the high court to the right -- never mind his client list.

The Los Angeles Times reported yesterday that in 1996, as part of his firm's pro bono program, Roberts offered limited aid to opponents of a Colorado referendum that allowed discrimination against gays. The case led to a landmark Supreme Court ruling that protects people from discrimination based on their sexual orientation.

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But Nan Aron of the liberal Alliance for Justice said that Roberts's involvement "doesn't say anything about his judicial philosophy." And Sean Rushton of the conservative Committee for Justice called the Colorado case "a red herring meant to divide the right."

"I don't think this is serious," said Bill Kristol, editor of the Weekly Standard. "Most conservatives are very pleased. . . . He has a long record, and has been very consistent."

The prevailing view of Roberts as a reliable conservative initially emerged from his résumé as a clerk to then-Associate Justice William H. Rehnquist, aide to President Ronald Reagan, deputy to then-Solicitor General Kenneth W. Starr and nominee of President Bush. That view was solidified by the release of forceful memos he wrote while serving in the Reagan administration, during which he helped shape policies opposing affirmative-action quotas and busing of schoolchildren to achieve desegregation. During the administration of George H.W. Bush, he signed a brief that called Roe v. Wade "wrongly decided."

In recent days, the White House and its allies have grown concerned that the documents released so far have painted Roberts as a rigid ideologue, and they have sought to provide a more complete portrait. Yesterday, the Bush administration released two Reagan-era documents sought by The Washington Post and others under the Freedom of Information Act. The Post request included thousands of other documents, which were not released.

In one memo, Roberts argued that Reagan should not interfere in a Kentucky case involving the display of the Ten Commandments on public property. In the other, he wrote that the bomber of an abortion clinic should not receive any special consideration for a pardon. "No matter how lofty or sincerely held the goal, those who resort to violence to achieve it are criminals," Roberts wrote.

Advisers to the White House have been urging the Bush team to be more aggressive about providing its own narrative of Roberts.

"There needs to be a good branding effort," said one Republican strategist involved in pro-Roberts strategy. "We do need to get out and start defining who this guy is."

Neither side has focused much attention yet on his work from 1986 to 1989 and from 1993 to 2003 at Hogan & Hartson, where he sometimes took on cases that clashed with conservative orthodoxy. For example, he once defended racial preferences for Native Hawaiians -- a case he lost to Theodore B. Olson, a prominent Republican in the appellate bar. On the other hand, Roberts assisted Republican Gov. Jeb Bush at no charge during the Florida presidential election recount in 2000.

"It's good for lawyers to represent clients on all sides of the political spectrum," Olson said. "You can't read anything into his personal feelings about the case."

The Supreme Court hears only about 80 cases a year, so even elite appellate lawyers such as Roberts have to compete for cases, and they rarely turn them down. Olson said that Supreme Court specialists also regularly help less-experienced lawyers prepare as a professional courtesy. And Hogan & Hartson lawyers said the firm has a culture in which every partner and associate is expected to help out on pro bono cases when asked.

That is what happened in the Colorado gay rights case, Romer v. Evans , in which lawyers seeking to strike down the referendum sought the help of Hogan & Hartson. Walter Smith, then head of the firm's pro bono department, turned to Roberts for assistance. Smith said Roberts readily accepted, helping to grill the lawyers handling the case during a mock trial, in which he played the role of Justice Antonin Scalia. Roberts also helped devise a strategy for the case.

"He only put in a few hours, but a few hours with John Roberts is probably worth a few weeks with someone else," Smith said. "John was always willing to help on pro bono cases, regardless of the politics. Not all his conservative brethren felt that way."

On conservative Web sites yesterday, there was scattered negative reaction to the news that Bush's nominee had helped to advance the cause of gay rights. "Frankly, I find it hard to believe that a 'conservative' Roman Catholic would not have declined to participate on moral grounds," one person wrote at http://www.confirmthem.com/ .

John Yoo, a law professor at the University of California at Berkeley who served as a deputy assistant attorney general in the Bush administration, said the pro bono case was unusual for a conservative Republican lawyer. "Usually, conservative lawyers take on the more conservative causes," Yoo said.

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On balance, the conservative establishment remained firmly supportive of Roberts. "While this is certainly not welcome news to those of us who advocate for traditional values, it is by no means a given that John Roberts' personal views are reflected in his involvement in the case," the group Focus on the Family said in a statement.

David Leitch, a former Hogan & Hartson partner, said Roberts never brought politics into his practice.

"We were Republicans, no question about that," said Leitch, who is now the general counsel of the Ford Motor Co. "But I never knew John to turn down a case for ideological reasons. He was there to represent clients. And he did it very well."

Staff writer Peter Baker contributed to this report.

Documents Indicate Roberts Isn't Always Predictably Conservative (KRT)

By Ron Hutcheson

Knight Ridder, August 5, 2005

WASHINGTON - As a legal adviser to President Reagan, Supreme Court nominee John G. Roberts Jr. joined a scathing denunciation of abortion-clinic bombers and urged Reagan to stay out of an effort to post tributes to God in Kentucky schools.

Roberts' advice, in documents Knight Ridder obtained before their public release later this month, might help him counter critics who portray him as a doctrinaire conservative. Abortion-rights groups and organizations that advocate a clear separation between church and state oppose his nomination.

Both sides in the nomination debate are scouring court briefs, legal memos and other documents for anything that can help make the case for or against Roberts' ascension to the nation's highest court. The documents that Knight Ridder obtained were leaked by an administration official who wanted to show the nominee as a servant of the law, not of conservative ideology.

In another development that could confound Roberts' liberal critics, the Los Angeles Times has reported that he worked behind the scenes, without charge, for gay rights activists in a 1996 case that led to a Supreme Court ruling protecting homosexuals from discrimination. Roberts, who was then in private practice, was asked to join the case by a colleague at his Washington law firm.

In the abortion-clinic case, Roberts was asked to respond to reports in 1986 that Reagan would consider granting presidential pardons to convicted bombers. The issue arose when leaders from two anti-abortion groups, the American Life League and the Pro-Life Action League, were quoted as saying Reagan was open to the possibility of pardons on a case-by-case basis.

Rep. Romano Mazzoli, a Kentucky Democrat, asked Reagan for an explanation. Roberts and his boss, deputy White House counsel Richard Hauser, suggested a strongly worded response that ruled out favors for clinic bombers.

"The president unequivocally condemns such acts of violence and believes that those responsible should be prosecuted to the full extent of the law," their draft reply said. "No matter how lofty or sincerely held the goal, those who resort to violence to achieve it are criminals. ... Neither the cause that these misguided individuals mistakenly believed they were serving, nor the target of their violence, will in any way be considered to mitigate the seriousness of their offense against our laws."

Roberts forwarded the draft to the White House legislative affairs office in February 1986, but it isn't clear whether it ever was sent to Mazzoli. The issue may have become moot when other White House officials denied that Reagan had offered to consider pardons.

Joe Scheidler, the head of the Pro-Life Action League then and now, shrugged off the draft letter.

"My own lawyer would take the same position," Scheidler said. "I could see Roberts or any other lawyer coming up with that."

Roberts' opinion of Roe v. Wade, the 1973 ruling that legalized abortion nationwide, is one of the most hotly debated issues in his confirmation.

As a deputy solicitor general in the administration of the first President Bush, he joined a brief asserting that Roe "was wrongly decided and should be overruled." He distanced himself from that opinion during his 2003 confirmation hearings to a federal appellate court and declared Roe "the settled law of the land."

Scheidler said he was confident that Roberts would vote to overturn the 1973 ruling if given a chance.

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"It's settled law for now. That doesn't mean it can't be overturned," Scheidler said. "As a Supreme Court justice, he'd have a whole new approach."

In the Kentucky school case, Roberts advised Reagan to stay out of a 1985 effort to require teachers to post the national motto - "In God We Trust" - and the preamble to the state constitution in their classrooms. The preamble declares, "We, the people of the Commonwealth of Kentucky, are grateful to Almighty God for the civil, religious and political liberties we enjoy."

Supporters of the measure wanted Reagan's endorsement to help get it through Kentucky's legislature. At least one White House official seemed to support Reagan's involvement.

"The president's position concerning this issue is clear, and this group is certainly aware of it, but we would like to be sure that a message to them is approved by your office," White House aide Anita Bevacqua wrote in a May 17, 1985, memo to Roberts.

Roberts nixed the idea in his reply a week later. He questioned the constitutionality of the proposal and concluded that "it would be inappropriate" for Reagan to endorse it.

Roberts' critics on the church-state issue point to a brief that he co-authored as a deputy solicitor general on school prayer. The brief defended prayers at graduation ceremonies. The Supreme Court rejected his viewpoint in a 5-4 ruling.

Roberts' Solicitor General Record Gives Clues To Views (LAT)

By David G. Savage

The Los Angeles Times, August 5, 2005

WASHINGTON — For many years, the solicitor general was known as the "10th justice," a trusted figure who advised the Supreme Court on the law and whose client was the United States.

But midway through the Reagan administration, the office took on a new role. The solicitor general became not just the government's chief lawyer before the Supreme Court, but the point man for a conservative transformation in the law.

When John G. Roberts Jr., then 34, joined Solicitor General Kenneth W. Starr as his top deputy in fall 1989, they were determined to make the Reagan Revolution a legal reality.

Roberts "was in that position as the principal political deputy to the solicitor general because he was simpatico with the administration," said Washington lawyer Charles J. Cooper, a longtime friend of the Supreme Court nominee. "He agreed with the thrust of what the administration was doing,"

Together, Starr and Roberts for 3 1/2 years pressed a strongly conservative legal agenda.

They argued for limiting the scope of civil-rights laws, ending race-based affirmative action, restoring some prayers to public schools and overruling Roe v. Wade, the case that established a woman's right to have an abortion.

They sought to make it harder for environmentalists to challenge the government in court. They intervened on the side of Operation Rescue to shield abortion protesters from being sued. And they joined Texas state lawyers in arguing that new evidence of a death-row inmate's "actual innocence" did not entitle him to reopen his case in federal court.

In the first right-to-die case to reach the Supreme Court, they intervened on the side of then-Missouri Gov. John Ashcroft to argue that state officials may keep a comatose woman alive over the objections of her family.

"Ken Starr and John Roberts are genuine conservatives," said Christopher J. Wright, a lawyer who worked under them at the solicitor general's office. "They're highly professional and excellent lawyers. But I'm a Democrat, and I can't say I always agreed with them."

Roberts' record at the solicitor general's office under President George H.W. Bush has become the focus of attention for Senate Democrats. They have been studying 81 Supreme Court briefs signed by Roberts between 1989 and 1993, and have asked the White House to disclose the memos he wrote in 16 of those cases.

But the White House so far has refused to provide the memos and other supporting documentation, claiming a lawyer-client privilege. As a result, Roberts' legal philosophy during that highly politicized period can only be gleaned from the public files.

They suggest a strongly, although not uniformly, conservative approach to issues.

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Unlike his position as a young assistant to Attorney General William French Smith in 1981 and 1982, Roberts' post in the solicitor general's office gave him the opportunity to try to reshape the law at the Supreme Court. When teamed with Starr, he was not shy about pressing sharply ideological positions in the court.

The duty and role of the solicitor general was a subject of debate in the 1980s. Reagan's first solicitor general, Rex Lee, quit in frustration, saying he was reluctant to "press the administration's policies at every turn. ... I'm the solicitor general, not the pamphleteer general."

The solicitors who followed Lee, including Charles Fried and Starr, were more willing to advocate the ideological views of the administration.

In the Reagan and first Bush administrations, that meant urging the Supreme Court to overturn Roe v. Wade.

In 1991, for example, when the court took up a free-speech challenge to an abortion regulation, Starr and Roberts filed a brief saying, "We continue to believe that Roe was wrongly decided and should be overruled." The regulation at issue prohibited doctors and nurses at federally funded family-planning clinics from discussing abortion with their patients. The court later upheld the regulation in a 5-4 decision, but without discussing the validity of Roe v. Wade.

The next year, Starr's office intervened in a Pennsylvania dispute to urge the court again to overrule Roe. "The protection of human life -- in and out of the womb -- is certainly the most compelling interest that a state can advance," Starr said.

The Supreme Court rejected the advice, and, in a 5-4 ruling, said women may opt for an abortion during the first six months of pregnancy.

The challenging of Roe -- and the view at the solicitor general's office of its proper role -- was defended by Thomas Merrill, a Columbia University law professor, who worked under Starr and Roberts.

"The president (George H.W. Bush) had campaigned for overruling Roe v. Wade. We in the office knew the administration's position. It was only a question of how to go about achieving that objective," he said.

In 1991, Roberts personally argued a case along with lawyers for Operation Rescue. The protesters had been sued in Virginia over abortion-clinic blockades. The women who sued relied on the Ku Klux Klan Act of 1871, which made it illegal for several persons to conspire to deprive individuals of their rights.

Roberts began by saying that he was not defending the actions of the protesters. Rather, he argued, the 19th-century civil-rights law did not apply to their conduct. The law only applied when people were singled out for discrimination, as blacks were by the klan, Roberts said.

"Opposition to abortion is (not) the same as discrimination on the basis of gender," he said, adding that it was "wrong as a matter of law and logic" to make such a claim. In a 6-3 decision, the court agreed with his argument in an opinion written by Justice Antonin Scalia.

The lawyer who represented the women said the Bush administration lawyers should have stayed out of the case. "We were greatly bothered that the federal government was in this case on the side of Operation Rescue," Deborah Ellis, a New York University law professor, recalled recently. "There is a right to abortion, and whether you agree with it or not, it is objectionable that women could be deprived of this right by force."

(The Supreme Court is set to hear a similar case this fall involving blockades at abortion clinics. Lawyers for the National Organization for Women won a lawsuit against leaders of Operation Rescue for using violence and threats against doctors and patients. The court will hear an appeal from the anti-abortion advocates, who say the federal extortion law does not apply to such protests.)

Starr and Roberts also upset women's-rights advocates in 1991 when they intervened on the side of a Georgia school district in a major test of Title IX, the law that bars sex discrimination in schools and colleges.

Christine Franklin, a student, said she had been sexually harassed and abused by a popular coach, who was later dismissed. She sued the school district.

Starr and Roberts urged the court to rule that the law does not give victims of sex discrimination a right to sue. The justices unanimously rejected that view.

During their time together in the solicitor general's office, Starr and Roberts helped win rulings that had broad effect across the United States. They joined a Nebraska case in which the court ruled that student-led Bible clubs had a right to meet at public

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schools. They joined a Minnesota case in which the court upheld state law requiring a parent be notified before the daughter had an abortion. And they joined an Oklahoma City case in which the court set the stage for ending long-running school busing programs.

But Roberts was not always on the government's side.

He intervened in a Louisiana case to argue on behalf of an inmate, Keith Hudson, who had been beaten by two prison guards while shackled and handcuffed.

Hudson sued the guards for violating his constitutional rights and won $800 in damages. But the U.S. Court of Appeals in New Orleans threw out the verdict and ruled that prisoners' rights were not violated by abusive treatment that did not cause a significant and permanent injury.

Roberts said he was troubled by the lower court's ruling. While "frivolous" lawsuits from prisoners were a problem, this was not a frivolous case, he said. Nor, he told the court, should the law condone the "unnecessary and wanton infliction of pain" on prisoners.

The Supreme Court agreed in a 7-2 ruling written by Justice Sandra Day O'Connor. Justices Clarence Thomas and Scalia dissented.

Democrats on the Senate Judiciary Committee, which will hold hearings on Roberts' nomination to the Supreme Court, have demanded to see the memos he wrote in several of the cases from his time in Starr's office. They say they want to see how Roberts analyzed the law, and whether the administration's position was also his.

His friend Cooper, also a veteran of the Reagan administration, said it was fair to conclude that Roberts agreed in essence with the legal arguments he made on behalf of the first Bush administration -- although "it would be wrong to conclude he agreed with every line in those briefs."

Within the Justice Department, Roberts was admired for his intelligence and modest manner.

"My most distinct memory is that he played his cards close to the vest," Merrill said. "I briefed him for his first two days there, and he nodded and smiled. He didn't talk much. John never kicked back and philosophized about his view of the law."

GOP To Make Push For Roberts (WT)

By Bill Sammon

The Washington Times, August 5, 2005

President Bush and his strategists are using the politically fallow month of August to conduct a coordinated campaign to sustain momentum for the nomination of Judge John G. Roberts Jr. to the Supreme Court.

The effort has two tracks -- a public offensive that includes the president openly stumping for his nominee and a behind-the-scenes blitz designed to keep Senate Democrats on the defensive.

"Roberts needs to get his hearing done and the confirmation completed so he can be seated before the Supreme Court reconvenes in early October," Mr. Bush said this week in Texas at the start of his monthlong working vacation.

The president is expected to reiterate that sentiment during numerous day trips to various states from his 1,600-acre ranch in Crawford, Texas.

Meanwhile, White House operatives, working closely with the Republican National Committee, are quietly urging regional interest groups in key states to keep up the pressure on Senate Democrats. The groups are writing letters asking for meetings with their senators while they are home for the August recess.

Several Republican strategists who spoke to The Washington Times said the idea is for the groups to demand consultations with their senators because Mr. Bush had consulted with those senators on the nomination.

The effort is targeted at Democrats in conservative states such as Arkansas and Louisiana, rather than liberal states such as Massachusetts.

The interest groups range from local chapters of the Chamber of Commerce and Fraternal Order of Police to less well-known groups such as the Colorado Catholic Lawyers Guild, which has requested a meeting with Sen. Ken Salazar, Colorado Democrat.

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In Florida, Democratic Sen. Bill Nelson is being targeted by statewide groups of real-estate agents, restaurateurs and medical professionals. In Iowa, Democratic Sen. Tom Harkin has been asked to meet with the Iowa Sportsmen's Federation. In New Mexico, Democratic Sen. Jeff Bingaman has been targeted by the state's Alliance for Legal Reform and Fraternal Order of Police.

Judging by the limited resistance to the Roberts nomination being mounted by such Democrats so far, Republicans say the effort alreaedy is bearing fruit. As evidence, they cited remarks this week by Democratic Sen. Mark Pryor of Arkansas.

"I don't really see any problems with this confirmation," he told the Washington County Bar Association in Fayetteville. "The White House really reached out to the Senate on this one, and I'd assume that means the confirmation process will go a lot smoother. I think this was a good choice by President Bush."

Another component of the August blitz entails aggressively booking Roberts advocates on local and regional talk radio programs, taking a template from the president's successful re-election campaign.

Republican strategists are quick to emphasize that confirmation of Judge Roberts is by no means guaranteed. They recalled that while the initial rollout of Supreme Court nominee Clarence Thomas went smoothly, the confirmation process turned ugly.

Mindful of such possibilities, White House officials are braced to respond aggressively to expected attacks against Mr. Roberts by Democrats, liberal interest groups and journalists.

Still, Republicans are heartened that the scorched-earth political warfare that many had predicted has not materialized in the 21/2 weeks since the president nominated Judge Roberts. They are pleased that they were able to quickly gain political altitude with the nomination, racing to cement public opinion before the Democrats could gain traction.

While Mr. Bush and White House operatives spend August lobbying for Judge Roberts, the nominee will spend much of the month studying material in preparation for his Senate confirmation hearings, scheduled for September. He also will undergo rigorous question-and-answer sessions such as the ones practiced by presidential candidates in preparation for debates.

Judge Roberts will be grilled by lawyers from White House Counsel Harriet Miers' office and the Department of Justice, including acting Assistant Attorney General Rachel Brand, who runs the department's Office of Legal Policy.

Women's Groups Try To Rally For Court Fight (WSJ)

By Jeanne Cummings

The Wall Street Journal, August 5, 2005

The divisive 1991 confirmation hearings of Supreme Court Justice Clarence Thomas, involving charges of sexual harassment, launched 1992's Year of the Woman. That election's windfall brought four new women to the U.S. Senate and 20 to the House -- and turned women's rights groups into a force to be reckoned with.

Now another Supreme Court appointment battle looms, with abortion rights a likely central issue. But internal squabbles, declining membership and complacency during the Clinton years have left most women's rights groups in weakened shape for the clash over Judge John G. Roberts Jr.

The National Organization for Women's political donations shriveled to $44,000 in 2004 from $327,000 in 1992. Planned Parenthood Federation of America Inc., facing a revolt among affiliates in part because of the politicization of the group, ousted its president in January and hasn't taken a position on the Roberts nomination. NARAL Pro-Choice America's new president was still on an introductory tour to affiliates and donors around the country when the Supreme Court fight started.

The influence of women's groups inside Congress also has eroded. Most Democrats in the Senate "Gang of 14" -- moderates who could prevent a Democratic filibuster -- weren't endorsed by NARAL because they didn't solidly back abortion rights or opposed them. "I do worry about our strength as a movement," says Kate Michelman, NARAL's former president. "What we do in this battle will establish the foundation and create the conditions not only for this one but also for the future."

Abortion-rights groups like NARAL oppose President Bush's nominee, who in a 1990 Supreme Court brief prepared for the Bush administration advocated overturning the landmark Roe v. Wade ruling. More recently, Judge Roberts has moderated his language, but abortion-rights advocates remain wary.

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The troubled state of women's rights groups is shared by many of their traditional allies. Big Labor is falling apart as unions defect from what they claim is a wasteful and antiquated AFL-CIO. Civil-rights groups are fighting a conservative pushback on affirmative action and other issues. And the NAACP, the nation's leading African-American organization, is under investigation by the Internal Revenue Service.

The challenge for Judge Roberts's opponents is exacerbated by Democrats' reconsideration of how to position themselves with a more conservative electorate. Abortion was among the issues that some political analysts said drove church-going voters to President Bush in last year's election. Now, Democratic National Committee Chairman Howard Dean, an abortion-rights supporter, is urging his party's messengers to speak more about faith and religion and to downplay issues such as abortion.

Meanwhile, an array of conservative organizations is stronger than ever. They spent the Clinton years recruiting members and electing lawmakers, particularly to the Senate. High School Bible clubs flourished and anti-abortion organizations established footholds in colleges and universities across the country. The groups helped create a generation of women more receptive to restricting access to abortions and, because of broader access to birth control, less sympathetic to women with unwanted pregnancies, recent polls and focus groups have found.

The question is whether the Roberts nomination will have the same galvanizing effect as Justice Thomas's. Polls indicate that a majority of young adults, and the general public, oppose overturning Roe v. Wade -- an opening women's rights groups are trying to turn to their advantage.

"Bush has been our number-one membership recruiter," says Kim Gandy, president of NOW, which held dozens of protests the day after Judge Roberts was nominated. NARAL sent emails to 800,000 activists urging them to begin petition drives and contact their senators to express opposition to the nomination. Both groups, and others, added their lawyers to a coalition that is mining Judge Roberts's record for clues on how he might rule on the high court. They also are coordinating with Democrats on the Senate Judiciary Committee to ensure the nominee is questioned on abortion rights during his hearings next month.

NARAL's new president, Nancy Keenan, witnessed the conservative movement's growing influence during the 1990s when she refereed battles over school curriculum while serving as Montana's school superintendent. When she visited Washington, D.C., back then, she warned liberal allies "there is something afoot in the West; something seems orchestrated and calculated," she recalls. But they remained focused on lobbying the Clinton administration for looser restrictions on abortion funding and other long-thwarted priorities.

Ms. Keenan is revitalizing a program that expands NARAL's mission to protect access to birth control as well as abortion and includes a state-based recruitment drive. The project is critical, she says, because that network of advocates could become the first line of defense if the Supreme Court overturns Roe v. Wade and sends the issue back to state legislatures.

But while operations in Minnesota, New York and California remain strong, organizing has been painstaking work in states where conservatives made big electoral and legislative gains.

Ann O'Hanlon was hired as executive director of the Virginia NARAL affiliate in September 2003 -- a chapter that was closed during the Clinton years. She joined the small but active Pro-Choice Coalition, a Virginia group that lobbies the state legislature, and organized membership-building house parties. By January 2004, her mailing list had expanded to 6,400 and she had recruited two direct-mail fund-raising experts to serve on her volunteer board. Today, she can reach 21,000 people by email and NARAL has a full-time lobbyist in Richmond.

Ms. O'Hanlon and her volunteers are conducting petition drives on the Roberts nomination, and hoping the confirmation fight will invigorate her group and lead to the kind of ballot-box success her predecessors saw with the Thomas fight.

Already, the nomination is playing a role in the Virginia governor's race. Russ Potts, a Republican who says he is a moderate on abortion rights, is running as an independent to succeed retiring Democratic Gov. Mark Warner in November. He is seeking NARAL's endorsement, and in a meeting last week in Richmond, Mr. Potts recalls, he adapted his pitch to reflect concerns that Judge Roberts could help overturn Roe v. Wade.

"Should Roe v. Wade be overturned and sent back to the states, I will veto any attempt to overturn [abortion rights] in Virginia," he says he told Ms. O'Hanlon and other members of the Pro-Choice Coalition.

Groups Step Up Advertising On Roberts Nomination To High Court (BLOOM)

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By Laura Litvan

Bloomberg, August 5, 2005

Aug. 4 (Bloomberg) -- Interest groups are stepping up the campaign over U.S. Supreme Court nominee John G. Roberts, airing new advertisements designed to shape public opinion before next month's Senate Judiciary Committee confirmation hearings.

With bulging war chests that may total $100 million, both sides are gearing up for an expensive fight to prevent their adversaries from gaining an advantage. Still, Republicans control the Senate 55-45, and no Democrats have threatened a filibuster that would be their only chance to stall the nomination.

``There's a lot of folks who are both pro and con who are on automatic pilot," said Princeton University political science Professor Fred Greenstein in response to a question about why the ad campaigns are intensifying.

IndependentCourt.org, a coalition of 75 liberal groups including People for the American Way, this week began running national television ads that demand more information on Roberts's positions on issues. They urge the White House to release more documents from his time as a top Justice Department lawyer.

The Committee for Justice, which supports the nomination, will counter with radio ads targeting about 10 states represented by moderate Democratic senators, said Sean Rushton, the group's executive director. Senators are back in their home states for a monthlong recess and will be hearing from the voters, he said.

``This is when Roberts will be defined and it will set the stage for what kind of confirmation hearings and floor debate he gets," Rushton said.

$100 Million

Both sides will spend about $100 million on the confirmation battle including up to $10 million by business groups, estimates Rogan Kersh, a political science professor at Syracuse University in New York who specializes in lobbying.

``This is what they exist for," he says.

Progress for America, a group supporting Roberts's nomination, has budgeted $18 million for the campaign. It spent more than $40 million in the 2004 elections to help elect Bush.

Senate hearings on Roberts, 50, a federal appeals court judge picked by President George W. Bush to succeed retiring Justice Sandra Day O'Connor, will begin Sept. 6 with a likely vote by the full Senate before the Supreme Court reconvenes on Oct. 3.

The first ads to air on the nomination were paid for by Progress for America. It spent $1 million on ads last week that described Roberts as a ``brilliant" lawyer and jurist.

The ads sponsored this week by IndependentCourt.org have been shown on CNN, Fox News Channel and on the NBC affiliate in Washington.

Gathering Petitions

Groups are also gathering petitions during the August congressional recess.

``We're trying to get as many people to take action as possible," said Ted Miller, a spokesman for NARAL Pro-Choice America, which is opposing Roberts's nomination on grounds he might vote to overturn Roe v. Wade, the 1973 Supreme Court ruling that legalized abortion nationwide.

Some ads and grassroots activities are targeting Democrats in ``red states" that Bush carried in the 2004 election. They are also aimed at the ``Gang of 14," seven centrist Republicans and Democrats who brokered a deal in May to avert a showdown over Bush's appeals court nominees.

That group includes Democrats Ben Nelson of Nebraska and Kent Conrad of North Dakota, who may face close re-election contests in 2006. Others on the list are Mark Pryor and Blanche Lincoln, both Democrats from Arkansas, which Bush won with 54 percent of the vote in 2004.

Pryor and Nelson have praised Bush for consulting senators before choosing Roberts and haven't taken a position on the nomination.

Lining Up Commitments

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Groups favoring Roberts say they want to line up possible commitments or at least create momentum for the nominee heading into the hearings.

``Anytime you let the momentum fall, it allows time for questions to arise," said John Thomas, a spokesman for the Family Council Action Committee in Little Rock, Arkansas. ``You really want to keep moving forward."

Groups that are questioning Roberts's record are pressing senators to remain neutral for now.

``We're asking them, instead of rushing to a quick decision to take the time to ask hard questions people want to know, like where Judge Roberts stands on abortion and the environment and other issues that affect people's lives," said Cammy Watkins, a conservation organizer for the Nebraska chapter of the Sierra Club.

The board of the American Civil Liberties Union may meet this month to decide whether to oppose Roberts, said Will Potter, an ACLU spokesman. The group has only opposed two Supreme Court nominations: Robert Bork when he was defeated in 1987 and William H. Rehnquist when he was first appointed in 1971.

ACLU Position

``The ACLU isn't going to fly off the handle and give a knee-jerk reaction," said Tim Butz, executive director of the Nebraska chapter of the ACLU. ``We're going to study this thing and make a decision on our schedule so that we're sure we're doing the right thing."

Both sides are gearing for the fight to avoid falling behind.

``August is when a lot of opinions are going to be formed," said David Keene, chairman of the American Conservative Union, which is urging its 400,000 members who actively participate in such campaigns to lobby senators for Roberts. ``It's our assumption that the left will be advertising very heavily in a lot of these states and trying to reach members that they think are up in the air. You don't want them to have 1,000 letters against, and two letters for."

Judge Roberts's Memos (WP)

The Washington Post, August 5, 2005

The request by Democratic senators to see memos written by Supreme Court nominee John G. Roberts Jr. during his service in the solicitor general's office requires a difficult balancing of legitimate interests: the executive branch's need for confidentiality against a full and informed Senate confirmation proceeding. The request is more measured than the far-reaching demand for solicitor general memos during the nomination of Miguel A. Estrada to the U.S. Court of Appeals for the D.C. Circuit earlier in the Bush administration. It should not simply be defied. But neither is the administration wrong to try to protect internal deliberations within one of the government's most critical legal offices. Accommodation should be possible, provided it is sought in good faith by both sides.

The demand for memos in Mr. Estrada's case was irresponsible because he was a line attorney in the office; senators had demanded essentially all of his written work. It was an unlimited fishing expedition. Had the administration complied, the free give-and-take within the solicitor general's office would have been poisoned. That is why all living solicitors general of both parties opposed the request.

The Roberts case is different. Judge Roberts was not a line attorney but the political deputy solicitor general -- and administrations have at times chosen to turn over confidential work product when political appointees are nominated to the bench, including in the cases of Chief Justice William H. Rehnquist and the nomination of Robert H. Bork. A privilege, after all, can be waived. Unlike the case of Mr. Estrada, Democrats have not sought the entire body of Judge Roberts's work but only his memos in 16 cases that they believe might shed light on his legal philosophy. The executive branch has already released mounds of material of indistinguishable sensitivity -- including Judge Roberts's memos to the attorney general early in the Reagan administration. This material was slated under statute and past policy decisions to become public for reasons having nothing to do with the nomination. But at least to some degree it complicates the administration's contention that it can contemplate no disclosure of old attorney-client material.

Still, the administration's concerns are not trivial. Disclosure of internal documents in judicial nominations has typically occurred in response to accusations of impropriety; there is no suggestion of misconduct in this case. To be sure, turning over the material could establish the precedent that confidential attorney-client material becomes fair game whenever senators are

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curious to know what a particular nominee thought on a particular issue. The risk that this could chill the willingness of line attorneys to give their candid views is a serious concern.

There is a possible solution that the White House and Senate Democrats should consider. It is not clear that Judge Roberts actually worked on all of the 16 designated cases. Even where he did, deputy solicitors general often don't write detailed memos but frequently annotate case memos written by career assistants, according to former officials of the office. In many of the cases at issue, there may be little or no written work product to examine; and what there is may be distinctly uninformative. An executive privilege dust-up over nothing would be pointless.

The administration should, therefore, begin by specifying what, if any, responsive material actually exists in these cases. This step might narrow the dispute to just a few documents. If those documents seem important to the assessment of Judge Roberts, a procedure could be crafted to allow for examination by senators who wish to satisfy themselves that they contain nothing disqualifying.

Rehnquist Fever Stirs Up Speculation About Retirement (WT)

By Charles Hurt

The Washington Times, August 5, 2005

Supreme Court Chief Justice William H. Rehnquist was taken by ambulance to an Arlington hospital yesterday with a fever, but was released promptly.

The brief visit marks his second trip to the hospital in a month and, although much shorter than the two-night stay in July, it still is likely to spawn further speculation that his retirement from the high court could come at any time.

"The chief justice developed a fever today," Supreme Court spokesman Ed Turner said in a brief statement last night. "He was taken to Virginia Hospital Center for evaluation."

Mr. Turner later said the chief justice was evaluated and allowed to go home.

Chief Justice Rehnquist, 80, was diagnosed last year with thyroid cancer and has undergone chemotherapy and radiation treatment. Throughout, the chief justice has maintained a full work schedule and was at the court earlier yesterday.

In July, Chief Justice Rehnquist was admitted to the hospital for two days with the same symptoms.

Then, speculation reached a fevered pitch that he would step down after 33 years on the court and 19 years as chief justice. But instead, he stayed on.

"I want to put to rest the speculation and unfounded rumors of my imminent retirement," he said upon his release from that hospital stay. "I will continue to perform my duties as chief justice as long as my health permits."

If Chief Justice Rehnquist retires, he will give President Bush a second vacancy on the Supreme Court to fill and would begin anew all the political maneuvering on both sides to find a replacement.

The confirmation process for replacing Supreme Court Justice Sandra Day O'Connor, who announced her retirement last month, has been smoother than many expected.

Federal Judge John G. Roberts Jr., her proposed replacement, was applauded by conservatives. But yesterday, the Los Angeles Times reported that he had helped a "gay rights" group win one of the most important Supreme Court cases on homosexuality.

Although Judge Roberts did not write briefs or become deeply involved in Romer v. Evans, which was argued in 1995 and decided in 1996, he did perform pro bono help for Lambda Legal, reviewing filings and helping prepare oral arguments. He also played the role of conservative Justice Antonin Scalia in a mock trial, the Times said.

Judge Roberts was then one of the premier Supreme Court lawyers in the country, working at the Washington firm Hogan & Hartson.

The case, which the homosexual-rights group won on a 6-3 ruling, involved a voter-approved state constitutional amendment in Colorado that barred municipal and local governments from making homosexuals a protected class under civil rights laws.

Conservatives yesterday downplayed the significance of his involvement.

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"The Romer imbroglio is a red herring meant to divide the right," said Sean Rushton of the conservative Committee for Justice. "Roberts was asked by a colleague to represent the conservative view in moot court prep on a pro bono case he did not select and in which he was not centrally involved."

Mr. Rushton added, "It speaks volumes that he was asked to play Scalia."

Rehnquist Treated For Fever (NYT)

By Lawrence K. Altman

The New York Times, August 5, 2005

Chief Justice William H. Rehnquist, who has thyroid cancer, was treated at a hospital yesterday to try to determine the source of a fever, a Supreme Court spokesman said.

The chief justice went home in the early evening without the court or the hospital providing information about the source of the fever.

It was the second time in less than a month that the chief justice, 80, had gone to Virginia Hospital Center in Arlington because of a fever. He spent two nights at the hospital after being admitted on July 12. The cause of the fever in July was not disclosed.

Hours after returning to his home on July 14, the chief justice ended months of speculation about his retirement plans by saying he would continue to serve as long as his health permitted.

The chief justice has been working at the court regularly since his hospitalization in July, said Edward Turner, the court's deputy public information officer.

President Bush has nominated Judge John G. Roberts Jr. to replace Justice Sandra Day O'Connor, who resigned on July 1, two weeks before the chief justice entered the Arlington hospital. Mr. Roberts is preparing for Senate confirmation hearings scheduled to start Sept. 6.

Chief Justice Rehnquist has released only sketchy information about his thyroid cancer, which he disclosed last October. He said that he was being treated with radiation and chemotherapy, and that surgeons had created a hole in his windpipe, a procedure known as a tracheotomy, to ease his breathing.

The chief justice did not say what type of thyroid cancer he had. Most patients with thyroid cancer do not need a tracheotomy. The fact that he had the procedure led many thyroid experts not connected with his case to say that they strongly believed that he had anaplastic thyroid cancer, the most aggressive type of that disease.

On July 14, Chief Justice Rehnquist said that he wanted "to put to rest the speculation and unfounded rumors of my imminent retirement" and that he "will continue to perform my duties as chief justice as long as my health permits."

Rehnquist Has Brief Hospital Stay (WP)

By Dan Eggen

The Washington Post, August 5, 2005

Chief Justice William H. Rehnquist was taken to Virginia Hospital Center in Arlington yesterday after developing a fever, marking the second emergency visit in the past month by the jurist, who has cancer. Rehnquist, 80, who vowed just three weeks ago to keep working "as my health permits," was admitted for "evaluation" and allowed to go home, according to Supreme Court spokesman Ed Turner.

Court officials declined to provide further details. Rehnquist has been undergoing treatment for thyroid cancer since November. He spent two nights at the same hospital last month, also after developing a fever.

His latest visit to the hospital comes amid a fierce political struggle on Capitol Hill over appellate court judge John G. Roberts Jr., who has been nominated by President Bush to succeed retiring Supreme Court Justice Sandra Day O'Connor.

Rehnquist has long guarded his privacy, and has declined to reveal details about his illness. It was diagnosed in October and resulted in radiation and chemotherapy treatment in November.

Doctors not connected to his case have said that fever-producing infections are common in patients who, like the justice, have a surgical opening in their throat to permit breathing. The opening increases the risk of infection in the lungs, bronchial tubes and trachea.

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Rehnquist resumed work in December and administered the oath of office at Bush's inauguration. He presided over oral arguments in the spring and has continued to work at the court this summer, hiring three law clerks for the term that will begin in October. Officials said Rehnquist worked at the court earlier yesterday.

After his July 14 release from the hospital, Rehnquist issued a statement denying any intention to step down. "I want to put to rest the speculation and unfounded rumors of my imminent retirement," Rehnquist's statement said. "I will continue to perform my duties as long as my health permits."

His symptoms and reported course of treatments have led many outside experts to speculate that Rehnquist may be suffering from anaplastic thyroid cancer, which leaves most of its victims dead within a year of diagnosis. But Rehnquist's emphatic statement last month and his continued work at the court have led others to believe the disease may be less aggressive.

Bush's Loyalty Raises Doubts About His Political Judgment (KRT)

By William Douglas

Knight Ridder, August 5, 2005

WASHINGTON - Former Major League Baseball Commissioner Fay Vincent wasn't surprised this week when President Bush supported embattled Baltimore Orioles slugger Rafael Palmeiro after he tested positive for steroids by saying the star first baseman was a trusted friend.

When Bush owned the Texas Rangers in the early 1990s, he was the only team owner to back Vincent in a confidence vote that eventually led to his ouster from baseball's top job in 1992.

"He was very supportive, very outspoken and all alone. I've never forgotten that," Vincent said. "That showed loyalty, an old Bush family trait and an admirable one."

Bush's loyalty to his friends extends from the baseball diamond to the White House, where he's backed beleaguered Deputy Chief of Staff Karl Rove, who's mired in an investigation over who leaked the name of an undercover CIA officer, and to John Bolton, whom Bush appointed ambassador to the United Nations despite Senate reservations.

But the president's quick and unequivocal defense of Palmeiro - who's now the subject of a congressional investigation - has raised questions about whether Bush's loyalty undercuts his political judgment.

"It seems that President Bush is falling into the Nixon trap - his administration can do no wrong. His allies and people who support him can do no wrong," said Robert Dallek, a presidential historian. "Palmeiro is above suspicion, Rove is not to be questioned, John Bolton is a stand-up guy.

"The danger is he divorces himself from public reality, political reality, and it erodes his ability to lead the country," Dallek said.

Several analysts said the Palmeiro situation illustrates that point. Bush took a strong stand against steroids in his 2004 State of the Union address, demanding that major league sports take tougher action to eliminate steroid use by athletes.

"The use of performance-enhancing drugs like steroids in baseball, football and other sports is dangerous and it sends the wrong message - that there are shortcuts to accomplishment and that performance is more important than character," Bush said.

But when news of Palmeiro's positive drug test and 10-day suspension by Major League Baseball became public, Bush almost instantly backed the ballplayer, saying Palmeiro spoke truthfully on March 17 when he wagged his finger at the House Government Reform Committee and emphatically denied ever using steroids.

Bush's fondness for Palmeiro - who recently became only the fourth major league player to slam more than 500 home runs and 3,000 base hits - dates back to when Palmeiro played for the Rangers under Bush's ownership.

"Rafael Palmeiro is a friend. He testified in public and I believe him," Bush said Monday. "He's the kind of person that's going to stand up in front of the klieg lights and say he didn't use steroids, and I believe him. Still do."

Bush's quick defense seemed contradictory to some, in light of his previous tough talk on steroids.

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"His defense in this case, so quickly, seemed like an about-face, from taking a stand to a ridiculous statement a fan might make to another fan in a bar," said Richard Lapchick, chairman of the DeVos Sports Business Management Program at the University of Central Florida. "It certainly didn't seem like he thought that one through."

Peter Robey, director of Northeastern University's Center for the Study of Sport in Society, said Bush's defense of Palmeiro dented the president's credibility on an issue that he elevated into the national consciousness.

"He has to be very careful about being consistent," Robey said. "He should temper his support for Palmeiro by coming out with a statement that combines his loyalty to Palmeiro with a drive to rid baseball of steroids. He has to maintain his consistency."

Bush often described himself on the campaign trail as a president who says what he means and means what he says. But Dallek says his consistency sometimes fades when friendship and loyalty arise. He noted that when Rove's name became prominent in the CIA leak investigation, Bush's position on the flap appeared to soften.

In September 2003, Bush had vowed to take "appropriate action" against the culprit. In June 2004, he answered "yes" when asked if he would fire anybody who leaked the agent's name. Last month, his answer was nuanced: "If anyone committed a crime, they will no longer work in my administration."

It's nothing new for a president to stand faithfully behind staff, family and friends.

- Abraham Lincoln rejected calls to remove Gen. Ulysses S. Grant after his Union troops suffered heavy casualties at Shiloh.

- Richard Nixon held onto aides HR Haldeman and John Ehrlichman long after they had become political liabilities in Watergate, though eventually they were forced to resign.

- Jimmy Carter suffered repeated embarrassments from his brother Billy's intervention into public affairs, but never turned against him.

- The first President Bush stood by to the end as his old Texas friend, Sen. John Tower, fought on futilely against Senate opponents who said his drinking made him unfit to serve as secretary of defense.

"This President Bush is close to his father and much like Ronald Reagan in terms of loyalty," said Karen Hult, a political science professor at Virginia Tech. "Loyalty can get presidents into trouble if they hang on to people too long. But loyalty, on the other hand, can enhance (staff) loyalty and raise morale."

Stephen Hess, a political scientist at George Washington University in Washington, believes Bush's judgment isn't clouded by loyalty. The president had no problem in dismissing Lawrence Lindsey, his economic adviser during the 2000 campaign and the head of his Council of Economic Advisers until his ouster in 2002.

"That showed me he'll carry loyalty to a point - which is part of what presidents do," Hess said.

Of course, Lindsey was let go not long after he estimated publicly that a war in Iraq could cost $200 billion, far above Bush loyalists' line at the time, which may have been seen as disloyal. Iraq war costs will exceed $200 billion in the next year.

How Bush Thinks: Intuition Over Intellect (LAT)

By Jonathan Chait

The Los Angeles Times, August 5, 2005

As somebody who doesn't have the slightest feeling one way or another about baseball star Rafael Palmeiro, I have to say that it seems pretty clear Palmeiro has used steroids. Palmeiro recently tested positive for steroid use. And then there's former teammate Jose Canseco's allegation that he and Palmeiro both used steroids, which is impossible to verify but would seem to explain why Palmeiro's annual home run total nearly doubled after Canseco joined him on the Texas Rangers. None of this is ironclad proof, but it seems the simplest way to reconcile the available data.

President Bush, though, doesn't see it this way at all. When asked about Palmeiro's positive steroid test, Bush — who knew Palmeiro when the president owned the Rangers — replied, "Rafael Palmeiro is a friend. He testified in public and I believe him. He's the kind of person that's going to stand up in front of the Klieg lights and say he didn't use steroids, and I believe him."

This statement perfectly crystallizes Bush's thinking. Facts don't matter to him. What matters is how he feels about the person in question. In 2001, for instance, Bush met with Russian President Vladimir V. Putin, and the two hit it off. As Bush later told Peggy Noonan, Putin recounted to him a story involving a cross given to him by his mother.

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"I said to him, 'You know, I found that story very interesting. You see, President Putin, I think you judge a person on something other than just politics. I think it's important for me and for you to look for the depth of a person's soul and character. I was touched by the fact your mother gave you the cross.' " Bush publicly testified of Putin, "I was able to get a sense of his soul."

Personally, I put less weight on the fact that Putin got a cross from his mother, and more on the fact that Putin has smothered Russian democracy by outlawing opposition parties, shut down any remotely skeptical media outlet and subjected his critics to political show trials. Yet this sort of evidence has had barely any effect on Bush. Two years later, he was still praising Putin's desire for "a country in which democracy and freedom and rule of law thrive."

Bush is even apt to apply this particular brand of illogic to his own character. In one of the 2000 presidential debates, Al Gore pointed out that Bush as governor of Texas opposed a measure to expand children's healthcare and instead used the money for a tax cut. The debate moderator then asked Bush, "Are those numbers correct? Are his charges correct?" To which Bush replied, "If he's trying to allege that I'm a hardhearted person and I don't care about children, he's absolutely wrong."

The style of Bush's reply is telling. Gore was trying to make a point about Bush's moral priorities by establishing a series of facts about Bush's behavior. Rather than deny having chosen tax cuts over children's healthcare, or explain his rationale for having done so, Bush changed the subject to more comfortable ground: judging people's hearts. He asked the audience to intuit, based on the way he carries himself, that he is a warmhearted person, and thus to reject out of hand any facts that might clash with this impression.

The point isn't just that Bush refuses to engage with facts he finds inconvenient. (Many fail that test.) It's that Bush rejects reason itself. Reason is a process by which we draw our broader conclusions from an accumulation of specific evidence. When the evidence changes ("Hey, this Putin guy seems to be squelching dissent"), our conclusions can also ("Perhaps he doesn't love democracy as much as he said he did!"). Bush, on the other hand, arrives at his beliefs through intuition. His supporters marvel at the unshakeable certainty of his convictions. Well, no wonder.

Philip Stephens: From Acrimony To Misunderstanding (FT)

By Philip Stephens

Financial Times, August 5, 2005

The groans of European policymakers were scarcely audible this week when George W. Bush sent John Bolton to New York as America's new ambassador to the United Nations. To say Mr Bolton has few admirers in Europe is a serious understatement. In my experience, that has never much bothered him. The new ambassador speaks his mind. Hailing as he does from the assertive nationalist school of US politics, Mr Bolton will forever scorn mushy multilateralism.

Yet the response among allies to Mr Bush's decision to override a recalcitrant Senate and press ahead with the appointment was curiously muted. You could say the decision had been widely discounted. A cynic would add that official Europe is, anyway, on vacation. There is, though, something else. The appointment is seen as yesterday's story, a codicil to a troubled phase in transatlantic relations now left behind.

You have to measure the gain against the loss, one senior European told me. As the official in charge of arms control and weapons proliferation issues at the state department, Mr Bolton had wielded considerable and, in European eyes, invariably malign influence. Condoleezza Rice, the new secretary of state, had understood that. At the UN, the expectation (perhaps hope?) is that Mr Bolton will implement policy rather than shape it. It is the policy that matters.

Here, albeit sometimes grudgingly, Europeans admit real changes since Mr Bush's visit to Brussels at the start of his second term. Another sign of that shift came this week with the administration's redefinition of the effort to defeat al-Qaeda inspired terrorism. Talk of a war on terrorism, the leitmotif of Mr Bush's policy after September 11 2001, has been quietly shelved. Senior officials now speak of a struggle against violent extremism and the enemies of freedom.

What difference do a few words make? Potentially a lot. Mr Bush's phrase framed the threat from terrorism in entirely military terms. The words were too easily interpreted as signifying a conflict with Islam rather than with the terrorists seeking to expropriate that faith. The new language points to a broader strategy encompassing diplomacy, politics and economics as well as security. With luck it could provide the basis for a much-needed strategic dialogue with both Europe and moderate Islam.

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There have been other shifts. Mr Bush's stance on Africa and climate change at last month's Gleneagles summit fell far short of European aspirations. Yet even France's Jacques Chirac acknowledged that the US had moved. The same solicitousness was visible in the resolution of a dispute about the role of the International Criminal Court in Darfur and in stronger US support for European diplomacy in Iran.

Elsewhere there have been changes in posture if not policy. Ms Rice's frequent visits to the Middle East underline a determination to make a success of Israel's withdrawal from Gaza. Washington's recent confrontation with a brutal regime in Uzbekistan points to a new sensitivity to charges of American double standards around the world.

None of this has been born of a benevolent altruism in Washington. America's re-engagement with its allies has much more to do with a blunt reassessment of its national interest. The lesson of Mr Bush's first term, and above all, of the bloody chaos in Iraq, is that it is dangerous to exercise power without legitimacy.

There has been a rethink, too, on the European side, not least because of the capacity of transatlantic divisions to fracture European solidarity. "Old" and "new" Europe have become too much of a reality.

What we have now is an absence of transatlantic acrimony and, in many areas (Iraq is an important exception), a predisposition towards co-operation rather than confrontation. That is a big improvement. But it would be a mistake to say it adds up to a reinvigoration of the old alliance. For much of the time Americans and Europeans still look at the world from different ends of the telescope.

The mutual misunderstanding was evident at a recent meeting of senior policymakers and scholars in Venice, hosted by the Council for the United States and Italy. To many of the Europeans present, Iraq still testified to the arrogant unilateralism of the sole superpower. Peering through a different lens, Americans saw a museum in which Europe's political leaders are at once unable to deliver prosperity to their own citizens and unwilling to share the burden of global security.

Behind both analyses lies the reality that Europe is no longer at the centre of America's interests and that Europe's survival no longer rests on a US security guarantee. In this new strategic environment, Europeans crave the institutional order that comes with international law; Americans look out on a Hobbesian world in which US power is the only effective guarantor of western values.

Yet, as Simon Serfaty, a scholar at the Washington-based think-tank CSIS, shows in an excellent new book on the transatlantic relationship*, the one remains dependent on the other. Europe's ambitions for order rely on American power. Washington's necessary quest for legitimacy demands European partnership. The debate, Mr Serfaty rightly argues, should never have been about US power and European weakness but about how their combined strengths can contribute to global order.

Here, though, on the central question of how to marry power with legitimacy, we are far from a new consensus. Vital though it is, the practical transatlantic co-operation we have seen in recent months masks the underlying clash of strategic cultures. Many (not all) of the old shared instincts have been lost.

Mr Serfaty says the alliance can and should be rebuilt around overlapping interests and compatible, if no longer converging, values. The relationship will never reclaim the intimacy of the cold war era but it can be reinvented as a partnership of action. I find this analysis hard to fault. Yet, looking around at the quality of political leadership on both sides of the Atlantic, we should live in hope rather than expectation.

*The Vital Partnership, Rowman & Littlefield

Foreign Policy? Just Get Tips From The Cabby (NYT)

By Clyde Haberman

The New York Times, August 5, 2005

A WASHINGTON man who has just taken a job in New York could probably use friendly advice about getting along with his new neighbors.

After all, it can't be easy for John R. Bolton, freshly arrived to represent President Bush at the United Nations.

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Many of his fellow diplomats are not likely to embrace him, given the harsh remarks he has made about the United Nations. When Secretary General Kofi Annan welcomed the new American ambassador the other day, he smiled through teeth so gritted that he may need an orthodontist.

As for other New Yorkers, they don't collectively think much of Mr. Bolton's boss, judging from the last presidential election.

But despite negative stereotypes and jokes, this city tries to welcome newcomers. Bear in mind, too, what Gov. Bill Richardson of New Mexico told us a few months ago about the ambassador's job, which he held under President Bill Clinton. Don't just hang out in diplo-land, he advised Mr. Bolton. "You have to engage the city," he said.

In that spirit, we'd like to offer Mr. Bolton some tips on possible places to visit and people to meet.

For instance, he might want to get together with the developer Bruce C. Ratner and also with critics of Mr. Ratner's plan to build a sports arena in Downtown Brooklyn alongside skyscrapers that may rise 60 stories.

Mr. Bolton could advise them on acceptable heights for buildings. He knows a thing or two on that score. It was he who once said of the United Nations: "The Secretariat building has 38 stories. If you lost 10 stories today" - and here he sliced the air with his hand to show how to do it - "it wouldn't make a bit of difference." The man is a born urban planner.

Speaking of developers, the ambassador is probably destined to cross paths with Donald Trump. Several years ago, Mr. Trump annoyed Mr. Annan and some other prominent East Siders by constructing a huge residential tower that opponents feared would overwhelm the United Nations campus.

Despite his stated preference for lopping off the tops of tall buildings, the ambassador might hit it off with Mr. Trump. As evidence, we have the Senate testimony of a former colleague of Mr. Bolton who described him as "a kiss-up, kick-down sort of guy." We don't know about the kiss-up part. But with his overworked "you're fired" routine, Mr. Trump qualifies as a kick-down sort. In Mr. Bolton, he could have the beginning of a beautiful friendship, worthy of Rick and Captain Renault.

To shift gears, don't forget that New York is America's news media capital.

This week, Russia announced that it would bar journalists from ABC News because of unhappiness with their reporting, an action that amounted to an expulsion order. ABC News has its headquarters in New York.

This may be a moment for Mr. Bolton to step up to the plate. Considering his own relationship with the news media, he may already be thinking of a possible retaliatory measure - like suggesting that ABC News also be tossed out of New York.

WHEN he has time, Mr. Bolton could go to Yankee Stadium. Mr. Richardson used to take in ballgames with other diplomats. The new ambassador might especially enjoy meeting George Steinbrenner, the Yankees owner. The two men have things in common.

Mr. Bolton has been accused of misusing intelligence reports to overestimate Syria's ability to acquire unconventional weapons. Similarly, Mr. Steinbrenner has misused scouting reports to overestimate the abilities of a series of ineffectual pitchers. The two men, evidently, share a fondness for faith-based analysis.

No doubt, the ambassador will meet the mayor, Michael R. Bloomberg. Unlike some of his predecessors, Mr. Bloomberg does not have a clearly articulated foreign policy. He is openly pro-Israel, but in general he avoids pronouncements on foreign affairs. Mr. Bolton may spot an opportunity to leave his mark at City Hall.

Perhaps he will learn the city simply by walking it. Foreign policy abounds on sidewalks.

To list a few street names, there is Yitzhak Rabin Way (Israel), Nelson and Winnie Mandela Corner (South Africa), Kudirat Abiola Corner (Nigeria), Brothers to the Rescue Corner (Cuba), United Jerusalem Place (Israel again, though Palestinians have other ideas) and Señor Wences Way (just testing you).

Should you see Mr. Bolton on a stroll, remember to be nice. Never mind this town's prevailing politics. Give him a wave while you're at it. Just use all five fingers, will you?

Democrats See Advantages In Unconventional Candidates (WSJ)

By John Harwood

The Wall Street Journal, August 5, 2005

DEMOCRATS SEE Ohio near-miss as model for unconventional candidacies.

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After Iraq vet Hackett's 48% special election showing in solid Republican district, Democratic campaign chief Emanuel says "recruiting outside the formula" is key to tapping voter discontent. He touts an Indiana sheriff, a North Carolina football star, and a California pilot in 2006 House races. But Republicans, who triumphed with late spending surge, retain big cash advantage.

"This race was a microcosm for 2006 and ... Republicans won," their House campaign spokesman says. Senate Democrats' committee, however, holds $15 million to $8 million cash edge over Republican counterpart. Hackett now mulls challenging Republican Sen. DeWine next year. Republicans court former Ameritrade chief operating officer Pete Ricketts, who announced his departure yesterday, to challenge Nebraska Democratic Sen. Nelson.

Republican governors group outraises Democrats', $9 million to $5.3 million, in first half 2005.

BUSH SEEKS credit for a stronger economy.

After signing the energy bill in Albuquerque, N.M., Monday, he will join economic advisers Hubbard and Bernanke Tuesday to assess conditions. Fears of a "soft patch" fade, as data on industrial output, capital spending and services portray an economy "firing on all cylinders," says UBS economist Larry Hatheway.

Still, wage increases lag behind despite low unemployment, and high gas prices still damp consumer spirits. A break in house-price increases remains a risk; mortgage rates inch up but stay low. Today's July jobless report will give more clues to the labor market's health.

PARTIES JOCKEY over impact of CIA leak.

Democrats two years ago sought a damage assessment over the outing of Valerie Plame, but Congress still hasn't received one. Such assessments are routinely done for unauthorized disclosures of an agent's identity.

The National Counterintelligence Executive has said the Central Intelligence Agency took steps to mitigate real or potential damage. A CIA spokeswoman declines to comment amid the investigation by special prosecutor Patrick Fitzgerald, who has probed the role of Bush strategist Rove and others. Democrats, who would benefit from showing the leak was costly, say Republicans want to play it down.

A CBS poll shows just 28% of Republicans believe the Bush administration is "telling the entire truth" about the leak.

TICKET TO RIDE: Just-passed highway bill repeals three-decade-old ban on commercial trucking licenses for diabetics. Drivers who use insulin will be medically evaluated on a case-by-case basis. American Diabetes Association Chairman Lawrence Smith hails the change as an antidiscrimination measure with "profound effect."

BIRTHDAY BOY: Treasury Secretary Snow, turning 66, swore in his undersecretary for international affairs, Tim Adams, Tuesday by the pool at the Copacabana Palace Hotel in Rio de Janeiro. Adams used a Portuguese Bible; champagne and cigars followed.

MORALE BOOSTER: Secretary of State Rice visits the Millennium Challenge Corp., under attack for implementing the president's foreign-aid program and still waiting for the White House to replace departing boss Applegarth. Rice thanks staffers for their work and says, "I know there are always bugs to be worked out."

BETTER DAYS?: After high-profile defections, the AFL-CIO seeks strength in vote next month by California Nurses Association on joining the federation. Two-thirds of the 65,000 members would have to approve; union leaders back the move as they battle Gov. Schwarzenegger over hospital-staffing levels.

CONGRESS PREPARES to raise deposit-insurance limits.

The House has tried for years to boost the $100,000 ceiling on insured bank deposits. With Senate Banking Chairman Shelby no longer resisting, Virginia financial consultant Bert Ely gives good odds of success.

Shelby plans to move compromise legislation, backed by colleagues Enzi of Wyoming and Johnson of South Dakota, that would index deposit-insurance increases to inflation. A separate plan to boost coverage of tax-deferred retirement savings accounts to $250,000 may be pared down.

Banking lobbyists predict Bush won't veto deposit-insurance increase, despite past opposition.

MINOR MEMOS: Cheney's trip to services for Saudi King Fahd represents his first overseas funeral as vice president....Former South Carolina Sen. Hollings, in "The American Prospect," says U.S. manufacturing "is so outsourced that an incident with China would cause us to cancel Christmas."

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White House Broadens New Fed Chief Search (DMN)

By Danielle Dimartino

The Dallas Morning News, August 5, 2005

Investors woke Thursday morning to the surprising news that the White House is said to be broadening its search for a replacement for Federal Reserve Chairman Alan Greenspan, who is due to retire in January, according to a report in the Wall Street Journal.

The three candidates most often cited to fill the post include Ben Bernanke, former Fed governor and current chairman of the President's Council of Economic Advisers. Martin Feldstein of Harvard University and R. Glenn Hubbard of Columbia University have been the other two leading candidates.

In a recent report, Goldman Sachs chief economist Bill Dudley said Mr. Bernanke would be the most appealing to market participants.

"His views are well known; he is judged as highly knowledgeable about monetary policy; and he believes in increased transparency and inflation-targeting," Mr. Dudley noted.

But according to the Journal report, though the leading three candidates have not been ruled out, concerns persist about Mr. Greenspan's successor's ability to function within the financial markets and use business and markets contacts to move beyond the confines of economic data to set monetary policy.

The decision on Mr. Greenspan's replacement could be one of the most important of President Bush's decisions while in office.

Mr. Greenspan, who is 79 and started at the Fed in 1987, has raised the profile of the Fed chairmanship to new levels during his 18 years at the Fed and there are worries that his departure could make for an even more nervous marketplace than that typically associated with the changing of the guard at the nation's central bank.

"Historically, there is some evidence that Fed transitions are associated with more volatile financial markets," Mr. Dudley added. "The Treasury bond, stock and currency markets have tended to be more volatile during the first year of the last three Fed chairman's terms compared to their overall tenures."

Among the alternate candidates mentioned in the Journal article is former Bush advisor Lawrence Lindsey. The two people said to be leading the search for Mr. Greenspan's replacement are Vice President Dick Cheney and National Economic Council Director Allan Hubbard.

There is some speculation that Mr. Greenspan's will stay on past Jan. 31, as is allowed if a replacement has not been found or the Senate approval process remained incomplete, but those close to the Fed chairman have said in recent weeks that he has every intention of stepping down as planned at the end of January.

Cell Lines, Moral Lines (WP)

By Charles Krauthammer

The Washington Post, August 5, 2005

It is a good idea to expand federal funding of embryonic stem cell research. It is a bad idea to do that without prohibiting research that uses embryos created specifically to be used in research and destroyed.

What is deeply troubling about the Castle-DeGette stem cell bill, which passed the House and will soon roar through the Senate, is that it combines the good with the bad: expansion with no limit.

The expansion -- federal funding for stem cells derived from some of the thousands of embryos that fertility clinics would otherwise discard -- is good because the president's sincere and principled Aug. 9, 2001, attempt to draw a narrower line has failed. It failed politically because his restriction -- funding research only on stem cells from embryos destroyed before the day of that speech -- seems increasingly arbitrary as we move away from that date.

It failed practically because that cohort of embryos is a diminishing source of cells. Stem cells turn out to be a lot less immortal than we thought. The idea was that once you created a line, it could replicate indefinitely. Therefore you would need only a few lines.

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It turns out, however, that as stem cells replicate, they begin to make genetic errors and to degenerate. After several generations some lines become unusable.

In addition, there has been a new advance since 2001. Whereas stem cells in those days had to be grown on mouse feeder cells, today we can grow stem cells on human feeder cells. That makes them far more (potentially) therapeutically usable.

For both of these reasons, the August 2001 policy is obsolete. Accordingly, Congress will soon federally fund research from embryos newly created in IVF clinics.

It simply will not do for opponents of this expanded research to say that the federal government should not force those Americans who find this research abhorrent to support it with their taxes. By that logic we should never go to war, or impose the death penalty, except by unanimous consent of the entire population. We make many life-or-death decisions as a society as a whole, without being held hostage to the sensibilities of a minority, however substantial and sincere.

Nonetheless, Congress's current vehicle for expanding this research, the Castle-DeGette bill, is extremely dangerous. It expands the reach for a morally problematic area of research -- without drawing any serious moral lines.

The moral problem for that majority of Americans who, like me, don't believe that a zygote or blastocyst has all the attributes and therefore merits all the rights of personhood, is this: Does that mean that everything is permissible with a human embryo?

Don't they understand the real threat? It is not so much the destruction of existing human embryos -- God knows, more than a million are already destroyed every year in abortions, and thousands are doomed to die in fertility clinics. A handful drawn from fertility clinics where they will be destroyed anyway alters no great moral balance.

The real threat to our humanity is the creation of new human life willfully for the sole purpose of making it the means to someone else's end -- dissecting it for its parts the way we would dissect something with no more moral standing than a mollusk or paramecium. The real Brave New World looming before us is the rise of the industry of human manufacture, where human embryos are created not to produce children -- the purpose of IVF clinics -- but for spare body parts.

It is this creation-for-the-purpose-of-destruction that needs to be stopped -- and it does not matter whether that creation occurs by joining sperm and egg (as the Jones Institute in Virginia has already done) or by cloning a cell from an adult, turning it into a human embryo and then destroying it for its stem cells.

Both in my writings and as a member of the President's Council on Bioethics, I have advocated this dual policy: Expand federal funding of stem cell research by using discarded embryos, but couple that with a firm national ban on creating human embryos for any purpose other than the birth of a human baby. We finally have a chance to enact this grand compromise -- but only if a majority of senators insist that the welcome expansion provided in the Castle-DeGette bill, which will yield a near endless supply of embryonic stem cells, cannot take place unless the door is firmly closed now, while we still have the chance, on the manufacture of human embryos for research and destruction.

Ignorance Is Bliss; Sometimes It's Policy (WP)

By Eugene Robinson

The Washington Post, August 5, 2005

The ranch at Crawford hardly compares with the Forbidden City, but George W. Bush has something in common with the Ming emperors of China: He seems determined to make his great nation less ambitious and more ignorant.

He wouldn't see it that way, of course, but the emperors didn't see it that way either. And I don't know how else to explain policies and pronouncements that make the quest for knowledge conditional on politics. That is a prescription for decline.

In the early 1400s the Ming emperor Zhu Di made China into the world's leading maritime nation, sending huge fleets on missions of trade and exploration as far as the Swahili coast of Africa. It should have been just a matter of a few years before Chinese sailors discovered the Americas. But Zhu Di's successors, influenced by court politics, called home the fleets and forbade them to sail again, forfeiting the riches of the New World -- and five centuries of global domination -- to an underdeveloped backwater called Europe.

I guess it's a general rule of political dynasties, in China as well as in Texas, that the blood thins with successive generations.

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Examples? Well, there's the way Bush insists on hamstringing American scientists who are trying to explore the potential medical benefits of therapies involving embryonic stem cells.

You are excused if your eyes glaze over at the mention of the words "stem cells," but it's enough to know that Senate Majority Leader Bill Frist, in a rare display of backbone, has challenged the president over his suffocating restrictions on federal funding for stem cell research -- and also that the fight is akin to arguing over what kind of lock to put on the barn door while the horse frolics in the next county.

While our leaders disagree, stem cell technology is being developed and advanced in laboratories all around the world, especially in Asia. South Korean researchers have arguably pushed farther than anyone else. At the moment it's still a long shot that embryonic stem cells will prove to be a panacea, but if they do it's increasingly likely that the key discoveries will be made elsewhere -- not in the United States.

And there's no real reason for Bush's position except politics. All that Frist and other reasonable people want is to be able to experiment on surplus embryos from fertility clinics, embryos that otherwise will be destroyed. But the radical pro-life lobby won't be reasonable, so Bush does his best to keep the United States on the sidelines of what is, at the moment, the most exciting field of medical research.

Then there's this administration's almost comical insistence that the firm scientific consensus on global climate change is some kind of mass hallucination. "What global warming?" they ask, as mean temperatures rise, Arctic ice melts, tropical diseases march north and hurricanes rake poor Florida in swarms.

The much-maligned Kyoto treaty isn't the point. Treaty or no treaty, it looks as if sooner or later the world is going to have to find a way to prosper without spewing so much heat-trapping carbon dioxide into the atmosphere. Other nations are busy trying to develop technology and coping mechanisms to prepare for that day. When it comes, we'll be at or near the back of the line.

Maybe we'll line up all our obsolete SUVs along the coast to try to hold back the rising sea.

To round out the trifecta, the other day Bush reiterated his support for teaching "intelligent design" in America's schools along with evolution, as a way of exposing students to different points of view. This really borders on madness.

Intelligent design isn't a scientific theory at all; it's a matter of faith -- Creationism 2.0. Faith is a different kind of truth. Charles Darwin's landmark discovery of evolution, with a few minor modifications and additions over the years, has proved to be one of the sturdiest and most unassailable scientific theories of all time. To the extent that science can say anything is true, evolution is scientifically true. Done. Settled. As Walter Cronkite used to say, "That's the way it is."

To teach American children in science class that intelligent design is an alternative explanation of how birds, anteaters and people came to be birds, anteaters and people is simply to make American children less well educated than children elsewhere.

By all rights, we ought to remember the Ming dynasty for discovering America; instead, we think of gorgeous pottery but not much else. China's current leaders seem determined not to make the same mistake.

Crossing The Stem Cell Line (LAT)

By David Gelernter

The Los Angeles Times, August 5, 2005

I would love to join Senate Majority Leader Bill Frist and many other conservatives who have decided to support federal funding for wide-ranging research in a hugely promising new area — embryonic stem cells. I'd love to, but I can't.

Stem cells can be made to generate nearly any type of human tissue, including types that might cure disease and save lives. They are taken from human embryos that are destroyed in the process. But the results might help alleviate horrific human suffering.

In 2001, the Bush administration sponsored legislation to allow federal funding of stem cell research. But funded research was restricted to the stem cell colonies in existence at that time. Frist and others would expand funding to cover new stem cell lines created from frozen embryos left over from fertility treatments, embryos that would otherwise be discarded. (It's possible that new techniques could yield stem cells without destroying embryos, but those techniques are still experimental.)

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Why would anyone oppose Frist's new position? Because embryos are potential infants just as infants are potential adults. The human embryo is a tightly closed bud that will bloom one day if we let it. The difference between bud and blossom is only luck and time. If it seems OK to destroy embryos but not full-term fetuses, that's only because embryos look less human. The distinction rests not on justice but on squeamishness.

But this isn't my reason for opposing expanded stem cell funding. I am willing, in principle, to lean on a distinction that is made in the Talmud between "potential" life (such as embryos) and actual life outside the womb. Both must be protected; but actual life ranks higher. If there were nothing more to consider, I'd be willing to use doomed embryos to search for lifesaving new technologies. Reality often forces us to choose between imperfect alternatives.

But to go down that road, I must be able to trust the American public to draw a line and forbid science to step over it.

The doomed frozen embryos Frist is eyeing were created with no thought of mining them for stem cells. But the obvious next step might be to let scientists breed embryos specifically for research, or buy them from dealers. To support Frist, you must be sure that Americans will never permit these ghastly next steps.

Why "ghastly"? Because we can never permit the creation of human life with the intent of using and then killing it. We have no right to construct a world in which two kinds of human embryo exist, one immeasurably precious and the other designed to be cut up for parts. We'd be turning "all men are created equal" into the ugliest kind of lie. (The Talmud, for its part, never allows potential life to be destroyed without a specific, powerful reason.)

Can we trust the American public to forbid the creation of disposable human life? Can we trust ourselves to forbid the premeditated destruction of weak and helpless potential human beings?

No, and the Terri Schiavo case proves it.

Schiavo was weak, helpless, gravely brain-damaged, "dimly wakeful," unable to feed herself — but not dying. Her parents loved her, and she (they believed) continued to love them.

Yet various courts ruled at her husband's request that her life wasn't worth living. And so her caregivers were ordered to stop feeding her. "Even a chip of ice to relieve the pain of a parched mouth and throat was judicially prohibited," wrote Dr. Paul McHugh in Commentary magazine, "and local sheriffs were alerted to prevent it." She died slowly of dehydration. Surveys suggested that the American public didn't care to interfere, and disapproved of politicians who tried to.

CAN THIS same public be trusted to tell the biomedical establishment "this far and no further"? Of course not. When hard moral judgments were required, whatever the "experts" said was good enough for us. We refused to interfere and draw a line. And so we have no right to allow science to set off down this road.

I have permanent, debilitating injuries that stem cell research might conceivably help. But rejecting research that might help you personally is dirt-easy compared to rejecting research that might help a suffering family member. When Americans campaign for unrestricted stem cell research out of despairing love, I can't blame them any more than I can blame Terri Schiavo's parents for pleading for their daughter's life.

How much do our moral scruples really matter to us in the end? An agonizing question.

But I can't line up with Frist, much as I would like to.

The Duplicate Dog (NYT)

The New York Times, August 5, 2005

The cloning of a dog by South Korean scientists is notable mostly for its display of virtuosity and persistence by the research team. Over the past decade, researchers around the world have cloned a number of mammals, including sheep, mice, cows, goats and pigs. But dogs' reproductive physiology was just too idiosyncratic for easy manipulation. So when a South Korean team announced this week that it had cloned an Afghan puppy, the feat evoked awe and admiration from other researchers.

It wasn't easy. A team of about 15 people worked for nearly three years to extract eggs and implant more than 1,000 cloned canine embryos in surrogate mother dogs. They got only three pregnancies, and only one dog that survived into healthy puppyhood. Although the work demonstrated that dogs could indeed be cloned, that's a horrendously poor success rate. Some dog lovers may be salivating for the chance to clone a favored canine, but that prospect seems far off given the arduous nature of

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the task. An American company, Genetic Savings & Clone, has spent seven years and $19 million in a quest - fruitless so far - to clone a dog.

The Korean team hopes that cloned dogs may someday be used to study the progression of diseases that are similar in dogs and humans and the use of stem cells to cure them. Conservationists hope that cloning may help them preserve some rare dog species from extinction.

But the larger lesson here is that the Koreans are truly a force to be reckoned with in cloning and stem cell research. This team was the first to clone human embryos and extract stem cells from them, and now it is the first to clone a dog, perhaps the most difficult feat in mammalian cloning. The center of gravity in cloning and stem cell research may be shifting abroad while American efforts are slowed by taboos and financing restrictions.

G.O.P. Wants More Details Of Corzine Aid (NYT)

By David Kocieniewski

The New York Times, August 5, 2005

TRENTON, Aug. 4 - Saying that New Jersey cannot endure another governor hobbled by personal entanglements, New Jersey Republican leaders called Thursday for Senator Jon S. Corzine to disclose any other financial dealings he may have had with a union leader to whom he gave $470,000.

Their statements came after news reports that in 2002 Mr. Corzine provided a $470,000 mortgage to Carla Katz, president of Communications Workers of America Local 1034, which represents 9,000 state workers and will be among the labor groups lobbying the next governor for billions of dollars in wages and benefits.

In an interview with The New York Times on Wednesday, Mr. Corzine, the Democratic candidate for governor, said he and Ms. Katz were dating at the time he made the loan. He forgave the debt in December 2004, several months after they ended their relationship, he said.

Mr. Corzine and Ms. Katz said this week that their past relationship and financial dealings would not prevent them from representing their constituents, but they declined to say whether they had other financial interactions.

Mr. Corzine's Republican opponent in the November election, Douglas R. Forrester, called that response inadequate, saying New Jersey voters had the right to know whether their official duties as governor and union leader might be swayed by their personal and financial relationship.

"I think they should disclose everything, especially if there is any ongoing financial arrangement," he said. "It suggests an all-too-familiar pattern in New Jersey of public officials entangling themselves in relationships that are not private matters but in direct conflict with the public interest."

While Mr. Forrester approached the topic rather gingerly, saying that he respected their right to privacy, other Republicans were more pointed in their criticism of Mr. Corzine.

After months of criticizing the senator for his connection to an assortment of Democratic power brokers and donors, the state Republican chairman, Tom Wilson, invoked the specter of former Gov. James E. McGreevey who resigned after admitting an extramarital affair with Golan Cipel, a man he had appointed a security adviser.

"A year ago Jim McGreevey announced his resignation, saying he wouldn't allow people to use their personal knowledge of him to threaten the workings of state government," Mr. Wilson said in a written statement. "It seems to me that one year later we can simply substitute the name Jon Corzine for Jim McGreevey and Carla Katz for Golan Cipel. This latest revelation indicates a kind of personal relationship that might again subject a governor to the same kinds of pressures and conflicts all over again."

The discussion of the implications of Mr. Corzine's financial relationship with Ms. Katz dominated the day's events in a campaign that has maintained a surprising intensity during the usually quiet summer months.

Political analysts say it is unclear whether the issue will attract New Jersey voters.

"This is one of those stories people are likely to pay attention to because it's like a TV sitcom," said Ingrid Reed, a professor at Rutgers University's Eagleton Institute of Politics. "There's a girlfriend. A wealthy person. She's powerful, he's likely to be powerful. It's the kind of thing people can identify with. But the fact that it's personal may also make it easier for Corzine to explain, too."

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After delivering a speech about domestic security in Jersey City on Thursday, Mr. Corzine found himself facing questions from more than a dozen reporters pressing for more details about his relationship with Ms. Katz.

The senator again declined to say whether he had given her money in addition to the mortgage, but he sought to assure voters that, if elected, his administration would not hesitate to negotiate aggressively with labor unions.

"I don't think there's a conflict," Mr. Corzine said. "The relationship has ended."

Ms. Katz, meanwhile, received support from an assortment of union leaders. Although some labor experts said the money Ms. Katz accepted from Mr. Corzine might create the appearance of a conflict of interest, Candice Johnson, a spokeswoman for the union's national organization, said union officials were not troubled.

"There's nothing illegal or unethical about it," she said. "They had a personal relationship a few years ago. But it's over and she has proven herself a very effective union leader."

Some New Jersey labor leaders said that their confidence in Ms. Katz also remained unshaken.

"It's a personal relationship she had with Jon Corzine, and the decisions we make at the bargaining table have nothing to do with personal relationships," said Hetty Rosenstein, president of Local 1037 of the union. "Carla has been aggressive in representing her members for more than 20 years. There's never been any question about her loyalties. And anyone who knows her knows that she would never let anything distract her from that cause."

Senator Defends Loan To Union Official (WP/AP)

By Associated Press

The Washington Post, August 5, 2005

TRENTON, N.J., Aug. 4 -- Senator and gubernatorial candidate Jon S. Corzine lent the president of New Jersey's largest state workers union $470,000 when the two were romantically involved three years ago, then forgave the debt last year.

Corzine defended the transaction, first described in reports Thursday in the Newark Star-Ledger and the New York Times.

Corzine turned the 10-year mortgage into a gift to Carla Katz last December, according to court documents. The move came a week after he kicked off his campaign for governor and several months after the two stopped dating.

Katz, 46, is president of Local 1034 of the Communications Workers of America. The union local represents 9,000 state workers.

Corzine's involvement with Katz is significant because the two could find themselves on opposite sides of the bargaining table if he wins the November election. Corzine is a Democrat who was elected to the Senate in 2000, and he announced in December that he would run for governor.

The Republican candidate for governor, businessman Doug Forrester, said Corzine's gift to Katz "suggests an all-too-familiar pattern in New Jersey of public officials entangling themselves in relationships that are not private matters but in direct conflict with the public interest."

Speaking after a news conference Thursday on an unrelated matter, Corzine said the loan would not hamper his administration's ability to negotiate with the union.

"I don't think there's a conflict," said Corzine, 58. "The relationship has ended."

The mortgage was found among public documents and land records filed with Hunterdon County. Katz was living in a more than 200-year-old home at the time of the loan and used the money to buy out her ex-husband.

Corzine, a former chief executive of Goldman Sachs, is estimated to have personal wealth of as much as $261 million. He split from his wife of 33 years in 2002.

In separate interviews with the two newspapers, Katz and Corzine both said they were confident the matter would not compromise their constituents in negotiations.

Corzine, who met Katz in 1999 during his Senate campaign, declined to discuss terms of the loan or details of his relationship with her. The Democrat said he forgave the loan after his romance with Katz ended in July 2004 because she did not have the means to repay it.

He declined to say whether he had given Katz or any of her relatives any other financial help.

"I'm a public official, but I also have a private life," Corzine said.

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Katz did not disagree with Corzine's account of the mortgage but declined to discuss the matter with the newspapers.

Inside Politics (WT)

By Jennifer Harper

The Washington Times, August 5, 2005

Klayman revisited

Larry Klayman — longtime foe of former President Bill Clinton, Judicial Watch founder and former Republican candidate for the Senate seat of Florida — is now a practicing barrister. Mr. Klayman has joined the Cleveland-based law firm Walter & Haverfield LLP and will manage the firm's branches in the District and Miami.

But he's still hungry. The tenacious Non-Friend-of-Bill, who filed 80 lawsuits against Mr. Clinton and former first lady Sen. Hillary Rodham Clinton, New York Democrat, from 1994 to 2004, is armed and ready.

"I remain in the game, and will continue to do work in the public interest," Mr. Klayman said yesterday.

"I am now a private lawyer available to take cases that will help the public. Going into the private sector also will enable me to remain politically active," he continued. "And, by the way, I am supporting Katherine Harris in her bid for the Senate seat from Florida."

Mrs. Harris is running for the seat now held by Democratic Sen. Bill Nelson. Mr. Klayman left Judicial Watch in September to run himself, but lost to fellow Republican — and eventual victor — Sen. Mel Martinez.

Oh Bob, Bob, Bob ...

And speaking of Katherine Harris and former President Bill Clinton's advisers, a bombastic broadcast culture moment came at precisely 4:50 yesterday afternoon. During an appearance on CNN's "Strategy Session," syndicated columnist and Plamegate regular Robert Novak cursed with vigor at Clinton campaign guru James Carville, flung off his microphone and then stormed off the set.

And yes, the barnyard obscenity he used made it onto the air.

The pair had been discussing Mrs. Harris' recent accusations that a magazine had doctored photos of her to yield an unattractive outcome. Was Mr. Novak simply defending her honor?

Most think he was peeved because another round of Valerie Plame questions was imminent — by virtue of the fact that apologetic CNN host Ed Henry later told viewers, "I had told him in advance that we would ask him about the CIA leak investigation. Hopefully, we'll be able to ask him about that in the future."

CNN wasn't pleased.

Spokeswoman Edie Emery called the longtime CNN commentator's behavior "inexcusable and unacceptable," adding that Mr. Novak had apologized to CNN, and the network was apologizing to viewers.

"We've asked Mr. Novak to take some time off," she said.

Judge grudge match

Will they duke it out or play nice? A slim majority of Americans say the Supreme Court confirmation hearings for Judge John G. Roberts Jr. will result in a brawl between Republicans and Democrats, according to a Gallup Poll released yesterday.

Just more than half — 51 percent — said the hearings would spark a "major fight that would drag on for a long time," and 42 percent said it would be "a relatively easy process." Seven percent said they had no opinion in the matter.

The survey of 1,006 adults was taken from July 22 to July 24.

Grasping for straws

Newsweek writers Richard Wolffe and Holly Bailey have connected enough dots to decide that President Bush is worried about the controversial, ultra-violent "Over There," a 13-part dramatic series about the Iraq war on the FX channel.

"The art-imitates-real-life idea is breaking new ground in both TV and politics, posing a curious question for President Bush and his aides: Could 'Over There' affect the already-fragile poll numbers on Iraq?" they write in the Aug 3 issue.

Please, Mr. Wolffe, Ms. Bailey. Despite huge media hubbub, only 4 million tuned in for the show's debut last week, according to Neilsen. Frankly, it's a surprise the pair didn't conclude that Mr. Bush was worried about Al Gore's new cable channel, too.

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But Newsweek, apparently, can still base a story on a single anonymous source.

"According to one senior Bush aide, the president has voiced a strong interest in the series but hasn't yet seen it for himself," they write. "Bush quizzed his aides last week about how the show was produced and how faithful it was to the conflict. 'Does it really depict what is going on? Do you get a sense of it?' Bush asked. In fact, just a handful of senior aides have seen the show and report it to be 'riveting' and 'pretty vivid.' But the senior aide says, "We don't have an official opinion yet. I don't think enough people have seen it.' "

New Jersey, Part 1

Although one press report this week notes that former New Jersey Gov. James McGreevey is living quietly in a one-bedroom apartment in Rahway, N.J., the man who resigned from office in the name of his own homosexuality may have some excitement just around the corner.

Memoirs, of course.

According to Radar Magazine, Mr. McGreevey is "in the final stages of negotiating a mid-six figure deal" with publishing lioness Judith Regan, whose Harper Collins imprint, Regan Books, is also home to Bernard Kerik, Jenna Jameson, Jose Canseco and Frank Gotti Agnello.

"It will be especially interesting to hear what McGreevey has to say about reports that it was his former homeland security aide Golan Cipel's threats to go public about their affair that led the governor to step down and come out to his family," the magazine noted yesterday, adding that Mr. McGreevey and Mr. Kerik "could get together and share some laughs about the ups and downs of American politics."

New Jersey, Part 2

More drama in the Garden State: Democratic Sen. and gubernatorial candidate Jon Corzine loaned the president of New Jersey's largest state workers union $470,000 to pay her mortgage when the two dated in 2002, then forgave the debt last year.

Mr. Corzine, turned the 10-year mortgage into a gift to former sweetheart Carla Katz just a week after kicking off his campaign for governor and several months after the two stopped dating, the Star-Ledger of Newark reported yesterday.

Miss Katz, 46, is president of the Communications Workers of America, Local 1034, which represents 9,000 state workers and endorsed Mr. Corzine's run for the Senate in 2000.

Mr. Corzine, 58, is a former chief executive of Goldman Sachs Co., worth $261 million and split from his wife of 33 years, three years ago. He insisted the loan would not hamper his administration's ability to negotiate fairly with the union.

"I don't think there's a conflict. The relationship has ended," Mr. Corzine said.

"It is certainly clear that this is more than a relationship between a special-interest group leader and a candidate for public office. You're dealing with the chief representative of the largest bargaining unit under your authority as governor," countered Tom Wilson, the state Republican Party chairman.

NASA Rules Out A Fourth Spacewalk To Repair Shuttle (NYT)

By John Schwartz

The New York Times, August 5, 2005

HOUSTON, Aug. 4 - NASA has decided against a fourth spacewalk for the Discovery astronauts that would have involved repairing an insulating blanket that had pulled out near the commander's window.

"We have good news," Julie Payette, the officer in the control room here who handles communication with the crew, told the astronauts at midday. Ms. Payette said mission managers had decided, after a lengthy analysis, that the blanket did not pose a threat and so another spacewalk would not be necessary.

"There is no issue," Ms. Payette, who is also an astronaut, said.

Later, in an afternoon briefing, however, N. Wayne Hale, the deputy manager of the shuttle program, acknowledged that there was still some uncertainty about the risk posed by the blanket. Much of the upper fuselage of the shuttle is covered with such blankets, which are woven of heat-resistant fabric.

The worst of the heat from re-entry is experienced by the leading edges of the wing and the nose, which are covered with a carbon composite that can hold up under temperatures of thousands of degrees. The underside of the shuttle is covered with

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heat-resistant ceramic tiles that can take almost as much punishment. The top of the craft, however, experiences far less heating, and so NASA covers it with insulation blankets.

Earlier in the mission, analysts poring over images of the orbiter taken in space saw insulation ballooning at the commander's window.

The damage was apparently caused by a strike by debris during launching, mission managers have said. Analysts were concerned that the puffed-out blanket might expose the orbiter to too much re-entry heat, but were most concerned that the blanket might shed pieces under the stress of re-entry and that those pieces might hit other parts of the craft and cause damage.

The spacewalk would have been the second to make repairs to the shuttle on this mission.

On Wednesday, another astronaut, Stephen K. Robinson, plucked out two protruding gap fillers - thin strips of cloth that ride between tiles - to ensure that the bottom of the orbiter was perfectly smooth. The goal was for the shuttle to avoid abnormal eddies of plasma as it plummets through the atmosphere toward Earth for a landing early Monday.

But any spacewalk, or extravehicular activity, entails risks, and those had to be carefully balanced against the potential for harm posed by the insulating blanket. In her call to the shuttle, Ms. Payette said that a new analysis predicting the course that pieces of the blanket might take did not show a hazard for the shuttle, and that wind-tunnel testing at NASA's Ames research center "came to the same conclusion."

"So, basically, no EVA four," she said in a conversation with one of the astronauts, Soichi Noguchi.

"No EVA four," Mr. Noguchi responded. "That's, I would say, good news."

Efforts to repair the shuttle in orbit have captivated many Americans, including one enjoying his vacation in Crawford, Tex.

"I was amazed at the procedures that took place to repair the craft," President Bush said to reporters at his Texas ranch, where he was meeting with President Álvaro Uribe of Colombia. "It's pretty remarkable."

Mr. Hale said the considerable risks of a spacewalk outweighed the benefit of trying to repair the blanket, especially because mission managers could not figure out a way to do the job effectively. Analysis suggested that the possibility a chunk of blanket might hit some other piece of the shuttle was 11/2 in 100, Mr. Hale said, but many uncertainties remain.

"We are in the first generation of winged space vehicles," he said.

Discovery Gets An All-Clear To Return Next Week (WP)

By Guy Gugliotta

The Washington Post, August 5, 2005

HOUSTON, Aug. 4 -- NASA cleared the space shuttle Discovery on Thursday for its flight home next week after concluding that a frayed thermal blanket below the commander's window is not a serious flight hazard.

Wayne Hale, deputy shuttle program manager, said engineers at NASA's Ames Research Center in California tested similar strips of fabric in a wind tunnel overnight at speeds between Mach 1 and Mach 6 -- six times the speed of sound.

Hale said the engineers found that even if the entire blanket tore away at the worst possible time, it had only a 1.5 percent chance of striking Discovery, and, at worst, it could put a hole in the orbiter's rudder brake but not disable it.

"We have released Discovery to reenter," Hale told reporters in a news conference at Johnson Space Center. "We have decided not to take any action on the thermal blanket because we have determined it is a negligible risk at this time."

Formal clearance for reentry is an important milestone in any shuttle flight -- particularly for Discovery, the first shuttle to fly since Columbia disintegrated over Texas 2 1/2 years ago, killing all seven astronauts aboard.

NASA had equipped Discovery with a wide array of new sensors, imaging devices and inspection systems, and it had expected to clear the shuttle four days into the 14-day mission. Instead, during launch the external fuel tank shed a large chunk of foam insulation similar to the one that caused the Columbia disaster. NASA has grounded the shuttle fleet until this problem is solved.

In-space inspections before and during the shuttle's nine-day sojourn at the international space station then turned up two protruding "gap fillers" in the underside heat shielding, and the frayed blanket, a rectangular piece of fabric installed just above the D in "Discovery" painted under mission commander Eileen Collins's window.

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On Wednesday, spacewalker Stephen Robinson made the first in-flight shuttle repair in history when he removed gap fillers, but Hale told reporters that Discovery might need another spacewalk for the thermal blanket.

On Thursday morning, the Hale-led Mission Management Team conducted its daily review with the blanket as the last impediment to reentry clearance.

In Mission Control, shuttle communicator Julie Payette called Discovery shortly after 1 p.m. Eastern time: "We have good news," she said. "The MMT has reached the conclusion that the blanket underneath the . . . window is safe for return. We have new analysis that showed debris . . . would be no issue.

"So, basically, no EVA 4," she concluded, using NASA shorthand for "extravehicular activity" -- a spacewalk.

"That's, I would say, good news," replied Discovery spacewalker Soichi Noguchi.

The astronauts spent the day filling up the Italian-built Rafaello multipurpose logistics module, a cylindrical storage bin that carried nine tons of spare parts and supplies up to the space station and will return with 10 tons of worn-out gear, broken tools and trash.

On Friday, the astronauts will put Rafaello back into Discovery's payload bay and restow other equipment. The shuttle will undock from the station early Saturday and spend Sunday testing flight control systems before landing at Kennedy Space Center in Cape Canaveral, Fla., before dawn Monday.

Scrutiny Of Moonlighting Scientists Criticized (LAT)

By David Willman

The Los Angeles Times, August 5, 2005

WASHINGTON — Ethics officials at the National Institutes of Health often approved senior scientists' requests to moonlight for drug companies and other outside organizations without gathering adequate documentation to help judge whether the arrangements posed conflicts of interest, federal inspectors have found.

In 81% of the recent outside arrangements reviewed by the inspector general of the U.S. Department of Health and Human Services, ethics officials were found to have approved the deals on the basis of limited information. This and other findings are included in a report by the inspector general that is to be made public today.

"In no instance was the documentation we reviewed adequate for us to make a definitive determination regarding whether an activity was appropriate," the report said. "Inadequate documentation for outside activities can, intentionally or unintentionally, hide potential violations."

The report found that information submitted by the scientists to NIH ethics officials "included insufficient detail regarding the nature of the outside activities, the nature of employees' official job duties, the differences between the outside activities and their official job duties, the outside organizations, and any NIH funding or partnerships with the outside organizations."

The advance descriptions of the outside positions that NIH scientists proposed to take "were too general to demonstrate that employees' official duties would not overlap," the report said.

The inspector general's reviewers "could not determine the appropriateness of eight activities, and they also determined that two of the activities appeared to violate regulations."

The report also said, "It is quite possible that, due to the approach taken in this review, we have underestimated the number of activities that should not have been approved."

A copy of the 72-page report was obtained Thursday by the Los Angeles Times.

The review marks another condemnation of the NIH's recent policies governing moonlighting by agency scientists. In July 2004, the chief of the Office of Government Ethics concluded that the NIH had a "permissive culture" toward conflicts of interest. The lax policies were largely the result of an agencywide lifting of controls in late 1995 by the director of the NIH at the time, Dr. Harold E. Varmus.

Varmus' successor, Dr. Elias A. Zerhouni, announced sweeping restrictions in February, citing reports by The Times in 2003 and 2004 that exposed the payments by pharmaceutical and biotechnology companies of millions of dollars in consulting fees and stock to NIH scientists.

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Zerhouni — prodded by the Department of Health and Human Services, the Office of Government Ethics and congressional leaders from both parties — agreed to prohibit NIH employees from accepting any further payments from pharmaceutical or biotechnology companies.

A group of NIH scientists is actively resisting the tougher ethics rules, which include a provision that would force employees to divest their stock in biomedical companies. They have hired a law and lobbying firm and have called for Zerhouni to relax the ban on consulting for drug companies and to rescind the stock-divestiture provision, which has not yet been implemented.

Zerhouni has said that he is weighing the criticisms and would consider easing the restrictions if he concluded that they were inhibiting the NIH's ability to retain or recruit qualified scientists.

In a written reply to the inspector general, Zerhouni cited the corrective actions that had been taken recently. He said that he generally agreed with the inspector general's findings, conclusions and recommendations.

The inspector general's review focused on the activities from 2001 through 2003 of 174 senior scientists, a fraction of the agency's more than 5,000 researchers.

Of the 174 whose paperwork was reviewed, 69 requested and received approvals to work with outside organizations. The review focused only on those scientists who, as of January 2004, were required to file a publicly accessible financial disclosure report.

Among those covered by the review were directors, deputy directors and scientific directors of the NIH's research institutes. The terms of the inspector general's review excluded many other influential scientists, including laboratory and branch chiefs.

The inspector general found that among the 174 scientists reviewed, NIH ethics officials approved 319 of 355 requested outside engagements — 90% of the total. Of those, 45 involved consulting or scientific-advisory arrangements with biomedical companies.

Other outside activities were described by the report as "teaching/lecturing," speaking, and serving on nonscientific boards or committees.

Representatives of the inspector general acknowledged Thursday in briefings with congressional staff members that their review did not survey all of the NIH scientists who had worked for biomedical companies. Last year, the House Energy and Commerce Committee contacted 20 biomedical companies and learned that those firms alone had employed 81 NIH scientists who had failed to get required permission or to disclose the income.

At a hearing on June 22, 2004, the committee's top Democrat, Rep. John D. Dingell of Michigan, chided the inspector general for conducting what he termed noninvestigative "desk audits." Dingell was not available to comment Thursday, according to an aide.

A spokeswoman for Daniel R. Levinson, Health and Human Services' inspector general, declined to comment.

OTHER NEWS:

Schwarzenegger To Return Gambling Group Donation (WSJ/AP)

By Associated Press

The Wall Street Journal, August 5, 2005

SACRAMENTO, Calif. -- Gov. Arnold Schwarzenegger will return a $50,000 donation from a group that is a partner in a tribal casino project after questions were raised about the governor's pledge to limit political contributions, an aide said.

The governor received a $50,000 contribution last week from Yuba County Entertainment LLC, a partner in a proposed hotel-and-casino development near Olivehurst, about 35 miles north of Sacramento.

The Associated Press questioned the donation because Mr. Schwarzenegger made a promise during the 2003 recall campaign not to accept campaign contributions from groups that negotiate directly with his office. He specifically identified Indian tribal gambling as among those special interests.

"After reviewing the nature of the business and realizing there is a connection to a potential Indian gaming location, we feel it is most appropriate to return the funds," said Marty Wilson, who oversees fundraising for Mr. Schwarzenegger's political committee, called the California Recovery Team.

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A company official said it has a variety of business interests in California. "The purpose of the donation was not to primarily back the governor but to back his initiatives that we think are important to the business community," said Alan Waskin, senior vice president and general counsel of Yuba County Entertainment.

Federal regulators must approve the casino project before it can proceed. But if federal approval is given, the tribe would eventually need to negotiate a gambling compact with the governor's office to open the casino.

Critics of the governor said he never should have taken the donation. "It just shows that the governor's fundraising is on automatic pilot," said Jamie Court, president of Santa Monica-based Foundation for Taxpayer and Consumer Rights. "Only when there's a spotlight cast on his activities will he ever think about returning the money."

Offer By Europe Would Give Iran Nuclear Future (NYT)

By Steven R. Weisman

The New York Times, August 5, 2005

WASHINGTON, Aug. 4 - In a first test of the new leadership in Iran, European negotiators have prepared a sweeping proposal that raises the possibility of Iran acquiring nuclear reactors and fuel, and of achieving a full political and economic relationship with the West, if it ends nuclear activities suspected to be part of a weapons program, Western diplomats said Thursday.

The European offer, drafted with the tacit approval of the Bush administration, is to be transmitted by the end of this weekend as the latest step in a European-American effort to get Iran to abandon its suspected nuclear arms ambitions. That effort has run into repeated difficulties, most recently over Iran's announced intention to resume uranium conversion and enrichment in defiance of European warnings.

Western diplomats who have read the European offer or who know its contents said that it presented a full spectrum of relationships for Iran with the West, from technology sharing to trade preferences to security guarantees, if the Tehran government cooperates on nuclear matters, and also on improving human rights and combating terrorism. They said it was much more detailed and specific than the more general offers floated by the Europeans earlier this year, but they did not describe the offer in full.

Since it seeks a pledge by Iran to end the uranium conversion and enrichment activities that Iran insists are its prerogative under international accords governing nuclear technology, there is considerable doubt that Iran will accept it, at least right away. Iran suspended its nuclear work during the negotiations.

A senior Iranian official, reached by telephone on Thursday, said when told about the contents of the proposal that it seemed to fall far short of what Iran wanted.

"If the proposal asks Iran to continue its suspension indefinitely, let alone renouncing these activities, I think it will be dead on arrival," said the senior official, whose job involves him directly in these matters but who would not be identified by name because he had not seen the document. "I don't think it's prudent for the Europeans to make this presentation, because it shows that they have not moved their position from that of two years ago."

A European official said: "Our proposal pulls together a whole range of different ideas intended to forge a framework for an arrangement between Iran and the rest of the world. There are lots of political, economic and security elements, but the biggest piece is the offer of cooperation on a civilian nuclear program for Iran. We've never said that Iran cannot have one."

Bush administration officials say they cannot comment on the contents of the proposal, except to say that they approved of it. But the administration maintains that it cannot establish a normal relationship with Iran unless it changes its conduct, not simply in the nuclear sphere but in what the United States and the Europeans say is support of terrorism, particularly against Israel, and its interference in Iraq.

Details of the package were disclosed by diplomats who insisted they not be identified even by country because the package is supposed to be secret and its terms have not yet been formally presented to Iran.

The proposal would bar Iran from operating a "closed" nuclear fuel cycle, in which it would effectively control every aspect of fuel production and disposal. Instead, according to the diplomats who have seen it, the proposal suggests that Iran be allowed to acquire fuel and then transfer the used fuel to another country for disposal, precluding Iran from using it for weapons.

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More specifically, Iran would be obliged to continue its current suspension of the conversion of raw uranium into a gas that can be enriched for use as fuel with the use of centrifuges that international inspectors have found in Iran in several places. The International Atomic Energy Agency, which has said that it is investigating Iran's failure to disclose many elements of its program, would continue to play its inspection role to ensure compliance with the agreement.

While taking a hard line on uranium conversion and enrichment, the diplomats said, the proposal contains a face-saving provision for Iran conceding its right to certain activities it is being asked to give up. The wording, according to one diplomat, says that nothing in an agreement with Iran affects "the inalienable rights of all the parties to develop research, production and use of nuclear energy for peaceful purposes."

In some respects, Iran is not likely to be surprised by the basic outlines of the European proposal. France, Germany and Britain - the partners along with the European Union in the negotiations - have held firm to this broad position of barring uranium conversion and enrichment under pressure from Washington.

The view shared in Europe and Washington is that while Iran may have the right to enrich uranium as a signatory to the Nonproliferation Treaty, which governs peaceful nuclear technology in nearly all countries with civilian nuclear programs, Iran has forfeited that right because it has been found over the years to be engaging in clandestine activities.

Iran's anger that it is being asked to give up activities allowed to other countries is at the heart of its repeated announcement that, like it or not, it will resume such work when it chooses. Indeed, Iran announced last week that it was renouncing its pledge of last year to suspend these uranium activities.

On the other hand, the Tehran government has not unilaterally resumed uranium conversion or enrichment. Instead, it has called on the International Atomic Energy Agency to go to its facilities and break the inspectors' seals on equipment that would be used for these activities, and also to install monitors and sensors for the purpose of observing them.

Iran's announcement was made in the days leading up to the inauguration Saturday of the new president, Mahmoud Ahmadinejad, who until recently was the mayor of Tehran.

It is widely believed in the West that Iran decided to invite the inspectors before Mr. Ahmadinejad took office in order not to taint him with the move or force him to make one of his first decisions in defiance of the wishes of the Europeans.

Several diplomats said that it was shrewd of Iran, in political terms, to invite the International Atomic Energy Agency to its nuclear facilities to break the seals and install monitors and sensors. That way, these diplomats said, Iran can claim to be showing the world that, while it is proceeding with uranium processing, not a single gram of fuel will go to a weapons program.

The international agency, meanwhile, has been taking its time before installing the sensors and monitors, to give the Europeans time to refine their proposal. The Europeans have rushed the proposal to meet a deadline of this week and have begun hinting that if Iran rejects it outright, or forces the seals to be broken, some countries may call for the agency's board to meet next week to address the matter.

That Iranian tactic, said several Western diplomats, seems clearly intended to woo wavering board members of the agency - notably Russia, China and several other countries with similar enrichment programs - that it is acting in good faith and doing what other countries are allowed to do. They expressed concern about getting enough votes on the board to refer the matter to the United Nations Security Council for possible sanctions.

Tehran Defiance Spells Collapse Of Nuclear Talks (FT)

By Najmeh Bozorgmehr And Guy Dinmore

Financial Times, August 5, 2005

Nearly two years of delicate negotiations between Iran and the European Union over the Islamic republic's nuclear programme could be on the point of collapse on Friday, setting the scene for a confrontation at the UN.

Senior Iranian officials told the Financial Times that talks with France, Germany and the UK – the EU3 – would be over if their latest proposed incentives do not give approval for Tehran to resume work at a key facility at Isfahan.

Ambassadors of the EU3 were expected formally to deliver the package of proposed incentives to Tehran's foreign ministry early on Friday.

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However, one senior official involved in the talks said that: "According to our information the EU proposal does not include resumption of conversion activities in Isfahan."

The official added: "This means the end of this round of talks with Europe. Iran has decided to resume activities in Isfahan and no one at home and abroad can stop it."

A senior European diplomat in Tehran conceded that the "proposal is not the one Iranians want".

Under the Paris Agreement reached with the EU3 last year, Iran suspended nuclear fuel cycle activities that western governments suspect are part of a clandestine weapons programme.

The suspension agreed in Paris included processing work at Isfahan, where raw uranium is converted into uranium hexafluoride gas, and the next stage at Natanz where the gas is enriched through centrifuges to provide nuclear fuel.

The EU3, backed by the US, have warned Iran that ending any part of the suspension would lead them to refer the issue to the UN Security Council.

The US drive for punitive action is being led by John Bolton, the new US ambassador to the UN, who failed to win confirmation by the Senate but was still appointed by President George W. Bush.

Some analysts and diplomats are sceptical the Bush administration can win enough support for serious measures to be taken against Iran.

"The American case will be represented by a non-confirmed ambassador who has been accused of distorting intelligence on proliferation issues," commented Ray Takeyh, analyst at the independent US Council on Foreign Relations.

The EU3 is seeking an extraordinary board meeting of the International Atomic Energy Agency in Vienna on Monday. But diplomats do not rule out further talks with Iran.

One EU3 diplomat said the European Union and the US were "on their way" to getting a majority on the IAEA board to take Iran to the Security Council, using the argument that Iran had deceived the UN watchdog for years over its nuclear programme and had been in breach of its safeguards commitments.

Iran insists that its nuclear programme is for civilian use only and that it has a right under the Nuclear Non-Proliferation Treaty to develop the nuclear fuel cycle.

Senior Iranian officials said Iran was not bluffing over its threat to reactivate Isfahan as some EU3 diplomats suspect. "We are serious and also upset about Europeans' failure to deliver promises," said one Iranian.

However, the officials said Iran had not decided finally when to break IAEA seals at the facility. While members of the negotiating team want Iran to wait for inspectors from the IAEA to come and monitor, other hardline decision-makers "who now have the upper hand" want an immediate start.

They accused the IAEA of playing for time by saying it needs to send more equipment and said it was possible that Isfahan could "go on stream" this weekend, possibly with foreign reporters present.

Why Pressing Iran Over Nukes Is A Difficult Road (CSM)

By Howard Lafranchi

The Christian Science Monitor, August 5, 2005

WASHINGTON - The Iranian government is playing what is being called "a game of chicken" with the international community, first threatening to restart a key element of its suspended nuclear program this week, and then putting it off - only to announce it will reopen a sealed uranium conversion plant next week after all.

Regardless of whether the Iranians, who are in the midst of a postelection political transition, follow through on the threat, their recent actions - and the response of Western nations - suggest that a full-blown confrontation between the powers is probably not imminent, experts say.

The Europeans don't want one - and the Americans don't appear to be ready and united for one.

The three European countries that have been negotiating with Iran for a full suspension of its nuclear program did stick together and threaten Iran with reprisals - including referral to the United Nations Security Council - if it proceeded with plans to restart its nuclear efforts. That stand surprised some in the Bush administration and seemed to validate President Bush's second-term veering toward greater cooperation with allies.

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But with the "EU 3," as Britain, Germany, and France are called, set to offer Iran extensive economic incentives in exchange for ending its nuclear ambitions, the Europeans continue to favor a strategy that differs widely from the Americans'.

Iran is on the US list of state sponsors of terrorism, and US officials worry that a nuclear Iran would become a conduit for nuclear materials to other states or terrorist groups.

Divisions over Iran that characterized US policy during the first Bush term are on display again. When the freshly appointed US ambassador to the United Nations, John Bolton, made his introductory rounds in New York this week, he reportedly broached the subject of Security Council action against Iran in talks with fellow ambassadors.

As the past undersecretary of State for arms control, Mr. Bolton was one of the administration's principal hawks on Iranian nukes.

But Bolton was debuting at the UN even as a new National Intelligence Estimate surfaced, first in an apparent leak to The Washington Post, that doubles to 10 years the estimated time it would take for Iran to develop a nuclear weapon.

For some US experts, the estimate undercuts the viewpoint that action is urgently needed, making a tough international stance with Iran unlikely.

"The US and its allies are not in a position to talk about real, meaningful measures to punish Iran [for proceeding with its nuclear program]," says Daniel Brumberg, an Iran expert at Georgetown University in Washington.

He says the Europeans "are trying to play it tough, but the Iranians know it would be difficult for them to ever go through with it." At the same time, he says the Bush administration is not united on how far and how fast to proceed on Iran - not to mention the "delicate factor" of Iran's influence in Iraq and the cooperation the US needs for progress there. "They are on the horns of a dilemma that is of their own making," he says.

The flurry of discussion over Iran's nuclear ambitions came as Iran installed on Wednesday its new president, Mahmoud Ahmadinejad. Western observers expect the new president to adopt a more confrontational tone with the West and particularly the US - an approach closer to that of the reigning conservative mullahs than that of outgoing reformist president Mohammad Khatami.

In a letter to the EU3 foreign ministers, the lead Iranian negotiator in the talks, Hassan Rohani, said that Iran is intent on pursuing both the negotiations with the Europeans and its nuclear program, which he insisted is for peaceful purposes.

For some experts, this is part of the same strategy that has allowed Iran - not to mention North Korea - to advance in nuclear know-how. "We've seen this game before," says Jon Wolfsthal, deputy director of the Nuclear Non-Proliferation Project at the Carnegie Endowment for International Peace.

Mr. Wolfsthal says recent events appear at first glance to be a boon to the US, since the topic of Iran could reach the Security Council - where the Bush administration has long wanted it - without the blame for a negotiation failure to fall on the US.

But he questions how "successful" the US strategy of not directly negotiating with problematic nuclear wannabes like Iran and North Korea really has been. North Korea is thought to have quadrupled its number of nuclear weapons during the Bush presidency. "If the proof is in the pudding, then the results are not very good," he says.

Iran still wishes to avoid referral to the Security Council, but at the same time it knows that a referral is unlikely to result in any tough sanctions any time soon, most experts agree. "The unanimity isn't there," says Georgetown's Mr. Brumberg. He notes that Russia has close ties to Iran and is building a nuclear reactor there. Iran has also been developing relations with China and India.

US calculations on Iran are influenced by the key role that Iran plays in neighboring Iraq, experts say. With the Bush administration hoping to reduce troops, avoiding destabilizing trouble with Iran will be uppermost in some minds.

Henry Sokolski, director of the Nonproliferation Policy Education Center, says he sees such political calculations in the intelligence estimate for Iran that now puts any bomb a decade away.

"There may be some involved in the report who are frightened that Bush would use anything more imminent as a pretext to bomb, or others who got cold feet after the Iraq WMD intelligence that went wrong," Mr. Sokolski says.

In any case, he dismisses the estimate, noting the US developed its bomb in less than a decade. "Are we saying the Iranians are further behind technically than we were in 1940? It's absurd."

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Revolutionaries Come Of Age (WSJ)

By Farnaz Fassihi

The Wall Street Journal, August 5, 2005

TEHRAN, Iran -- Amir Reza Ashtiani, a 46-year-old Tehran City Council member and a prospective minister in the cabinet of Iran's newly elected president, sat at a district council office in one of Tehran's poorest slums and listened to residents complain about inflation, high taxes and unemployment.

He scribbled notes, shook his head in acknowledgment and promised to discuss their concerns at City Hall. Mr. Ashtiani, an industrial engineer and self-made man who benefited from a revolution that empowered the poor, was born in this neighborhood and remembers splashing in the sewage-filled waters of the narrow canals. Now, he is one of a new breed of Iranian populists that appear likely to sweep into national office on the coattails of Mahmoud Ahmadinejad, the surprise winner of Iran's presidential election in June.

"We are not like other officials. We won't draw a line between ourselves and the public and look down at them," Mr. Ashtiani says. "We have lived their difficult lives and now that we are on top, we are not going to forget them. This is why we had the revolution."

Iran's president-elect will be sworn into office on Saturday, having been endorsed by Iran's supreme leader Wednesday. He is expected to name to his cabinet men like Mr. Ashtiani, well-educated technocrats -- and die-hard loyalists to the hard-line clerical regime that rules the country.

The group, called usolgaran or "principalists," in a reference to the group's commitment to the principles of Islam, is rapidly rising to power in Iran. Some political analysts see them as the regime's last hope for regaining popularity and staying in power.

"The rise of the Iranian neoconservatives has given the regime a unified voice," says Davoud Bavand, a political analyst in Tehran. But, he adds, it remains to be seen whether they use it to open and nurture the economy or to pursue political rhetoric at the risk of stifling sanctions.

Mr. Ahmadinejad's victory gives hard-liners control of all key sectors of government in Iran: Tehran's city council (which usually sets the agenda for other Iranian cities), Parliament and now the presidency. A turning point came two years ago, when hard-liners won Tehran's city council from the reform movement that had controlled the presidency, Parliament and city council since 1997. The reformers' popularity had waned as voters grew frustrated with their failure to deliver on promises.

Now, it is Mr. Ahmadinejad's turn to deliver on promises, such as improving the life of Iranians besieged by an unemployment rate that stood at 11% last year, inflation that remains stubbornly above 15% and widespread corruption. The success of this domestic agenda is intertwined with foreign policy. It may hinge, above all, on whether Iran's government will back off from its nuclear-enrichment program.

Iran's ruling clerics, who appear in control of the country's nuclear decision making, have been uncompromising in the face of Western demands that Tehran give up all nuclear ambitions, even for peaceful purposes, to assure the country won't use the program to produce weapons. Iran already has announced it plans to restart its enrichment program regardless of pending negotiations with Europe. Both the U.S. and its European allies have stated that such a move by Iran will lead to Iran being referred to the United Nations Security Council for economic sanctions.

So far, Iran has backed off on its rhetoric when the threat of sanctions has become imminent. Western diplomats in Tehran say the regime fears sanctions will cripple an already-troubled economy, increase unemployment and inflation and turn the population against it.

Mr. Ashtiani, who has served as the new president's economic adviser and is being pegged as the next minister of industry, is the son of a shopkeeper and grew up in one of Tehran's poorest districts. In high school he listened to underground speeches at the local mosque. When revolutionary fervor hit the streets in the late '70s and the Shah was ousted, he was a freshman at Tehran University's engineering college and an active student revolutionary.

At the age of 20, he was named the managing director of a food factory the government had confiscated from private owners. Mr. Ashtiani continued his career as manager of various government factories until two years ago, when he resigned to become a full-time city council member.

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Like many of Mr. Ahmadinejad's close aides, Mr. Ashtiani says he owes his success and his political rise to the revolution and will do anything for the regime's survival. "We were willing to give our life for the regime during the war," Mr. Ashtiani says. "Now, we will safeguard it with all our means."

They say they favor privatization, but also promise equal sharing of wealth. They say they recognize that tackling unemployment requires foreign investment, but have announced that Iranian companies will be favored over foreign ones in big projects in the oil-and-gas sector. Mr. Ashtiani and his colleagues say they support reform, but not the gradual democratization and scaling back of the powers of unelected clerics that departing reformist President Mohammad Khatami had promised, but ultimately failed to deliver.

"Reform is wrong if we are talking about upheaval of the system," Mr. Ashtiani says. "We believe that Islam has the answer to everything: economy, politics and social issues. We want reforms that will bring the system closer to the purist visions of Islam and our revolution."

Graphic Novelist Marjane Satrapi On The Life Of A Writer In Exile (WSJ)

By Jeffrey A. Trachtenberg

The Wall Street Journal, August 5, 2005

When Marjane Satrapi was only 14 years old, her Iranian family wrangled a visa and sent her to live in Europe. The Islamic Revolution was then unfolding, and all of Iran, including Tehran, was turning increasingly conservative in thought and dress. Ms. Satrapi's parents worried that their only daughter, feisty and head-strong, would end up in harm's way and sent her to live with a family friend in Vienna. In 2003, Bertelsmann AG's Parthenon Press published "Persepolis," Ms. Satrapi's eye-witness memoir told in the form of a graphic novel.

In an intimate story enhanced by her drawings, Ms. Satrapi explains what it was like to be forced to wear a veil; her first crush on a boy; the terror and bloodshed created by the Iraqi invasion, and her growing realization that the Iranian regime was turning more repressive. Ms. Satrapi rebelled by tacking up smuggled posters of Kim Wilde and Iron Maiden. But when she expressed herself publicly by wearing Nike sneakers and a Michael Jackson pin, she was chastised on the streets by Tehran's fundamentalists. It was time, her parents decided for her to move abroad.

Ms. Satrapi recounts her early life in exile in "Persepolis 2," published in hardcover in the U.S. in 2004 and recently issued in paperback. In many ways, this is a much darker book. Although she did well in school, Ms. Satrapi had a difficult time fitting in socially. She missed her parents, and then fell in with a group of oddballs. Later came a serious round of drug use, and a failed love affair. After a fight with her landlord, Ms. Satrapi spent more than two months on the streets in Vienna before becoming seriously ill. After she recovered, she returned home to Iran. Once again, she had trouble fitting in. She eventually married, divorced and then moved to France, where she now lives.

The author, now 35, writes in French and recently published her third book, "Embroideries," which discusses the romantic lives of various generations of Iranian women. Ms. Satrapi, who has 350,000 hardcover and paperback books in print in the U.S., a substantial number in the publishing world, spoke recently to The Wall Street Journal's Jeffrey Trachtenberg by telephone from her home in Paris.

WSJ.com: Do you view yourself as an immigrant or as somebody living in exile?

Marjane Satrapi: I'm in exile. I would rather live in my own country. People have different reasons for emigrating, but most of the time it has to do with economics. I had everything in Iran and left to live in a studio.

WSJ.com: Do you have an Iranian publisher?

Ms. Satrapi: No, but I know the books are read. Iranians who speak a second language most often learn English. There is an underground in Iran, but I haven't gone back for five-and-a-half years, so there are many things of which I'm not aware.

WSJ: Has there been a backlash against your parents in Iran because of your books?

Ms. Satrapi: Nobody has bothered them. Nobody has harassed me, either. The thing is that you don't know what will happen there. You more or less know the risks in France. There are limits. But in Iran everything could be great one day and the next they could put me in jail. I prefer not to take the risk. My parents are grownups; they are not responsible for me. If they have a crazy child, it's not their fault.

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WSJ.com: Can you visit?

Ms. Satrapi: I'm allowed. Nobody will tell me not to come. The issue is whether I can return to France. It depends on so many things. In the Iranian system you have a system within the system. You never know what can happen. You can't count on anything.

WSJ.com: What are the major misconceptions that Americans have about the Middle East?

Ms. Satrapi: Two years ago when I came to America and criticized the [Iraq] war, the only articles that appeared talked about my sunglasses. Nobody talked about the fact that I said the people there are like you. Now what I say is starting to appear in magazines and journals.

WSJ.com: The World Factbook estimates that the median age in Iran is 24, or 12 years younger than the median age in the U.S. What will this mean for the conservatives now running Iran?

Ms. Satrapi: It's an extremely young country, a dynamic country. The young people try. They want more freedom. But the constitution is made in a way that the president and the parliament don't have that much power. The Guardian Council decided everything. It's a completely closed system. But evolution is a process and nothing can stop it. Women have half of the rights of the men, but 64% of Iranian students are women. For me, this is evolution.

WSJ.com: At one point in your second book you suggest that satellite television exposed the people of Iran to a wider world. Did that have any impact?

Ms. Satrapi: Or course. But there was lots of nonsense with MTV and dancing. The Internet is more important. It presents other points of view. People have access everywhere, they get information. Even though I don't go back I can remember 15 years ago that when I showed a little hair I could be stopped in the street. No longer. Now women show almost all their hair. The regime isn't smoother, but social reality has changed. They can't stop everything without getting an explosion.

WSJ.com: Why did the ruling clerics do so well with Iranian voters in the recent election?

Ms. Satrapi: The reason is simple. Many didn't vote because they didn't want to participate. Also, 15% of the population is fanatics. It's the same in every country. But it's also true that poor people voted for them. [Iran is] a rich country, but we have 15 million living in real poverty. The guy who won lives where the poor live and says he isn't corrupt and will share the money. This is something. Once people aren't hungry anymore they will want more freedom.

WSJ.com: You end "Persepolis 2" by noting your grandmother died while you were away. Do you feel resentment that you weren't there to be with her?

Ms. Satrapi: Of course. I'm a person who is in love with my country. I love Iran and the Iranian people and I'm not for a bloody revolution. I'm against war. I'm much more for a slow evolution based on the truth. During the Shah we didn't have to wear a veil. But the country was very macho and you had to be a virgin even if you wore the shortest miniskirt. We looked Westernized and fancy, but we were without depth. Today, women understand that if you want rights you need to work and be economically independent. This is what helps a country go forward. And these things are happening in Iran.

WSJ.com: Did any graphic novelists inspire you?

Ms. Satrapi: I don't come from a culture of comics. I thought they were funny and for adolescents. Then I saw Art Spiegleman's 'Maus." I felt free. I didn't have a complex any more. It was, 'He did it, I can do it too.'

WSJ.com: Do you write your stories first and then draw them?

Ms. Satrapi: No, I become too sentimental and lose my sense of humor. I write and draw at the same time. It's like a baby in the belly. All of it goes on at the same time. At the beginning I have a vague scenario but I never know how I'll finish. What I want to talk about changes a lot. I like to be surprised by the story, which I don't always control.

Multiparty Talks With North Korea Nearing Collapse (WSJ)

By Gordon Fairclough

The Wall Street Journal, August 5, 2005

BEIJING -- Talks aimed at persuading North Korea to give up its nuclear-weapons ambitions teetered on the brink of collapse, with Pyongyang insisting it wouldn't give in to demands that it also abandon atomic-energy programs.

Even usually optimistic China, which is hosting the six-nation talks, hinted that an agreement might be impossible.

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Speaking to a crowd of reporters outside the gates of the North Korean Embassy last night, Kim Kye Gwan, Pyongyang's chief envoy to the talks, said: "We want the right to peaceful nuclear activities. All the countries in the world have this right."

Washington has insisted that North Korea dismantle all its nuclear programs, civil and military, saying it would be too easy to use civilian atomic-energy activities as a cover for maintaining the pursuit of nuclear weapons.

Mr. Kim also called on the U.S. to "drop its hostile policy, normalize relations," and reassure North Korea that the Asian nation isn't threatened by U.S. nuclear forces. He said the talks were at a "stalemate," but said Pyongyang would keep negotiating.

Participants at the meetings, representing Japan, Russia and South Korea in addition to the U.S., North Korea and China, have been struggling to draft a joint statement of principles to serve as a guide for eventual settlement of the standoff.

Failure to produce an agreement could derail diplomatic efforts to end the dispute, which began in 2002 when, U.S. officials say, North Korea admitted it was pursuing covert efforts to enrich uranium for nuclear weapons. Pyongyang since has issued repeated denials.

At a news conference, the spokesman for the Chinese delegation, Qin Gang, raised the prospect that the negotiations could end without an agreement. "A joint declaration is not a measure for whether or not the six-party talks are a success," he told reporters.

A lack of progress also could encourage the U.S. to ask the United Nations to condemn or impose sanctions on North Korea. It is far from clear, though, that such a move would receive support from either China or South Korea, which are Pyongyang's main economic benefactors.

Christopher Hill, the top U.S. envoy, said, "There are differences between [North Korea] on the one hand and the other parties on the other." Mr. Hill said the U.S. is pressing for clarity about just what the North Koreans are willing to give up. "We are talking about nuclear weapons," he said. "We cannot have a situation where the North Koreans pretend to abandon their nuclear weapons and we pretend to believe them."

Delegates from the U.S., North Korea and South Korea met yesterday afternoon. Song Min Soon, the chief South Korean negotiator, said the North Koreans "expressed their positions clearly," but he declined to comment further. Mr. Hill would say only that "It was a useful meeting."

Negotiations were set to continue today. But diplomats said progress depends on North Korea's willingness to agree to the joint statement of principles that has, generally, been approved by the other parties.

But despite heavy pressure by China on North Korea, last night's remarks by Pyongyang's chief delegate, didn't strike a compromising tone. Mr. Kim, who is the North's vice foreign minister, said, "We have not been defeated in war and we didn't do anything wrong. Why can't we have peaceful nuclear activities?"

He also said the U.S. would have to withdraw its "nuclear threat" against the North before Pyongyang could agree to give up its weapons programs. North Korea has said Washington must stop providing a "nuclear umbrella" -- essentially the threat of nuclear reprisals -- to protect South Korea, a U.S. ally. The U.S. has rejected the demand.

N. Korea Talks Near Impasse, But Will Go On (WP)

By Edward Cody

The Washington Post, August 5, 2005

BEIJING, Aug. 4 -- Diplomats seeking an agreement on principles for North Korean nuclear disarmament decided Thursday to hold further negotiating sessions despite fundamental differences that have left them deadlocked after 10 days of talks.

Christopher Hill, assistant secretary of state for East Asian and Pacific affairs and the chief U.S. delegate, said an accord proposed by China on dismantling North Korea's nuclear programs has been accepted by five of the six nations involved in the talks: the United States, South Korea, Japan, Russia and China. North Korea, he told reporters, is the holdout.

Nevertheless, Hill said, delegation leaders meeting Thursday evening resolved to keep trying to whittle away differences for another day or so. At the same time, he added, the United States is insisting on clarity, leaving no room for diplomatic ambiguity or the papering over of disagreements.

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"We cannot have a situation where the North Koreans pretend to abandon their nuclear weapons and where we pretend to believe them," he said.

North Korean Vice Foreign Minister Kim Gye Gwan acknowledged to reporters that the talks had reached a "stalemate," according to the Associated Press.

"We are for denuclearizing, but we also want to possess the right to peaceful nuclear activities," Kim said. "As you know, only one country is opposing that," he said, referring to the United States.

Nuclear Explosion (WSJ)

By Fred C. Ikle

The Wall Street Journal, August 5, 2005

Sixty years after Hiroshima's fiery destruction by only one bomb, here is where we have arrived: The proliferation of nuclear weapons continues apace, and stopping it is now a top priority of our foreign policy. It was a driving motive for the war against Saddam Hussein, it ceaselessly fuels our conflict with North Korea, it exacerbates our relations with Iran, and we are in fear of terrorists with a nuclear bomb. Eleven American Presidents, from Harry Truman to George W. Bush, sought to prevent this. The U.S. started with a nuclear monopoly. So how did we get into this mess?

'Atomic Bomb'

The news about Hiroshima reached the White House on Aug. 5, 1945 -- precisely 60 years ago. President Truman's statement next morning informed the world of the "atomic bomb" and the Manhattan Project. Four days later, the A-bomb attack on Nagasaki prompted Japan's surrender and ended World War II. Since then, America has devoted immense effort to the nuclear problem -- an intellectual, political, and military endeavor that has no parallel. We know how we entered the Nuclear Age. We do not know how to exit from it.

First we tried arms control to kill the monster in its cradle. The U.S. advanced the Baruch Plan to confine nuclear technology entirely to peaceful uses. After Stalin rejected the plan, we began to build atomic bombs at a leisurely pace: Nine in 1946, 13 in 1947, and, by the time North Korea invaded South Korea, we had some 300 atomic bombs, the Soviet Union perhaps five. Barely 20 years later, each of the two superpowers had tens of thousands of nuclear weapons. This did not come as a surprise. At the outset, our nuclear scientists had predicted that if the total ban on nuclear weapons failed, the superpower arsenals might grow a thousand-fold. They also warned that H-bombs could be built that were a thousand times more destructive than the A-bomb. And they left no doubt that other countries would be able to acquire nuclear weapons.

President Eisenhower became deeply concerned about these trends. Based on careful deliberations, he decided in December 1953 to launch the Atoms for Peace Program at the U.N. His address received more praise -- at home and abroad -- than any other presidential speech. The purpose of Atoms for Peace was to enlist international support against weapons proliferation by donating or selling nuclear technology labeled "peaceful." Spurred by this American multilateralism, a shopping mall opened, making U.S., Soviet, Canadian, French, British, and other reactors available for "peaceful" research and electric power. This "peaceful" technology was sold or donated to Iraq, North Korea, Iran, Vietnam, the Congo, Laos, India, Pakistan, etc. No other U.S. policy, no commercial initiative, no theft of technology has done more to accelerate and expand the global spread of nuclear bombs. There is an echo of Greek tragedy here: Arms control initiatives meant to avert a calamity morph into the agent that exacerbates the feared outcome. * * *

Today, the Bush administration is being pressured to purchase a halt in North Korea's nuclear bomb-making. Members of Congress and editorialists urge the president to "engage" North Korea with generous economic and political gifts. Such "engagement" could award us with the fifth (or would it be the seventh?) arms agreement that North Korea violates. And it would tell other rogue nations that they ought to try the same blackmail.

Currently, we are against nuclear proliferation mainly because of rogue states: North Korea might sell bombs to anyone with cash, a nuclear-armed Iran might embolden Hamas terrorism. During the Cold War, we opposed proliferation because it might destabilize the fragile balance of terror between the superpowers. At that time, the scholastics of nuclear strategy invented enough "deterrence" concepts to fill a library, and many credited "mutual deterrence" for the fact that, since 1945, not a single

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nuclear attack occurred. The long holiday of non-use is indeed a stellar accomplishment. Yet deterrence does not deserve all the credit. The intervention of providence also helped.

Deterrence can ward off deliberate attacks; it cannot prevent an accident or dissuade a madman. But such perils must not be ignored. Until 1957, U.S. nuclear weapons had no safety locks, and sometimes just one person (say an airman) might have been given access to a weapon. One man alone could have triggered an unauthorized nuclear detonation. I recall this problem well because I analyzed it at RAND, then an Air Force think tank. My study recommended that two people always be in charge of critical controls and that coded locks be installed to safeguard nuclear weapons and missiles. RAND sent me to brief the Pentagon. Luckily, Gen. Curtis LeMay heard of it, and being a steely guy, he knew how to cut through bureaucratic molasses. He commanded a blizzard of actions to implement every one of the recommendations.

Other risks of an accidental nuclear cataclysm come to mind. In 1980, the Pentagon was alerted that a Soviet missile attack was on its way. That alert was due to computer error. Equally serious incidents might still be secret and dangerous flaws might not yet have been discovered. In light of such unfathomable risks, one has to be something of a wimp to root for Mutual Assured Destruction, the MAD doctrine which bans missile defense but tolerates a confrontation of offensive missiles forces, primed to execute mutual genocide. Failure to grasp the magnitude of this gamble betokens a lack of emotional strength. President Reagan saw through the MAD theorizing and had the courage to call for radical cuts in strategic forces, combined with missile defense. Two decades later, George W. Bush and Vladimir Putin realized that the confrontational nature of MAD would poison U.S.-Russia relations. Yet when President Bush decided to end the missile ban, benignant votaries of arms control became enraged and predicted Russia would respond with a huge expansion of its missile force. Perhaps they were disappointed when Mr. Putin did no such thing. * * *

More episodes from the 60-year search for an exit are worth recalling. But I shall turn to the heart of the matter: two overarching and profoundly serious problems that dominate the nuclear age, casting a dark shadow far into the future. The first of these is that we have become habituated to -- indeed, utterly dependent on -- a world order predicated on the non-use of nuclear weapons. This order might end abruptly. It would be a unique revolution in military affairs if the most powerful weapons in the arsenals of many nations were never used. Yet this uniqueness has become the norm on which trade, economic growth, international relations, as well as the domestic functioning of democratic governments now depend. Not only is the fact of continued non-use vital for our political order, but also the frame of mind that evolved with it. For it allows us to go about our business and plan our lives without the imagery of mushroom clouds superimposed on our hometown.

The paroxysm after 9/11 would be a hiccup compared with the reaction the morning after one or more nuclear bombs caused massive devastation. Several nations might start crash programs to build arsenals. Mass demonstrations would demand the abolition of all nuclear weapons, without the vaguest idea how to implement that utopia. Depending on the nations primarily affected, the first nuclear use since 1945 could trigger a chain reaction of mobilizations, nuclear alerts, even pre-emptive attacks -- within a fraction of the time it took for the assassination in Sarajevo in 1914 to trigger World War I.

The second overarching problem is emerging only now. Gradually, but inexorably, it will become easier for terrorist organizations, insurgent groups, doomsday cults and nihilist gangs to acquire the wherewithal to make nuclear bombs. Three factors contribute to this: (1) Many countries will build nuclear reactors to produce electricity and will need to import plutonium fuel that can be misused to make weapons; (2) the Internet offers access to physics and engineering data that might help a bomb-maker; (3) many governments lack the will or competence to do their part in preventing nuclear terrorism.

When the Soviet Union broke up in 1991, Sens. Sam Nunn and Richard Lugar launched a farsighted program to assist Russia in safeguarding its vast nuclear establishment. Yet Russia's control over its nuclear materials still has many gaps; and Pakistan's political instability threatens the safety of its stockpile. All the more reason for a second line of defense to prevent terrorists from smuggling a nuclear bomb into the U.S. Alas, here, too, incompetence reigns. The government has not yet started a serious research project to develop the essential technology for this mission. To send a man to Mars we have a generously funded, well integrated project; but to detect a smuggled nuclear bomb on its way to a U.S. city we allocate a puny fraction of those funds and scatter it among a multitude of disjointed studies that feed Congressional pork.

Ruthless Rebels

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A global dispersion of the most cataclysmic means for destruction would have no parallel in history. Even the fall of the Roman Empire did not empower ruthless rebels or pseudo-religious cults to extirpate law and order in every corner of the realm. Mercifully the nuclear dispersion has not yet started. But there is nothing now discernible that would prevent it from happening.

While we still have time, we need to think ahead about ways to avert our annihilation from within. To prevail, we must develop the needed technologies and prepare the right strategy -- political and military. We have managed to think ahead before. Well before Pearl Harbor, we prepared the massive wartime conversion of our industry, developed new military strategies, and started the scientific program that led to the Manhattan Project. We will rise to the new challenge -- if we don't lose faith in ourselves.

Mr. Iklé was undersecretary of defense for policy in the Reagan administration. His book, "Annihilation from Within," written at the Center for Strategic & International Studies, will be published by Columbia University Press next year.

Jewish Settler Kills Four Israeli Arabs In Attack On Bus (WP)

By Scott Wilson

The Washington Post, August 5, 2005

JERUSALEM, Aug. 4 -- A Jewish settler absent without leave from the Israeli army opened fire Thursday on a public bus traveling to an Arab town in northern Israel, killing at least four people and wounding 10. In the immediate aftermath, passengers swarmed the gunman, killing him before he could leave the bus.

In a statement, Prime Minister Ariel Sharon called the shooting "a reprehensible act by a bloodthirsty Jewish terrorist who sought to attack innocent Israeli citizens." Israeli police officials suggested that the attack was an attempt to derail the government's planned evacuation of Jewish settlements in the Gaza Strip and four in the West Bank scheduled to begin later this month.

The gunman, identified as Eden Natan Zada, 19, had recently moved to a West Bank settlement known as a stronghold of religious extremists opposed to the evacuation plan, Israeli police officials said.

Witnesses said Zada, wearing the skullcap of a religiously observant Jew, boarded the Egged Bus No. 165 from Haifa clothed in an Israeli army uniform. Jewish and Arab residents of Israel's Lower Galilee regularly ride the route, which passes through the Jewish community of Kiryat Ata before ending in the Arab town of Shfaram.

Ibtihaj Salame, 57, got on the bus at Kiryat Ata, usually the last stop for its Jewish passengers. Salame, a Druze woman with three sons in the Israeli military, was returning home from a medical appointment in Haifa. She said she generally avoids buses for fear of suicide bombers but was forced to take one Thursday after missing her shared taxi.

In a telephone interview a few hours after the 5:30 p.m. shooting, she said she took a seat in front of a man dressed in an army uniform. Salame said that the bus driver asked the soldier to move to the front of the bus but that he refused. As she got off the bus at the second stop in Shfaram, a town of 34,000 people, she heard shots ring out.

"No one spoke to him on the bus other than the driver," Salame said. "No one thought or imagined that he was up to something. But maybe the driver did."

The victims were identified as the bus driver, Michel Bahoud, 55, an Arab Christian from the Lower Galilee region; a Christian woman; a Muslim woman; and a Muslim man. Police said all four were Israeli Arabs.

The event recalled the 1994 attack carried out by Baruch Goldstein, a Jewish settler from New York who gunned down 29 Palestinians in a mosque at the Tomb of the Patriarchs in the West Bank city of Hebron. Goldstein, who was also dressed in an army uniform, was killed before he could leave the mosque. The shooting marked the beginning of a difficult period for the Oslo accords between Israel and the Palestinians signed the previous year.

In his statement, Sharon called Thursday's attack "a terrorist event" and said it was "a deliberate attempt to harm the fabric of relations among all Israeli citizens. Terrorism by civilians against civilians is the most dangerous thing affecting the future of the state of Israel and its stability as a democracy."

The attack also was condemned by leaders of the Yesha Council, the umbrella organization of Jewish settlements in the West Bank and Gaza. The organization has staged large demonstrations against the evacuation plan, which Sharon says is needed to ensure Israel's security and the long-term viability of its Jewish majority.

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"We think there is no connection between this and our movement," Shaul Goldstein, the council's deputy chairman, said of the shooting. "He's a terrorist, a lunatic and immoral. He has no connection to my values. He's a criminal and should be treated like one."

Israeli police officials said Zada, the son of secular Jewish parents, had recently moved to the West Bank settlement of Tapuah. Many of the community's roughly 600 residents are followers of the late Meir Kahane, who favored the expulsion of Arabs from Israel and the land it occupied in the 1967 war. Many settlers believe the land was promised to the Jewish people by God.

Kahane's followers founded a yeshiva, or Jewish religious academy, in the settlement. The religious-political movement he inspired, known as Kach, is designated as a terrorist organization by the State Department.

Israeli military officials said Zada, originally from the Israeli town of Rishon Letzion, had been absent from his unit in southern Israel since June 14 in apparent protest against the Gaza evacuation. He joined the army in January and was still undergoing basic training.

In a letter he left at his base, Zada wrote that he "could not be part of an organization that expels Jews," according to a copy published Thursday evening on the Israeli news Web site Ynet.

Nakad Nakad, 40, witnessed the shooting from the balcony of his home in the center of Shfaram. He said he heard shots from inside the bus, then watched as rifle fire sprayed from the windows into the street around it.

"It is clear he intended to kill Arabs inside Shfaram, to have a massacre," said Nakad, a political leader of the Democratic Front for Peace and Equality, a community movement. "That's why he waited for the bus to get inside the town."

Jewish Militant Opens Fire On Bus Of Israeli Arabs, Killing 4 (NYT)

By Greg Myre

The New York Times, August 5, 2005

JERUSALEM, Aug. 4 - An Israeli Army deserter dressed in a military uniform opened fire on Thursday aboard a bus carrying Israeli Arab passengers in northern Israel. Four were killed and at least a dozen wounded before an angry crowd beat the gunman to death, according to Israeli authorities and witnesses.

The shooting was one of the deadliest by a Jewish attacker in recent years and appeared to be an attempt to start an upheaval to sabotage Israel's planned evacuation of Jewish settlers from the Gaza Strip and part of the West Bank, which is set to begin on Aug. 15. Israeli security services have repeatedly expressed concerns about such a possibility.

The gunman was identified by the military as Eden Natan Zada, 19, though it initially identified him as Eden Tzuberi. He was an army private who was reported absent without leave around mid-June after refusing to take part in preparations for the Gaza pullout.

According to his family and Israeli news media reports, Mr. Zada then went to live in Tapuah, one of the most militant Jewish settlements in the West Bank.

Prime Minister Ariel Sharon called the shootings "a reprehensible act by a bloodthirsty Jewish terrorist who sought to attack innocent Israeli citizens."

Gideon Ezra, Israel's minister for public security, has spoken in favor of detaining Jewish militants without charges before the Gaza withdrawal, saying it could prevent violence.

The shooting on Thursday is certain to inflame passions on all sides.

"We are witnessing attempts by extreme right-wing people, terrorists, who want to set the region ablaze and feel they have freedom of action," Muhammad Barakeh, an Arab member of Israel's Parliament, was quoted as saying on the Web site of the newspaper Haaretz.

He and the news media said Mr. Zada had been a supporter of the Kach movement, founded by Rabbi Meir Kahane, the anti-Arab militant who was assassinated in New York in 1990. While the movement is outlawed in Israel, many Tapuah residents are believed to be supporters.

Mr. Zada grew up in Rishon Lezion, in central Israel, but went to Tapuah after leaving the army.

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Settler leaders contended that he was not a resident. But his father, Yitzhak, said that his son had been living in Tapuah and that he had informed army officials of his son's whereabouts and told them to repossess his weapon.

"I wasn't afraid that he would do something," he told The Associated Press. "I was afraid of the others" in Tapuah. He said he spoke to his son two days ago, "and he told me he would find the time to return the weapon." The Israeli military said it was investigating why he still had his weapon after he had deserted.

Mr. Zada, who was wearing a skullcap that identified him as an Orthodox Jew, apparently boarded the bus in the northern Israeli city of Haifa and waited until it reached Shefaram, an Arab town several miles to the east, witnesses said.

When the bus reached the town, the driver asked to speak to Mr. Zada, inquiring whether he had intended to come to the town, said Avtihaj Salameh, a passenger quoted by Haaretz. He stood by the driver for several minutes, then opened fire, Mr. Salameh said.

A large crowd then charged the bus and attacked Mr. Zada, beating him to death, witnesses and the news media reported.

Israeli television showed video of bodies on the side of the road, covered in sheets, and the broken windows of the bus.

Jewish militants have carried out a number of attacks against Arabs in the past, but most were directed against Palestinians in the West Bank rather than Arabs who are Israeli citizens. In the deadliest such attack, Baruch Goldstein, an American-born settler in the West Bank, shot dead 29 Muslim worshipers in 1994 at the Tomb of the Patriarchs, a site in Hebron that is holy to Muslims, Jews and Christians.

Issam Makhoul, an Arab member of Israel's Parliament, said Israeli political leaders had "been questioning the legitimacy of our citizenship in the past few years, and today someone took the initiative and acted on this."

Israeli Arabs, who constitute more than 1 million of Israel's 6.8 million citizens, have generally not been directly involved in the violence of the past few years, though a number have been implicated in assisting Palestinian attackers coming to Israel from the West Bank.

As the Gaza pullout approaches, right-wing Israelis have been holding protests, though the latest effort fizzled on Thursday.

Gaza has been declared off limits to nonresidents, but some protesters said they had managed to sneak into the Gaza settlements in recent days.

Bentzi Lieberman, the head of the main settler organization, the Yesha Council, condemned Thursday's shooting. "Murder is murder is murder, and there can be no other response but to denounce it completely and express revulsion," he said.

Earlier on Thursday, an estimated 10,000 Palestinians rallied outside their Parliament building in Gaza City to celebrate the planned Israeli withdrawal. "After 38 years of ugly occupation, they are leaving and they will never come back," the Palestinian prime minister, Ahmed Qurei, said of the Israelis.

Israeli Deserter Kills Four On Bus (WT)

By Joshua Mitnick

The Washington Times, August 5, 2005

TEL AVIV -- An Israeli military deserter yesterday sprayed bullets at commuters on a bus in an Arab town in northern Israel, killing four and wounding about a dozen in the most brazen act of Jewish terrorism in more than 11 years.

The uniformed soldier, identified as Eden Natan-Zada, was killed by an angry crowd of pedestrians about 30 minutes after being overpowered and arrested.

The shooting, which took place at about 6 p.m. local time, appeared linked to Israel's Aug. 15 withdrawal from the Gaza Strip and parts of the West Bank.

Israeli authorities had feared that Jewish extremists would resort to terrorist attacks on Arabs to instigate a spurt of violence that could derail the evacuation of about 8,500 settlers.

Israeli Prime Minister Ariel Sharon condemned the bus attack while expressing hope that community leaders would maintain calm.

"This was a reprehensible act by a bloodthirsty Jewish terrorist who sought to attack innocent Israeli citizens," Mr. Sharon said.

"This terrorist event was a deliberate attempt to harm the fabric of relations among all Israeli citizens."

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Natan-Zada, 19, who reportedly went absent without leave from the army in recent weeks rather than participate in the withdrawal of Jews from Israeli-occupied territory, fired at the driver and the passengers at point-blank range as the bus entered the town of Shfaram.

Hundreds of local residents swarmed the vehicle, preventing police from evacuating the bodies of the victims for hours.

Israel's Channel 1 reported that Natan-Zada had become involved with members of the outlawed Kach party who lived at a West Bank settler outpost.

Observers drew a parallel between yesterday's attack and a February 1994 massacre of 29 Palestinian worshippers at Hebron's Tomb of the Patriarchs mosque.

The latter was carried out by Baruch Goldstein, a Brooklyn- born physician who was also a member of the Kach movement.

Also, about 25 Palestinians and two Israelis were killed in rioting that followed, nearly derailing the implementation of an Israeli-Palestinian peace accord signed just months earlier.

"This is a terror attack for all intents and purposes. The writing was on the wall," Mohammed Barakeh, an Israeli Arab parliamentarian, said yesterday. "He wasn't alone."

The attack escalated tensions in Israel just days after tens of thousands of police officers were called to southern Israel to stop opponents of the withdrawal from illegally marching into the Gaza settlements.

Israeli press outlets reported that security forces went on high alert in case of rioting during Friday services at the Dome of the Rock mosque in Jerusalem.

Israeli Public Security Minister Gideon Ezra blamed the shooting on anti-disengagement protesters who have advocated law-breaking and military insubordination.

Following the attack, angry residents of Shfaram reportedly threw rocks at the bus and called for revenge.

A security officer said he had handcuffed the attacker after he had emptied his gun clip, but within minutes, the crowd reached him to take revenge. Several policemen who arrived on the scene to restore order were also injured.

"It's been a day of violence. We've lost four innocent residents of Shfaram," said Shfaram Mayor Ersan Yassin. "It's a criminal act."

Israeli Arab leaders said the attack was the result of years of incitement against the county's Arab minority by right-wing leaders.

Israeli Cabinet ministers called for an inquiry into why the soldier, who was known to the Shin Bet intelligence agency as an extremist, was allowed to hold on to his gun so long after going AWOL.

Israel's Yediot Ahronot newspaper reported that the attacker had left a note for his commanders after leaving the army base which said: "Just like I can't desecrate the Sabbath, I can't be part of an army which expels Jews."

Jewish Extremist Opens Fire Inside Bus (KCS)

By Kristen Stevens

The Kansas City Star, August 5, 2005

SHFARAM, Israel - A 19-year-old Israeli soldier opened fire inside a bus Thursday, killing four Israeli Arabs in the deadliest attack on Arabs in Israel by a Jewish extremist since 1990. An angry crowd then killed the gunman.

Thirteen people, including bus passengers and two policemen, were wounded in the shooting, which appeared linked to tensions over the upcoming Israeli pullout from the Gaza Strip and parts of the West Bank.

After the attack, the bruised and bloodied body of the gunman lay on the floor of the bus surrounded by stones - raising the possibility he had been stoned to death.

The military identified the dead soldier as Pvt. Eden Natan-Zada, a resident of the Jewish settlement of Tapuah in the West Bank. Natan-Zada's father, Yitzhak, told The Associated Press his son ran away from his army unit several weeks ago after being told he would have to participate in the Gaza pullout.

Israel Radio said the gunman was bludgeoned to death by the crowd. After the attack, the gunman's body lay on the floor of the bus, and police had covered his head with a black plastic bag. His shirtless upper torso was heavily bruised.

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Israeli Prime Minister Ariel Sharon denounced the shooting as "a despicable act by a bloodthirsty terrorist." Settler leaders also condemned the attack.

Palestinian leader Mahmoud Abbas called on Israel to prevent Jewish settlers from carrying weapons "because they (the settlers) are dangerous to the security and peace." Many settlers carry arms, which they say they need to protect themselves.

Security officials have been warning for months that Jewish militants, desperate to sabotage Israel's pullout, might attack Arabs to deflect Israeli forces away from the Gaza pullout. The police commissioner, Moshe Karadi, warned the shooting could trigger more violence.

The attack took place on the No. 165, which shuttles between the Arab town of Shfaram in northern Israel and nearby communities. At around 6 p.m., the bearded gunman, who wore an Israeli army uniform, boarded the bus and opened fire. Police said the attacker wore a skullcap, identifying him as an Orthodox Jew.

Four people were killed, including the driver. Police said the four apparently were all residents of Shfaram.

The windows of the bus were shattered. Blood covered the floor and seats of the bus, and stones lay on the floor. A policeman with a bullhorn, standing near the body, addressed a crowd of thousands at the scene.

Several hours later, police slowly drove the bus away as hundreds of Shfaram residents ran alongside the vehicle. Investigators kept collecting evidence inside the bus as it was driven out of town.

Yitzhak Natan-Zada, 49, said he had asked the army to find his son, who fled from his unit after refusing to take part in the Gaza pullout. The elder Natan-Zada said he was worried his son's weapons would fall into the hands of fanatics in Tapuah.

"I wasn't afraid that he would do something. I was afraid of the others," Natan-Zada said by telephone. "I spoke to him two days ago and he was a happy and good-hearted boy and he told me he would find the time to return the weapon."

Tapuah is one of the most extreme Jewish settlements, dominated by followers of U.S.-born Rabbi Meir Kahane, who advocated expelling Arabs from Israel and the West Bank. Kahane was assassinated in New York in 1990.

Israel TV said Natan-Zada was a deserter from his army unit who grew up in the Israeli city of Rishon Letzion and moved to the settlement recently.

There have been several incidents of Jewish extremists attacking Arabs over the years, but rarely inside Israel. In 1990, during the first Palestinian uprising, an Israeli opened fire at a bus stop where Palestinians gathered for job placements, killing seven.

In 1994, Baruch Goldstein, an American-born Jewish settler entered a holy site in the West Bank city of Hebron and opened fire on Muslim worshippers, killing 29 - the bloodiest attack by a Jewish extremist against Palestinians.

Israeli Arabs make up about 20 percent of Israel's population of 6.9 million. They remained in their homes during the 1948-49 war that followed creation of the state of Israel, while hundreds of thousands of others fled or were driven out.

Though Israeli Arabs are full citizens, they have suffered from discrimination by Jewish-dominated governments. Many of their towns and villages lack basic infrastructure, and Arab localities are usually at the top of Israel's unemployment lists.

Anger spilled over in October 2000, when thousands of Arabs rioted in support of the Palestinian uprising, which erupted the month before. Israeli police shot and killed 13 Arabs, further infuriating and alienating many Arab citizens.

In southern Israel, meanwhile, opponents of the pullout ended their second mass protest Thursday, after police blocked their plan to march to Gaza to reinforce the settlements. A few hundred protesters remained behind in the town of Ofakim, including settlers' council head Bentsi Lieberman, who denounced the shooting.

"Murder is murder is murder, and there can be no other response but to denounce it completely and express revulsion," he said.

Karadi said forces had been diverted to deal with the demonstrators, leaving the north of Israel short-handed. "We have sent forces from the center and those from the south who were supposed to be going home have now been diverted to the north," he said.

Israeli Soldier Kills 4 Arabs Aboard Bus (USAT)

By Matthew Gutman

USA Today, August 5, 2005

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TEL AVIV, Israel — An Israeli soldier who fired on Israeli Arab passengers in a bus Thursday evening killed four and wounded 12 in what Israeli Prime Minister Ariel Sharon called a "sinful act of a bloodthirsty Jewish terrorist."

"Terrorism of citizens against citizens is the most dangerous thing for the future of the State of Israel and the stability of democracy," Sharon said in a statement.

The attack was the deadliest by a Jewish radical since 29 Palestinians were killed in 1994.

Fearing retaliatory riots by Palestinians, police raised the alert in Jerusalem to the second-highest level and deployed more forces, especially around the Temple Mount, or Nobel Sanctuary — sacred to Jews and Muslims — ahead of Friday prayers, Police Chief Superintendent Raffi Yaffe said in a statement.

The gunman, Pvt. Eden Natan Zaada, "sought to derail," Israel's decision to withdraw from Gaza and parts of the northern West Bank, according to Yekutiel Ben Yaacov, a friend and fellow activist against the pullout.

Asi Shariv, Sharon's spokesman, said it was "too early speculate on the attack's effects on the disengagement (settlement pullout)."

Zaada, 19, a resident of the largely secular Israeli city of Rishon Lezion, used his army-issued M-16 rifle to fire on bus passengers in the Arab town of Shfaram in northern Israel. After the shooting, Zaada was beaten to death. Thousands of angry Shfaram residents swarmed the bus. They threw stones at the vehicle and police who arrived to control the riot, according to footage aired on Israel's Channel Two.

The Israeli military's chief of staff, Lt. Gen. Dan Halutz, ordered an investigation "into the circumstances leading to the possession of an IDF (Israeli military) weapon by the soldier, who had defected and was of a problematic background," a statement said.

Police were on high alert in Shfaram, a village inhabited mostly by members of the Druze Islamic sect. Israeli Arabs constitute 20% of Israel's population. A statement released by the Israeli police said authorities were deploying more forces to the area.

Ghazi Hamid, editor of the militant group Hamas' weekly Al-Risala, said his group "remains committed to the withdrawal and will not respond to this incident." Hamas' charter calls for the destruction of Israel and the establishment of a Muslim state in its place.

Zaada, the gunman, became intensely religious over the past year, and left his army unit in June after refusing to take part in the pullout, said Ben Yaacov, founder of the extremist Jewish Legion defense group based in the Tapuach settlement. The West Bank settlement is a bastion of members of the Kahane Chai organization, whichIsrael outlawed as a terroristgroup in 1994. In the past year, Zaada spent much of his time in Tapuach, Ben Yaacov said. He called Zaada "the first victim of the disengagement." Ben Yaacov added: "We will be stepping up our efforts to do everything in our power to stop the disengagement, which was (Zaada's) will and testament."

Army Deserter Kills 4 Israeli Arabs On Bus, Gets Beaten To Death (KRT)

By Dion Nissenbaum

Knight Ridder, August 5, 2005

JERUSALEM - An Israeli army deserter angry about his nation's imminent plans to shut down Jewish settlements opened fire on passengers in a bus driving through an Arab neighborhood Thursday, killing four Israeli Arabs before a mob besieged and beat him to death, according to police and military officials.

The attack in northern Israel has the potential to inflame tensions at a fragile moment for Israel, which is preparing to dismantle 25 Jewish settlements in occupied Palestinian lands.

Israeli and Palestinian leaders have been working to prevent extremists on both sides from derailing the contentious settlement shutdown. Security forces concerned about Jewish radicals have stepped up security at Jerusalem's Dome of the Rock, one of the holiest sites in Islam and a constant flashpoint for violent protests. Palestinian officials have been working to halt a series of rocket attacks on Jewish settlements in the Gaza Strip slated for closure.

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The assailant was identified by the military as Pvt. Eden Nathan Zaada, a 19-year-old Israeli who had recently become a follower of an outlawed right-wing extremist movement and deserted from the army to protest the plans to shut down Jewish settlements.

On Thursday afternoon, Zaada, wearing his army uniform and carrying his military machine gun, boarded a bus in a largely Arab town of Shfaram and opened fire, killing the bus driver and three passengers, police said. Within minutes, angry residents surrounded the bus, chased away police and beat the man to death.

In mid-June, according to Israeli officials, Zaada deserted his unit as the military was preparing its soldiers for the settlement shutdown scheduled to begin in about two weeks.

Zaada's family said he had recently moved to one of the more radical Israeli West Bank settlements, where he reportedly joined followers of Rabbi Meir Kahane, a fiery political figure who was assassinated in 1990 by an Egyptian terrorist after giving a New York City speech.

One of Zaada's friends called him "the first victim of the sadistic disengagement plan."

"I never heard him say anything about an intention to kill people, but I hope that he was not killed in vain and his murder will put an end to the expulsion plan," Yekutiel Ben-Yaakov told the Israeli newspaper Yedioth Ahronoth.

Israeli and Palestinian leaders condemned the attack and immediately appealed for calm.

Israeli Prime Minister Ariel Sharon called the shooting "a reprehensible act by a bloodthirsty Jewish terrorist" and "a deliberate attempt to harm the fabric of relations among all Israeli citizens."

Shaul Goldstein, a settlement leader who has helped organize weeks of largely peaceful protests that have brought out tens of thousands of activists, denounced Zaada as "a crazy man and a lunatic" whose actions couldn't be justified.

"He is a terrorist just like any other terrorist with Hamas or Islamic Jihad," Goldstein said. "There is no purpose on Earth that can justify the killing of innocent people."

Zaada's aunt voiced surprise at her nephew's actions.

Yardena Cohen said she knew Zaada had fled the army, opposed the government's settlement shutdown and started living at the West Bank settlement. But she called him the "nicest, warmest person" and never thought he was capable of such violence.

Under the plan, Israel will remove all 8,500 Israeli settlers from the occupied Gaza Strip, along with about 500 others from four isolated settlements in the northern West Bank.

Sharon has cast his initiative as a way to bolster Israel's security, but settlement leaders have condemned it as cowardly capitulation to terrorists.

Saeb Erekat, a senior Palestinian leader, called the attack "a very dangerous incident" and urged Israel to press ahead with the settlement shutdown "in a peaceful and orderly manner."

The incident was the worst such attack since 1994, when a U.S.-born settler opened fire in the Tomb of the Patriarchs, a religious site sacred to Muslims and Jews, killing 29 Palestinians.

Gaza Pullout Tests Limit Of Dissent (CSM)

By Ilene R. Prusher

The Christian Science Monitor, August 5, 2005

NEVE DEKELIM, GAZA - Ofir Handelsman thinks he holds the power to stop Israel's pullout from Gaza in the palm of his hand. Scribbled across his palm is the fake identity number that enabled him to sneak into Gush Katif, the collection of Jewish settlements in which he and other Israelis intend to make a last stand against Prime Minister Ariel Sharon's withdrawal, set for Aug. 17.

Ofir, just 17, carries the build and demeanor of a wrestler. He wears a sleeveless cut-off shirt, an orange cord and whistle around his neck signaling his opposition to the evacuation, and the backpack he is going to live out of for the foreseeable future.

"A few hundred of us came in," he says, slightly breathless as he and his buddies buzz around the Vanilla Sky restaurant, scrounging for a meal Wednesday night. "So many people will come that the army won't be able to remove us - and then, we hope, there won't be a disengagement."

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Some Israelis see Ofir's action as valiant civil disobedience. Others decry flouting of the law. It's a debate that stretches beyond eminent domain to the heart of Israeli identity: property rights of the few vs. security of the many; political compromise vs. scriptural authority; and the right to self-expression vs. a government's right to implement key policies without interference.

Indeed, the country's roads themselves have quickly become a part of this battleground: opponents of disengagement throw nails on roads over which Israeli army jeeps will need to pass. And Wednesday, protesters shut down one of the country's most important arteries - the Jerusalem-Tel Aviv highway - with a row of burning tires.

Right-wing activists say that in a democracy, they should be free to protest. But Israel's security forces have been trying to limit the demonstrations - initially refusing to permit a large one Wednesday in Ofakim, outside Gaza. The attempt to clamp down, these activists say, is pushing protesters to more extreme measures.

But security officials and proponents of disengagement say that the people in orange - the color of the anti- withdrawal camp - are violating the law in their bid to prevent the execution of a major political decision that was made by the Knesset, Israel's parliament.

When the withdrawal begins, it will be the first time Israel will dismantle established settlements from any territory claimed by Palestinians for their future state. But at the moment, Israel seems more absorbed with the domestic side effects of the disengagement plan. As a result, many liberties are being put to the test in a way they never have before.

On the one hand, Israel is proud of its place as a feisty young democracy in a region awash in autocracies. On the other, the political necessity of carrying out the disengagement plan and the desire to implement it in as orderly a fashion as possible may be pushing Israeli officials to take measures that, some critics say, are more reminiscent of a police state than of a free country.

Even the Association for Civil Rights in Israel (ACRI), which considers all Israeli settlements in the West Bank and Gaza Strip to be illegal and strongly supports a withdrawal from these areas, fears that the police may run roughshod over the right to demonstrate.

ACRI made an official complaint about a two weeks ago when the organization learned that the police were stopping buses all over the country, as far as Kiryat Shemona in the far north of Israel - some five hours' drive away. Drivers of buses carrying anti-disengagement protesters were told by police that they would have their licenses revoked if they drove south with the protesters.

"The main thing we see is the police have a tendency to overact," says Yoav Loeff, an ACRI spokesman in Jerusalem.

An important Supreme Court case this week made clear that there is a fine line between demonstrating and being destructive.

The court rejected a petition from two right-wing activists who tried to appeal the army's evacuation of antidisengagement groups who were holed up in a hotel here. In the decision, the judges ruled that the activists were not expressing themselves but delivering a "severe blow to democracy."

"Freedom of expression is not a permit to throw burning tires at policemen or soldiers," Supreme Court Justice Aharon Barak said in the ruling. "Freedom of expression is not a permit to attack one's fellow man; freedom of expression is not a permit to riot."

But for Yair Cohen, who has been living in this settlement since he was evacuated from Yamit in the Sinai, the very fact of being forced out from his home twice in his life is a symbol that Israel is not a true democracy.

"There's got to be a limit in a democracy," says Mr. Cohen, a father of five who stopped to talk after leaving evening prayers at the community's central synagogue here. "No democracy can take a person out of his house against his will. When you have 15,000 soldiers surrounding the demonstrators, that's a democracy?"

Palestinian Troops Face Biggest Test During Pullout (USAT)

By Matthew Gutman

USA Today, August 5, 2005

GAZA CITY — Capt. Hisham Kariri watches as Palestinian National Security Forces cadets carefully hack one another with choreographed karate chops in a rock-strewn Gaza City parade ground.

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Kariri's men, some with graying beards and paunches, are among the 7,500 troops the Palestinian Authority intends to deploy along with tens of thousands of police and militiamen to help secure Israel's evacuation of 21 Jewish settlements in Gaza and four in the West Bank starting Aug. 15.

The Palestinian Authority has committed to thwarting Palestinian militants from launching rockets on Jewish settlers and Israeli soldiers during the pullout. The authority also will try to curb looters expected to swarm on the settlements, says Palestinian Cabinet Secretary Samir Huleile.

But Israel's military is concerned — and ready to react. If the Palestinian security forces don't act to prevent attacks and chaos, Israeli Deputy Defense Minister Zeev Boim says, "We will not hesitate to use land, sea and air forces with full severity to respond to a terror attack." He also warns that Israel could suspend its evacuation "to launch a large-scale military operation into the areas used to fire rockets and missiles."

Palestinian militants fired hundreds of homemade mortars and rockets toward Jewish settlements and towns inside Israel during the past month. Israel's Shin Bet internal security service recorded an 18-month high of 426 attacks against Israeli targets in July.

That's nearly four times the number of attacks in January, according to a statement released Monday by Shin Bet, the Israeli counterpart to the FBI.

Col. Jamal Kayed, commander of the Palestinian National Security Forces in the southern half of Gaza, insists that the 7,500 men under his command during the pullout are capable of preventing attacks.

From his headquarters in Khan Yunis — a Palestinian city abutting Neve Dekalim, Gaza's largest settlement — Kayed acknowledges that a rocket barrage by Palestinian militants such as one that killed an Israeli woman in a farming community two weeks ago could unleash "enormous destruction."

He intends "not to give Israel a reason to attack." His orders, he says, are to "stop the rocket launchers." But "we are not idiots. We will not start a civil war by killing strugglers for freedom," he says, referring to the militants.

These kinds of statements are of particular concern to the Israelis. Boim says his government "is satisfied with the Palestinian government's decision to deploy troops, but we are skeptical that Abu Mazen's (Palestinian Authority Chairman Mahmoud Abbas) intention of thwarting terrorist attacks on departing troops and citizens will trickle down to the soldiers."

Kayed says his men will be ordered to prevent and briefly detain men caught firing on Israeli soldiers or settlers. "Israel says we should kill them. I am not interested in killing my own people," he says.

His forces also will remain out of sight of the settlers during the two- to four-week pullout, "because we don't want to cause friction." The buffer zone with the Israelis will be 200-800 yards, he says.

Kayed and other Palestinian security officials have met routinely with their Israeli counterparts to coordinate security during the withdrawal, but Kayed says Israel hasn't disclosed its exact plans for the pullout. Boim says Israel has little inclination to share its plans.

On the sun-blasted sand lot in Gaza, Kariri groans as his men flip head over heels and land with a thud on their backs as they clear imaginary barbed wire. This is not the kind of training Kariri received at the Indian Military Academy in 1998.

As he watches his men struggle to march in step, Kariri says, "In India we had equipment, weapons, everything. Here all we can do is try." Israel destroyed much of the Palestinians' military equipment during the latest uprising, which began in 2000.

Later, in Gaza City, commander Col. Mahmud Rawala, pronounces this battalion "fit for service."

"We are ready," echoes Huleile, the Cabinet secretary-general. "We have done our best, given Israeli restrictions on allowing us to have weapons and ammunition."

With more than 40,000 men on duty, this summer's deployment of Palestinian forces is "by far the largest campaign in Palestinian history," Huleile says.

The Palestinian forces that will ring the Gaza settlements will include about 10,000 police officers and soldiers and 30,000 militiamen from Fatah, the Palestinian Authority's largest faction, he says.

But even with its massive deployment, some Palestinian leaders are doubtful their security forces can complete the mission. Osama al-Farra, mayor of Khan Yunis — the city of 180,000 that stands to absorb 11 settlements after the pullout —

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worries that containing “souvenir seekers” will be impossible. “Everyone will want to go and see the new area. All our security forces won't be able to stop that movement,” he says.

Some local Gazans vow to do what Palestinian Authority security won't. Sultana Abu Awad, a mother of 12 and a resident of the Khan Yunis refugee camp, says, “If they (Hamas militants) try and shoot or fire rockets, I will cut their throats.” Militants often use the camp's western neighborhood, where Sultana and her family live, to shoot at or fire rockets at Israelis. Israel has responded by razing dozens of homes in the neighborhood.

Abu Awad's living room wall, riddled by bullets from the Israeli military's return fire, faces the soon-to-be evacuated Jewish settlement of Neve Dekalim. “When they (militants) fire, it brings disaster upon us,” she says, “so we will surround our homes, and if anybody shoots, we will kill him.”

China Restricts News Of Cnooc Bid (WSJ)

By Matt Pottinger

The Wall Street Journal, August 5, 2005

BEIJING -- China is heavily restricting domestic news coverage of Cnooc Ltd.'s failed bid to buy American oil company Unocal Corp., a move apparently aimed at muffling criticism of the U.S. before next month's summit meeting between Chinese President Hu Jintao and President Bush.

Editors at Chinese newspapers, Web sites and a television station said they are obeying a recent central-government directive to publish only official Xinhua news agency accounts of the bid. The Propaganda Department of the ruling Communist Party issued the guidelines more than two weeks ago after it became clear Cnooc's $18.5 billion bid for Unocal was faltering amid opposition in Congress.

"We are not allowed to do our own reporting anymore" on Cnooc, said an editor at a major paper published by Wenxin United Press Group. "This is a ban."

Cnooc, China's largest offshore oil producer, on Tuesday abandoned a months-long effort to buy Unocal, of El Segundo, Calif., blaming the political atmosphere in Washington. Thus far, Beijing has refrained from commenting on the aborted bid to distance itself from Cnooc and deflect allegations in Congress that the pursuit of Unocal reflected Chinese state policy.

Chinese people, however, are aware of the news. The Xinhua news agency account that ran in some newspapers was dry and brief, stating that Cnooc had withdrawn its bid because of the poor political climate in the U.S.

"This is a commercial matter," said a Chinese Ministry of Commerce spokesman asked about the failed bid. "As a government department, there is no need to make any comment about this at this time."

But analysts and editors say Beijing has been closely involved in managing the ensuing coverage. The goal is to contain combustible anti-American sentiment that Cnooc's failure might ignite, they say.

"I think the Propaganda Department is trying to cool down the nationalist anger caused by this," said Li Xiguang, who teaches journalism at Tsinghua University in Beijing. "The government wants to have strong ties with the U.S. despite this setback."

Popular dissatisfaction with Washington runs high in China, fueled by American support for Taiwan and perceived U.S. bullying on trade matters. Many Chinese also expressed resentment at the recent revaluation of the country's currency as the latest indication that the U.S. is trying to push China around.

But the leadership in Beijing is intent on keeping relations with Washington as smooth as possible. For a few weeks after Cnooc's announcement in June that it was challenging Chevron Corp. to acquire Unocal, coverage in China's state-owned media was relatively freewheeling, with some criticizing the bid and others attacking U.S. lawmakers' efforts to thwart Cnooc.

But as it became clearer that Unocal would side with Chevron, despite Cnooc's substantially higher bid, the Propaganda Department issued its directive to newsrooms. A staff member of the Shanghai Oriental Morning Post said editors were called into a meeting where their boss informed them of the directive.

"All reports on Cnooc should use stories from Xinhua news agency in order to keep the same tone as the government," the staffer quoted the boss as saying. Editors at four other newspapers and a Shanghai television station contacted by The Wall Street Journal described similar scenes at their offices.

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Beijing's desire for smooth U.S. relations notwithstanding, the Cnooc saga still could cause repercussions for American interests. The handful of permitted commentaries published in recent days have emphasized U.S. hypocrisy on free trade. The China Daily ran an editorial yesterday saying the consequences of the failed Cnooc bid "may be more serious than some U.S. politicians have calculated."

The lack of strongly critical news coverage didn't prevent many Chinese from tracking Cnooc's troubles in America or from drawing conclusions about it. Negative comments about the U.S. were posted on numerous Internet chat rooms.

Notable & Quotable (WSJ)

The Wall Street Journal, August 5, 2005

From an editorial in yesterday's China Daily:

China National Offshore Oil Corp has to bear the cost of its abandoned bid for the American oil company Unocal. But the fallout from the bid will not only affect the Chinese side. The idea of the United States as a self-appointed champion of the free market has become questionable. . . .

The unjustified U.S. opposition, largely politically motivated, will . . . poison the current prevailing mood as bilateral economic ties between China and the United States are enhanced. The high-profile takeover battle demonstrated to the world that the United States is not a free economy as it claimed to be. In the U.S. market, an asset for sale has not gone to the buyer that most prized it, because of regulatory concerns fuelled by bogus fears and hidden interests.

Apparently, Unocal shareholders chose to accept the cheaper offer free of regulatory risk. But the politicized regulatory matter has, in fact, deprived them of the chance to maximize value, as the market should allow.

. . . [T]he explicit message the takeover battle sends to the world is that American business is defined by political needs. . . . In the long run, the casualty will be on U.S. competitiveness if the market is to play second fiddle to protectionism with political patronage.

Aggressive Search By Cnooc For New Oil And Gas Seen (NYT)

By David Lague, International Herald Tribune

The New York Times, August 5, 2005

BEIJING, Aug. 4 - The Chinese energy company Cnooc is preparing to mount an aggressive international search for oil and gas supplies in the aftermath of its failed bid for Unocal, oil industry experts say.

In announcing on Tuesday that it would abandon its $18.5 billion offer, Cnooc, shorthand for the China National Offshore Oil Corporation, signaled that it would continue to work with foreign governments and companies in its search for overseas oil and gas reserves.

Energy market experts now expect Cnooc, which is controlled by the Beijing government, to explore opportunities throughout the Asia-Pacific region, Central Asia, Russia and West Africa to find energy supplies for China's booming economy.

"Cnooc lost the battle over Unocal, but it will continue to wage the war toward acquiring overseas energy assets to support China's growing energy needs," said Kurt A. Barrow, an analyst in Singapore with the energy consultant Purvin & Gertz.

The hostile reaction in Washington to Cnooc's bid was a pointed reminder to the Chinese that politics remains a major obstacle to their plans to increase energy security. China's growing oil imports have helped drive prices near record highs as competition for energy emerges as a point of friction among the big manufacturing economies.

Given its rebuff in the United States, said Ma Shang, an energy industry analyst with Fitch Ratings in Beijing, Cnooc should place less emphasis on big investments in Southeast Asia and South America, regions where Washington exerts strong political influence. Instead, Cnooc should follow PetroChina, which has secured substantial reserves in Central Asia.

"Because the energy market regards Cnooc as a state-owned enterprise," Mr. Ma said, "its overseas acquisitions are more political compared with other global players. Cnooc should look to Central Asia or Russia. Compared to the U.S., these regions and Russia are more friendly to China."

Many analysts say that Cnooc, which is listed on stock markets in New York and Hong Kong, is unlikely to find investment targets as attractive as Unocal, but that its political backing and access to cheap money will continue to make it competitive in world markets.

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And Chinese energy companies have other advantages. Some have invested in places like Sudan, Iran and Myanmar, where the major international oil companies are unwilling or unable to operate, Mr. Barrow said.

Cnooc plans to become an important supplier of liquefied natural gas to China, and there are signs that it will concentrate on investment in natural gas reserves in Asia.

Experts suggested two such targets: Woodside Petroleum of Australia, which operates the North West Shelf natural gas project and owns 16.7 percent of it; and the Gorgon natural gas development, led by Chevron. Cnooc is already linked to both ventures, which have substantial reserves off northwest Australia.

In a complex agreement in 2002, Cnooc formed a joint venture with the North West Shelf project's six partners, including Chevron, to take a stake of about 5 percent in the gas fields. Cnooc's share of the reserves is equivalent to liquefied natural gas shipments of about 3.3 million metric tons a year over two decades starting in 2006, and with an estimated value of $20 billion. The venture supplies as much as 10 percent of Japan's liquefied gas imports.

Analysts say that Woodside would be an ideal investment for Cnooc as it seeks to become China's leading supplier of liquefied gas. Ownership of Woodside would also give Cnooc access to advanced deepwater exploration and development technology, a consideration that experts say was a major factor in its bid for Unocal.

Shell is the biggest shareholder in Woodside, with 34 percent. The Australian government in 2001 rejected a takeover bid from Shell because it would have given a foreign company control over the extraction and marketing of a major Australian energy resource. But China is soon expected to become Australia's biggest trading partner, which might make officials in Canberra more flexible if Cnooc pursued Woodside.

In 2003, Cnooc signed an agreement with the Gorgon partners - Chevron, Exxon Mobil and Shell - that called on them to "place a significant volume of Gorgon L.N.G. for use in the growing Chinese market." Cnooc was reported to be seeking a 12.5 percent stake in the project.

But talks with the Gorgon partners have failed so far to produce an agreement on price. Scott Walker, a spokesman for the venture, based in Perth, Australia, said that discussions were continuing.

Niger's Anguish Is Reflected In Its Dying Children (NYT)

By Michael Wines

The New York Times, August 5, 2005

ELKOKIYA, Niger, Aug. 3 - At sunset Wednesday, in an unmarked grave in a cemetery rimmed by millet fields, the men of this mud-walled village buried Baby Boy Saminou, the latest casualty of the hunger ravaging 3.6 million farmers and herders in this destitute nation.

At 16 months, he was little bigger than some newborns, with the matchstick limbs and skeletal ribs of the severely malnourished. He had died three hours earlier in the intensive care unit of a field hospital run by Doctors Without Borders, where 30 others like him still lie with their mothers on metal cots.

One in five is dying - the result, many say, of a belated response by the outside world to a disaster predicted in detail nine months ago.

Niger's latest hunger problem, like Baby Boy Saminou's tragedy, is more complex than it first appears. As aid begins to trickle into some of the nearly 4,000 villages across southern Niger that need help - the vanguard of a flood of food brought forth by television images of shrunken babies - the rich world's response to Niger's worst nutrition crisis since the 1985 famine is, in fact, proving too late for many.

Unseen on television, however, are the shrunken infants who die all but unnoticed even in so-called normal years. Of each 1,000 children born alive in this, the world's second-poorest nation, a staggering 262 fail to reach their fifth birthdays.

Five of Baby Boy Saminou's seven brothers and sisters were among them. The longest-surviving of those who died reached 4 years of age. Asked what killed the last three, Saminou's father, Saidou Ida, said simply, "Malnutrition."

International aid officials and charity workers here say that the world's dilatory reaction to Niger's woes is hard to excuse. Some of them also say that Niger's miseries this year are merely a worsened version of its perennial ones - and that until Niger

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addresses its problems of primitive farming, primitive health care and primitive social conditions, infants will continue to die unnoticed in numbers that dwarf any hunger emergency.

"That is the bigger question that both Niger and the international community, everyone, needs to answer," Marcus Prior, the West Africa spokesman for the World Food Program, said in an interview in Maradi, the regional city where little Saminou died. "We feel that we've tried to raise awareness. But at the same time, this is something that's a recurring problem."

That it is a perennial problem, Mr. Prior and others stress, in no way minimizes the urgency of Niger's current disaster - erratic rainfall and severe food shortages in the agricultural and herding belts where many of Niger's 11 million to 12 million people live. Together, they are pushing the death rate for small children even higher than Niger's customary one-in-four level, and killing off the livestock upon which the nation's nomads depend.

How many people need aid depends on the yardstick used. About 1.2 million of Niger's 3.6 million rural farmers and herders are described as "extremely vulnerable" to food shortages and in need of food aid, according to an assessment of Niger's crisis conducted four months ago by the United Nations, major charities and Niger's government. Of those, about 874,000 urgently need free food, the latest assessment concluded late last month, and that number could rise until the harvest is completed in October.

But that does not mean that nearly 900,000 people will starve; the vast bulk of the hungry will somehow survive. Most of those who do die will be young children. But even among those, most will not die of starvation.

"Children will likely die from malnourishment, but a substantial proportion is probably dying from conditions related to poor water quality, or other non-food-related problems," FEWS Net, a famine warning service financed with United States assistance, reported late last month.

Much of this disaster was suspected last November, when experts monitoring Niger's farms found a 220,000-ton shortfall - about 7.5 percent of the normal crop - in the harvest of grains, especially the millet that is the staple of most people's diet.

Among others, the United Nations World Food Program and Doctors Without Borders sounded alarms, and Niger's government, with World Food Program approval, quickly asked donors to give Niger 71,000 tons of food aid and $3 million for the 400,000 most vulnerable farmers and herders.

By May, it had received fewer than 7,000 tons of food and one $323,000 donation, from Luxembourg.

"I think everyone knew that a crisis was going on," said Johanne Sekkenes, the Niger mission head of Doctors Without Borders, in an interview in Niamey, the capital. "But the answer given at the time, from governments and international agencies in Niger, was that the ongoing, normal development programs should be reinforced."

Niger's government ruled out both free food aid and health care to hungry families, preferring to sell surplus millet at subsidized prices in an effort to force the price of scarce millet down. But millet prices skyrocketed, forcing families to sell cattle and other goods to buy food.

The charity has angrily accused governments of allowing children to die, albeit not intentionally, so that the free market in grain would not be disrupted. Others say that Niger is on a steady course toward future disasters, free aid or not. Even with huge numbers of dying children, the average woman bears seven babies, and the population is growing at a rate that by 2026 will double the number of people on a land that already is straining its capacity.

Moreover, Niger has few of the modern tools that might enable it to feed itself, meaning that charities must make up a food shortage virtually every year.

"You've seen the kind of tools people use to farm," Mr. Prior said. "You've seen the lack of irrigation and the total dependency on what falls from the sky. I doubt you've seen any fertilizer or modern technology being used."

When the rainy season arrived in June, bringing malaria and other diseases with it, children weakened by lack of food began to fall ill and die in numbers even greater than in normal years.

Doctors Without Borders has treated more than 14,000 children at six centers this year, more than double the 2004 total. It has nearly 5,000 under treatment today. Admissions at its centers rose by a quarter from mid-July to August.

Among the newcomers was Baby Boy Saminou, whose 40-year-old mother, Mariama, brought him to the charity's Maradi hospital Wednesday from her village of about 2,500, down a rutted road 15 miles away. The boy was receiving free food, and had visited the Doctors Without Borders clinic five days earlier with a mouth infection. But his condition worsened last weekend.

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"I didn't even have time to talk to her, the baby was so bad," Chantelle Umtoni, 34, the chief of the intensive care ward, said as she watched the mother and child from her desk Wednesday afternoon. "He has severe anemia. He has severe malaria. He was dehydrated - completely dry. And he had heart failure."

Indeed, doctors restarted his heart as they plugged bags of blood and intravenous fluid into him and clapped an oxygen mask on his face to assist his labored breathing.

Dr. Umtoni said she gave the boy a 50-50 chance of living. Dire as they are, such cases are not unusual.

"We average 30, 35 children every day," she said. "All of them are malnourished, severely malnourished. That's already a severe disease by itself. Add atop that malaria and anemia, and they come in a bit too late."

Mariama sat by her child, draped in the same brilliant orange-and-green cloth she wore, and watched him as she toted up her family. Of eight children, five were dead. The two survivors, she said, are 15 and 17 years old.

As she spoke, a nurse, Boraka Abdou, put a stethoscope to the baby's chest, listened, then summoned Dr. Umtoni. She listened intently. Then, wordlessly, the two removed his oxygen mask and catheters. Mariama stared at her dead child, impassive, then covered him in a red scarf.

An hour later, she was home, having ridden the 15 miles with her baby in her arms, tears running down her face.

Outside her compound, she gave the dead child to her mother-in-law, who washed its face. Then she sat on a wooden bowl used to grind millet and wailed, inconsolable. Women, hearing the news, came to grieve with her. The two women bathed Baby Boy Saminou and wrapped him in a white T-shirt for a traditional Islamic burial.

The village chief, Moussa Djidji, said that at least 10 of the village's children had died since January.

Hunger Reaches Crisis Level In Niger (LAT)

By Robyn Dixon

The Los Angeles Times, August 5, 2005

MARADI, Niger — The frail baby boy she cradles has arms no thicker than her finger. His belly has hollowed and his skin has sagged as his weight has dropped.

Rakiya Nassirou weeps constantly over her son, wondering what is happening to him and whether God is angry with her. But 6-month-old Rabiou is not her only worry. Another boy, 3-year-old Moussa, is with her at this feeding station run by Doctors Without Borders. Nassirou left four more children and her sick husband back home in their village two weeks ago with no food.

The aid agencies now scrambling to save these children say it didn't have to be this way.

In the best of circumstances, they acknowledge, hunger shadows Niger and its neighbors along the southern edge of the Sahara desert. Malnutrition, malaria, diarrhea and other ills kill one in four children before the age of 5.

But last fall, things got much worse. The rains failed. Then the locusts, the worst infestation in 15 years, arrived.

A United Nations appeal last November for help for Niger was virtually ignored. Another appeal in March for $16 million resulted in about $1 million in contributions. Even as world attention was focused on Africa at last month's Group of 8 summit of the world's richest nations, little happened. Niger was offered debt forgiveness, but nothing was done about the hunger issue.

The crisis underscores one of the long-standing problems faced by international relief agencies. It is much easier to raise money once starvation has set in and children are dying than to prod donors to prevent a looming crisis.

Now, the World Food Program estimates 2.5 million of Niger's nearly 12 million people are at risk of hunger; 1.6 million of them need immediate help. And the crisis is spreading. An additional 1.5 million people in neighboring Mali, Mauritania and Burkino Faso need food aid.

Only recent television footage of starving children have started making a difference.

"We are going into the worst period of the year, in the coming four to five weeks, with the rainy period and diarrhea. And this is the last month before the harvest, meaning there are few food stocks and they are running very low," said Johanne Sekkenes, head of mission at Doctors Without Borders in Niamey, Niger's capital.

Doctors Without Borders is admitting nearly 1,300 children a week to its emergency feeding program in the Maradi region, 340 miles east of Niamey. The numbers are still rising.

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It has treated almost 15,000 severely malnourished children since January, 5 percent of whom died. According to UNICEF, 192,000 malnourished children need help, 32,000 of whom are severely malnourished and facing death.

Niger is three times the size of California, but two-thirds is desert and only 15 percent of the land is suitable for farming. It is regarded as the second-poorest country on Earth, ahead only of Sierra Leone, another West African country.

Most of the population depends on herding and subsistence agriculture. It rarely raises a blip on the radar of international affairs. The last time it made headlines was before the Iraq war, when reports surfaced that yellowcake uranium from Niger had found its way to Saddam Hussein. The report turned out to be false.

Women often bear the brunt of Niger's crises, since many men travel to neighboring countries for work, often for years at a time.

Nassirou fears that the revolving cycle of hunger is not the result of fickle rains, but the wrath of God.

"Maybe God curses us," she said. "God blames us."

"I hope God will give us life and health and take us out of this poverty."

Lying on a blanket at the feeding center, she added: "I cry because I cannot understand what is happening to my son. I cry because I don't know what to do. I have been crying ever since I got here.

"I'll do anything for him to get better," she said, gazing down at her baby with melting eyes. "There's nothing more precious than a child."

Dr. Chantal Umutoni, in the intensive care unit at the feeding station, said she was sad and angry over the delayed international response.

"Maybe those lives could have been saved," she said.

On Thursday, a starving boy named Mamane Sani Abdou, 13 months, was admitted, a frail, listless child with starkly protruding ribs and stick-like limbs which flopped by his side. His mother, Babi Abdou, 20, fed him a few spoonfuls of enriched therapeutic milk, which he coughed up before sagging back, panting desperately at the effort.

Before, "he used to drink a whole cup of milk," said Abdou, who said her boy first fell ill after being circumcised two months ago. She spent all her savings, about $12, first on traditional medicine, then Western medicine.

On Wednesday, a child in similar condition, 16-month-old Saidou Saiman, came into intensive care at 11 a.m., "too sick to even make a sound," Umutoni said. Just after midday, his heart failed. He was resuscitated, but died at about 4 p.m.

His mother composed herself and took the dead child home for burial.

"She was trying to be strong," the doctor said.

The crisis extends well beyond Maradi.

On Wednesday, Fatu Haliss tried to spoonfeed her son, Alassan, but the 1-year-old cried and spat it out. The boy's face is gaunt, reduced to a bony skull, making his eyes look large and round. He weighs about seven pounds, about a half a pound less than when he arrived at a feeding center in Tahoua, 230 miles northeast of Niamey, about two weeks ago.

Her family provides a bitter example of Niger's poverty. The woman's parents are both dead. She has not heard from her husband since he left to work in neighboring Libya more than a year ago.

She has lost more children than have lived. Two were born dead. Four others "died normally," as she puts it. Four are alive, including Alassan, "the thinnest child I ever had."

"Many small children died in our village," she said.

She spent her last money on half a bag of rice to leave with her children when she brought Alassan to the feeding center, but fears it may have run out by now. Worse, her crop needs tending, or it could fail.

"I have nobody at home. My husband left and I have to work in the field. I need to get back home. I have nothing else to eat, only my crop. It could die and then who will feed me? I have nobody to feed me."

For Umutoni, it is tough watching these children, who arrive only when they already near death.

"Children who are very sick and malnourished are often very quiet. But when you start to nourish them, they start to make more noise. Their eyes become more lively, and shining," she said. "You see life in their eyes."

In Tense Sudan, Divisions Resurface (WP)

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By Emily Wax

The Washington Post, August 5, 2005

JUBA, Sudan, Aug. 4 -- The mood of this rattled country, after the sudden death Sunday of the former rebel leader John Garang, is etched on the fearful faces of northern Arab merchants, surrounded by suitcases and nylon sacks, as they wait in the airport to flee further attacks by southerners.

The once-lively central market of this southern city is a deserted maze of smoldering fires and burned metal roofs after three days of rioting. Goats and children pick through the rubble of charred soda bottles, detergent boxes and plastic roses.

The hastily dug earth in a cemetery marks the sites where Arab families quickly buried their dead, as required by Muslim law, leaving unmarked graves and retreating to the shelter of military bases.

Officials said at least 13 people were killed in Juba, 720 miles south of the capital, Khartoum, during three days of mob violence, looting and ethnic tensions that erupted after Garang's death in a helicopter crash. In the Khartoum area, officials said 111 people had died and several hundred were injured. Another 1,500 were arrested.

The clashes in north and south have been mirror images, taking on the very themes of the civil war that ended in January with a peace deal negotiated by the government and Garang -- mostly African southerners feeling marginalized by the Arab-led north, mostly Muslim northerners feeling their religion and political position under threat from the south, which is mainly animist and Christian.

Garang, 60, was rewarded for helping to bring peace by becoming Sudan's senior vice president after leading rebels during the 21-year civil war.

Now, in the city where he is to be buried Saturday, the country's raw anger, and its deep ethnic and religious divides, are very much out in the open.

Juba, a city of about 350,000 on the Nile River that is tenuously under the control of 60,000 government troops, feels more like a frontline camp readying for war than a future regional capital preparing for a state funeral.

"All of the people here want to kill us," said Abdullah Ali Tabeb, an Arab merchant who said his family's cigarette and flour shops were set on fire. He said he had spent the last four days at the airport, with only water and biscuits to nourish him, in hopes of getting out. "They told the Arabs to go to Khartoum. They don't like us. We need peace."

Less than a mile away, Samuel Fadil, 37, an African southerner, surveyed the charred remains of three storefronts his father had rented to Arab traders. Despite his loss, he said, he sympathized with the looters and could understand their anger.

"People suspect that the Arabs killed our father Garang," he said, pointing at a still-burning shop. "We have no other source of income. But I am still much more angry over the death of Garang." There has been no report of foul play in the crash; both Garang's movement and the government have called it an accident.

Throughout Wednesday night and into Thursday morning, gunshots rang out across the city. Half-burned public minibuses were abandoned on the roads. Children in ragged clothes grabbed sodas from shop debris. Soldiers guarded a soccer park called Freedom Square, now a temporary jail for looters.

In different corners of Juba, the division of opinion on Garang's death was as wide as the Nile.

Many southerners said they were convinced that the fatal crash was not an accident in bad weather but a plot to weaken the former rebel movement, cause ethnic chaos and deflect attention from the government's autocratic hold on power. Many northerners rushed to take the government's side, partly in exchange for protection from attack.

The government announced that it would deploy a large force of elite troops here during Garang's funeral, which is to be attended by President Omar Hassan Bashir, as there were fears the event could spark new violence. Meanwhile, Garang's body was being flown to various cities in the south so mourners could pay respects.

On Wednesday, armed members of the Sudan People's Liberation Movement, Garang's former rebel group, arrived to help government forces restore calm -- and to protect the group's leaders.

Some analysts said they saw the government's military move as a warning to other brewing rebel movements, especially in the troubled western region of Darfur, where 2 million people have been displaced in a separate conflict.

"The mood of the country is manipulated in this divide-and-rule fashion," said Ollie Dinar, an African scholar in Khartoum. "Sudan's government has once again won. The people are now attacking each other instead of the government."

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Dinar said images of southerners burning and looting have been played repeatedly on government television stations, provoking Arabs in Khartoum to fight back.

Whether calm will return, no one is sure.

The abrupt shift from peace to chaos began Sunday, as news spread that Garang's helicopter had crashed en route home from an official visit to Uganda.

In Juba, a group of Arabs lowered the rebel flag and called out to southerners, "Your man has died," said Joseph Abuk, 47, a teacher.

"There were extremely sarcastic and painful comments made," Abuk said. He said the years of civil war had created a deep "lack of trust between us Africans and Arabs. When it comes to the death of Garang," he added, "people are going to go beyond the simple appearance of issues."

Soon, he recounted, young followers of Garang went to the market with sticks and guns. In a "spontaneous burst of anger," he said, they started "burning everything." Arab merchants jumped into buses and fled to army facilities for protection.

Abuk, echoing many southerners' suspicions, suggested that Garang's helicopter could have been sabotaged in the air by terrorists or mercenaries on board.

But Adel Ismail, 45, an Arab merchant waiting wearily at the airport three days after being chased from his shop, said northerners and southerners alike respected Garang and did not want him dead.

"They've put in their minds that we killed Garang," Ismail said, his eyes watering. "I came to Juba to work after the peace deal. Everything was good here."

On Monday, Ismail said, he ran two miles to an army barracks, fleeing a mob of angry youths. On the way, a southern African woman hid him and made him tea. "The southerners are not all bad," he said, looking depressed.

In the eerily quiet dirt streets of Juba, hundreds of heavily armed government troops patrolled Wednesday and Thursday with AK-47s and grenades hanging from their belts. Antiaircraft guns bristled on the airport roof.

Under the peace deal reached in January, the government is scheduled to scale down its military presence and hand over control of the city within two years. Southerners said they view Garang's burial here, in a city they long fought to claim, as an important political gesture.

But Juba did not seem ready for the tens of thousands of mourners expected to arrive for Saturday's funeral.

Few women and children ventured into the rubble-strewn streets, and the few shoppers found prices for sugar and flour had suddenly doubled. Jane Martin, 30, bought a basket of burned onions to cook for her seven children.

"The prices are high. In the night, we don't sleep well," Martin said. "When there are gunshots, my children run and hide under the bed."

She glanced nervously around the burned market, at the government troops and the barbed wire surrounding Freedom Square, and at the rebel troops driving by in pickup trucks. Then, gripping her basket of onions, she turned and hurried home.

Sudan Rebel Leader Is Mourned As Widow Appeals For Calm (NYT)

By Marc Lacey

The New York Times, August 5, 2005

RUMBEK, Sudan, Aug. 4 - The body of John Garang, the rebel-turned-politician, began crisscrossing Sudan on Thursday as his followers held hastily arranged memorial services aimed at unifying the long-divided country that he helped bring to the brink of peace.

In Kurmuk, the site of a major battle during Mr. Garang's 21-year insurgency, thousands of people stood silently when the cargo plane carrying his coffin touched down at the airstrip. One look at the wooden box carried off the plane by uniformed rebel soldiers, and many in the crowd began to ululate.

It was a somber scene but one that also represented Mr. Garang's stated dream - Sudanese Muslims and Christians standing side by side, united.

Farther north in Khartoum, where Mr. Garang's death in a helicopter crash on Saturday led to deadly riots between predominantly Christian southerners living in the capital and mainly Muslim northerners, tensions remained high. The police

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began rounding up people suspected of inciting the violence, The Associated Press reported. State news media reported that more than 1,400 people were arrested in Khartoum while dozens were arrested in Juba, the major city in southern Sudan, where rioting also broke out.

Mr. Garang's widow, Rebecca, used the memorial service in Kurmuk to call for calm, urging those wishing to honor her husband not to work against the peace agreement he signed with the government in January, under which he had become the country's vice president.

"My husband is alive, not dead, because he has brought Sudan to peace," she said.

Mr. Garang's Sudan People's Liberation Army took Kurmuk in 1997 in a surprise attack that was a major turning point in the rebel movement. At the time, the rebels had been torn by internal dissention and were widely discounted as a serious threat to the government.

Kurmuk is not far from a hydroelectric plant that provides the bulk of the power to Khartoum. The proximity of the rebels to the dam alarmed the leaders in Khartoum.

Kurmuk also represents the line between north and south, and is a mixture of faiths and allegiances.

On the airstrip, where locals had trekked for miles and spent as long as 10 hours waiting for the plane to land on Thursday, a priest and an imam took turns on the podium.

Even where to bury Mr. Garang has stirred debate. Mr. Garang's family members preferred Panyagor, the village in Upper Nile region where he was born. But the family yielded to the new rebel leadership, which chose Juba, where he will be buried on Saturday.

Juba was a contentious choice because throughout the war it was a government town that the rebels never managed to take. Under the peace agreement, Juba was to be turned over to the rebels in July. Mr. Garang had begun sending teams of rebel soldiers to the town, but major contingents of government soldiers still remain in garrisons there.

Mr. Garang visited Rumbek in January after the peace agreement was signed and was met by tens of thousands of residents. There was silence this evening when Mr. Garang's body returned here. His coffin was met by an honor guard, and at first the only sound was the clicking of their boots in the sand. But then a woman's cry rang out and then another's. One of the soldiers carrying his coffin took a hand off the box to wipe tears out of his eyes.

After John Garang (WP)

The Washington Post, August 5, 2005

Helicopters do crash, especially in bad weather, and the weekend crash that killed John Garang, the longtime leader of Sudan's southern rebels, does not appear to have been the result of foul play. The helicopter in which Mr. Garang was flying belonged to an ally, Ugandan President Yoweri Museveni ally; it was flying over territory controlled by Mr. Garang's own Sudan People's Liberation Movement. Even so, the suspicion of foul play has triggered violent urban protests that could unravel Sudan's fragile north-south peace accord. By Wednesday more than 100 people had died in riots in the capital, Khartoum. In the southern town of Juba, rioters attacked shops and homes owned by ethnic Arabs associated with the northern government. At least 13 people have died.

The challenge now -- both for Sudan's leaders and for the United States and other outsiders -- is to keep the north-south peace process moving in the hope that this violence will die down. So far, all parties appear to be responding as they ought to. The Bush administration immediately dispatched two senior State Department officials to the country. Sudan's president promised a joint north-south commission to investigate the causes of the helicopter crash and appealed for calm. Most promisingly of all, the southern liberation movement has appointed a new leader to succeed Mr. Garang without tearing itself into factions and has urged restraint from its followers. "It is just my husband who has died. His vision is alive," Mr. Garang's widow, Rebecca, told Reuters, alluding to his aspiration for a united and peaceful Sudan in which non-Arabs enjoy full rights.

African rebel movements, and indeed many African governments, are often led by strongmen who carry more on their shoulders than any individual should. Mr. Garang fit this mold: He made decisions without consulting colleagues; he did little to build political institutions in the areas of the south that he controlled or within his own movement; he was happy to embody the political aspirations of Sudan's non-Arab peoples. This ill-fated approach excluded orderly preparation for a succession and may

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leave other leaders without the stature necessary to persuade ordinary citizens to trust in a peace deal with the hated government. If that proves to be the case, then Sudan's north-south war may resume, dashing all hopes of using north-south reconciliation as the basis for peace in the western region of Darfur, where the government has committed genocide. But, in the speed and smoothness of his emergence as the new southern leader, Salva Kiir Mayardit holds out the hope that he can fill Mr. Garang's shoes ably. The Bush administration and its allies should encourage and support him. After decades of civil war and millions of casualties, Sudan has suffered more than enough.

Coup May Alter Mauritania's U.S. Ties (WSJ)

By Yaroslav Trofimov

The Wall Street Journal, August 5, 2005

Despite world-wide condemnation of this week's military putsch, Mauritania's new ruling junta has consolidated its hold over one of America's and Israel's most collaborative allies in the Arab world.

Wednesday's bloodless coup d'etat ousted long-serving President Maaouiya Ould Taya, who was visiting Saudi Arabia at the time. Hours later, the new junta -- which calls itself the Military Council for Justice and Democracy -- named as Mauritania's temporary leader Col. Ely Mohammed Vall, one of the deposed president's closest aides and head of the country's police and intelligence services.

The U.S, the African Union and the European Union all condemned the coup, with the State Department calling for "peaceful return to order under the constitution and the established government of President Taya." But as street celebrations erupted in the Mauritanian capital of Nouakchott, it seemed increasingly unlikely that Mr. Taya, who is staying in Niger, will be able to return to power.

The new junta's communiqué, read on national television, decried the "totalitarian practices of the deposed regime" and promised to create "true democratic institutions" after a two-year transitional period. Such progressive language notwithstanding, the junta consists of senior military officers who, like Col. Vall, held senior jobs in Mr. Taya's government, and who themselves were involved in the recent crackdowns on the Islamist opposition.

"They can't really carry out reforms, because they themselves are part and parcel of the regime," said Alain Antil, an Africa specialist at the French Institute for International Relations in Paris.

Mauritania, with a population of three million, is one of the poorest Arab countries -- but it has discovered oil in its offshore fields, with production slated to start next year. This lure of oil revenue has intensified conflicts within the ruling establishment, helping to provoke a series of coup attempts in recent years.

While democracy is unlikely to bloom in Nouakchott soon, Mauritania's foreign policy may well change in coming weeks. Mr. Taya, who came to power in a 1984 coup, used to be a passionate Arab nationalist and backed Saddam Hussein in the 1991 Gulf War; he also maintained close links with former colonial power France.

But, in 1999, French authorities detained a Mauritanian army captain on suspicion of human-rights abuses against black-skinned Mauritanians. Angered by the move, Mr. Taya immediately froze most cooperation with France and turned to the U.S. That same year, at a ceremony hosted in Washington by then-Secretary of State Madeleine Albright, Mauritania became the first Arab nation to establish full diplomatic relations with Israel without being required to do so by a peace treaty returning conquered land.

This relationship with Israel, which was denounced by the Arab League and regularly criticized on pan-Arab TV stations, became the rallying point for the Mauritanian opposition, which managed to organize violent street protests during a visit by Israeli Foreign Minister Silvan Shalom in May.

A desire to sever these ties with Israel "is the only issue that unites the quasitotality of Mauritanians," Mr. Antil said. He expects the new junta to curtail the Israeli connections and to scale down cooperation with Washington -- which recently deployed a small military contingent in Mauritania to train local security forces -- in favor of improved relations with France.

The same expectation is widespread in the Arab world, where the media mostly ran positive reports about the coup and suggested the plotters may have had tacit French support.

Thousands Back Junta In Mauritania (NYT/AP)

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By The Associated Press

The New York Times, August 5, 2005

Filed at 9:42 p.m. ET

NOUAKCHOTT, Mauritania (AP) -- Thousands rallied Thursday to support the military junta that toppled Mauritania's pro-Western president a day earlier, as the African country's top leader met with the U.S. and French ambassadors.

The meetings with the envoys of former colonial power France and counterterrorism partner America were among the first Col. Ely Ould Mohamed Vall held, and appeared designed to assure the international community it had nothing to fear from the new regime.

The junta also issued a statement announcing the dissolution of the country's bicameral legislature.

Western and other African nations and the United Nations condemned the coup. The African Union's Peace and Security Council suspended Mauritania on Thursday until "the restoration of constitutional order in the country."

But many Mauritanians applauded the ouster of President Maaoya Sid'Ahmed Ould Taya, saying he was a brutal dictator and that they hoped the junta would keep its promise to usher in democracy. Taya was out of the country when the junta struck.

Tens of thousands of people swept through Nouakchott on Thursday on foot and in cars to express their support for the junta. Some carried huge portraits of Vall.

Vall made no public statements Thursday. U.S. Ambassador Joseph LeBaron refused to comment on the meeting and other diplomats were not immediately available.

Mauritanian officials said Vall had assured the ambassadors that his junta would quickly arrange elections. The junta has promised to yield to democratic rule within two years.

U.S. State Department spokesman Tom Casey said LeBaron has also spoken with Taya's chief of staff in Niger, where Taya's plane was diverted when news of the coup broke. "We intend to work with the African Union ... to restore constitutional rule in Mauritania."

When asked if that included continued support of Taya, Casey said, "The president is the head of the constitutional government in Mauritania."

Shops, businesses and the international airport reopened and traffic was flowing again in Mauritania's capital Thursday.

This sparsely populated nation on the northwestern edge of the Sahara had been strictly controlled by Taya, who had seized power in a coup and tried to legitimize his rule in the 1990s through elections the opposition says were fraudulent.

Taya dealt ruthlessly with those who opposed him. He had allied his overwhelmingly Muslim nation with the United States in the war on terror and with Israel.

The junta had indicated in statements Wednesday it planned no changes in foreign policy.

A Crucible In Turkey (NYT)

By Mark Landler

The New York Times, August 5, 2005

EREGLI, Turkey - A fierce-looking banner strung between two trees in this hillside town on the Black Sea sums up how the locals here feel about the steel factory that is their principal employer: "Erdemir is our sweat," it proclaims. "Each of us would die for it."

Turkey recently put this state-controlled company, its biggest steel maker, on the auction block.

With 13 suitors lining up to bid, including firms from Russia, Britain and South Korea, Erdemir could become one of Turkey's most successful privatizations - a potent symbol of its economic progress as Turkey begins arduous negotiations this fall to join the European Union.

But first the sale has to happen.

The auction process has run into an unexpected surge of opposition from political leaders and business executives, who argue that privatizing the company is not necessary, given its profits.

Moreover, they add, Turkey cannot afford to surrender a strategic asset, especially when Europeans seem increasingly reluctant to admit the Turks into their club of nations.

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Then there are the factory's 7,500 workers, who fear they could lose their jobs under a foreign owner. Protests have erupted here and in other cities, as Erdemir has become a fraught symbol of Turkey's uneasy passage from its sheltered past into a free-market future.

"This is a real test for Turkey," said Metin Kilci, the president of the Turkish Privatization Administration, which hopes to sell Erdemir by the end of the year and follow it with sales of other state assets, including an insurance company, a sugar factory and the Istanbul Hilton.

The Turkish government has won kudos for stabilizing the economy, with the help of loans from the International Monetary Fund, after a deep crisis in 2001 brought this nation of 69 million to the brink of bankruptcy. Turkey's output grew nearly 9 percent last year, a pace that rivaled that of China.

The government of Prime Minister Recep Tayyip Erdogan is also credited with taming decades of sky-high inflation, which had turned Turkey's currency, the lira, into something close to funny money.

But the process of privatizing state-owned companies has been dogged for 20 years by legal challenges and political interference. As Turkey bids for a place in the European Union - a step the United States supports - it is eager to show its resolve to open its economy.

"We would be more than happy if a foreign company wins this tender," Mr. Kilci said in an interview in Ankara, the nation's capital.

Mr. Kilci expressed disappointment that the United States Steel Corporation was not on the initial list of potential bidders, and said he hoped it might join in later. U.S. Steel, based in Pittsburgh, owns factories in Slovakia and Serbia. A spokeswoman for the company declined to comment.

Analysts, however, said a sale to any foreign buyer could still be blocked. The chamber of commerce here has filed a suit opposing a sale. National opposition is robust and well organized. And there is a receptive audience for dark warnings about foreigners taking advantage of Turks. The dispute has been featured on the front pages for weeks.

"There's a Turkish saying, 'We serve foreigners the best meat - the lamb without the bones,' " said Cemal Senturk, who represents local manufacturers that buy steel plates from Erdemir.

Turkey's attitude toward outsiders has not been softened by the chilly reception it is getting these days in Europe. Although its campaign to join the union is still officially on track, with membership negotiations scheduled to start in early October, popular sentiment in Europe has turned noticeably against it.

Some of that is fueled by fears that low-cost Turkish workers will take European jobs. Some is linked to security concerns that have intensified since the London bombings: as a Muslim country, Turkey cannot escape the taint of radical Islamic militancy, even if it is a moderate secular society.

Politics reflects the popular mood. In Germany, Angela Merkel, a conservative leader who opposes Turkey's bid, is leading in polls six weeks before an election for chancellor. In France, the politician of the moment is Nicolas Sarkozy, the interior minister and would-be president, who has also expressed qualms about Turkey.

"The Turks are quite angry," said Katinka Barysch, the chief economist of the Center for European Reform, a research group in London, who recently wrote a report about Turkey. "They think, 'We've done so much for the E.U., now the E.U. needs to do something for us.' "

In the case of Erdemir and its steel operation, critics say Europe's biggest contribution would be to skim off the cream of its output.

The company currently supplies about one-third of Turkey's demand for flat steel, which is used to make ships, cars, machinery and household appliances. If a foreign buyer took over Erdemir, people here say the company would export the high-quality steel to Western Europe, forcing Turkish companies to switch to lower-quality steel imported from Ukraine or Kazakhstan.

"The foreigners are very profit-oriented," Mr. Senturk said. "Why would they care about the problems in Turkey?"

Twenty-three Turkish manufacturers that buy steel from Erdemir have banded together to submit their own bid for the company. But they face well-financed rivals, like Mittal Steel of London and Arcelor, based in Luxembourg, which are the world's two largest steel makers.

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Owning a steel plant in Turkey is attractive, analysts say, because the country has become a hub for auto manufacturing: Ford, Toyota, Renault and Fiat make cars here. Arcelor has ties to Renault, analysts say, and might like a Turkish factory to supply the local Renault plant.

More broadly, the global steel industry is ripe for consolidation. After two years of voracious demand, much of it driven by China's economy, analysts predict a sharp slowdown in sales, which could result in a surplus. Acquisitive giants like Mittal, which already owns 8.6 percent of Erdemir's shares, are seizing the chance to add to their holdings.

The Turkish government knows it has a brief window in which it can command a premium price. "Steel is a cyclical business," Mr. Kilci said. "In five years, it might be losing money again."

Erdemir was founded in 1960 and began production in 1965. It lost a total of $169 million from 2001 to 2002, which were difficult years for the steel industry, before rebounding with a profit of $261 million in 2003 and $473 million last year.

Although the Turkish state owns only 46 percent of Erdemir's shares, it controls the board and appoints senior management. Even those managers sounded dubious when asked why Turkey should sell it.

"That's the question I constantly keep asking," said A. Kerim Dervisoglu, who became the chief executive in 2003.

Mr. Dervisoglu trimmed the work force to 7,500 people, from 8,400. He upgraded the factory's two hot-rolling mills, which expanded their production capacity. And he began construction of a cavernous new mill, which will turn out large plates of steel suitable for shipbuilding.

On Tuesday, days after this interview, Erdemir announced that Mr. Dervisoglu had stepped down as chief executive because of poor health. Analysts in Istanbul said his exit most likely reflected his feelings about the sale.

The pressure to divest Erdemir is also driven by Turkey's parlous public finances. The Turkish government is running a budget deficit equivalent to 8 percent of its gross domestic product. The company, which is publicly traded, has a market capitalization of $2.5 billion. Given a premium for change of control, that implies Ankara could realize $1.5 billion for its stake.

Beyond that, privatizations are a handy way to attract foreign investors. Turkey lured only $1.2 billion in foreign direct investment last year, a paltry number for an economy of its size. Foreigners have been put off by the cumbersome regulations and, until recently, the gyrating economy.

While Erdemir is making money, some critics say its financial prowess has been wildly exaggerated.

"It's making a profit because the demand for steel is going crazy in places like China," said Ishak Alaton, the chairman of Alarko Holding, a conglomerate with interests in construction, fisheries and resort hotels. "If it were in private hands, it would make 10 times the profit."

Mr. Alaton said a cabal of government bureaucrats and business people was fomenting opposition to the sale of Erdemir out of a desire to maintain control of a lucrative asset.

The opportunities for corruption are easy to see. Mr. Kilci noted that Erdemir had always supplied the president of the privatization administration with a free car - in his case, an Audi A6. "After we privatize Erdemir, I'll have to switch to a Fiat," he said with a wry laugh.

Critics, however, say the government's headlong rush to sell a thriving company could weaken public support for future sales. "It gives the impression of being ideological rather than rational or economic," said Gunhan Karakullukcu, an economist and business consultant.

Here in Erdemir's hometown, the feelings are mostly personal. The company has built schools, movie theaters and sports centers for Eregli, and donated property for employees to build houses. It even sponsors an annual "love, peace and friendship" festival.

"This is not only financial," said Semsi Durdu, a Hyundai dealer who depends on the factory's workers for a good portion of his sales. "There's a lot of emotion attached to it."

Fox Admits Dim Results On Security (DMN)

By Alfredo Corchado

The Dallas Morning News, August 5, 2005

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MEXICO CITY – President Vicente Fox's office acknowledged Thursday that its anti-crime operation strategy hasn't produced the "results we expected, or wanted" and vowed to intensify the campaign in the days ahead.

The comments by presidential spokesman Ruben Aguilar were the first official confirmation that violence has worsened since Operation Safe Mexico began June 13, and they buttress concerns expressed by both U.S. and Mexican law enforcement officials of a sense of increased lawlessness. They point to escalating violence not just along the U.S.-Mexico border but also in the key states of Guerrero and Jalisco.

No details were offered on how Mr. Fox will beef up his campaign.

In Tampico, in the border state of Tamaulipas, Mr. Fox said the government's campaign will be "tough, difficult and long" and vowed to redouble efforts to return security to the streets of Nuevo Laredo and other cities affected by the drug war.

Meanwhile, law enforcement officials in Laredo remain on high alert.

"We thought that by having the Mexican military presence we would see violence in Nuevo Laredo subside," said Webb County Sheriff Rick Flores. "But the homicides have increased. Cops in Nuevo Laredo are dying. One of my deputies was met with fire [along the banks of the Rio Grande]. So this validates what we have been saying all along: The situation is serious and worsening. It's a time bomb, and if we don't address it now, it will come back to bite us in the rear because this stuff is spreading to our side, too."

Mr. Aguilar's comments come as the U.S. State Department, which has already issued three warnings to Americans venturing into Nuevo Laredo, wrestles with whether to reopen its consulate in Nuevo Laredo. Last Friday, U.S. Ambassador Tony Garza ordered the office shut, blaming increased violence.

Mr. Garza and Interior Secretary Carlos Abascal met for an hour Wednesday and decided that the consulate will reopen in the "days ahead," although no definite time frame was offered. An official in Washington said that Monday is "a likely day, if the situation warrants it."

"We're still reviewing security in Nuevo Laredo, and a decision on resuming normal operations has not been made," said another U.S. official, speaking on the condition of anonymity.

So far this year, more than 800 people have been killed nationwide as a result of a bloody drug war in which high-powered weapons, grenades and bazookas are used.

The state of Tamaulipas has reported 228 murders, with at least 106 people – including nearly 20 police officers – killed in Nuevo Laredo alone.

On Monday, Mexican police discovered the bodies of two men on a road outside Nuevo Laredo. One victim, identified as Horacio Diaz Garcia, had been shot 19 times. On his body was a written message to the Sinaloa cartel whose alleged leaders – Edgar Valdez Villarreal, alias "Barbie"; Joaquin "Chapo" Guzmán; and Arturo Beltran – are waging war with the Gulf cartel to take over the distribution route along Interstate 35.

The note read: "[Expletive] Barbie and Arturo Beltran, you won't take over, not even with the support of the Mexican special forces, not even by killing innocent people."

Papers Reveal British Aid For Israeli Nukes (WT/UPI)

By Hannah K. Strange, United Press International

The Washington Times, August 5, 2005

LONDON -- Britain secretly sold Israel a key ingredient for its nuclear program in 1958, declassified documents have revealed.

Official government papers released by the British National Archives detail a deal to export 20 tons of heavy water for about $2.7 million. The ingredient was vital to plutonium production at the top-secret Dimona nuclear reactor in Israel's Negev desert.

The British government did not place any "peaceful use only" condition on the sale of the heavy water. "It would be somewhat overzealous for us to insist on safeguards," a civil servant explained.

Ministers in Prime Minister Harold Macmillan's government were unaware of the deal, which apparently was conducted entirely by civil servants. It also was kept secret from the Americans.

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In one of the documents, Foreign Office official Donald Cape concluded: "On the whole I would prefer not to mention this to the Americans."

When questioned by the British Broadcasting Corp., Mr. Cape said he could remember nothing about the episode.

Washington had refused Israeli requests to purchase heavy water without a guarantee that it would be used for exclusively peaceful purposes.

The heavy water was surplus from a consignment that Britain bought from Norway. Though shipped from a British port, it was presented as a deal between Israel and Norway.

Robert McNamara, who served as the U.S. secretary of defense from 1961 to 1968, said he was "astonished" by the cover-up.

"It is very surprising to me we were not told because we shared information about the nuclear bomb very closely with the British," he told the BBC.

By the time Israel requested more heavy water in 1961, the existence of the Dimona reactor had been exposed by the press, as had Israel's probable weapons program, and Britain refused a further sale, the documents reveal.

Hugh Stephenson of the Foreign Office wrote: "I am quite sure we should not agree to this sale. The Israeli project is much too live an issue for us to get mixed up in it again."

Israel has never acknowledged or denied having nuclear weapons, and has not conducted any public nuclear tests. It also has refused to sign the nuclear Non-Proliferation Treaty.

Israel began showing an interest in acquiring nuclear weapons shortly after its creation in 1948, and formed the Israeli Atomic Energy Commission in 1952.

Construction of the Dimona facility began in the late 1950s, with France secretly providing assistance with reactor design and construction, according to Washington-based Web site GlobalSecurity.org.

In 1968, the CIA concluded that Israel had begun to produce nuclear weapons, but it wasn't until 1986 that the international community was afforded a glimpse of the true extent of the Israeli program.

Mordechai Vanunu, who had worked as a technician at Dimona, gave the Times of London detailed information about Israel's nuclear program, on the basis of which analysts concluded that Israel had up to 200 warheads. However before he could reveal more, he was trapped by the Israeli intelligence service Mossad and imprisoned for 18 years as a traitor.

The I.R.A.'s Gift Of Gab (NYT)

By Ed Moloney

The New York Times, August 5, 2005

Most people in Northern Ireland, in the Irish Republic or among Irish-Americans hope that last week's statement by the Irish Republican Army ending its armed campaign against British rule of Northern Ireland and embracing only peaceful and democratic methods is truly the "step of unparalleled magnitude" that Prime Minister Tony Blair of Britain claims to see.

Yet there are good reasons to be cautious. The I.R.A.'s words are welcome, but there's an old Irish saw applicable here, which says that fine words butter no parsnips. The I.R.A. and leaders of its political wing, Sinn Fein, like Gerry Adams and Martin McGuinness, have made impressive, even dramatic promises in the past but subsequent deeds failed to match them.

Not only that, but the moves made by the I.R.A. last week were cost-free. The last shots fired in anger by the I.R.A. at British security forces were in the summer of 1997, and the reality is that its campaign against Britain has been over for years. Last week's statement was merely an admission of an already established fact.

Equally, Sinn Fein, and those among its leadership who double as I.R.A. leaders and commanders, have committed themselves before to peaceful and democratic methods. Indeed, Mr. Adams would not have been allowed into political talks in 1998 about Northern Ireland's future unless he had subscribed to principles embodying such a commitment.

In spite of that pledge, I.R.A. activity, albeit at a much lower level, persisted and pitched the Irish peace process into one crisis after another. A real sign of change would have been an announcement that the I.R.A. was disbanding, but that was absent from the statement, as was any pledge to end recruitment.

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The events that provoked last week's statement - the robbery of more than $50 million from a Belfast bank last December and the subsequent killing of a Belfast Catholic, Robert McCartney, by what are generally believed to be I.R.A. members - showed that the conventional test of I.R.A. sincerity, its willingness to disarm transparently, was made largely irrelevant. The I.R.A. didn't need tons of Semtex explosives or heavy machine guns to commit those crimes. All it needed was a few motivated members. The problem was not I.R.A. weapons but the I.R.A. itself.

The experience of the last 11 years of the Irish peace process is that continued I.R.A. activity has sapped the trust of the majority Protestant community and made its political leaders reluctant to enter into a power-sharing government with Sinn Fein in 1998.

But Sinn Fein has turned that to its electoral advantage, charging Protestants with bigotry, and seeking sympathy and solidarity from Catholics in both Northern Ireland and the Irish Republic. The result is that Sinn Fein is now the largest Catholic party in Northern Ireland and has seats in the London, Dublin, Belfast and European Parliaments. Final peace has been delayed for narrow political gain.

The I.R.A.'s refusal to begin disbanding is one big reason instability still exists. The Belfast bank robbery illustrated the way such instability can be fostered.

While the I.R.A.'s war against Britain has diminished during the last eight years, the organization's drift into racketeering has accelerated. Ian Pearson, a former security minister in Northern Ireland, recently called the I.R.A. "perhaps the most sophisticated organized criminal grouping" anywhere in Europe. Few experts expect such activity will cease because of last week's statement.

The criminality linked to groups like the I.R.A. is staggering. One recent British government report estimated that there were 140 paramiltary-associated criminal gangs, many with international connections, operating in an area that in terms of population is about the size of the Bronx. In 2002, the police confiscated more counterfeit currency and goods - CD's, DVD's, watches, clothes, software - in Northern Ireland than in all of Britain. Cigarette and gasoline smuggling, protection rackets, armed robberies and hijackings are rife.

The I.R.A.'s involvement in this illegal activity has produced a leadership cadre that has combined ruthless paramilitary activism with lucrative criminal sidelines. Figures with no visible means of support have in the last few years suddenly become property moguls and business owners with luxury vacation houses in Ireland and in foreign resorts.

The Bush administration's attempts to press both London and Dublin to act against these criminals have met with limited success. Suspicion is widespread that Mr. Blair and his counterpart in Dublin, Bertie Ahern, would rather leave that problem alone because they fear moving against paramilitary crime would cause discontent in I.R.A. ranks with Mr. Adams's stewardship.

There are other signs that in Britain and Ireland the political will to tackle this crime is lacking. A proposal by Ronald Goldstock, former director of New York State's Organized Crime Task Force, to introduce laws similar to those spelled out in United States' Racketeer Influenced and Corrupt Organizations Act was rejected by Mr. Blair's government. The authorities in Dublin and London have the power to confiscate criminal assets but have yet to use it against major I.R.A. figures.

Rooting out the forces behind paramilitary racketeering is not only the right thing to do, it is the sensible course as well. Pouring the necessary resources into pursuing these criminals would help remove a potential source of future instability in the peace process and convince skeptics that the influence of groups like the I.R.A. is on the wane. But failure to do so will turn last week's announcement into just another in a long line of false beginnings.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

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TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

Al-Qaeda Vows More Attacks Against U.S., Britain (USAT)

By John Diamond

USA Today, August 5, 2005

WASHINGTON — Great Britain and the United States must leave Iraq immediately or face more terrorist attacks, al-Qaeda's No. 2 man said on a videotape broadcast on an Arab satellite network Thursday.

On the tape, broadcast on Al-Jazeera, Ayman al-Zawahiri, deputy to al-Qaeda leader Osama bin Laden, jabbed his finger at the camera and promised more violent attacks as long as U.S., British and other non-Muslim forces remain in Iraq. The message came one month after terrorists linked to al-Qaeda bombed three subway trains and a bus in London on July 7. The attacks killed 52 people and the four bombers.

"Our message to you is clear, strong and final: There will be no salvation until you withdraw from our land, stop stealing our oil and resources and end support for infidel, corrupt rulers," Zawahiri said. The last remark was probably a reference to the Saudi royal family, long a target of al-Qaeda attacks, and to the newly elected and Shiite-dominated government in Iraq, which is fighting al-Qaeda allies mounting a violent insurgency.

U.S. intelligence, though still conducting voice analysis, has determined the tape was recorded recently and is genuine, CIA spokesman Paul Gimigliano said.

In an unusual move, President Bush responded directly to the broadcast. He called Zawahiri an apostle of an "ideology that is dark, dim and backwards."

In London, about 6,000 police officers conducted a massive security sweep on streets and in the subway system. Deputy Chief Constable Andy Trotter said police were not responding to a specific terrorist threat but seeking to reassure the public it was safe to travel.

The tape is "good propaganda" for military Islamists, said terrorism expert Brian Jenkins of the RAND Corp. think tank. He said al-Qaeda doesn't expect the United States to withdraw from Iraq.

Instead, Jenkins said, the tape is meant to tell Muslim audiences al-Qaeda is "still here. We are still running things."

Gimigliano said Zawahiri's tape follows an al-Qaeda pattern of issuing videotaped statements after terrorist attacks. "They're identifying with success and hoping to inspire more," Gimigliano said. This was the third videotape from Zawahiri this year. He appeared somewhat grayer than in previous tapes. He issued an audiotape in February.

Zawahiri's reference to the London attacks indicates the tape was made in the past month. Taahir Hoorzook from the Qatar-based Al-Jazeera told the Associated Press that the tape appeared at one of the network's offices, but he didn't specify which one.

In the excerpts aired by Al-Jazeera, Zawahiri sat in sunlight before a tan cloth background. He said future attacks would dwarf those of the past, a threat al-Qaeda has made before. He indicated the focus will be on domestic targets, including more in London, as well as against U.S. troops in Iraq and Afghanistan.

A major question confronting Western intelligence is whether Zawahiri and bin Laden are calling the shots on terrorist attacks or merely taking credit after the fact for the actions of loosely affiliated terrorist groups. Ben Venski of the think tank IntelCenter, which closely tracks al-Qaeda statements, said it would be foolish to assume al-Qaeda is not directing attacks. RAND's Jenkins said that if al-Qaeda can get propaganda tapes into the hands of Al-Jazeera, it can probably also communicate secretly with its own operatives.

Future attacks, Zawahiri said, "will make you forget the horrible things in Vietnam and Afghanistan." The Egyptian doctor demanded "immediate withdrawal" from Iraq and said if forces remained, they would suffer "tens of thousands of dead, and double that figure in disabled and wounded."

Bush Defiant After New Terrorist Threats (WP)

By Jim Vandehei

The Washington Post, August 5, 2005

CRAWFORD, Tex. -- President Bush said Thursday that the United States will not be bullied by this week's killings of 25 service members in Iraq or what he called the "dark, dim, backwards" views propagated by al Qaeda's number two commander, Ayman Zawahiri, and other terrorists.

Speaking shortly after Zawahiri broadcast a new taped warning that the United States and its allies would suffer thousands of deaths if it did not pull out of Iraq, Bush struck a defiant tone, saying the United States will stay on the offensive to "complete

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the job in Iraq." He spoke dismissively of Zawahiri, his followers and their ideology and said the twin U.S. strategies to defeat terrorists inside and outside Iraq are working.

"We owe it to the American people, and other freedom-loving countries, to bring these killers to justice," Bush said in a news conference at his ranch here, where he met with Colombian President Alvaro Uribe. Terrorism was at the top of their agenda.

Bush, who hoped to turn attention to his domestic agenda this month, once again found himself consoling families, defending the war and insisting the United States will not reduce troop levels until it is clear the Iraqi army is strong enough to fend off the insurgents.

Some administration officials have been urging Bush to adopt a new language on terrorism, putting less emphasis on terms like "war" and more on the idea that the United States and allies are engaged in a long-term ideological struggle to push the Islamic world toward a peaceful and democratic future. On Thursday, however, Bush did not temper his words as he denounced "killers" intent on imposing "their dark vision on the world."

For the second straight day, Bush paid tribute to the 21 U.S. Marines from an Ohio regiment who were killed this week in combat, 14 of whom were blown up by a powerful roadside bomb on Wednesday. The people of Brook Park, where many of the soldiers were from, "have suffered mightily over the last couple of days," he said. The overall U.S. death toll topped 1,800 this week. "We're laying the foundation for peace for generations to come," Bush said. A new Associated Press-Ipsos poll shows approval for Bush's handling of Iraq at its lowest level yet -- 38 percent.

One week after a top U.S. commander suggested U.S. troops might begin to pull out next year if sufficient progress is made toward creating a new government and Iraqi military, Bush said the drawdown will begin "as soon as possible" but did not affix a timetable for such action.

In the short news conference, Bush also said he was confident that NASA officials would make wise decisions in bringing the Discovery space shuttle mission to a safe and successful conclusion. It's "important for the American people to understand, that, one, exploration is important; two, there will be some good coming out of exploration; and, three, that we've got a new vision embraced by NASA and its pioneers," he said. The rest of Bush's day was spent on his ranch, where he played host to Uribe for private talks and a family lunch.

Uribe faces his own terrorist threat at home, one that is jeopardizing the stability of both Colombia's government and its economic markets. He came to Crawford looking for a political lift and continued assistance from the United States. "The great enemy of Colombian democracy is terrorism," Uribe said.

Uribe's government is at war with rebels, funded largely by the drug trade, who have kidnapped and killed thousands of people in an attempt to impose a Marxist-style ideology in Colombia. In their private meeting, Bush said, they talked about terrorism, trade and human rights. Like U.S. relations with many nations involved in the war on terror, the relationship with Colombia is complicated by charges that the Uribe government encourages -- or turns a blind eye to -- abuses against its people and the spirit of democracy. "This was discussed with great seriousness and with great respect," Uribe said.

In the days leading up to Bush and Uribe's meeting, Amnesty International and other human rights groups challenged Bush to demand Uribe address questions about government collusion with paramilitary groups and provide impartial investigations of human rights violations.

The State Department announced this week that Colombia has met the human right standards required to receive U.S. financial assistance. The United States has provided more than $3 billion in assistance to Colombia over the past five years to help the government clamp down on cocaine and heroin production and defeat the leftist insurgency. About 25 percent of U.S. aid is conditioned on meeting human rights standards.

Of his talks with Uribe, Bush said: "I listened intensely and believe that he is interested in following through . . . so that the world will hear loud and clear that Colombia is a nation of law and human rights and human dignity."

Human rights advocates were distressed, criticizing Bush for being too credulous toward his visitor. "President Bush betrays his stated commitment to uphold human rights when he accepts President Uribe's rhetoric at face value," William F. Schulz, executive director of Amnesty International USA, said in a statement.

Bush Stands Firm In Face Of Mounting Toll (WT)

By Joseph Curl

The Washington Times, August 5, 2005

CRAWFORD, Texas -- President Bush yesterday vowed that America will not be swayed by a surge in U.S. deaths in Iraq or a new threat from a top al Qaeda leader who warns that the United States will suffer tens of thousands of military dead if it does not withdraw.

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"We will stay on the offense against these people," the president said of the comments by Ayman al-Zawahri, al Qaeda's second in command. "They're terrorists and they're killers and they will kill innocent people ... so they can impose their dark vision on the world," Mr. Bush said as he stood alongside Colombian President Alvaro Uribe.

Al-Zawahri -- who Mr. Bush said was "part of the team that attacked us" on September 11, 2001 -- yesterday warned Britain and the United States of more attacks in a new videotape shown on Al Jazeera television and rebroadcast around the world.

"These policies [of British Prime Minister Tony Blair] will bring them more destruction after the explosions of London," al-Zawahri said, four weeks to the day after 52 persons were killed by four suicide attackers in transport bombings.

Al-Zawahri demanded that "all the infidel armies withdraw from the land of Muhammad," accused the U.S. and its allies of "stealing our oil and wealth," and compared the military situation in Afghanistan and Iraq to the war in Vietnam.

"If you go on with the same policy of aggression against Muslims, you will see, God willing, what will make you forget the horrible things in Vietnam," he said.

But Mr. Bush vowed to "stay the course" in Iraq.

"We owe it to the American people and other freedom-loving countries to bring these killers to justice," he told reporters at his Texas ranch.

Mr. Bush said al Qaeda's "goal is to drive us out of the broader Middle East."

"The comments by the number two man of al Qaeda make it clear Iraq is a part of this war on terror, and we're at war. He's saying, you know, leave ... as I have told the American people, the people like Zawahri have an ideology that is dark, dim, backwards," Mr. Bush said. "He's threatening. They have come up against a nation that will defend itself."

The president said he will not give in to "thugs" because "we've had these kinds of clashes before and we have prevailed."

"We have prevailed because we're right, we have prevailed because we adhere to a hopeful philosophy, and we have prevailed because we would not falter," he said.

Mr. Bush invited the Colombian president to his ranch -- the 14th world leader to be bestowed such an honor -- to talk about terrorism and the problem of narcotics trafficking, which funds many terror cells.

Mr. Uribe said that both he and Mr. Bush consider the war against international terrorism a top priority of both their countries.

"The great enemy of Colombian democracy is terrorism ... and our great partner in defeating it has been the government and people of the United States," he said in Spanish. "U.S. cooperation has been exemplary. It has gone beyond rhetoric. ... All democratic countries should know that."

Mr. Bush vowed continued U.S. aid to help Colombia fight narco-terrorism and to allow the country to continue to build its budding economy. "America will continue to stand with the people of Colombia," he said.

Their meeting came just a day after the State Department announced Colombia has met human rights standards needed to qualify for full funding of future U.S. assistance programs.

During a short question-and-answer session with reporters, Mr. Bush also paid tribute to Marines who died over the past few days in bombings in Iraq, including a community from near Columbus, Ohio, which suffered more than 20 dead.

He said that the community of Brook Park "suffered mightily in the last couple of days. ... I hope they can take comfort in the fact that millions of their fellow citizens pray for them."

Mr. Bush also reminded Americans that there has been progress in Iraq, where 8 million people risked their lives in January to vote in free elections "in the face of Zawahris and Zarqawis and these killers."

He reiterated his plan to bring U.S. troops home "as soon as possible," which he said "means when those Iraqis are prepared to fight."

"As Iraq stands up, our coalition will stand down. The Iraqis want to live in a free society. Zawahri doesn't want them to live in a free society. And that's the clash of ideologies -- freedom versus tyranny," he said.

Al-Qaeda Deputy Blames Blair For London Bombs (FT)

By Peter Spiegel And Ft Reporters

Financial Times, August 5, 2005

The UK's support for the US-led occupation of Iraq is the reason for the recent bombing campaign in London, according to a video issued on Thursday by Al-Qaeda's second in command, Ayman al-Zawahiri.

The deputy leader of Al-Qaeda blamed Tony Blair, UK prime minister, for the attacks and threatened that more would follow.

"Blair has brought to you destruction in central London and there will more of that, God willing," Mr al-Zawahiri said.

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Four weeks to the day after the first deadly London bombs, Osama bin Laden's deputy made his remarks in video footage aired on the pan-Arab television station al-Jazeera.

Mr Al-Zawahiri, an Egyptian, also warned the US of further attacks, saying the horrors would be worse than Vietnam.

"As for you, the Americans, what you have seen in New York and Washington, what losses that you see in Afghanistan and Iraq, despite the media blackout, is merely the losses of the initial clashes,'' he said. "If you go on with the same policy of aggression against Muslims, you will see, with God's will, what will make you forget the horrible things in Vietnam and Afghanistan."

President George W. Bush dismissed the threats, saying the US would "complete the job" in Iraq.

"The comments by the number two man of al-Qaeda make it clear Iraq is a part of this war on terror, and we're at war," he said at his ranch in Crawford, Texas. "People like Zawahiri have an ideology that is dark, dim, backwards."

Mr Al-Zawahiri said Osama bin Laden had offered a truce to Western countries, asking them to pull out their armies from Iraq and Afghanistan in order to live in peace.

"To the people of the crusader coalition ... our blessed Sheikh Osama has offered you a truce so that you leave Muslim land. As he said you will not dream of security until we live it as a reality in Palestine and until all your infidel armies leave Prophet Mohammad's lands," he said.

"Our message to you is clear, strong and final: there will be no salvation until you withdraw from our land, stop stealing our oil and resources and end support for infidel [Arab] rulers," Mr Al-Zawahiri added.

Al-Qaeda has increasingly used the Iraq campaign as a lightning rod for its followers in video and audio tapes issued to the news media. In December, Mr bin Laden released a tape endorsing the insurgency and its suspected leader, Abu Musab al-Zarqawi, who Mr bin Laden dubbed the "imir" of the al-Qaeda organisation "in the land of the two rivers."

The new tape by al-Zawahiri also follows a recent trend by al-Qaeda's senior leadership to attempt to influence internal politics of countries involved in Iraq. In November, just days ahead of the US presidential election, Mr bin Laden issued a video tape blaming George W. Bush and the US government for provoking terrorist attacks against the west.

"[American policy] means the throwing of millions of pounds of bombs and explosives at millions of children in Iraq, as Bush junior did, in order to remove an old agent and replace him with a new puppet to assist in the pilfering of Iraq's oil and other outrages," Mr bin Laden said in the November tape.

"Is defending oneself, and punishing the aggressor in kind, objectionable terrorism? If it is such, then it is unavoidable for us."

In addition, the March 11, 2004 bombings in Madrid occurred just days before the Spanish election; at the time, Spain had thousands of troops in Iraq.

Despite the attempts by al-Qaeda's leadership to maintain a high profile, however, it is not clear whether recent bombing campaigns in Western countries are directly linked to the shadowy organisation.

Italian police investigating Hamdi Issac, the Ethiopian-born Briton who was arrested in Rome and is suspected of involvement in the July 21 attempted bombings, suggested that Mr Issac and the other bombers were probably unconnected to any larger terrorism network, raising the possibility that there is a new breed of Islamic militants that has no link to al-Qaeda structures.

US intelligence says the senior leadership group surrounding Osama bin Laden remains isolated, unable to direct or to commission specific attacks on western targets. However, experts and officials believe that Mr bin Laden and his deputy may be using audio and video tapes to radicalise western Muslims in targeted countries.

Despite mounting evidence that a majority of Britons see a link between the bombs and British policy in the Middle East and Afghanistan, Mr Blair has insisted that the occupation of Iraq is no "justification" for terrorism.

Mr al-Zawahiri's video statement on Thursday came on a day when police again flooded the UK capital to reassure Londoners.

Al Qaeda's No. 2 Blames Blair, Issues Warning (WP)

By Kevin Sullivan

The Washington Post, August 5, 2005

LONDON, Aug. 4 -- Al Qaeda's second-in-command said in a video statement Thursday that the London transit bombings were retribution for British military intervention in Muslim countries and warned of "more destruction" if Britain doesn't withdraw. He also threatened new attacks on Americans.

The statement from Ayman Zawahiri was issued on a day in which London commuters rode trains and buses amid some of the tightest security since World War II, due to fears of a repeat of the attacks of July 7 and 21. No attack occurred. Instead, the four-week anniversary of the July 7 explosions brought the first statement clearly from al Qaeda about the violence.

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Prime Minister Tony Blair "has brought you destruction in central London and, God willing, will bring more destruction," Zawahiri said, addressing the "English people" in a statement broadcast on the al-Jazeera satellite television channel.

"Our message to you is crystal clear: Your salvation will only come in your withdrawal from our land, in stopping the robbing of our oil and resources, and in stopping your support for the corrupt and corrupting leaders."

Officials at the prime minister's Downing Street office provided no comment. Blair has previously rejected claims that the transit bombings were a result of Britain's role in the Iraq war, and politicians across the spectrum have stood by him.

Zawahiri, wearing a white tunic and black turban and posed next to a rifle, did not directly assert al Qaeda's responsibility for the attacks. But he said that since Britons "shed rivers of blood in our land, we exploded volcanoes of anger in your land."

His statement accused U.S. leaders of concealing from Americans that "there is no exit from Iraq except in immediate withdrawal." He called the casualties of Sept. 11, 2001, "merely the losses from the initial clashes."

President Bush, speaking in Crawford, Tex., said that the comments "make it clear Iraq is a part of this war on terror, and we're at war. He's saying, you know, leave. . . . People like Zawahiri have a ideology that is dark, dim, backwards. He's threatening. They have come up against a nation that will defend itself."

British police are questioning at least 17 people in connection with the attacks of July 21, including four men suspected of carrying bombs onto three subway trains and a double-decker bus. Those bombs failed to explode, but startled Londoners into thinking that the July 7 explosions, in which four presumed bombers and 52 other people died, might have been the beginning of a coordinated campaign of violence.

Investigators are attempting to determine if the bombers in the two plots were linked or directed by al Qaeda or some other international group.

"I tend to think it's not al Qaeda-linked, but it's al Qaeda-inspired," said Rime Allaf, a Middle East specialist at Chatham House, a private foreign affairs research center in London. "Al Qaeda's not shy about claiming responsibility."

Zawahiri has issued three previous statements this year by audio or video recording. The CIA and the National Counterterrorism Center were studying the latest, and U.S. officials said it appeared to be authentic. It differs from the past three videos in that Zawahiri wears a black turban rather than a white one and appears to be outside in front of a light-colored cloth rather than in a studio-like setting.

Christopher Blanchard, an analyst who has closely followed al Qaeda's public statements at the Congressional Research Service, called the tape an example of "pragmatic messianism" by Zawahiri. "Al Qaeda's fractured leadership apparently continues to believe that it can undermine support for current U.S. policies by directly addressing and threatening the American people," he said.

The first person to be charged in the bombings was ordered by a London judge Thursday to be held in custody until a hearing on Aug. 11. Ismael Abdurahman, 23, is charged with withholding information from police about one of the suspects in the July 21 attacks.

On Thursday, police charged two London sisters with similar offenses.

In New York on Wednesday evening, Police Commissioner Raymond Kelly told a gathering of business leaders that the bombs were made of easily obtained ingredients, the Associated Press reported. "It's . . . like these terrorists went to a hardware store or some beauty supply store," Kelly said.

Kelly said the bombers transported the bombs in beverage coolers to keep them from degrading, and that the bombs were probably detonated by cell phone alarms. Kelly said the information came from New York detectives who went to London to monitor the investigation.

London police were on extremely high alert Thursday, fearing that other bombers might follow an established pattern. The July 21 attacks occurred exactly two weeks after the July 7 bombings, and Thursday was two weeks after the second attack. Police were stationed at most subway entrances around the city, and public address systems on subway cars repeatedly warned passengers to be vigilant and report suspicious packages or people.

Thursday also marked the first time London's subway was operating at full capacity since the first bombs exploded during morning rush hour on July 7.

In interviews, many subway riders said they were not afraid. "You're more likely to get run over by a bus than to be killed in a terror attack," said Rob Parker, 36, a management consultant catching a train at the St. James's Park subway station. He said the al Qaeda tape was worrisome, but he would not alter his commuting routine because of it.

He did not hold the British government responsible for provoking the violence. "At the end of the day, we're a democracy and we voted to put people in office and make decisions," Parker said. "No one has a crystal ball. I thought that the Iraq war was the right thing to do."

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London pollster and political analyst Stephen Shakespeare said the al Qaeda warning would probably boost Blair's political standing, which has already been helped by the government's firm, organized response to the bombings and a wave of national solidarity in the face of attack. The message will undermine critics who say he has overstated the threat, Shakespeare said.

The potential effect on Britain's 1.6 million Muslims is less clear. Shakespeare said his organization's recent polls show that while most feel loyal to Britain, about a third of Muslims polled feel a "divided loyalty" and 5 or 6 percent support the bombings.

Inayat Bunglawala, spokesman for the Muslim Council of Britain, a coalition of moderate Muslim groups, said the tape was probably intended to "incite others to go from being disaffected to taking up bombs."

"But I don't think it will contribute to that," he said. "What will contribute is the policies our country has been engaged in. We have always viewed Iraq as a disaster area for our country. . . . The solution is to remove the sources of anger among Muslim youth."

But Allaf, the Middle East specialist, said she believed the tape would add to the radicalization of Muslim youth in Britain. The most notable aspect of Zawahiri's address, she said, was that it was "logical and lucid" and would appeal to a wider audience than the rhetoric of "crazy mullahs."

Al Qaeda To West: It's About Policies (CSM)

By Dan Murphy

The Christian Science Monitor, August 5, 2005

BAGHDAD - With an AK-47 at his side, Ayman al-Zawahiri, Al Qaeda's No. 2, appeared in a videotape broadcast Thursday and claimed that the 7/7 bombings were payback for British participation in America's "policy of aggression against Muslims."

The video is another Al Qaeda message apparently intended to turn Western democracies against their leaders by explaining acts of terrorism as rational decisions from a group with specific political goals. It challenges the position of British Prime Minister Tony Blair and Bush administration officials, who have insisted that the London attacks have nothing to do with Iraq and that terror attacks will continue regardless of policy.

"By linking the bombings to Iraq, he basically sent the message that no matter what Blair says, Iraq is the reason," says Bob Ayers, a counterterrorism expert at Chatham House, a think tank in London. "He's calling Blair a liar."

This latest tape was released on a day when an unprecedented police security operation was under way in London.

While Mr. Zawahiri didn't directly take credit for the London attacks, he promised more attacks on Britain, the US, and other allies, saying "tens of thousands" more American troops will be killed in Iraq if there isn't an immediate withdrawal.

It was one of three taped statements, all aired on Al Jazeera, that Zawahiri has made since the end of February, a pattern of rising communication from the Al Qaeda leaders that appears to belie statements from Pakistani President Pervez Musharraf that Osama bin Laden and his aides are on the run.

Zawahiri, an Egyptian exile whose terrorist career began at home and who hates the Egyptian regime of Hosni Mubarak, did not mention the terrorist attack on Egypt's resort town of Sharm el-Sheikh on July 23. The omission, analysts speculate, suggests the tape was made before the Sharm attacks, and the second subway attacks in London.

While some of his audio and video tapes seem generally targeted at mobilizing Al Qaeda's "base," filled with Islamic illusions and glorification of martyrs designed to reassure adherents and draw new members, this communication from Al Qaeda's chief ideologue falls into a category of tapes that targets primarily a Western audience.

Rather than casting his jihad as an inevitable clash of civilizations, he frames acts of terrorism as justified by the US-led wars in Iraq and Afghanistan and offers to end attacks on the West if a full withdrawal is made from "Muslim lands."

"Blair has brought to you destruction in central London, and he will bring you more destruction, God willing," Zawahiri said, addressing the British people.

"As for you Americans, what you have seen in New York and Washington, what losses you see in Afghanistan and Iraq, despite the media blackout, are merely the losses of the initial clashes," he said. "If you go on with the same policy of aggression against Muslims, you will see, God willing, things that will make you forget the horrors of Vietnam and Afghanistan."

"To the people of the crusader coalition ... our blessed Sheikh Osama has offered you a truce so that you leave Muslim land. As he said you will not dream of security until we live it as a reality in Palestine," he said. "Our message to you is clear, strong and final: There will be no salvation until you withdraw from our land, stop stealing our oil and resources and end support for infidel [Arab] rulers."

Analysts cautioned that Zawahiri's statement is not evidence of direct Al Qaeda knowledge of the London attacks, and said it probably fits into Al Qaeda's evolution into an ideological motivator, rather than organizer, of attacks.

"Such messages are usually a call-to-arms, sort of top-down guidance to go forth and do your thing," says Ayers. He says while Al Qaeda was "tightly organized" before the invasion of Afghanistan, the dispersal of members since has left a "confederation of groups that adhere to the same fundamental principles.... essentially they are functionally autonomous groups."

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Magnus Ranstorp, a terrorism expert at St. Andrews University in Scotland, agrees. "This is more of him rallying the troops - giving the green light to carry out attacks.... Here we have a clarion call to action. It is serving as an inspiration for like-minded extremists."

Some analysts, though, see it as an oblique claim of responsibility. "In many ways, this videotape can almost be seen as a claim of responsibility, bin Laden style," says Evan Kohlmann, a terrorism expert and author in New York. "When Al Qaeda is responsible for a big operation like the embassy bombings, 9/11, or London, it is much more characteristic for them to issue a statement such as this one, hinting at Al Qaeda involvement without removing that shadowy mystical aura that Al Qaeda leaders love to propagate."

Both Messrs. Kohlmann and Ranstorp point out that Zawahiri tapes are frequently followed by new attacks. "Zawahiri's latest ode may once again herald renewed terrorist violence. Even beyond the West, countries like Saudi Arabia, the UAE, Kuwait, and Pakistan are steeling themselves for possible future strikes," says Kohlmann.

The coordinated bombings of Madrid's train system in March 2004, which killed more than 200 people, came just days before elections in Spain that brought to power Prime Minister Jose Luis Rodriguez Zapatero, who had vowed to pull Spanish troops from the US coalition in Iraq. Though it's not clear whether that attack swayed voters enough to alter the result of the election, it's seen that way on jihadi websites.

US intelligence analysts say it's likely that bin Laden and Zawahiri are living in the mountains along the lawless border between Pakistan and Afghanistan, something that President Musharraf appeared to confirm at a press conference last month. He said Pakistani troops in the Waziristan region had obliterated Al Qaeda's "command and communications" infrastructure, and said the group is now relying on couriers who take "months" to carry messages out of the region.

But this video was recorded since the first London attack, less than a month ago. It shows Zawahiri sitting on the ground, outside, with a brown backdrop. "It is also a reminder that the US has failed in its mission to bring the ultimate mastermind to justice," says Ranstorp.

Ranstorp notes that Zawahiri has made repeated threats against Pakistan. "There is a duality to the message," he says. "There's the focus of making Iraq like Vietnam for the Americans, but there's also a threat to Pakistan. It could accelerate the confrontation between Musharraf and the the extremist religious elements."

Al-Qaida's No. 2 Threatens London, U.S. (KCS)

By Steven R. Hurst

The Kansas City Star, August 5, 2005

CAIRO, Egypt - Al-Qaida's No. 2 embraced the London suicide bombings Thursday, warned Britain that more destruction lies ahead and promised tens of thousands of U.S. casualties in Iraq in a brazen assertion of the terror group's global reach.

Ayman al-Zawahri also renewed terror threats to other countries with troops in Iraq and Afghanistan, claiming they had shunned Osama bin Laden's offer last year of a truce if foreign forces left the battleground.

In the tape, parts of which were broadcast by Al-Jazeera, al-Zawahri made no direct claim that al-Qaida carried out the July 7 attacks in the British capital, but sought instead to blame the carnage on Prime Minister Tony Blair's decision to deploy and keep troops in Iraq. Britain maintains 8,500 forces mainly in southern Iraq.

"Blair has brought to you destruction in central London, and he will bring more of that, God willing," al-Zawahri said.

President Bush dismissed al-Zawahri's threat, saying, "We will stay on the offense against these people. They're terrorists and they're killers and they will kill innocent people ... so they can impose their dark vision on the world."

In London, Blair's Downing Street office declined to comment.

Jeremy Bennie, a terrorism analyst for Jane's Defense Weekly, said al-Zawahri appeared to be trying to put an al-Qaida stamp on the July 7 attacks on the London transit system. The bombings killed 56 people, including four attackers.

"He has tacitly taken responsibility by claiming al-Qaida is in control of the situation, even as most people aren't really sure bin Laden and al-Zawahri still are capable of organizing such an attack," Bennie said by telephone.

Thursday marked the seventh time al-Zawahri has used videotapes or audiotapes to speak for al-Qaida since the Sept. 11, 2001, attacks in the United States. The latest appearance followed the Egyptian physician's pattern of issuing threats of further death and destruction if the United States and its allies in Iraq and Afghanistan refuse to withdraw troops from the region, including Saudi Arabia - home to two of Islam's holiest shrines.

Al-Zawahri issued the fresh threats with a Kalashnikov rifle propped against a woven cloth background that moved with the wind and showed the sunlight, suggesting the scene was filmed outdoors. He wore a white robe and black turban and emphatically wagged his finger while speaking.

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The black turban - a change from the white turban he has worn in past videos - is "a sign that it's time of war," said Montasser el-Zayat, an Egyptian attorney who defends Islamic radicals and who spent three years in prison with al-Zawahri. The prophet Muhammad and his followers wore black turbans during their invasions in the Arabian Peninsula, he said.

Al-Zawahri is "exploiting the whole atmosphere following London and Sharm el-Sheik explosions to carry out the sort of instigation that propels more operations," el-Zayat said. At least 64 people were killed in the July 23 attacks in the Egyptian Red Sea resort of Sharm el-Sheik.

As the Iraqi insurgency led by bin Laden's Jordanian comrade Abu Musab al-Zarqawi continues to kill Iraqis and Americans, al-Zawahri promised more savagery.

"What you have seen in New York and Washington, you Americans, and the losses you see in Afghanistan and Iraq - despite all the media blackout - are merely the losses from the initial clashes," he said.

"If you go on with the same policy of aggression against Muslims, you will see, God willing, what will make you forget the horrible things in Vietnam," he said.

"There is no exit from Iraq except in immediate withdrawal. Any delay in taking that decision means nothing but more dead, more losses," he said. "If you don't leave today, certainly you will leave tomorrow, but after tens of thousands of dead and double the number of disabled and wounded."

Al-Zawahri threatened other nations who have sent troops alongside U.S. forces in Iraq and Afghanistan, saying they "will harvest the fruits of their cooperation soon, God willing."

He also called for Arab militaries, intellectuals and businessmen to start working to get rid of "corrupt" regimes in the Middle East and "start prepare for change, starting now, whatever it takes of time or effort."

Bennie said al-Zawahri may have been using the video as a vehicle for reissuing an offer of a truce.

"This seems to say you have another chance to pull out and you won't be hit again," the analyst said, declaring the statement coercive and not credible.

He noted that most observers believed the March 11, 2004, Madrid train attacks, which killed 191 people, were designed to push Spaniards to vote for the Socialist opposition in elections three days later. In the voting, the Conservative government which had sent troops to Iraq was swept from power. The new government ordered Spanish troops to return home.

"That didn't prevent a foiled attempt to bomb a high-speed train carrying a thousand people after the election. And members of the cell still had the wherewithal to blow themselves up when cornered," Bennie said.

Taahir Hoorzook, of the media relations department in Al-Jazeera, said the broadcaster received the new tape Thursday at one of its offices, though he would not specify its location.

The tape is about five minutes long and Al-Jazeera aired only 10 percent of it, he said. The rest was rhetoric that "we found not newsworthy," Hoorzook said.

Video Messages Aim To Reassert Al-Qaeda Leadership (FT)

By Peter Spiegel

Financial Times, August 5, 2005

The videotape of al-Qaeda deputy Ayman al-Zawahiri broadcast on Thursday is the latest in a series of recent messages sent by the terrorism network's top leaders that analysts believe may be part of a campaign to reassert themselves, even as they remain isolated by US and Pakistani forces.

Since April 2004 there have been at least nine tapes from al-Qaeda's two leaders – Mr al-Zawahiri and Osama bin Laden – all of which have drawn close scrutiny from security agencies and terrorism analysts, since Mr bin Laden has repeatedly said his public statements were important sources for those wishing to understand the network's ideology and political goals.

A report sent to Capitol Hill in June by the Congressional Research Service (CRS), the non-partisan analysis agency, found that despite Mr bin Laden's limited ability to provide command and control to al-Qaeda operatives he and other leaders have stepped up their issuance of such tapes.

Given the increased public profile of foreign fighters in Iraq, and the concomitant rise of Abu Musab al-Zarqawi, the Jordanian militant believed to be leading the Iraqi insurgency, the CRS report said there was a growing belief that Mr bin Laden and his aides were trying to use the public pronouncements to return themselves to the centre of the jihadist campaign.

"The ideological content and highly political tone of the recent statements have led some terrorism analysts to speculate that the messages may signal a renewed attempt by bin Laden and his associates to create a lasting leadership role for themselves and the al-Qaeda organisation as the vanguard of an emerging, loosely organised internationalist movement," the report stated.

"Others have argued that the presently limited operational capabilities of al-Qaeda's central leaders have inspired them to revive ideological outreach efforts."

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As part of that effort, the tapes have increasingly used Iraq as a touchstone for the jihadi cause. Many of them are addressed directly to Western audiences, in what appears to be an effort to discourage support for European and US foreign policies in the Islamic world.

Mr Zawahiri used that tactic again yesterday, blaming the London attacks on the policies of Tony Blair, the British prime minister. Mr bin Laden took a similar attack before the November US presidential elections, in which he blamed President George W. Bush's policies in Iraq for continued attacks on US interests.

The CRS argued that the shift towards Iraq was a reflection of Mr bin Laden's "pragmatic messianism", in which his overall goals the expulsion of Western forces and influences from the Muslim world, and the creation of a pan-Islamic state ruled by religious law remain constant, but his short-term tactical goals shift.

The report notes that Mr bin Laden has, in the past, cited the presence of US troops in Saudi Arabia – since withdrawn – and the ongoing Arab-Israeli conflict as rallying cries, only to drop the causes in later appeals. Similarly, Mr bin Laden's earlier broadcasts mentioned Iraq only on occasion, but analysts note that since a December tape, in which the al-Qaeda leader specifically embraced Mr Zarqawi, mentions of Iraq have increased.

Despite the repeated mention of Iraq, analysts emphasise that the underlying ideology of al-Qaeda has not changed and continues to focus on getting rid of Western influences from the Middle East and creating a puritanical Islamic state.

That theme was repeated by Mr Zawahiri's broadcast yesterday. Although the attack on Mr Blair was prominent in the excerpts broadcast on al-Jazeera, the Arabic television news channel, much of it was dedicated to al-Qaeda's insistence that attacks will continue until allied forces are withdrawn.

Unit That Lost 9 Men Wednesday 'was Like A Family' (USAT)

By Dennis Cauchon And Tom Vanden Brook

USA Today, August 5, 2005

COLUMBUS, Ohio — The Marine reservists — about 160 of them — came to an industrial park here one weekend a month to train. The men of Lima Company — cops, college students, former active duty Marines — were sent to Iraq in March.

Sixteen from Lima Company have been killed in action since then, the highest death toll in any Marine reserve unit serving in Iraq, said Capt. Chris Logan, a Marine spokesman. Nine Marines from the company were among 14 killed Wednesday by a roadside bomb.

"It was like a family," said Kristin Earhart, fighting back tears as she stood outside Lima Company headquarters. Her boyfriend, Lance Cpl. Dustin Derga, 24, died in a firefight on May 8.

Earhart was comforted by her best friend, Ashley Boots, who was engaged to another Lima Company Marine, Lance Cpl. Nicholas Erdy. Three days later Erdy was killed.

Erdy and Derga were best friends, too, dating a pair of best friends. Now the men are gone, and the women are struggling to recover from the loss. "It's been difficult," says Earhart, a senior airman in the Ohio Air National Guard.

The men of Lima Company, part of the Marines' 3rd Battalion, 25th Regiment, came from all over Ohio and beyond.

Marines and family members describe the men of the Ohio company as deeply committed, even gung-ho. Some men who'd left the unit rejoined when they heard it was going to Iraq, said Master Sgt. Steve Walter. Others joined Lima Company, rather than units closer to their homes because they wanted to be in the infantry.

The battalion is part of a dangerous operation to disrupt the movement of insurgents and weapons from the border with Syria to central Iraq.

Lima Company was activated in January and trained for two months before leaving the USA. Once in Iraq, the Marines were assigned to Security And Stabilization Operations and began a dangerous tour of duty.

"The casualties have been very high for us," said Lima Company Gunnery Sgt. Larry Bowman, who was sent home after being injured in May. "The area we were in the Al-Anbar province, the Marines called the wild wild West."

The training and combat have brought the unit together.

"You never have friends like you have when you're in an infantry unit in harm's way," says Walter, a Columbus police officer in civilian life.

President Bush and Defense Secretary Donald Rumsfeld paid tribute Thursday to the fallen Marines. The Defense Department released the names of 13 of those killed Wednesday. They are Lance Corporals: Timothy M. Bell Jr., 22, of West Chesterfield, Ohio; Eric J. Bernholtz, 23, of Grove City, Ohio; Nicholas William B. Bloem, 20, of Belgrade, Mont.; Michael Cifuentes, 25, of Fairfield, Ohio; Grant Fraser, 22, of Anchorage, Alaska; Aaron Reed, 21, of Chillicothe, Ohio, Edward Schroeder, 23, of Columbus, Ohio; Kevin Waruinge, 22, of Tampa, Fla.; William Wightman, 22, of Sabina, Ohio; Cpl. David Kenneth J. Kreuter, 26, of Cincinnati; Cpl. David S. Stewart, 24, of Bogalusa, La.; Sgt. Bradley J. Harper, 25, of Dresden, Ohio; Sgt. Justin F. Hoffman, 27, of Delaware, Ohio.

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Eight of them were from Lima Company: Bell, Bernholtz, Cifuentes, Hoffman, Kreuter, Reed, Schroeder and Wightman.

Missy Luttrell says her nephew, “Brett” Wightman, was gung-ho from an early age.

“I can remember plain as day, he was 3, and playing with his G.I. Joes,” she remembered Thursday. “He said, ‘Aunt Missy, I'm going to be one of these guys some day.' And he was.”

Wightman was a superb athlete in high school, she said, captain of his football team as a fullback who also excelled in track.

“He's a very funny, bright, good-looking kid,” Luttrell said. “Just look at his picture.”

At Miami University in Oxford, Ohio, faculty and staff grieved Thursday for Cifuentes. A member of the marching band as an undergraduate, Cifuentes continued his studies as a graduate student and planned to become a teacher.

He was engaged to another Miami graduate, Tara Reynolds. The couple planned to marry next year.

“He was extremely devoted and focused young man,” said Jeffrey Wanko, an assistant professor of teacher education.

Tom Fennell, president of the Acacia fraternity, where Cifuentes had been an adviser, recalled him as “a great guy, who went above and beyond.”

Aaron Reed ran track and cross-country and was president of the class of 2001 at Southeastern High School in Chillicothe.

Principal Leonard Steyer said that staff at the school had been stopping by Reed's mother's home to offer help with chores on her farm. The two-story brick farmhouse sits at the end of a dusty gravel road, flanked by four silos and fields of tall corn.

Columbus Mayor Michael Coleman's youngest son, Lance Cpl. J.D. Coleman, is in Lima Company.

“When the phone rings, we are not sure what is going to be said on the other end,” the mayor said.

Lima Company is scheduled to return home in September or October, Logan said.

Confronting Their Losses, Ohio Families Are Shaken (NYT)

By John Kifner

The New York Times, August 5, 2005

COLUMBUS, Ohio, Aug. 4 - In tiny farming communities and the edges of gritty Rust Belt cities across central Ohio, families, neighbors and friends took in the news that 20 Marine reservists serving with units based here and in a Cleveland suburb were killed in Iraq this week with a mixture of pride in the young men's dedication and a growing unease with the war.

People were hanging American flags all over Sabina, population 2,800, where the corn and soybean fields were bursting along Ohio Route 22, to honor Lance Cpl. William Brett Wightman, 22, who was killed on Wednesday along with 13 other marines and an Iraqi interpreter when a roadside bomb blew up their lightly armored amphibious troop carrier in the hard-fought western province of Anbar.

"I could feel it," his mother, Pam Saville, said of the moment she heard the news that the marines from Lima Company, based in Columbus, were killed. "It was something inside me.

"Brett's unit has been hit so hard recently," Mrs. Saville said, recalling two marines killed in July and another five Ohio reservists from the same company in May.

"And at that moment," she went on, " I felt proud of Brett, but also angry about our country being there."

Sitting nearby, shaking with anger and clutching her younger step-brother's dress uniform, Stephanie Finley spoke of the bravado the young marines shared.

"When I talked to him a month ago, he said he loved what he was doing," Ms. Finley said. "He said he would go back if he had to.

"I love my brother, and that's why I tried to talk him out of going in the Marines. I didn't want him to go to Iraq because I don't believe in what we're doing there."

And, despite Sabina's patriotic display of flags, Ms. Finley's doubts seemed shared by a number of people in the small town where nearly everyone knew Corporal Wightman.

"With that young man getting killed, it's close to home now," said Ronald Simmons, a retired carpenter and lifelong Sabina resident. "I don't like it. I'm ready for the troops to come home."

After graduating from the local high school, Mr. Wightman worked for about a year for a concrete company, Gradeco Paving, run by Tom and Cathy Woods.

"His loss feels so close," Ms. Woods said of the tight-knit relationships in the town. "For a while now, I've felt we have done what we can do in Iraq. It's time to bring the soldiers home."

Michael Bigelow, a friend of the Wightman family, who had served in Iraq with a Marine reserve unit based in Cincinnati from last August to March, said he sensed a change in the troops' attitudes. They shifted, he said, from believing they were helping the Iraqis to simply wanting to protect each other.

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"Losing Brett makes me want to go back to Iraq," Mr. Bigelow said. "But to go back for the other soldiers. I feel like we're beating a dead horse over there."

The marines killed in the two incidents this week - the roadside bombing on Wednesday, and an ambush on Monday which killed six Marine snipers working on foot - were serving with the Third Battalion, 25th Marines, Fourth Marine Division, which was mobilized last January and arrived in Iraq in March to be attached to the Second Marine Expeditionary Force.

In the standard Marine formation, the battalion has a headquarters and service element, which is based in the Cleveland suburb of Brook Park, three rifle companies, including Lima, based in Columbus and a weapons company, which has heavier fire power like mortars and machine guns, which is based in Akron. The snipers came from the headquarters element, but one of the Monday casualties, Lance Cpl. Daniel N. Deyarmin, was reportedly attached to the weapons company.

Pentagon officials still have not released all the names, but marines here said that because of the practice of mixing in or attaching marines from other units, not all of the casualties would actually be from Ohio. Sometimes the troops are originally part of other commands, but added to a unit because special skills - like a sniper - are needed or sometimes simply to fill out a unit to its proper number.

Thus, while the six troops killed in Monday's ambush were operating in three-man sniper teams, one of the men, Lance Cpl. Roger D. Castleberry, 26, actually came from another reserve unit based in Texas.

Master Sgt. Stephen Walter of Lima Company said that 5 of the 14 killed in the improvised explosive device attack on Wednesday were not part of the original mobilization from the Marine armory here near Rickenbacker International Airport. That would include the crew of the amphibious vehicle, usually three marines.

Speaking at his ranch in Texas on Thursday, President Bush paid tribute to the marines from Brook Park.

"The people of Brook Park and the family members of those who lost their life I hope they can take comfort in the fact that millions of their fellow citizens pray for them, hope they also take comfort in the understanding that the sacrifice was made in a noble cause," Mr. Bush said.

For some parents, their sadness was tempered with pride in what their sons had become.

"My son was the last of the John Waynes, but tougher," said Timothy Bell, of West Chester, Ohio.

His son, Timothy Jr., 22, was a lance corporal who was one of the Lima company casualties. His stepmother, Vivien Bell, said that his parting words when he left for Iraq were, simply, "This is what I was born to do."

Rosemary Palmer, a teacher in the Cleveland schools, and her husband, Paul Schroeder, a business consultant, on the other hand, had long opposed the war and had tried to persuade their son, Edward Schroeder, 23, known as Augie, not to join the Marines.

But after Sept. 11, Ms. Palmer said in an interview Thursday at their modest green-shingled home where a bright red Marine Corps flag with its gold eagle, globe and anchor flew, "I knew Augie would step up."

He had always volunteered, as a Boy Scout, an emergency medical technician, a lifeguard, a player, it seemed, on almost all the school teams. He wanted to be a policeman, or, maybe, his mother said, a stand-up comic.

The couple were preparing to go to the funeral of one of the marines who had been killed on Monday when news came of the deaths at Haditha, a dusty town near the Syrian border. Like Mrs. Saville, she had a mother's intuition.

"We knew," she told reporters later, of the moment when the two marines, in their pressed uniforms arrived at the door. "They didn't even get a chance to knock."

"Every time one of these kids gets killed, a little piece of us died," she said. "Even if it wasn't your kid, it was one of his buddies.

"It's not faceless marines fighting the war. Augie fought it. We want people to see Augie's picture and say 'Damn, that could have been my kid.' "

Clusters Of Casualties Strike Towns (USAT)

By Dave Moniz

USA Today, August 5, 2005

WASHINGTON — The Pentagon's reliance on National Guard and Reserve troops to fight the war in Iraq has brought clusters of combat deaths to U.S. towns for the first time in more than 50 years.

The deaths of 19 Marine reservists from an Ohio unit in the past week highlight the risks to part-time military units, which earlier this year hit a peak of about 40% of U.S. troop strength in Iraq.

Since the Civil War, when entire towns shared in the grief of combat losses, the active-duty military has shifted away from using locally based units. The heavy use of Guard and Reserve units in Iraq has undercut a tradition that kept most of these troops out of combat since World War II and Korea. The military also restricted the number of family members required to serve in combat following World War II after multiple siblings died in battle.

When a large number of casualties hits a community, it causes “a pocket of trauma,” says Jim Martin, a retired Army colonel who teaches military culture at Bryn Mawr College in Pennsylvania. “It's aunts, uncles, nephews, nieces, boyfriends and girlfriends. … It's not just 20 families, it's 200 families.”

In January, four Marine reservists from a combat engineer unit in Lynchburg, Va., were killed in an ambush near Baghdad. In May 2004, five men from a Navy Reserve unit in Jacksonville died in a mortar attack near Ramadi. Two days earlier, two other members of that unit were killed.

Such concentrations of casualties were once common, as during the Normandy invasion on June 6, 1944, when 19 men from a Bedford, Va., unit were killed.

Few Guard and Reserve troops were deployed during the Vietnam War. After that war, the Pentagon shifted large numbers of critical support jobs to the Guard and Reserves. That made it difficult to go to war without part-time units.

Guard and Reserve troops were mobilized broadly for the 1991 Persian Gulf War, which ended with relatively few casualties. One exception: a missile attack that killed 13 Pennsylvania reservists.

Deadly Attacks Put New Pressure On Bush (AJC/AP)

By Tom Raum, Associated Press Writer

The Atlanta Journal-Constitution, August 5, 2005

WASHINGTON — The deadly recent attacks on American troops in Iraq are increasing the pressure on President Bush to develop an exit strategy. The U.S. death toll from the war is now over 1,800, and a new AP-Ipsos poll shows the lowest approval yet for Bush's handling of Iraq, just 38 percent.

The president's fellow Republicans are growing nervous as they head into an election year.

Yet the administration must also confront the possibility that a U.S. drawdown of troops — tentatively planned to begin next spring — could further embolden the insurgents and throw Iraq into civil war.

"We will stay the course. We will complete the job in Iraq," Bush pledged anew during a news conference on his Texas ranch with Colombian President Alvaro Uribe.

Bush suggested his resolve was only strengthened by a videotaped warning earlier Thursday from al-Qaida's second-in-command, Ayman al-Zawahri, threatening more terror attacks in Britain and tens of thousands of U.S. military deaths if the United States doesn't withdraw.

There has been little outward sign of progress in U.S.-led efforts to defeat the insurgency and to beef up the Iraqi army and police so they can take over security responsibilities and allow an orderly withdrawal of American forces.

Particularly lethal bombings over the past few weeks, including a roadside bomb that claimed the lives of 14 Marines on Wednesday, have made the situation look even bleaker than U.S. military experts suggest it is.

That translates into a continued erosion of public support for Bush's Iraq policy at home.

An AP-Ipsos poll taken Monday through Wednesday indicated that just 38 percent of Americans approve of Bush's handling of Iraq. A year ago, the public was evenly divided on Iraq, and Bush's stance on the war and terrorism helped him to election victory.

Bush has lost support most dramatically among younger women, especially those who live in the suburbs, and among men with a high school education or less.

Despite the horrific headlines, many military analysts say that attacks on U.S. troops have actually remained constant in recent weeks while attacks on Iraqi civilians have increased.

"As tragic as they are, they don't establish a pattern that says U.S. casualties are getting consistently worse," said Anthony H. Cordesman, an Iraq expert and former Pentagon intelligence official. He attributed recent deaths of Marines to the fact that "these are more aggressive military patrols going into hostile areas."

Even so, Bush faces a real dilemma, said Cordesman, now with the Center for Strategic and International Studies. "The president's legacy, if he fails in Iraq, historically is an absolute disaster. President Bush and the Bush administration can scarcely ignore that problem."

"If you pull out troops too quickly now, and you see the situation in Iraq collapse before the midterm elections, the impact is going to be far more serious than if you keep the troops in at reasonable levels," Cordesman said.

Regardless of whether attacks against U.S. troops are increasing overall or remaining constant, the deaths over the past few days of Marines in western Iraq — including multiple losses for the community of Brook Park, Ohio — underscore that things in Iraq are not going well.

Jeff Mers, commander of a VFW post that has raised money and sent care packages to the Columbus-based Marine company that suffered the heaviest losses, said that even before this week's attacks, he and other veterans were dazed from attending funerals.

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"I think I've been to nine of these just in central Ohio in the past few months," he said.

Bush called the fallen Marines a "grim reminder" that America is still at war.

The war will be a major factor in the 2006 midterm congressional races and could be one in the 2008 presidential race, said Stephen Cimbala, a Pennsylvania State University political scientist who has studied the impact of wars on American politics.

"If you look at it from a Republican point of view, by the 2006 congressional elections, you're going to want to have a timetable in place for withdrawal of U.S. forces and their replacement by Iraqis. And by the fall of 2008, you will want to have most U.S. forces out of there," Cimbala said.

President: Tape Proves Iraq Part Of Terror War (DMN)

By David Jackson

The Dallas Morning News, August 5, 2005

CRAWFORD, Texas – While paying tribute to the Marines who have fallen in Iraq this week, President Bush said Thursday that the latest al-Qaeda tape makes clear that "Iraq is a part of this war on terror."

Al-Qaeda terrorists "will kill innocent people trying to get us to withdraw from the world so they can impose their dark vision on the world," Mr. Bush said after a meeting with Colombian President Alvaro Uribe.

Mr. Bush may face increasing political pressure over Iraq, given the spasm of violence that has killed at least 24 Americans in Iraq in recent days. That includes a roadside bomb near Syria that killed 14 Marines.

He singled out the Cleveland suburb where many of the killed Marines came from, saying the people of Brook Park, Ohio, have "suffered mightily over the last couple of days."

"I hope they can take comfort in the fact that millions of their fellow citizens pray for them," he said.

Mr. Bush added, "I hope they also take comfort in the understanding that the sacrifice was made in a noble cause," a phrase he used for the second time in two days.

In a new videotape broadcast Thursday, Ayman al-Zawahiri, top aide to al-Qaeda leader Osama bin Laden, promised tens of thousands American deaths if the U.S. did not withdraw from Iraq and other Muslim countries.

He also threatened more attacks in London, saying British Prime Minister Tony Blair would be to blame for his support of the Iraq effort.

Mr. Bush, noting al-Qaeda's role in the terrorist attacks of 9-11, said, "I vowed then that we would stay on the offense against these people."

That includes Iraq, where Mr. Bush said a growing democracy would spread to other parts of the Middle East, bringing freedom and reducing the appeal of terrorism.

"We're laying the foundation of peace for generations to come," he said.

Critics of the Iraq war said there is no evidence Saddam Hussein's government was involved in 9-11 or had a working partnership with al-Qaeda.

Some anti-war activists plan a demonstration for Saturday near the presidential ranch in Crawford.

"We want our loved ones' sacrifices to be honored by bringing our nation's sons and daughters home from the travesty that is Iraq IMMEDIATELY," said a statement from one of the protest organizers, Gold Star Families for Peace.

Terror War Strategies (WT)

By Dianne Feinstein

The Washington Times, August 5, 2005

We have watched terrorism grow with increasing malevolence over the past decade. Today, no country is secure. No individual is beyond its bounds.

A virulent, radical ideology has spread throughout the globe that says terror is acceptable, that targeting innocents is not just allowed but a "duty" of its followers.

Let me quote from Osama bin Laden's 1998 fatwa against the United States and the West:

"The ruling to kill the Americans and their allies -- civilians and military -- is an individual duty for every Muslim who can do it in any country in which it is possible to do it, in order to liberate the al-Aqsa Mosque and the holy mosque from their grip, and in order for their armies to move out of all the lands of Islam, defeated and unable to threaten any Muslim."

This is what we face and fight against. The threat has not diminished in the nearly four years since September 11, 2001.

I believe it is even more important the United States and our allies redouble our efforts in the war against terrorism. This means continuing to seek out and kill or capture key members of al Qaeda. This means remaining vigilant in our efforts to prevent and interdict terrorist operations. And it means improving our gathering and sharing of intelligence.

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I also believe the United States must develop strong relationships with moderate Muslims at the highest levels. President Bush and Secretary of State Condoleezza Rice should invest the time and energy to develop close ties with those in the Muslim world who are a force for peace and reconciliation, not of fanaticism and violence.

This could take many forms:

· Developing a Muslim council with which the president confers monthly.

· High-level meetings with leading moderate Muslim figures during administration travel to the Middle East.

· Financial investment in Muslim programs and schools that encourage tolerance and diversity.

· Revamping Radio Sawa to include more sophisticated news programming on issues that appeal to young people.

· Sponsoring forums and trips to the U.S. for elected centrist Muslim individuals to spend time with U.S. legislators.

· Relying on intelligence community operatives to undercut the message and political activities of radical clerics who preach hatred of the West.

But the United States and our allies cannot win this battle alone. A key part of the solution lies within the Islamic community as well. Muslim religious leaders must join the battle against terror. They have to fight this virulent ideology.

Too often terrorists are nurtured and protected. This begins in religious schools (madrassas), where this violent ideology is frequently taught. It continues when terrorists find shelter and camaraderie in mosques, bookstores and meeting places.

What else can explain that Osama bin Laden, Ayman al Zawahiri, Mullah Omar, Abu Musab Zarqawi, Hamza Rabi'a, and dozens of other terrorist leaders are still at large?

To be sure, there are a few who are speaking out:

· In the wake of the London bombings, for instance, the Grand Mufti of Saudi Arabia, Sheik Abdul Aziz Al-Asheikh, said operations "targeting peaceful people are not condoned by Islam and are indeed prohibited by our religion."

· The Muslim Council of Britain, said it "utterly condemns the perpetrators of what appears to be a series of coordinated attacks."

· The Fiqh Council of North America issued a fatwa this week in Washington denouncing those who commit terror in the name of Islam.

· Prince Turki al-Faisal, Saudi Arabia's incoming ambassador to the United States, has said, "Muslim scholars must come out loudly and strongly against suicidal bombing regardless of where, when and why they have happened."

· And a group of 170 Muslim religious leaders has agreed decrees by bin Laden and other Islamacists are not legitimate, because they are not trained within the traditional eight schools of Islamic jurisprudence.

But as Prince al-Faisal has said, these messages have not "resonated enough in the world media." What's clear to me is there needs to be a clarion call from those clerics who are in fact trained in Islamic jurisprudence to denounce terror and issue religious decrees (fatwas) against the targeting of innocents -- over and over again.

This needs to go out on radio, on TV, in newspapers, on the street and in the mosques.

The United States cannot relent in the war against terror, and I don't suggest we do so. But I strongly believe the carnage ultimately can be stopped from within the Islamic world.

Without strong, intense and constant denunciation within the Muslim community, I am afraid this terror will only metastasize and spread.

So I hope our government, our allies and all governments who deplore terror would urge the leaders of the Muslim faith to step forward and ostracize those who kill and maim innocents in the name of Islam.

Dianne Feinstein is a Democratic member of the United States Senate from California.

America Has Two Choices In Iraq: Exit Or Success (FT)

By Anthony Cordesman

Financial Times, August 5, 2005

No one can question the fact that the months since the Iraqi election have been grim. Whatever US politicians may say, US intelligence experts see no decline in the insurgency in Iraq. Insurgent tactics have changed to focus increasingly on Iraqi officials and -military, security and police personnel. Bloody suicide bombings of Shias, Kurds and Sunnis supporting the government have been combined with more ambushes, kidnappings and assassinations of Americans, Britons, Iraqis and any other target that could help push the country towards civil war, paralyse the political process and drive foreigners out. There are bad days and good ones, and a single improvised bomb can kill 14 US troops, as we saw this week.

The political process remains highly uncertain. No one knows whether a constitution will be drafted on time and, if so, whether it will resolve any critical issues, and whether enough provinces will vote to support it. The prospect of yet another government and election is equally uncertain. Tensions between Arab Sunni and Shia are growing, alongside Kurdish demands

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for federalism and control of oil revenue. The role of religion in the state is a significant issue. Basra risks becoming a Shia fundamentalist enclave, and tensions in Baghdad, Mosul and Kirkuk are high.

Economic success seems equally distant. Regardless of US-led efforts to put a spin on current developments, far too much of the aid process is a failure. Once wartime profiteering is subtracted, most areas of the economy are in decline and unemployment is at the crisis level – particularly in the Sunni areas that are the source of most insurgency. Electricity, water and other services are barely creeping back to prewar levels, and crime is a big economic and personal problem – one with more impact on the lives of many -Iraqis than the insurgency.

Yet, the odds are still far too close to call in Iraq. The insurgents have no sanctuaries and do not seem to be increasing in number. They win no battles. The number of trained Iraqi forces has expanded from about 96,000 in 2004 to more than 173,000, and is rapidly growing towards a target of 270,000. The number of Iraqi combat battalions available has gone from just one in July 2004 to more than 100 today. More than 40 per cent of these battalions can play a useful role in security efforts and a handful can stand alone in demanding missions. If Coalition and Iraqi government plans succeed, they will reach serious numbers of deployable battalions by year-end and by 2006, will be a major force of military, security and police units.

Despite Iraq's considerable problems, the country's new leaders have sought to be inclusive and have resisted ethnic and religious purges and confrontations. The political process has moved forward. Despite economic problems, Iraqis largely remain optimistic about their future. The situation is fragile but certainly not hopeless.

This is the context in which all the conflicting media reports about looming US withdrawals should be kept. No one can guarantee that a "success strategy" will work, but the Bush administration and senior commanders in Iraq still see continuing commitment as a better option than any form of "exit strategy". Anyone who talks seriously to the policymakers and military planners involved knows they are not trying to rush US forces out before the political process stabilises and before Iraqi forces can take over a large part of the mission.

Even then, US planners are talking only of phased reductions. The Bush administration would like to reduce US forces from about 130,000 to well below 100,000 no later than the summer of 2006, and by early 2006 if possible. It would like to reduce the profile of Coalition forces in dealing with Iraqis by the end of 2006, if possible. "Possible", however, means reacting to the pace of Iraqi success – not some fixed time-table for reductions. It also means leaving strong elements of US forces as long as they are needed, and sustaining US military and economic aid for five to 10 years. Furthermore, senior administration officials know too well how the Bush legacy from the kind of exit that meant defeat would be viewed, and how a move towards such failure would affect the mid-term election in November 2006. In short, the Bush administration is still pursuing a success strategy rather than an exit strategy. It could fail, as could the effort to create a modern and more democratic Iraq. But it also could succeed.

The writer, chair of strategy at the Center for Strategic Studies in Washington, is author of Iraqi Force Development, (CSIS/Praeger) to be published in November

Was Hiroshima Hell Or High-water Mark? (USAT)

By Al Neuharth

USA Today, August 5, 2005

Sixty years ago this weekend, Aug. 6, 1945, a single atomic bomb was dropped from a U.S. B-29 on Hiroshima, Japan. Eight days later, World War II ended.

The anniversary has sparked renewed debate over whether President Harry Truman did the right thing in unleashing the big bomb or whether we should have fought the war to its end the conventional way. Facts:

·The A-bomb on Hiroshima and another dropped on Nagasaki three days later killed 210,000 Japanese.

·Before those bombs, 1.1 million Japanese and more than 102,000 U.S. military died in the Pacific war.

·Hundreds of thousands or perhaps millions more Japanese military and civilians and U.S. military would have died if a land invasion of Japan had taken place.

The A-bomb led to much deadlier nuclear weapons. Both the United States and the U.S.S.R. (basically Russia) developed tens of thousands of them during the Cold War. Now, six other countries — China, France, Great Britain, India, Israel and Pakistan — each have dozens or hundreds of nuclear warheads. North Korea claims it has a few too. But the certainty of retaliation and mass destruction has kept nuclear weapons possessors from using them.

The A-bomb indeed was hell for Japanese who lived in or near Hiroshima and Nagasaki. But it also was the high-water mark of WWII because it ended the hell for all others fighting that conflict.

Truman will be remembered as the president who brought us both victory and peace in a war that was justified and necessary. By contrast, self-proclaimed "War President" George Bush has brought us neither victory nor peace in the Iraq war, which former president Jimmy Carter this week called "unnecessary and unjust."

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GWOT That? (WSJ)

The Wall Street Journal, August 5, 2005

Words matter. Which is why we are glad to see that in a speech in Grapevine, Texas, on Wednesday, President Bush employed the phrase "war on terror" five times and the word "war" 15 times, 13 in reference to the global war on terror and two citing World War II.

The news here is that Mr. Bush's choice of words is being widely interpreted as a rebuke of National Security Adviser Stephen Hadley, Defense Secretary Donald Rumsfeld and Joint Chiefs Chairman General Richard Myers, who lately have been favoring the formulation "global struggle against violent extremism" over "global war on terror." Or, in Beltwayese, G-SAVE vs. GWOT.

The G-SAVE crowd is not wrong. Defeating Islamic terrorism will require diplomatic, economic and political means as well as military ones -- as the President himself has said repeatedly. But to quote from another speech Mr. Bush gave last year in Fort Myers, Florida, after Richard Holbrooke, John Kerry's foreign policy adviser, called the war on terror a "metaphor": "Anyone who thinks we are fighting a metaphor does not understand the enemy we face. You cannot win a war if you are not convinced we're even in one." Calling it anything less than "war" also runs the risk of minimizing the sacrifices of America's service men and women.

To those who are not persuaded that the U.S. is at war, may we suggest a ride on the London Underground, a night at a Bali hotel, or a visit to Ground Zero in downtown Manhattan? These are the many faces of the global war on terror.

Maryland Man Tied To Terrorism Plot (NYT)

By Julia Preston

The New York Times, August 5, 2005

A Maryland man was arrested yesterday and accused of conspiring to aid terrorism by training to become a jihadist fighter in camps in Pakistan, federal authorities said.

The man, Mahmud Faruq Brent, was accused of traveling to Pakistan in the months after the Sept. 11, 2001, attacks to receive training in camps operated by Lashkar-e-Taiba, a group loosely affiliated with Al Qaeda whose primary goal is to fight against Indian forces in the disputed province of Kashmir.

The Pakistani group was declared a foreign terrorist organization by the United States in December 2001.

Mr. Brent, who the authorities said also went by the name of Mahmud al Mutazzim, was an associate of Tarik Shah, a New York jazz musician who was arrested on May 28 on terrorism charges in a federal sting operation.

According to a criminal complaint against Mr. Brent that was unsealed yesterday, Mr. Brent, in telephone calls and in at least one meeting, described his stay in the camps to Mr. Shah.

Mr. Brent told Mr. Shah that he had been in the mountains in Pakistan training with "the mujahadeen, the fighters," the complaint says.

Although Mr. Brent has a home in Baltimore, he was arrested in Newark. His home was searched early yesterday afternoon by agents from the Baltimore Joint Terrorism Task Force. He made his first court appearance late yesterday before a magistrate judge in Federal District Court in Manhattan.

The complaint says that Mr. Shah, who was also a martial arts expert, trained Mr. Brent in martial arts when the two men lived in Beacon, N.Y., in 2001 before the Sept. 11 attacks. In recent months, the two men had discussed plans to make a martial arts training video for Muslims in the United States interested in becoming militants, the complaint says.

There are no allegations that Mr. Brent or Mr. Shah were actively planning any violent terrorist action.

The arrest of Mr. Brent is the latest episode in the investigation of Mr. Shah, 42, and an associate, Rafiq Sabir, 50, a medical doctor from Boca Raton, Fla., who was arrested on the same day as Mr. Shah.

He and Dr. Sabir were accused of swearing an oath of allegiance to Al Qaeda. Mr. Shah was charged with offering to provide martial arts training to jihad fighters, while Dr. Sabir was accused of offering medical assistance.

Both men have pleaded not guilty to the charges, which resulted from an undercover operation in which an F.B.I. agent posed as a recruiter for Al Qaeda.

Federal agents linked Mr. Brent to Mr. Shah through a telephone number for Mr. Brent in an address book belonging to Mr. Shah that the New York police found during a search after Mr. Shah's arrest in December 2003 on larceny charges.

The complaint against Mr. Brent shows that Mr. Shah, although he has vehemently denied the charges against him, cooperated briefly with the authorities. On the day he was arrested, Mr. Shah called Mr. Brent on instructions from F.B.I. agents and arranged to meet him that day at a hotel near Columbia, Md., the complaint says. Federal agents made a video recording of the meeting.

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During their meeting, the complaint says, Mr. Brent described to Mr. Shah how difficult it had been to reach the camps and said that all his connections to Pakistan were "kinda gone."

But he said that his visit to the camps had been "one of the better decisions of my life" and that he hoped that "Allah would bless him" for his efforts. Passport records show that Mr. Brent was in Pakistan from February to June 2002.

The complaint says that Mr. Shah has no cooperation agreement with the government at this time.

Md. Man Charged With Supporting Terrorist Group (BSUN)

By Matthew Dolan, Sun Staff

The Baltimore Sun, August 5, 2005

A Baltimore County man was charged with providing support to a terrorist organization, federal prosecutors in New York announced today.

Mahmud Faruq Brent, also known as Mahmud Al Mutazzim, has been charged in a criminal complaint with one count of conspiracy to provide material support or resources to the Lashkar-e-Taiba foreign terrorist organization.

Brent was scheduled to appear in U.S. District Court in New York City this afternoon. The FBI searched his home in Gwynn Oak earlier today.

The complaint alleges that Brent, of Gwynn Oak, conspired to provide material support or resources to Lashkar-e-Taiba from 2001 until May of this year by attending a terrorist training camp in Pakistan.

Lashkar was designated as a Foreign Terrorist Organization by the U.S. government in December 2001.

The complaint also alleges that Brent received martial arts training from Tarik Shah, who is presently under indictment in the Southern District of New York on similar charges.

Federal prosecutors accuse Shah of being in possession of an address book containing telephone numbers for "Mahmud Almutazzim" and "Sayfullah." Telephone records reveal that one of the numbers listed for "Almutazzim" was one listed to Brent's wife at his home in Gwynn Oak.

The number for "Sayfullah" was linked to an address used by Seifullah Chapman, prosecutors said. Chapman has already been convicted in the Eastern District of Virginia on terrorism and firearms charges as part of the Virginia Jihad Network prosecutions.

In a recorded conversation with an undercover FBI agent, Shah allegedly mentioned the names of several students with whom he had studied martial arts and who had gone overseas to training camps in Afghanistan and Yemen. Among the students was "Mahmud Al Mutazzim," according to court papers.

It is alleged, among other things, that Shah reported that Al Mutazzim had told him how "difficult" it was to be back in the United States and not to be in training. Shah allegedly said that Al Mutazzim could be trusted because he was a longtime student of his who, after leaving school, started "seeking the way to become Mujahideen."

According to the criminal complaint, Shah also allegedly told the undercover agent that he intended to call Al Mutazzim to enlist his help to prepare a demonstration video to be used for martial arts training of jihadists.

Phone records reveal a subsequent 16-minute telephone call between phones used by Shah and Al Mutazzim, court papers say.

Shah admitted after his arrest in May that he had trained Al Mutazzim in martial arts when they both lived in Beacon, N.Y., in 2001. Together, court papers say, they often watched martial arts training videos and other videos about jihad in Bosnia.

During this period, Al Mutazzim allegedly introduced Shah to Seifullah Chapman in the Washington area.

Prosecutors said that later, when Al Mutazzim returned to the United States in or about 2002, he mentioned to Shah that he had gone to a "camp."

The complaint says that after his arrest, Shah agreed to meet with Brent at a hotel near Columbia and secretly record the conversation for the FBI. According to the federal complaint, Shah said he wanted to travel, and Brent replied that his "connections were kinda gone." He said his only connection was "doing time now."

In that recording, according to prosecutors, Brent said that he didn't know names but that the camps he had attended were "really organized."

Md. Man Accused Of Plot To Aid Terrorists (WP)

By Eric Rich

The Washington Post, August 5, 2005

Federal authorities yesterday charged a Baltimore County resident with conspiring to support a terrorist organization, alleging that he said during a conversation secretly recorded by the FBI that he had attended a terrorist training camp in Pakistan.

Mahmud Faruq Brent, a U.S. citizen who once worked as a paramedic in Silver Spring, is accused of supporting Lashkar-e-Taiba, a militant Islamic group that the U.S. government has designated a terrorist organization. Brent was arrested in Newark yesterday morning and appeared later in federal court in Manhattan.

A criminal complaint filed there says the FBI listened in during a conversation between Brent, who also uses the name Mahmud Al Mutazzim, and Tarik Shah of New York, a jazz musician and self-described martial arts expert. Shah was arrested in May and has pleaded not guilty to charges that he provided material support to al Qaeda.

The complaint against Brent alleges that Shah told authorities after his arrest that he had trained Brent in martial arts and that Brent was committed to jihad. The complaint says Shah agreed to arrange a meeting with Brent at a hotel near Columbia. The FBI monitored that meeting using video and audio surveillance, the complaint says.

According to the complaint, Brent said during the meeting that he had traveled to Pakistan and trained with mujaheddin. Brent called the decision to go to the camps "one of the better decisions in my life" and urged Shah to seek similar training, the complaint says.

Brent spoke of the difficulties he encountered in reaching the camps and said Shah's decision would come down to a question of "how much" he was willing to "sacrifice" and whether he was willing to "take a risk," the complaint says. Brent said that he was moved by videotapes of Muslims "suffering" and that the tapes "kind of like pushed me over the, over the edge," it says.

An attorney for Brent did not return phone calls late yesterday seeking comment. Attempts to reach his family members at phone numbers listed in the complaint and elsewhere were unsuccessful.

The complaint also links Brent to Seifullah Chapman, a member of the "Virginia jihad network" who has been sentenced to 65 years in prison for conspiring to support Lashkar-e-Taiba and other offenses. Chapman was charged with taking part in paramilitary training, including playing paintball in the Virginia countryside, to prepare for holy war abroad. The complaint says Chapman wrote a letter in support of an application for an expedited passport that Brent filed in 2000.

The complaint says that Lashkar-e-Taiba translates roughly as "Army of the Pure" and that the group claims to have trained thousands of militants to fight in Afghanistan, Kashmir, Chechnya, Kosovo and elsewhere. The United States designated it a foreign terrorist organization in 2001 after the Indian government blamed it for an attack on parliament that killed 12.

Md. Man Accused In Terrorist Support Plan (PHI)

By Larry Neumeister

The Philadelphia Inquirer, August 5, 2005

NEW YORK - A Maryland man was charged with conspiring to help a terrorist organization after describing the time he spent at a terrorist training camp in Pakistan as "one of the better decisions in my life," prosecutors said Thursday.

Mahmud Faruq Brent, of Gwynn Oak, Md., allegedly boasted that he had agreed to provide whatever assistance was necessary.

Authorities began investigating Brent after they found an address book with telephone numbers for him when they arrested Tarik Shah, 42, of New York. Shah pleaded not guilty to terrorism charges earlier this summer.

Brent was charged in a criminal complaint filed in federal court in Manhattan with conspiracy to provide material support to the Lashkar-e-Taiba organization, which the U.S. designated a terrorist organization in 2001.

Brent was charged after Shah agreed to meet with him and let the FBI record the encounter, according to a news release by federal prosecutors, the FBI and New York police.

During the taped conversation at a hotel in Columbia, Md., Brent indicated he had traveled to Pakistan and into the mountains for training "and stuff" with "the mujahideen, the fighters," the release said.

Brent was being held in Manhattan and was scheduled to appear in court later Thursday. A telephone call to his lawyer was not immediately returned.

Man Charged With Conspiring To Support Terror Group (NYNSDY)

By Anthony M. Destefano, Staff Writer

New York Newsday, August 5, 2005

In an offshoot of an earlier case involving a Bronx musician, federal investigators in Manhattan Thursday announced the arrest of a Maryland man on charges he provided material support to a terrorist group in Pakistan.

In a criminal complaint unsealed in federal district court in Manhattan, Mahmud Faruq Brent of Gwynn Oak, Md., was charged with conspiring to provide material support or resources to the group Lashkar-e-Taiba for more than four years.

The group, also known by the initials LET, was designated by the United States as a terrorist group in late 2001.

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Officials also said that they were led to Brent by Tarik Shah, a musician and martial arts trainer who was arrested in May on similar charges of aiding al-Qaida. After Shah was arrested on May 28, he provided more details about Brent, who was also known by the moniker "Mahmud Al Mutazzim," according to a statement released by federal prosecutors in Manhattan.

Shah admitted after his arrest that he had trained Brent in martial arts in 2001 in Beacon, N.Y., officials said. After his arrest, Shah then agreed to tape record a conversation he had with Brent in a hotel room near Columbia, Md., said officials. During the conversation, Brent indicated that he had gone to a training camp to train with mujahedeen and had pledged to provide whatever "assistance" he could in the hopes of being blessed by God, investigators said.

Brent was recorded saying that he had watched videotapes of Muslim brothers "suffering" and the experience "kind of like pushed me over the, over the edge ... about going there," according to the 13-page complaint filed Thursday.

When Brent indicated he had traveled to Pakistan he said that he didn't stay in the cities but had gone to mountains to train with "the mujahideen, the fighters," the complaint stated.

The complaint stated the travel records indicated that Brent had traveled to Pakistan in February 2002 and stayed about four months. He then traveled from the United Arab Emirates back to the United States in November 2002, according to the complaint.

Officials didn't have a date of birth for Brent. The complaint stated that a records check showed that Brent had been working as a paramedic at the Medical Services Company in Silver Spring, Md., from December 2003 to about November 2004.

An arraignment for Brent was scheduled for late Thursday before federal magistrate-judge Frank Maas in Manhattan.

NY Accuses Maryland Man Of Supporting Terror Group (REU)

Reuters, August 4, 2005

NEW YORK (Reuters) - The FBI and New York police on Thursday announced the arrest of a Maryland man accused of conspiring to provide material support to the militant Lashkar-e-Taiba group.

Mahmud Faruq Brent, of Gwynn Oak, Maryland, attended a terrorist training camp in Pakistan run by Lashkar, according to the federal complaint.

Lashkar-e-Taiba, a Pakistan-based Kashmiri separatist group, was designated by the United States as a foreign terrorist organization in December 2001.

An address book and telephone records tied Brent, also known as Mahmud Al Mutazzim, to New York martial arts expert Tarik Shah, who is facing similar federal charges in New York.

After Shah's arrest on May 28, he admitted he had trained Al Mutazzim in martial arts and had talked with him about their experiences in overseas training camps.

The day of his arrest, Shah, who pleaded not guilty to charges at his arraignment in New York federal court in June, met with Brent in Maryland and allowed the FBI to record their talk and ruminations about the training camps.

Court papers also said telephone records showed a connection between Brent and Seifullah Chapman, who has been convicted in the Virginia of multiple terrorism and firearms charges as part of the Virginia Jihad Network prosecutions.

Shah was arrested in May along with a Florida doctor, accused of conspiring to aid al Qaeda members. Prosecutors said the men were taped pledging support to Osama bin Laden.

Joining in the investigation that led to Brent's arrest were members of the New Jersey and Maryland Joint Terrorism Task Forces.

Britain Goes On High Alert, Spurred By Hint Of Attack (NYT)

By Don Van Natta Jr.

The New York Times, August 5, 2005

LONDON, Aug. 4 - Exactly four weeks after a team of bombers attacked London with a deadly strike, the British police on Thursday mounted their largest security campaign here since World War II as intelligence officials said they had picked up information that another team might be planning a synchronized bombing in London or elsewhere in Britain.

The most recent information came from a cellular phone text message intercepted recently and the interrogation of a suspected terrorist being held outside Britain, said senior counterterrorism and intelligence officials based in Britain, Europe and the United States. The actual text of the message was not made available. The officials said the information was not specific about the timing of such an attack, or whether the team was already in place.

A senior American police official said he was told by his counterpart in Scotland Yard that the latest intelligence information was "specific enough to worry them that something is coming."

A senior intelligence official based in Europe, who spoke on condition of anonymity, said, "The British have told us - they feel sure there will be a third wave of attacks."

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Scotland Yard officials declined to comment about the latest intelligence or about the intensifying speculation in the British press. Earlier this week The Sunday Times reported that "a third Islamist terror cell is planning multiple suicide bomb attacks against tube trains and other 'soft' targets in central London."

A Metropolitan Police spokesman, who spoke on condition of anonymity, would only say, "We have to assume there are more people of the same mind-set who want to attack London."

On Thursday, British officials said they were surprised that new details about explosives used in the two attacks in London had been disclosed in New York City during a briefing that police officials gave to local security directors. The officials said they were not consulted by the New York police before the briefing on Wednesday.

Paul J. Browne, the New York City Police Department's chief spokesman, said he was in error when he told reporters that department officials had cleared the material in the briefing with their British counterparts. The error, he said, resulted in a misunderstanding he had with another New York police official. But Mr. Browne said the department was comfortable with the briefing and noted that the information provided to the security directors came from open sources and was not classified.

Also on Thursday, a videotape was broadcast showing Ayman al-Zawahiri, Al Qaeda's deputy to Osama bin Laden, declaring that there would be more bloodshed in London. Mr. Zawahiri said any additional terror attacks would be the fault of the British prime minister, Tony Blair. "Blair has brought to you destruction in central London, and he will bring more of that, God willing," Mr. Zawahiri said in the tape, which was broadcast on the satellite channel Al Jazeera. The tape's authenticity could not be immediately verified.

He also threatened more attacks against the United States unless it withdrew its troops from Muslim countries. "Our message to you is clear, strong and final - there will be no salvation until you withdraw from our land, stop stealing our oil and resources and end support for infidel rulers," Mr. Zawahiri said.

President Bush said the videotaped comments by Mr. Zawahiri "make it clear that Iraq is a part of this war on terror, and we're at war." Mr. Bush, speaking during a joint appearance at his ranch with the president of Colombia, Álvaro Uribe, said that Mr. Zawahiri and people like him "have a ideology that is dark, dim, backwards."

"They're terrorists and they're killers," he said. "And they will kill innocent people trying to get us to withdraw from the world so they can impose their dark vision on the world."

So far, there has been no link established between Al Qaeda and either attack in London.

Two other American officials played down the significance of the cellphone text, saying that British investigators are so concerned about another attack that some pieces of information take on added significance. A high-ranking American law enforcement official said he was aware of the reports of a cellphone text and a human source confirming the worry about another attack, but he added, "I think the immediacy of it has been toned down."

Both the police and the public are clearly jittery about the possibility of an attack. Some commuters acknowledged on Thursday that they had changed their habits as a result.

"I'm really scared about getting on the tube," said Philippa Embley, 25, a personal assistant who travels during off-peak hours from her home in Surrey to work in north London. "Still, because it's not rush hour, I feel it's a bit safer."

On Thursday, a glorious summer day in the capital, an estimated 6,000 police officers from the Metropolitan Police and British Transport Police patrolled the London Underground and the city's red double-decker buses. The extraordinary show of force came exactly four weeks after a team of four terrorists used bombs to kill 52 people and themselves on three subway trains and a city bus. Exactly two weeks ago, another four-man bombing team tried a copycat attack but their homemade bombs failed to explode. They fled, but all four suspects, British citizens of East African descent, were captured last week in one of Britain's largest international manhunts.

Passenger traffic on London's subways is down 15 percent, or 450,000 passengers a day, and down as much as 30 percent on weekends, according to government figures. Bus passenger numbers have remained steady at about six million per day.

Officials for Transport for London, the city's public transport authority, said the downturn in passengers correlated with the lines and stations closed because of the July 7 attacks. "Now that the network is largely back in action, we're expecting things to climb back to normal," said Richard Dodd, a spokesman for Transport for London.

Also on Thursday, the first person charged in connection with the botched bombing attacks was ordered by a British court to remain in custody. Ismael Abdurahman, 23, from southeast London, appeared at a 10-minute hearing in Bow Street Magistrate's Court before being led to jail. Mr. Abdurahman is charged with withholding information and helping a suspected bomber, Hussain Osman, also known as Hamdi Issac, with avoiding capture in the first several days after July 21. Mr. Osman had fled to Italy after the July 21 attacks. He is being held in Rome awaiting extradition to Britain, where he is expected to face terrorism charges.

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The police also charged two women under antiterrorism laws with failing to give the police information after the July 21 attacks, Reuters reported. The police said the women, Yeshshiembet Girma, 28, and Muluemebet Girma, 21, of London, would appear in court on Friday. They were arrested on July 27 in a raid in the Stockwell area of south London.

Londoners Use Public Transport Warily (LAT)

By Jeffrey Fleishman

The Los Angeles Times, August 5, 2005

LONDON — It was a quiet, jittery morning, one that had become all too common.

Six thousand police officers blanketed the city Thursday, four weeks after blasts shattered subway cars and a bus, two weeks since a second attempt to bomb the Underground. Commuters streamed past bomb-sniffing dogs. They hurried beneath sniper scopes, studied the faces of people around them. They wriggled in their seats and some swallowed hard when trains clattered away from platforms and roared through tunnels toward the next stop.

It was a morning to cope, a morning of new threats. Many Londoners feared militants would strike again on the four-week anniversary of the July 7 attack. The rush hour was uneventful, but then came another jolt. In a videotape broadcast Thursday, Ayman Zawahiri, Osama bin Laden's lieutenant, told Britain that Prime Minister Tony Blair's support of U.S. policies in the Middle East had "brought you destruction to the heart of London, and he will bring you more destruction, God willing."

The ride out of London was more nerve-wracking than the journey in.

The city's Piccadilly subway line reopened stops that had been closed by bomb damage. But many commuters chose alternate routes, bypassing the yellow florescent jackets and the black guns of police. Since July 7, when four bombs killed 56 people and left grainy photos of militants lingering on TV, subway riders have dropped by 30 percent on weekends and as much as 15 percent on weekdays, according to the city's transportation service.

"I was on the tube, and a white guy next to me was staring at a dark-skinned guy," said Anetta Bentley, a shop worker in Notting Hill. "The dark-skinned guy look at him and said, `Why you looking at me? Why you looking at me? You want to check my rucksack.' But everyone was looking at him and his rucksack. We couldn't help it. It's strange and not easy getting back to normal."

Above the Covent Garden subway stop, Ismael Abdurahman, 23, appeared in Bow Street Magistrate's Court wearing a navy blue jacket and matching pants. He blew a kiss to two women sitting in the gallery and became the first suspect indicted in connection with the July 23 failed bombings of the same subway system. He is charged with withholding information that allowed alleged bomber Hamdi Issac to escape to Italy.

"The defendant will be contesting the charge as he has no involvement in any terrorist activity whatsoever," said Abdurahman's lawyer, Anne Faul. Judge Timothy Workman denied bail and Abdurahman, facing a maximum penalty of five years in prison, waved again to the two women, one of them weeping, before he was led away. Two other suspects were charged later in the day with the same offense of withholding information on the alleged attackers, according to the BBC.

The subways rattled on. Double-decker buses meandered through traffic, past Hyde Park and Kensington Gardens, skirting the fringes of Buckingham Palace. Cell phones rang, tourists unfolded maps and the largest police presence in decades gripped the city. Farther north, beyond Ladbroke Grove and Queens Way, Richard Moss, an electrical engineering student, walked with a backpack on an overpass above rusty train tracks. He knew that July 7 and July 21 were both Thursdays, and wondered what would happen this Thursday.

"Some Londoners are apprehensive. Others are moving forward and getting on with their lives," he said. "But we're doing these things individually. We've somehow lost a sense of community. Instead of cultures coming together and fusing, we're doing it all apart and we've got to stop that.

"I'm not scared to take the subways or buses, but my girlfriend is. She has that sense of not being sure. You used to know what terrorists looked like, but now they look like everybody. My uncle lives about 10 minutes that way (he pointed west) and two of the guys they arrested in the bombings lived right next door to him and he didn't even know."

A man was talking on a TV in a nearby cafe. He wore a black turban and a white tunic. A rifle leaned next to him.

In a five-minute long tape delivered to Al-Jazeera Thursday, Zawahiri talked about destruction and threatened Britain and the United States. "If you go on with the same policy of aggression against Muslims," he warned, "You will see horror that will make you forget what you had seen in Vietnam."

"There is no exit from Iraq except in immediate withdrawal," said Zawahiri. "Any delay in taking that decision means nothing but more dead, more losses."

Blair's office declined to comment, but in a news conference at his Crawford, Texas ranch, President Bush responded: "They're terrorists and they're killers. And they will kill innocent people trying to get us to withdraw from the world so they can impose their dark vision on the world. We will stay the course; we will complete the job in Iraq."

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Two Women Charged In London Bomb Probe (AJC/AP)

By Jill Lawless, Associated Press Writer

The Atlanta Journal-Constitution, August 5, 2005

LONDON — British police investigating the botched London subway attack of July 21 said Thursday they had charged two sisters for failing to disclose information under anti-terror laws. The city's nerves were further rattled by a message from al-Qaida warning of more bloodshed, but people made efforts to carry on.

In a show of force, officers armed with submachine guns patrolled uncrowded subway stations and police helicopters hovered over city streets as one of the busiest Underground lines reopened Thursday — four weeks to the day after suicide bombers killed 52 people.

Undercover officers mixed with a lighter-than-usual load of subway commuters — many Londoners no doubt mindful that terrorists had attempted similar attacks exactly two weeks after the deadly July 7 transit bombings.

"People didn't seem frightened or apprehensive, they were just reading their newspapers and getting on with things, just as the English do," said commuter Pat Wish.

It is clear, however, that the attacks have changed the city.

London's transport authority said subway ridership — normally 3 million passengers daily — had fallen between 5 percent and 15 percent on weekdays and 30 percent on weekends. Hotels have reported cancelations and large downtown stores say sales are down.

There are signs of fraying in London's famously diverse social fabric, too. London police have recorded a 600 percent increase in crimes motivated by religious hatred since the suicide bombings.

"I'm a little bit anxious, I suppose," said Robert Allen, 20, as he waited to board a subway at King's Cross station. "I can't help feeling wary of people who get on the train, and watching what they're doing."

Officials stressed there was no specific intelligence pointing to a third attack, but mounted an operation involving 6,000 officers aimed at reassuring the public. Both the July 7 bombings and the July 21 failed attacks occurred on Thursdays.

Officers armed with automatic rifles and pistols patrolled stations and streets. Police helicopters hovered above, and traffic was heavier than normal.

"This is a major threat and we are doing everything we can, both covert and undercover policing, to try to stop another attack," said Deputy Chief Constable Andy Trotter of the Transport Police.

In a message broadcast Thursday, al-Qaida No. 2 Ayman al-Zawahri linked the attacks to Prime Minister Tony Blair's decision to send troops to Iraq. "Blair has brought to you destruction in central London, and he will bring more of that, God willing," al-Zawahri said.

He did not directly claim responsibility for the attacks in London.

Blair's Downing Street office declined to comment, but Blair has strongly rejected any links between the attacks and Britain's presence in Iraq.

Many Britons feel differently.

"The war in Iraq has turned into a quagmire that neither side can win, and now it's spreading to Britain via these terrorist bombings," said Shawn Fahy, a 23-year-old store clerk.

Police have not established firm links between the London bombings and al-Qaida, or between the two sets of bombings. In both cases, attackers targeted three subway trains and a bus, but on July 21 the devices failed to explode fully and no one was hurt.

Transport authorities on Thursday reopened the Piccadilly Line, the subway line worst-hit on July 7. Service had been suspended over much of the route since a bomb exploded on a train near King's Cross station, killing 26 commuters and the attacker.

Mayor Ken Livingstone said the reopening was "a major milestone in London's recovery."

But morning rush hour was noticeably lighter on the Tube. Commuters granted the rare luxury of a seat buried themselves in newspapers or listened to headphones as the train passed the spot between King's Cross and Russell Square stations where the bomber struck.

"The trains are really empty, which is a bit spooky," said Christine Hough, 51, an Underground employee. "People aren't coming back in the numbers that were expected."

Meanwhile, police charged sisters Yeshshiembet Girma, 29, and Muluemebet Girma, 21, of separate addresses in south London, with failing to disclose information under anti-terror laws.

The women, who were arrested July 27, were the second and third people to be charged in Britain in connection with the July 21 attacks. They were to appear in court on Friday.

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The first person appeared in court Thursday. Ismael Abdurahman, 23, from southeast London, faces charges of withholding information that helped suspected subway bomber Hamdi Issac avoid capture.

Issac, suspected of trying to blow up a subway train July 21, later was detained in Rome. Britain has asked that Issac, also known as Osman Hussain, be extradited. His lawyer said a hearing was set for Aug. 17.

London police are continuing to detain 12 other suspects without charge, and Italy has three suspects. Police believe they have all the July 21 bombers in custody. There have been no arrests in the July 7 attacks, in which the four bombers are believed to have died.

At a briefing Wednesday, New York Police Commissioner Raymond Kelly said the bombers used a peroxide-based explosive called HMDT, or hexamethylene triperoxide diamine, that can be made using ordinary ingredients such as hair bleach. New York officials said the explosives were stored in a commercial refrigerator, transported in beverage coolers and set off with cell phones.

"Initially it was thought that perhaps the materials were high-end military explosives that were smuggled, but it turns out not to be the case," Kelly said. "It's more like these terrorists went to a hardware store or some beauty supply store."

Police spokesman Paul Browne initially said the department had clearance to present the information. On Thursday, however, he said he had been mistaken but insisted "all the information in the briefing was from open and unclassified sources."

Rumsfeld: London Attacks Not Retaliation (AJC/AP)

By Ryan Pearson, Associated Press Writer

The Atlanta Journal-Constitution, August 5, 2005

LOS ANGELES — Defense Secretary Donald H. Rumsfeld on Thursday rejected as "nonsense" the notion that recent terrorist attacks in London were retaliation for the U.S.-led war in Iraq.

"Some people seem confused about the motivations and intentions of terrorists and about our coalition's defense of the still young democracies in Afghanistan and Iraq," Rumsfeld said in a speech to the Los Angeles World Affairs Council.

"They seem to cling to the discredited theory that the recent attacks in London and elsewhere, for example, are really in retaliation for the war in Iraq or for the so-called occupation of Afghanistan," he added. "That is nonsense."

In a videotape broadcast earlier Thursday, the second-in-command for the al-Qaida terrorist network, Ayman al-Zawahri, threatened more destruction in London, saying that British Prime Minister Tony Blair would be to blame.

Al-Zawahri also threatened the United States with tens of thousands of military dead if it does not withdraw its troops from Iraq immediately.

In his speech, Rumsfeld reiterated his oft-stated assertion that Syria is helping the insurgency in Iraq. He said it is acting as a haven for Baathist former members of the Saddam Hussein regime who fled Baghdad after the U.S. invasion, and allowing insurgents to cross its border with Iraq. He said the Syrians are making a mistake.

"What they're doing is harmful ultimately to themselves," he said. "They're going to have to live in that neighborhood, and Iraq doesn't like what Syria is doing. And Iraq is going to be in that neighborhood for a very long time and it's a bigger country and it will be a more powerful country."

Rumsfeld, meanwhile, paid tribute to the 21 Marines killed this week in Iraq, including the 14 killed Wednesday by a single roadside bomb near the city of Haditha in western Iraq.

"Patriots, they were determined to stop the terrorists from reclaiming Iraq and from launching more attacks on our people," he said. "Our nation needed them, called on them in battle, and mourns them now in death."

Rumsfeld spoke broadly about President Bush's rationale for fighting in Iraq and Afghanistan — "the only way to defeat terrorism is to go after them where they are" — but said little about the administration's plan for turning over the security mission in Iraq to the Iraqis. He did suggest that the goal is within reach.

"Once Iraq is safely in the hands of the Iraqi people, and a government that they elected under a new constitution ... , our troops will be able to ... come home with the honor they will have earned," he said, without elaborating.

In response to a question from his audience about the U.S. military strategy in Iraq, Rumsfeld said that a key to getting U.S. forces out of Iraq is getting enough Iraqi government forces trained to take over.

"We're passing off pieces of real estate to the Iraqis as fast as they are capable of taking it over," he said.

Muslim Edict Slammed For Not Condemning Al Qaeda (WT/AP)

By Rachel Zoll, Associated Press

The Washington Times, August 5, 2005

The fatwa condemning religious extremism recently issued by American Muslim groups was so broad it was meaningless, and should have denounced specific terrorist groups including al Qaeda, critics within the U.S. Muslim community say.

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Critics also say the declaration seemed geared more toward improving the faith's image rather than starting an honest discussion about Islamic teaching.

"The bulk of the Islamic tradition as it exists does stand against these lunatic, savage attacks on civilians," said Omid Safi, a Colgate University religion professor and chairman of the Progressive Muslim Union, an American reform group.

"But I would be more inclined to say there are elements of extremism in many parts of our tradition. Rather than simply saying these are not a part of Islam, I would acknowledge that these trends are there and do away with them."

Muqtedar Khan, a political scientist at the University of Delaware and author of "American Muslims: Bridging Faith and Freedom," said it appeared the main aim of last week's fatwa was protecting U.S. Muslim groups from criticism. And the edict may have fallen short of even that goal, he said.

"They should have been at least specific about events, if not individuals or organizations. They did not condemn al Qaeda or [Osama] bin Laden. It would have had more punch to end all these claims that American Muslims are not doing enough to end terrorism if they had," Mr. Khan said.

Ibrahim Hooper, spokesman for the Council on American-Islamic Relations, a Washington-based group that endorsed the fatwa, said no specific groups were named because "it would have been a laundry list."

"I think you can safely regard anyone listed on the State Department list [of terrorist groups] as included," Mr. Hooper said. That list includes the Islamic militant group Hamas, which many Palestinians believe is waging a legitimate fight against Israel.

"It's not likely that someone who is already considering some act of terrorism would be dissuaded by this, but you never know if you're going to prevent someone from going on the ideological road that would lead them to this activity," Mr. Hooper said.

Muslims around the world have been under renewed pressure to denounce terrorism following last month's deadly bombings in Britain and Egypt, along with the drumbeat of insurgent attacks on civilians and coalition troops in Iraq.

The U.S. fatwa, written by the Fiqh Council of North America, an advisory committee on Islamic law, said nothing in Islam justifies terrorism targeting civilians. The council further declared that Muslims were obligated to help law enforcement protect civilians from attacks.

Fiqh Council chairman Muzammil H. Siddiqi said the edict applied even when a Muslim country has been taken over by a foreign power. In Britain last month, two groups of Muslim leaders separately denounced the July 7 London attacks, but one said suicide bombing could still be justified against an occupying power, while another said it could not.

"Occupation is wrong, of course, but at the same time this is not the way," Mr. Siddiqi said.

Yet Abdullahi An-Na'im, who specializes in Islamic law and human rights at Emory University, said the American fatwa was misleading. He said the scholars could not say "in good faith" that Islamic law, called Shariah, required Muslims to assist an invader.

"What is Shariah's position on an invasion or occupation of a Muslim country by a non-Muslim country? Put bluntly in those terms, I don't think that any credible scholar could say this is legitimate," Mr. An-Na'im said. "If the same group of scholars were asked to issue a fatwa over the U.S. invasion and occupation of Iraq, which is the underlying thing, what would that fatwa be and how would Americans feel about it?"

The debate is complicated by the fact that Islam has no ordained clergy or central authority, like a pope, who can hand down definitive teaching.

Islamic leaders with conflicting views on violence regularly claim they are authorized to issue the edicts. Islam in America itself is a mix of millions of immigrants and U.S.-born converts with diverse outlooks.

London's Bombs Go Off Inside America's Head (WSJ)

By Daniel Henninger

The Wall Street Journal, August 5, 2005

On September 11, 2001, Islamic terrorists flew two planes into the World Trade Center, one into the Pentagon and one into rural Pennsylvania. In just over an hour, they killed nearly 3,000 Americans. Not more than a year later, nothing was more important in the lives of many Americans than that they extinguish the Patriot Act and drive George Bush and every remnant of his presidency from office, including the "unconstitutional" war on terror.

March 11, 2004, terrorists cut from the same Islamic cloth as September 11 blew up four Spanish commuter trains, covering Madrid's main station with parts of 191 dead people and 1,460 others, often horribly wounded. But the needle hardly moved in the politics of "George Bush's war on terror." In the U.S., nothing was more important than "closing" a holding pen for Islamic terrorists in Cuba.

July 7, 2005: the London bombings. In the four weeks since this happened, I have talked about it, on the West Coast and East Coast, with people one could describe as "non-Bush voters." To a man and woman, they say in so many words that the

time has come to "get tough on the terrorists." One event, London, appears to have caused an internal reassessment among some Americans formerly ambivalent about the war on terror.

Profiling, a forbidden thought in some political quarters since hyper-thyroidic New Jersey state cops were rousting black people on the turnpike, is a subject for polite company. After years of reading how our "policies" were creating Islamic recruits to jihad, the London bombing has created recruits for the war on terror.

What happened?

Reality happened. September 11 was, in a sense, unreal. T.S. Eliot reflected in 1922 on "unreal" post-war London: "I had not thought death had undone so many/Sighs, short and infrequent, were exhaled/And each man fixed his eyes before his feet." I think for some, what happened that day -- passenger planes flown into buildings, the slow death of the towers -- was just too much, off the charts, a trauma and a personal concussion. Something like that.

July 7 London was more comprehensible. Americans were able to absorb London more clinically, observers from afar. London also happened to an English-speaking people, so every televised comment back to the U.S., from the first witnesses to the police reports of apprehended and named terrorists, was understood and internalized. Then the British media, God bless them, reduced the madness to one, right cliché: The bombers are our neighbors. Three years in, the battle lines finally come clear.

The American psyche, or some part of it, has seemed disinclined to believe terrorists could be anything other than invaders from another planet. Seasonal, like the hurricanes. No matter that the Lackawanna Six, who pleaded guilty to terrorism charges, were as much "the neighbors" in upstate New York as the bombers from London's suburbs. No matter that the trial of the 1993 World Trade Center bombers revealed they too were "the neighbors," or worse, a fifth column.

No matter. Within a year of September 11, one of the most controversial, bitterly contested parts of the Patriot Act was the provision on surveillance of books checked out at the library.

We had become captive to the wrong media cliché. Saying 9/11 "changed everything" meant nothing. That allowed another cliché to take hold and define the policy debate after 9/11: Whatever else, we can't "sacrifice our fundamental values." (I think much of this had to do with the fact that the opposition personally didn't like the Patriot Act's designated evangelist, John Ashcroft, especially after hearing he held Bible readings at work.)

The London bombings imprinted on hard-wired political minds the crude fact that Islamic terrorists have reduced the taking of lives they don't like to a banality. They play cricket or go rafting, and then they blow up the neighbors. It was easier than ever to connect the dots of the July 7 narrative: The London "neighbors" look like they're out to get us.

No, we are not going to flush John Locke and Thomas Jefferson down the toilet. "Speech," no matter how stupid, will remain free and protected; vocalized incitement to violence against the neighbors won't. Some of the Patriot Act's most aggressive measures, such as searches of personal and business records, almost surely will be sunsetted in the final bill. Courts will pre-clear and review some investigations. The FBI Director himself must press his seal to library and bookstore searches. * * *

Tony Blair said last week that after September 11 much of the world "turned over and went back to sleep again." So why won't Ambien and Valium induce again the sleep of fatal innocence? The sleeper cells, if they're sharp, will play cricket and pump gas for two years while the West's politicians and editorialists convince the new anti-terror recruits that the war's tactics are still worse than the threat.

I think the burden for preventing that, for consolidating the new center-left recruits, lies with President Bush. The post-9/11 slumber was both psychological and political. It became a partisan mindset. London was electroshock therapy. Mr. Bush needs to speak to his public opposition, suggest some understanding of their former discomfort and restate the stakes. Why? Because the widest and deepest possible popular opposition to Islam's homicidal strain is crucial to ending it. Their primary target is the public will. They need to see, not now but two years from now, amid a presidential election, that on July 7, they blew it.

Qaeda On The Run? Raids Seem To Belie Pakistani's Word (NYT)

By David Rohde And Somini Sengupta

The New York Times, August 5, 2005

ISLAMABAD, Pakistan, Aug. 4 - President Pervez Musharraf has declared that his forces have smashed sanctuaries of Al Qaeda and have its last remnants "on the run" in his country's remote tribal reaches.

"They are in penny pockets in the mountains," he said in an interview on Friday of last week in his official military office. "We have severed their vertical and horizontal communication lines."

Yet with less than two months before parliamentary elections in Afghanistan, Al Qaeda, the Taliban and their assorted allies appear to be regrouping in the rugged tribal redoubts in this country's northwest and unleashing ever more frequent attacks on both sides of the border, Afghan and Pakistani officials say.

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Attacks in Afghanistan's south and east have grown in number, ruthlessness and sophistication. Meanwhile, Pakistan's tribal areas, particularly North and South Waziristan, have been engulfed in fresh violence: in the last two months, Pakistani government installations have increasingly come under fire, and tribal leaders seen to be colluding with the authorities have become ripe assassination targets.

United States intelligence officials have repeatedly said that Osama bin Laden is likely to be holed up in the Hindu Kush mountains along the frontier. Lately, Afghan and Pakistani officials have traded barbs about who is harboring whom, and who has failed to find them.

In Afghanistan, aides to President Hamid Karzai have grown increasingly vocal about what they call Pakistan's accommodation of pro-Taliban forces.

The Afghan government had believed that Pakistan was cooperating in stemming the Taliban insurgency after presidential elections passed peacefully last October, said Javed Ludin, chief of staff to President Karzai. But recent attacks, he charged, showed the opposite.

"We were mistaken, and in fact they were preparing," Mr. Ludin said of the Taliban.

General Musharraf's strategy against militants hiding in Pakistan's lawless mountains, as well as its urban swamps, has once more come under sharp scrutiny. Investigators looking into the July 7 London bombings are still trying to determine what two of the four bombers did, and whom they met, when they arrived in the Pakistani port city of Karachi last winter.

At the same time, though American officials are unbowed in their public support of the general, the increased attacks on Pakistani, Afghan and American forces along the border have raised fresh questions about his ability to neutralize militant groups operating there.

In the interview and at an earlier news conference for foreign journalists last Friday, General Musharraf made it clear that he had chosen to act cautiously against militancy for fear of inciting a popular uprising against his government.

"I don't bluff, but I do act with realism," he said at the news conference. "There are a lot of gray areas. Those gray areas have to be addressed with a lot of prudence and a lot of understanding."

Critics question the intentions and effectiveness of his three-and-a-half-year-old counterinsurgency strategy. Some wonder whether the general's foot soldiers, namely in the army and intelligence services, fully buy into his American-backed agenda, particularly as American policy on everything from Iraq to Israel to Guantánamo Bay feeds anti-American fire in this country. General Musharraf, as a result, finds himself having to tread carefully to not be seen as an American stooge.

Others point out that General Musharraf's drive to quash militancy comes in the face of a quarter-century-long practice of using many of those same Islamic guerrillas as part of Pakistani foreign policy.

General Musharraf himself acknowledged on Friday that Pakistani soldiers and intelligence agents trained, armed and dispatched up to 30,000 mujahedeen fighters, Pakistanis and foreigners, to topple the Soviets in Afghanistan in the 1980's. The tribal areas were the birthplace of that movement, which at the time had the support of the United States.

In his nation's defense, General Musharraf also angrily points out that Pakistan, for the first time, has dispatched troops to the lawless, semiautonomous tribal areas in an attempt to flush out Taliban and Al Qaeda fighters. Today, nearly 75,000 are said to patrol the border, and 250 have been killed.

The resurgent Taliban, the Pakistanis insist, are blossoming inside Afghanistan. Whatever the case, violence on Pakistan's side of the border has taken a vicious turn upward.

In recent weeks, at least one intelligence official and two tribal leaders known for helping government authorities against militants operating in their areas have been killed. Ten days ago, in a series of coordinated attacks, 40 rockets were fired in the direction of army and paramilitary posts across North Waziristan. On Thursday, five Pakistani soldiers were killed in a land mine blast in North Waziristan.

Asad Munir, the Peshawar-based secretary to the governor responsible for the tribal regions, said last week that he suspected fighters loyal to the Taliban, Al Qaeda and the renegade Afghan mujahedeen leader Gulbuddin Hekmatyar.

Mr. Munir said he believed the attacks were most likely being directed by commanders operating on both sides of the border. North Waziristan alone, he said, sheltered roughly 150 such commanders.

"The chilling effect is basically your informers, your sources dry up," he said. "Locally, people would be reluctant to meet an army officer or someone from intelligence agencies out of sheer fear."

In a telephone interview last week from an unnamed location in South Waziristan, a militant commander who refused to be identified for fear of undermining his group's operations boasted that his fighters were indeed crossing into Afghanistan, using routes beyond the two Waziristans.

"There are countless tracks and routes," he said. "We are better organized and better skilled to fight an enemy that is high-tech and sophisticated. To fight a snake you have to come down to the level of a snake."

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The current setbacks come after years of warnings that senior Al Qaeda leaders, including possibly Mr. bin Laden, are using the tribal areas as a safe haven.

In 2002, a senior Pakistani official described South Waziristan as the hub of Al Qaeda operations worldwide. In 2004 Pakistani investigators said a Pakistani computer engineer confessed to receiving messages by courier from Al Qaeda leaders hiding in South Waziristan, and relaying them to operatives via the Internet.

After a military offensive in South Waziristan in 2004, Pakistani officials boasted that they had cleaned up the area. A year later, even Pakistan's staunchest backers say they are no longer sure of Pakistan's control over South Waziristan. There are also new questions about whether militant operations are now being guided from inside North Waziristan. Several infiltrations into Afghanistan have originated from around Miram Shah there.

United States forces, who roam inside Afghanistan, are prohibited from operating on the ground on the Pakistani side of the border. Still, Pakistani officials said this month that 24 suspected fighters killed by American forces were found on the Pakistani side of the border; whether American troops chased them in "hot pursuit" remains unclear.

In the southern Afghan province of Zabul, a former Taliban field commander who identified himself as Mullah Said Mir said Wednesday that he was among a group of fighters who crossed back and forth from the Pakistani city of Quetta.

At a militant training camp in Quetta, he said, he had witnessed, as recently as a month ago, Taliban fighters training young Afghans with remote control bombs.

Pakistani Court Rules Against Islamic Bill (NYT)

By The New York Times

The New York Times, August 5, 2005

ISLAMABAD, Pakistan, Aug. 4 - Pakistan's Supreme Court ruled Thursday that some parts of a bill passed by the Islamist-led legislature in the North-West Frontier Province were unconstitutional, prompting the Islamists to say they would write a new draft.

The proposed bill - known as the accountability bill - set off a huge outcry in the country.

Human rights advocates and moderate elements of Pakistani civil society cringe at the thought of restricting the personal freedom that the Constitution guarantees. Many Pakistanis also view the bill as an effort similar to that of the former Taliban rulers in neighboring Afghanistan to impose strict enforcement of Islamic codes of conduct on everyday life.

But the measure's proponents, an alliance of conservative Islamic parties, see the move as a step toward putting into effect the Islamic laws they promised their supporters.

The conflict over the legislation is part of a tussle between the government of Gen. Pervez Musharraf, the president, who says he is trying to extricate the country from religious extremism, and the Islamic parties.

The assembly of the North-West Frontier Province passed the bill in July over opposition protests. It would empower religious police to ensure that residents of the province comply with Islamic values.

Afghanistan's Forgotten War (NYT)

The New York Times, August 5, 2005

Afghanistan is out of the headlines, but its war against the Taliban goes on. These days, it is not going well. One of the most important reasons for that is the ambivalence of Pakistan, the nation that originally helped create, nurture and train the Taliban. Even now, Pakistan's military ruler, Gen. Pervez Musharraf, seems to invest far more energy in explaining his government's tolerance of Taliban activities than he does in trying to shut them down.

General Musharraf has provided logistical help to Pentagon operations and cooperation to American law enforcement agencies trying to track down Al Qaeda leaders. But his aid has been frustratingly selective. He has been an intermittent collaborator in the fight against international terrorism rather than a fully committed ally. Washington has been understandably reluctant to push him for more consistency, not wanting to risk losing the help he does offer.

Pakistan's passive enabling of the Taliban, however, is too important and dangerous for Washington to overlook. The current Taliban offensive is killing American soldiers - at least 38 have died in action so far this year, as well as hundreds of Afghans. It also endangers next month's parliamentary elections.

Successful elections are crucial to extending the geographical reach of Afghanistan's new national institutions. And they can provide needed political accountability for President Hamid Karzai, who now rules without an elected Parliament. Afghanistan will be a functioning democracy only when citizens can take their grievances against the central government to elected local representatives instead of to armed local warlords. Those grievances are real. Some governors and police chiefs Mr. Karzai has appointed are thuggish and corrupt. Antidrug efforts go after poor farmers while traffickers thrive. Alternative development lags. A lack of judges stymies the rule of law.

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Earlier this year, there were reasons to be hopeful about Afghanistan's future. The presidential election had gone off remarkably smoothly, and the absence of major attacks on polling places suggested that Pakistan was at last responding to Washington's pleas to rein in the Taliban. Mr. Karzai had begun easing notorious warlords out of cabinet ministries and provincial governorships. More money was being directed at antinarcotics efforts.

But once the snows began to melt this March, Taliban fighters started showing up in greater numbers and with suspiciously sophisticated gear in regions of Afghanistan that border Pakistan. Afghan military and intelligence officers are convinced that they are coming from Pakistani training camps.

General Musharraf says that he has sent tens of thousands of troops to police border areas. Yet well-supplied Taliban fighters keep showing up to battle American troops in Afghanistan. He insists that the training camps are still shut down and that he is committed to thwarting the Taliban, but says he must proceed cautiously so he doesn't inflame militant groups in Pakistan. That would be more persuasive had the general not spent close to six years marginalizing mainstream parties and cutting deals with Islamic extremists to reinforce his rule.

When questioned about why he has repeatedly violated his promises to restore civilian democracy, General Musharraf argues that he must retain power because Pakistan needs his strong and effective hand. Washington needs to ask him why that strong hand seems so helpless against the Taliban.

Tampa Prof Expressed 'Pride' In Suicide Bombing In Gaza Strip (BRAH)

The Bradenton Herald, August 5, 2005

TAMPA, Fla. - Sami Al-Arian expressed "pride" after learning of a 1994 suicide bombing attack that killed three Israelis, according to testimony Thursday in the former college professor's trial on charges of supporting a pro-Palestinian terrorist group.

Investigators intercepted a fax sent to Al-Arian's home bearing the logo of the Palestinian Islamic Jihad and claiming responsibility for an attack near Netzarim, Gaza Strip. A man on a bicycle carrying a bomb blew himself up among a group of Israelis.

Al-Arian faxed a message to the Damascus headquarters of the group that read: "Pride and glory overwhelmed us. May God bless your efforts and accept our martyrs," according to transcripts and testimony Thursday from FBI agent Kerry Myers.

Similarly, co-defendant Hatem Naji Fariz expressed pleasure during a wiretapped phone call upon hearing of another suicide attack, at Beit Lid, Israel, in 1995, which killed 22, saying the attack was accomplished by the "jihad movement" and commenting, "the whole world is pleased...", according to transcripts.

Myers, who is expected to be on the witness stand for weeks, has not been cross-examined by defense attorneys.

Al-Arian, Fariz and two others face a 53-count indictment alleging they used various charitable and educational entities in Tampa as fundraising fronts for the PIJ, which has claimed responsibility for more than 100 deaths in Israel, the West Bank and Gaza Strip.

The defendants deny they were involved in supporting any violent acts and say they are being persecuted for pro-Palestinian views unpopular in the United States.

Talks Centered On Payment To Jihad Members (TAMPTRIB)

By ELAINE SILVESTRINI

Tampa Tribune, August 5, 2005

TAMPA - Prosecutors read more transcripts of telephone conversations and faxes to jurors at the Sami Al-Arian trial Thursday morning.

The conversations centered on the fact that Islamic Jihad members outside the Middle East were not getting paid. They included Ramadan Shallah, Sameeh Hammoudeh and Bashir Nafi.

Al-Arian also faxed a proposal to unite the Islamic Jihad and Hamas to a phone number in the United Arab Emirates. And he received faxes from Islamic Jihad headquarters in Damascus, Syria, describing a recent attack and the arrests of Islamic Jihad members in the occupied territories of Israel.

Man Gets 3 Years For Sales Linked To Nuclear Arms (LAT)

By Josh Meyer

The Los Angeles Times, August 5, 2005

WASHINGTON — A federal judge sentenced black market trader Asher Karni to three years in prison Thursday, saying he wanted to warn others that the illegal sale of U.S. high-tech products could help foreign governments or terrorists obtain nuclear weapons.

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After hearing Karni apologize for selling blacklisted U.S. electronic components to companies in Pakistan and India, U.S. District Judge Richard M. Urbina told the former Israeli army major that no amount of contrition could make up for the potential threat posed by his actions.

"I want you to know how serious I think your conduct was," Urbina told Karni, emphasizing that he was sentencing him to a prison term longer than that requested by his defense lawyers to send a message to the public.

Citing Karni's extensive cooperation in an ongoing nuclear trafficking investigation, lawyers for the South Africa-based businessman had sought a 19-month sentence. That would have freed Karni immediately because he has been in federal custody since his arrest Jan. 1, 2004, at Denver International Airport.

Urbina shaved six years off the maximum term Karni could have received under complex federal sentencing guidelines, saying he was doing so because of Karni's cooperation.

But the judge said he was deeply troubled by Karni's central role in a conspiracy to sell U.S. high-tech components to firms in Pakistan and India that Washington believes are part of those countries' nuclear-weapons and missile programs.

Assistant U.S. Atty. Jay I. Bratt told the judge that Karni sold blacklisted products to entities in Pakistan and India on at least 17 occasions, a much larger number than authorities had previously disclosed.

Bratt, a veteran prosecutor in the U.S. Attorney's Office transnational/major crimes section, described the Karni case as perhaps the most serious threat to national security that he has encountered.

Urbina said he was most alarmed by Karni's admitted use in 2003 of a web of intermediaries to buy 200 precision electrical switches, known as triggered spark gaps, from a Massachusetts firm and then ship them to a business associate in Islamabad, the Pakistani capital.

At the time, Urbina said, Karni and the associate, Humayun Khan, knew that the U.S. government prohibited the sale of the components to Pakistan because of their potential use in detonating nuclear warheads. The two men went to great lengths to camouflage the end user, the judge said.

But two Commerce Department agents had received a tip from an informant in South Africa and were monitoring the shipment. They disabled the first shipment of 66 spark gaps before Karni received them and forwarded them to Khan, and later used Karni's cooperation to obtain a grand jury indictment of the Islamabad arms merchant, who had close ties to the Pakistani military.

Khan, who is no relation to Pakistani scientist Abdul Qadeer Khan, who operated a global network that smuggled nuclear technology, has denied wrongdoing in interviews with the Los Angeles Times. U.S. authorities would not say Thursday whether they had requested his extradition from Pakistan. Pakistani officials also have had no comment on the case, except to deny trying to illegally purchase U.S. technology for their nuclear weapons program.

Bratt said in court Thursday that the U.S. government still did not know for whom Khan was purchasing the spark gaps or where the disabled components were.

But Bratt told the judge that the buyer was either the government of Pakistan and its nuclear program, another country that Pakistan was secretly helping with its nuclear program or a Pakistani political organization that supported "jihadist elements" or other rogue groups.

"The choices for the true recipient of the triggered spark gaps are not comforting," Bratt said.

He also told Urbina that, based on wiretapped conversations with several of his employees, Karni appeared to have tried to continue his trafficking operations even while in federal custody after his arrest.

Urbina, like Bratt, stopped short of specifically identifying the Islamabad government as the end user of the components Karni sent to Pakistan.

But he said unnamed foreign governments and terrorists "have become incredibly creative in finding ways to wreak death and destruction. These are incredibly malevolent people who wish to be armed with very bad things," such as nuclear weapons.

In the courtroom for Karni's sentencing were the two Commerce Department agents who have been investigating him and his alleged co-conspirators for the last two years.

The agents, James Brigham and David Poole, said they could not comment on the case or on their continuing investigation, for which they have tried to travel to Pakistan to conduct interviews.

They and others have been unable to do so, authorities have confirmed, in part because the departments of Commerce and Homeland Security have failed to gain adequate support from within the Bush administration to pressure Pakistan into letting them in the country.

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PATRIOT ACT:

NY Lawmakers Try Prying Anti-terror Dollars From Washington (AP)

By DEVLIN BARRETT, The Associated Press

AP, August 4, 2005

WASHINGTON (AP) — Two New York lawmakers are trying to use the Patriot Act to get cities and regions at risk of terror attacks more federal help, a new legislative tactic designed to sidestep opposition from some senators from rural states.

Advertisement

House members Nita Lowey, D-Westchester, and John Sweeney, R-Clifton Park, have seen past efforts blocked in the Senate, where small states have greater influence.

Lowey and Sweeney are trying to change the way the government doles out security aid, so more of it is distributed based on risk. They've already helped engineer three successful House votes to change the funding formula, including one overwhelming 409-10 vote, but so far the Senate has failed to pass similar measures.

"It is very frustrating that the Senate has not been able to understand the error of their actions," said Lowey, who is hoping that by attaching her measure to the reauthorized Patriot Act — a top priority of the White House and Republican leaders — she and Sweeney may break the legislative logjam.

"This change is going to come, it's just a question of when and it's just a question of that small minority recognizing this is a question of national defense and not about pork," said Sweeney. "This really has nothing to do with New York City, this has to do with threat and threat information."

In the years since the 2001 attacks, the government has distributed a minimum percentage, some 0.75 percent, of security dollars to each state. For the current budget year, that meant about $11 million for each state before additional money was offered based on risk factors.

Sweeney and Lowey's amendment to the Patriot Act would lower that minimum percentage, freeing up more money to be distributed by risk. That money most often goes to protect metropolitan areas and critical infrastructure around the country.

Sen. Susan Collins, chairwoman of the Senate Homeland Security Committee, has worked to make the minimum 0.55 percent, not nearly as low as Sweeney and Lowey would like.

Collins, R-Maine, argues her approach strikes the right balance between protecting cities and securing rural areas, and still boosts money for urban areas. Advocates for cities, including members of the 9/11 commission, contend much more of the money should be distributed based on risk.

Sweeney represents a mostly rural district but has been one of the loudest voices in the House for changing the way security funds are distributed.

"We need to change the culture of `just grab whatever pot of money you can and bring it home,' because we have to reduce our vulnerability," said Sweeney.

Senate and House negotiators must meet later this year to hammer out differences between the House and Senate versions of the Patriot Act reauthorization bill. The House version contains the Sweeney and Lowey amendment.

The Bush administration has pushed for the quick passage of the bill to reauthorize key provisions of the Patriot Act. The act was passed in response to the Sept. 11 attacks, and some provisions are set to expire at the end of the year.

The Patriot Act allowed expanded surveillance of terror suspects, increased use of material witness warrants to hold suspects incommunicado, and permitted secret proceedings in immigration cases.

The act has been criticized by some conservatives and liberals as weakening civil liberties.

Rep. Peter King, R-N.Y., has spent the week meeting with intelligence officials in the Middle East, and said the anti-terror work being done in other countries proves the need of extending the Patriot Act.

"Law enforcement has to have strong powers because it is such a treacherous enemy and we can't have our hands tied behind our backs in any way," King said in a telephone interview from Egypt.

King has also visited with security officials from Jordan, Israel, and Austria.

HOMELAND RESPONSE:

Justice Department Effort To Eavesdrop On Airline Passengers Challenged (GOVEXEC)

By Chris Strohm

Government Executive, August 5, 2005

DOJ_NMG_0002251

Two privacy groups asked the Federal Communications Commission this week to reject a proposal that would give the Justice Department sweeping new powers to eavesdrop on cell phone calls and Internet usage by airline passengers.

The Justice and the Homeland Security departments submitted several proposals to the FCC in May and July seeking authority to monitor the electronic communications of airline passengers. The proposals would allow Justice to record all electronic activity without a court order, identify any user by seat number, and automatically interrupt or shut down any communication.

In a petition filed Wednesday, the Center for Democracy and Technology and the Electronic Frontier Foundation argue that the FCC does not have jurisdiction to address the full range of constitutional, privacy and civil liberties concerns that are raised by the proposal. The groups also say the proposal would place undefined burdens on industry to comply.

CDT and EFF say that any action by the commission would violate the Constitution as well as the Administrative Procedures Act and the Communications Assistance for Law Enforcement Act. The groups claim that Justice is trying to do an end run around Congress and get the FCC to give it new authorities without proper public debate.

The Justice Department did not return a telephone call seeking comment Thursday.

"The commission should decline DoJ's requests, and should instead defer to Congress, which is the only body that can in the first instance consider the constitutional and policy problems raised by such unprecedented proposals," the groups wrote.

"We do not dispute the fact that law enforcement is able, under existing laws and without any action by the commission, to obtain a court order that permits the interception of the electronic communications of people in airplanes," the groups added. "Instead, the critical issues are whether the commission has any statutory authority whatsoever to impose anticipatory, full-time and warrantless interception of information about all communications of all airline passengers--a proposal seemingly drawn directly from George Orwell's 1984--and whether law enforcement should be given extraordinarily invasive design control over air-to-ground communications."

Assessments Find Threat Of Suicide Attacks In U.S. (NYT)

By Eric Lichtblau

The New York Times, August 5, 2005

WASHINGTON, Aug. 4 - Confidential government assessments say that Al Qaeda remains intent on attacking targets in the United States and that suicide bombings are clearly "a preferred method of attack among extremists" in the wake of last month's terror attacks in London.

The July 7 attacks on the London transit system, as well as others overseas, have prompted American officials to reassess potential threats to targets in the United States. Their conclusions, circulated among law enforcement officials by the Department of Homeland Security and the Federal Bureau of Investigation, differ little from many earlier assessments since the Sept. 11 attacks but make clear that officials see Al Qaeda as a continued threat at home.

Although American intelligence officials "do not believe the London attack necessarily presumes a similar attack against rail or mass transit targets in the United States, there has been consistent threat reporting for some time suggesting that terrorists may have an interest in targeting mass transit systems," according to a security bulletin on July 20.

A second security bulletin also prepared after the London bombings warned that in addition to setting off bombs on trains and subways, Al Qaeda might seek to derail trains or crash a truck carrying flammable material into trains.

Intelligence officials are also concerned that terrorists linked to Al Qaeda or other terrorist groups may again turn to airplanes as a method of attack by sending operatives to flight training schools or using "an increased number of operatives" in the aviation industry to evade tightened airport security measures.

Still another target considered vulnerable by intelligence officials are high-rise apartment buildings. In one potential terrorist plot that officials have previously linked to ones considered by Jose Padilla, an American citizen now imprisoned as an enemy combatant, the bulletin says Al Qaeda may consider renting rooms in a high-rise building and using natural gas as an explosive to destroy it. But it cautions that the feasibility of such a plot is questionable.

The bulletin suggests that fresh intelligence collected as recently as this spring showed that Al Qaeda "remains interested in striking the homeland to undermine U.S. security and damage the U.S. economy." Since the London bombings, American officials have tightened security at many mass transit systems and have been combing leads from Queens to Oregon in search of possible connections to the attacks. So far, officials say they have found no hard evidence to suggest any complicity or knowledge by anyone in the United States, nor have they found any evidence to suggest plans under way for an attack here.

"We have no specific credible information to indicate that an attack in the United States is imminent or that Al Qaeda operatives are in the United States to conduct a homeland attack," one of the intelligence bulletins concluded.

With federal officials seeking to provide law enforcement officers with quicker and more useful information to guard against terror attacks, some local officials have become more aggressive in developing their own policies and procedures.

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A group of police chiefs, frustrated by what they see as the slow pace of information from federal officials, has begun creating a network to share terrorist-related intelligence.

And the International Association of Chiefs of Police, with 20,000 members worldwide, has issued new training guidelines to its members advising them to have officers shoot a suicide bomber in the head to avoid a life-threatening detonation.

The new guidelines, which were developed before the London bombings and first reported Thursday by The Washington Post, represent a more deadly posture in dealing with the threat of possible suicide bombers, said Joseph Estey, who is president of the chiefs' association and the police chief in Hartford, Vt.

"These are new circumstances for us to deal with, and this is an aggressive policy to respond to a narrow set of circumstances," Chief Estey said in an interview Thursday. If an officer believes he is confronting a suicide bomber who may be about to explode a bomb, he said, the new guidelines "call for a head shot, which unfortunately is the securest way of disabling someone who may have a suicide device and may try to detonate it."

Chief Estey acknowledged that the shooting death last month in a London subway of a Brazilian man, whom the police mistakenly thought was a suicide bomber, underscored the tragic possibilities if the police make the wrong decision.

For an officer to make a spot decision on whether someone is a would-be suicide bomber "is a real tough question, and there are situations where you're not sure," he said. "But when you're making those decisions on the fly, you have to have the greater public good in mind and try to save other people's lives."

US Military To Increase Domestic Surveillance (CSM)

By Tom Regan

The Christian Science Monitor, August 5, 2005

The US Defense Department has developed a new counterterrorism strategy "that would increase military activities on American soil, particularly in the area of intelligence gathering." FoxNews reported Monday that this has caused a great deal of concern among civil liberties advocates who fear the possibility of the military "encroaching" on domestic law. "Do we want, as a free people, with the notion of privacy enshrined in the Constitution and based on the very clear limits and defined role of government, to be in a society where not just the police, but the military are on the street corners gathering intelligence on citizens, sharing that data, manipulating that data?" asked former Rep. Bob Barr (R) of Georgia, a constitutional law expert and civil libertarian. The plan, known as the "Strategy for Homeland Defense and Support," was released in early July without background briefings or a formal news conference. The document says the US government must have a "a multi-layered, preventive approach to national defense" in order to counter an "unconventional" enemy like Al Qaeda, which can attack anywhere at any time.

The Washington Post reported last month that the plan does not ask for new legal authority to use US military forces on US soil (which is prohibited by the Posse Comitatus act of 1848), and draws a "distinct line" between a leading role in overseas operations and a support role in domestic affairs.

In a related development, The New York Times reported in July that senior Pentagon planners are "challenging" the idea the US needs to be able to fight two wars on two fronts at the same time. Instead, they want to focus on fighting just one war, and "devoting more resources to defending American territory and antiterrorism efforts." In a nutshell, strategies that order the military to be prepared for two wars would argue for more high-technology weapons, in particular warplanes. An emphasis on one war and counterterrorism duties would require lighter, more agile forces - perhaps fewer troops, but more Special Operations units - and a range of other needs, such as intelligence, language and communications specialists. It's well-known that Secretary of Defense Donald Rumsfeld has long favored a "lighter, more agile force."

But critics of the Pentagon's new counterterrorism strategy still don't like what they see. Timothy H. Edgar, a national security specialist with the American Civil Liberties Union, said that while certain sections of the document have language that limits military action, they seem at odds with other sections. "They seem to be trying to have it both ways," Mr. Edgar told the Post.

Meanwhile, Mr. Barr says the Pentagon's plan is yet another attempt to revive the failed Total Information Awareness (TIA) project, which he called a "massive, centralized information database using public and private records of individuals" that was killed by Congress in 2002. "This is TIA back with a vengeance," said Barr. "What they have come up with here is a much vaguer and much broader concept that sounds more innocuous. [The Pentagon] is getting much smarter in how to sell these things." James Carafano, a homeland security analyst with the conservative Heritage Foundation, disagreed with Barr, telling Fox News that "there is nothing new here" in the Pentagon's plan. "There are no new threats to privacy or constitutionality. I just think it's about doing [intelligence] more efficiently and effectively."

FloridaToday.com argued in an editorial Tuesday that there is already evidence that the government is abusing existing law to subvert the First Amendment rights of those opposed to the US government's policies. Last month, the FBI was forced

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under the Freedom of Information Act to reveal it has collected at least 3,500 pages of files on groups that have opposed Bush White House policies on the Patriot Act, Iraq war, civil rights and the environment.

Among those targeted were the American Civil Liberties Union and Greenpeace. The FBI won't say what's in the files, and the ACLU has filed a lawsuit we hope it wins to find out.

Meanwhile the ACLU is criticizing the FBI's plans to "create a National Security Service within the FBI that reports to the Director of National Intelligence." "Spies and cops have different roles and operate under different rules for a very important reason: to ensure that our law enforcement agencies stay within the Constitution, [said Mr. Edgar]. This proposal could erode the FBI's law enforcement ethic and put parts of the FBI under the effective control of a spymaster who reports to the president - not the attorney general."

Also, in recent interviews with FoxNews former intelligence agents for the US military and the CIA claimed the "intelligence community" ignored threats from Osama bin Laden that were "detailed in television documentaries, books and all over the Internet in scores of languages" before 9/11 because they were "open source." These agents say this overreliance on 'secret' information "has caused an institutional bias against publicly available information that could otherwise help identify terrorist threats across the globe before the damage is done." "Everything we needed to know to prevent 9/11 was either known to elements of the US government but not shared across agency boundaries, or openly published in foreign language media we chose to ignore," said Robert Steele, a former clandestine officer who now heads Open Source Solutions Network Inc., a global provider of open source networking and analysis training.

"[Al Qaeda] was publishing its plans and intentions publicly for years," Steele said. "All of the literature is quite clear." Finally, the Associated Press reported Wednesday that government watchdogs are investigating "slow responses" by the FBI to requests from local law enforcement officials and if these incidents show "FBI reluctance to adjust to law enforcement changes emphasizing cooperation after the Sept. 11, 2001, attacks."

Civil-liberties Board Struggles Into Existence (WP/REU)

By Caroline Drees, Security Correspondent, Reuters

The Washington Post, August 5, 2005

WASHINGTON (Reuters) - A civil-liberties board ordered by the U.S. Congress last year has never met to discuss its job of protecting rights in the fight against terrorism, and critics say it is a toothless, underfunded shell with inadequate support from President Bush.

Lawmakers including some Republicans, civil-rights advocates, a member of the Sept. 11 Commission and a member of the Privacy and Civil Liberties Oversight Board have expressed concerns.

Lanny Davis, the only prominent liberal among the five people Bush nominated after a six-month delay, said he had not received a call from anyone related to the board since it was formally announced in June. Davis said he could not comment on specifics because the members had not yet met.

All four other panel members declined to comment.

The inactivity comes at a time when Congress is nearing reauthorization of several provisions of the Patriot Act, a controversial law that gave the government new powers to go after suspected terrorists.

Asked why it was taking so long to set the board up, Connecticut Republican Rep. Christopher Shays charged, "It's not a priority for the administration."

The intelligence reform law of December 2004 called for the oversight board in response to a recommendation from the Sept. 11 Commission, which feared increased governmental powers needed to fight terrorism could erode civil liberties.

Top White House officials have said the board would address those concerns, and get the resources needed to do the job.

But almost eight months after its inception, the critics say the panel still only exists on paper, and lacks the money, power and presidential backing to ensure the entire government respects Americans' rights.

The Bush-appointed panel "is a very watered-down board without the kinds of powers which I believe are necessary to provide credibility and authority, such as independent subpoena power ... and a bipartisan process in selection," said Richard Ben-Veniste, a former Sept. 11 commissioner.

WATCHDOG

"We don't think the board serves as a credible watchdog," said Tim Edgar, national security policy counsel at the American Civil Liberties Union.

One frequent complaint concerns the board's budget. Bush requested $750,000, which Congress doubled to $1.5 million.

The Department of Homeland Security's privacy office, with a similar mission limited to that department, alone has a roughly $13 million budget, said Bennie Thompson, the top Democrat on the U.S. House of Representatives Homeland Security Committee.

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"I don't think you can do it for a million and a half," Shays said.

Critics, including Thompson, also ask why it took Bush half a year to nominate the five board members when it acted much faster to implement other, more complex parts of the 2004 law. The U.S. Senate must still confirm the chairman and vice chairman after it returns from its summer recess.

Shays, New York Democratic Rep. Carolyn Maloney and other lawmakers have proposed an amendment granting the panel greater independence and powers, including subpoena authority.

Right now, Maloney said, "It does not have teeth. It does not have enforcement. It does not have strength behind it."

Asked for comment, the White House sent a copy of a June letter to Republican Sen. Susan Collins and Democratic Sen. Joe Lieberman that said it would ensure the board had the resources to fulfill its mission and would re-examine the issue once the panel was up and running.

The two senators had written to the White House expressing concerns about the board's budget, as well as delays in setting it up and implementing other parts of the 2004 law.

"As we work to make America safer, it is equally important that we are careful to preserve the very liberties that we seek to protect," Collins told Reuters. "The board is critical in this regard."

Mary Fetchet, whose son died in the World Trade Center on Sept. 11, 2001, criticized the slow pace, "I am really shocked that in many instances in Washington I feel that there's this attempt to go back to the status quo, while I feel there should be a sense of urgency."

Under 11th Circuit Ruling, Domestic Terror Acts Can Bring Stiffer Penalties (LAW)

By Carl Jones, Daily Business Review

Law.com, August 5, 2005

Terrorism against civilians does not need to cross international boundaries for a terrorist to receive a longer sentence than suggested by federal sentencing guidelines, the 11th U.S. Circuit Court of Appeals has ruled.

The unanimous decision reversed a Fort Lauderdale, Fla., federal judge's finding that he could not reach a higher sentence by treating Stephen John Jordi as a terrorist on his guilty plea in an alleged plot to firebomb abortion clinics in Florida.

The three-judge panel's unanimous ruling Monday could open the door to stiffer sentences for domestic terrorism against civilians.

Although recent U.S. Supreme Court decisions have made federal sentencing guidelines advisory rather than mandatory, guidelines must still be considered before a judge decides a sentence.

The panel agreed with prosecutors that U.S. District Judge James I. Cohn could have gone higher than the guidelines. At issue in U.S. v. Jordi are rules developed by the U.S. Sentencing Commission to help judges interpret the guidelines.

"The district court determined the guideline range and then improperly determined that it could not grant an upward departure," wrote U.S. District Judge L. Scott Coogler of Alabama who was sitting on the panel by designation. "As a result, the guidelines were improperly applied and, thus, were not appropriately consulted."

Under the guidelines, an enhancement, or increased sentence, for a particular offense is an option when crimes like murder, kidnapping and arson were committed in an attempt to intimidate the government.

In Jordi's case, the government invoked a footnote allowing judges to consider an "upward departure," which is at the judge's discretion.

The Coconut Creek man was arrested in November 2003 just before the firebombing campaign was to begin. Jordi had checked out possible targets in South Florida but later shifted his focus north.

Jordi corresponded with imprisoned anti-abortion activist Paul Hill, who fatally shot a doctor and volunteer escort outside a Pensacola, Fla., women's clinic in 1994. Hill was executed in September 2003.

"I do not have the means to kill abortion doctors, but I do have the means to bomb clinics," Jordi told an informant. "Maybe that way I can dissuade other doctors from performing abortions."

He was indicted on charges of attempted arson, distributing information on the manufacture of an explosive device and possessing an unlicensed handgun silencer.

The government dropped the other charges in exchange for Jordi's guilty plea to attempted arson, which carries a five-year sentence by statute.

But Assistant U.S. Attorney John Schlesinger, now a Miami-Dade Circuit judge, argued that Jordi should receive a stiffer sentence because his plans to target churches he thought were too liberal, abortion clinics and gay bars were meant to "intimidate and coerce a civilian population."

Prosecutors contended that qualified him for an increased sentence under the sentencing guidelines applying the Antiterrorism and Death Penalty Act of 1996 and asked for a prison term of seven to 10 years.

At Jordi's sentencing hearing, Cohn said, "A higher sentencing range would more appropriately address the seriousness of the defendant's conduct." But he agreed with Assistant Federal Defenders Anne Lyons and Michael Spivack that the statutory definition of terrorism required that the crime "transcend national boundaries."

Cohn denied the government request for a harsher sentence than advised by the guidelines handbook and imposed a five-year prison term, setting the stage for the government's appeal.

The 11th Circuit said geography is not an issue in the sentencing guidelines for terrorism targeting civilians. The panel said guidelines require a two-pronged test: intent to scare civilians and whether the underlying crime is listed in the anti-terrorism law.

The 11th Circuit quoted the sentencing commission's reasoning in the U.S. Sentencing Guidelines manual: "The amendment adds an encouraged, structured upward departure ... for offenses that involve terrorism but do not otherwise qualify as offenses that involved or were intended to promote 'federal crimes of terrorism' for purposes of the terrorism adjustment."

Circuit Judges Joel Dubina and Charles Wilson also heard the appeal.

Jordi's sentence was vacated and his case was sent back to Cohn for resentencing.

'Safety Net' Group Created For Iranian-Americans (SFChron/AP)

San Francisco Chronicle/AP, August 4, 2005

Civil rights groups are creating what they call a "safety net" for Iranian-Americans.

Organizers of a campaign called "Iranian-American Know Your Rights" will hold town-hall meetings and try to bring together Iranian-Americans with FBI and Department of Homeland Security representatives.

The first meeting is planned for Los Angeles later in August or September.

"In the last 10 months, our office has received an unprecedented number of Iranian-American calls ... saying they're being subjected to FBI interviews and surveillance, security-clearance denials after they've had them for 25 years," said Banafsheh Akhlaghi, president of the National Legal Sanctuary for Community Advancement, a San Francisco civil rights group.

Valerie Smith, a spokeswoman for the Department of Homeland Security in Washington D.C., said Thursday the organization is "deeply committed to preserving civil rights and liberties."

She said Homeland Security leaders have met with similar groups and relayed their concerns.

"We attempt to foster relationships with communities — it's one of the most important things we can do," she said.

Rights Groups Focus On Iranians (MERCN)

By Katherine Corcoran

The San Jose Mercury News, August 5, 2005

Several prominent civil rights groups are coming together to create a safety net for Iranian-Americans, who have reported a spate of discrimination cases in the Bay Area in recent months -- from more FBI interrogations to loss of longtime security clearances.

Called Iranian American Know Your Rights, the campaign is designed to get information to a community, largely in the South Bay and on the Peninsula, that is traditionally highly educated and professional, but also very low profile.

``In the last 10 months, our office has received an unprecedented number of Iranian-American calls . . . saying they're being subjected to FBI interviews and surveillance, security-clearance denials after they've had them for 25 years," said Banafsheh Akhlaghi, president of the National Legal Sanctuary for Community Advancement, a San Francisco-based civil rights group for Muslims and people of Middle Eastern and South Asian heritage.

167 complaints

Akhlaghi said the rise coincides with the Bush administration's tough talk on Iran, the same phenomenon that occurred among Afghans and Iraqis in this country just before the United States declared war on their home countries. Her office has received 167 complaint calls since last fall, and for the first time since Sept. 11, 2001, the vast majority are from Iranian-Americans.

In her previous work as an immigration attorney, most calls have come from residents of other Middle Eastern or South Asian communities.

``Each time the government speaks out about one of these countries, it seeps into the society as well," she said.

Like other immigrant communities, many Iranian-Americans are afraid to report discrimination cases, particularly to federal agencies.

Services listed

The campaign includes spreading information about services available to help fight discrimination through the Internet and Iranian and mainstream media. They also plan town-hall meetings, bringing members of the Iranian-American community

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together with representatives of the FBI and Department of Homeland Security to build better relations. The first such meeting is planned for Los Angeles later in August or September.

Along with the National Legal Sanctuary and the ACLU, groups involved include Amnesty International, the Lawyers Committee for Civil Rights, the federal Equal Opportunity Employment Commission and the Iranian American Political Action Committee. The groups are focusing on fighting racial profiling, providing free legal representation and offering help with employment discrimination.

The campaign is part of an overall effort since Sept. 11, 2001, to track discrimination and hate crimes against Middle Eastern and South Asian communities. But Bay Area Iranian-Americans require special efforts, said Dalia Hashad of the American Civil Liberties Union.

Iranians are Persian, not Arabic, and speak Farsi.

``We weren't reaching the communities through our traditional outreach," Hashad said, ``going to mosques and putting stuff out in Arabic."

New York Police Sued Over Subway Searches (WP)

By Michelle Garcia

The Washington Post, August 5, 2005

NEW YORK, Aug 4 -- The New York Civil Liberties Union sued the city's police department Thursday, calling the random search of subway riders' bags unconstitutional and ineffective.

The lawsuit -- filed in a federal court on behalf of five subway passengers, including the son of a retired police captain and a naturalized citizen -- alleges that the program violates constitutional rights that protect against illegal searches and guarantee due process.

New York City's transit system is the first in the nation to institute regular, random checks of passenger bags. The searches began July 21, after terrorist suicide bombings two weeks earlier in London's transit system killed 52 bystanders. Critics not aligned with civil liberties activists also say the searches are ineffective but say they want police to begin racial profiling of passengers to emphasize searches of young men of Middle Eastern or Asian descent.

Civil liberties advocates said searches that are not based on suspicion do little to protect the public, particularly when mass-transit riders who refuse to submit to the searches are allowed to enter the subway system at another station.

"People are allowed to walk away, ensuring that only innocent people are searched," said Donna Lieberman, executive director of the NYCLU, who called the searches a "civil liberties surcharge on a Metrocard."

The searches are performed on a rough mathematical formula of one out of five to 10 people depending on foot traffic, according to police officials.

New York subways move 4.7 million passengers, nearly half of the nation's mass-transit riders. New Jersey riders boarding trains to New York recently became subjected to similar searches.

Gail Donoghue, special counsel in the city's legal department, called the NYCLU "shortsighted" and said in a written statement that the program "preserves the important balance between protecting our City and preserving individual rights."

City police officials said they have received no complaints about the policy.

The Supreme Court has approved the use of checkpoints in special circumstances, but in 2000 the court ruled that random searches could not be employed for the "ordinary enterprise of investigating crimes."

A plaintiff in the NYCLU lawsuit, Joseph Gehring Jr., the son of a retired police captain and a "lifelong Republican," said he began avoiding police checkpoints after his bags were searched. "I've been forced to act like a criminal in my own city when I have done nothing wrong," said Gehring, who lamented a lack of opposition by New Yorkers to the program. "We are becoming accustomed to having our liberties taken away."

New York state Assemblyman Dov Hikind (D) plans to introduce legislation in the state legislature within two months that will empower police officers to single out people based on national origin and ethnicity.

"Police officers need to keep specific attention to young people -- Middle Eastern, South Asian -- based on a profile that is so obvious," Hikind said.

New York City Council member James S. Oddo (R) said he will introduce a nonbinding resolution in support of the legislation.

On a Manhattan-bound subway, Princess Alexander, 38, offered her conditional support for the police searches, saying, "This is what we have to live with right now." But Alexander, an office manager, said she is opposed to racial profiling. "We have been singled out," said Alexander, who is black.

NYC Sued Over Police Subway Bag Searches (AJC/AP)

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By Larry Neumeister, Associated Press Writer

The Atlanta Journal-Constitution, August 5, 2005

NEW YORK — Five city subway riders and a civil liberties group sued the city Thursday to stop random police inspections of bags in subways, calling the searches ineffective, unconstitutional and a publicity stunt that does not enhance safety.

"It's a needle-in-the-haystack approach to law enforcement," said Donna Lieberman, executive director of the New York Civil Liberties Union, which filed the lawsuit in U.S. District Court in Manhattan.

She and other members of the group who spoke at a news conference to announce the lawsuit said they want police to stop terrorists and improve safety, but not with useless measures designed to give subway riders a false sense of security.

Christopher Dunn, the New York Civil Liberties Union's associate legal director, said the policy announced July 21 was akin to a random search of people's bags and packages on public streets and a violation of a fundamental civil right.

But Gail Donoghue, a city lawyer, said the subway searches meet all legal requirements and preserve "the important balance between protecting our city and preserving individual rights."

She added, "We believe the NYCLU is shortsighted in failing to recognize this. We are confident our position will prevail in court."

Spot checks by the NYCLU since the policy began show that police conduct the searches at few stations with little effect since anyone can refuse the search and enter the subway's 468 stations at another point, he said.

As a result, he said, only innocent people are subjected to the unreasonable search and seizure that the Constitution outlaws.

"What is the point of searching a bunch of grandmas going down the subway steps with their Macy's bags?" he asked.

Mayor Michael Bloomberg said he was disappointed that the NYCLU was challenging the tactic.

"The plan that we've come up with, where it's random and fair to everybody and adds to the security of this city, is the appropriate thing, and I'm just sorry that they've chosen to go in this direction," he said.

Among five plaintiffs was Brendan MacWade, 32, who escaped the World Trade Center towers after they were struck by hijacked planes on Sept. 11, 2001.

"I want to catch terrorists as much as any politicians or officials but this policy does not work," he said.

Homeland Security To Conduct Gas Tests In Midtown, Subways (NSDY)

By Bryn Nelson

Long Island Newsday, August 5, 2005

Amid heightened anti-terrorism vigilance in New York City's subways, a mammoth Department of Homeland Security-sponsored project starting as early as Saturday will seek to answer how harmful gases might disperse through midtown's streets and the warren of subway tunnels beneath them.

The simulation, which will use colorless, odorless and harmless "tracer" gases, follows a smaller effort in March that focused on the Madison Square Garden area. This time, a team of more than 150 researchers and volunteers working on the Urban Dispersion Program's second field study will fan out over a much larger section of midtown, ranging from 37th to 59th streets and from 10th to Third avenues, and including stations along the Broadway subway line and other lines in the area.

Scientists will release the gases at four of eight possible locations above ground, depending on the wind, within an office building and on a subway platform of the Broadway line at 50th Street and Seventh Avenue.

Six separate experiments are planned over the next three weeks, with specific dates dependent on the weather, and the subway portion planned for the final three release dates.

"We'll be looking at the interaction of the subways in how the gases are dispersed," said Paul Kalb, a senior research engineer at Brookhaven National Laboratory. "If we release on the ground level, the street level, some of the material may be drawn into the subways and moved around that way."

Likewise, releasing a gas in the subway will tell researchers whether that gas remains within the tunnel system or drifts up to street level, and how it disperses.

One of the substances is known as PFT, or perfluorocarbon tracer gas, a safe and extensively used labeling compound. Jerry Allwine, the project's lead scientist and an engineer with the Pacific Northwest National Laboratory in Richland, Wash., said the second type of benign tracer gas, known as sulfur hexafluoride, also has been used for years. With it, scientists can measure exposure rates at one-second intervals.

To collect the reams of data expected from the experiments, electronic monitors will be positioned on rooftops, in subway stations, in baskets hanging from lampposts, in a half-dozen unmarked vans, and in the pockets of volunteers simulating the movements of pedestrians and subway riders.

Another experiment in a midtown office building will analyze how air flows inside and exchanges with the air outside.

For more information, see http://urbandispersion.pnl.gov.

Eight Charged In DMV Bribe Scheme (SFC)

By Henry K. Lee, Chronicle Staff Writer

San Francisco Chronicle, August 5, 2005

(08-04) 12:14 PDT Oakland (SF Chronicle) -- Eight people, including four employees of the state Department of Motor Vehicles office in Oakland, have been charged in a scheme in which some of the DMV workers allegedly accepted thousands of dollars in bribes in exchange for providing driver licenses, identification cards and registration stickers for cars that did not pass smog tests, authorities said today.

Four of the defendants, including three DMV employees, appeared in U.S. District Court in Oakland this morning on charges that they accepted bribes to sell identification documents to non-U.S. citizens. All four were ordered to return to court Friday for further proceedings.

"The federal charges unsealed today allege that public employees accepted cash bribes to provide seemingly valid driver licenses to individuals not lawfully present in the United States," San Francisco U.S. Attorney Kevin Ryan said in a statement. "Upon learning of these allegations, federal and state law enforcement agencies aggressively pursued this investigation in an effort to identify all the employees engaging in such conduct."

The DMV employees who appeared in court were Brachelle Fifer, 43, Stephanie Davis, 37, and Leneka Pendergrass, 27, all of Oakland. They were immediately released from custody, and all three declined comment outside court.

Another DMV employee, Frances Aliganga, 53, of Fairfield and Veronica Rivera, 53, of Daly City were indicted on charges of conspiring to defraud the DMV. Rivera, who is not a DMV employee, allegedly served as a "broker" of fraudulently obtained documents.

From about November 2003 through June 2005, authorities said, Rivera recruited individuals who were living illegally in the United States and offered to sell them a California driver license or ID card for $3,000 to $4,500 each.

Rivera allegedly provided fraudulently obtained -- but real -- social security numbers that her clients could use in their DMV applications. After accepting approximately half of the bribe payment in cash, Rivera arranged for her clients to meet with DMV employee Aliganga, who along with Fifer, Davis and Pendergrass worked at the DMV office at 5300 Claremont Ave. in Oakland, according to the indictment.

Aliganga processed the clients' applications, provided them with temporary driver licenses and had valid driver licenses mailed to them, authorities said.

To bypass legal requirements, Aliganga entered into DMV computers information indicating that clients had provided proof of legal presence when no such documentation had been provided. Federal prosecutors said she entered fraudulent social security numbers for some clients and had driver licenses issued to clients who had not taken either a written or driving examination.

In return for her circumventing required steps and falsifying information, Aliganga received from Rivera a share of the cash bribe that each client paid to Rivera, authorities said. According to the indictment, Aliganga's and Rivera's scheme resulted in the issuance of more than 200 fraudulent California driver licenses and ID cards.

Fifer was charged with conspiring to commit fraud for entering false information into the DMV computer system to circumvent legal requirements, including proof of citizenship, to issue driver licenses to clients who paid cash bribes. She accepted $100 in cash each time she helped one of Rivera's clients get a license, and Aliganga also paid Fifer as part of the scheme, authorities said.

Davis and Shahid Hamid, 45, an Oakland video store owner who is not a DMV employee, were charged with selling vehicle registration stickers to individuals whose vehicles never passed a required smog test and selling California driver licenses to individuals who had taken neither a written examination nor a driving examination.

Hamid, sometimes in connection with another individual, then worked with and through DMV employee Davis, who processed the fraudulent vehicle registration or fraudulent driver license in exchange for a cash payment, typically $100 to $200 to bypass the smog requirements and $500 to issue a fraudulent driver license.

Pendergrass and non-DMV employees Keith Williams, 40, and Adrian Gomez Zepeda, 31, both of Oakland, were charged with providing California driver licenses and identification cards to individuals by illegally obtaining the identity of another person and issuing driver licenses to their clients that reflected the name and personal identifiers of another individual.

To execute the scheme, the two allowed their clients to circumvent various required DMV procedures, authorities said. Williams and Zepeda also allegedly recruited individuals willing to pay hundreds of dollars to obtain a fraudulent driver license or to register a vehicle that could not pass California smog requirements.

The fraudulent driver licenses and vehicle registrations allegedly were then processed by Pendergrass.

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8 Charged In DMV Bribery Scheme (BAYCITY)

Bay City News Wires, August 5, 2005

OAKLAND, Calif. -- The U.S. attorney's office announced Thursday that eight people, including four California Department of Motor Vehicles employees, have been charged in an alleged scheme to provide false identification documents to more than 200 non-U.S. citizens.

Prosecutors allege that DMV employees accepted bribes of up to $4,500 in exchange for providing California driver's licenses and identification cards to people who are in the United States illegally.

In an indictment returned on July 14 and unsealed Thursday, DMV employee Frances Aliganga, 53, of Fairfield, and alleged broker Veronica Rivera, 53, of Daly City, are charged with conspiring to defraud the DMV, the state of California and the people of California of "the right to Aliganga's honest services."

According to the indictment, from about November 2003 through June 2005, Rivera, who was not a DMV employee, recruited non-citizens and offered to sell them a California driver's license or identification card for $3,000 to $4,500 each.

Rivera allegedly provided fraudulently obtained, but real, Social Security numbers the clients could use in their DMV applications. After accepting approximately half of the bribe payment in cash, Rivera allegedly arranged for her clients to meet with Aliganga, who was a licensing and registration examiner at the DMV office in Oakland.

According to the indictment, Aliganga then processed these clients' applications and provided them with temporary driver licenses, and then caused valid driver's licenses to be mailed to them.

The indictment alleges that Aliganga entered into DMV computers that clients had provided proof of legal presence when, in fact, no such documentation was provided. She also is accused of entering fraudulent Social Security numbers for some clients. Some clients never took, let alone passed, written or driving exams.

Rivera gave Aliganga a share of the cash bribe that each client paid her, prosecutors said.

U.S. Attorney Kevin Ryan said in a statement, "Law enforcement has taken, and will continue to take, appropriate measures to minimize potential threats posed by this alleged conduct."

A second criminal complaint alleges that Brachelle Fifer, 43, of Oakland, input false information into the DMV computer system to circumvent legal requirements, including proof of citizenship, to issue driver's licenses to clients who paid cash bribes.

The complaint alleges that Fifer accepted $100 in cash each time she helped one of Rivera's clients get a California driver's license, and that Aliganga also paid Fifer for her role in the scheme.

A third complaint alleges that DMV employee Stephanie Denise Davis, 37, of Oakland, and Shahid Hamid, 45, of Oakland, sold vehicle registration stickers to individuals whose vehicles never passed a required smog test. They are also accused of selling driver's licenses to people who never took written or driving tests.

In a fourth complaint, DMV employee Leneka Pendergrass, 27, of Oakland, and non-DMV employees Keith Williams, 40, of Oakland, and Adrian Gomez Zepeda, 31, are charged with conspiring to provide California driver's licenses and identification cards to individuals by illegally using the identities of other people.

All four of the charged DMV employees -- Aliganga, Fifer, Davis, and Pendergrass -- were employed at the branch at 5300 Claremont Ave. in Oakland.

Aliganga and Rivera were previously charged by a criminal complaint and appeared before Magistrate Judge Wayne D. Brazil in Oakland in late June.

Rivera was released on a $500,000 bond secured by her home and various property of her relatives. Aliganga remains in custody.

Aliganga and Rivera are scheduled to appear before U.S. District Court Judge Claudia Wilken in Oakland on Monday.

Fifer, Davis, Hamid and Pendergrass were arrested Wednesday and were set to make their initial appearances before Brazil Thursday morning in Oakland. Zepeda is in custody on unrelated state charges.

The prosecution is the result of a two-year investigation by the FBI, the DMV, the Internal Revenue Service and the California Highway Patrol.

2 Jailed In Immigration Papers Plot (VP)

By TIM MCGLONE, The Virginian-Pilot

Virginian-Pilot, August 5, 2005

NORFOLK — A federal judge Thursday ordered a Central American man jailed on charges of producing phony immigration documents after learning that he had been convicted of manslaughter 15 years ago but had never been deported.

Margarito Diaz is one of two men charged in an investigation of mass-produced phony identifications used by illegal immigrants to remain in the country and obtain employment.

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Federal authorities arrested Diaz this week after executing a search warrant at his residence in Accomac in Accomack County . Another suspect, Perfecto Perez, was arrested after a similar raid at his home in Parksley, also in Accomack County.

Assistant U.S. Attorney Michael C. Moore said in court that Diaz "admitted he was involved in the large-scale production of documents."

The phony documents, Moore added, would have put illegal immigrants "on the fast track to U.S. citizenship."

Diaz has remained in this country despite a deportation order in 1990 following his conviction for involuntary manslaughter and failing to stop and provide aid at an accident, according to Moore and state court records. Moore said Diaz was involved in an alcohol-related fatal crash.

Records in Northampton County Circuit Court show that Diaz was convicted after being tried in 1989. Moore said Diaz served one year and 10 months in prison. Further details of the fatal crash were unavailable.

Court records show that Diaz is from Guatemala and that he has had an application for asylum pending at an immigration court in Northern Virginia. Immigration officials did not return calls for more information .

Magistrate James E. Bradberry ordered Diaz and Perez jailed without bond. But Bradberry had harsh words for immigration officials, questioning why Diaz was allowed to remain in the country. Immigration "has done absolutely nothing in the last 10 years," Bradberry said.

"It's only 9/11 that all of a sudden has gotten them off their butts," he added, referring to the 2001 terrorist attacks.

Agents from Immigration and Customs Enforcement, the FBI and the Virginia State Police conducted the raids.

At Diaz's home, agents found equipment, including a laminating machine, and paperwork capable of producing 500 fake identifications, including Social Security cards and permanent resident cards, Moore said. They also found $30,000 and a gun, he said.

Undercover agents in October had purchased two pairs of the documents from Diaz and in June purchased two pairs from Perez, according to court records. Each pair cost $120. Authorities said they were operating independently of each other.

Authorities would not comment on how many fake documents may have been sold or whether any were used in South Hampton Roads.

There have been numerous cases in recent years of illegal immigrants caught with phony work papers at area shipyards and military bases.

Diaz said in court papers that he worked in construction, earning $1,600 a month. He said he pays $375 a month for rent and supports three children.

Perez said in court records that he works for a Perdue chicken plant earning $1,800 a month and that he supports two children.

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Still Not Ready In The ER (WP)

By Arthur Kellerman

The Washington Post, August 5, 2005

One of the fundamental responsibilities of government is to coolly and dispassionately assess health threats against the populace and take decisive action to counter these threats.

Faced with the twin specters of mass casualties from international terrorism and emerging biological threats, our government has failed to take effective action on either front.

International terrorism's weapon of choice is explosives -- improvised and otherwise. The London attacks and the devastating Madrid bombings are only some of the more recent examples. Over the past decade terrorist bombings have caused many civilian deaths and injuries in Israel, Russia, Bali, Colombia, Iraq, Spain, Egypt, Yemen, Kenya, Tanzania, Argentina, Afghanistan, the Philippines and other places, including two U.S. embassies in Africa.

But unfortunately, rather than strengthen our nation's beleaguered emergency and trauma care system to meet this threat, the federal government has turned a blind eye to the problem. Across the United States, underfunded emergency rooms and trauma centers lack sufficient beds to meet their daily mission, much less absorb large numbers of victims from a terrorist attack. Few ambulance personnel know how to assess a blast scene or properly evaluate multiple casualties from a bombing. The tiny amount of federal funding ($3.5 million) devoted to trauma systems planning and development is being targeted for elimination by the House.

One reason we are so ill-prepared is that the bulk of federal preparedness funds have been poured into bioterrorism, a frightening but less likely threat. Over the past three years, billions in taxpayer dollars have been spent to purchase "sniffer stations," mount an ill-fated and ultimately unsuccessful vaccination campaign against smallpox, and stockpile antibiotics. There

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are 17 federally funded Centers for Public Health Preparedness in the United States that focus exclusively on biological and other exotic weapons of mass destruction. There is not one focused on civilian injuries from explosives.

But at least we are safer from biological agents, right? Well, no. Two years after SARS had a devastating impact in Southeast Asia and in Toronto -- arguably one of the most medically sophisticated cities in the world -- we are woefully unprepared to handle a recurrence of severe acute respiratory syndrome. We are even less capable of meeting a far more deadly threat: the emergence of a pandemic strain of influenza from Southeast Asia.

In 1918-19 the Spanish flu killed 20 million to 40 million people worldwide -- more than 500,000 in the United States alone. Many of the victims were young, healthy adults. Despite knowledge that pandemic strains occur every 10 to 50 years, and despite increasingly worrisome reports from Southeast Asia, we are woefully unprepared to protect the United States from an outbreak of pandemic flu. Federal officials are "meeting," but a national plan for countering pandemic flu has not progressed beyond the draft stage. State-level planning and preparedness efforts vary widely; no specific deadline exists for their completion. Despite overwhelming evidence that many hospitals are already diverting ambulances because of overcrowding, the Health Resources and Services Administration does not plan a meeting to discuss the lack of hospital "surge capacity" before next fall.

A year after the flu vaccine debacle, the United States still lacks sufficient production to meet its needs. Six to eight months of lead time are required to create a new vaccine. The virulence of the avian strain emerging in Southeast Asia is posing huge technical challenges to vaccine makers. Our approach to distributing vaccine and antiviral agents is woefully inadequate. Front-line paramedics, nurses and ER doctors lack adequate protective equipment for respiratory pathogens. Many cannot even get a shot of flu vaccine. America's most mission-critical hospital resources are struggling to meet daily demands, much less the additional burden of an epidemic.

It is ironic that our government's single-minded focus on "bioterrorism" has left us less well prepared to handle either an emerging biological threat (such as SARS or avian influenza) or a terrorist strike (which will most likely involve the use of explosives). Unless we quickly rethink our priorities and broadly allocate resources to meet the most plausible threats to the U.S. population, our only option will be a "faith-based initiative."

Pray that nothing happens.

The writer is professor and chair of emergency medicine at the Emory University School of Medicine in Atlanta.

WAR NEWS:

U.S. Contends Campaign Has Cut Suicide Attacks (NYT)

By Craig S. Smith

The New York Times, August 5, 2005

BAGHDAD, Iraq, Aug. 4 - A day after losing 15 marines in fighting along the Euphrates River, the American military command here said Thursday that suicide attacks had declined as a result of its three-month campaign to stem the flow of foreign fighters coming down the river valley from Syria.

Brig. Gen. C. Donald Alston, chief spokesman for the American command, said 13 car bombings occurred in Iraq last week, only three of which were suicide bombings, the lowest weekly figures since the current counterinsurgency campaign in western Anbar Province began. The military regards car bombings, suicide bombings in particular, as a rough measure of foreign fighter activity because it contends that most of the suicide bombers are foreign militants.

"When I look at the bar charts, the statistics are a clear indication that the tempo of suicide attacks has decreased," General Alston said, noting that the percentage of car bombings involving suicide bombers was as high as 60 percent a few months ago. He expressed optimism that the flow of foreign fighters was ebbing. "This is not an expanding insurgency," he said.

Fourteen marines were killed when a roadside bomb hit their vehicle on Wednesday near Haditha, in western Iraq, and the American military said Thursday that another marine was killed Wednesday by small arms fire during operations in Ramadi, a volatile city about 70 miles farther down the Euphrates, west of Baghdad.

At least 24 marines have been killed in the last week in fighting along the Euphrates, one of the bloodiest periods for American forces in months.

The explosives that killed the marines and an Iraqi civilian near Haditha on Wednesday were three antitank mines stacked atop one another and buried under a highway on which the American vehicle was traveling, an American military officer in Washington said Thursday. It was unclear whether the mines had been remotely detonated or had been triggered using a fuse, said the officer, who spoke on the condition of anonymity because the conclusion about the cause of the blast was preliminary and under review.

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The marines were in an amphibious assault vehicle. A Marine spokesman, Austin Johnson, said Thursday that the Marines have about 100 of the vehicles in Iraq, and that each has been reinforced with corrugated steel armor plates. The undercarriages have no additional protection, although Marine officials are discussing how to add such protection. But several senior military officials said Thursday that there would have been no effective protection against a triple-stacked mine. The United Nations Security Council passed a resolution on Thursday condemning terrorist attacks in Iraq. In his first public remarks as the new American ambassador to the United Nations, John R. Bolton urged Syria, Iran and other member states to cooperate in preventing the flow of terrorists, weapons and money to Iraq.

Foreign fighters, mostly Saudis and Egyptians, senior American military officers said, have been entering Iraq from Syria along Iraq's vast western border.

Most of those fighters are believed to enter north of where the Euphrates River crosses into Iraq. Because the American military presence has until recently been on the south side of the river, the north side had become something of a sanctuary for insurgents moving foreign fighters south along the river to Baghdad and north across desert tracks to Mosul.

Only a few bridges cross the Euphrates between the Syrian border and Haditha, a small farming town where an American Marine base protects a dam and a hydroelectric plant that supplies power to Baghdad. Even fewer of the bridges are substantial enough for armored vehicles to cross the Euphrates safely.

The American military began addressing the flow of foreign fighters in May with a major operation along the Syrian border north of the Euphrates. The military said it had killed at least 125 foreign fighters in those operations, convincing Gen. George W. Casey Jr., the top American commander in Iraq, that it was time to focus on the area.

A combat outpost was built on the north side of the river near Rawah to give logistical support to special operations forces moving by helicopter on raids on the north side of the river, General Alston said. An Army quick reaction force was sent to aid the raiders if they had trouble. An Iraqi unit was based nearby to control the bridge and help patrol the area.

"Now we own the Rawah bridge, and they can't move across the river," a senior officer in Baghdad, who agreed to describe the campaign on the condition of anonymity, said Wednesday, adding that "the operations are making it harder and harder for them to move around."

The marines based at Haditha have begun a major hunt for insurgents south of the river.

Operations and intelligence officers say they do not believe that more than a few dozen insurgents operate in the area but that the new military presence north of the river has caused a response.

"We struck a nerve," the senior officer said.

Prime Minister Ibrahim al-Jaafari announced Thursday that his government had drawn up a 12-point plan for improving security in the country, including turbulent Anbar Province. He said the specifics would remain secret, but that the initiative was necessary to spur Iraqi forces toward assuming full responsibility for security in much of the country as soon as possible.

A suicide bomber blew himself up at noon on Thursday about 30 miles south of Kirkuk in the north, killing four other people, including two members of a Shiite militia, said an Iraqi army officer in the region. The militia members, loyal to the Shiite cleric Moktada al-Sadr, were traveling south in a convoy and later attacked a village near the scene of the bombing, the official said.

Three policemen were reported killed in Kirkuk in a separate car bombing, Iraq's Interior Ministry said.

Kirkuk is one of Iraq's main oil centers. Its future will be hotly debated at a meeting of Iraq's political leaders beginning Friday in Baghdad. Kurds want the government to force out Arabs who were resettled in the city under Saddam Hussein. But despite an agreement by the transitional government last year to move Arabs out, the current, elected government of Mr. Jafaari has resisted the plan.

The new American ambassador, Zalmay Khalilzad, angered many Kurds in a surprise visit to the city on Wednesday when he told the City Council that the United States would not support the deportation of Arabs.

"We cannot accept this statement and consider it as a tool to marginalize the Kurds in the city," said Babakr Kirkukli, a senior Kurdish politician and member of the council.

Two bodies bearing marks of torture were found Thursday in eastern Baghdad, the Iraqi Interior Ministry reported, and in Amiriya in western Baghdad, a roadside bomb wounded two civilians. In a separate incident in Amiriya, armed men attacked a convoy of cars belonging to Mehdi al-Hafidh, a former minister of the transitional government that left power after elections this year. One guard was killed. Mr. Hafidh was not in the convoy.

In neighboring Jordan, the government arrested 17 men it said were linked to Al Qaeda in Iraq and were plotting to attack American military personnel who frequent Jordan's five-star hotels while on leave in Iraq, The Associated Press reported.

U.S. Defends Operations In Western Iraq (NSDY/AP)

By Tini Tran, Associated Press Writer

Long Island Newsday, August 5, 2005

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BAGHDAD, Iraq -- The U.S. military defended its operations in western Iraq, insisting it is reducing insurgent attacks despite the deaths of 14 Marines in a huge bombing. Four more U.S. service members were killed in action, the military said Thursday.

Iraq's prime minister sought to assure his demoralized public that the government is on top of the security situation, announcing a new plan for restoring order and declaring "we are in a state of war."

U.S. military spokesman Brig. Gen. Donald Alston said American military operations in Anbar province, which includes the area where the Marines died, have succeeded in disrupting insurgent activities.

"We still have deaths. We still have suicide car bombs," he said. "But the numbers we see indicate (the insurgents) can't generate the same tempo, and I think that's because we've had some degree of effect in interdicting these forces."

Alston cited figures showing there were 13 car bombs in Iraq last week -- the lowest weekly number since April. "There's a clear indication to me that the tempo has decreased."

U.S. troops have stepped up operations in recent months in Anbar province, the center of the Sunni Arab-dominated insurgency and a major avenue for foreign fighters infiltrating the country from Syria.

Alston warned that militants will likely rally their forces in a concerted effort to derail the country's political progress, including a referendum on the constitution in October and an election in December.

U.S. commanders have warned that although the number of vehicle and roadside bombings are decreasing, they are increasing in potency and sophistication. Bombs on the roads or planted in vehicles account for 70-80 percent of the U.S. deaths in Iraq, command spokesman Lt. Col. Steven Boylan said.

The blast that killed the 14 Marines and their civilian translator on Wednesday was so powerful that it flipped the 25-ton vehicle and engulfed it in a huge fireball. The extremist Ansar al-Sunnah Army claimed responsibility in a Web posting and said its fighters used two bombs to destroy the vehicle.

A roadside bomb late Wednesday killed three U.S. soldiers in Baghdad, the U.S. command said. A Marine was killed Wednesday by small arms fire in Ramadi, the capital of Anbar province 70 miles west of Baghdad, the command added.

Officials in Georgia said the three soldiers killed in Baghdad were assigned to the 48th Brigade of the Georgia National Guard. The 48th has lost 11 soldiers since arriving in Iraq in May.

At least 1,826 members of the U.S. military have died since the Iraq war started in March 2003, according to an Associated Press count.

During a news conference Thursday, Prime Minister Ibrahim al-Jaafari announced a new 12-point security plan. He gave few details but said it included steps to improve intelligence, protect infrastructure and prevent foreign fighters from entering the country.

"We will not hesitate in saying this: We are in a state of war. It is one of the most dangerous types of war because it is not a conventional or a war of borders," he said.

Al-Jaafari noted that the United States and its coalition partners were trying to boost Iraqi forces to take over security from multinational forces.

"The people believe that they should depend on themselves and it is a matter of time. Iraq is now taking major steps in training its forces," he said.

Earlier in the day, Interior Minister Bayan Jabr said Iraqi security forces have started a nationwide operation to protect the country's estimated 544 voter registration centers for the constitutional referendum and election.

In Washington, Sen. Joseph Biden, the ranking Democrat on the Senate Foreign Relations Committee, called the Iraq campaign a tough situation "that's going to get tougher before it gets easier."

"The truth of the matter is that we've made some pretty significant miscalculations in term of policy from the outset, and we leave these Marines in a very, very tough spot," Biden said Thursday on CBS's "The Early Show."

Battle For Control Of Western Iraq's Routes Escalates (FT)

By Neil MacDonald

Financial Times, August 5, 2005

Iraqi insurgent bombers have dragged US armoured patrols into an escalating battle over the highways and back roads of western Iraq, a senior US military spokesman said on Thursday.

However, despite a series of lethal attacks on US forces this week in western Iraq, which have claimed the lives of 28 US soldiers in the past four days, US commanders saw no reason to change their overall approach to the counter-insurgency battle, the spokesman said.

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Brigadier General Donald Alston also denied that Haditha, the Euphrates valley town around which most of the attacks have taken place, was becoming “another Falluja” referring to the insurgent stronghold that was subject to a US military siege in November last year.

Nevertheless, Brig Gen Alston said the size of the bomb that killed 14 marines aboard an amphibious assault vehicle near Haditha on Wednesday showed that the insurgents continued to adapt their attacks on US forces.

The bomb, or improvised explosive device, killed all but one of 15 marine reservists aboard an amphibious assault vehicle, along with their interpreter

Brig Gen Alston said the size of the device indicated that the insurgents “have been motivated” to increase the potency of their bombs after the US had, in turn, upgraded the armour protecting their vehicles.

A roadside bomb late on Wednesday killed three US soldiers in Baghdad, the US command said. A marine was killed the same day by small arms fire in Ramadi. Both sides in Iraq's two-year-old guerrilla war were constantly adapting their practices to gain the advantage, Brig Gen Alston said. “We're never static when it comes to protecting our forces.”

The deadly attacks on marine reservists around Haditha have raised questions about whether these lightly protected shock troops are adequately equipped for the protracted counter-insurgency battle that has unfolded in the Euphrates valley since May.

While the destroyed marine vehicle was lighter than the Bradley infantry carriers in use with the US army, its armoured protection exceeded the minimum protection previously allowed on US combat vehicles.

Higher armour standards for all US combat vehicles this year reflected a high-level decision “to respond to this threat posed by the terrorists”, Gen Alson said. “Naturally, in response, the terrorists try to adapt.”

While civilians make an easy target, the guerrillas have also producing more sophisticated devices to keep up the pressure on US patrols, Gen Alston said.

Shaped charges, for example, can direct the force of a blast to maximise its effect. Some of the devices being used most recently in western Iraq are reportedly of a type previously used by Hizbollah, the south Lebanese resistance group.

U.S. Toll Rises By 4 In Iraq; Reserves Hit Hard In Recent Attacks (WP)

By Jonathan Finer

The Washington Post, August 5, 2005

BAGHDAD, Aug. 4 -- The U.S. military said Thursday that four more GIs were killed Wednesday, a Marine in the central city of Ramadi and three soldiers in a car bombing in southwest Baghdad.

Their deaths, along with those of 14 Marines in western Iraq announced earlier, brought Wednesday's U.S. toll to 18.

The start of August has been among the bloodiest stretches for American forces since the 2003 invasion of Iraq, and non-active-duty service members have been hit hardest. Twenty-one Marines killed in three separate incidents this week were reservists, and the soldiers killed Wednesday were from the Georgia National Guard.

About 30 percent of the 138,000 U.S. troops in Iraq are from the National Guard and reserves.

The news of more U.S. fatalities came on a day in which the Iraqi prime minister announced a new security plan and said Iraqi forces were making the country safer, while the top U.S. military spokesman in Iraq told reporters that data showed the tempo of insurgent attacks was decreasing.

"The security situation is improving, especially Iraqi security forces with regard to both quality and quantity," said Prime Minister Ibrahim Jafari, who outlined a 12-point security program for Iraq on Thursday afternoon.

Under the new plan, four separate intelligence services will be consolidated into a central operation, and responsibility for security of the country's infrastructure -- such as oil pipelines and the power grid -- will be put in the hands of Deputy Prime Minister Ahmed Chalabi. Jafari provided few other details, beyond general pledges to do things such as secure Iraq's borders and improve relations with its neighbors.

At a news conference later, Air Force Brig. Gen. Donald Alston, the military spokesman, said the insurgents "can't generate the same tempo" of attacks as in previous months. The 13 car bombs detonated across Iraq last week represented the fewest since April, Alston said, although he declined to provide data for other forms of insurgent attacks such as roadside bombs.

"This is not an expanding insurgency," Alston added. "What we are seeing is probably the opposite."

Insurgent tactics have gotten more effective and sophisticated, Alston acknowledged, saying the rebels have modified their attacks to counteract improvements in the armor applied to U.S. vehicles, using larger and more lethal forms of explosives. "What we are seeing is an adaptive enemy," he said.

In Baghdad, the three soldiers killed Wednesday night were from the 48th Brigade of the Georgia National Guard, which arrived in Iraq in May. A spokeswoman with the unit, 2nd Lt. Selena Owens, said another soldier was seriously wounded.

The 48th Brigade has lost 11 members in insurgent attacks in less than two weeks and another in a noncombat incident. Thursday evening, she said, soldiers held a memorial service for four soldiers killed by a roadside bomb Saturday.

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Elsewhere in Iraq on Thursday, three policemen were killed in the northern city of Kirkuk, and 20 miles to the south, in Daquq, a suicide car bomb detonated near a convoy of vehicles bearing followers of Shiite Muslim cleric Moqtada Sadr. Four were killed and five wounded, according to Iraqi army Lt. Col. Halkot Omar.

U.N. Condemns Attacks In Iraq As 'Horrific' (WT)

By Betsy Pisik

The Washington Times, August 5, 2005

NEW YORK -- The U.N. Security Council voted unanimously yesterday to condemn recent "shameless and horrific attacks" in Iraq and called on Iraq'sneighbors to halt the flow of terrorists and weapons.

The U.S.- and British-sponsored resolution "condemns without reservation and in the strongest terms the terrorist attacks that have taken place in Iraq, and regards any act of terrorism as a threat to peace and security."

The council met one day after 14 Marines and their civilian interpreter were killed in western Iraq during a particularly bloody week for U.S. forces.

"This resolution highlights the critical importance of cooperation among all member states to halt the flow of terrorists, weapons and terrorist financing to Iraq," said U.S. Ambassador John R. Bolton in his first council appearance since being appointed by President Bush.

Mr. Bolton called on Iran and Syria to honor international commitments to promote stability in the region.

Iraqi Ambassador Samir Sumaida'ie said, "Iraq is paying in blood and treasure, the blood of its innocent civilians and the wealth it badly needs for reconstruction and healing, in a fight against this multiheaded modern-day monster."

Britain, Brazil, France, Greece, China, Romania, Algeria and Argentina also spoke in support of the resolution, which warns that "acts of terrorism must not be allowed to disrupt Iraq's political and economic transition currently taking place."

Russian Deputy Ambassador Alexander Konuzin endorsed the resolution, but also called for a "time frame and conditions for the withdrawal of all foreign forces" from Iraq.

"Without solving these items, the reasons for the continuation of terrorist activity in Iraq will not be ended," Mr. Konuzin said.

American military commanders are concerned that insurgents are pouring over the borders, primarily from Iran and Syria.

Attacks against Iraqi civilians and security forces, as well as U.S. forces, have intensified in recent weeks: foreign diplomats have been kidnapped and killed; Iraqi officials and drafters of a constitution have been assassinated; Iraqi police stations and markets have been targeted.

Since Monday, 21 U.S. Marines and soldiers have died in increasingly ferocious and sophisticated attacks.

Mr. Sumaida'ie, the Iraqi ambassador, told reporters after the council session that Syria had assured Baghdad that it is trying to stem the flow of terrorists "but we keep seeing this."

Mr. Sumaida'ie, whose nephew was killed during a raid by U.S. forces two months ago, said that Iraq's security is foremost the responsibility of the Iraqi government.

Most of the attacks are carried out by Saddamists, Islamists and organized crime cells, the ambassador said.

Iraq's Prime Minister Unveils Plan For Better Border Security (KRT)

By Hannah Allam And Richard Chin

Knight Ridder, August 5, 2005

BAGHDAD, Iraq - The Iraqi government on Thursday announced an ambitious plan for improved border protection and intelligence gathering and for the formation of an elite Iraqi force to prepare the embattled country for an eventual drawdown of American troops.

Iraqi Prime Minister Ibrahim al-Jaafari's announcement of the 12-point security program follows a particularly bloody week for U.S. forces battling Sunni Muslim insurgents in western Iraq. At least 24 Marines have been killed in action in the last week, underscoring the sophistication and persistence of an enemy that fledgling Iraqi forces are so far unable to combat on their own.

President Bush, speaking in Crawford, Texas, dismissed a threat by Ayman al-Zawahri, the No. 2 al-Qaida leader, to kill tens of thousands of U.S. troops in Iraq.

"We will stay the course," Bush said. "We will complete the job in Iraq. And the job is this: We'll help the Iraqis develop a democracy."

Bush also expressed condolences for the families of the Marines killed in Iraq.

"I hope they can take comfort in the fact that millions of their fellow citizens pray for them. I hope they also take comfort in the understanding that the sacrifice was made in a noble cause," Bush said.

In Baghdad, al-Jaafari said multinational forces would stay in Iraq.

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"The multinational forces have a role to play. If not, we would have already asked them to leave," al-Jaafari told a news conference in Baghdad. The security plan "is an entirely Iraqi plan, with an Iraqi perspective, Iraqi timing and an Iraqi way of dealing with matters."

Also on Thursday, the U.S. military said three soldiers died when their vehicle was hit by a car bomb in southwest Baghdad Wednesday night and that a Marine was shot to death in Ramadi, the capital of the volatile Anbar province west of Baghdad.

The Marine was killed Wednesday, the same day 14 other Marines and their Iraqi translator died in the town of Haditha when their armored vehicle was ripped apart in the deadliest roadside bombing of a U.S. combat vehicle since the war began.

The Army of Ansar al-Sunnah, a well-known insurgent group with ties to al-Qaida, claimed responsibility for the attack in an Internet posting Thursday that couldn't be verified.

On Monday, six Marines died near Haditha when their foot patrol came under small-arms fire, and a Marine fighting near Hit was killed by a suicide car bombing.

The bombing in Haditha destroyed a lightly armored amphibious assault vehicle used by Marines that was designed to carry troops from ship to shore for use in land operations and wasn't intended for day-to-day inland patrolling, according to military analysts.

But military spokesman U.S. Brig. Gen. Donald Alston said Thursday that the vehicles had "Level 2" protection, which is described in a military press release as a vehicle with improved armoring.

"That decision by the leadership to deploy that much armor was in response to the threat imposed by the terrorists," he said.

Alston said, however, that it was a "quite potent" bomb that hit the Marines.

He said insurgents have been improving their bomb technology and tactics in response to the increased armoring.

"I think what we're seeing here is an adaptive enemy," he said. "We're seeing occasionally these exceptional bombs. We do not see this kind of lethality every day."

Alston said the attacks show that the military is pressuring the insurgency in the Euphrates River valley.

"This is ground that they need to sustain themselves and they are being denied that ground," he said.

He said in the last couple weeks the number of car bombings has decreased to its lowest level in the last few months.

He warned that insurgents may step up their efforts in response to a new constitution that Iraqi leaders are developing.

But he said, "This is not an expanding insurgency."

"What we're seeing is probably the opposite," Alston said.

Alston also lashed out at a video posted on the Internet that allegedly shows one of the Marines killed near Haditha.

"The shameful act of exploiting dead bodies to promote their cause is deplorable," he said.

Iraq's premier offered few details on the 12-point security plan.

One of the cornerstones of the plan is better coordination among Iraq's intelligence agencies. Among the other measures: the formation of an elite Iraqi quick-reaction force, the creation of a War Information Office to counter insurgent propaganda, and increased security along Iraq's borders - especially with Syria, Saudi Arabia and Iran - to staunch the flow of insurgents and weapons.

In other violence Thursday:

-Gunmen stormed the Baghdad home of Haider Mohammed al-Dujaili, the director of public relations for Deputy Prime Minister Ahmad Chalabi, and executed him in front of his wife and children.

-Two Iraqi commandos from the elite Wolf Brigade were killed in a car bombing near a Shiite shrine in the city of Daquq, north of Baghdad. The blast also killed two members of a visiting delegation from the rebel cleric Muqtada al-Sadr's Mahdi Army militia.

-Iraq's former planning minister, Mahdi al-Hafidh, survived an assassination attempt on Baghdad's notorious airport road. Gunmen opened fire on his car, injuring one of his guards and three civilian passers-by, according to Iraqi authorities.

Chin reports for the St. Paul Pioneer Press. Knight Ridder Newspapers special correspondent Mohammed al Awsy contributed to this report.

Iraqi Women Urge U.S. To Protect Their Rights (WT)

By Sharon Behn

The Washington Times, August 5, 2005

Iraqi women took their fight for equal rights to American lawmakers yesterday, urging them to use their influence to see that women's rights are protected in the new constitution.

With just 10 days until delegates in Baghdad present the final draft of Iraq's basic law, it is still not clear how large a role will be given to Islamic Shariah law, which traditionally subordinates women to men.

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"The [American] men and women, the brave people who went there to free [Iraqis] from Saddam [Hussein], they didn't free them to put them under another dictatorship; that is very clear to all of us," said Basma Fakri, president of the Women's Alliance for a Democratic Iraq.

During an appearance in Washington yesterday, she said it was entirely appropriate for President Bush, the Senate and House to let Iraq's constitutional negotiators know "that Iraq should be free."

"That was the mission. We don't want to go back in time, we don't want to create another dictatorship. That should be clear and loud to the Iraqi government and to the constitutional committee," she said.

The appeal has had some success in Washington, where the House passed a resolution last week that "strongly encourages Iraq's Transitional National Assembly to adopt a constitution that grants women equal rights under the law and to work to protect such rights."

The resolution also "pledges to support the efforts of Iraqi women to fully participate in a democratic Iraq."

However, with Congress in recess during the crucial last two weeks of the constitution-writing process, little more pressure is likely. Calls to several congressional offices yesterday found mainly staffers who were unwilling or unable to comment on the issue.

One exception was the office of Rep. Frank R. Wolf, Virginia Republican. Spokesman Dan Scandling said Mr. Wolf sent a letter to the Bush administration Wednesday night "expressing concern about religious freedoms and other potential rights' erosion" in Iraq.

Early drafts of the new Iraqi constitution said Shariah law, which sharply limits women's rights to own and inherit property among other things, should be the main source of all law in Iraq. The drafts also declared that women will hold at least 25 percent of legislative seats only in the first two terms.

A draft that became public on Wednesday amended the key clause to say that Islam would be "one of the main sources" of the law. The Iraqi women welcomed the change but said continued pressure was needed.

The women also are demanding that all international treaties regarding human rights and women's rights be honored in the constitution, and that guarantees of female representation in the parliament and government be made permanent.

"The draft constitution as we have seen is a cause for alarm and a call for action," Miss Fakri said.

Tanya Gilly-Khailany, representing the Foundation for the Defense of Democracies, said women's rights activists have presented their case to U.S. officials, the United Nations, British Foreign Minister Jack Straw and the European Union.

Zainab al-Suwaij, executive director of the American Islamic Congress, rejected arguments put forward by officials of Iraq's dominant Shi'ite coalition that Iraq's culture was not ready to go beyond Shariah law.

"Iraq has a very high population of educated people and they are all aware of women's rights, and we are not asking for anything beyond the norm of our culture and religion," she said.

Women had many rights in the early years of Saddam Hussein's rule and were active in the workplace, but these rights steadily deteriorated toward the end of his dictatorship as he tried to court Islamic support.

The insurgency, which has targeted all sectors of Iraq's society, also has hit women hard, killing professional women and threatening those not wearing Islamic head coverings. Christian women regularly wear scarves and long skirts to avoid being targeted on the streets.

The Enemy Of Hope (LAT)

The Los Angeles Times, August 5, 2005

U.S. generals have warned for months that insurgents in Iraq are increasing the sophistication of their tactics to match countermeasures by U.S. forces. Wednesday's roadside bombing that killed 14 Marines demonstrates the truth of that message — and the ever more deadly danger to American troops.

With the U.S. death toll now past 1,800, the need for a constitution that knits together Iraq's three disparate groups is ever more evident. The interim assembly is writing the country's basic law and is supposed to publish it a week from Monday. Kurds, Sunni Arabs and Shiites are arguing over fundamental issues, including the role of Islamic law and the rights of women.

A constitution will be a step forward. But it would be a mistake to infuse Aug. 15 with too much significance. There have been other supposedly transformative events — the capture of Saddam Hussein in December 2003, the transfer of sovereignty from U.S. occupiers to Iraqis in June 2004, the Iraqi parliamentary elections last January — that have failed to end the violence in Iraq.

Agreement on important issues, followed by approval of the constitution and new elections for a national assembly by year's end, could well give Iraqis a sense that they are represented by lawmakers in a way that was impossible under Hussein. And that could weaken support for the militants who kill not just U.S. troops but Iraqi civilians as well.

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Against this hope, however, lies the horrific reality of this week. The servicemen killed Wednesday were from the same Ohio Reserve unit that lost five Marines in Iraq on Monday. Their deaths brought to Brook Park the sorrow so often felt in military towns, such as Camp Pendleton, that are home to regular forces.

The 14 Marines killed were riding in a troop carrier in western Iraq, an entry route for fighters from Syria.

A huge roadside bomb flipped the 25-ton vehicle over and sent it into flames. Military spokesman Brig. Gen. Carter Ham said recent months brought a decrease in the number of attacks from improvised explosive devices but an increase in the power and lethality of the explosives planted in the path of U.S. vehicles. New weapons have been modified to concentrate the area of an explosion and increase the likelihood that it can penetrate armored vehicles.

The U.N. Security Council on Thursday condemned the violence in Iraq and urged other nations to prevent the movement of fighters, weapons and terrorist financing into the country. That would be a help in fighting insurgents.

Longer term, Iraq needs more trained police and soldiers to help U.S. forces and eventually replace them, and an elected, representative government that can make Iraqis safe in their homes and on the streets — and satisfy neighboring countries that the threat of an invasion from Baghdad is part of the past.

Voice Of Experience (USAT)

USA Today, August 5, 2005

During the Vietnam War, Navy Lt. Cmdr. John McCain was held captive for 5½ years in North Vietnam, where he was placed in solitary confinement and tortured repeatedly. McCain, now a Republican senator from Arizona and the nation's most celebrated ex-POW, has a crisp message for the Bush White House and Pentagon about how to treat detainees: You've got it wrong.

As a fix, McCain is sponsoring a pair of amendments to the defense bill awaiting the return of Congress in September. In short, the amendments would:

·Bar the military from treating detainees in “cruel, inhuman or degrading” ways.

·Require military interrogators to stick to interrogation methods laid out in the Army field manual, the traditional guidepost.

This might sound uncontroversial, but the White House and Pentagon are fiercely resisting McCain's measures.

Vice President Cheney describes the amendments as intrusions on presidential authority. From the Pentagon's perspective, McCain wants to solve a problem that has already been taken care of.

Last month, however, top military brass offered Congress conflicting testimony about what interrogation methods are allowed. If they can't keep that straight, McCain wonders, how can lower-ranked military interrogators? A classified annex in the new Army manual will solve the problem of terrorists knowing the techniques, the senator says.

McCain and the senators who support him worry about the consequences of the constant trickle of horror stories. Recent reports cast more doubt on claims that the use of dogs and other abuses at Iraq's Abu Ghraib prison were isolated incidents confined to lower-level deviants working the night shift.

This week, The Washington Post reported on the death of an Iraqi general who, in November 2003, was beaten and then stuffed headfirst into a sleeping bag, where he died.

In June, Time laid out disturbing details behind the questioning of Mohamed al-Kahtani in late 2002 at the U.S. prison camp in Guantanamo Bay, Cuba, which included treating the suspected Saudi terrorist as a dog.

It's tempting to support a “whatever it takes” policy for interrogating suspects believed to have knowledge of terror plots. But a former POW like McCain recognizes the downsides.

Abusing terror suspects only invites abuse of captured U.S. soldiers in current and future conflicts. Moreover, the abuses undermine the critical public diplomacy part of the war on terror by convincing Muslims that U.S. commitment to justice and human rights is hollow.

The Pentagon is making some progress. On Thursday, it announced that Afghans held at Guantanamo Bay would be returned to their country. That should help ease the international focus on Guantanamo.

More is needed. McCain's legislation would provide clear standards for the treatment of detainees and prisoners, something that's been sorely lacking. In a recent exchange about his amendments, McCain answered a senator who questioned whether terrorists should be treated as POWs. Replied McCain: This is not about terrorists. This is about who we are.

If Bush administration officials want to get past the prisoner-abuse scandals, they should listen to someone who learned those lessons the hard way at the Hanoi Hilton.

Don't Tie Our Hands (USAT)

By Lawrence Di Rita

USA Today, August 5, 2005

DOJ_NMG_0002269

Intelligence is one of America's most important tool in the global war on terror. Since the Sept. 11 attacks, interrogations of captured terrorists have provided valuable information helping the United States understand the organizational structure of al-Qaeda, its methods and locations for terrorist recruitment, and the extent of its presence in this country. Intelligence from detainees has stopped attacks and saved American lives.

This kind of valuable, actionable intelligence has come from the rigorous, professional and humane interrogations of captured terrorists and their affiliates and supporters — interrogations that have saved countless American lives.

In a joint resolution after the 9/11 attacks, the Congress recognized the president's "authority under the Constitution to take actions to deter and prevent acts of international terrorism against the United States." That authority was strongly re-affirmed by the U.S. Court of Appeals last month with regard to the military trials of enemy combatants.

But some want to limit this authority by making Congress — not military commanders, the secretary of Defense and the commander in chief — the arbiter of standards for interrogating captured terrorists.

This proposed change, which would essentially limit interrogation methods to those published in a U.S. Army field manual, would hamper the country's ability to readily adapt and update interrogation methods to obtain intelligence from al-Qaeda detainees who we know are trained to resist known interrogation techniques, and trained to allege that they were abused by their interrogators.

America's enemies are dangerously familiar with many of the U.S. Army-approved procedures for interrogations. While the Army field manual properly serves as the basis for interrogations, restricting techniques to those published in the manual would make it still easier for captured terrorists to anticipate and resist interrogations.

The U.S. military has successfully detained and interrogated nearly 70,000 individuals since 9/11. The vast majority of these interrogations have been conducted professionally and with impressive results. Where policies were violated, people are being held accountable and, where necessary, procedures revised and improved. The concerns behind well-intended but unneeded legislation are taken and addressed with energy.

Now is not the time to tie the hands of military commanders. We must have the flexibility to adapt to a ruthless, thinking enemy.

Lawrence Di Rita is special assistant to the secretary of Defense and chief spokesman for the Defense Department.

U.S. Plans To Transfer Afghan Prisoners (NYT/REU)

By Reuters

The New York Times, August 5, 2005

WASHINGTON, Aug. 4 (Reuters) - The United States will return about 110 Afghan prisoners now at Guantánamo Bay, Cuba, to Afghanistan, where the Afghan government will decide whether to detain or release them, American and Afghan officials said Thursday.

The Pentagon said an additional 350 Afghans detained by the American military at Bagram Air Base in Afghanistan would be handed over to the Afghan government after other facilities were built and guards trained.

The agreement on the "gradual transfer" of Afghan prisoners, among about 510 terrorism suspects held at the United States Naval Base at Guantánamo Bay, was reached after President Hamid Karzai of Afghanistan said during a visit to Washington last spring that he wanted custody of his countrymen.

Although Washington has already handed over hundreds of Afghans captured since American and coalition forces helped topple the Taliban, Thursday's formal agreement is expected to speed up the process for the rest.

Only four of the hundreds of prisoners held at Guantánamo have been charged with crimes. Most were swept up during the fighting in Afghanistan and held for three years, prompting complaints by human rights groups and charges from former prisoners that they were tortured.

Afghanistan Agrees To Accept Detainees (WP)

By Josh White And Robin Wright

The Washington Post, August 5, 2005

The Bush administration is negotiating the transfer of nearly 70 percent of the detainees at the U.S. detention facility in Guantanamo Bay, Cuba, to three countries as part of a plan, officials said, to share the burden of keeping suspected terrorists behind bars.

U.S. officials announced yesterday that they have reached an agreement with the government of Afghanistan to transfer most of its nationals to Kabul's "exclusive" control and custody. There are 110 Afghan detainees at Guantanamo and 350 more at the Bagram airfield near Kabul. Their transfers could begin in the next six months.

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Pierre-Richard Prosper, ambassador at large for war crimes, who led a U.S. delegation to the Middle East this week, said similar agreements are being pursued with Saudi Arabia and Yemen, whose nationals make up a significant percentage of the Guantanamo population. Prosper held talks in Saudi Arabia on Sunday and Monday, but negotiations were cut off after the announcement of King Fahd's death.

The decision to move more than 20 percent of the detainees at Guantanamo to Afghanistan and to largely clear out the detention center at Bagram is part of a broader plan to significantly reduce the population of "enemy combatants" in U.S. custody. Senior U.S. officials said yesterday's agreement is the first major step toward whittling down the Guantanamo population to a core group of people the United States expects to hold indefinitely.

"This is not an effort to shut down Guantanamo. Rather, the arrangement we have reached with the government of Afghanistan is the latest step in what has long been our policy -- that we need to keep dangerous enemy combatants off the battlefield," Matthew Waxman, deputy assistant secretary of defense for detainee affairs, said shortly after leaving Kabul with Prosper. "We, the U.S., don't want to be the world's jailer. We think a more prudent course is to shift that burden onto our coalition partners."

The negotiations come amid intense international and domestic pressure on U.S. detention operations, with allegations of mistreatment and abuse as well as concern that detainees have been held for years without being prosecuted for their alleged crimes. Legal problems have also plagued the prosecutorial process at Guantanamo, which has been blocked for months as detainees' attorneys present challenges in U.S. federal courts.

"The Guantanamo issue is clearly a liability for the Bush administration, and emptying it has become a priority," said John Sifton, a specialist on Afghanistan and detainee issues at Human Rights Watch, an international monitoring group. "It's not a victory for human rights if a whole set of people deprived of their liberty are then moved to another place and continued to be deprived of their liberty unlawfully."

The agreement with Afghanistan is the largest of its kind so far. Prosper said yesterday that the U.S. government is working to send 129 Saudis and 107 Yemenis from Guantanamo to the custody of their home countries. If the U.S. government is able to arrange the transfer of detainees who came from all three countries, the population at the U.S. facility will drop by 68 percent, from 510 to 164.

Because the United States could hold on to those detainees who are considered by officials to pose the greatest terrorist threat, the numbers could change slightly. Negotiations depend on the cooperation of the other nations.

"We're now engaging the countries with the largest populations, so we expect to see the largest potential movement from Guantanamo," Prosper said in an interview from Dubai. "So if we can reach an understanding with these countries that will allow us to return them with the greatest assurances, then this will be the biggest movement yet out of Guantanamo."

Prosper and Waxman said that before such transfers can occur, the detainees' home countries must commit to taking steps that will prevent enemy combatants from re-engaging in hostile activity, and commit to treating the detainees humanely.

A major obstacle to the transfer of detainees to Afghanistan is infrastructure. U.S. officials have agreed to help Afghanistan build an appropriate prison and to train its guards.

One possible interim solution under consideration is that Afghan detainees at Guantanamo could be transferred to Bagram until permanent facilities are built. Prosper said such facilities could allow a gradual transfer over the next six months.

The United States considers all the remaining detainees to be medium- or high-risk and therefore not eligible for release once handed over, as has happened with about 70 detainees released earlier to about a dozen countries.

Over the past year, U.S. military authorities have released several dozen Afghans that have been determined as not posing a threat. But President Hamid Karzai has repeatedly called on the United States to hand over all Afghan citizens. He raised the issue during a meeting with President Bush in May.

"I don't expect it will be too long before the actual transfer of detainees will start. It should be a matter of months to build the facilities," said Karim Rahimi, a spokesman for Karzai.

Senior military officials and members of Congress have said in recent days that the goal is to reduce the population at Guantanamo to a point at which the detainees who are the highest security risks can be held at the modern prison buildings there, while the rest of the facility could be "mothballed" for possible future use. Guantanamo's Camp V and the future Camp VI are modeled after U.S. domestic prisons.

In a military fact sheet about "the future" of Guantanamo, developed in early July, defense officials indicated that the operational priority of the facility is to shift from intelligence gathering to long-term detention.

The document noted that "the significant majority of detainees are no longer regularly interrogated" and that officials expect the population to decrease.

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"The way that we've looked at it is that in waging the war against al Qaeda and the Taliban, we will continue to capture enemy fighters and need to prevent them from returning to the battlefield," Waxman said. "But it need not be the U.S. who detains them for the long term."

Afghans Held At Guantanamo Will Be Sent To Home Country (USAT)

By Steven Komarow

USA Today, August 5, 2005

WASHINGTON — The Bush administration agreed Thursday to transfer up to 110 Afghan inmates from Guantanamo Bay, Cuba, to their home country, the biggest single step yet toward reducing the population of the prison camp.

The deal comes as some members of Congress are pressing the Bush administration to close the Guantanamo prison. The facility was built after the Sept. 11 attacks and the invasion of Afghanistan to hold suspects in the war on terrorism. Sens. Edward Kennedy, D-Mass., Chuck Hagel, R-Neb., and others say the prison has become a recruiting tool for anti-American terrorist groups because it has gained a reputation for cruelty.

Matthew Waxman, deputy assistant secretary of Defense for detainee affairs, said the agreement was not a prelude to closing the Guantanamo prison. However, he said the administration hopes to make similar arrangements with other countries. “We, the United States, don't want to be the world's jailer,” he said.

The arrangement is the result of weeks of talks that followed a visit to Washington in May by Afghan President Hamid Karzai. During the visit, President Bush turned down Karzai's request to take custody of Afghan citizens being held by U.S. forces, including the 110 at Guantanamo and about 350 at a U.S. facility in Afghanistan.

Defense Secretary Donald Rumsfeld said in June that the United States doesn't want to hold detainees at Guantanamo but couldn't send them home because their countries lack proper holding facilities. Under the terms of the new arrangement, the United States will help Afghanistan build prison space to hold the men, as well as train the guards. The Afghan government will “ensure that they do not pose a continuing threat,” but it will have full authority to release detainees as it sees fit. Waxman said those terms could be replicated in other agreements.

The United States has transferred more than 200 Guantanamo detainees to about a dozen countries, some for continued incarceration and others for release. The Afghan transfers, which would take place as prison space becomes available, would cut the current population of about 510 by about a fifth. Besides Afghans, the prison's largest groups are Saudis and Yemeni.

Air Force Maj. Todd Vician, a Pentagon spokesman, said the agreement does not alter the U.S. position that Guantanamo's detainees are dangerous. “Don't confuse transfer with release,” he said.

Vician said the timing will depend on when Afghanistan is ready to take the detainees. Karzai has complained of mistreatment of the detainees and has said most were not terrorists.

Karzai's spokesman, Karim Rahimi, told the Associated Press in Kabul that the agreement means all Afghans held by the U.S. military will be transferred.

However, the joint declaration says only that “many” detainees will be transferred, giving the United States flexibility to keep considered especially dangerous or who might still provide valuable information.

U.S. To Repatriate 110 Afghans Jailed At Guantanamo Bay (LAT)

By Paul Richter

The Los Angeles Times, August 5, 2005

WASHINGTON — U.S. military officials will gradually hand over 110 Afghan prisoners to Afghanistan's government in the largest repatriation of detainees from the U.S. naval base at Guantanamo Bay, Cuba, since it was converted to a military prison for terrorism suspects three years ago, the Pentagon said Thursday.

In addition, U.S. authorities plan to turn over about 350 other Afghans who are in U.S. custody in Afghanistan after new prison space is built to accommodate them, officials said. Under a new agreement between the countries, Afghan authorities would then decide which prisoners to detain and which to release, Pentagon officials said.

The agreement will move the Bush administration a step closer to dealing with the troublesome diplomatic problems caused by the Guantanamo Bay prison.

The indefinite detentions of about 510 Guantanamo Bay prisoners are viewed in many parts of the world and by critics in the United States as human rights violations, and administration officials have debated whether to close the facility amid charges that detainees have been abused.

The agreement to release the Afghans also will help relieve domestic political pressure on Afghan President Hamid Karzai, whose fragile government has faced demonstrations and popular unrest on the issue. Karzai, a close U.S. ally, pressed President Bush during a visit to the United States in May to release more prisoners.

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Most of the detainees in question were swept up by U.S. forces that invaded Afghanistan in 2001 to fight the Taliban government and its Al Qaeda allies. Four detainees held at the base have been charged with crimes under a controversial military commission system that has been challenged in U.S. courts.

Pentagon officials portrayed the repatriation as part of a long-term effort to turn over as many detainees as possible to their home countries.

Bryan Whitman, a Pentagon spokesman, said the agreement with Afghanistan reflected "ongoing efforts to transfer detainees to their home countries, as appropriate, and when we receive the assurances that the … detainees do not pose a continuing threat."

The U.S. military already has returned hundreds of Afghans taken prisoner in the region. U.S. officials have released or transferred more than 240 Guantanamo Bay detainees to about a dozen home countries. U.S. officials have acknowledged that a few of the released Afghans have rejoined the Taliban-led insurgency.

A senior defense official said Thursday's announcement should not be seen as a sign that the Pentagon was going to return prisoners to their native countries either to be quickly released or to be tortured.

"We're not cutting corners in terms of letting dangerous people go free," the official said. "And we're not cutting corners in terms of getting assurances from other countries that the prisoners will be treated humanely."

The official said the transfer of prisoners to Afghan authorities would happen when the Afghan government proved it was capable of handling a large detainee population.

"We're not going to put them on a plane, drop them in Kabul, tell them 'good luck,' and send them on their way," the official said. "That doesn't serve our interests, and it doesn't serve the interests of the Afghan government."

In Kabul, a spokesman for Karzai, Karim Rahimi, told Associated Press that the returnees would include "all Afghan detainees that are with the U.S. forces."

The 350 prisoners being held in Afghanistan are under U.S. control at Bagram air base, north of the capital Kabul.

Under the agreement, U.S. authorities will provide money to build new prison space in Afghanistan, and will train Afghan personnel to manage the facilities.

The announcement came after a meeting in Kabul between Karzai, Pierre-Richard Prosper, the U.S. ambassador at large for war crimes, and Matthew Waxman, the Pentagon's deputy assistant secretary for detainee affairs.

In his May visit, Karzai and Bush discussed violent demonstrations in Afghanistan over the detainees, and Karzai sought U.S. concessions on the issue.

U.S. officials had blamed the demonstrations on a magazine report that suggested U.S. military personnel had desecrated prisoners' Korans. Although the report, in Newsweek, was retracted, an Army report in June documented several instances of Koran desecration.

Pentagon officials have said for some time that they want to increase the number of repatriations, but have been held back by a series of problems.

Some countries, such as Afghanistan, haven't had the money or prison space to accommodate detainees. U.S. authorities have been unwilling to send prisoners back to other countries because, under the home countries' laws, the detainees would be freed.

U.S. authorities were reluctant to repatriate others for fear that in their home countries they might be treated in ways that would be unacceptably harsh by U.S. standards.

Bush administration officials debated as recently as June whether to close the Guantanamo Bay prison as a way of relieving a public relations headache. Even Bush seemed to suggest at one point that closing it was a possibility.

But defenders of the current system, including Vice President Dick Cheney, convinced others in the administration that keeping Guantanamo Bay open was the best option.

They argued that the United States would need a substitute facility that would look much like Guantanamo Bay.

They also maintained that the detainees had yielded valuable intelligence information, and noted that U.S. taxpayers had paid about $300 million to build the prison.

Oil-for-Food Probe To Accuse Director (WP)

By Colum Lynch

The Washington Post, August 5, 2005

UNITED NATIONS, Aug. 4 -- A U.N.-established inquiry into corruption in the $64 billion oil-for-food program will accuse the defunct program's director, Benon V. Sevan, of receiving cash kickbacks for steering lucrative Iraqi oil contracts to an Egyptian oil trader, according to Sevan's lawyer.

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Former U.S. Federal Reserve chairman Paul A. Volcker, who is heading the independent inquiry committee, is to release a third interim report Tuesday that the lawyer, Eric L. Lewis, said in a statement will also accuse Sevan, of Cyprus, of refusing to cooperate.

Lewis said Sevan is being made a scapegoat to deflect criticism of Secretary General Kofi Annan. Lewis said that the allegations, which were outlined in a confidential letter from the Volcker committee to Sevan last week, are "flatly false" and that he is going public to get his client's side of the story out before Volcker issues the report. "Mr. Sevan never took anything from anyone," he said.

The Volcker committee has been investigating misconduct in the United Nations' largest humanitarian program for more than a year, and previously accused Sevan of improperly directing business to an associate. But next week's report will represent the first time that the committee will accuse Sevan of benefiting from those activities.

The letter, portions of which were read to The Washington Post, accused Sevan of having "corruptly . . . derived personal pecuniary benefit from the oil for food program." It accused Sevan of receiving "cash proceeds from the sale of oil" from 1998 to 2002 by Iraq to the Africa Middle East Petroleum Co. (AMEP), which is registered in Panama.

The letter alleged that Sevan, working in concert with a friend, profited "with knowledge that some of the oil from which he benefited was purchased by means of payment to Iraq of an illegal surcharge in violation of U.N. sanctions and the oil for food program."

Michael Holtzman, a spokesman for Volcker, declined to comment on the letter's authenticity, saying that the committee will release its findings on Sevan's role in the oil-for-food program as scheduled on Tuesday. But a senior investigator said last week that the report will move "the ball further" on its investigation into suspected payments to Sevan. The investigator said the amounts under scrutiny may appear small to billionaire oil traders but could provide "a nice cushion" for international civil servants.

The committee previously expressed suspicion in a February report about $160,000 deposited into a Cyprus bank account controlled by Sevan's aunt.

Lewis acknowledged that Sevan, who is in Cyprus, has declined Volcker's requests for face-to-face interviews. Lewis said that the committee's investigators had used a previous session to catch Sevan off guard with hard-to-answer questions about events that occurred six years earlier, and then accused him of lying when he did not answer them accurately.

Lewis said the panel had applied a "double standard" in its investigation into allegations that Annan directed business to a Swiss firm that paid Annan's son, Kojo, while it engaged in millions of dollars in business through the oil-for-food program. He noted that investigators gave Annan the benefit of the doubt when he did not report two meetings he had held with the firm's chairman until confronted with records of the meetings.

Lewis insisted that Sevan has been cooperating, providing more than 80 boxes of professional and private documents, as well as bank, real estate and telephone records, and also offering to respond in writing to written questions. Lewis said Sevan "has made his professional and financial life an open book."

Lewis accused the Volcker inquiry of denying Sevan due process in a year-long investigation that has relied heavily on dubious top former Iraqi officials who remain in custody and whose full testimony has not been made available to Sevan. He also said that Volcker's panel has hindered Sevan from cross-examining witnesses or from accessing the documents and testimony he needs to defend himself.

"The committee set out from the beginning of its politically charged investigation to scapegoat him and spare others to whom he reported," Lewis said.

The program was established in December 1996 to allow Iraq, which had been subject to U.N. economic sanctions since its 1990 invasion of Kuwait, to sell oil to buy food, medicine and other humanitarian goods. The program eased the sanctions' burden on ordinary Iraqis, but it also gave the former Iraqi government an opportunity to skim billions of dollars in illicit kickbacks from companies trading with Iraq through the humanitarian program.

The revelations triggered a U.N. investigation and several congressional probes into U.N. management of the program. The U.S. attorney's office of the southern district of New York and the Manhattan district attorney's office have also begun criminal investigations into the program, including Sevan's role.

Annan appointed Volcker in April 2004 to look into allegations that senior U.N. officials, including Sevan, had improperly benefited from the program. A February report by Volcker concluded that Sevan had engaged in "a grave conflict of interest" by soliciting lucrative rights to buy Iraqi oil on behalf of AMEP's Egyptian president, a cousin of former secretary general Boutros Boutros-Ghali. That report also indicated that payments may have been channeled through Boutros-Ghali's brother-in-law. There is no evidence linking Boutros-Ghali, whose role in creating the program is also being scrutinized, to the alleged payoffs.

Report To Accuse Sevan Of Kickbacks (WT/AP)

By Nick Wadhams, Associated Press

The Washington Times, August 5, 2005

NEW YORK -- Investigators have concluded that the United Nations' former chief of the Iraq oil-for-food program, Benon Sevan, took kickbacks under the $64 billion program and refused to cooperate with their probe, his attorney said yesterday.

Although the amount of money Mr. Sevan is thought to have taken isn't known, the findings would be a major blow to the United Nations because of his stature in the organization and the control he had over the oil-for-food program.

Eric Lewis, the attorney, denied the charges in a statement that appeared timed to pre-empt the investigation's report.

"The committee's allegations are baseless," he said. "Mr. Sevan never took a penny, as he has said from the beginning."

The United Nations-appointed Independent Inquiry Committee, led by former Federal Reserve chief Paul Volcker, plans to release its findings about Mr. Sevan on Tuesday. The world body is paying Mr. Sevan a symbolic $1 a year to keep him on the payroll so he will cooperate.

Mr. Volcker's committee refused to comment yesterday on Mr. Lewis' assertions.

"Our final judgment on [Mr. Sevan] will be rendered on Tuesday," said committee spokesman Mike Holtzman.

The oil-for-food program, started in December 1996 to help ordinary Iraqis cope with U.N. sanctions imposed after dictator Saddam Hussein's 1990 invasion of Kuwait, quickly became a lifeline for 90 percent of the country's citizens.

Under the program, Saddam's regime could sell oil, provided the proceeds were used to buy humanitarian goods or pay war reparations.

In a bid to curry favor and end the sanctions, Saddam is suspected of giving former government officials, activists, journalists and U.N. officials vouchers for Iraqi oil that could be resold at a profit.

Mr. Lewis said the committee has concluded that a small trading company called African Middle East Petroleum (AMEP) paid Mr. Sevan for his help in winning lucrative oil contracts from Saddam's regime.

Mr. Volcker's team has been investigating the oil-for-food program for more than a year. The committee concluded in February that Mr. Sevan solicited oil allocations from Saddam's regime on behalf of AMEP from 1998 to 2001. It accused Mr. Sevan, who has refused to meet with investigators since February, of a "grave conflict of interest."

The team found $160,000 in what it called "unexplained funds" belonging to Mr. Sevan, who said the funds came from an aunt in his native Cyprus.

After the February report, U.N. Secretary-General Kofi Annan announced disciplinary proceedings against Mr. Sevan but said he would wait until the report came out before making a decision.

Kickbacks Alleged In Oil-for-Food Probe (NYT/AP)

By The Associated Press

The New York Times, August 5, 2005

Filed at 6:26 p.m. ET

NEW YORK (AP) -- Investigators have concluded that the former chief of the Iraq oil-for-food program, Benon Sevan, took kickbacks under the $64 billion humanitarian operation and refused to cooperate with their probe, his lawyer said Thursday.

While the amount of money Sevan allegedly took wasn't immediately known -- and may be as little as $160,000 -- the findings would be a major blow because of his stature in the organization and the control he had over it. Sevan is also being investigated by the Manhattan District Attorney's office and could face criminal charges.

The Independent Inquiry Committee plans to release its findings about Sevan on Tuesday, and had sent advance notice to Sevan's lawyer, Eric Lewis, last week. Lewis revealed the findings early and vehemently denied both claims against Sevan, whom the U.N. is paying a symbolic one dollar a year to keep him on payroll so he'll cooperate.

"The fact is, the committee's allegations are baseless," Lewis said in a statement. "Mr. Sevan never took a penny, as he has said from the beginning."

The committee, led by former U.S. Federal Reserve Chairman Paul Volcker, refused to comment on Lewis' claims. Committee spokesman Mike Holtzman had said earlier Sevan would be one subject of the Tuesday report.

"Our final judgment on him will be rendered on Tuesday," Holtzman said.

The oil-for-food program, launched in December 1996 to help ordinary Iraqis cope with U.N. sanctions imposed after Saddam Hussein's 1990 invasion of Kuwait, quickly became a lifeline for 90 percent of the country's population of 26 million.

Under the program, Saddam's regime could sell oil, provided the proceeds went to buy humanitarian goods or pay war reparations. Saddam's government decided on the goods it wanted, who should provide them and who could buy Iraqi oil. But the Security Council committee overseeing sanctions monitored the contracts.

In a bid to curry favor and end sanctions, Saddam allegedly gave former government officials, activists, journalists and U.N. officials vouchers for Iraqi oil that could then be resold at a profit.

According to Lewis, the committee will find that a small trading company called African Middle East Petroleum Co. Ltd. Inc. paid Sevan in exchange for his helping it win oil contracts from Saddam Hussein's regime. It will say that he acted "in concert" with a friend named Fred Nadler, who is the brother-in-law of former U.N. Secretary-General Boutros Boutros-Ghali.

Lewis said the letter of findings that Volcker's team sent to him does not spell how much he got in kickbacks.

Volcker's team has been investigating oil-for-food for more than a year. In an interim report released in February, the committee concluded that Sevan solicited oil allocations from Saddam Hussein's regime on behalf of the company, known as AMEP, between 1998 and 2001. It said Nadler was essentially his middleman and accused Sevan of a "grave conflict of interest."

In its report, Volcker's team mentioned $160,000 in "unexplained funds" belonging to Sevan. Sevan had disclosed the money earlier, saying it was from an aunt in Cyprus.

Lewis said Volcker's committee will also say that Sevan refused to cooperate with its investigators, apparently because he would not meet face-to-face with them in recent months. Lewis acknowledged that Sevan had refused to do so since January because investigators accused him of lying or changing his testimony when he didn't remember meetings or phone calls he'd had years before.

He said instead Sevan had agreed to respond to written questions.

Lewis accused Volcker's team of treating Sevan unfairly by concealing evidence from him, relying on secret interviews with jailed members of Saddam's former regime and questioning his integrity when he couldn't remember phone calls that took place years before.

He said it was trying to look tough and appease critics in the United States who have accused it of bungling the investigation.

"The IIC wants cartoon villains, not the truth," Lewis said in the statement. "Mr. Sevan has now reached a point in his dealings with the IIC where he questions the Committee's commitment to objective and evenhanded fact-finding and doubts he can receive a fair hearing in this forum."

After the February report, U.N. Secretary-General Kofi Annan announced disciplinary proceedings against Sevan but said he would wait until the report came out before making a decision.

It is almost certain that Sevan would be fired if the United Nations accepts the Volcker committee claims.

Cash Crunch Forces Army Base To Send Contract Workers Home (KRT)

By Joseph L. Galloway

Knight Ridder, August 5, 2005

WASHINGTON - Robbing Peter to pay Paul is a historic tool in the arcane process of balancing military budgets, but this year Army commanders seem to be taking early and unusual measures to keep the lights on and basic services working.

At one base, Fort Rucker, Ala., the home of Army Aviation for half a century, temporary stop-work orders were issued Monday to 120 contract employees, who were sent home to wait without pay for further developments.

Disappearing with those employees were such services as mowing the grass, maintaining the chemical-parts washers for flight line mechanics, providing government cars and the gasoline they run on, photography and graphic services, photocopying services, storage of household goods for families on the move and counseling for families in crisis.

Officers at Fort Rucker even lost service to their hand-held BlackBerry e-mail devices.

One of the key goals of Army transformation is to privatize upward of 60,000 jobs, replacing uniformed soldiers with civilians under contract and thus freeing soldiers to join the global war on terrorism. But if the Army runs short of money at year's end, the civilians are sent home and the jobs go undone. The budget year for the military ends Sept. 30.

Army spokesman Lt. Col. Barry Johnson described the actions at Fort Rucker as "remedial measures that have no impact on the safety and health of our soldiers and families." He added that Fort Rucker had to take more and stronger measures than other bases have to date.

The Army's new head of installation management, Lt. Gen. David Barno, said he'd "redirected $20 million to Fort Rucker" on Thursday to help it deal with its shortage of cash and that he expected that some of the money would be used to re-establish contract services.

Barno told Knight Ridder he was in the process of "talking face to face with all the facilities managers in the Army, by video conference." He said he talked to 11 managers Thursday and that "none of them were at the point of stopping any services."

Barno blamed part of the problem on large increases in the cost of fuel this year. The Army has spent $720 million more on fuel than had been budgeted. Fuel is a key expense at Fort Rucker, which trains nearly 3,000 helicopter pilots a year for the Army and other services.

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"In none of this is there any risk to our ability to fight the wars we are fighting," Barno said. He also said the developments didn't pose any real threat to the Army's job-privatization program.

"What we don't want is soldiers out there cutting grass when we are in the middle of a war," said Barno, a former U.S. ground commander in Afghanistan.

The end-of-the-year money problem is perennial, and hardly confined to the Army. In past years, the Navy has been forced to ground squadrons of jet fighters when it ran out of money for fuel.

The problem is compounded this year because Congress recessed for its summer break without passing the Defense Appropriations Act. Senate Majority Leader Bill Frist, R-Tenn., stopped consideration of the bill after the White House objected to provisions that would have required drafting new rules for the treatment of suspected terrorists at Guantanamo Bay, Cuba, and other facilities.

Inside The Ring (WT)

By Bill Gertz And Rowan Scarborough

The Washington Times, August 5, 2005

Sleeper cell

Among the 520 detainees at Guantanamo Bay is a U.S.-educated Kuwaiti who has not offered much in the way of details about how al Qaeda operates.

The man went to college in South Florida and speaks excellent English. He traveled to Afghanistan sometime before the October 2001 invasion and was captured on the battlefield.

U.S. officials think he was in America to set up al Qaeda "sleeper cells," such as the ones that carried out the September 11 attacks. But so far, he has not admitted to such activity nor provided names of possible cellmates.

French option

We hear from a reliable defense source that senior French military officials do not think ongoing efforts will stop Iran from developing nuclear weapons.

Instead, the French high command talks privately of containing Iran once it becomes a nuclear power.

President Bush, of course, has other ideas. He wants European negotiators to insist that Tehran's Islamic hard-liners end the country's nuclear weapons ambitions.

More than a few retired U.S. military officers say they would not be surprised if Mr. Bush ordered air strikes on Iran's nuclear facilities if no commitment comes by late 2008 as the president's second, and final, term ends.

Pantano's release

The Marine Corps has approved a request from 1st Lt. Ilario Pantano to resign, effective Aug. 26.

The Corps had wanted Lt. Pantano to return to Iraq, after its murder case against him crumbled during a pretrial hearing and after the investigating officer slammed the government's main witness as unreliable.

The Corps accused Lt. Pantano of slaying two Iraqi insurgent suspects in April 2004; Lt. Pantano said he fired in self-defense, a claim that was borne out by evidence uncovered by his defense attorney, Charles Gittins.

After the charges were dropped, Lt. Pantano submitted his resignation. His unit, meanwhile, went back to the volatile Anbar Province, doing what Lt. Pantano's platoon was doing a year before — hunting down insurgents.

Mr. Gittins declined to comment on the officer's plans. Lt. Pantano's story is compelling. Born in New York City, he served as a Marine in the 1991 Persian Gulf War and then worked as a stockbroker and TV producer until the September 11 attacks. He volunteered to rejoin the Marines because he wanted to fight terrorists and found himself in Anbar leading a platoon of young Marines.

Navy's X-Craft

The Navy this week added the first of a new type of high-technology, low-cost coastal patrol boat known as the Littoral Surface Craft-Experimental (LSC-X), or X-Craft.

The ship, known as the Sea Fighter, can move at speeds of up to 50 knots and has a range of some 4,000 nautical miles.

The ship joined the Navy's 3rd Fleet in San Diego and is the first of a series of low-cost weapons being promoted by Rep. Duncan Hunter, California Republican and chairman of the House Armed Services Committee. The new catamaran-design hull is meant for high speed in coastal waters.

Defense officials say the X-Craft could be a valuable weapon if any conflict breaks out with China over Taiwan. The Navy says the X-Craft is needed to deal with 21st-century threats.

"Today's absence of a global naval threat to the United States has replaced the need to fight conflicts in the open ocean with the requirement to project sea-based power ashore," the Navy said of the new boat.

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The boat will be used for battle force protection, mine countermeasures, anti-submarine warfare, amphibious assault support and humanitarian support missions.

"This is the wave of the future," Mr. Hunter said. "We make a lot of speeches about military transformation, but this ship is real transformation."

Gitmo react

Spokesmen for Democratic Sens. Edward M. Kennedy of Massachusetts and Daniel K. Akaka of Hawaii have gotten back to us about the senators' recent trip to Guantanamo Bay.

A spokeswoman for Mr. Kennedy said the staff member traveling with the senator did not remember receiving any complaints from the soldiers who met with the senator.

A spokeswoman for Mr. Akaka said the senator had a good meeting with Hawaii-origin soldiers and could not remember any complaints coming his way from service members. "For the most part, it was very positive," the spokeswoman said.

We reported that some prison staff complained about the anti-Gitmo statements uttered by some Democratic senators. Mr. Kennedy is a leading critic of how terror suspects are treated at Guantanamo.

Warner ire

Senate Armed Services Committee Chairman John W. Warner, Virginia Republican, was one of the earliest to come out for Sen. Bill Frist of Tennessee as Senate majority leader.

But he is not all that pleased these days with Mr. Frist. That's because the majority leader yanked Mr. Warner's cherished defense authorization bill off the floor last month, when he could not get 60 votes to end debate.

To Mr. Frist, the gambit worked. He fought off unwanted Democratic amendments to the defense bill and then won passage of a pro-gun legislation.

Asked about the Warner-Frist relationship, the chairman's spokesman, John Ullyot, said, "He intends to work with the Senate leadership to get a bill authorized this fall. Senator Warner has a very good working relationship with Majority Leader Frist."

Warner's staff

Judy Ansley, director of the Senate Armed Services Committee majority staff, is leaving this month to take a post at the National Security Council, European division.

Committee Chairman John W. Warner, Virginia Republican, is bringing a former senior staffer, Charles Abell, out of the Pentagon to take her place. Mr. Abell is now principal deputy undersecretary of defense for personnel and readiness. Next year will be Mr. Warner's last as chairman because of term limits. Sen. John McCain, Arizona Republican, is next in line.

Once-liberal Basra Trades Cultural Freedom For Security (KRT)

By Leila Fadel

Knight Ridder, August 5, 2005

BASRA, Iraq - Statues of generals from Saddam Hussein's Baath party once lined up on the corniche, a walkway along the Shatt al Arab waterway in this southern port city. They pointed menacingly across the water to Iran, and ships at anchor obscured the view of the blue horizon and the illuminating light of the moon.

Saddam and his military brass are now gone, and families instead fill the walkway that looks out over open waters in this city once brutally oppressed by the deposed dictator.

Basra is enjoying an economic and religious renaissance, even as the rise of conservative Shiite Islam has put a chill on its traditionally flourishing cultural scene.

Men dressed in the traditional white gowns called dishdashas dangle their legs over the railing as they eat sandwiches from nearby vendors, who rent water pipes and sell fresh nuts to sightseers. Women and children lay blankets in the grass, eat homemade sandwiches and drink sodas from a cooler.

As dusk approaches life begins in Basra, about 350 miles from the violent capital city of Baghdad. People don't need to hide from insurgent gunmen and suicide bombers, who roam the capital's dark streets.

New stores are opening in the city center to serve the droves of people shopping and eating out. One restaurant, G Core, had its grand opening in the main shopping district less than two weeks ago, and dozens of people crowded into the fast-food restaurant built with faux marble and modern steel stools. They enjoyed the complimentary burgers and fries in a classy version of a fast-food joint in the United States.

Taxis are easy to spot but often already full. At 9 p.m. supermarkets are filled with men and women running errands.

The city flaunts its Shiite identity in the streets, after decades of oppression under Saddam. Portraits of Imam Ali and Imam Hussein, two of the most prominent historical Shiite figures as well as Iraq's major Shiite clerics, are hot items at outdoor markets. A portrait of Jesus appears occasionally among the religious paraphernalia.

Many Shiite Iraqis who lived in exile in Iran have flooded back into the country. Miraad Jaber, 35, was exiled when she was a child. Now she sits in a Basra park with her daughters, whom she raised in Iran.

"Loving this country was a problem. I was exiled for more than 25 years," she said. "I felt homesick for the heat of Basra."

Jaber is happy to take her daughters out at night.

"The Islamist parties control the security situation, and it makes it safe," she said.

But the parties are also a source of fear in the birthplace of much of Iraq's poetry and music. Basra is called "the Mother of the Oud," a Middle Eastern lute, in a famous Iraqi song. Residents of other Iraqi cities know that the best dancers come from this land of dates and palm trees.

But in the music district of Saymar the oud is silent now and the drums are lonely, hanging in the breeze with no musicians to play them. There's more fear than joy here.

Moustafa Dawood and Ahmed Aboud own a small music shop. They surround themselves with rows of colorful drums. Golden trumpets hang in a wood and glass cabinet lined with red velvet. The handmade instruments put their lives at risk.

The store next door has been firebombed four times, the store behind them was bombed twice and many of their colleagues have been beaten in the streets by men in police patrol cars and men who attach themselves to Shiite religious parties, they said. The provincial council is dominated by these parties, including the Badr Organization, a political group derived from the armed military wing of the Supreme Council for the Islamic Revolution in Iraq, the Shiite political group that plays a leading role in Iraq's governing coalition.

Sometimes, men rent an instrument from the shop, sign it out in the old, beat-up blue journal and then bring it back in pieces, calling their business haram, or forbidden.

"Ever since we opened our eyes for the first time, we played music," Aboud said behind an old wooden desk in his store.

"But we don't want to be beaten with the butt of a gun," Dawood added.

Now they stash their instruments in the trunk of their car as they head to a wedding or to beat the drums at religious Shiite ceremonies such as Ashura, which commemorates the slaughter of Hussein, the son of Ali, at the Battle of Karbala.

Two years ago they would strum and drum on music row as they left their shop for a wedding, and would keep blowing into trumpets and beating drums until the celebration ended.

A collage of photos in the shop shows Dawood and 19 colleagues smiling and playing music in happier times, next to a picture of Imam Ali. Maybe he'll become a taxi driver or a chickpea street vendor, he said.

"We were fatter then. Now we are scared and thin," Dawood said.

In the once more liberal city many restaurants are divided now for single men and for families, liquor stores are closed and ice cream shops are the place to hang out. They light up the city center at night, but no bachelors walk inside. They stand at service windows and wait for a cone rather than mingle with young women inside eating multicolored scoops in plastic cups with their families.

Haifa Ali drank strawberry juice on a recent Saturday night with her two daughters and son on Al Jazaer street, a busy shopping and restaurant area.

"Life is beautiful," she said as she sipped her juice, unafraid in the bustling night. "But these Islamist parties are pressuring our daughters to veil."

One of her daughters, Walaa Tahsin, 20, is the sole unveiled woman in the shop.

"She's a rebel," said her sister, Wissam Tahsin, 24. "To avoid gossip I put it on."

Ali chose to cover her hair, but today's social and political pressures in the southern city have pushed her daughter to wear the veil.

"It's peaceful but there is no fun for them," she said. "I pray and fast and cover, but it's not good to pressure young people. It should be their choice."

Across the city a newly opened park is filled with children late into the evening on a recent weekend. A woman sits with her 40-day-old child, children play on the swings and large families drink from juice boxes and talk, an unfamiliar sight for travelers from the capital.

The people remain unchanged in Basra, as war after war passes through this city of blue skies and towering palm trees weighed down by dates.

They welcome strangers into their homes for Basra's famous fish, Zubaidi (pomfret). They offer tea and cold soda and describe the sweetness of the golden dates.

Garbage still fills the streets but homes have electricity for 10 to 12 hours a day, compared with as few as four to five before the war.

They never know when another war will come. But they will always open the door and insist on cooking a meal for a stranger as they talk about their city of dates, poetry and culture.

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"I am the daughter of Basra," Ali said. "We will never lose our kindness."

Clubs Provide A Getaway From Turmoil Of Baghdad (USAT)

USA Today, August 5, 2005

BAGHDAD — Under Saddam Hussein's rule, the Hunting Club was an exclusive refuge for privileged members of his government and supporters of the regime. Food and recreation were plentiful, even when much of the country was struggling during sanctions imposed by the United Nations in 1990-2003.

Today, the Hunting Club is still exclusive, but membership is based on educational achievement and ability to pay dues, club director Hassanain Fadhil says.

The club offers respite from the city's daily violence and summer heat. The pools — there are separate facilities for men and women — provide an escape from the daily power outages that leave much of the city sweltering. The club also has a sauna, restaurants, sports fields and large banquet halls.

Retiree Salim Sa'doun, 50, says he uses the pool frequently. “I am happy to be a member of the Hunting Club and to achieve my dream,” he said. Midday, the restaurants are filled with families and friends huddled over tables of kebab and other local fare.

Clubs became popular in the capital during the 1960s, says Muhammed Sa'eed, a manager at the Yarmouk Club. Today, there are 32 clubs in Baghdad. Most have swimming pools, restaurants and halls for weddings or other occasions. Annual dues at the more popular clubs can be hundreds of dollars per year for a family membership, so membership is generally limited to middle class and wealthy Iraqis.

The Yarmouk Club was established in 1960 for army officers and their families. After the war, the Iraqi Islamic Party protected it from looters. Later, people who lived in the neighborhood took over the facility and turned it into a community center with paid memberships.

The club has gymnasiums, restaurants, a soccer team and tennis courts. Once supported by the government, Yarmouk and other clubs have to be self-sustaining today. Sa'eed, the Yarmouk manager, says the club derives much of its income from renting out its banquet facilities for weddings and other occasions.

The Jadriya Club was practically the private domain of Saddam's sons, Uday and Qusay. Anyone who wanted a membership had to get approval from Uday, says Ihab Adwar, deputy director of the club.

The luxurious club was looted of furnishings and some of Uday's finest horses in the chaos after the U.S.-led invasion. Today, the facility is struggling to get back on its feet with a new clientele.

“We think that the club will start to be profitable after no less than 10 years,” Adwar says.

A Future Beyond A Funeral (WP)

By Ed O'Connell

The Washington Post, August 5, 2005

BAGHDAD -- Touring a print shop downtown last summer, I tried to draw out one of the workers, a shy boy of 17 or so, about his daily life. Head down and hands behind his back, he spoke of the searing emptiness facing Iraqi youth; there are no discos, few cafes and little opportunity to interact with the opposite sex. His parents had banned visits to the local mosque after work, for fear he might be recruited by insurgents. So he returned every evening to an overcrowded home shared by many relatives and retreated upstairs to sit on the edge of his bed. "I . . . stare at the wall for a few hours," he said. And it struck me that Iraq's youth are experiencing a living death, one in which ending the pain of everyday life might be an attractive option.

The West must do a better job of bringing opportunity and dignity to these Muslim youths. If we can't, the terrorists will continue to prey upon such vulnerable young people, convincing them that the path to glory and dignity lies along the road of suicide bombings and explosive devices. It seems obvious that the success of the terrorist movement rests on the vulnerability of youth worldwide. In military parlance, halting this trend would be considered the deep fight.

Take a walk along the dusty roads at the Baghdad Correctional Facility (Abu Ghraib), which is now mostly outdoors, and you'll see many ghostlike faces -- local teenagers who took $50 or $100 to plant an IED, shoot a mortar or fire a machine gun at coalition troops. No one told them that if they didn't die, they would end up penned in with 20 other lost souls in a tent surrounded by barbed wire. For the foreigners in their midst, inglorious imprisonment in a faraway land was surely not what the young jihadists had signed up for. Angered as I might have been by their attacks on my countrymen, I still wondered, How do we rehabilitate some of these wayward souls? Or are they simply lost causes? And, more important, how do we persuade them not to join the insurgency in the first place?

One enemy video I obtained last summer shows a teenage boy awakened in the middle of the night and brought to a field to say his last goodbyes to his comrades before carrying out his suicide bombing mission. Toting their weapons, they circle

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around him. The bomber looks tired and somewhat reluctant, but forces a smile. The terrorist leaders have staged the ultimate act for him. He could not back down, even if he wanted to. It is tantamount to forced suicide.

Another enemy video shows an attack from the triggerman's vantage point as he patiently waits for the right moment to detonate a bomb inside an old car a hundred yards down a busy Baghdad street. After U.S. soldiers pass by, a young boy and a girl walk between them and the car. Yet the bomber does not hesitate to detonate, and in the last frame, a fireball roars up the street toward the boy and girl. In Iraq, the young insurgents-for-hire are increasingly killing other Iraqi youths.

If the terrorists place no value on life, then we must give Iraq's youth something to live for. We know that terrorists recruit Muslim youths when they make pilgrimages to holy sites. We know they often convince these young people that joining the insurgency is a way to redeem past sins or a family's lost dignity. Yet we are failing to give Iraq's young people much to feel dignified about. Western companies are making massive profits providing services to the coalition; why aren't we building an entrepreneurial class from within the ranks of Iraq's young? As it is, these kids walk their own land with sticks, picking up garbage in Baghdad's once attractive parks.

The West must help bring opportunity and hope to the young people of the Muslim world. President Bush's longtime aide Karen Hughes is coming on board to improve America's image in the Muslim world. I propose that Hughes make promoting life and opportunity for Muslim youth one of her top initiatives. She should start by focusing on entrepreneurial opportunities, recreational activities and the opening of doors for young women. Recall the long lines of Iraqi women in black chadors waiting to vote in January's elections? This scene surprised many Americans, but not me. Mothers are revered in Iraq -- they bring life. While we dawdled, failing to take advantage of the momentum created by the success of the first Iraqi national elections, Iraqi mothers were acting. They began to openly challenge the terrorists and local insurgents for taking their children and tearing their families and communities apart. In this high-stakes battle we need all Iraqi mothers on our side -- Sunni, Shiite and Kurd.

We should recruit Islamic social, political and religious leaders to join us in this initiative. We must not be condescending in our approach. We must be open and show our Muslim partners that even a powerful nation such as ours has social problems with its youth.

Muslim youths must be allowed to imagine the power of building a life rather than just existing. With Muslim leaders as partners we can shatter the culture of despair and nothingness that breeds thinking about death among the young. Promoting a culture of life and opportunity is the real battle we cannot afford to lose.

The writer, a retired lieutenant colonel in the Air Force, is a senior research analyst at Rand Corp. working in Iraq and the Middle East.

Pentagon Agrees To Issue Photos Of Coffins Of Iraq War Dead (NYT)

By John Files

The New York Times, August 5, 2005

WASHINGTON, Aug. 4 - Under the terms of a legal settlement announced on Thursday, the Pentagon will make available "as expeditiously as possible" some photographs of the coffins of service members killed in Iraq. The agreement runs counter to a longstanding Pentagon policy that bars the public release of such photographs. But in response to requests under the Freedom of Information Act, the Pentagon has already released hundreds of such photographs this year, and it agreed under the settlement to continue to do so.

The agreement responded to a Freedom of Information Act suit filed in October in Federal District Court here that sought all photographs and video images that showed coffins or similar items that held the remains of American military personnel at Dover Air Force Base, Del., beginning in February 2003.

The Pentagon has strictly enforced a policy barring news photographs showing the coffins. That policy has been in place since the Persian Gulf war in 1991, and President Bush has said it protects the privacy of the families of the dead.

Ralph Begleiter, a journalism professor at the University of Delaware who was a lead plaintiff in the current suit, said the Pentagon's agreement to release the photographs represented a "significant victory for the honor of those who have made the ultimate sacrifice in war for their country, as well as for their families, for all service personnel and for the American people."

The settlement was announced by Mr. Begleiter, along with the National Security Archive, a research institute on foreign affairs that is affiliated with George Washington University, which provided counsel for the case. The archive has used the Freedom of Information Act in other cases to obtain information about government operations.

The Pentagon issued a statement, saying, "As with all information, including images, the Department of Defense has an obligation and a responsibility to strike a balance between our strong desire to be as transparent as possible and the legitimate concerns to protect the privacy of military families and as necessary, operational security."

But there was no indication that the government would permit news organizations to begin taking such photographs.

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Under President Bill Clinton, the policy against taking such photographs was not rigorously enforced, and Mr. Clinton took part in numerous ceremonies that honored dead service members. Under Mr. Bush, the Pentagon issued a directive in March 2003 stating that there would be no news coverage of "deceased military personnel returning to or departing from" air bases.

In June 2004, that policy won the backing of the Senate, when lawmakers defeated a Democratic measure to instruct the Pentagon to allow such pictures.

Lawsuit Forces Release Of More Casualty Images (WP)

By Ann Scott Tyson

The Washington Post, August 5, 2005

In response to a lawsuit, the Pentagon has released a few dozen new and uncensored images of flag-draped coffins of U.S. troops and agreed to process "as expeditiously as possible" future Freedom of Information Act (FOIA) requests for photo and video images of returning war casualties.

The decision was called a victory for open government by the National Security Archive, a nongovernmental research group here that helped the litigation. "We forced the Pentagon to admit that release of these images was not a mistake but was in fact required by law," said Thomas Blanton, director of the archive, which posted the images on its Web site yesterday. As a result, he said the parties to the suit agreed July 28 to dismiss the case.

University of Delaware professor Ralph Begleiter sued in October 2004, and in April the Pentagon released 721 images of coffins taken by military photographers in Iraq, Afghanistan and elsewhere. The latest release includes five new images as well as 27 others that had been censored with black rectangles, obscuring the faces of chaplains and service members in honor ceremonies.

Since the Persian Gulf War, the government has gradually tightened restrictions on the public release of images of returning war casualties, most recently at the onset of the Iraq war. The policy has sparked intense debate among the public and military. Some contend the images honor U.S. military sacrifice; others consider them tantamount to an antiwar statement.

The latest controversy arose after Dover Air Force Base, the main port for returning U.S. military remains, released 350 images -- including airplane cargo bays filled with flag-draped coffins -- during a spike in fighting in Iraq in April 2004. The Pentagon said that decision, in response to a FOIA request, was a mistake and ordered that no more photographs be released.

Begleiter's suit was filed to demonstrate that under the act, such photographs must be released as long as they do not harm national security or violate privacy laws.

The Pentagon yesterday said "further consideration" of a Begleiter appeal led it to release the latest photographs in an "unredacted form," meaning without the blacked-out faces. "The Department of Defense has an obligation and a responsibility to strike a balance between our strong desire to be as transparent as possible and the legitimate concerns to protect the privacy of military families and as necessary, operational security," a spokesman said.

Pentagon Web Site Bans Politics (WP)

By Robert Macmillan And Mary Specht

The Washington Post, August 5, 2005

The Defense Department has removed messages containing political commentary from a Web site designed for people to show their support for U.S. forces serving in Iraq and Afghanistan.

Most of the postings at America Supports You (http://americasupportsyou.mil) express love and encouragement -- "The greatest nation in the world is kept that way by men and women like you," reads one message -- without partisan asides.

But among the 60,000-plus messages were at least a few dozen -- found with the site's search function -- that equated troop support with backing the Bush administration's political goals. Still others lambasted Democratic politicians such as John F. Kerry and Edward M. Kennedy, the senators from Massachusetts.

One message said: "I thank you Mr. President for all you have done and standing up to the one's who don't believe in you. My theory is that if they don't like it here; we will pay their way out. Can you put that in the budget?"

Another said: "I show my support verbally in public and by donations to the RNC and reelect George W. Bush campaigns."

Both those messages, visible on the site two weeks ago, are gone.

The decision to remove such messages reflects a policy posted on the site last week warning that political speech will be barred. Last month the Wall Street Journal reported that two antiwar messages had disappeared from the site, but at the time the site had no posted policy on political statements.

Now, "we are not including messages with political commentary -- pro or con," said Allison Barber, deputy assistant defense secretary and creator of the Web site, which opened in November. "Frankly, this a site to support the troops and thankfully, our men and women in the military volunteer to defend our country no matter who is in political office."

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Yesterday, though, several messages remained that both support and oppose the Bush administration and the U.S. military presence in Iraq and Afghanistan. For example, one said: "We very much support the troops serving but do not support the administration's handling of the conflicts where they are currently asked to serve. Please, bring them home as soon as possible."

Posting political content on Web site operated and financed by the government may not violate any rules, several experts said, but they warned that it creates an image problem.

The military "should not be seen as promoting a political agenda," said Lawrence M. Noble, head of the Center for Responsive Politics and former general counsel for the Federal Election Commission.

MacMillan is a staff writer for washingtonpost.com. Specht is a news intern for washingtonpost.com.

NATO Will Be Ready In 2006 To Take Over From U.S. Forces In Afghanistan, General Says (NSDY/AP)

The Associated Press

Long Island Newsday, August 5, 2005

KABUL, Afghanistan -- A NATO-led international force is set to expand and will be ready to assume responsibility for security across all of Afghanistan by the end of next year, freeing up many of the 17,600 American troops battling militants here, a NATO general said Thursday.

The announcement follows a surge in fighting between U.S.-led forces and Taliban rebels ahead of elections next month. The bloodshed has led the military to rush in an airborne infantry battalion of about 700 troops on standby in Fort Bragg, N.C.

On Thursday, a roadside bomb exploded near a U.S. military vehicle in eastern Afghanistan, killing an American service member and wounding another as well as an Afghan soldier, a U.S. military statement said.

Washington has long urged NATO to move forward with a plan to expand its 10,000-strong force into Afghanistan's volatile south and east.

"We are in a position that we can take over the responsibility for all of Afghanistan in the course of the next year," said Gen. Gerhard Back, who oversees the International Security Assistance Force mission from his base in Brunssum, the Netherlands.

He said he expects the deployment of extra NATO forces to relieve a "substantial" number of troops from the U.S.-led coalition, which also includes some 3,100 soldiers from 19 other nations.

Back said NATO troops would need "more robust" rules of engagement, which govern when and how forces can engage the insurgents.

He spoke to reporters after a ceremony marking the change of the command of ISAF, the NATO-led force, from a Turkish general to Italian Lt. Gen. Mauro Del Vecchio. The force is made up of troops from 36 nations.

ISAF already maintains security in the capital, Kabul, and the country's north and west. It plans to increase its size by an unspecified amount and take over from the U.S.-led coalition in the violence-wracked south early next year, before gradually moving into the east.

ISAF spokesman Riccardo Cristoni said most American troops who stay in Afghanistan after NATO takes responsibility for security nationwide would come under NATO command.

But he said it was not clear whether the United States would also keep a separate force dedicated to hunting Osama bin Laden and other al-Qaida leaders believed to be hiding along the mountainous Afghan-Pakistani border.

U.S. military spokeswoman Lt. Cindy Moore said commanders were still planning how many troops would remain here next year.

Washington has long sought to reduce the number of its troops in Afghanistan. In May, Maj. Gen. Jason Kamiya, the operational commander of U.S. forces in Afghanistan, said he was optimistic there would be a "modest reduction" this summer -- but that has not happened.

NATO has also boosted the size of its force in the past few weeks in response to the violence and in preparation for legislative elections on Sept. 18. It plans to bring in another 2,000 troops before the vote.

More than 900 people have been killed in fighting since March, when winter snows melted on mountain passes the insurgents use and the rebels launched major offensives across the country.

Afghan, NATO and American officials have warned that the spike in fighting may threaten the elections, which is the next key step toward democracy after a quarter-century of war.

"Some sources of instability like Taliban, al-Qaida and other elements might still pose a danger to the democratic process in Afghanistan," said Hikmet Cetin, the top civilian representative for NATO in Afghanistan. "We are aware that at the critical juncture for Afghans' future, the security situation could not be taken for granted."

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The attack that killed the U.S. service member Thursday occurred near a base at Urgun in Paktika province, which borders Pakistan. It came just over a week after two other U.S. service members were killed in separate attacks.

The death brings to 174 the number of U.S. troops killed in and around Afghanistan since Operation Enduring Freedom began in 2001.

DOJ:

Deputy Attorney General Comey To Take Post At Lockheed Martin (WSJ)

By Anne Marie Squeo, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, August 5, 2005

The nation's No. 2 law-enforcement official, Deputy Attorney General James Comey, is expected to join Lockheed Martin Corp. as senior vice president and general counsel when he leaves the government this month, according to people familiar with the matter.

Mr. Comey, perhaps best known in recent years for spearheading a crackdown on corporate fraud, previously had prosecuted numerous organized-crime and terrorism cases, including those involving crime boss John Gambino and the 1996 Khobar Towers terrorist attack on a U.S. military facility in Saudi Arabia. President Bush appointed him to the senior Justice Department post in December 2003.

Separately, David N. Kelley, who succeeded Mr. Comey as U.S. Attorney for the Southern District of New York in early 2004, is leaving that post to join law firm Cahill Gordon & Reindel LLP. He will start at the firm in the fall as a litigation group partner.

Mr. Comey's hiring by Lockheed, which will take effect Oct. 1, will add legal firepower to the executive team at the nation's largest defense contractor, which often faces a variety of legal claims, ranging from environmental cleanups to false claims and securities suits.

Directors at Lockheed, Bethesda, Md., are expected to vote on Mr. Comey's compensation this morning. Mr. Comey declined to comment.

Mr. Comey, 44 years old, is expected to be succeeded at the Justice Department by Timothy Flanigan, general counsel at Tyco International Ltd. and former White House deputy counsel.

At the Justice Department, Mr. Comey has overseen day-to-day operations, serving as the point person at department headquarters for U.S. attorneys nationwide and leading the Corporate Fraud Task Force, an interagency group created by the president amid numerous corporate-accounting scandals. To that end, federal prosecutors have charged more than 1,300 individuals with various related crimes since the group's formation in July 2002.

As U.S. Attorney in Manhattan, Mr.Comey directed corporate-fraud cases involving WorldCom Inc., Adelphia Communications Corp. and ImClone Systems Inc., as well as aiding the government's response to the Sept. 11, 2001, terrorist attacks. From 1996 to 2001, he was the managing Assistant U.S. Attorney in Richmond, Va.

The departure of Mr. Kelley, 45, a career prosecutor, was expected. He is a Democrat and presidents usually nominate U.S. attorneys from their own party. Mr. Kelley will be succeeded by Michael J. Garcia, whom President Bush nominated earlier this year. Mr. Garcia, a top Department of Homeland Security official, was confirmed by the Senate.

--Kara Scannell contributed to this article.

Lockheed Names Justice Department's Comey To GC Post (AP)

AP, August 5, 2005

Lockheed Martin Corp., the nation's largest defense contractor, said Thursday that the second-ranking official at the Justice Department will become the company's general counsel.

Deputy Attorney General James Comey, 44, will join Lockheed in October, replacing Frank Menaker Jr., 65, as its top lawyer. Comey, who was appointed in 2003 by President Bush, said in April that he planned to leave the Justice Department in the fall.

At Justice, he led the agency's corporate fraud task force, overseeing the prosecution of firms such as WorldCom and Enron Corp. He had served earlier as U.S. Attorney for the Southern District of New York, and handled the investigation of the 1996 bombing of the Khobar Towers in Saudi Arabia while working at the U.S. attorney's office in Virginia.

Menaker, who has served as general counsel at Lockheed since March 1995, will retire at the end of January 2006.

Lockheed also said the former deputy secretary of Homeland Security, James Loy, was elected to the company's board of directors. Loy was also the first director of the Transportation Security Administration.

Lockheed shares fell 13 cents to close at $62.82 Thursday on the New York Stock Exchange.

U.S. Deputy AG Comey To Join Lockheed Martin (REU)

Reuters, August 5, 2005

U.S. Deputy Attorney General James Comey, who made his name prosecuting corporate executives, is to join the nation's No. 1 defense contractor Lockheed Martin Corp. as general counsel, a source familiar with the matter said on Thursday.

Comey, the No. 2 U.S. legal official behind Attorney General Alberto Gonzales, led the Justice Department's Corporate Fraud Task Force, overseeing prosecutions of executives at Adelphia Communications Corp. , ImClone Systems Inc. and WorldCom. He also handled a number of high-profile terror and drug cases.

The Lockheed appointment is set to start on Oct. 1. The move was first reported in The Wall Street Journal.

Comey, who was named Deputy Attorney General in October 2003, said in April he planned to resign and move into the private sector.

Before serving in Washington, Comey was U.S. attorney for the Southern District of New York, where he made his name prosecuting an organized crime case against the Gambino family.

CORPORATE SCANDALS:

U.S. Probes Allegations Of Bribery At DaimlerChrysler (WSJ)

By John R. Wilke And Stephen Power

The Wall Street Journal, August 5, 2005

The Justice Department is pursuing a criminal investigation of allegations that DaimlerChrysler AG's Mercedes unit paid bribes in at least a dozen countries and that senior executives may have been aware of the practice.

The investigation is an escalation of a civil inquiry by the Securities and Exchange Commission that was disclosed late last year. That inquiry was triggered by a former Chrysler accountant in Detroit who alleged in a lawsuit last year that the company kept dozens of secret bank accounts to bribe foreign officials.

The investigation comes at a difficult time for DaimlerChrysler. Last week, Chief Executive Jürgen Schrempp unexpectedly said he would retire at the end of this year, well ahead of the April 2008 expiration of his contract, amid weak financial results and other setbacks at the company, the world's fifth-largest auto maker as measured by sales.

German federal authorities joined the investigation as well, people close to the case said, after the July 22 suicide of Rudi Kornmayer, managing director of the company's plant in Nigeria. The 53-year-old executive shot himself in a park in Esslingen, Germany, police said. Investigators are reviewing a suicide note that refers to the bribery inquiry, those close to the case said.

DaimlerChrysler operations in Latin America and Africa are among those under scrutiny, a person close to the case said, but the nature and purpose of the alleged payments hasn't been disclosed.

In financial disclosures on July 28, DaimlerChrysler reported it has identified "accounts, transactions and related payments that are subject to special scrutiny." The company said it is cooperating fully with investigators and "voluntarily sharing...information from its own internal investigation" in response to subpoenas from U.S. authorities.

A spokesman at DaimlerChrysler's Stuttgart, Germany, headquarters declined to amplify that statement or discuss the death of Mr. Kornmayer, who headed the company's Nigerian operations. A Justice Department spokesman declined to comment.

Historically, there has been recurring tension between the U.S. and foreign companies over enforcement of U.S. anti-corruption laws. Foreign bribes by companies or individuals were outlawed by the 1977 Foreign Corrupt Practices Act, and in recent years the U.S. has pushed other countries to adopt similar laws. But bribery remains common in parts of Africa and Latin America, and in many oil-producing nations.

Bribery is illegal across the European Union. But before passage of the Organization for Economic Cooperation and Development Anti-Bribery Convention in 1997, several European governments, including Germany's, openly allowed tax deductions for bribery overseas, according to Transparency International, a Berlin-based nonprofit group dedicated to fighting corruption. Germany's parliament ratified the convention in 1999.

The U.S. has stepped up enforcement of its anti-bribery law in recent years, and a growing number of companies have been disclosing possible foreign bribery in the wake of the 2002 Sarbanes-Oxley corporate-accountability law. The largest such case to date was settled earlier this year, when defense contractor Titan Corp. paid $28.5 million in fines and other penalties for $3.5 million in alleged bribes in the African nation of Benin, part of which was used in a presidential election campaign to secure

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the award of a telecommunications contract, according to a government filing in federal court in San Diego. The bribery investigation had derailed a planned acquisition of Titan by Lockheed Martin Corp.

The DaimlerChrysler inquiry stems from a wrongful-dismissal lawsuit filed in U.S. District Court in Detroit last year and settled last month. The plaintiff in that case, former Chrysler accountant David Bazzetta, alleged he was fired in part because he complained to superiors about secret bank accounts kept by the company's Mercedes unit.

Mr. Bazzetta said he first learned of the accounts at a corporate audit executive committee meeting in Stuttgart in July 2001. At the time Mr. Bazzetta's allegations were disclosed, Dieter Zetsche, then-CEO of Chrysler Group, told The Wall Street Journal "there is no evidence supporting" the allegations.

Mr. Bazzetta also claimed, according to court filings, that a senior audit manager told the group that foreign bribery had once been a "common practice" and that Mercedes managers in a few countries were resisting efforts to "wind down" the practice to come into compliance with U.S. law. DaimlerBenz AG and Chrysler Corp. merged in 1998; the company is subject to U.S. bribery law because its shares are listed on the New York Stock Exchange.

Mr. Bazzetta said in his lawsuit that he was told by his supervisor to "forget what was said" and that "issues that arise in corporate audit must remain in corporate audit." He also said he was told that Mr. Schrempp and other executives had been briefed by a senior auditor on 40 secret accounts that still existed and that the money was "buried deep within [the] balance sheet." The accounts still existed, Mr. Bazzetta asserted in his lawsuit, "because the chief executives of the business units not only favored this practice but believed it a necessary cost of doing business."

Terms of the settlement between Mr. Bazzetta and DaimlerChrysler are confidential, said his attorney, Sue Ellen Eisenberg of law firm Eisenberg & Bogas, Bloomfield Hills, Mich. Mr. Bazzetta later met with investigators and provided further details of the 2001 meeting. She said Mr. Bazzetta would not comment. Mr. Bazzetta's suit doesn't say how the accounts were used by country managers or whether they still are in existence.

In its SEC filing last week, DaimlerChrysler said it "has not yet reached any definitive conclusions as to whether, or to what extent, these transactions and payments may constitute violations of applicable law." If the Justice Department or SEC find that violations have occurred, the company said, "They could seek criminal or civil sanctions, including monetary penalties against DaimlerChrysler and certain of its employees, as well as changes to its business practices and compliance programs."

DaimlerChrysler also announced $17.8 million in adjustments to "certain payable accounts related to consolidated subsidiaries." The changes are insignificant given DaimlerChrysler's vast size, but may be a clue to the size of the alleged improper payments. Company officials declined to explain the accounting changes or detail how they relate to the bribery investigation. The statement also said, "It is possible that further adjustments may be required as the company completes its investigation."

The DaimlerChrysler investigation comes amid probes at other high-profile German companies that have put some of the country's traditional corporate practices under a microscope. German prosecutors are looking into allegations that a former Volkswagen AG executive set up phony businesses abroad to enrich himself at the expense of Volkswagen business partners, and that the company's personnel department gave union leaders unrestricted access to a corporate travel account that paid for plush hotels and other perks.

While allegations of corruption at Volkswagen and other companies have garnered widespread publicity in Germany recently, most corporations are more sensitive to perceptions of wrongdoing, and have tightened ethics codes to prohibit behavior that would previously have been tolerated, said Dagmar Schröder, managing director of Transparency International's Germany chapter.

SEC Urges Judge To Let Scrushy Case Proceed (LAT/BLOOM)

By From Bloomberg News

The Los Angeles Times, August 5, 2005

HealthSouth Corp. founder Richard Scrushy should face civil-fraud charges for his role in "one of the largest financial frauds in U.S. history," the Securities and Exchange Commission said Thursday in urging a judge to let the case proceed.

The SEC's filing in federal court in Birmingham, Ala., called Scrushy "desperate" for asking last month that the lawsuit be dismissed because of the agency's collaboration with the Justice Department. Any guidance given to the SEC was within acceptable rules, the agency said.

"Scrushy wants this court to create new law, from scratch, that would obligate the SEC to keep suspects apprised of developments in parallel DOJ investigations," the SEC said. "Scrushy wants the SEC to become the con man's ear in the Justice Department."

Scrushy is accused by the SEC of lying to investors and signing false financial reports. The lawsuit is one of several stemming from fraud that happened under Scrushy's watch from 1996 to 2002 at HealthSouth, the largest U.S. operator of

rehabilitation medicine services. Scrushy, who is fighting to regain control of the company he started in 1984, was acquitted June 28 of criminal charges.

Arthur Leach, Scrushy's lawyer, said he hadn't yet read the SEC filing and couldn't comment.

Greenberg Fires Back At Directors (NYT)

By Jenny Anderson

The New York Times, August 5, 2005

Maurice R. Greenberg, the former chairman and chief executive of the giant insurer American International Group, has challenged the rationale for its $4 billion income restatement, calling many of the items "exaggerated and unnecessary."

In a document presented to regulators yesterday, Mr. Greenberg's lawyers point to many people, including the company's audit committee and PricewaterhouseCoopers, as being equally responsible for overseeing the company's complex accounting. It suggests that the company's huge restatement was carried out to justify Mr. Greenberg's ouster earlier this year.

The document, known as a white paper, is a gamble for Mr. Greenberg. He is named in a suit brought by the New York attorney general, Eliot Spitzer, which claims that he and others manipulated A.I.G.'s financial statements and misled regulators, and he continues to be under criminal and civil investigation by federal authorities. In late May, A.I.G. restated five years of results, lowering its net income over that time by $4 billion, or 10 percent.

The paper is "a shot across the bow of the regulators who clearly are contemplating bringing criminal charges," said Robert A. Mintz, head of the white-collar defense practice of the law firm McCarter & English and a former federal prosecutor. "It's a signal that this is clearly a winnable fight and it's far from a black and white case."

Mr. Greenberg's lawyers challenge many of the restatement items and question what they call the board's rash judgment to force Mr. Greenberg's resignation before any charges were brought. The intense regulatory environment, they write, does not explain the whole picture.

"The rush to judgment may also be explained in part by the outside directors' interest in legitimizing their removal of Mr. Greenberg," the paper says, "whose 38-year record in creating stockholder value is beyond dispute in American business history and by understanding the long-held ambitions of at least one or two such directors to take a leading role at A.I.G."

Chris Winans, an A.I.G. spokesman, said: "We have not been given access to the so-called white paper and we have no comment on it. We stand by our decision as fully disclosed in our recent 10(k) filing with the S.E.C."

Darren Dopp, a spokesman for Mr. Spitzer, said, "We'll let the case and the facts speak for themselves."

Among the items that the paper challenges are an $850 million charge for asbestos and environmental reserves and a decision to expense already awarded long-term compensation. It also examines the role played by both A.I.G.'s audit committee and PricewaterhouseCoopers for approving many of the transactions now deemed improper.

A spokesman for PricewaterhouseCoopers could not be reached for comment.

Mr. Greenberg's lawyers question A.I.G.'s reversal on how to account for stock awarded to A.I.G. employees by Starr International, a private company that ultimately became a vehicle to offer incentive compensation to A.I.G. employees. In its 10(k) filing, A.I.G. states that it did not previously expense the compensation because "the amounts had been determined not to be material."

As a result of that program, A.I.G. stockholders enjoyed a lower rate of dilution than other companies because Starr International, rather than A.I.G., could offer the compensation. According to the paper, Starr International has offered information to A.I.G. that would enable it to save hundreds of millions of dollars through a tax deduction. A.I.G. has not responded to that offer, Mr. Greenberg's lawyers wrote.

"These changes to the form 10(k) may be an attempt by new management to set the bar as low as possible on the investment community's expectations of A.I.G.'s earnings going forward," the paper says.

The report does not detail Mr. Greenberg's role in a so-called finite insurance transaction with General Re, a subsidiary of Berkshire Hathaway, which Mr. Spitzer accuses Mr. Greenberg of orchestrating solely to dress up A.I.G.'s financials.

The report says the accounting community continues to debate the issue of when finite reinsurance contracts qualify as reinsurance accounting, calling the issue "complex and highly subjective."

But the document does not address Mr. Greenberg's motives in seeking the transaction. His lawyers say they have not received the documents necessary to review the matter properly.

The report takes shots at various individuals inside A.I.G. Mr. Spitzer's complaint alleges that management made accounting adjustments, known as top-level adjustments, to improve its results. Mr. Greenberg's lawyers say no top-level entries were made without consultation with PricewaterhouseCoopers, adding that Martin J. Sullivan, the current chief executive of A.I.G., was "involved in certain top-level adjustments to general insurance loss reserves."

Mr. Sullivan has not been accused of any wrongdoing. Through Mr. Winans, he declined to comment.

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Greenberg Defends AIG's Accounting, Rebuts Allegations (WSJ)

By Theo Francis And Ian McDonald

The Wall Street Journal, August 5, 2005

Attorneys for former American International Group Inc. Chairman and Chief Executive Maurice R. "Hank" Greenberg defended many of the accounting decisions made on his watch, telling regulators that the company's auditor and current AIG executives knew of moves the company recently reversed.

In a 51-page document, the lawyers say that AIG's longtime auditor, PricewaterhouseCoopers LLP, Chief Executive Martin J. Sullivan and Chief Financial Officer Steven J. Bensinger, among others, were aware of accounting moves that the company has reversed under pressure from regulators.

In late May AIG restated five years of financial results, shaving its reported profit through 2004 by 10%, or $3.9 billion, and cutting its net worth by 3%. The company's shares have fallen 16% since it disclosed state and federal subpoenas in February.

The document suggests current managers are eager to take sizable charges now partly to make the firm's future results looks stronger by comparison. The changes behind the restatement "may be an effort by new management to set the bar as low as possible on the investment community's expectations of AIG's earnings going forward," according to the document. The outside directors also have "an interest in legitimizing their removal of Mr. Greenberg," the document says.

The document, which was reviewed by The Wall Street Journal, marks Mr. Greenberg's first detailed attempt since he was forced out in March to rebut allegations that he and others improperly manipulated AIG's books to burnish the company's otherwise strong results. Those allegations are made in AIG's latest annual report and in a lawsuit filed in May by the New York attorney general and the state insurance department against the company, Mr. Greenberg and another former executive. The latest document first was described in an editorial published yesterday in the Journal.

An AIG spokesman said the company stands by its restatement. "We have not been given access to the so-called white paper...and we have no comment on it," he said. Messrs. Sullivan and Bensinger also had no comment, he said. AIG has said that an internal review this year turned up new information that led the company to re-evaluate past accounting decisions. A PricewaterhouseCoopers spokesman said the firm hasn't seen the document and declined to comment.

AIG and New York regulators are in the early stages of settlement talks, people familiar with the talks say. Mr. Greenberg's attorneys previously have said he would contest the New York lawsuit's allegations, as has an attorney for the other defendant.

A spokesman for the New York attorney general's office confirmed receiving the document but declined to comment. A New York insurance department spokesman declined to comment and said the agency hadn't received the document from Mr. Greenberg's legal team.

The attorneys argue in the document that Mr. Greenberg was "not responsible for developing and implementing the accounting policies of AIG." Other top officials knew of many decisions, the document states. Both PricewaterhouseCoopers and AIG's interim chairman, Frank Zarb, for example, knew of the accounting treatment AIG used for "covered calls," derivative transactions that AIG in May said had been improperly booked, the document says. Mr. Zarb couldn't be reached to comment.

In criticizing AIG's decision to increase its reserves for liabilities related to asbestos and pollution losses -- a move that reduced net income by $850 million -- the document notes that Mr. Bensinger, now financial chief, had been responsible for presenting AIG's earlier figures to ratings companies.

New SEC Chief Vows Agency Will Be 'Investors' Advocate' (WSJ)

By Deborah Solomon

The Wall Street Journal, August 5, 2005

In his first day on the job, Securities and Exchange Commission Chairman Christopher Cox sought to allay concerns that he'll kowtow to business, telling SEC staff that "the Department of Commerce serves our country's businesses. We are the investors' advocate."

The arrival of Mr. Cox, a former Republican congressman from Southern California, has been viewed with skepticism by some who fear he may take a more business-friendly approach to regulation and enforcement than his predecessor, William Donaldson.

At a staff meeting yesterday morning, Mr. Cox told staffers those predictions "often have as much factual basis as a WorldCom prospectus" and said anyone who tries to take advantage of the investing public "will find themselves a powerful adversary in the SEC."

His brief remarks underscored the delicate balancing act that awaits Mr. Cox, who will have to weigh the needs of investors against the growing concerns of business that the SEC has become too aggressive. He acknowledged that the SEC "faces some thorny issues" as it looks to implement controversial new rules, including an overhaul of stock trading, the registration of

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hedge-fund advisers and new mutual-fund governance requirements. Mr. Donaldson pushed those rules through on a 3-2 vote with the support of the SEC's two Democratic commissioners and over the objections of Republican Commissioners Paul Atkins and Cynthia Glassman.

Mr. Cox didn't offer specifics of his own agenda yesterday other than to say he wants to improve disclosure both on Wall Street and within the SEC. He said he wants the SEC to renew its focus on the "plain English" doctrine, implemented under former Chairman Arthur Levitt, intended to make Wall Street documents more intelligible to investors. He said that same goal should also apply to the SEC's written rules and regulations, which can be massive and hard to understand. "The SEC has to practice what it preaches," he said.

Mr. Cox is expected to spend some time getting up to speed on the SEC's activities and initiatives and is also expected to start interviewing staff for several open positions, including the agency's head of investment management and its market-regulation division.

New SEC Chief Vows To Reduce Jargon (FT)

By Andrew Parker

Financial Times, August 5, 2005

Christopher Cox, the new Republican chairman of the Securities and Exchange Commission, signalled on Thursday that providing investors with more user-friendly financial information would be a theme of his leadership.

Mr Cox, on his first day as the chief US financial regulator, complained about the lack of "plain English" in company proxy statements and mutual fund prospectuses.

He also warned that the SEC faced some "truly thorny issues" in implementing rules on stock trading, hedge fund oversight and mutual fund governance that were finalised by William Donaldson, his predecessor.

Mr Cox used a speech at the SEC headquarters in Washington to set out his concerns about the lack of comprehensible information for retail investors.

"When a company issues a proxy statement, should the millions of ordinary Americans who own the company's stock be able to read and understand it?" he asked.

"It is all well and good that their broker's lawyer could understand it. But what about the individual investors themselves - is disclosure for them too?"

Mr Cox praised an initiative on plain English in financial information by Arthur Levitt, the former Democratic chairman of the SEC.

"Chairman Levitt's vision was dead-on," he said. "How hard do you think it would be today to find offensive legalese in almost any mutual fund prospectus or proxy statement?"

He also emphasised the need for the SEC to practise what it preached, and to make sure its own rules and publications contained plain English. Mr Cox joked about speculation, running up to the Senate's confirmation of him as SEC chairman last week, on whether the regulator would be business-friendly or investor-friendly under his leadership.

As a Republican congressman for the past 17 years, he developed a business-friendly legislative track record. Mr Cox on Thursday said the SEC was "the investor's advocate". "During my chairmanship, anyone who attempts to drive a wedge between the interests of business and interests of investors in that business will find themselves confronted by a relentless and powerful adversary in the Securities and Exchange Commission," he said.

He added that it should not be necessary for the interests of business and investors to be in conflict, given that shareholders owned companies.

Mr Cox signalled that he would retain Linda Thomsen, who was appointed SEC director of enforcement in May by Mr Donaldson.

The senior SEC staff serve at the pleasure of the chairman, and there has been media speculation that Mr Cox might want changes to personnel.

Stock Options: Do They Make Bosses Cheat? (NYT)

The New York Times, August 5, 2005

QUESTION for shareholders: If the company's directors give lots of options to the chief executive, should you be happy or nervous?

The traditional answer from academia was that big options grants were good. They aligned the interests of executives with shareholders, and they helped to offset the tendency of executives to avoid risky but potentially profitable investments.

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But it turns out that the conclusions were based more on optimistic theories than data. Now, with option grants having become the largest portion of chief executive compensation - worth more than either salary or bonus for the average boss - analysis of data on corporate performance provides some disturbing results.

It appears that really big options grants make it more likely that companies will fudge their numbers and that companies with such grants are more likely to go broke.

One study, to be presented this weekend at a meeting of the Academy of Management in Honolulu, compared 435 companies that were forced to restate their financial statements with similar companies that did not run into such problems.

The report found that the higher the proportion of the boss's pay in stock options, the more likely the company was to be forced to restate profits. For companies where bosses got 92 percent or more of their pay in options, about a fifth ended up faking their books within five years.

That conclusion would be more persuasive if the authors, Jared Harris, a doctoral candidate at the University of Minnesota, and Philip Bromley, a management professor there, had looked at all companies that are so generous with options.

But it makes a lot of sense. Those executives whose well-being most depends on the stock going up are most likely to do what they can to arrange that, by fair means or foul.

IT is not just options that seem to correlate with fraud, the study found. Bosses of companies that are doing much worse than their competitors may feel a need to cheat. And companies that turn in a very good year have a propensity for faking numbers the next year.

"A firm with an exceptional year faces a difficult problem," the authors write. "If the high performance the year before was partly luck, then the firm may be unable to replicate the high performance, but the market will view failing to do so negatively. Trying to equal past performance, such firms may resort to financial misrepresentation."

Another study that shows the dangers of excessive options comes from Moody's, the bond rating service. The study's authors, Kenneth A. Bertsch and Christopher Mann, found that companies with the highest-paid bosses, adjusted for things like company size and performance, were far more likely to default on debt or to suffer major cuts in bond ratings.

There is, they note, a relatively benign explanation: such companies are taking risks to benefit shareholders, and while some of the risks do not work out, others do. But they offer two other possible explanations. One is that high management pay reflects weak board oversight. The other is that incentive pay packages can "create an environment that ultimately leads to fraud."

Stock options may not produce fraud but they do magnify its rewards. As the Harris-Bromley article notes: "It is easy to be honest if $1 is at stake; it is harder to be honest if $10 million is available."

The lesson for corporate boards is that if they think it is a good idea to lavish stock options on top management, they also need to be vigilant in putting in safeguards to prevent and discover fraud. As Mr. Harris put it, "it does look like the more options you pay your C.E.O., the more likely the firm is to cheat."

Delphi Negotiates With GM, UAW About Big Revamp (WSJ)

By Joseph B. White

The Wall Street Journal, August 5, 2005

Delphi Corp. Chairman and Chief Executive Officer Robert S. "Steve" Miller said the automotive supplier is in discussions with former parent General Motors Corp. and the United Auto Workers about a comprehensive restructuring of Delphi's unprofitable U.S. operations aimed at avoiding bankruptcy reorganization.

Mr. Miller, a veteran leader of large-scale corporate restructurings, said discussions with GM and the union "are very constructive and give me hope that we can restructure out of court." But Mr. Miller said that if Delphi can't reach agreements with GM and the UAW that substantially cut its U.S. labor costs and allow for restructuring or sale of unprofitable businesses, the company can't continue on its current course until September 2007, when its current UAW contract expires.

Delphi had a $403 million loss in the first quarter, and has forecast a loss for the year. "We don't have the wherewithal to go another two years losing money at that rate," Mr. Miller said in an interview at Delphi headquarters. Mr. Miller took the helm at Delphi July 1, succeeding former Chairman and Chief Executive Officer J.T. Battenberg III, who announced his retirement in February.

Delphi had $28.62 billion in revenue and a $4.75 billion loss in 2004. Delphi has been wrestling with management turmoil linked to revelations of accounting irregularities. The company at the end of last month restated earnings for 2001 through 2003. The Securities and Exchange Commission is investigating. No Delphi executives have been charged with wrongdoing.

Delphi's operating crisis became acute during the first half of this year as GM, which accounts for 49% of Delphi's total business, slashed production amid slowing sales.

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One result of the GM cuts is that Delphi has about 4,000 UAW workers who are laid off but receiving pay and benefits from Delphi under the master UAW contract. Delphi President Rodney O'Neal, in comments at an industry conference earlier this week, said payments to laid-off workers are costing Delphi $300 million to $400 million a year.

Most of Delphi's roughly 25,000 UAW workers earn the same wages and benefits as GM hourly workers. Most of Delphi's supplier competitors pay even their unionized U.S. workers a fraction of Delphi's $27-an-hour rate. Delphi's pension plan is $4.7 billion underfunded, according to a July 29 report by analysts at Standard & Poor's Corp. The company has a retiree health-care liability of $10 billion.

Mr. Miller said a $2.8 billion refinancing plan completed in June has given the company time to "come to an orderly resolution" of restructuring talks with GM and the union.

A GM spokesman said the company wouldn't comment on talks with Delphi. Union officials couldn't be reached.

GM doesn't have equity ties to Delphi, and Delphi employees aren't GM employees. However, GM could be liable for a portion of pension and retiree health benefits for Delphi's UAW employees, should Delphi seek a bankruptcy-court reorganization and terminate its pension plans. Delphi workers also have a limited right to return to GM, if GM has job openings.

Moreover, GM would have an incentive to avoid the potential disruption to its operations from a Delphi collapse. For example, a bankruptcy court could order GM to pay Delphi higher prices.

What will be critical to Delphi's effort to avoid a bankruptcy reorganization, Mr. Miller said, is the support of Delphi's suppliers and customers. Suppliers could demand immediate payment for goods delivered to Delphi. Potential customers could decide not to award Delphi business for fear that the company would fail to perform.

Mr. Miller didn't disclose specifics for his restructuring plan. He said Delphi will concentrate on high-technology products -- including nonautomotive ventures.

Delayed Reaction At Morgan Stanley, Board Slowly Faced Its Purcell Problem (WSJ)

By Ann Davis And Randall Smith

The Wall Street Journal, August 5, 2005

On a sunny day in early June, near the top of a 60-story glass tower with panoramic views of Boston, three independent Morgan Stanley directors heard a stern critique from money managers at the hedge fund Highfields Capital Management LP.

Morgan Stanley Chief Executive Philip Purcell risked being ousted in a proxy fight the next spring, the Highfields managers said. Yet the Morgan Stanley board had allowed two designated successors to leave and the firm was suffering an alarming exodus of talent, they said.

The meeting with Highfields was the last significant event before directors and Mr. Purcell decided he should step down, according to interviews with two people knowledgeable about board deliberations. On June 13 he announced he would resign and he left the firm on June 30.

Based on interviews with directors, investors and others, a picture emerges of a board that came to grips painfully slowly with the extent of Mr. Purcell's unpopularity. By some directors' own accounts, the board initially misjudged attacks on Mr. Purcell by retired Morgan Stanley executives, seeing the complaints as carping about his personal style rather than as an issue that threatened the company's performance.

The tale serves as a caution for boards in an era when their role in corporate governance is drawing more scrutiny. The damage from delay when directors fail to spread their antennae widely is especially great at a Wall Street securities firm like Morgan Stanley, where the most valuable assets can walk out the door and never return.

That's precisely what happened during the three months between the first stirrings of revolt in March and Mr. Purcell's resignation in June: Dozens of key Morgan Stanley staffers quit and joined rival companies or are considering starting their own firms. Replacing those people is an issue that Mr. Purcell's successor, John Mack, is trying to address.

As this year dawned, directors had reason to believe all was calm at Morgan Stanley. The firm was a big player in the dot-com boom of the late 1990s and had suffered in the collapse. But in 2003 and 2004, Morgan Stanley's profits rebounded and the stock price climbed back somewhat.

"Performance had turned up," says recently named lead director Miles Marsh, a mild-mannered native of South Africa who used to lead a paper-products company. Earnings per share rose 18% in 2004 and Morgan Stanley was No. 1 in stock underwriting, he notes.

When eight prominent Morgan Stanley alumni called for Mr. Purcell's removal in a March 3 letter, many of the directors saw little more than sour grapes. It was well-known that many Morgan Stanley old-timers had an animus toward Mr. Purcell, who led Dean Witter, Discover & Co. into its merger with Morgan Stanley in 1997. Mr. Purcell nudged out Mr. Mack, a Morgan Stanley veteran, in 2001 by not ceding the CEO job as Mr. Mack thought they had agreed.

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"It struck us that the complaints against Phil were more personal than based on performance," says Michael Miles, a former CEO of Philip Morris Cos. Mr. Miles was one of Dean Witter's directors when it went public in 1993 and since the Morgan Stanley merger has chaired the committee that recommends new directors and oversees board procedure.

On March 14, the directors solicited views from about a dozen top executives, asking them what they thought of Morgan Stanley's strategy and leadership. Star investment banker Joseph Perella was at a conference in Mexico with 60 clients. In a 20-minute call, Mr. Perella told three directors he believed Mr. Purcell's leadership style wasn't working, according to a person told of the call at the time. A spokesman for Mr. Perella, Tim Metz, declined to comment.

Mr. Perella said Mr. Purcell, who lived in New York during the week but typically returned to his family's home near Chicago on weekends, had little involvement in Manhattan's civic or charitable affairs and was little-known among clients and employees.

"But Joe, these are all soft issues," Mr. Marsh responded, people familiar with the call said. Mr. Marsh asked Mr. Perella to focus on "hard" issues such as business strategy and execution, according to a person familiar with the conversation.

One director even sought to squelch a doubter on the board. At a mid-March board meeting, Laura D'Andrea Tyson, a former Clinton administration economic official who is dean of the London Business School, said directors should take the criticism of Mr. Purcell's record more seriously. Director Charles Knight, former CEO of Emerson Electric Co., rebuked Ms. Tyson, calling her comment inappropriate, people familiar with the exchange say.

Depth of Feeling

Several encounters suggest directors misunderstood the depth of feeling among people in Morgan Stanley's institutional securities business, which underwrites and trades stocks and bonds as well as advising corporations on mergers. That business, the traditional core of Morgan Stanley, generates 60% of the firm's profits.

At one point Mr. Miles compared Mr. Purcell to management icon Jack Welch, the former head of General Electric Co., and the dissidents to lower-level employees. "Can you imagine 10 engineers from the GE engine plant in Cincinnati who don't like how the engine division is being operated writing a letter to the GE board saying Jack Welch should be fired?" Mr. Miles asked some bankers, say people familiar with his remarks. Mr. Miles meant to refer to Mr. Welch's more controversial early years as chief executive, when his cost cuts earned him the nickname "Neutron Jack."

In fact, the dissidents included a former chairman and a former president of Morgan Stanley. On April 2, Mr. Perella spoke for an hour with Mr. Miles and said the troops were in disarray, according to people familiar with the conversation. Mr. Perella asked about arranging a meeting between bankers and directors, these people say. The meeting had been suggested by Paul Taubman, co-head of mergers and acquisitions.

Mr. Miles responded tartly that if the purpose of the meeting was to tell directors that Mr. Purcell should resign, it wouldn't be much of a meeting because the board is "100% behind Phil." He advised Mr. Perella to tell his people to "go back to work." And he urged Mr. Perella to "put the genie back in the bottle" by helping quell the dissent, people familiar with the discussion say.

On April 13, Mr. Perella and the head of investment banking, Terry Meguid, resigned. Mr. Perella went on to land an assignment advising MBNA Corp. on its purchase by Bank of America Corp. -- a $35 billion deal announced in June that Morgan Stanley wasn't involved in.

The week after Mr. Perella resigned, Messrs. Miles and Purcell visited the Baltimore headquarters of T. Rowe Price Group Inc., a shareholder and client. The two men said Morgan Stanley's business was fine and the problem was the alumni attack itself, according to people familiar with the meeting. Mr. Purcell gave himself a grade of 8 out of 10 and said the firm needed to get out of the newspapers, these people say.

Some T. Rowe officials were taken aback at the way Mr. Purcell didn't take responsibility for the firm's flagging morale. People at the meeting recall T. Rowe analyst Jeff Arricale blurting: "No, Phil, you're the problem!" Mr. Miles, while praising management's performance, bristled when someone implied that the board was too stubborn about considering new leadership. "The board is not in Phil's pocket. There are no wallflowers here," he said, according to people at the meeting.

The board took steps to interview more employees. On the weekend of April 23 and 24, Messrs. Miles and Marsh secretly contacted Raymond McGuire, Morgan Stanley's other co-head of mergers. Mr. McGuire, who himself would leave the firm in May to join Citigroup Inc., urged them to talk to others to get "a true picture of the state of affairs," according to people familiar with the discussion.

The following week, directors interviewed around 50 employees in one-on-one sessions in New York and London and in telephone calls to Asia and elsewhere. They got an earful. One of those interviewed was Mr. Taubman, the co-head of mergers. Around that time, people who talked to him say, Mr. Taubman was bringing up a recent announcement by the directors that there was no compelling reason to remove Mr. Purcell. These people say Mr. Taubman asked: What was the compelling reason for Mr. Purcell to be the CEO? Mr. Taubman declined to comment.

The tide was turning. Mr. Marsh, the former paper executive, says that after the interviews, "it became apparent to us that a management change seemed inevitable. The situation had progressed to a point where we could not go back."

New Divisions

A board meeting on Saturday, April 30, at a suburban Chicago office park housing Morgan Stanley's credit-card operations exposed new divisions among the directors. The board and Mr. Purcell agreed on modest governance changes. Mr. Purcell said those moves plus the hiring of a new vice chairman, merger lawyer David Heleniak from Shearman & Sterling, would be enough to calm the storm, say people familiar with the meeting.

At one stage, the outside directors asked Mr. Purcell and his co-presidents with board seats to leave the room. Mr. Knight, the director who had clashed with Ms. Tyson in March, and Klaus Zumwinkel, chairman of the management board of Germany's Deutsche Post AG, said they supported Mr. Purcell and didn't see any reason to discuss the matter since the board had already decided on it, according to several accounts of the meeting. Messrs. Knight and Zumwinkel had to leave early. They declined through spokesmen to comment for this article.

The attempt to cut off debate bothered some other directors, people familiar with the meeting say. Once Messrs. Knight and Zumwinkel left, the discussion turned more freewheeling. Mr. Miles, who had recently declared the board's 100% support for Mr. Purcell, now encouraged open debate. The directors who had interviewed Morgan Stanley employees briefed the others on what they had heard.

Howard Davies, director of the London School of Economics and Political Science, said employees in London whom he had interviewed felt company morale was unlikely to improve under Mr. Purcell. "I'm not sure we're going to get though this problem without change," he told the others, a person familiar with the meeting says. Ms. Tyson said she might quit the board if it refused to go beyond modest governance changes and Mr. Davies was considering a similar move. But both were persuaded to stay as they heard other directors including Mr. Marsh show an openness to bigger changes, say people familiar with the meeting.

Mr. Marsh argued that management had to be accountable for the firm's lack of cohesion. He questioned the wisdom of backing Mr. Purcell, asking: "Do you think we're really doing the right thing here?"

Publicly, the board gave no hint of the developing split to avoid worsening the uproar. It announced on the night of Sunday, May 1, that directors had "unanimously" concluded a management change wasn't in shareholders' interest.

As May wore on, says Mr. Marsh, it became apparent that "the level of noise was not abating." In mid-May, a Florida state jury found Morgan Stanley had defrauded financier Ronald Perelman, and the firm was ordered to pay $1.45 billion. The judge angrily accused Morgan Stanley of withholding evidence. Mr. Davies, an audit committee member, soon began questioning members of the legal department about how the Florida lawsuit had been handled.

As the board continued to mull Mr. Purcell's fate, the exodus continued. Among others, a nine-person team of derivatives specialists and traders who had been working to build new products for individual investors left for Wachovia Corp. Mr. McGuire jumped to Citigroup on May 23.

The next day, Highfields sent a letter urging directors to choose a new leader. Highfields, which owned 2.5 million Morgan shares as of March 31, had a history of publicly challenging managers including a confrontation in 2001 with Enron Corp.'s then-CEO, Jeffrey Skilling.

On June 3, three directors -- Mr. Marsh, Mr. Knight and Robert Kidder, former CEO of Borden Chemical Inc. -- sat down with Highfields founders Jonathon Jacobson and Richard Grubman in the Highfields office on the 51st floor of the John Hancock tower in Boston.

In a businesslike presentation, without attacking Mr. Purcell personally, one of the Highfields founders warned the directors they had "a bigger problem than you know you have," people familiar with the meeting say. Messrs. Jacobson and Grubman asked if the directors were ready to fight a proxy battle in 2006 when alumni might urge shareholders to withhold support for Mr. Purcell's re-election. The Highfields team noted that Mr. Purcell had failed to identify his own successors, pushing them out instead. It was urgent to solve the succession issue quickly, they said.

This time, the directors didn't push back. While a few were still perceived as holdouts for Mr. Purcell, the chief executive had heard about the Highfields meeting and was signaling that he was prepared to step down, say people familiar with the matter. The board convened an emergency meeting in Chicago on Wednesday, June 8, to discuss his departure, and continued negotiating his exit through the weekend.

Mr. Marsh says the board tried to act as quickly as possible. "The decision to change leadership was resolved in a three-month period from April to June." he says. "It's very important for a board to achieve consensus and that often takes some time."

As the end neared, directors awarded Mr. Purcell about $44 million in exit pay plus a $62.3 million retirement package. It gave a co-president, Stephen Crawford, closely aligned with Mr. Purcell $32 million when he resigned in July.

Now a pension fund has sued directors for continuing to support Mr. Purcell as the franchise deteriorated and for approving the lavish pay deals. Some institutional shareholders are discussing an effort to vote out the directors at next spring's annual meeting.

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US Regulators Plan 1-Year Job Restriction On Bank Examiners (DOWJONES)

Dow Jones Newswires, August 5, 2005

WASHINGTON -(Dow Jones)- U.S. regulators on Thursday proposed rules to enforce a new law restricting senior bank examiners from working for the banks they supervise for one year after leaving their jobs.

Starting Dec. 17 the job restriction, included in an intelligence and anti- terrorism law enacted late last year, would apply to examiners at the Office of the Comptroller of the Currency, the Federal Reserve, the Federal Deposit Insurance Corp. and the Office of Thrift Supervision.

The legal requirement followed a year-long probe by the Senate Permanent Subcommittee on Investigations into money laundering allegations involving Riggs Bank N.A., which has since been acquired by PNC Financial Services Group (PNC) (PNC).

The Senate subcommittee found the OCC was slow to respond while Riggs helped corrupt leaders from Chile and Equatorial Guinea. Questions surrounded R. Ashley Lee, the regulatory agency's examiner in-charge at Riggs from 1998 to 2002, who left to become Riggs' chief risk officer. Lee was put on leave while the U.S. Justice Department investigated ethics violations.

The proposed restriction would apply to employees of bank regulators who serve as senior examiners for two or more months during their final year of employment with the agencies.

These individuals would be barred for one year from knowingly accepting compensation "as an employee, officer, director or consultant from that institution or holding company, or from certain related entities," the regulators said in a joint statement. Potential penalties for violation would include a ban on employment in the banking industry for up to five years and fines of up to $250,000.

The regulators are accepting public comment on their proposal for 60 days from its publication in the Federal Register Friday.

-By Campion Walsh; Dow Jones Newswires; 202 862 9249; campion.walsh@ dowjones.com

CRIMINAL LAW:

U.S. Indicts 2 In Case Of Divulged Secrets (WP)

By Dan Eggen And Jamie Stockwell

The Washington Post, August 5, 2005

Two former employees of an influential pro-Israel lobbying group were indicted yesterday on charges that they illegally received and passed on classified information to foreign officials and reporters over a period of five years, part of a case that has complicated relations between the United States and one of its closest allies.

Although no foreign government is named in the indictment, U.S. government sources have identified Israel as the country at the center of the probe. The Israeli Embassy in Washington also confirmed yesterday that it has been "approached" by investigators in the case.

The 26-page indictment, handed up in U.S. District Court in Alexandria, represents the first formal allegations of criminal wrongdoing against the former employees of the American Israel Public Affairs Committee. AIPAC is widely recognized as one of the most powerful lobbying organizations in Washington and has carefully cultivated close ties to Congress and the Bush administration.

The indictment also recasts the government's allegations against Lawrence A. Franklin, a Defense Department analyst who had already been charged with disclosing secret information about possible attacks on U.S. forces in Iraq and other topics. One of six original counts was dropped against Franklin, 58, of Kearneysville, W.Va.

Former AIPAC director of foreign policy issues Steven J. Rosen, 63, of Silver Spring was indicted on two counts related to unlawful disclosure of "national defense information" obtained from Franklin and other unidentified government officials since 1999 on topics including Iran, Saudi Arabia and al Qaeda. A former AIPAC analyst, Keith Weissman, 53, of Bethesda, was indicted on one count of conspiracy to illegally communicate classified information.

Rosen was instrumental in making AIPAC a formidable political force and helped pioneer the strategy of lobbying the executive branch as energetically as Capitol Hill, beginning in the Reagan administration. The FBI's long-running investigation -- which has involved clandestine wiretaps and other surveillance dating back several years -- has angered many political supporters of Israel and has caused friction between the two governments.

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AIPAC fired Rosen and Weissman but continues to pay their legal fees. "AIPAC dismissed Rosen and Weissman because they engaged in conduct that was not part of their jobs, and because this conduct did not comport in any way with the standards that AIPAC expects of its employees," said Patrick Dorton, a spokesman for AIPAC.

A spokesman for the Israeli Embassy in Washington, David Siegel, said that Israel was formally approached by U.S. investigators in the case several weeks ago and that "we've expressed our willingness to cooperate in this process." He denied any wrongdoing by embassy diplomats.

Attorneys for Rosen and Weissman also vigorously disputed the charges.

"The charges in the indictment announced today are entirely unjustified," Abbe Lowell, Rosen's attorney, said in a statement. Lowell said he expects the trial to "show that this prosecution represents a misguided attempt to criminalize the public's right to participate in the political process."

Weissman's attorney, John Nissikas, said in a statement: "We are disappointed that the government has decided to pursue these charges, which Mr. Weissman strongly denies."

Franklin's attorney, Plato Cacheris, said the charges were "not welcome but expected." Cacheris said he may request that Franklin be prosecuted separately from the others.

The indictment alleges that, beginning in April 1999, Rosen and, later, Weissman sought to influence people in the United States government, including Franklin, with whom they first met in February 2003, and used those contacts to gather sensitive and classified information.

In announcing the charges in Alexandria, U.S. Attorney Paul J. McNulty said that while "Washington is a town in which the flow of information is virtually nonstop," there is a clear distinction in the law that "separates classified information from everything else."

"Today's charges are about crossing that line," McNulty said. "Those entrusted with safeguarding our nation's secrets must remain faithful to that trust. Those not authorized to receive classified information must resist the temptation to acquire it, no matter what their motivation might be."

The motivation of Rosen and Weissman McNulty said, was simply to "advance their foreign policy agendas and personal careers."

McNulty said prosecutors had no immediate plans to charge anyone else in the case but said the investigation was continuing. In addition to unidentified U.S. and foreign government officials, the indictment refers to an unknown number of journalists who were in contact with Rosen and, in some cases, allegedly received classified information. Sources familiar with the case have said that one of the reporters in contact with Rosen and Weissman was Glenn Kessler of The Washington Post.

Rosen faces up to 20 years in prison and Weissman faces up to 10 years; both are scheduled to appear in court Aug. 16. Franklin, who pleaded not guilty to the earlier charges, faces up to 45 years in prison if convicted on all counts, officials said.

Israel Lobbyists Facing Charges In Secrets Case (NYT)

By David Johnston

The New York Times, August 5, 2005

WASHINGTON, Aug. 4 - Two former officials of a pro-Israel lobbying group were charged in an indictment filed Thursday with illegally conspiring to gather and disclose classified national security information to journalists and an unnamed foreign power that government officials identified as Israel.

The indictment accused Steven J. Rosen and Keith Weissman, formerly senior staff members at the American Israel Public Affairs Committee, with improperly disclosing national security information beginning in April 1999. The group dismissed the two men last April.

As the committee's director of foreign policy issues, Mr. Rosen was a highly visible figure in Washington who helped the organization define its lobbying agenda on the Middle East and forged important relationships with powerful conservatives in the Bush administration. Mr. Weissman was a senior Middle East analyst.

The charges in the long-running inquiry were expected, but nevertheless unusual. Neither Mr. Rosen nor Mr. Weissman, who have denied any wrongdoing, held security clearances.

They were not government employees and they operated in a foreign policy world in which private lobbyists, public officials and journalists often trade delicate information about executive branch decision-making that is related to other countries.

The indictment did not accuse any journalist of wrongdoing, but cited several conversations that Mr. Rosen and Mr. Weissman had with unidentified journalists as "overt acts" that furthered the conspiracy. Government officials have said investigators want to interview reporters who talked with either of the two men. It is not clear who the journalists are or whether any them have been interviewed.

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The indictment said the two men had disclosed classified information about a number of subjects, including American policy in Iran, terrorism in central Asia, Al Qaeda and the 1996 bombing of the Khobar Towers apartment in Saudi Arabia, which killed 23 Americans, mainly military personnel.

Mr. Rosen and Mr. Weissman were each charged with a single count of conspiracy; Mr. Rosen was also charged with an additional count of passing classified information. The government has never offered a motive for the actions the men are accused of taking. The indictment said Mr. Rosen and Mr. Weissman had seemed keenly aware of the delicateness of information they had obtained from at least three American officials, including Lawrence A. Franklin, a former Defense Department analyst who met the two men in February 2003. The indictment did not name the other two American officials.

Mr. Franklin has already been charged in the case, and he was the subject of additional charges in Thursday's indictment. Mr. Franklin, Mr. Rosen and Mr. Weissman are scheduled to be arraigned on Aug. 16 before Judge T. S. Ellis III of Federal District Court in Alexandria, Va.

The indictment charged that Mr. Franklin, Mr. Rosen and Mr. Weissman had talked about the classified nature of the material they shared, referring to it in conversations with each other, as well as with foreign officials and journalists, as "extremely sensitive" or "secret." At one point, the indictment said, Mr. Franklin seemed to know that he was disclosing secrets, warning Mr. Rosen and Mr. Weissman against discussing classified information about possible attacks on American forces in Iraq.

The offenses charged in the indictment fall under the Espionage Act, but no one has been charged with spying. Although the statutes do not explicitly apply only to government officials with security clearances, prosecutors have not often pursued cases like the one against Mr. Rosen and Mr. Weissman. They are accused of transferring classified information to journalists and foreign government officials that could be "used to the injury" of the United States or "to the advantage" another country.

Among the meetings with journalists, the indictment charged, was one that occurred in December 2000 after Mr. Rosen and Mr. Weissman met with an unidentified American official. It said that Mr. Rosen met with an unidentified "member of the media" to whom he gave classified information dealing with United States strategy options involving an unnamed Middle Eastern country and internal American deliberations about those options.

The indictment contained additional charges against Mr. Franklin, an expert on Iran. It accused him of using his position as a desk officer to gather information to hand over to Mr. Rosen or Mr. Weissman, or to an unidentified foreign official, who government officials and lawyers involved in the case have said was Naor Gilon, an Israeli Embassy political officer. The indictment refers to two other foreign government officials, but does not identify them. Both are Israelis, a government official said.

Lawyers for Mr. Rosen and Mr. Weissman said the charges were unfounded. Abbe Lowell, a lawyer for Mr. Rosen, said in a statement: "The charges in the indictment announced today are entirely unjustified. We expect that the trial will show that this prosecution represents a misguided effort to criminalize the public's right to participate in the political process."

John N. Nassikas III, a lawyer for Mr. Weissman, said in a statement that "we are disappointed that the government has decided to pursue these charges, which Mr. Weissman strongly denies."

Plato Cacheris, a lawyer for Mr. Franklin said, "It's not a welcome event, but were not surprised by it."

The United States attorney in Alexandria, Va., Paul J. McNulty, said in a statement that the case was about the protection of national security material.

"When it comes to classified information, there is clear line in the law," Mr. McNulty said. "Today's charges are about crossing that line. Those entrusted with safeguarding our nation's secrets must remain faithful to the trust. Those not authorized to receive classified information must resist the temptation to acquire it, no matter what their motivation may be."

The indictment does not suggest that Aipac, as an organization, is suspected of any wrongdoing. Patrick Dorton, a spokesman for the group, said: "Aipac dismissed Rosen and Weissman because they engaged in conduct that was not part of their jobs, and because this conduct did not comport in any way with the standards that Aipac expects of its employees. Aipac could not condone or tolerate the conduct of the two employees under any circumstances. The organization does not seek, use, or request anything but legally-obtained appropriate information as part of its work."

The charges left unanswered a delicate question. It is unclear what action, if any, the government plans to take against any embassy official who met with Mr. Franklin, Mr. Rosen or Mr. Weissman. Israeli officials have said in the past that it had no part in the case, and a spokesman for the embassy has said that Israeli diplomats conduct themselves in accord with established practices.

So far, there is no indication that any Israeli diplomats have been expelled, although. Mr. Gilon has moved to another post outside of Washington. Efforts to reach an embassy spokesman on Thursday were unsuccessful.

Mr. Franklin's trial had been scheduled for September, but that date is almost certain to be postponed in light of the new charges. He was initially charged in May in a complaint that accused him of passing highly classified information about possible

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attacks on American forces in Iraq to Mr. Rosen and Mr. Weissman. When he was indicted in June, he was accused of meeting more than a dozen times with an Israeli Embassy official.

Former Officials With Pro-Israel Group Indicted (KRT)

By Shannon Mccaffrey And Warren P. Strobel

Knight Ridder, August 5, 2005

WASHINGTON - (KRT) - The Justice Department indicted two top former officials with a prominent pro-Israel lobbying group Thursday for allegedly conspiring to communicate classified defense information.

U.S. Attorney Paul McNulty said the men were attempting to influence U.S. foreign policy. He said trafficking in information is commonplace in the nation's capital but a "clear line separates classified information from everything else."

"Today's charges are about crossing that clear line," McNulty said.

The indictment paints a more detailed picture of the case against Pentagon analyst Lawrence Franklin, who was charged in May with leaking classified information to the pro-Israel lobbyists about possible attacks by Iran on U.S. forces in Iraq.

The indictment charges Steven Rosen, former foreign policy director for the American Israel Public Affairs Committee, with conspiring to communicate classified information.

Franklin, who worked on the Iran desk in Secretary of Defense Donald Rumsfeld's office, had also been charged with three counts of communication of national defense information to persons not entitled to receive it. In Thursday's indictment, Rosen was charged with aiding and abetting Franklin in one of those counts by passing along written classified information.

Keith Weissman, a former senior Middle East analyst with AIPAC, was charged with one count of conspiracy to communicate classified national defense information.

Lawyers for Rosen and Weissman denied the allegations.

Rosen's attorney, Abbe Lowell, called the charges "entirely unjustified."

"We expect that the trial will show that this prosecution represents a misguided attempt to criminalize the public's right to participate in the political process," Lowell said in a statement.

Weissman's attorney, John Nassikas, said, "We are disappointed that the government has decided to pursue these charges, which Mr. Weissman strongly denies. We look forward to challenging them vigorously in court both factually and legally."

People sympathetic to Rosen and Weissman have argued that while Franklin allegedly violated his government security vows, the two former AIPAC employees did little more than trade in information, which is the stuff of daily business in Washington.

AIPAC fired Rosen and Weissman earlier this year.

The Israeli government has denied trying to pry secrets from the United States, with officials pointing out that, given the close ties between the two countries, it has no need to spy.

"We're fully confident in the conduct of our diplomats," said Israeli Embassy spokesman David Siegel.

One of the Israeli diplomats whom Franklin allegedly met with, Naor Gilon, recently returned home as "part of the normal diplomatic rotation," Siegel said.

Thursday's indictment adds some new facts to a case that has been shrouded in uncertainty from the beginning.

It charges that Rosen, 63, of Silver Spring, Md., and Weissman, 53, of Bethesda, Md., dealt in secret information as far back as 1999, several years before they are alleged to have met Franklin. Rosen met with "Foreign Official 1" - presumably an Israeli diplomat - on April 13, 1999, and disclosed sensitive intelligence he had picked up regarding terrorist activities in central Asia, it alleges.

Franklin and Rosen first made contact in a phone call on Aug. 15, 2002, after Rosen sought out someone at the Defense Department with expertise on Iran, the indictment alleges.

The three men met at a restaurant in Arlington, Va., in February 2003. In a phone call on the way to that initial meeting, Rosen said he was excited to meet with the "Pentagon guy," who he described as a "real insider."

They remained in contact over the next several months, meeting at various restaurants, and Weissman and Franklin attended a Baltimore Orioles game together, according to the indictment.

Franklin also faxed classified information to Rosen from a Pentagon fax machine, authorities allege.

Rosen and Weissman allegedly fed much of the sensitive information they received to journalists, on topics ranging from the 1996 Khobar Towers bombing in Saudi Arabia to U.S. policy toward Iran. They continued to provide information to reporters even after being contacted by the FBI, the indictment charges.

McNulty said the investigation, which he described as "several years" old, is ongoing. He said there's no basis to charge other individuals, but wouldn't rule that out in the future.

Franklin, 58, of Kearnysville, W.Va., pleaded not guilty to the charges filed against him in May. His lawyer, Plato Cacheris, didn't immediately return a phone call seeking comment.

Two Charged In Pentagon Information Leak (AP)

By MARK SHERMAN, Associated Press Writer

AP, August 5, 2005

WASHINGTON (AP) - Two former employees of a pro-Israel lobbying organization were indicted Thursday on charges they conspired to obtain and disclose classified U.S. defense information.

An indictment unsealed in U.S. District Court in Alexandria, Va., named Steven Rosen, formerly the director of foreign policy issues for the American Israel Public Affairs Committee, and Keith Weissman, the organization's former senior Iran analyst.

The five-count indictment also spells out in greater detail the government's case against Pentagon analyst Lawrence A. Franklin, who already was facing charges that he leaked classified military information to an Israeli official and the AIPAC employees.

Rosen and Weissman disclosed sensitive information as far back as 1999 on a variety of topics that included terrorist activities in Central Asia, the bombing of the Khobar Towers in Saudi Arabia, al-Qaida and U.S. policy in Iran, the indictment said. Among their contacts were U.S. and foreign government officials and reporters, the indictment said.

Lawyers for Rosen and Weissman denied the accusations. ``The charges in the indictment announced today are entirely unjustified," said Abbe Lowell, Rosen's attorney. John Nassikas, Weissman's lawyer, said, ``We are disappointed that the government has decided to pursue these charges, which Mr. Weissman strongly denies."

Franklin's relationship with the men dates to 2003, the indictment said. Franklin pleaded innocent to the charges when his indictment was first unsealed in June.

Paul McNulty, the U.S. attorney in Alexandria, said the men apparently were motivated by a desire to advance their personal agendas and careers by trading on prized information. ``The facts alleged today tell a story of individuals who put their own interests and their own views of foreign policy ahead of American national security," McNulty said at a news conference.

Although the indictment refers to other U.S. officials who gave Rosen classified materials, McNulty said no other charges are planned, but noted the investigation continues.

Plato Cacheris, Franklin's lawyer, said he had been expecting additional charges. He said Franklin cooperated with investigators for three months in 2004.

The FBI's long-running investigation has focused on whether Franklin, of Kearneysville, W.Va., passed classified U.S. material on Iran to AIPAC, the influential main pro-Israel lobbying organization in Washington, and whether that group in turn passed it on to Israel. Both AIPAC and Israel deny any wrongdoing. Franklin has pleaded innocent.

AIPAC fired Rosen and Weissman in April. Rosen, quoted in The New Yorker magazine last month, denied knowingly receiving classified information.

Associated Press reporter Matthew Barakat in Alexandria, Va., contributed to this report.

On the Net:

FBI: http://www.fbi.gov

American Israel Public Affairs Committee: http://www.aipac.org/

Ex-lobby Group Workers Charged With Handing Over US Secrets (FT)

By Demetri Sevastopulo In Washington

Financial Times, August 5, 2005

The Justice Department on Thursday charged two former employees of a powerful pro-Israel lobbying organisation with illegally receiving classified information and disseminating it to a foreign government official.

Steven Rosen, former foreign policy director at the American Israel Public Affairs Committee (Aipac), and Keith Weissman, a former Aipac Middle East analyst, were also charged with passing classified information to the media. Aipac, which has said it is not under investigation, fired the two men in April.

The charges are the latest development in a Federal Bureau of Investigation probe into Larry Franklin, a former Pentagon Iran analyst, who has already been charged with giving the Aipac officials classified information about potential attacks on US forces in Iraq. Mr Franklin, who co-operated with prosecutors earlier in the FBI investigation, has also been charged with

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providing classified information to a foreign government official and the media, and with illegally keeping classified documents at his home.

"When it comes to classified information, there is a clear line in the law," said Paul McNulty, the US attorney prosecuting the case.

"Today's charges are about crossing that line. Those entrusted with safeguarding our nation's secrets must remain faithful to that trust. Those not authorised to receive classified information must resist the temptation to acquire it, no matter what their motivation may be," he said.

John Nassikas, a lawyer representing Mr Weissman, said: "We are disappointed that the government has decided to pursue these charges, which Mr Weissman strongly denies."

Abbe Lowell, a lawyer for Mr Rosen, said: "We expect that the trial will show that this prosecution represents a misguided attempt to criminalise the public's right to participate in the political process."

The indictment, which accuses Mr Weissman and Mr Rosen of conspiring with Mr Franklin to provide classified information illegally to people not entitled to receive it, says Mr Rosen gave a foreign government official information about terrorist activities in Central Asia. Mr Weissman is accused of giving the same official classified information about the 1996 Khobar Towers bombing in Saudi Arabia.

The indictment said Mr Franklin illegally provided information to people not entitled to it "in an effort to advance his own personal foreign policy agenda".

Additional reporting by Scott Heiser

Pro-Israel Lobbyists Charged In US Pentagon Case (REU)

By James Vicini

Reuters, August 4, 2005

ALEXANDRIA, Va. (Reuters) - A federal grand jury indicted two former officials of the pro-Israel lobbying group AIPAC Thursday on charges they received classified national defense information from a Pentagon analyst, court documents show.

The indictment charges Steven Rosen, the former foreign policy director for the American Israel Public Affairs Committee, with receiving classified information from analyst Lawrence Franklin and helping Franklin pass on written classified information.

AIPAC's former senior Middle East analyst, Keith Weissman, also was charged with receiving classified information.

Franklin, who worked on the Iran desk within the Office of the Secretary of Defense at the time the government says he disclosed the information, had already been charged with disclosing top-secret information about potential attacks on U.S. forces in Iraq to the two AIPAC employees.

Thursday's indictment also charges him with giving the information to an unidentified diplomat and to Rosen and Weissman, whom AIPAC fired in April.

It accuses Franklin of disclosing to a foreign diplomat classified information about a Middle Eastern country's activities in Iraq. Sources familiar with the investigation have said the diplomat was an Israeli.

Franklin pleaded not guilty to the original charges.

Abbe Lowell, attorney for Rosen, said the charges were unjustified.

"We expect that the trial will show that this prosecution represents a misguided attempt to criminalize the public's right to participate in the political process," Lowell said.

Weissman's attorney, John Nissikas, said in a statement, "We are disappointed that the government has decided to pursue these charges, which Mr. Weissman strongly denies."

The Israeli diplomat in Washington who met several times with Franklin has been identified as Naor Gilon, head of the political department at Israeli Embassy in Washington and a specialist on proliferation issues.

Gilon returned to Israel a few days ago as part of a long-scheduled rotation, according to an Israeli official in Washington.

U.S. investigators want to question Gilon and other Israeli diplomats about their contacts with Franklin, officials said. (Additional reporting by Deborah Charles and Adam Entous)

Former Pro-Israel Lobbyists Charged In Documents Case (Update2) (BLOOM)

Bloomberg News, August 5, 2005

Aug. 4 (Bloomberg) -- Two former employees of the leading pro-Israel lobbying group in Washington were charged with conspiring to disclose classified U.S. defense information to foreign government officials and members of the media.

Steve Rosen, 63, a former policy director at the American Israel Public Affairs Committee, and Keith Weissman, 53, a former senior Iran analyst, were indicted today by a federal grand jury in Alexandria, Virginia. They are accused of gathering sensitive government information and conspiring to pass it along to people unauthorized to receive it.

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``Washington is a town where information flows virtually non-stop," U.S. Attorney Paul McNulty said at a press conference, held an hour after the indictment was handed down. ``But there is a clear line in the law, and that clear line separates classified information from other types of information."

Also indicted today was Lawrence Franklin, 58, a U.S. Defense Department analyst who was charged in June with giving classified information to unauthorized persons. Today's indictment supersedes and modifies earlier charges against him.

If convicted, the three men face five to 10 years in prison on each of five charges, McNulty said. Franklin, Rosen and Weissman, who aren't in custody, will be arraigned Aug. 16.

``The charges in the indictment announced today are entirely unjustified," Rosen's lawyer Abbe Lowell said in a statement. ``We expect that the trial will show that this prosecution represents a misguided attempt to criminalize the public's right to participate in the political process."

Weissman's attorney John Nassikas said his client ``strongly denies" the charges.

`Mix of Motivations'

Franklin a former colonel in the U.S. Air Force Reserve, is accused of handing over classified information about ``a Middle Eastern country," identified in press reports as Iran, to Rosen and Weissman in meetings in 2003 and 2004. He did so for a ``mix of motivations," including a desire to advance his career and his ``personal foreign policy agenda," McNulty said. Franklin wasn't accused of receiving any payment.

More than 80 classified documents were found during a search of Franklin's home in Kearneysville, West Virginia, and a search of his Pentagon office a year ago yielded a classified document containing the information allegedly disclosed, according to a Justice Department criminal complaint.

Rosen and Weissman are accused of receiving the information and passing some of it to an unidentified member of the media. Rosen is also accused of disclosing information obtained from Franklin to a Washington-based think tank, while Weissman gave information to another AIPAC employee, according to the indictment.

AIPAC, which has lobbied Congress and the White House for more than half a century on behalf of Israel, ``did the right thing" and fired Rosen and Weissman this year after an investigation into whether they received classified information from Franklin, McNulty said.

AIPAC

The lobbying group dismissed Rosen and Weissman ``because they engaged in conduct that was not part of their jobs, and because this conduct did not comport in any way with the standards that AIPAC expects of its employees," AIPAC spokesman Patrick Dorton said. ``AIPAC could not condone or tolerate the conduct of the two employees under any circumstances."

The group doesn't seek anything but ``legally obtained, appropriate information" as part of its work, he said.

The investigation is continuing, though McNulty said there is ``no basis for charging anyone else with unlawful disclosure of classified information, at this time."

The case is U.S. v. Franklin, 05cr225, U.S. District Court for the Eastern District of Virginia.

To contact the reporters on this story: Cary O'Reilly in Washington at caryoreilly@bloomberg.net. Janine Zacharia in Washington at jzacharia@bloomberg.net. Last Updated: August 4, 2005 18:08 EDT

3 Accused Of Disclosing Secrets On Mideast (USAT)

By Toni Locy

USA Today, August 5, 2005

WASHINGTON -- Two former officials of a pro-Israel lobbying group and a former Pentagon analyst were charged Thursday with disclosing U.S. government secrets about the Middle East.

In a five-count indictment, a federal grand jury in Alexandria, Va., accused Steven Rosen, 63, and Keith Weissman, 53, of using their positions at the American Israel Public Affairs Committee (AIPAC) to develop a relationship with the Defense Department analyst to obtain classified information that they shared with unnamed foreign officials and reporters. The committee is the most powerful pro-Israel lobby in Washington.

The grand jury said the secrets dated to 1999 and dealt with terrorist activity in Central Asia, a 1996 attack in Saudi Arabia that killed 19 U.S. servicemembers, al-Qaeda and U.S. strategy in the Middle East.

The Pentagon analyst, Lawrence Franklin, 58, had been charged earlier this year with illegally keeping more than 80 classified documents in his home in Kearneysville, W.Va. Thursday's indictment adds charges against Franklin, who had cooperated with the FBI before a plea deal fell apart. The grand jury said he also passed secrets to an unnamed foreign official “in an effort to advance his own personal foreign policy agenda.”

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Franklin's lawyer, Plato Cacheris, did not return phone calls. Weissman's attorney, John Nassikas, said his client denies the charges. Rosen's attorney, Abbe Lowell, called the charges “entirely unjustified.”

Some of the charges against Rosen, who was AIPAC's foreign policy director, and Weissman, the group's senior Middle East analyst, are based on a July 2004 meeting between Franklin and Weissman while Franklin was an FBI informant. AIPAC fired Rosen and Weissman in April.

Daniel Ayalon, Israel's ambassador to the United States, said there is no need for Israelis to spy here because “the cooperation is so close and intense” between the U.S. and Israeli governments.

2 Lobbyists Indicted In Secrets Case (LAT)

By Richard B. Schmitt

The Los Angeles Times, August 5, 2005

WASHINGTON — Two former employees of the nation's most influential pro-Israel lobbying organization were indicted Thursday, accused of engaging in a five-year conspiracy to collect and disseminate U.S. defense secrets.

The federal indictment provides details of encounters the two men had with former Pentagon analyst Lawrence A. Franklin, who was indicted on similar charges in June and was named again Thursday.

But it also paints a picture of a conspiracy that was broader than previously thought, asserting that the onetime aides at the American Israel Public Affairs Committee obtained information from two other unidentified U.S. government officials.

The men are alleged to have passed secrets, including classified information about Al Qaeda and a draft presidential directive concerning U.S. policy toward Iran, to unnamed foreign government officials — believed to be employees of the Israeli Embassy in Washington — and to journalists.

The goal, prosecutors said Thursday, was to "influence persons within and outside the United States government."

A spokesman for the Israeli Embassy, David Siegel, said officials there had broken no laws. He also said that the Israeli government had begun cooperating with federal investigators in the probe.

"We are fully confident in the professionalism of our diplomats," Siegel said. "They conduct themselves in full accordance with diplomatic practice, and we have seen no information that would suggest anything to the contrary.

"The U.S. and Israel share a very strong relationship, and we would have no reason to resort to any wrongdoing," he said. "We have information-sharing at the highest levels on national security issues all the time."

Siegel said the U.S. government had recently approached the embassy, seeking its assistance in the investigation. "We have expressed our willingness to cooperate in the process, and contacts will continue," he said.

The case has hurt the standing of AIPAC, one of Washington's most powerful lobbying groups, and has raised questions about the proper boundaries of sharing sensitive defense information with a close ally. Prosecutors said the case illustrated how a public official had betrayed a trust, and how private lobbyists had succumbed to the temptation of breaking the law to obtain information.

"When it comes to classified information, there is a clear line in the law," said Paul J. McNulty, the U.S. attorney for the eastern district of Virginia in Alexandria, where the grand jury indictment was unsealed Thursday. "Today's charges are about crossing that line."

McNulty said the investigation was continuing and did not rule out the possibility that others might be charged.

Named in the indictment Thursday were Steven J. Rosen, AIPAC's longtime director of foreign policy issues, and Keith Weissman, a senior Middle East analyst. Both were charged with conspiring to "communicate national defense information to persons not entitled to receive it." Rosen was separately charged with improperly communicating classified information.

The indictment also incorporates allegations in the previous indictment against Franklin that had detailed his dealings with Rosen and Weissman without identifying them by name.

Franklin, Rosen and Weissman are scheduled to be arraigned in federal court in Alexandria on Aug. 16.

A spokesman for AIPAC, Patrick Dorton, said Thursday that Rosen and Weissman had been dismissed by the lobbying group earlier this year "because they engaged in conduct that was not part of their jobs and because their conduct did not comport in any way with the standards that AIPAC expects of its employees."

AIPAC, he said, "does not seek, use or request anything but legally obtained appropriate information as part of its work."

Rosen's lawyer, Abbe Lowell, called the federal charges "a misguided attempt to criminalize the public's right to participate in the political process."

John N. Nassikas, an attorney for Weissman, described his client as "an honest, respected foreign policy analyst and Middle East expert" who was looking forward to contesting the charges in court.

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Thursday's charges revealed that federal investigators have been tracking AIPAC and its dealings with the U.S. and Israeli governments for longer than previously thought. Earlier court filings had indicated that investigators were mainly interested in the contacts Rosen and Weissman had with Franklin, who emerged in late 2002 as a potential conduit for information.

But the indictment alleges that the plot to collect and disseminate U.S. secrets began as early as 1999 when, on separate occasions, Rosen obtained intelligence concerning what the indictment describes as "terrorist activities in Central Asia," and Weissman obtained a secret FBI report on the 1996 bombing of the Khobar Towers complex in Saudi Arabia that killed 19 U.S. servicemen. In each instance, the information was shared with a person whom the indictment calls "Foreign Official 1."

The indictment also describes instances where Rosen and Weissman disclosed classified information after meeting with other unnamed U.S. government officials, including a December 2000 meeting in which the men were leaked "information about classified United States strategy options against a Middle Eastern country."

In March 2002, the indictment says, Rosen obtained classified information about Al Qaeda from one of the unnamed government officials, later disclosing it to a person identified only as "Foreign Official 2."

According to the indictment, the contacts with Franklin began in August 2002, after Rosen called the Defense Department seeking the name of a person with expertise on Iran. He was referred to Franklin, a mid-level analyst who had long been working to harden U.S. policy toward Iran.

Six months later, over breakfast at an Arlington restaurant, Franklin allegedly disclosed to Rosen and Weissman the contents of a classified draft presidential directive on Iran policy. Rosen subsequently passed the information along to the unnamed foreign officials, as well as "a senior fellow at a Washington, D.C., think tank" and members of the media, the indictment alleges. "I'm not supposed to know this," Rosen is said to have told a journalist.

At another meeting, in June 2003, Franklin gave Rosen and Weissman "highly classified" information related to attacks on U.S. forces in Iraq, the indictment alleges.

Ultimately, Franklin agreed to cooperate with the FBI, which monitored a July 2004 meeting outside a department store. During that meeting, Franklin allegedly told Weissman that he had new, highly classified information about plans by Iranian agents to kidnap and kill Israeli intelligence agents in northern Iraq.

Weissman and Rosen passed along that information to a third foreign official who is not named in the indictment but whom sources have identified as Naor Gilon, a former political counselor at the Israeli Embassy in Washington. Gilon recently returned to Israel as part of a normal diplomatic rotation, the embassy said.

The indictment contends that over a two-year period starting in August 2002, Franklin leaked information to the foreign official sources identified as Gilon during meetings at several locations in the Washington area, including the officers' athletic club at the Pentagon and a sandwich shop near the State Department.

FBI agents confronted Rosen and Weissman in August 2004. The indictment says both men "falsely" denied that Franklin had provided them classified information.

Pro-Israel Lobbyists Charged With Disclosing U.S. Secrets (WT)

By Jerry Seper

The Washington Times, August 5, 2005

Two former employees of a pro-Israel lobbying group were indicted yesterday by a federal grand jury in Virginia on charges of illegally receiving and disclosing classified U.S. defense information they obtained from a veteran Pentagon analyst -- who was arrested in May on charges of leaking secret documents.

Steven J. Rosen, of Silver Spring, a 63-year-old former director of foreign policy issues for the American Israel Public Affairs Committee (AIPAC), and Keith Weissman, of Bethesda, a 53-year-old former senior Iran analyst at the organization, were accused of receiving national defense information and giving it to unauthorized persons, including an agent of a foreign government.

The analyst, Lawrence A. Franklin, 58, of Kearneysville, W. Va., was arrested by the FBI on charges of illegally disclosing classified information -- nearly two years after he first was identified as suspected of having passed national security documents involving Iran to AIPAC.

Mr. Franklin, who has pleaded not guilty in the case, has been a Defense Department employee since 1979 and held a "top secret" security clearance.

"Those entrusted with safeguarding our nation's secrets must remain faithful to that trust," said U.S. Attorney Paul J. McNulty. "Those not authorized to receive classified information must resist the temptation to acquire it, no matter what their motivation may be."

Arraignment for the three men is scheduled for Aug. 16 before U.S. District Court Judge T.S. Ellis III in Alexandria.

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The indictment said Mr. Rosen and Mr. Weissman, in an effort to "influence persons within and outside the United States," cultivated relationships with Mr. Franklin and others "to gather sensitive U.S. government information, including classified information relating to the national defense."

It said the two men disclosed sensitive information as far back as 1999 on a variety of topics, including terrorist activities in Central Asia, the bombing of the Khobar Towers complex in Saudi Arabia, the activities of terror network al Qaeda, and U.S. policy in Iran, to American and foreign government officials and reporters. The indictment said their relationship with Mr. Franklin began in February 2003.

Mr. Franklin has been under investigation by the FBI for more than three years, accused of handing over classified Defense Department documents on Iran to officials at AIPAC, which then were passed to Israel.

The FBI began surveillance of Mr. Franklin, Mr. Rosen and Mr. Weissman more than two years ago. The surveillance also is thought to have targeted Naor Gilon, a political adviser at the Israeli Embassy in the District. Last year, FBI agents copied Mr. Rosen's computer hard drive at his AIPAC office after interviews with him and Mr. Weissman.

AIPAC and the Israeli Embassy have denied any wrongdoing. Attorneys for Mr. Rosen and Mr. Weissman, who left AIPAC in April, have denied any wrongdoing by their clients.

An affidavit by FBI agent Catherine M. Hanna said Mr. Franklin gave a classified document on potential attacks on U.S. forces in Iraq to two unidentified persons with whom he met for lunch June 26, 2003, at an Arlington restaurant.

U.S. Charges Man In Camcorder - Piracy Crackdown (NYT/REU)

By Reuters

The New York Times, August 5, 2005

Filed at 9:58 p.m. ET

WASHINGTON (Reuters) - A Missouri man is the first to be indicted under a new federal law that prohibits people from secretly videotaping movies when they are shown in theaters, the U.S. Justice Department said on Thursday.

Curtis Salisbury, 19, used a camcorder to make copies of recent releases ``The Perfect Man" and ``Bewitched" and then distributed them through illicit computer networks that specialize in piracy, the Justice Department said.

A law that took effect in April prohibits such behavior.

Salisbury also downloaded several movies and software programs from the computer network, the Justice Department said.

Salisbury, who faces up to 17 years in prison, could not be reached for comment.

Entertainment-industry insiders and tech-savvy hackers use ``warez" networks, as they're commonly known, to distribute movies, music and software for free, often before they're released to the public.

The files then end up on peer-to-peer networks like Kazaa, where they can be downloaded by millions of people, or burned onto discs and sold on street corners.

Law enforcement officials say most participants in warez networks are generally not motivated by profit. In this instance, Salisbury sought payment for the movies he uploaded, the Justice Department said.

The Justice Department has targeted warez networks before, most recently in a June 30 raid that involved more than a dozen countries.

Salisbury, of St. Charles, Missouri, was arrested as part of that effort. He has been charged with conspiracy and copyright infringement, along with two violations of the camcorder law.

Camcorder piracy accounts for over 90 percent of movies that turn up on the Internet while they're still in theaters, said the head of a movie-industry trade group.

``The creative works of the entertainment industry belong to the millions of people who make them and are not for others to steal or unlawfully distribute," said Dan Glickman, head of the Motion Picture Association of America.

Reuters/VNU

First Suspect Indicted Under Camcorder Law (HOLLYREP)

By Brooks Boliek

Hollywood Reporter, August 5, 2005

WASHINGTON -- Justice Department officials announced on Thursday the first indictment under a law enacted this year that makes it a federal crime to camcord a movie.

The United States Attorney for the Northern District of California officially charged Curtis Salisbury, 19, of St. Charles, Mo., in a five-count indictment alleging that he used a camcorder in movie theaters to copy recent theatrical releases, then uploaded

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the copies to a computer network for distribution. Two of the counts were made under the Family Entertainment and Copyright Act of 2005, which President Bush signed in April.

One section of the new law, known as the Artists Rights and Theft Prevention Act, criminalizes the use of recording equipment to make copies of movies in theaters.

"Camcording movies in theaters for online distribution is a crime," U.S. Attorney Kevin Ryan said. "This case represents the first prosecution under the Family Entertainment Copyright Act and demonstrates that the U.S. Attorney's office and its CHIP (Computer Hacking and Intellectual Property) Unit will aggressively employ the tools provided by Congress and the president to combat the theft of intellectual property."

The statute also prohibits the infringement of a work being prepared for commercial distribution by making it available on a computer network accessible to members of the public, where the individual knows the work was intended for commercial distribution. The indictment represents the first use of those provisions by federal prosecutors.

In addition to allegedly camcording and uploading the movies "The Perfect Man" and "Bewitched" to the warez server, the indictment also alleges Salisbury illegally downloaded the movie "Madagascar" and the software video editing programs Sony Sound Forge V8.0, Adobe Premier Pro V7.0 and Adobe Premier Pro V1.5 Proper.

MPAA president and CEO Dan Glickman said the indictment proved the need for the new law.

"Over 90% of initial releases that are pirated are a result of people camcording in movie theaters," Glickman said. "That's why we worked with Congress and the president to pass crucial legislation strengthening penalties against people who camcord movies in theaters and make them available to the public on the Internet. The creative works of the entertainment industry belong to the millions of people who make them and are not for others to steal or unlawfully distribute."

According to the indictment, Salisbury communicated with others about ways to remove identifying features on a film that reveal the originating theater. Additionally, he allegedly discussed receiving payment for the films that he would provide, indicating that he would like to be paid by money order at a post office box when the film is ready for release.

If convicted, he faces three to five years in prison and a fine of $250,000 -- or twice the value of the property involved in the transaction, whichever is greater -- as well as a three-year term of supervised release and a $100 mandatory special assessment.

The prosecution against Salisbury is part of continuing FBI investigation known locally as Operation Copycat, which to date has resulted in the indictments of five individuals in the Northern District of California and the execution of more than 40 searches nationwide. Operation Copycat is the local and largest part of the coordinated international law-enforcement action known as Operation Site Down, which is targeting online piracy.

The indictment is an indication of the seriousness which the government takes intellectual property theft, said MPAA worldwide anti-piracy director John Malcolm.

"We want to thank the U.S. Attorney's Office and the FBI for their efforts to crack down on movie pirates," he said. "Their attention to this growing phenomenon is crucial in our fight to protect copyrights."

Man Is Charged Under New U.S. Film Piracy Law (LAT/BLOOM)

By From Bloomberg News

The Los Angeles Times, August 5, 2005

A Missouri man has been accused in an indictment of making video recordings of movies in theaters, the first time someone has been charged under a new federal law outlawing the practice.

Curtis Salisbury, 19, of St. Charles was accused of copying Universal Pictures' "The Perfect Man" and Columbia Pictures' "Bewitched" and distributing the movies over the Internet, the U.S. attorney's office in San Francisco said. The indictment Wednesday in San Jose is part of a crackdown on online piracy, officials said.

The Family Entertainment and Copyright Act of 2005, which was signed into law in April by President Bush, makes it a crime to use recording equipment to copy a movie in a theater. Piracy costs the movie industry about $3.5 billion a year in lost sales, according to the Motion Picture Assn. of America.

"The Perfect Man" opened the weekend of June 19, and "Bewitched" opened a week later.

Salisbury could not be reached for comment.

Federal prosecutors are investigating sites on the Internet used to distribute pirated movies, games and software.

Last month, four people were charged in San Jose with copyright violations as part of a nationwide crackdown on the sites.

U.S. Ties Kickbacks To Park District Work (CHIT)

By Matt O'connor And And Liam Ford, Tribune Staff Reporters

Chicago Tribune, August 5, 2005

A former Chicago Park District official accepted cash, vacations to ski resorts, a pricey bicycle and even a manicure for steering millions of dollars in work at Millennium Park to a suburban landscaping company, federal authorities charged Thursday.

Shirley McMayon, the Park District's former director of natural resources, pocketed more than $137,000 in financial benefits from two executives of James Michael Inc., the Mundelein-based landscaper, an indictment charged.

In return for the payoffs, McMayon, 47, now of Park City, Utah, improperly used her influence to steer about $8 million in Park District work to the firm between 2000 and 2004, authorities charged.

Michael Lowecki, the company owner, and Kevin Haas, its former chief operations officer, were also charged in the indictment.

"They used the Park District coffers as sort of their personal playground," U.S. Atty. Patrick Fitzgerald said at a news conference announcing the charges.

Fitzgerald said that "one of the kickers in this case" was that the contractors didn't pay for the most of the bribes themselves, instead padding their invoices to pass the cost of about $60,000 in payoffs to taxpayers. Among the phony invoices was a bill for about $10,000 for a non-existent global positioning system, he said.

"This is the $10,000 GPS that can't be found," Fitzgerald quipped.

The indictment marked yet another public corruption probe launched by federal investigators. The U.S. investigation of City Hall for political influence in hiring and contracts has been heating up, and former Gov. George Ryan is set to go on trial soon on bribery-related charges.

It is the first federal investigation to reach into the Park District since a former contract-compliance officer was convicted in Operation Silver Shovel in 2000 of falsely certifying a government mole's business as a woman-owned enterprise.

At the news conference, Robert Grant, the special agent in charge of the FBI in Chicago, said the case against McMayon "has led to other investigative leads that are aggressively under investigation."

In a telephone interview, Tim Mitchell, the Park District's general superintendent and chief executive officer, said his office learned of the investigation when it was subpoenaed for records by federal prosecutors in January.

McMayon, known as "Shirl," had resigned her $92,700-a-year post in November, citing personal reasons, Mitchell said.

Jacquelyn Heard, a spokeswoman for Mayor Richard Daley, said that McMayon expressed interest in a job at City Hall "but never saw the mayor on it" and wasn't offered a position.

McMayon pocketed cash and checks totaling about $123,800 and took vacations worth about $7,300 with her family to Wisconsin Dells, Wis., Galena, Ill., and ski resorts in Michigan and Utah--all paid for by Lowecki and Haas, the government alleged. She also was given tickets to a Green Bay Packers football game during a paid vacation to a resort in Elkhart Lake, Wis., authorities said.

Vacations at the Dells

McMayon vacationed for free at one resort at the Dells in May 2000, complained about the accommodations to Lowecki and Haas, and was placed in a more expensive lodge for another Dells vacation two months later, according to the charges and sources.

The landscapers also spent more than $22,000 to pay off McMayon's loan on her 1999 Dodge Durango and paid $250 for her massage, manicure and haircut at a Mario Tricoci salon, about $1,500 for a LeMond Buenos Aires bicycle and more than $4,000 for two computers.

The charges disappointed Roger Post, general manager of Christy Webber Landscapes, which has done limited work for the Park District in recent years.

"We play by the rules, and obviously others were not," Post said. "If people were winning contracts for reasons other than the best bid, it makes you angry."

Outside James Michael's offices Thursday, a handful of former employees picketed, complaining they had been retaliated against for joining a union.

McMayon and Lowecki were each charged with nine counts of fraud and bribery. Haas was charged with two counts of fraud.

McMayon's lawyer, Donald Young, said he expects that McMayon will resolve the charges before trial. "She has been cooperating with the government," Young said.

A lawyer for Lowecki, 45, of Libertyville didn't return telephone calls seeking comment. Attorney Michael Ettinger, who represents Haas, 56, of Gurnee said his client is cooperating in the investigation and expects to plead guilty. Haas left the landscaping firm in November 2001, well before the alleged kickback scheme ended.

Prosecutors Scott Levine and Nancy Miller said McMayon supervised an evaluation committee that made recommendations to the Park District board as to which companies should get contracts. "She was then able to direct more work to James Michael than to other contractors," Levine said at the news conference.

According to a civil lawsuit in Lake County, an attorney for James Michael indicated the firm first obtained "very large" contracts from the Park District in 1999 and 2000 and went through "almost an explosion" in its business. Its business quickly grew about fivefold to $10 million, the lawyer said.

A stray check

In a deposition in that lawsuit, Carleen Haake, a bookkeeper for James Michael, testified she discovered that the firm had paid off McMayon's car loan when she found the check on a copying machine at the office. "They left their original on the glass," she said.

The firm primarily worked at Millennium Park, planting trees and shrubs and mowing lawns, and also installed Christmas lights at the park, Buckingham Fountain and other locations, authorities said.

Millennium Park has become a major Chicago tourist attraction, but during construction, it was mired in controversy as its cost ballooned to about $490 million, more than half to be paid by taxpayers.

Before working at the Park District, McMayon was horticulture manager for the Golden Nugget Mirage Resorts in Las Vegas, according to a biography of her in a 2001 issue of Illinois Parks and Recreation magazine. A graduate of the University of Southwest Louisiana with a degree in horticulture, she also had been director of horticulture for a foundation in Louisiana and had owned a landscaping business.

Her attorney said she is now working at a golf course in Utah.

McMayon was hired by the Chicago Park District in July 1999 as deputy director of landscaping and was promoted to head the new Department of Natural Resources in early 2001.

McMayon was often the public face for beautification efforts in Chicago parks, traveling to conferences across the country and abroad.

Tribune staff reporters Charles Sheehan, Gary Washburn and Lolly Bowean and freelance reporter Barbara Bell contributed to this report.

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News Feds: Bribes Unlocked Parks Coffers (CHIST)

By STEVE WARMBIR, ANDREW HERRMANN, NATASHA KORECKI AND TIM NOVAK, Staff Reporters

Chicago Sun-Times, August 5, 2005

When high-ranking Chicago Park District official Shirley McMayon oversaw acres of trees, lawns and gardens, she got her hands dirty -- with bribe money, federal prosecutors charged Thursday.

McMayon, 47, a horticulturist now living in Park City, Utah, allegedly received more than $120,000 in cash plus free vacations, computers and other goodies for steering about $8 million in Park District landscaping work to a Mundelein company, James Michael Inc. In all, more than $137,000 in cash and benefits went into her pocket from 2000 to 2002, prosecutors allege.

A substantial portion of the landscaping and lighting work was at the city's crown jewel, Millennium Park. But the company did work at other prominent spots, including Garfield, Grant, Jackson, Lincoln, Marquette parks and Gold Star Memorial Park, which commemorates fallen officers. The company bedecked Buckingham Fountain with winter holiday lights. It no longer has Park District contracts.

Chicago Park District Supt. Tim Mitchell, who started in January 2004, said Thursday internal changes make it harder to defraud the district.

"It's very disappointing, but it also angers me because there are a lot of good, hardworking people working six, seven days a week here," Mitchell said.

The landscape company's owner, Michael Lowecki, 45, of Libertyville, and its former controller, John Kevin Haas, 56, of Gurnee allegedly paid the bribes to McMayon, who once oversaw horticulture at some Las Vegas casinos.

Subsidizing the bribes were the taxpayers themselves.

The landscaping company allegedly covered about half the bribes by submitting phony invoices to the Park District for items it never delivered.

2 suspects cooperating

"The defendants in this case used the Park District's coffers as a personal playground," U.S. Attorney Patrick Fitzgerald said.

At times, Lowecki allegedly transferred money straight into McMayon's bank account.

"Some bribes are less subtle than others," Fitzgerald said.

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McMayon is cooperating, and her case is expected to be resolved before trial, said her attorney, Donald Young. At one point during the investigation, she wore a wire, recording Lowecki on tape allegedly agreeing to continue the bribe payments.

Haas, represented by Michael Ettinger and Stephen Simonian, is cooperating, too, and is expected to plead guilty.

"My client has led a law-abiding life," Ettinger said. "He's a good man. He made a mistake."

Lowecki's attorney, Elliot Samuels, defended his client, saying he's hardworking and called Millennium Park a point of pride.

"He did an honest day's work," Samuels said.

Allegations of wrongdoing against the landscaping company came to light more than a year ago in a civil case. In that case, filed in Lake County in 2003, James Michael Inc. sued a former sales worker there for stealing money.

In a deposition in the case, conducted by Lowecki's own civil attorney, a James Michael employee admitted writing checks to McMayon, said attorney Jed Stone. Stone represents the former worker being sued.

"I think there's little question that the landscape company was involved in bizarre conduct," Stone said.

Ex-official At Chicago Parks Took Bribes-prosecutor (REU)

Reuters, August 4, 2005

CHICAGO (Reuters) - Federal prosecutors broadened their probe of public corruption in Illinois and Chicago on Thursday, announcing charges against a former park district official for accepting bribes from a landscaping firm.

Shirley McMayon, who was director of natural resources for the Chicago Park District, was indicted by a grand jury with receiving $137,000 in bribes from a suburban landscaping firm in exchange for contracts for work on Chicago's downtown Millennium Park.

The luxurious $475 million park -- which features outdoor sculpture and a Frank Gehry-designed concert stage -- was hit by numerous cost overruns before opening last summer.

McMayon, 47, is accused of accepting free ski trips, spa visits, and tickets to a Green Bay Packers football game in exchange for steering $8 million worth of contracts to James Michael Inc. and executives Michael Lowecki and Kevin Haas.

"We should be having contracts on the basis of merit," said local U.S. Attorney Patrick Fitzgerald. "The system has been compromised."

Since being appointed the top prosecutor in Northern Illinois in 2001, Fitzgerald has unearthed corruption at all levels of state and local government, touching the administrations of former Republican Gov. George Ryan and Chicago Mayor Richard Daley.

These were the first federal charges involving the parks department of the nation's third-largest city after guilty pleas won from workers in various city public works departments.

Fitzgerald, who is also in charge of the Justice Department probe of the leak of a CIA operative's name to journalists, urged other contractors using unfair tactics to come forward before they become targets of investigators.

McMayon, who left her job in December, was charged with nine counts of fraud and bribery, with penalties ranging from five to 20 years in prison and $250,000 fines for each. Haas, who is cooperating with investigators, was charged with two fraud counts, and Lowecki with five fraud counts and three bribery counts.

Ex-VA Employee Gets Prison Term In Bribery Case (BSUN)

By A Sun Staff Writer

The Baltimore Sun, August 5, 2005

A guilty plea to a bribery conspiracy charge netted a Crofton man one year and one day in prison, Maryland's U.S. Attorney Rod J. Rosenstein said today.

In addition to the prison term, Judge Frederick J. Motz sentenced Frank McCreary, 42, to two years of supervised release.

McCreary was a Realty Specialist with the Department of Veterans Affairs (VA) Regional Office in Baltimore, Rosenstein said. McCreary's duties included soliciting bids from and awarding contracts to contractors for repair work to VA-owned houses, he said.

McCreary's co-defendant in the case, Carmelo Vizzi, 48, of Perry Hall, owned a home improvement business that bid on contracts offered by the VA.

According to court documents, between November 1999 and January 2003, McCreary steered property repair contracts to Vizzi in exchange for money. In cases in which approved contractors were required to submit sealed bids to the VA, Vizzi bribed McCreary by paying him between $250 and $600 per contract awarded, court documents state.

In return, Vizzi received inside information on the lowest bid so he could underbid the competition, the documents state. Rosenstein said the profit to Vizzi's contracting company from sealed bid jobs awarded by McCreary that involved bribes was

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approximately $355,462. He said McCreary also created fictitious invoices and submitted them to the VA for payment and received money from Vizzi after the invoices were processed.

Vizzi previously pleaded guilty to conspiracy to commit bribery and was sentenced to two years in prison.

The FBI and Veterans Administration-Inspector General investigated the case, which was prosecuted by Assistant U.S. Attorney Bonnie S. Greenberg.

2 Sentenced Over Fixing Of Tickets (NOTP)

By April Yee, Staff Writer

New Orleans Times-Picayune, August 5, 2005

A former Orleans Parish Traffic Court reporter was sentenced Wednesday to jail, and a former courthouse guard received probation, a fine and community service in a ticket-fixing scam still under investigation by federal officials.

Court reporter Glenda Hamlin and guard Bobby Grant are the fourth and fifth court employees to be sentenced in the ongoing probe.

Grant, who monitored the South Broad Street courthouse for a decade, was sentenced to a year of probation, a $250 fine and 100 hours of community service by U.S. District Judge Ivan L.R. Lemelle.

Another federal judge sentenced Hamlin, a six-year Section D court reporter, to three months in jail, a $250 fine and two months of house arrest. She must wear an electronic monitoring device.

"When you have corruption and bribery in government, it taints the whole government," U.S. District Judge Eldon Fallon said before handing down Hamlin's sentence. "You're in a position of trust. A lot of people depend on you, and you act for the government. You've got that mantle about you."

Grant and Hamlin were in a group of 10 that took advantage of the city's computerized traffic records, accessible only to certain staff members, prosecutors said. With citations dismissed for bribes, the state and city lost out on related fines and court costs. Nor will law enforcement agencies and insurance companies see the citation on the individual's driving record.

Grant was indicted Feb. 24 and pled guilty March 29 to fraud connected with computers. He admitted to taking a $200 bribe in September to arrange the dismissal of outstanding traffic citations, then went to an employee in Traffic Court's Section D who wiped out the citations and split the cash with him.

Hamlin worked in Section D, along with another court reporter and a minute clerk who were indicted for similar charges.

"I know they all interacted," U.S. Attorney Jim Letten said, but he did not say whether Grant had gone to Hamlin to have the tickets erased. Hamlin was indicted March 24 for computer fraud that allegedly happened during the same period that Grant contacted a Section D employee. Grant pleaded guilty April 27.

"I just want to apologize for my behavior," Hamlin told Fallon. Her parents looked on silently, following her out of the courtroom after the sentencing to sit in the empty hallway.

Both Grant and Hamlin had entered plea bargains, with the understanding that in return for prosecutors' pledge not to charge them further in the ticket-fixing scam, they would "submit to interviews whenever and wherever requested by law enforcement authorities" and "be completely truthful."

Grant's sentence "was exactly what was called for by law," said Assistant U.S. Attorney Al Winters, senior litigation counsel in the cases. He declined to comment on Hamlin's sentence.

Others have been convicted and sentenced in the scam, and several others remain to be sentenced.

Minute clerk Mickey Torregano was put on three years of probation in June. On Thursday, former Assistant City Attorney Edwin Burks was sentenced to three years of probation and a $1,000 fine. James W. Lee, who oversaw traffic violators as they cleaned court buildings for their community service requirement, must pay a $250 fine and perform 100 hours of community service.

"The investigation is not over," Letten said. The probe has lasted more than a year and a half, with video and audio records and testimony from cooperation witnesses.

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April Yee can be reached at ayee@timespicayune.com or (504) 826-3321.

Jurors For Gotti Trail Picked (NYNSDY)

By Anthony M. Destefano, Staff Writer

New York Newsday, August 5, 2005

A group of seven women and five men made the final cut Thursday as jurors who will decide the fate of John "Junior" Gotti, the son of the late mob boss whose federal racketeering trial begins Monday in Manhattan.

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Shortly after Thursday's lunch break, prosecutors and defense attorneys, along with federal Judge Shira Scheindlin, made the final pick of 12 regular jurors and six alternates. One male alternate was later excused, leaving five for the trial.

The panel of regular jurors contains six whites, two blacks and four Hispanics. One Hispanic man said he was on disability for depression, a Hispanic woman is hoping to be a state court officer, while one white male said he worked in engineering.

"It was a very painstaking process, but ultimately we have 12 very carefully examined and, ultimately in our view, open-minded and fair jurors," Gotti's defense attorney Jeffrey Lichtman told reporters outside court.

"In the end, that is all John and myself ever want in a jury," Lichtman said. Jury selection had begun on Monday.

A bespectacled Gotti, who is being held without bail, stood and stretched just before court marshals escorted him back to a holding cell. He didn't comment about the jury.

Asked if his client was going to testify, Lichtman responded cryptically by saying a "trial is a fluid endeavor and we will be making decisions on the fly."

Gotti, who officials said supervised the Gambino crime family after his father's imprisonment in 1992, is on trial for assorted racketeering charges, including the attempted kidnapping of Guardian Angels founder and radio talk show host Curtis Sliwa. Also on trial with Gotti are Michael "Mikey Y" Yannotti and Louis "Louie Black" Mariani.

Assistant U.S. Attorney Michael McGovern disclosed that the first witness he expects to call Monday will be former Gambino soldier Frank Fappiano, an admitted hitman who has turned government witness. Fappiano last year testified at the trial of Gotti's uncle Peter, who was convicted of federal racketeering charges.

Scheindlin is scheduled Friday to announce her decision about whether the judy gets to hear excerpts from Gotti's 1999 plea to federal charges.

Scheindlin also said she will be ruling on whether evidence of an alleged extortion of Russo's On The Bay restaurant in Howard Beach could be introduced to the jury. Prosecutors said in court that there is no direct evidence that Gotti received any proceeds from such an extortion. But they want to argue that he was part of the Gambino family administration that benefited from the payoffs.

Lawyers' Group To Weigh In On Reporter Confidentiality (SDUT)

By Gina Holland, ASSOCIATED PRESS

The San Diego Union-Tribune, August 5, 2005

WASHINGTON – The American Bar Association has resurrected a plan to endorse federal protection for journalists who refuse to reveal their sources to prosecutors, following the high-profile jailing of one reporter and threats against others.

The nations' largest lawyers group, which declined 30 years ago to back a reporter shield law, was debating that issue and others at its annual meeting running through Tuesday in Chicago.

ABA members were hearing from Attorney General Alberto Gonzales and Supreme Court Justices John Paul Stevens and Stephen Breyer.

Meeting topics include stem cell research, subject of a showdown between the White House and Congress, and the rights of terminally ill patients, prominent this fall when the Supreme Court takes up Oregon's physician-assisted suicide law.

Of course, the unofficial buzz is about high court nominee John Roberts.

Roberts, an ABA member, has not been particularly active in the group, which over the years has angered conservatives with policy positions supporting abortion rights and a freeze on capital punishment.

The ABA's president, Robert Grey Jr., said Roberts' nomination will not be part of the meetings because a committee has not finished reviewing his background and qualifications.

For more than 50 years the association has done examinations of people chosen for federal judgeships, focusing on competence, integrity and temperament. President Bush in 2001 ended the ABA's preferential role in vetting prospective judicial nominees.

Separately, the group's policy-making board will begin taking policy votes on Monday. Endorsement of the shield law would allow the organization to lobby Congress, where bills are pending to protect reporters.

"This is a ripe topic," said Landis Best, a media layer in New York who worked on the proposal. "Not just lawyers and not just journalists are talking about it."

New York Times reporter Judith Miller has been in jail a month in Virginia for refusing to testify to a grand jury investigating the leak of the identity of undercover CIA officer Valerie Plame.

In June, a federal appeals court upheld civil contempt findings against four journalists, including an Associated Press reporter, whose confidential sources pointed to scientist Wen Ho Lee as an espionage suspect.

Best said that many states have laws that prevent punishments of reporters who keep sources private, but a national law is needed to encourage federal government whistle-blowers and others to provide information to the news media.

Not all lawyers support the proposal.

"The national government has certain kinds of compelling interests that conflict with the right of the press to keep their sources confidential, like national defense and security," said John Yoo, a law professor at the University of California, Berkeley, who worked in the Bush Justice Department from 2001-03.

"It's hard to see the ABA getting people in Congress to place the right to protect anonymous sources above national security," he said.

The subject came before the group after the Supreme Court ruled in 1972 that reporters had no constitutional right to withhold information from grand juries.

A group studied the matter and urged ABA's leaders to endorse a national shield law. It failed 157-122 in 1974.

A report being submitted at the meeting in Chicago says that reporter-source relationships help the public and should be treated like other associations.

"The attorney-client relationship as well as those between physician and patient, priest and penitent, and spouse and spouse, are all protected by our legal system," the report says. "The reporter-source relationship ... should be no less protected."

Man Held In Idaho Abduction-murders Probed In 1997 Murder Of 10-year-old Calif. Boy (FINDLAW/AP)

By Robert Jablon, Associated Press Writer

Find Law, August 5, 2005

(AP) - RIVERSIDE, California-A convicted sex offender accused of murdering three people in Idaho and killing one of the two children authorities said he abducted from the home is now being investigated in the 1997 kidnapping death of a 10-year-old California boy.

Joseph Edward Duncan III, 42, is linked by a single fingerprint to the scene of the killing of Anthony Martinez, Sheriff Bob Doyle told a press conference on Wednesday.

Duncan was arrested last month after people at an Idaho restaurant spotted 8-year-old Shasta Groene, who went missing with her 9-year-old brother Dylan in May. Dylan's body was later found in Montana.

FBI agents involved in the Idaho investigation contacted Riverside authorities on July 14, and said Duncan mentioned the name Martinez and the general area.

Investigators flew to Idaho to fingerprint Duncan. They tried to interview him but he refused to talk. Confirmation of the fingerprint match was received Monday, the sheriff said.

"We're pretty confident that he's our suspect. ... This is huge," Doyle said. "We followed up 15,000 leads over eight years. You can imagine the elation that everybody has."

In April 1997, Anthony Martinez was forced into a white car in Beaumont as his friends watched. The children were playing when a stranger offered them a dollar to help find his lost cat. Sixteen days later a forest ranger found the boy's nude, bound body in a desert area about 70 miles (110 kilometers) to the east.

The kidnapper was described at the time as blue-eyed and mustachioed. Before the end of that April, authorities had evaluated more than 100 people as suspects.

Duncan has been charged in Idaho with kidnapping and murdering Shasta's mother, Brenda Groene, 40, her boyfriend Mark McKenzie, 37, and Shasta's 13-year-old brother, Slade, at their home outside Coeur d'Alene.

Federal prosecutors have said they will file charges in the abduction of the children and Dylan's death.

Authorities also have said Shasta and Dylan were sexually assaulted. While it is The Associated Press' policy not to identify alleged victims of sexual assault in most cases, the search for Shasta and her brother was so heavily publicized that their names are widely known.

Duncan was sentenced to 20 years in prison for sexually assaulting a 14-year-old boy in Tacoma, Washington, in 1980. Authorities said Duncan was paroled in 1994 and moved into a halfway house in Seattle.

Documents show he got a job as a phone solicitor for a publishing company, went to counseling and later got a second job with a small software company.

In 1996, Duncan tested positive for marijuana during a routine urine test, and he was arrested, then released on parole again, records show. In 1997, he again tested positive for marijuana use, records show. He disappeared with his girlfriend's car, according to parole reports.

He was captured and returned to prison in 1997. He was released in 2000 and enrolled that year at North Dakota State University. At the time of his arrest, Duncan was a fugitive charged with molesting a 6-year-old boy in Minnesota.

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CIVIL LAW:

N.C. Wins Back 1789 Copy Of Bill Of Rights (NSDY/AP)

By Emery P. Dalesio, Associated Press Writer

Long Island Newsday, August 5, 2005

RALEIGH, N.C. -- An original copy of the Bill of Rights that was given to North Carolina by George Washington back in 1789 was returned to the state Thursday, culminating a bitter legal tug-of-war over the historic document.

Gov. Mike Easley accepted the weathered document after a judge ordered federal marshals to turn it over to the state -- the first time North Carolina has had possession of the document since the end of the Civil War.

"North Carolina's stolen Bill of Rights may have been out of state for nearly 140 years, but never out of mind," Easley said in a statement.

Easley signed a receipt accepting possession of the document, in an ivory-colored frame, from U.S. marshals during a quickly announced ceremony inside the antebellum state Capitol from which the document was stolen by an invading Union soldier in 1865. The document is one of the original 13 delivered to the colonies for review before the final Bill of Rights was approved in 1789.

The stolen document was sold by the Union soldier in 1866 to an Ohio buyer, whose family sold it to Connecticut antiques dealer Wayne Pratt in 2000 for $200,000.

In March 2003, an FBI agent posing as a museum buyer pretended to purchase the paper from Pratt and his investor, Robert V. Matthews, for $5 million. Instead, the agent presented a seizure warrant signed by the judge in the case.

Pratt relinquished his ownership claim to the document and has agreed to donate the document to North Carolina. Matthews continues to claim partial ownership of the paper, which has been valued at up to $40 million.

U.S. District Court Judge Terrence Boyle last year awarded the document to North Carolina, but in January, the 4th U.S. Circuit Court of Appeals in Richmond, Va., told the judge to reconsider.

Boyle determined the document should return to the possession of the person or entity who owned it before the government's sting operation. He ruled Thursday that Pratt had the clearest right to possession, but had relinquished the claim to North Carolina.

"It's just thievery; it's absolute thievery," said Matthews' attorney, Mike Stratton of New Haven, Conn. "Bob Matthews paid real money, $200,000, to buy a document that's been in private hands for 140 years."

A North Carolina legislative leader praised the decision.

"Justice is finally being done, and we're delighted to have it returned," Senate Majority Leader Tony Rand said on the Senate floor.

Easley said the Bill of Rights will be displayed in the state Museum of History.

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Martha Waggoner in Raleigh, N.C., contributed to this story.

Seniors Group Sues Big Tobacco To Recover Money For Medicare (WSJ)

By Zachary A. Goldfarb

The Wall Street Journal, August 5, 2005

WASHINGTON -- A conservative seniors group filed suit against big U.S. tobacco companies, seeking to recover billions of dollars spent on smoking-related diseases by Medicare, the federal health-insurance program for the elderly.

The case relies on a little-known but recently strengthened provision of Medicare law that allows someone to sue on behalf of Medicare when it pays medical expenses that another party had a legal obligation to cover -- for example, when a corporate health plan has agreed to cover the expenses, or when a business or other party injured the Medicare beneficiary and is liable. If the suit prevails, Medicare collects the damages and the party bringing the suit is eligible for an equal amount. One reason for the provision is that the government doesn't have the resources to prosecute every case.

The lawsuit is the first national action since the Medicare as Second Payer statute was strengthened in 2003. The statute was conceived in the 1980s by the Reagan administration, and the 2003 amendment clarified that if a business or other group injures a Medicare beneficiary, it must be the first payer for medical expenses. Medicare picks up the tab as second payer only if the first payer cannot cover the full expense. The law also seemed to expand the criteria for proving liability for an injury, though that has been disputed. "If someone offers a product or service that injures people and drives up Medicare's costs, Medicare deserves a fair chance to fight back," the amendment's sponsor, Sen. Charles Grassley (R., Iowa), said yesterday.

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By taking the action, United Seniors Association Inc., a free-market group that has supported initiatives backed by the pharmaceutical and energy industries, is looking to open the door to a flood of suits against the industry. The group says it would like to reclaim at least $60 billion it estimates Medicare has spent on treatment for smoking-related diseases in the past five years, the statute of limitations on the law.

"Our motivation is one of taxpayer protection," said Charles Jarvis, the group's chairman and chief executive. "Considering how badly the taxpayers have been injured financially, we believe the responsible parties -- the tobacco companies -- should be reimbursing the taxpayer to the greatest amount possible under the law."

Seeking to prove that tobacco companies are liable, the suit, filed in U.S. District Court in Boston, draws a link between nicotine addiction and smoking-related diseases such as lung cancer and emphysema. It argues that "addiction is the key...[to] the prolonged use of cigarettes that commonly causes these diseases," and that the defendants hid the addictive nature of their products and sought to enhance their addictiveness. The suit concludes: "The Medicare beneficiaries who have suffered from or are suffering from diseases attributable to smoking the defendants' cigarettes did not consent to being exposed to the addictive properties of the defendants' cigarettes."

The suit names Philip Morris USA, a subsidiary of Altria Group; Lorillard Tobacco Co.; Liggett Group Inc.; and R.J. Reynolds Tobacco Co. and two of its subsidiaries. An Altria lawyer said he thought the case would be dismissed, and David Howard, an R.J. Reynolds spokesman, said, "Virtually all courts have rejected third-party health-care reimbursement claims, and in the rulings they've stated that they lack standing to sue because claims by the third parties are too remote from any alleged injury." Lorillard and Liggett declined to comment.

Yesterday's suit doesn't seeking to recover Medicare payments in Florida, where a similar suit has been filed. Last week, the plaintiffs in the Florida case -- two individuals -- were dealt a setback when a judge dismissed it, ruling that liability has to be proven in other cases first. The plaintiffs are appealing.

In 1998, the tobacco industry settled for more than $200 billion with most states for claims related to Medicaid, the health-insurance program for the poor and disabled. Since then, the industry has launched a counteroffensive in the courts. The number of suits against Altria, for example, has fallen roughly 60% in the past five years, and the federal government has had a rocky time in its current attempt to prosecute the companies on civil racketeering charges. That and other cases still loom.

CIVIL RIGHTS:

Calif. Youth Prison Head Removed For Force (AP)

By DON THOMPSON, Associated Press Writer

AP, August 5, 2005

SACRAMENTO, Calif. (AP) - The superintendent at the state's most notorious youth prison is being removed from his post for using unreasonable force against a ward and failing to report the incident, corrections officials said Thursday.

Steve Kruse has been on administrative leave since shortly after the May 27 incident at Stockton's N.A. Chaderjian Youth Correctional Facility. His appointment as superintendent will be terminated Wednesday.

Kruse's removal adds to turmoil at the facility, which remains under federal investigation. Justice Department spokesman Eric Holland said Thursday an investigation "is active and ongoing" into whether the civil rights of wards at the facility are being violated.

The termination was detailed in a quarterly investigative report released Thursday by Matthew Cate, the prison system's independent inspector general. Kruse was not identified by name in the redacted public report, but he was identified as the employee by numerous corrections employees and by previous reports on the incident.

The inspector general found that Kruse grabbed a handcuffed ward's hair and jaw as he was being escorted to another living unit after a fight involving 44 youths at the prison.

Though the ward was struggling with his escorts, and Kruse said he believed he was using reasonable force in line with department policy, investigators concluded the ward was already safely under others' control.

Neither Kruse nor any employees present immediately reported the incident, which Cate said violated use-of-force rules and a new policy intended to break an informal "code of silence" to cover up wrongdoing.

The Department of Corrections and Rehabilitation is scheduled to submit on Friday its response to a scathing report this spring by the prison system's independent inspector general.

Further reports are due this fall to a federal judge after national experts found deplorable conditions throughout the youth prison system.

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Local Leaders Share Views With Federal Mediator (HAVREDN)

By Larry Kline, Havre Daily News

Havre (MT) Daily News, August 5, 2005

Local government officials, business leaders and residents have been meeting with a U.S. Department of Justice mediator who is in town this week to address what some perceive as racial discrimination in and around Havre.

Mediator Grace Sage is employed by the Justice Department's Community Relations Service and is gathering information to determine whether a problem exists in Havre and what can be done to bridge gaps between neighbors.

The mediator told the Rocky Boy tribal council Tuesday she visited Havre in late June and returned because "it was well within the jurisdiction" of what she does.

Before her June visit, Sage had read a University of Montana School of Journalism Native News Project, which included accounts of mistreatment of Native Americans in some Havre businesses. She also had received an invitation from Havre resident Charlie Grant.

Tribal council member and state Rep. Jonathan Windy Boy, D-Rocky Boy, asked what the end result of her visits would be.

"The expectation is to have people agree there is a problem and ... come together to solve it," she told him. "What we can do is get people on board for mediation, counseling or perhaps training."

Windy Boy was designated as the tribal council's contact person for the mediator.

He offered his opinion on the issue in an interview Wednesday.

"It's always been here," Windy Boy said. "It's been more subtle than it was 50 years ago." Windy Boy remembers seeing signs in business windows that read "No dogs or Indians allowed."

"It's just like any group," he said. "There's always a couple that make it bad for the rest of the community. I'm not saying the whole town is like that. It exists at a certain level."

Racism in Montana is not confined to Havre, he added.

"I've been followed around in stores (in other cities)," Windy Boy said. "This isn't the only town that deals with this."

During the 2005 legislative session, he and a companion were in a Wal-Mart at 2 a.m., and his granddaughter was in need of a diaper. At the checkout, a worker "told us that he hoped she wouldn't pull out her WIC," or Special Supplemental Nutrition Program for Women, Infants and Children vouchers.

"For us to think it doesn't exist in our state, we're fooling ourselves," he added. "It's here in our society." The mediator met individually with city officials and Havre City Council members Wednesday. She declined to be interviewed, but officials later discussed the conversations they had with her.

"She asked for my perceptions," Havre Mayor Bob Rice said. "She said she wasn't judging the community on the word of a few people."

The Native News Project article about Havre did not adequately describe how things are in the city, Rice said.

"I thought that story was very slanted," Rice said.

Discrimination does exist in Havre, just as it does elsewhere, Rice said.

"It's been there and people know about it," he said. "We do have some people that are racist in this town. You have them everywhere. This is a good community. It's unfortunate that this came out the way it did."

Rice said new business ventures being planned for Havre and Rocky Boy will help Native Americans and ease tensions.

"I think Wal-Mart will help," he said about the retail chain's plans to build a supercenter west of Havre. "That's 275 jobs."

The reservation is working on plans for a large casino and an ethanol plant. There is a lot of oil and gas exploration going on right now, Rice said. Those are all positives for the residents of both communities, he added.

City Council member Jack Brandon, who was raised in Chinook, said things have changed over the years.

"I saw more prejudice growing up in Chinook than you would see today," Brandon said. "I think we're better today at judging someone on their merits than we used to be.

"I don't think anything astonishing is going to come out of" Sage's visit, he added. "Hopefully people are more aware that these things do exist and they do something about it."

City Council member Allen "Woody" Woodwick agreed that attitudes have changed, though prejudice does exist to a degree today.

"We have a problem in town, but I hesitate to call it racism," Woodwick said. "More of a prejudice, (which isn't) strictly racial. I do believe it's improved some. You make a little progress here and a little progress there. I don't think there's a magic wand that will make it all go away. I think we need to have some continuing education. We need to just keep working together to overcome it. There's not an ordinance we can draft that tells everybody to be nice to each other. It still boils down to individuals treating each other with respect."

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Woodwick and Brandon agreed that the Havre Public Schools' system of organizing its elementary schools by grade level, rather than by neighborhood, ensures that children of different economic and social backgrounds form strong bonds of friendship early in life.

Rocky Boy resident Lloyd Top Sky, who expects to meet soon with Sage, said Native American people face discrimination from white people and also discriminate against each other.

The people in power at Rocky Boy watch out more for family members than the rest of their constituents, he said.

"We're all the same, but on the other hand we're not the same. They discriminate against me because of my name. It's an unfair system," Top Sky said.

"You see it going on even more," he added. "They fund certain people for higher education. Housing's the same way. It's all on the shoulders of the boards and who sits on the boards, but the tribal council?"

"It probably exists," Windy Boy said when asked about Top Sky's comments. "I'm in a position of power, and I try not to conduct business as such. I do whatever it takes to try to help people. I go out of my way to help people.

"If it exists, the constituents would know more than anybody," he added.

The discrimination continues outside of the reservation's border, Top Sky said.

"We seem to be targeted more than anyone else at the city level," he said. "We're always in the paper. We get pulled over more often."

Havre police Lt. Russ Ostwalt said today that Native Americans and other minorities are not targeted by the department.

"There's nothing like that going on here," Ostwalt said. "We have two Native Americans on our Police Department and three females."

Any complaints of that nature are taken seriously, he said, and investigated within the department. Officers receive training on such issues at the state academy and continue their education while employed, he added.

Discrimination is not limited to local government employees, Top Sky said.

"I see it almost every day," he said. "I never said anything. I used to absorb it and leave. I think a lot of the people out here are that way."

Windy Boy said area residents need to cooperate, regardless of their differences.

"We need to continue to move forward collaboratively," he said. "We're not going anywhere, and Havre isn't going anywhere."

Also, Indians contribute a significant amount of dollars toward Havre's economy, and that needs to be acknowledged, he said.

"The level of dollars that Rocky Boy and Fort Belknap bring to (Havre) needs to be recognized," Windy Boy said. "Otherwise, a lot of people are going to start going to Great Falls."

Hill County Commissioner Mike Anderson, a Havre native, said racism is not a widespread problem.

"There are small factions on both sides of the issue, but generally I think that most people aren't discriminatory against other minorities," Anderson said.

He said the mediator had "quite a list" of people to talk to in and around Havre.

"She just wanted to get everybody's input," Anderson said. "She'll see what commonalities there are and come up with some ideas on what can be done to help."

Havre Area Chamber of Commerce executive director Debbie Vandeberg said the chamber board met with the mediator Wednesday and is keeping the dialogue confidential.

Rice said the chamber has a new idea regarding possible solutions to the issue and may not go forward with resurrecting the defunct Native American Affairs Committee, which consisted of representatives of local and tribal governments, business leaders and community members when it was created 10 years ago. It stopped meeting about six years ago, and Vandeberg, city officials and tribal council members have said they want to revive it.

Vandeberg said the board is making a decision about the status of the committee today. She would not comment further.

Racial Mediator Visits Havre (GFT)

By JARED MILLER, Tribune Regional Reporter

Great Falls (MT) Tribune, August 4, 2005

HAVRE — Officials in Havre and on the Rocky Boy's Reservation are hopeful that a federal mediator visiting this week will help ease racial tensions, but some area residents said the battle against racism will be a tough fight.

Grace Sage, a mediator from the U.S. Justice Department Community Relations Service, interviewed Havre Mayor Bob Rice and some City Council members Wednesday morning. She met briefly on Tuesday with the Chippewa-Cree Business Committee at the nearby Rocky Boy's Reservation.

Sage declined to be interviewed by the press. Community Relations Service Director Sharee Freeman in Washington, D.C., said confidentiality and the mediation process prohibit her from releasing details about Sage's itinerary.

The Community Relations Service is the federal "peacemaker" in conflicts involving matters of race, color or national origin. It was created under the 1964 Civil Rights Act.

Sage first visited Havre in June. That trip came in the wake of a report by University of Montana journalism students describing examples of shoddy treatment Indians receives in Havre.

The report included quotes from a clothing store employee who pays extra attention to Indian shoppers to prevent theft. A bartender explained how to tell between a "good Indian" and a "bad Indian" by the way they dress and carry themselves.

Fearing the report might spur retaliation against Indians, concerned citizens contacted the Department of Justice.

Mayor Rice spoke with the mediator for about 20 minutes. He said afterward that he's glad she came to Havre.

"I told her that I was pretty much ashamed of the criticism," Rice said. "I said we have bad people on both sides here, and we do."

Rice also stands firm on his conviction that the UM report was a "highly slanted" account and said he's "deeply hurt by it."

"This is a good community," Rice said. "I think it's unfortunate that this had to come out the way it did."

Rice met with the Chippewa-Cree Business Committee after UM published the report to talk about race issues. He subsequently accepted an invitation to speak at the Rocky Boy Powwow this weekend.

Sage met with the Chippewa-Cree Business Committee on Tuesday, council Chairman John Chance Houle said.

The visit was cut short because Sage was not listed on the agenda, and the council had a full schedule that day, Houle said.

The council later appointed Councilman Jonathan Windy Boy to represent the reservation in future meetings between the Indian and non-Indian leaders, Houle said.

In an interview earlier this week, Windy Boy, who also is a state legislator, said the effort to address racism in Havre is "long overdue."

"I know there has been attempts in the past, but it's something that's needed to get better coordination on the local level," said Windy Boy, who is hopeful that the mediator will achieve results.

Some Havre-area residents interviewed Wednesday were less optimistic that the mediator could help bridge what they see as a formidable racial divide.

Jerrad Gomke, a non-Indian who lives west of Havre, acknowledged that racism against Indians exists in Havre. He doesn't think efforts by the mediator will help.

"I think she (the mediator) knows what she's going to find — that there is some racism because we live so close to the reservation," Gomke said. "It will just blow over once she leaves."

Beulah Branson, a Frazer-area resident shopping in Havre on Wednesday, said she's also skeptical.

"I think it's fine if they want to try. I don't know how much good it will do," said Branson, who is white. "Surfacely, there might be some change."

Dolores Stump, a tribal member from the nearby Fort Belknap Reservation, said she doubts Indians will ever fully escape racist treatment in Havre. She doesn't think mediation will help.

"It's always been racist up here," said Stump, who shops in Havre about twice a month. "There's certain places you can't go to eat. It's always going to be."

Meanwhile, the Havre Area Chamber of Commerce was set to meet Wednesday night to consider its response to the charges of racism by local businesses.

The chamber initially planned to revive a Native American Affairs Committee, which was created in the 1990s to address similar race issues. It's unclear if that will now occur.

"They are formalizing some alternatives that sound pretty good," Chamber Executive Director Debbie Vandeberg said.

Voting Rights Act: Renewal Of Good Faith (AJC)

By Bob Kemper In Washington, Tom Baxter In Atlanta, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, August 5, 2005

Supporters and critics of the Voting Rights Act of 1965 agree on just one thing: It worked.

The law was adopted amid the violence and bloodshed of the civil rights movement to abolish racism at the ballot box and guarantee black Americans the right to vote.

Black voter turnout since then has varied with the perceived importance of each election, and the last two presidential elections set records for minority participation. Meanwhile, the number of African-Americans elected to public office has increased sixfold.

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Key provisions of the Voting Rights Act are up for reauthorization in 2007, though with its 40th anniversary Saturday, the act is already the subject of intense congressional maneuvering. The Rev. Jesse Jackson will lead a march in Atlanta on the anniversary and has launched a national petition drive to urge the White House to extend the provisions of the law.

"We know there's a scheme afoot to make the Voting Rights Act invalid by rebooting the Supreme Court," Jackson said Thursday at a news conference in Atlanta on plans for the march. "We deserve better."

Political posturing

There is talk in Congress of strong bipartisan support for renewing the act, but political tensions remain that may well boil over into a raucous showdown.

Democratic National Committee Chairman Howard Dean is using the reauthorization effort to portray Republicans as intolerant and to mobilize Democrats to retake the House and Senate in next year's elections. Dean has accused Republicans of "hypocrisy" if they don't support the voting rights act.

But Abigail Thernstrom, vice-chairwoman of the U.S. Commission on Civil Rights and an opponent of reauthorization, argues that Republicans have if anything been timid in avoiding a battle over the issue.

Republican congressional leaders, including House Speaker Dennis Hastert and Senate Majority Leader Bill Frist, have tried to blunt Democratic attacks by publicly praising the act and, at one point, suggesting they might reauthorize it before 2007, possibly in time for the 2006 election campaigns.

U.S. Attorney General Alberto Gonzales said Tuesday the administration looked forward to working on the reauthorization.

Yet racial and partisan tensions over the issue erupted Wednesday in a Fulton County Commission meeting when Commissioner Emma Darnell introduced a resolution in favor of reauthorization. The four black Democrats on the County Commission voted for it; the three white Republicans, including Chairwoman Karen Handel, voted against.

Not without controversy

While several provisions of the Voting Rights Act are up for reauthorization, the one most likely to spark controversy is Section 5. It requires nine states — including Georgia — and parts of seven others, each with a long history of discrimination at the ballot box before 1965, to get the approval of the federal government before enacting any changes in their electoral laws. That includes alterations in the boundaries of congressional districts and moving a polling station.

If a congressional battle develops, it could be led by Southern Republicans, some of whom argue the restrictions should either be dropped or be applied to all states.

Brian Robinson, spokesman for Rep. Lynn Westmoreland, (R-Ga.), said, "The congressman feels quite strongly that Section 5 should apply to every state in the nation or it should apply to none of them."

Sen. Johnny Isakson (R-Ga.) took the same position in his 2004 election campaign and said last week he sticks by it.

Need for Section 5?

The Reagan administration raised similar concerns in 1982 when the act was last reauthorized, saying Section 5 had outlived its usefulness and was an unnecessary intrusion by the federal government into state matters.

"Section 5, which was very controversial even in 1965, was intended as a temporary provision, really only to last five years, until this 'emergency' had passed," said Edward Blum of the Center for Equal Opportunity, a conservative think tank. "To say that we still have that emergency or even the shadow of that emergency in 2005 really stretches where race relations really are in this country today."

While they boast of the act's positive impact, those who want Section 5 renewed cite allegations of intimidation of traditionally Democratic black voters in the 2000 and 2004 elections.

"In some quarters there have been deliberate, systemic efforts to suppress minority voters," said Rep. John Lewis, an Atlanta Democrat whose beating by police on the Edmund Pettus Bridge in Selma, Ala., in 1965 helped spark adoption of the Voting Rights Act a few months later.

"That reminds me of the Old South," said Lewis, who will join Saturday's march in Atlanta.

Democrats advocating the reauthorization of key sections of the act said they hoped to pass it with bipartisan support. Congressional Republicans, following President Bush's lead in courting black voters, pledged to lead the way.

Rep. Mel Watt (D-N.C.), chairman of the Congressional Black Caucus, said he was working with Rep. James Sensenbrenner (R-Wis.), the chairman of the House Judiciary Committee, to ensure that nothing is done to weaken the act.

Kennedy, Specter allies

Sen. Edward Kennedy (D-Mass.) said he and Sen. Arlen Specter (R-Pa.), chairman of the Senate Judiciary Committee, would co-sponsor the reauthorization bill this fall to ensure support for it on both sides of the aisle.

Frist, a Tennessee Republican, after a congressional pilgrimage to Selma and Montgomery led by Lewis last year, said he was moved to introduce a measure that would make the Voting Rights Act permanent.

Some civil rights lawyers are suspicious and said the changes suggested by Republicans could lead to the act being ruled unconstitutional by the Supreme Court.

The act focuses on race, so federal law requires that a clear record of discrimination be established in jurisdictions covered by the act and that those jurisdictions be strictly monitored.

Civil rights lawyers said it would be impossible to establish evidence of discrimination in all states. So if the law is expanded and made permanent, they said, the Supreme Court is likely to strike it down.

"It's a Trojan Horse," said Theodore Shaw of the NAACP's Legal Defense and Educational Fund. "It sounds like a good idea [but] it is a threat."

Thernstrom, who has written extensively against the reauthorization of the act, said a court challenge is likely if Section 5 is extended, because it was originally intended as a temporary measure, and conditions have changed dramatically since 1965.

ID requirement reviewed

Because of the Voting Rights Act, Georgia had to have its recently redrawn congressional districts approved by the Justice Department before they could be made permanent.

The federal government is now reviewing a Georgia law that would require voters to present a photo ID to cast their ballots. The law must pass muster with the federal governement even though it has been adopted by the state Legislature and signed by the governor.

Fulton County officials invoked the Voting Rights Act this year in an effort to prevent Sandy Springs from becoming a city, saying it would hurt black people living in other parts of the county. The federal government disagreed and allowed Sandy Springs to incorporate.

The Voting Rights Act re-emerges on Capitol Hill at a time when African-American participation in national elections has reached near-record levels — despite charges that minority voters have been prevented from voting or had their votes discounted in certain places.

The Civil Rights Project at Harvard University, an organization devoted to civil rights research, found after the 2000 presidential election that nearly 2 million votes were not counted and that a disproportionately high number of those came from predominantly black counties.

Civil rights groups around the country reported during the 2004 campaign that black voters were receiving letters and phone calls falsely telling them they were ineligible to vote. Polling stations in predominantly minority precincts reported a shortage of voting machines, and in some cases polls closed while people were waiting in line to vote.

Despite those obstacles, nearly 54 percent of registered black voters cast ballots in 2000 and more than 56 percent in 2004, according to census figures.

Staff writer Add Seymour Jr. contributed to this article.

40 Years Later, Black Electorate Still Has Long Way To Go (CLE/KRT)

By Amanda Ruggeri

Knight Ridder, August 5, 2005

WASHINGTON - (KRT) - When President Lyndon B. Johnson signed the Voting Rights Act, he sought to banish hurdles that kept African-Americans from voting - and, as he told Congress, that barred them from "the full blessings of American life."

The act, amended three times and up for renewal in 2007, remains one of the key pieces of legislation for racial equality. Because it banned discriminatory practices, long gone are the literacy tests and violence that once threatened blacks at the polls.

But on the eve of the act's 40th anniversary on Saturday, not everyone agrees that it has banished discrimination from the voting booth. Turnout rates for black voters still lag behind those of whites, and blacks remain represented at disproportionately low rates by black officials. Cases of attempted voter disenfranchisement have been documented as recently as the last presidential election.

Given the facts, experts and legislators agree, the federal law was a major steppingstone for equality. But minorities still have a long way to go.

"The Voting Rights Act enabled black people, generally, to be able to register and cast their vote without fear of bodily harm or economic pressures," said former Rep. Bill Clay, D-Mo., a civil rights activist who lobbied Congress to pass the act.

"The fear now is that there is lack of enforcement," said Clay, who in 1968 became the first African-American from Missouri elected to Congress. He retired in 2000.

Kenneth Warren, a political scientist at St. Louis University, agreed that many obstacles still exist for minority voters. As a frequent expert witness at court hearings on voting practices, Warren said discrimination, at least in subtle forms, still pervades politics.

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In Ohio in the election last year, for example, voting machines were transferred out of Columbus and into the suburbs. As a result, residents of areas heavily populated by minorities had to wait up to 10 hours to vote, whereas people from more affluent, Republican-leaning regions had little trouble voting.

In a speech Tuesday on the Voting Rights Act, Attorney General Alberto Gonzales said 124 election fraud investigations are going on nationwide and dozens of other cases have been closed after investigation. That shows, he said, that enforcing the act is a priority of the Justice Department.

"The president has directed the full power and might of the Justice Department to enforce the Voting Rights Act," he said. "Our goal is to make voting easier and cheating harder."

Despite violations, experts and politicians agree that the Voting Rights Act's positive effect cannot be denied, particularly in the South.

After the passage in 1870 of the 15th Amendment to the Constitution, guaranteeing every citizen's right to vote regardless of race, many Southern states passed strict voter qualification laws. Literacy tests and poll taxes became commonplace. Rep. John Lewis, D-Ga., said it was nearly impossible to vote in the South unless you were white.

He cited one occasion in which a man was asked to give the number of bubbles in a bar of soap. Another time, he said, poll officials targeted a black man in Alabama who happened to hold a doctorate in philosophical theology. "He failed the so-called literacy test," said Lewis, a longtime civil rights activist. "He was told he could not read or write well enough."

Statistics from before and after the Voting Rights Act's passage show significant changes in black political participation, particularly in the South. In the 1964 presidential election, Southern blacks voted 15 percent less than their counterparts in the North. But by last year, the difference was negligible, with some Southern states - including Alabama, Kentucky and South Carolina - exceeding the national black turnout rate of 56.3 percent.

Nationwide, the number of black elected officials has jumped from 1,469 in 1970, the first year the information was collected, to a high of 9,101 in 2001.

Despite the increase of black officials, blacks still make up only 2 percent of all elected officials in the nation. And voters from other minority groups still struggle as well, said Rep. Robert Menendez, D-N.J.

Menendez, along with many other legislators, is already strategizing for the act's extension in 2007. He said one of the most important goals of extension is the reauthorization of key provisions, such as the one that provides assistance to communities proficient in a language other than English.

"One citizen unfairly discouraged from voting is one too many," Menendez said.

Speaking at the Lyndon B. Johnson Memorial Library in Austin, Texas, Gonzales said the Bush administration looks forward to working with Congress on the act's extension, and particularly with regard to minority language provisions.

In his book "Freedom is Not Enough: Black Voters, Black Candidates, and American Presidential Politics," political analyst Ronald Walters says one particular statistic shows how much further minorities have to go to reach parity with whites: According to census figures, the highest turnout of black voters was 58.5 percent. That record was set in 1964, a year before the Voting Rights Act was passed.

The statistic is little-known. It is also contested by political scientists like Warren, who say that because census figures rely on citizens' own reporting of whether they voted, the numbers are often inflated.

But Walters said the census remains the most accurate way of determining voter turnout. Furthermore, he said, the number is less surprising within the context of the 1964 election. President John F. Kennedy had just been assassinated, and Johnson promised to carry on his legacy of civil rights. Americans overwhelmingly responded, turning out to the polls in record numbers. Because no election since has been quite so emotional, neither whites nor blacks have reached that level of political participation again.

Lewis agreed that the events of 1964 pulled blacks to the polls, despite formidable barriers.

"There was a feeling, I think, more than anything else, that people had to go out and vote like they'd never voted before," Lewis said. "And there is this need in America - and not just in the African-American community, but among all Americans - to bring us back to this point again."

In the last election, the population came close. Fifty-six percent of eligible African-Americans voted, along with 60 percent of whites.

Walters said the election last year was especially impressive because it showed the decrease in the disparity between white and black voter turnout. Even in 1964, the gap was nearly 13 percentage points, with nearly 71 percent of eligible white voters flocking to the polls.

The question, Walters said, is whether African-Americans will realize their full potential as a political bloc. As he celebrates the anniversary of one of the biggest steps toward that potential, he said he encourages African-Americans to strategize for the future.

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"We've voted, we've done well," he said. "But now, how do we get more power out of this vote?"

For Miss. Town, Voting Law Helped (USAT)

By Melanie Eversley

USA Today, August 5, 2005

KILMICHAEL, Miss. — For years, black residents here grumbled about bad roads and poor municipal services in their part of town, but they didn't count on the all-white governing board for much help.

Then came the local elections of 2001, when an unprecedented number of African-American candidates brought Kilmichael, population 830, to the cusp of a historic change in leadership. Three weeks before the election, however, the town's mayor and five-member Board of Aldermen canceled the elections.

The Justice Department, calling the move a violation of the Voting Rights Act, stepped in. Two years later, Kilmichael finally voted — and elected its first black mayor, along with three black aldermen.

The episode was a reminder of how the Voting Rights Act — which hits its 40th anniversary Saturday — remains a hedge against discriminatory election practices long after the civil-rights battles in the South. Now, with key parts of the act due to expire in 2007, a debate is building over how far America has come in ensuring racial equality and whether protections for minority voters should be renewed or changed.

The Voting Rights Act requires jurisdictions in 16 states with past discrimination problems, mostly in the South, to have changes in voting rules cleared by the Justice Department or a federal judge. The impact of that part of the law, called Section 5, can be seen in the dramatic increases in registered voters and officeholders among minorities since the mid-1960s.

Two other provisions are up for renewal. One allows the U.S. government to send poll observers to jurisdictions where there have been alleged voting-rights violations. The other provision, added in 1975 in response to the rising number of Latino voters, requires bilingual ballots and language assistance in areas with large numbers of residents who do not speak English.

There appears to be widespread support in Congress for renewing the act, and the White House has expressed support for it. Still, lively debates are likely when the Senate Judiciary Committee begins hearings on it in September.

Democrats such as Sen. Edward Kennedy of Massachusetts and Rep. Raul Grijalva of Arizona are pushing for a stronger law. Among other things, they cite complaints about a lack of voting machines in heavily minority precincts in Ohio during the 2004 elections, and alleged voting irregularities in Florida four years earlier that they say wrongly kept some blacks off of voter registration lists.

The Senate panel also is likely to consider proposals to make it more difficult for governments to concentrate minorities in single voting districts, thereby reducing their power.

“My hope is that there would be strong bipartisan support for renewal,” said Barbara Arnwine, executive director for the Lawyers' Committee for Civil Rights Under Law.

So far, the chief critics of renewing the act have been conservative groups such as the Center for Equal Opportunity, and a few Republicans such as Abigail Thernstrom of the U.S. Commission on Civil Rights. They say the law was needed at a time when poll taxes and literacy tests often were used to keep blacks from voting in the South, but no longer.

In Kilmichael, the new era of leadership now is a mix of old and new. Mary McCaskill Young, who became the town's first black mayor when she beat incumbent Tommy Rushing in the special election in 2003, lost to Rushing in the town's general election in June. And a black alderman did not seek re-election. There now are two blacks on the Board of Aldermen.

Rushing rejects the notion that white town officials canceled the 2001 election because it appeared that blacks would win elections. He says officials merely wanted to switch from a system in which board members were elected at-large, to one in which voters would choose only a representative for their district.

The town didn't reschedule the election, and the Justice Department forced it to hold one in 2003 in which aldermen were elected from districts. Jewel Harrison, chairman of the local Democratic Party, says the U.S. government's use of the Voting Rights Act helped ensure equality in Kilmichael.

“I think it put everyone on notice that you just can't do things and get away with it,” he said.

Increasingly, Voting Rights Act probes stem from complaints by Latinos, who make up about 14% of the U.S. population and are the nation's fastest-growing ethnic group. (Blacks make up about 12.8%.)

The eastern Pennsylvania city of Reading, long known for its German immigrant population, has attracted a growing number of Latinos. Some families came from Puerto Rico and Mexico in the 1930s and 1940s to work for mushroom growers and steel mills. More recently, many have moved from New York. In the 2000 Census, 37.3% of Reading's nearly 81,000 residents were Latino, up from 18.5% in 1990.

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In Reading, there have been complaints about Spanish-speaking residents being harassed at the polls, and accusations that they have been turned away or belittled if they could not read ballot directions or speak English fluently. In 2003, the Justice Department accused Berks County, Pa., of discriminating against Spanish-speaking voters.

Some parts of the Voting Rights Act cited in the Berks County case apply only to people from Puerto Rico and do not expire in 2007. But they are similar to the language provision that is up for renewal.

In 2003, Justice ordered examiners to monitor county elections through June 2007. The county also must provide bilingual election materials, interpreters and other aids for Spanish-speaking voters.

Berks County Commissioner Mark Scott opposed the order. He said his family members from Germany did not need the kind of help that Justice has ordered for Latinos.

"People are capable of a lot more than they are giving themselves credit for," he said.

Those on both sides of the debate say clashes such as the one in Reading are more likely as the nation's demographics change. "I fully support the (Justice Department) coming in," said Jonathan Encarnacion of Centro Hispano, a community group in Reading. "It was something that had to be brought to the surface."

EDITORIAL NOTEBOOK Keep The Voting Rights Act (AAS)

Austin American-Statesman, August 5, 2005

In these early years of the 21st century, it's difficult to comprehend how thoroughly and systematically minorities, especially African Americans, were once denied the right to vote.

In the South, blacks faced poll taxes and literacy tests designed to keep them from voting. Denying and suppressing the minority vote was politics as usual in many southern states, racial discrimination on a national scale.

President Lyndon B. Johnson changed that political landscape forever when he signed the Voting Rights Act of 1965 into law 40 years ago Saturday. Since that day, the act has served as a weapon against discrimination and a reminder of an ugly period in American life.

Even after 40 years, the act is no mere symbol. As U.S. Attorney General Alberto Gonzales noted in a speech in Austin earlier this week, enforcing the Voting Rights Act is a priority at the Justice Department. He said 124 election fraud investigations are ongoing.

Key enforcement provisions in the act are up for reauthorization by Congress in 2007. One of those provisions requires southern states (including Texas) to get Justice Department approval before changing electoral procedures or boundaries. Another requires foreign language ballots in certain districts with large numbers of non-English speakers.

Congress should reauthorize those provisions when they expire. They are still necessary, still being enforced. Four decades hasn't erased all the vestiges of racism and discrimination in the South, and election miscarriages are still a problem. But reauthorization has run into political trouble. The creation of secure political districts protected by the Voting Rights Act vastly increased the number of minority elected officials locally, statewide and nationally.

It also gave rise to Republican majorities and increased Republican power in the South and in Washington. Texas, for example, has solid black and Hispanic congressional districts, but no Democrat in statewide office.

Reauthorization carries other consequences. A push to make it apply nationally, and not just in the southern states, could doom it to failure in Congress. And attempts to strengthen it to ensure that minority districts are maintained could keep the GOP in power indefinitely.

Political wrangling, however, shouldn't undo the good that was done 40 years ago when the act became law. Its enforcement provisions should be reauthorized by Congress, lest America forget a painful lesson.

Repaying Segregation's Debt (WP)

The Washington Post, August 5, 2005

More than most southern states, Virginia has surmounted its segregationist past, not least by becoming, in 1989, the first state to elect an African American governor, L. Douglas Wilder. (Mr. Wilder is now mayor of Richmond, capital of the old Confederacy.) This year the commonwealth has struck another blow to repudiate a unique event in U.S. history and one of segregation's worst chapters: the decision to close some Virginia public schools rather than comply with court-ordered integration after the Supreme Court's 1954 ruling in Brown v. Board of Education . In recent months, dozens of black Virginians, mostly in their fifties and sixties, have been granted the first state scholarships, up to $5,500 each, to get what they were denied five decades ago: a public education.

The scholarships, which follow a resolution by the General Assembly two years ago expressing its "profound regret" at the school closings, do not heal the wounds inflicted by what was then known in Virginia as its policy of "massive resistance" to integration.

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In southern Virginia's Prince Edward County, the most zealously anti-segregationist jurisdiction of the day, many black children went unschooled from 1959 to 1963, and some never got to resume their education; others attended makeshift lessons in churches or were sent far away to live with relatives or even strangers so they could continue going to school. Shortchanged by the state, they were unprepared for higher education and certain jobs and careers they might otherwise have had.

Nothing that Virginia can do will fully compensate for that disgraceful episode. Still, the scholarships are an appropriate and admirable act of contrition. As Gov. Mark R. Warner said, "This at least goes a partial way to [repay] the debt we owe to these folks." Even some whites will be eligible for the scholarships; as children they were also denied an education, being unable to afford the private academy established to serve them after the public schools were closed. More than 80 people, many of them still residents of Prince Edward, have already received scholarships for high school or college courses; several thousand more are eligible to apply. John Kluge, a Charlottesville media baron and philanthropist, has matched the state's own $1 million appropriation to fund the scholarship program.

If there is an inspirational note to this story, it belongs to Ken Woodley, the crusading editor of the Farmville Herald in Prince Edward County, who almost single-handedly conceived the idea of scholarships, campaigned for it in print and personally urged it on Mr. Warner and hesitant lawmakers.

In 1959, Mr. Woodley's own newspaper led the local chorus of opposition to integration, denouncing it as a communist plot against racial purity and the American way. Now the newspaper, under the same family ownership, has backed Mr. Woodley, and the state scholarships, to the hilt. That is a measure of Virginia's progress, and a credit to it.

Court Rules UT Can Block Dating E-Mails (FINDLAW/AP)

Find Law, August 5, 2005

(AP) - AUSTIN, Texas-The University of Texas didn't violate the free-speech rights of an online dating service when it blocked thousands of unsolicited e-mails, a federal appeals court says.

The 5th U.S. Circuit Court of Appeals also found that although White Buffalo Ventures LLC, which operates LonghornSingles.com, complied with the requirements of the federal anti-spam law, known as CAN-SPAM, the university can still set its own anti-spam policy.

White Buffalo had sued the university over 59,000 messages blocked by spam filters in 2003. The Austin-based service had legally obtained the addresses from UT but the university blocked the e-mail messages, saying White Buffalo was part of a larger spam problem that had crashed the computer system.

The university said it was also responding to complaints from students and faculty.

The court, in a ruling Tuesday, determined that White Buffalo complied with federal law and that its e-mails were not illegal. However, CAN-SPAM does not supersede protection measures employed by an Internet service provider, and the court interpreted ISPs to include the university.

Leading Republican Differs With Bush On Evolution (WP/REU)

By Jon Hurdle, Reuters

The Washington Post, August 5, 2005

PHILADELPHIA (Reuters) - A leading Republican senator allied with the religious right differed on Thursday with President Bush's support for teaching an alternative to the theory of evolution known as "intelligent design."

Republican Sen. Rick Santorum, a possible 2008 presidential contender who faces a tough re-election fight next year in Pennsylvania, said intelligent design, which is backed by many religious conservatives, lacked scientific credibility and should not be taught in science classes.

Bush told reporters from Texas on Monday that "both sides" in the debate over intelligent design and evolution should be taught in schools "so people can understand what the debate is about."

"I think I would probably tailor that a little more than what the president has suggested," Santorum, the third-ranking Republican member of the U.S. Senate, told National Public Radio. "I'm not comfortable with intelligent design being taught in the science classroom."

Evangelical Christians have launched campaigns in at least 18 states to make public schools teach intelligent design alongside Charles Darwin's theory of evolution.

Proponents of intelligent design argue that nature is so complex that it could not have occurred by random natural selection, as held by Darwin's 1859 theory of evolution, and so must be the work of an unnamed "intelligent cause."

Santorum is the third-ranking member of the U.S. Senate and has championed causes of the religious right including opposition to gay marriage and abortion.

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He is expected to face a stiff challenge from Democrat Bob Casey in his quest for re-election next year in Pennsylvania, a major battleground state in recent presidential elections.

The controversy over intelligent design is a hot topic in Pennsylvania, where the Dover Area School District in south central Pennsylvania has included the theory in its biology curriculum.

The American Civil Liberties Union has sued to block the policy, calling it a violation of the constitutional separation of church and state.

Most Americans believe that God created human beings or guided the process of evolution, according to a CBS poll last November. Two-thirds said they wanted creationism taught alongside evolution in schools.

SCIENCE CURRICULUM

Critics, including many science teachers, say intelligent design cannot be scientifically tested and has no place in a science curriculum.

Santorum sided in part with intelligent-design proponents in saying that there were gaps in the theory of evolution.

"What we should be teaching are the problems and holes -- and I think there are legitimate problems and holes -- in the theory of evolution. What we need to do is to present those fairly, from a scientific point of view," he said in the interview.

"As far as intelligent design is concerned, I really don't believe it has risen to the level of a scientific theory at this point that we would want to teach it alongside of evolution."

Santorum had proposed an unsuccessful measure in 2001 that would have required discussing the "controversy" of evolution when the theory is taught in classes.

Bush's science adviser, John Marburger, was quoted in The New York Times this week as saying intelligent design was not a scientific concept, and that Bush's remarks should be interpreted to mean he thinks the concept should be taught as part of the "social context" in science classes.

Design For Confusion (NYT)

By Paul Krugman

The New York Times, August 5, 2005

I'd like to nominate Irving Kristol, the neoconservative former editor of The Public Interest, as the father of "intelligent design." No, he didn't play any role in developing the doctrine. But he is the father of the political strategy that lies behind the intelligent design movement - a strategy that has been used with great success by the economic right and has now been adopted by the religious right.

Back in 1978 Mr. Kristol urged corporations to make "philanthropic contributions to scholars and institutions who are likely to advocate preservation of a strong private sector." That was delicately worded, but the clear implication was that corporations that didn't like the results of academic research, however valid, should support people willing to say something more to their liking.

Mr. Kristol led by example, using The Public Interest to promote supply-side economics, a doctrine whose central claim - that tax cuts have such miraculous positive effects on the economy that they pay for themselves - has never been backed by evidence. He would later concede, or perhaps boast, that he had a "cavalier attitude toward the budget deficit."

"Political effectiveness was the priority," he wrote in 1995, "not the accounting deficiencies of government."

Corporations followed his lead, pouring a steady stream of money into think tanks that created a sort of parallel intellectual universe, a world of "scholars" whose careers are based on toeing an ideological line, rather than on doing research that stands up to scrutiny by their peers.

You might have thought that a strategy of creating doubt about inconvenient research results could work only in soft fields like economics. But it turns out that the strategy works equally well when deployed against the hard sciences.

The most spectacular example is the campaign to discredit research on global warming. Despite an overwhelming scientific consensus, many people have the impression that the issue is still unresolved. This impression reflects the assiduous work of conservative think tanks, which produce and promote skeptical reports that look like peer-reviewed research, but aren't. And behind it all lies lavish financing from the energy industry, especially ExxonMobil.

There are several reasons why fake research is so effective. One is that nonscientists sometimes find it hard to tell the difference between research and advocacy - if it's got numbers and charts in it, doesn't that make it science?

Even when reporters do know the difference, the conventions of he-said-she-said journalism get in the way of conveying that knowledge to readers. I once joked that if President Bush said that the Earth was flat, the headlines of news articles would read, "Opinions Differ on Shape of the Earth." The headlines on many articles about the intelligent design controversy come pretty close.

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Finally, the self-policing nature of science - scientific truth is determined by peer review, not public opinion - can be exploited by skilled purveyors of cultural resentment. Do virtually all biologists agree that Darwin was right? Well, that just shows that they're elitists who think they're smarter than the rest of us.

Which brings us, finally, to intelligent design. Some of America's most powerful politicians have a deep hatred for Darwinism. Tom DeLay, the House majority leader, blamed the theory of evolution for the Columbine school shootings. But sheer political power hasn't been enough to get creationism into the school curriculum. The theory of evolution has overwhelming scientific support, and the country isn't ready - yet - to teach religious doctrine in public schools.

But what if creationists do to evolutionary theory what corporate interests did to global warming: create a widespread impression that the scientific consensus has shaky foundations?

Creationists failed when they pretended to be engaged in science, not religious indoctrination: "creation science" was too crude to fool anyone. But intelligent design, which spreads doubt about evolution without being too overtly religious, may succeed where creation science failed.

The important thing to remember is that like supply-side economics or global-warming skepticism, intelligent design doesn't have to attract significant support from actual researchers to be effective. All it has to do is create confusion, to make it seem as if there really is a controversy about the validity of evolutionary theory. That, together with the political muscle of the religious right, may be enough to start a process that ends with banishing Darwin from the classroom.

Bill Easing Rules On Pill Is Vetoed By Pataki (NYT)

By Al Baker

The New York Times, August 5, 2005

ALBANY, Aug. 4 - As promised earlier this week, Gov. George E. Pataki vetoed a bill on Thursday that would have made the so-called morning-after pill available to women and girls without a prescription. The veto came just hours after the State Assembly delivered the bill to his desk.

Proponents of the emergency contraception bill, including abortion-rights advocates, most Democrats and some leading Republican colleagues of the governor, had urged him to sign the bill, saying it would help prevent more than 80,000 abortions in New York each year. Opponents of the bill, particularly conservatives, pointed out that its main flaw was that minors would have access to the drug, which prevents pregnancy after sex.

In his veto message, the governor emphasized that his main concern was that the measure would not prevent minors from getting the drug before they consulted a doctor or other medical professional. He said his veto was "based solely on a desire to protect the health and safety of our youngest and most vulnerable women."

He also named other concerns: that the bill did not limit purchases to a single dose and that men could buy it and use it to persuade young girls to have unprotected sex.

The governor also struck a conciliatory note, underlining his support for making emergency contraception available, and he stressed that he would work on a revised bill for the State Legislature to pass when it returns to Albany. "We can do better," Mr. Pataki said in his message. "We can increase women's access to emergency contraception while protecting our children."

Many supporters of the bill said Mr. Pataki's veto amounted to political opportunism, since he has long been a supporter of abortion rights but is now exploring the possibility of a bid for the Republican presidential nomination. Aides to the governor have repeatedly disputed that notion.

"I think it's lousy," Kelli M. Conlin, executive director of Naral Pro-Choice New York, said of the veto. "I think he did the wrong thing; it was politically motivated, and the only thing that gives us solace is that women are eventually going to have access to this important pregnancy prevention tool. It's either going to be through the F.D.A. or a new administration in Albany, but we will win."

Proponents have said that women need to get the pill quickly enough for it to be effective on weekends, when seeing a doctor can be difficult. JoAnn M. Smith, president of Family Planning Advocates of New York State, said young people "are the people who need it most."

Senator Nicholas A. Spano, a Westchester County Republican who sponsored the bill, said he was encouraged that "the governor is indicating his support of the concept," and said he understood the governor's concerns about minors. He said he was committed to reducing the number of abortions in New York and thought there was hope of reaching agreement with the governor. "I don't think any of those are fatal problems," Mr. Spano said of the governor's veto message.

Pataki Vetoes Morning-After Pill Bill (AJC/AP)

By Marc Humbert, Associated Press Writer

The Atlanta Journal-Constitution, August 5, 2005

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ALBANY, N.Y. — Republican Gov. George Pataki vetoed legislation Thursday that would have allowed pharmacists to dispense the so-called "morning-after pill" without prescriptions.

Pataki, who had announced Sunday that he would veto the measure, said he was most upset that the bill did not require minors to see a physician.

"We can do better," said the governor, who pledged to work with sponsors of the legislation to come up with a proposal he would sign.

Advocates for the bill have said they believe Pataki, with an eye on seeking the 2008 Republican presidential nomination, is using the veto to appeal to conservatives.

"This was driven by politics," said Kelli Conlin, executive director of the New York chapter of National Abortion Rights Action League.

The morning-after pill contains a higher dose of regular contraception hormones. It prevents pregnancy by delaying a woman's ovulation or preventing fertilization. It also can thin the lining of the uterus, making it difficult for a fertilized egg to implant. Anti-abortion groups see interfering with a fertilized egg as abortion.

The Food and Drug Administration plans to decide by Sept. 1 whether the morning-after pill can be sold without a doctor's prescription. Seven states already permit over-the-counter sales.

Emergency contraceptives can reduce the chance of pregnancy by 89 percent if taken within 72 hours of intercourse, and supporters said making them available without a prescription would help more women get the pills in time.

"As we all know, accidents don't happen during doctors' office hours," Adrienne Verrilli of the Sexuality Information and Education Council said. "They occur at night and on weekends when doctors are difficult to reach."

The governor said he wanted a limit on the number of pills that could be dispensed at one time and did not want men to be able to get them, as would have been permitted under the vetoed legislation.

He also said the bill should require patients getting the morning-after pill to receive counseling on the health risks of unprotected sex.

"I know that there are many New Yorkers who sincerely disagree with this position, and I respect and appreciate their views. But my action today is based solely on a desire to protect the health and safety of our youngest and most vulnerable women."

Republican Gov. Mitt Romney of Massachusetts, who also is eyeing the 2008 GOP presidential nomination, vetoed similar legislation last month.

ANTITRUST:

Lucent Subpoenaed In Antitrust Probe (WP/AP)

The Associated Press

The Washington Post, August 5, 2005

WASHINGTON -- Lucent Technologies Inc. Thursday said it received two subpoenas related to federal investigations into potential antitrust violations and sales of telecommunications equipment to the federal government.

The telecom-equipment vendor said in a filing with the Securities and Exchange Commission that one of the subpoenas it received related to an investigation by the Department of Justice into potential antitrust and other violations in connection with the federal E-Rate program.

Lucent said the subpoena requires the company to produce documents before a grand jury of the U.S. District Court in Georgia.

The Murray Hill, N.J., company said the other subpoena was from the Office of Inspector General, General Services Administration, and relates to a federal investigation into certain sales to the federal government of telecommunications equipment and associated maintenance services.

Lucent said it received both subpoenas during the three months ended June 30.

As previously reported, the Justice Department has announced that several companies have been indicted for defrauding the federal E-rate program that dispenses billions of dollars in subsidies for Internet and telecom service in schools and libraries.

The $2.25 billion-a-year E-Rate program is funded by the Universal Service Fund, which is paid for through fees levied on telecom companies. E-Rate is run by Universal Service Administrative Co., which was set up by the Federal Communications Commission.

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The fraud schemes alleged by the Justice Department occurred between 1998 and 2003. Charges range from scheming to defraud the FCC and Universal Service Administrative by including the cost of noncovered equipment and fees with those covered by the program to rigging of bids.

Avaya Inc., which was spun off from Lucent in 2000, said in May that it received a subpoena to produce documents for the period from 1997 to 2005 before a grand jury of the U.S. District Court in South Carolina relating to an investigation of potential antitrust violations in connection with the E-Rate program.

Avaya said it also received a subpoena from the General Services Administration for billing records from 1990 to 2005 corresponding to sales of telecom equipment and maintenance services.

Lucent: Got Subpoenas Tied To Federal Probes (DOWJONES)

Dow Jones Newswires, August 5, 2005

WASHINGTON -(Dow Jones)- Lucent Technologies Inc. (LU) (LU) said Thursday that it received two subpoenas related to federal investigations into potential antitrust violations and sales of telecommunications equipment to the federal government.

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Avaya said it also received a subpoena from the General Services Administration for billing records from 1990 to 2005 corresponding to sales of telecom equipment and maintenance services.

Lucent said in Thursday's filing that it's too early to determine whether these matters will have a material impact on the company's business.

-By Nicolas Brulliard; Dow Jones Newswires; 202-862-1351; nicolas.brulliard@ dowjones.com

Lucent Gets Subpoenas (STREET)

By TSC Staff

TheStreet.com, August 5, 2005

Lucent (LU:NYSE - news - research) was subpoenaed in an ongoing government probe of a federal program to provide schools and libraries with Internet access.

The Murray Hill, N.J., company said in a Securities and Exchange Commission filing Thursday afternoon that it got subpoenas in two separate matters during the quarter ended June 30. The company indicated that one was a Justice Department inquiry into the so-called federal E-rate program. Lucent said it must produce documents before a federal grand jury in Georgia.

The second subpoena relates to a federal investigation into certain sales to the federal government of telecommunications equipment and related maintenance services, Lucent said. The company said it "is too early for us to determine whether either of these matters will have a material effect on our business, financial position, results of operations or cash flows."

Lucent's former corporate offspring Avaya (AV:NYSE - news - research) got similar subpoenas in May, the Record of Hackensack, N.J., reported. Avaya was spun out of Lucent in 2000.

On Thursday, Lucent slipped a nickel to $2.88.

ENVIRONMENT/INDIAN AFFAIRS:

There's A $500 Energy-conservation Prize Waiting For You In The New Federal Energy Bill (KRT)

By Andres R. Martinez

Knight Ridder, August 5, 2005

WASHINGTON - Making energy-efficient improvements to your home could net you a $500 rebate from the government.

The offer's buried in the 1,724-page energy bill that President Bush has said he'll sign next week. It gives consumers a credit off the bottom line of their 2006 or 2007 taxes equal to 10 percent of their energy-saving purchases. The maximum over the two years is $500 and applies to any owner-occupied home or condominium. It's probably a good deal for you, although it's pretty complicated.

Home energy conservation experts say you'll make the most out of the tax credit - and save even more on home energy costs in the long run - with the following approach.

First, pull together your utility bills and figure out what you're spending on energy now. If you have a neighbor with a similar residence, ask what he or she is spending on utilities. If you're a lot higher, you've got a lot to save. Note that if you're in a condo, you'll be eligible for a pro-rated share of any building upgrades.

For most homeowners, the fastest way to earn the rebate - plus long-haul savings - is a "no-brainer," said home energy auditor Lee O'Neil, president of NSpects of Chantilly, Va.: "Have the air sealing (draft protection) and attic insulation done."

This work is relatively cheap - $2,000 to $3,000 for an average single-family home - compared with five times that for replacing old windows. Moreover, the small print of the new law lets homeowners deduct up to $300 for insulation and eliminating drafts, which is what air sealing is all about. The maximum deduction for new windows is $200.

How good a deal this or any other energy-conservation outlay is for you depends on three factors: how much energy you're wasting, how much the improvement costs and how much savings you'll net.

The Environmental Protection Agency helps you figure this out with a nifty interactive Web site that asks you to describe your home, right down to the direction it faces, the window area on each side and the kinds of appliances you've got. It doesn't ask your latitude, which it gets from your ZIP code, but it asks you to detail your energy spending. Ultimately, it comes up with the ways that you can save the most.

The site is http://advisor.lbl.gov/hit/Controller. It's a demanding exercise but more than worth the time - literally.

The new tax rebate applies only to products that are more energy efficient than the minimum federal requirement. Such products bear the government-certified Energy Star label or a 2000 IECC label, indicating that they meet the International Energy Conservation Code.

Among the graded items are windows, heat pumps, water heaters, cooling system components, insulation and doors. For a complete list, go to www.energystar.gov then click on "Products" on the left side.

Energy Star dishwashers, laundry machines and refrigerators qualify for a separate rebate. Dishwashers earn up to $100 based on efficiency, washing machines $100 and refrigerators between $75 and $175. Keep in mind that energy-conserving appliances are often more expensive.

For whatever energy-saving products or services you buy, save your receipts for your taxes, just as you would your charitable deductions. The rebate period begins Jan. 1, 2006, and ends Dec. 31, 2007. You can claim a total of $500 for purchases made between those dates.

Here are some other tips:

-You can still claim a rebate if you replace an Energy Star appliance with another Energy Star appliance. It may not save you much beyond the tax credit, however.

-Don't buy something just because the rebate makes it attractive. "You want an improvement that will save you money over its lifetime in energy costs," said Lowell Ungar, an analyst with the Alliance to Save Energy, a Washington conservation group.

-You may be able to get help from your utility companies. Many offer free advice on-line; some even make house calls.

-If you want independent expert advice, consider getting a certified energy auditor to do a home inspection. It'll cost $300 to $500, though, and that's not covered by the rebate. To find an energy auditor, go to the National Association of State Energy Officials at www.natresnet.org. Click on "Consumer Resources" on the left side.

-Some of the smartest fixes don't cost much money at all. Caulking drafty windows and doors can cut energy costs by 10 percent, according to the U.S. Department of Energy. Yearly maintenance of your heating and cooling systems, which usually costs about $100, can reduce your energy bill by 30 percent or more. Replacing incandescent light bulbs with compact

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fluorescent ones can cut lighting bills by up to 50 percent, according to the Energy Department. None of these fixes rate a rebate, however.

For more tips on making your home energy efficient visit: www.eere.energy.gov/consumerinfo/

You can also call the Department of Energy's Information Center for the tips in booklet form. The phone number is 1-877-EERE-INF (1-877-337-3463).

Too Much Pork And Too Little Sugar (NYT)

By Thomas L. Friedman

The New York Times, August 5, 2005

Wow, I am so relieved that Congress has finally agreed on an energy bill. Now that's out of the way, maybe Congress will focus on solving our energy problem.

Sorry to be so cynical, but an energy bill that doesn't enjoin our auto companies to sharply improve their mileage standards is just not serious. This bill is what the energy expert Gal Luft calls "the sum of all lobbies." While it contains some useful provisions, it also contains massive pork slabs dished out to the vested interests who need them least - like oil companies - and has no overarching strategy to deal with the new world.

And the world has changed in the past few years. First, the global economic playing field is being leveled, and millions of people who were out of the game - from China, India and the former Soviet empire - are now walking onto the field, each dreaming of a house, a car, a toaster and a microwave. As they move from low-energy to high-energy consumers, they are becoming steadily rising competitors with us for oil.

Second, we are in a war. It is a war against open societies mounted by Islamo-fascists, who are nurtured by mosques, charities and madrasas preaching an intolerant brand of Islam and financed by medieval regimes sustained by our oil purchases.

Yes, we are financing both sides in the war on terrorism: our soldiers and the fascist terrorists. George Bush's failure, on the morning after 9/11, to call on Americans to accept a gasoline tax to curb our oil imports was one of the greatest wasted opportunities in U.S. history.

Does the energy bill begin to remedy that? Hardly. It doesn't really touch the auto companies, which have used most of the technological advances of the last two decades to make our cars bigger and faster, rather than more fuel-efficient. Congress even rejected the idea of rating tires for fuel efficiency, which might have encouraged consumers to buy the most fuel-efficient treads.

The White House? It blocked an amendment that would have required the president to find ways to cut oil use by one million barrels a day by 2015 - on the grounds that it might have required imposing better fuel economy on our carmakers.

We need a strategic approach to energy. We need to redesign work so more people work at home instead of driving in; we need to reconfigure our cars and mass transit; we need a broader definition of what we think of as fuel. And we need a tax policy that both entices, and compels, U.S. firms to be innovative with green energy solutions. This is going to be a huge global industry - as China and India become high-impact consumers - and we should lead it.

Many technologies that could make a difference are already here - from hybrid engines to ethanol. All that is needed is a gasoline tax of $2 a gallon to get consumers and Detroit to change their behavior and adopt them. As Representative Edward Markey noted, auto fuel economy peaked at 26.5 miles per gallon in 1986, and "we've been going backward every since" - even though we have the technology to change that right now. "This is not rocket science," he rightly noted. "It's auto mechanics."

It's also imagination. "During the 1973 Arab oil embargo Brazil was importing almost 80 percent of its fuel supply," notes Mr. Luft, director of the Institute for the Analysis of Global Security. "Within three decades it cut its dependence by more than half. ... During that period the Brazilians invested massively in a sugar-based ethanol industry to the degree that about a third of the fuel they use in their vehicles is domestically grown. They also created a fleet that can accommodate this fuel." Half the new cars sold this year in Brazil will run on any combination of gasoline and ethanol. "Bringing hydrocarbons and carbohydrates to live happily together in the same fuel tank," he added, "has not only made Brazil close to energy independence, but has also insulated the Brazilian economy from the harming impact of the current spike in oil prices."

The new energy bill includes support for corn-based ethanol, but, bowing to the dictates of the U.S. corn and sugar lobbies (which oppose sugar imports), it ignores Brazilian-style sugar-based ethanol, even though it takes much less energy to make and produces more energy than corn-based ethanol. We are ready to import oil from Saudi Arabia but not sugar from Brazil.

The sum of all lobbies. ...

It seems as though only a big crisis will force our country to override all the cynical lobbies and change our energy usage. I thought 9/11 was that crisis. It sure was for me, but not, it seems, for this White House, Congress or many Americans. Do we really have to wait for something bigger in order to get smarter?

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Indians Continue Wait For Accounts' Resolution (WP)

By Evelyn Nieves

The Washington Post, August 5, 2005

BROWNING, Mont. -- Nine years have ticked away since Elouise Cobell sued the government on behalf of as many as 500,000 Native Americans whose land the United States was supposed to manage. But the end of what has become the longest, largest class action lawsuit against the federal government remains nowhere in sight.

Sometimes, when Cobell returns home here to the Blackfeet Indian Reservation in northwest Montana from Washington, where the case is being heard in U.S. District Court, she feels buoyed by a development she thinks might help settle the case once and for all. But the feeling is fleeting.

Last week, a major court victory was still fresh; Judge Royce C. Lamberth had issued his most scathing critique of the Interior Department's handling of the Indians and the case. Lamberth cited Interior's "mismanagement, falsification, spite and obstinate litigiousness," among other failings, and his disgust was palpable.

"Perhaps Interior's past and present leaders have been evil people, deriving their pleasure from inflicting harm on society's most vulnerable," he wrote in the extraordinary, 34-page July 12 ruling, which agreed with the plaintiffs' claim that the department's information was unreliable.

But Cobell was preoccupied by a bill to settle the case that was introduced July 20 by Sens. John McCain (R-Ariz.) and Byron L. Dorgan (N.D.), chairman and ranking Democrat, respectively, of the Indian Affairs Committee. The bill, which the senators called "a starting point," was far from the remedy Indian leaders had hoped for, Cobell said. And she testified to that point.

"This bill proposes a formula for accounting that looks at the trust records from 1980 to 2005," Cobell said when she returned here from testifying. "The judge has already ruled that Interior has to make an accounting going back to the beginning."

Cobell v. Norton (for Interior Secretary Gale A. Norton) dates to 1996, but the complicated debacle some members of Congress have likened to a "Federal Enron" traces its origins back more than a hundred years.

Under a forced arrangement, in 1887 the government divided much tribal land across the country, which it had not already taken, into separate, private allotments for Indians. It then leased individuals' land, which ranged from 40 to 160 acres, usually to oil, gas, timber, grazing or coal interests. The Treasury Department placed the fees into a trust and was -- and remains -- responsible for doling out checks to the individual Indian trust beneficiaries.

But from the beginning, the plaintiffs say -- and the government has conceded until recently -- the basic recordkeeping for these lands was botched.

In 1994, six years after Congress began oversight hearings into the mismanagement of Indian trusts going back for decades, it passed a law ordering a special trustee to monitor the accounting of the trusts and creating a plan for reforming the system. The 1996 lawsuit followed after the first special trustee resigned in protest of what he said were attempts to obstruct his efforts to reconcile accounts.

Norton and her predecessor, Bruce Babbitt, have said it is impossible to provide a full historical accounting of the trusts -- there are said to be about 300,000 accounts, incorporating perhaps 500,000 individual beneficiaries, with combined balances in the trust of $500 million to $800 million.

But Interior officials say that as they perform a historical accounting of the trusts ordered by Lamberth -- an effort costing $100 million so far -- their research, performed by using statistical sampling, has shown that the trust holders are owed little for their land. "If you use the facts that we have found so far in the accounting process, the number would be very, very low," James E. Cason, the associate deputy secretary for the Interior, told the Indian Affairs Committee last month.

"In court, the plaintiffs seek a historical accounting but are now working hard to prevent that accounting from occurring," Cason added. "In Congress, they argue against providing funding for that accounting; in court, they argue that the accounting is impossible. . . . Instead of an accounting, they want lots of money."

This stance, fairly new in the history of the lawsuit, infuriates the plaintiffs. What they object to, they say, is the Interior Department's taking money from already underfunded Indian health and education programs to fund its defense against the lawsuit. And they say Interior is basing its accounting on records that date only since 1985.

Interior officials say the Indians keep shifting their figures on the amount of money the government owes them -- from more than $100 billion at one point to, most recently, $27.5 billion (the figure the plaintiffs announced in June as acceptable to settle the case). But the plaintiffs say their figure has changed because as court testimony from Interior officials and court findings have shown, no one can be sure what is owed to trust holders.

Last week the plaintiffs pleaded with the judge to keep computers holding trust data shut down. They argued that the information remained as vulnerable to hackers as it was four years ago, when Lamberth ordered a shutdown of all computers in

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the Interior Department after an Inspector General's report showed that a computer hacker could move or change trust account balances with ease. The judge has not yet ruled on the matter.

From the start of the Indian trusts, accounting has been a problem. Allotment holders would receive Treasury checks with no additional paperwork. They were not told who leased their land, what it was used for, how much was used, or the price the company paid for obtaining the land's oil, timber or other resource. Allottees complained that they received checks -- sometimes for as little as 2 cents -- that the government did not explain. Many say that practice continues.

Recent history has also revealed problems.

In 1999, Treasury's financial management office destroyed 162 boxes of trust documents as Interior officials were telling the court they were searching for the records. A court-appointed master assigned to oversee the preservation production of documents found that Treasury violated ethical rules for not reporting the documents' destruction for 16 months. He called the trust system "clearly out of control."

In a ruling in 1999 ordering Interior to make a full accounting of the trust, Lamberth declared that "it would be difficult to find a more historically mismanaged federal program."

In 2001, after a 19-month investigation, a federal monitor assigned to provide the judge with assessments of Interior's representations called the department's efforts to provide an accounting in compliance with his order a sham marked by unrealistic responses and evasion.

Last month, when McCain and Dorgan introduced their bill on the Senate floor, Dorgan said: "The Cobell litigation has brought to light a very disturbing problem: The federal government may not know the proper balances of these accounts nor have sufficient documentation to determine the value of these accounts."

The government acknowledges one failure of recordkeeping. As original allotment holders died and their land was inherited by more and more heirs, the paperwork involved in keeping track of beneficiaries proved onerous. Nearly 50,000 active accounts, with a balance of nearly $74 million, languish because, the government says, the beneficiaries' "whereabouts are unknown."

Cobell, a banker and accountant, said her husband began receiving trust checks a year ago with no documentation. "He doesn't know what they're for," she said, "but he was told they go back from three years ago. He was one of those 'whereabouts unknown,' though we've lived here forever."

Interior has appealed every major ruling in the case. Last week, it appealed Lamberth's July 12 order, in which he ordered Interior to include notices in its correspondence with Indians whose land the government holds in trust, warning them that the government's information may not be credible. Interior was issued a stay pending a ruling next month.

FBI/DEA/ATF/USMS:

Compton To Crack Down On Gangs, Officials Tell Forum (LAT)

By Megan Garvey

The Los Angeles Times, August 5, 2005

Compton officials — joined by an array of community activists and religious leaders — announced Thursday that they plan to seek gang injunctions and start offering rewards of $500 or more for information leading to arrests and convictions, measures intended to help stem this year's rapidly rising homicide count.

Addressing a standing-room-only crowd in the City Council chambers, Mayor Eric J. Perrodin said his community would not tolerate continued violence.

"We are putting criminals and gang members on notice: It's time to pack your bags. Crime is not accepted in Compton," he said.

He told residents that the city also was planning to aggressively pursue abatement of drug houses and rundown properties, and would renew its focus on gang intervention programs.

The meeting was held the night after Michael Buchanan, 18, of Los Angeles was shot to death about 11 p.m. as he walked to his parked car on Evers Avenue.

Buchanan's death was the third slaying in the last week and the city's 43rd this year — more than all of last year. At least another four killings have occurred in unincorporated areas within blocks of the city limits.

At the current pace, Compton's homicide rate would far surpass recent highs in major American cities.

The killings, which have come alongside a rise in gang-related shootings, have residents fearful.

Thursday night, people filled every seat. Some stood in the back or sat on steps or benches outside and listened to the meeting over loudspeakers.

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The panel, seated at tables that stretched the width of the room, was made up of City Council members; officials from the Los Angeles County Sheriff's Department, which patrols Compton; representatives of Los Angeles County Superior Court; nonprofit organizers; pastors; a priest; and ministers from the Nation of Islam.

"We've buried so many children, we've just buried so many children," said Father Stan Bosch, a pastor at Our Lady of Victory/Sacred Heart Church in Compton, his voice trembling. "But I believe we are the hope."

Speaking of racial tensions in the city of 96,000, where Latinos now outnumber African Americans, Bosch said the community needed to reach across ethnic barriers. "I really believe there is healing when we let those boundaries drop and we know each other by name — not by gang name, but by Bobby and Billy and Pedro."

The forum, called Making Neighborhoods Safer, was billed as a chance for community members to offer ideas to prevent and solve crime.

The variety of questions underscored a long list of problems troubling Compton residents, including gang violence, prostitution, graffiti and a lack of guidance or jobs for young people.

But it also revealed many long-standing tensions between the community and law enforcement: the desire of residents to see criminals arrested and prosecuted, the fear of possible police abuse and the hope that their young people can instead be steered in the right direction.

Minister Tony Muhammad, the West Coast representative of the Nation of Islam, expressed concerns about any get-tough approach to crime, cautioning that many young black men wrongly fall into broad concepts of what gang members look like.

He also questioned deputies' difficulties in solving homicides in the community, given that fewer than a dozen arrests have been made in connection with this year's slayings.

"Let an officer get killed, they catch the shooter in eight hours," Muhammad said. "But a brown or black brother get killed and you can't find anyone who'd talk to you? Watch out, Compton."

Other speakers said that their focus now lay primarily with the victims and that strong action was needed.

"We've got to stop playing with these people and get them off the street," said Royce Esters, president of the civil rights group National Assn. for Equal Justice in America.

"They're killing our sons and daughters. We've got to stop fooling around. I'm saying we need a multitask force, we need the FBI, ATF, the DEA to come in here," Esters said.

Capt. Eric Hamilton, who heads the Compton sheriff's station, said that some of those agencies were at work in the community and that he was open to more partnerships.

But he said that such agencies had come into Compton before without lasting change.

"In my opinion the key is the folks who are out here," he said, gesturing to the audience. "What are you going to do? It's terrible that we've had these murders, terrible. But if you're just here for the dialogue, then it's just an exercise."

The Cancer In Compton (LAT)

The Los Angeles Times, August 5, 2005

The city of Compton has a chance this year to return to the top of the charts — but not with the rap songs that once put the city on the map. With 42 homicides so far in 2005, Compton is on a pace to displace New Orleans as the nation's murder capital.

As always, condemnation of the violence is widespread, as is agreement that something must be done to stop it. And as always, the hard question is what exactly that something is.

At its current pace, Compton, which has about 96,000 residents, would have a murder rate of about 7.5 per 10,000 residents this year. (In New Orleans, there were about 5.6 homicides last year for every 10,000 residents.) The Sheriff's Department, which has been under contract to police Compton since its municipal force was disbanded five years ago, attributes the rise to increased activity among Compton's numerous gangs. Authorities also worry that violence in Compton could spread to many of the surrounding neighborhoods of Los Angeles after a hard-won decrease in violent crime throughout the city.

It's clear that Compton needs more police; it has about 70 officers patrolling an area roughly the size of the LAPD's Southeast Division, which has triple the force. Yet Compton, which spends more than $12 million on its Sheriff's Department contract, is cash-strapped, and federal grants for public safety are increasingly scarce. Moreover, even if the city were to receive more money, Compton's police would still have to win over residents worried about their professionalism. It was only three months ago that deputies shot 120 times at an unarmed suspect in a residential neighborhood.

As justified as their suspicions may be, however, the people of Compton must also realize that a larger force, with better-trained officers, would make their community safer. All parties in Compton — including the police and the City Council — should resist the temptation to bicker and be prepared to work together.

The Sheriff's Department should work harder to recruit deputies who are Compton residents or have a vested interest in the community. The community should be more willing to cooperate with law enforcement in helping to solve crimes.

Mutual trust between the police and the community is key to successful gang prevention and mentorship programs similar to those in Inglewood and East Palo Alto.

First Lady Laura Bush has spoken eloquently about the importance of giving teenagers, especially boys, more hope and greater opportunities. Her focus on the problem is refreshing, but the administration must go beyond rhetoric. Even a modest increase in federal and state gang-prevention programs would help cities such as Compton become safer and better places to live.

It is the larger community — and by that we mean the city and the region — that must acknowledge that gang violence is not merely a local problem but a societal one.

School Employees Charged In Drug Case (WT)

By Jerry Seper

The Washington Times, August 5, 2005

A federal grand jury in Miami has returned an 84-count indictment charging 29 persons, mostly Miami-Dade County Public Schools employees, with conspiracy to possess the pain killer OxyContin with the intent to distribute and to obtain the drug with counterfeit or fraudulent prescriptions.

Named in the indictment are a doctor from Miami-Dade County, five county school bus drivers, 13 county school bus attendants, two county school custodians, a cook, a county school cashier and a former county school bus driver. Five unspecified persons also were indicted.

U.S. Drug Enforcement Administration (DEA) spokesman Garrison K. Courtney said the indictment also includes charges of health care fraud and conspiracy to commit health care fraud.

"The DEA is committed to working with our local counterparts in combating the drug dealers who stalk this community and endanger the welfare and safety of our children," said DEA agent Mark R. Trouville, who heads the agency's Miami field division.

"We will continue to make federal resources available for Miami-Dade County and other communities to help curb the flow of drugs in their neighborhoods and to protect our children," he said. "DEA has zero tolerance for drug traffickers who work with or around our children."

According to the indictment, handed up July 29 but made public yesterday, beginning in January 2003, three of the suspects recruited others, some of whom were Miami-Dade schools employees, to participate in the conspiracy by providing their insurance identification information.

The indictment says some obtained prescriptions for OxyContin that were medically unnecessary from a co-defendant who is a physician. At a later date, some of those charged forged and counterfeited prescriptions for OxyContin using a variety of insurance identification information.

Some of those charged, the indictment says, presented the forged and counterfeit prescriptions at pharmacies in Miami-Dade and Broward counties to obtain OxyContin. They are accused of selling the filled prescriptions for cash.

In addition, the indictment says, others submitted insurance claims to UnitedHealth Group, fraudulently claiming reimbursement for the cost of the prescriptions. It says nearly 100 forged, counterfeit or medically unnecessary prescriptions for the prescription OxyContin -- accounting for thousands of OxyContin tablets -- were presented to the pharmacies.

"Public school employees hold special positions of trust," said U.S. Attorney R. Alexander Acosta, whose office will prosecute the case. "They serve as role models for our children. Their actions, as much as their words, teach what is right and what is wrong.

"There is no evidence here that these individuals distributed controlled substances to children in their care. These school employees are charged, however, with violating federal drug laws, and that is something that we in Dade County cannot tolerate in our school employees."

Mr. Courtney said each of those charged faces 20 years in prison and $1 million fines, if convicted.

29 Charged In OxyContin Ring At School (FINDLAW/AP)

By Curt Anderson, Associated Press Writer

Find Law, August 5, 2005

(AP) - MIAMI-School bus drivers, attendants and other co-workers were charged by federal prosecutors Thursday with taking part in an illegal drug ring involving the powerful painkiller OxyContin.

According to the indictment, Miami-Dade school employees were among 29 people who used more than 100 forged or fraudulent prescriptions to obtain thousands of tablets of OxyContin from South Florida pharmacies.

No teachers were involved, and there was no evidence of drug sales to children, U.S. Attorney R. Alexander Acosta said.

The school workers were recruited to use their health-insurance cards as part of the scheme, prosecutors said.

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Of those charged in the grand jury indictment, five are Miami-Dade school bus drivers, 13 are school bus attendants and one is a former school bus driver now driving a city bus. Two school custodians, a cook and a cashier were also charged, along with a Miami doctor and five other people.

Miami-Dade school officials had no immediate comment on the 84-count indictment, which came days before classes begin Monday.

Those charged face up to 20 years in prison and a $1 million fine for each count of possession of OxyContin with intent to distribute, as well as additional prison time for fraud charges, prosecutors said.

OxyContin is legal if prescribed for treatment of severe chronic pain. But it has become an increasing problem on the black market because crushing the time-release tablets and snorting or injecting the powder yields an immediate, heroin-like high. Hundreds of deaths are blamed each year on overdoses.

On the Net:

http://www.dadeschools.net

22 School Employees Arrested In OxyContin Scheme (MH)

By Luisa Yanez

The Miami Herald, August 5, 2005

Miami-Dade School bus drivers, custodians, a cook and a cashier were among the 29 people arrested today for taking part in a scheme to sell the powerful painkiller OxyContin on the street, the U.S. Attorney's Office announced.

"We have no evidence that children or teachers were involved in this scheme," said U.S. Attorney R. Alexander Acosta. ``But these are not the type of people we want around our children."

Joseph Garcia, a spokesman for Miami-Dade schools, said the district learned of the arrests, and the nearly two-year investigation, today. Monday is the first day of school in Miami-Dade County.

"First, we're shocked, then we're grateful that these people were arrested before the start of the school year," Garcia said.

He said disciplinary action will begin immediately against the 22 school employees.

Of those charged in the early morning round-up, five were school bus drivers, 13 were bus attendants, two were custodians, one cook and one a school cashier, the U.S. Attorney's Office said. A Miami doctor and five others were also charged.

The scheme worked something like this:

The school employees were recruited to go to a doctor and use their name and insurance to purchase prescriptions for OxyContin. The doctor was on the take.

The employees then sold the prescriptions to a contact, who then resold the tablets to a street dealer. The tablets were sold on the street for as much as $80 apiece.

OxyContin is legal if prescribed for treatment of chronic pain.

Miami-Dade police the Drug Enforcement Administration and the Florida Department of Law Enforcement took part in the investigation.

22 Miami-Dade School Workers Face Charges For Selling Oxycodone (FLSUNSEN)

By Ihosvani Rodriguez, Miami Bureau

South Florida Sun-Sentinel, August 5, 2005

Federal agents on Thursday rounded up 22 Miami-Dade County school system employees accused of being part of a prescription drug ring that illegally obtained and sold thousands of tablets of the painkiller oxycodone since 2003.

Officials found no evidence the school employees sold the drug to students or used the highly addictive painkillers at work. The employees included five bus drivers, 13 bus attendants, a cook, two custodians and a cashier. A Miami-Dade transit bus driver who was arrested worked previously as a school bus driver.

Authorities unsealed a federal grand jury indictment on Thursday that contained a total of 84 counts against 29 people. The lengthy list of charges includes conspiracy to distribute oxycodone and committing health-care fraud.

Among those charged was a Miami-Dade doctor arrested last year for writing illegal prescriptions for the drug commonly known by its commercial name, OxyContin. Prosecutors said no teachers were involved in the plot.

Investigators said they rushed to make the arrests before next week's start of the school year and expect more arrests to follow, U.S. Attorney R. Alexander Acosta said.

"We needed to take action quickly," Acosta said.

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Officials with Miami Dade Schools said they plan to place the employees on administrative leave and replace them before next week.

Schools spokesman Joseph Garcia said there was no indication the bus drivers were under the influence of drugs while working. He said drivers must take a drug test before employment and after an accident and also submit to random drug tests.

A central figure in the case was Dr. Ronald E. Harris, prosecutors said. Authorities identified Harris last year as Florida's top prescriber of OxyContin to Medicaid patients. He was charged last year with drug trafficking after selling undercover police officers 10 OxyContin prescriptions without proof of any medical need. He is awaiting trial.

Officials with the U.S. Drug Enforcement Administration said Harris' arrest prompted their investigation of the school system employees.

Investigators said the operation was traced back to January 2003, when Harris began selling prescriptions to Ian Stuart and Johnny Blocker, identified as the ring's leaders. Blocker, a bus attendant, paid colleagues for their school employee insurance information to obtain and pay for the prescription drugs, authorities said.

The ringleaders paid school employees up to $100 per prescription, and up to $400 if they went to the pharmacy to obtain the pills personally, said the DEA's special agent-in-charge, Mark Trouville. Most of the prescriptions were filled in the Hollywood and Hallandale areas. Employees then sold the pills to a street dealer, who resold them for as much as $80 a pill.

Altogether, more than 100 forged or medically unnecessary prescriptions for OxyContin were presented to pharmacies, the indictment says. The school system's insurance company, UnitedHealth Group, doled out more than $50,000 to pay for the drugs, according to the indictment.

OxyContin, prescribed for chronic pain, has become a huge force in the black market in recent years. Abusers usually crush the tablets and either snort or inject the powder for an immediate, heroin-like high.

A report released in June by the Florida Medical Examiners Commission said 340 Floridians died from oxcodone overdoses in 2004. The figures include 48 deaths in Broward, 35 in Palm Beach County and 11 in Miami-Dade.

School Workers Charged In Drug Ring Bust (CNN.com)

CNN.com, August 5, 2005

MIAMI (CNN) -- Federal officials on Thursday arrested 29 people in the Miami-Dade County area, including a number of low-level school employees, and charged them with attempting to obtain the narcotic OxyContin to distribute it.

Among the school employees arrested were five bus drivers, 13 bus attendants, two custodians, a cook and a cashier.

The others include a former school bus driver who now is a Miami-Dade County Transit bus driver, a doctor, a sheet metal worker and four others.

"There is no evidence here that these individuals distributed controlled substances to children in their care," said R. Alexander Acosta, U.S. attorney for the Southern District of Florida. "These school employees are charged, however, with violating federal drug laws, and that is something that we in Dade County cannot tolerate in our school employees."

OxyContin is a form of the narcotic analgesic oxycodone.

In an 84-count indictment, a federal grand jury in Miami charged them with "conspiracy to possess oxycodone with the intent to distribute and to obtain oxycodone with counterfeited or fraudulent prescriptions, health care fraud and conspiracy to commit health care fraud."

In all, about 100 phony prescriptions were filled at 50 pharmacies in Miami-Dade and Broward counties, representing thousands of pills believed to have been sold on the street, said Alicia Valle, a spokeswoman for the U.S. attorney in Miami.

She said none of the pills, which one defendant claimed to have sold for as much as $34 apiece, has been confiscated.

Officials allege that, beginning around January 2003, three defendants recruited the others to join in the conspiracy by providing their insurance identification information.

"At a later date, some defendants forged and counterfeited prescriptions for OxyContin using their own and their co-defendants' insurance identification information," officials said.

Defendants submitted insurance claims to United Health Group, seeking reimbursement for the drug's cost to a tune of about $50,000, the indictment alleges.

One defendant, a Miami doctor identified as Ronald Eugene Harris, has been charged with writing prescriptions that were medically unnecessary.

Authorities say he dropped out of the scheme, and the other defendants changed their modus operandi, stealing prescriptions from another unnamed physician and forging them. The second doctor has not been charged.

Harris last year voluntarily relinquished his license and agreed never to reapply for it, according to the Web site of the Florida Department of Health.

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The accused could face maximum penalties of up to 20 years in prison and a $1 million fine for each count of possession with intent to distribute.

The narcotic has been blamed for 340 deaths last year in Florida, 11 of them in Miami.

Selig Renews Call For Tougher Rule On Steroids Users (NYT)

By Duff Wilson

The New York Times, August 5, 2005

Baseball Commissioner Bud Selig renewed his call yesterday for tougher penalties for players caught using steroids and for independent administration of the game's drug-testing program.

At the same time, a leader of the House Committee on Government Reform, which held nationally televised hearings earlier this year about the issue of steroid use, pressed for an outside investigation into the history of the problem in baseball.

Selig's statement, in a news release, appeared to be designed to put pressure on the Major League Baseball Players Association, which had balked at his proposal in April for a "three-strikes-and-you're-out" steroids policy. Selig made his recommendation in a letter on April 25 to Donald Fehr, executive director of the union.

Fehr had said that the existing program, established in January when the union agreed to reopen the collective bargaining agreement, needed time to work. He said that further changes should be negotiated in the collective bargaining process.

He had no comment on Selig's statement yesterday. Fehr has been traveling around the country to meet with players to talk about a variety of issues, including Selig's proposal. Union officials are expected to meet with management before the end of the month.

This week's suspension of Rafael Palmeiro, one of four players with more than 3,000 hits and 500 home runs, has allowed Selig to renew his push. Palmeiro tested positive for stanozolol, a powerful, short-acting steroid, according to a person in baseball with direct knowledge of the test result. That person did not want to be identified because of confidentiality provisions in the testing policy.

In March, Palmeiro testified to Congress that he had never used steroids. On Wednesday, Palmeiro said through his agent that there was another side to this story that he would tell soon.

Henry A. Waxman of California, the ranking Democrat on the House committee, endorsed Selig's call for tougher penalties and independent administration of testing.

"However, I'm disappointed that he isn't trying to find out how this scandal was allowed to happen," Waxman said in a telephone interview. "I think we need a thorough, broad and independent investigation so that we can restore baseball's credibility."

Selig has been considering an in-depth investigation, like the Dowd Report on Pete Rose and gambling in baseball, to try to get to the bottom of the steroids scandal. Congressional leaders indicated in April that they would defer their own plans for an examination of past steroid use if the leaders of the game appointed an independent investigator.

"I'm waiting to hear back from them on that," Waxman said. "I think the Palmeiro matter has even made a greater urgency for this to happen."

Richard Levin, a spokesman for Selig, said yesterday that he had not heard of any progress in the possibility of baseball investigating past steroid use. "The last I heard it was put on hold, and I haven't heard anything since then," Levin said.

Philip Schiliro, chief of staff for Waxman and the Democrats on the committee, said, "As far as we understood, baseball is continuing to think about it, the union is continuing to think about it, and Congressman Waxman's view is that right now is the time to do it."

Waxman said he would still consider having Congressional staff members investigate the matter if baseball leaders failed to do so. But he added that he had not talked about the subject this week with Tom Davis, Republican of Virginia and chairman of the committee. A spokesman for Davis said he would not have any comment yesterday.

Such an investigation could determine whether some of the game's most hallowed records, including the single-season home run mark set by Mark McGwire and broken by Barry Bonds, were tainted.

Anabolic steroids enhance size, strength, endurance and recovery. Their use is illegal under baseball rules and federal law. Yesterday, the Baltimore Orioles, at Palmeiro's request, canceled a ceremony planned for Aug. 14 to honor him for reaching 3,000 career hits.

Waxman pointed to an interview in The Philadelphia Inquirer yesterday in which Joe Morgan, a highly respected Hall of Famer and an ESPN announcer, blasted steroid users and said the game had tolerated and profited from the abuses during the long-ball era after the 1994 strike. He dismissed the idea that modern power-hitting records could be designated with a footnote about drug use.

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"There's not a big enough asterisk to handle all of this," Morgan was quoted as saying, adding, "If you are going to let people into the Hall who have done steroids, then you have to let Pete Rose in, because this has hurt baseball more than what Pete did."

Selig is proposing discipline of 50 games for a first offense, 100 games for a second offense and a lifetime ban for a third offense. The same penalties are proposed for all professional sports by the Drug Free Sports Act, which passed the House Committee on Energy and Commerce on June 29 and awaits further action by Congress. Under the current policy, a player is suspended 10 days for a first offense, 30 for a second, 60 for a third and a year for a fourth. The penalty for a fifth offense could be a lifetime ban.

Eight major league players have been suspended for steroid use this year.

"While I believe the suspensions show that the current program is working, they underscore the need for an even tougher policy," Selig said in his statement yesterday. "There is a deeper issue confronting baseball. It is the integrity of the game and that transcends the viability of the current program."

The statement also said baseball should turn over the administration of its program to an independent authority.

"The intensity that I feel about this issue is greater today than it has ever been," the statement said, "and the time is past due for the Players Association to accept my proposal to eliminate steroids and other performance-enhancing substances from our game."

Selig Urges Acceptance Of Tougher Steroids Policy (USAT)

By Hal Bodley

USA Today, August 5, 2005

Commissioner Bud Selig on Thursday used the high-profile 10-day suspension of Baltimore Orioles first baseman Rafael Palmeiro this week to urge the players union to accept his April 25 proposal calling for a strong steroids testing program.

Selig said in a statement he is saddened by this week's violations — Seattle pitcher Ryan Franklin was also suspended for 10 days — "but they underscore the need for an even tougher policy. There is a deeper issue confronting baseball. It is the integrity of the game and that transcends the viability of the current program."

Palmeiro, one of only four players to reach 3,000 hits and 500 home runs, was suspended on Monday after testing positive for the powerful steroid stanozolol, a baseball person familiar with the process told USA TODAY. Another person familiar with the testing program said the test took place in the second week of May.

Stanozolol, known by its brand name Winstrol, is a strength-building steroid that can be ingested or injected, but is not available in over-the-counter supplements.

Selig, in Thursday's statement, said "there exists some doubt in the public sector about our sincerity in eliminating steroids from the game. That is wrong. We must create an understanding everywhere that when we say we need to rid the game of steroids, we mean it.

"The best way is to put in place the program that I proposed to the Players Association more than three months ago. We must increase the levels of discipline to 50 games for a first offense, 100 games for a second and a lifetime ban for a third. And, probably most important, we must turn over the administration of our program to an independent authority to, once and for all, end the debate about the transparency of our policy.

"The intensity that I feel about this issue is greater today than it has ever been and the time is past due for the Players Association to accept my proposal to eliminate steroids and other performance-enhancing substances from our game."

Union chief Don Fehr, who has been polling major leaguers about Selig's proposal, has yet to respond publicly to the commissioner's request.

Selig Calls For Stricter Tests (LAT)

By Tim Brown

The Los Angeles Times, August 5, 2005

Commissioner Bud Selig called again for stricter drug testing in baseball Thursday, attempting to pressure the players' union into acceding to his plan for a three-strikes-and-you're-out policy.

In the wake of this week's high-profile suspensions of Baltimore Oriole first baseman Rafael Palmeiro and Seattle Mariner pitcher Ryan Franklin, the commissioner's office issued a three-paragraph release that read, in part:

"The intensity that I feel about this issue is greater today than it has ever been and the time is past due for the Players' Association to accept my proposal to eliminate steroids and other performance-enhancing substances from our game."

Union chief Don Fehr has been meeting with players and team player representatives for much of the summer, in part to discuss the possibility of a new policy.

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The collective-bargaining agreement expires after the 2006 season but the joint drug-prevention and treatment program runs through 2008.

Shortly after a March congressional hearing at which the current policy was roundly criticized as too lenient, Selig said he would champion a program in which the progression of positive tests would result in suspensions of 50 games, 100 games and a lifetime ban.

A first positive under the existing plan, which was instituted only five months ago, results in a 10-day suspension. Eight major leaguers have been suspended, as have 78 minor leaguers, who serve a 15-game penalty for a first-time offense.

Selig did not mention Palmeiro specifically. On Thursday, the Orioles announced that a pregame ceremony scheduled for Aug. 14 celebrating his 3,000th hit would not be held, per Palmeiro's request.

Joe Foss, Oriole vice chairman and chief operating officer, said in a statement, "Given the circumstances, the club is in agreement with Rafael's wish to not move forward with the ceremonies."

The prominence of Palmeiro, who recently joined Hank Aaron, Willie Mays and Eddie Murray as the only players to have at least 500 home runs and 3,000 hits, has again drawn attention to baseball's policy, however. Many congressional leaders, including members of the House Government Reform Committee, have demanded a more stringent and transparent policy, one that more closely follows the Olympic model.

Congress also is investigating Palmeiro, who tested positive for the steroid stanolozol approximately two months after testifying before the Government Reform Committee that he had never used steroids.

"I am saddened by the recent announcements of violations of baseball's drug program," the statement from Selig read. "Back in March, I said that everyone who tests positive will be suspended and that has come to pass. While I believe the suspensions show that the current program is working, they underscore the need for an even tougher policy. There is a deeper issue confronting baseball. It is the integrity of the game and that transcends the viability of the current program.

"There exists some doubt in the public sector about our sincerity in eliminating steroids from the game. That is wrong. We must create an understanding everywhere that when we say we need to rid the game of steroids, we mean it. The best way is to put in place the program that I proposed to the Players' Association more than three months ago. We must increase the levels of discipline to 50 games for a first offense, 100 games for a second and a lifetime ban for a third. And, probably most important, we must turn over the administration of our program to an independent authority to, once and for all, end the debate about the transparency of our policy."

Baseball, Palmeiro At Odds (BSUN)

By Jeff Barker

The Baltimore Sun, August 5, 2005

Major League Baseball and Rafael Palmeiro continued to snipe at each other over privacy issues in his steroid case Thursday, making it hard to believe it has been only three weeks since baseball bought a congratulatory newspaper ad to mark the Oriole's 3,000th hit.

Baseball seems embarrassed not only that Palmeiro failed a steroid test, but that his abbreviated explanation - that the drug use was accidental - has quickly become a national punch line.

And it has.

"You can't watch a stand-up comedian without hearing about it," said popular culture expert Robert J. Thompson of Syracuse University. "In the court of public culture, it's automatically-assumed guilt."

The baseball commissioner's office, which has been distancing itself from Palmeiro and his defense, Thursday issued a statement saying the recent steroid-related suspensions of Palmeiro and others show that the sport's drug program needs more teeth.

"While I believe the suspensions show that the current program is working, they underscore the need for an even tougher policy," commissioner Bud Selig said. "There is a deeper issue confronting baseball. It is the integrity of the game, and that transcends the viability of the current program."

Selig has been pushing the Major League Baseball Players Association -so far unsuccessfully -to agree to a new steroids regimen that would include a suspension of 50 games for a first violation, 100 for a second and a lifetime ban for a third offense.

Under the current system, Palmeiro received a suspension of 10 days for an initial violation.

The baseball players union has issues of its own. The union is concerned that baseball, as part of its anti-steroids push, may have violated Palmeiro's privacy rights by leaking information to the media about when Palmeiro failed his drug test and which steroid - it was stanozolol - was uncovered.

Palmeiro's agent, Arn Tellem, has expressed a similar concern, accusing baseball of breaking confidentiality rules and undermining "the integrity" of the drug testing program.

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Thursday, baseball denied breaking any rules.

"No information about this test became public until after Mr. Palmeiro's grievance was fully litigated and decided," Rob Manfred, Major League Baseball executive vice president, said in an e-mailed response to a Sun inquiry. "After the decision, Baseball put out its standard press release and said nothing more. Only the player has been talking about the underlying facts publicly," Manfred said.

Tellem offered no immediate reply. But his office e-mailed a copy of a New York Times article from Wednesday identifying the banned substance found in Palmeiro's system. The newspaper attributed the information to "a person in baseball."

The clear suggestion from Tellem's office was that baseball was behind the leak.

Baseball spokesman Richard Levin has said he doesn't know where the disclosures originated.

Among those interested in the leaks is Rep. Henry Waxman of California, the top-ranking Democrat on the House Government Reform Committee, which is examining Palmeiro's case.

Waxman said Thursday that the committee would look into the leaks as it gathered facts broadly in Palmeiro's case.

Palmeiro knew about his failed drug test as he chased his 3,000th hit last month. Baseball took out a full-page ad in USA Today to congratulate him.

On March 17, Palmeiro told the congressional committee he never used steroids. He also asked to join the Zero Tolerance Roundtable, an advisory group comprising steroid experts and representatives from various sports.

"You have to realize he asked us to go on it [the roundtable]. He sent in a request," Waxman said. "I guess his idea of zero tolerance is a little more tolerant than we expected it to be."

Palmeiro Calls Off 3,000th Hit Ceremony (BSUN)

The Baltimore Sun, August 5, 2005

The Orioles announced today that the scheduled pre-game ceremonies on Aug. 14 to honor Rafael Palmeiro's 3,000th hit will not be held at the request of Palmeiro.

"Through his agent, Rafael has specifically requested that the planned event not be held," said Joe Foss, Orioles vice chairman and chief operating officer. "Given the circumstances, the club is in agreement with Rafael's wish to not move forward with the ceremonies."

Palmeiro is serving a 10-day suspension for testing positive for steroids. The Orioles' first baseman is also being investigated for perjury after he denied using steroids in his testimony before a House committee.

Palmeiro can return to the Orioles' lineup on Aug. 11.

Steroids In Baseball: The Palmeiro Furor (5 Letters) (NYT)

The New York Times, August 5, 2005

To the Editor:

Re "Baseball Bars Longtime Star for Steroid Use" (front page, Aug. 2):

If Bud Selig, the baseball commissioner, wants to stop or seriously discourage the use of steroids, the solution is simple. Once a player has tested positive for steroids, that player's records should be erased from the annals of baseball and the opportunity for that player to enter the Hall of Fame should be denied.

Rafael Palmeiro's 10-day suspension is a joke. How much of a deterrent to use steroids is a 10-day suspension? Selig, the players and the fans alike must recognize that cheating is not acceptable and definitely must not be condoned, no matter what the excuse may be.

James E. Mangino

North Haven, Conn., Aug. 3, 2005 ·

To the Editor:

If baseball wanted to make a strong statement about its integrity and its values, it would immediately install Roger Maris in the Hall of Fame.

By doing so, baseball would be saying: "Here is a man who broke a sacred baseball record that stood for 34 years before he broke it, and that then stood for 37 years until it was broken, if indeed it was legitimately broken. He did it with nothing but a bat and his God-given talents."

What a perfect way for baseball to show what sort of man and performance it reveres!

Robert Lukas

Stony Point, N.Y., Aug. 2, 2005 ·

To the Editor:

DOJ_NMG_0002337

The only good thing to come out of the baseball steroid fiasco is the thorough embarrassment suffered by the members of Congress who inserted themselves into this controversy.

There is no federal question here, yet sanctimonious politicians held hearings to give Rafael Palmeiro a platform to heroically deny steroid use, to the chirping approval of Tom Davis and Henry Waxman.

Now their faces are covered with egg, yet they still insist on grasping onto the coattails of popular opinion. They should be laughed right out of the hearing room.

In doing bad, Palmeiro did some good.

Larry Maxcy

Yucca Valley, Calif., Aug. 2, 2005 ·

To the Editor:

Murray Chass ("Stupidity and Steroids Come in Many Forms," On Baseball column, Aug. 3) misses the broader point on the steroids issue. Due diligence, not zealotry, is what motivates the actions of Congress. The current policy requires a minimum of only one mandatory random drug test and possible additional testing per year.

Studies show that more than half a million children nationwide have admitted to using steroids. That's a real problem that, if not addressed immediately, will only continue to grow.

The current testing system does not guarantee that we fully understand the scope of the problem. The public is not notified of what drug an athlete tests positive for. Some drugs are not found in supplements, and there can be no legitimate excuse of unknowing ingestion.

Major League Baseball's testing process is secretive, and the penalties are not stemming the tide of steroid use.

If baseball wants to regain credibility, the players association should accept the recommendations that Commissioner Bud Selig has proposed, as well as allow an independent entity to conduct testing and provide for full transparency.

John Sweeney

Member of Congress

20th District, N.Y.

Washington, Aug. 3, 2005 ·

To the Editor:

Re "Palmeiro Case Centers on Popular Drug" (Sports pages, Aug. 3):

That professional athletes like Rafael Palmeiro are allegedly taking illegal performance-enhancing steroids is regrettable. But to continually hint without proof that dietary supplements are the cause of failed drug screens serves no one.

If there is verifiable information that a dietary supplement contains a substance that is not listed on the label, as some have suggested, the Food and Drug Administration can and should remove that product from the marketplace.

Professional athletes receive training advice from a battery of experts, including physicians and nutritionists. They and their handlers know what substances, including dietary supplements, they can and cannot take without risking their eligibility to compete.

David Seckman

Exec. Dir. and Chief Executive

National Nutritional Foods Assn.

Washington, Aug. 3, 2005

Steroids Guesswork Raises Unintentional Questions (BSUN)

By Peter Schmuck

The Baltimore Sun, August 5, 2005

ANAHEIM, Calif. -- There is an empty locker between Sammy Sosa and Miguel Tejada in the visitors clubhouse at Angel Stadium, and it shouldn't be too difficult to guess whose nameplate was supposed to be above it.

Save the real guessing for Major League Baseball's steroid policy, which was supposed to restore confidence in the sport in the wake of the BALCO scandal and a string of other troubling revelations, but -- with this latest shocking development -- has only generated more questions about the supposed transparency of the upgraded testing program.

The new system does not require baseball officials to identify the offending substance, so we are left to wait for the tawdry details to leak out piecemeal, which is what happened late last night when several publications, citing unnamed sources, reported Rafael Palmeiro's performance-enhancing drug of choice was stanozolol -- a potent steroid that experts doubt could have been ingested accidentally.

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It was another startling body blow for fans who still wanted to believe that Palmeiro was somehow the victim a cruel mistake, but those reports remain unconfirmed and the fact that they are allowed to float around undisputed further diminishes the credibility of whole setup.

Orioles second baseman Brian Roberts pondered the mysteries of the situation yesterday afternoon and summed up what a lot of players were thinking on the day after Palmeiro's impressive career was soiled by the announcement that he tested positive for a banned substance.

"With as much as we know today, you can look at it and say, 'Who knows? Maybe that could have been me,'" Roberts said. "When you're not getting answers about what people are caught for, how do you know?"

It's a fair question.

Palmeiro and agent Arn Tellem hid behind a confidentiality agreement when they were asked on Monday's conference call what substance Palmeiro ingested, making it that much harder to believe his contention that whatever was in his system got there unintentionally. Now, apparently, we know why.

Roberts was not criticizing Palmeiro. Quite the contrary. He was explaining why he and his teammates remain supportive of their tainted teammate, even as the rest of the baseball world seems to be convinced that he's just another steroid cheat delivering the standard steroid cheat excuse.

"Until we start getting answers, I don't believe in accusing someone when I don't have a clue what the facts are," Roberts said. "I guess somebody has the answers, but we don't."

The new drug program does function under a veil of confidentiality, which is intended to protect the privacy of the player, but it defeats the purpose of the supposedly tougher anti-steroid measures if that veil also is used to provide cover for a player who wants to maintain his innocence in the face of a damning test result.

I'm not saying that player is Palmeiro, but the small mathematical possibility that he was the victim of some sort of supplement contamination or labeling mix-up got a lot smaller when people started throwing around the name of the steroid that sunk Olympic gold medal sprinter Ben Johnson in 1988.

Of course, a red flag already had been raised when Palmeiro declined to provide any information to bolster his claim that the steroid violation was unintentional.

"I would feel that he was being much more honest if he explained exactly what happened ... what did you take," said Hall of Famer Jim Palmer. "Major League Baseball and Raffy have a pact, but there is nothing that says the player can't say anything."

Tellem insisted Monday that all parties are bound by a confidentiality pledge, but it's hard to imagine that it would be in anyone's interest to deny a player the right to defend his good name.

"If you're a Hall of Fame player, it only takes a moment to damage your image," Palmer said. "If you took something accidentally, I think you would do anything you could to clarify the situation. I hope he does that. I hope he does it for baseball. I hope he does it for himself."

Baseball's war on performance-enhancing drugs cleared an important public relations hurdle when a superstar player finally tested positive and accepted his 10-game suspension, but wasn't the real goal of the anti-steroid crusade to create a transparent system that restored full public faith in the national pastime?

And if so, why did Monday's stunning announcement still leave us all guessing?

Baseball's 'Live-Player' Era (WSJ)

The Wall Street Journal, August 5, 2005

Did Rafael Palmeiro use steroids or didn't he? He said he didn't, and the President of the United States says he believes him.

Why should we care? We care because baseball is the "national pastime," and its meticulous rules, lore and personalities have become an ineffable metaphor for life itself in America. We admire magnificent lifetime achievements, and few are more magnificent than that of Baltimore Orioles first baseman Rafael Palmeiro's combined career total of 500 home runs and 3,000 base hits. If you know baseball, you know that is an astounding and rare human feat.

Baseball now has suspended Mr. Palmeiro for using a banned substance, widely believed to be a steroid, and an arbitrator ruled against his appeal. Mr. Palmeiro said it made "no sense" for him to take drugs in the same year he'd arrive at one of baseball's highest plateaus. George W. Bush, who as owner of the Texas Rangers knew Mr. Palmeiro, says, "I believe him."

We don't know whom to believe. We do know that we have become fatigued by the steroids issue -- the debates between libertarians (who cares?) and purists (it ain't fair).

So here's a modest proposal. Baseball's fans know about the "dead-ball" era prior to 1920 and the "live-ball" era that followed. Whatever the much-debated cause, stats before and after were like night and day. So let's designate post-1995 the "live-player" era. Professional sports are now populated with chemicalized robots who are often fun to watch. But they are

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different than what went before. We can call this the "live-player" era, let the old heroes rest in peace and argue into the night about the new heroes like Mr. Palmeiro.

National Forest Yields Record Pot Busts (WCAU-TV)

WCAU-TV Philadelphia, August 4, 2005

Northern California forest officials say it's a title they're not proud of.

Video: Pictures From Record Pot Busts In Sequoia National Forest

Slideshow: Pot Grows In Sequoia National Forest

Last year, Sequoia National Forest topped the list for marijuana cultivation on U.S. Forest Service lands. And this year, they are on track to surpass that amount.

But officials have been taking steps to fight the problem, raiding several farms in the past three days.

Miles and miles of lush greenery surround the Sequoia National Forest. But hidden beneath these towering trees is a darker side full of these marijuana plants.

"It's becoming epidemic," says one person familiar with the problem. She says people have grown pot in the forest for more than 30 years.

But the problem has worsened over the last 10 years.

"They go to quite a bit...I mean they will hike everything up there. … I mean it's just amazing."

When officials say that this is big money, they are not kidding.

In fact about a pound of this stuff could yield about $4,000 in California and across the country you'd get up to twice as much.

Over the past week, county and forest authorities have recovered about 34,000 plants, bringing the total street value, to just under $136 million.

"We'd like to think we're making a dent," said one service official. "Obviously for every plant that comes out of the ground we're collecting, that's money that's not going to the drug cartel's hands."

But raids like this one aren't just about taking the drugs off the streets. It's also about helping the forest bounce back.

The pot that was seized was driven to an undisclosed location in the county, where it will be destroyed.

Bush Praises Colombia's Drug War (DMN)

By David Jackson, The Dallas Morning News

The Dallas Morning News, August 5, 2005

CRAWFORD, Texas – President Bush on Thursday lauded Colombia's efforts to fight drug cartels and armed guerrillas, though some observers said the Latin American ally has a long way to go.

Welcoming President Alvaro Uribe to his ranch in Crawford, Mr. Bush said the U.S. anti-drug initiative known as Plan Colombia "is producing results" that include lower levels of crime.

"Our two nations are working together to fight drug trafficking and terrorism," Mr. Bush said after the meeting, "and to promote security, democracy and the rule of law throughout the Americas."

Mr. Uribe, considered Mr. Bush's best friend in Latin America, largely for his vocal support of the Iraq war, thanked the U.S. for its help, including more than $4 billion in aid since 2000.

"Colombia faces a threat from terrorism, funded by drug trafficking," Mr. Uribe said. "This is a threat that can affect the entire neighborhood, that can affect our entire continent."

Colombia remains locked in a four-decade war with left-wing guerrillas seeking to topple the government. The government is also trying to dismantle right-wing paramilitary groups that are battling the leftists.

The fighters on both the left and right are backed by the various drug cartels. And all the armed organizations, including government security forces, have been accused of human rights abuses.

"The problems are profound," said John Walsh, a senior associate with the Washington Office on Latin America, which analyzes the impact of foreign policy on human rights. "The war rages on. And the drug trafficking – and the extent to which it funds armed groups – is as strong as ever."

Mr. Uribe is seeking to eliminate the rightist paramilitary groups through an amnesty program called Justice and Peace. But that initiative has been criticized as going easy on people suspected of drug running and murder.

In a recent report, Human Rights Watch stated that, "while a genuine demobilization of paramilitaries is obviously an important objective, the process as currently structured is unlikely to achieve its aims. To the contrary, it is likely to compound the country's problems."

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Mr. Bush did not mention the Justice and Peace plan during his remarks but said that Colombia is interested in protecting human rights. Before Mr. Uribe's visit, the State Department announced that Colombia is meeting the human rights standards necessary to continue receiving full funding of U.S. aid programs.

The two leaders seemed to get on well. Mr. Bush spoke Spanish to the Colombian press corps and later took his counterpart for a spin around the ranch in a presidential pickup. Asked if he had a driver's license, Mr. Bush replied: "Si."

As the two presidents met, analysts said there is little evidence of a slowdown in Colombian cartel production of cocaine and heroin.

A recent report by the White House Office of National Drug Control Policy said that, despite a major aerial spraying campaign, there were more acres of coca production at the end of 2004 than the year before.

Some analysts also pointed out that the American market maintains the Colombian cartels that finance the Colombian wars.

"Anybody who says drug consumption in the United States is a victimless crime hasn't been to Colombia," said Victor Hinojosa, who teaches international politics at Baylor University. "The only law drug traffickers don't break is the law of supply and demand."

Bush Welcomes Colombian Leader (Express-News)

By Gary Martin

The San Antonio Express-News, August 5, 2005

CRAWFORD — President Bush pledged continued U.S. aid to fight narco-terrorism in Colombia, telling President Alvaro Uribe on Thursday that success against cocaine traffickers was essential for democracy in the Americas.

"America will continue to stand with the people of Colombia," Bush told a news conference at his Prairie Chapel Ranch here.

And he vowed to push Congress to approve more funds "so Colombia can build on its progress and win its war against the narco-terrorists."

Uribe was in Texas to promote trade and seek additional U.S. aid. He met with Bush at the president's sprawling ranch where the two leaders discussed the violence that has ripped at the heart of the Andean nation for 41 years.

"We have made progress, and we are winning, but we have not won yet," Uribe said in Spanish after the leaders emerged from meetings during the one-day visit.

The news conference came on a day that saw additional U.S. troop fatalities in Iraq, and growing apprehension about the problem-plagued space shuttle Discovery's anticipated return from orbit.

Bush expressed confidence in NASA, just days after he talked with the crew and watched on television the dramatic repairs made to the craft.

"Like a lot of Americans, I was amazed at the procedures that took place," he said.

Terrorism was the theme of comments by Bush and Uribe on Colombia's continued fight with armed groups, some tied to narco-traffickers.

And the president's support for the Colombian government, even without additional aid, is a significant gesture, said Phil McClean with the Center for Strategic and International Studies in Washington.

"It's to keep the momentum going," said McLean, a former deputy assistant secretary of state for South America who once served as chief of mission in Bogota.

The trip to the ranch also was expected to boost Uribe's political standing at home.

Bush rewards allies of the United States with visits to his ranch, and the meeting between the two leaders was seen as a diplomatic plum for Uribe, whose recently passed "Justice and Peace" law has been criticized by human rights groups.

Over 70,000 civilians have been killed in the past 20 years at the hands of Colombia's armed groups. Human rights groups say the most pressing concern is the violence against women, often sexually assaulted and mutilated before being killed.

"Despite, or perhaps because of the administration's close working relationship with Uribe, the U.S. has failed to use its leverage and influence with the Colombian government to ensure an end to human rights violations by the Colombian military," said Dr. William Schulz, Amnesty International USA executive director.

Dr. Victor Hinojosa, an expert on Latin America at Baylor University, said the scope of the violence and death makes Colombia "the great humanitarian crisis no one has heard about."

But Bush used a joint news conference here to applaud Uribe for the progress being made against armed groups in Colombia, including right-wing paramilitaries and the Marxist guerillas tied to the narcotics trade.

Bush said violent crime in Colombia is down to its lowest levels in 16 years, and the number of kidnappings, murders and terrorist attacks have declined significantly.

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"Our strategic partnership is vital to the security, prosperity and freedom of both our countries and the Americas," Bush said.

The United States has sent $3.5 billion in aid to Colombia since 2000 to curb narcotics trafficking and battle with the armed groups accountable for 70 percent of the country's violent deaths.

Earlier this week, Secretary of State Condoleezza Rice certified Colombia's record on human rights, a measure sought by Congress. The action will release $70 million in funds for programs to combat narco-terrorism.

The Colombian president's trip to Texas included a stop in Houston on Wednesday where he sought foreign investment in the country's burgeoning oil and gas industry.

Uribe spoke to Texas business leaders about the need for growing trade between the two countries to ensure democratic growth in the Andean region.

His meeting with Bush included talks about a free trade agreement, similar to the pact with Central American nations approved by the House of Representatives last week.

He arrived at Bush's ranch in a helicopter. The president and first lady Laura Bush greeted the Colombian couple, shook hands and patted backs before jumping into a Ford 4X4 pickup for a quick trip through the prairie fields and back to the house for meetings and lunch.

The president and first lady served Uribe and wife, Lina, chilled avocado soup, pecan-smoked tenderloin with roasted summer vegetables and a tomato and cucumber salad.

Bush is spending the month of August at his Texas ranch. He will travel to Albuquerque, N.M., on Monday to sign the long-awaited energy bill. The president travels to the Chicago area on Wednesday to sign the transportation bill.

Bush Vows To Sustain Aid For Colombia Drug War (REU)

By Patricia Wilson

Reuters, August 5, 2005

CRAWFORD, Texas, Aug 4 (Reuters) - U.S. President George W. Bush pledged on Thursday to sustain funding for Colombia's fight against drugs and violence even as a senior State Department official said Washington would like to reduce its anti-narcotics aid.

As a close partner in the region, Colombian President Alvaro Uribe paid a coveted visit to the president's Texas ranch where the two leaders stood side by side on a barren patch of land outside Bush's new office under a blazing sun and declared themselves united in the war on terror.

"We have made progress and we are winning, but we have not won yet," Uribe said. "We cannot leave this task half finished, we must take it all the way to the end."

According to Colombian government figures, killings have declined by 34 percent and kidnappings by 56 percent since Uribe was elected in 2002. Uribe stressed the importance of continuing U.S. cooperation in the four-decades-old conflict with leftist rebels.

The United States has provided more than $3 billion in assistance to Colombia over the past five years as part of an effort to wipe out cocaine and heroin production and crush the long-running leftist insurgency.

A senior State Department official said the United States wanted to reduce its anti-narcotics aid for Bogota after its massive assistance program, Plan Colombia, lapses later this year.

"We would like them to share more of the burden," said the official, who did not want to be identified because the governments had been discussing the assistance in private.

Washington is waiting for Bogota to make a formal request for how much aid it needs following Plan Colombia, the official added.

Critics say the Uribe administration spent hundreds of millions of dollars a year of U.S. aid largely on military hardware and beefing up the armed forces rather than tackling the problems that spawned the guerrilla movements.

BACKING BOGOTA'S STRATEGY

Bush said Bogota's strategy to reduce the illegal drug trade, revitalize Colombia's economy, strengthen its democratic institutions and improve the security of its people was working.

"And we'll ask the Congress to sustain our commitment to follow-on programs for Plan Colombia so Colombia can build on its progress and win its war against the narcoterrorists," Bush told reporters before getting behind the wheel of his white pickup truck to give Uribe a tour of his 1,600-acre (650-hectare) ranch.

Their meeting came in the same week Secretary of State Condoleezza Rice certified Colombia was respecting human rights and distancing itself from paramilitary groups sufficiently to allow U.S. aid to be given to its military.

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The decision means about $62 million can be handed over to Colombia as part of the U.S. government's budgets for the 2004 and 2005 fiscal years that run October to October.

A quarter of U.S. aid for the Colombian military is conditioned on its human rights record. Each year, the United States has certified the funds can be handed over.

Uribe said he and Bush discussed human rights "with great seriousness and with great respect."

"I listened intensely and believe that he is interested in following through ... so that the world will hear loud and clear that Colombia is a nation of law and human rights and human dignity," Bush said. (Additional reporting by Saul Hudson)

Bush Welcomes Colombia's Uribe At Ranch (AP)

By DEB RIECHMANN

The Associated Press, August 5, 2005

CRAWFORD, Texas (AP) - President Bush gave Colombia President Alvaro Uribe a hearty handshake and several friendly pats on the back as he welcomed him to his Texas ranch on Thursday, a gesture that underscores his closeness with Washington's close Latin America partner.

Drug trafficking, terrorism and trade topped the agenda for the meeting at the ranch where Bush likes to conduct homespun diplomacy away for the formality of the White House and Washington.

For Bush, Uribe's visit on Thursday was a way to bolster the leader of a nation that is fighting terrorists and drug lords and working to build better trade relations with the United States.

For Uribe, the trek to Texas came at a critical moment in Colombia where rebels, funded by narcotics trade, kidnapping and extortion, have been struggling to topple the government and establish a Marxist-style state. Outlawed right-wing paramilitary forces also have been battling the rebels. The 40-year-old conflict kills more than 3,000 people every year, mostly civilians, with allegations that human rights abuses are being committed on all sides.

Uribe was meeting with Bush after recently signing the ``justice and peace'' law, which aims to dismantle paramilitary forces that also are heavily involved in drug trafficking and reintegrate them into the legal side of Colombian society. Critics say the new law goes too easy on criminals.

On his way to his meeting with Bush, Uribe stopped Wednesday in Houston to try to assure foreign investors that his country is stable and brimming with economic opportunity despite civil strife. Colombian officials have been holding meetings in Houston and other cities asking foreign investors to help develop new, unexplored oil fields in the South American country.

``In terms of security, we are winning but we haven't won yet,'' Uribe said in Houston. ``Without security, there is no possibility for investment, for new jobs.''

If official visits are evidence of the closeness of U.S.-Colombia relations, then it's clear the two nations are fast friends. Bush visited Colombia in November 2004, Secretary of State Condoleezza Rice was in Bogota in April, the department's third-ranking official was in Colombia last week and now Uribe's visit.

Uribe is hoping the United States will continue sending money to help train and equip Colombian police and armed forces to fight guerillas and paramilitary groups.

Their meeting comes just a day after the State Department announced that Colombia's government and armed forces have met human rights standards needed to qualify for full funding of U.S. assistance programs. Colombia has received more than $3 billion in U.S. aid during the past five years as part of an effort to wipe out cocaine and heroin production and crush the long-running leftist insurgency.

Congress imposed conditions on U.S. assistance to push Colombia to curb human rights abuses. Failing to meet the standards would have meant a cut of about $70 million, according to a State Department estimate.

Amnesty International USA quickly challenged the certification made by Rice.

``This decision is a major blow to the promotion of human rights in Colombia and is based on only the narrowest reading of the law and the thinnest of evidence,'' said Dr. William F. Schulz, executive director of the group.

During a speech on Wednesday, Nicholas Burns, the State Department's third-ranking official, defended the controversial ``justice and peace'' plan, saying it will help ``dismantle the criminal structures of demobilized illegal armed groups, provide for peace with justice and permit continued extradition.''

The initiative, however, has been sharply criticized by Human Rights Watch.

The Colombian government is allowing groups that have committed thousands of atrocities, including massacres, killings and kidnappings, to launder illegal fortunes and legitimize their political power, says Jose Miguel Vivanco, Human Rights Watch's director for the Americas.

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``The government's approach to demobilization allows paramilitary commanders to put on a show of disarming some troops," Vivanco said. ``But the government has not truly attempted to dismantle their mafia-like networks, seize their illegally acquired fortunes or ensure a full cessation of abuses.'

Uribe Proposes Buying Coca To Foil Drug Trade (WT)

By Carmen Gentile, The Washington Times

The Washington Times, August 5, 2005

RIO DE JANEIRO -- Colombian President Alvaro Uribe, who met with President Bush in Texas yesterday, has implemented a program to buy coca plants from small-time growers who otherwise would sell their crops to drug traffickers to make cocaine.

Farmers also can turn over opium poppies, the plants used to make heroin.

Under the plan, farmers can go to the nearest police station or army outpost and turn over the plants to officers and soldiers. Prices for the crop will be negotiated on the spot.

"Hand over the coca and take the cash, similar to a country fair: Hand over the pig, take the cash," Mr. Uribe said of the program earlier this week.

The farmers must sign a legally binding agreement to halt cultivation, said Mr. Uribe, who has made a name for himself as a hard-liner bent on cracking down on the nation's Marxist rebels and cooperating with the United States on drug eradication.

Yesterday, Mr. Uribe visited Mr. Bush at his ranch in Crawford, Texas, to discuss bilateral efforts in the war on drugs.

Mr. Bush is urging Congress to renew Plan Colombia, a five-year-old anti-drug-trafficking program started under President Clinton.

The United States has given Colombia more than $3 billion in anti-drug aid.

Mr. Uribe's coca and opium purchase plan is available only in Colombia's central Meta region, where an ongoing battle between the military and rebels has forced small coca farmers to seek new buyers for their crops.

Rebels in the region typically traffic in the coca to finance their armed struggle against the Colombian government. Mr. Uribe said recent military operations have forced the rebels into hiding, leaving the farmers without buyers.

The program has come under harsh criticism from lawmakers such as Colombian Sen. Rafael Pardo, who said it would encourage small farmers to grow more coca just so they could sell it to the government, a guaranteed and steady paying customer.

Mr. Pardo -- who is a likely presidential candidate in next year's elections -- and other critics say farmers will find ways to continue cultivating illegal crops and selling them to the government, the rebels or right-wing paramilitaries that also produce cocaine for income, or all three.

"People are obviously going to plant more to sell more to the government," said an official in a human rights group in Medellin, the cocaine-producing capital of Colombia.

The program is also likely to ruffle feathers in Washington, where lawmakers recently approved a bill increasing the funding to Colombia for drug eradication.

In the past five years, the United States has spent $3.3 billion on coca-plant eradication through equipment and military training for Colombian soldiers. The plan involves aerial spraying of existing coca crops and encouraging farmers to adopt a legal crop.

Despite U.S. efforts, a recent White House report showed that coca production increased in Colombia last year.

A separate report by the United Nations said drug production has declined in Colombia in the past few years, but was on the rise in other Andean countries, such as Peru and Bolivia.

"Our current approach is the wrong approach," said Rep. Jim McGovern, Massachusetts Democrat. "We are spending a lot of money down there, and there is no accountability."

Bush Warns Colombian Leader On Human Rights (LAT)

By Edwin Chen

The Los Angeles Times, August 5, 2005

CRAWFORD, Texas — President Bush urged Congress to continue supporting Colombia's efforts to combat narco-terrorism Thursday even as he warned visiting Colombian President Alvaro Uribe that the United States expected Uribe's government to honor its stated commitment to human rights.

"We did talk about human rights. I talked about human rights," Bush told reporters as Uribe visited the president's Texas ranch. "We talked about specific cases, and I listened intently and believe that he is interested in following through on these cases."

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Victims' advocacy groups in Colombia have said that a new so-called Justice and Peace law is too weak. They claim that the measure — which governs the process of dismantling Colombia's paramilitary groups and re-integrating them into Colombian society — allows members to escape charges of atrocities committed against civilians.

In his own remarks, Uribe renewed his commitment to the rule of law and to bring about "transparency" in his government. "We have a democratic government that has full respect for public freedom and that fully intends to defeat terrorism," he said.

Bush said he would ask Congress to "sustain our commitment to follow-on programs for Plan Colombia, so Colombia can build on its progress and win its war against the narco-terrorists."

Plan Colombia is an aid program begun under President Clinton to crack down on drug trafficking and curb the decades-long conflict among the government, Marxist rebels and right-wing militias. Under the plan, the United States has poured more than $3.3 billion in aid into Colombia, the vast majority in the form of law enforcement and military assistance.

In June, a House committee approved the administration's request for $734.5 million for next year as part of a foreign aid bill.

Though the plan has been credited with reducing killings, massacres of villagers and kidnappings blamed on drug trafficking since 2002, some U.S. lawmakers and groups such as Human Rights Watch and Amnesty International have said far more needs to be done.

"Despite, or perhaps because of, the administration's close working relationship with Uribe, the U.S. has failed to use its leverage and influence with the Colombian government to ensure an end to human rights violations by the Colombian military," said William F. Schulz, executive director of Amnesty International USA.

"This support is based on half-truths that disguise myriad flaws in Colombian justice," Schultz said in a statement.

Victor Hinojosa, a Baylor University political scientist who specializes in U.S.-Colombian affairs, called Colombia "the greatest humanitarian crisis no one has heard about.'"

At the same time, by granting Uribe a coveted and high-profile visit to his ranch, Bush signaled support for a leader who has strongly backed Bush's Iraq policy, Hinojosa said. "Symbols matter," he said. "And this [visit] is an important symbol that he has U.S. support."

Colombia Warlords Testify About Congress "friends" (REU)

By Jason Webb

Reuters, August 5, 2005

BOGOTA, Colombia, Aug 4 (Reuters) - Two leaders of Colombia's far-right paramilitaries were summoned before the Supreme Court on Thursday to explain a comment that a third of the country's lawmakers were friends of the outlawed group.

Salvatore Mancuso and Vicente Castano, whose illegal United Self-Defense Forces of Colombia is in peace talks with the government, were ordered to testify after Castano made the remark to news magazine Semana in June, the government said.

"I think I can say that more than 35 percent of Congress are friends," Castano had told Semana.

Mancuso, a former AUC military commander, was summoned because he had made a similar remark in 2002 and appeared first before the closed session.

The burly former rancher, who surrendered his weapons to the government in December, was able to travel to the capital Bogota due to immunity from arrest granted by his status as a negotiator in the two-year-old talks.

Asked before the session about a comment he made in 2002, which was widely interpreted to mean the illegal group exercised influence over 30 percent of Colombia's congress, Mancuso told local radio he was merely referring to legislators from areas under paramilitary control.

"That 30 percent was just the percentage of the population and the electorate living in areas protected by the self-defense forces," Mancuso told Radio W.

"We don't have employees or representatives or congressmen who take orders. No. But there are congressmen who understand the nation's problems and the problems of the forgotten rural Colombia."

The AUC has its origins in vigilante gangs set up by cocaine traffickers and cattle ranchers to defend themselves from Marxist rebels and has evolved into an illegal army with uniforms, command structure and control of a large portion of Colombia's huge cocaine trade.

While it often cooperated with sectors of the armed forces to kill leftist guerrillas and their suspected sympathizers, the AUC also took advantage of government military weakness to set itself up as the de facto authority in extensive parts of the country.

Thousands of people are killed every year in Colombia's war, which has dragged on since 1964.

Under President Alvaro Uribe, Colombia's military has grown in strength, and the government began peace talks with the AUC. More than 6,000 paramilitaries have disarmed.

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Uribe, who has also launched offensives against Marxist rebels, is enthusiastically backed by the United States which provides hundreds of millions of dollars of military aid a year. Confirming his status as the closest U.S. ally in Latin America, U.S. President George W. Bush met with Uribe at his Texas ranch on Thursday.

Under a law passed by Colombia's Congress, paramilitary leaders will face criminal proceedings for their organization's many crimes, which include thousands of killings as well as kidnapping, extortion and torture. But jail time is limited to a maximum of eight years.

KKK Member Pleads Guilty On Making Pipe Bombs To Blow Up Hispanics (CHATT)

Chattanooga (TN) Chattanoogan, August 5, 2005

A Klu Klux Klansman from South Pittsburg entered guilty pleas Thursday in connection with constructing pipe bombs for use in blowing up Hispanic immigrants.

Daniel James Schertz, 27, pleaded guilty to six counts in an appearance before Federal Judge Curtis Collier.

Prosecutor James Brooks said he faces up to 10 years on five of the counts and 20 years on another.

Sentencing is Nov. 4 at 2 p.m.

The pleas were to manufacturing explosives, transporting explosives, teaching others how to make explosives, and possessing a Ruger pistol while under a restraining order.

In an affidavit, ATF Agent Mike Connors said between October 2004 and April 1 of this year, he and a confidential informant investigated activities of Schertz related to his membership in the Ku Klux Klan.

The agent said on April 1 he bought five pipe bombs from Schertz for $750 at his residence at 245 Beene Cemetery Road.

He said he and the informant walked to a shed on the property and he saw two partially completed pipe bombs lying on a workbench. He said Schertz was wearing rubber gloves and appeared to have been working on the pipe bombs.

He said Schertz picked up a black container of gunpowder and "said it was more powerful than the last stuff he used."

The agent said he observed various bomb components in the shed, including spark plugs, spark plug wires, gunpowder, packages of screws and several more pipes still wrapped in plastic.

Agt. Connors said Schertz said he needed to go to Lowe's to get five end caps to complete the pipe bombs.

He said on the way to Lowe's, Schertz began talking about acquiring firearms and accessories. He reached to his right side, ejected the magazine from his Ruger semi-automatic pistol, and said, "These will go right through a vest."

The affidavit says Schertz gave advice on using the pipe bombs to blow up a bus transporting Hispanic workers. He said he would like to "take care of" another specific group of Hispanic immigrants.

They returned to the shed and Schertz completed the pipe bombs, it was stated. He was then paid the $750.

Authorities said Schertz's ex-wife, Shauna Schertz, had a protective order against him.

Ex-Klansman Pleads Guilty In Bomb Building (NYT/AP)

By The Associated Press

The New York Times, August 5, 2005

Filed at 10:10 p.m. ET

CHATTANOOGA, Tenn. (AP) -- A former Ku Klux Klansman charged with building pipe bombs to use against Mexicans and Haitians changed his plea to guilty Thursday.

Daniel Schertz, 27, built five pipe bombs and sold them to an undercover federal agent and a confidential informant for $750 in April, authorities said.

The bombs were to be "detonated on a bus carrying Mexican workers to work in Florida" according to a plea agreement filed Thursday. Schertz also was accused of building and transferring two pipe bombs to the informant in March to harm Haitians in Florida.

Schertz said Thursday that he was guilty of all six charges, including teaching and demonstrating how to make a weapon of mass destruction and interstate transport of explosive material with intent to kill or injure.

Interstate transport of explosives carries a minimum sentence of 10 years, while the other charges combined carry a maximum sentence of 60 years, Assistant U.S. Attorney James Brooks said.

Schertz's attorney, Mike Caputo, said the plea agreement allowed him to "avoid a harsher sentence."

Schertz's former Klan leader, White Knights Imperial Wizard Billy Jeffery, has said Schertz was "banished" from the Klan in mid-May for unrelated disobedience.

Church Fire Ruled Arson (WTVF-TV)

WTVF-TV, CBS 5, Nashville, TN, August 5, 2005

DOJ_NMG_0002346

The fire that destroyed the Pentecostal Church of Jesus Christ in Columbia Tuesday night was intentionally set according to fire investigators.

The fire started around 11:30 p.m. Tuesday, two hours after a night service ended at the church.

Several fire departments fought the fire for four hours, and investigators began looking into the cause of the blaze as soon as the flames were extinguished.

Thursday, officials from the ATF said that after examining the scene and conducting several interviews, they determined that the fire was intentionally set.

"A house of worship is a place of peace and where community members come together. Arson puts many at risk of injury or death, including police and fire personnel. The Columbia community can be assured that the combined resources used in this investigation will continue to work vigorously to ultimately bring those responsible to justice", said ATF Special Agent James Cavanaugh.

Church members built the 14,000 square foot church almost 10 years ago, and said they just paid the loan on it two months ago. ATF officials estimated the damage to the church at more than $2 million.

A $1,500 reward has been offered for information leading to the arrest of the person or people responsible for fire. Anyone with information has been asked to call the Arson Hotline at 1-800-762-3017 or the ATF Arson Hotline at 1-888-ATF-FIRE (1-888-283-3473).

IMMIGRATION:

DeLay Criticizes Houston's Policy On Illegal Immigrants (HC)

By Edward Hegstrom

Houston Chronicle, August 5, 2005

SUGAR LAND - House Majority Leader Tom DeLay criticized the city of Houston's "sanctuary" policy toward illegal immigrants in a speech Thursday night.

Speaking to a packed house of Fort Bend County Republican faithful, DeLay said he supported the concept behind legislation introduced by U.S. Rep. Tom Tancredo, R-Colo., that would withhold federal funding from cities such as Houston that refuse to enforce immigration law.

"It greatly concerns me that the police chief in Houston, Texas, has created a sanctuary in Houston by announcing that he is not going to enforce our laws," the Sugar Land Republican said, in response to a question about Tancredo's bill.

"That is unacceptable, and we hope to address it through Tancredo's legislation or other legislation."

Since 1992, a Houston Police Department policy has officially forbidden officers from enforcing immigration laws in most cases.

Mayor Bill White has said he supports continuing the policy, because he believes immigration is a federal matter and he wants to free police up to protect the city from violent criminals.

Police in Katy also have a court-ordered policy forbidding them from enforcing immigration laws. The order came as the result of a federal lawsuit filed after a 1994 police operation to pick up day laborers.

DeLay, who is seen as a key player on upcoming immigration reform legislation in Congress, said he would support a guest-worker program that would allow immigrants to come legally to the United States and then go home. But he said the government needs to step up enforcement of immigration laws first.

"Before Congress takes any significant legislation, we must secure our nation's borders," he said.

Two major proposalsTwo major pieces of immigration are expected to be considered when Congress returns in September.

One proposal, sponsored by Senators Edward Kennedy, D-Mass., and John McCain, R-Ariz., would allow some illegal immigrants to work toward becoming legal residents and then citizens of the United States.

Senators John Cornyn, R-Texas, and Jon Kyle, R-Ariz., propose a tougher bill that would allow illegal immigrants to become guest workers, meaning they would have to go home after working here three years or more.

Cornyn and Kyle also propose tougher enforcement, including increased patrols at the border and new requirements on employers seeking to hire workers.

DeLay indicated that he would support legislation even stricter than Cornyn's. He does not believe illegal immigrants already in the country should qualify, and he does not believe guest workers should be allowed to bring their families.

Asked if he would support McCain-Kennedy, he said: "It's not going to do very well in the House, I'll guarantee that."

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Places for detaineesDeLay noted that until now, even the federal government has not rounded up illegal immigrants in U.S. cities, because federal agents had no place to detain them. But he said that is changing under the new leadership at the Department of Homeland Security.

He encouraged local police to round up illegal immigrants, and promised that the federal government will find places to house them.

"If you pick up 50 or 100 of them, you can call the National Guard," he said. "Put them in tents."

He also said he did not support educating illegal immigrants or having their U.S.-born children become automatically U.S. citizens. But he said those would be harder to repeal.

DeLay also said he strongly supports legal immigration, which he says makes this country stronger.

He said immigration is a top issue among his constituents.

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DeLay Pushes Border Security, Sales Tax (GalvestonNews)

By TJ Aulds

Galveston County Daily News, August 5, 2005

LA MARQUE — House Majority Leader Tom DeLay received a warm welcome during his first official visit to the city since, thanks to redistricting, he became the area's congressman.

Speaking to the La Marque Rotary Club, which saw increased attendance from neighboring clubs, DeLay spent much of the time introducing himself and his political philosophy.

He spun tales of his early days as a Fort Bend County businessman, who, while running for state office would not even admit he was a Republican, and his ascension to Majority Leader of the U.S. Congress.

Talk of replacing the federal tax system with a national sales tax, tougher standards and accountability for federal judges, border security and the issue of eminent domain seemed to resonate the audience.

He reiterated, too, the continued push for the GOP majority's " most ambitious agenda" with emphasis on homeland security and border issues.

DeLay, whose 22nd Congressional District includes La Marque, portions of Texas City, Santa Fe and much of the North County, got ovations for his views about border security.

"First we need to convince the American people we will secure the border," he said. "Any guest worker program will come later."

He voiced his support of a proposal that would see the governor "deputize people on the border" to assist Border Patrol agents.

Each time the crowd, which included local Republican Party chairman Chris Stevens and a bevy of county GOP movers and shakers, interrupted DeLay's comments with boisterous applause.

But, as has become the norm, DeLay couldn't come to town without meeting with protest.

Santa Fe resident John Fafoutakis was the lone picket outside Gulf Greyhound Park, where the meeting was held.

The Navy veteran who said protesting at DeLay functions was a hobby, held up a sign chastising the congressman for what he called a lack of support for veterans hospitals and medical clinics.

"How come the VA has to constantly fight for its survival with these guys in Congress," said Fafoutakis. "They should be taking care of veterans and each time the funding gets cut by the very people who are putting our troops in harm's way again."

DeLay said the protestor's anger was misplaced.

"The VA has gotten the funding it needs, we have always been there for the VA and its hospitals," DeLay said.

Border Vigil To Stand Until New Agents Hired (WT)

By Jerry Seper, The Washington Times

The Washington Times, August 5, 2005

Civilian volunteers scheduled to begin a border vigil in California next month will man observation posts along the U.S.-Mexico border until they are relieved by newly hired U.S. Border Patrol agents or National Guard troops, an organizer said yesterday.

"Our borders are not under the operational control of our government. Instead, they are controlled by alien and drug smugglers," said Andy Ramirez, head of the California-based Friends of the Border Patrol (FBP), which has organized the vigil.

"Our mission is to provide a safe living environment for our local citizens until the U.S. government provides the security for which it is responsible," Mr. Ramirez said. "The FBP volunteers will stand their posts until properly relieved."

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More than 3,000 civilian volunteers -- including former Border Patrol agents, retired police officers, military personnel and pilots -- have signed up to patrol the U.S.-Mexico border in California beginning Sept. 16 -- Mexican Independence Day.

The vigil was called to highlight what organizers said is the failure of Congress and the White House to secure U.S. borders.

The volunteers are expected to set up observation posts near Calexico, Calif., in an area known as Smuggler's Gulch, and at the Border Field State Park, just north of Tijuana, Mexico. The exact locations of all the sites and patrol areas have not been made public.

The vigil has received the endorsement of James W. Gilchrist, who organized the Minuteman Project in Arizona in April that targeted a 23-mile section of the U.S.-Mexico border. He said the U.S. government has failed to do anything about what he termed a "border crisis."

"President Bush ... says the most solemn duty of the American president is to protect the American people: Mr. Bush, tell it to someone else," he said. "You are derelict of your constitutional oath and duty to protect us by leaving our borders unsecured."

A total of 857 volunteers participated in the 30-day Minuteman vigil, during which they protested lax U.S. immigration-enforcement policies by trying to reduce the flow of illegal aliens along popular immigration and drug-smuggling corridors near Naco, Ariz.

Their goal was to show that increased manpower on the border effectively would deter illegal entry. Organizers said the protest directly resulted in Border Patrol arrests of 349 illegal aliens. Border Patrol field agents said the flow of illegal aliens through the targeted area dropped from 500 apprehensions a day to about 15 a day.

Mr. Ramirez said the California volunteers want to call the country's attention to the "real plight of those who live along the border who are being overrun by illegal aliens and drug smugglers." He said it was "imperative to send a message to Washington, D.C., that open borders and the havoc they create is unacceptable to our citizens."

Day-Laborer Site Rebuffed (WP)

By Carol Morello, Washington Post Staff Writer

The Washington Post, August 5, 2005

The Herndon Planning Commission rejected yesterday a controversial proposal to build a tax-supported day-laborer site near a residential neighborhood, but the Town Council still will have the final say and remains on track for a vote later this month.

Officials with the social agency that wants to run the site for up to 150 workers said they are still trying to digest the accumulated criticisms of the plan that preceded the commission's 4 to 3 denial in a vote taken at 2:30 a.m.

"It's been given a blow, but it's not dead," said Bill Threlkeld, director of Project Hope and Harmony, the umbrella group that has applied for permission to build and operate the site, where contractors and homeowners could meet laborers seeking jobs.

Proponents say the challenge will be to address concerns expressed by residents without making so many concessions that day laborers will not want to use the site. Mayor Michael L. O'Reilly said the council, which will take up the matter in two weeks, is almost certain to demand several conditions.

"We will look at the application to see where change is feasible and realistic," said Joel Mills, a member of Project Hope and Harmony's executive council. "But there is a concern that so many conditions will be placed on how we operate that it becomes less and less feasible to do it successfully."

The designated site on the Loudoun County border would replace an informal site around a 7-Eleven parking lot. Several similar sites have been created throughout the region, including in Silver Spring and Langley Park.

In Herndon, an ordinance is being drafted that would make it a misdemeanor to solicit jobs curbside, but the town cannot legally outlaw day-laborer activity without zoning a site where it is permissible.

Herndon's struggle to cope with a day-laborer site has become a contentious chapter in the national debate over immigration policy. An unknown number of day laborers are in the country illegally; some estimates say as many as 85 percent of day laborers in Herndon are illegal.

Hundreds of critics have spoken out at public hearings like the one that stretched over seven hours Wednesday night into yesterday morning. Residents of nearby developments in Loudoun County as well as Herndon, several of them legal immigrants, said that they feared having strangers traipse through their neighborhoods en route to the site and that they worried its presence would decrease their property values. Others said they did not want their tax dollars used to support an enterprise that helps people who are in the country illegally.

After hearing the last of 130 speakers over the course of two nights, planning commissioners voted on a series of conditions. Among them were a limit of 100 laborers instead of 150, and a requirement that the site be closed on Sundays and federal holidays.

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Frequently the debate veered from neighborhood concerns into a discussion of national immigration policy and assimilation.

"This is the United States of America, not the Diverse States of America," said William Tirrell Sr., a commission member who introduced most of the conditions. "We don't segregate ourselves in little pods of people. I'm not a hyphenated American. I'm an American. We need to take these folks and make them part of us. But I will not support tax dollars being used to support an illegal enterprise."

After approving the conditions, the commission voted not to recommend it.

The nonbinding vote was more a signal of the panel's displeasure than a serious hurdle. With some regularity, Herndon's council differs with the planning commission.

Ann V. Hull, a council member who often has criticized day-laborer sites, said she expects Project Hope and Harmony to modify its proposal to address the issues that opponents have raised. She also said she wants the group to justify the prediction that the official site can work.

But O'Reilly, who campaigned last year on a promise to improve the day-laborer situation, said he believes the concerns can be alleviated with a few modifications.

"I do believe this site can work and would work effectively," he said. "We're committed to trying to solve this problem."

Illegal Immigrants, Long Islanders Clash (NYT/AP)

By The Associated Press

The New York Times, August 5, 2005

FARMINGVILLE, N.Y. (AP) -- This middle-class Long Island community an hour from New York City and 2,000 miles from the Mexican border has become an unlikely flashpoint in the national debate over illegal immigration, with Hispanics beaten, harassed and evicted in recent weeks.

For more than a decade, immigrants from Mexico or Central America have been drawn to Long Island by the prospect of jobs. Many stand on street corners in Farmingville, waiting for contractors, landscapers and others to offer them a day's work at about $10 an hour. Then at night they go back to their illegally overcrowded single-family homes.

The immigrants, many of whom are believed to have entered the country illegally, have been a source of tension among longtime residents since at least the late 1990s, but things have gotten worse this summer -- so bad that the head of the Mexican Consulate in New York City said Farmingville was "clearly a red zone after the Arizona border" in the abuse of immigrants.

In late June, two men were charged with a hate crime for allegedly berating a Mexican woman and her husband as the couple backed their van out of a parking lot. Within weeks, two more suspects were arrested and accused of yelling racial epithets and throwing a beer bottle at a Hispanic day laborer.

That same day, four people demonstrating at a 7-Eleven in support of day laborers were arrested when they surrounded an anti-immigration protester's car and refused to let him out.

Police are also investigating an attack in nearby Patchogue on a 61-year-old Ecuadorean man. He was beaten by three men who supposedly asked if he had a green card.

The tension was ratcheted up in mid-June, when officials in the town of Brookhaven, which includes Farmingville, and Suffolk County police began evicting men from overcrowded houses, citing health and safety violations. Dozens of people were jammed into the tiny one-family homes.

So far, at least six houses have been shut by authorities -- including three last Friday -- leaving more than 100 men homeless, advocates said.

Advocates claimed the immigrants have been thrown into the streets without warning. One advocate called it "ethnic cleansing."

"Many local officials have punted, saying this is a federal issue and we can't do anything about it. Well, there are some things you can do," Suffolk County Executive Steve Levy responded. "Crack down on those contractors, crack down on illegal housing and create a better relationship with immigration officials."

Levy complained that it is the Mexican government's "failed policies, both economically and otherwise, that have been pushing millions of his residents over the border for a better life in America."

Arturo Sarukhan, head of the Mexican Consulate in New York City, agreed that Mexico needs to solve its economic problems so that its citizens do not leave for a better life in America. But he said officials on Long Island must realize that the day laborers are here to stay and "there is a need to work together."

"At the end of the day, they may or may not like it, but it is the reality," he said.

A spokeswoman for the Town of Brookhaven estimated there are 150 houses, each with dozens of suspected illegal workers, in Farmingville, though some landlords have pre-emptively evicted some tenants for fear of trouble with the law.

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"If they're going to throw anybody out of an apartment, they have to give them time," said Carlos Tenorio, a 26-year-old day laborer from Mexico City who has been in Farmingville for about nine months. "These people are not the cause of the problem."

Farmingville saw immigration-related violence a few years ago. In 2000, two Mexican men were beaten by two locals who promised them work. On the Fourth of July 2003, a Mexican family barely escaped with their lives after teens set their house ablaze by shooting fireworks through a window. But tensions appeared to ease after three of the assailants were sent to prison -- two of them for 25 years.

Residents are largely cheering the crackdown on immigrants.

"I think they are doing a terrific job," said Terry Sherwood, who complained that residents in the jammed houses often drink late into the night and urinate and defecate on lawns and backyards. "I don't care who they are, what color they are. I don't care where they come from. Why should people have to live this way?"

Lisa Marino placed a Mexican flag on her front lawn in solidarity with the workers but also applauded efforts by officials to curb illegal housing.

"There's a lack of assimilation," she said of the workers. "You don't leave garbage out, you don't whistle at neighbors. They need to understand that, but by keeping them marginalized, they don't learn that."

Nadia Marin-Molina, an advocate for the day laborers, understands the concerns expressed by neighbors, but insisted "it's a two-way street."

"Some of these same people who are complaining are the people who benefit from the work these guys do," she said. "Because every house has landscaping done, or has to have some job done on their roof, or some painting done."

A Strategy On Border Security (DCExaminer)

By Mike Crapo

DC Examiner, August 5, 2005

In May, Secretary of Homeland Security Michael Chertoff stated, "The issue of securing the border is a homeland security issue, it's an immigration issue and it's also a humanitarian issue." He is absolutely correct: discussions about securing our 5,500-mile Canadian border, 1,900-mile Mexican border and 95,000 miles of shoreline are only meaningful in the context of defense, immigration and respect for human life. As the Homeland Security Appropriations bill goes to conference, Congress is developing a comprehensive strengthening of our borders as a major component of this legislation. Border security requires tight controls at our borders and follow-up by manpower and technology within our borders.

Annually:

- 16 million cargo containers enter the U.S.
- 500 million people cross our borders, 330 million are non-citizens
- 11 million undocumented aliens live in the U.S.

These numbers represent an enormous and daunting risk that requires us to be proactive in vigilance and preparation. Our borders will be strong, secure and meaningful when they represent freedom and protection for those in compliance with the law.

Effective border security is well-funded and reinforced by laws that carry tough legal consequences for those who break them. Various border and immigration components must be strengthened including more agents, immigration investigators and other enforcement personnel; quality training for these positions; hardware and infrastructure to augment job success, including unmanned aerial vehicles, high-tech sensors and advanced physical barriers; technology upgrades for cargo inspection and identification of fraudulent immigration documents; additional capacity at temporary detention centers.

The FY 2006 Homeland Security Appropriations bill aims to fund 1,000 new border patrol agents, 300 additional immigration investigators and 460 new detention and enforcement agents and officers. This would raise the total numbers to 12,500 border patrol agents, 6,100 criminal investigators, 2,700 immigration enforcement agents and detention officers.

The legislation provides additional funds for training, operations of the fourth northern border airwing and replacement of aging helicopters. More than 2,200 new detention facility beds will be added bringing the total to 22,700 and 41 ports, up from 19, will be utilizing the new Container Security Initiative to screen high-risk cargo before it leaves foreign ports. The bill funds camera and sensor technology and construction along the Mexican and Canadian borders, and calls for the development of advanced radiation portal monitors.

The creation of the Department of Homeland Security has allowed us to integrate homeland defense, focusing particular attention on border security. Funds have been allocated to develop radiological, biological, chemical and nuclear countermeasures, biosurveillance and threat and vulnerability assessments. It has been four years since an attack and while the events in London are only the latest indicators that this war isn't over, our law enforcement has been very successful in deterrence efforts. They are to be commended on their vigilance, while ensuring that individual liberties and freedoms have been meticulously safe-guarded and defended.

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It's the responsibility of the federal government to protect us at home. Truly successful homeland defense has another component - personal vigilance. Americans can contribute by being alert. If you see something that doesn't look right, report it. The combination of watchful citizens, effective laws and adequate personnel and resources will preserve our homeland freedom.

Mike Crapo is a Republican senator from Idaho.

Rep. Culberson's Call For Armed State Militias On The Border Is A Reckless Approach To Dangerous Problem. (HC)

Houston Chronicle, August 5, 2005

Republicans and Democrats agree on little these days, but the combined effects of 9/11 and a newly globalized economy have forged consensus on at least one issue: the need for better border control.

The United States' long southern frontier, lawmakers agree, is unacceptably porous. Across it come illegal migrants seeking work, drug runners hauling their wares and terrorists bent on killing U.S. citizens. Recognizing that most illegal border crossers fall in the first category, several federal lawmakers are crafting thoughtful, bipartisan proposals to solve this complex problem. U.S. Rep. John Culberson's plan to create armed border militias is not one of them.

Last week Culberson introduced a bill that would allow state governors to establish and deploy armed citizen militias on the Canadian and Mexican borders. Billed mainly as an antiterrorist measure, the legislation would also allow militia members to detain ordinary illegal immigrants.

In essence, the militias would be official versions, with police powers, of the Minutemen Civil Defense Corps. That private group patrolled the Arizona border briefly this spring and plans to film Houston day labor sites this fall.

Authorized by the federal government, the militias would be open to all Americans but give priority to residents from border states. As Culberson envisions it, the law would deputize "tens of thousands, if not hundreds of thousands of law-abiding citizens" as auxiliary border guards. Co-sponsored by 46 House members, Culberson's plan would be funded by $6.8 billion in Homeland Security money reserved for emergency workers.

President Bush has called the unofficial Minutemen "vigilantes," but their movement is eminently sensible in at least one respect. It doesn't involve guns. Letting states arm civilians to address a federal problem migrates into a different sphere, one with reckless disregard for the consequences. Culberson's proposal requires states to reject militia hopefuls who have a history of mental illness or crime. However, the militias' very mandate, to "use any means and any force authorized by law," presupposes the use of violent force — otherwise, the proposal would not call for militias to bear arms.

Asked in a phone interview how an armed civilian could possibly confront and overcome drug traffickers or terrorists, Culberson said, "It's probably going to require a very heavy caliber."

Migrants who have trudged 30 miles across a desert are unlikely to have the energy or weaponry for a shootout. Drug runners, on the other hand, would not hesitate to open fire. They have done so frequently after encountering Border Patrol agents.

Armed, amateur border guards have no business confronting either quarry. It takes more than a few weeks of study to master arrest and detainment procedures, immigration and criminal law and search protocols. In the remote, hard-to-monitor expanse of the borderlands, accidental and wrongful deaths inevitably would follow.

Even as a gesture to fearful constituents and not intended to become law, Culberson's invocation of armed civilians enforcing federal policy deflects attention from more constructive proposals to manage the problem of illegal immigration. That 46 fellow lawmakers find Culberson's plan promising is troubling. It's no coincidence that Hispanic groups, law enforcement officers and the Minutemen themselves have all rejected the plan as impractical.

The answer to understaffed federal security agencies, including the Border Patrol, lies in allocating federal money to hire more professionals. The answer to our nation's immigration problems is not nearly so plain. Only one thing is certain: It does not involve civilians with guns.

A Serious Stop Sign (TOWNHALL)

By Rich Tucker

TownHall.com, August 5, 2005

When John Roberts comes before the Senate for his confirmation hearings, there's sure to be plenty of hand wringing about Roe v. Wade. Never mind that the so-called right to privacy isn't found in the Constitution. By digging into the tiny details of the legal arguments involved, lawmakers hope to show us how devoted they are to doing their jobs.

Meanwhile, Congress is ignoring one of its most important jobs -- one that actually is in the Constitution. It's not adequately "providing for the common defense" because it's not protecting our borders.

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Nobody knows how many illegal immigrants now live in the United States. Recent estimates range from 11 million to 20 million. Faced with that problem, you'd expect Congress to do everything possible to shore up our borders and stop the flow of new illegals. Sadly, it's not.

Several months ago a correspondent from southern California decided to visit the Mexican border. He found that "in the (populated, highly-patrolled, well-fenced, URBAN) west end of San Diego County there were 10 agents patrolling a 10-mile zone. One four-mile swath had zero agents."

One agent per mile of border? No wonder those few agents are overwhelmed. This isn't a lack of ability -- it's a lack of effort. The government is making no serious attempt to stop the flood of illegals.

My correspondent, a nurse at an L.A.-area hospital, was so appalled he decided to join a Minuteman patrol team and help the Border Patrol protect the frontier. With just a few volunteers on the scene, the picture a few weeks later was much different. "We shut down four miles of border with 16 people, eight large flashlights, and four cell phones, and didn't pull out until sunup," he reports.

The solution, then, is simple. "Just having enough people would solve the problem instantly. My estimate is that if someone got 500 people to show up per night statewide, the entire illegal traffic along the border of 150 miles from Yuma to the Pacific Ocean could be stopped dead," the man writes. "California wouldn't have an illegal immigration problem." And, thus, neither would the rest of the nation. But it's up to Congress to act, to provide enough agents and position them along the borders.

Illegal immigrants cause a wealth of problems. "Many gang members come to this country from overseas, or from other parts of the North and South American continent," Homeland Security Secretary Michael Chertoff notes. In fact, Chertoff says immigration officers have detained more than 1,000 alleged gang members since February, and he estimates 950 of them were illegals.

This is a local problem as well. The town of Herndon, Va. is inundated with day laborers. They gather at a convenience store and wait for employers to offer them jobs. The town, resigned to the idea that it can't prevent the workers from gathering, is considering whether to set aside a designated gathering place. "Our choice is between having a regulated site and an unregulated site," Mayor Michael L. O'Reilly told The Washington Post. "Given those options, I'm in favor of a regulated site."

The paper noted that, "an unknown number of [the day laborers] are in the country illegally." But the only reason we don't know how many of those waiting for jobs are illegals is because we haven't checked.

Here's a simple solution: Local police should take note of the license plate number every time a car picks up day laborers. Pass that information along to the IRS to see if the driver filed 1099 forms for the laborers he hired. The attraction of hiring day laborers is that employers can pay them cash. No questions asked, no forms filed.

But federal law requires that employers collect Social Security taxes on everyone they employ. Crack down on the employers, force them to check for Social Security numbers, and you'll drastically cut down on the number of illegal immigrants getting jobs.

"This country has a great Constitution. It's supposed to be justice for all. Some people think it's just justice for them," Lucio Escobar, a 47-year-old Herndon resident who immigrated from El Salvador 30 years ago, told the Post.

Well, the Constitution does guarantee justice for all -- all U.S. citizens. It's time for Congress to get serious about protecting our borders and cracking down on illegal immigration. Until lawmakers do that, their discussions about protecting the Constitution will amount to little more than hot air.

Rich Tucker is an editor in Washington D.C. and a columnist for Townhall.com

TAX:

Colts Neck Man Convicted Of Tax Evasion (APP)

By JAMES A. QUIRK, STAFF WRITER

Asbury Park (NJ) Press, August 5, 2005

A Colts Neck man was convicted of tax evasion and wire fraud in connection with a scheme to sell vast amounts of an ozone-depleting chemical, which was used to produce methamphetamine in California labs, according to the U.S. Department of Justice.

William Rubenstein and Dov Shellef, of Great Neck, N.Y., were convicted July 28 of conspiring to evade approximately $1.9 million in excise taxes due on sales of a chemical called trichlorotrifluoroethane (CFC-113), law enforcement officials said yesterday. The jury returned the guilty verdicts after a five-week trial before U.S. District Judge Joanna Seybert in Central Islip, N.Y.

Shellef also was convicted of 87 counts of wire fraud, tax evasion, subscribing to false tax returns and money laundering.

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The investigation began as federal Environmental Protection Agency and Drug Enforcement Administration agents traced the supply of CFC-113 to California "meth labs" that used the product for the illegal manufacture of methamphetamine.

According to the Department of Justice, the investigation revealed that a company called All Discount Lab Supplies was selling CFC-113 to individuals who used the product in meth labs. The principals of All Discount Labs have since pleaded guilty to selling CFC-113 with reasonable cause to believe it was being used for illegal manufacture of methamphetamine.

Although Shellef and Rubenstein were not indicted on drug charges, the investigation revealed that they were major suppliers of CFC-113 to All Discount Labs.

According to the Justice Department, the federal Clean Air Act banned the continued importation and production of CFCs in the U.S. in 1996, though manufacturers were permitted to sell and export chemicals that had been stockpiled prior to the ban. CFCs are used primarily as refrigerants and industrial solvents, and when released travel into the upper atmosphere and destroy ozone.

CFCs are subject to a substantial excise tax, which is imposed to discourage their use and to promote the transition to more ozone-friendly replacement products. The excise tax applied to domestic sales of stockpiled CFCs, but not sales for export.

The Department of Justice gave the following account:

Shellef owned two businesses involved in the purchase and sale of CFC-113; Rubenstein also controlled two businesses involved in the purchase, packaging, warehousing, shipping and sale of CFC-113. Both men purchased large quantities of the chemical. Both men told the chemical manufacturers that they intended to export the CFC-113, and thus the manufacturers did not collect or pay any excise tax on the product.

Beginning July 1997, Shellef and Rubenstein, knowing that they had purchased the CFC-113 tax-free, illegally diverted the product to a number of domestic customers. To conceal these sales, the men removed references to the original manufacturers on drums of the chemical, and relabeled the product. In addition, they created false shipping documents. For all the domestic sales of CFC-113, the unpaid excise taxes totaled approximately $1.9 million.

Rubenstein and Shellef face maximum sentences of 25 years in prison and $500,000 in fines.

KPMG Confident Of Avoiding Tax Trial (FT)

By Andrew Parker

Financial Times, August 5, 2005

KPMG, one of the big four accounting firms, is increasingly confident it can avoid a criminal trial in the US relating to its past sales of tax avoidance schemes to clients.

KPMG's US business is in talks with the Department of Justice about a "deferred prosecution agreement", under which it would be put on probation and criminal charges held in abeyance, according to people briefed about the case.

No decisions have been taken, but the people said a settlement between KPMG and the justice department could also involve a fine of as much as $500m. KPMG is desperate to avoid an indictment because Andersen, once the world's biggest accounting firm, was destroyed after prosecutors pressed obstruction of justice charges against it in 2002.

The firm declined to comment on Thursday, but it has previously acknowledged the existence of an investigation by federal prosecutors into tax services sold to clients covering a period from 1996 to 2002.

KPMG's US business said on June 16 that it took "full responsibility for the unlawful conduct by former KPMG partners during that period, and we deeply regret that it occurred". Robert Bennett, a partner at Skadden, Arps, Slate, Meagher & Flom, which is representing KPMG, said: "We are fully co-operating with the Department of Justice." He declined to comment further.

The terms of any settlement between KPMG and the justice department would probably involve KPMG committing itself to internal reforms affecting its tax practice and to monitoring by an independent consultant.

KPMG made a plea to avoid indictment in a written submission to the justice department in June, when it highlighted how a criminal trial could have a negative impact on its partnerships outside the US, said one person briefed about the case. Andersen's international network of partnerships collapsed after the indictment of its US business.

KPMG reinforced its plea in a meeting between its lawyers and James Comey, deputy attorney-general, and David Kelley, attorney for the southern district of New York, also in June, said another person briefed about the case.

Federal prosecutors in Mr Kelley's office are leading the investigation into KPMG. His spokesman declined to comment.

A report in February by the Senate permanent sub-committee on investigations concluded that between 1998 and 2003 its US business developed products that were "at times, illegal, or potentially abusive".

The sub-committee said the IRS had calculated in 2002 that three KPMG schemes had resulted in people claiming losses on their tax returns of $5.8bn.

But the report accepted that since 2003 KPMG had dismantled its "abusive tax shelter practice" and strengthened compliance.

CONGRESS-ADMINISTRATION:

Court Nominee Advised Group On Gay Rights (NYT)

By Sheryl Gay Stolberg And David D. Kirkpatrick

The New York Times, August 5, 2005

WASHINGTON, Aug. 4 - Judge John G. Roberts Jr., the Supreme Court nominee, gave advice to advocates for gay rights a decade ago, helping them win a landmark 1996 ruling protecting gay men and lesbians from state-sanctioned discrimination.

Judge Roberts, at the time an appellate lawyer for the Washington firm of Hogan & Hartson, did not write legal briefs or argue the case, lawyers involved said. But they said he did provide invaluable strategic guidance working pro bono to formulate legal theories and coach them in moot court sessions.

Judge Roberts did not disclose his role in the case to the Senate Judiciary Committee, which asked about pro bono work in a questionnaire. News of his participation was first reported Thursday in The Los Angeles Times, and it set off an immediate scramble on both the left and the right, upending perceptions of the nominee in both camps.

The White House immediately sought to reassure Judge Roberts's conservative backers, telephoning prominent leaders, including Richard Land of the Southern Baptist Convention, but it appeared that not all of them had been convinced.

The 1996 case, Romer v. Evans, is considered a touchstone in the culture wars, and it produced what the gay rights movement considers its most significant legal victory. By a 6-to-3 vote, the Supreme Court struck down a provision of the Colorado Constitution that nullified existing civil rights protections for gay men and lesbians and also barred the passage of new antidiscrimination laws.

"It's one more piece of the puzzle as we keep trying to find out who John Roberts is," said Kevin Cathcart, executive director of Lambda Legal, the advocacy group that helped bring the Romer case. "Where does this fit in on his judicial philosophy and his view of the Constitution?"

Indeed, Judge Roberts's participation seems to stand in contrast to the picture that has emerged from his days as a young lawyer with the Reagan administration, when he advocated a more conservative approach to civil rights and voting rights. Lawyers in the Romer case said Thursday that Judge Roberts had not discussed its substance with them, but seemed to approach it more as an intellectual challenge.

Even so, reports of his involvement echoed on conservative talk shows Thursday, generating outrage and disbelief. "There's no question this is going to upset people on the right," Rush Limbaugh told his radio listeners. "There's no question the people on the right are going to say: 'Wait a minute. Wait a minute! The guy is doing pro bono work and helping gay activists?' "

A White House spokeswoman, Erin Healy, said Judge Roberts's involvement was minimal. "As in any other case," Ms. Healy said, "it is wrong to equate legal work product with personal opinions."

The lead plaintiffs' lawyer in the Romer case, Jean Dubofsky, said Thursday that she sought out Judge Roberts at the recommendation of Walter Dellinger, then a senior official in the Justice Department under President Bill Clinton. Ms. Dubofsky, a former justice of the Colorado Supreme Court, said she was specifically seeking a conservative who could provide her an insider's road map, of sorts, helping her to anticipate objections from some of the court's more conservative members, like Justice Antonin Scalia and Chief Justice William H. Rehnquist.

Judge Roberts, who once clerked for Justice Rehnquist and now serves on the United States Court of Appeals for the District of Columbia Circuit, spent about six hours on the case, Ms. Dubofsky said. "He told me, 'You have to know how to count and to get five votes, you're going to have to pick up the middle.' "

And then, she said, Judge Roberts provided explicit instructions on how to do just that, telling her that she would have to prove to the court it did not have to overturn a previous case, Bowers v. Hardwick, which upheld a ban on homosexual sodomy. He peppered her with questions in a moot court session.

"So when I was asked by Justice Scalia if they would have to overturn Bowers v. Hardwick to rule my way, I said no," Ms. Dubofsky said, adding, "In this particular case if you wanted to get the U.S. Supreme Court turned around on gay rights issues, you didn't have to win every gay rights case floating around out there."

Ultimately, in a forceful opinion by Justice Anthony M. Kennedy, the court said the Colorado provision had put the state's gay men and lesbians in a "solitary class," singling them out in violation of the Constitution's equal protection guarantee in a manner that was so sweeping as to be inexplicable on any basis other than animus. Chief Justice Rehnquist and Justices Scalia and Clarence Thomas, the justices to whom Judge Roberts is most often compared, issued a blistering dissent.

The Romer case proved to be the first step in the Supreme Court's ultimate disavowal of the Bowers decision in its 2003 ruling in the case of Lawrence v. Texas. That ruling, which overturned a Texas sodomy law, has drawn the ire of conservatives at

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a time when the Supreme Court is expecting still more cases involving gay rights. In November, the court is scheduled to hear a case that grows out of the military's "don't ask, don't tell" policy toward gay service members. The question is whether Congress can withhold federal money from universities that restrict military recruiters' access to their students, in an effort to support gay rights. Judge Roberts would join in hearing that case, should he be confirmed by the first Monday in October, as Republicans hope.

Judge Roberts did not mention the Romer case in the response he filed to a questionnaire from the Senate Judiciary Committee, which asked about pro bono work. Committee Democrats said they were not troubled by the omission, because it did not appear that Judge Roberts had spent a significant amount of time on the case. He did list two other cases, including one in which he represented welfare recipients in the District of Columbia who were challenging cuts in their benefits.

Walter A. Smith, who was in charge of pro bono work at Hogan & Hartson from 1993 to 1997, and who worked extensively on the Romer case, said about a dozen lawyers at the firm assisted. He said he had little trouble recruiting Judge Roberts.

"It looked like a challenging, interesting, provocative, important case," said Mr. Smith, who is now the executive director of the D. C. Appleseed Center, a nonpartisan public interest legal group. "Everybody knew that, and I think he believed it was worth his time."

Mr. Smith said part of his job was to match lawyers with cases that would intrigue them, and that his initial instinct was that Judge Roberts would be willing, despite his conservative bent. In the past, Judge Roberts has made it a point to note that lawyers do not always agree with their clients.

"Every good lawyer knows that if there is something in his client's cause that so personally offends you, morally, religiously, if it so offends you that you think it would undermine your ability to do your duty as a lawyer, then you shouldn't take it on, and John wouldn't have," he said. "So at a minimum he had no concerns that would rise to that level."

Liberal critics of Judge Roberts, however, continued to assail him on Thursday as a foe of civil rights. "John Roberts was a key member of a right-wing policy team that waged a comprehensive assault on fundamental constitutional rights," said Ralph Neas, president of People for the American Way, a liberal advocacy group, "and that is most relevant to his qualification to be on the Supreme Court."

While some conservatives, including Dr. Land of the Southern Baptist Convention, said they were unconcerned about Judge Roberts's involvement in the Romer case, others signaled that the report had at least raised questions in their eyes.

James C. Dobson, chairman of the evangelical group Focus on the Family, said Judge Roberts's work in the case was "not welcome news to those of us who advocate for traditional values," though he said it did not necessarily mean that Judge Roberts shared the plaintiffs' views.

Colleen Parro, executive director of the Republican National Coalition for Life and one of the few conservatives to raise questions about Judge Roberts, said his work on the case was "cause for more caution and less optimism" about his nomination.

Partisans Are Unsure About Roberts' Work On Gays' Case (LAT)

By Maura Reynolds

The Los Angeles Times, August 5, 2005

WASHINGTON — Supporters and opponents of Supreme Court nominee John G. Roberts were caught off guard Wednesday by news that he worked behind the scenes years ago to assist a gay rights group win a key case before the nation's highest court.

Debate erupted on conservative and liberal Web sites, with partisans on both sides asking whether Roberts' assistance to what is usually considered a liberal cause was an aberration from his otherwise conservative record or a sign his views might be more nuanced than commonly thought.

Social and religious conservatives expressed dismay about his participation in the case but said they are not convinced it amounted to an endorsement of gay rights -- a movement they strongly oppose.

"While this is certainly not welcome news to those of us who advocate for traditional values, it is by no means a given that John Roberts' personal views are reflected in his involvement in this case," the political arm of Focus on the Family, a national organization of conservative Christian, said in a statement. "That's what lawyers do -- represent their firm's clients, whether they agree with what those clients stand for or not."

The White House sought to play down Roberts' participation in the case, known as Romer vs. Evans, in which the Supreme Court in 1996 voted 6-3 to strike down a voter-approved Colorado initiative that would have allowed employers and landlords to exclude gays from jobs and housing.

Roberts, then a lawyer at the Washington firm of Hogan & Hartson, helped gay rights activists prepare their challenge to the initiative as part of his firm's pro bono work.

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Roberts did not mention his work on the case in responding to a Senate Judiciary Committee questionnaire that asked for examples of his pro bono work. Roberts' involvement in the case was first reported by the Los Angeles Times on Wednesday.

White House spokeswoman Dana Perino said Roberts spent less than 10 hours on the case while devoting more than 200 hours to two other pro bono cases in which he was lead counsel.

"There is clearly a difference" between his assistance in the Colorado case and his other pro bono work, Perino said.

Jean Dubofsky, the lead lawyer for gay activists challenging the Colorado initiative, told the Times that Roberts gave her "absolutely crucial" advice in how to argue the case before the Supreme Court.

Some conservative supporters of Roberts denounced Wednesday's focus on the case as an effort to set Republicans against each other.

"The Romer imbroglio is a red herring meant to divide the right," said Sean Rushton, executive director of the Committee for Justice, which helps coordinate strategy on judicial nominations for conservative groups.

Similarly, liberal activists insisted the revelation did not change their concern that Roberts is not as supportive of civil rights as they would like.

"A primary issue for us is to what degree, if any, this work reflects on the judicial philosophy Judge Roberts would bring to the Supreme Court," said Kevin Cathcart, executive director of Lambda Legal, a major gay rights advocacy group.

Cathcart said his group remains concerned about Roberts' "much more extensive advocacy of positions that we oppose."

Still, the revelation is awkward for both sides in the political battle over Roberts, now a judge on the U.S. Court of Appeals for the District of Columbia circuit. He was nominated by President Bush for the Supreme Court in late July to replace Sandra Day O'Connor, who is retiring.

Some conservative activists have expressed concerns that he may become an "unreliable" justice like David Souter or Anthony Kennedy, who were appointed by Republican presidents but who have not consistently supported conservative positions on the bench.

But Grover Norquist, president of Americans for Tax Reform and a central figure among GOP activists, said any conservative who withdrew support of Roberts over his participation in the Colorado case would be wrongheaded.

"The whole case that conservatives have been trying to make is that your personal feelings ought not to count" when you rule from the bench, Norquist said.

"There may be people who will say -- I want (him) to share my world view and try to impose it on his decisions," Norquist added. "Those people are not a useful part of the effort."

Some liberal activists consider Roberts to be more of a conservative ideologue than he acknowledges, citing in particular his work in the Reagan administration to limit school busing and other programs that sought to promote civil rights for minorities.

"I'm interested in seeing his involvement in this (Colorado) case, but it doesn't diminish our overall concern," said Nan Aron, president of the liberal Alliance for Justice. "A picture is just beginning to emerge of his views, but it's too early to make an overall assessment of his judicial philosophy."

Norm Ornstein, a fellow at the American Enterprise Institute who is an expert on relations between the White House and Congress, predicted that Roberts' role in the Colorado case would unnerve ideologues on the right and the left.

"It reinforces the notion that the guy is a lawyer's lawyer," Ornstein said. "To whatever degree people are trying to view Roberts as an ideologue whose first instinct is to take his world view and impose it on whatever decision he's taking -- this cuts against it."

The result, Ornstein said, is that the Romer controversy is likely to help Roberts win more support from moderates.

"This means (he has) an ability to put himself in someone else's shoes," Ornstein said. "That is something that has distinguished the more careful and modest justices from the more expansive, wide-ranging and reckless ones."

Lawyers involved in the Colorado case described Roberts role as small but crucial to the outcome.

Walter A. Smith, Jr., the partner at Hogan and Hartson who ran the firm's pro bono program, said Roberts took part in the firm's initial meeting to consider accepting the case and that his participation, as in all the firm's pro bono cases, was voluntary.

"Anyone who didn't want to work on a case for whatever matter, they didn't have to," Smith said. "He was in on the takeoff and he was in on the landing and was helpful in both."

Smith also said that from a lawyer's point of view, the battle over the Colorado initiative was more a case about equal protection than about rights for gays and lesbians.

He said the critical issue for Roberts -- and eventually for the Supreme Court -- was whether the Colorado initiative took away ordinary rights and legal protections from a disadvantaged group, whether they were a sexual, racial or social minority.

"Does such a law violate the equal protection clause of the constitution? To that extent, it was not a gay rights issue," Smith said.

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In Private Practice, Roberts's Record Is Mixed (WP)

By Jo Becker And Michael Grunwald

The Washington Post, August 5, 2005

As a private lawyer, John G. Roberts Jr. represented homeless Washingtonians who had lost their government benefits because of city budget cuts. He advocated environmental protections for Lake Tahoe, Glacier Bay and the Grand Canyon. He spent 25 hours assisting a convicted murderer with a death penalty appeal. He even helped gay rights activists win a landmark Supreme Court anti-discrimination case.

At first blush, these cases would seem to complicate any image of the Supreme Court nominee as a down-the-line conservative. But as details have emerged in recent days, conservative groups have been busy spreading the word to their members and the broader public about what they should think of Roberts's work in private practice: Pay it no mind.

At second blush, Roberts's role is hardly surprising, say people who have worked with him or studied his career. For more than a decade, he practiced appellate law at the Washington firm Hogan & Hartson in a distinctly non-ideological fashion. Now, as liberal and conservative activists pick over his career for evidence of his political and legal philosophy, neither side seems to attach much importance to his diverse practice. And some activists on both sides remain secure in their conviction that he is an emphatic conservative who will move the high court to the right -- never mind his client list.

The Los Angeles Times reported yesterday that in 1996, as part of his firm's pro bono program, Roberts offered limited aid to opponents of a Colorado referendum that allowed discrimination against gays. The case led to a landmark Supreme Court ruling that protects people from discrimination based on their sexual orientation.

But Nan Aron of the liberal Alliance for Justice said that Roberts's involvement "doesn't say anything about his judicial philosophy." And Sean Rushton of the conservative Committee for Justice called the Colorado case "a red herring meant to divide the right."

"I don't think this is serious," said Bill Kristol, editor of the Weekly Standard. "Most conservatives are very pleased. . . . He has a long record, and has been very consistent."

The prevailing view of Roberts as a reliable conservative initially emerged from his résumé as a clerk to then-Associate Justice William H. Rehnquist, aide to President Ronald Reagan, deputy to then-Solicitor General Kenneth W. Starr and nominee of President Bush. That view was solidified by the release of forceful memos he wrote while serving in the Reagan administration, during which he helped shape policies opposing affirmative-action quotas and busing of schoolchildren to achieve desegregation. During the administration of George H.W. Bush, he signed a brief that called Roe v. Wade "wrongly decided."

In recent days, the White House and its allies have grown concerned that the documents released so far have painted Roberts as a rigid ideologue, and they have sought to provide a more complete portrait. Yesterday, the Bush administration released two Reagan-era documents sought by The Washington Post and others under the Freedom of Information Act. The Post request included thousands of other documents, which were not released.

In one memo, Roberts argued that Reagan should not interfere in a Kentucky case involving the display of the Ten Commandments on public property. In the other, he wrote that the bomber of an abortion clinic should not receive any special consideration for a pardon. "No matter how lofty or sincerely held the goal, those who resort to violence to achieve it are criminals," Roberts wrote.

Advisers to the White House have been urging the Bush team to be more aggressive about providing its own narrative of Roberts.

"There needs to be a good branding effort," said one Republican strategist involved in pro-Roberts strategy. "We do need to get out and start defining who this guy is."

Neither side has focused much attention yet on his work from 1986 to 1989 and from 1993 to 2003 at Hogan & Hartson, where he sometimes took on cases that clashed with conservative orthodoxy. For example, he once defended racial preferences for Native Hawaiians -- a case he lost to Theodore B. Olson, a prominent Republican in the appellate bar. On the other hand, Roberts assisted Republican Gov. Jeb Bush at no charge during the Florida presidential election recount in 2000.

"It's good for lawyers to represent clients on all sides of the political spectrum," Olson said. "You can't read anything into his personal feelings about the case."

The Supreme Court hears only about 80 cases a year, so even elite appellate lawyers such as Roberts have to compete for cases, and they rarely turn them down. Olson said that Supreme Court specialists also regularly help less-experienced lawyers prepare as a professional courtesy. And Hogan & Hartson lawyers said the firm has a culture in which every partner and associate is expected to help out on pro bono cases when asked.

That is what happened in the Colorado gay rights case, Romer v. Evans , in which lawyers seeking to strike down the referendum sought the help of Hogan & Hartson. Walter Smith, then head of the firm's pro bono department, turned to

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Roberts for assistance. Smith said Roberts readily accepted, helping to grill the lawyers handling the case during a mock trial, in which he played the role of Justice Antonin Scalia. Roberts also helped devise a strategy for the case.

"He only put in a few hours, but a few hours with John Roberts is probably worth a few weeks with someone else," Smith said. "John was always willing to help on pro bono cases, regardless of the politics. Not all his conservative brethren felt that way."

On conservative Web sites yesterday, there was scattered negative reaction to the news that Bush's nominee had helped to advance the cause of gay rights. "Frankly, I find it hard to believe that a 'conservative' Roman Catholic would not have declined to participate on moral grounds," one person wrote at http://www.confirmthem.com/ .

John Yoo, a law professor at the University of California at Berkeley who served as a deputy assistant attorney general in the Bush administration, said the pro bono case was unusual for a conservative Republican lawyer. "Usually, conservative lawyers take on the more conservative causes," Yoo said.

On balance, the conservative establishment remained firmly supportive of Roberts. "While this is certainly not welcome news to those of us who advocate for traditional values, it is by no means a given that John Roberts' personal views are reflected in his involvement in the case," the group Focus on the Family said in a statement.

David Leitch, a former Hogan & Hartson partner, said Roberts never brought politics into his practice.

"We were Republicans, no question about that," said Leitch, who is now the general counsel of the Ford Motor Co. "But I never knew John to turn down a case for ideological reasons. He was there to represent clients. And he did it very well."

Staff writer Peter Baker contributed to this report.

Documents Indicate Roberts Isn't Always Predictably Conservative (KRT)

By Ron Hutcheson

Knight Ridder, August 5, 2005

WASHINGTON - As a legal adviser to President Reagan, Supreme Court nominee John G. Roberts Jr. joined a scathing denunciation of abortion-clinic bombers and urged Reagan to stay out of an effort to post tributes to God in Kentucky schools.

Roberts' advice, in documents Knight Ridder obtained before their public release later this month, might help him counter critics who portray him as a doctrinaire conservative. Abortion-rights groups and organizations that advocate a clear separation between church and state oppose his nomination.

Both sides in the nomination debate are scouring court briefs, legal memos and other documents for anything that can help make the case for or against Roberts' ascension to the nation's highest court. The documents that Knight Ridder obtained were leaked by an administration official who wanted to show the nominee as a servant of the law, not of conservative ideology.

In another development that could confound Roberts' liberal critics, the Los Angeles Times has reported that he worked behind the scenes, without charge, for gay rights activists in a 1996 case that led to a Supreme Court ruling protecting homosexuals from discrimination. Roberts, who was then in private practice, was asked to join the case by a colleague at his Washington law firm.

In the abortion-clinic case, Roberts was asked to respond to reports in 1986 that Reagan would consider granting presidential pardons to convicted bombers. The issue arose when leaders from two anti-abortion groups, the American Life League and the Pro-Life Action League, were quoted as saying Reagan was open to the possibility of pardons on a case-by-case basis.

Rep. Romano Mazzoli, a Kentucky Democrat, asked Reagan for an explanation. Roberts and his boss, deputy White House counsel Richard Hauser, suggested a strongly worded response that ruled out favors for clinic bombers.

"The president unequivocally condemns such acts of violence and believes that those responsible should be prosecuted to the full extent of the law," their draft reply said. "No matter how lofty or sincerely held the goal, those who resort to violence to achieve it are criminals. ... Neither the cause that these misguided individuals mistakenly believed they were serving, nor the target of their violence, will in any way be considered to mitigate the seriousness of their offense against our laws."

Roberts forwarded the draft to the White House legislative affairs office in February 1986, but it isn't clear whether it ever was sent to Mazzoli. The issue may have become moot when other White House officials denied that Reagan had offered to consider pardons.

Joe Scheidler, the head of the Pro-Life Action League then and now, shrugged off the draft letter.

"My own lawyer would take the same position," Scheidler said. "I could see Roberts or any other lawyer coming up with that."

Roberts' opinion of Roe v. Wade, the 1973 ruling that legalized abortion nationwide, is one of the most hotly debated issues in his confirmation.

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As a deputy solicitor general in the administration of the first President Bush, he joined a brief asserting that Roe "was wrongly decided and should be overruled." He distanced himself from that opinion during his 2003 confirmation hearings to a federal appellate court and declared Roe "the settled law of the land."

Scheidler said he was confident that Roberts would vote to overturn the 1973 ruling if given a chance.

"It's settled law for now. That doesn't mean it can't be overturned," Scheidler said. "As a Supreme Court justice, he'd have a whole new approach."

In the Kentucky school case, Roberts advised Reagan to stay out of a 1985 effort to require teachers to post the national motto - "In God We Trust" - and the preamble to the state constitution in their classrooms. The preamble declares, "We, the people of the Commonwealth of Kentucky, are grateful to Almighty God for the civil, religious and political liberties we enjoy."

Supporters of the measure wanted Reagan's endorsement to help get it through Kentucky's legislature. At least one White House official seemed to support Reagan's involvement.

"The president's position concerning this issue is clear, and this group is certainly aware of it, but we would like to be sure that a message to them is approved by your office," White House aide Anita Bevacqua wrote in a May 17, 1985, memo to Roberts.

Roberts nixed the idea in his reply a week later. He questioned the constitutionality of the proposal and concluded that "it would be inappropriate" for Reagan to endorse it.

Roberts' critics on the church-state issue point to a brief that he co-authored as a deputy solicitor general on school prayer. The brief defended prayers at graduation ceremonies. The Supreme Court rejected his viewpoint in a 5-4 ruling.

Roberts' Solicitor General Record Gives Clues To Views (LAT)

By David G. Savage

The Los Angeles Times, August 5, 2005

WASHINGTON — For many years, the solicitor general was known as the "10th justice," a trusted figure who advised the Supreme Court on the law and whose client was the United States.

But midway through the Reagan administration, the office took on a new role. The solicitor general became not just the government's chief lawyer before the Supreme Court, but the point man for a conservative transformation in the law.

When John G. Roberts Jr., then 34, joined Solicitor General Kenneth W. Starr as his top deputy in fall 1989, they were determined to make the Reagan Revolution a legal reality.

Roberts "was in that position as the principal political deputy to the solicitor general because he was simpatico with the administration," said Washington lawyer Charles J. Cooper, a longtime friend of the Supreme Court nominee. "He agreed with the thrust of what the administration was doing,"

Together, Starr and Roberts for 3 1/2 years pressed a strongly conservative legal agenda.

They argued for limiting the scope of civil-rights laws, ending race-based affirmative action, restoring some prayers to public schools and overruling Roe v. Wade, the case that established a woman's right to have an abortion.

They sought to make it harder for environmentalists to challenge the government in court. They intervened on the side of Operation Rescue to shield abortion protesters from being sued. And they joined Texas state lawyers in arguing that new evidence of a death-row inmate's "actual innocence" did not entitle him to reopen his case in federal court.

In the first right-to-die case to reach the Supreme Court, they intervened on the side of then-Missouri Gov. John Ashcroft to argue that state officials may keep a comatose woman alive over the objections of her family.

"Ken Starr and John Roberts are genuine conservatives," said Christopher J. Wright, a lawyer who worked under them at the solicitor general's office. "They're highly professional and excellent lawyers. But I'm a Democrat, and I can't say I always agreed with them."

Roberts' record at the solicitor general's office under President George H.W. Bush has become the focus of attention for Senate Democrats. They have been studying 81 Supreme Court briefs signed by Roberts between 1989 and 1993, and have asked the White House to disclose the memos he wrote in 16 of those cases.

But the White House so far has refused to provide the memos and other supporting documentation, claiming a lawyer-client privilege. As a result, Roberts' legal philosophy during that highly politicized period can only be gleaned from the public files.

They suggest a strongly, although not uniformly, conservative approach to issues.

Unlike his position as a young assistant to Attorney General William French Smith in 1981 and 1982, Roberts' post in the solicitor general's office gave him the opportunity to try to reshape the law at the Supreme Court. When teamed with Starr, he was not shy about pressing sharply ideological positions in the court.

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The duty and role of the solicitor general was a subject of debate in the 1980s. Reagan's first solicitor general, Rex Lee, quit in frustration, saying he was reluctant to "press the administration's policies at every turn. ... I'm the solicitor general, not the pamphleteer general."

The solicitors who followed Lee, including Charles Fried and Starr, were more willing to advocate the ideological views of the administration.

In the Reagan and first Bush administrations, that meant urging the Supreme Court to overturn Roe v. Wade.

In 1991, for example, when the court took up a free-speech challenge to an abortion regulation, Starr and Roberts filed a brief saying, "We continue to believe that Roe was wrongly decided and should be overruled." The regulation at issue prohibited doctors and nurses at federally funded family-planning clinics from discussing abortion with their patients. The court later upheld the regulation in a 5-4 decision, but without discussing the validity of Roe v. Wade.

The next year, Starr's office intervened in a Pennsylvania dispute to urge the court again to overrule Roe. "The protection of human life -- in and out of the womb -- is certainly the most compelling interest that a state can advance," Starr said.

The Supreme Court rejected the advice, and, in a 5-4 ruling, said women may opt for an abortion during the first six months of pregnancy.

The challenging of Roe -- and the view at the solicitor general's office of its proper role -- was defended by Thomas Merrill, a Columbia University law professor, who worked under Starr and Roberts.

"The president (George H.W. Bush) had campaigned for overruling Roe v. Wade. We in the office knew the administration's position. It was only a question of how to go about achieving that objective," he said.

In 1991, Roberts personally argued a case along with lawyers for Operation Rescue. The protesters had been sued in Virginia over abortion-clinic blockades. The women who sued relied on the Ku Klux Klan Act of 1871, which made it illegal for several persons to conspire to deprive individuals of their rights.

Roberts began by saying that he was not defending the actions of the protesters. Rather, he argued, the 19th-century civil-rights law did not apply to their conduct. The law only applied when people were singled out for discrimination, as blacks were by the klan, Roberts said.

"Opposition to abortion is (not) the same as discrimination on the basis of gender," he said, adding that it was "wrong as a matter of law and logic" to make such a claim. In a 6-3 decision, the court agreed with his argument in an opinion written by Justice Antonin Scalia.

The lawyer who represented the women said the Bush administration lawyers should have stayed out of the case. "We were greatly bothered that the federal government was in this case on the side of Operation Rescue," Deborah Ellis, a New York University law professor, recalled recently. "There is a right to abortion, and whether you agree with it or not, it is objectionable that women could be deprived of this right by force."

(The Supreme Court is set to hear a similar case this fall involving blockades at abortion clinics. Lawyers for the National Organization for Women won a lawsuit against leaders of Operation Rescue for using violence and threats against doctors and patients. The court will hear an appeal from the anti-abortion advocates, who say the federal extortion law does not apply to such protests.)

Starr and Roberts also upset women's-rights advocates in 1991 when they intervened on the side of a Georgia school district in a major test of Title IX, the law that bars sex discrimination in schools and colleges.

Christine Franklin, a student, said she had been sexually harassed and abused by a popular coach, who was later dismissed. She sued the school district.

Starr and Roberts urged the court to rule that the law does not give victims of sex discrimination a right to sue. The justices unanimously rejected that view.

During their time together in the solicitor general's office, Starr and Roberts helped win rulings that had broad effect across the United States. They joined a Nebraska case in which the court ruled that student-led Bible clubs had a right to meet at public schools. They joined a Minnesota case in which the court upheld state law requiring a parent be notified before the daughter had an abortion. And they joined an Oklahoma City case in which the court set the stage for ending long-running school busing programs.

But Roberts was not always on the government's side.

He intervened in a Louisiana case to argue on behalf of an inmate, Keith Hudson, who had been beaten by two prison guards while shackled and handcuffed.

Hudson sued the guards for violating his constitutional rights and won $800 in damages. But the U.S. Court of Appeals in New Orleans threw out the verdict and ruled that prisoners' rights were not violated by abusive treatment that did not cause a significant and permanent injury.

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Roberts said he was troubled by the lower court's ruling. While "frivolous" lawsuits from prisoners were a problem, this was not a frivolous case, he said. Nor, he told the court, should the law condone the "unnecessary and wanton infliction of pain" on prisoners.

The Supreme Court agreed in a 7-2 ruling written by Justice Sandra Day O'Connor. Justices Clarence Thomas and Scalia dissented.

Democrats on the Senate Judiciary Committee, which will hold hearings on Roberts' nomination to the Supreme Court, have demanded to see the memos he wrote in several of the cases from his time in Starr's office. They say they want to see how Roberts analyzed the law, and whether the administration's position was also his.

His friend Cooper, also a veteran of the Reagan administration, said it was fair to conclude that Roberts agreed in essence with the legal arguments he made on behalf of the first Bush administration -- although "it would be wrong to conclude he agreed with every line in those briefs."

Within the Justice Department, Roberts was admired for his intelligence and modest manner.

"My most distinct memory is that he played his cards close to the vest," Merrill said. "I briefed him for his first two days there, and he nodded and smiled. He didn't talk much. John never kicked back and philosophized about his view of the law."

GOP To Make Push For Roberts (WT)

By Bill Sammon

The Washington Times, August 5, 2005

President Bush and his strategists are using the politically fallow month of August to conduct a coordinated campaign to sustain momentum for the nomination of Judge John G. Roberts Jr. to the Supreme Court.

The effort has two tracks -- a public offensive that includes the president openly stumping for his nominee and a behind-the-scenes blitz designed to keep Senate Democrats on the defensive.

"Roberts needs to get his hearing done and the confirmation completed so he can be seated before the Supreme Court reconvenes in early October," Mr. Bush said this week in Texas at the start of his monthlong working vacation.

The president is expected to reiterate that sentiment during numerous day trips to various states from his 1,600-acre ranch in Crawford, Texas.

Meanwhile, White House operatives, working closely with the Republican National Committee, are quietly urging regional interest groups in key states to keep up the pressure on Senate Democrats. The groups are writing letters asking for meetings with their senators while they are home for the August recess.

Several Republican strategists who spoke to The Washington Times said the idea is for the groups to demand consultations with their senators because Mr. Bush had consulted with those senators on the nomination.

The effort is targeted at Democrats in conservative states such as Arkansas and Louisiana, rather than liberal states such as Massachusetts.

The interest groups range from local chapters of the Chamber of Commerce and Fraternal Order of Police to less well-known groups such as the Colorado Catholic Lawyers Guild, which has requested a meeting with Sen. Ken Salazar, Colorado Democrat.

In Florida, Democratic Sen. Bill Nelson is being targeted by statewide groups of real-estate agents, restaurateurs and medical professionals. In Iowa, Democratic Sen. Tom Harkin has been asked to meet with the Iowa Sportsmen's Federation. In New Mexico, Democratic Sen. Jeff Bingaman has been targeted by the state's Alliance for Legal Reform and Fraternal Order of Police.

Judging by the limited resistance to the Roberts nomination being mounted by such Democrats so far, Republicans say the effort alreaedy is bearing fruit. As evidence, they cited remarks this week by Democratic Sen. Mark Pryor of Arkansas.

"I don't really see any problems with this confirmation," he told the Washington County Bar Association in Fayetteville. "The White House really reached out to the Senate on this one, and I'd assume that means the confirmation process will go a lot smoother. I think this was a good choice by President Bush."

Another component of the August blitz entails aggressively booking Roberts advocates on local and regional talk radio programs, taking a template from the president's successful re-election campaign.

Republican strategists are quick to emphasize that confirmation of Judge Roberts is by no means guaranteed. They recalled that while the initial rollout of Supreme Court nominee Clarence Thomas went smoothly, the confirmation process turned ugly.

Mindful of such possibilities, White House officials are braced to respond aggressively to expected attacks against Mr. Roberts by Democrats, liberal interest groups and journalists.

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Still, Republicans are heartened that the scorched-earth political warfare that many had predicted has not materialized in the 21/2 weeks since the president nominated Judge Roberts. They are pleased that they were able to quickly gain political altitude with the nomination, racing to cement public opinion before the Democrats could gain traction.

While Mr. Bush and White House operatives spend August lobbying for Judge Roberts, the nominee will spend much of the month studying material in preparation for his Senate confirmation hearings, scheduled for September. He also will undergo rigorous question-and-answer sessions such as the ones practiced by presidential candidates in preparation for debates.

Judge Roberts will be grilled by lawyers from White House Counsel Harriet Miers' office and the Department of Justice, including acting Assistant Attorney General Rachel Brand, who runs the department's Office of Legal Policy.

Women's Groups Try To Rally For Court Fight (WSJ)

By Jeanne Cummings

The Wall Street Journal, August 5, 2005

The divisive 1991 confirmation hearings of Supreme Court Justice Clarence Thomas, involving charges of sexual harassment, launched 1992's Year of the Woman. That election's windfall brought four new women to the U.S. Senate and 20 to the House -- and turned women's rights groups into a force to be reckoned with.

Now another Supreme Court appointment battle looms, with abortion rights a likely central issue. But internal squabbles, declining membership and complacency during the Clinton years have left most women's rights groups in weakened shape for the clash over Judge John G. Roberts Jr.

The National Organization for Women's political donations shriveled to $44,000 in 2004 from $327,000 in 1992. Planned Parenthood Federation of America Inc., facing a revolt among affiliates in part because of the politicization of the group, ousted its president in January and hasn't taken a position on the Roberts nomination. NARAL Pro-Choice America's new president was still on an introductory tour to affiliates and donors around the country when the Supreme Court fight started.

The influence of women's groups inside Congress also has eroded. Most Democrats in the Senate "Gang of 14" -- moderates who could prevent a Democratic filibuster -- weren't endorsed by NARAL because they didn't solidly back abortion rights or opposed them. "I do worry about our strength as a movement," says Kate Michelman, NARAL's former president. "What we do in this battle will establish the foundation and create the conditions not only for this one but also for the future."

Abortion-rights groups like NARAL oppose President Bush's nominee, who in a 1990 Supreme Court brief prepared for the Bush administration advocated overturning the landmark Roe v. Wade ruling. More recently, Judge Roberts has moderated his language, but abortion-rights advocates remain wary.

The troubled state of women's rights groups is shared by many of their traditional allies. Big Labor is falling apart as unions defect from what they claim is a wasteful and antiquated AFL-CIO. Civil-rights groups are fighting a conservative pushback on affirmative action and other issues. And the NAACP, the nation's leading African-American organization, is under investigation by the Internal Revenue Service.

The challenge for Judge Roberts's opponents is exacerbated by Democrats' reconsideration of how to position themselves with a more conservative electorate. Abortion was among the issues that some political analysts said drove church-going voters to President Bush in last year's election. Now, Democratic National Committee Chairman Howard Dean, an abortion-rights supporter, is urging his party's messengers to speak more about faith and religion and to downplay issues such as abortion.

Meanwhile, an array of conservative organizations is stronger than ever. They spent the Clinton years recruiting members and electing lawmakers, particularly to the Senate. High School Bible clubs flourished and anti-abortion organizations established footholds in colleges and universities across the country. The groups helped create a generation of women more receptive to restricting access to abortions and, because of broader access to birth control, less sympathetic to women with unwanted pregnancies, recent polls and focus groups have found.

The question is whether the Roberts nomination will have the same galvanizing effect as Justice Thomas's. Polls indicate that a majority of young adults, and the general public, oppose overturning Roe v. Wade -- an opening women's rights groups are trying to turn to their advantage.

"Bush has been our number-one membership recruiter," says Kim Gandy, president of NOW, which held dozens of protests the day after Judge Roberts was nominated. NARAL sent emails to 800,000 activists urging them to begin petition drives and contact their senators to express opposition to the nomination. Both groups, and others, added their lawyers to a coalition that is mining Judge Roberts's record for clues on how he might rule on the high court. They also are coordinating with Democrats on the Senate Judiciary Committee to ensure the nominee is questioned on abortion rights during his hearings next month.

NARAL's new president, Nancy Keenan, witnessed the conservative movement's growing influence during the 1990s when she refereed battles over school curriculum while serving as Montana's school superintendent. When she visited Washington,

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D.C., back then, she warned liberal allies "there is something afoot in the West; something seems orchestrated and calculated," she recalls. But they remained focused on lobbying the Clinton administration for looser restrictions on abortion funding and other long-thwarted priorities.

Ms. Keenan is revitalizing a program that expands NARAL's mission to protect access to birth control as well as abortion and includes a state-based recruitment drive. The project is critical, she says, because that network of advocates could become the first line of defense if the Supreme Court overturns Roe v. Wade and sends the issue back to state legislatures.

But while operations in Minnesota, New York and California remain strong, organizing has been painstaking work in states where conservatives made big electoral and legislative gains.

Ann O'Hanlon was hired as executive director of the Virginia NARAL affiliate in September 2003 -- a chapter that was closed during the Clinton years. She joined the small but active Pro-Choice Coalition, a Virginia group that lobbies the state legislature, and organized membership-building house parties. By January 2004, her mailing list had expanded to 6,400 and she had recruited two direct-mail fund-raising experts to serve on her volunteer board. Today, she can reach 21,000 people by email and NARAL has a full-time lobbyist in Richmond.

Ms. O'Hanlon and her volunteers are conducting petition drives on the Roberts nomination, and hoping the confirmation fight will invigorate her group and lead to the kind of ballot-box success her predecessors saw with the Thomas fight.

Already, the nomination is playing a role in the Virginia governor's race. Russ Potts, a Republican who says he is a moderate on abortion rights, is running as an independent to succeed retiring Democratic Gov. Mark Warner in November. He is seeking NARAL's endorsement, and in a meeting last week in Richmond, Mr. Potts recalls, he adapted his pitch to reflect concerns that Judge Roberts could help overturn Roe v. Wade.

"Should Roe v. Wade be overturned and sent back to the states, I will veto any attempt to overturn [abortion rights] in Virginia," he says he told Ms. O'Hanlon and other members of the Pro-Choice Coalition.

Groups Step Up Advertising On Roberts Nomination To High Court (BLOOM)

By Laura Litvan

Bloomberg, August 5, 2005

Aug. 4 (Bloomberg) -- Interest groups are stepping up the campaign over U.S. Supreme Court nominee John G. Roberts, airing new advertisements designed to shape public opinion before next month's Senate Judiciary Committee confirmation hearings.

With bulging war chests that may total $100 million, both sides are gearing up for an expensive fight to prevent their adversaries from gaining an advantage. Still, Republicans control the Senate 55-45, and no Democrats have threatened a filibuster that would be their only chance to stall the nomination.

``There's a lot of folks who are both pro and con who are on automatic pilot," said Princeton University political science Professor Fred Greenstein in response to a question about why the ad campaigns are intensifying.

IndependentCourt.org, a coalition of 75 liberal groups including People for the American Way, this week began running national television ads that demand more information on Roberts's positions on issues. They urge the White House to release more documents from his time as a top Justice Department lawyer.

The Committee for Justice, which supports the nomination, will counter with radio ads targeting about 10 states represented by moderate Democratic senators, said Sean Rushton, the group's executive director. Senators are back in their home states for a monthlong recess and will be hearing from the voters, he said.

``This is when Roberts will be defined and it will set the stage for what kind of confirmation hearings and floor debate he gets," Rushton said.

$100 Million

Both sides will spend about $100 million on the confirmation battle including up to $10 million by business groups, estimates Rogan Kersh, a political science professor at Syracuse University in New York who specializes in lobbying.

``This is what they exist for," he says.

Progress for America, a group supporting Roberts's nomination, has budgeted $18 million for the campaign. It spent more than $40 million in the 2004 elections to help elect Bush.

Senate hearings on Roberts, 50, a federal appeals court judge picked by President George W. Bush to succeed retiring Justice Sandra Day O'Connor, will begin Sept. 6 with a likely vote by the full Senate before the Supreme Court reconvenes on Oct. 3.

The first ads to air on the nomination were paid for by Progress for America. It spent $1 million on ads last week that described Roberts as a ``brilliant" lawyer and jurist.

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The ads sponsored this week by IndependentCourt.org have been shown on CNN, Fox News Channel and on the NBC affiliate in Washington.

Gathering Petitions

Groups are also gathering petitions during the August congressional recess.

``We're trying to get as many people to take action as possible," said Ted Miller, a spokesman for NARAL Pro-Choice America, which is opposing Roberts's nomination on grounds he might vote to overturn Roe v. Wade, the 1973 Supreme Court ruling that legalized abortion nationwide.

Some ads and grassroots activities are targeting Democrats in ``red states" that Bush carried in the 2004 election. They are also aimed at the ``Gang of 14," seven centrist Republicans and Democrats who brokered a deal in May to avert a showdown over Bush's appeals court nominees.

That group includes Democrats Ben Nelson of Nebraska and Kent Conrad of North Dakota, who may face close re-election contests in 2006. Others on the list are Mark Pryor and Blanche Lincoln, both Democrats from Arkansas, which Bush won with 54 percent of the vote in 2004.

Pryor and Nelson have praised Bush for consulting senators before choosing Roberts and haven't taken a position on the nomination.

Lining Up Commitments

Groups favoring Roberts say they want to line up possible commitments or at least create momentum for the nominee heading into the hearings.

``Anytime you let the momentum fall, it allows time for questions to arise," said John Thomas, a spokesman for the Family Council Action Committee in Little Rock, Arkansas. ``You really want to keep moving forward."

Groups that are questioning Roberts's record are pressing senators to remain neutral for now.

``We're asking them, instead of rushing to a quick decision to take the time to ask hard questions people want to know, like where Judge Roberts stands on abortion and the environment and other issues that affect people's lives," said Cammy Watkins, a conservation organizer for the Nebraska chapter of the Sierra Club.

The board of the American Civil Liberties Union may meet this month to decide whether to oppose Roberts, said Will Potter, an ACLU spokesman. The group has only opposed two Supreme Court nominations: Robert Bork when he was defeated in 1987 and William H. Rehnquist when he was first appointed in 1971.

ACLU Position

``The ACLU isn't going to fly off the handle and give a knee- jerk reaction," said Tim Butz, executive director of the Nebraska chapter of the ACLU. ``We're going to study this thing and make a decision on our schedule so that we're sure we're doing the right thing."

Both sides are gearing for the fight to avoid falling behind.

``August is when a lot of opinions are going to be formed," said David Keene, chairman of the American Conservative Union, which is urging its 400,000 members who actively participate in such campaigns to lobby senators for Roberts. ``It's our assumption that the left will be advertising very heavily in a lot of these states and trying to reach members that they think are up in the air. You don't want them to have 1,000 letters against, and two letters for."

Judge Roberts's Memos (WP)

The Washington Post, August 5, 2005

The request by Democratic senators to see memos written by Supreme Court nominee John G. Roberts Jr. during his service in the solicitor general's office requires a difficult balancing of legitimate interests: the executive branch's need for confidentiality against a full and informed Senate confirmation proceeding. The request is more measured than the far-reaching demand for solicitor general memos during the nomination of Miguel A. Estrada to the U.S. Court of Appeals for the D.C. Circuit earlier in the Bush administration. It should not simply be defied. But neither is the administration wrong to try to protect internal deliberations within one of the government's most critical legal offices. Accommodation should be possible, provided it is sought in good faith by both sides.

The demand for memos in Mr. Estrada's case was irresponsible because he was a line attorney in the office; senators had demanded essentially all of his written work. It was an unlimited fishing expedition. Had the administration complied, the free give-and-take within the solicitor general's office would have been poisoned. That is why all living solicitors general of both parties opposed the request.

The Roberts case is different. Judge Roberts was not a line attorney but the political deputy solicitor general -- and administrations have at times chosen to turn over confidential work product when political appointees are nominated to the bench, including in the cases of Chief Justice William H. Rehnquist and the nomination of Robert H. Bork. A privilege, after all,

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can be waived. Unlike the case of Mr. Estrada, Democrats have not sought the entire body of Judge Roberts's work but only his memos in 16 cases that they believe might shed light on his legal philosophy. The executive branch has already released mounds of material of indistinguishable sensitivity -- including Judge Roberts's memos to the attorney general early in the Reagan administration. This material was slated under statute and past policy decisions to become public for reasons having nothing to do with the nomination. But at least to some degree it complicates the administration's contention that it can contemplate no disclosure of old attorney-client material.

Still, the administration's concerns are not trivial. Disclosure of internal documents in judicial nominations has typically occurred in response to accusations of impropriety; there is no suggestion of misconduct in this case. To be sure, turning over the material could establish the precedent that confidential attorney-client material becomes fair game whenever senators are curious to know what a particular nominee thought on a particular issue. The risk that this could chill the willingness of line attorneys to give their candid views is a serious concern.

There is a possible solution that the White House and Senate Democrats should consider. It is not clear that Judge Roberts actually worked on all of the 16 designated cases. Even where he did, deputy solicitors general often don't write detailed memos but frequently annotate case memos written by career assistants, according to former officials of the office. In many of the cases at issue, there may be little or no written work product to examine; and what there is may be distinctly uninformative. An executive privilege dust-up over nothing would be pointless.

The administration should, therefore, begin by specifying what, if any, responsive material actually exists in these cases. This step might narrow the dispute to just a few documents. If those documents seem important to the assessment of Judge Roberts, a procedure could be crafted to allow for examination by senators who wish to satisfy themselves that they contain nothing disqualifying.

Rehnquist Fever Stirs Up Speculation About Retirement (WT)

By Charles Hurt

The Washington Times, August 5, 2005

Supreme Court Chief Justice William H. Rehnquist was taken by ambulance to an Arlington hospital yesterday with a fever, but was released promptly.

The brief visit marks his second trip to the hospital in a month and, although much shorter than the two-night stay in July, it still is likely to spawn further speculation that his retirement from the high court could come at any time.

"The chief justice developed a fever today," Supreme Court spokesman Ed Turner said in a brief statement last night. "He was taken to Virginia Hospital Center for evaluation."

Mr. Turner later said the chief justice was evaluated and allowed to go home.

Chief Justice Rehnquist, 80, was diagnosed last year with thyroid cancer and has undergone chemotherapy and radiation treatment. Throughout, the chief justice has maintained a full work schedule and was at the court earlier yesterday.

In July, Chief Justice Rehnquist was admitted to the hospital for two days with the same symptoms.

Then, speculation reached a fevered pitch that he would step down after 33 years on the court and 19 years as chief justice. But instead, he stayed on.

"I want to put to rest the speculation and unfounded rumors of my imminent retirement," he said upon his release from that hospital stay. "I will continue to perform my duties as chief justice as long as my health permits."

If Chief Justice Rehnquist retires, he will give President Bush a second vacancy on the Supreme Court to fill and would begin anew all the political maneuvering on both sides to find a replacement.

The confirmation process for replacing Supreme Court Justice Sandra Day O'Connor, who announced her retirement last month, has been smoother than many expected.

Federal Judge John G. Roberts Jr., her proposed replacement, was applauded by conservatives. But yesterday, the Los Angeles Times reported that he had helped a "gay rights" group win one of the most important Supreme Court cases on homosexuality.

Although Judge Roberts did not write briefs or become deeply involved in Romer v. Evans, which was argued in 1995 and decided in 1996, he did perform pro bono help for Lambda Legal, reviewing filings and helping prepare oral arguments. He also played the role of conservative Justice Antonin Scalia in a mock trial, the Times said.

Judge Roberts was then one of the premier Supreme Court lawyers in the country, working at the Washington firm Hogan & Hartson.

The case, which the homosexual-rights group won on a 6-3 ruling, involved a voter-approved state constitutional amendment in Colorado that barred municipal and local governments from making homosexuals a protected class under civil rights laws.

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Conservatives yesterday downplayed the significance of his involvement.

"The Romer imbroglio is a red herring meant to divide the right," said Sean Rushton of the conservative Committee for Justice. "Roberts was asked by a colleague to represent the conservative view in moot court prep on a pro bono case he did not select and in which he was not centrally involved."

Mr. Rushton added, "It speaks volumes that he was asked to play Scalia."

Rehnquist Treated For Fever (NYT)

By Lawrence K. Altman

The New York Times, August 5, 2005

Chief Justice William H. Rehnquist, who has thyroid cancer, was treated at a hospital yesterday to try to determine the source of a fever, a Supreme Court spokesman said.

The chief justice went home in the early evening without the court or the hospital providing information about the source of the fever.

It was the second time in less than a month that the chief justice, 80, had gone to Virginia Hospital Center in Arlington because of a fever. He spent two nights at the hospital after being admitted on July 12. The cause of the fever in July was not disclosed.

Hours after returning to his home on July 14, the chief justice ended months of speculation about his retirement plans by saying he would continue to serve as long as his health permitted.

The chief justice has been working at the court regularly since his hospitalization in July, said Edward Turner, the court's deputy public information officer.

President Bush has nominated Judge John G. Roberts Jr. to replace Justice Sandra Day O'Connor, who resigned on July 1, two weeks before the chief justice entered the Arlington hospital. Mr. Roberts is preparing for Senate confirmation hearings scheduled to start Sept. 6.

Chief Justice Rehnquist has released only sketchy information about his thyroid cancer, which he disclosed last October. He said that he was being treated with radiation and chemotherapy, and that surgeons had created a hole in his windpipe, a procedure known as a tracheotomy, to ease his breathing.

The chief justice did not say what type of thyroid cancer he had. Most patients with thyroid cancer do not need a tracheotomy. The fact that he had the procedure led many thyroid experts not connected with his case to say that they strongly believed that he had anaplastic thyroid cancer, the most aggressive type of that disease.

On July 14, Chief Justice Rehnquist said that he wanted "to put to rest the speculation and unfounded rumors of my imminent retirement" and that he "will continue to perform my duties as chief justice as long as my health permits."

Rehnquist Has Brief Hospital Stay (WP)

By Dan Eggen

The Washington Post, August 5, 2005

Chief Justice William H. Rehnquist was taken to Virginia Hospital Center in Arlington yesterday after developing a fever, marking the second emergency visit in the past month by the jurist, who has cancer. Rehnquist, 80, who vowed just three weeks ago to keep working "as my health permits," was admitted for "evaluation" and allowed to go home, according to Supreme Court spokesman Ed Turner.

Court officials declined to provide further details. Rehnquist has been undergoing treatment for thyroid cancer since November. He spent two nights at the same hospital last month, also after developing a fever.

His latest visit to the hospital comes amid a fierce political struggle on Capitol Hill over appellate court judge John G. Roberts Jr., who has been nominated by President Bush to succeed retiring Supreme Court Justice Sandra Day O'Connor.

Rehnquist has long guarded his privacy, and has declined to reveal details about his illness. It was diagnosed in October and resulted in radiation and chemotherapy treatment in November.

Doctors not connected to his case have said that fever-producing infections are common in patients who, like the justice, have a surgical opening in their throat to permit breathing. The opening increases the risk of infection in the lungs, bronchial tubes and trachea.

Rehnquist resumed work in December and administered the oath of office at Bush's inauguration. He presided over oral arguments in the spring and has continued to work at the court this summer, hiring three law clerks for the term that will begin in October. Officials said Rehnquist worked at the court earlier yesterday.

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After his July 14 release from the hospital, Rehnquist issued a statement denying any intention to step down. "I want to put to rest the speculation and unfounded rumors of my imminent retirement," Rehnquist's statement said. "I will continue to perform my duties as long as my health permits."

His symptoms and reported course of treatments have led many outside experts to speculate that Rehnquist may be suffering from anaplastic thyroid cancer, which leaves most of its victims dead within a year of diagnosis. But Rehnquist's emphatic statement last month and his continued work at the court have led others to believe the disease may be less aggressive.

Bush's Loyalty Raises Doubts About His Political Judgment (KRT)

By William Douglas

Knight Ridder, August 5, 2005

WASHINGTON - Former Major League Baseball Commissioner Fay Vincent wasn't surprised this week when President Bush supported embattled Baltimore Orioles slugger Rafael Palmeiro after he tested positive for steroids by saying the star first baseman was a trusted friend.

When Bush owned the Texas Rangers in the early 1990s, he was the only team owner to back Vincent in a confidence vote that eventually led to his ouster from baseball's top job in 1992.

"He was very supportive, very outspoken and all alone. I've never forgotten that," Vincent said. "That showed loyalty, an old Bush family trait and an admirable one."

Bush's loyalty to his friends extends from the baseball diamond to the White House, where he's backed beleaguered Deputy Chief of Staff Karl Rove, who's mired in an investigation over who leaked the name of an undercover CIA officer, and to John Bolton, whom Bush appointed ambassador to the United Nations despite Senate reservations.

But the president's quick and unequivocal defense of Palmeiro - who's now the subject of a congressional investigation - has raised questions about whether Bush's loyalty undercuts his political judgment.

"It seems that President Bush is falling into the Nixon trap - his administration can do no wrong. His allies and people who support him can do no wrong," said Robert Dallek, a presidential historian. "Palmeiro is above suspicion, Rove is not to be questioned, John Bolton is a stand-up guy.

"The danger is he divorces himself from public reality, political reality, and it erodes his ability to lead the country," Dallek said.

Several analysts said the Palmeiro situation illustrates that point. Bush took a strong stand against steroids in his 2004 State of the Union address, demanding that major league sports take tougher action to eliminate steroid use by athletes.

"The use of performance-enhancing drugs like steroids in baseball, football and other sports is dangerous and it sends the wrong message - that there are shortcuts to accomplishment and that performance is more important than character," Bush said.

But when news of Palmeiro's positive drug test and 10-day suspension by Major League Baseball became public, Bush almost instantly backed the ballplayer, saying Palmeiro spoke truthfully on March 17 when he wagged his finger at the House Government Reform Committee and emphatically denied ever using steroids.

Bush's fondness for Palmeiro - who recently became only the fourth major league player to slam more than 500 home runs and 3,000 base hits - dates back to when Palmeiro played for the Rangers under Bush's ownership.

"Rafael Palmeiro is a friend. He testified in public and I believe him," Bush said Monday. "He's the kind of person that's going to stand up in front of the klieg lights and say he didn't use steroids, and I believe him. Still do."

Bush's quick defense seemed contradictory to some, in light of his previous tough talk on steroids.

"His defense in this case, so quickly, seemed like an about-face, from taking a stand to a ridiculous statement a fan might make to another fan in a bar," said Richard Lapchick, chairman of the DeVos Sports Business Management Program at the University of Central Florida. "It certainly didn't seem like he thought that one through."

Peter Robey, director of Northeastern University's Center for the Study of Sport in Society, said Bush's defense of Palmeiro dented the president's credibility on an issue that he elevated into the national consciousness.

"He has to be very careful about being consistent," Robey said. "He should temper his support for Palmeiro by coming out with a statement that combines his loyalty to Palmeiro with a drive to rid baseball of steroids. He has to maintain his consistency."

Bush often described himself on the campaign trail as a president who says what he means and means what he says. But Dallek says his consistency sometimes fades when friendship and loyalty arise. He noted that when Rove's name became prominent in the CIA leak investigation, Bush's position on the flap appeared to soften.

In September 2003, Bush had vowed to take "appropriate action" against the culprit. In June 2004, he answered "yes" when asked if he would fire anybody who leaked the agent's name. Last month, his answer was nuanced: "If anyone committed a crime, they will no longer work in my administration."

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It's nothing new for a president to stand faithfully behind staff, family and friends.

- Abraham Lincoln rejected calls to remove Gen. Ulysses S. Grant after his Union troops suffered heavy casualties at Shiloh.

- Richard Nixon held onto aides HR Haldeman and John Ehrlichman long after they had become political liabilities in Watergate, though eventually they were forced to resign.

- Jimmy Carter suffered repeated embarrassments from his brother Billy's intervention into public affairs, but never turned against him.

- The first President Bush stood by to the end as his old Texas friend, Sen. John Tower, fought on futilely against Senate opponents who said his drinking made him unfit to serve as secretary of defense.

"This President Bush is close to his father and much like Ronald Reagan in terms of loyalty," said Karen Hult, a political science professor at Virginia Tech. "Loyalty can get presidents into trouble if they hang on to people too long. But loyalty, on the other hand, can enhance (staff) loyalty and raise morale."

Stephen Hess, a political scientist at George Washington University in Washington, believes Bush's judgment isn't clouded by loyalty. The president had no problem in dismissing Lawrence Lindsey, his economic adviser during the 2000 campaign and the head of his Council of Economic Advisers until his ouster in 2002.

"That showed me he'll carry loyalty to a point - which is part of what presidents do," Hess said.

Of course, Lindsey was let go not long after he estimated publicly that a war in Iraq could cost $200 billion, far above Bush loyalists' line at the time, which may have been seen as disloyal. Iraq war costs will exceed $200 billion in the next year.

How Bush Thinks: Intuition Over Intellect (LAT)

By Jonathan Chait

The Los Angeles Times, August 5, 2005

As somebody who doesn't have the slightest feeling one way or another about baseball star Rafael Palmeiro, I have to say that it seems pretty clear Palmeiro has used steroids. Palmeiro recently tested positive for steroid use. And then there's former teammate Jose Canseco's allegation that he and Palmeiro both used steroids, which is impossible to verify but would seem to explain why Palmeiro's annual home run total nearly doubled after Canseco joined him on the Texas Rangers. None of this is ironclad proof, but it seems the simplest way to reconcile the available data.

President Bush, though, doesn't see it this way at all. When asked about Palmeiro's positive steroid test, Bush — who knew Palmeiro when the president owned the Rangers — replied, "Rafael Palmeiro is a friend. He testified in public and I believe him. He's the kind of person that's going to stand up in front of the Klieg lights and say he didn't use steroids, and I believe him."

This statement perfectly crystallizes Bush's thinking. Facts don't matter to him. What matters is how he feels about the person in question. In 2001, for instance, Bush met with Russian President Vladimir V. Putin, and the two hit it off. As Bush later told Peggy Noonan, Putin recounted to him a story involving a cross given to him by his mother.

"I said to him, 'You know, I found that story very interesting. You see, President Putin, I think you judge a person on something other than just politics. I think it's important for me and for you to look for the depth of a person's soul and character. I was touched by the fact your mother gave you the cross.' " Bush publicly testified of Putin, "I was able to get a sense of his soul."

Personally, I put less weight on the fact that Putin got a cross from his mother, and more on the fact that Putin has smothered Russian democracy by outlawing opposition parties, shut down any remotely skeptical media outlet and subjected his critics to political show trials. Yet this sort of evidence has had barely any effect on Bush. Two years later, he was still praising Putin's desire for "a country in which democracy and freedom and rule of law thrive."

Bush is even apt to apply this particular brand of illogic to his own character. In one of the 2000 presidential debates, Al Gore pointed out that Bush as governor of Texas opposed a measure to expand children's healthcare and instead used the money for a tax cut. The debate moderator then asked Bush, "Are those numbers correct? Are his charges correct?" To which Bush replied, "If he's trying to allege that I'm a hardhearted person and I don't care about children, he's absolutely wrong."

The style of Bush's reply is telling. Gore was trying to make a point about Bush's moral priorities by establishing a series of facts about Bush's behavior. Rather than deny having chosen tax cuts over children's healthcare, or explain his rationale for having done so, Bush changed the subject to more comfortable ground: judging people's hearts. He asked the audience to intuit, based on the way he carries himself, that he is a warmhearted person, and thus to reject out of hand any facts that might clash with this impression.

The point isn't just that Bush refuses to engage with facts he finds inconvenient. (Many fail that test.) It's that Bush rejects reason itself. Reason is a process by which we draw our broader conclusions from an accumulation of specific evidence. When the evidence changes ("Hey, this Putin guy seems to be squelching dissent"), our conclusions can also ("Perhaps he doesn't

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love democracy as much as he said he did!"). Bush, on the other hand, arrives at his beliefs through intuition. His supporters marvel at the unshakeable certainty of his convictions. Well, no wonder.

Philip Stephens: From Acrimony To Misunderstanding (FT)

By Philip Stephens

Financial Times, August 5, 2005

The groans of European policymakers were scarcely audible this week when George W. Bush sent John Bolton to New York as America's new ambassador to the United Nations. To say Mr Bolton has few admirers in Europe is a serious understatement. In my experience, that has never much bothered him. The new ambassador speaks his mind. Hailing as he does from the assertive nationalist school of US politics, Mr Bolton will forever scorn mushy multilateralism.

Yet the response among allies to Mr Bush's decision to override a recalcitrant Senate and press ahead with the appointment was curiously muted. You could say the decision had been widely discounted. A cynic would add that official Europe is, anyway, on vacation. There is, though, something else. The appointment is seen as yesterday's story, a codicil to a troubled phase in transatlantic relations now left behind.

You have to measure the gain against the loss, one senior European told me. As the official in charge of arms control and weapons proliferation issues at the state department, Mr Bolton had wielded considerable and, in European eyes, invariably malign influence. Condoleezza Rice, the new secretary of state, had understood that. At the UN, the expectation (perhaps hope?) is that Mr Bolton will implement policy rather than shape it. It is the policy that matters.

Here, albeit sometimes grudgingly, Europeans admit real changes since Mr Bush's visit to Brussels at the start of his second term. Another sign of that shift came this week with the administration's redefinition of the effort to defeat al-Qaeda inspired terrorism. Talk of a war on terrorism, the leitmotif of Mr Bush's policy after September 11 2001, has been quietly shelved. Senior officials now speak of a struggle against violent extremism and the enemies of freedom.

What difference do a few words make? Potentially a lot. Mr Bush's phrase framed the threat from terrorism in entirely military terms. The words were too easily interpreted as signifying a conflict with Islam rather than with the terrorists seeking to expropriate that faith. The new language points to a broader strategy encompassing diplomacy, politics and economics as well as security. With luck it could provide the basis for a much-needed strategic dialogue with both Europe and moderate Islam.

There have been other shifts. Mr Bush's stance on Africa and climate change at last month's Gleneagles summit fell far short of European aspirations. Yet even France's Jacques Chirac acknowledged that the US had moved. The same solicitousness was visible in the resolution of a dispute about the role of the International Criminal Court in Darfur and in stronger US support for European diplomacy in Iran.

Elsewhere there have been changes in posture if not policy. Ms Rice's frequent visits to the Middle East underline a determination to make a success of Israel's withdrawal from Gaza. Washington's recent confrontation with a brutal regime in Uzbekistan points to a new sensitivity to charges of American double standards around the world.

None of this has been born of a benevolent altruism in Washington. America's re-engagement with its allies has much more to do with a blunt reassessment of its national interest. The lesson of Mr Bush's first term, and above all, of the bloody chaos in Iraq, is that it is dangerous to exercise power without legitimacy.

There has been a rethink, too, on the European side, not least because of the capacity of transatlantic divisions to fracture European solidarity. "Old" and "new" Europe have become too much of a reality.

What we have now is an absence of transatlantic acrimony and, in many areas (Iraq is an important exception), a predisposition towards co-operation rather than confrontation. That is a big improvement. But it would be a mistake to say it adds up to a reinvigoration of the old alliance. For much of the time Americans and Europeans still look at the world from different ends of the telescope.

The mutual misunderstanding was evident at a recent meeting of senior policymakers and scholars in Venice, hosted by the Council for the United States and Italy. To many of the Europeans present, Iraq still testified to the arrogant unilateralism of the sole superpower. Peering through a different lens, Americans saw a museum in which Europe's political leaders are at once unable to deliver prosperity to their own citizens and unwilling to share the burden of global security.

Behind both analyses lies the reality that Europe is no longer at the centre of America's interests and that Europe's survival no longer rests on a US security guarantee. In this new strategic environment, Europeans crave the institutional order that comes with international law; Americans look out on a Hobbesian world in which US power is the only effective guarantor of western values.

Yet, as Simon Serfaty, a scholar at the Washington-based think-tank CSIS, shows in an excellent new book on the transatlantic relationship*, the one remains dependent on the other. Europe's ambitions for order rely on American power. Washington's necessary quest for legitimacy demands European partnership. The debate, Mr Serfaty rightly argues, should

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never have been about US power and European weakness but about how their combined strengths can contribute to global order.

Here, though, on the central question of how to marry power with legitimacy, we are far from a new consensus. Vital though it is, the practical transatlantic co-operation we have seen in recent months masks the underlying clash of strategic cultures. Many (not all) of the old shared instincts have been lost.

Mr Serfaty says the alliance can and should be rebuilt around overlapping interests and compatible, if no longer converging, values. The relationship will never reclaim the intimacy of the cold war era but it can be reinvented as a partnership of action. I find this analysis hard to fault. Yet, looking around at the quality of political leadership on both sides of the Atlantic, we should live in hope rather than expectation.

*The Vital Partnership, Rowman & Littlefield

Foreign Policy? Just Get Tips From The Cabby (NYT)

By Clyde Haberman

The New York Times, August 5, 2005

A WASHINGTON man who has just taken a job in New York could probably use friendly advice about getting along with his new neighbors.

After all, it can't be easy for John R. Bolton, freshly arrived to represent President Bush at the United Nations.

Many of his fellow diplomats are not likely to embrace him, given the harsh remarks he has made about the United Nations. When Secretary General Kofi Annan welcomed the new American ambassador the other day, he smiled through teeth so gritted that he may need an orthodontist.

As for other New Yorkers, they don't collectively think much of Mr. Bolton's boss, judging from the last presidential election.

But despite negative stereotypes and jokes, this city tries to welcome newcomers. Bear in mind, too, what Gov. Bill Richardson of New Mexico told us a few months ago about the ambassador's job, which he held under President Bill Clinton. Don't just hang out in diplo-land, he advised Mr. Bolton. "You have to engage the city," he said.

In that spirit, we'd like to offer Mr. Bolton some tips on possible places to visit and people to meet.

For instance, he might want to get together with the developer Bruce C. Ratner and also with critics of Mr. Ratner's plan to build a sports arena in Downtown Brooklyn alongside skyscrapers that may rise 60 stories.

Mr. Bolton could advise them on acceptable heights for buildings. He knows a thing or two on that score. It was he who once said of the United Nations: "The Secretariat building has 38 stories. If you lost 10 stories today " - and here he sliced the air with his hand to show how to do it - "it wouldn't make a bit of difference." The man is a born urban planner.

Speaking of developers, the ambassador is probably destined to cross paths with Donald Trump. Several years ago, Mr. Trump annoyed Mr. Annan and some other prominent East Siders by constructing a huge residential tower that opponents feared would overwhelm the United Nations campus.

Despite his stated preference for lopping off the tops of tall buildings, the ambassador might hit it off with Mr. Trump. As evidence, we have the Senate testimony of a former colleague of Mr. Bolton who described him as "a kiss-up, kick-down sort of guy." We don't know about the kiss-up part. But with his overworked "you're fired" routine, Mr. Trump qualifies as a kick-down sort. In Mr. Bolton, he could have the beginning of a beautiful friendship, worthy of Rick and Captain Renault.

To shift gears, don't forget that New York is America's news media capital.

This week, Russia announced that it would bar journalists from ABC News because of unhappiness with their reporting, an action that amounted to an expulsion order. ABC News has its headquarters in New York.

This may be a moment for Mr. Bolton to step up to the plate. Considering his own relationship with the news media, he may already be thinking of a possible retaliatory measure - like suggesting that ABC News also be tossed out of New York.

WHEN he has time, Mr. Bolton could go to Yankee Stadium. Mr. Richardson used to take in ballgames with other diplomats. The new ambassador might especially enjoy meeting George Steinbrenner, the Yankees owner. The two men have things in common.

Mr. Bolton has been accused of misusing intelligence reports to overestimate Syria's ability to acquire unconventional weapons. Similarly, Mr. Steinbrenner has misused scouting reports to overestimate the abilities of a series of ineffectual pitchers. The two men, evidently, share a fondness for faith-based analysis.

No doubt, the ambassador will meet the mayor, Michael R. Bloomberg. Unlike some of his predecessors, Mr. Bloomberg does not have a clearly articulated foreign policy. He is openly pro-Israel, but in general he avoids pronouncements on foreign affairs. Mr. Bolton may spot an opportunity to leave his mark at City Hall.

Perhaps he will learn the city simply by walking it. Foreign policy abounds on sidewalks.

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To list a few street names, there is Yitzhak Rabin Way (Israel), Nelson and Winnie Mandela Corner (South Africa), Kudirat Abiola Corner (Nigeria), Brothers to the Rescue Corner (Cuba), United Jerusalem Place (Israel again, though Palestinians have other ideas) and Señor Wences Way (just testing you).

Should you see Mr. Bolton on a stroll, remember to be nice. Never mind this town's prevailing politics. Give him a wave while you're at it. Just use all five fingers, will you?

Democrats See Advantages In Unconventional Candidates (WSJ)

By John Harwood

The Wall Street Journal, August 5, 2005

DEMOCRATS SEE Ohio near-miss as model for unconventional candidacies.

After Iraq vet Hackett's 48% special election showing in solid Republican district, Democratic campaign chief Emanuel says "recruiting outside the formula" is key to tapping voter discontent. He touts an Indiana sheriff, a North Carolina football star, and a California pilot in 2006 House races. But Republicans, who triumphed with late spending surge, retain big cash advantage.

"This race was a microcosm for 2006 and ... Republicans won," their House campaign spokesman says. Senate Democrats' committee, however, holds $15 million to $8 million cash edge over Republican counterpart. Hackett now mulls challenging Republican Sen. DeWine next year. Republicans court former Ameritrade chief operating officer Pete Ricketts, who announced his departure yesterday, to challenge Nebraska Democratic Sen. Nelson.

Republican governors group outraises Democrats', $9 million to $5.3 million, in first half 2005.

BUSH SEEKS credit for a stronger economy.

After signing the energy bill in Albuquerque, N.M., Monday, he will join economic advisers Hubbard and Bernanke Tuesday to assess conditions. Fears of a "soft patch" fade, as data on industrial output, capital spending and services portray an economy "firing on all cylinders," says UBS economist Larry Hatheway.

Still, wage increases lag behind despite low unemployment, and high gas prices still damp consumer spirits. A break in house-price increases remains a risk; mortgage rates inch up but stay low. Today's July jobless report will give more clues to the labor market's health.

PARTIES JOCKEY over impact of CIA leak.

Democrats two years ago sought a damage assessment over the outing of Valerie Plame, but Congress still hasn't received one. Such assessments are routinely done for unauthorized disclosures of an agent's identity.

The National Counterintelligence Executive has said the Central Intelligence Agency took steps to mitigate real or potential damage. A CIA spokeswoman declines to comment amid the investigation by special prosecutor Patrick Fitzgerald, who has probed the role of Bush strategist Rove and others. Democrats, who would benefit from showing the leak was costly, say Republicans want to play it down.

A CBS poll shows just 28% of Republicans believe the Bush administration is "telling the entire truth" about the leak.

TICKET TO RIDE: Just-passed highway bill repeals three-decade-old ban on commercial trucking licenses for diabetics. Drivers who use insulin will be medically evaluated on a case-by-case basis. American Diabetes Association Chairman Lawrence Smith hails the change as an antidiscrimination measure with "profound effect."

BIRTHDAY BOY: Treasury Secretary Snow, turning 66, swore in his undersecretary for international affairs, Tim Adams, Tuesday by the pool at the Copacabana Palace Hotel in Rio de Janeiro. Adams used a Portuguese Bible; champagne and cigars followed.

MORALE BOOSTER: Secretary of State Rice visits the Millennium Challenge Corp., under attack for implementing the president's foreign-aid program and still waiting for the White House to replace departing boss Applegarth. Rice thanks staffers for their work and says, "I know there are always bugs to be worked out."

BETTER DAYS?: After high-profile defections, the AFL-CIO seeks strength in vote next month by California Nurses Association on joining the federation. Two-thirds of the 65,000 members would have to approve; union leaders back the move as they battle Gov. Schwarzenegger over hospital-staffing levels.

CONGRESS PREPARES to raise deposit-insurance limits.

The House has tried for years to boost the $100,000 ceiling on insured bank deposits. With Senate Banking Chairman Shelby no longer resisting, Virginia financial consultant Bert Ely gives good odds of success.

Shelby plans to move compromise legislation, backed by colleagues Enzi of Wyoming and Johnson of South Dakota, that would index deposit-insurance increases to inflation. A separate plan to boost coverage of tax-deferred retirement savings accounts to $250,000 may be pared down.

Banking lobbyists predict Bush won't veto deposit-insurance increase, despite past opposition.

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MINOR MEMOS: Cheney's trip to services for Saudi King Fahd represents his first overseas funeral as vice president....Former South Carolina Sen. Hollings, in "The American Prospect," says U.S. manufacturing "is so outsourced that an incident with China would cause us to cancel Christmas."

White House Broadens New Fed Chief Search (DMN)

By Danielle Dimartino

The Dallas Morning News, August 5, 2005

Investors woke Thursday morning to the surprising news that the White House is said to be broadening its search for a replacement for Federal Reserve Chairman Alan Greenspan, who is due to retire in January, according to a report in the Wall Street Journal.

The three candidates most often cited to fill the post include Ben Bernanke, former Fed governor and current chairman of the President's Council of Economic Advisers. Martin Feldstein of Harvard University and R. Glenn Hubbard of Columbia University have been the other two leading candidates.

In a recent report, Goldman Sachs chief economist Bill Dudley said Mr. Bernanke would be the most appealing to market participants.

"His views are well known; he is judged as highly knowledgeable about monetary policy; and he believes in increased transparency and inflation-targeting," Mr. Dudley noted.

But according to the Journal report, though the leading three candidates have not been ruled out, concerns persist about Mr. Greenspan's successor's ability to function within the financial markets and use business and markets contacts to move beyond the confines of economic data to set monetary policy.

The decision on Mr. Greenspan's replacement could be one of the most important of President Bush's decisions while in office.

Mr. Greenspan, who is 79 and started at the Fed in 1987, has raised the profile of the Fed chairmanship to new levels during his 18 years at the Fed and there are worries that his departure could make for an even more nervous marketplace than that typically associated with the changing of the guard at the nation's central bank.

"Historically, there is some evidence that Fed transitions are associated with more volatile financial markets," Mr. Dudley added. "The Treasury bond, stock and currency markets have tended to be more volatile during the first year of the last three Fed chairman's terms compared to their overall tenures."

Among the alternate candidates mentioned in the Journal article is former Bush advisor Lawrence Lindsey. The two people said to be leading the search for Mr. Greenspan's replacement are Vice President Dick Cheney and National Economic Council Director Allan Hubbard.

There is some speculation that Mr. Greenspan's will stay on past Jan. 31, as is allowed if a replacement has not been found or the Senate approval process remained incomplete, but those close to the Fed chairman have said in recent weeks that he has every intention of stepping down as planned at the end of January.

Cell Lines, Moral Lines (WP)

By Charles Krauthammer

The Washington Post, August 5, 2005

It is a good idea to expand federal funding of embryonic stem cell research. It is a bad idea to do that without prohibiting research that uses embryos created specifically to be used in research and destroyed.

What is deeply troubling about the Castle-DeGette stem cell bill, which passed the House and will soon roar through the Senate, is that it combines the good with the bad: expansion with no limit.

The expansion -- federal funding for stem cells derived from some of the thousands of embryos that fertility clinics would otherwise discard -- is good because the president's sincere and principled Aug. 9, 2001, attempt to draw a narrower line has failed. It failed politically because his restriction -- funding research only on stem cells from embryos destroyed before the day of that speech -- seems increasingly arbitrary as we move away from that date.

It failed practically because that cohort of embryos is a diminishing source of cells. Stem cells turn out to be a lot less immortal than we thought. The idea was that once you created a line, it could replicate indefinitely. Therefore you would need only a few lines.

It turns out, however, that as stem cells replicate, they begin to make genetic errors and to degenerate. After several generations some lines become unusable.

In addition, there has been a new advance since 2001. Whereas stem cells in those days had to be grown on mouse feeder cells, today we can grow stem cells on human feeder cells. That makes them far more (potentially) therapeutically usable.

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For both of these reasons, the August 2001 policy is obsolete. Accordingly, Congress will soon federally fund research from embryos newly created in IVF clinics.

It simply will not do for opponents of this expanded research to say that the federal government should not force those Americans who find this research abhorrent to support it with their taxes. By that logic we should never go to war, or impose the death penalty, except by unanimous consent of the entire population. We make many life-or-death decisions as a society as a whole, without being held hostage to the sensibilities of a minority, however substantial and sincere.

Nonetheless, Congress's current vehicle for expanding this research, the Castle-DeGette bill, is extremely dangerous. It expands the reach for a morally problematic area of research -- without drawing any serious moral lines.

The moral problem for that majority of Americans who, like me, don't believe that a zygote or blastocyst has all the attributes and therefore merits all the rights of personhood, is this: Does that mean that everything is permissible with a human embryo?

Don't they understand the real threat? It is not so much the destruction of existing human embryos -- God knows, more than a million are already destroyed every year in abortions, and thousands are doomed to die in fertility clinics. A handful drawn from fertility clinics where they will be destroyed anyway alters no great moral balance.

The real threat to our humanity is the creation of new human life willfully for the sole purpose of making it the means to someone else's end -- dissecting it for its parts the way we would dissect something with no more moral standing than a mollusk or paramecium. The real Brave New World looming before us is the rise of the industry of human manufacture, where human embryos are created not to produce children -- the purpose of IVF clinics -- but for spare body parts.

It is this creation-for-the-purpose-of-destruction that needs to be stopped -- and it does not matter whether that creation occurs by joining sperm and egg (as the Jones Institute in Virginia has already done) or by cloning a cell from an adult, turning it into a human embryo and then destroying it for its stem cells.

Both in my writings and as a member of the President's Council on Bioethics, I have advocated this dual policy: Expand federal funding of stem cell research by using discarded embryos, but couple that with a firm national ban on creating human embryos for any purpose other than the birth of a human baby. We finally have a chance to enact this grand compromise -- but only if a majority of senators insist that the welcome expansion provided in the Castle-DeGette bill, which will yield a near endless supply of embryonic stem cells, cannot take place unless the door is firmly closed now, while we still have the chance, on the manufacture of human embryos for research and destruction.

Ignorance Is Bliss; Sometimes It's Policy (WP)

By Eugene Robinson

The Washington Post, August 5, 2005

The ranch at Crawford hardly compares with the Forbidden City, but George W. Bush has something in common with the Ming emperors of China: He seems determined to make his great nation less ambitious and more ignorant.

He wouldn't see it that way, of course, but the emperors didn't see it that way either. And I don't know how else to explain policies and pronouncements that make the quest for knowledge conditional on politics. That is a prescription for decline.

In the early 1400s the Ming emperor Zhu Di made China into the world's leading maritime nation, sending huge fleets on missions of trade and exploration as far as the Swahili coast of Africa. It should have been just a matter of a few years before Chinese sailors discovered the Americas. But Zhu Di's successors, influenced by court politics, called home the fleets and forbade them to sail again, forfeiting the riches of the New World -- and five centuries of global domination -- to an underdeveloped backwater called Europe.

I guess it's a general rule of political dynasties, in China as well as in Texas, that the blood thins with successive generations.

Examples? Well, there's the way Bush insists on hamstringing American scientists who are trying to explore the potential medical benefits of therapies involving embryonic stem cells.

You are excused if your eyes glaze over at the mention of the words "stem cells," but it's enough to know that Senate Majority Leader Bill Frist, in a rare display of backbone, has challenged the president over his suffocating restrictions on federal funding for stem cell research -- and also that the fight is akin to arguing over what kind of lock to put on the barn door while the horse frolics in the next county.

While our leaders disagree, stem cell technology is being developed and advanced in laboratories all around the world, especially in Asia. South Korean researchers have arguably pushed farther than anyone else. At the moment it's still a long shot that embryonic stem cells will prove to be a panacea, but if they do it's increasingly likely that the key discoveries will be made elsewhere -- not in the United States.

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And there's no real reason for Bush's position except politics. All that Frist and other reasonable people want is to be able to experiment on surplus embryos from fertility clinics, embryos that otherwise will be destroyed. But the radical pro-life lobby won't be reasonable, so Bush does his best to keep the United States on the sidelines of what is, at the moment, the most exciting field of medical research.

Then there's this administration's almost comical insistence that the firm scientific consensus on global climate change is some kind of mass hallucination. "What global warming?" they ask, as mean temperatures rise, Arctic ice melts, tropical diseases march north and hurricanes rake poor Florida in swarms.

The much-maligned Kyoto treaty isn't the point. Treaty or no treaty, it looks as if sooner or later the world is going to have to find a way to prosper without spewing so much heat-trapping carbon dioxide into the atmosphere. Other nations are busy trying to develop technology and coping mechanisms to prepare for that day. When it comes, we'll be at or near the back of the line.

Maybe we'll line up all our obsolete SUVs along the coast to try to hold back the rising sea.

To round out the trifecta, the other day Bush reiterated his support for teaching "intelligent design" in America's schools along with evolution, as a way of exposing students to different points of view. This really borders on madness.

Intelligent design isn't a scientific theory at all; it's a matter of faith -- Creationism 2.0. Faith is a different kind of truth. Charles Darwin's landmark discovery of evolution, with a few minor modifications and additions over the years, has proved to be one of the sturdiest and most unassailable scientific theories of all time. To the extent that science can say anything is true, evolution is scientifically true. Done. Settled. As Walter Cronkite used to say, "That's the way it is."

To teach American children in science class that intelligent design is an alternative explanation of how birds, anteaters and people came to be birds, anteaters and people is simply to make American children less well educated than children elsewhere.

By all rights, we ought to remember the Ming dynasty for discovering America; instead, we think of gorgeous pottery but not much else. China's current leaders seem determined not to make the same mistake.

Crossing The Stem Cell Line (LAT)

By David Gelernter

The Los Angeles Times, August 5, 2005

I would love to join Senate Majority Leader Bill Frist and many other conservatives who have decided to support federal funding for wide-ranging research in a hugely promising new area — embryonic stem cells. I'd love to, but I can't.

Stem cells can be made to generate nearly any type of human tissue, including types that might cure disease and save lives. They are taken from human embryos that are destroyed in the process. But the results might help alleviate horrific human suffering.

In 2001, the Bush administration sponsored legislation to allow federal funding of stem cell research. But funded research was restricted to the stem cell colonies in existence at that time. Frist and others would expand funding to cover new stem cell lines created from frozen embryos left over from fertility treatments, embryos that would otherwise be discarded. (It's possible that new techniques could yield stem cells without destroying embryos, but those techniques are still experimental.)

Why would anyone oppose Frist's new position? Because embryos are potential infants just as infants are potential adults. The human embryo is a tightly closed bud that will bloom one day if we let it. The difference between bud and blossom is only luck and time. If it seems OK to destroy embryos but not full-term fetuses, that's only because embryos look less human. The distinction rests not on justice but on squeamishness.

But this isn't my reason for opposing expanded stem cell funding. I am willing, in principle, to lean on a distinction that is made in the Talmud between "potential" life (such as embryos) and actual life outside the womb. Both must be protected; but actual life ranks higher. If there were nothing more to consider, I'd be willing to use doomed embryos to search for lifesaving new technologies. Reality often forces us to choose between imperfect alternatives.

But to go down that road, I must be able to trust the American public to draw a line and forbid science to step over it.

The doomed frozen embryos Frist is eyeing were created with no thought of mining them for stem cells. But the obvious next step might be to let scientists breed embryos specifically for research, or buy them from dealers. To support Frist, you must be sure that Americans will never permit these ghastly next steps.

Why "ghastly"? Because we can never permit the creation of human life with the intent of using and then killing it. We have no right to construct a world in which two kinds of human embryo exist, one immeasurably precious and the other designed to be cut up for parts. We'd be turning "all men are created equal" into the ugliest kind of lie. (The Talmud, for its part, never allows potential life to be destroyed without a specific, powerful reason.)

Can we trust the American public to forbid the creation of disposable human life? Can we trust ourselves to forbid the premeditated destruction of weak and helpless potential human beings?

No, and the Terri Schiavo case proves it.

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Schiavo was weak, helpless, gravely brain-damaged, "dimly wakeful," unable to feed herself — but not dying. Her parents loved her, and she (they believed) continued to love them.

Yet various courts ruled at her husband's request that her life wasn't worth living. And so her caregivers were ordered to stop feeding her. "Even a chip of ice to relieve the pain of a parched mouth and throat was judicially prohibited," wrote Dr. Paul McHugh in Commentary magazine, "and local sheriffs were alerted to prevent it." She died slowly of dehydration. Surveys suggested that the American public didn't care to interfere, and disapproved of politicians who tried to.

CAN THIS same public be trusted to tell the biomedical establishment "this far and no further"? Of course not. When hard moral judgments were required, whatever the "experts" said was good enough for us. We refused to interfere and draw a line. And so we have no right to allow science to set off down this road.

I have permanent, debilitating injuries that stem cell research might conceivably help. But rejecting research that might help you personally is dirt-easy compared to rejecting research that might help a suffering family member. When Americans campaign for unrestricted stem cell research out of despairing love, I can't blame them any more than I can blame Terri Schiavo's parents for pleading for their daughter's life.

How much do our moral scruples really matter to us in the end? An agonizing question.

But I can't line up with Frist, much as I would like to.

The Duplicate Dog (NYT)

The New York Times, August 5, 2005

The cloning of a dog by South Korean scientists is notable mostly for its display of virtuosity and persistence by the research team. Over the past decade, researchers around the world have cloned a number of mammals, including sheep, mice, cows, goats and pigs. But dogs' reproductive physiology was just too idiosyncratic for easy manipulation. So when a South Korean team announced this week that it had cloned an Afghan puppy, the feat evoked awe and admiration from other researchers.

It wasn't easy. A team of about 15 people worked for nearly three years to extract eggs and implant more than 1,000 cloned canine embryos in surrogate mother dogs. They got only three pregnancies, and only one dog that survived into healthy puppyhood. Although the work demonstrated that dogs could indeed be cloned, that's a horrendously poor success rate. Some dog lovers may be salivating for the chance to clone a favored canine, but that prospect seems far off given the arduous nature of the task. An American company, Genetic Savings & Clone, has spent seven years and $19 million in a quest - fruitless so far - to clone a dog.

The Korean team hopes that cloned dogs may someday be used to study the progression of diseases that are similar in dogs and humans and the use of stem cells to cure them. Conservationists hope that cloning may help them preserve some rare dog species from extinction.

But the larger lesson here is that the Koreans are truly a force to be reckoned with in cloning and stem cell research. This team was the first to clone human embryos and extract stem cells from them, and now it is the first to clone a dog, perhaps the most difficult feat in mammalian cloning. The center of gravity in cloning and stem cell research may be shifting abroad while American efforts are slowed by taboos and financing restrictions.

G.O.P. Wants More Details Of Corzine Aid (NYT)

By David Kocieniewski

The New York Times, August 5, 2005

TRENTON, Aug. 4 - Saying that New Jersey cannot endure another governor hobbled by personal entanglements, New Jersey Republican leaders called Thursday for Senator Jon S. Corzine to disclose any other financial dealings he may have had with a union leader to whom he gave $470,000.

Their statements came after news reports that in 2002 Mr. Corzine provided a $470,000 mortgage to Carla Katz, president of Communications Workers of America Local 1034, which represents 9,000 state workers and will be among the labor groups lobbying the next governor for billions of dollars in wages and benefits.

In an interview with The New York Times on Wednesday, Mr. Corzine, the Democratic candidate for governor, said he and Ms. Katz were dating at the time he made the loan. He forgave the debt in December 2004, several months after they ended their relationship, he said.

Mr. Corzine and Ms. Katz said this week that their past relationship and financial dealings would not prevent them from representing their constituents, but they declined to say whether they had other financial interactions.

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Mr. Corzine's Republican opponent in the November election, Douglas R. Forrester, called that response inadequate, saying New Jersey voters had the right to know whether their official duties as governor and union leader might be swayed by their personal and financial relationship.

"I think they should disclose everything, especially if there is any ongoing financial arrangement," he said. "It suggests an all-too-familiar pattern in New Jersey of public officials entangling themselves in relationships that are not private matters but in direct conflict with the public interest."

While Mr. Forrester approached the topic rather gingerly, saying that he respected their right to privacy, other Republicans were more pointed in their criticism of Mr. Corzine.

After months of criticizing the senator for his connection to an assortment of Democratic power brokers and donors, the state Republican chairman, Tom Wilson, invoked the specter of former Gov. James E. McGreevey who resigned after admitting an extramarital affair with Golan Cipel, a man he had appointed a security adviser.

"A year ago Jim McGreevey announced his resignation, saying he wouldn't allow people to use their personal knowledge of him to threaten the workings of state government," Mr. Wilson said in a written statement. "It seems to me that one year later we can simply substitute the name Jon Corzine for Jim McGreevey and Carla Katz for Golan Cipel. This latest revelation indicates a kind of personal relationship that might again subject a governor to the same kinds of pressures and conflicts all over again."

The discussion of the implications of Mr. Corzine's financial relationship with Ms. Katz dominated the day's events in a campaign that has maintained a surprising intensity during the usually quiet summer months.

Political analysts say it is unclear whether the issue will attract New Jersey voters.

"This is one of those stories people are likely to pay attention to because it's like a TV sitcom," said Ingrid Reed, a professor at Rutgers University's Eagleton Institute of Politics. "There's a girlfriend. A wealthy person. She's powerful, he's likely to be powerful. It's the kind of thing people can identify with. But the fact that it's personal may also make it easier for Corzine to explain, too."

After delivering a speech about domestic security in Jersey City on Thursday, Mr. Corzine found himself facing questions from more than a dozen reporters pressing for more details about his relationship with Ms. Katz.

The senator again declined to say whether he had given her money in addition to the mortgage, but he sought to assure voters that, if elected, his administration would not hesitate to negotiate aggressively with labor unions.

"I don't think there's a conflict," Mr. Corzine said. "The relationship has ended."

Ms. Katz, meanwhile, received support from an assortment of union leaders. Although some labor experts said the money Ms. Katz accepted from Mr. Corzine might create the appearance of a conflict of interest, Candice Johnson, a spokeswoman for the union's national organization, said union officials were not troubled.

"There's nothing illegal or unethical about it," she said. "They had a personal relationship a few years ago. But it's over and she has proven herself a very effective union leader."

Some New Jersey labor leaders said that their confidence in Ms. Katz also remained unshaken.

"It's a personal relationship she had with Jon Corzine, and the decisions we make at the bargaining table have nothing to do with personal relationships," said Hetty Rosenstein, president of Local 1037 of the union. "Carla has been aggressive in representing her members for more than 20 years. There's never been any question about her loyalties. And anyone who knows her knows that she would never let anything distract her from that cause."

Senator Defends Loan To Union Official (WP/AP)

By Associated Press

The Washington Post, August 5, 2005

TRENTON, N.J., Aug. 4 -- Senator and gubernatorial candidate Jon S. Corzine lent the president of New Jersey's largest state workers union $470,000 when the two were romantically involved three years ago, then forgave the debt last year.

Corzine defended the transaction, first described in reports Thursday in the Newark Star-Ledger and the New York Times.

Corzine turned the 10-year mortgage into a gift to Carla Katz last December, according to court documents. The move came a week after he kicked off his campaign for governor and several months after the two stopped dating.

Katz, 46, is president of Local 1034 of the Communications Workers of America. The union local represents 9,000 state workers.

Corzine's involvement with Katz is significant because the two could find themselves on opposite sides of the bargaining table if he wins the November election. Corzine is a Democrat who was elected to the Senate in 2000, and he announced in December that he would run for governor.

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The Republican candidate for governor, businessman Doug Forrester, said Corzine's gift to Katz "suggests an all-too-familiar pattern in New Jersey of public officials entangling themselves in relationships that are not private matters but in direct conflict with the public interest."

Speaking after a news conference Thursday on an unrelated matter, Corzine said the loan would not hamper his administration's ability to negotiate with the union.

"I don't think there's a conflict," said Corzine, 58. "The relationship has ended."

The mortgage was found among public documents and land records filed with Hunterdon County. Katz was living in a more than 200-year-old home at the time of the loan and used the money to buy out her ex-husband.

Corzine, a former chief executive of Goldman Sachs, is estimated to have personal wealth of as much as $261 million. He split from his wife of 33 years in 2002.

In separate interviews with the two newspapers, Katz and Corzine both said they were confident the matter would not compromise their constituents in negotiations.

Corzine, who met Katz in 1999 during his Senate campaign, declined to discuss terms of the loan or details of his relationship with her. The Democrat said he forgave the loan after his romance with Katz ended in July 2004 because she did not have the means to repay it.

He declined to say whether he had given Katz or any of her relatives any other financial help.

"I'm a public official, but I also have a private life," Corzine said.

Katz did not disagree with Corzine's account of the mortgage but declined to discuss the matter with the newspapers.

Inside Politics (WT)

By Jennifer Harper

The Washington Times, August 5, 2005

Klayman revisited

Larry Klayman — longtime foe of former President Bill Clinton, Judicial Watch founder and former Republican candidate for the Senate seat of Florida — is now a practicing barrister. Mr. Klayman has joined the Cleveland-based law firm Walter & Haverfield LLP and will manage the firm's branches in the District and Miami.

But he's still hungry. The tenacious Non-Friend-of-Bill, who filed 80 lawsuits against Mr. Clinton and former first lady Sen. Hillary Rodham Clinton, New York Democrat, from 1994 to 2004, is armed and ready.

"I remain in the game, and will continue to do work in the public interest," Mr. Klayman said yesterday.

"I am now a private lawyer available to take cases that will help the public. Going into the private sector also will enable me to remain politically active," he continued. "And, by the way, I am supporting Katherine Harris in her bid for the Senate seat from Florida."

Mrs. Harris is running for the seat now held by Democratic Sen. Bill Nelson. Mr. Klayman left Judicial Watch in September to run himself, but lost to fellow Republican — and eventual victor — Sen. Mel Martinez.

Oh Bob, Bob, Bob ...

And speaking of Katherine Harris and former President Bill Clinton's advisers, a bombastic broadcast culture moment came at precisely 4:50 yesterday afternoon. During an appearance on CNN's "Strategy Session," syndicated columnist and Plamegate regular Robert Novak cursed with vigor at Clinton campaign guru James Carville, flung off his microphone and then stormed off the set.

And yes, the barnyard obscenity he used made it onto the air.

The pair had been discussing Mrs. Harris' recent accusations that a magazine had doctored photos of her to yield an unattractive outcome. Was Mr. Novak simply defending her honor?

Most think he was peeved because another round of Valerie Plame questions was imminent — by virtue of the fact that apologetic CNN host Ed Henry later told viewers, "I had told him in advance that we would ask him about the CIA leak investigation. Hopefully, we'll be able to ask him about that in the future."

CNN wasn't pleased.

Spokeswoman Edie Emery called the longtime CNN commentator's behavior "inexcusable and unacceptable," adding that Mr. Novak had apologized to CNN, and the network was apologizing to viewers.

"We've asked Mr. Novak to take some time off," she said.

Judge grudge match

Will they duke it out or play nice? A slim majority of Americans say the Supreme Court confirmation hearings for Judge John G. Roberts Jr. will result in a brawl between Republicans and Democrats, according to a Gallup Poll released yesterday.

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Just more than half — 51 percent — said the hearings would spark a "major fight that would drag on for a long time," and 42 percent said it would be "a relatively easy process." Seven percent said they had no opinion in the matter.

The survey of 1,006 adults was taken from July 22 to July 24.

Grasping for straws

Newsweek writers Richard Wolffe and Holly Bailey have connected enough dots to decide that President Bush is worried about the controversial, ultra-violent "Over There," a 13-part dramatic series about the Iraq war on the FX channel.

"The art-imitates-real-life idea is breaking new ground in both TV and politics, posing a curious question for President Bush and his aides: Could 'Over There' affect the already-fragile poll numbers on Iraq?" they write in the Aug 3 issue.

Please, Mr. Wolffe, Ms. Bailey. Despite huge media hubbub, only 4 million tuned in for the show's debut last week, according to Neilsen. Frankly, it's a surprise the pair didn't conclude that Mr. Bush was worried about Al Gore's new cable channel, too.

But Newsweek, apparently, can still base a story on a single anonymous source.

"According to one senior Bush aide, the president has voiced a strong interest in the series but hasn't yet seen it for himself," they write. "Bush quizzed his aides last week about how the show was produced and how faithful it was to the conflict. 'Does it really depict what is going on? Do you get a sense of it?' Bush asked. In fact, just a handful of senior aides have seen the show and report it to be 'riveting' and 'pretty vivid.' But the senior aide says, "We don't have an official opinion yet. I don't think enough people have seen it.' "

New Jersey, Part 1

Although one press report this week notes that former New Jersey Gov. James McGreevey is living quietly in a one-bedroom apartment in Rahway, N.J., the man who resigned from office in the name of his own homosexuality may have some excitement just around the corner.

Memoirs, of course.

According to Radar Magazine, Mr. McGreevey is "in the final stages of negotiating a mid-six figure deal" with publishing lioness Judith Regan, whose Harper Collins imprint, Regan Books, is also home to Bernard Kerik, Jenna Jameson, Jose Canseco and Frank Gotti Agnello.

"It will be especially interesting to hear what McGreevey has to say about reports that it was his former homeland security aide Golan Cipel's threats to go public about their affair that led the governor to step down and come out to his family," the magazine noted yesterday, adding that Mr. McGreevey and Mr. Kerik "could get together and share some laughs about the ups and downs of American politics."

New Jersey, Part 2

More drama in the Garden State: Democratic Sen. and gubernatorial candidate Jon Corzine loaned the president of New Jersey's largest state workers union $470,000 to pay her mortgage when the two dated in 2002, then forgave the debt last year.

Mr. Corzine, turned the 10-year mortgage into a gift to former sweetheart Carla Katz just a week after kicking off his campaign for governor and several months after the two stopped dating, the Star-Ledger of Newark reported yesterday.

Miss Katz, 46, is president of the Communications Workers of America, Local 1034, which represents 9,000 state workers and endorsed Mr. Corzine's run for the Senate in 2000.

Mr. Corzine, 58, is a former chief executive of Goldman Sachs Co., worth $261 million and split from his wife of 33 years, three years ago. He insisted the loan would not hamper his administration's ability to negotiate fairly with the union.

"I don't think there's a conflict. The relationship has ended," Mr. Corzine said.

"It is certainly clear that this is more than a relationship between a special-interest group leader and a candidate for public office. You're dealing with the chief representative of the largest bargaining unit under your authority as governor," countered Tom Wilson, the state Republican Party chairman.

NASA Rules Out A Fourth Spacewalk To Repair Shuttle (NYT)

By John Schwartz

The New York Times, August 5, 2005

HOUSTON, Aug. 4 - NASA has decided against a fourth spacewalk for the Discovery astronauts that would have involved repairing an insulating blanket that had pulled out near the commander's window.

"We have good news," Julie Payette, the officer in the control room here who handles communication with the crew, told the astronauts at midday. Ms. Payette said mission managers had decided, after a lengthy analysis, that the blanket did not pose a threat and so another spacewalk would not be necessary.

"There is no issue," Ms. Payette, who is also an astronaut, said.

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Later, in an afternoon briefing, however, N. Wayne Hale, the deputy manager of the shuttle program, acknowledged that there was still some uncertainty about the risk posed by the blanket. Much of the upper fuselage of the shuttle is covered with such blankets, which are woven of heat-resistant fabric.

The worst of the heat from re-entry is experienced by the leading edges of the wing and the nose, which are covered with a carbon composite that can hold up under temperatures of thousands of degrees. The underside of the shuttle is covered with heat-resistant ceramic tiles that can take almost as much punishment. The top of the craft, however, experiences far less heating, and so NASA covers it with insulation blankets.

Earlier in the mission, analysts poring over images of the orbiter taken in space saw insulation ballooning at the commander's window.

The damage was apparently caused by a strike by debris during launching, mission managers have said. Analysts were concerned that the puffed-out blanket might expose the orbiter to too much re-entry heat, but were most concerned that the blanket might shed pieces under the stress of re-entry and that those pieces might hit other parts of the craft and cause damage.

The spacewalk would have been the second to make repairs to the shuttle on this mission.

On Wednesday, another astronaut, Stephen K. Robinson, plucked out two protruding gap fillers - thin strips of cloth that ride between tiles - to ensure that the bottom of the orbiter was perfectly smooth. The goal was for the shuttle to avoid abnormal eddies of plasma as it plummets through the atmosphere toward Earth for a landing early Monday.

But any spacewalk, or extravehicular activity, entails risks, and those had to be carefully balanced against the potential for harm posed by the insulating blanket. In her call to the shuttle, Ms. Payette said that a new analysis predicting the course that pieces of the blanket might take did not show a hazard for the shuttle, and that wind-tunnel testing at NASA's Ames research center "came to the same conclusion."

"So, basically, no EVA four," she said in a conversation with one of the astronauts, Soichi Noguchi.

"No EVA four," Mr. Noguchi responded. "That's, I would say, good news."

Efforts to repair the shuttle in orbit have captivated many Americans, including one enjoying his vacation in Crawford, Tex.

"I was amazed at the procedures that took place to repair the craft," President Bush said to reporters at his Texas ranch, where he was meeting with President Álvaro Uribe of Colombia. "It's pretty remarkable."

Mr. Hale said the considerable risks of a spacewalk outweighed the benefit of trying to repair the blanket, especially because mission managers could not figure out a way to do the job effectively. Analysis suggested that the possibility a chunk of blanket might hit some other piece of the shuttle was 11/2 in 100, Mr. Hale said, but many uncertainties remain.

"We are in the first generation of winged space vehicles," he said.

Discovery Gets An All-Clear To Return Next Week (WP)

By Guy Gugliotta

The Washington Post, August 5, 2005

HOUSTON, Aug. 4 -- NASA cleared the space shuttle Discovery on Thursday for its flight home next week after concluding that a frayed thermal blanket below the commander's window is not a serious flight hazard.

Wayne Hale, deputy shuttle program manager, said engineers at NASA's Ames Research Center in California tested similar strips of fabric in a wind tunnel overnight at speeds between Mach 1 and Mach 6 -- six times the speed of sound.

Hale said the engineers found that even if the entire blanket tore away at the worst possible time, it had only a 1.5 percent chance of striking Discovery, and, at worst, it could put a hole in the orbiter's rudder brake but not disable it.

"We have released Discovery to reenter," Hale told reporters in a news conference at Johnson Space Center. "We have decided not to take any action on the thermal blanket because we have determined it is a negligible risk at this time."

Formal clearance for reentry is an important milestone in any shuttle flight -- particularly for Discovery, the first shuttle to fly since Columbia disintegrated over Texas 2 1/2 years ago, killing all seven astronauts aboard.

NASA had equipped Discovery with a wide array of new sensors, imaging devices and inspection systems, and it had expected to clear the shuttle four days into the 14-day mission. Instead, during launch the external fuel tank shed a large chunk of foam insulation similar to the one that caused the Columbia disaster. NASA has grounded the shuttle fleet until this problem is solved.

In-space inspections before and during the shuttle's nine-day sojourn at the international space station then turned up two protruding "gap fillers" in the underside heat shielding, and the frayed blanket, a rectangular piece of fabric installed just above the D in "Discovery" painted under mission commander Eileen Collins's window.

On Wednesday, spacewalker Stephen Robinson made the first in-flight shuttle repair in history when he removed gap fillers, but Hale told reporters that Discovery might need another spacewalk for the thermal blanket.

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On Thursday morning, the Hale-led Mission Management Team conducted its daily review with the blanket as the last impediment to reentry clearance.

In Mission Control, shuttle communicator Julie Payette called Discovery shortly after 1 p.m. Eastern time: "We have good news," she said. "The MMT has reached the conclusion that the blanket underneath the . . . window is safe for return. We have new analysis that showed debris . . . would be no issue.

"So, basically, no EVA 4," she concluded, using NASA shorthand for "extravehicular activity" -- a spacewalk.

"That's, I would say, good news," replied Discovery spacewalker Soichi Noguchi.

The astronauts spent the day filling up the Italian-built Rafaello multipurpose logistics module, a cylindrical storage bin that carried nine tons of spare parts and supplies up to the space station and will return with 10 tons of worn-out gear, broken tools and trash.

On Friday, the astronauts will put Rafaello back into Discovery's payload bay and restow other equipment. The shuttle will undock from the station early Saturday and spend Sunday testing flight control systems before landing at Kennedy Space Center in Cape Canaveral, Fla., before dawn Monday.

Scrutiny Of Moonlighting Scientists Criticized (LAT)

By David Willman

The Los Angeles Times, August 5, 2005

WASHINGTON — Ethics officials at the National Institutes of Health often approved senior scientists' requests to moonlight for drug companies and other outside organizations without gathering adequate documentation to help judge whether the arrangements posed conflicts of interest, federal inspectors have found.

In 81% of the recent outside arrangements reviewed by the inspector general of the U.S. Department of Health and Human Services, ethics officials were found to have approved the deals on the basis of limited information. This and other findings are included in a report by the inspector general that is to be made public today.

"In no instance was the documentation we reviewed adequate for us to make a definitive determination regarding whether an activity was appropriate," the report said. "Inadequate documentation for outside activities can, intentionally or unintentionally, hide potential violations."

The report found that information submitted by the scientists to NIH ethics officials "included insufficient detail regarding the nature of the outside activities, the nature of employees' official job duties, the differences between the outside activities and their official job duties, the outside organizations, and any NIH funding or partnerships with the outside organizations."

The advance descriptions of the outside positions that NIH scientists proposed to take "were too general to demonstrate that employees' official duties would not overlap," the report said.

The inspector general's reviewers "could not determine the appropriateness of eight activities, and they also determined that two of the activities appeared to violate regulations."

The report also said, "It is quite possible that, due to the approach taken in this review, we have underestimated the number of activities that should not have been approved."

A copy of the 72-page report was obtained Thursday by the Los Angeles Times.

The review marks another condemnation of the NIH's recent policies governing moonlighting by agency scientists. In July 2004, the chief of the Office of Government Ethics concluded that the NIH had a "permissive culture" toward conflicts of interest. The lax policies were largely the result of an agencywide lifting of controls in late 1995 by the director of the NIH at the time, Dr. Harold E. Varmus.

Varmus' successor, Dr. Elias A. Zerhouni, announced sweeping restrictions in February, citing reports by The Times in 2003 and 2004 that exposed the payments by pharmaceutical and biotechnology companies of millions of dollars in consulting fees and stock to NIH scientists.

Zerhouni — prodded by the Department of Health and Human Services, the Office of Government Ethics and congressional leaders from both parties — agreed to prohibit NIH employees from accepting any further payments from pharmaceutical or biotechnology companies.

A group of NIH scientists is actively resisting the tougher ethics rules, which include a provision that would force employees to divest their stock in biomedical companies. They have hired a law and lobbying firm and have called for Zerhouni to relax the ban on consulting for drug companies and to rescind the stock-divestiture provision, which has not yet been implemented.

Zerhouni has said that he is weighing the criticisms and would consider easing the restrictions if he concluded that they were inhibiting the NIH's ability to retain or recruit qualified scientists.

In a written reply to the inspector general, Zerhouni cited the corrective actions that had been taken recently. He said that he generally agreed with the inspector general's findings, conclusions and recommendations.

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The inspector general's review focused on the activities from 2001 through 2003 of 174 senior scientists, a fraction of the agency's more than 5,000 researchers.

Of the 174 whose paperwork was reviewed, 69 requested and received approvals to work with outside organizations. The review focused only on those scientists who, as of January 2004, were required to file a publicly accessible financial disclosure report.

Among those covered by the review were directors, deputy directors and scientific directors of the NIH's research institutes. The terms of the inspector general's review excluded many other influential scientists, including laboratory and branch chiefs.

The inspector general found that among the 174 scientists reviewed, NIH ethics officials approved 319 of 355 requested outside engagements — 90% of the total. Of those, 45 involved consulting or scientific-advisory arrangements with biomedical companies.

Other outside activities were described by the report as "teaching/lecturing," speaking, and serving on nonscientific boards or committees.

Representatives of the inspector general acknowledged Thursday in briefings with congressional staff members that their review did not survey all of the NIH scientists who had worked for biomedical companies. Last year, the House Energy and Commerce Committee contacted 20 biomedical companies and learned that those firms alone had employed 81 NIH scientists who had failed to get required permission or to disclose the income.

At a hearing on June 22, 2004, the committee's top Democrat, Rep. John D. Dingell of Michigan, chided the inspector general for conducting what he termed noninvestigative "desk audits." Dingell was not available to comment Thursday, according to an aide.

A spokeswoman for Daniel R. Levinson, Health and Human Services' inspector general, declined to comment.

OTHER NEWS:

Schwarzenegger To Return Gambling Group Donation (WSJ/AP)

By Associated Press

The Wall Street Journal, August 5, 2005

SACRAMENTO, Calif. -- Gov. Arnold Schwarzenegger will return a $50,000 donation from a group that is a partner in a tribal casino project after questions were raised about the governor's pledge to limit political contributions, an aide said.

The governor received a $50,000 contribution last week from Yuba County Entertainment LLC, a partner in a proposed hotel-and-casino development near Olivehurst, about 35 miles north of Sacramento.

The Associated Press questioned the donation because Mr. Schwarzenegger made a promise during the 2003 recall campaign not to accept campaign contributions from groups that negotiate directly with his office. He specifically identified Indian tribal gambling as among those special interests.

"After reviewing the nature of the business and realizing there is a connection to a potential Indian gaming location, we feel it is most appropriate to return the funds," said Marty Wilson, who oversees fundraising for Mr. Schwarzenegger's political committee, called the California Recovery Team.

A company official said it has a variety of business interests in California. "The purpose of the donation was not to primarily back the governor but to back his initiatives that we think are important to the business community," said Alan Waskin, senior vice president and general counsel of Yuba County Entertainment.

Federal regulators must approve the casino project before it can proceed. But if federal approval is given, the tribe would eventually need to negotiate a gambling compact with the governor's office to open the casino.

Critics of the governor said he never should have taken the donation. "It just shows that the governor's fundraising is on automatic pilot," said Jamie Court, president of Santa Monica-based Foundation for Taxpayer and Consumer Rights. "Only when there's a spotlight cast on his activities will he ever think about returning the money."

Offer By Europe Would Give Iran Nuclear Future (NYT)

By Steven R. Weisman

The New York Times, August 5, 2005

WASHINGTON, Aug. 4 - In a first test of the new leadership in Iran, European negotiators have prepared a sweeping proposal that raises the possibility of Iran acquiring nuclear reactors and fuel, and of achieving a full political and economic relationship with the West, if it ends nuclear activities suspected to be part of a weapons program, Western diplomats said Thursday.

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The European offer, drafted with the tacit approval of the Bush administration, is to be transmitted by the end of this weekend as the latest step in a European-American effort to get Iran to abandon its suspected nuclear arms ambitions. That effort has run into repeated difficulties, most recently over Iran's announced intention to resume uranium conversion and enrichment in defiance of European warnings.

Western diplomats who have read the European offer or who know its contents said that it presented a full spectrum of relationships for Iran with the West, from technology sharing to trade preferences to security guarantees, if the Tehran government cooperates on nuclear matters, and also on improving human rights and combating terrorism. They said it was much more detailed and specific than the more general offers floated by the Europeans earlier this year, but they did not describe the offer in full.

Since it seeks a pledge by Iran to end the uranium conversion and enrichment activities that Iran insists are its prerogative under international accords governing nuclear technology, there is considerable doubt that Iran will accept it, at least right away. Iran suspended its nuclear work during the negotiations.

A senior Iranian official, reached by telephone on Thursday, said when told about the contents of the proposal that it seemed to fall far short of what Iran wanted.

"If the proposal asks Iran to continue its suspension indefinitely, let alone renouncing these activities, I think it will be dead on arrival," said the senior official, whose job involves him directly in these matters but who would not be identified by name because he had not seen the document. "I don't think it's prudent for the Europeans to make this presentation, because it shows that they have not moved their position from that of two years ago."

A European official said: "Our proposal pulls together a whole range of different ideas intended to forge a framework for an arrangement between Iran and the rest of the world. There are lots of political, economic and security elements, but the biggest piece is the offer of cooperation on a civilian nuclear program for Iran. We've never said that Iran cannot have one."

Bush administration officials say they cannot comment on the contents of the proposal, except to say that they approved of it. But the administration maintains that it cannot establish a normal relationship with Iran unless it changes its conduct, not simply in the nuclear sphere but in what the United States and the Europeans say is support of terrorism, particularly against Israel, and its interference in Iraq.

Details of the package were disclosed by diplomats who insisted they not be identified even by country because the package is supposed to be secret and its terms have not yet been formally presented to Iran.

The proposal would bar Iran from operating a "closed" nuclear fuel cycle, in which it would effectively control every aspect of fuel production and disposal. Instead, according to the diplomats who have seen it, the proposal suggests that Iran be allowed to acquire fuel and then transfer the used fuel to another country for disposal, precluding Iran from using it for weapons.

More specifically, Iran would be obliged to continue its current suspension of the conversion of raw uranium into a gas that can be enriched for use as fuel with the use of centrifuges that international inspectors have found in Iran in several places. The International Atomic Energy Agency, which has said that it is investigating Iran's failure to disclose many elements of its program, would continue to play its inspection role to ensure compliance with the agreement.

While taking a hard line on uranium conversion and enrichment, the diplomats said, the proposal contains a face-saving provision for Iran conceding its right to certain activities it is being asked to give up. The wording, according to one diplomat, says that nothing in an agreement with Iran affects "the inalienable rights of all the parties to develop research, production and use of nuclear energy for peaceful purposes."

In some respects, Iran is not likely to be surprised by the basic outlines of the European proposal. France, Germany and Britain - the partners along with the European Union in the negotiations - have held firm to this broad position of barring uranium conversion and enrichment under pressure from Washington.

The view shared in Europe and Washington is that while Iran may have the right to enrich uranium as a signatory to the Nonproliferation Treaty, which governs peaceful nuclear technology in nearly all countries with civilian nuclear programs, Iran has forfeited that right because it has been found over the years to be engaging in clandestine activities.

Iran's anger that it is being asked to give up activities allowed to other countries is at the heart of its repeated announcement that, like it or not, it will resume such work when it chooses. Indeed, Iran announced last week that it was renouncing its pledge of last year to suspend these uranium activities.

On the other hand, the Tehran government has not unilaterally resumed uranium conversion or enrichment. Instead, it has called on the International Atomic Energy Agency to go to its facilities and break the inspectors' seals on equipment that would be used for these activities, and also to install monitors and sensors for the purpose of observing them.

Iran's announcement was made in the days leading up to the inauguration Saturday of the new president, Mahmoud Ahmadinejad, who until recently was the mayor of Tehran.

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It is widely believed in the West that Iran decided to invite the inspectors before Mr. Ahmadinejad took office in order not to taint him with the move or force him to make one of his first decisions in defiance of the wishes of the Europeans.

Several diplomats said that it was shrewd of Iran, in political terms, to invite the International Atomic Energy Agency to its nuclear facilities to break the seals and install monitors and sensors. That way, these diplomats said, Iran can claim to be showing the world that, while it is proceeding with uranium processing, not a single gram of fuel will go to a weapons program.

The international agency, meanwhile, has been taking its time before installing the sensors and monitors, to give the Europeans time to refine their proposal. The Europeans have rushed the proposal to meet a deadline of this week and have begun hinting that if Iran rejects it outright, or forces the seals to be broken, some countries may call for the agency's board to meet next week to address the matter.

That Iranian tactic, said several Western diplomats, seems clearly intended to woo wavering board members of the agency - notably Russia, China and several other countries with similar enrichment programs - that it is acting in good faith and doing what other countries are allowed to do. They expressed concern about getting enough votes on the board to refer the matter to the United Nations Security Council for possible sanctions.

Tehran Defiance Spells Collapse Of Nuclear Talks (FT)

By Najmeh Bozorgmehr And Guy Dinmore

Financial Times, August 5, 2005

Nearly two years of delicate negotiations between Iran and the European Union over the Islamic republic's nuclear programme could be on the point of collapse on Friday, setting the scene for a confrontation at the UN.

Senior Iranian officials told the Financial Times that talks with France, Germany and the UK – the EU3 – would be over if their latest proposed incentives do not give approval for Tehran to resume work at a key facility at Isfahan.

Ambassadors of the EU3 were expected formally to deliver the package of proposed incentives to Tehran's foreign ministry early on Friday.

However, one senior official involved in the talks said that: "According to our information the EU proposal does not include resumption of conversion activities in Isfahan."

The official added: "This means the end of this round of talks with Europe. Iran has decided to resume activities in Isfahan and no one at home and abroad can stop it."

A senior European diplomat in Tehran conceded that the "proposal is not the one Iranians want".

Under the Paris Agreement reached with the EU3 last year, Iran suspended nuclear fuel cycle activities that western governments suspect are part of a clandestine weapons programme.

The suspension agreed in Paris included processing work at Isfahan, where raw uranium is converted into uranium hexafluoride gas, and the next stage at Natanz where the gas is enriched through centrifuges to provide nuclear fuel.

The EU3, backed by the US, have warned Iran that ending any part of the suspension would lead them to refer the issue to the UN Security Council.

The US drive for punitive action is being led by John Bolton, the new US ambassador to the UN, who failed to win confirmation by the Senate but was still appointed by President George W. Bush.

Some analysts and diplomats are sceptical the Bush administration can win enough support for serious measures to be taken against Iran.

"The American case will be represented by a non-confirmed ambassador who has been accused of distorting intelligence on proliferation issues," commented Ray Takeyh, analyst at the independent US Council on Foreign Relations.

The EU3 is seeking an extraordinary board meeting of the International Atomic Energy Agency in Vienna on Monday. But diplomats do not rule out further talks with Iran.

One EU3 diplomat said the European Union and the US were "on their way" to getting a majority on the IAEA board to take Iran to the Security Council, using the argument that Iran had deceived the UN watchdog for years over its nuclear programme and had been in breach of its safeguards commitments.

Iran insists that its nuclear programme is for civilian use only and that it has a right under the Nuclear Non-Proliferation Treaty to develop the nuclear fuel cycle.

Senior Iranian officials said Iran was not bluffing over its threat to reactivate Isfahan as some EU3 diplomats suspect. "We are serious and also upset about Europeans' failure to deliver promises," said one Iranian.

However, the officials said Iran had not decided finally when to break IAEA seals at the facility. While members of the negotiating team want Iran to wait for inspectors from the IAEA to come and monitor, other hardline decision-makers "who now have the upper hand" want an immediate start.

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They accused the IAEA of playing for time by saying it needs to send more equipment and said it was possible that Isfahan could "go on stream" this weekend, possibly with foreign reporters present.

Why Pressing Iran Over Nukes Is A Difficult Road (CSM)

By Howard Lafranchi

The Christian Science Monitor, August 5, 2005

WASHINGTON - The Iranian government is playing what is being called "a game of chicken" with the international community, first threatening to restart a key element of its suspended nuclear program this week, and then putting it off - only to announce it will reopen a sealed uranium conversion plant next week after all.

Regardless of whether the Iranians, who are in the midst of a postelection political transition, follow through on the threat, their recent actions - and the response of Western nations - suggest that a full-blown confrontation between the powers is probably not imminent, experts say.

The Europeans don't want one - and the Americans don't appear to be ready and united for one.

The three European countries that have been negotiating with Iran for a full suspension of its nuclear program did stick together and threaten Iran with reprisals - including referral to the United Nations Security Council - if it proceeded with plans to restart its nuclear efforts. That stand surprised some in the Bush administration and seemed to validate President Bush's second-term veering toward greater cooperation with allies.

But with the "EU 3," as Britain, Germany, and France are called, set to offer Iran extensive economic incentives in exchange for ending its nuclear ambitions, the Europeans continue to favor a strategy that differs widely from the Americans'.

Iran is on the US list of state sponsors of terrorism, and US officials worry that a nuclear Iran would become a conduit for nuclear materials to other states or terrorist groups.

Divisions over Iran that characterized US policy during the first Bush term are on display again. When the freshly appointed US ambassador to the United Nations, John Bolton, made his introductory rounds in New York this week, he reportedly broached the subject of Security Council action against Iran in talks with fellow ambassadors.

As the past undersecretary of State for arms control, Mr. Bolton was one of the administration's principal hawks on Iranian nukes.

But Bolton was debuting at the UN even as a new National Intelligence Estimate surfaced, first in an apparent leak to The Washington Post, that doubles to 10 years the estimated time it would take for Iran to develop a nuclear weapon.

For some US experts, the estimate undercuts the viewpoint that action is urgently needed, making a tough international stance with Iran unlikely.

"The US and its allies are not in a position to talk about real, meaningful measures to punish Iran [for proceeding with its nuclear program]," says Daniel Brumberg, an Iran expert at Georgetown University in Washington.

He says the Europeans "are trying to play it tough, but the Iranians know it would be difficult for them to ever go through with it." At the same time, he says the Bush administration is not united on how far and how fast to proceed on Iran- not to mention the "delicate factor" of Iran's influence in Iraq and the cooperation the US needs for progress there. "They are on the horns of a dilemma that is of their own making," he says.

The flurry of discussion over Iran's nuclear ambitions came as Iran installed on Wednesday its new president, Mahmoud Ahmadinejad. Western observers expect the new president to adopt a more confrontational tone with the West and particularly the US - an approach closer to that of the reigning conservative mullahs than that of outgoing reformist president Mohammad Khatami.

In a letter to the EU3 foreign ministers, the lead Iranian negotiator in the talks, Hassan Rohani, said that Iran is intent on pursuing both the negotiations with the Europeans and its nuclear program, which he insisted is for peaceful purposes.

For some experts, this is part of the same strategy that has allowed Iran - not to mention North Korea - to advance in nuclear know-how. "We've seen this game before," says Jon Wolfsthal, deputy director of the Nuclear Non-Proliferation Project at the Carnegie Endowment for International Peace.

Mr. Wolfsthal says recent events appear at first glance to be a boon to the US, since the topic of Iran could reach the Security Council - where the Bush administration has long wanted it - without the blame for a negotiation failure to fall on the US.

But he questions how "successful" the US strategy of not directly negotiating with problematic nuclear wannabes like Iran and North Korea really has been. North Korea is thought to have quadrupled its number of nuclear weapons during the Bush presidency. "If the proof is in the pudding, then the results are not very good," he says.

Iran still wishes to avoid referral to the Security Council, but at the same time it knows that a referral is unlikely to result in any tough sanctions any time soon, most experts agree. "The unanimity isn't there," says Georgetown's Mr. Brumberg. He notes

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that Russia has close ties to Iran and is building a nuclear reactor there. Iran has also been developing relations with China and India.

US calculations on Iran are influenced by the key role that Iran plays in neighboring Iraq, experts say. With the Bush administration hoping to reduce troops, avoiding destabilizing trouble with Iran will be uppermost in some minds.

Henry Sokolski, director of the Nonproliferation Policy Education Center, says he sees such political calculations in the intelligence estimate for Iran that now puts any bomb a decade away.

"There may be some involved in the report who are frightened that Bush would use anything more imminent as a pretext to bomb, or others who got cold feet after the Iraq WMD intelligence that went wrong," Mr. Sokolski says.

In any case, he dismisses the estimate, noting the US developed its bomb in less than a decade. "Are we saying the Iranians are further behind technically than we were in 1940? It's absurd."

Revolutionaries Come Of Age (WSJ)

By Farnaz Fassihi

The Wall Street Journal, August 5, 2005

TEHRAN, Iran -- Amir Reza Ashtiani, a 46-year-old Tehran City Council member and a prospective minister in the cabinet of Iran's newly elected president, sat at a district council office in one of Tehran's poorest slums and listened to residents complain about inflation, high taxes and unemployment.

He scribbled notes, shook his head in acknowledgment and promised to discuss their concerns at City Hall. Mr. Ashtiani, an industrial engineer and self-made man who benefited from a revolution that empowered the poor, was born in this neighborhood and remembers splashing in the sewage-filled waters of the narrow canals. Now, he is one of a new breed of Iranian populists that appear likely to sweep into national office on the coattails of Mahmoud Ahmadinejad, the surprise winner of Iran's presidential election in June.

"We are not like other officials. We won't draw a line between ourselves and the public and look down at them," Mr. Ashtiani says. "We have lived their difficult lives and now that we are on top, we are not going to forget them. This is why we had the revolution."

Iran's president-elect will be sworn into office on Saturday, having been endorsed by Iran's supreme leader Wednesday. He is expected to name to his cabinet men like Mr. Ashtiani, well-educated technocrats -- and die-hard loyalists to the hard-line clerical regime that rules the country.

The group, called usolgaran or "principalists," in a reference to the group's commitment to the principles of Islam, is rapidly rising to power in Iran. Some political analysts see them as the regime's last hope for regaining popularity and staying in power.

"The rise of the Iranian neoconservatives has given the regime a unified voice," says Davoud Bavand, a political analyst in Tehran. But, he adds, it remains to be seen whether they use it to open and nurture the economy or to pursue political rhetoric at the risk of stifling sanctions.

Mr. Ahmadinejad's victory gives hard-liners control of all key sectors of government in Iran: Tehran's city council (which usually sets the agenda for other Iranian cities), Parliament and now the presidency. A turning point came two years ago, when hard-liners won Tehran's city council from the reform movement that had controlled the presidency, Parliament and city council since 1997. The reformers' popularity had waned as voters grew frustrated with their failure to deliver on promises.

Now, it is Mr. Ahmadinejad's turn to deliver on promises, such as improving the life of Iranians besieged by an unemployment rate that stood at 11% last year, inflation that remains stubbornly above 15% and widespread corruption. The success of this domestic agenda is intertwined with foreign policy. It may hinge, above all, on whether Iran's government will back off from its nuclear-enrichment program.

Iran's ruling clerics, who appear in control of the country's nuclear decision making, have been uncompromising in the face of Western demands that Tehran give up all nuclear ambitions, even for peaceful purposes, to assure the country won't use the program to produce weapons. Iran already has announced it plans to restart its enrichment program regardless of pending negotiations with Europe. Both the U.S. and its European allies have stated that such a move by Iran will lead to Iran being referred to the United Nations Security Council for economic sanctions.

So far, Iran has backed off on its rhetoric when the threat of sanctions has become imminent. Western diplomats in Tehran say the regime fears sanctions will cripple an already-troubled economy, increase unemployment and inflation and turn the population against it.

Mr. Ashtiani, who has served as the new president's economic adviser and is being pegged as the next minister of industry, is the son of a shopkeeper and grew up in one of Tehran's poorest districts. In high school he listened to underground speeches at the local mosque. When revolutionary fervor hit the streets in the late '70s and the Shah was ousted, he was a freshman at Tehran University's engineering college and an active student revolutionary.

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At the age of 20, he was named the managing director of a food factory the government had confiscated from private owners. Mr. Ashtiani continued his career as manager of various government factories until two years ago, when he resigned to become a full-time city council member.

Like many of Mr. Ahmadinejad's close aides, Mr. Ashtiani says he owes his success and his political rise to the revolution and will do anything for the regime's survival. "We were willing to give our life for the regime during the war," Mr. Ashtiani says. "Now, we will safeguard it with all our means."

They say they favor privatization, but also promise equal sharing of wealth. They say they recognize that tackling unemployment requires foreign investment, but have announced that Iranian companies will be favored over foreign ones in big projects in the oil-and-gas sector. Mr. Ashtiani and his colleagues say they support reform, but not the gradual democratization and scaling back of the powers of unelected clerics that departing reformist President Mohammad Khatami had promised, but ultimately failed to deliver.

"Reform is wrong if we are talking about upheaval of the system," Mr. Ashtiani says. "We believe that Islam has the answer to everything: economy, politics and social issues. We want reforms that will bring the system closer to the purist visions of Islam and our revolution."

Graphic Novelist Marjane Satrapi On The Life Of A Writer In Exile (WSJ)

By Jeffrey A. Trachtenberg

The Wall Street Journal, August 5, 2005

When Marjane Satrapi was only 14 years old, her Iranian family wrangled a visa and sent her to live in Europe. The Islamic Revolution was then unfolding, and all of Iran, including Tehran, was turning increasingly conservative in thought and dress. Ms. Satrapi's parents worried that their only daughter, feisty and head-strong, would end up in harm's way and sent her to live with a family friend in Vienna. In 2003, Bertelsmann AG's Parthenon Press published "Persepolis," Ms. Satrapi's eye-witness memoir told in the form of a graphic novel.

In an intimate story enhanced by her drawings, Ms. Satrapi explains what it was like to be forced to wear a veil; her first crush on a boy; the terror and bloodshed created by the Iraqi invasion, and her growing realization that the Iranian regime was turning more repressive. Ms. Satrapi rebelled by tacking up smuggled posters of Kim Wilde and Iron Maiden. But when she expressed herself publicly by wearing Nike sneakers and a Michael Jackson pin, she was chastised on the streets by Tehran's fundamentalists. It was time, her parents decided for her to move abroad.

Ms. Satrapi recounts her early life in exile in "Persepolis 2," published in hardcover in the U.S. in 2004 and recently issued in paperback. In many ways, this is a much darker book. Although she did well in school, Ms. Satrapi had a difficult time fitting in socially. She missed her parents, and then fell in with a group of oddballs. Later came a serious round of drug use, and a failed love affair. After a fight with her landlord, Ms. Satrapi spent more than two months on the streets in Vienna before becoming seriously ill. After she recovered, she returned home to Iran. Once again, she had trouble fitting in. She eventually married, divorced and then moved to France, where she now lives.

The author, now 35, writes in French and recently published her third book, "Embroideries," which discusses the romantic lives of various generations of Iranian women. Ms. Satrapi, who has 350,000 hardcover and paperback books in print in the U.S., a substantial number in the publishing world, spoke recently to The Wall Street Journal's Jeffrey Trachtenberg by telephone from her home in Paris.

WSJ.com: Do you view yourself as an immigrant or as somebody living in exile?

Marjane Satrapi: I'm in exile. I would rather live in my own country. People have different reasons for emigrating, but most of the time it has to do with economics. I had everything in Iran and left to live in a studio.

WSJ.com: Do you have an Iranian publisher?

Ms. Satrapi: No, but I know the books are read. Iranians who speak a second language most often learn English. There is an underground in Iran, but I haven't gone back for five-and-a-half years, so there are many things of which I'm not aware.

WSJ: Has there been a backlash against your parents in Iran because of your books?

Ms. Satrapi: Nobody has bothered them. Nobody has harassed me, either. The thing is that you don't know what will happen there. You more or less know the risks in France. There are limits. But in Iran everything could be great one day and the next they could put me in jail. I prefer not to take the risk. My parents are grownups; they are not responsible for me. If they have a crazy child, it's not their fault.

WSJ.com: Can you visit?

Ms. Satrapi: I'm allowed. Nobody will tell me not to come. The issue is whether I can return to France. It depends on so many things. In the Iranian system you have a system within the system. You never know what can happen. You can't count on anything.

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WSJ.com: What are the major misconceptions that Americans have about the Middle East?

Ms. Satrapi: Two years ago when I came to America and criticized the [Iraq] war, the only articles that appeared talked about my sunglasses. Nobody talked about the fact that I said the people there are like you. Now what I say is starting to appear in magazines and journals.

WSJ.com: The World Factbook estimates that the median age in Iran is 24, or 12 years younger than the median age in the U.S. What will this mean for the conservatives now running Iran?

Ms. Satrapi: It's an extremely young country, a dynamic country. The young people try. They want more freedom. But the constitution is made in a way that the president and the parliament don't have that much power. The Guardian Council decided everything. It's a completely closed system. But evolution is a process and nothing can stop it. Women have half of the rights of the men, but 64% of Iranian students are women. For me, this is evolution.

WSJ.com: At one point in your second book you suggest that satellite television exposed the people of Iran to a wider world. Did that have any impact?

Ms. Satrapi: Or course. But there was lots of nonsense with MTV and dancing. The Internet is more important. It presents other points of view. People have access everywhere, they get information. Even though I don't go back I can remember 15 years ago that when I showed a little hair I could be stopped in the street. No longer. Now women show almost all their hair. The regime isn't smoother, but social reality has changed. They can't stop everything without getting an explosion.

WSJ.com: Why did the ruling clerics do so well with Iranian voters in the recent election?

Ms. Satrapi: The reason is simple. Many didn't vote because they didn't want to participate. Also, 15% of the population is fanatics. It's the same in every country. But it's also true that poor people voted for them. [Iran is] a rich country, but we have 15 million living in real poverty. The guy who won lives where the poor live and says he isn't corrupt and will share the money. This is something. Once people aren't hungry anymore they will want more freedom.

WSJ.com: You end "Persepolis 2" by noting your grandmother died while you were away. Do you feel resentment that you weren't there to be with her?

Ms. Satrapi: Of course. I'm a person who is in love with my country. I love Iran and the Iranian people and I'm not for a bloody revolution. I'm against war. I'm much more for a slow evolution based on the truth. During the Shah we didn't have to wear a veil. But the country was very macho and you had to be a virgin even if you wore the shortest miniskirt. We looked Westernized and fancy, but we were without depth. Today, women understand that if you want rights you need to work and be economically independent. This is what helps a country go forward. And these things are happening in Iran.

WSJ.com: Did any graphic novelists inspire you?

Ms. Satrapi: I don't come from a culture of comics. I thought they were funny and for adolescents. Then I saw Art Spiegleman's 'Maus." I felt free. I didn't have a complex any more. It was, 'He did it, I can do it too.'

WSJ.com: Do you write your stories first and then draw them?

Ms. Satrapi: No, I become too sentimental and lose my sense of humor. I write and draw at the same time. It's like a baby in the belly. All of it goes on at the same time. At the beginning I have a vague scenario but I never know how I'll finish. What I want to talk about changes a lot. I like to be surprised by the story, which I don't always control.

Multiparty Talks With North Korea Nearing Collapse (WSJ)

By Gordon Fairclough

The Wall Street Journal, August 5, 2005

BEIJING -- Talks aimed at persuading North Korea to give up its nuclear-weapons ambitions teetered on the brink of collapse, with Pyongyang insisting it wouldn't give in to demands that it also abandon atomic-energy programs.

Even usually optimistic China, which is hosting the six-nation talks, hinted that an agreement might be impossible.

Speaking to a crowd of reporters outside the gates of the North Korean Embassy last night, Kim Kye Gwan, Pyongyang's chief envoy to the talks, said: "We want the right to peaceful nuclear activities. All the countries in the world have this right."

Washington has insisted that North Korea dismantle all its nuclear programs, civil and military, saying it would be too easy to use civilian atomic-energy activities as a cover for maintaining the pursuit of nuclear weapons.

Mr. Kim also called on the U.S. to "drop its hostile policy, normalize relations," and reassure North Korea that the Asian nation isn't threatened by U.S. nuclear forces. He said the talks were at a "stalemate," but said Pyongyang would keep negotiating.

Participants at the meetings, representing Japan, Russia and South Korea in addition to the U.S., North Korea and China, have been struggling to draft a joint statement of principles to serve as a guide for eventual settlement of the standoff.

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Failure to produce an agreement could derail diplomatic efforts to end the dispute, which began in 2002 when, U.S. officials say, North Korea admitted it was pursuing covert efforts to enrich uranium for nuclear weapons. Pyongyang since has issued repeated denials.

At a news conference, the spokesman for the Chinese delegation, Qin Gang, raised the prospect that the negotiations could end without an agreement. "A joint declaration is not a measure for whether or not the six-party talks are a success," he told reporters.

A lack of progress also could encourage the U.S. to ask the United Nations to condemn or impose sanctions on North Korea. It is far from clear, though, that such a move would receive support from either China or South Korea, which are Pyongyang's main economic benefactors.

Christopher Hill, the top U.S. envoy, said, "There are differences between [North Korea] on the one hand and the other parties on the other." Mr. Hill said the U.S. is pressing for clarity about just what the North Koreans are willing to give up. "We are talking about nuclear weapons," he said. "We cannot have a situation where the North Koreans pretend to abandon their nuclear weapons and we pretend to believe them."

Delegates from the U.S., North Korea and South Korea met yesterday afternoon. Song Min Soon, the chief South Korean negotiator, said the North Koreans "expressed their positions clearly," but he declined to comment further. Mr. Hill would say only that "It was a useful meeting."

Negotiations were set to continue today. But diplomats said progress depends on North Korea's willingness to agree to the joint statement of principles that has, generally, been approved by the other parties.

But despite heavy pressure by China on North Korea, last night's remarks by Pyongyang's chief delegate, didn't strike a compromising tone. Mr. Kim, who is the North's vice foreign minister, said, "We have not been defeated in war and we didn't do anything wrong. Why can't we have peaceful nuclear activities?"

He also said the U.S. would have to withdraw its "nuclear threat" against the North before Pyongyang could agree to give up its weapons programs. North Korea has said Washington must stop providing a "nuclear umbrella" -- essentially the threat of nuclear reprisals -- to protect South Korea, a U.S. ally. The U.S. has rejected the demand.

N. Korea Talks Near Impasse, But Will Go On (WP)

By Edward Cody

The Washington Post, August 5, 2005

BEIJING, Aug. 4 -- Diplomats seeking an agreement on principles for North Korean nuclear disarmament decided Thursday to hold further negotiating sessions despite fundamental differences that have left them deadlocked after 10 days of talks.

Christopher Hill, assistant secretary of state for East Asian and Pacific affairs and the chief U.S. delegate, said an accord proposed by China on dismantling North Korea's nuclear programs has been accepted by five of the six nations involved in the talks: the United States, South Korea, Japan, Russia and China. North Korea, he told reporters, is the holdout.

Nevertheless, Hill said, delegation leaders meeting Thursday evening resolved to keep trying to whittle away differences for another day or so. At the same time, he added, the United States is insisting on clarity, leaving no room for diplomatic ambiguity or the papering over of disagreements.

"We cannot have a situation where the North Koreans pretend to abandon their nuclear weapons and where we pretend to believe them," he said.

North Korean Vice Foreign Minister Kim Gye Gwan acknowledged to reporters that the talks had reached a "stalemate," according to the Associated Press.

"We are for denuclearizing, but we also want to possess the right to peaceful nuclear activities," Kim said. "As you know, only one country is opposing that," he said, referring to the United States.

Nuclear Explosion (WSJ)

By Fred C. Ikle

The Wall Street Journal, August 5, 2005

Sixty years after Hiroshima's fiery destruction by only one bomb, here is where we have arrived: The proliferation of nuclear weapons continues apace, and stopping it is now a top priority of our foreign policy. It was a driving motive for the war against Saddam Hussein, it ceaselessly fuels our conflict with North Korea, it exacerbates our relations with Iran, and we are in fear of terrorists with a nuclear bomb. Eleven American Presidents, from Harry Truman to George W. Bush, sought to prevent this. The U.S. started with a nuclear monopoly. So how did we get into this mess?

'Atomic Bomb'

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The news about Hiroshima reached the White House on Aug. 5, 1945 -- precisely 60 years ago. President Truman's statement next morning informed the world of the "atomic bomb" and the Manhattan Project. Four days later, the A-bomb attack on Nagasaki prompted Japan's surrender and ended World War II. Since then, America has devoted immense effort to the nuclear problem -- an intellectual, political, and military endeavor that has no parallel. We know how we entered the Nuclear Age. We do not know how to exit from it.

First we tried arms control to kill the monster in its cradle. The U.S. advanced the Baruch Plan to confine nuclear technology entirely to peaceful uses. After Stalin rejected the plan, we began to build atomic bombs at a leisurely pace: Nine in 1946, 13 in 1947, and, by the time North Korea invaded South Korea, we had some 300 atomic bombs, the Soviet Union perhaps five. Barely 20 years later, each of the two superpowers had tens of thousands of nuclear weapons. This did not come as a surprise. At the outset, our nuclear scientists had predicted that if the total ban on nuclear weapons failed, the superpower arsenals might grow a thousand-fold. They also warned that H-bombs could be built that were a thousand times more destructive than the A-bomb. And they left no doubt that other countries would be able to acquire nuclear weapons.

President Eisenhower became deeply concerned about these trends. Based on careful deliberations, he decided in December 1953 to launch the Atoms for Peace Program at the U.N. His address received more praise -- at home and abroad -- than any other presidential speech. The purpose of Atoms for Peace was to enlist international support against weapons proliferation by donating or selling nuclear technology labeled "peaceful." Spurred by this American multilateralism, a shopping mall opened, making U.S., Soviet, Canadian, French, British, and other reactors available for "peaceful" research and electric power. This "peaceful" technology was sold or donated to Iraq, North Korea, Iran, Vietnam, the Congo, Laos, India, Pakistan, etc. No other U.S. policy, no commercial initiative, no theft of technology has done more to accelerate and expand the global spread of nuclear bombs. There is an echo of Greek tragedy here: Arms control initiatives meant to avert a calamity morph into the agent that exacerbates the feared outcome. * * *

Today, the Bush administration is being pressured to purchase a halt in North Korea's nuclear bomb-making. Members of Congress and editorialists urge the president to "engage" North Korea with generous economic and political gifts. Such "engagement" could award us with the fifth (or would it be the seventh?) arms agreement that North Korea violates. And it would tell other rogue nations that they ought to try the same blackmail.

Currently, we are against nuclear proliferation mainly because of rogue states: North Korea might sell bombs to anyone with cash, a nuclear-armed Iran might embolden Hamas terrorism. During the Cold War, we opposed proliferation because it might destabilize the fragile balance of terror between the superpowers. At that time, the scholastics of nuclear strategy invented enough "deterrence" concepts to fill a library, and many credited "mutual deterrence" for the fact that, since 1945, not a single nuclear attack occurred. The long holiday of non-use is indeed a stellar accomplishment. Yet deterrence does not deserve all the credit. The intervention of providence also helped.

Deterrence can ward off deliberate attacks; it cannot prevent an accident or dissuade a madman. But such perils must not be ignored. Until 1957, U.S. nuclear weapons had no safety locks, and sometimes just one person (say an airman) might have been given access to a weapon. One man alone could have triggered an unauthorized nuclear detonation. I recall this problem well because I analyzed it at RAND, then an Air Force think tank. My study recommended that two people always be in charge of critical controls and that coded locks be installed to safeguard nuclear weapons and missiles. RAND sent me to brief the Pentagon. Luckily, Gen. Curtis LeMay heard of it, and being a steely guy, he knew how to cut through bureaucratic molasses. He commanded a blizzard of actions to implement every one of the recommendations.

Other risks of an accidental nuclear cataclysm come to mind. In 1980, the Pentagon was alerted that a Soviet missile attack was on its way. That alert was due to computer error. Equally serious incidents might still be secret and dangerous flaws might not yet have been discovered. In light of such unfathomable risks, one has to be something of a wimp to root for Mutual Assured Destruction, the MAD doctrine which bans missile defense but tolerates a confrontation of offensive missiles forces, primed to execute mutual genocide. Failure to grasp the magnitude of this gamble betokens a lack of emotional strength. President Reagan saw through the MAD theorizing and had the courage to call for radical cuts in strategic forces, combined with missile defense. Two decades later, George W. Bush and Vladimir Putin realized that the confrontational nature of MAD would poison U.S.-Russia relations. Yet when President Bush decided to end the missile ban, benignant votaries of arms control became enraged and predicted Russia would respond with a huge expansion of its missile force. Perhaps they were disappointed when Mr. Putin did no such thing. * * *

More episodes from the 60-year search for an exit are worth recalling. But I shall turn to the heart of the matter: two overarching and profoundly serious problems that dominate the nuclear age, casting a dark shadow far into the future. The first of these is that we have become habituated to -- indeed, utterly dependent on -- a world order predicated on the non-use of nuclear weapons. This order might end abruptly. It would be a unique revolution in military affairs if the most powerful weapons in the arsenals of many nations were never used. Yet this uniqueness has become the norm on which trade, economic growth,

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international relations, as well as the domestic functioning of democratic governments now depend. Not only is the fact of continued non-use vital for our political order, but also the frame of mind that evolved with it. For it allows us to go about our business and plan our lives without the imagery of mushroom clouds superimposed on our hometown.

The paroxysm after 9/11 would be a hiccup compared with the reaction the morning after one or more nuclear bombs caused massive devastation. Several nations might start crash programs to build arsenals. Mass demonstrations would demand the abolition of all nuclear weapons, without the vaguest idea how to implement that utopia. Depending on the nations primarily affected, the first nuclear use since 1945 could trigger a chain reaction of mobilizations, nuclear alerts, even pre-emptive attacks -- within a fraction of the time it took for the assassination in Sarajevo in 1914 to trigger World War I.

The second overarching problem is emerging only now. Gradually, but inexorably, it will become easier for terrorist organizations, insurgent groups, doomsday cults and nihilist gangs to acquire the wherewithal to make nuclear bombs. Three factors contribute to this: (1) Many countries will build nuclear reactors to produce electricity and will need to import plutonium fuel that can be misused to make weapons; (2) the Internet offers access to physics and engineering data that might help a bomb-maker; (3) many governments lack the will or competence to do their part in preventing nuclear terrorism.

When the Soviet Union broke up in 1991, Sens. Sam Nunn and Richard Lugar launched a farsighted program to assist Russia in safeguarding its vast nuclear establishment. Yet Russia's control over its nuclear materials still has many gaps; and Pakistan's political instability threatens the safety of its stockpile. All the more reason for a second line of defense to prevent terrorists from smuggling a nuclear bomb into the U.S. Alas, here, too, incompetence reigns. The government has not yet started a serious research project to develop the essential technology for this mission. To send a man to Mars we have a generously funded, well integrated project; but to detect a smuggled nuclear bomb on its way to a U.S. city we allocate a puny fraction of those funds and scatter it among a multitude of disjointed studies that feed Congressional pork.

Ruthless Rebels

A global dispersion of the most cataclysmic means for destruction would have no parallel in history. Even the fall of the Roman Empire did not empower ruthless rebels or pseudo-religious cults to extirpate law and order in every corner of the realm. Mercifully the nuclear dispersion has not yet started. But there is nothing now discernible that would prevent it from happening.

While we still have time, we need to think ahead about ways to avert our annihilation from within. To prevail, we must develop the needed technologies and prepare the right strategy -- political and military. We have managed to think ahead before. Well before Pearl Harbor, we prepared the massive wartime conversion of our industry, developed new military strategies, and started the scientific program that led to the Manhattan Project. We will rise to the new challenge -- if we don't lose faith in ourselves.

Mr. Iklé was undersecretary of defense for policy in the Reagan administration. His book, "Annihilation from Within," written at the Center for Strategic & International Studies, will be published by Columbia University Press next year.

Jewish Settler Kills Four Israeli Arabs In Attack On Bus (WP)

By Scott Wilson

The Washington Post, August 5, 2005

JERUSALEM, Aug. 4 -- A Jewish settler absent without leave from the Israeli army opened fire Thursday on a public bus traveling to an Arab town in northern Israel, killing at least four people and wounding 10. In the immediate aftermath, passengers swarmed the gunman, killing him before he could leave the bus.

In a statement, Prime Minister Ariel Sharon called the shooting "a reprehensible act by a bloodthirsty Jewish terrorist who sought to attack innocent Israeli citizens." Israeli police officials suggested that the attack was an attempt to derail the government's planned evacuation of Jewish settlements in the Gaza Strip and four in the West Bank scheduled to begin later this month.

The gunman, identified as Eden Natan Zada, 19, had recently moved to a West Bank settlement known as a stronghold of religious extremists opposed to the evacuation plan, Israeli police officials said.

Witnesses said Zada, wearing the skullcap of a religiously observant Jew, boarded the Egged Bus No. 165 from Haifa clothed in an Israeli army uniform. Jewish and Arab residents of Israel's Lower Galilee regularly ride the route, which passes through the Jewish community of Kiryat Ata before ending in the Arab town of Shfaram.

Ibtihaj Salame, 57, got on the bus at Kiryat Ata, usually the last stop for its Jewish passengers. Salame, a Druze woman with three sons in the Israeli military, was returning home from a medical appointment in Haifa. She said she generally avoids buses for fear of suicide bombers but was forced to take one Thursday after missing her shared taxi.

In a telephone interview a few hours after the 5:30 p.m. shooting, she said she took a seat in front of a man dressed in an army uniform. Salame said that the bus driver asked the soldier to move to the front of the bus but that he refused. As she got off the bus at the second stop in Shfaram, a town of 34,000 people, she heard shots ring out.

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"No one spoke to him on the bus other than the driver," Salame said. "No one thought or imagined that he was up to something. But maybe the driver did."

The victims were identified as the bus driver, Michel Bahoud, 55, an Arab Christian from the Lower Galilee region; a Christian woman; a Muslim woman; and a Muslim man. Police said all four were Israeli Arabs.

The event recalled the 1994 attack carried out by Baruch Goldstein, a Jewish settler from New York who gunned down 29 Palestinians in a mosque at the Tomb of the Patriarchs in the West Bank city of Hebron. Goldstein, who was also dressed in an army uniform, was killed before he could leave the mosque. The shooting marked the beginning of a difficult period for the Oslo accords between Israel and the Palestinians signed the previous year.

In his statement, Sharon called Thursday's attack "a terrorist event" and said it was "a deliberate attempt to harm the fabric of relations among all Israeli citizens. Terrorism by civilians against civilians is the most dangerous thing affecting the future of the state of Israel and its stability as a democracy."

The attack also was condemned by leaders of the Yesha Council, the umbrella organization of Jewish settlements in the West Bank and Gaza. The organization has staged large demonstrations against the evacuation plan, which Sharon says is needed to ensure Israel's security and the long-term viability of its Jewish majority.

"We think there is no connection between this and our movement," Shaul Goldstein, the council's deputy chairman, said of the shooting. "He's a terrorist, a lunatic and immoral. He has no connection to my values. He's a criminal and should be treated like one."

Israeli police officials said Zada, the son of secular Jewish parents, had recently moved to the West Bank settlement of Tapuah. Many of the community's roughly 600 residents are followers of the late Meir Kahane, who favored the expulsion of Arabs from Israel and the land it occupied in the 1967 war. Many settlers believe the land was promised to the Jewish people by God.

Kahane's followers founded a yeshiva, or Jewish religious academy, in the settlement. The religious-political movement he inspired, known as Kach, is designated as a terrorist organization by the State Department.

Israeli military officials said Zada, originally from the Israeli town of Rishon Letzion, had been absent from his unit in southern Israel since June 14 in apparent protest against the Gaza evacuation. He joined the army in January and was still undergoing basic training.

In a letter he left at his base, Zada wrote that he "could not be part of an organization that expels Jews," according to a copy published Thursday evening on the Israeli news Web site Ynet.

Nakad Nakad, 40, witnessed the shooting from the balcony of his home in the center of Shfaram. He said he heard shots from inside the bus, then watched as rifle fire sprayed from the windows into the street around it.

"It is clear he intended to kill Arabs inside Shfaram, to have a massacre," said Nakad, a political leader of the Democratic Front for Peace and Equality, a community movement. "That's why he waited for the bus to get inside the town."

Jewish Militant Opens Fire On Bus Of Israeli Arabs, Killing 4 (NYT)

By Greg Myre

The New York Times, August 5, 2005

JERUSALEM, Aug. 4 - An Israeli Army deserter dressed in a military uniform opened fire on Thursday aboard a bus carrying Israeli Arab passengers in northern Israel. Four were killed and at least a dozen wounded before an angry crowd beat the gunman to death, according to Israeli authorities and witnesses.

The shooting was one of the deadliest by a Jewish attacker in recent years and appeared to be an attempt to start an upheaval to sabotage Israel's planned evacuation of Jewish settlers from the Gaza Strip and part of the West Bank, which is set to begin on Aug. 15. Israeli security services have repeatedly expressed concerns about such a possibility.

The gunman was identified by the military as Eden Natan Zada, 19, though it initially identified him as Eden Tzuberi. He was an army private who was reported absent without leave around mid-June after refusing to take part in preparations for the Gaza pullout.

According to his family and Israeli news media reports, Mr. Zada then went to live in Tapuah, one of the most militant Jewish settlements in the West Bank.

Prime Minister Ariel Sharon called the shootings "a reprehensible act by a bloodthirsty Jewish terrorist who sought to attack innocent Israeli citizens."

Gideon Ezra, Israel's minister for public security, has spoken in favor of detaining Jewish militants without charges before the Gaza withdrawal, saying it could prevent violence.

The shooting on Thursday is certain to inflame passions on all sides.

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"We are witnessing attempts by extreme right-wing people, terrorists, who want to set the region ablaze and feel they have freedom of action," Muhammad Barakeh, an Arab member of Israel's Parliament, was quoted as saying on the Web site of the newspaper Haaretz.

He and the news media said Mr. Zada had been a supporter of the Kach movement, founded by Rabbi Meir Kahane, the anti-Arab militant who was assassinated in New York in 1990. While the movement is outlawed in Israel, many Tapuah residents are believed to be supporters.

Mr. Zada grew up in Rishon Lezion, in central Israel, but went to Tapuah after leaving the army.

Settler leaders contended that he was not a resident. But his father, Yitzhak, said that his son had been living in Tapuah and that he had informed army officials of his son's whereabouts and told them to repossess his weapon.

"I wasn't afraid that he would do something," he told The Associated Press. "I was afraid of the others" in Tapuah. He said he spoke to his son two days ago, "and he told me he would find the time to return the weapon." The Israeli military said it was investigating why he still had his weapon after he had deserted.

Mr. Zada, who was wearing a skullcap that identified him as an Orthodox Jew, apparently boarded the bus in the northern Israeli city of Haifa and waited until it reached Shefaram, an Arab town several miles to the east, witnesses said.

When the bus reached the town, the driver asked to speak to Mr. Zada, inquiring whether he had intended to come to the town, said Avtihaj Salameh, a passenger quoted by Haaretz. He stood by the driver for several minutes, then opened fire, Mr. Salameh said.

A large crowd then charged the bus and attacked Mr. Zada, beating him to death, witnesses and the news media reported.

Israeli television showed video of bodies on the side of the road, covered in sheets, and the broken windows of the bus.

Jewish militants have carried out a number of attacks against Arabs in the past, but most were directed against Palestinians in the West Bank rather than Arabs who are Israeli citizens. In the deadliest such attack, Baruch Goldstein, an American-born settler in the West Bank, shot dead 29 Muslim worshipers in 1994 at the Tomb of the Patriarchs, a site in Hebron that is holy to Muslims, Jews and Christians.

Issam Makhoul, an Arab member of Israel's Parliament, said Israeli political leaders had "been questioning the legitimacy of our citizenship in the past few years, and today someone took the initiative and acted on this."

Israeli Arabs, who constitute more than 1 million of Israel's 6.8 million citizens, have generally not been directly involved in the violence of the past few years, though a number have been implicated in assisting Palestinian attackers coming to Israel from the West Bank.

As the Gaza pullout approaches, right-wing Israelis have been holding protests, though the latest effort fizzled on Thursday.

Gaza has been declared off limits to nonresidents, but some protesters said they had managed to sneak into the Gaza settlements in recent days.

Bentzi Lieberman, the head of the main settler organization, the Yesha Council, condemned Thursday's shooting. "Murder is murder is murder, and there can be no other response but to denounce it completely and express revulsion," he said.

Earlier on Thursday, an estimated 10,000 Palestinians rallied outside their Parliament building in Gaza City to celebrate the planned Israeli withdrawal. "After 38 years of ugly occupation, they are leaving and they will never come back," the Palestinian prime minister, Ahmed Qurei, said of the Israelis.

Israeli Deserter Kills Four On Bus (WT)

By Joshua Mitnick

The Washington Times, August 5, 2005

TEL AVIV -- An Israeli military deserter yesterday sprayed bullets at commuters on a bus in an Arab town in northern Israel, killing four and wounding about a dozen in the most brazen act of Jewish terrorism in more than 11 years.

The uniformed soldier, identified as Eden Natan-Zada, was killed by an angry crowd of pedestrians about 30 minutes after being overpowered and arrested.

The shooting, which took place at about 6 p.m. local time, appeared linked to Israel's Aug. 15 withdrawal from the Gaza Strip and parts of the West Bank.

Israeli authorities had feared that Jewish extremists would resort to terrorist attacks on Arabs to instigate a spurt of violence that could derail the evacuation of about 8,500 settlers.

Israeli Prime Minister Ariel Sharon condemned the bus attack while expressing hope that community leaders would maintain calm.

"This was a reprehensible act by a bloodthirsty Jewish terrorist who sought to attack innocent Israeli citizens," Mr. Sharon said.

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"This terrorist event was a deliberate attempt to harm the fabric of relations among all Israeli citizens."

Natan-Zada, 19, who reportedly went absent without leave from the army in recent weeks rather than participate in the withdrawal of Jews from Israeli-occupied territory, fired at the driver and the passengers at point-blank range as the bus entered the town of Shfaram.

Hundreds of local residents swarmed the vehicle, preventing police from evacuating the bodies of the victims for hours.

Israel's Channel 1 reported that Natan-Zada had become involved with members of the outlawed Kach party who lived at a West Bank settler outpost.

Observers drew a parallel between yesterday's attack and a February 1994 massacre of 29 Palestinian worshippers at Hebron's Tomb of the Patriarchs mosque.

The latter was carried out by Baruch Goldstein, a Brooklyn- born physician who was also a member of the Kach movement.

Also, about 25 Palestinians and two Israelis were killed in rioting that followed, nearly derailing the implementation of an Israeli-Palestinian peace accord signed just months earlier.

"This is a terror attack for all intents and purposes. The writing was on the wall," Mohammed Barakeh, an Israeli Arab parliamentarian, said yesterday. "He wasn't alone."

The attack escalated tensions in Israel just days after tens of thousands of police officers were called to southern Israel to stop opponents of the withdrawal from illegally marching into the Gaza settlements.

Israeli press outlets reported that security forces went on high alert in case of rioting during Friday services at the Dome of the Rock mosque in Jerusalem.

Israeli Public Security Minister Gideon Ezra blamed the shooting on anti-disengagement protesters who have advocated law-breaking and military insubordination.

Following the attack, angry residents of Shfaram reportedly threw rocks at the bus and called for revenge.

A security officer said he had handcuffed the attacker after he had emptied his gun clip, but within minutes, the crowd reached him to take revenge. Several policemen who arrived on the scene to restore order were also injured.

"It's been a day of violence. We've lost four innocent residents of Shfaram," said Shfaram Mayor Ersan Yassin. "It's a criminal act."

Israeli Arab leaders said the attack was the result of years of incitement against the county's Arab minority by right-wing leaders.

Israeli Cabinet ministers called for an inquiry into why the soldier, who was known to the Shin Bet intelligence agency as an extremist, was allowed to hold on to his gun so long after going AWOL.

Israel's Yediot Ahronot newspaper reported that the attacker had left a note for his commanders after leaving the army base which said: "Just like I can't desecrate the Sabbath, I can't be part of an army which expels Jews."

Jewish Extremist Opens Fire Inside Bus (KCS)

By Kristen Stevens

The Kansas City Star, August 5, 2005

SHFARAM, Israel - A 19-year-old Israeli soldier opened fire inside a bus Thursday, killing four Israeli Arabs in the deadliest attack on Arabs in Israel by a Jewish extremist since 1990. An angry crowd then killed the gunman.

Thirteen people, including bus passengers and two policemen, were wounded in the shooting, which appeared linked to tensions over the upcoming Israeli pullout from the Gaza Strip and parts of the West Bank.

After the attack, the bruised and bloodied body of the gunman lay on the floor of the bus surrounded by stones - raising the possibility he had been stoned to death.

The military identified the dead soldier as Pvt. Eden Natan-Zada, a resident of the Jewish settlement of Tapuah in the West Bank. Natan-Zada's father, Yitzhak, told The Associated Press his son ran away from his army unit several weeks ago after being told he would have to participate in the Gaza pullout.

Israel Radio said the gunman was bludgeoned to death by the crowd. After the attack, the gunman's body lay on the floor of the bus, and police had covered his head with a black plastic bag. His shirtless upper torso was heavily bruised.

Israeli Prime Minister Ariel Sharon denounced the shooting as "a despicable act by a bloodthirsty terrorist." Settler leaders also condemned the attack.

Palestinian leader Mahmoud Abbas called on Israel to prevent Jewish settlers from carrying weapons "because they (the settlers) are dangerous to the security and peace." Many settlers carry arms, which they say they need to protect themselves.

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Security officials have been warning for months that Jewish militants, desperate to sabotage Israel's pullout, might attack Arabs to deflect Israeli forces away from the Gaza pullout. The police commissioner, Moshe Karadi, warned the shooting could trigger more violence.

The attack took place on the No. 165, which shuttles between the Arab town of Shfaram in northern Israel and nearby communities. At around 6 p.m., the bearded gunman, who wore an Israeli army uniform, boarded the bus and opened fire. Police said the attacker wore a skullcap, identifying him as an Orthodox Jew.

Four people were killed, including the driver. Police said the four apparently were all residents of Shfaram.

The windows of the bus were shattered. Blood covered the floor and seats of the bus, and stones lay on the floor. A policeman with a bullhorn, standing near the body, addressed a crowd of thousands at the scene.

Several hours later, police slowly drove the bus away as hundreds of Shfaram residents ran alongside the vehicle. Investigators kept collecting evidence inside the bus as it was driven out of town.

Yitzhak Natan-Zada, 49, said he had asked the army to find his son, who fled from his unit after refusing to take part in the Gaza pullout. The elder Natan-Zada said he was worried his son's weapons would fall into the hands of fanatics in Tapuah.

"I wasn't afraid that he would do something. I was afraid of the others," Natan-Zada said by telephone. "I spoke to him two days ago and he was a happy and good-hearted boy and he told me he would find the time to return the weapon."

Tapuah is one of the most extreme Jewish settlements, dominated by followers of U.S.-born Rabbi Meir Kahane, who advocated expelling Arabs from Israel and the West Bank. Kahane was assassinated in New York in 1990.

Israel TV said Natan-Zada was a deserter from his army unit who grew up in the Israeli city of Rishon Letzion and moved to the settlement recently.

There have been several incidents of Jewish extremists attacking Arabs over the years, but rarely inside Israel. In 1990, during the first Palestinian uprising, an Israeli opened fire at a bus stop where Palestinians gathered for job placements, killing seven.

In 1994, Baruch Goldstein, an American-born Jewish settler entered a holy site in the West Bank city of Hebron and opened fire on Muslim worshippers, killing 29 - the bloodiest attack by a Jewish extremist against Palestinians.

Israeli Arabs make up about 20 percent of Israel's population of 6.9 million. They remained in their homes during the 1948-49 war that followed creation of the state of Israel, while hundreds of thousands of others fled or were driven out.

Though Israeli Arabs are full citizens, they have suffered from discrimination by Jewish-dominated governments. Many of their towns and villages lack basic infrastructure, and Arab localities are usually at the top of Israel's unemployment lists.

Anger spilled over in October 2000, when thousands of Arabs rioted in support of the Palestinian uprising, which erupted the month before. Israeli police shot and killed 13 Arabs, further infuriating and alienating many Arab citizens.

In southern Israel, meanwhile, opponents of the pullout ended their second mass protest Thursday, after police blocked their plan to march to Gaza to reinforce the settlements. A few hundred protesters remained behind in the town of Ofakim, including settlers' council head Bentsi Lieberman, who denounced the shooting.

"Murder is murder is murder, and there can be no other response but to denounce it completely and express revulsion," he said.

Karadi said forces had been diverted to deal with the demonstrators, leaving the north of Israel short-handed. "We have sent forces from the center and those from the south who were supposed to be going home have now been diverted to the north," he said.

Israeli Soldier Kills 4 Arabs Aboard Bus (USAT)

By Matthew Gutman

USA Today, August 5, 2005

TEL AVIV, Israel — An Israeli soldier who fired on Israeli Arab passengers in a bus Thursday evening killed four and wounded 12 in what Israeli Prime Minister Ariel Sharon called a “sinful act of a bloodthirsty Jewish terrorist.”

“Terrorism of citizens against citizens is the most dangerous thing for the future of the State of Israel and the stability of democracy,” Sharon said in a statement.

The attack was the deadliest by a Jewish radical since 29 Palestinians were killed in 1994.

Fearing retaliatory riots by Palestinians, police raised the alert in Jerusalem to the second-highest level and deployed more forces, especially around the Temple Mount, or Nobel Sanctuary — sacred to Jews and Muslims — ahead of Friday prayers, Police Chief Superintendent Raffi Yaffe said in a statement.

The gunman, Pvt. Eden Natan Zaada, “sought to derail,” Israel's decision to withdraw from Gaza and parts of the northern West Bank, according to Yekutiel Ben Yaacov, a friend and fellow activist against the pullout.

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Asi Shariv, Sharon's spokesman, said it was “too early speculate on the attack's effects on the disengagement (settlement pullout).”

Zaada, 19, a resident of the largely secular Israeli city of Rishon Lezion, used his army-issued M-16 rifle to fire on bus passengers in the Arab town of Shfaram in northern Israel. After the shooting, Zaada was beaten to death. Thousands of angry Shfaram residents swarmed the bus. They threw stones at the vehicle and police who arrived to control the riot, according to footage aired on Israel's Channel Two.

The Israeli military's chief of staff, Lt. Gen. Dan Halutz, ordered an investigation “into the circumstances leading to the possession of an IDF (Israeli military) weapon by the soldier, who had defected and was of a problematic background,” a statement said.

Police were on high alert in Shfaram, a village inhabited mostly by members of the Druze Islamic sect. Israeli Arabs constitute 20% of Israel's population. A statement released by the Israeli police said authorities were deploying more forces to the area.

Ghazi Hamid, editor of the militant group Hamas' weekly Al-Risala, said his group “remains committed to the withdrawal and will not respond to this incident.” Hamas' charter calls for the destruction of Israel and the establishment of a Muslim state in its place.

Zaada, the gunman, became intensely religious over the past year, and left his army unit in June after refusing to take part in the pullout, said Ben Yaacov, founder of the extremist Jewish Legion defense group based in the Tapuach settlement. The West Bank settlement is a bastion of members of the Kahane Chai organization, whichIsrael outlawed as a terroristgroup in 1994. In the past year, Zaada spent much of his time in Tapuach, Ben Yaacov said. He called Zaada “the first victim of the disengagement.” Ben Yaacov added: “We will be stepping up our efforts to do everything in our power to stop the disengagement, which was (Zaada's) will and testament.”

Army Deserter Kills 4 Israeli Arabs On Bus, Gets Beaten To Death (KRT)

By Dion Nissenbaum

Knight Ridder, August 5, 2005

JERUSALEM - An Israeli army deserter angry about his nation's imminent plans to shut down Jewish settlements opened fire on passengers in a bus driving through an Arab neighborhood Thursday, killing four Israeli Arabs before a mob besieged and beat him to death, according to police and military officials.

The attack in northern Israel has the potential to inflame tensions at a fragile moment for Israel, which is preparing to dismantle 25 Jewish settlements in occupied Palestinian lands.

Israeli and Palestinian leaders have been working to prevent extremists on both sides from derailing the contentious settlement shutdown. Security forces concerned about Jewish radicals have stepped up security at Jerusalem's Dome of the Rock, one of the holiest sites in Islam and a constant flashpoint for violent protests. Palestinian officials have been working to halt a series of rocket attacks on Jewish settlements in the Gaza Strip slated for closure.

The assailant was identified by the military as Pvt. Eden Nathan Zaada, a 19-year-old Israeli who had recently become a follower of an outlawed right-wing extremist movement and deserted from the army to protest the plans to shut down Jewish settlements.

On Thursday afternoon, Zaada, wearing his army uniform and carrying his military machine gun, boarded a bus in a largely Arab town of Shfaram and opened fire, killing the bus driver and three passengers, police said. Within minutes, angry residents surrounded the bus, chased away police and beat the man to death.

In mid-June, according to Israeli officials, Zaada deserted his unit as the military was preparing its soldiers for the settlement shutdown scheduled to begin in about two weeks.

Zaada's family said he had recently moved to one of the more radical Israeli West Bank settlements, where he reportedly joined followers of Rabbi Meir Kahane, a fiery political figure who was assassinated in 1990 by an Egyptian terrorist after giving a New York City speech.

One of Zaada's friends called him "the first victim of the sadistic disengagement plan."

"I never heard him say anything about an intention to kill people, but I hope that he was not killed in vain and his murder will put an end to the expulsion plan," Yekutiel Ben-Yaakov told the Israeli newspaper Yedioth Ahronoth.

Israeli and Palestinian leaders condemned the attack and immediately appealed for calm.

Israeli Prime Minister Ariel Sharon called the shooting "a reprehensible act by a bloodthirsty Jewish terrorist" and "a deliberate attempt to harm the fabric of relations among all Israeli citizens."

Shaul Goldstein, a settlement leader who has helped organize weeks of largely peaceful protests that have brought out tens of thousands of activists, denounced Zaada as "a crazy man and a lunatic" whose actions couldn't be justified.

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"He is a terrorist just like any other terrorist with Hamas or Islamic Jihad," Goldstein said. "There is no purpose on Earth that can justify the killing of innocent people."

Zaada's aunt voiced surprise at her nephew's actions.

Yardena Cohen said she knew Zaada had fled the army, opposed the government's settlement shutdown and started living at the West Bank settlement. But she called him the "nicest, warmest person" and never thought he was capable of such violence.

Under the plan, Israel will remove all 8,500 Israeli settlers from the occupied Gaza Strip, along with about 500 others from four isolated settlements in the northern West Bank.

Sharon has cast his initiative as a way to bolster Israel's security, but settlement leaders have condemned it as cowardly capitulation to terrorists.

Saeb Erekat, a senior Palestinian leader, called the attack "a very dangerous incident" and urged Israel to press ahead with the settlement shutdown "in a peaceful and orderly manner."

The incident was the worst such attack since 1994, when a U.S.-born settler opened fire in the Tomb of the Patriarchs, a religious site sacred to Muslims and Jews, killing 29 Palestinians.

Gaza Pullout Tests Limit Of Dissent (CSM)

By Ilene R. Prusher

The Christian Science Monitor, August 5, 2005

NEVE DEKELIM, GAZA - Ofir Handelsman thinks he holds the power to stop Israel's pullout from Gaza in the palm of his hand. Scribbled across his palm is the fake identity number that enabled him to sneak into Gush Katif, the collection of Jewish settlements in which he and other Israelis intend to make a last stand against Prime Minister Ariel Sharon's withdrawal, set for Aug. 17.

Ofir, just 17, carries the build and demeanor of a wrestler. He wears a sleeveless cut-off shirt, an orange cord and whistle around his neck signaling his opposition to the evacuation, and the backpack he is going to live out of for the foreseeable future.

"A few hundred of us came in," he says, slightly breathless as he and his buddies buzz around the Vanilla Sky restaurant, scrounging for a meal Wednesday night. "So many people will come that the army won't be able to remove us - and then, we hope, there won't be a disengagement."

Some Israelis see Ofir's action as valiant civil disobedience. Others decry flouting of the law. It's a debate that stretches beyond eminent domain to the heart of Israeli identity: property rights of the few vs. security of the many; political compromise vs. scriptural authority; and the right to self-expression vs. a government's right to implement key policies without interference.

Indeed, the country's roads themselves have quickly become a part of this battleground: opponents of disengagement throw nails on roads over which Israeli army jeeps will need to pass. And Wednesday, protesters shut down one of the country's most important arteries - the Jerusalem-Tel Aviv highway - with a row of burning tires.

Right-wing activists say that in a democracy, they should be free to protest. But Israel's security forces have been trying to limit the demonstrations - initially refusing to permit a large one Wednesday in Ofakim, outside Gaza. The attempt to clamp down, these activists say, is pushing protesters to more extreme measures.

But security officials and proponents of disengagement say that the people in orange - the color of the anti- withdrawal camp - are violating the law in their bid to prevent the execution of a major political decision that was made by the Knesset, Israel's parliament.

When the withdrawal begins, it will be the first time Israel will dismantle established settlements from any territory claimed by Palestinians for their future state. But at the moment, Israel seems more absorbed with the domestic side effects of the disengagement plan. As a result, many liberties are being put to the test in a way they never have before.

On the one hand, Israel is proud of its place as a feisty young democracy in a region awash in autocracies. On the other, the political necessity of carrying out the disengagement plan and the desire to implement it in as orderly a fashion as possible may be pushing Israeli officials to take measures that, some critics say, are more reminiscent of a police state than of a free country.

Even the Association for Civil Rights in Israel (ACRI), which considers all Israeli settlements in the West Bank and Gaza Strip to be illegal and strongly supports a withdrawal from these areas, fears that the police may run roughshod over the right to demonstrate.

ACRI made an official complaint about a two weeks ago when the organization learned that the police were stopping buses all over the country, as far as Kiryat Shemona in the far north of Israel - some five hours' drive away. Drivers of buses carrying anti-disengagement protesters were told by police that they would have their licenses revoked if they drove south with the protesters.

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"The main thing we see is the police have a tendency to overact," says Yoav Loeff, an ACRI spokesman in Jerusalem.

An important Supreme Court case this week made clear that there is a fine line between demonstrating and being destructive.

The court rejected a petition from two right-wing activists who tried to appeal the army's evacuation of antidisengagement groups who were holed up in a hotel here. In the decision, the judges ruled that the activists were not expressing themselves but delivering a "severe blow to democracy."

"Freedom of expression is not a permit to throw burning tires at policemen or soldiers," Supreme Court Justice Aharon Barak said in the ruling. "Freedom of expression is not a permit to attack one's fellow man; freedom of expression is not a permit to riot."

But for Yair Cohen, who has been living in this settlement since he was evacuated from Yamit in the Sinai, the very fact of being forced out from his home twice in his life is a symbol that Israel is not a true democracy.

"There's got to be a limit in a democracy," says Mr. Cohen, a father of five who stopped to talk after leaving evening prayers at the community's central synagogue here. "No democracy can take a person out of his house against his will. When you have 15,000 soldiers surrounding the demonstrators, that's a democracy?"

Palestinian Troops Face Biggest Test During Pullout (USAT)

By Matthew Gutman

USA Today, August 5, 2005

GAZA CITY — Capt. Hisham Kariri watches as Palestinian National Security Forces cadets carefully hack one another with choreographed karate chops in a rock-strewn Gaza City parade ground.

Kariri's men, some with graying beards and paunches, are among the 7,500 troops the Palestinian Authority intends to deploy along with tens of thousands of police and militiamen to help secure Israel's evacuation of 21 Jewish settlements in Gaza and four in the West Bank starting Aug. 15.

The Palestinian Authority has committed to thwarting Palestinian militants from launching rockets on Jewish settlers and Israeli soldiers during the pullout. The authority also will try to curb looters expected to swarm on the settlements, says Palestinian Cabinet Secretary Samir Huleile.

But Israel's military is concerned — and ready to react. If the Palestinian security forces don't act to prevent attacks and chaos, Israeli Deputy Defense Minister Zeev Boim says, “We will not hesitate to use land, sea and air forces with full severity to respond to a terror attack.” He also warns that Israel could suspend its evacuation “to launch a large-scale military operation into the areas used to fire rockets and missiles.”

Palestinian militants fired hundreds of homemade mortars and rockets toward Jewish settlements and towns inside Israel during the past month. Israel's Shin Bet internal security service recorded an 18-month high of 426 attacks against Israeli targets in July.

That's nearly four times the number of attacks in January, according to a statement released Monday by Shin Bet, the Israeli counterpart to the FBI.

Col. Jamal Kayed, commander of the Palestinian National Security Forces in the southern half of Gaza, insists that the 7,500 men under his command during the pullout are capable of preventing attacks.

From his headquarters in Khan Yunis — a Palestinian city abutting Neve Dekalim, Gaza's largest settlement — Kayed acknowledges that a rocket barrage by Palestinian militants such as one that killed an Israeli woman in a farming community two weeks ago could unleash “enormous destruction.”

He intends “not to give Israel a reason to attack.” His orders, he says, are to “stop the rocket launchers.” But “we are not idiots. We will not start a civil war by killing strugglers for freedom,” he says, referring to the militants.

These kinds of statements are of particular concern to the Israelis. Boim says his government “is satisfied with the Palestinian government's decision to deploy troops, but we are skeptical that Abu Mazen's (Palestinian Authority Chairman Mahmoud Abbas) intention of thwarting terrorist attacks on departing troops and citizens will trickle down to the soldiers.”

Kayed says his men will be ordered to prevent and briefly detain men caught firing on Israeli soldiers or settlers. “Israel says we should kill them. I am not interested in killing my own people,” he says.

His forces also will remain out of sight of the settlers during the two- to four-week pullout, “because we don't want to cause friction.” The buffer zone with the Israelis will be 200-800 yards, he says.

Kayed and other Palestinian security officials have met routinely with their Israeli counterparts to coordinate security during the withdrawal, but Kayed says Israel hasn't disclosed its exact plans for the pullout. Boim says Israel has little inclination to share its plans.

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On the sun-blasted sand lot in Gaza, Kariri groans as his men flip head over heels and land with a thud on their backs as they clear imaginary barbed wire. This is not the kind of training Kariri received at the Indian Military Academy in 1998.

As he watches his men struggle to march in step, Kariri says, “In India we had equipment, weapons, everything. Here all we can do is try.” Israel destroyed much of the Palestinians' military equipment during the latest uprising, which began in 2000.

Later, in Gaza City, commander Col. Mahmud Rawala, pronounces this battalion “fit for service.”

“We are ready,” echoes Huleile, the Cabinet secretary-general. “We have done our best, given Israeli restrictions on allowing us to have weapons and ammunition.”

With more than 40,000 men on duty, this summer's deployment of Palestinian forces is “by far the largest campaign in Palestinian history,” Huleile says.

The Palestinian forces that will ring the Gaza settlements will include about 10,000 police officers and soldiers and 30,000 militiamen from Fatah, the Palestinian Authority's largest faction, he says.

But even with its massive deployment, some Palestinian leaders are doubtful their security forces can complete the mission. Osama al-Farra, mayor of Khan Yunis — the city of 180,000 that stands to absorb 11 settlements after the pullout — worries that containing “souvenir seekers” will be impossible. “Everyone will want to go and see the new area. All our security forces won't be able to stop that movement,” he says.

Some local Gazans vow to do what Palestinian Authority security won't. Sultana Abu Awad, a mother of 12 and a resident of the Khan Yunis refugee camp, says, “If they (Hamas militants) try and shoot or fire rockets, I will cut their throats.” Militants often use the camp's western neighborhood, where Sultana and her family live, to shoot at or fire rockets at Israelis. Israel has responded by razing dozens of homes in the neighborhood.

Abu Awad's living room wall, riddled by bullets from the Israeli military's return fire, faces the soon-to-be evacuated Jewish settlement of Neve Dekalim. “When they (militants) fire, it brings disaster upon us,” she says, “so we will surround our homes, and if anybody shoots, we will kill him.”

China Restricts News Of Cnooc Bid (WSJ)

By Matt Pottinger

The Wall Street Journal, August 5, 2005

BEIJING -- China is heavily restricting domestic news coverage of Cnooc Ltd.'s failed bid to buy American oil company Unocal Corp., a move apparently aimed at muffling criticism of the U.S. before next month's summit meeting between Chinese President Hu Jintao and President Bush.

Editors at Chinese newspapers, Web sites and a television station said they are obeying a recent central-government directive to publish only official Xinhua news agency accounts of the bid. The Propaganda Department of the ruling Communist Party issued the guidelines more than two weeks ago after it became clear Cnooc's $18.5 billion bid for Unocal was faltering amid opposition in Congress.

"We are not allowed to do our own reporting anymore" on Cnooc, said an editor at a major paper published by Wenxin United Press Group. "This is a ban."

Cnooc, China's largest offshore oil producer, on Tuesday abandoned a months-long effort to buy Unocal, of El Segundo, Calif., blaming the political atmosphere in Washington. Thus far, Beijing has refrained from commenting on the aborted bid to distance itself from Cnooc and deflect allegations in Congress that the pursuit of Unocal reflected Chinese state policy.

Chinese people, however, are aware of the news. The Xinhua news agency account that ran in some newspapers was dry and brief, stating that Cnooc had withdrawn its bid because of the poor political climate in the U.S.

"This is a commercial matter," said a Chinese Ministry of Commerce spokesman asked about the failed bid. "As a government department, there is no need to make any comment about this at this time."

But analysts and editors say Beijing has been closely involved in managing the ensuing coverage. The goal is to contain combustible anti-American sentiment that Cnooc's failure might ignite, they say.

"I think the Propaganda Department is trying to cool down the nationalist anger caused by this," said Li Xiguang, who teaches journalism at Tsinghua University in Beijing. "The government wants to have strong ties with the U.S. despite this setback."

Popular dissatisfaction with Washington runs high in China, fueled by American support for Taiwan and perceived U.S. bullying on trade matters. Many Chinese also expressed resentment at the recent revaluation of the country's currency as the latest indication that the U.S. is trying to push China around.

But the leadership in Beijing is intent on keeping relations with Washington as smooth as possible. For a few weeks after Cnooc's announcement in June that it was challenging Chevron Corp. to acquire Unocal, coverage in China's state-owned media was relatively freewheeling, with some criticizing the bid and others attacking U.S. lawmakers' efforts to thwart Cnooc.

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But as it became clearer that Unocal would side with Chevron, despite Cnooc's substantially higher bid, the Propaganda Department issued its directive to newsrooms. A staff member of the Shanghai Oriental Morning Post said editors were called into a meeting where their boss informed them of the directive.

"All reports on Cnooc should use stories from Xinhua news agency in order to keep the same tone as the government," the staffer quoted the boss as saying. Editors at four other newspapers and a Shanghai television station contacted by The Wall Street Journal described similar scenes at their offices.

Beijing's desire for smooth U.S. relations notwithstanding, the Cnooc saga still could cause repercussions for American interests. The handful of permitted commentaries published in recent days have emphasized U.S. hypocrisy on free trade. The China Daily ran an editorial yesterday saying the consequences of the failed Cnooc bid "may be more serious than some U.S. politicians have calculated."

The lack of strongly critical news coverage didn't prevent many Chinese from tracking Cnooc's troubles in America or from drawing conclusions about it. Negative comments about the U.S. were posted on numerous Internet chat rooms.

Notable & Quotable (WSJ)

The Wall Street Journal, August 5, 2005

From an editorial in yesterday's China Daily:

China National Offshore Oil Corp has to bear the cost of its abandoned bid for the American oil company Unocal. But the fallout from the bid will not only affect the Chinese side. The idea of the United States as a self-appointed champion of the free market has become questionable. . . .

The unjustified U.S. opposition, largely politically motivated, will . . . poison the current prevailing mood as bilateral economic ties between China and the United States are enhanced. The high-profile takeover battle demonstrated to the world that the United States is not a free economy as it claimed to be. In the U.S. market, an asset for sale has not gone to the buyer that most prized it, because of regulatory concerns fuelled by bogus fears and hidden interests.

Apparently, Unocal shareholders chose to accept the cheaper offer free of regulatory risk. But the politicized regulatory matter has, in fact, deprived them of the chance to maximize value, as the market should allow.

. . . [T]he explicit message the takeover battle sends to the world is that American business is defined by political needs. . . . In the long run, the casualty will be on U.S. competitiveness if the market is to play second fiddle to protectionism with political patronage.

Aggressive Search By Cnooc For New Oil And Gas Seen (NYT)

By David Lague, International Herald Tribune

The New York Times, August 5, 2005

BEIJING, Aug. 4 - The Chinese energy company Cnooc is preparing to mount an aggressive international search for oil and gas supplies in the aftermath of its failed bid for Unocal, oil industry experts say.

In announcing on Tuesday that it would abandon its $18.5 billion offer, Cnooc, shorthand for the China National Offshore Oil Corporation, signaled that it would continue to work with foreign governments and companies in its search for overseas oil and gas reserves.

Energy market experts now expect Cnooc, which is controlled by the Beijing government, to explore opportunities throughout the Asia-Pacific region, Central Asia, Russia and West Africa to find energy supplies for China's booming economy.

"Cnooc lost the battle over Unocal, but it will continue to wage the war toward acquiring overseas energy assets to support China's growing energy needs," said Kurt A. Barrow, an analyst in Singapore with the energy consultant Purvin & Gertz.

The hostile reaction in Washington to Cnooc's bid was a pointed reminder to the Chinese that politics remains a major obstacle to their plans to increase energy security. China's growing oil imports have helped drive prices near record highs as competition for energy emerges as a point of friction among the big manufacturing economies.

Given its rebuff in the United States, said Ma Shang, an energy industry analyst with Fitch Ratings in Beijing, Cnooc should place less emphasis on big investments in Southeast Asia and South America, regions where Washington exerts strong political influence. Instead, Cnooc should follow PetroChina, which has secured substantial reserves in Central Asia.

"Because the energy market regards Cnooc as a state-owned enterprise," Mr. Ma said, "its overseas acquisitions are more political compared with other global players. Cnooc should look to Central Asia or Russia. Compared to the U.S., these regions and Russia are more friendly to China."

Many analysts say that Cnooc, which is listed on stock markets in New York and Hong Kong, is unlikely to find investment targets as attractive as Unocal, but that its political backing and access to cheap money will continue to make it competitive in world markets.

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And Chinese energy companies have other advantages. Some have invested in places like Sudan, Iran and Myanmar, where the major international oil companies are unwilling or unable to operate, Mr. Barrow said.

Cnooc plans to become an important supplier of liquefied natural gas to China, and there are signs that it will concentrate on investment in natural gas reserves in Asia.

Experts suggested two such targets: Woodside Petroleum of Australia, which operates the North West Shelf natural gas project and owns 16.7 percent of it; and the Gorgon natural gas development, led by Chevron. Cnooc is already linked to both ventures, which have substantial reserves off northwest Australia.

In a complex agreement in 2002, Cnooc formed a joint venture with the North West Shelf project's six partners, including Chevron, to take a stake of about 5 percent in the gas fields. Cnooc's share of the reserves is equivalent to liquefied natural gas shipments of about 3.3 million metric tons a year over two decades starting in 2006, and with an estimated value of $20 billion. The venture supplies as much as 10 percent of Japan's liquefied gas imports.

Analysts say that Woodside would be an ideal investment for Cnooc as it seeks to become China's leading supplier of liquefied gas. Ownership of Woodside would also give Cnooc access to advanced deepwater exploration and development technology, a consideration that experts say was a major factor in its bid for Unocal.

Shell is the biggest shareholder in Woodside, with 34 percent. The Australian government in 2001 rejected a takeover bid from Shell because it would have given a foreign company control over the extraction and marketing of a major Australian energy resource. But China is soon expected to become Australia's biggest trading partner, which might make officials in Canberra more flexible if Cnooc pursued Woodside.

In 2003, Cnooc signed an agreement with the Gorgon partners - Chevron, Exxon Mobil and Shell - that called on them to "place a significant volume of Gorgon L.N.G. for use in the growing Chinese market." Cnooc was reported to be seeking a 12.5 percent stake in the project.

But talks with the Gorgon partners have failed so far to produce an agreement on price. Scott Walker, a spokesman for the venture, based in Perth, Australia, said that discussions were continuing.

Niger's Anguish Is Reflected In Its Dying Children (NYT)

By Michael Wines

The New York Times, August 5, 2005

ELKOKIYA, Niger, Aug. 3 - At sunset Wednesday, in an unmarked grave in a cemetery rimmed by millet fields, the men of this mud-walled village buried Baby Boy Saminou, the latest casualty of the hunger ravaging 3.6 million farmers and herders in this destitute nation.

At 16 months, he was little bigger than some newborns, with the matchstick limbs and skeletal ribs of the severely malnourished. He had died three hours earlier in the intensive care unit of a field hospital run by Doctors Without Borders, where 30 others like him still lie with their mothers on metal cots.

One in five is dying - the result, many say, of a belated response by the outside world to a disaster predicted in detail nine months ago.

Niger's latest hunger problem, like Baby Boy Saminou's tragedy, is more complex than it first appears. As aid begins to trickle into some of the nearly 4,000 villages across southern Niger that need help - the vanguard of a flood of food brought forth by television images of shrunken babies - the rich world's response to Niger's worst nutrition crisis since the 1985 famine is, in fact, proving too late for many.

Unseen on television, however, are the shrunken infants who die all but unnoticed even in so-called normal years. Of each 1,000 children born alive in this, the world's second-poorest nation, a staggering 262 fail to reach their fifth birthdays.

Five of Baby Boy Saminou's seven brothers and sisters were among them. The longest-surviving of those who died reached 4 years of age. Asked what killed the last three, Saminou's father, Saidou Ida, said simply, "Malnutrition."

International aid officials and charity workers here say that the world's dilatory reaction to Niger's woes is hard to excuse. Some of them also say that Niger's miseries this year are merely a worsened version of its perennial ones - and that until Niger addresses its problems of primitive farming, primitive health care and primitive social conditions, infants will continue to die unnoticed in numbers that dwarf any hunger emergency.

"That is the bigger question that both Niger and the international community, everyone, needs to answer," Marcus Prior, the West Africa spokesman for the World Food Program, said in an interview in Maradi, the regional city where little Saminou died. "We feel that we've tried to raise awareness. But at the same time, this is something that's a recurring problem."

That it is a perennial problem, Mr. Prior and others stress, in no way minimizes the urgency of Niger's current disaster - erratic rainfall and severe food shortages in the agricultural and herding belts where many of Niger's 11 million to 12 million

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people live. Together, they are pushing the death rate for small children even higher than Niger's customary one-in-four level, and killing off the livestock upon which the nation's nomads depend.

How many people need aid depends on the yardstick used. About 1.2 million of Niger's 3.6 million rural farmers and herders are described as "extremely vulnerable" to food shortages and in need of food aid, according to an assessment of Niger's crisis conducted four months ago by the United Nations, major charities and Niger's government. Of those, about 874,000 urgently need free food, the latest assessment concluded late last month, and that number could rise until the harvest is completed in October.

But that does not mean that nearly 900,000 people will starve; the vast bulk of the hungry will somehow survive. Most of those who do die will be young children. But even among those, most will not die of starvation.

"Children will likely die from malnourishment, but a substantial proportion is probably dying from conditions related to poor water quality, or other non-food-related problems," FEWS Net, a famine warning service financed with United States assistance, reported late last month.

Much of this disaster was suspected last November, when experts monitoring Niger's farms found a 220,000-ton shortfall - about 7.5 percent of the normal crop - in the harvest of grains, especially the millet that is the staple of most people's diet.

Among others, the United Nations World Food Program and Doctors Without Borders sounded alarms, and Niger's government, with World Food Program approval, quickly asked donors to give Niger 71,000 tons of food aid and $3 million for the 400,000 most vulnerable farmers and herders.

By May, it had received fewer than 7,000 tons of food and one $323,000 donation, from Luxembourg.

"I think everyone knew that a crisis was going on," said Johanne Sekkenes, the Niger mission head of Doctors Without Borders, in an interview in Niamey, the capital. "But the answer given at the time, from governments and international agencies in Niger, was that the ongoing, normal development programs should be reinforced."

Niger's government ruled out both free food aid and health care to hungry families, preferring to sell surplus millet at subsidized prices in an effort to force the price of scarce millet down. But millet prices skyrocketed, forcing families to sell cattle and other goods to buy food.

The charity has angrily accused governments of allowing children to die, albeit not intentionally, so that the free market in grain would not be disrupted. Others say that Niger is on a steady course toward future disasters, free aid or not. Even with huge numbers of dying children, the average woman bears seven babies, and the population is growing at a rate that by 2026 will double the number of people on a land that already is straining its capacity.

Moreover, Niger has few of the modern tools that might enable it to feed itself, meaning that charities must make up a food shortage virtually every year.

"You've seen the kind of tools people use to farm," Mr. Prior said. "You've seen the lack of irrigation and the total dependency on what falls from the sky. I doubt you've seen any fertilizer or modern technology being used."

When the rainy season arrived in June, bringing malaria and other diseases with it, children weakened by lack of food began to fall ill and die in numbers even greater than in normal years.

Doctors Without Borders has treated more than 14,000 children at six centers this year, more than double the 2004 total. It has nearly 5,000 under treatment today. Admissions at its centers rose by a quarter from mid-July to August.

Among the newcomers was Baby Boy Saminou, whose 40-year-old mother, Mariama, brought him to the charity's Maradi hospital Wednesday from her village of about 2,500, down a rutted road 15 miles away. The boy was receiving free food, and had visited the Doctors Without Borders clinic five days earlier with a mouth infection. But his condition worsened last weekend.

"I didn't even have time to talk to her, the baby was so bad," Chantelle Umtoni, 34, the chief of the intensive care ward, said as she watched the mother and child from her desk Wednesday afternoon. "He has severe anemia. He has severe malaria. He was dehydrated - completely dry. And he had heart failure."

Indeed, doctors restarted his heart as they plugged bags of blood and intravenous fluid into him and clapped an oxygen mask on his face to assist his labored breathing.

Dr. Umtoni said she gave the boy a 50-50 chance of living. Dire as they are, such cases are not unusual.

"We average 30, 35 children every day," she said. "All of them are malnourished, severely malnourished. That's already a severe disease by itself. Add atop that malaria and anemia, and they come in a bit too late."

Mariama sat by her child, draped in the same brilliant orange-and-green cloth she wore, and watched him as she toted up her family. Of eight children, five were dead. The two survivors, she said, are 15 and 17 years old.

As she spoke, a nurse, Boraka Abdou, put a stethoscope to the baby's chest, listened, then summoned Dr. Umtoni. She listened intently. Then, wordlessly, the two removed his oxygen mask and catheters. Mariama stared at her dead child, impassive, then covered him in a red scarf.

An hour later, she was home, having ridden the 15 miles with her baby in her arms, tears running down her face.

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Outside her compound, she gave the dead child to her mother-in-law, who washed its face. Then she sat on a wooden bowl used to grind millet and wailed, inconsolable. Women, hearing the news, came to grieve with her. The two women bathed Baby Boy Saminou and wrapped him in a white T-shirt for a traditional Islamic burial.

The village chief, Moussa Djidji, said that at least 10 of the village's children had died since January.

Hunger Reaches Crisis Level In Niger (LAT)

By Robyn Dixon

The Los Angeles Times, August 5, 2005

MARADI, Niger — The frail baby boy she cradles has arms no thicker than her finger. His belly has hollowed and his skin has sagged as his weight has dropped.

Rakiya Nassirou weeps constantly over her son, wondering what is happening to him and whether God is angry with her. But 6-month-old Rabiou is not her only worry. Another boy, 3-year-old Moussa, is with her at this feeding station run by Doctors Without Borders. Nassirou left four more children and her sick husband back home in their village two weeks ago with no food.

The aid agencies now scrambling to save these children say it didn't have to be this way.

In the best of circumstances, they acknowledge, hunger shadows Niger and its neighbors along the southern edge of the Sahara desert. Malnutrition, malaria, diarrhea and other ills kill one in four children before the age of 5.

But last fall, things got much worse. The rains failed. Then the locusts, the worst infestation in 15 years, arrived.

A United Nations appeal last November for help for Niger was virtually ignored. Another appeal in March for $16 million resulted in about $1 million in contributions. Even as world attention was focused on Africa at last month's Group of 8 summit of the world's richest nations, little happened. Niger was offered debt forgiveness, but nothing was done about the hunger issue.

The crisis underscores one of the long-standing problems faced by international relief agencies. It is much easier to raise money once starvation has set in and children are dying than to prod donors to prevent a looming crisis.

Now, the World Food Program estimates 2.5 million of Niger's nearly 12 million people are at risk of hunger; 1.6 million of them need immediate help. And the crisis is spreading. An additional 1.5 million people in neighboring Mali, Mauritania and Burkino Faso need food aid.

Only recent television footage of starving children have started making a difference.

"We are going into the worst period of the year, in the coming four to five weeks, with the rainy period and diarrhea. And this is the last month before the harvest, meaning there are few food stocks and they are running very low," said Johanne Sekkenes, head of mission at Doctors Without Borders in Niamey, Niger's capital.

Doctors Without Borders is admitting nearly 1,300 children a week to its emergency feeding program in the Maradi region, 340 miles east of Niamey. The numbers are still rising.

It has treated almost 15,000 severely malnourished children since January, 5 percent of whom died. According to UNICEF, 192,000 malnourished children need help, 32,000 of whom are severely malnourished and facing death.

Niger is three times the size of California, but two-thirds is desert and only 15 percent of the land is suitable for farming. It is regarded as the second-poorest country on Earth, ahead only of Sierra Leone, another West African country.

Most of the population depends on herding and subsistence agriculture. It rarely raises a blip on the radar of international affairs. The last time it made headlines was before the Iraq war, when reports surfaced that yellowcake uranium from Niger had found its way to Saddam Hussein. The report turned out to be false.

Women often bear the brunt of Niger's crises, since many men travel to neighboring countries for work, often for years at a time.

Nassirou fears that the revolving cycle of hunger is not the result of fickle rains, but the wrath of God.

"Maybe God curses us," she said. "God blames us."

"I hope God will give us life and health and take us out of this poverty."

Lying on a blanket at the feeding center, she added: "I cry because I cannot understand what is happening to my son. I cry because I don't know what to do. I have been crying ever since I got here.

"I'll do anything for him to get better," she said, gazing down at her baby with melting eyes. "There's nothing more precious than a child."

Dr. Chantal Umutoni, in the intensive care unit at the feeding station, said she was sad and angry over the delayed international response.

"Maybe those lives could have been saved," she said.

On Thursday, a starving boy named Mamane Sani Abdou, 13 months, was admitted, a frail, listless child with starkly protruding ribs and stick-like limbs which flopped by his side. His mother, Babi Abdou, 20, fed him a few spoonfuls of enriched therapeutic milk, which he coughed up before sagging back, panting desperately at the effort.

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Before, "he used to drink a whole cup of milk," said Abdou, who said her boy first fell ill after being circumcised two months ago. She spent all her savings, about $12, first on traditional medicine, then Western medicine.

On Wednesday, a child in similar condition, 16-month-old Saidou Saiman, came into intensive care at 11 a.m., "too sick to even make a sound," Umutoni said. Just after midday, his heart failed. He was resuscitated, but died at about 4 p.m.

His mother composed herself and took the dead child home for burial.

"She was trying to be strong," the doctor said.

The crisis extends well beyond Maradi.

On Wednesday, Fatu Haliss tried to spoonfeed her son, Alassan, but the 1-year-old cried and spat it out. The boy's face is gaunt, reduced to a bony skull, making his eyes look large and round. He weighs about seven pounds, about a half a pound less than when he arrived at a feeding center in Tahoua, 230 miles northeast of Niamey, about two weeks ago.

Her family provides a bitter example of Niger's poverty. The woman's parents are both dead. She has not heard from her husband since he left to work in neighboring Libya more than a year ago.

She has lost more children than have lived. Two were born dead. Four others "died normally," as she puts it. Four are alive, including Alassan, "the thinnest child I ever had."

"Many small children died in our village," she said.

She spent her last money on half a bag of rice to leave with her children when she brought Alassan to the feeding center, but fears it may have run out by now. Worse, her crop needs tending, or it could fail.

"I have nobody at home. My husband left and I have to work in the field. I need to get back home. I have nothing else to eat, only my crop. It could die and then who will feed me? I have nobody to feed me."

For Umutoni, it is tough watching these children, who arrive only when they already near death.

"Children who are very sick and malnourished are often very quiet. But when you start to nourish them, they start to make more noise. Their eyes become more lively, and shining," she said. "You see life in their eyes."

In Tense Sudan, Divisions Resurface (WP)

By Emily Wax

The Washington Post, August 5, 2005

JUBA, Sudan, Aug. 4 -- The mood of this rattled country, after the sudden death Sunday of the former rebel leader John Garang, is etched on the fearful faces of northern Arab merchants, surrounded by suitcases and nylon sacks, as they wait in the airport to flee further attacks by southerners.

The once-lively central market of this southern city is a deserted maze of smoldering fires and burned metal roofs after three days of rioting. Goats and children pick through the rubble of charred soda bottles, detergent boxes and plastic roses.

The hastily dug earth in a cemetery marks the sites where Arab families quickly buried their dead, as required by Muslim law, leaving unmarked graves and retreating to the shelter of military bases.

Officials said at least 13 people were killed in Juba, 720 miles south of the capital, Khartoum, during three days of mob violence, looting and ethnic tensions that erupted after Garang's death in a helicopter crash. In the Khartoum area, officials said 111 people had died and several hundred were injured. Another 1,500 were arrested.

The clashes in north and south have been mirror images, taking on the very themes of the civil war that ended in January with a peace deal negotiated by the government and Garang -- mostly African southerners feeling marginalized by the Arab-led north, mostly Muslim northerners feeling their religion and political position under threat from the south, which is mainly animist and Christian.

Garang, 60, was rewarded for helping to bring peace by becoming Sudan's senior vice president after leading rebels during the 21-year civil war.

Now, in the city where he is to be buried Saturday, the country's raw anger, and its deep ethnic and religious divides, are very much out in the open.

Juba, a city of about 350,000 on the Nile River that is tenuously under the control of 60,000 government troops, feels more like a frontline camp readying for war than a future regional capital preparing for a state funeral.

"All of the people here want to kill us," said Abdullah Ali Tabeb, an Arab merchant who said his family's cigarette and flour shops were set on fire. He said he had spent the last four days at the airport, with only water and biscuits to nourish him, in hopes of getting out. "They told the Arabs to go to Khartoum. They don't like us. We need peace."

Less than a mile away, Samuel Fadil, 37, an African southerner, surveyed the charred remains of three storefronts his father had rented to Arab traders. Despite his loss, he said, he sympathized with the looters and could understand their anger.

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"People suspect that the Arabs killed our father Garang," he said, pointing at a still-burning shop. "We have no other source of income. But I am still much more angry over the death of Garang." There has been no report of foul play in the crash; both Garang's movement and the government have called it an accident.

Throughout Wednesday night and into Thursday morning, gunshots rang out across the city. Half-burned public minibuses were abandoned on the roads. Children in ragged clothes grabbed sodas from shop debris. Soldiers guarded a soccer park called Freedom Square, now a temporary jail for looters.

In different corners of Juba, the division of opinion on Garang's death was as wide as the Nile.

Many southerners said they were convinced that the fatal crash was not an accident in bad weather but a plot to weaken the former rebel movement, cause ethnic chaos and deflect attention from the government's autocratic hold on power. Many northerners rushed to take the government's side, partly in exchange for protection from attack.

The government announced that it would deploy a large force of elite troops here during Garang's funeral, which is to be attended by President Omar Hassan Bashir, as there were fears the event could spark new violence. Meanwhile, Garang's body was being flown to various cities in the south so mourners could pay respects.

On Wednesday, armed members of the Sudan People's Liberation Movement, Garang's former rebel group, arrived to help government forces restore calm -- and to protect the group's leaders.

Some analysts said they saw the government's military move as a warning to other brewing rebel movements, especially in the troubled western region of Darfur, where 2 million people have been displaced in a separate conflict.

"The mood of the country is manipulated in this divide-and-rule fashion," said Ollie Dinar, an African scholar in Khartoum. "Sudan's government has once again won. The people are now attacking each other instead of the government."

Dinar said images of southerners burning and looting have been played repeatedly on government television stations, provoking Arabs in Khartoum to fight back.

Whether calm will return, no one is sure.

The abrupt shift from peace to chaos began Sunday, as news spread that Garang's helicopter had crashed en route home from an official visit to Uganda.

In Juba, a group of Arabs lowered the rebel flag and called out to southerners, "Your man has died," said Joseph Abuk, 47, a teacher.

"There were extremely sarcastic and painful comments made," Abuk said. He said the years of civil war had created a deep "lack of trust between us Africans and Arabs. When it comes to the death of Garang," he added, "people are going to go beyond the simple appearance of issues."

Soon, he recounted, young followers of Garang went to the market with sticks and guns. In a "spontaneous burst of anger," he said, they started "burning everything." Arab merchants jumped into buses and fled to army facilities for protection.

Abuk, echoing many southerners' suspicions, suggested that Garang's helicopter could have been sabotaged in the air by terrorists or mercenaries on board.

But Adel Ismail, 45, an Arab merchant waiting wearily at the airport three days after being chased from his shop, said northerners and southerners alike respected Garang and did not want him dead.

"They've put in their minds that we killed Garang," Ismail said, his eyes watering. "I came to Juba to work after the peace deal. Everything was good here."

On Monday, Ismail said, he ran two miles to an army barracks, fleeing a mob of angry youths. On the way, a southern African woman hid him and made him tea. "The southerners are not all bad," he said, looking depressed.

In the eerily quiet dirt streets of Juba, hundreds of heavily armed government troops patrolled Wednesday and Thursday with AK-47s and grenades hanging from their belts. Antiaircraft guns bristled on the airport roof.

Under the peace deal reached in January, the government is scheduled to scale down its military presence and hand over control of the city within two years. Southerners said they view Garang's burial here, in a city they long fought to claim, as an important political gesture.

But Juba did not seem ready for the tens of thousands of mourners expected to arrive for Saturday's funeral.

Few women and children ventured into the rubble-strewn streets, and the few shoppers found prices for sugar and flour had suddenly doubled. Jane Martin, 30, bought a basket of burned onions to cook for her seven children.

"The prices are high. In the night, we don't sleep well," Martin said. "When there are gunshots, my children run and hide under the bed."

She glanced nervously around the burned market, at the government troops and the barbed wire surrounding Freedom Square, and at the rebel troops driving by in pickup trucks. Then, gripping her basket of onions, she turned and hurried home.

Sudan Rebel Leader Is Mourned As Widow Appeals For Calm (NYT)

By Marc Lacey

The New York Times, August 5, 2005

RUMBEK, Sudan, Aug. 4 - The body of John Garang, the rebel-turned-politician, began crisscrossing Sudan on Thursday as his followers held hastily arranged memorial services aimed at unifying the long-divided country that he helped bring to the brink of peace.

In Kurmuk, the site of a major battle during Mr. Garang's 21-year insurgency, thousands of people stood silently when the cargo plane carrying his coffin touched down at the airstrip. One look at the wooden box carried off the plane by uniformed rebel soldiers, and many in the crowd began to ululate.

It was a somber scene but one that also represented Mr. Garang's stated dream - Sudanese Muslims and Christians standing side by side, united.

Farther north in Khartoum, where Mr. Garang's death in a helicopter crash on Saturday led to deadly riots between predominantly Christian southerners living in the capital and mainly Muslim northerners, tensions remained high. The police began rounding up people suspected of inciting the violence, The Associated Press reported. State news media reported that more than 1,400 people were arrested in Khartoum while dozens were arrested in Juba, the major city in southern Sudan, where rioting also broke out.

Mr. Garang's widow, Rebecca, used the memorial service in Kurmuk to call for calm, urging those wishing to honor her husband not to work against the peace agreement he signed with the government in January, under which he had become the country's vice president.

"My husband is alive, not dead, because he has brought Sudan to peace," she said.

Mr. Garang's Sudan People's Liberation Army took Kurmuk in 1997 in a surprise attack that was a major turning point in the rebel movement. At the time, the rebels had been torn by internal dissention and were widely discounted as a serious threat to the government.

Kurmuk is not far from a hydroelectric plant that provides the bulk of the power to Khartoum. The proximity of the rebels to the dam alarmed the leaders in Khartoum.

Kurmuk also represents the line between north and south, and is a mixture of faiths and allegiances.

On the airstrip, where locals had trekked for miles and spent as long as 10 hours waiting for the plane to land on Thursday, a priest and an imam took turns on the podium.

Even where to bury Mr. Garang has stirred debate. Mr. Garang's family members preferred Panyagor, the village in Upper Nile region where he was born. But the family yielded to the new rebel leadership, which chose Juba, where he will be buried on Saturday.

Juba was a contentious choice because throughout the war it was a government town that the rebels never managed to take. Under the peace agreement, Juba was to be turned over to the rebels in July. Mr. Garang had begun sending teams of rebel soldiers to the town, but major contingents of government soldiers still remain in garrisons there.

Mr. Garang visited Rumbek in January after the peace agreement was signed and was met by tens of thousands of residents. There was silence this evening when Mr. Garang's body returned here. His coffin was met by an honor guard, and at first the only sound was the clicking of their boots in the sand. But then a woman's cry rang out and then another's. One of the soldiers carrying his coffin took a hand off the box to wipe tears out of his eyes.

After John Garang (WP)

The Washington Post, August 5, 2005

Helicopters do crash, especially in bad weather, and the weekend crash that killed John Garang, the longtime leader of Sudan's southern rebels, does not appear to have been the result of foul play. The helicopter in which Mr. Garang was flying belonged to an ally, Ugandan President Yoweri Museveni ally; it was flying over territory controlled by Mr. Garang's own Sudan People's Liberation Movement. Even so, the suspicion of foul play has triggered violent urban protests that could unravel Sudan's fragile north-south peace accord. By Wednesday more than 100 people had died in riots in the capital, Khartoum. In the southern town of Juba, rioters attacked shops and homes owned by ethnic Arabs associated with the northern government. At least 13 people have died.

The challenge now -- both for Sudan's leaders and for the United States and other outsiders -- is to keep the north-south peace process moving in the hope that this violence will die down. So far, all parties appear to be responding as they ought to. The Bush administration immediately dispatched two senior State Department officials to the country. Sudan's president promised a joint north-south commission to investigate the causes of the helicopter crash and appealed for calm. Most promisingly of all, the southern liberation movement has appointed a new leader to succeed Mr. Garang without tearing itself into

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factions and has urged restraint from its followers. "It is just my husband who has died. His vision is alive," Mr. Garang's widow, Rebecca, told Reuters, alluding to his aspiration for a united and peaceful Sudan in which non-Arabs enjoy full rights.

African rebel movements, and indeed many African governments, are often led by strongmen who carry more on their shoulders than any individual should. Mr. Garang fit this mold: He made decisions without consulting colleagues; he did little to build political institutions in the areas of the south that he controlled or within his own movement; he was happy to embody the political aspirations of Sudan's non-Arab peoples. This ill-fated approach excluded orderly preparation for a succession and may leave other leaders without the stature necessary to persuade ordinary citizens to trust in a peace deal with the hated government. If that proves to be the case, then Sudan's north-south war may resume, dashing all hopes of using north-south reconciliation as the basis for peace in the western region of Darfur, where the government has committed genocide. But, in the speed and smoothness of his emergence as the new southern leader, Salva Kiir Mayardit holds out the hope that he can fill Mr. Garang's shoes ably. The Bush administration and its allies should encourage and support him. After decades of civil war and millions of casualties, Sudan has suffered more than enough.

Coup May Alter Mauritania's U.S. Ties (WSJ)

By Yaroslav Trofimov

The Wall Street Journal, August 5, 2005

Despite world-wide condemnation of this week's military putsch, Mauritania's new ruling junta has consolidated its hold over one of America's and Israel's most collaborative allies in the Arab world.

Wednesday's bloodless coup d'etat ousted long-serving President Maaouiya Ould Taya, who was visiting Saudi Arabia at the time. Hours later, the new junta -- which calls itself the Military Council for Justice and Democracy -- named as Mauritania's temporary leader Col. Ely Mohammed Vall, one of the deposed president's closest aides and head of the country's police and intelligence services.

The U.S, the African Union and the European Union all condemned the coup, with the State Department calling for "peaceful return to order under the constitution and the established government of President Taya." But as street celebrations erupted in the Mauritanian capital of Nouakchott, it seemed increasingly unlikely that Mr. Taya, who is staying in Niger, will be able to return to power.

The new junta's communiqué, read on national television, decried the "totalitarian practices of the deposed regime" and promised to create "true democratic institutions" after a two-year transitional period. Such progressive language notwithstanding, the junta consists of senior military officers who, like Col. Vall, held senior jobs in Mr. Taya's government, and who themselves were involved in the recent crackdowns on the Islamist opposition.

"They can't really carry out reforms, because they themselves are part and parcel of the regime," said Alain Antil, an Africa specialist at the French Institute for International Relations in Paris.

Mauritania, with a population of three million, is one of the poorest Arab countries -- but it has discovered oil in its offshore fields, with production slated to start next year. This lure of oil revenue has intensified conflicts within the ruling establishment, helping to provoke a series of coup attempts in recent years.

While democracy is unlikely to bloom in Nouakchott soon, Mauritania's foreign policy may well change in coming weeks. Mr. Taya, who came to power in a 1984 coup, used to be a passionate Arab nationalist and backed Saddam Hussein in the 1991 Gulf War; he also maintained close links with former colonial power France.

But, in 1999, French authorities detained a Mauritanian army captain on suspicion of human-rights abuses against black-skinned Mauritanians. Angered by the move, Mr. Taya immediately froze most cooperation with France and turned to the U.S. That same year, at a ceremony hosted in Washington by then-Secretary of State Madeleine Albright, Mauritania became the first Arab nation to establish full diplomatic relations with Israel without being required to do so by a peace treaty returning conquered land.

This relationship with Israel, which was denounced by the Arab League and regularly criticized on pan-Arab TV stations, became the rallying point for the Mauritanian opposition, which managed to organize violent street protests during a visit by Israeli Foreign Minister Silvan Shalom in May.

A desire to sever these ties with Israel "is the only issue that unites the quasitotality of Mauritanians," Mr. Antil said. He expects the new junta to curtail the Israeli connections and to scale down cooperation with Washington -- which recently deployed a small military contingent in Mauritania to train local security forces -- in favor of improved relations with France.

The same expectation is widespread in the Arab world, where the media mostly ran positive reports about the coup and suggested the plotters may have had tacit French support.

Thousands Back Junta In Mauritania (NYT/AP)

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By The Associated Press
The New York Times, August 5, 2005
Filed at 9:42 p.m. ET

NOUAKCHOTT, Mauritania (AP) -- Thousands rallied Thursday to support the military junta that toppled Mauritania's pro-Western president a day earlier, as the African country's top leader met with the U.S. and French ambassadors.

The meetings with the envoys of former colonial power France and counterterrorism partner America were among the first Col. Ely Ould Mohamed Vall held, and appeared designed to assure the international community it had nothing to fear from the new regime.

The junta also issued a statement announcing the dissolution of the country's bicameral legislature.

Western and other African nations and the United Nations condemned the coup. The African Union's Peace and Security Council suspended Mauritania on Thursday until "the restoration of constitutional order in the country."

But many Mauritanians applauded the ouster of President Maaoya Sid'Ahmed Ould Taya, saying he was a brutal dictator and that they hoped the junta would keep its promise to usher in democracy. Taya was out of the country when the junta struck.

Tens of thousands of people swept through Nouakchott on Thursday on foot and in cars to express their support for the junta. Some carried huge portraits of Vall.

Vall made no public statements Thursday. U.S. Ambassador Joseph LeBaron refused to comment on the meeting and other diplomats were not immediately available.

Mauritanian officials said Vall had assured the ambassadors that his junta would quickly arrange elections. The junta has promised to yield to democratic rule within two years.

U.S. State Department spokesman Tom Casey said LeBaron has also spoken with Taya's chief of staff in Niger, where Taya's plane was diverted when news of the coup broke. "We intend to work with the African Union ... to restore constitutional rule in Mauritania."

When asked if that included continued support of Taya, Casey said, "The president is the head of the constitutional government in Mauritania."

Shops, businesses and the international airport reopened and traffic was flowing again in Mauritania's capital Thursday.

This sparsely populated nation on the northwestern edge of the Sahara had been strictly controlled by Taya, who had seized power in a coup and tried to legitimize his rule in the 1990s through elections the opposition says were fraudulent.

Taya dealt ruthlessly with those who opposed him. He had allied his overwhelmingly Muslim nation with the United States in the war on terror and with Israel.

The junta had indicated in statements Wednesday it planned no changes in foreign policy.

A Crucible In Turkey (NYT)

By Mark Landler
The New York Times, August 5, 2005

EREGLI, Turkey - A fierce-looking banner strung between two trees in this hillside town on the Black Sea sums up how the locals here feel about the steel factory that is their principal employer: "Erdemir is our sweat," it proclaims. "Each of us would die for it."

Turkey recently put this state-controlled company, its biggest steel maker, on the auction block.

With 13 suitors lining up to bid, including firms from Russia, Britain and South Korea, Erdemir could become one of Turkey's most successful privatizations - a potent symbol of its economic progress as Turkey begins arduous negotiations this fall to join the European Union.

But first the sale has to happen.

The auction process has run into an unexpected surge of opposition from political leaders and business executives, who argue that privatizing the company is not necessary, given its profits.

Moreover, they add, Turkey cannot afford to surrender a strategic asset, especially when Europeans seem increasingly reluctant to admit the Turks into their club of nations.

Then there are the factory's 7,500 workers, who fear they could lose their jobs under a foreign owner. Protests have erupted here and in other cities, as Erdemir has become a fraught symbol of Turkey's uneasy passage from its sheltered past into a free-market future.

"This is a real test for Turkey," said Metin Kilci, the president of the Turkish Privatization Administration, which hopes to sell Erdemir by the end of the year and follow it with sales of other state assets, including an insurance company, a sugar factory and the Istanbul Hilton.

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The Turkish government has won kudos for stabilizing the economy, with the help of loans from the International Monetary Fund, after a deep crisis in 2001 brought this nation of 69 million to the brink of bankruptcy. Turkey's output grew nearly 9 percent last year, a pace that rivaled that of China.

The government of Prime Minister Recep Tayyip Erdogan is also credited with taming decades of sky-high inflation, which had turned Turkey's currency, the lira, into something close to funny money.

But the process of privatizing state-owned companies has been dogged for 20 years by legal challenges and political interference. As Turkey bids for a place in the European Union - a step the United States supports - it is eager to show its resolve to open its economy.

"We would be more than happy if a foreign company wins this tender," Mr. Kilci said in an interview in Ankara, the nation's capital.

Mr. Kilci expressed disappointment that the United States Steel Corporation was not on the initial list of potential bidders, and said he hoped it might join in later. U.S. Steel, based in Pittsburgh, owns factories in Slovakia and Serbia. A spokeswoman for the company declined to comment.

Analysts, however, said a sale to any foreign buyer could still be blocked. The chamber of commerce here has filed a suit opposing a sale. National opposition is robust and well organized. And there is a receptive audience for dark warnings about foreigners taking advantage of Turks. The dispute has been featured on the front pages for weeks.

"There's a Turkish saying, 'We serve foreigners the best meat - the lamb without the bones,' " said Cemal Senturk, who represents local manufacturers that buy steel plates from Erdemir.

Turkey's attitude toward outsiders has not been softened by the chilly reception it is getting these days in Europe. Although its campaign to join the union is still officially on track, with membership negotiations scheduled to start in early October, popular sentiment in Europe has turned noticeably against it.

Some of that is fueled by fears that low-cost Turkish workers will take European jobs. Some is linked to security concerns that have intensified since the London bombings: as a Muslim country, Turkey cannot escape the taint of radical Islamic militancy, even if it is a moderate secular society.

Politics reflects the popular mood. In Germany, Angela Merkel, a conservative leader who opposes Turkey's bid, is leading in polls six weeks before an election for chancellor. In France, the politician of the moment is Nicolas Sarkozy, the interior minister and would-be president, who has also expressed qualms about Turkey.

"The Turks are quite angry," said Katinka Barysch, the chief economist of the Center for European Reform, a research group in London, who recently wrote a report about Turkey. "They think, 'We've done so much for the E.U., now the E.U. needs to do something for us.' "

In the case of Erdemir and its steel operation, critics say Europe's biggest contribution would be to skim off the cream of its output.

The company currently supplies about one-third of Turkey's demand for flat steel, which is used to make ships, cars, machinery and household appliances. If a foreign buyer took over Erdemir, people here say the company would export the high-quality steel to Western Europe, forcing Turkish companies to switch to lower-quality steel imported from Ukraine or Kazakhstan.

"The foreigners are very profit-oriented," Mr. Senturk said. "Why would they care about the problems in Turkey?"

Twenty-three Turkish manufacturers that buy steel from Erdemir have banded together to submit their own bid for the company. But they face well-financed rivals, like Mittal Steel of London and Arcelor, based in Luxembourg, which are the world's two largest steel makers.

Owning a steel plant in Turkey is attractive, analysts say, because the country has become a hub for auto manufacturing: Ford, Toyota, Renault and Fiat make cars here. Arcelor has ties to Renault, analysts say, and might like a Turkish factory to supply the local Renault plant.

More broadly, the global steel industry is ripe for consolidation. After two years of voracious demand, much of it driven by China's economy, analysts predict a sharp slowdown in sales, which could result in a surplus. Acquisitive giants like Mittal, which already owns 8.6 percent of Erdemir's shares, are seizing the chance to add to their holdings.

The Turkish government knows it has a brief window in which it can command a premium price. "Steel is a cyclical business," Mr. Kilci said. "In five years, it might be losing money again."

Erdemir was founded in 1960 and began production in 1965. It lost a total of $169 million from 2001 to 2002, which were difficult years for the steel industry, before rebounding with a profit of $261 million in 2003 and $473 million last year.

Although the Turkish state owns only 46 percent of Erdemir's shares, it controls the board and appoints senior management. Even those managers sounded dubious when asked why Turkey should sell it.

"That's the question I constantly keep asking," said A. Kerim Dervisoglu, who became the chief executive in 2003.

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Mr. Dervisoglu trimmed the work force to 7,500 people, from 8,400. He upgraded the factory's two hot-rolling mills, which expanded their production capacity. And he began construction of a cavernous new mill, which will turn out large plates of steel suitable for shipbuilding.

On Tuesday, days after this interview, Erdemir announced that Mr. Dervisoglu had stepped down as chief executive because of poor health. Analysts in Istanbul said his exit most likely reflected his feelings about the sale.

The pressure to divest Erdemir is also driven by Turkey's parlous public finances. The Turkish government is running a budget deficit equivalent to 8 percent of its gross domestic product. The company, which is publicly traded, has a market capitalization of $2.5 billion. Given a premium for change of control, that implies Ankara could realize $1.5 billion for its stake.

Beyond that, privatizations are a handy way to attract foreign investors. Turkey lured only $1.2 billion in foreign direct investment last year, a paltry number for an economy of its size. Foreigners have been put off by the cumbersome regulations and, until recently, the gyrating economy.

While Erdemir is making money, some critics say its financial prowess has been wildly exaggerated.

"It's making a profit because the demand for steel is going crazy in places like China," said Ishak Alaton, the chairman of Alarko Holding, a conglomerate with interests in construction, fisheries and resort hotels. "If it were in private hands, it would make 10 times the profit."

Mr. Alaton said a cabal of government bureaucrats and business people was fomenting opposition to the sale of Erdemir out of a desire to maintain control of a lucrative asset.

The opportunities for corruption are easy to see. Mr. Kilci noted that Erdemir had always supplied the president of the privatization administration with a free car - in his case, an Audi A6. "After we privatize Erdemir, I'll have to switch to a Fiat," he said with a wry laugh.

Critics, however, say the government's headlong rush to sell a thriving company could weaken public support for future sales. "It gives the impression of being ideological rather than rational or economic," said Gunhan Karakullukcu, an economist and business consultant.

Here in Erdemir's hometown, the feelings are mostly personal. The company has built schools, movie theaters and sports centers for Eregli, and donated property for employees to build houses. It even sponsors an annual "love, peace and friendship" festival.

"This is not only financial," said Semsi Durdu, a Hyundai dealer who depends on the factory's workers for a good portion of his sales. "There's a lot of emotion attached to it."

Fox Admits Dim Results On Security (DMN)

By Alfredo Corchado

The Dallas Morning News, August 5, 2005

MEXICO CITY – President Vicente Fox's office acknowledged Thursday that its anti-crime operation strategy hasn't produced the "results we expected, or wanted" and vowed to intensify the campaign in the days ahead.

The comments by presidential spokesman Ruben Aguilar were the first official confirmation that violence has worsened since Operation Safe Mexico began June 13, and they buttress concerns expressed by both U.S. and Mexican law enforcement officials of a sense of increased lawlessness. They point to escalating violence not just along the U.S.-Mexico border but also in the key states of Guerrero and Jalisco.

No details were offered on how Mr. Fox will beef up his campaign.

In Tampico, in the border state of Tamaulipas, Mr. Fox said the government's campaign will be "tough, difficult and long" and vowed to redouble efforts to return security to the streets of Nuevo Laredo and other cities affected by the drug war.

Meanwhile, law enforcement officials in Laredo remain on high alert.

"We thought that by having the Mexican military presence we would see violence in Nuevo Laredo subside," said Webb County Sheriff Rick Flores. "But the homicides have increased. Cops in Nuevo Laredo are dying. One of my deputies was met with fire [along the banks of the Rio Grande]. So this validates what we have been saying all along: The situation is serious and worsening. It's a time bomb, and if we don't address it now, it will come back to bite us in the rear because this stuff is spreading to our side, too."

Mr. Aguilar's comments come as the U.S. State Department, which has already issued three warnings to Americans venturing into Nuevo Laredo, wrestles with whether to reopen its consulate in Nuevo Laredo. Last Friday, U.S. Ambassador Tony Garza ordered the office shut, blaming increased violence.

Mr. Garza and Interior Secretary Carlos Abascal met for an hour Wednesday and decided that the consulate will reopen in the "days ahead," although no definite time frame was offered. An official in Washington said that Monday is "a likely day, if the situation warrants it."

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"We're still reviewing security in Nuevo Laredo, and a decision on resuming normal operations has not been made," said another U.S. official, speaking on the condition of anonymity.

So far this year, more than 800 people have been killed nationwide as a result of a bloody drug war in which high-powered weapons, grenades and bazookas are used.

The state of Tamaulipas has reported 228 murders, with at least 106 people – including nearly 20 police officers – killed in Nuevo Laredo alone.

On Monday, Mexican police discovered the bodies of two men on a road outside Nuevo Laredo. One victim, identified as Horacio Diaz Garcia, had been shot 19 times. On his body was a written message to the Sinaloa cartel whose alleged leaders – Edgar Valdez Villarreal, alias "Barbie"; Joaquin "Chapo" Guzmán; and Arturo Beltran – are waging war with the Gulf cartel to take over the distribution route along Interstate 35.

The note read: "[Expletive] Barbie and Arturo Beltran, you won't take over, not even with the support of the Mexican special forces, not even by killing innocent people."

Papers Reveal British Aid For Israeli Nukes (WT/UPI)

By Hannah K. Strange, United Press International

The Washington Times, August 5, 2005

LONDON -- Britain secretly sold Israel a key ingredient for its nuclear program in 1958, declassified documents have revealed.

Official government papers released by the British National Archives detail a deal to export 20 tons of heavy water for about $2.7 million. The ingredient was vital to plutonium production at the top-secret Dimona nuclear reactor in Israel's Negev desert.

The British government did not place any "peaceful use only" condition on the sale of the heavy water. "It would be somewhat overzealous for us to insist on safeguards," a civil servant explained.

Ministers in Prime Minister Harold Macmillan's government were unaware of the deal, which apparently was conducted entirely by civil servants. It also was kept secret from the Americans.

In one of the documents, Foreign Office official Donald Cape concluded: "On the whole I would prefer not to mention this to the Americans."

When questioned by the British Broadcasting Corp., Mr. Cape said he could remember nothing about the episode.

Washington had refused Israeli requests to purchase heavy water without a guarantee that it would be used for exclusively peaceful purposes.

The heavy water was surplus from a consignment that Britain bought from Norway. Though shipped from a British port, it was presented as a deal between Israel and Norway.

Robert McNamara, who served as the U.S. secretary of defense from 1961 to 1968, said he was "astonished" by the cover-up.

"It is very surprising to me we were not told because we shared information about the nuclear bomb very closely with the British," he told the BBC.

By the time Israel requested more heavy water in 1961, the existence of the Dimona reactor had been exposed by the press, as had Israel's probable weapons program, and Britain refused a further sale, the documents reveal.

Hugh Stephenson of the Foreign Office wrote: "I am quite sure we should not agree to this sale. The Israeli project is much too live an issue for us to get mixed up in it again."

Israel has never acknowledged or denied having nuclear weapons, and has not conducted any public nuclear tests. It also has refused to sign the nuclear Non-Proliferation Treaty.

Israel began showing an interest in acquiring nuclear weapons shortly after its creation in 1948, and formed the Israeli Atomic Energy Commission in 1952.

Construction of the Dimona facility began in the late 1950s, with France secretly providing assistance with reactor design and construction, according to Washington-based Web site GlobalSecurity.org.

In 1968, the CIA concluded that Israel had begun to produce nuclear weapons, but it wasn't until 1986 that the international community was afforded a glimpse of the true extent of the Israeli program.

Mordechai Vanunu, who had worked as a technician at Dimona, gave the Times of London detailed information about Israel's nuclear program, on the basis of which analysts concluded that Israel had up to 200 warheads. However before he could reveal more, he was trapped by the Israeli intelligence service Mossad and imprisoned for 18 years as a traitor.

The I.R.A.'s Gift Of Gab (NYT)

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By Ed Moloney

The New York Times, August 5, 2005

Most people in Northern Ireland, in the Irish Republic or among Irish-Americans hope that last week's statement by the Irish Republican Army ending its armed campaign against British rule of Northern Ireland and embracing only peaceful and democratic methods is truly the "step of unparalleled magnitude" that Prime Minister Tony Blair of Britain claims to see.

Yet there are good reasons to be cautious. The I.R.A.'s words are welcome, but there's an old Irish saw applicable here, which says that fine words butter no parsnips. The I.R.A. and leaders of its political wing, Sinn Fein, like Gerry Adams and Martin McGuinness, have made impressive, even dramatic promises in the past but subsequent deeds failed to match them.

Not only that, but the moves made by the I.R.A. last week were cost-free. The last shots fired in anger by the I.R.A. at British security forces were in the summer of 1997, and the reality is that its campaign against Britain has been over for years. Last week's statement was merely an admission of an already established fact.

Equally, Sinn Fein, and those among its leadership who double as I.R.A. leaders and commanders, have committed themselves before to peaceful and democratic methods. Indeed, Mr. Adams would not have been allowed into political talks in 1998 about Northern Ireland's future unless he had subscribed to principles embodying such a commitment.

In spite of that pledge, I.R.A. activity, albeit at a much lower level, persisted and pitched the Irish peace process into one crisis after another. A real sign of change would have been an announcement that the I.R.A. was disbanding, but that was absent from the statement, as was any pledge to end recruitment.

The events that provoked last week's statement - the robbery of more than $50 million from a Belfast bank last December and the subsequent killing of a Belfast Catholic, Robert McCartney, by what are generally believed to be I.R.A. members - showed that the conventional test of I.R.A. sincerity, its willingness to disarm transparently, was made largely irrelevant. The I.R.A. didn't need tons of Semtex explosives or heavy machine guns to commit those crimes. All it needed was a few motivated members. The problem was not I.R.A. weapons but the I.R.A. itself.

The experience of the last 11 years of the Irish peace process is that continued I.R.A. activity has sapped the trust of the majority Protestant community and made its political leaders reluctant to enter into a power-sharing government with Sinn Fein in 1998.

But Sinn Fein has turned that to its electoral advantage, charging Protestants with bigotry, and seeking sympathy and solidarity from Catholics in both Northern Ireland and the Irish Republic. The result is that Sinn Fein is now the largest Catholic party in Northern Ireland and has seats in the London, Dublin, Belfast and European Parliaments. Final peace has been delayed for narrow political gain.

The I.R.A.'s refusal to begin disbanding is one big reason instability still exists. The Belfast bank robbery illustrated the way such instability can be fostered.

While the I.R.A.'s war against Britain has diminished during the last eight years, the organization's drift into racketeering has accelerated. Ian Pearson, a former security minister in Northern Ireland, recently called the I.R.A. "perhaps the most sophisticated organized criminal grouping" anywhere in Europe. Few experts expect such activity will cease because of last week's statement.

The criminality linked to groups like the I.R.A. is staggering. One recent British government report estimated that there were 140 paramiltary-associated criminal gangs, many with international connections, operating in an area that in terms of population is about the size of the Bronx. In 2002, the police confiscated more counterfeit currency and goods - CD's, DVD's, watches, clothes, software - in Northern Ireland than in all of Britain. Cigarette and gasoline smuggling, protection rackets, armed robberies and hijackings are rife.

The I.R.A.'s involvement in this illegal activity has produced a leadership cadre that has combined ruthless paramilitary activism with lucrative criminal sidelines. Figures with no visible means of support have in the last few years suddenly become property moguls and business owners with luxury vacation houses in Ireland and in foreign resorts.

The Bush administration's attempts to press both London and Dublin to act against these criminals have met with limited success. Suspicion is widespread that Mr. Blair and his counterpart in Dublin, Bertie Ahern, would rather leave that problem alone because they fear moving against paramilitary crime would cause discontent in I.R.A. ranks with Mr. Adams's stewardship.

There are other signs that in Britain and Ireland the political will to tackle this crime is lacking. A proposal by Ronald Goldstock, former director of New York State's Organized Crime Task Force, to introduce laws similar to those spelled out in United States' Racketeer Influenced and Corrupt Organizations Act was rejected by Mr. Blair's government. The authorities in Dublin and London have the power to confiscate criminal assets but have yet to use it against major I.R.A. figures.

Rooting out the forces behind paramilitary racketeering is not only the right thing to do, it is the sensible course as well. Pouring the necessary resources into pursuing these criminals would help remove a potential source of future instability in the

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peace process and convince skeptics that the influence of groups like the I.R.A. is on the wane. But failure to do so will turn last week's announcement into just another in a long line of false beginnings.

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From: McDowell, Cynthia
Sent: Friday, August 05, 2005 9:45 AM
To: Andrea Bottner; Andrew Emrich; Brad Schlozman; Bruce Mcdonald; Carl Nichols; Carl Peed; Cheri Nolan; Clifford White; Crystal Roberts; Cybele Daley; Dan Meron; Deborah Rhodes; Deborah Spagnoli; Domingo Herraiz; Donald Gambatesa; Edward McNally; Elizabeth Kessler; Gregory Katsas; Howard Nielson; Jeffrey Bucholtz; Jeffrey Clark; Jeffrey Taylor; John Richter; Jonathan Cohn; Joseph Bianco; Kelly Johnson; Kristi Macklin; Kyle Sampson; Laura Parsky; Lily Swenson; Luis Reyes; Makan Delrahim; Michael Battle; Monica Goodling; Neil Gorsuch; Nicholas Tzitzon; Pat O'Brien; Patrick Hofer; Patrick Philbin; Paul Clement; Rachel Brand; Raul Yanes; Rebecca Seidel; Richard Hertling; Richard Morrison; Robert Flores; Sean McLaughlin; Sharee Freeman; Steve Bradbury; Steven McFarland; Stuart Nash; Tasia Scolinos; Theodore Ullyot; Thomas Barnett; Tracy Henke; Uttam Dhillon; Wan Kim; Alex MacLean; Amy Grimsrud; Andrew Ames; Andrew Beach; Angela Williamson; Asheesh Agarwal; Ben Curtis; Beth Collins Cook; Brian Cohen; Bruce Taylor; C. Kevin Marshall; Candice Chiu; Carrie Nelson; Connor Flaherty; Courtney Elwood; Cynthia Magnuson; Cynthia McKnight; Deborah Underhill; Ebony Lee; Elizabeth Apisson; Eric Akers; Eric Holland; Evan Gilbert; Gordon Todd; Grant Nichols; Jaclyn Lesch; James OConnell; Jan Williams; Jana White; Janet Potter; Jason Torchinsky; Jennifer Korn; Jessica Gavora; John Eddy; John Irving; John Nowacki; Julie Warren; Kerri Strug; Kiahna Sellers; Kimberly Smith; Lara Reynolds; Lindsey de la Torre; Mark Metcalf; Mary Neumayr; Matt David; Matt Robinson; Matt Roper; Matthew Miranda; Michael Costigan; Michael Tierney; Miriam Moore; Molly Donlin; Natalie Voris; Neal Jungeblut; Omar Vargas; Patrick McArthur; Price Roe; Raquel Sours; Rena Comisac; Ryan Bounds; Sandra Malloy; Shane Chambers; Stephanie McNees; Stuart Nash; Theodore Cooperstein; Tim Racicot; Trent Luckinbill; Tucker McNeil; Wanda Martinson; William Otis; William Woodruff
Subject: The Appointees Friday Weekly - August 5, 2005

THE APPOINTEES FRIDAY WEEKLY

Friday, August 5, 2005

==========

Dear Appointees,

Have you recently gotten engaged, married, celebrated the birth of a baby, enjoyed a wedding anniversary? Please let Cynthia know your good news for the next *DOJ Newsletter.*

DOJ_NMG_0002414

- *LIVE JAZZ TONIGHT: Friday, August 5:* "The DC Project" World Beat Jazz, National Gallery of Art's Sculpture Garden, 9th & Constitution Ave. 5:00-8:00 p.m.
- *DOJ News*: JCON System Scheduled Outing - *Sunday, August 7*
- *Family Area Events:* County Fairs! *Safe, Friendly, Affordable, Wholesome*
- *New Area Restaurant:* Sushi-Go-Round and Tapas - *Open August 8*
- *Tidbits:* Lawn Mower Racing…the Latest Craze!
- *Tidbits:* Farewell to John Eddy, Deputy White House Liaison

Have a great week!

Regards,

The DOJ Office of White House Liaison
Jan Williams, John Eddy, and Cynthia McDowell

~

DOJ News:
JCON SYSTEM SCHEDULED OUTAGES - SATURDAY-SUNDAY, AUGUST 6-7

Customer Affected: All JCON JMD **Customers located in the PHB Building**
All Dial-in Users
When: **Saturday, August 6, 2005**. 6:00 am until 6:00 pm
Unavailable Services: Exchange email, H:\ Drive, Network Printers, Dial-in Remote access
Available Services: BlackBerry Email Services Email
Logging on to JCON Network
G:\ Drive
Internet Access
Local Printers
M:\ Drive
Pin to Pin BlackBerry Messaging
Required Action: Please "Shutdown and Power off" your workstation before leaving.

~
Customer Affected: All JCON JMD **Customers located in the Main Building**
When: **Sunday, August 7, 2005**, 12:01 am until 4:00 am
Unavailable Services: H:\ Drive, Network Printers
Available Services: BlackBerry Email Services
Email
Logging on to JCON Network
G:\ Drive
Internet Access
Local Printers
M:\ Drive
Pin to Pin BlackBerry Messaging
Required Action: Please "Shutdown and Power off" your workstation before leaving.

~

Family Area Events:

COUNTY FAIRS! *Agriculture and family bonding…an old-fashioned county fair and atmosphere to combat our high-tech world.*

DOJ_NMG_0002415

The size, location and events at the fairs may vary, but the basic premise remains the same: safe, friendly, community-building activities based on agriculture shows, musical performances and children's contests for entertainment. Despite the multitude of contests going on, everyone seems to be there to support one another…kids compete with each other yet are all for each other…it's a solid family-oriented activity that builds self-confidence in its participants.

Most of the children at the fairs are members of 4-H, a national youth organization that began at the turn of the last century and is now an arm of the U.S. Department of Agriculture's Cooperative Extension System. Children choose their project, set out to learn practical skills, initiative, leadership and follow-through by following the requirements of the project, keeping financial records and competing with other 4-H'ers to be the best of show. They also learn critical analysis skills and the ability to express their thoughts systematically through judging contests. The projects can include anything from baking and crafts to photography, but at most fairs, 4-H members show their horses, beef and dairy cows, sheep, pigs, chickens, rabbits and goats, receiving prizes ribbons and small monetary awards for their efforts in the showmanship, market and breeding classes. Some fairs also support a livestock auction where local buyers pay above market value for top ribbons, knowing the proceeds will go towards financing the exhibitor's college education.

It is true that farmers are in many ways a disappearing breed. According to the 2000 U.S. Census, just 1.9 percent of the employed labor force works in agriculture, compared to 4 percent in 1970. But the children at the fairs seem eager to follow in their parents' footsteps and appear to have the time of their lives. It's reported that the fairs are "something to bring the kids to that doesn't cost an arm and a leg, and folks can have good old-fashioned fun."

Washington Weekend, The Washington Times, July 28, 2005

- Fairfax County 4-H Fair and Frying Pan Park Farm Show, August 6-7. 703-324-5369 or www.4hfairfax.org <http://www.4hfairfax.org>
- Howard County Fair, August. 6-13. 410-442-1022 or www.howardcountyfair.com <http://www.howardcountyfair.com>
- Culpeper-Madison-Rappahannock Fair Carnival, August 9-13. 540-825-3335 or info@cmrfair.com <mailto:info@cmrfair.com>
- Prince William County Fair, August 12-20. 703-368-0173 or www.pwcfair.com <http://www.pwcfair.com>
- Montgomery County Agricultural Fair, August 12-20. 301-926-3100 or www.mcagfair.com <http://www.mcagfair.com>
- Clarke County Fair, August 14-20. 540-955-2530 or www.ccfairva.com <http://www.ccfairva.com>
- Arlington County Fair, August 18-21. 703-228-3289 or www.arlingtoncountyfair.org <http://www.arlingtoncountyfair.org>
- Page Valley Agricultural and Industrial Fair, August 21-27. 540-843-3247 or www.pagevalleyfair.com <http://www.pagevalleyfair.com>
- Maryland State Fair, August 26-Sept. 5. 410-252-0200 or www.marylandstatefair.com <http://www.marylandstatefair.com>
- Shenandoah County Fair, August 26-Sept. 3. 540-459-3867 or www.shencofair.com <http://www.shencofair.com>
- Prince George's County Fair, Sept. 8-11. 301-579-2598 or www.countyfair.org <http://www.countyfair.org>
- Anne Arundel County Fair, Sept. 14-18. 410-923-3400 or www.aacountyfair.org <http://www.aacountyfair.org>
- Charles County Fair, Sept. 15-18. 301-932-1234 or www.charlescountyfair.com <http://www.charlescountyfair.com>

DOJ_NMG_0002416

- The Great Frederick Fair, Sept. 16-24. 301-301-663-5895 or www.thegreat-frederickfair.com <http://www.thegreat-frederickfair.com>
- St. Mary's County Fair, Sept. 22-25. 301-475-8434.
- State Fair of Virginia, Sept. 22-October 2. 804-569-3244 or www.statefair.com <http://www.statefair.com>
- Calvert County Fair, Sept. 28-Oct. 2. 410-535-0026.

~

New Area Restaurant:

OPEN AUGUST 8 - SUSHI-GO-ROUND and TAPAS

Located in G Street Alley, adjacent to the MCI Center near the Regal Cinema entrance.
Metro: Gallery Pl-Chinatown; Gallery Place, 7th and H streets, NW, Washington, DC.
PH 202.393.2825.

~

Tidbits:

LAWN MOWER RACING…the Latest Craze

Yes, that's right…lawn mowers. The sport began in England more than 30 years ago by motor sports fans put out by the high cost of the car racing sport. They figured everybody has a lawn mower, why not just race them? The sport began on this side of the Atlantic in 1992 as a publicity stunt for a company that makes a fuel stabilizer, and it's been gaining speed ever since. The U.S. Lawn Mower Racing Association (USLMRA) has six classes for races with stock being the slowest (6 mph). The fast lane is reserved for the Factory Experimental class in which speeds can exceed 90 mph. For nationally sanctioned races, drivers compile points and compete; no prize money is awarded at races. USLMRA has a broadcast deal with ESPN and there is a video game in the works with 500 members in 21 chapters nationwide. The focus is on inexpensive fun with the family. The only requirements concern safety.

~

JOHN EDDY 'S DEPARTURE

Farewell to John Eddy, Deputy White House Liaison, as he departs the U.S. Department of Justice today to direct The Victory Team of the Republican National Committee.

~

Have a great week!

Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317
Washington, D.C. 20530
Tel: [redacted], Fax: (202) 514-3546

"The road of Providence is uneven and unpredictable - yet we know where it leads: It leads to freedom."
President George W. Bush, February 2, 2005.

DOJ_NMG_0002417

DOJ_NMG_0002418

Image not available for this document, ID: 0.7.10316.72559-000001

From: Gorsuch, Neil M
Sent: Friday, August 05, 2005 2:31 PM
To: Eddy, John
Subject: FW: The Appointees Friday Weekly - August 5, 2005

Tracking:

Recipient	Read
Eddy, John	Read: 8/5/2005 2:32 PM

John, I'm very sorry to see you go so soon after I've arrived. Thank you for all your help in getting me situated here and best of luck at the RNC! I know you will have a great time. Say hello to my friend Ken Mehlman and stay in touch. Warm regards, Neil

-----Original Message-----
From: McDowell, Cynthia
Sent: Friday, August 05, 2005 9:45 AM
To: Andrea Bottner; Andrew Emrich; Brad Schlozman; Bruce Mcdonald; Carl Nichols; Carl Peed; Cheri Nolan; Clifford White; Crystal Roberts; Cybele Daley; Dan Meron; Deborah Rhodes; Deborah Spagnoli; Domingo Herraiz; Donald Gambatesa; Edward McNally; Elizabeth Kessler; Gregory Katsas; Howard Nielson; Jeffrey Bucholtz; Jeffrey Clark; Jeffrey Taylor; John Richter; Jonathan Cohn; Joseph Bianco; Kelly Johnson; Kristi Macklin; Kyle Sampson; Laura Parsky; Lily Swenson; Luis Reyes; Makan Delrahim; Michael Battle; Monica Goodling; Neil Gorsuch; Nicholas Tzitzon; Pat O'Brien; Patrick Hofer; Patrick Philbin; Paul Clement; Rachel Brand; Raul Yanes; Rebecca Seidel; Richard Hertling; Richard Morrison; Robert Flores; Sean McLaughlin; Sharee Freeman; Steve Bradbury; Steven McFarland; Stuart Nash; Tasia Scolinos; Theodore Ullyot; Thomas Barnett; Tracy Henke; Uttam Dhillon; Wan Kim; Alex MacLean; Amy Grimsrud; Andrew Ames; Andrew Beach; Angela Williamson; Asheesh Agarwal; Ben Curtis; Beth Collins Cook; Brian Cohen; Bruce Taylor; C. Kevin Marshall; Candice Chiu; Carrie Nelson; Connor Flaherty; Courtney Elwood; Cynthia Magnuson; Cynthia McKnight; Deborah Underhill; Ebony Lee; Elizabeth Apisson; Eric Akers; Eric Holland; Evan Gilbert; Gordon Todd; Grant Nichols; Jaclyn Lesch; James OConnell; Jan Williams; Jana White; Janet Potter; Jason Torchinsky; Jennifer Korn; Jessica Gavora; John Eddy; John Irving; John Nowacki; Julie Warren; Kerri Strug; Kiahna Sellers; Kimberly Smith; Lara Reynolds; Lindsey de la Torre; Mark Metcalf; Mary Neumayr; Matt David; Matt Robinson; Matt Roper; Matthew Miranda; Michael Costigan; Michael Tierney; Miriam Moore; Molly Donlin; Natalie Voris; Neal Jungeblut; Omar Vargas; Patrick McArthur; Price Roe; Raquel Sours; Rena Comisac; Ryan Bounds; Sandra Malloy; Shane Chambers; Stephanie McNees; Stuart Nash; Theodore Cooperstein; Tim Racicot; Trent Luckinbill; Tucker McNeil; Wanda Martinson; William Otis; William Woodruff
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Friday, August 5, 2005

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~

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DOJ_NMG_0002422

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~

Have a great week!

Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317
Washington, D.C. 20530
Tel: [redacted] Fax: (202) 514-3546

"The road of Providence is uneven and unpredictable - yet we know where it leads: It leads to freedom."
President George W. Bush, February 2, 2005.

DOJ_NMG_0002423

Image not available for this document, ID: 0.7.10316.72510-000001

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, August 08, 2005 8:56 AM
To: Nielson, Howard
Subject: RE: Farewell

It is very much the Department's loss. But, as a westerner I must admit more than a little envy. Best of luck and please do stay in touch. Neil

-----Original Message-----
From: Nielson, Howard
Sent: Monday, August 08, 2005 1:49 AM
To: McDowell, Cynthia; Bottner, Andrea; Emrich, Andrew (ENRD); Schlozman, Brad (CRT); McDonald, Bruce; Nichols, Carl (CIV); Peed, Carl; Nolan, Cheri; White, Clifford; Roberts, Crystal; Daley, Cybele; Meron, Daniel (CIV); Rhodes, Deborah; Spagnoli, Deborah A. (USPC); Herraiz, Domingo S.; [redacted] (USMS); McNally, Edward; Kessler, Elizabeth A; Katsas, Gregory (CIV); Bucholtz, Jeffrey (CIV); Clark, Jeffrey B. (ENRD); Taylor, Jeffrey (OAG); Richter, John; Cohn, Jonathan (CIV); Bianco, Joseph F.; Johnson, Kelly A. (ENRD); Macklin, Kristi R; Sampson, Kyle; Parsky, Laura; Swenson, Lily F; Reyes, Luis (SMO); Delrahim, Makan; Battle, Michael (USAEO); Goodling, Monica (USAEO); Gorsuch, Neil M; Tzitzon, Nicholas; O'Brien, Pat (ODAG); Hofer, Patrick F. (TAX); Philbin, Patrick (ODAG); Clement, Paul D; Brand, Rachel; Yanes, Raul; Seidel, Rebecca; Hertling, Richard; Morrison, Richard T. (TAX); Flores, Robert; Rosenstein, Rod J. (TAX); McLaughlin, Sean; Freeman, Sharee; Bradbury, Steve; McFarland, Steven T (ODAG); Nash, Stuart; Scolinos, Tasia; Ullyot, Theodore; Barnett, Thomas O.; Henke, Tracy (SMO); Dhillon, Uttam; Kim, Wan (CRT); MacLean, Alex (CRT); Grimsrud, Amy N; Ames, Andrew; Beach, Andrew; Williamson, Angela U; Agarwal, Asheesh; Curtis, Ben (CRT); Porritt, Ben; Cook, Elisebeth C; Cohen, Brian; Taylor, Bruce (CRM); Marshall, C. Kevin; Chiu, Candice; Nelson, Carrie; Flaherty, Connor; Elwood, Courtney; Magnuson, Cynthia; McKnight, Cynthia M (CRT); Underhill, Deborah; Lee, Ebony; Apisson, Elizabeth M; Akers, Eric J.; Holland, Eric W; Gilbert, Evan M. (TAX); Todd, Gordon (CRT); Nichols, Grant W; Lesch, Jaclyn; OConnell, James; Williams, Jan; White, Jana; Potter, Janet; Torchinsky, Jason (CRT); Korn, Jennifer; Gavora, Jessica; Eddy, John; Nowacki, John; Ganter, Jonathan; Warren, Julie; Strug, Kerri; Madden, Kevin; Sellers, Kiahna; Smith, Kimberly A; Reynolds, Lara; de la Torre, Lindsey; Metcalf, Mark H (CRT); Neumayr, Mary (ENRD); David, Matt; Dummermuth, Matt (CRT); Robinson, Matt; Roper, Matt M; Miranda, Matthew; Costigan, Michael; Tierney, Michael; Moore, Miriam (ODAG); Donlin, Molly; Voris, Natalie; Jungeblut, Neal P.; Vargas, Omar (ODAG); McArthur, Patrick; Roe, Price (OCIO); Sours, Raquel; Comisac, Rena; Coughlin, Robert; Bounds, Ryan W (OLP); Malloy, Sandra; Chambers, Shane P; McNees, Stephanie L. (EOUSA); Nash, Stuart (ODAG); Cooperstein, Theodore M; Racicot, Tim (ENRD); Luckinbill, Trent W.; McNeil, Tucker (OPA); Martinson, Wanda; Otis, William G.; Woodruff, William; McCallum, Robert (SMO); Keisler, Peter D. (CIV); O'Connor, Eileen J. (AAG/TAX)
Subject: Farewell

[redacted]

Sincerely,

Howard

McDowell, Cynthia

From: McDowell, Cynthia
Sent: Monday, August 15, 2005 2:56 PM
To: Andrea Bottner; Andrew Emrich; Brad Schlozman; Bruce Mcdonald; Carl Nichols; Carl Peed; Cheri Nolan; Clifford White; Crystal Roberts; Cybele Daley; Dan Meron; Deborah Rhodes; Deborah Spagnoli; Domingo Herraiz; Donald Gambatesa; Edward McNally; Elizabeth Kessler; Gregory Katsas; Howard Nielson; Jeffrey Bucholtz; Jeffrey Clark; Jeffrey Taylor; John Richter; Jonathan Cohn; Joseph Bianco; Kelly Johnson; Kristi Macklin; Kyle Sampson; Laura Parsky; Lily Swenson; Luis Reyes; Makan Delrahim; Michael Battle; Monica Goodling; Neil Gorsuch; Nicholas Tzitzon; Pat O'Brien; Patrick Hofer; Patrick Philbin; Paul Clement; Rachel Brand; Raul Yanes; Rebecca Seidel; Richard Hertling; Richard Morrison; Robert Flores; Sean McLaughlin; Sharee Freeman; Steve Bradbury; Steven McFarland; Stuart Nash; Tasia Scolinos; Theodore Ullyot; Thomas Barnett; Tracy Henke; Uttam Dhillon; Wan Kim; Alex MacLean; Amy Grimsrud; Andrew Ames; Andrew Beach; Angela Williamson; Asheesh Agarwal; Ben Curtis; Beth Collins Cook; Brian Cohen; Bruce Taylor; C. Kevin Marshall; Candice Chiu; Carrie Nelson; Connor Flaherty; Courtney Elwood; Cynthia Magnuson; Cynthia McKnight; Deborah Underhill; Ebony Lee; Elizabeth Apisson; Eric Akers; Eric Holland; Evan Gilbert; Gordon Todd; Grant Nichols; Jaclyn Lesch; James OConnell; Jan Williams; Jana White; Janet Potter; Jason Torchinsky; Jennifer Korn; Jessica Gavora; John Eddy; John Irving; John Nowacki; Julie Warren; Kerri Strug; Kiahna Sellers; Kimberly Smith; Lara Reynolds; Lindsey de la Torre; Mark Metcalf; Mary Neumayr; Matt David; Matt Robinson; Matt Roper; Matthew Miranda; Michael Costigan; Michael Tierney; Miriam Moore; Molly Donlin; Natalie Voris; Neal Jungeblut; Omar Vargas; Patrick McArthur; Price Roe; Raquel Sours; Rena Comisac; Ryan Bounds; Sandra Malloy; Shane Chambers; Stephanie McNees; Stuart Nash; Theodore Cooperstein; Tim Racicot; Trent Luckinbill; Tucker McNeil; Wanda Martinson; William Otis; William Woodruff
Subject: REMINDER: DAG Comey's Farewell Ceremony, 3:00 PM, Great Hall
Importance: High

Deputy Attorney General's Farewell Ceremony is Today!

All DOJ employees are invited to attend the Farewell Ceremony for James B. Comey, 51st Deputy Attorney General. The ceremony will be held in The Great Hall at 3:00 p.m., Monday, August 15, 2005. For those unable to attend and for employees in field locations, the ceremony will be aired on JusticeVision and Justice Television Network. A reception will follow.

Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317

Washington, D.C. 20530
Tel: (202) 514-9376, Fax: (202) 514-3546

Miller, Charles S

From: Miller, Charles S
Sent: Friday, September 02, 2005 11:04 AM
To: Allen, Gary (CIV); Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Eubanks, Sharon (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D. (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Morgan, Julian (CIV); Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Thirolf, Eugene; Wiggins, Mike; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 9/2/05 Civil Division News

Hartford Libraries Watch as U.S. Makes Demands

Anti-smoking groups seek tougher tobacco sanctions

Press Release: USN tobacco lawsuit

Blagojevich, Madigan take further action to stop BRAC; Officials head to federal court for restraining order

To save Otis, leaders weigh legal options

Black farmer claims discrimination by USDA

Plantiff marches forward to secure money owed to Native Americans

Is Canada sub-contracting torture?

The New York Times
September 2, 2005

Hartford Libraries Watch as U.S. Makes Demands

By ALISON LEIGH COWAN

Librarians in Connecticut say they are closely following a federal case in a Bridgeport courthouse involving a demand for library records, both to learn more about the identity of the people at the center of the case and to underscore their concerns about such orders.

Weeks earlier, the Federal Bureau of Investigation had quietly demanded that one of their peers turn over library records under the USA Patriot Act. The case became public after the subject of the demand retained the American Civil Liberties Union to challenge the constitutionality of the request, as well as the order of silence that accompanied it.

Librarians from Stamford, Westport and Bridgeport were observers in the courtroom during an emergency hearing on Wednesday before Judge Janet C. Hall in Federal District Court in downtown Bridgeport as lawyers discussed objections to the nondisclosure order. There, Carlton Greene, a lawyer for the Justice Department in Washington, and Kevin J. O'Connor, the United States attorney for the district of Connecticut, defended the need for secrecy and other powers granted under the Patriot Act to aid in the investigation of terrorism.

Challenging every assertion was Ann Beeson, a lawyer for the civil liberties union. The judge is expected to issue her ruling on the order of silence within the next week.

Among the spectators that day was Alice Knapp, the president of the Connecticut Library Association; she is the director of public services for Stamford's Ferguson Library.

Ms. Knapp said the case provided some validation for librarians who had been complaining that the library provisions in the Patriot Act were a breach of privacy and could be invoked too easily. She said it rebutted comments by some supporters of the Patriot Act, who have said that librarians and their customers have little to fear from the act.

"Here, we have a case where it is, in fact, being used," she said, "and all of the things we were concerned about, about the right of our patrons to have privacy, are justified."

In the case being heard in the Bridgeport courtroom, authorities issued a document called a national security letter to request information, asserting that the information was needed in an investigation of terrorism. The subject of the investigation and the circumstances were not disclosed. In addition, the recipient of the letter is permanently barred from disclosing the request.

In the Bridgeport case, the civil liberties union has argued that the recipient of the letter did not even know if he had the right to consult a lawyer or others in his organization - a concern that the lawyer for the government said was unfounded.

The recipient has remained unidentified, though it has gone into court to lift the order of silence so it can speak out against the Patriot Act before Congress, which is considering whether to extend important elements of the act after this year.

Careful reading of court records released on Wednesday in the Bridgeport case, with large sections heavily blacked out, indicate that the recipient of the national security letter was a library consortium based in Connecticut, not a public library.

One affidavit by the recipient says that such consortiums provide back-office services to libraries as well as "staff expertise, training, consultation, troubleshooting and customization services to its customers."

The language is identical to that found in the "about us" section of the Web site of Library Connection in Windsor, Conn., a nonprofit consortium that serves 26 libraries in the Hartford area.

Other details in the court record about the recipient organization's governing structure and the executive who agreed to accept the letter also bolster the growing impression within library circles that it may be the Windsor consortium.

For instance, the affidavit relates how the executive was initially unsure whom he was allowed to consult and ultimately told the executive committee members on his board.

Of the four consortiums in Connecticut, "Library Connection is the only one that has an executive committee," said Michael Simonds, the chief executive of Bibliomation Inc. of Middlebury, Conn., the largest of the four.

The executive director of Library Connection did not answer messages left over three days on his office phone and e-mail seeking comment.

A member of the Library Connection board referred a reporter to the American Civil Liberties Union.

"I'd really discourage anyone from making guesses because obviously this whole issue is under a gag order," the board member said. Asked about Library Connection, an A.C.L.U. lawyer said she would call back. The call was not returned by deadline on Thursday.

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Reuters
9/1/05

Anti-smoking groups seek tougher tobacco sanctions

By Peter Kaplan

WASHINGTON (Reuters) - Anti-smoking and health groups have urged that cigarette makers be required to fund a long-term, $4.8 billion-a-year, anti-smoking program if the U.S. government prevails in its racketeering case against the industry.

Six anti-smoking groups told a federal judge that a 10-year, $14 billion remedy sought by the Justice Department is inadequate and that the program should not end until nearly all smokers who want to quit have succeeded in kicking the habit.

They also sought a $600-million-a-year "counter-marketing" campaign to deter youth smoking and warn the public about the dangers of secondhand smoke and low-tar cigarettes.

"The government's proposal does not go far enough in altering the economic incentives of the defendants or eliminating a sufficient number of these smokers to deprive the defendants of the benefits of continuing to find ways to keep these individuals as smokers," they said in a 112-page filing with the court.

The groups, including the American Cancer Society, the American Heart Association and the American Lung Association, made the filing late Wednesday.

They were invited by U.S. District Judge Gladys Kessler in July to outline their views on what remedies should be imposed on the tobacco industry if she finds in favor of government charges that the industry deceived the public for decades about the hazards of smoking.

They have criticized the legal remedies being sought by the government as inadequate ever since June, when Justice Department lawyers scaled back their original plans for sanctions against the industry.

The government asked Kessler to require cigarette makers to fund a $10 billion quit-smoking program and pay $4 billion for an anti-smoking education campaign to remedy decades of alleged fraud by the industry.

But that angered anti-smoking groups because it was only a fraction of the $130 billion, 25-year program recommended by a government witness.

A Justice Department spokesman declined to comment on the anti-smoking groups' proposal.

The $4.8 billion proposed program would include $3.2 billion for a nationwide quit-smoking program; $1 billion a year for research to develop new smoking cessation therapies and training; and $600 million for a media campaign.

It also would limit print advertisements by cigarette companies to black-and-white text.

The anti-smoking groups also would require steeper declines in youth smoking rates than the Justice Department and would impose stiffer penalties on the companies if they are not met, according to William Corr, executive director of the Campaign for Tobacco Free Kids.

Of the 45.4 million smokers in the United States, about 70 percent now say they would like to quit, according to the anti-smoking groups' court filing. The programs would continue until that figure declined to 10 percent.

The "counter-marketing" campaign would continue until youth smoking rates in the United States declined substantially.

Altria Group Inc.'s associate general counsel, William Ohlemeyer, said in a statement that the filing was "procedural only, involving no new evidence, facts or witnesses." The company plans a response to the court later.

Targeted in the 1999 lawsuit are: Altria and its Philip Morris unit; Loews Corp.'s Lorillard Tobacco unit, which has a tracking stock, Carolina Group; Vector Group Ltd.'s Liggett Group; Reynolds American Inc.'s R.J. Reynolds Tobacco unit; and British American Tobacco Plc unit, British American Tobacco Investments Ltd.

The companies deny they illegally conspired to promote smoking and say the federal government has no grounds to pursue them or impose additional restrictions after they drastically overhauled marketing practices in a 1998 states settlement.

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AP - US Newswire
September 1, 2005

Press Release: USN tobacco lawsuit

WASHINGTON, Sept. 1 /U.S. Newswire/ -- The six public health organizations that intervened in the federal government's tobacco lawsuit filed a brief Wednesday urging the judge to strengthen the remedies proposed by the government, including imposing additional restrictions on tobacco marketing and increasing both the amounts the tobacco companies must pay to fund smoking cessation, youth tobacco prevention and public education programs and the duration of those programs.

The brief was filed by the American Cancer Society, American Heart Association, American Lung Association, Americans for Nonsmokers' Rights, the National African American Tobacco Prevention Network and the Tobacco-Free Kids Action Fund (a 501(c)4 affiliate of the Campaign for Tobacco-Free Kids). Judge Gladys Kessler on July 22 granted a motion to intervene filed by the six groups, making them formal parties to the lawsuit and granting them similar opportunities as the government and the tobacco company defendants to present arguments to the court.

Critically, the six public health organizations support the U.S Government's conclusion that the evidence presented in this case demonstrates that the defendant tobacco companies continue to engage in

serious, massive wrongful acts that mislead the American public about the health effects of their products, make their products appealing to youth and deter addicted smokers from quitting. The brief emphasizes the need to ensure that the remedies address all special populations including African- American; Asian American/Pacific Islander; Latino/Hispanic; Native American/Alaska Native; Lesbian, Gay, Bisexual and Transgender (LGBT); and low socio-economic status individuals. Thus, the public health groups join with the U.S. Government in urging the court to find that the defendant tobacco companies have violated RICO law.

Remedies recommended by the public health groups in addition to or in place of those recommended by the Department of Justice include the following:

Smoking Cessation: Instead of a $2 billion a year, five-year smoking cessation program, the tobacco companies would be required to pay $4.8 billion annually to fund a comprehensive smoking cessation program. The program would be available to all smokers who want to quit. Currently, 70 percent of the nation's 45.4 million adult smokers say they want to quit. The program would continue until less than 10 percent of those smokers who say they want to quit are still smokers. Although no time limit is set for the smoking cessation program, if this smoking cessation goal is not met, the tobacco companies would have to pay $48 billion during its first 10 years and as much as $96 billion over 20 years to fund the cessation program. The payments end once the smoking cessation goal is met. This provides a significant financial incentive for the companies not to engage in deceptive marketing intended to deter smokers from quitting, as they have often done in the past.

Public Education and Countermarketing: The tobacco companies would be required to pay $600 million a year (instead of the $400 million a year proposed by the Government) for at least 10 years to fund public education and countermarketing campaigns in three areas -youth smoking prevention; the risks of light and low-tar cigarettes (and other cigarettes that the tobacco companies have claimed reduce health risks); and the dangers of secondhand smoke. These programs would continue for at least 10 years, but would continue until certain goals are met. The youth smoking prevention program would continue until the youth smoking rate is reduced to less than five percent. The other public education programs would continue until 90 percent of the public is fully informed about the risks of light and low tar cigarettes and secondhand smoke. Because their payments would end when these goals are achieved, the tobacco companies again would have a significant financial incentive not to market to youth or deceive the public about health risks of their products and the dangers of secondhand smoke. Funding for public education and countermarketing would total $6 billion over 10 years and up to $12 billion over 20 years if the goals of the various campaigns are not achieved.

Total funding for the cessation and public education programs proposed by the health groups would be $5.4 billion a year, $54 billion over 10 years and up to $108 billion over 20 years if smoking cessation, youth smoking reduction and public education goals are not met. In contrast, the government has proposed requiring the tobacco companies to pay just $14 billion over 10 years to fund cessation and public education programs - $10 billion over five years for cessation ($2 billion a year) and $4 billion over 10 years for public education and countermarketing campaigns ($400 million a year).

As noted above, the smoking cessation and public education campaigns would continue until smoking reduction and public education goals are met rather than for a required number of years. This approach is intended to prevent and restrain future wrongdoing by creating economic disincentives for the tobacco companies to continue to engage in such wrongdoing. If they continue to engage in wrongful practices that deter smokers from quitting, they will have to continue to pay for the cessation program. If they continue to addict children and deceive the public, they will continue to have to pay for the youth prevention and public education campaigns.

Restrictions on Tobacco Marketing and Other Practices: In light of the overwhelming evidence presented at the trial of continued tobacco industry marketing that impacts youth, the public health groups proposed adding new restrictions supported by the evidence presented by the Government, but omitted from the Government's proposed order, while endorsing those proposed by the government as well. Key new restrictions include the elimination of the kind of imagery that appeals to children by limiting cigarette

advertising to black text on white background in magazines and other publications with large youth readership (more than two million youth readers or more than 15 percent youth readership) or in any retail outlets open to youth; prohibiting tobacco companies from including information on youth in their consumer databases or from collecting any data or records about youth; and prohibiting motor sport or other brand name sponsorships that result in exposure to youth (the government had limited the sponsorship restriction to motor sports).

Youth Smoking Reduction Targets and Penalties: The health groups proposed strengthening the government's proposal for establishing youth smoking reduction targets and financial penalties if the tobacco companies fail to meet these targets. The changes would require that the goal of reducing youth smoking rates by 42 percent from 2003 level be met by 2010 instead of 2013 (the latter was proposed by the government); base the targets on monthly rather than daily youth smoking rates (in order to hold the tobacco companies accountable for both youth who are experimenting with tobacco and those who have become regular smokers); and increase financial penalties when targets are missed. These changes are necessary to insure that it is no longer economically beneficial for the defendant tobacco companies to market to our nation's youth.

Compliance and Enforcement: The health groups proposed expanding the authority and jurisdiction of the Independent Investigations Officer who would be appointed by the court to ensure remedies imposed in this case are effectively implemented and enforced.

Because of the tobacco companies long history of evading specific restrictions on their conduct and the strong economic incentives they have to continue to engage in wrongdoing, including marketing to youth and deceiving smokers in order to deter them from quitting, the public health groups urged the court to impose a comprehensive set of remedies that include: 1) prohibitions on specific wrongful practices; 2) economic disincentives that make it unprofitable for the tobacco companies to continue to engage in wrongdoing; and 3) effective enforcement of the remedies to prevent the tobacco companies from evading them as they have in the past.

"It is essential that the Court adopt a comprehensive remedial approach to prevent and restrain the defendants from continuing to engage in the type of fraud and deception that has been a part, and remains a part, of this industry's standard operating procedure," the public health groups state in their brief.

END

State Journal-Register (Springfield, IL)
Friday, September 2, 2005

Blagojevich, Madigan take further action to stop BRAC; Officials head to federal court for restraining order

By ADRIANA COLINDRES
STATE CAPITOL BUREAU

Published Friday, September 02, 2005

Hoping to thwart plans to transfer the 183rd Fighter Wing's F-16s from Springfield to Fort Wayne, Ind., Illinois officials on Thursday went to federal court to ask for a temporary restraining order.

A hearing on the motion is scheduled for 10 a.m. today in U.S. District Court in Springfield.

The motion was filed by Gov. Rod Blagojevich and Attorney General Lisa Madigan. They seek to stop U.S. Secretary of Defense Donald Rumsfeld and the Base Closure and Realignment Commission (BRAC)

from moving the F-16s out of Springfield.

Last week, the BRAC commission endorsed the Pentagon's recommendation to move the 183rd's jets, headquartered at Abraham Lincoln Capital Airport.

Blagojevich believes the BRAC decision is illegal and "absolutely unjustifiable," said spokesman Andrew Ross. "It makes absolutely no sense, when our nation is at a heightened alert, to do something that would threaten our homeland security."

"We have common sense and the law on our side," he added.

Blagojevich and Madigan maintain the Pentagon's May recommendation to move the aircraft violates federal law that requires governors to consent to any type of realignment involving a state's National Guard bases.

Thursday's legal action by the pair follows a lawsuit they filed July 21 against the Defense Department in an attempt to block the transfer. A Pennsylvania court upheld a similar lawsuit filed by that state's attorney general.

In a news release, Madigan said the Pennsylvania court "concluded that the secretary of defense cannot deactivate a National Guard unit without the governor's consent. The same reasoning should apply to the claim we are bringing."

Blagojevich and Madigan also cited the state's 11 nuclear power plants and 28 locks and dams on the Illinois, Mississippi and Ohio rivers as homeland-security needs requiring the protection of the Springfield flying unit. Transferring the F-16s from Springfield to Fort Wayne would leave Illinois with two Air National Guard flying units: the 126th Air Refueling Wing at Scott Air Force Base near Belleville and the 182nd Airlift Wing in Peoria.

If the 183rd is realigned, its 15 active F-16s will be sent to Fort Wayne International Airport to become part of another Air Guard unit, and 163 full-time personnel will leave the Springfield base.

Ernie Slottag, spokesman for Mayor Tim Davlin, said the city supports Madigan and Blagojevich's latest legal effort to keep the F-16s in town. City officials had been expecting the lawsuit to be filed, he said.

The BRAC commission must publicly release its final report by Thursday and will send it to President Bush, who has until Sept. 23 to approve or disapprove the list. The recommendations must then be sent to Congress by Nov. 7. Lawmakers may disapprove the list through a joint resolution, but that did not happen in any of the four previous rounds of base closings.

END

Cape Cod Times
Sept. 2, 2005

To save Otis, leaders weigh legal options

By KEVIN DENNEHY
STAFF WRITER

A cold reality faces state leaders preparing a legal fight to save Otis Air National Guard Base: No federal judge has overturned a decision to close a military base since the Base Realignment and Closure Commission Act was passed in the late 1980s.

And even though recent courtroom victories in Pennsylvania and Connecticut offer hope that Air Guard units nationwide could be spared, there's no guarantee that Pentagon-owned fighter jets wouldn't be sent elsewhere.

Even still, analysts familiar with the base closure process say that, for once, states trying to preserve Air Guard units at least have a legitimate legal case.

Across the country, governors have argued that the federal government can't tamper with state National Guard units without gubernatorial consent since the units, like state militia of earlier generations, is answerable to the governor. In Pennsylvania last week, a federal district court judge agreed.

The question of states' rights and federalism, in fact, may be the one issue that could spare air bases like Otis.

"That's the kind of question that can wind up very easily in the Supreme Court," said Jeremiah Gertler, an analyst during the 1995 BRAC process and a fellow with the Washington-based Center for Strategic and International Studies.

"If so, it could be even longer before the question is resolved, and Otis is closed."

And in the case of the BRAC process, he said, timing is crucial. According to federal law, the Department of Defense must shut down the bases on the BRAC list within six years or the closures become moot.

"No lawsuit has ever been sustained against the BRAC commission," said Jimmy Dishner, a retired Air Force general from Orleans who helped Massachusetts officials craft their defense of Otis this summer. "But maybe this could be the first."

State and local leaders have tried to make the case for Otis since the Pentagon recommended it for closure in May.

Last week, however, their lobbying was dealt a blow when the BRAC commission backed the plan. However, instead of sending the Cape-based F-15s to fighter wings in New Jersey and Florida, they've recommended that they be moved to Barnes Air Base in Westfield.

Less than a week before the commission's Sept. 8 deadline to submit a final report to President Bush, there remain three options for a base to stay open:

n The president can suggest a change to the commission, which he is unlikely to do.

n The Congress will then have a chance to defeat the entire BRAC round, though it has not done that in four previous rounds of base closure.

n Litigation.

In recent days, staff members for Gov. Mitt Romney and Attorney General Thomas Reilly have met to review their legal options, and discussed whether it would be better to wait until after President Bush weighs in.

No timetable has been set, said Felix Browne, a Romney spokesman. Nor, he said, is there any urgency since the base will remain open for at least two years.

Otis supporters are still trying to gauge what specifically the BRAC vote means for Otis.

"There's a lack of clarity on what they decided," said Mark Forest, a legislative aide to U.S. Rep. William Delahunt, the Cape's congressman. "But they clearly went beyond the law."

In other states, there has been reason for optimism.

A federal judge last week ruled that the Pentagon had no authority to move a Pennsylvania Air National Guard unit without consent of the governor following a lawsuit by Gov. Ed Rendell.

And in Connecticut this week, a federal judge temporarily delayed the closing of a Connecticut Air National Guard base until a court can rule on the same argument. A hearing will be held before a U.S. District Court judge in Connecticut on Wednesday, the day before the BRAC commission releases its final report to Bush.

"The point of our suit was to get the Air Guard base at (Bradley International Airport) off the list before it even goes to the president," said Judd Everhart, press secretary for Connecticut Gov. Jodi Rell.

"It was very important that we move quickly."

Stripping the Guard

Among those to submit legal briefs as part of the Pennsylvania suit was the National Guard Association, which has protested Air Force consolidation plans that would strip the jets from about one-third of the nation's Air Guard bases.

The cut in resources will force Guardsmen to either move with their equipment or retire, predicts John Goheen, an association spokesman. At bases like Otis, he said, experienced pilots are likely to leave the Guard.

"We're certainly looking at everything that can be done to protect the Guard, to protect state rights in this matter," he said.

Notwithstanding the legal appeal of the Pennsylvania decision by the Department of Defense - which is expected - the judge's decisions still won't save the bases themselves.

The Pentagon still owns the fighter jets at these Air Guard bases, Gertler said, and in most cases, the land on which the bases are built.

The federal government, for instance, owns about one-third of the land on Otis, which occupies a portion of the 7,000-acre southern corner of the Massachusetts Military Reservation.

So while the Pennsylvania legal decision may preserve the state's 111th Fighter Wing, it won't likely keep the fighter jets where the governor wants them.

Christopher Hellman, a defense analyst with the Center for Arms Control and Non-proliferation, said lawyers are scrambling to become well-versed on the legal implications of the Air Guard challenges since there is no case law.

Likewise, issues of gubernatorial consent have not been raised during previous BRAC rounds because the Department of Defense stayed away from closing or realigning Guard assets.

Loren Thompson, a defense analyst with the Washington-based Lexington Institute, said the legal cases being submitted across the country may have some merit.

But he doesn't expect them to change any of the final recommendations, whether in the court room or through delays.

During this process, the U.S. Air Force sought to consolidate its forces, and streamline its relationship between active duty bases and reserve bases like Otis.

"The decision was part of a much broader plan rather than a commentary on Otis," he said. "And once a decision has been made, the legislation is so powerful and so unforgiving, it's hard to reverse a decision."

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Amsterdam News (NY, NY)
9/2/2005

Black farmer claims discrimination by USDA

by TALISE D. MOORER
Amsterdam News Staff

For nearly a decade, farmer Leonard Hunter has been pursuing the United States government for funds that he says are still owed to him from years of being persecuted.

Hunter, 65, of Mount Vernon, says that he has been targeted by the government since joining with over 26,000 other Black farmers from across the country who sued the U.S. Department of Agriculture (USDA) because they were denied access to loans and other resources that were granted to white farmers predominantly operating in the South.

Hunter, who has over 39 years of agricultural experience and has owned and controlled hundreds of acres of land in upstate New York and other parts of the country, says that his upstate New York property had to be sold to cut his losses after a long wait for a reply on his loan from the Farm Service Administration (FSA) in Middletown, New York. The FSA is the local arm of the USDA.

Hunter claims to have undergone extensive and costly preparations to meet FSA standards, but time after time, his application was denied. Officials cited that he lacked appropriate farming experience.
That explanation seemed strange to Hunter, who says that his farming experience is impeccable. For years, he grew crops of okra on the parcel of land that he could no longer afford to own. Recently, he had to sell the property.

"They just don't want to give access to resources to Black farmers in New York, and by the looks of it, anywhere in the United States," said Hunter. “Black farmers in this country are being told in effect to get out of the agricultural business; it's as simple as that.”

Hunter's story is part of a growing frustration that Black farmers have encountered in dealing with the USDA. In a class-action suit filed in 1997 and a subsequent lawsuit filed a few years later, Black farmers sought $20.5 billion from the government, citing that they were denied resources.

Under a settlement agreement with the Black farmers, the USDA agreed to pay $50,000, acknowledging that Black farmers had been overlooked, and in some cases, discriminated against.

Hunter, who was active in the 1999 settlement case from its early stages, has not been victorious so far. Though some other Black farmers have collected $50,000 from the government based on a consent decree, he is fighting for more, saying his losses over the years exceeded the amount that the government was willing to pay. Of the 94,000 farmers who sought retribution in the 1999 settlement, only 13,764 were deemed eligible to receive payment.

But Ed Lloyd, a spokesman for the USDA, says that the agency has been in full compliance with the agreements of the settlement.

“We have complied with everything that was a part of the 1999 Pigford Consent Decree and we have done everything in accordance with guidance from the court to make it happen,” said Lloyd. “The court

appointed arbitrators to monitor the process and they made determinations on claims that had any merit."

But Hunter insists that he has been overlooked. Needing an outside voice, the farmer contacted Harvard law professor Charles Ogletree after stumbling across an article about reparations in Parade Magazine that featured commentary by the legal scholar.

Hunter said Ogletree was familiar with the Black farmers' lawsuit and took his case on a pro bono basis. Ogletree said that he represented Hunter and accompanied him to a recent deposition where Hunter says that USDA attorneys violated his civil rights by asking questions that probed into his sex life and other personal matters not related to his farming experience.

"I felt violated by the disrespectful way that the U.S. attorney intruded on my personal life, questioning me about my sex life," said Hunter. "I fail to see how my sex life has anything to do with farming."

Hunter said that he was repeatedly asked by lawyers if he had sex with his business partner.

"That's irrelevant, and none of their business," said Hunter. "This is how low they'll go to try and assassinate my character, and it's the typical mentality of the Department of Agriculture, particularly among those in the county offices who decide who gets what to farm their land."

Anxious to move into the next phase of litigation, Hunter and his colleagues are expected to entertain yet another legal suit, comprising a class of Black farmers who say they are in pursuit of damages exceeding the proposed $50,000 settlement offered by the government.

Gary Grant, president of the Black Farmers and Agriculturalists, an advocacy group for Black farmers based in North Carolina, said that many of the farmers who joined in the Pigford Class Action suit since its filing in 1999 have endured substantial losses. He said that they have been awaiting justice in the form of monetary relief based on a settlement between the parties, formulated on the heels of the USDA's own internal investigation and finding of discrimination.

Under this agreement, farmers who pursued payment under what is called Track-A were entitled to a negotiated $50,000. Those seeking payment under Track B are considering restitution in amounts greater than $50,000 and must provide documented losses before they can be compensated, a suspicious burden, according to Grant, when one considers there is a finding of fault in a class action claim.

"They have used everything that they possibly could to try to deny Black farmers, including the destruction of character," said Grant.

Ogletree said that he supports compensation for Black farmers even though legal obstacles have made the fight more difficult.

"The problem in all of these cases is that thousands of Black farmers can't verify their claims because most of the evidence is in the hands of the government informing authorities and not the farmers," said Ogletee, who added that the regional offices of USDA have often misplaced farmers' documents. "These Black farmers across the nation have worked exceedingly hard to live the American dream, and this litigation for many of them has become an American nightmare," said Ogletree.

But Lloyd, of the USDA, dismissed Hunter's allegations, saying that the USDA has actively been working to right historical wrongs.

"When there is a finding of discrimination or wrongdoing, we expect to be held accountable for our actions and we will fix it, not for some, but for all farmers and ranchers despite their backgrounds."

Meanwhile, Hunter and his fellow farmers tarry the results of a proposed moratorium on Black farmer foreclosures proffered by the Federation of Southern Cooperatives and a collaboration of Black farmer organizations, calling for action by the current U.S. Secretary of Agriculture Mike Johanns. The proposal

also urges Johanns to set up an independent commission to fully review each case slated for foreclosure and to examine policies affecting income, disqualifications and any other reasons that could be perceived as discriminatory.

“We have been presented with a moratorium on behalf of the farmers and the secretary is presently reviewing it,” said Lloyd, adding that the USDA recently set up direct sales opportunities through an agreement the department has with the Marriott Corporation to purchase directly from small farmers.

“Other ways we have addressed concerns is through providing farmers with technical assistance, establishing a minority farms registry with voting member on the committee that decides applications, and by doing a better job of disseminating information about resources farmers are eligible for,” added Lloyd.

Despite receiving a hollow victory in court in terms of the judgment Hunter and others received on paper, they feel the gatekeepers have succeeded in preventing them from receiving compensation. They also say that the need for diversity on the regional and county levels of the USDA remains unmet.

“When you think about this problem, at least philosophically, Black people were initially brought to this country to be farmers and till the land,” said Hunter. “For someone to say I don't have the wherewithal to put okra into the ground is in and of itself racist.”

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Farmington, NM, Daily Times
Sept. 2, 2005

Plantiff marches forward to secure money owed to Native Americans

By Ryan Hall, The Daily Times

HUERFANO — The plaintiff in a landmark lawsuit filed nine years ago, that could potentially result in nearly $30 billion being paid to 500,000 Indians nationwide, visited with residents Thursday morning at the Chapter House here to update the case.

Elouise Cobell filed a lawsuit against the government, Cobell vs. Norton, in June 1996, asking for an accounting of the Individual Indian Trust Accounts. The fund was set up to pay money owed Indians for land taken by the government.

A previous decision in the case calls for the account records from 1887 through the present to be examined to determine how much is owed.

Any settlement or decision in the case would result in increased payments for more than 500,000 Indians, including 40,000-50,000 Navajos in the “checkerboard” area of New Mexico, according to a previous statement by Mike Wero of the Navajo Nation Washington Office.

The accounts are a trust set up and managed by the United States government, containing lease payments for land, as well as royalties for oil, grazing and timbering done on properties owned by Indians. The properties were part of a division of land completed in 1887 which granted male members of several tribes 160 acres apiece.

More than 4,000 parcels belonging to Navajos in New Mexico are part of that trust, leading to Wero’s estimate that 40,000-50,000 Navajos would be affected by any potential payout.

Throughout the process of the suit, accounting errors have been identified and important documents were found to have been destroyed.

Cobell said her legal team has estimated the total fund, including compound interest, should be $176 billion. She has previously stated she would be satisfied with a $27.5 billion settlement, as long as the money was placed in a court registry and not with the U.S. Treasury, who is a defendant in the case.

“This case is about fixing an accounting system,” she told the crowd.

Cobell said Thursday the reason for the concession was an aging Native population.
“There’s so many people dying without their inheritance,” she said.

Prior to speaking to the more than 100 residents who attended the meeting in Huerfano, Cobell said the nine-year suit has taken its toll, but she believes it is worth it when she meets with Indians.

“It’s rewarding when you see so many people it affects,” she said, gesturing toward the crowd prior to her speech.
Cobell, accompanied by her attorneys, then addressed the audience, outlining several victories and wins in the appellate court over the past nine years.

“It’s somewhat sad to be here [nearly] 10 years after a lawsuit was filed,” she said. “I am so happy we are a people who are not going to give up. This is our money.”

According to Cobell, she has won decisions granting an accounting of the trust account and an inclusion of compound interest on any decision. She noted courts have also ruled the government’s method of securing the electronic funds has been found to be inadequate, most recently in a July 12 decision.

“It was an absolutely excellent decision for all of us,” Cobell said.

Under the current system, the government is not protecting sensitive data regarding payments and personnel information, according to Cobell. She added the government’s own inspector general recently gave the system a failing grade.

The case now moves back to the larger question that spawned it in the first place: What land is owned by Indians and how much money is owed them for the use of that land?

"“That’s the big battle,” Cobell said, echoing a statement made before the meeting, “They can’t do an account. If they would admit it, this would be all over.”

While the fight over the trust account continues in court, a settlement proposed in July in Congress continues to be debated. Hearings have been held on the bill, but it has not yet been voted on.
Cobell said she agrees with portions of the legislation, but is upset the settlement would not date back to 1887, which the court has established it should, nor does it place the money in the court registry. Any settlement achieved under the bill would be placed in the U.S. Treasury, which Cobell said she has little faith in, as they are currently a defendant.

Despite the long-standing litigation and a less than satisfactory Congressional attempt at a settlement, Cobell said she is motivated to continue the fight and believes in the end Indians will prevail and get the money she believes they are owed.

“It’s affecting the poorest people in the country. We are going to win,” she said. “Stay strong, stay united, there will be victory.”

END

Ottawa Citizen

Sept. 2, 2005

Is Canada sub-contracting torture?

OTTAWA - It will take more than the Maher Arar inquiry to figure out whether Ottawa is sub-contracting the torture of Canadian citizens to oppressive regimes in other countries.

That's the opinion of a trio of human-rights watchers.

Judge Dennis O'Connor has spent more than a year examining the case of the 34-year-old Ottawa engineer who was arrested by U.S. authorities in 2002 and deported to his native Syria.

Arar, who'd been under surveillance in Canada before his U.S. arrest, has denied any terrorist activity.

He says he was tortured by the Syrians into falsely confessing to having links to Al Qaida.

Alex Neve, of Amnesty International, says Prime Minister Martin should instruct federal lawyers at the Arar inquiry to encourage the judge to probe as widely as possible.

Warren Allmand, a former Liberal cabinet minister, says he fears there are other cases in which the Martin government condoned the mistreatment of terrorist suspects abroad.

END

McDowell, Cynthia

From: McDowell, Cynthia
Sent: Friday, September 2, 2005 12:25 PM
To: Andrea Bottner; Andrew Emrich; Brad Schlozman; Brent McIntosh; Bruce Mcdonald; Carl Nichols; Carl Peed; Cheri Nolan; Clifford White; Crystal Roberts; Cybele Daley; Dan Meron; Dana Boente; Deborah Rhodes; Deborah Spagnoli; Domingo Herraiz; Donald Gambatesa; Edward McNally; Elizabeth Kessler; Greg Harris; Gregory Katsas; James Clinger; Jeffrey Bucholtz; Jeffrey Clark; Jeffrey Taylor; John Richter; Jonathan Cohn; Joseph Bianco; Kelly Johnson; Kristi Macklin; Kyle Sampson; Laura Parsky; Lily Swenson; Luis Reyes; Matthew Friedrich; Michael Battle; Monica Goodling; Neil Gorsuch; Nicholas Tzitzon; Pat O'Brien; Patrick Hofer; Patrick Philbin; Rachel Brand; Raul Yanes; Rebecca Seidel; Richard Hertling; Richard Morrison; Robert Flores; Sean McLaughlin; Sharee Freeman; Steve Bradbury; Steven McFarland; Stuart Nash; Tasia Scolinos; Theodore Ullyot; Thomas Barnett; Tracy Henke; Uttam Dhillon; Wan Kim; Alex MacLean; Andrew Ames; Andrew Beach; Angela Williamson; Asheesh Agarwal; Ben Curtis; Beth Collins Cook; Brian Cohen; Bruce Taylor; C. Kevin Marshall; Candice Chiu; Carrie Nelson; Chris Gober; Connor Flaherty; Courtney Elwood; Cynthia Magnuson; Cynthia McKnight; Deborah Underhill; Ebony Lee; Elizabeth Apisson; Eric Akers; Eric Holland; Gordon Todd; Grant Nichols; Jaclyn Lesch; James OConnell; Jan Williams; Jana White; Janet Potter; Jason Torchinsky; Jennifer Korn; Jessica Gavora; John Irving; John Nowacki; Julie Warren; Kerri Strug; Kiahna Sellers; Kimberly Smith; Lara Reynolds; Laura Keehner; Lindsey de la Torre; Mark Metcalf; Mary Neumayr; Matt David; Matt Robinson; Matt Roper; Matthew Miranda; Michael Costigan; Miriam Moore; Molly Donlin; Natalie Voris; Neal Jungeblut; Omar Vargas; Patrick McArthur; Payson Peabody; Price Roe; Raquel Sours; Rena Comisac; Ryan Bounds; Sandra Malloy; Shane Chambers; Theodore Cooperstein; Tim Racicot; Timothy Hagle; Trent Luckinbill; Tucker McNeil; Wanda Martinson; William Otis; William Woodruff
Subject: Opportunity: Be a DHS/FEMA volunteer for Hurricane Katrina needs - DEADLINE 2:30 PM TODAY
Importance: High

Dear Political Appointee,

DHS/FEMA is interested in collecting a list of political appointees who would be interested in assisting in the following areas of support given the volume of work from Hurricane Katrina.

1.) Administrative/General Support

2.) Legislative Affairs

3.) Communications/Public Affairs

4.) Community Relations

5.) Public Liaison

The immediate need will likely be for support at the FEMA headquarters in D.C. but some folks may be asked to travel to the affected area.

Please note that many volunteers may not be utilized due to a high response rate. DHS/FEMA will reach out to individuals who express interest and utilize those individuals on an as-needed basis. DO NOT contact DHS/FEMA directly.

If you are interested in volunteering in this effort, you must:

- Have the approval of your supervisor(s);
- Identify an area above where your skills would be a relevant asset to the needs;
- **RSVP to Cynthia McDowell (DOJ) by 2:30PM TODAY and give this information:**
  - Full Name:
  - DOB:
  - SSN:
  - Direct Phone No.:
  - Cell Phone No.:
  - Email Address:
  - YES or NO answer if you are Willing to Deploy:

Together, we will do our part to assist in this time of need.

Regards,

DOJ Office of White House Liaison
Jan Williams, Cynthia McDowell

~
Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317
Washington, D.C. 20530
Tel: (202) 514-9376, Fax: (202) 514-3546

Keisler, Peter D. (CIV)

From: Keisler, Peter D. (CIV)
Sent: Saturday, September 03, 2005 1:03 PM
To: McDowell, Cynthia; Bottner, Andrea; Emrich, Andrew (ENRD); Schlozman, Brad (CRT); McIntosh, Brent; McDonald, Bruce; Nichols, Carl (CIV); Peed, Carl; Nolan, Cheri; White, Clifford; Roberts, Crystal; Williams, Jan; Daley, Cybele; Meron, Daniel (CIV); Boente, Dana J. (TAX); Rhodes, Deborah; Spagnoli, Deborah A. (USPC); Herraiz, Domingo S.; [redacted] (USMS); McNally, Edward; Kessler, Elizabeth A; Harris, Greg; Katsas, Gregory (CIV); Clinger, James H; Bucholtz, Jeffrey (CIV); Clark, Jeffrey B. (ENRD); Taylor, Jeffrey (OAG); Richter, John (CRM); Cohn, Jonathan (CIV); Bianco, Joseph F.; Johnson, Kelly A. (ENRD); Macklin, Kristi R; Sampson, Kyle; Parsky, Laura; Swenson, Lily F; Reyes, Luis (SMO); Friedrich, Matthew; Battle, Michael (USAEO); Goodling, Monica (USAEO); Gorsuch, Neil M; Tzitzon, Nicholas; O'Brien, Pat (ODAG); Hofer, Patrick F. (TAX); Philbin, Patrick (ODAG); Brand, Rachel; Yanes, Raul; Seidel, Rebecca; Hertling, Richard; Morrison, Richard T. (TAX); Flores, Robert; McLaughlin, Sean; Freeman, Sharee; Bradbury, Steve; McFarland, Steven T (ODAG); Nash, Stuart (ODAG); Scolinos, Tasia; Ullyot, Theodore; Barnett, Thomas O.; Henke, Tracy (SMO); Dhillon, Uttam; Kim, Wan (CRT); MacLean, Alex (CRT); Ames, Andrew; Keisler, Peter D. (CIV); [redacted]@verizon.net; Beach, Andrew; Williamson, Angela U; Agarwal, Asheesh; Curtis, Ben (CRT); Cook, Elisebeth C; Cohen, Brian; Taylor, Bruce (CRM); Marshall, C. Kevin; Chiu, Candice; Nelson, Carrie; Gober, Chris; Flaherty, Connor; Elwood, Courtney; Magnuson, Cynthia; McKnight, Cynthia M (CRT); Underhill, Deborah; Lee, Ebony; Apisson, Elizabeth M; Akers, Eric J.; Holland, Eric W; Todd, Gordon (CRT); Nichols, Grant W; Lesch, Jaclyn; OConnell, James; White, Jana; Potter, Janet; Torchinsky, Jason (CRT); Korn, Jennifer; Gavora, Jessica; Irving, John (ODAG); Nowacki, John; Warren, Julie; Strug, Kerri; Sellers, Kiahna (OAG); Smith, Kimberly A; Reynolds, Lara; Keehner, Laura; de la Torre, Lindsey; Metcalf, Mark H (CRT); Neumayr, Mary (ENRD); DAVID, MATT (USAVAE); Robinson, Matt; Roper, Matt M; Miranda, Matthew; Costigan, Michael; Moore, Miriam (ODAG); Donlin, Molly; Voris, Natalie; Jungeblut, Neal P.; Vargas, Omar (ODAG); McArthur, Patrick; Peabody, Payson R. (TAX); Roe, Price (OCIO); Sours, Raquel; Comisac, Rena; Bounds, Ryan W (OLP); Malloy, Sandra; Chambers, Shane P; Cooperstein, Theodore M; Racicot, Tim (ENRD); Hagle, Timothy; Luckinbill, Trent W.; McNeil, Tucker (OPA); Martinson, Wanda; Otis, William G.; Woodruff, William
Subject: Hurricane Katrina -- HHS Call Center

Dear Colleagues:

I went to HHS this morning in connection with the email sent our yesterday seeking volunteers for their Katrina Call Center, but when I arrived I was told that the need for people to staff the Call Center was -- at least for the moment -- far less than what had been anticipated. (Apparently, people are

contacting HHS through the website much more than by telephone, which is good because it's more efficient.) So, at least as of this morning, they didn't need me or anybody else. They are understandably reluctant to tell us simply to ignore the original request for help, however, because the situation could change. They ultimately suggested that people who wish to volunteer call one of two phone numbers -- (202) 260-7179 or (202) 260-6933 -- before coming over to HHS, to find out in advance whether there's a need at that particular time for people to come in. This is a change from the original request, which was that people who wish to participate just show up (and send an email indicating when they plan to do so), so they asked me to pass this new information along to everyone.

Peter Keisler

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 06, 2005 8:37 AM
To: USDOJ- Office of Public Affairs
Subject: Attorney General's News Briefing 9/6/05
Attachments: agnb050906.pdf; agnb050906.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, SEPTEMBER 6, 2005 7:45 AM EDT

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TERRORISM NEWS:

Charges Against Virginia Man Arrested In Elaborate Raid Dropped. The Washington Post (9/5, A4, Sheridan) reports, "The scene was emblematic of the war on terror: a government helicopter clattering over a home in Burke as gun-toting agents smashed through the door and handcuffed the owner, a Lebanese immigrant. Hassan Khalil, 37, was arrested by agents with a local terrorism task force this May and charged with immigration fraud. But now, officials say, the charge has been dropped. The reason: a mistake in Khalil's immigration records." The Post adds, "Authorities have declined to comment on what brought Khalil to their attention or whether he could face further accusations . He was charged in May with lying on his citizenship application by failing to note an arrest by U.S. officials in the early 1990s for being in the country illegally."

Investigators Say London Subway Bomber Video Is Authentic. Newsweek (9/12) reports in its "Periscope" column, "American and British investigators say a new video featuring a July 7 London subway bomber and Qaeda chief deputy Ayman al-Zawahiri is authentic. These counterterror officials, who asked not to be named because of the sensitive subject matter, say the tape, aired last Thursday by Al-Jazeera, appears to affirm a link between Al Qaeda and the July 7 attacks -- but it doesn't prove Zawahiri or Qaeda head Osama bin Laden ordered them."

DOJ Statement On Detention Of Foreigners Decried. In an op-ed for the Washington Times (9/5) journalist Nat Hentoff writes, "I thought I was inured to learning about further evidence of this administration's disregard for our system of justice as it abuses international law and our statutes in the CIA's kidnapping of terrorism suspects to be sent to other nations. But an Aug. 9 statement in Brooklyn federal court by Mary Mason of the Justice Department's Constitutional Torts Section astonished me by its breadth of disregard for what we prize as our rule of law. … This is what Mrs. Mason, speaking for the U.S. government, said in federal court: 'Foreign citizens who change planes at airports in the United States can legally be seized, detained without charges, deprived of access to a lawyer or the courts, and even denied basic necessities like food.'"

PATRIOT ACT:

Long Beach, CA, Mulls Opposition To Patriot Act. The Long Beach (CA) Press-Telegram (9/5, Gewirtz) reports, "The City Council will be asked Tuesday to oppose provisions of the controversial USA PATRIOT Act that a citizens' group says will threaten civil liberty protections." The Press-Telegram continues, "Councilwomen Bonnie Lowenthal and Tonia Reyes Uranga will make the request, asking the council to support a recently adopted resolution in the State Senate that urges Congress to amend the act." The Press-Telegram adds, "Several cities, including Los Angeles, San Jose and San Francisco, have adopted similar measures in recent months regarding civil liberty aspects of the act. But whether the council will tackle the issue is unclear. … In the past, council members have had contentious debates over whether they should weigh in on various issues in front of the federal government. In March 2003, the council withdrew two contested resolutions after a debate over how, or whether, to address the war in Iraq. In June 2004, the council split 4-4 on a resolution to oppose the Federal Marriage Amendment. … Councilman Frank Colonna, who has opposed several past council efforts at intervention beyond the city's authority, said Tuesday's item falls into that category. … But Edith Pollach with the Long Beach Civil Liberties Defense Coalition said the council should take up the issue. She said nearly two dozen local groups will urge support for the measure Tuesday."

HOMELAND RESPONSE:

Report Questions Efficacy Of Airline Screening Program. The Washington Times (9/6, Seper) reports an airline anti-terrorism screening plan "may not be able to tell the Department of Homeland Security how many passenger records are being screened or project the number of terrorist-watch-list 'hits' to be sent to the nation's Terrorist Screening Center (TSC)." The Justice Department's Office of Inspector General "said the program shortfalls, found in a lengthy audit, have hurt the TSC's ability to plan its role in the government's new 'Secure Flight' program, an initiative to let the Transportation Security Administration (TSA) compare the names of commercial

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airline passengers with TSC's consolidated terrorist watch list."

US Muslims Seek To Limit Appeal Of Extremists. The Wall Street Journal (9/6, Sataline) reports, "Calling the terrorist attacks on London a wake-up call, Muslim-American organizations have launched a number of programs that are designed, in part, to prevent or root out disgruntled Muslims who might be tempted to use their religion to justify violence." The Islamic Society of North America "plans to distribute tens of thousands of pamphlets at mosques and cultural centers that spell out the Quran's injunctions against violence." Another "broad-based organization, the Muslim Public Affairs Council, is expanding its program to teach local mosques to partner with local communities and law enforcement."

9/11 Commission Successor Seeks Information On Able Danger. The Washington Times (9/5, Waterman) reports, "Members of the September 11 commission think they have been left swinging in the wind by the growing revelations about a secret Pentagon program that may have identified the ringleader of the hijackings as an al Qaeda operative more than a year before the attacks. 'Other people have questions they need to answer,' said Al Felzenberg, spokesman for the commission's embattled successor body, the 9/11 Public Discourse Project." The Times notes, "At the center of the controversy are claims that the secret project, code-named Able Danger, in 2000 produced a chart bearing the names -- and in some people's recollections, photographs -- of about 60 people thought linked to al Qaeda. Among the names was that of Mohamed Atta, the ringleader of the attacks. If the claims turn out to be true, it will entail a major rewrite of the commission's accounts of the missed opportunities to thwart the attacks."

DHS General Counsel Understands Both Private, Public Sector. The Legal Times (9/5, Blum) reports, "If any lawyer knows the Department of Homeland Security inside and out, it's Philip Perry. … Three years ago, as a senior White House lawyer, Perry helped create the new department. Later, as a partner at Washington's Latham & Watkins, he actively lobbied the DHS on behalf of two Fortune 500 companies. Then, about three months ago, the 41-year-old completed the circle, joining the agency as its general counsel." The Times continues, "In many ways, Perry is following Washington's most common career path. Lawyers in the capital have always swung between the federal government and law firms. But if you want to get off on the right foot with Perry, you better not refer to that flight pattern as the 'revolving door.' … 'The term "revolving door" implies people going in and out of government in order to obtain monetary gain,' Perry says. 'The reason people go into government is to serve their country. It's not appropriate to describe that as a revolving door.'" The Times adds, "Perry, who is married to Vice President Dick Cheney's oldest daughter, Elizabeth, has held three jobs in the Bush administration. In his current post—the first to require Senate confirmation—Perry oversees roughly 1,500 lawyers. In addition to its usual portfolio, his office is now handling legal aspects of the government's response to the devastation caused by Hurricane Katrina. And, in fact, Perry canceled a planned Labor Day weekend fishing excursion with his father-in-law to deal with the crisis. … Perry's work ethic seems to match that of his notoriously intense boss, Homeland Security Secretary Michael Chertoff. During August, when much of official Washington tends to dawdle, Perry pushed his staff to complete work on 30 separate regulations."

WAR NEWS:

US Sets Trap For Insurgents Fleeing Tall Afar. The Washington Post (9/5, A24, Finer) reports, "Under the cover of a moonless night, U.S. soldiers on Sunday strung nearly a mile of razor-sharp concertina wire across the northern edge of a [Tall Afar] neighborhood dominated by insurgents to prevent them from fleeing without a showdown. Several small teams of five or six troops quickly uncoiled spools of wire and fastened it along the deserted sidewalk of a broad thoroughfare. The cordon was intended to prevent insurgents from blending in with the hundreds of people who fled the city during heavy clashes Sunday. … More than 5,000 U.S. and Iraqi soldiers entered Tall Afar on Friday in a broad sweep for insurgents who have held sway in the northern city since a previous U.S. invasion, and subsequent withdrawal, last September. In three days of fighting, as many as 200 insurgents have been killed. Two U.S. and four Iraqi soldiers have been wounded, none seriously."

Saddam Trial Will Begin October 19. The Financial Times (9/5, Negus) reports Saddam Hussein will "go on trial on October 19 on charges related to the

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repression of Shia in a central Iraqi town in 1982," said Laith Kubba, the prime ministerial spokesman. Kubba "was subsequently quoted as saying that Mr Hussein could be executed shortly after his trial -- possibly raising objections from the Kurds and other groups anxious to see crimes against their communities brought to trial." Saddam's "co-defendants would include Barzan Ibrahim, his half-brother and then-chief of intelligence, Taha Yassin Ramadan, former vice-president, former top judge Awad Badar Al-Bandar, and four former local members of the ruling Ba'ath party."

The New York Times (9/5, Oppel) reports, "After the failed attack on Mr. Hussein, Iraqi officials executed men and boys from Dujail, a largely Shiite town 35 miles north of Baghdad. Investigators for the special tribunal that will try Mr. Hussein have said another 1,500 Dujail residents were later ordered incarcerated in a prison in a desolate stretch of desert near the Saudi Arabian border."

The Washington Post (9/5, A25, Knickmeyer) reports, "The Iraqi government is considering waiving further proceedings against former president Saddam Hussein if he is convicted at his trial on charges stemming from the massacre of 143 Shiite Muslims in 1982, a senior spokesman said Sunday." Kubba "said Sunday that if Hussein is convicted in the first case, any sentence is likely to be carried out as swiftly as possible." The Post adds, "The Shiite-led interim government is believed to have chosen the case in part because of its narrow focus and the possibility of tracing the killings back to Hussein. Other accusations against him, including state-orchestrated massacres of thousands of Kurds and Shiites, are much broader."

Insurgents Allied With Zarqawi Claim Control Of Iraqi Border Town. The Washington Post (9/6, A20, Knickmeyer, Finer) reports, "Fighters loyal to militant leader Abu Musab Zarqawi asserted control over the key Iraqi border town of Qaim on Monday, killing U.S. collaborators and enforcing strict Islamic law, according to tribal members, officials, residents and others in the town and nearby villages." Residents said "the foreign-led fighters controlled by Zarqawi, a Jordanian, apparently had been exerting authority in the town, within two miles of the Syrian border, since at least the start of the weekend. A sign posted at an entrance to the town declared, 'Welcome to the Islamic Republic of Qaim.'" Meanwhile, the US Army "warned noncombatants to leave a portion of the northeastern city of Tall Afar ahead of an expected assault on an insurgent stronghold there."

Al Qaeda Group Claims Responsibility For Interior Ministry Attack. ABC World News Tonight (9/5, story 16, :15, Gibson) reported, "In Baghdad, a major attack on the Iraqi Interior Ministry. Up to 30 gunmen descended on the ministry in 10 cars, and opened fire with rocket propelled grenades, mortars, and automatic rifles. Two policemen were killed and five were wounded. The Iraqi wing of Al Qaeda said on a Website it launched the attack."

USA Today/AP (9/6, Yacoub) reports, "The insurgents, who fired automatic weapons and rocket-propelled grenades, withdrew after about 15 minutes. There was no report of insurgent casualties." The Washington Post (9/6) also reports the AP story.

US Bracing For More Confrontations With Insurgents As Elections Approach. The New York Times (9/6, Moss) reports the American military "recently moved into this small town" of Faris "10 miles south of Falluja, one of the most violent locales in Iraq, to secure it for the coming elections, and the insurgents took all of a day to respond. They fired a rocket that missed the Americans and landed instead in a nearby playground, killing a 12-year-old boy and wounding eight other children." Some residents "are directing their anger not at the insurgents but at the marines, whose arrival, they say, drew the attack." The military is "bracing for a surge of situations like this one as American and Iraqi forces race to establish security for the referendum on the new Iraqi constitution to be held on Oct. 15." Faris and Ameriya "have been without police officers since February, when the police force collapsed in the face of withering attacks by insurgents, who then used the communities as safe havens from which to mount their attacks, Marine officers said, and to intimidate civilians."

Top Iraqi Officials Criticize Arab Leaders For Lack Of Support. The New York Times (9/6, Worth) reports that in "an unusual public rebuke, President Jalal Talabani angrily criticized other Arab states on Monday, saying they had insulted Iraq by not sending diplomats to Baghdad and had not sent condolence letters about the stampede last week in which almost 1,000 Shiite pilgrims were killed." Talabani, "a Kurd, amplified complaints by other Iraqi leaders about the Arab states' failure to recognize the stampede, which caused the highest one-day death toll since the American-led invasion. The complaints, aimed at mostly Sunni leaders, hinted at a sectarian bias against Iraq, where

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Shiites are about 60 percent of the population." Prime Minister Ibrahim al-Jaafari, a Shiite, "hinted at similar criticism on Monday when asked about the emir of Qatar, Sheik Hamad bin Khalifa al-Thani, who donated $100 million to the American victims of Hurricane Katrina but nothing to the victims of the stampede." The Times adds the comments by Talabani and Jaafari "came at a time of heightened tension with other Arab nations. Last week Amr Moussa, the secretary general of the Arab League, issued a public criticism of Iraq's new constitution - largely written by Shiites and Kurds - in which he echoed the criticisms by some Sunni Arabs in Iraq." But "some Iraqi leaders asked why Mr. Moussa was willing to denounce the new draft constitution now, after the Arab League had been notably silent about Iraq's lack of a constitution under Saddam Hussein."

Annan Says Iraq Worse Terror Problem Than Taliban-Era Afghanistan. The Washington Times (9/6) reports UN Secretary General Kofi Annan said the "US-led invasion of Iraq has turned the country into a new hub of terrorism worse than Afghanistan under the Taliban." Annan also said "in an interview with the British Broadcasting Corp. that he expected to face blame over the Iraqi oil-for-food program when investigators deliver a report this week." Annan "told BBC World Service radio that the war was contributing to Muslim anger throughout the world." Annan said, "I think there are many Muslims that are extremely unhappy today. Unhappy because they feel victimized, they feel isolated, they feel victimized in their own society, they feel victimized in the West, and they feel this profiling against them. And the Iraqi situation has not helped matters. In fact, one used to be worried about Afghanistan being the center of terrorist activities. My sense is that Iraq has become a major problem, and in fact, it's worse than Afghanistan." The Times adds that regarding the "oil-for-food investigation, Mr. Annan said he believed chief investigator Paul Volcker would criticize him and others involved in the $64 billion program."

Bush Urged To Emphasize National Security When Discussing Iraq. In his Roll Call column (9/6), executive editor Morton Kondracke says President Bush has "made an important shift as he tries to bolster public support for the Iraq war, moving from idealism to a hard national security argument. He needs to stress the new message more. Unpopular though the idea may be, he may also have to increase the number of U.S. troops in Iraq in order to have any hope of defeating the insurgency. And, for sure, he has to get the Pentagon to stop talking about drawing down U.S. troop levels next year and get with Bush's own program: The United States stays until Iraq is secure." Bush "continues to make it clear that America is at war. What he must do now is make it unmistakable to the American people what the stakes of the war are and provide adequate forces to win it."

Iraqi Youth Experiencing Traumatic Events. The Washington Post (9/6, C1, Shadid) reports in the experience of 16-year-old Iraqi girl Amal Salman in Baghdad. Since she "had begun keeping her diary in 2003, Amal had witnessed the events of a lifetime: an invasion and the only government she knew toppled in a few weeks; an occupation; promises of prosperity and the disappointment that followed; an insurgency and the specter of civil war." But one Thursday morning "was the first time she had seen death" after a series of car bombings.

Iraq Veteran Records Experiences In Poetry. The New York Times (9/6, Kelley) reports vet José Díaz, 35, "who came to the United States from Cuba on the Mariel boatlift in 1980, has written a poem included in 'Voices in Wartime' (Whit Press, 2005), an anthology that explores the experience of war through literature."

Officials Say US, Afghan Troops Killed 25 Insurgents In Two Raids. The Los Angeles Times (9/6, Watson) reports US and Afghan forces "killed 25 suspected Taliban fighters and captured dozens more in operations in two southern provinces over two days, Afghan and U.S. officials said." On Monday, US and Afghan forces "killed 12 suspected militants and detained nine others in a raid in Zabol province, the U.S. military said." The operation in Zabol "followed a raid in neighboring Kandahar province in which U.S. and Afghan forces killed 13 suspected Taliban fighters, and captured dozens more, in a remote area where a political candidate was kidnapped and executed last week, a provincial official said."

The New York Times (9/6, Gall) reports Afghan and US forces "have mounted an operation in recent days in a remote mountainous district of southern Afghanistan in pursuit of a group of insurgents." Afghan and American officials said "that 13 insurgents suspected of ties to the country's former Taliban rulers had been killed and more than 40 people had been detained." The area of combat "is the same district, Ghorak, where suspected Taliban insurgents kidnapped, and

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claimed to have killed, five people on Saturday - a local election candidate, a government official and three police officers. An American spokesman, Col. James Yonts, said the operation was not directly linked to their abduction, but was based on intelligence about enemy activity."

Anarchy In Baghdad After US Invasion Described. In the second installment of a three part series, the Washington Post (9/5, C1, Shadid) reports, "On April 10, 2003, the day after the fall of President Saddam Hussein, the veil had been lifted but no one was sure what it revealed. … Emotions -- euphoria, vindictiveness, desperation, confusion -- surged up from the people after years of silence and restraint. The city seemed like a dazed inmate stumbling out of his cell and squinting into the harsh sunlight. Some spoke of anarchy: Armed civilians had begun to crack the monopoly on violence held only weeks earlier by Hussein's government and the American military forces now occupying Iraq. Thousands of residents hurried to plunder everything from trucks and wooden carts to the urinals, copper pipes and electrical wiring of public buildings. Hospitals and embassies fell prey, along with ministries, government offices, Baath Party headquarters and the stone mansions, faced in onyx, of Hussein's lieutenants.

Former Officials In Soviet-Backed Government Taking Part In Afghan Elections. The New York Times (9/5, Gall) reports, "The political return of dozens of former Communists, among them General Shahnawaz Tanai, 54, who was Afghan chief of staff, then defense minister in the brutal Soviet occupation in the 1980's, is one of the most contentious issues of this election campaign. General Tanai is perhaps most infamous for leading a coup in 1990, with the renegade mujahedeen commander Gulbuddin Hekmatyar, against President Muhammad Najibullah. The coup failed and he fled to Pakistan, where he lived in exile until Aug. 7. The general is not running in Afghanistan's parliamentary and provincial elections on Sept. 18, but he is calculating on winning a sizable bloc in Parliament with candidates from his Afghanistan Peace Movement Party and two other parties of former Communists who have joined him in a coalition. They are fielding 200 candidates around the country, most of them former Communists and some Soviet-era ministers and participants in the half a dozen coups of the last three decades."

CORPORATE SCANDALS:

Corporate Scandal Tip Lines Pose Dilemma. The Wall Street Journal (Reilly, Nassauer) reports, "In the wake of scandals at Enron and WorldCom, the Sarbanes-Oxley Act directed companies listed in the U.S. to set up so-called whistle-blower hot lines for employees everywhere to confidentially report potential corporate abuses. … But those anonymous tip lines now pose unforeseen problems in Europe, where data-protection laws make it difficult to accuse someone of impropriety anonymously. These laws go beyond basic privacy concerns: They hold that citizens have a right to know who is collecting data about them, and they also may include restrictions on revealing corporate information to outsiders." The Journal continues, "A French agency, for example, has ruled that anonymous whistle-blower tip lines don't guarantee adequate protection for people accused of wrongdoing. … As a result, many U.S. and European companies are in a legal bind: If they set up whistle-blower hot lines in subsidiaries in France, and possibly elsewhere in Europe, they might run afoul of local laws. If they don't, they might violate Sarbanes-Oxley, the 2002 corporate-governance law enforced by the Securities and Exchange Commission." The Journal adds, "Companies are being told 'I have to either chop off my left hand or my right hand,' said Christopher Kuner, a partner at law firm Hunton & Williams in Brussels who specializes in international privacy and data-protection law. … The impasse underscores the far-reaching, and often unanticipated, impact of Sarbanes-Oxley, which executives on both sides of the Atlantic have complained is overly restrictive and has even led some European firms to seek to "deregister" their U.S. stocks. … Two U.S. companies -- McDonald's Corp. and Exide Technologies -- are the first test cases of the potential whistle-blower impasse. In late May, both companies were told by France's Data Protection Authority, known as the CNIL, that planned ethics hot lines at units they operate in France were illegal. Both companies declined to offer specific detail about how they are addressing the decision."

CRIMINAL LAW:

US Faces Dilemma In Cuban Spy Cases. The Los Angeles Times (9/5, Williams) reports, "They're known in Cuba as the Five Heroes and their faces, names and the

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details of their seven-year legal drama are familiar to schoolchildren and sugar cane cutters across the Communist island." The Times continues, "The Cuban Five, as they are known in the U.S., were convicted four years ago here in Miami of spying for President Fidel Castro and sentenced to maximum-security prisons for terms of 15 years to life. Cubans' reaction to the case rivals the collective fury that mobilized them to demand the return of castaway Elian Gonzalez in 2000." The Times adds, "Since a federal appeals court overturned the quintet's espionage convictions last month on grounds that their trial venue was tainted by fierce anti-Castro sentiments, the U.S. government must decide whether to request a retrial. … The case has been one of the most divisive issues between Washington and Havana since the five were arrested in 1998. The men admitted to being Cuban agents but have insisted throughout that they were only gathering intelligence on radical and sometimes violent exile groups to protect Castro and their Cuban homeland. … U.S. prosecutors, who contended the five were spreading disinformation, posing a threat to exiles and trying to steal military secrets because one of the men worked as a laborer at a Key West naval air station, won convictions in June 2001. The Miami federal court also found alleged ringleader Gerardo Hernandez guilty of murder conspiracy, based on allegations that he provided intelligence to Havana that led to the deaths of four Cuban exiles shot down by Cuban MIGs in international airspace in 1996."

FBI Widens Niagara Falls Corruption Probe. The Niagara Falls (NY) Reporter (9/5, Hudson) reports, "The widening federal corruption probe of Mayor Vincenzo V. Anello has City Hall employees edgy as more grand jury subpoenas draw an increasing number of civil servants into the tawdry case." The Reporter continues, "On Aug. 25, city Law Department Clerk Donna Winstanley was summoned to testify in the scandal. Winstanley, who is responsible for the department's time/date stamp machine, was ordered to bring Anello's financial disclosure statements for the years 2002, 2003 and 2004, along with any charts or other records designed to track when the documents were actually filed." The Reporter adds, "Sources familiar with the original documents say that some filings, for different years, appear to have been done at the same time and with the same pen. Federal agents are particularly interested in the filing for 2004, the year when Anello accepted more than $45,000 in unsecured "loans" from prominent downtown developer 'Smokin" Joe Anderson and Kathy Kajfasz, sister of John Kajfasz, a principal in the group Anello gifted with 18 holes of the Hyde Park Golf Course. … At the time, Anello was serving as a city councilman and the payments were made just before and immediately after his election as mayor. None of his disclosure forms was stamped with the time or date, and the public documents only came to light following Freedom of Information Act requests by the Niagara Falls Reporter and the Niagara Gazette."

Alleged ALF Member Pleads Guilty To Animal Enterprise Terrorism In Mink Releases. The AP (9/4) reports alleged ALF member Peter Daniel Young, "accused of freeing thousands of minks across the U.S. Midwest has pleaded guilty and faces two years in prison. … Young pleaded guilty Friday to two counts of animal enterprise terrorism." The AP notes, "Young and his accomplice, Justin Samuel, both disappeared after they were indicted in 1998, but Samuel was captured in Belgium the following year. He struck a deal with prosecutors and served two years in prison."

Tennessee Lawmakers Await Possible Additional Arrests In FBI Probe. The AP (9/6, Gouras) reports, "All lawmakers can do is watch and wait as a federal probe into bribery and corruption at the state Capitol continues to sink colleagues. Legislators said they have heard the rumors that more arrests are on the way, but don't know if it will include local officials like the one nabbed last week or more state lawmakers. … 'I believe the Department of Justice and the FBI know a lot more about these investigations than I do,' said House Speaker Jimmy Naifeh." The AP notes, "Lawmakers are trying their best at damage control, though, and are rushing work by a special panel to draft tougher ethics laws for the state. But leaders say new guilty pleas or arrests won't force them to rush their work, or change their plans."

Cleveland Corruption Probe Figures Sentenced To Prison. The Cleveland Plain Dealer (9/3, Tobin) reports former East Cleveland Mayor Emmanuel Onunwor, two years since he "tearfully admitted to FBI agents that he took bribes from businessman Nate Gray," was sentenced to nine years in prison on Friday. Additionally, "four others were sentenced Friday in the corruption scheme in

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which bribes were exchanged for public contracts in Cleveland, East Cleveland, Houston and New Orleans. Ricardo Teamor, a onetime associate of former Cleveland Mayor Michael R. White, was sentenced to four months in prison and four months of house arrest." Former Houston building services director Monique McGilbra "was sentenced to three years in prison" for "accepting cash and lavish gifts such as a $700 purse and all-expenses-paid trips to New Orleans from Gray and two businessmen trying to get contracts with Houston. Former Honeywell executive Brent Jividen…was sentenced to 2½ years in prison" for "bribing McGilbra with gifts," and Oliver Spellman "was given two years' probation for accepting bribes from Gray while serving as chief of staff to the mayor of Houston."

The Houston Chronicle (9/3, Feldstein) also reports on the sentencings and notes, "federal officials have said more investigations are ongoing in Houston but have declined to offer details."

Fugitive Accused Of Elaborate Counterfeiting Scheme In Philadelphia. The Philadelphia Inquirer (9/4, Shiffman) reports Hong Kong fugitive Joseph Mo Pun Lau "was already an established identity thief by late 2003, according to the FBI. Using a crude tool, agents said, he fished envelopes from street-corner mail-collection boxes throughout the Philadelphia suburbs, counterfeiting whatever checks and credit cards he found inside." But "rustrated by the slow, risky and unpredictable process of snaring letters one at a time," Lau "surreptitiously videotaped letter carriers as they opened the boxes, zooming in on their keys. Lau used those images to calculate measurements for the grooves in the keys and created brass duplicates. … 'The FBI is not aware of anything else like this,' bureau spokeswoman Jerri Williams said." The Inquirer notes, "Lau's gang stole $140,000 worth of checks, counterfeited them, and deposited them in 16 different bank accounts, according to an affidavit by Philadelphia-based FBI Agent Catherine L. Nowery."

Baltimore USA To Tackle Gang Crimes. The Baltimore Sun (9/6, Dolan) reports, "Justice Department officials have approved funding of a new federal prosecutor to exclusively handle gang-related prosecutions inside Maryland's U.S. attorney's office." The Sun continues, "The move comes after a sweeping indictment last month against 19 suspected members of the Hispanic gang MS-13 who were arrested on federal racketeering charges that include a string of homicides and attempted killings in Montgomery and Prince George's counties." The Sun adds, "U.S. Attorney Rod J. Rosenstein, who took office this summer, said he told Justice Department officials that the state had an urgent need to beef up its prosecutorial resources to focus on gangs in suburban Washington and on gun-related crime in the Baltimore region. … His office has 65 prosecutors split between the state's two federal courts in Baltimore and Greenbelt. Rosenstein plans to fill five vacant slots within the next few months. A new agreement with the city will bring two additional prosecutors to Baltimore to handle gun-related prosecutions." The Sun notes, "Andrea Smith, an assistant U.S. attorney in Baltimore who helps coordinate the local Organized Crime Drug Enforcement Task Force, said the new anti-gang prosecutor should help prosecutors who have used a similar strategy against drug-related, violent organizations, such as the Lexington Terrace gang in the city."

PG Co. MD Records 6th Homicide In 5 Days. The Washington Times (9/6, Cella) reports that a double shooting early yesterday in Suitland left one man dead, "marking the sixth homicide in Prince George's County in the first five days of September." Police said the shooting occurred in the 4600 block of Chelsea Way at about 1 am. Kenneth Stanford, 22, of the 4700 block of Hudson Avenue had been shot several times. He was taken to a hospital, where he died. Also shot was a 28-year-old man, who was hospitalized. The paper notes the killing brings the number of homicides this year in Prince George's County to 119, up from 96 at this time last year. The Times adds the county "has experienced a spate of violence since Thursday, when Charmaine Edwards, 21, of Southwest was found fatally shot in her car on Keystone Manor Drive in Morningside. Four persons were fatally shot in the county Friday. Three of those killings occurred in the daylight hours. Police said that as of now there is no indication the killings are related. The Times also reported Anne Arundel County police charged Brandon Iam Kellam, 16, with second-degree murder after the stabbing death of a 17-year-old boy outside a Glen Burnie mall Saturday night and that Metropolitan Police in DC are investigating a fatal shooting that happened at about 9 p.m. Saturday in the 3700 block of Hayes Street Northeast.

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CIVIL LAW:

Lobby Shops Look To Build On Success In Latest BRAC Round. The Hill (9/6, Tiron) reports in its "Business and Lobbying" column, "Some high-powered Washington lobbying shops are banking on their freshly collected laurels to get even more business from the communities that hired them to get military bases off the Pentagon's chopping block. As the independent Base Closure and Realignment (BRAC) Commission is getting ready to send its final deliberations to President Bush on Sept. 8, lobbyists are monitoring the BRAC process here in Washington while corralling communities to extend their contracts. … Among Washington lobbying shops scoring large victories for their clients are the Rhoads Group and Kutak Rock LLP, which represented Ellsworth Air Force Base in South Dakota; the Washington Group, which defended the Naval Submarine Base New London in Connecticut; Patton Boggs, which represented the Portsmouth Naval Shipyard in Maine; Akin Gump, which worked for the states of New York, Kansas, Maryland and Arkansas; and Spectrum Group, which represented the state of Louisiana and a large Defense Finance and Accounting Service center in Cleveland. … While several lobbying shops contacted by The Hill said that they did not receive so-called "success fees" for their work on BRAC, Keith Ashdown with Taxpayers for Common Sense said that it is possible for these firms to have an understanding with the communities to be retained for several more years."

CIVIL RIGHTS:

9th Circuit Rules Sexual Content Not Needed For Harassment Claims. The California Recorder (9/6, Scheck) reports, "You don't have to be a groper, lecher or explicit misogynist to get sued for sex-based harassment, a three-judge panel of the 9th U.S. Circuit Court of Appeals ruled Friday." The Recorder continues, "The opinion, in a case originating at an Alaska teachers union, said that Thomas Harvey, a manager accused of 'shouting, 'screaming,' foul language, invading employees' personal space ... and [making] threatening gestures' may be sued for gender-based discrimination under Title VII of the Civil Rights Act of 1964, even though his acts were not overtly motivated by the victims' gender. … 'We hold that offensive conduct that is not facially sex-specific nonetheless may violate Title VII if there is sufficient circumstantial evidence of qualitative and quantitative differences in the harassment suffered by female and male employees,' wrote Senior Judge Alfred Goodwin in a unanimous decision." The Recorder notes, "Senior Judge Melvin Brunetti and Judge William Fletcher concurred. In the case, male and female employees agreed that women bore the brunt of Harvey's outbursts. … Employment lawyers said the opinion offers encouragement to plaintiff lawyers whose clients don't fit the traditional mold of harassment victims. … The opinion stands to strengthen plaintiffs' arguments that adverse effects of an employer's behavior are more important than intent."

11h Circuit Rules Georgia Jail Was Justified In Strip Search. The Fulton County Daily Report (9/6, Simonson) reports, "Atlanta's federal appeals court, with apparent reluctance, ruled Wednesday that a North Georgia county's policy of strip-searching every prisoner booked into jail violated the Constitution." The Report continues, "The court also noted that the policy didn't necessarily violate the rights of individual prisoners who were searched, so long as jailers had 'reasonable suspicion' that a detainee might possess weapons or contraband. … The 11th U.S. Circuit Court of Appeals made the ruling in the case of Janet M. Hicks, who sued Habersham County's sheriff and jail supervisor after she was strip-searched following her 2001 misdemeanor arrest for a domestic-violence dispute with her estranged husband. Hicks v. Moore, No. 03-13686." The Report adds, "According to the 11th Circuit's ruling, Hicks was strip-searched by a female sheriff's department employee and was not touched during the search. … About three years ago -- and after Hicks' strip search -- the sheriff in charge of the jail at that time, Richard Moore, changed the jail's policy, and the facility no longer strip-searches everyone who is booked. … A unanimous three-judge panel ruled that the jail did not violate Hicks' rights, because her arrest for a violent crime justified a strip search. The 11th Circuit effectively ended Hicks' federal case against the jail and reversed a district court ruling that denied the Habersham government employees' motion for summary judgment."

Foes Of New Georgia Voter ID Law To File Suit. The New York Times/AP (9/6) reports, "Opponents of a new Georgia law requiring voters to show photo identification at the polls are planning a federal lawsuit

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challenging the measure, which they fear will lower voter turnout. The bill eliminates the use of formerly accepted forms of voter identification like Social Security cards, birth certificates or utility bills. … Under the Voting Rights Act, Georgia and other states with a history of suppressing minority voting must get federal permission to change their voting laws." Democrats "had argued that the idea was a political move by the Republican Party to depress voting among minorities, the elderly and the poor, all traditional bases for Democrats." The ACLU "is representing the plaintiffs in the case."

Gender Pay Gap Attributed To Factors Other Than Discrimination. In an op-ed for the New York Times (9/5) Warren Farrell author of "Why Men Earn More," writes, "Nothing disturbs working women more than the statistics often mentioned on Labor Day showing that they are paid only 76 cents to men's dollar for the same work. … When I was on the board of the National Organization for Women in New York City, I blamed discrimination for that gap." However, "After years of research, I discovered 25 differences in the work-life choices of men and women. All 25 lead to men earning more money, but to women having better lives. … I want my daughters to know that people who work 44 hours a week make, on average, more than twice the pay of someone working 34 hours a week. And that pharmacists now earn almost as much as doctors. But only by abandoning our focus on discrimination against women can we discover these opportunities for women."

California Set To Vote On Gay Marriage Bill As Massachusetts Decisions Near. The Washington Times (9/6, Wetzstein) reports, "A bill legalizing homosexual 'marriage' in California is scheduled to go up for its second vote in the state Assembly this week, amid vigorous lobbying." Opponents "think California lawmakers legally cannot enact same-sex 'marriage' because voters approved Proposition 22, which says only marriages involving one man and one woman are valid in California." Meanwhile, Massachusetts Attorney General Tom Reilly "is expected to issue his decision" this week "on whether to certify a constitutional marriage amendment filed by a citizens' group called VoteOnMarriage.org." Foes of the amendment "say it is unconstitutional in light of the 2003 Goodridge decision, which legalized same-sex 'marriage' in Massachusetts." Also, on Sept. 14, "the Massachusetts legislature is scheduled to meet in a constitutional convention to offer a second vote on a marriage amendment that passed last year. The amendment, which would disallow same-sex 'marriage' but create civil unions, is unpopular," but "if Mr. Reilly rejects VoteOnMarriage.org's amendment, some lawmakers may decide to vote in favor of the civil-union amendment."

ANTITRUST:

Wal-Mart Chief Raises Eyebrows By Suggesting Antitrust Probe Of UK Competitor. The Los Angeles Times (9/6, Iritani) reports, "Wal-Mart Stores Inc., the retail giant infamous for crushing competitors and putting mom-and-pop retailers out of business, is now worried that its British rival might be too big." The Times continues, "H. Lee Scott Jr., Wal-Mart's chief executive, told a London newspaper last week that British authorities should be concerned about a retail chain having too much market clout." The Times adds, "Tesco, Britain's largest supermarket, has a 30% share of the food market and is expanding fast, thanks in part to an aggressive discounting program. Wal-Mart-owned Asda Group Ltd., Britain's second-largest retail chain, controls 16% of the market. … 'As you get over 30% and higher, I am sure there is a point where government is compelled to intervene, particularly in the U.K., where you have the planning laws that make it difficult to compete,' Scott told the Times of London, adding that 'at some point, the government has to look at it.'" The Times notes, "Those remarks raised some eyebrows in the United States, where the Bentonville, Ark., retailer is regularly accused of abusing its clout to squeeze pennies out of its supply chain, trounce its competition and expand its sales. … 'Wal-Mart is asking for an antitrust investigation of a competitor?' asked Albert Foer, president of the American Antitrust Institute in Washington, a think tank. 'How delicious.'"

Recording Industry Hails Australian Ruling Against Kazaa. In an op-ed for the Financial Times (9/6) EMI Music Chairman Alain Levy writes, "Monday's court ruling in Australia against Kazaa, the biggest brand name in international music piracy, is the latest sign of a turning tide in our industry's efforts to create a thriving pro-consumer, legitimate digital music business. It is also a reminder that even with the greatest music, the best technology and the most willing fans, we cannot create this bright digital future alone: public education and proper enforcement of

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intellectual property rights, by courts and by governments, have a vital part to play as well. This applies to any record company, from the largest major to the smallest." Levy adds, "A big public awakening has happened on the issue – helped by waves of industry information campaigns. Probably more significant still, the lawsuits taken out in 12 countries, which now total over 14,000, have clearly played an important part in deterring would-be illegal file-sharers and containing internet piracy. These strategies must be sustained because they are working."

The WP (9/6, Corder) reports, "Hailed as a victory by the recording industry that brought the suit, the decision has implications well beyond Australia, where Kazaa executives are based, because Kazaa's users span the globe. In some ways, it mirrors the US Supreme Court's June ruling that Hollywood and the music industry can sue technology companies that encourage their customers to steal music and movies over the Internet."

Recording Industry Makes Gains Against Music Piracy. In an op-ed for the Financial Times (9/6) EMI Music Chairman Alain Levy writes, "Monday's court ruling in Australia against Kazaa, the biggest brand name in international music piracy, is the latest sign of a turning tide in our industry's efforts to create a thriving pro-consumer, legitimate digital music business. It is also a reminder that even with the greatest music, the best technology and the most willing fans, we cannot create this bright digital future alone: public education and proper enforcement of intellectual property rights, by courts and by governments, have a vital part to play as well. This applies to any record company, from the largest major to the smallest." Levy continues, "The ruling from Australia has important implications for our business. The Sydney court has not only reinforced the message handed down on Grokster from a unanimous US Supreme Court in July – namely that internet file- sharing services can be liable for music piracy. The world's best-known, and until recently its biggest unauthorized file-sharing service, has been found liable for facilitating copyright theft and ordered to stop. The message for similar networks that distribute copyrighted repertoire on a mass scale without permission is clear: it is time to change your ways or stop. Change your systems; respect copyright; use technology responsibly to benefit the music community and not to harm it. These are momentous rulings for a creative, intellectual property business like EMI, as well as for the artists we invest in and for the legitimate digital market we are working to create. Investment in music is our business and protection of our content is central to everything we do. Our ability to invest in music, and to offer it to our consumers via downloads, ring tones or other digital formats, is integrally dependent on our ability to contain music piracy. Taken together, the Grokster and Kazaa judgments are crucial milestones for us." Levy adds, "The digital music market is up and running, and our challenge now is to build on the successful start. I am confident and I take little notice of the skeptics. A few years ago no one held much hope for record companies breaking into what was then a 100 per cent internet pirate market. The mood is very different today. Virtually all our front line music is available in a huge array of digital channels. Music is becoming easier to buy than to steal. But the tide is turning for other reasons, too. Public attitudes are shifting towards good and responsible practices in downloading music. A big public awakening has happened on the issue – helped by waves of industry information campaigns. Probably more significant still, the lawsuits taken out in 12 countries, which now total over 14,000, have clearly played an important part in deterring would-be illegal file-sharers and containing internet piracy. These strategies must be sustained because they are working."

The Washington Post/AP (9/6, 8:37 PM, Corder) reports an Australian judge yesterday orders "ordered distributors of the popular file-swapping program Kazaa to alter the software, which millions have downloaded, so it can no longer be used for music piracy." The paper adds, "Hailed as a victory by the recording industry that brought the suit, the decision has implications well beyond Australia, where Kazaa executives are based, because Kazaa's users span the globe. In some ways, it mirrors the US Supreme Court's June ruling that Hollywood and the music industry can sue technology companies that encourage their customers to steal music and movies over the Internet." The Post notes Federal Court Judge Murray Wilcox determined in Monday's ruling that Kazaa's owners and distributors, led by Sharman Networks Ltd., took no action to rein in illegal file-sharing despite posted warnings on their Web site urging Kazaa users not to swap copyright material. Wilcox said it had been in the financial interest of Sharman and its partners "to maximize, not minimize, music file-sharing." He found six of the 10 defendants, including Sharman, its Sydney-based chief executive Nikki Hemming, as well as Altnet, a Sharman software partner, guilty of copyright infringement and ordered them to pay 90 percent of the record industry's costs in the

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case. A hearing will be set later to establish damages. The Post continues, "In a brief statement, Sharman said it would appeal and Kazaa software remained available online, with more than 800,000 downloads reported last week and 390 million total since Kazaa first became available in 2001. Sharman says its software is no different from a tape recorder or photocopier _ and that Kazaa could not control copyright infringement by users."

Chiron Directors Reject Novartis Takeover Offer. The Financial Times (9/6, Politi) reports that Chiron's independent directors have rejected drug maker Novartis $4.5 billion take over offer. A statement from Chiron board members called the Novartis in adequate. Chiron "also decided to make clear that Novartis's proposal had not been solicited by the company, conflicting with the impression given by Novartis last week." The Times says Novartis now faces "an uphill battle in its attempt to take full control of Chiron." The rejection "means Novartis might become embroiled in a long-running struggle to gain control of the company, which it is courting to gain access to the fast-growing market for vaccines.'

ENVIRONMENT:

Federal Government Urged To Fund $14 Billion Coastal Restoration Project. In an appearance on NBC's Face The Nation (9/4, Russert) Mike Tidwell, author of "Bayou Farewell," commented, "You can't just fix the levees in New Orleans. We now have to have a massive coastal restoration project where we get the water out of the Mississippi River in a controlled fashion toward the Barrier islands, restore the wetlands. If you don't commit to this plan which is this $14 billion, costs of the Big Dig in Boston or two weeks of spending Iraq, you shouldn't fix a single window in New Orleans. You shouldn't pick up a single piece of debris because to do one without the other is to set the table for another nightmare."

NYTimes Praises Plan To Restore Louisiana Wetlands. The New York Times (9/5) editorializes, "Before Congress is a $14 billion plan to restore the vanishing wetlands and barrier islands off the Louisiana coast that in times past would have served as a buffer against the storm. The House has approved a modest $1.9 billion down payment on this plan, but it needs a push from President Bush and the Senate majority leader, Bill Frist, to ensure Senate approval." The plan "would involve some delicate re-engineering of the natural system and is not without risk. Still, it could provide a measure of redemption for years of environmental carelessness for which Congress itself is largely responsible." The program before Congress "was hatched by the state's politicians and in its universities and drafted by the Army Corps of Engineers. It is supported by both industry and advocacy groups like the National Audubon Society and Environmental Defense, which helped with its design. It would start small, with three or four carefully calibrated pilot programs to divert water flow to the marshes, then go from there."

SCOTUS Ruling On Eminent Domain Sparks Backlash. The Washington Post (9/6, A2, Reid) reports that "the U.S. Supreme Court ruled on June 23 that the Constitution does not stop cities from seizing homes to make way for commercial development projects." Now, "all over the country, the court's decision in Kelo v. City of New London has sparked a furious reaction, with politicians of both parties proposing new legislation that would sharply limit the kind of seizure the court's decision validated. As a result, a decision first seen as a key legal victory for cities that want to use eminent domain for private projects has turned into a major setback on the political front for pro-development interests. The popular backlash has slowed or blocked many pending projects, as developers, their bankers and local governments suddenly face public furor." The Post notes, "Three states have already passed new laws in response to the Kelo decision. The statutes in Alabama and Texas sharply curtail eminent-domain condemnations for private development. … Delaware's new statute permits condemnation but sets new procedural requirements for local governments. Larry Morandi, an analyst at the National Conference of State Legislatures, predicts a rush of new laws next winter, when 44 state legislatures will be back in session. 'Most if not all state legislatures will be dealing with eminent-domain laws next year,' Morandi said. 'The outcry has been so sharp that many states already have task forces or study committees at work on this issue this summer. Most of the proposed legislation is designed to restrict the kind of governmental action that the court upheld in Kelo.'"

Government-Funded Cowboys Protect Against Invasion Of Cattle Fever Tick. The Washington Post (9/6, A23, Moreno) reports on a "small force

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of hardy men whose mission for almost 70 years has been to keep the dreaded Texas cattle fever tick confined to 900 miles of winding riverfront along the Mexican border." These USDA employees have "managed to marry his cowboying skills and love of desolate open range with benefits and a federal pension." They "make up the nation's front line against a scourge that decimated the cattle industry in 1906 and continues to be a threat as long as the cattle fever tick thrives south of the border and Mexican cows stray or are smuggled across the Rio Grande. … Today, the riders are fighting the worst infestation of cattle fever ticks in 30 years and are doing so in the face of budgetary shortfalls and bureaucratic turf wars."

Editor Says Landowners Should Manage Property In Public Interest. Jonathan Weber, founder and editor in chief of NewWest.Net, an online publication about the Rocky Mountain West, writes in the New York Times (9/6), "When it comes to public access, state and local officials - and voters - need to recognize that the heavy bias toward property rights that exists throughout the West is something that will increasingly serve a small minority of wealthy landowners, not mom-and-pop homesteaders or family farmers. This imbalance needs to change. County commissioners, who are often on the front lines, can't allow themselves to be intimidated by the threat of litigation over access issues. And they need strong back-up from state attorneys general. But a big part of the solution is in the hands of the landowners themselves. In an era of economic policies that are producing an ever-larger group of the super-rich, those who are wealthier than the rest of us have a responsibility to manage their properties at least partly in the public interest. They need to meet with their neighbors, get involved with the community and find compromises that work for everyone. In most cases, the locals will be more than receptive to even small gestures. After all, who wants to fight when the fish are biting?"

Caimans Are Making A Comeback In Brazil. The New York Times (9/6, Rohter) reports from Mamiraua, Brazil, "As dusk falls, the waters here gradually come alive. One after another, caimans begin to stick their armored heads above the surface, and before long this isolated, tree-lined channel feeding the Amazon is teeming with crocodilians as large as 15 feet long. Their thrashing, splashing and grunting reverberates all through the night. Just a generation ago the caiman, a cousin of the American alligator, was driven so near extinction by the demand for its skin and meat that the government banned hunting it. But efforts to protect the black and spectacled caiman (pronounced KAY-men) have proved so successful that the population has exploded and the beast has now become a pest and, according to some, a threat." The Times adds, "Peasants along the rivers complain that caimans devour their livestock, and they are clamoring for the right to resume hunting. Even small children are occasionally attacked at the river's edge, leading local newspapers and radio stations to say the officials in far away Brasília know nothing about the hard realities of river life. The loudest and most constant protests, however, come from fishermen in areas like this, 450 miles west of Manaus, the capital of Amazonas State. They complain that the resurgent caimans destroy their nets, which can cost between $50 and $200, and consume large quantities of the same game fish that they need to catch and sell to feed their families."

FBI/DEA/ATF/USMS:

House Judiciary Leaders Penning Tough Anti-Steroids Measure. USA Today (9/6, Kiely) reports House Judiciary Chairman James Sensenbrenner "plans to unveil a new proposal this week to crack down on steroid use in sports, another sign of the growing determination by Congress to impose tougher testing standards and penalties on pro sports." Sensenbrenner and Judiciary ranking Democrat John Conyers are co-authoring a bill that "would put the Justice Department in charge of developing 'minimum standards' for testing and penalties. Participation in the program would be voluntary, but Sensenbrenner says there will be 'incentives' to encourage pro sports leagues to sign up. He did not elaborate on what those incentives might be. But in baseball's case the Judiciary Committee could threaten to lift the sport's antitrust exemption. Lawmakers are returning to Congress this week for the first time since news broke of Baltimore Orioles star Rafael Palmeiro's 10-day suspension last month for steroid use. That has stoked many members' exasperation. 'That's called a vacation; that's not a suspension,' said Rep. Chris Shays, R-Conn." In Congress, "frustration with professional sports in general, and Major League Baseball in particular, is growing. As they prepared to return to town this week from a month-long August recess, a number of Republican and

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Democratic lawmakers said the Palmeiro revelations would build momentum for federally mandated drug tests and penalties in pro sports. 'Obviously the current approach on steroids both in professional sports and amateur sports is not working,' says Sensenbrenner. The bill will be the sixth measure introduced in Congress this year to regulate steroids in pro sports. All of the bills have bipartisan support. All would impose much stiffer penalties than the one levied on Palmeiro."

Orioles Send Palmeiro Home. The AP (9/5) reports Palmeiro "was sent home to Texas to rehabilitate knee and ankle injuries, leaving his baseball future unclear during a season in which he was suspended for a positive steroids test. Palmeiro's season unraveled soon after he collected his 3,000th career hit on July 15. He received a 10-day suspension on Aug. 1 for failing a drug test, and upon his return was booed by fans in Baltimore and on the road. He is 2-for-26 with one RBI since coming back, and has been bothered the past two weeks by injuries to his left ankle and right knee. The Orioles still expect him to play this month, but decided Monday that the first baseman should go home to recover."

Chiefs Offensive Lineman Suspended Over Steroids. The AP (9/3) reported, "Kansas City Chiefs offensive lineman John Welbourn has been suspended for four games for violation of the league's steroid policy. 'John has been suspended,' coach Dick Vermeil told The Associated Press on Saturday. 'We are moving forward. I really can't say any more than that right now.'"

Prosecutors Drop Fraud Charges Against DEA's Clark. The AP (9/3) reported, "Prosecutors have dropped the fraud charges against a man whose wife falsely claimed to have cancer and collected thousands of dollars in donations. Salt Lake County prosecutors said Wednesday they no longer felt they could prove Drug Enforcement Agency officer Jeff James Clark was part of the scam perpetrated by his wife, Tania Clark." Tania Clark, "who has pleaded guilty to felony counts of theft and theft by deception in Utah and Salt Lake counties, is taking sole responsibility for the crimes, said Deputy Salt Lake County District Attorney Robert Stott." Jeff Clark's job status "remains uncertain, DEA spokeswoman Karen Flowers said Thursday, and he remains on unpaid administrative leave."

US Army Soldier Headed Colombia-To-US Cocaine Smuggling Ring. The AP (9/3, Housego) wrote, "U.S. Army Staff Sgt. Daniel Rosas was deployed to Colombia as part of the large U.S. mission to fight drug trafficking, but before long he found the lure of cocaine money too hard to resist. He formed a smuggling ring involving U.S. soldiers that was eventually busted, deeply embarrassing U.S. officials." A deposition "shows Rosas' scheme was so amateurish that at one point he made a deal with a stranger he met in a Mexican nightclub bathroom and even saw a $140,000 payment vanish in the mail. The authenticity of Rosas' sworn statement was recently confirmed by a Colombian official familiar with the case. The document provides for the first time a detailed look into how the drug ring operated and shows that, with stunning ease, it was able to send 170 pounds of cocaine from Colombia to the United States, subject to only cursory searches at best from U.S. Customs agents." In a sworn statement to military investigators in March, Rosas said, "They never suspected that any military or civilian personnel would bring back contraband. They did not use dogs, they very rarely checked our carryon bags but never checked our equipment that was loaded on the pallets." US Ambassador William Wood said that "in the wake of the arrests on March 28 that U.S. soldiers leaving Colombia would be subjected to stricter searches. The case infuriated many Colombians who said President Alvaro Uribe should revoke treaties granting immunity to U.S. soldiers serving in Colombia. Rosas, 23, of McAllen, Texas, is behind bars awaiting court-martial along with two other U.S. soldiers. A fourth soldier, Spc. Francisco Rosa, pleaded guilty on Aug. 10 to using, possessing and distributing cocaine and making a false official statement. He was sentenced to five years in prison, demoted to the rank of private and will receive a bad conduct discharge."

Gun Control Initiatives Weaken In South. The Boston Globe (9/6, Wirzbicki) reports, "Even as Boston struggles against a tide of smuggled handguns, some state governments in the South are loosening their gun control laws in ways that critics say will make it easier for traffickers to bring illegal firearms into the Northeast." The Globe continues, "Under pressure from the National Rifle Association, South Carolina abolished a state law last year that limited to one the number of handguns individuals can buy in a month, a measure that was designed in 1975 to prevent trafficking." The Globe adds, "Virginia, which was the

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epicenter of gun smuggling into New York and Boston before it passed a one-gun-per-month law in 1993, weakened that rule in 2004 and gun control advocates fear that it could soon be abolished. … Academic studies have shown that limits on monthly gun purchases help limit smuggling, but lobbyists for gun manufacturers call such laws ''gun rationing' and say they infringe on Second Amendment gun ownership rights. … Over the past five years the overall trend on the state level has been toward lax gun laws, said David Hemenway, a professor at the Harvard School of Public Health who studies gun crime. That has left states such as Massachusetts and New York, which retain their strict gun limits, increasingly isolated."

1.7 Million Children Live In Homes With A Loaded, Unlocked Gun. A survey published today in the Pediatrics online journal found that 1.7 million US children live in homes with loaded, unlocked firearms. USA Today (9/6, Elias) reports, "One-third of adults have handguns, rifles or shotguns at home, says the CDC report. But states vary greatly in the percentage of adults who keep weapons, and in how many with children at home store their guns loaded and unlocked. The states with the highest percentage of adults who have children at home and leave guns unlocked and loaded are Alabama, Alaska, Arkansas, Idaho, Montana and Wyoming. … The Pediatrics report says that of 1,400 children and teens shot to death in 2002, about 90% were home when it happened."

IMMIGRATION:

Fox Says US Shares Responsibility For Illegal Immigration. The New York Times (9/5, Thompson) reports Mexican President Vicente Fox "responded over the weekend to criticism from American authorities about a recent surge in violence and illegal immigration along the border, saying that the United States shares responsibility for the problems and should work harder with Mexico to fix them." Fox "said he rejected 'forcefully' the statements by the Bush administration and governors of border states, contending that they had unfairly depicted Mexico as a safe haven for organized crime, though his government has arrested more leading drug traffickers and dismantled more cartels than any of its predecessors. He also said Mexican immigrants had been portrayed unfairly as potential terrorists when they had in fact become a pillar of the American economy.

Union Organizers Focus On Low-Wage, Immigrant Workers. Several "insurgent unions" are hoping to revive the labor movement by focusing n low-wage and immigrant workers, the New York Times (9/6, Greenhouse) reports. This summer, the United Food and Commercial Workers, "joined the Teamsters and the Service Employees International Union in breaking away from the A.F.L.-C.I.O., with those three unions promising to devote far more energy to recruiting workers than the rest of organized labor has. Two organizing drives aimed at poultry workers…are among the early battles in this effort to reinvigorate labor."

TAX:

Jailed Telecom Tycoon Said To Be Trying To Move Assets. The Legal Times (9/5, McLure) reports, "Even from jail, Walter Anderson, the D.C. telecom tycoon accused of concealing $450 million from the Internal Revenue Service, continued to try to hide money overseas, federal prosecutors say." The Times continues, "On Aug. 24, prosecutors filed in court a transcript of a taped jailhouse phone call from Anderson to an overseas business associate that they say shows him trying to move assets beyond the government's reach. On March 22, Anderson placed a collect call to the associate from the D.C. Correctional Treatment Facility to discuss moving an investment from a Cayman Island company to a blind trust on the Isle of Man." The Times adds, "In the transcript, Anderson says Chadbourne & Parke corporate attorney Hwan Kim was advising him on the offshore deal. 'I had a meeting with my attorney, Hwan Kim," Anderson says in the call. "I explained to him the logic that we were trying to create some full separation. He understands completely what we're trying to do. He said that there are a number of different ways to do it . . . he simply suggested that if you could decide which lawyer you want to do it on your side, he'll see if his firm has somebody appropriate to do it on the other side.' Moments later, Anderson tells the business associate: 'The main thing we have to make sure [is] it's reversible, in some way . . . so that when we clean up the mess, we can reverse it.' The transcript makes no mention of how much money would be involved."

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CONGRESS-ADMINISTRATION:

Bush Visits Hurricane Zone For Second Time. President Bush yesterday visited the hurricane zone for a second time, amid reports of friction between the White House and local officials such as Louisiana Gov. Kathleen Blanco. The network coverage of the visit tended to have a skeptical edge, with reporters casting the visit as part of a PR effort by the Administration to show it is effectively managing the situation. Meanwhile, the historical stakes for the Administration in the recovery are being portrayed as high, with NBC News Washington bureau chief Tim Russert placing the current crisis on the same scale as the war in Iraq and 9/11. Russert said on NBC Nightly News (9/5, story 7, 1:15), "The President obviously understands with his return visit today that he has to make up for lost ground. The recovery effort and how well it goes will be enormous to historians on how they judge the Bush second term."

While the coverage of Bush's visit was largely negative, the news coming out of the hurricane zone was more positive, with progress reported in the rescue of stranded residents in hard-hit areas of New Orleans, in sealing the breach in a major levee, in the delivery of aid to the zone, and in the relocation of refugees. On the network news, coverage of the suffering and human tragedy, mostly in New Orleans, was still a large component of the newscasts. However, there was a noticeable increase in the depiction of the stepped-up rescue and recovery efforts as workers and aid began reaching even the hardest-hit areas. NBC had the most negative coverage, with approximately 65% of its images depicting human grief and suffering versus 35% relief and recovery. CBS, which ran an abbreviated newscast, was the most positive, with an approximately 70% of its imagery showing scenes of recovery. ABC ran an extended, hour-long newscast, with about 60% of its footage depicting relief efforts.

ABC World News Tonight (9/5, lead story, 4:20, Gibson) reported the visit was "another chance" for the President "to demonstrate that he and his Administration are on top of the relief effort." ABC World News Tonight (9/5, lead story, 4:20, Woodruff) said Bush "returned to the hurricane zone today, including a visit to a Baton Rouge prayer center, now home to hundreds of people from New Orleans." Bush was shown saying, "This is a long-term project to help these people. This country is going to be committed to doing what it takes to get people back on their feet."

CNN's The Situation Room (9/5, Blitzer) reported that Bush returned to the hurricane zone "amid blistering criticism of the federal government's response to the Katrina catastrophe." CNN called the decision "a response, at least in part, to very angry allegations that he and the Federal government were slow to respond to this crisis."

CNN's The Situation Room (9/5, Bash) reported that "one of the things that some were looking for when the President went down to the region for the first time on Friday was what some call a bullhorn moment," like the one after the 9/11 attacks when Bush stood in the rubble of the World Trade Center. Many believe that moment "sort of shifted what had been at the time some heavy criticism of the President's immediate response after 9/11. There are some who are looking for those moments. Some here at the White House and some Bush allies were a little bit disappointed that perhaps that didn't happen the first time."

Fox News Special Report (9/5) reported that Bush returned to Baton Rouge "when the criticism is growing harsher by the day, directed to the federal government and the response in New Orleans." Bush "focused on the positive. He said earlier today the US response has been amazing. Touching down in Baton Rouge he headed for an evacuation center."

A majority of local TV stations led with largely positive stories about Bush's second visit to the area in four days. Typical of coverage was the lead story from WEAR-TV Mobile (9/5, 5:02 p.m.) that Bush "sought to comfort Hurricane Katrina victims. Promising them a huge effort to alleviate their suffering, the President toured parts of Louisiana and Mississippi, where the scope of the disaster is still not fully known." The President was shown saying, "The good people of this region know there's a lot of work to be done and we'll continue working with the local and state people to get it done." Likewise, WTVY-TV Dothan, Alabama (9/5, 6:03 p.m.) lead its broadcast with a report that "President Bush toured areas devastated by Hurricane Katrina today. His first stop was at the Bethany World Prayer Center in Baton Rouge, Louisiana. The President took time to thank members of the community who have been helping Hurricane Katrina victims."

Nationally, local TV continued to extensively cover Katrina. Much of the coverage also centered around Bush's visit to the Gulf Coast. For example, WABC-TV New York (9/5, 12:00 p.m.) reported, "The President arrived in Baton Rouge for a second tour of [the] hurricane-ravaged" region. The

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station added that the First Lady accompanied the President on the trip.

A number of stations pointed out that some significant repair work has been accomplished in New Orleans. KDFW-TV Dallas (9/5, 10:03 p.m.) reported, "Seven days after Hurricane Katrina started the events [in New Orleans], two of the three major breaks in the city's levee system have been plugged." WRC-TV Washington (9/5, 11:01 p.m.) added, "One week after Hurricane Katrina, they are finally starting to pump the floodwater out of New Orleans." The station also noted, however, "Tonight, the Mayor of New Orleans says as many as 10,000 people may be dead," and many other stations covering the Katrina story reported this information as well.

The New York Times (9/6, Purdum) says "just how well Mr. Bush would endure the political challenges posed by the hurricane, much less prevail over them, remained a question on Monday." Having been "faulted by some as not spending enough time last week with black victims of the flooding in New Orleans, Mr. Bush was flanked at one point on Monday by prominent blacks, including Mayor Kip Holden of Baton Rouge and Bishop T. D. Jakes, a prominent Pentecostal minister from Dallas who has been courted by the White House in efforts to reach out to black voters."

Reuters (9/6, Zakaria) says Bush has been "under fierce criticism for his government's slow response to Hurricane Katrina," under fire "from Democrats and Republicans alike for a sluggish federal response to a flood that has made hundreds of thousands homeless and is feared to have killed several thousands along the northern Gulf of Mexico coast."

The New York Times (9/6, Bumiller, Haberman) adds that, addressing "a group of mostly black victims at a makeshift shelter, the Bethany World Prayer Center, in Baton Rouge," Bush said, "There's a lot of work to be done," adding that "Americans' response to the disaster had been 'amazing' and that 'this country is going to be committed to doing what it takes to help people get back on their feet.'" The President's trip was "an effort to calm the region and part of a major White House campaign to stem the political damage from the hurricane."

Rift Between Administration, Blanco Examined. The AP (9/6, Loven) reports, "Like estranged in-laws at a holiday gathering, President Bush and Louisiana Gov. Kathleen Blanco kept their distance as both toured a relief center for storm victims Monday. … State and federal officials are all facing public criticism for a slow response to the crisis. Behind the scenes, each suggests the other is to blame." The AP adds, "In front of the cameras during Bush's visit to the Gulf Coast states on Monday, the president and Blanco said little to each other, focusing instead on thanking relief workers. 'I know I don't need to make any other introduction other than "Mr. President,"' Blanco said tersely, turning the microphone over to Bush after praising emergency management officials during a stop with Bush at an emergency operations center."

ABC World News Tonight (9/5, story 9, 3:15, Woodruff) reported, "State and Federal officials are not always on the same page. The Governor of Louisiana has refused to hand over control of the National Guard to the Federal Government. There are even wire reports that she was not even told exactly when the President would be coming to her state."

The CBS Evening News (9/5, lead story, 3:50, Schieffer) added "there is so little coordination and so much friction between national and local officials that the Governor's office learned of the President's itinerary from a news reporter." CBS (Roberts) added the New Orleans devastation is "something President Bush still hasn't seen for himself. He returned to Louisiana today, but only to Baton Rouge to meet with survivors. Later in Mississippi, he insisted he's got the picture." President Bush: "I understand the damage, I understand the devastation, I understand the destruction, I understand how long it's going to take, and we're with you." Roberts: "Now that help has arrived, local officials, who felt so abandoned last week, are willing to move on."

The Los Angeles Times (9/6, Barry, Gold, Zucchino) notes Bush yesterday "planted a kiss on the governor's cheek," but "their staffs continued their wrangling."

The New York Times (9/6, Bumiller, Haberman) adds that "Bush comforted victims in Poplarville, Miss., and Baton Rouge, La., but he found himself ensnared in a dispute with Louisiana's Democratic governor, Kathleen Babineaux Blanco, who learned of Mr. Bush's trip from news reports."

CNN's The Situation Room (9/5, Blitzer) reported, "The White House is denying today that it tried to exclude" Blanco "from traveling with Mr. Bush A good deal of political fingerpointing in this crisis has been between the Democratic governor of Louisiana and the Bush administration." CNN (Feyerick) added, "The explanation that's coming from the White House is that they tried to reach the governor yesterday, but no one called them back. The Governor says otherwise. She said that they got no official word that the president was

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even going to be in the area. And it wasn't until somebody from her office actually called over to the White House, to Andy Card, that, in fact, they were told that, yes, he was going to be arriving in Louisiana." One of the "reasons of the falling out…is the White House wanted to try to federalize the National Guard so that they could have control of it. But the Louisiana Governor said, no, she needed to keep control, because she wanted to make sure that they could continue to perform law enforcement actions. And that meant keeping order on the ground, and that meant firing if they had to, something that they would not have been able to do had they been under the power of the government."

CNN's Lou Dobbs Tonight (9/5, Feyerick) added Homeland Secretary Michael Chertoff "said there is a unity in the operations. That he made it clear that everybody is getting along, everybody is acting like a professional, and they're all in agreement as to how to move forward."

Katrina Response Seen As Second Benchmark For Bush Presidency. On NBC Nightly News (9/5, story 7, 1:15), anchor Brian Williams spoke with Tim Russert. Williams: "I think most Americans would have told you prior to Katrina, the US response and now the argument over it, that the Bush Presidency thus far would have been judged, its benchmark event would have been Iraq, especially coming out of 9/11. Tim, is the ballgame now this storm and the response to it?" Russert: "In large part, yes, Brian. I think it joins Iraq but doesn't replace it. People believe in their Presidents. Generally, a President gets a large spike in the poll ratings after handling a crisis. That has not occurred with this particular crisis because there's been serious criticism of the government's response -- Federal, state, and local. This President has to demonstrate extraordinary leadership in rebuilding the Gulf region as well as conducting the war in Iraq in order to maintain a second term that is seen as successful. That is an extraordinarily large challenge."

The Christian Science Monitor (9/6, Feldmann) also compares the current crisis to 9/11, adding Bush "faces perhaps the most profound test of executive and political skill of his life."

Nagin Says He Doesn't Think Bush Got Right Information. ABC World News Tonight (9/5, story 10, 3:20, Sawyer) interviewed New Orleans Mayor Ray Nagin. Sawyer: "Do you think the President delayed, because he didn't have enough information? Do you think he didn't have the right instinct? What do you think happened at that moment?" Nagin: "The President? I think the President was suffering from the same thing I was suffering from initially. I would ask questions. They would tell me what was supposed to happen. I would follow up to find out what really happened. And it wasn't happening. And I don't think the right information got to the President. Because when I finally got to him and talked to him, he immediately dispatched this incredible general who came down here. And I've been talking about him, General Honore. And things started to happen."

Bartlett Says Bush Will Order Probe Of Federal Response. USA Today (9/6, Keen, Benedetto) reports, "After angry complaints last week about delays in mobilizing federal help for hurricane victims, criticism of Bush's light-hearted recollection Friday of his youthful partying in New Orleans and failed efforts to blame local and state officials for problems, the president and his aides tried Monday to regain a sense of equilibrium." Bush counselor Dan Bartlett "said Monday that after the situation is under control, Bush will order an inquiry into delays in federal aid. 'We want to know what happened and how,' Bartlett said."

Barbour's Strong Defense Of Bush Noted, Analyzed. The New York Times (9/6, Cooper) reports, "The Bush administration has been stung by criticism of its handling of Hurricane Katrina by anguished Louisiana officials and by nervous Republicans from across the country, but it has one stalwart defender right in the heart of the devastated region -- Gov. Haley Barbour of Mississippi." Barbour has consistently "praised President Bush and a federal response to the storm that even the president later called 'not acceptable.' At one point last week, when Mr. Barbour's glowing assessment was challenged by an interviewer on CNN, he asked 'if this is an interview or an argument.'" Barbour's praise "has put him at odds with some other Mississippi officials who have bemoaned the slow response in their areas and has put him at risk of sounding like a Pollyanna to Mississippians still struggling in the storm's aftermath." But "the strategy is unsurprising for a canny political strategist like Mr. Barbour -- a former political director in the Reagan White House, chairman of the Republican Party, and powerful Washington lobbyist -- who won the governorship two years ago by in part emphasizing the strength of his close ties to President Bush."

"Flurry Of Emails" Among Bush Aides Described. USA Today (9/6, Keen, Benedetto) reports, "In a flurry of e-mail exchanges late Saturday night when they learned about Chief Justice William Rehnquist's death, President Bush's top

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advisers debated -- after their most difficult week since 9/11 -- what calamity might be next. Their worried conversations continued in meetings at the White House before 8 a.m. on Sunday." They "concluded that for Bush's remaining 40 months in office, they should expect almost anything, said a top adviser who works closely with Bush. 'We've just kind of realized that if things are going to happen, they're going to happen to this president,' he said, refusing to be identified because he was not authorized to describe internal discussions."

Weak Katrina Response Could Hurt Bush's Sway Over GOP. Roll Call (9/6, Preston) reports President Bush's "command over the Republican Congress is showing signs of weakening as a result of the growing unease over the U.S. mission in Iraq, the lack of a definitive plan to overhaul the nation's Social Security system and rising energy costs." But "complicating matters for Bush is the devastation wrought on the Gulf Coast by Hurricane Katrina, and the subsequent criticism from some local officials of the federal government's alleged failure to respond quickly enough with relief aide." Now, the White House "must work to shore up support among Republican Members even as it tries to advance Bush's goal on Social Security, said Senators, senior aides and GOP strategists."

WSJournal Says White House "Slowly Recovering From Its First-Week Stumbles." The Wall Street Journal (9/6, A28) editorializes, "The White House is slowly recovering from its first-week stumbles responding to Katrina, with President Bush taking his second trip to New Orleans yesterday. His quick elevation of John Roberts to Chief Justice is another welcome sign of energy. … But Mr. Bush can't afford to stop there, because the aftermath of Katrina poses a threat to his entire second term. … What Americans want now is proof that their government understands the nature of the challenge and is acting forcefully to meet it. On this point, Mr. Bush is going to have to recognize the obvious initial failure of the Department of Homeland Security in its first big post-9/11 test. The President created this latest huge federal bureaucracy, against the advice of many of us, and we're still waiting for evidence that it has done anything but reshuffle the Beltway furniture. If FEMA can't now handle the diaspora out of New Orleans to Houston, Baton Rouge and other cities, the political retribution will be fierce."

Scholar Says Iraq Fixation Hurt Bush Reactions To 9/11, Katrina. In a Financial Times (9/6) op-ed, New America Foundation fellow Michael Lind writes, "In early 2001, shortly after President George W. Bush was inaugurated and before 9/11, the Federal Emergency Management Agency warned of the three most devastating disasters that could strike the US: a terrorist attack on New York City, a hurricane flooding New Orleans and a San Francisco earthquake. The Bush administration was focused on its priority: Iraq. The first foreseen disaster took place on September 11 2001, when al-Qaeda flew hijacked jets into the World Trade Center and the Pentagon. The federal government was taken by surprise. New York City's first responders were hampered by communications problems and poor planning for this long-predicted event. The Bush administration's response to the mass murder committed by al-Qaeda was warped by the focus on Iraq. Many in Washington believe that the administration failed to send sufficient troops to Afghanistan because it was with-holding forces for the invasion of Iraq. … Supporters of the war in Iraq predicted that the dominos would fall in the Middle East. Instead, the dominos are falling across America."

More Criticism Of Bush. John Tierney, in his column for the New York Times (9/6, Tierney) writes of President Bush that when one campaigns as "the great leader whose arm rescues Americans in their moment of need, they expect you to deal with a hurricane, too." Tierney adds that FEMA, "often criticized for ineptitude, became even less efficient after it was swallowed by [DHS], a bureaucracy consumed with terrorism. The department has spent billions on new federal airport screeners - with no discernible public benefit - while giving short shrift to natural disasters. The federal officials who had been laboring on a one-size-fits-all strategy were unprepared for the peculiarities of New Orleans, like the high percentage of people without cars. The local officials who knew about that problem didn't do anything about it - and then were furious when Mr. Bush didn't solve it for them. Why didn't the man on the mound come through for them?"

Nicholas Kristof, in his column for the New York Times (9/6, Kristof) writes, "The wretchedness coming across our television screens from Louisiana" illustrates "the Bush administration's ongoing reluctance or ineptitude in helping the poorest Americans. The scenes in New Orleans reminded me of the suffering I saw after a similar storm killed 130,000 people in Bangladesh in 1991 - except that Bangladesh's government showed more urgency in trying to save its most vulnerable citizens." Kristof adds, "If it's shameful that we have bloated corpses on New Orleans

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streets, it's even more disgraceful that the infant mortality rate in America's capital is twice as high as in China's capital."

In his Washington Post (9/6, A25) column, Eugene Robinson writes, "After a tragically incompetent beginning, the effort to give urgent care to the multitudes from New Orleans whose homes and livelihoods have been obliterated is finally in high gear. The problem now is that nobody knows where it's headed. … A few days in and around this ground zero have convinced me that there are two things the federal government failed to do, and that for these failures there's ultimately no one to blame but the president. First, an administration that since Sept. 11, 2001, has told us a major terrorist strike is inevitable should have had in place a well-elaborated plan for evacuating a major American city. … Second, someone should have thought about what to do with hundreds of thousands of evacuees, both in the days after a disaster and in the long term."

Katrina Seen As Reawakening Tough, Scrutinizing Media. USA Today (9/6, 3D, Johnson) reports that journalists covering Katrina "on the scene showed their human -- and often angry and frustrated -- face as they questioned the slow response over the weekend." Fox News anchor Shepard Smith "fumed on-air" Friday, "The government said, 'You go here, and you'll get help,' or 'You go in that Superdome and you'll get help.' And they didn't get help. They got locked in there. And they watched people being killed around them." Fordham University communications professor Paul Levinson said, "The media rose to the occasion, shone their light on the desolation and the needy, and kept it focused there until the cavalry finally began to arrive." Some media observers say Katrina's "media legacy may be a return to a post-Watergate-like era of tougher scrutiny of the federal government and public policy issues."

USA Today (9/6, 1D, Johnson) also reports that while the "media shelf life for natural disasters is notoriously short," journalists and observers "predict that mounting questions about U.S. government preparation, policies and response to Hurricane Katrina will result in intense news coverage for months." Bob Lichter of the Center for Media and Public Affairs said Katrina "doesn't just have legs, it has tentacles. Its implications reach into hot-button controversies involving race, poverty, economics and partisan politics. The reach of this story will make the O.J. Simpson case look like a news brief."

Brown's Qualifications Questioned As Criticism of FEMA Relief Effort Continues. FEMA Director Michael Brown continues to draw fire for his handling of the aftermath of Hurricane Katrina. As reports emerge that his most recent job was with the International Arabian Horse Association, many are now saying that he has scant emergency management experience on his resume. ABC World News Tonight (9/5, story 7, 2:40, Gibson) reported there are "some very real questions about the Federal official ultimately in charge of relief efforts." ABC (Ross) added, "Michael Brown had virtually no experience with emergency management when the President put him in the top FEMA job two years ago. And his official resume omits the job he previously held. Brown was a top official of an Arabian horse association, which asked him to resign in 2001, according to the association's secretary." Rep. Bennie Thompson: "I can't see for the life of me, what heading a horse association has to do with responding to domestic preparedness." Former FEMA regional director John Copenhaver: "It would appear that it has become a political patronage job." Meanwhile, "The Bush Administration "continued to support Brown today, as President Bush did last Friday, on his first visit to the scene." President Bush: "And Brown, you're doing a heckuva of a job. The FEMA director's working 24-7."

NBC Today Show (9/5, 7:08 am, Myers) reported that there are "new questions about whether Brown is qualified to run the largest relief effort in history." International Arabian Horse Association officials tell NBC News that Brown resigned under pressure from the horse show job and many who worked with him were stunned when he became director of FEMA." Copenhaver was shown saying, "I have a hard time understanding how experience with Arabian horse association translates into the capability to run the federal emergency management agency."

Brown, meanwhile, is defending FEMA's response to the hurricane. NBC Nightly News (9/5, lead story, 3:20, Seigenthaler) reported, "Anger is all around, and while evacuees welcomed the President in Baton Rouge today…politicians, aid workers, and reporters continue to hammer officials at every level, forcing FEMA Director Michael Brown today to defend his qualifications for the job." Brown: "Last year's historic four hurricanes have struck Florida, so, yeah, I've been through a few disasters in my life." CNN's Lou Dobbs Tonight (9/5, Dobbs) added, "Brown today forcefully defended himself against charges he's unfit to lead the agency in this time of crisis. Brown said at a press

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conference that he's well qualified for the task of heading up the government relief effort. … The critics say Brown had no experience in disaster relief before joining FEMA in 2001. And they point out his last private sector job was managing a horse show circuit." CNN (Sylvester) added, "FEMA's bungling of the recovery efforts has put Brown's emergency management credentials, or lack thereof, in the spotlight."

A minority of local TV stations in the Gulf Coast area lead their broadcasts by reporting on the press conference, in which Brown had to "defend his qualifications for the job." WVTM-TV Birmingham (9/5, 10:03 pm) showed Brown saying, "I've been through a few disasters in my life." Lt. Gen. Russel Honore was shown saying, "All those smart business guys out there who say have we or have we not done this right, and have some fancy computer matrix, get down here and get some damn gas down here, and come down here and get the phones working!" WALA-TV Mobile (9/5, 5:30 pm) added, "During a press conference, FEMA said it was prepared for the hurricane."

The New Orleans Times-Picayune has joined those criticizing Brown, and is now calling for the resignation of top FEMA officials. In an editorial, the New Orleans Times-Picayune (9/5) wrote an open letter to President Bush, asking the President to please forgive them if they "wait to see proof of" his promise to make what is not working right before they believe him. The paper claims to "have good reason for" its skepticism. The Times Picayune goes on to say that despite New Orleans' "multiple points of entry, our nation's bureaucrats spent days after last week's hurricane wringing their hands, lamenting the fact that they could neither rescue the city's stranded victims nor bring them food, water and medical supplies. Meanwhile there were journalists, including some who work for The Times-Picayune, going in and out of the city via the Crescent City Connection." "We're angry," the paper writes, "Mr. President, and we'll be angry long after our beloved city and surrounding parishes have been pumped dry. Our people deserved rescuing. Many who could have been were not. That's to the government's shame." ABC World News Tonight (9/5, story 10, 3:20, Woodruff) noted the letter, and the fact that it called "for the resignation of every Federal official at the Federal agency in charge of relief here, including its director, Michael Brown."

The Washington Post (9/6, A1, Hsu, Glasser) reports in a front page article that Brown is being called "the accidental director" and has been "caricatured as the failed head of an Arabian horse sporting group who was plucked from obscurity to become President Bush's point man for the worst natural disaster in US history." After what has been seen as a slow federal response, "politicians and officials in both parties have derided Brown's qualifications to head the nation's chief disaster-response agency -- as well as the performance of the agency and its federal, state and local partners." Meanwhile, "As recently as three weeks ago, state emergency managers urged Homeland Security Secretary Michael Chertoff and his deputy, Michael P. Jackson, to ease the department's focus on terrorism, warning that the shift away from traditional disaster management left FEMA a bureaucratic backwater less able to respond to natural events such as hurricanes and earthquakes. The Times-Picayune, Louisiana's largest newspaper, published an open letter on Sunday to President Bush, calling for every FEMA official to be fired, 'Director Michael Brown especially,' joining critics in the state and Congress."

FEMA's purported failure in the aftermath of Katrina was a major topic on cable TV news shows last night. For example, CNN security analyst Clark Kent Ervin, a former DHS inspector general who left his post reluctantly, said on CNN's The Situation Room (9/5) that FEMA's handling of the response is "inexcusable. There's absolutely no excuse for it. This is the kind of thing that ought to have been planned for. Asked about suggestions of incompetence on the part of FEMA Director Michael Brown, Ervin said, "I know Michael Brown and I think he's a wonderful fellow. He's actually been praised for the response to the hurricanes in Florida last year. So, I must say that I'm rather surprised by the response at this point. This was, as I say, not just foreseeable but it was actually foreseen, so it's inexcusable." Ervin added that it is clear Brown is "in over his head."

CNN's Anderson Cooper 360 (9/5, 7:15 p.m.) evaluated government response to Katrina, reporting that critics along the Gulf Coast have said that FEMA's relief had been "inadequate or missing." The report continues, "Chertoff, who oversees FEMA, says for the scope of the disaster, things are going well." However, "his own FEMA director now says he was surprised by the storm's power. Surprised people did not evacuate, surprised levees failed, though that was all predicted by many experts for many years."

MSNBC's Countdown With Keith Olbermann (9/5, 8:01 p.m.) reported, "The director of the National Hurricane Center has told the newspaper of the New Orleans Times-Picayune" that Brown and Chertoff "both listened to electronic briefings before Hurricane Katrina, during which the hurricane center

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warned the storm could overtop the levees or even breach them. 'It's not,' said Dr. Max Mayfield, 'like this was a surprise.' Secretary Chertoff and President Bush both continue to say it was."

Congress Likely To Consider Separating FEMA From DHS. The Hill (9/6, Snyder) reports lawmakers are "pledging an across-the-board response to help Hurricane Katrina victims recover and to fix problems the storm and its aftermath exposed. Efforts are likely to include the removal of the Federal Emergency Management Agency (FEMA) from the Department of Homeland Security to speed recovery efforts and expansion of energy production to areas outside the Gulf of Mexico to ease future price shocks, congressional and outside experts said."

State, Local Officials Also Held Responsible For Poor Response. In an op-ed in the Wall Street Journal (9/6, A28), Bob Williams, president of the Evergreen Freedom Foundation, writes that it isn't fair "to dump on the federal officials and avoid those most responsible -- local and state officials who failed to do their job as the first responders. The plain fact is, lives were needlessly lost in New Orleans due to the failure of Louisiana's governor, Kathleen Blanco, and the city's mayor, Ray Nagin." Williams adds that corrective action must be taken with FEMA as well, but "if citizens expect FEMA to be a first responder to terrorist attacks or other local emergencies (earthquakes, forest fires, volcanoes), they will be disappointed. The federal government's role is to offer aid upon request."

Livingston Critical Of Blanco For Not Declaring Martial Law. The Hill (9/6, Dufour) adds in its "Under the Dome" column that former Rep. Bob Livingston "was particularly critical of Gov. Kathleen Blanco (D) for failing to declare martial law promptly to deter widespread looting. 'I raised hell with the governor for not declaring martial law,' he said Thursday. 'I told her last [Wednesday] night I was going on 'Hannity & Colmes' and criticize her for not doing that, and 20 minutes later, she did.'"

Katrina Aftermath Could Provide Opportunity For Terrorists. The Wall Street Journal (9/6, A10, Solomon) reports, "The Bush administration has spent billions of dollars developing government agencies and technologies to better predict and respond to disasters since the Sept. 11, 2001, terrorist attacks. But security experts said the delays in helping Katrina's victims in New Orleans and elsewhere along the Gulf Coast indicate the relief process has become more cumbersome, opening opportunities for terrorists. Business consultants and security experts are advising clients to tighten safety measures since al Qaeda or other terrorist networks might find it advantageous to strike when tens of thousands of federal troops and other homeland-security resources are deployed to Louisiana, Mississippi and Alabama."

Congress To Investigate DHS Response To Katrina. USA Today (9/6, Hall) reports Katrina "has become the Homeland Security Department's first big test. Since the department was created after the 9/11 attacks to prevent and respond to catastrophes, it has spent tens of billions of dollars, studied disaster scenarios of every imaginable kind and run some of the nation's biggest emergency response drills." But it "wasn't ready for the power of Katrina. Today, as workers struggle to provide better relief for survivors, Congress will begin investigating why the government's response was so slow." Sens. Susan Collins and Joe Lieberman, "leaders of the Senate homeland security committee, will discuss their committee's plan for an inquiry into the response by the Federal Emergency Management Agency (FEMA). The agency is the disaster-response division of the Homeland Security Department." Some, "including Sen. Hillary Rodham Clinton, D-N.Y., say Bush should appoint an independent national commission similar to the commission that investigated the 9/11 attacks."

In a lengthy article examining the Federal government's response, the Wall Street Journal (9/6, A1, Block, Schatz, Fields and Cooper) reports, "Now that Hurricane Katrina has left the Gulf Coast flooded and New Orleans in ruins, the question ricocheting around the nation and the world is this: How could the world's biggest superpower fail so badly in protecting and rescuing its residents from a natural disaster so frequently foretold? The answer is sure to receive intense scrutiny this fall in Congress and around the nation, especially given revived fears that the U.S. is ill-prepared for a terrorist attack." Though there have been "missteps" at the local level, "so far, the federal government is bearing the brunt of criticism, given its vast resources and unique role in responding to major disasters. Critics say the response shows that the nation's disaster-response system, rebuilt in the wake of the 2001 terrorist attacks, is woefully inadequate." The Journal adds, "Many of last week's problems are rooted in January 2003, when the Bush administration, urged on by some members of Congress, created the Homeland Security Department."

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Hillary Clinton Calls For 9/11-Style Inquiry. The New York Daily News (9/5, McAuliff) reported that with "many blaming the growing scope of Katrina's devastation on the Bush administration, Sen. Hillary Clinton called yesterday for a 9/11-style probe into how the federal government responded to the crisis." Sen. Clinton's "call echoed statements of Republicans such as Arizona's Sen. John Kyl, chairman of the Technology and Homeland Security Subcommittee of the Senate Judiciary Committee, who plans a hearing and has said the catastrophe in New Orleans could have a lot in common with a terror attack."

DHS Said To Have Failed First Major Test. USA Today (9/6) editorializes, "Every level of government that was supposed to prepare for the storm and its aftermath failed miserably." FEMA's response was "not only a human tragedy but also an international embarrassment for the USA. That bungled response should serve as an alert to the rest of the nation. After spending four years and tens of billions of dollars since 9/11 on 'all-hazards preparedness,' FEMA's parent, the Homeland Security Department, failed its first major test."

Congress Shifts Priorities To Respond To Katrina. The Wall Street Journal (9/6, Fialka) reports that after "approving a cash infusion for hurricane relief, Congress is focusing on three legislative priorities for responding to Katrina: moving energy supplies, resettling displaced people, and restoring economically critical Gulf ports." Senate Majority Leader Bill Frist "said the chamber's primary legislative business will include hurricane-related measures and appropriations bills." Majority Whip Roy Blunt said the House "may consider legislation designed to ease supply by expanding on the administration's authority to waive fuel standards and environmental requirements." The Journal adds lawmakers "also will weigh allowing exploration for oil and gas along the coast of the Arctic National Wildlife Refuge in Alaska, and letting states lease federal offshore land to companies exploring for natural gas along the Atlantic, Pacific and Gulf coasts." Frist said "that he would delay indefinitely a vote scheduled for today on the estate tax."

The Washington Times (9/6, Hurt) reports Senate Republicans "agreed yesterday to postpone consideration of the bill to fully and permanently repeal the death tax that had been scheduled for this week." Majority Leader Bill Frist "promised to return to the bill as soon as possible but wanted to clear the legislative decks this week -- lawmakers' first after a month's recess -- to consider what could be done to help deal with the aftermath of Hurricane Katrina."

The Los Angeles Times (9/6, Hook) also says Frist "said he would cancel a vote scheduled for this week on repealing the estate tax — a controversial measure that Democrats had decried as inappropriate relief for the wealthy at a time when so many poor storm victims are suffering in the South." Frist also "announced the postponement of confirmation hearings on the nomination of John G. Roberts Jr. to the U.S. Supreme Court, which had been scheduled to start Tuesday." Frist said the "decision to postpone the hearings' start -- at least until Thursday, but not beyond Monday -- was to honor Rehnquist and not in response to some Democrats' contention that more preparation time is needed now that Roberts is being considered for the court's top post." The agenda "changes come on the eve of Congress' return from a month-long August recess — a return that will be marked by a striking change in political climate. Republicans left town at the end of July buoyed by their success in passing energy, highway and trade legislation and eager to tackle other priorities, such as overhauling Social Security and repealing the estate tax." But as they "reconvene this week, their agenda and mood will be darkened by more sobering realities: a vast swath of the U.S. ravaged by Katrina; skyrocketing gas prices; the death of the chief justice; and spreading turmoil in Iraq."

The New York Times (9/6, Kirkpatrick) adds Republicans said committees "would announce plans for hearings into the apparently flawed response and increasing oil and gasoline prices." Democrats said they "expected the aftermath of the storm to be a reminder of the importance of federal power in the hearings on the selection of Judge John G. Roberts Jr. for the Supreme Court." Frist said he "expected the Senate energy committee to look at 'price gouging, the excessive oil profits and what responsibility oil companies have in the skyrocketing fuel prices.'" Congressional leaders "are to meet President Bush on Tuesday to discuss relief efforts, and a group of cabinet secretaries, including Homeland Security Secretary Michael Chertoff, are to brief the full Senate at the end of the day." Senate Minority Leader Harry Reid "called for an investigation of the disaster response by a commission modeled after the 9/11 panel. Mr. Reid faulted the White House as failing to take responsibility."

The Washington Times (9/6, Lambro) notes Congress "quickly approved an interim $10.5 billion assistance bill last

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week as the first step in the early recovery efforts, but congressional officials said a far more expansive aid package is expected in the next several weeks."

Blumenauer Had Presciently Warned Of New Orleans' Peril. The Hill (9/6, Cusack) reports one "of the most outspoken legislators on preparing" New Orleans "for a storm like Hurricane Katrina was a Democrat from Oregon." Earlier this year, Rep. Earl Blumenauer "delivered a speech on the House floor that drew parallels between the 2004 tsunami in Southeast Asia and the vulnerability of New Orleans. Blumenauer's predictions of a catastrophe came true as Katrina flooded New Orleans, leading to a death toll that is expected to climb into the thousands." On Jan. 26, Blumenauer "said a hurricane hitting New Orleans would lead to a '30-foot wall of water hitting the city, causing thousands of deaths and $100 billion in damage.'"

Republicans Face Scrambled Political Environment. The Washington Post (9/6, A6, Murray, Babington) reports Republicans "face a far more troubling political landscape than the one they left a month ago, according to lawmakers in both parties." Democrats are "sounding emboldened. One sign of GOP unease: The Senate was supposed to vote this week on whether to permanently repeal the estate tax, but Frist said yesterday that the bill will be temporarily shelved." Lawmakers in "both parties said the surging price of gas and spot shortages are leading concerns in their states and districts, and Democrats will try to get the upper hand by calling for price caps and a requirement that oil companies and refineries disclose their pricing policies. Frist said Republicans would proceed with legislation to allow oil drilling in the Alaska wilderness." Although congressional Republicans facing reelection "are unhappy with Bush's slide in the polls, there's no sense of panic, said Stu Rothenberg, who writes an independent political newsletter." Rothenberg said, "But inevitably, if we continue to see a softening in the president's numbers, every Republican is going to be expressing some concern, if not alarm."

Bill Clinton Criticizes Federal Response, Calls For "Katrina Commission." Former President Bill Clinton criticized the federal response to the disaster yesterday. Speaking to a CNN (9/5) camera crew, Clinton said, "Our government failed those people in the beginning, and I take it now there is no dispute about it; 100 percent of the people recognize that, that it was a failure. And I personally believe there should be a serious analysis of it. I have my own ideas about what caused it, and -- but I don't think we should do it now. I think that in a few weeks we should have some sort of Katrina commission."

The Los Angeles Times (9/6, Barry, Gold, Zucchino) reports that when asked "why FEMA did not move more quickly," Clinton said, "That's a question you should be asking them. It has something to do with how they reorganized after I left." The Washington Post (9/6, A11, Rein) reports, "With the administration facing public criticism for a slow response to the crisis, there was no sign of friction between the president's father and Clinton."

Former Presidents Bush, Clinton Visit Victims In Houston. In a reprise of their roles as fundraisers for relief efforts for the Indonesian tsunami, former Presidents George H.W. Bush and Bill Clinton have teamed up again to raise funds for the victims of Katrina. ABC World News Tonight (9/5, story 5, :25, Woodruff) reported, "In Houston today, former Presidents Bush and Clinton formally began their program to help people by raising money, for people affected by the hurricane. They hope the new fund would help people that would otherwise be overlooked by government programs. 'How are we going to find jobs for these people,' asked President Clinton? 'Where are they really going to live?' So many of them feel lost."

In a later story, ABC World News Tonight (9/5, story 11, 2:05, Gibson) reported the former presidents "went in to meet the people affected in the Astrodome. They got hugs, prayers, stories of travails. And they got an earful." Former President Clinton: "A lot of them, it hit them out of the blue. One day, everything's normal. 48 hours later, their house is under water and they have nothing left. People they know and love are dead." The CBS Evening News (9/5, story 4, 0:30, Roberts) reported, "Former Presidents Bush and Clinton visited the Houston Astrodome today, which is now filled to capacity. They were there to offer comfort and to help raise money for storm victims." NBC Nightly News (9/5, story 4, 0:30, Williams) reported, "Also today, 41 and 42 are trying to combine to post a much bigger number. In Houston today at the Astrodome, former Presidents Bush and Clinton announced the establishment of a fund for the victims of Katrina, the same sort of effort after the two of them made after the tsunami in Asia. Several large corporations have made multi-million-dollar donations."

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Clinton Seen As Coming To Bush's Aid. The New York Times (9/6, Nagourney, Broder) reports, "Mr. Clinton's visit to the Houston shelter on Monday is the latest time the former president has come to the current president's aid in his second term, from early in the year when Mr. Bush was criticized for his slow response to the tsunami, to initially defending the administration's response to Hurricane Katrina at the White House last week, to praising the credentials of Judge John G. Roberts Jr., Mr. Bush's choice for the Supreme Court. And it offered what many Democrats described as a vivid, if slightly disconcerting, insight into the complicated and increasingly transactional relationship between the Bush and Clinton families."

Bush 41 Says Some Criticism Of Bush 43 Has Been "Grossly Unfair." Former President George Bush was asked on CNN's Larry King Live (9/5) about criticism of the Federal response. Bush said, "I think any time there's a crisis people want to blame someone. I've never been much for the Monday morning quarterbacking and to be very candid. I think some of the criticism had been grossly unfair, particularly when they suggest the president doesn't care and all of that. You have to understand that people that are hurting are going to criticize. I thought President Clinton put it pretty well today when he said, 'Let's get on with it and then there will be plenty of time to assign blame.'" Bush added, "Certainly I'm not satisfied but I'm just talking about the blame game and there was one particularly vicious comment that the president didn't care, was insensitive on ethnicity. Insensitive about race. Now that one hurt because I know this president and I know he does care and you know what can he do? He can just go out and do what he's doing today, showing that the federal government is involved, has been involved, will continue to be involved."

Chertoff Appoints Coast Guard Admiral To Run Recovery Efforts In New Orleans. USA Today (9/6, Hall) reports, "Homeland Security Secretary Michael Chertoff, who flew to the gulf region over the weekend to take control of the relief effort, appointed Coast Guard Vice Adm. Thad Allen on Monday to run recovery efforts in New Orleans. Chertoff will fly back to Washington for one day today to meet with members of President Bush's Cabinet and members of Congress."

US May Look To Foreign Countries For Ideas On How To Protect New Orleans. The New York Times (9/6, Broad) reports that following a 1953 flood that killed nearly 2,000 people, the Dutch, "at a cost of some $8 billion over a quarter century,...erected a futuristic system of coastal defenses that is admired around the world today as one of the best barriers against the sea's fury - one that could withstand the kind of storm that happens only once in 10,000 years. The Dutch case is one of many in which low-lying cities and countries with long histories of flooding have turned science, technology and raw determination into ways of forestalling disaster." In the United States, experts say such projects "are worth studying for inspiration about how to rebuild New Orleans once the deadly waters of Hurricane Katrina recede into history."

Expert Questions Sense Of Rebuilding. Klaus Jacob, geophysicist and adjunct professor at Columbia University's School of International and Public Affairs, in an op-ed in the Washington Post (9/6, A25) asks, "should we rebuild New Orleans, 10 feet below sea level, just so it can be wiped out again? Some say we can raise and strengthen the levees to fully protect the city. Here is some unpleasant truth: The higher the defenses, the deeper the floods that will inevitably follow." Jacob adds, "This is not a natural disaster. It is a social, political, human and -- to a lesser degree -- engineering disaster."

Breached Levees Repaired In New Orleans, Pumping Begins. USA Today (9/6, O'Driscoll) reports, "There were signs of progress amid the devastation. Repairs were completed on two flood walls that broke last week and allowed floodwaters to gush into New Orleans. Water levels had dropped 1 foot after a day of pumping. Electricity had been restored to some areas." The Washington Times/AP (9/6, Simpson) adds "officials warned that it might take weeks to pump floodwaters from the city."

The Wall Street Journal (9/6, A19, Carrns, Hudson, Searcey) reports, "Officials with the U.S. Army Corps of Engineers, which is in charge of repairing the levees, are balking at putting a firm time frame -- or price tag -- on the drainage effort, saying the situation is dynamic and too many variables remain. Over the weekend, portable pumps began arriving to supplement the city's existing network of permanent pumping stations, known as some of the most powerful in the world. An official with the Corps of Engineers' Mississippi Valley division said at a briefing Sunday in Baton Rouge that it could take between one to three months to drain the water, after all the pumps are operational." The Washington Post (9/6, A1, Roig-Franzia) reports, "There are

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entire swaths of New Orleans where no one can go without a boat, or hip waders. … But a few go anyway, searching for stranded pets or stranded neighbors, or both. The city -- the worst parts, at least, the deeply flooded east -- is best approached by water.

Meanwhile, the CBS Evening News (9/5, lead story, 3:50, Schieffer) reported that a "week after Hurricane Katrina, the water level in these neighborhoods has only gone down about a foot. Getting it all out will take more than a month, yet amazingly, many of these people don't want to leave." It's "the sort of urban survival the city's police chief just can't understand." Downtown, "security is still the main focus. The city is an armed camp."

Army Corps Of Engineers Fills Levee Breach. The Army Corps of Engineers yesterday said there was significant progress in sealing the breach of one of the levees that collapsed in the aftermath of Katrina. ABC World News Tonight (9/5, lead story, 4:20, Woodruff) reported, "Today, the Army Corps of Engineer said they had filled one of the holes in the city's levees. Work continued to try and fill the other gaps and get the pumps started. Officials say it could take as long as six months to drain the water from the city." NBC Nightly News (9/5, story 3, 1:55, Williams) reported, "There was this piece of good news today with the help of the Army Corps Of engineers: The 17th Street Canal has been repaired. It was the breach there that sent a sea of water from Pontchartrain into downtown New Orleans and beyond. That fix is just a start."

However, residents of the lower Ninth Ward, which was flooded when the levee broke, believe the city may have purposely broken it. ABC World News Tonight (9/5, story 2, 2:30, Woodruff) reported, "One thing people in the city are talking about is why so many neighborhoods were spared, while so many others were nearly completely destroyed. Today, we got into a neighborhood around the industrial canal, where there was a major breach in the levee system. It's the place where thousands of the city's poorest residents live. And where thousands of them may have died." ABC (Muir) added, "14,000 people lived" in New Orleans' lower Ninth Ward, "and authorities expect the death toll will be great." People "are so bitter, so disenfranchised in this neighborhood, they actually think the city did it, blowing up the levee to save richer neighborhoods like the French Quarter."

Suburban Parish Allows Residents To Return To Homes Temporarily. The Los Angeles Times (9/6, Barry, Gold, Zucchino) reports, "Between 20,000 and 30,000 evacuees from suburban Jefferson Parish, just outside New Orleans, returned to their homes at dawn today, taking advantage of an offer by parish officials to stay for four days. Thousands came supplied with coolers crammed with food and water to sustain them until parish sheriff's deputies force everyone to leave again Thursday. … The residents' return came as parish officials were condemning the Federal Emergency Management Agency and other national and state relief organizations for failing to offer assistance. On Monday, a week after the hurricane, the parish still had not received outside aid, officials said." The Los Angeles Times (9/6, Zucchino) adds, "The parish's temporary return offer, which was criticized by some parish officials as too dangerous, began at 6 a.m. sharp, when police removed cruisers that had blocked a four-lane highway at the western edge of the parish."

USA Today (9/6, O'Driscoll) reports, "Dubbed 'residents-in-exile' by parish council president Aaron Broussard, they won't be allowed home again until power, water and other key services are restored. That could take weeks. … Most who endured several miles of bumper-to-bumper traffic to get into Jefferson Parish early Monday found that neighborhoods were wind-blown and shredded but dry or only damp; the high waters have receded." NBC Nightly News (9/5, story 2, 2:10, Williams) reported, "It has now been a week since Katrina slammed into the Gulf Coast and today, some who got out were allowed to get back in to see what the storm has done and to salvage whatever may be left there. The line of cars was miles long as the folks of hard-hit Jefferson Parish, west of New Orleans, went back to what they used to call home."

Other Areas Remain Devastated. The CBS Evening News (9/5, story 3, 0:30, Roberts) reported, "We've got a camera down into Plaquemines Parish over the weekend, which is very much further south of here. And down there, the devastation is just almost complete, and city officials are coping with absolutely no resources from the Federal Government."

Some Gulf Oil Rigs Back On Line. USA Today (9/6, Davidson) reports, "Gulf Coast oil production rigs and refineries shuttered by Hurricane Katrina began to ease their way back into operation over the holiday weekend in moves expected to help relieve U.S. price run-ups and fears of shortages. Yet facilities generating 70% of the oil and more than half of the natural gas in the Gulf of Mexico remain closed down, the U.S. Minerals Management Service said.

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And though several Gulf Coast refineries restarted or were poised to do so this week, four others that account for more than 5% of U.S. capacity were expected to remain shut for weeks or months."

Electricity Restored To Some Parts Of New Orleans. The New York Times (9/6, Feder) reports that Entergy, the power company for New Orleans "has restored energy to "half of [its] affected customers by Monday evening, mainly in places well away from New Orleans. And even in New Orleans itself, the company had restored some power by nightfall Monday, including to the Convention Center, the warehouse district and the docks where cruise ships tie up. Electricity was also flowing to some parts of the French Quarter, Harrah's Casino and a few hotels near Canal Street. Entergy sent its first work crews into the city on Sunday to see how much could be restored using equipment that had not been flooded and the underground part of the network, made to withstand flooding."

Official Says Superdome Will Have To Be Torn Down. ABC World News Tonight (9/5, story 9, 3:15, Koppel) reported, "The Superdome still stands. But according to an executive of the company that manages the facility, it will have to be torn down and rebuilt." Superdome official Walter Reuther: "The roof has been peeled back. It's still under water, as of right now." Koppel: "So, you're going to have to get a whole, new sports stadium in here?" Reuther: "Yes, I think so." Koppel: "The old French Quarter, still standing, still charming. But the hospitality industry that is the lifeblood of New Orleans, that is still months, if not years away, from welcoming any tourists back here."

New Orleans Residents Were Surprised By Gradual Flooding. The USA Today (9/6, O'Driscoll) reports, "The fall of New Orleans was a catastrophe with an added cruelty: hours of false hope, when it seemed the city had been spared the worst, not doomed to a sodden grave. By noon last Monday, people thought the crisis had passed; by noon the next day, they knew it had just begun. In between came that moment of exquisite horror when each person still in the city grasped that destruction would come not by great wind or mighty wave, but by water rising inch by inch."

Chertoff Notes "Tremendous" Challenge Of Moving New Orleans Residents. The Financial Times (9/6, Chaffin, McNulty, Roberts) reports, "It is becoming clear that the next phase of the tragedy may involve an exodus of people unparalleled in modern American history. 'We are basically moving the city of New Orleans to other parts of the country,' said Michael Chertoff, secretary of homeland security. 'This is a tremendous medium-term and long-term challenge.'" The Times adds, "Authorities are also scouring military bases, sports stadiums, hotels and other facilities for lodging. As well as placing huge strain on state and federal resources, the disaster presents politicians with the sensitive question of how much rebuilding will take place in New Orleans and the surrounding areas."

More Than One Million Gulf Coast Residents May Be Homeless For Months. The Washington Post (9/6, A18, Kaufman) reports, "more than 1 million people who will be out of their Gulf Coast homes for months to come." Texas Gov. Rick Perry "declared that his state was full and could take no more. Electronic highway signs in Houston directed bus drivers with evacuees to Fort Chaffee, Ark., but that facility quickly filled up as 9,000 people arrived within 16 hours Saturday. Arkansas officials asked for the signs to be removed. With shelter space in the deep South filling up, the Federal Emergency Management Agency yesterday began to airlift storm survivors to states as far away as Michigan, Utah and California. … In all, FEMA officials said, more than a quarter million people are living in shelters set up by the American Red Cross, the National Guard, local churches and municipal officials in cities from Albuquerque to Memphis."

The CBS Evening News (9/5, story 2, 2:15, Roberts) reported Baton Rouge is "struggling to cope" with refugees from New Orleans. CBS (Strassmann) added, "Evacuees have doubled this city's population, overwhelming every city shelter, every church or charity, every hospital."

ABC World News Tonight (9/5, story 3, :25, Woodruff) reported, "About half the people dispersed from the flood zone have been sent to Texas. But the Governor of Texas is now saying he cannot handle anymore people. And has ordered a major airlift to make the overflow of the people to other states. Arkansas has accepted 50,000. Tennessee 13,000. Tens of thousands more are scattered from Oklahoma to California. And many of the people say they have no reason to go back to New Orleans."

USA Today (9/6, Kasindorf) reports, "Federal, state and local officials are grappling with housing the homeless after a stumbling start. … What comes next for governments: Planning longer-term quarters for the most impoverished of the displaced, who may be dispersed to even more disorienting surroundings outside the Deep South." USA Today notes, "There are signs of local uneasiness, too.

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Unnerved by TV reports of looting and sniping in New Orleans, some homeowners near the Astrodome hired security guards. In Baton Rouge, the display cases for guns at the Wal-Mart in the Cortana Mall have been empty since Thursday." An employees said "buyers made a run on the weapons as evacuees began making the 80-mile trip from New Orleans. Wal-Mart stores have since stopped selling guns."

The Los Angeles Times (9/6, Moore) reports, "Displaced residents" of this New Orleans "especially the poorest blacks…are pondering whether they will try to return to a town…that has suffered decades of crime, corruption and grinding poverty."

FEMA Housing Elderly Victims On Docked Cruise Ships. The New York Times (9/6, Beck, Andrews) reports, "Phase 1 of the government's plan to provide desperately needed transitional housing for tens of thousands of hurricane evacuees is scheduled to begin this morning, when homeless elderly people from various Texas locations board 30 buses destined for two Carnival cruise ships in Galveston, Tex. … The two ships, each capable of holding 2,600 people, will remain docked in Galveston; another, with an occupancy of 1,800, will be in Mobile, Ala. They will be used primarily for elderly victims and people with special health problems, with families a second priority, according to James McIntyre, a FEMA spokesman."

DHS Delays Plans For DC Airlift. The Washington Post (9/6, B1, Harris, Labbe) reports, "The proposed airlift of 400 Hurricane Katrina evacuees to the D.C. Armory yesterday was temporarily delayed by federal officials who sought more time to develop a comprehensive national plan for placing victims across the country, authorities said. 'We temporarily paused some airlifts while we identified cities and states who were ready and willing to receive these evacuees,' said Russ Knocke, spokesman for the U.S. Department of Homeland Security."

Texas Struggles To Assimilate Hundreds Of Thousands Of Refugees. The Los Angeles Times (9/6, Perry) reports Houston "is the ad-hoc home to more than 100,000 evacuees in shelters, motels, hotels and private homes. Officials expect many of the evacuees will not return to their former homes. The impact on Houston…has been swift. The City Council met in emergency session. Two schools closed due to declining enrollment are being reopened to enroll children from evacuee families." USA Today (9/6, Reed) reports, "In Houston, Dallas and San Antonio, sports arenas and convention centers are hosting thousands of evacuees. In Fort Worth, they are settling into convention and meeting halls, a high school athletics complex, an unfinished jail and even a nearly deserted terminal at the an old general aviation airport."

NBC Nightly News (9/5, story 9, 2:00, Williams) reported, "Tonight, one week after Katrina hit, hundreds of thousands of evacuees are finding comfort a long way from home. The ripple effect of this disaster is now sending people to shelters all over the United States. So far, the state of Texas is shouldering the biggest burden and finding it more than the state can bear." NBC (Allen) added Texas has "been willing to do its part. More than 20,000 volunteers have stepped up in Houston alone. But in just a week, the city has lost $10 million in convention business. Governor Rick Perry plans an airlift in the next few days to other states willing to help, like Arizona."

Hurricane Could Spur Business Boom In Houston. The New York Times (9/6, Romero) reports, "Perhaps no city in the United States is in a better spot than Houston to turn Katrina's tragedy into opportunity. And businesses here are already scrambling to profit in the hurricane's aftermath. Oil services companies based here are racing to carry out repairs to damaged offshore platforms in the Gulf of Mexico. … The Port of Houston is preparing for an increase in traffic as shippers divert cargoes away from the damaged ports of Pascagoula, Miss., and New Orleans. Owners of office space here are witnessing a surge in leasing as New Orleans companies, including that city's oldest bank, scramble to set up new headquarters in Houston, helping to shore up its sagging property market."

Evacuees May Put Permanent Strain On Surrounding Regions' Economies. The Wall Street Journal (9/6, A1, Cordoba, Bandler, Zimmerman) reports, "The massive displacement is also creating new fault lines. Many refugees, having lost nearly everything or having had little to lose in the first place, are seeking more than shelter from the storm. They're seeking new lives, competing with locals for jobs and crowding their children into new schools. … Interviews with evacuees from New Orleans suggest that some have no intention of returning. Even a modest job in a new home may represent an improvement over what they left behind."

Arrival Of Displaced Poor Reveals Tension Within Black Community. The Washington Post (9/6, A19, Haygood) reports that Baton Rouge Mayor Melvin "Kip"

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Holden "issued a stem-winding warning that he would not tolerate 'lawlessness' from arriving Hurricane Katrina evacuees. … Many blacks here -- and those arriving from New Orleans -- were suddenly wondering whether this city was about to turn into a kind of ground zero of class warfare between blacks and blacks. Holden himself is black, which had the potency of lifting the debate above the usual black-white fault lines." According to the Post, "Holden's comments seemed to bring to the surface the reality that local resources may well be strapped; that the holding-on blacks of this community realize there is sudden competition, from other blacks, for help in escaping poverty."

About 10,000 Remain In New Orleans. ABC World News Tonight (9/5, lead story, 4:20, Woodruff) reported, "In New Orleans, the evacuation has become, at long last, a fairly streamlined operation. Only about 10,000 people remain in the city. Still, one week after Katrina hit here, the situation can be summed up by the headline of Louisiana's largest newspaper, which called this 'The 7th Day of Hell.' As the National Guard and relief agencies try to reclaim the city, it's abundantly clear that one of the commodities needed most is leadership. With the Army now here, the change, obvious. The evacuation of New Orleans has picked up speed. Outside the once-chaotic convention center, helicopters lined up in the air -- one behind the other -- flying out hundreds of people an hour, some of them sick and injured." The city "wants everyone out. New Orleans' police chief said today there is no longer justification to stay." Deputy Police Chief Warren Riley: "There are no jobs. There is no food. There is no reason to stay. The city has simply been destroyed."

NBC Nightly News (9/5, lead story, 3:20, Seigenthaler) added, "Seven days after this storm hit, rescue workers are still trying to save lives and, in some cases, pleading with people to leave their homes. They don't call them 'diehards' for nothing. In New Orleans today, rescue workers found plenty of men and women who can wait to leave."

The Los Angeles Times (9/6, Gold, Zucchino, Braun) reports, "Search teams pressing to evacuate the living and find the dead after a full week under the high-water sway of Hurricane Katrina found their efforts complicated Monday by the refusal of hundreds of residents to leave the paralyzed city. … A senior New Orleans police official said Monday that some 10,000 inhabitants remained in the city, hidden inside flooded residences, apartments and housing projects, surviving on foraged scraps and food drops by the military. Searchers have been frustrated by hundreds of holdouts who have refused to leave their homes, fearing possessions will be pillaged, pets will die and their way of life will be erased."

The Dallas Morning News (9/6, Hancock) reports, "By persuasion and by force, authorities worked Monday to complete the biggest evacuation of an American city in modern times. Despite a week of flooding, hellish conditions and slim prospects that the city would be livable for months, some people still didn't want to leave. … In the Garden District, police backed by California National Guardsmen stopped pedestrians and bicyclists at a major intersection and ordered them into vans even after some protested that they would be leaving friends and family behind." The Morning News adds, "In New Orleans, the effort to impose order involved about 4,000 U.S. Army troops and Marines, National Guardsmen and law enforcement officers from across the country." Mayor Nagin "declared that the city had the authority to force residents to evacuate. He would not say if authorities were doing that, but he announced that people who refuse to leave will no longer be given drinking water."

Many Still Ignoring Evacuation Order. The Christian Science Monitor (9/6, Jonsson) reports that thousands of New Orleans residents refuse to leave the city. "Such decisions perturb emergency-response officials, who warn that public-health risks posed by the fetid floodwater may worsen, and that two months of flood conditions may await residents who insist upon staying put. A stubborn resistance to leaving, they add, will only waste time and resources of an already-overtaxed search-and-rescue operation."

New Orleans Mayor Says Up To 10,000 May Be Dead. The Atlanta Journal-Constitution/AP (9/6, Simpson) reports New Orleans Mayor Ray Nagin "upticked his estimate of the probable death toll in his city from merely thousands, telling NBC's 'Today' show, 'It wouldn't be unreasonable to have 10,000.'" ABC World News Tonight (9/5, lead story, 4:20, Gibson) reported, "The emphasis is gradually changing from rescues of the stranded, to recovery of the dead. The Mayor of New Orleans says the death toll could reach 10,000." NBC Nightly News (9/5, lead story, 3:20, Williams) reported, "The news today, more like a prediction, could not be more grim: Even as an army of relief workers now descend on the area, there are fears as many as 10,000 people may be dead." ABC World News Tonight (9/5, story 10, 3:20, Sawyer) interviewed New Orleans Mayor Ray Nagin,

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who said the death toll will "be significant. And it will probably shock the nation." Sawyer: "When you look around, the kind of water you have still standing, are you looking at three months to get it out? Two months to get it out?"

The Miami Herald/Knight Ridder (9/6, Kavanaugh, Pompilio, Merzer) reports, "Ghastly new evidence of Hurricane Katrina's horror emerged Monday night when a sheriff reported the recovery of 22 bodies lashed together around a pole - a desperate, futile attempt to survive the storm. Sheriff Jack Stephens of St. Bernard Parish, just east of New Orleans, said rescuers found the bodies tied with rope and wrapped around a pole in the tiny village of Violet along the eastern bank of the Mississippi River. … And more: Biloxi Mayor A.J. Holloway said he expected the death toll in his Mississippi city to exceed that of Hurricane Camille, which killed 200 people in 1969." The CBS Evening News (9/5, lead story, 3:50, Schieffer) reported, "New Orleans tonight is a city of the dead. Nearly everyone in the city who survived the hurricane has been evacuated, but authorities are finding bodies everywhere: In attics, floating in the streets, crumpled in wheelchairs. No one really knows how many have died, but if the Mayor is right when he says 10,000, that will be more than three times the death toll on 9/11."

Small Town Hosting Mortuary For New Orleans Region Victims. The New York Times (9/6, Applebome) reports that at a warehouse in San Gabriel, LA "refrigerated trucks on Sunday began the task of bringing what is expected to be thousands of bodies to the temporary mortuary set up to process victims of Hurricane Katrina." Although Nagin claimed as many as 10,000 may be dead in New Orleans alone, "so far only 23 bodies have been brought to the mortuary, and the official death toll for Louisiana stands at 71." The Washington Post (9/6, A1, Dwyer, Fletcher) reports, "Although the storm's announced death toll was just over 200 on Monday, officials began to brace themselves and the public for a body count that could reach well into the thousands. … The bodies of those left dead in Katrina's wake were scheduled to start to arrive Monday in a massive warehouse outside Baton Rouge. Lifted from the fetid waters swamping this city, they will be transported in refrigerated trucks to the temporary morgue. A similar morgue has been set up in Mississippi."

Many Victims May Never Be Identified. The AP (9/6, Dahlberg) reports, "Most of the dead from Hurricane Katrina don't have names yet. Many will never be identified because their bodies decomposed in the floodwaters and heat before they were found. … Identifying the dead will be a daunting task, made even more desperate because many will likely be bloated and decomposed by the time they're taken away. FEMA officials said they would try to locate dental records, but urged family members to bring in photos, fingerprints or even a toothbrush or provide DNA samples."

Cholera-Like Disease Found Among New Orleans Evacuees. The Los Angeles Times (9/6, Gold) reports, "Authorities said Monday that some of Hurricane Katrina's evacuees have contracted a bacterial disease that is considered a more benign cousin of cholera, but is potentially fatal in people whose immune systems have been compromised. Officials at the Centers for Disease Control and Prevention in Atlanta said the bacterium, vibrio vulnificus, may have been picked up by people with open wounds who were forced to wade through polluted floodwaters for a long time."

HHS Providing Vaccines, Emergency Medical Supplies. The Wall Street Journal (9/6, A10, McKay, Chase, Lueck) reports, "Doctors are seeing many patients with infected wounds and gastrointestinal illnesses, and worry that more are coming in the days ahead. … To prevent disease outbreaks, the federal Health and Human Services Department shipped 90,000 doses of tetanus vaccine, 22,000 doses of Hepatitis A vaccine and 36,000 doses of Hepatitis B vaccine over the weekend to states and health facilities, said HHS spokeswoman Christina Pearson. The department also has provided antibiotics as well as medications for chronic illnesses such as heart disease, diabetes and anxiety. Overall, the government said it has deployed 100 tons of medications and other supplies for victims of the hurricane."

Temporary Clinics Confront Array Of Challenges. The Washington Post (9/6, A10, Connolly) reports, "Legions of doctors and nurses are frantically patching together a new medical care network to handle the swelling flow of Hurricane Katrina's victims. The extraordinary process includes the task of converting basketball arenas, an abandoned Kmart and even the New Orleans airport into working hospitals and clinics. … With an influx of patients who are predominantly poor and in poor health, the emergency medical challenges are compounded by longer-term issues of managing chronic conditions such as high blood pressure, heart disease, diabetes and mental illness."

Nearly 50,000 National Guard, DHS Personnel Involved In Relief Effort. The

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Washington Post (9/6, A1, Dwyer, Fletcher) reports, "Federal agents, troops and law enforcement officers from around the country continued to pour into New Orleans, and police officials expressed confidence the city was mostly safe from the marauding gangs that had terrorized citizens in the storm's chaotic aftermath. The rapidly growing scale of the effort was evident in the official statistics of federal personnel involved as of midday Monday: 38,000 National Guardsmen, 6,000 FEMA responders and 4,000 from the U.S. Coast Guard, according to the Department of Homeland Security. The USS Iwo Jima, an amphibious assault ship, pulled into New Orleans port Monday and will assist in aid efforts."

USA Today (9/6, Johnson, Kelley) reports, "The surge of rescues of hurricane victims slowed to a trickle Monday as emergency workers steeled themselves for the shift from joyful rescues of those who survived to the grim task of recovering the bodies of those who didn't. One Army medical evacuation unit saw their rescues ebb from 200 Thursday to one Monday."

Iraq War Veterans Among Guard Troops Patrolling New Orleans. The Washington Post (9/6, A10, Tyson) reports, "Spec. Frank Atkinson, wearing his tan desert fatigues from his recent deployment in Iraq, alternately drove a Humvee through downtown New Orleans streets littered with debris and putrid garbage and held suspected looters at gunpoint with his M-4 rifle. 'It's just so much like Iraq, it's not funny,' said Atkinson, of Woodlawn, Ark … The Arkansas contingent is among the estimated 16,000 National Guard troops from 40 states flowing into greater New Orleans to help curb the rash of crime sparked by Hurricane Katrina. An additional 24,000 guardsman and 7,200 active-duty ground troops are committed to relief efforts across the Gulf Coast. Paratroops from the 82nd Airborne Division 'locked down' the historic French Quarter on Monday, according to city and military officials. But the massive military effort remains severely disjointed and hampered by a lack of basic communication between units, Army officers here say. Ground commanders for New Orleans have been functioning without the ability to track the location of some units reporting to them -- something unheard of in Iraq, the officers say." The USA Today (9/6, Johnson) reports, "Maj. Patrick Bossetta has been to Iraq and back, but the helicopter pilot with the Louisiana National Guard still has difficulty believing that the devastation spread below him on countless rescue missions is his beloved New Orleans."

One-Third Of New Orleans Police Force Not Reporting For Duty. The New York Times (9/6, Treaster, Desantis) reports, "The last week has been a series of nonstop rescue missions, shootouts in the night and forays into foul-smelling shelters in response to gunshots and reports of rape for…the New Orleans police force. And like most everyone else in New Orleans, police officers have been traumatized by the loss of homes and family members. Morale on the police force is in tatters. About 500 officers - a third of the force and far more than previously estimated - have dropped out of the daily lineup. Some of them may still be in houses cut off by the storm or may have simply gone off to help their families and will eventually return. But most of the missing officers have either told their superiors that they were quitting or simply walked off the job. Two officers have shot themselves to death."

Recovery Efforts In Mississippi Beginning To Meet Needs. ABC World News Tonight (9/5, story 13, 3:05, Gibson) reported, "We have focused, mainly, tonight, on the problems of New Orleans, and the movement of evacuees. But Mississippi is not to be forgotten, for it suffered such a blow. Survivors in that state knew it would take many days for help to get to them, especially with a situation so dire in New Orleans. Still, thousands of people are sleeping outside. Cut off from the rest of the world. Waiting for food, water and medicine. Today, help began getting through." ABC (von Fremd) added, "For so many here still suffering, the calvary is no longer just on the way, it has arrived. By air, land and sea, the National Guard, FEMA and utility companies have thrown this devastated community a lifeline." Enormous "amounts of free food and water are piled high. And everyone here is welcome to help themselves. Electricity has already been restored to portions of Gulfport. And ice is literally spilling out of helicopters courtesy of the Mississippi National Guard."

Halliburton Subsidiary At Work On Navy Facilities Repairs. Kellogg, Brown & Root Services. Inc., a subsidiary of the Halliburton Co., "has begun tapping a $500 million Navy contract to do emergency repairs at Gulf Coast naval and Marine facilities damaged by Hurricane Katrina," reports the Washington Post/AP (9/5, A20, Baldor). KBR won the contract last July "to provide debris removal and other emergency work associated with natural disasters. Jan Davis, a spokeswoman for the Naval Facilities Engineering

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Command, said yesterday that KBR would receive $12 million for work at the Naval Air Station at Pascagoula, Miss., the Naval Station at Gulfport, Miss., and Stennis Space Center in Mississippi. KBR will receive $4.6 million for work at two smaller Navy facilities in New Orleans and others in the South."

Rice Defends Bush Against Charge That Katrina Response Was Racist. The AP (9/5, Jordan) reports, "Secretary of State Condoleezza Rice defended President Bush on Sunday against charges that the government's sluggish response to Hurricane Katrina showed racial insensitivity. 'Nobody, especially the president, would have left people unattended on the basis of race,' the administration's highest-ranking black said as she toured damaged parts of her native Alabama." Later, during a service at the Pilgrim Rest AME Zion church outside Mobile, "Rice nodded in agreement as the Rev. Malone Smith Jr. advised the congregation, 'Wait for the Lord.'" The Washington Times (9/5) notes "it was a sort of homecoming for Miss Rice, an Alabama native and granddaughter of a Presbyterian minister." Her visit "came as some black leaders, including the Rev. Jesse Jackson, have complained bitterly about the slow response to the disaster, whose victims have been disproportionately black and poor."

Meanwhile, the New York Times (9/5, Broder) reports from Houston, "Many blacks voiced suspicions that thousands of people were left to suffer and die in the floodwaters because they were, for the most part, poor and black. … Interviews with African-American church leaders, local politicians and residents here made clear the damage that the faltering relief effort has had on their perceptions of the Bush administration." Bush "and his chief political advisers have mounted an effort to try to court more conservative black voters, particularly since the 2004 election, by encouraging black Republican candidacies and reaching out to black churches." But "their outreach efforts appear to have been significantly set back." The New York Times (9/5, Deparle) runs an additional story on the race issue, which says, "The white people got out. Most of them, anyway. If television and newspaper images can be deemed a statistical sample, it was mostly black people who were left behind. … What a shocked world saw exposed in New Orleans last week wasn't just a broken levee. It was a cleavage of race and class, at once familiar and startlingly new, laid bare in a setting where they suddenly amounted to matters of life and death."

Storm Said To Highlight Divide Between "Haves And Have Nots." The New York Times (9/5, Wilgoren) says the storm "cleaved a harsh chasm among the region's refugees, providing a stark portrait of the vast divide between America's haves and have-nots. … John Edwards, the former senator whose presidential primary campaign last year was based on the theme that America is a country torn in two by race and class, sent an e-mail to supporters last week, saying that the hurricane's destruction exposed 'a harsher example of two Americas.'"

Chertoff, Brown Criticized For Hurricane Response. All three news magazines feature Hurricane Katrina and its aftermath on their covers this week. All three state there's widespread criticism of the Federal response to the disaster. U.S. News and World Report (9/12, Mulrine) sees "an almost palpable sense of anger at the sluggish and, in some places, seemingly nonexistent government response to the crisis. 'We are extremely pleased with the response of every element of the federal government' to Katrina, said Homeland Security Secretary Michael Chertoff, in charge of coordinating Washington's plan. Reacting to the growing chorus of criticism the same day, Chertoff's deputy, Michael Brown, the director of the Federal Emergency Management Agency, fumed: 'I think everyone in the country needs to take a big collective breath.'" U.S. News and World Report (9/12, Gilgoff) adds that FEMA and the Department of Homeland Security "came under fire for their management of the rescue effort. … Jane Bullock, a former FEMA chief of staff and 22-year agency veteran, says the current federal effort demonstrates a weakened FEMA in a post-9/11 world. … There was also criticism late last week that FEMA chief Michael Brown and Homeland Security Secretary Michael Chertoff lacked long-term experience in disaster preparedness." US News also reports, "Federal officials offered a vigorous defense," but, "among those who seemed miffed was President Bush," who, "expressed frustration at the response effort, saying 'the results are not acceptable.'" US News cover package also includes reports on healthcare workers who are trying to help victims despite shortages of nearly every necessity, and the Great Mississippi Flood of 1927.

Newsweek (9/12) adds, "FEMA's current head, Michael Brown, has appeared over his head and even a little clueless

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in news interviews. He is far from the sort of take-charge presence New York Mayor Rudy Giuliani conveyed after 9/11."

FEMA's Brown Under Fire. FEMA Director Michael Brown has been the focus of much criticism following his agency's response to Hurricane Katrina. NBC Nightly News (5/28, story 7, 2:40, Seigenthaler) last night ran a report critical of Brown's qualifications. NBC (Myers) added, "This was Michael Brown's biggest job before landing at FEMA, supervising judges at Arabian Horse shows. The embattled FEMA director doesn't mention in his official biography that for nine years he was commissioner of the International Arabian Horse Association. Association officials tell NBC News he resigned under pressure from that job." Brown was "brought into FEMA by his college roommate, President Bush's campaign director Joe Allbaugh. His only experiences with emergency services was in the mid 70's. He became FEMA director when Allbaugh left." John Capenhaver, former FEMA official: "His lack of experience in emergency management may have played a role." Myers: "Critics say he doesn't seem on top of the situation. The day the levees broke, he said 'I don't want to alarm anyone that New Orleans is filling up like a bowl, that isn't happening.' Then he said of those at the convention center." Brown: "The Federal Government just learned of those people today." Myers: "Tonight, Homeland Security officials defend Brown. They say he was a senior FEMA manager during 9/11 and is working day and night to save lives in the largest relief effort in American history."

The New York Times (9/5, Shane, Lipton, Drew) reports that while rescuers were still trying to reach people stranded by the floods, perhaps the only consensus among local, state and federal officials was that the system had failed." But" furious state and local officials insisted that the real problem was that the Federal Emergency Management Agency, which Mr. Chertoff's department oversees, failed to deliver urgently needed help and, through incomprehensible red tape, even thwarted others' efforts to help. 'We wanted soldiers, helicopters, food and water,' said Denise Bottcher, press secretary for Gov. Kathleen Babineaux Blanco of Louisiana. 'They wanted to negotiate an organizational chart.'"

The New York Times (9/5, Applebome, Drew, Longman, Revkin) reports, "As flood waters rose on Tuesday, Senator Mary L. Landrieu tried to impress upon colleagues in Washington that this was America's tsunami, but she said that the more she pleaded, the more she felt she was not being heard. … 'I have been with Michael Brown since the minute he landed in this center,' Ms. Landrieu said Friday in Baton Rouge, referring to the director of the Federal Emergency Management Agency, 'and I have been telling him from the moment he arrived about the urgency of the situation.' But, she said, 'I just have to tell you that he had a difficult time understanding the enormity of the task before us.' … By Wednesday, with little visible response from the federal government, Ms. Landrieu said that she talked to FEMA officials. 'I started to sense they were thinking I was a little overwrought, that maybe I was exaggerating a little bit,' she said. When she pressed Mr. Brown on when he was going to finally get buses to pick up the people who had been trapped at the Superdome, 'he just mumbled,' she said. Mayor Nagin said that he could not remember whether he spoke to President Bush on Wednesday or Thursday, but that the president acknowledged the federal government could have done more and promised to fix the situation."

Some Calling For Chertoff To "Get The Ax." Meanwhile, U.S. News and World Report (9/5, 9/12) reports that some in Washington are "calling for Homeland Security Secretary Michael Chertoff to get the ax. Administration officials, however, said that firing Chertoff would not be smart in the midst of the Katrina disaster."

Blame For Hurricane Response Placed On Officials At All Levels. Time (9/12, Gibbs) says Katrina shattered "a hope that four years after the greatest man-made disaster in our history, we had got smarter about catastrophe, more nimble and visionary in our ability to respond. Is it really possible, after so many commissions and commitments, bureaucracies scrambled and rewired, emergency supplies stockpiled and prepositioned, that when a disaster strikes, the whole newfangled system just seizes up and can't move?" Time adds that "the treatment of the living, black and poor and old and sick, was a disgrace." An "angry debate opened about how much the demands of the Iraq war, on both the budget and the National Guard, were eating into the country's ability to protect itself at home. Louisiana Republican Congressman Jim McCrery…argues that Katrina revealed how much doesn't work." Time (9/12, Ripley) adds that while deconstructing Katrina will take years, "it is already clear that the blame can be well distributed, from the White House to emergency-management officials at federal, state and local levels, all the way down to the cops who abandoned their posts in New Orleans. … New Orleans officials were supremely unprepared; that was never a secret among

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people in the disaster business. Meanwhile, throughout the state and Federal governments, much money and willpower had shifted to fighting terrorism, a major risk and vital effort but much less of a sure thing than natural disasters. Because of tax cuts and budget pressures at all levels, many emergency-response capabilities…have slipped. If Hurricane Katrina turns out to be the biggest disaster in U.S. history to date, it will also be the least surprising." Time notes, "On Friday, hours after even the President had shifted to calling the government's response 'not acceptable,' the No. 2 at FEMA sounded as though he had been monitoring a different hurricane. 'I am actually very impressed with the mobilization of man and machine to help our friends in this unfortunate area,' Patrick Rhode told TIME. 'I think it's one of the most impressive search-and-rescue operations this country has ever conducted domestically.'"

GOP Worries Hurricane Response Could Hurt Them In 2006. U.S. News and World Report (9/12a) reports in its "White House Week" column that several GOP strategists "worried that the slow federal response would seriously hurt the party in 2006."

Hurricane's Greatest Economic Impact Could Be On Auto Industry. U.S. News and World Report (9/12, Lavelle) says Katrina's "biggest economic impact could be on the form of transportation most Americans know best--the auto. General Motors…has been banking heavily o n a brand-new series of big utility vehicles, due next year, to help reverse a financial nose dive. But $3 gas…could end America's love affair with big haulers."

German Official Says Hurricane Was Result Of Global Warming. U.S. News and World Report (9/12, Hayden, Barnett) reports that Germany's environment minister, Jurgen Trittin, "suggested that the hurricane's severity was at least partly a result of global warming and charged that 'the American president is closing his eyes to the economic and human costs' of refusing to sign the Kyoto Protocol, which seeks to limit production of climate-warming greenhouse gases." While there have been "more Atlantic hurricanes recently," most scientists "agree that the increased frequency is caused by a natural cycle, not global warming. … Still, there is growing evidence that global warming is making the storms stronger and wetter."

SEC Extends Filing Deadline In Storm Zone.

The Wall Street Journal (9/6, Solomon, Hughes) reports, "The Securities and Exchange Commission will extend filing deadlines and suspend requirements to deliver documents to areas affected by Hurricane Katrina." Meanwhile, "the agency warned that it is 'on the lookout for Katrina-related securities scams' and vowed to vigorously prosecute those who try to defraud hurricane victims."

Blair Sends Foreign Service Officers To US As International Aid Continues Flow.

USA Today (9/6, Soriano) reports, "British Prime Minister Tony Blair, assailed for doing too little to help Britons caught in Hurricane Katrina, apologized Monday and sent foreign service officers to aid survivors." USA Today notes, "News of the disaster has dominated British and continental European media since Katrina struck last week." The Christian Science Monitor (9/6, Ford) adds, "Governments around the world rushed aid and relief teams to America's stricken southern states on Monday - some repaying past favors the United States has offered them to recover from natural disasters - while their citizens continued to express amazement and dismay at the aftermath of Hurricane Katrina. In a dramatic reversal of usual roles, small nations such as Sri Lanka - badly hit by last December's tsunami - have extended their hands to the most powerful country on earth. And after initial ambivalence, American officials were accepting offers of help from over 50 countries with thanks."

Nuland Offers Thanks NATO For Support. Reuters (9/6) reports Victoria Nuland, the U.S. ambassador to NATO "thanked European allies on Monday for generous pledges of support in the wake of Hurricane Katrina, which has devastated New Orleans and U.S. Gulf Coast states."

Afghanistan To Give $100,000 For Hurricane Relief. The Washington Times (9/6, Harper) reports in its "Inside Politics" column, "Impoverished Afghanistan will give $100,000 for Katrina relief efforts, the U.S. Embassy has announced. U.S. Ambassador Ronald Neumann thanked the Afghan people Sunday during a ceremony at which the aid was pledged by the government on behalf of the people of Afghanistan."

DC Fundraisers Planned To Aid Hurricane Victims. Roll Call (9/6, Akers) reports in its "Heard on the Hill" column that "fundraisers galore have been planned all over town, mostly to benefit the Red Cross and all, of course, promising libations and entertainment for the recess weary. The biggie of the Big Easy parties is Wednesday night at the lobbying firm Jones Day, a joint fundraiser by the Alabama, Louisiana, Mississippi and Florida state societies. The folk-funky group

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Down Dexter is opening for the popular Wil Gravatt Band. Organizers were hoping to convince former Louisiana Sen. John Breaux (D) to serve as VIP emcee for the event. Reps. Alcee Hastings (D-Fla.), Mark Foley (R-Fla.) and Charlie Melancon (D-La.) were among those who had RSVP'd as of Friday afternoon. Admission prices come in three ranges: $20, $1,000 and $2,000 per person. The party's fundraising goal is $50,000, all of which will go to the American Red Cross Disaster Relief Fund for victims of Hurricane Katrina. For the non-lushes who want to help disaster victims — or for those who can at least burn the candle at both ends — there will be a Gulf Coast Relief Run on Sept. 17 in Old Town Alexandria. The 5K race is being sponsored by Roll Call, the Great Harvest Bread Company and Mizuno USA. … The cost to enter the race is $25, which includes a T-shirt. Again, all proceeds will go toward the Red Cross relief fund."

Hurricane Creates Unique Problems For Non-Citizens. The New York Times (9/6, Urbina) reports, "Hurricane Katrina has left its victims feeling vulnerable and uncertain, but for many noncitizens trapped here, the anxiety is especially acute because they worry that they will jeopardize their legal status if they try to leave." Meanwhile, "The Mexican government has opened two mobile consulates in the affected areas, one in Mobile, Ala., and the other in Baton Rouge, La., to begin looking for tens of thousands of their citizens reported missing. The authorities in Mexico estimated that 145,000 Mexicans live in the area."

Insurance Premiums Expected To Rise Along Gulf Coast. The Wall Street Journal (9/6, D2, Francis) reports that with total economic losses expected to exceed $100 billion, Katrina could be "the costliest US storm on record." With that, "Home and car owners in the Gulf Coast states can expect to see substantial increases in their insurance premiums in coming months, while rate rises could spread more broadly if insurance-company losses from Hurricane Katrina continue to climb."

Bush Nominates Roberts To Be Chief Justice. President Bush yesterday renominated Judge John Roberts to be chief justice of the United States. Media consensus is that Roberts will be able to gain Senate approval with relative ease. Bush's move is being portrayed as a quick way to fill the post vacated by the death of Chief Justice William Rehnquist.

Last night, ABC World News Tonight (9/5, story 6, 2:45, Moran) reported, "Roberts looks to be a pretty safe choice. And Mr. Bush needs that badly now. This morning in the Oval Office, President Bush said the man he'd already nominated to the Supreme Court was ready to serve as its leader." President Bush: "Both those who've worked with him and those who have faced him in the courtroom speak with admiration of his striking ability as a lawyer and his natural gifts as a leader." Moran: "The President also made clear he believes Judge Roberts can be quickly confirmed by the Senate." The "first reactions from Senate Democrats to Mr. Bush's move were cautious."

The CBS Evening News (9/5, story 5, 1:45, Andrews) reported, "This nomination to chief justice for Judge Roberts gives the President tremendous advantages" because "no serious political opposition has been raised" to his nomination. And so "the President and most Republicans believe he can be confirmed as chief justice relatively quickly in time for the court. It gives the President the justice he wants in the job that he wants when he wants him."

On the NBC Nightly News (9/5, story 6, 0:45, Brown), Washington bureau chief and moderator of 'Meet the Press,' Tim Russert said, "They will be robust hearings, but everyone I spoken to, Democrats and Republicans, believe Judge Roberts will be confirmed." Likewise, the Washington Post (9/6, A1, Baker) says that after Bush's announcement, "there was no indication" that Roberts' nomination "faces any significant threat."

The most contentious issue after Bush's announcement was the timing of the confirmation hearings. A Reuters (9/6, Ferraro) dispatch says "a congressional aide said the hearing would start next Monday." However, says USA Today (9/6, Kiely), "some liberal Democrats are arguing for a delay to let senators and the public better assess the impact that filling two vacancies will have on the nation's highest court." Sen. Edward Kennedy "said the Senate should postpone a decision on whether Roberts replaces the late Chief Justice William Rehnquist until President Bush announces how he plans to fill the other court vacancy."

Kennedy, says the Washington Times (9/6, Hurt), has called on "a highly trusted private lawyer" whom he used in the 1994 election battle against now Gov. Matt Romney "to dig up dirt on his opponent." James Flug "has rejoined Mr. Kennedy's staff and will advise him during the Supreme Court confirmation hearings for Judge John G. Roberts Jr. 'Jim Flug is the 8,000-pound gorilla who will be driving this thing,'

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said Makan Delrahim, former Judiciary Committee staff director for Sen. Orrin G. Hatch, Utah Republican." Flug "isn't the only operative brought back for Supreme Court vacancy fights. Michael O'Neill, former nominations counsel to Mr. Hatch, was hired earlier this year to be chief counsel to Judiciary Committee Chairman Arlen Specter of Pennsylvania."

The Washington Post (9/6, C1, Leibovich) notes Roberts "would be the youngest chief justice since John Marshall, who was 45 when he was sworn in 204 years ago. Fifty is Young Turk territory among Supreme Court justices, if not for the rest of us. Among chief justices, 50 is a Turk in diapers." Confirmation would fix "Roberts as a seminal figure in the annals of whiz kids."

Reuters (9/6, Vicini) reports Roberts "may succeed the late legal giant, who was one of his earliest conservative mentors. A generation ago, Roberts served as a young law clerk to Rehnquist, helping the then associate justice research and write court opinions." NBC Nightly News (9/5, story 5, 1:55, P. Williams) also reported it was "a bittersweet moment for Roberts, a Rehnquist friend and former law clerk." Judge Roberts: "If I am confirmed, I would succeed a man I deeply respect and admire, a man who has been very kind to me for 25 years." Pete Williams: "His hearings, scheduled to start tomorrow, have now been delayed a week at most in deference to the Rehnquist funeral services. While some liberal groups today said a nomination to chief justice should subject Roberts to even greater scrutiny, the ranking Democrat on the Judiciary Committee would not go that far." Sen. Patrick Leahy (D) Vermont: "I think you still ask the same basic question. Will this person protect your rights, my rights and everybody else's rights?"

The Legal Times (9/5, Mauro) reports, "The death of Chief Justice William Rehnquist late on Saturday ends his historic 33-year career on the Supreme Court and presents President George W. Bush with a rare challenge to fill a new vacancy just as John Roberts Jr., his nominee to Sandra Day O'Connor's seat on the Court, was about to face Senate hearings." The Times continues, "Bush answered part of that challenge swiftly, nominating Roberts on Monday to replace Rehnquist as chief justice. In an early morning announcement from the Oval Office, the president said he hoped the Senate would confirm Roberts before the Court sits for its next term Oct. 3." The Times adds, "The Senate is expected to begin Roberts' confirmation hearings as chief justice either Thursday or next Monday. The opening of his previously scheduled confirmation hearings, for the position of associate justice, initially was to be Tuesday, but that was canceled until after Rehnquist's funeral on Wednesday."

The New York Times (9/6, Greenhouse) also analyzes Roberts' experience as Rehnquist's clerk, at time when he "learned how not to be chief justice." Now "he will, if the Senate confirms him, have the rare chance to put those lessons into practice."

Some stories this morning note the similarities in both men's judicial philosophies. The Washington Post (9/6, A1, Lane) runs a story titled "Roberts Was Influenced By Critics Of The Warren Court," in which it says Roberts "has consistently espoused a clear view of federal judicial intervention: Less is more. This same principle was held dear by the man Roberts served as a Supreme Court clerk, the late William H. Rehnquist."

The Washington Times (9/6, Taylor) says "Ted Cruz, who clerked for Chief Justice Rehnquist during the mid-1990s, recalled that he and fellow clerks once asked their boss whom he considered to be the most superior Supreme Court litigator. 'He chuckled a little and said with a smile that he thought he could probably get the majority of his colleagues to agree that John Roberts was the best Supreme Court lawyer in the country,' said Mr. Cruz, now solicitor general of Texas."

The Washington Post (9/6, A4, Jackman) reports, "The flag-draped coffin of Chief Justice William H. Rehnquist will be carried up the long marble stairs to the Supreme Court's main entrance this morning as two days of memorial observances begin. After a brief prayer service at the court at 10 a.m., the public may pay respects to the chief justice as his body lies in repose at the court from 10:30 a.m. to 10 p.m. today and from 10 a.m. to noon tomorrow." Ceremonies "will conclude with the chief justice's burial at Arlington National Cemetery tomorrow afternoon, which will be private. Rehnquist, 80, died of thyroid cancer Saturday at his home in Arlington."

As Many As 25 Democrats May Vote To Confirm Roberts. The Capitol Hill newspaper The Hill (9/6, Schor) reports, "Members of the Senate Democrats' K Street inner circle are predicting that as many as 25 Democrats will vote to confirm John Roberts as chief justice of the United States. Several attendees of the Monday Group, as Senate Minority Leader Harry Reid's (D-Nev.) biweekly lobbyist meetings are known, said the Democrats could suffer politically if their Roberts strategy misfires. … 'It's not a good thing for

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Democrats to be dragged into a visible, high-profile battle on him for weeks when Congress ought to be dealing with issues the public really cares about,' one key Democratic lobbyist said. 'That's the biggest danger for Democrats, if they get sucked into something like that because of the ideological left.'"

Democrats Plan To "Rough Up" Roberts During Hearings. U.S. News and World Report (9/12, Halloran) reports that Supreme Court Nominee John Roberts will likely win support from the Senate Judiciary Committee, but "the hearings may still have their share of drama. Will the nominee get any Democrats' votes? How will Democrats position themselves, especially those with an eye on congressional and presidential elections to come?" US News adds, "The down-and-dirty fight everyone expected over the first appointment to the high court in 11 years simply hasn't happened." U.S. News and World Report (9/12, Schulte) adds that Democrats on the panel "intend to rough him up a bit."

Newsweek (9/12) says in its "Periscope" column that Roberts "will confront 18 senators eager to score political points and rack up minutes on the cable news channels. While the senators will try to press Roberts for specifics on controversial topics like civil rights, abortion and congressional authority, Roberts will attempt to keep his answers as general as possible without seeming to stonewall. … Senators want to pin down Roberts's judicial philosophy, but they know the direct approach may not work." Committee Chairman Arlen Specter "says he plans to press Roberts on whether Roe…is a 'superprecedent' not to be tampered with. A source close to the prep who requested anonymity to speak more freely about the process says Roberts will likely follow the lead of Clarence Thomas, who confirmed a constitutional right to privacy encompassing contraception but steered clear of specifics on abortion in his hearings."

Colleagues Say Roberts' SG Role Not So Ideological. The Legal Times (9/5, Mauro) reports, "After weeks of document dumps and media scrutiny of John Roberts Jr.'s copious writings, the Supreme Court nominee goes before the Senate Judiciary Committee this week with one important part of his professional life still a mystery." The Times continues, "Roberts' three years and three months as principal deputy solicitor general (the so-called political deputy), from 1989 to 1993, produced easily as much paper as his earlier jobs in government. But except for briefs filed with the Supreme Court, all of it—including memorandums on cases—remains sealed, to the chagrin of Democrats and groups that oppose his nomination." The Times adds, "That part of Roberts' life is likely to provoke questioning from Senate Democrats who are intent on seeing if the conservative views he expressed as a young Reagan White House aide burned as brightly in his psyche a decade later. 'The SG materials may be the only real source that reflects his own mature personal thinking,' said Sen. Edward Kennedy (D-Mass.) in an Aug. 10 statement. … Adds Nan Aron, president of Alliance for Justice, 'At this point, the American people know next to nothing about the legal views Judge Roberts expressed during the most important, most influential period of his career as a lawyer.' The group announced its opposition to Roberts last week. … So far, the only formal White House response has been to release a list of the Supreme Court cases Roberts handled— among them, 717 case recommendations, 77 briefs on the merits, and 31 petitions for certiorari. But the Bush administration won't release the texts, holding to the position taken during Miguel Estrada's bid for the U.S. Court of Appeals for the D.C. Circuit in 2002: that releasing the memos he wrote in the SG's office would chill much-needed candor. … Beyond the posturing and politics of the dispute, however, some question how valuable the documents would be, asserting that the tussle results from a gross misunderstanding of the job Roberts held under Solicitor General Kenneth Starr during the first Bush administration."

Judiciary Committee Ready For Nomination Star Turn. The Legal Times (9/5, Goldman) reports, "This week's Supreme Court confirmation hearings promise to be as theatrical as Congress gets. But the telegenic John Roberts Jr. will, in some respects, be a supporting actor, sharing the stage with 18 senators who view the hearings as their own star vehicle." The Times continues, "More than simply trying to pin down the elusive Roberts on his jurisprudence, the Senate Judiciary Committee's 10 Republicans and eight Democrats will be putting their own ambitions and agendas on display." The Times adds, "Rival Democrats will be trying to electrify their party base by showing who can be the toughest on the nominee, while Republicans will be seeking to burnish their own national credentials, competing to place Roberts' more controversial statements in the most benign light. … It is a committee of extremes — both liberal and conservative — and, even by Senate standards, of powerful egos. Six members have either

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run for president or are contemplating a bid (or in Delaware Democrat Joseph Biden Jr.'s case, another bid) in the 2008 election. … And there's another dynamic at play: A Supreme Court confirmation gives Congress a rare chance to tell the Court what it thinks about its co-equal branch."

Specter Profiled. U.S. News and World Report (9/12, Samuel) profiles Senate Judiciary Committee Chairman Arlen Specter, reporting, "It is hard to know what to expect from Arlen Specter. Which is why it will be so fascinating to watch him this week as he chairs the Judiciary Committee's hearings on Supreme Court nominee John G. Roberts."

White House Says Bush Always Had Roberts In Mind For Chief Justice. The Washington Post (9/6, A1, Baker) reports that after Bush's announcement, "there was no indication" that Roberts' nomination "faces any significant threat." Bush, adds the Post, "always had Roberts in mind for the next chief justice, aides said yesterday." Roberts "was first secretly interviewed for a Supreme Court slot in April in anticipation that the cancer-stricken Rehnquist would retire or die. When O'Connor surprised the White House by announcing her retirement in July and Rehnquist declared that he was not stepping down, Bush decided to appoint Roberts to O'Connor's seat. Even then, aides said yesterday that the president intended to elevate Roberts to chief justice whenever the job came open. 'This had been something in the back of the president's mind in case such a scenario came into being, if the chief justice had retired,' said White House press secretary Scott McClellan. 'The president, when he met with [Roberts], knew he was a natural-born leader.'"

Columnist E.J. Dionne writes in the Washington Post (9/6, A25), "Why did President Bush pull such a quick switch yesterday and name Judge John Roberts to be chief justice of the United States? There are several theories, but here's the most sensible: Bush had always planned to make Roberts chief someday. … Roberts's combination of a conciliatory personality with firmly conservative convictions made him the perfect choice to lead the judicial revolution Bush would like to unleash. Successful chief justices need to be good politicians, and Roberts's political gifts were much in evidence this summer as he seemed to be charming his way toward relatively easy Senate approval."

Motivation Behind Bush's "Safe" Choice Examined. Some reports in today's newspapers attribute Bush's choice of Roberts, a "safe" candidate, to what they saw as his weakened political standing. The Wall Street Journal (9/6, Cummings, Bravin), for example, reports this morning, "At a time of increasing political weakness, President Bush tapped John Roberts as his nominee for chief justice, choosing to avoid -- or at least delay -- a fresh ideological battle over the Supreme Court." The New York Times (9/6, Stevenson) also says that with his choice, Bush "avoided the fiery ideological fight that would have been ignited had he chosen to elevate Justice Antonin Scalia, a favorite of many conservatives, or turned to a sitting federal judge with a clearer and more extensive conservative record of opinions on social issues than Judge Roberts has." The theme was echoed by Democratic Sen. Charles E. Schumer, who "said there were signs that Mr. Bush was pulling his ideological punches because of political weakness. 'If he had been in a stronger position, he would have nominated Scalia as chief justice,' Mr. Schumer said."

Likewise, the Christian Science Monitor (9/6, Richey, Chaddock) says "Bush is seeking to avoid a Senate showdown," while the AP (9/6, Fournier) added "Bush chose the path of least resistance," acting "with unusual haste as the war in Iraq and Hurricane Katrina sap his political strength." Roberts "was the safest choice Bush could make."

In an analysis piece, USA Today (9/6, Biskupic) says "a key question in the coming weeks will be whether the White House…now has the appetite for a knock-down, drag-out fight over a Supreme Court nomination."

Comparing Roberts to Scalia, the Washington Post (9/6, A3, Lane) says Bush's nominee is "not only younger" but "also mellower." He is also known "for his astute political judgments in the Reagan administration and his cordial personal relations with many liberal attorneys."

Focus Turns To O'Connor Replacement. With Bush's decision to nominate Judge Roberts to be chief justice, attention quickly focused on who the President will nominate to replace Justice Sandra Day O'Connor. The Financial Times (9/6, Waldmeir) reports this morning Bush said "he would choose a nominee 'in a timely fashion', and a White House spokesman said he called Justice O'Connor from Air Force One to discuss the decision." The Washington Post (9/6, A6, Becker) adds that "with conservatives and liberals alike saying that Roberts is on track to be confirmed, the focus was already shifting to what both sides believe will be the real battle: Bush's yet-to-be-named pick to replace…O'Connor." O'Connor's seat "is critical because she often provided a swing vote on such

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controversial issues as affirmative action, abortion and prayer in public places."

USA Today (9/6, Memmott) reports "a relatively quiet debate among interest groups is expected to become the more bitter, multimillion-dollar slugfest opposing sides have long anticipated. 'Watch for World War III,' conservative lawyer John Hinderaker wrote Monday on Power Line, his widely read Web log, or blog." Interest groups "plan to ramp up their rhetoric, TV ad campaigns and grass-roots lobbying even though Chief Justice William Rehnquist's death may not fundamentally change the court."

The CBS Evening News (9/5, story 5, 1:45, Andrews) reported, "The guessing is that the Democrats believe the President, because he's in trouble over Katrina, will be under pressure to name a centrist. Conservatives will push hard for a hard-line conservative." The Los Angeles Times (9/6, Savage, Weinstein) says that if the President chooses Attorney General Alberto R. Gonzales or Judge Edith Brown Clement "from the federal appellate court in New Orleans, the change may not tip the balance of the court to the right. Both are seen as moderate conservatives, somewhat akin to O'Connor." But Bush "could select a nominee with more conservative credentials, such as Judges J. Michael Luttig and J. Harvie Wilkinson of Virginia, Edith H. Jones of Texas or Janice Rogers Brown, the former California Supreme Court justice who was confirmed this summer to the U.S. Court of Appeals in Washington. Any of those nominations would set off a political battle in the Senate." Bush also could turn to Judges Emilio Garza or Priscilla R. Owen, "both Texas conservatives, or to Larry D. Thompson, a former deputy attorney general who is highly regarded by Bush insiders and now serves as general counsel to Pepsico."

ABC World News Tonight (9/5, story 6, 2:45, Moran) reported, "As he considers his options this time, Mr. Bush faces new political considerations." Former White House counsel Brad Berenson: "There's even more pressure now than there was back in July to pick a woman or a minority, for the simple reason this is the President's second at-bat and he chose a white man the first time around."

NBC Nightly News (9/5, story 5, 1:55, P. Williams) reported, "In announcing her plans in July, O'Connor said she'd stay on the court until her successor is confirmed. But with her replacement likely to come soon after the term starts, O'Connor's return would be largely symbolic." Fox News' Special Report (9/5) said the White House "expects that Sandra Day O'Connor will be on the Supreme Court when it starts the fall section in October and want Robbers in the chief chair. If there is a delay, the most senior judge would have to fill in. He is 30-year court veteran and liberal justice, John Paul Stevens."

The Wall Street Journal (9/6, Cummings, Bravin) says that "pleasing" the GOP conservative base "would risk alienating moderate voters already cooling to Republicans ahead of the 2006 mid-term elections. … Nodding to those sensitivities, the president could name his friend from Texas, Attorney General Alberto Gonzales, to fill the slot."

USA Today (9/6, Kiely) quotes Senate Minority Leader Harry Reid saying, "Justice O'Connor has been a voice of moderation and reason on the court and should be replaced by someone… like her."

The AP (9/6, Hunt) refers to Bush's "historic opportunity to reshape the Supreme Court," while the Dallas Morning News (9/6, Jackson) adds "the eventual nominee, and perhaps Judge Roberts, may be more vulnerable to opposition because of Mr. Bush's weakened political state, analysts said, citing the Iraq war and criticism of the federal response to Hurricane Katrina."

The Washington Times (9/6, Sammon) also says "O'Connor, who had not seen Mr. Bush's televised announcement minutes earlier, reaffirmed her willingness to remain on the court until a successor is nominated and confirmed, said White House spokeswoman Dana Perino." Bush "is not expected to nominate another justice until Judge Roberts is confirmed."

Knight Ridder (9/6) adds O'Connor "may be expected to return to the bench while confirmation proceedings take place." But "that raises further complications: She can't hear cases in October or November and then have her successor vote on them when they're decided in January or later." The Los Angeles Times (9/6, Savage) makes the same point in a story headlined "O'Connor's Staying On Might Tie Up The Court."

Professor Says Ethics Questions About Roberts Are Unfounded. In a piece based on an ethics opinion he wrote at the request of Senate Judiciary Committee Chairman Arlen Specter, Ronald D. Rotunda, a law professor at George Mason University, writes in the Washington Post (9/6, A25), "Does John Roberts have an ethics problem? Three ethics professors argue that Roberts, whom President Bush has just nominated to be chief justice, should have disqualified himself from a case he helped decide earlier this year while serving as a judge on the U.S. Court of Appeals for the D.C.

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Circuit. The case, Hamdan v. Rumsfeld, which concerns a key issue in the administration's war on terrorism, may be headed for the Supreme Court, and at the time of the appeals court ruling, Roberts was being considered for a vacancy on the high court, though it did not yet exist.' The professors say that "in not disqualifying himself, Roberts violated the 'appearance of impartiality.'" Rotunda adds, "Judges are offered other jobs all the time. A Supreme Court justice may become chief justice, or, like Justice Arthur Goldberg, U.S. ambassador to the United Nations. Appeals court judges may become Cabinet officers. Trial judges may become appellate judges. … Do we really want to give the president or attorney general the power to force recusal of one or more judges on a panel simply by asking the judge if he might be interested in a different position that is not yet open but that eventually will be? … Conflict-of-interest charges should not be raised lightly, and historical precedents and case law show the allegations against Roberts are unfounded."

More Commentary. The Wall Street Journal (9/6) editorializes that elevating Roberts to Chief "was a logical decision, both politically and on the merits. The Senate and media have been investigating the nominee since July, and have found superlatives with nary a negative. The Judge is in a position to be rapidly confirmed and ready to preside by the time the High Court begins its new term on October 3." The Journal adds, "More importantly, what we have learned about Judge Roberts suggests that he shares Chief Justice Rehnquist's judicial philosophy. If Mr. Bush now follows with the nomination of an equally distinguished conservative for the Court's second opening, the Roberts Court will be able to continue the legal restoration that the late Chief Rehnquist began but was never able to finish."

The New York Times (9/6) writes in an editorial, "If Mr. Bush thought Mr. Roberts had already impressed both the public and the Senate with his intelligence and sincerity, he figured correctly." But "if he regards the judge as a known commodity whose confirmation should be a shoo-in, he is wrong. The Senate did not have enough information to make an informed judgment about Mr. Roberts when he was the nominee for just one of the nine seats on the court. Now it simply becomes more important than ever that he be questioned thoroughly about his views."

In its editorial, the Washington Post (9/6) says, "Before nominating Judge Roberts, Mr. Bush consulted widely and emerged with a candidate Senate Democrats have -- by and large, anyway -- treated with respect. As he once again considers a nominee to replace Justice O'Connor, Mr. Bush would do a public service by consulting widely and meaningfully."

USA Today (9/6) editorializes that "as impressive as Roberts has appeared, the most important question about him remains largely unanswered: How would a Chief Justice Roberts affect the country? As the youngest chief justice since 1801, Roberts, 50, would be a potent influence on society for a generation or more." USA Today adds, "Much will be made at the hearings of the doctrine that Roberts should not be asked to say how he might rule in cases coming before the Supreme Court." But "that should not deter senators from demanding to know how he views issues more generally and cases already decided -- and the standards he would use to overturn settled law. To suggest that the Senate should simply ignore the impact Roberts would have on constituents is to suggest that it stick its collective head in the sand."

The Los Angeles Times (9/6) says in an editorial Bush "has wisely nominated John G. Roberts Jr.…to become the next chief justice. It's a smart move. Roberts has the intellect and temperament to lead the court and the federal judiciary," and selecting a newcomer "tends to preserve good relations among the nine justices. The elevation of either Scalia or Thomas would have proven highly contentious and divisive in Washington, and maybe even on the court." The Times states, "In their questioning of Roberts, senators should focus special attention on his views on the proper deference that courts owe the executive branch in a time of war. … The extent of presidential power in the war on terror is likely to loom large in the Supreme Court docket for years, and it's a subject that Roberts, a former White House lawyer, should be asked to address in his hearings." As for the new opening on the court, the Times argues that Alberto Gonzales "should be disqualified…for encouraging the administration to disregard international law in conducting the war on terror."

Randy E. Barnett, an author and law professor, writes in the Wall Street Journal (9/6), "As the president now decides who next to nominate, he would uphold the Constitution by selecting a person with a firm and demonstrated commitment to the Rehnquist Court's New Federalism legacy. Only such a choice would continue the movement to restore the 'first principles' of constitutionally limited government that William Rehnquist affirmed so eloquently."

Laurence H. Tribe, a professor of constitutional law at Harvard, writes in today's New York Times (9/6), "Rehnquist's goal of weakening the checks on presidential power happily

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met decisive opposition within the court, although I worry that the seeds he planted to that end might yet bear dangerous fruit. No pleasure in argument could overcome my sadness at the Supreme Court's performance in the 2000 election, or my disappointment at how far the chief justice succeeded in his goals of lowering the wall of separation between church and state, shrinking Congress's power and reducing the protections accorded the mostly poor people of color who are suspected or accused of crime."

House GOP Divided Over Social Security Reform Strategy. The Washington Times (9/5, Fagan) reports, "House Republican leaders, who weeks ago pledged to take the lead on Social Security, still say they will act this fall, but the party remains divided, as some of their members push for a personal accounts bill, some want a broader package and others don't want to act at all." House Ways and Means Committee Chairman Bill Thomas "has insisted on his broad retirement package, which emphasizes pension reform and private savings. It is expected to include a Social Security proposal, introduced by Republican Reps. Jim McCrery of Louisiana and E. Clay Shaw Jr. of Florida, that would use the system's surplus to create voluntary private accounts. Some Republicans and outside advocates would like a vote on the McCrery-Shaw bill by itself, and a few last week said House leaders have decided unofficially to do that." However House Majority Leader Tom DeLay said, "If it's done, it will be done as part of the retirement security package."

Cheney Reportedly Purchasing Home Near Rumsfeld's. The Washington Post (9/5, B1, Morse) reports, "They've grown used to having a secretary of defense in their midst. … Now, residents of this Eastern Shore retreat [St. Michaels, MD] are preparing for someone even bigger to buy a house down the road: the vice president. Whether it's true -- that Dick and Lynne Cheney are buying an estate here -- could not be confirmed. Those closest to the deal -- Cheney's office, the purported sellers, the listing agent -- aren't talking."

With New Judges, DC Circuit Gears Up For Full Judicial Slate. The Legal Times (9/5, Henning) reports, "The federal appeals court in Washington, where oral arguments resume this week after a nearly three-month summer hiatus, is facing a season of change." The Times continues, "The departure of Judge John Roberts Jr. to Capitol Hill for hearings on his nomination to the Supreme Court and the arrival of Janice Rogers Brown and Thomas Griffith on the circuit court's bench resulted in a reshuffling of panels and argument dates for the fall." The Times adds, "Lawyers with upcoming cases before the U.S. Court of Appeals for the D.C. Circuit say they've received oral argument dates later than usual. As of late last week, the court had posted its calendar through the end of October. … The court's argument calendar, which continues to take shape, opens with the pleas of Guantánamo Bay prisoners. Over the next two months the court will also hear cases involving immunity and liability for public officials such as police officers and will revisit long-running litigation that pits states and interest groups against the federal government."

The Legal Times (9/5, Henning) reports, "Nothing says welcome to Washington to a new judge like a case full of acronyms that only wonkish Beltway dwellers can appreciate. … That's how Janice Rogers Brown and Thomas Griffith will be initiated into the complex but largely nonideological work of refereeing federal agencies on the U.S. Court of Appeals for the D.C. Circuit." The Times continues, "Before Brown this month will be a dispute over a plan that would create a hunting season for the trumpeter swan, and Griffith will hear an appeal involving the Federal Motor Carrier Safety Administration. … But in other cases, the judges could have the opportunity to place a personal stamp." The Times notes, "In Gregory Thomas v. George Washington University, Brown will hear the case of a man with a paralyzed leg who is appealing a lower court decision that threw out a favorable jury verdict. Gregory Thomas, a medical resident at GW who lost his position, sued the university for race and disability discrimination. The school claims his performance was poor and that he has an impairment, as opposed to a disability covered by the Americans With Disabilities Act."

Report Criticizes Education Department PR Grants. USA Today (9/6, 7D, Toppo) reports, "Federal investigators probing the Education Department's public relations contracts have found a pattern of deals in which advocacy organizations received grants totaling nearly $4.7 million to promote Bush administration education priorities in newspaper columns and brochures, but didn't disclose that they received taxpayer funds, as required by law." USED Inspector General John Higgins recommended that "the department needs to do a better job monitoring how millions of dollars in grants are spent." U.S. Secretary of Education

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Margaret Spelling "agreed with most of the investigators' findings."

OTHER NEWS:

No Gasoline Supply Disruptions Over Labor Day As Price Reaches New High. The New York Times (9/6, Bajaj) reports as Americans "began heading home from the Labor Day weekend, gasoline stations today continued to report spot shortages, but the country appeared, at least as of this afternoon, to have avoided the massive supply problems that some had feared." Officials said they "continued to make progress in resuming the production and distribution of gasoline and other fuels, which was severely disrupted by Hurricane Katrina last week. But they noted that most refineries and oil production in and along the Gulf of Mexico remained shut down for the seventh day in a row."

USA Today (9/6, Woodyard) reports the national average price for gasoline "crossed the $3-a-gallon mark for the first time Monday in the latest AAA survey, tying the record for highest ever on an inflation-adjusted basis." Although motorists "in hurricane-whipped areas along the Gulf of Mexico faced gas lines, some resorts across the nation reported strong Labor Day crowds despite soaring fuel prices." A gallon "of regular-grade gas hit $3.057 a gallon Monday, up 19 cents from $2.867 earlier in the weekend, the AAA said. On an inflation-adjusted basis, that's equal to the peak of $1.417 set in March 1981."

The New York Times (9/6, Bajaj, Pérez-Peña) reports analysts and industry executives "warned that fuel prices were likely to remain high and that the nation's oil supply system might not return to normal operations for several weeks, perhaps longer." Even as the Federal Government "and other nations started releasing crude oil and gasoline into a thirsting world market and pipelines resumed sending supplies from the Gulf Coast, specialists said there were few quick fixes for the biggest remaining bottleneck: refining." As many as "four refineries, processing about 4 percent of the nation's oil supplies, might stay out of service for weeks or months. Of the remaining six refineries that shut down last week because of Hurricane Katrina, several were starting to resume production over the long weekend, but it will take them several days to get back to full speed."

States Move To Cut Gasoline Excise Taxes. The Wall Street Journal (9/6, Matthews) reports that to "soften the blow of higher fuel prices and disrupted supplies, the federal government took steps to increase the supply of diesel fuel as some states moved to suspend gasoline excise taxes." The Internal Revenue Service "said it will temporarily allow all vehicles, including commercial trucks, to use dyed diesel fuel without being subject to a penalty. Dyed diesel usually is restricted to farming and government activities that aren't subject to excise taxes. Under the IRS easing, the usual diesel tax still will be owed when dyed diesel is used in nonexempt ways, but an additional penalty will be waived. California and Michigan also lifted state penalties on the use of dyed diesel fuel." States that suspend gas taxes "stand to lose millions of dollars in revenues that are usually used for road and other highway projects. Even states that don't suspend gas taxes could see revenues drop if drivers cut back on gas purchases due to rising pump prices."

NYTimes Criticizes Bush For Long-Term Handling Of Gasoline Demand. The New York Times (9/6) says in an editorial, "The ability of the Gulf Coast's many refineries to turn the oil into gasoline has been devastated, as has the ability to transport the gasoline that does become available. Those supply bottlenecks are chiefly responsible for this past week's higher prices at the pump. President Bush's immediate response is to lend oil from the government's Strategic Petroleum Reserve to refineries and to streamline the refining process by temporarily relaxing environmental standards - sound stopgap measures to help ensure a steady supply of gasoline. The International Energy Agency, whose members are 26 rich nations, has also made a big contribution, pledging on Friday to supply world markets with an additional 60 million barrels of oil and gasoline over the next 30 days, half of which would come from the United States' emergency stockpiles." But it "would be wrong to think - and act - as if this crisis is fundamentally a supply shock. Rather, it is a supply shock on top of blatantly excessive demand. The near-term responses from Mr. Bush and the international agency, welcome as they are, will not solve the larger problems laid bare by Katrina. Worse, Mr. Bush's record on energy issues does not suggest that he is up to that task."

US Economy Seen As Demonstrating Resilience In Wake Of Katrina. The Wall Street Journal (9/6, A1, Hilsenrath, lp) reports in a front page story that the US economy's "shock absorbers kicked in within days of one of the worst natural disasters in its history, offering hope that the massive jolt to the country's energy and transportation

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systems won't produce a long-lived, serious economic contraction." The "release of emergency oil and gasoline from global stockpiles, created in the 1970s to counter supply interruptions, sent crude-oil prices down to about pre-hurricane levels in European trading." Long-term interest rates "fell despite the prospect of higher inflation, cushioning home buyers and businesses. Temporary-help agencies began to place some workers displaced by the storm. New Orleans's main newspaper, the Times-Picayune, kept publishing on the Internet when printing on paper was impossible. Computerized logistics enabled railroad CSX Corp. to reroute freight normally exchanged with Western railroads at New Orleans to be sent north." Hurricane Katrina is "the biggest test in years of the economy's resilience. But recent history offers encouraging, though by no means definitive evidence of the U.S. economy's ability to bounce back from shocks. Economic growth has become significantly less volatile during the past two decades, a trend some economists dub 'the Great Moderation.'"

USA Today (9/6, Jones) reports "dozens of Southern cities from Baton Rouge to Pensacola are coping with a displaced populace numbering in the hundreds of thousands and awaiting the spillover of billions of dollars in disaster aid." Natural disasters "whipsaw local economies as they move from devastation and into rebuilding. That's nothing new. But this time, the disaster was a coiled snake that has lashed out at the nation." Katrina and "the flooding triggered by levee failures will have a total economic cost of $100 billion, Risk Management Solutions, a catastrophe-risk-modeling firm, said Friday. Most of the damage done by the levee break is likely not insured. Still, bond-rating company Fitch said Friday that the insured portion of losses could go above $25 billion, surpassing the Sept. 11 terror attack ($20.1 billion in 2004 dollars) and Hurricane Andrew ($20.5 billion) as the largest insured loss in history."

With Port Of New Orleans Out Of Service, Farmers Face Shipping Problems. ABC World News Tonight (9/5, story 14, 2:20, Gibson) reported, "It is now a week to the day after Katrina hit. And shipping along the Mississippi River and its tributaries is still at a standstill. $100 billion in goods move up and down the Mississippi every year. That's 25% of all US exports. And 17% of all imports. The storm hit one region. Its economic impact is affecting all regions." ABC (Reynolds) added, "From St. Paul to St. Louis and all along the big river, they sit on the water with no place to go. The corn, coal, steel or lumber that fuels the nation's commerce -- all stalled." Most "of the nation's industrial imports, such as steel, plywood and rubber, comes through the Port of New Orleans. And more than half of the nation's grain goes out through the port." It's "too soon to say how consumers will fare overall. But commodities like coffee and sugar in addition to gasoline, are expected to become more expensive."

The Wall Street Journal (9/6, Fialka) reports "Midwest farm interests represented by Republicans like" House Speaker Dennis Hastert and Rep. Roy Blunt "have a major stake in reconstructing New Orleans. Another port -- Gulfport, Miss. -- is crucial to Southern poultry interests, but New Orleans has a wider regional reach, handling 71% of corn and 65% of soybean exports last year." The disruptions "have hit Midwest farmers at a difficult time. Storage facilities already are strained from big crops last year, and commodity prices have been falling amid efforts to empty grain elevators in time for new crops. If sales can't be completed, there is a risk of grain being stored outside, thereby reducing its value and the return to the farmer." With "rising energy and fertilizer prices and a summer drought in the eastern Midwest, including Speaker Hastert's Illinois district, there are sure to be demands for expanded agriculture assistance as part of any disaster package."

States Reporting Increase In Unemployment Applications. USA Today (9/6, Armour) reports thousands of employees "are finding themselves suddenly without paychecks after Hurricane Katrina. Some are rushing to get state aid while others are looking for new jobs." Some states are "reporting an increase in residents requesting benefits." In Louisiana, those "who are not getting paid because of the hurricane can file for disaster unemployment assistance or unemployment benefits, says Ed Pratt, a spokesman with the Louisiana Department of Labor. They are eligible for up to $256 a week." Mississippi workers "are eligible for unemployment or disaster unemployment assistance of up to $210 a week," and Alabama residents "are eligible for unemployment or disaster assistance and can apply through call centers. They can get up to $220 a week."

WPost Calls Economic Recovery "Lagging And Uneven." The Washington Post (9/6, A24) editorializes, "The Census Bureau's annual report on income, poverty and health insurance in the United States" underscores "the lagging and uneven nature of the economic recovery since the 2001 recession. According to the new data, 4 million more people were living in poverty in 2004 than in 2001, and 4.6 million more people lacked health insurance." In

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addition, the "percentage of people with employer-based health insurance fell for the fourth year in a row," and "it's not at all certain that states will be willing or able to maintain coverage for working Americans hovering at the edge of poverty. In the wake of this data and the devastation caused by Hurricane Katrina, Senate Majority Leader Bill Frist…was wise to postpone this week's planned vote to repeal the estate tax. Lawmakers need to remember in the weeks to come that this is an economic recovery that continues to leave too many Americans behind."

Russia Opposes Reporting Iran To Security Council. The Financial Times (9/6, Wagstyl, Khalaf) reports that Russia yesterday ruled out an early decision to report Iran to the Security Council. A senior Kremlin official "said Iran had not violated the rules of the nuclear non-proliferation treaty. Its nuclear programme, he said, should continue to be dealt with at the governing board of the Vienna-based International Atomic Energy Agency, the UN's nuclear watchdog, without involving the Security Council." The Times notes that the move "undermines US and European efforts to build international consensus for a diplomatic reprimand this month."

Iran appears to be changing tactics in an effort to minimize the risk of UN Security Council action over its nuclear program, reports the Christian Science Monitor (9/6, Peterson). The Monitor says the Security Council "which in turn is undermining the carrot-and-stick approach used by the EU and Washington in recent years to convince Iran to end all nuclear efforts." Gary Samore, a nonproliferation official during the Clinton administration and vice president of the MacArthur Foundation in Chicago, said high oil prices "may give Tehran confidence that the council would not jeopardize the flow of Iran's petroleum into the market. ... Other factors include American preoccupation with Iraq, and the decisive victory of Mr. Ahmadinejad at the polls last June."

Palestinian Forces Get First Look At Abandoned Jewish Settlements. Palestinian security forces on Monday toured Jewish settlements razed during Israel's withdrawal from Gaza. USA Today (9/6) reports that the tour "of the settlements in southern Gaza by Palestinian commanders and Israeli military officials was the first time Palestinian officials had been allowed into the communities. Israel removed all 8,500 settlers from Gaza last month."

Egypt Vows To Help Make Gaza Foundation Of Palestinian State. Meanwhile, in an interview with the Washington Times (9/6, Phillips) Egyptian Prime Minister Ahmed Nazif "pledged to help make the Gaza Strip the foundation of a Palestinian state 'in every sense' and urged other countries to join Cairo in the push for Middle East peace. 'If we want Gaza to be the basis for a new Palestinian state long term, we have to provide [the residents] with homes and jobs, with security,' Mr. Nazif told The Washington Times. … Mr. Nazif said Cairo will make sure that Gaza has access to the outside world through Egyptian seaports and airports 'to prevent the strip of territory being a prison' for its residents."

Recent Elections Reverse Gains By Radical Islamists In Pakistan. In what the Christian Science Monitor (9/6, Khan) calls a "surprising blow to religious extremists" in Pakistan, voters in recent elections "reversed the gains made by radical Islamists who came to power in two out of the country's four provinces in 2002. They had played a strong opposition role in the federal parliament and posed a formidable challenge to President Pervez Musharraf's vow to bring 'enlightened moderation' to Pakistani society." The Monitor adds, "The unexpected defeat of the Islamists came in the North Western Frontier Province (NWFP), which neighbors Afghanistan. The province had been ruled since 2002 by the Muttahida Majlis-e-Amal (MMA), an umbrella group of six religious parties, including the vanguard radical party Jamaat-e-Islami."

India May Remove Troops From Kashmir. Indian Prime Minister Manmohan Singh's office said yesterday that India will pull troops back from Kashmir if militant infiltration and violence ends. The New York Times (9/6, Sengupta) reports that the announcement came "after a rare meeting with Kashmiri separatists."

Presence Of Hindu Militants In Kashmir Indicates Insurgency May Not Be Only Religious. The Washington Times (9/6, Rahman) reports the "killing last month of a Hindu militant and the arrests of two others are raising doubts about the government's assertion that the bloody insurgency in Kashmir is being fought simply in the interests of Islamic militancy." Indian forces "killed Uttam Singh, 23, and three Muslim jihadis on Aug. 19. The night-long gunbattle came during an attempt by a group of militants to kill or abduct an Indian Muslim soldier from his house in the border region of Kashmir." Police "later discovered that Mr. Singh, alias

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Saifullah, was one of two Hindu sector commanders in Hizbul-Kashmir, a rebel group that seeks to include all of Kashmir in Pakistan." A senior officer "at the Defense Ministry in New Delhi subsequently acknowledged that four other Hindu militants had been killed fighting alongside the Kashmiri jihadis in the past three years. However, he would not accept the notion they might have been willing combatants."

Lebanese President Faces Growing Pressure To Resign. Lebanon's President Emile Lahoud is facing growing pressure to resign. The New York Times (9/6, Fattah) reports that Lahoud "has clung to office even as his Syrian backers have been forced to withdraw from the country. … He keeps a low profile, rarely making public appearances or giving interviews. But as hard as he may try to remain out of sight, he has been on many minds here in recent days, as Lebanese have taken to predicting his imminent political demise." The Times adds "In a defiant statement last week, Mr. Lahoud insisted that he intended to complete his term in office, which ends in 2007. 'I will continue to fulfill my responsibilities to safeguard the Constitution, Lebanese laws and the integrity of Lebanese territory,' the statement said."

Business Groups Warn Doha Round Of Trade Talks On Verge Of Failure. A statement from a group of six business associations, including the US Business Roundtable, warns that the Doha round of global trade talks may be "on the verge of failure." The Financial Times (9/6, Beattie) reports that the statement "says delay in the agricultural talks is holding up progress in goods and services liberalisation, which is economically far more significant. … The warning comes as the WTO returns to work after its summer break, with four months remaining before December's ministerial meeting in Hong Kong. Progress in the talks has been slow. … Without a significant breakthrough in the agricultural talks and, particularly, a commitment from the EU and US to cut farm tariffs rather than the lesser goal of ending export subsidies, the big emerging markets such as India and Brazil are unlikely to agree radical liberalisation of their goods and services markets."

China, EU Reach Deal On Textiles. China and the European Commission reached an agreement Monday to end their dispute over the importation of cheap Chinese textiles. The Financial Times (9/6, Hall, Parker) reports, "After marathon talks in Beijing stretching into the early hours of Monday morning, Peter Mandelson, EU trade commissioner, and Bo Xilai, his Chinese counterpart, agreed to release Chinese garments impounded at Europe's ports 'as soon as possible.' Mr Mandelson said the two sides had agreed to 'sensible, reasonable, burden-sharing' regarding the fate of 77m Chinese sweaters, trousers and bras impounded at the EU's borders. The Commission proposes to wave through half of the impounded garments. China accepted that the rest would be deducted either from its 2006 textile quota, or switched to other unfilled-quota categories."

The Wall Street Journal (9/6, Browne, Bianchi, von Reppert-Bismarck, Champion) reports, "Both sides hailed the textile accord, which still needs the approval of EU member countries, as a fair compromise. … EU officials and diplomats expect European governments to approve the agreement today."

Chinese Oil Company Moves To Sell Kazakhstan Acquisition. The Wall Street Journal (9/6, Singer, Chazan) reports, "China National Petroleum Corp., which last month triumphed in a bidding war to buy a strategically important oil company with operations in neighboring Kazakhstan, is in talks to sell as much as half of the $4.18 billion acquisition to Kazakhstan's state-owned oil firm even before the first deal is closed, according to people familiar with the matter. A deal by CNPC, as China National Petroleum is called, to sell a 33% to 50% stake in PetroKazakhstan Inc., a Canadian company with operations in the oil-rich central-Asian state, to KazMunaiGaz, the state-owned oil company, is expected to be sealed in the next few weeks, these people said. The price tag on such a deal with KMG, as the state firm is known, wasn't clear."

Columnist Says Bush, Hu Have Urgent Issues To Discuss. George Melloan writes in his Wall Street Journal column (9/6), "The Katrina disaster offered the White House a plausible reason to postpone tomorrow's planned visit from Chinese President Hu Jintao, but the delay was unfortunate. President George W. Bush needs to discuss some important issues with Mr. Hu." Bush 'and Mr. Hu need to come to a better understanding, setting aside spurious issues and dwelling on ways the two countries can cooperate to keep China on the course it desires, to become a 'modernized, medium-level developed country.' Mr. Bush can offer wise counsel: To do that, it will have to become more democratic."

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Ukrainian Official Resigns To Protest Alleged Corruption. A top aide to Ukrainian President Viktor Yuschenko said yester day he has resigned from the government because of corruption allegations around Yushchenko. The Washington Times/AP (9/6, Lisova) reports that Oleksandr Zinchenko, who resigned Saturday, was a chief organizer of the "Orange Revolution" protests. He said "the situation had grown 'even worse' than under former President Leonid Kuchma."

Report Says Chernobyl Caused Less Harm Than Anticipated. A new report has found that the after effects of the accident at Chernobyl nuclear power plant 20 years ago have proved less dire than predicted. The New York Times (9/6) says the report, which was prepared by a panel of more than 100 experts convened by United Nations agencies, "says huge compensation programs for people in the Chernobyl region have become 'a major barrier to the region's recovery,' both by creating a culture of dependency and by soaking up a high percentage of the region's resources. It recommends that the compensation programs be cut back."

The Washington Post (9/6, A22, Finn) adds that the report says the governments of Ukraine, Belarus and Russia, "the three countries most affected by radioactive fallout from Chernobyl, should strive to end the 'paralyzing fatalism' of tens of thousands of their citizens who wrongly believe they are still at risk of an early death." The 600-page report "found that as of the middle of this year, the accident had caused fewer than 50 deaths directly attributable to radiation, most of them among emergency workers who died in the first months after the accident."

The Wall Street Journal (9/6, Fialka) reports, "The 600-page report said that almost 99% of children diagnosed with thyroid cancer after the incident survived. It found 'no convincing evidence' that the incidence of leukemia rose among the population exposed to radiation in Russia and Ukraine."

Indonesian Plane Crash Kills At Least 147. ABC World News Tonight (9/5, story 15, :25, Gibson) reported, "A Boeing 737, taking off in Indonesia, shook violently, jerked to the left, and smashed into a row of houses on a busy street. At least 147 people died, many of them on the ground. Miraculously, as many as 16 passengers aboard the jet survived, including an 18-month-old child, wrapped in his mother's arms. She survived, as well."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH —Makes a statement on efforts to assist students and school districts displaced by the hurricane, Rose Garden; 10 a.m. Meets with Cabinet, Cabinet Room; 11:15 a.m. Meets with representatives from National Voluntary and Charitable Organizations, Roosevelt Room.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: FLOOR SCHEDULE _ 12 p.m. Meets for morning business. At 2:15 p.m., considers the cloture motion on S.147 - Native Hawaiian Government Reorganization bill.

1:30 p.m. JUDICIARY _ Full Committee. Hearings begin on the nomination of Judge John G. Roberts, Jr., for the Supreme Court. Ten-minute opening statements by committee members will be followed by the oath to be taken by Judge Roberts and his opening statement. Location: Caucus Room, Room 325, Russell.

2:30 p.m. ENERGY AND NATURAL RESOURCES _ Full Committee. Hearing to examine gasoline prices and factors contributing to current high prices such as global oil demand, constraints on refinery capacity, and increased speculation in the futures market. Energy Information Administration Administrator Guy Caruso, Commodity Futures Trading Commission Chief Economist James Overdahl, Johnnie Burton of the Interior Department, Robert Darbelnet of AAA, Bob Slaughter of the National Petrochemical and Refiners Association, oil analyst John Dowd, of New York, others. Location: Room 106, Dirksen.

US House: FLOOR SCHEDULE _ 2 p.m. The House meets for legislative business. Votes will be postponed until 6:30 p.m. Highlights: Suspensions (2 bills): 1) H.Res. 360 - Commemorating the 60th anniversary of V-J Day and the end of World War II in the Pacific. 2) S.J.Res. 19 - A joint resolution calling upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act.

5 p.m. RULES _ Full Committee. Meeting on rules for floor debate. Location: Room H-313, Capitol.

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Other: CHINESE PRESIDENT HU JINTAO _ Highlights: Evening. Arrives at Andrews AFB.

TERRORISM SUMMIT _ The New America Foundation sponsors a forum on America's approach to countering terrorism, ``Terrorism, Security, and America's Purpose: Towards a More Comprehensive Strategy." Highlights: 8:15 a.m. Steven Clemons, New America Foundation. 9 a.m. Welcoming remarks, James Fallows, Atlantic Monthly, and chairman of the board, New America Foundation; Stephen Heintz, president, Rockefeller Brothers Fund. 9:15 a.m. Rep. Jane Harman, D-Calilf., ranking member, Permanent Select Committee on Intelligence; George Soros, chairman, Soros Fund Management, and chairman, Open Society Institute; Mitchell Reiss, former director of policy planning, State Department, and vice provost, College of William & Mary; James Steinberg, Brookings Institution, former deputy national security advisor to the President; Rita Hauser, International Peace Academy, and RAND Corp.; Roger Cressey, former director, transnational threats, National Security Council, and president, Good Harbor Consulting LLC; moderator David Ensor, CNN. 10:30 a.m. Sen. Joseph Biden, D-Del., ranking member, Committee on Foreign Relations. 11 a.m. Robert Pape, University of Chicago, author; Nir Rosen, author, New America Foundation; Yosri Fonda, Al-Jazeera; Andrew Kohut, Pew Research Center for People and the Press; Michael Lind, New America Foundation, author; moderator Robert Kuttner, The American Prospect. 12:15 p.m. Jon Huntsman, Jr., governor of Utah; Gen. Wesley Clark, former supreme allied commander, NATO, former candidate for President. 2 p.m. Tom Clancy, novelist. 2:30 p.m. Dimitri Simes, president, The Nixon Center; Anatol Lieven, New America Foundation, author; Flynt Leverett, Brookings Institution, formerly National Security Council; Kenneth Roth, president, Human Rights Watch; Michael McFaul, Stanford University, Hoover Institution; moderator Morton Halperin, formerly National Security Council, executive director, Open Society Policy Center. 3:45 p.m. Gerold Yonas, Sandia National Weapons Laboratories; Henry Schuster, CNN; Diego Hidalgo, president, FRIDE, publisher; Richard Vague, chairman, American Respect.com; Stephen Walt, Harvard University, author; Juliette Kayyem, Kennedy School of Government, Harvard University; Lawrence Korb, Center for American Progress, former assistant secretary of defense. 5:15 p.m. Anne-Marie Slaughter, Princeton University; Jonah Goldberg, National Review Online; Grover Norquist, president, Americans for Tax Reform, American Conservative Union member of the board; Reuel Marc Gerecht, American Enterprise Institute; Brig. Gen. James Cullen, U.S. Army (Ret.); moderator Michael Barone, US News & World Report. 6:15 p.m. Reception, Ted Sorensen, former special counsel to President Kennedy. 6:15 p.m. Executive session, private meeting, John Ashcroft, former attorney general. 7:15 p.m. Dinner, Rita Hauser, RAND Corp.; Sen. Chuck Hagel, R-Neb. Location: Capital Hilton, 16th and K Streets, NW.

CSIS-CHINESE PRESIDENT HU JINTAO_ Highlights: 9:30 a.m. CSIS hosts a briefing by analysts for members of the press corps on issues surrounding Chinese President Hu Jintao's visit to Washington, with Bates Gill, Ambassador Richard McCormack, Bonnie Glaser, and Frank Verrastro, all of CSIS. CSIS, B-1 conference level, 1800 K St. NW.

FORUM-CHINESE PRESIDENT HU JINTAO_ 1:30 p.m. - 3:30 p.m. A forum will be held on Chinese President Hu Jintao's upcoming visit to the U.S. and the challenges he is facing amid China's political situation and how they will shape his agenda and decision-making, ``Two Years Later: A Look at Hu Jintao's Rule in China." Participants include moderator Dr. John Li, senior research fellow, Association for Asian Research, and panelists T. Kumar, advocacy director for Asia & Pacific, Amnesty International USA; Wei Jingsheng, chairman, Overseas Chinese Democracy Coalition; Jingduan Yang, MD, spokesman for the Washington DC area Falun Dafa Practitioners Association; Frank Gong, columnist, Chinascope magazine; and Rebiya Kadeer, Uyghur businesswoman and dissident. National Press Club, Holeman Lounge. Contact: Brian Marple, 202-375-4100.

REHNQUIST-LEGACY _ 7 a.m. Young activists honor the pro-life legacy of Chief Justice William Rehnquist during prayer service outside the Supreme Court. Location: Public sidewalk in front of the Supreme Court.

MUSLIM DEMOCRACY _ 10 a.m. - 12:15 p.m. The Wilson Center's Middle East Program and the National Endowment for Democracy co-sponsor a discussion, ``From Islamism to Muslim Democracy: The Challenges of Political Inclusion in Muslim Countries." Speakers are Anwar Ibrahim, former deputy prime minister, Malaysia, and Saad Eddin Ibrahim, professor of political sociology, American University in Cairo, and chairman of the board, Ibn Khaldun Center for Development Studies, Cairo, Egypt; commentators Larry Diamond, senior fellow, The Hoover Institution on War, Revolution and Peace, Stanford University, and Vali Nasr, professor, Department of National Security Affairs, Naval

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Postgraduate School, Monterey, Calif.; chair Carl Gershman, president, National Endowment for Democracy. Location: Woodrow Wilson Center, 6th Floor Auditorium, Ronald Reagan Building, 1300 Pennsylvania Ave. NW.

KATRINA INVESTIGATION _ 11:15 a.m. Senators Susan Collins and Joe Lieberman will hold a press conference to discuss the Homeland Security and Governmental Affairs Committee investigation of Hurricane Katrina preparedness and relief efforts as they pertain to the Gulf Coast. Location: Senate Radio-TV Gallery.

BORK _ 12:30 p.m. The National Press Club hosts a luncheon address by Robert Bork of the Hudson Institute. Location: National Press Club.

GAZA-MEDIA _ 1 p.m. Americans for Peace Now and the American Task Force on Palestine co-host a luncheon forum on media coverage of the Gaza and Northern West Bank disengagement that Israel began earlier this month, with journalists Yaron Deckel, Israeli Television Channel 1; Nadia Bilbassey, Al Arabiyya Television; Natan Guttman, the Jerusalem Post; and Claude Salhani, United Press International. Location: Center for Strategic and International Studies, Conference Room B-1, Rooms B & C, 1800 K St. NW.

CANADA-US ENERGY _ 11 p.m. There will be a background briefing on Alberta's oil sands and the Canada-US energy relationship. Briefers are Murray Smith, Alberta's representative in Washington, D.C.; and Paul Connors, energy counselor at the Canadian Embassy. Location: Canadian Embassy, 501 Pennsylvania Ave. NW.

NO-FLY LISTS _ 7 p.m. - 9:30 p.m. The Georgetown University Law Center hosts a panel discussion, ``No-Fly Lists & National Security." Panelists are David Cole, professor of law, Georgetown University Law Center; Paul Rosenzweig, senior legal research fellow, Heritage Foundation; Tim Sparapani, legislative counsel on privacy issues, American Civil Liberties Union; Daniel Sutherland, officer for civil rights & civil liberties, Department of Homeland Security; and Ahmed Younis, national director, Muslim Public Affairs Council. Location: Georgetown University Law Center, Gewirz Student Center, 12th Floor, 120 F St. NW.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Hundreds Refuse To Evacuate."
"Survival, Hour By Hour."
"Roberts Tapped For Chief Justice."
"L.A. Cuts Back Year-Round Schools."
"Some Of The Dispossessed Say They Won't Return."

USA Today:
"'Destroyed' City Clears Out."
"Picking Roberts For Court's Top Job Raises Stakes."
"Waves Of Evacuees Swamp Host Cities."

New York Times:
"Bush Makes Return Visit; 2 Levees Secured."
"President Names Roberts As Choice For Chief Justice."

Washington Post:
"Bush Nominates Roberts As Chief Justice."
"Along Gulf, Aiding The Living And Counting The Dead."

Washington Times:
"2 Orleans Levees Closed."
"Roberts Picked For Chief Justice."
"Egypt Vows To Build A Palestinian Gaza."
"Congress Comes Back To A Busy Agenda."

Detroit Free Press:
"After A Week In Hell, Welcome To Michigan."
"Splintered Unions Get In Step For Mechanics."
"Storm Victims Return To Sift Through Debris."
"Greater Role, More Jobs May Boost Clout Of Detroit Arsenal."

Atlanta Journal-Constitution:
"Leak Plugged."
"Roberts Gets Call For Chief Justice."

Dallas Morning News:
"'No Reason To Stay,' But Some Won't Leave."
"Residents Allowed To Survey Jefferson Parish Damage."
"Would-Be Rescuers Cool Their Heels."
"Roberts Tapped To Lead Court."

Houston Chronicle:
"A Perilous Journey Home."
"Roberts' Nomination As Chief May Avoid Senate Fight."

Story Lineup From Last Night's Network News:
ABC: New Orleans Recovery; New Orleans Flooding; Texas-New Orleans Refugees; Hurricane Refugees; Bush, Clinton Fundraising; Roberts-Chief Justice; FEMA Director's Experience; New Orleans-Families Divided; New Orleans-Relief Problems; Bush-Hurricane Zone; Bush, Clinton

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Fundraising; International Aid; Mississippi Recovery; Mississippi Shipping Paralyzed; Indonesia Plane Crash; Baghdad-Interior Ministry Attacked; Katrina-Religious Faith.
CBS: New Orleans Recovery; Baton Rouge-New Orleans Refugees; Destroyed New Orleans Parish; Texas-New Orleans Refugees; Roberts-Chief Justice, Analysis.
NBC: New Orleans Situation; New Orleans-Returning Residents; New Orleans-Repairs; Bush, Clinton Fundraising; Roberts-Chief Justice; Roberts Nomination-Analysis; Bush's Katrina Response-Analysis; Indonesia Plane Crash; Texas-New Orleans Refugees; Hurricane Survivor-Family Reunion; New Orleans-Families Divided; Katrina-Wrap-Up.

Story Lineup From This Morning's Radio News Broadcasts:

ABC: New Orleans-Levee Repairs; Bush-Hurricane Zone Visit; Hurricane-Evacuees; Bush-Roberts.
CBS: New Orleans-Levee Repairs; New Orleans Damage; Bush-Hurricane Zone Visit; Lewis Telethon.
NPR: New Orleans Police; Surgeon General-Disease Warning; Roberts; Oil Prices; New Orleans-Levee Repairs; Hurricane Relief Efforts; Indonesia-Plane Crash.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, SEPTEMBER 6, 2005 7:45 AM EDT

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TERRORISM NEWS:

Charges Against Virginia Man Arrested In Elaborate Raid Dropped. The Washington Post (9/5, A4, Sheridan) reports, "The scene was emblematic of the war on terror: a government helicopter clattering over a home in Burke as gun-toting agents smashed through the door and handcuffed the owner, a Lebanese immigrant. Hassan Khalil, 37, was arrested by agents with a local terrorism task force this May and charged with immigration fraud. But now, officials say, the charge has been dropped. The reason: a mistake in Khalil's immigration records." The Post adds, "Authorities have declined to comment on what brought Khalil to their attention or whether he could face further accusations . He was charged in May with lying on his citizenship application by failing to note an arrest by U.S. officials in the early 1990s for being in the country illegally."

Investigators Say London Subway Bomber Video Is Authentic. Newsweek (9/12) reports in its "Periscope" column, "American and British investigators say a new video featuring a July 7 London subway bomber and Qaeda chief deputy Ayman al-Zawahiri is authentic. These counterterror officials, who asked not to be named because of the sensitive subject matter, say the tape, aired last Thursday by Al-Jazeera, appears to affirm a link between Al Qaeda and the July 7 attacks -- but it doesn't prove Zawahiri or Qaeda head Osama bin Laden ordered them."

DOJ Statement On Detention Of Foreigners Decried. In an op-ed for the Washington Times (9/5) journalist Nat Hentoff writes, "I thought I was inured to learning about further evidence of this administration's disregard for our system of justice as it abuses international law and our statutes in the CIA's kidnapping of terrorism suspects to be sent to other nations. But an Aug. 9 statement in Brooklyn federal court by Mary Mason of the Justice Department's Constitutional Torts Section astonished me by its breadth of disregard for what we prize as our rule of law. … This is what Mrs. Mason, speaking for the U.S. government, said in federal court: 'Foreign citizens who change planes at airports in the United States can legally be seized, detained without charges, deprived of access to a lawyer or the courts, and even denied basic necessities like food.'"

PATRIOT ACT:

Long Beach, CA, Mulls Opposition To Patriot Act. The Long Beach (CA) Press-Telegram (9/5, Gewirtz) reports, "The City Council will be asked Tuesday to oppose provisions of the controversial USA PATRIOT Act that a citizens' group says will threaten civil liberty protections." The Press-Telegram continues, "Councilwomen Bonnie Lowenthal and Tonia Reyes Uranga will make the request, asking the council to support a recently adopted resolution in the State Senate that urges Congress to amend the act." The Press-Telegram adds, "Several cities, including Los Angeles, San Jose and San Francisco, have adopted similar measures in recent months regarding civil liberty aspects of the act. But whether the council will tackle the issue is unclear. … In the past, council members have had contentious debates over whether they should weigh in on various issues in front of the federal government. In March 2003, the council withdrew two contested resolutions after a debate over how, or whether, to address the war in Iraq. In June 2004, the council split 4-4 on a resolution to oppose the Federal Marriage Amendment. … Councilman Frank Colonna, who has opposed several past council efforts at intervention beyond the city's authority, said Tuesday's item falls into that category. … But Edith Pollach with the Long Beach Civil Liberties Defense Coalition said the council should take up the issue. She said nearly two dozen local groups will urge support for the measure Tuesday."

HOMELAND RESPONSE:

Report Questions Efficacy Of Airline Screening Program. The Washington Times (9/6, Seper) reports an airline anti-terrorism screening plan "may not be able to tell the Department of Homeland Security how many passenger records are being screened or project the number of terrorist-watch-list 'hits' to be sent to the nation's Terrorist Screening Center (TSC)." The Justice Department's Office of Inspector General "said the program shortfalls, found in a lengthy audit, have hurt the TSC's ability to plan its role in the government's new 'Secure Flight' program, an initiative to let the Transportation Security Administration (TSA) compare the names of commercial airline passengers with TSC's consolidated terrorist watch list."

US Muslims Seek To Limit Appeal Of Extremists. The Wall Street Journal (9/6, Sataline) reports, "Calling the terrorist attacks on London a wake-up call, Muslim-American organizations have launched a number of programs that are designed, in part, to prevent or root out

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disgruntled Muslims who might be tempted to use their religion to justify violence." The Islamic Society of North America "plans to distribute tens of thousands of pamphlets at mosques and cultural centers that spell out the Quran's injunctions against violence." Another "broad-based organization, the Muslim Public Affairs Council, is expanding its program to teach local mosques to partner with local communities and law enforcement."

9/11 Commission Successor Seeks Information On Able Danger. The Washington Times (9/5, Waterman) reports, "Members of the September 11 commission think they have been left swinging in the wind by the growing revelations about a secret Pentagon program that may have identified the ringleader of the hijackings as an al Qaeda operative more than a year before the attacks. 'Other people have questions they need to answer,' said Al Felzenberg, spokesman for the commission's embattled successor body, the 9/11 Public Discourse Project." The Times notes, "At the center of the controversy are claims that the secret project, code-named Able Danger, in 2000 produced a chart bearing the names -- and in some people's recollections, photographs -- of about 60 people thought linked to al Qaeda. Among the names was that of Mohamed Atta, the ringleader of the attacks. If the claims turn out to be true, it will entail a major rewrite of the commission's accounts of the missed opportunities to thwart the attacks."

DHS General Counsel Understands Both Private, Public Sector. The Legal Times (9/5, Blum) reports, "If any lawyer knows the Department of Homeland Security inside and out, it's Philip Perry. … Three years ago, as a senior White House lawyer, Perry helped create the new department. Later, as a partner at Washington's Latham & Watkins, he actively lobbied the DHS on behalf of two Fortune 500 companies. Then, about three months ago, the 41-year-old completed the circle, joining the agency as its general counsel." The Times continues, "In many ways, Perry is following Washington's most common career path. Lawyers in the capital have always swung between the federal government and law firms. But if you want to get off on the right foot with Perry, you better not refer to that flight pattern as the 'revolving door.' … 'The term "revolving door" implies people going in and out of government in order to obtain monetary gain,' Perry says. 'The reason people go into government is to serve their country. It's not appropriate to describe that as a revolving door.'" The Times adds, "Perry, who is married to Vice President Dick Cheney's oldest daughter, Elizabeth, has held three jobs in the Bush administration. In his current post—the first to require Senate confirmation—Perry oversees roughly 1,500 lawyers. In addition to its usual portfolio, his office is now handling legal aspects of the government's response to the devastation caused by Hurricane Katrina. And, in fact, Perry canceled a planned Labor Day weekend fishing excursion with his father-in-law to deal with the crisis. … Perry's work ethic seems to match that of his notoriously intense boss, Homeland Security Secretary Michael Chertoff. During August, when much of official Washington tends to dawdle, Perry pushed his staff to complete work on 30 separate regulations."

WAR NEWS:

US Sets Trap For Insurgents Fleeing Tall Afar. The Washington Post (9/5, A24, Finer) reports, "Under the cover of a moonless night, U.S. soldiers on Sunday strung nearly a mile of razor-sharp concertina wire across the northern edge of a [Tall Afar] neighborhood dominated by insurgents to prevent them from fleeing without a showdown. Several small teams of five or six troops quickly uncoiled spools of wire and fastened it along the deserted sidewalk of a broad thoroughfare. The cordon was intended to prevent insurgents from blending in with the hundreds of people who fled the city during heavy clashes Sunday. … More than 5,000 U.S. and Iraqi soldiers entered Tall Afar on Friday in a broad sweep for insurgents who have held sway in the northern city since a previous U.S. invasion, and subsequent withdrawal, last September. In three days of fighting, as many as 200 insurgents have been killed. Two U.S. and four Iraqi soldiers have been wounded, none seriously."

Saddam Trial Will Begin October 19. The Financial Times (9/5, Negus) reports Saddam Hussein will "go on trial on October 19 on charges related to the repression of Shia in a central Iraqi town in 1982," said Laith Kubba, the prime ministerial spokesman. Kubba "was subsequently quoted as saying that Mr Hussein could be executed shortly after his trial -- possibly raising objections from the Kurds and other groups anxious to see crimes against their communities brought to trial." Saddam's "co-defendants would include Barzan Ibrahim, his half-brother and then-chief of intelligence, Taha Yassin Ramadan, former vice-president, former top judge Awad Badar Al-Bandar, and four former local members of the ruling Ba'ath party."

The New York Times (9/5, Oppel) reports, "After the failed attack on Mr. Hussein, Iraqi officials executed men and boys from Dujail, a largely Shiite town 35 miles north of Baghdad. Investigators for the special tribunal that will try Mr. Hussein have said another 1,500 Dujail residents were later ordered incarcerated in a prison in a desolate stretch of desert near the Saudi Arabian border."

The Washington Post (9/5, A25, Knickmeyer) reports, "The Iraqi government is considering waiving further proceedings against former president Saddam Hussein if he

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is convicted at his trial on charges stemming from the massacre of 143 Shiite Muslims in 1982, a senior spokesman said Sunday." Kubba "said Sunday that if Hussein is convicted in the first case, any sentence is likely to be carried out as swiftly as possible." The Post adds, "The Shiite-led interim government is believed to have chosen the case in part because of its narrow focus and the possibility of tracing the killings back to Hussein. Other accusations against him, including state-orchestrated massacres of thousands of Kurds and Shiites, are much broader."

Insurgents Allied With Zarqawi Claim Control Of Iraqi Border Town. The Washington Post (9/6, A20, Knickmeyer, Finer) reports, "Fighters loyal to militant leader Abu Musab Zarqawi asserted control over the key Iraqi border town of Qaim on Monday, killing U.S. collaborators and enforcing strict Islamic law, according to tribal members, officials, residents and others in the town and nearby villages." Residents said "the foreign-led fighters controlled by Zarqawi, a Jordanian, apparently had been exerting authority in the town, within two miles of the Syrian border, since at least the start of the weekend. A sign posted at an entrance to the town declared, 'Welcome to the Islamic Republic of Qaim.'" Meanwhile, the US Army "warned noncombatants to leave a portion of the northeastern city of Tall Afar ahead of an expected assault on an insurgent stronghold there."

Al Qaeda Group Claims Responsibility For Interior Ministry Attack. ABC World News Tonight (9/5, story 16, :15, Gibson) reported, "In Baghdad, a major attack on the Iraqi Interior Ministry. Up to 30 gunmen descended on the ministry in 10 cars, and opened fire with rocket propelled grenades, mortars, and automatic rifles. Two policemen were killed and five were wounded. The Iraqi wing of Al Qaeda said on a Website it launched the attack."

USA Today/AP (9/6, Yacoub) reports, "The insurgents, who fired automatic weapons and rocket-propelled grenades, withdrew after about 15 minutes. There was no report of insurgent casualties." The Washington Post (9/6) also reports the AP story.

US Bracing For More Confrontations With Insurgents As Elections Approach. The New York Times (9/6, Moss) reports the American military "recently moved into this small town" of Faris "10 miles south of Falluja, one of the most violent locales in Iraq, to secure it for the coming elections, and the insurgents took all of a day to respond. They fired a rocket that missed the Americans and landed instead in a nearby playground, killing a 12-year-old boy and wounding eight other children." Some residents "are directing their anger not at the insurgents but at the marines, whose arrival, they say, drew the attack." The military is "bracing for a surge of situations like this one as American and Iraqi forces race to establish security for the referendum on the new Iraqi constitution to be held on Oct. 15." Faris and Ameriya "have been without police officers since February, when the police force collapsed in the face of withering attacks by insurgents, who then used the communities as safe havens from which to mount their attacks, Marine officers said, and to intimidate civilians."

Top Iraqi Officials Criticize Arab Leaders For Lack Of Support. The New York Times (9/6, Worth) reports that in "an unusual public rebuke, President Jalal Talabani angrily criticized other Arab states on Monday, saying they had insulted Iraq by not sending diplomats to Baghdad and had not sent condolence letters about the stampede last week in which almost 1,000 Shiite pilgrims were killed." Talabani, "a Kurd, amplified complaints by other Iraqi leaders about the Arab states' failure to recognize the stampede, which caused the highest one-day death toll since the American-led invasion. The complaints, aimed at mostly Sunni leaders, hinted at a sectarian bias against Iraq, where Shiites are about 60 percent of the population." Prime Minister Ibrahim al-Jaafari, a Shiite, "hinted at similar criticism on Monday when asked about the emir of Qatar, Sheik Hamad bin Khalifa al-Thani, who donated $100 million to the American victims of Hurricane Katrina but nothing to the victims of the stampede." The Times adds the comments by Talabani and Jaafari "came at a time of heightened tension with other Arab nations. Last week Amr Moussa, the secretary general of the Arab League, issued a public criticism of Iraq's new constitution - largely written by Shiites and Kurds - in which he echoed the criticisms by some Sunni Arabs in Iraq." But "some Iraqi leaders asked why Mr. Moussa was willing to denounce the new draft constitution now, after the Arab League had been notably silent about Iraq's lack of a constitution under Saddam Hussein."

Annan Says Iraq Worse Terror Problem Than Taliban-Era Afghanistan. The Washington Times (9/6) reports UN Secretary General Kofi Annan said the "US-led invasion of Iraq has turned the country into a new hub of terrorism worse than Afghanistan under the Taliban." Annan also said "in an interview with the British Broadcasting Corp. that he expected to face blame over the Iraqi oil-for-food program when investigators deliver a report this week." Annan "told BBC World Service radio that the war was contributing to Muslim anger throughout the world." Annan said, "I think there are many Muslims that are extremely unhappy today. Unhappy because they feel victimized, they feel isolated, they feel victimized in their own society, they feel victimized in the West, and they feel this profiling against them. And the Iraqi situation has not helped matters. In fact,

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one used to be worried about Afghanistan being the center of terrorist activities. My sense is that Iraq has become a major problem, and in fact, it's worse than Afghanistan." The Times adds that regarding the "oil-for-food investigation, Mr. Annan said he believed chief investigator Paul Volcker would criticize him and others involved in the $64 billion program."

Bush Urged To Emphasize National Security When Discussing Iraq. In his Roll Call column (9/6), executive editor Morton Kondracke says President Bush has "made an important shift as he tries to bolster public support for the Iraq war, moving from idealism to a hard national security argument. He needs to stress the new message more. Unpopular though the idea may be, he may also have to increase the number of U.S. troops in Iraq in order to have any hope of defeating the insurgency. And, for sure, he has to get the Pentagon to stop talking about drawing down U.S. troop levels next year and get with Bush's own program: The United States stays until Iraq is secure." Bush "continues to make it clear that America is at war. What he must do now is make it unmistakable to the American people what the stakes of the war are and provide adequate forces to win it."

Iraqi Youth Experiencing Traumatic Events. The Washington Post (9/6, C1, Shadid) reports in the experience of 16-year-old Iraqi girl Amal Salman in Baghdad. Since she "had begun keeping her diary in 2003, Amal had witnessed the events of a lifetime: an invasion and the only government she knew toppled in a few weeks; an occupation; promises of prosperity and the disappointment that followed; an insurgency and the specter of civil war." But one Thursday morning "was the first time she had seen death" after a series of car bombings.

Iraq Veteran Records Experiences In Poetry. The New York Times (9/6, Kelley) reports vet José Díaz, 35, "who came to the United States from Cuba on the Mariel boatlift in 1980, has written a poem included in 'Voices in Wartime' (Whit Press, 2005), an anthology that explores the experience of war through literature."

Officials Say US, Afghan Troops Killed 25 Insurgents In Two Raids. The Los Angeles Times (9/6, Watson) reports US and Afghan forces "killed 25 suspected Taliban fighters and captured dozens more in operations in two southern provinces over two days, Afghan and U.S. officials said." On Monday, US and Afghan forces "killed 12 suspected militants and detained nine others in a raid in Zabol province, the U.S. military said." The operation in Zabol "followed a raid in neighboring Kandahar province in which U.S. and Afghan forces killed 13 suspected Taliban fighters, and captured dozens more, in a remote area where a political candidate was kidnapped and executed last week, a provincial official said."

The New York Times (9/6, Gall) reports Afghan and US forces "have mounted an operation in recent days in a remote mountainous district of southern Afghanistan in pursuit of a group of insurgents." Afghan and American officials said "that 13 insurgents suspected of ties to the country's former Taliban rulers had been killed and more than 40 people had been detained." The area of combat "is the same district, Ghorak, where suspected Taliban insurgents kidnapped, and claimed to have killed, five people on Saturday - a local election candidate, a government official and three police officers. An American spokesman, Col. James Yonts, said the operation was not directly linked to their abduction, but was based on intelligence about enemy activity."

Anarchy In Baghdad After US Invasion Described. In the second installment of a three part series, the Washington Post (9/5, C1, Shadid) reports, "On April 10, 2003, the day after the fall of President Saddam Hussein, the veil had been lifted but no one was sure what it revealed. … Emotions -- euphoria, vindictiveness, desperation, confusion -- surged up from the people after years of silence and restraint. The city seemed like a dazed inmate stumbling out of his cell and squinting into the harsh sunlight. Some spoke of anarchy: Armed civilians had begun to crack the monopoly on violence held only weeks earlier by Hussein's government and the American military forces now occupying Iraq. Thousands of residents hurried to plunder everything from trucks and wooden carts to the urinals, copper pipes and electrical wiring of public buildings. Hospitals and embassies fell prey, along with ministries, government offices, Baath Party headquarters and the stone mansions, faced in onyx, of Hussein's lieutenants.

Former Officials In Soviet-Backed Government Taking Part In Afghan Elections. The New York Times (9/5, Gall) reports, "The political return of dozens of former Communists, among them General Shahnawaz Tanai, 54, who was Afghan chief of staff, then defense minister in the brutal Soviet occupation in the 1980's, is one of the most contentious issues of this election campaign. General Tanai is perhaps most infamous for leading a coup in 1990, with the renegade mujahedeen commander Gulbuddin Hekmatyar, against President Muhammad Najibullah. The coup failed and he fled to Pakistan, where he lived in exile until Aug. 7. The general is not running in Afghanistan's parliamentary and provincial elections on Sept. 18, but he is calculating on winning a sizable bloc in Parliament with candidates from his Afghanistan Peace Movement Party and two other parties of former Communists who have joined him in a coalition. They are fielding 200 candidates around the country, most of them

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former Communists and some Soviet-era ministers and participants in the half a dozen coups of the last three decades."

CORPORATE SCANDALS:

Corporate Scandal Tip Lines Pose Dilemma. The Wall Street Journal (Reilly, Nassauer) reports, "In the wake of scandals at Enron and WorldCom, the Sarbanes-Oxley Act directed companies listed in the U.S. to set up so-called whistle-blower hot lines for employees everywhere to confidentially report potential corporate abuses. … But those anonymous tip lines now pose unforeseen problems in Europe, where data-protection laws make it difficult to accuse someone of impropriety anonymously. These laws go beyond basic privacy concerns: They hold that citizens have a right to know who is collecting data about them, and they also may include restrictions on revealing corporate information to outsiders." The Journal continues, "A French agency, for example, has ruled that anonymous whistle-blower tip lines don't guarantee adequate protection for people accused of wrongdoing. … As a result, many U.S. and European companies are in a legal bind: If they set up whistle-blower hot lines in subsidiaries in France, and possibly elsewhere in Europe, they might run afoul of local laws. If they don't, they might violate Sarbanes-Oxley, the 2002 corporate-governance law enforced by the Securities and Exchange Commission." The Journal adds, "Companies are being told 'I have to either chop off my left hand or my right hand,' said Christopher Kuner, a partner at law firm Hunton & Williams in Brussels who specializes in international privacy and data-protection law. … The impasse underscores the far-reaching, and often unanticipated, impact of Sarbanes-Oxley, which executives on both sides of the Atlantic have complained is overly restrictive and has even led some European firms to seek to "deregister" their U.S. stocks. … Two U.S. companies -- McDonald's Corp. and Exide Technologies -- are the first test cases of the potential whistle-blower impasse. In late May, both companies were told by France's Data Protection Authority, known as the CNIL, that planned ethics hot lines at units they operate in France were illegal. Both companies declined to offer specific detail about how they are addressing the decision."

CRIMINAL LAW:

US Faces Dilemma In Cuban Spy Cases. The Los Angeles Times (9/5, Williams) reports, "They're known in Cuba as the Five Heroes and their faces, names and the details of their seven-year legal drama are familiar to schoolchildren and sugar cane cutters across the Communist island." The Times continues, "The Cuban Five, as they are known in the U.S., were convicted four years ago here in Miami of spying for President Fidel Castro and sentenced to maximum-security prisons for terms of 15 years to life. Cubans' reaction to the case rivals the collective fury that mobilized them to demand the return of castaway Elian Gonzalez in 2000." The Times adds, "Since a federal appeals court overturned the quintet's espionage convictions last month on grounds that their trial venue was tainted by fierce anti-Castro sentiments, the U.S. government must decide whether to request a retrial. … The case has been one of the most divisive issues between Washington and Havana since the five were arrested in 1998. The men admitted to being Cuban agents but have insisted throughout that they were only gathering intelligence on radical and sometimes violent exile groups to protect Castro and their Cuban homeland. … U.S. prosecutors, who contended the five were spreading disinformation, posing a threat to exiles and trying to steal military secrets because one of the men worked as a laborer at a Key West naval air station, won convictions in June 2001. The Miami federal court also found alleged ringleader Gerardo Hernandez guilty of murder conspiracy, based on allegations that he provided intelligence to Havana that led to the deaths of four Cuban exiles shot down by Cuban MIGs in international airspace in 1996."

FBI Widens Niagara Falls Corruption Probe. The Niagara Falls (NY) Reporter (9/5, Hudson) reports, "The widening federal corruption probe of Mayor Vincenzo V. Anello has City Hall employees edgy as more grand jury subpoenas draw an increasing number of civil servants into the tawdry case." The Reporter continues, "On Aug. 25, city Law Department Clerk Donna Winstanley was summoned to testify in the scandal. Winstanley, who is responsible for the department's time/date stamp machine, was ordered to bring Anello's financial disclosure statements for the years 2002, 2003 and 2004, along with any charts or other records designed to track when the documents were actually filed." The Reporter adds, "Sources familiar with the original documents say that some filings, for different years, appear to have been done at the same time and with the same pen. Federal agents are particularly interested in the filing for 2004, the year when Anello accepted more than $45,000 in unsecured "loans" from prominent downtown developer 'Smokin'' Joe Anderson and Kathy Kajfasz, sister of John Kajfasz, a principal in the group Anello gifted with 18 holes of the Hyde Park Golf Course. … At the time, Anello was serving as a city councilman and the payments were made just before and immediately after his election as mayor. None of his disclosure forms was stamped with the time or date, and the public documents only came to light following Freedom of Information Act requests by the Niagara Falls Reporter and the Niagara Gazette."

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Alleged ALF Member Pleads Guilty To Animal Enterprise Terrorism In Mink Releases. The AP (9/4) reports alleged ALF member Peter Daniel Young, "accused of freeing thousands of minks across the U.S. Midwest has pleaded guilty and faces two years in prison. … Young pleaded guilty Friday to two counts of animal enterprise terrorism." The AP notes, "Young and his accomplice, Justin Samuel, both disappeared after they were indicted in 1998, but Samuel was captured in Belgium the following year. He struck a deal with prosecutors and served two years in prison."

Tennessee Lawmakers Await Possible Additional Arrests In FBI Probe. The AP (9/6, Gouras) reports, "All lawmakers can do is watch and wait as a federal probe into bribery and corruption at the state Capitol continues to sink colleagues. Legislators said they have heard the rumors that more arrests are on the way, but don't know if it will include local officials like the one nabbed last week or more state lawmakers. … 'I believe the Department of Justice and the FBI know a lot more about these investigations than I do,' said House Speaker Jimmy Naifeh." The AP notes, "Lawmakers are trying their best at damage control, though, and are rushing work by a special panel to draft tougher ethics laws for the state. But leaders say new guilty pleas or arrests won't force them to rush their work, or change their plans."

Cleveland Corruption Probe Figures Sentenced To Prison. The Cleveland Plain Dealer (9/3, Tobin) reports former East Cleveland Mayor Emmanuel Onunwor, two years since he "tearfully admitted to FBI agents that he took bribes from businessman Nate Gray," was sentenced to nine years in prison on Friday. Additionally, "four others were sentenced Friday in the corruption scheme in which bribes were exchanged for public contracts in Cleveland, East Cleveland, Houston and New Orleans. Ricardo Teamor, a onetime associate of former Cleveland Mayor Michael R. White, was sentenced to four months in prison and four months of house arrest." Former Houston building services director Monique McGilbra "was sentenced to three years in prison" for "accepting cash and lavish gifts such as a $700 purse and all-expenses-paid trips to New Orleans from Gray and two businessmen trying to get contracts with Houston. Former Honeywell executive Brent Jividen…was sentenced to 2½ years in prison" for "bribing McGilbra with gifts," and Oliver Spellman "was given two years' probation for accepting bribes from Gray while serving as chief of staff to the mayor of Houston."

The Houston Chronicle (9/3, Feldstein) also reports on the sentencings and notes, "federal officials have said more investigations are ongoing in Houston but have declined to offer details."

Fugitive Accused Of Elaborate Counterfeiting Scheme In Philadelphia. The Philadelphia Inquirer (9/4, Shiffman) reports Hong Kong fugitive Joseph Mo Pun Lau "was already an established identity thief by late 2003, according to the FBI. Using a crude tool, agents said, he fished envelopes from street-corner mail-collection boxes throughout the Philadelphia suburbs, counterfeiting whatever checks and credit cards he found inside." But "rustrated by the slow, risky and unpredictable process of snaring letters one at a time," Lau "surreptitiously videotaped letter carriers as they opened the boxes, zooming in on their keys. Lau used those images to calculate measurements for the grooves in the keys and created brass duplicates. … 'The FBI is not aware of anything else like this,' bureau spokeswoman Jerri Williams said." The Inquirer notes, "Lau's gang stole $140,000 worth of checks, counterfeited them, and deposited them in 16 different bank accounts, according to an affidavit by Philadelphia-based FBI Agent Catherine L. Nowery."

Baltimore USA To Tackle Gang Crimes. The Baltimore Sun (9/6, Dolan) reports, "Justice Department officials have approved funding of a new federal prosecutor to exclusively handle gang-related prosecutions inside Maryland's U.S. attorney's office." The Sun continues, "The move comes after a sweeping indictment last month against 19 suspected members of the Hispanic gang MS-13 who were arrested on federal racketeering charges that include a string of homicides and attempted killings in Montgomery and Prince George's counties." The Sun adds, "U.S. Attorney Rod J. Rosenstein, who took office this summer, said he told Justice Department officials that the state had an urgent need to beef up its prosecutorial resources to focus on gangs in suburban Washington and on gun-related crime in the Baltimore region. … His office has 65 prosecutors split between the state's two federal courts in Baltimore and Greenbelt. Rosenstein plans to fill five vacant slots within the next few months. A new agreement with the city will bring two additional prosecutors to Baltimore to handle gun-related prosecutions." The Sun notes, "Andrea Smith, an assistant U.S. attorney in Baltimore who helps coordinate the local Organized Crime Drug Enforcement Task Force, said the new anti-gang prosecutor should help prosecutors who have used a similar strategy against drug-related, violent organizations, such as the Lexington Terrace gang in the city."

PG Co. MD Records 6th Homicide In 5 Days. The Washington Times (9/6, Cella) reports that a double shooting early yesterday in Suitland left one man dead,

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"marking the sixth homicide in Prince George's County in the first five days of September." Police said the shooting occurred in the 4600 block of Chelsea Way at about 1 am. Kenneth Stanford, 22, of the 4700 block of Hudson Avenue had been shot several times. He was taken to a hospital, where he died. Also shot was a 28-year-old man, who was hospitalized. The paper notes the killing brings the number of homicides this year in Prince George's County to 119, up from 96 at this time last year. The Times adds the county "has experienced a spate of violence since Thursday, when Charmaine Edwards, 21, of Southwest was found fatally shot in her car on Keystone Manor Drive in Morningside. Four persons were fatally shot in the county Friday. Three of those killings occurred in the daylight hours. Police said that as of now there is no indication the killings are related. The Times also reported Anne Arundel County police charged Brandon Iam Kellam, 16, with second-degree murder after the stabbing death of a 17-year-old boy outside a Glen Burnie mall Saturday night and that Metropolitan Police in DC are investigating a fatal shooting that happened at about 9 p.m. Saturday in the 3700 block of Hayes Street Northeast.

CIVIL LAW:

Lobby Shops Look To Build On Success In Latest BRAC Round. The Hill (9/6, Tiron) reports in its "Business and Lobbying" column, "Some high-powered Washington lobbying shops are banking on their freshly collected laurels to get even more business from the communities that hired them to get military bases off the Pentagon's chopping block. As the independent Base Closure and Realignment (BRAC) Commission is getting ready to send its final deliberations to President Bush on Sept. 8, lobbyists are monitoring the BRAC process here in Washington while corralling communities to extend their contracts. … Among Washington lobbying shops scoring large victories for their clients are the Rhoads Group and Kutak Rock LLP, which represented Ellsworth Air Force Base in South Dakota; the Washington Group, which defended the Naval Submarine Base New London in Connecticut; Patton Boggs, which represented the Portsmouth Naval Shipyard in Maine; Akin Gump, which worked for the states of New York, Kansas, Maryland and Arkansas; and Spectrum Group, which represented the state of Louisiana and a large Defense Finance and Accounting Service center in Cleveland. … While several lobbying shops contacted by The Hill said that they did not receive so-called "success fees" for their work on BRAC, Keith Ashdown with Taxpayers for Common Sense said that it is possible for these firms to have an understanding with the communities to be retained for several more years."

CIVIL RIGHTS:

9th Circuit Rules Sexual Content Not Needed For Harassment Claims. The California Recorder (9/6, Scheck) reports, "You don't have to be a groper, lecher or explicit misogynist to get sued for sex-based harassment, a three-judge panel of the 9th U.S. Circuit Court of Appeals ruled Friday." The Recorder continues, "The opinion, in a case originating at an Alaska teachers union, said that Thomas Harvey, a manager accused of 'shouting, 'screaming,' foul language, invading employees' personal space ... and [making] threatening gestures' may be sued for gender-based discrimination under Title VII of the Civil Rights Act of 1964, even though his acts were not overtly motivated by the victims' gender. … 'We hold that offensive conduct that is not facially sex-specific nonetheless may violate Title VII if there is sufficient circumstantial evidence of qualitative and quantitative differences in the harassment suffered by female and male employees,' wrote Senior Judge Alfred Goodwin in a unanimous decision." The Recorder notes, "Senior Judge Melvin Brunetti and Judge William Fletcher concurred. In the case, male and female employees agreed that women bore the brunt of Harvey's outbursts. … Employment lawyers said the opinion offers encouragement to plaintiff lawyers whose clients don't fit the traditional mold of harassment victims. … The opinion stands to strengthen plaintiffs' arguments that adverse effects of an employer's behavior are more important than intent."

11h Circuit Rules Georgia Jail Was Justified In Strip Search. The Fulton County Daily Report (9/6, Simonson) reports, "Atlanta's federal appeals court, with apparent reluctance, ruled Wednesday that a North Georgia county's policy of strip-searching every prisoner booked into jail violated the Constitution." The Report continues, "The court also noted that the policy didn't necessarily violate the rights of individual prisoners who were searched, so long as jailers had 'reasonable suspicion' that a detainee might possess weapons or contraband. … The 11th U.S. Circuit Court of Appeals made the ruling in the case of Janet M. Hicks, who sued Habersham County's sheriff and jail supervisor after she was strip-searched following her 2001 misdemeanor arrest for a domestic-violence dispute with her estranged husband. Hicks v. Moore, No. 03-13686." The Report adds, "According to the 11th Circuit's ruling, Hicks was strip-searched by a female sheriff's department employee and was not touched during the search. … About three years ago -- and after Hicks' strip search -- the sheriff in charge of the jail at that time, Richard Moore, changed the jail's policy, and the facility no longer strip-searches everyone who is booked. … A unanimous three-judge panel ruled that the jail

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did not violate Hicks' rights, because her arrest for a violent crime justified a strip search. The 11th Circuit effectively ended Hicks' federal case against the jail and reversed a district court ruling that denied the Habersham government employees' motion for summary judgment."

Foes Of New Georgia Voter ID Law To File Suit. The New York Times/AP (9/6) reports, "Opponents of a new Georgia law requiring voters to show photo identification at the polls are planning a federal lawsuit challenging the measure, which they fear will lower voter turnout. The bill eliminates the use of formerly accepted forms of voter identification like Social Security cards, birth certificates or utility bills. … Under the Voting Rights Act, Georgia and other states with a history of suppressing minority voting must get federal permission to change their voting laws." Democrats "had argued that the idea was a political move by the Republican Party to depress voting among minorities, the elderly and the poor, all traditional bases for Democrats." The ACLU "is representing the plaintiffs in the case."

Gender Pay Gap Attributed To Factors Other Than Discrimination. In an op-ed for the New York Times (9/5) Warren Farrell author of "Why Men Earn More," writes, "Nothing disturbs working women more than the statistics often mentioned on Labor Day showing that they are paid only 76 cents to men's dollar for the same work. … When I was on the board of the National Organization for Women in New York City, I blamed discrimination for that gap." However, "After years of research, I discovered 25 differences in the work-life choices of men and women. All 25 lead to men earning more money, but to women having better lives. … I want my daughters to know that people who work 44 hours a week make, on average, more than twice the pay of someone working 34 hours a week. And that pharmacists now earn almost as much as doctors. But only by abandoning our focus on discrimination against women can we discover these opportunities for women."

California Set To Vote On Gay Marriage Bill As Massachusetts Decisions Near. The Washington Times (9/6, Wetzstein) reports, "A bill legalizing homosexual 'marriage' in California is scheduled to go up for its second vote in the state Assembly this week, amid vigorous lobbying." Opponents "think California lawmakers legally cannot enact same-sex 'marriage' because voters approved Proposition 22, which says only marriages involving one man and one woman are valid in California." Meanwhile, Massachusetts Attorney General Tom Reilly "is expected to issue his decision" this week "on whether to certify a constitutional marriage amendment filed by a citizens' group called VoteOnMarriage.org." Foes of the amendment "say it is unconstitutional in light of the 2003 Goodridge decision, which legalized same-sex 'marriage' in Massachusetts." Also, on Sept. 14, "the Massachusetts legislature is scheduled to meet in a constitutional convention to offer a second vote on a marriage amendment that passed last year. The amendment, which would disallow same-sex 'marriage' but create civil unions, is unpopular," but "if Mr. Reilly rejects VoteOnMarriage.org's amendment, some lawmakers may decide to vote in favor of the civil-union amendment."

ANTITRUST:

Wal-Mart Chief Raises Eyebrows By Suggesting Antitrust Probe Of UK Competitor. The Los Angeles Times (9/6, Iritani) reports, "Wal-Mart Stores Inc., the retail giant infamous for crushing competitors and putting mom-and-pop retailers out of business, is now worried that its British rival might be too big." The Times continues, "H. Lee Scott Jr., Wal-Mart's chief executive, told a London newspaper last week that British authorities should be concerned about a retail chain having too much market clout." The Times adds, "Tesco, Britain's largest supermarket, has a 30% share of the food market and is expanding fast, thanks in part to an aggressive discounting program. Wal-Mart-owned Asda Group Ltd., Britain's second-largest retail chain, controls 16% of the market. … 'As you get over 30% and higher, I am sure there is a point where government is compelled to intervene, particularly in the U.K., where you have the planning laws that make it difficult to compete,' Scott told the Times of London, adding that 'at some point, the government has to look at it.'" The Times notes, "Those remarks raised some eyebrows in the United States, where the Bentonville, Ark., retailer is regularly accused of abusing its clout to squeeze pennies out of its supply chain, trounce its competition and expand its sales. … 'Wal-Mart is asking for an antitrust investigation of a competitor?' asked Albert Foer, president of the American Antitrust Institute in Washington, a think tank. 'How delicious.'"

Recording Industry Hails Australian Ruling Against Kazaa. In an op-ed for the Financial Times (9/6) EMI Music Chairman Alain Levy writes, "Monday's court ruling in Australia against Kazaa, the biggest brand name in international music piracy, is the latest sign of a turning tide in our industry's efforts to create a thriving pro-consumer, legitimate digital music business. It is also a reminder that even with the greatest music, the best technology and the most willing fans, we cannot create this bright digital future alone: public education and proper enforcement of intellectual property rights, by courts and by governments, have a vital part to play as well. This applies to any record company, from the largest major to the smallest." Levy adds, "A big public awakening has happened on the issue – helped by

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waves of industry information campaigns. Probably more significant still, the lawsuits taken out in 12 countries, which now total over 14,000, have clearly played an important part in deterring would-be illegal file-sharers and containing internet piracy. These strategies must be sustained because they are working."

The WP (9/6, Corder) reports, "Hailed as a victory by the recording industry that brought the suit, the decision has implications well beyond Australia, where Kazaa executives are based, because Kazaa's users span the globe. In some ways, it mirrors the US Supreme Court's June ruling that Hollywood and the music industry can sue technology companies that encourage their customers to steal music and movies over the Internet."

Recording Industry Makes Gains Against Music Piracy. In an op-ed for the Financial Times (9/6) EMI Music Chairman Alain Levy writes, "Monday's court ruling in Australia against Kazaa, the biggest brand name in international music piracy, is the latest sign of a turning tide in our industry's efforts to create a thriving pro-consumer, legitimate digital music business. It is also a reminder that even with the greatest music, the best technology and the most willing fans, we cannot create this bright digital future alone: public education and proper enforcement of intellectual property rights, by courts and by governments, have a vital part to play as well. This applies to any record company, from the largest major to the smallest." Levy continues, "The ruling from Australia has important implications for our business. The Sydney court has not only reinforced the message handed down on Grokster from a unanimous US Supreme Court in July – namely that internet file- sharing services can be liable for music piracy. The world's best-known, and until recently its biggest unauthorized file-sharing service, has been found liable for facilitating copyright theft and ordered to stop. The message for similar networks that distribute copyrighted repertoire on a mass scale without permission is clear: it is time to change your ways or stop. Change your systems; respect copyright; use technology responsibly to benefit the music community and not to harm it. These are momentous rulings for a creative, intellectual property business like EMI, as well as for the artists we invest in and for the legitimate digital market we are working to create. Investment in music is our business and protection of our content is central to everything we do. Our ability to invest in music, and to offer it to our consumers via downloads, ring tones or other digital formats, is integrally dependent on our ability to contain music piracy. Taken together, the Grokster and Kazaa judgments are crucial milestones for us." Levy adds, "The digital music market is up and running, and our challenge now is to build on the successful start. I am confident and I take little notice of the skeptics. A few years ago no one held much hope for record companies breaking into what was then a 100 per cent internet pirate market. The mood is very different today. Virtually all our front line music is available in a huge array of digital channels. Music is becoming easier to buy than to steal. But the tide is turning for other reasons, too. Public attitudes are shifting towards good and responsible practices in downloading music. A big public awakening has happened on the issue – helped by waves of industry information campaigns. Probably more significant still, the lawsuits taken out in 12 countries, which now total over 14,000, have clearly played an important part in deterring would-be illegal file-sharers and containing internet piracy. These strategies must be sustained because they are working."

The Washington Post/AP (9/6, 8:37 PM, Corder) reports an Australian judge yesterday orders "ordered distributors of the popular file-swapping program Kazaa to alter the software, which millions have downloaded, so it can no longer be used for music piracy." The paper adds, "Hailed as a victory by the recording industry that brought the suit, the decision has implications well beyond Australia, where Kazaa executives are based, because Kazaa's users span the globe. In some ways, it mirrors the US Supreme Court's June ruling that Hollywood and the music industry can sue technology companies that encourage their customers to steal music and movies over the Internet." The Post notes Federal Court Judge Murray Wilcox determined in Monday's ruling that Kazaa's owners and distributors, led by Sharman Networks Ltd., took no action to rein in illegal file-sharing despite posted warnings on their Web site urging Kazaa users not to swap copyright material. Wilcox said it had been in the financial interest of Sharman and its partners "to maximize, not minimize, music file-sharing." He found six of the 10 defendants, including Sharman, its Sydney-based chief executive Nikki Hemming, as well as Altnet, a Sharman software partner, guilty of copyright infringement and ordered them to pay 90 percent of the record industry's costs in the case. A hearing will be set later to establish damages. The Post continues, "In a brief statement, Sharman said it would appeal and Kazaa software remained available online, with more than 800,000 downloads reported last week and 390 million total since Kazaa first became available in 2001. Sharman says its software is no different from a tape recorder or photocopier _ and that Kazaa could not control copyright infringement by users."

Chiron Directors Reject Novartis Takeover Offer. The Financial Times (9/6, Politi) reports that Chiron's independent directors have rejected drug maker Novartis $4.5 billion take over offer. A statement from Chiron board members called the Novartis in adequate. Chiron "also decided to make clear that Novartis's proposal had not been solicited by the company, conflicting with the impression given by Novartis last week." The Times says Novartis now

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faces "an uphill battle in its attempt to take full control of Chiron." The rejection "means Novartis might become embroiled in a long-running struggle to gain control of the company, which it is courting to gain access to the fast-growing market for vaccines.'

ENVIRONMENT:

Federal Government Urged To Fund $14 Billion Coastal Restoration Project. In an appearance on NBC's Face The Nation (9/4, Russert) Mike Tidwell, author of "Bayou Farewell," commented, "You can't just fix the levees in New Orleans. We now have to have a massive coastal restoration project where we get the water out of the Mississippi River in a controlled fashion toward the Barrier islands, restore the wetlands. If you don't commit to this plan which is this $14 billion, costs of the Big Dig in Boston or two weeks of spending Iraq, you shouldn't fix a single window in New Orleans. You shouldn't pick up a single piece of debris because to do one without the other is to set the table for another nightmare."

NYTimes Praises Plan To Restore Louisiana Wetlands. The New York Times (9/5) editorializes, "Before Congress is a $14 billion plan to restore the vanishing wetlands and barrier islands off the Louisiana coast that in times past would have served as a buffer against the storm. The House has approved a modest $1.9 billion down payment on this plan, but it needs a push from President Bush and the Senate majority leader, Bill Frist, to ensure Senate approval." The plan "would involve some delicate re-engineering of the natural system and is not without risk. Still, it could provide a measure of redemption for years of environmental carelessness for which Congress itself is largely responsible." The program before Congress "was hatched by the state's politicians and in its universities and drafted by the Army Corps of Engineers. It is supported by both industry and advocacy groups like the National Audubon Society and Environmental Defense, which helped with its design. It would start small, with three or four carefully calibrated pilot programs to divert water flow to the marshes, then go from there."

SCOTUS Ruling On Eminent Domain Sparks Backlash. The Washington Post (9/6, A2, Reid) reports that "the U.S. Supreme Court ruled on June 23 that the Constitution does not stop cities from seizing homes to make way for commercial development projects." Now, "all over the country, the court's decision in Kelo v. City of New London has sparked a furious reaction, with politicians of both parties proposing new legislation that would sharply limit the kind of seizure the court's decision validated. As a result, a decision first seen as a key legal victory for cities that want to use eminent domain for private projects has turned into a major setback on the political front for pro-development interests. The popular backlash has slowed or blocked many pending projects, as developers, their bankers and local governments suddenly face public furor." The Post notes, "Three states have already passed new laws in response to the Kelo decision. The statutes in Alabama and Texas sharply curtail eminent-domain condemnations for private development. … Delaware's new statute permits condemnation but sets new procedural requirements for local governments. Larry Morandi, an analyst at the National Conference of State Legislatures, predicts a rush of new laws next winter, when 44 state legislatures will be back in session. 'Most if not all state legislatures will be dealing with eminent-domain laws next year,' Morandi said. 'The outcry has been so sharp that many states already have task forces or study committees at work on this issue this summer. Most of the proposed legislation is designed to restrict the kind of governmental action that the court upheld in Kelo.'"

Government-Funded Cowboys Protect Against Invasion Of Cattle Fever Tick. The Washington Post (9/6, A23, Moreno) reports on a "small force of hardy men whose mission for almost 70 years has been to keep the dreaded Texas cattle fever tick confined to 900 miles of winding riverfront along the Mexican border." These USDA employees have "managed to marry his cowboying skills and love of desolate open range with benefits and a federal pension." They "make up the nation's front line against a scourge that decimated the cattle industry in 1906 and continues to be a threat as long as the cattle fever tick thrives south of the border and Mexican cows stray or are smuggled across the Rio Grande. … Today, the riders are fighting the worst infestation of cattle fever ticks in 30 years and are doing so in the face of budgetary shortfalls and bureaucratic turf wars."

Editor Says Landowners Should Manage Property In Public Interest. Jonathan Weber, founder and editor in chief of NewWest.Net, an online publication about the Rocky Mountain West, writes in the New York Times (9/6), "When it comes to public access, state and local officials - and voters - need to recognize that the heavy bias toward property rights that exists throughout the West is something that will increasingly serve a small minority of wealthy landowners, not mom-and-pop homesteaders or family farmers. This imbalance needs to change. County commissioners, who are often on the front lines, can't allow themselves to be intimidated by the threat of litigation over access issues. And they need strong back-up from state attorneys general. But a big part of the solution is in the hands of the landowners themselves. In an era of economic

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policies that are producing an ever-larger group of the super-rich, those who are wealthier than the rest of us have a responsibility to manage their properties at least partly in the public interest. They need to meet with their neighbors, get involved with the community and find compromises that work for everyone. In most cases, the locals will be more than receptive to even small gestures. After all, who wants to fight when the fish are biting?"

Caimans Are Making A Comeback In Brazil. The New York Times (9/6, Rohter) reports from Mamiraua, Brazil, "As dusk falls, the waters here gradually come alive. One after another, caimans begin to stick their armored heads above the surface, and before long this isolated, tree-lined channel feeding the Amazon is teeming with crocodilians as large as 15 feet long. Their thrashing, splashing and grunting reverberates all through the night. Just a generation ago the caiman, a cousin of the American alligator, was driven so near extinction by the demand for its skin and meat that the government banned hunting it. But efforts to protect the black and spectacled caiman (pronounced KAY-men) have proved so successful that the population has exploded and the beast has now become a pest and, according to some, a threat." The Times adds, "Peasants along the rivers complain that caimans devour their livestock, and they are clamoring for the right to resume hunting. Even small children are occasionally attacked at the river's edge, leading local newspapers and radio stations to say the officials in far away Brasília know nothing about the hard realities of river life. The loudest and most constant protests, however, come from fishermen in areas like this, 450 miles west of Manaus, the capital of Amazonas State. They complain that the resurgent caimans destroy their nets, which can cost between $50 and $200, and consume large quantities of the same game fish that they need to catch and sell to feed their families."

FBI/DEA/ATF/USMS:

House Judiciary Leaders Penning Tough Anti-Steroids Measure. USA Today (9/6, Kiely) reports House Judiciary Chairman James Sensenbrenner "plans to unveil a new proposal this week to crack down on steroid use in sports, another sign of the growing determination by Congress to impose tougher testing standards and penalties on pro sports." Sensenbrenner and Judiciary ranking Democrat John Conyers are co-authoring a bill that "would put the Justice Department in charge of developing 'minimum standards' for testing and penalties. Participation in the program would be voluntary, but Sensenbrenner says there will be 'incentives' to encourage pro sports leagues to sign up. He did not elaborate on what those incentives might be. But in baseball's case the Judiciary Committee could threaten to lift the sport's antitrust exemption. Lawmakers are returning to Congress this week for the first time since news broke of Baltimore Orioles star Rafael Palmeiro's 10-day suspension last month for steroid use. That has stoked many members' exasperation. 'That's called a vacation; that's not a suspension,' said Rep. Chris Shays, R-Conn." In Congress, "frustration with professional sports in general, and Major League Baseball in particular, is growing. As they prepared to return to town this week from a month-long August recess, a number of Republican and Democratic lawmakers said the Palmeiro revelations would build momentum for federally mandated drug tests and penalties in pro sports. 'Obviously the current approach on steroids both in professional sports and amateur sports is not working,' says Sensenbrenner. The bill will be the sixth measure introduced in Congress this year to regulate steroids in pro sports. All of the bills have bipartisan support. All would impose much stiffer penalties than the one levied on Palmeiro."

Orioles Send Palmeiro Home. The AP (9/5) reports Palmeiro "was sent home to Texas to rehabilitate knee and ankle injuries, leaving his baseball future unclear during a season in which he was suspended for a positive steroids test. Palmeiro's season unraveled soon after he collected his 3,000th career hit on July 15. He received a 10-day suspension on Aug. 1 for failing a drug test, and upon his return was booed by fans in Baltimore and on the road. He is 2-for-26 with one RBI since coming back, and has been bothered the past two weeks by injuries to his left ankle and right knee. The Orioles still expect him to play this month, but decided Monday that the first baseman should go home to recover."

Chiefs Offensive Lineman Suspended Over Steroids. The AP (9/3) reported, "Kansas City Chiefs offensive lineman John Welbourn has been suspended for four games for violation of the league's steroid policy. 'John has been suspended,' coach Dick Vermeil told The Associated Press on Saturday. 'We are moving forward. I really can't say any more than that right now.'"

Prosecutors Drop Fraud Charges Against DEA's Clark. The AP (9/3) reported, "Prosecutors have dropped the fraud charges against a man whose wife falsely claimed to have cancer and collected thousands of dollars in donations. Salt Lake County prosecutors said Wednesday they no longer felt they could prove Drug Enforcement Agency officer Jeff James Clark was part of the scam perpetrated by his wife, Tania Clark." Tania Clark, "who has pleaded guilty to felony counts of theft and theft by deception in Utah and Salt Lake counties, is taking sole responsibility for the crimes, said Deputy Salt Lake County District Attorney Robert Stott." Jeff Clark's job status "remains uncertain, DEA

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spokeswoman Karen Flowers said Thursday, and he remains on unpaid administrative leave."

US Army Soldier Headed Colombia-To-US Cocaine Smuggling Ring. The AP (9/3, Housego) wrote, "U.S. Army Staff Sgt. Daniel Rosas was deployed to Colombia as part of the large U.S. mission to fight drug trafficking, but before long he found the lure of cocaine money too hard to resist. He formed a smuggling ring involving U.S. soldiers that was eventually busted, deeply embarrassing U.S. officials." A deposition "shows Rosas' scheme was so amateurish that at one point he made a deal with a stranger he met in a Mexican nightclub bathroom and even saw a $140,000 payment vanish in the mail. The authenticity of Rosas' sworn statement was recently confirmed by a Colombian official familiar with the case. The document provides for the first time a detailed look into how the drug ring operated and shows that, with stunning ease, it was able to send 170 pounds of cocaine from Colombia to the United States, subject to only cursory searches at best from U.S. Customs agents." In a sworn statement to military investigators in March, Rosas said, "They never suspected that any military or civilian personnel would bring back contraband. They did not use dogs, they very rarely checked our carryon bags but never checked our equipment that was loaded on the pallets." US Ambassador William Wood said that "in the wake of the arrests on March 28 that U.S. soldiers leaving Colombia would be subjected to stricter searches. The case infuriated many Colombians who said President Alvaro Uribe should revoke treaties granting immunity to U.S. soldiers serving in Colombia. Rosas, 23, of McAllen, Texas, is behind bars awaiting court-martial along with two other U.S. soldiers. A fourth soldier, Spc. Francisco Rosa, pleaded guilty on Aug. 10 to using, possessing and distributing cocaine and making a false official statement. He was sentenced to five years in prison, demoted to the rank of private and will receive a bad conduct discharge."

Gun Control Initiatives Weaken In South. The Boston Globe (9/6, Wirzbicki) reports, "Even as Boston struggles against a tide of smuggled handguns, some state governments in the South are loosening their gun control laws in ways that critics say will make it easier for traffickers to bring illegal firearms into the Northeast." The Globe continues, "Under pressure from the National Rifle Association, South Carolina abolished a state law last year that limited to one the number of handguns individuals can buy in a month, a measure that was designed in 1975 to prevent trafficking." The Globe adds, "Virginia, which was the epicenter of gun smuggling into New York and Boston before it passed a one-gun-per-month law in 1993, weakened that rule in 2004 and gun control advocates fear that it could soon be abolished. … Academic studies have shown that limits on monthly gun purchases help limit smuggling, but lobbyists for gun manufacturers call such laws ''gun rationing' and say they infringe on Second Amendment gun ownership rights. … Over the past five years the overall trend on the state level has been toward lax gun laws, said David Hemenway, a professor at the Harvard School of Public Health who studies gun crime. That has left states such as Massachusetts and New York, which retain their strict gun limits, increasingly isolated."

1.7 Million Children Live In Homes With A Loaded, Unlocked Gun. A survey published today in the Pediatrics online journal found that 1.7 million US children live in homes with loaded, unlocked firearms. USA Today (9/6, Elias) reports, "One-third of adults have handguns, rifles or shotguns at home, says the CDC report. But states vary greatly in the percentage of adults who keep weapons, and in how many with children at home store their guns loaded and unlocked. The states with the highest percentage of adults who have children at home and leave guns unlocked and loaded are Alabama, Alaska, Arkansas, Idaho, Montana and Wyoming. … The Pediatrics report says that of 1,400 children and teens shot to death in 2002, about 90% were home when it happened."

IMMIGRATION:

Fox Says US Shares Responsibility For Illegal Immigration. The New York Times (9/5, Thompson) reports Mexican President Vicente Fox "responded over the weekend to criticism from American authorities about a recent surge in violence and illegal immigration along the border, saying that the United States shares responsibility for the problems and should work harder with Mexico to fix them." Fox "said he rejected 'forcefully' the statements by the Bush administration and governors of border states, contending that they had unfairly depicted Mexico as a safe haven for organized crime, though his government has arrested more leading drug traffickers and dismantled more cartels than any of its predecessors. He also said Mexican immigrants had been portrayed unfairly as potential terrorists when they had in fact become a pillar of the American economy.

Union Organizers Focus On Low-Wage, Immigrant Workers. Several "insurgent unions" are hoping to revive the labor movement by focusing n low-wage and immigrant workers, the New York Times (9/6, Greenhouse) reports. This summer, the United Food and Commercial Workers, "joined the Teamsters and the Service Employees International Union in breaking away from the A.F.L.-C.I.O., with those three unions promising to devote far

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more energy to recruiting workers than the rest of organized labor has. Two organizing drives aimed at poultry workers…are among the early battles in this effort to reinvigorate labor."

TAX:

Jailed Telecom Tycoon Said To Be Trying To Move Assets. The Legal Times (9/5, McLure) reports, "Even from jail, Walter Anderson, the D.C. telecom tycoon accused of concealing $450 million from the Internal Revenue Service, continued to try to hide money overseas, federal prosecutors say." The Times continues, "On Aug. 24, prosecutors filed in court a transcript of a taped jailhouse phone call from Anderson to an overseas business associate that they say shows him trying to move assets beyond the government's reach. On March 22, Anderson placed a collect call to the associate from the D.C. Correctional Treatment Facility to discuss moving an investment from a Cayman Island company to a blind trust on the Isle of Man." The Times adds, "In the transcript, Anderson says Chadbourne & Parke corporate attorney Hwan Kim was advising him on the offshore deal. 'I had a meeting with my attorney, Hwan Kim," Anderson says in the call. "I explained to him the logic that we were trying to create some full separation. He understands completely what we're trying to do. He said that there are a number of different ways to do it . . . he simply suggested that if you could decide which lawyer you want to do it on your side, he'll see if his firm has somebody appropriate to do it on the other side.' Moments later, Anderson tells the business associate: 'The main thing we have to make sure [is] it's reversible, in some way . . . so that when we clean up the mess, we can reverse it.' The transcript makes no mention of how much money would be involved."

CONGRESS-ADMINISTRATION:

Bush Visits Hurricane Zone For Second Time. President Bush yesterday visited the hurricane zone for a second time, amid reports of friction between the White House and local officials such as Louisiana Gov. Kathleen Blanco. The network coverage of the visit tended to have a skeptical edge, with reporters casting the visit as part of a PR effort by the Administration to show it is effectively managing the situation. Meanwhile, the historical stakes for the Administration in the recovery are being portrayed as high, with NBC News Washington bureau chief Tim Russert placing the current crisis on the same scale as the war in Iraq and 9/11. Russert said on NBC Nightly News (9/5, story 7, 1:15), "The President obviously understands with his return visit today that he has to make up for lost ground. The recovery effort and how well it goes will be enormous to historians on how they judge the Bush second term."

While the coverage of Bush's visit was largely negative, the news coming out of the hurricane zone was more positive, with progress reported in the rescue of stranded residents in hard-hit areas of New Orleans, in sealing the breach in a major levee, in the delivery of aid to the zone, and in the relocation of refugees. On the network news, coverage of the suffering and human tragedy, mostly in New Orleans, was still a large component of the newscasts. However, there was a noticeable increase in the depiction of the stepped-up rescue and recovery efforts as workers and aid began reaching even the hardest-hit areas. NBC had the most negative coverage, with approximately 65% of its images depicting human grief and suffering versus 35% relief and recovery. CBS, which ran an abbreviated newscast, was the most positive, with an approximately 70% of its imagery showing scenes of recovery. ABC ran an extended, hour-long newscast, with about 60% of its footage depicting relief efforts.

ABC World News Tonight (9/5, lead story, 4:20, Gibson) reported the visit was "another chance" for the President "to demonstrate that he and his Administration are on top of the relief effort." ABC World News Tonight (9/5, lead story, 4:20, Woodruff) said Bush "returned to the hurricane zone today, including a visit to a Baton Rouge prayer center, now home to hundreds of people from New Orleans." Bush was shown saying, "This is a long-term project to help these people. This country is going to be committed to doing what it takes to get people back on their feet."

CNN's The Situation Room (9/5, Blitzer) reported that Bush returned to the hurricane zone "amid blistering criticism of the federal government's response to the Katrina catastrophe." CNN called the decision "a response, at least in part, to very angry allegations that he and the Federal government were slow to respond to this crisis."

CNN's The Situation Room (9/5, Bash) reported that "one of the things that some were looking for when the President went down to the region for the first time on Friday was what some call a bullhorn moment," like the one after the 9/11 attacks when Bush stood in the rubble of the World Trade Center. Many believe that moment "sort of shifted what had been at the time some heavy criticism of the President's immediate response after 9/11. There are some who are looking for those moments. Some here at the White House and some Bush allies were a little bit disappointed that perhaps that didn't happen the first time."

Fox News Special Report (9/5) reported that Bush returned to Baton Rouge "when the criticism is growing harsher by the day, directed to the federal government and the response in New Orleans." Bush "focused on the positive. He said earlier today the US response has been

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amazing. Touching down in Baton Rouge he headed for an evacuation center."

A majority of local TV stations led with largely positive stories about Bush's second visit to the area in four days. Typical of coverage was the lead story from WEAR-TV Mobile (9/5, 5:02 p.m.) that Bush "sought to comfort Hurricane Katrina victims. Promising them a huge effort to alleviate their suffering, the President toured parts of Louisiana and Mississippi, where the scope of the disaster is still not fully known." The President was shown saying, "The good people of this region know there's a lot of work to be done and we'll continue working with the local and state people to get it done." Likewise, WTVY-TV Dothan, Alabama (9/5, 6:03 p.m.) lead its broadcast with a report that "President Bush toured areas devastated by Hurricane Katrina today. His first stop was at the Bethany World Prayer Center in Baton Rouge, Louisiana. The President took time to thank members of the community who have been helping Hurricane Katrina victims."

Nationally, local TV continued to extensively cover Katrina. Much of the coverage also centered around Bush's visit to the Gulf Coast. For example, WABC-TV New York (9/5, 12:00 p.m.) reported, "The President arrived in Baton Rouge for a second tour of [the] hurricane-ravaged" region. The station added that the First Lady accompanied the President on the trip.

A number of stations pointed out that some significant repair work has been accomplished in New Orleans. KDFW-TV Dallas (9/5, 10:03 p.m.) reported, "Seven days after Hurricane Katrina started the events [in New Orleans], two of the three major breaks in the city's levee system have been plugged." WRC-TV Washington (9/5, 11:01 p.m.) added, "One week after Hurricane Katrina, they are finally starting to pump the floodwater out of New Orleans." The station also noted, however, "Tonight, the Mayor of New Orleans says as many as 10,000 people may be dead," and many other stations covering the Katrina story reported this information as well.

The New York Times (9/6, Purdum) says "just how well Mr. Bush would endure the political challenges posed by the hurricane, much less prevail over them, remained a question on Monday." Having been "faulted by some as not spending enough time last week with black victims of the flooding in New Orleans, Mr. Bush was flanked at one point on Monday by prominent blacks, including Mayor Kip Holden of Baton Rouge and Bishop T. D. Jakes, a prominent Pentecostal minister from Dallas who has been courted by the White House in efforts to reach out to black voters."

Reuters (9/6, Zakaria) says Bush has been "under fierce criticism for his government's slow response to Hurricane Katrina," under fire "from Democrats and Republicans alike for a sluggish federal response to a flood that has made hundreds of thousands homeless and is feared to have killed several thousands along the northern Gulf of Mexico coast."

The New York Times (9/6, Bumiller, Haberman) adds that, addressing "a group of mostly black victims at a makeshift shelter, the Bethany World Prayer Center, in Baton Rouge," Bush said, "There's a lot of work to be done," adding that "Americans' response to the disaster had been 'amazing' and that 'this country is going to be committed to doing what it takes to help people get back on their feet.'" The President's trip was "an effort to calm the region and part of a major White House campaign to stem the political damage from the hurricane."

Rift Between Administration, Blanco Examined. The AP (9/6, Loven) reports, "Like estranged in-laws at a holiday gathering, President Bush and Louisiana Gov. Kathleen Blanco kept their distance as both toured a relief center for storm victims Monday. … State and federal officials are all facing public criticism for a slow response to the crisis. Behind the scenes, each suggests the other is to blame." The AP adds, "In front of the cameras during Bush's visit to the Gulf Coast states on Monday, the president and Blanco said little to each other, focusing instead on thanking relief workers. 'I know I don't need to make any other introduction other than "Mr. President,"' Blanco said tersely, turning the microphone over to Bush after praising emergency management officials during a stop with Bush at an emergency operations center."

ABC World News Tonight (9/5, story 9, 3:15, Woodruff) reported, "State and Federal officials are not always on the same page. The Governor of Louisiana has refused to hand over control of the National Guard to the Federal Government. There are even wire reports that she was not even told exactly when the President would be coming to her state."

The CBS Evening News (9/5, lead story, 3:50, Schieffer) added "there is so little coordination and so much friction between national and local officials that the Governor's office learned of the President's itinerary from a news reporter." CBS (Roberts) added the New Orleans devastation is "something President Bush still hasn't seen for himself. He returned to Louisiana today, but only to Baton Rouge to meet with survivors. Later in Mississippi, he insisted he's got the picture." President Bush: "I understand the damage, I understand the devastation, I understand the destruction, I understand how long it's going to take, and we're with you." Roberts: "Now that help has arrived, local officials, who felt so abandoned last week, are willing to move on."

The Los Angeles Times (9/6, Barry, Gold, Zucchino) notes Bush yesterday "planted a kiss on the governor's cheek," but "their staffs continued their wrangling."

The New York Times (9/6, Bumiller, Haberman) adds that "Bush comforted victims in Poplarville, Miss., and Baton

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Rouge, La., but he found himself ensnared in a dispute with Louisiana's Democratic governor, Kathleen Babineaux Blanco, who learned of Mr. Bush's trip from news reports."

CNN's The Situation Room (9/5, Blitzer) reported, "The White House is denying today that it tried to exclude" Blanco "from traveling with Mr. Bush A good deal of political fingerpointing in this crisis has been between the Democratic governor of Louisiana and the Bush administration." CNN (Feyerick) added, "The explanation that's coming from the White House is that they tried to reach the governor yesterday, but no one called them back. The Governor says otherwise. She said that they got no official word that the president was even going to be in the area. And it wasn't until somebody from her office actually called over to the White House, to Andy Card, that, in fact, they were told that, yes, he was going to be arriving in Louisiana." One of the "reasons of the falling out…is the White House wanted to try to federalize the National Guard so that they could have control of it. But the Louisiana Governor said, no, she needed to keep control, because she wanted to make sure that they could continue to perform law enforcement actions. And that meant keeping order on the ground, and that meant firing if they had to, something that they would not have been able to do had they been under the power of the government."

CNN's Lou Dobbs Tonight (9/5, Feyerick) added Homeland Secretary Michael Chertoff "said there is a unity in the operations. That he made it clear that everybody is getting along, everybody is acting like a professional, and they're all in agreement as to how to move forward."

Katrina Response Seen As Second Benchmark For Bush Presidency. On NBC Nightly News (9/5, story 7, 1:15), anchor Brian Williams spoke with Tim Russert. Williams: "I think most Americans would have told you prior to Katrina, the US response and now the argument over it, that the Bush Presidency thus far would have been judged, its benchmark event would have been Iraq, especially coming out of 9/11. Tim, is the ballgame now this storm and the response to it?" Russert: "In large part, yes, Brian. I think it joins Iraq but doesn't replace it. People believe in their Presidents. Generally, a President gets a large spike in the poll ratings after handling a crisis. That has not occurred with this particular crisis because there's been serious criticism of the government's response -- Federal, state, and local. This President has to demonstrate extraordinary leadership in rebuilding the Gulf region as well as conducting the war in Iraq in order to maintain a second term that is seen as successful. That is an extraordinarily large challenge."

The Christian Science Monitor (9/6, Feldmann) also compares the current crisis to 9/11, adding Bush "faces perhaps the most profound test of executive and political skill of his life."

Nagin Says He Doesn't Think Bush Got Right Information. ABC World News Tonight (9/5, story 10, 3:20, Sawyer) interviewed New Orleans Mayor Ray Nagin. Sawyer: "Do you think the President delayed, because he didn't have enough information? Do you think he didn't have the right instinct? What do you think happened at that moment?" Nagin: "The President? I think the President was suffering from the same thing I was suffering from initially. I would ask questions. They would tell me what was supposed to happen. I would follow up to find out what really happened. And it wasn't happening. And I don't think the right information got to the President. Because when I finally got to him and talked to him, he immediately dispatched this incredible general who came down here. And I've been talking about him, General Honore. And things started to happen."

Bartlett Says Bush Will Order Probe Of Federal Response. USA Today (9/6, Keen, Benedetto) reports, "After angry complaints last week about delays in mobilizing federal help for hurricane victims, criticism of Bush's light-hearted recollection Friday of his youthful partying in New Orleans and failed efforts to blame local and state officials for problems, the president and his aides tried Monday to regain a sense of equilibrium." Bush counselor Dan Bartlett "said Monday that after the situation is under control, Bush will order an inquiry into delays in federal aid. 'We want to know what happened and how,' Bartlett said."

Barbour's Strong Defense Of Bush Noted, Analyzed. The New York Times (9/6, Cooper) reports, "The Bush administration has been stung by criticism of its handling of Hurricane Katrina by anguished Louisiana officials and by nervous Republicans from across the country, but it has one stalwart defender right in the heart of the devastated region -- Gov. Haley Barbour of Mississippi." Barbour has consistently "praised President Bush and a federal response to the storm that even the president later called 'not acceptable.' At one point last week, when Mr. Barbour's glowing assessment was challenged by an interviewer on CNN, he asked 'if this is an interview or an argument.'" Barbour's praise "has put him at odds with some other Mississippi officials who have bemoaned the slow response in their areas and has put him at risk of sounding like a Pollyanna to Mississippians still struggling in the storm's aftermath." But "the strategy is unsurprising for a canny political strategist like Mr. Barbour -- a former political director in the Reagan White House, chairman of the Republican Party, and powerful Washington lobbyist -- who won the governorship two years ago by in part emphasizing the strength of his close ties to President Bush."

"Flurry Of Emails" Among Bush Aides Described. USA Today (9/6, Keen, Benedetto) reports, "In a flurry of e-mail exchanges late Saturday night when they learned about Chief Justice William Rehnquist's death, President Bush's top advisers debated -- after their most difficult week since 9/11 -- what calamity might be next. Their worried conversations

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continued in meetings at the White House before 8 a.m. on Sunday." They "concluded that for Bush's remaining 40 months in office, they should expect almost anything, said a top adviser who works closely with Bush. 'We've just kind of realized that if things are going to happen, they're going to happen to this president,' he said, refusing to be identified because he was not authorized to describe internal discussions."

Weak Katrina Response Could Hurt Bush's Sway Over GOP. Roll Call (9/6, Preston) reports President Bush's "command over the Republican Congress is showing signs of weakening as a result of the growing unease over the U.S. mission in Iraq, the lack of a definitive plan to overhaul the nation's Social Security system and rising energy costs." But "complicating matters for Bush is the devastation wrought on the Gulf Coast by Hurricane Katrina, and the subsequent criticism from some local officials of the federal government's alleged failure to respond quickly enough with relief aide." Now, the White House "must work to shore up support among Republican Members even as it tries to advance Bush's goal on Social Security, said Senators, senior aides and GOP strategists."

WSJournal Says White House "Slowly Recovering From Its First-Week Stumbles." The Wall Street Journal (9/6, A28) editorializes, "The White House is slowly recovering from its first-week stumbles responding to Katrina, with President Bush taking his second trip to New Orleans yesterday. His quick elevation of John Roberts to Chief Justice is another welcome sign of energy. … But Mr. Bush can't afford to stop there, because the aftermath of Katrina poses a threat to his entire second term. … What Americans want now is proof that their government understands the nature of the challenge and is acting forcefully to meet it. On this point, Mr. Bush is going to have to recognize the obvious initial failure of the Department of Homeland Security in its first big post-9/11 test. The President created this latest huge federal bureaucracy, against the advice of many of us, and we're still waiting for evidence that it has done anything but reshuffle the Beltway furniture. If FEMA can't now handle the diaspora out of New Orleans to Houston, Baton Rouge and other cities, the political retribution will be fierce."

Scholar Says Iraq Fixation Hurt Bush Reactions To 9/11, Katrina. In a Financial Times (9/6) op-ed, New America Foundation fellow Michael Lind writes, "In early 2001, shortly after President George W. Bush was inaugurated and before 9/11, the Federal Emergency Management Agency warned of the three most devastating disasters that could strike the US: a terrorist attack on New York City, a hurricane flooding New Orleans and a San Francisco earthquake. The Bush administration was focused on its priority: Iraq. The first foreseen disaster took place on September 11 2001, when al-Qaeda flew hijacked jets into the World Trade Center and the Pentagon. The federal government was taken by surprise. New York City's first responders were hampered by communications problems and poor planning for this long-predicted event. The Bush administration's response to the mass murder committed by al-Qaeda was warped by the focus on Iraq. Many in Washington believe that the administration failed to send sufficient troops to Afghanistan because it was with-holding forces for the invasion of Iraq. … Supporters of the war in Iraq predicted that the dominos would fall in the Middle East. Instead, the dominos are falling across America."

More Criticism Of Bush. John Tierney, in his column for the New York Times (9/6, Tierney) writes of President Bush that when one campaigns as "the great leader whose arm rescues Americans in their moment of need, they expect you to deal with a hurricane, too." Tierney adds that FEMA, "often criticized for ineptitude, became even less efficient after it was swallowed by [DHS], a bureaucracy consumed with terrorism. The department has spent billions on new federal airport screeners - with no discernible public benefit - while giving short shrift to natural disasters. The federal officials who had been laboring on a one-size-fits-all strategy were unprepared for the peculiarities of New Orleans, like the high percentage of people without cars. The local officials who knew about that problem didn't do anything about it - and then were furious when Mr. Bush didn't solve it for them. Why didn't the man on the mound come through for them?"

Nicholas Kristof, in his column for the New York Times (9/6, Kristof) writes, "The wretchedness coming across our television screens from Louisiana" illustrates "the Bush administration's ongoing reluctance or ineptitude in helping the poorest Americans. The scenes in New Orleans reminded me of the suffering I saw after a similar storm killed 130,000 people in Bangladesh in 1991 - except that Bangladesh's government showed more urgency in trying to save its most vulnerable citizens." Kristof adds, "If it's shameful that we have bloated corpses on New Orleans streets, it's even more disgraceful that the infant mortality rate in America's capital is twice as high as in China's capital."

In his Washington Post (9/6, A25) column, Eugene Robinson writes, "After a tragically incompetent beginning, the effort to give urgent care to the multitudes from New Orleans whose homes and livelihoods have been obliterated is finally in high gear. The problem now is that nobody knows where it's headed. … A few days in and around this ground zero have convinced me that there are two things the federal government failed to do, and that for these failures there's ultimately no one to blame but the president. First, an administration that since Sept. 11, 2001, has told us a major terrorist strike is inevitable should have had in place a well-elaborated plan for evacuating a major American city. … Second, someone should have thought about what to do with hundreds of thousands of evacuees, both in the days after a disaster and in the long term."

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Katrina Seen As Reawakening Tough, Scrutinizing Media. USA Today (9/6, 3D, Johnson) reports that journalists covering Katrina "on the scene showed their human -- and often angry and frustrated -- face as they questioned the slow response over the weekend." Fox News anchor Shepard Smith "fumed on-air" Friday, "The government said, 'You go here, and you'll get help,' or 'You go in that Superdome and you'll get help.' And they didn't get help. They got locked in there. And they watched people being killed around them." Fordham University communications professor Paul Levinson said, "The media rose to the occasion, shone their light on the desolation and the needy, and kept it focused there until the cavalry finally began to arrive." Some media observers say Katrina's "media legacy may be a return to a post-Watergate-like era of tougher scrutiny of the federal government and public policy issues."

USA Today (9/6, 1D, Johnson) also reports that while the "media shelf life for natural disasters is notoriously short," journalists and observers "predict that mounting questions about U.S. government preparation, policies and response to Hurricane Katrina will result in intense news coverage for months." Bob Lichter of the Center for Media and Public Affairs said Katrina "doesn't just have legs, it has tentacles. Its implications reach into hot-button controversies involving race, poverty, economics and partisan politics. The reach of this story will make the O.J. Simpson case look like a news brief."

Brown's Qualifications Questioned As Criticism of FEMA Relief Effort Continues. FEMA Director Michael Brown continues to draw fire for his handling of the aftermath of Hurricane Katrina. As reports emerge that his most recent job was with the International Arabian Horse Association, many are now saying that he has scant emergency management experience on his resume. ABC World News Tonight (9/5, story 7, 2:40, Gibson) reported there are "some very real questions about the Federal official ultimately in charge of relief efforts." ABC (Ross) added, "Michael Brown had virtually no experience with emergency management when the President put him in the top FEMA job two years ago. And his official resume omits the job he previously held. Brown was a top official of an Arabian horse association, which asked him to resign in 2001, according to the association's secretary." Rep. Bennie Thompson: "I can't see for the life of me, what heading a horse association has to do with responding to domestic preparedness." Former FEMA regional director John Copenhaver: "It would appear that it has become a political patronage job." Meanwhile, "The Bush Administration "continued to support Brown today, as President Bush did last Friday, on his first visit to the scene." President Bush: "And Brown, you're doing a heckuva of a job. The FEMA director's working 24-7."

NBC Today Show (9/5, 7:08 am, Myers) reported that there are "new questions about whether Brown is qualified to run the largest relief effort in history." International Arabian Horse Association officials tell NBC News that Brown resigned under pressure from the horse show job and many who worked with him were stunned when he became director of FEMA." Copenhaver was shown saying, "I have a hard time understanding how experience with Arabian horse association translates into the capability to run the federal emergency management agency."

Brown, meanwhile, is defending FEMA's response to the hurricane. NBC Nightly News (9/5, lead story, 3:20, Seigenthaler) reported, "Anger is all around, and while evacuees welcomed the President in Baton Rouge today…politicians, aid workers, and reporters continue to hammer officials at every level, forcing FEMA Director Michael Brown today to defend his qualifications for the job." Brown: "Last year's historic four hurricanes have struck Florida, so, yeah, I've been through a few disasters in my life." CNN's Lou Dobbs Tonight (9/5, Dobbs) added, "Brown today forcefully defended himself against charges he's unfit to lead the agency in this time of crisis. Brown said at a press conference that he's well qualified for the task of heading up the government relief effort. … The critics say Brown had no experience in disaster relief before joining FEMA in 2001. And they point out his last private sector job was managing a horse show circuit." CNN (Sylvester) added, "FEMA's bungling of the recovery efforts has put Brown's emergency management credentials, or lack thereof, in the spotlight."

A minority of local TV stations in the Gulf Coast area lead their broadcasts by reporting on the press conference, in which Brown had to "defend his qualifications for the job." WVTM-TV Birmingham (9/5, 10:03 pm) showed Brown saying, "I've been through a few disasters in my life." Lt. Gen. Russel Honore was shown saying, "All those smart business guys out there who say have we or have we not done this right, and have some fancy computer matrix, get down here and get some damn gas down here, and come down here and get the phones working!" WALA-TV Mobile (9/5, 5:30 pm) added, "During a press conference, FEMA said it was prepared for the hurricane."

The New Orleans Times-Picayune has joined those criticizing Brown, and is now calling for the resignation of top FEMA officials. In an editorial, the New Orleans Times-Picayune (9/5) wrote an open letter to President Bush, asking the President to please forgive them if they "wait to see proof of" his promise to make what is not working right before they believe him. The paper claims to "have good reason for" its skepticism. The Times Picayune goes on to say that despite New Orleans' "multiple points of entry, our nation's bureaucrats spent days after last week's hurricane wringing

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their hands, lamenting the fact that they could neither rescue the city's stranded victims nor bring them food, water and medical supplies. Meanwhile there were journalists, including some who work for The Times-Picayune, going in and out of the city via the Crescent City Connection." "We're angry," the paper writes, "Mr. President, and we'll be angry long after our beloved city and surrounding parishes have been pumped dry. Our people deserved rescuing. Many who could have been were not. That's to the government's shame." ABC World News Tonight (9/5, story 10, 3:20, Woodruff) noted the letter, and the fact that it called "for the resignation of every Federal official at the Federal agency in charge of relief here, including its director, Michael Brown."

The Washington Post (9/6, A1, Hsu, Glasser) reports in a front page article that Brown is being called "the accidental director" and has been "caricatured as the failed head of an Arabian horse sporting group who was plucked from obscurity to become President Bush's point man for the worst natural disaster in US history." After what has been seen as a slow federal response, "politicians and officials in both parties have derided Brown's qualifications to head the nation's chief disaster-response agency -- as well as the performance of the agency and its federal, state and local partners." Meanwhile, "As recently as three weeks ago, state emergency managers urged Homeland Security Secretary Michael Chertoff and his deputy, Michael P. Jackson, to ease the department's focus on terrorism, warning that the shift away from traditional disaster management left FEMA a bureaucratic backwater less able to respond to natural events such as hurricanes and earthquakes. The Times-Picayune, Louisiana's largest newspaper, published an open letter on Sunday to President Bush, calling for every FEMA official to be fired, 'Director Michael Brown especially,' joining critics in the state and Congress."

FEMA's purported failure in the aftermath of Katrina was a major topic on cable TV news shows last night. For example, CNN security analyst Clark Kent Ervin, a former DHS inspector general who left his post reluctantly, said on CNN's The Situation Room (9/5) that FEMA's handling of the response is "inexcusable. There's absolutely no excuse for it. This is the kind of thing that ought to have been planned for. Asked about suggestions of incompetence on the part of FEMA Director Michael Brown, Ervin said, "I know Michael Brown and I think he's a wonderful fellow. He's actually been praised for the response to the hurricanes in Florida last year. So, I must say that I'm rather surprised by the response at this point. This was, as I say, not just foreseeable but it was actually foreseen, so it's inexcusable." Ervin added that it is clear Brown is "in over his head."

CNN's Anderson Cooper 360 (9/5, 7:15 p.m.) evaluated government response to Katrina, reporting that critics along the Gulf Coast have said that FEMA's relief had been "inadequate or missing." The report continues, "Chertoff, who oversees FEMA, says for the scope of the disaster, things are going well." However, "his own FEMA director now says he was surprised by the storm's power. Surprised people did not evacuate, surprised levees failed, though that was all predicted by many experts for many years."

MSNBC's Countdown With Keith Olbermann (9/5, 8:01 p.m.) reported, "The director of the National Hurricane Center has told the newspaper of the New Orleans Times-Picayune" that Brown and Chertoff "both listened to electronic briefings before Hurricane Katrina, during which the hurricane center warned the storm could overtop the levees or even breach them. 'It's not,' said Dr. Max Mayfield, 'like this was a surprise.' Secretary Chertoff and President Bush both continue to say it was."

Congress Likely To Consider Separating FEMA From DHS. The Hill (9/6, Snyder) reports lawmakers are "pledging an across-the-board response to help Hurricane Katrina victims recover and to fix problems the storm and its aftermath exposed. Efforts are likely to include the removal of the Federal Emergency Management Agency (FEMA) from the Department of Homeland Security to speed recovery efforts and expansion of energy production to areas outside the Gulf of Mexico to ease future price shocks, congressional and outside experts said."

State, Local Officials Also Held Responsible For Poor Response. In an op-ed in the Wall Street Journal (9/6, A28), Bob Williams, president of the Evergreen Freedom Foundation, writes that it isn't fair "to dump on the federal officials and avoid those most responsible -- local and state officials who failed to do their job as the first responders. The plain fact is, lives were needlessly lost in New Orleans due to the failure of Louisiana's governor, Kathleen Blanco, and the city's mayor, Ray Nagin." Williams adds that corrective action must be taken with FEMA as well, but "if citizens expect FEMA to be a first responder to terrorist attacks or other local emergencies (earthquakes, forest fires, volcanoes), they will be disappointed. The federal government's role is to offer aid upon request."

Livingston Critical Of Blanco For Not Declaring Martial Law. The Hill (9/6, Dufour) adds in its "Under the Dome" column that former Rep. Bob Livingston "was particularly critical of Gov. Kathleen Blanco (D) for failing to declare martial law promptly to deter widespread looting. 'I raised hell with the governor for not declaring martial law,' he said Thursday. 'I told her last [Wednesday] night I was going on 'Hannity & Colmes' and criticize her for not doing that, and 20 minutes later, she did.'"

Katrina Aftermath Could Provide Opportunity For Terrorists. The Wall Street Journal (9/6, A10, Solomon) reports, "The Bush administration has spent billions of dollars developing government agencies and technologies to better predict and respond to disasters since the Sept. 11, 2001, terrorist attacks. But security experts said the delays in

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helping Katrina's victims in New Orleans and elsewhere along the Gulf Coast indicate the relief process has become more cumbersome, opening opportunities for terrorists. Business consultants and security experts are advising clients to tighten safety measures since al Qaeda or other terrorist networks might find it advantageous to strike when tens of thousands of federal troops and other homeland-security resources are deployed to Louisiana, Mississippi and Alabama."

Congress To Investigate DHS Response To Katrina. USA Today (9/6, Hall) reports Katrina "has become the Homeland Security Department's first big test. Since the department was created after the 9/11 attacks to prevent and respond to catastrophes, it has spent tens of billions of dollars, studied disaster scenarios of every imaginable kind and run some of the nation's biggest emergency response drills." But it "wasn't ready for the power of Katrina. Today, as workers struggle to provide better relief for survivors, Congress will begin investigating why the government's response was so slow." Sens. Susan Collins and Joe Lieberman, "leaders of the Senate homeland security committee, will discuss their committee's plan for an inquiry into the response by the Federal Emergency Management Agency (FEMA). The agency is the disaster-response division of the Homeland Security Department." Some, "including Sen. Hillary Rodham Clinton, D-N.Y., say Bush should appoint an independent national commission similar to the commission that investigated the 9/11 attacks."

In a lengthy article examining the Federal government's response, the Wall Street Journal (9/6, A1, Block, Schatz, Fields and Cooper) reports, "Now that Hurricane Katrina has left the Gulf Coast flooded and New Orleans in ruins, the question ricocheting around the nation and the world is this: How could the world's biggest superpower fail so badly in protecting and rescuing its residents from a natural disaster so frequently foretold? The answer is sure to receive intense scrutiny this fall in Congress and around the nation, especially given revived fears that the U.S. is ill-prepared for a terrorist attack." Though there have been "missteps" at the local level, "so far, the federal government is bearing the brunt of criticism, given its vast resources and unique role in responding to major disasters. Critics say the response shows that the nation's disaster-response system, rebuilt in the wake of the 2001 terrorist attacks, is woefully inadequate." The Journal adds, "Many of last week's problems are rooted in January 2003, when the Bush administration, urged on by some members of Congress, created the Homeland Security Department."

Hillary Clinton Calls For 9/11-Style Inquiry. The New York Daily News (9/5, McAuliff) reported that with "many blaming the growing scope of Katrina's devastation on the Bush administration, Sen. Hillary Clinton called yesterday for a 9/11-style probe into how the federal government responded to the crisis." Sen. Clinton's "call echoed statements of Republicans such as Arizona's Sen. John Kyl, chairman of the Technology and Homeland Security Subcommittee of the Senate Judiciary Committee, who plans a hearing and has said the catastrophe in New Orleans could have a lot in common with a terror attack."

DHS Said To Have Failed First Major Test. USA Today (9/6) editorializes, "Every level of government that was supposed to prepare for the storm and its aftermath failed miserably." FEMA's response was "not only a human tragedy but also an international embarrassment for the USA. That bungled response should serve as an alert to the rest of the nation. After spending four years and tens of billions of dollars since 9/11 on 'all-hazards preparedness,' FEMA's parent, the Homeland Security Department, failed its first major test."

Congress Shifts Priorities To Respond To Katrina. The Wall Street Journal (9/6, Fialka) reports that after "approving a cash infusion for hurricane relief, Congress is focusing on three legislative priorities for responding to Katrina: moving energy supplies, resettling displaced people, and restoring economically critical Gulf ports." Senate Majority Leader Bill Frist "said the chamber's primary legislative business will include hurricane-related measures and appropriations bills." Majority Whip Roy Blunt said the House "may consider legislation designed to ease supply by expanding on the administration's authority to waive fuel standards and environmental requirements." The Journal adds lawmakers "also will weigh allowing exploration for oil and gas along the coast of the Arctic National Wildlife Refuge in Alaska, and letting states lease federal offshore land to companies exploring for natural gas along the Atlantic, Pacific and Gulf coasts." Frist said "that he would delay indefinitely a vote scheduled for today on the estate tax."

The Washington Times (9/6, Hurt) reports Senate Republicans "agreed yesterday to postpone consideration of the bill to fully and permanently repeal the death tax that had been scheduled for this week." Majority Leader Bill Frist "promised to return to the bill as soon as possible but wanted to clear the legislative decks this week -- lawmakers' first after a month's recess -- to consider what could be done to help deal with the aftermath of Hurricane Katrina."

The Los Angeles Times (9/6, Hook) also says Frist "said he would cancel a vote scheduled for this week on repealing the estate tax — a controversial measure that Democrats had decried as inappropriate relief for the wealthy at a time when so many poor storm victims are suffering in the South." Frist also "announced the postponement of confirmation hearings on the nomination of John G. Roberts

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Jr. to the U.S. Supreme Court, which had been scheduled to start Tuesday." Frist said the "decision to postpone the hearings' start -- at least until Thursday, but not beyond Monday -- was to honor Rehnquist and not in response to some Democrats' contention that more preparation time is needed now that Roberts is being considered for the court's top post." The agenda "changes come on the eve of Congress' return from a month-long August recess — a return that will be marked by a striking change in political climate. Republicans left town at the end of July buoyed by their success in passing energy, highway and trade legislation and eager to tackle other priorities, such as overhauling Social Security and repealing the estate tax." But as they "reconvene this week, their agenda and mood will be darkened by more sobering realities: a vast swath of the U.S. ravaged by Katrina; skyrocketing gas prices; the death of the chief justice; and spreading turmoil in Iraq."

The New York Times (9/6, Kirkpatrick) adds Republicans said committees "would announce plans for hearings into the apparently flawed response and increasing oil and gasoline prices." Democrats said they "expected the aftermath of the storm to be a reminder of the importance of federal power in the hearings on the selection of Judge John G. Roberts Jr. for the Supreme Court." Frist said he "expected the Senate energy committee to look at 'price gouging, the excessive oil profits and what responsibility oil companies have in the skyrocketing fuel prices.'" Congressional leaders "are to meet President Bush on Tuesday to discuss relief efforts, and a group of cabinet secretaries, including Homeland Security Secretary Michael Chertoff, are to brief the full Senate at the end of the day." Senate Minority Leader Harry Reid "called for an investigation of the disaster response by a commission modeled after the 9/11 panel. Mr. Reid faulted the White House as failing to take responsibility."

The Washington Times (9/6, Lambro) notes Congress "quickly approved an interim $10.5 billion assistance bill last week as the first step in the early recovery efforts, but congressional officials said a far more expansive aid package is expected in the next several weeks."

Blumenauer Had Presciently Warned Of New Orleans' Peril. The Hill (9/6, Cusack) reports one "of the most outspoken legislators on preparing" New Orleans "for a storm like Hurricane Katrina was a Democrat from Oregon." Earlier this year, Rep. Earl Blumenauer "delivered a speech on the House floor that drew parallels between the 2004 tsunami in Southeast Asia and the vulnerability of New Orleans. Blumenauer's predictions of a catastrophe came true as Katrina flooded New Orleans, leading to a death toll that is expected to climb into the thousands." On Jan. 26, Blumenauer "said a hurricane hitting New Orleans would lead to a '30-foot wall of water hitting the city, causing thousands of deaths and $100 billion in damage.'"

Republicans Face Scrambled Political Environment. The Washington Post (9/6, A6, Murray, Babington) reports Republicans "face a far more troubling political landscape than the one they left a month ago, according to lawmakers in both parties." Democrats are "sounding emboldened. One sign of GOP unease: The Senate was supposed to vote this week on whether to permanently repeal the estate tax, but Frist said yesterday that the bill will be temporarily shelved." Lawmakers in "both parties said the surging price of gas and spot shortages are leading concerns in their states and districts, and Democrats will try to get the upper hand by calling for price caps and a requirement that oil companies and refineries disclose their pricing policies. Frist said Republicans would proceed with legislation to allow oil drilling in the Alaska wilderness." Although congressional Republicans facing reelection "are unhappy with Bush's slide in the polls, there's no sense of panic, said Stu Rothenberg, who writes an independent political newsletter." Rothenberg said, "But inevitably, if we continue to see a softening in the president's numbers, every Republican is going to be expressing some concern, if not alarm."

Bill Clinton Criticizes Federal Response, Calls For "Katrina Commission." Former President Bill Clinton criticized the federal response to the disaster yesterday. Speaking to a CNN (9/5) camera crew, Clinton said, "Our government failed those people in the beginning, and I take it now there is no dispute about it; 100 percent of the people recognize that, that it was a failure. And I personally believe there should be a serious analysis of it. I have my own ideas about what caused it, and -- but I don't think we should do it now. I think that in a few weeks we should have some sort of Katrina commission."

The Los Angeles Times (9/6, Barry, Gold, Zucchino) reports that when asked "why FEMA did not move more quickly," Clinton said, "That's a question you should be asking them. It has something to do with how they reorganized after I left." The Washington Post (9/6, A11, Rein) reports, "With the administration facing public criticism for a slow response to the crisis, there was no sign of friction between the president's father and Clinton."

Former Presidents Bush, Clinton Visit Victims In Houston. In a reprise of their roles as fundraisers for relief efforts for the Indonesian tsunami, former Presidents George H.W. Bush and Bill Clinton have teamed up again to raise funds for the victims of Katrina. ABC World News Tonight (9/5, story 5, :25, Woodruff) reported, "In Houston today, former Presidents Bush and Clinton formally began their program to help people by raising money, for people affected by the hurricane. They hope the new fund would help people that would otherwise be overlooked by

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government programs. 'How are we going to find jobs for these people,' asked President Clinton? 'Where are they really going to live?' So many of them feel lost."

In a later story, ABC World News Tonight (9/5, story 11, 2:05, Gibson) reported the former presidents "went in to meet the people affected in the Astrodome. They got hugs, prayers, stories of travails. And they got an earful." Former President Clinton: "A lot of them, it hit them out of the blue. One day, everything's normal. 48 hours later, their house is under water and they have nothing left. People they know and love are dead." The CBS Evening News (9/5, story 4, 0:30, Roberts) reported, "Former Presidents Bush and Clinton visited the Houston Astrodome today, which is now filled to capacity. They were there to offer comfort and to help raise money for storm victims." NBC Nightly News (9/5, story 4, 0:30, Williams) reported, "Also today, 41 and 42 are trying to combine to post a much bigger number. In Houston today at the Astrodome, former Presidents Bush and Clinton announced the establishment of a fund for the victims of Katrina, the same sort of effort after the two of them made after the tsunami in Asia. Several large corporations have made multi-million-dollar donations."

Clinton Seen As Coming To Bush's Aid. The New York Times (9/6, Nagourney, Broder) reports, "Mr. Clinton's visit to the Houston shelter on Monday is the latest time the former president has come to the current president's aid in his second term, from early in the year when Mr. Bush was criticized for his slow response to the tsunami, to initially defending the administration's response to Hurricane Katrina at the White House last week, to praising the credentials of Judge John G. Roberts Jr., Mr. Bush's choice for the Supreme Court. And it offered what many Democrats described as a vivid, if slightly disconcerting, insight into the complicated and increasingly transactional relationship between the Bush and Clinton families."

Bush 41 Says Some Criticism Of Bush 43 Has Been "Grossly Unfair." Former President George Bush was asked on CNN's Larry King Live (9/5) about criticism of the Federal response. Bush said, "I think any time there's a crisis people want to blame someone. I've never been much for the Monday morning quarterbacking and to be very candid. I think some of the criticism had been grossly unfair, particularly when they suggest the president doesn't care and all of that. You have to understand that people that are hurting are going to criticize. I thought President Clinton put it pretty well today when he said, 'Let's get on with it and then there will be plenty of time to assign blame.'" Bush added, "Certainly I'm not satisfied but I'm just talking about the blame game and there was one particularly vicious comment that the president didn't care, was insensitive on ethnicity. Insensitive about race. Now that one hurt because I know this president and I know he does care and you know what can he do? He can just go out and do what he's doing today, showing that the federal government is involved, has been involved, will continue to be involved."

Chertoff Appoints Coast Guard Admiral To Run Recovery Efforts In New Orleans. USA Today (9/6, Hall) reports, "Homeland Security Secretary Michael Chertoff, who flew to the gulf region over the weekend to take control of the relief effort, appointed Coast Guard Vice Adm. Thad Allen on Monday to run recovery efforts in New Orleans. Chertoff will fly back to Washington for one day today to meet with members of President Bush's Cabinet and members of Congress."

US May Look To Foreign Countries For Ideas On How To Protect New Orleans. The New York Times (9/6, Broad) reports that following a 1953 flood that killed nearly 2,000 people, the Dutch, "at a cost of some $8 billion over a quarter century,…erected a futuristic system of coastal defenses that is admired around the world today as one of the best barriers against the sea's fury - one that could withstand the kind of storm that happens only once in 10,000 years. The Dutch case is one of many in which low-lying cities and countries with long histories of flooding have turned science, technology and raw determination into ways of forestalling disaster." In the United States, experts say such projects "are worth studying for inspiration about how to rebuild New Orleans once the deadly waters of Hurricane Katrina recede into history."

Expert Questions Sense Of Rebuilding. Klaus Jacob, geophysicist and adjunct professor at Columbia University's School of International and Public Affairs, in an op-ed in the Washington Post (9/6, A25) asks, "should we rebuild New Orleans, 10 feet below sea level, just so it can be wiped out again? Some say we can raise and strengthen the levees to fully protect the city. Here is some unpleasant truth: The higher the defenses, the deeper the floods that will inevitably follow." Jacob adds, "This is not a natural disaster. It is a social, political, human and -- to a lesser degree -- engineering disaster."

Breached Levees Repaired In New Orleans, Pumping Begins. USA Today (9/6, O'Driscoll) reports, "There were signs of progress amid the devastation. Repairs were completed on two flood walls that broke last week and allowed floodwaters to gush into New Orleans. Water levels had dropped 1 foot after a day of pumping. Electricity had been restored to some areas." The Washington Times/AP (9/6, Simpson) adds "officials warned that it might take weeks to pump floodwaters from the city."

The Wall Street Journal (9/6, A19, Carrns, Hudson, Searcey) reports, "Officials with the U.S. Army Corps of Engineers, which is in charge of repairing the levees, are balking at putting a firm time frame -- or price tag -- on the

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drainage effort, saying the situation is dynamic and too many variables remain. Over the weekend, portable pumps began arriving to supplement the city's existing network of permanent pumping stations, known as some of the most powerful in the world. An official with the Corps of Engineers' Mississippi Valley division said at a briefing Sunday in Baton Rouge that it could take between one to three months to drain the water, after all the pumps are operational." The Washington Post (9/6, A1, Roig-Franzia) reports, "There are entire swaths of New Orleans where no one can go without a boat, or hip waders. … But a few go anyway, searching for stranded pets or stranded neighbors, or both. The city -- the worst parts, at least, the deeply flooded east -- is best approached by water.

Meanwhile, the CBS Evening News (9/5, lead story, 3:50, Schieffer) reported that a "week after Hurricane Katrina, the water level in these neighborhoods has only gone down about a foot. Getting it all out will take more than a month, yet amazingly, many of these people don't want to leave." It's "the sort of urban survival the city's police chief just can't understand." Downtown, "security is still the main focus. The city is an armed camp."

Army Corps Of Engineers Fills Levee Breach. The Army Corps of Engineers yesterday said there was significant progress in sealing the breach of one of the levees that collapsed in the aftermath of Katrina. ABC World News Tonight (9/5, lead story, 4:20, Woodruff) reported, "Today, the Army Corps of Engineer said they had filled one of the holes in the city's levees. Work continued to try and fill the other gaps and get the pumps started. Officials say it could take as long as six months to drain the water from the city." NBC Nightly News (9/5, story 3, 1:55, Williams) reported, "There was this piece of good news today with the help of the Army Corps Of engineers: The 17th Street Canal has been repaired. It was the breach there that sent a sea of water from Pontchartrain into downtown New Orleans and beyond. That fix is just a start."

However, residents of the lower Ninth Ward, which was flooded when the levee broke, believe the city may have purposely broken it. ABC World News Tonight (9/5, story 2, 2:30, Woodruff) reported, "One thing people in the city are talking about is why so many neighborhoods were spared, while so many others were nearly completely destroyed. Today, we got into a neighborhood around the industrial canal, where there was a major breach in the levee system. It's the place where thousands of the city's poorest residents live. And where thousands of them may have died." ABC (Muir) added, "14,000 people lived" in New Orleans' lower Ninth Ward, "and authorities expect the death toll will be great." People "are so bitter, so disenfranchised in this neighborhood, they actually think the city did it, blowing up the levee to save richer neighborhoods like the French Quarter."

Suburban Parish Allows Residents To Return To Homes Temporarily. The Los Angeles Times (9/6, Barry, Gold, Zucchino) reports, "Between 20,000 and 30,000 evacuees from suburban Jefferson Parish, just outside New Orleans, returned to their homes at dawn today, taking advantage of an offer by parish officials to stay for four days. Thousands came supplied with coolers crammed with food and water to sustain them until parish sheriff's deputies force everyone to leave again Thursday. … The residents' return came as parish officials were condemning the Federal Emergency Management Agency and other national and state relief organizations for failing to offer assistance. On Monday, a week after the hurricane, the parish still had not received outside aid, officials said." The Los Angeles Times (9/6, Zucchino) adds, "The parish's temporary return offer, which was criticized by some parish officials as too dangerous, began at 6 a.m. sharp, when police removed cruisers that had blocked a four-lane highway at the western edge of the parish."

USA Today (9/6, O'Driscoll) reports, "Dubbed 'residents-in-exile' by parish council president Aaron Broussard, they won't be allowed home again until power, water and other key services are restored. That could take weeks. … Most who endured several miles of bumper-to-bumper traffic to get into Jefferson Parish early Monday found that neighborhoods were wind-blown and shredded but dry or only damp; the high waters have receded." NBC Nightly News (9/5, story 2, 2:10, Williams) reported, "It has now been a week since Katrina slammed into the Gulf Coast and today, some who got out were allowed to get back in to see what the storm has done and to salvage whatever may be left there. The line of cars was miles long as the folks of hard-hit Jefferson Parish, west of New Orleans, went back to what they used to call home."

Other Areas Remain Devastated. The CBS Evening News (9/5, story 3, 0:30, Roberts) reported, "We've got a camera down into Plaquemines Parish over the weekend, which is very much further south of here. And down there, the devastation is just almost complete, and city officials are coping with absolutely no resources from the Federal Government."

Some Gulf Oil Rigs Back On Line. USA Today (9/6, Davidson) reports, "Gulf Coast oil production rigs and refineries shuttered by Hurricane Katrina began to ease their way back into operation over the holiday weekend in moves expected to help relieve U.S. price run-ups and fears of shortages. Yet facilities generating 70% of the oil and more than half of the natural gas in the Gulf of Mexico remain closed down, the U.S. Minerals Management Service said. And though several Gulf Coast refineries restarted or were poised to do so this week, four others that account for more than 5% of U.S. capacity were expected to remain shut for weeks or months."

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Electricity Restored To Some Parts Of New Orleans. The New York Times (9/6, Feder) reports that Entergy, the power company for New Orleans "has restored energy to "half of [its] affected customers by Monday evening, mainly in places well away from New Orleans. And even in New Orleans itself, the company had restored some power by nightfall Monday, including to the Convention Center, the warehouse district and the docks where cruise ships tie up. Electricity was also flowing to some parts of the French Quarter, Harrah's Casino and a few hotels near Canal Street. Entergy sent its first work crews into the city on Sunday to see how much could be restored using equipment that had not been flooded and the underground part of the network, made to withstand flooding."

Official Says Superdome Will Have To Be Torn Down. ABC World News Tonight (9/5, story 9, 3:15, Koppel) reported, "The Superdome still stands. But according to an executive of the company that manages the facility, it will have to be torn down and rebuilt." Superdome official Walter Reuther: "The roof has been peeled back. It's still under water, as of right now." Koppel: "So, you're going to have to get a whole, new sports stadium in here?" Reuther: "Yes, I think so." Koppel: "The old French Quarter, still standing, still charming. But the hospitality industry that is the lifeblood of New Orleans, that is still months, if not years away, from welcoming any tourists back here."

New Orleans Residents Were Surprised By Gradual Flooding. The USA Today (9/6, O'Driscoll) reports, "The fall of New Orleans was a catastrophe with an added cruelty: hours of false hope, when it seemed the city had been spared the worst, not doomed to a sodden grave. By noon last Monday, people thought the crisis had passed; by noon the next day, they knew it had just begun. In between came that moment of exquisite horror when each person still in the city grasped that destruction would come not by great wind or mighty wave, but by water rising inch by inch."

Chertoff Notes "Tremendous" Challenge Of Moving New Orleans Residents. The Financial Times (9/6, Chaffin, McNulty, Roberts) reports, "It is becoming clear that the next phase of the tragedy may involve an exodus of people unparalleled in modern American history. 'We are basically moving the city of New Orleans to other parts of the country,' said Michael Chertoff, secretary of homeland security. 'This is a tremendous medium-term and long-term challenge.'" The Times adds, "Authorities are also scouring military bases, sports stadiums, hotels and other facilities for lodging. A s well as placing huge strain on state and federal resources, the disaster presents politicians with the sensitive question of how much rebuilding will take place in New Orleans and the surrounding areas."

More Than One Million Gulf Coast Residents May Be Homeless For Months. The Washington Post (9/6, A18, Kaufman) reports, "more than 1 million people who will be out of their Gulf Coast homes for months to come." Texas Gov. Rick Perry "declared that his state was full and could take no more. Electronic highway signs in Houston directed bus drivers with evacuees to Fort Chaffee, Ark., but that facility quickly filled up as 9,000 people arrived within 16 hours Saturday. Arkansas officials asked for the signs to be removed. With shelter space in the deep South filling up, the Federal Emergency Management Agency yesterday began to airlift storm survivors to states as far away as Michigan, Utah and California. … In all, FEMA officials said, more than a quarter million people are living in shelters set up by the American Red Cross, the National Guard, local churches and municipal officials in cities from Albuquerque to Memphis."

The CBS Evening News (9/5, story 2, 2:15, Roberts) reported Baton Rouge is "struggling to cope" with refugees from New Orleans. CBS (Strassmann) added, "Evacuees have doubled this city's population, overwhelming every city shelter, every church or charity, every hospital."

ABC World News Tonight (9/5, story 3, :25, Woodruff) reported, "About half the people dispersed from the flood zone have been sent to Texas. But the Governor of Texas is now saying he cannot handle anymore people. And has ordered a major airlift to make the overflow of the people to other states. Arkansas has accepted 50,000. Tennessee 13,000. Tens of thousands more are scattered from Oklahoma to California. And many of the people say they have no reason to go back to New Orleans."

USA Today (9/6, Kasindorf) reports, "Federal, state and local officials are grappling with housing the homeless after a stumbling start. … What comes next for governments: Planning longer-term quarters for the most impoverished of the displaced, who may be dispersed to even more disorienting surroundings outside the Deep South." USA Today notes, "There are signs of local uneasiness, too. Unnerved by TV reports of looting and sniping in New Orleans, some homeowners near the Astrodome hired security guards. In Baton Rouge, the display cases for guns at the Wal-Mart in the Cortana Mall have been empty since Thursday." An employees said "buyers made a run on the weapons as evacuees began making the 80-mile trip from New Orleans. Wal-Mart stores have since stopped selling guns."

The Los Angeles Times (9/6, Moore) reports, "Displaced residents" of this New Orleans "especially the poorest blacks…are pondering whether they will try to return to a town…that has suffered decades of crime, corruption and grinding poverty."

FEMA Housing Elderly Victims On Docked Cruise Ships. The New York Times (9/6, Beck, Andrews) reports, "Phase 1 of the government's plan to provide desperately needed transitional housing for tens of thousands of hurricane evacuees is scheduled to begin this morning, when

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homeless elderly people from various Texas locations board 30 buses destined for two Carnival cruise ships in Galveston, Tex. … The two ships, each capable of holding 2,600 people, will remain docked in Galveston; another, with an occupancy of 1,800, will be in Mobile, Ala. They will be used primarily for elderly victims and people with special health problems, with families a second priority, according to James McIntyre, a FEMA spokesman."

DHS Delays Plans For DC Airlift. The Washington Post (9/6, B1, Harris, Labbe) reports, "The proposed airlift of 400 Hurricane Katrina evacuees to the D.C. Armory yesterday was temporarily delayed by federal officials who sought more time to develop a comprehensive national plan for placing victims across the country, authorities said. 'We temporarily paused some airlifts while we identified cities and states who were ready and willing to receive these evacuees,' said Russ Knocke, spokesman for the U.S. Department of Homeland Security."

Texas Struggles To Assimilate Hundreds Of Thousands Of Refugees. The Los Angeles Times (9/6, Perry) reports Houston "is the ad-hoc home to more than 100,000 evacuees in shelters, motels, hotels and private homes. Officials expect many of the evacuees will not return to their former homes. The impact on Houston…has been swift. The City Council met in emergency session. Two schools closed due to declining enrollment are being reopened to enroll children from evacuee families." USA Today (9/6, Reed) reports, "In Houston, Dallas and San Antonio, sports arenas and convention centers are hosting thousands of evacuees. In Fort Worth, they are settling into convention and meeting halls, a high school athletics complex, an unfinished jail and even a nearly deserted terminal at the an old general aviation airport."

NBC Nightly News (9/5, story 9, 2:00, Williams) reported, "Tonight, one week after Katrina hit, hundreds of thousands of evacuees are finding comfort a long way from home. The ripple effect of this disaster is now sending people to shelters all over the United States. So far, the state of Texas is shouldering the biggest burden and finding it more than the state can bear." NBC (Allen) added Texas has "been willing to do its part. More than 20,000 volunteers have stepped up in Houston alone. But in just a week, the city has lost $10 million in convention business. Governor Rick Perry plans an airlift in the next few days to other states willing to help, like Arizona."

Hurricane Could Spur Business Boom In Houston. The New York Times (9/6, Romero) reports, "Perhaps no city in the United States is in a better spot than Houston to turn Katrina's tragedy into opportunity. And businesses here are already scrambling to profit in the hurricane's aftermath. Oil services companies based here are racing to carry out repairs to damaged offshore platforms in the Gulf of Mexico. … The Port of Houston is preparing for an increase in traffic as shippers divert cargoes away from the damaged ports of Pascagoula, Miss., and New Orleans. Owners of office space here are witnessing a surge in leasing as New Orleans companies, including that city's oldest bank, scramble to set up new headquarters in Houston, helping to shore up its sagging property market."

Evacuees May Put Permanent Strain On Surrounding Regions' Economies. The Wall Street Journal (9/6, A1, Cordoba, Bandler, Zimmerman) reports, "The massive displacement is also creating new fault lines. Many refugees, having lost nearly everything or having had little to lose in the first place, are seeking more than shelter from the storm. They're seeking new lives, competing with locals for jobs and crowding their children into new schools. … Interviews with evacuees from New Orleans suggest that some have no intention of returning. Even a modest job in a new home may represent an improvement over what they left behind."

Arrival Of Displaced Poor Reveals Tension Within Black Community. The Washington Post (9/6, A19, Haygood) reports that Baton Rouge Mayor Melvin "Kip" Holden "issued a stem-winding warning that he would not tolerate 'lawlessness' from arriving Hurricane Katrina evacuees. … Many blacks here -- and those arriving from New Orleans -- were suddenly wondering whether this city was about to turn into a kind of ground zero of class warfare between blacks and blacks. Holden himself is black, which had the potency of lifting the debate above the usual black-white fault lines." According to the Post, "Holden's comments seemed to bring to the surface the reality that local resources may well be strapped; that the holding-on blacks of this community realize there is sudden competition, from other blacks, for help in escaping poverty."

About 10,000 Remain In New Orleans. ABC World News Tonight (9/5, lead story, 4:20, Woodruff) reported, "In New Orleans, the evacuation has become, at long last, a fairly streamlined operation. Only about 10,000 people remain in the city. Still, one week after Katrina hit here, the situation can be summed up by the headline of Louisiana's largest newspaper, which called this 'The 7th Day of Hell.' As the National Guard and relief agencies try to reclaim the city, it's abundantly clear that one of the commodities needed most is leadership. With the Army now here, the change, obvious. The evacuation of New Orleans has picked up speed. Outside the once-chaotic convention center, helicopters lined up in the air -- one behind the other -- flying out hundreds of people an hour, some of them sick and injured." The city "wants everyone out. New Orleans' police chief said today there is no longer justification to stay." Deputy Police Chief Warren Riley: "There are no jobs. There is no food. There is no reason to stay. The city has simply been destroyed."

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NBC Nightly News (9/5, lead story, 3:20, Seigenthaler) added, "Seven days after this storm hit, rescue workers are still trying to save lives and, in some cases, pleading with people to leave their homes. They don't call them 'diehards' for nothing. In New Orleans today, rescue workers found plenty of men and women who can wait to leave."

The Los Angeles Times (9/6, Gold, Zucchino, Braun) reports, "Search teams pressing to evacuate the living and find the dead after a full week under the high-water sway of Hurricane Katrina found their efforts complicated Monday by the refusal of hundreds of residents to leave the paralyzed city. … A senior New Orleans police official said Monday that some 10,000 inhabitants remained in the city, hidden inside flooded residences, apartments and housing projects, surviving on foraged scraps and food drops by the military. Searchers have been frustrated by hundreds of holdouts who have refused to leave their homes, fearing possessions will be pillaged, pets will die and their way of life will be erased."

The Dallas Morning News (9/6, Hancock) reports, "By persuasion and by force, authorities worked Monday to complete the biggest evacuation of an American city in modern times. Despite a week of flooding, hellish conditions and slim prospects that the city would be livable for months, some people still didn't want to leave. … In the Garden District, police backed by California National Guardsmen stopped pedestrians and bicyclists at a major intersection and ordered them into vans even after some protested that they would be leaving friends and family behind." The Morning News adds, "In New Orleans, the effort to impose order involved about 4,000 U.S. Army troops and Marines, National Guardsmen and law enforcement officers from across the country." Mayor Nagin "declared that the city had the authority to force residents to evacuate. He would not say if authorities were doing that, but he announced that people who refuse to leave will no longer be given drinking water."

Many Still Ignoring Evacuation Order. The Christian Science Monitor (9/6, Jonsson) reports that thousands of New Orleans residents refuse to leave the city. "Such decisions perturb emergency-response officials, who warn that public-health risks posed by the fetid floodwater may worsen, and that two months of flood conditions may await residents who insist upon staying put. A stubborn resistance to leaving, they add, will only waste time and resources of an already-overtaxed search-and-rescue operation."

New Orleans Mayor Says Up To 10,000 May Be Dead. The Atlanta Journal-Constitution/AP (9/6, Simpson) reports New Orleans Mayor Ray Nagin "upticked his estimate of the probable death toll in his city from merely thousands, telling NBC's 'Today' show, 'It wouldn't be unreasonable to have 10,000.'" ABC World News Tonight (9/5, lead story, 4:20, Gibson) reported, "The emphasis is gradually changing from rescues of the stranded, to recovery of the dead. The Mayor of New Orleans says the death toll could reach 10,000." NBC Nightly News (9/5, lead story, 3:20, Williams) reported, "The news today, more like a prediction, could not be more grim: Even as an army of relief workers now descend on the area, there are fears as many as 10,000 people may be dead." ABC World News Tonight (9/5, story 10, 3:20, Sawyer) interviewed New Orleans Mayor Ray Nagin, who said the death toll will "be significant. And it will probably shock the nation." Sawyer: "When you look around, the kind of water you have still standing, are you looking at three months to get it out? Two months to get it out?"

The Miami Herald/Knight Ridder (9/6, Kavanaugh, Pompilio, Merzer) reports, "Ghastly new evidence of Hurricane Katrina's horror emerged Monday night when a sheriff reported the recovery of 22 bodies lashed together around a pole - a desperate, futile attempt to survive the storm. Sheriff Jack Stephens of St. Bernard Parish, just east of New Orleans, said rescuers found the bodies tied with rope and wrapped around a pole in the tiny village of Violet along the eastern bank of the Mississippi River. … And more: Biloxi Mayor A.J. Holloway said he expected the death toll in his Mississippi city to exceed that of Hurricane Camille, which killed 200 people in 1969." The CBS Evening News (9/5, lead story, 3:50, Schieffer) reported, "New Orleans tonight is a city of the dead. Nearly everyone in the city who survived the hurricane has been evacuated, but authorities are finding bodies everywhere: In attics, floating in the streets, crumpled in wheelchairs. No one really knows how many have died, but if the Mayor is right when he says 10,000, that will be more than three times the death toll on 9/11."

Small Town Hosting Mortuary For New Orleans Region Victims. The New York Times (9/6, Applebome) reports that at a warehouse in San Gabriel, LA "refrigerated trucks on Sunday began the task of bringing what is expected to be thousands of bodies to the temporary mortuary set up to process victims of Hurricane Katrina." Although Nagin claimed as many as 10,000 may be dead in New Orleans alone, "so far only 23 bodies have been brought to the mortuary, and the official death toll for Louisiana stands at 71." The Washington Post (9/6, A1, Dwyer, Fletcher) reports, "Although the storm's announced death toll was just over 200 on Monday, officials began to brace themselves and the public for a body count that could reach well into the thousands. … The bodies of those left dead in Katrina's wake were scheduled to start to arrive Monday in a massive warehouse outside Baton Rouge. Lifted from the fetid waters swamping this city, they will be transported in refrigerated trucks to the temporary morgue. A similar morgue has been set up in Mississippi."

Many Victims May Never Be Identified. The AP (9/6, Dahlberg) reports, "Most of the dead from Hurricane Katrina

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don't have names yet. Many will never be identified because their bodies decomposed in the floodwaters and heat before they were found. … Identifying the dead will be a daunting task, made even more desperate because many will likely be bloated and decomposed by the time they're taken away. FEMA officials said they would try to locate dental records, but urged family members to bring in photos, fingerprints or even a toothbrush or provide DNA samples."

Cholera-Like Disease Found Among New Orleans Evacuees. The Los Angeles Times (9/6, Gold) reports, "Authorities said Monday that some of Hurricane Katrina's evacuees have contracted a bacterial disease that is considered a more benign cousin of cholera, but is potentially fatal in people whose immune systems have been compromised. Officials at the Centers for Disease Control and Prevention in Atlanta said the bacterium, vibrio vulnificus, may have been picked up by people with open wounds who were forced to wade through polluted floodwaters for a long time."

HHS Providing Vaccines, Emergency Medical Supplies. The Wall Street Journal (9/6, A10, McKay, Chase, Lueck) reports, "Doctors are seeing many patients with infected wounds and gastrointestinal illnesses, and worry that more are coming in the days ahead. … To prevent disease outbreaks, the federal Health and Human Services Department shipped 90,000 doses of tetanus vaccine, 22,000 doses of Hepatitis A vaccine and 36,000 doses of Hepatitis B vaccine over the weekend to states and health facilities, said HHS spokeswoman Christina Pearson. The department also has provided antibiotics as well as medications for chronic illnesses such as heart disease, diabetes and anxiety. Overall, the government said it has deployed 100 tons of medications and other supplies for victims of the hurricane."

Temporary Clinics Confront Array Of Challenges. The Washington Post (9/6, A10, Connolly) reports, "Legions of doctors and nurses are frantically patching together a new medical care network to handle the swelling flow of Hurricane Katrina's victims. The extraordinary process includes the task of converting basketball arenas, an abandoned Kmart and even the New Orleans airport into working hospitals and clinics. … With an influx of patients who are predominantly poor and in poor health, the emergency medical challenges are compounded by longer-term issues of managing chronic conditions such as high blood pressure, heart disease, diabetes and mental illness."

Nearly 50,000 National Guard, DHS Personnel Involved In Relief Effort. The Washington Post (9/6, A1, Dwyer, Fletcher) reports, "Federal agents, troops and law enforcement officers from around the country continued to pour into New Orleans, and police officials expressed confidence the city was mostly safe from the marauding gangs that had terrorized citizens in the storm's chaotic aftermath. The rapidly growing scale of the effort was evident in the official statistics of federal personnel involved as of midday Monday: 38,000 National Guardsmen, 6,000 FEMA responders and 4,000 from the U.S. Coast Guard, according to the Department of Homeland Security. The USS Iwo Jima, an amphibious assault ship, pulled into New Orleans port Monday and will assist in aid efforts."

USA Today (9/6, Johnson, Kelley) reports, "The surge of rescues of hurricane victims slowed to a trickle Monday as emergency workers steeled themselves for the shift from joyful rescues of those who survived to the grim task of recovering the bodies of those who didn't. One Army medical evacuation unit saw their rescues ebb from 200 Thursday to one Monday."

Iraq War Veterans Among Guard Troops Patrolling New Orleans. The Washington Post (9/6, A10, Tyson) reports, "Spec. Frank Atkinson, wearing his tan desert fatigues from his recent deployment in Iraq, alternately drove a Humvee through downtown New Orleans streets littered with debris and putrid garbage and held suspected looters at gunpoint with his M-4 rifle. 'It's just so much like Iraq, it's not funny,' said Atkinson, of Woodlawn, Ark … The Arkansas contingent is among the estimated 16,000 National Guard troops from 40 states flowing into greater New Orleans to help curb the rash of crime sparked by Hurricane Katrina. An additional 24,000 guardsman and 7,200 active-duty ground troops are committed to relief efforts across the Gulf Coast. Paratroops from the 82nd Airborne Division 'locked down' the historic French Quarter on Monday, according to city and military officials. But the massive military effort remains severely disjointed and hampered by a lack of basic communication between units, Army officers here say. Ground commanders for New Orleans have been functioning without the ability to track the location of some units reporting to them -- something unheard of in Iraq, the officers say." The USA Today (9/6, Johnson) reports, "Maj. Patrick Bossetta has been to Iraq and back, but the helicopter pilot with the Louisiana National Guard still has difficulty believing that the devastation spread below him on countless rescue missions is his beloved New Orleans."

One-Third Of New Orleans Police Force Not Reporting For Duty. The New York Times (9/6, Treaster, Desantis) reports, "The last week has been a series of nonstop rescue missions, shootouts in the night and forays into foul-smelling shelters in response to gunshots and reports of rape for…the New Orleans police force. And like most everyone else in New Orleans, police officers have been traumatized by the loss of homes and family members. Morale on the police force is in tatters. About 500 officers - a third of the force and far more than previously estimated - have dropped out of the daily lineup. Some of them may still be in houses cut off by the storm or may have simply gone off to help their families and will eventually return. But most of

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the missing officers have either told their superiors that they were quitting or simply walked off the job. Two officers have shot themselves to death."

Recovery Efforts In Mississippi Beginning To Meet Needs. ABC World News Tonight (9/5, story 13, 3:05, Gibson) reported, "We have focused, mainly, tonight, on the problems of New Orleans, and the movement of evacuees. But Mississippi is not to be forgotten, for it suffered such a blow. Survivors in that state knew it would take many days for help to get to them, especially with a situation so dire in New Orleans. Still, thousands of people are sleeping outside. Cut off from the rest of the world. Waiting for food, water and medicine. Today, help began getting through." ABC (von Fremd) added, "For so many here still suffering, the calvary is no longer just on the way, it has arrived. By air, land and sea, the National Guard, FEMA and utility companies have thrown this devastated community a lifeline." Enormous "amounts of free food and water are piled high. And everyone here is welcome to help themselves. Electricity has already been restored to portions of Gulfport. And ice is literally spilling out of helicopters courtesy of the Mississippi National Guard."

Halliburton Subsidiary At Work On Navy Facilities Repairs. Kellogg, Brown & Root Services. Inc., a subsidiary of the Halliburton Co., "has begun tapping a $500 million Navy contract to do emergency repairs at Gulf Coast naval and Marine facilities damaged by Hurricane Katrina," reports the Washington Post/AP (9/5, A20, Baldor). KBR won the contract last July "to provide debris removal and other emergency work associated with natural disasters. Jan Davis, a spokeswoman for the Naval Facilities Engineering Command, said yesterday that KBR would receive $12 million for work at the Naval Air Station at Pascagoula, Miss., the Naval Station at Gulfport, Miss., and Stennis Space Center in Mississippi. KBR will receive $4.6 million for work at two smaller Navy facilities in New Orleans and others in the South."

Rice Defends Bush Against Charge That Katrina Response Was Racist. The AP (9/5, Jordan) reports, "Secretary of State Condoleezza Rice defended President Bush on Sunday against charges that the government's sluggish response to Hurricane Katrina showed racial insensitivity. 'Nobody, especially the president, would have left people unattended on the basis of race,' the administration's highest-ranking black said as she toured damaged parts of her native Alabama." Later, during a service at the Pilgrim Rest AME Zion church outside Mobile, "Rice nodded in agreement as the Rev. Malone Smith Jr. advised the congregation, 'Wait for the Lord.'" The Washington Times (9/5) notes "it was a sort of homecoming for Miss Rice, an Alabama native and granddaughter of a Presbyterian minister." Her visit "came as some black leaders, including the Rev. Jesse Jackson, have complained bitterly about the slow response to the disaster, whose victims have been disproportionately black and poor."

Meanwhile, the New York Times (9/5, Broder) reports from Houston, "Many blacks voiced suspicions that thousands of people were left to suffer and die in the floodwaters because they were, for the most part, poor and black. … Interviews with African-American church leaders, local politicians and residents here made clear the damage that the faltering relief effort has had on their perceptions of the Bush administration." Bush "and his chief political advisers have mounted an effort to try to court more conservative black voters, particularly since the 2004 election, by encouraging black Republican candidacies and reaching out to black churches." But "their outreach efforts appear to have been significantly set back." The New York Times (9/5, Deparle) runs an additional story on the race issue, which says, "The white people got out. Most of them, anyway. If television and newspaper images can be deemed a statistical sample, it was mostly black people who were left behind. … What a shocked world saw exposed in New Orleans last week wasn't just a broken levee. It was a cleavage of race and class, at once familiar and startlingly new, laid bare in a setting where they suddenly amounted to matters of life and death."

Storm Said To Highlight Divide Between "Haves And Have Nots." The New York Times (9/5, Wilgoren) says the storm "cleaved a harsh chasm among the region's refugees, providing a stark portrait of the vast divide between America's haves and have-nots. … John Edwards, the former senator whose presidential primary campaign last year was based on the theme that America is a country torn in two by race and class, sent an e-mail to supporters last week, saying that the hurricane's destruction exposed 'a harsher example of two Americas.'"

Chertoff, Brown Criticized For Hurricane Response. All three news magazines feature Hurricane Katrina and its aftermath on their covers this week. All three state there's widespread criticism of the Federal response to the disaster. U.S. News and World Report (9/12, Mulrine) sees "an almost palpable sense of anger at the sluggish and, in some places, seemingly nonexistent government response to the crisis. 'We are extremely pleased with the response of every element of the federal government' to Katrina, said Homeland Security Secretary Michael Chertoff, in charge of coordinating Washington's plan. Reacting to the growing chorus of criticism the same day, Chertoff's deputy, Michael Brown, the director of the Federal Emergency Management

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Agency, fumed: 'I think everyone in the country needs to take a big collective breath.'" U.S. News and World Report (9/12, Gilgoff) adds that FEMA and the Department of Homeland Security "came under fire for their management of the rescue effort. … Jane Bullock, a former FEMA chief of staff and 22-year agency veteran, says the current federal effort demonstrates a weakened FEMA in a post-9/11 world. … There was also criticism late last week that FEMA chief Michael Brown and Homeland Security Secretary Michael Chertoff lacked long-term experience in disaster preparedness." US News also reports, "Federal officials offered a vigorous defense," but, "among those who seemed miffed was President Bush," who, "expressed frustration at the response effort, saying 'the results are not acceptable.'" US News cover package also includes reports on healthcare workers who are trying to help victims despite shortages of nearly every necessity, and the Great Mississippi Flood of 1927.

Newsweek (9/12) adds, "FEMA's current head, Michael Brown, has appeared over his head and even a little clueless in news interviews. He is far from the sort of take-charge presence New York Mayor Rudy Giuliani conveyed after 9/11."

FEMA's Brown Under Fire. FEMA Director Michael Brown has been the focus of much criticism following his agency's response to Hurricane Katrina. NBC Nightly News (5/28, story 7, 2:40, Seigenthaler) last night ran a report critical of Brown's qualifications. NBC (Myers) added, "This was Michael Brown's biggest job before landing at FEMA, supervising judges at Arabian Horse shows. The embattled FEMA director doesn't mention in his official biography that for nine years he was commissioner of the International Arabian Horse Association. Association officials tell NBC News he resigned under pressure from that job." Brown was "brought into FEMA by his college roommate, President Bush's campaign director Joe Allbaugh. His only experiences with emergency services was in the mid 70's. He became FEMA director when Allbaugh left." John Capenhaver, former FEMA official: "His lack of experience in emergency management may have played a role." Myers: "Critics say he doesn't seem on top of the situation. The day the levees broke, he said 'I don't want to alarm anyone that New Orleans is filling up like a bowl, that isn't happening.' Then he said of those at the convention center." Brown: "The Federal Government just learned of those people today." Myers: "Tonight, Homeland Security officials defend Brown. They say he was a senior FEMA manager during 9/11 and is working day and night to save lives in the largest relief effort in American history."

The New York Times (9/5, Shane, Lipton, Drew) reports that while rescuers were still trying to reach people stranded by the floods, perhaps the only consensus among local, state and federal officials was that the system had failed." But" furious state and local officials insisted that the real problem was that the Federal Emergency Management Agency, which Mr. Chertoff's department oversees, failed to deliver urgently needed help and, through incomprehensible red tape, even thwarted others' efforts to help. 'We wanted soldiers, helicopters, food and water,' said Denise Bottcher, press secretary for Gov. Kathleen Babineaux Blanco of Louisiana. 'They wanted to negotiate an organizational chart.'"

The New York Times (9/5, Applebome, Drew, Longman, Revkin) reports, "As flood waters rose on Tuesday, Senator Mary L. Landrieu tried to impress upon colleagues in Washington that this was America's tsunami, but she said that the more she pleaded, the more she felt she was not being heard. … 'I have been with Michael Brown since the minute he landed in this center,' Ms. Landrieu said Friday in Baton Rouge, referring to the director of the Federal Emergency Management Agency, 'and I have been telling him from the moment he arrived about the urgency of the situation.' But, she said, 'I just have to tell you that he had a difficult time understanding the enormity of the task before us.' … By Wednesday, with little visible response from the federal government, Ms. Landrieu said that she talked to FEMA officials. 'I started to sense they were thinking I was a little overwrought, that maybe I was exaggerating a little bit,' she said. When she pressed Mr. Brown on when he was going to finally get buses to pick up the people who had been trapped at the Superdome, 'he just mumbled,' she said. Mayor Nagin said that he could not remember whether he spoke to President Bush on Wednesday or Thursday, but that the president acknowledged the federal government could have done more and promised to fix the situation."

Some Calling For Chertoff To "Get The Ax." Meanwhile, U.S. News and World Report (9/5, 9/12) reports that some in Washington are "calling for Homeland Security Secretary Michael Chertoff to get the ax. Administration officials, however, said that firing Chertoff would not be smart in the midst of the Katrina disaster."

Blame For Hurricane Response Placed On Officials At All Levels. Time (9/12, Gibbs) says Katrina shattered "a hope that four years after the greatest man-made disaster in our history, we had got smarter about catastrophe, more nimble and visionary in our ability to respond. Is it really possible, after so many commissions and commitments, bureaucracies scrambled and rewired, emergency supplies stockpiled and prepositioned, that when a disaster strikes, the whole newfangled system just seizes up and can't move?" Time adds that "the treatment of the living, black and poor and old and sick, was a disgrace." An "angry debate opened about how much the demands of the Iraq war, on both the budget and the National Guard, were eating into the country's ability to protect itself at home. Louisiana Republican Congressman Jim McCrery…argues that Katrina revealed how much doesn't work." Time (9/12, Ripley) adds that while

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deconstructing Katrina will take years, "it is already clear that the blame can be well distributed, from the White House to emergency-management officials at federal, state and local levels, all the way down to the cops who abandoned their posts in New Orleans. … New Orleans officials were supremely unprepared; that was never a secret among people in the disaster business. Meanwhile, throughout the state and Federal governments, much money and willpower had shifted to fighting terrorism, a major risk and vital effort but much less of a sure thing than natural disasters. Because of tax cuts and budget pressures at all levels, many emergency-response capabilities…have slipped. If Hurricane Katrina turns out to be the biggest disaster in U.S. history to date, it will also be the least surprising." Time notes, "On Friday, hours after even the President had shifted to calling the government's response 'not acceptable,' the No. 2 at FEMA sounded as though he had been monitoring a different hurricane. 'I am actually very impressed with the mobilization of man and machine to help our friends in this unfortunate area,' Patrick Rhode told TIME. 'I think it's one of the most impressive search-and-rescue operations this country has ever conducted domestically.'"

GOP Worries Hurricane Response Could Hurt Them In 2006. U.S. News and World Report (9/12a) reports in its "White House Week" column that several GOP strategists "worried that the slow federal response would seriously hurt the party in 2006."

Hurricane's Greatest Economic Impact Could Be On Auto Industry. U.S. News and World Report (9/12, Lavelle) says Katrina's "biggest economic impact could be on the form of transportation most Americans know best--the auto. General Motors…has been banking heavily o n a brand-new series of big utility vehicles, due next year, to help reverse a financial nose dive. But $3 gas…could end America's love affair with big haulers."

German Official Says Hurricane Was Result Of Global Warming. U.S. News and World Report (9/12, Hayden, Barnett) reports that Germany's environment minister, Jurgen Trittin, "suggested that the hurricane's severity was at least partly a result of global warming and charged that 'the American president is closing his eyes to the economic and human costs' of refusing to sign the Kyoto Protocol, which seeks to limit production of climate-warming greenhouse gases." While there have been "more Atlantic hurricanes recently," most scientists "agree that the increased frequency is caused by a natural cycle, not global warming. … Still, there is growing evidence that global warming is making the storms stronger and wetter."

SEC Extends Filing Deadline In Storm Zone. The Wall Street Journal (9/6, Solomon, Hughes) reports, "The Securities and Exchange Commission will extend filing deadlines and suspend requirements to deliver documents to areas affected by Hurricane Katrina." Meanwhile, "the agency warned that it is 'on the lookout for Katrina-related securities scams' and vowed to vigorously prosecute those who try to defraud hurricane victims."

Blair Sends Foreign Service Officers To US As International Aid Continues Flow. USA Today (9/6, Soriano) reports, "British Prime Minister Tony Blair, assailed for doing too little to help Britons caught in Hurricane Katrina, apologized Monday and sent foreign service officers to aid survivors." USA Today notes, "News of the disaster has dominated British and continental European media since Katrina struck last week." The Christian Science Monitor (9/6, Ford) adds, "Governments around the world rushed aid and relief teams to America's stricken southern states on Monday - some repaying past favors the United States has offered them to recover from natural disasters - while their citizens continued to express amazement and dismay at the aftermath of Hurricane Katrina. In a dramatic reversal of usual roles, small nations such as Sri Lanka - badly hit by last December's tsunami - have extended their hands to the most powerful country on earth. And after initial ambivalence, American officials were accepting offers of help from over 50 countries with thanks."

Nuland Offers Thanks NATO For Support. Reuters (9/6) reports Victoria Nuland, the U.S. ambassador to NATO "thanked European allies on Monday for generous pledges of support in the wake of Hurricane Katrina, which has devastated New Orleans and U.S. Gulf Coast states."

Afghanistan To Give $100,000 For Hurricane Relief. The Washington Times (9/6, Harper) reports in its "Inside Politics" column, "Impoverished Afghanistan will give $100,000 for Katrina relief efforts, the U.S. Embassy has announced. U.S. Ambassador Ronald Neumann thanked the Afghan people Sunday during a ceremony at which the aid was pledged by the government on behalf of the people of Afghanistan."

DC Fundraisers Planned To Aid Hurricane Victims. Roll Call (9/6, Akers) reports in its "Heard on the Hill" column that "fundraisers galore have been planned all over town, mostly to benefit the Red Cross and all, of course, promising libations and entertainment for the recess weary. The biggie of the Big Easy parties is Wednesday night at the lobbying firm Jones Day, a joint fundraiser by the Alabama, Louisiana, Mississippi and Florida state societies. The folk-funky group Down Dexter is opening for the popular Wil Gravatt Band. Organizers were hoping to convince former Louisiana Sen. John Breaux (D) to serve as VIP emcee for the event. Reps. Alcee Hastings (D-Fla.), Mark Foley (R-Fla.) and Charlie Melancon (D-La.) were among those who had RSVP'd as of Friday afternoon. Admission prices come in three ranges: $20, $1,000 and $2,000 per person. The party's fundraising goal is $50,000, all of which will go to the American Red

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Cross Disaster Relief Fund for victims of Hurricane Katrina. For the non-lushes who want to help disaster victims — or for those who can at least burn the candle at both ends — there will be a Gulf Coast Relief Run on Sept. 17 in Old Town Alexandria. The 5K race is being sponsored by Roll Call, the Great Harvest Bread Company and Mizuno USA. … The cost to enter the race is $25, which includes a T-shirt. Again, all proceeds will go toward the Red Cross relief fund."

Hurricane Creates Unique Problems For Non-Citizens. The New York Times (9/6, Urbina) reports, "Hurricane Katrina has left its victims feeling vulnerable and uncertain, but for many noncitizens trapped here, the anxiety is especially acute because they worry that they will jeopardize their legal status if they try to leave." Meanwhile, "The Mexican government has opened two mobile consulates in the affected areas, one in Mobile, Ala., and the other in Baton Rouge, La., to begin looking for tens of thousands of their citizens reported missing. The authorities in Mexico estimated that 145,000 Mexicans live in the area."

Insurance Premiums Expected To Rise Along Gulf Coast. The Wall Street Journal (9/6, D2, Francis) reports that with total economic losses expected to exceed $100 billion, Katrina could be "the costliest US storm on record." With that, "Home and car owners in the Gulf Coast states can expect to see substantial increases in their insurance premiums in coming months, while rate rises could spread more broadly if insurance-company losses from Hurricane Katrina continue to climb."

Bush Nominates Roberts To Be Chief Justice. President Bush yesterday renominated Judge John Roberts to be chief justice of the United States. Media consensus is that Roberts will be able to gain Senate approval with relative ease. Bush's move is being portrayed as a quick way to fill the post vacated by the death of Chief Justice William Rehnquist.

Last night, ABC World News Tonight (9/5, story 6, 2:45, Moran) reported, "Roberts looks to be a pretty safe choice. And Mr. Bush needs that badly now. This morning in the Oval Office, President Bush said the man he'd already nominated to the Supreme Court was ready to serve as its leader." President Bush: "Both those who've worked with him and those who have faced him in the courtroom speak with admiration of his striking ability as a lawyer and his natural gifts as a leader." Moran: "The President also made clear he believes Judge Roberts can be quickly confirmed by the Senate." The "first reactions from Senate Democrats to Mr. Bush's move were cautious."

The CBS Evening News (9/5, story 5, 1:45, Andrews) reported, "This nomination to chief justice for Judge Roberts gives the President tremendous advantages" because "no serious political opposition has been raised" to his nomination. And so "the President and most Republicans believe he can be confirmed as chief justice relatively quickly in time for the court. It gives the President the justice he wants in the job that he wants when he wants him."

On the NBC Nightly News (9/5, story 6, 0:45, Brown), Washington bureau chief and moderator of 'Meet the Press,' Tim Russert said, "They will be robust hearings, but everyone I spoken to, Democrats and Republicans, believe Judge Roberts will be confirmed." Likewise, the Washington Post (9/6, A1, Baker) says that after Bush's announcement, "there was no indication" that Roberts' nomination "faces any significant threat."

The most contentious issue after Bush's announcement was the timing of the confirmation hearings. A Reuters (9/6, Ferraro) dispatch says "a congressional aide said the hearing would start next Monday." However, says USA Today (9/6, Kiely), "some liberal Democrats are arguing for a delay to let senators and the public better assess the impact that filling two vacancies will have on the nation's highest court." Sen. Edward Kennedy "said the Senate should postpone a decision on whether Roberts replaces the late Chief Justice William Rehnquist until President Bush announces how he plans to fill the other court vacancy."

Kennedy, says the Washington Times (9/6, Hurt), has called on "a highly trusted private lawyer" whom he used in the 1994 election battle against now Gov. Matt Romney "to dig up dirt on his opponent." James Flug "has rejoined Mr. Kennedy's staff and will advise him during the Supreme Court confirmation hearings for Judge John G. Roberts Jr. 'Jim Flug is the 8,000-pound gorilla who will be driving this thing,' said Makan Delrahim, former Judiciary Committee staff director for Sen. Orrin G. Hatch, Utah Republican." Flug "isn't the only operative brought back for Supreme Court vacancy fights. Michael O'Neill, former nominations counsel to Mr. Hatch, was hired earlier this year to be chief counsel to Judiciary Committee Chairman Arlen Specter of Pennsylvania."

The Washington Post (9/6, C1, Leibovich) notes Roberts "would be the youngest chief justice since John Marshall, who was 45 when he was sworn in 204 years ago. Fifty is Young Turk territory among Supreme Court justices, if not for the rest of us. Among chief justices, 50 is a Turk in diapers." Confirmation would fix "Roberts as a seminal figure in the annals of whiz kids."

Reuters (9/6, Vicini) reports Roberts "may succeed the late legal giant, who was one of his earliest conservative mentors. A generation ago, Roberts served as a young law clerk to Rehnquist, helping the then associate justice research and write court opinions." NBC Nightly News (9/5, story 5, 1:55, P. Williams) also reported it was "a bittersweet moment for Roberts, a Rehnquist friend and former law clerk." Judge Roberts: "If I am confirmed, I would succeed a

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man I deeply respect and admire, a man who has been very kind to me for 25 years." Pete Williams: "His hearings, scheduled to start tomorrow, have now been delayed a week at most in deference to the Rehnquist funeral services. While some liberal groups today said a nomination to chief justice should subject Roberts to even greater scrutiny, the ranking Democrat on the Judiciary Committee would not go that far." Sen. Patrick Leahy (D) Vermont: "I think you still ask the same basic question. Will this person protect your rights, my rights and everybody else's rights?"

The Legal Times (9/5, Mauro) reports, "The death of Chief Justice William Rehnquist late on Saturday ends his historic 33-year career on the Supreme Court and presents President George W. Bush with a rare challenge to fill a new vacancy just as John Roberts Jr., his nominee to Sandra Day O'Connor's seat on the Court, was about to face Senate hearings." The Times continues, "Bush answered part of that challenge swiftly, nominating Roberts on Monday to replace Rehnquist as chief justice. In an early morning announcement from the Oval Office, the president said he hoped the Senate would confirm Roberts before the Court sits for its next term Oct. 3." The Times adds, "The Senate is expected to begin Roberts' confirmation hearings as chief justice either Thursday or next Monday. The opening of his previously scheduled confirmation hearings, for the position of associate justice, initially was to be Tuesday, but that was canceled until after Rehnquist's funeral on Wednesday."

The New York Times (9/6, Greenhouse) also analyzes Roberts' experience as Rehnquist's clerk, at time when he "learned how not to be chief justice." Now "he will, if the Senate confirms him, have the rare chance to put those lessons into practice."

Some stories this morning note the similarities in both men's judicial philosophies. The Washington Post (9/6, A1, Lane) runs a story titled "Roberts Was Influenced By Critics Of The Warren Court," in which it says Roberts "has consistently espoused a clear view of federal judicial intervention: Less is more. This same principle was held dear by the man Roberts served as a Supreme Court clerk, the late William H. Rehnquist."

The Washington Times (9/6, Taylor) says "Ted Cruz, who clerked for Chief Justice Rehnquist during the mid-1990s, recalled that he and fellow clerks once asked their boss whom he considered to be the most superior Supreme Court litigator. 'He chuckled a little and said with a smile that he thought he could probably get the majority of his colleagues to agree that John Roberts was the best Supreme Court lawyer in the country,' said Mr. Cruz, now solicitor general of Texas."

The Washington Post (9/6, A4, Jackman) reports, "The flag-draped coffin of Chief Justice William H. Rehnquist will be carried up the long marble stairs to the Supreme Court's main entrance this morning as two days of memorial observances begin. After a brief prayer service at the court at 10 a.m., the public may pay respects to the chief justice as his body lies in repose at the court from 10:30 a.m. to 10 p.m. today and from 10 a.m. to noon tomorrow." Ceremonies "will conclude with the chief justice's burial at Arlington National Cemetery tomorrow afternoon, which will be private. Rehnquist, 80, died of thyroid cancer Saturday at his home in Arlington."

As Many As 25 Democrats May Vote To Confirm Roberts. The Capitol Hill newspaper The Hill (9/6, Schor) reports, "Members of the Senate Democrats' K Street inner circle are predicting that as many as 25 Democrats will vote to confirm John Roberts as chief justice of the United States. Several attendees of the Monday Group, as Senate Minority Leader Harry Reid's (D-Nev.) biweekly lobbyist meetings are known, said the Democrats could suffer politically if their Roberts strategy misfires. … 'It's not a good thing for Democrats to be dragged into a visible, high-profile battle on him for weeks when Congress ought to be dealing with issues the public really cares about,' one key Democratic lobbyist said. 'That's the biggest danger for Democrats, if they get sucked into something like that because of the ideological left.'"

Democrats Plan To "Rough Up" Roberts During Hearings. U.S. News and World Report (9/12, Halloran) reports that Supreme Court Nominee John Roberts will likely win support from the Senate Judiciary Committee, but "the hearings may still have their share of drama. Will the nominee get any Democrats' votes? How will Democrats position themselves, especially those with an eye on congressional and presidential elections to come?" US News adds, "The down-and-dirty fight everyone expected over the first appointment to the high court in 11 years simply hasn't happened." U.S. News and World Report (9/12, Schulte) adds that Democrats on the panel "intend to rough him up a bit."

Newsweek (9/12) says in its "Periscope" column that Roberts "will confront 18 senators eager to score political points and rack up minutes on the cable news channels. While the senators will try to press Roberts for specifics on controversial topics like civil rights, abortion and congressional authority, Roberts will attempt to keep his answers as general as possible without seeming to stonewall. … Senators want to pin down Roberts's judicial philosophy, but they know the direct approach may not work." Committee Chairman Arlen Specter "says he plans to press Roberts on whether Roe…is a 'superprecedent' not to be tampered with. A source close to the prep who requested anonymity to speak more freely about the process says Roberts will likely follow the lead of Clarence Thomas, who confirmed a

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constitutional right to privacy encompassing contraception but steered clear of specifics on abortion in his hearings."

Colleagues Say Roberts' SG Role Not So Ideological. The Legal Times (9/5, Mauro) reports, "After weeks of document dumps and media scrutiny of John Roberts Jr.'s copious writings, the Supreme Court nominee goes before the Senate Judiciary Committee this week with one important part of his professional life still a mystery." The Times continues, "Roberts' three years and three months as principal deputy solicitor general (the so-called political deputy), from 1989 to 1993, produced easily as much paper as his earlier jobs in government. But except for briefs filed with the Supreme Court, all of it—including memorandums on cases—remains sealed, to the chagrin of Democrats and groups that oppose his nomination." The Times adds, "That part of Roberts' life is likely to provoke questioning from Senate Democrats who are intent on seeing if the conservative views he expressed as a young Reagan White House aide burned as brightly in his psyche a decade later. 'The SG materials may be the only real source that reflects his own mature personal thinking,' said Sen. Edward Kennedy (D-Mass.) in an Aug. 10 statement. … Adds Nan Aron, president of Alliance for Justice, 'At this point, the American people know next to nothing about the legal views Judge Roberts expressed during the most important, most influential period of his career as a lawyer.' The group announced its opposition to Roberts last week. … So far, the only formal White House response has been to release a list of the Supreme Court cases Roberts handled— among them, 717 case recommendations, 77 briefs on the merits, and 31 petitions for certiorari. But the Bush administration won't release the texts, holding to the position taken during Miguel Estrada's bid for the U.S. Court of Appeals for the D.C. Circuit in 2002: that releasing the memos he wrote in the SG's office would chill much-needed candor. … Beyond the posturing and politics of the dispute, however, some question how valuable the documents would be, asserting that the tussle results from a gross misunderstanding of the job Roberts held under Solicitor General Kenneth Starr during the first Bush administration."

Judiciary Committee Ready For Nomination Star Turn. The Legal Times (9/5, Goldman) reports, "This week's Supreme Court confirmation hearings promise to be as theatrical as Congress gets. But the telegenic John Roberts Jr. will, in some respects, be a supporting actor, sharing the stage with 18 senators who view the hearings as their own star vehicle." The Times continues, "More than simply trying to pin down the elusive Roberts on his jurisprudence, the Senate Judiciary Committee's 10 Republicans and eight Democrats will be putting their own ambitions and agendas on display." The Times adds, "Rival Democrats will be trying to electrify their party base by showing who can be the toughest on the nominee, while Republicans will be seeking to burnish their own national credentials, competing to place Roberts' more controversial statements in the most benign light. … It is a committee of extremes — both liberal and conservative — and, even by Senate standards, of powerful egos. Six members have either run for president or are contemplating a bid (or in Delaware Democrat Joseph Biden Jr.'s case, another bid) in the 2008 election. … And there's another dynamic at play: A Supreme Court confirmation gives Congress a rare chance to tell the Court what it thinks about its co-equal branch."

Specter Profiled. U.S. News and World Report (9/12, Samuel) profiles Senate Judiciary Committee Chairman Arlen Specter, reporting, "It is hard to know what to expect from Arlen Specter. Which is why it will be so fascinating to watch him this week as he chairs the Judiciary Committee's hearings on Supreme Court nominee John G. Roberts."

White House Says Bush Always Had Roberts In Mind For Chief Justice. The Washington Post (9/6, A1, Baker) reports that after Bush's announcement, "there was no indication" that Roberts' nomination "faces any significant threat." Bush, adds the Post, "always had Roberts in mind for the next chief justice, aides said yesterday." Roberts "was first secretly interviewed for a Supreme Court slot in April in anticipation that the cancer-stricken Rehnquist would retire or die. When O'Connor surprised the White House by announcing her retirement in July and Rehnquist declared that he was not stepping down, Bush decided to appoint Roberts to O'Connor's seat. Even then, aides said yesterday that the president intended to elevate Roberts to chief justice whenever the job came open. 'This had been something in the back of the president's mind in case such a scenario came into being, if the chief justice had retired,' said White House press secretary Scott McClellan. 'The president, when he met with [Roberts], knew he was a natural-born leader.'"

Columnist E.J. Dionne writes in the Washington Post (9/6, A25), "Why did President Bush pull such a quick switch yesterday and name Judge John Roberts to be chief justice of the United States? There are several theories, but here's the most sensible: Bush had always planned to make Roberts chief someday. … Roberts's combination of a conciliatory personality with firmly conservative convictions made him the perfect choice to lead the judicial revolution Bush would like to unleash. Successful chief justices need to be good politicians, and Roberts's political gifts were much in evidence this summer as he seemed to be charming his way toward relatively easy Senate approval."

Motivation Behind Bush's "Safe" Choice Examined. Some reports in today's newspapers attribute Bush's choice of Roberts, a "safe" candidate, to what they saw as his weakened political standing. The Wall Street Journal (9/6, Cummings, Bravin), for example, reports this morning, "At a time of increasing political weakness, President Bush tapped John Roberts as his nominee for chief justice, choosing to

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avoid -- or at least delay -- a fresh ideological battle over the Supreme Court." The New York Times (9/6, Stevenson) also says that with his choice, Bush "avoided the fiery ideological fight that would have been ignited had he chosen to elevate Justice Antonin Scalia, a favorite of many conservatives, or turned to a sitting federal judge with a clearer and more extensive conservative record of opinions on social issues than Judge Roberts has." The theme was echoed by Democratic Sen. Charles E. Schumer, who "said there were signs that Mr. Bush was pulling his ideological punches because of political weakness. 'If he had been in a stronger position, he would have nominated Scalia as chief justice,' Mr. Schumer said."

Likewise, the Christian Science Monitor (9/6, Richey, Chaddock) says "Bush is seeking to avoid a Senate showdown," while the AP (9/6, Fournier) added "Bush chose the path of least resistance," acting "with unusual haste as the war in Iraq and Hurricane Katrina sap his political strength." Roberts "was the safest choice Bush could make."

In an analysis piece, USA Today (9/6, Biskupic) says "a key question in the coming weeks will be whether the White House…now has the appetite for a knock-down, drag-out fight over a Supreme Court nomination."

Comparing Roberts to Scalia, the Washington Post (9/6, A3, Lane) says Bush's nominee is "not only younger" but "also mellower." He is also known "for his astute political judgments in the Reagan administration and his cordial personal relations with many liberal attorneys."

Focus Turns To O'Connor Replacement. With Bush's decision to nominate Judge Roberts to be chief justice, attention quickly focused on who the President will nominate to replace Justice Sandra Day O'Connor. The Financial Times (9/6, Waldmeir) reports this morning Bush said "he would choose a nominee 'in a timely fashion', and a White House spokesman said he called Justice O'Connor from Air Force One to discuss the decision." The Washington Post (9/6, A6, Becker) adds that "with conservatives and liberals alike saying that Roberts is on track to be confirmed, the focus was already shifting to what both sides believe will be the real battle: Bush's yet-to-be-named pick to replace…O'Connor." O'Connor's seat "is critical because she often provided a swing vote on such controversial issues as affirmative action, abortion and prayer in public places."

USA Today (9/6, Memmott) reports "a relatively quiet debate among interest groups is expected to become the more bitter, multimillion-dollar slugfest opposing sides have long anticipated. 'Watch for World War III,' conservative lawyer John Hinderaker wrote Monday on Power Line, his widely read Web log, or blog." Interest groups "plan to ramp up their rhetoric, TV ad campaigns and grass-roots lobbying even though Chief Justice William Rehnquist's death may not fundamentally change the court."

The CBS Evening News (9/5, story 5, 1:45, Andrews) reported, "The guessing is that the Democrats believe the President, because he's in trouble over Katrina, will be under pressure to name a centrist. Conservatives will push hard for a hard-line conservative." The Los Angeles Times (9/6, Savage, Weinstein) says that if the President chooses Attorney General Alberto R. Gonzales or Judge Edith Brown Clement "from the federal appellate court in New Orleans, the change may not tip the balance of the court to the right. Both are seen as moderate conservatives, somewhat akin to O'Connor." But Bush "could select a nominee with more conservative credentials, such as Judges J. Michael Luttig and J. Harvie Wilkinson of Virginia, Edith H. Jones of Texas or Janice Rogers Brown, the former California Supreme Court justice who was confirmed this summer to the U.S. Court of Appeals in Washington. Any of those nominations would set off a political battle in the Senate." Bush also could turn to Judges Emilio Garza or Priscilla R. Owen, "both Texas conservatives, or to Larry D. Thompson, a former deputy attorney general who is highly regarded by Bush insiders and now serves as general counsel to Pepsico."

ABC World News Tonight (9/5, story 6, 2:45, Moran) reported, "As he considers his options this time, Mr. Bush faces new political considerations." Former White House counsel Brad Berenson: "There's even more pressure now than there was back in July to pick a woman or a minority, for the simple reason this is the President's second at-bat and he chose a white man the first time around."

NBC Nightly News (9/5, story 5, 1:55, P. Williams) reported, "In announcing her plans in July, O'Connor said she'd stay on the court until her successor is confirmed. But with her replacement likely to come soon after the term starts, O'Connor's return would be largely symbolic." Fox News' Special Report (9/5) said the White House "expects that Sandra Day O'Connor will be on the Supreme Court when it starts the fall section in October and want Robbers in the chief chair. If there is a delay, the most senior judge would have to fill in. He is 30-year court veteran and liberal justice, John Paul Stevens."

The Wall Street Journal (9/6, Cummings, Bravin) says that "pleasing" the GOP conservative base "would risk alienating moderate voters already cooling to Republicans ahead of the 2006 mid-term elections. … Nodding to those sensitivities, the president could name his friend from Texas, Attorney General Alberto Gonzales, to fill the slot."

USA Today (9/6, Kiely) quotes Senate Minority Leader Harry Reid saying, "Justice O'Connor has been a voice of moderation and reason on the court and should be replaced by someone… like her."

The AP (9/6, Hunt) refers to Bush's "historic opportunity to reshape the Supreme Court," while the Dallas Morning News (9/6, Jackson) adds "the eventual nominee, and perhaps Judge Roberts, may be more vulnerable to

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opposition because of Mr. Bush's weakened political state, analysts said, citing the Iraq war and criticism of the federal response to Hurricane Katrina."

The Washington Times (9/6, Sammon) also says "O'Connor, who had not seen Mr. Bush's televised announcement minutes earlier, reaffirmed her willingness to remain on the court until a successor is nominated and confirmed, said White House spokeswoman Dana Perino." Bush "is not expected to nominate another justice until Judge Roberts is confirmed."

Knight Ridder (9/6) adds O'Connor "may be expected to return to the bench while confirmation proceedings take place." But "that raises further complications: She can't hear cases in October or November and then have her successor vote on them when they're decided in January or later." The Los Angeles Times (9/6, Savage) makes the same point in a story headlined "O'Connor's Staying On Might Tie Up The Court."

Professor Says Ethics Questions About Roberts Are Unfounded. In a piece based on an ethics opinion he wrote at the request of Senate Judiciary Committee Chairman Arlen Specter, Ronald D. Rotunda, a law professor at George Mason University, writes in the Washington Post (9/6, A25), "Does John Roberts have an ethics problem? Three ethics professors argue that Roberts, whom President Bush has just nominated to be chief justice, should have disqualified himself from a case he helped decide earlier this year while serving as a judge on the U.S. Court of Appeals for the D.C. Circuit. The case, Hamdan v. Rumsfeld, which concerns a key issue in the administration's war on terrorism, may be headed for the Supreme Court, and at the time of the appeals court ruling, Roberts was being considered for a vacancy on the high court, though it did not yet exist.' The professors say that "in not disqualifying himself, Roberts violated the 'appearance of impartiality.'" Rotunda adds, "Judges are offered other jobs all the time. A Supreme Court justice may become chief justice, or, like Justice Arthur Goldberg, U.S. ambassador to the United Nations. Appeals court judges may become Cabinet officers. Trial judges may become appellate judges. … Do we really want to give the president or attorney general the power to force recusal of one or more judges on a panel simply by asking the judge if he might be interested in a different position that is not yet open but that eventually will be? … Conflict-of-interest charges should not be raised lightly, and historical precedents and case law show the allegations against Roberts are unfounded."

More Commentary. The Wall Street Journal (9/6) editorializes that elevating Roberts to Chief "was a logical decision, both politically and on the merits. The Senate and media have been investigating the nominee since July, and have found superlatives with nary a negative. The Judge is in a position to be rapidly confirmed and ready to preside by the time the High Court begins its new term on October 3." The Journal adds, "More importantly, what we have learned about Judge Roberts suggests that he shares Chief Justice Rehnquist's judicial philosophy. If Mr. Bush now follows with the nomination of an equally distinguished conservative for the Court's second opening, the Roberts Court will be able to continue the legal restoration that the late Chief Rehnquist began but was never able to finish."

The New York Times (9/6) writes in an editorial, "If Mr. Bush thought Mr. Roberts had already impressed both the public and the Senate with his intelligence and sincerity, he figured correctly." But "if he regards the judge as a known commodity whose confirmation should be a shoo-in, he is wrong. The Senate did not have enough information to make an informed judgment about Mr. Roberts when he was the nominee for just one of the nine seats on the court. Now it simply becomes more important than ever that he be questioned thoroughly about his views."

In its editorial, the Washington Post (9/6) says, "Before nominating Judge Roberts, Mr. Bush consulted widely and emerged with a candidate Senate Democrats have -- by and large, anyway -- treated with respect. As he once again considers a nominee to replace Justice O'Connor, Mr. Bush would do a public service by consulting widely and meaningfully."

USA Today (9/6) editorializes that "as impressive as Roberts has appeared, the most important question about him remains largely unanswered: How would a Chief Justice Roberts affect the country? As the youngest chief justice since 1801, Roberts, 50, would be a potent influence on society for a generation or more." USA Today adds, "Much will be made at the hearings of the doctrine that Roberts should not be asked to say how he might rule in cases coming before the Supreme Court." But "that should not deter senators from demanding to know how he views issues more generally and cases already decided -- and the standards he would use to overturn settled law. To suggest that the Senate should simply ignore the impact Roberts would have on constituents is to suggest that it stick its collective head in the sand."

The Los Angeles Times (9/6) says in an editorial Bush "has wisely nominated John G. Roberts Jr….to become the next chief justice. It's a smart move. Roberts has the intellect and temperament to lead the court and the federal judiciary," and selecting a newcomer "tends to preserve good relations among the nine justices. The elevation of either Scalia or Thomas would have proven highly contentious and divisive in Washington, and maybe even on the court." The Times states, "In their questioning of Roberts, senators should focus special attention on his views on the proper deference that courts owe the executive branch in a time of war. … The extent of presidential power in the war on terror is likely to loom large in the Supreme Court docket for years, and it's a

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subject that Roberts, a former White House lawyer, should be asked to address in his hearings." As for the new opening on the court, the Times argues that Alberto Gonzales "should be disqualified…for encouraging the administration to disregard international law in conducting the war on terror."

Randy E. Barnett, an author and law professor, writes in the Wall Street Journal (9/6), "As the president now decides who next to nominate, he would uphold the Constitution by selecting a person with a firm and demonstrated commitment to the Rehnquist Court's New Federalism legacy. Only such a choice would continue the movement to restore the 'first principles' of constitutionally limited government that William Rehnquist affirmed so eloquently."

Laurence H. Tribe, a professor of constitutional law at Harvard, writes in today's New York Times (9/6), "Rehnquist's goal of weakening the checks on presidential power happily met decisive opposition within the court, although I worry that the seeds he planted to that end might yet bear dangerous fruit. No pleasure in argument could overcome my sadness at the Supreme Court's performance in the 2000 election, or my disappointment at how far the chief justice succeeded in his goals of lowering the wall of separation between church and state, shrinking Congress's power and reducing the protections accorded the mostly poor people of color who are suspected or accused of crime."

House GOP Divided Over Social Security Reform Strategy. The Washington Times (9/5, Fagan) reports, "House Republican leaders, who weeks ago pledged to take the lead on Social Security, still say they will act this fall, but the party remains divided, as some of their members push for a personal accounts bill, some want a broader package and others don't want to act at all." House Ways and Means Committee Chairman Bill Thomas "has insisted on his broad retirement package, which emphasizes pension reform and private savings. It is expected to include a Social Security proposal, introduced by Republican Reps. Jim McCrery of Louisiana and E. Clay Shaw Jr. of Florida, that would use the system's surplus to create voluntary private accounts. Some Republicans and outside advocates would like a vote on the McCrery-Shaw bill by itself, and a few last week said House leaders have decided unofficially to do that." However House Majority Leader Tom DeLay said, "If it's done, it will be done as part of the retirement security package."

Cheney Reportedly Purchasing Home Near Rumsfeld's. The Washington Post (9/5, B1, Morse) reports, "They've grown used to having a secretary of defense in their midst. … Now, residents of this Eastern Shore retreat [St. Michaels, MD] are preparing for someone even bigger to buy a house down the road: the vice president. Whether it's true -- that Dick and Lynne Cheney are buying an estate here -- could not be confirmed. Those closest to the deal -- Cheney's office, the purported sellers, the listing agent -- aren't talking."

With New Judges, DC Circuit Gears Up For Full Judicial Slate. The Legal Times (9/5, Henning) reports, "The federal appeals court in Washington, where oral arguments resume this week after a nearly three-month summer hiatus, is facing a season of change." The Times continues, "The departure of Judge John Roberts Jr. to Capitol Hill for hearings on his nomination to the Supreme Court and the arrival of Janice Rogers Brown and Thomas Griffith on the circuit court's bench resulted in a reshuffling of panels and argument dates for the fall." The Times adds, "Lawyers with upcoming cases before the U.S. Court of Appeals for the D.C. Circuit say they've received oral argument dates later than usual. As of late last week, the court had posted its calendar through the end of October. … The court's argument calendar, which continues to take shape, opens with the pleas of Guantánamo Bay prisoners. Over the next two months the court will also hear cases involving immunity and liability for public officials such as police officers and will revisit long-running litigation that pits states and interest groups against the federal government."

The Legal Times (9/5, Henning) reports, "Nothing says welcome to Washington to a new judge like a case full of acronyms that only wonkish Beltway dwellers can appreciate. … That's how Janice Rogers Brown and Thomas Griffith will be initiated into the complex but largely nonideological work of refereeing federal agencies on the U.S. Court of Appeals for the D.C. Circuit." The Times continues, "Before Brown this month will be a dispute over a plan that would create a hunting season for the trumpeter swan, and Griffith will hear an appeal involving the Federal Motor Carrier Safety Administration. … But in other cases, the judges could have the opportunity to place a personal stamp." The Times notes, "In Gregory Thomas v. George Washington University, Brown will hear the case of a man with a paralyzed leg who is appealing a lower court decision that threw out a favorable jury verdict. Gregory Thomas, a medical resident at GW who lost his position, sued the university for race and disability discrimination. The school claims his performance was poor and that he has an impairment, as opposed to a disability covered by the Americans With Disabilities Act."

Report Criticizes Education Department PR Grants. USA Today (9/6, 7D, Toppo) reports, "Federal investigators probing the Education Department's public relations contracts have found a pattern of deals in which advocacy organizations received grants totaling nearly $4.7

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million to promote Bush administration education priorities in newspaper columns and brochures, but didn't disclose that they received taxpayer funds, as required by law." USED Inspector General John Higgins recommended that "the department needs to do a better job monitoring how millions of dollars in grants are spent." U.S. Secretary of Education Margaret Spelling "agreed with most of the investigators' findings."

OTHER NEWS:

No Gasoline Supply Disruptions Over Labor Day As Price Reaches New High. The New York Times (9/6, Bajaj) reports as Americans "began heading home from the Labor Day weekend, gasoline stations today continued to report spot shortages, but the country appeared, at least as of this afternoon, to have avoided the massive supply problems that some had feared." Officials said they "continued to make progress in resuming the production and distribution of gasoline and other fuels, which was severely disrupted by Hurricane Katrina last week. But they noted that most refineries and oil production in and along the Gulf of Mexico remained shut down for the seventh day in a row."

USA Today (9/6, Woodyard) reports the national average price for gasoline "crossed the $3-a-gallon mark for the first time Monday in the latest AAA survey, tying the record for highest ever on an inflation-adjusted basis." Although motorists "in hurricane-whipped areas along the Gulf of Mexico faced gas lines, some resorts across the nation reported strong Labor Day crowds despite soaring fuel prices." A gallon "of regular-grade gas hit $3.057 a gallon Monday, up 19 cents from $2.867 earlier in the weekend, the AAA said. On an inflation-adjusted basis, that's equal to the peak of $1.417 set in March 1981."

The New York Times (9/6, Bajaj, Pérez-Peña) reports analysts and industry executives "warned that fuel prices were likely to remain high and that the nation's oil supply system might not return to normal operations for several weeks, perhaps longer." Even as the Federal Government "and other nations started releasing crude oil and gasoline into a thirsting world market and pipelines resumed sending supplies from the Gulf Coast, specialists said there were few quick fixes for the biggest remaining bottleneck: refining." As many as "four refineries, processing about 4 percent of the nation's oil supplies, might stay out of service for weeks or months. Of the remaining six refineries that shut down last week because of Hurricane Katrina, several were starting to resume production over the long weekend, but it will take them several days to get back to full speed."

States Move To Cut Gasoline Excise Taxes. The Wall Street Journal (9/6, Matthews) reports that to "soften the blow of higher fuel prices and disrupted supplies, the federal government took steps to increase the supply of diesel fuel as some states moved to suspend gasoline excise taxes." The Internal Revenue Service "said it will temporarily allow all vehicles, including commercial trucks, to use dyed diesel fuel without being subject to a penalty. Dyed diesel usually is restricted to farming and government activities that aren't subject to excise taxes. Under the IRS easing, the usual diesel tax still will be owed when dyed diesel is used in nonexempt ways, but an additional penalty will be waived. California and Michigan also lifted state penalties on the use of dyed diesel fuel." States that suspend gas taxes "stand to lose millions of dollars in revenues that are usually used for road and other highway projects. Even states that don't suspend gas taxes could see revenues drop if drivers cut back on gas purchases due to rising pump prices."

NYTimes Criticizes Bush For Long-Term Handling Of Gasoline Demand. The New York Times (9/6) says in an editorial, "The ability of the Gulf Coast's many refineries to turn the oil into gasoline has been devastated, as has the ability to transport the gasoline that does become available. Those supply bottlenecks are chiefly responsible for this past week's higher prices at the pump. President Bush's immediate response is to lend oil from the government's Strategic Petroleum Reserve to refineries and to streamline the refining process by temporarily relaxing environmental standards - sound stopgap measures to help ensure a steady supply of gasoline. The International Energy Agency, whose members are 26 rich nations, has also made a big contribution, pledging on Friday to supply world markets with an additional 60 million barrels of oil and gasoline over the next 30 days, half of which would come from the United States' emergency stockpiles." But it "would be wrong to think - and act - as if this crisis is fundamentally a supply shock. Rather, it is a supply shock on top of blatantly excessive demand. The near-term responses from Mr. Bush and the international agency, welcome as they are, will not solve the larger problems laid bare by Katrina. Worse, Mr. Bush's record on energy issues does not suggest that he is up to that task."

US Economy Seen As Demonstrating Resilience In Wake Of Katrina. The Wall Street Journal (9/6, A1, Hilsenrath, lp) reports in a front page story that the US economy's "shock absorbers kicked in within days of one of the worst natural disasters in its history, offering hope that the massive jolt to the country's energy and transportation systems won't produce a long-lived, serious economic contraction." The "release of emergency oil and gasoline from global stockpiles, created in the 1970s to counter supply interruptions, sent crude-oil prices down to about pre-hurricane levels in European trading." Long-term interest rates "fell despite the prospect of higher inflation,

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cushioning home buyers and businesses. Temporary-help agencies began to place some workers displaced by the storm. New Orleans's main newspaper, the Times-Picayune, kept publishing on the Internet when printing on paper was impossible. Computerized logistics enabled railroad CSX Corp. to reroute freight normally exchanged with Western railroads at New Orleans to be sent north." Hurricane Katrina is "the biggest test in years of the economy's resilience. But recent history offers encouraging, though by no means definitive evidence of the U.S. economy's ability to bounce back from shocks. Economic growth has become significantly less volatile during the past two decades, a trend some economists dub 'the Great Moderation.'"

USA Today (9/6, Jones) reports "dozens of Southern cities from Baton Rouge to Pensacola are coping with a displaced populace numbering in the hundreds of thousands and awaiting the spillover of billions of dollars in disaster aid." Natural disasters "whipsaw local economies as they move from devastation and into rebuilding. That's nothing new. But this time, the disaster was a coiled snake that has lashed out at the nation." Katrina and "the flooding triggered by levee failures will have a total economic cost of $100 billion, Risk Management Solutions, a catastrophe-risk-modeling firm, said Friday. Most of the damage done by the levee break is likely not insured. Still, bond-rating company Fitch said Friday that the insured portion of losses could go above $25 billion, surpassing the Sept. 11 terror attack ($20.1 billion in 2004 dollars) and Hurricane Andrew ($20.5 billion) as the largest insured loss in history."

With Port Of New Orleans Out Of Service, Farmers Face Shipping Problems. ABC World News Tonight (9/5, story 14, 2:20, Gibson) reported, "It is now a week to the day after Katrina hit. And shipping along the Mississippi River and its tributaries is still at a standstill. $100 billion in goods move up and down the Mississippi every year. That's 25% of all US exports. And 17% of all imports. The storm hit one region. Its economic impact is affecting all regions." ABC (Reynolds) added, "From St. Paul to St. Louis and all along the big river, they sit on the water with no place to go. The corn, coal, steel or lumber that fuels the nation's commerce -- all stalled." Most "of the nation's industrial imports, such as steel, plywood and rubber, comes through the Port of New Orleans. And more than half of the nation's grain goes out through the port." It's "too soon to say how consumers will fare overall. But commodities like coffee and sugar in addition to gasoline, are expected to become more expensive."

The Wall Street Journal (9/6, Fialka) reports "Midwest farm interests represented by Republicans like" House Speaker Dennis Hastert and Rep. Roy Blunt "have a major stake in reconstructing New Orleans. Another port -- Gulfport, Miss. -- is crucial to Southern poultry interests, but New Orleans has a wider regional reach, handling 71% of corn and 65% of soybean exports last year." The disruptions "have hit Midwest farmers at a difficult time. Storage facilities already are strained from big crops last year, and commodity prices have been falling amid efforts to empty grain elevators in time for new crops. If sales can't be completed, there is a risk of grain being stored outside, thereby reducing its value and the return to the farmer." With "rising energy and fertilizer prices and a summer drought in the eastern Midwest, including Speaker Hastert's Illinois district, there are sure to be demands for expanded agriculture assistance as part of any disaster package."

States Reporting Increase In Unemployment Applications. USA Today (9/6, Armour) reports thousands of employees "are finding themselves suddenly without paychecks after Hurricane Katrina. Some are rushing to get state aid while others are looking for new jobs." Some states are "reporting an increase in residents requesting benefits." In Louisiana, those "who are not getting paid because of the hurricane can file for disaster unemployment assistance or unemployment benefits, says Ed Pratt, a spokesman with the Louisiana Department of Labor. They are eligible for up to $256 a week." Mississippi workers "are eligible for unemployment or disaster unemployment assistance of up to $210 a week," and Alabama residents "are eligible for unemployment or disaster assistance and can apply through call centers. They can get up to $220 a week."

WPost Calls Economic Recovery "Lagging And Uneven." The Washington Post (9/6, A24) editorializes, "The Census Bureau's annual report on income, poverty and health insurance in the United States" underscores "the lagging and uneven nature of the economic recovery since the 2001 recession. According to the new data, 4 million more people were living in poverty in 2004 than in 2001, and 4.6 million more people lacked health insurance." In addition, the "percentage of people with employer-based health insurance fell for the fourth year in a row," and "it's not at all certain that states will be willing or able to maintain coverage for working Americans hovering at the edge of poverty. In the wake of this data and the devastation caused by Hurricane Katrina, Senate Majority Leader Bill Frist…was wise to postpone this week's planned vote to repeal the estate tax. Lawmakers need to remember in the weeks to come that this is an economic recovery that continues to leave too many Americans behind."

Russia Opposes Reporting Iran To Security Council. The Financial Times (9/6, Wagstyl, Khalaf) reports that Russia yesterday ruled out an early decision to report Iran to the Security Council. A senior Kremlin official "said Iran had not violated the rules of the nuclear non-proliferation treaty. Its nuclear programme, he said, should continue to be dealt with at the governing board of the Vienna-based International Atomic Energy Agency, the UN's

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nuclear watchdog, without involving the Security Council." The Times notes that the move "undermines US and European efforts to build international consensus for a diplomatic reprimand this month."

Iran appears to be changing tactics in an effort to minimize the risk of UN Security Council action over its nuclear program, reports the Christian Science Monitor (9/6, Peterson). The Monitor says the Security Council "which in turn is undermining the carrot-and-stick approach used by the EU and Washington in recent years to convince Iran to end all nuclear efforts." Gary Samore, a nonproliferation official during the Clinton administration and vice president of the MacArthur Foundation in Chicago, said high oil prices "may give Tehran confidence that the council would not jeopardize the flow of Iran's petroleum into the market. ... Other factors include American preoccupation with Iraq, and the decisive victory of Mr. Ahmadinejad at the polls last June."

Palestinian Forces Get First Look At Abandoned Jewish Settlements. Palestinian security forces on Monday toured Jewish settlements razed during Israel's withdrawal from Gaza. USA Today (9/6) reports that the tour "of the settlements in southern Gaza by Palestinian commanders and Israeli military officials was the first time Palestinian officials had been allowed into the communities. Israel removed all 8,500 settlers from Gaza last month."

Egypt Vows To Help Make Gaza Foundation Of Palestinian State. Meanwhile, in an interview with the Washington Times (9/6, Phillips) Egyptian Prime Minister Ahmed Nazif "pledged to help make the Gaza Strip the foundation of a Palestinian state 'in every sense' and urged other countries to join Cairo in the push for Middle East peace. 'If we want Gaza to be the basis for a new Palestinian state long term, we have to provide [the residents] with homes and jobs, with security,' Mr. Nazif told The Washington Times. … Mr. Nazif said Cairo will make sure that Gaza has access to the outside world through Egyptian seaports and airports 'to prevent the strip of territory being a prison' for its residents."

Recent Elections Reverse Gains By Radical Islamists In Pakistan. In what the Christian Science Monitor (9/6, Khan) calls a "surprising blow to religious extremists" in Pakistan, voters in recent elections "reversed the gains made by radical Islamists who came to power in two out of the country's four provinces in 2002. They had played a strong opposition role in the federal parliament and posed a formidable challenge to President Pervez Musharraf's vow to bring 'enlightened moderation' to Pakistani society." The Monitor adds, "The unexpected defeat of the Islamists came in the North Western Frontier Province (NWFP), which neighbors Afghanistan. The province had been ruled since 2002 by the Muttahida Majlis-e-Amal (MMA), an umbrella group of six religious parties, including the vanguard radical party Jamaat-e-Islami."

India May Remove Troops From Kashmir. Indian Prime Minister Manmohan Singh's office said yesterday that India will pull troops back from Kashmir if militant infiltration and violence ends. The New York Times (9/6, Sengupta) reports that the announcement came "after a rare meeting with Kashmiri separatists."

Presence Of Hindu Militants In Kashmir Indicates Insurgency May Not Be Only Religious. The Washington Times (9/6, Rahman) reports the "killing last month of a Hindu militant and the arrests of two others are raising doubts about the government's assertion that the bloody insurgency in Kashmir is being fought simply in the interests of Islamic militancy." Indian forces "killed Uttam Singh, 23, and three Muslim jihadis on Aug. 19. The night-long gunbattle came during an attempt by a group of militants to kill or abduct an Indian Muslim soldier from his house in the border region of Kashmir." Police "later discovered that Mr. Singh, alias Saifullah, was one of two Hindu sector commanders in Hizbul-Kashmir, a rebel group that seeks to include all of Kashmir in Pakistan." A senior officer "at the Defense Ministry in New Delhi subsequently acknowledged that four other Hindu militants had been killed fighting alongside the Kashmiri jihadis in the past three years. However, he would not accept the notion they might have been willing combatants."

Lebanese President Faces Growing Pressure To Resign. Lebanon's President Emile Lahoud is facing growing pressure to resign. The New York Times (9/6, Fattah) reports that Lahoud "has clung to office even as his Syrian backers have been forced to withdraw from the country. … He keeps a low profile, rarely making public appearances or giving interviews. But as hard as he may try to remain out of sight, he has been on many minds here in recent days, as Lebanese have taken to predicting his imminent political demise." The Times adds "In a defiant statement last week, Mr. Lahoud insisted that he intended to complete his term in office, which ends in 2007. 'I will continue to fulfill my responsibilities to safeguard the Constitution, Lebanese laws and the integrity of Lebanese territory,' the statement said."

Business Groups Warn Doha Round Of Trade Talks On Verge Of Failure. A statement from a group of six business associations, including the US Business Roundtable, warns that the Doha round of global trade talks may be "on the verge of failure." The Financial Times (9/6, Beattie) reports that the statement "says delay in the

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agricultural talks is holding up progress in goods and services liberalisation, which is economically far more significant. … The warning comes as the WTO returns to work after its summer break, with four months remaining before December's ministerial meeting in Hong Kong. Progress in the talks has been slow. … Without a significant breakthrough in the agricultural talks and, particularly, a commitment from the EU and US to cut farm tariffs rather than the lesser goal of ending export subsidies, the big emerging markets such as India and Brazil are unlikely to agree radical liberalisation of their goods and services markets."

China, EU Reach Deal On Textiles. China and the European Commission reached an agreement Monday to end their dispute over the importation of cheap Chinese textiles. The Financial Times (9/6, Hall, Parker) reports, "After marathon talks in Beijing stretching into the early hours of Monday morning, Peter Mandelson, EU trade commissioner, and Bo Xilai, his Chinese counterpart, agreed to release Chinese garments impounded at Europe's ports 'as soon as possible.' Mr Mandelson said the two sides had agreed to 'sensible, reasonable, burden-sharing' regarding the fate of 77m Chinese sweaters, trousers and bras impounded at the EU's borders. The Commission proposes to wave through half of the impounded garments. China accepted that the rest would be deducted either from its 2006 textile quota, or switched to other unfilled-quota categories."

The Wall Street Journal (9/6, Browne, Bianchi, von Reppert-Bismarck, Champion) reports, "Both sides hailed the textile accord, which still needs the approval of EU member countries, as a fair compromise. … EU officials and diplomats expect European governments to approve the agreement today."

Chinese Oil Company Moves To Sell Kazakhstan Acquisition. The Wall Street Journal (9/6, Singer, Chazan) reports, "China National Petroleum Corp., which last month triumphed in a bidding war to buy a strategically important oil company with operations in neighboring Kazakhstan, is in talks to sell as much as half of the $4.18 billion acquisition to Kazakhstan's state-owned oil firm even before the first deal is closed, according to people familiar with the matter. A deal by CNPC, as China National Petroleum is called, to sell a 33% to 50% stake in PetroKazakhstan Inc., a Canadian company with operations in the oil-rich central-Asian state, to KazMunaiGaz, the state-owned oil company, is expected to be sealed in the next few weeks, these people said. The price tag on such a deal with KMG, as the state firm is known, wasn't clear."

Columnist Says Bush, Hu Have Urgent Issues To Discuss. George Melloan writes in his Wall Street Journal column (9/6), "The Katrina disaster offered the White House a plausible reason to postpone tomorrow's planned visit from Chinese President Hu Jintao, but the delay was unfortunate. President George W. Bush needs to discuss some important issues with Mr. Hu." Bush 'and Mr. Hu need to come to a better understanding, setting aside spurious issues and dwelling on ways the two countries can cooperate to keep China on the course it desires, to become a 'modernized, medium-level developed country.' Mr. Bush can offer wise counsel: To do that, it will have to become more democratic."

Ukrainian Official Resigns To Protest Alleged Corruption. A top aide to Ukrainian President Viktor Yuschenko said yester day he has resigned from the government because of corruption allegations around Yushchenko. The Washington Times/AP (9/6, Lisova) reports that Oleksandr Zinchenko, who resigned Saturday, was a chief organizer of the "Orange Revolution" protests. He said "the situation had grown 'even worse' than under former President Leonid Kuchma."

Report Says Chernobyl Caused Less Harm Than Anticipated. A new report has found that the after effects of the accident at Chernobyl nuclear power plant 20 years ago have proved less dire than predicted. The New York Times (9/6) says the report, which was prepared by a panel of more than 100 experts convened by United Nations agencies, "says huge compensation programs for people in the Chernobyl region have become 'a major barrier to the region's recovery,' both by creating a culture of dependency and by soaking up a high percentage of the region's resources. It recommends that the compensation programs be cut back."

The Washington Post (9/6, A22, Finn) adds that the report says the governments of Ukraine, Belarus and Russia, "the three countries most affected by radioactive fallout from Chernobyl, should strive to end the 'paralyzing fatalism' of tens of thousands of their citizens who wrongly believe they are still at risk of an early death." The 600-page report "found that as of the middle of this year, the accident had caused fewer than 50 deaths directly attributable to radiation, most of them among emergency workers who died in the first months after the accident."

The Wall Street Journal (9/6, Fialka) reports, "The 600-page report said that almost 99% of children diagnosed with thyroid cancer after the incident survived. It found 'no convincing evidence' that the incidence of leukemia rose among the population exposed to radiation in Russia and Ukraine."

Indonesian Plane Crash Kills At Least 147. ABC World News Tonight (9/5, story 15, :25, Gibson) reported, "A Boeing 737, taking off in Indonesia, shook violently, jerked to the left, and smashed into a row of houses on a busy street.

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At least 147 people died, many of them on the ground. Miraculously, as many as 16 passengers aboard the jet survived, including an 18-month-old child, wrapped in his mother's arms. She survived, as well."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH —Makes a statement on efforts to assist students and school districts displaced by the hurricane, Rose Garden; 10 a.m. Meets with Cabinet, Cabinet Room; 11:15 a.m. Meets with representatives from National Voluntary and Charitable Organizations, Roosevelt Room.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: FLOOR SCHEDULE _ 12 p.m. Meets for morning business. At 2:15 p.m., considers the cloture motion on S.147 - Native Hawaiian Government Reorganization bill.

1:30 p.m. JUDICIARY _ Full Committee. Hearings begin on the nomination of Judge John G. Roberts, Jr., for the Supreme Court. Ten-minute opening statements by committee members will be followed by the oath to be taken by Judge Roberts and his opening statement. Location: Caucus Room, Room 325, Russell.

2:30 p.m. ENERGY AND NATURAL RESOURCES _ Full Committee. Hearing to examine gasoline prices and factors contributing to current high prices such as global oil demand, constraints on refinery capacity, and increased speculation in the futures market. Energy Information Administration Administrator Guy Caruso, Commodity Futures Trading Commission Chief Economist James Overdahl, Johnnie Burton of the Interior Department, Robert Darbelnet of AAA, Bob Slaughter of the National Petrochemical and Refiners Association, oil analyst John Dowd, of New York, others. Location: Room 106, Dirksen.

US House: FLOOR SCHEDULE _ 2 p.m. The House meets for legislative business. Votes will be postponed until 6:30 p.m. Highlights: Suspensions (2 bills): 1) H.Res. 360 - Commemorating the 60th anniversary of V-J Day and the end of World War II in the Pacific. 2) S.J.Res. 19 - A joint resolution calling upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act.

5 p.m. RULES _ Full Committee. Meeting on rules for floor debate. Location: Room H-313, Capitol.

Other: CHINESE PRESIDENT HU JINTAO _ Highlights: Evening. Arrives at Andrews AFB.

TERRORISM SUMMIT _ The New America Foundation sponsors a forum on America's approach to countering terrorism, ``Terrorism, Security, and America's Purpose: Towards a More Comprehensive Strategy." Highlights: 8:15 a.m. Steven Clemons, New America Foundation. 9 a.m. Welcoming remarks, James Fallows, Atlantic Monthly, and chairman of the board, New America Foundation; Stephen Heintz, president, Rockefeller Brothers Fund. 9:15 a.m. Rep. Jane Harman, D-Calilf., ranking member, Permanent Select Committee on Intelligence; George Soros, chairman, Soros Fund Management, and chairman, Open Society Institute; Mitchell Reiss, former director of policy planning, State Department, and vice provost, College of William & Mary; James Steinberg, Brookings Institution, former deputy national security advisor to the President; Rita Hauser, International Peace Academy, and RAND Corp.; Roger Cressey, former director, transnational threats, National Security Council, and president, Good Harbor Consulting LLC; moderator David Ensor, CNN. 10:30 a.m. Sen. Joseph Biden, D-Del., ranking member, Committee on Foreign Relations. 11 a.m. Robert Pape, University of Chicago, author; Nir Rosen, author, New America Foundation; Yosri Fonda, Al-Jazeera; Andrew Kohut, Pew Research Center for People and the Press; Michael Lind, New America Foundation, author; moderator Robert Kuttner, The American Prospect. 12:15 p.m. Jon Huntsman, Jr., governor of Utah; Gen. Wesley Clark, former supreme allied commander, NATO, former candidate for President. 2 p.m. Tom Clancy, novelist. 2:30 p.m. Dimitri Simes, president, The Nixon Center; Anatol Lieven, New America Foundation, author; Flynt Leverett, Brookings Institution, formerly National Security Council; Kenneth Roth, president, Human Rights Watch; Michael McFaul, Stanford University, Hoover Institution; moderator Morton Halperin, formerly National Security Council, executive director, Open Society Policy Center. 3:45 p.m. Gerold Yonas, Sandia National Weapons Laboratories; Henry Schuster, CNN; Diego Hidalgo, president, FRIDE, publisher; Richard Vague, chairman, American Respect.com; Stephen Walt, Harvard University, author; Juliette Kayyem, Kennedy School of Government, Harvard University; Lawrence Korb, Center for American Progress, former assistant secretary of defense. 5:15 p.m. Anne-Marie Slaughter, Princeton University; Jonah Goldberg, National Review Online; Grover Norquist, president, Americans for Tax Reform, American Conservative Union member of the board; Reuel Marc Gerecht, American Enterprise Institute; Brig. Gen. James Cullen, U.S. Army (Ret.); moderator Michael Barone, US News & World Report. 6:15 p.m. Reception, Ted Sorensen, former special counsel to President Kennedy. 6:15 p.m. Executive session, private meeting, John Ashcroft, former attorney general. 7:15 p.m. Dinner, Rita Hauser, RAND Corp.; Sen. Chuck Hagel, R-Neb. Location: Capital Hilton, 16th and K Streets, NW.

CSIS-CHINESE PRESIDENT HU JINTAO_ Highlights: 9:30 a.m. CSIS hosts a briefing by analysts for members of the press corps on issues surrounding Chinese President Hu

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Jintao's visit to Washington, with Bates Gill, Ambassador Richard McCormack, Bonnie Glaser, and Frank Verrastro, all of CSIS. CSIS, B-1 conference level, 1800 K St. NW.

FORUM-CHINESE PRESIDENT HU JINTAO_ 1:30 p.m. - 3:30 p.m. A forum will be held on Chinese President Hu Jintao's upcoming visit to the U.S. and the challenges he is facing amid China's political situation and how they will shape his agenda and decision-making, ``Two Years Later: A Look at Hu Jintao's Rule in China." Participants include moderator Dr. John Li, senior research fellow, Association for Asian Research, and panelists T. Kumar, advocacy director for Asia & Pacific, Amnesty International USA; Wei Jingsheng, chairman, Overseas Chinese Democracy Coalition; Jingduan Yang, MD, spokesman for the Washington DC area Falun Dafa Practitioners Association; Frank Gong, columnist, Chinascope magazine; and Rebiya Kadeer, Uyghur businesswoman and dissident. National Press Club, Holeman Lounge. Contact: Brian Marple, 202-375-4100.

REHNQUIST-LEGACY _ 7 a.m. Young activists honor the pro-life legacy of Chief Justice William Rehnquist during prayer service outside the Supreme Court. Location: Public sidewalk in front of the Supreme Court.

MUSLIM DEMOCRACY _ 10 a.m. - 12:15 p.m. The Wilson Center's Middle East Program and the National Endowment for Democracy co-sponsor a discussion, ``From Islamism to Muslim Democracy: The Challenges of Political Inclusion in Muslim Countries." Speakers are Anwar Ibrahim, former deputy prime minister, Malaysia, and Saad Eddin Ibrahim, professor of political sociology, American University in Cairo, and chairman of the board, Ibn Khaldun Center for Development Studies, Cairo, Egypt; commentators Larry Diamond, senior fellow, The Hoover Institution on War, Revolution and Peace, Stanford University, and Vali Nasr, professor, Department of National Security Affairs, Naval Postgraduate School, Monterey, Calif.; chair Carl Gershman, president, National Endowment for Democracy. Location: Woodrow Wilson Center, 6th Floor Auditorium, Ronald Reagan Building, 1300 Pennsylvania Ave. NW.

KATRINA INVESTIGATION _ 11:15 a.m. Senators Susan Collins and Joe Lieberman will hold a press conference to discuss the Homeland Security and Governmental Affairs Committee investigation of Hurricane Katrina preparedness and relief efforts as they pertain to the Gulf Coast. Location: Senate Radio-TV Gallery.

BORK _ 12:30 p.m. The National Press Club hosts a luncheon address by Robert Bork of the Hudson Institute. Location: National Press Club.

GAZA-MEDIA _ 1 p.m. Americans for Peace Now and the American Task Force on Palestine co-host a luncheon forum on media coverage of the Gaza and Northern West Bank disengagement that Israel began earlier this month, with journalists Yaron Deckel, Israeli Television Channel 1; Nadia Bilbassey, Al Arabiyya Television; Natan Guttman, the Jerusalem Post; and Claude Salhani, United Press International. Location: Center for Strategic and International Studies, Conference Room B-1, Rooms B & C, 1800 K St. NW.

CANADA-US ENERGY _ 11 p.m. There will be a background briefing on Alberta's oil sands and the Canada-US energy relationship. Briefers are Murray Smith, Alberta's representative in Washington, D.C.; and Paul Connors, energy counselor at the Canadian Embassy. Location: Canadian Embassy, 501 Pennsylvania Ave. NW.

NO-FLY LISTS _ 7 p.m. - 9:30 p.m. The Georgetown University Law Center hosts a panel discussion, ``No-Fly Lists & National Security." Panelists are David Cole, professor of law, Georgetown University Law Center; Paul Rosenzweig, senior legal research fellow, Heritage Foundation; Tim Sparapani, legislative counsel on privacy issues, American Civil Liberties Union; Daniel Sutherland, officer for civil rights & civil liberties, Department of Homeland Security; and Ahmed Younis, national director, Muslim Public Affairs Council. Location: Georgetown University Law Center, Gewirz Student Center, 12th Floor, 120 F St. NW.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Hundreds Refuse To Evacuate."
"Survival, Hour By Hour."
"Roberts Tapped For Chief Justice."
"L.A. Cuts Back Year-Round Schools."
"Some Of The Dispossessed Say They Won't Return."

USA Today:
"'Destroyed' City Clears Out."
"Picking Roberts For Court's Top Job Raises Stakes."
"Waves Of Evacuees Swamp Host Cities."

New York Times:
"Bush Makes Return Visit; 2 Levees Secured."
"President Names Roberts As Choice For Chief Justice."

Washington Post:
"Bush Nominates Roberts As Chief Justice."
"Along Gulf, Aiding The Living And Counting The Dead."

Washington Times:
"2 Orleans Levees Closed."
"Roberts Picked For Chief Justice."
"Egypt Vows To Build A Palestinian Gaza."
"Congress Comes Back To A Busy Agenda."

Detroit Free Press:
"After A Week In Hell, Welcome To Michigan."
"Splintered Unions Get In Step For Mechanics."

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"Storm Victims Return To Sift Through Debris."
"Greater Role, More Jobs May Boost Clout Of Detroit Arsenal."

Atlanta Journal-Constitution:
"Leak Plugged."
"Roberts Gets Call For Chief Justice."

Dallas Morning News:
"'No Reason To Stay,' But Some Won't Leave."
"Residents Allowed To Survey Jefferson Parish Damage."
"Would-Be Rescuers Cool Their Heels."
"Roberts Tapped To Lead Court."

Houston Chronicle:
"A Perilous Journey Home."
"Roberts' Nomination As Chief May Avoid Senate Fight."

Story Lineup From Last Night's Network News:
ABC: New Orleans Recovery; New Orleans Flooding; Texas-New Orleans Refugees; Hurricane Refugees; Bush, Clinton Fundraising; Roberts-Chief Justice; FEMA Director's Experience; New Orleans-Families Divided; New Orleans-Relief Problems; Bush-Hurricane Zone; Bush, Clinton Fundraising; International Aid; Mississippi Recovery; Mississippi Shipping Paralyzed; Indonesia Plane Crash; Baghdad-Interior Ministry Attacked; Katrina-Religious Faith.
CBS: New Orleans Recovery; Baton Rouge-New Orleans Refugees; Destroyed New Orleans Parish; Texas-New Orleans Refugees; Roberts-Chief Justice, Analysis.
NBC: New Orleans Situation; New Orleans-Returning Residents; New Orleans-Repairs; Bush, Clinton Fundraising; Roberts-Chief Justice; Roberts Nomination-Analysis; Bush's Katrina Response-Analysis; Indonesia Plane Crash; Texas-New Orleans Refugees; Hurricane Survivor-Family Reunion; New Orleans-Families Divided; Katrina-Wrap-Up.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: New Orleans-Levee Repairs; Bush-Hurricane Zone Visit; Hurricane-Evacuees; Bush-Roberts.
CBS: New Orleans-Levee Repairs; New Orleans Damage; Bush-Hurricane Zone Visit; Lewis Telethon.
NPR: New Orleans Police; Surgeon General-Disease Warning; Roberts; Oil Prices; New Orleans-Levee Repairs; Hurricane Relief Efforts; Indonesia-Plane Crash.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, SEPTEMBER 6, 2005 7:45 AM EDT

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TERRORISM NEWS:

Immigration Charge Dropped In Va. Terror Case (WP)

By Mary Beth Sheridan, Washington Post Staff Writer

The Washington Post, September 5, 2005

The scene was emblematic of the war on terror: a government helicopter clattering over a home in Burke as gun-toting agents smashed through the door and handcuffed the owner, a Lebanese immigrant.

Hassan Khalil, 37, was arrested by agents with a local terrorism task force this May and charged with immigration fraud. But now, officials say, the charge has been dropped. The reason: a mistake in Khalil's immigration records.

Khalil, a U.S. citizen and cell phone technician, said the experience has left him frustrated and bewildered. He said his attorney was told in July that the immigration charge was being dropped but that the investigation would continue.

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"Overall I'm really angry at this," he said. "Even if they had anything on me, which I doubt, I haven't seen it. They didn't show it to me. They did all this, then dropped the case and walked away. And nothing."

Khalil's case was featured in a June article in The Washington Post about the government's increased use of immigration laws against people who have come under scrutiny in terrorism cases.

U.S. officials say that such charges sometimes are the easiest way to detain someone who could be a threat and that there is nothing wrong with prosecuting people who have broken immigration laws.

Authorities have declined to comment on what brought Khalil to their attention or whether he could face further accusations. He was charged in May with lying on his citizenship application by failing to note an arrest by U.S. officials in the early 1990s for being in the country illegally.

Khalil has said he is innocent. He acknowledges that he overstayed a student visa but said he later obtained temporary legal papers under a program for people affected by the Lebanese civil war. He then married a U.S. citizen in 1994 and was granted citizenship in 2000.

Frank Shults, a spokesman for the U.S. attorney's office in Alexandria, said that after an investigation, authorities discovered that Khalil in fact had not been arrested. Instead, Khalil had agreed with authorities to voluntarily leave the country after overstaying his visa in the early 1990s, Shults said. Khalil never left the United States, he said.

"The statements he made on the application about not being arrested were deemed accurate," Shults said. "So they dropped the charges."

Kareem Shora, of the American-Arab Anti-Discrimination Committee, said the case appeared to be part of what he called a pattern of dramatic anti-terrorism arrests that resulted in immigration allegations or other charges that were later dropped.

"The use of these high-profile raids, when it's not warranted, is a waste of my taxpayer money," he said. He said they also damage relations between the government and Muslim and Arab communities.

Dean Boyd, a spokesman for U.S. Immigration and Customs Enforcement, said the agency used a helicopter during the raid to ensure the safety of the agents and Khalil. He said authorities believed that Khalil had military training and a black belt in martial arts. Khalil also had told the FBI that he knew members of Hezbollah, the armed Shiite Muslim movement that the U.S. government considers a terrorist group, Boyd said.

Khalil said in an interview that he did not know any Hezbollah members in the United States but that he did in his native south Lebanon, where it is a political party.

Janice Kephart, a former counsel to the 9/11 commission, said it was important for the government to use any kind of valid civil or criminal charges -- including immigration violations -- to protect homeland security. She emphasized that U.S. officials didn't act lightly in pressing such charges.

"Prosecutors don't like to lose cases," she said. "That doesn't mean the government doesn't sometimes make mistakes."

For Khalil, though, the mistake has had painful consequences. He said his 7-year-old daughter was so frightened by the dawn raid that she refuses to sleep alone. He and his wife jump at sudden noises. And he hasn't figured out how to retrieve his passport and other documents seized in the raid.

"I just don't feel secure, up to today," he said. "People come up to me and say, 'Congratulations,' and I'm like, 'Yeah, right.' I don't feel it's done."

Al Qaeda: A Link To London? (NSWK)

Newsweek

Newsweek, September 5, 2005

American and British investigators say a new video featuring a July 7 London subway bomber and Qaeda chief deputy Ayman al-Zawahiri is authentic. These counterterror officials, who asked not to be named because of the sensitive subject matter, say the tape, aired last Thursday by Al-Jazeera, appears to affirm a link between Al Qaeda and the July 7 attacks—but it doesn't prove Zawahiri or Qaeda head Osama bin Laden ordered them.

In the slick video, which the officials think was assembled from two separately shot tapes, suicide bomber Mohammed Sidique Khan says he is a "soldier" intent on "protecting and avenging my Muslim brothers and sisters." He asks Allah to "raise

me amongst those I love," a group that includes bin Laden, Zawahiri and Abu Mussab al-Zarqawi, the Jordanian-born leader of the Iraqi insurgency. Khan does not say that the Iraq war was a motivation for the attacks. But Zawahiri does praise them as a "slap in the face" to Tony Blair's British government for its alleged collaboration with Washington in oppressing Muslims in countries including Iraq. The British official says authorities believe the tape may have been put together up to three months ago; they don't know if the video, in which Khan spoke in the soft accent of his native Yorkshire, was taped in Britain or Pakistan, which he reportedly visited several months before the London bombings.

The British investigation into the terror acts—four incidents on July 7 that killed more than 50, and another four attempted attacks on July 21 in which the bombs didn't explode—appears to have bogged down in past weeks. Though numerous suspects, including the would-be bombers themselves, were picked up and charged for the July 21 attacks, nobody has been arrested for the July 7 bombings. This lack of progress led some British investigators to claim recently that the July 7 bombers may have been a self-generated cell.

—Mark Hosenball

Justice Department Under Fire (WT)

By Nat Hentoff

The Washington Times, September 5, 2005

I thought I was inured to learning about further evidence of this administration's disregard for our system of justice as it abuses international law and our statutes in the CIA's kidnapping of terrorism suspects to be sent to other nations. But an Aug. 9 statement in Brooklyn federal court by Mary Mason of the Justice Department's Constitutional Torts Section astonished me by its breadth of disregard for what we prize as our rule of law.

The case was the first civil lawsuit to challenge the CIA's "extraordinary renditions," sending terrorist suspects to countries known for torturing their prisoners. Maher Arar, a naturalized Canadian citizen, is suing for damages in Maher Arar v. John Ashcroft, Acting Deputy Attorney General Larry Thompson, et al. He was seized by American agents and shipped to his native Syria, where he was tortured for nearly a year after being picked up at Kennedy International Airport on Sept. 26, 2002, when he was changing planes to return to his home in Canada from a beach vacation in Tunisia.

As reported in the Aug. 10 New York Times (and confirmed to me by Georgetown University law professor David Cole, Mr. Arar's attorney on behalf of the Center for Constitutional rights) this is what Mrs. Mason, speaking for the U.S. government, said in federal court: "Foreign citizens who change planes at airports in the United States can legally be seized, detained without charges, deprived of access to a lawyer or the courts, and even denied basic necessities like food." Asked U.S. District Judge David Trager: "Would not such treatment of a detainee in any context, criminal, civil, immigration or otherwise violate both the Constitution and clearly established case law?" Mrs. Mason said it would not. All the government has to do is declare the seized passenger an "inadmissible alien" beyond the reach of the Constitution.

It's important to note at this point that Mr. Arar has not been charged with any crime despite his horrifying ordeal in a 3-by-6-by-7-foot cell, described by him as "like a grave," where he heard the screams of other tortured prisoners. After Syria finally released him, that government declared Mr. Arar completely innocent, said Imad Moustapha, Syria's high-ranking diplomat in Washington, on the Jan. 21, 2004, CBS "60 Minutes II." Mr. Arar did falsely confess after ongoing, savage bouts of torture that he had been to an al Qaeda trainingcampin Afgh-anistan. But he has neverbeenin Afghanistan. He confessed, he says, because he was ready to "do anything to stop the torture." Syria's Mr. Moustapha admits:"Wetraced links. We traced relations. We tried to find anything. We couldn't." Now back in Canada, Mr. Arar is a free man. In addition to suffering continual nightmares about his torture, and other resultant difficulties, he is afraid that he can never clear his name. Mr. Arar is suing Messrs. Ashcroft and Thompson, and other officials for compensatory and punitive damages.

In court papers, his attorneys note that the U.S. government removed him chained and shackled to Syria "with the full knowledge of the existence of state-sponsored torture in that country." Our own State Departmenthasrepeatedly confirmed the torture in that country. Moreover, as his attorneys add, this official kidnapping was committed "in direct contravention of the U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, a treaty ratified by the United States in 1994" and in violation of this country's subsequent Torture Victim Protection Act of 1991.

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As usual, the Justice Department, as often stated by Attorney General Alberto Gonzales, maintains that no suspect is sent to a country known for torture unless "assurances" are given that the prisoner, uncharged with any crime, will not be tortured. As I and other reporters, along with human-rights organizations, have documented, these "assurances" are a farce, and the Bush administration knows it, despite the president's frequent pledges that "we do not engage in torture." This government's papers in Mr. Arar's lawsuit actually say, as the New York Times reported, that when foreign citizens are seized and abused on our soil and then sent away to be tortured, "even if they are wrongly or illegally designated inadmissible... such aliens have at most a right against 'gross physical abuse.' " And, of course, no American official, up to and including the attorney general, is responsible for any "illegalities" resulting in that innocent victim being tortured.

The government claims it has classified information that Mr. Arar is an al Qaeda member, but it has invoked its "state secrets" privilege to refuse to release that "evidence," so that Mr. Arar can refute it. It's no longer a secret that, in these "extraordinary renditions," this administration has repeatedly and cynically been flagrantly lawless while Congress keeps abdicating its constitutional investigative responsibilities under the separation of powers.

PATRIOT ACT:

Patriot Act Meets With Opposition (LBPT)

By Jason Gewirtz, Staff writer

Long Beach (CA) Press-Telegram, September 5, 2005

LONG BEACH — The City Council will be asked Tuesday to oppose provisions of the controversial USA PATRIOT Act that a citizens' group says will threaten civil liberty protections.

Councilwomen Bonnie Lowenthal and Tonia Reyes Uranga will make the request, asking the council to support a recently adopted resolution in the State Senate that urges Congress to amend the act.

The Patriot Act was adopted after 9/11 to provide government officials with more ways to investigate potential terrorist leads. A number of the act's provisions are set to expire at the end of the year unless Congress renews them.

Several of those provisions allow the FBI to seize records from financial companies, libraries, doctors' offices and other businesses with limited approval.

Several cities, including Los Angeles, San Jose and San Francisco, have adopted similar measures in recent months regarding civil liberty aspects of the act. But whether the council will tackle the issue is unclear.

In the past, council members have had contentious debates over whether they should weigh in on various issues in front of the federal government. In March 2003, the council withdrew two contested resolutions after a debate over how, or whether, to address the war in Iraq. In June 2004, the council split 4-4 on a resolution to oppose the Federal Marriage Amendment.

Councilman Frank Colonna, who has opposed several past council efforts at intervention beyond the city's authority, said Tuesday's item falls into that category.

"I really don't think that this is the proper time to start to analyze the pros and cons of the Patriot Act," he said.

But Edith Pollach with the Long Beach Civil Liberties Defense Coalition said the council should take up the issue. She said nearly two dozen local groups will urge support for the measure Tuesday.

"What's the oath of office that the council members take?" she asked. "Aren't they supposed to take an oath that they're going to carry out and obey the Constitution of the United States and the state of California?"

Budget time

At a budget hearing during the council meeting, the council's Budget Oversight Committee will present its recommendations to the council regarding the proposed 2006 city budget. The city's fiscal year begins Oct. 1.

The city manager has proposed more than $20 million in cuts in the proposed budget.

The council is also expected to hear a report from Police Chief Anthony Batts on a plan to hire more police officers. Batts has

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said he will recommend that the city increase its police force by a minimum of 37 officers to a maximum of 309 officers.

Although a funding source for those officers has not been identified, the city is considering a potential ballot measure in April that could pay for the personnel.

Cap removed?

Also Tuesday, the council will consider rescinding an earlier action to approve all Redevelopment Agency spending of $1 million or more.

Over the past year, council members have been at battle with each other over who should control redevelopment.

RDA Board members have argued that the proposed cap effectively places another level of bureaucracy in the redevelopment process, further slowing a process that many complain is already burdensome.

Report bonanza

Meanwhile, city staffers could be busy in coming weeks if the council approves a slew of proposed reports on Tuesday.

Those requests include:

* A report on installing and operating downtown surveillance cameras to prevent and fight crime. The Redevelopment Agency recently approved $400,000 to purchase cameras, contingent on the city agreeing to operate and monitor the devices. The Downtown Long Beach Associates has also agreed to contribute $75,000 toward the effort. Lowenthal, Uranga and Councilwoman Rae Gabelich will request the report;

* A survey listing all buildings or structures in Long Beach that might be considered culturally or historically significant. Lowenthal, who is requesting the review, will also request that the Planning and Building Department develop a process to identify such properties before issuing permits for projects to replace them; and

* A survey listing all solar-powered buildings and projects in the city and a report on solar energy grants that the city has or is pursuing. Colonna will request the item to explore ways that the city can expand its solar energy use.

HOMELAND RESPONSE:

Anti-terrorism Program's Shortfalls May Hurt Safety (WT)

By Jerry Seper

The Washington Times, September 6, 2005

An airline anti-terrorism screening plan may not be able to tell the Department of Homeland Security how many passenger records are being screened or project the number of terrorist-watch-list "hits" to be sent to the nation's Terrorist Screening Center (TSC), according to a report.

The Justice Department's Office of Inspector General said the program shortfalls, found in a lengthy audit, have hurt the TSC's ability to plan its role in the government's new "Secure Flight" program, an initiative to let the Transportation Security Administration (TSA) compare the names of commercial airline passengers with TSC's consolidated terrorist watch list.

Secure Flight has been described as a critical part of Homeland Security's overall layered strategy to secure the nation's commercial air transportation system.

The system will compare data provided to airlines with information provided by companies that collect personal data for marketing and credit scoring, and then match it with terrorist watch lists.

Privacy advocates have challenged the program, criticizing attempts to use personal information to determine who can board aircraft. Some lawmakers questioned its effectiveness after high-profile colleagues were flagged for secondary screening, including Sen. Edward M. Kennedy, Massachusetts Democrat.

TSC is a multiagency effort administered by the FBI whose mission is to consolidate terrorist watch lists and provide available 24/7 responses for screening people against the list.

Inspector General Glenn A. Fine said that while the TSC had made "significant progress" in preparing for Secure Flight, neither it nor the TSA knows how many passenger records will be screened and cannot project how many watch-list "hits" it will forward.

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Mr. Fine said the Secure Flight program likely would affect the TSC's space, staffing and funding needs and had delayed other TSC projects. But, he said, the TSC could not adequately estimate the cost of new programs that increase its range of operations, such as Secure Flight.

"Implementing the Secure Flight program requires substantial, cross-cutting modifications and enhancements to the TSC's infrastructure," Mr. Fine said, adding that TSC officials could not easily distinguish Secure Flight funding needs from those needed for unrelated system enhancements.

"We found that the TSC is attempting to plan for a program that has several major undefined parameters," Mr. Fine said.

"Specifically, the TSC does not know when Secure Flight will start, the volume of inquiries expected and the resulting number of resources required to respond, the quality of data it will have to analyze," he said.

The Inspector General's Office made five recommendations to the TSC to help it support the Secure Flight program, including enhancing the organization's budget formulation and execution capabilities and re-examining the Secure Flight resource estimates as soon as the program is implemented and workload figures established.

Mr. Fine said the TSC agreed with the report's findings and recommendations and would take the necessary action.

U.S. Muslims Craft Outreach Programs (WSJ)

By Suzanne Sataline

The Wall Street Journal, September 6, 2005

Calling the terrorist attacks on London a wake-up call, Muslim-American organizations have launched a number of programs that are designed, in part, to prevent or root out disgruntled Muslims who might be tempted to use their religion to justify violence.

The Islamic Society of North America plans to distribute tens of thousands of pamphlets at mosques and cultural centers that spell out the Quran's injunctions against violence.

Another broad-based organization, the Muslim Public Affairs Council, is expanding its program to teach local mosques to partner with local communities and law enforcement.

Muslim groups announced or publicized their efforts at the Islamic Society's annual convention, which drew an estimated 40,000 people to Rosemont, Ill., this weekend. The groups stressed ways for Muslims to gain more acceptance and to combat suspicion in the U.S.

"It really was the profile of the bombers in England that shocked everyone and made all of us really disturbed," said Ingrid Mattson, the Islamic Society's vice president. The British bombers were mostly the sons of immigrants isolated in poor enclaves. Though their lives were different from the middle-class world of most Muslim Americans, "it made a lot of people afraid," Ms. Mattson added.

Muslim leaders at the convention were quick to say the campaigns don't reflect philosophical changes, nor are they meant as apologies for terrorist acts. The conference carried a theme that U.S. Muslims must become more transparent and emphatic about their beliefs and intentions if they are to melt domestic distrust.

The London attacks also prompted a number of U.S. Muslim organizations to issue a fatwa -- an Islamic legal ruling -- in July, denouncing the violence.

"As Muslims, we must face up to our responsibility to clarify and advocate a faith-based, righteous and moral position with regard to this problem, especially when terrorist acts are perpetrated in the name of Islam," according to the pamphlet set for distribution by the Islamic Society.

Last month, the Muslim Public Affairs Council started the Muslim-American Project on 37 college campuses. It is an effort to teach Muslim college students that they are part of U.S. society and to guide them in participating in civic activities, such as elections, said Ahmed Younis, national director of the council, which has offices in Los Angeles and Washington. The council plans to add 20 mosques to the project, which is designed to teach mosque leaders transparency and the benefits of civic involvement.

Since May 2004, council officials have traveled to Muslim centers across the country, prompting Muslim leaders to work with local police and federal investigators who may be watching for terrorist cells.

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Maha ElGenaidi, founder of Islamic Networks Group, a nonprofit education effort in San Jose, Calif., told those who attended the conference of many ways they could become more welcome Americans, such as "attend your children's school events. It's good for other parents to see you there, as well," she said.

Pentagon Pressed For 9/11 Answers (WT)

By Shaun Waterman, United Press International

The Washington Times, September 5, 2005

Members of the September 11 commission think they have been left swinging in the wind by the growing revelations about a secret Pentagon program that may have identified the ringleader of the hijackings as an al Qaeda operative more than a year before the attacks.

"Other people have questions they need to answer," said Al Felzenberg, spokesman for the commission's embattled successor body, the 9/11 Public Discourse Project.

"The American people deserve answers," Mr. Felzenberg said, adding that both the White House and the Pentagon had left questions about the issue unresolved for weeks -- something other commission sources say has exposed them to a fierce backlash.

"They are sitting on their hands and we are swinging in the wind," one former commission official said.

Others, including Rep. Peter Hoekstra, Michigan Republican and chairman of the House Permanent Select Committee on Intelligence, say the commission is merely getting "a little bit of its own medicine," being second-guessed in hindsight, as it judged the actions of officials before September 11.

"In hindsight it is always easy to see people's mistakes," he said. "You have to be sympathetic to people in hindsight. More sympathetic than they were."

At the center of the controversy are claims that the secret project, code-named Able Danger, in 2000 produced a chart bearing the names -- and in some people's recollections, photographs -- of about 60 people thought linked to al Qaeda. Among the names was that of Mohamed Atta, the ringleader of the attacks.

If the claims turn out to be true, it will entail a major rewrite of the commission's accounts of the missed opportunities to thwart the attacks.

Rep. Curt Weldon, Pennsylvania Republican and a passionate advocate of data-mining technology, and the man who first publicized the claims about Able Danger, has said repeatedly that he gave a copy of the chart to Stephen J. Hadley, now the national security adviser, at the White House on Sept. 25, 2001, and that Mr. Hadley said he would show it to the president.

The White House has refused to comment on the claims or provide Mr. Hadley for an interview with reporters.

"It would be helpful if Mr. Hadley would answer those questions," Mr. Felzenberg said. "He could make this whole thing go away."

Two persons associated with the project have come forward to say they told commission staff about the project and its identification of Atta -- touching off a firestorm of criticism of the commission, including accusations from some victims' relatives of a cover-up.

Commission staff say that, in the absence of any corroboration, they did not believe the accounts they received.

"We had 2½ million pieces of paper we'd crowbarred out of the administration," said Mr. Felzenberg. "We'd interviewed 1,200 people. ... It was [their] story stacked up against these mountains of material -- none of which mentioned Atta before September 11 or this famous chart."

The Pentagon said last week that it had searched millions of documents, including many not turned over to the commission, but had found neither the chart nor any reference to it.

Covering All The Bases (LEGALT)

By Vanessa Blum, Legal Times

Legal Times, September 5, 2005

If any lawyer knows the Department of Homeland Security inside and out, it's Philip Perry.

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Three years ago, as a senior White House lawyer, Perry helped create the new department. Later, as a partner at Washington's Latham & Watkins, he actively lobbied the DHS on behalf of two Fortune 500 companies. Then, about three months ago, the 41-year-old completed the circle, joining the agency as its general counsel.

In many ways, Perry is following Washington's most common career path. Lawyers in the capital have always swung between the federal government and law firms. But if you want to get off on the right foot with Perry, you better not refer to that flight pattern as the "revolving door."

"The term 'revolving door' implies people going in and out of government in order to obtain monetary gain," Perry says. "The reason people go into government is to serve their country. It's not appropriate to describe that as a revolving door."

Perry, who is married to Vice President Dick Cheney's oldest daughter, Elizabeth, has held three jobs in the Bush administration. In his current post—the first to require Senate confirmation—Perry oversees roughly 1,500 lawyers. In addition to its usual portfolio, his office is now handling legal aspects of the government's response to the devastation caused by Hurricane Katrina. And, in fact, Perry canceled a planned Labor Day weekend fishing excursion with his father-in-law to deal with the crisis.

Perry's work ethic seems to match that of his notoriously intense boss, Homeland Security Secretary Michael Chertoff. During August, when much of official Washington tends to dawdle, Perry pushed his staff to complete work on 30 separate regulations.

Whether it matters to him or not, mastering the workings of the DHS is almost certain to open doors for Perry when he returns to the private sector. But Perry can also catalog the sacrifices involved in government service. As a partner at Latham, he pulled in more than $700,000. At the DHS, he makes about $140,000—a salary cut of at least 80 percent.

Perry first met Chertoff roughly 10 years ago, when both worked at Latham. DHS Chief of Staff John Wood says that the two lawyers have a similar temperament. "They're both extremely bright and have very quick minds that can focus intensely on a problem until they come up with a solution."

Perry's wife, Elizabeth Cheney Perry, is the State Department's No. 2 diplomat in the Middle East. The couple have four children: 11-year-old Katherine, 7-year-old Elizabeth, 5-year-old Grace, and 1-year-old Philip. In both the 2000 and 2004 campaigns, the couple led Cheney's preparation for the vice presidential debate, with Perry sometimes playing the part of the moderator.

Republican political consultant Mary Matalin was part of Cheney's debate prep team. She describes Perry as "very, very, very strategic."

"Asking questions is as hard and as important as coming up with answers," Matalin says. "You could tell he was always thinking on multiple levels."

PUBLIC PLATFORM

Perry's progression through the private and public sectors has a similarly strategic feel.

After George W. Bush took office in January 2001, Perry went almost overnight from being a junior partner at Latham to taking the No. 3 post at the Justice Department. Lawyers who worked with Perry at Main Justice say he was known for his dry sense of humor, which would come out when he briefed the group on important civil cases.

After the Sept. 11, 2001, terrorist attacks, Perry worked with a small team of lawyers who were developing a framework for the September 11th Victim Compensation Fund, overseen by mediator Kenneth Feinberg. In his new book, What Is Life Worth?, Feinberg calls Perry an "unsung hero."

According to Feinberg, it was Perry who settled the issue of which family members would be able to receive compensation from the fund—a detail not addressed by Congress. Perry suggested that in the 80 percent of cases where the victim left no will, the proper beneficiaries should be determined under the inheritance laws of the victim's state.

"The solution was brilliant in its simplicity," Feinberg says. "Any other approach would have had us acting as family counselors trying to determine who should receive compensation."

In early 2002, Perry left the Justice Department to become general counsel of the highly influential White House Office of Management and Budget. The appointment, which requires no Senate approval, placed Perry at the hub of executive branch rule-making. It allowed him to get deeply involved in a broad range of policy issues and to ensure that agencies developed

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regulations consistent with the views of the White House. "Industry knows they can knock on OMB's door and effectively lobby the White House," says Robert Shull, who monitors the agency at OMB Watch.

One of Perry's projects at the OMB was to work on the president's proposal for a new Department of Homeland Security and to lay the groundwork for implementation of the Safety Act—a measure that protects government contractors from being sued in the event of a terrorist attack.

"Phil was one of those can-do lawyers," says General Electric Co. top lobbyist Nancy Dorn, the OMB's former deputy director. "As opposed to giving you 150 reasons you can't do something, he would tell you how you can do it. And how to do it right. And usually how to do it quickly."

PRIVATE LESSONS

When Perry returned to Latham in September 2003, he brought with him an enhanced understanding of how government regulations are developed and written, and how they can be most effectively defended in court. On the flip side, he also knew how corporate clients could most effectively attack such regulations through lobbying and litigation.

"When Phil came back, he wasn't the junior partner anymore," says Everett "Kip" Johnson Jr., a partner in Latham's Washington office. "He came back with a much broader perspective of how government works, how government views things and approaches cases."

While at Latham, Perry lobbied the DHS on behalf of government contractors General Electric and Lockheed Martin Corp. As a result of that work, Perry says he has recused himself from all specific matters involving the two companies. According to Senate lobby registrations, Lockheed paid Latham roughly $140,000 for Perry's work. The firm did not file a disclosure form for Perry's representation of General Electric, indicating that lobbying work constituted less than 20 percent of his services to the company.

But Perry says that nothing in the government ethics laws bars him from working on DHS regulations that might affect his former clients, because regulations involve issues of general policy, not particular cases or controversies.

Perry's lobbying work for GE and Lockheed involved applications for liability protection filed under the Safety Act. Perry has made no secret of the fact that he would like to adjust that application process to make it less burdensome on business.

He says encouraging private industry to develop counterterrorism technologies by cutting red tape makes sense for the country.

"We shouldn't just be sitting back and taking applications from people," Perry says. "We should be using it as a tool to encourage industry to come up with the technologies that will help protect the country."

FAMILY FOCUS

Perry was born in 1964, in San Diego, Calif. His family moved to Palo Alto when his father, a naval officer, went to Stanford University to earn an advanced degree in economics. After graduating from high school in the San Francisco suburb of Orinda, Perry attended Colorado College.

Colorado College was also the alma mater of Dick Cheney's wife, Lynne, and daughters Elizabeth and Mary, but Perry didn't meet Elizabeth until 1991, at an alumni happy hour in Washington, D.C. By that time he had a law degree from Cornell University and was working as an associate in the D.C. office of Squire, Sanders & Dempsey. The couple were married in 1993.

While his new wife attended law school at the University of Chicago, Perry spent three years in the Chicago office of Latham & Watkins. The couple moved back to Washington in 1996, and Perry transferred into Latham's D.C. office. In 1997, Perry took a year off to work on the Senate probe into campaign finance abuses during the 1996 campaign.

At the time, Perry's father-in-law was the chief executive officer of Halliburton Inc. and a former secretary of defense. Still, it was not a subject Perry spoke about, says friend Gus Puryear IV, who met Perry while working on the investigation.

"For the longest time I didn't know the Cheneys were his in-laws," says Puryear, now general counsel of Nashville's Corrections Corp. of America. "I don't think it ever came up until I actually met Liz."

No matter how Perry handles his relationship with Cheney, he will probably always face critics who believe he got where he is because of his father-in-law. After Perry was nominated to the DHS post in April 2005, the Toledo Blade ran an editorial blasting the pick as "a pure form of nepotism."

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While Perry concedes that he has had opportunities because of the family he married into, he says he has succeeded through hard work. Friends like Puryear maintain that any suggestion to the contrary is unfair to Perry.

"He's all substance," Puryear says. "If you look at the roles he's taken on, they're not glamour roles. He's taking on get-in-the-trenches, do-the-work roles."

Shull of OMB Watch says nepotism is beside the point. He says the Bush administration demands such loyalty from political appointees that they all seem to form one collective brood: "You almost don't even need family ties in this administration."

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WAR NEWS:

U.S. Troops Cordon Part Of Iraqi Town To Trap Insurgents (WP)

By Jonathan Finer, Washington Post Foreign Service

The Washington Post, September 5, 2005

TALL AFAR, Iraq, Sept. 4 -- Under the cover of a moonless night, U.S. soldiers on Sunday strung nearly a mile of razor-sharp concertina wire across the northern edge of a neighborhood dominated by insurgents to prevent them from fleeing without a showdown.

Several small teams of five or six troops quickly uncoiled spools of wire and fastened it along the deserted sidewalk of a broad thoroughfare. The cordon was intended to prevent insurgents from blending in with the hundreds of people who fled the city during heavy clashes Sunday.

"The idea is to trap them in Sarai or force them toward our checkpoints to the south," said Col. H.R. McMaster, commander of the Army's 3rd Armored Cavalry Regiment, referring to the neighborhood that U.S. forces believe has served as a launching point for many attacks in the city. "We don't want them to slip out."

More than 5,000 U.S. and Iraqi soldiers entered Tall Afar on Friday in a broad sweep for insurgents who have held sway in the northern city since a previous U.S. invasion, and subsequent withdrawal, last September. In three days of fighting, as many as 200 insurgents have been killed, McMaster said. Two U.S. and four Iraqi soldiers have been wounded, none seriously.

The assault in Tall Afar, considered a transit point and logistics hub for insurgents operating across northern Iraq, is the largest on an Iraqi city since the invasion of Fallujah in November. Commanders say they believe that perhaps a few hundred insurgents remain in the city, but acknowledge that they do not know the exact number. Other than in Fallujah, where entrenched fighters battled advancing U.S. troops, most assaults on Iraqi cities have met little resistance, as insurgents have fled to surrounding areas or blended into the local population.

Soldiers here are hoping to prevent that from happening by converging from all directions on Sarai, the commanders say. Weeks before the invasion, the troops set up checkpoints on the roads to town and built an 80-mile berm around the city to stop vehicles from leaving.

About 500 people attempted to leave the city this weekend through the U.S.-manned checkpoints. At least one man suspected of kidnapping and beheading several residents in recent weeks was apprehended when he tried to leave the city with a group of children, McMaster said. When soldiers interviewed the children, they said they did not know the man but went with him because they had been threatened.

A cacophony of gunfire and explosions filled the air around Tall Afar on Sunday, the heaviest day of fighting since the invasion began. Soldiers continued methodically searching homes and questioning residents, frequently coming under small-arms fire that whistled overhead as they passed from house to house or leapt across gaps between rooftops.

Much of the shooting came from a series of deep, grooved valleys that divide the city. The valleys, dipping as low as 40 feet below street level, allow insurgents to stash weapons and move undetected. Soldiers have found large caches of explosives in the valleys and begun firing warning shots when they spot men of military age descending into them.

"With the geography and the buildings so close together, it's a complex terrain to fight in," said Capt. Noah Hanners, 26, of Chillicothe, Ohio, commander of the 3rd Armored Cavalry Regiment's Blue Platoon, Eagle Troop, 2nd Squadron, which cleared several homes along the edge of a valley northeast of downtown Sunday.

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Just after 9 a.m., Hanners's platoon used a sledgehammer to knock down the door of a two-story house made of large stone blocks. A woman wearing a purple abaya , or full-length cloak, and holding a baby ran toward them. "Already my husband is dead and you are breaking my house!" she shouted.

When shots rang out in the streets, she clutched her baby close to her chest. As a series of explosions grew closer, she sat down, rocked her baby and began to cry.

"Um, that's close. Very close," said Pfc. Hector Rodriguez, 20, of Buffalo, after an explosion rattled the windows.

Soldiers scrambled to set up shooting positions on the roof.

"We are receiving sniper fire," a voice over the platoon's radio said.

"Where from?" someone answered. No one knew. The platoon's machine gunner began shooting staccato bursts into the valley from the next roof.

"Who is that shooting?" Hanners asked over the radio.

"Blue saw team, we saw muzzle flashes from the south," came the response.

Another call over the radio said a Tall Afar resident working with the Army had identified an arms dealer in a house across the street. The soldiers gave the woman with the baby a voucher for $300 to repair her gate, redeemable at a nearby military base, and dashed next door.

By the time they reached that house, the suspected arms dealer and two other men had already been handcuffed and blindfolded by other members of the platoon.

"This is my nephew. He does not even live here," a woman in the house said as the men were led away.

"He was identified. That's what you get for selling weapons," a soldier said.

The soldiers continued to the last house on the block. They herded a family of nine into a living room and searched their belongings. A drawer of silverware crashed to the floor, startling the children.

"I am scared. We are all scared, but what are we supposed to do?" said the father, Shimsdain Muhammed, 40, an electrician, according to an account of his remarks provided by a military interpreter traveling with the unit. Muhammed told his children to wave and smile at the soldiers, who responded in kind. "I cannot tell them to leave, so we will do the best we can."

Suddenly, an explosion outside shattered the windows of the house, eliciting screams and confusion. It turned out to be a passing U.S. M1-A1 Abrams tank firing its main gun into the valley.

"This place is too much," another soldier said later, recounting the story to a friend.

Elsewhere Sunday in Tall Afar, an Iraqi army unit freed 35 hostages held in a house south of downtown, according to Maj. Gen. Khorsheed Salim, commander of the army's 3rd Division, which is heavily involved in the operation.

Soldiers in the western part of the city found a laboratory rigged with explosives, McMaster said. The lab also contained a chemical that burned the troops' throats and eyes when they entered. The Army is trying to identify the substance.

[Early Monday, as many as 30 gunmen in 10 cars opened fire on Iraq's Interior Ministry, killing two policemen and wounding five, the Reuters news agency reported.

An Interior Ministry official said gunmen used rocket-propelled grenades, mortars and automatic rifles in the attack.]

Iraq Sets Date For Saddam Trial Next Month (FT)

By Steve Negus, Iraq Correspondent

Financial Times, September 5, 2005

Saddam Hussein, the former Iraqi president, would go on trial on October 19 on charges related to the repression of Shia in a central Iraqi town in 1982, an Iraqi government spokesman said on Sunday.

The spokesman was subsequently quoted as saying that Mr Hussein could be executed shortly after his trial - possibly raising objections from the Kurds and other groups anxious to see crimes against their communities brought to trial.

"In view of recent leaks to the press and in the absence of an official spokesman for the tribunal, I have been authorised to announce that the trial of Saddam Hussein will begin on October 19," Laith Kubba, the prime ministerial spokesman, told a news conference.

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The deposed leader's co-defendants would include Barzan Ibrahim, his half-brother and then-chief of intelligence, Taha Yassin Ramadan, former vice-president, former top judge Awad Badar Al-Bandar, and four former local members of the ruling Ba'ath party, Mr Kubba said.

The trial will open four days after an October 15 referendum on >Iraq's newly drafted constitution, although Mr Kubba said there was no relation between the two dates.

The charges relate to the aftermath of a 1982 attempt to assassinate the former president in the predominantly Shia town of Dujail, after which Mr Hussein's followers are said to have embarked on a campaign of collective punishment against the town in which hundreds were executed.

The defendants could receive the recently reinstated death penalty for their role in the repression.

The Iraqi special tribunal in charge of trying former regime officials has divided the charges against Mr Hussein and his associates into a dozen cases covering specific places and periods of time.

Iraqi officials have indicated that the Dujail case would be among the first as the scale is relatively limited and the case less complex than larger-scale killings such as the 1987-88 Anfal campaign against the Kurds and the repression of the 1991 intifada.

Mr Kubba was quoted by AFP as saying the sentence "will be implemented immediately . . . He could be executed after the first round."

This raises a possible conflict of interest between Shia parties, many of which want quick justice, and Kurds, many of whom want a drawn-out process to publicise the extent of their persecution under the former regime. Many Kurds cite waves of persecution such as the Anfal campaign, in which they claim some 182,000 people were killed, as a key argument behind their demands for independence.

Mr Hussein's defence team is expected to contest the tribunal's competence to try a former head of state in a case likely to last about a month.

The news came as Iraqi hospital sources announced a third day of fighting in the north-western town of Tal Afar, an alleged transit route for insurgents near Syria.

Hussein Trial In '82 Deaths Set To Begin Next Month (NYT)

By Richard A. Oppel Jr.

The New York Times, September 5, 2005

BAGHDAD, Iraq, Sept. 4 - The trial of Saddam Hussein will begin in six weeks, the government said Sunday, when he and seven aides face a special tribunal on charges of massacring almost 150 residents from the town of Dujail, the scene of a failed assassination attempt against Mr. Hussein 23 years ago.

Laith Kubba, a spokesman for the prime minister, Ibrahim al-Jaafari, said the trial would begin Oct. 19, four days after a national vote on a proposed new constitution. The trial raises the possibility that Mr. Hussein, who faces the death penalty if convicted, could be hanged within months.

Four days ago, Iraq carried out its first court-ordered execution since the fall of Mr. Hussein's government, hanging three people convicted in May in the southern city of Kut of rapes and killings.

Great efforts will be made to "ensure the transparency of the trial" of Mr. Hussein, Mr. Kubba said at a news conference.

"We should view this trial as a national event, and not just as a trial for Saddam on the killings he committed," he said.

Mr. Kubba said Mr. Hussein would be tried with seven associates, including Barzan Ibrahim, a half-brother of Mr. Hussein and a former top official of the Mukhabarat secret police, and Taha Yassin, who was vice chairman of the Baath Party's Revolutionary Command Council. The charges stem from the killing of 143 people and the imprisonment of hundreds of families after the assassination attempt in Dujail on July 8, 1982, he said.

After the failed attack on Mr. Hussein, Iraqi officials executed men and boys from Dujail, a largely Shiite town 35 miles north of Baghdad. Investigators for the special tribunal that will try Mr. Hussein have said another 1,500 Dujail residents were later ordered incarcerated in a prison in a desolate stretch of desert near the Saudi Arabian border.

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One of the lawyers for Mr. Hussein's family contended Sunday that a trial so soon would give too little time to prepare an adequate defense, and he said he doubted that the trial would start by Oct. 19.

In an interview with The Associated Press, the lawyer, Abdel Haq Alani, said the trial date was the "wish of the ruling group in the Green Zone, but certainly not the court" - an allusion to the Iraqi government leaders who live in the heavily fortified compound in central Baghdad.

"We haven't been served an official notice about the date of trial," Mr. Alani told The A.P. "It was only a statement made by an Iraqi government official to the media, which absolutely has no value in the law."

The United States military said 13 insurgents were killed in heavy fighting on Sunday in the city of Tal Afar in northwestern Iraq, as troops from the Third Armored Cavalry Regiment continued efforts begun in May to take control of the city, where insurgents have controlled many neighborhoods since late last year.

Seven of the insurgents were killed by American helicopter fire after American troops were attacked with rocket-propelled grenades and machine guns fired from a mosque in Tal Afar, the military said.

Iraq to Reopen Embassy in Kuwait

CAIRO, Sept. 4 (AP) - Iraq plans to reopen its embassy in Kuwait within weeks, for the first time since it closed after Saddam Hussein ordered the invasion of Kuwait in 1990, Hoshyar Zebari, the Iraqi foreign minister, said Sunday.

"We reached the final agreement with the Kuwaiti government to resume our diplomatic activities and we will reopen our embassy within the few coming weeks," he said by telephone from Baghdad.

Asked if Kuwait would reopen its embassy in Baghdad in return, Mr. Zebari said the issue "is left to the Kuwaiti government itself and its estimation about the situation in Iraq."

Iraq and Kuwait have been working to normalize ties since the American-led invasion in 2003 that toppled Saddam Hussein.

Iraq May Forgo Multiple Trials If Hussein Is Convicted In First (WP)

By Ellen Knickmeyer, Washington Post Foreign Service

The Washington Post, September 5, 2005

BAGHDAD, Sept. 4 -- The Iraqi government is considering waiving further proceedings against former president Saddam Hussein if he is convicted at his trial on charges stemming from the massacre of 143 Shiite Muslims in 1982, a senior spokesman said Sunday.

Hussein could face execution in that case. The trial is scheduled to begin Oct. 19.

The former president had been expected to face a dozen or more proceedings for alleged crimes committed by his government. But Laith Kubba, spokesman for interim Prime Minister Ibrahim Jafari, said Sunday that if Hussein is convicted in the first case, any sentence is likely to be carried out as swiftly as possible.

"My guess is if the court passes judgment, it should be implemented without further delay," Kubba said. He added that it was not possible to forecast how long the trial would last.

The case concerns the aftermath of an attempt to assassinate Hussein in the northern town of Dujail in 1982. The government retaliated for the plot by killing at least 143 people and razing much of the town, the interim government says.

The Shiite-led interim government is believed to have chosen the case in part because of its narrow focus and the possibility of tracing the killings back to Hussein. Other accusations against him, including state-orchestrated massacres of thousands of Kurds and Shiites, are much broader.

"The charges against Saddam are so many. Regardless of how many years he is going to live, the charges and trials would not end," Kubba told reporters at a news conference.

Kubba said seven members of Hussein's government would face trial with him. They include Barazan Ibrahim, a former intelligence chief and Hussein's half brother; former vice president Taha Yassin Ramadan; and Awad Hamed Bandar, a former Baath Party official in Dujail.

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Iraq's U.S.-led interim administration suspended capital punishment in 2003. But the country's interim leaders made reinstating it a priority and recently carried out the country's first executions in the post-Hussein era by hanging three men convicted of murder, kidnapping and rape.

Also Sunday, members of the Shiite-dominated interim National Assembly criticized Arab governments for what they said was a lackluster response to a stampede Wednesday in Baghdad that left hundreds of Shiite pilgrims dead.

The pilgrims were headed to a shrine and had crowded a bridge over the Tigris River when panic broke out. The official death toll from the incident stands at 1,005, the Reuters news service reported Sunday.

Shiite lawmakers contrasted the Arab world's response to the stampede with its offers of aid for victims of Hurricane Katrina in the United States.

"Why would Spain and other countries send us their condolences while these so-called Arab countries did not even say a word?" said Jalaladeen Sagheer, a cleric and leading lawmaker. He added that, in any case, words of sympathy from Arab states would be hollow.

Relations between Iraq and the Arab world have been edgy recently, particularly since the 22-member Arab League faulted the interim government for failing to specifically refer to Iraq as part of the Arab world in the country's draft constitution, which was submitted last month.

On Sunday, negotiators continued to work on a compromise over that designation.

Separately, Iraq's interim foreign minister, Hoshyar Zebari, told the Associated Press that Iraq intended to open its embassy in Kuwait in coming weeks for the first time since Hussein ordered the 1990 Kuwait invasion.

Asked whether Kuwait would reopen its embassy in Baghdad, Zebari said that decision would be "left to the Kuwaiti government itself and its estimation about the situation in Iraq."

Insurgents Assert Control Over Town Near Syrian Border (WP)

By Ellen Knickmeyer And Jonathan Finer

The Washington Post, September 6, 2005

BAGHDAD, Sept. 5 -- Fighters loyal to militant leader Abu Musab Zarqawi asserted control over the key Iraqi border town of Qaim on Monday, killing U.S. collaborators and enforcing strict Islamic law, according to tribal members, officials, residents and others in the town and nearby villages.

Residents said the foreign-led fighters controlled by Zarqawi, a Jordanian, apparently had been exerting authority in the town, within two miles of the Syrian border, since at least the start of the weekend. A sign posted at an entrance to the town declared, "Welcome to the Islamic Republic of Qaim."

In other developments Monday, the U.S. Army warned noncombatants to leave a portion of the northeastern city of Tall Afar ahead of an expected assault on an insurgent stronghold there. Car bombs and other political violence around Iraq killed at least 33 Iraqi civilians and security force members. A U.S. soldier and two British troops also were killed, officials said.

The report from Qaim, about 200 miles west of Baghdad, marked one of insurgents' boldest moves in their cat-and-mouse duels with U.S. Marines along the Euphrates River. U.S. forces have described border towns in the area as a funnel for foreign fighters, arms and money into Iraq from Syria.

Insurgents have occasionally made similar shows of force, such as the takeover of a Baghdad neighborhood for a few hours late last month by dozens of gunmen. They then slipped away, having made the point that they can muster men as well as plant bombs. The weekend takeover of Qaim extended already heavy insurgent pressure on the people there and came after the U.S. military said it had inflicted heavy bombing losses on foreign-led fighters.

Marines conducted heavy airstrikes in the past week on suspected insurgent safe houses in the area. Ground fighting has also been reported between Zarqawi's group and Sunni Arab tribes more open to the Iraqi government and U.S. military.

Capt. Jeffrey Pool, a Marine spokesman in Ramadi, capital of the western province that includes Qaim, said he had no word of unusual activity in Qaim. Marines are stationed just outside the town, and no Iraqi government forces are posted inside, Pool said.

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Witnesses in Qaim said Zarqawi's fighters were killing officials and civilians whom they consider to be allied with the Iraqi and U.S. governments or anti-Islamic. On Sunday, the bullet-riddled body of a young woman dressed in her nightclothes lay in a street of Qaim. A sign left on her corpse declared, "A prostitute who was punished."

Zarqawi's fighters have shot and killed nine men in public executions in the city center since the start of the weekend, accusing the men of being collaborators with U.S. forces, said Sheik Nawaf Mahallawi, a leader of the Albu Mahal, a Sunni Arab tribe that had clashed earlier with the foreign fighters.

Dozens of families were fleeing Qaim every day, Mahallawi said.

For local fighters now, "it would be insane to attack Zarqawi's people, even to shoot one bullet at them," the tribal leader said. "We hope the U.S. forces end this in the coming days. We want the city to go back to its normal situation."

Many of the towns along the river have been subject to domination by foreign-led fighters, despite repeated Marine offensives in the area since May. Residents and Marines have described insurgents escaping ahead of such drives, and returning when the offensives end.

The U.S. attacks are credited with helping disrupt insurgent networks and reducing the number of car bombings and suicide attacks in the rest of Iraq.

U.S. and Iraqi officials in recent weeks have welcomed reports of local Sunni Arabs challenging the presence of foreign fighters. But the accounts from Qaim indicated a setback.

The Albu Mahal tribe remained in control of its village outside Qaim, residents said. However, a car bomb placed by Zarqawi's fighters killed a tribal leader, Dhyad Ahmed, and his son on Sunday, said a resident, Mijbil Saied.

Fighters loyal to Zarqawi openly patrolled the streets of Qaim with AK-47 assault rifles and grenade launchers. The fighters included both Iraqis and foreigners, including Afghans. They draped rooftops with Zarqawi's al Qaeda in Iraq banner of a yellow sun against a black background.

Residents said insurgents in recent weeks had begun enforcing strict Islamic law, burning shops that sold CDs and a beauty parlor, and lashing men accused of drinking alcohol. They said Zarqawi's fighters were killing government workers but had spared doctors and teachers.

Karim Hammad Karbouli, 46, said he had stood among small crowds of nervous residents watching the insurgents, waiting Sunday for his brother to come with a pickup truck so they could load up his household and leave. Karbouli said he feared both Zarqawi's fighters and U.S. bombs.

The director of the town's hospital has ordered patients to leave the facility, said Muhammed Ismail, a physician at the hospital. Zarqawi's fighters had taken control of the hospital, and the director feared it would come under U.S. attack, Ismail said.

In Tall Afar, U.S. and Iraqi soldiers entered the fourth day of an offensive against insurgents who have controlled large sections of the city for nearly a year. On Monday night, soldiers dropped leaflets from helicopters in the eastern neighborhood of Sarai, where commanders believe insurgents are entrenched, warning noncombatants to evacuate the area.

About 5,000 soldiers from the Army's 3rd Armored Reconnaissance Regiment and the Iraqi army's 3rd Division continued advancing toward Sarai from all directions, searching homes, confiscating weapons and interrogating residents.

Early Monday morning, six members of an elite U.S. special operations unit were wounded in what was to have been a raid on the home of a suspected insurgent leader, according to U.S. commanders. Members of the unit, which is charged with searching for high-level insurgents, and the Army in Tall Afar would not provide details.

Tall Afar, a city of more than 200,000 about 40 miles from the Syrian border, is considered a logistical hub for insurgents operating across the country.

A roadside bomb killed one soldier in the 3rd Armored Cavalry Regiment in Tall Afar on Monday, and two British troops were reported killed by another roadside bomb in southern Iraq.

In Baghdad, insurgents launched a dawn attack on the Interior Ministry, killing two police officers, officials said. Other political violence Monday in Baghdad killed at least 13 civilians, the Associated Press reported.

A roadside bomb and other attacks killed four oil workers associated with a northern oil company in Kirkuk. Insurgents have mounted frequent attacks to disrupt Iraq's oil exports.

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Mortar fire hit a residential neighborhood in the central city of Baqubah, killing six civilians, said Ahmed Fouad, a hospital physician. Eight other civilians were killed by a car bomb in the western town of Hit, the AP said.

In ongoing political negotiations, President Jalal Talabani said in a statement that he and the other top Kurdish leader, Massoud Barzani, had agreed to changes in the draft constitution. The changes would ease concerns among Arab countries that the wording of the draft loosened Iraqi ties to the Arab world.

The language at issue describes Iraq as an Islamic -- but not Arab -- country, a concession to non-Arab Kurds, who form about 15 percent of the Iraqi population.

Militants Attack Interior Ministry (USAT/AP)

By Sameer N. Yacoub, The Associated Press

USA Today, September 6, 2005

BAGHDAD — Insurgents launched a daylight assault Monday on Iraq's Interior Ministry. Two police officers were killed and five were injured.

Thunderous explosions and volleys of heavy gunfire rattled downtown Baghdad soon after sunrise as about four carloads of insurgents staged a raid on the Interior Ministry, which is responsible for police and paramilitary units nationwide.

The insurgents, who fired automatic weapons and rocket-propelled grenades, withdrew after about 15 minutes. There was no report of insurgent casualties.

A statement posted Monday on an Islamic website claimed responsibility for the attack in the name of al-Qaeda in Iraq, led by Jordanian Abu Musab al-Zarqawi.

Sunday, al-Qaeda's Iraq wing launched multiple attacks against U.S. and Iraqi targets in Hit, 85 miles west of Baghdad. The U.S. military and Iraqi government said Monday that 12 people, including eight civilians and three suicide bombers, died in Hit.

In Doha, Qatar, U.S. Central Command said U.S. jets launched airstrikes Sunday on insurgent positions near Balad, 50 miles north of Baghdad, dropping two bombs on a suspected insurgent staging area. The statement also said that an Air Force Predator aircraft fired two Hellfire missiles against a mortar firing position near Balad.

In southern Iraq, two British soldiers died when their armored Land Rover was destroyed by a bomb near Zubeir, a Sunni Arab enclave about 12 miles west of Basra. The deaths brought to 95 the number of British military personnel killed in Iraq.

U.S. and Iraqi officials had hoped Iraq's new constitution, which goes to voters in a referendum Oct. 15, would help lure Sunni Arabs away from the insurgency.

However, Sunni negotiators rejected the draft constitution and vowed to defeat it in the referendum. About 1,500 people, mostly Sunnis, rallied Monday near the Sunni city of Ramadi to protest the document.

Iraq's president said Monday that he and Massood Barzani, head of the Kurdistan Democratic Party, had agreed to changes in the draft constitution to address concerns that wording loosened Iraqi ties to the Arab world. The language at issue describes Iraq as an Islamic — but not Arab country — a concession to the non-Arab Kurds who form about 15% of the Iraqi population.

President Jalal Talabani said he and Barzani agreed “to accept some amendments deemed vital for the Islamic and Arab worlds concerning the Arab League because Iraq is a founding member in the Arab League.” Talabani did not specify the changes.

Talabani also expressed frustration that no Arab government has designated an ambassador to Iraq.

Militants Attack Iraq's Interior Ministry (WP/AP)

By Slobodan Lekic, The Associated Press

The Washington Post, September 6, 2005

BAGHDAD, Iraq -- Insurgents launched a daring daylight assault Monday against the Interior Ministry in Baghdad, killing two police in a surge of attacks by al-Qaida's arm in Iraq. Two British soldiers died in a roadside bombing in the south.

U.S. Marines said Monday that al-Qaida in Iraq launched multiple attacks the day before against U.S. and Iraqi targets in Hit, 85 miles west of Baghdad. Eight civilians, an Iraqi soldier and three suicide bombers died in the Hit attacks

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Elsewhere, at least eight Iraqi civilians _ including five children _ were killed in fighting Monday in Tal Afar, said Dr. Abdul-Aal Kamal of the northern city's hospital.

There was no report of casualties among the combatants, including the U.S. 3rd Armored Cavalry Regiment, which is trying to wrest control of Tal Afar, 260 miles north of Baghdad, from insurgents and foreign fighters.

However, Iraqi authorities said the bodies of three community leaders who had refused insurgent demands for help were found Monday in the city. Iraqi officers said gunmen swept through the victims' districts over the weekend as fighting around the city escalated.

In Baghdad, thunderous explosions and volleys of heavy gunfire rattled the downtown area soon after sunrise Monday as about four carloads of insurgents staged a lightning raid on the Interior Ministry, which is responsible for police and paramilitary units nationwide.

The insurgents, who fired automatic weapons and rocket-propelled grenades, withdrew after about 15 minutes, leaving two policemen dead and five wounded. There was no report of insurgent casualties.

A statement posted Monday on an Islamic Web site claimed responsibility for the attack in the name of al-Qaida in Iraq, led by Jordanian terror mastermind Abu Musab al-Zarqawi.

U.S. Apache and Black Hawk helicopters flew over central Baghdad after the firefight, and U.S. Army patrols in armored vehicles combed the streets looking for the attackers.

The two British soldiers died when their armored Land Rover was destroyed by a bomb near Zubeir, a Sunni Arab enclave about 12 miles west of Basra.

Elsewhere, Iraqi officials said that al-Qaida-linked foreign fighters had taken control of large areas of a strategic city on the Syrian border after weeks of fighting between an Iraqi tribe that supports the insurgents and one that opposes them.

The officials, speaking on condition of anonymity for fear of reprisal, said much of Qaim, 200 miles west of Baghdad, had been abandoned after weeks of tribal fighting.

U.S. Marines operate around Qaim but have privately complained they don't have enough American or Iraqi forces to secure the area properly.

The attacks in the Hit area began Sunday morning when two suicide car bombs exploded at security barricades on the northwest side of town, a Marine statement said.

Shortly afterward, a vehicle car bomb exploded on the Hit bridge across the Euphrates River, rendering it impassable, the Marines said.

The Marine statement said three insurgents and one Iraqi soldier died in the Sunday attacks. The government in Baghdad said eight civilians also died.

In Doha, Qatar, the U.S. Central Command said U.S. jets launched airstrikes Sunday on insurgent positions near Balad, 50 miles north of Baghdad, dropping two 500-pound bombs against an insurgent staging area.

The statement also said an Air Force Predator aircraft fired two Hellfire missiles against a mortar firing position near Balad.

Also Monday, gunmen seized one of the sons of the governor of insurgent infested Anbar province, Mamoun Sami Rashid al-Alwani, officials said on condition of anonymity for fear of insurgent reprisal. The abduction occurred in the provincial capital of Ramadi west of Baghdad.

U.S. and Iraqi officials had hoped the new constitution, which goes to the voters in a referendum Oct. 15, would in time help pacify the insurgency by luring Sunni Arabs from the movement.

However, Sunni negotiators rejected the constitution and vowed to defeat it in the referendum. The bitter, protracted negotiations appeared to have raised tensions among the country's ethnic and religious communities.

About 1,500 people, mostly Sunnis, rallied Monday near the Sunni city of Ramadi to protest the draft charter.

On Monday, Iraq's president said he and the other top Kurdish leader had agreed to changes in the draft constitution to mollify concerns among Arab countries that the wording in the charter loosened Iraqi ties to the Arab world.

The language at issue describes Iraq as an Islamic _ but not Arab country _ a concession to the non-Arab Kurds who form about 15 percent of the Iraqi population.

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In a statement released by his office, Jalal Talabani said he and Massood Barzani agreed "to accept some amendments deemed vital for the Islamic and Arab worlds concerning the Arab League because Iraq is a founding member in the Arab League."

Talabani did not specify what changes in the language had been agreed to by him and Barzani, head of the Kurdistan Democratic Party.

Some Iraqi officials said last week that the changes could keep the description of Iraq as an Islamic state but add wording about Iraq having been a founding member of the Arab League. Sunni Arab negotiators said at the time that such language might satisfy the Arab League but not them.

As U.S. Tries To Secure An Iraqi Town, Insurgents Respond (NYT)

By Michael Moss

The New York Times, September 6, 2005

FARIS, Iraq - The American military recently moved into this small town 10 miles south of Falluja, one of the most violent locales in Iraq, to secure it for the coming elections, and the insurgents took all of a day to respond. They fired a rocket that missed the Americans and landed instead in a nearby playground, killing a 12-year-old boy and wounding eight other children.

"We were playing football," Ahmed Hamad Ali, also 12, said from his hospital bed the next day. "They made a big bombing."

Some residents are directing their anger not at the insurgents but at the marines, whose arrival, they say, drew the attack.

"They are like two people chasing each other," Baha Abbod, 28, a teacher.

It is hardly an unknown reaction in Iraq, where many civilians have been killed and wounded in cross-fire. But the military is bracing for a surge of situations like this one as American and Iraqi forces race to establish security for the referendum on the new Iraqi constitution to be held on Oct. 15.

"Security preparations in support of the referendum are under way throughout Iraq," said Brig. Gen. Donald Alston, a military spokesman in Baghdad.

The Marine operation was created to re-establish the presence of the Iraqi police in this town and a nearby village, Ameriya, which sits on the Euphrates River south of Falluja. The area is dominated by Sunni Arabs, who have balked at joining the Kurds and most Shiite factions in accepting the proposed constitution.

Faris and Ameriya have been without police officers since February, when the police force collapsed in the face of withering attacks by insurgents, who then used the communities as safe havens from which to mount their attacks, Marine officers said, and to intimidate civilians.

The roads from Falluja to Faris are pockmarked by craters left by makeshift bombs - improvised explosive devices, in military jargon - and on the wall at one checkpoint a scrawl in black paint urges American troops to stay alert: "Someone out there wants to kill you. Are you going to give them the chance?"

A few minutes after driving past the sign, Sgt. Tim Lawson, 24, from Shaver Lake, Calif., swerved his armored Humvee onto the shoulder as he pointed across the road to an upturned chunk of asphalt. "There's a possible I.E.D. there," he said.

Faris started out as a planned community built in the 1980's to house 30,000 engineers and others who worked in nearby munitions factories; those have been converted to construction facilities.

The marines set up headquarters in an abandoned building here and in a new house in Ameriya. For a few days they worked with no air-conditioning in 115-degree heat, with little running water and exposure to higher buildings nearby. They surrounded their buildings with giant dirt-filled wire mesh containers called Hescos and posted lookouts on the roofs.

A contingent of newly trained Iraqi troops is with the marines, building patrol experience, and they appeared poised and enthusiastic in their new uniforms and American-made body armor.

"Psst," Mustafa Kamil, 24, one of the Iraqi team leaders, said to another soldier as they moved through Ameriya in a staggered formation. "Replace me here, quickly."

He was a soldier in Saddam Hussein's army, earning about $2 a month in dinars, and after a spell cleaning streets during the start of the war, he joined the new Iraqi Army in April of last year. As an officer, he earns more than $300 a month.

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He said he worried that the 24 Iraqi soldiers who had arrived in Ameriya would not be able to hold the area when the marines left. Ultimately, the marines say, they want to turn these communities over to the Iraqi police, who may face the greatest danger. Perhaps as a warning, insurgents bombed the empty police station in Ameriya.

The marines say they feel welcome in Faris and Ameriya, compared with the hostility they sensed in some other Iraqi locales where they established camps. Cpl. Brian Andrews, 24, from Austin, Tex., said the townsfolk were "very accepting of the coalition forces, at least to the naked eye."

But the rocket attack, which struck on the last weekend of August, devastated many in Faris.

Younis H. Johan, assistant director of the town's hospital, said the rocket had killed Omar Muaid, 12, whose chest and abdomen had been ripped open by the blast. He died 10 minutes after arriving at the hospital. Eight others were wounded, four of them significantly, Mr. Johan said.

"We had casualties before, but during the last month, when U.S. troops came to the area, there has started to be more," he said. "I expect a rise, pressure on the hospital."

Mr. Abbod, the teacher, says that residents who have family elsewhere will leave until the situation improves, and that even some grim places now seem attractive. His neighbor, he said, has gone to Falluja.

At the town's hospital on Aug. 29 , a Marine captain visited one of the boys wounded in the attack and vowed to find the insurgents who had fired the rocket. But as the boy's father, Qutaiba Fajir, 42, a officer in the Iraqi Army, watched the Marine officer walk from the room, he said, "We hope they leave."

Leader Says Other Arabs Are Insensitive To Iraq's Plight (NYT)

By Robert F. Worth

The New York Times, September 6, 2005

BAGHDAD, Iraq, Sept. 5 - In an unusual public rebuke, President Jalal Talabani angrily criticized other Arab states on Monday, saying they had insulted Iraq by not sending diplomats to Baghdad and had not sent condolence letters about the stampede last week in which almost 1,000 Shiite pilgrims were killed.

Mr. Talabani spoke just after two dozen insurgents staged a brazen dawn raid on the heavily guarded offices of the Interior Ministry in Baghdad, killing two police officers and wounding five. Two British soldiers were also killed by a roadside bomb in southern Iraq.

Speaking at a news conference, Mr. Talabani, a Kurd, amplified complaints by other Iraqi leaders about the Arab states' failure to recognize the stampede, which caused the highest one-day death toll since the American-led invasion. The complaints, aimed at mostly Sunni leaders, hinted at a sectarian bias against Iraq, where Shiites are about 60 percent of the population.

"We stood with our Arab brothers in their hard times," Mr. Talabani said. "For instance, we sent a letter expressing our condolences on the terrorist attack which claimed a lot of innocent lives in Sharm el Sheik," an Egyptian resort.

Prime Minister Ibrahim al-Jaafari, a Shiite, hinted at similar criticism on Monday when asked about the emir of Qatar, Sheik Hamad bin Khalifa al-Thani, who donated $100 million to the American victims of Hurricane Katrina but nothing to the victims of the stampede. "I'm not condemning what he did, but he should think of Iraq," Mr. Jaafari said.

The comments by Mr. Talabani and Mr. Jaafari came at a time of heightened tension with other Arab nations. Last week Amr Moussa, the secretary general of the Arab League, issued a public criticism of Iraq's new constitution - largely written by Shiites and Kurds - in which he echoed the criticisms by some Sunni Arabs in Iraq. The Sunnis have opposed two provisions in particular: one that would form largely autonomous federal regions, and one that describes Iraq as an Islamic country but not an Arab one.

Some Iraqi leaders asked why Mr. Moussa was willing to denounce the new draft constitution now, after the Arab League had been notably silent about Iraq's lack of a constitution under Saddam Hussein.

Mr. Talabani also said the two major Kurdish political parties had agreed to support Sunni demands for language in the constitution declaring Iraq an Arab nation. Although the charter was presented to the legislature last week, there have been recent talks aimed at making final revisions that might win Sunni support.

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If the document is not modified, some leading Sunni Arabs have said, they will organize a campaign to defeat it in a national referendum, planned for Oct. 15.

A delegation of Sunni Arab leaders visited the Kurdish region on Monday to discuss the constitution and the Kurds' role in future elections, Mr. Talabani said.

Mr. Talabani also complained about the lack of Arabic diplomatic representation in Baghdad, calling it "an insulting issue for the country." Iraq and the United States have urged other Arab countries to send diplomats here, in hopes that the gesture would bolster the Iraqi government's legitimacy and undermine support for the insurgency.

But risk is also clearly an issue. In July, two Algerian diplomats and an Egyptian diplomat were abducted and killed by insurgents. Al Qaeda in Mesopotamia, the terrorist group led by Abu Musab al-Zarqawi, claimed responsibility , and has threatened to kill any Arab diplomat in Baghdad.

The attack in Baghdad on Monday began at 6:30 a.m., when four black BMW sedans raced up to a checkpoint outside the Interior Ministry, officials said. Firing belt-fed machine guns and rocket-propelled grenades, the group of about two dozen insurgents fought the ministry guards for 15 minutes before driving away. American Black Hawk and Apache helicopters could be seen flying over central Baghdad for hours afterward as American foot patrols hunted for the attackers.

Al Qaeda in Mesopotamia took responsibility for the attack in a statement posted on Islamist Web sites.

The two British soldiers were killed when a bomb detonated near their patrol in southern Iraq, British officials said. The bombing took place in Zubayr, a town just south of Basra that is a stronghold for Sunni Arab militants and was the site of many earlier attacks.

Fighting continued near Tal Afar, in the north, where American and Iraqi troops had begun a sweep for insurgents on Friday. Residents said mortar attacks could be heard on the city's outskirts.

Mohsin Qabagh, 40, a car mechanic from Tal Afar, described it as "a city of ghosts, where all signs of life have stopped and the residents have fled to other towns."

In other violence, gunmen driving through a Shiite neighborhood in western Baghdad opened fire on a group of bystanders on Monday evening, killing three and wounding three, Interior Ministry officials said. The motive for the attack was not clear.

West of the capital, in Falluja, Iraq's finance minister was attacked by insurgents armed with grenades as he drove through the center of town in a convoy. An Iraqi police officer was wounded, but the minister escaped unscathed.

United States military officials also announced Monday that they had captured Ayad Adnan Away Samir, a Falluja-based fighter and senior aide to the insurgent leader Sheik Abdullah al-Janabi.

Annan: War Spread Terrorism (WT)

By From combined dispatches

The Washington Times, September 6, 2005

LONDON -- The U.S.-led invasion of Iraq has turned the country into a new hub of terrorism worse than Afghanistan under the Taliban, U.N. Secretary-General Kofi Annan said yesterday.

Mr. Annan also said in an interview with the British Broadcasting Corp. that he expected to face blame over the Iraqi oil-for-food program when investigators deliver a report this week.

Hours before he spoke, carloads of Iraqi insurgents staged an audacious daylight assault against the Interior Ministry in Baghdad, killing two policemen before escaping.

Mr. Annan told BBC World Service radio that the war was contributing to Muslim anger throughout the world.

"I think there are many Muslims that are extremely unhappy today. Unhappy because they feel victimized, they feel isolated, they feel victimized in their own society, they feel victimized in the West, and they feel this profiling against them. And the Iraqi situation has not helped matters," he said.

"In fact, one used to be worried about Afghanistan being the center of terrorist activities. My sense is that Iraq has become a major problem, and in fact, it's worse than Afghanistan," he said.

Regarding the oil-for-food investigation, Mr. Annan said he believed chief investigator Paul Volcker would criticize him and others involved in the $64 billion program.

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"I suspect that there will be lots of criticism [for] myself as chief admin officer, probably something on the [supervisory] committee, the Security Council, the government of Iraq," he said. "When it comes to Iraq, on this issue, no one is entirely covered in glory."

Mr. Volcker, a former U.S. Federal Reserve chairman is expected to deliver a major report on the program tomorrow.

"Oil for food was an extra program we were asked to undertake. Honestly, I wish we were never given that program, and I wish the U.N. would never be asked to take that kind of a program again," Mr. Annan said.

In Baghdad yesterday, thunderous explosions and volleys of heavy gunfire rattled the downtown area soon after sunrise as about four carloads of insurgents staged a raid on the Interior Ministry, which is responsible for police and paramilitary units nationwide.

The insurgents, who fired automatic weapons and rocket-propelled grenades, withdrew after about 15 minutes, leaving two policemen dead and five wounded. There was no report of insurgent casualties.

A statement posted on an Islamic Web site claimed responsibility for the attack in the name of al Qaeda in Iraq, led by a Jordanian terrorist Abu Musab Zarqawi.

U.S. Marines said the same group had conducted multiple attacks the day before against U.S. and Iraqi targets in Hit, 85 miles west of Baghdad. Eight civilians, an Iraqi soldier and three suicide bombers died in the Hit attacks

Elsewhere, at least eight Iraqi civilians -- including five children -- were killed in fighting yesterday in Tal Afar, said Abdul-Aal Kamal of the northern city's hospital.

Bush Makes Better Case For Iraq War, But Needs Troops (RC)

By Morton M. Kondracke

Roll Call, September 6, 2005

President Bush has made an important shift as he tries to bolster public support for the Iraq war, moving from idealism to a hard national security argument. He needs to stress the new message more.

Unpopular though the idea may be, he may also have to increase the number of U.S. troops in Iraq in order to have any hope of defeating the insurgency.

And, for sure, he has to get the Pentagon to stop talking about drawing down U.S. troop levels next year and get with Bush's own program: The United States stays until Iraq is secure.

Bush's new public case for Iraq was unveiled Aug. 24 in Idaho and repeated in his V-J Day anniversary speech six days later in San Diego.

Both speeches contained the familiar assertions that Iraq is a key front in the war on terrorism and that the best way to fight terrorism is to bring democracy to that country and the rest of the Middle East.

In the past, those arguments — plus optimistic reports on training of Iraqi security forces and political progress — have failed to arrest a sharp drop-off in public support for the war.

As a writer for National Review Online, Andrew C. McCarthy correctly puts it: "The American people did not go to war for the goal of advancing freedom. ... [They] went to war to protect the national security of the United States from current and gathering threats which they understood after Sept. 11, 2001, could no longer responsibly be waited out.

"What the American people care about is defeating militant Islam. ... They know that leaving when terrorism runs rampant would be a victory for militant Islam. It would encourage our enemies toward more terrorism."

That's essentially the case Bush made in the recent speeches, emphasizing the stakes involved for the United States and what will happen if the insurgency succeeds in Iraq.

"During the last few decades, the terrorists grew to believe that if they hit America hard, as in Lebanon and Somalia, America would retreat and back down," he said in Idaho.

"Before Sept. 11, Osama Bin Laden said that an attack could make America run in less than 24 hours. So now they are trying to break our will with acts of violence. They'll kill women and children, knowing that the images of their brutality will horrify civilized people."

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He should have added, "And they and the followers of Saddam Hussein are killing American soldiers in hopes that the death toll will undermine support for the war here at home."

But he did say, "Their goal is to force us to retreat. See, they have a strategy. They want us to retreat so they can topple governments in the Middle East and turn that region into a safe haven for terrorism."

In San Diego, he said that "if Zarqawi and Bin Laden gain control of Iraq, they would create a new training ground for future terrorist attacks. They'd seize oil fields to fund their ambitions, they could recruit more terrorists by claiming a historic victory over the United States and our coalition."

Bush might have added — and should add in future speeches — that "if the United States is driven out of Iraq, our leadership role in the world will be sorely shaken. Adversaries will be emboldened. Friends will be discouraged. Our ability to persuade fence-sitters will be impaired on a broad range of issues."

It's doubtful that the new message has taken hold in the public's mind yet, but polls indicate that public disapproval of the war and Bush's policy in Iraq may have bottomed out.

Despite increased U.S. casualties and the massive publicity garnered by war protester Cindy Sheehan, the latest Gallup poll shows that support for her position — an immediate U.S. pullout — has fallen from 33 percent to 26 percent.

The Washington Post/ABC News poll showed that only 13 percent hold that position and that a majority of 56 percent supports increasing U.S. forces (21 percent) or keeping current levels (35 percent).

Support for Bush could get a boost if Iraqi voters approve the country's new constitution Oct. 15, but it's likely to be as temporary as it was after the Jan. 30 elections.

What Bush policy needs is progress in defeating the insurgency — and to get that, he may well need to increase U.S. forces.

A Bush supporter I trust who has made multiple visits to Iraq is convinced that Iraqi security forces are unlikely to be able to contain the insurgency for the foreseeable future and, as matters now stand, the United States is losing ground to the insurgents.

This official says that combined U.S. and Iraqi forces are capable of driving insurgents out of cities such as Fallujah or Ramadi, but don't have the manpower to hold them — so Saddamists and jihadists return and kill or intimidate those who "collaborated" with us.

This point of view has been compellingly confirmed on the ground by Knight-Ridder correspondent Tom Lasseter, who has been embedded with U.S. Marines and Army units in Sunni-dominated Anbar province.

On Aug. 25, Lasseter reported that "in Fallujah, a city that Marines and soldiers retook from insurgents last November in the heaviest urban combat since Vietnam, [insurgent] fighters have begun to return and renew their intimidation campaign."

He quoted one Marine colonel as saying, "I don't think of this in terms of winning" and another as saying, "if you go into an area and you don't stay in that area, the insurgents will return and intimidate the local population."

Lasseter quoted one platoon commander who said, "There's no way I can control this area with the men I have." American officers said it would take "years of preparation" for Iraqi forces to take over.

But there's total confusion, based on statements from various top commanders, about whether American troop levels will increase, decrease or stay the same. For a time, the Pentagon even tried to abandon Bush's declaration of a "global war on terror" and replace it with "global struggle against violent extremism."

Bush put the kibosh on that. He continues to make it clear that America is at war. What he must do now is make it unmistakable to the American people what the stakes of the war are and provide adequate forces to win it.

An Uncertain Dawn On A Scarred Street (WP)

By Anthony Shadid

The Washington Post, September 6, 2005

BAGHDAD Last of three parts

On June 23, 2005, a war more than two years old arrived at the busy commercial district of Karrada, where Amal Salman, now 16, lived with her family.

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For months, hardly a day had passed without a car bomb somewhere in Iraq; the scenes unleashed in Karrada by the explosion at 7 a.m. were so familiar as to have become routine. Twisted wreckage smoldered, its acrid smoke mingling with the stench of seared flesh. Water cascaded over the fires, then, turning black, mixed with pools of blood. Shattered glass danced along the buckling asphalt like a hailstorm.

Left in the bomb's wake were the ruins of the Abdel-Rasul Ali Mosque, a neighborhood place of worship entered through wooden doors graced by a blue, floral-tiled portico and decorated by calligraphy invoking God, Muhammad and Imam Ali. In quieter months, under lazy fans and chandeliers, Amal, her mother and sisters had gathered there to celebrate the religious holidays of Shiite Muslims.

"I woke up terrorized by the powerful explosion, with my heart beating fast, fearing that someone might have died or been wounded," Amal wrote in her journal that day.

With her sisters and mother, she clambered onto the balcony of their three-room apartment. Surprisingly quickly, police had arrived, vainly trying to direct dazed bystanders, some of their faces frozen in the blank stares of shock. From the third floor, Amal heard the shouts of others -- cries of anger and, more frequently, helplessness.

Minutes later, in a tactic that had become more and more common those days, another car bomb detonated, then another, all along her street as Amal watched. Before the spasm ended, four in all exploded, killing 17 people and hurting many more.

"For a moment, I thought I had died," Amal wrote in a long entry. "Then I realized I was not dead, but I was so scared. In a moment the police car was burned and those inside it were dead, burned. A young man who had only recently announced his engagement died, along with a good old man who lives in the neighborhood, named Abu Karrar, and Khalil the Kurd, who owns a shop in one of the small shopping centers here."

Since she had begun keeping her diary in 2003, Amal had witnessed the events of a lifetime: an invasion and the only government she knew toppled in a few weeks; an occupation; promises of prosperity and the disappointment that followed; an insurgency and the specter of civil war. That Thursday morning was the first time she had seen death.

"It was a true disaster which I will never forget as long as I live. Total destruction, not only in the Karrada district, but inside me, my family and among our neighbors," she wrote. "I was really in pain over this scene which I hope no one would ever have to see."

Residents sometimes remark that Baghdad is cursed by how little is ordinary. It is a city that Karima, Amal's mother, calls forsaken, tempered perhaps only by its resilience -- the city's best and, in these days, most valuable trait. On a hot summer day, as a sandstorm cast the capital in a sickly glow, Amal recovered from the latest disaster. She helped care for her sister, Hibba, whose right arm was torn by flying debris. She traded gossip with neighbors about who lived and who died. She watched police clear the streets, then saw the Americans arrive. A military truck brought bottles of water; people lined up to receive them.

"It was a scene that was hard to describe, as if the Iraqis were beggars standing in line in a humiliating way," she wrote. "During the dispensing of the water bottles, the American woman soldier gave a camera to the translator to take a few pictures."

By nightfall, the dead were buried, carried to their graves in funeral processions.

"Women were crying," Amal wrote, "and many people with grief on their face seemed bewildered and unable to understand why so many people have to die."Coping With Hardship

Amal had turned 16 on March 23, her hair still pulled back in a ponytail. But she looked older, having passed abruptly to adulthood from an abbreviated adolescence.

Her sisters, too, wore the years of hardship. The twins, Hibba and Duaa, were now 14. Hibba wore a hijab over her hair, while Duaa braided hers. During the invasion, they had been friendly, even effervescent, eager to show off their Koranic recitation, chants for Saddam Hussein and snippets of elementary school English. With their faces and bodies no longer boyish, tradition now dictated that they keep a distance from men.

Fatima, at 18 the oldest, had long ago left school to help Karima, a widow, raise the children. In the time since then, her literacy had faded, as had some of her confidence.

Zainab, the quietest and most beautiful of the girls, had married in the spring at 17. Her husband, Ali, had been a police officer, earning $300 a month. In July, though, he received the leaflet that so many of his colleagues dreaded: a death threat from shadowy insurgents. "They told him either you quit or we'll kill your wife," Amal recalled. He quit.

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A year before, Karima had finally found work as a maid at the Palm Hotel, since renamed the Rawabi, cleaning eight rooms from 8 a.m. to 1:30 p.m. In a racket of sorts, the local employment agency took a third of her wages. That left her with about $33 a month.

Ali, 22, a former soldier and Karima's oldest son, had secured a job, too. He was now serving tea in a nearby real estate office, working from 9 a.m. to 6 p.m. He made about a dollar a day, "depending on the baksheesh ," or tips. His younger brother, Mohammed, 20, was long without work. A ne'er-do-well, he spent most of his time prowling the streets; even his family suspected he was up to no good. Mahmoud, at 11 the youngest, sold soft drinks in the street during summer. At his best, he could bring in nearly $2 a day. Already, the time outside had given him a precocious street sense.

With the exception of Mohammed, their trials had brought them closer; as their city collapsed, they looked inward, their isolation a source for their strength.

"My family is my country," Amal said.

The words that danced that summer across Baghdad's landscape, a panorama washed of color by the sun and time, were almost always confusing.

Billboards along highways with heaps of trash marketed the mobile phones of Asia Cell. "Now your voice is heard," they declared. Another pictured a fingerprint, the hoped-for symbol of the January election, when voters dipped their index fingers in dye to certify they cast ballots. "Iraq," it intoned. Those faded posters were now dusty, some of them torn. Graffiti on a dirty wall in the capital's Sadr City slum spoke to the present: "You traitors, we don't want elections, we want electricity." In Amal's neighborhood, another poster, its meaning ambiguous, suggested the past: "Today is the same as yesterday."

"Today was quiet, and no one spoke about anything except electricity, which comes only for short times," Amal wrote in her entry on July 4. "Water is not available because the terrorists are targeting water pumping plants every day. The rich can live outside Iraq very comfortably, but the poor who can't have to stay suffering."

As they had during the war, Amal and her sisters still filled buckets of water each day from a leaky faucet in the courtyard, then lugged them up two flights of stairs. The summer before, her family sometimes had as many as 12 hours a day of electricity -- cycles of two on, two off. For an entire week in June this year, they had just two hours. It was one hour a day for stretches in July. In August, it had doubled to two hours.

As they sat in the dark on one sweltering day, the lights flickered on. "God's prayers on Muhammad and the family of Muhammad!" they shouted, with weary smiles. In 10 minutes, the lights dimmed again. "Is this real?" Karima asked, shaking her head.

In one of the bedrooms, a visiting Zainab was gathering blankets from the floor, where Karima's five daughters had slept together. From the kitchen, Amal brought in tea and a single fried egg. The others shared this, along with Iraqi bread known as samoun .

Their conversation that morning turned to money, then to their lack of it. Neighbors had purchased a small generator, but a share of its power was expensive: $10 a month, along with $1.50 a day for the fuel. The Karrada bombing had damaged the nerves in Hibba's right forearm; she could no longer grip a pencil. A doctor's appointment cost $5, and physical therapy ran $2 a day. Given the family's budget, they would let her try to heal on her own. The money would go instead to put the youngest daughters through school.'Death Is All We Hear'

Like many in Iraq over nearly three years, Amal's family was locked in a cycle of moments of optimism, followed by long months of brutality and dejection. There were turning points -- Hussein's fall, the formal end of the U.S. occupation in 2004 -- and Iraqis often greeted them with anticipation and hope. Disappointment typically followed. One of those turning points was the election in January, when Karima, Ali, Mohammed and Fatima defied insurgent threats and walked cheerfully to the polling station.

"I regret that I went to the elections and voted," Karima said seven months later, as she sat with Amal and her sisters over breakfast. "What did we elect? Nothing."

"If we voted or didn't vote, it's still the same thing," said Fatima, her oldest daughter and most pessimistic. "If the Americans want to do something, they'll do it."

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Karima nodded, her veiled head cast to the ground. It was a gesture that seemed to mean: What more can be said? Her city was mahjura -- forsaken or abandoned.

"I feel sorry for Baghdad," she said softly.

In the worst days of the invasion, Karima once said something as Amal and her sisters sat around her. "It's like we're part of a play on a stage," she said, her voice reflective. "Life's not good, it's not bad. It's just a play."

As Iraq entered a third year of war, those words acknowledging her powerlessness seemed to take on new meaning. The script was already written. People like Karima sat as spectators, watching a performance.

Violence, now mundane, was reshaping their lives. Its pervasiveness was breeding distrust and fear as amorphous as Hussein's repression was pervasive.

"While I was downstairs, my brother Mahmoud came and said the road was blocked. Everyone was asking why and some said they had arrested terrorists," Amal wrote on July 5. "The truth however was that police had found a bag, and at first thought there was a bomb inside it, but in fact they found a girl of 16 years -- dead, beheaded, and naked. She was thrown on the street, inside a bag, raped by someone unknown."

"Death is all we hear in the news everyday," she wrote in another entry, a few pages later. "Death, slaughter, murder, kidnappings and robberies. Nobody knows why."

At times in the summer, Amal's street would assume a veneer of normalcy. Lines of cars still stretched miles from gas stations. But markets along the sun-soaked sidewalk overflowed with goods piled on rickety stands: socks imported from China and T-shirts from Syria. Down the street were children's toys. There was a "Super Mega Heavy Metal Fighter" action figure and a doll that, when squeezed, played "It's a Small World."

In the family's apartment, though, the daily mayhem cast a long shadow. Weeks after the Karrada bombing, Amal and her siblings recalled its scenes in almost photographic detail.

"The dead have become cheap," Mahmoud, the 11-year-old, said dispassionately.

He recalled one piece of burning shrapnel that sliced through five people. Abu Karrar, he remembered, stumbled across the street, his shirt bloodied. Then he died. A bone of Abbas Rubaie's leg flared through his pants. The flesh of another neighbor's arm was seared off. A car's engine, the boy said, fell on top of a corpse.

"Only the best people die," Mahmoud said. "They always pick the best fruit."

In her diary, Amal recounted the police raids that followed, as officers forced their way into apartments and searched for suspects. She and her sisters watched passively, in silence. Two people were arrested; neighbors said they were innocent, "poor laborers at a soap factory." More raids ensued that summer, sometimes every few days.

"God knows who is telling the truth or not these days," Amal wrote in July. "No one has trust in anybody else, whether the police, the National Guard or even our own folks."Liberation and Contradiction

In 2004, a year after the invasion, Amal had sat with her mother, confused about occupation and liberation, unsure about the fortunes of her country. Some blamed the Americans for their plight, she said then; others blamed Hussein, or even the Iraqis themselves.

At the time, Amal shook her head. "I don't know what to say," she confessed.

Another year on, though, Amal was no longer the young girl who parroted the hollow slogans of Hussein's state and, as it crumbled, directed prayers to God. She no longer deferred to her sisters, formulating her tentative opinions but often too shy to deliver them. The conflict around her had become more than a simple struggle to survive. Karima, her mother, now listened to her, as did her sisters. They might disagree with her, but they witnessed in Amal liberation measured in the most personal of terms: She saw for herself.

"All the government officials say, 'What do I want,' " her sister Fatima said one afternoon in August. "They don't care about the people. They don't care about the nation."

Amal interrupted her. "I feel like it's going to change," she countered.

The girls sat together in the apartment, where iconography had proliferated over the months. More posters had gone up of Shiite saints, placid portraits. A blue porcelain plate still hung. "God," it read simply. The electricity was on, and the dank stairwell was lit. Inside, enough sun filtered through the window, and the girls left the lights off.

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"The intervention of the Americans in Iraq has brought about the biggest revolution the world has ever seen," Amal insisted.

"It's an occupation," her older sister answered.

"Did the Americans change the regime or not?" Amal said.

She was speaking neither in support nor opposition; she was simply reflecting fact. She didn't try to reconcile contradictions; she understood there were ambiguities.

"It's an occupation," Fatima answered again. "When the Americans move, we have to stop in the streets. We have to pull over. If we don't stop, they'll hit us. It's our country. Why do we have to stop for them? We should be giving the orders."

"It's going to get better and better," Amal countered confidently. "This is just my opinion," she said, "and I'll say my opinion freely."

"The people who died, did it get better for them?" Fatima asked, a little frustrated.

Amal turned her palms up and smiled.

She talked about the insurgency. Guerrillas fighting American troops in the western province of Anbar were honorable, she said. "I respect them, but it's not resistance to kill someone working for the Americans. That's not what we call resistance."

"The American presence has positives and negatives, but it was a revolution," she said. Amal pointed her finger at her older sister. "It changed the regime. We don't say it's all good now. We don't say it's all positive. But we hope, we hope."

Occasionally in her diary and more often in conversations, Amal speaks of what she calls the contradiction -- pessimism and hope, sentiments seemingly irreconcilable.

In that contradiction is perhaps one of the truths of her city: Baghdad, its residents often say, deserves better, and they mourn the perpetual loss of the most fabled Arab capital. Resilience, a truly Iraqi quality in its defiance, somehow propels it forward.

"There's no answer to our problems. If you look for one, there is none," Amal said. Her family had turned quiet, listening. "The situation is bad. It's true, it's really bad. It's true that every day is worse than the one before. But we don't ever want to be hopeless.

"I always want to leave something for tomorrow," she went on. "The sun will set today, but it always rises again. Everything rises again. Even without life, there is hope."

She stopped for a moment and smiled at the attention the others were paying her.

"I don't know how to express it," she said softly, "but I understand it."

In The Realm Of War, Words Don't Fail An Iraq Veteran From New Jersey (NYT)

By Tina Kelley

The New York Times, September 6, 2005

WHEN his world feels torn apart, José Díaz puts words together.

He writes a line about the night in Iraq when his captain lay wounded on the ground with no life in his eyes: "No answer could be given; the shrapnel could not tell us why we bleed."

By describing his reality, his descriptions affirm it somehow. War, he writes, "is easy enough to leave physically, but almost impossible to depart emotionally."

Mr. Díaz , 35, who came to the United States from Cuba on the Mariel boatlift in 1980, has written a poem included in "Voices in Wartime" (Whit Press, 2005), an anthology that explores the experience of war through literature.

Mr. Díaz , an information technology manager for a New Jersey chemical company, lives in Rutherford, N.J., and writes wherever and whenever: using a notebook in a bouncy Humvee in a convoy in Iraq, using a recorder in a car on the Garden State Parkway, punching poem fragments into his cellphone when he was floored by the differences between New York and Abu Ghraib, where he was stationed for nine months in 2004.

"Before, the city always meant joy, fun and laughter," he said of New York. "But I couldn't tear myself away from that little patch of land very far away, and that night." He has memories of hearing his captain asking another friend to take care of his children.

Of the memories, he said, "Writing poetry is a way of making them safer and not letting them run away with you."

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He said he came back from Iraq more cynical, aggressive and on edge.

"On the one hand you're disturbed by the very things that make you stronger, unique, different and insightful about this world."

Mr. Díaz began writing poetry with a club that met at Havana Bay Coffee in North Bergen, N.J., starting with love poems. "I can't do that anymore," he said, recalling children in Iraq living off the garbage of Americans stationed there. "Love seems like a trivial subject to write about."

He shows fragments that will become his next poem, "Had We Known."

He has changed the word "inhale" to "hum" in this line about the call to prayer, which often preceded mortar attacks: "Once more, it was our fate to hum the call of the muezzin."

In the final version, he looks at his friend's eye, and sees it move.

It's green, thank God! Exhale! Inhale!

And forget what lies beyond the line of sight.

Confine it now and then to the realm of our repose.

U.S. And Afghan Forces Kill 25 Suspected Taliban In Two Raids (LAT)

By Paul Watson

The Los Angeles Times, September 6, 2005

KABUL, Afghanistan — U.S. and Afghan forces killed 25 suspected Taliban fighters and captured dozens more in operations in two southern provinces over two days, Afghan and U.S. officials said.

On Monday, U.S. and Afghan forces killed 12 suspected militants and detained nine others in a raid in Zabol province, the U.S. military said. Soldiers were brought by helicopter into a remote area where militants were believed to be gathering before launching attacks. No casualties were reported among the Afghan and U.S. forces.

The operation in Zabol followed a raid in neighboring Kandahar province in which U.S. and Afghan forces killed 13 suspected Taliban fighters, and captured dozens more, in a remote area where a political candidate was kidnapped and executed last week, a provincial official said.

U.S. and Afghan troops dropped by parachute from American aircraft in the operation, which began Sunday, Kandahar Gov. Asadullah Khalid said by telephone from Kandahar city, the provincial capital. None of the coalition troops was injured.

The assault targeted insurgents suspected of killing Khan Mohammed, a candidate for Kandahar's provincial council in the country's Sept. 18 election who was abducted Friday, the governor added. A district commissioner and three policemen were killed along with Mohammed.

At least four other candidates have been killed in the weeks before the election for the lower house of Afghanistan's parliament and provincial councils. It is Afghanistan's first parliamentary election since U.S.-led forces toppled the Taliban's hard-line Islamic regime in late 2001.

Backed by U.S. attack helicopters, the American and Afghan troops, and local police, landed Sunday in the Lal valley, about 50 miles northwest of Kandahar, the governor said. More than 40 suspected insurgents were detained. They are being interrogated, U.S. Col. Jim Yonts, spokesman for the coalition forces, told reporters in Kabul, the Afghan capital.

Khalid said some of them might be released soon, while the rest would be put on trial as Taliban militants.

"I think this was a group that was hiding and getting ready to conduct operations to bring chaos to the process of the elections in Afghanistan, so this [assault] will decrease the danger of the Taliban insurgency," the governor added.

Yonts denied there was any link between the offensive, which was still underway Monday, and Friday's kidnappings and executions.

"What you have here is when coalition forces are notified, through intelligence means, that there are enemy forces in an area, we will quickly and aggressively take the fight to them," Yonts said.

Taliban and allied guerrillas have killed at least 51 U.S. troops in Afghanistan this year, the heaviest combat losses for American forces since the war against the Taliban and its allies in the Al Qaeda terrorist network began in 2001. More than 1,000 Afghans, many of them civilian victims of insurgent attacks, have died.

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But the international security force led by the North Atlantic Treaty Organization in the country considers the militants' attack rate similar to that for the period before last year's presidential election, said Maj. Andrew Elmes, a British spokesman.

Millions of Afghans defied Taliban threats and turned out to vote in an election won by President Hamid Karzai, a strong U.S. ally.

United Nations organizers say that with more than 5,800 candidates from 72 parties running in the upcoming election, their task is several times more complicated than last year's vote.

In other recent attacks in southern Afghanistan, insurgents killed five Afghan police officers in an ambush Sunday. The previous day, guerrillas killed three Afghan police officers guarding a supply convoy headed to a U.S. military base.

Despite daily attacks by guerrillas across large swaths of southern and eastern Afghanistan, Yonts said the U.S. military saw the attacks as local or regional operations without any national coordination.

"In our assessment, it is not connected to any kind of a network," he said. "You will see an individual attack here, you may see an individual attack in this [other] province over here. But there is nothing that we see that fuses that together from any sort of an infrastructure, or coordinated program."

The insurgents mainly operate in cells of one to five fighters, Yonts said.

13 Insurgents Killed As U.S. And Afghans Mount Drive (NYT)

By Carlotta Gall

The New York Times, September 6, 2005

KABUL, Afghanistan, Sept. 5 - Afghan and American forces have mounted an operation in recent days in a remote mountainous district of southern Afghanistan in pursuit of a group of insurgents, Afghan and American officials said Monday.

They said that 13 insurgents suspected of ties to the country's former Taliban rulers had been killed and more than 40 people had been detained.

The area of combat is the same district, Ghorak, where suspected Taliban insurgents kidnapped, and claimed to have killed, five people on Saturday - a local election candidate, a government official and three police officers. An American spokesman, Col. James Yonts, said the operation was not directly linked to their abduction, but was based on intelligence about enemy activity.

The governor of Kandahar province, Asadullah Khalid, said the 13 insurgents had been killed Sunday in American-led airstrikes on the area.

One Afghan soldier was wounded in the operation as troops were brought in by Chinook helicopters, said the Afghan Army spokesman, Gen. Muhammad Zaher Azimi.

The fighting came after several days of increased violence that left two candidates for the Sept. 18 parliamentary elections dead, as well as 16 other people. The dead include a British engineer, two Japanese tourists, a government official and his son, a cleric and six police officers. Afghan officials blamed Taliban insurgents for the violence, saying the Taliban are trying to disrupt Afghanistan's parliamentary elections.

Pakistan Builds Its Forces on Border

ISLAMABAD, Pakistan, Sept. 5 (Reuters) - Pakistan has sent thousands of troop reinforcements to its western border to help choke off the Taliban-led insurgency in the weeks before Afghanistan's parliamentary elections, a military spokesman said Monday.

About 5,000 more troops have been sent to North-West Frontier Province and 4,500 more to Baluchistan Province, bringing the total of troops near the border to almost 80,000, Maj. Gen. Shaukat Sultan said.

Last year, the Taliban were unable to mount a credible threat to the election for president because of a squeeze put on the border areas by the Pakistani Army, American-led forces and the Afghan Army.

But since March, the Taliban and their allies have intensified their campaign of violence. The insurgents have suffered the heaviest casualties, officials contend, but dozens of civilians, Afghan security personnel and American troops have been among the hundreds of people killed.

After The Fall, Amal Surrenders Her Illusions (WP)

DOJ_NMG_0002573

By Anthony Shadid, Washington Post Foreign Service

The Washington Post, September 5, 2005

BAGHDAD Second of three parts

On April 10, 2003, the day after the fall of President Saddam Hussein, the veil had been lifted but no one was sure what it revealed.

Conquered no less than 15 times in its history, Baghdad was called free, but the city was a furious storm set down. Emotions -- euphoria, vindictiveness, desperation, confusion -- surged up from the people after years of silence and restraint. The city seemed like a dazed inmate stumbling out of his cell and squinting into the harsh sunlight. Some spoke of anarchy: Armed civilians had begun to crack the monopoly on violence held only weeks earlier by Hussein's government and the American military forces now occupying Iraq. Thousands of residents hurried to plunder everything from trucks and wooden carts to the urinals, copper pipes and electrical wiring of public buildings. Hospitals and embassies fell prey, along with ministries, government offices, Baath Party headquarters and the stone mansions, faced in onyx, of Hussein's lieutenants.

"The hospitals are being looted and no one is protesting! Why does the St. Rafael Hospital have an American tank protecting it? Is it because it is a Christian hospital? What about the Alwiya Maternity Hospital? What about the pregnant women there?" 14-year-old Amal Salman wrote in her journal on April 11. "Why has it befallen Iraqis? Wasn't it enough to loot government offices? Now the hospitals and even homes?"

She asked a question heard often in Baghdad in those days: "What are the Americans going to do with us?" The entry ended succinctly: "God, have mercy on us."

Like others, Amal, her sisters and her mother confronted a city that was collapsing as living conditions worsened. Few parents let their daughters walk alone in the streets, and the members of Amal's family spent most of their time in their apartment, huddled in a stuffy living room, sweating. In time, power was restored, but it remained intermittent, sorely inadequate as temperatures climbed. Phones were still not working, the networks shattered by bombing. Money, each denomination bearing Hussein's portrait, was scarce. Prices soared further, and shortages were everywhere. Overnight, tens of thousands lost their jobs as the bureaucracy disintegrated, some offices in flames.

There was an attitude in Iraq in those months, shared by Amal and her family, that seemed to condemn the occupation from the start. Many in Baghdad had been in awe at American technology during the war. Especially during the conflict's first days, the U.S. assault was as devastating as it was precise. Hussein had ruled for 35 years; the Americans had toppled him in less than three weeks, and relatively few of their soldiers had died in the task. How could these same Americans be so feeble in the aftermath?

"Where is the help that Bush spoke about?" Amal wrote. "No one knows."

Through those days, she stayed far from the gear-laden U.S. soldiers now in the streets, peering at them from her balcony and even returning waves, but reluctant to speak. Her effervescent twin sisters, Duaa and Hibba, were more curious. On a Saturday in the occupation's first month, a tank was parked on the street, and the girls went to say hello to the soldiers, who gave them chocolates. A few minutes later was the crack of gunfire.

"Hibba tried to ask the soldier what was happening. He told her, 'Go! Go!' But Hibba didn't understand the American language. Out of fear for Hibba, he carried her to our building. They are nice, but they are misled by Bush, the dangerous one," she wrote.

Two days later, the twins saw another group of U.S. soldiers in the streets, their desert camouflage melting into the city's palette of browns. "They wrote their names on the children's palms. Hibba's hand had names of Americans soldiers on it. Hibba and Duaa were very happy. They said the soldiers were very friendly and they were delighted with them. Is it true they are good?" she asked.Reconciling With Reality

Ever so slightly, Amal's writing began to change in those turbulent months. During the war, infused with the government's propaganda, she had spoken with the force of a loyalist. Precocious, the smartest of Karima Salman's daughters and an enthusiastic inductee in her school's Baath Party group, she had competed with her sisters in pledges of fealty to Hussein, even if her diary was more reflective. In April, a week after his fall, as her fellow Shiite Muslims celebrated his demise, Amal still held

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tenaciously to received views. Hussein was all she knew. "Until now," she said as she sat with her family, "we still say his excellency, the president."

But privately Amal seemed baffled, and she gave voice to her confusion in the diary. A war she dreaded was over and a revolution she did not understand just beginning; she tried to reconcile her experience with reality, as churning, unpredictable and menacing as it was.

"We used to have trust in President Saddam Hussein," she wrote on April 11, two days after his fall, "but now we don't know whom we trust."

Hussein still cast many shadows in Iraq; he would do so for months and years to follow. Almost immediately, the mass graves of those he had persecuted began to be unearthed, the victims numbering in the tens of thousands, perhaps hundreds of thousands. With their discovery came an accounting of the dead. Days after Hussein's fall, photocopied pictures of men missing or executed and now celebrated as martyrs began to crowd for space in markets, offices and mosques. Their dark eyes, lonesome, stared ahead.

Quieter was the process of demystifying Hussein. His name was still whispered; who knew if danger remained, if somehow he might still be listening, waiting? "No one knows where President Saddam Hussein's whereabouts are, or when he will appear with his army," Amal wrote in an entry on April 16. "They say Saddam Hussein is in Baghdad with a big army, built for the final battle between Iraq and America. No one knows if this is true or not. They are just rumors, true or not."

Secrets soon poured out, and Amal digested the horrors of the government she had once seen as indestructible. Weeks after Hussein's fall, she and her family watched some of the 50-cent videos that flooded the market. They detailed the ornate palaces in a style of kitschy Arabesque that Hussein built -- "all with gold and silver," she wrote -- the gassing of 5,000 Kurds in 1988 in the northern Iraqi city of Halabja, and Uday Hussein's notorious abduction of women whom he fancied.

"Saddam's eldest son, Uday, is the biggest corrupt person on earth," she wrote after watching the videos over two days, their viewing interrupted by blackouts. "Any girl he liked, he would take. No one could say anything because he is the son of President Saddam Hussein. His other son, Qusay, is also cruel, like his father and brother."

The same, she wrote, went for Hussein's other relatives.

"No one realizes they are gone, all of them, forever," she wrote.An Open-Ended Collapse

The U.S. invasion that toppled Hussein and brought the occupation never had a real name. The Bush administration called it Operation Iraqi Freedom. Predictably, Hussein's own name for the invasion, Marakat al-Hawasim, Defining Battle, was similarly grandiose.

Like many in Iraq, Amal and her family simply called the war the suqut -- "the collapse" or "the fall," a name that probably made more sense than any other. It designated the end of 35 years of pitiless Baath Party rule. In a way, it suggested, too, that another beginning had yet to be inaugurated. Through 2003 and 2004, Marakat al-Hawasim lingered in the wreckage of the government's fall. It remained open-ended, its muddled aftermath as inconclusive as Hussein's fall seemed climactic. For Iraqis, suqut meant an end without renewal, a seemingly endless interim. It was a life imposed, not chosen.

"Everybody is asking about the future, the future of Iraq," Amal wrote in the summer of 2003. "Some are asking where is the future. Others say Iraq has no future anymore. These are all opinions, but no one knows what the truth is."

Amal's diary was becoming more and more tattered. The writing itself was filled with highs, the glimmers of hope that had passed, and the more enduring lows that always seemed to return.

"God is greatest! Praise to God!" Amal wrote in one entry when occasional electricity flickered through their apartment. "There was rejoicing in the whole building, people saying to each other, 'Electricity is back, thanks be to God.' We slept, feeling happy because of the electricity."

And then, a few pages later: "We are now sitting, waiting for electricity to come back. What happened to the promises?"

In Amal's building, the water remained off for months, so the children took turns lugging buckets from a faucet that still worked in the entryway downstairs, near a pool of black, brackish water. For days at a time, the family had no kerosene for cooking. On the occasions it was available, it would sometimes sell for 20 times its prewar rate. Prices for food skyrocketed: Karima groused that cucumbers had tripled in price since the war's end and tomatoes had more than doubled. The family staved

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off hunger only by way of monthly food rations that were still distributed to each family. Rent was always two months or more late, and the landlord was stopping by the apartment every few days, angrily demanding money.

The pressure was taking its toll on Karima, a widow who was just 36. Her oldest son, Ali, had survived the war, deserting the army before the conflict ended and making his way to Baghdad. But he was jobless. She looked for work at the city's main hotels -- the Meridien and the Sheraton -- but could not make her way through security. She spoke no English; often the U.S. soldiers manning the entrance spoke no Arabic. Their interpreters dismissed her as more riffraff from the street.

As her family's circumstances spiraled downward, Karima, in desperation, went to the family of her late husband's sister along Abu Nawas Street. Karima needed help -- money for rent and food. After fighting and humiliating Karima, the relatives tried to get U.S. soldiers stationed down the street to arrest her, but the interpreter with the troops was a neighbor of Karima's and sided with her. Karima returned home.

"Why would my aunt do that?" Amal asked. "She is our aunt and we are like her children. But the times have changed. Life has no mercy on anyone in this world. Even the same family won't have mercy on each other. Why? Why? I think of this every day. She is the sister of my father. Why did she do all that? Because of money? She is a teacher and she is in no need, but we are. If my aunt has no compassion to us, who will?'"What Else Can We Do?'

In Amal's writings, the meaning of liberation was personal. Her mind was flowering, her raw intelligence exercised by her consideration of her country's experience. Amal's hard-won wisdom seemed the quietest of triumphs in the long months after Hussein's fall.

In a society that equated wisdom with age, the once-impressionable girl had begun thinking critically, first about Hussein and then the invasion, the occupation and the ambitions that drove the Americans forward. There was an irony in her awakening: She was free to speak, but it was her liberators whom she criticized with her new candor.

"People are exhausted and conditions are harsh. We are now living on false dreams and in a failed democracy," she wrote. "Satellites were banned in the past, and they are now permitted, but who can buy a satellite? Those who have money can buy, but those who don't can't buy anything. This is democracy."

Well-intentioned U.S. officials would often remark that they were there to throw open the gate to a democratic, pluralistic future, but stressed that the Iraqis themselves would have to walk through it, on their own. Time and again -- often oblivious to history and unmindful of the consequences an occupation inspired -- the Americans were frustrated when Iraqis, battered and beaten down by wars and dictatorship, didn't start to walk through the gate.

But the Americans had to take, or at least share, responsibility for raising the people's expectations in the first place. Iraqis might forget the date, perhaps even the person who spoke the words, but they always remembered the pledge uttered on March 6, 2003, by President Bush when he promised that "the life of the Iraqi citizen is going to dramatically improve."

One of those who remembered was young Amal:

"Please, tell us, when are we going to live a life of security and stability? Listen to us, hear us, you people out there, we have cried and shouted. What else can we do?"

Although her entries became less frequent through the year, Amal's writing became clearer, her sentences longer and more complex, her vocabulary more sophisticated. She gained confidence in her ideas as she observed life around her. "They talk about democracy. Where is democracy? Is it that people die of hunger and deprivation and fear? Is that democracy?"

When the damp, sometimes gusty cold of winter arrived, Amal's family sat on mattresses and shabby brown blankets around a kettle of tea, brewed by eldest sister Fatima, and a plate of cheese called Abu Thufira served on a dented metal tray. Pictures of Arabic pop stars lined the walls, along with the usual religious portraits and invocations.

The twins attached stickers of soccer players to their school notebooks. The other children traded copies of leaflets that were circulating in the streets at the time. "An American soldier cries in Baghdad," one of them declared over a picture of an American fighter with his hand held to his eyes. The leaflet was from one of the numerous insurgent groups, and it catalogued the opposition's latest, if fictional, triumphs: three planes and 14 U.S. tanks destroyed on a single day. Another, handed out by the U.S. military, featured a picture of a fighter clad in black with a ski mask, carrying a rocket-propelled grenade. It implored Iraqis "not to permit terrorists or loyalists of the previous regime to take away your new freedom."

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Amal's family believed one, not the other. They talked about the fear they had seen in the eyes of U.S. soldiers near their home. They exchanged rumors of desertions in the U.S. military. Conspiracies ran rife.

"All the explosions are their fault," Karima said of the U.S. officials ensconced in the Green Zone. "They are the reasons for the bombing."

"It's apparent," Ali said, as an Egyptian serial, "Alexandria," its volume loud, played on the television. "Only Iraqis die in the explosions. No Americans ever die."

Karima shook her head. "Saddam did not do good things," she said. "He made the people suffer. But there was fear. And with fear, there was security. He was strong."

Ali called civil war a prospect. "It's possible," he said. "It might happen."

Amal interrupted, raising her voice for the first time that day.

"I don't think it will happen," she countered.

Growing ever more confident, Amal, approaching 15, volunteered her own view of the country's confusion. "If I say the Americans are better, someone asks what have the Americans done. What have they done for us? All the Americans have done is bring the tanks," she said. "If I said the time of Saddam was better, they say, what? If he didn't like you, he would cut off your head. He was a tyrant.

"I don't know what to say," she admitted.

A few days later, as she sat near a space heater casting a yellow glow over the room, Amal had thought about the previous conversation.

"People must be optimistic," she said. Sometimes her dark brown eyes were cast to the floor. At moments, though, she looked up, her voice clearer, her ideas more insistent. "There must be hope. Even the Koran says we should be optimistic."

She looked down to the floor again. There was a suggestion of defiance in her words. "If not for my generation," she said, "then the generation that's coming."

Karima sat next to her. She spoke softly, though Amal seemed to hear her. "They're still young," she said, shaking her head. "They don't know what's ahead."

NEXT: Life in Baghdad today

Return Of Former Communists Stirs Up Afghan Elections (NYT)

By Carlotta Gall

The New York Times, September 5, 2005

KHOST, Afghanistan, Aug. 31 - The outriders decorated their motorbikes with sunflowers, and at every stop people tossed flowers at their convoy and offered prayers.

The former Communist general Shahnawaz Tanai was returning to his home district after 32 years to make a political comeback, and the Tanai tribe accorded him the traditional greeting.

The political return of dozens of former Communists, among them General Tanai, 54, who was Afghan chief of staff, then defense minister in the brutal Soviet occupation in the 1980's, is one of the most contentious issues of this election campaign.

General Tanai is perhaps most infamous for leading a coup in 1990, with the renegade mujahedeen commander Gulbuddin Hekmatyar, against President Muhammad Najibullah. The coup failed and he fled to Pakistan, where he lived in exile until Aug. 7.

The general is not running in Afghanistan's parliamentary and provincial elections on Sept. 18, but he is calculating on winning a sizable bloc in Parliament with candidates from his Afghanistan Peace Movement Party and two other parties of former Communists who have joined him in a coalition. They are fielding 200 candidates around the country, most of them former Communists and some Soviet-era ministers and participants in the half a dozen coups of the last three decades.

"Our party is a national political party based on Islam and national unity," General Tanai said in an interview. "Above all we want the rule of law." He denied plotting the 1990 coup and said Mr. Najibullah had planned it against his own ministers.

President Hamid Karzai has encouraged many of the rogues of Afghanistan's recent history to take part in the elections in an effort to unite the country and foster political stability. A senior security official, who asked not to be identified to avoid angering

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the political factions, said that he saw little threat from the former Communists because they had no military power, but that the jihadi leaders were still a menace. Yet the return of the Communists to public life is reopening the violent struggle between Communists and Islamists that tore this country apart in the 1980's, and made it the arena for the last proxy conflict of the cold war.

The mujahedeen, who were backed by the United States in their struggle against the Communists, are watching with anger and some confusion as their enemies regain positions in the government and may win a sizable bloc in Parliament in American-supported elections.

Nevertheless, the mujahedeen are also entering the political race, to fight their old foes at the ballot box. A week into the election campaign in this unruly eastern province, Khost's voters have been presented with a bewildering array of candidates. In all, 214 have registered, with 91 competing for just five seats from Khost in the Wolesi Jirga or lower house of Parliament, 121 competing for the nine-seat provincial council, and 2 Kuchis, nomads who have a separate seat allocation in Parliament.

Afghans here are expected to vote along tribal lines, many say, but within each tribe they have a choice between the former Communists on one side and the traditional tribal leaders and mujahedeen commanders on the other. Added to the mix are Westernized candidates who have returned from two decades in exile in the United States or Western Europe, and members of the local educated elite, who offer a complete break from the political and military figures of the last two decades.

Campaigning in Khost is far from the Western experience, with most candidates dealing directly with the tribal elders, knowing that they will tell their communities how to vote.

One candidate, Shir Khosti, who returned from 20 years in the United States, where he ran cellphone shops with his brother, to work for the governor of Khost, is running a relatively Western-style campaign, focusing on younger voters. He is visiting high schools, where he urges 18- to 20-year-olds, who are still in school making up lost years of education, to make their own choice, rather than follow the decision of their elders, as tradition dictates.

Mr. Khosti, the son of a former parliamentarian who was executed by the Communists, dislikes the Communists and the Islamic fundamentalists among the mujahedeen.

"The trouble here is the people don't know what they need," he said. "It's not enough just being a good guy. A representative has to have the mental capacity to deliver a lot of goods."

One of the leading female candidates, Sahera Sharif, knows better than to tell tribal elders what to think. When meeting villagers in Bak, Ms. Sharif, a teacher and development worker, vows to work for Islam, and to help women "within the parameters of Islam."

Another former Communist, Maj. Gen. Sayed Muhammad Gulabzoi, 54, who is widely expected to win a parliamentary seat, was receiving supporters in a rented house in Khost, the provincial capital, a few days ago. "Lots of tribal people are coming to see me here," he said. "I have no plans to go out. If you are not at home, that is considered very bad here."

General Gulabzoi took part in the overthrow of King Zaher Shah in 1973 - and virtually every coup since - and was aide de camp to the ruthless Communist leader Nur Muhammad Taraki and then interior minister for all of the Soviet occupation. He returned to Afghanistan 16 months ago after 17 years in exile in Russia.

"People died and were wounded, and I am very sad for that," he said of his years in power. "But I did not do anything bad to the people of Khost."

He spoke with a district leader, a former mujahid, who pledged his vote and those of his district to General Gulabzoi. "We will vote for an educated person, a good person, who will do something for the people," said the district leader, Shahazar Khan. "In all his life, he has not owned a house or a car, so that means he is honest."

Many of the mujahedeen have been branded warlords, especially in Kabul, and accused by human rights groups of abuses in the civil war of the 1990's and of graft and land grabbing since they returned to power in 2001 after the fall of the Taliban. Yet in Khost, some voters voiced hatred for the Communists and enthusiastic support for local mujahedeen leaders, saying many had served the people honestly.

The communists "put me in prison for five and a half months," said Hajji Mazub, the elder of a village in Yakubi district of Khost Province. "They were the reason we all had to live as refugees in Pakistan for 20 years. We will never vote for the Communists." Hajji Mir Dil Spin-Zadran, a well-known mujahedeen commander and tribal leader who is running for the Wolesi

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Jirga, said: "Khost is the home of the mujahedeen, and the people are the supporters of the mujahedeen. Most people in the cities were Communists and in the villages the people support the mujahedeen."

"They should not have taken this opportunity to seek power," he said of General Gulabzoi, who is from his own village, and General Tanai. "They should just sit at home and live quietly."

Hajji Spin-Zadran gathered more than 200 tribal elders on a hilltop outside his home on Wednesday to seek their support for him in the elections. "May God give our country back into our hands. During the jihad we had to win our country back; now we have to rebuild it," a cleric said in introducing him.

"I did not plan to run for Parliament, but I am running because of the jihad and for Islam," Hajji Spin-Zadran told the gathering. "I am not thinking about money, or having a good time, only about my people, my nation and my tribe."

As he spoke, tribesmen stood and called him to stop, assuring him of their support. "Inshallah," said Hajji Sherzad, a tribesman from a nearby village. "He is the one. We have put our hands on him."

Attackers Kill 9, Including Candidate

By The New York Times

KABUL, Afghanistan, Sept. 4 - Another election candidate and eight other people were killed in Afghanistan in several attacks, officials said Sunday, blaming Taliban militants. It was the second day of attacks and raised fears the Taliban were continuing to step up violence in an effort to disrupt elections on Sept. 18.

Habibullah Khan, a candidate from the Garmser district in Helmand Province, was killed when his car hit a land mine, said the deputy police chief of Helmand, Col. Muhammad Ayub. "He lost his leg, and we brought him to the Emergency Hospital in the capital and he died at noon," Colonel Ayub said.

Mr. Khan was the fifth candidate to be killed. An additional candidate was abducted Saturday in Kandahar Province and is thought to have been killed, a police officer in Kandahar said. The Taliban claimed responsibility for abducting and killing five people on Saturday, including the candidate and a local district chief.

In Helmand on Sunday morning, a district police chief, Amanullah Khan, his son and two bodyguards were killed in an ambush by men suspected of being Taliban insurgents in Doshi, Colonel Ayub said.

CORPORATE SCANDALS:

Tip-Line Bind: Follow The Law In U.S. Or EU? (WSJ)

By David Reilly And Sarah Nassauer

The Wall Street Journal, September 6, 2005

In the wake of scandals at Enron and WorldCom, the Sarbanes-Oxley Act directed companies listed in the U.S. to set up so-called whistle-blower hot lines for employees everywhere to confidentially report potential corporate abuses.

But those anonymous tip lines now pose unforeseen problems in Europe, where data-protection laws make it difficult to accuse someone of impropriety anonymously. These laws go beyond basic privacy concerns: They hold that citizens have a right to know who is collecting data about them, and they also may include restrictions on revealing corporate information to outsiders.

A French agency, for example, has ruled that anonymous whistle-blower tip lines don't guarantee adequate protection for people accused of wrongdoing.

As a result, many U.S. and European companies are in a legal bind: If they set up whistle-blower hot lines in subsidiaries in France, and possibly elsewhere in Europe, they might run afoul of local laws. If they don't, they might violate Sarbanes-Oxley, the 2002 corporate-governance law enforced by the Securities and Exchange Commission.

Companies are being told "I have to either chop off my left hand or my right hand," said Christopher Kuner, a partner at law firm Hunton & Williams in Brussels who specializes in international privacy and data-protection law.

The impasse underscores the far-reaching, and often unanticipated, impact of Sarbanes-Oxley, which executives on both sides of the Atlantic have complained is overly restrictive and has even led some European firms to seek to "deregister" their U.S. stocks.

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Two U.S. companies -- McDonald's Corp. and Exide Technologies -- are the first test cases of the potential whistle-blower impasse. In late May, both companies were told by France's Data Protection Authority, known as the CNIL, that planned ethics hot lines at units they operate in France were illegal. Both companies declined to offer specific detail about how they are addressing the decision.

"We're studying our options and the French ruling," said Alan Chapple, a spokesman for Exide, which makes automotive and industrial batteries.

"Like many other public companies [McDonald's] is working to ensure compliance with Sarbanes-Oxley as it relates to operations outside the United States," the hamburger chain said in a statement.

Regulators in France and the U.S. have yet to find a way out of the conflict. The CNIL has twice written to the SEC notifying it of the problem and asking that U.S. regulators delay taking action against companies that haven't set up hot lines in France, according to copies of the letters provided by the CNIL.

In a July 29 letter to the SEC, CNIL Chairman Alex Türk also said his agency was talking with companies to see whether there was a way to devise a system that would preserve the anonymity of a whistle-blower while also "preserving the right of the denounced persons to the protection of their personal data."

In a reply sent Aug. 10, Ethiopis Tafara, the SEC's director of international affairs, said the rule requiring "integrity lines" is "drafted broadly so that companies can implement it as best suits their needs and/or local legal requirements," according to a copy of the letter provided by the CNIL. Mr. Tafara also suggested that the SEC and the CNIL discuss the matter. The regulators have yet to hold talks but are expected to in coming weeks, CNIL officials said.

"For the time being, it's probably impossible for a company that is subject to both laws to be 100% sure that it's in compliance on both sides of the Atlantic," said Fabrice Baumgartner, a partner in the Paris office of Cleary Gottlieb Steen & Hamilton LLP.

That is clearly a source of corporate anxiety: The CNIL receives up to 10 phone calls, letters or emails a day asking for guidance on whistle-blower lines.

Although France's rules are based on EU data-protection laws, regulators in each of the trade bloc's 25 member countries interpret and enforce the laws, meaning they can play out differently in different countries.

In the United Kingdom, which has more companies with U.S. stock-market listings than any other EU country, the Information Commissioner's Office doesn't "see anything wrong with these hot lines," a spokeswoman said. As long as companies conduct a proper investigation into any whistle-blower allegation and the accused is informed and has due-process rights, such hot lines shouldn't pose problems, she added. But British laws could be breached if a company took an anonymous tip "at face value" without conducting an impartial investigation.

But waiting until regulators sort out the conflicting directives could carry significant risks for companies. Hunton & Williams's Mr. Kuner said he knows of firms that turned off their hot lines in France in the wake of the CNIL decision.

"Obviously if you then had a big corporate scandal occur in France and it turned out later you could have prevented it through a hot line, that could be a potential liability," he said. "But no one really knows how the SEC or the courts would interpret an excuse saying, 'We didn't have a system there because it's illegal.'"

CRIMINAL LAW:

Cuban Spy Case Poses Dilemma For U.S. (LAT)

By Carol J. Williams, Times Staff Writer

The Los Angeles Times, September 5, 2005

MIAMI — They're known in Cuba as the Five Heroes and their faces, names and the details of their seven-year legal drama are familiar to schoolchildren and sugar cane cutters across the Communist island.

The Cuban Five, as they are known in the U.S., were convicted four years ago here in Miami of spying for President Fidel Castro and sentenced to maximum-security prisons for terms of 15 years to life. Cubans' reaction to the case rivals the collective fury that mobilized them to demand the return of castaway Elian Gonzalez in 2000.

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Since a federal appeals court overturned the quintet's espionage convictions last month on grounds that their trial venue was tainted by fierce anti-Castro sentiments, the U.S. government must decide whether to request a retrial.

The case has been one of the most divisive issues between Washington and Havana since the five were arrested in 1998. The men admitted to being Cuban agents but have insisted throughout that they were only gathering intelligence on radical and sometimes violent exile groups to protect Castro and their Cuban homeland.

U.S. prosecutors, who contended the five were spreading disinformation, posing a threat to exiles and trying to steal military secrets because one of the men worked as a laborer at a Key West naval air station, won convictions in June 2001. The Miami federal court also found alleged ringleader Gerardo Hernandez guilty of murder conspiracy, based on allegations that he provided intelligence to Havana that led to the deaths of four Cuban exiles shot down by Cuban MIGs in international airspace in 1996.

Deemed amateurs even by some of Castro's harshest critics here, the five, if not retried, could instead be expelled to Havana or swapped for U.S. fugitives long sheltered in Cuba, according to their attorneys and foreign policy analysts.

The 11th Circuit Court of Appeals' reversal of the convictions of Hernandez, Antonio Guerrero, Fernando Gonzalez, Ramon Labanino and Rene Gonzalez, can also be appealed to the same court, said Alicia Valle, spokeswoman for the U.S. attorney's office in Miami. She declined to say how the prosecution would proceed.

Last week, a group of Nobel laureates and intellectuals including Desmond Tutu and Noam Chomsky, released a letter to the U.S. government calling for the release of the five men.

Castro used the occasion of his 79th birthday on Aug. 13 to visit the family of Hernandez, who coincidentally called his wife from custody in a U.S. prison while Castro was at his Havana apartment.

"The best they could do would be to free you," Castro told the prisoner, according to Cuban reporters who were present. Castro also warned that a retrial could prove embarrassing to the U.S. because it would allow defense lawyers to present evidence of American support for terrorism against Cuba, alluding to the case of Luis Posada Carriles, a radical anti-Castro exile accused of blowing up a Cuban airliner.

U.S. immigration authorities arrested Posada in May and charged him with entering the country illegally two months earlier. He remains detained at an El Paso facility pending a court decision on whether to extradite him to Venezuela to face trial in the airliner bombing, allegedly planned in Caracas.

Castro calls the months of indecision on extradition evidence of hypocrisy by Washington in its global war on terrorism. The 77-year-old Posada was convicted by a jury in Panama in connection with a plot to assassinate Castro in 2000 but was freed a year ago by outgoing Panamanian President Mireya Moscoso, an action that Castro claims was orchestrated by the White House.

Some Cuba analysts predict that the United States probably won't use the appellate decision as an opportunity to advance relations with Havana. Since Washington pulled out of twice-yearly migration talks with Cuba two years ago, there are no remaining forums for official contact or dialogue between the two countries.

FBI media liaison Judy Orihuela said the agency does not maintain a formal list of wanted fugitives believed to be living in Cuba, nor has it made any requests for extraditions.

Civil rights attorney Leonard Weinglass, who represents Guerrero, one of the men sentenced to life, said the Justice Department had asked for a 30-day extension of the usual 21-day period for requesting that the appellate court reconsider its decision.

Noting that no classified documents were involved in the case brought against the five for being unregistered agents, Weinglass said he is convinced the federal prosecutors "recognize privately" the weakness of their case and that convictions would be unlikely in a more neutral venue.

"There's never been a 93-page decision on venue," Weinglass said of the appellate decision. "Any lawyer would say you don't retry this case."

Cuba-watchers at the Council on Hemispheric Affairs contend that the Bush administration is bent on maintaining the status quo of total disengagement in hopes of undermining Castro, who has held power for nearly half a century.

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Larry Birns, director of the Washington-based think tank, said he has met with three Cuban diplomats since the Aug. 9 appeals court decision and "the subject came up about a political settlement or a joint release of people. They are extremely prone to negotiate a solution to this problem."

Among the longtime U.S. fugitives in Cuba are financier Robert Vesco, convicted cop-killer and Black Power figure Joanne Chesimard and one of the FBI's 10 Most Wanted, Victor Gerena, sought in connection with a $7-million armed robbery and hostage-taking in Connecticut in 1983. At least 70 suspected criminals are believed to be taking refuge in Cuba.

But Birns doubts any such resolution will emerge.

"This thing is so churned up by ideology and domestic politics that even though there is a compellingly rational path to a solution, the United States doesn't want to do anything that would portray Cuba as anything but a nation of beasts," said the director of the left-leaning think tank.

Longtime Castro critic Joe Garcia, former head of the right-wing Cuban-American National Foundation, predicts that the U.S. government will pursue a new conviction, even though the Cuban Five represent no threat to U.S. security and are of limited symbolic value because most Americans outside Cuban exile-heavy Miami know nothing about them.

"It's impossible at this stage to just deport them," said Garcia, now a Democratic Party advisor. "The return of these people would be a victory for Fidel."

The Bush administration could also seek to exchange the Cuban Five for Castro's promise to release dozens of dissidents and independent journalists jailed in Cuba, Garcia said. But that action would backfire on the Cuban opposition by linking it with the U.S. government, he added, validating Castro's claims that his domestic critics are paid lackeys of Washington.

Moreover, Castro is not likely to give up a prominent U.S. fugitive, Garcia said. Vesco is jailed in Cuba on conspiracy charges and knows too much about Cuban government dealings to be trusted, Garcia said, and it would be politically difficult to turn over Chesimard or other Black Power radicals wanted in the United States for murder.

"Joanne Chesimard is a symbol in Cuba. To turn her over would be a betrayal of the left, and Fidel is the last leftist. It's tough for him to give up symbols," said Garcia.

Damian Fernandez, director of Florida International University's Cuban Research Institute, sees little hope of the Cuban Five prompting either Havana or Washington to change their adversarial postures.

"I don't sense either the United States or the Cuban government having the will to change the status quo. They like it the way it is," he said. "The five are a cause celebre for Castro. For the United States, they're a symbolic repudiation of Castro's Cuba."

The National Committee to Free the Cuban Five objects to the idea of using the men as political trade goods. The private support group instead has lobbied for their release without conditions.

"We feel the Cuban Five have already suffered enough," said the group's New York spokeswoman, Teresa Gutierrez. "As for a swap between prisoners, we don't think that's fair at all. It's apples and oranges."

PARANOIA RUNS DEEP AT CITY HALL AS FBI CORRUPTION PROBE WIDENS (NFR)

By Mike Hudson

Niagara Falls (NY) Reporter, September 5, 2005

The widening federal corruption probe of Mayor Vincenzo V. Anello has City Hall employees edgy as more grand jury subpoenas draw an increasing number of civil servants into the tawdry case.

On Aug. 25, city Law Department Clerk Donna Winstanley was summoned to testify in the scandal. Winstanley, who is responsible for the department's time/date stamp machine, was ordered to bring Anello's financial disclosure statements for the years 2002, 2003 and 2004, along with any charts or other records designed to track when the documents were actually filed.

Sources familiar with the original documents say that some filings, for different years, appear to have been done at the same time and with the same pen. Federal agents are particularly interested in the filing for 2004, the year when Anello accepted more than $45,000 in unsecured "loans" from prominent downtown developer "Smokin'" Joe Anderson and Kathy Kajfasz, sister of John Kajfasz, a principal in the group Anello gifted with 18 holes of the Hyde Park Golf Course.

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At the time, Anello was serving as a city councilman and the payments were made just before and immediately after his election as mayor. None of his disclosure forms was stamped with the time or date, and the public documents only came to light following Freedom of Information Act requests by the Niagara Falls Reporter and the Niagara Gazette.

Interestingly, the 2004 form had been dated by Anello as 4/11/04 until someone changed it to 4/11/05. The filings are now in the hands of forensic document examiners at the Federal Bureau of Investigation's laboratory in Washington, D.C. Some believe the documents were filed only after the media's FOIA requests.

Anello never disclosed his fiduciary interests with either Kajfasz or Anderson to the public or the City Council, even as he introduced legislation beneficial to those he owed a substantial debt.

The unusual financial arrangements came to light only after a May 3 Reporter expose uncovered documents showing he'd taken the money. At first, Anello chose to deny the story, calling it "totally unfounded, false and defamatory." Later he admitted to taking the money, and even later admitted he hadn't yet paid back a dime. He hired noted criminal defense attorney Joel Daniels to represent him as federal agents, smelling blood, began to circle.

"A lot of times in Niagara County, it's difficult to tell whether someone had a criminal intent or was just being stupid," one source told the Reporter. "Clearly, though, in this case, we're not talking about lunch money. "Is what's been discovered so far indictable? Personally, I'd say yes," he added. "The question now is whether this was an isolated case or part of a larger pattern."

The federal grand jury seated in Buffalo began hearing evidence in the case on June 9, when Niagara County Elections Commissioners Scott Kiedrowski and Nancy Smith were called upon to appear, and produce all financial records submitted by the Friends of Vince Anello Committee between Jan. 1, 2003, and Dec.31, 2004. Neither the Anderson nor Kajfasz "loans" are listed on those records.

In addition to Winstanley, Kiedrowski and Smith, others known to have been interviewed by the FBI or testifying before the grand jury include Anderson's ex-wife Gail Anderson, City Council members Babe Rotella and Candra Thomason, former Anderson associate John Caputo, NFC Development Corp. Director Ralph Aversa and members of the Reporter staff.

Rotella said he is particularly troubled by the burgeoning scandal.

"It bothers me because this is another black eye for Niagara Falls and it's another black eye for the Italian-American community here," he said. "This is the last thing we needed."

Assistant U.S. Attorney Paul Campana has been assigned to direct the case. A tough prosecutor, Campana has been involved in a number of high-profile Justice Department cases going back to the 1980s, including the prosecutions of former Buffalo Bill Robb Riddick in 1991, Albion Police Chief James Prioetty in 2000 and the extradition back to Germany of accused killer and reputed Russian Mafia hitman David Kricheli earlier this year.

In the Anello case, sources close to the investigation said no fewer than three indictments are expected. Some expressed amazement that the government was already set to present evidence before a grand jury.

"These things can sometimes take years to unfold," said one. "In this case, the U.S. Attorney's office must feel pretty confident about the evidence it has."

In addition to the golf course giveaway and multiple shady deals involving Anderson, the feds are also looking into circumstances surrounding the bidding process for the city's proposed new public safety complex, the demolition of the former Third Street parking ramp and the use of city credit cards by Anello and City Administrator Dan Bristol.

The investigation has brought city government to a virtual standstill here, as developers fearful of being brought into the scandal are staying away in droves and the formerly Anello-friendly City Council now routinely balks at the mayor's initiatives, particularly those involving outside consultants and influence-peddlers.

After just 20 months in office, Anello's lame-duck status is such that the prospect of him even winning the Democratic Primary in 2007 seems unimaginable.

But the toughest toll is being borne by the city workers who now find themselves having to deal with the criminal justice system for no offense other than showing up to do their jobs.

Municipal employees have become increasingly paranoid working under the shadow of looming indictments. The morale of the workers was reflected on Aug. 12, when Anello hosted an employee picnic. Of the more than 600 city workers, fewer than 50 showed up for the event.

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"I've been here for a long time, and I didn't think it could get any worse than it was under (former mayor) Irene Elia," one City Hall employee told the Reporter. "But this is crazy. You're afraid to leave your office or talk to anyone in case you'll get subpoenaed, too."

For his part, Anello has displayed braggadocio bordering on the pathological.

"I know the way my enemies want to see it. I know how my friends feel. OK?" he told a skeptical television reporter. "Why should I be put in a position to answer a political attack by a political opponent in this venue?"

In a separate TV appearance in July, he went so far as to lay the blame for his monumentally poor judgment and colossal lack of ethics squarely where it belongs -- on other people.

"In Niagara County, and the Falls in particular, you've got more rats than cats, and the rats have their own newspaper," he said.

He was right, of course, though not in the way he intended.

Animal Rights Activist Pleads Guilty In U.S. Mink Release (AP)

AP, September 6, 2005

MADISON, Wis. - An animal rights activist accused of freeing thousands of minks across the U.S. Midwest has pleaded guilty and faces two years in prison.

Investigators say Peter Daniel Young, 28, and an accomplice raided farms in Wisconsin, South Dakota and Iowa in 1997, trespassing and cutting fences to release the small animals valued for their thick fur.

Young pleaded guilty Friday to two counts of animal enterprise terrorism. He is believed to be a member of the Animal Liberation Front, a radical group that aims to destroy animal industries it considers inhumane.

Young and his accomplice, Justin Samuel, both disappeared after they were indicted in 1998, but Samuel was captured in Belgium the following year. He struck a deal with prosecutors and served two years in prison.

Young remained at large until March, when police arrested him for trying to shoplift CDs in California.

Rumor Keeps Waltz Alive (AP)

By MATT GOURAS, Associated Press

AP, September 6, 2005

NASHVILLE - All lawmakers can do is watch and wait as a federal probe into bribery and corruption at the state Capitol continues to sink colleagues.

Legislators said they have heard the rumors that more arrests are on the way, but don't know if it will include local officials like the one nabbed last week or more state lawmakers.

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Like in May, when four sitting lawmakers were arrested on their way to work, they expect to be the last to know.

"I believe the Department of Justice and the FBI know a lot more about these investigations than I do," said House Speaker Jimmy Naifeh.

Just last week, pressure mounted in the Legislature to react when former state Rep. Chris Newton pleaded guilty and resigned. At the same time, it became very clear the Tennessee Waltz sting is not over.

Another indictment was handed up last week, this time against a local Shelby County official, as the grand jury sent notice its work isn't finished.

It's unknown if other lawmakers will be arrested - and federal authorities are predictably quiet about their ongoing investigation - or if Newton is now feeding them information.

"I just hear there are other indictments coming down," said House Republican caucus chairman Charles Sargent of Franklin. "No one has said if it's just going to be county commissioners or local school board members or legislators.

"I don't think any of us truly knows except for the grand jury and the FBI."

The lawmakers have proven ready to address arrested colleagues once they resign - as in the case of Newton and former state Sen. John Ford, who is pleading innocent.

But lawmakers are by and large taking it easy on the two who are staying in office and fighting the charges, Sens. Ward Crutchfield and Kathryn Bowers.

Sen. Doug Jackson, D-Dickson, said they should only resign "if they know in their heart of hearts" they are guilty.

"I believe them innocent until proven guilty," said Sen. Tommy Kilby, D-Wartburg.

Legislators, defending themselves against charges from Newton that what he did is "business as usual" in Nashville, were angry and indignant at comments likely to worsen their public image.

"I have never heard of a bribe being offered in my 18 years (in the Legislature)," said Jackson.

Lawmakers are trying their best at damage control, though, and are rushing work by a special panel to draft tougher ethics laws for the state. But leaders say new guilty pleas or arrests won't force them to rush their work, or change their plans.

Naifeh said he would continue "waiting and listening" as the Tennessee Waltz case unfolds rather than talk about it.

Gov. Phil Bredesen, who has his own panel drafting ideas for new laws in anticipation of a special session late this year or early next year, said officials already have more than enough reason to act.

"The arrests in the spring are plenty enough to focus on this," he said.

Bredesen said he thinks it's best for his independent panel to finish its work first, especially since it is removed from the legislative environment.

"Let's do this in an orderly fashion. Let's get their (independent ethics panel) report first. Let's get some meaningful legislation. Then let's call a special session."

Ex-mayor, Co-felons Sentenced In Bribe Case (CLPD)

By Mike Tobin, Plain Dealer Reporter

The Cleveland Plain Dealer, September 6, 2005

Emmanuel Onunwor was once the picture of success. He emigrated from Nigeria, earned a master's degree and was elected mayor of East Cleveland.

Holes have been punched in that success story for more than two years since Onunwor tearfully admitted to FBI agents that he took bribes from businessman Nate Gray. The latest blow came Friday in U.S. District Court when Onunwor, 46, was sentenced to nine years in prison.

"The conduct you engaged in was, in a major way, a complete betrayal of the citizens," U.S. District Judge James Gwin told Onunwor. "You caused the city major damage in terms of their economics."

Onunwor, who took about $50,000 in bribes, was contrite.

"I apologize to my family, my friends and the citizens," said Onunwor, dressed in a navy blue prison jump suit. "I did wrong. I deserve to be punished."

He shaved about 10 years off his sentence by agreeing to testify against Gray.

But he made that agreement only after a jury found him guilty of racketeering and bribery. Gray was convicted of conspiracy and fraud charges last month and is to be sentenced this fall with co-defendant businessman Gilbert Jackson of New Orleans.

Onunwor was also ordered to pay more than $5 million in restitution - the amount of contracts that he steered to companies doing business with Gray. All sides agree that Onunwor is broke and unlikely to be able to pay the money. Upon his release, however, a portion of his income will be paid to the government.

Four others were sentenced Friday in the corruption scheme in which bribes were exchanged for public contracts in Cleveland, East Cleveland, Houston and New Orleans.

Ricardo Teamor, a onetime associate of former Cleveland Mayor Michael R. White, was sentenced to four months in prison and four months of house arrest. He paid bribes to former Cleveland Councilman Joe Jones, who is to be sentenced next month.

As part of his plea deal, Teamor told prosecutors about widespread corruption during the $500 million expansion at Cleveland Hopkins International Airport when White was mayor. He said he allowed his construction company to be used as a front company to help contractors get around a city program requiring that some work be subcontracted to companies owned by minorities.

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Teamor, 59, of Aurora, told officials that most of the minority-owned companies doing work at the airport were actually front companies that paid kickbacks to Gray. Teamor has met with a special investigator hired by Mayor Jane Campbell to probe Teamor's allegations, lawyers said.

"He's trying to ensure the program will continue on and operate as it was intended," said Robert Dixon, Teamor's attorney.

A former Houston building services director, Monique McGilbra, 41, was sentenced to three years in prison. She admitted to accepting cash and lavish gifts such as a $700 purse and all-expenses-paid trips to New Orleans from Gray and two businessmen trying to get contracts with Houston.

Former Honeywell executive Brent Jividen, 43, was sentenced to 2½ years in prison. Jividen of Medina admitted to bribing McGilbra with gifts.

Oliver Spellman, 51, of Brooklyn, N.Y., was given two years' probation for accepting bribes from Gray while serving as chief of staff to the mayor of Houston. Spellman previously worked as director of parks and recreation under White.

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Ex-city Official Given 3-year Sentence (HC)

By Dan Feldstein

Houston Chronicle, September 6, 2005

Former city of Houston official Monique McGilbra was sentenced to three years in federal prison Friday for accepting bribes from a Cleveland businessman, while former mayoral chief of staff Oliver Spellman got probation for a similar crime.

McGilbra apparently earned the disdain of U.S. District Judge James Gwin in his Cleveland courtroom, insisting that she thought the gifts she accepted from businessmen seeking city work were purely part of dating.

In a trial against the businessman this summer, she testified that she took gifts from five people or companies seeking business with the city building services department she supervised.

McGilbra told Gwin at her sentencing that she was "a woman, a mother and a lover" and that it shouldn't be a crime to have expensive tastes, according to the Cleveland Plain Dealer.

"My involvement with the men in this case was primarily personal that became business. There were personal advances. I never had my position or City Hall for sale," she told the judge.

McGilbra, who resigned her city post in April 2003, will be sent to prison after she is sentenced on a similar guilty plea in Houston on Tuesday. The U.S. attorney's office here plans to ask that any prison time run concurrently with her Cleveland sentence.

Prosecutors in Ohio have long pursued Cleveland businessman Nate Gray, a gregarious friend of the former Cleveland mayor whose "consulting" clients always seemed to fare well with local governments. They finally got their man last month in a trial in which McGilbra and Spellman both testified against him to reduce their sentences.

The investigation spilled into Houston because Gray was friendly with Spellman, who served as Cleveland's parks director before coming here in the same capacity and being promoted by former Mayor Lee Brown as his chief of staff.

While Spellman and McGilbra both pleaded guilty, Gray fought the charges, earning a conviction and giving prosecutors a chance to lay out the alleged bribery conspiracy.

Spellman took $2,000 from Gray and in bugged phone calls offered Gray inside information on airport and parking meter contracts. Through the wiretaps it was learned that Mayor Brown's brother, Earl, was a paid "sub-consultant" to Gray.

Gray showered McGilbra with a trip to the Super Bowl and other gifts on behalf of Honeywell, which wanted a piece of a city energy contract won by Reliant.

The charge in Houston, for which McGilbra has also pleaded guilty, revolves around gifts she received from local businessman Andy Schatte and his Keystone Group. Keystone offered McGilbra's then-boyfriend $250,000 if Keystone got a fire station deal with McGilbra's department.

McGilbra, 41, is divorced with two school-age children. She received the upper range of her plea-agreed sentencing range of 30-37 months, plus a $5,000 fine.

Spellman, 51, got probation plus a $10,000 fine.

Prosecutors protested that Spellman's sentence was too light. But Gwin said he thought Spellman was a decent person who had made a bad mistake.

"It was a complete lack of judgment on your part. Defendant Gray used your friendship to line his own pockets. You had something of a stellar career throughout your life. Except for your substance abuse problem, it appears you were an exemplary public official," he told Spellman, according to the Plain Dealer.

Also sentenced Friday was former Cleveland-based Honeywell employee Brent Jividen, 43, who got 30 months in prison.

A former Cleveland attorney received four months and the former mayor of East Cleveland, who took regular payments of cash across a table from Gray, received nine years.

Gray, a Cleveland City Council member and a New Orleans businessman all await sentencing in the case.

Federal officials have said more investigations are ongoing in Houston but have declined to offer details.

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Check Was In The Mail, But Thieves Were At Mailbox (PHI)

By John Shiffman

The Philadelphia Inquirer, September 6, 2005

What makes Joseph Mo Pun Lau's federal case so audacious isn't what he's accused of stealing. It's how he allegedly pulled it off.

Lau, an intuitive Hong Kong fugitive, was already an established identity thief by late 2003, according to the FBI. Using a crude tool, agents said, he fished envelopes from street-corner mail-collection boxes throughout the Philadelphia suburbs, counterfeiting whatever checks and credit cards he found inside.

And yet, an accomplice told the FBI, Lau had become frustrated by the slow, risky and unpredictable process of snaring letters one at a time.

So Lau allegedly came up with a clever way to reel in a bigger catch: He surreptitiously videotaped letter carriers as they opened the boxes, zooming in on their keys. Lau used those images to calculate measurements for the grooves in the keys and created brass duplicates.

With these homemade keys, Lau pilfered mail-collection boxes in Exton, Wayne, Frazer, Devon and the Southwark neighborhood of Philadelphia, as well as unidentified towns in New Jersey and Maryland, according to a criminal complaint.

When Lau couldn't do the job himself, he shipped a key to an accomplice and e-mailed the global-positioning-system location of the targeted collection boxes, authorities said.

"The FBI is not aware of anything else like this," bureau spokeswoman Jerri Williams said.

Lau, 46, appears to be a serious fellow, once admonishing an accomplice that "every day is a working day," according to an FBI transcript.

He and his wife lived in an $800-a-month apartment in Parlin, N.J. He was unemployed and drove a 1999 Ford Expedition. (The vanity plates read "HVYDUTY.") He owes $30,000 on his credit cards, records show.

Lau has one previous criminal conviction - in Atlantic City in 1999 for putting shaved quarters into slot machines; the technique can earn a winning player an extra 25 cents a pull.

"Joe's a very smart guy, a gentleman, someone who makes a good impression," said J. David Alcantara, his lawyer in the slots case.

After his casino conviction, Lau was ordered deported. When he missed a deadline to leave voluntarily, officials issued a warrant.

Lau remained free until shortly before midnight Aug. 17, when postal inspectors and FBI agents apprehended him as he left a Chester apartment - a safe house that authorities say he and the accomplice used to make forged keys and documents.

When Lau was arrested, he was carrying a backpack, a duffel bag, and a computer bag, authorities said. Inside the bags, agents said, they found six cell phones, a copy of a U.S. Postal Service collection-box key, two picture albums of post offices and collection boxes, bogus checkbooks, and keys to private mailboxes, such as those at Mailboxes Etc. and UPS stores. Authorities

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said Lau was also carrying a variety of forged documents - including passports, Social Security cards, New Jersey driver's licenses, and resident alien cards.

Lau's gang stole $140,000 worth of checks, counterfeited them, and deposited them in 16 different bank accounts, according to an affidavit by Philadelphia-based FBI Agent Catherine L. Nowery.

Lau was charged with bank fraud, mail fraud, and illegal possession of postal keys - and ordered held without bail.

Assistant U.S. Attorney Zane D. Memeger, and Lau's lawyer, Elliot Cohen of Philadelphia, declined comment on Friday.

Postal inspectors first discovered the collection-box heists in the Philadelphia area in February, when they noticed empty collection boxes. But the case was not cracked until this summer, when an FBI agent recognized Lau's accomplice from bank surveillance photos.

Authorities confronted the accomplice on Aug. 2, and he agreed to cooperate, according to court records. The accomplice is not identified in the court filings, but authorities said he had been told he was likely to be charged in the case.

Inside the accomplice's Chester apartment, agents and inspectors found a $600 key-making machine, a thin-line grinder, a bag of homemade and blank keys, a Sony Mini DV Handycam, a JVC Digital video camera, and nine boxes of blank check-writing stock. They also found small cardboard boxes with holes in them, ones allegedly used to conceal the cameras that filmed the letter carriers.

Last week, Lau agreed to help authorities catch an alleged third member of the gang, Xiao Chun Chen, a 41-year-old illegal alien from China who lives in Atlantic City, and who also has been convicted of cheating at slots.

According to a court filing, U.S. Postal Inspector D. James Bannan arranged for Lau to call Chen on Wednesday and ask to meet Friday at the bus station at 10th and Filbert Streets in Philadelphia, near a favorite ATM machine.

When Chen arrived, he was arrested.

New Prosecutor Will Focus On Gang Crimes (BSUN)

By Matthew Dolan, Sun Staff

The Baltimore Sun, September 6, 2005

Justice Department officials have approved funding of a new federal prosecutor to exclusively handle gang-related prosecutions inside Maryland's U.S. attorney's office.

The move comes after a sweeping indictment last month against 19 suspected members of the Hispanic gang MS-13 who were arrested on federal racketeering charges that include a string of homicides and attempted killings in Montgomery and Prince George's counties.

U.S. Attorney Rod J. Rosenstein, who took office this summer, said he told Justice Department officials that the state had an urgent need to beef up its prosecutorial resources to focus on gangs in suburban Washington and on gun-related crime in the Baltimore region.

His office has 65 prosecutors split between the state's two federal courts in Baltimore and Greenbelt. Rosenstein plans to fill five vacant slots within the next few months. A new agreement with the city will bring two additional prosecutors to Baltimore to handle gun-related prosecutions.

It was unclear where the new gang prosecutor will work. Rosenstein said Greenbelt would be the likely choice because an organized-crime prosecutor in Baltimore already focuses on the city's drug-related gang activity and because the new prosecutor approved last week would more likely target such gangs as MS-13 in the Washington region.

"MS-13 is a new and specific challenge in Montgomery and Prince George's," Rosenstein said. "A major focus of our anti-gang strategy remains to combat loosely organized, street-level, violent drug gangs in Baltimore. [The Bureau of Alcohol, Tobacco, Firearms and Explosive's] Violent Crime Impact Team is a big part of our anti-gang program in Baltimore, and it is working well."

Andrea Smith, an assistant U.S. attorney in Baltimore who helps coordinate the local Organized Crime Drug Enforcement Task Force, said the new anti-gang prosecutor should help prosecutors who have used a similar strategy against drug-related, violent organizations, such as the Lexington Terrace gang in the city.

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"We target a neighborhood under siege," Smith said. "These organizations are multijurisdictional and often nationwide in scope. We start to piece together what's going on, where the connective tissue is and then scoop out that group."

The indictments announced against MS-13 tie reputed gang members, including a Baltimore carpenter, to murders and other crimes from April 2003 through June of this year. Prosecutors accused them of kidnappings, drive-by shootings and a killing in a cemetery. Six people were slain in suburban Washington, and authorities say gang members attempted to kill another five.

MS-13, also known as Mara Salvatrucha, originated in Los Angeles among refugees from El Salvador. Members also come from Guatemala, Honduras and Mexico. Mara refers to a gang, while Salva is an abbreviation for Salvadoran. Trucha is slang for "fear us," according to federal authorities.

An estimated 10,000 MS-13 members are in the United States, many in the Washington suburbs, which has a large population of Central American immigrants. Montgomery County police said they believe at least 500 gang members are active in the county, many of them part of MS-13.

Double Shooting Kills Man In PG (WT)

By Matthew Cella

The Washington Times, September 6, 2005

A double shooting early yesterday in Suitland left one man dead, marking the sixth homicide in Prince George's County in the first five days of September.

The shooting occurred in the 4600 block of Chelsea Way at about 1 a.m., said Cpl. Clinton Copeland, a spokesman for Prince George's County Police.

Kenneth Stanford, 22, of the 4700 block of Hudson Avenue had been shot several times. He was taken to a hospital, where he died. Also shot was a 28-year-old man, who was hospitalized.

The killing brings the number of homicides this year in Prince George's County to 119, up from 96 at this time last year.

The county has experienced a spate of violence since Thursday, when Charmaine Edwards, 21, of Southwest was found fatally shot in her car on Keystone Manor Drive in Morningside.

Four persons were fatally shot in the county Friday. Three of those killings occurred in the daylight hours.

•Dorsey Tyler, 42, who lived on Sheriff Road, was killed at about 3:10 p.m. in the 1500 block of Village Green Drive.

•Abdul Gregory Leftwich, 18, was killed at about 4:50 p.m. in the 1700 block of Kenilworth Avenue where he lived.

•John Douglas Lewis Jr., 27, of the 1200 block of Nalley Road was killed at about 5:10 p.m. in the 1800 block of Ray Leonard Road.

•Angelo Lorenzo Braddy, 21, was killed at about 10 p.m. in the 1500 block of Ray Road in the Hyattsville area.

Cpl. Copeland said no arrests have been made in those cases, but James Esau Davis, with no fixed address, has been identified as a suspect in connection with Mr. Leftwich's death and a warrant for first-degree murder has been issued for his arrest.

"As of right now, there's nothing indicating that [the cases] are related, but that's just preliminary. The investigations are ongoing." Cpl. Copeland said.

Also over the Labor Day weekend, Anne Arundel County police charged Brandon Iam Kellam, 16, with second-degree murder after the stabbing death of a 17-year-old boy outside a Glen Burnie mall Saturday night.

Police said Kevin Michael Weingart of Glen Burnie and a group of friends became involved in an altercation with another group in the parking lot of Marley Station Mall.

As the dispute escalated, the teenager was stabbed in the torso. He was flown by helicopter to the University of Maryland Shock Trauma Center, where he was pronounced dead.

In the District, Metropolitan Police are investigating a fatal shooting that happened at about 9 p.m. Saturday in the 3700 block of Hayes Street Northeast.

Police said they found Derrick Jones, 22, of the 3700 block of Cassell Place Northeast with gunshot wounds to his head and body. Police said they don't have any suspects or a motive in the case and that they are searching for witnesses.

Through Friday, the District had recorded 128 homicides, compared with 129 at the same time last year.

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CIVIL LAW:

Successful Lobby Shops Build On BRAC Victories (HILL)

By Roxana Tiron

The Hill, September 6, 2005

Some high-powered Washington lobbying shops are banking on their freshly collected laurels to get even more business from the communities that hired them to get military bases off the Pentagon's chopping block.

As the independent Base Closure and Realignment (BRAC) Commission is getting ready to send its final deliberations to President Bush on Sept. 8, lobbyists are monitoring the BRAC process here in Washington while corralling communities to extend their contracts.

"They have done well in BRAC, and we [want] to continue the momentum because the Department of Defense is making many changes," said John Simmons, a senior adviser at law firm Akin Gump Strauss Hauer & Feld LLP.

The Pentagon is undertaking a sweeping review of capabilities, called the quadrennial defense review.

A boon in business for the Washington lobbying shops can come from a whole range of issues, from defense appropriations to military construction, such as new technology centers and housing for those bases that are receiving more troops.

Among Washington lobbying shops scoring large victories for their clients are the Rhoads Group and Kutak Rock LLP, which represented Ellsworth Air Force Base in South Dakota; the Washington Group, which defended the Naval Submarine Base New London in Connecticut; Patton Boggs, which represented the Portsmouth Naval Shipyard in Maine; Akin Gump, which worked for the states of New York, Kansas, Maryland and Arkansas; and Spectrum Group, which represented the state of Louisiana and a large Defense Finance and Accounting Service center in Cleveland.

"We are up to speed on [the communities'] issues as part of BRAC, as we argued their military value. They are comfortable with us, and we are going to compete for more contracts," Simmons told The Hill.

Because no other BRAC round is planned yet, the success of a lobbying firm in the 2005 BRAC round can lead to representation of defense issues for installation-related matters, said Jim Noone, a lobbyist with the Washington Group, a Ketchum company.

"Getting BRAC residual business is down the road," said Noone, who was part of the team representing New London, Conn.

While several lobbying shops contacted by The Hill said that they did not receive so-called "success fees" for their work on BRAC, Keith Ashdown with Taxpayers for Common Sense said that it is possible for these firms to have an understanding with the communities to be retained for several more years.

Akin Gump, which worked with the lobbying group Hyjek and Fix to represent a number of states and communities in this BRAC round and has achieved a 100 percent success rate for its clients, according to Simmons.

The lobby consortium represented the state of New York, the state of Kansas, three communities in Maryland, the Alliance of Pine Bluff, Ark., and the state of New Mexico.

Maryland is one of the largest gainers in BRAC, and it is in Maryland that the firm has its eyes on further representation. Akin Gump represented the Navy Alliance at Indian Head, Md., the Southern Maryland Navy Alliance at Patuxent River, Md., and Harford County.

The community at Indian Head is planning to build an energetics center in proximity to the University of Maryland, which has a strong program in energetics, Simmons said. The Indian Head alliance already spent upward of $290,000 in lobbying fees since 2003.

With the Navy's budget unpredictable in the future, Patuxent River will also have to continue its legislative presence, said Simmons.

"This is something they need to meet about, but we were told that they were interested," Simmons said. The southern Maryland alliance also hired the PMA Group to lobby for its defense interests.

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Meanwhile, Cannon Air Force Base in New Mexico, which was slated for closure, will stay open until 2009. The BRAC Commission directed the Pentagon to evaluate its need for the base.

"It could be the home of the future Airborne Laser Program," Simmons said, hinting at potential lobbying material for the firm.

Kansas, projected to receive thousands of new soldiers at several installations, may need to continue its military counsel, said Simmons. "That is something that they would be discussing later this fall," he said. "We would compete for that contract."

New York state has the longest-standing relationship with Hyjek and Fix and Akin Gump. Hyjek and Fix has been representing New York communities' interest since 1998.

Akin Gump won a contract two years ago to represent New York state interests. The state was reeling from previous base closures, Simmons said, and was trying not to repeat mistakes.

According to lobbying disclosures, the Empire State Development Co. paid $520,000 in lobbying fees to Akin Gump by the end of 2004.

The Niagara Area Chamber of Commerce spent $380,000 in fees to Hyjek and Fix up to the end of 2004. Disclosures for 2005 are not yet available, and the companies refused to reveal their fees.

"New York was set to lose more than 1,000 jobs, had the DoD recommendations been adopted," Simmons said. "As a result of the BRAC decisions, the state will gain more than 1,000 jobs."

Punching power comes with a certain price tag. Former Rep. Bill Paxon (R-N.Y.), who was chairman of the National Republican Congressional Committee and is now a senior adviser at Akin Gump, represented the interests of New York.

CIVIL RIGHTS:

9th Circuit: Sexual Content Not Needed For Harassment (LAW)

By Justin Scheck, The Recorder

Law.com, September 6, 2005

You don't have to be a groper, lecher or explicit misogynist to get sued for sex-based harassment, a three-judge panel of the 9th U.S. Circuit Court of Appeals ruled Friday.

The opinion, in a case originating at an Alaska teachers union, said that Thomas Harvey, a manager accused of "shouting, 'screaming,' foul language, invading employees' personal space ... and [making] threatening gestures" may be sued for gender-based discrimination under Title VII of the Civil Rights Act of 1964, even though his acts were not overtly motivated by the victims' gender.

"We hold that offensive conduct that is not facially sex-specific nonetheless may violate Title VII if there is sufficient circumstantial evidence of qualitative and quantitative differences in the harassment suffered by female and male employees," wrote Senior Judge Alfred Goodwin in a unanimous decision.

Senior Judge Melvin Brunetti and Judge William Fletcher concurred. In the case, male and female employees agreed that women bore the brunt of Harvey's outbursts.

Employment lawyers said the opinion offers encouragement to plaintiff lawyers whose clients don't fit the traditional mold of harassment victims.

"I think it's a good decision for plaintiffs," said Jack Lee, a partner at Minami, Lew & Tamaki who specializes in gender discrimination suits.

The opinion stands to strengthen plaintiffs' arguments that adverse effects of an employer's behavior are more important than intent.

"Before, it was pretty clear that you didn't have to be lusting after" an employee to be held liable for discrimination, Lee said. "But here, it's bullying that might create an adverse impact."

Particularly significant, Lee said, was Goodwin's statement that "this case illustrates an alternative motivational theory in which an abusive bully takes advantage of a traditionally female workplace because he is more comfortable when bullying women than when bullying men."

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Such alternative theories, Lee said, would be useful in cases like one he handled last year for an Air Force surgeon. The surgeon said she had been treated differently than her male counterparts, even though she was not called names or explicitly abused for being a woman.

While a jury eventually awarded his client $500,000, Lee said the case was a challenge because doctors tend not to act in stereotypically discriminatory ways. Friday's opinion, he said, could help overcome that hurdle.

"Highly educated people don't have that kind of roughhouse environment, but there can be sex harassment nonetheless," said Lee. Shelley Gregory, a staff attorney at the Legal Aid Society-Employment Law Center in San Francisco, agreed.

"It's not always the case that we have a smoking gun," she said. "What I think the court is doing is recognizing the evolving nature of harassment in the workplace." Gilmore Diekmann Jr., a partner at Seyfarth Shaw who defends employers in harassment suits, was less enthused.

He said the opinion is unclear on the most alarming point it raises: that subjective effects of an employer's behavior may be used to determine whether there was discrimination.

"It's unique and probably wrong" if the court meant that people's different reactions to the same behavior could form the basis for a discrimination claim, he said. "It seems to be some effort by a panel to possibly inject a new type of liability," he added.

The opinion, Christopher v. National Education Association, 05 C.D.O.S. 7999, sends the case of plaintiff Carol Christopher back to the U.S. District Court for the District of Alaska, which had dismissed the suit.

11th Circuit: Jail Was Right To Conduct Strip Search (LAW)

By Scott Simonson, Fulton County Daily Report

Law.com, September 6, 2005

Atlanta's federal appeals court, with apparent reluctance, ruled Wednesday that a North Georgia county's policy of strip-searching every prisoner booked into jail violated the Constitution.

The court also noted that the policy didn't necessarily violate the rights of individual prisoners who were searched, so long as jailers had "reasonable suspicion" that a detainee might possess weapons or contraband.

The 11th U.S. Circuit Court of Appeals made the ruling in the case of Janet M. Hicks, who sued Habersham County's sheriff and jail supervisor after she was strip-searched following her 2001 misdemeanor arrest for a domestic-violence dispute with her estranged husband. Hicks v. Moore, No. 03-13686.

According to the 11th Circuit's ruling, Hicks was strip-searched by a female sheriff's department employee and was not touched during the search.

About three years ago -- and after Hicks' strip search -- the sheriff in charge of the jail at that time, Richard Moore, changed the jail's policy, and the facility no longer strip-searches everyone who is booked.

Hicks' suit did not name the county as a defendant but targeted Moore, the jail commander and other individuals who supervised or participated in her detention and search. Current Habersham County Sheriff DeRay Fincher could not be reached for comment.

A unanimous three-judge panel ruled that the jail did not violate Hicks' rights, because her arrest for a violent crime justified a strip search. The 11th Circuit effectively ended Hicks' federal case against the jail and reversed a district court ruling that denied the Habersham government employees' motion for summary judgment.

Chief Judge J.L. Edmondson wrote the opinion, joined by Judge Frank M. Hull and U.S. District Judge B. Avant Edenfield of the Southern District of Georgia, sitting by designation.

QUESTIONING PRECEDENT

Edmondson, with apparent unease, ruled that circuit precedent didn't allow Habersham's practice of strip-searching everyone booked at the jail. This ruling marks the second time in the past four months that Edmondson has written an opinion expressing dissatisfaction with the circuit's precedent on strip searches.

His opinion stopped short of endorsing circuit precedent or condemning the jail's policy. He added, in a footnote, "We personally question that such a practice violates the Fourth Amendment," noting that the circuit's precedent justifies strip

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searches only when a "reasonable suspicion" indicates that a detainee could possess weapons or contraband, according to the court's 2001 ruling in Wilson v. Jones, 251 F.3d 1340.

Edmondson pointed out that the "reasonable suspicion" standard remains stricter than what the U.S. Supreme Court requires.

In May, in another opinion written by Edmondson, a full 12-judge panel of the 11th Circuit voiced unease with its precedent on strip searches. In that case, Edmondson wrote, "most of us are uncertain that jailers are required to have a reasonable suspicion of weapons or contraband before strip-searching -- for security and safety purposes -- arrestees bound for the general jail population." Evans v. Stephens, 407 F.3d 1272.

SUFFICIENT REASON TO SEARCH

In Hicks' case, the court found that the strip search did not violate her constitutional rights, eliminating the basis for her federal suit.

"Just because she was strip-searched at a jail that had a search practice that would generally violate the Constitution does not mean every search that was conducted actually violated the Constitution," Edmondson wrote.

Because Hicks was arrested on a misdemeanor charge of family violence battery -- obviously, a crime of violence, according to the opinion -- jail officials had sufficient reason to suspect hidden weapons or contraband, Edmondson wrote.

However, the opinion pointed out that the arresting officer and jail supervisor in Hicks' case testified that they did not suspect Hicks of having weapons or drugs.

"Whether reasonable suspicion existed at the time is a question of law to be determined ultimately by judges, not policemen or jailers," Edmondson wrote. "The subjective intentions and beliefs of the jailers conducting the strip-search are 'immaterial to the Fourth Amendment analysis,'" according to the 1989 U.S. Supreme Court case Graham v. Connor, 490 U.S. 386.

Terry E. Williams of Lawrenceville, Ga., who represented Moore, the former Habersham sheriff, and other county employees, could not be reached for comment.

One of the attorneys representing Hicks, Scott D. Delius of the Delius Law Firm, said Thursday that he was disappointed with the outcome and that his client hasn't decided whether she'll pursue the case.

"We at least feel good about the fact that there's no longer a blanket strip-search policy at the jail and that jails are taking the issue seriously," said Delius, who represented Hicks along with J. Matthew Maguire Jr. of Balch & Bingham.

Lawsuit To Be Filed Over New Voting Law In Georgia (NYT/AP)

By The Associated Press

The New York Times, September 6, 2005

ATLANTA, Sept. 5 (AP) - Opponents of a new Georgia law requiring voters to show photo identification at the polls are planning a federal lawsuit challenging the measure, which they fear will lower voter turnout.

The bill eliminates the use of formerly accepted forms of voter identification like Social Security cards, birth certificates or utility bills.

A news conference to discuss the lawsuit was set for Tuesday, said State Representative Tyrone L. Brooks Sr., Democrat of Atlanta.

The suit is likely to echo the complaints that several groups filed in objection letters sent to the Department of Justice before it approved the new law last month.

Under the Voting Rights Act, Georgia and other states with a history of suppressing minority voting must get federal permission to change their voting laws.

Mr. Brooks said he believed the issue could ultimately be decided by the United States Supreme Court. "No matter who wins at the lower court level, there will be appeals," he said.

The Republican-backed measure caused racial tension during the state's legislative session last spring. Most of Georgia's black lawmakers walked out at the Capitol when it was approved.

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Democrats had argued that the idea was a political move by the Republican Party to depress voting among minorities, the elderly and the poor, all traditional bases for Democrats.

Plaintiffs in the suit include the Coalition for the People's Agenda, whose chairman is the Rev. Joseph Lowery; the Georgia Association of Black Elected Officials; the National Association for the Advancement of Colored People; and the Southern Christian Leadership Conference. The American Civil Liberties Union is representing the plaintiffs in the case.

The groups plan to include Georgia voters as co-plaintiffs, especially those who would be "grossly affected by the proposal," Mr. Brooks said.

Several other states request photo identification, according to the National Conference of State Legislatures. Most allow voters without photo ID to use other forms of identification or sign an affidavit of identity.

Exploiting The Gender Gap (NYT)

By Warren Farrell

The New York Times, September 5, 2005

Carlsbad, Calif. — Nothing disturbs working women more than the statistics often mentioned on Labor Day showing that they are paid only 76 cents to men's dollar for the same work. If that were the whole story, it should disturb all of us; like many men, I have two daughters and a wife in the work force.

When I was on the board of the National Organization for Women in New York City, I blamed discrimination for that gap. Then I asked myself, "If an employer has to pay a man one dollar for the same work a woman would do for 76 cents, why would anyone hire a man?"

Perhaps, I thought, male bosses undervalue women. But I discovered that in 2000, women without bosses - who own their own businesses - earned only 49 percent of male business owners. Why? When the Rochester Institute of Technology surveyed business owners with M.B.A.'s from one top business school, they found that money was the primary motivator for only 29 percent of the women, versus 76 percent of the men. Women put a premium on autonomy, flexibility (25- to 35-hour weeks and proximity to home), fulfillment and safety.

After years of research, I discovered 25 differences in the work-life choices of men and women. All 25 lead to men earning more money, but to women having better lives.

High pay, as it turns out, is about tradeoffs. Men's tradeoffs include working more hours (women work more around the home); taking more dangerous, dirtier and outdoor jobs (garbage collecting, construction, trucking); relocating and traveling; and training for technical jobs with less people contact (like engineering).

Is the pay gap, then, about the different choices of men and women? Not quite. It's about parents' choices. Women who have never been married and are childless earn 117 percent of their childless male counterparts. (This comparison controls for education, hours worked and age.) Their decisions are more like married men's, and never-married men's decisions are more like women's in general (careers in arts, no weekend work, etc.)

Does this imply that mothers sacrifice careers? Not really. Surveys of men and women in their 20's find that both sexes (70 percent of men, and 63 percent of women) would sacrifice pay for more family time. The next generation's discussion will be about who gets to be the primary parent.

Don't women, though, earn less than men in the same job? Yes and no. For example, the Bureau of Labor Statistics lumps together all medical doctors. Men are more likely to be surgeons (versus general practitioners) and work in private practice for hours that are longer and less predictable, and for more years. In brief, the same job is not the same. Are these women's choices? When I taught at a medical school, I saw that even my first-year female students eyed specialties with fewer and more predictable hours.

But don't female executives also make less than male executives? Yes. Discrimination? Let's look. The men are more frequently executives of national and international firms with more personnel and revenues, and responsible for bottom-line sales, marketing and finances, not human resources or public relations. They have more experience, relocate and travel overseas more, and so on.

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Comparing men and women with the "same jobs," then, is to compare apples and oranges. However, when all 25 choices are the same, the great news for women is that then the women make more than the men. Is there discrimination against women? Yes, like the old boys' network. And sometimes discrimination against women becomes discrimination against men: in hazardous fields, women suffer fewer hazards. For example, more than 500 marines have died in the war in Iraq. All but two were men. In other fields, men are virtually excluded - try getting hired as a male dental hygienist, nursery school teacher, cocktail waiter.

There are 80 jobs in which women earn more than men - positions like financial analyst, speech-language pathologist, radiation therapist, library worker, biological technician, motion picture projectionist. Female sales engineers make 143 per cent of their male counterparts; female statisticians earn 135 percent.

I want my daughters to know that people who work 44 hours a week make, on average, more than twice the pay of someone working 34 hours a week. And that pharmacists now earn almost as much as doctors. But only by abandoning our focus on discrimination against women can we discover these opportunities for women.

California To Vote On Marriage (WT)

By Cheryl Wetzstein

The Washington Times, September 6, 2005

A bill legalizing homosexual "marriage" in California is scheduled to go up for its second vote in the state Assembly this week, amid vigorous lobbying.

"We intend to keep the Assembly members' feet to the fire," said Benjamin Lopez, a leader of the Traditional Values Coalition. "If they support marriage for one man and one woman, like their constituents voted, they will vote against AB 849."

Mr. Lopez and his allies think California lawmakers legally cannot enact same-sex "marriage" because voters approved Proposition 22, which says only marriages involving one man and one woman are valid in California.

Homosexual rights supporters, however, think their message is the right one.

"We are so very close," Assemblyman Mark Leno said last week after his bill to legalize same-sex "marriage" passed the state Senate.

"It would be very disappointing for [the Assembly] not to be able to stand up for civil rights," he said.

In June, the Assembly rejected Mr. Leno's bill by four votes.

Meanwhile, two same-sex "marriage"-related decisions are expected in Massachusetts this month.

Either today or tomorrow, Massachusetts Attorney General Tom Reilly is expected to issue his decision on whether to certify a constitutional marriage amendment filed by a citizens' group called VoteOnMarriage.org.

Massachusetts Gov. Mitt Romney, a Republican, supports the amendment, which must garner nearly 66,000 certified signatures and two legislative approvals before it can get on a 2008 ballot.

However, dozens of homosexual rights groups and lawyers have urged Mr. Reilly not to certify the amendment. They say it is unconstitutional in light of the 2003 Goodridge decision, which legalized same-sex "marriage" in Massachusetts, the groups say.

Meanwhile, on Sept. 14, the Massachusetts legislature is scheduled to meet in a constitutional convention to offer a second vote on a marriage amendment that passed last year.

The amendment, which would disallow same-sex "marriage" but create civil unions, is unpopular. However, if Mr. Reilly rejects VoteOnMarriage.org's amendment, some lawmakers may decide to vote in favor of the civil-union amendment.

It's also possible that this month the Washington State Supreme Court will issue its pivotal ruling on mandating same-sex "marriage" in that state.

Traditional-values groups hope the court will uphold the state's Defense of Marriage Act, which was passed by a supermajority of lawmakers and clarifies that marriage involves only one man and one woman.

But homosexual rights groups hope the court will make Washington the second state to legalize same-sex "marriage" -- especially since, unlike Massachusetts, Washington doesn't have a residency law to block out-of-state couples from marrying there.

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"We are all waiting -- anticipating the decision with bated breath," said Fran Dunaway, executive director of Equal Rights Washington in Seattle.

ANTITRUST:

Retail Giant Cries 'Unfair' (LAT)

By Evelyn Iritani, Times Staff Writer

The Los Angeles Times, September 6, 2005

Wal-Mart Stores Inc., the retail giant infamous for crushing competitors and putting mom-and-pop retailers out of business, is now worried that its British rival might be too big.

H. Lee Scott Jr., Wal-Mart's chief executive, told a London newspaper last week that British authorities should be concerned about a retail chain having too much market clout.

Tesco, Britain's largest supermarket, has a 30% share of the food market and is expanding fast, thanks in part to an aggressive discounting program. Wal-Mart-owned Asda Group Ltd., Britain's second-largest retail chain, controls 16% of the market.

"As you get over 30% and higher, I am sure there is a point where government is compelled to intervene, particularly in the U.K., where you have the planning laws that make it difficult to compete," Scott told the Times of London, adding that "at some point, the government has to look at it."

Those remarks raised some eyebrows in the United States, where the Bentonville, Ark., retailer is regularly accused of abusing its clout to squeeze pennies out of its supply chain, trounce its competition and expand its sales.

"Wal-Mart is asking for an antitrust investigation of a competitor?" asked Albert Foer, president of the American Antitrust Institute in Washington, a think tank. "How delicious."

Wal-Mart is known for its super-sized profile. It has the world's largest workforce, 1.6 million at last count, more than the entire population of Montana. And 138 million shoppers visit its 5,379 stores and restaurants worldwide each week, racking up $285 billion in sales in 2004.

The retailer's protestations leave people wondering why it would complain about Tesco, given that any debate over curbing power in the global retail market is likely to shine the spotlight on Bentonville.

"Wal-Mart has done a good job of escaping from close antitrust scrutiny in this country, and a lot of people are wondering whether they are vulnerable in this area," said Foer, who had persuaded Wal-Mart Chairman S. Robson Walton to address his annual antitrust conference in Washington last year.

Walton denied that Wal-Mart used its clout to bully suppliers and unfairly drive competitors out of business.

"The real secret to our low prices is not tied to the deals we get with suppliers," he said. "Rather, our low prices are derived from a company culture that is passionate about taking unnecessary cost out of the business and equally passionate about investing in more-efficient business practices."

Wal-Mart has 10% of the U.S. retail market. But in at least two other places, the company has come under the scrutiny of antitrust regulators. In 2002, Mexico's Federal Competition Commission looked into complaints that Wal-Mart de Mexico, known as Walmex, was forcing suppliers to charge the retail giant's competitors higher prices for the same products. After Walmex, the leading retailer, agreed to write to its purchasing department that such a practice was not allowed, the commission closed the investigation.

When Wal-Mart bought Supermercados Amigo Inc., the largest Puerto Rican grocery store chain in 2002, the U.S. Federal Trade Commission required that the company sell off four stores to ensure competition on the island.

But in Britain, where Wal-Mart bought the Asda chain in 1999, Tesco is the market leader. Nick Agarwal, an Asda spokesman in London, said Scott was not referring specifically to his firm's rival in the Times of London interview but was speaking generally about the dangers of market concentration.

"Lee did not say he wants an investigation of Tesco," he said. "What he did do was say that he understands why, when food market share reaches 30% or higher, the government might want to look at that."

Scott has had his own run-ins with Britain's antitrust regulators. In 2003, British authorities turned down Wal-Mart's bid to purchase Safeway, saying the combined stores would have too much clout. At that time, an Asda-Safeway chain would have controlled about 26% of the food market, less than Tesco has today.

Tesco declined to respond directly to Wal-Mart's comments. But in a written statement, the company said British authorities had already investigated the retail market and found that it "operates in the consumer interest."

Wal-Mart representatives insist that anti-competitive issues aren't a concern with their company, because it controls small portions of the market in most parts of the world.

"We're pretty small potatoes outside the U.S.," said William Wertz, a Wal-Mart spokesman in Bentonville. "It really hasn't been an issue."

Critics have suggested that Wal-Mart already poses a threat in some markets. Take Canada, for example, where the retailer has 256 stores and its share of department store sales has risen to 52%, according to Talbot Consultants International, a Toronto-based research firm.

Asked whether Wal-Mart could face antitrust scrutiny in Canada, Wertz said, "I can't answer that," adding that competition laws and market forces are different in every country.

But critics who have launched a global campaign to slow the retailer's expansion accused the company of doublespeak.

"The unmistakable irony here is that Wal-Mart is accusing its British competition of accomplishing exactly what it has planned for its U.S. operations," said Andrew Grossman, executive director of Wal-Mart Watch, an anti-Wal-Mart coalition backed by some of America's leading unions.

The emergence of big-box retailers such as Wal-Mart with global supply chains and markets has created new challenges for antitrust regulators who are constrained by outdated laws and national boundaries. Wal-Mart doesn't fit the traditional definition of a monopolist, an entity that uses its dominant market share to push up prices.

But Wal-Mart's growing influence as a buyer has prompted a debate in antitrust circles about whether a concentration of "buyer power," known as a monopsony, is harmful for society.

Some legal experts say that improved technology and the lowering of trade barriers has made it more difficult to determine when a global player is exerting too much power. For example, though global companies such as Wal-Mart and Tesco are improving efficiency and lowering costs, they may also be undermining societal goals such as preserving small businesses.

"It all comes back, at some point, to politics and to the vision people have of the kind of country they want," Foer said. "I'm not castigating Wal-Mart; I think they have done a lot of good things. I'm much more worried about where we go from here and what things we need to worry about as a society to keep us going in the right direction."

Tide Turns Against Web Music Piracy (FT)

By Alain Levy

Financial Times, September 6, 2005

Monday's court ruling in Australia against Kazaa, the biggest brand name in international music piracy, is the latest sign of a turning tide in our industry's efforts to create a thriving pro-consumer, legitimate digital music business.

It is also a reminder that even with the greatest music, the best technology and the most willing fans, we cannot create this bright digital future alone: public education and proper enforcement of intellectual property rights, by courts and by governments, have a vital part to play as well. This applies to any record company, from the largest major to the smallest indie.

The ruling from Australia has important implications for our business. The Sydney court has not only reinforced the message handed down on Grokster from a unanimous US Supreme Court in July – namely that internet file- sharing services can be liable for music piracy. The world's best-known, and until recently its biggest unauthorised file-sharing service, has been found liable for facilitating copyright theft and ordered to stop. The message for similar networks that distribute copyrighted repertoire on a mass scale without permission is clear: it is time to change your ways or stop. Change your systems; respect copyright; use technology responsibly to benefit the music community and not to harm it.

These are momentous rulings for a creative, intellectual property business like EMI, as well as for the artists we invest in and for the legitimate digital market we are working to create. Investment in music is our business and protection of our content is

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central to everything we do. Our ability to invest in music, and to offer it to our consumers via downloads, ring tones or other digital formats, is integrally dependent on our ability to contain music piracy. Taken together, the Grokster and Kazaa judgements are crucial milestones for us.

The decision is also pro-consumer. It helps investment in the music consumers want. It is good news for fans who want to get great quality music legitimately, while seeing the artists they love get properly rewarded.

And the ruling is pro-technology. Those who claim that all record companies want is to do away with peer-to-peer distribution, in the case of EMI at least, have got it wrong. On the contrary, we have been working hard with companies like SnoCap and iMesh on creating a legitimate file-sharing model – one that uses peer-to-peer technology to benefit the music business, rather than abusing technology to harm it.

This improvement in the legal landscape comes at a critical moment. At EMI we are fast adapting for a digital future and our industry is doing the same. Within the last 18 months digital sales have moved out of a niche market and into the mainstream. Much credit of course goes to Apple iTunes for starting the ball rolling. Now a groundswell of competing services is gathering – great news for the business and the consumer.

Last week's launch of new digital services by the UK's two major music retailers, HMV and Virgin, are a landmark for the British market. But in most other markets outside the US, Japan, Germany and France, digital music has hardly gained a foothold. The growth potential is exciting.

Consumers, we know, are hungry for the new ways in which we can now make our music available: digital downloads in the first half of 2005 outstripped the whole of 2004. Surveys show that as many consumers are now trying legitimate online services as are using the unauthorised alternative. There are exciting forecasts for growth of the digital business. I believe it could grow from about 5 per cent now to 25 per cent of our industry's revenues over the next five years..

The digital music market is up and running, and our challenge now is to build on the successful start. I am confident and I take little notice of the sceptics. A few years ago no one held much hope for record companies breaking into what was then a 100 per cent internet pirate market. The mood is very different today. Virtually all our front line music is available in a huge array of digital channels. Music is becoming easier to buy than to steal.

But the tide is turning for other reasons, too. Public attitudes are shifting towards good and responsible practices in downloading music. A big public awakening has happened on the issue – helped by waves of industry information campaigns. Probably more significant still, the lawsuits taken out in 12 countries, which now total over 14,000, have clearly played an important part in deterring would-be illegal file-sharers and containing internet piracy. These strategies must be sustained because they are working.

The decisions on Grokster and Kazaa have helped us further. The extra layer of legal protection they represent gives our industry better conditions in which to invest in music, and a better environment in which to create a thriving digital business. Today, an entrepreneur working on a new legitimate innovative peer-to-peer service should feel better about his business prospects in the music industry. Equally, I would hope that the guy who, as I write, is planning to build the next pirate peer-to-peer service will today feel considerably worse about his.

The writer is chairman and chief executive of EMI Music

Court Orders Kazaa To Stop Pirates (WP/AP)

By Mike Corder, The Associated Press

The Washington Post, September 6, 2005

SYDNEY, Australia -- A federal judge on Monday ordered distributors of the popular file-swapping program Kazaa to alter the software, which millions have downloaded, so it can no longer be used for music piracy.

Hailed as a victory by the recording industry that brought the suit, the decision has implications well beyond Australia, where Kazaa executives are based, because Kazaa's users span the globe.

In some ways, it mirrors the U.S. Supreme Court's June ruling that Hollywood and the music industry can sue technology companies that encourage their customers to steal music and movies over the Internet.

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Federal Court Judge Murray Wilcox determined in Monday's ruling that Kazaa's owners and distributors, led by Sharman Networks Ltd., took no action to rein in illegal file-sharing despite posted warnings on their Web site urging Kazaa users not to swap copyright material.

Wilcox said it had been in the financial interest of Sharman and its partners "to maximize, not minimize, music file-sharing."

He found six of the 10 defendants, including Sharman, its Sydney-based chief executive Nikki Hemming, as well as Altnet, a Sharman software partner, guilty of copyright infringement and ordered them to pay 90 percent of the record industry's costs in the case.

A hearing will be set later to establish damages.

"We will ask the court when it comes to damages to reflect the value of the music these people ripped off," Michael Speck, a spokesman for the Australian recording industry, said of the millions who have downloaded Kazaa.

In a brief statement, Sharman said it would appeal and Kazaa software remained available online, with more than 800,000 downloads reported last week and 390 million total since Kazaa first became available in 2001. Sharman says its software is no different from a tape recorder or photocopier _ and that Kazaa could not control copyright infringement by users.

But Wilcox said that Kazaa's distributors actively encouraged users to share files, the vast majority of which were copyright material.

He said that if Kazaa is to continue its owners will have to ensure that new versions of the software filter out unlicensed copyright material, a task the judge said would be extremely difficult.

Wilcox stressed, however, that he was anxious not to damage legitimate file-swapping with his ruling. He said Kazaa needs to be changed "without unnecessarily intruding on others' freedom of speech and communication."

Kim Weatherall, a lecturer in intellectual property law at Melbourne University, called Wilcox's decision brave but potentially chilling to technology innovators.

"It is clear that the judge is concerned not to stop the technology completely but to try and work some middle line," she said.

The case is the latest in a long line of courtroom showdowns between purveyors of so-called peer-to-peer (P2P) networks and copyright holders led by the music and movie industries.

The U.S. Supreme Court's related June decision gave those industries the go-ahead to proceed with suits against file-sharing software developers Grokster Ltd. and Streamcast Networks Inc. It said such companies can be liable if they deliberately encourage customers to infringe on copyrights as their businesses attempt to grow audiences and sell more advertising.

In a statement Monday, the Recording Industry Association of America praised Wilcox's ruling as continuing in that vein: "... this decision reflects a growing, international chorus: those who promote theft can be held accountable no matter how they may attempt to escape responsibility.

"A corrupt business strategy of attempting to hide off-shore is not off-limits to the enforcement of rights by creators or law enforcement," the RIAA added.

Kazaa has lost significant popularity since its 2002 heyday, due in part to legal pressure and sabotage efforts by the recording industry but also to the emergence of competing technologies.

Other peer-to-peer file-sharing tools and services that similarly do not require a central server, including BitTorrent and eDonkey, have supplanted it as the Internet's most popular.

FastTrack, the network tapped by Kazaa users, accounted for 10 percent of traffic volume in a six-week study begun in June of data swapped using the Internet's top four file-sharing applications. The study was done by CacheLogic.

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On the Net:

Text of the ruling: http://www.austlii.edu.au/au/cases/cth/federal_ct/2005/1242.html

Kazaa's Web site: http://www.kazaa.com/

Chiron Snubs 'inadequate' Novartis Bid (FT)

By James Politi

Financial Times, September 6, 2005

DOJ_NMG_0002599

Novartis was on Monday facing an uphill battle in its attempt to take full control of Chiron as independent directors at the US vaccine company rejected the Swiss drugmaker's $4.5bn offer.

Chiron board members also decided to make clear that Novartis's proposal had not been solicited by the company, conflicting with the impression given by Novartis last week.

The US group said: "After thorough analysis and consideration of Novartis's offer to acquire the shares of Chiron it does not already own for $40 a share in cash, the independent directors of Chiron have determined that this offer is inadequate."

Novartis already owns 42 per cent of Chiron, which lost its flu vaccine production licence last year after the contamination of vaccines at its UK plant.

Chiron's rejection means Novartis might become embroiled in a long-running struggle to gain control of the company, which it is courting to gain access to the fast-growing market for vaccines.

Under the complex rules governing Novartis's investment in Chiron, the Swiss group has four months to secure the support of the independent directors for an offer to buy all of Chiron's shares. After that, it can begin an arbitration process to determine the company's fair value. But Chiron's board members could delay the arbitration until 2007 if they decide this is not the right time to sell.

Novartis's proposed $40 a share offer values Chiron at the equivalent of a 10 per cent premium on its price before the announcement.

Since the offer, Chiron shares have risen above the level of Novartis's offer, as Wall Street investors bet that the Swiss group would be forced to increase the price. On Friday, they closed at $42.79, down 0.3 per cent.

Last year, Chiron saw its net profits fall to $156m, compared with $304m in 2003, on the back of its manufacturing woes.

But its prospects were bolstered last week when the company said it had received a "favourable report" from US regulators visiting the UK plant that produced the contaminated vaccines.

ENVIRONMENT:

Redemption In The Bayou (NYT)

The New York Times, September 5, 2005

People keep making bets against nature, and in the end nature usually wins. This is as true in the rainforests of Central America, where clear-cutting has led to disastrous floods, as it is in the steep California canyons, where people have no business building houses.

It is no less true of the Mississippi Delta and its biggest city, New Orleans, whose heart-rending tragedy is partly traceable to years of federal efforts to manage the Mississippi River in ways that it did not intend to be managed, keeping it from going where it wanted to go and thus weakening the natural defenses that might have spared the city the worst.

Amends can be made. Before Congress is a $14 billion plan to restore the vanishing wetlands and barrier islands off the Louisiana coast that in times past would have served as a buffer against the storm. The House has approved a modest $1.9 billion down payment on this plan, but it needs a push from President Bush and the Senate majority leader, Bill Frist, to ensure Senate approval. The plan would involve some delicate re-engineering of the natural system and is not without risk. Still, it could provide a measure of redemption for years of environmental carelessness for which Congress itself is largely responsible.

The problem, in a nutshell, is this: the Louisiana coast, its protective fringe of barrier islands and coastal marshlands, is disappearing. Over the last 75 years, 1.9 million acres have vanished. Every year, another 25 square miles, an area roughly the size of Manhattan, sinks quietly beneath the waves. In some places, the coastline has receded 15 miles from where it was in the 1920's.

The soil in the delta compacts and sinks naturally. Historically, however, the Mississippi replenished the loss with sediment gathered from its many tributaries and then deposited like clockwork in the delta with the spring floods. Or so it did until 1927, when Congress ordered the Army Corps of Engineers to find ways to control the floods so as to make the river safe for farming, homes and commerce.

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As it would later do in the Everglades (with equally disastrous results for the Florida ecosystem), the corps then proceeded to construct a network of dams, levees and canals throughout the river basin. The upstream dams reduced the river's sediment load well below historical levels; the sediment that remained, while considerable, was then routed away from the Louisiana coast by a system of levees and navigation channels. The effect of all these engineering changes was to hurry the river along and, at its mouth, propel its contents deep into the Gulf of Mexico, as if shot from a cannon, bypassing the coastal marshes and barrier islands that most needed its nourishment.

Add to all this the demands of a growing population, plus thousands of miles of pipes and canals dug through the marsh for a booming oil and gas industry, and the result was inevitable: a shrunken, degraded and essentially defenseless landscape.

More is at stake, of course, than the landscape. These may be the hardest-working wetlands in America. They support one of the country's largest fisheries; almost every fish caught in the Gulf of Mexico spends part of its life in the Louisiana marsh. They are the wintering ground or refueling stop for most of the migratory waterfowl that travel the Mississippi flyway. And as everyone who has bought gasoline in the last few days knows by now, they are vital to the production, refining and transportation of much of the nation's oil. Indeed, the oil and gas industry has as much incentive as anyone to protect the marshes from further erosion. Most of its equipment cannot survive in open water.

The conditions are thus ripe for a major effort to restore the Louisiana coast. The program before Congress was hatched by the state's politicians and in its universities and drafted by the Army Corps of Engineers. It is supported by both industry and advocacy groups like the National Audubon Society and Environmental Defense, which helped with its design. It would start small, with three or four carefully calibrated pilot programs to divert water flow to the marshes, then go from there.

What it has always required is the enthusiastic support of Washington's political leaders. It is hard to believe that the events of the last week haven't caught their attention.

Missouri Condemnation No Longer So Imminent (WP)

By T.r. Reid

The Washington Post, September 6, 2005

SUNSET HILLS, Mo. -- When David Wright retired from his factory job in 1997, he poured just about all his savings into a handsome brick house in the Sunset Manor subdivision here. "This was our dream," said David's wife, Lorraine. "We were set here for the rest of our lives."

But the dream turned sour when the city council of this St. Louis suburb decided last year to bulldoze all 254 homes in Sunset Manor and turn the land over to a shopping-mall developer. "We cried and we prayed," Lorraine Wright recalled. "And we put a lot of hope into the Supreme Court, because they were supposed to decide whether this kind of thing is legal."

So the Wrights were crushed -- at first -- when the U.S. Supreme Court ruled on June 23 that the Constitution does not stop cities from seizing homes to make way for commercial development projects. "What we didn't realize right away," David Wright said, "was that the decision would be a positive development for those of us who don't want to see people's houses taken away."

Here in Missouri and all over the country, the court's decision in Kelo v. City of New London has sparked a furious reaction, with politicians of both parties proposing new legislation that would sharply limit the kind of seizure the court's decision validated.

As a result, a decision first seen as a key legal victory for cities that want to use eminent domain for private projects has turned into a major setback on the political front for pro-development interests.

The popular backlash has slowed or blocked many pending projects, as developers, their bankers and local governments suddenly face public furor.

In Sunset Hills, the bank that planned to finance the proposed new mall abruptly withdrew its funding amid a noisy political argument after the Kelo decision. That means the Wrights' home is safe, for the time being -- but hundreds of their neighbors who had agreed to move out are left in limbo.

Three states have already passed new laws in response to the Kelo decision.

The statutes in Alabama and Texas sharply curtail eminent-domain condemnations for private development. "We don't like anybody messing with our dogs, our guns, our hunting rights or trying to take property from us," said state Sen. Jack Biddle, a

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sponsor of the Alabama law. Delaware's new statute permits condemnation but sets new procedural requirements for local governments.

Larry Morandi, an analyst at the National Conference of State Legislatures, predicts a rush of new laws next winter, when 44 state legislatures will be back in session.

"Most if not all state legislatures will be dealing with eminent-domain laws next year," Morandi said. "The outcry has been so sharp that many states already have task forces or study committees at work on this issue this summer. Most of the proposed legislation is designed to restrict the kind of governmental action that the court upheld in Kelo ."

The Institute for Justice, a Washington-based libertarian think tank, said that hundreds of local governments around the country are also debating new ordinances to restrict the use of eminent domain. Many have passed laws this summer barring any seizure of private property for commercial development. Other cities are tightening the conditions that could authorize such seizure.

Several members of Congress have introduced legislation that would bar federal financing for any local government project that condemns property for a commercial development. But Congress did authorize governments to condemn property for the benefit of energy companies in the new energy bill that President Bush signed last month.

The right of government to seize private property for public projects is specifically authorized in the Constitution as long as owners receive "just compensation." A farmer whose cornfield lies in the path of a proposed expressway can be forced to sell the land even if he wants to keep farming there.

Traditionally, this power of eminent domain was used for government functions such as parks and highways. But more and more local governments have begun seizing property from unwilling owners for the creation of industrial parks, hotels and shopping centers.

This trend was not widely recognized until the Supreme Court decision in June that validated the practice. An issue that had been primarily of interest to local governments and land-use planners quickly hit every editorial page in the country, with widespread condemnation of the court's 5 to 4 ruling.

Some interest groups, including the National League of Cities, endorsed the ruling. But the overall political reaction was intensely hostile, sparking a rush of proposed legislation.

Supreme Court justices may not be unhappy about this reaction. Justice John Paul Stevens, author of the majority opinion in the Kelo case, said in a speech this summer that he did not agree with the property seizure in that case but felt that the law required him to uphold it nonetheless.

Justice Sandra Day O'Connor, who dissented in Kelo , warned that permitting seizure of private property for private development would have a reverse Robin Hood effect, giving governments "license to transfer property from those with few resources to those with more."

That pattern is clear here in Sunset Hills. This affluent town is dotted with large $600,000 homes on green hills surrounding a country club. But the Sunset Manor subdivision, the most ethnically mixed neighborhood in town, is made up mainly of small homes on small lots, with prices around $100,000.

The city council here, known as the Board of Aldermen, decided last year to level the 65-acre subdivision so that Novus Cos., a local developer, could build an upscale shopping mall to be called Main Street at Sunset. Of the 254 homeowners, 229 have agreed to sell their property to Novus. The owner of a shopping mall two miles away has financed the efforts of the hold out owners to block condemnation of their properties.

In July, the alderman authorized condemnation proceedings against the remaining owners -- including David and Lorraine Wright, a black couple who had planned to spend the rest of their lives in Sunset Manor and thus declined to sell their home.

"We thought at first, you know, we didn't have a prayer," David Wright said. "How can you fight City Hall? And then the Supreme Court ruled against people like us.

"But the reaction to that decision has been so strong. The project is kind of stopped. So now we are thinking maybe we can stay here."

Novus, the developer, said it is searching for new financing. Meanwhile, the project is on hold -- a painful development for the 229 homeowners who had agreed to sell their houses and move.

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"The collapse of the financing for the [shopping mall] project has left a couple of hundred families in a terrible place," said Pete Snyder, a spokesman for the developer. "A lot of them are already paying the mortgage on their new home, but now they don't have a buyer for the old one. This has to be resolved, and condemning those 25 houses is the way it has to go forward," he said of the holdouts.

But Will Aschinger, a leader of the anti-condemnation group, thinks the political reaction to the Supreme Court decision has effectively saved the Sunset Manor subdivision. "The backlash against that decision is the best thing that ever happened to us," he said with a smile. "No matter what the court says, I don't think cities can get away with this kind of stuff anymore."

Government Cowboys Spend Days Trailing Texas Ticks (WP)

By Sylvia Moreno

The Washington Post, September 6, 2005

LAREDO, Tex. -- This federal employee works along a treacherous stretch of high Rio Grande riverbank known as No Man's Land. His work uniform: leather chaps, sturdy Wranglers, high-top bullhide boots and silver spurs. His tools: a .357-caliber revolver, a lariat, a machete, a walkie-talkie, and his beloved brown-and-white appaloosa, Payaso.

His mission: to hunt down ticks.

Meet Fred Garza, government cowboy -- one of a small force of hardy men whose mission for almost 70 years has been to keep the dreaded Texas cattle fever tick confined to 900 miles of winding riverfront along the Mexican border. He is a tick, or river, rider, a U.S. Department of Agriculture employee who has managed to marry his cowboying skills and love of desolate open range with benefits and a federal pension.

It's hard and lonely work in unforgiving terrain. The cowboys live away from their families in remote shacks four to five nights a week. They ride solo six or seven hours daily in 100-plus-degree temperatures, cutting trails through thick gnarly brush and prickly cactus to rope frightened steers, searching them for ticks and then transporting them to a pesticide vat for a disinfecting dip. (The cattle are dipped regularly in organophosphates for six to nine months before being returned to their owners or sold at auction if not claimed.)

It may be a tough life, but Garza, a GS-8 after 15 years in the saddle, loves it.

"This is not work for me. It's not work for a lot of us," said Garza, a mustachioed 50-year-old whose uncle rode the river for 56 years before retiring from the USDA. "Like they say, ma'am, if you don't want to work, find you a good job."

Garza and his horseback-riding colleagues make up the nation's front line against a scourge that decimated the cattle industry in 1906 and continues to be a threat as long as the cattle fever tick thrives south of the border and Mexican cows stray or are smuggled across the Rio Grande. Mexican cows have developed immunity to many tick diseases or suffer only mild symptoms.

Today, the riders are fighting the worst infestation of cattle fever ticks in 30 years and are doing so in the face of budgetary shortfalls and bureaucratic turf wars.

"We're losing ground," said Edwin J. Bowers, director of field operations for the Laredo-based program, which is part of the USDA Animal and Plant Health Inspection Service.

The battle against the ticks dates back to 1906, when cattle tick fever spread through 14 southern states, wiping out up to 90 percent of herds in just days. The cause was traced to the Boophilus annulatus and Boophilus microplus , ticks carried by Texas cattle driven along trails to stockyards and auction markets up north. The parasites cause piroplasmosis, a disease known as Texas fever or red water disease. It causes red blood cells to rupture and the fever-crazed animals -- usually cows but also horses -- bleed to death by expelling blood through urine.

The epidemic sparked an intense campaign against ticks that began, initially, under the auspices of various affected states and counties. By 1938, the dreaded insect had been confined to portions of eight Mexican border counties in south Texas, and the federal government took over the eradication program. To patrol the permanent quarantine zone for "Mex-ee-co cows," as these cowboys call them, the USDA created a squad of river riders, some of them members of the old U.S. horse-riding sentry against hoof-and-mouth disease.

"They call us tick riders. We call ourselves the tick eradication mounted patrol," Bowers said.

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In January, Bowers asked USDA officials for an emergency appropriation of $521,000 to hire two tick riders for his understaffed unit (he is two short of the full complement of 61), to pay keep on four temporary workers, to buy needed equipment, and to fund a special feeding program that kills fever ticks on south Texas's abundant whitetail deer. The deer are believed to be spreading the tick on cattle-grazing land, making it harder to contain the parasite. At the same time, U.S. ranchers have been stymied in keeping Mexican cattle off their property because of drought-induced low water levels along certain parts of the Rio Grande and regulations by the International Boundary and Water Commission that prohibit fencing and brush management on dried riverbeds. The funding has yet to be released, and negotiations with the IBWC are stalled.

"Until 1996, we hadn't had any ticks on my land in 50 years," said Humberto Vela, who owns a 2,000-acre cattle ranch in Zapata, Tex., outside Laredo. He said lax efforts by Mexican officials to kill off the fever tick and the ban on building fences in dried portions of Rio Grande riverbed have penalized him and other ranchers. "We have to go through this whole cycle of dipping to keep an epidemic out of the United States," Vela said.

In Spanish, the tick riders are called garrapateros for the Spanish word for tick (garrapata). Although 60 percent of these government cowboys are Spanish-speaking Mexican American, the Anglo tick riders are bilingual, too. The job requires regular encounters with Mexican ranchers and ranch hands across the river -- not to mention chance meetings with undocumented immigrants, usually dehydrated and starving, who get lost wandering through the thick brush; the coyotes who guide them across the Rio Grande; and other smugglers and border bandits, as well.

"I got caught in the cross-fire between the bandidos and the coyotes when I worked the river over in Brownsville. One got shot in the heart and right here," Garza said as he pointed to his upper right rib cage. "He died and the other guy got shot in the arm and leg and lived. It was 10 in the morning, on a Sunday."

Danger has always been part of a tick rider's job. In 1982, Congress passed a law to arm the patrol after a group of weathered cowboys, bullet-riddled saddle in hand, went to Capitol Hill to lobby lawmakers for help. They got .357 magnums and later, the choice to carry .40-caliber semiautomatics.

The weapons have not eliminated the casualties, however. One tick rider was shot and killed at his camp not far from the river (the case has not been solved). One drowned in the Rio Grande, and another was killed in a vehicle accident. One rider survived a bullet in the back, and many others have been shot at and missed. "We've been very, very lucky considering the climate we work in," Bowers said.

Among all of USDA's animal health technicians or animal inspectors -- as the tick rider's law enforcement badges proclaim them to be -- they are more prone to be injured on the job. One kick of an angry cow's hoof can snap a forearm.

Despite the hazards of the job, Bowers gets about 100 applicants per job opening, and some tick riders apply multiple times before getting hired as a GS-5 with a current starting salary of $26,197 a year.

Joe Akers, 37, a champion rodeo roper of the Tilden, Tex., rodeo applied three times before he got the job on the mounted patrol three years ago. Like Garza, he was following in a relative's footsteps. His uncle was a river rider for decades.

"If you like ridin' and you love ropin', this is the job for you," said Akers, who wears the big silver belt buckle he was awarded in a cattle-roping competition. "Especially in south Texas, it's extremely prestigious to get on with the tick force."

A Class War Runs Through It (NYT)

By Jonathan Weber

The New York Times, September 6, 2005

Missoula, Mont.

JAMES COX KENNEDY, the head of Cox Enterprises, the Atlanta media company, was just doing what lots of modern media moguls do when he bought nearly 4,000 acres in Montana's Ruby Valley: transforming remote Western ranchland into a private hunting and fishing retreat, and doing some commendable habitat conservation and restoration work in the process.

Perhaps unwittingly, however, Mr. Kennedy has walked into the middle of two separate but closely related controversies, one having to do with Montana's stream-access laws - that one will be the subject of a mediation session next week - and the other relating to conservation easements.

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Both issues, ultimately, are about class, and point to the need for new policies (and vigilance) in policing the conservation easement system and defending access to public lands and water. Just as important, though, Mr. Kennedy's Ruby Valley imbroglio underscores the need for a deeper sense of noblesse oblige among the ultra-rich as they buy up great swaths of the American West.

Montana's 20-year-old stream-access law, which declares that the state's rivers and streams are public property up to the high-water mark, provides a clear window into land-use battles. The law, among the strongest in the nation, has survived numerous legal challenges and become a source of pride for many Montanans (including Gov. Brian Schweitzer), though it's still fiercely opposed by property-rights advocates.

The law does not require property owners to provide entry to waterways through their own land, but it does permit access from any public property. As a result, among the most common access points are county bridges. That's where Mr. Kennedy has run into trouble: his ranch includes all or parts of two bridges that cross the Ruby River, and he has blocked access by reinforcing old fencing along those bridges. Stream-access advocates have sued the county for allowing the fences, setting the stage for a showdown on a controversy that has raged for almost a decade.

Mr. Kennedy claims that the bridges are neither safe nor legal river-access sites. More to the point, though, he says allowing public access would damage the riparian habitat and destroy a fragile fishery that he has spent a lot of time and money nursing back to health. That's a similar argument to one being made by the brokerage mogul Charles Schwab, the rock musician Huey Lewis and others who are fighting to keep the public off a waterway south of Missoula where they own property.

And that brings us to the second controversy. Much of Mr. Kennedy's Ruby Valley property is in a conservation easement, an arrangement under which property owners receive tax breaks for forgoing development on ecologically sensitive lands. Easements have been under fire in Congress in the wake of revelations that some developers were claiming conservation easements for golf courses (hey, it's open space, right?) and otherwise gaming the system.

While Mr. Kennedy's Ruby Valley easements are not cover for a golf course, they do have one unfortunate feature: Mr. Kennedy is the president of the land trust that is supposed to serve as the enforcer of the easement agreement. That's exactly the kind of arrangement that rightly gets easement critics up in arms.

Easements have proved to be a very effective means of encouraging land conservation and habitat preservation. But there's something wrong when a billionaire buys a ranch, gets a tax break for an easement and then chases the locals off the river in the name of conservation.

Class, of course, is an issue here. Consider the people who are fighting for access to the river: retired miners and schoolteachers and other working folk, some of whom grew up fishing the local waters and some of whom couldn't give a hoot about fishing but hate seeing the landscape walled off. But there's also wider a social issue involved: if land and water conservation and wildlife protection come to be seen as things that only benefit the rich, it will reinforce the perception that conservation is a luxury of the elite rather than a universal concern.

If class warfare breaks out in Montana, the environment is going to suffer. So what do we do? As Jon Christensen and Terry Anderson, two of the West's leading thinkers on conservation issues, have pointed out, the conservation easement system needs to be better policed. For starters, appraisers - working with state and federal tax authorities - should establish appraisal standards for easement donations. Moreover, the land trusts should work together to set up an accreditation system, and Congress could mandate that tax deductions be available only for donations to accredited land trusts.

When it comes to public access, state and local officials - and voters - need to recognize that the heavy bias toward property rights that exists throughout the West is something that will increasingly serve a small minority of wealthy landowners, not mom-and-pop homesteaders or family farmers. This imbalance needs to change. County commissioners, who are often on the front lines, can't allow themselves to be intimidated by the threat of litigation over access issues. And they need strong back-up from state attorneys general.

But a big part of the solution is in the hands of the landowners themselves. In an era of economic policies that are producing an ever-larger group of the super-rich, those who are wealthier than the rest of us have a responsibility to manage their properties at least partly in the public interest.

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They need to meet with their neighbors, get involved with the community and find compromises that work for everyone. In most cases, the locals will be more than receptive to even small gestures. After all, who wants to fight when the fish are biting?

Is This The Gaze Of An Endangered Species Or An Evil Croc? (NYT)

By Larry Rohter

The New York Times, September 6, 2005

MAMIRAUÁ, Brazil - As dusk falls, the waters here gradually come alive. One after another, caimans begin to stick their armored heads above the surface, and before long this isolated, tree-lined channel feeding the Amazon is teeming with crocodilians as large as 15 feet long. Their thrashing, splashing and grunting reverberates all through the night.

Just a generation ago the caiman, a cousin of the American alligator, was driven so near extinction by the demand for its skin and meat that the government banned hunting it. But efforts to protect the black and spectacled caiman (pronounced KAY-men) have proved so successful that the population has exploded and the beast has now become a pest and, according to some, a threat.

Peasants along the rivers complain that caimans devour their livestock, and they are clamoring for the right to resume hunting. Even small children are occasionally attacked at the river's edge, leading local newspapers and radio stations to say the officials in far away Brasília know nothing about the hard realities of river life.

The loudest and most constant protests, however, come from fishermen in areas like this, 450 miles west of Manaus, the capital of Amazonas State. They complain that the resurgent caimans destroy their nets, which can cost between $50 and $200, and consume large quantities of the same game fish that they need to catch and sell to feed their families.

"Every time you go out, they always get in the way," said Ademar Nunes Nogueira, 41, who has been fishing since he was 10. "But if you dare to kill a caiman and the environmental agents catch you, you're the one who has to pay a fine."

Even in Manaus, a city of 1.5 million people, caimans are now a real presence and not just an urban legend. "There are spectacled caimans living in the sewers of Manaus," said William Magnusson, a caiman specialist at the National Institute for Amazon Research there. "They adapt to anything."

The exploding caiman population has also become a political issue in Amazonas, with campaigning politicians promising they will ensure that the ban on hunting is lifted. "The argument is that if they are doing it in the United States, why can't we do it here?" said Ronis da Silveira, a professor of biology at the Federal University of Amazonas who is a leading expert on crocodilians.

No one knows exactly how many caimans now navigate Amazon waters. Asked for an estimate in an interview with the magazine Epoca, Eduardo Braga, governor of Amazonas, replied, "The only thing I can say is that the presence of the caiman is intimidating and immensely greater than the human population" of the state, which is 2.8 million.

The animals have become so plentiful that some fishermen have begun using caiman meat as bait to catch a particular catfish known as the vulture of the waters. Brazilians themselves refuse to eat the fish, so it is exported upriver to Colombia, where it is considered a delicacy.

Mr. Magnusson puts the total caiman population at "tens of millions," but government officials defend the hunting ban, arguing that to lift it would bring about a return of the same predatory practices that nearly drove the caiman into extinction in the first place. They say the campaign to resume hunting reflects the peasants' desire for more income and a prejudice that stems from mankind's ancestral fear of reptiles.

"Mosquitoes transmit malaria, which kills a lot more people than caimans ever have," said Henrique Pereira dos Santos, regional director of the government's environmental agency. "I think you have to take the semiotics of all this into account."

What may well be the largest concentration of crocodilians anywhere in the world can be found here at the Mamirauá Sustainable Development Reserve. "At this time of year, there are some places where the caiman concentrations are so thick that if they just sat there and didn't move, you could walk across their backs to dry land," Mr. Magnusson said.

At the reserve, which is supported in part by the Wildlife Conservation Society, the government now permits a limited harvest of caimans. One linear inch of the hide of the prized black caiman can be worth up to $25 on the international market if properly

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skinned, and the meat fetches 30 cents a pound. The skin of spectacled caimans goes for about $3 a square foot. But the program is still experimental, and scientists have doubts about extending it to other places.

"You can't allow hunting all over, only in particular areas and at certain times of year, where and when concentrations are the largest," cautioned Professor da Silveira, who is involved with the project. "You must be selective and at the same time convince the residents of the region that there is something in it for them, something of economic value, that the caiman is not just a pest."

A selective approach, however, does not appeal at all to Sebastião Batista Pereira, 46, a peasant who lives in a hut at the edge of the river a bit farther downstream. When water levels rose nearly to his front door during the latest rainy season, one caiman made off with a pig he had just bought while another came perilously close to his 78-year-old mother and youngest child as they were bathing at the river's edge.

"Look, I don't hunt the beast to take its meat or skin into the city to sell," Mr. Pereira said. "That would be abusive and a clear violation of the law. But I'll say this before any authority: if I come across a snake or a caiman on the trail, I'll kill it. What is worth more, the life of my children or of some animal, and a wild, violent beast at that?"

FBI/DEA/ATF/USMS:

Lawmakers Seek Far Harsher Penalties For Steroids Users (USAT)

By Kathy Kiely, Usa Today

USA Today, September 6, 2005

WASHINGTON — The chairman of the House Judiciary Committee plans to unveil a new proposal this week to crack down on steroid use in sports, another sign of the growing determination by Congress to impose tougher testing standards and penalties on pro sports.

Rep. James Sensenbrenner, R-Wis., told USA TODAY he's co-authoring the bill with Rep. John Conyers, the top Judiciary Committee Democrat from Michigan. It would put the Justice Department in charge of developing "minimum standards" for testing and penalties. Participation in the program would be voluntary, but Sensenbrenner says there will be "incentives" to encourage pro sports leagues to sign up.

He did not elaborate on what those incentives might be. But in baseball's case the Judiciary Committee could threaten to lift the sport's antitrust exemption.

Lawmakers are returning to Congress this week for the first time since news broke of Baltimore Orioles star Rafael Palmeiro's 10-day suspension last month for steroid use. That has stoked many members' exasperation. "That's called a vacation; that's not a suspension," said Rep. Chris Shays, R-Conn.

Palmeiro testified under oath at a House Committee on Government Reform hearing in March that he never used steroids. Committee members and staffers have been examining records of his positive test provided by Major League Baseball to determine whether he could be prosecuted for perjury.

Two members who have seen the records, Reps. Henry Waxman, D-Calif., and Elijah Cummings, D-Md., say they think perjury charges against Palmeiro are unlikely. "It will be very difficult to prove," Cummings said. But information in the records, Cummings added, would frustrate lawmakers "even further."

The records have not been made public, but Waxman indicated he might push for that. "I don't know for sure, but I generally favor information being made public," he said.

Steroids news hits home

Cummings still lives in the west Baltimore neighborhood where he grew up and, like many natives of the Charm City, considers himself a diehard Baltimore Orioles fan.

But few lawmakers have been more critical of Palmeiro after news last month he tested positive for steroids. When the first baseman returned to the playing field on Aug. 11 after a 10-day suspension, Cummings said he was "bothered" that some in the crowd cheered him.

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"Most of us are trying to set some kind of decent example for kids," says Cummings. "What kind of message is that sending?"

In Congress, frustration with professional sports in general, and Major League Baseball in particular, is growing. As they prepared to return to town this week from a month-long August recess, a number of Republican and Democratic lawmakers said the Palmeiro revelations would build momentum for federally mandated drug tests and penalties in pro sports.

"Obviously the current approach on steroids both in professional sports and amateur sports is not working," says Sensenbrenner.

The bill will be the sixth measure introduced in Congress this year to regulate steroids in pro sports. All of the bills have bipartisan support. All would impose much stiffer penalties than the one levied on Palmeiro.

One, backed by Rep. Cliff Stearns, R-Fla., would require a half-season suspension for a first-time steroid offense. Four others — including one authored by Sen. Jim Bunning, R-Ky., a Hall of Fame pitcher — would impose a two-year ban for a first-time offense and a lifetime ban for a second.

The measure being authored by Sensenbrenner and Conyers would leave it up to the Justice Department to set penalty guidelines. Sensenbrenner doesn't think Palmeiro's suspension would be adequate. "My gut tells me that type of tap on the wrist would not meet the minimum standard," he says.

Obstacles abound

Fueling momentum for the legislation has been a feeling that Palmeiro's suspension was an affront to Congress. Appearing before a House committee in March, the Orioles slugger swore under oath he had never used steroids. "He got the confidence of all of us," Cummings said. "We thought he was a stand-up guy."

But there are obstacles to passage of a federal steroids testing bill, including Congress' busy fall agenda and internal fights over who should get credit for legislation.

House Speaker Dennis Hastert, R-Ill., will push for the various bill sponsors to find "common ground," says his spokesman, Ron Bonjean. Waxman says it would be "pretty ridiculous" to let disputes among various bill sponsors stop the legislation.

"What we end up passing will probably be a blend of several proposals," Sensenbrenner says.

Sen. Chuck Grassley, an Iowa Republican, acknowledges "a reluctance to get involved in something traditionally left to baseball itself," but he argues that "baseball has had an opportunity to straighten up and they have used kid gloves." Echoing the sentiment of many lawmakers, Grassley said: "I think they are afraid of their union."

Greg Bouris, director of communications for the MLB Players Association, argues Palmeiro's suspension shows the current testing system is working. Bouris says the length of Palmeiro's suspension is irrelevant. "It's the outing, the public humiliation that the player is going to face that's going to be the ultimate deterrent."

Even so, he says union president Don Fehr has been visiting teams to discuss the possibility of changing the steroids policy with players. Commissioner Bud Selig has proposed a 50-game suspension for the first offense, 100 games for a second offense and lifetime ban for a third offense.

Members of Congress are skeptical. "I don't have a good feeling about either the baseball owners or the players," says Shays.

Congressman feels support

Cummings says very few of his constituents have complained about his tough stand on Palmeiro. "I've only had one person say, 'Lay off Raffy.' " Some comments have come from "diehard baseball fans" who are worried about the integrity of the games' records, Cummings says. Some have come from African-Americans who wonder "Why is it that a baseball player can commit a (drug) crime and make more money? If a guy in my community of West Baltimore were caught doing it, he'd go to jail," says Cummings.

But the congressman says his biggest supporters are "the soccer moms" who want to make sure athletic role models are worth emulating.

Says Cummings: "They're worried about their kids."

Palmeiro Goes Home, Booed And Injured (NYT/AP)

By The Associated Press

The New York Times, September 6, 2005

Filed at 7:43 p.m. ET

BALTIMORE (AP) -- Rafael Palmeiro was sent home to Texas to rehabilitate knee and ankle injuries, leaving his baseball future unclear during a season in which he was suspended for a positive steroids test.

Palmeiro's season unraveled soon after he collected his 3,000th career hit on July 15. He received a 10-day suspension on Aug. 1 for failing a drug test, and upon his return was booed by fans in Baltimore and on the road.

He is 2-for-26 with one RBI since coming back, and has been bothered the past two weeks by injuries to his left ankle and right knee. The Orioles still expect him to play this month, but decided Monday that the first baseman should go home to recover.

"It is in his and the Orioles best interests for Palmeiro to stay off the knee as much as possible to allow it to heal completely," the team said in statement. "At the same time, remaining with the team while unable to play has created an unnecessary distraction for both Palmeiro and the ballclub."

Palmeiro, who has not played since Tuesday in Toronto, left for Texas shortly after the Orioles' 6-2 loss to the Blue Jays on Monday.

"We will monitor him and bring him back at the end when he's ready," interim manager Sam Perlozzo said. "We definitely feel like he's going to play again this year. I'd like to see him get back for the last 10 days, anyway."

Things can't get much worse for Palmeiro, who's experiencing a one-of-a-kind season for all the wrong reasons.

"Everything just kind of crumbled, unexpectedly really. I never expected that anything would happen to me, not at this stage of my career anyway," he said before Monday's game. "I've played my whole career pretty much injury free. There's been no controversy in my life at all, on and off the field. I've always been a type of person that does it the right way and follows the rules and does the right thing for the most part."

This isn't the way Palmeiro, 40, wanted to go out. For that reason he's still considering coming back next season.

"Obviously, I would love to play and come back and finish and hopefully to prove to everyone that I can still play at a high level, that I can still be productive and do it the right way, which I've always done," he said. "I just don't know. I can't look that far ahead and predict what's going to happen. I would love to have that opportunity, but I have a lot of things to think about and a lot of things to weigh."

Ending his season at this point, however, is not in his immediate plans.

"Raffy doesn't want to shut it down yet. He doesn't want to walk away from this thing without playing again," Perlozzo said. "If he looks like he can help us with a couple of at-bats here and there, we'll see what happens."

In March, Palmeiro told Congress that he never took steroids. Upon receiving the suspension, Palmeiro insisted that he never intentionally took a banned performance-enhancing drug. When he returned, he said he would not address the case until Congress concludes its ongoing investigation on whether Palmeiro committed perjury with his testimony in March.

His decision on retirement won't be influenced by the backlash he has received since the suspension.

"If I had to make a decision right then, I probably wouldn't play," he said. "But I am not going to shy away from something like what happened to me like that. I am going to face it and I am going to do what I can. Hopefully, I can explain myself one day, and whether people believe me or not, I can't control that."

Palmeiro never wanted a farewell tour or a lavish ceremony before his final game. He always intended to make a decision over the offseason, which he will, but now must factor in the suspension, his injuries and a late-season slump that has dropped his batting average to .266 -- 23 points below his career mark.

"I wasn't going to make this huge announcement. I wasn't going to have a parade going out around the country at all the ballparks. That's not what I wanted to do," he said. "I wanted to sit down and make a good decision and feel good about it, like 'This is it, I am done, I enjoyed the ride and it's time to do something else.'

"But obviously, that's not going to happen."

Chiefs' Wellbourn Suspended For Steroids (WP/AP)

The Associated Press

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The Washington Post, September 6, 2005

KANSAS CITY, Mo. -- Kansas City Chiefs offensive lineman John Welbourn has been suspended for four games for violation of the league's steroid policy.

"John has been suspended," coach Dick Vermeil told The Associated Press on Saturday. "We are moving forward. I really can't say any more than that right now."

Welbourn, a reserve guard acquired from Philadelphia in 2004, played in Friday night's exhibition loss to St. Louis. He will not be eligible to practice during the suspension and may not play until the Oct. 16 game against Washington.

Vermeil said Friday night that Welbourn lost an appeal of his suspension.

"It doesn't matter if it was taken accidentally or something was in something he took that wasn't marked on the bottle," the coach told the Kansas City Star. "It doesn't matter. There's no tolerance and we'll have to live with that."

Eric Warfield, a starting cornerback, already has been suspended for the first four games for violation of the league's substance abuse policy.

Charges Dropped Against Husband Of Woman Who Claimed Cancer (AP)

By THE ASSOCIATED PRESS

AP, September 3, 2005

SALT LAKE CITY -- Prosecutors have dropped the fraud charges against a man whose wife falsely claimed to have cancer and collected thousands of dollars in donations.

Salt Lake County prosecutors said Wednesday they no longer felt they could prove Drug Enforcement Agency officer Jeff James Clark was part of the scam perpetrated by his wife, Tania Clark.

Tania Clark, 32, who has pleaded guilty to felony counts of theft and theft by deception in Utah and Salt Lake counties, is taking sole responsibility for the crimes, said Deputy Salt Lake County District Attorney Robert Stott.

Stott said the attorney for the woman said she would testify "she was the only one involved, and that her 36-year-old husband did not know anything about the fact that (her claims of illness) were false."

To prove the husband was involved in the scheme, prosecutors would have to prove that "he knew she didn't have cancer and he had intent to commit fraud," Stott said. "We don't think we have sufficient evidence to overcome that."

Jeff Clark's job status remains uncertain, DEA spokeswoman Karen Flowers said Thursday, and he remains on unpaid administrative leave.

Tania Clark was sentenced by a Utah County judge last month to probation and community service and was ordered to pay $5,800 in restitution.

Sentencing in Salt Lake County is set for Sept. 12 before 3rd District Judge Paul Maughan.

Tania Clark told family and friends she was dying of myeloma and needed $62,000 for a bone marrow transplant.This story appeared in The Daily Herald on page D3.

Greed Lured GIs Into Colombian Underworld (WP/AP)

By Kim Housego, The Associated Press

The Washington Post, September 6, 2005

BOGOTA, Colombia -- U.S. Army Staff Sgt. Daniel Rosas was deployed to Colombia as part of the large U.S. mission to fight drug trafficking, but before long he found the lure of cocaine money too hard to resist.

He formed a smuggling ring involving U.S. soldiers that was eventually busted, deeply embarrassing U.S. officials.

A deposition obtained by The Associated Press shows Rosas' scheme was so amateurish that at one point he made a deal with a stranger he met in a Mexican nightclub bathroom and even saw a $140,000 payment vanish in the mail. The authenticity of Rosas' sworn statement was recently confirmed by a Colombian official familiar with the case.

The document provides for the first time a detailed look into how the drug ring operated and shows that, with stunning ease, it was able to send 170 pounds of cocaine from Colombia to the United States, subject to only cursory searches at best from U.S. Customs agents.

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"They never suspected that any military or civilian personnel would bring back contraband," Rosas said in the March 31 sworn statement to military investigators at Fort Bliss, Texas. "They did not use dogs, they very rarely checked our carryon bags but never checked our equipment that was loaded on the pallets."

U.S. Ambassador William Wood said in the wake of the arrests on March 28 that U.S. soldiers leaving Colombia would be subjected to stricter searches. The case infuriated many Colombians who said President Alvaro Uribe should revoke treaties granting immunity to U.S. soldiers serving in Colombia.

Rosas, 23, of McAllen, Texas, is behind bars awaiting court-martial along with two other U.S. soldiers.

A fourth soldier, Spc. Francisco Rosa, pleaded guilty on Aug. 10 to using, possessing and distributing cocaine and making a false official statement. He was sentenced to five years in prison, demoted to the rank of private and will receive a bad conduct discharge.

Rosas told military investigators he got involved in drug smuggling in the summer of 2003 when he struck up a friendship with Angel Gutierrez, a bartender at the officer's club in the Apiay military base southeast of Bogota, where he was stationed. Rosas said Gutierrez told him he could hold cocaine and drive it onto the base through the front gate.

"Greed overtook my state-of-mind. I saw an opportunity and took advantage of it," Rosas said, according to the sworn statement.

Rosas said he and two other Americans on the base _ Spc. Rolando Sandoval and a civilian defense contractor identified only as Jake _ pooled their money to buy about nine pounds of cocaine from Gutierrez for $12,000. Sandoval left the military before Rosas' arrest and it is unclear what happened to him and Jake.

Jake smuggled the cocaine to the United States in August 2003, then headed to Las Vegas to try to sell some of it _ but promptly disappeared.

"We never saw him again ... we never received any money from Jake," Rosas said.

When Rosas returned to Texas within a few weeks, he tried to sell the remaining two pounds. That amount normally fetches about $25,000 in the United States, but Rosas didn't know where to turn.

"I went to Juarez, Mexico, and while in the bathroom of a club I saw a guy snorting cocaine," Rosas said. He eventually sold the cocaine to the man for $6,500 at a Taco Bell in El Paso, Texas.

The money didn't last long.

"I spent $3,000 on partying and stuff of that nature," the soldier said.

On his next tour in Colombia, Rosas said he recruited three U.S. soldiers _ Rosa, Staff Sgt. Victor Portales and Staff Sgt. Kevin G. Irizarry-Melendez _ and they began smuggling much larger quantities of cocaine, according to the sworn statement.

They wrapped sheets of fabric softener and plastic wrap around the cocaine, placed it inside zip-lock bags then put them inside coffee boxes. The drug shipments were loaded onto pallets with other gear then put aboard U.S. Air Force transport planes heading to Texas.

Once, two coffee boxes containing 35 pounds of cocaine vanished after it arrived at Fort Bliss. Rosas said he suspects a private working at the hangar found the cocaine and stole it.

Meanwhile, Rosas found connections in the drug-trafficking underworld in the United States. But that presented new problems.

One drug dealer, identified only as Gustavo, mailed $200,000 to Rosas' El Paso apartment in four boxes as payment for cocaine, but Rosas was not present to pick up two of the boxes, and they were sent to a forwarding address Gustavo had provided. Gustavo told Rosas he had made up the forwarding address. The two boxes were never found.

"I do not know where the boxes were sent to, nor where the money is at now," Rosas told the army investigators. "So basically, somebody received $140,000."

The sworn statement suggests informants finally broke up the smuggling operation.

Rosas said he shipped 134 pounds of cocaine between July 2003 and March 2005 to the United States and sold it for about $260,000. He said Irizarry-Melendez smuggled another 35 pounds, while the others mainly fronted money to buy the drugs.

Asked by the investigators how he felt after being caught, Rosas replied: "Disgraced, unfaithful, disloyal, saddened and I wish I never did it."

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Gun Control Efforts Weaken In South (BOS)

By Alan Wirzbicki, Globe Correspondent

The Boston Globe, September 6, 2005

WASHINGTON -- Even as Boston struggles against a tide of smuggled handguns, some state governments in the South are loosening their gun control laws in ways that critics say will make it easier for traffickers to bring illegal firearms into the Northeast.

Under pressure from the National Rifle Association, South Carolina abolished a state law last year that limited to one the number of handguns individuals can buy in a month, a measure that was designed in 1975 to prevent trafficking.

Virginia, which was the epicenter of gun smuggling into New York and Boston before it passed a one-gun-per-month law in 1993, weakened that rule in 2004 and gun control advocates fear that it could soon be abolished.

Academic studies have shown that limits on monthly gun purchases help limit smuggling, but lobbyists for gun manufacturers call such laws "gun rationing" and say they infringe on Second Amendment gun ownership rights.

Over the past five years the overall trend on the state level has been toward lax gun laws, said David Hemenway, a professor at the Harvard School of Public Health who studies gun crime. That has left states such as Massachusetts and New York, which retain their strict gun limits, increasingly isolated.

When it is easy to buy firearms in neighboring states, Hemenway said, "it just makes it a lot harder for states with less permissive gun laws to keep guns out."

Urban jurisdictions in the Northeast have some of the most restrictive gun ownership laws in the country, though shootings in Boston were up 11 percent from last year, according to statistics obtained by the Globe.

Police seized 490 guns in Boston through Aug. 23, up from 380 in the same period last year and 294 in 2001. A large percentage of those guns originated from outside the region.

Last month, a South Carolina judge sentenced a Boston man to 24 years in federal prison for buying 21 guns in the state, which he resold illegally in Boston after removing their serial numbers.

Sergeant Thomas Sexton, a spokesman for the Boston Police Department, said the police were concerned that less restrictive gun laws in other states would fuel smuggling into the region.

"It is a concern that some of these other states are relaxing some of their gun laws," he said.

South Carolina Governor Mark Sanford, a Democrat, signed legislation ending that state's ban in May 2004. In Virginia, Democratic Governor Mark Warner, who may seek the party's 2008 presidential nomination, approved an exemption for gun owners with "right-to-carry" permits from the state's one-gun-a-month limit.

Pinpointing the precise source of guns smuggled into the Northeast is difficult, analysts say, because last year Congress inserted a provision into a spending bill that prevented the US Bureau of Alcohol, Tobacco, Firearms, and Explosives from releasing federal data about where guns used in violent crimes originated.

The amendment, sponsored by US Representative Todd Tiahrt, a Kansas Republican, prohibited the ATF from releasing documents related to "traces" of guns. Local authorities can request traces for individual firearms to locate the owner of a stolen gun or in criminal investigations, but they don't have access to traces requested by other agencies.

As part of an ongoing lawsuit, the city of New York has subpoenaed the ATF over access to trace data, which New York police hope to use to identify rogue gun dealers.

Lawyers from the city sought trace reports to establish that many guns used to commit crimes come from the same sources.

A federal judge has ruled in favor of the city twice, but the ATF is still seeking to avoid turning over the traces.

In 1999, when the ATF last made some data from gun traces available, the report showed that Florida was the top source of handguns used by youth criminals in Massachusetts in 1997-98, accounting for 17.6 percent of crime. By comparison, only 14.7 percent of guns came from in-state.

Virginia, North Carolina, and Florida were the top three sources of crime guns for young people in New York City.

Brian Malte, outreach director of the Brady Campaign to Prevent Gun Violence, an antigun group, said that while the repeal of gun control laws was worrying, another problem is the many states that lack strong gun control laws to begin with.

"It's not like a South Carolina, that they've passed and then repealed the law," he said.

"They just never had the laws to begin with."

1.7M Kids At Home With Loaded Guns (USAT)

By Marilyn Elias

USA Today, September 6, 2005

About 1.7 million U.S. children live in homes with loaded, unlocked firearms, according to the largest survey ever done on home weapons storage, out today in the Pediatrics online journal (www.pediatrics.org).

James Mercy, researcher with the Centers for Disease Control and Prevention, and colleague Catherine Okoro analyzed surveys of 224,000 adults done by health departments in 50 states and the District of Columbia during 2002.

One-third of adults have handguns, rifles or shotguns at home, says the CDC report. But states vary greatly in the percentage of adults who keep weapons, and in how many with children at home store their guns loaded and unlocked. The states with the highest percentage of adults who have children at home and leave guns unlocked and loaded are Alabama, Alaska, Arkansas, Idaho, Montana and Wyoming.

Eighteen states have laws dealing with proper storage of guns to limit access by children, says Jon Vernick, co-director of the Center for Gun Policy and Research at Johns Hopkins University's school of public health. But the laws vary in strictness — 7 states make it a felony under some circumstances to give minors access to weapons — and they vary in the ages of kids covered, he says.

There's little known about how well these laws are enforced, Vernick adds. "They're great, and we absolutely need more states with laws. But often they seem to get enforced after it's too late, when a child has shot himself or someone else."

Two studies show accidental gun deaths and teen suicides decline in states with these laws, Vernick says.

The Pediatrics report says that of 1,400 children and teens shot to death in 2002, about 90% were home when it happened.

"It's a frightening problem," says Michael Barnes, president of the Brady Campaign to Prevent Gun Violence, a lobbying group that favors limiting gun ownership.

The gun storage survey may underestimate kids with access to firearms, says CDC's Mercy, because women tend to underreport the presence of weapons at home, past studies show. About 60% of survey participants were women.

Gun ownership has declined in the past decade, says Barnes, because the USA is increasingly urban and fewer adults hunt.

Andrew Arulanandam, spokesman for the National Rifle Association of America, declined to comment on specific laws but says, "The sad reality is, you cannot legislate responsibility."

Education is the best way to reduce gun accidents, and the NRA runs many education programs, he says. "Children are by nature curious and will try to seek out objects they shouldn't have. … It's up to the parents to see that firearms are stored safely."

IMMIGRATION:

Fox Says U.S. Shares Blame For Problems Along Border (NYT)

By Ginger Thompson

The New York Times, September 5, 2005

MEXICO CITY, Sept. 4 - President Vicente Fox responded over the weekend to criticism from American authorities about a recent surge in violence and illegal immigration along the border, saying that the United States shares responsibility for the problems and should work harder with Mexico to fix them.

Mr. Fox said he rejected "forcefully" the statements by the Bush administration and governors of border states, contending that they had unfairly depicted Mexico as a safe haven for organized crime, though his government has arrested more leading drug traffickers and dismantled more cartels than any of its predecessors. He also said Mexican immigrants had been portrayed unfairly as potential terrorists when they had in fact become a pillar of the American economy.

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In an interview aboard the presidential airplane on Saturday, Mr. Fox acknowledged that his government had a long way to go to make the border secure. But he said the United States should stop casting blame for problems created by both countries.

He also said the United States should not allow concerns about border security to derail efforts to adopt new measures to allow millions of additional Mexicans to become guest workers in the United States.

"Security is a shared responsibility," President Fox said. Then, referring to the United States, he said, "I don't understand that now they only cast blame and accusations, and they do not collaborate or cooperate so that together we can resolve this problem."

On the changes in immigration policy, he said: "There is will on the part of President Bush, according to what he has expressed publicly, and what he has expressed in conversations with us. So, I trust that in the coming weeks and months, we will succeed finally in arriving at a positive resolution for the benefit of both countries."

More pressing realities, however, may once again stand in the way. Work on immigration policy was first postponed four years ago, after the Sept. 11 attacks. Then it was put off for Mr. Bush's re-election campaign. Now, it may be set aside again as the United States struggles to recover from Hurricane Katrina.

But Mr. Fox has little time left; he is entering his last year in office.

His comments were aimed at what many here perceive as a troubling shift in United States attitudes and diplomatic policy toward Mexico.

In recent weeks, the United States has openly berated Mexico for failing to stop a wave of drug-related violence that has taken close to 1,000 lives along the 2,000-mile border. The Bush administration has issued numerous travel advisories and temporarily closed its consulate in the city of Nuevo Laredo, which has turned into a murder capital as drug traffickers fight for control of lucrative routes into Texas.

Last month, the governors of New Mexico and Arizona declared states of emergency, saying they needed federal help to fend off a flood of undocumented migrants.

Neither Mr. Fox nor his aides denied the problems. But the authorities here said that the responses from the United States did not reflect the complexities of the problems, nor did they acknowledge that Mexico had undertaken significant efforts to address them.

"This self-sustained blaming someone else, is it going to help anything?" said a high-level intelligence official who asked not to be named because of the diplomatic sensitivities involved. "If everyone in the United States keeps profiting politically from this very difficult situation, then we are not going to be able to make things better." He added, "We are trying to do our job, even with our limited resources."

Mr. Fox said trade and other day-to-day interactions between the countries had not been affected by the political tensions, and he said he trusted that President Bush would not allow concerns over security to stall efforts to pass changes in immigration requirements.

"Let there be no doubt, that we are going to win this battle," he said, referring to his government's efforts in Nuevo Laredo. "So it cannot be used as a pretext to provoke a distancing in relations between the United States and Mexico."

He said his country shared the pain of the hurricane. An estimated 140,000 Mexicans were affected, he said, and 70,000 are unaccounted for. But now, he said, the contributions of Mexican workers could be more important than ever.

"The reconstruction of that city and of that region is going to require a lot of labor," Mr. Fox said of New Orleans, Mississippi and Alabama. "And if there is anything Mexicans are good at, it is construction."

Union Organizers At Poultry Plants In South Find Newly Sympathetic Ears (NYT)

By Steven Greenhouse

The New York Times, September 6, 2005

MORRISTOWN, Tenn. - Hour after hour, Antonia Lopez Paz said, her supervisor at the Koch Foods poultry plant here told women on the deboning line that production demands were so great that they could not go to the bathroom.

Sometimes she developed acute pain because she could not go, Ms. Lopez said. And one time when another woman asked for permission, "the supervisor took off his hard hat and told her, 'You can go to the bathroom in this,' " said Ms. Lopez, a

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Mexican immigrant who moved to this town in East Tennessee three years ago, lured by the company's promise of year-round work.

Out of her solitary complaint has grown a thriving unionization drive that fits neatly into the plans of several insurgent unions that hope to revive the labor movement by focusing on low-wage workers and immigrant workers.

"We believe there is a need for a union to come in and help these workers," said Joe Hansen, president of the United Food and Commercial Workers, which is organizing workers at the two Koch Foods plants here. "The conditions in some of these places are criminal, especially in the way they treat undocumented workers, and it's criminal that they often get away with it."

This summer Mr. Hansen's union joined the Teamsters and the Service Employees International Union in breaking away from the A.F.L.-C.I.O., with those three unions promising to devote far more energy to recruiting workers than the rest of organized labor has. Two organizing drives aimed at poultry workers - one in this old factory town and the other in Russellville, Ala. - are among the early battles in this effort to reinvigorate labor.

As part of their new push, the insurgent unions say they will seek to build deep community support among local houses of worship, political leaders and immigrant groups. They also plan to lend organizers to one other's drives, something the food and commercial workers could use because it has few Spanish-speaking organizers in areas like Morristown, where the Hispanic population is soaring.

The 700 poultry workers here, most of them Mexicans, might seem ripe for organizing, but labor's efforts at resurgence face daunting obstacles. Companies often fight back tooth and nail, and many immigrants who are initially sympathetic to unions ultimately shy away, fearing that their employers might grow angry and fire them or have them deported.

"It's been extraordinarily difficult to organize factory workers - and that includes poultry workers - in the South," said Daniel Cornfield, a labor expert at Vanderbilt University in Nashville. "There's plenty of employer resistance in this neck of the woods. And then there's another problem - there's an unfamiliarity between unions and immigrants, far more so in the South than on the coasts. Unions here don't know much about the culture of immigrant workers, and then many immigrant workers are unfamiliar with U.S. labor unions."

But Ms. Lopez was the exception, knowing a good deal about American unions. The daughter of a migrant worker, she saw how the United Farm Workers helped her father when he harvested vegetables in Arizona.

Last April she quit Koch Foods because she was pregnant and the managers rejected her request to be transferred to a less rigorous position. Her job as a wing cutter was so arduous that she feared it would jeopardize her pregnancy.

Like many other workers, she disliked the 42-chickens-a-minute line speed. That pace means that many workers make 18,000 cuts during their eight-hour shifts as they prepare breasts, wings, tenders and cutlets for restaurants and consumers.

"What I didn't like is they would yell at us and tell us we're good for nothing and we didn't know how to work, and sometimes they wouldn't even let us leave to go home when we were sick," Ms. Lopez said as she nursed her month-old son. "We need to convince people to join the union, that they shouldn't be afraid because the union is the only way to make things better and stop them from mistreating at us."

Officials with Koch Foods declined requests to be interviewed. But at proceedings that the Tennessee Occupational Safety and Health Administration held in response to Ms. Lopez's bathroom complaint, Koch representatives said their supervisors were attentive to workers' concerns and gave adequate bathroom breaks.

Several Koch workers said the bathroom break situation improved after the unionization drive began, although some workers said problems remained. In August the state's safety administration dismissed their complaints for lack of evidence.

After Ms. Lopez quit, the unionization drive continued to gain momentum, fueled by the complaints about mistreatment and low wages. The top pay is $7.55 an hour, even for employees there a decade.

"That level of pay is a misery, an embarrassment, considering how hard we work," said Ernestina Gonzalez, who earns the top wage and said she could not afford the premiums for the health insurance the company offers.

In northwest Alabama, 280 miles to the west, workers at the Gold Kist plant in Russellville voice similar complaints about line speed, wages and bathroom breaks. But many Gold Kist employees also complain about how injuries are handled. Most of the plant's 1,500 workers are Hispanic, but there are also many blacks and whites.

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One day last December, Delores Smith slipped on a greasy metal plate. Ms. Smith, who prepares boxes to hold processed chickens, crashed to the floor and was in agony, certain that she had broken her right ankle.

She said Gold Kist's nurse did not even look at her ankle and told her that she must have sprained some ligaments and should take ibuprofen and go home. After a supervisor took her to her car, Ms. Smith looked at her ankle and saw pieces of bone protruding through her sock. When her son took her to the emergency room, X-rays showed that her ankle was broken in three places.

Ms. Smith still limps slightly, but now she has another health crisis. Her job involves removing folded-up boxes that workers upstairs send to her via a chute. Those boxes often tumble out, and one day in July the boxes knocked her eyeglasses to the floor, breaking the frames.

Looking comical in her taped-together glasses, Ms. Smith said: "They sent me home for the day, saying it was my fault. I also got a write-up. My glasses can't even be fixed."

At first, Gold Kist refused to pay for new glasses, which she said would cost $378. With her base wage of $8.40 an hour, that would exceed her weekly pay. Workers who do not arrive late or miss a day for a whole week receive a 75-cent-an-hour bonus.

The company, she said, has now offered to pay $38 toward the glasses. She hopes to get some more from workers' compensation.

Ms. Smith said she and the two other workers in her unit often could not go to the bathroom for hours at a time because the pace was so demanding and there was nobody to replace them.

"They don't respect us at all," she said. "That's why I'm praying for a union."

Yurken Pozo, who quit in early August, said Gold Kist was campaigning hard against unionization.

"They gathered the workers together and kept telling us: 'We don't need a union. The union will only take your money. The union doesn't help anybody,' " Mr. Pozo said.

Wayne Lord, Gold Kist's vice president for corporate relations, said the company's policy was to provide workers with needed bathroom breaks. He voiced surprise about Ms. Smith's health care complaints, saying Gold Kist had a telephone line that employees could call anonymously to report problems about bathroom breaks or medical treatment.

Gold Kist has long told employees why it thinks unions are unnecessary, Mr. Lord said. That practice helped persuade the Russellville workers to vote down a union twice in the 1990's.

"We believe our wages are competitive," Mr. Lord said. "We strive everyday to do the right thing by our employees."

The union is collecting signatures from workers and may soon ask for recognition from the company or for a unionization vote.

Back in Morristown, the Koch poultry workers are so united behind a union and have generated so much community support that they persuaded Koch to pledge not to mount an anti-union campaign. Several workers spoke at churches, and ministers, congregants and community groups wrote letters to the company backing unionization. The workers at Koch's kill plant and deboning plant are expected to approve unionization in mid-September.

"What Koch did is an important precedent," said Anita Grabowski, coordinator of the Poultry Workers Justice Project, a nonprofit group based in Austin, Tex. "This new model of community unionism is a way to help rebuild the labor movement, even in a hostile climate."

TAX:

Feds Say Telecom Tycoon Trying To Move Assets From Jail (LEGALT)

By Jason McLure, Legal Times

Legal Times, September 5, 2005

Even from jail, Walter Anderson, the D.C. telecom tycoon accused of concealing $450 million from the Internal Revenue Service, continued to try to hide money overseas, federal prosecutors say.

On Aug. 24, prosecutors filed in court a transcript of a taped jailhouse phone call from Anderson to an overseas business associate that they say shows him trying to move assets beyond the government's reach. On March 22, Anderson placed a

collect call to the associate from the D.C. Correctional Treatment Facility to discuss moving an investment from a Cayman Island company to a blind trust on the Isle of Man.

In the transcript, Anderson says Chadbourne & Parke corporate attorney Hwan Kim was advising him on the offshore deal. "I had a meeting with my attorney, Hwan Kim," Anderson says in the call. "I explained to him the logic that we were trying to create some full separation. He understands completely what we're trying to do. He said that there are a number of different ways to do it . . . he simply suggested that if you could decide which lawyer you want to do it on your side, he'll see if his firm has somebody appropriate to do it on the other side." Moments later, Anderson tells the business associate: "The main thing we have to make sure [is] it's reversible, in some way . . . so that when we clean up the mess, we can reverse it." The transcript makes no mention of how much money would be involved.

Kim did not return calls, but a Chadbourne spokesman issued a statement saying: "[W]e do not and have not represented Orbital Recovery [the Cayman company mentioned in the transcript] and, therefore, have not advised them on any transaction, domestic or foreign, Isle of Man or elsewhere."

Kim previously worked at Swidler Berlin, a firm that advised Anderson's companies for more than a decade. Kim's partner at Chadbourne, Abbe Lowell, is representing Anderson in the criminal tax case.

The new filing comes just as Lowell asked to be dismissed from the matter, saying Anderson owes $1 million in fees. A hearing is set for Sept. 6.

Jason McLure can be contacted at jmclure@alm.com

CONGRESS-ADMINISTRATION:

Buying Time With Quick Action On The Court And A Second Trip To The South (NYT)

By Todd S. Purdum

The New York Times, September 6, 2005

WASHINGTON, Sept. 5 - By 7:15 Monday morning, President Bush was meeting in the Oval Office with Judge John G. Roberts Jr. to offer him the nomination for the 17th chief justice of the United States. On most Mondays, that might be a good day's work, but Mr. Bush's Labor Day was just beginning, and not everything else about it was quite so crisp or well timed.

On the White House lawn, Marine One was waiting to take Mr. Bush on the first leg of his second trip in three days to inspect the devastation left by Hurricane Katrina in Louisiana and Mississippi. He traded a suit and tie for slacks and a soft-blue sports shirt, and flew straight into a thicket of continuing recriminations over his administration's handling of the disaster and into an awkward dance with the Democratic governor of Louisiana over who would command relief efforts.

"We're going to show the world once again that not only we will survive, but we'll be stronger and better for it, when it's all said and done, that amidst this darkness, there is light," Mr. Bush said at the emergency operations center in Baton Rouge, La. It was a line that echoed William Faulkner and the Bible, meant to bring hope and comfort to the displaced and the desperate.

But just how well Mr. Bush would endure the political challenges posed by the hurricane, much less prevail over them, remained a question on Monday. He assured a crowd at a makeshift shelter at the Bethany World Prayer Center in Baton Rouge, "This is a project that not only deals with the immediate; we're going to have to deal with the long term as well."

In elevating the nomination of Judge Roberts from associate justice to fill the Supreme Court seat left vacant by the death of Chief Justice William H. Rehnquist, Mr. Bush acted with typical dispatch and self-assurance to address one of the immediate and unexpected challenges that landed on his desk, perhaps turning it into an opportunity. Judge Roberts, a former Rehnquist law clerk, has already drawn considerable praise, from both parties, for his intellect and acumen. And though some Senate Democrats were quick to suggest that the scrutiny would be greater in considering him for chief justice, his eventual confirmation would not seem to be in any significant doubt.

That means Mr. Bush may well have a chief justice, firmly in Chief Justice Rehnquist's conservative mold, in place by the time the court reconvenes on the first Monday in October, with time to consider - and perhaps calibrate - the more politically delicate task of choosing a successor for Justice Sandra Day O'Connor, who has been the court's swing vote on contentious issues like abortion, affirmative action and religion.

It also buys Mr. Bush a bit of time to untangle the aftermath of the hurricane, a job that his trip on Monday suggested might take a while, as the images of suffering continued to dominate television news coverage during the long holiday weekend. The challenge for the president is to repair the political damage caused by the government's slow response to the disaster and to counter the sense that his initial flyover in Air Force One on the way home from vacation and his on-the-ground visit to the region last Friday had sounded some sour notes - all without looking political.

That proved not so easy on Monday, after a weekend of behind-the-scenes finger pointing between administration officials and state and local leaders over who was to blame for the inadequacy of initial relief efforts. Gov. Kathleen Babineaux Blanco of Louisiana has been at odds with administration officials over whether to federalize the National Guard in her state, and her aides said she learned of Mr. Bush's latest visit only from early morning news reports, then rearranged her schedule to make a couple of joint appearances with him.

Having been faulted by some as not spending enough time last week with black victims of the flooding in New Orleans, Mr. Bush was flanked at one point on Monday by prominent blacks, including Mayor Kip Holden of Baton Rouge and Bishop T. D. Jakes, a prominent Pentecostal minister from Dallas who has been courted by the White House in efforts to reach out to black voters.

William Kristol, the conservative publisher of The Weekly Standard, said of Mr. Bush: "I do think people think he could have showed stronger leadership." But Mr. Kristol expressed doubt that the hurricane would have much lasting effect on the president's personal and political fortunes, because "people are capable of saying, 'The president kind of screwed this one up, but I still basically agree with him.'"

Mr. Kristol added, "I think the Clinton administration would have done a better job in handling Hurricane Katrina, but I'm also glad Bush is president and not a Democrat."

For their part, Democrats on Capitol Hill wasted no time in pressing their advantage over a wounded president, repeatedly urging a delay in Judge Roberts's confirmation hearings until at least after Chief Justice Rehnquist's funeral on Wednesday, and demanding a postponement of Republicans' plans to take up one of Mr. Bush's longstanding goals, the repeal of the estate tax, in the Senate.

"Moving to the estate tax would be a travesty on top of a tragedy," said Senator Harry Reid of Nevada, the Democratic leader.

It was a charge to which Mr. Reid's Republican counterpart, Senator Bill Frist of Tennessee, effectively pleaded no contest late Monday, announcing a delay in addressing that issue. Mr. Frist also said the Homeland Security Committee would convene hearings to review the "weaknesses and strengths" of the federal response to the hurricane and to "apply the lessons learned."

But there is a risk for Democrats, too, in appearing too political, a reality that former President Bill Clinton acknowledged on Monday, saying, "I just think right now we need to focus on the suffering of the people and how to alleviate it and where to go from here."

Mr. Bush's father, the first President Bush, who has teamed up at the president's request with Mr. Clinton to raise money for hurricane victims, reflected on the criticism on Monday.

"The president can take it," the elder Mr. Bush said. But, he told reporters at a news conference with Mr. Clinton in Houston, "As a father? I don't like it," adding, "It goes with the territory."

The criticism has been visibly irritating to the president, a man capable of public displays of great tenderness whose resoluteness after the Sept. 11 attacks rallied the nation. On Monday, as he left the heavily damaged town of Poplarville, Miss., Mr. Bush insisted to local residents: "I understand. I understand the damage. I understand the devastation. I understand the destruction. I understand how long it's going to take. And we're with you."

Once more, Mr. Bush is hoping the people will be with him.

UPDATE 1-Bush: U.S. Will "do What It Takes" After Katrina (REU)

By Tabassum Zakaria

Reuters, September 5, 2005

DOJ_NMG_0002618

BATON ROUGE, La., Sept 5 (Reuters) - President George W. Bush, under fierce criticism for his government's slow response to Hurricane Katrina, promised on Monday that the U.S. would "do what it takes" to help victims of the devastating storm get back on their feet.

Bush was on his second visit to Louisiana and Mississippi, where the storm has caused one of the biggest humanitarian crises in U.S. history. On his first tour on Friday, five days after the huge scale of the disaster became apparent, the president acknowledged the initial relief effort had been "unacceptable."

"If it's not right, we're going to fix it, and if it is right, we're going to keep doing it. And this is just the beginning of a huge effort," Bush pledged after meeting disaster relief officials at an emergency operations center in Baton Rouge.

He added: "This is one of the disasters that will test our soul, and test our spirits."

At the Bethany World Prayer Center, where dozens of evacuees are being cared for, Bush was with Dallas religious broadcaster T.D. Jakes and Baton Rouge Mayor Kip Holden, who are both black, as he spoke to reporters.

Some black leaders have accused relief officials of not taking the crisis seriously enough because many of its victims are poor and black.

Bush has been under fire from Democrats and Republicans alike for a sluggish federal response to a flood that has made hundreds of thousands homeless and is feared to have killed several thousands along the northern Gulf of Mexico coast.

Bush has not publicly singled out anyone for criticism although there has been some finger-pointing between state, federal and local authorities. "All levels of government are doing the best they can," Bush said.

The outcry has triggered a major political crisis for Bush, already suffering from the lowest public approval ratings of his presidency, largely because of the war in Iraq.

"He's doing good now, I guess, since he came down to see it for himself," said one evacuee at the prayer center, Milton Beverly of Jefferson Parish, Louisiana.

Some victims at the center were still sleeping on mattresses on the floor when Bush and his wife Laura arrived.

The crowd quickly grew around Bush when the survivors realized the president had come to see them.

"We've got a lot of work to do," Bush told them.

"We can help save lives once a person finds a shelter such as this," he said. "The response of this country has been amazing." He said the country would "do what it takes" to help people get back on their feet.

He signed T-shirts, hugged women holding babies and sat on a bed next to pregnant Ailisa Eugene, of Metairie, Louisiana.

Bush Makes Return Visit; Two Levees Secured (NYT)

By Elisabeth Bumiller And Clyde Haberman

The New York Times, September 6, 2005

As criticism raged over the federal government's response to Hurricane Katrina, President Bush returned to the region yesterday, and Army engineers patched up two levees that had been breached by the storm and cautiously began pumping water out of New Orleans.

Mr. Bush comforted victims in Poplarville, Miss., and Baton Rouge, La., but he found himself ensnared in a dispute with Louisiana's Democratic governor, Kathleen Babineaux Blanco, who learned of Mr. Bush's trip from news reports.

"There's a lot of work to be done," Mr. Bush told a group of mostly black victims at a makeshift shelter, the Bethany World Prayer Center, in Baton Rouge. He said that Americans' response to the disaster had been "amazing" and that "this country is going to be committed to doing what it takes to help people get back on their feet."

The president's trip, an effort to calm the region and part of a major White House campaign to stem the political damage from the hurricane, came as rescue teams in New Orleans searched for thousands of residents who remained in the city, many having ignored pleas to evacuate. The city's No. 2 police official, W. J. Riley, said his officers were trying to convince people that staying behind was pointless because "this city has been destroyed, completely destroyed."

As has been true for days, the death toll was assumed to be disastrously high, but estimates remained little more than guesses - perhaps educated, perhaps not. Officially, the Louisiana toll climbed to 71. The mayor of New Orleans, C. Ray Nagin, said the figure might well reach 10,000.

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But there was some positive news yesterday. Army engineers said that after having dumped hundreds of bags filled with cement, sand and pieces of ruined roadways, they had closed the breach in the levee at the London Avenue Canal.

Late yesterday afternoon, state officials said that another crucial levee, on the 17th Street Canal, had also been patched up.

With those barriers at least temporarily restored, engineers began draining the flooded streets and sending the water back into Lake Pontchartrain, but carefully, using portable pumps set up at near the lake on the 17th Street canal. Gregory E. Breerwood, a city engineer, said, "We intend to take it slowly so we don't overtax the pumps themselves, because they have not been in service for a while."

West of the city, in Metairie, residents were permitted to return, if only for a day, to salvage what they could from their flooded houses.

In Baton Rouge, Governor Blanco greeted Mr. Bush as he arrived, but only after her press secretary called to alert her at 6 a.m. as she waited on a plane to take off from Baton Rouge for Houston. The press secretary, Denise Bottcher, said in an interview that she had first learned that Mr. Bush would be in Baton Rouge from news reports late Sunday and early yesterday, even though CNN had been reporting the president's trip to an unspecified location in Louisiana as early as Saturday.

"We're so busy, I can't sit down to watch TV," Ms. Bottcher said, adding. "Why should I get that news from CNN?"

Ms. Bottcher said she then called the White House yesterday morning, "and they extended an invitation."

Dana Perino, a White House spokeswoman, said the White House reached out to Ms. Blanco's office on Sunday and made contact with her yesterday morning.

Ms. Blanco and Mr. Bush have been at odds over the deployment of the National Guard in Louisiana, and both sides pointed fingers. On Friday night, Ms. Blanco refused to sign an agreement proposed by the White House to share control of National Guard forces in the state with federal authorities. "She would lose control when she had been in control from the very beginning," Ms. Bottcher said on Sunday.

The Times-Picayune, Louisiana's largest newspaper, published an open letter to Mr. Bush on Sunday that called for the firing of every official at the Federal Emergency Management Agency.

"We're angry, Mr. President, and we'll be angry long after our beloved city and surrounding parishes have been pumped dry," said the newspaper, which endorsed Mr. Bush for president in 2000 but made no endorsement in 2004.

At the Bethany World Prayer Center in Baton Rouge, the president's first stop of the day yesterday, some evacuees from the hurricane ran up to meet with Mr. Bush, but many hung back and looked on. One of them, Mildred Brown, who had been at the shelter since Tuesday, told The Associated Press: "I'm not star-struck; I need answers. I'm not interested in hand-shaking. I'm not interested in photo ops. This is going to take a lot of money."

One evacuee from New Orleans, Richard Landres, a lumberyard worker, was more positive about Mr. Bush. "I think he's doing what he can do," Mr. Landres said, according to a White House pool report.

Mr. Bush was flanked as he spoke by Mayor Kip Holden of Baton Rouge and T. D. Jakes, a conservative African-American television evangelist with a megachurch in Dallas who has been courted by the White House as a partner in reaching out to the black vote.

"I want to thank my friend T. D. Jakes for rallying the armies of compassion to help somebody like the mayor," Mr. Bush said.

Later in Baton Rouge, Mr. Bush spoke for an hour and a half with Ms. Blanco and members of Louisiana's Congressional delegation in a meeting that Ms. Bottcher described as "very positive" and that other participants called blunt. The elected officials said Mr. Bush mostly listened.

Representative Bobby Jindal, a Republican who represents New Orleans, said afterward that while the tone of the meeting was polite, "there was a lot of frustration."

"It was not hostile," Mr. Jindal said. "It was honest."

The trip was Mr. Bush's third survey of the region in the past week. He was in New Orleans and Biloxi, Miss., on Friday, and he flew over the area in Air Force One as he returned from an extended vacation on Wednesday.

Scott McClellan, the White House press secretary, said Mr. Bush did not go to New Orleans yesterday because he had visited it on Friday. On that visit, however, he did not go to the Superdome or the convention center, where tens of thousands of

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largely poor and black victims had been desperate for food and water for days, and some older evacuees had died in their wheelchairs. Mr. Bush did speak at the New Orleans airport and visit the repair work under way at the 17th Street Canal, where he met with workers, some of whom had lost their homes.

Mr. McClellan also said Mr. Bush steered clear of New Orleans yesterday because he did not want to disrupt continuing relief efforts.

"Today, he wanted to visit citizens of New Orleans who have been evacuated and are in need of continued assistance, as well as volunteers who are helping them," Mr. McClellan said in an e-mail message.

Yesterday afternoon, Mr. Bush spoke at a community college to residents of Poplarville, a small town about 40 miles inland that was badly hit by tornadoes accompanying the hurricane, then took a walking tour of a suburban street. Branches and trees littered the sides of roads, and electricity was still out, with water coming back slowly, but the damage was nothing like the destruction Mr. Bush saw on Friday in Biloxi.

"Out of this despair is going to come a vibrant coast," Mr. Bush told the crowd at the Pearl River Community College. "I understand if you're saying to yourself, 'Well, it's hard for me to realize what George W. is saying because I've seen the rubble and I know what has happened to my neighbors.' But I'd like to come back down here in about two years and walk your streets and see how vital this part of the world is going to be."

Some residents said Mr. Bush's visit to Poplarville had lifted their spirits. "He said the worst was going to be over," said Dawn Stuit, 48, a real estate agent, who had spoken to the president on the street and said that he had kissed her cheek. She said she was feeling better yesterday because her electricity would be restored soon. "I think the president visiting had something to do with the power coming back on," she said.

Other residents viewed the president's visit with anger. "If it takes them a week to figure out that people need food and water, maybe they need to step back and fire themselves," said Robert Duke, 43, waiting in a gas line in Poplarville. "Some of them need to go to jail over this."

In New Orleans, the city took a few slow steps on the arduous journey toward recovery. Power was even restored in some neighborhoods.

Mayor Nagin, who had raged against the federal government days ago for what he called its slow response to the crisis, struck a more positive tone, despite his estimate of the large number of dead. "We're making great progress now," he said on the "Today" program on NBC. "The momentum has picked up. I'm starting to see some critical tasks being completed."

After days of looting and reports of murders and rapes, the New Orleans police and military troops asserted control. "We continue in lockdown," said Mr. Riley, assistant police superintendent. "I feel the city is very secure," he said. "Chaos is moving to being organized chaos. It's better now."

A major issue, he said, is clearing the city of remaining residents to prepare for the cleanup. "Our officers are telling people there's absolutely no reason to stay," Mr. Riley said. "There are no homes to go to, there's no hotels."

Social services officials in Louisiana said yesterday that about 114,000 people had taken refuge in shelters stretching from West Virginia to Utah. The largest number, 54,000, remained in Louisiana, but almost as many were in Texas. Officials also said that in the last three days they had received 90,000 applications for food stamps from hurricane victims. Typically, they said, they process 1,300 applications a day.

Long-term problems facing people along the Gulf of Mexico were raised by former Presidents George Bush and Bill Clinton. As in the aftermath of the Asian tsunami, they were asked by President Bush to help raise money for evacuees.

"Recovery is going to take years," former President Bush said in Houston as he and Mr. Clinton announced the creation of a new fund.

Mr. Clinton touched on the need to find jobs for people who had left their homes. "One of the things we have to ask is: What could we do to give incentives for people to get jobs where they have to relocate," he said. "A lot of these people will be out of their homes a year or more."

Bush, Blanco Reveal Strained Relationship (AJC/AP)

By Jennifer Loven, Associated Press Writer

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The Atlanta Journal-Constitution, September 6, 2005

BATON ROUGE, La. — Like estranged in-laws at a holiday gathering, President Bush and Louisiana Gov. Kathleen Blanco kept their distance as both toured a relief center for storm victims Monday. At their next stop, the Republican president kissed the Democratic governor on the cheek, but it wasn't clear whether they had made up.

State and federal officials are all facing public criticism for a slow response to the crisis. Behind the scenes, each suggests the other is to blame.

In front of the cameras during Bush's visit to the Gulf Coast states on Monday, the president and Blanco said little to each other, focusing instead on thanking relief workers.

"I know I don't need to make any other introduction other than `Mr. President,'" Blanco said tersely, turning the microphone over to Bush after praising emergency management officials during a stop with Bush at an emergency operations center.

"This is one of these disasters that will test our soul and test our spirit, but we're going to show the world once again that not only can we survive but we will be stronger and better for it," Bush said after taking the microphone.

Blanco late Monday sought to tone down suggestions of a rift.

"We'd like to stop the voices out there trying to create a divide," she said. "There is no divide. We're all in this together. Every leader in this nation wants to see this problem solved."

Bush echoed Blanco's praise for rescue workers. "I hope that makes you feel good to know you have saved lives," Bush said, promising state, local and federal officials that he would fix anything that isn't going right. "This is just the beginning of a huge effort," he said.

The president, looking choked up as he finished his brief remarks, nodded at Blanco and kissed her on the cheek. She nodded back and both left the podium, headed for separate spots in the crowd.

Blanco has refused to sign over control of the National Guard to the federal government and has turned to a Clinton administration official, former Federal Emergency Management Agency chief James Lee Witt, to help run relief efforts.

Blanco was not told when Bush would visit the state, nor was she immediately invited to meet him or travel with him. Blanco's office didn't know Bush was coming until told by reporters. Bush spokesman Scott McClellan said the White House reached out to Blanco's office on Sunday, but didn't hear back. White House staff in Louisiana spoke with Blanco early Monday, he said.

Making his third visit to the Hurricane Katrina-ravaged states, Bush stopped first at the Bethany World Prayer Center, a huge hall half covered with pallets and half filled with dining tables. Blanco visited at the same time, but she and Bush kept apart as they walked around talking to people.

During his stop at Bethany, several people ran up to meet Bush and get autographs as he and first lady Laura Bush wandered around the room. But just as many hung back and looked on.

"I need answers," said Mildred Brown, who has been there since Tuesday with her husband, mother-in-law and cousin. "I'm not interested in handshaking. I'm not interested in photo ops. This is going to take a lot of money."

Bush hasn't gone a day without a public event devoted to the storm and its aftermath. But none of those trips so far — nor appearances by several Cabinet members in the region — has quieted complaints that Washington's response to the disaster has been sluggish. Congress already plans hearings on the response.

Bush's trip Monday was his third inspection tour, the second by ground. Last week, he had his pilot lower Air Force One, the presidential jet, to an altitude of about 2,500 feet as he flew over the area. Last Friday, he walked a neighborhood in Biloxi on Mississippi's coast and stopped at the airport and a breached levee in New Orleans.

By contrast, Baton Rouge, about 80 miles northwest of New Orleans, largely escaped damage. Its population, however, has swelled dramatically with displaced people and is experiencing clogged roads and supply shortages.

On Monday afternoon, Bush headed to Poplarville, Miss., to meet with Republican Gov. Haley Barbour and other state and local officials at the Pearl River Community College. The city is about 45 miles inland, but the area was in the path of Katrina's eye and the town and surrounding rural areas suffered enormous devastation.

Bush said he understood his optimism about the region's recovery is hard for others to share: "It's easy for me to say that I can see a better tomorrow because I haven't been living through what you are living, but I do," he said.

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On Bush's last stop of the day, he walked a middle-class Poplarville street of tidy ranch homes and commiserated with residents. Unlike many other places in the hurricane zone, the homes were intact, with downed trees and power lines the only evidence of the storm.

Bush has come under fire for waiting two days after Katrina hit — and a day after levee breaks drowned New Orleans and turned it into a place of lawless misery — to return to Washington from his August break in Texas to oversee the federal response.

It took several days for food and water to reach the tens of thousands of desperate New Orleans residents who took shelter in the increasingly squalid and deadly Superdome and city convention center. Outlying areas suffered some of the same problems.

Officials are reporting progress and new worries.

Russ Knocke, a Department of Homeland Security spokesman, said at least 22,800 people have been rescued — more than four times the number the Coast Guard usually saves in a year.

At least 155,000 people have been evacuated from the stricken areas, most of them now housed in some 560 shelters, he said. More than 60,000 civilian and military personnel are assisting.

Hundreds of federal health officers and nearly 100 tons of medical supplies were sent to try to head off disease, feared because of hot weather, mosquitos and standing water holding human waste, corpses and other contaminants.

In Houston, former Presidents George H.W. Bush and Bill Clinton announced a nationwide fundraising campaign to help hurricane victims.

New Orleans Mayor Says Death Toll Could Be 10,000 (LAT)

By Ellen Barry, Scott Gold And David Zucchino

The Los Angeles Times, September 6, 2005

NEW ORLEANS — Tens of thousands of residents today returned to suburban New Orleans to view what was left of their lives, a week after Hurricane Katrina dealt the Gulf Coast a deadly blow.

President Bush took his second tour of region, hoping to calm days of criticism that the federal government acted too slowly in dealing with the tragedy that New Orleans Mayor C. Ray Nagin said could have cost 10,000 lives. There were also reports of a dangerous bacterial infection spread by contaminated saltwater.

Accompanying Bush was Louisiana Gov. Kathleen Babineaux Blanco, who along with Nagin has been a fierce critic of the federal effort. Bush planted a kiss on the governor's cheek, but their staffs continued their wrangling.

The Army Corps of Engineers announced that it had repaired one of the levees that had shattered last week, turning this low-lying city into a polluted lake. Today, officials estimated that most of the city remained underwater. But they were hoping to start the pumps soon that would begin drying out and restoring life to the city that has become a soggy ghost town with almost all its half a million residents evacuated to shelters elsewhere.

Between 20,000 and 30,000 evacuees from suburban Jefferson Parish, just outside New Orleans, returned to their homes at dawn today, taking advantage of an offer by parish officials to stay for four days.

Thousands came supplied with coolers crammed with food and water to sustain them until parish sheriff's deputies force everyone to leave again Thursday.

The parish's move, which was criticized by some parish officials as too dangerous, began at 6 a.m. sharp, when police removed cruisers that had blocked a four-lane highway at the western edge of the parish. The residents, most of whom had slept in their cars on a highway Sunday night, sped into the township, eager to see their homes since evacuating a week ago.

Swerving past toppled trees and downed power lines, most found their homes intact. The parish, the second-largest in the state with 480,000 residents, was spared the widespread flooding that left more than 80% of adjacent New Orleans underwater. About 15% of the parish was flooded, said parish Councilman Chris Roberts.

Although some homes are underwater, Roberts said, most are intact. Thousands lost sections of roofs and siding, and many were struck by falling trees and limbs. Electricity, phones and water have been knocked out, and stores have been looted. Even so, the scale of destruction and displacement was far less than in New Orleans.

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The residents' return came as parish officials were condemning the Federal Emergency Management Agency and other national and state relief organizations for failing to offer assistance. On Monday, a week after the hurricane, the parish still had not received outside aid, officials said.

Charges that federal officials have let down the region have become more frequent in recent days as the scale of the catastrophe has become clearer. Since Monday, when Katrina made landfall in the gulf, estimates of the death toll have steadily risen as has the cost of damage.

New Orleans Mayor C. Ray Nagin said on NBC's "Today" that "it wouldn't be unreasonable to have 10,000" dead.

Estimates of the cost are around $25 billion in insurance claims and a like amount to repair infrastructure like highways, water supplies and sewage plants in more than four Southern states. There are no figures for caring for the hundreds of thousands of refugees made homeless by the storm or for the lost incomes, schooling and destroyed lives.

Cleanup in some places could take months. New Orleans is expected to remain empty for weeks until the water is removed.

Facing what is shaping up as one of the nation's worst disasters, President Bush again insisted that the government was doing what it could.

"I think all levels of government are doing the best they can," Bush said when asked about the federal response during a visit to Bethany World Prayer Center in Baton Rouge. "The response of this country is amazing."

When the president and his wife, Laura, arrived, some of the 200 evacuees were still sleeping, wrapped in quilts and lying on mattresses on the floor. But the crowd quickly grew.

"Laura and I have come back down here to let the good people of this region know there's a lot of work to be done, and we're going to get it done," Bush said.

It was a message that Bush has been pressing for days, during a trip to the region last week and a visit to the Red Cross in Washington over the weekend.

Today, he also tried to spread hope and blessings to workers and the Emergency Operations Center in Baton Rouge and to refugees at the Pearl River Community College in Poplarville, Miss.

"So let me conclude by asking for God's blessings on you all, and your families and friends, and let you know we're here for the long term," he said in Mississippi. "I understand. I understand the damage. I understand the devastation. I understand the destruction. I understand how long it's going to take. And we're with you. That's what I want you to know."

His comments were similar to those he made in Louisiana.

"This is one of these disasters that will test our soul and test our spirit," he said. "We're going to show the world, once again, that not only we will survive, but that we will be stronger and better for it when it's all said and done, that amid this darkness, there is light.

"And I want to thank you all for providing light, immediate light to people who needed help," he told the emergency workers. "You make your state and your local governments and your country proud."

The president returned to the White House later in the day.

While Bush was praising in public, behind the scenes there were simmering disputes about who was in charge and whether enough had been done. Homeland Security Secretary Michael Chertoff minimized reports of bureaucratic infighting during a news conference today in New Orleans.

Army Lt. Gen. Russel Honore, who has emerged as a hero for cutting red tape to bring food and water to evacuees waiting for days in the city's inadequate shelters, used profane language to dismiss the charges at the same news conference.

Today, officials at the Centers for Disease Control said some of the refugees have contracted a bacterial disease called vibrio vulnificus. It may have been picked up by people with open wounds who were forced to wade through badly polluted waters for long periods of time.

Vibrio vulnificus is a more benign cousin of the bacterium that causes cholera -- and was only discovered, officials said, because tests were done amid false reports that cholera had been discovered among the evacuees.

Among healthy people, the bacteria can cause vomiting, diarrhea and abdominal pain but is generally not life-threatening. It can be readily cured with antibiotics such as doxycycline or cephalosporins. Those who recover show no long-term effects.

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It is substantially more serious in people with chronic liver disease or people who have compromised immune systems, such as those taking transplant drugs or those with AIDS.

Von Roebuck, a spokesman for the CDC in Atlanta, said officials have detected the disease among some storm refugees and stragglers but has not been able to determine the number of cases.

"We are seeing some cases," he said. "It could be life-threatening."

An average of about 50 cases of vibrio, 45 hospitalizations and 16 deaths are reported each year in the Gulf Coast states, but many experts believe the actual number is far higher. Most of those cases occur between May and October, when the ocean water is warmer.

Mayor Nagin said the possibility of epidemics is a critical concern.

"The water quality in the streets continues to deteriorate," he said. "There is some really nasty looking stuff out there. I worry about it every day. The more time that passes, there are more dead bodies left floating, and more mosquitoes breeding and hatching. They bite people who are dead."

Despite the difficulties, there was some progress.

The U.S. Army Corps of Engineers has completed repairs to the 17th Street canal, said Cleo Allen, a public information officer for state Department of Transportation and Development. That breach in the levee was one of two that last Tuesday turned this low-lying city into a polluted lake, stranding tens of thousands of people without food and clean water.

Next, engineers will begin to pump water out of the city — "dewatering," as they call it. The first major pump to reactivate will be the Mounds pumping station, but engineers must secure power for those pumps, and check the stability of outfall walls.

Crews from the Department of Transportation are involved in clearing massive amounts of debris, and in moving evacuees out of the Chalmette area. Between 5,000 and 6,000 people were ferried out of Chalmette over the past few days, Allen said.

Security also continues to be restored.

Seven thousand additional National Guard troops will be in place by tonight, said Major Gen. Bennett Landreneau of the Louisiana National Guard. The total number of forces in the city will climb to 10,000, he said.

The number of troops in place has grown very rapidly, beginning with 4,000 National Guardsmen who were mobilized before the hurricane. Landreneau said the Guard's priorities "continue to be saving lives. We're focusing on the security, law and order, and the support of existing critical infrastructure."

Texas has taken in an estimated 250,000 people. As many as 1 million others from southern Louisiana heeded the warnings and fled to friends and relatives before Katrina struck the Gulf Coast last Monday.

At a news conference outside the Astrodome in Houston, which is sheltering an estimated 15,000 evacuees, former Presidents Bill Clinton and George H.W. Bush this morning announced formation of a fundraising foundation to help Katrina victims: bushclintonkatrinafund.org.

"A lot of these people have no cars, no work, no home, no nothing. They depend on us to give them a future," Clinton said.

Both were asked about criticism of the federal government. Bush sidestepped the question, but Clinton suggested that a commission should be formed to investigate the government's slow response.

"I think it's an appropriate thing to look into, but not at this time," Clinton said. "Right now, we're still finding bodies out there."

Asked why FEMA did not move more quickly, Clinton told reporters: "That's a question you should be asking them. It has something to do with how they reorganized after I left."

Clinton, Bush, their wives and other dignitaries toured the Astrodome, where Clinton spoke to a woman who said she was glad that her 113-year-old mother was rescued.

Joining the two former presidents at the news conference was Lee Scott, chairman and CEO of Wal-Mart. The company pledged $23 million for the fund.

On Sunday, Texas Gov. Rick Perry ordered emergency officials to airlift some of the evacuees that had offered to help. Perry said relief centers around the state were running out of room.

"There are shelters set up in other states that are sitting empty while thousands arrive in Texas by the day, if not the hour," Perry said.

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For Bush, A Test Of Political Skill (CSM)

By Linda Feldmann

The Christian Science Monitor, September 6, 2005

WASHINGTON - Four years ago, when George W. Bush emerged from the 9/11 attacks with sky-high marks for decisiveness and leadership, he accumulated a reserve of political capital that saw him through reelection.

Now, nearly nine months into his second term, President Bush faces perhaps the most profound test of executive and political skill of his life. One week after hurricane Katrina slammed into the Gulf Coast, wreaking unfathomable devastation, his administration is still scrambling to make up for a delayed initial response that faced broad, bipartisan criticism. Americans are reeling over gasoline prices, and remain skeptical over the course of the Iraq war. Plans for a bold second-term agenda - including Social Security reform and tax reform - sit in doubt.

The death Saturday of Chief Justice William Rehnquist, the second vacancy on the high court in as many months, added one more element of uncertainty to a tumultuous time.

By Monday morning, the mood turned. After a weekend public-relations offensive by top aides who visited the storm-damaged South and fanned out to the Sunday talk shows, Bush seemed to have caught his balance. His nomination of John Roberts to replace the chief justice, rather than retiring Justice Sandra Day O'Connor, struck analysts as a savvy move, creating the possibility that the court will start its term Oct. 3 at full strength. After the court announcement, the president boarded Marine One to begin his second trip in three days to the Gulf Coast.

Still, Bush has his work cut out for him, seeking to reassure Americans that the nation's military might is not stretched too thin and that the failures in response to Katrina - on the local, state, and national levels - do not bode ill for the ability to cope with any future terror attack on US soil. Republicans agree that this is a dangerous moment for the president.

"Anytime you have a situation like this, you're responsible for the government," says David Winston, a Republican pollster. "If it performs, great, and if it doesn't, people are going to want to know why, and rightfully so."

On the ground, the aftermath of Katrina took on a tangible impact across the country, with more than a half-million displaced people settling into relief centers. Nearly 250,000 evacuees went to Texas, leading the governor to order emergency officials to airlift some to other states. In New Orleans, rescue and recovery operations continued their grim task. Over the weekend, Secretary of Health and Human Services, Michael Leavitt predicted that Katrina's death toll would rise into the thousands. Reports of contractors coming under fire as they made their way to help shore up the 17th Street Canal in New Orleans added to the imagery of a war zone.

Monday, small signs of progress emerged as floodwaters began to recede. Residents of suburban New Orleans were allowed to return briefly to their homes and try to retrieve belongings. Out of Austria came news that oil prices were falling after industrialized nations released 60 million barrels of crude from their stockpiles to help stabilize American supplies.

The two former presidents, George H.W. Bush and Bill Clinton, who championed the fundraising cause after last year's tsunami, reprised their role, announcing the formation of the Bush-Clinton Katrina Fund Monday. Proceeds will be turned over to the governors of the affected states.

For the current President Bush, the task ahead remains far more complex. Congressional hearings will examine what went wrong before and after Katrina slammed into the Gulf Coast at Category 4 strength. The initial wave of blame and recriminations continues. Over the weekend, the main newspaper in New Orleans, the Times-Picayune, issued an open letter to Bush, calling on him to fire "every official at the Federal Emergency Management Agency ... Director Michael Brown especially."

For Bush, who prides himself on making smart appointments and effectively delegating, the naming of Mr. Brown to head FEMA in 2003 without much apparent background in emergency management is one of many questions he already faces.

But if Bush is looking ahead to how history will remember him, he still has years to recover from the initial bad reviews out Katrina, analysts say.

"Having a lot of time left as president is a good thing for him, because it gives him the opportunities and time to get out of some of these holes," says Norman Ornstein, a political expert at the American Enterprise Institute.

Already, many Americans don't remember Bush's initial halting response to 9/11, from which he recovered after a few days with his iconic moment shouting through a bullhorn atop the rubble at ground zero. Still, recovering politically from Katrina is

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likely to take more effort. There is no foreign enemy against which to rally. And Bush was already struggling with low approval ratings over the Iraq war and high gas prices. The decision to proceed last week with a speech in California aimed at bolstering support for the Iraq war, even after Katrina had hit the Gulf Coast, is probably one Bush's aides wish they could do over.

"Even if the reality is, there's nothing more that he could have done back in Washington or anywhere else ... the symbol matters," says Mr. Ornstein.

Under Fire, President Attempts To Regain Sense Of Equilibrium (USAT)

By Judy Keen And Richard Benedetto

USA Today, September 6, 2005

WASHINGTON — In a flurry of e-mail exchanges late Saturday night when they learned about Chief Justice William Rehnquist's death, President Bush's top advisers debated — after their most difficult week since 9/11 — what calamity might be next.

Their worried conversations continued in meetings at the White House before 8 a.m. on Sunday. They concluded that for Bush's remaining 40 months in office, they should expect almost anything, said a top adviser who works closely with Bush. "We've just kind of realized that if things are going to happen, they're going to happen to this president," he said, refusing to be identified because he was not authorized to describe internal discussions.

Bush and his team spent the holiday weekend responding to the Supreme Court vacancy created by Rehnquist's death, managing the aftermath of Hurricane Kristina and trying to minimize damage from the federal government's slow and much-criticized response to the storm.

After angry complaints last week about delays in mobilizing federal help for hurricane victims, criticism of Bush's light-hearted recollection Friday of his youthful partying in New Orleans and failed efforts to blame local and state officials for problems, the president and his aides tried Monday to regain a sense of equilibrium.

Thirty-three hours after learning of Rehnquist's death, Bush announced the nomination of John Roberts to succeed him. Then he left for his second tour in four days to the disaster zone. During a visit to a shelter for storm evacuees in Baton Rouge, an unsmiling Bush said, "I fully understand there's a lot of work to be done."

Bush counselor Dan Bartlett said Monday that after the situation is under control, Bush will order an inquiry into delays in federal aid. "We want to know what happened and how," Bartlett said.

John Podesta, who as a chief of staff for President Clinton saw his share of crises, said the mood inside a White House reflects the president's ability to stay calm and take charge. "You never know what is going to hit you, but you have to be ready. (A president) has to be tough when he has to be. … He has to make decisions when decisions are needed. The troops … look at what's in his eyes."

Ken Khachigian, a White House aide to Richard Nixon and Ronald Reagan, agreed. "One of the worst enemies in such situations is overreaction and even panic," he said. "Nixon once advised that when circumstances are the hottest is when leaders must be the coolest."

Events over the last week tested Bush and raised questions about how much lasting damage his presidency has sustained and how his agenda and legacy will be affected. When he said Monday in Baton Rouge that "this is one of these disasters that will test our soul and test our spirit," he could have been talking about his administration as well as the storm's victims.

Bush's patience with federal hurricane relief efforts evaporated last week when he learned that thousands had been stuck for days in the New Orleans Convention Center without food or water. By Saturday morning, when he and other officials met in the White House situation room for an update, the president was still steaming. He had seen the disaster in person and watched horrific scenes on TV. There was talk around the table that if this disaster was a dress rehearsal for response to a terrorist attack or other national security crisis, the federal government failed the test.

Bush is turning his attention to the next problems for the affected states. Preparations are being made to deal with public health, provide housing, rebuild cities and find jobs for the displaced. Today, Bush will hold a Cabinet meeting on those issues and meet with Education Secretary Margaret Spellings to come up with a plan to get the region's children, now scattered across the country, back in school.

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Bush is painfully aware of the scathing criticism directed at him personally. On Monday, the New Orleans Times-Picayune editorial was an open letter to Bush. “We're angry, Mr. President, and we'll be angry long after our beloved city and surrounding parishes have been pumped dry,” it said. “Our people deserved rescuing. Many who could have been were not. That's to the government's shame.”

He has often been dismissive of criticism in the past, but Bush skipped his usual weekend biking outings and went to a Red Cross operations center in Washington on Sunday. His trip Monday was meant to underscore his concern. He'll visit again. “There will be a sustained hands-on presence from the president on down, across the board of his administration for the foreseeable future,” Bartlett said.

Bush and his advisers were better prepared for Rehnquist's death. Because the chief justice had been ill for months, the statement Bush delivered Sunday morning from the White House had been written in advance. The decision to nominate Roberts for chief justice had long been “in the back of the president's mind,” spokesman Scott McClellan said.

Bush, an early riser who's usually asleep by 10 p.m., was awakened at 10:50 p.m. on Saturday and told of Rehnquist's death. Before he left for the 8 a.m. Sunday service at St. John's Episcopal Church, a block from the White House, he met in the Oval Office with chief of staff Andy Card, counsel Harriet Miers, Bartlett and others to discuss the vacancy. By the time Roberts arrived to discuss the job with Bush at 5:30 p.m. Sunday, the president's mind was pretty much made up. He didn't formally offer the job to Roberts until 7:15 a.m. Monday.

Now Bush must nominate a replacement for retiring Justice Sandra Day O'Connor. There's already a short list of contenders, but the announcement likely won't come until next week at the earliest.

Bush had planned to spend this fall promoting his Social Security plan and talking about changing immigration laws. But the storm and the court vacancies have supplanted that agenda, said James Thurber, director of the American University Center for Congressional and Presidential Studies.

Those issues and the Iraq war will occupy Bush for months to come and shape his place in history, he said. “It will be a real challenge to his leadership. Whether he can recover remains to be seen.”

Bush Has Staunch Defender Amid Critics On Gulf Coast (NYT)

By Michael Cooper

The New York Times, September 6, 2005

JACKSON, Miss., Sept. 5 - The Bush administration has been stung by criticism of its handling of Hurricane Katrina by anguished Louisiana officials and by nervous Republicans from across the country, but it has one stalwart defender right in the heart of the devastated region - Gov. Haley Barbour of Mississippi.

From the earliest moments of the crisis, Mr. Barbour, a former chairman of the Republican National Committee, has praised President Bush and a federal response to the storm that even the president later called "not acceptable." At one point last week, when Mr. Barbour's glowing assessment was challenged by an interviewer on CNN, he asked "if this is an interview or an argument."

Mr. Barbour's praise of the federal efforts has put him at odds with some other Mississippi officials who have bemoaned the slow response in their areas and has put him at risk of sounding like a Pollyanna to Mississippians still struggling in the storm's aftermath. But the strategy is unsurprising for a canny political strategist like Mr. Barbour - a former political director in the Reagan White House, chairman of the Republican Party, and powerful Washington lobbyist - who won the governorship two years ago by in part emphasizing the strength of his close ties to President Bush.

While some officials here have found his statements jarring, others said they could pay off if Mr. Barbour is able to parlay his good relationship with the Bush administration into more federal aid for his state. And they noted that the political dynamic here is very different from what is happening next door in Louisiana, where Gov. Kathleen Babineaux Blanco, a Democrat, was outspokenly critical of the federal response to the storm, and soon found her administration openly sniping with the White House over who was to blame for the ensuing disaster and who should lead the recovery.

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So while the frostiness between the president and Ms. Blanco cast a shadow over his trip to Louisiana on Monday morning, warmth and good feelings were on display when he met in the afternoon with Mr. Barbour in Poplarville and told a crowd that "we're here for the long term." As they met, the Navy and Marines set up camp in Biloxi.

Mr. Barbour appeared on television programs on Sunday morning, spreading his message that the federal effort was going well in his state. He told "Face the Nation" on CBS that "the federal government has been fabulous in our state" and "Meet the Press" on NBC that "the federal government has been good partners to us."

Some local officials have described a far different response. Mayor Johnny L. DuPree of Hattiesburg, a Democrat, complained over the weekend to The Hattiesburg American that it had taken days for federal help to arrive.

"I started trying to get federal help in here on Monday, and six days after this town has struggled to get enough water and ice for its people, we finally hear from the feds," the newspaper quoted Mr. DuPree as saying.

State Senator Gloria Chisholm Williamson, Democrat of Philadelphia, said she believed that the criticism by Louisiana officials was instrumental in having the federal government step up its response.

"When they started getting criticized," Ms. Williamson said, "all of a sudden we got the troops coming in, which is what we needed to begin with. I'm sorry that Governor Barbour is such a loyalist to his Republican president that he appeared to be putting that before the concerns of the people."

The storm and its aftermath will shape the legacy of Mr. Barbour, who has been mentioned as a possible presidential candidate in 2008. And they will pose a big challenge for the governor, a proponent of small government, as he confronts a catastrophe that will require a big government response, whether in rebuilding areas now in ruins, finding housing and schools for the thousands left homeless or filling the sizable gap in state revenues caused by the devastation of coastal casinos and wide swaths of farmland.

Prof. Marty Wiseman, the director of the John C. Stennis Institute of Government at Mississippi State University, said he would give Mr. Barbour generally high marks for his response so far. But Professor Wiseman said some Mississippians were questioning the governor's upbeat assessment of the federal response.

"That's the one eyebrow-raising factor that I've heard people mention," Professor Wiseman said. "You've got to wonder if Haley's not trying to keep the table set for future cooperation."

Mr. Barbour said his praise of the federal government was not a political calculation. "I get all these questions all the time about, you know, there's not enough water in X or there's not enough ice in Y, and almost always there is something to that," Mr. Barbour said at a news conference here on Monday. "But that's why you've just got to manage this deal and keep trying to wrestle this bear down to the ground, and that's what we're doing.

"The federal government, most all the time, has been first to say, 'We want to get you, we're pushing this toward you.' Have there been times where we didn't get as much as we wanted of this or that? Yes, sir. There have been. But, boy, it's been overwhelming, the millions of M.R.E.'s, ice, water that we've received."

Mr. Barbour added: "We haven't looked at it as, I'm going to be whiny, and I'll get more, or, I'm going to act like Tarzan, and I'll get more. We've been saying, what do you need to do to get the job done?"

Bush's Grip On GOP In Peril? (RC)

By Mark Preston

Roll Call, September 6, 2005

President Bush's command over the Republican Congress is showing signs of weakening as a result of the growing unease over the U.S. mission in Iraq, the lack of a definitive plan to overhaul the nation's Social Security system and rising energy costs.

Complicating matters for Bush is the devastation wrought on the Gulf Coast by Hurricane Katrina, and the subsequent criticism from some local officials of the federal government's alleged failure to respond quickly enough with relief aide.

Just four weeks ago, Bush was riding high after winning a series of legislative victories ranging from passage of the controversial Central American Free Trade Agreement to approval of long-stalled energy and transportation measures. As they

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left for the August recess, Republicans hoped this momentum would boost their chances of muscling Bush's top domestic issue — restructuring the Social Security system — through the Congress before the year's end.

Now, the White House must work to shore up support among Republican Members even as it tries to advance Bush's goal on Social Security, said Senators, senior aides and GOP strategists, all of whom would speak only on the condition of anonymity.

"This is the perfect storm for the president," said a Senate GOP leadership aide. "We have rising gas prices, patience running thin with the war in Iraq and now Katrina. Coupled with lame-duck status, it is an uphill battle for him."

Evidence of a growing concern among Republicans about Bush's handling of Iraq spilled into public last month when Sen. Chuck Hagel (R-Neb.) bluntly asserted that the U.S. is "not winning."

"We should start figuring out how we get out of there," Hagel said on the Aug. 21 broadcast of ABC's "This Week." "But with this understanding: We cannot leave a vacuum that further destabilizes the Middle East. I think our involvement there has destabilized the Middle East. And the longer we stay there, I think the further destabilization will occur."

Privately, many other Republicans concede that they are hearing similar concerns from their constituents about Iraq and are likely to start demanding better answers from the White House, GOP sources said.

"People are fundamentally for us succeeding," said a Republican strategist with close ties to the Congressional leadership. "But they are uncertain about what the president's plan is."

Questions about the direction of U.S. policy in Iraq has been exacerbated in recent weeks by the emergence of anti-war activist Cindy Sheehan. Sheehan, whose son was killed in the war, gained international attention by camping outside Bush's Crawford, Texas, ranch during the president's August vacation and demanding a meeting with him.

It is unclear if Sheehan will continue to attract national interest, but she will be the star attraction at what is being billed as a major anti-war protest to be held Sept. 24 in Washington, D.C.

On Capitol Hill, Senate Armed Services Chairman John Warner (R-Va.) will hold an oversight hearing on Iraq within the next few weeks, said his spokesman, John Ullyot. Defense Secretary Donald Rumsfeld and various military officials are expected to testify.

"Chairman Warner wants to give Secretary Rumsfeld the opportunity to give his views on Iraq and answer questions from Senators that are relayed through their constituents especially after the August recess," Ullyot said.

Escalating energy costs are also of concern to many Republicans because they are painfully aware it is an issue that affects every segment of the population.

"Bush is hemorrhaging political capital on energy prices," said a House GOP leadership aide. "Energy prices affect everyone. Small businesses get affected. The airlines get affected. It is bad."

The Senate Energy and Natural Resources Committee will hold a hearing today to begin reviewing causes that have led to high energy prices. The House Energy and Commerce Committee will hold a similar hearing Wednesday, and several other panels are expected to follow suit. (See related story, page 1.)

Bush's top domestic issue — Social Security — might also be in jeopardy. Several Republicans suggested that the current state of affairs all but dooms any action on dealing with it this year. Congressional Republicans, though, blame the White House for failing to deliver a plan for them to try to sell to their constituents back home.

"There was very little guidance about what to say on Social Security," said a senior Senate Republican aide.

Bush's shaky support from Congressional Republicans comes as Americans' overall perception of his stewardship of the country is slipping. A Washington Post-ABC News poll released last week claimed that Bush's approval rating has sunk to 45 percent, and a majority of people disagree with his approach to Iraq, gasoline prices, the economy and Social Security.

Congressional Republicans suggested the next few weeks would frame how successful the White House is in advancing its legislative goals this year.

"I think the administration is going to have to reach out and work more to build those relationships and give people a reason to be there for them," said a Republican Senator.

Bush And Katrina (WSJ)

The Wall Street Journal, September 6, 2005

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The White House is slowly recovering from its first-week stumbles responding to Katrina, with President Bush taking his second trip to New Orleans yesterday. His quick elevation of John Roberts to Chief Justice is another welcome sign of energy (see related commentary). But Mr. Bush can't afford to stop there, because the aftermath of Katrina poses a threat to his entire second term.

We aren't referring here to the storm surge of recrimination blaming post-Katrina problems on everything from Iraq, to tax cuts, to his refusal to endorse the Kyoto Protocol. The American public knows this was an epic natural disaster and won't fall for political opportunism. By the same token, Americans also won't have much patience for White House claims that state and local officials were the greater incompetents. Yes, Louisiana needed a Rudy Giuliani. But what Americans want now is proof that their government understands the nature of the challenge and is acting forcefully to meet it.

On this point, Mr. Bush is going to have to recognize the obvious initial failure of the Department of Homeland Security in its first big post-9/11 test. The President created this latest huge federal bureaucracy, against the advice of many of us, and we're still waiting for evidence that it has done anything but reshuffle the Beltway furniture. If FEMA can't now handle the diaspora out of New Orleans to Houston, Baton Rouge and other cities, the political retribution will be fierce.

Notably, the New Orleans mess improved only after the Pentagon got involved. Though the military is normally barred from domestic law enforcement by the Posse Comitatus Act of 1878, Defense officials have been doing a lot of creative thinking about what they can do and what the public now expects post-September 11. The press corps might even want to report on that thinking, which is contained in a June 2005 report, "Strategy for Homeland Defense and Civil Support." If he ever fires anyone, Mr. Bush could do worse than find a few more Donald Rumsfelds as replacements.

Mr. Bush will also need to guide the rebuilding choices for New Orleans and the Mississippi delta. We're hearing a lot these days about the need to restore barrier marshlands, often from the same people who have long hated the Army Corps of Engineers that would help restore them. But clearly there is an issue of how much federal money to pour into a city that is below sea-level and would still be vulnerable to another Category Four or Five storm.

Mr. Bush should name one or more people, in or out of his Administration, to sort through the ideas and avoid what will be the liberal/GOP Congressional impulse to throw money at everything. An alternative would be to name the entire stricken area an enterprise zone for some period of time, which would offer both tax incentives and regulatory waivers to stimulate reinvestment. There's a danger here of tax breaks for floating casinos, but the greater risk is spending $20 billion or more solely on the priorities of local politicians.

Which brings us to Mr. Bush's broader domestic agenda. The President has admirably refused to give up on Social Security, but Katrina makes reform impossible in the near term. The more urgent Presidential priority now is to take steps to keep the U.S. economy growing. Last week's regulatory moves on fuel emissions and the Strategic Petroleum Reserve are already helping on gasoline supplies, and the price shocks are an opportunity to prod Congress to remove obstacles to more oil and natural gas drilling.

Economic leadership also means instructing Americans on the link between tax cutting and the economic vitality needed to fund both Katrina relief and the war on terror. Predictably, the Bush tax cuts are under attack for denying revenue to the government and because they don't require "sacrifice" in wartime. But the truth is that federal revenues are rising by an estimated $262 billion -- or roughly 14% -- this year thanks to the growth that followed the 2003 tax cuts. Republicans have been far too defensive on tax cuts, and Katrina is an opening to explain their necessity and to push for making them permanent.

What's really at stake in the coming months is the Republican claim to be the governing party. That claim has been based in part on the assertion that energetic government doesn't also have to be big government. Mr. Bush's refusal to restrain a free-spending GOP Congress has already undermined the latter, while Katrina is stretching the credibility of the former. Democrats will spend the next year asserting that at least they'll spend tax dollars on levees in New Orleans, rather than Alaskan bridges to nowhere.

As the initial polls are showing, most Americans aren't yet blaming Mr. Bush for Katrina's aftermath. But with war in Iraq and terrorism, rising energy prices and now a natural disaster, these are also anxious times. Voters will forgive a President many mistakes but no leader can survive a public judgment that he is unsure of himself and hostage to events. We've thought for some

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time that Mr. Bush's reticence was hurting him on Iraq, and that he needs to be both more visible and more assertive in making his case to Americans. After Katrina, we'd say that's imperative.

Tragic Costs Of Bush's Iraq Obsession (FT)

By Michael Lind

Financial Times, September 6, 2005

Samuel Huntington has called it the Lippmann Gap, echoing the American journalist Walter Lippmann in 1943: "Foreign policy consists in bringing into balance, with a comfortable surplus of power in reserve, the nation's commitments and the nation's power." The historian Paul Kennedy has another name for it: "Imperial overextension". Whatever you call this dangerous disease, the symptoms are clear in the US.

In early 2001, shortly after President George W. Bush was inaugurated and before 9/11, the Federal Emergency Management Agency warned of the three most devastating disasters that could strike the US: a terrorist attack on New York City, a hurricane flooding New Orleans and a San Francisco earthquake. The Bush administration was focused on its priority: Iraq.

The first foreseen disaster took place on September 11 2001, when al-Qaeda flew hijacked jets into the World Trade Center and the Pentagon. The federal government was taken by surprise. New York City's first responders were hampered by communications problems and poor planning for this long-predicted event. The Bush administration's response to the mass murder committed by al-Qaeda was warped by the focus on Iraq. Many in Washington believe that the administration failed to send sufficient troops to Afghanistan because it was with-holding forces for the invasion of Iraq.

Day after day, the levees of Lake Pontchartrain in New Orleans and the wetlands that protected the city were eroding. Mr Bush and his allies in the Republican-majority Congress have slashed federal spending for flood control in south-east Louisiana by half and funds for work at Lake Pontchartrain by almost two-thirds. From 2003, funds authorised for the Southeast Louisiana Urban Flood Control Project were diverted to pay for the war in Iraq. Earlier this year, the US Army Corps of Engineers requested $27m (€21.6m) to repair the levees to protect them from hurricanes. Mr Bush sought to cut the amount to $3.9m and also proposed reducing spending to prevent flooding from $78m to $30m (the Republican Congress ultimately passed $5.7m and $36.5m, respectively). The New Orleans Times-Picayune published numerous articles warning that the war in Iraq was taking money away from hurricane protection on the Gulf coast.

Meanwhile, in Iraq, the insurgency metastasised. With US forces divided between the necessary war in Afghanistan and the war of choice in Iraq, and army recruitment numbers plunging, the Bush administration, in addition to hiring private contractors, was forced to mobilise National Guard reserves overseas. When Katrina struck, tens of thousands of National Guard soldiers were in Iraq, along with much of the equipment needed for disaster relief.

At the same time, America's long border with Mexico has gone largely unprotected. Around a million illegal immigrants are apprehended each year, in addition to the estimated half a million who join the roughly 10m living in the US. A growing number of illegal immigrants apprehended at the border are from Middle Eastern countries including Egypt, Yemen, Iraq and Syria. President Bush's justice department claims that suspected American terrorist Jose Padilla and an accomplice planned to enter the US through Mexico and blow up buildings in New York and other cities. Mohammed Junaid Babar, an alleged al-Qaeda agent linked with plots against London, has told US investigators of a plan to bring terrorists into the US from Mexico.

On December 17 2004, Mr Bush signed the National Intelligence Reform Act, which required the addition of 10,000 border patrol agents beginning in 2006. In his February 2005 budget, however, Mr Bush authorised funds for only 210 new border agents. Last month, the Democratic governors of Arizona and New Mexico asked for federal disaster relief to help deal with border chaos.

The horror in New Orleans and along the Gulf Coast, and the chaos along the US-Mexican border, join anarchy in Afghanistan and Iraq as proof of the bankruptcy of the Bush doctrine. Mr Bush's neoconservative strategists wanted a crusade for US hegemony in the Middle East and the world; as "national greatness conservatives," some might have been willing to pay for it with higher taxes. But Mr Bush's political base consists of conservatives and libertarians united by a crusade to cut taxes. The attempt to establish American global hegemony without paying for it was a disaster – actually, several disasters – waiting to happen.

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If, early in 2001, the Bush administration had focused on al-Qaeda instead of Iraq, it might have responded to FEMA's call to prepare New York for a big terrorist incident. If it had not divided US forces to fight two wars at once, Afghanistan might have been pacified while Saddam remained in power but contained. If Bush had not sacrificed border security to pay for the war in Iraq, the Mexican border might be under control. If Bush had not diverted so many National Guard units to Iraq, disaster relief following Hurricane Katrina would have been swifter and more effective. And if the war in Iraq had not caused the Bush administration to raid money for the New-Orleans levees, this big port city might not be a corpse-filled cesspool.

Supporters of the war in Iraq predicted that the dominos would fall in the Middle East. Instead, the dominos are falling across America.

The writer is Whitehead Senior Fellow at the New America Foundation

Magic Marker Strategy (NYT)

By John Tierney

The New York Times, September 6, 2005

It was the climax of George W. Bush's video introduction at the Republican convention: the moment at Yankee Stadium during the 2001 World Series when he threw a pitch all the way to home plate. The video ended, and the conventioneers cheered as Mr. Bush strode onto a stage shaped like a pitcher's mound.

Well, live by the pitch, die by the pitch. When you campaign as the man on the mound, the great leader whose arm rescues Americans in their moment of need, they expect you to deal with a hurricane, too.

Mr. Bush made a lot of mistakes last week, but most of his critics are making an even bigger one now by obsessing about what he said and did. We can learn more by listening to men like Jim Judkins, particularly when he explains the Magic Marker method of disaster preparedness.

Mr. Judkins is one of the officials in charge of evacuating the Hampton Roads region around Newport News, Va. These coastal communities, unlike New Orleans, are not below sea level, but they're much better prepared for a hurricane. Officials have plans to run school buses and borrow other buses to evacuate those without cars, and they keep registries of the people who need special help.

Instead of relying on a "Good Samaritan" policy - the fantasy in New Orleans that everyone would take care of the neighbors - the Virginia rescue workers go door to door. If people resist the plea to leave, Mr. Judkins told The Daily Press in Newport News, rescue workers give them Magic Markers and ask them to write their Social Security numbers on their body parts so they can be identified.

"It's cold, but it's effective," Mr. Judkins explained.

That simple strategy could have persuaded hundreds of people to save their own lives in New Orleans. What the city needed most was coldly effective local leaders, not a president in Washington who could feel their pain. It's the same lesson we should have learned from Sept. 11 and other disasters, yet both liberals and conservatives keep ignoring it.

The liberals bewailing the insensitivity and racism of Republicans in Washington sound like a bad rerun of the 1960's, when urban riots were blamed on everyone but the rioters and the police. Yes, the White House did a terrible job of responding to Katrina, but Democratic leaders in New Orleans and Louisiana didn't even fulfill their basic duties.

In coastal Virginia - which, by the way, has a large black population and plenty of Republican politicians - Mr. Judkins and his colleagues assume that it's their job to evacuate people, maintain order and stockpile supplies to last for 72 hours, until federal help arrives. In New Orleans, the mayor seemed to assume all that was beyond his control, just like the mayors in the 1960's who let the riots occur.

They said their cities couldn't survive without help from Washington, which proceeded to shower inner cities with money and programs that did more damage than the riots. Cities didn't recover until some mayors, especially Republicans like Rudy Giuliani, tried self-reliance.

Mr. Giuliani was called heartless and racist for cutting the welfare rolls and focusing on crime reduction, but black neighborhoods were the greatest beneficiaries of his policies. He was criticized for ignoring social services as he concentrated

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on reorganizing the Police and Fire Departments, but his cold effectiveness made the city a more livable place and kept it calm after Sept. 11.

Yet Mr. Bush, with approval from conservatives who should have known better, reacted to Sept. 11 by centralizing disaster planning in Washington. He created the byzantine Homeland Security Department, with predictable results last week.

The Federal Emergency Management Agency, often criticized for ineptitude, became even less efficient after it was swallowed by a bureaucracy consumed with terrorism. The department has spent billions on new federal airport screeners - with no discernible public benefit - while giving short shrift to natural disasters.

The federal officials who had been laboring on a one-size-fits-all strategy were unprepared for the peculiarities of New Orleans, like the high percentage of people without cars. The local officials who knew about that problem didn't do anything about it - and then were furious when Mr. Bush didn't solve it for them. Why didn't the man on the mound come through for them?

It's a fair question as they go door to door looking for bodies. But so is this: Why didn't they go door to door last week with Magic Markers?

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For Further Reading:

The Prince of the City: Giuliani, New York and the Genius of American Life by Fred Siegel. Encounter Books, 386 pp., May 2005.

A Delicate Balance Is Undone in a Flash, and a Battered City Waits by Peter Applebome, Christopher Drew, Jere Longman and Andrew Revkin. New York Times, September 4, 2005.

Hampton Roads Daily Press, Newport News, VA

The Larger Shame (NYT)

By Nicholas D. Kristof

The New York Times, September 6, 2005

The wretchedness coming across our television screens from Louisiana has illuminated the way children sometimes pay with their lives, even in America, for being born to poor families.

It has also underscored the Bush administration's ongoing reluctance or ineptitude in helping the poorest Americans. The scenes in New Orleans reminded me of the suffering I saw after a similar storm killed 130,000 people in Bangladesh in 1991 - except that Bangladesh's government showed more urgency in trying to save its most vulnerable citizens.

But Hurricane Katrina also underscores a much larger problem: the growing number of Americans trapped in a never-ending cyclone of poverty. And while it may be too early to apportion blame definitively for the mishandling of the hurricane, even President Bush's own administration acknowledges that America's poverty is worsening on his watch.

The U.S. Census Bureau reported a few days ago that the poverty rate rose again last year, with 1.1 million more Americans living in poverty in 2004 than a year earlier. After declining sharply under Bill Clinton, the number of poor people has now risen 17 percent under Mr. Bush.

If it's shameful that we have bloated corpses on New Orleans streets, it's even more disgraceful that the infant mortality rate in America's capital is twice as high as in China's capital. That's right - the number of babies who died before their first birthdays amounted to 11.5 per thousand live births in 2002 in Washington, compared with 4.6 in Beijing.

Indeed, according to the United Nations Development Program, an African-American baby in Washington has less chance of surviving its first year than a baby born in urban parts of the state of Kerala in India.

The national infant mortality rate has risen under Mr. Bush for the first time since 1958. The U.S. ranks 43rd in the world in infant mortality, according to the C.I.A.'s World Factbook; if we could reach the level of Singapore, ranked No. 1, we would save 18,900 children's lives each year.

So in some ways the poor children evacuated from New Orleans are the lucky ones because they may now get checkups and vaccinations. But nationally, 29 percent of children had no health insurance at some point in the last 12 months, and many get neither checkups nor vaccinations. The U.S. ranks 84th in the world for measles immunizations and 89th for polio.

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One of the most dispiriting elements of the catastrophe in New Orleans was the looting. I covered the 1995 earthquake that leveled much of Kobe, Japan, killing 5,500, and for days I searched there for any sign of criminal behavior. Finally I found a resident who had seen three men steal food. I asked him whether he was embarrassed that Japanese would engage in such thuggery.

"No, you misunderstand," he said firmly. "These looters weren't Japanese. They were foreigners."

The reasons for this are complex and partly cultural, but one reason is that Japan has tried hard to stitch all Japanese together into the nation's social fabric. In contrast, the U.S. - particularly under the Bush administration - has systematically cut people out of the social fabric by redistributing wealth from the most vulnerable Americans to the most affluent.

It's not just that funds may have gone to Iraq rather than to the levees in New Orleans; it's also that money went to tax cuts for the wealthiest rather than vaccinations for children.

None of this is to suggest that there are easy solutions for American poverty. As Ronald Reagan once said, "We fought a war on poverty, and poverty won." But we don't need to be that pessimistic - in the late 1990's, we made real headway. A ray of hope is beautifully presented in one of the best books every written on American poverty, "American Dream," by my Times colleague Jason DeParle.

So the best monument to the catastrophe in New Orleans would be a serious national effort to address the poverty that afflicts the entire country. And in our shock and guilt, that might be politically feasible. Rich Lowry of The National Review, in defending Mr. Bush, offered an excellent suggestion: "a grand right-left bargain that includes greater attention to out-of-wedlock births from the Left in exchange for the Right's support for more urban spending." That would be the best legacy possible for Katrina.

Otherwise, long after the horrors have left TV screens, about 50 of the 77 babies who die each day, on average, will die needlessly, because of poverty. That's the larger hurricane of poverty that shames our land.

It's Your Failure, Too, Mr. Bush (WP)

By Eugene Robinson

The Washington Post, September 6, 2005

BATON ROUGE -- After a tragically incompetent beginning, the effort to give urgent care to the multitudes from New Orleans whose homes and livelihoods have been obliterated is finally in high gear. The problem now is that nobody knows where it's headed.

At the top, things are still hopeless. Federal, local and state officials who perform for the cameras here at the Louisiana State Police complex, headquarters for the relief effort, still spend an unconscionable amount of time debating who's in charge. Is the president the ultimate authority, or is it Blanco, Nagin, Chertoff, Brown or the generals? The answer seems to vary from hour to hour, depending on who's holding court in the hot, stuffy briefing room or outside on the portico, where visiting luminaries get mobbed by microphones.

Fortunately, the finger-pointing follies don't matter much on the ground and in the water. Military, police and civilian relief units did what had to be done and emptied the New Orleans basin of Hurricane Katrina's bereft survivors. They are being fed, sheltered and clothed. They can't be described as alive and well, but they're alive.

Now what?

Hundreds of thousands of evacuees are scattered around Louisiana and neighboring states in a sudden diaspora, and no one seems to have any idea what to do with them next. The evacuees bristle at the word "refugees," which makes them sound as if they don't belong in this country. But whatever you call them, they won't be able to go back home -- and won't have a home to go back to -- for months or even years.

Baton Rouge, perhaps the best example, has swollen like the Mississippi River in an epic flood. The people here have been generous and good-natured to a fault. Down by the river, at the convention center, the Red Cross is housing about 5,000 evacuees; another big shelter is being opened across town, and smaller shelters are being organized every day, many by local churches. It's impossible to count the families who have opened their homes to relatives, friends or needy strangers.

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Every city and town in Louisiana that wasn't blasted by the hurricane is full of evacuees. Then there are the tens of thousands in Texas and the multitudes scattered across neighboring states. Their host communities have the best of intentions, but many won't be able to stand the added drain on resources indefinitely. Where will these people go? Why wasn't there a plan?

That's when I start my finger-pointing, because a few days in and around this ground zero have convinced me that there are two things the federal government failed to do, and that for these failures there's ultimately no one to blame but the president.

First, an administration that since Sept. 11, 2001, has told us a major terrorist strike is inevitable should have had in place a well-elaborated plan for evacuating a major American city. Even if there wasn't a specific plan for New Orleans -- although it was clear that a breach of the city's levees was one of the likeliest natural catastrophes -- there should have been a generic plan. George W. Bush told us time and again that our cities were threatened. Shouldn't he have ordered up a plan to get people out?

Second, someone should have thought about what to do with hundreds of thousands of evacuees, both in the days after a disaster and in the long term. As people flooded out of New Orleans, it was officials at the state and local level who rose to the challenge, making it up as they went along. Bring a bunch of people to the Astrodome. We have a vacant hotel that we can use. Send a hundred or so down to our church and we'll do the best we can.

Tent cities aren't a happy option, but neither is haphazard improvisation. Is the problem the Bush administration's ideological fervor for small government? Does the White House really believe that primary responsibility should fall on volunteers, church groups and individuals? Or is it just stunning incompetence and lack of foresight?

At the big shelter here in Baton Rouge on Sunday, some student volunteers from Louisiana State University took a group of children outside to get some air. The kids were using sheets of cardboard as sleds and surfboards, zooming down the grassy levee next to the Mississippi River and then scampering back uphill for another ride. It was a beautiful, sunny day, and the scene warmed your heart. But those college students are going to have to go back to their classes, and then how will those kids from New Orleans spend their days?

Katrina Rekindles Adversarial Media (USAT)

By Peter Johnson

USA Today, September 6, 2005

Reporters covering Hurricane Katrina on the scene showed their human — and often angry and frustrated — face as they questioned the slow response over the weekend.

"The government said, 'You go here, and you'll get help,' or 'You go in that Superdome and you'll get help,' " Fox News anchor Shepard Smith fumed on-air from New Orleans Friday, in a tone echoed by other correspondents. "And they didn't get help. They got locked in there. And they watched people being killed around them. And they watched people starving. And they watched elderly people not get any medicine."

Says Fordham University communications professor Paul Levinson, "The media rose to the occasion, shone their light on the desolation and the needy, and kept it focused there until the cavalry finally began to arrive."

The story also proved how, even in this emerging new-media age in which bloggers sometimes seem to rule, television news still does it best when it comes to conveying the scope and the depth of emotion in a quickly evolving tragedy.

Whether TV news will continue to lead with this story is open to debate, as attention inevitably turns to John Roberts' confirmation hearings for the Supreme Court, as well as whomever President Bush names to a second vacancy on the court. That story placed a close second Monday.

But some observers say that Katrina's media legacy may be a return to a post-Watergate-like era of tougher scrutiny of the federal government and public policy issues.

"If any good comes from the catastrophe, it will be that it signaled the beginning of the media's reassertion of aggressive, in-your-face reporting, in which it confronts government wrongdoing, rather than just swallowing the government's public-relations handouts," Levinson says.

But Boston University journalism professor Bob Zelnick says the media have never gotten soft on the government, despite continuing questions over the media's own credibility. "I do not believe the press is guilty of the charge that it abandoned its

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healthy skepticism in Iraq, and I would hate to see it draw the inference from New Orleans that 'in your face' journalism is the panacea for restoring our lost credibility."

In Katrina, CNN "learned from Jon Stewart how to use simple juxtaposition to make a point," says New York University journalism professor Jay Rosen. "Clip of a federal official explaining how no one anticipated the strength of the storm. Clip from the Weather Channel proving plenty of people did."

"Journalists seem to be much more effective than the administration in representing the public's reactions to the disaster," Rosen says. "Clueless federal officials seem to know less about what is happening than the journalists do, and sometimes less than an average TV viewer. This tips the balance of power toward the press, which is why we see such aggressive questioning and on-air criticism close to jeering."

Says NBC Meet The Press host Tim Russert, who grilled Homeland Security chief Michael Chertoff Sunday over the federal response to the hurricane, "The primary responsibility of the media is accountability of government, whether it's about lying under oath, which upset Democrats, or the mismanagement of responding to a hurricane, which happens to upset Republicans."

ABC News correspondent Bob Woodruff, who has been in New Orleans for the past week, recalls witnessing the slow pace of the relief effort of January's Asian tsunami, which killed thousands of people.

He never expected to see such a phenomenon again, until he saw a body lying at the corner of Magazine and Jackson in New Orleans — five days after Katrina hit.

"It came as a huge shock to reporters — not just as reporters but as Americans — to see this happening in a great city like New Orleans," he says.

Katrina May Unleash A Media Storm (USAT)

By Peter Johnson

USA Today, September 6, 2005

The media shelf life for natural disasters is notoriously short: Within two weeks of Hurricane Andrew in 1992, which cut a $30 billion destructive path through south Florida and the Louisiana coast, the story virtually disappeared from network newscasts.

But experts and journalists predict that mounting questions about U.S. government preparation, policies and response to Hurricane Katrina will result in intense news coverage for months.

Katrina "doesn't just have legs, it has tentacles," says Bob Lichter of the Center for Media and Public Affairs. "Its implications reach into hot-button controversies involving race, poverty, economics and partisan politics. The reach of this story will make the O.J. Simpson case look like a news brief."

Network news analyst Andrew Tyndall predicts that TV news will focus on personal stories and massive aid efforts in the coming weeks, and then turn to looking at how relief efforts may have resulted in people dying. Stories on inner cities don't get much network attention "unless carnage is involved, and this is what you have" in New Orleans.

In The New Yorker magazine this week, Nicholas Lemann writes, "We're all wondering what will become of New Orleans. A big American city has never before been entirely emptied of people, and had most of its housing rendered useless, and had all its basic systems fail at once."

The New York Times opened a bureau in Baton Rouge; other news outlets plan to be in the region indefinitely.

"It all gets more interesting by the minute. There are a quarter of a million people in Texas who weren't there five days ago," CBS Early Show anchor Harry Smith said as he arrived back in New Orleans Monday for continuing coverage. NBC's Today dispatched Katie Couric, while ABC's Good Morning America sent Diane Sawyer and Robin Roberts.

NBC Nightly News anchor Brian Williams returns to New Orleans tonight. ABC's World News Tonight has Bob Woodruff and Elizabeth Vargas in the region, with Charles Gibson in New York. CBS' John Roberts co-anchors from New Orleans with Bob Schieffer in New York.

Preliminary evening news ratings showed big increases in viewership, which is normally depressed at this time of year. Tyndall says some 29 million viewers tuned in to the Big 3 last week, up from about 21 million the week before.

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Cable news viewing also skyrocketed. Fox News drew an average 4.8 million viewers in prime time, up 142% over July, compared with 3.9 million for CNN (up 466%) and 1.6 million for MSNBC (up 470%).

OUR OPINIONS: An Open Letter To The PresidentDear Mr. President: (NOTP)

The New Orleans Times Picayune, September 6, 2005

We heard you loud and clear Friday when you visited our devastated city and the Gulf Coast and said, "What is not working, we're going to make it right."

Please forgive us if we wait to see proof of your promise before believing you. But we have good reason for our skepticism.

Bienville built New Orleans where he built it for one main reason: It's accessible. The city between the Mississippi River and Lake Pontchartrain was easy to reach in 1718.

How much easier it is to access in 2005 now that there are interstates and bridges, airports and helipads, cruise ships, barges, buses and diesel-powered trucks.

Despite the city's multiple points of entry, our nation's bureaucrats spent days after last week's hurricane wringing their hands, lamenting the fact that they could neither rescue the city's stranded victims nor bring them food, water and medical supplies.

Meanwhile there were journalists, including some who work for The Times-Picayune, going in and out of the city via the Crescent City Connection. On Thursday morning, that crew saw a caravan of 13 Wal-Mart tractor trailers headed into town to bring food, water and supplies to a dying city.

Television reporters were doing live reports from downtown New Orleans streets. Harry Connick Jr. brought in some aid Thursday, and his efforts were the focus of a "Today" show story Friday morning.

Yet, the people trained to protect our nation, the people whose job it is to quickly bring in aid were absent. Those who should have been deploying troops were singing a sad song about how our city was impossible to reach.

We're angry, Mr. President, and we'll be angry long after our beloved city and surrounding parishes have been pumped dry. Our people deserved rescuing. Many who could have been were not. That's to the government's shame.

Mayor Ray Nagin did the right thing Sunday when he allowed those with no other alternative to seek shelter from the storm inside the Louisiana Superdome. We still don't know what the death toll is, but one thing is certain: Had the Superdome not been opened, the city's death toll would have been higher. The toll may even have been exponentially higher.

It was clear to us by late morning Monday that many people inside the Superdome would not be returning home. It should have been clear to our government, Mr. President. So why weren't they evacuated out of the city immediately? We learned seven years ago, when Hurricane Georges threatened, that the Dome isn't suitable as a long-term shelter. So what did state and national officials think would happen to tens of thousands of people trapped inside with no air conditioning, overflowing toilets and dwindling amounts of food, water and other essentials?

State Rep. Karen Carter was right Friday when she said the city didn't have but two urgent needs: "Buses! And gas!" Every official at the Federal Emergency Management Agency should be fired, Director Michael Brown especially.

In a nationally televised interview Thursday night, he said his agency hadn't known until that day that thousands of storm victims were stranded at the Ernest N. Morial Convention Center. He gave another nationally televised interview the next morning and said, "We've provided food to the people at the Convention Center so that they've gotten at least one, if not two meals, every single day."

Lies don't get more bald-faced than that, Mr. President.

Yet, when you met with Mr. Brown Friday morning, you told him, "You're doing a heck of a job."

That's unbelievable.

There were thousands of people at the Convention Center because the riverfront is high ground. The fact that so many people had reached there on foot is proof that rescue vehicles could have gotten there, too.

We, who are from New Orleans, are no less American than those who live on the Great Plains or along the Atlantic Seaboard. We're no less important than those from the Pacific Northwest or Appalachia. Our people deserved to be rescued.

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No expense should have been spared. No excuses should have been voiced. Especially not one as preposterous as the claim that New Orleans couldn't be reached.

Mr. President, we sincerely hope you fulfill your promise to make our beloved communities work right once again.

When you do, we will be the first to applaud.

FEMA Director Singled Out By Response Critics (WP)

By Spencer S. Hsu And Susan B. Glasser

The Washington Post, September 6, 2005

Michael D. Brown has been called the accidental director of the Federal Emergency Management Agency, caricatured as the failed head of an Arabian horse sporting group who was plucked from obscurity to become President Bush's point man for the worst natural disaster in U.S. history.

Amid the swirl of human misery along the Gulf Coast, Brown admitted initially underestimating the impact of Hurricane Katrina, whose winds and water swamped the agency's preparations. As the nation reeled at images of the calamity, he appeared to blame storm victims by noting that the crisis was worsened by New Orleans residents who did not comply with a mandatory evacuation order.

By last weekend, facing mounting calls for his resignation, he told reporters: "People want to lash out at me, lash out at FEMA. I think that's fine. Just lash out, because my job is to continue to save lives." More broadly, the 50-year-old Oklahoma lawyer and the agency he leads have become the focus of a broad reappraisal of U.S. homeland security efforts four years after the Sept. 11, 2001, attacks.

In recent days, politicians and officials in both parties have derided Brown's qualifications to head the nation's chief disaster-response agency -- as well as the performance of the agency and its federal, state and local partners.

At a time when homeland security experts called for greater domestic focus on preparing for calamity, Brown faced years of funding cuts, personnel departures and FEMA's downgrading from an independent, Cabinet-level agency.

As recently as three weeks ago, state emergency managers urged Homeland Security Secretary Michael Chertoff and his deputy, Michael P. Jackson, to ease the department's focus on terrorism, warning that the shift away from traditional disaster management left FEMA a bureaucratic backwater less able to respond to natural events such as hurricanes and earthquakes.

The Times-Picayune, Louisiana's largest newspaper, published an open letter on Sunday to President Bush, calling for every FEMA official to be fired, "Director Michael Brown especially," joining critics in the state and Congress.

"We're angry, Mr. President, and we'll be angry long after our beloved city and surrounding parishes have been pumped dry," the editorial said. "Our people deserved rescuing. Many who could have been were not. That's to the government's shame. . . . No expense should have been spared. No excuses should have been voiced."

Brown's defenders say he is the scapegoat of a cataclysmic storm and failure of New Orleans's levee system that, in the words of President Bush and Chertoff, could not be foreseen.

"Brownie, you're doing a heck of a job," Bush said Friday during a tour of the state, a day before Chertoff voiced his confidence.

"It's easy to play the blame game, find a scapegoat, but no one person could be responsible for the challenges we face and the lives lost," said W. Craig Fugate, emergency management director for Florida, where Bush's brother is governor, who worked with FEMA through four hurricanes in 2004. He said state and local authorities share responsibility for the death toll likely to emerge in coming days.

Joe M. Allbaugh -- a college friend, former Bush campaign manager and past FEMA director who hired Brown as FEMA general counsel in 2001 -- offered a qualified defense.

Allbaugh called the government's overall performance "unacceptable" but added: "Blaming one agency, you cannot do that." Still, he acknowledged that FEMA had lost independence and clout with the White House. "I had a unique relationship with the president, having been his chief of staff," Allbaugh said. "If you don't have that kind of relationship, it just makes things tougher."

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If anything, Brown's political background has become a liability, leading to charges that he was given his job as patronage. He got his start in politics as an Oklahoma native with Albaugh but ran unsuccessfully for Congress in 1988, winning 27 percent of the vote. He has chaired the Oklahoma Municipal Power Authority and served as a City Council member, examiner for the Oklahoma and Colorado supreme courts, and assistant city manager.

Albaugh hired Brown after an acrimonious end to a nine-year stint as commissioner of the International Arabian Horse Association. Former officials say he was forced out; a friend and lawyer of Brown's said he negotiated a settlement after withstanding numerous lawsuits against his enforcement of rules for judges and stewards.

Defending his qualifications, Brown said he has overseen responses to 164 presidential declared emergencies and disasters as FEMA counsel and general counsel, including the 2003 Columbia shuttle disaster and the California wildfires in 2003. "I have been through a few disasters," he said at a news conference yesterday.

Reviews of the government's response to Katrina are beginning. Already, members of Congress such as Rep. John D. Dingell (D-Mich.) and Sen. Hillary Rodham Clinton (D-N.Y.) are pushing to move FEMA out of its department and back to Cabinet-level status. Senate Homeland Security Committee Chairman Susan Collins (R-Maine) and ranking Democrat Joseph I. Lieberman (Conn.) have launched an investigation, and committee members will meet with department officials tomorrow.

While Chertoff said the levee breach that flooded New Orleans "exceeded the foresight of planners," Max Mayfield, director of the National Hurricane Center, said Brown and other top federal officials were briefed as much as 32 hours in advance of landfall that Hurricane Katrina's storm surge was likely to overtop levees and cause catastrophic flooding.

"They knew that this one was different," Mayfield said yesterday. "I don't think Mike Brown or anyone else in FEMA could have any reason to have any problem with our calls. . . . They were told. . . . We said the levees could be topped."

Louisiana officials have blamed FEMA and Brown for bureaucratic bottlenecks, accusing FEMA of ignoring pre-storm offers of aid from Chicago Mayor Richard M. Daley (D), New Mexico Gov. Bill Richardson (D) and the American Ambulance Association.

In his last extended TV interview on CNN,Brown admitted Thursday that the federal government did not know that thousands of survivors without food or water had taken shelter at the city's convention center, despite a day of news reports.

Since then, Brown has been eclipsed by his boss, Chertoff -- who flew overnight Sunday to take charge of integrating military with civilian efforts -- and by a new deputy, U.S. Coast Guard Vice Admiral Thad Allen, whom Chertoff named yesterday to take charge of federal recovery efforts in New Orleans.

Bruce P. Baughman, Alabama emergency management director, head of the National Emergency Management Association and the official in charge of FEMA's response to the World Trade Center and Pentagon attacks in 2001, said Katrina will leave its mark on federal disaster management. "It's time to realize, whoever is in charge of FEMA does need an emergency management background. . . . It's something you learn by experience, and a lot of that experience is gone," he said.

Congress Rolls Up Sleeves ... (HILL)

By Jim Snyder

The Hill, September 6, 2005

Lawmakers are pledging an across-the-board response to help Hurricane Katrina victims recover and to fix problems the storm and its aftermath exposed.

Efforts are likely to include the removal of the Federal Emergency Management Agency (FEMA) from the Department of Homeland Security to speed recovery efforts and expansion of energy production to areas outside the Gulf of Mexico to ease future price shocks, congressional and outside experts said.

Congressional leaders approved a $10.5 billion aid package last week as relief workers struggled to evacuate hurricane victims in New Orleans and other areas along the Gulf Coast. Senate Majority Leader Bill Frist (R-Tenn.) said yesterday that the appropriation is the start of an expansive congressional effort to deal with the crisis.

The Senate Homeland Security and Government Affairs Committee is to hold oversight hearings into the aftermath of the hurricane, Frist said. Lessons learned from those hearings will be incorporated into legislation.

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In addition, Congress will push an economic stimulus package to include tax breaks to ease the impact of hurricane on the economy.

Even before Frist's press conference yesterday, lawmakers pledged a broad response as images of hurricane victims in New Orleans suffering in increasingly squalid conditions at the Superdome and Convention Center played out nightly on television.

Other lawmakers have said they back bills to shore up an insurance industry that may face a record number of claims and to increase funding for federal flood projects.

House Majority Whip Roy Blunt (R-Mo.) said last week that relief for victims of Hurricane Katrina would be Congress's top priority this fall.

House Minority Leader Nancy Pelosi (D-Calif.) and other Democrats asked that a bipartisan task force be created to speed relief efforts.

"Disasters are revelatory events," said professor Vincent Gawronski of Birmingham Southern College in Alabama, who has studied how governments respond to natural disasters. "Every disaster is an opportunity to reduce vulnerabilities."

"This is going to be a major, major deal," said Bob Livingston, former House Appropriations Committee chairman, of the hurricane's effect.

For Livingston, a Louisiana Republican, the flood had a personal impact. He said a few of his friends were missing as of last week, and his firm's office in New Orleans was flooded.

Congressional experts expect Katrina to set records for relief costs, but money is likely to be only part of the legislative response.

Staff of the Senate Finance and House Ways and Means committees huddled last week to brainstorm over whether any tax assistance would be needed to help people recover from the storm, although a tax package passed after Sept. 11 eliminated taxes on certain disaster payments.

A Senate Armed Services Committee source said members would continue to examine the necessity of a law passed in the wake of the Civil War that may make it more difficult for federal troops to respond to a crisis.

A number of lawmakers also plan to push reforms of the insurance industry to help it pay what may be a record number of claims.

"This is a lot different than anything we've dealt with because it is so widespread," said a Senate Republican committee staff aide who asked not to be identified because he had not been authorized to talk to the press.

Rep. Mark Foley (R), whose home state of Florida suffered through four hurricanes last year, said the scenes of stranded hurricane victims begging for help has persuaded him to introduce a bill to move FEMA, the principal federal entity responsible for relief efforts, back outside of the Department of Homeland Security.

"Whatever planning they anticipated fell woefully short," Foley said.

He said the decision to place FEMA in the department, made in response to another disaster, the terrorist attacks on Sept. 11, hampered the agency's ability to respond quickly.

Other lawmakers promised to concentrate on the economic consequences of Katrina.

A particular focus is likely to fall on energy prices, which quickly rose as a number of refineries and oil platforms around the gulf shut down.

Rep. Joe Barton (R-Texas) said Katrina "may finally bring home to the American people how fragile our energy sector is and our energy infrastructure is."

The Gulf Coast is responsible for one-third of the oil and one-fifth of the natural gas that is produced in the country.

Barton's Energy and Commerce Committee and the Senate Energy and Natural Resources Committee both have planned hearings this week on gasoline prices.

In addition, energy lobbyists are working to attach pro-drilling measure to the budget-reconciliation bill, which already was expected to include a provision to open up the Arctic National Wildlife Refuge to drilling.

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The effort would give states the chance to open their coasts to oil and gas drilling, something that a federal drilling ban now prevents. Senate Energy and Natural Resources Committee Chairman Pete Domenici (R-N.M.) said that, in light of Katrina, the issue should be reexamined.

Even with higher prices, however, getting Congress to agree to more drilling is expected to be an uphill fight, energy lobbyists acknowledge, with strong opposition from the Florida and California delegations.

Democrats, meanwhile, are likely to press for measures that focus on energy conservation measures, including higher fuel-efficiency standards for automobiles, which haven't been increased for more than a decade.

Another focus of congressional attention will fall on the Corps of Engineers, the federal agency principally responsible for flood prevention.

A Senate appropriations staff member said the committee would take another look at the Corps budget.

Advocates said the Corps budget for years has unfairly been a target of budget hawks, who criticized it as a magnet for special projects that don't have much benefit.

"There is a traditional misunderstanding that what is in the Corps budget is pork," said Worth Hager, president of the National Waterways Alliance, a group of industries that rely on America's water system for transportation of goods.

Advertisement Blame Amid The Tragedy (WSJ)

By Bob Williams

The Wall Street Journal, September 6, 2005

As the devastation of Hurricane Katrina continues to shock and sadden the nation, the question on many lips is, Who is to blame for the inadequate response?

As a former state legislator who represented the legislative district most impacted by the eruption of Mount St. Helens in 1980, I can fully understand and empathize with the people and public officials over the loss of life and property.

Many in the media are turning their eyes toward the federal government, rather than considering the culpability of city and state officials. I am fully aware of the challenges of having a quick and responsive emergency response to a major disaster. And there is definitely a time for accountability; but what isn't fair is to dump on the federal officials and avoid those most responsible -- local and state officials who failed to do their job as the first responders. The plain fact is, lives were needlessly lost in New Orleans due to the failure of Louisiana's governor, Kathleen Blanco, and the city's mayor, Ray Nagin.

The primary responsibility for dealing with emergencies does not belong to the federal government. It belongs to local and state officials who are charged by law with the management of the crucial first response to disasters. First response should be carried out by local and state emergency personnel under the supervision of the state governor and his/her emergency operations center.

The actions and inactions of Gov. Blanco and Mayor Nagin are a national disgrace due to their failure to implement the previously established evacuation plans of the state and city. Gov. Blanco and Mayor Nagin cannot claim that they were surprised by the extent of the damage and the need to evacuate so many people. Detailed written plans were already in place to evacuate more than a million people. The plans projected that 300,000 people would need transportation in the event of a hurricane like Katrina. If the plans had been implemented, thousands of lives would likely have been saved.

In addition to the plans, local, state and federal officials held a simulated hurricane drill 13 months ago, in which widespread flooding supposedly trapped 300,000 people inside New Orleans. The exercise simulated the evacuation of more than a million residents. The problems identified in the simulation apparently were not solved.

A year ago, as Hurricane Ivan approached, New Orleans ordered an evacuation but did not use city or school buses to help people evacuate. As a result many of the poorest citizens were unable to evacuate. Fortunately, the hurricane changed course and did not hit New Orleans, but both Gov. Blanco and Mayor Nagin acknowledged the need for a better evacuation plan. Again, they did not take corrective actions. In 1998, during a threat by Hurricane George, 14,000 people were sent to the Superdome and theft and vandalism were rampant due to inadequate security. Again, these problems were not corrected.

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The New Orleans contingency plan is still, as of this writing, on the city's Web site, and states: "The safe evacuation of threatened populations is one of the principle [sic] reasons for developing a Comprehensive Emergency Management Plan." But the plan was apparently ignored.

Mayor Nagin was responsible for giving the order for mandatory evacuation and supervising the actual evacuation: His office of Emergency Preparedness (not the federal government) must coordinate with the state on elements of evacuation and assist in directing the transportation of evacuees to staging areas. Mayor Nagin had to be encouraged by the governor to contact the National Hurricane Center before he finally, belatedly, issued the order for mandatory evacuation. And sadly, it apparently took a personal call from the president to urge the governor to order the mandatory evacuation.

The city's evacuation plan states: "The city of New Orleans will utilize all available resources to quickly and safely evacuate threatened areas." But even though the city has enough school and transit buses to evacuate 12,000 citizens per fleet run, the mayor did not use them. To compound the problem, the buses were not moved to high ground and were flooded. The plan also states that "special arrangements will be made to evacuate persons unable to transport themselves or who require specific lifesaving assistance. Additional personnel will be recruited to assist in evacuation procedures as needed." This was not done.

The evacuation plan warned that "if an evacuation order is issued without the mechanisms needed to disseminate the information to the affected persons, then we face the possibility of having large numbers of people either stranded and left to the mercy of a storm, or left in an area impacted by toxic materials." That is precisely what happened because of the mayor's failure.

Instead of evacuating the people, the mayor ordered the refugees to the Superdome and Convention Center without adequate security and no provisions for food, water and sanitary conditions. As a result people died, and there was even rape committed, in these facilities. Mayor Nagin failed in his responsibility to provide public safety and to manage the orderly evacuation of the citizens of New Orleans. Now he wants to blame Gov. Blanco and the Federal Emergency Management Agency. In an emergency the first requirement is for the city's emergency center to be linked to the state emergency operations center. This was not done.

The federal government does not have the authority to intervene in a state emergency without the request of a governor. President Bush declared an emergency prior to Katrina hitting New Orleans, so the only action needed for federal assistance was for Gov. Blanco to request the specific type of assistance she needed. She failed to send a timely request for specific aid.

In addition, unlike the governors of New York, Oklahoma and California in past disasters, Gov. Blanco failed to take charge of the situation and ensure that the state emergency operation facility was in constant contact with Mayor Nagin and FEMA. It is likely that thousands of people died because of the failure of Gov. Blanco to implement the state plan, which mentions the possible need to evacuate up to one million people. The plan clearly gives the governor the authority for declaring an emergency, sending in state resources to the disaster area and requesting necessary federal assistance.

State legislators and governors nationwide need to update their contingency plans and the operation procedures for state emergency centers. Hurricane Katrina had been forecast for days, but that will not always be the case with a disaster (think of terrorist attacks). It must be made clear that the governor and locally elected officials are in charge of the "first response."

I am not attempting to excuse some of the delays in FEMA's response. Congress and the president need to take corrective action there, also. However, if citizens expect FEMA to be a first responder to terrorist attacks or other local emergencies (earthquakes, forest fires, volcanoes), they will be disappointed. The federal government's role is to offer aid upon request.

The Louisiana Legislature should conduct an immediate investigation into the failures of state and local officials to implement the written emergency plans. The tragedy is not over, and real leadership in the state and local government are essential in the months to come. More importantly, the hurricane season is still upon us, and local and state officials must stay focused on the jobs for which they were elected -- and not on the deadly game of passing the emergency buck.

Mr. Williams is president of the Evergreen Freedom Foundation, a free market public policy research organization in Olympia, Wash.

Livingston: I Pressed La. Gov. For Martial Law (HILL)

By Jeff Dufour

The Hill, September 6, 2005

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Like thousands of other Washingtonians worried about family and friends in New Orleans after Katrina struck the Crescent City, former Rep. Bob Livingston (R-La.) and his wife, Bonnie, had some uneasy moments last week.

Livingston, the former Appropriations Committee chairman turned successful lobbyist, said his 83-year-old mother escaped to Shreveport with his sister and brother-in-law. His wife's mother, also 83, fled the city just in time.

Livingston had to wait for word of the fate of his oldest son's in-laws. On Friday, he received word that they were safe.

Livingston represented the New Orleans metro area for more than 20 years. He owns a condominium and two rental properties there and feared they were damaged or destroyed.

He was particularly critical of Gov. Kathleen Blanco (D) for failing to declare martial law promptly to deter widespread looting.

"I raised hell with the governor for not declaring martial law," he said Thursday. "I told her last [Wednesday] night I was going on 'Hannity & Colmes' and criticize her for not doing that, and 20 minutes later, she did."

Big is beautiful, preaches lobbyist Berman

Fresh on the heels of the controversial Dove ad campaign featuring overweight women, supersized superlobbyist Michael Berman is telling men it's not a sin to be overweight.

Berman, the larger-than-life president of the Duberstein Group consulting firm, is preparing to hit the book-promotion trail this fall to tout his forthcoming memoir, Living Large: A Big Man's Ideas on Weight, Success and Acceptance.

Berman's publisher, Rodale, calls his book, written with the help of ghostwriter and novelist Laurence Shames, "a poignant, funny and, above all, honest look at obesity from the inside out … as a fat man learns acceptance, loses the guilt and gains the wisdom to manage his weight."

Berman, 66, a former top aide to Vice President Walter Mondale and the scheduler for six Democratic national conventions, is "a self-proclaimed 'fat man' who is also a happy man — successful in his career, marriage and friendships," according to Rodale's publicists.

The book is scheduled for publication next spring, said Berman, whose current weight is 230 pounds, well below his top adult weight of 323 pounds and slightly above his slimmest weight of 215. He's due to have knee-replacement surgery soon.

"My goal is to keep it between 230 and 235 for the next few years," Berman said last week. "That's my optimum working weight."

Living Large isn't Berman's first publishing venture. He writes a monthly newsletter, "Washington Political Watch," mailed to about 750 people.

After taking up photography about 10 years ago as a form of relaxation, Berman also put together a collection of 100 photographs of animals he took at zoos around the world to give as gifts for friends with small children.

As for parents, Berman said, "None of them can name every one of the animals, and I refuse to help them."

Sanders stars in Rolling Stone exposé on legislating

One wouldn't expect to open a magazine featuring "it" band Coldplay on the cover, only to find a feature about decidedly unsexy Rep. Bernie Sanders (I-Vt.) and the legislative process.

The Aug. 25 issue of Rolling Stone features a multithousand-word piece by writer Matt Taibbi, earned by following Sanders through the halls of Congress on and off for a month during the flurry of late-summer legislative activity. Together, they turn over some of the ugly stones of lawmaking.

Originally set up through Sanders's ex-press secretary, Joel Barkin, Taibbi arranged for Sanders to be his "tour guide" for a month — "an adult version of 'Schoolhouse Rock.'"

Perhaps goaded by famously liberal Rolling Stone editor Jann Wenner, Taibbi wields a ninja-like assortment of harsh rhetorical weapons against the most powerful Republicans, singling out for special scorn such GOPers as Reps. Jim Sensenbrenner of Wisconsin ("your basic Fat Evil Prick"), David Dreier of California ("a pencil-necked Christian Scientist") and Mike Oxley ("leather-skinned, rotting-from-within type").

Democratic Reps. Jim McGovern (Mass.) and Sherrod Brown (Ohio) come off like heroes, along with Sanders and his entire staff, which posed with the congressman for the piece's lead photo.

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As for the fact that the congressman is the only person smiling, while his staff surrounds him in varying states of frowning, Erin Campbell, his current press secretary, said, "I don't know how that happened."

Members blog their cancer experiences

Reps. Deborah Pryce (R-Ohio), Chris Cannon (R-Utah) and Sue Myrick (R-N.C.) are among several

notable Americans to begin writing blogs on cancer for the Yahoo Health website.

Cannon and Pryce both lost daughters to cancer, while Myrick won a bout with breast cancer in 1999.

Myrick's online journal entries are among the most personal, as she not so fondly remembers the days surrounding her diagnosis. "I have a very public job, so was concerned about what to tell the media about my surgery," she writes. "My husband and I discussed it and decided that I had a 'bully pulpit" and should go public if it would help others."

Sen. Hillary Rodham Clinton (D-N.Y.) is also blogging, about the need for preventive medicine and insurance.

Visitors to each Web log are invited to post comments, most of which have been civil.

The lawmakers will continue posting until the end of September. The blogs are available at blogs.health.yahoo.com/ blog-for-hope.

National Press Club owls give last hoot for nude portrait

A controversial nude painting owned by the National Press Club is on the auction block.

"Phryne," a painting depicting a semi-nude, reclining Greek courtesan, hung in the members' lounge from 1932 to 1982. The work, by Brazilian artist Antonio Parreiras, was initially taken down as part of a club-wide restoration. The club's Silver Owls — 25-plus-year members — raised $8,200 to have it restored and rehung.

But, said Don Larrabee, chairman of the Silver Owls' Fine Arts Committee, the club's board "voted it down, under pressure from a small group of people who objected to having it rehung." He said the charge was led by female members in the 1980s who thought such a painting was inappropriate in that era. Women were first permitted to join the club in 1971. "Phryne" (pronounced "free-nee") has been on loan to the Metropolitan Club of Washington since 1999.

Of the auction, Larrabee said, "The time has come. We knew we were never going to get it back again. The board is not at all interested in having it back."

He said the painting was last appraised for $75,000, but at the auction, to be held Nov. 5-6 at the Sloans and Kenyon Gallery in Bethesda, "we won't even think about anything less than $100,000." Proceeds will go toward a new club archive.

Farewell to a friend and mentor

Today's is the first "Under the Dome" byline that this writer has not shared with Albert Eisele, who hung up his daily journalism duties after 40 years in the trenches of Washington.

Throughout those years, his affable, generous nature has earned him many sources but far more friends — as attested by the number of well wishes and encomiums he's received of late.

The journalists whom Al has mentored are too numerous to catalog. Nonetheless, I'm proud to count myself in their number.

Good luck Al, and congratulations on a great career.

Delays In Relief Spark Worries Of Holes In Homeland Security (WSJ)

By Jay Solomon

The Wall Street Journal, September 6, 2005

The federal government's slow response to Hurricane Katrina's devastation of the Gulf Coast is stoking fears that the U.S. is no better prepared to deal with a large-scale terrorist attack than it was four years ago.

The Bush administration has spent billions of dollars developing government agencies and technologies to better predict and respond to disasters since the Sept. 11, 2001, terrorist attacks. But security experts said the delays in helping Katrina's victims in New Orleans and elsewhere along the Gulf Coast indicate the relief process has become more cumbersome, opening opportunities for terrorists.

Business consultants and security experts are advising clients to tighten safety measures since al Qaeda or other terrorist networks might find it advantageous to strike when tens of thousands of federal troops and other homeland-security resources

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are deployed to Louisiana, Mississippi and Alabama. Some figure that terrorists might try an attack tied to the fourth anniversary of the Sept. 11 strikes.

"You'd be remiss not to be particularly prepared at a time like this," said Jonathan Lusher, senior vice president of Illinois-based IPC International Corp., which runs security operations for some of the U.S.'s largest mall complexes, including the New Orleans Center in Louisiana. "Terrorists probably think we're unprepared, and [the response to Katrina] would only confirm this."

Mr. Lusher said his firm is ratcheting up security at the malls, offices and retail outlets where IPC works. He said Washington needs to spend even more money on emergency-relief preparedness as Katrina has exposed serious limitations in the federal government's ability to respond to cataclysmic events. "It's not too far-fetched to see a bigger problem, a dirty bomb or water poisoning" carried out by terrorists, Mr. Lusher said.

Katrina's blow comes as many counterterrorism experts say they are seeing signs of more activity by al Qaeda and other militant Islamist groups. Recent bombings in the United Kingdom and Egypt illustrate that even traditionally well-secured countries can be successfully targeted by suicide bombers, they say. There also is rising concern that the war in Iraq is helping to indoctrinate and train thousands of new militants eager to hurt the U.S. and its allies.

Terrorism experts said they believe al Qaeda's senior command, based in the border areas of Pakistan and Afghanistan, remains active, despite extensive U.S. military operations. While U.S. intelligence officials say it is uncertain whether leader Osama bin Laden himself is coordinating attacks, they say substantial evidence indicates he and his lieutenants are at least communicating with operatives in the field. Last week al Qaeda's second-in-command, Egyptian doctor Ayman al Zawahiri, released a tape urging Muslims world-wide to step up attacks against the European and Middle Eastern allies of the U.S. in an effort to drive coalition forces out of Iraq.

"The terrorist threat has grown, not receded" because of the war in Iraq, said Larry Johnson, a security consultant and former deputy director of the State Department's counterterrorism office. "And if an attack comes now, the capacity of U.S. government to respond will be taxed."

Security analysts said that it is more than just the extension of military personnel that makes the U.S. vulnerable. They said terrorists may be learning from Washington's response to Katrina to exploit previously unknown weaknesses. They said looting that swept across parts of New Orleans and other sections of the Gulf after the hurricane highlighted how law and order can quickly break down in major U.S. cities.

"Terrorists have always been attracted to the idea of creating destruction and disruption on a catastrophic scale," said Brian Jenkins, a counterterrorism expert at Rand Corp., a think tank in Santa Monica, Calif. Katrina proved that "the veneer of civilization is very thin" even in the U.S., Mr. Jenkins said, and that "large cities can come apart quickly."

The humanitarian disaster along the Gulf Coast also could prove to be a propaganda victory for al Qaeda and its affiliates for the longer term. Mr. bin Laden and other Islamic leaders have sought to portray the Bush administration as overextending the U.S. by invading Iraq and potentially draining the world's largest economy of its resources. Al Qaeda also has sought to portray the U.S. leadership as imperialists who are hostile to minority groups globally.

Scenes of largely African-American victims suffering in sports arenas and other makeshift shelters are likely to support al Qaeda's portrayal of the U.S. in some parts of the world, said a number of analysts in Muslim countries. This could play into the recruiting tactics of a number of extremists groups.

In Pakistan, said Talat Masood, a social commentator in Islamabad, people think that "the poor communities have been neglected in America. ... And the capitalist system is very exploitative."

A senior member of Russian President Vladimir Putin's government said yesterday that the Bush administration's inability to help the thousands along the Gulf Coast would embolden terrorists who seek to incapacitate major Western cities. The television scenes were "an extremely unpleasant signal to the terrorist community, because what the world sees, so do they," said Nikolai Spassky, deputy director of Mr. Putin's Security Council, according to the Interfax news agency.

But many security analysts said the U.S. has the resources to concurrently rebuild the Gulf region while guarding against terrorists. The key, they said, is that Washington must better train for calamities and better integrate many of the bureaucracies created since Sept. 11 with local governments.

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Senators 'to Demand Answers' On Slow Action (USAT)

By Mimi Hall

USA Today, September 6, 2005

WASHINGTON — Hurricane Katrina has become the Homeland Security Department's first big test.

Since the department was created after the 9/11 attacks to prevent and respond to catastrophes, it has spent tens of billions of dollars, studied disaster scenarios of every imaginable kind and run some of the nation's biggest emergency response drills.

It should have been ready for just about anything. But it wasn't ready for the power of Katrina.

Today, as workers struggle to provide better relief for survivors, Congress will begin investigating why the government's response was so slow.

Sens. Susan Collins, R-Maine, and Joe Lieberman, D-Conn., leaders of the Senate homeland security committee, will discuss their committee's plan for an inquiry into the response by the Federal Emergency Management Agency (FEMA). The agency is the disaster-response division of the Homeland Security Department.

"We intend to demand answers as to how this immense failure occurred," the senators said in a statement.

Despite the problems and the criticism, government workers are pushing ahead to help tens of thousands of people put out of their homes.

In the Gulf Coast region, two cruise ships based in Galveston, Texas, began boarding evacuees — 2,600 per ship — and the Postal Service began trying to reconnect evacuees with their mail. Customs officers are expected today at the Astrodome in Houston, where they will deliver 100,000 articles of clothing.

Emergency workers also plan to move people from the Astrodome and other large shelters into smaller community shelters.

Homeland Security Secretary Michael Chertoff, who flew to the gulf region over the weekend to take control of the relief effort, appointed Coast Guard Vice Adm. Thad Allen on Monday to run recovery efforts in New Orleans.

Chertoff will fly back to Washington for one day today to meet with members of President Bush's Cabinet and members of Congress.

Some, including Sen. Hillary Rodham Clinton, D-N.Y., say Bush should appoint an independent national commission similar to the commission that investigated the 9/11 attacks. "The slow pace of relief efforts in the face of a mounting death toll … seems to confirm that our ability to respond to cataclysmic disaster has not adequately been addressed," Clinton wrote in a letter to Bush over the weekend.

The response in New Orleans and throughout the gulf region shows "we're not at all prepared for the big one," said Randy Larsen of the Homeland Security Institute, a research group.

Brian Besanceney, head of public affairs at the Homeland Security Department, said Katrina and the subsequent flooding in New Orleans caused a level of devastation significantly beyond a terrorist's capability and the slow response should not be taken as an indication that the government isn't equipped to handle another terrorist attack.

Unlike the devastation in New York City on 9/11, which was confined to 16 acres, the wreckage from Katrina spreads over 90,000 square miles and left hundreds of thousands of people homeless.

"This is the type of force that only Mother Nature can really unleash," Besanceney said. "The sheer geography of it would be very difficult for terrorists to achieve."

But with a nuclear or large radiological device, or even with a major chemical attack, terrorists could render a city the size of New Orleans uninhabitable. And many of the rescue and recovery issues would be the same: Tens of thousands would need to be rescued, power would be out, areas of the city would be contaminated, mobile hospitals and medical equipment would be needed, and shelter and food would be scarce.

"This damage could just as easily have been caused by a terrorist attack, and many if not most of the same elements are involved in responding to natural disasters," Sen. Jon Kyl, R-Ariz., said.

Kyl also plans hearings as chairman of a terrorism and homeland security subcommittee in the Senate. "We need to understand from the key authorities what went wrong," he said.

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An independent Cabinet-level agency whose chief reported directly to the president during the Clinton administration, FEMA was one of 22 agencies folded into the Homeland Security Department in 2003, and some experts say planning for how to respond to natural disasters took a back seat to planning for various terrorist scenarios.

"If this was a terrorist event, is this the kind of response we would have?" asked James Lee Witt, the FEMA director under Clinton.

He said he doesn't understand why response was so slow. "We knew it was coming, we knew it was going to be a big disaster, we've run these scenarios many times," he said.

Rep. John Dingell, D-Mich., said he'll introduce a bill today that would make FEMA once again an independent, Cabinet-level agency that reports directly to the president.

Behind Poor Katrina Response, A Long Chain Of Weak Links (WSJ)

By Robert Block, Amy Schatz, Gary Fields and Christopher cooper

The Wall Street Journal, September 6, 2005

Just two weeks ago, five state emergency managers brought a tough message to a meeting in Washington with Homeland Security Secretary Michael Chertoff and his top deputies.

"We told them straight out that they were weakening emergency management with potentially disastrous consequences," says Dave Liebersbach, the director of Alaska's Division of Homeland Security and Emergency Management. The department's focus on terrorism was undermining its readiness for other catastrophes, said the visiting officials, who included emergency managers from Mississippi and Alabama.

Now that Hurricane Katrina has left the Gulf Coast flooded and New Orleans in ruins, the question ricocheting around the nation and the world is this: How could the world's biggest superpower fail so badly in protecting and rescuing its residents from a natural disaster so frequently foretold?

The answer is sure to receive intense scrutiny this fall in Congress and around the nation, especially given revived fears that the U.S. is ill-prepared for a terrorist attack. "We are going to take a hard, hard look at our disaster-response procedures," said Republican Majority Leader Bill Frist of Tennessee this weekend as he assisted patients at the New Orleans airport.

Yesterday, the government moved aggressively to show it has the situation in hand. President Bush paid his second visit to the region in four days, visiting Baton Rouge, La., and Poplarville, Miss. He asserted that federal, state and local governments are "doing the best we can." The major levee breach in New Orleans, at the 17th Street Canal, was closed, allowing the city to begin pumping out floodwaters, a process expected to take about 30 days.

Meanwhile, thousands of federal troops appeared to be firmly in control of the city, with most residents evacuated and searches for survivors well underway. A Customs and Border Protection aircraft operating as a flying communication link gave first responders in New Orleans the ability to communicate for the first time since Katrina struck more than a week ago. In suburban Jefferson Parish, thousands of residents were allowed to check their homes under tight restrictions to evaluate what was left.

But the weekend's progress hasn't erased the troubling questions left by the government's delayed understanding of the scope of the damage last week and its initial slowness in mounting rescues and bringing food and water to stricken citizens. The problems include:

• The decision to transform the Federal Emergency Management Agency from a cabinet-level agency reporting directly to the president to just one piece of a new, gargantuan Department of Homeland Security, which altered FEMA's mission and watered down its powers.

• Too few helicopters stationed in the Gulf Coast area ahead of the storm.

• A military stretched by wars in Iraq and Afghanistan, which left commanders near New Orleans reluctant to commit some active-duty units at nearby Fort Polk, La., because they were in the midst of preparing for an Afghan deployment this winter.

• A total breakdown of communications systems, an echo of the problems that faced New York officials dealing with the 2001 terrorist attacks and a system the government has been trying to fix for four years.

• Poor coordination among federal, state and local officials in the days immediately before and after the hurricane.

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• Failure at all levels of government to take seriously many studies and reports over many years warning of the potential disaster.

Indeed, despite many warnings of the dangers, Mr. Chertoff and other administration officials have explained their poor initial response by saying government planners didn't expect both a serious hurricane and a breach in levees. "This is really one which I think was breathtaking in its surprise," Mr. Chertoff told reporters on Saturday.

Planners, he said, "were confronted with a second wave that they did not have built into the plan, but using the tools they had, we have to move forward and adapt."

Plenty of missteps at the local level contributed to last week's disaster too, from a failure to take basic steps to protect the telecom infrastructure to inadequate food and water at the Superdome. New Orleans may be able to stage events such as Mardi Gras and Jazzfest and provide parking, crowd control and adequate toilets for millions of visitors, but its hurricane plan was more rudimentary. "Get people to higher ground and have the feds and the state airlift supplies to them -- that was the plan, man," Mayor Ray Nagin said in an interview yesterday.

But so far, the federal government is bearing the brunt of criticism, given its vast resources and unique role in responding to major disasters. Critics say the response shows that the nation's disaster-response system, rebuilt in the wake of the 2001 terrorist attacks, is woefully inadequate. In a Washington Post-ABC News poll taken on Friday, the public said by a 67% to 31% margin that the federal government wasn't adequately prepared for Katrina.

"What the events of the last week have shown is that over the last few years since 9/11 we have slowly disassembled our national emergency response system and put in its place something far inferior," says Bill Waugh, an academic expert on emergency management at Georgia State University. "We reinvented the wheel when we didn't need to and now have something that doesn't roll very well at all."

Many of last week's problems are rooted in January 2003, when the Bush administration, urged on by some members of Congress, created the Homeland Security Department. It amalgamated 22 agencies, from the Coast Guard to the Secret Service, creating the largest government bureaucracy since the Pentagon was formed in 1947.

From the start, emergency experts and even the Government Accountability Office, the investigative arm of Congress, warned that a special effort was needed to be sure FEMA's traditional mission of providing disaster relief wasn't lost in the shuffle.

But it was. FEMA's clout had long depended on its ability to help states plan for natural disasters by providing emergency preparedness grants and other resources. Under Homeland Security, grant-making decisions were transferred to a new, department-wide office in an attempt to consolidate funding. As a result, FEMA lost control of more than $800 million in preparedness grants since 2003, congressional figures show.

Focus on Terrorism

State emergency managers and congressional investigators say the overwhelming focus for grants is now on fighting terrorism. More money goes to local police and fire departments for that mission than responding to and recover from disasters.

Officials from Shelby County, Ala., for instance, last year said they could get federal money for chemical suits. But they were unable to get money for an emergency operations center that could link computers, phones and televisions to respond to tornadoes. Between 1957 and 2003, the county had 20 tornadoes that it said killed 11 people and caused more than $32 million in damages.

Meanwhile, morale at FEMA has dropped since it was subsumed by Homeland Security. Several key jobs are unfilled and its executives are overtaxed. Its acting chief operating officer in Washington, for instance, is also the director of FEMA's Atlanta region; his seat there is being held by another acting director. That area includes much of the hurricane-prone Southeast.

In July, Mr. Chertoff unveiled a departmental restructuring that would cement FEMA's reduced role. Among other moves, the plan restricted FEMA's purview to disaster response, stripping away longstanding functions such as helping communities build houses outside flood zones.

The plan, he told Congress, was "to take out of FEMA a couple of elements that were really not related to its core missions, that were generally focused on the issue of preparedness in a way that I think was frankly more of a distraction to FEMA than an enhancement to FEMA."

'Extremely Negative Impact'

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On July 27, Alaska's Mr. Liebersbach, in his role as the head of the National Emergency Management Association, an association of state emergency management directors, warned in a letter to Congress that Mr. Chertoff's plan was nothing short of disastrous. It would have "an extremely negative impact on the people of this nation," he wrote.

"The proposed reorganization increases the separation between preparedness, response and recovery functions," the letter said. "Any unnecessary separation of these functions will result in disjointed response and adversely impact the effectiveness of departmental operations." It was the letter that prompted the meetings with Homeland Security officials in late August.

Last week's response certainly revealed cracks in the current system. Though President Bush declared a state of emergency before Katrina made landfall on Monday, officials appear to have underestimated the severity of the damage caused by the storm. By Tuesday it became clear that the response was not meeting needs and that FEMA and Louisiana emergency teams were overwhelmed. Then the flood waters hit in New Orleans. It still took several more hours for Mr. Chertoff to declare the disaster an "incident of national significance."

Even then, some requirements hampered speed. Because of worries that terrorists could take advantage of such chaos, FEMA now must abide by post-9/11 security procedures, such as putting air marshals on flights. That meant stranded residents couldn't be evacuated from the New Orleans airport until FEMA had rounded up dozens of Transportation Security Administration screeners and more than 50 federal air marshals. Inadequate power prevented officials from firing up X-ray machines and metal detectors until the government decided evacuees could be searched manually.

Slow Off the Mark

In the hours before and after Katrina struck, there weren't firm procedures in place for directing people and materials. Dan Wessel, owner of Cool Express Inc., a Blue River, Wis., transportation company that contracts with FEMA to move supplies, said he didn't get a green light to send trucks to a staging area in Dallas until about 4 p.m. Monday, hours after Katrina made landfall. That was too late to meet a deadline of getting trucks to Dallas by noon Tuesday, he said.

Once the trucks arrived, drivers often found no National Guard troops, FEMA workers or other personnel on hand to help unload the water and ice, Mr. Wessel said. "I almost told the guys to leave, but people are wanting the water," he said. "The drivers distributed it."

Inside New Orleans, said Dr. Joseph Guarisco, chief of the emergency department of Ochsner Clinic Foundation, a 580-bed hospital in New Orleans above the water line, said there was confusion about where to direct evacuees seeking shelter.

'There's No One There'

For a couple of days, Dr. Guarisco said, he directed a stream of patients to what he understood was a FEMA mass-casualty tent at the intersection of Interstate 10 and Causeway Boulevard. "A number came back and said, 'there's no one there.' " Dr. Guarisco said.

Some critics have blamed the war in Iraq, and the deployment of thousands of troops, including National Guard members, to that effort. President Bush has vehemently denied that charge. The administration has said problems on the ground were due to an unexpectedly severe storm and unanticipated flooding.

Four weeks before the hurricane, Lt. Colonel Pete Schneider, of the Louisiana National Guard, told WGNO, a local ABC affiliate, that when guard members left for Iraq last October, they took a lot of needed equipment with them, including dozens of high-water vehicles, Humvees, refueling tankers and generators that would be needed in the event a major natural disaster hit the state.

"You've got combatant commanders over there who need it, they say they need it, they don't want to lose what they have and we certainly understand that," he said. "It's a matter of us educating that combatant commander [that] we need it back here as well."

Col. Schneider also said the state had enough equipment to get by, and that if Louisiana were to get hit by a major hurricane, the neighboring states of Mississippi, Alabama and Florida had all agreed to help. In the end, those states were hit by Katrina as well.

The U.S. Army has a large facility, Fort Polk, in Leesville, La., about 270 miles northwest of New Orleans. Officials at Fort Polk, which has nearly 8,000 active-duty soldiers, said their contribution so far has consisted of a few dozen soldiers from the 10th

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Mountain Division manning purification equipment and driving half-ton trucks filled with supplies and equipment. The first contingent of soldiers didn't receive orders until Saturday afternoon.

A spokeswoman at Fort Polk said she did not know why the base received its deployment orders so late in the game. "You'd have to ask the Pentagon," she said. A senior Army official said the service was reluctant to commit the 4th brigade of the 10th Mountain Division from Fort Polk, because the unit, which numbers several thousand soldiers, is in the midst of preparing for an Afghanistan deployment in January.

Instead, the Pentagon chose to send upwards of 7,500 soldiers from the 1st Cavalry Division at Fort Hood, Texas and the 82nd Airborne Division from Fort Bragg, N.C., along with Marines from California and North Carolina. Soldiers from the 82nd Airborne Division are able to deploy anywhere in the world in 18 hours. It took several days for them to arrive on the ground in Louisiana.

Helicopters Proved Crucial

There, no piece of equipment was more necessary than helicopters. But in the first 48 hours after the levees were breached, the shortage of helicopters became acute. FEMA wanted choppers to save stranded residents, while the Army Corps of Engineers needed the aircraft, known as "rotary wing" in military jargon, to repair the breaches. The Coast Guard, the primary agency responding to the disaster in New Orleans, had a total of 20 aircraft in the area, mostly helicopters, which focused solely on rescue operations.

"We have very limited aviation assets and rotary wing is what we need to put materials into those breaches, and that's the very asset we need to do search and rescue and save victims, so our efforts became something of a second priority and our initial plan was delayed a bit because of that," says Lt. Gen. Carl Strock, commander of the Army Corps of Engineers.

A FEMA spokesman said the Coast Guard and National Guard had adequate numbers of helicopters on hand, but that rescue and supply operations were hampered by other factors, including limited airspace around New Orleans, which is geographically small. "You put in 30 helicopters in that area and you create a dangerous situation," said the spokesman, Marty Bahamonde.

On the supply front, helicopters flew food to the Superdome, he said, but the helipad there could only accommodate small aircraft, which couldn't hold many supplies.

Communications systems also broke down, as they did at the World Trade Center in 2001, preventing emergency officials from communicating with each other and the military. That led to the odd juxtaposition of top federal officials praising the rescue effort and denying problems at New Orleans' overcrowded convention center while TV cameras showed people there crying for help.

Radio Systems Lacking

Flooding and power shortages appear to be behind most of the serious communications problems, but incompatible radio systems didn't help.

Emergency responders in New Orleans and three nearby parishes all use different radio systems. New Orleans and nearby Jefferson Parish both use radios that operate on the 800 Mhz band, according to a Louisiana State Police interoperability report, but they were manufactured by different vendors. That means officials there had up to five channels on which to talk to one another.

"Communication is always difficult in emergency situations because of increased traffic," says William Vincent of the Lafayette Office of Homeland Security and Emergency Preparedness, about 135 miles from New Orleans. Emergency 911 dispatchers in Lafayette fielded calls from New Orleans residents who still had working cellphones but couldn't reach local police.

New Orleans officials had equipment at the fire department's communication center that could link otherwise incompatible local and federal systems. It was reportedly knocked out by flooding.

Another problem: Even after 9/11, local officials and federal emergency responders don't typically use the same radio frequencies, which can make communication difficult until agreements are reached on sharing channels.

As handheld radios began losing power in New Orleans, police officers and other emergency responders had no way of recharging them. Unlike radios used by firefighters combating wild fires, which can be powered by disposable batteries found in

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any grocery store, a typical handheld police emergency radio uses rechargeable batteries similar to those powering cell phones, according to Ron Haraseth, director of automated frequency coordination at the Association of Public-Safety Communications Officers.

Bad Information

FEMA itself seemed to frequently have bad information. At a Tuesday press conference Bill Lokey, federal coordinating officer for FEMA and the agency representative on site, downplayed the severity of the flooding caused by the breaches in New Orleans, saying the water wasn't rising in most areas. "I don't want to alarm everybody that, you know, New Orleans is filling up like a bowl," he said. "That's just not happening."

Within hours, much of the city was under water, and Mr. Lokey was calling Katrina "the most significant natural disaster to hit the United States."

The possible problems had long been trumpeted. In June 2004, FEMA spent more than half a million dollars to commission a "catastrophic hurricane disaster plan" from IEM Inc., a Baton Rouge-based emergency-management and homeland-security consulting firm. A report analyzing results of a mock hurricane hitting New Orleans, dubbed "Hurricane Pam," was envisioned and a response and recovery plan was to be drawn up.

During a five-day mock exercise in July 2004, emergency-management responders huddled in Baton Rouge to plan a response to "Hurricane Pam," a Category 3 storm which featured 120 miles per hour winds and a storm surge that topped New Orleans's levees. For reasons that aren't clear, the mock exercise never anticipated the levees giving way, despite such warnings. Even so, the mock hurricane destroyed 500,000 buildings in New Orleans and displaced one million residents.

The group developed a plan to get stranded residents out of the way and construction of a "command structure" with enough space for upwards of 800 rescue workers. A report, dated Jan. 5 of this year, detailed recommendations from the exercise and was provided to FEMA, an IEM spokeswoman said. FEMA has not released the report.

Need Fed Probe Into Crisis - Hil (NYDN)

By Michael McAuliff

New York Daily News, September 6, 2005

WASHINGTON - With many blaming the growing scope of Katrina's devastation on the Bush administration, Sen. Hillary Clinton called yesterday for a 9/11-style probe into how the federal government responded to the crisis.

"It has become increasingly evident that our nation was not prepared," Clinton (D-N.Y.) said in a letter to Bush asking him to set up a "Katrina Commission."

"The slow pace of relief efforts in the face of a mounting death toll ... seems to confirm that our ability to respond to cataclysmic disasters has not been adequately addressed," she said.

Her call echoed statements of Republicans such as Arizona's Sen. John Kyl, chairman of the Technology and Homeland Security Subcommittee of the Senate Judiciary Committee, who plans a hearing and has said the catastrophe in New Orleans could have a lot in common with a terror attack.

A White House spokeswoman deferred comment to Homeland Security Secretary Michael Chertoff, who appeared on numerous Sunday morning broadcasts insisting there would be time to lay blame later.

Clinton has decided at least one thing without waiting for any commission reports. She said she plans to introduce legislation to split the Federal Emergency Management Agency out of the Department of Homeland Security and give it back a cabinet-level director like it had in her husband's administration.

FEMA Fails Katrina Victims (USAT)

USA Today, September 6, 2005

After the hurricane and killer floods, New Orleans was victimized by another disaster — the disaster response itself.

Every level of government that was supposed to prepare for the storm and its aftermath failed miserably. All were unwilling to make the expensive commitments to shore up vulnerable levees or replenish vanishing wetlands that left New Orleans so open to flooding. There was no logical plan to evacuate the city, particularly those too sick, poor or stubborn to leave.

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When it became clear that tens of thousands were marooned, the federal government was unprepared to rush life-saving supplies to the city's Superdome and convention center, to rescue the stranded and sick or keep order in the streets.

Images that brought to mind catastrophes in Third World nations shot around the world — making the inept response of the Federal Emergency Management Agency (FEMA) not only a human tragedy but also an international embarrassment for the USA.

That bungled response should serve as an alert to the rest of the nation. After spending four years and tens of billions of dollars since 9/11 on "all-hazards preparedness," FEMA's parent, the Homeland Security Department, failed its first major test.

The past week's performance raises many questions, among them:

• If national authorities could not adequately respond to an anticipated threat from a hurricane, how can they possibly be ready to deal with a surprise nuclear or biological attack by terrorists?

• Has FEMA's leadership been politicized, and is it up to the task? According to news reports, the agency's head, Michael Brown, had been supervising horse-show judges in Colorado before he was called to Washington in 2001 to work for an old friend, then the head of FEMA. Brown, with little disaster experience, quickly rose to be the agency's deputy director and then its leader. In the first days of the crisis, FEMA's decision-making appeared tentative and confused, with fatal consequences.

• Has putting FEMA in the new Homeland Security Department undermined its ability to respond to natural disasters? According to a Government Accountability Office report, 75% of the agency's 2006 budget for preparedness grants is focused on terrorism.

Disaster experts will tell you that responding to any catastrophe requires the same elements — evacuation, rescue, emergency supplies and security.

After 9/11, the nation should not have needed a second wake-up call. Having gotten one, it's time to dissect this failure, establish accountability and ensure that it won't happen again.

Hurricane Reorders Capitol Hill Agenda (WSJ)

By David Rogers And John J. Fialka

The Wall Street Journal, September 6, 2005

WASHINGTON -- After approving a cash infusion for hurricane relief, Congress is focusing on three legislative priorities for responding to Katrina: moving energy supplies, resettling displaced people, and restoring economically critical Gulf ports.

Senate Majority Leader Bill Frist (R., Tenn.) said the chamber's primary legislative business will include hurricane-related measures and appropriations bills. Majority Whip Roy Blunt (R., Mo.) said the House may consider legislation designed to ease supply by expanding on the administration's authority to waive fuel standards and environmental requirements. Lawmakers also will weigh allowing exploration for oil and gas along the coast of the Arctic National Wildlife Refuge in Alaska, and letting states lease federal offshore land to companies exploring for natural gas along the Atlantic, Pacific and Gulf coasts.

"We can put that on the table very quickly," said House Energy and Commerce Committee Chairman Joe Barton of Texas, citing support for the offshore-leasing proposal from Resources Chairman Rep. Richard Pombo of California. Coastal states with big tourism industries, such as Florida, are likely to resist on environmental grounds.

Returning House and Senate leaders are to meet today with President Bush on the government's response, and the agenda is very different from the one lawmakers anticipated after passing energy legislation over the summer and counting on addressing tax cuts, immigration, Social Security and the Supreme Court in the fall. Mr. Frist said yesterday that he would delay indefinitely a vote scheduled for today on the estate tax.

Confirmation hearings for Judge John Roberts, nominated by President Bush first to be an associate justice of the Supreme Court and then to be Chief Justice of the United States, are expected to be postponed until next week. Mr. Frist said no hearings will be held until after the funeral tomorrow of Chief Justice William Rehnquist, and leadership aides predicted that the proceedings will now begin Monday.

Lawmakers instead will be working on legislation to help evacuees move across state lines while retaining benefits to help them build new lives. No measure can ensure immediate relief from gas prices squeezing motorists around the country, but

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lawmakers hope to begin breaking the bottlenecks that threaten the movement of fuel, as well as the transportation of Midwestern agricultural products.

Rep. Barton's panel and the Senate Energy Committee will hold back-to-back energy hearings this week. "There are going to be questions about what major oil companies are doing with all of the resources they're accumulating," said Sen. Pete Domenici (R., N.M.), chairman of the Senate panel. Mr. Frist said that when he spoke with constituents even days before the hurricane, "The No. 1 issue on people's minds was the price of gas."

But with lawmakers unlikely to seek price caps, the committees will hear ideas aimed at limiting consumption. "We need to address the demand side," says John Dowd, a Wall Street energy analyst for Sanford C. Bernstein & Co. who favors consideration of higher automobile fuel-efficiency standards and decreased speed limits on interstate highways.

The Republican majority -- traditionally hostile to such approaches -- may pursue tax cuts to ease the price squeeze. Mr. Blunt said a potential stimulus package could include tax relief for transportation and airline companies affected by high prices and supply disruptions.

Speaker Dennis Hastert (R., Ill.) said the distribution problems following Katrina underscore the need to disperse U.S. refinery capacity around the nation more. "What are the problems that prevent us from building new refineries? ... We need to look at that," Mr. Hastert said. "Maybe we need to make it a little easier to site a refinery and get it up and running."

In addition to energy matters, lawmakers will help relief agencies find a path to resettle a large, often lower-income population displaced by the hurricane and facing huge hurdles before returning home soon. Among the challenges for Congress is to help these people set up new lives with minimal disruption of income, unemployment, nutrition or health-care benefits even as they cross state lines.

A single mother with children, for example, might be taken from New Orleans to the Astrodome but then want to settle with relatives in Arkansas. "You can't keep people in the Astrodome, obviously," said Mr. Hastert and lawmakers are expected to give greater authority to agencies to waive core residency and paperwork requirements that must be met to qualify for this assistance. Beyond waivers, Democrats say Washington must be willing to pick up more of the state share of these benefits since the storm-hit states are in financial trouble and states that welcome displaced families will want some assurance that they aren't assuming an impossible burden.

For example, unemployment, Medicaid and the welfare program, Temporary Assistance for Needy Families, all depend on some employer or state contribution that the federal government may have to absorb. Mr. Blunt said private charities could help by providing transportation for families to relocate. But House Republican and Democratic leaders have asked staff to develop a list of what waivers may need to be authorized quickly.

House Minority Leader Nancy Pelosi (D., Calif.) has urged the creation of a task force representing the major committees to expedite matters. Based on his experience after the Sept. 11, 2001, terrorist attacks, Mr. Hastert may be more inclined to work through individual committees, but also streamline the process by bringing Senate and House chairmen together at the outset.

Despite a budget deficit exceeding $300 billion, "money is not going to be the question," said House Appropriations Chairman Jerry Lewis of California. That is because disparate political forces are converging, producing what most expect will be a record investment by the government. Republicans are themselves stung by the public criticism and Senate Appropriations Committee Chairman Thad Cochran (R., Miss.) is from the affected region and commands a huge reservoir of support in Congress.

Also, Midwest farm interests represented by Republicans like Messrs. Hastert and Blunt have a major stake in reconstructing New Orleans. Another port -- Gulfport, Miss. -- is crucial to Southern poultry interests, but New Orleans has a wider regional reach, handling 71% of corn and 65% of soybean exports last year.

The disruptions have hit Midwest farmers at a difficult time. Storage facilities already are strained from big crops last year, and commodity prices have been falling amid efforts to empty grain elevators in time for new crops. If sales can't be completed, there is a risk of grain being stored outside, thereby reducing its value and the return to the farmer.

With rising energy and fertilizer prices and a summer drought in the eastern Midwest, including Speaker Hastert's Illinois district, there are sure to be demands for expanded agriculture assistance as part of any disaster package. Mr. Hastert indicated as much in an interview Friday, where he said the adverse effect of the port's closing on shipments should be considered.

Republicans Halt Death-tax Discussion (WT)

By Charles Hurt

The Washington Times, September 6, 2005

Senate Republicans agreed yesterday to postpone consideration of the bill to fully and permanently repeal the death tax that had been scheduled for this week.

Majority Leader Bill Frist promised to return to the bill as soon as possible but wanted to clear the legislative decks this week -- lawmakers' first after a month's recess -- to consider what could be done to help deal with the aftermath of Hurricane Katrina.

"The Senate will move from its previously scheduled agenda for Tuesday, September 6, and instead consider a resolution expressing the sympathy of the Senate for the victims of Hurricane Katrina," he said yesterday.

The decision by Mr. Frist of Tennessee comes in response to requests by Minority Leader Harry Reid and other Democrats who wanted the vote on the death-tax repeal to be delayed in the wake of Hurricane Katrina.

"It doesn't look right," Mr. Reid of Nevada said yesterday.

He also endorsed the idea of creating a "Katrina Commission" to explore how the rescue and relief efforts could have been improved in the hours and days immediately after last week's hurricane.

"We're learning serious mistakes were made, and I don't think that is subject for debate," Mr. Reid said. "Those who put politics ahead of people in dire need must be held accountable."

Mr. Reid declined to say to whom he was referring except to express dismay that some have blamed local officials for failing to evacuate the city of New Orleans and maintain order.

Now is not the time for assigning blame, he said

Then Mr. Reid, like many lawmakers, went on to blame the federal government for a sluggish response.

"I think this is a federal responsibility," he said. "This is a huge federal issue and I think the federal government has not responded properly."

Some of the harshest political criticism came last week from members of the Congressional Black Caucus.

"Many of these Americans who now are struggling to survive are Americans of color," said Rep. Elijah E. Cummings, Maryland Democrat. "Their cries for assistance confront America with a test of our moral compass as a nation."

He also quoted the admonition of Christ to feed the hungry and clothe the naked, saying: "To the president of the United States, I simply say that God cannot be pleased with our response."

Congress Reworks Agenda To Focus On Relief (LAT)

By Janet Hook

The Los Angeles Times, September 6, 2005

WASHINGTON — Responding to the devastation of Hurricane Katrina and the death of Chief Justice William H. Rehnquist, congressional leaders announced today that they were retooling their legislative agenda to give top priority to storm relief and recovery measures.

Senate Majority Leader Bill Frist (R-Tenn.) said he would cancel a vote scheduled for this week on repealing the estate tax — a controversial measure that Democrats had decried as inappropriate relief for the wealthy at a time when so many poor storm victims are suffering in the South.

Frist also announced the postponement of confirmation hearings on the nomination of John G. Roberts Jr. to the U.S. Supreme Court, which had been scheduled to start Tuesday. Roberts, initially Bush's pick to succeed retiring Justice Sandra Day O'Connor, was tapped today to succeed Rehnquist, who died Saturday night, as chief justice of the United States.

Frist said the decision to postpone the hearings' start — at least until Thursday, but not beyond Monday — was to honor Rehnquist and not in response to some Democrats' contention that more preparation time is needed now that Roberts is being considered for the court's top post.

Rehnquist will lie in repose at the Supreme Court on Tuesday and Wednesday morning. His funeral will be held Wednesday afternoon, followed by burial at Arlington National Cemetery.

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The agenda changes come on the eve of Congress' return from a month-long August recess — a return that will be marked by a striking change in political climate. Republicans left town at the end of July buoyed by their success in passing energy, highway and trade legislation and eager to tackle other priorities, such as overhauling Social Security and repealing the estate tax.

But as they reconvene this week, their agenda and mood will be darkened by more sobering realities: a vast swath of the U.S. ravaged by Katrina; skyrocketing gas prices; the death of the chief justice; and spreading turmoil in Iraq.

In an unusual Labor Day news conference, Frist declared that Congress' new priority would be funding the relief efforts for hurricane victims and reconstruction of the battered Gulf Coast.

House and Senate leaders called Congress back into session last week to approve $10.5 billion to aid hurricane victims. Frist said another round of funding would be provided "when needed," but he did not say when or how much.

The entire Senate will be briefed by top Cabinet officials, including Homeland Security Secretary Michael Chertoff, on the recovery effort in the South. And the Senate is expected to pass a measure designed to help the storm-ravaged region reestablish its court system: The bill, which may also clear the House on Tuesday, would allow district, circuit and bankruptcy courts to relocate and operate outside their jurisdictions.

On Wednesday, Frist said, the Senate will honor Rehnquist and adjourn for his funeral. Then it will take up a routine appropriations bill that could be a vehicle for additional funding for small business loans and for state and local law enforcement agencies.

Frist has asked committee chairmen to make recommendations on measures that could be approved to help storm recovery, possibly including emergency aid for housing, unemployment insurance, healthcare, protection against price gouging and tax incentives for job creation.

In postponing the scheduled vote on repealing the estate tax, Frist did not say exactly when the Senate would return to the issue, but he denied he was acting in response to political pressure from Democrats.

Earlier in the day, the Senate's Democratic leader, Sen. Harry Reid of Nevada, issued the latest in a series of demands that Frist cancel the vote on grounds that it would be "inappropriate and insensitive" to hurricane victims.

House leaders, so far, have announced no immediate changes in their legislative agenda.

Times staff writer Richard Simon contributed to this report.

Competition Starts In Congress To Aid Victims And To Investigate The Response (NYT)

By David D. Kirkpatrick

The New York Times, September 6, 2005

WASHINGTON, Sept. 5 - Congressional leaders of the two parties raced on Monday to spell out competing plans to help victims of Hurricane Katrina, offering proposals for emergency health care, housing and economic support, among other initiatives.

Republicans said committees would announce plans for hearings into the apparently flawed response and increasing oil and gasoline prices.

Democrats said they expected the aftermath of the storm to be a reminder of the importance of federal power in the hearings on the selection of Judge John G. Roberts Jr. for the Supreme Court. Lawmakers postponed confirmation hearings for Judge Roberts, whom President Bush tapped on Monday to succeed Chief Justice William H. Rehnquist, who died on Saturday.

Pushed aside are Republican plans to try to repeal the estate tax.

"We are going to take a hard, hard look at our disaster response" at the local and federal level, the Senate majority leader, Bill Frist, said Monday at a news conference.

Mr. Frist said he expected the Senate energy committee to look at "price gouging, the excessive oil profits and what responsibility oil companies have in the skyrocketing fuel prices."

Mr. Frist, a physician who visited the region to help treat victims, said the Senate would pass measures to allow courts whose buildings were destroyed to meet in other jurisdictions. He said Senate committees would take up bills to give aid to storm victims, rebuild public works, revive the regional economy and prepare for future disasters.

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Congressional leaders are to meet President Bush on Tuesday to discuss relief efforts, and a group of cabinet secretaries, including Homeland Security Secretary Michael Chertoff, are to brief the full Senate at the end of the day.

Senator Harry Reid, the minority leader, called for an investigation of the disaster response by a commission modeled after the 9/11 panel. Mr. Reid faulted the White House as failing to take responsibility.

"The buck stops at 1600 Pennsylvania Avenue," he said.

At a news conference, Mr. Reid presented a package of emergency measures for storm victims, including dropping some residency and documentation requirements for Medicaid, easing access to Medicare drug benefits, increasing federal financial support for affected states and health care providers, providing emergency vouchers for housing, making federal payments to victims, and creating tax incentives to encourage people to take in the displaced.

In an interview, Mr. Reid also said Democrats were weighing measures to lower gasoline costs, including a proposal by Senator Carl Levin of Michigan for a price cap.

"That is on the table," Mr. Reid said. "We have to do something to address gas prices."

Bob Stevenson, a spokesman for Mr. Frist, said the proposed hearings on the oil crisis would seek to determine the cause of the price increases and the proper responses.

"Oil companies," Mr. Stevenson said, "have a responsibility to ensure that the prices reflected at the pump are at reasonable levels, and should that not be the case, I would expect there could be hell to pay in Congress."

House Republican leaders have said they will move immediately to pass relief measures in concert with the Senate while House committees hold investigations into the hurricane response and gasoline prices.

The House minority leader, Representative Nancy Pelosi of California, called for a bipartisan group of House members to investigate the response and recommend emergency legislation.

"Waiting for multiple committees to act on a crisis of such breadth is not acceptable," Ms. Pelosi wrote in a letter to House Speaker J. Dennis Hastert, Republican of Illinois.

Mr. Frist and Mr. Reid agreed to postpone the confirmation hearings for Judge Roberts until after Chief Justice Rehnquist's funeral on Wednesday.

But Democratic and Republican aides said the parties were negotiating whether to take up the hearings on Thursday or on next Monday.

Democrats on the Senate Judiciary Committee who have been seeking more time to look into Judge Roberts's positions are pushing for the longer postponement. But aides involved in the negotiations said the Republicans wanted to begin as soon as possible, unless the Democrats committed to a final floor vote on confirmation by the end of the month.

Democrats are refusing a firm deadline to retain the threat of a filibuster, blocking confirmation by refusing to close debate, even though several Democratic senators have said such a move is extremely unlikely.

Whenever the hearings begin, Senator Charles E. Schumer, a New York Democrat on the Judiciary Committee, said, Democrats are quite likely to bring up Hurricane Katrina in the debate.

"One of the major controversies in the court is how strong should the federal government be," Mr. Schumer said, "and the hurricane has just made an argument, a devastating argument, that the federal government should be more powerful."

Senator Edward M. Kennedy of Massachusetts, another Democrat on the committee, suggested in a statement that the hearings should be further deferred while the public focused on the storm and mourned Chief Justice Rehnquist.

"In the midst of a national disaster of biblical proportions," Mr. Kennedy said, "it is difficult for the American people to participate fully in the selection of the next chief justice, one of the most important positions in our government and the chief protector of our Constitution."

Apparently trying to turn the debate on Judge Roberts into leverage over the president's next selection for the Supreme Court, Mr. Kennedy also argued that the Senate should withhold a vote on his confirmation until the naming of the next choice.

"We should know whom the president intends to propose," Mr. Kennedy said. "The American people care deeply about the overall balance of their highest court and its dedication as an institution to the protection of their rights."

Asked about that argument, Mr. Reid said, "Senator Kennedy has his opinions, and that is something we will talk about" at the caucus meeting on Tuesday.

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Congress Comes Back To A Busy Agenda (WT)

By Donald Lambro

The Washington Times, September 6, 2005

Congress returns today from its August vacation to tackle a mountain of leftover legislative business, plus an even bigger challenge: a massive recovery package for the Gulf Coast cities that were flattened and flooded by Hurricane Katrina.

Awaiting action when lawmakers reconvene is Judge John G. Roberts Jr.'s Supreme Court nomination, a budget-cutting reconciliation bill filled with legislative riders that include oil drilling in the Arctic National Wildlife Refuge, a phaseout or reduction of the estate tax, Social Security reform to let workers invest in U.S. Treasury bills, reauthorization of the Patriot Act, and a renewed crackdown on illegal aliens.

President Bush has had a string of legislative victories over the past eight months that included an overhaul of the bankruptcy laws, legal class-action reforms, a massive transportation bill and the Central American Free Trade Agreement.

But the next four months are expected to be far more contentious as a result of the decline in Mr. Bush's job-approval rating, which is hovering around 40 percent, and the increasing polarization in Congress, congressional strategists say.

"There will be a Republican leadership meeting Tuesday to discuss the fall agenda that will include immigration, appropriation bills, reconciliation and potential action on Social Security," said Ron Bonjean, chief spokesman for House Speaker J. Dennis Hastert, Illinois Republican.

"On top of that, we will be evaluating the needs of Hurricane Katrina's victims and working to get the areas affected by the hurricane back on [their] feet," he said.

Congress quickly approved an interim $10.5 billion assistance bill last week as the first step in the early recovery efforts, but congressional officials said a far more expansive aid package is expected in the next several weeks after further assessment of the damage caused by the Category 4 hurricane.

Other senior leadership officials said Friday there could be additional assistance to counter any downturn in the economy as a result of the disruptions in oil production in the Gulf of Mexico or the impact of higher fuel prices on key sectors of the nation's transportation and industrial sectors.

Some congressional aides, however, question whether a divided Congress will be able to handle both a massive regional recovery bill and everything else already on its plate in the final four months of this legislative session.

"Do you think we're going to be able to pass substantial Medicaid cuts and Social Security reform in the middle of this? You can't put that much on the plate," Steve Bell, New Mexico's Sen. Pete V. Domenici's chief of staff, told the Los Angeles Times.

Not a problem, said House Majority Leader Tom DeLay.

"We can do two things at the same time. We're going to keep our agenda moving," he said Friday.

But House Majority Whip Roy Blunt of Missouri said: "Some committees may have to reprioritize their agenda" to deal with the massive recovery programs that Congress will have to undertake.

"I think this is going to take some time. Now, how much it slows our September-October schedule, I don't know," Mr. Blunt said.

Mike Franc, senior congressional analyst at the Heritage Foundation, said, "A lot of the president's remaining agenda will be overshadowed by what happens in the Gulf of Mexico. If the federal response and the way everything is handled is done competently and effectively, that's going to be a major feather in Bush's cap."

As for the remaining agenda, Mr. Franc said nothing else "stands out as a particularly unique challenge."

"It's more of a steady-as-you-go period. Social Security could turn out to be a major achievement," he said.

Oregon Lawmaker Warned Of Danger Faced By New Orleans (HILL)

By Bob Cusack

The Hill, September 6, 2005

For years, Louisiana lawmakers have warned of a possible flooding disaster in New Orleans.

But one of the most outspoken legislators on preparing the city for a storm like Hurricane Katrina was a Democrat from Oregon.

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Earlier this year, Rep. Earl Blumenauer delivered a speech on the House floor that drew parallels between the 2004 tsunami in Southeast Asia and the vulnerability of New Orleans.

Blumenauer's predictions of a catastrophe came true as Katrina flooded New Orleans, leading to a death toll that is expected to climb into the thousands.

On Jan. 26, Blumenauer said a hurricane hitting New Orleans would lead to a "30-foot wall of water hitting the city, causing thousands of deaths and $100 billion in damage."

He added, "The experience of Southeast Asia should convince us all of the urgent need for congressional action. … Prevention and planning will pay off. Maybe the devastation will encourage us to act before disaster strikes."

In a Sept. 15, 2004, floor speech, Blumenauer said damage inflicted by a hurricane "might represent the loss of the city of New Orleans. … Now is the time to deal with policies that will make a difference protecting people."

GOP Agenda Shifts As Political Trials Grow (WP)

By Shailagh Murray And Charles Babington

The Washington Post, September 6, 2005

As Congress returns from its August recess today, Republicans face a far more troubling political landscape than the one they left a month ago, according to lawmakers in both parties.

Gasoline prices have skyrocketed, the Bush administration is being widely criticized for its handling of Hurricane Katrina, and as the war in Iraq grows increasingly unpopular, the president's approval ratings have sunk to an all-time low. Further complicating the picture is a rare double vacancy on the Supreme Court, which could trigger sniping between the GOP's center and right wing if not deftly handled.

"We're going to have a busy time," said Senate Majority Leader Bill Frist (R-Tenn.).

As the pressure on Republicans builds, Democrats are sounding emboldened. One sign of GOP unease: The Senate was supposed to vote this week on whether to permanently repeal the estate tax, but Frist said yesterday that the bill will be temporarily shelved. The announcement came two hours after Senate Minority Leader Harry M. Reid (D-Nev.) called for Republicans to back off tax cuts in the wake of the Katrina tragedy. "Not now, for heaven's sake," Reid said.

Some conservatives worry that Bush has given Democrats an opening by naming John G. Roberts Jr. to succeed Chief Justice William H. Rehnquist, who died Saturday night. Roberts had been nominated to succeed the retiring Sandra Day O'Connor, and that confirmation process was scheduled to start today. Because Rehnquist was a solid conservative and O'Connor a centrist, the argument goes, liberals will fight much harder to keep a conservative -- such as Roberts -- from getting the O'Connor seat, whereas the philosophy of Rehnquist's successor is less vital to them.

Lawmakers in both parties said the surging price of gas and spot shortages are leading concerns in their states and districts, and Democrats will try to get the upper hand by calling for price caps and a requirement that oil companies and refineries disclose their pricing policies. Frist said Republicans would proceed with legislation to allow oil drilling in the Alaska wilderness.

Another immediate concern will be disaster relief. Frist, a surgeon who spent the weekend treating hurricane victims in New Orleans, said the Senate would focus on several Katrina-related matters, including aid to victims, rebuilding and economic development assistance, and examining the many ways that government fell short in dealing with the crisis. "We're going to take a hard, hard look at our disaster response," Frist said.

Although congressional Republicans facing reelection next year are unhappy with Bush's slide in the polls, there's no sense of panic, said Stu Rothenberg, who writes an independent political newsletter. "But inevitably, if we continue to see a softening in the president's numbers, every Republican is going to be expressing some concern, if not alarm," he said.

The biggest wild card, Republicans say, is the war in Iraq. The dominant issue before the hurricane will resurface when Congress tries to complete a defense bill.

"People don't see light at the end of the tunnel in Iraq," said Sen. Charles E. Grassley (R-Iowa). "If the situation a year from now is the same, it's going to be the number one issue in the next election, and consequently for incumbent Republicans, a problem."

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One of the more vulnerable GOP members is Rep. Michael G. Fitzpatrick, a freshman from a moderate district in the Philadelphia suburbs. Fitzpatrick does not air his concerns publicly, as a few Republicans are beginning to do, but he is worried about the safety of U.S. troops and has written to the Pentagon pressing for improved body armor and vehicle protection.

"I think everyone is on the edge of their seat right now, hoping for the best, but preparing for what comes next," Fitzpatrick said. If the situation does not improve soon, "I think you will see more members of Congress speaking up generally," he said.

Katrina could have bolstered Bush's standing, but instead his response may have weakened his standing in Congress, particularly among lawmakers from the affected Gulf Coast region. Sen. Mary Landrieu of Louisiana, a conservative Democrat who often supported Bush proposals, was outraged to hear White House officials disparage the local response. On ABC's "This Week," she said of Bush, "One more word about it after this show airs and I might likely have to punch him. Literally."

Sen. Trent Lott (R) of Mississippi, who lost his Pascagoula home in the storm, released a statement headlined "I Am Demanding Help for Mississippi." After a blistering critique of the Federal Emergency Management Agency, Lott thanked Bush for his efforts.

Some argue that the hurricane disaster, high fuel prices and continued problems in Iraq will increase chances that Bush will name a centrist, consensus nominee to replace O'Connor.

Even before Katrina hit, Republicans were struggling to keep their agenda on track. They had made little progress with revamping Social Security, but immigration reform was gaining momentum.

Bush and congressional Republicans might argue that soaring gasoline prices and a storm-damaged economy call for tax cuts -- in the name of helping middle-class people fuel their cars and keeping Katrina from slowing the economy, Rothenberg said. House Majority Whip Roy Blunt (R-Mo.) said last week that Congress should consider tax cuts as part of a "stimulus package" in response to Katrina.

But Democrats say they are poised to pounce. "If they think they can go forward as if nothing's changed, they do not understand what the rest of America has witnessed over the past week," said Rep. Rahm Emanuel (D-Ill.), who heads the House Democrats' campaign committee.

Clinton And Bush In Charity Reprise (WP)

By Lisa Rein

The Washington Post, September 6, 2005

HOUSTON, Sept. 5 -- Former presidents George H.W. Bush and Bill Clinton announced a nationwide fundraising campaign Monday to help the victims of Hurricane Katrina, saying they will bring what they learned from reaching out to tsunami victims halfway around the world to a crisis on their doorstep.

"I guess I could say on behalf of all of us that nothing we can do can be an adequate response to the agony we've seen," Clinton said at a news conference at the Reliant Arena. "The reason we decided to do this, not that we think the governments won't do their part, is we need to have a fund where we can fill in the blanks and help people who otherwise will be totally overlooked," he said. "A lot of people, they have no cars, no homes, nothing."

A dozen members of Congress and local and state officials sat on chairs below the podium, among them former first lady Barbara Bush, Sen. Hillary Rodham Clinton (D-N.Y.), Sen. Barack Obama (D-Ill.) and Texas Gov. Rick Perry (R). In the exhibit hall a floor below, more than 4,000 evacuees were waking up on cots to another day of uncertainty in one of Houston's newest shelters.

The Bush-Clinton Katrina Fund will serve as an umbrella for special funds established by the governors of Louisiana, Mississippi and Alabama to assist those displaced in their states and will focus on collecting donations to assist in the long-term recovery plan for areas devastated by the storm, officials said.

The former presidents said they hope to step in where government and relief agencies leave off. "The fund will take the outpouring of generosity to the next level," Bush said.

That outpouring has already been substantial. The Chronicle of Philanthropy reported yesterday that $487 million has been raised in the aftermath of Hurricane Katrina. Corporate donations already were pouring in, including $20 million from Wal-Mart and the Walton Family Foundation, Bush and Clinton said.

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With the administration facing public criticism for a slow response to the crisis, there was no sign of friction between the president's father and Clinton. When asked to comment on the criticism of President Bush, his father said: "We can always blame somebody else -- that's one of the things you do after a football game, figure out what went wrong. We're trying to make things better."

Later, on CNN, Clinton said of the hurricane response: "Our government failed those people in the beginning, and I take it now there is no dispute about it. One hundred percent of the people I've talked to here recognize that it was a failure, and I personally believe that there should be a serious analysis of it."

The Red Cross said it has logged 75,000 names on its online registry of hurricane victims staying at shelters in Texas and other states, a database created to help reunite splintered families.

Spokeswoman Tara Lynch also said that the organization has received an unprecedented $404 million in donations as of yesterday morning, much of it from online and telephone donations. She said the agency has opened more than 470 shelters in 12 states and is now helping hurricane victims in 30 states.

Clinton Is An Unexpected Partner In The Hurricane Effort (NYT)

By Adam Nagourney And John M. Broder

The New York Times, September 6, 2005

WASHINGTON, Sept. 5 - As President Bush and administration officials fanned out across the Gulf Coast in the White House's campaign to deal with criticism that they had failed in managing the tragedy of Hurricane Katrina, there was one unexpected face in their crowd on Monday: former President Bill Clinton.

Mr. Clinton was at Reliant Center next to the Astrodome in Houston, where about 3,800 homeless New Orleans residents had decamped, standing next to former President George Bush as they announced the creation of the Bush-Clinton Katrina Fund to help hurricane victims. After that, the two former presidents, along with Senator Hillary Rodham Clinton, toured the shelter, while President Bush visited storm-struck areas of Mississippi and Louisiana, providing a flow of television images suggesting a concerned White House on the march.

Mr. Clinton's visit to the Houston shelter on Monday is the latest time the former president has come to the current president's aid in his second term, from early in the year when Mr. Bush was criticized for his slow response to the tsunami, to initially defending the administration's response to Hurricane Katrina at the White House last week, to praising the credentials of Judge John G. Roberts Jr., Mr. Bush's choice for the Supreme Court. And it offered what many Democrats described as a vivid, if slightly disconcerting, insight into the complicated and increasingly transactional relationship between the Bush and Clinton families.

While officials in both parties said they had no doubt that both men were first and foremost intent on helping Americans, they also took note of the web of political benefits spun by this burgeoning alliance. It helps Mr. Bush during the roughest time of his presidency, Mr. Clinton as he tries to establish himself as a respected and admired former president and Mrs. Clinton as she potentially prepares to run for president in 2008.

For President Bush, Mr. Clinton's agreement to a request by the White House chief of staff, Andrew H. Card Jr., to join former President Bush in their second fund-raising project could hardly have been better timed. One of the crucial elements of a White House strategy to help Mr. Bush recover from the rounds of criticism he received in the wake of the disaster in New Orleans was to present him as above politics, and to avoid any kind of political entanglements with Democrats.

"It definitely helps Bush," said Douglas Sosnik, who was White House political director under Mr. Clinton. "Given what has happened to Bush in the last six or seven days, there is not a single aspect of this crisis at all that can be positive to Bush. So anything he can do to get politics out of this - given how vulnerable he is politically - the better for him."

At the same time, the political benefits for the former president and Mrs. Clinton were at least as striking. Mr. Clinton has been engaged in a campaign to establish himself as a respected force in American life after a rather messy departure from the White House, using his foundation for prominent work in the fight against AIDS in Africa.

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He is also trying to be less polarizing than he was when he left the White House, an effort to become less of a political weight if, as expected, Mrs. Clinton runs for president, friends said. The presence of Mr. Clinton next to Mr. Bush will make it that much harder, some Democrats said, for Republicans to attack the Clintons.

"Isn't it interesting that Bush realizes he's in trouble and he has to phone President Clinton for cover?" said Bob Mulholland, a Democratic leader from California. "Bush is standing next to President Clinton for cover. You've got all these photos of President Clinton with both Bushes. It's hard for a Republican in the national arena to be attacking the Clintons with these kind of images out there."

White House officials did not respond to a request for comment.

Mr. Clinton's spokesman, Jay Carson, said of Mr. Clinton's involvement: "In a time of crisis like this, it is President Clinton's nature to do everything he can to help victims. His involvement is tied to nothing other than to help the tens of thousands of victims of the hurricane."

Still, the situation was complicated Monday. Mr. Clinton seemed to be struggling to be diplomatic in talking about the administration's response to the hurricane damage. He told CNN that "we failed once, but we don't want to fail a second time." But at times he seemed to be following the political directions of the White House in deferring questions about the past and turning them into questions about the future.

"It's an appropriate thing to look into, but not at this time - they're still finding bodies there," Mr. Clinton said in Houston.

By contrast, Mrs. Clinton was fierce in denouncing the administration, particularly for budget cuts it made to the Federal Emergency Management Agency.

"It was basically taken apart and denied funding," she said. Mrs. Clinton, in an interview, disputed the suggestion that her husband was joining hands with Mr. Bush and Mr. Bush.

"He is no longer in politics," she said. "He is a former president with an enormous amount of influence and just as during the tsunami, he is willing to serve his country. He has expressed strong feelings about the way this has been handled. My role is different. I'm on the front lines dealing with these issues day to day."

In Europe, High-Tech Flood Control, With Nature's Help (NYT)

By William J. Broad

The New York Times, September 6, 2005

On a cold winter night in 1953, the Netherlands suffered a terrifying blow as old dikes and seawalls gave way during a violent storm.

Flooding killed nearly 2,000 people and forced the evacuation of 70,000 others. Icy waters turned villages and farm districts into lakes dotted with dead cows.

Ultimately, the waters destroyed more than 4,000 buildings.

Afterward, the Dutch - realizing that the disaster could have been much worse, since half the country, including Amsterdam and Rotterdam, lies below sea level - vowed never again.

After all, as Tjalle de Haan, a Dutch public works official, put it in an interview last week, "Here, if something goes wrong, 10 million people can be threatened."

So at a cost of some $8 billion over a quarter century, the nation erected a futuristic system of coastal defenses that is admired around the world today as one of the best barriers against the sea's fury - one that could withstand the kind of storm that happens only once in 10,000 years.

The Dutch case is one of many in which low-lying cities and countries with long histories of flooding have turned science, technology and raw determination into ways of forestalling disaster.

London has built floodgates on the Thames River. Venice is doing the same on the Adriatic.

Japan is erecting superlevees. Even Bangladesh has built concrete shelters on stilts as emergency havens for flood victims.

Experts in the United States say the foreign projects are worth studying for inspiration about how to rebuild New Orleans once the deadly waters of Hurricane Katrina recede into history.

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"They have something to teach us," said George Z. Voyiadjis, head of civil and environmental engineering at Louisiana State University. "We should capitalize on them for building the future here."

Innovations are happening in the United States as well. California is experimenting with "smart" levees wired with nervous systems of electronic sensors that sound alarms if a weakening levee threatens to open a breach, giving crews time to make emergency repairs.

"It's catching on," said William F. Kane, president of Kane GeoTech Inc., a company in Stockton, Calif., that wires levees and other large structures with failure sensors. "There's a lot of potential for this kind of thing."

While scientists hail the power of technology to thwart destructive forces, they note that flood control is a job for nature at least as much as for engineers. Long before anyone built levees and floodgates, barrier islands were serving to block dangerous storm surges. Of course, those islands often fall victim to coastal development.

"You'll never be able to control nature," said Rafael L. Bras, an environmental engineer at the Massachusetts Institute of Technology who consults on the Venetian project. "The best way is to understand how nature works and make it work in our favor."

In humanity's long struggle against the sea, the Dutch experience in 1953 was a grim milestone. The North Sea flood produced the kind of havoc that became all too familiar on the Gulf Coast last week. When a crippled dike threatened to give way and let floodwaters spill into Rotterdam, a boat captain - like the brave little Dutch boy with the quick finger - steered his vessel into the breach, sinking his ship and saving the city.

"We were all called upon to collect clothes and food for the disaster victims," recalled Jelle de Boer, a Dutch high school student at the time who is now an emeritus professor of geology at Wesleyan University. "Cows were swimming around. They'd stand when they could, shivering and dying. It was a terrible mess."

The reaction was intense and manifold. Linking offshore islands with dams, seawalls and other structures, the Dutch erected a kind of forward defensive shield, drastically reducing the amount of vulnerable coastline. Mr. de Haan, director of the water branch of the Road and Hydraulic Engineering Institute of the Dutch Ministry of Transport, Public Works and Water Management, said the project had the effect of shortening the coast by more than 400 miles.

For New Orleans, experts say, a similar forward defense would seal off Lake Pontchartrain from the Gulf of Mexico. That step would eliminate a major conduit by which hurricanes drive storm surges to the city's edge - or, as in the case of Katrina, through the barriers.

The Dutch also increased the height of their dikes, which now loom as much as 40 feet above the churning sea. (In New Orleans, the tallest flood walls are about half that size.) The government also erected vast complexes of floodgates that close when the weather turns violent but remain open at other times, so saltwater can flow into estuaries, preserving their ecosystems and the livelihoods that depend on them.

The Netherlands maintains large teams of inspectors and maintenance crews that safeguard the sprawling complex, which is known as Delta Works. The annual maintenance bill is about $500 million. "It's not cheap," Mr. de Haan said. "But it's not so much in relation to the gross national product. So it's a kind of insurance."

The 1953 storm also pounded Britain. Along the Thames, flooding killed more than 300 people, ruined farmland and frightened Londoners, whose central city narrowly escaped disaster.

The British responded with a plan to better regulate tidal surges sweeping up the Thames from the North Sea. Engineers designed an attractive barrier meant to minimize interference with the river's natural flow. It went into service in 1982 at Woolwich, about 10 miles east of central London.

Normally, its semicircular gates lie flush to the riverbed in concrete supporting sills, creating no obstacle to river traffic. When the need arises, the gates pivot up, rising as high as a five-story building to block rising waters. The authorities have raised the Thames barrier more than 80 times.

In Venice, the precipitating event was a 1966 flood that caused wide damage and economic loss. The upshot was an ambitious plan known as the Moses Project, named after the biblical parting of the Red Sea. Its 78 gargantuan gates would rest on the floor of the Adriatic Sea and rise when needed to block dangerous tidal surges.

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Long debate over the project's merits repeatedly delayed the start of construction until May 2003. Opponents claim that the $4.5 billion effort will prove ineffective while threatening to kill the fragile lagoon in which Venice sits. In theory, the gates are to be completed by 2010.

"People fight doing things like this," said Dr. Bras, of M.I.T. "But when disaster strikes you realize how important it is to think ahead."

Planners did just that in Bangladesh after a 1991 hurricane created huge storm surges that killed more than 130,000 people. World charities helped build hundreds of concrete shelters on stilts, which in recent storms have saved thousands of lives.

In Japan, a continuous battle against flooding in dense urban areas has produced an effort to develop superlevees. Unlike the customary mounds of earth, sand and rock that hold back threatening waters, they are broad expanses of raised land meant to resist breaks and withstand overflows.

The approach being tried in California relies on a technology known as time-domain reflectometry. It works on the same principle as radar: a pulse of energy fired down a coaxial cable bounces back when it reaches the end or a distortion, like a bend or crimp.

Careful measurement of the echoes traveling back along the cable can disclose serious distortions and danger. Dr. Kane, of Kane GeoTech, has installed such a system in the Sacramento River delta, along a levee that is threatening to fail.

Could such a system have saved New Orleans? "It would have given them more information," said Charles H. Dowding, a top expert on the technology at Northwestern University. "The failure of a levee would have been detected." But experts say it is still unclear whether such a warning would have been enough to prevent the catastrophic breaches.

Dr. Bras says sensor technologies for detecting levee failure hold much promise. But he adds that less glamorous approaches, like regular maintenance, may be even more valuable, since prevention is always the best cure.

"We have to learn that things have to be reviewed, revised, maintained and repaired as needed," he said. "To see a city like New Orleans suffer such devastation - some of that was preventable."

He added that no matter how ambitious the coastal engineering, no matter how innovative and well maintained, the systems of levees, seawalls and floodgates were likely to suffer sporadic failures.

"Nature will throw big things at us once in a while," he said. "There's always the possibility that nature will trump us."

Time For A Tough Question: Why Rebuild? (WP)

By Klaus Jacob

The Washington Post, September 6, 2005

It is time to swim against the tide. The direction of public discourse in the wake of Katrina goes like this: First we save lives and provide some basic assistance to the victims. Then we clean up New Orleans. And then we rebuild the city. Most will rightly agree on the first two. But should we rebuild New Orleans, 10 feet below sea level, just so it can be wiped out again?

Some say we can raise and strengthen the levees to fully protect the city. Here is some unpleasant truth: The higher the defenses, the deeper the floods that will inevitably follow. The current political climate is not conducive to having scientific arguments heard before political decisions are made. But not doing so leads to the kind of chaos we are seeing now.

This is not a natural disaster. It is a social, political, human and -- to a lesser degree -- engineering disaster. To many experts, it is a disaster that was waiting to happen. In fact, Katrina is not even the worst-case scenario. Had the eye of the storm made landfall just west of the city (instead of to the east, as it did) the wind speeds and its associated coastal storm surge would have been higher in New Orleans (and lower in Gulfport, Miss.). The city would have flooded faster, and the loss of life would have been greater.

What scientific facts do we need before making fateful political, social and economic decisions about New Orleans's future? Here are just two:

First, all river deltas tend to subside as fresh sediment (supplied during floods) compacts and is transformed into rock. The Mississippi River delta is no exception. In the early to mid-20th century, the Army Corps of Engineers was charged with protecting New Orleans from recurring natural floods. At the same time, the Corps kept the river (and some related canals) along defined

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pathways. These well-intended defensive measures prevented the natural transport of fresh sediments into the geologically subsiding areas. The protected land and the growing city sank, some of it to the point that it is now 10 feet below sea level. Over time, some of the defenses were raised and strengthened to keep up with land subsidence and to protect against river floods and storm surges. But the defenses were never designed to safeguard the city against a direct hit by a Category 5 hurricane (on the Saffir-Simpson scale) or a Category 4 hurricane making landfall just west of the city.

Second, global sea levels have risen less than a foot in the past century, and will rise one to three feet by the end of this century. Yes, there is uncertainty. But there is no doubt in the scientific community that the rise in global sea levels will accelerate.

What does this mean for New Orleans's future? Government officials and academic experts have said for years that in about 100 years, New Orleans may no longer exist. Period.

It is time to face up to some geological realities and start a carefully planned deconstruction of New Orleans, assessing what can or needs to be preserved, or vertically raised and, if affordable, by how much. Some of New Orleans could be transformed into a "floating city" using platforms not unlike the oil platforms offshore, or, over the short term, into a city of boathouses, to allow floods to fill in the 'bowl' with fresh sediment.

If realized, this "American Venice" would still need protection from the worst of storms. Restoration of mangroves and wetlands between the coast and the city would need to be carefully planned and executed. Much engineering talent would have to go into anchoring the floating assets to prevent chaos during storms. As for oil production, refining and transshipment facilities, buffer zones would have to be established to protect them from the direct onslaught of coastal storm surges.

Many ancient coastal cities of great fame have disappeared or are now shells of their former grandeur. Parts of ancient Alexandria suffered from the subsidence of the Nile delta, and earthquakes and tsunamis toppled the city's famed lighthouse, one of the "Seven Wonders of the Ancient World."

It is time that quantitative, science-based risk assessment became a cornerstone of urban and coastal land-use planning to prevent such disasters from happening again. Politicians and others must not make hollow promises for a future, safe New Orleans. Ten feet below sea level and sinking is not safe. It is time to constructively deconstruct, not destructively reconstruct.

The writer, a geophysicist, is an adjunct professor at Columbia University's School of International and Public Affairs. He teaches and does research on disaster risk management.

'Destroyed' City Clears Out (USAT)

By Patrick O'driscoll

USA Today, September 6, 2005

NEW ORLEANS — An evacuation of this city of 460,000 people was largely complete Monday, though National Guardsmen and Army troops continued searching homes for survivors of Hurricane Katrina — and for an unknown number of dead.

"We have advised people that this city has been destroyed," Deputy Police Superintendent W.J. Riley said. "There is nothing here for them and no reason for them to stay: no food, no jobs, nothing."

There were signs of progress amid the devastation. Repairs were completed on two flood walls that broke last week and allowed floodwaters to gush into New Orleans. Water levels had dropped 1 foot after a day of pumping. Electricity had been restored to some areas.

And for the first time since Katrina struck a week ago, some residents were allowed back into the flooded area to check on their homes. "It's all about salvaging what we can today," said David Jackson, an insurance agent who made it in to Metairie by canoe to retrieve clothes, documents and wedding photos.

Mayor Ray Nagin said the number of deaths in his city could reach 10,000. That would make Katrina the nation's deadliest natural disaster. No state or federal agency has issued an estimate of the death toll, however. The official count of the dead in the five states most directly affected by Katrina stood at 234.

Across the nation, more than a half-million people displaced by the hurricane were trying to restart their lives in strange surroundings. At least 240,000 were in Texas, where Gov. Rick Perry said no more could be accommodated. The American Red Cross said it was caring for 135,000 survivors in 14 states.

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In Louisiana, more than 50,000 active-duty and National Guard troops in helicopters, boats and trucks joined in a house-by-house search, plucking survivors from rooftops and locating those who perished. Bodies floated in canals and lay on highways.

Nagin said it could be three months before the city is truly habitable, but that results were beginning to be seen. “We're starting to make the kind of progress that I kind of expected earlier,” he said.

The coordinator of military troops in Louisiana said order had been restored to the city, and he lashed out at suggestions that troops could not get food and rescuers to people because of a lack of cooperation between federal and local officials.

“That's B.S.,” said Lt. Gen. Russel Honore, commander of Joint Task Force Katrina. “There is no red tape.”

President Bush returned to the Gulf Coast areas hit by the disaster for the second time in four days. At a stop in Baton Rouge, Bush said all levels of the government were doing their best.

“Where it's not going right, we're going to make it right,” he said. “This is one of these disasters that will test our soul and test our spirit, but we're going to show the world once again that not only can we survive but we will be stronger … for it.”

Louisiana Gov. Kathleen Blanco, who has declined Bush's offer of a federal takeover of the relief operation, denied talk of a rift between officials of the governments involved in the effort. “There is no divide. We're all in this together,” she said.

Meanwhile, the price of gas tied a record in the face of reduced Gulf of Mexico oil production. The national average for regular-grade gas on Monday hit $3.057 a gallon, according to AAA. Adjusted for inflation, that matches the record of $1.417 in March 1981.

2 Orleans Levees Closed (WT/AP)

By Doug Simpson, Associated Press

The Washington Times, September 6, 2005

METAIRIE, La. -- Residents of this suburb were allowed to return home briefly to gather possessions as floodwaters started to recede yesterday, and New Orleans' mayor struck a note of optimism as engineers repaired the city's levees.

Almost a third of New Orleans' police force was missing in action, but a caravan of law-enforcement vehicles from across the nation poured into the city to help establish order.

Late yesterday, the Army Corps of Engineers announced that it had repaired two of the city's levees, including the 200-foot-wide breach on the 17th Street Canal. But officials warned that it might take weeks to pump floodwaters from the city.

For the first time in the week since Hurricane Katrina devastated the area, New Orleans Mayor C. Ray Nagin sounded upbeat about the recovery effort.

"We have more troops arriving, so we're starting to make the kind of progress that I kind of expected earlier," Mr. Nagin said.

In suburban Jefferson Parish, a line of cars stretched for miles, as many of the 460,000 residents got their first look at the destruction since being ordered to leave two days before the storm. The towns of Metairie and Kenner suffered heavy flooding, and thousands of homes were damaged.

Katharine Dastugue was overjoyed to find that floodwaters had gone across her lawn but stopped just inches from her doorstep. As she stood waiting for a boat to take her in, she made a list of things she hoped to salvage before being forced to leave again tomorrow.

"If I can just get my kids' baby photos," she said. "You can't replace those."

Estimates of the human toll of the storm were not known, but Mr. Nagin warned yesterday on NBC's "Today" show that "it wouldn't be unreasonable to have 10,000" dead in New Orleans alone.

So far, Louisiana officials have counted 59 deaths from the storm. In Mississippi, officials said Katrina killed 160.

Near Baton Rouge, La., officials opened an emergency morgue with the capacity to hold 5,000 bodies. Officials told Reuters news agency that the facility, installed in a warehouse in St. Gabriel, would be able to process 144 bodies a day with a staff of 100 working in shifts around the clock.

In New Orleans, the mayor said the city had the authority to force residents to evacuate but didn't say whether it was taking that step. Mr. Nagin did, however, say that drinking water will no longer be handed out to residents who refuse to leave.

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President Bush yesterday paid his second visit to Louisiana, where he was greeted by an open letter in the New Orleans Times-Picayune, the state's largest newspaper, that called on him to fire every official at the Federal Emergency Management Agency (FEMA).

Meanwhile, the arrival of police reinforcements provided relief to New Orleans' exhausted force. As many as 500 officers on the city's 1,600-member force were unaccounted for, police officials said.

"Some simply left because they said they could not deal with the catastrophe," said Deputy Police Chief W.J. Riley. Officials said officers were being cycled off duty and given five-day vacations in Las Vegas and Atlanta, where they would receive counseling.

Police Superintendent Eddie Compass denied that officers deserted in droves, acknowledging that some officers abandoned their jobs but saying he didn't know how many. Two police officers killed themselves. Another was shot in the head.

Mr. Compass said 150 had to be rescued from 8 feet of water and others had gotten infections from walking through contaminated floodwaters in New Orleans.

"No police department in the history of the world was asked to do what we were asked," Mr. Compass said.

As law-enforcement officials and volunteers search the city for survivors, they encountered a familiar obstacle -- people who have been trapped more than a week in damaged homes yet refused to leave.

"We have advised people that this city has been destroyed," said Deputy Chief Riley, who estimated that fewer than 10,000 residents were still in New Orleans. "There is nothing here for them and no reason for them to stay, no food, no jobs, nothing."

After sheets of metal and repeated helicopter drops of 3,000-pound sandbags succeeded in plugging the gap in the 17th Street Canal, the Corps of Engineers began pumping water back into Lake Pontchartrain. Floodwaters in the city were already receding yesterday, with the low-lying 9th Ward dropping more than a foot.

In Metairie, many residents were happy that the storm spared their homes, but angry that the failure of the levee system left them swamped.

"That's what so devastating, that ... levee breaking," said Bobby Patrick, a resident of the neighborhood now living in Houston. "My home didn't lose a shingle, but it's got six feet of water in it."

Since the storm, rumors had swirled that looters from New Orleans had begun breaking into evacuated homes in Jefferson Parish. Many were relieved to return home yesterday to find their belongings untouched -- and police checkpoints on every major street corner with ID checks for parish residents.

Along with survivors returning to survey the damage to their homes, the roads into the storm-struck region were jammed with volunteers bringing relief.

FEMA has urged Americans to contact nonprofit organizations if they want to volunteer or donate. But some volunteers insisted on independent action.

On Friday, Gary Maclaughlin of Santa Cruz, Calif., flew to Nashville, Tenn., where he bought a used school bus for $2,000. He used his credit card to buy $1,500 worth of diapers, bottled water, granola bars and peanut butter crackers. By Sunday evening, he was driving loads of evacuees from the New Orleans airport to a rescue shelter in Covington, La.

Water, Water Everywhere (WSJ)

By Ann Carrns, Kris Hudson And Dionne Searcey

The Wall Street Journal, September 6, 2005

Hurricane Katrina submerged New Orleans and quickly moved on, but draining the historic, low-lying city will be a daunting job sure to go on for weeks, or more likely, months to come.

Officials with the U.S. Army Corps of Engineers, which is in charge of repairing the levees, are balking at putting a firm time frame -- or price tag -- on the drainage effort, saying the situation is dynamic and too many variables remain.

Over the weekend, portable pumps began arriving to supplement the city's existing network of permanent pumping stations, known as some of the most powerful in the world. An official with the Corps of Engineers' Mississippi Valley division said at a briefing Sunday in Baton Rouge that it could take between one to three months to drain the water, after all the pumps are operational.

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But before the pumps could be used, engineers had to find a way to close several serious breaches in the system of levees and floodwalls meant to protect the city from massive Lake Pontchartrain to the north and the Mississippi River to the south. Otherwise, the water pumped out could flow back into the city.

A storm surge from Hurricane Katrina blew at least five big holes in the levees, inundating New Orleans and some adjoining areas with water a week ago. The levee system was designed to withstand no more than a category-three storm, and Katrina made landfall near New Orleans as a powerful category-four hurricane, overwhelming the system.

Officials said they had had plans in place to repair levees in the event of a breach but added that it's difficult to prepare for the exact conditions and location of a given rupture. The devastation also made it difficult to move repair materials into place.

Flooding nearly obscured a street sign near the 17th Street Canal breach.

"I don't know if you ever anticipate anything to be breached," Al Naomi, an official with the Corps of Engineers in New Orleans, said in a conference call with reporters on Friday. But if a storm hits that exceeds the system's design capacity, "You're going to have problems of some type, whether a breach or overtopping." In response to a question about whether anything was done to fortify levees in the days leading up to storm, Mr. Naomi said: "There's not much you can do in 24 hours, or in 48 hours, to make that situation any better."

By Monday, work was complete on repairs at the 17th Street Canal, which runs along the city's western border and drains into Lake Pontchartrain. Contractors had partially sealed off the canal's entrance to the lake by driving huge sheets of metal into the canal's base.

Work also was completed on repair of the actual breach -- located on the canal's eastern floodwall -- by dumping giant sandbags into it. Once the canal's pumps are working reliably, part of the steel sheets at the canal's entrance will be removed, so that pumped water can flow freely out of the canal into the lake.

At the same time, efforts were under way Monday to restart a major pumping station located near the canal along Interstate 10, which in normal times pumps rainwater out of the city and into the 17th Street Canal. "Now the job at hand is to get the pump station back working, so it can do its job," said Greg Breerwood, deputy district engineer for project management with the Corps of Engineers in New Orleans, in a telephone interview. But work was expected to proceed cautiously to prevent overloading the pumps and further destabilizing the damaged floodwalls. "We're taking it real slow," said Mr. Breerwood.

At 4:10 p.m. Monday, Col. Rich Wagenaar of the Corps of Engineers ordered that one of the main pumps be started at a station along the 17th Street Canal. If the pump keeps running, and the breach plug holds, the draining of New Orleans is under way. "We want to move water," Col. Wagenaar said.

At the London Avenue Canal, where two major breaches occurred, the mouth -- where the canal empties into Lake Pontchartrain -- has been closed off. But the pump on that canal can't be turned on until the breach itself is repaired, and plans for fixing that aren't finalized.

Work has yet to begin on repairing two more breaches along the Industrial Canal, on the city's eastern border, because crews can't get there yet. Contractors have been hired to remove debris that blocks access to the canal.

The Industrial Canal breaches, believed to have occurred in the early hours of the hurricane on Monday, Aug. 29, inundated low-lying neighborhoods in the eastern part of New Orleans and adjoining areas. Water from those neighborhoods has been draining on its own, flowing back through the breach into the canal.

Farther to the east of New Orleans, in flooded St. Bernard Parish, and to the southeast, in Plaquemines Parish, the Corps of Engineers hired contractors to make new breaches in levees over the weekend, to help drain the area. Pumps were assisting the drainage in St. Bernard, but not in Plaquemines due to high water, officials at the Sunday briefing said.

By Boat Through A Water World (WP)

By Manuel Roig-franzia

The Washington Post, September 6, 2005

NEW ORLEANS, Sept. 5 -- The bad places stink. Musty. Gassy. Spoiled and rotting.

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It's the smell of the swamp. And New Orleans is a swamp now, transformed in just eight days from the funkiest of gems into a wild place, a place of black waters, snakes, and spooky, echoing abandonment. Fires burn throughout the city on the surface of oil-slicked water that reaches -- with its spreading algae -- up to the streetlights in some neighborhoods.

There are entire swaths of New Orleans where no one can go without a boat, or hip waders, or foolish courage. But a few go anyway, searching for stranded pets or stranded neighbors, or both. The city -- the worst parts, at least, the deeply flooded east -- is best approached by water.

On the choppy surface of Pontchartrain, the giant lake that poured into the streets with such persisting ferocity, New Orleans looks like a walled medieval city. The huge levees built to keep water out now keep water in.

Edging along the giant lake's shore and poking through myriad canals reveal a netherworld of destruction and vigilantism in some of the city's toughest-to-reach sectors. To the west, a man with a shotgun guarded condominiums at the shredded Orleans Marina. Farther down the shore, a stockbroker slogged through waist-high water, carrying a whimpering pit bull. Way out east, a Catholic-Buddhist-transcendentalist prayed at an altar and took instructions from her long-dead father.

At a boat launch just west of the city, Mike Fitzpatrick wanted what everyone here wanted: a boat ride to get to his guns. He was lucky. He hopped into a little flatboat with a small group of reporters and pointed down the shore toward the smoldering Orleans Marina, where his cache of weapons lay hidden.

The ride took him past the Southern Yacht Club, on the city's western edge. It is charred, a blackened skeleton, overlooking a point pushing into Lake Pontchartrain where New Orleans teenagers would go to make out, using the code words that they were "off to watch the submarine races." Fitzpatrick, a riverboat pilot who people around here call a "Y'at" -- shorthand for the city's signature greeting, "Where y'at?" -- shook his head and grabbed for a ringing cell phone.

"It sunk?" he said to a fellow boat owner, floating past sailboats tossed onto decks and laid out like fallen dominoes. "Was it insured? Ah, good."

Across the marina from Fitzpatrick's place, a 30-foot yacht perched perfectly on top of pilings, 10 feet above the waterline. It was an incredible sight. A storm that treated New Orleans so roughly seemed to lift this boat into the air and then put it down with the most gentle touch -- barely harmed.

Not far away, heavy helicopters ferrying 7,000-pound duffel bags full of sand thundered down to the 17th Street Canal -- the great villain of Hurricane Katrina, with its 500 feet of broken levee that allowed thousands of homes to be engulfed before the gap was closed Monday.

Watching from a nearby bridge, Kenny Crumholt, a resident engineer with the Army Corps of Engineers, remembered the first sandbags dropped in days ago, the ones that disappeared beneath the surface, demonstrating the depth of the chasm. "We would drop them and they would sink," Crumholt said. "We were getting aggravated."

Along the canal, the fortunate -- the ones who live on the opposite side of the levee break, the ones whose houses are dry -- have built ladders out of old crates to watch the progress, or lack thereof. "If this would have broke on our side, it would have been all over for us," Sherry Blue said.

About a mile down shore, Renee Pastor -- a fast-talking redhead with a stubborn streak -- floated into the Orleans Outfall Canal on a rumbling powerboat for a rescue mission. She had to save her dogs left behind by an evacuating pet sitter, and she had to find Mr. McCobb, an elderly neighbor gone missing.

Pastor brought help -- serious help. Dale Coon, sunburned and sporting a barbed-wire tattoo on his left arm, stepped out of her boat and climbed up the canal levee, stuffing a .38 Special and .357 magnum into his pants front.

"That's one good thing about being from a family of rednecks," Pastor said. "Everybody's got guns."

After Pastor and Coon waded through a street turned pond to collect her bulldog, Chance, and her chubby Labrador, Max, they set off to find Mr. McCobb. Pastor's neighborhood of million-dollar homes, all backing up to a private park, was covered with foul, inky water. The rotten-egg stench of broken gas mains scented their slog past the oil fire, the house burned to its foundation, the submerged park, the BMW flooded to its rooftop.

Her house -- just renovated with pricey Asian flourishes -- sits on a virtual island neighborhood called Lake Vista, bounded on three sides by Lake Pontchartrain, Bayou St. John and the Orleans Canal. Pastor carried a slip of paper with an address, but

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navigating streets she once knew so well became a series of stops and starts. The water contorted all perceptions, toyed with her sense of direction.

"Go left, big ol' snake there," Coon called out.

The little rescue party, wearing the post-Katrina fashion statement of plastic pants with bootees that go over their shoes and suspenders, veered quickly. Water moccasins, among the deadliest of snakes, have been spotted in the city, and no one wanted to wait around to see if this was one of them.

The snake detour took them to a little white, wooden house. Pastor made everyone stop. "He might be hiding in there with a gun," she said.

"Hellooooo! We're here to help you. Don't shoot," she said, easing toward the house.

Coon turned detective.

"He ain't gone," he said. "Look."

In the driveway lay a survivalist's arsenal: two transistor radios, a cell phone, a half-empty bottle of Napa Valley zinfandel, tobacco, a pipe and some blackberry soda.

Coon stooped and picked up four shiny cylinders: shells from a .22 magnum. "Ain't been long since this been shot," he said, drawing a deep whiff. "He ain't gone. He's hiding. Freaked out. Scared."

Pastor yelled out again: "I'm coming in. Don't shoot. Don't shoot."

Inside the house, her calls went unanswered. Two guns and a pile of knives sat on a table by the door. But no Mr. McCobb.

Thousands Return To Jefferson Parish (LAT)

By David Zucchino

The Los Angeles Times, September 6, 2005

GRETNA, La. — When she saw the ruins of her beloved garden and realized that her prized koi had died in their own pond, Helene Dinh let out a tiny sob, then fell into the arms of her son-in-law.

"Oh, my fish . . . oh, oh, oh," she said, and the tears came.

Dinh, a tiny, spare woman of 61, had forced herself to return at dawn today to her brick ranch house in sprawling Jefferson Parish on New Orleans' southern edge. She had fled just before the parish was lashed by winds and floodwaters from Hurricane Katrina. Now, she said, she wished she had never made the trip back.

"It hurts so much to see this," she said, staring at a tree that had slammed down across her frontyard.

Dinh was among tens of thousands of parish residents allowed to inspect their homes for the first time since the hurricane struck one week earlier. Thousands came supplied with coolers crammed with food and water to sustain them until Thursday, when parish sheriff's deputies will force everyone to leave again.

The parish's temporary return offer, which was criticized by some parish officials as too dangerous, began at 6 a.m. sharp, when police removed cruisers that had blocked a four-lane highway at the western edge of the parish. An estimated 20,000 to 30,000 returning residents, most of whom slept in their cars on the highway Sunday night, sped into the township in a race to their homes that resembled a 19th century land rush.

Swerving past toppled trees and downed power lines, most found their homes intact. The parish, the second largest in the state with 480,000 residents, was spared the widespread flooding that left more than 80% of adjacent New Orleans underwater. About 15% of the parish was flooded, said parish Councilman Chris Roberts.

Although some homes are underwater, Roberts said, most are intact. Thousands lost sections of roofs and siding, and many were struck by falling trees and limbs. Electricity, phones and water have been knocked out, and stores have been looted. Even so, the scale of destruction and displacement was far less than in New Orleans.

The residents' return came as parish officials were condemning the Federal Emergency Management Agency and other national and state relief organizations for failing to offer assistance. Today, a week after Katrina hit land, the parish still has not received outside help, officials said, and is relying on municipal and volunteer assistance.

For instance, outside a Best Buy store, residents who had remained in their homes lined up today for food, water and supplies provided by a Hazard, Ky., radio station and the sheriff's department.

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The parish decided to let residents return until Thursday to check their homes and retrieve belongings so that workers can move into neighborhoods for cleanup and repairs. There is a 6 p.m. curfew each night.

One of the first to arrive back home at first light today was Mike Buclalan, 29, Dinh's son-in-law. He pulled his grey Mitsubishi Montero SUV, loaded with three dachshunds and supplies, into the driveway of his one-story home on Bonnie Ann Drive.

His wife, Marie, rushed inside, searching for their cat, Harry Potter. The animal ran across her path and she scooped him up. "He looks fine," she said. "Just a little frazzled."

The house was fine, too, for the most part. Its roof and siding were intact, though the backyard fence had been blown over. A powerful stench rose up from the meat rotting in the kitchen freezer.

"Oh, man, I'm pretty happy," Mike Buclalan said, inspecting the living room. "I'd have to say I'm pleasantly surprised. It could've been a lot worse."

The damage was worse at Dinh's home a few miles away, where water had been blown into her living room and her elaborate backyard garden was a wreck.

It was Dinh's second time as a refugee. She had come to the United States in 1975 as a refugee from Vietnam.

When her husband died in 1984, gardening had become her therapy, she said. But now her lemon and persimmon trees had been crushed. Her six dead koi were belly up in her pond, smelling strongly of decay.

She couldn't find her four cats, and she broke down again and sobbed.

But later, two of her cats, Tabby and Meow-Meow, crept into the yard. Dinh let out a cry and said, "Tabby, you came home!"

Buclalan tried to console his mother-in-law, mentioning that her orchids had survived.

"All in all, we did OK," he said. "All we asked for was four walls and a ceiling. We're lucky."

Evacuees Allowed Back, For Half A Day (USAT)

By Patrick O'Driscoll

USA Today, September 6, 2005

METAIRIE, La. — Mary Salassi rocks on the porch swing at her son Henry's house as he and his brother-in-law wade a borrowed kayak into three feet of water on West Livingston Place. Dipping wooden paddles meant for stirring a crawfish-boiling pot, they row off toward Salassi's flooded town house, several blocks away.

“I'm not going to worry about it,” she says. “You can't go back and look at what happened. You have to go forward. Like I told my children and grandchildren: You have your family.”

Salassi turned 66 a week ago, the day Hurricane Katrina demolished much of southern Louisiana and Mississippi. “They all said, ‘You're never going to forget this birthday,' ” she muses. “My life's upside down, but I will come back.”

The Salassis were among the first evacuees allowed back to the western and southern suburbs of New Orleans on Monday, having driven all the way from Houston late Sunday. Through Thursday, Jefferson Parish is opening a 12-hour window — 6 a.m. to 6 p.m. CT — for hundreds of thousands to visit their storm-tossed neighborhoods, assess damage and grab a few belongings.

Then the people of Jefferson, whose 435,000 residents make it Louisiana's second-largest parish after New Orleans, must leave. Dubbed “residents-in-exile” by parish council president Aaron Broussard, they won't be allowed home again until power, water and other key services are restored. That could take weeks. Which is better than the months it may take in parts of New Orleans next door.

Most who endured several miles of bumper-to-bumper traffic to get into Jefferson Parish early Monday found that neighborhoods were wind-blown and shredded but dry or only damp; the high waters have receded.

But in Old Metairie, an enclave amid elegantly gnarled oaks on the west doorstep of New Orleans, the murky, sewage-tinged soup is still five feet deep in places.

“We're the highest point along what's called Metairie Ridge. We're where you run to in a flood,” says Newell Normand, the parish's chief deputy sheriff. That was before a now-infamous levee on the 17th Street Canal, which straddles the Jefferson-Orleans boundary, gave way hours after Katrina passed.

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"I'm told that the 17th Street Canal pump will go on today, but I've been told a lot of things over the past week that didn't work out," adds Normand, who has been set up at an emergency command post still without power.

Old Metairie borders the canal, whose breach inundated much of New Orleans and eastern Jefferson Parish. It turned a natural occurrence of extremely bad weather into the worst disaster in U.S. history.

"It's a man mistake, not the hurricane," Salassi says.

Whatever the blame, residents who trickle into the neighborhood bring chain saws, boats, generators and rental trucks. Those who haven't left town drift over to a relief center at the Sam's Club parking lot off Airline Highway. National Guard troops in green camouflage have been paired with sheriff's deputies to direct traffic and keep the peace at major intersections.

Despite uncounted fallen trees and thousands of downed power lines, most returnees are able to drive home. Others have to wade or paddle.

David Jackson, an Allstate insurance agent, has come from LaPlace, La., to fetch clothes, documents and wedding photos from a house swamped with two feet of water.

"I came here in a pair of flip-flops and shorts, and my son's track coach lent me a pair of boots and a boat," says Jackson, 43. He glances down at the green rubber footwear and does a double-take. "Two left boots!" he laughs. "But right now, they're the best boots in town."

After three trips in a flat-bottomed Cajun canoe called a pirogue, Jackson loads his pickup and sets out. "It's all about salvaging what we can today," he says. "My family was the most important priority. From tomorrow on, it'll be probably 10- to 12-hour days minimum for me" as he sorts out insurance claims for his clients.

Michael Norton, a computer consultant, drove in from Austin and found two feet of water, too, and a toppled tree. "I had a contract out to take down the pecan tree in my back yard," says Norton, 38. "Too late." And it missed his house. Other homes haven't been so lucky.

Slung over Norton's shoulder is a shotgun. His friend, Dan Sanders, 38, packs a pistol on his belt. "We were expecting the worst," Sanders explains, noting reports of violence spilling out of New Orleans. After half of Oakwood Shopping Mall, on the parish's West Bank, was ransacked and torched last week, tension has spiked in the suburbs. A spray-painted sign in a West Bank neighborhood warns: "U LOOT — WE SHOOT."

But the sheriff's office says the return of residents has gone fairly smoothly. "We haven't had too many problems — yet," Normand says.

As electricity has been restored sporadically, a few older homes have caught fire, probably from old or faulty wiring, he says. More ominous: reports of carbon monoxide poisoning deaths among families who rode out Katrina and fired up gas-powered generators after losing power. "The water surrounded the houses, and they brought their portable generators inside," Normand explains.

Back in Old Metairie, Maria Maginnis, 38, sits in the cab of the family SUV, eager to leave after having been carried piggy-back by her husband, David, through waist-high water to their split-level on Atherton Drive.

"I didn't want to come," she says, dread still in her voice. She laments the condition of her house, which might not be home again for months. "All the sewage," she says. "I didn't expect that."

They first had fled to Nacogdoches, Texas, then drifted closer — first to Beaumont, Texas, then Baton Rouge, the Louisiana capital about an hour west of here. On Monday, they arrived before 3 a.m. Maria stayed in the car at first while David, with flashlight and waders, slogged down the block in the dark.

"The anxiety of seeing your house is what is driving you," David says. "I wanted to do some preliminary checks so it wouldn't be such a shock when the sun came up. Regardless of what shape you find it in, it's a relief."

After sunrise, the couple surveyed a foot of water in the house. They stayed only long enough to grab a few essentials: baseballs and bats, a football, a New Orleans Saints T-shirt, a PlayStation, children's books, and Swimmy, the pet blue fighting fish for sons Cade, 8, and Connor, 4.

"The main thing for us is the kids," explains David, 39, who works for a major Louisiana fresh-tuna supplier. "They're separated from their friends, their everyday activities, their school. The waiting list for schools is incredible."

For Maria, the visit has lasted long enough. "I don't want to come back until it's livable," she says. "I am so ready to go."

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At 7:45 a.m., they were gone.

Services Providing Oil, Phones And Electric Restarting (USAT)

By Paul Davidson

USA Today, September 6, 2005

Gulf Coast oil production rigs and refineries shuttered by Hurricane Katrina began to ease their way back into operation over the holiday weekend in moves expected to help relieve U.S. price run-ups and fears of shortages.

Yet facilities generating 70% of the oil and more than half of the natural gas in the Gulf of Mexico remain closed down, the U.S. Minerals Management Service said.

And though several Gulf Coast refineries restarted or were poised to do so this week, four others that account for more than 5% of U.S. capacity were expected to remain shut for weeks or months.

The halting progress was emblematic of the slow-but-steady rejuvenation of the infrastructure — utility lines, ports and oil pipelines — underpinning the hurricane-ravaged region.

Oil producers such as ExxonMobil are resuming production that was halted when they evacuated offshore workers in preparation for Katrina. The gulf's rich supply of 4,000 offshore oil-and-gas operations, linked to land by 33,000 miles of pipelines, account for more than 25% of U.S. oil production.

As much as 92% of the gulf's oil production was shut when the storm hit more than a week ago, helping push benchmark crude-oil futures to record prices.

Meanwhile, several key refineries were relaunching. Marathon Oil's 245,000-barrel-a-day refinery in Garyville, La., restarted last week and was expected to be at full capacity by today, company spokeswoman Linda Casey said. Motiva Enterprises' 235,000-barrel-a-day refinery in Convent, La., has restarted. Two Norco, La., facilities — a 225,000-barrel-a-day Motiva plant and a Valero Energy refinery — were to restart by midweek.

The Louisiana Offshore Oil Port, a critical facility for unloading and distributing imported crude oil on the gulf, said it's operating at about 75% of capacity after power was restored at its Clovelly, La., storage facility. It's expected to be at full capacity in a week.

But four refineries southeast of New Orleans and in Mississippi were hit more severely and it wasn't clear when they would restart. Those include Chevron's 325,000-barrel-a-day facility in Pascagoula, Miss., and ConocoPhillips' 255,000-barrel-day facility in Belle Chasse, La.

Key oil pipelines that closed down in advance of the storm are also ramping up, said the Association of Oil Pipe Lines. The Colonial Pipeline, which transports refined oil from Houston to New York City, is at 80% capacity.

Two crude-oil pipelines that run from the gulf to Illinois and from Texas to the Southeast are at 75% and 50% of capacity.

About 1 million customers in Louisiana, Mississippi and Alabama were still without power late Monday, down from 2.7 million when the hurricane struck, the Energy Department said.

Entergy has restored power to key sites in New Orleans after restarting its Market Street substation. Those include part of the French Quarter and the lights on the Crescent City Connection bridges.

"We're hoping the lighting will give people hope that the city's coming back," company spokesman Chanel Lagarde said.

Entergy was also close to restoring power to two key water pumps so city and federal workers could begin draining the city of much of its standing water.

It will be two to four weeks before power is completely restored in outlying counties, Lagarde said. Parts of New Orleans will remain dark for months.

Gulf ports are major gateways for exports of wheat and soybeans and imports of steel, rubber and coffee, handling about 25% of U.S. cargo.

The lower Mississippi River opened during the weekend for barges or shallow-depth ships that can carry low volumes of products such as grain or coal. That means those vessels can offload materials for transfer to larger ships headed to the Midwest.

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Among the reopened ports was the Port of Mobile in Alabama. But two key facilities, the Port of New Orleans and the Port of Southern Louisiana, are expected to remain closed for weeks.

About 1.1 million customers in Louisiana, Mississippi and Alabama are without service. That's down from 1.7 million after Katrina hit, BellSouth spokesman Jeffrey Battcher said.

About 90% of the outages are in hard-hit New Orleans and Gulfport, where it could take four to six months to restore service.

"We've got central offices completely destroyed," Battcher said.

Meanwhile, Verizon Wireless, Cingular Wireless and Sprint Nextel say cellular phone service has largely been restored in the Baton Rouge, Biloxi and Jackson metropolitan areas.

Although progress has been made in New Orleans, with some cell towers operating, service is still spotty, the companies say.

Utility Crews Help Turn Lights Back On In Parts Of The Gulf Region (NYT)

By Barnaby J. Feder

The New York Times, September 6, 2005

JACKSON, Miss., Sept. 5 - Randall W. Helmick, the man whose job it is to get the lights back on in New Orleans and many other parts of Louisiana and southern Mississippi, had finally reached his limit.

So on Friday afternoon he ordered the televisions turned off in the temporary command center for Entergy, the power company for 1.1 million households and businesses that lost electricity in Hurricane Katrina. The news reports were not helping Mr. Helmick's 100-plus-member team concentrate on coordinating the efforts of thousands of repair workers scattered over hundreds of square miles.

"The focus of the news coverage was on the disaster in New Orleans, and it was depressing and distracting people," Mr. Helmick said. "There was nothing we could do to get the power on in New Orleans, and I saw it draining people's energy."

This week the TV's are back on, but so are many more lights - over half of Entergy's affected customers by Monday evening, mainly in places well away from New Orleans. And even in New Orleans itself, the company had restored some power by nightfall Monday, including to the Convention Center, the warehouse district and the docks where cruise ships tie up. Electricity was also flowing to some parts of the French Quarter, Harrah's Casino and a few hotels near Canal Street. Entergy sent its first work crews into the city on Sunday to see how much could be restored using equipment that had not been flooded and the underground part of the network, made to withstand flooding.

But no one should expect electricity soon elsewhere in New Orleans, said Mr. Helmick, who works behind a plain table adorned with a makeshift sign, "Storm Boss."

"It will be extremely slow going because the rest is underwater or reliant on overhead distribution lines that were heavily damaged," he said. "Now we face some key decisions on whether to focus more resources on the city or the surrounding areas."

Working from an Entergy training center in Jackson, 180 miles north of New Orleans, Mr. Helmick does not want or expect his colleagues to ignore the plight of the company's home city, where Entergy's 22-story headquarters building near the Superdome is a prominent landmark. After all, he and about 1,600 Entergy employees, normally based in or near New Orleans, had to evacuate - leaving homes, relocating families - the weekend before Hurricane Katrina struck. Mr. Helmick's family is now in Baton Rouge, La., but some of his colleagues have moved theirs as far away as Atlanta.

The best thing Entergy could do for New Orleans, Mr. Helmick said, was to restore service as quickly as possible to cities like Jackson and Baton Rouge that have been absorbing refugees. That recovery approach follows traditional utility practice: focus on restoring vital public services where possible and otherwise rebuild by expanding outward from the parts of the power grid still functioning.

Mr. Helmick says he thinks of himself as an air traffic controller rather than a field general. To restore Entergy's power grid as rapidly as possible, the efforts of its distribution companies in Arkansas, Louisiana, Mississippi and Texas most be coordinated with the repair of transmission lines and substations.

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The amount of power Entergy generates at its plants must be carefully balanced with the network's ability to deliver it. And the effort requires management of outside resources like the thousands of temporary repair workers from other utility companies or from contractors who specialize in disaster recovery.

Although bristling with phones and PC's, Mr. Helmick's improvised command center belies the years of thought and practice behind Entergy's response. Not only had the company rehearsed its hurricane plan in April, as it does every year, but it had specifically practiced for a storm landfall near New Orleans.

On Saturday, Aug. 27, the day before the storm bore down on New Orleans, more than half the employees in the city were told via e-mail and Web notices not to come to work on Monday and to take whatever steps were necessary to protect their families.

Most of the rest were told to leave the city but stay in touch. The core group of storm managers went to Jackson while other senior managers were dispatched to Baton Rouge and Little Rock, Ark.

But last spring's drills did not anticipate several realities, including the flooding in New Orleans, the civil unrest and the delays in obtaining thousands of workers from other companies, who were still repairing the damage Katrina had caused in Florida. At no time did the company dream it would become more than temporarily homeless itself, and have to determine what to do with thousands of displaced employees.

Last Sunday, Entergy acknowledged that it may be a corporate refugee for months and announced that J. Wayne Leonard, the chief executive, and other senior managers would establish temporary headquarters 10 miles west of here in Clinton, Miss. Entergy is moving to the posh campus that was the headquarters of the telecommunications giant WorldCom before it collapsed in an accounting scandal.

Mr. Leonard vowed to return eventually to New Orleans but said that he had no idea when that would be possible.

In some respects, Entergy has never performed better. As of Monday evening, the company had reconnected 575,000 customers - more than twice as many customers as it handled in July after a tropical storm, Cindy. The reconnected include vital oil refineries and nearly all of its major commercial customers north of New Orleans. But Katrina's impact was so much more extensive than its predecessors that more than 500,000 customers are still without power.

Those still without power include customers in rural areas where days of work may add only a few users, those too flooded to receive power and those like the refineries downriver from New Orleans where Entergy workers must traverse treacherous marshes.

Within New Orleans, where Entergy is also the natural gas utility, the company is just beginning the painstaking and potentially hazardous task of inspecting and repairing its gas distribution network. The system is functional but is likely to have developed potentially deadly leaks.

In Jackson, where 20 percent of Entergy customers still lack power, hundreds of maintenance crews converge each night on the sprawling parking lot around the Coliseum and the adjoining exhibition center.

Inside the exhibition hall, not far from where the Red Cross provides food and clothing to refugees, Entergy's caterer serves dinner for thousands. Buses ferry the workers to the hotels, church campgrounds and other facilities in which Entergy houses the repair crews. During the weekend, more than 100 men were sleeping on cots in abandoned office cubicles of the largely empty WorldCom campus.

Entergy has hired more than 10,000 workers from other utilities and contractors, all of whom must be trained to work on its network. So far, according to Entergy, the only serious casualty has been an employee of Air2, a contractor based in Timonium, Md., who was crushed last week while handling 75-foot transmission poles.

The workers often arrive in convoys, like the 47 repair vehicles from FirstEnergy, a utility holding company in Akron, Ohio, that pulled into the Coliseum parking lot Saturday. The group arrived from Florida, where it had spent nine days repairing storm damage.

Local Entergy officials like Haley Fisackerly have been scrambling for fuel and other resources required to keep the crews working. On Friday, Mr. Fisackerly learned that a local contractor had photocopied an Entergy letter, which authorizes fuel priority for the contractor's firm, and given it to family members to help them jump gas lines. That led to a hasty redesign of the authorization form to thwart such finagling.

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The need to prevent theft once fuel has been acquired is one of many reasons Entergy has found itself requiring far more security workers than anticipated. "We're all running on adrenaline," said Mr. Fisackerly. "People realize there's a worse disaster farther south, so we are trying to fend for ourselves."

According to out-of-state repair workers, that awareness has also made Entergy's customers in this region some of the most grateful they have encountered. "One guy came out and said he wanted to give me a great big hug," said Randy Myers, a contract line repairman from Wyalusing, Pa. "That's not the reception we get on Long Island."

Inside City, The Deluge Came After The Storm (USAT)

By Patrick O'Driscoll, Steve Wieberg, Peter Eisler And Rick Hampson

USA Today, September 6, 2005

Those who stayed
in New Orleans
describe initial
relief followed
by desperation

NEW ORLEANS — The fall of New Orleans was a catastrophe with an added cruelty: hours of false hope, when it seemed the city had been spared the worst, not doomed to a sodden grave.

By noon last Monday, people thought the crisis had passed; by noon the next day, they knew it had just begun.

In between came that moment of exquisite horror when each person still in the city grasped that destruction would come not by great wind or mighty wave, but by water rising inch by inch.

Deborah Caldwell, cowering in her attic, realized there was no way to go but up.

Twanda Otis looked out a second-story window and saw water a few feet below.

Pat Thomas stepped outside for a rake and found she needed a dam.

They didn't know that a 20-foot chunk had burst out of the levee along the 17th Street Canal and that Lake Pontchartrain was filling their city like a soup bowl. They did know this: It was time for fight and flight.

So Caldwell grasped her only implements of escape: an ax and a household hammer. Otis, hugging her newborn, stepped uncertainly into a wobbly boat. Thomas waded off into chest-deep water polluted with who-knew-what.

At dawn Sunday, Aug. 28, Hurricane Katrina was 24 hours from New Orleans. It was a Category 5 hurricane with sustained winds as strong as 160 mph and a potential storm surge 25 feet high — easily enough to top the levees and flood walls that keep water from the city.

For decades, engineers had feared that New Orleans' flood controls weren't sufficient to withstand anything stronger than a Category 3 hurricane. The city sat largely below sea level, surrounded by the Mississippi River, the Gulf of Mexico and Lake Pontchartrain, a huge tidal basin.

The city was like the little pig who built his house from straw. Years ago, James Lee Witt, then director of the Federal Emergency Management Agency, had asked, “What do you do about New Orleans?”

What would New Orleans do about Katrina? About 80% of its people had left or were leaving.

This is the story of three who stayed.

Caldwell, 44, a casino employee, holed up with her family in her stilt-legged shotgun house not far from the Superdome. She was motivated by a desire to stay put and by a religious fatalism: She was a Christian. She trusted the Lord. She didn't have a problem dying, if it came to that.

Otis, 20, a cook at the Bourbon Street restaurant Remoulade, had two good reasons to leave: her baby, Richard, born seven days earlier, and her 5-year-old son, Philip. She, her children, her boyfriend and nine relatives packed into a van and tried to get out of town Sunday morning. They never made it through a snarl of traffic. Finally, they turned back.

Thomas, 62, a retired school counselor, knew that hurricanes nearly always missed the city and never flooded her Carrollton neighborhood, whose stately homes had withstood a century of storms. So she decided to stay with her dog, Ginger.

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On Sunday night, as Katrina closed in, she had rice and beans and a big bottle of wine with a few other neighbors who stayed behind. They were sure they could beat the storm.

That's New Orleans: Laissez les bon temps rouler. Let the good times roll.

Before dawn Monday, Katrina had weakened slightly, picking up drier air from the west, and dropped to Category 4. Even better, the storm began turning just east of New Orleans, perhaps sparing it from the worst storm surge.

About 10 a.m., Katrina passed 35 miles east of the city. Winds above 100 mph battered downtown; Pontchartrain, normally a foot above sea level, rose 3 feet. Water began spilling over some flood walls and levees, but they held.

By lunch, the worst of the storm had passed. While some neighborhoods had flooded, particularly along the south side of Pontchartrain, many areas, including the historic French Quarter, had been spared serious water damage.

"The thing we're happy about is that there wasn't as much loss of life or property damage as there might have been," FEMA spokesman James McIntyre said. Some officials were talking about a relatively quick rebound, but McIntyre warned: "This is still a dangerous situation."

On its website, the Army Corps of Engineers, which maintains the levees, declared: "The fact that Katrina … didn't cause more damage is a testament to the structural integrity of the hurricane levee protection system."

Caldwell's house survived the storm. There was some water in the street Monday, but when the family retired for the evening, they had phone service, running water and plenty of food.

Otis and her children rode out the storm at her parents' house, which was undamaged. There seemed little reason for fear. Everyone thought the worst had passed.

At dinnertime, Thomas and her neighbors celebrated their good luck with a New Orleans feast of blackened fish and shrimp cakes.

But New Orleans' armor had begun to crack.

The water level on Pontchartrain had peaked 7 feet above sea level early Monday afternoon. A levee had failed on the city's east side. By late afternoon, water had climbed to the tops of the walls of some one-story homes near the canal, forcing residents to their roofs.

After nightfall, water broke through a flood wall atop a levee along the 17th Street Canal, a main drainage outlet into Pontchartrain. Water from the swollen lake had been pouring over the wall all day, eating away the earthen levee that holds it up. Finally, a 20-foot chunk of the wall burst forward. The rushing water crumbled an additional 400 feet of flood wall.

The corps said it might use barges to block the breaches, or helicopters to fill the holes by dropping sandbags, stone, even Jersey barriers into them — but there was no way to do anything until the next morning's light.

All night, Pontchartrain drained unchecked into the city.

Tuesday morning, it became clear that New Orleans' good fortune had been fool's gold.

Water began to rise through the floorboards of Caldwell's one-story home, forcing everyone into the attic with clothes, fruit, water, flashlights and a bucket, partly filled with water, for a toilet.

The water downstairs was 3 feet deep and rising. Reality was starting to kick in. It was survival time, Caldwell realized.

She and the others chopped a hole through the steeply pitched roof. They took turns poking their heads out and waving a white towel at helicopters passing overhead: FEMA, Red Cross, the military. None indicated it had seen her.

Finally, Caldwell and her 19-year-old son eased into the oily water. Using ice chests, they floated from porch to porch to the end of the block, where they latched onto a chain-link fence and moved along it to dry land. They flagged down a boat. After a night at an open-field camp for evacuees, they were on a bus to Houston.

When Otis and her children drove to her aunt's home nearby, there was ankle-deep water on the street outside her second-floor apartment. Soon, it had climbed halfway up the first floor.

Her father took a boat from a fire station around the corner. Otis stuffed one bag with Pampers and another with baby formula and bottled water. Clinging to her children, Otis got in the boat and floated off. They reached dry land, eventually walked to the Superdome and later boarded a bus to the Houston Astrodome.

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Thomas awoke Tuesday well-rested and ready to clean up the windblown mess outside. But when she opened her door, she thought, "Oh my God! What is this?" Water, which had covered only the street the previous night, had risen over the sidewalk and was lapping at the third of her five front steps.

Thomas knew it was time to move to higher ground. She had the keys to another house but had to walk in water up to her chest for several blocks to get there.

Over the next few days, she lost telephone service and running water. A nearby drugstore was looted. There were gunshots at night and no sign of police.

Thomas wanted to leave, but if she was going to catch a bus out of town, she would have to leave Ginger behind. Then she ran into a neighbor who had a car in a garage downtown. If they could get to it, they would drive to Baton Rouge.

A journalist offered her a ride downtown. So early Friday morning, Thomas loaded Ginger into the car for a circuitous drive through storm-damaged neighborhoods. Soon, they passed the convention center, where a vast, vaguely threatening-looking throng waited for evacuation buses.

Then there was a reassuring sign ahead: a police car at the curb. As she passed it, Thomas saw that the cruiser was battered, abandoned and stripped of its tires.

Laissez les bon temps rouler. The old city's motto had become its epitaph.

US Prepares To House Hurricane Victims (FT)

By Joshua Chaffin, Sheila McNulty And Dan Roberts

Financial Times, September 6, 2005

Authorities as far away as Utah and Detroit are preparing to house evacuees from Hurricane Katrina for many months, as the US grapples with the longer term implications of relocating hundreds of thousands of refugees.

While rescuers try to assess a regional death toll estimated by the New Orleans mayor at up to 10,000, it is becoming clear that the next phase of the tragedy may involve an exodus of people unparalleled in modern American history. "We are basically moving the city of New Orleans to other parts of the country," said Michael Chertoff, secretary of homeland security. "This is a tremendous medium-term and long-term challenge."

The Federal Emergency Management Agency, which is co-ordinating the various agencies involved, said it was too early to tell how many people were involved. But based on the demographics of the region, it estimated more than 1m would need help moving from temporary shelters to longer-term housing.

As refugees began to fan out across the country, President George W. Bush on Monday declared emergencies in states far from the storm, including Utah, Colorado, Georgia and North Carolina. The emergency declarations made federal aid available to help those states deal with the thousands left homeless.

But efforts to co-ordinate the relief strategy are also complicated by resistance among many of those affected, who worry about what awaits them.

"They don't tell you what you're going to do or how you're going to live when you get there," said Darrell Johnson, a cook from New Orleans now sheltering in Baton Rouge. Elsewhere, victims of the storm evacuated to Houston said they were worried about being forced to go back to the hellish conditions they escaped last week.

Rick Perry, Governor of Texas, on Monday prepared to airlift victims of Katrina to other states and bring in cruise ships to house the overflow, as relief operations in the state approached capacity. Texas has received about 230,000 evacuees, though more continue to arrive.

Authorities are also scouring military bases, sports stadiums, hotels and other facilities for lodging. As well as placing huge strain on state and federal resources, the disaster presents politicians with the sensitive question of how much rebuilding will take place in New Orleans and the surrounding areas.

Launching a relief fund with Bill Clinton, former president George Bush warned "recovery is going to take years". His son, president George W. Bush, made his second visit to the region on Monday. After criticism of the government's slow response, Mr Bush promised to "do what it takes" to help victims get back on their feet. Meanwhile, Admiral Timothy Keating, co-ordinating the

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military's response, said thousands of troops were likely to remain in the area for "months not weeks". The army is leading efforts to repair levees and pump water out of flooded streets - a process some warn could take up to 80 days.

1 Million People Can't Go Home For Months (WP)

By Marc Kaufman

The Washington Post, September 6, 2005

The vastness of the displacement created by Hurricane Katrina became more clear yesterday as officials struggled to respond to the needs of more than 1 million people who will be out of their Gulf Coast homes for months to come.

So many homeless people flocked to Texas in the past few days that Gov. Rick Perry (R) declared that his state was full and could take no more. Electronic highway signs in Houston directed bus drivers with evacuees to Fort Chaffee, Ark., but that facility quickly filled up as 9,000 people arrived within 16 hours Saturday. Arkansas officials asked for the signs to be removed.

With shelter space in the deep South filling up, the Federal Emergency Management Agency yesterday began to airlift storm survivors to states as far away as Michigan, Utah and California.

FEMA officials said they have secured as many as 50,000 shelter beds in often faraway states, but the flow of people to those states has sometimes been chaotic.

The office of Michigan Gov. Jennifer M. Granholm (D) said, for instance, that FEMA officials told them that more than 1,000 people would be flown to Battle Creek by yesterday evening, but 140 arrived. The airlift of 400 Hurricane Katrina evacuees to the D.C. Armory was delayed indefinitely.

In all, FEMA officials said, more than a quarter million people are living in shelters set up by the American Red Cross, the National Guard, local churches and municipal officials in cities from Albuquerque to Memphis.

Most of the homeless are from Louisiana, where officials estimate about 1 million people evacuated before the hurricane, and another 100,000 were evacuated afterward.

FEMA officials said that about 50,000 people are in Louisiana shelters, but Brecke Latham, spokeswoman for Gov. Kathleen Babineaux Blanco (D), said that virtually none of the 1 million evacuees have been able to return to their homes. Many are now living in hotels, with family or with friends, but officials said they are preparing for many of them to need help as their money, or their welcome, wears out.

In Mississippi, 15,000 people are in shelters and many more are unable to return home. An official in Gov. Haley Barbour's office said that "several hundred thousand" Mississippians are believed to have been displaced and are living elsewhere.

While FEMA and Red Cross officials praised the outpouring of help and offers of lodging from the states, some voiced concern that evacuees were being moved too far from their homes. Speaking at the Astrodome in Houston, Jesse L. Jackson said it will be a shock for many people to wake up in places like Salt Lake City or Minnesota. "It's a long way from home, from where they lived and acculturated," he said.

The Albuquerque Convention Center was one typical relocation site yesterday, and it received 100 people who had spent much of the past week in the Superdome. Carisa Malanum, sales director of SMG, the company that manages the center, said that 500 to 900 more evacuees are expected.

She said that the people can stay in the center indefinitely, but that officials hope to move them into more permanent lodgings within a few weeks. More than 500 Albuquerque area households have signed up to host a family, she said, and an additional 600 apartment units have been offered.

The new arrivals "seem to be doing fine," Malanum said. "We'll have people to help with psychological and emotional issues."

According to FEMA spokesman Butch Kinerney, the agency has been involved in placing more than 229,000 people into shelters. Another 63,000 survivors have been evacuated with unknown destinations. He said a significant number of people in Louisiana and Mississippi are still living in shelters without electricity or running water, and that their relocation out of the area is a top priority. Almost 60 percent of Louisiana and 40 percent of Mississippi remain without power, he said.

Texas officials decided to stop accepting new evacuees after placing almost 130,000 in shelters and providing hotel or family lodging for 100,000 more.

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"We are concerned about our capacity to meet this great human need as thousands more arrive by the day," Perry said. "We want to make certain every evacuee has a safe haven where they can receive medical care, water, food and other assistance."

Perry said that some evacuees will be moved to other facilities in Texas, while others will be flown out of state from Houston and Dallas. It was unclear how officials would decide which evacuees would be sent elsewhere, or how much choice they would have on where to go.

"So far, people just seem to be happy to have a place to stay and some food to eat," Kinerney said.

Waves Of Evacuees Swamp Host Cities (USAT)

By Martin Kasindorf

USA Today, September 6, 2005

More than 500,000 evacuees from Hurricane Katrina are on the move. It is a storm surge of the dispossessed, an exodus on a historic scale in the USA.

The forced migration from flooded Gulf Coast homes is swamping cities in Louisiana and Texas. The waves are rolling to Michigan, New Mexico, Arizona and as far as Oregon and New York. School officials in many states are cutting red tape to enroll more than 160,000 displaced children.

Federal, state and local officials are grappling with housing the homeless after a stumbling start. Chastened by scenes of chaos last week at New Orleans' Superdome and convention center, they are running short-term shelters in sites that range from Houston's Astrodome to three Carnival Cruise Lines ships that will provide berths for about 7,000 evacuees in Galveston, Texas, and Mobile, Ala.

What comes next for governments: Planning longer-term quarters for the most impoverished of the displaced, who may be dispersed to even more disorienting surroundings outside the Deep South.

Meanwhile, charities are groping through an emergency of a long-lasting kind that they've never seen before. “We're trained to deal with major evacuations, but not with the thought that people might never go home again,” says Keith Berger, who oversees four shelters as chairman of volunteers for San Antonio's Red Cross chapter. “We're writing a brand-new book here.”

The Red Cross is caring for 142,000 storm victims at 487 shelters in at least 12 states. Many churches and other private groups are pitching in to transport, house and feed evacuees.

This country hasn't seen mass movements of refugees since Southerners fled Civil War armies. The newly uprooted Americans find themselves added to the 25 million people worldwide who, the United Nations says, have at least temporarily lost their homes in environmental disasters or wars.

In sympathy for the homeless, the welcome mat is out. Nationally, charitable donations are breaking records set after the 9/11 terror attacks and December's Asian tsunami. In Texas, where nearly 250,000 are camping out, emergency shelters have an oversupply of volunteers handing out food and clothes.

Evacuees are taking Detroit Mayor Kwame Kilpatrick up on his offer of free hotel rooms for 500 families. The First African Methodist Episcopal Church of Los Angeles is painting a house donated by comedian Arsenio Hall, preparing to offer a year's free room and board to a Gulf Coast family.

David Perez, owner of a San Diego oil and gas company, spent $250,000 to charter a jet to Louisiana. At a shelter there, he told reporters, he offered rides to California. He got 80 takers, who were put up at San Diego's Kearny High School. Perez then turned the jet around and went back for another load of evacuees.

Robert Lang, director of the Metropolitan Institute of Virginia Tech in Alexandria, Va., likens the generosity to the reception Americans gave South Vietnamese refugees after Saigon fell to communists in 1975. “There's a tradition in this country of providing safe harbor to those who encounter disaster,” Lang says.

There are signs of local uneasiness, too. Unnerved by TV reports of looting and sniping in New Orleans, some homeowners near the Astrodome hired security guards. In Baton Rouge, the display cases for guns at the Wal-Mart in the Cortana Mall have been empty since Thursday. Sales clerk Damon Cephas, 23, says buyers made a run on the weapons as evacuees began making the 80-mile trip from New Orleans. Wal-Mart stores have since stopped selling guns.

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"People act like they are in fear of their lives," Cephas said. "I think all of that (violence) was being done by a small number of bad people. Not everybody from New Orleans is like that, but all the people saw was the bad stuff."

Houston authorities say there have been some vehicle burglaries and a few intoxication arrests involving hurricane victims. But the new arrivals are overwhelmingly law-abiding, no rowdier than the out-of-towners at "a Super Bowl or an All-Star Game," assistant police chief Brian Lumpkin says.

Still, police have stepped up patrols in surrounding neighborhoods. To restrict evacuees from meandering outside the Astrodome and the adjoining Reliant Arena and Reliant Center, officials are shoring up perimeter fences. Authorities aren't using the word "curfew," but they're telling the 23,600 people at the Astrodome complex to be inside by 11 p.m. or they'll be locked out for the night. On a more welcoming note, shelter residents are getting invitations to the nearby Six Flags amusement park, museums and malls.

Many Katrina evacuees are low-income African-Americans. New Orleans was 67% black, and 35% of the city's blacks were living below the poverty line, U.S. Census Bureau figures from 2000 show. That raises a potential for racial conflict. Leaders of the Congressional Black Caucus last week advocated placing black families in cities with large black populations.

The evacuees are making other kinds of substantial impact wherever they've landed:

•Baton Rouge, which had a population of 228,000, swelled by 200,000 evacuees, instantly surpassing New Orleans as Louisiana's largest city. Hotels are bursting. Roads are clogged with traffic. Local service stations are suffering gas shortages and long lines. On busy Florida Boulevard, Wendy's and Church's Chicken stores were warning patrons that there were no more french fries.

•More than 6,000 evacuee students enrolled in Houston kindergarten through high school classes last week, and the number could reach 10,000, Kevin Hoffman of the Houston Independent Board of Education estimates. Saying Texas shelters are full while "there are shelters set up in other states that are sitting empty," Texas Gov. Rick Perry ordered emergency officials Saturday to airlift some evacuees to other states that have offered help.

•Some resilient, middle-class evacuees are already putting down new roots elsewhere. In Baton Rouge and Jackson, Miss., so many of them are buying houses that Sen. David Vitter, R-La., calls it "the great land rush." The average home price in Baton Rouge has jumped about $25,000, to $200,000, since Katrina, real estate agent Beth Alford says. One New Orleans law firm bought 50 houses in Baton Rouge, sight unseen, says Ann Prewitt, a Madison, Miss., agent.

No racial violence has been reported in any city, but that remains a potential problem, says Jorja Leap, an adjunct professor of social welfare at UCLA.

If the government doesn't allocate low-income, black evacuees to cities with federally backed plans for housing and other services, "I don't think they're going to be absorbed seamlessly into the fabric of American life," Leap says. "Whether it's something as mundane as parking places or seats on a bus in public transportation, competitive pressure on resources will bounce into issues of money and color."

Leap says evacuees are apt to be psychologically battered by "very nearly the same postwar pattern" she discovered in the 1990s in interviewing refugees in Kosovo, Bosnia and Serbia. They'll pass through successive stages of "protest, despair and detachment," she says.

The evacuees' losses of social networks and paying jobs are "a form of identity theft," says Mary Pipher, a clinical psychologist. Her 2002 book, The Middle of Everywhere, examined the impact of refugees from Cambodia and other countries on Lincoln, Neb., where she lives. "Our identities are built around the people around us, the things that we do."

Roy Bernardi, deputy secretary of the U.S. Department of Housing and Urban Development, says the government wants to disperse evacuees from cities already heavily impacted. The government's focus is slowly shifting from emergency shelter to finding housing that can be used by hurricane victims for as long as a year.

HUD issued a plea last week to mayors and county executives across the country for inventories of what's available. The tally should be in this week. HUD also is identifying how many of the 26,000 properties it owns are vacant. And it's studying how many of the manufactured housing kits it owns could be put up.

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If HUD has its way, poorer New Orleans residents who were bused to shelters in Texas will be relocated to every U.S. region. The new quarters may be on military bases or in old hospitals, university dorms, nursing homes, schools and public housing.

Detroit's Kilpatrick says his city will work with HUD to place evacuees in permanent subsidized housing, getting them out of the rooms that about 60 area hotels are opening for them. “I want them to really be a part of our community,” he says. “I'd say 90% will stay.”

The process of planning beyond six months to a year will be complicated by uncertainties. Eight days after Katrina, no one can paint a picture of what the human dimensions of the storm's aftermath will look like in the long term. Some questions it's too early to answer:

•How many people will choose to return to once-beloved places they may now associate with traumas of wind, water, fear and loss? “I'm never going back,” Elena Temple, spokeswoman for the U.S. Conference of Mayors, says tearfully. A New Orleans native and current resident of Washington whose family escaped, she doubts that her home in the Garden District will ever be habitable again. She's sure all the family pictures are gone. “Twenty years from now, when I have children, how am I going to be able to explain what my city was like when I grew up?”

•Even if the pull of home is strong, how can people go back if jobs are not re-created? Joseph Gregory, a Gulfport, Miss., optometrist with several offices on the Gulf Coast, has moved temporarily to Jackson but says he may move on to Dallas to restart his practice. His house has been reduced to a slab. His offices survived, but his patients scattered to the winds.

•With 40% of Gulf Coast homeowners lacking flood insurance, how many can afford to rebuild houses that have washed away?

Rebuilding New Orleans is an especially thorny task. The Army Corps of Engineers says it will take at least 38 days to pump water out of the city. That would be just the start of a comeback. The scope of rebuilding could be contentious. To the irritation of Louisiana Gov. Kathleen Blanco, a Democrat, U.S. House Speaker Dennis Hastert, a Republican, has said “it doesn't make sense” to rebuild a city several feet below sea level. He later issued a statement saying he was not “advocating that the city be abandoned or relocated.”

“They may not choose to develop the entire site,” says Lt. Gen. Carl Strock of the Corps of Engineers.

Lang of Virginia Tech's Metropolitan Institute says that if New Orleans can rebuild, it has a future. Families have lived there for generations, and people will return because the city has its own ethnic identity, language and cuisine, Lang says. “It's one of the most iconic places that has as strong a regional identity as exists in the United States,” he says. “That probably favors reconstitution.”

Homesick or not, few evacuees can afford to be jobless for long. Officials in Texas, Tennessee, Georgia and other states with evacuee inflows have started programs to link the newcomers with employers. Craigslist, the Internet-based classified advertising service, is replete with job offers for evacuees willing to relocate for good.

Moves may be permanent for evacuees like the 25 members of Carl Douglas Jr.'s extended family. Rousted from their three homes in New Orleans, they are getting to like the Baton Rouge area. Douglas, 68, says that since reaching a shelter in Gonzales, La., last week, they have been overwhelmed by the welcome: kind volunteers, a comfortable kennel for the dogs, a veterinarian on call. “The people here have been wonderful,” Douglas says. “We think we might just move here, period.”

Some Of The Dispossessed Say They Won't Return (LAT)

By Solomon Moore

The Los Angeles Times, September 6, 2005

NEW ORLEANS — Displaced residents of this city — especially the poorest blacks, who were hardest hit by the storm — are pondering whether they will try to return to a town the tour guides often missed, one that has suffered decades of crime, corruption and grinding poverty.

"Katrina had a tremendous impact on the black people who lived here," said Lance Hill, director of a diversity training program at Tulane University. "This city was tough on a lot of them even before the hurricane. A lot of them were already

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unemployed or had minimum-wage jobs. Many of them were renters. They don't have anything to come back to. A lot of them are just not going to come back."

Before the storm, most Americans knew New Orleans as a blend of old Southern elegance and Bourbon Street decadence. The aftermath, however, has highlighted a primarily black city in which one-third of the African American population — more than 100,000 people — lives below the poverty line. Many of those hardest hit by the storm are not sure whether they want to go back.

"I didn't have no money for gas," said Thomas Lallande, a 60-year-old black man, as he rubbed his raw feet after finally evacuating.

Lallande said he wanted to leave before the storm but couldn't afford to. As the flood rose chest high last week, he waded from his submerged apartment in the 9th Ward to the Superdome, where he and thousands of people — nearly all of them black — waited for days without food, water or security.

Lallande escaped New Orleans — he was recuperating at a Baton Rouge shelter Monday — and, for now, he has no plans of going back: "What for? I don't have nothing back there."

And where some saw grim images and shattered futures, the city's most destitute saw rare opportunity.

"Actually, some people were a little better off after the storm," said a 26-year-old man who spoke on condition of anonymity as he took groceries out of a store last week. "I had gotten to the end of my rope. Now, I got a little something."

But even middle-class African Americans are reconsidering their futures in New Orleans. Herman and Christy Taitt, devotees of the city's music and culture, said they already had calls out to several different cities.

Herman, 44, is the head maintenance manager at Dillard University, and Christy, 37, is an accounting supervisor at a pharmaceutical firm. They had a house and three cars — including a Corvette — but they always thought they might have done better outside New Orleans.

Last week, at a Kinko's computer in Baton Rouge, they found aerial photos of their New Orleans home on the Internet. Water had inundated their neighborhood.

"Family kept us here," Herman Taitt said. "And I love the history of this place. The culture. It's the birthplace of jazz. The food. The parties. You can have a good time here. So we stayed. We allowed ourselves to have a second-class status to Southern white folks."

But now, Herman Taitt said, his elderly father is missing — and a crucial bond to the city has been broken.

"We're looking at Houston," he said. "We're looking at L.A."

New Orleans teacher Karen Francois, 53, said her apartment in the 9th Ward was destroyed. Though she would like to return to her job in January, she's thinking about Arizona after that.

"I'll be sad because I don't think there are people like us anywhere else outside of New Orleans," she said. "But you can't get any money there. There's no real opportunities in New Orleans — not for us."

New Orleans has always been a city of ironies. The first European settlers were Frenchmen lured in the 1700s by a Scottish pyramid schemer who paid land speculators with profits he reaped from newer real estate investors.

By the 19th century, New Orleans was a major cotton producer and market for slaves, many of whom built the beautiful antebellum buildings that drew so many tourists over the last century.

It was also home to one of the nation's largest free black communities. Many of the free were "Creoles" of mixed ancestry, sometimes the offspring of privileged plantation owners and black concubines. Some free blacks even owned property — including slaves.

Now, New Orleans' small but influential black middle-class community is one of the oldest in the nation. Many of them were educated at one of New Orleans' predominately black colleges, including Dillard University and Xavier College, the nation's only historically African American Catholic college and a leading producer of black medical and dentistry graduates.

New Orleans' three-tiered racial structure — white, black and Creole — plays a subtle but decreasing role in the city, residents say. New Orleans natives, especially people of color, say they can tell who's black, and who's Creole, by differentiating between kinky or smooth hair. Most of the city's black leaders have Creole ancestry.

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"I can distinguish because I'm from there. My older sister used to go to 'Brown Bag parties' " in the 1950s, said Eric Spurlock, who fled his home in the 9th Ward. "They would hold up a brown paper bag, and if you were darker than that you would have to pay 25 cents to get in."

Francois said she considered herself Creole and acknowledged that her status afforded her access in New Orleans that was not extended to many of her African American friends.

"I went to a white university, I can speak as they do, act as they do," said Francois, the schoolteacher. "Whites are comfortable around me, but it's not that easy for other people I know."

The problems of urban America linger here. Last year, New Orleans' per capita homicide rate was among the nation's highest, as was its illiteracy rate.

In the last decade, the city has been rocked by a series of bribery scandals and police brutality scandals that led to investigations of a former mayor, a parish judge and a variety of other city administrators.

"They was killing each other in broad daylight," complained Tynia Williams, 42, explaining the city's problems with street crime.

Williams had to evacuate her apartment in Jefferson Parish, right on the New Orleans municipal line. She worked and had family members in New Orleans proper, on the other side of the 17th Street Canal.

Williams said her home was destroyed, but she is not sentimental about it. She is looking for work in Baton Rouge.

"The politicians were crooked, the judges were dirty," she said. "A judge convicted my son for murder and sentenced him to a life sentence, and two months later the judge got convicted."

In 2002, Mayor C. Ray Nagin came to office with a mandate to clean up city corruption and to lift residents out of poverty. The latest in a succession of black leaders who have broken into New Orleans' political system since 1978, Nagin ordered the arrests of dozens of city employees on bribery and related charges in the early months of his administration. Several federal corruption investigations were in process when Katrina hit.

In an effort to lower crime, city leaders had set about a controversial plan to replace many public housing projects with single-family homes and businesses. The notorious St. Thomas housing projects, for example, were replaced a few years ago by a Wal-Mart.

Supporters of the program say it is one reason crime had, in fact, been somewhat reduced in New Orleans. Detractors said it would displace black project residents, many of whom went to live in the eastern part of the city, one of the areas hit hardest by the flood.

They needn't have bothered with the debate — Katrina displaced more poor people than gentrification ever could.

Filling A Desperate Need For Shelter Begins With Cruise Ships And Proposals (NYT)

By By Ernest Beck And Edmund L. Andrews

The New York Times, September 6, 2005

Phase 1 of the government's plan to provide desperately needed transitional housing for tens of thousands of hurricane evacuees is scheduled to begin this morning, when homeless elderly people from various Texas locations board 30 buses destined for two Carnival cruise ships in Galveston, Tex.

Relief plans also call for housing evacuees in emergency trailers, hotels, motels, military bases and schools.

The Federal Emergency Management Agency chartered three vessels from Carnival Cruise Lines of Miami, the world's largest cruise-ship company, to lodge evacuees of Hurricane Katrina for up to six months. (All guests whose bookings have been canceled have been offered full refunds, according to the company).

The two ships, each capable of holding 2,600 people, will remain docked in Galveston; another, with an occupancy of 1,800, will be in Mobile, Ala. They will be used primarily for elderly victims and people with special health problems, with families a second priority, according to James McIntyre, a FEMA spokesman.

Red Cross personnel and the ship's medical team will be on board, but "this is not for those who are severely ill, it's for those who can be effectively independent," Mr. McIntyre said. Nor is it for those expecting luxuries associated with cruises.

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"We bought a basic package without amenities - a room to live in, based on need, and food to eat," Mr. McIntyre said. "This is not about being bathed in luxury - it's to get people out of the Astrodome."

A FEMA spokesman said the agency has also put out a call to producers of "manufactured housing" and recreational vehicles - campers and the like - asking for assistance, and has placed orders for more than 50,000 trailers.

"They're looking at all types of housing, whatever anybody has right now and can ship right away," said Joanne Foist, a spokeswoman for Fleetwood Homes, one of the nation's biggest makers of manufactured housing. Fleetwood is based in Riverside, Calif., but it has 11 plants in Georgia, Tennessee, Kentucky and Texas that could supply about 400 homes a week to the hurricane-hit areas.

Mr. McIntyre pointed out that travel trailers were a bit roomier than the cabins on cruise ships, and added that they would be dispatched to locations in Alabama, Mississippi and Louisiana, home states of the displaced, to "return them to some normalcy in their life as quick as possible," he said.

As rescue efforts for the devastated Gulf Coast cities gather pace, relief organizations and policy makers - as well as architects - are also thinking about the next phase. Daniel Libeskind, the celebrity architect known for his crystalline forms and his plan for a soaring Freedom Tower at ground zero, has an idea to help the tens of thousands left homeless by Hurricane Katrina: give them refuge in a low-cost modular shelter he has designed.

What Mr. Libeskind has in mind is a far cry from his more avant-garde buildings, like the Denver Art Museum extension and the Jewish Museum in Berlin. Imagine instead a compact 580-square-foot house with two small bedrooms, a bathroom, a kitchen and possibly a veranda, all for an estimated price of $3,700 or less. Featuring a pitched roof and latticework siding, the house, which is based on his design for a village in Sri Lanka flattened by the tsunami, is a dignified response to the crisis, Mr. Libeskind said, and could be built in about two weeks, depending on the materials.

"People should not be treated like sardines," he said. "These are not barracks."

After a disaster, there is no shortage of possible ways to house the displaced. But there is no best answer. Tents and shipping containers, for example, which have been used in other disaster zones around the world, have many drawbacks.

"In a hot environment, the idea of tents and things of that nature without ventilation or privacy makes for serious conditions," said David Downey, the director of the Center for Communities by Design, a resource center of the American Institute of Architects in Washington for architects interested in sustainable communities.

Shigeru Ban, the renowned Japanese architect, who is designing one of the multimillion-dollar homes in the enclave known as the Houses at Sagaponac in the Hamptons on Long Island, suggested in an interview on Friday that Katrina relief groups use his design for temporary housing made of cardboard tubes and plastic beer crates.

Called paper tube structures, the shelters were used after the 1995 earthquake that badly damaged Kobe, Japan, and after quakes in Turkey and India. One advantage is the cost: using donated materials from local companies and volunteer builders, "the houses are practically free," Mr. Ban said. They can be assembled by six people in six hours, once the materials are assembled.

Any temporary housing, however, has a way of becoming permanent once an initial emergency subsides, financing dries up and news media attention dwindles. Months after Hurricane Andrew flattened a large swath of South Florida in 1992, tent cities put up by relief organizations were still sheltering people, a source of much anger and resentment.

In Punta Gorda, on the west coast of Florida, more than 11,000 homes were wiped out when Hurricane Charley roared through in August of last year. Officials brought in 550 three-bedroom mobile homes as a temporary measure, but today the makeshift community - called "FEMA Village" - remains home to 1,500 people.

Its residents, most of whom lived in public housing before the storm, have had few opportunities to change the situation. Mr. McIntyre says the Punta Gorda mobile homes are "the standard" for those that may be used to house Katrina refugees.

Compared with a mobile home park, a fancy passenger ship - anchored in the Gulf, its cabins full of people in need of housing for months - sounds more inviting. Yet cruise ships are not ideal. On a ship, people would be far removed from any semblance of the life they once knew. A cruise ship, said Roberta Cohen, a co-director of the Brookings-Bern Project on Internal Displacement at the Brookings Institution in Washington, "is not a return to normalcy - it's some sort of 'first world' fantasy idea."

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Beyond cruise liners and trailers, a growing number of architects are responding to global crises with innovative designs and concepts for affordable temporary housing that can be erected on the site with local materials or easily shipped to a disaster region, including packed-mud structures, durable prefabs and biodegradable "flat pack" units. Sean Godsell, an Australian architect, has designed temporary housing using shipping containers, calling them Future Shacks.

Like all good designs, those promoted by architects can be tweaked to fit different environments and cultures. Kevin Teague, an architect who is working on the Sri Lanka houses in Mr. Libeskind's New York office, said that plastic or fiberglass could be substituted for concrete blocks to make structures lighter.

Still, it is not clear how popular such housing might be. And much depends on the amount of aid made available by governments and relief agencies. Despite the low cost of his shelters, Mr. Ban managed to get only 50 or so cardboard dwellings built in Kobe and 30 in Turkey, aiding a tiny portion of the thousands left homeless and destitute.

Until now, Mr. Ban and Mr. Libeskind have not been in contact with relief organizations. "My energy alone," said Mr. Ban, "cannot build for the mass of the people."

U.S. Delays Planned Airlift Of Evacuees To D.C. Armory (WP)

By Hamil R. Harris And Theola S. Labbe

The Washington Post, September 6, 2005

The proposed airlift of 400 Hurricane Katrina evacuees to the D.C. Armory yesterday was temporarily delayed by federal officials who sought more time to develop a comprehensive national plan for placing victims across the country, authorities said.

"We temporarily paused some airlifts while we identified cities and states who were ready and willing to receive these evacuees," said Russ Knocke, spokesman for the U.S. Department of Homeland Security.

"It is very important that we have an organization in place so that there are city and state officials as well as nonprofit groups ready and willing to receive and care for these individuals," he said.

Knocke said evacuees could be airlifted to the Washington area as early as today.

The postponement frustrated some city officials who had stocked the cavernous D.C. Armory with supplies and hundreds of cots in anticipation of the arrival of evacuees. It also reflected confusion nationwide as federal officials contend with dwindling shelter space in the deep South and a mass movement of displaced people that has sometimes been chaotic.

"There are certain evacuees who have been rescued from their nightmarish scenarios, and they have been taken to certain airports where they are waiting for airlifts and people are able to receive them," Knocke said. "We are working more closely with state and local officials to develop a comprehensive plan while all the while airlifts from the New Orleans airport have continued."

The airlift delay came as District officials were waiting to learn whether the 10 buses they sent to New Orleans on Friday would bring back storm victims. The buses did not take on storm survivors in New Orleans and were rerouted to Baton Rouge and then to other cities. Along the way, survivors who had the chance to board buses reportedly declined. Additionally, city officials confirmed that two bus drivers left the convoy yesterday.

But D.C. Council member David A. Catania (I-At Large), who proposed that the District assist storm victims, said yesterday that the buses had completed part of their mission by delivering food and water, while medical personnel on board treated storm victims in shelters.

Catania said he was disappointed that storm evacuees had not arrived in the District but was confident that they would.

"This is an exercise that requires flexibility and patience," Catania said. "In the next couple of days, we'll have evacuees in Washington. We'll still have them."

On Sunday night, Mayor Anthony A. Williams (D) arranged with Arkansas Gov. Mike Huckabee (R) to house hurricane evacuees after an Arkansas military base received 9,000 evacuees, twice as many as it had prepared for. Yesterday, the state was sending many of the evacuees at Fort Chaffee to summer church camps that had been empty.

Catania said Barbara Childs-Pair, director of the D.C. Emergency Management Agency, spent the day on the phone with federal officials trying to learn the status of the evacuees. City officials had expected them to arrive at Andrews Air Force Base yesterday. Officials at the base told The Post that they had no knowledge of a flight.

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"The federal coordination of this disaster is certainly lacking," Catania said. But he added that the additional time would give city officials and nonprofit groups more time to prepare the D.C. Armory. An industrial-size air conditioner is scheduled to arrive today, Catania said.

Meanwhile, Del. Eleanor Holmes Norton (D-D.C.), who said she sought a reason for the airlift delay, said she was told that federal officials needed time to start a tracking system to determine the identity of each person taken to a temporary shelter.

She said she was appalled to learn that such a concern could have delayed evacuees' arrival here.

"These evacuees have been waiting to go someplace now for three or four days," Norton said. "If they are just setting up a tracking system four or five days after the disaster, they've added insult to outrage. The only question ought to be is, 'Do you want to go to x?' "

At the armory, where preparations continued throughout the day, volunteers arriving in the late afternoon learned from the American Red Cross, which will manage the shelter, that the evacuees would not arrive as planned.

Gwen Rogers, 36, of Alexandria was hoping to donate two boxes of her daughter Cheyanne's baby clothes and toys, and lend a helping hand.

"I'll be back," Rogers said after signing up on the volunteer sheet.

City officials announced yesterday that they would seek reimbursement from the Federal Emergency Management Agency for providing aid. Williams planned to send a letter to the agency requesting reimbursement for costs that the city estimates could run as much as $6 million.

FEMA spokesman Mike Howard said yesterday that 14 states had been approved for federal disaster relief aid and that the agency was considering applications at 100 percent reimbursement.

Texas Agencies Cut Red Tape For Evacuees (LAT)

By Tony Perry

The Los Angeles Times, September 6, 2005

HOUSTON -- Roderick Tureaud, 31, a welder by trade and the father of twin girls, spent his morning Monday in a tent outside the Astrodome filling out job applications and calling prospective employers. .

It was Labor Day, traditionally a time to celebrate the value of work. Tureaud and his wife, Rhodesia, 31, hope for a more personal celebration -- by finding a job for him and a school for her to continue her nursing studies.

There is also the problem of finding child care for Robin and Raven, 3.

"It's a new life now," Tureaud said. "The old life is gone, and we're going to make this one work. We don't have any choice."

Moments earlier, at a news conference a few hundred yards away, former Presidents Clinton and George H.W. Bush announced formation of a fund-raising foundation to help victims of hurricane Katrina -- bushclintonkatrinafund.org.

"A lot of these people have no cars, no work, no home, no nothing, they will depend on us to give them a future," Clinton said.

As Clinton and other high-level officials noted, it will take a national effort to provide that future. But Houston is the front line of that effort.

The nation's fourth-largest city is the ad-hoc home to more than 100,000 evacuees in shelters, motels, hotels and private homes. Officials expect many of the evacuees will not return to their former homes.

The impact on Houston, which calls itself the "city of opportunity," has been swift. The City Council met in emergency session. Two schools closed due to declining enrollment are being reopened to enroll children from evacuee families.

The Astrodome, largely abandoned since the Astros' Major League Baseball team moved to a new stadium, has been given new life as the largest shelter for Katrina victims. Officials said they have made tentative plans to keep it open as a shelter until December.

With more than 220,000 evacuees spread throughout Texas, Gov. Rick Perry on Monday ordered state health officials to develop plans to meet the short and long-term medical needs.

The plan to airlift some evacuees out of Texas has been halted, Perry said, as the Federal Emergency Management Agency develops a multi-state strategy.

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The Harris County Housing Authority will announce this week a plan to find several thousands housing units.

Many people who have taken refuge in the Astrodome and three other shelters in public buildings had spent several days waiting to be rescued from the Superdome or the New Orleans convention center.

"Some are very grateful, but others are angry and say things like: 'You're lying to me just like they did in Louisiana,'" said Dianna Gunnels, manager of outplacement services for a company that works for the Texas' equivalent of the state unemployment office.

"I tell them, 'We're doing the best we can.'"

If some evacuees react with anger because of their experience at the Superdome or other gathering spots, others are grateful at the welcoming attitude they found in Houston.

"We were like dogs, thrown-away dogs, to the police in New Orleans," said Antoinette Lamerson, 38, who fled with her three children. "Houston is so much different. We're poor again but we're free and safe."

The Texas Workforce Commission has trailers at the Astrodome to take job applications and help evacuees contact their home states so their unemployment checks can be forwarded to the new Astrodome zip code. A job fair is set for this week in the parking lot .

The Texas agency that deals with child support checks has set up shop in the convention center across from the Astrodome. Like much of the relief effort, it was put together in a rush.

Alex Camacho, an agency employee, said he thinks the support checks from Louisiana and Mississippi can begin to be sent to newly opened Post Office annex at the Astrodome by the end of the week. Robin Allen, 45, who fled to the Astrodome with her six children, hopes he is right.

"Without that check, I can't begin to start over," she said. "We're here to stay but I need to support my kids."

Allen plans to enroll her five-school age children in school when the Houston district sends registrars to the Astrodome on Tuesday. Elea Batiste, 54, plans to to enroll her four grandchildren.

"Unless your kids are in school, you're not really living here, just surviving," she said. "But we're going to live here if we can."

Texans Handle Influx Of Evacuees (USAT)

By Dan Reed

USA Today, September 6, 2005

FORT WORTH — The Lone Star State is big, wide and generous, but even this great state is beginning to fill up with evacuees from New Orleans and the Gulf Coast.

Along Interstate 45 near Houston, electronic signs flashed messages telling evacuation-bus drivers to divert to Fort Chaffee, Ark., near Fort Smith on the Arkansas-Oklahoma border, the Associated Press reported.

In Houston, Dallas and San Antonio, sports arenas and convention centers are hosting thousands of evacuees. In Fort Worth, they are settling into convention and meeting halls, a high school athletics complex, an unfinished jail and even a nearly deserted terminal at the an old general aviation airport.

Individual families are also taking in far-flung relatives — or strangers.

Texas officials estimate that nearly a quarter of a million people have become new residents of the state since Katrina stormed ashore Aug. 29. With most of the state's official shelters nearing capacity, Gov. Rick Perry called on three big Texas-based airlines — American, Southwest and Continental — for help in flying evacuees to other states.

In Fort Worth, Carlos Walker can't even keep track of how many relatives are coming and going.

“We've got 36 people living here right now,” Walker said Sunday evening. “It was up to 40, I think.” It went down only temporarily because some members of his wife's extended family, all from the New Orleans area, left to go pick up still more relatives.

Some the nine branches of Nakisha Walker's family now living under her roof already are looking for more permanent housing. But the Walkers, who normally share their home with their four small children and a nephew, expect it will be weeks or even months before their home returns to normal.

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Nakisha Walker said "God knew what he was doing" when her family felt compelled to buy a four-bedroom home that she fretted was too big. "He knew we would need a lot of space."

"People have been so good to us," she added, standing almost waist-deep among donated clothes, shoes, toiletries and bedding that have turned two large rooms, a living room and a dining room into a mini-warehouse.

At night, family members bunk side-by-side on the floor in the bedrooms and a big game room upstairs. The kitchen overflows with food, stacks of bottled water and an assortment of goodies, nearly all from members of the Walkers' church, friends and faculty members at Paschal High School, where Carlos Walker is an assistant football coach. The teenage athletes at the school dug into their own pockets to help out.

This spontaneous outpouring of generosity is evident throughout the state, as churches began converting fellowship halls and Sunday school rooms into temporary housing. Civic groups have organized fundraising campaigns.

Many merchants are giving large discounts to people who can prove they are from the storm-battered region.

In McKinney, a suburb 30 miles north of Dallas, one group of individuals converted an abandoned Wal-Mart store into a privately run shelter in 24 hours. In Weatherford, 20 miles west of Fort Worth, a church took in nearly 40 families.

In Fort Worth, Larry Kelly and his wife, Jean, made several runs to discount stores over the weekend to buy underwear, socks and other necessities and bring them to collection points around the city.

On Sunday, they were in a steady line of trucks and sport-utility vehicles dropping off relief supplies at the sheep barn at the Will Rogers Memorial Center. The sprawling complex includes an exhibition arena that hosts the Fort Worth Stock Show and Rodeo each winter.

Texans' response, Kelly said, is part "cultural, yes, but a lot of it comes from the very deeply ingrained belief system here. And it's that belief system that motivates people to respond this way."

Randy Austin, a former pastor and now head of security at Southwestern Baptist Theological Seminary in Fort Worth, was among a group of 75 young people and adults who came to the center to do what they could.

"We came here to pray and witness to people," said Austin, who also serves as an auxiliary chaplain with the Fort Worth Police Department. "But we learned that God needed us to sort clothes and carry in all this stuff that people are donating. And that's great. We'll still get to pray and witness, but right now God needs our hands and our backs more."

Inside the nearby Amon G. Carter Jr. Exhibits Hall, about 400 evacuees have settled in and another 400 are expected.

A medical team led by faculty members from the University of North Texas Health Science Center's Texas College of Osteopathic Medicine checked out arriving evacuees. Many were just scared, hungry and dehydrated. Some were chronically ill and had been without their medication for days.

The outpouring of aid and care from Texans overwhelmed many of the evacuees.

The first thing Dave Arns, a 57-year-old restaurant worker from New Orleans, did after his medical checkup was attend a rodeo — sitting in prime seats donated to evacuees. "I will never go home to New Orleans," he said. "As of now, I am a resident of Texas."

Houston Finds Business Boon After Katrina (NYT)

By Simon Romero

The New York Times, September 6, 2005

HOUSTON, Sept. 5 - Perhaps no city in the United States is in a better spot than Houston to turn Katrina's tragedy into opportunity. And businesses here are already scrambling to profit in the hurricane's aftermath.

Oil services companies based here are racing to carry out repairs to damaged offshore platforms in the Gulf of Mexico; the promise of plenty of work to do sent shares in two large companies, Halliburton and Baker Hughes, soaring to 52-week highs last week. The Port of Houston is preparing for an increase in traffic as shippers divert cargoes away from the damaged ports of Pascagoula, Miss., and New Orleans.

Owners of office space here are witnessing a surge in leasing as New Orleans companies, including that city's oldest bank, scramble to set up new headquarters in Houston, helping to shore up its sagging property market. With brio that might

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make an ambulance-chaser proud, one company, National Realty Investments, is offering special financing deals "for hurricane survivors only," with no down payments and discounted closing costs.

All this, of course, is capitalism at work, moving quickly to get resources to where they are needed most. And those who move fastest are likely to do best.

Meanwhile, even small businesses and cheap hotels are benefiting from the population surge, which could total up to 250,000 people. Some hardware stores have sold out their entire supply of gasoline cans and generators to people preparing for an eventual return to the devastated region.

"It feels like the only things left in south Louisiana are snakes and alligators," said John E. Olson, co-manager of Houston Energy Partners, a hedge fund that operates out of a skyscraper downtown. "Houston is positioned for a boom."

Long known for its commercial fervor, Houston is the largest city in the South and has a metropolitan population of more than four million. It has one of the nation's busiest ports and remains unrivaled as a center for the American energy industry.

Halliburton, for instance, moved its headquarters to Houston from Dallas in 2003, joining dozens of companies based here that provide services for oil and natural gas producers.

Halliburton differs from many oil services companies in that it also does significant business with the federal government. The company, which has contracts in Iraq, has a contract with the Navy that has already kept it busy after Hurricane Katrina. The company's KBR unit was doing repairs and cleanup at three naval facilities in Mississippi last week.

Halliburton was also planning to go to New Orleans to start repairs at other naval facilities as soon as it was considered safe to do so, Cathy Mann, a spokeswoman, said.

Executives at other Houston companies said they were wasting little time in carrying out repairs in the Gulf of Mexico, where at least 20 offshore rigs and platforms are believed damaged or destroyed. Tetra Technologies, which repairs or decommissions old platforms in the gulf, had employees in a helicopter the day after the storm passed to survey the damage.

"I always hate to talk about positives in a situation like this, but this is certainly a growth business over the next 6 to 12 months," said Geoffrey M. Hertel, Tetra's chief executive. By Friday, Tetra had been able to send an 800-ton barge it owns, the Arapaho, to the gulf to be used for platform repairs, Mr. Hertel said.

Some here are wary about seeming too gleeful in light of New Orleans's misery. Houston officials were quick to point out on Friday that they were making a convention center downtown available to evacuees from the disaster zone, potentially forcing some events to be canceled. And the Port of Houston Authority tried to soften the blow to other ports as it started to receive shipments diverted from Louisiana and Mississippi.

"We sincerely hope that these great gulf coast ports can get back to work as soon as possible," the port said in a statement last week.

But the new business is obviously welcome. "We're getting inquiry calls since the beginning of the week," Felicia Griffin, a spokeswoman for the port, said on Friday. "We're prepared to do whatever is necessary to meet the needs of our customers."

If the storm works to Houston's benefit, it would not be the first time a natural disaster of extraordinary size sparked some economic dynamism here. The hurricane of 1900 in nearby Galveston, which killed more than 6,000 people and almost leveled the most thriving commercial city in Texas, paved the way for Houston, located 50 miles inland, to emerge as a regional center for shipping and the refining of oil discovered in East Texas fields.

The displacement of companies to Houston from New Orleans is an abrupt acceleration of a trend that has been going on for decades. Many large companies, particularly those in the energy business, have made that move over the years, leaving New Orleans more dependent on tourism and other service industries.

A surge of business activity in Houston this time around might lift the fortunes of a city that is still struggling to recover from the collapse of Enron and two decades of job cuts in the energy industry, which has shrunk as production of oil in Texas and the United States has declined.

Rising oil and natural gas prices in the last two years have strengthened the finances of Houston's largest energy companies, but have done little to improve employment prospects in the city, where the unemployment rate was 5.5 percent in July, compared with 5 percent nationally. During the last oil boom in the 1970's, 150,000 jobs were created in the business of oil field equipment, according to Barton Smith, director of the Institute for Regional Forecasting at the University of Houston.

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However, since the 1980's, about 130,000 of those jobs have been lost as oil and natural gas exploration migrated farther away from Houston, largely to countries in West Africa, the Middle East and Asia - and companies were able to produce oil field equipment more cheaply abroad. Houston remains essential for energy research and is the undisputed center for energy deals and finance, but those activities employ relatively few people.

Partly as a result, Houston has one of the most moribund big-city real estate markets.

"There are many instances of companies coming to Houston for temporary space," said Louis B. Cushman, vice chairman of Cushman & Wakefield, a commercial real estate company here. In its own offices, Cushman has finally been able to sublease some extra space to a business of 8 to 10 people that had been in New Orleans. Mr. Cushman said his firm had found offices for two companies that had already decided they were not going back.

One company that has temporarily exchanged New Orleans for Houston is Whitney Holding, the parent company of Whitney National Bank, founded in 1883 and one of the oldest banks in New Orleans. Another New Orleans oil exploration company, Energy Partners, said in a statement last week that it was also making Houston its temporary headquarters. Other companies are following suit.

"It's exploding," said Stephen D. DuPlantis, senior managing director at CB Richard Ellis. "When I talk to owners of office buildings, they say people are not even negotiating. As tragic as it is for New Orleans, it is a boon for Houston."

Dwaine Ofczarzak, the general manager of Buffalo Hardware, an independent store near central Houston, has seen out-of-towners who seem to be preparing to leave and some who are settling in.

On Friday, Mr. Ofczarzak sold out his supply of five-gallon gasoline cans to people from Louisiana. But some shoppers were coming in to get keys made for their new homes and talking about enrolling their children in local schools. "I have friends who've already done that," he said.

The newcomers may take some getting used to. "Everybody is still pretty much in awe," Mr. Ofczarzak said. "And with everybody coming in the buses, it hit home."

As Evacuees Pour In, A Flood Of Generosity And Some Unease (WSJ)

By Jose De Cordoba, James Bandler and Ann Zimmerman

The Wall Street Journal, September 6, 2005

HOUSTON -- As pastor of Impact Houston Church of Christ, the Rev. Charlie Middlebrook is matching refugees from Hurricane Katrina with volunteers who have offered to share their homes.

But the outpouring of generosity hasn't blinded Mr. Middlebrook to humanity's less noble impulses. With the help of a law firm that is donating its services, he is conducting background searches on all refugees as well as on those who have volunteered to take them in.

"We want to send somebody who is not a danger to you," Mr. Middlebrook tells a caller offering to house a hurricane victim. "We are trying to be very careful." Mr. Middlebrook is requiring from all parties Social Security numbers or driver-license numbers.

Katrina's dislocation of hundreds of thousands of people from Gulf Coast states is inspiring extraordinary acts of charity. In less than a week donations to victims have exceeded $400 million, on top of millions of volunteer man-hours. As of late Monday afternoon, the American Red Cross said it is sheltering more than 135,500 evacuees at more than 470 shelters in 12 states.

To Jerome Lyons, a New Orleans construction worker who spent five days trapped in waterlogged New Orleans, the wave of help in Houston seems more powerful than the hurricane. "All races, all colors, all express their love," he says. Mr. Lyons, who was rescued by boat from his home, says strangers have given him money on the street to help him get a new start.

But the massive displacement is also creating new fault lines. Many refugees, having lost nearly everything or having had little to lose in the first place, are seeking more than shelter from the storm. They're seeking new lives, competing with locals for jobs and crowding their children into new schools.

Noel Jones, a 38-year-old Houstonian, predicted that some arriving workers are likely to be shut out of construction and manufacturing jobs because of competition from Mexicans and Mexican-Americans. Mr. Jones said the competition often forces him and other African-Americans as well as poor whites into low-paying service jobs.

"Don't stop" in Houston, is Mr. Jones's advice to Katrina refugees. "It ain't meant for you."

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Texas Gov. Rick Perry has already called for an airlift of evacuees to other states from Houston and Dallas. He cited strains on Texas, which is hosting about a quarter of a million refugees from Katrina.

Cities and families providing shelter and other help have no way of knowing how long their assistance will be needed. Duchesne Academy of the Sacred Heart, a private, all-girls school in Houston, enrolled 150 students from a related New Orleans school as of Friday, waiving tuition through January. "Hopefully, they'll go home in January," says Beth Speck, Duchesne's director of admissions. "If not, we'll see what happens then."

Interviews with evacuees from New Orleans suggest that some have no intention of returning. Even a modest job in a new home may represent an improvement over what they left behind. Reco Parker, 31, a hairstylist now staying at Houston's Astrodome complex, says he's going back to New Orleans, but only long enough to try to salvage the more than $1,000 worth of hairstyling equipment he left behind. He plans to return to Houston, saying he's bowled over by Texan hospitality.

"They seem like loving people here," he says, adding that he's scared of staying in New Orleans after the hurricane.

One caller to Impact Houston Church of Christ was Janice Stocks, who has offered to share her three-bedroom country home with a couple from 50 to 70 years old. "It's the right thing to do," says Mrs. Stocks, whose husband is an executive with a Houston chemical company. "That could be us on the road, without a place to go."

But she acknowledges some questions and concerns. "What is one supposed to do? Drive with them to the grocery? Drive them to the doctor's office?" As far as the duration of the arrangement, she says, "We are willing to go the whole yard, as long as we get along with one another. I hope we get a good family."

Mayor Laura Miller of Dallas, which has 45,000 refugees in shelters, hotels and homes, worries about the welcome mat fraying. "A group of doctors volunteering at Reunion Arena and the Convention Center told me that they're having fun now, but worry how they'll feel in two weeks, when they're tired from combining volunteering with their day-to-day jobs," she says.

The prospect of dealing with long-term refugees is prompting the federal government to consider some dramatic solutions -- for instance, creating a city of 50,000 people where none exists now, says Lt. Gen. Carl Strock of the Army Corps of Engineers. Gen. Strock says the corps is considering sites for such a city as well as sites for possible trailer and mobile-home parks.

"After the hurricanes in Florida, we went in and built, essentially, trailer parks," he said. "We have general plans on the shelf always but specific planning for New Orleans began before landfall" of the hurricane. He added that authorities also are looking at military bases, including those that have been closed but once housed military personnel.

Those decisions will come later, said Lt. Gen. Strock. Right now authorities are just trying to continue evacuating residents to safer temporary facilities, such as the Astrodome.

Mr. Middlebrook, the Houston pastor, says virtually all callers have been as enthusiastic and sincere as Roxanne Grice, a member of the congregation who on Saturday night cooked a feast of ribs and beans for some 20 hurricane victims. "I just want to hug somebody," said Ms. Grice, stirring a huge pot of beans as she waited for her guests to arrive.

The church did receive a call from one man offering to share his one-bedroom apartment with up to "four ladies." Mr. Middlebrook declined the offer.

In Baton Rouge, A Cool Welcome (WP)

By Wil Haygood

The Washington Post, September 6, 2005

BATON ROUGE, La., Sept. 5 -- When this city's mayor, Melvin "Kip" Holden, issued a stem-winding warning that he would not tolerate "lawlessness" from arriving Hurricane Katrina evacuees, it seemed a page torn from the playbook of the celebrated former governor Huey Long, exposing an us-against-them dictate.

But many blacks here -- and those arriving from New Orleans -- were suddenly wondering whether this city was about to turn into a kind of ground zero of class warfare between blacks and blacks.

Holden himself is black, which had the potency of lifting the debate above the usual black-white fault lines.

"We know we don't want that criminal element," Sheila Mosby, 40, said while sitting on her front porch on the south side of this city and recalling scenes of recent looting in New Orleans. "I can understand trying to survive. But that element coming here, well, they might try to rob stores. To tell you the truth, it's really going to be something."

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While dabbing at sweat beads with a pink hand towel, Mosby, who is black, went on: "Like Mayor Holden said, if they come down here and try to break into people's houses, and stores, there's a place for them."

She -- like the mayor -- was referring to the Baton Rouge jails.

Mosby said she envisioned "shoot to kill" orders if break-ins do occur.

Orders for the police? "No! From the people who live in these homes. They will shoot to kill. They gonna let these people know, 'You ain't in New Orleans. You in Baton Rouge.' "

This city of approximately 260,000 people, which lies 90 miles northwest of New Orleans, has not had the dramatic racial narratives of many other southern cities. There were bus boycotts in the 1960s -- and those of a certain age still remember a violent confrontation that took place during that decade between local Muslims and police here, which resulted in gunfire and injury.

Holden's comments seemed to bring to the surface the reality that local resources may well be strapped; that the holding-on blacks of this community realize there is sudden competition, from other blacks, for help in escaping poverty.

All day Sunday, hundreds had lined up at the Department of Social Services office to get assistance, especially food stamps. Many were Katrina evacuees, but hardly all.

"Now my biggest concern is the schools," said Tara Willimas, 34, a medical transcriber who is black and resides in Baton Rouge. "We don't mind sharing, but there's going to be competition for jobs."

Many, including the mayor, contend this city's population could more than double in the coming days and weeks, exceeding half a million.

"I can understand these people coming here from New Orleans," said Isadore Brown, 32, who also was standing in line for food stamps. He's a crane operator, a black man who says the power at his Baton Rouge home went out, ruining food. Brown says he already has visions of criminals from New Orleans running amok. "They're coming down here from New Orleans making us fear for our lives," he said. "Some people have talked about not leaving their house."

Already, this city -- home to Louisiana State University -- has been showing signs of tension. Some stores are closing early, leaving many to wonder whether they're doing so because of those unsettling images of blacks looting in New Orleans -- or simply because stores are running out of supplies. And it has not been uncommon in recent days to hear gunshots ring out in the night.

"Why do store owners all of a sudden want to close up their stores at 10 p.m.?" wonders Tammy Ruffin, 33, also black. "Many of these stores used to be open 24 hours."

There are upwards of 30 evacuees now staying at the Shiloh Missionary Baptist Church on Eddie Robinson Sr. Drive -- named after the legendary Grambling football coach who grew up on this street. Eula Smith -- wife of Pastor Charles T. Smith -- directs volunteer efforts at the church, which serves a predominantly black congregation.

She says she immediately began to wonder about class divisions in the aftermath of Holden's comments.

"I don't know if the mayor was trying to alienate people or what," she said, seated in her office, the hallway buzzing with the sounds of New Orleans children playing tag. "He didn't say it right. Every population has this criminal element. But it sounded like he said all New Orleans people are thuggish."

Sleep has been hard to come by for Smith and her harried staff. She yelled out for someone to brew more coffee. "Now we do have to be careful," she continued, "that some of our people aren't using this situation to their benefit, getting into our shelters, and what have you. But Baton Rouge is bigger than Mayor Holden anyway. I think he said what he said for the benefit of his white voters, because he's looking to the future."

Simmering class divisions aside, the bugaboo of racism also has reared its head. Barbara Martin, 58, was a teacher in New Orleans. She and her husband, Alphonse, who are black, evacuated here. "Soon as the mayor made his statement about New Orleans," she said, "no-vacancy signs went up everywhere here on apartment complexes."

"We have sat in our car and watched whites go in these places and come out with paperwork to get apartments. The mayor is black. His head must be in the sand," she said. She goes on, her husband amen-ing her every word: "I accept what he said in terms of lawlessness. I don't believe in lawlessness myself. But what he said affected everybody. Some people were on lockdown here, as if we were going to tear up the city."

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Martin says she has been made to feel "uncomfortable" in Baton Rouge. "I'm a middle-class black person, and I'm being treated by the color of my skin."

Hundreds Refuse To Evacuate (LAT)

By Scott Gold, David Zucchino And Stephen Braun

The Los Angeles Times, September 6, 2005

NEW ORLEANS — Search teams pressing to evacuate the living and find the dead after a full week under the high-water sway of Hurricane Katrina found their efforts complicated Monday by the refusal of hundreds of residents to leave the paralyzed city.

President Bush returned Monday for a second tour of the disaster zone, praising emergency workers in Baton Rouge, La., and stressing the work of religious charities during a visit to a church packed with evacuees. Federal officials said relief operations were proceeding apace, but Bush's tour was soured by an ongoing feud with Louisiana's governor over who would manage National Guard troops in the state.

A senior New Orleans police official said Monday that some 10,000 inhabitants remained in the city, hidden inside flooded residences, apartments and housing projects, surviving on foraged scraps and food drops by the military. Searchers have been frustrated by hundreds of holdouts who have refused to leave their homes, fearing possessions will be pillaged, pets will die and their way of life will be erased.

"There are, to our surprise, thousands of people still in the city that we're trying to identify and locate," said Deputy New Orleans Police Chief Warren Riley. "We're trying to convince them there's nothing for them here — no food, no jobs, nothing to let them live the way they're used to."

But there were nascent signs of progress too. The gaping break in the city's 17th Street Canal levee was finally stopped up by metal sheets, tons of earthen fill and a strand of massive 3,000-pound sandbags. Engineers and contractors working on the breach and two other levee ruptures said water levels dropped by as much as a foot Monday in some parts of the city. The next step is "de-watering," the removal of water that is expected to take months.

More than 50,000 anxious evacuees began returning for the first visit to their submerged homes in Jefferson Parish, which borders the city on the west and the south. They waited for hours in cars lined for miles along a clogged highway.

"I was scared to come back," said Mike "Opie" Johnson, 37, who retrieved a pillow-case full of his mother-in-law's jewelry. "I heard there were looters everywhere, but turns out there weren't too many looters in this parish."

Thousands of residents arrived lugging coolers crammed with food and water to sustain them until Thursday, when parish sheriff's deputies will force everyone to leave again. Authorities cautioned that many other residents might not see their homes for months. In New Orleans, Mayor C. Ray Nagin also tamped down expectations, warning that it would take 10 years to rebuild the city and that storm-related deaths could rise as high as 10,000.

A week since Katrina blasted through the Gulf Coast, bursting levees and flooding out hundreds of thousands of residents, New Orleans remains bereft of the spark of high life that has made it a tourist and jazz mecca. It has descended into a nightmarish tableau of gas-line fires, sporadic gunfire and the sound of helicopters on searches for residents still trapped.

Soldiers, looters and scavengers sloshed through murky water under picturesque 18th century flats with trademark iron-gated balconies. The century-old jazz haunts of Storyville and Basin Street, where Louis Armstrong and Sidney Bechet played for tips, were silent as graves. The old port blockaded by Union ironclads during the Civil War remains useless, its entry canals bottled up by loose barges, scrap metal, silt and flood debris.

Yet many survivors ignored pleas to evacuate, foraging for sustenance by day and staying hidden at night in a city deprived of basic functions.

"They're trying to starve us out," said Barnell Roman, 53, who drank a warm beer on the porch of his two-story home on Elysian Fields Avenue in the Mid-City neighborhood.

Roman said he and a dozen other neighborhood residents were no longer able to cadge food or water from National Guard troops posted nearby. Faced with shrinking supplies, two neighbors gave up and accepted a ride from authorities to an evacuation point, he said.

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On Interstate 10, where a flooded highway exit served as a ramp to launch rescue boats, search crews said hundreds of people had declined to be rescued over the last two days. One Texas crew operating east of the interstate was turned way by 450 people living in houses surrounded by water. On Monday, the crew rescued 183 people but was turned away by 150 more, said Billy Parker, manager of the Texas Task Force One Water Strike Team.

"They have water up to the porch, but they don't want to go," Parker said. "They sit up on the second floor and say: 'We got food. We got water. We're staying.' " Parker said his crews had no authority to forcibly remove anyone but had passed the information on to state and city agencies.

Nagin has said the city will remove all residents. He has not provided details on how or when the process would be carried out. But Riley warned Monday that officials were considering "stopping food drops" to the stragglers to increase the pressure on them to leave.

There were emerging signs that water-borne bacterial disease has begun to fester among survivors being brought out of the flood zone by military and police search teams. Medical authorities working in the city report treating several cases of vibrio vulnificus, a gastrointestinal disease that spreads through exposure to polluted water.

Health officials said they clearly identified strains of the disease, which has effects similar to cholera, among some storm refugees. But they do not yet have a handle on the number of cases.

"We are seeing some cases," said Von Roebuck, a spokesman for the Centers for Disease Control and Prevention in Atlanta. "It could be life-threatening."

Among healthy people, the illness can cause vomiting, diarrhea and abdominal pain but is generally not life-threatening. It can be cured with antibiotics. But it can be more serious among people with chronic liver disease and compromised immune systems, leading to fever, chills and septic shock.

"The water quality in the streets continues to deteriorate," said Nagin, who said he was concerned about West Nile virus and other mosquito-borne diseases. "There is some really nasty looking stuff out there."

In a visit to the Louisiana Emergency Operations Center in Baton Rouge, Bush told several hundred local, state and federal public safety officials that their efforts in evacuating and providing medical treatment and food to tens of thousands of flood survivors brought "immediate light to people who needed help."

Bush returned to the storm-torn Gulf Coast region for the second time in three days to boost the morale of authorities and urge churches and other religious organizations to aid the flood victims of Louisiana, Mississippi and Alabama.

"I want to thank every church member who's helping people who have been displaced," Bush said as he toured the Bethany New World Prayer Center in Baton Rouge, consoling refugees along with televangelist T.D. Jakes and Louisiana Gov. Kathleen Babineaux Blanco.

Behind the scenes there were tensions between Blanco and the administration over the White House's attempt last week to force her to cede the constitutional authority she wields over the Louisiana National Guard.

A senior administration official who spoke on condition of anonymity confirmed Monday that top White House officials had pressed her to allow federal officials to unify National Guard and active-duty troops under one chain of command. The official said that "we wanted to unify the command and control for security" under Army Lt. Gen. Russel L. Honore, who is heading National Guard troops in New Orleans.

But Blanco has resisted, fearing the White House is attempting to paint her as the weak link in last week's slow-moving government disaster operations. On Monday, Blanco's aides learned only at the last minute that Bush was touring the state capital in Baton Rouge and complained that she was being punished for holding tight to her constitutional authority over state-based National Guard units.

When the two sat together at the Emergency Operations Center, Bush smiled benignly while Blanco stared ahead solemnly. At one point, Bush leaned over to give her a peck on the cheek, but her stern gaze did not waver.

Later, Blanco minimized rumors of sniping and said she supported the work of the Federal Emergency Management Agency, which has drawn sharp criticism in recent days. "This debate was simply about an organizational structure," she said. "We needed the versatility to use the National Guard members as they needed them."

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After attending a meeting with Bush, Blanco and other federal and state officials, James Lee Witt, the former Clinton administration FEMA director, said that "in two days, you'll see a different program down here."

But Witt, who was hired as an advisor last week by Blanco to shore up her emergency planning and to blunt federal efforts to seize authority over military relief operations, also said that the Bush administration had "minimized FEMA" by folding it into the Department of Homeland Security.

"You can't report up through three different chains of people and make things go fast," Witt said. "FEMA needs to be put back as an independent agency with the people and resources to do its job well."

Homeland Security Director Michael Chertoff and FEMA head Michael D. Brown have been under fire for moving aid in too slowly and for not coordinating with local officials. They continued to defend their performance.

During one news conference Monday, a perturbed Brown resorted to listing his previous experience dealing with public emergencies.

"Yeah, I've been through a few disasters in my life," he said.

During a Monday meeting to unveil a fundraising foundation to aid hurricane victims, former Presidents Clinton and George H.W. Bush agreed that sniping between disaster officials should cease while relief operations were still underway. But Clinton said a national commission should investigate mistakes made in the first days after the hurricane, which hit Aug. 29. And he also questioned FEMA's current structure.

"It has something to do with how they reorganized after I left," Clinton said.

Shoring up his organization, Chertoff named a new federal official to help oversee rescue and recovery operations in New Orleans. Vice Adm. Thad W. Allen, the Coast Guard's chief of staff, will be deputy federal officer under Brown. The Coast Guard has been widely praised for making more than 15,000 rescues of people trapped by the hurricane.

Allen's job will be to set up a new headquarters in New Orleans and work with Honore, who commands Joint Task Force Katrina, the military group in New Orleans.

Troops at the heart of relief operations in New Orleans and Mississippi continued to grow Monday. Major Gen. Bennett Landreneau of the Louisiana National Guard said the total number of forces in the city would climb to 10,000.

Honore, the commanding general of the First Army, seemed to be everywhere during the day.

He directed troops, met with Bush and Blanco, and charmed and blustered at television news anchors who began to mimic his gruff phrasing — repeating his "boots on the ground" to refer to growing troop strength and ending questions with his terse, "Over!"

The general waved off the political firestorm over the Bush administration's halting response, chalking the chaos following Katrina's assault to the vagaries of nature.

"The storm did this. It wasn't anything the government did," Honore said. "The storm had the damn vote. You can't vote that damn water out of the city of New Orleans. Now let's take care of the evacuees! Let's get it on!"

"Over!"

'No Reason To Stay,' But Some Won't Leave (DMN)

By Lee Hancock

The Dallas Morning News, September 6, 2005

NEW ORLEANS – By persuasion and by force, authorities worked Monday to complete the biggest evacuation of an American city in modern times.

Despite a week of flooding, hellish conditions and slim prospects that the city would be livable for months, some people still didn't want to leave.

"This city has been destroyed, has completely been destroyed," Deputy Police Superintendent Warren Riley said. "There's absolutely no reason to stay here. There are no jobs. There are no homes."

Nonetheless, he said, "Unfortunately there are still people that do not want to leave this city."

In the Garden District, police backed by California National Guardsmen stopped pedestrians and bicyclists at a major intersection and ordered them into vans even after some protested that they would be leaving friends and family behind.

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It was a stark contrast to suburban areas where Hurricane Katrina's impact was less devastating. Residents were allowed to return to their homes temporarily to inspect damage and salvage belongings.

As authorities began removing dead bodies, engineers scored an initial success in the battle against the floodwaters. Louisiana officials said Monday afternoon that the 17th Street Canal levee, where a huge breach caused the disastrous flooding, had been patched.

After several days of helicopters dropping huge sandbags into the gap, the flow finally stopped and pumps were able to begin pushing water back to Lake Pontchartrain. But much of the city remained under water. Meanwhile, President Bush, who has come under intense criticism for his administration's response to the storm, made his second trip to inspect the damage and chaos. He pledged that "all levels of the federal government are doing the best they can."

'Lock down the city'

In New Orleans, the effort to impose order involved about 4,000 U.S. Army troops and Marines, National Guardsmen and law enforcement officers from across the country. They were patrolling city streets with local police in an effort to, in Mr. Riley's words, "lock down the city."

It wasn't easy. Army Lt. Gen. Russel Honore told ABC that fewer than 10,000 people remained in the city, based on aerial reconnaissance. That would be a fraction of New Orleans' half-million residents, but still a formidable number of holdouts.

Mayor Ray Nagin – who said Monday that the death toll in his city could reach 10,000 – declared that the city had the authority to force residents to evacuate. He would not say if authorities were doing that, but he announced that people who refuse to leave will no longer be given drinking water.

The deputy superintendent stressed voluntary evacuations, saying: "We are working with them and talking to them, trying to convince them to leave."

While some officers went further, others, in a neighborhood off Interstate 10 called Gentilly, said they could only warn people to get away from water that could carry encephalitis, typhoid, dysentery and toxic pollutants.

Some people wandered the streets, and others scavenged in hotels and apartments for whatever they could find to survive. On Chef Menteur Highway, 73-year-old Navy veteran Silas Walker huddled beside wrecked gas pumps at a gutted Shell station.

"This is the area of the typhoon," he said, rocking back and forth in green hospital pajamas and sock feet. "I don't want to leave."

A police officer who tried to talk Mr. Walker into leaving was frustrated, but sympathetic.

"Some of these people have had so much psychological stress, all they been through, that they have lost their minds," he said.

Boat crews and air searchers continued combing the city for survivors, while police officers from Texas and other parts of Louisiana cruised neighborhoods, handing out food and patrolling for looters.

Humvees packed with heavily armed troops and SUVs filled with SWAT police officers prowled largely deserted streets and guarded the 18-wheelers hauling fuel for emergency vehicles and generators.

In Washington, military officials said that 8,500 active-duty personnel and 38,000 National Guard troops would be deployed in the hurricane-afflicted areas by today, along with 21 Navy ships.

Collecting the dead

The grim task of retrieving the dead began Monday as refrigerated trucks began fanning out across the city, collecting bodies from hospitals, roadways and apartments.

The Federal Emergency Management Agency is overseeing the recovery, setting up a temporary morgue near the New Orleans airport.

One FEMA truck stopped at midafternoon to pick up corpses in the Garden District. It was parked on the grassy median where the city's famous streetcars normally run, while workers wearing masks and white protective suits lifted body bags in.

"We just really got started, and we got nine so far," said Sgt. Richard Hazlewood, a Louisiana state police officer helping the truck navigate through neighborhoods.

In the poorer neighborhoods, the squalor grows worse by the day. Floodwaters have steadily gone down, leaving a malodorous, contaminated stew of sewage, chemicals, garbage and the bodies of animals and people.

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In badly hit areas like the Ninth Ward, several residents said, neighborhoods are infested with snakes, prowled by packs of abandoned dogs and dotted with bodies of the dead.

A New Orleans police officer who passed through the area late Sunday on his way to check on his flooded home said some residents were wandering confused and disoriented through the filthy water.

"There were people really about like zombies, like that Night of the Living Dead movie," he said.

Even in the city's lushest neighborhoods, stores have been looted and streets are dotted with garbage and reeking water.

Trying to bring order has sometimes resulted in violence. Police across the city say they've dealt for the past week with sporadic gunfire. Officers based in the French Quarter say they had particular problems from Iberville, a desperately poor area just outside the famed tourist destination.

Police said that a Sunday morning shootout that left two civilians dead and two wounded did not involve U.S. Army Corps of Engineers contractors on their way to help patch a levee, as initial reports indicated.

The incident in East New Orleans began, officials said, when an emergency worker heard gunshots and called police for help. When officers responded, the gunmen began firing at them, and a backup tactical team ended up killing and wounding several of the assailants, Mr. Riley said.

Even in areas packed with police, looters roamed. Several U.S. Marshals and a state police officer, all brandishing M-16s, pulled over a van Monday morning and hauled out five people armed with machetes, knives, rifles, stun guns, brass knuckles and handguns.

The van had been hot-wired, stolen and decorated with an obscenity about Katrina. Inside, police also found a large cache of expensive-looking musical instrument cases. Its occupants were heavily tattooed 20-somethings who sat sullenly, three of them holding mongrel dogs.

"They're from New York, New Jersey," a deputy marshal said. "Looks like they've come down here to do a little looting and stuff."

The officers made the group sit on the ground until a truck came to take them and all but their weapons to an evacuation point. Even though they had obviously stolen the car and possibly the equipment, officers said, they could do nothing but ensure that they left the city unarmed.

"What can we do but evacuate them?" the exasperated deputy marshal said.

In New Orleans, Not Everyone Wants To Be Rescued (CSM)

By Patrik Jonsson

The Christian Science Monitor, September 6, 2005

NEW ORLEANS - Gregory Scott steers a commandeered pleasure boat through the flotsam of New Orleans's flooded 17th Ward, occasionally scraping bottom - actually, the roofs of submerged cars.

The area of modest two-story and shotgun-style homes seems empty of life - and officials believe that hundreds who tried to ride out hurricane Katrina here may have perished in their attics. But Mr. Scott, who makes his presence known by blasting a hand-held horn as he maneuvers the boat forward, knows there's life - even laundry - in some quarters.

"There's people all through here," says mate Timothy Waters.

A mucky brown soup flows through what used to be the 17th Ward's neighborhood of Holly Grove, the only spot Scott has ever called home. Under almost 10 feet of water, the Beautiful People club is gone. Scott's own house, with a broken window where he climbed out just ahead of rising waters, is part of a scene so macabre that even New Orleansian vampire-novelist Anne Rice might struggle to imagine it.

Yet while thousands finally got out over the Labor Day weekend, Scott and Waters are holding on - just two of many who are fierce in their determination to stay, keeping their feet planted in the muck of this Cajun Atlantis.

Such decisions perturb emergency-response officials, who warn that public-health risks posed by the fetid floodwater may worsen, and that two months of flood conditions may await residents who insist upon staying put. A stubborn resistance to leaving, they add, will only waste time and resources of an already-overtaxed search-and-rescue operation. The mission remains dangerous, as a nonfatal crash of a civilian rescue helicopter late Sunday illustrated.

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Dennis Nunez, a Louisiana wildlife officer, has seen hundreds of people living deep in the neighborhoods. Some told rescue workers to move on, to save others first. In one mostly Vietnamese neighborhood, people were feeling comfortable enough to have gone fishing, and were drying fresh fish on their porches. "They won't come out," says Mr. Nunez. Less panic, more patience

As response to Katrina enters its second week, 17,000 National Guardsmen patrolled the Big Easy by foot, helicopter, and boat, and the atmosphere shifted from one of panic and scattered violence to one of a soggy siege. Here on the Jefferson Parish line, a few miles from where the 17th Street Canal was breached last Tuesday, the water line has fallen hardly at all as of Sunday afternoon.

On Sunday, many hangers-on gave up. Rescuers pulled one woman, barely conscious, from her home, mattress and all. The job of the day: Extricating a frightened, 400-pound man. Another woman came ashore with three cat carriers, each one containing three cats.

But the conflict between the stranded and the rescuers is playing itself out in ways that, at times, seem bizarre. Rescue helicopters have even come under sniper fire, police say, as some resist relocation.

"It's hard on the rescuers, to risk their lives and have somebody say, 'I don't want to be saved.' It boggles your mind," says Lt. Col. Pete Schneider, a spokesman for the Homeland Security Department, in Baton Rouge, La.

Rescue volunteer Jef Talbert, who has arrived from Texas in a friend's flat-bottom boat (which he's promised to return without bullet holes), says it's an odd feeling to be loading every gun he owns before he heads out to rescue people.

Scott, Waters, and six other men are locals who are aiding with the rescue, camping on a plot of high ground. They've rescued hundreds since last Tuesday, asking only food and water in return. They're using whatever equipment is at hand - whether an 18-wheel truck (which they stalled out in deep water) or a waterski boat with a 130 horsepower Yamaha four-stroke on the back.

As they shove aside downed wires and look for submerged cars and street signs that can damage the propeller on "their" boat, Scott and Waters shout at one house and toot the horn. Two men emerge onto the porch.

"Day 7," yells Anthony Belt, refusing his rescuers, indicating he's got food. He also has a flat-bottom sloop in case he really has to get out.

As the number of those in need, or want, of being rescued diminishes, rescuers are shifting priorities: If they see someone has stockpiled supplies, they've stopped handing out more food.

"If they're not coming out, we're not going to force them," says Lieutenant Colonel Schneider. "But we can't keep coming back to resupply." Fish dinner

If some survivors are struggling, increasingly aware that they are surrounded by a huge septic tank, others seem to be doing fine. Rescuers report seeing large Vietnamese families cooking fish and "looking very comfortable," some even keeping fish in makeshift pools, then hanging them out to dry.

Indeed, the stayers-on may be clinging to a belief that, beyond the muck, is hope. For some, a desire to protect their property is the driving factor in their decisions to stay, and others simply have nowhere else to go and are clinging to their patch of the globe. After surviving for a week in hellish conditions, many say perhaps things will only get better, suggests Mike Lindell, a psychologist at Louisiana State University. "We're in uncharted territory for human behavior."

Two women who had walked through chest-high water from the Superdome to their homes to get fresh clothes were glad to jump in Scott's boat, but then started to bicker with each other. Scott wanted none of it. Voice rising, he sounded off, saying the women should lay aside petty differences as they pass through waters of death. As the boat neared a staging area where rescue workers bring their human cargo, one woman, Tina Collins, turned around and said, quietly, "thank you."

Back on the levee, Scott, a tailor and French Quarter doorman, says he's found a new calling that lets him stay close to home, bringing his neighbors to safety when they're ready. Despite the rough conditions, he has no wish to leave.

"They say a rat has many holes, but I've got only one," he says. "And I plan on going down in it."

Crews Plug Levee Break A Week After Storm (AJC/AP)

By Doug Simpson, Associated Press Writer

DOJ_NMG_0002699

The Atlanta Journal-Constitution, September 6, 2005

NEW ORLEANS — A week after Hurricane Katrina swept through, engineers plugged the levee break that had swamped much of the city and floodwaters began to recede, but along with the good news came the mayor's direst prediction yet: as many as 10,000 dead.

Crews had put up metal sheets and dropped 3,000-pound sandbags from helicopters onto the 17th Street canal leading to Lake Pontchartrain to plug the 200-foot-wide gap, and water was being pumped from the canal back into the lake.

State officials and the U.S. Army Corps of Engineers say once the canal level is drawn down two feet, Pumping Station No. 6 can begin pumping water out of the bowl-shaped city.

Some parts of the city already showed slipping floodwaters as the repair neared completion, with the low-lying Ninth Ward dropping more than a foot. In downtown New Orleans, some streets were merely wet rather than swamped.

"We're starting to make the kind of progress that I kind of expected earlier," New Orleans Mayor Ray Nagin said even before the plug of the break, which opened up a day after the hurricane and flooded 80 percent of the city.

The news came as many of the 460,000 residents of suburban Jefferson Parish waited in a line of cars that stretched for miles to briefly see their flooded homes, and to scoop up soaked wedding pictures and other cherished mementoes.

"A lot of these people built these houses anticipating some flood water but nobody imagined this," sobbed Diane Dempsey, a 59-year-old retired Army lieutenant colonel who could get no closer than the water line a mile from her Metairie home. "I'm going to pay someone to get me back there, anything I have to do."

"I won't be getting inside today unless I get some scuba gear," added Jack Rabito, a 61-year-old bar owner who waited for a ride to visit his one-story home that had water lapping to the gutters.

Katharine Dastugue was overjoyed to find that floodwaters had gone across her lawn but stopped just inches from her doorstep. As she stood waiting for a boat to take her in, she made a list of things she hoped to salvage before being forced to leave again Wednesday.

"If I can just get my kids' baby photos," she said. "You can't replace those."

In New Orleans, Nagin upticked his estimate of the probable death toll in his city from merely thousands, telling NBC's "Today" show, "It wouldn't be unreasonable to have 10,000."

As law enforcement officers and even bands of civilians — including actor Sean Penn — launched door-to-door searches of the city for survivors, they were running up against a familiar obstacle: People who had been trapped more than a week in damaged homes yet refused to leave.

"We have advised people that this city has been destroyed," said Deputy Police Superintendent W.J. Riley. "There is nothing here for them and no reason for them to stay — no food, no jobs, nothing."

Riley, who estimated fewer than 10,000 people were left in the city, said some simply did not want to leave their homes — while others were hanging back to engage in criminal activities, such as looting.

Nagin said the city had the authority to force residents to evacuate but didn't say if it was taking that step. He did, however, detail one heavy-handed tactic: Water will no longer be handed out to people who refuse to leave.

With almost a third of New Orleans' police force missing in action, a caravan of law enforcement vehicles, emblazoned with emblems from across the nation and blue lights flashing, poured into the city to help establish order on the city's anarchic streets.

Between 400 to 500 officers on New Orleans' 1600-member force were unaccounted for. Some lost their homes. Some were looking for families. "Some simply left because they said they could not deal with the catastrophe," Riley said. Officers were being cycled off duty and given five-day vacations in Las Vegas and Atlanta, where they also would receive counseling.

At a news conference in Baton Rouge, police Superintendent Eddie Compass denied that officers deserted in droves, acknowledging some officers abandoned their jobs but saying he didn't know how many.

Two police officers killed themselves. Another was shot in the head. Compass said 150 had to be rescued from eight feet of water and others had gotten infections from walking through the murky soup of chemicals and pollutants in flooded areas.

"No police department in the history of the world was asked to do what we were asked," Compass said with a mix of anger and pride.

The leader of troops patrolling New Orleans declared the city largely free of the lawlessness that plagued it in the days following the hurricane. And he angrily lashed out at a reporter who suggested search-and-rescue operations were being stymied by random gunfire and lawlessness.

"Go on the streets of New Orleans — it's secure," said Army Lt. Gen. Russel Honore. "Have you been to New Orleans? Did anybody accost you?"

Hopeful signs of recovery were accompanied by President Bush's second visit to Louisiana, which exposed a continued rift between state and federal officials over the slowness of a relief effort. The first significant convoy of food, water and medicine didn't arrive in New Orleans until four full days after the hurricane, and the mayor and others said some survivors died awaiting relief.

Louisiana's largest newspaper, The Times-Picayune, called for the firing of every official at the Federal Emergency Management Agency in an open letter to President Bush that it published.

At a stop in Baton Rouge, Bush said all levels of the government were doing their best, and he pledged: "So long as any life is in danger, we've got work to do."

Louisiana Gov. Kathleen Blanco has refused to sign over National Guard control to the federal government and has turned to a Clinton administration official, former Federal Emergency Management Agency chief James Lee Witt, to help run relief efforts.

Blanco, a Democrat, was not informed of the timing of Bush's visit, nor was she immediately invited to meet him or travel with him. In fact, Blanco's office didn't know when Bush was coming until told by reporters.

Late Monday, Blanco denied there was tension with Bush.

"We'd like to stop the voices out there trying to create a divide. There is no divide," she said. "Every leader in this nation wants to see this problem solved."

In Texas, U.S. Health and Human Services Secretary Mike Leavitt declared a public health emergency for that state, saying it would speed up federal assistance to help almost 240,000 storm evacuees — the most of any state.

While the New Orleans' refugees were mostly poor and black, Jefferson Parish brought the storm's destruction to a much wider economic cross-section.

The sprawling parish stretches from Grand Isle on the Gulf of Mexico to Lake Pontchartrain in the north, and includes some of the metropolitan area's most exclusive neighborhoods.

In the enclave of Old Metairie, the rows of palatial, six-bedroom homes sustained little structural damage but had some of the worst flooding. Water rippled up the knobs at front doors and completely covered Mercedes-Benzes and BMWs in garages.

Many residents were happy that the storm spared their homes, but angry that the failure of the levee system left them swamped. Some were considering a lawsuit against the federal government for having a levee that could survive no more than a Category 3 hurricane.

"That's what's so devastating, that goddamned levee breaking," said Bobby Patrick, who is now staying in Houston. "My home didn't lose a shingle but it's got six feet of water in it."

Since the storm, rumors had swirled that looters had crossed over the parish line and begun breaking into evacuated homes in Jefferson. Many were relieved to return home Monday to find their belongings untouched.

Across the neighborhood, residents took what items they could fit in a boat. One woman loaded up her boat with her collection of cashmere sweaters, her cat and the 1957 Leica camera that belonged to her grandfather. A man packed his pickup truck with his silverware, his wife's clothes and a cherished animal figurine.

Unlike the poor in New Orleans, these refugees had other places to go. And few here planned to stay through what could be a long recovery. With police checkpoints on every major street corner, even looting was not a major concern.

Said personal trainer Rod McClave: "I'm more concerned about them damaging my stuff just for the hell of it."

New Horrors Discovered As Recovery Effort Goes On (MH)

By Lee Hill Kavanaugh, Natalie Pompilio And Martin Merzer

The Miami Herald, September 6, 2005

DOJ_NMG_0002701

NEW ORLEANS - Ghastly new evidence of Hurricane Katrina's horror emerged Monday night when a sheriff reported the recovery of 22 bodies lashed together around a pole - a desperate, futile attempt to survive the storm.

Sheriff Jack Stephens of St. Bernard Parish, just east of New Orleans, said rescuers found the bodies tied with rope and wrapped around a pole in the tiny village of Violet along the eastern bank of the Mississippi River.

The bodies were found soon after the storm in a flooded area of the village but still haven't been identified, he said. He said he believed they had tied themselves together, one by one, so they could escape the rising water.

The report came on a day when rescue crews still sought the living and the dead, and when New Orleans Mayor Ray Nagin shared a grim estimate of Katrina's human toll - as many as 10,000 people dead, though he didn't cite the basis for that statement.

And more: Biloxi Mayor A.J. Holloway said he expected the death toll in his Mississippi city to exceed that of Hurricane Camille, which killed 200 people in 1969.

Meanwhile Monday, engineers repaired the ruptured 17th Street Canal levee in New Orleans and floodwaters receded a bit as some suburban residents, carrying suitcases and heavy hearts, briefly returned to their homes and sifted through the sodden debris.

Many of those who briefly returned to suburban Jefferson Parish or stayed there throughout the ordeal reported a landscape dotted with bodies.

On Stella Street, Eric Breaux said he saw 15 corpses, most of them caught in barbed wire at the Metairie Country Club. "I don't want to see it again," he said. "I personally tied three dead bodies to street signs."

Authorities permitted residents of the area, a parish just west of New Orleans that includes Metairie and Kenner, to inspect their houses and recover possessions worth removing.

Many neighborhoods still were flooded to the rooftops, but others had dried out, leaving behind an awful, reeking residue. About 460,000 people lived in the suburban parish before the storm, and now some labored on a day that felt like anything but a holiday.

"We have lost everything," Carol Crokem of Kenner said as she surveyed what was left of the home on West Tulane Lane where she and her husband raised three children and two grandchildren.

Maggots gathered at her front door, and sewage and garbage polluted the interior.

In Metaire, Vinson Serio, 59, stacked dining room chairs outside while his wife, Claire, 57, swept malodorous black water from their home. Among the destroyed possessions: his daughter's never worn wedding dress.

"I'm grateful it wasn't death," Serio said. "But it's bad as far as destruction, emotional destruction."

As they and others viewed the wreckage of their houses and their lives - and as the water in and around New Orleans slowly receded, President Bush conducted another partial tour of the region, though he again bypassed New Orleans.

"We're here for the long term," Bush said during a stop in Poplarville, Miss., 45 miles inland but savaged by Katrina. He's been harshly criticized over the federal response.

At the same time, rescue crews continued searching for people still believed trapped throughout the vast region assaulted by Katrina more than a week ago - and for people who chose to stay.

"To our surprise, there are still thousands of people - thousands of people - inside this city who we are trying to identify and relocate," said Warren Riley, deputy chief of New Orleans' police force. "There is absolutely no reason for them to stay. No jobs, no food. ...

"We advise people that this city has been destroyed."

Though there were some exceptions, the large-scale rescues of the weekend seemed nearly over, signifying a shift from finding the living to preparing to recover the dead.

Crews aboard U.S. Navy search-and-rescue helicopters spent much of the morning searching in vain, buzzing the rooftops, floating just above putrid, fuel-stained olive-black waters.

Car and truck roofs remained submerged, and holes in rooftops attested to previously successful rescues.

"You see some of the roofs without holes right next to the ones that have them," said Ren Owens, 26, a Naval rescue officer. "It kind of makes you wonder what's in there or who's in there."

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Throughout the day, squads of National Guard troops probed sections of the city, searching for holdouts or the trapped, producing war-like scenes that seemed almost cinematic.

In the city's Garden District, troops formed lines along either side of the oak-lined streets and conducted reconnaissance missions. They found 56 people in a parking garage a few buildings away from their newly commandeered headquarters on St. Charles Avenue.

They picked up 85 more at the intersection of Napoleon and St. Charles avenues, where rescue boats dropped off people plucked from flooded houses.

The order for forced removals hadn't yet come, said Maj. David Parker of the Oklahoma National Guard, but if it does, he's prepared. "We'll use sheer force," he said, "or coercion of some type."

Elsewhere, at a spot not yet reached by the patrols, a helicopter fluttered overhead and a woman yelled at it. "Please come down," Jarnette Williams said, waving her arms frantically. "We want to leave."

Riley said at least 400 of his 1,600 officers were unaccounted for, but 4,000 soldiers, National Guard troops and police officers from other cities and states augmented his demoralized police force. He said they were bringing order to a city that had descended into anarchy.

Nagin, the New Orleans mayor, said Sunday night that all uniformed New Orleans officers would be pulled off the streets and sent for evaluation and counseling, but Riley offered no such indication Monday.

"We feel the city is very secure," Riley said, though he reminded everyone of the magnitude of the challenge and the scale of the work that remained. "This was probably the greatest catastrophe in an American city."

Asked for his estimate of the death toll, Nagin told NBC's "Today" program: "It wouldn't be unreasonable to have 10,000" dead.

During his visit, Bush stopped in Baton Rouge, a city largely untouched by Katrina but now nearly overwhelmed with evacuees. Its population mushroomed from 225,000 to 325,000 within a week, city officials said, and soon could reach 450,000.

Although the federal effort has been widely criticized as slow, insufficient and uncoordinated, Bush was upbeat.

"All levels of the government are doing the best they can," he said during a stop at a shelter at the Bethany World Prayer Center in Baton Rouge. "So long as any life is in danger, we've got work to do.

"Where it's not going right," he said "we're going to make it right."

Stung by accusations of racism, given that most of the victims are black and poor, he met with several African-American ministers, but many people remained unconvinced.

"How else can you explain it?" said Ronald Walters, a political science professor and director of the African American Leadership Institute at the University of Maryland. "Look at how the president responded to hurricanes that took place on the other side of Florida in predominantly white populations. ...

"White life has always been more valuable than black life," Walters charged. "That explains it for people."

Bush hasn't responded directly to the allegations.

In Small Town, Huge Morgue Takes Shape (NYT)

By Peter Applebome

The New York Times, September 6, 2005

SAINT GABRIEL, La., Sept. 5 - After the wind, after the flood, after countless bodies are fished from muddy bayous or lifted off street corners or carried down from roofs or attics, the road ends here.

At a warehouse next to the modest city hall in this ragged town just past where the sprawl of Baton Rouge gives way to farmland, refrigerated trucks on Sunday began the task of bringing what is expected to be thousands of bodies to the temporary mortuary set up to process victims of Hurricane Katrina.

All day long on Monday, trucks bearing equipment and supplies and sometimes victims clattered down the narrow street just over the railroad tracks to what is called the Disaster Portable Mortuary Unit. There a staff of 100 workers - morticians, forensic pathologists, anthropologists, medical examiners, coroners, fingerprint technicians, radiologists, dental technicians and others - will identify bodies and prepare them for burial.

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No one knows how long it will take or how many bodies to expect.

Mayor C. Ray Nagin of New Orleans warned on the NBC program "Today" that "it wouldn't be unreasonable to have 10,000" dead in the city.

Capt. Marlon Defillo, spokesman for the New Orleans police, said city officials did not expect to have even a rough estimate of the number of dead until the end of this week.

"It's not going to be low," Captain Defillo said.

So far only 23 bodies have been brought to the mortuary, and the official death toll for Louisiana stands at 71. Officials said the low count was due mostly to the arduous recovery process and the desire for accuracy. But some also said there was no way to make any kind of reliable projection, so the estimate of 10,000 deaths could turn out to be way off base.

Whatever the number, nearly all bodies will come here, where officials say they are committed to what seems an almost impossibly contradictory mission - handling with dispatch the victims in a death toll that could rival that of any natural disaster in American history and treating each body with the knowledge that it was someone's father, someone's mother, someone's child.

"Our goal is to do everything we can under the circumstances to treat each body with as much dignity and respect as we possibly can," said Bob Johannessen, a spokesman for the Louisiana Department of Health and Hospitals, which is managing the mortuary operation with the Disaster Mortuary Operational Response Team of the Federal Emergency Management Agency. "We're trying to treat them all as individuals."

Mobile units in New Orleans began collecting bodies from streets and flooded areas on Monday and going house to house in some neighborhoods to look for the dead. Until now, bodies had been left to rot in the streets while rescuers focused on searching for survivors.

Some corpses were tied to road signs and electricity poles so they would not float away, but many have decomposed beyond recognition.

Mr. Johannessen said bodies would first be taken to collection sites where preliminary information would be gathered to help identify them, including where they were found and any documentation or personal effects found with them.

They will then be put in body bags, loaded onto refrigerated trucks and sent to this town of 5,300 just south of Baton Rouge, home to two prisons and the only long-term treatment facility for Hansen's disease, or leprosy, in the continental United States.

The mortuary facility is about the size of football field and had been used by businesses to store merchandise. It can process about 140 bodies a day and is set up to accommodate 1,000 bodies, but it can be upgraded to handle "in excess of 5,000," Mr. Johannessen said. He said he expected that the facility would be able to handle whatever need arose.

Mr. Johannessen said bodies taken to the center, many of which have been decomposing in toxic water for a week, would first be decontaminated so they can be handled safely.

Then officials will begin gathering forensic data, including dental X-rays, photographs, fingerprints and DNA samples, in an effort to identify bodies. Medical records, including information like pacemaker serial numbers or evidence of artificial hips or knees, will be compiled into a profile of each victim and stored in a database made accessible to families looking for missing people. Relatives will not be allowed to visit the bodies at the mortuary, Mr. Johannessen said.

The state is looking for burial space, and victims not immediately identified will be buried there. Officials said families could later move bodies to family plots.

Local residents, who were not told about the facility in advance, had mixed reactions to its presence. Chief Keith Ambeau of the police department acknowledged that some residents had expressed fears about health, odors and the stigma of a giant mortuary operating, perhaps for months, next to a residential area.

"It's human nature to have some concerns about bringing in dead bodies," Chief Ambeau said. "People are going to worry about disease, contamination. But I've been saying all morning, my office is right here. I'm not going to put myself in danger. I think for the most part people are compassionate here. Their hearts go out to those people. New Orleans is only 75 miles away. Those are our brothers, our sisters, our loved ones."

But at a house just a few hundred yards from the mortuary, three residents shuddered at the thought, with one woman expressing concerns about safety and property values.

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And echoing the issues of class and race brought up by the tragedy, she asked why it was put in her neighborhood, its residents largely, but not entirely, black and lower income. The per capita income in the town is $8,952, compared with $16,912 for the state and $21,587 for the nation.

"You look around this neighborhood for yourself," said the woman, who is black and did not want to be identified. "You look at what color lives here. What their economic situation is. There's plenty of empty land in Louisiana. Why put it here?"

A few houses closer to the site, Paula Chong, who has two grown children and lives with a baby granddaughter, said she would prefer the mortuary to be elsewhere but believed it would be safe.

"We just need to turn to God," Ms. Chong said. "All I ask is that they be careful and do everything in accordance with the law."

Besides, she said, in the extended family that is south Louisiana, it is a facility that she may need, too.

Counting her missing cousins, Ms. Chong said: "I've got, what, 4, 5, 9 or 10 still missing? Lots of my cousins. So why would I complain when I still have family of my own missing?"

Along Gulf, Aiding The Living And Counting The Dead (WP)

By Timothy Dwyer And Michael A. Fletcher

The Washington Post, September 6, 2005

NEW ORLEANS, Sept. 5 -- Federal officials opened a vast morgue to collect the dead and health officials scrambled to create a health care network to help the living, while states across the country struggled to find housing and other provisions for the more than 1 million people driven from their homes by Hurricane Katrina.

Although the storm's announced death toll was just over 200 on Monday, officials began to brace themselves and the public for a body count that could reach well into the thousands.

Meanwhile, the U.S. Army Corps of Engineers said it had closed gaps in levees damaged by the hurricane and had begun pumping water out of the city and into Lake Ponchartrain. The flood in the swamped Ninth Ward had dropped by a foot, and downtown streets were wet instead of inundated.

The vast scope of the calamity triggered by the storm was still emerging. officials estimated that more than 1 million people -- many of whom fled with only the clothes on their back and a few prized possessions stuffed in a bag -- have been forced from their homes, most likely for many months.

Amid mounting recriminations about the slow pace of the government response to the calamity unleashed by last week's storm, President Bush visited the stricken area for the second time in four days, and his administration appointed a federal official to assume control of recovery efforts in storm-ravaged New Orleans.

Homeland Security Director Michael Chertoff tapped Coast Guard Vice Adm. Thad Allen to coordinate the government's relief efforts in the city. Allen will report to beleaguered FEMA Director Michael D. Brown, who will keep responsibility for the rest of the Katrina-affected Gulf Coast region.

Bush also declared a state of emergency in eight states -- as far away as Utah and West Virginia -- bringing to 13 the number eligible for special federal aid as a result of the hurricane.

Federal agents, troops and law enforcement officers from around the country continued to pour into New Orleans, and police officials expressed confidence the city was mostly safe from the marauding gangs that had terrorized citizens in the storm's chaotic aftermath.

The rapidly growing scale of the effort was evident in the official statistics of federal personnel involved as of midday Monday: 38,000 National Guardsmen, 6,000 FEMA responders and 4,000 from the U.S. Coast Guard, according to the Department of Homeland Security. The USS Iwo Jima, an amphibious assault ship, pulled into New Orleans port Monday and will assist in aid efforts.

Across the state, doctors and nurses worked feverishly to cobble together a new health care network, transforming abandoned stores, basketball arenas and other spaces into hospitals to treat the hurricane's victims.

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The relief effort even grew to include counterfeit clothes, 100,000 items of which were taken from U.S. Customs Service storehouses and distributed to evacuees in Houston's Astrodome. Two cruise ships anchored in Galveston, Tex., were to begin taking on evacuees as well -- as many as 2,600 each.

About 990,000 customers remained without power Monday because of Hurricane Katrina, the Energy Department said, down from 1.3 million on Sunday.

Allen's appointment in New Orleans came as the president moved to reassert his leadership in the wake of withering criticism about what many local officials and residents saw as his administration's lethargic response to the deadly storm. Bush made his second visit since Friday to the devastated region, talking to evacuees in a church-run shelter and meeting with disaster-relief officials in Louisiana before speaking to emergency personnel in Poplarville, Miss.

"I understand the damage. I understand the devastation. I understand the destruction. I understand how long it's going to take," Bush said in Mississippi. "And we're with you. That's what I want you to know."

As Bush visited the region, rescue workers continued their search for survivors. As choppers maneuvered overhead, rescuers trolled debris-strewn city streets in flat-bottom boats, going house to house, peering in windows and knocking on doors in an effort to evacuate the estimated 10,000 New Orleans residents thought to still be in the city.

Often, they found people who refuse to leave.

Keith Edwards, a rescue worker from Arkansas, tried in vain to talk an elderly woman into abandoning her home in a public housing complex not far from the Superdome. Sitting at a table in her darkened apartment, the woman refused his offer to be evacuated by airboat. "Hon, you don't know how dangerous this is?" Edwards said. ". . . the water out in your front yard will kill you."

One New Orleans police officer said the search was still focused on the living. "We're going up to buildings looking for people," said the officer, who said he was not authorized to speak on the record. "When you break the window and the smell comes back at you, you know they're dead." And they move on. "You just can't worry about the dead right now," he explained.

But other workers are. The bodies of those left dead in Katrina's wake were scheduled to start to arrive Monday in a massive warehouse outside Baton Rouge. Lifted from the fetid waters swamping this city, they will be transported in refrigerated trucks to the temporary morgue. A similar morgue has been set up in Mississippi.

As officials forged ahead with the recovery work, Bush spent the day near the storm-ravaged Gulf Coast. Some critics said the impression of a slow federal response to Katrina was only deepened by the president's visit to the region last week, during which Bush seemed tentative in his comments and was kept away from some of the most dire misery spawned by the storm.

Some civil rights leaders have questioned whether the response to the storm was hindered by the fact that many of those most severely affected are poor and black -- a charge dismissed by federal officials. In the face of the growing denunciations, senior administration officials have fired back by blaming local officials for the inadequate response to the hurricane.

Bush seemed intent on rising above the finger-pointing during his visit, saying that "all levels of government are doing the best they can" to restore order and to address basic needs of the storm victims.

"So long as anybody's life is in danger, we've got work to do," Bush said. "That's why I want people to be assured we're going to do it."

Bush posed for pictures with children and talked with several of the 800 people staying at Bethel World Prayer Center in Baker, a few miles north of the Baton Rouge airport. Some asked the president about the growing use of the word "refugee" to describe them.

"A refugee is a prisoner of war or something," said Paulette Jolla, a New Orleans who left before the storm hit. Also in on the conversation was Terry Thompson, 42, of New Orleans, who said the president agreed to urge officials to start referring to those who escaped the storm as "displaced citizens."

"I don't know who came up with the term 'refugee' anyway," said Thompson. "He said if that term was making us feel like we were less, he didn't want to do that."

Thompson, who served in the National Guard in the Persian Gulf, said the military should have been called upon earlier to bring in helicopters to help evacuate residents and deliver food and water. "He's going over there to save the Iraqis and all that," Thompson said. "But he responded terribly to this tragedy."

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Others were more charitable. "It's good that he came," said Iris Henderson, 38, who is at the shelter with her daughter and one grandchild. "People said he doesn't care but it seemed like he does. He showed that he's human. He's trying to do what he can."

Among those joining Bush on his visit to the shelter were the Rev. T.D. Jakes, who is one of the nation's best known African American religious leaders; Louisiana Gov. Kathleen Babineaux Blanco (D), first lady Laura Bush, Baton Rouge Mayor Melvin L. "Kip" Holden and Chertoff.

As Bush visited the region, some residents of Jefferson Parish were allowed to return briefly to their homes for the first time since they were forced to flee. A line of vehicles miles long began moving into the parish west of New Orleans at about 6 a.m .; officials planned to allow traffic in for 12 hours, though they encouraged residents to inspect their property, pick up personal items and leave.

Mississippi officials said the situation in the state was improving -- slowly. The availability of fuel continued to be "a significant problem" in some areas, said Gov. Haley Barbour (R), but, overall, he said, things were getting better.

Many Of The Dead Never To Be Identified (AP)

By Tim Dahlberg, Associated Press Writer

The AP, September 5, 2005

NEW ORLEANS — They died on flooded city streets in the Big Easy and in country homes in Mississippi. One survived seven months of combat in Iraq only to die near his boyhood home. An 80-year-old woman died sitting in a bedroom chair when a tree crashed through the roof. One man was killed when he went out to his car to charge his cell phone during the storm.

A woman known only as "Vera" was struck by a car after the hurricane hit, according to her husband.

Most of the dead from Hurricane Katrina don't have names yet. Many will never be identified because their bodies decomposed in the floodwaters and heat before they were found.

For some, a few details are emerging from relatives who want them remembered:

_ Jewelry shop owner David "Kip" Logan, 49, liked to play golf and hunt and attended a Baptist church. His last act was to tell his wife to run as a tree cracked and fell on the porch of his Laurel, Miss., home, collapsing an awning on top of him.

Deborah Logan suffered two broken vertebrae and broken fingers, but stayed with her husband as neighbors pulled him from the wreckage, dug a damaged car out of the debris and drove him to the hospital.

"I held his head in my hands the whole way," Deborah Logan said.

_ For some reason, 43-year-old Vicky Thaggard wrote a letter to her preacher four months ago describing how she wanted her funeral carried out. She died when a tree fell on her car in Leake County, Miss.

"Different people think you know before you die," said Kay Cain, her niece. "I don't know. ... Why else would she leave a letter like that?"

_ Whenever Merry Thompson went out for a drive, she was accompanied by a 3 1/2-foot-tall stuffed toy, Sylvester the cat. It was a tribute to her late father, who was named Sylvester, and it was guaranteed to draw stares from drivers around Eagle Lake, Miss.

The 43-year-old died when a tree fell on her mobile home.

"She's crazy — not looney bin crazy — but she just had a lot of personality," her son, Nick Thompson, said. "She's very outgoing and warm."

_ Josh E. Russell had spent a tour in Iraq, then switched to the National Guard from the Marine Corps so he could spend more time at home. The 27-year-old was killed when the Humvee he was riding in hit debris on a highway in Pearl River County, Miss.

Russell was nervous about being called into action, sent into the teeth of the hurricane, said his widow, Jamie Russell.

"He didn't want to go, because he knew it was going to be a bad storm. But he went, because that was his duty," she said.

These are just a few of the dead whose names are known and whose stories are being told. But there are sure to be thousands more in months ahead.

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Many, like the man whose body was on a wooden cart on New Orleans' Rampart Street near downtown may simply be buried in anonymous pauper's graves. The elderly man was wrapped in a child's bedsheet decorated with the cartoon characters Batman, Robin and the Riddler. He had one shoe on, one off.

Identifying the dead will be a daunting task, made even more desperate because many will likely be bloated and decomposed by the time they're taken away. FEMA officials said they would try to locate dental records, but urged family members to bring in photos, fingerprints or even a toothbrush or provide DNA samples.

Homeland Security Secretary Michael Chertoff warned the nation to prepare for the worst as bodies believed to be in houses and in floodwaters are recovered.

"It is going to be about as ugly of a scene as I think you can imagine," Chertoff said.

Slowly, though, some faces are being matched with the dead, mostly by family members.

For days, mystery shrouded the body of "Vera" as closely as the sheet that eventually cloaked her body. She stayed there in the Garden District, at the corner of Jackson and Magazine, with a spraypainted tribute on the sheet over her: "Here lies Vera. God help us."

Vera turned out to be 66-year-old Elvira Smith, who lived with her common-law husband, C.N. Keene, about five blocks from where she was killed. Sitting shirtless and with a growth of beard on the front porch of his modest duplex, Keene said he last saw his wife Monday after the hurricane struck.

Keene said she was on her way to Jewel's grocery when someone driving in the frantic aftermath of the hurricane struck her just a few feet from the store entrance and sped away. The next day, Keene said he walked over and put a bedspread over her body but he didn't want to return to it.

On Saturday, Keene was sitting on his porch when a man came up to him with some news.

"Some guy I didn't even know named John came by and said, 'I've just buried Elvira in the park,'" Keene said. Her body remained in the same spot, but a short wall of bricks had been built around her, anchoring the tarp.

"I told him I appreciated it," Keene said.

Bacterial Disease Afflicts Some Evacuees (LAT)

By Scott Gold

The Los Angeles Times, September 6, 2005

NEW ORLEANS — Authorities said Monday that some of Hurricane Katrina's evacuees have contracted a bacterial disease that is considered a more benign cousin of cholera, but is potentially fatal in people whose immune systems have been compromised.

Officials at the Centers for Disease Control and Prevention in Atlanta said the bacterium, vibrio vulnificus, may have been picked up by people with open wounds who were forced to wade through polluted floodwaters for a long time.

Von Roebuck, a CDC spokesman, said officials have detected the disease among some storm evacuees and stragglers but have not been able to determine how many cases there are. It does not appear that anyone has died, Roebuck said.

Since flooding began, authorities have predicted that New Orleans could be stricken with a host of diseases, particularly as unretrieved bodies remained in the water. This appears to be the first confirmation of illness caused by the storm and the flood.

New Orleans Mayor C. Ray Nagin said Monday that the possibility of epidemics is a critical concern.

"The water quality in the streets continues to deteriorate," he said. "There is some really nasty looking stuff out there. I worry about it every day. The more time that passes, there are more dead bodies left floating, and more mosquitoes breeding and hatching. They bite people who are dead."

Nagin said he is also concerned about a wide outbreak of the potentially fatal West Nile virus. For two days, he has called upon the federal government to provide crop dusters that can coat the city with chemicals to kill mosquitoes breeding in the floodwaters. That had not occurred by Monday evening.

He said he is also concerned about airborne toxic hazards and natural gas in the area.

Those health threats are why every resident must leave the city for now — even those living on dry land, he said, adding that they "will be able to come back."

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Vibrio vulnificus belongs to the same family as cholera — and those stricken with the bacterium were only discovered, officials said, because tests were done amid false reports that cholera had been discovered among evacuees.

Among healthy people, vibrio vulnificus causes vomiting, diarrhea and abdominal pain but is generally not life-threatening. It can be readily cured with antibiotics such as doxycycline or cephalosporins, with no long-term effects.

It is substantially more serious in people with chronic liver disease or people who have compromised immune systems, such as those taking transplant drugs. In those cases, the bacterium escapes into the bloodstream, where it causes fever and chills, septic shock — characterized by sharply decreased blood pressure — and blistering skin lesions.

About half of those who contract bloodstream infections die, according to the CDC.

There is no evidence that the bacterium spreads from human to human.

The bacterium can also cause skin infections if people have open wounds, which can lead to skin breakdown and ulceration.

About 45 hospitalizations and 16 deaths are reported each year in the Gulf Coast states, but many experts believe the actual number of cases is far higher. Most cases occur between May and October, when the ocean is warmer.

In New Orleans' 9th Ward, O'Neil Broyard, 67, said Monday that he is not concerned about the threat of disease, although several feet of increasingly fetid water stands just behind his business, the Saturn Bar.

Broyard has been mucking around in the water for days. During the height of the flooding, 2 feet of water was in the bar and he spent three days cleaning it out. He said he took precautions every time he slogged through the water.

"I washed up good," he said. "I got that antibacterial soap and I just put it on my feet."

Like thousands of others left in town, Broyard rejected the mayor's call to evacuate. Instead, he said he was intent on guarding his bar, a small, strange gem in the east of the city that has acquired a cult following over the years for its collection of surreal, comic paintings by a local artist and its earthy, no-nonsense management.

Hurricane Refugees Reach Safety Carrying Many Health Problems (WSJ)

By Betsy McKay, Marilyn Chase and Sarah Lueck

The Wall Street Journal, September 6, 2005

Hurricane victims moving out of the floodwaters of New Orleans and elsewhere are arriving at shelters and medical facilities with troubling health problems, including infectious diseases caused by exposure to contaminated water.

Doctors are seeing many patients with infected wounds and gastrointestinal illnesses, and worry that more are coming in the days ahead. A reported outbreak of gastrointestinal illness sickened a large number of people at a Mississippi shelter. Doctors also are treating a wave of patients with broken bones, dehydration and chronic illnesses such as diabetes and heart disease that were destabilized during the past week.

To prevent disease outbreaks, the federal Health and Human Services Department shipped 90,000 doses of tetanus vaccine, 22,000 doses of Hepatitis A vaccine and 36,000 doses of Hepatitis B vaccine over the weekend to states and health facilities, said HHS spokeswoman Christina Pearson. The department also has provided antibiotics as well as medications for chronic illnesses such as heart disease, diabetes and anxiety. Overall, the government said it has deployed 100 tons of medications and other supplies for victims of the hurricane.

A temporary government medical facility set up last week in Baton Rouge, La., is filling more than 1,400 prescriptions a day, said Ms. Pearson. The facility has seen about 3,500 patients since Tuesday, and an average of about 100 of its 250 beds have been filled.

At a huge Red Cross shelter at the River Center complex in Baton Rouge, volunteer physician Chris Montgomery says he and other doctors have treated several evacuees with skin infections from contaminated water, as well as lacerations and a few cases of diarrhea.

"We're very worried about easily spreadable skin infections," says Dr. Montgomery, a family physician from Poplar Bluff, Ark. He is particularly concerned about serious infections such as an overgrowth of bacteria in the colon that is common in nursing homes and hospitals. The shelter's approximately 6,000 residents include some elderly and infirm patients. The makeshift clinic also is providing continuing medical care to many shelter residents with diabetes and heart and lung problems.

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To minimize infections, the Red Cross staff are requiring all shelter residents and visitors to clean their hands with hand sanitizer at the entrance. Dr. Montgomery says he also is coating the inner rim of his nose with antibiotic ointment, to ward off bacteria that he may contract from patients' coughs. He says he also is concerned about viral gastrointestinal diseases, although there have been very few cases yet, and no cases of dysentery. Flu is another concern for him -- the season will start in a month or two.

Joseph Guarisco, chief of the emergency department at Ochsner Clinic Foundation in New Orleans, said he saw several cases of gastroenteritis with nausea, vomiting and fever on Friday due to contaminated water or food. A spokeswoman later added that the emergency room over the weekend mostly treated broken bones, including in people brought in by search-and-rescue teams, and dehydration and exhaustion of the elderly. The hospital was seeking to restore the full range of services; it performed a heart catheterization Sunday and was planning lung surgery and a heart bypass.

Dr. Joseph Dalovisio, head of the department of infectious diseases at Ochsner, said he is concerned mostly about tetanus infections and gastrointestinal illnesses related to contaminated food and water, rather than exotic illnesses such as cholera. Noting there were dozens of cases of the mosquito-borne West Nile virus before the storm, he says he is "worried about mosquitoes now that people are out of their houses."

Edward Hill, president of the American Medical Association, said scores of Katrina-affected patients are being brought to the Good Samaritan Clinic, an outpatient center where he works in Tupelo, Miss., about 150 miles north of the most severely hit parts of the state.

"The predominant problem is the lack of medication for hypertension, diabetes and people suffering from heart problems," said Dr. Hill. Physicians in Tupelo have donated drugs, including samples provided to them by drug companies. Pharmacists on site are helping to match patients with available drugs.

Health and Human Services Secretary Mike Leavitt ventured to several affected areas to meet with local health and political leaders. He also signed an order on Sunday that officially declared a public-health emergency in Texas, which will allow Medicaid recipients arriving from other states to continue to get coverage from the health-insurance program for the poor.

Improvising To Replace Services For Many Thousands (WP)

By Ceci Connolly

The Washington Post, September 6, 2005

BATON ROUGE, La., Sept. 5 -- Legions of doctors and nurses are frantically patching together a new medical care network to handle the swelling flow of Hurricane Katrina's victims. The extraordinary process includes the task of converting basketball arenas, an abandoned Kmart and even the New Orleans airport into working hospitals and clinics.

The storm -- and more significantly the flooding, lack of food and exposure to the baking sun that doctors say left victims to "rot alive" -- have presented medical workers with an overwhelming challenge. Overnight, New Orleans and surrounding communities lost 6,000 hospital beds.

The health care demands of this disaster far outstrip those of previous ones. In seven endless days and nights, doctors have delivered babies, revived failed hearts, hooked up diabetics to dialysis, bandaged snakebites and distributed thousands of medications, including many antibiotics for cases of gangrene and other infections caused by the lethal pairing of open wounds and putrid water.

"This is the worst disaster I've ever seen in my life," said Robbie Prepas, a midwife from San Diego who arrived a week ago with a federal Disaster Medical Assistance Team, or DMAT. "And I have been to disasters in Afghanistan, Asia, Africa, Guam after the typhoon."

With an influx of patients who are predominantly poor and in poor health, the emergency medical challenges are compounded by longer-term issues of managing chronic conditions such as high blood pressure, heart disease, diabetes and mental illness. At the same time, officials say they remain on the alert for outbreaks associated with flooding, such as typhoid and cholera, as well as increasing numbers of asthma attacks, fevers, rashes and suicide attempts.

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Disaster care in New Orleans was far more difficult than in typical hurricane situations because of the flooding that not only forced downtown hospitals to evacuate but made it impossible for the Federal Emergency Management Agency to set up triage units in hospital parking lots, as it has done in the past.

Predictions about infectious disease outbreaks have yet to come true, though the flooding in New Orleans and disintegrating corpses throughout the Gulf Coast continue to make that a possibility. Hospitals here, operating at full capacity, have seen a spike in cases of pneumonia, stroke, lice, diarrhea and premature birth, said Louis Minsky, medical director of the Baton Rouge emergency response unit.

In many cases, people already weakened by underlying afflictions found the trauma of the storm, the days of heat and a hellacious evacuation through water, sewage and rotting garbage almost too much to endure.

"These are mostly elderly people with chronic diseases who were herded into the convention center with no medications, scared out of their minds," said Lt. Col. Constance McNabb, commander of a Texas Air National Guard unit overseeing medical evacuations in New Orleans. "I don't know how they survived."

More than 5,000 medical workers have been dispatched by the Bush administration to supplement hundreds of state, local and private health care workers. Already, the federal government has flown in 100 tons of medical supplies, including 90,000 doses of tetanus vaccine, portable oxygen tanks, gloves, sutures and antibiotics.

"Every DMAT team in this country is deployed," said FEMA spokesman Marty Bahamonde. A dozen of the 35-person teams have been treating victims in tents at Louis Armstrong International Airport, just outside New Orleans. The Centers for Disease Control and Prevention dispatched 140 people, while the Department of Health and Human Services has more than 700 people on the ground.

The unprecedented effort to provide care to tens of thousands of people has required millions of dollars, improvised medical techniques and, in at least one case, theft by a physician who persuaded local police to help him snatch medications from a pharmacy. For one full week now, doctors have worked in MASH-style surroundings, leaning over patients on flimsy military cots, flipping through textbooks to make sense of symptoms they have never seen before.

"I'm a pathologist," said Greg Henderson, a physician who moved to the New Orleans area two weeks ago. Roaming the streets of downtown in his surgical scrubs, Henderson was suddenly confronting rashes and illnesses he hadn't seen since medical school. Armed with a Physicians' Desk Reference -- the pharmaceutical bible -- and the stolen medicines, he administered to the sick and dying in a hotel lobby and the corridors of the city's convention center.

Thousands -- including infants, elderly and patients with existing health problems -- literally sat in the sun for days, with no food, water or medicine. "They basically start to rot alive," Henderson said as he led one group of ill people to McNabb's military helicopters.

Many landed on the track field of Louisiana State University here, where they were whisked into the arena named after basketball legend "Pistol Pete" Maravich. In the arena and an adjacent field house, volunteers from Illinois, New Mexico and the federal Public Health Service Commissioned Corps staffed an 800-bed hospital, making the gymnasium the largest acute care facility in the state.

"You have built a city where there was none before," Surgeon General Richard H. Carmona said after touring the improvised hospital Sunday.

With military precision, patients were designated red for most severe, yellow for serious and green for walking wounded. By Monday afternoon, 3,500 patients had passed through the arena and more than 1,400 prescriptions had been filled, said Capt. Charles McGarvey. "One night we had 800 individuals assessed by Public Health Service officers on buses," he said.

"People who were healthy enough to get up and walk out did," said James Gregory, who came to LSU with the Illinois Medical Emergency Response Team. The bulk of his patients have been diabetics, heart patients, the obese, and elderly with a full range of maladies who have no money, no home, no medications, no medical records and no doctor.

As recovery teams shifted Monday from rescuing people to retrieving the dead, health leaders here struggled to conceive of how they will provide care over the long term for hundreds of thousands of new residents.

It appears Baton Rouge has the hospital beds to serve the expected 400,000 people, said Minsky, the emergency medical director. But that amount of population growth will require as many as 2,000 more nurses and about 200 physicians, he said.

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At the one-week mark, the latest challenge is treating some of the most severe cases, Minsky said. The most recent arrivals, he said, "are fatigued, been under extreme duress, prolonged exposure to the elements and inappropriate nutrition."

Rescues Taper Off; Recovery Ahead (USAT)

By Kevin Johnson And Matt Kelley

USA Today, September 6, 2005

NEW ORLEANS — The surge of rescues of hurricane victims slowed to a trickle Monday as emergency workers steeled themselves for the shift from joyful rescues of those who survived to the grim task of recovering the bodies of those who didn't.

One Army medical evacuation unit saw their rescues ebb from 200 Thursday to one Monday: Alfred Davis, 67, plucked from the roof of a grocery store near the Superdome.

"We have gotten thousands of people out of there," said Maj. Patrick Bossetta, who has been directing the rescue effort for the Louisiana National Guard. "But search-and-rescue is coming to an end. What we likely have left are people who have expired. We have a gruesome task ahead. … We could be stacking bodies like wood."

The rescuers who saved thousands in the week after Hurricane Katrina knew they couldn't find and save everyone. In areas where hundreds of people were plucked to safety a few days ago, there is an eerie stillness punctuated by the rhythmic thud from a fleet of rescue helicopters.

The crew of a Navy MH-60 Knighthawk helicopter anticipated this stage last week when the rescuers saved three elderly people trapped in a boarded-up and flooded New Orleans home.

Petty Officer Royce Burroughs said the only reason his crewmates found the flood victims was a tip from neighbors rescued from their nearby roof.

Petty Officer Nicholas Kontodiakos, a rescue swimmer, waded through the fetid floodwaters to the home and ripped off some of the boards to find bars over the windows. Finally, an elderly woman's face appeared at a window, and she let rescuers in.

The woman and her husband were huddled in the flooded one-story home's attic. Another elderly man, too sick to move, was in a back bedroom. Kontodiakos found him lying naked on a bed amid the floodwaters.

Burroughs came down from the helicopter and helped Kontodiakos get the man into a basket that was winched up to their helicopter.

These three people weren't on their roof; they were too scared, too frail, to climb onto their roof to signal for help. Kontodiakos winced when he thought of how many others like them there are in the flooded city.

"I can't fathom how many old people there are just floating around in their homes," he said.

Burroughs and Kontodiakos were among the dozens of rescuers faced with wrenching choices: Whom to take and whom to leave behind?

Their helicopter could hold only about a dozen survivors at a time. "There are so many people, and you can't get them all," said Burroughs, who operated the helicopter's winch to lower rescuers on a cable and pull survivors to safety. "We know there are dead people because you can't get everyone."

Kontodiakos and Burroughs worked out their own priority list.

"The people I want to grab first are the people who would have the least chance of living: the babies and their mothers, the elderly, the handicapped," Kontodiakos said.

The helicopter crew, based in Norfolk, Va., flew search-and-rescue missions starting Wednesday. The team was based on the amphibious assault ship USS Bataan stationed in the Gulf of Mexico, 50-100 miles from New Orleans. The rescuers flew for 12 hours a day or more, calling off efforts in darkness because of the danger of crashing into unlighted buildings.

The crewmembers, flying on one of two Knighthawks from the Bataan, estimated they saved hundreds of people.

"This is why I joined the military. This is what I joined the Navy to do: Save people's lives," Kontodiakos said.

The crew of another helicopter flying from the Bataan, this one a massive MH-53E Super Stallion, had similar priorities.

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Before leaving the ship Saturday morning, pilot Lt. Greg Hill and his crew chief, Petty Officer Cory Appling, agreed to urge authorities on the ground to let them take the sick and elderly first on their helicopter, one of three sent to the Bataan from a unit based in Corpus Christi, Texas.

Their mission: Airlift people from the convention center, where thousands were stranded for days without food, water, electricity or security, to Louis Armstrong New Orleans International Airport for medical treatment or a flight out of their devastated hometown.

Convention center survivor Bobbi Smith called the rescue flights a blessing. “It's been a total disaster,” Smith said as she waited to board a Super Stallion. “No lights, no food, no respect.”

A convention center parking lot had been transformed for the day into a busy heliport. Military troops divided the survivors into two lines. One was for the disabled, ill, elderly and young; the other for the able-bodied. Most of Hill's passengers came from that first line.

Most were elderly, disabled or both, sagging in the unforgiving sun. Relatives or volunteers pushed those who couldn't walk in wheelchairs or nearly anything else with wheels.

The healthier survivors carried all they had, often clutching their belongings to themselves as if their lives, or their sanity, depended on it.

“We're saving the world, one exhausted hurricane survivor at a time,” Hill said during his helicopter crew's brief break for lunch and refueling.

At the airport, medical workers and those they treated faced their own crises.

On Friday, survivors nearly rioted, said Senior Airman Chris Chadwick of the Air Force's 88th Medical Group. One patient stabbed a nurse, and medical workers confiscated knives and other weapons from other patients, he said.

“We were scared for our lives,” Chadwick said Saturday.

“My husband dropped dead, and I had to leave him behind,” said Barbara Pratt, 73, as she waited for a flight out of the New Orleans airport Saturday.

Their home flooded in chest-high water, Pratt and her 75-year-old husband got a boat ride to an elevated section of Interstate 10, where they began walking toward the convention center.

“That's where he died,” Pratt said. She didn't know what killed him.

An Air National Guard crew stopped to help. “I said I wouldn't leave his body,” Pratt said. “They said to leave his ID on him and leave him. They could only save the living.”

Clutching her only possessions — a brown leather purse, two bottles of water and a roll of toilet paper — Pratt asked passersby at the airport how to direct authorities to recover her husband's body.

No one could answer her question.

Troops Back From Iraq Find Another War Zone (WP)

By Ann Scott Tyson

The Washington Post, September 6, 2005

NEW ORLEANS, Sept. 5 -- Spec. Frank Atkinson, wearing his tan desert fatigues from his recent deployment in Iraq, alternately drove a Humvee through downtown New Orleans streets littered with debris and putrid garbage and held suspected looters at gunpoint with his M-4 rifle.

"It's just so much like Iraq, it's not funny," said Atkinson, of Woodlawn, Ark., "except for all the water, and they speak English."

For a year ending this spring, Atkinson's infantry company of the Arkansas National Guard patrolled Baghdad's deadly Haifa Street, and scores of its members were awarded Purple Heart medals after fighting insurgents. Those war-zone images and instincts came flooding back Friday when Atkinson and 300 other Arkansas guardsmen, wearing helmets and full body armor, rolled into the chaos of central New Orleans.

"It's like Baghdad on a bad day," said Spec. Brian McKay, 19, of Mount Ida, Ark.

The Arkansas contingent is among the estimated 16,000 National Guard troops from 40 states flowing into greater New Orleans to help curb the rash of crime sparked by Hurricane Katrina. An additional 24,000 guardsman and 7,200 active-duty

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ground troops are committed to relief efforts across the Gulf Coast. Paratroops from the 82nd Airborne Division "locked down" the historic French Quarter on Monday, according to city and military officials.

But the massive military effort remains severely disjointed and hampered by a lack of basic communication between units, Army officers here say. Ground commanders for New Orleans have been functioning without the ability to track the location of some units reporting to them -- something unheard of in Iraq, the officers say.

Much work remains for U.S. soldiers in this gutted no man's land, where looting, drive-by shootings and other crime are rampant. Much as in Iraqi cities, the troops are moving by the hundreds into makeshift bases in schools and other public buildings, setting up checkpoints and 24-hour patrols. The guardsmen have been authorized to seize weapons and detain people.

"We're having some pretty intense gun battles breaking out around the city," said Capt. Jeff Winn of the New Orleans police SWAT team. "Armed gangs of from eight to 15 young men are riding around in pickup trucks, looting and raping," he said. Residents fearful of looters often shout to passing Humvees to alert the soldiers to crimes in progress.

"Hey, stop!" a man wearing a baseball cap yelled to an Arkansas Guard team Sunday afternoon as it drove through the city's Metairie district in Jefferson Parish. "Those people don't live here!" he said, pointing to a white sports car parked outside a large brick home.

Atkinson sped over to the car, hopped out and pointed at it with his M-4 rifle. He and Capt. Derald Neugebauer, 36, of Vilonia, Ark., questioned the two men about looting -- but because they had no radio communication with the New Orleans police, they had to flag down a passing patrol car to hand over the two men.

About an hour later, as dusk fell, Atkinson and Neugebauer were driving down Jefferson Street when the owner of a mini-storage business yelled at them from behind his fence. "Hey, get back here! Those guys just broke into that store!" Across the street, the guardsmen saw two men in their twenties outside a car stereo store with the front window broken in.

Atkinson again swung the Humvee around, and within minutes, the guardsmen had two of the four suspects facedown on the Jefferson Street median. The guardsmen then waved down a passing sheriff's vehicle.

"When I charged a round in the chamber, he got down real fast," Atkinson said later of a suspect.

The guardsmen voiced little hesitation at using deadly force -- a skill honed in Iraq -- on the streets of New Orleans. "If we're out on the streets, we'll fight back and shoot until we kill them. That's too bad but that's what has got to happen," said Spec. Jake Perry, 20, of Camden, Ark. "I didn't spend a year in Iraq to come to Louisiana and get killed."

Indeed, just the smell and feel of a war zone in the city put the soldiers on edge.

"The worst feeling was putting that body armor on," said Spec. Richard Dunlop, 36, also of Camden, who with his comrades has vivid memories of the dozens of Arkansas soldiers who perished in Iraq. "I find myself checking the rooftops. I worry about stepping on something in case it is an IED," he said, referring to an improvised explosive device or roadside bomb.

"I was waiting on a gunfight," he said. "It's weird."

Many of the guardsmen were shocked and angered by the violence and looting. One described 70-year-old women in new Nike high-tops, and stores along the riverfront that looked bombed out.

"The fear in the eyes of the people, the uncertainty . . . people shooting and killing over little bitty things . . . it surprised me. I didn't think it would be that bad in my own country," said McKay, a history student at the University of Arkansas.

But the soldiers said they were gratified to be able to evacuate so many needy -- from elderly residents in wheelchairs, lifted into the backs of U-Haul trucks, to drug addicts jittery from withdrawal.

Meanwhile, conditions for the troops were no better than for New Orleans residents. They slept outdoors on concrete loading docks, living on bottled water and packaged military meals that many flood victims wouldn't eat. They had virtually no power, and initially no portable toilets.

While some Arkansas guardsmen said they had volunteered for hurricane duty, many felt wearied by the back-to-back deployments. "I'm still stressed out. I'm still having nightmares over Iraq -- give me a break!" said guardsman Dominic Nettles.

Sitting in a warm breeze on the riverfront on a recent night, as fish leapt out of the Mississippi and a fire blazed out of the blackness on a distant shore, Nettles and his buddies smoked cigarettes and traded war stories that transported them back to the banks of the Tigris.

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"When I came down here, it was just like I was in Iraq. It was unreal," said Spec. Keithean Heath, 20, of Crossett, Ark., shirtless in the heat. "This doesn't happen in your own back yard."

La. Guard Pilot Has Trouble Taking In Scope Of Destruction (USAT)

By Kevin Johnson

USA Today, September 6, 2005

BATON ROUGE — Maj. Patrick Bossetta has been to Iraq and back, but the helicopter pilot with the Louisiana National Guard still has difficulty believing that the devastation spread below him on countless rescue missions is his beloved New Orleans.

“Sometimes, I feel like an actor in a sci-fi movie,” Bossetta said Monday.

Last week, Bossetta said, a National Guard colleague began hacking into a roof after spotting a white cloth waving from a small attic vent. “When the hole was cut,” Bossetta said, “nine people popped out.”

Days later, Bossetta's voice still reflects disbelief. But the enormous tragedy strikes every time a rope is lowered to another dazed survivor or another body is tagged for pickup.

It was particularly difficult when one of Bossetta's recent rescues took him near the battered St. Christopher Hotel. When he is not directing air missions for the Guard, Bossetta owns and operates the high-rise near the city's French Quarter.

For Bossetta, 45, who returned from Iraq in March, the assignment has become a personal effort to salvage a way of life.

In addition to personal losses, his National Guard unit's problems are substantial. The unit lost its headquarters at Lakefront Airport and millions of dollars in equipment to the storm. Other equipment has not returned from the troops' deployment in Iraq.

For now, Bossetta and his 17 helicopters are operating from Baton Rouge Metropolitan Airport.

“We've lost a lot,” Bossetta said. “Have you seen the Superdome? If I would say there was a hell on Earth, that would be it. That was the same place where I watched Super Bowls and college football championship games. It's stunning.”

With Some Now At The Breaking Point, Officers Tell Of Pain And Pressure (NYT)

By Joseph B. Treaster And John Desantis

The New York Times, September 6, 2005

NEW ORLEANS, Sept. 5 - Sgt. Jeff Sandoz, dressed in black SWAT team fatigues with an assault shotgun nearby, took a break on Monday afternoon for a cheeseburger, his first hot meal in a week, in the breezeway at the shuttered Harrah's casino on the edge of the French Quarter.

Rescuing people from rooftops and attics and chasing looters since Hurricane Katrina flooded the city, the discomforts have piled up, Sergeant Sandoz acknowledged. His shoulder was bruised on Wednesday when his police cruiser was rammed by someone running a stop sign on one of New Orleans's nearly deserted streets. He has been catching about three hours of sleep a night, curled up in the back seat of his patrol car, and showering with a garden hose.

He did not want to talk about the blisters or funguses and rashes that have erupted - after days of wading in polluted water in wet boots and dirty socks - on the feet of most everyone in the eight-man tactical unit he commands.

The last week has been a series of nonstop rescue missions, shootouts in the night and forays into foul-smelling shelters in response to gunshots and reports of rape for Sergeant Sandoz and the others on the New Orleans police force. And like most everyone else in New Orleans, police officers have been traumatized by the loss of homes and family members.

Morale on the police force is in tatters. About 500 officers - a third of the force and far more than previously estimated - have dropped out of the daily lineup. Some of them may still be in houses cut off by the storm or may have simply gone off to help their families and will eventually return. But most of the missing officers have either told their superiors that they were quitting or simply walked off the job. Two officers have shot themselves to death.

Sergeant Sandoz and his urban commandos, one of the city's toughest, most elite units, have absorbed much of the violence in stride. Unlike some other officers who have succumbed to the pressure, the sergeant said he was not going anywhere except into the streets to do his job.

"You just suck it up and drive on," he said. "I'll be here as long as they need me. I'm not running away from anything."

Still, he reserved judgment, as did many others, of the officers who have abandoned the force or collapsed.

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Sergeant Sandoz and his commandos have been tested by the long hours and the nagging inconveniences, like shortages of gasoline for their cars and other supplies. They expressed concerns, like many others, about the security of their jobs in a city that is taking steps to shut down for repairs. They wonder whether they will be paid for the overtime that they are logging under near-battlefield conditions.

Trying to lift spirits, the Police Department is giving every officer a five-day vacation over the next two weeks as the military steps in to replace them. Those who want to go to Las Vegas are being given plane tickets and hotel rooms for them and their families. Their breaks are beginning with physical examinations in Baton Rouge, the state capital, 75 miles north of New Orleans, inoculations against water-borne disease and other necessary medical treatment. After their breaks, the officers will start receiving psychological counseling.

Many officers said Monday that they are grateful for the breather but that they had no interest in going to Las Vegas.

"There's nothing in Las Vegas for me," said Officer Darryl Scheuermann, 41, a SWAT team member. "I'm going to see my family. I miss my wife and my dogs."

In one week, some officers have seen more violence than in a lifetime. Officer Brian French ducked sniper bullets while ferrying 50 women and children to a shelter in a commandeered rental truck.

Lt. Julie Wilson watched a fellow officer and friend being shot by looters attacking a convenience store. Lt. Billy Ceravalo and Lt. Brian Weiss lost their police station in the flooding. The floodwaters also swamped a nearby hospital. Responding to a call for help, the officers raced to the hospital and began helping patients using hand-operated breathing devices. They managed to keep several of the critically ill alive for hours until help arrived.

Some officers stayed in their homes as the hurricane swept over New Orleans and were forced to climb onto roofs with their families as floodwaters rose. Their pleas for help poured in over emergency radios.

"We were hearing officers on the roofs of their houses begging for someone to help them," Lieutenant Wilson said.

One officer, she said, "told me he was trapped in water up to his chest."

"I tried to get somebody out to him," she continued, but "we haven't heard from him since. I don't know if he is alive or dead."

Lieutenant Wilson's 11-year-old son, Daniel, was shipped off to neighbors. But for most of the week she had no idea where he was and worried that he feared for her as well. Now, the promise of a vacation in Las Vegas does not make her feel better.

"It's a really nice gesture," she said. "But I just want to be able to get one night's sleep without hearing helicopters. I don't think I need five days off from this, just a couple of nights."

Officer French, 25, a native of Ohio, joined the New Orleans Police Department because he wanted a chance to do "real police work."

Although he has heard city and state officials criticize the federal government as not coming fast enough, Officer French also questioned why local officers were not mustered sooner for special duty.

"They told us not to come in on Sunday, the day of the storm, to come in the next day to save money on their budget," he said.

But he never made it to work on Monday, at least not to the station house.

Officer French moved his family into a hotel. The hotel flooded, and looters attacked a nearby gasoline station. He went out into the storm, grabbed two of the looters and handcuffed them to a railing at the hotel. But, he eventually let them go.

As the water rose, Officer French and his family escaped to the roof with other guests. They were stuck there for two days, before some boats came along and rescued them.

Afterward, Officer French spent several days rescuing others. On some missions, he worked with Officer Willie Gaunt, who has since resigned.

The city's police superintendent, P. Edwin Compass III, hustled to position boats and cars before the hurricane and afterward directed rescues and charged after looters.

"We had no food," Mr. Compass told reporters on Monday. "We had no water. We ran out of ammunition. We had no vehicles. We were fighting in waist-deep water."

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Mr. Compass has been accused of poorly planning for the hurricane. But he and other city officials said they were simply overwhelmed by a crisis that no municipality could handle. The disaster was compounded, they said, when federal officials in Washington ignored their cries for help for several days.

On Monday afternoon at Harrah's casino, as armored cars, fuel trucks, police cars and ambulances jammed the casino's ramp and spilled into the street, Officer Russell Philibert, 38, turned to Sergeant Sandoz's unit for help. He needed a bulletproof vest. His was lost when he escaped in shorts and sneakers as water gushed into his house.

Shortly before he fled his house, he had received a radio message from another officer who lived nearby and was trapped in his attic by floodwaters in the middle of the storm. With the wind howling, Office Philibert broke a window in that officer's house and dragged him to safety.

Officer Philibert said his unit had now taken shelter in a Wal-Mart. The SWAT team has moved into an elementary school on high ground, where some officers are sleeping on cafeteria tables and kindergarteners' nap pads.

Even the urban commandos acknowledged the strain of what they had seen. "I might have trouble sleeping, thinking about all the horrific stuff," said Officer Robert Haar, 35. "But I'm so exhausted I just pass out."

Halliburton Subsidiary Taps Contract For Repairs (WP/AP)

By Lolita C. Baldor, Associated Press

The Washington Post, September 5, 2005

An Arlington-based Halliburton Co. subsidiary that has been criticized for its reconstruction work in Iraq has begun tapping a $500 million Navy contract to do emergency repairs at Gulf Coast naval and Marine facilities damaged by Hurricane Katrina.

The subsidiary, Kellogg, Brown & Root Services Inc., won the competitive bid contract last July to provide debris removal and other emergency work associated with natural disasters.

Jan Davis, a spokeswoman for the Naval Facilities Engineering Command, said yesterday that KBR would receive $12 million for work at the Naval Air Station at Pascagoula, Miss., the Naval Station at Gulfport, Miss., and Stennis Space Center in Mississippi. KBR will receive $4.6 million for work at two smaller Navy facilities in New Orleans and others in the South.

The company has provided similar work after major disasters in the United States and abroad for more than 15 years, including in Florida after Hurricane Andrew.

KBR has been at the center of scrutiny for receiving a five-year, no-bid contract to restore Iraqi oil fields shortly before the war began in 2003. Halliburton has reported being paid $10.7 billion for Iraq-related government work during 2003 and 2004. The company reported its pretax profits from that work as $163 million. Pentagon auditors have questioned tens of millions of dollars of Halliburton charges for its operations there.

Last month three congressional Democrats asked Defense Secretary Donald H. Rumsfeld to investigate the demotion of a senior civilian Army official, Bunnatine H. Greenhouse, who publicly criticized the awarding of that contract.

Vice President Cheney headed Halliburton from 1995 to 2000, and Democrats have questioned whether the firm received favorable treatment because of his connection.

Rice Defends Bush Against Racism Charges (AP-Y2)

By Lara Jakes Jordan, Associated Press Writer

AP2, September 5, 2005

Secretary of State Condoleezza Rice defended President Bush on Sunday against charges that the government's sluggish response to Hurricane Katrina showed racial insensitivity.

"Nobody, especially the president, would have left people unattended on the basis of race," the administration's highest-ranking black said as she toured damaged parts of her native Alabama.

Later, during a service at the Pilgrim Rest AME Zion church outside Mobile, Rice nodded in agreement as the Rev. Malone Smith Jr. advised the congregation, "Wait for the Lord."

"There are some things the president can do; there are some things the government can do," Smith told about 300 worshippers during a rollicking two-hour service. "But God can do all things. I want you to know he's never late. He's always on time."

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Rice later echoed the call for patience.

"The Lord is going to come on time — if we just wait," she said.

It was a sort of homecoming for Rice, an Alabama native and granddaughter of a Presbyterian minister.

Her visit came as some black leaders, including the Rev. Jesse Jackson, have complained bitterly about the slow response to the disaster, whose victims have been disproportionately black and poor. They have said racial injustice was a factor in the government's slow relief effort.

"How can that be the case? Americans don't want to see Americans suffer," Rice said. "Nobody, especially the president, would have left people unattended on the basis of race."

Since Katrina struck, an estimated 70 nations, from Azerbaijan to Venezuela, have offered hundreds of millions in cash donations for the federal government to relay to the American Red Cross, Rice said. Many countries have also donated supplies, ranging from helicopters and medical aid to food and blankets.

Among the largest contributions was Kuwait's $400 million worth of petroleum product plus $100 million in cash intended for relief efforts. Among the smallest: $25,000 in cash from Sri Lanka, a poor nation still recovering from last December's tsunami.

After the church service, Rice visited a community center in Bayou La Batre, one of Alabama's hardest hit areas. Flood waters following Katrina reached 11 feet in some places in southern Alabama, while about 718,000 homes and businesses in Mobile were left without power for days, and at least two people died.

Republican Alabama Gov. Bob Riley, escorting Rice through the community, said power had been restored to all but about 50,000 residents and businesses, while up to 2,500 Alabamians were still looking for shelter.

"It was devastating, but in comparison to what they had in southern Mississippi and Louisiana, it kind of pales in comparison," Riley said.

While welcoming Rice, some Alabamians expressed frustration with the administration's response.

"It's so unfortunate that the time it's taken to rescue them is too long," Democratic state Rep. Yvonne Kennedy said at the church service. "Had the response been more timely, I think we could have saved lives. To be so slow in coming, people lose hope."

While touring domestic disasters falls outside her official domain, Rice told Bush that "if there is anything I can do outside of my responsibilities as secretary of state, I'd be happy to do that, too." She was criticized last week for attending a Broadway show and shopping in New York during an abbreviated vacation.

Rice Denies Race Had Role In Response (WT)

The Washington Times, September 5, 2005

Secretary of State Condoleezza Rice yesterday said the federal response to Hurricane Katrina was not slowed by racial insensitivity.

"Nobody, especially the president, would have left people unattended on the basis of race," the administration's highest-ranking black said as she toured damaged parts of her native Alabama.

Later, during a service at the Pilgrim Rest African Methodist Episcopal Zion Church outside Mobile, Miss Rice nodded in agreement as the Rev. Malone Smith Jr. advised the congregation, "Wait for the Lord."

"There are some things the president can do; there are some things the government can do," Mr. Smith told about 300 worshippers during a rollicking two-hour service. "But God can do all things. I want you to know he's never late. He's always on time."

Miss Rice later echoed the call for patience. "The Lord is going to come on time -- if we just wait," she said.

It was a sort of homecoming for Miss Rice, an Alabama native and granddaughter of a Presbyterian minister.

Her visit came as some black leaders, including the Rev. Jesse Jackson, have complained bitterly about the slow response to the disaster, whose victims have been disproportionately black and poor. They have said racial injustice was a factor in the government's slow relief effort.

"How can that be the case? Americans don't want to see Americans suffer," Miss Rice said. "Nobody, especially the president, would have left people unattended on the basis of race."

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Mr. Jackson complained that television and press coverage of the disaster was racist for calling storm survivors "refugees" and showing images of blacks looting in New Orleans.

Using "refugees" to describe the people evacuated from storm-ravaged areas "is insulting, it is racist, it does not describe American citizens," Mr. Jackson said. "If you characterize them as refugees, it is someone other than citizens."

The veteran activist accused the press of a double standard in its coverage of chaos in New Orleans.

"With a black person, it is called looting; with a white person, it is called finding food," he said.

Bruce Gordon, president of the National Association for the Advancement of Colored People, said any recriminations over the storm response can wait.

"Right now, the NAACP is in what I call a life-saving mode. We are not in a finger-pointing mode, and until every life has been stabilized and every life has been saved, we will devote all of our energies for that purpose," Mr. Gordon said.

In Maryland yesterday, Claude Allen, a leading official in hurricane recovery efforts as senior domestic policy adviser to President Bush, decried racial discord and appealed for national unity.

"Pray that God would prevail against efforts to divide this nation," Mr. Allen asked 2,000 fellow members of Covenant Life Church in Gaithersburg. "This is not a situation of black or white, rich or poor. This storm was indiscriminate in who it took, and we as a people must pull together."

Mr. Allen, who is black, accompanied the president on his tour of the stricken region. Pray "most of all for peace, because people are trying to find places to lay the blame, and this is not a time for that," said Mr. Allen, who was invited by senior pastor Joshua Harris to address the church.

Amid Criticism Of Federal Efforts, Charges Of Racism Are Lodged (NYT)

By John M. Broder

The New York Times, September 5, 2005

HOUSTON, Sept. 5 - The devastation wrought by Hurricane Katrina became a rallying cry for African-American religious and political leaders here in President Bush's former hometown on Sunday, with pleas for charity mixed with a seething anger at the response to the crisis.

Many blacks voiced suspicions that thousands of people were left to suffer and die in the floodwaters because they were, for the most part, poor and black.

"Are you telling me we can coordinate a relief effort on the other side of the world and we can't do it here?" I. V. Hilliard, pastor of the New Light Christian Center Church in northern Houston, thundered from the pulpit of his megachurch on Sunday morning. "I'm not saying they didn't care. I'm saying they didn't care enough!"

"I can't help but think that race has something to do with it," he added to a chorus of amens. Mr. Hilliard's church is the largest predominantly black congregation in Houston, with 20,000 members, four locations and a broadcast ministry.

Mr. Hilliard's comments were echoed throughout the country over the weekend, as the Rev. Jesse Jackson and Representative Maxine Waters of California made a trip to the convention center in New Orleans and the president of the National Association for the Advancement of Colored People met with the governor of Louisiana and visited the emergency operations center in Baton Rouge.

Interviews with African-American church leaders, local politicians and residents here made clear the damage that the faltering relief effort has had on their perceptions of the Bush administration. Mr. Bush and his chief political advisers have mounted an effort to try to court more conservative black voters, particularly since the 2004 election, by encouraging black Republican candidacies and reaching out to black churches.

But their outreach efforts appear to have been significantly set back. Criticism of the response is coming not only from black members of Congress and national civil rights leaders, but also from prominent local officials and ordinary residents here.

"There is a lot of anger here in Texas," said the Rev. William A. Lawson, retired pastor of the Wheeler Avenue Baptist Church in Houston. "Even a lot of conservative whites are angry. This was not the reaction people expect to a disaster of this magnitude. We wanted to see them get off their butts and get over there."

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Rodney Ellis, an African-American Democratic state senator who represents a district in Houston, said he was trying to focus on the needs of the evacuees, thousands of whom are in Houston. Mr. Ellis said that the initial federal response was clearly inadequate and that many in the administration bore responsibility, including Secretary of State Condoleezza Rice, who is black and from Alabama.

"This problem is so mammoth it's not going to go away any time soon," Mr. Ellis said. "There will be ample time for Condi Rice and others in the federal government to redeem themselves. And I'm hoping they do that."

Administration officials have tried over the last two days to repair the damage. Michael Chertoff, the homeland security secretary, met with civil rights leaders and members of the Congressional Black Caucus at the White House on Saturday to discuss aid efforts and accusations of racial indifference.

Mr. Bush held a live news conference in Washington on Saturday to announce that he was sending additional troops to the Gulf Coast and to defend the government's response to the storm. The size of the disaster area, he said, "has created tremendous problems that have strained state and local capabilities."

"The result is that many of our citizens simply are not getting the help they need, especially in New Orleans," he said. "And that is unacceptable."

Ms. Rice visited the Gulf Coast on Sunday, flying to Mobile, Ala., to attend a church service and meet with storm victims.

On the plane trip from Washington, Ms. Rice challenged accusations that the government had responded slowly because many of the victims were black.

"How can that be the case?" Ms. Rice said, according to The Associated Press. "Americans don't want to see Americans suffer."

She added, "Nobody, especially the president, would have left people unattended on the basis of race."

Later, at Pilgrim Rest A.M.E. Zion Church in Whistler, Ala., the Rev. Malone Smith Jr. invited Ms. Rice to say a few words.

"The Lord Jesus Christ is going to come on time," she said, "if we just wait."

At the New Orleans airport yesterday, Mr. Jackson and Ms. Waters, a California Democrat, offered bitter criticism of those who, they said, had failed them.

"This looks like the hull of a slave ship," Mr. Jackson said as he reviewed the packed sidewalk where families had gathered, their belongings in torn trash bags.

Ms. Waters said she had traveled throughout Africa and never seen anything quite like that scene. "This looks like an undeveloped country," she said. "No time did I think in America we would see this kind of homelessness, this kind of displacement. This is the worst thing I have ever seen."

In Baton Rouge, Bruce S. Gordon, president of the N.A.A.C.P., said federal aid for victims should be commensurate to what was given to those who lost relatives in the Sept. 11 attacks, adding that "the benchmark for recovery should be 9/11."

"Ask yourself," Mr. Gordon said, "have we put the investments, have we put the assets, have we put the resources that we put into 9/11?"

There was also abundant criticism of the news media over the weekend. The Rev. Al Sharpton, after visiting the encampment of displaced Louisianans in the Houston Astrodome on Saturday, objected to the use of the word "refugees" for the people who fled the hurricane.

"These are not refugees," he said. "They are citizens of Louisiana and Mississippi, tax-paying citizens. They are not refugees wandering somewhere looking for charity. They are victims of neglect and a situation they should have never been put in in the first place."

Many also took the news media to task for seeming to single out black people as looters in lawless New Orleans last week.

Kanye West, the rap star, dropped his prepared script at a televised benefit for storm victims on Friday night to say: "I hate the way they portray us in the media. If you see a black family, it says they're looting. See a white family, it says they're looking for food."

Mr. West also said, "George Bush doesn't care about black people."

Ronald Joubert, 41, a member of the New Light congregation in Houston, was a bit more charitable to the president, though not much.

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"The people are saying that that's why the people in New Orleans didn't get a more direct response, because they're all black," Mr. Joubert said. "Me, I don't blame Bush personally. I blame the whole government. But 10 or 15 or 20 years from now, people are still going to be blaming Bush."

What Happens To A Race Deferred (NYT)

By Jason Deparle

The New York Times, September 5, 2005

WASHINGTON

THE white people got out. Most of them, anyway. If television and newspaper images can be deemed a statistical sample, it was mostly black people who were left behind. Poor black people, growing more hungry, sick and frightened by the hour as faraway officials counseled patience and warned that rescues take time.

What a shocked world saw exposed in New Orleans last week wasn't just a broken levee. It was a cleavage of race and class, at once familiar and startlingly new, laid bare in a setting where they suddenly amounted to matters of life and death. Hydrology joined sociology throughout the story line, from the settling of the flood-prone city, where well-to-do white people lived on the high ground, to its frantic abandonment.

The pictures of the suffering vied with reports of marauding, of gunshots fired at rescue vehicles and armed bands taking over the streets. The city of quaint eccentricity - of King Cakes, Mardi Gras beads and nice neighbors named Tookie - had taken a Conradian turn.

In the middle of the delayed rescue, the New Orleans mayor, C.Ray Nagin, a local boy made good from a poor, black ward, burst into tears of frustration as he denounced slow moving federal officials and called for martial law.

Even people who had spent a lifetime studying race and class found themselves slack-jawed.

"This is a pretty graphic illustration of who gets left behind in this society - in a literal way," said Christopher Jencks, a sociologist glued to the televised images from his office at Harvard. Surprised to have found himself surprised, Mr. Jencks took to thinking out loud. "Maybe it's just an in-the-face version of something I already knew," he said. "All the people who don't get out, or don't have the resources, or don't believe the warning are African-American."

"It's not that it's at odds with the way I see American society," Mr. Jencks said. "But it's at odds with the way I want to see American society."

Last week it was how others saw American society, too, in images beamed across the globe. Were it not for the distinctive outlines of the Superdome, the pictures of hovering rescue helicopters might have carried a Somalian dateline. The Sri Lankan ambassador offered to help raise foreign aid.

Anyone who knew New Orleans knew that danger lurked behind the festive front. Let the good times roll, the tourists on Bourbon Street were told. Yet in every season, someone who rolled a few blocks in the wrong direction wound up in the city morgue.

Unusually poor (27.4 percent below the poverty line in 2000), disproportionately black (over two-thirds), the Big Easy is also disproportionately murderous - with a rate that was for years among the country's highest.

Once one of the most mixed societies, in recent decades, the city has become unusually segregated, and the white middle class is all but gone, moved north across Lake Pontchartrain or west to Jefferson Parish - home of David Duke, the one-time Klansman who ran for governor in 1991 and won more than half of the state's white vote.

Shortly after I arrived in town two decades ago as a fledgling reporter, I was dispatched to cover a cheerleading tryout, and I asked a grinning, half-drunk accountant where he was from, city or suburb. "White people don't live in New Orleans," he answered with a where-have-you-been disdain.

For those who loved it, its glories as well as its flaws, last week brought only heartbreak. So much of New Orleans, from its music and its food to its architecture, had shown a rainbow society at its best, even as everyone knew it was more complicated than that.

"New Orleans, first of all, is both in reality and in rhetoric an extraordinarily successful multicultural society," said Philip Carter, a developer and retired journalist whose roots in the city extend back more at least four generations. "But is also a

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multicultural society riven by race and class, and all this has been exposed by these stormy days. The people of our community are pitted against each other across the barricades of race and class that six months from now may be last remaining levees in New Orleans."

No one was immune, of course. With 80 percent of the city under water, tragedy swallowed the privilege and poor, and traveled spread across racial lines.

But the divides in the city were evident in things as simple as access to a car. The 35 percent of black households that didn't have one, compared with just 15 percent among whites.

"The evacuation plan was really based on people driving out," said Craig E. Colten, a geologist at Louisiana State University and an expert on the city's vulnerable topography. "They didn't have buses. They didn't have trains."

As if to punctuate the divide, the water especially devastated the Ninth Ward, among city's poorest and lowest lying.

"Out West, there is a saying that water flows to money," Mr. Colten said. "But in New Orleans, water flows away from money. Those with resources who control where the drainage goes have always chosen to live on the high ground. So the people in the low areas were hardest hit."

Outrage grew as the week wore on, among black politicians who saw the tragedy as a reflection of a broader neglect of American cities, and in the blogosphere.

"The real reason no one is helping is because of the color of these people!" wrote "myfan88" on the Flickr blog. "This is Hotel Rwanda all over again."

"Is this what the pioneers of the civil rights movement fought to achieve, a society where many black people are as trapped and isolated by their poverty as they were by legal segregation laws?" wrote Mark Naison, director of the urban studies program at Fordham, on another blog.

One question that could not be answered last week was whether, put to a similar test, other cities would fracture along the same lines.

AT one level, everything about New Orleans appears sui generis, not least its location below sea level. Many New Orleanians don't just accept the jokes about living in a Banana Republic. They spread them.

But in a quieter catastrophe, the 1995 heat wave that killed hundreds of Chicagoans, blacks in comparable age groups as whites died at higher rates - in part because they tended to live in greater social isolation, in depopulated parts of town. As in New Orleans, space intertwined with race.

And the violence? Similarly shocking scenes had erupted in Los Angeles in 1992, after the acquittal of white police officers charged with beating a black man, Rodney King. Newark, Detroit, Washington -all burned in the race riots of the 1960's. It was for residents of any major city, watching the mayhem, to feel certain their community would be immune.

With months still to go just to pump out the water that covers the city, no one can be sure how the social fault lines will rearrange. But with white flight a defining element of New Orleans in the recent past, there was already the fear in the air this week that the breached levee would leave a separated society further apart.

``Maybe we can build the levees back," said Mr. Carter. ``But that sense of extreme division by class and race is going to long survive the physical reconstruction of New Orleans."

In Tale Of Two Families, A Chasm Between Haves And Have-Nots (NYT)

By Jodi Wilgoren

The New York Times, September 5, 2005

KENNER, La., Sept. 4 - It was moving day for the families of Gaynell Porretto and Tracy Jackson, the first page of the next chapter in their Hurricane Katrina horror stories.

Mrs. Porretto's four-car caravan crammed with a lifetime of photo albums, a few changes of clothes and coolers of drinks pulled up to a yellow house with a wide front porch that she had just rented for $600 in the humble hamlet of Arnaudville, La.

It is 125 miles from her storm-sacked home in the New Orleans suburb of Metairie, half the size for twice as many people, but she can see the church steeple from the yard, and her son is signed up for football at the nearby high school.

"I have a ZIP code!" she said, exulting. "It's the happiest I've ever been."

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Outside the New Orleans airport here, Ms. Jackson's four sickly and hungry children, ages 1, 3, 5 and 7, were sprawled on a skycap's cart as she slogged through the sweaty, snail-like line, the baby atop a blue plastic bin filled with what they had scrounged from strangers.

It is all they have, their $2,000 cash savings burned up with their belongings - including birth certificates - in a post-flood fire at their apartment in uptown New Orleans. Even as they waited to board a plane, they did not know where they were taking it.

"I'm just hoping it's a better place," she whispered. "I've never been on an airplane before, I'm afraid of heights."

Two families displaced by the same disaster, both facing uncertain futures as they moved forward on Saturday, but in completely divergent circumstances.

Just as it ripped through levees to send water pouring through New Orleans, the storm cleaved a harsh chasm among the region's refugees, providing a stark portrait of the vast divide between America's haves and have-nots.

The more than 100 members of Mrs. Porretto's extended family have cars that carried them out last Sunday morning, well before the hurricane hit.

Ms. Jackson, who does not know how to drive, escaped on foot only after the floodwaters started filling her apartment on Tuesday, walking first to a bridge, then to the squalid Superdome.

Mrs. Porretto, 51, has an American Express card that covered her $564.26 bill at the Hilton in Lafayette, La., where a cousin who works for AT&T secured a low corporate rate when she booked a block of rooms days before of the storm.

Ms. Jackson, 24, does not have a bank account, and her husband, Jerel Brown, spent their last $25 to buy fish and shrimp from men grilling on the street in the chaos, so now there is nothing in the pockets of his baggy jeans but a crushed pack of Benson & Hedges someone gave him to calm him down.

The Porrettos have cellphones and connections in city government and churches that not only helped them find one of the last available rental properties anywhere around here, but also let them sneak back into their neighborhood early this weekend to grab televisions and furnishings for their new house.

Mr. Brown, in tears, has no recourse but to ask a reporter to look for his missing brother, Wallace, and if he turned up, find out how they could get back in touch.

John Edwards, the former senator whose presidential primary campaign last year was based on the theme that America is a country torn in two by race and class, sent an e-mail to supporters last week, saying that the hurricane's destruction exposed "a harsher example of two Americas."

"Every single resident of New Orleans, regardless of their wealth or status, will have terrible losses and life-altering experiences," Mr. Edwards wrote. But poor people, he added, "suffered the most from Katrina because they always suffer the most."

Mrs. Porretto, a court clerk, and her husband, Joel, a retired police officer, are hardly rich. But as they embark on life in exile, they look like royalty compared with Mr. Brown, Ms. Jackson and their children, wandering to a destination unknown with little more than the clothes they have worn for a week.

"We don't know where we're going, we don't know how we're going to survive when we get there - we're starting all over," Mr. Brown said as he stood in line for three hours in the airport's heat. "I never been out of this city. I'm going to be a stranger."

Nearly one in four of New Orleans' 445,000 residents live in poverty, many of them in neighborhoods like the one where the Jackson-Brown clan huddled in a $350-a-month two-bedroom apartment across from a dilapidated and dangerous housing project; 69 percent of the city is black, and the median household income is $31,369. To the west in Metairie, where Ellen DeGeneres grew up, the median income is $41,265, just below the national average, 87 percent of the 145,000 residents are white, and fewer than 1 in 10 are poor.

But in the hurricane's wake, the poorest have turned desperately destitute, while the well-to-do make do with what they have left.

For the past week, the Porrettos and their many cousins converged at the Hilton, Lafayette's finest hotel, drinking red wine late into the night as they laughed in the lobby. The teenagers put a dollar on a string in front of the elevator, watching guests lunge for it as they yanked it away. The adults stayed up until 2 a.m. daring the dozens of dogs among the evacuated to strut their stuff.

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"Every dog that did a trick, we drank a beer," Mrs. Porretto explained.

But some days, she stayed in bed depressed through the afternoon, or burst into tears out of nowhere. Their house has roof damage, and they do not yet know what the water has wrought inside. A Ford Taurus full of prized possessions that her husband parked outside Macy's to ride out the storm has been ravaged. The court where she has worked for 25 years is closed indefinitely. Her sister Kathy Skeins, whose family of four will share the little house along with Mrs. Porretto's 78-year-old mother-in-law, is worried about how her boys, 15 and 11, will fare in public school for the first time, and what will happen to the $3,500 tuition she already paid at the Catholic school back home.

"It hit us Monday that we were homeless," Mrs. Porretto said. "We have meltdowns. You just have nothing to look forward to."

Until they found the shotgun-style house in Arnaudville, a town of 1,400 down a long country road north of Lafayette.

On Saturday, as the two sisters unpacked the storm-survival arsenal they had amassed at the hotel - pounds of ham for sandwiches and a new toaster oven, all manner of snacks and condiments, even a bottle of olives to ease Mrs. Porretto's arthritis - a neighbor stopped by with a box of cleaning supplies.

The landlord, who is lending an air mattress and queen bed, drew a map to the nearby restaurant and movie theater. The women debated whether they need a land line, but agreed cable television was a must, and set out shopping to stock their new shelves.

"We need to make a list, Gay," Mrs. Skeins said. "We need a mop and a broom, so we can keep up the kitchen."

Mrs. Porretto propped a photo collage of her son's first year on a bedroom windowsill, and imagined the morning sun streaming in through the living room. The sisters stocked the refrigerator with bottles of Coors Light they had brought.

"Gotta relax some way," Mrs. Skeins said. "We'll sit on the porch and have a cold beer."

"We've got a porch, Kathy, I can't wait!" Mrs. Porretto said, forgetting the hurricane for a minute. "We grew up with a porch!"

On moving day, Mrs. Porretto wore a clean T-shirt and fresh lipstick. Two hours' drive away at the airport, Ms. Jackson was braless under her soiled shirt and had a blue bandana covering her unwashed hair.

The Skeins' 125-pound Rottweiler, Buster, galloped across the grass in Arnaudville to drink from a spigot, after a week squished in a hotel bathroom; the Jackson children are without their mutt, Max, last seen as their apartment began to burn.

"We heard the dog barking," Ms. Jackson said. "I think he's dead."

Like the Porrettos, Ms. Jackson, Mr. Brown, their children, a nephew and a friend they call Auntie left New Orleans last Sunday morning, to stay with a friend. But they went back on Tuesday, and as the water rose to waist level, they fled with no provisions. After two nights shielding the baby's eyes from dead bodies at the feces-infested Superdome, they set out for the convention center, where rumors of rapes and worse left them taking turns sleeping on the floor in fear for their children's safety.

"Last night I heard a baby screaming, 'Stop, stop, get off me, don't touch me,' " Ms. Jackson recalled.

Their blue plastic bin is filled not with family treasures, but with scraps that other refugees and relief workers have handed out: three rolls of toilet paper, a box of Teddy Grahams, toddlers blue plastic sandals, two apples, a gallon of milk.

Mr. Brown was barefoot until a friend gave him a pair of sneakers that remain unlaced because they are too small; he has no socks. An elderly lady gave Ms. Jackson a quilted handbag to hold diapers and the pink pills the triage nurse gave to 7-year-old Waynenisha, who suffers from febrile seizures.

"It has some perfume and some body spray," she said thankfully. "I'm a lady. I can't walk around smelling like a grown man."

Now, Ms. Jackson is wondering whether she will be able to enroll her children in school without identification - even her own Social Security card is gone. Mr. Brown, who had been making do washing 18-wheelers and running errands for a convenience store, said he will "go there and get a job if they let me," though he is still unsure where there might be.

"We just started life's journey together," he said, gesturing at the little ones on the luggage cart. "As we're building, it just all fell apart at one time."

Standing in the sweltering line, Mr. Brown occasionally lashed out, slapping the leg of a child on the move or barking at others in line for pushing. When an older woman passed out on the curb, he pushed through the crowd to pour water down her head and back. "Where's the help?" he called out. "We need help! Give her some air, please."

A few minutes later, the Rev. Jesse Jackson turned up with three buses. The Jackson-Browns leaped out of line to rush aboard with their blue plastic bin and grabbed the last row in the air-conditioned coach, leaving the skycap's cart behind.

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To The Rescue (USNEWS)

By Anna Mulrine

U.S. News and World Report, September 5, 2005

It didn't look like America, the exodus of stunned refugees wading through turbid, waist-high water, carrying only what mattered most: sick relatives, bundled babies, storm-soaked family Bibles. It looked like another country, the kind of place where armed bandits outnumber police and desperate families search garbage dumpsters for food. A place where the poorest of the poor die in the heat, their corpses ignored on the side of the road.

Across the Gulf Coast, lifelong residents who thought they had seen it all were left with nothing in the wake of a storm that has caused what may well be the worst natural disaster ever to hit the United States. Katrina's lethal one-two punch of 145-mile-per-hour winds and a 25-foot storm surge left 90,000 square miles of heartbreak, devastation, and unhinged lives, as rich and poor alike scrounged for food and water, searched for loved ones in rivers of foul, tea-colored water, and wondered, Why on earth was help so slow in coming? "A national disgrace," Terry Ebbert, New Orleans's homeland-security director, said of Washington's emergency-relief efforts.

The challenges of delivering help and restoring order were without precedent. Experts placed the price tag on the havoc caused by Katrina's wrath at $30 billion, but for now, that can be only an educated guess. What can be said for sure is that Katrina uprooted more Americans than the Civil War, the Dust Bowl storms of the 1930s, or the San Francisco earthquake of 1906. Reaching for a more recent comparison, a weary, crestfallen A. J. Holloway, the mayor of Biloxi, Miss., which saw its own share of despair and heartbreak, said: "This is our tsunami."

Early in the week, the nation had breathed a sigh of relief for its beloved Crescent City--Bourbon Street was dry, and Katrina seemed like just another dodge-the-bullet story as revelers roamed the rain-smeared streets, go-cups in hand. By nightfall after landfall, it looked as if the Bananas Foster would be flaming merrily at Commander's Palace once again. But after the levees broke the next day and the bathtub-shaped Big Easy began filling up with the brackish waters of Lake Pontchartrain, a complicated network of pumps failed and 80 percent of the city was soon under water, creating what public health officials warned could soon become a breeding ground for West Nile virus, dysentery, and a host of other potentially lethal diseases.

"Help us." In what officials say is the largest domestic military relief effort in the nation's history, the Pentagon sent aircraft, rescue crews, and teams of Navy SEAL s to help out. Coast Guard divers descended from hovering helicopters, smashing though roofs with axes, sweeping the sick from makeshift rafts, and spiriting away those most in need of aid.

But for far too many, for the first few days, relief remained elusive. Kids climbed on a roof holding a sign that read simply, "Help us." Bands of looters, some deadly, some merely desperate, roamed the streets. At week's end, the floodwaters covered slightly less than half the city, but police and National Guard units were still keeping a wary eye on looters and gun-toting residents while trying to restore order amid reports of beatings, rapes, and shootings. New Orleans Mayor Ray Nagin issued a "desperate SOS," pleading for more of everything--food and water, relief help, buses to evacuate the sick and elderly--anything that could help jump-start what inevitably will be a slow and tortuous return to something like normal.

'Understanding Katrina (USNEWS)

By Dan Gilgoff

U.S. News and World Report, September 5, 2005

By noon Monday, it was clear there was trouble. It was at the levee along the industrial canal that separates New Orleans from St. Bernard Parish to the east. The breach was obvious and, for the moment, irreparable. On Tuesday morning, there were two more gaps, both along a floodwall of the city's 17th Street Canal. It was the beginning of the end, just a matter of time. The waters rushed in.

At the worst moment of the worst week in New Orleans's history, the water downtown was 20 feet deep. How could it have happened? The city's levees, many decades old, had been built to withstand only a Category 3 storm. Katrina was a 4. A high 4. The local authorities knew that. But they had no comprehensive plan to evacuate people from even the lowest parts of a city whose virtually every corner lies below sea level. Nor were there plans for an enhanced police presence on the streets after Katrina struck. In Washington, too, there was a curious lassitude, both as the massive storm bore down on the Gulf Coast and in

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the immediate aftermath of the levees failing. At week's end, an obviously stricken President Bush said: "I don't think anybody anticipated the breach of the levees."

But why not? The potential failure of the city's 350-mile levee system had been studied for years. The extensive network was built to keep floodwaters out, but it can also lock them in when the levees are breached or "overtopped" by surging water on the other side. This is what old New Orleans hands refer to as "flooding the bowl." And it's the very reason the Red Cross listed a direct hurricane hit on New Orleans as the nation's most deadly natural-disaster threat a few years ago. Everyone, it seemed, knew the risks. Scientists at Louisiana State University had warned that even a Category 3 storm could dump up to 27 feet of water in some neighborhoods. "Everybody knew this was coming," says Walter Maestri, director of emergency preparedness for Jefferson Parish (a parish is akin to a county), which borders downtown New Orleans. "But we all hoped it wouldn't be in our lifetime." John Harrald, codirector of the Institute for Crisis, Disaster, and Risk Management at George Washington University in Washington, D.C., agrees. "To paraphrase the 9/11 commission," he said, "we are seeing a failure of imagination."

Shared blame. The failure, however, was not on everyone's part. For years, officials in the New Orleans district office of the U.S. Army Corps of Engineers, which built and administers the levee network, pushed to raise the protection level from Category 3 to Category 5. "We have the ability to protect this city [from Category 4 and 5 storms] for a 2-to-3-billion-dollar investment," Al Naomi, a senior project manager for the corps, told U.S. News in June. "It's not rocket science; its concrete and steel." Environmental groups, meanwhile, lobbied for more than a decade to restore southeastern Louisiana's vanishing wetlands, which once provided New Orleans with a robust, natural hurricane buffer. They got nowhere.

In The Ruins, Angels Of Mercy (USNEWS)

By Nancy Shute

U.S. News and World Report, September 5, 2005

April Fugere has discovered that it takes only about 36 hours to turn a modern American hospital into something more like a Civil War-era battlefield unit. "The stench is unbelievable," Fugere, an intensive care nurse, said from her post at flood-ravaged Charity Hospital last week, a few days after Hurricane Katrina battered New Orleans.

The hospital had no running water or working toilets. Food and bottled water were in short supply. The pain medication was long gone. When the emergency generators gave out, Fugere and her colleagues kept critically ill patients alive by squeezing their ventilator bags by hand. Rescuers had turned away after being fired upon, but by week's end, most of the patients had been evacuated. It was too late for some. "There are lots of patients who died," Fugere says. "They are laying them out in a hospital stairwell, in body bags."

From the flooded city of New Orleans and eastward along the Gulf Coast, doctors and nurses at dozens of hospitals and nursing homes last week struggled against enormous odds to keep thousands of seriously ill people alive without the most basic tools--food, water, medicine. The situation outside hospital walls was no better. Swarms of displaced residents with chronic health problems tried to make do without life-sustaining treatments like insulin and kidney dialysis. Even those who were healthy when the hurricane hit risked serious injury or death through dehydration, infection, or starvation as the week dragged on with no rescue or basic rations in sight. "We're seeing people who have been holed up in heated attics without food or water for days," says Christopher Guarisco, director of the emergency department at the Oschner Clinic Foundation in Jefferson Parish, La. At the New Orleans Convention Center, corpses lay abandoned amid throngs of people desperate to escape. A lucky few got out: Premature babies and other critically ill patients were airlifted to hospitals as far away as Houston. But most were left to suffer.

The healthcare crisis was exacerbated by the fact that hospitals weren't immune to the violence that erupted. "When the crowds tried to take the ambulances away from us, we just abandoned the ambulances and locked them up," says Richard Zuschlag, chief executive officer of Acadian Ambulance Service in Lafayette, La. In their second attempt to evacuate Charity Hospital, "we got shot at," Zuschlag says. But as National Guard troops began entering the city, the ambulance crews started moving again.

"It's utter chaos here," says Deano Bonano, chief deputy administrator for Jefferson Parish, just outside New Orleans. At midweek, the parish's hospitals were crammed with patients, most of them old or frail and in need of dialysis or oxygen, who were moved into the hospitals before the storm hit and had no place to go. "People are lined up in hallways, everywhere we can plug in

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a machine," Bonano says. "We're trying to relocate these special-needs patients to hospitals outside the area, but transportation right now is hard or impossible." Early in the week, he had taken to going out with the police or National Guard and raiding local supermarkets. "We are actually breaking into grocery stores," he says. By week's end, however, Bonano said Wal-Mart and Sam's Club had shipped in tractor-trailers with food, water, and ice, and power and water were being restored to the three open hospitals.

Another Flood That Stunned America (USNEWS)

U.S. News and World Report, September 5, 2005

For days, the rain fell. The rivers swelled, the lakes rose. And when the water could no longer find a place to go, it battered the weakest parts of the levees that had protected thousands of people and blew through, sending a surge of white-capped brown water faster than the spill of Niagara Falls.

So began the Great Mississippi Flood of 1927, the most catastrophic deluge ever to hit the South and one of the worst natural disasters in U.S. history.

The seminal event of pre-integration southern politics, the 1927 flood inundated an area about half the size of New England. It killed as many as 1,000 people and displaced about 700,000 more. At a time when the entire federal budget was barely $3 billion, it caused an estimated $1 billion in damage.

Most significant for the course of America, however, the tragedy hastened the mass migration of African-Americans to northern cities and marked the beginning of the end of southern sharecropping. "You'd say, 'I'd like to talk to you about the 1927 flood,' and you didn't need to explain anything else," says Pete Daniel, author of Deep'n As It Come: The 1927 Mississippi River Flood. "It was the most significant event of their lives."

The 1927 flood spared New Orleans, yet parallels to the aftermath of Hurricane Katrina are hard to miss. Authorities were ill-prepared to deal with refugees, and the brunt of the damage was borne by poor blacks unable to get to high ground.

Like Katrina, the tragedy was in many ways born of man's hubris--fitting because New Orleans itself grew out of man's assumption that he could control nature, no matter how stubborn nature was. The city was founded in 1718 by Jean Baptiste Le Moyne de Bienville on a piece of high ground between the Mississippi and Lake Pontchartrain. It was built below grade, against the advice of engineers. Pumps and canals, its founders thought, would handle the water.

Over the centuries, the same attitude would direct development of the rest of the lower Mississippi. Earthen levees rose ever higher to corral the river in its channel. But they have come at a price: The same volume of water just moves faster through a smaller space, scouring the channel and weakening the levees from below.

When the rains broke records in April 1927, the Gulf of Mexico was full and worked as a stopper to the Mississippi. The Mississippi was full, too, pushing its own waters up tributaries, breaking levees and causing flooding as far as Ohio and Texas. All that water had to go somewhere.

It couldn't go to New Orleans, panicky city fathers told the Army Corps of Engineers; it would devastate the regional economy.

To save New Orleans, the leaders proposed a radical plan. South of the city, the population was mostly rural and poor. The leaders appealed to the federal government to essentially sacrifice those parishes by blowing up an earthen levee and diverting the water to marshland. They promised restitution to people who would lose their homes. Government officials, including Commerce Secretary Herbert Hoover, signed off.

On April 29, the levee at Caernarvon, 13 miles south of New Orleans, succumbed to 39 tons of dynamite. The river rushed through at 250,000 cubic feet per second. New Orleans was saved, but the misery of the flooded parishes had only started. The city fathers took years to make good on their promises, and very few residents ever saw any compensation at all.

The water, which had started rising on Good Friday, would not recede until July. Many victims would never return to their homes. Hoover, who won support for leading relief efforts, went on to win the presidential election. And the Corps of Engineers, who had said the levees would hold, was humbled. Says Daniel: "People complained about the corps . . . but they never blamed the river. They understood: 'That's the river. That's nature. That's what it's supposed to be doing.' " -Judd Slivka

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The Lost CityWhat Went Wrong: Devastating A Swath Of The South, Katrina Plunged New Orleans Into Agony. (NWSWK)

Newsweek, September 5, 2005

Sept. 12, 2005 issue - It wasn't exactly a surprise. "This ain't gonna last," New Orleans City Council President Oliver Thomas told his security guard as they watched the waters of Lake Pontchartrain rising and racing and eating away at the dirt levee beneath the concrete floodwall built to protect New Orleans from disaster. It was 4 o'clock on Sunday afternoon, Aug. 28. Hurricane Katrina was still 14 hours away, but the sea surge had begun. Thomas returned to the city's hurricane war room and announced, to anyone who was listening, "The water's coming into the city."

Story continues below ? advertisement

Thomas was asleep on his office couch early Tuesday morning when he was awakened by the sound of banging on his door and someone yelling, "The levee broke!" Thomas stood up on his soaked carpet and felt as though he were standing in concrete. He was paralyzed, he later said, by the fear of predictions coming true. Thomas, who had been rescued off the roof of his house in New Orleans during Hurricane Betsy in 1965, had been a city councilman for a dozen years. His specialty is water. He knew all about the studies and reports and dire warnings stacked up on the desks of bureaucrats, he knew about all the relief and reconstruction and restoration projects that had been discussed but never paid for or carried out, and he knew his beloved old city was doomed.

A few rescuers were ready, but precious few. On Monday morning, as the storm slammed into the Gulf Coast, Col. Tim Tarchick of the 920th Rescue Wing, Air Force Reserve Command, got on the phone to call every agency he could think of to ask permission to take his three rescue helicopters into the disaster zone as soon as the storm abated. The response was noncommittal. FEMA, the federal agency that is supposed to handle disasters, told Tarchick that it wasn't authorized to task military units. That had to come from the Defense Department. Tarchick wasn't able to cut through the red tape until 4 p.m. Tuesday—more than 24 hours after the storm had passed. His crews plucked hundreds of people off rooftops, but when they delivered them to an assigned landing zone, there was "total chaos. No food, no water, no bathrooms, no nothing." There was "no structure, no organization, no command center," Tarchick told NEWSWEEK.

Only despair. The news could not have been more dispiriting: The reports of gunfire at medical-relief helicopters. The stories of pirates capturing rescue boats. The reports of police standing and watching looters—or joining them. The TV images of hundreds and thousands of people, mostly black and poor, trapped in the shadow of the Superdome. And most horrific: the photographs of dead people floating facedown in the sewage or sitting in wheelchairs where they died, some from lack of water. For many across the city and the Gulf Coast, prayer seemed one of their few options. On CNN, Mayor C. Ray Nagin asked the country to "pray for us," a plea repeated by survivors who needed that, and much more.

New Orleans has long been an inspiration to soulful writers and artists who sing the blues. But there was nothing romantic about Katrina's wake. Most of the poets had headed for higher ground (although legendary R&B man "Fats" Domino stayed, was reported missing, then found alive). Left behind were the poor who couldn't get out, a few defiant members of the local gentry and gangs of predators.

No one seemed to have any idea how many people died, but it was clearly the worst natural disaster since a hurricane wiped out Galveston, Texas, in 1900, killing 6,000 to 12,000 people. No major American city had been evacuated since Richmond and Atlanta in the Civil War. The economic cost will be enormous, starting with gasoline prices jumping to more than $3 a gallon. The political cost to President Bush could also be stiff. When Air Force One dipped below the clouds on Tuesday so the president could peer out the window down at the disaster, the image was uncomfortably imperial. A folksier Bush toured the wretched region on Friday, hugged some victims and did a rare but necessary thing: he admitted that the results of the relief effort had been "not acceptable."

Day after day of images showed exhausted families and their crying children stepping around corpses while they begged: Where is the water? Where are the buses? They seemed helpless, powerless, at the mercy of forces far beyond their control. The lack of rapid response left people in the United States, and all over the world, wondering how an American city could look like Mogadishu or Port-au-Prince. The refugee crisis—a million people without homes, jobs, schools—hardly fit George W. Bush's vision of the American Colossus.

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After Failures, Government Officials Play Blame Game (NYT)

By Scott Shane

The New York Times, September 5, 2005

This article was reported by Scott Shane, Eric Lipton and Christopher Drew and written by Mr. Shane.

WASHINGTON, Sept. 4 - As the Bush administration tried to show a more forceful effort to help the victims of Hurricane Katrina, government officials on Sunday escalated their criticism and sniping over who was to blame for the problems plaguing the initial response.

While rescuers were still trying to reach people stranded by the floods, perhaps the only consensus among local, state and federal officials was that the system had failed.

Some federal officials said uncertainty over who was in charge had contributed to delays in providing aid and imposing order, and officials in Louisiana complained that Washington disaster officials had blocked some aid efforts.

Local and state resources were so weakened, said Michael Chertoff, the homeland security secretary, that in the future federal authorities need to take "more of an upfront role earlier on, when we have these truly ultracatastrophes."

But furious state and local officials insisted that the real problem was that the Federal Emergency Management Agency, which Mr. Chertoff's department oversees, failed to deliver urgently needed help and, through incomprehensible red tape, even thwarted others' efforts to help.

"We wanted soldiers, helicopters, food and water," said Denise Bottcher, press secretary for Gov. Kathleen Babineaux Blanco of Louisiana. "They wanted to negotiate an organizational chart."

Mayor C. Ray Nagin of New Orleans expressed similar frustrations. "We're still fighting over authority," he told reporters on Saturday. "A bunch of people are the boss. The state and federal government are doing a two-step dance."

In one of several such appeals, Senator Hillary Rodham Clinton, Democrat of New York, called on President Bush on Sunday to appoint an independent national commission to examine the relief effort. She also said that she intends to introduce legislation to remove FEMA from the Department of Homeland Security and restore its previous status as an independent agency with cabinet-level status.

Mr. Chertoff tried to deflect the criticism of his department and FEMA by saying there would be time later to decide what went wrong.

"Whatever the criticisms and the after-action report may be about what was right and what was wrong looking back, what would be a horrible tragedy would be to distract ourselves from avoiding further problems because we're spending time talking about problems that have already occurred," he told Tim Russert on "Meet the Press" on NBC.

But local officials, who still feel overwhelmed by the continuing tragedy, demanded accountability and as well as action.

"Why did it happen? Who needs to be fired?" asked Aaron Broussard, president of Jefferson Parish, south of New Orleans.

Far from deferring to state or local officials, FEMA asserted its authority and made things worse, Mr. Broussard complained on "Meet the Press."

When Wal-Mart sent three trailer trucks loaded with water, FEMA officials turned them away, he said. Agency workers prevented the Coast Guard from delivering 1,000 gallons of diesel fuel, and on Saturday they cut the parish's emergency communications line, leading the sheriff to restore it and post armed guards to protect it from FEMA, Mr. Broussard said.

One sign of the continuing battle over who was in charge was Governor Blanco's refusal to sign an agreement proposed by the White House to share control of National Guard forces with the federal authorities.

Under the White House plan, Lt. Gen. Russel L. Honoré would oversee both the National Guard and the active duty federal troops, reporting jointly to the president and Ms. Blanco.

"She would lose control when she had been in control from the very beginning," said Ms. Bottcher, the governor's press secretary.

Ms. Bottcher was one of several officials yesterday who said she believed FEMA had interfered with the delivery of aid, including offers from the mayor of Chicago, Richard M. Daley, and the governor of New Mexico, Bill Richardson.

Adam Sharp, a spokesman for Senator Mary L. Landrieu, Democrat of Louisiana, said the problem was not who was in command. FEMA repeatedly held up assistance that could have been critical, he said.

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"FEMA has just been very slow to make these decisions," Mr. Sharp said.

In a clear slap at Mr. Chertoff and the FEMA director, Michael D. Brown, Governor Blanco announced Saturday that she had hired James Lee Witt, the director of FEMA during the Clinton administration, to advise her on the recovery.

Nearly every emergency worker told agonizing stories of communications failures, some of them most likely fatal to victims. Police officers called Senator Landrieu's Washington office because they could not reach commanders on the ground in New Orleans, Mr. Sharp said.

Dr. Ross Judice, chief medical officer for a large ambulance company, recounted how on Tuesday, unable to find out when helicopters would land to pick up critically ill patients at the Superdome, he walked outside and discovered that two helicopters, donated by an oil services company, had been waiting in the parking lot.

Louisiana and New Orleans have received a total of about $750 million in federal emergency and terrorism preparedness grants in the last four years, Homeland Security Department officials said.

Mr. Chertoff said he recognized that the local government's capacity to respond to the disaster was severely compromised by the hurricane and flood.

"What happened here was that essentially, the demolishment of that state and local infrastructure, and I think that really caused the cascading series of breakdowns," he said.

But Mayor Nagin said the root of the breakdown was the failure of the federal government to deliver relief supplies and personnel quickly.

"They kept promising and saying things would happen," he said. "I was getting excited and telling people that. They kept making promises and promises."

A Delicate Balance Is Undone In A Flash, And A Battered City Waits (NYT)

By Peter Applebome, Christopher Drew, Jere Longman And Andrew Revkin

The New York Times, September 5, 2005

NEW ORLEANS, Sept. 3 - They waited, and they waited, and then they waited some more in the 90-degree heat, as many as 5,000 people huddled at a highway underpass on Interstate 10, waiting for buses that never arrived to take them away from the storm they could not escape.

Babies cried. The sick huddled in the shade in wheelchairs or rested on cots. Dawn Ray, 40, was in tears, looking after an autistic niece who had soiled herself and her son who is blind and has cerebral palsy. A few others, less patient, simply started walking west with nowhere to go, like a man pushing a bike in one hand and pulling a shopping cart in another. But most just waited with resigned patience - sad, angry, incredulous, scared, exhausted, people who seemed as discarded as the bottles of water and food containers that littered the ground.

"Disease, germs," one woman, Claudette Paul, said, covering her mouth with a cloth, her voice smoldering with anger. "We need help. We don't live like this in America."

New Orleans has always existed in a delicate balance between land and water, chaos and order, black and white, the very rich and the very poor. It has been the lacy ironwork of French Quarter balconies, the magical shops and galleries on Royal Street and the magisterial cuisine not just at Galatoire's or Mr. B's or Commander's Palace but also at humble po-boy joints and neighborhood restaurants in every part of town.

But it has also been a place of crushing poverty, of dreary housing projects and failing schools, where crime and violence have been an incessant shadow in daily life, as much a part of the local sensibility as the smothering blanket of heat and humidity.

This week, bit by bit, that delicate balance came completely undone. Water took over earth when levees broke, putting 80 percent of the city under water. The mix of fatalism and bravado that allowed the city's biggest fear - a killer hurricane - to become the marquee drink of Bourbon Street gave way to terror and despair and horrifying spasms of looting and violence. New Orleans became unrecognizable not just physically, but psychologically as well. Faced with a disaster of biblical proportions, everything fell apart, and government was either overmatched or slow to the task.

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The flood-control apparatus, which government officials and scientists had long said was inadequate, gave way, but federal engineers did not even realize that a major breach had occurred until the next morning, when citizens began reporting rising flows on Web logs. The city's evacuation plan worked, except for the thousands who were too poor or disabled to find their own way out of the city before the storm. The radios and cellphones that officials and police officers use to communicate failed, erasing any remaining semblance of authority in a city beset by chaos and crime. And finally, a full federal response came only after the dialogue between local and federal officials devolved into anger.

Just two months ago, further evidence emerged that the city and its levees were sinking, increasing the risk of a catastrophic flood, even as federal money to protect the city was being cut afresh. As flood waters rose on Tuesday, Senator Mary L. Landrieu tried to impress upon colleagues in Washington that this was America's tsunami, but she said that the more she pleaded, the more she felt she was not being heard. Most local officials who were supposed to be running the city eventually left, mainly because they could not communicate with the outside world, whose help they desperately needed. It took four days for National Guard troops to arrive to restore order as looting and lawlessness spiraled out of control.

Mayor C. Ray Nagin said federal aid began flowing after he spoke by telephone to President Bush and told him bluntly: "Man, this is a mess, and I am not getting the resources I need. I need help, and if I don't get the help I need this city is going to blow up and this is going to be a national disgrace."

New Orleans, Flannery O'Connor once wrote, is a place where the devil's existence is freely recognized.

But not this devil. Not the devil of bloated bodies floating in muddy waters washing lazily over submerged pickups and campers, of corpses being eaten by rats as they decomposed on city streets, of people dying in wheelchairs outside the convention center as friends poured water over their heads to try to keep them alive.

Not the devil who left Bill and Gail Orris sitting exhausted, dazed after escaping through the hole they poked through the roof of their home in nearby Chalmette, while their 20-year-old daughter, Lennie, unable to walk and mentally disabled, sucked her thumb and jerked spasmodically back and forth in her wheelchair in the hot sun.

Not the devil who left Catherine Weiss, at 75, apologizing profusely for not having her teeth with her - she had left in a hurry, after all, when the water filled her house like a bathtub - and panicked about what had happened to her nephew, Michael Phillippello, who collapsed as a boat ferried them across the river to safety.

Not the man on talk radio, stranded in his house but begging people not to try to come back to see what they had left behind.

"It's like the five stages of accepting death," he said. "First, I was thinking if I had enough ice to save the good shrimp and tilapia, then it's whether I can save the house, now it's about my life. If I had two AK's I'd feel safe here. As it is, someone could pop me off, and I could end up bloated, no one would check for bullet holes, and I'd just end up in some potter's field. You can feel human life kind of receding like the waters."

The storm that brought those waters began as Tropical Depression 12, yet another swirl of tropical turbulence in the southeastern Bahamas. But at each step of the way Hurricane Katrina seemed to overachieve. It hit Florida with more power than expected, killing nine people and knocking out electricity for a million more. Then it crossed back into the Gulf of Mexico, intensifying into one of the strongest storms on record as, in a horrific bit of timing, it churned directly over the "loop current," a great, deep whorl of tropics-hot seawater that pulses in between the Yucatán and Cuba each year and then stays south of Louisiana into late summer. Often, storms weaken as they suck up cool water that lies stratified beneath the warm surface. But in the loop, even the depths are hot.

"We are facing a storm that most of us have long feared," said Mayor Nagin, who urged people on Saturday to leave town and then gave an evacuation order on Sunday, when it looked as if a Category 5 storm, with winds as high as 175 miles an hour, could be headed for New Orleans. "This is a once-in-a-lifetime event."

Many of the 1.3 million people in the metropolitan area did that. But, as always, many did not. This surprised exactly no one. In a 2003 Louisiana State University poll, 31 percent of New Orleans residents said they would stay in the city even if a Category 4 hurricane struck.

Many stayed because they felt they had no choice.

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The survey found that those who said they would stay tended be poor, less educated, disabled, older, childless or isolated, or had lived in the city for a long period. Twenty-eight percent of the population of New Orleans lives below the poverty line, compared with 9 percent nationwide, according to census figures. Twenty-four percent of its adults are disabled, compared with 19 percent nationwide. An estimated 50,000 households in New Orleans do not have cars.

And there was another bit of bad timing: the hurricane came at the end of the month, when those depending on public assistance are waiting for their next checks, typically mailed on the first of every month.

"They wouldn't have had any money to evacuate," said Councilwoman Cynthia Hedge-Morrell.

Experts disagreed on whether there were adequate evacuation plans for those most in need. Brian Wolshon, an L.S.U. civil engineering professor who consulted on the state evacuation plan, said the city relied almost entirely on a "Good Samaritan scenario," in which residents would check on elderly and disabled neighbors and drive them out of the city if necessary.

Planning was stymied by a shortage of buses, he said. As many as 2,000 buses, far more than New Orleans possessed, would be needed to evacuate an estimated 100,000 elderly and disabled people.

But Chester Wilmot, an L.S.U. civil engineering professor who studies evacuation plans, said the city successfully improvised. He said witnesses described seeing city buses shuttle residents to the Superdome before Hurricane Katrina struck.

"What I've heard is that there were buses, but they weren't very well utilized," Professor Wilmot said. "They literally carried very few people."

The two professors agreed that the evacuation of New Orleans residents with cars went well. They said a new "contraflow plan," which used all lanes of I-10 for outbound traffic, avoided the kind of traffic that snarled during a voluntary evacuation of the city during Hurricane Ivan in 2001.

"What you're going to find is that everyone who wanted to get out, got out," said Professor Wolshon. "Except for the people who didn't have access to transportation."

But many other stayed because they wanted to stay. Because their friends were staying. Because they were worried about looters if they left. Because they felt they could protect their property by staying home. They stayed because they had elderly parents who were going to stay, because they thought they knew which parts of the city flooded and which did not. Or because they always had.

"Hard-headed, honey," said Mrs. Weiss, when asked why she rode out the storm in the same brick home where she has stayed for storms for 41 years. "From now on, I'm leaving for a tropical storm."

And then there were the tourists, many of whom came with only the haziest sense of what they were facing and not the slightest idea of what they should do. When Chris and Tammy Distefano, Kris and Mike Miller and Chad and Michelle Toomey arrived from York, Pa., on Saturday morning for their first trip to New Orleans, they asked the limo driver, Joseph, what to expect. Not much, he answered. The storms always went somewhere else. He took them on a tour and dropped them off at their hotel. They dropped off their bags and walked over to Pat O'Brien's for a hurricane, the mix of dark rum, passion fruit and other juices that people drink from plastic cups as they tour the French Quarter. They were scared to death as the storm rattled their hotel, shutting off the power, Sunday night and Monday morning.

But as Monday rolled into afternoon and the storm moved west, people peeked outside to find streets battered, trees down, roots torn up, but the city mostly dry. It looked like the N'awlins luck had held again.

Thriving on Bluff

And why not? For generations - centuries, really - this city had thrived in part on the poker-hand bluff, its sheer allure masking its starker realities.

Eighteenth-century accounts sent back to France as the first settlers carved into the Mississippi silt focused on the fanciful, not the real, said Craig E. Colten, a geographer at L.S.U. and the author of a new book on the city, "An Unnatural Metropolis."

Few entrepreneurs seeking to sell the idea of building a town on this swampy island mention that as they dug into the earth, they came upon recently buried tree trunks - a sign that they were standing on land laid down by epic floods.

And as the city grew, wedged between the Mississippi River and the broad, shallow Lake Pontchartrain, so too did efforts to ring it with earthen levees. But the very expansion of the city contributed to the rising flood risk, Dr. Colten said. As swampier spots were drained, the drying soil compressed, causing reclaimed land to sink ever more.

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In the 20th century, more land was drained as the city's legendary system of pump stations and purging canals spread. But that made it sink all that much faster.

Hurricanes feeding on warmth from the gulf rumbled by most summers. Some potent ones smashed other Gulf Coast towns, like Galveston, Tex., in 1900, and storms in 1947 and 1965, struck New Orleans directly, but with survivable intensity. Hurricane Betsy, in September 1965, finally spurred a federal hurricane protection plan for Lake Pontchartrain and vicinity.

But the system that emerged was a compromise from the start, cut back by competing Army Corps of Engineer projects, by pressure from local communities that had to pay part of the tab, and by the tendency to focus more on current costs than on future risks.

Officials settled on a system of levees sufficient to protect against another Hurricane Betsy - roughly akin to what is now called a Category 3 storm, the kind that statistics estimate might strike New Orleans once in 200 years.

A lull in Atlantic hurricane frequency from around 1970 until 1995 probably contributed to complacency, said Bob Sheets, a former director of the National Hurricane Center.

But more recently, a string of studies found that after 1995, a natural Atlantic cycle had switched from the pattern that stifles storms to one that nurtured them. Other studies pointed to an eventual increase in storm intensity from global warming.

Computer simulations showed ever more clearly how New Orleans could swamp like a low boat in high seas under the assault from certain hurricanes.

Still, the compromises over flood protection persisted. After a scare from Hurricane Georges in 1998, Congress authorized the Corps of Engineers to begin studying bolstering the city's defenses against a Category 5 storm. But money for that study, and simply for finishing the last components of the original plan to protect against a Category 3 storm, dribbled in district at a fraction of annual requests.

In 2004, with insufficient money to close contracts with the companies doing the work, Alfred Naomi, a senior district project manager, told the local East Jefferson Levee Authority, according to the New Orleans Times-Picayune: "The system is in great shape, but the levees are sinking. Everything is sinking, and if we don't get the money fast enough to raise them, then we can't stay ahead of the settlement."

This year, the New Orleans district was hit by a $71.2 million cut. Without more federal money, the district reported in May, the raising of various levees and other "pressing needs" would not be met. In June, at a meeting of emergency planners and hurricane experts, Roy Dokka, an L.S.U. engineer who has spent much of his career refining measurements of elevations around the gulf, presented findings that parts of the coast and New Orleans were sinking 2 to 50 times faster than earlier estimates.

Many spots were two to four feet lower than anyone thought, recalled Stephen Baig, a National Hurricane Center meteorologist, a chilling hint that calculations of the flood potential of particular storms, and the vulnerability of levees, might be significantly underestimated.

"For levee heights, and for our models," Dr. Baig recalled, "that could mean the difference between overtopping and not overtopping."

On Monday, there was nothing dramatic when the levee failed, no sound of an explosion or a crash. At midday, as the storm was blowing out of the city, the Web site of The Times-Picayune quoted residents near the 17th Street canal saying that after experiencing only minor flooding from the storm, suddenly the water in their yards was rising from what seemed to be a breach in the canal. One man said later that afternoon that the water was rising one brick on his house every 20 minutes.

By 4:20 p.m. on Monday, the Web site reported that the water had already rolled through the nearby Lakeview neighborhood and on down to the center of the city. By then, the water in Lakeview had reached the second stories of many houses. The berms along Lake Pontchartrain had held. The problem was in canals that had been built to carry water pumped from city drains out to the lake. But on Monday, with the lake rising, the flow in the canals reversed.

A surge, probably 10 feet above normal, flowed in from the lake, rising until it began cascading over the top of the sleek, butter-colored walls that stood between the east side of the 17th Street Canal and the city's Bucktown neighborhood.

Greg Breerwood, a deputy district engineer for the Corps, said it appeared that as the weight of the water pressed on the high part of the wall, the water pouring over the top hit the ground on the other side and ate away at the soil supporting its base.

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A section of the wall pushed in and the rush of water turned that breach into a gash as broad as a football field is long. The lake and below-sea-level city were becoming one body of water.

"We heard about the flood wall failing," Mr. Breerwood said. "Then we realized there was an open corridor to the city."

A Reluctance to Leave

Once the levee broke, most long-time New Orleanians knew that the city could unravel quickly, with nothing to stop the lake from pouring into neighborhoods that were still dry and surging across a huge city park and into downtown.

Ms. Landrieu, a Democrat who grew up in New Orleans, whose father, Moon Landrieu, had been mayor, whose brother, Mitch, is currently Louisiana's lieutenant governor, was at the federal and state command center in Baton Rouge when the first warnings about the break flashed on Monday afternoon.

Ms. Landrieu knew how reluctant people could be to leave. This was the first time her own father had ever left during a hurricane. She said in an interview that she knew instantly that thousands who thought they had survived the storm would now be trapped in their houses, racing the rising floodwaters to their second floors, or to their attics or rooftops.

But she and other local officials suddenly faced a new problem: convincing federal officials that just one break in one canal with such a mundane name could bring on a cataclysm.

"I have been with Michael Brown since the minute he landed in this center," Ms. Landrieu said Friday in Baton Rouge, referring to the director of the Federal Emergency Management Agency, "and I have been telling him from the moment he arrived about the urgency of the situation."

But, she said, "I just have to tell you that he had a difficult time understanding the enormity of the task before us."

Natalie Rule, a spokeswoman for FEMA, disputed Ms. Landrieu's account. "There was no doubt in our minds that a Category 3, 4 or 5 headed for New Orleans was going to be dangerous," Ms. Rule said. She said agency officials told state and local leaders: "We will be there for you. You just go for it. We've got your back."

But if they did, no one knew it. And as the flood-control system broke down, so soon did everything else.

There was no immediate announcement that the levee had been breeched or what it meant, but different people realized at different times that maybe the bullet had not been dodged, after all. The prestorm evacuation, as chaotic as it seemed to anyone stuck on the road, was still part of a plan. Now , a whole new ad hoc stage began.

The tourists from York ventured out Monday to see gangs of youths, maybe four, then a dozen, then another four, breaking into the Canal Place Mall, home to high-dollar retailers like Saks and Gucci, Brooks Brothers and Ann Taylor. Worried that things were slipping out of control, they managed to make a plane reservation at $637 a ticket to get out of town. A local family staying at the hotel drove them out for $100 a head, the best money they ever spent. There had been no plans for what to do with stranded tourists, and before long, the hotels were closing down.

With the Superdome overloaded and without food or air-conditioning, the hotels guided visitors to the Ernest N. Morial Convention Center, a huge rectangular building that stretches about a mile and is several hundred yards wide. It has been used for conventions with more than 70,000 people. But soon the situation there devolved into anarchy, too, to the point that officials, often circumspect and cagey with the news media, were just the opposite.

"The tourists are walking around there and as soon as these individuals see them, they're being preyed upon," said P. Edwin Compass III, superintendent of police. "They are beating, they are raping them in the streets."

The Flooded Ninth

Before dawn on Tuesday, Ms. Landrieu's brother, the lieutenant governor, and Sgt. Troy McConnell of the state police left Baton Rouge to assist in the rescue of flooded residents of the Ninth Ward in New Orleans. Mr. Landrieu knew the city intimately. But now he was navigating the Lower Ninth Ward not by car, but by boat. The four men on board would cut the engine and float in watery silence, listening for calls for help from inside houses or attics.

People yelled from rooftops or waved shirts or rags, as if they were flags, from vents in the attic. A few wooden houses floated like buoys.

It had become so hot inside the fetid houses that some residents shivered in the cold water as they swam to the rescue boat. One woman was so heavy and immobile that 12 men were needed to lift her off a gurney.

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They must have rescued 100 people, but by the end of the day the mood began to change to one of irritated impatience. "By dusk, people were getting agitated and upset," Sergeant McConnell said. "They had been in those houses for two days with nothing to eat or drink."

Soon there was a small army of evacuees, refugees with no place to go who were deposited on the island of dry land at the edge of I-10 in Metairie. During the long, hot afternoon and into the humid night, the crowd swelled to 2,000 hungry, flood-weary people, residents of the northern neighborhoods of New Orleans and of St. Bernard Parish to the northeast who had been plucked from their roofs and attics.

Barefoot women cradling naked, screaming babies limped from a National Guard rescue truck, everything they owned on their backs after 36 hours of watching the floodwaters breach their doors, topple their refrigerators and drive them to the only high ground available - roofs, trees, attics and bridge spans. Behind them, elderly couples in nightgowns and slippers leaned on each other for support as they walked slowly from the helicopter that rescued them. Many clutched garbage bags holding all the possessions they could salvage; many had no more than damp tank tops and shorts clinging to their bodies. Most were hungry, thirsty and alone.

Chermaine Daniels, 49, had left her flooded one-story house in the Ninth Ward on Tuesday morning, gashing her ankle on a fence as she struggled to swim to a neighbor's two-story house. Later that day, Ms. Daniels and several others were rescued by a uniformed officer in a boat and deposited at an I-10 encampment.

"What do we do now?" she asked the boat driver.

"You're on your own," the driver replied.

An Array of Complaints

Increasingly, local officials also felt that they were on their own.

On Tuesday night, Mayor Nagin complained that while federal officials had agreed that morning that stemming the flow from the breach was the highest priority, "it didn't get done."

Ms. Landrieu said she had talked to Senator Bill Frist of Tennessee, the majority leader, on Tuesday and told him: " 'You remember when I flew over the tsunami with you? This was worse than anything we saw.' He said, 'No, you've got to be kidding.' I said, 'I know it's hard to grasp.' And he said, 'We're on it.' " Mr. Frist's office did not respond to requests for comment.

By Wednesday, with little visible response from the federal government, Ms. Landrieu said that she talked to FEMA officials. "I started to sense they were thinking I was a little overwrought, that maybe I was exaggerating a little bit," she said. When she pressed Mr. Brown on when he was going to finally get buses to pick up the people who had been trapped at the Superdome, "he just mumbled," she said.

Mayor Nagin said that he could not remember whether he spoke to President Bush on Wednesday or Thursday, but that the president acknowledged the federal government could have done more and promised to fix the situation.

By then, the state leaders also had an array of complaints. People were infuriated about the lack of National Guard troops to keep order and end the looting. How could the Corps of Engineers, which builds and takes care of the levees, have not had a contingency plan for dealing with a levee breach, especially in such a critical spot? And each time another federal agency offered to help, FEMA seemed to delay in providing guarantees that it would reimburse them later.

For instance, a defense agency had packages of communications gear ready to deploy and held them while awaiting FEMA's approval, according to two congressional aides.

Inside New Orleans, city officials were trying to keep some semblance of control over their city, and failing. The most basic reason was a massive breakdown of the communications system. Cellphones failed and satellite phones did not arrive for several days, according to Representative Charlie Melancon, a Democrat who represents suburban New Orleans.

Ms. Landrieu said on Wednesday: "Our communications systems are not functioning adequately; they are compromised. Not Louisiana's communications system. The United States of America. We didn't have the right communications system for 9/11. We don't have the right communications system now. By that I mean the simplest things. A police chief in a city talking to a mayor in a city wasn't happening while this was going on because their cellphones were down and their radios didn't communicate."

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Were The Feds Fiddling While New Orleans Flooded? (USNEWS)

U.S. News and World Report, September 5, 2005

Republican strategists were hoping that President Bush's show of leadership and empathy during a tour of Mobile, Biloxi, and New Orleans on Friday would offset his lackluster performance earlier last week--and bring hope not only to the populace of the stricken Gulf Coast but to his political shipmates as well. Anger over what appeared to be a slow federal response to the disaster wreaked by Hurricane Katrina had brought virulent criticism from local officials--and from Democrats everywhere--and Bush's own evaluation at week's end that the federal effort was "not acceptable" didn't help. White House insiders admitted Bush wasn't at the top of his game earlier in the week, but they predicted he would right himself and turn public perceptions around--much as he did after 9/11 when, after a tentative first reaction, he delivered a powerful call to arms at the World Trade Center. One aide suggested that Bush pick one person to update the public on hurricane relief efforts--"There is nobody holding round-the-clock briefings like Rudy Giuliani did during 9/11" --and that the president provide "inspirational and heartfelt" rhetoric.

Meanwhile, several GOP strategists worried that the slow federal response would seriously hurt the party in 2006. "People already weren't happy before this happened," said one. "It looks like we're not doing anything." In Washington, therefore, the blame game began, with some calling for Homeland Security Secretary Michael Chertoff to get the ax. Administration officials, however, said that firing Chertoff would not be smart in the midst of the Katrina disaster. At any rate, said Joe Lockhart, a Democratic strategist and former White House press secretary for President Bill Clinton, "the buck eventually stops in the Oval Office."

No Shrinking Violet Here at the U.N.

John Bolton is already making waves as U.S. permanent representative to the United Nations. Appointed just a month ago, Bolton is spearheading an effort to redraft a contentious document on U.N. reform, human rights, genocide, and more into a concise statement of principles in sync with Bush administration thinking. Diplomats complain, however, that he proposed so many changes--from slight wording shifts to big stuff, some 750 in all--that he risks scuttling the process that is supposed to churn out the document for an international conclave September 14-16 with more than 170 world leaders--including George Bush.

Meanwhile, in the Middle East...

The Bush administration has frequently outlined its vision for spreading democracy in the Middle East. But a panel of outside experts convened by the National Intelligence Council has issued a worrisome assessment of the region's potential for democratizing. "The odds are still against such a development," it concludes. Several Arab nations have made tentative steps toward limited elections, but the NIC experts deride the moves as "tactical [and] easily reversible." Panelists found that while many people favor democracy, their opinions are "shallow [and] illiberal." Even if these forces gain strength, it would ironically be from Islamist movements. "Most participants believed that significant secular democratic forces are unlikely to emerge," the report says.

With Kenneth T. Walsh, Paul Bedard, Thomas Omestad and Kevin Whitelaw

The Aftermath (TIME)

By NANCY GIBBS

Time, September 5, 2005

New Orleans lives by the water and fights it, a sand castle set on a sponge nine feet below sea level, where people made music from heartache, named their drinks for hurricanes and joked that one day you'd be able to tour the city by gondola.

A city built by rumrunners and slave traders and pirates was never going to play by anyone's rules or plan for the future. So as Katrina, wicked and flirtatious, lingered in the Gulf with her eye on the town, many citizens decided they would stay, stubborn or stoic or too poor to have much choice. As for the ones packing up to go, disaster officials told them to take a look around before they left, because it might never look the same again.

But by the time President Bush touched down in the tormented region on Friday, more than just the topography had changed. Shattered too was a hope that four years after the greatest man-made disaster in our history, we had got smarter about catastrophe, more nimble and visionary in our ability to respond. Is it really possible, after so many commissions and

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commitments, bureaucracies scrambled and rewired, emergency supplies stockpiled and prepositioned, that when a disaster strikes, the whole newfangled system just seizes up and can't move?

It may be weeks before the lights come back on and months before New Orleans is mopped out, a year before the refugees resettle in whatever will come to function as home, even without anything precious from the days before the flood. But it may take even longer than that before the nature of this American tragedy is clear: whether the storm of '05 is remembered mainly as the worst natural disaster in our history or the worst response to a disaster in our history. Or both.

Watching helpless New Orleans suffering day by day left people everywhere stunned and angry and in ever greater pain. These things happened in Haiti, they said, but not here. "Baghdad under water" is how former Louisiana Senator John Breaux described his beloved city, as state officials told him they feared the death toll could reach as high as 10,000, spread across Louisiana, Mississippi and Alabama. No matter what the final tally, the treatment of the living, black and poor and old and sick, was a disgrace. The problem with putting it all into numbers is that they stop speaking clearly once they get too big: an estimated half a million refugees, a million people without power, 30,000 soldiers, up to $100 billion in damage. "This is our tsunami," said Biloxi, Miss., Mayor A.J. Holloway. The overstatement is forgivable, for at some point suffering becomes immeasurable, reduced to a hopeless search for a place to sleep, or a bottle of water or a body to bury.

Mother Nature behaved as everyone warned one day she would, but human nature never fails to surprise. Stripped of safety and comfort, survivors made their choices: greed, mercy, mischief, gallantry, depravity or a surrender to despair. So nurses hand-pumped the ventilators of dying patients after the generators and then the batteries failed, while outside the hospitals, snipers fired at ambulances, and invading looters with guns demanded that doctors turn over whatever drugs they had. Hijackers shot the tires of fleeing vehicles, slapped the spares on after the owners escaped and drove the cars away themselves. Some police officers battled the looters; others joined them. As the floodwaters rose, EMS technicians told TIME they were left stranded at the downtown Hampton Inn by panicking cops who jumped into their private cars to flee the city. In the wretched Superdome, where several people died before they could get out, a young violinist took out his instrument and played a Bach adagio. "These people have nothing," he told a Los Angeles Times reporter. "I have a violin. And I should play for them."

Around the country, people watched the scene in growing horror, as babies and old people and diabetics and those worn out surviving the storm died on live television for all to see. Churches started assembling comfort kits; 500,000 hot meals a day are being prepared by Red Cross disaster volunteers. "I just had a gentleman walk in off the street and write a $10,000 check," said a Red Cross director in Massachusetts. She'd never seen him before; he had no family down there. He just said it seemed the right thing to do.

The private response was all the more urgent because the public one seemed so inept. Somehow Harry Connick Jr. could get to the New Orleans Convention Center and offer help, but not the National Guard. Bush praised the "good work" on Thursday, then called the results "not acceptable" on Friday. By then, 55 nations had offered to pitch in--including Sri Lanka, whose disaster scars are still fresh. "Get off your asses, and let's do something," New Orleans Mayor C. Ray Nagin raged in a radio interview that he ended in tears. But he of all people was in a position to understand the odds. A city known both for its charm and its rot, not just from the termites consuming whole neighborhoods but from a corrupt police force, dissolving tax base, neglected infrastructure, rising poverty and a murder rate that inspired old-timers to pack a gun beneath their tuxes on their way to the Mardi Gras parade, could hardly have been less equipped to cope with a catastrophe that everyone knew was coming. "Half of Louisiana is under water," former lawmaker Billy Tauzin used to say, "and the other half is under indictment." Three of the top state emergency officials were recently indicted for mishandling disaster funds.

Louisiana staggered under the blow, but others all along the Gulf Coast were ravaged as Katrina, still spitting tornadoes and spraying wood and shingles and glass, made her way slowly up to Canada to die at last. A sudden twirl coming ashore meant that the Mississippi coast got smacked the hardest. In many towns, what the winds spared the floods claimed, as the gusts flung water into the streets in storm surges as high as 25 ft. "It was like the houses were playing bumper cars around here," said Biloxi fisherman Alan Layne. There were cemetery coffins tossed around the beach, and disemboweled slot machines, and boats perched up in trees like ridiculous overweight birds. In Gulfport, Miss., the sea-salty air smelled of corpses. At one Catholic church, only the foundation remained--and a sign that read MASS AT 9 A.M. BRING A CHAIR.

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John Padgett, a boat captain in Pass Christian, Miss., who runs supplies to the off-coast oil rigs, saw his cottage disappear. But he was able to throw his dogs, a tent, a sleeping bag and a Coleman stove and lantern into his pickup before the storm arrived. He's living in the woods just north of Gulfport off Highway 49. "Everything I own now is in that truck," he told TIME, "but the shelters are too overcrowded and uncomfortable. I was born and raised on this coast, so I'm a good little redneck. I got a bow and arrow to kill food, and that's what I'm going to be eating." Where will he go from here? "I don't know," he said. "But at least in the woods I don't have to smell the dead bodies."

But it was in New Orleans where the cameras converged, a city that had braced for the worst, then briefly exhaled when it looked as if the threat had passed. Several hours after the storm moved through on Monday, some streets were essentially dry. Then shortly after midnight, a section almost as long as a football field in a main levee near the 17th Street Canal ruptured, letting Lake Pontchartrain pour in. The city itself turned into a superbowl, roadways crumbled like soup crackers as the levees designed to protect them were now holding the water in. Engineers tried dropping 3,000-lb. sandbags, but the water just swallowed them. As the days passed, the Army Corps of Engineers, which oversees the levees, admitted they weren't able to assess what might work. Part of the problem was a lack of heavy helicopters; the choppers were all busy doing search and rescue.

The levee breach left 80% of the city immediately submerged and 100,000 people stranded. Canal Street lived up to its name. As the temperature rose, the whole city was poached in a vile stew of melted landfill, chemicals, corpses, gasoline, snakes, canal rats; many could not escape their flooded homes without help. Among those who could, only a final act of desperation would drive them into the streets, where the caramel waters stank of sewage and glittered with the gaudy swirls of oil spills. A New Orleans TV station reported that a woman waded down to Charity Hospital, floating her husband's body along on a door.

For the first time ever, a major U.S. city was simply taken offline, closed down. Food and water and power and phones were gone; authority was all but absent. Most of the people left to cope were least equipped: the ones whose Social Security checks were just about due, or those who made for the Greyhound station only to find it already closed, or those confined to bed or who used a wheelchair. "We're seeing people that we didn't know exist," declared Federal Emergency Management Agency (FEMA) director Michael Brown in a moment of hideous accidental honesty. Rescue workers could hear people pounding on roofs from the inside, trapped in attics as the waters rose. The lucky ones were able to cut holes with knives and axes to reach the open air. Emergency workers hovered from house to house, plucking out the living, leaving bodies behind. The potential for a disaster in the air was such that pilots told TIME reporter Adam Pitluk, who was embedded with them, to help scan the skies for stray news helicopters and sightseers in Cessnas among the flocks of military craft. "It was like a pickup game," said Lieut. Commander Bill Howey, a Navy helicopter pilot. "You got three or four different types of Army helicopters, same for the Navy. Then there's Customs, Coast Guard, Marines, and then there are the news helicopters." While rescuing a group of blind people trapped for five days, a Marine helicopter pilot told TIME's Tim Padgett, "It's like flying into a hornets' nest."

When Dr. Greg Henderson, a pathologist turned field medic, arrived at the Convention Center on Friday, he was the only doctor for 10,000 people. "They're stacking the dead on the second floor," he told TIME by phone. "People are having seizures in the hallway. People with open running sores, every imaginable disease and disorder, all kinds of psychiatric problems. We have people who haven't had dialysis in several days. They'll be going into kidney failure. I just closed the door on a man who ran out of medicine for his kidney transplant. Very soon his body is going to go into rejection." Henderson went in with New Orleans police, and when people saw him in scrubs, they surged at him from every side. He tried to tend the sickest and the babies first. "The crowds here have gotten a bad rap. There are not many human beings you could cram into a building with 10,000 others, in 105Â° heat, that wouldn't get just a little pissed off." He tried to get them settled and asked them to show him the sickest. "And they lead me. It's not a subtle thing. It's generally the ones who are seizing on the floor."

Helicopters airlifted the sick from around the city to the airport, converted into a field hospital where patients were being pushed around on luggage carts and triaged for evacuation. At Lakefront Airport on the edge of the city, fights broke out for seats on the departing choppers. "The gang bangers," said Jimmy Dennis, 34, a Lakefront Airport fire fighter who had been up for two nights trying to keep order, "couldn't understand that we had to get the sick people out first." Frightened, the small band of fire fighters called in 10 New Orleans police with semiautomatic weapons to settle the crowd.

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In the few hospitals left operating, the staff fought to keep people alive until rescue came, only to have days pass with no relief. At Charity Hospital, in the dark but for a lone generator and dying flashlights, nurses who hadn't bathed in days tried to sterilize themselves with hand sanitizer. Two patients on the parking deck died waiting to be evacuated. Caregivers wept as they begged for help that did not come. "They'd been keeping these patients alive for a week with very little in terms of resources," says TIME contributor and CNN correspondent Dr. Sanjay Gupta, "and to see them die on the deck--it really was very difficult."

After Gupta arrived by helicopter on Wednesday, hours passed before it was safe to ferry him past the snipers and across a putrid moat into the hospital building. With a full evacuation still several days away, "people came to me and said, 'Why haven't they taken care of us? Why did they forget us?'" The food supply was down to beans and a few raw vegetables; candy vending machines had long since been emptied. "One of the guys here has been trying to call FEMA, and all he gets is a busy signal or voice mail," Gupta said. The stress was so overwhelming that perhaps half a dozen hospital staff members had to be treated in the psychiatric ward. The basement morgue was flooded, so the growing numbers of bodies were stacked in body bags in the stairwells.

The seething center of the angry Crescent City was the Superdome, refuge of utterly last resort for 25,000 people who had waited out the worst of the storm while the sheet-metal roof peeled like fruit, letting the rains pour in. Soon there was no light, no air, no working toilets. Reports came that four of the weakest died that first night. An elderly man, playing cards and seemingly fine, threw himself over a railing inside the stadium and committed suicide, witnesses told TV reporters. Members of the city's EMS team made their way there only to find anarchy. "We tried to start triaging and getting the special needs in one section," a technician recalls, but his team was overwhelmed by the hungry crowd and retreated with armed guards to Army trucks outside. When a 4th Infantry Division helicopter arrived, all but three of the evacuees had to be wheeled onto the Chinook, the elderly panting like animals suffering heatstroke, their mouths sagging and their tongues heavy and swollen. One paraplegic woman looked as if she had been broiled, her motionless legs beet red on the front and ghostly white on her calves. The evacuees were frightened, of both their plight and the booming helicopter that was there to save them. As the chopper pulled away, mothers down below screamed after it for rescue, holding their children high and sobbing.

Opportunity and desperation make a flammable mix. All along the coast, people broke into parked cars to siphon gas. Police reported that a man in Hattiesburg, Miss., shot his sister in the head in a fight over a bag of ice. A rescue team from Texas that had ferried hundreds of people to safety in their flat-bottom boats were told by a New Orleans sheriff that unless they were armed, they should get out of the city. At one point, rescuer Randy White says, "Someone yelled out to me, 'If you don't get us out by 12 o'clock, we're going to start shooting all the rescuers.'" One man was standing on Canal Boulevard with water up to his chest wearing a mink coat that he had liberated from a store. "This natural disaster is beginning to look like a Watts riot," said a worried congressional aide in Washington as he watched the chaos. "There's something really ugly going on here, something wrong at a deeper level."

One thing that was wrong may have been that right and wrong had jumped their tracks. For all the scorching images of armed thugs making off with sneakers and wide-screen TVs, the larger reality wasn't as simple as the President's call for "zero tolerance"of looting. Was it wrong to take a bottle of milk from a store when your baby was sobbing and there was no way to pay for it if you tried? When cans of food are scattered in the debris, does taking them amount to theft, or salvage? At one point, police with guns drawn escorted Dr. Henderson through a Walgreens as he emptied the pharmacy of drugs to use in a French Quarter bar turned makeshift clinic. Dudley Fuqua, tall and lean in baggy blue shorts, broke into neighborhood shops and took canned goods, frozen chicken and ribs and cigarettes to his neighbors, who called him a hero. "I was in a building with no food, no water for five nights," Fuqua's neighbor Mohammed Ally, 70, told TIME's Brian Bennett. "They were taking care of the elderly people." Fuqua saw a neighbor using his empty refrigerator as a rowboat to paddle through the water to get help for his pregnant wife. When the buoyant refrigerator tipped, Fuqua dove off a second-story balcony to help and sliced his feet on a rain gutter. "I was going to make sure everyone was O.K."

Only by Friday did some palpable help arrive, in the form of thousands of National Guard troops and lumbering convoys of supplies. Virtually alone, Lieut. General Russel Honore, commanding Joint Task Force Katrina, whom Mayor Nagin referred to as the John Wayne dude, seemed to be moving pieces into place. He was out in the streets with his troops, directing convoys and telling anxious Guardsmen to keep their weapons pointed down. He "came off the doggone chopper," Nagin said, "and he

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started cussing, and people started moving. And he's getting some stuff done. They ought to give that guy full authority to get the job done, and we can save some people."

Americans sometimes ask what the governmentÂ does and where their tax money goes. Among other things, it pays for all kinds of invisible but essential safety nets and life belts and guardrails that are useless right up until the day they are priceless. Furious critics charged last week that the government had not heard the warnings. Instead it cut the funds for flood control and storm preparations, mangled the chain of command, missed every opportunity. And an angry debate opened about how much the demands of the Iraq war, on both the budget and the National Guard, were eating into the country's ability to protect itself at home. Louisiana Republican Congressman Jim McCrery--working the phones with FEMA, the Army, the White House, state officials--argues that Katrina revealed how much doesn't work. "Clearly, with all the money we've spent, all the focus we have put on homeland security, we are not prepared for a disaster of this proportion whether it's induced by nature or man."

And this time a crucial consolation was missing. After 9/11, whatever the evidence of intelligence failures, many people still saw that attack as almost unimaginable, so brutal and brazen an assault. But Katrina was in the cards, forewarned, foreseen and yet still dismissed until it was too late. That so many officials were caught so unprepared was a failure less of imagination than will, a realization all the more frightening in light of what lies ahead. For if we couldn't help our citizens in an hour of desperate need, how well will we do in six months or a year, when many are still jobless and homeless, but no longer center stage? With reporting by Mike Billips/Biloxi, Massimo Calabresi, Sally B. Donnelly, Mark Thompson and Douglas Waller/Washington, Ellin Martens, Coco Masters and Carolina A. Miranda/New York and Greg Fulton/Atlanta

The (Big) Ripple Effect (USNEWS)

By Marianne Lavelle

U.S. News and World Report, September 5, 2005

Most Americans watched the ravages of Katrina's Category 4 winds and floodwaters from a safe distance, but they won't be able to escape the storm's economic aftershocks. From California to Maine, the commute to work will cost more. The price of a morning cup of joe is soon to rise. Anyone visiting a hardware store for building supplies should expect sticker shock. And it might be a good idea to stow away some extra cash to pay this winter's home heating bills.

One of the worst storms to hit the United States in modern times chose as its landfall one of the nation's most vital industrial hubs--a key shipping center and a crossroads of the energy business. As a result, Katrina is not expected to have the silver lining that has been typical of hurricanes and other natural disasters: job creation and the economic stimulus of rebuilding. This hurricane's long-term impact is murky, primarily because it has crippled a quarter of the country's oil and natural gas infrastructure when supplies already had been tight and prices painfully high. "Katrina is something new," says Joel Naroff, president of Naroff Economic Advisors. "Until the levee broke, most economists had a reasonable way of evaluating a natural disaster like this. This time we have the effects on the energy sector and a city under water, which is something we have no idea how to evaluate."

Stormy weather. The economic outlook for the rest of 2005 dimmed as the extent of the hurricane's damage became clear. Ian Shepherdson of High Frequency Economics in Valhalla, N.Y., adjusted his third-quarter-growth forecast down a whole percentage point, from 3 to 4 percent growth in gross domestic product, to 2 to 3 percent. He also predicted the economy will lose 500,000 jobs in September as a result of the storm. Wal-Mart, the nation's biggest retailer, warned Wall Street that Katrina might crimp its sales (the discounter had to close 126 stores in the South because of the storm). Yields on 10-year treasury notes fell sharply, a sign that Wall Street expects a slowing economy.

But few economists were talking recession. The fact that the economy was growing above 3 percent before the storm struck will prevent a downturn, says Anthony Chan, senior economist at JPMorgan Fleming Asset Management. In contrast, the 9/11 terrorist attacks happened as the economy was already in recession (though that was not known until later) following the bursting of the Internet stock bubble. Indeed, the unemployment rate for August of 4.9 percent announced last week was the lowest in four years. Post-storm cleanup and rebuilding may create jobs and spur retail spending. The past 10 major hurricanes added 500,000 jobs, on average, to nonfarm payrolls, says Chan, who believes Katrina will cut third- and fourth-quarter growth by about 0.5 percent but will end up boosting the economy over the next 12 months.

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Clearly, the energy industry bore the immediate economic impact of the storm. Photos captured the industry's dislocation, such as the oil rigs loosed from their moorings in the Gulf of Mexico that landed on Alabama beaches. But industry officials were hampered in assessing the damage, especially to the eight refineries knocked out of commission. Without electricity, it was impossible to test systems immediately. Power problems also meant a slow restart and reduced operations at the two major pipelines that deliver fuel from the region to the mid-Atlantic and Northeast.

Bigger, Badder Tropical Blows (USNEWS)

By Thomas Hayden and Megan Barnett

U.S. News and World Report, September 6, 2005

Katrina's fury had not yet subsided last week when Germany's environment minister sparked a minitempest of his own. Writing in the Frankfurter Rundschau newspaper, Jurgen Trittin suggested that the hurricane's severity was at least partly a result of global warming and charged that "the American president is closing his eyes to the economic and human costs" of refusing to sign the Kyoto Protocol, which seeks to limit production of climate-warming greenhouse gases.

Trittin's message of "you asked for it" certainly won't be winning him any awards for tact. But with this year threatening to overtake last as the most expensive American hurricane season ever, it's hard not to wonder if maybe he has a point. Are hurricanes getting worse? And if so, is global warming to blame?

Simple enough questions, but the answers are less so. There certainly have been more Atlantic hurricanes recently. According to the National Oceanic and Atmospheric Administration, the Atlantic has kicked up an average of 7.8 hurricanes and 3.8 major hurricanes per year since 1995, compared with an annual average of just five hurricanes and 1.5 major hurricanes over the preceding 25 years. But most scientists agree that the increased frequency is caused by a natural cycle, not global warming. And over the past 50 years at least, increased numbers of hurricanes in the Atlantic are generally offset by fewer tropical cyclones in the Pacific and Indian oceans; the global average is holding steady at about 90 per year.

Still, there is growing evidence that global warming is making the storms stronger and wetter. For all the unstoppability of a fully formed hurricane, a nascent tropical cyclone is a fairly fussy thing, says climate researcher Tom Murphree of the Naval Postgraduate School in Monterey, Calif., requiring just the right conditions in the sea and the air to develop into a destructive powerhouse like Katrina. In a June article in Science, head climate analyst Kevin Trenberth of the National Center for Atmospheric Research in Boulder, Colo., warned that global warming may already be nudging some of those conditions--like warm surface waters and increased moisture in the air--in directions that intensify storms.

Kerry Emanuel, a professor of atmospheric science at the Massachusetts Institute of Technology, thinks he has found evidence of that trend. In a study published last month in Nature, Emanuel calculated the intensity and duration of tropical cyclones for the past 75 years, estimating each storm's destructive power. "When you look at the numbers globally," he says, "you see a 70 to 80 percent increase in the potential destructiveness of tropical cyclones over the last 30 years. That's much more than anyone expected." And that surprising jump, he says "is strongly in concert with increases in the tropical sea surface temperature over the same time period." Many oceanographers are convinced that those warmer seas are the direct result of human-caused global warming.

Building boom. Even though hurricane activity along the Gulf Coast and up the Atlantic is expected to stay high for years, and maybe even intensify, official warnings and expert opinion apparently do nothing to dampen people's desire for living on or near the water. "People think a hurricane might not hit, or it might not flood, for 20 years," says Chip Law, an insurance industry analyst with SNL Financial, a research firm. Coastal development in the hurricane zone has been booming for years, he says, and even after Katrina, "it's not going to slow down."

Understanding hurricanes better may help scientists predict their severity. But thanks to the building boom--aided, in some cases, by taxpayer-backed federal flood insurance--limiting storm damage in the future won't depend on brilliant atmospheric science nearly so much as it will on common-sense planning and regulation.

SEC Relaxes Rules In Storm Zone (WSJ)

By Deborah Solomon And Siobhan Hughes

The Wall Street Journal, September 6, 2005

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The Securities and Exchange Commission will extend filing deadlines and suspend requirements to deliver documents to areas affected by Hurricane Katrina.

"We've got to do everything humanly possible to help our fellow citizens," SEC Chairman Chris Cox said. "No one in the region should have to worry about attempting to file government documents in near-impossible circumstances."

At the same time, the agency warned that it is "on the lookout for Katrina-related securities scams" and vowed to vigorously prosecute those who try to defraud hurricane victims.

The SEC plans to help broker-dealers provide access to accounts held at offices that no longer are operable. Mutual-fund companies and other securities firms won't be required to deliver prospectuses and other documents in the affected area.

"We are also working to ensure that individuals and families who suddenly find themselves in desperate financial circumstances have access to representatives of securities firms that hold their assets," Mr. Cox said.

The SEC established hot lines to answer questions and to identify the needs of those in the securities industry affected by the hurricane. The SEC can be reached at 202-551-3300 or by email at cfhotline@sec.gov.

The National Association of Securities Dealers published a notice outlining procedures for allowing customers continued access to their accounts. The NASD also said its New Orleans District Office, whose operations cover Louisiana, Mississippi, Kentucky, Arkansas, Oklahoma and Tennessee, would be closed indefinitely. The office's enforcement caseload is being transferred to the Chicago district office.

In Louisiana, state regulators asked displaced brokers and money managers to contact the Louisiana Securities Commission to provide updated information that could be passed along to inquiring investors. The phone number to contact is 225-925-4660.

In Mississippi, the business-regulation division plans to reopen today after being closed because of power outages. Mississippi residents with securities-related questions can call 1-888-236-6167.

Foreign Aid Flows In For Storm Victims; 131 Britons Missing (USAT)

By César G. Soriano

USA Today, September 6, 2005

LONDON — British Prime Minister Tony Blair, assailed for doing too little to help Britons caught in Hurricane Katrina, apologized Monday and sent foreign service officers to aid survivors.

"I'm really sorry if there have been difficulties. … But I can assure you some of these staff have been working round the clock," said Blair, who was in Beijing, for trade talks with China. As of Monday, 131 British citizens were listed as missing in the hurricane.

News of the disaster has dominated British and continental European media since Katrina struck last week. Foreign criticism of slow U.S. relief efforts has combined with official statements of sympathy and aid offers from at least 70 nations, including countries usually on the receiving end of U.S. and other foreign help. Among them was Bangladesh, which Monday pledged $1 million.

British survivors who returned over the weekend told local newspapers they had been stuck in New Orleans' Superdome without help. Some said they were referred to a non-existent British consulate in New Orleans. Others said they felt intimidated as white people in the mostly African-American crowd of displaced persons.

"The army told us to stick in a group and for the women to sit in the middle with the men around the outside and be ready to defend ourselves," Will Nelson, 21, told The Times of London.

Monday, Britain began airlifting a half-million food ration packs to the USA. The British Embassy in Washington said Britain, which holds the rotating presidency of the 25-member European Union, was coordinating the response of other member states. The European Parliament opened its plenary session Monday with a minute of silence to honor the hurricane victims. "The United States is dealing with a tragedy of incomparable dimensions. Victims will be numerous," Parliament President Josip Borrell said.

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Germany sent 25 tons of food. Italy shipped meals ready to eat (MREs). France flew in tents and blankets from Martinique, a French possession in the Caribbean. The United States accepted a Greek offer of two cruise ships to house evacuees, Greek spokesman Theodoros Rousopoulos said.

U.S. embassies provided lists of supplies needed including forklifts, generators, veterinarian supplies and baby formula and diapers.

Secretary of State Condoleezza Rice, who traveled Sunday to her home state of Alabama, said U.S. authorities already have used helicopters from Canada and Singapore and Air Canada aircraft to evacuate survivors.

Cuban President Fidel Castro on Sunday repeated an offer of 1,586 Cuban doctors equipped with medical supplies, but he said U.S. authorities had not responded.

Rice expressed appreciation for the foreign offers. “People have said that America has been so generous … in other places, and now it is time to be generous to America.”

But media reaction suggested that the U.S. image, already battered by Iraq, had taken another blow. “Hurricane Katrina has revealed that the U.S. is also fragile at home,” wrote the al-Khaleej newspaper in the United Arab Emirates on Monday.

Hurricane Aid Pours In (CSM)

By Peter Ford

The Christian Science Monitor, September 6, 2005

PARIS - Governments around the world rushed aid and relief teams to America's stricken southern states on Monday - some repaying past favors the United States has offered them to recover from natural disasters - while their citizens continued to express amazement and dismay at the aftermath of Hurricane Katrina.

In a dramatic reversal of usual roles, small nations such as Sri Lanka - badly hit by last December's tsunami - have extended their hands to the most powerful country on earth. And after initial ambivalence, American officials were accepting offers of help from over 50 countries with thanks.

"My country needs a lot of help because it has suffered a catastrophe that has no historical parallel," US ambassador to Spain, Eduardo Aguirre, said in Madrid on Monday, after asking the Spanish government for generators, medical equipment, pumps, and oil. "The most important thing right now is to know that we have friends."

Even America's foreign friends, however, have been free with their criticism of the way the US authorities handled rescue and relief operations in New Orleans last week. Repeated TV images of bodies floating in the floodwaters, crowds of homeless people abandoned to their fate for days, and looters emptying shops have raised harsh questions in Europe about the nature of American society.

"America's dark underbelly has been laid bare," charged London's Daily Mail in a headline Saturday, above a commentary drawing attention to the way in which the large majority of flood victims are poor and black.

As the scale of the disaster that hit Louisiana, Alabama, and Mississippi became clear, and Washington reversed its earlier decision that it did not need foreign aid, its allies readied thousands of tons of emergency supplies and hundreds of millions of dollars to feed, shelter, and care for displaced Americans forced from their homes.

As part of a NATO plan, the British government has flown 500,000 military ration packs to the afflicted zone, while the German government has sent food and is readying a hospital ship in case it is needed.

The French Red Cross has dispatched 17 logistics experts, trained in food distribution, shelter management, and other emergency skills, along with thousands of "family kits" containing food, medical, and hygiene items that had been stocked in Guadeloupe, ready for a disaster in the Caribbean.

The French and Italian governments put their military transport planes to work Sunday, carrying blankets, cots, tents, and inflatable dinghies, but there were signs that the sudden flood of relief supplies was overwhelming US authorities.

The Swedish Rescue Services Agency said Sunday it had postponed sending two portable water purification stations to New Orleans until the authorities were able to install them at Louis Armstrong International Airport.

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Asian countries were kicking in too, led by South Korea, which has pledged $30 million and 40 rescue workers. A fleet of Singaporean Chinook helicopters is already lifting survivors from roofs in New Orleans, and the Thai prime minister said Monday that his offer of 100 doctors and nurses had been accepted.

Even tiny Sri Lanka, which is still struggling to rebuild after last December's tsunami, has promised $25,000 to the American Red Cross.

In the Middle East, wealthy Gulf countries have promised funds to pay for the posthurricane clean-up: Kuwait - freed from Iraqi occupation 14 years ago by US-led troops - has pledged $500 million, the largest single donation so far. Even countries unfriendly to the US, such as Iran and Syria, have offered help. Cuba, too, has offered to send 1,100 doctors to Houston, if Washington wants them.

From Iraq, however, came a jarring note: Al Qaeda in Iraq, led by Abu Musab al-Zarqawi, issued a statement on the Internet calling Katrina divine retribution. "God's great wrath has hit the head of the oppressors," the statement read.

Less vicious criticism of the US has been widely voiced in Europe and elsewhere, however, as foreigners expressed their bewilderment at the apparent inability of the government to care for its most desperate citizens in a crisis.

Commentators have returned time and again to the fact that the vast majority of flood victims, left to fend for themselves, are poor African-Americans. "America has been forced to wake up to the racial injustice that has been its historic curse," Jonathan Freedland wrote in Monday's edition of the left-leaning London daily The Guardian.

Others, including a BBC reporter in New Orleans, have been dismayed by the speed at which social ties broke down under pressure: There were no reports of tourists in Sri Lanka or Thailand being mugged after the tsunami, they point out, nor of looters shooting at policemen.

That might, perhaps, help explain one striking aspect of the international reaction to the tragedy in New Orleans and surrounding areas: It does not appear to have sparked the spontaneous outpouring of charitable solidarity in Europe or elsewhere that last December's tidal wave provoked in millions of people worldwide who sent donations.

As fleets of transport aircraft ferried emergency aid to America from around the world, pointed out Andre Kaspi, a history professor at the Sorbonne University in Paris, "this is intergovernmental solidarity. It is not the popular solidarity that was shown after the tsunami," he told French radio.

US Thanks NATO For Help With Katrina Disaster (REU)

Reuters, September 6, 2005

The top U.S. envoy to NATO thanked European allies on Monday for generous pledges of support in the wake of Hurricane Katrina, which has devastated New Orleans and U.S. Gulf Coast states.

NATO said on Sunday it was coordinating offers of help from its 26 members after Washington asked it and the European Union for help in dealing with the crisis, which has left hundreds and possibly thousands dead.

"The United States has been enormously grateful for the outpouring of support, both emotional and concrete, from allies over the past week," Victoria Nuland, the U.S. ambassador to NATO, said in a statement issued in Brussels.

"We have had specific offers from almost every ally... This once again proves the effectiveness and resilience of this alliance and its value for the American people and all allies."

NATO has activated its internal disaster response center to coordinate offers of help, as it did during a bout of flooding in Romania and Bulgaria earlier this summer. It has also sent an officer to work at the U.S. Federal Emergency Management Agency.

The United States has issued a list of things it needs most to tackle the disaster, ranging from financial aid to bedding, ready-to-eat meals, medical supplies and other humanitarian aid. It is not seeking military equipment such as helicopters.

France has said it is readying 300 tents, 980 field beds and other material for the United States, while over the weekend Germany sent two German army Airbus planes loaded with a combined 25 tonnes of food rations.

Inside Politics (WT)

By Jennifer Harper

The Washington Times, September 6, 2005

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Dad's wisdom

During an appearance to appeal for Katrina relief funds in Houston yesterday, former President George Bush was asked how he felt about the unending criticism over the White House response to the hurricane, which has raged in much of the press this week.

Mr. Bush said as a father he does not like the criticism leveled at his son, President Bush, but added, "As a president, it goes with the territory," according to the Associated Press.

Clinton tag team

Hmmm. Could this portend political maneuvers to come? At that very same fundraising appeal yesterday, former President Bill Clinton was also asked about the government's response to Katrina.

"I think there should be an analysis of what happened." Mr. Clinton said, benevolently adding, "The time to do that is after some time passes."

His wife, Sen. Hillary Rodham Clinton, was in the aggressor's role, however, calling the hurricane "a wake-up call." The New York Democrat is already urging the White House to set up a "Katrina Commission" in a letter sent to Mr. Bush.

"It has become increasingly evident that our nation was not prepared," Mrs. Clinton wrote, according to Agence France-Presse yesterday.

Mrs. Clinton also claimed that the pace of relief efforts "seems to confirm that our ability to respond to cataclysmic disasters has not been adequately addressed."

She plans to propose legislation to separate the Federal Emergency Management Agency from the Department of Homeland Security and make it into another Cabinet-level agency.

A cultural moment

Impoverished Afghanistan will give $100,000 for Katrina relief efforts, the U.S. Embassy has announced.

U.S. Ambassador Ronald Neumann thanked the Afghan people Sunday during a ceremony at which the aid was pledged by the government on behalf of the people of Afghanistan.

"Their compassion and generosity bears testimony to the strength of the ties between our two peoples," Mr. Neumann said, according to Reuters news agency.

Greatest show on Earth

Is the U.S. Senate getting ready to be the "world's greatest deliberative body" or a political circus during upcoming confirmation hearings for U.S. Supreme Court nominee Judge John G. Roberts Jr.?

Newsday's Raymond Keating wants to know, advising viewers and voters to "keep an eye on how their own senators behave," particularly Sen. Charles E. Schumer, New York Democrat.

"Schumer's problem is he seems to forget he is not president and does not get to pick who sits on the federal bench. He also twists the Senate's 'advice and consent' role on court selections, promising to further undermine confidence in the process and the courts.

"New York's senior senator portrays himself as moderation's great defender. ... Schumer summed up the activist view: 'The Supreme Court makes law.' " Mr. Keating writes. "That's a gross misunderstanding, or misrepresentation, of our system of government. The Supreme Court is not supposed to make law, but to apply the law and the Constitution."

"It's also clear that Schumer evaluates judicial nominees based on a set of ideological issues. That's reflected in the long list of questions Schumer handed Roberts, seeking the judge's views on topics like campaign finance, abortion, the death penalty and environmental policy. If such questions become the norm, then nomination hearings will continue to degrade into vicious political games," Mr. Keating concluded.

Questions of the day

The National Pro-Life Action Center has five questions for Judge John G. Roberts Jr. that could provide the nation with a "foundational understanding of Judge Roberts' judicial temperament without asking him to 'forecast' or 'prejudge' any cases that may come before the high court," says director Paul Chaim Schenck.

The group wants to know:

•Do basic human rights come only from government or are they rooted in something that transcends government?

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•Is man's inherent human nature fixed, or does raw political power determine who is and is not a member of the human family?

•Is law merely the construct of jurists and lawmakers, or is it based first on principles of morals and justice?

•Is the proper role of the judiciary to restrain/limit itself to interpreting law or does it possess de facto legislative powers?

•Should the judiciary share power equally with the other two branches of government (the legislative and executive) or should its powers transcend them?

End of finger-pointing

It's time to neutralize the caustic Katrina blame game, according to the Chicago Tribune's Dennis Byrne yesterday.

"The ease and earnestness with which people express the knee-jerk belief that one of the most destructive and powerful forces in nature could have been defeated 'if only ...' belies a troubling level of ignorance or naivete," he writes.

"To suggest that all 'they' have to do to beat such a force is to build a sea wall 10 feet higher is screwy. So is the idea that all the food, water and shelter that a million refugees need can be positioned, as if overnight, within a day's ride of the destruction."

"The bigger story is the determination and compassion of the rescuers. So is the patience and courage of all those stranded, struggling, homeless people who have nothing left. How many of us would have so patiently tolerated such conditions? When patience overcomes desperation, it is a huge, moving story," Mr. Byrne wrote.

"This is no apologia ... Rather it is a disagreement with the simplistic view that 'they' can prevent or ameliorate every imaginable calamity. And if 'they' don't, it's proof of someone's incompetence, greed or callousness."

Beach Blanket Bingo (RC)

By Mary Ann Akers

Roll Call, September 6, 2005

Rich is one word that comes to mind when we think of Rep. Darrell Issa (R-Calif.). Skimpy may now be another.

We hear Issa, the second richest Member of Congress, shocked his staff when he showed up at an office whitewater tubing outing wearing bikini briefs. Yes, a Speedo, a banana hammock, a ... well, you get the drift. A Congressional aide who relayed the story to HOH said Issa was "out there" for all to see, including the gals, who were sporting their own itsy-bitsy teeny-weeny bikinis.

One person who attended the outing laughed uncontrollably when HOH asked if Issa wore "a Speedo" but managed, between guffawing, to say that the Congressman didn't wear his revealing suit the entire time. He wore swim trunks over his bikini for much of the tubing and then took them off while he was drying off and hanging out with the gang, the source said.

Issa's office declined to comment to HOH about the Congressman's choice in bathing attire.

Congressman Elmo? It must have been a little confusing for the residents of tiny Silverton, Colo., when they tuned into a local radio interview of a guest they thought was Rep. John Salazar (D-Colo.), their Congressman, but who answered a question with, "Tee hee hee hee. Baby Elmo's happy!" There's more to the answer than meets the ear.

It was, indeed, Baby Elmo, not Congressman Salazar, who was giggling and asking for his "ba-ba" on the low-power station, independent KSJC. After Salazar blew off the host of one of the station's rock 'n' chat shows, the free-spirited libertarian host, Nick Sustana, decided to interview his child's Baby Elmo doll instead, pretending that the "Sesame Street" character was Salazar.

"You have to appease your base at some point," Sustana said in one of his first questions, "but you face a unique challenge: 98 percent of your base are less than 2 years old and won't be eligible to vote until the year 2021. How do you plan to win re-election given this seemingly insurmountable challenge?"

The host also attacked "Salazar" for pretending to have rural values when he grew up on a famous street in an urban area with a bunch of misfits. "One of your best friends lived in a trashcan. Another was some goth who thought he was Count Dracula and one youngster there was usually so stoned all he could think about was eating cookies 24 hours a day. Tell me, Congressman, what rural values did they teach you?"

The outrageous interview went on and on, with the host accusing his guest of soiling himself and crying all the time and Congressman Baby Elmo responding with "goo goo ga ga" and "tee hee hee." At one point, Sustana declared mockingly to the

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people of Silverton — population 531 — that by standing him up, "Congressman Salazar just urinated in all of Silverton's corn flakes."

Well, if he did, he tinkled in his family's corn flakes, too! Salazar has two elderly cousins who live in Silverton who likely would not be pleased to have their public servant cousin likened to Baby Elmo. Sustana told HOH that his station manager called in the middle of his tirade to say "tone it down" on account of Salazar kin living in the area.

Salazar was unaware that Baby Elmo was taking questions on his behalf, but his spokeswoman took the joke — and the obnoxious host's corn flakes jab — with good humor. "Congressman Salazar represents a large district and even though he begins each morning with the 'breakfast of champions' he can't be in two places at once," Nayerra Haq told HOH. "Despite being upstaged by Elmo, John would be 'tickled' to be on the show next time he is in Silverton."

A Hurricane of Support. While devastated residents of New Orleans could not get relief soon enough, plenty of Washingtonians were eager to help inside the Beltway. Bipartisan fundraisers galore have been planned all over town, mostly to benefit the Red Cross and all, of course, promising libations and entertainment for the recess weary.

The biggie of the Big Easy parties is Wednesday night at the lobbying firm Jones Day, a joint fundraiser by the Alabama, Louisiana, Mississippi and Florida state societies. The folk-funky group Down Dexter is opening for the popular Wil Gravatt Band. Organizers were hoping to convince former Louisiana Sen. John Breaux (D) to serve as VIP emcee for the event. Reps. Alcee Hastings (D-Fla.), Mark Foley (R-Fla.) and Charlie Melancon (D-La.) were among those who had RSVP'd as of Friday afternoon.

Admission prices come in three ranges: $20, $1,000 and $2,000 per person. The party's fundraising goal is $50,000, all of which will go to the American Red Cross Disaster Relief Fund for victims of Hurricane Katrina.

Run, Don't Drink. For the non-lushes who want to help disaster victims — or for those who can at least burn the candle at both ends — there will be a Gulf Coast Relief Run on Sept. 17 in Old Town Alexandria. The 5K race is being sponsored by Roll Call, the Great Harvest Bread Company and Mizuno USA.

VIP runners include none other than Ragin' Cajun James Carville, his wife, Mary Matalin, and sports commentator Tony Kornheiser. The cost to enter the race is $25, which includes a T-shirt. Again, all proceeds will go toward the Red Cross relief fund.

Double Trap For Foreign Workers (NYT)

By Ian Urbina

The New York Times, September 6, 2005

BILOXI, Miss., Sept. 5 - Like so many other people here, Pedro, a landscaper from Chiapas, Mexico, is desperately trying to get out of Biloxi. He wants to take his wife, Anna, who is eight months pregnant, someplace cleaner and safer, wherever that might be.

But aside from being low on gas like everyone else, Pedro, who would not give his last name because he is undocumented, is nervous about traveling in a city swarming with police officers and National Guard troops.

Bran Dize, a prep cook from Spanish Town, Jamaica, near Kingston, worries that Hurricane Katrina may suddenly have made him an illegal immigrant because, he said, his guest worker visa requires him to work at a casino - the Beau Rivage - that, for all practical purposes, no longer exists.

Hurricane Katrina has left its victims feeling vulnerable and uncertain, but for many noncitizens trapped here, the anxiety is especially acute because they worry that they will jeopardize their legal status if they try to leave.

There are worries, too, about those who may not have survived the storm. The Mexican government has opened two mobile consulates in the affected areas, one in Mobile, Ala., and the other in Baton Rouge, La., to begin looking for tens of thousands of their citizens reported missing. The authorities in Mexico estimated that 145,000 Mexicans live in the area. At a tense meeting on Friday with immigration officials from the Jamaican government, a group of about 40 Jamaican guest workers from the Grand Casino, the Beau Rivage and the Casino Magic fired a battery of tough questions.

"Will we get paid for the remaining three months left in our contracts?" one woman asked from the back of the crowd gathered at the Fairview apartments here. "We don't have plane tickets back to Jamaica," another said. "Who will pay for these?"

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Solid answers were in short supply. "I'm looking into this right now, but you have to be patient," said Barbara Dacosia, who oversees the 950 or so Jamaicans who work in casinos along the Gulf Coast in a nine-month guest worker program. "We're going to do some practical things, and we're going to do some tropical things, and that means we're going to pray."

Much like these immigrants, the city of Biloxi, defined over the past century by its transient culture of summer vacationers, sailors and gamblers, is at a standstill. Boats have been washed ashore. The number of visitors has dropped to zero from 10 million a year. The floating casinos have sunk. And movement is difficult.

"We tried to get gas, but when we got to the counter with our container, the man waved his hand and said no," Pedro, the Mexican landscaper, said in Spanish. "We couldn't say anything because we thought he might get mad and call the police."

José, also a Chiapas native who did not want to give his last name because he is undocumented, said that the only people he knew outside of Biloxi lived in Denver. But aside from having less than $20 left, he said he was also unsure whether he could make it that far without getting caught by the immigration authorities.

Like the many immigrants who came to the area as cheap labor to help rebuild Biloxi after Hurricane Ivan, José arrived in the area in September 2004 looking for contract work. "If I get a chance to get out of here, I'm going," he said. "This is all I know."

Ian Nelson, a Jamaican guest worker who for the last six months had been a housekeeper for the Grand Casino, said he would also rather not stay in the country. But as the only source of income for his parents in Jamaica, Mr. Nelson said he hoped the casino would find work for him in another state.

"I doubt they are going to help us," he said, "because no one from the company has even checked to see if their workers who are stranded here are O.K." About 344 Jamaican guest workers were in Biloxi, based at the three casinos in the city, said Ms. Dacosia, the chief liaison for the Jamaican Central Labor Organization. It is not clear whether they will be returned home without pay or placed in other jobs, she said.

Mr. Nelson said he had never felt more trapped in his life.

"I have come and gone under the work program for the past four years and never had troubles with the program," he said. "But I paid for my own plane ticket and now I am here and I don't know if I will get the work and money that I was promised."

After Katrina, Insurance Costs To Rise (WSJ)

By Theo Francis

The Wall Street Journal, September 6, 2005

Home and car owners in the Gulf Coast states can expect to see substantial increases in their insurance premiums in coming months, while rate rises could spread more broadly if insurance-company losses from Hurricane Katrina continue to climb.

Early estimates of damage to insured property from the massive hurricane range from $14 billion to $35 billion, with some catastrophe-modeling companies sharply raising their latest forecasts late last week as they gained details about the extent of the devastation from aerial surveys and learned more about damage to offshore oil production. That could make Katrina the costliest U.S. storm on record. Total economic losses -- including damage to uninsured property and flood damage -- is expected to exceed $100 billion.

"No matter where it falls in that range, it puts additional rate pressure on commercial-property and home owners in that region," says Robert Hartwig, chief economist for the Insurance Information Institute, a trade group in New York.

Past calamities suggest that broad increases are possible when the industry receives an unprecedented shock. After 1992's Hurricane Andrew -- currently No. 1 among natural disasters, at $21.6 billion of insured losses in today's dollars -- homeowners' rates spiked in states beyond the storm-hit region and insurers began offering less-generous policy provisions. After the Sept. 11, 2001, terrorist attacks, which triggered $35.9 billion of insurance claims in today's dollars, commercial-insurance rates soared across the country.

So far, many analysts have been wary of predicting steep rate increases outside the hardest-hit areas, anticipating that insurance regulators elsewhere would be reluctant to approve rate increases for car and home owners in their states if Katrina, as devastating a human tragedy as it has been, eats up only a tiny fraction of the property-casualty sector's overall $400 billion in

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capital. The more depleted insurers' capital, the assets insurers can draw on to pay claims, the more pressure they would feel to seek rate increases.

"Obviously, the risks to a place like New Orleans were underestimated, and the cost of insurance in those exposed areas will go up," Allstate Corp. Chairman and Chief Executive Edward M. Liddy said in an interview Friday.

Beyond premium increases, homeowners in Louisiana, Mississippi and Alabama could see stark changes in the insurance landscape. Thanks to Hurricane Andrew, Florida homeowners now pay steep deductibles for hurricanes -- often 3% or more of a home's insured value. Many can find coverage only from a state-run insurer of last resort. After the four hurricanes that struck Florida last year, several insurers, including Allstate, stopped writing new policies in the state; many are seeking stiff rate increases from state regulators. Most insurance policies pay damages for wind, including wind-driven rain, but don't cover damage from flooding. The federal government offers residential flood insurance.

The estimates for Katrina-related losses are based on unusually imperfect data. As of Friday, neither the firms that specialize in estimates nor insurers had gotten close enough to flooded New Orleans or Mississippi coast cities to actually survey the damage. Moreover, catastrophe-modeling firms say some wind-speed sensors failed in the storm. At least one firm is taking aerial photos to try to make up for the lack of data.

For insurers, raising rates locally or nationally won't change what is likely to be a significant third-quarter hit to profits, albeit after enjoying strong results in recent years. In the longer term, raising rates could help profitability -- and leave the industry still better-prepared to face similar disasters -- at least until the next time the industry vies for market share, triggering one of its recurring price wars.

Late last week, as TV footage showed looting and fires in New Orleans, a report by Moody's Investors Service cited "unusual characteristics" of Katrina that could make it "relatively more costly for insurers than their recent experiences with Florida hurricanes might suggest, and may cause the industry's insured losses to exceed the midpoint of preliminary estimates, possibly by a large amount."

Moody's noted that automobile claims will be higher than in other storms due to the extensive flooding; although flooding isn't covered under most homeowners' policies, submerged cars could prove costly to auto insurers. The flooding in New Orleans also could lead to "a meaningful amount of disputes between insureds and insurance companies," said Jeffrey Berg, a Moody's senior analyst, as policyholders seek proceeds despite the flooding exclusion.

Also pointing toward higher costs: "the extensive infrastructure damage which will complicate the task of remediating losses, and expected demand surge in labor and material costs," said Moody's Group Managing Director Ted Collins, a co-author of the report.

And the longer New Orleans or other locations are sealed off by authorities, the more insurers will have to pay in business-interruption claims, which compensate commercial policyholders for revenue lost from covered perils.

"Response time is the enemy in all natural disasters and impacts everyone including the insurance industry," says Richard Clinton, president of EQECAT, a catastrophe-modeling company that on Friday raised its estimate of insurance losses to between $14 billion and $22 billion, from an earlier estimate of $9 billion to $16 billion.

Any effort by insurers to seek increases may be fought by consumer groups. Insurers have little excuse for seeking rate increases nationally, or even within the hardest-hit states, maintains Robert Hunter, a former Texas insurance commissioner and director of insurance for the Consumer Federation of America. Despite the four Florida hurricanes last year with a combined $23.7 billion in claims in today's dollars, he says that rates dropped for homeowners' policies last year outside Florida and "the profits continued to roll in," setting industry records in this year's first and second quarters. Moreover, he argues that current rates incorporate the likelihood of severe storms. Given insurers' extensive computer modeling, "the fact that one of the [storm] events happens shouldn't be a surprise," he says.

Bush Nominates Roberts As Chief Justice (WP)

By Peter Baker

The Washington Post, September 6, 2005

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President Bush nominated John G. Roberts Jr. yesterday as the 17th chief justice of the United States, promoting his nominee for associate justice to lead the Supreme Court and the rest of the federal judiciary even before Roberts was confirmed for the first assignment.

Moving swiftly as he copes with the devastation of Hurricane Katrina, Bush announced his decision just two days after the death of Chief Justice William H. Rehnquist and 48 days after picking Roberts to succeed retiring Justice Sandra Day O'Connor. In elevating Roberts, Bush chose the candidate most likely to be confirmed in short order by the Senate, which was poised to ratify the appeals court judge for O'Connor's seat.

The move could ensure Bush's influence on the judiciary long after his presidency ends. In the past half-century, only two other presidents have had the opportunity to name a chief justice to a lifetime appointment. A former Rehnquist clerk, Roberts shares a philosophical outlook with the man he would succeed and, at age 50, would be the youngest chief justice since John Marshall was appointed in 1801, potentially giving him decades to shape the court's direction.

Since O'Connor agreed to remain until her successor is confirmed, the move means that the court could open its next term on Oct. 3 with nine justices sitting. But in shifting Roberts to the center chair, Bush now must find someone else to replace O'Connor, in some ways an even more consequential choice because she cast the swing vote on issues such as affirmative action, abortion and the death penalty for many years.

"It is in the interest of the court and the country to have a chief justice on the bench on the first full day of the fall term," Bush said in the Oval Office before flying to the Gulf Coast for a second time to inspect relief efforts. "The Senate is well along in the process of considering Judge Roberts's qualifications. They know his record and his fidelity to the law. I'm confident that the Senate can complete hearings and confirm him as chief justice within a month."

Roberts, who appeared alone at Bush's side, seemed mindful that he would replace his mentor rather than join him on the court. "I am honored and humbled by the confidence that the president has shown in me," he said. "And I'm very much aware that if I am confirmed, I would succeed a man I deeply respect and admire, a man who has been very kind to me for 25 years."

The Senate Judiciary Committee, which had been scheduled to open hearings on Roberts's confirmation to O'Connor's seat today, decided yesterday to postpone the process probably until Monday in deference to Rehnquist, who will be buried at Arlington National Cemetery tomorrow.

The same liberal groups that opposed Roberts for associate justice declared him even more unfit for chief. "His views are very much out of sync with civil rights, women's rights, privacy," said Nan Aron, president of the Alliance for Justice. "Certainly reviewing so many of those memos and briefs and papers he authored makes one wonder whether he understands how the law affects ordinary people."

Several Senate Democrats argued that Roberts should receive greater scrutiny for chief justice. "The stakes are higher and the Senate's advice and consent responsibility is even more important," said Senate Minority Leader Harry M. Reid (D-Nev.), adding that "the Senate must be vigilant in considering this nomination."

But there was no indication that his nomination faces any significant threat. "He will be an excellent chief," said Senate Majority Leader Bill Frist (R-Tenn.). "I still expect Judge Roberts to be confirmed before the Supreme Court starts its new term on October 3."

Bush always had Roberts in mind for the next chief justice, aides said yesterday. Roberts was first secretly interviewed for a Supreme Court slot in April in anticipation that the cancer-stricken Rehnquist would retire or die. When O'Connor surprised the White House by announcing her retirement in July and Rehnquist declared that he was not stepping down, Bush decided to appoint Roberts to O'Connor's seat.

Even then, aides said yesterday that the president intended to elevate Roberts to chief justice whenever the job came open. "This had been something in the back of the president's mind in case such a scenario came into being, if the chief justice had retired," said White House press secretary Scott McClellan. "The president, when he met with [Roberts], knew he was a natural-born leader."

Bush summoned Roberts to the White House on Sunday, and the two met in the residential quarters at 5:30 p.m. for 30 to 45 minutes, McClellan said. White House Chief of Staff Andrew H. Card Jr. sat in at first and then left the two alone. Bush called Roberts back to the White House at 7:15 a.m. yesterday and offered him the job. Bush made the announcement 45 minutes later.

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Card discussed the decision with Frist, Reid, Judiciary Chairman Arlen Specter (R-Pa.) and the committee's ranking Democrat, Patrick J. Leahy (Vt.), while the White House counsel's office called Justice John Paul Stevens, the court's senior member and acting chief, to inform him of the decision. Bush did not call O'Connor to tell her that her retirement may be postponed until after he was on Air Force One flying to Louisiana.

Although the chief justice has no more votes than his eight brethren, he presides over their conferences, sets the initial agenda for considering cases and, when in the majority, assigns which justice will write a ruling, defining the extent of its reach. He also wields a variety of administrative and policy powers not only over the high court but the broader federal judiciary and has a number of unique responsibilities, such as presiding over presidential impeachment trials and appointing the court that reviews secret wiretaps by U.S. intelligence agencies.

Most chief justices have been appointed from outside the Supreme Court, but in the past century they typically had long tenures on lower courts or had served as governors, Cabinet secretaries or, in one case, president. With just two years on the U.S. Court of Appeals for the D.C. Circuit, Roberts boasts no such credential and would be much younger than the colleagues he would lead. Three and a half decades his senior, Stevens, 85, was already a justice when Roberts was an undergraduate at Harvard University.

But Roberts has the advantage of being well known to the justices, having argued 39 cases before the Supreme Court. "He can pull it off because they really respect him," said Leonard A. Leo, executive vice president of the Federalist Society, a conservative legal group. "What other justices look for in a chief justice is honesty, straight-shooting and smarts. That's what they want, and that's what they'll get."

Roberts grew up in Indiana, graduated magna cum laude from Harvard Law School, clerked for Rehnquist, worked as a lawyer in Ronald Reagan's Justice Department and White House, and served as principal deputy solicitor general under Kenneth W. Starr in the George H.W. Bush administration. A decade of private practice earned him the status of one of Washington's most accomplished appellate lawyers before the president put him on the appeals court in 2003.

Documents released from his government service in the past few weeks revealed Roberts to be a strong conservative with a sharp pen opposed to many affirmative action programs, open to more religion in public arenas and deeply skeptical of what he called the "so-called right to privacy" that undergirds abortion and other rights established by the Supreme Court.

As the Senate digests that record in coming weeks, Bush will turn his attention to his second nomination, although advisers believe he is likely to wait to make an announcement until after the final Roberts confirmation vote to avoid complicating that process and to allow him to publicly focus on disaster relief in the Gulf Coast.

Conservative allies will press the White House to pick another Roberts. "He's a perfect fulfillment of the president's promise," said Wendy E. Long, chief counsel to the Judicial Confirmation Network, a group dedicated to promoting judges who will strictly interpret the Constitution. "There's great happiness with him. If there were another Judge Roberts out there, or the closest thing, I think that would be perfect."

In this view, appeals judges such as J. Michael Luttig, Edith Hollan Jones, Priscilla R. Owen and Emilio M. Garza would be leading contenders. Appellate judge Edith Brown Clement, who fled her home in New Orleans because of Katrina, was a finalist when Roberts was chosen and, although not considered for chief justice, she could again be on the list for associate justice. So, too, could Judge J. Harvie Wilkinson III, who was interviewed by Bush in July, although at 60 he may be older than the president would like to ensure a long tenure.

The most prominent candidate on Bush's list is Attorney General Alberto R. Gonzales, his Texas friend who would be the first nation's Hispanic justice, but conservatives vocally oppose him out of fear that he is a closet moderate.

Sen. John Cornyn (R-Tex.), a Bush ally, said yesterday that the president will probably name a woman or a minority to replace the nation's first female justice and offered a vigorous defense of Gonzales. "He would be a very good nominee and one that I would be happy to support," Cornyn said. "I've read about these concerns from some conservatives, and I really wonder where they are getting some of these strange ideas."

Democrats Seek Increased Scrutiny Of Roberts (REU-Y2)

By Thomas Ferraro

DOJ_NMG_0002751

Reuters, September 6, 2005

Key Democrats called for greater scrutiny of John Roberts on Monday after President George W. Bush nominated him to head the U.S. Supreme Court rather than be an associate justice.

Their call was seconded by liberal groups, which have voiced concerns about Roberts' record on civil and women's rights in an uphill bid to deny the 50-year-old conservative a seat on the high court.

But Senate Majority Leader Bill Frist, a Tennessee Republican, hailed Bush's decision and predicted Roberts would win Senate confirmation as chief justice of the Supreme Court before the court begins its new term on October 3.

"This nomination certainly raises the stakes," said Sen. Charles Schumer (news, bio, voting record), a New York Democrat and a member of the Judiciary Committee that will hold confirmation hearings.

Sen. Edward Kennedy (news, bio, voting record), a Massachusetts Democrat, said, "Before the Senate acts on John Roberts' new nomination, we should know even more about his record, and we should know whom the president intends to propose to nominate as a replacement for Sandra Day O'Connor."

Bush nominated Roberts, a federal appeals court judge the past two years, to replace Chief Justice William Rehnquist, who died on Saturday after a long bout with cancer.

In doing so, Bush recast the nomination he made of Roberts in July to replace retiring Justice Sandra Day O'Connor.

O'Connor, a moderate conservative, often cast the decisive vote on the nine-member court. Rehnquist was one of the most powerful and conservative jurists in U.S. history.

Roberts' confirmation hearing was to begin on Tuesday. But in wake of Rehnquist's death, Bush's new nomination of Roberts as chief justice and Hurricane Katrina, Senate leaders agreed to postpone the proceeding briefly.

Senate leaders arranged to announce on Tuesday a new date.

A congressional aide said the hearing would start next Monday.

Preparing for the hearing, Schumer said, "We hope the White House will reconsider its refusal to release relevant and important documents that will shed light on what kind of Chief Justice Judge Roberts would become."

DOCUMENTS DEBATE

Thousands of pages of documents have been released in recent weeks stemming from Roberts' work as an attorney in the Reagan administration two decades ago.

But the White House has refused to make public records related to his work as deputy solicitor general in the administration of the first President George Bush.

Roberts, who has received the American Bar Association's highest rating, appears to enjoy broad support in the Senate, which Republicans control, holding 55 of 100 seats.

No Senate Democrat has come out against him, while others have spoken glowingly of the nominee. Some say they want to see him closely questioned before making a decision.

Debra Ness of the National Partnership for Women & Families, which opposed the nomination of Roberts as an associate justice, denounced the bid to make him chief justice.

"Judge Roberts stood out, even in the Reagan administration, for his ultra-conservative views and his disdain for measures that would protect rights of critical importance to women and people of color," Ness said.

Senators Differ On Pace Of Hearing (USAT)

By Kathy Kiely

USA Today, September 6, 2005

WASHINGTON — Senate Republicans and at least one key Democrat said Monday that John Roberts appears headed for confirmation this month as the youngest chief justice in more than two centuries.

But some liberal Democrats are arguing for a delay to let senators and the public better assess the impact that filling two vacancies will have on the nation's highest court. Sen. Edward Kennedy, D-Mass., said the Senate should postpone a decision on whether Roberts replaces the late Chief Justice William Rehnquist until President Bush announces how he plans to fill the other court vacancy.

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"We should know whom the president intends to propose to nominate as a replacement for Sandra Day O'Connor," Kennedy said, referring to the retiring Supreme Court justice Roberts originally was tapped to succeed.

Rehnquist's death on Saturday — and Bush's decision Monday to make Roberts, 50, his replacement — set off a tug of war over the timing of confirmation hearings, demonstrating that tensions over the court's makeup are close to the surface in the Senate and could erupt into a political firefight.

Sen. Patrick Leahy of Vermont, the Judiciary Committee's top Democrat, told MSNBC the hearings would begin Monday. However, Senate Majority Leader Bill Frist, R-Tenn., who sets the Senate's schedule, would only say that they would begin within a week.

Liberal Democrats argued for more time, but some conservative Republicans are pushing for an early start. "It is now more critical than ever for the Senate to move quickly," Sen. Tom Coburn, R-Okla., said.

Frist plans a full Senate vote on Roberts during the last week of the month so the jurist would be in place when the court begins its 2005-2006 term Oct. 3. Minority Leader Harry Reid of Nevada agreed. "We should move forward," he said, but he'd wait to talk to fellow Democrats about timing.

Even before Rehnquist's death, Roberts was getting favorable reviews from senators, including centrist Democrats such as Joe Lieberman of Connecticut and Ben Nelson of Nebraska.

On Monday, Nelson said Bush "has taken the path of least resistance" in nominating Roberts to replace Rehnquist. Nelson said he doesn't want to commit his vote but said, "I can't imagine there will be anything that comes out that causes me not to vote for him."

Nelson and Lieberman are members of the "Gang of 14," a bipartisan group of senators that stopped a near-political meltdown in the Senate over judges earlier this year. The group brokered a deal that could have a major impact on Bush's pick for the second Supreme Court vacancy.

Frist and other conservatives wanted to eliminate Democrats' ability to filibuster, or block, a nominee by refusing to end debate. Some veteran Senate Republicans such as John Warner of Virginia opposed that, arguing that it would give up an important check on White House power.

The "gang" agreed to preserve the minority's right to filibuster, so long as it is used only in "extraordinary circumstances."

Senators now believe a battle could be joined over O'Connor's replacement. Unlike Rehnquist, a reliable conservative, "she's a swing vote," Sen. John Cornyn, R-Texas., said. Cornyn, who is close to the White House, believes the president's choice will be dictated less by ideology than other political considerations.

"I would expect to see either a woman or a minority nominated," he said.

Hill Calls On Heavyweight Advisers In Supreme Court Battle (WT)

By Charles Hurt

The Washington Times, September 6, 2005

When Sen. Edward M. Kennedy, one of the key Democrats on the Senate Judiciary Committee, faced a re-election fight against an unknown businessman in 1994, he turned to a highly trusted private lawyer to dig up dirt on his opponent.

Now, James Flug has rejoined Mr. Kennedy's staff and will advise him during the Supreme Court confirmation hearings for Judge John G. Roberts Jr.

"Jim Flug is the 8,000-pound gorilla who will be driving this thing," said Makan Delrahim, former Judiciary Committee staff director for Sen. Orrin G. Hatch, Utah Republican.

He is "very personable, experienced and weathered in nominations fights," added Mr. Delrahim. "He knows how to build coalitions, how to ask the probing questions and he knows how to staff somebody like Ted Kennedy."

Conservatives have noted Mr. Flug's role.

"It is hard to fathom Mr. Flug coming back to Capitol Hill after 30 years of private practice for anything other than a bitterly tough confirmation fight," Ed Meese of the Heritage Foundation, Leonard Leo of the Federalist Society and Jay Sekulow of the American Center for Law and Justice warned in a joint statement.

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Mr. Flug, who did not respond to e-mail, worked for Mr. Kennedy during the defeat of Nixon Supreme Court nominees Clement Haynesworth and G. Harold Carswell. After leaving Mr. Kennedy's staff for private practice, Mr. Flug rejoined the Kennedy staff two years ago.

But his involvement in Mr. Kennedy's 1994 campaign against Mitt Romney, who is now state governor, caused a stir when the Boston Globe revealed that the campaign had paid Mr. Flug to hire the Investigative Group Inc., the firm run by former Watergate investigator Terry Lenzner, to dig through Mr. Romney's background.

Mr. Flug isn't the only operative brought back for Supreme Court vacancy fights. Michael O'Neill, former nominations counsel to Mr. Hatch, was hired earlier this year to be chief counsel to Judiciary Committee Chairman Arlen Specter of Pennsylvania.

A professor at George Mason University, Mr. O'Neill clerked for Supreme Court Justice Clarence Thomas and served on the U.S. Sentencing Commission from 1999 to 2005. Many Republican judiciary staffers believe Mr. Specter hired Mr. O'Neill to help assuage conservatives that he was committed to ensuring confirmation of President Bush's judicial nominees.

Mr. O'Neill's Democrat counterpart on the committee is Bruce Cohen, chief counsel for Sen. Patrick J. Leahy, Vermont Democrat and ranking minority member of the committee. Mr. Cohen, who joined Mr. Leahy's staff in 1993, was hired by Mr. Specter to be his counsel on the Judiciary Committee in 1981.

One of the most energetic staffers behind the scenes of the confirmation fight will be Don Stewart, the relentless spokesman for Sen. John Cornyn, Texas Republican. Mr. Stewart, a former intelligence analyst in the Army, joined Mr. Cornyn after he was first elected in 2002.

Last week, the Hill publication National Journal predicted that Mr. Cornyn would be one of Judge Roberts' "most staunch and resolute" defenders.

"Cornyn, a savvy freshman who is closely allied with the White House, will vie for the mantle of the quickest, most relentless defender of the nominee," Kirk Victor wrote. "Cornyn's aggressive press shop has established a rapid-response role in which it immediately challenges every charge leveled by Democratic critics against the nominee."

As Mr. Cornyn likes to say: "A charge unrebutted is too often a charge believed."

New Kid On Top (WP)

By Mark Leibovich

The Washington Post, September 6, 2005

Nice summer for John Roberts's career.

He goes from being a relative unknown to being The Man to being, as of yesterday morning, THE MAN -- all in a few weeks.

If Roberts, 50, is confirmed before the next session, he would be the youngest chief justice since John Marshall, who was 45 when he was sworn in 204 years ago. Fifty is Young Turk territory among Supreme Court justices, if not for the rest of us. Among chief justices, 50 is a Turk in diapers.

Roberts would assume the top position in the third branch of the federal government. He would swear in the successor to the president who just nominated him. And he would succeed the chief justice -- William Rehnquist, who died Saturday at 80-- for whom Roberts himself clerked. From Day One, he would occupy the largest seat on the Supreme Court -- the chief's seat is physically bigger than the others -- and serve with justices who began their legal careers when he was still in a highchair.

It all fixes Roberts as a seminal figure in the annals of whiz kids.

He is Doogie Howser, Rudolph taking over as lead reindeer (and getting a whole song written about him) and the youngest Osmonds -- Donny and Marie -- taking over the family act. He is Dan Quayle with spell check, leapfrogging the GOP older guard to become, overnight, the 41-year-old vice president. He is Michael Corleone in the "The Godfather: Part II," unbothered by need to rise patiently through the ranks.

Okay, so maybe it's a stretch to compare Justice Antonin Scalia to the character played by Dennis Quaid in the 2004 film "In Good Company," whose new whiz-kid boss -- played by Topher Grace -- is considerably younger and less experienced than

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he (and who also happens to be sleeping with his daughter). But it's worth asking: What happens when three organizational prototypes -- New Kid, Whiz Kid and Top Dog -- all combine at the same time, in the same person?

If confirmed, Roberts will find out.

"It's going to take a great deal of emotional intelligence on John Roberts's part, which I'm confident he has," says Michael Maccoby, a Washington psychoanalyst and anthropologist who has studied the psychology of leadership in business and government. Maccoby distinguishes Roberts from an array of young leaders -- such as Robert McNamara, who took over as president of Ford Motor Co. at 44, and McGeorge Bundy, who became dean of the faculty of arts and sciences at Harvard at 34 -- whom he describes as "radicals," or "narcissistic leaders." Such types tend to be arrogant and show disregard for traditional protocol.

The Supreme Court is hardly a Silicon Valley start-up with a freewheeling sensibility suited to young leaders and radical thinkers. For starters, there is no board of directors that can fire Roberts. "The Senate is John Roberts's board of directors," says Erik Brynjolsson, a professor at MIT's Sloan School of Management. And if he gets past the Senate, Brynjolsson says, "there's nobody who can boot him off the island if they don't like his work."

The lifetime appointment changes a central dynamic of whiz-kid leadership. What's more, the Supreme Court is an institution rich in tradition, grounded in precedent -- and whose customs Roberts understands. "It will certainly help Roberts that he knows the court and that he clerked there," says Rick Garnett, a law professor at the University of Norte Dame who, like Roberts, clerked for Rehnquist.

Unlike an institution such as Congress, the Supreme Court places less emphasis on seniority, Garnett says. There also tends to be less personal jealousy and ego: "These people don't have to stand for election," he says, so there is less emphasis on taking credit and getting out front on matters.

"Maybe I'm an idealist," Garnett adds, "but there is a certain sense that these justices are in this honored profession. It seems like they're doing something loftier than, say, highway appropriations."

Roberts May Replace Mentor As Chief Justice (REU-Y2)

By Jim Vicini

Reuters, September 6, 2005

John Roberts had hoped to soon join Chief Justice William Rehnquist on the U.S. Supreme Court. Now Roberts may succeed the late legal giant, who was one of his earliest conservative mentors.

A generation ago, Roberts served as a young law clerk to Rehnquist, helping the then associate justice research and write court opinions.

On Monday, President George W. Bush nominated Roberts, a federal appeals court judge for the past two years who has also worked in two Republican administrations, to replace Rehnquist, who died on Saturday after a long bout with cancer.

"I am honored and humbled by the confidence that the president has shown in me," Roberts said as he stood beside Bush in the Oval Office.

"And I'm very much aware that if I am confirmed, I would succeed a man I deeply respect and admire, a man who has been very kind to me for 25 years," Roberts said.

The development came as the Senate prepared to open hearings on Bush's earlier nomination in July of Roberts to succeed retiring Justice Sandra Day O'Connor, a moderate conservative who often cast the decisive vote on the closely divided nine-member court.

Rehnquist's death gave Bush a historic opportunity to reshape the court, which interprets the U.S. Constitution and decides major legal questions such as abortion.

Bush changed the nomination so Roberts, if confirmed by the Senate, would replace Rehnquist, one of the most powerful and conservative jurists in U.S. history during a more than 30-year career on the Supreme Court.

At 50, Roberts would be the youngest chief justice in more than 200 years since John Marshall was appointed in 1801 at the age of 45.

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As the 17th chief justice, he could end up holding the lifetime seat for decades and help shape the court and the American way of life on matters from civil rights to voting rights to women's rights.

Bush's selection of Roberts came after weeks of tough scrutiny that found public support for the nominee and no major obstacles despite the concerns of a number of liberal groups.

Roberts' record will be closely examined by Democrats on the Senate Judiciary Committee, who have vowed to question him during his confirmation hearing about his judicial philosophy and whether he supports abortion rights and civil rights.

During Reagan's presidency, Roberts worked as a special assistant to Attorney General William French Smith at the Justice Department in 1981-1982, and then in the White House counsel's office.

PAPER TRAIL

Recently released memos showed that Roberts embraced the conservative Reagan administration's efforts to limit judicial power and opposed a proposed equal rights amendment for women and civil rights remedies such as busing school children.

As a Justice Department aide, Roberts advised O'Connor at her own confirmation hearings in 1981 to avoid specific answers about legal issues likely to come before the court, a tactic he is expected to use to avoid creating any controversy.

Bush first nominated Roberts for the U.S. Circuit Court of Appeals for the District of Columbia. The Senate confirmed Roberts in a voice vote on May 8, 2003.

While on the bench, Roberts has been involved in several important rulings.

He was part of the three-judge panel that handed the Bush administration a critical victory by ruling that the military tribunals for terrorism suspects at Guantanamo Bay, Cuba, could proceed.

The ruling was announced on July 15, the same day that Roberts later disclosed he had been interviewed by Bush about the Supreme Court vacancy.

Some senators plan to question Roberts about whether he had a potential conflict of interest and should have removed himself from the closely watched terrorism case which is now pending before the Supreme Court.

Roberts argued before the Supreme Court as the principal deputy solicitor general from 1989 to 1993, during the presidency of Bush's father.

In 1990, Roberts signed a brief that stated the first Bush administration's belief that the Supreme Court's historic 1973 decision that legalized abortion should be overturned. But at his 2003 confirmation hearings, Roberts described the 1973 decision as "settled law."

Born in Buffalo, New York, in 1955, Roberts was raised in Indiana. He received his undergraduate degree from Harvard in 1976 and then graduated from Harvard Law School in 1979.

Roberts lives in Chevy Chase, Maryland, with his wife, Jane Sullivan Roberts, and with their two adopted children. The couple has a net worth of more than $5 million, Roberts said.

Chief Justice Rehnquist Dies At 80 (LAW)

By Tony Mauro, Legal Times

Law.com, September 5, 2005

The death of Chief Justice William Rehnquist late on Saturday ends his historic 33-year career on the Supreme Court and presents President George W. Bush with a rare challenge to fill a new vacancy just as John Roberts Jr., his nominee to Sandra Day O'Connor's seat on the Court, was about to face Senate hearings.

Bush answered part of that challenge swiftly, nominating Roberts on Monday to replace Rehnquist as chief justice. In an early morning announcement from the Oval Office, the president said he hoped the Senate would confirm Roberts before the Court sits for its next term Oct. 3.

The Senate is expected to begin Roberts' confirmation hearings as chief justice either Thursday or next Monday. The opening of his previously scheduled confirmation hearings, for the position of associate justice, initially was to be Tuesday, but that was canceled until after Rehnquist's funeral on Wednesday.

Roberts himself was a former Rehnquist clerk who would have been the first former law clerk to serve as a justice alongside the justice for whom he worked. Now Roberts could replace him if he is confirmed as the nation's 17th chief justice.

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Rehnquist, 80, died at his home in Arlington, Va. after a 10-month battle with thyroid cancer. He was the first justice to die in office since Robert Jackson in 1954. He had squelched rumors of his retirement in July, promising to stay on the Court as long "as long as my health permits...." But Court spokeswoman Kathy Arberg said his health took "a precipitous decline" in recent days, and his three children were with him when he died.

President Bush in a statement on Sunday said Rehnquist's death was "a tremendous loss for our nation" and indicated he would move quickly to name a replacement. Immediately, the speculation that followed O'Connor's retirement announcement on July 1 resumed. Court historian David Garrow, now at Cambridge University, said Attorney General Alberto Gonzales was "the presumptive favorite" to replace Rehnquist, but other commentators offered a range of scenarios, including the elevation of Justice Antonin Scalia, renominating Roberts as chief justice, and even O'Connor postponing her departure. In a statement Sunday, Gonzales said Rehnquist "will surely be remembered as one of our Nation's greatest Chief Justices, and his leadership, courage and humility will be missed."

Rehnquist's colleagues issued statements Sunday lamenting his passing. Justice John Paul Stevens, who will preside over the Court as senior justice until Rehnquist is replaced, said, "William Rehnquist's independent, impartial, and dedicated leadership of the Supreme Court has been an inspiration to those of us privileged to serve with him--and to the entire Nation as well."

Rehnquist had a remarkable Supreme Court career, morphing from "lone ranger" status as an associate justice into the influential leader of a conservative Court that nonetheless preserved affirmative action and abortion rights and furthered gay and women's rights.

As chief justice and titular head of the federal judiciary since 1986, Rehnquist gently nudged the nation's highest court into the 21st century, complete with a user-friendly web site that made opinions available online, and quick release of oral argument audiotapes in landmark cases. He drew the line, however, at allowing camera coverage of Court proceedings.

With a manner that was alternately genial, shy and stern, Rehnquist won admirers from all parts of the political spectrum. Republicans praised him for his fealty to a conservative jurisprudence while liberals generally found him to be an affable jurist who ran the Court collegially and well, seemingly unperturbed by his failure to steer the Court sharply to the right. "A great chief justice," the late liberal lion Thurgood Marshall once said of Rehnquist.

Though Rehnquist found conservative camaraderie in Justices Antonin Scalia and Clarence Thomas, his potentially conservative juggernaut was kept in check by other Republican appointees O'Connor and David Souter, and, to a lesser extent, Anthony Kennedy. One of only two dissenters in the 1973 case Roe v. Wade, Rehnquist failed to undo abortion rights when O'Connor, Kennedy and Souter joined to preserve abortion rights when it was at its most vulnerable in the 1992 case Planned Parenthood v. Casey. Even Rehnquist's vaunted federalist push to give states greater protection from federal intrusion has seemed to lose steam in the last two terms. Just this June, Rehnquist found himself in the minority in a 6-3 decision that said federal anti-drug laws trumped a state initiative that legalized the medical use of marijuana.

"It is quite clear that there are three dominant chief justices of American history, and they are John Marshall, Earl Warren, and William H. Rehnquist," said O'Melveny & Myers partner Walter Dellinger III, acting solicitor general under President Bill Clinton. "I think that there's just no question that he's of enormous historical importance."

University of Texas Law School professor Douglas Laycock said, "He started as the young radical, the most extreme of the four Nixon appointees. He finishes not too far from the center, voting with O'Connor and Kennedy slightly more often than he votes with Scalia and Thomas."

Rehnquist was born in Milwaukee and served as a meteorologist in the Army Air Corps during World War II. He graduated from Stanford University and Stanford Law School, with a graduate degree from Harvard University in between. At Stanford, he finished first in his law school class just ahead of his future colleague O'Connor.

The Supreme Court dominated much of Rehnquist's post-law school life. In his 1987 book on the Court, Rehnquist recalled the day in 1952 when he first laid eyes on the "magnificent Greek temple of white marble" as a new law clerk to then-Justice Robert Jackson. In a memo he wrote for Jackson that later haunted his reputation, Rehnquist said in the context of the pending Brown v. Board of Education case that the discredited precedent Plessy v. Ferguson was right and should be re-affirmed. Rehnquist said in his confirmation hearings for associate and chief justice that the memo did not reflect his own views.

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Rehnquist went into private practice in Phoenix and cemented his conservative credentials by working in Barry Goldwater's presidential campaign. He came back to Washington in 1969 to head the Justice Department's Office of Legal Counsel and soon became involved in judicial selection at a time when several vacancies hit the Court. At first President Richard Nixon was not impressed by Rehnquist, who wore his sideburns long, and sported a pink shirt, psychedelic tie and hush puppie shoes at their first meeting. Nixon told an aide that "Renchburg" looked like a clown. As then-White House counsel John Dean wrote in a 2002 book, "All in all, an inauspicious introduction for a future Supreme Court nominee."

Rehnquist himself jokingly discounted his chances of being nominated to the high court, because "I'm not from the South, I'm not a woman, and I'm not mediocre." But as Nixon considered and discarded various candidates, Rehnquist suddenly emerged, along with Lewis Powell Jr., as candidates to fill the seats of John Harlan II and Hugo Black, respectively.

Because of the Jackson memo and allegations that he had harassed black voters as a poll watcher in Phoenix, Rehnquist's confirmation was controversial, and he won by a 68 to 26 Senate vote.

Once on the Court, Rehnquist became the hero of a growing conservative legal movement that valued "strict construction" of the Constitution and a "non-activist" approach to judging that looked askance at expansions of federal power. In a 1985 dissent in Garcia v. San Antonio Metropolitan Transit Authority, Rehnquist objected to the 5-4 majority's grant of broad federal power over state sovereignty. But his dissent was brief. "I do not think it is incumbent on those of us in dissent to spell out further the fine points of a principle that will, I am confident, in time again command the support of the majority of the court." A decade later, he was proven right.

In a series of rulings, Rehnquist led the Court in reining in congressional power under the Commerce Clause and strengthening state sovereignty in disputes with the federal government.

"He has effected a sea-change in American constitutional jurisprudence," said Pepperdine University law professor Douglas Kmiec, a former Reagan Justice Department official. "His sophisticated revival of federalism, in particular, renews that which makes democracy work -- not in theory, but on the ground. It gives divergent voices a chance to be heard and prevail, not in one venue, but in 50. Had the Court heeded his wisdom more thoroughly, there would be less nonsense about red and blue division and far less cultural warfare."

Other scholars wonder whether Rehnquist's federalism trend will persist after his departure. "In the short run, the 'federalism revolution' of the 1990s is undeniably his most significant substantive achievement," said Cambridge University's Garrow. "But whether these rulings will survive in the long run, or instead be reversed, remains to be seen. It's much more likely that the Rehnquist Court's surprisingly liberal rulings -- on abortion, on gay rights, on gender -- will actually represent the most indelible legacy."

Rehnquist's followers began populating the Reagan Justice Department (one being the young John Roberts), and he became a favored choice to replace retiring Chief Justice Warren Burger in 1986. Again, many Democrats balked at Rehnquist's nomination, and he was confirmed by a 65-33 vote.

As chief justice, his judicial views did not change appreciably, but joined by fellow conservatives he was in dissent less often, and seemed more interested in reaching broader common ground.

Hemmed in by liberal precedents, however, he sometimes was unable to advance conservative precepts in his decision-making. Those constraints became obvious in 2000 when, in Dickerson v. United States, Rehnquist wrote the majority opinion upholding the classic pro-defendant ruling Miranda v. Arizona -- a 1966 precedent Rehnquist had often criticized previously. "Whether or not we would agree with Miranda's reasoning and its resulting rule, were we addressing the issue in the first instance, the principles of stare decisis weigh heavily against overruling it now," Rehnquist wrote. "Miranda has become embedded in routine police practice to the point where the warnings have become part of our national culture."

As administrator of the Court, Rehnquist was able to preserve the Court's traditions and penchant for secrecy, while at the same time keeping up with modern technology. In 2000, the Court launched a Web site that makes it easy to track cases. And starting with the Florida presidential election cases in 2000, Rehnquist agreed from time to time to allow immediate release of audiotapes of newsworthy oral arguments. As a result, for the first time the public outside the courtroom was able to hear the Court's debates over current cases involving issues ranging from affirmative action to campaign finance reform to enemy combatants.

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The audiotape release seemed to mute, at least temporarily, the chorus of requests that the Court allow television cameras in. On the subject of cameras, Rehnquist was less adamantly opposed than his predecessor Warren Burger, but he still felt camera access might debase the Court's image. Soon after he became chief justice, Rehnquist said, "I hope we don't get to the time where the members of our court are trying to get on the six o'clock news every night, and I think if they did, it would lessen to a certain extent the mystique and moral authority" of the Court.

But Rehnquist's disapproval of the idea did not keep members of the press from trying to get cameras in. In 1990, with his blessing, the Judicial Conference approved an experiment with camera access for civil trials in selected lower courts. The experiment worked, by and large, with few if any negative findings. But in 1994, the conference declined to make access permanent - partly, it appeared, because of the media frenzy at the time over pretrial hearings in O.J. Simpson's murder trial.

Within the Supreme Court, Rehnquist also seemed open to at least testing the idea of cameras. In 1988, he allowed media lawyer Timothy Dyk -now a judge on the U.S. Court of Appeals for the Federal Circuit - to put on a private demonstration of how cameras worked. The demonstration went off without glitches, but none of the justices felt any strong incentive to alter the status quo.

C-SPAN vice president Bruce Collins said that in comparison to the visibility of the other branches of government, the Rehnquist court's resistance looks "just a bit silly." But he credited Rehnquist with being "the first to open the door" to modern media. "Our hope is that his successor builds on his example."

Rehnquist had a sense of humor and not too high a sense of his own importance. He was shy, even awkward at times, though as his tenure as chief justice lengthened, he became increasingly self-confident.

"He is not a Citronelle kind of guy," said longtime friend and fellow poker player Robert Bennett, partner at Skadden, Arps, Slate, Meagher & Flom in D.C.. referring to a fancy D.C. restaurant. "He never let power go to his head."

"William H. Rehnquist is by nature quiet and humble," said Pepperdine's Kmiec. "His legacy is that he has shown us how to disagree with civility."

In private conversation when he told funny stories, he would sometimes start giggling before he finished his sentence. The Blackmun papers released last year included a bawdy limerick Rehnquist passed to his then-all male colleagues in 1975. In 1995, acting purely on his own whimsy, he began wearing a black robe with four gold stripes on each sleeve. The inspiration for the new attire, he said, was a costume he saw at a local performance of Gilbert & Sullivan's Iolanthe.

Rehnquist came in for some ribbing from his colleagues because of the stripes. The late Justice Harry Blackmun said he and his colleagues asked Rehnquist, "Was he wanting to bring back the crimson in the robes as the British had? What were the rest of us to do about it? Did this make him a sergeant or a captain? He was defensive about it, but not in an offensive way."

Rehnquist, like other justices, basked in anonymity. For his daily constitutional that helped alleviate his back problems, he was able to walk around the perimeter of the Court grounds largely unrecognized, though he was usually shadowed by a Court police officer or two. In a 2004 interview with C-SPAN, he said one of the most appealing aspects of being a Supreme Court justice is that "you don't have to become a celebrity or raise your visibility in order to do your job."

Every four years he emerged from anonymity to conduct presidential inaugural ceremonies -- George W. Bush's on Jan. 20 was his fifth -- and he became even more familiar to the public when he presided over President Clinton's Senate impeachment trial in 1999. On occasion during the trial, television camera crews would camp out near his Arlington home to record his comings and goings--a loss of privacy he did not appreciate.

Rehnquist won high marks for conducting the impeachment trial fairly, but characteristically he made light of his role. In a 2001 interview with PBS, Rehnquist borrowed a line from Gilbert & Sullivan -again from Iolanthe to say of his impeachment trial performance, "I did nothing in particular and I did it very well." He continued, "There wasn't much to do. I realized there wasn't much to do. And I didn't do it."

Rehnquist will also be remembered for presiding over a Supreme Court that decided the outcome of a presidential election. He was in the majority of Bush v. Gore, the 2000 decision that stopped the recount of Florida ballots and sealed the election of President Bush over Democrat Al Gore. The Court's intervention in the case placed it in the center of a political firestorm.

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From the bench, Rehnquist could be a stern and forbidding presence. Though he mellowed in recent years, earlier in his tenure as chief justice, Rehnquist would correct lawyers' pronunciation, scold lawyers for glancing at the clock behind the bench, and grow impatient with flabby locutions. In 1993, when then-solicitor general Kenneth Starr said he wanted to "share the record" with the justices, Rehnquist shot back, "Why not tell us the record, rather than sharing it with us."

He also for a time snapped at lawyers who addressed him as "Justice" or "Judge," rather than chief justice. After his pique generated news stories, Rehnquist poked fun at himself; at one meeting he donned a feathered Indian headdress to underline his chiefly status.

But Rehnquist also was keenly aware of the limitations of being chief justice--just one vote among nine, with few powers of persuasion over his independent-minded colleagues. He was usually unable to slow the torrent of questions aimed by justices at the lawyers arguing before them, and spoke enviously of a long-ago Canadian counterpart who was able to quiet his colleagues by tapping his pencil on the bench. "I have occasionally wished that I had similar authority in our court," he said in a 1996 speech.

But after the late Warren Burger's more imperious rule, Rehnquist's lighter touch was welcomed by justices and employees alike.

"Politically or ideologically oriented evaluations of Chief Justice Rehnquist should not overlook what a successful and popular chief justice he was within the Court as the justices' presiding officer," said Garrow. "The contrast between Rehnquist's undeniably happy Court and that of his predecessor, Warren E. Burger, could not have been greater."

In commencement speeches and talks with young people, Rehnquist urged listeners to live well-rounded lives and not measure success entirely by their work. "Find ways to enrich your life, entertain yourself, and to enjoy activities you might not have participated in before," he told a 1992 high school graduating class in Arlington, where he lived in his Court years. "Enjoyment of this sort is not contingent upon fulfilling some far distant career goal, but can be harvested right now - today and tomorrow... Learn to live a day at a time."

Rehnquist's own interests ranged from oil painting to tennis to poker. For years he participated in a monthly poker game attended, on and off, by the likes of current appeals court judge David Sentelle, former judge Robert Bork, senior judge Laurence Silberman and bigfoot lawyers like Bennett and Leonard Garment. The unspoken rule was that when lawyers were about to bring a case before the Supreme Court, they would drop out of the poker game temporarily, to avoid improper appearances.

Characteristically, Rehnquist said he would never write a memoir, because publishers would want him to spice it up with criticisms of his colleagues - which he refused to do. He invoked Confederate leader Robert E. Lee, who said he did not want to write his memoirs "because he would have to deal unfavorably with a lot of people whom he likes and he was close to," he told PBS in 2001. "I just don't want to do that."

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Associated Press reports contributed to this story.

A Court Choice Well Schooled In Chief Justice Job's Pitfalls (NYT)

By Linda Greenhouse

The New York Times, September 6, 2005

WASHINGTON, Sept. 5 - As a Supreme Court law clerk to William H. Rehnquist decades ago, John G. Roberts Jr. learned how not to be chief justice.

Now that President Bush has chosen him for the position, he will, if the Senate confirms him, have the rare chance to put those lessons into practice.

His boss back in 1980-81 was an associate justice, one who often chafed under the leadership style of Chief Justice Warren E. Burger and who freed, even encouraged, his law clerks to poke fun at what they saw as the chief justice's pomposity and penchant for self-aggrandizement.

Robert M. Weisberg, who clerked during the same term for another justice, said Monday that he would never forget walking down a corridor at the court and coming upon Justice Rehnquist and his law clerks, who were all peering through a window into an inner courtyard, where Chief Justice Burger was supervising preparations for a reception.

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"It was very funny to see Rehnquist and his clerks just spontaneously cracking up at the sight of the chief justice directing the proper placement of the silver," Mr. Weisberg said.

Later, when Mr. Roberts was working in the White House counsel's office, memorandums from that period show, he devoted considerable attention to knocking down various proposals from Chief Justice Burger, including one for a new tribunal to ease the Supreme Court's workload.

In a 1983 memorandum, to Fred F. Fielding, the White House counsel, he said a Burger request for authority to name an administrative "chancellor" for the federal courts was "the silliest" of various proposals and added, in a reference to the Anglophilia for which the chief justice was well known around the court, "The bill does not specify whether the Chancellor will wear a powdered wig."

Justice Rehnquist, upon becoming chief justice in 1986, promptly made changes that clearly reflected his own disapproval of how Warren Burger had run the court. For example, he converted the job of administrative assistant to the chief justice into a two-year appointment rather than a permanent position, to avoid the empire-building that had become evident during the Burger years.

The very different Rehnquist management style, straightforward and unadorned, was much appreciated within the court, as reflected in the statements the associate justices issued after Chief Justice Rehnquist's death on Saturday night. Justice Ruth Bader Ginsburg called him "the fairest, most efficient boss I have ever had."

As a law clerk, Judge Roberts, who now sits on the federal appeals court here, would not have been in a position to observe the justices' conference, the twice-weekly closed-door sessions that only the justices themselves attend. But he certainly knew how frustrating Justice Rehnquist found the meandering and confusing way in which the conference proceeded under Chief Justice Burger's leadership.

Among the papers that Justice Harry A. Blackmun left to the Library of Congress is a letter Justice Rehnquist sent to Chief Justice Burger that began: "Dear Chief: I had a feeling that at the very close of today's Conference we may have fitted Matthew Arnold's closing lines in 'Dover Beach' wherein he refers to those 'Swept with confused alarms of struggle and flight/Where ignorant armies clash by night.' "

Justice Rehnquist then went on to "take the liberty of stating my understanding" of what had taken place. When he became chief justice, he streamlined the conference considerably, and justices rarely came away with any doubt about what had occurred.

Running the conference is only one of a chief justice's many functions that are not visible to the public. Indeed, the job is somewhat like an iceberg, with much of it below the surface. And it is confusing: there is no one place to look for a definitive description of the job.

The modern chief justiceship is "a mix of custom, practice and statute," according to Judith Resnik, a professor at Yale Law School who has made a close study of the federal judiciary and the role of the chief justice in particular. In an interview on Monday, Professor Resnik noted that there were dozens of federal statutes that mention the chief justice, with "half a dozen that really matter." The Constitution itself did not even establish the office except by implication, mentioning it only in connection with presiding over impeachment trials conducted by the Senate.

"It's basically a role that has developed over the 20th century, as the federal judiciary has developed into a kind of administrative agency," Professor Resnik said. For example, Chief Justice Burger established, and Chief Justice Rehnquist continued, the practice of issuing an annual "state of the judiciary" report to give voice to the concerns of federal judges and the chief justice's own priorities.

The chief justice presides over a corps of some 2,000 federal judges, including 1,200 with life tenure and the rest, including magistrate and bankruptcy judges, who serve for fixed terms. The judicial branch includes a staff of 30,000, with the chief justice picking the most important central administrators, and runs on an annual budget of $5.4 billion. The chief justice also picks the members of important policy-making judicial committees and of specialized courts, including the 11-member Foreign Intelligence Surveillance Act Court, which issues special national security surveillance warrants.

In addition, the chief justice leads the Judicial Conference of the United States, a group of judges who make policy for the federal courts and who present the judiciary's views to Congress. The Judicial Conference has its roots in an organization

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created by Congress in 1922 at the behest of Chief Justice William Howard Taft, the former president, who carved out an active policy role for the chief justice. He shaped the modern court by lobbying successfully for legislation to give the court discretion in choosing which cases to hear.

As a student of American history, Judge Roberts may find none of this a surprise. Nor is it a surprise that Professor Resnik and other scholars are beginning to ask whether this array of powers, having grown bit by bit over the years, with hardly anyone noticing, really belongs in the hands of a single, unelected, life-tenured official.

"As a democracy, we generally don't believe that power should be centralized in one person for so long," she said, while offering the concededly audacious suggestion that the chief justiceship might rotate every four years or so.

Perhaps that is a conversation that might move from the recesses of the legal academy to the public, sometime during the 25 or 30 years that Chief Justice Roberts would be likely to serve.

Roberts Was Influenced By Critics Of The Warren Court (WP)

By Charles Lane

The Washington Post, September 6, 2005

From his youthful days as a Reagan administration aide to his current job as a judge on the U.S. Court of Appeals for the District of Columbia Circuit, John G. Roberts Jr. has consistently espoused a clear view of federal judicial intervention: Less is more.

This same principle was held dear by the man Roberts served as a Supreme Court clerk, the late William H. Rehnquist -- whose former position as chief justice of the United States is now suddenly within Roberts's grasp.

In the quarter-century since he served as Rehnquist's aide, Roberts has made an instinctual and deeply held conservatism plain at nearly every turn. As a young Reagan administration aide, he registered his skepticism toward court-recognized "fundamental rights," such as the right to privacy. Earlier this year, Judge Roberts voted to permit President Bush to subject terrorism suspects to military trials at Guantanamo Bay.

The question -- more urgent now since Bush nominated him yesterday morning to lead the high court -- is where Roberts's vision of judicial restraint would lead him on the most volatile issues. The woman Roberts was originally tapped to replace, Justice Sandra Day O'Connor, sometimes displayed her conservatism by bowing to precedents on social issues -- notably Roe v. Wade , which established a right to abortion rooted in a right to privacy. Rehnquist labored mightily to reverse some rulings on abortion and the rights of criminal defendants that he thought were wrongly decided in the first place.

To Roberts's supporters, his history suggests he will be a careful and principled leader of the federal judiciary, one who would restore the true constitutional balance of power between the courts and the people's elected representatives in Congress, the White House and the states.

To his opponents, it suggests a willingness to leave the constitutional rights of women and minorities unprotected against violations by the more political branches of government.

What is unmistakable from Roberts's record, however, is that his essential philosophy about the role of courts in American life is strongly held. There is little prospect that the 50-year-old judge will be any less likely to press his beliefs in conference with colleagues on the court than he was to promote them in memos to his elders in the Reagan administration.

Sounding very much like the 26-year-old aide who ghostwrote articles and speeches on judicial restraint for President Ronald Reagan's Justice Department, Roberts told the Senate firmly in a written submission last month that federal judges "do not have a commission to solve society's problems, as they see them, but simply to decide cases before them according to the rule of law."The Primacy of Process

Roberts has said that defining the proper boundaries of judicial review is a "central problem" of American government. Few legal analysts of any ideological stripe would dispute that.

Throughout history, the Supreme Court has provoked controversy by using its power to declare laws unconstitutional in ways that critics saw as overstepping its authority.

President Thomas Jefferson condemned the 1803 Marbury v. Madison decision that established the doctrine of judicial review.

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The Dred Scott case of 1857 -- which declared that black people were "beings of an inferior order" and that congressional efforts to restrict slavery in northern territories were a violation of property rights -- discredited the institution for a generation. A series of rulings striking down state and federal economic regulations provoked President Franklin D. Roosevelt's "court-packing" plan, until the justices backed down and began upholding New Deal legislation.

In the 1950s and '60s, the Supreme Court looked at the country's problems and decided, time and again, that the federal judiciary should reform society and establish individual rights. Even today, long after the death of the chief justice, Earl Warren, who led the court during that period, and long after a majority of the court has been named by Republican presidents who opposed the Warren Court's innovations, the court continues to recognize such Warren-like concepts as a "fundamental right" to privacy that protects abortion and private consensual homosexual conduct.

The Warren revolution remains a model for many people of how the court must act as a guarantor of individual and minority rights. Roberts, however, was one of those who recoiled from the Warren Court's activism.

Roberts grew up in a mostly white Indiana suburb where his father's steel company was touched by federal court battles over affirmative action, and he attended Harvard College and Harvard Law School as Boston was grappling, sometimes violently, with court-ordered school desegregation.

But his gravitation to concepts of judicial restraint probably reflected the natural bent of his orderly, traditionalist mind, rather than the controversies swirling outside the academic setting in which he spent most of the 1970s.

Asked by a senator in 2003 to name the legal text that most influenced him, Roberts chose the 1973 edition of Hart & Wechsler's "The Federal Courts and the Federal System," a 1,657-page legal textbook used in Harvard's class on federal courts. It has always been "within reach of my desk" since law school, he told the Senate. And, indeed, he has often cited it in his writings since Cambridge.

Unknown to most Americans, the Hart & Wechsler volume is instantly recognizable to law professors as an exhaustive, sophisticated -- and deeply skeptical -- treatment of the Warren Court revolution.

It is considered a virtual Bible of a postwar legal movement known as the Legal Process School, especially influential at Harvard, whose leading figures were liberals and conservatives who professed concern not so much for the results the court was reaching as for the damage its overreaching might do to the judiciary's own legitimacy.

Roberts's choice of the book is "extremely revealing," said Cass Sunstein, a professor of law at the University of Chicago.

For the Legal Process School, it was a given that "judges in solving legal problems are not doing the same thing that legislators are doing in solving political problems," says Todd Rakoff, a professor of law at Harvard.

The strength of Legal Process was its insistence that courts adhere to neutral principles, that they "should not become champions of particular causes or litigants," as Dennis J. Hutchinson, a professor of law at the University of Chicago, puts it.

Yet Legal Process has lost influence in more recent years, under attack from a new generation of law professors who fault it for ignoring the political power relationships embedded in the law -- that its insistence on identifying neutral principles is unrealistic.

"The question about legal process," Rakoff says, "is 'Is it true that there are legal answers that aren't political answers?' "A Closet Activist?

That, in essence, is the critique liberals are raising about Roberts's jurisprudence today: that his insistence on a limited role for the federal courts is a cover for conservative policy preferences.

Announcing its opposition to Roberts, the Alliance for Justice said that Roberts supports "weakening women's rights and civil rights laws, cutting back the vital role of our courts in enforcing legal protections and restricting the ability of the people's democratically elected representatives to enact crucial, nationwide worker, anti-discrimination and environmental safeguards."

Court conservatives such as Rehnquist and Justices Antonin Scalia and Clarence Thomas have also espoused judicial restraint. Yet that has not prevented them from striking down many federal and state statutes, often on the basis of a states'-rights doctrine that dissenting justices on the court have criticized as too loosely based in constitutional text.

The accusation that Roberts is capable of his own brand of activism has not come exclusively from liberal advocacy groups.

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On the D.C. Circuit, he wrote an opinion for a 2 to 1 majority in which he interpreted a law to deny a former Amtrak employee the right to sue the government-subsidized railroad in federal court for allegedly spending taxpayer money on defective railroad cars.

Judge Merrick Garland wrote in dissent that Roberts's opinion "falls back on policy considerations" but "the policy on which the court relies are not those of the Congress of the United States."

But to many, Roberts's intellectual pedigree marks him as a careful "lawyer's lawyer," with a healthy recognition of the courts' -- and his own -- fallibility.

"Of all the people Bush could have nominated, this is a guy who is actually telling the truth when he says he can't decide a case until he's seen the facts and the briefs," says Jonathan Macey, a professor of law at Yale University.

St. John's University law professor John Barrett, noting that Roberts has named legal craftsmen such as Justices Felix Frankfurter and Robert Jackson as the Supreme Court members he most admires, suggests that he "may end up disappointing President Bush."

If he remains true to the legal view embodied by the Legal Process School, Barrett said, "he'll shy from agenda-driven decision making" and respect long-established precedents, even those, such as Roe v. Wade , of which he may disapprove.

"A kind of continuity of judicial decision-making is a value in the process world," Barrett said. "Moderation, deference, continuity, caution, candor -- it's not swing for the fences judging."

Another crucial influence on Roberts's judicial philosophy was Henry J. Friendly, a judge on the U.S. Court of Appeals for the 2nd Circuit in New York, for whom Roberts worked as a law clerk in 1979-1980, just after graduating from Harvard.

Friendly, a Rockefeller Republican who served on the 2nd Circuit from 1959 until his death in 1986, is widely regarded as the most talented appeals court judge of his generation. He was a longtime private-sector lawyer who wrote his own rigorous opinions, as well as many influential law review articles.

He regularly plucked top students from Harvard, where he had studied, to be his aides. Roberts, whose credentials as a prize-winning undergraduate majoring in history and managing editor of the Harvard Law Review matched Friendly's own, got his clerkship without even having to be interviewed, according to Richard J. Lazarus, Roberts's close friend.

Friendly could be a stern taskmaster. "Sometimes the clerk thought he had something interesting to say, and sometimes the judge would disagree," said Macey, also a former Friendly clerk.

Roberts loved him. His esteem is evident not only from his frequent citations of Friendly's work in his own writings, including six of his 49 opinions on the D.C. Circuit, but also from the fact that he corresponded with the judge throughout his time as a Reagan aide.

In one letter, dated Nov. 4, 1981, Roberts told Friendly that it was "an exciting time to be at the Justice Department, when so much that has been taken for granted for so long is being seriously reconsidered." He continued: "You assist us down here every day through the articles and opinions that so often light the way."

Friendly's views on many issues paralleled those of the Legal Process School, says Rakoff, a former Friendly clerk. The 1988 edition of the Hart & Wechsler book is dedicated to him.

Friendly felt that the Warren Court's 1966 Miranda v. Arizona ruling, which created the "right to remain silent," was misguided. In a famous 1970 article, Friendly attacked the Warren Court for opening up state criminal convictions to wide-ranging federal court review.

Friendly felt that a state conviction should usually be challengeable in federal court only when the prisoner also had a strong claim of innocence, rather than wasting the courts' time on technical issues raised by guilty defendants.

But the Warren Court had expanded access to the federal courts as a remedy for what it considered the widespread abuse of rights by state criminal justice systems, especially in the South.

Friendly thought state courts were just as capable of protecting federal constitutional rights as federal courts were.

On Nov. 12, 1981, Roberts offered then-Attorney General William French Smith his unsolicited critique of the Warren Court's decisions, in a memo that cited Friendly's article seven times and the Hart & Wechsler book once.

"The current availability of federal habeas corpus" -- the legal term for post-conviction constitutional challenges -- "particularly for state prisoners, goes far to making a mockery of the entire criminal justice system," he wrote.

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In April 2003, Roberts, sitting before the Senate Judiciary Committee as a nominee to the U.S. Court of Appeals for the D.C. Circuit, offered similar comments in response to a question by Sen. Russell Feingold (D-Wis.) about the death penalty -- a major source of habeas corpus petitions in federal court.

Roberts replied that "it's not certain, it's not definite, and there doesn't seem to be any reasonable time limitation. The effectiveness, if you believe in capital punishment, the effectiveness of capital punishment diminishes if the crime was committed 30 years ago. And if it takes that long to get through the system, it's not working, whether you're in favor of the death penalty or against it."

In the meantime, however, conservative critiques of federal habeas had become the law of the land. In 1996, the Republican Congress passed, and President Bill Clinton, a Democrat, signed a bill that sharply restricted access to federal habeas corpus.

Nevertheless, petitions for habeas corpus from state prisoners continue to occupy much of the court's time -- far more than higher-profile issues such as abortion and school prayer.

Chief Justice Favored Roberts (WT)

By Guy Taylor

The Washington Times, September 6, 2005

Judge John G. Roberts Jr. was long regarded as the best Supreme Court lawyer in the nation by the very man whose shoes President Bush has chosen him to fill.

Chief Justice William H. Rehnquist, who died Saturday, played a key role in shaping Judge Roberts by making him a pupil during the early 1980s and propelling his career as a lawyer and federal judge in subsequent years.

Ted Cruz, who clerked for Chief Justice Rehnquist during the mid-1990s, recalled that he and fellow clerks once asked their boss whom he considered to be the most superior Supreme Court litigator.

"He chuckled a little and said with a smile that he thought he could probably get the majority of his colleagues to agree that John Roberts was the best Supreme Court lawyer in the country," said Mr. Cruz, now solicitor general of Texas.

Chief Justice Rehnquist's fondness for Judge Roberts dated back years earlier when he had hired him as a clerk in 1980. Judge Roberts had been recommended by federal appeals Judge Henry Friendly, another esteemed conservative for whom Judge Roberts had clerked in 1979.

In the office of Associate Justice Rehnquist, the young Harvard Law School graduate evidently shined brighter than others.

When the clerkship ended in 1981, Justice Rehnquist phoned Kenneth W. Starr, then chief of staff to U.S. Attorney General William French Smith, to recommend Judge Roberts for a Justice Department job.

"It's not every day you get [such] calls," said Mr. Starr, who won fame as a conservative lawyer during the 1990s investigating the Whitewater and Monica Lewinsky scandals and is now dean of Pepperdine University's School of Law.

When Mr. Bush nominated Judge Roberts to replace outgoing Justice Sandra Day O'Connor, some suggested that it might have been more poetic had Judge Roberts been nominated to replace Chief Justice Rehnquist, because it was under the chief justice's wing that his career in Washington blossomed.

After clerking for Justice Rehnquist and working under Mr. Smith, Judge Roberts was associate counsel to President Reagan from 1982 until 1986, when he entered private practice. He served as deputy solicitor general under President George Bush from 1989 to 1993, winning 25 of 39 Supreme Court cases he argued on the government's behalf.

The elder Mr. Bush later nominated him to be a federal judge, but that nomination was withdrawn before confirmation after Mr. Clinton won the presidency in 1992.

Judge Roberts went back to private practice until President George W. Bush nominated him to be a U.S. Circuit Court of Appeals judge in 2001. That nomination and 29 others were blocked in the Senate Judiciary Committee. He was confirmed after Mr. Bush renominated him in 2003.

Observances Begin Today At High Court (WP)

By Tom Jackman

The Washington Post, September 6, 2005

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The flag-draped coffin of Chief Justice William H. Rehnquist will be carried up the long marble stairs to the Supreme Court's main entrance this morning as two days of memorial observances begin.

After a brief prayer service at the court at 10 a.m., the public may pay respects to the chief justice as his body lies in repose at the court from 10:30 a.m. to 10 p.m. today and from 10 a.m. to noon tomorrow.

Ceremonies will conclude with the chief justice's burial at Arlington National Cemetery tomorrow afternoon, which will be private. Rehnquist, 80, died of thyroid cancer Saturday at his home in Arlington.

Rehnquist's family was in meetings yesterday with officials from the Supreme Court and the Archdiocese of Washington, finalizing the arrangements for the funeral and burial. The family toured St. Matthew's Cathedral in Northwest Washington, where a service will be held at 2 p.m. tomorrow.

Officials have said the funeral is for friends and family.

Rehnquist belonged to a Lutheran church in Bethesda, but the family requested that the funeral be held at St. Matthew's. A spokeswoman for the archdiocese has said that the request apparently was based on such factors as size and availability. The service will be Lutheran, a Supreme Court spokeswoman said.

Details about speakers and expected guests at the funeral were not available yesterday.

Justice William J. Brennan Jr.'s funeral also was held at St. Matthew's, in July 1997, after his coffin lay in the Supreme Court's Great Hall.

Construction began on St. Matthew's in 1893, and the first Mass there was in 1895. Its sanctuary seats about 2,000 and contains the marble cathedra, or seat, of the archbishop of Washington. The church has undergone an $8 million restoration in recent years, including the cleaning and repair of two large mosaics inside and the recovering of its copper dome.

St. Matthew's was the site of the funeral Mass for President John F. Kennedy on Nov. 25, 1963. Pope John Paul II addressed 1,500 area priests there in October 1979 during a visit to Washington. The funerals of Cardinal James A. Hickey and Cardinal Patrick A. O'Boyle also were at St. Matthew's, on Rhode Island Avenue just east of Connecticut Avenue.

District police said yesterday that they had not been informed of any special traffic or security needs for the various services, Sgt. Joe Gentile said. The Supreme Court has its own police force.

Rehnquist was a World War II veteran, entitling him to burial at Arlington. His wife, Natalie Cornell Rehnquist, was buried there in 1991.

Rehnquist's two immediate predecessors, Warren E. Burger and Earl Warren, also lay in repose in the Supreme Court building before they were laid to rest at Arlington.

25 Dems Could Vote For Roberts (HILL)

By Elana Schor

The Hill, September 6, 2005

Members of the Senate Democrats' K Street inner circle are predicting that as many as 25 Democrats will vote to confirm John Roberts as chief justice of the United States.

Several attendees of the Monday Group, as Senate Minority Leader Harry Reid's (D-Nev.) biweekly lobbyist meetings are known, said the Democrats could suffer politically if their Roberts strategy misfires. Left-wing ideological groups are pressuring Democratic lawmakers to expose Roberts's conservative record without workable grounds for a fight, Monday Group lobbyists said.

"It's not a good thing for Democrats to be dragged into a visible, high-profile battle on him for weeks when Congress ought to be dealing with issues the public really cares about," one key Democratic lobbyist said. "That's the biggest danger for Democrats, if they get sucked into something like that because of the ideological left."

Though some Democrats already have called for Congress to focus on aiding the blighted Gulf Coast as the new session begins, planning for the Roberts hearings likely will dominate the Monday Group's next meeting, on Sept. 12. Informal discussions among some lobbyists and Democratic aides during the recess were said to yield little in the way of cohesive counsel.

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"There is no real coordinated effort to enlist K Street in getting involved," said another well-connected Democrat, one of many who hailed Roberts as an unassailably shrewd selection. "There's no sense in creating a big dustup now downtown, when what are you going to fight about?"

Democratic lobbyists' greatest concern about Roberts is not pinning down his positions on federal preemption or civil rights, despite the recent Monday Group guest appearance of Wade Henderson, president of the Leadership Conference on Civil Rights. Many K Street Democrats instead questioned what they characterized as poorly coordinated messaging from liberal groups that has unduly influenced some lawmakers.

"The other dirty little secret the Democrats have to deal with is … there may be some in party who see it as, 'It would be worthwhile to drag it out a little bit so we can raise some money off the deal'" from left-wing special interests, a Monday Group member said. "That's shortsighted, and politically dangerous too."

In particular, Democratic lobbyists singled out the NARAL Pro-Choice Alliance decision to endorse Sen. Lincoln Chafee (R-R.I.), who is certain to face a tough reelection fight next year, in a potential bid to sway him on Roberts. If Chafee spurns the pro-abortion-rights group by voting to confirm, his Democratic challenger could be weakened, and Monday Group lobbyists said a Republican voting against Roberts would be highly unlikely.

"I'd advise my clients to stay out of this one," said another lobbyist with ties to Democratic leadership. "Why would they use up political capital on something they can't possibly win on or benefit from? … I don't see a good opening for us."

One Monday Group regular likened the Roberts confirmation to this spring's tension over the "nuclear option," saying that in both cases a swift resolution and moving on to other business would be the best-case scenario.

K Street Democrats agreed that Roberts ultimately would be confirmed with anywhere from 65 to 80 votes, with most centrist and Southern Democrats voting to approve the nomination. Every Democrat who signed the "Gang of 14" agreement to preserve the minority's right of judicial filibuster will vote for Roberts, they predicted, with several openly forecasting that Reid himself will support the nominee.

Some lobbyists credited Reid with ensuring that no Democrat has declared support for Roberts yet, a stance often phrased by the minority leader as "keeping [our] powder dry."

One lobbyist said, "The only concerted strategy I've seen come out of the caucus has been: Don't make any commitments to support him. Leadership's been very successful in keeping everybody on that page."

But, K Street Democrats said, as soon as the hearings begin, either Thursday or Monday, expect Democratic senators such as Ben Nelson (Neb.), Mary Landrieu (La.) or Blanche Lincoln (Ark.) to reveal quickly their votes in Roberts's favor.

Reid spokesman Jim Manley said that Monday Group lobbyists would be consulted as the hearings progress but that they would not be relied upon for messaging. "We talk to them all the time. Are we planning on using them? No," Manley said. "It's up to the members of the Judiciary Committee to carefully review Roberts's qualifications for the job."

Asked whether a majority of the Democratic caucus voting for Roberts would concern Reid, Manley declined to comment. "Let's just wait and see," he said.

All About A Guy Named John (USNEWS)

By Liz Halloran

U.S. News and World Report, September 5, 2005

It was late August 1976, just a week before classes were to begin at Harvard Law School, and first-year student Stuart Miller, intent on a last few days of R&R on Cape Cod, had unloaded his belongings in Shaw Hall dormitory when he noticed an open door down the hall. Curious, he poked his head in and saw a young man surrounded by law books. His new classmate appeared to be at least a quarter of the way through the thick first-year texts. Why, Miller asked with some incredulity, are you doing all this work? "I want to get a head start," replied John G. Roberts, who returned to his books while Miller, now a San Francisco lawyer, set off for the Massachusetts shore.

Nearly three decades later, President George W. Bush's first nominee to the U.S. Supreme Court will have his legendary preparation skills put to the test when the Senate Judiciary Committee opens confirmation hearings this week in the historic

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caucus room of the Russell Senate Office Building. The hearings, chaired by Republican Sen. Arlen Specter, are expected to continue through early next week (story, Page 44).

True blue? Barring a blockbuster disclosure, Roberts will win support from a majority of the committee's 18 members, 10 of them Republicans. And he's likely to be confirmed by a majority of the full Senate later this month in time to join the court by the October 3 start of its new term.

But the hearings may still have their share of drama. Will the nominee get any Democrats' votes? How will Democrats position themselves, especially those with an eye on congressional and presidential elections to come and another Supreme Court vacancy that could materialize at any time? And, perhaps most important, what about Roberts himself? Is he the true-blue conservative his champions suggest, or might he have a few surprises up his sleeve?

There's little argument that Bush made a savvy choice in the 50-year-old federal appeals court judge who served in the Reagan and George H. W. Bush administrations and clerked for Chief Justice William Rehnquist. His sterling legal credentials and, perhaps more important, his likability and made-for-TV attractiveness have made it difficult for those opposing him to get much traction. The down-and-dirty fight everyone expected over the first appointment to the high court in 11 years simply hasn't happened.

Activist groups on both sides seem to have accepted that reality: They've used press conferences and E-mails to broadcast their messages, stockpiling most of their advertising money for future battles. Even the White House has had to spend little political capital on Roberts, who argued 39 cases before the Supreme Court and earned a small fortune as the top appellate lawyer for the Washington firm Hogan & Hartson. Though every major liberal interest group has announced its opposition to Roberts, no Senate Democrat has yet come out against him. "Ninety percent of this," said Democratic committee member Sen. Charles Schumer, "is going to be decided at the hearing."

Democrats plan to aggressively question Roberts about his conservative legal views and judicial philosophy but acknowledge privately that a Senate floor fight would be fruitless and politically damaging. The math doesn't work, either. Democrats are outnumbered by Republicans 55 to 44 (Vermont Sen. James Jeffords is an Independent), and this spring they essentially dealt away their ability to filibuster the nomination by agreeing not to block judicial nominees absent "extraordinary circumstances." "The filibuster deal was an incredible success for us," said the conservative Federalist Society's Leonard Leo. "It took it off the table and defanged the other side."

A Supreme History Of Conflict (USNEWS)

By Bret Schulte

U.S. News and World Report, September 5, 2005

By all accounts, John Roberts will be confirmed to take his place on the high court in a month's time as America's 109th Supreme Court justice. But before it's over, Democrats on the Senate Judiciary Committee intend to rough him up a bit.

For many, the partisan scrapping recalls the failed nomination of Robert Bork in 1987. The Bork fight had it all: overheated rhetoric, warring ideologies, and lingering bitterness among conservatives. The bruising battle over Bork is widely considered one of the most contentious ever. But it was hardly the first.

In fact, bare-knuckle battling has always been part of the process. Of the 148 people nominated to the highest court, 28 have failed to be confirmed. Only a handful were rejected because the candidates were perceived as unqualified. The rest? Politics. "Almost never has a Supreme Court [nominee] been defeated because he was inept . . . . " says James O'Hara, a former legal professor at Loyola College in Baltimore and a trustee of the Supreme Court Historical Society. "Almost always, it's a battle between a significant portion of the Senate and the president." Nominees weren't actually present at confirmation hearings until 1925. But even in the earliest days of the high court, when it carried little prestige (some justices quit the bench to return to private practice), political crossfire took down many a nominee.

Firestorm. The first fight came with the first president--a nearly deified figure in the new nation. But George Washington appeared quite mortal when he nominated John Rutledge, a former governor of South Carolina, to replace Chief Justice John Jay in 1795. Rutledge was a defender of slavery and an advocate of exclusionary voting practices, but that's not what sparked outrage in the Senate. Federalist newspapers and a cadre of northern senators attacked Rutledge for a speech in which he

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criticized a new treaty with Great Britain. As Peter Irons details in A People's History of the Supreme Court, a whispering campaign ensued alleging that Rutledge's fiery speech was proof that he was "deranged in his mind," according to Attorney General Edmund Randolph, who reported the rumors to President Washington. Whether or not Rutledge was mentally unstable or just a firebrand orator remains a matter of debate, but after seeing his bid go down to defeat by a final vote of 10 to 14, Rutledge attempted suicide. He died a few years later.

In 1835, President Andrew Jackson deliberately ignited his own Supreme Court firestorm by nominating close friend Roger B. Taney. Taney was already radioactive; he'd served as Jackson's secretary of the treasury via a controversial recess appointment after two former secretaries refused to withdraw government funds--as Jackson had requested--from the Second Bank of the United States. The Second Bank was a semipublic institution that acted as the federal depository, which Jackson considered unconstitutional. Taney complied with Jackson's request, but he paid for his loyalty when outraged bank supporters in the Senate refused to accept his nomination to the treasury secretary's post.

John G. Roberts: What Answers Is He Going To Give? (NSWK)

Newsweek

Newsweek, September 5, 2005

In 39 arguments before the U.S. Supreme Court, John G. Roberts earned a reputation as an unflappable advocate for his clients. But this week, when Roberts testifies before the Senate Judiciary Committee in his own bid to join the high court, he'll face a different challenge. Instead of sparring with nine erudite justices interested in ferreting out fine points of the law, Roberts will confront 18 senators eager to score political points and rack up minutes on the cable news channels. The stakes soared after the death of Chief Justice William Rehnquist late last week. While the senators will try to press Roberts for specifics on controversial topics like civil rights, abortion and congressional authority, Roberts will attempt to keep his answers as general as possible without seeming to stonewall. "There's going to be a pretty restrictive line that he's not going to cross, and some senators aren't going to be happy about it," says one person close to Roberts's confirmation team who did not want to be quoted talking about the secretive preparation process.

Roberts has had plenty of practice. In at least 10 closed "murder board" sessions at the Department of Justice over the past few weeks, the nominee has wrangled with administration officials, lawyers and law professors playing the role of senators. Though a few have been full-blown mock panels of 18 "senators," other sessions have included just a handful of lawyers quizzing Roberts. Used to strict time limits and impatient justices, Roberts was firing off answers quickly; some participants urged him to slow down and let windy senators run out the clock, says an adviser who asked not to be named because the sessions were private. Administration officials assume Roberts will get grilled about abortion and many of the memos released from his days in the Reagan administration. They also worry that he may be pressed on the White House's refusal to release records from his days in the solicitor general's office.

Senators want to pin down Roberts's judicial philosophy, but they know the direct approach may not work. "I don't think you can ask how he would decide Roe for the future [or] extract a commitment from him," Sen. Arlen Specter, Republican committee chair, tells NEWSWEEK. But Specter says he plans to press Roberts on whether Roe—reaffirmed in 38 other decisions—is a "superprecedent" not to be tampered with. A source close to the prep who requested anonymity to speak more freely about the process says Roberts will likely follow the lead of Clarence Thomas, who confirmed a constitutional right to privacy encompassing contraception but steered clear of specifics on abortion in his hearings. "This discussion on the right to privacy will be important," says Sen. Sam Brownback.

Outside the hearing room, interest groups on both sides plan the kind of spin wars usually reserved for a presidential debate. Look for dueling press conferences, a raft of rapid-response e-mails and outside experts armed with talking points. Despite stepped-up efforts from liberal groups, Roberts is widely expected to win Senate confirmation later this month. The key question is margin of victory: a bigger bipartisan win—approaching 80 yea votes—could give George W. Bush more latitude in filling the next court vacancy.

—Debra Rosenberg, Stuart Taylor Jr. and Daniel Klaidman

Roberts' Deputy Post Not So Political (LEGALT)

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By Tony Mauro, Legal Times

Legal Times, September 5, 2005

After weeks of document dumps and media scrutiny of John Roberts Jr.'s copious writings, the Supreme Court nominee goes before the Senate Judiciary Committee this week with one important part of his professional life still a mystery.

Roberts' three years and three months as principal deputy solicitor general (the so-called political deputy), from 1989 to 1993, produced easily as much paper as his earlier jobs in government. But except for briefs filed with the Supreme Court, all of it—including memorandums on cases—remains sealed, to the chagrin of Democrats and groups that oppose his nomination.

That part of Roberts' life is likely to provoke questioning from Senate Democrats who are intent on seeing if the conservative views he expressed as a young Reagan White House aide burned as brightly in his psyche a decade later. "The SG materials may be the only real source that reflects his own mature personal thinking," said Sen. Edward Kennedy (D-Mass.) in an Aug. 10 statement.

Adds Nan Aron, president of Alliance for Justice, "At this point, the American people know next to nothing about the legal views Judge Roberts expressed during the most important, most influential period of his career as a lawyer." The group announced its opposition to Roberts last week.

So far, the only formal White House response has been to release a list of the Supreme Court cases Roberts handled—among them, 717 case recommendations, 77 briefs on the merits, and 31 petitions for certiorari. But the Bush administration won't release the texts, holding to the position taken during Miguel Estrada's bid for the U.S. Court of Appeals for the D.C. Circuit in 2002: that releasing the memos he wrote in the SG's office would chill much-needed candor.

Beyond the posturing and politics of the dispute, however, some question how valuable the documents would be, asserting that the tussle results from a gross misunderstanding of the job Roberts held under Solicitor General Kenneth Starr during the first Bush administration.

The documents "still wouldn't tell you his personal views about a case," says Maureen Mahoney of Latham & Watkins, who served alongside Roberts as another deputy in the office. "No matter how you describe the position of political deputy, he does not have the authority to decide to file a brief requesting the Court to overrule Roe v. Wade."

Jones Day's Donald Ayer, Roberts' predecessor in the job, agrees, saying, "The great bulk of what you do does not have any political consequences. You are in the trenches along with everybody else."

Duke University Law School professor H. Jefferson Powell, who held the principal deputy's job for part of the Clinton administration, says that Democrats are wasting their time. "The memos would reveal that he was pushing the positions of President Bush I," says Powell. "That news would make me want to yawn and take a nap."

Some of the mystery and misunderstanding about the job Roberts held stems from its informal title, the "political deputy" solicitor general. That signifies only that the person filling the position is a political appointee who comes and goes with administrations, unlike the other three or four deputies in the office who are career civil servants. And it also means, in a general sense, that the person is "with the program" of the administration that hires him, as Powell puts it. Beyond that, though, the political nature of the job appears limited.

Yet those who have held the job say they have had to fight the impression that they were White House moles who enforced political or ideological orthodoxy in an office that has a long-standing tradition of independence.

"We thought the person with this job would be a political overseer or a political commissar, but it didn't turn out that way," says Andrew Frey, a Mayer Brown Rowe & Maw partner who served in the SG's office when the position was created, a few years before Roberts arrived.

The job's creation dates back to a 1982 episode that brought rare attention to the Office of the Solicitor General. Bob Jones University was fighting an Internal Revenue Service ruling that had stripped the institution of its tax-exempt status because it did not admit blacks. When the case went before the Supreme Court, Reagan administration officials pressured the Solicitor General's Office to support the university. Rex Lee, then the solicitor general, recused himself from the case, which meant that Lawrence Wallace, a career deputy with seniority in the office, was called on to write the brief. But there was a problem: Wallace believed the IRS position was correct and should be defended.

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After much negotiation, Wallace wrote the brief as requested but made it clear in a footnote that he disagreed with it. The footnote launched headlines and editorial comment for weeks, and, ultimately, the Court supported the IRS policy, 8-1. "They didn't listen to me, and they embarrassed themselves," says Wallace, now retired.

In the aftermath of the Bob Jones debacle, Reagan officials pressed for a deputy position that would be a political appointment, so that when the solicitor general could not participate, someone else would be available to espouse the administration's position.

Lee, now deceased, resisted the idea, fearing the politicization of the office. "Rex was not enthusiastic about it," Wallace recalls. "So he decided to use it to enrich the office by bringing in someone with distinction, not someone just with political credentials." Lee recruited the late Harvard Law School professor Paul Bator, who is credited with creating the political deputy's tradition as a largely nonpolitical position equivalent in most ways to that of other deputies. As with the other deputies, the solicitor general himself signs off on all the political deputy's briefs.

Roberts has argued that the job was largely apolitical and that it served to insulate the rest of the office from politics. At a 2002 conference at Brigham Young University, Roberts, then in private practice at Hogan & Hartson, said, "It promotes, rather than undermines, the traditional institutional independence of the Office of the Solicitor General."

Roberts went on to explain that when he was in the position he, rather than the career deputies, would take the angry calls from others in the administration questioning the SG's position in a given case. "It was my job, I thought, to explain to this person that although this particular position . . . may be causing you some political heartburn, here is why we have to do it: It is compelled by our obligation to represent long-standing institutional interests of the United States."

By fielding those calls, Roberts said he protected the career attorneys in the office, who were sometimes suspected of being "holdovers" from previous administrations with different agendas.

As an example, Roberts mentioned the so-called Boston Harbor case. At issue was whether Massachusetts could require union-labor-only contracts in the project to clean up Boston Harbor. Starr filed a brief agreeing that the state acted within its powers.

The Association of Builders and Contractors pressured the administration to withdraw the brief, at one point threatening to oppose President George H. W. Bush's re-election. Starr held his ground, the brief was not withdrawn, and the Court unanimously agreed with his position.

Lawyers in the Solicitor General's Office at the time confirm Roberts' role as a buffer against political pressure. "He was certainly not viewed as a 'fixer,' " says Mahoney. "He was universally admired by lawyers in the office of all political persuasions."

In their document requests, Democrats have focused on a handful of cases in which Roberts signed the brief or handled the oral arguments. Two involve abortion rights: Rust v. Sullivan, a challenge to prohibitions on abortion advice at federally funded clinics, in which Roberts repeated in passing the administration position that Roe v. Wade should be overturned, and Bray v. Alexandria Women's Health Clinic. In that case, Roberts argued in support of the position taken by militant anti-abortion protesters that the Ku Klux Klan Act of 1871 did not apply to their activities.

Democrats hope Roberts' memos on the cases might reveal more of his views, but veterans of the office say that case memos, if released, would likely contain only a handwritten sentence or two from Roberts atop what other attorneys in the office wrote analyzing the case and recommending whether the government should seek review.

In a Washington Post op-ed column, former acting Solicitor General Walter Dellinger III suggested that because Roberts was a political appointee, a stronger case could be made that his memos should be made public, especially in the context of a Supreme Court nomination. But in an interview, Dellinger says he is not certain they should be released, partly because by doing so, the views of other attorneys in the office would also be revealed. He also says that, by and large, the work of the political deputy is no different from that of any other deputy.

One of the petitions Roberts wrote as a deputy SG might even get him in trouble this week with a Republican. He wrote the government's brief in O'Keefe v. Specter, a dispute over military-base closings, in which Roberts was on the opposite side of Sen. Arlen Specter (R-Pa.), who will preside over Roberts' confirmation hearings. Specter argued the case himself in 1994. He lost, 9-0.

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The Judiciary Committee's Star Turn (LEGALT)

By T.R. Goldman, Legal Times

Legal Times, September 5, 2005

This week's Supreme Court confirmation hearings promise to be as theatrical as Congress gets. But the telegenic John Roberts Jr. will, in some respects, be a supporting actor, sharing the stage with 18 senators who view the hearings as their own star vehicle.

More than simply trying to pin down the elusive Roberts on his jurisprudence, the Senate Judiciary Committee's 10 Republicans and eight Democrats will be putting their own ambitions and agendas on display.

Rival Democrats will be trying to electrify their party base by showing who can be the toughest on the nominee, while Republicans will be seeking to burnish their own national credentials, competing to place Roberts' more controversial statements in the most benign light.

It is a committee of extremes — both liberal and conservative — and, even by Senate standards, of powerful egos. Six members have either run for president or are contemplating a bid (or in Delaware Democrat Joseph Biden Jr.'s case, another bid) in the 2008 election.

And there's another dynamic at play: A Supreme Court confirmation gives Congress a rare chance to tell the Court what it thinks about its co-equal branch.

While the Judiciary Committee already gets plenty of attention — it deals with the most explosive topics facing the country, from gun control to flag burning to abortion — the Roberts hearings will provide a chance for members to enhance or sink their own political futures. Just ask Judiciary Committee Chairman Arlen Specter (R-Pa.), another former presidential candidate. His opposition to Judge Robert Bork nearly cost him his Senate seat, while his aggressive cross-examination of Anita Hill during the Clarence Thomas hearings both failed to assuage hard-line conservatives and drew the wrath of liberal supporters.

"Think of all the legislation Congress does; most of it will be forgotten," says Melissa Patack, a former counsel to Judiciary Committee member Sen. Charles Grassley (R-Iowa), who worked on four Supreme Court nominations. "This will not be forgotten. This will make it into the history books."

JOCKEYING FOR POSITION

Specter, who is a stickler for order and has no problem cutting off the most senior committee members if they speak too long, is expected to run the Roberts hearings with characteristic rigor.

That means members will make statements and use their allotted question time in strict order of committee seniority, alternating between Republican and Democrat. That in itself has strategic implications, because each side will have very different objectives.

For Democrats, the goal is to put Roberts on the spot, to probe his few contentious writings and pin down his legal philosophy as precisely as possible.

Republicans will then do what they delicately refer to as "rehabilitation," holding up those same statements and explaining how the Democrats have willfully misread them.

"The challenge," says one senior Republican committee aide, is that "we don't know what documents they will wave around or what statements they will take out of context."

For example, Sen. Jon Kyl (Ariz.), considered one of the brightest of the 10 GOP members, is set to follow Biden, a former Judiciary chairman, who, despite a tendency for drama, generally asks difficult, well-considered questions. But Biden, like fellow committee Democrat Russell Feingold of Wisconsin and Republican Sam Brownback of Kansas, has presidential ambitions. That, say committee staffers, might make each senator play to his respective constituencies even more than usual.

"What do Feingold and Biden have to gain by voting for Roberts?" asks one Democratic Judiciary counsel. Biden, for example, may be carrying a grudge. He sponsored the Violence Against Women Act of 1994 (VAWA), which the high court struck down in part in 2000, saying Congress had failed to establish a link between violence toward women and regulating interstate commerce. In recent years the Court has shown hostility to broad prohibitions laid down by the legislative branch.

"The Court has slapped down Congress on more than one occasion — on VAWA, on the CDA, on guns in the schoolyard," says former Democratic Judiciary counsel Beryl Howell, referring to the Communications Decency Act and a 1990 law forbidding

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students from carrying guns in a school zone. Like VAWA, the Court struck down those laws on the grounds that Congress had exceeded its constitutional authority.

"The Court has slapped Congress and treated them worse than an administrative agency," adds Howell, now the general counsel at Stroz Friedberg in Washington. Biden may demand to know how Roberts views congressional power. And if Biden doesn't like the answer, it may be up to Kyl to smooth it over, to say, in effect, that Biden's question is out of line — something Roberts won't be able to say directly.

For Kyl and two other Republicans, Sens. Mike DeWine (Ohio) and Orrin Hatch (Utah), who ran for president in 2000, the hearings have special significance: The three are up for re-election in 2006. Three committee Democrats are also up next year: Sens. Herbert Kohl (Wis.), Dianne Feinstein (Calif.), and Edward Kennedy (Mass.), whose presidential bid was in 1980 and who will be running for his eighth term.

PLAYING DEFENSE

Republicans, of course, have made educated guesses about the subjects Democratic members are likely to broach and are preparing their responses accordingly.

Kennedy, for example, is viewed as most likely to toe the tough line of liberal special interest groups like the Alliance for Justice and People For the American Way. He will talk about civil rights, voting rights, and affirmative action, while Biden will focus on privacy and women's issues. Ranking member Patrick Leahy of Vermont, often overshadowed by Biden and Kennedy, will raise the issue of Roberts documents missing from the Reagan archives. Kohl, the antitrust subcommittee's ranking Democrat, will most likely bring up business-related queries.

Feinstein, the only woman on the committee, is sure to talk about abortion. Like other Democrats, she's in a bit of a political bind. Roberts was confirmed to the U.S. Court of Appeals for the District of Columbia in 2003 by unanimous consent. If she votes "no," she will be accused of flip-flopping; if she votes "yes," she risks alienating her base.

Feingold is among the most unpredictable of committee Democrats: the only senator of either party to vote against the USA Patriot Act and the only Judiciary Committee Democrat to vote to confirm former Attorney General John Ashcroft. Like Biden, Kennedy, and New York's Charles Schumer, who follows Feingold in committee seniority, he can be a tenacious questioner, especially when it comes to his favorite subjects, such as the death penalty and campaign finance reform.

Of course, says one former Democratic committee counsel, members will have to remain flexible. "You wouldn't expect Feingold to focus on choice, but he follows Feinstein, and if something's left hanging, he'll try to clean it up."

Schumer, so far the most outspoken Democratic critic of the Roberts nomination — and the Democrat conservative Republicans most love to hate — has released a long laundry list of questions he might ask. "All the fireworks will be about how much Chuck Schumer makes this about Chuck Schumer," insists one Republican leadership aide working on the hearing.

Illinois' Richard Durbin, who despite being assistant Senate minority leader is the committee's most junior Democratic member, will likely focus on any subjects that are left. "He's at the bottom of the ladder, so he'll get the crumbs," notes a Democratic aide.

So important is the order of questioning that Republicans are quick to note that, given their 10-8 numerical advantage, the GOP will have three members in a row ask questions: Brownback; Tom Coburn (Okla.), the committee's most junior Republican; and then back to Specter, before Democrats get another shot at Roberts in round 2, which Specter has said will last only 20 minutes per person.

Specter, who will almost certainly vote for Roberts, could nonetheless deliver some of the week's toughest attacks on the 50-year-old judge. Last month he sent Roberts an angry letter denouncing the Court's ruling in U.S. v. Morrison, which declared that Congress could not create a federal civil remedy for gender-related crimes.

"Members of Congress are irate about the Court's denigrating and, really, disrespectful statements about Congress' competence," Specter wrote, referring to the Court's rejection of Congress' "method of reasoning."

In that vein, he is likely to mirror some of Biden's objections, though without Biden's flamboyance.

The committee's second-ranking Republican and its former chairman, Hatch, on the other hand, is Specter's polar opposite. Where Specter's questions are likely to dig in, Hatch is better known for his brand of rehabilitative questioning on the order of, " 'Isn't it true, sir, that you're a really good guy?' " mocks the Democratic counsel.

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It's true that while Democrats will have the luxury of remaining on the offensive, and Republicans will largely be forced to play defense, the 10-member GOP team is hardly monolithic.

Hatch will be followed by Grassley, a longtime committee member; he and Coburn are the panel's only non-lawyers. Grassley, a blunt-speaking farmer; DeWine; and South Carolina's Lindsey Graham are probably the panel's most independent-minded Republicans.

It is the committee's three most junior members — Coburn, Brownback, and, especially, former Texas Supreme Court Justice John Cornyn — who are most likely to do the White House's bidding.

Indeed, while Democrats would love to pin down Roberts on his views on Roe v. Wade, it is possible that the job may be done for them by a conservative Republican such as Brownback, something that would be anathema to most committee Republicans.

"Brownback and [Virginia Sen. George] Allen are the only two Republicans competing for the outer limits of the conservative party," notes a Judiciary Committee counsel for a Republican member. "So of course Brownback would love to pin him down on Roe v. Wade. That way, if he turns out to be another [David] Souter, Brownback can say he tried." But, he adds, "we're working hard on Roberts not to answer."

Brownback's office declined to comment.

The senior leadership staffer, however, denies any split in the ranks. "We've had meeting after meeting on this and we're all very much up the middle," he says. "I'm expecting a relatively dull experience."

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Irritating Them All (USNEWS)

By Terence Samuel

U.S. News and World Report, September 5, 2005

The man with the gavel, Arlen Specter, 75, of Pennsylvania, Republican chair of the Senate Committee on the Judiciary, is, depending on who's talking, a contradiction, a compromise, or a curse. He has been called pragmatic, erratic, and opportunistic. Over a political life of more than 40 years, he has bucked the odds, defied conventional wisdom, and sailed against the wind. But he's no cliche.

A moderate in a party increasingly controlled by conservatives, Specter is pro-abortion rights in a GOP that is antiabortion to its core. He is a contrarian often at odds with fellow Republicans, not just on abortion but on issues like tax cuts and tobacco litigation. He enjoys quoting a popular Democrat on party fealty: "JFK had the best line on that," Specter says, "when he said that sometimes the party asks too much." But Specter annoys the other side, too. His continued political survival remains a source of deep frustration for Democrats, who see him as perpetually vulnerable--but impossible to beat.

Always, he has been singularly Arlen Specter, infuriating his friends and confounding his enemies. It is hard to know what to expect from Arlen Specter. Which is why it will be so fascinating to watch him this week as he chairs the Judiciary Committee's hearings on Supreme Court nominee John G. Roberts.

Roots. Born in Kansas in Wichita, Specter grew up in the town of Russell, which also claims former Senate Majority Leader Bob Dole as a native son. Dole was seven years older and a basketball star; Specter was on the debating team at the same high school. Specter's parents were Jewish immigrants, his father from Ukraine, his mother from Russia. His father ran a junkyard.

Specter went east to college, at the University of Pennsylvania, and then, after a stint in the Air Force, graduated from Yale Law School. After three years at a prestigious Philadelphia firm, Specter joined the Philadelphia district attorney's office in 1959 as an assistant D.A. It was while he was a prosecutor in Philadelphia, in December 1963, that he was invited by a law school friend at the Justice Department to join the staff of the Warren Commission. In that position, Specter, dogged and determined, developed the single-bullet theory to explain how a lone gunman had fired the single shot that killed President Kennedy and injured Texas Gov. John Connally, who was in the car with him.

"I now call it the single-bullet conclusion," Specter writes in his memoir, Passion for Truth. "It began as a theory, but when a theory is established by the facts, it deserves to be called a conclusion." As a commission investigator, Specter drafted 78 questions to ask Lyndon Johnson, "who would, under other circumstances, have been considered a prime suspect." Specter

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said he didn't think Johnson had anything to do with the assassination, but "no self-respecting investigator would omit a thorough investigation of the slain president's successor." Those questions were never asked, because Johnson submitted just a brief affidavit. But Specter was ready.

Higher Stakes For Roberts (WP)

By E. J. Dionne Jr.

The Washington Post, September 6, 2005

Why did President Bush pull such a quick switch yesterday and name Judge John Roberts to be chief justice of the United States? There are several theories, but here's the most sensible: Bush had always planned to make Roberts chief someday.

Recall that before Sandra Day O'Connor announced her retirement in July, much of official Washington was expecting that Chief Justice William Rehnquist would be the first to leave. The administration's extensive vetting was organized in large part to find a replacement for Rehnquist.

Roberts's combination of a conciliatory personality with firmly conservative convictions made him the perfect choice to lead the judicial revolution Bush would like to unleash. Successful chief justices need to be good politicians, and Roberts's political gifts were much in evidence this summer as he seemed to be charming his way toward relatively easy Senate approval.

But Rehnquist's passing and Bush's decision to withdraw Roberts's nomination as associate justice so he could name him chief create new political problems for both Bush and his appointee.

Until yesterday, even Roberts's staunchest critics judged their chances of stopping him for O'Connor's seat as bleak. Discussion among Senate Democrats revolved less around a strategy for blocking Roberts than on tactics that would make the best of his likely confirmation.

The debate focused on how many votes Democrats should try to muster against him -- to send a message for the big fight that would come over Rehnquist's job -- and whether senators from states where Bush had been popular should even consider voting no. Should Democrats try to look "moderate" by going along, or cast themselves as fighters for principle?

By proposing that Roberts lead the court, Bush has given the liberal groups that oppose the nomination (and Democratic senators inclined to join them) a chance to regroup and argue that this battle is no longer a practice session for the next round. This is the next round.

"Now that he's been nominated for chief justice, he's not a test case anymore," said a Senate Democratic staffer close to his party's discussions. "There's a difference between being one of nine and Number One of nine. And if he's confirmed, he's likely to hold the job for the next generation."

Fully aware that postponing confirmation hearings scheduled for today would give Roberts's opponents more time to organize, some Senate Republicans urged against any delay. Yesterday, it became clear that the hearings would be put off until either Thursday or next Monday. But the administration's allies are clearly wary of any further postponement.

Democrats, in turn, wanted more time to make the case that their requests for Roberts's past writings as an executive branch official -- documents the administration is holding back -- are more reasonable and appropriate than ever, "given the even greater importance of this new position," as Sen. Charles E. Schumer (D-N.Y.) put it yesterday.

Moreover, now that Bush will be naming not one but two justices, it becomes clear that the argument before the Senate is not primarily about one person and his qualifications, but about the future direction of the judiciary. Sen. Edward M. Kennedy (D-Mass.) was right to say that before the Senate acted on Roberts, "we should know whom the president intends to propose to nominate as a replacement" for O'Connor, since Americans were concerned with "the overall balance of their highest court."

Until yesterday's announcement, Roberts seemed likely to win on the basis of his personal attributes. By raising the stakes, Bush has given the Democratic opposition an opportunity to show some spine. He has reminded senators that this is a vote not just about a smart, affable lawyer, but also about principles that could steer the Supreme Court for 30 years.

There is no telling whether Bush's diminished standing from the disastrous failure of hurricane relief efforts may embolden Democrats to challenge the White House across a much broader front, including the future of the court. But in the statement he issued within hours of Roberts's new nomination, Kennedy wanted no one to miss that possibility. He pointedly referred to

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Hurricane Katrina as "a defining moment in our nation's history" and urged the president "to take this time to unite and heal the country."

Bush no doubt turned to Roberts as a safe harbor in the midst of the greatest political storm of his presidency, and Roberts may yet triumph. But the fierce winds that have buffeted Bush could imperil what once might have been an easy passage for a calm and collected nominee who, in his warm and witty way, would move the court and the country rightward.

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By proposing that Roberts lead the court, Bush has given liberal groups a chance to regroup and argue that this battle is no longer a practice session for the next round. It is the next round.

A Weakened Bush Plays It Safe On Chief Justice (WSJ)

By Jeanne Cummings And Jess Bravin

The Wall Street Journal, September 6, 2005

WASHINGTON -- At a time of increasing political weakness, President Bush tapped John Roberts as his nominee for chief justice, choosing to avoid -- or at least delay -- a fresh ideological battle over the Supreme Court.

In quickly shifting gears following Chief Justice William H. Rehnquist's death from thyroid cancer Saturday night, the White House steered away from the controversial path some supporters have advocated: elevating to chief one of the court's two most outspoken conservatives, Antonin Scalia or Clarence Thomas.

Judge Roberts -- currently a member of the federal appeals court in Washington, D.C. -- appears more likely to follow the collegial Rehnquist example. While moving the court in a rightward direction on issues such as criminal law, the late chief tried during his 19 years in charge to create an amicable atmosphere. He sometimes shaped his opinions to cement a five-vote majority, rather than hewing completely to his views.

As Hurricane Katrina, rising gas prices and Iraq have sent Mr. Bush's poll ratings to the lowest levels of his administration, the Roberts nomination in July to replace Justice Sandra Day O'Connor has been one of the few moves to go smoothly for the White House lately. Mr. Bush's conservative base praised the pick, while many Democrats have found the genial judge difficult to attack. Public-opinion surveys show the country largely accepting Judge Roberts moving to the high court.

"For the past two months, members of the United States Senate and the American people have learned about the career and character of Judge Roberts," Mr. Bush said in an Oval Office announcement yesterday morning before heading to the Gulf Coast for the second time in four days. "They like what they see."

The White House likes the fact that Judge Roberts, at 50 years old, could run the court for a quarter century or more. If confirmed, he would be the youngest chief justice since John Marshall, who took office in 1801 at the age of 45.

When Judge Roberts was in line to succeed Justice O'Connor, he had the potential to shift the court's positions dramatically on hot-button social issues. Justice O'Connor often split the difference between the left and right on abortion, affirmative action and government support of religion. Now Judge Roberts would replace a jurist whose votes he is thought likely to track. Viewed this way, having Judge Roberts replace Chief Justice Rehnquist, for whom the nominee once clerked, wouldn't affect the court's political balance.

But it leaves open the big question of whom Mr. Bush will choose this time to replace Justice O'Connor. She has said she will stay on the bench until a successor is approved by the Senate.

Will he select a moderate candidate and try to shore up his standing with independents who are losing confidence in the administration? Or should he pick a hard-line conservative and please the party base that still supports him?

If he wanted a strong conservative in the Scalia-Thomas mold, he could turn to Judge J. Michael Luttig, an intellectual heavyweight on the Fourth U.S. Circuit Court of Appeals, who has been outspoken against abortion rights. "There's no question in my mind with what's on the president's plate right now, the war and Katrina in particular, he is not going to create more uncertainty by abandoning the base on this issue," said Leonard Leo, who is helping outside groups build support for the president's judicial nominees. Mr. Leo is on leave from his position of executive vice president of the Federalist Society, a conservative lawyers organization.

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But pleasing the base would risk alienating moderate voters already cooling to Republicans ahead of the 2006 mid-term elections. Gender and particularly race may also play a role, especially in post-Katrina politics. The image of poor, black families stranded on New Orleans rooftops or begging for water has rejuvenated a debate over the Republican Party's posture toward minorities. After a week of such images, Republicans may be hesitant about a second white male nominee to the high court.

Nodding to those sensitivities, the president could name his friend from Texas, Attorney General Alberto Gonzales, to fill the slot. Mr. Gonzales would be the first Hispanic on the Supreme Court and has an inspiring story as a self-made man raised by Mexican migrant workers. He has sounded more moderate on abortion rights and affirmative action than some of the other jurists on the short list.

Mr. Bush said yesterday he would choose a new O'Connor replacement "in a timely manner" but aides wouldn't be more specific. The president telephoned Justice O'Connor yesterday to let her know that she might have to stay "a bit longer," said White House spokesman Scott McClellan. If Judge Roberts is cleared quickly by the Senate, the court could open its new session in October with all nine seats filled. If he isn't confirmed by then, John Paul Stevens, the senior associate justice, would preside.

The Senate decided yesterday to delay the start of the Roberts confirmation hearings until after tomorrow's[wed] funeral for Mr. Rehnquist. The Roberts hearings were originally scheduled to open today.

The assumption in Washington has been that, absent a bombshell at those hearings, Judge Roberts would easily win confirmation in time to join the court in October. The White House is betting that as nominee to be chief justice, he will fare just as well.

Records Dispute

Liberal activists and some Democrats, frustrated at their inability to slow the Roberts nomination, argued yesterday that the higher post required a new level of scrutiny. The White House has refused to release records from Judge Roberts's years in the solicitor general's office during the administration of President George H. W. Bush.

"Given the greater importance of this new position, we hope the White House will reconsider its refusal to release relevant and important documents that will shed light on what kind of chief justice Judge Roberts would become," said New York Democrat Sen. Charles Schumer, a member of the Judiciary Committee.

Democrats hope that, in light of the heightened attention to race because of Hurricane Katrina, they can stir more criticism of Judge Roberts's record on civil rights. As Congress was considering reauthorizing the Voting Rights Act in 1982, Judge Roberts, then a White House lawyer, wrote memos urging the Reagan administration to oppose efforts to expand the law's scope. He criticized a U.S. Civil Rights Commission report that argued for affirmative action. "Under our view of the law it is not enough to say that blacks and women have been historically discriminated against as groups and are therefore entitled to special preferences," he wrote in one memo that Democrats may try to use against him.

In tapping Judge Roberts to be chief justice, President Bush yesterday praised the nominee's "natural gifts as a leader." But just as Judge Roberts's thin two-year resume on the bench makes it hard to divine how he would rule on many issues, his relative lack of management background creates uncertainty over how he would handle being head of the federal judicial system. Apart from serving as a mid-level political aide and a private lawyer, he held the post of principal deputy solicitor general in the Justice Department for four years, more than a decade ago -- his only claim to executive experience.

Judge Roberts may have less combined judicial and management experience than any of the prior 16 chief justices at the time of their confirmation. While Chief Justice Rehnquist had never been a judge before joining the Supreme Court in 1971, he served on the court for 15 years before becoming chief in 1986.

Despite his exalted rank -- something Chief Justice Rehnquist highlighted by adding gold stripes to his robe -- the chief justice has few powers beyond those of the eight associate justices. He presides over the private meetings the justices hold to discuss cases and, when he is in the majority, assigns the writing of opinions. Outside the Supreme Court, the chief justice heads the Judicial Conference, which is the policymaking arm of the federal judiciary.

In both roles, however, the chief justice's influence depends more on force of personality than raw power. Among recent chief justices, Mr. Rehnquist and Earl Warren are considered to have been strong leaders. On the other hand, Warren Burger,

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chief justice when Judge Roberts was a Supreme Court clerk, garnered respect neither as an intellectual force nor as an effective manager, despite his experience as an appellate judge and assistant attorney general.

Part of Mr. Rehnquist's influence as chief came from his evolution from a hard-edged ideological justice to a cooperative manager of his fellow justices. When he first joined the Supreme Court, his background had been as a Republican political operative and then an architect of the Nixon administration's hard line on criminal justice and political dissent. But when elevated to chief justice in 1986, he became known less for stinging dissents than a deep respect for the Supreme Court.

That leadership style sometimes affected the substance of judging. Chief Justice Rehnquist joined the bench as a fierce critic of the Warren Court's efforts to deter police misconduct by excluding ill-gotten evidence and requiring that authorities advise prisoners of their rights before questioning them. But in 2000, he wrote for a seven-member majority to affirm the 1966 decision that established the famous Miranda warning. "Miranda has become embedded in routine police practice to the point where the warnings have become part of our national culture," he wrote. By siding with the majority -- and against dissenting Justices Scalia and Thomas -- he could assign himself the job of writing the opinion and prevent a more liberal justice from expanding Miranda's sweep.

As a young lawyer, Judge Roberts was, like the young Rehnquist, sharply critical of a judicial establishment he considered too liberal. After serving as a clerk to then-Justice Rehnquist, Judge Roberts helped vet potential Reagan judicial nominees. At one point, he proposed a 15-year judicial term limit to help "ensure that federal judges would not lose all touch with reality through decades of ivory tower existence."

Over the years, however, he has shown signs of having more respect for the judiciary, including its long-serving members. As a litigator before the Supreme Court, he learned to craft arguments to sway the justices he now is poised to lead.

The White House has been debating how to fill the O'Connor seat since Sunday morning. The circle of participants is small, and the primary voices are those of Vice President Dick Cheney, top political adviser Karl Rove, Chief of Staff Andrew Card and White House Counsel Harriet Miers. Mr. Rove keeps the pulse of the party base, regularly communicating with the administration's outside allies.

Although Mr. Bush said he would act quickly, conservative activist groups are counseling against naming an O'Connor replacement before the Senate Judiciary Committee sends Judge Roberts's name to the Senate floor. That could take up to three weeks.

Mr. Bush has long been seen as personally partial to Mr. Gonzales, who served on the Texas Supreme Court when the president was the state's governor. He was on Mr. Bush's short list to fill the O'Connor seat the first time around.

Still, conservatives launched an unusually public campaign to derail his Supreme Court appointment over the summer, arguing he is not sufficiently opposed to abortion rights and affirmative action. It didn't help that Mr. Gonzales, in his early weeks on the job at the Justice Department, met face-to-face with officials from the liberal American Civil Liberties Union. Yesterday, conference calls among conservative activists buzzed with concern that Mr. Bush would nominate Mr. Gonzales. "We've come full circle," one participant said in an interview.

Among conservative intellectuals, Judge Luttig remains a favorite. After service in the first Bush administration, where he helped prepare Supreme Court nominee Clarence Thomas for confirmation hearings, Judge Luttig was rewarded with a seat on the Fourth U.S. Circuit Court of Appeals in Richmond, Va. There he quickly emerged as a powerhouse. He writes taut and sometimes acerbic opinions and has helped a large numbers of his clerks obtain Supreme Court clerkships and positions of power in the current Bush administration. Many consider Judge Luttig an academic equal of Justice Scalia, for whom he once clerked. He would probably be a more inflammatory choice, likely to provoke a political fight the president may not welcome now.

The White House is also considering naming a woman to replace Justice O'Connor. Officials have already conducted background checks on several, including two on the Fifth U.S. Circuit Court of Appeals in New Orleans: Judge Edith H. Jones and Judge Edith Brown Clement. The White House is likely to expand its list of female candidates to include Karen Williams of the Fourth Circuit and Justice Maura D. Corrigan of the Michigan Supreme Court.

President Names Roberts As Choice For Chief Justice (NYT)

By Richard W. Stevenson

DOJ_NMG_0002778

The New York Times, September 6, 2005

WASHINGTON, Sept. 5 - President Bush said on Monday that he would nominate Judge John G. Roberts Jr., who had been his choice to fill the Supreme Court seat being vacated by Justice Sandra Day O'Connor, to succeed William H. Rehnquist as chief justice of the United States.

Mr. Bush announced the switch less than 36 hours after Chief Justice Rehnquist's death and a day before the Senate Judiciary Committee had been scheduled to open hearings on Judge Roberts's nomination to replace Justice O'Connor.

If confirmed after hearings that are now expected to get under way in the next week, Judge Roberts would become the 17th chief justice. In taking the job at age 50, he would be in a position to play a pivotal role for decades in shaping the Supreme Court's rulings.

Saying that the Senate and the American people "like what they see" in Judge Roberts, Mr. Bush hailed what he called "his striking ability as a lawyer and his natural gifts as a leader."

The quick decision reflected the White House's conclusion that Judge Roberts, despite opposition to his conservative views from liberal groups and many Democrats in Congress, had withstood intense scrutiny since being nominated to replace Justice O'Connor and could be confirmed comfortably. Mr. Bush said he wanted him to be sworn in as chief justice before the start of the court's new term on Oct. 3.

In choosing Judge Roberts to be chief justice at a sensitive political time, Mr. Bush avoided the fiery ideological fight that would have been ignited had he chosen to elevate Justice Antonin Scalia, a favorite of many conservatives, or turned to a sitting federal judge with a clearer and more extensive conservative record of opinions on social issues than Judge Roberts has.

The rapid sequence of events left Mr. Bush back where many in Washington had thought he would be at the end of the court's last session in June, when Chief Justice Rehnquist was widely expected to step down first, perhaps to be followed by Justice O'Connor.

Having essentially moved to swap one reliable conservative for another in the chief justice's seat, the president now faces what is likely to be a much more intense battle to replace Justice O'Connor, a swing voter on abortion and other contentious issues. But the political climate Mr. Bush faces now is very different from the one in July, when he first moved to fill Justice O'Connor's seat.

The federal government's slow response to suffering inflicted by Hurricane Katrina, on top of the continued bloodshed in Iraq and high gasoline prices, has eaten into Mr. Bush's political strength, emboldening his opponents.

A senior administration official, speaking on the condition of anonymity because of the sensitivity of personnel issues, said Mr. Bush's decision on the next nominee would not be swayed by the politics of the moment. But the official made a point of saying that Mr. Bush was considering candidates "from all walks of life," signaling that the administration was sensitive to the pressure to nominate a woman or a member of a minority to replace Justice O'Connor.

Mr. Bush offered the job of chief justice to Judge Roberts at a 7:15 meeting Monday morning in the Oval Office. The two men had met in the White House residence on Sunday evening to discuss the situation, Scott McClellan, the White House press secretary, said. The senior administration official who spoke on the condition of anonymity said the president had not interviewed anyone else for the chief justice position after Chief Justice Rehnquist's death late Saturday.

"It is in the interest of the court and the country to have a chief justice on the bench on the first full day of the fall term," Mr. Bush said in disclosing what has the potential to be one of the most consequential personnel decisions of his presidency.

It was fitting, he said, that Chief Justice Rehnquist "be followed in office by a person who shared his deep reverence for the Constitution, his profound respect for the Supreme Court and his complete devotion to the cause of justice."

Judge Roberts, standing by Mr. Bush in the Oval Office for the hastily arranged announcement just after 8 a.m. as the president prepared to leave for a tour of the storm damage in Louisiana and Mississippi, said he was "honored and humbled." Judge Roberts, a Rehnquist clerk in 1980 and 1981, said that if confirmed he would "succeed a man I deeply respect and admire."

Mr. Bush said he would select a nominee for the O'Connor seat "in a timely manner." White House officials signaled that there would not be an announcement this week and that they saw no real possibility of having a nominee for that seat confirmed by the start of the new term.

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Speculation immediately centered on the same group of people who had been most prominently mentioned for the O'Connor seat the first time around. They include Attorney General Alberto R. Gonzales and several federal appeals court judges, including Edith Brown Clement, Edith H. Jones, J. Michael Luttig, Michael W. McConnell, Priscilla R. Owen and J. Harvie Wilkinson III.

Republican leaders in the Senate continued to work late Monday on a timetable for Judge Roberts's confirmation hearings, taking into account the funeral services for Chief Justice Rehnquist on Wednesday. Senator Bill Frist of Tennessee, the majority leader, said the Judiciary Committee would announce a schedule on Tuesday, with the hearings most likely to start on Thursday or next Monday.

With the White House on the defensive over Mr. Bush's performance in dealing with the hurricane, Democrats pressed their advantage on Monday, pledging to subject Judge Roberts to more intensive scrutiny than they had so far and suggesting that the president was already displaying signs of political uncertainty.

Senate Democrats signaled that they would press the White House again to release more documents that might shed light on his thinking about divisive issues likely to come before the court. They have been seeking, unsuccessfully, the release of documents from the four years he spent as principal deputy solicitor general under the first President Bush, when he helped argue the government's position on civil rights issues and other topics of intense interest to liberal groups.

A CBS News poll released Monday found that 57 percent of Americans believed that the Senate should consider a Supreme Court nominee's positions on the issues as well as his or her legal qualifications. That was up from 46 percent last month.

"Now that the president has said he will nominate Judge Roberts as chief justice, the stakes are higher and the Senate's advice and consent responsibility is even more important," said Senator Harry Reid of Nevada, the Democratic leader.

In what amounted to a warning to the White House not to select too conservative a nominee for Justice O'Connor's seat, Mr. Reid also urged Mr. Bush to take into account Justice O'Connor's role as what he called "a voice of moderation and reason on the court" in selecting a replacement.

Senator Charles E. Schumer, Democrat of New York, said there were signs that Mr. Bush was pulling his ideological punches because of political weakness.

"If he had been in a stronger position, he would have nominated Scalia as chief justice," Mr. Schumer said. "The president's general view on court nominees has been to make sure the hard right is happy. His weakened position removes him from that a little bit. We'll see how much."

Mr. Bush called Justice O'Connor from Air Force One on Monday morning, a little more than two hours after announcing his decision about Judge Roberts. A spokeswoman for Mr. Bush, Dana Perino, said Justice O'Connor had not heard the news until the president called. Justice O'Connor repeated to the president that her retirement would become effective when a successor was confirmed, Ms. Perino told reporters traveling with the president, indicating her willingness to start the new term on the bench.

On Sunday, Justice O'Connor said that not having a successor in place by Oct. 3 would present her with a "surprising dilemma."

It is not clear whether she will choose to hear any cases during the opening weeks of the term, since she would most likely have departed by the time they were decided, assuming Mr. Bush makes a choice relatively soon and the nominee appears headed toward confirmation.

Roberts Tapped For Higher Court Calling (CSM)

By Warren Richey And Gail Russell Chaddock

The Christian Science Monitor, September 6, 2005

WASHINGTON - By naming Supreme Court nominee John Roberts to succeed William Rehnquist as chief justice, President Bush is seeking to avoid a Senate showdown that might have left the nation's highest court short-handed and embroiled in controversy with a new term fast approaching.

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Instead, the move maintains the rough balance of power that existed on the high court prior to the chief justice's death on Saturday. It does so by requiring Justice Sandra Day O'Connor to continue to serve on the court until a new nominee to her seat is named and confirmed. What remains unclear, given Mr. Roberts's sparse judicial record, is how a Chief Justice Roberts might compare to Chief Justice Rehnquist. Will Roberts embrace the same conservative constitutional approach as Rehnquist?

"It's too early to tell. Some people believe that Roberts may be similar to Rehnquist in his jurisprudence, although that's not at all clear yet," says Carl Tobias, a constitutional law professor at the University of Richmond Law School.

Should Roberts win Senate confirmation, court watchers will learn the answer soon enough with a lineup of hot-button cases on the court's docket this fall - including assisted suicide on Oct. 5, abortion on Nov. 30, and gay rights on Dec. 6.

The real impact of Rehnquist's sudden passing is that instead of replacing Justice O'Connor, a centrist, with Roberts, who is presumed to be more conservative, the president is now replacing Rehnquist, a conservative, with a prospective chief justice who is to some extent an unknown quantity. The result is likely to be that O'Connor continues to wield her decisive tie-breaking vote in high-profile cases.

Legal analysts and court scholars say the president had few other options.

"To have a Supreme Court open just four weeks from now, the first Monday in October, with only seven people and no chief justice would be unprecedented, and I don't see that happening," says Sheldon Goldman, a political scientist at the University of Massachusetts at Amherst.

Although O'Connor's continued presence on the high court is a welcome development to Democrats, most fear that it will be short-lived. The president is expected to move quickly to appoint an O'Connor replacement who could shift the court significantly to the right.

In the meantime, Democrats say that Roberts's elevation to chief makes his nomination even more controversial and substantially raises the stakes. In anticipation of his confirmation hearings, Democrats are ramping up to use Roberts's record on civil rights and affirmative action as a main point of attack.

"The chief justice is the most important judge in the country, with even more responsibility for the protection of the rights and freedoms of all Americans. Thus, John Roberts bears a heavier burden when he comes before the Senate," says Sen. Edward Kennedy (D) of Massachusetts.

Republicans are praising the White House choice of Roberts as chief justice, noting that he has the necessary leadership skills to guide the high court. Some suggest his service on the court will mirror that of Rehnquist's.

"Throughout his years on the nation's high court, Chief Justice Rehnquist stood as a beacon of judicial restraint and reverence for the Constitution and the institution of the Supreme Court. I believe Judge Roberts will follow the lead of his mentor, and guide our nation's highest court by those same principles and devotion to the rule of law for all," says Sen. John Cornyn (R) Texas.

Although the chief justice casts only one vote like the other justices, the chief has the power when in the majority to assign who will write the majority opinion. In a closely divided court, the assigning power can sometimes be used strategically to draw an otherwise dissenting justice into the majority by naming that justice to write the opinion. The chief justice also has the power to assign the decision to him or herself and thus limit or expand the scope of a decision in subtle but meaningful ways.

The chief justice's personality is also important, legal analysts say. "He does have many of the qualities that potentially can make for a great and influential chief justice," says Professor Tobias. "He has that great intellect, which no one has denied, and a personality in many respects similar to Rehnquist's - a very charming, affable, low-key, modest personality that was able to make the court a much friendlier and somewhat less contentious place."

Liberal advocacy groups say they will continue to oppose the Roberts nomination. Ralph Neas, president of People For the American Way, says the group's objections apply to an even greater degree to efforts to elevate Roberts to chief justice.

"The nomination of John Roberts has evolved considerably since July, when the White House was successful in portraying him as a lawyer above the fray.... Almost daily revelations coming out of the Reagan presidential library show someone at the epicenter of a comprehensive assault on fundamental rights that have been part of the law for decades," says Mr. Neas. The road to confirmation

Supreme Court nominations over the past three decades have encountered a variety of receptions by the Senate.

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William Rehnquist
Nominated by President Nixon (R), 1971.
Democrats controlled the Senate.
Senate confirmed 68-26.
John Paul Stevens
Nominated by President Ford (R), 1975.
Democrats controlled the Senate.
Senate confirmed 98-0.
Sandra Day O'Connor
Nominated by President Reagan (R), 1981.
Republicans controlled the Senate.
Senate confirmed 99-0.
Antonin Scalia
Nominated by President Reagan (R), 1986.
Republicans controlled the Senate.
Senate confirmed 98-0.
William Rehnquist
Nominated as chief justice by President Reagan (R), 1986.
Republicans controlled the Senate.
Senate confirmed 65-33.
Robert Bork
Nominated by President Reagan (R), 1987.
Democrats controlled the Senate.
Senate rejected 42-58.
Anthony Kennedy
Nominated by President Reagan (R), 1987.
Democrats controlled the Senate.
Senate confirmed 97-0.
David Souter
Nominated by President George H.W. Bush (R), 1990.
Democrats controlled the Senate.
Senate confirmed 90-9.
Clarence Thomas
Nominated by President George H.W. Bush (R), 1991.
Democrats controlled the Senate.
Senate confirmed 52-48.
Ruth Bader Ginsburg
Nominated by President Clinton (D), 1993.
Democrats controlled the Senate.
Senate confirmed 96-3.
Stephen Breyer
Nominated by President Clinton (D), 1994.
Democrats controlled the Senate.
Senate confirmed 87-9.
Source: Congressional Directory

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Newsview: Bush Takes Safe Path On Roberts (AJC/AP)

By Ron Fournier, Ap Political Writer

The Atlanta Journal-Constitution, September 6, 2005

WASHINGTON — President Bush chose the path of least resistance in nominating John Roberts as chief justice, acting with unusual haste as the war in Iraq and Hurricane Katrina sap his political strength. He was the safest choice Bush could make.

Roberts is a Washington insider well versed in the functions of the Supreme Court and the levers of power in Congress, an accomplished lawyer whose smile and sterling resume seem to take the sharp edges off his deeply conservative ideology.

Liberal activists who opposed Roberts' nomination to replace retiring justice Sandra Day O'Connor had found little in his record to suggest they could thwart that nomination.

He will draw less partisan fire than two other candidates pushed by Bush's conservative backers to succeed the late William H. Rehnquist — associate justices Clarence Thomas and Antonin Scalia.

While Roberts' confirmation still seems likely, he may face a tougher road to confirmation because the position of chief justice will be held to a higher standard. Bush's weakening political standing could complicate things for Roberts, according to strategists in both parties.

Republican and Democratic strategists also agree that Bush will come under intense pressure now to name a woman or minority to replace O'Connor. It's no small factor that flooding in New Orleans hit poor, black residents the hardest, raising questions about Bush's sensitivity to minorities and the poor.

"When Roberts' record on civil rights is reviewed inside the Judiciary Committee, it's going to sound more jarring post-Katrina than before the hurricane," said Democratic consultant Jenny Backus. "America was reminded about the big issue out there that has not been openly addressed by the administration — economic disparity based on race."

Bush may also be boxed in ideologically — less inclined to nominate somebody as conservative or to the right of Roberts. But officials close to the White House predicted the president would pick a conservative in the mold of Roberts.

"The fight is over the next one," said Democratic consultant Nick Baldick. "Roberts is taking the Rehnquist voting slot and no one worried about him being much more conservative than Rehnquist."

Privately, several Republicans predicted Monday that Bush's political stature will continue to decline as the Gulf Coast death toll mounts. That may make Roberts an easier target.

But the real complications come later, when Bush turns to O'Connor's seat.

As one senior Republican put it: Weak presidents beget weak nominees. Whoever Bush selects next will be vulnerable because the president's political troubles have grown since he first tapped Roberts. The officials, including two who are working closely with the White House on Supreme Court picks, spoke on condition of anonymity because they are not authorized to discuss the process publicly.

Democrats wondered why it took Bush less time to name Rehnquist's replacement than it did to visit the Gulf Coast after Katrina hit.

"This is about who will run the Supreme Court for the next generation and it looks like they rushed a decision together in a way that doesn't look that thoughtful," said Joe Lockhart, press secretary in the Clinton White House.

Some Democrats urged Bush to delay the nomination process while he responds to Katrina, a not-too-subtle dig at his efforts thus far. "In the midst of a national disaster of biblical proportion," Sen. Edward M. Kennedy, D-Mass., said, "it is difficult for the American people to participate fully in the selection of the next chief justice."

In fairness to Bush, he had weeks to consider Roberts' qualifications, and a summer spent in the spotlight turned up no warts on the nominee.

"I think the public vetting proves that this guy is the real deal — bright, knows the issues and can leave a long-term imprint on the court because of his youth and intellect," said Rick Davis, a GOP consultant.

That is a major point that easily gets lost amid the politicking. Roberts, 50, could lead the nation's judicial branch for a generation or more. He may be the last chief justice most Americans know.

On top of that, O'Connor's seat is a critical swing vote — and she may not be the last justice who leaves during Bush's term.

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When voters re-elected Bush, they gave Republicans the keys to the future of the U.S. judiciary. Bush and his party control the Judiciary Committee and a solid majority of votes in the Senate. Nobody should be surprised that the Supreme Court, once a liberal bastion, will continue further down the conservative path plowed by Rehnquist himself.

Political Equations Are In For A Revision (USAT)

By Joan Biskupic

USA Today, September 6, 2005

WASHINGTON — By choosing federal judge John Roberts to succeed William Rehnquist as chief justice, President Bush picked someone who has been screened extensively and who could be confirmed by the Senate before the court's term begins Oct. 3.

Roberts, who had faced confirmation hearings this week as Bush's choice to succeed retiring Justice Sandra Day O'Connor, was perfectly positioned to move over to the chief's slot when Rehnquist, 80, died Saturday. Suddenly, the White House was able to put its top choice for the high court in the center seat.

But Bush's nomination of Roberts to be chief justice shakes up the complicated political calculus that invariably accompanies judicial nominations, particularly those involving the Supreme Court. It also reopens the debate over who should replace O'Connor's moderate voice on the divided court at a time when the Bush administration is battling criticism over its response to Hurricane Katrina.

A key question in the coming weeks will be whether the White House — which has been feisty in its determination to put strict conservatives on the bench in lower courts — now has the appetite for a knock-down, drag-out fight over a Supreme Court nomination. With O'Connor's seat back in play, Bush also will be under increasing pressure to select a woman or a minority for the nine-member court.

The events of the past several weeks mean that a court that went 11 years without a change in membership will be transformed.

Roberts now is in line to replace the solidly conservative Rehnquist rather than the moderately conservative O'Connor. Roberts, a former law clerk to Rehnquist, was a conservative go-getter as a government lawyer during the Reagan and first Bush administrations, before he moved on to a lucrative private-sector legal career. But his paper trail is not complete, and his current views on major issues of the day — such as abortion, affirmative action and religion's role in government — aren't totally clear. Regardless, he has friends in both parties and has been moving toward a relatively easy confirmation.

Meanwhile, the court will eventually be without O'Connor, who supported affirmative action in college admissions and who is one of six justices who have endorsed abortion rights.

Her successor could shift the court to the right — as Bush's conservative base wants — or add more unpredictability.

It's unclear how all the maneuvering will affect the law in America, but there is certain to be a long shakeout period among the members of the nation's highest court. O'Connor's successor probably won't join the court until after the start of the annual term on Oct. 3. O'Connor has said she will stick around to hear cases until her replacement arrives, but the possibility that she will leave the bench during the middle of a case could further complicate matters for the court.

A key political question is how Bush will respond to pressure to pick a woman or a minority for the court. Without O'Connor, the nine-member court will have only one woman, Ruth Bader Ginsburg. There is only one African-American on the bench, Clarence Thomas, and there has never been a Hispanic justice.

"I think the president himself values diversity on the courts," says David Leitch, a former deputy White House counsel to Bush and now general counsel at Ford Motor Co. "It will be something that he'll consider. But I don't think it's more or less likely to be a factor because of poll ratings or anything else going on in the short-term news cycle."

If Bush wants to make the court more diverse, that could enhance the prospects for Attorney General Alberto Gonzales, a longtime friend of the president. Gonzales was born in San Antonio to parents whose families immigrated from Mexico.

But Gonzales has a moderate record that has drawn criticism over the years from staunch conservative groups such as the Coalition for a Fair Judiciary. Gonzales has spoken in favor of affirmative action, and as a Texas Supreme Court justice he endorsed the idea of abortion rights.

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"Judge Gonzales would be the obvious choice for this next pick, but for the opposition of conservative groups," says Bradford Berenson, a Washington lawyer who was an associate White House counsel during Bush's first term.

Another candidate for O'Connor's spot could be Larry Thompson, who was deputy attorney general and the highest-ranking African-American law enforcement official in Bush's first term. He is senior vice president and general counsel at PepsiCo in Purchase, N.Y.

Several federal appeals court judges are possible contenders: Samuel Alito of Newark; Janice Rogers Brown of Washington, D.C.; Edith Brown Clement of New Orleans; Emilio Garza of San Antonio; Edith Jones of Houston; Michael Luttig of Alexandria, Va.; Michael McConnell of Salt Lake City; and J. Harvie Wilkinson of Charlottesville, Va.

The president's choice for the O'Connor seat and the resolution of other looming questions will have long-term consequences for the nation's highest court. Rehnquist served 33 years, the last 19 as chief justice. O'Connor is in her 24th year on the bench. Roberts and whoever else is tapped could affect significantly the law for decades to come. This fall, the justices will consider disputes over abortion rights, physician-assisted suicide and campus bans on military recruiting.

Roberts' record generally appears to be in line with Rehnquist's conservative views. Rehnquist presided over a court that curtailed Congress' power in local affairs, reduced protections for criminal defendants and diminished the court's presence in American life, particularly in achieving social goals such as school desegregation and prison reform.

Predicting the high court's decisions in such disputes has become more difficult now that there are two openings. When Roberts was the potential successor to O'Connor, for example, it was easy to see the court taking a slight turn to the right. If Roberts winds up opposing abortion rights, for example, the number of justices in favor of such rights would drop to five.

But if Roberts succeeds Rehnquist — who was a strong opponent of Roe v. Wade, the 1973 decision that made abortion legal nationwide — there might be no change in the court's overall stance on abortion. Roberts is 30 years younger than Rehnquist and is in a generation whose members were young adults when Roe was decided, so it is possible that Roberts could favor restrictions on abortion without voting against the basic right to the procedure. If so, he would represent a softening of the chief justice's position on the issue.

Some Senate Democrats say Roberts should get tougher scrutiny now that he is being nominated for chief justice. "The chief justice is the most important judge in the country, with even more responsibility for the protection of the rights and freedoms of all Americans," Sen. Edward Kennedy, D-Mass., said in a statement. "Thus John Roberts bears a heavier burden when he comes before the Senate."

Marci Hamilton, a law professor at Yeshiva University's Cardozo Law School and a former clerk to O'Connor, says recent events could lead the administration to avoid a nomination fight in the Senate and pick a moderate candidate, someone who could win support from Democrats, to replace O'Connor.

"The poll numbers are bad. Katrina is added to other failures. The moderate choices look better politically," Hamilton says.

But Leitch, who agrees that a woman or Hispanic jurist is a real possibility, counters that Bush aides "will probably do everything possible to make the best long-term decision, rather than just pay attention to the vicissitudes of the moment. Thirty years from now, you might still have the (new) justice making decisions."

Roberts's Personal Skills And Political Savvy Seen As Assets (WP)

By Charles Lane

The Washington Post, September 6, 2005

On Chief Justice William H. Rehnquist's Supreme Court, Justice Antonin Scalia has been the acknowledged intellectual leader of the conservative bloc, a brilliant writer and legal thinker with many followers in legal academia.

Yet when it came time to replace Rehnquist as chief justice, President Bush did not tap Scalia, 69, as some conservatives had hoped. Rather, he reached outside the court and selected John G. Roberts Jr.

Roberts, 50, is not only younger than Scalia, but also mellower, a former law clerk of the easygoing Rehnquist. Roberts became known for his astute political judgments in the Reagan administration and his cordial personal relations with many liberal attorneys during his years as a Supreme Court advocate. In a role in which he will have few means of forging majorities other than persuasion and tact, that could make Roberts an effective force for conservatism on the court.

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"A committed conservative with interpersonal skills equal to or superior to Rehnquist's would be a far more effective chief justice than a nominee of equal intellect who lacks those graces," said David J. Garrow, a professor of law at Emory University.

Historians have often labeled different eras at the court for the chief justice who presided at the time. Yet whereas the chief justice runs oral argument and closed-door conferences, he has only one vote and few formal means of control over the court. Rehnquist himself once likened leading the Supreme Court's eight associate justices to controlling "hogs on ice." The court's nominal boss, he said, "may at most persuade or cajole" his independent-minded colleagues.

Thus, the Warren Court's jurisprudence probably owed as much to the thinking and interpersonal skills of Justice William J. Brennan Jr. as it did to the ideas of Chief Justice Earl Warren. Sandra Day O'Connor, an appointee of President Ronald Reagan who often found herself unable to agree with Scalia, was the controlling force of the Rehnquist Court.

Probably the chief justice's principal power is the right to assign the writing of opinions for the court when he is in the majority. Rehnquist was known for the fairness with which he distributed opinions among the associates -- especially in contrast to his predecessor, Warren E. Burger, who often generated ill will by manipulating the process.

Rehnquist also prevented the court's conferences from turning into prolonged debates, which had often led to delays and personal feuding at the court earlier in the 20th century.

Instead, Rehnquist's policy was that every justice would speak at least once, to announce his or her vote and view of the case, before anyone would be allowed to raise an objection.

The Burger period was a time of notorious internal bickering at the court, which Roberts saw first-hand as a law clerk for Rehnquist -- then an associate justice -- during the 1980-1981 term.

As chief justice, Rehnquist would sometimes join a majority he probably did not agree with, so as to reserve the opinion-writing for himself and thus limit the damage to his own legal preferences. But he would also take his share of less-glamorous assignments, such as tax and Indian law cases.

As a young aide in the Reagan administration, Roberts was an advocate of conservative policy positions -- but also a keen student of politics and the media who frequently counseled his superiors how to achieve their objectives without ruffling feathers.

In an Aug. 31, 1982, White House memo, Roberts advised his bosses on relations between the executive branch and the Supreme Court. The document showed great solicitude for the sometimes prickly sensibilities of the justices.

"Any effort to improve relations between the Executive Branch and the members of the Supreme Court must be undertaken with extreme care to ensure that there is no appearance of an effort to affect the deliberations or decisions of the Justices," Roberts wrote. "The dignity of the Court must also be maintained, and the Justices should under no circumstances be made to feel that they are being used as part of any political campaign or an effort to achieve any political end."

In inviting justices to state dinners, Roberts counseled, "no favoritism should be shown based on the Justice's individual views."

If confirmed by the Senate, Roberts, 50, would be the youngest chief justice since John Marshall took office at the age of 45 in 1801; he would also be taking the helm of a group that has been together for the last 11 years and has known no other chief justice during that time.

Yet few expect either Roberts's age or his newness on the court to be liabilities. That is because he is already so familiar to the current justices, both from his 39 oral arguments before them, and from socializing outside the courtroom.

"He probably knows them as judges and as people better than all but a few other people," said David G. Leitch, a former associate White House counsel in the Bush administration who also served as a law clerk to Rehnquist.

As chief justice, Roberts would also serve as head of the Judicial Conference, which makes policy on behalf of the entire federal judiciary. In this role, Roberts will be expected to represent all federal courts in their efforts to win budget funding and salary increases from Congress, as well as to fend off threats to the judicial branch's independence that might come from the legislative or the executive branch.

There is even a cultural side to the post as chief justice. If confirmed, Roberts would, by law, serve on the boards of the Smithsonian Institution, the National Gallery of Art and the Hirshhorn Museum and Sculpture Garden.

Bush Nominates Roberts As Chief Justice (FT)

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By Patti Waldmeir

Financial Times, September 6, 2005

President George W. Bush on Monday nominated Judge John Roberts as Chief Justice of the US, but left open the more difficult question of who should fill the second vacant seat on the US Supreme Court.

The president is faced with a rare opportunity to make two appointments to the Supreme Court at once and shift the Court to the right for decades to come.

Apparently eager to return to the urgent task of repairing his tarnished image after Hurricane Katrina, Mr Bush moved swiftly to fill the first of those seats. He promoted Judge Roberts, 50, who was already in line to replace Justice Sandra Day O'Connor to fill the seat vacated by the death of Chief Justice William Rehnquist.

The choice is widely viewed as a shrewd one: John Roberts is respected for intelligence, temperament and demeanour. It seems likely he will be confirmed, even by the bitterly divided Senate.

But that leaves Justice O'Connor's seat vacant. She said in July that she would retire, but offered to stay until a replacement could be seated.

Mr Bush said on Monday he would choose a nominee “in a timely fashion”, and a White House spokesman said he called Justice O'Connor from Air Force One to discuss the decision.

But it was not clear whether the announcement would come before or after Judge Roberts' Senate confirmation hearings.

Those hearings, which were to have begun on Tuesday, are expected to be delayed. Much of the groundwork for them has already been done: Judge Roberts's background as a government lawyer, corporate attorney and appeals court judge has already been thoroughly scrutinised, and nothing has yet emerged to fuel enough opposition to defeat him.

Mr Bush urged the Senate to move quickly before the new Supreme Court term on October 3. One prominent liberal group, People for the American Way, immediately came out against him. It said in a statement that Judge Roberts was “unfit to be Chief Justice” largely because of his “hostility to the laws and remedies that protect Americans from discrimination”.

But overall, liberal groups are likely to fight harder over Justice O'Connor's seat. That nominee could go further in shifting the balance on the evenly divided Court.

Democrats Pledge More Intense Scrutiny Of Roberts (WP)

By Jo Becker

The Washington Post, September 6, 2005

Senate Democrats yesterday promised to subject John G. Roberts Jr. to an increased level of scrutiny in light of President Bush's decision to nominate the 50-year-old appeals court judge to replace the late William H. Rehnquist as chief justice.

But with conservatives and liberals alike saying that Roberts is on track to be confirmed, the focus was already shifting to what both sides believe will be the real battle: Bush's yet-to-be-named pick to replace retiring Justice Sandra Day O'Connor.

O'Connor's seat is critical because she often provided a swing vote on such controversial issues as affirmative action, abortion and prayer in public places. Roberts was initially chosen to replace her, but instead is now poised to succeed Rehnquist, a reliable conservative who died Saturday of thyroid cancer.

The rare opening of two seats on the nine-member court gives Bush the opportunity to dramatically move the balance of power on the court to the right.

The switch, which comes as the Bush administration struggles to deal with the aftermath of Hurricane Katrina, had both sides hurriedly recalibrating their strategies. Senate leaders agreed to postpone Roberts's confirmation hearings, which had been scheduled to start today, probably until next Monday.

Bush urged the Senate to quickly confirm Roberts in time for the Oct. 3 start of the new Supreme Court term, saying that the Senate was "well along in the process of considering Judge Roberts's qualifications."

But Senate Democrats said that the move to make Roberts the 17th chief justice of the United States required careful deliberation, particularly given Roberts's relatively short, two-year tenure as a federal appeals court judge.

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"The stakes are higher and the Senate's advice and consent responsibility is even more important," said Senate Minority Leader Harry M. Reid (D-Nev.). "If confirmed to this lifetime job, John Roberts would become the leader of the third branch of the federal government and the most prominent judge in the nation."

Democrats on the Judiciary Committee plan to renew their calls for the White House to release memos and other documents from Roberts's 1989-1993 tenure as principal deputy solicitor general in the administration of President George H.W. Bush, his highest government posting. "Judge Roberts has a clear obligation to make his views known fully and completely," said Sen. Charles E. Schumer (D-N.Y).

Still, even liberal groups opposed to Roberts's nomination said yesterday that the shift is unlikely to alter his chances of being confirmed, given that Republicans are in firm control of the Senate. Some Republicans argued that it will even help his prospects, given that replacing Rehnquist with Roberts isn't likely to change the ideological center of the court.

Kate Michelman, a former president of NARAL Pro-Choice America, said that what senators must do now is highlight Roberts's record on civil rights, his skeptical writings about the legal underpinnings of abortion rights and other stances to "show people what it means to have his views on the court and lay the groundwork for the next nomination fight."

Democrats are already moving to link the two nominations. Sen. Edward M. Kennedy (D-Mass.) said that a review of memos that Roberts wrote while a young lawyer in the Reagan administration shows that Roberts sought to "weaken voting rights, roll back women's rights, and impede our progress toward a more equal nation."

Before the Senate acts on Roberts's new nomination, Kennedy said, the Senate has a right to know whom Bush intends to nominate for O'Connor's position. "The American people care deeply about the overall balance of their highest court."

With President Bush's approval ratings at an all-time low and his administration under fire over its handling of Hurricane Katrina, some conservatives are worried that Bush will forgo the chance to pick another conservative in favor of someone who will not provoke a fight.

Manuel Miranda, former legal counsel to Senate Majority Leader Bill Frist and the founder of a conservative group that follows judicial issues, said Bush must keep his campaign promise to nominate a justice in the tradition of conservative Justices Antonin Scalia and Clarence Thomas, or risk "sinking even lower in the polls."

"If anything is keeping him afloat right now, it's conservative support," Miranda said.

Meanwhile, Democrats on the Hill are feeling more emboldened by the president's weakened political standing, according to interviews with senior aides and Democratic strategists. Ron Klain, a former aide to President Bill Clinton, said Democrats may be more willing to fight a staunchly conservative second pick.

"As his poll numbers fall, his domestic problems accumulate, and as independent voters increasingly wonder if he is out of touch with what's going on in the country, then Democrats in conservative states have less to fear by crossing him," Klain said.

The question for Democrats is whether the American public, consumed with images of the devastation in the Gulf Coast states, will tune in to the nomination hearings.

Senators are treading carefully. Sen. Patrick J. Leahy (D-Vt.) said that the Senate looks forward to consulting Bush on a successor to O'Connor, a pick he stressed will "affect all of us, and the generations who follow us."

At the same time, he said, "these are not the only challenges facing the nation at this critical time. Most urgent at this moment is providing the necessary help to Americans still suffering in New Orleans and elsewhere along the Gulf Coast."

Special Interests Gear Up For Fight On Court Vacancy (USAT)

By Mark Memmott

USA Today, September 6, 2005

Now that there are two Supreme Court seats to fill, a relatively quiet debate among interest groups is expected to become the more bitter, multimillion-dollar slugfest opposing sides have long anticipated.

“Watch for World War III,” conservative lawyer John Hinderaker wrote Monday on Power Line, his widely read Web log, or blog.

Interest groups plan to ramp up their rhetoric, TV ad campaigns and grass-roots lobbying even though Chief Justice William Rehnquist's death may not fundamentally change the court.

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If President Bush gets his way in the Senate, Rehnquist will be replaced by another conservative — federal judge John Roberts. "That doesn't turn the court to the right," said Mark Hurwitz of Western Michigan University.

The vacancy Roberts had previously been tapped to fill, the seat of retiring Justice Sandra Day O'Connor, offers the better opportunity for Bush to at least slightly affect the balance on the court.

O'Connor is a moderate on some social issues. Hers is one of six votes on the nine-member panel to support abortion rights.

Before Rehnquist's death on Saturday, Roberts' nomination to fill O'Connor's seat had generated relatively little heat. Progress for America, a conservative group that pledged to spend up to $18 million to support Bush's nominee, had spent just a few million dollars.

Leading liberal groups such as People for the American Way, Alliance for Justice and NARAL Pro-Choice America had announced their opposition to Roberts' confirmation. But among those, only NARAL had run anti-Roberts TV ads.

Overall, efforts by the White House, Republican Party officials and conservative groups to portray Roberts as a "fair" judge who deserved a "fair," up-or-down vote in the Senate had dampened debate.

Things changed with the prospect of two court openings:

•Ralph Neas, president of People for the American Way, said in a statement that Roberts' "hostility" to laws that many in the left view as guarding Americans from discrimination makes him "unfit for the position of chief justice." Neas promised his group will "vigorously oppose his confirmation."

In an interview, Neas said stakes are higher now because as chief justice, Roberts, 50, "could have a tremendous impact on the judiciary well into the 21st century."

•Nancy Keenan, president of NARAL Pro-Choice America, called on the White House to release documents written by Roberts when he was a deputy solicitor general in the first Bush administration. "The American people need to know where this man stands on the issue of privacy," Keenan said.

As for the O'Connor vacancy, Neas and Keenan called on Bush to choose a moderate, "consensus" nominee. C. Michael Comiskey, political science professor at Penn State Fayette, said that's unlikely. Bush may be riding low in polls, but "I don't think he's afraid of a fight," Comiskey said. "He's going to nominate the person he wants."

Interest groups on the right said they are ready to support the president's nominees. "The left is doing its predictable show of hysterical scare-mongering," said Sean Rushton, executive director of the conservative Committee for Justice.

"We'll defend and promote the nominees," said Brian McCabe, president of Progress for America.

The groups "have no reason to exist and collect money if they don't fight on this now," said Hinderaker, the conservative blogger.

Bush Wants Roberts To Be Next Chief Justice (LAT)

By David G. Savage And Henry Weinstein

The Los Angeles Times, September 6, 2005

WASHINGTON -- President Bush moved quickly Monday to replace the late William H. Rehnquist on the Supreme Court by nominating Rehnquist's onetime law clerk, Judge John G. Roberts Jr., as the 17th chief justice of the United States.

Bush had nominated Roberts in July as an associate justice to succeed Justice Sandra Day O'Connor. When she wrote Bush about her plans to retire, O'Connor had said she would remain on the court until her successor is confirmed, and she reiterated that sentiment Monday.

The Oval Office announcement of Roberts' new status came less than 36 hours after Rehnquist died at his home in Arlington, Va., and just a day before the Senate Judiciary Committee was to open confirmation hearings on Roberts' nomination as an associate justice. Those hearings were put off, at least until Thursday.

The switch permits Bush to replace the conservative chief justice with a 50-year-old appellate court judge who appears to be an ideological twin. And because the Roberts nomination has been generally well-received, both the White House and Senate Republicans expect he will be confirmed before the first Monday in October, when the Supreme Court begins its new term.

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"It is in the interest of the court and the country to have a chief justice on the bench on the first full day of the fall term," the president said. He added that Roberts' "striking ability as a lawyer and his natural gifts as a leader" make him an ideal choice to be chief justice, despite his relative youth.

Indeed, Roberts had been the first choice of White House lawyers earlier this year as a successor to Rehnquist, who had been diagnosed with thyroid cancer last October and was widely expected to retire in June, at the end of the court's 2004-05 term. Roberts was chosen as O'Connor's successor only because she unexpectedly announced her retirement first.

Now, the intense speculation has focused again on a replacement for O'Connor, the court's swing vote on issues such as religion, abortion and affirmative action. In his remarks Monday morning, Bush said he would choose her successor in a "timely manner."

If the president chooses Attorney General Alberto R. Gonzales or Judge Edith Brown Clement from the federal appellate court in New Orleans, the change may not tip the balance of the court to the right. Both are seen as moderate conservatives, somewhat akin to O'Connor.

But Bush could select a nominee with more conservative credentials, such as Judges J. Michael Luttig and J. Harvie Wilkinson of Virginia, Edith H. Jones of Texas or Janice Rogers Brown, the former California Supreme Court justice who was confirmed this summer to the U.S. Court of Appeals in Washington. Any of those nominations would set off a political battle in the Senate.

Bush also could turn to Judges Emilio Garza or Priscilla R. Owen, both Texas conservatives, or to Larry D. Thompson, a former deputy attorney general who is highly regarded by Bush insiders and now serves as general counsel to Pepsico.

Gonzales and Garza are Hispanic, and Thompson and Brown are black. Many legal analysts said Monday they expected that Bush would choose a woman or a member of a minority group to fill O'Connor's seat, and not a conservative white male.

"I expect intense pressure on the president from the loyal opposition to nominate as moderate a voice as he can find for the O'Connor replacement," said Pepperdine University law professor Douglas W. Kmiec. That bodes well for the prospects of Gonzales or Clement, he said.

"The realpolitik of the situation is a president who is low in the polls, facing considerable difficulty externally with Iraq and internally with (Hurricane) Katrina will have more difficulty holding his party together than not. That will not augur well for a ... conservative nominee," he said.

But Northwestern University law professor Steven G. Calabresi, a former law clerk to Justice Antonin Scalia and one of the founders of the Federalist Society, a conservative legal group, contended that Bush's political problems with hurricane recovery efforts would not affect his decision.

"I really think the president regards these decisions as among the most consequential of his presidency," Calabresi said. "He will do what he thinks is right for the country regardless of its immediate impact on his political standing. That doesn't necessarily mean he will do something confrontational."

Meanwhile, the new Roberts nomination was praised as a smart move by conservative activists and some independent analysts.

Bush's action Monday "makes a lot of sense. He now knows with near certainty that Roberts is a survivor, who has been vetted by the press and the legal establishment," said Stephen Gillers, a New York University law professor and legal ethicist. "No skeletons have been found, nothing that could possibly derail his confirmation despite some opposition from progressive groups."

Roberts' confirmation "is a virtual shoo-in," he said.

Kmiec predicted that Roberts would exert real influence as chief justice. "He is genial, warm, welcoming, not quick to take umbrage or disagree. He will be very effective by wit, intelligence and the ability to build coalitions for particular points of view," he said.

Justice Anthony M. Kennedy, who was appointed to the court by President Reagan, has infuriated some conservatives by voting to uphold abortion rights and gay rights, and Kmiec suggested that the presence of Roberts as chief justice "may cause Kennedy to be more faithfully conservative."

Liberal groups that were already sharply critical of Roberts said the new nomination raised the stakes in the confirmation hearings.

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People for the American Way called Roberts "unfit to be chief justice of the United States." Roberts has shown "hostility to the laws and remedies that protect Americans from discrimination," the group said.

NARAL Pro-Choice America said it was flatly opposed to Roberts, and the National Organization for Woman called him "an anti-women's rights, anti-civil rights judge."

"It is an outrage and an insult to the women of this country that George W. Bush has nominated such as jurist to be chief justice of the United States," said NOW president Kim Gandy.

Duke University's Erwin Chemerinsky, who last week led a group of liberal law professors in announcing opposition to Roberts, said Bush's move Monday "dramatically changes the dynamics of the Roberts confirmation."

Roberts "by all accounts seems to be like Rehnquist ideologically. This means the focus has to be on replacing O'Connor, because it is that seat in the short term that could change the outcome of so many cases," he said. Viewed through this prism, Roberts' path to confirmation could be eased, he said.

"If Bush tried to replace O'Connor with Jones or Luttig, the Democrats will go to the wall" on both nominees, he predicted. "The flip side is that if Bush picks a more moderate conservative, Democrats will let both go through because it does not change the overall balance of the court. Again, this makes the crucial issue who replaces O'Connor."

Picking Roberts For Court's Top Job Raises Stakes (USAT)

By Kathy Kiely

USA Today, September 6, 2005

WASHINGTON — President Bush's swift decision Monday to nominate John Roberts as the replacement for Chief Justice William Rehnquist raises the stakes of Supreme Court confirmation hearings as Congress and the White House struggle to cope with anational crisis.

Roberts, 50, whom Bush had previously tapped to succeed retiring Justice Sandra Day O'Connor, got the nod after his mentorRehnquist died Saturday following a battle with thyroid cancer.

Bush made the announcement as a helicopter waited to take him on a second tour of the hurricane-ravaged Gulf Coast.

If confirmed, Roberts would be the youngest chief justice since 1801. That means he could have decades to influence the court's direction. Some Democrats say that argues for tougher hearings.

“Judge Roberts has a clear obligation to make his views known fully and completely,” said Sen. Charles Schumer, D-N.Y.

Roberts, a federal appeals judge, would be the 17th chief justice. Five were promoted from the high court. Eleven came from politics, lower courts and other posts.

Still unresolved: When confirmation hearings should begin. Originally set to start today, they've been postponed until after Rehnquist's funeral Wednesday.

Sen. Edward Kennedy, D-Mass., argued that the nation needs time to cope with the aftermath of Hurricane Katrina. Senate Majority Leader Bill Frist, R-Tenn., pushing for confirmation this month, said hearings will start by next week.

The president said he selected Roberts, a former Rehnquist clerk, because of his “natural gifts as a leader” and to ensure the court has all nine justices when its new session begins Oct. 3. O'Connor has said she will remain until her replacement is confirmed.

The chance for two court appointments gives Bush a historic opportunity, but also increases pressure on him.

Conservatives such as James Dobson of Focus on the Family want a like-minded justice to replace O'Connor, a swing vote on abortion and other issues. Senate Minority Leader Harry Reid, D-Nev., counters: “Justice O'Connor has been a voice of moderation and reason on the court and should be replaced by someone … like her.”

In a USA TODAY/CNN/Gallup Poll taken before Rehnquist's death, 52% said they favored Roberts' confirmation.

Bush Chooses Roberts, Weighs Other Vacancy (AJC/AP)

By Terence Hunt, Ap White House Correspondent

The Atlanta Journal-Constitution, September 6, 2005

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WASHINGTON — Seizing a historic opportunity to reshape the Supreme Court, President Bush swiftly chose conservative John Roberts as chief justice Monday and weighed how to fill another vacancy that could push the nation's highest court to the right on issues from abortion to affirmative action.

Polished and plainspoken, Roberts had been on a likely track to be confirmed as an associate justice and it appeared Bush turned to him for the top job to avoid an acrimonious fight at a volatile moment. Bush was on the defensive about the administration's sluggish response to Hurricane Katrina and his poll ratings had fallen to their lowest point of his presidency.

"For the past two months members of the United States Senate and the American people have learned about the career and character of Judge Roberts," Bush said. "They like what they see."

Roberts' nomination, just two days after the death of Chief Justice William H. Rehnquist, raised fears among Democrats about a rightward shift as Bush fills two openings on the nine-member court. Democrats have been frustrated by Roberts' popularity and said the Senate must take a closer look at his new nomination.

"The stakes are higher and the Senate's advice and consent responsibility is even more important," said Senate Minority Leader Harry Reid, D-Nev. Sen. Edward M. Kennedy, D-Mass., expressed concerns about the court's balance.

"Replacing two justices at the same time will have an enormous impact on the court and on the lives and liberties of all Americans for decades," said Ralph Neas, president of the liberal advocacy group People for the American Way, which opposes Roberts' nomination.

Senate Majority Leader Bill Frist, R-Tenn., said Roberts was "one of the most well qualified candidates to come before the Senate." He said he still expects Roberts to be confirmed before the new court session begins Oct. 3.

Like Rehnquist, Roberts is deeply conservative. He was nominated in July to succeed retiring Justice Sandra Day O'Connor, who angered conservatives with her tie-breaking votes on contentious issues like abortion restrictions, campaign finance limits, discrimination laws, and religion.

The Roberts-for-Rehnquist nomination would not affect the balance, but Bush could force an ideological shift by replacing O'Connor with a reliably conservative vote. O'Connor has offered to remain on the bench until her successor is named, and Bush called her Monday to say he would move quickly to find her replacement as well. He is not expected to name a new O'Connor successor this week.

After turning twice to Roberts, Bush faces increasing pressure to name a woman or a minority. Some conservatives fretted Bush would pick Attorney General Alberto Gonzales whose views on abortion and other issues have raised their suspicions.

"The president promised in two campaigns to nominate justices who will faithfully uphold the text and principles of the Constitution," said Wendy Long, counsel for the conservative Judicial Confirmation Network. "One would expect the president to nominate more exceptional judicial conservatives like Judge Roberts for as many vacancies as occur, whether it is two, three, or more."

But Brad Berenson, a former Bush White House lawyer, said, "My own view is that Judge Gonzales would be a more conservative justice" than O'Connor.

Other possible replacements include federal courts of appeals judges Edith Clement, Edith Hollan Jones and Emilio Garza. Also mentioned are judges J. Michael Luttig, Samuel A. Alito Jr., James Harvie Wilkinson III and Michael McConnell, and former Solicitor General Theodore Olson, lawyer Miguel Estrada and former deputy attorney general Larry Thompson.

No president has nominated two newcomers to the Supreme Court at the same time since Richard Nixon filled a pair of vacancies in 1971.

The change in Roberts' nomination scrambled plans for his confirmation hearings, which had been scheduled to begin Tuesday. Instead, the capital prepared for the ritual of honoring Rehnquist. His body will lie in repose in the Great Hall of the Supreme Court on Tuesday and Wednesday and he will be buried at Arlington National Cemetery following funeral services Wednesday.

Moving swiftly, Bush met with Roberts in the private residence of the White House for about 35 to 40 minutes on Sunday evening, then officially offered him the job at 7:15 a.m. Monday when Roberts arrived at the Oval Office. The president announced the nomination during morning television shows in a live appearance from the Oval Office.

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The president praised Roberts as a man of fairness and integrity, a natural leader. He said the Senate was well along in the process of considering Roberts' qualifications and "they know his record and his fidelity to the law. I am confident that the Senate can complete hearings and confirm him as chief justice within a month."

In brief remarks, Roberts said he was "honored and humbled at the confidence that the president has shown in me. And I am very much aware that if I am confirmed I would succeed a man I deeply respect and admire, a man who has been very kind to me for 25 years."

Only 50 years old, Roberts could be a conservative legal force for decades — as was Rehnquist, who served 33 years on the court, 19 of them as its leader.

There are striking similarities between the two men. Both were first in their class in law school, enjoyed reputations for brilliance and were known as good writers. As a young man, Roberts clerked for Rehnquist and the justice was one of many influences in Roberts' life and legal career.

Roberts' conservative views have been illuminated in thousands of documents from his time as a lawyer in the Reagan administration and the first Bush administration and as a federal appeals court judge. Many of those stands put him at odds with O'Connor and in line with Rehnquist.

The papers showed Roberts' support for prayer in public schools and national identification cards and how he fretted over extended death penalty appeals. He advocated broad power for the White House and disparaged state efforts to combat discrimination against women.

Roberts referred in one memo to the "abortion tragedy" and helped write a legal brief that argued for overturning Roe v. Wade, the landmark 1973 case legalizing abortion.

Getting a new chief justice of Bush's choosing in place quickly avoids the scenario of having liberal Justice John Paul Stevens presiding over court sessions, leading private meetings of the justices and thereby influencing court deliberations. As the court's senior justice, Stevens would take over Rehnquist's administrative duties until a new chief is confirmed.

Roberts Tapped To Lead Court (DMN)

By David Jackson

The Dallas Morning News, September 6, 2005

WASHINGTON – Seeking to put an indelible conservative stamp on the Supreme Court, President Bush said Monday he is nominating John Roberts to replace Chief Justice William Rehnquist.

The sudden move, two days after Justice Rehnquist's death, upped the ante in the battle to succeed Sandra Day O'Connor – often the swing vote on the court's most contentious cases.

"Judge Roberts has earned the nation's confidence," Mr. Bush said during a brief Oval Office ceremony, nearly seven weeks after he had tapped the appeals court jurist to replace Justice O'Connor.

Senate Democrats said they would press for the release of more documents from Judge Roberts' past, though analysts said there is a good chance the federal appeals court judge will be confirmed to replace the conservative Rehnquist.

More intense opposition awaits the proposed successor to Justice O'Connor, often the decisive vote in 5-4 court decisions involving abortion rights, affirmative action and church-state relations.

"These are lifetime appointments that we can expect to extend into the lives of our grandchildren and great-grandchildren," said Sen. Patrick Leahy, D-Vt., top Democrat on the Senate Judiciary Committee.

That committee delayed confirmation hearings for Judge Roberts that were set to start today. Members cited the new nomination, as well as Wednesday's funeral for Justice Rehnquist.

Officials said the Roberts hearings would begin later this week or early next.

Given the new opening for the O'Connor seat, Mr. Bush is likely to be under pressure to nominate a Hispanic or a woman. The search could involve such Texans as Attorney General Al Gonzales and federal appeals Judges Priscilla Owen and Edith Jones.

The eventual nominee, and perhaps Judge Roberts, may be more vulnerable to opposition because of Mr. Bush's weakened political state, analysts said, citing the Iraq war and criticism of the federal response to Hurricane Katrina.

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"The timing could not be more difficult for the Bush administration," said Kimi Lynn King, associate professor of political science at the University of North Texas.

The question, analysts said, is whether Mr. Bush nominates a second conservative in the mold of Judge Roberts, or goes with a more moderate figure, such as Mr. Gonzales.

While some Democrats said Mr. Bush should make his second pick before a Senate vote on Judge Roberts, the president offered no timetable, saying he would act "in a timely manner."

In reintroducing Judge Roberts, Mr. Bush noted that the Senate has spent weeks reviewing his record and should act before the Supreme Court begins hearing cases again Oct. 3.

If that happens, the court would have a full complement of nine justices. Justice O'Connor reconfirmed in a telephone conversation with Mr. Bush on Monday her earlier stated intention to stay on until her successor is confirmed.

Judge Roberts, who once clerked for Justice Rehnquist, thanked Mr. Bush for giving him a chance to "succeed a man I deeply respect and admire."

It would not be unusual for someone outside the court to become chief justice. Justice Rehnquist was only the third of 16 chiefs to be promoted from associate justice.

The chief justice has no more nominal power than the other eight associates but assigns opinion writing if he or she is in the majority. The chief justice also runs the entire federal court system.

The added responsibilities are among the reasons Senate Democrats cited in calling for release of more Roberts documents.

The administration has resisted requests for papers from Mr. Roberts' years in the solicitor general's office for the first President Bush. They said Mr. Roberts' advice to his client – the government – should remain private just as with any other attorney-client relationship.

Democrats said the government represents the public and it is entitled to know the full range of Judge Roberts' views, especially now that he is in line to become the nation's top judge.

White House press secretary Scott McClellan said the Senate has been provided with "tens of thousands of pages of documents."

"We'll continue to work to make sure the Senate has what they need to move forward in a timely manner," he said.

The papers that have been reviewed came mostly from Judge Roberts' years as a White House lawyer for President Ronald Reagan.

Liberal interest groups zeroed in on what they called Judge Roberts' hostility to affirmative action, his narrow reading of the Voting Rights Act and opposition to a program designed to equalize pay between men and women.

Conservative groups rallied behind Mr. Roberts, saying he opposed "racial quotas" and believed that the "pay equity" plan involved massive government interference in the economy.

Before Justice Rehnquist's death, activists who opposed Judge Roberts said they faced an uphill fight, finding it difficult to build much public opposition.

That may still be the case, some of these activists said, especially because the court essentially would be switching one conservative with another.

The politics are different with the O'Connor vacancy, analysts said, given her pivotal role on the court.

There are other pressures at work as well. After Justice O'Connor announced her retirement plans, first lady Laura Bush had asked her husband to appoint a woman.

Mr. Bush is also known to want to nominate the court's first Hispanic member.

Bush supporters urged quick action on filling all Supreme Court vacancies, while critics advised a go-slow approach – and both cited the horrific impact of Hurricane Katrina.

Urging Senate confirmation for Judge Roberts, the conservative group Progress For America cited "this difficult time when Americans need the third branch of the United States government to function at full force."

Sen. Edward M. Kennedy, D-Mass., who expressed "serious concerns" about the Roberts nomination, said, "The president should take this time to unite and heal the country."

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Roberts Picked For Chief Justice (WT)

By Bill Sammon

The Washington Times, September 6, 2005

President Bush yesterday upgraded his Supreme Court nomination of Judge John G. Roberts Jr. from associate justice to chief justice and called on the Senate to confirm him before the court reconvenes Oct. 3.

"Judge Roberts has earned the nation's confidence, and I'm pleased to announce that I will nominate him to serve as the 17th chief justice of the Supreme Court," Mr. Bush said in an Oval Office appearance with the nominee.

Judge Roberts, originally tapped to replace retiring Associate Justice Sandra Day O'Connor, is now slated to succeed Chief Justice William H. Rehnquist, who died Saturday.

Judge Roberts' Senate confirmation hearings have been postponed from today until at least Thursday because of Chief Justice Rehnquist's funeral, set for tomorrow.

"I am honored and humbled by the confidence that the president has shown in me," Judge Roberts said. "And I'm very much aware that if I am confirmed, I would succeed a man I deeply respect and admire, a man who has been very kind to me for 25 years."

Judge Roberts, 50, once served as a clerk for Chief Justice Rehnquist and had been looking forward to serving alongside his old boss.

Democrats said the nomination to a higher post justifies a higher level of scrutiny of Judge Roberts' record. Although more than 60,000 pages of documents have been released, liberals want additional papers that the White House deems privileged.

"John Roberts bears a heavier burden when he comes before the Senate," said Sen. Edward M. Kennedy, Massachusetts Democrat and a member of the Senate Judiciary Committee. "Before the Senate acts on John Roberts' new nomination, we should know even more about his record."

Spokesman Scott McClellan said the White House already has "provided them with an enormous amount of information to be able to move forward on his nomination."

After announcing the nomination, Mr. Bush boarded Air Force One to tour the Gulf Coast hurricane damage. En route, he telephoned Justice O'Connor to tell her Judge Roberts no longer would replace her.

Justice O'Connor, who had not seen Mr. Bush's televised announcement minutes earlier, reaffirmed her willingness to remain on the court until a successor is nominated and confirmed, said White House spokeswoman Dana Perino. Mr. Bush is not expected to nominate another justice until Judge Roberts is confirmed.

By tapping Judge Roberts as chief justice, Mr. Bush passed over justices who have been serving on the court for years, including Justices Antonin Scalia and Clarence Thomas. That spares the president from yet another potentially rancorous political battle, because Justice Scalia or Justice Thomas would have had to be confirmed by the Judiciary Committee.

The president always has regarded Judge Roberts as a potential chief justice, White House officials said. The two met in the White House for 30 to 45 minutes late Sunday, with White House Chief of Staff Andrew H. Card Jr. participating in the start of the meeting.

At 7:15 a.m. yesterday, Judge Roberts was summoned to the White House, where the president officially offered the job.

After Judge Roberts accepted and before the 8 a.m. announcement, Mr. Card notified Senate Minority Leader Harry Reid, Nevada Democrat; Senate Majority Leader Bill Frist, Tennessee Republican; Senate Judiciary Committee Chairman Arlen Specter, Pennsylvania Republican; Sen. Patrick J. Leahy of Vermont, the ranking Democrat on the panel; and House Speaker J. Dennis Hastert, Illinois Republican.

Meanwhile, the White House counsel's office alerted Justice John Paul Stevens, the senior and most liberal justice, who otherwise would serve as acting chief justice. The confirmation of Judge Roberts would mean that he, not Justice Stevens, will run the court and assign the writing of decisions.

Yesterday, the president praised Judge Roberts' "natural gifts as a leader." Mr. Bush also expressed confidence that the judge would be confirmed.

"Twenty-five years ago, John Roberts came to Washington as a clerk to Justice William Rehnquist," Mr. Bush said. "In his boss, the young law clerk found a role model, a professional mentor and a friend for life.

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"I'm certain that Chief Justice Rehnquist was hoping to welcome John Roberts as a colleague, and we're all sorry that day didn't come," he added. "Yet it's fitting that a great chief justice be followed in office by a person who shared his deep reverence for the Constitution."

Several liberal groups, who had voiced discontent with the Roberts choice, were further enraged by the elevation yesterday.

"America can't afford a Supreme Court justice -- let alone a chief justice -- with Roberts' record of eroding the rights of workers and turning back the clock on civil rights," said Eli Pariser, executive director of MoveOn.org Political Action Committee. "There's no mistaking that he's a stealth right-wing candidate."

Conservative-leaning groups also were quick to reiterate their opinion of Judge Roberts and warned against efforts at stalling.

"Opposition to this nomination will be based on nothing but partisan politics, and would be an unfortunate strategy at a time when the Senate ought to be coming together to get things done for the American people," said Brian McCabe, president of Progress for America Inc.

John Roberts Nominated To The Chief Justice Position (KRT)

Knight Ridder, September 6, 2005

Proving that he intends to move swiftly to fill two vacancies on the Supreme Court, President Bush announced Monday that he will nominate John G. Roberts to be Chief Justice, replacing William H. Rehnquist, who died Saturday.

Roberts, already Bush's choice to replace retiring Associate Justice Sandra Day O'Connor, would become the nation's 17th high court leader and would be the first to replace his former boss. Roberts clerked for Rehnquist in the early 1980s; the two have had a close personal and professional relationship ever since.

"I'm certain that Chief Justice Rehnquist was hoping to welcome John Roberts as a colleague, and we're all sorry that day didn't come," Bush said. "Yet it's fitting that a great chief justice be followed in office by a person who shared his deep reverence for the Constitution, his profound respect for the Supreme Court, and his complete devotion to the cause of justice."

Roberts' nomination only partially clears the court's clouded future, as the justices prepare to return to business Oct. 3. His confirmation hearings to succeed O'Connor are scheduled to being Tuesday, but would almost certainly need to be delayed.

Senate Democrats said the chief justice seat is fundamentally different, and more pivotal.

"The stakes are higher and the Senate's Advice and Consent responsibility is even more important," said Sen. Harry Reid (D-Nev.), the minority leader.

"Before the Senate acts on Roberts' new nomination, we should know even more about his record," said Sen. Edward Kennedy (D-Mass.) "And we should know whom the president intends to nominate as a replacement for Sandra Day O'Connor."

Some Senate Democratic staffers said hearings might not begin until next Monday.

The Senate is expected to need at least three weeks to work through the Judiciary Committee's confirmation process and the full chamber's vote. That would put Roberts in the seat just days before the new court term begins.

Roberts' elevation to chief also re-opens the O'Connor seat. Bush said he would move swiftly to nominate someone else for it. He's expected to face new pressure to replace O'Connor, the court's first female justice, with another woman. He could also nominate his attorney General, Alberto Gonzales, to the seat, making him the first Hispanic to sit on the court.

It's unlikely that Bush could get anyone confirmed for O'Connor's seat before Oct. 3, though, leaving the opening of the next term in flux.

O'Connor's resignation is technically set to take effect only once her successor is confirmed, so she may be expected to return to the bench while confirmation proceedings take place. But that raises further complications: She can't hear cases in October or November and then have her successor vote on them when they're decided in January or later.

O'Connor's continued service could also be compromised by personal concerns. One of the reasons she retired was to care for her ailing husband, who is stricken with Alzheimer's disease.

The Roberts nomination to chief justice unfolds as the nation prepares to pay its final respects to Rehnquist. The former chief justice is scheduled to lie in repose in the Supreme Court's great hall Tuesday and Wednesday. Burial at Arlington National Cemetery will follow a funeral Thursday.

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O'Connor's Staying On Might Tie Up The Court (LAT)

By David G. Savage

The Los Angeles Times, September 6, 2005

WASHINGTON -- Justice Sandra Day O'Connor reaffirmed Monday that she would remain on the Supreme Court until her successor is confirmed, but her presence is likely to have more symbolic than practical significance.

That is so because a justice's votes really count only when an opinion is issued, not when the court first hears a case. At first glance, O'Connor would look to be a tie-breaker for cases heard in October or November, before President Bush's nominee to replace her is likely to be confirmed by the Senate.

But the opinions in those cases are not likely to be issued until early next year, after O'Connor presumably would be gone. Therefore, her vote would not count, and the court could find itself evenly split 4-4.

In such instances, the justices can order the case to be reargued before the full nine-member court.

When O'Connor sent a retirement letter to the president on July 1, she closed by saying that her retirement would be "effective upon the nomination and confirmation of my successor." She also said she was leaving to spend more time with her husband.

White House aides said Bush called O'Connor Monday morning to tell her he had named Roberts as chief justice. In that call, she reiterated her pledge to stay on the court until Bush could win confirmation for her replacement.

Senate Democrats also cited O'Connor's presence as a reason for not rushing to choose and confirm a second Bush appointee.

Her presence could prove significant if the Senate were to block Bush's choice for her replacement. But if the president's nominees win confirmation by December, she is not likely to cast decisive votes.

On Oct. 5, two days after the court's term begins, the justices are scheduled to hear a major test of the nation's only right-to-die law. Oregon permits doctors to prescribe lethal medication to individuals who are terminally ill and wish to hasten their deaths.

The Bush administration has sought to nullify the law by threatening doctors with a loss of their right to prescribe medication. They rely on federal drug control laws and argue that prescribing lethal medication is not a legitimate medical use of these drugs.

Oregon's officials and two lower courts have said that the state has the power to regulate the practice of medicine.

The White House says it would like to have Roberts confirmed as chief justice by the time the court convenes and Senate Majority Leader Bill Frist, R-Tenn., said Monday that he expected to have a confirmation vote before the full Senate by late September. There is little chance, however, that a successor to O'Connor would also be confirmed by the court's opening day.

Two days after the argument in the Oregon case, the justices will meet behind closed doors to vote. If the court splits 5-4 with O'Connor in the majority, her vote would look to be decisive. But since the justices typically work months on their majority and dissenting opinions, the ruling probably would not be announced until early next year, after O'Connor's replacement is confirmed. In such a case, the court would be split 4-4, and it would have to reargue the case to include the new justice.

A Shaky Ethics Charge (WP)

By Ronald D. Rotunda

The Washington Post, September 6, 2005

Does John Roberts have an ethics problem?

Three ethics professors argue that Roberts, whom President Bush has just nominated to be chief justice, should have disqualified himself from a case he helped decide earlier this year while serving as a judge on the U.S. Court of Appeals for the D.C. Circuit.

The case, Hamdan v. Rumsfeld, which concerns a key issue in the administration's war on terrorism, may be headed for the Supreme Court, and at the time of the appeals court ruling, Roberts was being considered for a vacancy on the high court, though it did not yet exist.

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The three professors -- Stephen Gillers of New York University, David J. Luban of Georgetown University and Steven Lubet of Northwestern University -- say that in not disqualifying himself, Roberts violated the "appearance of impartiality." If true, it may become a prominent issue because it offers one of the few arguments against Roberts. In the case at issue, the appeals court upheld the constitutionality of the administration's plan to use military commissions to try terrorist suspects.

Just a short time ago, Gillers said that he "saw no problem" with the fact that Bush met with Roberts about the Supreme Court vacancy on July 15, the same day the appeals court ruled 3 to 0 in Bush's favor in Hamdan. But Gillers said he changed his mind after Roberts disclosed the White House interviews in his Senate questionnaire. What seems to be crucial is that Attorney General Alberto Gonzales spoke to Roberts on April 1, six days before oral arguments in the Hamdan case.

Gillers and his colleagues conclude that Roberts violated a federal statute that requires what Gillers calls "an appearance of impartiality." The federal statute doesn't put it that way; it says that the judge should recuse himself if his "impartiality might reasonably be questioned." The case law says the issue should be considered from the perspective of a reasonable, objective lawyer fully informed of the facts.

The American Bar Association says the "appearance of impartiality" standard is "question-begging" and leads to "ad hominem attacks."

We sometimes think, loosely, that ethics are good and that more is better than less. But "more" is not better if it exacts higher costs, measured in vague rules that impose unnecessary disqualifications.

Gillers's main source is Scott v. United States , a 1989 case in which a criminal trial judge in the District was discussing a managerial position with the Justice Department while the U.S. attorney's office was prosecuting a criminal case before the judge. Gillers says the judge acted improperly by presiding at the trial during his employment negotiations.

The problem with Gillers's reliance on the Scott case is that he leaves out what the case really said: "By December 23, 1984, when he had decided to accept the position in the Executive Office for United States Attorneys, the judge had a duty to recuse himself from Scott's case."

The Scott case does not support Gillers's argument; it undermines it. What Scott says, at most, is that Roberts had no obligation to withdraw from a case in which the government is a party before he was offered and decided to accept the position. That date could not be before the vacancy existed; in fact, it could not be before July 15, when he met Bush for the first time. By that time, the Hamdan case had already been decided.

Judges are offered other jobs all the time. A Supreme Court justice may become chief justice, or, like Justice Arthur Goldberg, U.S. ambassador to the United Nations. Appeals court judges may become Cabinet officers. Trial judges may become appellate judges. Gillers's stance would require judges to recuse themselves in any case in which the federal government is a party.

Gillers's response is that the Hamdan case was "hotly contested." I have never found any case to be "coldly contested," or even "warmly contested."

Do we really want to give the president or attorney general the power to force recusal of one or more judges on a panel simply by asking the judge if he might be interested in a different position that is not yet open but that eventually will be ? Should Judge (later Justice) Ruth Bader Ginsburg have recused herself from any case involving the federal government from the time that Justice Byron White announced his resignation until the time President Bill Clinton announced her appointment? What of Judge (later Justice) Stephen Breyer, who was not nominated until a year after his initial interview with Clinton?

The president is not the only person responsible for court appointments. In many states, judicial selection committees present choices to the president. The case law (which Gillers does not cite) has uniformly rejected motions for disqualifying judges from cases in which members of the selection committees are directly involved.

Conflict-of-interest charges should not be raised lightly, and historical precedents and case law show the allegations against Roberts are unfounded.

The writer is a law professor at George Mason University; he rejoined the faculty in June after working at the Defense Department and was not assigned to the Hamdan case. This article is based on an ethics opinion he wrote at the request of Senate Judiciary Committee Chairman Arlen Specter (R-Pa.).

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The Rehnquist-Roberts Court (WSJ)

The Wall Street Journal, September 6, 2005

With his nomination yesterday of John Roberts to be Chief Justice of the United States, President Bush moved to fulfill the Supreme Court legacy of the late William Rehnquist, and also took what we hope is the first step toward guaranteeing his own.

Elevating Judge Roberts to Chief was a logical decision, both politically and on the merits. The Senate and media have been investigating the nominee since July, and have found superlatives with nary a negative. The Judge is in a position to be rapidly confirmed and ready to preside by the time the High Court begins its new term on October 3.

More importantly, what we have learned about Judge Roberts suggests that he shares Chief Justice Rehnquist's judicial philosophy. If Mr. Bush now follows with the nomination of an equally distinguished conservative for the Court's second opening, the Roberts Court will be able to continue the legal restoration that the late Chief Rehnquist began but was never able to finish.

That historic mission is to restore the Court to its proper Constitutional role as a judicial arbiter rather than as an engine of liberal policy-making. Judicial activism was in its heyday in 1972, the year Justice Rehnquist arrived at the Court. In his early years, he earned the nickname the "Lone Ranger" because he was often the only dissenter on the nine-member Court. But after he became Chief in 1986, and with the help of other Reagan appointees, he began to move the Court back toward the center.

He made some progress, notably on limiting federal power over state governments (Lopez in 1995); church-state relations, especially with the 5-4 Zelman decision in 2002 that found private-school vouchers constitutional; racial preferences (Richmond v. Croson, 1989); and property rights (Nollan in 1987). It's a tribute to Mr. Rehnquist's principles that he also upheld liberal precedents if they had become embedded in common practice, such as the Miranda warnings (Dickerson v. U.S., 2000) that he had once opposed as policy. Modern liberals never display such deference to precedent when their policy preferences are at risk.

But the Chief was denied a genuine intellectual majority by the protean quality of some of his colleagues. Justices Anthony Kennedy and Sandra Day O'Connor tapered their views to the Beltway winds, while David Souter repudiated his confirmation testimony and joined the Court's liberal wing. When Bill Clinton replaced Byron White (Justice Rehnquist's partner in dissent on Roe v. Wade in 1973) with Ruth Bader Ginsburg in 1993, most conservative momentum stalled.

The judicial left understands these stakes, which is why they are now ratcheting up their rhetoric against Judge Roberts. People for the American Way yesterday called him "unfit" to be Chief, which is the ultimate compliment. They're afraid he's every bit as smart as he seems. Mr. Roberts will be confirmed in any case, but the real game here is to intimidate Mr. Bush into naming a less conservative nominee for the second opening.

All the more so now that Mr. Bush is on the defensive in the aftermath of Hurricane Katrina. With a war in Iraq and down in the polls, Mr. Bush will hear from some of his own advisers that he should play it "safe" with his second choice. They'll suggest he avoid another "divisive" battle by selecting someone who will win the acquiescence of Democrats Ted Kennedy or Chuck Schumer.

We hope he rejects such counsel. With two vacancies, Mr. Bush now has a genuine chance to remake the Court. He told voters during two election campaigns that he'd nominate Justices in the mold of Antonin Scalia and Clarence Thomas. Especially with his other troubles, Mr. Bush can't afford to alienate his most loyal supporters in the hope of buying a confirmation truce.

A battle with Senate liberals over a distinguished conservative nominee would probably even help Mr. Bush politically. While the activist left is howling about Judge Roberts, Red State Democrats have kept a studious silence. They know that the "values" issues that so motivate the political left -- abortion, gay marriage, racial preferences -- are far less popular in Nebraska, North Dakota or Florida.

Democrats from these states will need an excuse beyond ideology to oppose a qualified nominee. And Mr. Bush has many such candidates to choose from: J. Harvie Wilkinson, Edith Jones, Ted Olson, Michael Luttig, Sam Alito, Larry Thompson, Michael McConnell or Janice Rogers Brown. The political trap for Mr. Bush would be to choose someone who is less distinguished but is somehow thought to be easier to confirm. The President should be thinking about his Supreme Court legacy for the next 30 years, not the next 30 days.

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John Roberts's Rapid Ascension (NYT)

The New York Times, September 6, 2005

President Bush surprised many with his swift decision to nominate Judge John Roberts Jr. to be the next chief justice of the United States. If Mr. Bush thought Mr. Roberts had already impressed both the public and the Senate with his intelligence and sincerity, he figured correctly. But if he regards the judge as a known commodity whose confirmation should be a shoo-in, he is wrong. The Senate did not have enough information to make an informed judgment about Mr. Roberts when he was the nominee for just one of the nine seats on the court. Now it simply becomes more important than ever that he be questioned thoroughly about his views.

Besides his long and stellar résumé, Mr. Roberts, who was appointed to the United States Court of Appeals for the District of Columbia Circuit less than two and a half years ago, has an extremely short and thin record of actual decisions. Those two attributes may be equally desirable for a Supreme Court nominee these days. The résumé attests to his right to be considered, and the lack of a real judicial record makes it hard for potential critics to guess how he might rule on controversial issues.

Like the president, this page worries about activist judges who might use the Constitution as a cloak for their desires to remake society in the mold of their own political preferences. Unlike Mr. Bush, we believe the record now shows that most of those jurists are conservatives, who strike down laws that do not fit their political philosophies or their extremely narrow view of governmental power.

The Senate has a duty to find out whether Judge Roberts has that kind of mind-set. There are troubling hints that he may. If the coming confirmation hearings were important before, they now become crucial. The chief justice is in many ways positioned to have more long-term influence over the nation than any other person. Given a lifetime appointment, Mr. Roberts, 50, could lead the court through the administrations of a half-dozen presidents.

The Bush administration could make the Senate's job easier by handing over all the documents Mr. Roberts prepared when he worked for the administrations of Ronald Reagan and George H. W. Bush. And when Judge Roberts is questioned at his confirmation hearing, he should speak candidly and at some length about his views on important legal issues and precedents. The president could also help by giving the country a fuller idea of how he intends to shape the court. Some Democrats have urged that he make his second nomination, for the seat occupied by Sandra Day O'Connor, before the Senate takes up Judge Roberts's nomination. That seems reasonable. Chief Justice William Rehnquist, who died on Saturday, was a very conservative jurist, and from what we know about Judge Roberts, it is clear that President Bush has nominated a very conservative man to take his place. It is also important to know the president's plans for filling the seat held by the more moderate Justice O'Connor.

A Nominee For Chief (WP)

The Washington Post, September 6, 2005

President Bush lost no time in naming a successor for Chief Justice William H. Rehnquist. If confirmed, Judge John G. Roberts Jr. will bring the same virtues to the job of heading the country's judiciary as he would have brought to the job of associate justice. A highly regarded former appellate lawyer and current appeals court judge, he is a modest, smart lawyer who, unlike some of the president's judicial picks, is generally well regarded across party lines. Mr. Bush deserves credit for acting with dispatch. The Senate should do so as well and, giving a full airing to the issues, should make a point of voting on the nomination before the court reconvenes in October.

In most respects, the change in position ought to signify little in terms of how senators regard Judge Roberts. The difference between the chief justice and the other members of the court, after all, is largely administrative, not substantive; all justices have only one vote. Judge Roberts is, to be sure, on the young side for the job of chief. At 50, he will have, if confirmed, the odd distinction of being the youngest member of the court he heads. On the other hand, his easy manner and collegiality ought to serve him well.

Yet his nomination as chief justice nonetheless raises the stakes in the discussion of what Judge Roberts actually believes -- a subject about which a great deal more has been said than is really known. Liberal groups that feared what a Justice Roberts might do can only fear a Chief Justice Roberts all the more. The hearings will provide an excellent opportunity for the Senate Judiciary Committee to explore -- and for Judge Roberts to address -- a raft of important questions: What is his attitude toward

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what is called stare decisis , the doctrine of generally letting past cases stand even if wrongly decided? How does he regard the balance of power between the federal government and the states, an ongoing debate in which a new justice could play a dramatic role, either constructive or unfortunate. What does he believe about privacy rights?

Documents from Judge Roberts's service in the Reagan administration -- in the Justice Department and in the White House counsel's office -- have raised fears that he might harbor reactionary views on a range of civil rights questions. Some of this is overblown; opponents have tried to make controversy out of reasonable positions Mr. Roberts took against policies few still advocate today. On the other hand, Judge Roberts opposed changes to the Voting Rights Act that had broad bipartisan support, as well as affirmative action programs and the proposed Equal Rights Amendment. He seemed deeply suspicious of federal review of state convictions. He seems to have objected to decades of Supreme Court rulings restricting the role of religion in public life. Judge Roberts was quite young when these memorandums were drafted, and his views may have evolved as he matured. Which part of this record as a young lawyer does he stand behind now, and which part does he not? All of these questions take on a greater sense of importance -- at least symbolically -- with Judge Roberts now nominated to be chief.

In one critical respect, however, moving Judge Roberts to the chief's slot may actually reduce his impact on the court's ideological balance. Chief Justice Rehnquist, unlike Justice Sandra Day O'Connor, was not often a swing vote on the court. In replacing him, Judge Roberts will be very unlikely to move the court substantially to the right. He would not have to prove all that surprising to move it to the left on certain issues.

This fact, in turn, puts a heavy premium on Mr. Bush's choice regarding a new replacement for Justice O'Connor -- whose decision to stay on the court until a nominee garners confirmation is proving invaluable at a delicate transitional moment. Before nominating Judge Roberts, Mr. Bush consulted widely and emerged with a candidate Senate Democrats have -- by and large, anyway -- treated with respect. As he once again considers a nominee to replace Justice O'Connor, Mr. Bush would do a public service by consulting widely and meaningfully.

How Would Roberts, As Chief Justice, Affect You? (USAT)

USA Today, September 6, 2005

By all accounts, John Roberts is the kind of guy you might want your daughter to bring home for dinner: brilliant, personable , possibly destined for greatness. Even the sternest father — if he's not too liberal — would probably grant nodding approval, as the Senate is likely to do in the next few weeks, seating Roberts on the Supreme Court.

The positive reaction to Roberts since President Bush first nominated him to the court in July undoubtedly contributed to Bush's decision to choose him Monday to succeed William H. Rehnquist, who died Saturday after nearly 19 years as chief justice.

But as impressive as Roberts has appeared, the most important question about him remains largely unanswered: How would a Chief Justice Roberts affect the country? As the youngest chief justice since 1801, Roberts, 50, would be a potent influence on society for a generation or more.

Would he, for instance, vote to reverse existing law on abortion or, more sweepingly, the right to privacy? His record suggests he might. Would he limit Congress' ability to protect the environment, public health and civil rights? That, too, is open to question.

The Senate Judiciary Committee will plumb for answers in hearings that may begin as early as Thursday, and it needn't linger long on basics. Roberts easily surpasses the threshold qualifications for justices.

By all accounts, he is a brilliant lawyer with a forceful intellect suited to the court. The American Bar Association calls him "well qualified."

Politically, he's conservative but not an outspoken ideologue, with little history of brash pronouncements. But which of the several sharply opposed conservative camps he falls into is in doubt, and the difference stands to affect every American.

Roberts' public record — inconclusive but provocative — raises questions whether he prefers limited government and cautious change, or whether he is an activist who would seek to overturn important Supreme Court precedents and legal protections:

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Right to privacy. In memos written when he was in the Reagan administration, he disparaged the notion that there is a constitutional right to privacy. He wrote approvingly of the dissent in the landmark 1965 case that firmly established that right and overturned state laws against birth control. Reversing that decision would reopen the door to government meddling in the most private aspects of life, again criminalizing abortion, gay sex, even contraception.

Abortion. As deputy solicitor general for the first President Bush, he signed a government brief urging reversal of Roe v. Wade, the 1973 decision that state laws banning abortion were unconstitutional. The court has since reaffirmed that decision.

Civil rights. Roberts argued for standards that would make it easier for school districts to evade desegregation orders. He also disparaged affirmative action — still sanctioned by the court in some circumstances — as "recruiting of inadequately prepared candidates" and argued that it is unconstitutional. That record raises questions about whether he would restrain the ability of Congress to help those victimized by discrimination.

Powers of Congress. Roberts parted company with the majority of conservative judges on his appeals court two years ago to take a swipe at the constitutional basis of the Endangered Species Act. The narrower interpretation he seemed to suggest could also limit the reach of federal laws regulating health, safety, civil rights, commerce and the workplace.

Freedom of speech. He argued that a federal law prohibiting flag burning did not violate the First Amendment, even after the Supreme Court had already declared a nearly identical state law unconstitutional.

Freedom of the press. Roberts wrote a memo challenging the 1964 Supreme Court decision New YorkTimes v. Sullivan, a cornerstone of the freedom to report aggressively on public officials. He suggested reverting to an earlier standard that gave officeholders greater ability to prevail in libel suits.

Church-state entanglement. He argued for lowering the wall between church and state and allowing officially led prayers at public school graduations. He criticized the Supreme Court's decision in another school prayer case as "indefensible."

Women's rights. Roberts ridiculed the notion that women are subject to workplace discrimination or entitled to constitutional protection. He also argued for narrowing the government's ability to enforce the ban on gender discrimination in education.

Roberts' defenders point out that most of his statements challenging the legal status quo were made while representing either the interests of a private client or the political commitments of an earlier administration. They might not represent his personal views — and many are more than 20 years old.

Both assertions are accurate. Less defensible is that the Bush administration has spurned Senate requests for records later in Roberts career. Senate questioning will have to fill in those blanks.

Much will be made at the hearings of the doctrine that Roberts should not be asked to say how he might rule in cases coming before the Supreme Court. But that should not deter senators from demanding to know how he views issues more generally and cases already decided — and the standards he would use to overturn settled law.

To suggest that the Senate should simply ignore the impact Roberts would have on constituents is to suggest that it stick its collective head in the sand.

The Next Chief Justice (LAT)

The Los Angeles Times, September 6, 2005

Maybe if there had been no Katrina, and if the Iraqi occupation were proceeding as Pentagon optimists had once envisioned — with the few thousand remaining U.S. troops in the country lolling about in the dozens of Starbucks cafes popping up across Mesopotamia by now — President Bush would have

tried elevating Antonin Scalia or Clarence Thomas to serve as the chief justice of the United States. But under present conditions, Bush doesn't need any more trouble than he already has. And so, in the wake of William H. Rehnquist's death, the president has wisely nominated John G. Roberts Jr., a former Rehnquist law clerk, to become the next chief justice.

It's a smart move. Roberts has the intellect and temperament to lead the court and the federal judiciary. It's somewhat counterintuitive that newcomers to the court usually become the chief — Rehnquist was an exception — but that tends to preserve good relations among the nine justices. The elevation of either Scalia or Thomas would have proven highly contentious and divisive in Washington, and maybe even on the court.

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The Senate confirmation hearings for Roberts' nomination to replace retiring Justice Sandra Day O'Connor had been slated to commence today, but there will now be a short delay to honor Rehnquist. But there is no reason for the Senate to avoid taking action well in advance of the Supreme Court's new term on Oct. 3. The suggestion by some Democratic senators that they will need more time to review Roberts' credentials now that he is in line to be chief justice rings hollow. Yes, the chief justice wields a great deal of subtle power by virtue of his authority to control arguments and assign the writing of opinions, but it's not as if anyone was taking the confirmation of an associate justice lightly.

In their questioning of Roberts, senators should focus special attention on his views on the proper deference that courts owe the executive branch in a time of war. Roberts was on a panel of the U.S. Court of Appeals for the District of Columbia that ruled in July that the Bush administration has virtually unchecked power to try anyone it labels an "unlawful combatant" before a military commission that does not live up to the standards of the Geneva Convention. The extent of presidential power in the war on terror is likely to loom large in the Supreme Court docket for years, and it's a subject that Roberts, a former White House lawyer, should be asked to address in his hearings.

Meanwhile, the president faces a second opening on the court, although O'Connor could still be on the bench on Oct. 3 if her replacement hasn't been confirmed. Many of the candidates reportedly being considered earlier by the White House are radical conservatives who could trigger the kind of opposition we haven't seen to Roberts. Then there is the president's friend and attorney general, Alberto Gonzales, who is not trusted by social conservatives and should be disqualified, in any case, for encouraging the administration to disregard international law in conducting the war on terror.

So, mindful of Bush's other headaches, from Katrina to Iraq, he'd be well served by making another sensible move (is there a surprise candidate up his sleeve?) in replacing O'Connor.

William Rehnquist (WSJ)

By Randy E. Barnett

The Wall Street Journal, September 6, 2005

Last December, during my oral argument in the medical marijuana case of Gonzales v. Raich, the center chair normally occupied by Chief Justice William Rehnquist was empty. Without the towering, and sometimes glowering, visage of the Chief, with his no-nonsense demeanor and questioning, there was a palpable void in the courtroom that day. Now, with his passing, there is a void in the Supreme Court itself. Today we mourn the death of William Rehnquist. One day soon we may mourn the death of his legacy -- the jurisprudence of the Rehnquist Court.

Even before becoming chief justice, often in lonely dissents, it was William Rehnquist who was most personally responsible for what is now called "the New Federalism" -- the revival of the ideas that judiciary should protect the role of the states within the federal system and enforce the textual limits on the powers of Congress. Establishing the New Federalism took enormous effort and leadership by Rehnquist over many years. Now that legacy is in jeopardy.

At the founding, and for some 150 years thereafter, the limits on congressional power provided by the Constitution of 1789 -- as modified by the Fourteenth Amendment -- were enforced by the Supreme Court. According to the textual plan, Congress is, with few exceptions, confined to the express powers enumerated in Article One of the Constitution. While these express powers were understood as flexible, they were nonetheless limited. When the federal government was limited to its enumerated powers, the states were left to the exercise of their police powers, subject to the limitations imposed upon them after the Civil War by the Fourteenth Amendment.

The Founders' plan was more or less intact until the 1930s, when President Roosevelt and the New Deal Congress enacted a massive expansion of federal power. By the 1940s, the textual scheme of limited federal powers was effectively swept away by a Supreme Court dominated by appointees of President Roosevelt. In a series of landmark decisions, such as Wickard v. Filburn in 1942, the New Deal Court replaced the Constitution's textual scheme of limited federal power with a policy of judicial deference to any claim by Congress to regulate anything and everything with even a remote connection with the national economy.

By the early 1990s, even the requirement of a remote connection was giving way, as Congress began to regulate subjects that could only be described as "interstate commerce" by Lewis Carroll's Humpty Dumpty, who asserted (in a rather scornful

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tone) that: "When I use a word, it means just what I choose it to mean -- neither more nor less." With no judiciary to provide a constitutional compass, Congress passed laws reaching activities such as possessing a gun near a school without even trying to show how the regulated activity had any conceivable connection with "commerce . . . among the several states."

* * *

But William Rehnquist had a constitutional compass. In the beginning, he took what he could get. As an associate justice, his opening strategy for nudging the Court back onto the constitutional path was to carve out of federal power exemptions for state discretion. His first major triumph came in the 1976 case of National League of Cities v. Usery, which established a limit on the powers of Congress to interfere with such "traditional governmental functions" as fire prevention, police protection, sanitation, public health, and parks and recreation. Writing for the Court, then-Justice Rehnquist announced that, "This Court has never doubted that there are limits upon the power of Congress to override state sovereignty, even when exercising its otherwise plenary powers to tax or to regulate commerce which are conferred by Art. I of the Constitution." This sort of reliance upon first principles to draw an outer limit to federal power became his trademark.

Rehnquist's initial victory, however, was short-lived. Notwithstanding the precedent of National League, in 1985 the Burger Court reversed itself in Garcia v. San Antonio Metropolitan Transit Authority. In Garcia, the Court announced that the protection of the states would, once again, solely be a political rather than also a judicial question. In a terse four-sentence opinion, Rehnquist presciently predicted, "I do not think it incumbent on those of us in dissent to spell out further the fine points of a principle that will, I am confident, in time again command the support of a majority of this Court."

With Justice Rehnquist's ascension to chief justice, the Rehnquist Court cabined Garcia's laissez-faire approach toward Congressional power with a series of "Tenth Amendment" cases that aimed at protecting state sovereignty from federal interference in a variety of ways. I put Tenth Amendment in quotes because this jurisprudence was never grounded on the original meaning of the Tenth Amendment, which merely affirms that the Federal government is one of delegated powers, and that all powers not delegated are reserved to the states or to the people. With the post-New Deal judiciary interpreting the delegated powers so as to allow the Federal government to do virtually anything it wants, federal power had completely enveloped any "reserved" powers of states. Instead of directly holding Congress to the powers enumerated in the text, these earliest New Federalism cases attempted indirectly to preserve the underlying "principle" of federalism by carving out islands of state sovereignty in a sea of federal power.

Chief Justice Rehnquist understood this, of course. In 1995, he launched a direct attack on the source of the problem in the case of U.S. v. Lopez, which held unconstitutional the Gun Free School Zone Act because it exceeded the power of Congress to "regulate commerce . . . among the several states." There he wrote, "We start with first principles. The Constitution creates a Federal Government of enumerated powers." For the first time in 60 years, the Court found a federal statute to have exceeded the commerce power of Congress. Rehnquist's opinion in Lopez sent shock waves through the legal academy.

Few thought the Rehnquist Court was serious, however, until 2000, when, in U.S. v. Morrison, it struck down a portion of the Violence Against Women Act that created a federal civil cause of action for "gender motivated violence." Once again, the chief justice affirmed that: "The Constitution requires a distinction between what is truly national and what is truly local. . . . In recognizing this fact we preserve one of the few principles that has been consistent since the [Commerce] Clause was adopted."

Together with the Tenth Amendment cases, Rehnquist's opinions in Lopez and Morrison were the keystones of the New Federalism. Had he been able to marshal a consistent majority for the constitutional "first principles" these cases represented, the Rehnquist Court might have overseen a constitutional restoration as substantial as the constitutional demolition begun by the Roosevelt Court. But both decisions were 5-4, with the five more "conservative" justices in the majority and the four more "liberal" justices in strong dissent. The four adamant dissenters have not relented in their opposition and need only pick off one of the New Federalists to uphold the constitutionality of a claim of federal power.

* * *

Perhaps because his illness prevented him from providing his strong personal leadership, in this the final year of the Rehnquist Court there are signs that his legacy may not endure. In Gonzales v. Raich both principles of state sovereignty and of enumerated powers were put to the test. Rehnquist was one of only three justices who were willing to say that Congress cannot magically transform the noncommercial possession of homegrown marijuana into "interstate commerce." The Chief joined the

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dissenting opinion written by Justice Sandra Day O'Connor. Many who now lionize her when discussing her replacement omit mentioning her stalwart support of the New Federalism so strongly advanced by her fellow Arizonian and Stanford classmate.

Sometime this fall, two of the five votes that made up the Lopez and Morrison majorities will have been replaced. Only Justice Clarence Thomas will be left from the three Raich dissenters. As the new chief justice (assuming he is confirmed), will John Roberts assume the role of his mentor William Rehnquist -- for whom he clerked -- and lead the Roberts Court to enforce the Constitution's original plan of limited federal power? Will President Bush now look for a nominee to replace Justice O'Connor who is as committed to the New Federalism as she was? Given that so many of the New Federalism cases were 5-4, if either of the new justices adopts the mantra of "judicial deference" to congressional power, then Chief Justice Rehnquist's death, along with Justice O'Connor's retirement, may presage the second death of federalism. A judicial withdrawal from enforcing the original limits on the powers of Congress would undo the New Federalist legacy of William Rehnquist.

As the president now decides who next to nominate, he would uphold the Constitution by selecting a person with a firm and demonstrated commitment to the Rehnquist Court's New Federalism legacy. Only such a choice would continue the movement to restore the "first principles" of constitutionally limited government that William Rehnquist affirmed so eloquently. One can hardly imagine a sadder end to the tenure of William Rehnquist than that his most prized and important contribution to constitutional law is aborted by a conservative Republican president and a Republican-controlled Senate.

Mr. Barnett, the Austin B. Fletcher Professor of Law at Boston University, is author of "Restoring the Lost Constitution: The Presumption of Liberty" (Princeton, 2004).

Gentleman Of The Court (NYT)

By Laurence H. Tribe

The New York Times, September 6, 2005

Cambridge, Mass.

In October 1971, the White House tapped Assistant Attorney General William H. Rehnquist to respond to my critique of someone at the top of its short list for one of the two vacancies created by the nearly simultaneous resignations of two justices. I found his tepid apologia underwhelming. Yet within two months, when Mr. Rehnquist took the Supreme Court seat once marked for the target of my critique, I began to see how foolish it would have been to measure him by his defense of a candidate about whom he probably felt lukewarm. While it may be too soon to assess the chief justice's enduring impact, it is not too soon to reflect on why so many who served with him as colleagues, worked for him as law clerks or appeared before him as advocates are already prepared to render a verdict of greatness and to tell the world how deeply his passing is mourned.

Seeing past the chief justice's sometimes abrupt manner in oral argument was eased for me by his willingness to engage me, then an unknown law professor in his mid-30's, in a public debate in 1978 on the role of an active judiciary in a pluralistic democracy, moderated by the legendary Judge Henry Friendly. Charmed by his disarming informality and candor during the debate and at the private dinner that followed, my wife and I emerged with fond feelings toward a man whose warmth and humor within the court were not always evident to strangers.

When I began arguing regularly before the Supreme Court two years later, I felt from the start that I was conversing with a brilliant colleague who always got right to the point. In more than 30 oral arguments over the past 25 years, I never saw him ask questions, as his colleagues sometimes do, to hide the ball, parade his brilliance, show up a colleague, or play to the galleries. When he thought you were approaching a dead end, he told you so, as he did in 1997, when he said I wouldn't "find much disposition on the court to enlarge on" a precedent on which one of my arguments rested. Taking the hint, I shifted to the other pillar on which my case stood (and won the case).

Chief Justice Rehnquist was attentive to legal doctrine but impatient with legalisms that ignored reality. His strong pragmatic streak, differentiating him from those on his right, was manifest. In a case about asbestos litigation that I argued in 1998, the legal issue was the propriety of certifying a particular lawsuit to proceed as a class action, but he insisted on knowing how well those allegedly injured would "fare if they just keep fighting their individual lawsuits," especially if the companies they sue "end up in bankruptcy." Had I not been reminded to paint that larger picture, the case might have come out differently.

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That Chief Justice Rehnquist was unlike both puritanical conservatives like Warren E. Burger and movement conservatives like Antonin Scalia was evident in the character of his questions in the two gay rights cases I argued in the mid-1980's, one about firing teachers for "advocating" homosexual activity and the other about prosecuting consenting adults for same-sex intimacy. In neither case did his questions have the "I'm shocked" tenor of Chief Justice Burger's contribution to the dialogue. Justice Rehnquist simply pressed me appropriately on the absence of evidence that the challenged school board regulation had "ever been applied to a single living soul." And when I argued that consenting adults have a fundamental right to engage privately in the sex acts of their choice, while Chief Justice Burger and Justice Byron R. White could barely contain their disgust, Justice Rehnquist calmly pursued the question of just when and how that "fundamental right" arose.

A dry and gentle wit was among the chief justice's greatest strengths. In a 1991 abortion financing gag order case, I tried to lighten things up by responding, when the chief justice suggested that a State Department press secretary has to toe the government's line, that "some of them don't seem to realize that." Chief Justice Rehnquist let me enjoy the laughter before topping me with a deadpan, "Well, some of them may not realize it, but I think they'll soon learn." In the two cases I argued in which Chief Justice Rehnquist penned a dissent (a freedom of speech case in 1980 and a church-state separation case in 1982), his deliberately playful solo opinions were written with so light a touch that I enjoyed reading them far more than I did the sober 8-to-1 opinions in my favor.

Chief Justice Rehnquist's goal of weakening the checks on presidential power happily met decisive opposition within the court, although I worry that the seeds he planted to that end might yet bear dangerous fruit. No pleasure in argument could overcome my sadness at the Supreme Court's performance in the 2000 election, or my disappointment at how far the chief justice succeeded in his goals of lowering the wall of separation between church and state, shrinking Congress's power and reducing the protections accorded the mostly poor people of color who are suspected or accused of crime.

RECENT events might change the direction of the winds that moved America toward the point Justice Rehnquist comfortably occupied from his earliest days on the court. How the new court will tack with or against those winds will be Topic A at the forthcoming confirmation hearings, as it should be. But Topic B had better be the ability of the new justices to help the court earn the respect of all who take part in its proceedings or are affected by its rulings - which means everybody. Chief Justice Rehnquist was a master at that mission. For that, and for the steadiness of his leadership, I will always remember him with profound gratitude and admiration.

Social Security Waits For Action By Divided GOP (WT)

By Amy Fagan, The Washington Times

The Washington Times, September 5, 2005

House Republican leaders, who weeks ago pledged to take the lead on Social Security, still say they will act this fall, but the party remains divided, as some of their members push for a personal accounts bill, some want a broader package and others don't want to act at all.

"We hope to put a bill together," said House Majority Leader Tom DeLay, describing a likely retirement security package that includes personal accounts.

The Texas Republican, however, said he can't guarantee a floor vote until the Ways and Means Committee approves the bill. His statements were more forceful several weeks ago, when he and other leaders pledged action.

House Ways and Means Committee Chairman Bill Thomas, California Republican, has insisted on his broad retirement package, which emphasizes pension reform and private savings.

It is expected to include a Social Security proposal, introduced by Republican Reps. Jim McCrery of Louisiana and E. Clay Shaw Jr. of Florida, that would use the system's surplus to create voluntary private accounts.

Some Republicans and outside advocates would like a vote on the McCrery-Shaw bill by itself, and a few last week said House leaders have decided unofficially to do that.

"From my conversations, they agree this is the best strategy," said Larry Hunter of the Free Enterprise Fund, arguing that such a tactic would pressure the Senate and give House Republicans a concrete and popular proposal to take to constituents.

But Mr. DeLay said Friday: "If it's done, it will be done as part of the retirement security package."

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Supporters of the accounts proposal say Republicans remain divided.

"You still have a lot of members in the House that don't want to pass anything only to have the Senate sit on it," said Rep. Jack Kingston of Georgia, one of the few Republicans to address the issue during the August recess. "You have others who want a vote so they can vote yes, and then blame it on the Senate."

Mr. Shaw said his constituents liked his proposal once he explained it, and that Republicans will decide whether to proceed in the next few weeks, perhaps after a vote behind closed doors.

"We need to take the temperature of the conference," he said.

After talking with Mr. Thomas in July, Mr. DeLay said he expected a Social Security bill ready in late September or October. But members, aides and advocates noted that Social Security action likely will wait so that Congress can deal with relief to survivors of Hurricane Katrina, appropriations, budget reconciliation and immigration.

Opponents of private accounts feel confident.

"We come into the fall in a position of strength. The public has overwhelmingly rejected ... private accounts," said Brad Woodhouse, spokesman for Americans United to Protect Social Security.

"There are a large number of Republicans who want this cup to pass from their lips, and yet the House Republican leadership seems to be convincing itself that this is an easy vote," said Roger Hickey, co-director of Campaign for America's Future.

Where The Rumsfelds Retreat, The Cheneys Soon Could Follow (WP)

By Dan Morse, Washington Post Staff Writer

The Washington Post, September 5, 2005

ST. MICHAELS, Md. -- They've grown used to having a secretary of defense in their midst -- the way his weekend estate is tucked behind a bend in the road, how he takes casual walks tailed by dark SUVs. Now, residents of this Eastern Shore retreat are preparing for someone even bigger to buy a house down the road: the vice president.

"I'd heard it was going to close either Tuesday or Wednesday of this week," Carroll Hurley, a funeral home owner, said Saturday, seated with his breakfast gang at the Carpenter Street saloon and restaurant.

Whether it's true -- that Dick and Lynne Cheney are buying an estate here -- could not be confirmed. Those closest to the deal -- Cheney's office, the purported sellers, the listing agent -- aren't talking. Hurley admits he's not certain: "All I have is hearsay. It wouldn't stand up in court."

Still, a nosy visit here leaves a person with one of two possibilities: Either the Cheneys are coming or a lot of people have bad information. Police Chief Ed Henry -- who breakfasted along with Hurley -- even referred to the lot in question as "Cheney's house."

The house, listed at $2.9 million, backs up in spectacular fashion to an inlet of the Chesapeake Bay. "Right out by [Defense Secretary Donald H.] Rumsfeld's," said Charles Mangold Sr., whose Benson & Mangold agency brokers high-end estates in the area. "It's under contract, but he hasn't settled yet."

Reaction to the two men's presence is embedded into everyday conversation -- even as residents take pride in taking it all in stride. They tick off celebrities who have lived in or visited the area: Margaret Thatcher, Walter Cronkite, James Michener, Yasser Arafat and Vince Vaughan -- the latest during nearby filming of "Wedding Crashers."

Residents joke about the occasional helicopter overhead and what flavor Rumsfeld gets at Justine's Ice Cream parlor. One woman even drew a clear distinction -- pro-Rumsfeld, anti-Cheney.

"Cheney's a politician. He's connected with Bush," said Rhonda Lewis, 58, a bookkeeper at a bike shop in nearby Easton. She has always had a crush on Rumsfeld. "He is just adorable."

She thinks the defense secretary often looks stressed out on TV, and seeing him walk casually through St. Michaels in khakis is comforting. "Bush just dumped all the hard stuff on him," Lewis said.

At Albright's Gun Shop, a highly regarded draw for goose and duck hunters, a photo of the vice president hangs near the counter. "Best Wishes. Dick Cheney," says the autograph.

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Near the photo, behind the counter, Jim Kohlhaus remembered a recent day when several security people walked into the store, followed by the vice president. "I'll be . . . ," Kohlhaus said. He recalled telling Cheney he voted for him twice, "and I finally get to shake your hand."

Cheney extended his hand, Kohlhaus said, and bought some shotgun shells.

Rumsfeld bought a weekend house in St. Michaels two years ago, reportedly for about $1.5 million. He gets generally good reviews here for his desire to blend in -- even if that means taking a walk with his wife, Joyce, down a rural stretch of road tailed by SUVs. Residents say he doesn't like to pose for pictures alone, preferring to ask people to stand next to him and have a brief chat.

Lori Cuthbert, who lives nearby, said she met the defense secretary at a neighborhood St. Patrick's Day party. She intends to invite the Rumsfelds to an upcoming barbecue -- despite the Kerry-Edwards bumper sticker on her Honda.

Sue Stockman, an artist who sells jewelry and mosaics, bears witness that different types of people blend together here. Her Volkswagen van parked in her driveway is painted with flowers and sports "Think Peace" and "It Takes a Village to Raise a Child" bumper stickers. She protested the war in Iraq before it started and describes herself as an "environmentalist, holistic thinker and a pacifist."

Stockman reported having a run-in with someone she suspects was part of Rumsfeld's security detail. They argued over the film "Fahrenheit 9/11" at the Blue Crab Coffee shop -- ending with her putting a hand on his shoulder, sending him Reiki energy healing and telling him she had to get going.

A short time later, the man showed up at her house and gave her a small book, Stockman said. She fetched it from inside her house. "The Meaning of Life" is filled with photographs of animals, bits of wisdom and an inscription from the former Marine asking Stockman to accept his apologies and the book "as a token of friendship."

Cheney seemingly has spent far less time here. He, his wife and the Rumsfelds did dine on April 16 at 208 Talbot, a high-end restaurant in central St. Michaels.

"Cheney had the lamb," said Deborah Miller, seated behind the hostess stand.

She knew something was up that day when security agents showed up in the afternoon to scout out the place. An attache of Cheney's then arrived, saying he'd prefer a table among the regular diners -- rather than in a back room. No one bothered their table, and the foursome couldn't have been more pleasant, Miller recalled. But she didn't know whether Cheney was buying a place.

And the owner of the house in question declined to comment, saying politely from the end of its long driveway that he didn't want to talk about anything.

The estate goes back to 1930 and was said to be built by one of Thomas Edison's daughters, according to Robert Snyder, the Coldwell Banker agent who is listing the property.

The nine-acre lot includes extensive gardens, ornamental pools and spectacular views of the water behind it. Deer and osprey can be seen.

Snyder, who is vice president of the St. Michaels town commission, declined to say when any deal might close and whether the Cheneys were going to move in. "It truly is a magnificent piece of property," he added.

Civil Rights, Terrorism Cases On Circuit Slate (LEGALT)

By Lily Henning, Legal Times

Legal Times, September 5, 2005

The federal appeals court in Washington, where oral arguments resume this week after a nearly three-month summer hiatus, is facing a season of change.

The departure of Judge John Roberts Jr. to Capitol Hill for hearings on his nomination to the Supreme Court and the arrival of Janice Rogers Brown and Thomas Griffith on the circuit court's bench resulted in a reshuffling of panels and argument dates for the fall.

Lawyers with upcoming cases before the U.S. Court of Appeals for the D.C. Circuit say they've received oral argument dates later than usual. As of late last week, the court had posted its calendar through the end of October.

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The court's argument calendar, which continues to take shape, opens with the pleas of Guantánamo Bay prisoners. Over the next two months the court will also hear cases involving immunity and liability for public officials such as police officers and will revisit long-running litigation that pits states and interest groups against the federal government.

The D.C. Circuit begins arguments Sept. 8 with two of its most closely watched cases.

That day, Judges A. Raymond Randolph, David Sentelle, and Judith Rogers—appointees of Presidents George H.W. Bush, Ronald Reagan, and Bill Clinton, respectively—will hear the cases of Guantánamo Bay prisoners challenging their detention.

The arguments were originally scheduled to be heard Oct. 6 by a panel that included the D.C. Circuit's two newest judges, Brown and Griffith. The court did not comment on the changes in the panel, but lawyers for the detainees had requested that the hearing date be moved up so that if necessary, they could file an appeal that would reach the Supreme Court during its upcoming term.

"This must feel gigantic to these judges," says Barbara Olshansky, deputy legal director at the Center for Constitutional Rights in New York. "These are the kinds of decisions that are remembered and cited for centuries."

The learning curve is steep for any judge—regardless of whether he or she is a veteran or new to the bench, says Olshansky, who coordinates dozens of pro bono lawyers representing detainees.

Of the three judges, Randolph likely would be most familiar with the detainees' appeals.

In July he wrote the opinion in Hamdan v. Rumsfeld that upheld the military tribunals set up by the Bush administration to try terrorism suspects for war crimes.

Randolph's presence on the panel could create some "hurdles" for the detainees, says Olshansky, but the questions in the current cases are different. Hamdan challenged the legality of the military commissions to try suspected terrorists. The cases to be heard this week contest the legality of the detention of the prisoners, some of whom were picked up outside of the battlefield.

Lakhdar Boumediene v. Bush and Khaled Al Odah v. USA resulted in dramatically different outcomes in the lower court. In Boumediene in early January, U.S. District Judge Richard Leon, a George W. Bush appointee, held that the detainees have no rights under U.S. or international law that can be asserted in federal courts. Weeks later, Senior Judge Joyce Hens Green, appointed by President Jimmy Carter in 1979, ruled in Al Odah that the detainees do "possess enforceable constitutional rights."

No matter which way the circuit rules, the cases are expected to wind up before the Supreme Court, which last year ruled 6-3 that the detainees have a right to file habeas challenges in federal court.

"We're hoping for a speedy decision," says Stephen Oleskey, a lawyer with Wilmer Hale in Boston who represents a group of Bosnian-Algerians taken into custody in January 2002 and held at Guantánamo Bay.

CONGRESSIONAL IMMUNITY

Thus far, just two cases are slated for review this fall by all active members of the court. In those, the D.C. Circuit will address the unsettled question of whether members of Congress can be sued for employment discrimination by their legislative staffers.

Lawyers say the decision to hear Fields v. Johnson and Hanson v. Dayton en banc was even more unusual because it was done sua sponte — without a request from any of the parties involved.

"It's very, very rare," says Miller Baker, a partner with McDermott, Will & Emery who litigates at both the trial and appellate levels and is not involved in either case.

At issue is whether federal lawmakers are shielded from employment discrimination lawsuits because of a constitutional clause that broadly protects lawmakers' speech, debate, and other "legislative activities."

The 1995 Congressional Accountability Act, passed shortly after Republicans won control of Congress, subjects Congress to various employment statutes that apply to the private sector. But it also preserves Congress' immunity under the constitutional speech or debate clause.

The question in the cases is whether the Constitution bars employment suits filed by certain legislative staffers.

Judges David Tatel, Harry Edwards, and Randolph heard arguments in April in an age and race discrimination case against Rep. Eddie Bernice Johnson, a Texas Democrat. But shortly before scheduled arguments were to be heard in former Hill staffer Brad Hanson's suit against Sen. Mark Dayton (D-Minn.), the court announced it would hear both cases en banc instead. Arguments are scheduled for Sept. 29.

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Hanson says that Dayton fired him after learning the aide, who ran a health care help line for constituents, needed heart surgery. Last year, Leon denied Dayton's motion to dismiss the case. The D.C. Circuit denied a request by Hanson's lawyers that the two cases be consolidated.

A group of Republican lawmakers filed a friend of the court brief in support of Johnson and urged the court to shield federal legislators from such lawsuits.

In October, Edwards and Randolph are scheduled to sit on the same panel in another case involving questions of liability and immunity for public officials.

Joined by Judge Karen LeCraft Henderson, they will decide whether D.C. Metropolitan Police Chief Charles Ramsey can be held personally liable for what plaintiffs say were constitutional violations in the arrests of anti-globalism and anti-war protesters. The trial court found the police did not give an order to disperse before ordering the mass arrests in September 2002 in Northwest Washington's Pershing Park.

Ramsey was in command of the police department's operation plan and handling of the demonstrations while Assistant Chief Peter Newsham ordered the Pershing Park arrests.

In September 2004, Judge Emmet Sullivan ruled the two did not have qualified immunity, which shields officials from liability for damages so long as their actions were "objectively reasonable." Ramsey and Newsham, a lawyer and member of the Maryland Bar, filed an emergency appeal.

Mara Verheyden-Hilliard, a lawyer with the Partnership for Civil Justice, which is representing the class, says the question of Ramsey's liability is critical to a wider battle about how police restrain protesters.

"Personal liability is a very important mechanism in making sure that this doesn't happen again," Verheyden-Hilliard says.

LONG HAULS

Key cases in two long-running court battles are also scheduled to come before the court.

Nearly a decade after they started, challenges to the federal government's handling of billions of dollars in assets belonging to Native American heirs and held in trust for more than a century return to the D.C. Circuit.

The main body of the Cobell v. Norton suit, a class action first filed in 1996 against Clinton administration Interior Department Secretary Bruce Babbitt, is pending in federal district court before Judge Royce Lamberth in Washington.

For years, Lamberth has ordered the Interior Department to implement plans to correct past accounting failures and fix the way the agency accounts for the management and dispersal of the trust money in the future.

The case, which is scheduled to be heard by the D.C. Circuit on Sept. 16, is the government's appeal of Lamberth's latest injunction requiring accounting remedies.

Among the disagreements between the government and the class of trust beneficiaries is the scope of the fix. The plaintiffs say that the government needs to remedy its errors reaching as far back as 1887, the year the trust was created. The Department of Justice lawyers handling the case, however, say that the cutoff should be 1938, when another law concerning the management of the accounts was enacted.

In an added twist to an already dizzyingly complex struggle, Justice Department lawyers made the unusual request on Aug. 15 that Lamberth be removed from the case, claiming that the harsh language in Lamberth's rulings creates an appearance of bias. That question could come before the panel, which includes Senior Judges Laurence Silberman and Stephen Williams and Judge Merrick Garland. The plaintiffs have contested the motion.

On Oct. 18, another appeal in the decades-old fight over plans for a permanent repository for the nation's nuclear waste in Yucca Mountain, Nev., comes before Edwards, Henderson, and Randolph.

The latest iteration of litigation that Nevada Senior Deputy Attorney General Marta Adams calls "tortured" involves the state's protest of a proposed railroad that would transport nuclear waste to Yucca Mountain.

"We sue them over pretty much everything," Adams says. "I think the powers-that-be are surprised that Nevada has put up the argument that it has."

The state contends Congress did not entrust the Department of Energy with the authority to construct a railroad for the project and that, among other things, the agency did not do adequate studies of the environmental impact of the project.

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The Nuclear Energy Institute Inc., in an amicus brief filed in support of the government's plans, wrote that Nevada's "dire predictions" about the dangers of transporting the waste by rail through the state do not "square with reality."

Lily Henning can be contacted at lhenning@alm.com.

Alphabet Soup: New Judges Griffith, Brown To Tackle ADA, FDA Cases (LEGALT)

By Lily Henning, Legal Times

Legal Times, September 5, 2005

Nothing says welcome to Washington to a new judge like a case full of acronyms that only wonkish Beltway dwellers can appreciate.

That's how Janice Rogers Brown and Thomas Griffith will be initiated into the complex but largely nonideologic al work of refereeing federal agencies on the U.S. Court of Appeals for the D.C. Circuit.

Before Brown this month will be a dispute over a plan that would create a hunting season for the trumpeter swan, and Griffith will hear an appeal involving the Federal Motor Carrier Safety Administration.

But in other cases, the judges could have the opportunity to place a personal stamp.

In Gregory Thomas v. George Washington University, Brown will hear the case of a man with a paralyzed leg who is appealing a lower court decision that threw out a favorable jury verdict. Gregory Thomas, a medical resident at GW who lost his position, sued the university for race and disability discrimination. The school claims his performance was poor and that he has an impairment, as opposed to a disability covered by the Americans With Disabilities Act.

As a California Supreme Court justice, Brown had been at odds with colleagues on questions of discrimination and disability. In a 2001 case, Brown split from the majority by advocating for a more limited legal recourse for a disabled worker whose employer did not accommodate her disability.

Brown and Griffith are scheduled to hear seven cases together this fall. On Sept. 16 the judges will hear M.K., et al. v. Porter Goss, a class action filed by Central Intelligence Agency staffers who say the government obstructed their efforts to obtain effective counsel in employment cases. According to court records, one appellant claims they were told that "national security was more important than her right to an attorney."

An unusual question at the intersection of government regulation and medical ethics will come before Griffith. The Washington Legal Foundation wants the Food and Drug Administration to allow medicines in early stages of clinical trials that haven't yet been deemed safe by the agency to be made available to terminally ill patients.

But the clearest signs of where Brown and Griffith stand—and the degree of independence they will hold from their colleagues—will likely be in dissents, which have been rare on the D.C. Circuit.

Because of the workload, "writing a dissent on the appeals court takes a lot of effort," says Frank Cross, a professor at the University of Texas School of Law. "So dissents often tell you which judges are really ideologues."

Lily Henning can be contacted at lhenning@alm.com.

Report: Education Dept.'s PR Funds Need Oversight (USAT)

By Greg Toppo

USA Today, September 6, 2005

Federal investigators probing the Education Department's public relations contracts have found a pattern of deals in which advocacy organizations received grants totaling nearly $4.7 million to promote Bush administration education priorities in newspaper columns and brochures, but didn't disclose that they received taxpayer funds, as required by law.

The department's inspector general says he detected no "covert propaganda," but he told administration officials to consider asking for some of their money back.

The report, released on the Education Department's website Thursday night, said the department needs to do a better job monitoring how millions of dollars in grants are spent. More than $1.7 million, for example, went to outside public relations contracts that officials said resulted in no visible media products.

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The report comes nearly five months after the inspector general criticized the department for its $240,000 contract with commentator Armstrong Williams. That contract called for him to promote President Bush's 2002 No Child Left Behind education reform law in newspaper columns and on his syndicated TV show, and to encourage others to do the same.

After USA TODAY first reported on the Williams deal, several other agencies revealed that freelance commentators wrote pieces promoting Bush administration policies on marriage and on the environment without disclosing they'd received government funds either to write the pieces or to support their interest groups.

In the new report, Inspector General John Higgins found that more than $7.7 million in grants and contracts were either properly notated with government disclaimers or hadn't been disseminated to the public. He also found that Education Department personnel in several instances told groups that the disclaimers were required.

Higgins found that in 10 of 11 cases examined, groups didn't disclose — in print, on radio or in other media, such as brochures or handbooks — that taxpayer funds were used.

"The Department of Education is trying to define itself out of trouble by setting the bar very high for what constitutes covert propaganda," said Rep. George Miller, D-Calif., who requested the probe.

"But this report shows that, in case after case after case, grantees — without disclosing who was paying them — took taxpayers' money and used it to promote controversial policies," Miller said. "Either the department is grossly incompetent when it comes to awarding grants and contracts, or it is misleading investigators and engaging in a coverup of the misuse of taxpayer dollars."

Education Secretary Margaret Spellings' response, filed with the report, agreed with most of the investigators' findings.

OTHER NEWS:

U.S. Appears To Have Avoided Massive Oil Supply Problems (NYT)

By Vikas Bajaj

The New York Times, September 6, 2005

As Americans began heading home from the Labor Day weekend, gasoline stations today continued to report spot shortages, but the country appeared, at least as of this afternoon, to have avoided the massive supply problems that some had feared.

Throughout the weekend, station attendants and analysts said they saw unrelenting demand from drivers who were worried they would find themselves stranded, were panicked by rumors about service stations closing early, or both.

Officials said they continued to make progress in resuming the production and distribution of gasoline and other fuels, which was severely disrupted by Hurricane Katrina last week. But they noted that most refineries and oil production in and along the Gulf of Mexico remained shut down for the seventh day in a row.

Gasoline demand was heaviest along busy thoroughfares between big population centers and vacation destinations, often knocking out several gasoline stations along heavy traffic routes for hours to days at a time.

"It could three or five stations on one stretch running out, that's a fairly real situation that is happening," said Justin McNaull, a spokesman for AAA, formerly known as the American Automobile Association.

Mr. McNaull added that his group had not received any reports of motorists stranded in tourist destinations unable to return home because they could not refuel. "The challenge that gas station operators are having now is not knowing when the next shipment is coming and how much they will be getting," he said.

Rauf Baber, manager of a BP Amoco station in Coney Island, Brooklyn, said he was able to get a special delivery of gasoline late Sunday night after running out earlier in the day. Though he had 6,000 gallons of gasoline this morning, he was still expecting another load this evening.

"People went crazy to fill up, that's why we ran out," Mr. Baber said. "The BP company, they have plenty of gas."

Another Amoco station in Bronx was not quite so lucky. "We ran out about half an hour ago, and people are still coming in looking for gasoline," an attendant who would only give his first name, Jose, said this morning. "We ran out for a while last week, too. We're hoping to get a delivery today."

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Rumors that service stations were closing at 4 p.m. or 5 p.m. appeared to have needlessly sent many motorists on refueling trips, said John Felmy, chief economist at the American Petroleum Institute. "It wasn't as good as I hoped, but it wasn't as bad as I feared," he said about the weekend.

Another key test may come this afternoon and evening as the biggest crush of vacationers begin their voyage home, Mr. McNaull said.

"There certainly will be another push on the demand side there as people make those return trips and potentially as people gas up cars for the Tuesday back-to-work commute," he said.

Nationally, the average retail price for gasoline was $3.057 a gallon this morning, up from $2.867 on Sunday and $2.307 a month ago, according to AAA.

In the New York region, prices seemed to range from $2.95 a gallon to $3.75 a gallon, according to a spot survey done by the staffs of Senators Charles E. Schumer, Democrat of New York, and John Corzine, Democrat of New Jersey. Both politicians called on the Federal Trade Commission to investigate gasoline price increases and suggested it might help to lift the federal gasoline tax at least temporarily.

Gasoline supplies will likely remain tight through much of the coming week if not longer, industry officials and analysts said, as refiners slowly resume operations in the gulf region. It can take several days to restart those facilities, because of the danger of explosions and other accidents.

Of the 10 refineries that were shut down by the storm initially, eight have not resumed operations, two are restarting and hope to be operational in the coming days, and three still do not have electricity, the Energy Department said on Sunday.

At least four refiners that produce about 5 percent of the nation's gasoline and other oil-based fuels have sustained significant damage and could be out of commission for a month or more for repairs, officials and analysts said. Among them are ConocoPhillips' Belle Chase, La. facility; Exxon Mobil's Chalmette, La. plant; and ChevronTexaco's large refinery in Pascagoula, Miss.

Officials at the largest of the four, ChevronTexaco, said they still do not have power or phone service at their plant, where the company is building temporary housing for up to 1,500 employees and their families. It may be days before the company can say how long it will take to restart the plant, which has a capacity to process 325,000 barrels of oil a day.

"There is a cogeneration unit with Mississippi Electric there that needs to get up and running," said Michael Barrett, a company spokesman. "We need to get natural gas there. We are putting generators in there right now. The truth is we don't have telephone lines" working at the refinery.

Of the two major pipelines that bring gasoline, diesel fuel and jet fuel to the eastern half of the United States from Texas and the gulf, the smaller one, the Plantation pipeline, said it was operating at 100 percent. The other, the Colonial pipeline, was at 73 percent as of Saturday and hoped to be at full capacity by the end of the holiday weekend.

Also, the federal government and members of the International Energy Agency, a 26-nation organization created after the 1970's oil crisis, have started releasing crude oil and some gasoline to energy companies in an effort to ease supply constraints. Those moves helped push down crude oil prices 2.1 percent in London tradingtoday. The New York Mercantile Exchange was closed for the Labor Day holiday.

The United States Department of Energy has already agreed to loan 12.6 million barrels of oil to refiners so they can keep producing gasoline and other fuels as production facilities in the gulf recover. This weekend, the government went even further and said it would sell 30 million barrels or more of oil in addition to the loans, which companies have to replace when conditions improve.

But with so much refining capacity out of service, analysts said gasoline prices would remain high in spite of the crude oil that the federal government and its allies are unleashing.

"Some of these refineries will not be back to full operation perhaps well into next year," said Paul Horsnell, an analyst at Barclays Capital in London.

A spokesman for BP, formerly British Petroleum, Scott Dean, said the company was shipping gasoline from Europe to East Coast port to help alleviate shortages but it may take some time for the current supply crunch to wind its way out of the system.

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"We are making fuels, we are distributing fuels," he said. "Fuels are arriving at the terminals and going out on trucks and arriving stations, but there are still disruptions."

Average Gas Prices Pumped Past $3 (USAT)

By Chris Woodyard, Dennis Cauchon and Sharon Carty

USA Today, September 6, 2005

The national average price for gasoline crossed the $3-a-gallon mark for the first time Monday in the latest AAA survey, tying the record for highest ever on an inflation-adjusted basis.

Although motorists in hurricane-whipped areas along the Gulf of Mexico faced gas lines, some resorts across the nation reported strong Labor Day crowds despite soaring fuel prices.

A gallon of regular-grade gas hit $3.057 a gallon Monday, up 19 cents from $2.867 earlier in the weekend, the AAA said. On an inflation-adjusted basis, that's equal to the peak of $1.417 set in March 1981.

Thirty-five states and the District of Columbia had prices averaging $3 or more for regular. Highest: Maryland, $3.26.

Supply disruptions caused by the hurricane are almost sure to raise prices further before settling down in about two weeks, says Tom Kloza of the Oil Price Information Service, which compiles the AAA survey.

Barring another unforeseen event like a new hurricane, “I think the highest prices you may see until February are over the next 15 days,” Kloza said .

One good sign: Shortages feared in the upper Midwest didn't appear, though open gas stations were scarce in hurricane-ravaged areas. “We avoided a widespread panic,” says Dan Pickering of Pickering Energy Partners. There were “spot shortages but nothing on a broad basis, which is the best we could have hoped for.”

Spot shortages are still possible. Although major pipelines have been restored to service, some gulf-area refineries are still not operating. Tankers full of gasoline from Europe are headed to the USA, but it could take a couple of weeks for their cargoes to make a difference.

“There is probably enough (refinery) capacity in Europe to bail us out for awhile,” says Harry Quarls, a managing director for Booz Allen Hamilton.

About a dozen gas stations were open Monday in two hard-hit cities on the Mississippi coast, Gulfport and Biloxi. Police stood guard.

“People get crazy about gasoline when we're not here,” said Gulfport police officer Travis Sheaffer at a gas station near Interstate 10. “They were cutting in line, pulling guns — all types of insanity.”

A few stations have raised prices above $4 a gallon, but most have kept them at about $2.50 a gallon, the price charged before the hurricane. Stations generally limited customers to 10 gallons of gas.

“Some people pushed their cars here for gas,” said Fallon Demoruell, a gas station worker. “A lot of them haven't been too polite.”

Elsewhere, some gas station owners were nervous about supplies. Dawn Baker, manager of a CITGO station in Illiopolis, Ill., 200 miles southwest of Chicago, says she fears that she might not get a full supply when a new tank of gas arrives today. “More than likely it'll be a half load, and we'll have to make do with that,” she says.

Some commuters are saying that $3 is the breaking point for them. Now they're ready to reduce their driving.

Rodolfo Palma, who lives in Saline, Mich., 50 miles west of Detroit, bought a bicycle at the beginning of the summer and used it to run errands instead of taking his car. He even started driving part way to work and riding his bike the rest of the way. He plans to keep doing both.

“Now, after the hurricane, it's going to be a permanent change,” Palma says.

It Won't Be Cheap, But Gas Is To Be Had (NYT)

By By Vikas Bajaj And Richard Pérez-peña

The New York Times, September 6, 2005

DOJ_NMG_0002814

Most American travelers managed to avoid any serious gasoline supply disruptions over the holiday weekend, officials said yesterday, but analysts and industry executives warned that fuel prices were likely to remain high and that the nation's oil supply system might not return to normal operations for several weeks, perhaps longer.

Even as the federal government and other nations started releasing crude oil and gasoline into a thirsting world market and pipelines resumed sending supplies from the Gulf Coast, specialists said there were few quick fixes for the biggest remaining bottleneck: refining.

"Some of these refineries will not be back to full operation, perhaps well into next year," said Paul Horsnell, an analyst at Barclays Capital in London, who also said that it would take longer for refiners to turn their attention to producing heating oil for the winter as they struggled to catch up with lost gasoline output.

As many as four refineries, processing about 4 percent of the nation's oil supplies, might stay out of service for weeks or months. Of the remaining six refineries that shut down last week because of Hurricane Katrina, several were starting to resume production over the long weekend, but it will take them several days to get back to full speed.

Oil prices fell about 2 percent in European and Asian trading, and the New York Mercantile Exchange was closed for the Labor Day holiday. Retail prices for regular gasoline appeared to be settling at an average of roughly $3.20 a gallon yesterday, almost a full dollar above what consumers paid a month ago.

Throughout the weekend, station attendants and analysts said they saw unrelenting demand from drivers who were worried they would find themselves stranded or were panicked by rumors about service stations closing early.

Prices, they said, were being largely determined by suppliers and retailers that were hoping to limit the risk of running out of fuel, and groping to find a balance in various markets between uncertain supplies and skittish demand. Gasoline-buying over the weekend was heaviest along busy highways connecting major population centers with nearby vacation destinations.

"It could be three or five stations on one stretch running out - that's a fairly real situation that is happening," said Justin McNaull, a spokesman for AAA.

Rauf Baber, manager of a BP Amoco station in Coney Island, Brooklyn, said he was able to get a special delivery of gasoline late Sunday night after running out earlier in the day. "People went crazy to fill up, that's why we ran out," he said. "The BP company, they have plenty of gas."

BP indeed has plenty of gasoline but it, like others, could not assure that ample fuel supplies would soon be where they were wanted most. A company spokesman, Scott Dean, said tankers were making their way from Europe to ports along the East Coast. He said that the company's refineries were already processing everything they had on hand.

"We're still working to get the ripples out of the system," he said, "but it's still going to take several days."

On Friday, the Energy Department and the International Energy Agency, a 26-nation consortium established after the 1970's energy crisis, said they would together release 60 million barrels of oil and gasoline reserves at a pace of 2 million barrels a day, helping to bring down soaring prices in futures markets.

But Mr. Horsnell said the oil releases would not be enough to ease gasoline prices or supplies. Among I.E.A. members, only the Europeans have spare gasoline to ship to the United States, and they are already sending all they can. They will struggle to ship more because there are few spare tankers available and East Coast ports are not sitting idle.

"The maximum amount of oil product that can be managed into the U.S. is two million barrels a day," Mr. Horsnell said. "Logistically, it's quite challenging."

About 70 percent of the gulf's offshore crude oil production of 1.5 million barrels a day was still shut down yesterday, as was half of its natural gas production of 10 billion cubic-feet per day.

Most of last week, energy officials focused on restoring power to pumps on two major pipelines that bring gasoline, diesel fuel and jet fuel to the eastern half of the country from Texas and the Gulf of Mexico. Plantation, the smaller of the two, said it was operating at 100 percent capacity yesterday. Colonial, the larger pipeline, was at 73 percent as of Saturday, and its operators said they hoped for it to be at full capacity by the end of the holiday weekend.

Rick Rainey, a spokesman for Kinder Morgan, the energy company that owns Plantation, said the pipeline carried a full load of gasoline and other fuels to the East Coast over the weekend. But volume on the pipeline was beginning to drop off, he said yesterday, "as the backlog has begun to deplete at terminals."

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Exxon Mobil's refinery in Baton Rouge, La., the nation's second-largest, is the only one that has continued to supply fuel to the pipeline since the hurricane, Mr. Rainey said.

According to the Energy Department, three Louisiana refineries still did not have power over the weekend: the ConocoPhillips facility in Belle Chasse; the Exxon Mobil plant in Chalmette and the Murphy Oil refinery in Meraux.

A fourth, ChevronTexaco, said that its large refinery in Pascagoula, Miss., was still without electricity or phone service; the company said it could take days before it could even say when operations could resume. A company spokesman, Mickey Driver, said it was still trying to locate all of its 4,400 employees in the region.

Closer to the retail end of the energy pipeline, politicians across the country were talking about how to deal with consumer complaints. State attorneys general threatened to crack down on price gouging and Congressional leaders asked for federal investigations.

Two senators - Charles E. Schumer, Democrat of New York, and Jon S. Corzine, Democrat of New Jersey - said that their staffs had surveyed gas stations and found prices ranging from $2.95 to $3.75 a gallon at stations within a few miles of one another.

Mr. McNaull of AAA said retail prices swung widely last week and were starting to converge in many cities. But retailers in the same area could still have widely different costs, depending on whether they bought gas on contract from a single major supplier or on the spot market from the cheapest provider that day or week.

"The challenge that gas station operators are having now," he said, "is not knowing when the next shipment is coming and how much they will be getting."

Rising Gas Prices May Force States To Suspend Tax (WSJ)

By Robert Guy Matthews

The Wall Street Journal, September 6, 2005

To soften the blow of higher fuel prices and disrupted supplies, the federal government took steps to increase the supply of diesel fuel as some states moved to suspend gasoline excise taxes.

The Internal Revenue Service said it will temporarily allow all vehicles, including commercial trucks, to use dyed diesel fuel without being subject to a penalty. Dyed diesel usually is restricted to farming and government activities that aren't subject to excise taxes. Under the IRS easing, the usual diesel tax still will be owed when dyed diesel is used in nonexempt ways, but an additional penalty will be waived. California and Michigan also lifted state penalties on the use of dyed diesel fuel.

States that suspend gas taxes stand to lose millions of dollars in revenues that are usually used for road and other highway projects. Even states that don't suspend gas taxes could see revenues drop if drivers cut back on gas purchases due to rising pump prices.

Late last week, Georgia suspended its 7.5 cents-a-gallon gas tax and 4% sales tax on gasoline purchases until Oct. 1. State lawmakers in Oklahoma, Connecticut and Massachusetts have proposed measures to suspend gas taxes, which could reduce the cost to consumers by 12 cents to 20 cents per gallon. Meanwhile, Rep. Steve Pearce (R., N.M.) said he plans to introduce legislation to suspend the federal gas tax, which is 18.4 cents a gallon.

The disruption of gas supplies, coupled with panic buying, has pushed prices to an average of about $3.06 per gallon, according to AAA. In some areas, gas prices have nearly doubled, prompting lawmakers to scramble to show voters that they are trying to ease the pain.

"I think it is important because we need to recognize that gas has gone up 70 cents to a dollar in just a matter of days," said Brad Jones, a Republican state legislator in Massachusetts. He wants to suspend his state's 21-cents-per-gallon gas tax for three months.

Georgia's one-month suspension of its gas tax and sales tax on gasoline is expected to cost the state $75 million, according to state officials. If Mr. Jones's bill is passed in Massachusetts, that state would lose an estimated $175 million. Oklahoma would see a $103 million decline in revenues under one state senator's proposal to suspend its 17 cents-per-gallon tax on diesel fuel.

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All 50 states levy a flat-rate tax, usually 10 to 20 cents, on each gallon of gas sold. Most states also apply a sales tax, usually 2% to 5%, on gas purchases.

Most money collected from gasoline taxes is earmarked for state and local road projects, and used as matching funds to win federal money. States with lower matching funds could end up with fewer federal highway dollars.

But analysts say states are unlikely to be badly hurt by a decline in gas-tax receipts because many are showing surpluses due to robust local economies. "It's more symbolic," said Nicholas Jenny, senior policy analyst for the Nelson A. Rockefeller Institute of Government, the public policy research unit of the State University of New York.

In the first eight months of the year, Georgia collected $75 million more in revenues than had been expected, due to an increase in sales-tax receipts resulting from climbing gas prices. The extra money will be offset by the one-month tax suspension. "We expect this to be revenue-neutral," said Shane Hix, a spokesman for Georgia's governor.

Generally, the tax on gasoline is an excise tax that is a fixed amount instead of a percentage. Many states haven't raised the gas tax over the past decade. California, for example, has charged motorists the same excise tax -- 18 cents a gallon -- since 1994.

"A lot of these states have seen the money coming from these taxes go down anyway because of inflation," said Mr. Jenny of the Rockefeller Institute.

This isn't the first time that states have weighed suspending gasoline taxes in the face of sharp price increases. In 2000, Indiana suspended its 5% sales tax on gasoline, resulting in a drop of seven cents to 10 cents a gallon and a $12.6 million decline in state receipts.

Katrina And The Gas Pump (NYT)

The New York Times, September 6, 2005

In Katrina's wake, gasoline prices are rising faster than oil prices - an odd, but explicable, phenomenon. Enough crude oil is being produced to meet global demand, but the ability of the Gulf Coast's many refineries to turn the oil into gasoline has been devastated, as has the ability to transport the gasoline that does become available. Those supply bottlenecks are chiefly responsible for this past week's higher prices at the pump.

President Bush's immediate response is to lend oil from the government's Strategic Petroleum Reserve to refineries and to streamline the refining process by temporarily relaxing environmental standards - sound stopgap measures to help ensure a steady supply of gasoline. The International Energy Agency, whose members are 26 rich nations, has also made a big contribution, pledging on Friday to supply world markets with an additional 60 million barrels of oil and gasoline over the next 30 days, half of which would come from the United States' emergency stockpiles.

But it would be wrong to think - and act - as if this crisis is fundamentally a supply shock. Rather, it is a supply shock on top of blatantly excessive demand. The near-term responses from Mr. Bush and the international agency, welcome as they are, will not solve the larger problems laid bare by Katrina. Worse, Mr. Bush's record on energy issues does not suggest that he is up to that task.

Gasoline prices seem destined to stay elevated until at least next spring. Even if the damage in the Gulf Coast is repaired soon - a big if - oil producers and refiners will require a premium to compensate for the risk that another killer storm could further disrupt operations in this hurricane season. Moreover, Katrina is causing refineries to draw down oil stockpiles that would have been used to produce home heating fuel for use this winter. That makes for a very thin supply cushion in the months ahead - not to mention high home-heating bills on top of high gasoline prices.

But even before the hurricane hit, oil producers were pumping all-out to meet demand. Driven mainly by gasoline consumption in the United States and industrialization in China and India, the world's consumption of oil is 85 million barrels a day. That is just short of the maximum that can be pumped, and leaves only about 1 million barrels a day in spare capacity, the lowest level in three decades. As with gasoline, the thinner the cushion, the higher the price.

Mr. Bush, who has a wildly overconfident view of how much oil could be pumped if American drillers were given a freer rein, refuses to see the overarching problem as one of excessive demand. Americans' gas-guzzling ways keep prices up,

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threatening the nation's economic well-being and creating windfall profits for foreign oil producers, some of which are used to finance terrorism.

So it is up to Congress to grapple with the big picture - now, before another disaster strikes. The Senate energy committee is scheduled to meet today, and much of the attention will naturally be devoted to the current problems in the refining process. Those issues must obviously be addressed, including ways to help municipalities overcome the "not in my backyard" obstacles to building state-of-the-art refineries.

But the focus must be - finally - on reducing oil consumption. The lawmakers should call for a rapid, mandatory increase in automobile mileage standards. And they must resist measures that would encourage only more consumption, like temporarily suspending gasoline taxes.

This is the moment to gather the political will to do what should have already been done. If the lawmakers don't act, they are courting problems that may be even harder to solve later on.

Economy Shows Resilience In Face Of Massive Jolt (WSJ)

By Jon E. Hilsenrath and Grep Ip

The Wall Street Journal, September 6, 2005

The U.S. economy's shock absorbers kicked in within days of one of the worst natural disasters in its history, offering hope that the massive jolt to the country's energy and transportation systems won't produce a long-lived, serious economic contraction.

The release of emergency oil and gasoline from global stockpiles, created in the 1970s to counter supply interruptions, sent crude-oil prices down to about pre-hurricane levels in European trading. Long-term interest rates fell despite the prospect of higher inflation, cushioning home buyers and businesses. Temporary-help agencies began to place some workers displaced by the storm. New Orleans's main newspaper, the Times-Picayune, kept publishing on the Internet when printing on paper was impossible. Computerized logistics enabled railroad CSX Corp. to reroute freight normally exchanged with Western railroads at New Orleans to be sent north.

Hurricane Katrina is the biggest test in years of the economy's resilience. But recent history offers encouraging, though by no means definitive evidence of the U.S. economy's ability to bounce back from shocks. Economic growth has become significantly less volatile during the past two decades, a trend some economists dub "the Great Moderation."

The past five years have witnessed a burst stock bubble, terrorist attacks, corporate scandals, wars in Afghanistan and Iraq, and a doubling in crude oil prices. Yet the economy, after a mild recession in 2001, has embarked on a solid expansion with little inflation. Katrina came at a time when the economy was in solid shape. In August, the unemployment rate fell to 4.9%, a four-year low, from 5% in July, and nonfarm payrolls grew a respectable 169,000, the Labor Department said Friday.

"We expect the trend in growth will prove more resilient than is now widely feared," UBS Securities analysts told clients Friday.

Employment and output are likely to take a sizable hit in the next few months; the question is the duration and severity of the blow. Economists surveyed last week by Macroeconomic Advisers LLC, a St. Louis forecasting firm, said the storm would result in growth of only about 3.5%, at an annual rate, in the second half of the year, down from pre-storm expectations of 4%. It grew 3.6% in the first half.

And the economy does have some worrisome vulnerabilities. The storm hit when world oil producers and U.S. refiners were operating near capacity and they remain highly sensitive to any loss of supply. Higher gasoline prices will act like a tax on consumers who are already stretched: In July their saving rate turned negative as spending exceeded income. Spending might be further hurt if consumer confidence erodes.

As a result, some analysts still believe the economic impact might be severe. "What we're witnessing now is going to turn out to be a really huge shock," said Stephen Cecchetti, an economist at Brandeis University. Businesses may also find it hard to adapt to shifts in spending caused by higher energy prices, much as Detroit found it hard to shift to smaller cars in the 1970s.

But there are several factors in the economy's favor. It's more energy-efficient: The gross domestic product has more than doubled since 1979, but petroleum consumption has risen just 9%, according to the Energy Department. Policy makers have reduced, rather than increased, regulatory constraints on supply. In the 1970s, gasoline price caps and other regulations created

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shortages and waiting lines. Last week, the federal government temporarily eased environmental and transportation regulations so existing gasoline inventories could reach U.S. customers more easily.

The release of oil and gasoline from the U.S. Strategic Petroleum Reserve and similar stockpiles in Europe has helped contain the rise in oil prices. Benchmark Brent crude oil for October delivery fell $1.22 in London yesterday to $64.84, around where it stood before Katrina. U.S. markets were closed for Labor Day. Wholesale gasoline prices fell sharply Friday from midweek peaks though they remain well above pre-storm levels due to Gulf Coast refinery closures.

The growth of the temporary-staffing industry has helped redeploy workers displaced by both economic and weather events. Terri Blue Edwards, 41, stayed behind in New Orleans with a sister who refused to leave. By Thursday, she says, she, her 23-year old son and her sister waded out of a building in chest-high water, wandered along a scorching-hot highway and found their way to an abandoned dairy truck, which they and more than two dozen others, packed shoulder-to-shoulder, and rode to Austin.

Another son raised money to fly her to Huntsville, Ala., she says, to be reunited with her husband, Leon, who had left New Orleans with elderly parents before the storm. Mr. Edwards was a maintenance engineer in a municipal building, earning $13 an hour. Ms. Edwards didn't work. She says she has health problems but she's going to work now to make ends meet.

By Saturday, Mr. and Mrs. Edwards had landed $7-an-hour jobs at a Huntsville manufacturer through Adecco SA, a Swiss-based temporary staffing company. Mr. Edwards says he was making nearly twice as much in New Orleans. But the job "came right on time," he says. "You need a job to survive."

The transportation system is proving to have some flexibility. The storm wiped out large sections of CSX's tracks and bridges along the Gulf Coast. But within a couple of days, the railroad, based in Jacksonville, Fla., was rerouting freight north, thanks to advances in information technology and deregulation that enable it to reroute shipments in a quarter of the time it would have taken two decades ago. Separately, the lower Mississippi's maritime hub continued to recover as the Coast Guard reopened its main shipping channel to ocean-going vessels Saturday.

The development of new financial instruments has ameliorated the risk that regional stresses could trigger local bank failures. In Baton Rouge, American Gateway Bank, a small regional lender, sells about three-quarters of the mortgages it underwrites to larger banks like J.P. Morgan Chase & Co. or Bank of America Corp., who package the loans into larger, diversified pools of credit sold to investors around the world. That has helped keep credit flowing to real estate even after disaster struck less than 80 miles away.

Oil shocks in the 1970s became embedded in wages and prices, eventually requiring the Fed to raise interest rates dramatically, triggering deep recessions. But those drastic actions eventually cemented its credibility, and in recent years workers and companies haven't responded to higher oil prices or easy money by immediately pressing for higher prices and wages. "One of the benefits of having that credibility is it increases [the Fed's] ability to...stabilize the economy and insulate it from major shocks like this," said J. Alfred Broaddus, former president of the Federal Reserve Bank of Richmond, Va.

While the Fed is unlikely to cut rates, it may choose not to raise them at its Sept. 20 meeting as had been previously expected. The Fed has raised its short-term-rate target to 3.5% from 1% in the past 14 months.

Fed officials say it's too soon to assess the storm's impact on interest-rate moves. Even so, long-term interest rates have declined in anticipation that the Fed will raise rates more slowly or not as high. By keeping mortgage rates down, that, in turn, offered support to the still-strong housing market.

Economic Impact Will Be Widespread Katrina's Costs Will Be Shared By Cities Far Beyond Storm's Path (USAT)

By Del Jones, Dan Reed And Jayne O'Donnell

USA Today, September 6, 2005

As New Orleans deals with the storm waters that broke its levees last week, dozens of Southern cities from Baton Rouge to Pensacola are coping with a displaced populace numbering in the hundreds of thousands and awaiting the spillover of billions of dollars in disaster aid.

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Natural disasters whipsaw local economies as they move from devastation and into rebuilding. That's nothing new. But this time, the disaster was a coiled snake that has lashed out at the nation. Gasoline prices soar, transportation snarls. Hurricane Katrina has already influenced most lives in small ways, but it could have a major influence to those along the migration path of a city of evacuees looking for family, friends and 275 stranger-filled shelters in Alabama, Arkansas, Florida, Louisiana, Mississippi, Tennessee and Texas.

How it will play out is anyone's guess. But in the short run, people and their pets are washing up on doorsteps everywhere. New Orleans hotel and spa owners Keith and Andre West-Harrison fled to family in Evansville, Ind., a 16-hour drive, with six dogs and a cat. Distant places such as Evansville might be able to absorb a few evacuees, but an overwhelmed Houston Astrodome is flashing the no-vacancy sign, sending 25,000 to Reunion Arena in Dallas, another 25,000 to a San Antonio warehouse that was once an Air Force base.

Some companies are erecting their own shelters. Chevron this past weekend planned a 500,000-square-foot tent city in Pascagoula, Miss., to house 1,500 employees and their families who were left homeless by the storm.

Katrina and the flooding triggered by levee failures will have a total economic cost of $100 billion, Risk Management Solutions, a catastrophe-risk-modeling firm, said Friday. Most of the damage done by the levee break is likely not insured. Still, bond-rating company Fitch said Friday that the insured portion of losses could go above $25 billion, surpassing the Sept. 11 terror attack ($20.1 billion in 2004 dollars) and Hurricane Andrew ($20.5 billion) as the largest insured loss in history.

The strain is everywhere. New Orleans had 32,400 school-age children in 2004 who will be landing somewhere. The Greater Houston Partnership, the city's primary business advocate, is calling Houston “the city of hope,” and spokesman Charlie Savino says it is bracing for 150,000 temporary residents, comparable to absorbing the population of Chattanooga, Tenn. Providing for them will cost $6 million a day, assuming $40 a day is spent on each person for food, housing, health care and schooling.

Congress has approved $10.5 billion in emergency disaster relief, and much more is likely on the way. Private donations are rolling in. Need gives berth to opportunity, especially when mixed with money, yet little if anything about this disaster smacks of a windfall. There might be tens of thousands arriving in Texas cities, but, “It's certainly not going to be like (hosting) the Super Bowl,” says Bill Gilmer, a senior economist at the Federal Reserve Bank of Dallas and an expert on the Gulf Coast economy.

For example, Fiesta Mart is within walking distance of the Astrodome, but it's not stocking up on food and staples, says CEO Louis Katopodis. Everyone will be fed three meals a day plus 24-hour snacks on the Dome's concourses. Papa John's is giving away 10,000 pizzas. Aramark, providing the primary concessions, said it isn't yet certain how it will be paid, but it doesn't seem overly worried.

Near Fiesta Mart is a Target store. But most evacuees are low on cash and are getting comfort kits that include soap, a toothbrush and other toiletries. Target won't get swarmed by displaced children in search of school supplies, either. Houston public schools require uniforms, which will help the evacuees fit in, says Houston Independent School District spokeswoman Adriana Villarreal. Businesses are lining up to donate uniforms, and Wal-Mart has pledged any school supplies necessary, Villarreal says.

Houston charter bus company Sierra Trailways owns 13 of the 650 buses contracted by the Federal Emergency Management Agency (FEMA) to transport evacuees from New Orleans to Houston. They get paid a flat fee per mile, says Sierra President Patrick Conner, which will boost revenue during a slow time of year. But it's not about the money, says Conner, who was caught in Hurricane Alicia when it hit Houston in 1983, and there was “never a question” that his company was going to help New Orleans.

“But for the grace of God, this could be us,” Conner said.

La Quinta's hotels from Texas to Arkansas were so filled that last week it phoned those who long ago booked Labor Day reservations and told them not to come because the company will not evict evacuees. Many evacuees can't afford their rooms, and the company is starting to turn to insurance companies, FEMA and the Red Cross for payment. La Quinta also faces losses from eight properties damaged and closed in New Orleans.

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Like many companies, La Quinta doesn't know if it will make money or lose it in the disaster. “It's a wait-and-see thing,” spokeswoman Teresa Ferguson says. “We're more worried at this point about doing what's right. It's right to take care of our employees and our guests.”

La Quinta could well be a microcosm of the area's overall business community. It's difficult to tell which force is greater, the gain or the strain, economist Gilmer says.

Absorbing waves of new and primarily poor people is nothing new to Houston. The city has grown by 1 million people in a decade, 100,000 a year — and 60,000 of those move in from elsewhere, 47,000 from other countries.

“It's an immigration hub from Latin America,” Villarreal says, a regular challenge to the school system.

What is new, however, is Houston's role as New Orleans' knight in shining armor. The two cities have been economic rivals for decades, economist Gilmer says, and since the 1950s, Houston has been the clear winner as the energy industry concentrated into Texas with well-paid engineering jobs. The poverty rate is 28% in New Orleans, vs. 19% in Houston, according to 2000 census data compiled by the Urban Institute. Houston, less than half the size of New Orleans in the 1920s, has grown to become the nation's fourth-largest city, while New Orleans has dropped to 37th.

Gilmer predicts Hurricane Katrina will accelerate Houston's relative dominance over New Orleans as companies that relocate employees to temporary offices decide to make the moves permanent.

When a Popeyes Chicken & Biscuits franchisee in California said it could use a couple of managers and assistant managers, it wasn't long before several who were washed out of New Orleans volunteered to relocate, says CEO Ken Keymer.

Houston already has the NFL's Texans, so New Orleans doesn't have to fear the city stealing the Saints. But the Saints can't play in the Superdome, so they're considering playing home games at Louisiana State University's Tiger Stadium in Baton Rouge or San Antonio's Alamodome.

Vacuum manufacturer Oreck, with headquarters in New Orleans, is moving 100 to 150 people to Dallas, mainly executives, staff and those who process orders, says Oreck CEO Tom Oreck. Another 40, mainly from the call center, are heading for Denver.

Hunter Blanks, head of office space leasing for CB Richard Ellis' Dallas office, has been fielding preliminary inquiries from companies in New Orleans looking for temporary office space. “This is going to have a very wide impact on commercial real estate,” he said.

Gardere Wynne & Sewell, a law firm that specializes in oil and petrochemical law at its Houston office, has been working to find temporary office space and spare computer equipment for New Orleans law firms. Managing partner Steve Good says he doesn't expect to take clients away from New Orleans firms, but demand for legal services related to oil and petrochemical insurance claims will jump, he said.

Low-paid service workers from New Orleans might also stay away as they find opportunity. La Quinta has bused 250 now-homeless employees to Arlington, Texas, where they're staying in a corporate-owned conference center. Corestaff, a temporary employment company with headquarters in Houston, is encouraging those who have dispersed from New Orleans to apply with them or with state unemployment offices.

The headquarters of Popeyes is in Atlanta, but its heart is in New Orleans, where the chain began in 1972, says CEO Keymer. The storm closed 250 company-owned restaurants employing 800, plus many more owned by franchisees. About 150 have reopened, but some in the flooded area might be closed a long time. The company has created a database so a New Orleans employee who surfaces with relatives in Tennessee can see if Popeyes has something available there.

Information is a scarce commodity. Keymer says he has no idea how many Popeyes restaurants are in the flood zone and destined to remain closed. The Port of Houston Authority expects to absorb cargo that will be diverted from the Port of New Orleans and the Port of South Louisiana, the largest and fifth-largest ports by ton in the USA. But Port of Houston Authority Executive Director Thomas Kornegay says he still has no clue how much extra demand to expect, nor how much extra Houston can absorb. The Houston port already handles far more capacity than it was designed for, yet it figures out how to increase volume by 10% a year anyway, Kornegay said.

“The truth of the matter is, nobody knows where it's going to go. It's a big problem,” Kornegay said.

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Houston engineers will be so busy fixing the damage in the gulf, they'll be diverted from oil exploration for some time, Gilmer says. Houston will be overtaxed in more ways than one. But it will emerge stronger, while "New Orleans will be out of the game," he says.

The West-Harrisons were taking in $1,000 a day at their small hotel and spa in the French quarter. In Evansville, they are trying to figure out how to start a new business.

They have no money and one change of clothes. Last week, they stopped off at the local Red Cross office looking for a little money for food and clothing. While they were waiting to see someone, five donors dropped off checks. The West-Harrisons got tired of waiting and left with nothing.

States Gear Up To Provide Jobless Benefits (USAT)

By Stephanie Armour

USA Today, September 6, 2005

Thousands of employees are finding themselves suddenly without paychecks after Hurricane Katrina. Some are rushing to get state aid while others are looking for new jobs.

Some states are reporting an increase in residents requesting benefits.

•In Louisiana, those who are not getting paid because of the hurricane can file for disaster unemployment assistance or unemployment benefits, says Ed Pratt, a spokesman with the Louisiana Department of Labor. They are eligible for up to $256 a week and can find out more at www.laworks.net or by calling 866-783-5567.

"People are applying right now. We're getting thousands," Pratt says. "We're going to go to shelters (to help people) apply."

One challenge: Many applicants no longer have mailing addresses. Between 100,000 and 300,000 people may have to re-establish mailing addresses. Officials are still working out how to handle that, but some applicants are using relatives' addresses.

• Mississippi workers are eligible for unemployment or disaster unemployment assistance of up to $210 a week. Further information is available on its website, mdes.ms.gov, or by calling 888-844-3577.

•Alabama residents are eligible for unemployment or disaster assistance and can apply through call centers. They can get up to $220 a week and can apply toll free at 866-234-5382. Evacuees from Louisiana and Mississippi who are staying in Alabama can also apply through that toll-free number: Their information will be transferred to their home state's unemployment agency.

"We're gearing up for (this) week," says Phyllis Kennedy, director of the state's Department of Industrial Relations.

Although the government reported Friday that the U.S. unemployment rate dipped to a four-year low of 4.9% in August, economists expect employment to drop this month due to jobs lost to Katrina.

"Next month, payrolls will plunge," Ian Shepherdson, chief U.S. Economist at High Frequency Economics said in a recent note to clients.

Adecco, a staffing firm, is seeing a surge in applicants displaced by Katrina looking for short-term work. "We've been inundated," says Tammy Rhodes, the branch manager in Shreveport, La. Many have high-level skills, such as accounting.

Mary Gordon, 54, who left her home in Harahan, La., a suburb of New Orleans, does outside sales for commercial buildings and is now seeking a temporary job. Although still getting paid by her regular employer, she doesn't know how long that will last and has scant savings to fall back on.

"I have to have something to do, but my dream would be to go home," Gordon says.

The Lagging Poor (WP)

The Washington Post, September 6, 2005

The poverty level edged up last year, to 12.7 percent -- the fourth straight annual increase. Overall median income remained flat at $44,389, down 3.8 percent from its peak in 1999. This is a robust economic recovery?

The Census Bureau's annual report on income, poverty and health insurance in the United States is not alarming -- but neither is it cheering, or even reassuring. Rather, the numbers underscore the lagging and uneven nature of the economic recovery since the 2001 recession. According to the new data, 4 million more people were living in poverty in 2004 than in 2001, and 4.6 million more people lacked health insurance.

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Administration officials counsel patience, pointing to the downturn of the 1990s, when it took several years for the poverty rate to start to fall. "The last, lonely trailing indicator of the business cycle," Commerce Department official Elizabeth Anderson said of the poverty rate.

This has about it more than a whiff of wishful thinking. For one thing, the increase in poverty between 2003 and 2004 is in fact out of the ordinary; such a rise hasn't happened between the second and third years of an economic recovery since the federal government began collecting poverty data in 1960. For another, the poverty rate may be a lagging indicator, but in this case it's not lonely: See, for example, the median income of working-age households, which declined 1.2 percent.

Another ominous signal involves health insurance coverage. Although the percentage of people with coverage remained unchanged from 2003 to 2004, that masked a shift from employer-provided insurance to government coverage. The percentage of people with employer-based health insurance fell for the fourth year in a row. Most of this slack has been taken up by Medicaid, the shared federal-state health program for the poor and disabled. But with state budgets under increasing strain from Medicaid costs and with Congress poised to make cuts in the program, it's not at all certain that states will be willing or able to maintain coverage for working Americans hovering at the edge of poverty.

In the wake of this data and the devastation caused by Hurricane Katrina, Senate Majority Leader Bill Frist (R-Tenn.) was wise to postpone this week's planned vote to repeal the estate tax. Lawmakers need to remember in the weeks to come that this is an economic recovery that continues to leave too many Americans behind.

Russia Rejects Reporting Iran To Security Council (FT)

By Stefan Wagstyl And Roula Khalaf

Financial Times, September 6, 2005

Russia on Monday ruled out an early decision to report the Iran nuclear controversy to the United Nations Security Council, undermining US and European efforts to build international consensus for a diplomatic reprimand this month.

A senior Kremlin official said Iran had not violated the rules of the nuclear non-proliferation treaty. Its nuclear programme, he said, should continue to be dealt with at the governing board of the Vienna-based International Atomic Energy Agency, the UN's nuclear watchdog, without involving the Security Council.

Vladimir Putin, the Russian president, adopted a more cautious approach in a meeting with foreign journalists and academics. He did not exclude a future referral to New York, though not at this point, and said it would have be done "in a very precise form".

The international divisions over Iran surfaced as the US and Europe launched a diplomatic campaign to step up the diplomatic pressure on Tehran when the governing board of the IAEA meets on September 19. The IAEA has been investigating Iran's nuclear programme for the past two years without reaching a conclusion on Tehran's intentions.

Until recently European governments had been reluctant to escalate the dispute and involve the Security Council, which would raise the diplomatic stakes. But they joined the US in calling for a referral after talks between Tehran and the so-called EU3 – the UK, France and Germany – broke down last month. The talks were aimed at persuading Tehran to give up all activities related to the enrichment of uranium, which produces the fuel for nuclear reactors or atomic bombs.

The negotiations collapsed after Iran rejected a European proposal and resumed the production of uranium hexafluoride, a nuclear feedstock, at a plant in Isfahan – a process it had agreed to suspend.

European diplomats insist they would not seek economic sanctions against Iran at the UN but are looking for a Security Council statement that would encourage Tehran to resume the suspension of the Isfahan plant.

Diplomats acknowledge they face an uphill battle to win the support of Russia and China. "Both [Russia and China] are reserved and cautious at this stage and seeking to know what will happen in the Council," said a European diplomat.

The US and Europe could secure a vote at the IAEA through a simple majority. But their aim is to win a broad consensus, particularly including the support of Russia and China. The two countries are permanent members of the Security Council, with veto power, so forcing the dispute to New York without their approval could produce deadlock rather than stronger diplomatic action.

Iran Changes Tack In Nuclear Standoff (CSM)

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By Scott Peterson

The Christian Science Monitor, September 6, 2005

ISTANBUL, TURKEY - Iran's first fear about its controversial nuclear program has long been that it could provoke a US or Israeli military strike.

And a close second, until now, has been concern in Tehran that Iran could be referred to the United Nations Security Council for violations of the nuclear Non-Proliferation Treaty (NPT).

But even as Western diplomats begin to step up efforts to go after Iran at the UN - canvassing began in Vienna Monday, in the wake of the latest Iran report by the UN's International Atomic Energy Agency (IAEA) - Iran appears to be changing tack.

Tehran is minimizing the risk of Security Council sanction, which in turn is undermining the carrot-and-stick approach used by the EU and Washington in recent years to convince Iran to end all nuclear efforts.

"To a certain extent, [Iranian officials] have lost their fear of the Security Council," says Davoud Hermidas Bavand, a professor of international law at Alameh University in Tehran. "Some even say that Iran should take the issue to the Security Council, against the IAEA," he says, because a technical issue has become "politicized."

Shortly after the hard-liner Mahmoud Ahmadinejad was sworn in as president a month ago, Iran took a long-anticipated step of breaking IAEA seals at its Isfahan plant, ending a unilateral suspension of uranium-conversion activities.

The US says those activities - which the IAEA reports have converted seven tons of raw uranium into gas that can be enriched - are aimed at producing nuclear weapons. Iran denies the charge, saying it needs nuclear power, and that its right to master nuclear fuel technology is enshrined in the NPT.

The suspension was part of an earlier deal between Iran and Britain, France, and Germany, which sought to make it permanent in August by offering modest incentives. Iran rejected the proposal, which included no guarantees from the US of safety or waiving of current sanctions, prompting the Europeans to cancel meetings set for late August.

The confidential report, released Friday, found that 2-1/2 years of "intensive inspections and investigation" have not clarified outstanding issues, and that "Iran's full transparency is indispensable and overdue."

Still, the IAEA reported "good progress" in resolving a string of issues since 2003, and confirmed that traces of weapons-grade uranium found on centrifuge parts - held up by some US officials as evidence of a clandestine bomb effort - originated in Pakistan, as Iran has claimed.

Iran's new nuclear negotiator, Ali Larijani, said IAEA criticism was politically motivated, and that violations were "neither legal or technical."

"The tide of opinion in Tehran seems to have shifted," says Gary Samore, a nonproliferation official during the Clinton administration and vice president of the MacArthur Foundation in Chicago.

"Over the last two years, Iran's policy has been dominated by the desire to avoid referral to the Security Council, and Iran has been prepared to accept limits on its nuclear program in order to achieve that," says Mr. Samore, who is releasing an Iran dossier Tuesday under the auspices of the International Institute of Strategic Studies in London. "It does appear that Iran feels it's in a much stronger position."

High oil prices may give Tehran confidence that the council would not jeopardize the flow of Iran's petroleum into the market, says Samore. Other factors include American preoccupation with Iraq, and the decisive victory of Mr. Ahmadinejad at the polls last June.

Likely allies of Iran on the council include China and Russia, which is building a nuclear-power plant at Bushehr. Over the weekend, Russian officials made clear they saw "no reason" to send Iran to the council. Mr. Larijani is due to arrive in Pakistan Wednesday, after visits to China and India to galvanize non-Western support.

"The belief that [the US and EU] can weaken the will of this great nation with the baton of the Security Council is mistaken logic, and they are only losing their dignity," Larijani told Iranian state TV.

"Gone is the time when they could deny Iran its rights by threatening it," Foreign Ministry spokesman Hamid Reza Asefi, said on Sunday. "It is our legitimate right to have peaceful nuclear technology, and we will not give that up."

Europeans hope for a shift during talks between Ahmadinejad and other world leaders, including Russia, at the UN General Assembly in New York next week. The IAEA board of governors meets on Sept. 19 to consider the case.

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"Ahmadinejad, and [Iran] in general, feels less threatened by the possibility of sanctions - they perceive they are stronger, and much more in control," says Hadi Semati, a political scientist from Tehran University, who is currently at the Woodrow Wilson International Center for Scholars in Washington. "Domestically in Iran, it's going to be very hard for anyone to come out and say: 'OK, we're going to get rid of our [nuclear] fuel cycle' to get a few promises. That is political suicide.

"They know the Europeans are terrified to take Iran to the Security Council, because then the question is: 'What next?' " says Mr. Semati. And "down the line, [they feel] the US is bent on regime change anyway, even if it's not declared policy - so why bother?"

But such conclusions in Tehran are a high-stakes gamble, as is likely to be any Security Council response. Numerous safeguard violations over the past 20 years means that "until Iran restores confidence in its nuclear program, it should accept limits on activities that are dual use, and have military applications," says Samore. "There is a very strong legal case, [but] Council members are going to be very reluctant to impose significant sanctions on Iran."

A tough stance could prompt Iran to relaunch uranium enrichment, kick out inspectors, or - as some hard-liners have demanded - pull Iran out of the NPT.

"I think the council will react very cautiously, very incrementally," adds Samore. "It will take time, but there is no urgency. Iran is still a couple of years from having a nuclear-weapons capability, and there are some pretty significant technical problems."

Palestinian Forces Tour Evacuated Area (USAT)

USA Today, September 6, 2005

Palestinian security forces on Monday got their first look at Jewish settlements razed during Israel's withdrawal from Gaza. They toured the area before the formal hand-over in mid-September. The tour of the settlements in southern Gaza by Palestinian commanders and Israeli military officials was the first time Palestinian officials had been allowed into the communities. Israel removed all 8,500 settlers from Gaza last month.

International mediator James Wolfensohn has been meeting with both sides on unresolved issues, including who will control Gaza's border with Egypt. Israel wants some control over the border to prevent arms from being smuggled into Gaza and used against its people.

9 killed in Austrian ski resort accident

Nine Germans were killed when a helicopter dropped a 1,500-pound chunk of concrete on a cable carrying gondolas at the Soelden ski resort near Innsbruck, Austria.

Police official Edelbert Kohler said the helicopter was carrying material to a mountaintop construction site when it dropped the block, knocking one car off its wires and leaving others swinging so violently that their passengers were thrown out.

Up to 10 people had been seriously injured, according to the Red Cross.

Nuclear sub collides with ship in Gulf

The nuclear submarine USS Philadelphia, traveling on the surface in the Persian Gulf, collided with a Turkish cargo ship, but no one was hurt, and damage was minor, the 5th Fleet headquarters in Bahrain said. It was the U.S. Navy's second collision with a civilian vessel in the Gulf in 14 months.

Cmdr. Jeffrey Breslau said damage to the sub was “superficial.” He said the Turkish ship Yaso Aysen suffered minor damage to its hull. It was not known which vessel was at fault.

Afghan, U.S. forces kill suspected militants

Two hundred Afghan police, supported by U.S.-led coalition forces, killed 13 suspected Taliban fighters and detained 44 in a bid to curb militancy before elections Sept. 18, Kandahar Gov. Asadullah Khalid said. He said coalition and government forces suffered no casualties in the fighting Sunday in Kandahar province.

Congo hosts conference on saving apes

Governments and conservationists opened a week of talks in Congo's capital, Kinshasa, to study ways to save endangered apes from extinction. Great apes — gorillas, chimpanzees and orangutans — are threatened by logging, poaching and conflict worldwide. There are about 400,000 left in Africa and Asia, according to the United Nations. Representatives of 23 governments — most of them in Africa, plus Indonesia and Malaysia — are attending the meeting.

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Egypt Vows To Build A Palestinian Gaza (WT)

By John Phillips

The Washington Times, September 6, 2005

CAIRO -- Egyptian Prime Minister Ahmed Nazif has pledged to help make the Gaza Strip the foundation of a Palestinian state "in every sense" and urged other countries to join Cairo in the push for Middle East peace.

"If we want Gaza to be the basis for a new Palestinian state long term, we have to provide [the residents] with homes and jobs, with security," Mr. Nazif told The Washington Times.

"A lot of effort has to go into rebuilding the infrastructure, not just in the political but in the economic sense."

Mr. Nazif said Cairo will make sure that Gaza has access to the outside world through Egyptian seaports and airports "to prevent the strip of territory being a prison" for its residents.

Egypt, which holds a presidential election tomorrow, also will provide technical support to develop the banking structure, the prime minister said Sunday during an interview at the high-rise office he maintains in a booming technology zone on the edge of the capital.

Egypt will use its knowledge of the Gaza Strip, which was once administered by Cairo, to develop economic assistance, he added. At the same time, it will press the Palestinians "to ensure that the Israelis don't see [Gaza] as a place for attacking them."

"Gaza has to be the beginning of a real state in every sense," Mr. Nazif said.

Other nations should support Egypt's efforts in the region, said the prime minister, 52, who has been credited with bringing a more dynamic style to Egypt's government since his appointment by President Hosni Mubarak last year.

"We have been actively seeking the resolution of the Palestinian-Israeli conflict in the past year and a half. We were almost working alone," he said.

"It culminated in the Sharm el Sheik meeting [between Israeli and Palestinian leaders], which had a calming-down role. ... We have been able to build the bridges that were required."

But now, Mr. Nazif said, "this will have to be followed by others to support and sustain these political gains."

Egypt and Israel have agreed that Israel will withdraw its troops from the Gaza-Egypt border -- to be replaced by 750 Egyptian troops charged with preventing arms smuggling into Gaza.

The Israeli Defense Ministry said yesterday that the Egyptians would begin taking up positions along the border in the coming days.

The forces are to patrol along a volatile corridor on the Gaza side of the border, where Israeli-Palestinian fighting has been particularly intense because of the arms smuggling.

Palestinian leader Mahmoud Abbas said yesterday that he and the Israelis remain at odds over other details of the border arrangement, but he hoped to conclude a deal "very soon."

The crossing into Egypt is the Gazans' most important link to the outside world. The Palestinians say free passage to Egypt will be essential for reviving the territory's economy after a 38-year occupation. But Israel wants to maintain some control over the border, fearing weapons could be smuggled into Gaza.

Mr. Nazif dismissed speculation that Egypt could become involved in a power struggle in Gaza between the Palestinian Authority and the hard-line Hamas movement, which some Egyptian journalists have idolized.

"I believe that if you ask the average Egyptian today he would support the moderate [Palestinian] factions," the prime minister said.

"You can't leave any faction out. It is important that the Palestinian security forces are organized and are not some kind of militia. The Palestinians understand that. We should not underestimate them."

Egyptian security forces, meanwhile, have concluded an investigation into the July 22 bombings at Sharm el Sheik resort, which killed 56 persons, and have excluded outside involvement in the attack.

"We know who did it, and that takes us a long way to knowing how to prevent it happening again," Mr. Nazif said.

Tourism to Egypt's constellation of dazzling Red Sea and Mediterranean resorts will continue to expand notwithstanding sporadic terrorist attacks, he predicted.

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Mr. Nazif said Mr. Mubarak's pledge to achieve 4.5 million jobs over the next six years is feasible given Egypt's oil and gas resources, tourist attractions and economic reforms to encourage investment by cutting taxation and customs duties.

"We have computed that 1 million tourists creates 200,000 jobs a year. We are attracting 1 million more tourists a year. We have started to create a business environment in Egypt [that is] supportive of investment," he said.

Voters Reverse Islamists' Rise In Pakistani Politics (CSM)

By Ashraf Khan

The Christian Science Monitor, September 6, 2005

KARACHI, PAKISTAN - Voters in Pakistan have dealt a surprising blow to religious extremists, bucking the rise in recent years of radical Islam in politics here.

Countrywide elections for local governments, which were held on August 18 and 25 in over 100 districts, reversed the gains made by radical Islamists who came to power in two out of the country's four provinces in 2002. They had played a strong opposition role in the federal parliament and posed a formidable challenge to President Pervez Musharraf's vow to bring "enlightened moderation" to Pakistani society.

The absence of full elections at the federal level has enhanced the importance of Pakistan's local and city government as a political bellwether. Observers here point to a number of reasons for the poor showing for the religious parties, including internal divisions; changes to the ballot; as well as a cooling off of tensions caused by the government's reorientation following Sept. 11, 2001.

"It apparently seems that the establishment has laid their hands off the Islamists and radicals' influence has faded all over the country," says Jaffer Ahmed, chairman of the Pakistan Study Centre at the University of Karachi. "But we can't say that their downfall has started," he hastened to add.

President Musharraf was jubilant the day after the polls closed. "Local body elections have resulted in the victory of moderates and defeat of extremists everywhere in Pakistan," he said.

The unexpected defeat of the Islamists came in the North Western Frontier Province (NWFP), which neighbors Afghanistan. The province had been ruled since 2002 by the Muttahida Majlis-e-Amal (MMA), an umbrella group of six religious parties, including the vanguard radical party Jamaat-e-Islami.

The MMA had emerged as a powerful political force in the October 2002 national elections, riding popular anger at Pakistan's support for the US ouster of the Taliban across the border in Afghanistan. The alliance also used a book as its symbol on the ballot, telling voters that the book represented the Koran, and that a vote for the MMA was a vote for Islam.

Once in office, the religious alliance continued to defy Musharraf's war on terror at home and abroad. Police began waging a Talibanesque antivice drive that included bans on music and attacks on billboard advertisements depicting women.

However, heading into the August vote, differences cropped up in the MMA and the alliance subsequently broke down on the local government level. With some distance from Sept. 11 and without the benefit of the book as its ballot symbol, the religious parties lost their majority to the Awami National Party (ANP), a secular Pashtun party.

"I am more than 100 percent satisfied, says Asfandyar Wali, chief of the ANP, which emerged as the single largest party in the province according to informal results. "We are very much able to head governments in all major cities including Peshawar [the provincial capital]."

When the MMA splintered, intriguing and odd political alliances came to the fore to win over the city governments. Jamaat-e-Islami chose to join hands with ANP, though they have diametrically opposed ideological positions with the ANP, a party formed in 1986 by the merger of several left-leaning parties.

"These are the dynamics of the politics and these are only election alliances not an ideological merger," says Mr. Wali, who pledged to carry on a secular vision of government in the cities.

Waning influence of Islamists, who have given way to secular and moderate parties, makes many believe the wave of fundamentalism could be forestalled effectively in the frontier province and at the polls in the next national elections in 2007.

But the MMA could yet regroup, especially if outside engagement with Pakistan wanes, says Mr. Ahmed. "It would all depend on the US and Western countries' attitude towards Pakistan, whose role seems to be diminishing now for them," he says.

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After New Talks, India Says It May Pull Troops From Kashmir (NYT)

By Somini Sengupta

The New York Times, September 6, 2005

NEW DELHI, Sept. 5 - India will pull back troops from the disputed territory of Kashmir if militant infiltration and violence ends, the prime minister's office announced Monday evening after a rare meeting with Kashmiri separatists.

The meeting, between Prime Minister Manmohan Singh and the All Parties Hurriyat Conference, a coalition of moderate separatists from Kashmir, came barely a week before the leaders of India and Pakistan are to meet during a United Nations General Assembly session in New York. Pakistan has expressed growing frustration with what it calls New Delhi's reluctance to tackle the problem of Kashmir.

The region is the only Muslim-majority state in Hindu-dominated India, and it is at the heart of a half-century conflict between the two South Asian neighbors. Since 1989 Kashmir has been roiled by an anti-Indian insurgency that India blames Pakistan for, and that Pakistan says it supports only by moral and political means. The Hurriyat leaders recently met with President Pervez Musharraf of Pakistan.

In the statement, the prime minister's office said it would also review the cases of all those held under special preventive detention in Kashmir and take steps to "safeguard against human rights violations."

The most far-reaching pledge was on pulling out troops, whose presence across Kashmir is an enduring source of anger and alienation among many Kashmiris.

"The prime minister said that if there is a cessation of violence and an end to infiltration, conditions will be created for the reduction of armed forces," the statement read. "It was agreed that the only way forward is to ensure that all forms of violence at all levels should come to an end."

In an interview with the private New Delhi television station NDTV, the leader of the separatist coalition, Mirwaiz Umar Farooq, heralded the talks as the start of a credible conversation. "For first time, there seems to be a realization in Delhi that we need to have a solution in Kashmir, an honorable solution," he said. "It was definitely a very good beginning."

Insurgency May Not Be Based On Islamic Militancy (WT)

By Shaikh Azizur Rahman

The Washington Times, September 6, 2005

NEW DELHI -- The killing last month of a Hindu militant and the arrests of two others are raising doubts about the government's assertion that the bloody insurgency in Kashmir is being fought simply in the interests of Islamic militancy.

Indian forces killed Uttam Singh, 23, and three Muslim jihadis on Aug. 19. The night-long gunbattle came during an attempt by a group of militants to kill or abduct an Indian Muslim soldier from his house in the border region of Kashmir. Police later discovered that Mr. Singh, alias Saifullah, was one of two Hindu sector commanders in Hizbul-Kashmir, a rebel group that seeks to include all of Kashmir in Pakistan.

Police said that five years ago, Mr. Singh crossed into Pakistan, where he was trained in the use of arms and explosives. In 2003, he returned to India and was made commander of his group in Kashmir's southern Doda region, leading about 120 militants, including seven Hindus.

Just three days after his death, police announced the capture in New Delhi of Virender Singh, a 25-year-old Hindu. Police said he was a Hizbul operative in charge of supplying arms and funds to his jihadi colleagues on missions across the country.

On Aug. 24, Hindu Hizbul militant Chattar Singh was arrested in Doda while carrying a pistol and grenades.

A senior officer at the Defense Ministry in New Delhi subsequently acknowledged that four other Hindu militants had been killed fighting alongside the Kashmiri jihadis in the past three years.

However, he would not accept the notion they might have been willing combatants.

"We have information that about a dozen Hindu militants are still active in Kashmir. We believe they were all forced to join militancy at gunpoint," the officer said.

"Being Hindus, they could never subscribe to the religious or political faith of the jihadis who are fighting for Kashmir's separation from Hindu-majority India."

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At least 45,000 people have died in a struggle that India's Hindu political leaders say is purely religious in nature, but that many former and present militant leaders describe as political.

"Fifteen years ago -- when we started the movement against Indian occupation in Kashmir -- during curfew, our cadres carried rice and vegetables first to the Hindus in Srinagar, before Muslims got them," said Yasin Malik, chairman of the Jammu and Kashmir Liberation Front, the first militant group to fight New Delhi's rule in the region.

Some 125,000 people have fled the Kashmir Valley since the insurgency began in 1989, but Mr. Malik said that "more than 6,000 Muslim families, too, ran away from the valley fearing the guns of the militants. Falsely, we were branded communal and anti-Hindu."

Shakeel Wani, a former Hizbul militant who lost an eye while training at a camp in Pakistan and now sells fruits in Srinagar, said that at least 100 Hindu Kashmiri boys had fought alongside the Muslim jihadis.

"They embraced Islam and touched the Koran before they touched an AK-47 [rifle]. You cannot call them Hindus anymore. Despite being Hindu, on jihadi missions here often they fight more fiercely than their Muslim counterparts, probably to prove their loyalty," he said.

Suresh Yadav, an Indian Border Security Force battalion commander who served in Kashmir for three years, said poverty -- caused in part by the insurgency itself -- was the key factor behind young Hindus joining the militants.

"Hindu boys from poverty-stricken families in the border districts have joined the Islamic rebel groups who offer good [pay] packages to them while they fight, and also to their families in case of their deaths," he said.

Lebanon's President Facing Growing Pressure To Resign (NYT)

By Hassan M. Fattah

The New York Times, September 6, 2005

BEIRUT, Lebanon, Sept. 5 - Pressure has been mounting in recent days for the resignation of President Émile Lahoud, who has clung to office even as his Syrian backers have been forced to withdraw from the country.

Lebanon's recently elected prime minister and his cabinet are avoiding Mr. Lahoud, and his influence is hard to detect in most government offices.

He keeps a low profile, rarely making public appearances or giving interviews. But as hard as he may try to remain out of sight, he has been on many minds here in recent days, as Lebanese have taken to predicting his imminent political demise.

Things appeared to come crashing down on Mr. Lahoud last week, when four senior security men, including his current head of security, Mustafa Hamdan, were cited as suspects by a United Nations investigation into the assassination of a former prime minister, Rafik Hariri.

"It is all but sure now that he will have to step down - the question is when," said Fares Boueiz, a lawyer who is a former minister of foreign affairs and the environment. "The man is no longer able to rule the country, and I don't think this can last another two months."

The suspects - Jamil al-Sayyed, former chief of general security; Ali Hajj, former chief of the Lebanese police; Raymond Azar, a former military intelligence chief; and Mr. Hamdan - were charged with murder, attempted murder and carrying out a terrorist act. The men, once feared as Syria's proxies in Lebanon, faced formal proceedings before a Lebanese investigative judge over the weekend.

Mr. Lahoud is not a formal suspect in the investigation, for which a report is expected to be issued next month, and has been cooperating with investigators, Detlev Mehlis, the chief United Nations investigator, said last week. But Mr. Lahoud's close ties to the suspects and his unusual step of arguing Mr. Hamdan's innocence with the investigators only deepened the suspicion of him.

"They are the president's men, his collaborators, and even though they are not indicted yet, Lahoud is politically isolated," said Nawaf Salam, professor of political science at the American University in Beirut. "The closer we are to the date of the release of Mehlis's report, the more isolated Lahoud will become."

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In a defiant statement last week, Mr. Lahoud insisted that he intended to complete his term in office, which ends in 2007. "I will continue to fulfill my responsibilities to safeguard the Constitution, Lebanese laws and the integrity of Lebanese territory," the statement said.

Mr. Lahoud served under the nationalist general Michel Aoun during the final years of the civil war of the 1970's and 80's, then crossed over into Syrian-controlled west Beirut when the war ended, breaking with General Aoun. Mr. Lahoud made his name by uniting and leading the Lebanese Army for almost a decade, then ran for the presidency and won in 1998. His popularity reached a nadir, though, when Syria helped force through a constitutional amendment extending his term last September, which became a touchstone for the political turbulence of the past year.

So far, he has survived thanks to the same force that has kept most other Lebanese bosses in power: sectarianism. He has appealed to fellow Christians who may despise his politics, but would hesitate to bring down one of their own. Earlier pressure to oust him failed because Cardinal Nasrallah Sfeir, the influential Maronite prelate, intervened and because of international pressure on the government not to do anything that would destabilize the country.

But much has changed. The government of Prime Minister Fouad Siniora has sought to prove its mettle and build legitimacy, encouraging Lebanon's judiciary to take a leading role in the investigation of Mr. Hariri's killing.

The formal charges placed against the four men on Thursday sent another significant message.

"Pointing to the security chiefs as suspects may have put Lebanon on the track of stability and ended the cycle of assassinations and explosions," said Mr. Salam, the American University professor. "Now people realize that they are held accountable for any act of terror they might commit."

Many government figures have begun publicly demanding Mr. Lahoud's resignation.

"These are the people who worked for Mr. Lahoud," said Nayla Mouawad, minister of social affairs.

Sheik Hassan Nasrallah, the leader of the militant Hezbollah organization and a traditional ally of Mr. Lahoud who had opposed his ouster, acknowledged over the weekend that the president was in an "uncomfortable" position.

Perhaps the biggest factor standing in the way of Mr. Lahoud's ouster is the difficulty of impeaching him. The Lebanese Constitution has little mechanism for impeachment, short of treason. Legal experts say the only way to remove Mr. Lahoud would be through a constitutional amendment.

With a requirement since the settlement at the end of the civil war that the president be a Christian, there is also the problem of a lack of an acceptable alternative to Mr. Lahoud. While many Christian figures have expressed interest in the job, none has the consensus or voting base to take over. Walid Jumblatt and Saad Hariri, son of the assassinated former prime minister, lead the largest voting bloc in Parliament, and are determined to keep General Aoun, who returned from 15 years of exile to a substantial victory in the parliamentary election, out of that position. Christian leaders, meanwhile, are determined that they will not allow the ruling bloc to dictate to them.

"What is keeping him right now is the lack of an agreement between the different powers controlling Lebanon," Nawaf Kabbara, professor of political science at Balamand University in Beirut, said of Mr. Lahoud. "But such an agreement will be reached by the time Mehlis releases his report."

Business Chiefs Give Blunt Warning On Doha Talks (FT)

By Alan Beattie

Financial Times, September 6, 2005

The Doha round of global trade talks may be “on the verge of failure”, an association of global business leaders warns on Tuesday.

A blunt statement from six business associations, including the US Business Roundtable, an association of chief executives of leading corporations, says delay in the agricultural talks is holding up progress in goods and services liberalisation, which is economically far more significant.

“Only a few months remain for World Trade Organisation member governments to save the Doha development agenda,” the statement says. “The great hopes for global economic growth and development promised by this trade round are now at serious risk.”

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The warning comes as the WTO returns to work after its summer break, with four months remaining before December's ministerial meeting in Hong Kong. Progress in the talks has been slow. Pascal Lamy, the WTO's new director-general, said last week the director-general "does not have a magic wand" to conjure up a deal.

Without a significant breakthrough in the agricultural talks and, particularly, a commitment from the EU and US to cut farm tariffs rather than the lesser goal of ending export subsidies, the big emerging markets such as India and Brazil are unlikely to agree radical liberalisation of their goods and services markets.

In August, for example, India announced a more ambitious offer to liberalise its service industries, making it easier for foreign architects and life insurers, among others, to set up in India. But officials stressed the offer would merely legally bind the liberalisation the government had already carried out unilaterally rather than allowing fresh business opportunities.

Tuesday's statement says goods tariffs should be cut to zero in sectors where industry demands it. But that request has been rejected by India, which maintains significant tariffs on many of its manufactured imports.

The statement is signed by the Japanese Nippon Keidanren, the European Round Table of Industrialists and by business associations in Australia, Mexico and Canada. Businesses have been accused of directing too much of their lobbying effort into bilateral and regional trade deals rather than into the WTO talks.

Peter Mandelson, trade commissioner, recently complained of a lack of business support for the Doha round.

Guy Sebban, secretary-general of the International Chamber of Commerce, told the FT last week that governments, not businesses, had led the drive towards bilateral deals. "The sum of all bilaterals is nothing like as good as a far-reaching multilateral deal." Harold McGraw, CEO of publisher McGraw-Hill and chairman of the Business Roundtable's trade task force, said: "It is vital that WTO members not lower expectations."

www.trade.businessroundtable.org.

EU And China Near Textile Deal (FT)

By Ben Hall And George Parker

Financial Times, September 6, 2005

China and the European Commission struck an eleventh-hour agreement on Monday to end their dispute about imports of cheap Chinese textiles, but EU member states have yet to approve it.

After marathon talks in Beijing stretching into the early hours of Monday morning, Peter Mandelson, EU trade commissioner, and Bo Xilai, his Chinese counterpart, agreed to release Chinese garments impounded at Europe's ports "as soon as possible".

Mr Mandelson said the two sides had agreed to "sensible, reasonable, burden-sharing" regarding the fate of 77m Chinese sweaters, trousers and bras impounded at the EU's borders.

The Commission proposes to wave through half of the impounded garments. China accepted that the rest would be deducted either from its 2006 textile quota, or switched to other unfilled-quota categories.

The decision marked a softening of China's stance. Trade officials from the EU's 25 member states will on Tuesday consider whether it goes far enough.

Mr Mandelson hopes the agreement will be approved by EU textile producing countries such as France, Spain and Italy, even though it means allowing into the shops 38m unlicensed Chinese garments, ordered by retailers "in good faith" but which fell foul of quotas agreed on June 10.

The EU has already allowed in 135m Chinese pullovers given import licences in a frenetic period between June 10 and July 12, when the new quotas came into force. The agreed pullover quota for 2005 was 69m.

The textile dispute overshadowed an EU-China summit in Beijing, where Tony Blair, who holds the rotating EU presidency, argued the west should welcome China's economic rise.

After talks with Hu Jintao, China's president, and Wen Jiabao, Chinese premier, Mr Blair said further trade liberalisation was inevitable and that Europe should see China's booming economy as an opportunity not a threat.

"There is of course a case for managing change," the prime minister said. "What there is not a case for is resisting change."

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Mr Blair and his Chinese counterparts characterised the textiles dispute as a minor irritant in a flourishing EU-China relationship.

But it reflects Europe's difficulty in developing deeper political ties with the emerging superpower, notwithstanding an agreement to co-operate more closely on climate change reached yesterday.

Mr Mandelson, who resisted reintroduction of quotas on China in June, said that this time the EU needed to take greater care in managing the textile quotas and would have to step up contact with importers and producers. The measures were aimed at "smoothing a transition to a period when there are no quotas at all". Sir Digby Jones, director general of UK employers organisation the CBI, said borrowing from next year's quota to satisfy consumer demand was no long-term solution.

"The real answer is to allow access to the EU for goods produced in China and for EU producers to adapt to the competitive challenge," he said. "Quotas, agreed or otherwise, are not the way for the developed world to deal with globalisation."

EU Eases Quotas On China Trade, Breaking Logjam (WSJ)

By Andrew Browne, Federica Bianchi, Juliane Von Reppert-Bismarck And Marc Champion

The Wall Street Journal, September 6, 2005

China and the European Union reached an agreement to end a trade spat yesterday that had left millions of Chinese-made sweaters, bras and trousers stranded at European ports, threatening to sour a meeting of Chinese and European leaders in Beijing.

Both sides hailed the textile accord, which still needs the approval of EU member countries, as a fair compromise.

Tensions over the textiles have been an embarrassment to the EU, which has been courting China as a trade partner and rising strategic power. The standoff also was a setback for the top EU trade official, Peter Mandelson, after a quota system he championed in June to hold back a surge in Chinese textiles ended up creating chaos at European ports and causing division in the 25-nation EU. European importers had rushed to beat deadlines resulting from the June agreement, and in a matter of weeks the annual allotments filled up, leaving the excess clogging European docks.

Under the June quota system, growth in 10 categories of goods was capped at between 8% and 12.5% until 2008. Now, under yesterday's deal, Europe will ease quotas to admit half of the surplus. China agreed for the remaining half to be deducted from next year's quotas, or from quotas for other types of textiles, said Simon Fraser, a senior aide to Mr. Mandelson. China also agreed not to issue any more export licenses for textiles that have exceeded their European quota, the official said.

EU officials and diplomats expect European governments to approve the agreement today.

"The result was fair and equitable for both sides," Chinese Premier Wen Jiabao said at a news conference after the summit, which focused on issues such as the environment and security as well as trade.

The U.S. also is bogged down in a trade dispute with China over its textile exports, which have rocketed since the demise of a global quota system in January. Just last week, Chinese and U.S. negotiators failed to reach agreement on a comprehensive plan to restrain the overall growth of Chinese textile exports to replace piecemeal U.S. curbs, most recently on bras and synthetic fabric.

Industry analysts said the EU agreement didn't presage a similar breakthrough with the U.S. "They're completely separate," said Paul MacKenzie, head of consumer research at Hong Kong-based CLSA Asia-Pacific Markets. He said the EU deal was aimed at resolving a particular mess that both sides had created by failing to put in place a system to monitor textile trade volumes that is transparent enough to show the rate at which quotas were filling up.

However, Chinese Commerce Minister Bo Xilai, at a separate news conference with Mr. Mandelson after the summit wrapped up, said he expected a textile deal with the U.S. "quite soon." He complimented his EU counterpart, saying that in comparison with U.S. officials, "Mr. Mandelson was more active."

Yesterday's agreement was clinched just in time to lift a cloud over a China-EU summit attended by José Manuel Barroso, president of the European Commission, and Prime Minister Tony Blair of Britain, which holds the six-month rotational EU presidency. The textile row had become a test of the strength of the EU-China relationship and the ability of both sides to handle even more contentious issues, like whether to lift a ban on EU arms exports to China.

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As he sought to extricate the EU from its predicament, Mr. Mandelson was caught in the crossfire between retailers in countries like Britain and Sweden, anxious to stock their shelves before winter with Chinese-made warm clothes, and producers in countries like France, Italy and Spain who fear inexpensive Chinese imports will devastate their industry.

Chinese industry players welcomed the EU agreement, which focuses on unblocking 48 million sweaters, 18 million trousers and more than 11 million Chinese-made brassieres.

"It may save losses and mend reputation for both Chinese and European companies," said Cao Xinyu, vice chairman of the China Chamber of Commerce for the Import and Export of Textiles. Mr. Cao said he was confident the standoff was a one-time problem caused by poor implementation of the quota agreement.

European textile producers were less pleased. "This deal has been reached at the expense of industry," said Francesco Marchi, legal adviser at European textile-maker lobby Euratex in Brussels. Admitting half the surplus is "a free gift," he added, "and there is no compensation at all for us."

The EU looks to China as a huge market for its exports. China overtook Japan to become the EU's second largest trading partner in 2003, behind the U.S., and Mr. Blair is just the latest in a string of major European leaders -- including French President Jacques Chirac and German Chancellor Gerhard Schröder last year -- to visit China at the head of a large business delegation in search of contracts.

Unlike Washington, the EU has no significant military presence or ambitions in the Far East or Pacific Ocean, and it has no commitment to aid Taiwan in the event of its attack by Chinese forces. As a result, EU leaders -- and Mr. Chirac in particular -- have seen China as an opportunity to boost job creation in their own high-unemployment economies while at the same time building a strategic partnership not dependent on the U.S.

But this year, the budding EU-China partnership has hit speed bumps. EU leaders had planned in June to lift an embargo on arms sales to China that was imposed after the 1989 Tiananmen Square crackdown, replacing it with a code of conduct that wouldn't be specific to China. But a sharp and ill-timed Chinese declaration on Taiwan, combined with ferocious opposition to lifting the embargo from the U.S. Congress, led the U.K. to force a delay. The EU remains committed in principle to lifting the arms embargo, but with Mr. Blair setting the agenda as the EU's rotating president, the embargo is unlikely to return for debate until next year.

China Oil Firm Refines Kazakh Deal (WSJ)

By Jason Singer and Guy Chazan

The Wall Street Journal, September 6, 2005

China National Petroleum Corp., which last month triumphed in a bidding war to buy a strategically important oil company with operations in neighboring Kazakhstan, is in talks to sell as much as half of the $4.18 billion acquisition to Kazakhstan's state-owned oil firm even before the first deal is closed, according to people familiar with the matter.

A deal by CNPC, as China National Petroleum is called, to sell a 33% to 50% stake in PetroKazakhstan Inc., a Canadian company with operations in the oil-rich central-Asian state, to KazMunaiGaz, the state-owned oil company, is expected to be sealed in the next few weeks, these people said. The price tag on such a deal with KMG, as the state firm is known, wasn't clear.

The move would be the latest example of a petroleum-rich country exerting more influence on its natural resources during a period of sky-high oil prices. Other oil-exporting nations, from Venezuela to Nigeria, recently have been seeking to claim a larger share of the wealth extracted from oil buried under their land. Russian authorities, too, have been trying to tighten their grip on the country's energy sector.

Kazakhstan is a nation of 15 million people on China's western border that is strategically important because of its proximity to China.

PetroKazakhstan is based in Calgary, Alberta, and analysts say it has promising stores of reserves. However, it is considered a relatively small player in the industry. Its production is estimated to be equivalent to a little more than 1% of China's daily oil needs.

PetroKazakhstan Vice President and Treasurer Jeffrey Auld said he hadn't heard anything about talks between KMG and CNPC. KazMunaiGaz declined to comment. Wang Hongtao, a spokesman for CNPC, said "there are no such talks happening."

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For CNPC, selling a stake in PetroKazakhstan to the state-run company would smooth its original $4.18 billion agreement to buy the Kazakh oil assets. In the past, other Chinese firms have tried to buy assets in the oil-rich region only to be blocked by the Kazakh government, which said it wanted them.

CNPC won an auction for PetroKazakhstan in August, beating out a competing bid by a joint venture between ONGC Videsh Ltd., the international arm of India's state-controlled Oil & Natural Gas Corp., and an investment company owned by London steel tycoon Lakshmi Mittal. The losing consortium has said it is still considering making a higher counterbid.

By selling a stake in PetroKazakhstan to the state-run Kazakh firm, CNPC would remove a potential legal hurdle to its acquisition. A new Kazakh law gives the state-owned oil company an option to purchase, pre-emptively, any major oil-and-gas venture put up for sale.

Officials are debating whether the law applies to CNPC's efforts to buy PetroKazakhstan. Some argue it does apply because all of PetroKazakhstan's operations are in Kazakhstan. Others argue it doesn't apply because PetroKazakhstan is based in Canada. In either event, selling a stake to the government could appease both sides.

If it is cleared to go through, CNPC's agreement to buy PetroKazakhstan is scheduled to close in October.

It isn't clear if KMG would buy the stake from CNPC after the closing or, if an agreement can be reached earlier, KMG might pay PetroKazakhstan's shareholders directly for the holding.

It's Time To Calm Down About The China 'Threat' (WSJ)

By George Melloan

The Wall Street Journal, September 6, 2005

The Katrina disaster offered the White House a plausible reason to postpone tomorrow's planned visit from Chinese President Hu Jintao, but the delay was unfortunate. President George W. Bush needs to discuss some important issues with Mr. Hu.

The U.S. wants Mr. Hu to improve human rights, cool down the cross-strait feuding with Taiwan and do more to persuade North Korea that nuclear blackmail is a dangerous game. Mr. Bush, for his part, could try to stop spurious attacks on China for sins it hasn't committed, like currency manipulation. In America's overheated politics, there are far too many ill-informed attempts to paint China as an economic aggressor.

It would be unfortunate if U.S.-China relations, despite years of nurture, descended into a Cold War. But wars, hot and cold, are often provoked by misjudgments, misinformation or mistrust. There's plenty of all three in the current relationship. The U.S., which even China itself recognizes as the senior partner because of its economic and political power, has a global obligation to behave with sufficient maturity to reduce the danger of mischance.

Mr. Hu had planned a speech at Yale and visits to Microsoft and Boeing in Seattle as part of what was billed as a goodwill tour. These were also postponed at last report. He and Mr. Bush will meet on the sidelines of the United Nations General Assembly summit in New York next week. But that won't be an ideal venue for serious talks, given distractions that will include questions about the future of the scandal-ridden U.N. itself.

The issue that has aroused U.S. politicians is whether China's economic growth and arms buildup pose a threat to U.S. interests. One of Mr. Hu's key advisers, Zheng Bijian, assures us that they don't in the lead article in the latest Foreign Affairs. He writes that China is committed to a "peaceful rise" to great power status.

Mr. Hu, at a ceremony Saturday in the Great Hall of the People commemorating the formal Japanese surrender 60 years ago, declared: "China did not seek hegemony in the past, and it will never seek hegemony in the future." This is the promise Mr. Hu will bring on his first U.S. visit as China's president to Americans fearful of Chinese aggression.

Politicians of course make promises they don't keep and this doesn't denote a fundamental change in Chinese internal politics. The ruling Communist Party Mr. Hu heads is allowing more economic policy debate internally, but it has become more rigid of late on how much political debate it will permit. The party is very much aware of the tensions building up as the greater wealth and privileges of the party elite generate resentments among the broad masses.

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Chinese leaders know they can't afford U.S. enmity while they face unrest at home. China has followed the Japanese, South Korean and Taiwanese models of export-led growth, so its continued economic development, and political stability, is heavily dependent on exports. Its foreign trade now totals $851 billion, the highest in the world, Mr. Zheng points out.

Yet he also notes that despite average economic growth of 9.4% a year for the last 27 years, since it opened its doors wide to foreign investment, its economy is only one-seventh the size of the U.S. economy and only one-third the size of Japan's. It is relatively short of arable land, water and natural resources. And ". . . it will take another 45 years -- until 2050 -- before it can be called a modernized, medium-level developed country." Among the problems "is a lack of coordination between economic and social development."

That seemingly anodyne last comment actually carries a world of meaning, especially when you consider that Mr. Zheng may be voicing a major concern of China's leaders. It is quite evident to close observers that a Communist Party that has introduced private capitalism so successfully still is perplexed about how to deal with the social conflicts brought about by increased wealth. Thousands of protests and demonstrations around the country by people demanding their legal rights are broken up by the security police, sending the message that the party is above the law. Falling back on Communist ideology as a unifying force doesn't work.

The U.S. has its own problems. Mr. Bush's political opponents, frustrated by their failures, have resorted to frenzied accusations that he is guilty of everything from Hurricane Katrina to a shortage of condoms in Uganda. This frenzy is feeding on the New Orleans tragedy and what is sure to be a big fight over his Supreme Court nominees.

The self-appointed leader of the China-bashing pack is Democratic Senator Chuck Schumer of New York. He attacked China's trade "unfairness" last month in a paper that among other factual errors claimed that direct investors in China must have Chinese partners. That is no longer true and the report cards of most independent groups say that China has done well in complying with World Trade Organization rules. But in response to such agitation, the U.S. has just reversed itself on the lifting of textile quotas, re-imposing them on some Chinese apparel items.

There is risk inherent in the grandstanding of U.S. politicians on such issues, particularly ones where China is essentially blameless such as currency management or textile exports. The Chinese leadership may fail to manage a transition to more democratic rule, something they clearly aren't handling well at this point. If China falls into chaos, Chinese politicians are just as capable as their American brethren of seeking scapegoats. Given the antipathy towards the American president that has been drummed up from places like Berlin, Paris and the salons of Georgetown, what better scapegoat than George Bush?

That's why Mr. Bush and Mr. Hu need to come to a better understanding, setting aside spurious issues and dwelling on ways the two countries can cooperate to keep China on the course it desires, to become a "modernized, medium-level developed country." Mr. Bush can offer wise counsel: To do that, it will have to become more democratic.

Ukrainian Official Resigns In Protest (WT/AP)

By Natasha Lisova, Associated Press

The Washington Times, September 6, 2005

KIEV -- A close aide to President Viktor Yushchenko who was a chief organizer of the "Orange Revolution" protests said yesterday he had resigned from the government because of systemic corruption around the Ukrainian leader.

Oleksandr Zinchenko, who resigned Saturday, said the situation had grown "even worse" than under former President Leonid Kuchma.

Mr. Zinchenko accused Petro Poroshenko, the head of Ukraine's Defense and Security Council, of being one of the most corrupt members of the government. He also criticized Oleksandr Tretyakov, a top aide to Mr. Yushchenko, and Mykola Martynenko, who heads the president's faction in parliament.

Mr. Poroshenko attended the press conference, which was broadcast live, and stood in the back frowning as Mr. Zinchenko spoke. When Mr. Zinchenko completed his prepared statement, lengthy applause broke out in the room.

Mr. Zinchenko's departure as state secretary is the first major resignation since Mr. Yushchenko took office in January, after last year's bitter and prolonged campaign in this former Soviet republic.

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Mr. Zinchenko said he decided to make such a "sharp public announcement" to ensure that Ukrainians and Mr. Yushchenko understood the extent of the problem. He said he had repeatedly called on Mr. Yushchenko to fire Mr. Poroshenko.

"With my resignation, I am trying to sharply convey this danger to the president and his team," Mr. Zinchenko said.

Mr. Poroshenko took the podium and said it was "the hardest day" of his life. Clearly angry, he accused Mr. Zinchenko of trying to "explode [Mr. Yushchenko's] team from the inside" and challenged him to find evidence to back up his charges.

"He didn't look in my eyes the entire time he was reading his statement," Mr. Poroshenko said of his former ally.

Mr. Zinchenko, who had served as deputy speaker of parliament, was initially aligned with Mr. Kuchma. He was a senior party official in the Ukrainian Socialist Party (United), headed by Mr. Kuchma's former chief of staff, Viktor Medvedchuk.

Experts Find Reduced Effects Of Chernobyl (NYT)

By Elisabeth Rosenthal, International Herald Tribune

The New York Times, September 6, 2005

ROME, Sept. 5 - Nearly 20 years after the huge accident at the Chernobyl nuclear power plant in Ukraine, a new scientific report has found that its aftereffects on health and the environment have not proved as dire as scientists had predicted.

The report was prepared by a panel of more than 100 experts convened by United Nations agencies.

It says huge compensation programs for people in the Chernobyl region have become "a major barrier to the region's recovery," both by creating a culture of dependency and by soaking up a high percentage of the region's resources. It recommends that the compensation programs be cut back.

The report, "Chernobyl's Legacy: Health, Environmental and Socio-Economic Impacts," says 4,000 deaths will probably be attributable to the accident ultimately - compared with the tens of thousands predicted at the time of the accident.

Only 50 deaths - all among the reactor staff and emergency workers - can be directly attributed to acute radiation exposure after Chernobyl's Reactor No. 4 exploded in April 1986, the panel found. The rest will be from cancer at a higher rate than would otherwise be expected in people exposed to radiation near Chernobyl in the wake of the accident.

But for millions of people who were subjected to low levels of radioactive particles spread by the wind, health effects have proved generally minimal, the report found.

The powerful explosion that rocked Chernobyl sent chunks of the reactor core into the surrounding fields and clouds of radioactive particles into the air. The fire burned for 10 days and released radioactive particles that were carried by the wind to large rural swaths of what was then the Soviet Union. The particles settled in human bodies and homes and contaminated fields, forests and livestock.

The report acknowledged that there was a core of people, probably 100,000 to 200,000, who continued to be severely affected by the disaster.

But seven million people in what are now Russia, Ukraine and Belarus still receive some kind of Chernobyl benefits, from monthly stipends to university entrance preference to therapeutic annual vacations. In Ukraine, the number of people designated as permanently disabled by the Chernobyl accident (and their children) increased from 200 in 1991 to 64,500 in 1997 and 91,219 in 2001 - even though the effects of radiation decline over time, the report noted. Both Ukraine and Belarus still spend about 5 percent of their annual budgets on Chernobyl victims.

The panel found that contrary to previous forecasts, there had been no observed rise in the incidence of leukemia, a blood cancer widely associated with radiation exposure - except for a small increase among workers who were in the contaminated plant. Nor has there been the expected detectable decrease in fertility or increase in birth defects.

Indeed, the report concludes that "the largest public health problem unleashed by the accident" is "the mental health impact." Residents of the region, who view themselves as victims of a tragedy they poorly understand, are still haunted by anxiety that has prevented many from restarting their lives.

In the immediate aftermath of the disaster, the Soviet Union declared an 18-mile "exclusion zone" around the reactor, which still exists, and resettled hundreds of thousands of people. Agriculture was forbidden in contaminated areas, as was the collection of forest products like berries and mushrooms. A host of compensation schemes were established.

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"People have developed a paralyzing fatalism because they think they are at much higher risk than they are, so that leads to things like drug and alcohol use, and unprotected sex and unemployment," said Dr. Fred A. Mettler, leader of the team analyzing health effects for the Chernobyl Forum, a research group comprising United Nations agencies and representatives of affected countries.

The only concrete health impact in the region has been thyroid cancer in people who were young at the time of the accident and drank contaminated milk from cows that ate grass contaminated with radioactive iodine dispersed during by the accident. Radioactive iodine, which is short-lived, concentrates in the thyroid gland. Because the disease is generally treatable, only 9 of the 2,000 who have come down with the disease have died.

Other than the thyroid cancer cases, other cancers and adverse health effects, when they occur, may be particularly difficult to link to the Chernobyl accident, because life expectancy dropped dramatically in the region after the fall of the Soviet Union. "The effect may be difficult to detect against the background noise," Dr. Mettler said.

"Early on, there were all sorts of claims being made because people didn't have much accurate information," said Dr. Mettler, a University of New Mexico expert on the effects of radiation exposure. "Now, at last, we have the eight U.N. agencies and the three governments involved coming to a consensus about the effects and what needs to be done."

Although five million people live in areas still classified as contaminated by Chernobyl, a vast majority are exposed to very low doses of radiation, the study found, with levels no higher than in large areas of China, Brazil or Britain, where naturally occurring background radiation in soil is relatively high.

"People were evacuated from areas that now have dose levels lower than where I live in New Mexico," Dr. Mettler said.

Although there is still a strong stigma against growing or eating agricultural products from anywhere in the area, concentrations of radioactivity "in agricultural food products produced in areas affected by the Chernobyl fallout are generally below national and international action levels," the report found.

Those who continue to be affected by the accident include poor rural dwellers who live in the few severely contaminated areas, those with thyroid cancer and those who were resettled after the disaster but who had never found a new life or employment in their new communities.

"A small but important minority, those caught in the downward spiral, need substantial material assistance to rebuild their lives," the report said. But for the millions of others designated as victims, it said, the priority should be to encourage self-reliance, providing them with realistic information about the minimal risks they face.

Noting that the collapse of the Soviet Union - and the end of Soviet-era benefit programs - worsened the poverty of the region, the researchers said its people should now be provided with incentives to develop small businesses, for example.

"The extensive system of Chernobyl-related benefits has created expectations of long-term direct financial support and entitlement to privileges, and has undermined the capacity of the individuals and communities concerned to tackle their own economic and social problems," the report concluded.

Chernobyl's Harm Was Far Less Than Predicted, U.N. Report Says (WP)

By Peter Finn

The Washington Post, September 6, 2005

MOSCOW, Sept. 5 -- The long-term health and environmental impacts of the 1986 accident at the Chernobyl nuclear power plant in Ukraine, while severe, were far less catastrophic than feared, according to a major new report by eight U.N. agencies.

The governments of Ukraine, Belarus and Russia, the three countries most affected by radioactive fallout from Chernobyl, should strive to end the "paralyzing fatalism" of tens of thousands of their citizens who wrongly believe they are still at risk of an early death, according to the study released Monday.

The 600-page report found that as of the middle of this year, the accident had caused fewer than 50 deaths directly attributable to radiation, most of them among emergency workers who died in the first months after the accident. In the wake of the world's largest nuclear disaster, there were numerous predictions of mass fatalities from radiation.

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The report said that nine children had died of thyroid cancer, but that the survival rate among the 4,000 children in the region who had developed thyroid cancer has been 99 percent. An expected spike in fertility problems and birth defects also failed to materialize, the study found.

"The health effects of the accident were potentially horrific, but when you add them up using validated conclusions from good science, the public health effects were not nearly as substantial as had at first been feared," Michael Repacholi, manager of the World Health Organization's radiation program, said in a statement.

U.N. scientists predicted about 4,000 eventual radiation-related deaths among 600,000 people in the affected area, including emergency workers and residents. That is consistent with predictions in the aftermath of the accident by scientists in the Soviet Union, of which Ukraine, Russia and Belarus were then a part.

But the vast majority of residents and emergency workers received relatively low doses of radiation, comparable to naturally occurring levels of exposure, the report said.

Officials said that the continued intense medical monitoring of tens of thousands of people in Ukraine, Russia and Belarus is no longer a smart use of limited resources and is, in fact, contributing to mental health problems among many residents nearly 20 years later. In Belarus and Ukraine, 5 percent to 7 percent of government spending is consumed by benefits and programs for Chernobyl victims. And in the three countries, as many as 7 million people are receiving Chernobyl-related social benefits.

"The monitoring of people with incredibly low doses uses huge amounts of resources and does more psychological harm than good," said Fred Mettler, a professor of radiology at the University of New Mexico who chaired one of three health groups in the study, titled "Chernobyl's Legacy: Health, Environmental and Socio-Economic Impacts." The study, involving more than 100 scientists, was compiled by U.N. agencies, including the International Atomic Energy Agency, and representatives of the governments of Ukraine, Russia and Belarus.

Shortly after midnight, on April 26, 1986, after a complex chain of events at the Chernobyl plant, the water coolant vaporized and an explosion destroyed the reactor. The plant caught fire and plumes of radioactive material were released. Soviet authorities at first did not report the accident, but radioactive material was quickly detected in Scandinavian countries. Radioactive material continued to be released for another 10 days, spreading across Europe.

Over the next four years, a massive cleanup operation involving 240,000 workers ensued, and there were fears that many of these workers, called "liquidators," would suffer in subsequent years. But most emergency workers and people living in contaminated areas "received relatively low whole radiation doses, comparable to natural background levels," a report summary noted. "No evidence or likelihood of decreased fertility among the affected population has been found, nor has there been any evidence of congenital malformations."

In fact, the report said, apart from radiation-induced deaths, the "largest public health problem created by the accident" was its effect on the mental health of residents who were traumatized by their rapid relocation and the fear, still lingering, that they would almost certainly contract terminal cancer. The report said that lifestyle diseases, such as alcoholism, among affected residents posed a much greater threat than radiation exposure.

The report said that an immediate priority is to re-secure the reactor. After the disaster, a concrete sarcophagus was built over the plant, but it was hastily constructed and is showing signs of wear. "The main potential hazard of the shelter is a possible collapse of its top structures and release of radioactive dust into the environment," the report said.

David Zhania, emergencies minister in Ukraine, said last week that a new steel shelter for the plant would cost nearly $2 billion and that the country hoped to have it built by 2008 or 2009. About 28 foreign governments have already agreed to contribute more than $750 million to the project.

The report also found that except for a nearly 20-mile exclusion zone around the reactor, radiation levels have returned to acceptable levels in many areas where land had been abandoned for fear of contamination. "By radiological criteria alone a significant part of the abandoned agricultural lands (more than 70 percent) could be returned to economic use," the report said.

The abandonment of large tracts of land, combined with a ban on hunting, has led to a dramatic increase in wild animals and birds, including wolves, elk, wild boars, white-tailed eagles, owls, cranes and black storks.

"Without a permanent residency of humans for 20 years, the ecosystems around the Chernobyl site are now flourishing," the report said. "It looks like the nature park it has become."

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U.N. Report Calls Chernobyl Dangers Overstated (WSJ)

By John J. Fialka

The Wall Street Journal, September 6, 2005

A team of United Nations researchers said the health dangers from the 1986 Chernobyl nuclear accident were vastly overstated, resulting in a "paralyzing fatalism" among the 350,000 evacuees that proved to be the "largest public health problem."

The team, drawn from eight U.N. agencies, prepared the report in cooperation with the Russian Federation, Belarus and Ukraine, where the accident occurred. The results will be discussed at a special meeting in Vienna, where health experts continue to track medical and mental-health problems caused by the event.

"There are a bunch of lessons in this for the United States, for handling homeland-security events and for terrorism," said Fred Mettler, one of the researchers who prepared the report. He is a professor at the medical school at the University of New Mexico.

The Chernobyl accident spurred a mass evacuation after the nuclear reactor caught fire and began spewing a cloud of radioactive debris. The report notes that the radiation threat was vastly exaggerated and that many evacuees from the area shouldn't have been moved.

While some experts and authorities predicted tens of thousands of deaths, the report notes that so far there have been 59. An additional 3,940 victims, mainly emergency workers and people who lived close to the reactor, are expected to die prematurely as a result of cancers caused by radiation exposure.

"This was still an horrific accident, but one of the messages here is that events like this are not totally devastating and are manageable," said Dr. Mettler. He said the radioactive doses experienced by many victims were relatively harmless, but because they were evacuated and given long-term aid and frequent medical attention, many still fear their lives will be shortened. Over the years, Dr. Mettler said, the evacuees have absorbed a lot of scarce medical resources that could have been used on more-serious public-health problems in the region.

A lot of the report's recommendations, he said, are designed to get managers of future accidents and natural disasters to focus more on "people who really do have problems and to get other people into a mode where they have more self-confidence."

The 600-page report said that almost 99% of children diagnosed with thyroid cancer after the incident survived. It found "no convincing evidence" that the incidence of leukemia rose among the population exposed to radiation in Russia and Ukraine.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, SEPTEMBER 6, 2005 7:45 AM EDT

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TERRORISM NEWS:

Immigration Charge Dropped In Va. Terror Case (WP)

By Mary Beth Sheridan, Washington Post Staff Writer

The Washington Post, September 5, 2005

The scene was emblematic of the war on terror: a government helicopter clattering over a home in Burke as gun-toting agents smashed through the door and handcuffed the owner, a Lebanese immigrant.

Hassan Khalil, 37, was arrested by agents with a local terrorism task force this May and charged with immigration fraud. But now, officials say, the charge has been dropped. The reason: a mistake in Khalil's immigration records.

Khalil, a U.S. citizen and cell phone technician, said the experience has left him frustrated and bewildered. He said his attorney was told in July that the immigration charge was being dropped but that the investigation would continue.

"Overall I'm really angry at this," he said. "Even if they had anything on me, which I doubt, I haven't seen it. They didn't show it to me. They did all this, then dropped the case and walked away. And nothing."

Khalil's case was featured in a June article in The Washington Post about the government's increased use of immigration laws against people who have come under scrutiny in terrorism cases.

U.S. officials say that such charges sometimes are the easiest way to detain someone who could be a threat and that there is nothing wrong with prosecuting people who have broken immigration laws.

Authorities have declined to comment on what brought Khalil to their attention or whether he could face further accusations. He was charged in May with lying on his citizenship application by failing to note an arrest by U.S. officials in the early 1990s for being in the country illegally.

Khalil has said he is innocent. He acknowledges that he overstayed a student visa but said he later obtained temporary legal papers under a program for people affected by the Lebanese civil war. He then married a U.S. citizen in 1994 and was granted citizenship in 2000.

Frank Shults, a spokesman for the U.S. attorney's office in Alexandria, said that after an investigation, authorities discovered that Khalil in fact had not been arrested. Instead, Khalil had agreed with authorities to voluntarily leave the country after overstaying his visa in the early 1990s, Shults said. Khalil never left the United States, he said.

"The statements he made on the application about not being arrested were deemed accurate," Shults said. "So they dropped the charges."

Kareem Shora, of the American-Arab Anti-Discrimination Committee, said the case appeared to be part of what he called a pattern of dramatic anti-terrorism arrests that resulted in immigration allegations or other charges that were later dropped.

"The use of these high-profile raids, when it's not warranted, is a waste of my taxpayer money," he said. He said they also damage relations between the government and Muslim and Arab communities.

Dean Boyd, a spokesman for U.S. Immigration and Customs Enforcement, said the agency used a helicopter during the raid to ensure the safety of the agents and Khalil. He said authorities believed that Khalil had military training and a black belt in martial arts. Khalil also had told the FBI that he knew members of Hezbollah, the armed Shiite Muslim movement that the U.S. government considers a terrorist group, Boyd said.

Khalil said in an interview that he did not know any Hezbollah members in the United States but that he did in his native south Lebanon, where it is a political party.

Janice Kephart, a former counsel to the 9/11 commission, said it was important for the government to use any kind of valid civil or criminal charges -- including immigration violations -- to protect homeland security. She emphasized that U.S. officials didn't act lightly in pressing such charges.

"Prosecutors don't like to lose cases," she said. "That doesn't mean the government doesn't sometimes make mistakes."

For Khalil, though, the mistake has had painful consequences. He said his 7-year-old daughter was so frightened by the dawn raid that she refuses to sleep alone. He and his wife jump at sudden noises. And he hasn't figured out how to retrieve his passport and other documents seized in the raid.

"I just don't feel secure, up to today," he said. "People come up to me and say, 'Congratulations,' and I'm like, 'Yeah, right.' I don't feel it's done."

Al Qaeda: A Link To London? (NSWK)

Newsweek

Newsweek, September 5, 2005

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American and British investigators say a new video featuring a July 7 London subway bomber and Qaeda chief deputy Ayman al-Zawahiri is authentic. These counterterror officials, who asked not to be named because of the sensitive subject matter, say the tape, aired last Thursday by Al-Jazeera, appears to affirm a link between Al Qaeda and the July 7 attacks—but it doesn't prove Zawahiri or Qaeda head Osama bin Laden ordered them.

In the slick video, which the officials think was assembled from two separately shot tapes, suicide bomber Mohammed Sidique Khan says he is a "soldier" intent on "protecting and avenging my Muslim brothers and sisters." He asks Allah to "raise me amongst those I love," a group that includes bin Laden, Zawahiri and Abu Mussab al-Zarqawi, the Jordanian-born leader of the Iraqi insurgency. Khan does not say that the Iraq war was a motivation for the attacks. But Zawahiri does praise them as a "slap in the face" to Tony Blair's British government for its alleged collaboration with Washington in oppressing Muslims in countries including Iraq. The British official says authorities believe the tape may have been put together up to three months ago; they don't know if the video, in which Khan spoke in the soft accent of his native Yorkshire, was taped in Britain or Pakistan, which he reportedly visited several months before the London bombings.

The British investigation into the terror acts—four incidents on July 7 that killed more than 50, and another four attempted attacks on July 21 in which the bombs didn't explode—appears to have bogged down in past weeks. Though numerous suspects, including the would-be bombers themselves, were picked up and charged for the July 21 attacks, nobody has been arrested for the July 7 bombings. This lack of progress led some British investigators to claim recently that the July 7 bombers may have been a self-generated cell.

—Mark Hosenball

Justice Department Under Fire (WT)

By Nat Hentoff

The Washington Times, September 5, 2005

I thought I was inured to learning about further evidence of this administration's disregard for our system of justice as it abuses international law and our statutes in the CIA's kidnapping of terrorism suspects to be sent to other nations. But an Aug. 9 statement in Brooklyn federal court by Mary Mason of the Justice Department's Constitutional Torts Section astonished me by its breadth of disregard for what we prize as our rule of law.

The case was the first civil lawsuit to challenge the CIA's "extraordinary renditions," sending terrorist suspects to countries known for torturing their prisoners. Maher Arar, a naturalized Canadian citizen, is suing for damages in Maher Arar v. John Ashcroft, Acting Deputy Attorney General Larry Thompson, et al. He was seized by American agents and shipped to his native Syria, where he was tortured for nearly a year after being picked up at Kennedy International Airport on Sept. 26, 2002, when he was changing planes to return to his home in Canada from a beach vacation in Tunisia.

As reported in the Aug. 10 New York Times (and confirmed to me by Georgetown University law professor David Cole, Mr. Arar's attorney on behalf of the Center for Constitutional rights) this is what Mrs. Mason, speaking for the U.S. government, said in federal court: "Foreign citizens who change planes at airports in the United States can legally be seized, detained without charges, deprived of access to a lawyer or the courts, and even denied basic necessities like food." Asked U.S. District Judge David Trager: "Would not such treatment of a detainee in any context, criminal, civil, immigration or otherwise violate both the Constitution and clearly established case law?" Mrs. Mason said it would not. All the government has to do is declare the seized passenger an "inadmissible alien" beyond the reach of the Constitution.

It's important to note at this point that Mr. Arar has not been charged with any crime despite his horrifying ordeal in a 3-by-6-by-7-foot cell, described by him as "like a grave," where he heard the screams of other tortured prisoners. After Syria finally released him, that government declared Mr. Arar completely innocent, said Imad Moustapha, Syria's high-ranking diplomat in Washington, on the Jan. 21, 2004, CBS "60 Minutes II." Mr. Arar did falsely confess after ongoing, savage bouts of torture that he had been to an al Qaeda trainingcampin Afgh-anistan. But he has neverbeenin Afghanistan. He confessed, he says, because he was ready to "do anything to stop the torture." Syria's Mr. Moustapha admits:"Wetraced links. We traced relations. We tried to find anything. We couldn't." Now back in Canada, Mr. Arar is a free man. In addition to suffering continual nightmares about his torture, and other resultant difficulties, he is afraid that he can never clear his name. Mr. Arar is suing Messrs. Ashcroft and Thompson, and other officials for compensatory and punitive damages.

In court papers, his attorneys note that the U.S. government removed him chained and shackled to Syria "with the full knowledge of the existence of state-sponsored torture in that country." Our own State Departmenthasrepeatedly confirmed the torture in that country. Moreover, as his attorneys add, this official kidnapping was committed "in direct contravention of the U.N. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, a treaty ratified by the United States in 1994" and in violation of this country's subsequent Torture Victim Protection Act of 1991.

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As usual, the Justice Department, as often stated by Attorney General Alberto Gonzales, maintains that no suspect is sent to a country known for torture unless "assurances" are given that the prisoner, uncharged with any crime, will not be tortured. As I and other reporters, along with human-rights organizations, have documented, these "assurances" are a farce, and the Bush administration knows it, despite the president's frequent pledges that "we do not engage in torture." This government's papers in Mr. Arar's lawsuit actually say, as the New York Times reported, that when foreign citizens are seized and abused on our soil and then sent away to be tortured, "even if they are wrongly or illegally designated inadmissible... such aliens have at most a right against 'gross physical abuse.' " And, of course, no American official, up to and including the attorney general, is responsible for any "illegalities" resulting in that innocent victim being tortured.

The government claims it has classified information that Mr. Arar is an al Qaeda member, but it has invoked its "state secrets" privilege to refuse to release that "evidence," so that Mr. Arar can refute it. It's no longer a secret that, in these "extraordinary renditions," this administration has repeatedly and cynically been flagrantly lawless while Congress keeps abdicating its constitutional investigative responsibilities under the separation of powers.

PATRIOT ACT:

Patriot Act Meets With Opposition (LBPT)

By Jason Gewirtz, Staff writer

Long Beach (CA) Press-Telegram, September 5, 2005

LONG BEACH — The City Council will be asked Tuesday to oppose provisions of the controversial USA PATRIOT Act that a citizens' group says will threaten civil liberty protections.

Councilwomen Bonnie Lowenthal and Tonia Reyes Uranga will make the request, asking the council to support a recently adopted resolution in the State Senate that urges Congress to amend the act.

The Patriot Act was adopted after 9/11 to provide government officials with more ways to investigate potential terrorist leads. A number of the act's provisions are set to expire at the end of the year unless Congress renews them.

Several of those provisions allow the FBI to seize records from financial companies, libraries, doctors' offices and other businesses with limited approval.

Several cities, including Los Angeles, San Jose and San Francisco, have adopted similar measures in recent months regarding civil liberty aspects of the act. But whether the council will tackle the issue is unclear.

In the past, council members have had contentious debates over whether they should weigh in on various issues in front of the federal government. In March 2003, the council withdrew two contested resolutions after a debate over how, or whether, to address the war in Iraq. In June 2004, the council split 4-4 on a resolution to oppose the Federal Marriage Amendment.

Councilman Frank Colonna, who has opposed several past council efforts at intervention beyond the city's authority, said Tuesday's item falls into that category.

"I really don't think that this is the proper time to start to analyze the pros and cons of the Patriot Act," he said.

But Edith Pollach with the Long Beach Civil Liberties Defense Coalition said the council should take up the issue. She said nearly two dozen local groups will urge support for the measure Tuesday.

"What's the oath of office that the council members take?" she asked. "Aren't they supposed to take an oath that they're going to carry out and obey the Constitution of the United States and the state of California?"

Budget time

At a budget hearing during the council meeting, the council's Budget Oversight Committee will present its recommendations to the council regarding the proposed 2006 city budget. The city's fiscal year begins Oct. 1.

The city manager has proposed more than $20 million in cuts in the proposed budget.

The council is also expected to hear a report from Police Chief Anthony Batts on a plan to hire more police officers. Batts has

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said he will recommend that the city increase its police force by a minimum of 37 officers to a maximum of 309 officers.

Although a funding source for those officers has not been identified, the city is considering a potential ballot measure in April that could pay for the personnel.

Cap removed?

Also Tuesday, the council will consider rescinding an earlier action to approve all Redevelopment Agency spending of $1 million or more.

Over the past year, council members have been at battle with each other over who should control redevelopment.

RDA Board members have argued that the proposed cap effectively places another level of bureaucracy in the redevelopment process, further slowing a process that many complain is already burdensome.

Report bonanza

Meanwhile, city staffers could be busy in coming weeks if the council approves a slew of proposed reports on Tuesday.

Those requests include:

* A report on installing and operating downtown surveillance cameras to prevent and fight crime. The Redevelopment Agency recently approved $400,000 to purchase cameras, contingent on the city agreeing to operate and monitor the devices. The Downtown Long Beach Associates has also agreed to contribute $75,000 toward the effort. Lowenthal, Uranga and Councilwoman Rae Gabelich will request the report;

* A survey listing all buildings or structures in Long Beach that might be considered culturally or historically significant. Lowenthal, who is requesting the review, will also request that the Planning and Building Department develop a process to identify such properties before issuing permits for projects to replace them; and

* A survey listing all solar-powered buildings and projects in the city and a report on solar energy grants that the city has or is pursuing. Colonna will request the item to explore ways that the city can expand its solar energy use.

HOMELAND RESPONSE:

Anti-terrorism Program's Shortfalls May Hurt Safety (WT)

By Jerry Seper

The Washington Times, September 6, 2005

An airline anti-terrorism screening plan may not be able to tell the Department of Homeland Security how many passenger records are being screened or project the number of terrorist-watch-list "hits" to be sent to the nation's Terrorist Screening Center (TSC), according to a report.

The Justice Department's Office of Inspector General said the program shortfalls, found in a lengthy audit, have hurt the TSC's ability to plan its role in the government's new "Secure Flight" program, an initiative to let the Transportation Security Administration (TSA) compare the names of commercial airline passengers with TSC's consolidated terrorist watch list.

Secure Flight has been described as a critical part of Homeland Security's overall layered strategy to secure the nation's commercial air transportation system.

The system will compare data provided to airlines with information provided by companies that collect personal data for marketing and credit scoring, and then match it with terrorist watch lists.

Privacy advocates have challenged the program, criticizing attempts to use personal information to determine who can board aircraft. Some lawmakers questioned its effectiveness after high-profile colleagues were flagged for secondary screening, including Sen. Edward M. Kennedy, Massachusetts Democrat.

TSC is a multiagency effort administered by the FBI whose mission is to consolidate terrorist watch lists and provide available 24/7 responses for screening people against the list.

Inspector General Glenn A. Fine said that while the TSC had made "significant progress" in preparing for Secure Flight, neither it nor the TSA knows how many passenger records will be screened and cannot project how many watch-list "hits" it will forward.

Mr. Fine said the Secure Flight program likely would affect the TSC's space, staffing and funding needs and had delayed other TSC projects. But, he said, the TSC could not adequately estimate the cost of new programs that increase its range of operations, such as Secure Flight.

"Implementing the Secure Flight program requires substantial, cross-cutting modifications and enhancements to the TSC's infrastructure," Mr. Fine said, adding that TSC officials could not easily distinguish Secure Flight funding needs from those needed for unrelated system enhancements.

"We found that the TSC is attempting to plan for a program that has several major undefined parameters," Mr. Fine said.

"Specifically, the TSC does not know when Secure Flight will start, the volume of inquiries expected and the resulting number of resources required to respond, the quality of data it will have to analyze," he said.

The Inspector General's Office made five recommendations to the TSC to help it support the Secure Flight program, including enhancing the organization's budget formulation and execution capabilities and re-examining the Secure Flight resource estimates as soon as the program is implemented and workload figures established.

Mr. Fine said the TSC agreed with the report's findings and recommendations and would take the necessary action.

U.S. Muslims Craft Outreach Programs (WSJ)

By Suzanne Sataline

The Wall Street Journal, September 6, 2005

Calling the terrorist attacks on London a wake-up call, Muslim-American organizations have launched a number of programs that are designed, in part, to prevent or root out disgruntled Muslims who might be tempted to use their religion to justify violence.

The Islamic Society of North America plans to distribute tens of thousands of pamphlets at mosques and cultural centers that spell out the Quran's injunctions against violence.

Another broad-based organization, the Muslim Public Affairs Council, is expanding its program to teach local mosques to partner with local communities and law enforcement.

Muslim groups announced or publicized their efforts at the Islamic Society's annual convention, which drew an estimated 40,000 people to Rosemont, Ill., this weekend. The groups stressed ways for Muslims to gain more acceptance and to combat suspicion in the U.S.

"It really was the profile of the bombers in England that shocked everyone and made all of us really disturbed," said Ingrid Mattson, the Islamic Society's vice president. The British bombers were mostly the sons of immigrants isolated in poor enclaves. Though their lives were different from the middle-class world of most Muslim Americans, "it made a lot of people afraid," Ms. Mattson added.

Muslim leaders at the convention were quick to say the campaigns don't reflect philosophical changes, nor are they meant as apologies for terrorist acts. The conference carried a theme that U.S. Muslims must become more transparent and emphatic about their beliefs and intentions if they are to melt domestic distrust.

The London attacks also prompted a number of U.S. Muslim organizations to issue a fatwa -- an Islamic legal ruling -- in July, denouncing the violence.

"As Muslims, we must face up to our responsibility to clarify and advocate a faith-based, righteous and moral position with regard to this problem, especially when terrorist acts are perpetrated in the name of Islam," according to the pamphlet set for distribution by the Islamic Society.

Last month, the Muslim Public Affairs Council started the Muslim-American Project on 37 college campuses. It is an effort to teach Muslim college students that they are part of U.S. society and to guide them in participating in civic activities, such as elections, said Ahmed Younis, national director of the council, which has offices in Los Angeles and Washington. The council plans to add 20 mosques to the project, which is designed to teach mosque leaders transparency and the benefits of civic involvement.

Since May 2004, council officials have traveled to Muslim centers across the country, prompting Muslim leaders to work with local police and federal investigators who may be watching for terrorist cells.

Maha ElGenaidi, founder of Islamic Networks Group, a nonprofit education effort in San Jose, Calif., told those who attended the conference of many ways they could become more welcome Americans, such as "attend your children's school events. It's good for other parents to see you there, as well," she said.

Pentagon Pressed For 9/11 Answers (WT)

By Shaun Waterman, United Press International

The Washington Times, September 5, 2005

Members of the September 11 commission think they have been left swinging in the wind by the growing revelations about a secret Pentagon program that may have identified the ringleader of the hijackings as an al Qaeda operative more than a year before the attacks.

"Other people have questions they need to answer," said Al Felzenberg, spokesman for the commission's embattled successor body, the 9/11 Public Discourse Project.

"The American people deserve answers," Mr. Felzenberg said, adding that both the White House and the Pentagon had left questions about the issue unresolved for weeks -- something other commission sources say has exposed them to a fierce backlash.

"They are sitting on their hands and we are swinging in the wind," one former commission official said.

Others, including Rep. Peter Hoekstra, Michigan Republican and chairman of the House Permanent Select Committee on Intelligence, say the commission is merely getting "a little bit of its own medicine," being second-guessed in hindsight, as it judged the actions of officials before September 11.

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"In hindsight it is always easy to see people's mistakes," he said. "You have to be sympathetic to people in hindsight. More sympathetic than they were."

At the center of the controversy are claims that the secret project, code-named Able Danger, in 2000 produced a chart bearing the names -- and in some people's recollections, photographs -- of about 60 people thought linked to al Qaeda. Among the names was that of Mohamed Atta, the ringleader of the attacks.

If the claims turn out to be true, it will entail a major rewrite of the commission's accounts of the missed opportunities to thwart the attacks.

Rep. Curt Weldon, Pennsylvania Republican and a passionate advocate of data-mining technology, and the man who first publicized the claims about Able Danger, has said repeatedly that he gave a copy of the chart to Stephen J. Hadley, now the national security adviser, at the White House on Sept. 25, 2001, and that Mr. Hadley said he would show it to the president.

The White House has refused to comment on the claims or provide Mr. Hadley for an interview with reporters.

"It would be helpful if Mr. Hadley would answer those questions," Mr. Felzenberg said. "He could make this whole thing go away."

Two persons associated with the project have come forward to say they told commission staff about the project and its identification of Atta -- touching off a firestorm of criticism of the commission, including accusations from some victims' relatives of a cover-up.

Commission staff say that, in the absence of any corroboration, they did not believe the accounts they received.

"We had 2½ million pieces of paper we'd crowbarred out of the administration," said Mr. Felzenberg. "We'd interviewed 1,200 people. ... It was [their] story stacked up against these mountains of material -- none of which mentioned Atta before September 11 or this famous chart."

The Pentagon said last week that it had searched millions of documents, including many not turned over to the commission, but had found neither the chart nor any reference to it.

Covering All The Bases (LEGALT)

By Vanessa Blum, Legal Times

Legal Times, September 5, 2005

If any lawyer knows the Department of Homeland Security inside and out, it's Philip Perry.

Three years ago, as a senior White House lawyer, Perry helped create the new department. Later, as a partner at Washington's Latham & Watkins, he actively lobbied the DHS on behalf of two Fortune 500 companies. Then, about three months ago, the 41-year-old completed the circle, joining the agency as its general counsel.

In many ways, Perry is following Washington's most common career path. Lawyers in the capital have always swung between the federal government and law firms. But if you want to get off on the right foot with Perry, you better not refer to that flight pattern as the "revolving door."

"The term 'revolving door' implies people going in and out of government in order to obtain monetary gain," Perry says. "The reason people go into government is to serve their country. It's not appropriate to describe that as a revolving door."

Perry, who is married to Vice President Dick Cheney's oldest daughter, Elizabeth, has held three jobs in the Bush administration. In his current post—the first to require Senate confirmation—Perry oversees roughly 1,500 lawyers. In addition to its usual portfolio, his office is now handling legal aspects of the government's response to the devastation caused by Hurricane Katrina. And, in fact, Perry canceled a planned Labor Day weekend fishing excursion with his father-in-law to deal with the crisis.

Perry's work ethic seems to match that of his notoriously intense boss, Homeland Security Secretary Michael Chertoff. During August, when much of official Washington tends to dawdle, Perry pushed his staff to complete work on 30 separate regulations.

Whether it matters to him or not, mastering the workings of the DHS is almost certain to open doors for Perry when he returns to the private sector. But Perry can also catalog the sacrifices involved in government service. As a partner at Latham, he pulled in more than $700,000. At the DHS, he makes about $140,000—a salary cut of at least 80 percent.

Perry first met Chertoff roughly 10 years ago, when both worked at Latham. DHS Chief of Staff John Wood says that the two lawyers have a similar temperament. "They're both extremely bright and have very quick minds that can focus intensely on a problem until they come up with a solution."

Perry's wife, Elizabeth Cheney Perry, is the State Department's No. 2 diplomat in the Middle East. The couple have four children: 11-year-old Katherine, 7-year-old Elizabeth, 5-year-old Grace, and 1-year-old Philip. In both the 2000 and 2004 campaigns, the couple led Cheney's preparation for the vice presidential debate, with Perry sometimes playing the part of the moderator.

Republican political consultant Mary Matalin was part of Cheney's debate prep team. She describes Perry as "very, very, very strategic."

"Asking questions is as hard and as important as coming up with answers," Matalin says. "You could tell he was always thinking on multiple levels."

PUBLIC PLATFORM

Perry's progression through the private and public sectors has a similarly strategic feel.

After George W. Bush took office in January 2001, Perry went almost overnight from being a junior partner at Latham to taking the No. 3 post at the Justice Department. Lawyers who worked with Perry at Main Justice say he was known for his dry sense of humor, which would come out when he briefed the group on important civil cases.

After the Sept. 11, 2001, terrorist attacks, Perry worked with a small team of lawyers who were developing a framework for the September 11th Victim Compensation Fund, overseen by mediator Kenneth Feinberg. In his new book, What Is Life Worth?, Feinberg calls Perry an "unsung hero."

According to Feinberg, it was Perry who settled the issue of which family members would be able to receive compensation from the fund—a detail not addressed by Congress. Perry suggested that in the 80 percent of cases where the victim left no will, the proper beneficiaries should be determined under the inheritance laws of the victim's state.

"The solution was brilliant in its simplicity," Feinberg says. "Any other approach would have had us acting as family counselors trying to determine who should receive compensation."

In early 2002, Perry left the Justice Department to become general counsel of the highly influential White House Office of Management and Budget. The appointment, which requires no Senate approval, placed Perry at the hub of executive branch rule-making. It allowed him to get deeply involved in a broad range of policy issues and to ensure that agencies developed regulations consistent with the views of the White House. "Industry knows they can knock on OMB's door and effectively lobby the White House," says Robert Shull, who monitors the agency at OMB Watch.

One of Perry's projects at the OMB was to work on the president's proposal for a new Department of Homeland Security and to lay the groundwork for implementation of the Safety Act—a measure that protects government contractors from being sued in the event of a terrorist attack.

"Phil was one of those can-do lawyers," says General Electric Co. top lobbyist Nancy Dorn, the OMB's former deputy director. "As opposed to giving you 150 reasons you can't do something, he would tell you how you can do it. And how to do it right. And usually how to do it quickly."

PRIVATE LESSONS

When Perry returned to Latham in September 2003, he brought with him an enhanced understanding of how government regulations are developed and written, and how they can be most effectively defended in court. On the flip side, he also knew how corporate clients could most effectively attack such regulations through lobbying and litigation.

"When Phil came back, he wasn't the junior partner anymore," says Everett "Kip" Johnson Jr., a partner in Latham's Washington office. "He came back with a much broader perspective of how government works, how government views things and approaches cases."

While at Latham, Perry lobbied the DHS on behalf of government contractors General Electric and Lockheed Martin Corp. As a result of that work, Perry says he has recused himself from all specific matters involving the two companies. According to Senate lobby registrations, Lockheed paid Latham roughly $140,000 for Perry's work. The firm did not file a disclosure form for Perry's representation of General Electric, indicating that lobbying work constituted less than 20 percent of his services to the company.

But Perry says that nothing in the government ethics laws bars him from working on DHS regulations that might affect his former clients, because regulations involve issues of general policy, not particular cases or controversies.

Perry's lobbying work for GE and Lockheed involved applications for liability protection filed under the Safety Act. Perry has made no secret of the fact that he would like to adjust that application process to make it less burdensome on business.

He says encouraging private industry to develop counterterrorism technologies by cutting red tape makes sense for the country.

"We shouldn't just be sitting back and taking applications from people," Perry says. "We should be using it as a tool to encourage industry to come up with the technologies that will help protect the country."

FAMILY FOCUS

Perry was born in 1964, in San Diego, Calif. His family moved to Palo Alto when his father, a naval officer, went to Stanford University to earn an advanced degree in economics. After graduating from high school in the San Francisco suburb of Orinda, Perry attended Colorado College.

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Colorado College was also the alma mater of Dick Cheney's wife, Lynne, and daughters Elizabeth and Mary, but Perry didn't meet Elizabeth until 1991, at an alumni happy hour in Washington, D.C. By that time he had a law degree from Cornell University and was working as an associate in the D.C. office of Squire, Sanders & Dempsey. The couple were married in 1993.

While his new wife attended law school at the University of Chicago, Perry spent three years in the Chicago office of Latham & Watkins. The couple moved back to Washington in 1996, and Perry transferred into Latham's D.C. office. In 1997, Perry took a year off to work on the Senate probe into campaign finance abuses during the 1996 campaign.

At the time, Perry's father-in-law was the chief executive officer of Halliburton Inc. and a former secretary of defense. Still, it was not a subject Perry spoke about, says friend Gus Puryear IV, who met Perry while working on the investigation.

"For the longest time I didn't know the Cheneys were his in-laws," says Puryear, now general counsel of Nashville's Corrections Corp. of America. "I don't think it ever came up until I actually met Liz."

No matter how Perry handles his relationship with Cheney, he will probably always face critics who believe he got where he is because of his father-in-law. After Perry was nominated to the DHS post in April 2005, the Toledo Blade ran an editorial blasting the pick as "a pure form of nepotism."

While Perry concedes that he has had opportunities because of the family he married into, he says he has succeeded through hard work. Friends like Puryear maintain that any suggestion to the contrary is unfair to Perry.

"He's all substance," Puryear says. "If you look at the roles he's taken on, they're not glamour roles. He's taking on get-in-the-trenches, do-the-work roles."

Shull of OMB Watch says nepotism is beside the point. He says the Bush administration demands such loyalty from political appointees that they all seem to form one collective brood: "You almost don't even need family ties in this administration."

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WAR NEWS:

U.S. Troops Cordon Part Of Iraqi Town To Trap Insurgents (WP)

By Jonathan Finer, Washington Post Foreign Service

The Washington Post, September 5, 2005

TALL AFAR, Iraq, Sept. 4 -- Under the cover of a moonless night, U.S. soldiers on Sunday strung nearly a mile of razor-sharp concertina wire across the northern edge of a neighborhood dominated by insurgents to prevent them from fleeing without a showdown.

Several small teams of five or six troops quickly uncoiled spools of wire and fastened it along the deserted sidewalk of a broad thoroughfare. The cordon was intended to prevent insurgents from blending in with the hundreds of people who fled the city during heavy clashes Sunday.

"The idea is to trap them in Sarai or force them toward our checkpoints to the south," said Col. H.R. McMaster, commander of the Army's 3rd Armored Cavalry Regiment, referring to the neighborhood that U.S. forces believe has served as a launching point for many attacks in the city. "We don't want them to slip out."

More than 5,000 U.S. and Iraqi soldiers entered Tall Afar on Friday in a broad sweep for insurgents who have held sway in the northern city since a previous U.S. invasion, and subsequent withdrawal, last September. In three days of fighting, as many as 200 insurgents have been killed, McMaster said. Two U.S. and four Iraqi soldiers have been wounded, none seriously.

The assault in Tall Afar, considered a transit point and logistics hub for insurgents operating across northern Iraq, is the largest on an Iraqi city since the invasion of Fallujah in November. Commanders say they believe that perhaps a few hundred insurgents remain in the city, but acknowledge that they do not know the exact number. Other than in Fallujah, where entrenched fighters battled advancing U.S. troops, most assaults on Iraqi cities have met little resistance, as insurgents have fled to surrounding areas or blended into the local population.

Soldiers here are hoping to prevent that from happening by converging from all directions on Sarai, the commanders say. Weeks before the invasion, the troops set up checkpoints on the roads to town and built an 80-mile berm around the city to stop vehicles from leaving.

About 500 people attempted to leave the city this weekend through the U.S.-manned checkpoints. At least one man suspected of kidnapping and beheading several residents in recent weeks was apprehended when he tried to leave the city with a group of children, McMaster said. When soldiers interviewed the children, they said they did not know the man but went with him because they had been threatened.

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A cacophony of gunfire and explosions filled the air around Tall Afar on Sunday, the heaviest day of fighting since the invasion began. Soldiers continued methodically searching homes and questioning residents, frequently coming under small-arms fire that whistled overhead as they passed from house to house or leapt across gaps between rooftops.

Much of the shooting came from a series of deep, grooved valleys that divide the city. The valleys, dipping as low as 40 feet below street level, allow insurgents to stash weapons and move undetected. Soldiers have found large caches of explosives in the valleys and begun firing warning shots when they spot men of military age descending into them.

"With the geography and the buildings so close together, it's a complex terrain to fight in," said Capt. Noah Hanners, 26, of Chillicothe, Ohio, commander of the 3rd Armored Cavalry Regiment's Blue Platoon, Eagle Troop, 2nd Squadron, which cleared several homes along the edge of a valley northeast of downtown Sunday.

Just after 9 a.m., Hanners's platoon used a sledgehammer to knock down the door of a two-story house made of large stone blocks. A woman wearing a purple abaya , or full-length cloak, and holding a baby ran toward them. "Already my husband is dead and you are breaking my house!" she shouted.

When shots rang out in the streets, she clutched her baby close to her chest. As a series of explosions grew closer, she sat down, rocked her baby and began to cry.

"Um, that's close. Very close," said Pfc. Hector Rodriguez, 20, of Buffalo, after an explosion rattled the windows.

Soldiers scrambled to set up shooting positions on the roof.

"We are receiving sniper fire," a voice over the platoon's radio said.

"Where from?" someone answered. No one knew. The platoon's machine gunner began shooting staccato bursts into the valley from the next roof.

"Who is that shooting?" Hanners asked over the radio.

"Blue saw team, we saw muzzle flashes from the south," came the response.

Another call over the radio said a Tall Afar resident working with the Army had identified an arms dealer in a house across the street. The soldiers gave the woman with the baby a voucher for $300 to repair her gate, redeemable at a nearby military base, and dashed next door.

By the time they reached that house, the suspected arms dealer and two other men had already been handcuffed and blindfolded by other members of the platoon.

"This is my nephew. He does not even live here," a woman in the house said as the men were led away.

"He was identified. That's what you get for selling weapons," a soldier said.

The soldiers continued to the last house on the block. They herded a family of nine into a living room and searched their belongings. A drawer of silverware crashed to the floor, startling the children.

"I am scared. We are all scared, but what are we supposed to do?" said the father, Shimsdain Muhammed, 40, an electrician, according to an account of his remarks provided by a military interpreter traveling with the unit. Muhammed told his children to wave and smile at the soldiers, who responded in kind. "I cannot tell them to leave, so we will do the best we can."

Suddenly, an explosion outside shattered the windows of the house, eliciting screams and confusion. It turned out to be a passing U.S. M1-A1 Abrams tank firing its main gun into the valley.

"This place is too much," another soldier said later, recounting the story to a friend.

Elsewhere Sunday in Tall Afar, an Iraqi army unit freed 35 hostages held in a house south of downtown, according to Maj. Gen. Khorsheed Salim, commander of the army's 3rd Division, which is heavily involved in the operation.

Soldiers in the western part of the city found a laboratory rigged with explosives, McMaster said. The lab also contained a chemical that burned the troops' throats and eyes when they entered. The Army is trying to identify the substance.

[Early Monday, as many as 30 gunmen in 10 cars opened fire on Iraq's Interior Ministry, killing two policemen and wounding five, the Reuters news agency reported.

An Interior Ministry official said gunmen used rocket-propelled grenades, mortars and automatic rifles in the attack.]

Iraq Sets Date For Saddam Trial Next Month (FT)

By Steve Negus, Iraq Correspondent

Financial Times, September 5, 2005

Saddam Hussein, the former Iraqi president, would go on trial on October 19 on charges related to the repression of Shia in a central Iraqi town in 1982, an Iraqi government spokesman said on Sunday.

The spokesman was subsequently quoted as saying that Mr Hussein could be executed shortly after his trial - possibly raising objections from the Kurds and other groups anxious to see crimes against their communities brought to trial.

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"In view of recent leaks to the press and in the absence of an official spokesman for the tribunal, I have been authorised to announce that the trial of Saddam Hussein will begin on October 19," Laith Kubba, the prime ministerial spokesman, told a news conference.

The deposed leader's co-defendants would include Barzan Ibrahim, his half-brother and then-chief of intelligence, Taha Yassin Ramadan, former vice-president, former top judge Awad Badar Al-Bandar, and four former local members of the ruling Ba'ath party, Mr Kubba said.

The trial will open four days after an October 15 referendum on >Iraq's newly drafted constitution, although Mr Kubba said there was no relation between the two dates.

The charges relate to the aftermath of a 1982 attempt to assassinate the former president in the predominantly Shia town of Dujail, after which Mr Hussein's followers are said to have embarked on a campaign of collective punishment against the town in which hundreds were executed.

The defendants could receive the recently reinstated death penalty for their role in the repression.

The Iraqi special tribunal in charge of trying former regime officials has divided the charges against Mr Hussein and his associates into a dozen cases covering specific places and periods of time.

Iraqi officials have indicated that the Dujail case would be among the first as the scale is relatively limited and the case less complex than larger-scale killings such as the 1987-88 Anfal campaign against the Kurds and the repression of the 1991 intifada.

Mr Kubba was quoted by AFP as saying the sentence "will be implemented immediately . . . He could be executed after the first round."

This raises a possible conflict of interest between Shia parties, many of which want quick justice, and Kurds, many of whom want a drawn-out process to publicise the extent of their persecution under the former regime. Many Kurds cite waves of persecution such as the Anfal campaign, in which they claim some 182,000 people were killed, as a key argument behind their demands for independence.

Mr Hussein's defence team is expected to contest the tribunal's competence to try a former head of state in a case likely to last about a month.

The news came as Iraqi hospital sources announced a third day of fighting in the north-western town of Tal Afar, an alleged transit route for insurgents near Syria.

Hussein Trial In '82 Deaths Set To Begin Next Month (NYT)

By Richard A. Oppel Jr.

The New York Times, September 5, 2005

BAGHDAD, Iraq, Sept. 4 - The trial of Saddam Hussein will begin in six weeks, the government said Sunday, when he and seven aides face a special tribunal on charges of massacring almost 150 residents from the town of Dujail, the scene of a failed assassination attempt against Mr. Hussein 23 years ago.

Laith Kubba, a spokesman for the prime minister, Ibrahim al-Jaafari, said the trial would begin Oct. 19, four days after a national vote on a proposed new constitution. The trial raises the possibility that Mr. Hussein, who faces the death penalty if convicted, could be hanged within months.

Four days ago, Iraq carried out its first court-ordered execution since the fall of Mr. Hussein's government, hanging three people convicted in May in the southern city of Kut of rapes and killings.

Great efforts will be made to "ensure the transparency of the trial" of Mr. Hussein, Mr. Kubba said at a news conference.

"We should view this trial as a national event, and not just as a trial for Saddam on the killings he committed," he said.

Mr. Kubba said Mr. Hussein would be tried with seven associates, including Barzan Ibrahim, a half-brother of Mr. Hussein and a former top official of the Mukhabarat secret police, and Taha Yassin, who was vice chairman of the Baath Party's Revolutionary Command Council. The charges stem from the killing of 143 people and the imprisonment of hundreds of families after the assassination attempt in Dujail on July 8, 1982, he said.

After the failed attack on Mr. Hussein, Iraqi officials executed men and boys from Dujail, a largely Shiite town 35 miles north of Baghdad. Investigators for the special tribunal that will try Mr. Hussein have said another 1,500 Dujail residents were later ordered incarcerated in a prison in a desolate stretch of desert near the Saudi Arabian border.

One of the lawyers for Mr. Hussein's family contended Sunday that a trial so soon would give too little time to prepare an adequate defense, and he said he doubted that the trial would start by Oct. 19.

In an interview with The Associated Press, the lawyer, Abdel Haq Alani, said the trial date was the "wish of the ruling group in the Green Zone, but certainly not the court" - an allusion to the Iraqi government leaders who live in the heavily fortified compound in central Baghdad.

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"We haven't been served an official notice about the date of trial," Mr. Alani told The A.P. "It was only a statement made by an Iraqi government official to the media, which absolutely has no value in the law."

The United States military said 13 insurgents were killed in heavy fighting on Sunday in the city of Tal Afar in northwestern Iraq, as troops from the Third Armored Cavalry Regiment continued efforts begun in May to take control of the city, where insurgents have controlled many neighborhoods since late last year.

Seven of the insurgents were killed by American helicopter fire after American troops were attacked with rocket-propelled grenades and machine guns fired from a mosque in Tal Afar, the military said.

Iraq to Reopen Embassy in Kuwait

CAIRO, Sept. 4 (AP) - Iraq plans to reopen its embassy in Kuwait within weeks, for the first time since it closed after Saddam Hussein ordered the invasion of Kuwait in 1990, Hoshyar Zebari, the Iraqi foreign minister, said Sunday.

"We reached the final agreement with the Kuwaiti government to resume our diplomatic activities and we will reopen our embassy within the few coming weeks," he said by telephone from Baghdad.

Asked if Kuwait would reopen its embassy in Baghdad in return, Mr. Zebari said the issue "is left to the Kuwaiti government itself and its estimation about the situation in Iraq."

Iraq and Kuwait have been working to normalize ties since the American-led invasion in 2003 that toppled Saddam Hussein.

Iraq May Forgo Multiple Trials If Hussein Is Convicted In First (WP)

By Ellen Knickmeyer, Washington Post Foreign Service

The Washington Post, September 5, 2005

BAGHDAD, Sept. 4 -- The Iraqi government is considering waiving further proceedings against former president Saddam Hussein if he is convicted at his trial on charges stemming from the massacre of 143 Shiite Muslims in 1982, a senior spokesman said Sunday.

Hussein could face execution in that case. The trial is scheduled to begin Oct. 19.

The former president had been expected to face a dozen or more proceedings for alleged crimes committed by his government. But Laith Kubba, spokesman for interim Prime Minister Ibrahim Jafari, said Sunday that if Hussein is convicted in the first case, any sentence is likely to be carried out as swiftly as possible.

"My guess is if the court passes judgment, it should be implemented without further delay," Kubba said. He added that it was not possible to forecast how long the trial would last.

The case concerns the aftermath of an attempt to assassinate Hussein in the northern town of Dujail in 1982. The government retaliated for the plot by killing at least 143 people and razing much of the town, the interim government says.

The Shiite-led interim government is believed to have chosen the case in part because of its narrow focus and the possibility of tracing the killings back to Hussein. Other accusations against him, including state-orchestrated massacres of thousands of Kurds and Shiites, are much broader.

"The charges against Saddam are so many. Regardless of how many years he is going to live, the charges and trials would not end," Kubba told reporters at a news conference.

Kubba said seven members of Hussein's government would face trial with him. They include Barazan Ibrahim, a former intelligence chief and Hussein's half brother; former vice president Taha Yassin Ramadan; and Awad Hamed Bandar, a former Baath Party official in Dujail.

Iraq's U.S.-led interim administration suspended capital punishment in 2003. But the country's interim leaders made reinstating it a priority and recently carried out the country's first executions in the post-Hussein era by hanging three men convicted of murder, kidnapping and rape.

Also Sunday, members of the Shiite-dominated interim National Assembly criticized Arab governments for what they said was a lackluster response to a stampede Wednesday in Baghdad that left hundreds of Shiite pilgrims dead.

The pilgrims were headed to a shrine and had crowded a bridge over the Tigris River when panic broke out. The official death toll from the incident stands at 1,005, the Reuters news service reported Sunday.

Shiite lawmakers contrasted the Arab world's response to the stampede with its offers of aid for victims of Hurricane Katrina in the United States.

"Why would Spain and other countries send us their condolences while these so-called Arab countries did not even say a word?" said Jalaladeen Sagheer, a cleric and leading lawmaker. He added that, in any case, words of sympathy from Arab states would be hollow.

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Relations between Iraq and the Arab world have been edgy recently, particularly since the 22-member Arab League faulted the interim government for failing to specifically refer to Iraq as part of the Arab world in the country's draft constitution, which was submitted last month.

On Sunday, negotiators continued to work on a compromise over that designation.

Separately, Iraq's interim foreign minister, Hoshyar Zebari, told the Associated Press that Iraq intended to open its embassy in Kuwait in coming weeks for the first time since Hussein ordered the 1990 Kuwait invasion.

Asked whether Kuwait would reopen its embassy in Baghdad, Zebari said that decision would be "left to the Kuwaiti government itself and its estimation about the situation in Iraq."

Insurgents Assert Control Over Town Near Syrian Border (WP)

By Ellen Knickmeyer And Jonathan Finer

The Washington Post, September 6, 2005

BAGHDAD, Sept. 5 -- Fighters loyal to militant leader Abu Musab Zarqawi asserted control over the key Iraqi border town of Qaim on Monday, killing U.S. collaborators and enforcing strict Islamic law, according to tribal members, officials, residents and others in the town and nearby villages.

Residents said the foreign-led fighters controlled by Zarqawi, a Jordanian, apparently had been exerting authority in the town, within two miles of the Syrian border, since at least the start of the weekend. A sign posted at an entrance to the town declared, "Welcome to the Islamic Republic of Qaim."

In other developments Monday, the U.S. Army warned noncombatants to leave a portion of the northeastern city of Tall Afar ahead of an expected assault on an insurgent stronghold there. Car bombs and other political violence around Iraq killed at least 33 Iraqi civilians and security force members. A U.S. soldier and two British troops also were killed, officials said.

The report from Qaim, about 200 miles west of Baghdad, marked one of insurgents' boldest moves in their cat-and-mouse duels with U.S. Marines along the Euphrates River. U.S. forces have described border towns in the area as a funnel for foreign fighters, arms and money into Iraq from Syria.

Insurgents have occasionally made similar shows of force, such as the takeover of a Baghdad neighborhood for a few hours late last month by dozens of gunmen. They then slipped away, having made the point that they can muster men as well as plant bombs. The weekend takeover of Qaim extended already heavy insurgent pressure on the people there and came after the U.S. military said it had inflicted heavy bombing losses on foreign-led fighters.

Marines conducted heavy airstrikes in the past week on suspected insurgent safe houses in the area. Ground fighting has also been reported between Zarqawi's group and Sunni Arab tribes more open to the Iraqi government and U.S. military.

Capt. Jeffrey Pool, a Marine spokesman in Ramadi, capital of the western province that includes Qaim, said he had no word of unusual activity in Qaim. Marines are stationed just outside the town, and no Iraqi government forces are posted inside, Pool said.

Witnesses in Qaim said Zarqawi's fighters were killing officials and civilians whom they consider to be allied with the Iraqi and U.S. governments or anti-Islamic. On Sunday, the bullet-riddled body of a young woman dressed in her nightclothes lay in a street of Qaim. A sign left on her corpse declared, "A prostitute who was punished."

Zarqawi's fighters have shot and killed nine men in public executions in the city center since the start of the weekend, accusing the men of being collaborators with U.S. forces, said Sheik Nawaf Mahallawi, a leader of the Albu Mahal, a Sunni Arab tribe that had clashed earlier with the foreign fighters.

Dozens of families were fleeing Qaim every day, Mahallawi said.

For local fighters now, "it would be insane to attack Zarqawi's people, even to shoot one bullet at them," the tribal leader said. "We hope the U.S. forces end this in the coming days. We want the city to go back to its normal situation."

Many of the towns along the river have been subject to domination by foreign-led fighters, despite repeated Marine offensives in the area since May. Residents and Marines have described insurgents escaping ahead of such drives, and returning when the offensives end.

The U.S. attacks are credited with helping disrupt insurgent networks and reducing the number of car bombings and suicide attacks in the rest of Iraq.

U.S. and Iraqi officials in recent weeks have welcomed reports of local Sunni Arabs challenging the presence of foreign fighters. But the accounts from Qaim indicated a setback.

The Albu Mahal tribe remained in control of its village outside Qaim, residents said. However, a car bomb placed by Zarqawi's fighters killed a tribal leader, Dhyad Ahmed, and his son on Sunday, said a resident, Mijbil Saied.

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Fighters loyal to Zarqawi openly patrolled the streets of Qaim with AK-47 assault rifles and grenade launchers. The fighters included both Iraqis and foreigners, including Afghans. They draped rooftops with Zarqawi's al Qaeda in Iraq banner of a yellow sun against a black background.

Residents said insurgents in recent weeks had begun enforcing strict Islamic law, burning shops that sold CDs and a beauty parlor, and lashing men accused of drinking alcohol. They said Zarqawi's fighters were killing government workers but had spared doctors and teachers.

Karim Hammad Karbouli, 46, said he had stood among small crowds of nervous residents watching the insurgents, waiting Sunday for his brother to come with a pickup truck so they could load up his household and leave. Karbouli said he feared both Zarqawi's fighters and U.S. bombs.

The director of the town's hospital has ordered patients to leave the facility, said Muhammed Ismail, a physician at the hospital. Zarqawi's fighters had taken control of the hospital, and the director feared it would come under U.S. attack, Ismail said.

In Tall Afar, U.S. and Iraqi soldiers entered the fourth day of an offensive against insurgents who have controlled large sections of the city for nearly a year. On Monday night, soldiers dropped leaflets from helicopters in the eastern neighborhood of Sarai, where commanders believe insurgents are entrenched, warning noncombatants to evacuate the area.

About 5,000 soldiers from the Army's 3rd Armored Reconnaissance Regiment and the Iraqi army's 3rd Division continued advancing toward Sarai from all directions, searching homes, confiscating weapons and interrogating residents.

Early Monday morning, six members of an elite U.S. special operations unit were wounded in what was to have been a raid on the home of a suspected insurgent leader, according to U.S. commanders. Members of the unit, which is charged with searching for high-level insurgents, and the Army in Tall Afar would not provide details.

Tall Afar, a city of more than 200,000 about 40 miles from the Syrian border, is considered a logistical hub for insurgents operating across the country.

A roadside bomb killed one soldier in the 3rd Armored Cavalry Regiment in Tall Afar on Monday, and two British troops were reported killed by another roadside bomb in southern Iraq.

In Baghdad, insurgents launched a dawn attack on the Interior Ministry, killing two police officers, officials said. Other political violence Monday in Baghdad killed at least 13 civilians, the Associated Press reported.

A roadside bomb and other attacks killed four oil workers associated with a northern oil company in Kirkuk. Insurgents have mounted frequent attacks to disrupt Iraq's oil exports.

Mortar fire hit a residential neighborhood in the central city of Baqubah, killing six civilians, said Ahmed Fouad, a hospital physician. Eight other civilians were killed by a car bomb in the western town of Hit, the AP said.

In ongoing political negotiations, President Jalal Talabani said in a statement that he and the other top Kurdish leader, Massoud Barzani, had agreed to changes in the draft constitution. The changes would ease concerns among Arab countries that the wording of the draft loosened Iraqi ties to the Arab world.

The language at issue describes Iraq as an Islamic -- but not Arab -- country, a concession to non-Arab Kurds, who form about 15 percent of the Iraqi population.

Militants Attack Interior Ministry (USAT/AP)

By Sameer N. Yacoub, The Associated Press

USA Today, September 6, 2005

BAGHDAD — Insurgents launched a daylight assault Monday on Iraq's Interior Ministry. Two police officers were killed and five were injured.

Thunderous explosions and volleys of heavy gunfire rattled downtown Baghdad soon after sunrise as about four carloads of insurgents staged a raid on the Interior Ministry, which is responsible for police and paramilitary units nationwide.

The insurgents, who fired automatic weapons and rocket-propelled grenades, withdrew after about 15 minutes. There was no report of insurgent casualties.

A statement posted Monday on an Islamic website claimed responsibility for the attack in the name of al-Qaeda in Iraq, led by Jordanian Abu Musab al-Zarqawi.

Sunday, al-Qaeda's Iraq wing launched multiple attacks against U.S. and Iraqi targets in Hit, 85 miles west of Baghdad. The U.S. military and Iraqi government said Monday that 12 people, including eight civilians and three suicide bombers, died in Hit.

In Doha, Qatar, U.S. Central Command said U.S. jets launched airstrikes Sunday on insurgent positions near Balad, 50 miles north of Baghdad, dropping two bombs on a suspected insurgent staging area. The statement also said that an Air Force Predator aircraft fired two Hellfire missiles against a mortar firing position near Balad.

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In southern Iraq, two British soldiers died when their armored Land Rover was destroyed by a bomb near Zubeir, a Sunni Arab enclave about 12 miles west of Basra. The deaths brought to 95 the number of British military personnel killed in Iraq.

U.S. and Iraqi officials had hoped Iraq's new constitution, which goes to voters in a referendum Oct. 15, would help lure Sunni Arabs away from the insurgency.

However, Sunni negotiators rejected the draft constitution and vowed to defeat it in the referendum. About 1,500 people, mostly Sunnis, rallied Monday near the Sunni city of Ramadi to protest the document.

Iraq's president said Monday that he and Massood Barzani, head of the Kurdistan Democratic Party, had agreed to changes in the draft constitution to address concerns that wording loosened Iraqi ties to the Arab world. The language at issue describes Iraq as an Islamic — but not Arab country — a concession to the non-Arab Kurds who form about 15% of the Iraqi population.

President Jalal Talabani said he and Barzani agreed "to accept some amendments deemed vital for the Islamic and Arab worlds concerning the Arab League because Iraq is a founding member in the Arab League." Talabani did not specify the changes.

Talabani also expressed frustration that no Arab government has designated an ambassador to Iraq.

Militants Attack Iraq's Interior Ministry (WP/AP)

By Slobodan Lekic, The Associated Press

The Washington Post, September 6, 2005

BAGHDAD, Iraq -- Insurgents launched a daring daylight assault Monday against the Interior Ministry in Baghdad, killing two police in a surge of attacks by al-Qaida's arm in Iraq. Two British soldiers died in a roadside bombing in the south.

U.S. Marines said Monday that al-Qaida in Iraq launched multiple attacks the day before against U.S. and Iraqi targets in Hit, 85 miles west of Baghdad. Eight civilians, an Iraqi soldier and three suicide bombers died in the Hit attacks

Elsewhere, at least eight Iraqi civilians _ including five children _ were killed in fighting Monday in Tal Afar, said Dr. Abdul-Aal Kamal of the northern city's hospital.

There was no report of casualties among the combatants, including the U.S. 3rd Armored Cavalry Regiment, which is trying to wrest control of Tal Afar, 260 miles north of Baghdad, from insurgents and foreign fighters.

However, Iraqi authorities said the bodies of three community leaders who had refused insurgent demands for help were found Monday in the city. Iraqi officers said gunmen swept through the victims' districts over the weekend as fighting around the city escalated.

In Baghdad, thunderous explosions and volleys of heavy gunfire rattled the downtown area soon after sunrise Monday as about four carloads of insurgents staged a lightning raid on the Interior Ministry, which is responsible for police and paramilitary units nationwide.

The insurgents, who fired automatic weapons and rocket-propelled grenades, withdrew after about 15 minutes, leaving two policemen dead and five wounded. There was no report of insurgent casualties.

A statement posted Monday on an Islamic Web site claimed responsibility for the attack in the name of al-Qaida in Iraq, led by Jordanian terror mastermind Abu Musab al-Zarqawi.

U.S. Apache and Black Hawk helicopters flew over central Baghdad after the firefight, and U.S. Army patrols in armored vehicles combed the streets looking for the attackers.

The two British soldiers died when their armored Land Rover was destroyed by a bomb near Zubeir, a Sunni Arab enclave about 12 miles west of Basra.

Elsewhere, Iraqi officials said that al-Qaida-linked foreign fighters had taken control of large areas of a strategic city on the Syrian border after weeks of fighting between an Iraqi tribe that supports the insurgents and one that opposes them.

The officials, speaking on condition of anonymity for fear of reprisal, said much of Qaim, 200 miles west of Baghdad, had been abandoned after weeks of tribal fighting.

U.S. Marines operate around Qaim but have privately complained they don't have enough American or Iraqi forces to secure the area properly.

The attacks in the Hit area began Sunday morning when two suicide car bombs exploded at security barricades on the northwest side of town, a Marine statement said.

Shortly afterward, a vehicle car bomb exploded on the Hit bridge across the Euphrates River, rendering it impassable, the Marines said.

The Marine statement said three insurgents and one Iraqi soldier died in the Sunday attacks. The government in Baghdad said eight civilians also died.

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In Doha, Qatar, the U.S. Central Command said U.S. jets launched airstrikes Sunday on insurgent positions near Balad, 50 miles north of Baghdad, dropping two 500-pound bombs against an insurgent staging area.

The statement also said an Air Force Predator aircraft fired two Hellfire missiles against a mortar firing position near Balad.

Also Monday, gunmen seized one of the sons of the governor of insurgent infested Anbar province, Mamoun Sami Rashid al-Alwani, officials said on condition of anonymity for fear of insurgent reprisal. The abduction occurred in the provincial capital of Ramadi west of Baghdad.

U.S. and Iraqi officials had hoped the new constitution, which goes to the voters in a referendum Oct. 15, would in time help pacify the insurgency by luring Sunni Arabs from the movement.

However, Sunni negotiators rejected the constitution and vowed to defeat it in the referendum. The bitter, protracted negotiations appeared to have raised tensions among the country's ethnic and religious communities.

About 1,500 people, mostly Sunnis, rallied Monday near the Sunni city of Ramadi to protest the draft charter.

On Monday, Iraq's president said he and the other top Kurdish leader had agreed to changes in the draft constitution to mollify concerns among Arab countries that the wording in the charter loosened Iraqi ties to the Arab world.

The language at issue describes Iraq as an Islamic _ but not Arab country _ a concession to the non-Arab Kurds who form about 15 percent of the Iraqi population.

In a statement released by his office, Jalal Talabani said he and Massood Barzani agreed "to accept some amendments deemed vital for the Islamic and Arab worlds concerning the Arab League because Iraq is a founding member in the Arab League."

Talabani did not specify what changes in the language had been agreed to by him and Barzani, head of the Kurdistan Democratic Party.

Some Iraqi officials said last week that the changes could keep the description of Iraq as an Islamic state but add wording about Iraq having been a founding member of the Arab League. Sunni Arab negotiators said at the time that such language might satisfy the Arab League but not them.

As U.S. Tries To Secure An Iraqi Town, Insurgents Respond (NYT)

By Michael Moss

The New York Times, September 6, 2005

FARIS, Iraq - The American military recently moved into this small town 10 miles south of Falluja, one of the most violent locales in Iraq, to secure it for the coming elections, and the insurgents took all of a day to respond. They fired a rocket that missed the Americans and landed instead in a nearby playground, killing a 12-year-old boy and wounding eight other children.

"We were playing football," Ahmed Hamad Ali, also 12, said from his hospital bed the next day. "They made a big bombing."

Some residents are directing their anger not at the insurgents but at the marines, whose arrival, they say, drew the attack.

"They are like two people chasing each other," Baha Abbod, 28, a teacher.

It is hardly an unknown reaction in Iraq, where many civilians have been killed and wounded in cross-fire. But the military is bracing for a surge of situations like this one as American and Iraqi forces race to establish security for the referendum on the new Iraqi constitution to be held on Oct. 15.

"Security preparations in support of the referendum are under way throughout Iraq," said Brig. Gen. Donald Alston, a military spokesman in Baghdad.

The Marine operation was created to re-establish the presence of the Iraqi police in this town and a nearby village, Ameriya, which sits on the Euphrates River south of Falluja. The area is dominated by Sunni Arabs, who have balked at joining the Kurds and most Shiite factions in accepting the proposed constitution.

Faris and Ameriya have been without police officers since February, when the police force collapsed in the face of withering attacks by insurgents, who then used the communities as safe havens from which to mount their attacks, Marine officers said, and to intimidate civilians.

The roads from Falluja to Faris are pockmarked by craters left by makeshift bombs - improvised explosive devices, in military jargon - and on the wall at one checkpoint a scrawl in black paint urges American troops to stay alert: "Someone out there wants to kill you. Are you going to give them the chance?"

A few minutes after driving past the sign, Sgt. Tim Lawson, 24, from Shaver Lake, Calif., swerved his armored Humvee onto the shoulder as he pointed across the road to an upturned chunk of asphalt. "There's a possible I.E.D. there," he said.

Faris started out as a planned community built in the 1980's to house 30,000 engineers and others who worked in nearby munitions factories; those have been converted to construction facilities.

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The marines set up headquarters in an abandoned building here and in a new house in Ameriya. For a few days they worked with no air-conditioning in 115-degree heat, with little running water and exposure to higher buildings nearby. They surrounded their buildings with giant dirt-filled wire mesh containers called Hescos and posted lookouts on the roofs.

A contingent of newly trained Iraqi troops is with the marines, building patrol experience, and they appeared poised and enthusiastic in their new uniforms and American-made body armor.

"Psst," Mustafa Kamil, 24, one of the Iraqi team leaders, said to another soldier as they moved through Ameriya in a staggered formation. "Replace me here, quickly."

He was a soldier in Saddam Hussein's army, earning about $2 a month in dinars, and after a spell cleaning streets during the start of the war, he joined the new Iraqi Army in April of last year. As an officer, he earns more than $300 a month.

He said he worried that the 24 Iraqi soldiers who had arrived in Ameriya would not be able to hold the area when the marines left. Ultimately, the marines say, they want to turn these communities over to the Iraqi police, who may face the greatest danger. Perhaps as a warning, insurgents bombed the empty police station in Ameriya.

The marines say they feel welcome in Faris and Ameriya, compared with the hostility they sensed in some other Iraqi locales where they established camps. Cpl. Brian Andrews, 24, from Austin, Tex., said the townsfolk were "very accepting of the coalition forces, at least to the naked eye."

But the rocket attack, which struck on the last weekend of August, devastated many in Faris.

Younis H. Johan, assistant director of the town's hospital, said the rocket had killed Omar Muaid, 12, whose chest and abdomen had been ripped open by the blast. He died 10 minutes after arriving at the hospital. Eight others were wounded, four of them significantly, Mr. Johan said.

"We had casualties before, but during the last month, when U.S. troops came to the area, there has started to be more," he said. "I expect a rise, pressure on the hospital."

Mr. Abbod, the teacher, says that residents who have family elsewhere will leave until the situation improves, and that even some grim places now seem attractive. His neighbor, he said, has gone to Falluja.

At the town's hospital on Aug. 29 , a Marine captain visited one of the boys wounded in the attack and vowed to find the insurgents who had fired the rocket. But as the boy's father, Qutaiba Fajir, 42, a officer in the Iraqi Army, watched the Marine officer walk from the room, he said, "We hope they leave."

Leader Says Other Arabs Are Insensitive To Iraq's Plight (NYT)

By Robert F. Worth

The New York Times, September 6, 2005

BAGHDAD, Iraq, Sept. 5 - In an unusual public rebuke, President Jalal Talabani angrily criticized other Arab states on Monday, saying they had insulted Iraq by not sending diplomats to Baghdad and had not sent condolence letters about the stampede last week in which almost 1,000 Shiite pilgrims were killed.

Mr. Talabani spoke just after two dozen insurgents staged a brazen dawn raid on the heavily guarded offices of the Interior Ministry in Baghdad, killing two police officers and wounding five. Two British soldiers were also killed by a roadside bomb in southern Iraq.

Speaking at a news conference, Mr. Talabani, a Kurd, amplified complaints by other Iraqi leaders about the Arab states' failure to recognize the stampede, which caused the highest one-day death toll since the American-led invasion. The complaints, aimed at mostly Sunni leaders, hinted at a sectarian bias against Iraq, where Shiites are about 60 percent of the population.

"We stood with our Arab brothers in their hard times," Mr. Talabani said. "For instance, we sent a letter expressing our condolences on the terrorist attack which claimed a lot of innocent lives in Sharm el Sheik," an Egyptian resort.

Prime Minister Ibrahim al-Jaafari, a Shiite, hinted at similar criticism on Monday when asked about the emir of Qatar, Sheik Hamad bin Khalifa al-Thani, who donated $100 million to the American victims of Hurricane Katrina but nothing to the victims of the stampede. "I'm not condemning what he did, but he should think of Iraq," Mr. Jaafari said.

The comments by Mr. Talabani and Mr. Jaafari came at a time of heightened tension with other Arab nations. Last week Amr Moussa, the secretary general of the Arab League, issued a public criticism of Iraq's new constitution - largely written by Shiites and Kurds - in which he echoed the criticisms by some Sunni Arabs in Iraq. The Sunnis have opposed two provisions in particular: one that would form largely autonomous federal regions, and one that describes Iraq as an Islamic country but not an Arab one.

Some Iraqi leaders asked why Mr. Moussa was willing to denounce the new draft constitution now, after the Arab League had been notably silent about Iraq's lack of a constitution under Saddam Hussein.

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Mr. Talabani also said the two major Kurdish political parties had agreed to support Sunni demands for language in the constitution declaring Iraq an Arab nation. Although the charter was presented to the legislature last week, there have been recent talks aimed at making final revisions that might win Sunni support.

If the document is not modified, some leading Sunni Arabs have said, they will organize a campaign to defeat it in a national referendum, planned for Oct. 15.

A delegation of Sunni Arab leaders visited the Kurdish region on Monday to discuss the constitution and the Kurds' role in future elections, Mr. Talabani said.

Mr. Talabani also complained about the lack of Arabic diplomatic representation in Baghdad, calling it "an insulting issue for the country." Iraq and the United States have urged other Arab countries to send diplomats here, in hopes that the gesture would bolster the Iraqi government's legitimacy and undermine support for the insurgency.

But risk is also clearly an issue. In July, two Algerian diplomats and an Egyptian diplomat were abducted and killed by insurgents. Al Qaeda in Mesopotamia, the terrorist group led by Abu Musab al-Zarqawi, claimed responsibility , and has threatened to kill any Arab diplomat in Baghdad.

The attack in Baghdad on Monday began at 6:30 a.m., when four black BMW sedans raced up to a checkpoint outside the Interior Ministry, officials said. Firing belt-fed machine guns and rocket-propelled grenades, the group of about two dozen insurgents fought the ministry guards for 15 minutes before driving away. American Black Hawk and Apache helicopters could be seen flying over central Baghdad for hours afterward as American foot patrols hunted for the attackers.

Al Qaeda in Mesopotamia took responsibility for the attack in a statement posted on Islamist Web sites.

The two British soldiers were killed when a bomb detonated near their patrol in southern Iraq, British officials said. The bombing took place in Zubayr, a town just south of Basra that is a stronghold for Sunni Arab militants and was the site of many earlier attacks.

Fighting continued near Tal Afar, in the north, where American and Iraqi troops had begun a sweep for insurgents on Friday. Residents said mortar attacks could be heard on the city's outskirts.

Mohsin Qabagh, 40, a car mechanic from Tal Afar, described it as "a city of ghosts, where all signs of life have stopped and the residents have fled to other towns."

In other violence, gunmen driving through a Shiite neighborhood in western Baghdad opened fire on a group of bystanders on Monday evening, killing three and wounding three, Interior Ministry officials said. The motive for the attack was not clear.

West of the capital, in Falluja, Iraq's finance minister was attacked by insurgents armed with grenades as he drove through the center of town in a convoy. An Iraqi police officer was wounded, but the minister escaped unscathed.

United States military officials also announced Monday that they had captured Ayad Adnan Away Samir, a Falluja-based fighter and senior aide to the insurgent leader Sheik Abdullah al-Janabi.

Annan: War Spread Terrorism (WT)

By From combined dispatches

The Washington Times, September 6, 2005

LONDON -- The U.S.-led invasion of Iraq has turned the country into a new hub of terrorism worse than Afghanistan under the Taliban, U.N. Secretary-General Kofi Annan said yesterday.

Mr. Annan also said in an interview with the British Broadcasting Corp. that he expected to face blame over the Iraqi oil-for-food program when investigators deliver a report this week.

Hours before he spoke, carloads of Iraqi insurgents staged an audacious daylight assault against the Interior Ministry in Baghdad, killing two policemen before escaping.

Mr. Annan told BBC World Service radio that the war was contributing to Muslim anger throughout the world.

"I think there are many Muslims that are extremely unhappy today. Unhappy because they feel victimized, they feel isolated, they feel victimized in their own society, they feel victimized in the West, and they feel this profiling against them. And the Iraqi situation has not helped matters," he said.

"In fact, one used to be worried about Afghanistan being the center of terrorist activities. My sense is that Iraq has become a major problem, and in fact, it's worse than Afghanistan," he said.

Regarding the oil-for-food investigation, Mr. Annan said he believed chief investigator Paul Volcker would criticize him and others involved in the $64 billion program.

"I suspect that there will be lots of criticism [for] myself as chief admin officer, probably something on the [supervisory] committee, the Security Council, the government of Iraq," he said. "When it comes to Iraq, on this issue, no one is entirely covered in glory."

Mr. Volcker, a former U.S. Federal Reserve chairman is expected to deliver a major report on the program tomorrow.

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"Oil for food was an extra program we were asked to undertake. Honestly, I wish we were never given that program, and I wish the U.N. would never be asked to take that kind of a program again," Mr. Annan said.

In Baghdad yesterday, thunderous explosions and volleys of heavy gunfire rattled the downtown area soon after sunrise as about four carloads of insurgents staged a raid on the Interior Ministry, which is responsible for police and paramilitary units nationwide.

The insurgents, who fired automatic weapons and rocket-propelled grenades, withdrew after about 15 minutes, leaving two policemen dead and five wounded. There was no report of insurgent casualties.

A statement posted on an Islamic Web site claimed responsibility for the attack in the name of al Qaeda in Iraq, led by a Jordanian terrorist Abu Musab Zarqawi.

U.S. Marines said the same group had conducted multiple attacks the day before against U.S. and Iraqi targets in Hit, 85 miles west of Baghdad. Eight civilians, an Iraqi soldier and three suicide bombers died in the Hit attacks

Elsewhere, at least eight Iraqi civilians -- including five children -- were killed in fighting yesterday in Tal Afar, said Abdul-Aal Kamal of the northern city's hospital.

Bush Makes Better Case For Iraq War, But Needs Troops (RC)

By Morton M. Kondracke

Roll Call, September 6, 2005

President Bush has made an important shift as he tries to bolster public support for the Iraq war, moving from idealism to a hard national security argument. He needs to stress the new message more.

Unpopular though the idea may be, he may also have to increase the number of U.S. troops in Iraq in order to have any hope of defeating the insurgency.

And, for sure, he has to get the Pentagon to stop talking about drawing down U.S. troop levels next year and get with Bush's own program: The United States stays until Iraq is secure.

Bush's new public case for Iraq was unveiled Aug. 24 in Idaho and repeated in his V-J Day anniversary speech six days later in San Diego.

Both speeches contained the familiar assertions that Iraq is a key front in the war on terrorism and that the best way to fight terrorism is to bring democracy to that country and the rest of the Middle East.

In the past, those arguments — plus optimistic reports on training of Iraqi security forces and political progress — have failed to arrest a sharp drop-off in public support for the war.

As a writer for National Review Online, Andrew C. McCarthy correctly puts it: "The American people did not go to war for the goal of advancing freedom. ... [They] went to war to protect the national security of the United States from current and gathering threats which they understood after Sept. 11, 2001, could no longer responsibly be waited out.

"What the American people care about is defeating militant Islam. ... They know that leaving when terrorism runs rampant would be a victory for militant Islam. It would encourage our enemies toward more terrorism."

That's essentially the case Bush made in the recent speeches, emphasizing the stakes involved for the United States and what will happen if the insurgency succeeds in Iraq.

"During the last few decades, the terrorists grew to believe that if they hit America hard, as in Lebanon and Somalia, America would retreat and back down," he said in Idaho.

"Before Sept. 11, Osama Bin Laden said that an attack could make America run in less than 24 hours. So now they are trying to break our will with acts of violence. They'll kill women and children, knowing that the images of their brutality will horrify civilized people."

He should have added, "And they and the followers of Saddam Hussein are killing American soldiers in hopes that the death toll will undermine support for the war here at home."

But he did say, "Their goal is to force us to retreat. See, they have a strategy. They want us to retreat so they can topple governments in the Middle East and turn that region into a safe haven for terrorism."

In San Diego, he said that "if Zarqawi and Bin Laden gain control of Iraq, they would create a new training ground for future terrorist attacks. They'd seize oil fields to fund their ambitions, they could recruit more terrorists by claiming a historic victory over the United States and our coalition."

Bush might have added — and should add in future speeches — that "if the United States is driven out of Iraq, our leadership role in the world will be sorely shaken. Adversaries will be emboldened. Friends will be discouraged. Our ability to persuade fence-sitters will be impaired on a broad range of issues."

It's doubtful that the new message has taken hold in the public's mind yet, but polls indicate that public disapproval of the war and Bush's policy in Iraq may have bottomed out.

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Despite increased U.S. casualties and the massive publicity garnered by war protester Cindy Sheehan, the latest Gallup poll shows that support for her position — an immediate U.S. pullout — has fallen from 33 percent to 26 percent.

The Washington Post/ABC News poll showed that only 13 percent hold that position and that a majority of 56 percent supports increasing U.S. forces (21 percent) or keeping current levels (35 percent).

Support for Bush could get a boost if Iraqi voters approve the country's new constitution Oct. 15, but it's likely to be as temporary as it was after the Jan. 30 elections.

What Bush policy needs is progress in defeating the insurgency — and to get that, he may well need to increase U.S. forces.

A Bush supporter I trust who has made multiple visits to Iraq is convinced that Iraqi security forces are unlikely to be able to contain the insurgency for the foreseeable future and, as matters now stand, the United States is losing ground to the insurgents.

This official says that combined U.S. and Iraqi forces are capable of driving insurgents out of cities such as Fallujah or Ramadi, but don't have the manpower to hold them — so Saddamists and jihadists return and kill or intimidate those who "collaborated" with us.

This point of view has been compellingly confirmed on the ground by Knight-Ridder correspondent Tom Lasseter, who has been embedded with U.S. Marines and Army units in Sunni-dominated Anbar province.

On Aug. 25, Lasseter reported that "in Fallujah, a city that Marines and soldiers retook from insurgents last November in the heaviest urban combat since Vietnam, [insurgent] fighters have begun to return and renew their intimidation campaign."

He quoted one Marine colonel as saying, "I don't think of this in terms of winning" and another as saying, "if you go into an area and you don't stay in that area, the insurgents will return and intimidate the local population."

Lasseter quoted one platoon commander who said, "There's no way I can control this area with the men I have." American officers said it would take "years of preparation" for Iraqi forces to take over.

But there's total confusion, based on statements from various top commanders, about whether American troop levels will increase, decrease or stay the same. For a time, the Pentagon even tried to abandon Bush's declaration of a "global war on terror" and replace it with "global struggle against violent extremism."

Bush put the kibosh on that. He continues to make it clear that America is at war. What he must do now is make it unmistakable to the American people what the stakes of the war are and provide adequate forces to win it.

An Uncertain Dawn On A Scarred Street (WP)

By Anthony Shadid

The Washington Post, September 6, 2005

BAGHDAD Last of three parts

On June 23, 2005, a war more than two years old arrived at the busy commercial district of Karrada, where Amal Salman, now 16, lived with her family.

For months, hardly a day had passed without a car bomb somewhere in Iraq; the scenes unleashed in Karrada by the explosion at 7 a.m. were so familiar as to have become routine. Twisted wreckage smoldered, its acrid smoke mingling with the stench of seared flesh. Water cascaded over the fires, then, turning black, mixed with pools of blood. Shattered glass danced along the buckling asphalt like a hailstorm.

Left in the bomb's wake were the ruins of the Abdel-Rasul Ali Mosque, a neighborhood place of worship entered through wooden doors graced by a blue, floral-tiled portico and decorated by calligraphy invoking God, Muhammad and Imam Ali. In quieter months, under lazy fans and chandeliers, Amal, her mother and sisters had gathered there to celebrate the religious holidays of Shiite Muslims.

"I woke up terrorized by the powerful explosion, with my heart beating fast, fearing that someone might have died or been wounded," Amal wrote in her journal that day.

With her sisters and mother, she clambered onto the balcony of their three-room apartment. Surprisingly quickly, police had arrived, vainly trying to direct dazed bystanders, some of their faces frozen in the blank stares of shock. From the third floor, Amal heard the shouts of others -- cries of anger and, more frequently, helplessness.

Minutes later, in a tactic that had become more and more common those days, another car bomb detonated, then another, all along her street as Amal watched. Before the spasm ended, four in all exploded, killing 17 people and hurting many more.

"For a moment, I thought I had died," Amal wrote in a long entry. "Then I realized I was not dead, but I was so scared. In a moment the police car was burned and those inside it were dead, burned. A young man who had only recently announced his engagement died, along with a good old man who lives in the neighborhood, named Abu Karrar, and Khalil the Kurd, who owns a shop in one of the small shopping centers here."

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Since she had begun keeping her diary in 2003, Amal had witnessed the events of a lifetime: an invasion and the only government she knew toppled in a few weeks; an occupation; promises of prosperity and the disappointment that followed; an insurgency and the specter of civil war. That Thursday morning was the first time she had seen death.

"It was a true disaster which I will never forget as long as I live. Total destruction, not only in the Karrada district, but inside me, my family and among our neighbors," she wrote. "I was really in pain over this scene which I hope no one would ever have to see."

Residents sometimes remark that Baghdad is cursed by how little is ordinary. It is a city that Karima, Amal's mother, calls forsaken, tempered perhaps only by its resilience -- the city's best and, in these days, most valuable trait. On a hot summer day, as a sandstorm cast the capital in a sickly glow, Amal recovered from the latest disaster. She helped care for her sister, Hibba, whose right arm was torn by flying debris. She traded gossip with neighbors about who lived and who died. She watched police clear the streets, then saw the Americans arrive. A military truck brought bottles of water; people lined up to receive them.

"It was a scene that was hard to describe, as if the Iraqis were beggars standing in line in a humiliating way," she wrote. "During the dispensing of the water bottles, the American woman soldier gave a camera to the translator to take a few pictures."

By nightfall, the dead were buried, carried to their graves in funeral processions.

"Women were crying," Amal wrote, "and many people with grief on their face seemed bewildered and unable to understand why so many people have to die."Coping With Hardship

Amal had turned 16 on March 23, her hair still pulled back in a ponytail. But she looked older, having passed abruptly to adulthood from an abbreviated adolescence.

Her sisters, too, wore the years of hardship. The twins, Hibba and Duaa, were now 14. Hibba wore a hijab over her hair, while Duaa braided hers. During the invasion, they had been friendly, even effervescent, eager to show off their Koranic recitation, chants for Saddam Hussein and snippets of elementary school English. With their faces and bodies no longer boyish, tradition now dictated that they keep a distance from men.

Fatima, at 18 the oldest, had long ago left school to help Karima, a widow, raise the children. In the time since then, her literacy had faded, as had some of her confidence.

Zainab, the quietest and most beautiful of the girls, had married in the spring at 17. Her husband, Ali, had been a police officer, earning $300 a month. In July, though, he received the leaflet that so many of his colleagues dreaded: a death threat from shadowy insurgents. "They told him either you quit or we'll kill your wife," Amal recalled. He quit.

A year before, Karima had finally found work as a maid at the Palm Hotel, since renamed the Rawabi, cleaning eight rooms from 8 a.m. to 1:30 p.m. In a racket of sorts, the local employment agency took a third of her wages. That left her with about $33 a month.

Ali, 22, a former soldier and Karima's oldest son, had secured a job, too. He was now serving tea in a nearby real estate office, working from 9 a.m. to 6 p.m. He made about a dollar a day, "depending on the baksheesh ," or tips. His younger brother, Mohammed, 20, was long without work. A ne'er-do-well, he spent most of his time prowling the streets; even his family suspected he was up to no good. Mahmoud, at 11 the youngest, sold soft drinks in the street during summer. At his best, he could bring in nearly $2 a day. Already, the time outside had given him a precocious street sense.

With the exception of Mohammed, their trials had brought them closer; as their city collapsed, they looked inward, their isolation a source for their strength.

"My family is my country," Amal said.

The words that danced that summer across Baghdad's landscape, a panorama washed of color by the sun and time, were almost always confusing.

Billboards along highways with heaps of trash marketed the mobile phones of Asia Cell. "Now your voice is heard," they declared. Another pictured a fingerprint, the hoped-for symbol of the January election, when voters dipped their index fingers in dye to certify they cast ballots. "Iraq," it intoned. Those faded posters were now dusty, some of them torn. Graffiti on a dirty wall in the capital's Sadr City slum spoke to the present: "You traitors, we don't want elections, we want electricity." In Amal's neighborhood, another poster, its meaning ambiguous, suggested the past: "Today is the same as yesterday."

"Today was quiet, and no one spoke about anything except electricity, which comes only for short times," Amal wrote in her entry on July 4. "Water is not available because the terrorists are targeting water pumping plants every day. The rich can live outside Iraq very comfortably, but the poor who can't have to stay suffering."

As they had during the war, Amal and her sisters still filled buckets of water each day from a leaky faucet in the courtyard, then lugged them up two flights of stairs. The summer before, her family sometimes had as many as 12 hours a day of electricity -- cycles of two on, two off. For an entire week in June this year, they had just two hours. It was one hour a day for stretches in July. In August, it had doubled to two hours.

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As they sat in the dark on one sweltering day, the lights flickered on. "God's prayers on Muhammad and the family of Muhammad!" they shouted, with weary smiles. In 10 minutes, the lights dimmed again. "Is this real?" Karima asked, shaking her head.

In one of the bedrooms, a visiting Zainab was gathering blankets from the floor, where Karima's five daughters had slept together. From the kitchen, Amal brought in tea and a single fried egg. The others shared this, along with Iraqi bread known as samoun .

Their conversation that morning turned to money, then to their lack of it. Neighbors had purchased a small generator, but a share of its power was expensive: $10 a month, along with $1.50 a day for the fuel. The Karrada bombing had damaged the nerves in Hibba's right forearm; she could no longer grip a pencil. A doctor's appointment cost $5, and physical therapy ran $2 a day. Given the family's budget, they would let her try to heal on her own. The money would go instead to put the youngest daughters through school.'Death Is All We Hear'

Like many in Iraq over nearly three years, Amal's family was locked in a cycle of moments of optimism, followed by long months of brutality and dejection. There were turning points -- Hussein's fall, the formal end of the U.S. occupation in 2004 -- and Iraqis often greeted them with anticipation and hope. Disappointment typically followed. One of those turning points was the election in January, when Karima, Ali, Mohammed and Fatima defied insurgent threats and walked cheerfully to the polling station.

"I regret that I went to the elections and voted," Karima said seven months later, as she sat with Amal and her sisters over breakfast. "What did we elect? Nothing."

"If we voted or didn't vote, it's still the same thing," said Fatima, her oldest daughter and most pessimistic. "If the Americans want to do something, they'll do it."

Karima nodded, her veiled head cast to the ground. It was a gesture that seemed to mean: What more can be said? Her city was mahjura -- forsaken or abandoned.

"I feel sorry for Baghdad," she said softly.

In the worst days of the invasion, Karima once said something as Amal and her sisters sat around her. "It's like we're part of a play on a stage," she said, her voice reflective. "Life's not good, it's not bad. It's just a play."

As Iraq entered a third year of war, those words acknowledging her powerlessness seemed to take on new meaning. The script was already written. People like Karima sat as spectators, watching a performance.

Violence, now mundane, was reshaping their lives. Its pervasiveness was breeding distrust and fear as amorphous as Hussein's repression was pervasive.

"While I was downstairs, my brother Mahmoud came and said the road was blocked. Everyone was asking why and some said they had arrested terrorists," Amal wrote on July 5. "The truth however was that police had found a bag, and at first thought there was a bomb inside it, but in fact they found a girl of 16 years -- dead, beheaded, and naked. She was thrown on the street, inside a bag, raped by someone unknown."

"Death is all we hear in the news everyday," she wrote in another entry, a few pages later. "Death, slaughter, murder, kidnappings and robberies. Nobody knows why."

At times in the summer, Amal's street would assume a veneer of normalcy. Lines of cars still stretched miles from gas stations. But markets along the sun-soaked sidewalk overflowed with goods piled on rickety stands: socks imported from China and T-shirts from Syria. Down the street were children's toys. There was a "Super Mega Heavy Metal Fighter" action figure and a doll that, when squeezed, played "It's a Small World."

In the family's apartment, though, the daily mayhem cast a long shadow. Weeks after the Karrada bombing, Amal and her siblings recalled its scenes in almost photographic detail.

"The dead have become cheap," Mahmoud, the 11-year-old, said dispassionately.

He recalled one piece of burning shrapnel that sliced through five people. Abu Karrar, he remembered, stumbled across the street, his shirt bloodied. Then he died. A bone of Abbas Rubaie's leg flared through his pants. The flesh of another neighbor's arm was seared off. A car's engine, the boy said, fell on top of a corpse.

"Only the best people die," Mahmoud said. "They always pick the best fruit."

In her diary, Amal recounted the police raids that followed, as officers forced their way into apartments and searched for suspects. She and her sisters watched passively, in silence. Two people were arrested; neighbors said they were innocent, "poor laborers at a soap factory." More raids ensued that summer, sometimes every few days.

"God knows who is telling the truth or not these days," Amal wrote in July. "No one has trust in anybody else, whether the police, the National Guard or even our own folks."Liberation and Contradiction

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In 2004, a year after the invasion, Amal had sat with her mother, confused about occupation and liberation, unsure about the fortunes of her country. Some blamed the Americans for their plight, she said then; others blamed Hussein, or even the Iraqis themselves.

At the time, Amal shook her head. "I don't know what to say," she confessed.

Another year on, though, Amal was no longer the young girl who parroted the hollow slogans of Hussein's state and, as it crumbled, directed prayers to God. She no longer deferred to her sisters, formulating her tentative opinions but often too shy to deliver them. The conflict around her had become more than a simple struggle to survive. Karima, her mother, now listened to her, as did her sisters. They might disagree with her, but they witnessed in Amal liberation measured in the most personal of terms: She saw for herself.

"All the government officials say, 'What do I want,' " her sister Fatima said one afternoon in August. "They don't care about the people. They don't care about the nation."

Amal interrupted her. "I feel like it's going to change," she countered.

The girls sat together in the apartment, where iconography had proliferated over the months. More posters had gone up of Shiite saints, placid portraits. A blue porcelain plate still hung. "God," it read simply. The electricity was on, and the dank stairwell was lit. Inside, enough sun filtered through the window, and the girls left the lights off.

"The intervention of the Americans in Iraq has brought about the biggest revolution the world has ever seen," Amal insisted.

"It's an occupation," her older sister answered.

"Did the Americans change the regime or not?" Amal said.

She was speaking neither in support nor opposition; she was simply reflecting fact. She didn't try to reconcile contradictions; she understood there were ambiguities.

"It's an occupation," Fatima answered again. "When the Americans move, we have to stop in the streets. We have to pull over. If we don't stop, they'll hit us. It's our country. Why do we have to stop for them? We should be giving the orders."

"It's going to get better and better," Amal countered confidently. "This is just my opinion," she said, "and I'll say my opinion freely."

"The people who died, did it get better for them?" Fatima asked, a little frustrated.

Amal turned her palms up and smiled.

She talked about the insurgency. Guerrillas fighting American troops in the western province of Anbar were honorable, she said. "I respect them, but it's not resistance to kill someone working for the Americans. That's not what we call resistance."

"The American presence has positives and negatives, but it was a revolution," she said. Amal pointed her finger at her older sister. "It changed the regime. We don't say it's all good now. We don't say it's all positive. But we hope, we hope."

Occasionally in her diary and more often in conversations, Amal speaks of what she calls the contradiction -- pessimism and hope, sentiments seemingly irreconcilable.

In that contradiction is perhaps one of the truths of her city: Baghdad, its residents often say, deserves better, and they mourn the perpetual loss of the most fabled Arab capital. Resilience, a truly Iraqi quality in its defiance, somehow propels it forward.

"There's no answer to our problems. If you look for one, there is none," Amal said. Her family had turned quiet, listening. "The situation is bad. It's true, it's really bad. It's true that every day is worse than the one before. But we don't ever want to be hopeless.

"I always want to leave something for tomorrow," she went on. "The sun will set today, but it always rises again. Everything rises again. Even without life, there is hope."

She stopped for a moment and smiled at the attention the others were paying her.

"I don't know how to express it," she said softly, "but I understand it."

In The Realm Of War, Words Don't Fail An Iraq Veteran From New Jersey (NYT)

By Tina Kelley

The New York Times, September 6, 2005

WHEN his world feels torn apart, José Díaz puts words together.

He writes a line about the night in Iraq when his captain lay wounded on the ground with no life in his eyes: "No answer could be given; the shrapnel could not tell us why we bleed."

By describing his reality, his descriptions affirm it somehow. War, he writes, "is easy enough to leave physically, but almost impossible to depart emotionally."

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Mr. Díaz , 35, who came to the United States from Cuba on the Mariel boatlift in 1980, has written a poem included in "Voices in Wartime" (Whit Press, 2005), an anthology that explores the experience of war through literature.

Mr. Díaz , an information technology manager for a New Jersey chemical company, lives in Rutherford, N.J., and writes wherever and whenever: using a notebook in a bouncy Humvee in a convoy in Iraq, using a recorder in a car on the Garden State Parkway, punching poem fragments into his cellphone when he was floored by the differences between New York and Abu Ghraib, where he was stationed for nine months in 2004.

"Before, the city always meant joy, fun and laughter," he said of New York. "But I couldn't tear myself away from that little patch of land very far away, and that night." He has memories of hearing his captain asking another friend to take care of his children.

Of the memories, he said, "Writing poetry is a way of making them safer and not letting them run away with you."

He said he came back from Iraq more cynical, aggressive and on edge.

"On the one hand you're disturbed by the very things that make you stronger, unique, different and insightful about this world."

Mr. Díaz began writing poetry with a club that met at Havana Bay Coffee in North Bergen, N.J., starting with love poems. "I can't do that anymore," he said, recalling children in Iraq living off the garbage of Americans stationed there. "Love seems like a trivial subject to write about."

He shows fragments that will become his next poem, "Had We Known."

He has changed the word "inhale" to "hum" in this line about the call to prayer, which often preceded mortar attacks: "Once more, it was our fate to hum the call of the muezzin."

In the final version, he looks at his friend's eye, and sees it move.

It's green, thank God! Exhale! Inhale!

And forget what lies beyond the line of sight.

Confine it now and then to the realm of our repose.

U.S. And Afghan Forces Kill 25 Suspected Taliban In Two Raids (LAT)

By Paul Watson

The Los Angeles Times, September 6, 2005

KABUL, Afghanistan — U.S. and Afghan forces killed 25 suspected Taliban fighters and captured dozens more in operations in two southern provinces over two days, Afghan and U.S. officials said.

On Monday, U.S. and Afghan forces killed 12 suspected militants and detained nine others in a raid in Zabol province, the U.S. military said. Soldiers were brought by helicopter into a remote area where militants were believed to be gathering before launching attacks. No casualties were reported among the Afghan and U.S. forces.

The operation in Zabol followed a raid in neighboring Kandahar province in which U.S. and Afghan forces killed 13 suspected Taliban fighters, and captured dozens more, in a remote area where a political candidate was kidnapped and executed last week, a provincial official said.

U.S. and Afghan troops dropped by parachute from American aircraft in the operation, which began Sunday, Kandahar Gov. Asadullah Khalid said by telephone from Kandahar city, the provincial capital. None of the coalition troops was injured.

The assault targeted insurgents suspected of killing Khan Mohammed, a candidate for Kandahar's provincial council in the country's Sept. 18 election who was abducted Friday, the governor added. A district commissioner and three policemen were killed along with Mohammed.

At least four other candidates have been killed in the weeks before the election for the lower house of Afghanistan's parliament and provincial councils. It is Afghanistan's first parliamentary election since U.S.-led forces toppled the Taliban's hard-line Islamic regime in late 2001.

Backed by U.S. attack helicopters, the American and Afghan troops, and local police, landed Sunday in the Lal valley, about 50 miles northwest of Kandahar, the governor said. More than 40 suspected insurgents were detained. They are being interrogated, U.S. Col. Jim Yonts, spokesman for the coalition forces, told reporters in Kabul, the Afghan capital.

Khalid said some of them might be released soon, while the rest would be put on trial as Taliban militants.

"I think this was a group that was hiding and getting ready to conduct operations to bring chaos to the process of the elections in Afghanistan, so this [assault] will decrease the danger of the Taliban insurgency," the governor added.

Yonts denied there was any link between the offensive, which was still underway Monday, and Friday's kidnappings and executions.

"What you have here is when coalition forces are notified, through intelligence means, that there are enemy forces in an area, we will quickly and aggressively take the fight to them," Yonts said.

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Taliban and allied guerrillas have killed at least 51 U.S. troops in Afghanistan this year, the heaviest combat losses for American forces since the war against the Taliban and its allies in the Al Qaeda terrorist network began in 2001. More than 1,000 Afghans, many of them civilian victims of insurgent attacks, have died.

But the international security force led by the North Atlantic Treaty Organization in the country considers the militants' attack rate similar to that for the period before last year's presidential election, said Maj. Andrew Elmes, a British spokesman.

Millions of Afghans defied Taliban threats and turned out to vote in an election won by President Hamid Karzai, a strong U.S. ally.

United Nations organizers say that with more than 5,800 candidates from 72 parties running in the upcoming election, their task is several times more complicated than last year's vote.

In other recent attacks in southern Afghanistan, insurgents killed five Afghan police officers in an ambush Sunday. The previous day, guerrillas killed three Afghan police officers guarding a supply convoy headed to a U.S. military base.

Despite daily attacks by guerrillas across large swaths of southern and eastern Afghanistan, Yonts said the U.S. military saw the attacks as local or regional operations without any national coordination.

"In our assessment, it is not connected to any kind of a network," he said. "You will see an individual attack here, you may see an individual attack in this [other] province over here. But there is nothing that we see that fuses that together from any sort of an infrastructure, or coordinated program."

The insurgents mainly operate in cells of one to five fighters, Yonts said.

13 Insurgents Killed As U.S. And Afghans Mount Drive (NYT)

By Carlotta Gall

The New York Times, September 6, 2005

KABUL, Afghanistan, Sept. 5 - Afghan and American forces have mounted an operation in recent days in a remote mountainous district of southern Afghanistan in pursuit of a group of insurgents, Afghan and American officials said Monday.

They said that 13 insurgents suspected of ties to the country's former Taliban rulers had been killed and more than 40 people had been detained.

The area of combat is the same district, Ghorak, where suspected Taliban insurgents kidnapped, and claimed to have killed, five people on Saturday - a local election candidate, a government official and three police officers. An American spokesman, Col. James Yonts, said the operation was not directly linked to their abduction, but was based on intelligence about enemy activity.

The governor of Kandahar province, Asadullah Khalid, said the 13 insurgents had been killed Sunday in American-led airstrikes on the area.

One Afghan soldier was wounded in the operation as troops were brought in by Chinook helicopters, said the Afghan Army spokesman, Gen. Muhammad Zaher Azimi.

The fighting came after several days of increased violence that left two candidates for the Sept. 18 parliamentary elections dead, as well as 16 other people. The dead include a British engineer, two Japanese tourists, a government official and his son, a cleric and six police officers. Afghan officials blamed Taliban insurgents for the violence, saying the Taliban are trying to disrupt Afghanistan's parliamentary elections.

Pakistan Builds Its Forces on Border

ISLAMABAD, Pakistan, Sept. 5 (Reuters) - Pakistan has sent thousands of troop reinforcements to its western border to help choke off the Taliban-led insurgency in the weeks before Afghanistan's parliamentary elections, a military spokesman said Monday.

About 5,000 more troops have been sent to North-West Frontier Province and 4,500 more to Baluchistan Province, bringing the total of troops near the border to almost 80,000, Maj. Gen. Shaukat Sultan said.

Last year, the Taliban were unable to mount a credible threat to the election for president because of a squeeze put on the border areas by the Pakistani Army, American-led forces and the Afghan Army.

But since March, the Taliban and their allies have intensified their campaign of violence. The insurgents have suffered the heaviest casualties, officials contend, but dozens of civilians, Afghan security personnel and American troops have been among the hundreds of people killed.

After The Fall, Amal Surrenders Her Illusions (WP)

By Anthony Shadid, Washington Post Foreign Service

The Washington Post, September 5, 2005

BAGHDAD Second of three parts

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On April 10, 2003, the day after the fall of President Saddam Hussein, the veil had been lifted but no one was sure what it revealed.

Conquered no less than 15 times in its history, Baghdad was called free, but the city was a furious storm set down. Emotions -- euphoria, vindictiveness, desperation, confusion -- surged up from the people after years of silence and restraint. The city seemed like a dazed inmate stumbling out of his cell and squinting into the harsh sunlight. Some spoke of anarchy: Armed civilians had begun to crack the monopoly on violence held only weeks earlier by Hussein's government and the American military forces now occupying Iraq. Thousands of residents hurried to plunder everything from trucks and wooden carts to the urinals, copper pipes and electrical wiring of public buildings. Hospitals and embassies fell prey, along with ministries, government offices, Baath Party headquarters and the stone mansions, faced in onyx, of Hussein's lieutenants.

"The hospitals are being looted and no one is protesting! Why does the St. Rafael Hospital have an American tank protecting it? Is it because it is a Christian hospital? What about the Alwiya Maternity Hospital? What about the pregnant women there?" 14-year-old Amal Salman wrote in her journal on April 11. "Why has it befallen Iraqis? Wasn't it enough to loot government offices? Now the hospitals and even homes?"

She asked a question heard often in Baghdad in those days: "What are the Americans going to do with us?" The entry ended succinctly: "God, have mercy on us."

Like others, Amal, her sisters and her mother confronted a city that was collapsing as living conditions worsened. Few parents let their daughters walk alone in the streets, and the members of Amal's family spent most of their time in their apartment, huddled in a stuffy living room, sweating. In time, power was restored, but it remained intermittent, sorely inadequate as temperatures climbed. Phones were still not working, the networks shattered by bombing. Money, each denomination bearing Hussein's portrait, was scarce. Prices soared further, and shortages were everywhere. Overnight, tens of thousands lost their jobs as the bureaucracy disintegrated, some offices in flames.

There was an attitude in Iraq in those months, shared by Amal and her family, that seemed to condemn the occupation from the start. Many in Baghdad had been in awe at American technology during the war. Especially during the conflict's first days, the U.S. assault was as devastating as it was precise. Hussein had ruled for 35 years; the Americans had toppled him in less than three weeks, and relatively few of their soldiers had died in the task. How could these same Americans be so feeble in the aftermath?

"Where is the help that Bush spoke about?" Amal wrote. "No one knows."

Through those days, she stayed far from the gear-laden U.S. soldiers now in the streets, peering at them from her balcony and even returning waves, but reluctant to speak. Her effervescent twin sisters, Duaa and Hibba, were more curious. On a Saturday in the occupation's first month, a tank was parked on the street, and the girls went to say hello to the soldiers, who gave them chocolates. A few minutes later was the crack of gunfire.

"Hibba tried to ask the soldier what was happening. He told her, 'Go! Go!' But Hibba didn't understand the American language. Out of fear for Hibba, he carried her to our building. They are nice, but they are misled by Bush, the dangerous one," she wrote.

Two days later, the twins saw another group of U.S. soldiers in the streets, their desert camouflage melting into the city's palette of browns. "They wrote their names on the children's palms. Hibba's hand had names of Americans soldiers on it. Hibba and Duaa were very happy. They said the soldiers were very friendly and they were delighted with them. Is it true they are good?" she asked.Reconciling With Reality

Ever so slightly, Amal's writing began to change in those turbulent months. During the war, infused with the government's propaganda, she had spoken with the force of a loyalist. Precocious, the smartest of Karima Salman's daughters and an enthusiastic inductee in her school's Baath Party group, she had competed with her sisters in pledges of fealty to Hussein, even if her diary was more reflective. In April, a week after his fall, as her fellow Shiite Muslims celebrated his demise, Amal still held tenaciously to received views. Hussein was all she knew. "Until now," she said as she sat with her family, "we still say his excellency, the president."

But privately Amal seemed baffled, and she gave voice to her confusion in the diary. A war she dreaded was over and a revolution she did not understand just beginning; she tried to reconcile her experience with reality, as churning, unpredictable and menacing as it was.

"We used to have trust in President Saddam Hussein," she wrote on April 11, two days after his fall, "but now we don't know whom we trust."

Hussein still cast many shadows in Iraq; he would do so for months and years to follow. Almost immediately, the mass graves of those he had persecuted began to be unearthed, the victims numbering in the tens of thousands, perhaps hundreds of thousands. With their discovery came an accounting of the dead. Days after Hussein's fall, photocopied pictures of men missing

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or executed and now celebrated as martyrs began to crowd for space in markets, offices and mosques. Their dark eyes, lonesome, stared ahead.

Quieter was the process of demystifying Hussein. His name was still whispered; who knew if danger remained, if somehow he might still be listening, waiting? "No one knows where President Saddam Hussein's whereabouts are, or when he will appear with his army," Amal wrote in an entry on April 16. "They say Saddam Hussein is in Baghdad with a big army, built for the final battle between Iraq and America. No one knows if this is true or not. They are just rumors, true or not."

Secrets soon poured out, and Amal digested the horrors of the government she had once seen as indestructible. Weeks after Hussein's fall, she and her family watched some of the 50-cent videos that flooded the market. They detailed the ornate palaces in a style of kitschy Arabesque that Hussein built -- "all with gold and silver," she wrote -- the gassing of 5,000 Kurds in 1988 in the northern Iraqi city of Halabja, and Uday Hussein's notorious abduction of women whom he fancied.

"Saddam's eldest son, Uday, is the biggest corrupt person on earth," she wrote after watching the videos over two days, their viewing interrupted by blackouts. "Any girl he liked, he would take. No one could say anything because he is the son of President Saddam Hussein. His other son, Qusay, is also cruel, like his father and brother."

The same, she wrote, went for Hussein's other relatives.

"No one realizes they are gone, all of them, forever," she wrote.An Open-Ended Collapse

The U.S. invasion that toppled Hussein and brought the occupation never had a real name. The Bush administration called it Operation Iraqi Freedom. Predictably, Hussein's own name for the invasion, Marakat al-Hawasim, Defining Battle, was similarly grandiose.

Like many in Iraq, Amal and her family simply called the war the suqut -- "the collapse" or "the fall," a name that probably made more sense than any other. It designated the end of 35 years of pitiless Baath Party rule. In a way, it suggested, too, that another beginning had yet to be inaugurated. Through 2003 and 2004, Marakat al-Hawasim lingered in the wreckage of the government's fall. It remained open-ended, its muddled aftermath as inconclusive as Hussein's fall seemed climactic. For Iraqis, suqut meant an end without renewal, a seemingly endless interim. It was a life imposed, not chosen.

"Everybody is asking about the future, the future of Iraq," Amal wrote in the summer of 2003. "Some are asking where is the future. Others say Iraq has no future anymore. These are all opinions, but no one knows what the truth is."

Amal's diary was becoming more and more tattered. The writing itself was filled with highs, the glimmers of hope that had passed, and the more enduring lows that always seemed to return.

"God is greatest! Praise to God!" Amal wrote in one entry when occasional electricity flickered through their apartment. "There was rejoicing in the whole building, people saying to each other, 'Electricity is back, thanks be to God.' We slept, feeling happy because of the electricity."

And then, a few pages later: "We are now sitting, waiting for electricity to come back. What happened to the promises?"

In Amal's building, the water remained off for months, so the children took turns lugging buckets from a faucet that still worked in the entryway downstairs, near a pool of black, brackish water. For days at a time, the family had no kerosene for cooking. On the occasions it was available, it would sometimes sell for 20 times its prewar rate. Prices for food skyrocketed: Karima groused that cucumbers had tripled in price since the war's end and tomatoes had more than doubled. The family staved off hunger only by way of monthly food rations that were still distributed to each family. Rent was always two months or more late, and the landlord was stopping by the apartment every few days, angrily demanding money.

The pressure was taking its toll on Karima, a widow who was just 36. Her oldest son, Ali, had survived the war, deserting the army before the conflict ended and making his way to Baghdad. But he was jobless. She looked for work at the city's main hotels -- the Meridien and the Sheraton -- but could not make her way through security. She spoke no English; often the U.S. soldiers manning the entrance spoke no Arabic. Their interpreters dismissed her as more riffraff from the street.

As her family's circumstances spiraled downward, Karima, in desperation, went to the family of her late husband's sister along Abu Nawas Street. Karima needed help -- money for rent and food. After fighting and humiliating Karima, the relatives tried to get U.S. soldiers stationed down the street to arrest her, but the interpreter with the troops was a neighbor of Karima's and sided with her. Karima returned home.

"Why would my aunt do that?" Amal asked. "She is our aunt and we are like her children. But the times have changed. Life has no mercy on anyone in this world. Even the same family won't have mercy on each other. Why? Why? I think of this every day. She is the sister of my father. Why did she do all that? Because of money? She is a teacher and she is in no need, but we are. If my aunt has no compassion to us, who will?"'What Else Can We Do?'

In Amal's writings, the meaning of liberation was personal. Her mind was flowering, her raw intelligence exercised by her consideration of her country's experience. Amal's hard-won wisdom seemed the quietest of triumphs in the long months after Hussein's fall.

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In a society that equated wisdom with age, the once-impressionable girl had begun thinking critically, first about Hussein and then the invasion, the occupation and the ambitions that drove the Americans forward. There was an irony in her awakening: She was free to speak, but it was her liberators whom she criticized with her new candor.

"People are exhausted and conditions are harsh. We are now living on false dreams and in a failed democracy," she wrote. "Satellites were banned in the past, and they are now permitted, but who can buy a satellite? Those who have money can buy, but those who don't can't buy anything. This is democracy."

Well-intentioned U.S. officials would often remark that they were there to throw open the gate to a democratic, pluralistic future, but stressed that the Iraqis themselves would have to walk through it, on their own. Time and again -- often oblivious to history and unmindful of the consequences an occupation inspired -- the Americans were frustrated when Iraqis, battered and beaten down by wars and dictatorship, didn't start to walk through the gate.

But the Americans had to take, or at least share, responsibility for raising the people's expectations in the first place. Iraqis might forget the date, perhaps even the person who spoke the words, but they always remembered the pledge uttered on March 6, 2003, by President Bush when he promised that "the life of the Iraqi citizen is going to dramatically improve."

One of those who remembered was young Amal:

"Please, tell us, when are we going to live a life of security and stability? Listen to us, hear us, you people out there, we have cried and shouted. What else can we do?"

Although her entries became less frequent through the year, Amal's writing became clearer, her sentences longer and more complex, her vocabulary more sophisticated. She gained confidence in her ideas as she observed life around her. "They talk about democracy. Where is democracy? Is it that people die of hunger and deprivation and fear? Is that democracy?"

When the damp, sometimes gusty cold of winter arrived, Amal's family sat on mattresses and shabby brown blankets around a kettle of tea, brewed by eldest sister Fatima, and a plate of cheese called Abu Thufira served on a dented metal tray. Pictures of Arabic pop stars lined the walls, along with the usual religious portraits and invocations.

The twins attached stickers of soccer players to their school notebooks. The other children traded copies of leaflets that were circulating in the streets at the time. "An American soldier cries in Baghdad," one of them declared over a picture of an American fighter with his hand held to his eyes. The leaflet was from one of the numerous insurgent groups, and it catalogued the opposition's latest, if fictional, triumphs: three planes and 14 U.S. tanks destroyed on a single day. Another, handed out by the U.S. military, featured a picture of a fighter clad in black with a ski mask, carrying a rocket-propelled grenade. It implored Iraqis "not to permit terrorists or loyalists of the previous regime to take away your new freedom."

Amal's family believed one, not the other. They talked about the fear they had seen in the eyes of U.S. soldiers near their home. They exchanged rumors of desertions in the U.S. military. Conspiracies ran rife.

"All the explosions are their fault," Karima said of the U.S. officials ensconced in the Green Zone. "They are the reasons for the bombing."

"It's apparent," Ali said, as an Egyptian serial, "Alexandria," its volume loud, played on the television. "Only Iraqis die in the explosions. No Americans ever die."

Karima shook her head. "Saddam did not do good things," she said. "He made the people suffer. But there was fear. And with fear, there was security. He was strong."

Ali called civil war a prospect. "It's possible," he said. "It might happen."

Amal interrupted, raising her voice for the first time that day.

"I don't think it will happen," she countered.

Growing ever more confident, Amal, approaching 15, volunteered her own view of the country's confusion. "If I say the Americans are better, someone asks what have the Americans done. What have they done for us? All the Americans have done is bring the tanks," she said. "If I said the time of Saddam was better, they say, what? If he didn't like you, he would cut off your head. He was a tyrant.

"I don't know what to say," she admitted.

A few days later, as she sat near a space heater casting a yellow glow over the room, Amal had thought about the previous conversation.

"People must be optimistic," she said. Sometimes her dark brown eyes were cast to the floor. At moments, though, she looked up, her voice clearer, her ideas more insistent. "There must be hope. Even the Koran says we should be optimistic."

She looked down to the floor again. There was a suggestion of defiance in her words. "If not for my generation," she said, "then the generation that's coming."

Karima sat next to her. She spoke softly, though Amal seemed to hear her. "They're still young," she said, shaking her head. "They don't know what's ahead."

NEXT: Life in Baghdad today

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Return Of Former Communists Stirs Up Afghan Elections (NYT)

By Carlotta Gall

The New York Times, September 5, 2005

KHOST, Afghanistan, Aug. 31 - The outriders decorated their motorbikes with sunflowers, and at every stop people tossed flowers at their convoy and offered prayers.

The former Communist general Shahnawaz Tanai was returning to his home district after 32 years to make a political comeback, and the Tanai tribe accorded him the traditional greeting.

The political return of dozens of former Communists, among them General Tanai, 54, who was Afghan chief of staff, then defense minister in the brutal Soviet occupation in the 1980's, is one of the most contentious issues of this election campaign.

General Tanai is perhaps most infamous for leading a coup in 1990, with the renegade mujahedeen commander Gulbuddin Hekmatyar, against President Muhammad Najibullah. The coup failed and he fled to Pakistan, where he lived in exile until Aug. 7.

The general is not running in Afghanistan's parliamentary and provincial elections on Sept. 18, but he is calculating on winning a sizable bloc in Parliament with candidates from his Afghanistan Peace Movement Party and two other parties of former Communists who have joined him in a coalition. They are fielding 200 candidates around the country, most of them former Communists and some Soviet-era ministers and participants in the half a dozen coups of the last three decades.

"Our party is a national political party based on Islam and national unity," General Tanai said in an interview. "Above all we want the rule of law." He denied plotting the 1990 coup and said Mr. Najibullah had planned it against his own ministers.

President Hamid Karzai has encouraged many of the rogues of Afghanistan's recent history to take part in the elections in an effort to unite the country and foster political stability. A senior security official, who asked not to be identified to avoid angering the political factions, said that he saw little threat from the former Communists because they had no military power, but that the jihadi leaders were still a menace. Yet the return of the Communists to public life is reopening the violent struggle between Communists and Islamists that tore this country apart in the 1980's, and made it the arena for the last proxy conflict of the cold war.

The mujahedeen, who were backed by the United States in their struggle against the Communists, are watching with anger and some confusion as their enemies regain positions in the government and may win a sizable bloc in Parliament in American-supported elections.

Nevertheless, the mujahedeen are also entering the political race, to fight their old foes at the ballot box. A week into the election campaign in this unruly eastern province, Khost's voters have been presented with a bewildering array of candidates. In all, 214 have registered, with 91 competing for just five seats from Khost in the Wolesi Jirga or lower house of Parliament, 121 competing for the nine-seat provincial council, and 2 Kuchis, nomads who have a separate seat allocation in Parliament.

Afghans here are expected to vote along tribal lines, many say, but within each tribe they have a choice between the former Communists on one side and the traditional tribal leaders and mujahedeen commanders on the other. Added to the mix are Westernized candidates who have returned from two decades in exile in the United States or Western Europe, and members of the local educated elite, who offer a complete break from the political and military figures of the last two decades.

Campaigning in Khost is far from the Western experience, with most candidates dealing directly with the tribal elders, knowing that they will tell their communities how to vote.

One candidate, Shir Khosti, who returned from 20 years in the United States, where he ran cellphone shops with his brother, to work for the governor of Khost, is running a relatively Western-style campaign, focusing on younger voters. He is visiting high schools, where he urges 18- to 20-year-olds, who are still in school making up lost years of education, to make their own choice, rather than follow the decision of their elders, as tradition dictates.

Mr. Khosti, the son of a former parliamentarian who was executed by the Communists, dislikes the Communists and the Islamic fundamentalists among the mujahedeen.

"The trouble here is the people don't know what they need," he said. "It's not enough just being a good guy. A representative has to have the mental capacity to deliver a lot of goods."

One of the leading female candidates, Sahera Sharif, knows better than to tell tribal elders what to think. When meeting villagers in Bak, Ms. Sharif, a teacher and development worker, vows to work for Islam, and to help women "within the parameters of Islam."

Another former Communist, Maj. Gen. Sayed Muhammad Gulabzoi, 54, who is widely expected to win a parliamentary seat, was receiving supporters in a rented house in Khost, the provincial capital, a few days ago. "Lots of tribal people are coming to see me here," he said. "I have no plans to go out. If you are not at home, that is considered very bad here."

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General Gulabzoi took part in the overthrow of King Zaher Shah in 1973 - and virtually every coup since - and was aide de camp to the ruthless Communist leader Nur Muhammad Taraki and then interior minister for all of the Soviet occupation. He returned to Afghanistan 16 months ago after 17 years in exile in Russia.

"People died and were wounded, and I am very sad for that," he said of his years in power. "But I did not do anything bad to the people of Khost."

He spoke with a district leader, a former mujahid, who pledged his vote and those of his district to General Gulabzoi. "We will vote for an educated person, a good person, who will do something for the people," said the district leader, Shahazar Khan. "In all his life, he has not owned a house or a car, so that means he is honest."

Many of the mujahedeen have been branded warlords, especially in Kabul, and accused by human rights groups of abuses in the civil war of the 1990's and of graft and land grabbing since they returned to power in 2001 after the fall of the Taliban. Yet in Khost, some voters voiced hatred for the Communists and enthusiastic support for local mujahedeen leaders, saying many had served the people honestly.

The communists "put me in prison for five and a half months," said Hajji Mazub, the elder of a village in Yakubi district of Khost Province. "They were the reason we all had to live as refugees in Pakistan for 20 years. We will never vote for the Communists." Hajji Mir Dil Spin-Zadran, a well-known mujahedeen commander and tribal leader who is running for the Wolesi Jirga, said: "Khost is the home of the mujahedeen, and the people are the supporters of the mujahedeen. Most people in the cities were Communists and in the villages the people support the mujahedeen."

"They should not have taken this opportunity to seek power," he said of General Gulabzoi, who is from his own village, and General Tanai. "They should just sit at home and live quietly."

Hajji Spin-Zadran gathered more than 200 tribal elders on a hilltop outside his home on Wednesday to seek their support for him in the elections. "May God give our country back into our hands. During the jihad we had to win our country back; now we have to rebuild it," a cleric said in introducing him.

"I did not plan to run for Parliament, but I am running because of the jihad and for Islam," Hajji Spin-Zadran told the gathering. "I am not thinking about money, or having a good time, only about my people, my nation and my tribe."

As he spoke, tribesmen stood and called him to stop, assuring him of their support. "Inshallah," said Hajji Sherzad, a tribesman from a nearby village. "He is the one. We have put our hands on him."

Attackers Kill 9, Including Candidate

By The New York Times

KABUL, Afghanistan, Sept. 4 - Another election candidate and eight other people were killed in Afghanistan in several attacks, officials said Sunday, blaming Taliban militants. It was the second day of attacks and raised fears the Taliban were continuing to step up violence in an effort to disrupt elections on Sept. 18.

Habibullah Khan, a candidate from the Garmser district in Helmand Province, was killed when his car hit a land mine, said the deputy police chief of Helmand, Col. Muhammad Ayub. "He lost his leg, and we brought him to the Emergency Hospital in the capital and he died at noon," Colonel Ayub said.

Mr. Khan was the fifth candidate to be killed. An additional candidate was abducted Saturday in Kandahar Province and is thought to have been killed, a police officer in Kandahar said. The Taliban claimed responsibility for abducting and killing five people on Saturday, including the candidate and a local district chief.

In Helmand on Sunday morning, a district police chief, Amanullah Khan, his son and two bodyguards were killed in an ambush by men suspected of being Taliban insurgents in Doshi, Colonel Ayub said.

CORPORATE SCANDALS:

Tip-Line Bind: Follow The Law In U.S. Or EU? (WSJ)

By David Reilly And Sarah Nassauer

The Wall Street Journal, September 6, 2005

In the wake of scandals at Enron and WorldCom, the Sarbanes-Oxley Act directed companies listed in the U.S. to set up so-called whistle-blower hot lines for employees everywhere to confidentially report potential corporate abuses.

But those anonymous tip lines now pose unforeseen problems in Europe, where data-protection laws make it difficult to accuse someone of impropriety anonymously. These laws go beyond basic privacy concerns: They hold that citizens have a right to know who is collecting data about them, and they also may include restrictions on revealing corporate information to outsiders.

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A French agency, for example, has ruled that anonymous whistle-blower tip lines don't guarantee adequate protection for people accused of wrongdoing.

As a result, many U.S. and European companies are in a legal bind: If they set up whistle-blower hot lines in subsidiaries in France, and possibly elsewhere in Europe, they might run afoul of local laws. If they don't, they might violate Sarbanes-Oxley, the 2002 corporate-governance law enforced by the Securities and Exchange Commission.

Companies are being told "I have to either chop off my left hand or my right hand," said Christopher Kuner, a partner at law firm Hunton & Williams in Brussels who specializes in international privacy and data-protection law.

The impasse underscores the far-reaching, and often unanticipated, impact of Sarbanes-Oxley, which executives on both sides of the Atlantic have complained is overly restrictive and has even led some European firms to seek to "deregister" their U.S. stocks.

Two U.S. companies -- McDonald's Corp. and Exide Technologies -- are the first test cases of the potential whistle-blower impasse. In late May, both companies were told by France's Data Protection Authority, known as the CNIL, that planned ethics hot lines at units they operate in France were illegal. Both companies declined to offer specific detail about how they are addressing the decision.

"We're studying our options and the French ruling," said Alan Chapple, a spokesman for Exide, which makes automotive and industrial batteries.

"Like many other public companies [McDonald's] is working to ensure compliance with Sarbanes-Oxley as it relates to operations outside the United States," the hamburger chain said in a statement.

Regulators in France and the U.S. have yet to find a way out of the conflict. The CNIL has twice written to the SEC notifying it of the problem and asking that U.S. regulators delay taking action against companies that haven't set up hot lines in France, according to copies of the letters provided by the CNIL.

In a July 29 letter to the SEC, CNIL Chairman Alex Türk also said his agency was talking with companies to see whether there was a way to devise a system that would preserve the anonymity of a whistle-blower while also "preserving the right of the denounced persons to the protection of their personal data."

In a reply sent Aug. 10, Ethiopis Tafara, the SEC's director of international affairs, said the rule requiring "integrity lines" is "drafted broadly so that companies can implement it as best suits their needs and/or local legal requirements," according to a copy of the letter provided by the CNIL. Mr. Tafara also suggested that the SEC and the CNIL discuss the matter. The regulators have yet to hold talks but are expected to in coming weeks, CNIL officials said.

"For the time being, it's probably impossible for a company that is subject to both laws to be 100% sure that it's in compliance on both sides of the Atlantic," said Fabrice Baumgartner, a partner in the Paris office of Cleary Gottlieb Steen & Hamilton LLP.

That is clearly a source of corporate anxiety: The CNIL receives up to 10 phone calls, letters or emails a day asking for guidance on whistle-blower lines.

Although France's rules are based on EU data-protection laws, regulators in each of the trade bloc's 25 member countries interpret and enforce the laws, meaning they can play out differently in different countries.

In the United Kingdom, which has more companies with U.S. stock-market listings than any other EU country, the Information Commissioner's Office doesn't "see anything wrong with these hot lines," a spokeswoman said. As long as companies conduct a proper investigation into any whistle-blower allegation and the accused is informed and has due-process rights, such hot lines shouldn't pose problems, she added. But British laws could be breached if a company took an anonymous tip "at face value" without conducting an impartial investigation.

But waiting until regulators sort out the conflicting directives could carry significant risks for companies. Hunton & Williams's Mr. Kuner said he knows of firms that turned off their hot lines in France in the wake of the CNIL decision.

"Obviously if you then had a big corporate scandal occur in France and it turned out later you could have prevented it through a hot line, that could be a potential liability," he said. "But no one really knows how the SEC or the courts would interpret an excuse saying, 'We didn't have a system there because it's illegal.'"

CRIMINAL LAW:

Cuban Spy Case Poses Dilemma For U.S. (LAT)

By Carol J. Williams, Times Staff Writer

The Los Angeles Times, September 5, 2005

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MIAMI — They're known in Cuba as the Five Heroes and their faces, names and the details of their seven-year legal drama are familiar to schoolchildren and sugar cane cutters across the Communist island.

The Cuban Five, as they are known in the U.S., were convicted four years ago here in Miami of spying for President Fidel Castro and sentenced to maximum-security prisons for terms of 15 years to life. Cubans' reaction to the case rivals the collective fury that mobilized them to demand the return of castaway Elian Gonzalez in 2000.

Since a federal appeals court overturned the quintet's espionage convictions last month on grounds that their trial venue was tainted by fierce anti-Castro sentiments, the U.S. government must decide whether to request a retrial.

The case has been one of the most divisive issues between Washington and Havana since the five were arrested in 1998. The men admitted to being Cuban agents but have insisted throughout that they were only gathering intelligence on radical and sometimes violent exile groups to protect Castro and their Cuban homeland.

U.S. prosecutors, who contended the five were spreading disinformation, posing a threat to exiles and trying to steal military secrets because one of the men worked as a laborer at a Key West naval air station, won convictions in June 2001. The Miami federal court also found alleged ringleader Gerardo Hernandez guilty of murder conspiracy, based on allegations that he provided intelligence to Havana that led to the deaths of four Cuban exiles shot down by Cuban MIGs in international airspace in 1996.

Deemed amateurs even by some of Castro's harshest critics here, the five, if not retried, could instead be expelled to Havana or swapped for U.S. fugitives long sheltered in Cuba, according to their attorneys and foreign policy analysts.

The 11th Circuit Court of Appeals' reversal of the convictions of Hernandez, Antonio Guerrero, Fernando Gonzalez, Ramon Labanino and Rene Gonzalez, can also be appealed to the same court, said Alicia Valle, spokeswoman for the U.S. attorney's office in Miami. She declined to say how the prosecution would proceed.

Last week, a group of Nobel laureates and intellectuals including Desmond Tutu and Noam Chomsky, released a letter to the U.S. government calling for the release of the five men.

Castro used the occasion of his 79th birthday on Aug. 13 to visit the family of Hernandez, who coincidentally called his wife from custody in a U.S. prison while Castro was at his Havana apartment.

"The best they could do would be to free you," Castro told the prisoner, according to Cuban reporters who were present. Castro also warned that a retrial could prove embarrassing to the U.S. because it would allow defense lawyers to present evidence of American support for terrorism against Cuba, alluding to the case of Luis Posada Carriles, a radical anti-Castro exile accused of blowing up a Cuban airliner.

U.S. immigration authorities arrested Posada in May and charged him with entering the country illegally two months earlier. He remains detained at an El Paso facility pending a court decision on whether to extradite him to Venezuela to face trial in the airliner bombing, allegedly planned in Caracas.

Castro calls the months of indecision on extradition evidence of hypocrisy by Washington in its global war on terrorism. The 77-year-old Posada was convicted by a jury in Panama in connection with a plot to assassinate Castro in 2000 but was freed a year ago by outgoing Panamanian President Mireya Moscoso, an action that Castro claims was orchestrated by the White House.

Some Cuba analysts predict that the United States probably won't use the appellate decision as an opportunity to advance relations with Havana. Since Washington pulled out of twice-yearly migration talks with Cuba two years ago, there are no remaining forums for official contact or dialogue between the two countries.

FBI media liaison Judy Orihuela said the agency does not maintain a formal list of wanted fugitives believed to be living in Cuba, nor has it made any requests for extraditions.

Civil rights attorney Leonard Weinglass, who represents Guerrero, one of the men sentenced to life, said the Justice Department had asked for a 30-day extension of the usual 21-day period for requesting that the appellate court reconsider its decision.

Noting that no classified documents were involved in the case brought against the five for being unregistered agents, Weinglass said he is convinced the federal prosecutors "recognize privately" the weakness of their case and that convictions would be unlikely in a more neutral venue.

"There's never been a 93-page decision on venue," Weinglass said of the appellate decision. "Any lawyer would say you don't retry this case."

Cuba-watchers at the Council on Hemispheric Affairs contend that the Bush administration is bent on maintaining the status quo of total disengagement in hopes of undermining Castro, who has held power for nearly half a century.

Larry Birns, director of the Washington-based think tank, said he has met with three Cuban diplomats since the Aug. 9 appeals court decision and "the subject came up about a political settlement or a joint release of people. They are extremely prone to negotiate a solution to this problem."

Among the longtime U.S. fugitives in Cuba are financier Robert Vesco, convicted cop-killer and Black Power figure Joanne Chesimard and one of the FBI's 10 Most Wanted, Victor Gerena, sought in connection with a $7-million armed robbery and hostage-taking in Connecticut in 1983. At least 70 suspected criminals are believed to be taking refuge in Cuba.

But Birns doubts any such resolution will emerge.

"This thing is so churned up by ideology and domestic politics that even though there is a compellingly rational path to a solution, the United States doesn't want to do anything that would portray Cuba as anything but a nation of beasts," said the director of the left-leaning think tank.

Longtime Castro critic Joe Garcia, former head of the right-wing Cuban-American National Foundation, predicts that the U.S. government will pursue a new conviction, even though the Cuban Five represent no threat to U.S. security and are of limited symbolic value because most Americans outside Cuban exile-heavy Miami know nothing about them.

"It's impossible at this stage to just deport them," said Garcia, now a Democratic Party advisor. "The return of these people would be a victory for Fidel."

The Bush administration could also seek to exchange the Cuban Five for Castro's promise to release dozens of dissidents and independent journalists jailed in Cuba, Garcia said. But that action would backfire on the Cuban opposition by linking it with the U.S. government, he added, validating Castro's claims that his domestic critics are paid lackeys of Washington.

Moreover, Castro is not likely to give up a prominent U.S. fugitive, Garcia said. Vesco is jailed in Cuba on conspiracy charges and knows too much about Cuban government dealings to be trusted, Garcia said, and it would be politically difficult to turn over Chesimard or other Black Power radicals wanted in the United States for murder.

"Joanne Chesimard is a symbol in Cuba. To turn her over would be a betrayal of the left, and Fidel is the last leftist. It's tough for him to give up symbols," said Garcia.

Damian Fernandez, director of Florida International University's Cuban Research Institute, sees little hope of the Cuban Five prompting either Havana or Washington to change their adversarial postures.

"I don't sense either the United States or the Cuban government having the will to change the status quo. They like it the way it is," he said. "The five are a cause celebre for Castro. For the United States, they're a symbolic repudiation of Castro's Cuba."

The National Committee to Free the Cuban Five objects to the idea of using the men as political trade goods. The private support group instead has lobbied for their release without conditions.

"We feel the Cuban Five have already suffered enough," said the group's New York spokeswoman, Teresa Gutierrez. "As for a swap between prisoners, we don't think that's fair at all. It's apples and oranges."

PARANOIA RUNS DEEP AT CITY HALL AS FBI CORRUPTION PROBE WIDENS (NFR)

By Mike Hudson

Niagara Falls (NY) Reporter, September 5, 2005

The widening federal corruption probe of Mayor Vincenzo V. Anello has City Hall employees edgy as more grand jury subpoenas draw an increasing number of civil servants into the tawdry case.

On Aug. 25, city Law Department Clerk Donna Winstanley was summoned to testify in the scandal. Winstanley, who is responsible for the department's time/date stamp machine, was ordered to bring Anello's financial disclosure statements for the years 2002, 2003 and 2004, along with any charts or other records designed to track when the documents were actually filed.

Sources familiar with the original documents say that some filings, for different years, appear to have been done at the same time and with the same pen. Federal agents are particularly interested in the filing for 2004, the year when Anello accepted more than $45,000 in unsecured "loans" from prominent downtown developer "Smokin'" Joe Anderson and Kathy Kajfasz, sister of John Kajfasz, a principal in the group Anello gifted with 18 holes of the Hyde Park Golf Course.

At the time, Anello was serving as a city councilman and the payments were made just before and immediately after his election as mayor. None of his disclosure forms was stamped with the time or date, and the public documents only came to light following Freedom of Information Act requests by the Niagara Falls Reporter and the Niagara Gazette.

Interestingly, the 2004 form had been dated by Anello as 4/11/04 until someone changed it to 4/11/05. The filings are now in the hands of forensic document examiners at the Federal Bureau of Investigation's laboratory in Washington, D.C. Some believe the documents were filed only after the media's FOIA requests.

Anello never disclosed his fiduciary interests with either Kajfasz or Anderson to the public or the City Council, even as he introduced legislation beneficial to those he owed a substantial debt.

The unusual financial arrangements came to light only after a May 3 Reporter expose uncovered documents showing he'd taken the money. At first, Anello chose to deny the story, calling it "totally unfounded, false and defamatory." Later he admitted to

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taking the money, and even later admitted he hadn't yet paid back a dime. He hired noted criminal defense attorney Joel Daniels to represent him as federal agents, smelling blood, began to circle.

"A lot of times in Niagara County, it's difficult to tell whether someone had a criminal intent or was just being stupid," one source told the Reporter. "Clearly, though, in this case, we're not talking about lunch money. "Is what's been discovered so far indictable? Personally, I'd say yes," he added. "The question now is whether this was an isolated case or part of a larger pattern."

The federal grand jury seated in Buffalo began hearing evidence in the case on June 9, when Niagara County Elections Commissioners Scott Kiedrowski and Nancy Smith were called upon to appear, and produce all financial records submitted by the Friends of Vince Anello Committee between Jan. 1, 2003, and Dec.31, 2004. Neither the Anderson nor Kajfasz "loans" are listed on those records.

In addition to Winstanley, Kiedrowski and Smith, others known to have been interviewed by the FBI or testifying before the grand jury include Anderson's ex-wife Gail Anderson, City Council members Babe Rotella and Candra Thomason, former Anderson associate John Caputo, NFC Development Corp. Director Ralph Aversa and members of the Reporter staff.

Rotella said he is particularly troubled by the burgeoning scandal.

"It bothers me because this is another black eye for Niagara Falls and it's another black eye for the Italian-American community here," he said. "This is the last thing we needed."

Assistant U.S. Attorney Paul Campana has been assigned to direct the case. A tough prosecutor, Campana has been involved in a number of high-profile Justice Department cases going back to the 1980s, including the prosecutions of former Buffalo Bill Robb Riddick in 1991, Albion Police Chief James Prioetty in 2000 and the extradition back to Germany of accused killer and reputed Russian Mafia hitman David Kricheli earlier this year.

In the Anello case, sources close to the investigation said no fewer than three indictments are expected. Some expressed amazement that the government was already set to present evidence before a grand jury.

"These things can sometimes take years to unfold," said one. "In this case, the U.S. Attorney's office must feel pretty confident about the evidence it has."

In addition to the golf course giveaway and multiple shady deals involving Anderson, the feds are also looking into circumstances surrounding the bidding process for the city's proposed new public safety complex, the demolition of the former Third Street parking ramp and the use of city credit cards by Anello and City Administrator Dan Bristol.

The investigation has brought city government to a virtual standstill here, as developers fearful of being brought into the scandal are staying away in droves and the formerly Anello-friendly City Council now routinely balks at the mayor's initiatives, particularly those involving outside consultants and influence-peddlers.

After just 20 months in office, Anello's lame-duck status is such that the prospect of him even winning the Democratic Primary in 2007 seems unimaginable.

But the toughest toll is being borne by the city workers who now find themselves having to deal with the criminal justice system for no offense other than showing up to do their jobs.

Municipal employees have become increasingly paranoid working under the shadow of looming indictments. The morale of the workers was reflected on Aug. 12, when Anello hosted an employee picnic. Of the more than 600 city workers, fewer than 50 showed up for the event.

"I've been here for a long time, and I didn't think it could get any worse than it was under (former mayor) Irene Elia," one City Hall employee told the Reporter. "But this is crazy. You're afraid to leave your office or talk to anyone in case you'll get subpoenaed, too."

For his part, Anello has displayed braggadocio bordering on the pathological.

"I know the way my enemies want to see it. I know how my friends feel. OK?" he told a skeptical television reporter. "Why should I be put in a position to answer a political attack by a political opponent in this venue?"

In a separate TV appearance in July, he went so far as to lay the blame for his monumentally poor judgment and colossal lack of ethics squarely where it belongs -- on other people.

"In Niagara County, and the Falls in particular, you've got more rats than cats, and the rats have their own newspaper," he said.

He was right, of course, though not in the way he intended.

Animal Rights Activist Pleads Guilty In U.S. Mink Release (AP)

AP, September 6, 2005

MADISON, Wis. - An animal rights activist accused of freeing thousands of minks across the U.S. Midwest has pleaded guilty and faces two years in prison.

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Investigators say Peter Daniel Young, 28, and an accomplice raided farms in Wisconsin, South Dakota and Iowa in 1997, trespassing and cutting fences to release the small animals valued for their thick fur.

Young pleaded guilty Friday to two counts of animal enterprise terrorism. He is believed to be a member of the Animal Liberation Front, a radical group that aims to destroy animal industries it considers inhumane.

Young and his accomplice, Justin Samuel, both disappeared after they were indicted in 1998, but Samuel was captured in Belgium the following year. He struck a deal with prosecutors and served two years in prison.

Young remained at large until March, when police arrested him for trying to shoplift CDs in California.

Rumor Keeps Waltz Alive (AP)

By MATT GOURAS, Associated Press

AP, September 6, 2005

NASHVILLE - All lawmakers can do is watch and wait as a federal probe into bribery and corruption at the state Capitol continues to sink colleagues.

Legislators said they have heard the rumors that more arrests are on the way, but don't know if it will include local officials like the one nabbed last week or more state lawmakers.

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Like in May, when four sitting lawmakers were arrested on their way to work, they expect to be the last to know.

"I believe the Department of Justice and the FBI know a lot more about these investigations than I do," said House Speaker Jimmy Naifeh.

Just last week, pressure mounted in the Legislature to react when former state Rep. Chris Newton pleaded guilty and resigned. At the same time, it became very clear the Tennessee Waltz sting is not over.

Another indictment was handed up last week, this time against a local Shelby County official, as the grand jury sent notice its work isn't finished.

It's unknown if other lawmakers will be arrested - and federal authorities are predictably quiet about their ongoing investigation - or if Newton is now feeding them information.

"I just hear there are other indictments coming down," said House Republican caucus chairman Charles Sargent of Franklin. "No one has said if it's just going to be county commissioners or local school board members or legislators.

"I don't think any of us truly knows except for the grand jury and the FBI."

The lawmakers have proven ready to address arrested colleagues once they resign - as in the case of Newton and former state Sen. John Ford, who is pleading innocent.

But lawmakers are by and large taking it easy on the two who are staying in office and fighting the charges, Sens. Ward Crutchfield and Kathryn Bowers.

Sen. Doug Jackson, D-Dickson, said they should only resign "if they know in their heart of hearts" they are guilty.

"I believe them innocent until proven guilty," said Sen. Tommy Kilby, D-Wartburg.

Legislators, defending themselves against charges from Newton that what he did is "business as usual" in Nashville, were angry and indignant at comments likely to worsen their public image.

"I have never heard of a bribe being offered in my 18 years (in the Legislature)," said Jackson.

Lawmakers are trying their best at damage control, though, and are rushing work by a special panel to draft tougher ethics laws for the state. But leaders say new guilty pleas or arrests won't force them to rush their work, or change their plans.

Naifeh said he would continue "waiting and listening" as the Tennessee Waltz case unfolds rather than talk about it.

Gov. Phil Bredesen, who has his own panel drafting ideas for new laws in anticipation of a special session late this year or early next year, said officials already have more than enough reason to act.

"The arrests in the spring are plenty enough to focus on this," he said.

Bredesen said he thinks it's best for his independent panel to finish its work first, especially since it is removed from the legislative environment.

"Let's do this in an orderly fashion. Let's get their (independent ethics panel) report first. Let's get some meaningful legislation. Then let's call a special session."

Ex-mayor, Co-felons Sentenced In Bribe Case (CLPD)

By Mike Tobin, Plain Dealer Reporter

The Cleveland Plain Dealer, September 6, 2005

Emmanuel Onunwor was once the picture of success. He emigrated from Nigeria, earned a master's degree and was elected mayor of East Cleveland.

Holes have been punched in that success story for more than two years since Onunwor tearfully admitted to FBI agents that he took bribes from businessman Nate Gray. The latest blow came Friday in U.S. District Court when Onunwor, 46, was sentenced to nine years in prison.

"The conduct you engaged in was, in a major way, a complete betrayal of the citizens," U.S. District Judge James Gwin told Onunwor. "You caused the city major damage in terms of their economics."

Onunwor, who took about $50,000 in bribes, was contrite.

"I apologize to my family, my friends and the citizens," said Onunwor, dressed in a navy blue prison jump suit. "I did wrong. I deserve to be punished."

He shaved about 10 years off his sentence by agreeing to testify against Gray.

But he made that agreement only after a jury found him guilty of racketeering and bribery. Gray was convicted of conspiracy and fraud charges last month and is to be sentenced this fall with co-defendant businessman Gilbert Jackson of New Orleans.

Onunwor was also ordered to pay more than $5 million in restitution - the amount of contracts that he steered to companies doing business with Gray. All sides agree that Onunwor is broke and unlikely to be able to pay the money. Upon his release, however, a portion of his income will be paid to the government.

Four others were sentenced Friday in the corruption scheme in which bribes were exchanged for public contracts in Cleveland, East Cleveland, Houston and New Orleans.

Ricardo Teamor, a onetime associate of former Cleveland Mayor Michael R. White, was sentenced to four months in prison and four months of house arrest. He paid bribes to former Cleveland Councilman Joe Jones, who is to be sentenced next month.

As part of his plea deal, Teamor told prosecutors about widespread corruption during the $500 million expansion at Cleveland Hopkins International Airport when White was mayor. He said he allowed his construction company to be used as a front company to help contractors get around a city program requiring that some work be subcontracted to companies owned by minorities.

Teamor, 59, of Aurora, told officials that most of the minority-owned companies doing work at the airport were actually front companies that paid kickbacks to Gray. Teamor has met with a special investigator hired by Mayor Jane Campbell to probe Teamor's allegations, lawyers said.

"He's trying to ensure the program will continue on and operate as it was intended," said Robert Dixon, Teamor's attorney.

A former Houston building services director, Monique McGilbra, 41, was sentenced to three years in prison. She admitted to accepting cash and lavish gifts such as a $700 purse and all-expenses-paid trips to New Orleans from Gray and two businessmen trying to get contracts with Houston.

Former Honeywell executive Brent Jividen, 43, was sentenced to 2½ years in prison. Jividen of Medina admitted to bribing McGilbra with gifts.

Oliver Spellman, 51, of Brooklyn, N.Y., was given two years' probation for accepting bribes from Gray while serving as chief of staff to the mayor of Houston. Spellman previously worked as director of parks and recreation under White.

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Ex-city Official Given 3-year Sentence (HC)

By Dan Feldstein
Houston Chronicle, September 6, 2005

Former city of Houston official Monique McGilbra was sentenced to three years in federal prison Friday for accepting bribes from a Cleveland businessman, while former mayoral chief of staff Oliver Spellman got probation for a similar crime.

McGilbra apparently earned the disdain of U.S. District Judge James Gwin in his Cleveland courtroom, insisting that she thought the gifts she accepted from businessmen seeking city work were purely part of dating.

In a trial against the businessman this summer, she testified that she took gifts from five people or companies seeking business with the city building services department she supervised.

McGilbra told Gwin at her sentencing that she was "a woman, a mother and a lover" and that it shouldn't be a crime to have expensive tastes, according to the Cleveland Plain Dealer.

"My involvement with the men in this case was primarily personal that became business. There were personal advances. I never had my position or City Hall for sale," she told the judge.

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McGilbra, who resigned her city post in April 2003, will be sent to prison after she is sentenced on a similar guilty plea in Houston on Tuesday. The U.S. attorney's office here plans to ask that any prison time run concurrently with her Cleveland sentence.

Prosecutors in Ohio have long pursued Cleveland businessman Nate Gray, a gregarious friend of the former Cleveland mayor whose "consulting" clients always seemed to fare well with local governments. They finally got their man last month in a trial in which McGilbra and Spellman both testified against him to reduce their sentences.

The investigation spilled into Houston because Gray was friendly with Spellman, who served as Cleveland's parks director before coming here in the same capacity and being promoted by former Mayor Lee Brown as his chief of staff.

While Spellman and McGilbra both pleaded guilty, Gray fought the charges, earning a conviction and giving prosecutors a chance to lay out the alleged bribery conspiracy.

Spellman took $2,000 from Gray and in bugged phone calls offered Gray inside information on airport and parking meter contracts. Through the wiretaps it was learned that Mayor Brown's brother, Earl, was a paid "sub-consultant" to Gray.

Gray showered McGilbra with a trip to the Super Bowl and other gifts on behalf of Honeywell, which wanted a piece of a city energy contract won by Reliant.

The charge in Houston, for which McGilbra has also pleaded guilty, revolves around gifts she received from local businessman Andy Schatte and his Keystone Group. Keystone offered McGilbra's then-boyfriend $250,000 if Keystone got a fire station deal with McGilbra's department.

McGilbra, 41, is divorced with two school-age children. She received the upper range of her plea-agreed sentencing range of 30-37 months, plus a $5,000 fine.

Spellman, 51, got probation plus a $10,000 fine.

Prosecutors protested that Spellman's sentence was too light. But Gwin said he thought Spellman was a decent person who had made a bad mistake.

"It was a complete lack of judgment on your part. Defendant Gray used your friendship to line his own pockets. You had something of a stellar career throughout your life. Except for your substance abuse problem, it appears you were an exemplary public official," he told Spellman, according to the Plain Dealer.

Also sentenced Friday was former Cleveland-based Honeywell employee Brent Jividen, 43, who got 30 months in prison.

A former Cleveland attorney received four months and the former mayor of East Cleveland, who took regular payments of cash across a table from Gray, received nine years.

Gray, a Cleveland City Council member and a New Orleans businessman all await sentencing in the case.

Federal officials have said more investigations are ongoing in Houston but have declined to offer details.

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Check Was In The Mail, But Thieves Were At Mailbox (PHI)

By John Shiffman

The Philadelphia Inquirer, September 6, 2005

What makes Joseph Mo Pun Lau's federal case so audacious isn't what he's accused of stealing. It's how he allegedly pulled it off.

Lau, an intuitive Hong Kong fugitive, was already an established identity thief by late 2003, according to the FBI. Using a crude tool, agents said, he fished envelopes from street-corner mail-collection boxes throughout the Philadelphia suburbs, counterfeiting whatever checks and credit cards he found inside.

And yet, an accomplice told the FBI, Lau had become frustrated by the slow, risky and unpredictable process of snaring letters one at a time.

So Lau allegedly came up with a clever way to reel in a bigger catch: He surreptitiously videotaped letter carriers as they opened the boxes, zooming in on their keys. Lau used those images to calculate measurements for the grooves in the keys and created brass duplicates.

With these homemade keys, Lau pilfered mail-collection boxes in Exton, Wayne, Frazer, Devon and the Southwark neighborhood of Philadelphia, as well as unidentified towns in New Jersey and Maryland, according to a criminal complaint.

When Lau couldn't do the job himself, he shipped a key to an accomplice and e-mailed the global-positioning-system location of the targeted collection boxes, authorities said.

"The FBI is not aware of anything else like this," bureau spokeswoman Jerri Williams said.

Lau, 46, appears to be a serious fellow, once admonishing an accomplice that "every day is a working day," according to an FBI transcript.

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He and his wife lived in an $800-a-month apartment in Parlin, N.J. He was unemployed and drove a 1999 Ford Expedition. (The vanity plates read "HVYDUTY.") He owes $30,000 on his credit cards, records show.

Lau has one previous criminal conviction - in Atlantic City in 1999 for putting shaved quarters into slot machines; the technique can earn a winning player an extra 25 cents a pull.

"Joe's a very smart guy, a gentleman, someone who makes a good impression," said J. David Alcantara, his lawyer in the slots case.

After his casino conviction, Lau was ordered deported. When he missed a deadline to leave voluntarily, officials issued a warrant.

Lau remained free until shortly before midnight Aug. 17, when postal inspectors and FBI agents apprehended him as he left a Chester apartment - a safe house that authorities say he and the accomplice used to make forged keys and documents.

When Lau was arrested, he was carrying a backpack, a duffel bag, and a computer bag, authorities said. Inside the bags, agents said, they found six cell phones, a copy of a U.S. Postal Service collection-box key, two picture albums of post offices and collection boxes, bogus checkbooks, and keys to private mailboxes, such as those at Mailboxes Etc. and UPS stores. Authorities said Lau was also carrying a variety of forged documents - including passports, Social Security cards, New Jersey driver's licenses, and resident alien cards.

Lau's gang stole $140,000 worth of checks, counterfeited them, and deposited them in 16 different bank accounts, according to an affidavit by Philadelphia-based FBI Agent Catherine L. Nowery.

Lau was charged with bank fraud, mail fraud, and illegal possession of postal keys - and ordered held without bail.

Assistant U.S. Attorney Zane D. Memeger, and Lau's lawyer, Elliot Cohen of Philadelphia, declined comment on Friday.

Postal inspectors first discovered the collection-box heists in the Philadelphia area in February, when they noticed empty collection boxes. But the case was not cracked until this summer, when an FBI agent recognized Lau's accomplice from bank surveillance photos.

Authorities confronted the accomplice on Aug. 2, and he agreed to cooperate, according to court records. The accomplice is not identified in the court filings, but authorities said he had been told he was likely to be charged in the case.

Inside the accomplice's Chester apartment, agents and inspectors found a $600 key-making machine, a thin-line grinder, a bag of homemade and blank keys, a Sony Mini DV Handycam, a JVC Digital video camera, and nine boxes of blank check-writing stock. They also found small cardboard boxes with holes in them, ones allegedly used to conceal the cameras that filmed the letter carriers.

Last week, Lau agreed to help authorities catch an alleged third member of the gang, Xiao Chun Chen, a 41-year-old illegal alien from China who lives in Atlantic City, and who also has been convicted of cheating at slots.

According to a court filing, U.S. Postal Inspector D. James Bannan arranged for Lau to call Chen on Wednesday and ask to meet Friday at the bus station at 10th and Filbert Streets in Philadelphia, near a favorite ATM machine.

When Chen arrived, he was arrested.

New Prosecutor Will Focus On Gang Crimes (BSUN)

By Matthew Dolan, Sun Staff

The Baltimore Sun, September 6, 2005

Justice Department officials have approved funding of a new federal prosecutor to exclusively handle gang-related prosecutions inside Maryland's U.S. attorney's office.

The move comes after a sweeping indictment last month against 19 suspected members of the Hispanic gang MS-13 who were arrested on federal racketeering charges that include a string of homicides and attempted killings in Montgomery and Prince George's counties.

U.S. Attorney Rod J. Rosenstein, who took office this summer, said he told Justice Department officials that the state had an urgent need to beef up its prosecutorial resources to focus on gangs in suburban Washington and on gun-related crime in the Baltimore region.

His office has 65 prosecutors split between the state's two federal courts in Baltimore and Greenbelt. Rosenstein plans to fill five vacant slots within the next few months. A new agreement with the city will bring two additional prosecutors to Baltimore to handle gun-related prosecutions.

It was unclear where the new gang prosecutor will work. Rosenstein said Greenbelt would be the likely choice because an organized-crime prosecutor in Baltimore already focuses on the city's drug-related gang activity and because the new prosecutor approved last week would more likely target such gangs as MS-13 in the Washington region.

"MS-13 is a new and specific challenge in Montgomery and Prince George's," Rosenstein said. "A major focus of our anti-gang strategy remains to combat loosely organized, street-level, violent drug gangs in Baltimore. [The Bureau of Alcohol,

Tobacco, Firearms and Explosive's] Violent Crime Impact Team is a big part of our anti-gang program in Baltimore, and it is working well."

Andrea Smith, an assistant U.S. attorney in Baltimore who helps coordinate the local Organized Crime Drug Enforcement Task Force, said the new anti-gang prosecutor should help prosecutors who have used a similar strategy against drug-related, violent organizations, such as the Lexington Terrace gang in the city.

"We target a neighborhood under siege," Smith said. "These organizations are multijurisdictional and often nationwide in scope. We start to piece together what's going on, where the connective tissue is and then scoop out that group."

The indictments announced against MS-13 tie reputed gang members, including a Baltimore carpenter, to murders and other crimes from April 2003 through June of this year. Prosecutors accused them of kidnappings, drive-by shootings and a killing in a cemetery. Six people were slain in suburban Washington, and authorities say gang members attempted to kill another five.

MS-13, also known as Mara Salvatrucha, originated in Los Angeles among refugees from El Salvador. Members also come from Guatemala, Honduras and Mexico. Mara refers to a gang, while Salva is an abbreviation for Salvadoran. Trucha is slang for "fear us," according to federal authorities.

An estimated 10,000 MS-13 members are in the United States, many in the Washington suburbs, which has a large population of Central American immigrants. Montgomery County police said they believe at least 500 gang members are active in the county, many of them part of MS-13.

Double Shooting Kills Man In PG (WT)

By Matthew Cella

The Washington Times, September 6, 2005

A double shooting early yesterday in Suitland left one man dead, marking the sixth homicide in Prince George's County in the first five days of September.

The shooting occurred in the 4600 block of Chelsea Way at about 1 a.m., said Cpl. Clinton Copeland, a spokesman for Prince George's County Police.

Kenneth Stanford, 22, of the 4700 block of Hudson Avenue had been shot several times. He was taken to a hospital, where he died. Also shot was a 28-year-old man, who was hospitalized.

The killing brings the number of homicides this year in Prince George's County to 119, up from 96 at this time last year.

The county has experienced a spate of violence since Thursday, when Charmaine Edwards, 21, of Southwest was found fatally shot in her car on Keystone Manor Drive in Morningside.

Four persons were fatally shot in the county Friday. Three of those killings occurred in the daylight hours.

·Dorsey Tyler, 42, who lived on Sheriff Road, was killed at about 3:10 p.m. in the 1500 block of Village Green Drive.

·Abdul Gregory Leftwich, 18, was killed at about 4:50 p.m. in the 1700 block of Kenilworth Avenue where he lived.

·John Douglas Lewis Jr., 27, of the 1200 block of Nalley Road was killed at about 5:10 p.m. in the 1800 block of Ray Leonard Road.

·Angelo Lorenzo Braddy, 21, was killed at about 10 p.m. in the 1500 block of Ray Road in the Hyattsville area.

Cpl. Copeland said no arrests have been made in those cases, but James Esau Davis, with no fixed address, has been identified as a suspect in connection with Mr. Leftwich's death and a warrant for first-degree murder has been issued for his arrest.

"As of right now, there's nothing indicating that [the cases] are related, but that's just preliminary. The investigations are ongoing." Cpl. Copeland said.

Also over the Labor Day weekend, Anne Arundel County police charged Brandon Iam Kellam, 16, with second-degree murder after the stabbing death of a 17-year-old boy outside a Glen Burnie mall Saturday night.

Police said Kevin Michael Weingart of Glen Burnie and a group of friends became involved in an altercation with another group in the parking lot of Marley Station Mall.

As the dispute escalated, the teenager was stabbed in the torso. He was flown by helicopter to the University of Maryland Shock Trauma Center, where he was pronounced dead.

In the District, Metropolitan Police are investigating a fatal shooting that happened at about 9 p.m. Saturday in the 3700 block of Hayes Street Northeast.

Police said they found Derrick Jones, 22, of the 3700 block of Cassell Place Northeast with gunshot wounds to his head and body. Police said they don't have any suspects or a motive in the case and that they are searching for witnesses.

Through Friday, the District had recorded 128 homicides, compared with 129 at the same time last year.

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CIVIL LAW:

Successful Lobby Shops Build On BRAC Victories (HILL)

By Roxana Tiron

The Hill, September 6, 2005

Some high-powered Washington lobbying shops are banking on their freshly collected laurels to get even more business from the communities that hired them to get military bases off the Pentagon's chopping block.

As the independent Base Closure and Realignment (BRAC) Commission is getting ready to send its final deliberations to President Bush on Sept. 8, lobbyists are monitoring the BRAC process here in Washington while corralling communities to extend their contracts.

"They have done well in BRAC, and we [want] to continue the momentum because the Department of Defense is making many changes," said John Simmons, a senior adviser at law firm Akin Gump Strauss Hauer & Feld LLP.

The Pentagon is undertaking a sweeping review of capabilities, called the quadrennial defense review.

A boon in business for the Washington lobbying shops can come from a whole range of issues, from defense appropriations to military construction, such as new technology centers and housing for those bases that are receiving more troops.

Among Washington lobbying shops scoring large victories for their clients are the Rhoads Group and Kutak Rock LLP, which represented Ellsworth Air Force Base in South Dakota; the Washington Group, which defended the Naval Submarine Base New London in Connecticut; Patton Boggs, which represented the Portsmouth Naval Shipyard in Maine; Akin Gump, which worked for the states of New York, Kansas, Maryland and Arkansas; and Spectrum Group, which represented the state of Louisiana and a large Defense Finance and Accounting Service center in Cleveland.

"We are up to speed on [the communities'] issues as part of BRAC, as we argued their military value. They are comfortable with us, and we are going to compete for more contracts," Simmons told The Hill.

Because no other BRAC round is planned yet, the success of a lobbying firm in the 2005 BRAC round can lead to representation of defense issues for installation-related matters, said Jim Noone, a lobbyist with the Washington Group, a Ketchum company.

"Getting BRAC residual business is down the road," said Noone, who was part of the team representing New London, Conn.

While several lobbying shops contacted by The Hill said that they did not receive so-called "success fees" for their work on BRAC, Keith Ashdown with Taxpayers for Common Sense said that it is possible for these firms to have an understanding with the communities to be retained for several more years.

Akin Gump, which worked with the lobbying group Hyjek and Fix to represent a number of states and communities in this BRAC round and has achieved a 100 percent success rate for its clients, according to Simmons.

The lobby consortium represented the state of New York, the state of Kansas, three communities in Maryland, the Alliance of Pine Bluff, Ark., and the state of New Mexico.

Maryland is one of the largest gainers in BRAC, and it is in Maryland that the firm has its eyes on further representation. Akin Gump represented the Navy Alliance at Indian Head, Md., the Southern Maryland Navy Alliance at Patuxent River, Md., and Harford County.

The community at Indian Head is planning to build an energetics center in proximity to the University of Maryland, which has a strong program in energetics, Simmons said. The Indian Head alliance already spent upward of $290,000 in lobbying fees since 2003.

With the Navy's budget unpredictable in the future, Patuxent River will also have to continue its legislative presence, said Simmons.

"This is something they need to meet about, but we were told that they were interested," Simmons said. The southern Maryland alliance also hired the PMA Group to lobby for its defense interests.

Meanwhile, Cannon Air Force Base in New Mexico, which was slated for closure, will stay open until 2009. The BRAC Commission directed the Pentagon to evaluate its need for the base.

"It could be the home of the future Airborne Laser Program," Simmons said, hinting at potential lobbying material for the firm.

Kansas, projected to receive thousands of new soldiers at several installations, may need to continue its military counsel, said Simmons. "That is something that they would be discussing later this fall," he said. "We would compete for that contract."

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New York state has the longest-standing relationship with Hyjek and Fix and Akin Gump. Hyjek and Fix has been representing New York communities' interest since 1998.

Akin Gump won a contract two years ago to represent New York state interests. The state was reeling from previous base closures, Simmons said, and was trying not to repeat mistakes.

According to lobbying disclosures, the Empire State Development Co. paid $520,000 in lobbying fees to Akin Gump by the end of 2004.

The Niagara Area Chamber of Commerce spent $380,000 in fees to Hyjek and Fix up to the end of 2004. Disclosures for 2005 are not yet available, and the companies refused to reveal their fees.

"New York was set to lose more than 1,000 jobs, had the DoD recommendations been adopted," Simmons said. "As a result of the BRAC decisions, the state will gain more than 1,000 jobs."

Punching power comes with a certain price tag. Former Rep. Bill Paxon (R-N.Y.), who was chairman of the National Republican Congressional Committee and is now a senior adviser at Akin Gump, represented the interests of New York.

CIVIL RIGHTS:

9th Circuit: Sexual Content Not Needed For Harassment (LAW)

By Justin Scheck, The Recorder

Law.com, September 6, 2005

You don't have to be a groper, lecher or explicit misogynist to get sued for sex-based harassment, a three-judge panel of the 9th U.S. Circuit Court of Appeals ruled Friday.

The opinion, in a case originating at an Alaska teachers union, said that Thomas Harvey, a manager accused of "shouting, 'screaming,' foul language, invading employees' personal space ... and [making] threatening gestures" may be sued for gender-based discrimination under Title VII of the Civil Rights Act of 1964, even though his acts were not overtly motivated by the victims' gender.

"We hold that offensive conduct that is not facially sex-specific nonetheless may violate Title VII if there is sufficient circumstantial evidence of qualitative and quantitative differences in the harassment suffered by female and male employees," wrote Senior Judge Alfred Goodwin in a unanimous decision.

Senior Judge Melvin Brunetti and Judge William Fletcher concurred. In the case, male and female employees agreed that women bore the brunt of Harvey's outbursts.

Employment lawyers said the opinion offers encouragement to plaintiff lawyers whose clients don't fit the traditional mold of harassment victims.

"I think it's a good decision for plaintiffs," said Jack Lee, a partner at Minami, Lew & Tamaki who specializes in gender discrimination suits.

The opinion stands to strengthen plaintiffs' arguments that adverse effects of an employer's behavior are more important than intent.

"Before, it was pretty clear that you didn't have to be lusting after" an employee to be held liable for discrimination, Lee said. "But here, it's bullying that might create an adverse impact."

Particularly significant, Lee said, was Goodwin's statement that "this case illustrates an alternative motivational theory in which an abusive bully takes advantage of a traditionally female workplace because he is more comfortable when bullying women than when bullying men."

Such alternative theories, Lee said, would be useful in cases like one he handled last year for an Air Force surgeon. The surgeon said she had been treated differently than her male counterparts, even though she was not called names or explicitly abused for being a woman.

While a jury eventually awarded his client $500,000, Lee said the case was a challenge because doctors tend not to act in stereotypically discriminatory ways. Friday's opinion, he said, could help overcome that hurdle.

"Highly educated people don't have that kind of roughhouse environment, but there can be sex harassment nonetheless," said Lee. Shelley Gregory, a staff attorney at the Legal Aid Society-Employment Law Center in San Francisco, agreed.

"It's not always the case that we have a smoking gun," she said. "What I think the court is doing is recognizing the evolving nature of harassment in the workplace." Gilmore Diekmann Jr., a partner at Seyfarth Shaw who defends employers in harassment suits, was less enthused.

He said the opinion is unclear on the most alarming point it raises: that subjective effects of an employer's behavior may be used to determine whether there was discrimination.

"It's unique and probably wrong" if the court meant that people's different reactions to the same behavior could form the basis for a discrimination claim, he said. "It seems to be some effort by a panel to possibly inject a new type of liability," he added.

The opinion, Christopher v. National Education Association, 05 C.D.O.S. 7999, sends the case of plaintiff Carol Christopher back to the U.S. District Court for the District of Alaska, which had dismissed the suit.

11th Circuit: Jail Was Right To Conduct Strip Search (LAW)

By Scott Simonson, Fulton County Daily Report

Law.com, September 6, 2005

Atlanta's federal appeals court, with apparent reluctance, ruled Wednesday that a North Georgia county's policy of strip-searching every prisoner booked into jail violated the Constitution.

The court also noted that the policy didn't necessarily violate the rights of individual prisoners who were searched, so long as jailers had "reasonable suspicion" that a detainee might possess weapons or contraband.

The 11th U.S. Circuit Court of Appeals made the ruling in the case of Janet M. Hicks, who sued Habersham County's sheriff and jail supervisor after she was strip-searched following her 2001 misdemeanor arrest for a domestic-violence dispute with her estranged husband. Hicks v. Moore, No. 03-13686.

According to the 11th Circuit's ruling, Hicks was strip-searched by a female sheriff's department employee and was not touched during the search.

About three years ago -- and after Hicks' strip search -- the sheriff in charge of the jail at that time, Richard Moore, changed the jail's policy, and the facility no longer strip-searches everyone who is booked.

Hicks' suit did not name the county as a defendant but targeted Moore, the jail commander and other individuals who supervised or participated in her detention and search. Current Habersham County Sheriff DeRay Fincher could not be reached for comment.

A unanimous three-judge panel ruled that the jail did not violate Hicks' rights, because her arrest for a violent crime justified a strip search. The 11th Circuit effectively ended Hicks' federal case against the jail and reversed a district court ruling that denied the Habersham government employees' motion for summary judgment.

Chief Judge J.L. Edmondson wrote the opinion, joined by Judge Frank M. Hull and U.S. District Judge B. Avant Edenfield of the Southern District of Georgia, sitting by designation.

QUESTIONING PRECEDENT

Edmondson, with apparent unease, ruled that circuit precedent didn't allow Habersham's practice of strip-searching everyone booked at the jail. This ruling marks the second time in the past four months that Edmondson has written an opinion expressing dissatisfaction with the circuit's precedent on strip searches.

His opinion stopped short of endorsing circuit precedent or condemning the jail's policy. He added, in a footnote, "We personally question that such a practice violates the Fourth Amendment," noting that the circuit's precedent justifies strip searches only when a "reasonable suspicion" indicates that a detainee could possess weapons or contraband, according to the court's 2001 ruling in Wilson v. Jones, 251 F.3d 1340.

Edmondson pointed out that the "reasonable suspicion" standard remains stricter than what the U.S. Supreme Court requires.

In May, in another opinion written by Edmondson, a full 12-judge panel of the 11th Circuit voiced unease with its precedent on strip searches. In that case, Edmondson wrote, "most of us are uncertain that jailers are required to have a reasonable suspicion of weapons or contraband before strip-searching -- for security and safety purposes -- arrestees bound for the general jail population." Evans v. Stephens, 407 F.3d 1272.

SUFFICIENT REASON TO SEARCH

In Hicks' case, the court found that the strip search did not violate her constitutional rights, eliminating the basis for her federal suit.

"Just because she was strip-searched at a jail that had a search practice that would generally violate the Constitution does not mean every search that was conducted actually violated the Constitution," Edmondson wrote.

Because Hicks was arrested on a misdemeanor charge of family violence battery -- obviously, a crime of violence, according to the opinion -- jail officials had sufficient reason to suspect hidden weapons or contraband, Edmondson wrote.

However, the opinion pointed out that the arresting officer and jail supervisor in Hicks' case testified that they did not suspect Hicks of having weapons or drugs.

"Whether reasonable suspicion existed at the time is a question of law to be determined ultimately by judges, not policemen or jailers," Edmondson wrote. "The subjective intentions and beliefs of the jailers conducting the strip-search are

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'immaterial to the Fourth Amendment analysis,'" according to the 1989 U.S. Supreme Court case Graham v. Connor, 490 U.S. 386.

Terry E. Williams of Lawrenceville, Ga., who represented Moore, the former Habersham sheriff, and other county employees, could not be reached for comment.

One of the attorneys representing Hicks, Scott D. Delius of the Delius Law Firm, said Thursday that he was disappointed with the outcome and that his client hasn't decided whether she'll pursue the case.

"We at least feel good about the fact that there's no longer a blanket strip-search policy at the jail and that jails are taking the issue seriously," said Delius, who represented Hicks along with J. Matthew Maguire Jr. of Balch & Bingham.

Lawsuit To Be Filed Over New Voting Law In Georgia (NYT/AP)

By The Associated Press

The New York Times, September 6, 2005

ATLANTA, Sept. 5 (AP) - Opponents of a new Georgia law requiring voters to show photo identification at the polls are planning a federal lawsuit challenging the measure, which they fear will lower voter turnout.

The bill eliminates the use of formerly accepted forms of voter identification like Social Security cards, birth certificates or utility bills.

A news conference to discuss the lawsuit was set for Tuesday, said State Representative Tyrone L. Brooks Sr., Democrat of Atlanta.

The suit is likely to echo the complaints that several groups filed in objection letters sent to the Department of Justice before it approved the new law last month.

Under the Voting Rights Act, Georgia and other states with a history of suppressing minority voting must get federal permission to change their voting laws.

Mr. Brooks said he believed the issue could ultimately be decided by the United States Supreme Court. "No matter who wins at the lower court level, there will be appeals," he said.

The Republican-backed measure caused racial tension during the state's legislative session last spring. Most of Georgia's black lawmakers walked out at the Capitol when it was approved.

Democrats had argued that the idea was a political move by the Republican Party to depress voting among minorities, the elderly and the poor, all traditional bases for Democrats.

Plaintiffs in the suit include the Coalition for the People's Agenda, whose chairman is the Rev. Joseph Lowery; the Georgia Association of Black Elected Officials; the National Association for the Advancement of Colored People; and the Southern Christian Leadership Conference. The American Civil Liberties Union is representing the plaintiffs in the case.

The groups plan to include Georgia voters as co-plaintiffs, especially those who would be "grossly affected by the proposal," Mr. Brooks said.

Several other states request photo identification, according to the National Conference of State Legislatures. Most allow voters without photo ID to use other forms of identification or sign an affidavit of identity.

Exploiting The Gender Gap (NYT)

By Warren Farrell

The New York Times, September 5, 2005

Carlsbad, Calif. — Nothing disturbs working women more than the statistics often mentioned on Labor Day showing that they are paid only 76 cents to men's dollar for the same work. If that were the whole story, it should disturb all of us; like many men, I have two daughters and a wife in the work force.

When I was on the board of the National Organization for Women in New York City, I blamed discrimination for that gap. Then I asked myself, "If an employer has to pay a man one dollar for the same work a woman would do for 76 cents, why would anyone hire a man?"

Perhaps, I thought, male bosses undervalue women. But I discovered that in 2000, women without bosses - who own their own businesses - earned only 49 percent of male business owners. Why? When the Rochester Institute of Technology surveyed business owners with M.B.A.'s from one top business school, they found that money was the primary motivator for only 29 percent of the women, versus 76 percent of the men. Women put a premium on autonomy, flexibility (25- to 35-hour weeks and proximity to home), fulfillment and safety.

After years of research, I discovered 25 differences in the work-life choices of men and women. All 25 lead to men earning more money, but to women having better lives.

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High pay, as it turns out, is about tradeoffs. Men's tradeoffs include working more hours (women work more around the home); taking more dangerous, dirtier and outdoor jobs (garbage collecting, construction, trucking); relocating and traveling; and training for technical jobs with less people contact (like engineering).

Is the pay gap, then, about the different choices of men and women? Not quite. It's about parents' choices. Women who have never been married and are childless earn 117 percent of their childless male counterparts. (This comparison controls for education, hours worked and age.) Their decisions are more like married men's, and never-married men's decisions are more like women's in general (careers in arts, no weekend work, etc.)

Does this imply that mothers sacrifice careers? Not really. Surveys of men and women in their 20's find that both sexes (70 percent of men, and 63 percent of women) would sacrifice pay for more family time. The next generation's discussion will be about who gets to be the primary parent.

Don't women, though, earn less than men in the same job? Yes and no. For example, the Bureau of Labor Statistics lumps together all medical doctors. Men are more likely to be surgeons (versus general practitioners) and work in private practice for hours that are longer and less predictable, and for more years. In brief, the same job is not the same. Are these women's choices? When I taught at a medical school, I saw that even my first-year female students eyed specialties with fewer and more predictable hours.

But don't female executives also make less than male executives? Yes. Discrimination? Let's look. The men are more frequently executives of national and international firms with more personnel and revenues, and responsible for bottom-line sales, marketing and finances, not human resources or public relations. They have more experience, relocate and travel overseas more, and so on.

Comparing men and women with the "same jobs," then, is to compare apples and oranges. However, when all 25 choices are the same, the great news for women is that then the women make more than the men. Is there discrimination against women? Yes, like the old boys' network. And sometimes discrimination against women becomes discrimination against men: in hazardous fields, women suffer fewer hazards. For example, more than 500 marines have died in the war in Iraq. All but two were men. In other fields, men are virtually excluded - try getting hired as a male dental hygienist, nursery school teacher, cocktail waiter.

There are 80 jobs in which women earn more than men - positions like financial analyst, speech-language pathologist, radiation therapist, library worker, biological technician, motion picture projectionist. Female sales engineers make 143 percent of their male counterparts; female statisticians earn 135 percent.

I want my daughters to know that people who work 44 hours a week make, on average, more than twice the pay of someone working 34 hours a week. And that pharmacists now earn almost as much as doctors. But only by abandoning our focus on discrimination against women can we discover these opportunities for women.

California To Vote On Marriage (WT)

By Cheryl Wetzstein

The Washington Times, September 6, 2005

A bill legalizing homosexual "marriage" in California is scheduled to go up for its second vote in the state Assembly this week, amid vigorous lobbying.

"We intend to keep the Assembly members' feet to the fire," said Benjamin Lopez, a leader of the Traditional Values Coalition. "If they support marriage for one man and one woman, like their constituents voted, they will vote against AB 849."

Mr. Lopez and his allies think California lawmakers legally cannot enact same-sex "marriage" because voters approved Proposition 22, which says only marriages involving one man and one woman are valid in California.

Homosexual rights supporters, however, think their message is the right one.

"We are so very close," Assemblyman Mark Leno said last week after his bill to legalize same-sex "marriage" passed the state Senate.

"It would be very disappointing for [the Assembly] not to be able to stand up for civil rights," he said.

In June, the Assembly rejected Mr. Leno's bill by four votes.

Meanwhile, two same-sex "marriage"-related decisions are expected in Massachusetts this month.

Either today or tomorrow, Massachusetts Attorney General Tom Reilly is expected to issue his decision on whether to certify a constitutional marriage amendment filed by a citizens' group called VoteOnMarriage.org.

Massachusetts Gov. Mitt Romney, a Republican, supports the amendment, which must garner nearly 66,000 certified signatures and two legislative approvals before it can get on a 2008 ballot.

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However, dozens of homosexual rights groups and lawyers have urged Mr. Reilly not to certify the amendment. They say it is unconstitutional in light of the 2003 Goodridge decision, which legalized same-sex "marriage" in Massachusetts, the groups say.

Meanwhile, on Sept. 14, the Massachusetts legislature is scheduled to meet in a constitutional convention to offer a second vote on a marriage amendment that passed last year.

The amendment, which would disallow same-sex "marriage" but create civil unions, is unpopular. However, if Mr. Reilly rejects VoteOnMarriage.org's amendment, some lawmakers may decide to vote in favor of the civil-union amendment.

It's also possible that this month the Washington State Supreme Court will issue its pivotal ruling on mandating same-sex "marriage" in that state.

Traditional-values groups hope the court will uphold the state's Defense of Marriage Act, which was passed by a supermajority of lawmakers and clarifies that marriage involves only one man and one woman.

But homosexual rights groups hope the court will make Washington the second state to legalize same-sex "marriage" -- especially since, unlike Massachusetts, Washington doesn't have a residency law to block out-of-state couples from marrying there.

"We are all waiting -- anticipating the decision with bated breath," said Fran Dunaway, executive director of Equal Rights Washington in Seattle.

ANTITRUST:

Retail Giant Cries 'Unfair' (LAT)

By Evelyn Iritani, Times Staff Writer

The Los Angeles Times, September 6, 2005

Wal-Mart Stores Inc., the retail giant infamous for crushing competitors and putting mom-and-pop retailers out of business, is now worried that its British rival might be too big.

H. Lee Scott Jr., Wal-Mart's chief executive, told a London newspaper last week that British authorities should be concerned about a retail chain having too much market clout.

Tesco, Britain's largest supermarket, has a 30% share of the food market and is expanding fast, thanks in part to an aggressive discounting program. Wal-Mart-owned Asda Group Ltd., Britain's second-largest retail chain, controls 16% of the market.

"As you get over 30% and higher, I am sure there is a point where government is compelled to intervene, particularly in the U.K., where you have the planning laws that make it difficult to compete," Scott told the Times of London, adding that "at some point, the government has to look at it."

Those remarks raised some eyebrows in the United States, where the Bentonville, Ark., retailer is regularly accused of abusing its clout to squeeze pennies out of its supply chain, trounce its competition and expand its sales.

"Wal-Mart is asking for an antitrust investigation of a competitor?" asked Albert Foer, president of the American Antitrust Institute in Washington, a think tank. "How delicious."

Wal-Mart is known for its super-sized profile. It has the world's largest workforce, 1.6 million at last count, more than the entire population of Montana. And 138 million shoppers visit its 5,379 stores and restaurants worldwide each week, racking up $285 billion in sales in 2004.

The retailer's protestations leave people wondering why it would complain about Tesco, given that any debate over curbing power in the global retail market is likely to shine the spotlight on Bentonville.

"Wal-Mart has done a good job of escaping from close antitrust scrutiny in this country, and a lot of people are wondering whether they are vulnerable in this area," said Foer, who had persuaded Wal-Mart Chairman S. Robson Walton to address his annual antitrust conference in Washington last year.

Walton denied that Wal-Mart used its clout to bully suppliers and unfairly drive competitors out of business.

"The real secret to our low prices is not tied to the deals we get with suppliers," he said. "Rather, our low prices are derived from a company culture that is passionate about taking unnecessary cost out of the business and equally passionate about investing in more-efficient business practices."

Wal-Mart has 10% of the U.S. retail market. But in at least two other places, the company has come under the scrutiny of antitrust regulators. In 2002, Mexico's Federal Competition Commission looked into complaints that Wal-Mart de Mexico, known as Walmex, was forcing suppliers to charge the retail giant's competitors higher prices for the same products. After Walmex, the

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leading retailer, agreed to write to its purchasing department that such a practice was not allowed, the commission closed the investigation.

When Wal-Mart bought Supermercados Amigo Inc., the largest Puerto Rican grocery store chain in 2002, the U.S. Federal Trade Commission required that the company sell off four stores to ensure competition on the island.

But in Britain, where Wal-Mart bought the Asda chain in 1999, Tesco is the market leader. Nick Agarwal, an Asda spokesman in London, said Scott was not referring specifically to his firm's rival in the Times of London interview but was speaking generally about the dangers of market concentration.

"Lee did not say he wants an investigation of Tesco," he said. "What he did do was say that he understands why, when food market share reaches 30% or higher, the government might want to look at that."

Scott has had his own run-ins with Britain's antitrust regulators. In 2003, British authorities turned down Wal-Mart's bid to purchase Safeway, saying the combined stores would have too much clout. At that time, an Asda-Safeway chain would have controlled about 26% of the food market, less than Tesco has today.

Tesco declined to respond directly to Wal-Mart's comments. But in a written statement, the company said British authorities had already investigated the retail market and found that it "operates in the consumer interest."

Wal-Mart representatives insist that anti-competitive issues aren't a concern with their company, because it controls small portions of the market in most parts of the world.

"We're pretty small potatoes outside the U.S.," said William Wertz, a Wal-Mart spokesman in Bentonville. "It really hasn't been an issue."

Critics have suggested that Wal-Mart already poses a threat in some markets. Take Canada, for example, where the retailer has 256 stores and its share of department store sales has risen to 52%, according to Talbot Consultants International, a Toronto-based research firm.

Asked whether Wal-Mart could face antitrust scrutiny in Canada, Wertz said, "I can't answer that," adding that competition laws and market forces are different in every country.

But critics who have launched a global campaign to slow the retailer's expansion accused the company of doublespeak.

"The unmistakable irony here is that Wal-Mart is accusing its British competition of accomplishing exactly what it has planned for its U.S. operations," said Andrew Grossman, executive director of Wal-Mart Watch, an anti-Wal-Mart coalition backed by some of America's leading unions.

The emergence of big-box retailers such as Wal-Mart with global supply chains and markets has created new challenges for antitrust regulators who are constrained by outdated laws and national boundaries. Wal-Mart doesn't fit the traditional definition of a monopolist, an entity that uses its dominant market share to push up prices.

But Wal-Mart's growing influence as a buyer has prompted a debate in antitrust circles about whether a concentration of "buyer power," known as a monopsony, is harmful for society.

Some legal experts say that improved technology and the lowering of trade barriers has made it more difficult to determine when a global player is exerting too much power. For example, though global companies such as Wal-Mart and Tesco are improving efficiency and lowering costs, they may also be undermining societal goals such as preserving small businesses.

"It all comes back, at some point, to politics and to the vision people have of the kind of country they want," Foer said. "I'm not castigating Wal-Mart; I think they have done a lot of good things. I'm much more worried about where we go from here and what things we need to worry about as a society to keep us going in the right direction."

Tide Turns Against Web Music Piracy (FT)

By Alain Levy

Financial Times, September 6, 2005

Monday's court ruling in Australia against Kazaa, the biggest brand name in international music piracy, is the latest sign of a turning tide in our industry's efforts to create a thriving pro-consumer, legitimate digital music business.

It is also a reminder that even with the greatest music, the best technology and the most willing fans, we cannot create this bright digital future alone: public education and proper enforcement of intellectual property rights, by courts and by governments, have a vital part to play as well. This applies to any record company, from the largest major to the smallest indie.

The ruling from Australia has important implications for our business. The Sydney court has not only reinforced the message handed down on Grokster from a unanimous US Supreme Court in July – namely that internet file- sharing services can be liable for music piracy. The world's best-known, and until recently its biggest unauthorisedfile-sharing service, has been found liable for facilitating copyright theft and ordered to stop. The message for similar networks that distribute copyrighted repertoire on a mass scale without permission is clear: it is time to change your ways or stop. Change your systems; respect copyright; use technology responsibly to benefit the music community and not to harm it.

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These are momentous rulings for a creative, intellectual property business like EMI, as well as for the artists we invest in and for the legitimate digital market we are working to create. Investment in music is our business and protection of our content is central to everything we do. Our ability to invest in music, and to offer it to our consumers via downloads, ring tones or other digital formats, is integrally dependent on our ability to contain music piracy. Taken together, the Grokster and Kazaa judgements are crucial milestones for us.

The decision is also pro-consumer. It helps investment in the music consumers want. It is good news for fans who want to get great quality music legitimately, while seeing the artists they love get properly rewarded.

And the ruling is pro-technology. Those who claim that all record companies want is to do away with peer-to-peer distribution, in the case of EMI at least, have got it wrong. On the contrary, we have been working hard with companies like SnoCap and iMesh on creating a legitimate file-sharing model – one that uses peer-to-peer technology to benefit the music business, rather than abusing technology to harm it.

This improvement in the legal landscape comes at a critical moment. At EMI we are fast adapting for a digital future and our industry is doing the same. Within the last 18 months digital sales have moved out of a niche market and into the mainstream. Much credit of course goes to Apple iTunes for starting the ball rolling. Now a groundswell of competing services is gathering – great news for the business and the consumer.

Last week's launch of new digital services by the UK's two major music retailers, HMV and Virgin, are a landmark for the British market. But in most other markets outside the US, Japan, Germany and France, digital music has hardly gained a foothold. The growth potential is exciting.

Consumers, we know, are hungry for the new ways in which we can now make our music available: digital downloads in the first half of 2005 outstripped the whole of 2004. Surveys show that as many consumers are now trying legitimate online services as are using the unauthorised alternative. There are exciting forecasts for growth of the digital business. I believe it could grow from about 5 per cent now to 25 per cent of our industry's revenues over the next five years..

The digital music market is up and running, and our challenge now is to build on the successful start. I am confident and I take little notice of the sceptics. A few years ago no one held much hope for record companies breaking into what was then a 100 per cent internet pirate market. The mood is very different today. Virtually all our front line music is available in a huge array of digital channels. Music is becoming easier to buy than to steal.

But the tide is turning for other reasons, too. Public attitudes are shifting towards good and responsible practices in downloading music. A big public awakening has happened on the issue – helped by waves of industry information campaigns. Probably more significant still, the lawsuits taken out in 12 countries, which now total over 14,000, have clearly played an important part in deterring would-be illegal file-sharers and containing internet piracy. These strategies must be sustained because they are working.

The decisions on Grokster and Kazaa have helped us further. The extra layer of legal protection they represent gives our industry better conditions in which to invest in music, and a better environment in which to create a thriving digital business. Today, an entrepreneur working on a new legitimate innovative peer-to-peer service should feel better about his business prospects in the music industry. Equally, I would hope that the guy who, as I write, is planning to build the next pirate peer-to-peer service will today feel considerably worse about his.

The writer is chairman and chief executive of EMI Music

Court Orders Kazaa To Stop Pirates (WP/AP)

By Mike Corder, The Associated Press

The Washington Post, September 6, 2005

SYDNEY, Australia -- A federal judge on Monday ordered distributors of the popular file-swapping program Kazaa to alter the software, which millions have downloaded, so it can no longer be used for music piracy.

Hailed as a victory by the recording industry that brought the suit, the decision has implications well beyond Australia, where Kazaa executives are based, because Kazaa's users span the globe.

In some ways, it mirrors the U.S. Supreme Court's June ruling that Hollywood and the music industry can sue technology companies that encourage their customers to steal music and movies over the Internet.

Federal Court Judge Murray Wilcox determined in Monday's ruling that Kazaa's owners and distributors, led by Sharman Networks Ltd., took no action to rein in illegal file-sharing despite posted warnings on their Web site urging Kazaa users not to swap copyright material.

Wilcox said it had been in the financial interest of Sharman and its partners "to maximize, not minimize, music file-sharing."

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He found six of the 10 defendants, including Sharman, its Sydney-based chief executive Nikki Hemming, as well as Altnet, a Sharman software partner, guilty of copyright infringement and ordered them to pay 90 percent of the record industry's costs in the case.

A hearing will be set later to establish damages.

"We will ask the court when it comes to damages to reflect the value of the music these people ripped off," Michael Speck, a spokesman for the Australian recording industry, said of the millions who have downloaded Kazaa.

In a brief statement, Sharman said it would appeal and Kazaa software remained available online, with more than 800,000 downloads reported last week and 390 million total since Kazaa first became available in 2001. Sharman says its software is no different from a tape recorder or photocopier _ and that Kazaa could not control copyright infringement by users.

But Wilcox said that Kazaa's distributors actively encouraged users to share files, the vast majority of which were copyright material.

He said that if Kazaa is to continue its owners will have to ensure that new versions of the software filter out unlicensed copyright material, a task the judge said would be extremely difficult.

Wilcox stressed, however, that he was anxious not to damage legitimate file-swapping with his ruling. He said Kazaa needs to be changed "without unnecessarily intruding on others' freedom of speech and communication."

Kim Weatherall, a lecturer in intellectual property law at Melbourne University, called Wilcox's decision brave but potentially chilling to technology innovators.

"It is clear that the judge is concerned not to stop the technology completely but to try and work some middle line," she said.

The case is the latest in a long line of courtroom showdowns between purveyors of so-called peer-to-peer (P2P) networks and copyright holders led by the music and movie industries.

The U.S. Supreme Court's related June decision gave those industries the go-ahead to proceed with suits against file-sharing software developers Grokster Ltd. and Streamcast Networks Inc. It said such companies can be liable if they deliberately encourage customers to infringe on copyrights as their businesses attempt to grow audiences and sell more advertising.

In a statement Monday, the Recording Industry Association of America praised Wilcox's ruling as continuing in that vein: "... this decision reflects a growing, international chorus: those who promote theft can be held accountable no matter how they may attempt to escape responsibility.

"A corrupt business strategy of attempting to hide off-shore is not off-limits to the enforcement of rights by creators or law enforcement," the RIAA added.

Kazaa has lost significant popularity since its 2002 heyday, due in part to legal pressure and sabotage efforts by the recording industry but also to the emergence of competing technologies.

Other peer-to-peer file-sharing tools and services that similarly do not require a central server, including BitTorrent and eDonkey, have supplanted it as the Internet's most popular.

FastTrack, the network tapped by Kazaa users, accounted for 10 percent of traffic volume in a six-week study begun in June of data swapped using the Internet's top four file-sharing applications. The study was done by CacheLogic.

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On the Net:

Text of the ruling: http://www.austlii.edu.au/au/cases/cth/federal_ct/2005/1242.html

Kazaa's Web site: http://www.kazaa.com/

Chiron Snubs 'inadequate' Novartis Bid (FT)

By James Politi

Financial Times, September 6, 2005

Novartis was on Monday facing an uphill battle in its attempt to take full control of Chiron as independent directors at the US vaccine company rejected the Swiss drugmaker's $4.5bn offer.

Chiron board members also decided to make clear that Novartis's proposal had not been solicited by the company, conflicting with the impression given by Novartis last week.

The US group said: "After thorough analysis and consideration of Novartis's offer to acquire the shares of Chiron it does not already own for $40 a share in cash, the independent directors of Chiron have determined that this offer is inadequate."

Novartis already owns 42 per cent of Chiron, which lost its flu vaccine production licence last year after the contamination of vaccines at its UK plant.

Chiron's rejection means Novartis might become embroiled in a long-running struggle to gain control of the company, which it is courting to gain access to the fast-growing market for vaccines.

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Under the complex rules governing Novartis's investment in Chiron, the Swiss group has four months to secure the support of the independent directors for an offer to buy all of Chiron's shares. After that, it can begin an arbitration process to determine the company's fair value. But Chiron's board members could delay the arbitration until 2007 if they decide this is not the right time to sell.

Novartis's proposed $40 a share offer values Chiron at the equivalent of a 10 per cent premium on its price before the announcement.

Since the offer, Chiron shares have risen above the level of Novartis's offer, as Wall Street investors bet that the Swiss group would be forced to increase the price. On Friday, they closed at $42.79, down 0.3 per cent.

Last year, Chiron saw its net profits fall to $156m, compared with $304m in 2003, on the back of its manufacturing woes.

But its prospects were bolstered last week when the company said it had received a "favourable report" from US regulators visiting the UK plant that produced the contaminated vaccines.

ENVIRONMENT:

Redemption In The Bayou (NYT)

The New York Times, September 5, 2005

People keep making bets against nature, and in the end nature usually wins. This is as true in the rainforests of Central America, where clear-cutting has led to disastrous floods, as it is in the steep California canyons, where people have no business building houses.

It is no less true of the Mississippi Delta and its biggest city, New Orleans, whose heart-rending tragedy is partly traceable to years of federal efforts to manage the Mississippi River in ways that it did not intend to be managed, keeping it from going where it wanted to go and thus weakening the natural defenses that might have spared the city the worst.

Amends can be made. Before Congress is a $14 billion plan to restore the vanishing wetlands and barrier islands off the Louisiana coast that in times past would have served as a buffer against the storm. The House has approved a modest $1.9 billion down payment on this plan, but it needs a push from President Bush and the Senate majority leader, Bill Frist, to ensure Senate approval. The plan would involve some delicate re-engineering of the natural system and is not without risk. Still, it could provide a measure of redemption for years of environmental carelessness for which Congress itself is largely responsible.

The problem, in a nutshell, is this: the Louisiana coast, its protective fringe of barrier islands and coastal marshlands, is disappearing. Over the last 75 years, 1.9 million acres have vanished. Every year, another 25 square miles, an area roughly the size of Manhattan, sinks quietly beneath the waves. In some places, the coastline has receded 15 miles from where it was in the 1920's.

The soil in the delta compacts and sinks naturally. Historically, however, the Mississippi replenished the loss with sediment gathered from its many tributaries and then deposited like clockwork in the delta with the spring floods. Or so it did until 1927, when Congress ordered the Army Corps of Engineers to find ways to control the floods so as to make the river safe for farming, homes and commerce.

As it would later do in the Everglades (with equally disastrous results for the Florida ecosystem), the corps then proceeded to construct a network of dams, levees and canals throughout the river basin. The upstream dams reduced the river's sediment load well below historical levels; the sediment that remained, while considerable, was then routed away from the Louisiana coast by a system of levees and navigation channels. The effect of all these engineering changes was to hurry the river along and, at its mouth, propel its contents deep into the Gulf of Mexico, as if shot from a cannon, bypassing the coastal marshes and barrier islands that most needed its nourishment.

Add to all this the demands of a growing population, plus thousands of miles of pipes and canals dug through the marsh for a booming oil and gas industry, and the result was inevitable: a shrunken, degraded and essentially defenseless landscape.

More is at stake, of course, than the landscape. These may be the hardest-working wetlands in America. They support one of the country's largest fisheries; almost every fish caught in the Gulf of Mexico spends part of its life in the Louisiana marsh. They are the wintering ground or refueling stop for most of the migratory waterfowl that travel the Mississippi flyway. And as everyone who has bought gasoline in the last few days knows by now, they are vital to the production, refining and transportation of much of the nation's oil. Indeed, the oil and gas industry has as much incentive as anyone to protect the marshes from further erosion. Most of its equipment cannot survive in open water.

The conditions are thus ripe for a major effort to restore the Louisiana coast. The program before Congress was hatched by the state's politicians and in its universities and drafted by the Army Corps of Engineers. It is supported by both industry and

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advocacy groups like the National Audubon Society and Environmental Defense, which helped with its design. It would start small, with three or four carefully calibrated pilot programs to divert water flow to the marshes, then go from there.

What it has always required is the enthusiastic support of Washington's political leaders. It is hard to believe that the events of the last week haven't caught their attention.

Missouri Condemnation No Longer So Imminent (WP)

By T.r. Reid

The Washington Post, September 6, 2005

SUNSET HILLS, Mo. -- When David Wright retired from his factory job in 1997, he poured just about all his savings into a handsome brick house in the Sunset Manor subdivision here. "This was our dream," said David's wife, Lorraine. "We were set here for the rest of our lives."

But the dream turned sour when the city council of this St. Louis suburb decided last year to bulldoze all 254 homes in Sunset Manor and turn the land over to a shopping-mall developer. "We cried and we prayed," Lorraine Wright recalled. "And we put a lot of hope into the Supreme Court, because they were supposed to decide whether this kind of thing is legal."

So the Wrights were crushed -- at first -- when the U.S. Supreme Court ruled on June 23 that the Constitution does not stop cities from seizing homes to make way for commercial development projects. "What we didn't realize right away," David Wright said, "was that the decision would be a positive development for those of us who don't want to see people's houses taken away."

Here in Missouri and all over the country, the court's decision in Kelo v. City of New London has sparked a furious reaction, with politicians of both parties proposing new legislation that would sharply limit the kind of seizure the court's decision validated.

As a result, a decision first seen as a key legal victory for cities that want to use eminent domain for private projects has turned into a major setback on the political front for pro-development interests.

The popular backlash has slowed or blocked many pending projects, as developers, their bankers and local governments suddenly face public furor.

In Sunset Hills, the bank that planned to finance the proposed new mall abruptly withdrew its funding amid a noisy political argument after the Kelo decision. That means the Wrights' home is safe, for the time being -- but hundreds of their neighbors who had agreed to move out are left in limbo.

Three states have already passed new laws in response to the Kelo decision.

The statutes in Alabama and Texas sharply curtail eminent-domain condemnations for private development. "We don't like anybody messing with our dogs, our guns, our hunting rights or trying to take property from us," said state Sen. Jack Biddle, a sponsor of the Alabama law. Delaware's new statute permits condemnation but sets new procedural requirements for local governments.

Larry Morandi, an analyst at the National Conference of State Legislatures, predicts a rush of new laws next winter, when 44 state legislatures will be back in session.

"Most if not all state legislatures will be dealing with eminent-domain laws next year," Morandi said. "The outcry has been so sharp that many states already have task forces or study committees at work on this issue this summer. Most of the proposed legislation is designed to restrict the kind of governmental action that the court upheld in Kelo ."

The Institute for Justice, a Washington-based libertarian think tank, said that hundreds of local governments around the country are also debating new ordinances to restrict the use of eminent domain. Many have passed laws this summer barring any seizure of private property for commercial development. Other cities are tightening the conditions that could authorize such seizure.

Several members of Congress have introduced legislation that would bar federal financing for any local government project that condemns property for a commercial development. But Congress did authorize governments to condemn property for the benefit of energy companies in the new energy bill that President Bush signed last month.

The right of government to seize private property for public projects is specifically authorized in the Constitution as long as owners receive "just compensation." A farmer whose cornfield lies in the path of a proposed expressway can be forced to sell the land even if he wants to keep farming there.

Traditionally, this power of eminent domain was used for government functions such as parks and highways. But more and more local governments have begun seizing property from unwilling owners for the creation of industrial parks, hotels and shopping centers.

This trend was not widely recognized until the Supreme Court decision in June that validated the practice. An issue that had been primarily of interest to local governments and land-use planners quickly hit every editorial page in the country, with widespread condemnation of the court's 5 to 4 ruling.

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Some interest groups, including the National League of Cities, endorsed the ruling. But the overall political reaction was intensely hostile, sparking a rush of proposed legislation.

Supreme Court justices may not be unhappy about this reaction. Justice John Paul Stevens, author of the majority opinion in the Kelo case, said in a speech this summer that he did not agree with the property seizure in that case but felt that the law required him to uphold it nonetheless.

Justice Sandra Day O'Connor, who dissented in Kelo , warned that permitting seizure of private property for private development would have a reverse Robin Hood effect, giving governments "license to transfer property from those with few resources to those with more."

That pattern is clear here in Sunset Hills. This affluent town is dotted with large $600,000 homes on green hills surrounding a country club. But the Sunset Manor subdivision, the most ethnically mixed neighborhood in town, is made up mainly of small homes on small lots, with prices around $100,000.

The city council here, known as the Board of Aldermen, decided last year to level the 65-acre subdivision so that Novus Cos., a local developer, could build an upscale shopping mall to be called Main Street at Sunset. Of the 254 homeowners, 229 have agreed to sell their property to Novus. The owner of a shopping mall two miles away has financed the efforts of the holdout owners to block condemnation of their properties.

In July, the alderman authorized condemnation proceedings against the remaining owners -- including David and Lorraine Wright, a black couple who had planned to spend the rest of their lives in Sunset Manor and thus declined to sell their home.

"We thought at first, you know, we didn't have a prayer," David Wright said. "How can you fight City Hall? And then the Supreme Court ruled against people like us.

"But the reaction to that decision has been so strong. The project is kind of stopped. So now we are thinking maybe we can stay here."

Novus, the developer, said it is searching for new financing. Meanwhile, the project is on hold -- a painful development for the 229 homeowners who had agreed to sell their houses and move.

"The collapse of the financing for the [shopping mall] project has left a couple of hundred families in a terrible place," said Pete Snyder, a spokesman for the developer. "A lot of them are already paying the mortgage on their new home, but now they don't have a buyer for the old one. This has to be resolved, and condemning those 25 houses is the way it has to go forward," he said of the holdouts.

But Will Aschinger, a leader of the anti-condemnation group, thinks the political reaction to the Supreme Court decision has effectively saved the Sunset Manor subdivision. "The backlash against that decision is the best thing that ever happened to us," he said with a smile. "No matter what the court says, I don't think cities can get away with this kind of stuff anymore."

Government Cowboys Spend Days Trailing Texas Ticks (WP)

By Sylvia Moreno

The Washington Post, September 6, 2005

LAREDO, Tex. -- This federal employee works along a treacherous stretch of high Rio Grande riverbank known as No Man's Land. His work uniform: leather chaps, sturdy Wranglers, high-top bullhide boots and silver spurs. His tools: a .357-caliber revolver, a lariat, a machete, a walkie-talkie, and his beloved brown-and-white appaloosa, Payaso.

His mission: to hunt down ticks.

Meet Fred Garza, government cowboy -- one of a small force of hardy men whose mission for almost 70 years has been to keep the dreaded Texas cattle fever tick confined to 900 miles of winding riverfront along the Mexican border. He is a tick, or river, rider, a U.S. Department of Agriculture employee who has managed to marry his cowboying skills and love of desolate open range with benefits and a federal pension.

It's hard and lonely work in unforgiving terrain. The cowboys live away from their families in remote shacks four to five nights a week. They ride solo six or seven hours daily in 100-plus-degree temperatures, cutting trails through thick gnarly brush and prickly cactus to rope frightened steers, searching them for ticks and then transporting them to a pesticide vat for a disinfecting dip. (The cattle are dipped regularly in organophosphates for six to nine months before being returned to their owners or sold at auction if not claimed.)

It may be a tough life, but Garza, a GS-8 after 15 years in the saddle, loves it.

"This is not work for me. It's not work for a lot of us," said Garza, a mustachioed 50-year-old whose uncle rode the river for 56 years before retiring from the USDA. "Like they say, ma'am, if you don't want to work, find you a good job."

Garza and his horseback-riding colleagues make up the nation's front line against a scourge that decimated the cattle industry in 1906 and continues to be a threat as long as the cattle fever tick thrives south of the border and Mexican cows stray

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or are smuggled across the Rio Grande. Mexican cows have developed immunity to many tick diseases or suffer only mild symptoms.

Today, the riders are fighting the worst infestation of cattle fever ticks in 30 years and are doing so in the face of budgetary shortfalls and bureaucratic turf wars.

"We're losing ground," said Edwin J. Bowers, director of field operations for the Laredo-based program, which is part of the USDA Animal and Plant Health Inspection Service.

The battle against the ticks dates back to 1906, when cattle tick fever spread through 14 southern states, wiping out up to 90 percent of herds in just days. The cause was traced to the Boophilus annulatus and Boophilus microplus , ticks carried by Texas cattle driven along trails to stockyards and auction markets up north. The parasites cause piroplasmosis, a disease known as Texas fever or red water disease. It causes red blood cells to rupture and the fever-crazed animals -- usually cows but also horses -- bleed to death by expelling blood through urine.

The epidemic sparked an intense campaign against ticks that began, initially, under the auspices of various affected states and counties. By 1938, the dreaded insect had been confined to portions of eight Mexican border counties in south Texas, and the federal government took over the eradication program. To patrol the permanent quarantine zone for "Mex-ee-co cows," as these cowboys call them, the USDA created a squad of river riders, some of them members of the old U.S. horse-riding sentry against hoof-and-mouth disease.

"They call us tick riders. We call ourselves the tick eradication mounted patrol," Bowers said.

In January, Bowers asked USDA officials for an emergency appropriation of $521,000 to hire two tick riders for his understaffed unit (he is two short of the full complement of 61), to pay keep on four temporary workers, to buy needed equipment, and to fund a special feeding program that kills fever ticks on south Texas's abundant whitetail deer. The deer are believed to be spreading the tick on cattle-grazing land, making it harder to contain the parasite. At the same time, U.S. ranchers have been stymied in keeping Mexican cattle off their property because of drought-induced low water levels along certain parts of the Rio Grande and regulations by the International Boundary and Water Commission that prohibit fencing and brush management on dried riverbeds. The funding has yet to be released, and negotiations with the IBWC are stalled.

"Until 1996, we hadn't had any ticks on my land in 50 years," said Humberto Vela, who owns a 2,000-acre cattle ranch in Zapata, Tex., outside Laredo. He said lax efforts by Mexican officials to kill off the fever tick and the ban on building fences in dried portions of Rio Grande riverbed have penalized him and other ranchers. "We have to go through this whole cycle of dipping to keep an epidemic out of the United States," Vela said.

In Spanish, the tick riders are called garrapateros for the Spanish word for tick (garrapata). Although 60 percent of these government cowboys are Spanish-speaking Mexican American, the Anglo tick riders are bilingual, too. The job requires regular encounters with Mexican ranchers and ranch hands across the river -- not to mention chance meetings with undocumented immigrants, usually dehydrated and starving, who get lost wandering through the thick brush; the coyotes who guide them across the Rio Grande; and other smugglers and border bandits, as well.

"I got caught in the cross-fire between the bandidos and the coyotes when I worked the river over in Brownsville. One got shot in the heart and right here," Garza said as he pointed to his upper right rib cage. "He died and the other guy got shot in the arm and leg and lived. It was 10 in the morning, on a Sunday."

Danger has always been part of a tick rider's job. In 1982, Congress passed a law to arm the patrol after a group of weathered cowboys, bullet-riddled saddle in hand, went to Capitol Hill to lobby lawmakers for help. They got .357 magnums and later, the choice to carry .40-caliber semiautomatics.

The weapons have not eliminated the casualties, however. One tick rider was shot and killed at his camp not far from the river (the case has not been solved). One drowned in the Rio Grande, and another was killed in a vehicle accident. One rider survived a bullet in the back, and many others have been shot at and missed. "We've been very, very lucky considering the climate we work in," Bowers said.

Among all of USDA's animal health technicians or animal inspectors -- as the tick rider's law enforcement badges proclaim them to be -- they are more prone to be injured on the job. One kick of an angry cow's hoof can snap a forearm.

Despite the hazards of the job, Bowers gets about 100 applicants per job opening, and some tick riders apply multiple times before getting hired as a GS-5 with a current starting salary of $26,197 a year.

Joe Akers, 37, a champion rodeo roper of the Tilden, Tex., rodeo applied three times before he got the job on the mounted patrol three years ago. Like Garza, he was following in a relative's footsteps. His uncle was a river rider for decades.

"If you like ridin' and you love ropin', this is the job for you," said Akers, who wears the big silver belt buckle he was awarded in a cattle-roping competition. "Especially in south Texas, it's extremely prestigious to get on with the tick force."

A Class War Runs Through It (NYT)

By Jonathan Weber
The New York Times, September 6, 2005
Missoula, Mont.

JAMES COX KENNEDY, the head of Cox Enterprises, the Atlanta media company, was just doing what lots of modern media moguls do when he bought nearly 4,000 acres in Montana's Ruby Valley: transforming remote Western ranchland into a private hunting and fishing retreat, and doing some commendable habitat conservation and restoration work in the process.

Perhaps unwittingly, however, Mr. Kennedy has walked into the middle of two separate but closely related controversies, one having to do with Montana's stream-access laws - that one will be the subject of a mediation session next week - and the other relating to conservation easements.

Both issues, ultimately, are about class, and point to the need for new policies (and vigilance) in policing the conservation easement system and defending access to public lands and water. Just as important, though, Mr. Kennedy's Ruby Valley imbroglio underscores the need for a deeper sense of noblesse oblige among the ultra-rich as they buy up great swaths of the American West.

Montana's 20-year-old stream-access law, which declares that the state's rivers and streams are public property up to the high-water mark, provides a clear window into land-use battles. The law, among the strongest in the nation, has survived numerous legal challenges and become a source of pride for many Montanans (including Gov. Brian Schweitzer), though it's still fiercely opposed by property-rights advocates.

The law does not require property owners to provide entry to waterways through their own land, but it does permit access from any public property. As a result, among the most common access points are county bridges. That's where Mr. Kennedy has run into trouble: his ranch includes all or parts of two bridges that cross the Ruby River, and he has blocked access by reinforcing old fencing along those bridges. Stream-access advocates have sued the county for allowing the fences, setting the stage for a showdown on a controversy that has raged for almost a decade.

Mr. Kennedy claims that the bridges are neither safe nor legal river-access sites. More to the point, though, he says allowing public access would damage the riparian habitat and destroy a fragile fishery that he has spent a lot of time and money nursing back to health. That's a similar argument to one being made by the brokerage mogul Charles Schwab, the rock musician Huey Lewis and others who are fighting to keep the public off a waterway south of Missoula where they own property.

And that brings us to the second controversy. Much of Mr. Kennedy's Ruby Valley property is in a conservation easement, an arrangement under which property owners receive tax breaks for forgoing development on ecologically sensitive lands. Easements have been under fire in Congress in the wake of revelations that some developers were claiming conservation easements for golf courses (hey, it's open space, right?) and otherwise gaming the system.

While Mr. Kennedy's Ruby Valley easements are not cover for a golf course, they do have one unfortunate feature: Mr. Kennedy is the president of the land trust that is supposed to serve as the enforcer of the easement agreement. That's exactly the kind of arrangement that rightly gets easement critics up in arms.

Easements have proved to be a very effective means of encouraging land conservation and habitat preservation. But there's something wrong when a billionaire buys a ranch, gets a tax break for an easement and then chases the locals off the river in the name of conservation.

Class, of course, is an issue here. Consider the people who are fighting for access to the river: retired miners and schoolteachers and other working folk, some of whom grew up fishing the local waters and some of whom couldn't give a hoot about fishing but hate seeing the landscape walled off. But there's also wider a social issue involved: if land and water conservation and wildlife protection come to be seen as things that only benefit the rich, it will reinforce the perception that conservation is a luxury of the elite rather than a universal concern.

If class warfare breaks out in Montana, the environment is going to suffer. So what do we do? As Jon Christensen and Terry Anderson, two of the West's leading thinkers on conservation issues, have pointed out, the conservation easement system needs to be better policed. For starters, appraisers - working with state and federal tax authorities - should establish appraisal standards for easement donations. Moreover, the land trusts should work together to set up an accreditation system, and Congress could mandate that tax deductions be available only for donations to accredited land trusts.

When it comes to public access, state and local officials - and voters - need to recognize that the heavy bias toward property rights that exists throughout the West is something that will increasingly serve a small minority of wealthy landowners, not mom-and-pop homesteaders or family farmers. This imbalance needs to change. County commissioners, who are often on the front lines, can't allow themselves to be intimidated by the threat of litigation over access issues. And they need strong back-up from state attorneys general.

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But a big part of the solution is in the hands of the landowners themselves. In an era of economic policies that are producing an ever-larger group of the super-rich, those who are wealthier than the rest of us have a responsibility to manage their properties at least partly in the public interest.

They need to meet with their neighbors, get involved with the community and find compromises that work for everyone. In most cases, the locals will be more than receptive to even small gestures. After all, who wants to fight when the fish are biting?

Is This The Gaze Of An Endangered Species Or An Evil Croc? (NYT)

By Larry Rohter

The New York Times, September 6, 2005

MAMIRAUÁ, Brazil - As dusk falls, the waters here gradually come alive. One after another, caimans begin to stick their armored heads above the surface, and before long this isolated, tree-lined channel feeding the Amazon is teeming with crocodilians as large as 15 feet long. Their thrashing, splashing and grunting reverberates all through the night.

Just a generation ago the caiman, a cousin of the American alligator, was driven so near extinction by the demand for its skin and meat that the government banned hunting it. But efforts to protect the black and spectacled caiman (pronounced KAY-men) have proved so successful that the population has exploded and the beast has now become a pest and, according to some, a threat.

Peasants along the rivers complain that caimans devour their livestock, and they are clamoring for the right to resume hunting. Even small children are occasionally attacked at the river's edge, leading local newspapers and radio stations to say the officials in far away Brasília know nothing about the hard realities of river life.

The loudest and most constant protests, however, come from fishermen in areas like this, 450 miles west of Manaus, the capital of Amazonas State. They complain that the resurgent caimans destroy their nets, which can cost between $50 and $200, and consume large quantities of the same game fish that they need to catch and sell to feed their families.

"Every time you go out, they always get in the way," said Ademar Nunes Nogueira, 41, who has been fishing since he was 10. "But if you dare to kill a caiman and the environmental agents catch you, you're the one who has to pay a fine."

Even in Manaus, a city of 1.5 million people, caimans are now a real presence and not just an urban legend. "There are spectacled caimans living in the sewers of Manaus," said William Magnusson, a caiman specialist at the National Institute for Amazon Research there. "They adapt to anything."

The exploding caiman population has also become a political issue in Amazonas, with campaigning politicians promising they will ensure that the ban on hunting is lifted. "The argument is that if they are doing it in the United States, why can't we do it here?" said Ronis da Silveira, a professor of biology at the Federal University of Amazonas who is a leading expert on crocodilians.

No one knows exactly how many caimans now navigate Amazon waters. Asked for an estimate in an interview with the magazine Epoca, Eduardo Braga, governor of Amazonas, replied, "The only thing I can say is that the presence of the caiman is intimidating and immensely greater than the human population" of the state, which is 2.8 million.

The animals have become so plentiful that some fishermen have begun using caiman meat as bait to catch a particular catfish known as the vulture of the waters. Brazilians themselves refuse to eat the fish, so it is exported upriver to Colombia, where it is considered a delicacy.

Mr. Magnusson puts the total caiman population at "tens of millions," but government officials defend the hunting ban, arguing that to lift it would bring about a return of the same predatory practices that nearly drove the caiman into extinction in the first place. They say the campaign to resume hunting reflects the peasants' desire for more income and a prejudice that stems from mankind's ancestral fear of reptiles.

"Mosquitoes transmit malaria, which kills a lot more people than caimans ever have," said Henrique Pereira dos Santos, regional director of the government's environmental agency. "I think you have to take the semiotics of all this into account."

What may well be the largest concentration of crocodilians anywhere in the world can be found here at the Mamirauá Sustainable Development Reserve. "At this time of year, there are some places where the caiman concentrations are so thick that if they just sat there and didn't move, you could walk across their backs to dry land," Mr. Magnusson said.

At the reserve, which is supported in part by the Wildlife Conservation Society, the government now permits a limited harvest of caimans. One linear inch of the hide of the prized black caiman can be worth up to $25 on the international market if properly skinned, and the meat fetches 30 cents a pound. The skin of spectacled caimans goes for about $3 a square foot. But the program is still experimental, and scientists have doubts about extending it to other places.

"You can't allow hunting all over, only in particular areas and at certain times of year, where and when concentrations are the largest," cautioned Professor da Silveira, who is involved with the project. "You must be selective and at the same time

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convince the residents of the region that there is something in it for them, something of economic value, that the caiman is not just a pest."

A selective approach, however, does not appeal at all to Sebastião Batista Pereira, 46, a peasant who lives in a hut at the edge of the river a bit farther downstream. When water levels rose nearly to his front door during the latest rainy season, one caiman made off with a pig he had just bought while another came perilously close to his 78-year-old mother and youngest child as they were bathing at the river's edge.

"Look, I don't hunt the beast to take its meat or skin into the city to sell," Mr. Pereira said. "That would be abusive and a clear violation of the law. But I'll say this before any authority: if I come across a snake or a caiman on the trail, I'll kill it. What is worth more, the life of my children or of some animal, and a wild, violent beast at that?"

FBI/DEA/ATF/USMS:

Lawmakers Seek Far Harsher Penalties For Steroids Users (USAT)

By Kathy Kiely, Usa Today

USA Today, September 6, 2005

WASHINGTON — The chairman of the House Judiciary Committee plans to unveil a new proposal this week to crack down on steroid use in sports, another sign of the growing determination by Congress to impose tougher testing standards and penalties on pro sports.

Rep. James Sensenbrenner, R-Wis., told USA TODAY he's co-authoring the bill with Rep. John Conyers, the top Judiciary Committee Democrat from Michigan. It would put the Justice Department in charge of developing "minimum standards" for testing and penalties. Participation in the program would be voluntary, but Sensenbrenner says there will be "incentives" to encourage pro sports leagues to sign up.

He did not elaborate on what those incentives might be. But in baseball's case the Judiciary Committee could threaten to lift the sport's antitrust exemption.

Lawmakers are returning to Congress this week for the first time since news broke of Baltimore Orioles star Rafael Palmeiro's 10-day suspension last month for steroid use. That has stoked many members' exasperation. "That's called a vacation; that's not a suspension," said Rep. Chris Shays, R-Conn.

Palmeiro testified under oath at a House Committee on Government Reform hearing in March that he never used steroids. Committee members and staffers have been examining records of his positive test provided by Major League Baseball to determine whether he could be prosecuted for perjury.

Two members who have seen the records, Reps. Henry Waxman, D-Calif., and Elijah Cummings, D-Md., say they think perjury charges against Palmeiro are unlikely. "It will be very difficult to prove," Cummings said. But information in the records, Cummings added, would frustrate lawmakers "even further."

The records have not been made public, but Waxman indicated he might push for that. "I don't know for sure, but I generally favor information being made public," he said.

Steroids news hits home

Cummings still lives in the west Baltimore neighborhood where he grew up and, like many natives of the Charm City, considers himself a diehard Baltimore Orioles fan.

But few lawmakers have been more critical of Palmeiro after news last month he tested positive for steroids. When the first baseman returned to the playing field on Aug. 11 after a 10-day suspension, Cummings said he was "bothered" that some in the crowd cheered him.

"Most of us are trying to set some kind of decent example for kids," says Cummings. "What kind of message is that sending?"

In Congress, frustration with professional sports in general, and Major League Baseball in particular, is growing. As they prepared to return to town this week from a month-long August recess, a number of Republican and Democratic lawmakers said the Palmeiro revelations would build momentum for federally mandated drug tests and penalties in pro sports.

"Obviously the current approach on steroids both in professional sports and amateur sports is not working," says Sensenbrenner.

The bill will be the sixth measure introduced in Congress this year to regulate steroids in pro sports. All of the bills have bipartisan support. All would impose much stiffer penalties than the one levied on Palmeiro.

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One, backed by Rep. Cliff Stearns, R-Fla., would require a half-season suspension for a first-time steroid offense. Four others — including one authored by Sen. Jim Bunning, R-Ky., a Hall of Fame pitcher — would impose a two-year ban for a first-time offense and a lifetime ban for a second.

The measure being authored by Sensenbrenner and Conyers would leave it up to the Justice Department to set penalty guidelines. Sensenbrenner doesn't think Palmeiro's suspension would be adequate. "My gut tells me that type of tap on the wrist would not meet the minimum standard," he says.

Obstacles abound

Fueling momentum for the legislation has been a feeling that Palmeiro's suspension was an affront to Congress. Appearing before a House committee in March, the Orioles slugger swore under oath he had never used steroids. "He got the confidence of all of us," Cummings said. "We thought he was a stand-up guy."

But there are obstacles to passage of a federal steroids testing bill, including Congress' busy fall agenda and internal fights over who should get credit for legislation.

House Speaker Dennis Hastert, R-Ill., will push for the various bill sponsors to find "common ground," says his spokesman, Ron Bonjean. Waxman says it would be "pretty ridiculous" to let disputes among various bill sponsors stop the legislation.

"What we end up passing will probably be a blend of several proposals," Sensenbrenner says.

Sen. Chuck Grassley, an Iowa Republican, acknowledges "a reluctance to get involved in something traditionally left to baseball itself," but he argues that "baseball has had an opportunity to straighten up and they have used kid gloves." Echoing the sentiment of many lawmakers, Grassley said: "I think they are afraid of their union."

Greg Bouris, director of communications for the MLB Players Association, argues Palmeiro's suspension shows the current testing system is working. Bouris says the length of Palmeiro's suspension is irrelevant. "It's the outing, the public humiliation that the player is going to face that's going to be the ultimate deterrent."

Even so, he says union president Don Fehr has been visiting teams to discuss the possibility of changing the steroids policy with players. Commissioner Bud Selig has proposed a 50-game suspension for the first offense, 100 games for a second offense and lifetime ban for a third offense.

Members of Congress are skeptical. "I don't have a good feeling about either the baseball owners or the players," says Shays.

Congressman feels support

Cummings says very few of his constituents have complained about his tough stand on Palmeiro. "I've only had one person say, 'Lay off Raffy.' " Some comments have come from "diehard baseball fans" who are worried about the integrity of the games' records, Cummings says. Some have come from African-Americans who wonder "Why is it that a baseball player can commit a (drug) crime and make more money? If a guy in my community of West Baltimore were caught doing it, he'd go to jail," says Cummings.

But the congressman says his biggest supporters are "the soccer moms" who want to make sure athletic role models are worth emulating.

Says Cummings: "They're worried about their kids."

Palmeiro Goes Home, Booed And Injured (NYT/AP)

By The Associated Press

The New York Times, September 6, 2005

Filed at 7:43 p.m. ET

BALTIMORE (AP) -- Rafael Palmeiro was sent home to Texas to rehabilitate knee and ankle injuries, leaving his baseball future unclear during a season in which he was suspended for a positive steroids test.

Palmeiro's season unraveled soon after he collected his 3,000th career hit on July 15. He received a 10-day suspension on Aug. 1 for failing a drug test, and upon his return was booed by fans in Baltimore and on the road.

He is 2-for-26 with one RBI since coming back, and has been bothered the past two weeks by injuries to his left ankle and right knee. The Orioles still expect him to play this month, but decided Monday that the first baseman should go home to recover.

"It is in his and the Orioles best interests for Palmeiro to stay off the knee as much as possible to allow it to heal completely," the team said in statement. "At the same time, remaining with the team while unable to play has created an unnecessary distraction for both Palmeiro and the ballclub."

Palmeiro, who has not played since Tuesday in Toronto, left for Texas shortly after the Orioles' 6-2 loss to the Blue Jays on Monday.

"We will monitor him and bring him back at the end when he's ready," interim manager Sam Perlozzo said. "We definitely feel like he's going to play again this year. I'd like to see him get back for the last 10 days, anyway."

Things can't get much worse for Palmeiro, who's experiencing a one-of-a-kind season for all the wrong reasons.

"Everything just kind of crumbled, unexpectedly really. I never expected that anything would happen to me, not at this stage of my career anyway," he said before Monday's game. "I've played my whole career pretty much injury free. There's been no controversy in my life at all, on and off the field. I've always been a type of person that does it the right way and follows the rules and does the right thing for the most part."

This isn't the way Palmeiro, 40, wanted to go out. For that reason he's still considering coming back next season.

"Obviously, I would love to play and come back and finish and hopefully to prove to everyone that I can still play at a high level, that I can still be productive and do it the right way, which I've always done," he said. "I just don't know. I can't look that far ahead and predict what's going to happen. I would love to have that opportunity, but I have a lot of things to think about and a lot of things to weigh."

Ending his season at this point, however, is not in his immediate plans.

"Raffy doesn't want to shut it down yet. He doesn't want to walk away from this thing without playing again," Perlozzo said. "If he looks like he can help us with a couple of at-bats here and there, we'll see what happens."

In March, Palmeiro told Congress that he never took steroids. Upon receiving the suspension, Palmeiro insisted that he never intentionally took a banned performance-enhancing drug. When he returned, he said he would not address the case until Congress concludes its ongoing investigation on whether Palmeiro committed perjury with his testimony in March.

His decision on retirement won't be influenced by the backlash he has received since the suspension.

"If I had to make a decision right then, I probably wouldn't play," he said. "But I am not going to shy away from something like what happened to me like that. I am going to face it and I am going to do what I can. Hopefully, I can explain myself one day, and whether people believe me or not, I can't control that."

Palmeiro never wanted a farewell tour or a lavish ceremony before his final game. He always intended to make a decision over the offseason, which he will, but now must factor in the suspension, his injuries and a late-season slump that has dropped his batting average to .266 -- 23 points below his career mark.

"I wasn't going to make this huge announcement. I wasn't going to have a parade going out around the country at all the ballparks. That's not what I wanted to do," he said. "I wanted to sit down and make a good decision and feel good about it, like 'This is it, I am done, I enjoyed the ride and it's time to do something else.'

"But obviously, that's not going to happen."

Chiefs' Wellbourn Suspended For Steroids (WP/AP)

The Associated Press

The Washington Post, September 6, 2005

KANSAS CITY, Mo. -- Kansas City Chiefs offensive lineman John Welbourn has been suspended for four games for violation of the league's steroid policy.

"John has been suspended," coach Dick Vermeil told The Associated Press on Saturday. "We are moving forward. I really can't say any more than that right now."

Welbourn, a reserve guard acquired from Philadelphia in 2004, played in Friday night's exhibition loss to St. Louis. He will not be eligible to practice during the suspension and may not play until the Oct. 16 game against Washington.

Vermeil said Friday night that Welbourn lost an appeal of his suspension.

"It doesn't matter if it was taken accidentally or something was in something he took that wasn't marked on the bottle," the coach told the Kansas City Star. "It doesn't matter. There's no tolerance and we'll have to live with that."

Eric Warfield, a starting cornerback, already has been suspended for the first four games for violation of the league's substance abuse policy.

Charges Dropped Against Husband Of Woman Who Claimed Cancer (AP)

By THE ASSOCIATED PRESS

AP, September 3, 2005

SALT LAKE CITY -- Prosecutors have dropped the fraud charges against a man whose wife falsely claimed to have cancer and collected thousands of dollars in donations.

Salt Lake County prosecutors said Wednesday they no longer felt they could prove Drug Enforcement Agency officer Jeff James Clark was part of the scam perpetrated by his wife, Tania Clark.

Tania Clark, 32, who has pleaded guilty to felony counts of theft and theft by deception in Utah and Salt Lake counties, is taking sole responsibility for the crimes, said Deputy Salt Lake County District Attorney Robert Stott.

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Stott said the attorney for the woman said she would testify "she was the only one involved, and that her 36-year-old husband did not know anything about the fact that (her claims of illness) were false."

To prove the husband was involved in the scheme, prosecutors would have to prove that "he knew she didn't have cancer and he had intent to commit fraud," Stott said. "We don't think we have sufficient evidence to overcome that."

Jeff Clark's job status remains uncertain, DEA spokeswoman Karen Flowers said Thursday, and he remains on unpaid administrative leave.

Tania Clark was sentenced by a Utah County judge last month to probation and community service and was ordered to pay $5,800 in restitution.

Sentencing in Salt Lake County is set for Sept. 12 before 3rd District Judge Paul Maughan.

Tania Clark told family and friends she was dying of myeloma and needed $62,000 for a bone marrow transplant.This story appeared in The Daily Herald on page D3.

Greed Lured GIs Into Colombian Underworld (WP/AP)

By Kim Housego, The Associated Press

The Washington Post, September 6, 2005

BOGOTA, Colombia -- U.S. Army Staff Sgt. Daniel Rosas was deployed to Colombia as part of the large U.S. mission to fight drug trafficking, but before long he found the lure of cocaine money too hard to resist.

He formed a smuggling ring involving U.S. soldiers that was eventually busted, deeply embarrassing U.S. officials.

A deposition obtained by The Associated Press shows Rosas' scheme was so amateurish that at one point he made a deal with a stranger he met in a Mexican nightclub bathroom and even saw a $140,000 payment vanish in the mail. The authenticity of Rosas' sworn statement was recently confirmed by a Colombian official familiar with the case.

The document provides for the first time a detailed look into how the drug ring operated and shows that, with stunning ease, it was able to send 170 pounds of cocaine from Colombia to the United States, subject to only cursory searches at best from U.S. Customs agents.

"They never suspected that any military or civilian personnel would bring back contraband," Rosas said in the March 31 sworn statement to military investigators at Fort Bliss, Texas. "They did not use dogs, they very rarely checked our carryon bags but never checked our equipment that was loaded on the pallets."

U.S. Ambassador William Wood said in the wake of the arrests on March 28 that U.S. soldiers leaving Colombia would be subjected to stricter searches. The case infuriated many Colombians who said President Alvaro Uribe should revoke treaties granting immunity to U.S. soldiers serving in Colombia.

Rosas, 23, of McAllen, Texas, is behind bars awaiting court-martial along with two other U.S. soldiers.

A fourth soldier, Spc. Francisco Rosa, pleaded guilty on Aug. 10 to using, possessing and distributing cocaine and making a false official statement. He was sentenced to five years in prison, demoted to the rank of private and will receive a bad conduct discharge.

Rosas told military investigators he got involved in drug smuggling in the summer of 2003 when he struck up a friendship with Angel Gutierrez, a bartender at the officer's club in the Apiay military base southeast of Bogota, where he was stationed. Rosas said Gutierrez told him he could hold cocaine and drive it onto the base through the front gate.

"Greed overtook my state-of-mind. I saw an opportunity and took advantage of it," Rosas said, according to the sworn statement.

Rosas said he and two other Americans on the base _ Spc. Rolando Sandoval and a civilian defense contractor identified only as Jake _ pooled their money to buy about nine pounds of cocaine from Gutierrez for $12,000. Sandoval left the military before Rosas' arrest and it is unclear what happened to him and Jake.

Jake smuggled the cocaine to the United States in August 2003, then headed to Las Vegas to try to sell some of it _ but promptly disappeared.

"We never saw him again ... we never received any money from Jake," Rosas said.

When Rosas returned to Texas within a few weeks, he tried to sell the remaining two pounds. That amount normally fetches about $25,000 in the United States, but Rosas didn't know where to turn.

"I went to Juarez, Mexico, and while in the bathroom of a club I saw a guy snorting cocaine," Rosas said. He eventually sold the cocaine to the man for $6,500 at a Taco Bell in El Paso, Texas.

The money didn't last long.

"I spent $3,000 on partying and stuff of that nature," the soldier said.

On his next tour in Colombia, Rosas said he recruited three U.S. soldiers _ Rosa, Staff Sgt. Victor Portales and Staff Sgt. Kevin G. Irizarry-Melendez _ and they began smuggling much larger quantities of cocaine, according to the sworn statement.

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They wrapped sheets of fabric softener and plastic wrap around the cocaine, placed it inside zip-lock bags then put them inside coffee boxes. The drug shipments were loaded onto pallets with other gear then put aboard U.S. Air Force transport planes heading to Texas.

Once, two coffee boxes containing 35 pounds of cocaine vanished after it arrived at Fort Bliss. Rosas said he suspects a private working at the hangar found the cocaine and stole it.

Meanwhile, Rosas found connections in the drug-trafficking underworld in the United States. But that presented new problems.

One drug dealer, identified only as Gustavo, mailed $200,000 to Rosas' El Paso apartment in four boxes as payment for cocaine, but Rosas was not present to pick up two of the boxes, and they were sent to a forwarding address Gustavo had provided. Gustavo told Rosas he had made up the forwarding address. The two boxes were never found.

"I do not know where the boxes were sent to, nor where the money is at now," Rosas told the army investigators. "So basically, somebody received $140,000."

The sworn statement suggests informants finally broke up the smuggling operation.

Rosas said he shipped 134 pounds of cocaine between July 2003 and March 2005 to the United States and sold it for about $260,000. He said Irizarry-Melendez smuggled another 35 pounds, while the others mainly fronted money to buy the drugs.

Asked by the investigators how he felt after being caught, Rosas replied: "Disgraced, unfaithful, disloyal, saddened and I wish I never did it."

Gun Control Efforts Weaken In South (BOS)

By Alan Wirzbicki, Globe Correspondent

The Boston Globe, September 6, 2005

WASHINGTON -- Even as Boston struggles against a tide of smuggled handguns, some state governments in the South are loosening their gun control laws in ways that critics say will make it easier for traffickers to bring illegal firearms into the Northeast.

Under pressure from the National Rifle Association, South Carolina abolished a state law last year that limited to one the number of handguns individuals can buy in a month, a measure that was designed in 1975 to prevent trafficking.

Virginia, which was the epicenter of gun smuggling into New York and Boston before it passed a one-gun-per-month law in 1993, weakened that rule in 2004 and gun control advocates fear that it could soon be abolished.

Academic studies have shown that limits on monthly gun purchases help limit smuggling, but lobbyists for gun manufacturers call such laws "gun rationing" and say they infringe on Second Amendment gun ownership rights.

Over the past five years the overall trend on the state level has been toward lax gun laws, said David Hemenway, a professor at the Harvard School of Public Health who studies gun crime. That has left states such as Massachusetts and New York, which retain their strict gun limits, increasingly isolated.

When it is easy to buy firearms in neighboring states, Hemenway said, "it just makes it a lot harder for states with less permissive gun laws to keep guns out."

Urban jurisdictions in the Northeast have some of the most restrictive gun ownership laws in the country, though shootings in Boston were up 11 percent from last year, according to statistics obtained by the Globe.

Police seized 490 guns in Boston through Aug. 23, up from 380 in the same period last year and 294 in 2001. A large percentage of those guns originated from outside the region.

Last month, a South Carolina judge sentenced a Boston man to 24 years in federal prison for buying 21 guns in the state, which he resold illegally in Boston after removing their serial numbers.

Sergeant Thomas Sexton, a spokesman for the Boston Police Department, said the police were concerned that less restrictive gun laws in other states would fuel smuggling into the region.

"It is a concern that some of these other states are relaxing some of their gun laws," he said.

South Carolina Governor Mark Sanford, a Democrat, signed legislation ending that state's ban in May 2004. In Virginia, Democratic Governor Mark Warner, who may seek the party's 2008 presidential nomination, approved an exemption for gun owners with "right-to-carry" permits from the state's one-gun-a-month limit.

Pinpointing the precise source of guns smuggled into the Northeast is difficult, analysts say, because last year Congress inserted a provision into a spending bill that prevented the US Bureau of Alcohol, Tobacco, Firearms, and Explosives from releasing federal data about where guns used in violent crimes originated.

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The amendment, sponsored by US Representative Todd Tiahrt, a Kansas Republican, prohibited the ATF from releasing documents related to "traces" of guns. Local authorities can request traces for individual firearms to locate the owner of a stolen gun or in criminal investigations, but they don't have access to traces requested by other agencies.

As part of an ongoing lawsuit, the city of New York has subpoenaed the ATF over access to trace data, which New York police hope to use to identify rogue gun dealers.

Lawyers from the city sought trace reports to establish that many guns used to commit crimes come from the same sources.

A federal judge has ruled in favor of the city twice, but the ATF is still seeking to avoid turning over the traces.

In 1999, when the ATF last made some data from gun traces available, the report showed that Florida was the top source of handguns used by youth criminals in Massachusetts in 1997-98, accounting for 17.6 percent of crime. By comparison, only 14.7 percent of guns came from in-state.

Virginia, North Carolina, and Florida were the top three sources of crime guns for young people in New York City.

Brian Malte, outreach director of the Brady Campaign to Prevent Gun Violence, an antigun group, said that while the repeal of gun control laws was worrying, another problem is the many states that lack strong gun control laws to begin with.

"It's not like a South Carolina, that they've passed and then repealed the law," he said.

"They just never had the laws to begin with."

1.7M Kids At Home With Loaded Guns (USAT)

By Marilyn Elias

USA Today, September 6, 2005

About 1.7 million U.S. children live in homes with loaded, unlocked firearms, according to the largest survey ever done on home weapons storage, out today in the Pediatrics online journal (www.pediatrics.org).

James Mercy, researcher with the Centers for Disease Control and Prevention, and colleague Catherine Okoro analyzed surveys of 224,000 adults done by health departments in 50 states and the District of Columbia during 2002.

One-third of adults have handguns, rifles or shotguns at home, says the CDC report. But states vary greatly in the percentage of adults who keep weapons, and in how many with children at home store their guns loaded and unlocked. The states with the highest percentage of adults who have children at home and leave guns unlocked and loaded are Alabama, Alaska, Arkansas, Idaho, Montana and Wyoming.

Eighteen states have laws dealing with proper storage of guns to limit access by children, says Jon Vernick, co-director of the Center for Gun Policy and Research at Johns Hopkins University's school of public health. But the laws vary in strictness — 7 states make it a felony under some circumstances to give minors access to weapons — and they vary in the ages of kids covered, he says.

There's little known about how well these laws are enforced, Vernick adds. “They're great, and we absolutely need more states with laws. But often they seem to get enforced after it's too late, when a child has shot himself or someone else.”

Two studies show accidental gun deaths and teen suicides decline in states with these laws, Vernick says.

The Pediatrics report says that of 1,400 children and teens shot to death in 2002, about 90% were home when it happened.

“It's a frightening problem,” says Michael Barnes, president of the Brady Campaign to Prevent Gun Violence, a lobbying group that favors limiting gun ownership.

The gun storage survey may underestimate kids with access to firearms, says CDC's Mercy, because women tend to underreport the presence of weapons at home, past studies show. About 60% of survey participants were women.

Gun ownership has declined in the past decade, says Barnes, because the USA is increasingly urban and fewer adults hunt.

Andrew Arulanandam, spokesman for the National Rifle Association of America, declined to comment on specific laws but says, “The sad reality is, you cannot legislate responsibility.”

Education is the best way to reduce gun accidents, and the NRA runs many education programs, he says. “Children are by nature curious and will try to seek out objects they shouldn't have. … It's up to the parents to see that firearms are stored safely.”

IMMIGRATION:

Fox Says U.S. Shares Blame For Problems Along Border (NYT)

By Ginger Thompson

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The New York Times, September 5, 2005

MEXICO CITY, Sept. 4 - President Vicente Fox responded over the weekend to criticism from American authorities about a recent surge in violence and illegal immigration along the border, saying that the United States shares responsibility for the problems and should work harder with Mexico to fix them.

Mr. Fox said he rejected "forcefully" the statements by the Bush administration and governors of border states, contending that they had unfairly depicted Mexico as a safe haven for organized crime, though his government has arrested more leading drug traffickers and dismantled more cartels than any of its predecessors. He also said Mexican immigrants had been portrayed unfairly as potential terrorists when they had in fact become a pillar of the American economy.

In an interview aboard the presidential airplane on Saturday, Mr. Fox acknowledged that his government had a long way to go to make the border secure. But he said the United States should stop casting blame for problems created by both countries.

He also said the United States should not allow concerns about border security to derail efforts to adopt new measures to allow millions of additional Mexicans to become guest workers in the United States.

"Security is a shared responsibility," President Fox said. Then, referring to the United States, he said, "I don't understand that now they only cast blame and accusations, and they do not collaborate or cooperate so that together we can resolve this problem."

On the changes in immigration policy, he said: "There is will on the part of President Bush, according to what he has expressed publicly, and what he has expressed in conversations with us. So, I trust that in the coming weeks and months, we will succeed finally in arriving at a positive resolution for the benefit of both countries."

More pressing realities, however, may once again stand in the way. Work on immigration policy was first postponed four years ago, after the Sept. 11 attacks. Then it was put off for Mr. Bush's re-election campaign. Now, it may be set aside again as the United States struggles to recover from Hurricane Katrina.

But Mr. Fox has little time left; he is entering his last year in office.

His comments were aimed at what many here perceive as a troubling shift in United States attitudes and diplomatic policy toward Mexico.

In recent weeks, the United States has openly berated Mexico for failing to stop a wave of drug-related violence that has taken close to 1,000 lives along the 2,000-mile border. The Bush administration has issued numerous travel advisories and temporarily closed its consulate in the city of Nuevo Laredo, which has turned into a murder capital as drug traffickers fight for control of lucrative routes into Texas.

Last month, the governors of New Mexico and Arizona declared states of emergency, saying they needed federal help to fend off a flood of undocumented migrants.

Neither Mr. Fox nor his aides denied the problems. But the authorities here said that the responses from the United States did not reflect the complexities of the problems, nor did they acknowledge that Mexico had undertaken significant efforts to address them.

"This self-sustained blaming someone else, is it going to help anything?" said a high-level intelligence official who asked not to be named because of the diplomatic sensitivities involved. "If everyone in the United States keeps profiting politically from this very difficult situation, then we are not going to be able to make things better." He added, "We are trying to do our job, even with our limited resources."

Mr. Fox said trade and other day-to-day interactions between the countries had not been affected by the political tensions, and he said he trusted that President Bush would not allow concerns over security to stall efforts to pass changes in immigration requirements.

"Let there be no doubt, that we are going to win this battle," he said, referring to his government's efforts in Nuevo Laredo. "So it cannot be used as a pretext to provoke a distancing in relations between the United States and Mexico."

He said his country shared the pain of the hurricane. An estimated 140,000 Mexicans were affected, he said, and 70,000 are unaccounted for. But now, he said, the contributions of Mexican workers could be more important than ever.

"The reconstruction of that city and of that region is going to require a lot of labor," Mr. Fox said of New Orleans, Mississippi and Alabama. "And if there is anything Mexicans are good at, it is construction."

Union Organizers At Poultry Plants In South Find Newly Sympathetic Ears (NYT)

By Steven Greenhouse

The New York Times, September 6, 2005

MORRISTOWN, Tenn. - Hour after hour, Antonia Lopez Paz said, her supervisor at the Koch Foods poultry plant here told women on the deboning line that production demands were so great that they could not go to the bathroom.

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Sometimes she developed acute pain because she could not go, Ms. Lopez said. And one time when another woman asked for permission, "the supervisor took off his hard hat and told her, 'You can go to the bathroom in this,' " said Ms. Lopez, a Mexican immigrant who moved to this town in East Tennessee three years ago, lured by the company's promise of year-round work.

Out of her solitary complaint has grown a thriving unionization drive that fits neatly into the plans of several insurgent unions that hope to revive the labor movement by focusing on low-wage workers and immigrant workers.

"We believe there is a need for a union to come in and help these workers," said Joe Hansen, president of the United Food and Commercial Workers, which is organizing workers at the two Koch Foods plants here. "The conditions in some of these places are criminal, especially in the way they treat undocumented workers, and it's criminal that they often get away with it."

This summer Mr. Hansen's union joined the Teamsters and the Service Employees International Union in breaking away from the A.F.L.-C.I.O., with those three unions promising to devote far more energy to recruiting workers than the rest of organized labor has. Two organizing drives aimed at poultry workers - one in this old factory town and the other in Russellville, Ala. - are among the early battles in this effort to reinvigorate labor.

As part of their new push, the insurgent unions say they will seek to build deep community support among local houses of worship, political leaders and immigrant groups. They also plan to lend organizers to one other's drives, something the food and commercial workers could use because it has few Spanish-speaking organizers in areas like Morristown, where the Hispanic population is soaring.

The 700 poultry workers here, most of them Mexicans, might seem ripe for organizing, but labor's efforts at resurgence face daunting obstacles. Companies often fight back tooth and nail, and many immigrants who are initially sympathetic to unions ultimately shy away, fearing that their employers might grow angry and fire them or have them deported.

"It's been extraordinarily difficult to organize factory workers - and that includes poultry workers - in the South," said Daniel Cornfield, a labor expert at Vanderbilt University in Nashville. "There's plenty of employer resistance in this neck of the woods. And then there's another problem - there's an unfamiliarity between unions and immigrants, far more so in the South than on the coasts. Unions here don't know much about the culture of immigrant workers, and then many immigrant workers are unfamiliar with U.S. labor unions."

But Ms. Lopez was the exception, knowing a good deal about American unions. The daughter of a migrant worker, she saw how the United Farm Workers helped her father when he harvested vegetables in Arizona.

Last April she quit Koch Foods because she was pregnant and the managers rejected her request to be transferred to a less rigorous position. Her job as a wing cutter was so arduous that she feared it would jeopardize her pregnancy.

Like many other workers, she disliked the 42-chickens-a-minute line speed. That pace means that many workers make 18,000 cuts during their eight-hour shifts as they prepare breasts, wings, tenders and cutlets for restaurants and consumers.

"What I didn't like is they would yell at us and tell us we're good for nothing and we didn't know how to work, and sometimes they wouldn't even let us leave to go home when we were sick," Ms. Lopez said as she nursed her month-old son. "We need to convince people to join the union, that they shouldn't be afraid because the union is the only way to make things better and stop them from mistreating at us."

Officials with Koch Foods declined requests to be interviewed. But at proceedings that the Tennessee Occupational Safety and Health Administration held in response to Ms. Lopez's bathroom complaint, Koch representatives said their supervisors were attentive to workers' concerns and gave adequate bathroom breaks.

Several Koch workers said the bathroom break situation improved after the unionization drive began, although some workers said problems remained. In August the state's safety administration dismissed their complaints for lack of evidence.

After Ms. Lopez quit, the unionization drive continued to gain momentum, fueled by the complaints about mistreatment and low wages. The top pay is $7.55 an hour, even for employees there a decade.

"That level of pay is a misery, an embarrassment, considering how hard we work," said Ernestina Gonzalez, who earns the top wage and said she could not afford the premiums for the health insurance the company offers.

In northwest Alabama, 280 miles to the west, workers at the Gold Kist plant in Russellville voice similar complaints about line speed, wages and bathroom breaks. But many Gold Kist employees also complain about how injuries are handled. Most of the plant's 1,500 workers are Hispanic, but there are also many blacks and whites.

One day last December, Delores Smith slipped on a greasy metal plate. Ms. Smith, who prepares boxes to hold processed chickens, crashed to the floor and was in agony, certain that she had broken her right ankle.

She said Gold Kist's nurse did not even look at her ankle and told her that she must have sprained some ligaments and should take ibuprofen and go home. After a supervisor took her to her car, Ms. Smith looked at her ankle and saw pieces of bone protruding through her sock. When her son took her to the emergency room, X-rays showed that her ankle was broken in three places.

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Ms. Smith still limps slightly, but now she has another health crisis. Her job involves removing folded-up boxes that workers upstairs send to her via a chute. Those boxes often tumble out, and one day in July the boxes knocked her eyeglasses to the floor, breaking the frames.

Looking comical in her taped-together glasses, Ms. Smith said: "They sent me home for the day, saying it was my fault. I also got a write-up. My glasses can't even be fixed."

At first, Gold Kist refused to pay for new glasses, which she said would cost $378. With her base wage of $8.40 an hour, that would exceed her weekly pay. Workers who do not arrive late or miss a day for a whole week receive a 75-cent-an-hour bonus.

The company, she said, has now offered to pay $38 toward the glasses. She hopes to get some more from workers' compensation.

Ms. Smith said she and the two other workers in her unit often could not go to the bathroom for hours at a time because the pace was so demanding and there was nobody to replace them.

"They don't respect us at all," she said. "That's why I'm praying for a union."

Yurken Pozo, who quit in early August, said Gold Kist was campaigning hard against unionization.

"They gathered the workers together and kept telling us: 'We don't need a union. The union will only take your money. The union doesn't help anybody,' " Mr. Pozo said.

Wayne Lord, Gold Kist's vice president for corporate relations, said the company's policy was to provide workers with needed bathroom breaks. He voiced surprise about Ms. Smith's health care complaints, saying Gold Kist had a telephone line that employees could call anonymously to report problems about bathroom breaks or medical treatment.

Gold Kist has long told employees why it thinks unions are unnecessary, Mr. Lord said. That practice helped persuade the Russellville workers to vote down a union twice in the 1990's.

"We believe our wages are competitive," Mr. Lord said. "We strive everyday to do the right thing by our employees."

The union is collecting signatures from workers and may soon ask for recognition from the company or for a unionization vote.

Back in Morristown, the Koch poultry workers are so united behind a union and have generated so much community support that they persuaded Koch to pledge not to mount an anti-union campaign. Several workers spoke at churches, and ministers, congregants and community groups wrote letters to the company backing unionization. The workers at Koch's kill plant and deboning plant are expected to approve unionization in mid-September.

"What Koch did is an important precedent," said Anita Grabowski, coordinator of the Poultry Workers Justice Project, a nonprofit group based in Austin, Tex. "This new model of community unionism is a way to help rebuild the labor movement, even in a hostile climate."

TAX:

Feds Say Telecom Tycoon Trying To Move Assets From Jail (LEGALT)

By Jason McLure, Legal Times

Legal Times, September 5, 2005

Even from jail, Walter Anderson, the D.C. telecom tycoon accused of concealing $450 million from the Internal Revenue Service, continued to try to hide money overseas, federal prosecutors say.

On Aug. 24, prosecutors filed in court a transcript of a taped jailhouse phone call from Anderson to an overseas business associate that they say shows him trying to move assets beyond the government's reach. On March 22, Anderson placed a collect call to the associate from the D.C. Correctional Treatment Facility to discuss moving an investment from a Cayman Island company to a blind trust on the Isle of Man.

In the transcript, Anderson says Chadbourne & Parke corporate attorney Hwan Kim was advising him on the offshore deal. "I had a meeting with my attorney, Hwan Kim," Anderson says in the call. "I explained to him the logic that we were trying to create some full separation. He understands completely what we're trying to do. He said that there are a number of different ways to do it . . . he simply suggested that if you could decide which lawyer you want to do it on your side, he'll see if his firm has somebody appropriate to do it on the other side." Moments later, Anderson tells the business associate: "The main thing we have to make sure [is] it's reversible, in some way . . . so that when we clean up the mess, we can reverse it." The transcript makes no mention of how much money would be involved.

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Kim did not return calls, but a Chadbourne spokesman issued a statement saying: "[W]e do not and have not represented Orbital Recovery [the Cayman company mentioned in the transcript] and, therefore, have not advised them on any transaction, domestic or foreign, Isle of Man or elsewhere."

Kim previously worked at Swidler Berlin, a firm that advised Anderson's companies for more than a decade. Kim's partner at Chadbourne, Abbe Lowell, is representing Anderson in the criminal tax case.

The new filing comes just as Lowell asked to be dismissed from the matter, saying Anderson owes $1 million in fees. A hearing is set for Sept. 6.

Jason McLure can be contacted at jmclure@alm.com

CONGRESS-ADMINISTRATION:

Buying Time With Quick Action On The Court And A Second Trip To The South (NYT)

By Todd S. Purdum

The New York Times, September 6, 2005

WASHINGTON, Sept. 5 - By 7:15 Monday morning, President Bush was meeting in the Oval Office with Judge John G. Roberts Jr. to offer him the nomination for the 17th chief justice of the United States. On most Mondays, that might be a good day's work, but Mr. Bush's Labor Day was just beginning, and not everything else about it was quite so crisp or well timed.

On the White House lawn, Marine One was waiting to take Mr. Bush on the first leg of his second trip in three days to inspect the devastation left by Hurricane Katrina in Louisiana and Mississippi. He traded a suit and tie for slacks and a soft-blue sports shirt, and flew straight into a thicket of continuing recriminations over his administration's handling of the disaster and into an awkward dance with the Democratic governor of Louisiana over who would command relief efforts.

"We're going to show the world once again that not only we will survive, but we'll be stronger and better for it, when it's all said and done, that amidst this darkness, there is light," Mr. Bush said at the emergency operations center in Baton Rouge, La. It was a line that echoed William Faulkner and the Bible, meant to bring hope and comfort to the displaced and the desperate.

But just how well Mr. Bush would endure the political challenges posed by the hurricane, much less prevail over them, remained a question on Monday. He assured a crowd at a makeshift shelter at the Bethany World Prayer Center in Baton Rouge, "This is a project that not only deals with the immediate; we're going to have to deal with the long term as well."

In elevating the nomination of Judge Roberts from associate justice to fill the Supreme Court seat left vacant by the death of Chief Justice William H. Rehnquist, Mr. Bush acted with typical dispatch and self-assurance to address one of the immediate and unexpected challenges that landed on his desk, perhaps turning it into an opportunity. Judge Roberts, a former Rehnquist law clerk, has already drawn considerable praise, from both parties, for his intellect and acumen. And though some Senate Democrats were quick to suggest that the scrutiny would be greater in considering him for chief justice, his eventual confirmation would not seem to be in any significant doubt.

That means Mr. Bush may well have a chief justice, firmly in Chief Justice Rehnquist's conservative mold, in place by the time the court reconvenes on the first Monday in October, with time to consider - and perhaps calibrate - the more politically delicate task of choosing a successor for Justice Sandra Day O'Connor, who has been the court's swing vote on contentious issues like abortion, affirmative action and religion.

It also buys Mr. Bush a bit of time to untangle the aftermath of the hurricane, a job that his trip on Monday suggested might take a while, as the images of suffering continued to dominate television news coverage during the long holiday weekend. The challenge for the president is to repair the political damage caused by the government's slow response to the disaster and to counter the sense that his initial flyover in Air Force One on the way home from vacation and his on-the-ground visit to the region last Friday had sounded some sour notes - all without looking political.

That proved not so easy on Monday, after a weekend of behind-the-scenes finger pointing between administration officials and state and local leaders over who was to blame for the inadequacy of initial relief efforts. Gov. Kathleen Babineaux Blanco of Louisiana has been at odds with administration officials over whether to federalize the National Guard in her state, and her aides said she learned of Mr. Bush's latest visit only from early morning news reports, then rearranged her schedule to make a couple of joint appearances with him.

Having been faulted by some as not spending enough time last week with black victims of the flooding in New Orleans, Mr. Bush was flanked at one point on Monday by prominent blacks, including Mayor Kip Holden of Baton Rouge and Bishop T. D. Jakes, a prominent Pentecostal minister from Dallas who has been courted by the White House in efforts to reach out to black voters.

William Kristol, the conservative publisher of The Weekly Standard, said of Mr. Bush: "I do think people think he could have showed stronger leadership." But Mr. Kristol expressed doubt that the hurricane would have much lasting effect on the president's personal and political fortunes, because "people are capable of saying, 'The president kind of screwed this one up, but I still basically agree with him.'"

Mr. Kristol added, "I think the Clinton administration would have done a better job in handling Hurricane Katrina, but I'm also glad Bush is president and not a Democrat."

For their part, Democrats on Capitol Hill wasted no time in pressing their advantage over a wounded president, repeatedly urging a delay in Judge Roberts's confirmation hearings until at least after Chief Justice Rehnquist's funeral on Wednesday, and demanding a postponement of Republicans' plans to take up one of Mr. Bush's longstanding goals, the repeal of the estate tax, in the Senate.

"Moving to the estate tax would be a travesty on top of a tragedy," said Senator Harry Reid of Nevada, the Democratic leader.

It was a charge to which Mr. Reid's Republican counterpart, Senator Bill Frist of Tennessee, effectively pleaded no contest late Monday, announcing a delay in addressing that issue. Mr. Frist also said the Homeland Security Committee would convene hearings to review the "weaknesses and strengths" of the federal response to the hurricane and to "apply the lessons learned."

But there is a risk for Democrats, too, in appearing too political, a reality that former President Bill Clinton acknowledged on Monday, saying, "I just think right now we need to focus on the suffering of the people and how to alleviate it and where to go from here."

Mr. Bush's father, the first President Bush, who has teamed up at the president's request with Mr. Clinton to raise money for hurricane victims, reflected on the criticism on Monday.

"The president can take it," the elder Mr. Bush said. But, he told reporters at a news conference with Mr. Clinton in Houston, "As a father? I don't like it," adding, "It goes with the territory."

The criticism has been visibly irritating to the president, a man capable of public displays of great tenderness whose resoluteness after the Sept. 11 attacks rallied the nation. On Monday, as he left the heavily damaged town of Poplarville, Miss., Mr. Bush insisted to local residents: "I understand. I understand the damage. I understand the devastation. I understand the destruction. I understand how long it's going to take. And we're with you."

Once more, Mr. Bush is hoping the people will be with him.

UPDATE 1-Bush: U.S. Will "do What It Takes" After Katrina (REU)

By Tabassum Zakaria

Reuters, September 5, 2005

BATON ROUGE, La., Sept 5 (Reuters) - President George W. Bush, under fierce criticism for his government's slow response to Hurricane Katrina, promised on Monday that the U.S. would "do what it takes" to help victims of the devastating storm get back on their feet.

Bush was on his second visit to Louisiana and Mississippi, where the storm has caused one of the biggest humanitarian crises in U.S. history. On his first tour on Friday, five days after the huge scale of the disaster became apparent, the president acknowledged the initial relief effort had been "unacceptable."

"If it's not right, we're going to fix it, and if it is right, we're going to keep doing it. And this is just the beginning of a huge effort," Bush pledged after meeting disaster relief officials at an emergency operations center in Baton Rouge.

He added: "This is one of the disasters that will test our soul, and test our spirits."

At the Bethany World Prayer Center, where dozens of evacuees are being cared for, Bush was with Dallas religious broadcaster T.D. Jakes and Baton Rouge Mayor Kip Holden, who are both black, as he spoke to reporters.

Some black leaders have accused relief officials of not taking the crisis seriously enough because many of its victims are poor and black.

Bush has been under fire from Democrats and Republicans alike for a sluggish federal response to a flood that has made hundreds of thousands homeless and is feared to have killed several thousands along the northern Gulf of Mexico coast.

Bush has not publicly singled out anyone for criticism although there has been some finger-pointing between state, federal and local authorities. "All levels of government are doing the best they can," Bush said.

The outcry has triggered a major political crisis for Bush, already suffering from the lowest public approval ratings of his presidency, largely because of the war in Iraq.

"He's doing good now, I guess, since he came down to see it for himself," said one evacuee at the prayer center, Milton Beverly of Jefferson Parish, Louisiana.

Some victims at the center were still sleeping on mattresses on the floor when Bush and his wife Laura arrived.

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The crowd quickly grew around Bush when the survivors realized the president had come to see them.

"We've got a lot of work to do," Bush told them.

"We can help save lives once a person finds a shelter such as this," he said. "The response of this country has been amazing." He said the country would "do what it takes" to help people get back on their feet.

He signed T-shirts, hugged women holding babies and sat on a bed next to pregnant Ailisa Eugene, of Metairie, Louisiana.

Bush Makes Return Visit; Two Levees Secured (NYT)

By Elisabeth Bumiller And Clyde Haberman

The New York Times, September 6, 2005

As criticism raged over the federal government's response to Hurricane Katrina, President Bush returned to the region yesterday, and Army engineers patched up two levees that had been breached by the storm and cautiously began pumping water out of New Orleans.

Mr. Bush comforted victims in Poplarville, Miss., and Baton Rouge, La., but he found himself ensnared in a dispute with Louisiana's Democratic governor, Kathleen Babineaux Blanco, who learned of Mr. Bush's trip from news reports.

"There's a lot of work to be done," Mr. Bush told a group of mostly black victims at a makeshift shelter, the Bethany World Prayer Center, in Baton Rouge. He said that Americans' response to the disaster had been "amazing" and that "this country is going to be committed to doing what it takes to help people get back on their feet."

The president's trip, an effort to calm the region and part of a major White House campaign to stem the political damage from the hurricane, came as rescue teams in New Orleans searched for thousands of residents who remained in the city, many having ignored pleas to evacuate. The city's No. 2 police official, W. J. Riley, said his officers were trying to convince people that staying behind was pointless because "this city has been destroyed, completely destroyed."

As has been true for days, the death toll was assumed to be disastrously high, but estimates remained little more than guesses - perhaps educated, perhaps not. Officially, the Louisiana toll climbed to 71. The mayor of New Orleans, C. Ray Nagin, said the figure might well reach 10,000.

But there was some positive news yesterday. Army engineers said that after having dumped hundreds of bags filled with cement, sand and pieces of ruined roadways, they had closed the breach in the levee at the London Avenue Canal.

Late yesterday afternoon, state officials said that another crucial levee, on the 17th Street Canal, had also been patched up.

With those barriers at least temporarily restored, engineers began draining the flooded streets and sending the water back into Lake Pontchartrain, but carefully, using portable pumps set up at near the lake on the 17th Street canal. Gregory E. Breerwood, a city engineer, said, "We intend to take it slowly so we don't overtax the pumps themselves, because they have not been in service for a while."

West of the city, in Metairie, residents were permitted to return, if only for a day, to salvage what they could from their flooded houses.

In Baton Rouge, Governor Blanco greeted Mr. Bush as he arrived, but only after her press secretary called to alert her at 6 a.m. as she waited on a plane to take off from Baton Rouge for Houston. The press secretary, Denise Bottcher, said in an interview that she had first learned that Mr. Bush would be in Baton Rouge from news reports late Sunday and early yesterday, even though CNN had been reporting the president's trip to an unspecified location in Louisiana as early as Saturday.

"We're so busy, I can't sit down to watch TV," Ms. Bottcher said, adding. "Why should I get that news from CNN?"

Ms. Bottcher said she then called the White House yesterday morning, "and they extended an invitation."

Dana Perino, a White House spokeswoman, said the White House reached out to Ms. Blanco's office on Sunday and made contact with her yesterday morning.

Ms. Blanco and Mr. Bush have been at odds over the deployment of the National Guard in Louisiana, and both sides pointed fingers. On Friday night, Ms. Blanco refused to sign an agreement proposed by the White House to share control of National Guard forces in the state with federal authorities. "She would lose control when she had been in control from the very beginning," Ms. Bottcher said on Sunday.

The Times-Picayune, Louisiana's largest newspaper, published an open letter to Mr. Bush on Sunday that called for the firing of every official at the Federal Emergency Management Agency.

"We're angry, Mr. President, and we'll be angry long after our beloved city and surrounding parishes have been pumped dry," said the newspaper, which endorsed Mr. Bush for president in 2000 but made no endorsement in 2004.

At the Bethany World Prayer Center in Baton Rouge, the president's first stop of the day yesterday, some evacuees from the hurricane ran up to meet with Mr. Bush, but many hung back and looked on. One of them, Mildred Brown, who had been at

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the shelter since Tuesday, told The Associated Press: "I'm not star-struck; I need answers. I'm not interested in hand-shaking. I'm not interested in photo ops. This is going to take a lot of money."

One evacuee from New Orleans, Richard Landres, a lumberyard worker, was more positive about Mr. Bush. "I think he's doing what he can do," Mr. Landres said, according to a White House pool report.

Mr. Bush was flanked as he spoke by Mayor Kip Holden of Baton Rouge and T. D. Jakes, a conservative African-American television evangelist with a megachurch in Dallas who has been courted by the White House as a partner in reaching out to the black vote.

"I want to thank my friend T. D. Jakes for rallying the armies of compassion to help somebody like the mayor," Mr. Bush said.

Later in Baton Rouge, Mr. Bush spoke for an hour and a half with Ms. Blanco and members of Louisiana's Congressional delegation in a meeting that Ms. Bottcher described as "very positive" and that other participants called blunt. The elected officials said Mr. Bush mostly listened.

Representative Bobby Jindal, a Republican who represents New Orleans, said afterward that while the tone of the meeting was polite, "there was a lot of frustration."

"It was not hostile," Mr. Jindal said. "It was honest."

The trip was Mr. Bush's third survey of the region in the past week. He was in New Orleans and Biloxi, Miss., on Friday, and he flew over the area in Air Force One as he returned from an extended vacation on Wednesday.

Scott McClellan, the White House press secretary, said Mr. Bush did not go to New Orleans yesterday because he had visited it on Friday. On that visit, however, he did not go to the Superdome or the convention center, where tens of thousands of largely poor and black victims had been desperate for food and water for days, and some older evacuees had died in their wheelchairs. Mr. Bush did speak at the New Orleans airport and visit the repair work under way at the 17th Street Canal, where he met with workers, some of whom had lost their homes.

Mr. McClellan also said Mr. Bush steered clear of New Orleans yesterday because he did not want to disrupt continuing relief efforts.

"Today, he wanted to visit citizens of New Orleans who have been evacuated and are in need of continued assistance, as well as volunteers who are helping them," Mr. McClellan said in an e-mail message.

Yesterday afternoon, Mr. Bush spoke at a community college to residents of Poplarville, a small town about 40 miles inland that was badly hit by tornadoes accompanying the hurricane, then took a walking tour of a suburban street. Branches and trees littered the sides of roads, and electricity was still out, with water coming back slowly, but the damage was nothing like the destruction Mr. Bush saw on Friday in Biloxi.

"Out of this despair is going to come a vibrant coast," Mr. Bush told the crowd at the Pearl River Community College. "I understand if you're saying to yourself, 'Well, it's hard for me to realize what George W. is saying because I've seen the rubble and I know what has happened to my neighbors.' But I'd like to come back down here in about two years and walk your streets and see how vital this part of the world is going to be."

Some residents said Mr. Bush's visit to Poplarville had lifted their spirits. "He said the worst was going to be over," said Dawn Stuit, 48, a real estate agent, who had spoken to the president on the street and said that he had kissed her cheek. She said she was feeling better yesterday because her electricity would be restored soon. "I think the president visiting had something to do with the power coming back on," she said.

Other residents viewed the president's visit with anger. "If it takes them a week to figure out that people need food and water, maybe they need to step back and fire themselves," said Robert Duke, 43, waiting in a gas line in Poplarville. "Some of them need to go to jail over this."

In New Orleans, the city took a few slow steps on the arduous journey toward recovery. Power was even restored in some neighborhoods.

Mayor Nagin, who had raged against the federal government days ago for what he called its slow response to the crisis, struck a more positive tone, despite his estimate of the large number of dead. "We're making great progress now," he said on the "Today" program on NBC. "The momentum has picked up. I'm starting to see some critical tasks being completed."

After days of looting and reports of murders and rapes, the New Orleans police and military troops asserted control. "We continue in lockdown," said Mr. Riley, assistant police superintendent. "I feel the city is very secure," he said. "Chaos is moving to being organized chaos. It's better now."

A major issue, he said, is clearing the city of remaining residents to prepare for the cleanup. "Our officers are telling people there's absolutely no reason to stay," Mr. Riley said. "There are no homes to go to, there's no hotels."

Social services officials in Louisiana said yesterday that about 114,000 people had taken refuge in shelters stretching from West Virginia to Utah. The largest number, 54,000, remained in Louisiana, but almost as many were in Texas. Officials also said

that in the last three days they had received 90,000 applications for food stamps from hurricane victims. Typically, they said, they process 1,300 applications a day.

Long-term problems facing people along the Gulf of Mexico were raised by former Presidents George Bush and Bill Clinton. As in the aftermath of the Asian tsunami, they were asked by President Bush to help raise money for evacuees.

"Recovery is going to take years," former President Bush said in Houston as he and Mr. Clinton announced the creation of a new fund.

Mr. Clinton touched on the need to find jobs for people who had left their homes. "One of the things we have to ask is: What could we do to give incentives for people to get jobs where they have to relocate," he said. "A lot of these people will be out of their homes a year or more."

Bush, Blanco Reveal Strained Relationship (AJC/AP)

By Jennifer Loven, Associated Press Writer

The Atlanta Journal-Constitution, September 6, 2005

BATON ROUGE, La. — Like estranged in-laws at a holiday gathering, President Bush and Louisiana Gov. Kathleen Blanco kept their distance as both toured a relief center for storm victims Monday. At their next stop, the Republican president kissed the Democratic governor on the cheek, but it wasn't clear whether they had made up.

State and federal officials are all facing public criticism for a slow response to the crisis. Behind the scenes, each suggests the other is to blame.

In front of the cameras during Bush's visit to the Gulf Coast states on Monday, the president and Blanco said little to each other, focusing instead on thanking relief workers.

"I know I don't need to make any other introduction other than `Mr. President,'" Blanco said tersely, turning the microphone over to Bush after praising emergency management officials during a stop with Bush at an emergency operations center.

"This is one of these disasters that will test our soul and test our spirit, but we're going to show the world once again that not only can we survive but we will be stronger and better for it," Bush said after taking the microphone.

Blanco late Monday sought to tone down suggestions of a rift.

"We'd like to stop the voices out there trying to create a divide," she said. "There is no divide. We're all in this together. Every leader in this nation wants to see this problem solved."

Bush echoed Blanco's praise for rescue workers. "I hope that makes you feel good to know you have saved lives," Bush said, promising state, local and federal officials that he would fix anything that isn't going right. "This is just the beginning of a huge effort," he said.

The president, looking choked up as he finished his brief remarks, nodded at Blanco and kissed her on the cheek. She nodded back and both left the podium, headed for separate spots in the crowd.

Blanco has refused to sign over control of the National Guard to the federal government and has turned to a Clinton administration official, former Federal Emergency Management Agency chief James Lee Witt, to help run relief efforts.

Blanco was not told when Bush would visit the state, nor was she immediately invited to meet him or travel with him. Blanco's office didn't know Bush was coming until told by reporters. Bush spokesman Scott McClellan said the White House reached out to Blanco's office on Sunday, but didn't hear back. White House staff in Louisiana spoke with Blanco early Monday, he said.

Making his third visit to the Hurricane Katrina-ravaged states, Bush stopped first at the Bethany World Prayer Center, a huge hall half covered with pallets and half filled with dining tables. Blanco visited at the same time, but she and Bush kept apart as they walked around talking to people.

During his stop at Bethany, several people ran up to meet Bush and get autographs as he and first lady Laura Bush wandered around the room. But just as many hung back and looked on.

"I need answers," said Mildred Brown, who has been there since Tuesday with her husband, mother-in-law and cousin. "I'm not interested in handshaking. I'm not interested in photo ops. This is going to take a lot of money."

Bush hasn't gone a day without a public event devoted to the storm and its aftermath. But none of those trips so far — nor appearances by several Cabinet members in the region — has quieted complaints that Washington's response to the disaster has been sluggish. Congress already plans hearings on the response.

Bush's trip Monday was his third inspection tour, the second by ground. Last week, he had his pilot lower Air Force One, the presidential jet, to an altitude of about 2,500 feet as he flew over the area. Last Friday, he walked a neighborhood in Biloxi on Mississippi's coast and stopped at the airport and a breached levee in New Orleans.

By contrast, Baton Rouge, about 80 miles northwest of New Orleans, largely escaped damage. Its population, however, has swelled dramatically with displaced people and is experiencing clogged roads and supply shortages.

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On Monday afternoon, Bush headed to Poplarville, Miss., to meet with Republican Gov. Haley Barbour and other state and local officials at the Pearl River Community College. The city is about 45 miles inland, but the area was in the path of Katrina's eye and the town and surrounding rural areas suffered enormous devastation.

Bush said he understood his optimism about the region's recovery is hard for others to share: "It's easy for me to say that I can see a better tomorrow because I haven't been living through what you are living, but I do," he said.

On Bush's last stop of the day, he walked a middle-class Poplarville street of tidy ranch homes and commiserated with residents. Unlike many other places in the hurricane zone, the homes were intact, with downed trees and power lines the only evidence of the storm.

Bush has come under fire for waiting two days after Katrina hit — and a day after levee breaks drowned New Orleans and turned it into a place of lawless misery — to return to Washington from his August break in Texas to oversee the federal response.

It took several days for food and water to reach the tens of thousands of desperate New Orleans residents who took shelter in the increasingly squalid and deadly Superdome and city convention center. Outlying areas suffered some of the same problems.

Officials are reporting progress and new worries.

Russ Knocke, a Department of Homeland Security spokesman, said at least 22,800 people have been rescued — more than four times the number the Coast Guard usually saves in a year.

At least 155,000 people have been evacuated from the stricken areas, most of them now housed in some 560 shelters, he said. More than 60,000 civilian and military personnel are assisting.

Hundreds of federal health officers and nearly 100 tons of medical supplies were sent to try to head off disease, feared because of hot weather, mosquitos and standing water holding human waste, corpses and other contaminants.

In Houston, former Presidents George H.W. Bush and Bill Clinton announced a nationwide fundraising campaign to help hurricane victims.

New Orleans Mayor Says Death Toll Could Be 10,000 (LAT)

By Ellen Barry, Scott Gold And David Zucchino

The Los Angeles Times, September 6, 2005

NEW ORLEANS — Tens of thousands of residents today returned to suburban New Orleans to view what was left of their lives, a week after Hurricane Katrina dealt the Gulf Coast a deadly blow.

President Bush took his second tour of region, hoping to calm days of criticism that the federal government acted too slowly in dealing with the tragedy that New Orleans Mayor C. Ray Nagin said could have cost 10,000 lives. There were also reports of a dangerous bacterial infection spread by contaminated saltwater.

Accompanying Bush was Louisiana Gov. Kathleen Babineaux Blanco, who along with Nagin has been a fierce critic of the federal effort. Bush planted a kiss on the governor's cheek, but their staffs continued their wrangling.

The Army Corps of Engineers announced that it had repaired one of the levees that had shattered last week, turning this low-lying city into a polluted lake. Today, officials estimated that most of the city remained underwater. But they were hoping to start the pumps soon that would begin drying out and restoring life to the city that has become a soggy ghost town with almost all its half a million residents evacuated to shelters elsewhere.

Between 20,000 and 30,000 evacuees from suburban Jefferson Parish, just outside New Orleans, returned to their homes at dawn today, taking advantage of an offer by parish officials to stay for four days.

Thousands came supplied with coolers crammed with food and water to sustain them until parish sheriff's deputies force everyone to leave again Thursday.

The parish's move, which was criticized by some parish officials as too dangerous, began at 6 a.m. sharp, when police removed cruisers that had blocked a four-lane highway at the western edge of the parish. The residents, most of whom had slept in their cars on a highway Sunday night, sped into the township, eager to see their homes since evacuating a week ago.

Swerving past toppled trees and downed power lines, most found their homes intact. The parish, the second-largest in the state with 480,000 residents, was spared the widespread flooding that left more than 80% of adjacent New Orleans underwater. About 15% of the parish was flooded, said parish Councilman Chris Roberts.

Although some homes are underwater, Roberts said, most are intact. Thousands lost sections of roofs and siding, and many were struck by falling trees and limbs. Electricity, phones and water have been knocked out, and stores have been looted. Even so, the scale of destruction and displacement was far less than in New Orleans.

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The residents' return came as parish officials were condemning the Federal Emergency Management Agency and other national and state relief organizations for failing to offer assistance. On Monday, a week after the hurricane, the parish still had not received outside aid, officials said.

Charges that federal officials have let down the region have become more frequent in recent days as the scale of the catastrophe has become clearer. Since Monday, when Katrina made landfall in the gulf, estimates of the death toll have steadily risen as has the cost of damage.

New Orleans Mayor C. Ray Nagin said on NBC's "Today" that "it wouldn't be unreasonable to have 10,000" dead.

Estimates of the cost are around $25 billion in insurance claims and a like amount to repair infrastructure like highways, water supplies and sewage plants in more than four Southern states. There are no figures for caring for the hundreds of thousands of refugees made homeless by the storm or for the lost incomes, schooling and destroyed lives.

Cleanup in some places could take months. New Orleans is expected to remain empty for weeks until the water is removed.

Facing what is shaping up as one of the nation's worst disasters, President Bush again insisted that the government was doing what it could.

"I think all levels of government are doing the best they can," Bush said when asked about the federal response during a visit to Bethany World Prayer Center in Baton Rouge. "The response of this country is amazing."

When the president and his wife, Laura, arrived, some of the 200 evacuees were still sleeping, wrapped in quilts and lying on mattresses on the floor. But the crowd quickly grew.

"Laura and I have come back down here to let the good people of this region know there's a lot of work to be done, and we're going to get it done," Bush said.

It was a message that Bush has been pressing for days, during a trip to the region last week and a visit to the Red Cross in Washington over the weekend.

Today, he also tried to spread hope and blessings to workers and the Emergency Operations Center in Baton Rouge and to refugees at the Pearl River Community College in Poplarville, Miss.

"So let me conclude by asking for God's blessings on you all, and your families and friends, and let you know we're here for the long term," he said in Mississippi. "I understand. I understand the damage. I understand the devastation. I understand the destruction. I understand how long it's going to take. And we're with you. That's what I want you to know."

His comments were similar to those he made in Louisiana.

"This is one of these disasters that will test our soul and test our spirit," he said. "We're going to show the world, once again, that not only we will survive, but that we will be stronger and better for it when it's all said and done, that amid this darkness, there is light.

"And I want to thank you all for providing light, immediate light to people who needed help," he told the emergency workers. "You make your state and your local governments and your country proud."

The president returned to the White House later in the day.

While Bush was praising in public, behind the scenes there were simmering disputes about who was in charge and whether enough had been done. Homeland Security Secretary Michael Chertoff minimized reports of bureaucratic infighting during a news conference today in New Orleans.

Army Lt. Gen. Russel Honore, who has emerged as a hero for cutting red tape to bring food and water to evacuees waiting for days in the city's inadequate shelters, used profane language to dismiss the charges at the same news conference.

Today, officials at the Centers for Disease Control said some of the refugees have contracted a bacterial disease called vibrio vulnificus. It may have been picked up by people with open wounds who were forced to wade through badly polluted waters for long periods of time.

Vibrio vulnificus is a more benign cousin of the bacterium that causes cholera -- and was only discovered, officials said, because tests were done amid false reports that cholera had been discovered among the evacuees.

Among healthy people, the bacteria can cause vomiting, diarrhea and abdominal pain but is generally not life-threatening. It can be readily cured with antibiotics such as doxycycline or cephalosporins. Those who recover show no long-term effects.

It is substantially more serious in people with chronic liver disease or people who have compromised immune systems, such as those taking transplant drugs or those with AIDS.

Von Roebuck, a spokesman for the CDC in Atlanta, said officials have detected the disease among some storm refugees and stragglers but has not been able to determine the number of cases.

"We are seeing some cases," he said. "It could be life-threatening."

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An average of about 50 cases of vibrio, 45 hospitalizations and 16 deaths are reported each year in the Gulf Coast states, but many experts believe the actual number is far higher. Most of those cases occur between May and October, when the ocean water is warmer.

Mayor Nagin said the possibility of epidemics is a critical concern.

"The water quality in the streets continues to deteriorate," he said. "There is some really nasty looking stuff out there. I worry about it every day. The more time that passes, there are more dead bodies left floating, and more mosquitoes breeding and hatching. They bite people who are dead."

Despite the difficulties, there was some progress.

The U.S. Army Corps of Engineers has completed repairs to the 17th Street canal, said Cleo Allen, a public information officer for state Department of Transportation and Development. That breach in the levee was one of two that last Tuesday turned this low-lying city into a polluted lake, stranding tens of thousands of people without food and clean water.

Next, engineers will begin to pump water out of the city — "dewatering," as they call it. The first major pump to reactivate will be the Mounds pumping station, but engineers must secure power for those pumps, and check the stability of outfall walls.

Crews from the Department of Transportation are involved in clearing massive amounts of debris, and in moving evacuees out of the Chalmette area. Between 5,000 and 6,000 people were ferried out of Chalmette over the past few days, Allen said.

Security also continues to be restored.

Seven thousand additional National Guard troops will be in place by tonight, said Major Gen. Bennett Landreneau of the Louisiana National Guard. The total number of forces in the city will climb to 10,000, he said.

The number of troops in place has grown very rapidly, beginning with 4,000 National Guardsmen who were mobilized before the hurricane. Landreneau said the Guard's priorities "continue to be saving lives. We're focusing on the security, law and order, and the support of existing critical infrastructure."

Texas has taken in an estimated 250,000 people. As many as 1 million others from southern Louisiana heeded the warnings and fled to friends and relatives before Katrina struck the Gulf Coast last Monday.

At a news conference outside the Astrodome in Houston, which is sheltering an estimated 15,000 evacuees, former Presidents Bill Clinton and George H.W. Bush this morning announced formation of a fundraising foundation to help Katrina victims: bushclintonkatrinafund.org.

"A lot of these people have no cars, no work, no home, no nothing. They depend on us to give them a future," Clinton said.

Both were asked about criticism of the federal government. Bush sidestepped the question, but Clinton suggested that a commission should be formed to investigate the government's slow response.

"I think it's an appropriate thing to look into, but not at this time," Clinton said. "Right now, we're still finding bodies out there."

Asked why FEMA did not move more quickly, Clinton told reporters: "That's a question you should be asking them. It has something to do with how they reorganized after I left."

Clinton, Bush, their wives and other dignitaries toured the Astrodome, where Clinton spoke to a woman who said she was glad that her 113-year-old mother was rescued.

Joining the two former presidents at the news conference was Lee Scott, chairman and CEO of Wal-Mart. The company pledged $23 million for the fund.

On Sunday, Texas Gov. Rick Perry ordered emergency officials to airlift some of the evacuees that had offered to help. Perry said relief centers around the state were running out of room.

"There are shelters set up in other states that are sitting empty while thousands arrive in Texas by the day, if not the hour," Perry said.

For Bush, A Test Of Political Skill (CSM)

By Linda Feldmann

The Christian Science Monitor, September 6, 2005

WASHINGTON - Four years ago, when George W. Bush emerged from the 9/11 attacks with sky-high marks for decisiveness and leadership, he accumulated a reserve of political capital that saw him through reelection.

Now, nearly nine months into his second term, President Bush faces perhaps the most profound test of executive and political skill of his life. One week after hurricane Katrina slammed into the Gulf Coast, wreaking unfathomable devastation, his administration is still scrambling to make up for a delayed initial response that faced broad, bipartisan criticism. Americans are reeling over gasoline prices, and remain skeptical over the course of the Iraq war. Plans for a bold second-term agenda - including Social Security reform and tax reform - sit in doubt.

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The death Saturday of Chief Justice William Rehnquist, the second vacancy on the high court in as many months, added one more element of uncertainty to a tumultuous time.

By Monday morning, the mood turned. After a weekend public-relations offensive by top aides who visited the storm-damaged South and fanned out to the Sunday talk shows, Bush seemed to have caught his balance. His nomination of John Roberts to replace the chief justice, rather than retiring Justice Sandra Day O'Connor, struck analysts as a savvy move, creating the possibility that the court will start its term Oct. 3 at full strength. After the court announcement, the president boarded Marine One to begin his second trip in three days to the Gulf Coast.

Still, Bush has his work cut out for him, seeking to reassure Americans that the nation's military might is not stretched too thin and that the failures in response to Katrina - on the local, state, and national levels - do not bode ill for the ability to cope with any future terror attack on US soil. Republicans agree that this is a dangerous moment for the president.

"Anytime you have a situation like this, you're responsible for the government," says David Winston, a Republican pollster. "If it performs, great, and if it doesn't, people are going to want to know why, and rightfully so."

On the ground, the aftermath of Katrina took on a tangible impact across the country, with more than a half-million displaced people settling into relief centers. Nearly 250,000 evacuees went to Texas, leading the governor to order emergency officials to airlift some to other states. In New Orleans, rescue and recovery operations continued their grim task. Over the weekend, Secretary of Health and Human Services, Michael Leavitt predicted that Katrina's death toll would rise into the thousands. Reports of contractors coming under fire as they made their way to help shore up the 17th Street Canal in New Orleans added to the imagery of a war zone.

Monday, small signs of progress emerged as floodwaters began to recede. Residents of suburban New Orleans were allowed to return briefly to their homes and try to retrieve belongings. Out of Austria came news that oil prices were falling after industrialized nations released 60 million barrels of crude from their stockpiles to help stabilize American supplies.

The two former presidents, George H.W. Bush and Bill Clinton, who championed the fundraising cause after last year's tsunami, reprised their role, announcing the formation of the Bush-Clinton Katrina Fund Monday. Proceeds will be turned over to the governors of the affected states.

For the current President Bush, the task ahead remains far more complex. Congressional hearings will examine what went wrong before and after Katrina slammed into the Gulf Coast at Category 4 strength. The initial wave of blame and recriminations continues. Over the weekend, the main newspaper in New Orleans, the Times-Picayune, issued an open letter to Bush, calling on him to fire "every official at the Federal Emergency Management Agency ... Director Michael Brown especially."

For Bush, who prides himself on making smart appointments and effectively delegating, the naming of Mr. Brown to head FEMA in 2003 without much apparent background in emergency management is one of many questions he already faces.

But if Bush is looking ahead to how history will remember him, he still has years to recover from the initial bad reviews out Katrina, analysts say.

"Having a lot of time left as president is a good thing for him, because it gives him the opportunities and time to get out of some of these holes," says Norman Ornstein, a political expert at the American Enterprise Institute.

Already, many Americans don't remember Bush's initial halting response to 9/11, from which he recovered after a few days with his iconic moment shouting through a bullhorn atop the rubble at ground zero. Still, recovering politically from Katrina is likely to take more effort. There is no foreign enemy against which to rally. And Bush was already struggling with low approval ratings over the Iraq war and high gas prices. The decision to proceed last week with a speech in California aimed at bolstering support for the Iraq war, even after Katrina had hit the Gulf Coast, is probably one Bush's aides wish they could do over.

"Even if the reality is, there's nothing more that he could have done back in Washington or anywhere else ... the symbol matters," says Mr. Ornstein.

Under Fire, President Attempts To Regain Sense Of Equilibrium (USAT)

By Judy Keen And Richard Benedetto

USA Today, September 6, 2005

WASHINGTON — In a flurry of e-mail exchanges late Saturday night when they learned about Chief Justice William Rehnquist's death, President Bush's top advisers debated — after their most difficult week since 9/11 — what calamity might be next.

Their worried conversations continued in meetings at the White House before 8 a.m. on Sunday. They concluded that for Bush's remaining 40 months in office, they should expect almost anything, said a top adviser who works closely with Bush. “We've just kind of realized that if things are going to happen, they're going to happen to this president,” he said, refusing to be identified because he was not authorized to describe internal discussions.

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Bush and his team spent the holiday weekend responding to the Supreme Court vacancy created by Rehnquist's death, managing the aftermath of Hurricane Kristina and trying to minimize damage from the federal government's slow and much-criticized response to the storm.

After angry complaints last week about delays in mobilizing federal help for hurricane victims, criticism of Bush's light-hearted recollection Friday of his youthful partying in New Orleans and failed efforts to blame local and state officials for problems, the president and his aides tried Monday to regain a sense of equilibrium.

Thirty-three hours after learning of Rehnquist's death, Bush announced the nomination of John Roberts to succeed him. Then he left for his second tour in four days to the disaster zone. During a visit to a shelter for storm evacuees in Baton Rouge, an unsmiling Bush said, “I fully understand there's a lot of work to be done.”

Bush counselor Dan Bartlett said Monday that after the situation is under control, Bush will order an inquiry into delays in federal aid. “We want to know what happened and how,” Bartlett said.

John Podesta, who as a chief of staff for President Clinton saw his share of crises, said the mood inside a White House reflects the president's ability to stay calm and take charge. “You never know what is going to hit you, but you have to be ready. (A president) has to be tough when he has to be. … He has to make decisions when decisions are needed. The troops … look at what's in his eyes.”

Ken Khachigian, a White House aide to Richard Nixon and Ronald Reagan, agreed. “One of the worst enemies in such situations is overreaction and even panic,” he said. “Nixon once advised that when circumstances are the hottest is when leaders must be the coolest.”

Events over the last week tested Bush and raised questions about how much lasting damage his presidency has sustained and how his agenda and legacy will be affected. When he said Monday in Baton Rouge that “this is one of these disasters that will test our soul and test our spirit,” he could have been talking about his administration as well as the storm's victims.

Bush's patience with federal hurricane relief efforts evaporated last week when he learned that thousands had been stuck for days in the New Orleans Convention Center without food or water. By Saturday morning, when he and other officials met in the White House situation room for an update, the president was still steaming. He had seen the disaster in person and watched horrific scenes on TV. There was talk around the table that if this disaster was a dress rehearsal for response to a terrorist attack or other national security crisis, the federal government failed the test.

Bush is turning his attention to the next problems for the affected states. Preparations are being made to deal with public health, provide housing, rebuild cities and find jobs for the displaced. Today, Bush will hold a Cabinet meeting on those issues and meet with Education Secretary Margaret Spellings to come up with a plan to get the region's children, now scattered across the country, back in school.

Bush is painfully aware of the scathing criticism directed at him personally. On Monday, the New Orleans Times-Picayune editorial was an open letter to Bush. “We're angry, Mr. President, and we'll be angry long after our beloved city and surrounding parishes have been pumped dry,” it said. “Our people deserved rescuing. Many who could have been were not. That's to the government's shame.”

He has often been dismissive of criticism in the past, but Bush skipped his usual weekend biking outings and went to a Red Cross operations center in Washington on Sunday. His trip Monday was meant to underscore his concern. He'll visit again. “There will be a sustained hands-on presence from the president on down, across the board of his administration for the foreseeable future,” Bartlett said.

Bush and his advisers were better prepared for Rehnquist's death. Because the chief justice had been ill for months, the statement Bush delivered Sunday morning from the White House had been written in advance. The decision to nominate Roberts for chief justice had long been “in the back of the president's mind,” spokesman Scott McClellan said.

Bush, an early riser who's usually asleep by 10 p.m., was awakened at 10:50 p.m. on Saturday and told of Rehnquist's death. Before he left for the 8 a.m. Sunday service at St. John's Episcopal Church, a block from the White House, he met in the Oval Office with chief of staff Andy Card, counsel Harriet Miers, Bartlett and others to discuss the vacancy. By the time Roberts arrived to discuss the job with Bush at 5:30 p.m. Sunday, the president's mind was pretty much made up. He didn't formally offer the job to Roberts until 7:15 a.m. Monday.

Now Bush must nominate a replacement for retiring Justice Sandra Day O'Connor. There's already a short list of contenders, but the announcement likely won't come until next week at the earliest.

Bush had planned to spend this fall promoting his Social Security plan and talking about changing immigration laws. But the storm and the court vacancies have supplanted that agenda, said James Thurber, director of the American University Center for Congressional and Presidential Studies.

Those issues and the Iraq war will occupy Bush for months to come and shape his place in history, he said. “It will be a real challenge to his leadership. Whether he can recover remains to be seen.”

Bush Has Staunch Defender Amid Critics On Gulf Coast (NYT)

By Michael Cooper

The New York Times, September 6, 2005

JACKSON, Miss., Sept. 5 - The Bush administration has been stung by criticism of its handling of Hurricane Katrina by anguished Louisiana officials and by nervous Republicans from across the country, but it has one stalwart defender right in the heart of the devastated region - Gov. Haley Barbour of Mississippi.

From the earliest moments of the crisis, Mr. Barbour, a former chairman of the Republican National Committee, has praised President Bush and a federal response to the storm that even the president later called "not acceptable." At one point last week, when Mr. Barbour's glowing assessment was challenged by an interviewer on CNN, he asked "if this is an interview or an argument."

Mr. Barbour's praise of the federal efforts has put him at odds with some other Mississippi officials who have bemoaned the slow response in their areas and has put him at risk of sounding like a Pollyanna to Mississippians still struggling in the storm's aftermath. But the strategy is unsurprising for a canny political strategist like Mr. Barbour - a former political director in the Reagan White House, chairman of the Republican Party, and powerful Washington lobbyist - who won the governorship two years ago by in part emphasizing the strength of his close ties to President Bush.

While some officials here have found his statements jarring, others said they could pay off if Mr. Barbour is able to parlay his good relationship with the Bush administration into more federal aid for his state. And they noted that the political dynamic here is very different from what is happening next door in Louisiana, where Gov. Kathleen Babineaux Blanco, a Democrat, was outspokenly critical of the federal response to the storm, and soon found her administration openly sniping with the White House over who was to blame for the ensuing disaster and who should lead the recovery.

So while the frostiness between the president and Ms. Blanco cast a shadow over his trip to Louisiana on Monday morning, warmth and good feelings were on display when he met in the afternoon with Mr. Barbour in Poplarville and told a crowd that "we're here for the long term." As they met, the Navy and Marines set up camp in Biloxi.

Mr. Barbour appeared on television programs on Sunday morning, spreading his message that the federal effort was going well in his state. He told "Face the Nation" on CBS that "the federal government has been fabulous in our state" and "Meet the Press" on NBC that "the federal government has been good partners to us."

Some local officials have described a far different response. Mayor Johnny L. DuPree of Hattiesburg, a Democrat, complained over the weekend to The Hattiesburg American that it had taken days for federal help to arrive.

"I started trying to get federal help in here on Monday, and six days after this town has struggled to get enough water and ice for its people, we finally hear from the feds," the newspaper quoted Mr. DuPree as saying.

State Senator Gloria Chisholm Williamson, Democrat of Philadelphia, said she believed that the criticism by Louisiana officials was instrumental in having the federal government step up its response.

"When they started getting criticized," Ms. Williamson said, "all of a sudden we got the troops coming in, which is what we needed to begin with. I'm sorry that Governor Barbour is such a loyalist to his Republican president that he appeared to be putting that before the concerns of the people."

The storm and its aftermath will shape the legacy of Mr. Barbour, who has been mentioned as a possible presidential candidate in 2008. And they will pose a big challenge for the governor, a proponent of small government, as he confronts a catastrophe that will require a big government response, whether in rebuilding areas now in ruins, finding housing and schools for the thousands left homeless or filling the sizable gap in state revenues caused by the devastation of coastal casinos and wide swaths of farmland.

Prof. Marty Wiseman, the director of the John C. Stennis Institute of Government at Mississippi State University, said he would give Mr. Barbour generally high marks for his response so far. But Professor Wiseman said some Mississippians were questioning the governor's upbeat assessment of the federal response.

"That's the one eyebrow-raising factor that I've heard people mention," Professor Wiseman said. "You've got to wonder if Haley's not trying to keep the table set for future cooperation."

Mr. Barbour said his praise of the federal government was not a political calculation. "I get all these questions all the time about, you know, there's not enough water in X or there's not enough ice in Y, and almost always there is something to that," Mr. Barbour said at a news conference here on Monday. "But that's why you've just got to manage this deal and keep trying to wrestle this bear down to the ground, and that's what we're doing.

"The federal government, most all the time, has been first to say, 'We want to get you, we're pushing this toward you.' Have there been times where we didn't get as much as we wanted of this or that? Yes, sir. There have been. But, boy, it's been overwhelming, the millions of M.R.E.'s, ice, water that we've received."

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Mr. Barbour added: "We haven't looked at it as, I'm going to be whiny, and I'll get more, or, I'm going to act like Tarzan, and I'll get more. We've been saying, what do you need to do to get the job done?"

Bush's Grip On GOP In Peril? (RC)

By Mark Preston

Roll Call, September 6, 2005

President Bush's command over the Republican Congress is showing signs of weakening as a result of the growing unease over the U.S. mission in Iraq, the lack of a definitive plan to overhaul the nation's Social Security system and rising energy costs.

Complicating matters for Bush is the devastation wrought on the Gulf Coast by Hurricane Katrina, and the subsequent criticism from some local officials of the federal government's alleged failure to respond quickly enough with relief aide.

Just four weeks ago, Bush was riding high after winning a series of legislative victories ranging from passage of the controversial Central American Free Trade Agreement to approval of long-stalled energy and transportation measures. As they left for the August recess, Republicans hoped this momentum would boost their chances of muscling Bush's top domestic issue — restructuring the Social Security system — through the Congress before the year's end.

Now, the White House must work to shore up support among Republican Members even as it tries to advance Bush's goal on Social Security, said Senators, senior aides and GOP strategists, all of whom would speak only on the condition of anonymity.

"This is the perfect storm for the president," said a Senate GOP leadership aide. "We have rising gas prices, patience running thin with the war in Iraq and now Katrina. Coupled with lame-duck status, it is an uphill battle for him."

Evidence of a growing concern among Republicans about Bush's handling of Iraq spilled into public last month when Sen. Chuck Hagel (R-Neb.) bluntly asserted that the U.S. is "not winning."

"We should start figuring out how we get out of there," Hagel said on the Aug. 21 broadcast of ABC's "This Week." "But with this understanding: We cannot leave a vacuum that further destabilizes the Middle East. I think our involvement there has destabilized the Middle East. And the longer we stay there, I think the further destabilization will occur."

Privately, many other Republicans concede that they are hearing similar concerns from their constituents about Iraq and are likely to start demanding better answers from the White House, GOP sources said.

"People are fundamentally for us succeeding," said a Republican strategist with close ties to the Congressional leadership. "But they are uncertain about what the president's plan is."

Questions about the direction of U.S. policy in Iraq has been exacerbated in recent weeks by the emergence of anti-war activist Cindy Sheehan. Sheehan, whose son was killed in the war, gained international attention by camping outside Bush's Crawford, Texas, ranch during the president's August vacation and demanding a meeting with him.

It is unclear if Sheehan will continue to attract national interest, but she will be the star attraction at what is being billed as a major anti-war protest to be held Sept. 24 in Washington, D.C.

On Capitol Hill, Senate Armed Services Chairman John Warner (R-Va.) will hold an oversight hearing on Iraq within the next few weeks, said his spokesman, John Ullyot. Defense Secretary Donald Rumsfeld and various military officials are expected to testify.

"Chairman Warner wants to give Secretary Rumsfeld the opportunity to give his views on Iraq and answer questions from Senators that are relayed through their constituents especially after the August recess," Ullyot said.

Escalating energy costs are also of concern to many Republicans because they are painfully aware it is an issue that affects every segment of the population.

"Bush is hemorrhaging political capital on energy prices," said a House GOP leadership aide. "Energy prices affect everyone. Small businesses get affected. The airlines get affected. It is bad."

The Senate Energy and Natural Resources Committee will hold a hearing today to begin reviewing causes that have led to high energy prices. The House Energy and Commerce Committee will hold a similar hearing Wednesday, and several other panels are expected to follow suit. (See related story, page 1.)

Bush's top domestic issue — Social Security — might also be in jeopardy. Several Republicans suggested that the current state of affairs all but dooms any action on dealing with it this year. Congressional Republicans, though, blame the White House for failing to deliver a plan for them to try to sell to their constituents back home.

"There was very little guidance about what to say on Social Security," said a senior Senate Republican aide.

Bush's shaky support from Congressional Republicans comes as Americans' overall perception of his stewardship of the country is slipping. A Washington Post-ABC News poll released last week claimed that Bush's approval rating has sunk to 45 percent, and a majority of people disagree with his approach to Iraq, gasoline prices, the economy and Social Security.

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Congressional Republicans suggested the next few weeks would frame how successful the White House is in advancing its legislative goals this year.

"I think the administration is going to have to reach out and work more to build those relationships and give people a reason to be there for them," said a Republican Senator.

Bush And Katrina (WSJ)

The Wall Street Journal, September 6, 2005

The White House is slowly recovering from its first-week stumbles responding to Katrina, with President Bush taking his second trip to New Orleans yesterday. His quick elevation of John Roberts to Chief Justice is another welcome sign of energy (see related commentary). But Mr. Bush can't afford to stop there, because the aftermath of Katrina poses a threat to his entire second term.

We aren't referring here to the storm surge of recrimination blaming post-Katrina problems on everything from Iraq, to tax cuts, to his refusal to endorse the Kyoto Protocol. The American public knows this was an epic natural disaster and won't fall for political opportunism. By the same token, Americans also won't have much patience for White House claims that state and local officials were the greater incompetents. Yes, Louisiana needed a Rudy Giuliani. But what Americans want now is proof that their government understands the nature of the challenge and is acting forcefully to meet it.

On this point, Mr. Bush is going to have to recognize the obvious initial failure of the Department of Homeland Security in its first big post-9/11 test. The President created this latest huge federal bureaucracy, against the advice of many of us, and we're still waiting for evidence that it has done anything but reshuffle the Beltway furniture. If FEMA can't now handle the diaspora out of New Orleans to Houston, Baton Rouge and other cities, the political retribution will be fierce.

Notably, the New Orleans mess improved only after the Pentagon got involved. Though the military is normally barred from domestic law enforcement by the Posse Comitatus Act of 1878, Defense officials have been doing a lot of creative thinking about what they can do and what the public now expects post-September 11. The press corps might even want to report on that thinking, which is contained in a June 2005 report, "Strategy for Homeland Defense and Civil Support." If he ever fires anyone, Mr. Bush could do worse than find a few more Donald Rumsfelds as replacements.

Mr. Bush will also need to guide the rebuilding choices for New Orleans and the Mississippi delta. We're hearing a lot these days about the need to restore barrier marshlands, often from the same people who have long hated the Army Corps of Engineers that would help restore them. But clearly there is an issue of how much federal money to pour into a city that is below sea-level and would still be vulnerable to another Category Four or Five storm.

Mr. Bush should name one or more people, in or out of his Administration, to sort through the ideas and avoid what will be the liberal/GOP Congressional impulse to throw money at everything. An alternative would be to name the entire stricken area an enterprise zone for some period of time, which would offer both tax incentives and regulatory waivers to stimulate reinvestment. There's a danger here of tax breaks for floating casinos, but the greater risk is spending $20 billion or more solely on the priorities of local politicians.

Which brings us to Mr. Bush's broader domestic agenda. The President has admirably refused to give up on Social Security, but Katrina makes reform impossible in the near term. The more urgent Presidential priority now is to take steps to keep the U.S. economy growing. Last week's regulatory moves on fuel emissions and the Strategic Petroleum Reserve are already helping on gasoline supplies, and the price shocks are an opportunity to prod Congress to remove obstacles to more oil and natural gas drilling.

Economic leadership also means instructing Americans on the link between tax cutting and the economic vitality needed to fund both Katrina relief and the war on terror. Predictably, the Bush tax cuts are under attack for denying revenue to the government and because they don't require "sacrifice" in wartime. But the truth is that federal revenues are rising by an estimated $262 billion -- or roughly 14% -- this year thanks to the growth that followed the 2003 tax cuts. Republicans have been far too defensive on tax cuts, and Katrina is an opening to explain their necessity and to push for making them permanent.

What's really at stake in the coming months is the Republican claim to be the governing party. That claim has been based in part on the assertion that energetic government doesn't also have to be big government. Mr. Bush's refusal to restrain a free-spending GOP Congress has already undermined the latter, while Katrina is stretching the credibility of the former. Democrats will spend the next year asserting that at least they'll spend tax dollars on levees in New Orleans, rather than Alaskan bridges to nowhere.

As the initial polls are showing, most Americans aren't yet blaming Mr. Bush for Katrina's aftermath. But with war in Iraq and terrorism, rising energy prices and now a natural disaster, these are also anxious times. Voters will forgive a President many mistakes but no leader can survive a public judgment that he is unsure of himself and hostage to events. We've thought for some

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time that Mr. Bush's reticence was hurting him on Iraq, and that he needs to be both more visible and more assertive in making his case to Americans. After Katrina, we'd say that's imperative.

Tragic Costs Of Bush's Iraq Obsession (FT)

By Michael Lind

Financial Times, September 6, 2005

Samuel Huntington has called it the Lippmann Gap, echoing the American journalist Walter Lippmann in 1943: "Foreign policy consists in bringing into balance, with a comfortable surplus of power in reserve, the nation's commitments and the nation's power." The historian Paul Kennedy has another name for it: "Imperial overextension". Whatever you call this dangerous disease, the symptoms are clear in the US.

In early 2001, shortly after President George W. Bush was inaugurated and before 9/11, the Federal Emergency Management Agency warned of the three most devastating disasters that could strike the US: a terrorist attack on New York City, a hurricane flooding New Orleans and a San Francisco earthquake. The Bush administration was focused on its priority: Iraq.

The first foreseen disaster took place on September 11 2001, when al-Qaeda flew hijacked jets into the World Trade Center and the Pentagon. The federal government was taken by surprise. New York City's first responders were hampered by communications problems and poor planning for this long-predicted event. The Bush administration's response to the mass murder committed by al-Qaeda was warped by the focus on Iraq. Many in Washington believe that the administration failed to send sufficient troops to Afghanistan because it was with-holding forces for the invasion of Iraq.

Day after day, the levees of Lake Pontchartrain in New Orleans and the wetlands that protected the city were eroding. Mr Bush and his allies in the Republican-majority Congress have slashed federal spending for flood control in south-east Louisiana by half and funds for work at Lake Pontchartrain by almost two-thirds. From 2003, funds authorised for the Southeast Louisiana Urban Flood Control Project were diverted to pay for the war in Iraq. Earlier this year, the US Army Corps of Engineers requested $27m (€21.6m) to repair the levees to protect them from hurricanes. Mr Bush sought to cut the amount to $3.9m and also proposed reducing spending to prevent flooding from $78m to $30m (the Republican Congress ultimately passed $5.7m and $36.5m, respectively). The New Orleans Times-Picayune published numerous articles warning that the war in Iraq was taking money away from hurricane protection on the Gulf coast.

Meanwhile, in Iraq, the insurgency metastasised. With US forces divided between the necessary war in Afghanistan and the war of choice in Iraq, and army recruitment numbers plunging, the Bush administration, in addition to hiring private contractors, was forced to mobilise National Guard reserves overseas. When Katrina struck, tens of thousands of National Guard soldiers were in Iraq, along with much of the equipment needed for disaster relief.

At the same time, America's long border with Mexico has gone largely unprotected. Around a million illegal immigrants are apprehended each year, in addition to the estimated half a million who join the roughly 10m living in the US. A growing number of illegal immigrants apprehended at the border are from Middle Eastern countries including Egypt, Yemen, Iraq and Syria. President Bush's justice department claims that suspected American terrorist Jose Padilla and an accomplice planned to enter the US through Mexico and blow up buildings in New York and other cities. Mohammed Junaid Babar, an alleged al-Qaeda agent linked with plots against London, has told US investigators of a plan to bring terrorists into the US from Mexico.

On December 17 2004, Mr Bush signed the National Intelligence Reform Act, which required the addition of 10,000 border patrol agents beginning in 2006. In his February 2005 budget, however, Mr Bush authorised funds for only 210 new border agents. Last month, the Democratic governors of Arizona and New Mexico asked for federal disaster relief to help deal with border chaos.

The horror in New Orleans and along the Gulf Coast, and the chaos along the US-Mexican border, join anarchy in Afghanistan and Iraq as proof of the bankruptcy of the Bush doctrine. Mr Bush's neoconservative strategists wanted a crusade for US hegemony in the Middle East and the world; as "national greatness conservatives," some might have been willing to pay for it with higher taxes. But Mr Bush's political base consists of conservatives and libertarians united by a crusade to cut taxes. The attempt to establish American global hegemony without paying for it was a disaster – actually, several disasters – waiting to happen.

If, early in 2001, the Bush administration had focused on al-Qaeda instead of Iraq, it might have responded to FEMA's call to prepare New York for a big terrorist incident. If it had not divided US forces to fight two wars at once, Afghanistan might have been pacified while Saddam remained in power but contained. If Bush had not sacrificed border security to pay for the war in Iraq, the Mexican border might be under control. If Bush had not diverted so many National Guard units to Iraq, disaster relief following Hurricane Katrina would have been swifter and more effective. And if the war in Iraq had not caused the Bush administration to raid money for the New -Orleans levees, this big port city might not be a corpse-filled cesspool.

Supporters of the war in Iraq predicted that the dominos would fall in the Middle East. Instead, the dominos are falling across America.

The writer is Whitehead Senior Fellow at the New America Foundation

Magic Marker Strategy (NYT)

By John Tierney

The New York Times, September 6, 2005

It was the climax of George W. Bush's video introduction at the Republican convention: the moment at Yankee Stadium during the 2001 World Series when he threw a pitch all the way to home plate. The video ended, and the conventioneers cheered as Mr. Bush strode onto a stage shaped like a pitcher's mound.

Well, live by the pitch, die by the pitch. When you campaign as the man on the mound, the great leader whose arm rescues Americans in their moment of need, they expect you to deal with a hurricane, too.

Mr. Bush made a lot of mistakes last week, but most of his critics are making an even bigger one now by obsessing about what he said and did. We can learn more by listening to men like Jim Judkins, particularly when he explains the Magic Marker method of disaster preparedness.

Mr. Judkins is one of the officials in charge of evacuating the Hampton Roads region around Newport News, Va. These coastal communities, unlike New Orleans, are not below sea level, but they're much better prepared for a hurricane. Officials have plans to run school buses and borrow other buses to evacuate those without cars, and they keep registries of the people who need special help.

Instead of relying on a "Good Samaritan" policy - the fantasy in New Orleans that everyone would take care of the neighbors - the Virginia rescue workers go door to door. If people resist the plea to leave, Mr. Judkins told The Daily Press in Newport News, rescue workers give them Magic Markers and ask them to write their Social Security numbers on their body parts so they can be identified.

"It's cold, but it's effective," Mr. Judkins explained.

That simple strategy could have persuaded hundreds of people to save their own lives in New Orleans. What the city needed most was coldly effective local leaders, not a president in Washington who could feel their pain. It's the same lesson we should have learned from Sept. 11 and other disasters, yet both liberals and conservatives keep ignoring it.

The liberals bewailing the insensitivity and racism of Republicans in Washington sound like a bad rerun of the 1960's, when urban riots were blamed on everyone but the rioters and the police. Yes, the White House did a terrible job of responding to Katrina, but Democratic leaders in New Orleans and Louisiana didn't even fulfill their basic duties.

In coastal Virginia - which, by the way, has a large black population and plenty of Republican politicians - Mr. Judkins and his colleagues assume that it's their job to evacuate people, maintain order and stockpile supplies to last for 72 hours, until federal help arrives. In New Orleans, the mayor seemed to assume all that was beyond his control, just like the mayors in the 1960's who let the riots occur.

They said their cities couldn't survive without help from Washington, which proceeded to shower inner cities with money and programs that did more damage than the riots. Cities didn't recover until some mayors, especially Republicans like Rudy Giuliani, tried self-reliance.

Mr. Giuliani was called heartless and racist for cutting the welfare rolls and focusing on crime reduction, but black neighborhoods were the greatest beneficiaries of his policies. He was criticized for ignoring social services as he concentrated on reorganizing the Police and Fire Departments, but his cold effectiveness made the city a more livable place and kept it calm after Sept. 11.

Yet Mr. Bush, with approval from conservatives who should have known better, reacted to Sept. 11 by centralizing disaster planning in Washington. He created the byzantine Homeland Security Department, with predictable results last week.

The Federal Emergency Management Agency, often criticized for ineptitude, became even less efficient after it was swallowed by a bureaucracy consumed with terrorism. The department has spent billions on new federal airport screeners - with no discernible public benefit - while giving short shrift to natural disasters.

The federal officials who had been laboring on a one-size-fits-all strategy were unprepared for the peculiarities of New Orleans, like the high percentage of people without cars. The local officials who knew about that problem didn't do anything about it - and then were furious when Mr. Bush didn't solve it for them. Why didn't the man on the mound come through for them?

It's a fair question as they go door to door looking for bodies. But so is this: Why didn't they go door to door last week with Magic Markers?

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For Further Reading:

The Prince of the City: Giuliani, New York and the Genius of American Life by Fred Siegel. Encounter Books, 386 pp., May 2005.

A Delicate Balance Is Undone in a Flash, and a Battered City Waits by Peter Applebome, Christopher Drew, Jere Longman and Andrew Revkin. New York Times, September 4, 2005.

Hampton Roads Daily Press, Newport News, VA

The Larger Shame (NYT)

By Nicholas D. Kristof

The New York Times, September 6, 2005

The wretchedness coming across our television screens from Louisiana has illuminated the way children sometimes pay with their lives, even in America, for being born to poor families.

It has also underscored the Bush administration's ongoing reluctance or ineptitude in helping the poorest Americans. The scenes in New Orleans reminded me of the suffering I saw after a similar storm killed 130,000 people in Bangladesh in 1991 - except that Bangladesh's government showed more urgency in trying to save its most vulnerable citizens.

But Hurricane Katrina also underscores a much larger problem: the growing number of Americans trapped in a never-ending cyclone of poverty. And while it may be too early to apportion blame definitively for the mishandling of the hurricane, even President Bush's own administration acknowledges that America's poverty is worsening on his watch.

The U.S. Census Bureau reported a few days ago that the poverty rate rose again last year, with 1.1 million more Americans living in poverty in 2004 than a year earlier. After declining sharply under Bill Clinton, the number of poor people has now risen 17 percent under Mr. Bush.

If it's shameful that we have bloated corpses on New Orleans streets, it's even more disgraceful that the infant mortality rate in America's capital is twice as high as in China's capital. That's right - the number of babies who died before their first birthdays amounted to 11.5 per thousand live births in 2002 in Washington, compared with 4.6 in Beijing.

Indeed, according to the United Nations Development Program, an African-American baby in Washington has less chance of surviving its first year than a baby born in urban parts of the state of Kerala in India.

The national infant mortality rate has risen under Mr. Bush for the first time since 1958. The U.S. ranks 43rd in the world in infant mortality, according to the C.I.A.'s World Factbook; if we could reach the level of Singapore, ranked No. 1, we would save 18,900 children's lives each year.

So in some ways the poor children evacuated from New Orleans are the lucky ones because they may now get checkups and vaccinations. But nationally, 29 percent of children had no health insurance at some point in the last 12 months, and many get neither checkups nor vaccinations. The U.S. ranks 84th in the world for measles immunizations and 89th for polio.

One of the most dispiriting elements of the catastrophe in New Orleans was the looting. I covered the 1995 earthquake that leveled much of Kobe, Japan, killing 5,500, and for days I searched there for any sign of criminal behavior. Finally I found a resident who had seen three men steal food. I asked him whether he was embarrassed that Japanese would engage in such thuggery.

"No, you misunderstand," he said firmly. "These looters weren't Japanese. They were foreigners."

The reasons for this are complex and partly cultural, but one reason is that Japan has tried hard to stitch all Japanese together into the nation's social fabric. In contrast, the U.S. - particularly under the Bush administration - has systematically cut people out of the social fabric by redistributing wealth from the most vulnerable Americans to the most affluent.

It's not just that funds may have gone to Iraq rather than to the levees in New Orleans; it's also that money went to tax cuts for the wealthiest rather than vaccinations for children.

None of this is to suggest that there are easy solutions for American poverty. As Ronald Reagan once said, "We fought a war on poverty, and poverty won." But we don't need to be that pessimistic - in the late 1990's, we made real headway. A ray of hope is beautifully presented in one of the best books every written on American poverty, "American Dream," by my Times colleague Jason DeParle.

So the best monument to the catastrophe in New Orleans would be a serious national effort to address the poverty that afflicts the entire country. And in our shock and guilt, that might be politically feasible. Rich Lowry of The National Review, in defending Mr. Bush, offered an excellent suggestion: "a grand right-left bargain that includes greater attention to out-of-wedlock births from the Left in exchange for the Right's support for more urban spending." That would be the best legacy possible for Katrina.

Otherwise, long after the horrors have left TV screens, about 50 of the 77 babies who die each day, on average, will die needlessly, because of poverty. That's the larger hurricane of poverty that shames our land.

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It's Your Failure, Too, Mr. Bush (WP)

By Eugene Robinson

The Washington Post, September 6, 2005

BATON ROUGE -- After a tragically incompetent beginning, the effort to give urgent care to the multitudes from New Orleans whose homes and livelihoods have been obliterated is finally in high gear. The problem now is that nobody knows where it's headed.

At the top, things are still hopeless. Federal, local and state officials who perform for the cameras here at the Louisiana State Police complex, headquarters for the relief effort, still spend an unconscionable amount of time debating who's in charge. Is the president the ultimate authority, or is it Blanco, Nagin, Chertoff, Brown or the generals? The answer seems to vary from hour to hour, depending on who's holding court in the hot, stuffy briefing room or outside on the portico, where visiting luminaries get mobbed by microphones.

Fortunately, the finger-pointing follies don't matter much on the ground and in the water. Military, police and civilian relief units did what had to be done and emptied the New Orleans basin of Hurricane Katrina's bereft survivors. They are being fed, sheltered and clothed. They can't be described as alive and well, but they're alive.

Now what?

Hundreds of thousands of evacuees are scattered around Louisiana and neighboring states in a sudden diaspora, and no one seems to have any idea what to do with them next. The evacuees bristle at the word "refugees," which makes them sound as if they don't belong in this country. But whatever you call them, they won't be able to go back home -- and won't have a home to go back to -- for months or even years.

Baton Rouge, perhaps the best example, has swollen like the Mississippi River in an epic flood. The people here have been generous and good-natured to a fault. Down by the river, at the convention center, the Red Cross is housing about 5,000 evacuees; another big shelter is being opened across town, and smaller shelters are being organized every day, many by local churches. It's impossible to count the families who have opened their homes to relatives, friends or needy strangers.

Every city and town in Louisiana that wasn't blasted by the hurricane is full of evacuees. Then there are the tens of thousands in Texas and the multitudes scattered across neighboring states. Their host communities have the best of intentions, but many won't be able to stand the added drain on resources indefinitely. Where will these people go? Why wasn't there a plan?

That's when I start my finger-pointing, because a few days in and around this ground zero have convinced me that there are two things the federal government failed to do, and that for these failures there's ultimately no one to blame but the president.

First, an administration that since Sept. 11, 2001, has told us a major terrorist strike is inevitable should have had in place a well-elaborated plan for evacuating a major American city. Even if there wasn't a specific plan for New Orleans -- although it was clear that a breach of the city's levees was one of the likeliest natural catastrophes -- there should have been a generic plan. George W. Bush told us time and again that our cities were threatened. Shouldn't he have ordered up a plan to get people out?

Second, someone should have thought about what to do with hundreds of thousands of evacuees, both in the days after a disaster and in the long term. As people flooded out of New Orleans, it was officials at the state and local level who rose to the challenge, making it up as they went along. Bring a bunch of people to the Astrodome. We have a vacant hotel that we can use. Send a hundred or so down to our church and we'll do the best we can.

Tent cities aren't a happy option, but neither is haphazard improvisation. Is the problem the Bush administration's ideological fervor for small government? Does the White House really believe that primary responsibility should fall on volunteers, church groups and individuals? Or is it just stunning incompetence and lack of foresight?

At the big shelter here in Baton Rouge on Sunday, some student volunteers from Louisiana State University took a group of children outside to get some air. The kids were using sheets of cardboard as sleds and surfboards, zooming down the grassy levee next to the Mississippi River and then scampering back uphill for another ride. It was a beautiful, sunny day, and the scene warmed your heart. But those college students are going to have to go back to their classes, and then how will those kids from New Orleans spend their days?

Katrina Rekindles Adversarial Media (USAT)

By Peter Johnson

USA Today, September 6, 2005

Reporters covering Hurricane Katrina on the scene showed their human — and often angry and frustrated — face as they questioned the slow response over the weekend.

“The government said, ‘You go here, and you'll get help,' or ‘You go in that Superdome and you'll get help,' ” Fox News anchor Shepard Smith fumed on-air from New Orleans Friday, in a tone echoed by other correspondents. “And they didn't get

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help. They got locked in there. And they watched people being killed around them. And they watched people starving. And they watched elderly people not get any medicine."

Says Fordham University communications professor Paul Levinson, "The media rose to the occasion, shone their light on the desolation and the needy, and kept it focused there until the cavalry finally began to arrive."

The story also proved how, even in this emerging new-media age in which bloggers sometimes seem to rule, television news still does it best when it comes to conveying the scope and the depth of emotion in a quickly evolving tragedy.

Whether TV news will continue to lead with this story is open to debate, as attention inevitably turns to John Roberts' confirmation hearings for the Supreme Court, as well as whomever President Bush names to a second vacancy on the court. That story placed a close second Monday.

But some observers say that Katrina's media legacy may be a return to a post-Watergate-like era of tougher scrutiny of the federal government and public policy issues.

"If any good comes from the catastrophe, it will be that it signaled the beginning of the media's reassertion of aggressive, in-your-face reporting, in which it confronts government wrongdoing, rather than just swallowing the government's public-relations handouts," Levinson says.

But Boston University journalism professor Bob Zelnick says the media have never gotten soft on the government, despite continuing questions over the media's own credibility. "I do not believe the press is guilty of the charge that it abandoned its healthy skepticism in Iraq, and I would hate to see it draw the inference from New Orleans that 'in your face' journalism is the panacea for restoring our lost credibility."

In Katrina, CNN "learned from Jon Stewart how to use simple juxtaposition to make a point," says New York University journalism professor Jay Rosen. "Clip of a federal official explaining how no one anticipated the strength of the storm. Clip from the Weather Channel proving plenty of people did."

"Journalists seem to be much more effective than the administration in representing the public's reactions to the disaster," Rosen says. "Clueless federal officials seem to know less about what is happening than the journalists do, and sometimes less than an average TV viewer. This tips the balance of power toward the press, which is why we see such aggressive questioning and on-air criticism close to jeering."

Says NBC Meet The Press host Tim Russert, who grilled Homeland Security chief Michael Chertoff Sunday over the federal response to the hurricane, "The primary responsibility of the media is accountability of government, whether it's about lying under oath, which upset Democrats, or the mismanagement of responding to a hurricane, which happens to upset Republicans."

ABC News correspondent Bob Woodruff, who has been in New Orleans for the past week, recalls witnessing the slow pace of the relief effort of January's Asian tsunami, which killed thousands of people.

He never expected to see such a phenomenon again, until he saw a body lying at the corner of Magazine and Jackson in New Orleans — five days after Katrina hit.

"It came as a huge shock to reporters — not just as reporters but as Americans — to see this happening in a great city like New Orleans," he says.

Katrina May Unleash A Media Storm (USAT)

By Peter Johnson

USA Today, September 6, 2005

The media shelf life for natural disasters is notoriously short: Within two weeks of Hurricane Andrew in 1992, which cut a $30 billion destructive path through south Florida and the Louisiana coast, the story virtually disappeared from network newscasts.

But experts and journalists predict that mounting questions about U.S. government preparation, policies and response to Hurricane Katrina will result in intense news coverage for months.

Katrina "doesn't just have legs, it has tentacles," says Bob Lichter of the Center for Media and Public Affairs. "Its implications reach into hot-button controversies involving race, poverty, economics and partisan politics. The reach of this story will make the O.J. Simpson case look like a news brief."

Network news analyst Andrew Tyndall predicts that TV news will focus on personal stories and massive aid efforts in the coming weeks, and then turn to looking at how relief efforts may have resulted in people dying. Stories on inner cities don't get much network attention "unless carnage is involved, and this is what you have" in New Orleans.

In The New Yorker magazine this week, Nicholas Lemann writes, "We're all wondering what will become of New Orleans. A big American city has never before been entirely emptied of people, and had most of its housing rendered useless, and had all its basic systems fail at once."

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The New York Times opened a bureau in Baton Rouge; other news outlets plan to be in the region indefinitely.

"It all gets more interesting by the minute. There are a quarter of a million people in Texas who weren't there five days ago," CBS Early Show anchor Harry Smith said as he arrived back in New Orleans Monday for continuing coverage. NBC's Today dispatched Katie Couric, while ABC's Good Morning America sent Diane Sawyer and Robin Roberts.

NBC Nightly News anchor Brian Williams returns to New Orleans tonight. ABC's World News Tonight has Bob Woodruff and Elizabeth Vargas in the region, with Charles Gibson in New York. CBS' John Roberts co-anchors from New Orleans with Bob Schieffer in New York.

Preliminary evening news ratings showed big increases in viewership, which is normally depressed at this time of year. Tyndall says some 29 million viewers tuned in to the Big 3 last week, up from about 21 million the week before.

Cable news viewing also skyrocketed. Fox News drew an average 4.8 million viewers in prime time, up 142% over July, compared with 3.9 million for CNN (up 466%) and 1.6 million for MSNBC (up 470%).

OUR OPINIONS: An Open Letter To The PresidentDear Mr. President: (NOTP)

The New Orleans Times Picayune, September 6, 2005

We heard you loud and clear Friday when you visited our devastated city and the Gulf Coast and said, "What is not working, we're going to make it right."

Please forgive us if we wait to see proof of your promise before believing you. But we have good reason for our skepticism.

Bienville built New Orleans where he built it for one main reason: It's accessible. The city between the Mississippi River and Lake Pontchartrain was easy to reach in 1718.

How much easier it is to access in 2005 now that there are interstates and bridges, airports and helipads, cruise ships, barges, buses and diesel-powered trucks.

Despite the city's multiple points of entry, our nation's bureaucrats spent days after last week's hurricane wringing their hands, lamenting the fact that they could neither rescue the city's stranded victims nor bring them food, water and medical supplies.

Meanwhile there were journalists, including some who work for The Times-Picayune, going in and out of the city via the Crescent City Connection. On Thursday morning, that crew saw a caravan of 13 Wal-Mart tractor trailers headed into town to bring food, water and supplies to a dying city.

Television reporters were doing live reports from downtown New Orleans streets. Harry Connick Jr. brought in some aid Thursday, and his efforts were the focus of a "Today" show story Friday morning.

Yet, the people trained to protect our nation, the people whose job it is to quickly bring in aid were absent. Those who should have been deploying troops were singing a sad song about how our city was impossible to reach.

We're angry, Mr. President, and we'll be angry long after our beloved city and surrounding parishes have been pumped dry. Our people deserved rescuing. Many who could have been were not. That's to the government's shame.

Mayor Ray Nagin did the right thing Sunday when he allowed those with no other alternative to seek shelter from the storm inside the Louisiana Superdome. We still don't know what the death toll is, but one thing is certain: Had the Superdome not been opened, the city's death toll would have been higher. The toll may even have been exponentially higher.

It was clear to us by late morning Monday that many people inside the Superdome would not be returning home. It should have been clear to our government, Mr. President. So why weren't they evacuated out of the city immediately? We learned seven years ago, when Hurricane Georges threatened, that the Dome isn't suitable as a long-term shelter. So what did state and national officials think would happen to tens of thousands of people trapped inside with no air conditioning, overflowing toilets and dwindling amounts of food, water and other essentials?

State Rep. Karen Carter was right Friday when she said the city didn't have but two urgent needs: "Buses! And gas!" Every official at the Federal Emergency Management Agency should be fired, Director Michael Brown especially.

In a nationally televised interview Thursday night, he said his agency hadn't known until that day that thousands of storm victims were stranded at the Ernest N. Morial Convention Center. He gave another nationally televised interview the next morning and said, "We've provided food to the people at the Convention Center so that they've gotten at least one, if not two meals, every single day."

Lies don't get more bald-faced than that, Mr. President.

Yet, when you met with Mr. Brown Friday morning, you told him, "You're doing a heck of a job."

That's unbelievable.

There were thousands of people at the Convention Center because the riverfront is high ground. The fact that so many people had reached there on foot is proof that rescue vehicles could have gotten there, too.

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We, who are from New Orleans, are no less American than those who live on the Great Plains or along the Atlantic Seaboard. We're no less important than those from the Pacific Northwest or Appalachia. Our people deserved to be rescued.

No expense should have been spared. No excuses should have been voiced. Especially not one as preposterous as the claim that New Orleans couldn't be reached.

Mr. President, we sincerely hope you fulfill your promise to make our beloved communities work right once again.

When you do, we will be the first to applaud.

FEMA Director Singled Out By Response Critics (WP)

By Spencer S. Hsu And Susan B. Glasser

The Washington Post, September 6, 2005

Michael D. Brown has been called the accidental director of the Federal Emergency Management Agency, caricatured as the failed head of an Arabian horse sporting group who was plucked from obscurity to become President Bush's point man for the worst natural disaster in U.S. history.

Amid the swirl of human misery along the Gulf Coast, Brown admitted initially underestimating the impact of Hurricane Katrina, whose winds and water swamped the agency's preparations. As the nation reeled at images of the calamity, he appeared to blame storm victims by noting that the crisis was worsened by New Orleans residents who did not comply with a mandatory evacuation order.

By last weekend, facing mounting calls for his resignation, he told reporters: "People want to lash out at me, lash out at FEMA. I think that's fine. Just lash out, because my job is to continue to save lives." More broadly, the 50-year-old Oklahoma lawyer and the agency he leads have become the focus of a broad reappraisal of U.S. homeland security efforts four years after the Sept. 11, 2001, attacks.

In recent days, politicians and officials in both parties have derided Brown's qualifications to head the nation's chief disaster-response agency -- as well as the performance of the agency and its federal, state and local partners.

At a time when homeland security experts called for greater domestic focus on preparing for calamity, Brown faced years of funding cuts, personnel departures and FEMA's downgrading from an independent, Cabinet-level agency.

As recently as three weeks ago, state emergency managers urged Homeland Security Secretary Michael Chertoff and his deputy, Michael P. Jackson, to ease the department's focus on terrorism, warning that the shift away from traditional disaster management left FEMA a bureaucratic backwater less able to respond to natural events such as hurricanes and earthquakes.

The Times-Picayune, Louisiana's largest newspaper, published an open letter on Sunday to President Bush, calling for every FEMA official to be fired, "Director Michael Brown especially," joining critics in the state and Congress.

"We're angry, Mr. President, and we'll be angry long after our beloved city and surrounding parishes have been pumped dry," the editorial said. "Our people deserved rescuing. Many who could have been were not. That's to the government's shame. . . . No expense should have been spared. No excuses should have been voiced."

Brown's defenders say he is the scapegoat of a cataclysmic storm and failure of New Orleans's levee system that, in the words of President Bush and Chertoff, could not be foreseen.

"Brownie, you're doing a heck of a job," Bush said Friday during a tour of the state, a day before Chertoff voiced his confidence.

"It's easy to play the blame game, find a scapegoat, but no one person could be responsible for the challenges we face and the lives lost," said W. Craig Fugate, emergency management director for Florida, where Bush's brother is governor, who worked with FEMA through four hurricanes in 2004. He said state and local authorities share responsibility for the death toll likely to emerge in coming days.

Joe M. Allbaugh -- a college friend, former Bush campaign manager and past FEMA director who hired Brown as FEMA general counsel in 2001 -- offered a qualified defense.

Allbaugh called the government's overall performance "unacceptable" but added: "Blaming one agency, you cannot do that." Still, he acknowledged that FEMA had lost independence and clout with the White House. "I had a unique relationship with the president, having been his chief of staff," Allbaugh said. "If you don't have that kind of relationship, it just makes things tougher."

If anything, Brown's political background has become a liability, leading to charges that he was given his job as patronage. He got his start in politics as an Oklahoma native with Allbaugh but ran unsuccessfully for Congress in 1988, winning 27 percent of the vote. He has chaired the Oklahoma Municipal Power Authority and served as a City Council member, examiner for the Oklahoma and Colorado supreme courts, and assistant city manager.

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Allbaugh hired Brown after an acrimonious end to a nine-year stint as commissioner of the International Arabian Horse Association. Former officials say he was forced out; a friend and lawyer of Brown's said he negotiated a settlement after withstanding numerous lawsuits against his enforcement of rules for judges and stewards.

Defending his qualifications, Brown said he has overseen responses to 164 presidential declared emergencies and disasters as FEMA counsel and general counsel, including the 2003 Columbia shuttle disaster and the California wildfires in 2003. "I have been through a few disasters," he said at a news conference yesterday.

Reviews of the government's response to Katrina are beginning. Already, members of Congress such as Rep. John D. Dingell (D-Mich.) and Sen. Hillary Rodham Clinton (D-N.Y.) are pushing to move FEMA out of its department and back to Cabinet-level status. Senate Homeland Security Committee Chairman Susan Collins (R-Maine) and ranking Democrat Joseph I. Lieberman (Conn.) have launched an investigation, and committee members will meet with department officials tomorrow.

While Chertoff said the levee breach that flooded New Orleans "exceeded the foresight of planners," Max Mayfield, director of the National Hurricane Center, said Brown and other top federal officials were briefed as much as 32 hours in advance of landfall that Hurricane Katrina's storm surge was likely to overtop levees and cause catastrophic flooding.

"They knew that this one was different," Mayfield said yesterday. "I don't think Mike Brown or anyone else in FEMA could have any reason to have any problem with our calls. . . . They were told. . . . We said the levees could be topped."

Louisiana officials have blamed FEMA and Brown for bureaucratic bottlenecks, accusing FEMA of ignoring pre-storm offers of aid from Chicago Mayor Richard M. Daley (D), New Mexico Gov. Bill Richardson (D) and the American Ambulance Association.

In his last extended TV interview on CNN,Brown admitted Thursday that the federal government did not know that thousands of survivors without food or water had taken shelter at the city's convention center, despite a day of news reports.

Since then, Brown has been eclipsed by his boss, Chertoff -- who flew overnight Sunday to take charge of integrating military with civilian efforts -- and by a new deputy, U.S. Coast Guard Vice Admiral Thad Allen, whom Chertoff named yesterday to take charge of federal recovery efforts in New Orleans.

Bruce P. Baughman, Alabama emergency management director, head of the National Emergency Management Association and the official in charge of FEMA's response to the World Trade Center and Pentagon attacks in 2001, said Katrina will leave its mark on federal disaster management. "It's time to realize, whoever is in charge of FEMA does need an emergency management background. . . . It's something you learn by experience, and a lot of that experience is gone," he said.

Congress Rolls Up Sleeves ... (HILL)

By Jim Snyder

The Hill, September 6, 2005

Lawmakers are pledging an across-the-board response to help Hurricane Katrina victims recover and to fix problems the storm and its aftermath exposed.

Efforts are likely to include the removal of the Federal Emergency Management Agency (FEMA) from the Department of Homeland Security to speed recovery efforts and expansion of energy production to areas outside the Gulf of Mexico to ease future price shocks, congressional and outside experts said.

Congressional leaders approved a $10.5 billion aid package last week as relief workers struggled to evacuate hurricane victims in New Orleans and other areas along the Gulf Coast. Senate Majority Leader Bill Frist (R-Tenn.) said yesterday that the appropriation is the start of an expansive congressional effort to deal with the crisis.

The Senate Homeland Security and Government Affairs Committee is to hold oversight hearings into the aftermath of the hurricane, Frist said. Lessons learned from those hearings will be incorporated into legislation.

In addition, Congress will push an economic stimulus package to include tax breaks to ease the impact of hurricane on the economy.

Even before Frist's press conference yesterday, lawmakers pledged a broad response as images of hurricane victims in New Orleans suffering in increasingly squalid conditions at the Superdome and Convention Center played out nightly on television.

Other lawmakers have said they back bills to shore up an insurance industry that may face a record number of claims and to increase funding for federal flood projects.

House Majority Whip Roy Blunt (R-Mo.) said last week that relief for victims of Hurricane Katrina would be Congress's top priority this fall.

House Minority Leader Nancy Pelosi (D-Calif.) and other Democrats asked that a bipartisan task force be created to speed relief efforts.

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"Disasters are revelatory events," said professor Vincent Gawronski of Birmingham Southern College in Alabama, who has studied how governments respond to natural disasters. "Every disaster is an opportunity to reduce vulnerabilities."

"This is going to be a major, major deal," said Bob Livingston, former House Appropriations Committee chairman, of the hurricane's effect.

For Livingston, a Louisiana Republican, the flood had a personal impact. He said a few of his friends were missing as of last week, and his firm's office in New Orleans was flooded.

Congressional experts expect Katrina to set records for relief costs, but money is likely to be only part of the legislative response.

Staff of the Senate Finance and House Ways and Means committees huddled last week to brainstorm over whether any tax assistance would be needed to help people recover from the storm, although a tax package passed after Sept. 11 eliminated taxes on certain disaster payments.

A Senate Armed Services Committee source said members would continue to examine the necessity of a law passed in the wake of the Civil War that may make it more difficult for federal troops to respond to a crisis.

A number of lawmakers also plan to push reforms of the insurance industry to help it pay what may be a record number of claims.

"This is a lot different than anything we've dealt with because it is so widespread," said a Senate Republican committee staff aide who asked not to be identified because he had not been authorized to talk to the press.

Rep. Mark Foley (R), whose home state of Florida suffered through four hurricanes last year, said the scenes of stranded hurricane victims begging for help has persuaded him to introduce a bill to move FEMA, the principal federal entity responsible for relief efforts, back outside of the Department of Homeland Security.

"Whatever planning they anticipated fell woefully short," Foley said.

He said the decision to place FEMA in the department, made in response to another disaster, the terrorist attacks on Sept. 11, hampered the agency's ability to respond quickly.

Other lawmakers promised to concentrate on the economic consequences of Katrina.

A particular focus is likely to fall on energy prices, which quickly rose as a number of refineries and oil platforms around the gulf shut down.

Rep. Joe Barton (R-Texas) said Katrina "may finally bring home to the American people how fragile our energy sector is and our energy infrastructure is."

The Gulf Coast is responsible for one-third of the oil and one-fifth of the natural gas that is produced in the country.

Barton's Energy and Commerce Committee and the Senate Energy and Natural Resources Committee both have planned hearings this week on gasoline prices.

In addition, energy lobbyists are working to attach pro-drilling measure to the budget-reconciliation bill, which already was expected to include a provision to open up the Arctic National Wildlife Refuge to drilling.

The effort would give states the chance to open their coasts to oil and gas drilling, something that a federal drilling ban now prevents. Senate Energy and Natural Resources Committee Chairman Pete Domenici (R-N.M.) said that, in light of Katrina, the issue should be reexamined.

Even with higher prices, however, getting Congress to agree to more drilling is expected to be an uphill fight, energy lobbyists acknowledge, with strong opposition from the Florida and California delegations.

Democrats, meanwhile, are likely to press for measures that focus on energy conservation measures, including higher fuel-efficiency standards for automobiles, which haven't been increased for more than a decade.

Another focus of congressional attention will fall on the Corps of Engineers, the federal agency principally responsible for flood prevention.

A Senate appropriations staff member said the committee would take another look at the Corps budget.

Advocates said the Corps budget for years has unfairly been a target of budget hawks, who criticized it as a magnet for special projects that don't have much benefit.

"There is a traditional misunderstanding that what is in the Corps budget is pork," said Worth Hager, president of the National Waterways Alliance, a group of industries that rely on America's water system for transportation of goods.

Advertisement Blame Amid The Tragedy (WSJ)

By Bob Williams

The Wall Street Journal, September 6, 2005

As the devastation of Hurricane Katrina continues to shock and sadden the nation, the question on many lips is, Who is to blame for the inadequate response?

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As a former state legislator who represented the legislative district most impacted by the eruption of Mount St. Helens in 1980, I can fully understand and empathize with the people and public officials over the loss of life and property.

Many in the media are turning their eyes toward the federal government, rather than considering the culpability of city and state officials. I am fully aware of the challenges of having a quick and responsive emergency response to a major disaster. And there is definitely a time for accountability; but what isn't fair is to dump on the federal officials and avoid those most responsible -- local and state officials who failed to do their job as the first responders. The plain fact is, lives were needlessly lost in New Orleans due to the failure of Louisiana's governor, Kathleen Blanco, and the city's mayor, Ray Nagin.

The primary responsibility for dealing with emergencies does not belong to the federal government. It belongs to local and state officials who are charged by law with the management of the crucial first response to disasters. First response should be carried out by local and state emergency personnel under the supervision of the state governor and his/her emergency operations center.

The actions and inactions of Gov. Blanco and Mayor Nagin are a national disgrace due to their failure to implement the previously established evacuation plans of the state and city. Gov. Blanco and Mayor Nagin cannot claim that they were surprised by the extent of the damage and the need to evacuate so many people. Detailed written plans were already in place to evacuate more than a million people. The plans projected that 300,000 people would need transportation in the event of a hurricane like Katrina. If the plans had been implemented, thousands of lives would likely have been saved.

In addition to the plans, local, state and federal officials held a simulated hurricane drill 13 months ago, in which widespread flooding supposedly trapped 300,000 people inside New Orleans. The exercise simulated the evacuation of more than a million residents. The problems identified in the simulation apparently were not solved.

A year ago, as Hurricane Ivan approached, New Orleans ordered an evacuation but did not use city or school buses to help people evacuate. As a result many of the poorest citizens were unable to evacuate. Fortunately, the hurricane changed course and did not hit New Orleans, but both Gov. Blanco and Mayor Nagin acknowledged the need for a better evacuation plan. Again, they did not take corrective actions. In 1998, during a threat by Hurricane George, 14,000 people were sent to the Superdome and theft and vandalism were rampant due to inadequate security. Again, these problems were not corrected.

The New Orleans contingency plan is still, as of this writing, on the city's Web site, and states: "The safe evacuation of threatened populations is one of the principle [sic] reasons for developing a Comprehensive Emergency Management Plan." But the plan was apparently ignored.

Mayor Nagin was responsible for giving the order for mandatory evacuation and supervising the actual evacuation: His office of Emergency Preparedness (not the federal government) must coordinate with the state on elements of evacuation and assist in directing the transportation of evacuees to staging areas. Mayor Nagin had to be encouraged by the governor to contact the National Hurricane Center before he finally, belatedly, issued the order for mandatory evacuation. And sadly, it apparently took a personal call from the president to urge the governor to order the mandatory evacuation.

The city's evacuation plan states: "The city of New Orleans will utilize all available resources to quickly and safely evacuate threatened areas." But even though the city has enough school and transit buses to evacuate 12,000 citizens per fleet run, the mayor did not use them. To compound the problem, the buses were not moved to high ground and were flooded. The plan also states that "special arrangements will be made to evacuate persons unable to transport themselves or who require specific lifesaving assistance. Additional personnel will be recruited to assist in evacuation procedures as needed." This was not done.

The evacuation plan warned that "if an evacuation order is issued without the mechanisms needed to disseminate the information to the affected persons, then we face the possibility of having large numbers of people either stranded and left to the mercy of a storm, or left in an area impacted by toxic materials." That is precisely what happened because of the mayor's failure.

Instead of evacuating the people, the mayor ordered the refugees to the Superdome and Convention Center without adequate security and no provisions for food, water and sanitary conditions. As a result people died, and there was even rape committed, in these facilities. Mayor Nagin failed in his responsibility to provide public safety and to manage the orderly evacuation of the citizens of New Orleans. Now he wants to blame Gov. Blanco and the Federal Emergency Management Agency. In an emergency the first requirement is for the city's emergency center to be linked to the state emergency operations center. This was not done.

The federal government does not have the authority to intervene in a state emergency without the request of a governor. President Bush declared an emergency prior to Katrina hitting New Orleans, so the only action needed for federal assistance was for Gov. Blanco to request the specific type of assistance she needed. She failed to send a timely request for specific aid.

In addition, unlike the governors of New York, Oklahoma and California in past disasters, Gov. Blanco failed to take charge of the situation and ensure that the state emergency operation facility was in constant contact with Mayor Nagin and FEMA. It is likely that thousands of people died because of the failure of Gov. Blanco to implement the state plan, which mentions the

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possible need to evacuate up to one million people. The plan clearly gives the governor the authority for declaring an emergency, sending in state resources to the disaster area and requesting necessary federal assistance.

State legislators and governors nationwide need to update their contingency plans and the operation procedures for state emergency centers. Hurricane Katrina had been forecast for days, but that will not always be the case with a disaster (think of terrorist attacks). It must be made clear that the governor and locally elected officials are in charge of the "first response."

I am not attempting to excuse some of the delays in FEMA's response. Congress and the president need to take corrective action there, also. However, if citizens expect FEMA to be a first responder to terrorist attacks or other local emergencies (earthquakes, forest fires, volcanoes), they will be disappointed. The federal government's role is to offer aid upon request.

The Louisiana Legislature should conduct an immediate investigation into the failures of state and local officials to implement the written emergency plans. The tragedy is not over, and real leadership in the state and local government are essential in the months to come. More importantly, the hurricane season is still upon us, and local and state officials must stay focused on the jobs for which they were elected -- and not on the deadly game of passing the emergency buck.

Mr. Williams is president of the Evergreen Freedom Foundation, a free market public policy research organization in Olympia, Wash.

Livingston: I Pressed La. Gov. For Martial Law (HILL)

By Jeff Dufour

The Hill, September 6, 2005

Like thousands of other Washingtonians worried about family and friends in New Orleans after Katrina struck the Crescent City, former Rep. Bob Livingston (R-La.) and his wife, Bonnie, had some uneasy moments last week.

Livingston, the former Appropriations Committee chairman turned successful lobbyist, said his 83-year-old mother escaped to Shreveport with his sister and brother-in-law. His wife's mother, also 83, fled the city just in time.

Livingston had to wait for word of the fate of his oldest son's in-laws. On Friday, he received word that they were safe.

Livingston represented the New Orleans metro area for more than 20 years. He owns a condominium and two rental properties there and feared they were damaged or destroyed.

He was particularly critical of Gov. Kathleen Blanco (D) for failing to declare martial law promptly to deter widespread looting.

"I raised hell with the governor for not declaring martial law," he said Thursday. "I told her last [Wednesday] night I was going on 'Hannity & Colmes' and criticize her for not doing that, and 20 minutes later, she did."

Big is beautiful, preaches lobbyist Berman

Fresh on the heels of the controversial Dove ad campaign featuring overweight women, supersized superlobbyist Michael Berman is telling men it's not a sin to be overweight.

Berman, the larger-than-life president of the Duberstein Group consulting firm, is preparing to hit the book-promotion trail this fall to tout his forthcoming memoir, Living Large: A Big Man's Ideas on Weight, Success and Acceptance.

Berman's publisher, Rodale, calls his book, written with the help of ghostwriter and novelist Laurence Shames, "a poignant, funny and, above all, honest look at obesity from the inside out … as a fat man learns acceptance, loses the guilt and gains the wisdom to manage his weight."

Berman, 66, a former top aide to Vice President Walter Mondale and the scheduler for six Democratic national conventions, is "a self-proclaimed 'fat man' who is also a happy man — successful in his career, marriage and friendships," according to Rodale's publicists.

The book is scheduled for publication next spring, said Berman, whose current weight is 230 pounds, well below his top adult weight of 323 pounds and slightly above his slimmest weight of 215. He's due to have knee-replacement surgery soon.

"My goal is to keep it between 230 and 235 for the next few years," Berman said last week. "That's my optimum working weight."

Living Large isn't Berman's first publishing venture. He writes a monthly newsletter, "Washington Political Watch," mailed to about 750 people.

After taking up photography about 10 years ago as a form of relaxation, Berman also put together a collection of 100 photographs of animals he took at zoos around the world to give as gifts for friends with small children.

As for parents, Berman said, "None of them can name every one of the animals, and I refuse to help them."

Sanders stars in Rolling Stone exposé on legislating

One wouldn't expect to open a magazine featuring "it" band Coldplay on the cover, only to find a feature about decidedly unsexy Rep. Bernie Sanders (I-Vt.) and the legislative process.

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The Aug. 25 issue of Rolling Stone features a multithousand-word piece by writer Matt Taibbi, earned by following Sanders through the halls of Congress on and off for a month during the flurry of late-summer legislative activity. Together, they turn over some of the ugly stones of lawmaking.

Originally set up through Sanders's ex-press secretary, Joel Barkin, Taibbi arranged for Sanders to be his "tour guide" for a month — "an adult version of 'Schoolhouse Rock.'"

Perhaps goaded by famously liberal Rolling Stone editor Jann Wenner, Taibbi wields a ninja-like assortment of harsh rhetorical weapons against the most powerful Republicans, singling out for special scorn such GOPers as Reps. Jim Sensenbrenner of Wisconsin ("your basic Fat Evil Prick"), David Dreier of California ("a pencil-necked Christian Scientist") and Mike Oxley ("leather-skinned, rotting-from-within type").

Democratic Reps. Jim McGovern (Mass.) and Sherrod Brown (Ohio) come off like heroes, along with Sanders and his entire staff, which posed with the congressman for the piece's lead photo.

As for the fact that the congressman is the only person smiling, while his staff surrounds him in varying states of frowning, Erin Campbell, his current press secretary, said, "I don't know how that happened."

Members blog their cancer experiences

Reps. Deborah Pryce (R-Ohio), Chris Cannon (R-Utah) and Sue Myrick (R-N.C.) are among several

notable Americans to begin writing blogs on cancer for the Yahoo Health website.

Cannon and Pryce both lost daughters to cancer, while Myrick won a bout with breast cancer in 1999.

Myrick's online journal entries are among the most personal, as she not so fondly remembers the days surrounding her diagnosis. "I have a very public job, so was concerned about what to tell the media about my surgery," she writes. "My husband and I discussed it and decided that I had a 'bully pulpit" and should go public if it would help others."

Sen. Hillary Rodham Clinton (D-N.Y.) is also blogging, about the need for preventive medicine and insurance.

Visitors to each Web log are invited to post comments, most of which have been civil.

The lawmakers will continue posting until the end of September. The blogs are available at blogs.health.yahoo.com/ blog-for-hope.

National Press Club owls give last hoot for nude portrait

A controversial nude painting owned by the National Press Club is on the auction block.

"Phryne," a painting depicting a semi-nude, reclining Greek courtesan, hung in the members' lounge from 1932 to 1982. The work, by Brazilian artist Antonio Parreiras, was initially taken down as part of a club-wide restoration. The club's Silver Owls — 25-plus-year members — raised $8,200 to have it restored and rehung.

But, said Don Larrabee, chairman of the Silver Owls' Fine Arts Committee, the club's board "voted it down, under pressure from a small group of people who objected to having it rehung." He said the charge was led by female members in the 1980s who thought such a painting was inappropriate in that era. Women were first permitted to join the club in 1971. "Phryne" (pronounced "free-nee") has been on loan to the Metropolitan Club of Washington since 1999.

Of the auction, Larrabee said, "The time has come. We knew we were never going to get it back again. The board is not at all interested in having it back."

He said the painting was last appraised for $75,000, but at the auction, to be held Nov. 5-6 at the Sloans and Kenyon Gallery in Bethesda, "we won't even think about anything less than $100,000." Proceeds will go toward a new club archive.

Farewell to a friend and mentor

Today's is the first "Under the Dome" byline that this writer has not shared with Albert Eisele, who hung up his daily journalism duties after 40 years in the trenches of Washington.

Throughout those years, his affable, generous nature has earned him many sources but far more friends — as attested by the number of well wishes and encomiums he's received of late.

The journalists whom Al has mentored are too numerous to catalog. Nonetheless, I'm proud to count myself in their number.

Good luck Al, and congratulations on a great career.

Delays In Relief Spark Worries Of Holes In Homeland Security (WSJ)

By Jay Solomon

The Wall Street Journal, September 6, 2005

The federal government's slow response to Hurricane Katrina's devastation of the Gulf Coast is stoking fears that the U.S. is no better prepared to deal with a large-scale terrorist attack than it was four years ago.

The Bush administration has spent billions of dollars developing government agencies and technologies to better predict and respond to disasters since the Sept. 11, 2001, terrorist attacks. But security experts said the delays in helping Katrina's

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victims in New Orleans and elsewhere along the Gulf Coast indicate the relief process has become more cumbersome, opening opportunities for terrorists.

Business consultants and security experts are advising clients to tighten safety measures since al Qaeda or other terrorist networks might find it advantageous to strike when tens of thousands of federal troops and other homeland-security resources are deployed to Louisiana, Mississippi and Alabama. Some figure that terrorists might try an attack tied to the fourth anniversary of the Sept. 11 strikes.

"You'd be remiss not to be particularly prepared at a time like this," said Jonathan Lusher, senior vice president of Illinois-based IPC International Corp., which runs security operations for some of the U.S.'s largest mall complexes, including the New Orleans Center in Louisiana. "Terrorists probably think we're unprepared, and [the response to Katrina] would only confirm this."

Mr. Lusher said his firm is ratcheting up security at the malls, offices and retail outlets where IPC works. He said Washington needs to spend even more money on emergency-relief preparedness as Katrina has exposed serious limitations in the federal government's ability to respond to cataclysmic events. "It's not too far-fetched to see a bigger problem, a dirty bomb or water poisoning" carried out by terrorists, Mr. Lusher said.

Katrina's blow comes as many counterterrorism experts say they are seeing signs of more activity by al Qaeda and other militant Islamist groups. Recent bombings in the United Kingdom and Egypt illustrate that even traditionally well-secured countries can be successfully targeted by suicide bombers, they say. There also is rising concern that the war in Iraq is helping to indoctrinate and train thousands of new militants eager to hurt the U.S. and its allies.

Terrorism experts said they believe al Qaeda's senior command, based in the border areas of Pakistan and Afghanistan, remains active, despite extensive U.S. military operations. While U.S. intelligence officials say it is uncertain whether leader Osama bin Laden himself is coordinating attacks, they say substantial evidence indicates he and his lieutenants are at least communicating with operatives in the field. Last week al Qaeda's second-in-command, Egyptian doctor Ayman al Zawahiri, released a tape urging Muslims world-wide to step up attacks against the European and Middle Eastern allies of the U.S. in an effort to drive coalition forces out of Iraq.

"The terrorist threat has grown, not receded" because of the war in Iraq, said Larry Johnson, a security consultant and former deputy director of the State Department's counterterrorism office. "And if an attack comes now, the capacity of U.S. government to respond will be taxed."

Security analysts said that it is more than just the extension of military personnel that makes the U.S. vulnerable. They said terrorists may be learning from Washington's response to Katrina to exploit previously unknown weaknesses. They said looting that swept across parts of New Orleans and other sections of the Gulf after the hurricane highlighted how law and order can quickly break down in major U.S. cities.

"Terrorists have always been attracted to the idea of creating destruction and disruption on a catastrophic scale," said Brian Jenkins, a counterterrorism expert at Rand Corp., a think tank in Santa Monica, Calif. Katrina proved that "the veneer of civilization is very thin" even in the U.S., Mr. Jenkins said, and that "large cities can come apart quickly."

The humanitarian disaster along the Gulf Coast also could prove to be a propaganda victory for al Qaeda and its affiliates for the longer term. Mr. bin Laden and other Islamic leaders have sought to portray the Bush administration as overextending the U.S. by invading Iraq and potentially draining the world's largest economy of its resources. Al Qaeda also has sought to portray the U.S. leadership as imperialists who are hostile to minority groups globally.

Scenes of largely African-American victims suffering in sports arenas and other makeshift shelters are likely to support al Qaeda's portrayal of the U.S. in some parts of the world, said a number of analysts in Muslim countries. This could play into the recruiting tactics of a number of extremists groups.

In Pakistan, said Talat Masood, a social commentator in Islamabad, people think that "the poor communities have been neglected in America. ... And the capitalist system is very exploitative."

A senior member of Russian President Vladimir Putin's government said yesterday that the Bush administration's inability to help the thousands along the Gulf Coast would embolden terrorists who seek to incapacitate major Western cities. The television scenes were "an extremely unpleasant signal to the terrorist community, because what the world sees, so do they," said Nikolai Spassky, deputy director of Mr. Putin's Security Council, according to the Interfax news agency.

But many security analysts said the U.S. has the resources to concurrently rebuild the Gulf region while guarding against terrorists. The key, they said, is that Washington must better train for calamities and better integrate many of the bureaucracies created since Sept. 11 with local governments.

Senators 'to Demand Answers' On Slow Action (USAT)

By Mimi Hall

USA Today, September 6, 2005

WASHINGTON — Hurricane Katrina has become the Homeland Security Department's first big test.

Since the department was created after the 9/11 attacks to prevent and respond to catastrophes, it has spent tens of billions of dollars, studied disaster scenarios of every imaginable kind and run some of the nation's biggest emergency response drills.

It should have been ready for just about anything. But it wasn't ready for the power of Katrina.

Today, as workers struggle to provide better relief for survivors, Congress will begin investigating why the government's response was so slow.

Sens. Susan Collins, R-Maine, and Joe Lieberman, D-Conn., leaders of the Senate homeland security committee, will discuss their committee's plan for an inquiry into the response by the Federal Emergency Management Agency (FEMA). The agency is the disaster-response division of the Homeland Security Department.

“We intend to demand answers as to how this immense failure occurred,” the senators said in a statement.

Despite the problems and the criticism, government workers are pushing ahead to help tens of thousands of people put out of their homes.

In the Gulf Coast region, two cruise ships based in Galveston, Texas, began boarding evacuees — 2,600 per ship — and the Postal Service began trying to reconnect evacuees with their mail. Customs officers are expected today at the Astrodome in Houston, where they will deliver 100,000 articles of clothing.

Emergency workers also plan to move people from the Astrodome and other large shelters into smaller community shelters.

Homeland Security Secretary Michael Chertoff, who flew to the gulf region over the weekend to take control of the relief effort, appointed Coast Guard Vice Adm. Thad Allen on Monday to run recovery efforts in New Orleans.

Chertoff will fly back to Washington for one day today to meet with members of President Bush's Cabinet and members of Congress.

Some, including Sen. Hillary Rodham Clinton, D-N.Y., say Bush should appoint an independent national commission similar to the commission that investigated the 9/11 attacks. “The slow pace of relief efforts in the face of a mounting death toll … seems to confirm that our ability to respond to cataclysmic disaster has not adequately been addressed,” Clinton wrote in a letter to Bush over the weekend.

The response in New Orleans and throughout the gulf region shows “we're not at all prepared for the big one,” said Randy Larsen of the Homeland Security Institute, a research group.

Brian Besanceney, head of public affairs at the Homeland Security Department, said Katrina and the subsequent flooding in New Orleans caused a level of devastation significantly beyond a terrorist's capability and the slow response should not be taken as an indication that the government isn't equipped to handle another terrorist attack.

Unlike the devastation in New York City on 9/11, which was confined to 16 acres, the wreckage from Katrina spreads over 90,000 square miles and left hundreds of thousands of people homeless.

“This is the type of force that only Mother Nature can really unleash,” Besanceney said. “The sheer geography of it would be very difficult for terrorists to achieve.”

But with a nuclear or large radiological device, or even with a major chemical attack, terrorists could render a city the size of New Orleans uninhabitable. And many of the rescue and recovery issues would be the same: Tens of thousands would need to be rescued, power would be out, areas of the city would be contaminated, mobile hospitals and medical equipment would be needed, and shelter and food would be scarce.

“This damage could just as easily have been caused by a terrorist attack, and many if not most of the same elements are involved in responding to natural disasters,” Sen. Jon Kyl, R-Ariz., said.

Kyl also plans hearings as chairman of a terrorism and homeland security subcommittee in the Senate. “We need to understand from the key authorities what went wrong,” he said.

An independent Cabinet-level agency whose chief reported directly to the president during the Clinton administration, FEMA was one of 22 agencies folded into the Homeland Security Department in 2003, and some experts say planning for how to respond to natural disasters took a back seat to planning for various terrorist scenarios.

“If this was a terrorist event, is this the kind of response we would have?” asked James Lee Witt, the FEMA director under Clinton.

He said he doesn't understand why response was so slow. “We knew it was coming, we knew it was going to be a big disaster, we've run these scenarios many times,” he said.

Rep. John Dingell, D-Mich., said he'll introduce a bill today that would make FEMA once again an independent, Cabinet-level agency that reports directly to the president.

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Behind Poor Katrina Response, A Long Chain Of Weak Links (WSJ)

By Robert Block, Amy Schatz, Gary Fields and Christopher cooper

The Wall Street Journal, September 6, 2005

Just two weeks ago, five state emergency managers brought a tough message to a meeting in Washington with Homeland Security Secretary Michael Chertoff and his top deputies.

"We told them straight out that they were weakening emergency management with potentially disastrous consequences," says Dave Liebersbach, the director of Alaska's Division of Homeland Security and Emergency Management. The department's focus on terrorism was undermining its readiness for other catastrophes, said the visiting officials, who included emergency managers from Mississippi and Alabama.

Now that Hurricane Katrina has left the Gulf Coast flooded and New Orleans in ruins, the question ricocheting around the nation and the world is this: How could the world's biggest superpower fail so badly in protecting and rescuing its residents from a natural disaster so frequently foretold?

The answer is sure to receive intense scrutiny this fall in Congress and around the nation, especially given revived fears that the U.S. is ill-prepared for a terrorist attack. "We are going to take a hard, hard look at our disaster-response procedures," said Republican Majority Leader Bill Frist of Tennessee this weekend as he assisted patients at the New Orleans airport.

Yesterday, the government moved aggressively to show it has the situation in hand. President Bush paid his second visit to the region in four days, visiting Baton Rouge, La., and Poplarville, Miss. He asserted that federal, state and local governments are "doing the best we can." The major levee breach in New Orleans, at the 17th Street Canal, was closed, allowing the city to begin pumping out floodwaters, a process expected to take about 30 days.

Meanwhile, thousands of federal troops appeared to be firmly in control of the city, with most residents evacuated and searches for survivors well underway. A Customs and Border Protection aircraft operating as a flying communication link gave first responders in New Orleans the ability to communicate for the first time since Katrina struck more than a week ago. In suburban Jefferson Parish, thousands of residents were allowed to check their homes under tight restrictions to evaluate what was left.

But the weekend's progress hasn't erased the troubling questions left by the government's delayed understanding of the scope of the damage last week and its initial slowness in mounting rescues and bringing food and water to stricken citizens. The problems include:

· The decision to transform the Federal Emergency Management Agency from a cabinet-level agency reporting directly to the president to just one piece of a new, gargantuan Department of Homeland Security, which altered FEMA's mission and watered down its powers.

· Too few helicopters stationed in the Gulf Coast area ahead of the storm.

· A military stretched by wars in Iraq and Afghanistan, which left commanders near New Orleans reluctant to commit some active-duty units at nearby Fort Polk, La., because they were in the midst of preparing for an Afghan deployment this winter.

· A total breakdown of communications systems, an echo of the problems that faced New York officials dealing with the 2001 terrorist attacks and a system the government has been trying to fix for four years.

· Poor coordination among federal, state and local officials in the days immediately before and after the hurricane.

· Failure at all levels of government to take seriously many studies and reports over many years warning of the potential disaster.

Indeed, despite many warnings of the dangers, Mr. Chertoff and other administration officials have explained their poor initial response by saying government planners didn't expect both a serious hurricane and a breach in levees. "This is really one which I think was breathtaking in its surprise," Mr. Chertoff told reporters on Saturday.

Planners, he said, "were confronted with a second wave that they did not have built into the plan, but using the tools they had, we have to move forward and adapt."

Plenty of missteps at the local level contributed to last week's disaster too, from a failure to take basic steps to protect the telecom infrastructure to inadequate food and water at the Superdome. New Orleans may be able to stage events such as Mardi Gras and Jazzfest and provide parking, crowd control and adequate toilets for millions of visitors, but its hurricane plan was more rudimentary. "Get people to higher ground and have the feds and the state airlift supplies to them -- that was the plan, man," Mayor Ray Nagin said in an interview yesterday.

But so far, the federal government is bearing the brunt of criticism, given its vast resources and unique role in responding to major disasters. Critics say the response shows that the nation's disaster-response system, rebuilt in the wake of the 2001 terrorist attacks, is woefully inadequate. In a Washington Post-ABC News poll taken on Friday, the public said by a 67% to 31% margin that the federal government wasn't adequately prepared for Katrina.

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"What the events of the last week have shown is that over the last few years since 9/11 we have slowly disassembled our national emergency response system and put in its place something far inferior," says Bill Waugh, an academic expert on emergency management at Georgia State University. "We reinvented the wheel when we didn't need to and now have something that doesn't roll very well at all."

Many of last week's problems are rooted in January 2003, when the Bush administration, urged on by some members of Congress, created the Homeland Security Department. It amalgamated 22 agencies, from the Coast Guard to the Secret Service, creating the largest government bureaucracy since the Pentagon was formed in 1947.

From the start, emergency experts and even the Government Accountability Office, the investigative arm of Congress, warned that a special effort was needed to be sure FEMA's traditional mission of providing disaster relief wasn't lost in the shuffle.

But it was. FEMA's clout had long depended on its ability to help states plan for natural disasters by providing emergency preparedness grants and other resources. Under Homeland Security, grant-making decisions were transferred to a new, department-wide office in an attempt to consolidate funding. As a result, FEMA lost control of more than $800 million in preparedness grants since 2003, congressional figures show.

Focus on Terrorism

State emergency managers and congressional investigators say the overwhelming focus for grants is now on fighting terrorism. More money goes to local police and fire departments for that mission than responding to and recover from disasters.

Officials from Shelby County, Ala., for instance, last year said they could get federal money for chemical suits. But they were unable to get money for an emergency operations center that could link computers, phones and televisions to respond to tornadoes. Between 1957 and 2003, the county had 20 tornadoes that it said killed 11 people and caused more than $32 million in damages.

Meanwhile, morale at FEMA has dropped since it was subsumed by Homeland Security. Several key jobs are unfilled and its executives are overtaxed. Its acting chief operating officer in Washington, for instance, is also the director of FEMA's Atlanta region; his seat there is being held by another acting director. That area includes much of the hurricane-prone Southeast.

In July, Mr. Chertoff unveiled a departmental restructuring that would cement FEMA's reduced role. Among other moves, the plan restricted FEMA's purview to disaster response, stripping away longstanding functions such as helping communities build houses outside flood zones.

The plan, he told Congress, was "to take out of FEMA a couple of elements that were really not related to its core missions, that were generally focused on the issue of preparedness in a way that I think was frankly more of a distraction to FEMA than an enhancement to FEMA."

'Extremely Negative Impact'

On July 27, Alaska's Mr. Liebersbach, in his role as the head of the National Emergency Management Association, an association of state emergency management directors, warned in a letter to Congress that Mr. Chertoff's plan was nothing short of disastrous. It would have "an extremely negative impact on the people of this nation," he wrote.

"The proposed reorganization increases the separation between preparedness, response and recovery functions," the letter said. "Any unnecessary separation of these functions will result in disjointed response and adversely impact the effectiveness of departmental operations." It was the letter that prompted the meetings with Homeland Security officials in late August.

Last week's response certainly revealed cracks in the current system. Though President Bush declared a state of emergency before Katrina made landfall on Monday, officials appear to have underestimated the severity of the damage caused by the storm. By Tuesday it became clear that the response was not meeting needs and that FEMA and Louisiana emergency teams were overwhelmed. Then the flood waters hit in New Orleans. It still took several more hours for Mr. Chertoff to declare the disaster an "incident of national significance."

Even then, some requirements hampered speed. Because of worries that terrorists could take advantage of such chaos, FEMA now must abide by post-9/11 security procedures, such as putting air marshals on flights. That meant stranded residents couldn't be evacuated from the New Orleans airport until FEMA had rounded up dozens of Transportation Security Administration screeners and more than 50 federal air marshals. Inadequate power prevented officials from firing up X-ray machines and metal detectors until the government decided evacuees could be searched manually.

Slow Off the Mark

In the hours before and after Katrina struck, there weren't firm procedures in place for directing people and materials. Dan Wessel, owner of Cool Express Inc., a Blue River, Wis., transportation company that contracts with FEMA to move supplies, said he didn't get a green light to send trucks to a staging area in Dallas until about 4 p.m. Monday, hours after Katrina made landfall. That was too late to meet a deadline of getting trucks to Dallas by noon Tuesday, he said.

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Once the trucks arrived, drivers often found no National Guard troops, FEMA workers or other personnel on hand to help unload the water and ice, Mr. Wessel said. "I almost told the guys to leave, but people are wanting the water," he said. "The drivers distributed it."

Inside New Orleans, said Dr. Joseph Guarisco, chief of the emergency department of Ochsner Clinic Foundation, a 580-bed hospital in New Orleans above the water line, said there was confusion about where to direct evacuees seeking shelter.

'There's No One There'

For a couple of days, Dr. Guarisco said, he directed a stream of patients to what he understood was a FEMA mass-casualty tent at the intersection of Interstate 10 and Causeway Boulevard. "A number came back and said, 'there's no one there.' " Dr. Guarisco said.

Some critics have blamed the war in Iraq, and the deployment of thousands of troops, including National Guard members, to that effort. President Bush has vehemently denied that charge. The administration has said problems on the ground were due to an unexpectedly severe storm and unanticipated flooding.

Four weeks before the hurricane, Lt. Colonel Pete Schneider, of the Louisiana National Guard, told WGNO, a local ABC affiliate, that when guard members left for Iraq last October, they took a lot of needed equipment with them, including dozens of high-water vehicles, Humvees, refueling tankers and generators that would be needed in the event a major natural disaster hit the state.

"You've got combatant commanders over there who need it, they say they need it, they don't want to lose what they have and we certainly understand that," he said. "It's a matter of us educating that combatant commander [that] we need it back here as well."

Col. Schneider also said the state had enough equipment to get by, and that if Louisiana were to get hit by a major hurricane, the neighboring states of Mississippi, Alabama and Florida had all agreed to help. In the end, those states were hit by Katrina as well.

The U.S. Army has a large facility, Fort Polk, in Leesville, La., about 270 miles northwest of New Orleans. Officials at Fort Polk, which has nearly 8,000 active-duty soldiers, said their contribution so far has consisted of a few dozen soldiers from the 10th Mountain Division manning purification equipment and driving half-ton trucks filled with supplies and equipment. The first contingent of soldiers didn't receive orders until Saturday afternoon.

A spokeswoman at Fort Polk said she did not know why the base received its deployment orders so late in the game. "You'd have to ask the Pentagon," she said. A senior Army official said the service was reluctant to commit the 4th brigade of the 10th Mountain Division from Fort Polk, because the unit, which numbers several thousand soldiers, is in the midst of preparing for an Afghanistan deployment in January.

Instead, the Pentagon chose to send upwards of 7,500 soldiers from the 1st Cavalry Division at Fort Hood, Texas and the 82nd Airborne Division from Fort Bragg, N.C., along with Marines from California and North Carolina. Soldiers from the 82nd Airborne Division are able to deploy anywhere in the world in 18 hours. It took several days for them to arrive on the ground in Louisiana.

Helicopters Proved Crucial

There, no piece of equipment was more necessary than helicopters. But in the first 48 hours after the levees were breached, the shortage of helicopters became acute. FEMA wanted choppers to save stranded residents, while the Army Corps of Engineers needed the aircraft, known as "rotary wing" in military jargon, to repair the breaches. The Coast Guard, the primary agency responding to the disaster in New Orleans, had a total of 20 aircraft in the area, mostly helicopters, which focused solely on rescue operations.

"We have very limited aviation assets and rotary wing is what we need to put materials into those breaches, and that's the very asset we need to do search and rescue and save victims, so our efforts became something of a second priority and our initial plan was delayed a bit because of that," says Lt. Gen. Carl Strock, commander of the Army Corps of Engineers.

A FEMA spokesman said the Coast Guard and National Guard had adequate numbers of helicopters on hand, but that rescue and supply operations were hampered by other factors, including limited airspace around New Orleans, which is geographically small. "You put in 30 helicopters in that area and you create a dangerous situation," said the spokesman, Marty Bahamonde.

On the supply front, helicopters flew food to the Superdome, he said, but the helipad there could only accommodate small aircraft, which couldn't hold many supplies.

Communications systems also broke down, as they did at the World Trade Center in 2001, preventing emergency officials from communicating with each other and the military. That led to the odd juxtaposition of top federal officials praising the rescue effort and denying problems at New Orleans' overcrowded convention center while TV cameras showed people there crying for help.

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Radio Systems Lacking

Flooding and power shortages appear to be behind most of the serious communications problems, but incompatible radio systems didn't help.

Emergency responders in New Orleans and three nearby parishes all use different radio systems. New Orleans and nearby Jefferson Parish both use radios that operate on the 800 Mhz band, according to a Louisiana State Police interoperability report, but they were manufactured by different vendors. That means officials there had up to five channels on which to talk to one another.

"Communication is always difficult in emergency situations because of increased traffic," says William Vincent of the Lafayette Office of Homeland Security and Emergency Preparedness, about 135 miles from New Orleans. Emergency 911 dispatchers in Lafayette fielded calls from New Orleans residents who still had working cellphones but couldn't reach local police.

New Orleans officials had equipment at the fire department's communication center that could link otherwise incompatible local and federal systems. It was reportedly knocked out by flooding.

Another problem: Even after 9/11, local officials and federal emergency responders don't typically use the same radio frequencies, which can make communication difficult until agreements are reached on sharing channels.

As handheld radios began losing power in New Orleans, police officers and other emergency responders had no way of recharging them. Unlike radios used by firefighters combating wild fires, which can be powered by disposable batteries found in any grocery store, a typical handheld police emergency radio uses rechargeable batteries similar to those powering cell phones, according to Ron Haraseth, director of automated frequency coordination at the Association of Public-Safety Communications Officers.

Bad Information

FEMA itself seemed to frequently have bad information. At a Tuesday press conference Bill Lokey, federal coordinating officer for FEMA and the agency representative on site, downplayed the severity of the flooding caused by the breaches in New Orleans, saying the water wasn't rising in most areas. "I don't want to alarm everybody that, you know, New Orleans is filling up like a bowl," he said. "That's just not happening."

Within hours, much of the city was under water, and Mr. Lokey was calling Katrina "the most significant natural disaster to hit the United States."

The possible problems had long been trumpeted. In June 2004, FEMA spent more than half a million dollars to commission a "catastrophic hurricane disaster plan" from IEM Inc., a Baton Rouge-based emergency-management and homeland-security consulting firm. A report analyzing results of a mock hurricane hitting New Orleans, dubbed "Hurricane Pam," was envisioned and a response and recovery plan was to be drawn up.

During a five-day mock exercise in July 2004, emergency-management responders huddled in Baton Rouge to plan a response to "Hurricane Pam," a Category 3 storm which featured 120 miles per hour winds and a storm surge that topped New Orleans's levees. For reasons that aren't clear, the mock exercise never anticipated the levees giving way, despite such warnings. Even so, the mock hurricane destroyed 500,000 buildings in New Orleans and displaced one million residents.

The group developed a plan to get stranded residents out of the way and construction of a "command structure" with enough space for upwards of 800 rescue workers. A report, dated Jan. 5 of this year, detailed recommendations from the exercise and was provided to FEMA, an IEM spokeswoman said. FEMA has not released the report.

Need Fed Probe Into Crisis - Hil (NYDN)

By Michael McAuliff

New York Daily News, September 6, 2005

WASHINGTON - With many blaming the growing scope of Katrina's devastation on the Bush administration, Sen. Hillary Clinton called yesterday for a 9/11-style probe into how the federal government responded to the crisis.

"It has become increasingly evident that our nation was not prepared," Clinton (D-N.Y.) said in a letter to Bush asking him to set up a "Katrina Commission."

"The slow pace of relief efforts in the face of a mounting death toll ... seems to confirm that our ability to respond to cataclysmic disasters has not been adequately addressed," she said.

Her call echoed statements of Republicans such as Arizona's Sen. John Kyl, chairman of the Technology and Homeland Security Subcommittee of the Senate Judiciary Committee, who plans a hearing and has said the catastrophe in New Orleans could have a lot in common with a terror attack.

A White House spokeswoman deferred comment to Homeland Security Secretary Michael Chertoff, who appeared on numerous Sunday morning broadcasts insisting there would be time to lay blame later.

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Clinton has decided at least one thing without waiting for any commission reports. She said she plans to introduce legislation to split the Federal Emergency Management Agency out of the Department of Homeland Security and give it back a cabinet-level director like it had in her husband's administration.

FEMA Fails Katrina Victims (USAT)

USA Today, September 6, 2005

After the hurricane and killer floods, New Orleans was victimized by another disaster — the disaster response itself.

Every level of government that was supposed to prepare for the storm and its aftermath failed miserably. All were unwilling to make the expensive commitments to shore up vulnerable levees or replenish vanishing wetlands that left New Orleans so open to flooding. There was no logical plan to evacuate the city, particularly those too sick, poor or stubborn to leave.

When it became clear that tens of thousands were marooned, the federal government was unprepared to rush life-saving supplies to the city's Superdome and convention center, to rescue the stranded and sick or keep order in the streets.

Images that brought to mind catastrophes in Third World nations shot around the world — making the inept response of the Federal Emergency Management Agency (FEMA) not only a human tragedy but also an international embarrassment for the USA.

That bungled response should serve as an alert to the rest of the nation. After spending four years and tens of billions of dollars since 9/11 on "all-hazards preparedness," FEMA's parent, the Homeland Security Department, failed its first major test.

The past week's performance raises many questions, among them:

· If national authorities could not adequately respond to an anticipated threat from a hurricane, how can they possibly be ready to deal with a surprise nuclear or biological attack by terrorists?

· Has FEMA's leadership been politicized, and is it up to the task? According to news reports, the agency's head, Michael Brown, had been supervising horse-show judges in Colorado before he was called to Washington in 2001 to work for an old friend, then the head of FEMA. Brown, with little disaster experience, quickly rose to be the agency's deputy director and then its leader. In the first days of the crisis, FEMA's decision-making appeared tentative and confused, with fatal consequences.

· Has putting FEMA in the new Homeland Security Department undermined its ability to respond to natural disasters? According to a Government Accountability Office report, 75% of the agency's 2006 budget for preparedness grants is focused on terrorism.

Disaster experts will tell you that responding to any catastrophe requires the same elements — evacuation, rescue, emergency supplies and security.

After 9/11, the nation should not have needed a second wake-up call. Having gotten one, it's time to dissect this failure, establish accountability and ensure that it won't happen again.

Hurricane Reorders Capitol Hill Agenda (WSJ)

By David Rogers And John J. Fialka

The Wall Street Journal, September 6, 2005

WASHINGTON -- After approving a cash infusion for hurricane relief, Congress is focusing on three legislative priorities for responding to Katrina: moving energy supplies, resettling displaced people, and restoring economically critical Gulf ports.

Senate Majority Leader Bill Frist (R., Tenn.) said the chamber's primary legislative business will include hurricane-related measures and appropriations bills. Majority Whip Roy Blunt (R., Mo.) said the House may consider legislation designed to ease supply by expanding on the administration's authority to waive fuel standards and environmental requirements. Lawmakers also will weigh allowing exploration for oil and gas along the coast of the Arctic National Wildlife Refuge in Alaska, and letting states lease federal offshore land to companies exploring for natural gas along the Atlantic, Pacific and Gulf coasts.

"We can put that on the table very quickly," said House Energy and Commerce Committee Chairman Joe Barton of Texas, citing support for the offshore-leasing proposal from Resources Chairman Rep. Richard Pombo of California. Coastal states with big tourism industries, such as Florida, are likely to resist on environmental grounds.

Returning House and Senate leaders are to meet today with President Bush on the government's response, and the agenda is very different from the one lawmakers anticipated after passing energy legislation over the summer and counting on addressing tax cuts, immigration, Social Security and the Supreme Court in the fall. Mr. Frist said yesterday that he would delay indefinitely a vote scheduled for today on the estate tax.

Confirmation hearings for Judge John Roberts, nominated by President Bush first to be an associate justice of the Supreme Court and then to be Chief Justice of the United States, are expected to be postponed until next week. Mr. Frist said no hearings will be held until after the funeral tomorrow of Chief Justice William Rehnquist, and leadership aides predicted that the proceedings will now begin Monday.

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Lawmakers instead will be working on legislation to help evacuees move across state lines while retaining benefits to help them build new lives. No measure can ensure immediate relief from gas prices squeezing motorists around the country, but lawmakers hope to begin breaking the bottlenecks that threaten the movement of fuel, as well as the transportation of Midwestern agricultural products.

Rep. Barton's panel and the Senate Energy Committee will hold back-to-back energy hearings this week. "There are going to be questions about what major oil companies are doing with all of the resources they're accumulating," said Sen. Pete Domenici (R., N.M.), chairman of the Senate panel. Mr. Frist said that when he spoke with constituents even days before the hurricane, "The No. 1 issue on people's minds was the price of gas."

But with lawmakers unlikely to seek price caps, the committees will hear ideas aimed at limiting consumption. "We need to address the demand side," says John Dowd, a Wall Street energy analyst for Sanford C. Bernstein & Co. who favors consideration of higher automobile fuel-efficiency standards and decreased speed limits on interstate highways.

The Republican majority -- traditionally hostile to such approaches -- may pursue tax cuts to ease the price squeeze. Mr. Blunt said a potential stimulus package could include tax relief for transportation and airline companies affected by high prices and supply disruptions.

Speaker Dennis Hastert (R., Ill.) said the distribution problems following Katrina underscore the need to disperse U.S. refinery capacity around the nation more. "What are the problems that prevent us from building new refineries? ... We need to look at that," Mr. Hastert said. "Maybe we need to make it a little easier to site a refinery and get it up and running."

In addition to energy matters, lawmakers will help relief agencies find a path to resettle a large, often lower-income population displaced by the hurricane and facing huge hurdles before returning home soon. Among the challenges for Congress is to help these people set up new lives with minimal disruption of income, unemployment, nutrition or health-care benefits even as they cross state lines.

A single mother with children, for example, might be taken from New Orleans to the Astrodome but then want to settle with relatives in Arkansas. "You can't keep people in the Astrodome, obviously," said Mr. Hastert and lawmakers are expected to give greater authority to agencies to waive core residency and paperwork requirements that must be met to qualify for this assistance. Beyond waivers, Democrats say Washington must be willing to pick up more of the state share of these benefits since the storm-hit states are in financial trouble and states that welcome displaced families will want some assurance that they aren't assuming an impossible burden.

For example, unemployment, Medicaid and the welfare program, Temporary Assistance for Needy Families, all depend on some employer or state contribution that the federal government may have to absorb. Mr. Blunt said private charities could help by providing transportation for families to relocate. But House Republican and Democratic leaders have asked staff to develop a list of what waivers may need to be authorized quickly.

House Minority Leader Nancy Pelosi (D., Calif.) has urged the creation of a task force representing the major committees to expedite matters. Based on his experience after the Sept. 11, 2001, terrorist attacks, Mr. Hastert may be more inclined to work through individual committees, but also streamline the process by bringing Senate and House chairmen together at the outset.

Despite a budget deficit exceeding $300 billion, "money is not going to be the question," said House Appropriations Chairman Jerry Lewis of California. That is because disparate political forces are converging, producing what most expect will be a record investment by the government. Republicans are themselves stung by the public criticism and Senate Appropriations Committee Chairman Thad Cochran (R., Miss.) is from the affected region and commands a huge reservoir of support in Congress.

Also, Midwest farm interests represented by Republicans like Messrs. Hastert and Blunt have a major stake in reconstructing New Orleans. Another port -- Gulfport, Miss. -- is crucial to Southern poultry interests, but New Orleans has a wider regional reach, handling 71% of corn and 65% of soybean exports last year.

The disruptions have hit Midwest farmers at a difficult time. Storage facilities already are strained from big crops last year, and commodity prices have been falling amid efforts to empty grain elevators in time for new crops. If sales can't be completed, there is a risk of grain being stored outside, thereby reducing its value and the return to the farmer.

With rising energy and fertilizer prices and a summer drought in the eastern Midwest, including Speaker Hastert's Illinois district, there are sure to be demands for expanded agriculture assistance as part of any disaster package. Mr. Hastert indicated as much in an interview Friday, where he said the adverse effect of the port's closing on shipments should be considered.

Republicans Halt Death-tax Discussion (WT)

By Charles Hurt

The Washington Times, September 6, 2005

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Senate Republicans agreed yesterday to postpone consideration of the bill to fully and permanently repeal the death tax that had been scheduled for this week.

Majority Leader Bill Frist promised to return to the bill as soon as possible but wanted to clear the legislative decks this week -- lawmakers' first after a month's recess -- to consider what could be done to help deal with the aftermath of Hurricane Katrina.

"The Senate will move from its previously scheduled agenda for Tuesday, September 6, and instead consider a resolution expressing the sympathy of the Senate for the victims of Hurricane Katrina," he said yesterday.

The decision by Mr. Frist of Tennessee comes in response to requests by Minority Leader Harry Reid and other Democrats who wanted the vote on the death-tax repeal to be delayed in the wake of Hurricane Katrina.

"It doesn't look right," Mr. Reid of Nevada said yesterday.

He also endorsed the idea of creating a "Katrina Commission" to explore how the rescue and relief efforts could have been improved in the hours and days immediately after last week's hurricane.

"We're learning serious mistakes were made, and I don't think that is subject for debate," Mr. Reid said. "Those who put politics ahead of people in dire need must be held accountable."

Mr. Reid declined to say to whom he was referring except to express dismay that some have blamed local officials for failing to evacuate the city of New Orleans and maintain order.

Now is not the time for assigning blame, he said

Then Mr. Reid, like many lawmakers, went on to blame the federal government for a sluggish response.

"I think this is a federal responsibility," he said. "This is a huge federal issue and I think the federal government has not responded properly."

Some of the harshest political criticism came last week from members of the Congressional Black Caucus.

"Many of these Americans who now are struggling to survive are Americans of color," said Rep. Elijah E. Cummings, Maryland Democrat. "Their cries for assistance confront America with a test of our moral compass as a nation."

He also quoted the admonition of Christ to feed the hungry and clothe the naked, saying: "To the president of the United States, I simply say that God cannot be pleased with our response."

Congress Reworks Agenda To Focus On Relief (LAT)

By Janet Hook

The Los Angeles Times, September 6, 2005

WASHINGTON — Responding to the devastation of Hurricane Katrina and the death of Chief Justice William H. Rehnquist, congressional leaders announced today that they were retooling their legislative agenda to give top priority to storm relief and recovery measures.

Senate Majority Leader Bill Frist (R-Tenn.) said he would cancel a vote scheduled for this week on repealing the estate tax — a controversial measure that Democrats had decried as inappropriate relief for the wealthy at a time when so many poor storm victims are suffering in the South.

Frist also announced the postponement of confirmation hearings on the nomination of John G. Roberts Jr. to the U.S. Supreme Court, which had been scheduled to start Tuesday. Roberts, initially Bush's pick to succeed retiring Justice Sandra Day O'Connor, was tapped today to succeed Rehnquist, who died Saturday night, as chief justice of the United States.

Frist said the decision to postpone the hearings' start — at least until Thursday, but not beyond Monday — was to honor Rehnquist and not in response to some Democrats' contention that more preparation time is needed now that Roberts is being considered for the court's top post.

Rehnquist will lie in repose at the Supreme Court on Tuesday and Wednesday morning. His funeral will be held Wednesday afternoon, followed by burial at Arlington National Cemetery.

The agenda changes come on the eve of Congress' return from a month-long August recess — a return that will be marked by a striking change in political climate. Republicans left town at the end of July buoyed by their success in passing energy, highway and trade legislation and eager to tackle other priorities, such as overhauling Social Security and repealing the estate tax.

But as they reconvene this week, their agenda and mood will be darkened by more sobering realities: a vast swath of the U.S. ravaged by Katrina; skyrocketing gas prices; the death of the chief justice; and spreading turmoil in Iraq.

In an unusual Labor Day news conference, Frist declared that Congress' new priority would be funding the relief efforts for hurricane victims and reconstruction of the battered Gulf Coast.

House and Senate leaders called Congress back into session last week to approve $10.5 billion to aid hurricane victims. Frist said another round of funding would be provided "when needed," but he did not say when or how much.

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The entire Senate will be briefed by top Cabinet officials, including Homeland Security Secretary Michael Chertoff, on the recovery effort in the South. And the Senate is expected to pass a measure designed to help the storm-ravaged region reestablish its court system: The bill, which may also clear the House on Tuesday, would allow district, circuit and bankruptcy courts to relocate and operate outside their jurisdictions.

On Wednesday, Frist said, the Senate will honor Rehnquist and adjourn for his funeral. Then it will take up a routine appropriations bill that could be a vehicle for additional funding for small business loans and for state and local law enforcement agencies.

Frist has asked committee chairmen to make recommendations on measures that could be approved to help storm recovery, possibly including emergency aid for housing, unemployment insurance, healthcare, protection against price gouging and tax incentives for job creation.

In postponing the scheduled vote on repealing the estate tax, Frist did not say exactly when the Senate would return to the issue, but he denied he was acting in response to political pressure from Democrats.

Earlier in the day, the Senate's Democratic leader, Sen. Harry Reid of Nevada, issued the latest in a series of demands that Frist cancel the vote on grounds that it would be "inappropriate and insensitive" to hurricane victims.

House leaders, so far, have announced no immediate changes in their legislative agenda.

Times staff writer Richard Simon contributed to this report.

Competition Starts In Congress To Aid Victims And To Investigate The Response (NYT)

By David D. Kirkpatrick

The New York Times, September 6, 2005

WASHINGTON, Sept. 5 - Congressional leaders of the two parties raced on Monday to spell out competing plans to help victims of Hurricane Katrina, offering proposals for emergency health care, housing and economic support, among other initiatives.

Republicans said committees would announce plans for hearings into the apparently flawed response and increasing oil and gasoline prices.

Democrats said they expected the aftermath of the storm to be a reminder of the importance of federal power in the hearings on the selection of Judge John G. Roberts Jr. for the Supreme Court. Lawmakers postponed confirmation hearings for Judge Roberts, whom President Bush tapped on Monday to succeed Chief Justice William H. Rehnquist, who died on Saturday.

Pushed aside are Republican plans to try to repeal the estate tax.

"We are going to take a hard, hard look at our disaster response" at the local and federal level, the Senate majority leader, Bill Frist, said Monday at a news conference.

Mr. Frist said he expected the Senate energy committee to look at "price gouging, the excessive oil profits and what responsibility oil companies have in the skyrocketing fuel prices."

Mr. Frist, a physician who visited the region to help treat victims, said the Senate would pass measures to allow courts whose buildings were destroyed to meet in other jurisdictions. He said Senate committees would take up bills to give aid to storm victims, rebuild public works, revive the regional economy and prepare for future disasters.

Congressional leaders are to meet President Bush on Tuesday to discuss relief efforts, and a group of cabinet secretaries, including Homeland Security Secretary Michael Chertoff, are to brief the full Senate at the end of the day.

Senator Harry Reid, the minority leader, called for an investigation of the disaster response by a commission modeled after the 9/11 panel. Mr. Reid faulted the White House as failing to take responsibility.

"The buck stops at 1600 Pennsylvania Avenue," he said.

At a news conference, Mr. Reid presented a package of emergency measures for storm victims, including dropping some residency and documentation requirements for Medicaid, easing access to Medicare drug benefits, increasing federal financial support for affected states and health care providers, providing emergency vouchers for housing, making federal payments to victims, and creating tax incentives to encourage people to take in the displaced.

In an interview, Mr. Reid also said Democrats were weighing measures to lower gasoline costs, including a proposal by Senator Carl Levin of Michigan for a price cap.

"That is on the table," Mr. Reid said. "We have to do something to address gas prices."

Bob Stevenson, a spokesman for Mr. Frist, said the proposed hearings on the oil crisis would seek to determine the cause of the price increases and the proper responses.

"Oil companies," Mr. Stevenson said, "have a responsibility to ensure that the prices reflected at the pump are at reasonable levels, and should that not be the case, I would expect there could be hell to pay in Congress."

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House Republican leaders have said they will move immediately to pass relief measures in concert with the Senate while House committees hold investigations into the hurricane response and gasoline prices.

The House minority leader, Representative Nancy Pelosi of California, called for a bipartisan group of House members to investigate the response and recommend emergency legislation.

"Waiting for multiple committees to act on a crisis of such breadth is not acceptable," Ms. Pelosi wrote in a letter to House Speaker J. Dennis Hastert, Republican of Illinois.

Mr. Frist and Mr. Reid agreed to postpone the confirmation hearings for Judge Roberts until after Chief Justice Rehnquist's funeral on Wednesday.

But Democratic and Republican aides said the parties were negotiating whether to take up the hearings on Thursday or on next Monday.

Democrats on the Senate Judiciary Committee who have been seeking more time to look into Judge Roberts's positions are pushing for the longer postponement. But aides involved in the negotiations said the Republicans wanted to begin as soon as possible, unless the Democrats committed to a final floor vote on confirmation by the end of the month.

Democrats are refusing a firm deadline to retain the threat of a filibuster, blocking confirmation by refusing to close debate, even though several Democratic senators have said such a move is extremely unlikely.

Whenever the hearings begin, Senator Charles E. Schumer, a New York Democrat on the Judiciary Committee, said, Democrats are quite likely to bring up Hurricane Katrina in the debate.

"One of the major controversies in the court is how strong should the federal government be," Mr. Schumer said, "and the hurricane has just made an argument, a devastating argument, that the federal government should be more powerful."

Senator Edward M. Kennedy of Massachusetts, another Democrat on the committee, suggested in a statement that the hearings should be further deferred while the public focused on the storm and mourned Chief Justice Rehnquist.

"In the midst of a national disaster of biblical proportions," Mr. Kennedy said, "it is difficult for the American people to participate fully in the selection of the next chief justice, one of the most important positions in our government and the chief protector of our Constitution."

Apparently trying to turn the debate on Judge Roberts into leverage over the president's next selection for the Supreme Court, Mr. Kennedy also argued that the Senate should withhold a vote on his confirmation until the naming of the next choice.

"We should know whom the president intends to propose," Mr. Kennedy said. "The American people care deeply about the overall balance of their highest court and its dedication as an institution to the protection of their rights."

Asked about that argument, Mr. Reid said, "Senator Kennedy has his opinions, and that is something we will talk about" at the caucus meeting on Tuesday.

Congress Comes Back To A Busy Agenda (WT)

By Donald Lambro

The Washington Times, September 6, 2005

Congress returns today from its August vacation to tackle a mountain of leftover legislative business, plus an even bigger challenge: a massive recovery package for the Gulf Coast cities that were flattened and flooded by Hurricane Katrina.

Awaiting action when lawmakers reconvene is Judge John G. Roberts Jr.'s Supreme Court nomination, a budget-cutting reconciliation bill filled with legislative riders that include oil drilling in the Arctic National Wildlife Refuge, a phaseout or reduction of the estate tax, Social Security reform to let workers invest in U.S. Treasury bills, reauthorization of the Patriot Act, and a renewed crackdown on illegal aliens.

President Bush has had a string of legislative victories over the past eight months that included an overhaul of the bankruptcy laws, legal class-action reforms, a massive transportation bill and the Central American Free Trade Agreement.

But the next four months are expected to be far more contentious as a result of the decline in Mr. Bush's job-approval rating, which is hovering around 40 percent, and the increasing polarization in Congress, congressional strategists say.

"There will be a Republican leadership meeting Tuesday to discuss the fall agenda that will include immigration, appropriation bills, reconciliation and potential action on Social Security," said Ron Bonjean, chief spokesman for House Speaker J. Dennis Hastert, Illinois Republican.

"On top of that, we will be evaluating the needs of Hurricane Katrina's victims and working to get the areas affected by the hurricane back on [their] feet," he said.

Congress quickly approved an interim $10.5 billion assistance bill last week as the first step in the early recovery efforts, but congressional officials said a far more expansive aid package is expected in the next several weeks after further assessment of the damage caused by the Category 4 hurricane.

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Other senior leadership officials said Friday there could be additional assistance to counter any downturn in the economy as a result of the disruptions in oil production in the Gulf of Mexico or the impact of higher fuel prices on key sectors of the nation's transportation and industrial sectors.

Some congressional aides, however, question whether a divided Congress will be able to handle both a massive regional recovery bill and everything else already on its plate in the final four months of this legislative session.

"Do you think we're going to be able to pass substantial Medicaid cuts and Social Security reform in the middle of this? You can't put that much on the plate," Steve Bell, New Mexico's Sen. Pete V. Domenici's chief of staff, told the Los Angeles Times.

Not a problem, said House Majority Leader Tom DeLay.

"We can do two things at the same time. We're going to keep our agenda moving," he said Friday.

But House Majority Whip Roy Blunt of Missouri said: "Some committees may have to reprioritize their agenda" to deal with the massive recovery programs that Congress will have to undertake.

"I think this is going to take some time. Now, how much it slows our September-October schedule, I don't know," Mr. Blunt said.

Mike Franc, senior congressional analyst at the Heritage Foundation, said, "A lot of the president's remaining agenda will be overshadowed by what happens in the Gulf of Mexico. If the federal response and the way everything is handled is done competently and effectively, that's going to be a major feather in Bush's cap."

As for the remaining agenda, Mr. Franc said nothing else "stands out as a particularly unique challenge."

"It's more of a steady-as-you-go period. Social Security could turn out to be a major achievement," he said.

Oregon Lawmaker Warned Of Danger Faced By New Orleans (HILL)

By Bob Cusack

The Hill, September 6, 2005

For years, Louisiana lawmakers have warned of a possible flooding disaster in New Orleans.

But one of the most outspoken legislators on preparing the city for a storm like Hurricane Katrina was a Democrat from Oregon.

Earlier this year, Rep. Earl Blumenauer delivered a speech on the House floor that drew parallels between the 2004 tsunami in Southeast Asia and the vulnerability of New Orleans.

Blumenauer's predictions of a catastrophe came true as Katrina flooded New Orleans, leading to a death toll that is expected to climb into the thousands.

On Jan. 26, Blumenauer said a hurricane hitting New Orleans would lead to a "30-foot wall of water hitting the city, causing thousands of deaths and $100 billion in damage."

He added, "The experience of Southeast Asia should convince us all of the urgent need for congressional action. … Prevention and planning will pay off. Maybe the devastation will encourage us to act before disaster strikes."

In a Sept. 15, 2004, floor speech, Blumenauer said damage inflicted by a hurricane "might represent the loss of the city of New Orleans. … Now is the time to deal with policies that will make a difference protecting people."

GOP Agenda Shifts As Political Trials Grow (WP)

By Shailagh Murray And Charles Babington

The Washington Post, September 6, 2005

As Congress returns from its August recess today, Republicans face a far more troubling political landscape than the one they left a month ago, according to lawmakers in both parties.

Gasoline prices have skyrocketed, the Bush administration is being widely criticized for its handling of Hurricane Katrina, and as the war in Iraq grows increasingly unpopular, the president's approval ratings have sunk to an all-time low. Further complicating the picture is a rare double vacancy on the Supreme Court, which could trigger sniping between the GOP's center and right wing if not deftly handled.

"We're going to have a busy time," said Senate Majority Leader Bill Frist (R-Tenn.).

As the pressure on Republicans builds, Democrats are sounding emboldened. One sign of GOP unease: The Senate was supposed to vote this week on whether to permanently repeal the estate tax, but Frist said yesterday that the bill will be temporarily shelved. The announcement came two hours after Senate Minority Leader Harry M. Reid (D-Nev.) called for Republicans to back off tax cuts in the wake of the Katrina tragedy. "Not now, for heaven's sake," Reid said.

Some conservatives worry that Bush has given Democrats an opening by naming John G. Roberts Jr. to succeed Chief Justice William H. Rehnquist, who died Saturday night. Roberts had been nominated to succeed the retiring Sandra Day O'Connor, and that confirmation process was scheduled to start today. Because Rehnquist was a solid conservative and

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O'Connor a centrist, the argument goes, liberals will fight much harder to keep a conservative -- such as Roberts -- from getting the O'Connor seat, whereas the philosophy of Rehnquist's successor is less vital to them.

Lawmakers in both parties said the surging price of gas and spot shortages are leading concerns in their states and districts, and Democrats will try to get the upper hand by calling for price caps and a requirement that oil companies and refineries disclose their pricing policies. Frist said Republicans would proceed with legislation to allow oil drilling in the Alaska wilderness.

Another immediate concern will be disaster relief. Frist, a surgeon who spent the weekend treating hurricane victims in New Orleans, said the Senate would focus on several Katrina-related matters, including aid to victims, rebuilding and economic development assistance, and examining the many ways that government fell short in dealing with the crisis. "We're going to take a hard, hard look at our disaster response," Frist said.

Although congressional Republicans facing reelection next year are unhappy with Bush's slide in the polls, there's no sense of panic, said Stu Rothenberg, who writes an independent political newsletter. "But inevitably, if we continue to see a softening in the president's numbers, every Republican is going to be expressing some concern, if not alarm," he said.

The biggest wild card, Republicans say, is the war in Iraq. The dominant issue before the hurricane will resurface when Congress tries to complete a defense bill.

"People don't see light at the end of the tunnel in Iraq," said Sen. Charles E. Grassley (R-Iowa). "If the situation a year from now is the same, it's going to be the number one issue in the next election, and consequently for incumbent Republicans, a problem."

One of the more vulnerable GOP members is Rep. Michael G. Fitzpatrick, a freshman from a moderate district in the Philadelphia suburbs. Fitzpatrick does not air his concerns publicly, as a few Republicans are beginning to do, but he is worried about the safety of U.S. troops and has written to the Pentagon pressing for improved body armor and vehicle protection.

"I think everyone is on the edge of their seat right now, hoping for the best, but preparing for what comes next," Fitzpatrick said. If the situation does not improve soon, "I think you will see more members of Congress speaking up generally," he said.

Katrina could have bolstered Bush's standing, but instead his response may have weakened his standing in Congress, particularly among lawmakers from the affected Gulf Coast region. Sen. Mary Landrieu of Louisiana, a conservative Democrat who often supported Bush proposals, was outraged to hear White House officials disparage the local response. On ABC's "This Week," she said of Bush, "One more word about it after this show airs and I might likely have to punch him. Literally."

Sen. Trent Lott (R) of Mississippi, who lost his Pascagoula home in the storm, released a statement headlined "I Am Demanding Help for Mississippi." After a blistering critique of the Federal Emergency Management Agency, Lott thanked Bush for his efforts.

Some argue that the hurricane disaster, high fuel prices and continued problems in Iraq will increase chances that Bush will name a centrist, consensus nominee to replace O'Connor.

Even before Katrina hit, Republicans were struggling to keep their agenda on track. They had made little progress with revamping Social Security, but immigration reform was gaining momentum.

Bush and congressional Republicans might argue that soaring gasoline prices and a storm-damaged economy call for tax cuts -- in the name of helping middle-class people fuel their cars and keeping Katrina from slowing the economy, Rothenberg said. House Majority Whip Roy Blunt (R-Mo.) said last week that Congress should consider tax cuts as part of a "stimulus package" in response to Katrina.

But Democrats say they are poised to pounce. "If they think they can go forward as if nothing's changed, they do not understand what the rest of America has witnessed over the past week," said Rep. Rahm Emanuel (D-Ill.), who heads the House Democrats' campaign committee.

Clinton And Bush In Charity Reprise (WP)

By Lisa Rein

The Washington Post, September 6, 2005

HOUSTON, Sept. 5 -- Former presidents George H.W. Bush and Bill Clinton announced a nationwide fundraising campaign Monday to help the victims of Hurricane Katrina, saying they will bring what they learned from reaching out to tsunami victims halfway around the world to a crisis on their doorstep.

"I guess I could say on behalf of all of us that nothing we can do can be an adequate response to the agony we've seen," Clinton said at a news conference at the Reliant Arena. "The reason we decided to do this, not that we think the governments won't do their part, is we need to have a fund where we can fill in the blanks and help people who otherwise will be totally overlooked," he said. "A lot of people, they have no cars, no homes, nothing."

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A dozen members of Congress and local and state officials sat on chairs below the podium, among them former first lady Barbara Bush, Sen. Hillary Rodham Clinton (D-N.Y.), Sen. Barack Obama (D-Ill.) and Texas Gov. Rick Perry (R). In the exhibit hall a floor below, more than 4,000 evacuees were waking up on cots to another day of uncertainty in one of Houston's newest shelters.

The Bush-Clinton Katrina Fund will serve as an umbrella for special funds established by the governors of Louisiana, Mississippi and Alabama to assist those displaced in their states and will focus on collecting donations to assist in the long-term recovery plan for areas devastated by the storm, officials said.

The former presidents said they hope to step in where government and relief agencies leave off. "The fund will take the outpouring of generosity to the next level," Bush said.

That outpouring has already been substantial. The Chronicle of Philanthropy reported yesterday that $487 million has been raised in the aftermath of Hurricane Katrina. Corporate donations already were pouring in, including $20 million from Wal-Mart and the Walton Family Foundation, Bush and Clinton said.

With the administration facing public criticism for a slow response to the crisis, there was no sign of friction between the president's father and Clinton. When asked to comment on the criticism of President Bush, his father said: "We can always blame somebody else -- that's one of the things you do after a football game, figure out what went wrong. We're trying to make things better."

Later, on CNN, Clinton said of the hurricane response: "Our government failed those people in the beginning, and I take it now there is no dispute about it. One hundred percent of the people I've talked to here recognize that it was a failure, and I personally believe that there should be a serious analysis of it."

The Red Cross said it has logged 75,000 names on its online registry of hurricane victims staying at shelters in Texas and other states, a database created to help reunite splintered families.

Spokeswoman Tara Lynch also said that the organization has received an unprecedented $404 million in donations as of yesterday morning, much of it from online and telephone donations. She said the agency has opened more than 470 shelters in 12 states and is now helping hurricane victims in 30 states.

Clinton Is An Unexpected Partner In The Hurricane Effort (NYT)

By Adam Nagourney And John M. Broder

The New York Times, September 6, 2005

WASHINGTON, Sept. 5 - As President Bush and administration officials fanned out across the Gulf Coast in the White House's campaign to deal with criticism that they had failed in managing the tragedy of Hurricane Katrina, there was one unexpected face in their crowd on Monday: former President Bill Clinton.

Mr. Clinton was at Reliant Center next to the Astrodome in Houston, where about 3,800 homeless New Orleans residents had decamped, standing next to former President George Bush as they announced the creation of the Bush-Clinton Katrina Fund to help hurricane victims. After that, the two former presidents, along with Senator Hillary Rodham Clinton, toured the shelter, while President Bush visited storm-struck areas of Mississippi and Louisiana, providing a flow of television images suggesting a concerned White House on the march.

Mr. Clinton's visit to the Houston shelter on Monday is the latest time the former president has come to the current president's aid in his second term, from early in the year when Mr. Bush was criticized for his slow response to the tsunami, to initially defending the administration's response to Hurricane Katrina at the White House last week, to praising the credentials of Judge John G. Roberts Jr., Mr. Bush's choice for the Supreme Court. And it offered what many Democrats described as a vivid, if slightly disconcerting, insight into the complicated and increasingly transactional relationship between the Bush and Clinton families.

While officials in both parties said they had no doubt that both men were first and foremost intent on helping Americans, they also took note of the web of political benefits spun by this burgeoning alliance. It helps Mr. Bush during the roughest time of his presidency, Mr. Clinton as he tries to establish himself as a respected and admired former president and Mrs. Clinton as she potentially prepares to run for president in 2008.

For President Bush, Mr. Clinton's agreement to a request by the White House chief of staff, Andrew H. Card Jr., to join former President Bush in their second fund-raising project could hardly have been better timed. One of the crucial elements of a White House strategy to help Mr. Bush recover from the rounds of criticism he received in the wake of the disaster in New Orleans was to present him as above politics, and to avoid any kind of political entanglements with Democrats.

"It definitely helps Bush," said Douglas Sosnik, who was White House political director under Mr. Clinton. "Given what has happened to Bush in the last six or seven days, there is not a single aspect of this crisis at all that can be positive to Bush. So anything he can do to get politics out of this - given how vulnerable he is politically - the better for him."

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At the same time, the political benefits for the former president and Mrs. Clinton were at least as striking. Mr. Clinton has been engaged in a campaign to establish himself as a respected force in American life after a rather messy departure from the White House, using his foundation for prominent work in the fight against AIDS in Africa.

He is also trying to be less polarizing than he was when he left the White House, an effort to become less of a political weight if, as expected, Mrs. Clinton runs for president, friends said. The presence of Mr. Clinton next to Mr. Bush will make it that much harder, some Democrats said, for Republicans to attack the Clintons.

"Isn't it interesting that Bush realizes he's in trouble and he has to phone President Clinton for cover?" said Bob Mulholland, a Democratic leader from California. "Bush is standing next to President Clinton for cover. You've got all these photos of President Clinton with both Bushes. It's hard for a Republican in the national arena to be attacking the Clintons with these kind of images out there."

White House officials did not respond to a request for comment.

Mr. Clinton's spokesman, Jay Carson, said of Mr. Clinton's involvement: "In a time of crisis like this, it is President Clinton's nature to do everything he can to help victims. His involvement is tied to nothing other than to help the tens of thousands of victims of the hurricane."

Still, the situation was complicated Monday. Mr. Clinton seemed to be struggling to be diplomatic in talking about the administration's response to the hurricane damage. He told CNN that "we failed once, but we don't want to fail a second time." But at times he seemed to be following the political directions of the White House in deferring questions about the past and turning them into questions about the future.

"It's an appropriate thing to look into, but not at this time - they're still finding bodies there," Mr. Clinton said in Houston.

By contrast, Mrs. Clinton was fierce in denouncing the administration, particularly for budget cuts it made to the Federal Emergency Management Agency.

"It was basically taken apart and denied funding," she said. Mrs. Clinton, in an interview, disputed the suggestion that her husband was joining hands with Mr. Bush and Mr. Bush.

"He is no longer in politics," she said. "He is a former president with an enormous amount of influence and just as during the tsunami, he is willing to serve his country. He has expressed strong feelings about the way this has been handled. My role is different. I'm on the front lines dealing with these issues day to day."

In Europe, High-Tech Flood Control, With Nature's Help (NYT)

By William J. Broad

The New York Times, September 6, 2005

On a cold winter night in 1953, the Netherlands suffered a terrifying blow as old dikes and seawalls gave way during a violent storm.

Flooding killed nearly 2,000 people and forced the evacuation of 70,000 others. Icy waters turned villages and farm districts into lakes dotted with dead cows.

Ultimately, the waters destroyed more than 4,000 buildings.

Afterward, the Dutch - realizing that the disaster could have been much worse, since half the country, including Amsterdam and Rotterdam, lies below sea level - vowed never again.

After all, as Tjalle de Haan, a Dutch public works official, put it in an interview last week, "Here, if something goes wrong, 10 million people can be threatened."

So at a cost of some $8 billion over a quarter century, the nation erected a futuristic system of coastal defenses that is admired around the world today as one of the best barriers against the sea's fury - one that could withstand the kind of storm that happens only once in 10,000 years.

The Dutch case is one of many in which low-lying cities and countries with long histories of flooding have turned science, technology and raw determination into ways of forestalling disaster.

London has built floodgates on the Thames River. Venice is doing the same on the Adriatic.

Japan is erecting superlevees. Even Bangladesh has built concrete shelters on stilts as emergency havens for flood victims.

Experts in the United States say the foreign projects are worth studying for inspiration about how to rebuild New Orleans once the deadly waters of Hurricane Katrina recede into history.

"They have something to teach us," said George Z. Voyiadjis, head of civil and environmental engineering at Louisiana State University. "We should capitalize on them for building the future here."

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Innovations are happening in the United States as well. California is experimenting with "smart" levees wired with nervous systems of electronic sensors that sound alarms if a weakening levee threatens to open a breach, giving crews time to make emergency repairs.

"It's catching on," said William F. Kane, president of Kane GeoTech Inc., a company in Stockton, Calif., that wires levees and other large structures with failure sensors. "There's a lot of potential for this kind of thing."

While scientists hail the power of technology to thwart destructive forces, they note that flood control is a job for nature at least as much as for engineers. Long before anyone built levees and floodgates, barrier islands were serving to block dangerous storm surges. Of course, those islands often fall victim to coastal development.

"You'll never be able to control nature," said Rafael L. Bras, an environmental engineer at the Massachusetts Institute of Technology who consults on the Venetian project. "The best way is to understand how nature works and make it work in our favor."

In humanity's long struggle against the sea, the Dutch experience in 1953 was a grim milestone. The North Sea flood produced the kind of havoc that became all too familiar on the Gulf Coast last week. When a crippled dike threatened to give way and let floodwaters spill into Rotterdam, a boat captain - like the brave little Dutch boy with the quick finger - steered his vessel into the breach, sinking his ship and saving the city.

"We were all called upon to collect clothes and food for the disaster victims," recalled Jelle de Boer, a Dutch high school student at the time who is now an emeritus professor of geology at Wesleyan University. "Cows were swimming around. They'd stand when they could, shivering and dying. It was a terrible mess."

The reaction was intense and manifold. Linking offshore islands with dams, seawalls and other structures, the Dutch erected a kind of forward defensive shield, drastically reducing the amount of vulnerable coastline. Mr. de Haan, director of the water branch of the Road and Hydraulic Engineering Institute of the Dutch Ministry of Transport, Public Works and Water Management, said the project had the effect of shortening the coast by more than 400 miles.

For New Orleans, experts say, a similar forward defense would seal off Lake Pontchartrain from the Gulf of Mexico. That step would eliminate a major conduit by which hurricanes drive storm surges to the city's edge - or, as in the case of Katrina, through the barriers.

The Dutch also increased the height of their dikes, which now loom as much as 40 feet above the churning sea. (In New Orleans, the tallest flood walls are about half that size.) The government also erected vast complexes of floodgates that close when the weather turns violent but remain open at other times, so saltwater can flow into estuaries, preserving their ecosystems and the livelihoods that depend on them.

The Netherlands maintains large teams of inspectors and maintenance crews that safeguard the sprawling complex, which is known as Delta Works. The annual maintenance bill is about $500 million. "It's not cheap," Mr. de Haan said. "But it's not so much in relation to the gross national product. So it's a kind of insurance."

The 1953 storm also pounded Britain. Along the Thames, flooding killed more than 300 people, ruined farmland and frightened Londoners, whose central city narrowly escaped disaster.

The British responded with a plan to better regulate tidal surges sweeping up the Thames from the North Sea. Engineers designed an attractive barrier meant to minimize interference with the river's natural flow. It went into service in 1982 at Woolwich, about 10 miles east of central London.

Normally, its semicircular gates lie flush to the riverbed in concrete supporting sills, creating no obstacle to river traffic. When the need arises, the gates pivot up, rising as high as a five-story building to block rising waters. The authorities have raised the Thames barrier more than 80 times.

In Venice, the precipitating event was a 1966 flood that caused wide damage and economic loss. The upshot was an ambitious plan known as the Moses Project, named after the biblical parting of the Red Sea. Its 78 gargantuan gates would rest on the floor of the Adriatic Sea and rise when needed to block dangerous tidal surges.

Long debate over the project's merits repeatedly delayed the start of construction until May 2003. Opponents claim that the $4.5 billion effort will prove ineffective while threatening to kill the fragile lagoon in which Venice sits. In theory, the gates are to be completed by 2010.

"People fight doing things like this," said Dr. Bras, of M.I.T. "But when disaster strikes you realize how important it is to think ahead."

Planners did just that in Bangladesh after a 1991 hurricane created huge storm surges that killed more than 130,000 people. World charities helped build hundreds of concrete shelters on stilts, which in recent storms have saved thousands of lives.

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In Japan, a continuous battle against flooding in dense urban areas has produced an effort to develop superlevees. Unlike the customary mounds of earth, sand and rock that hold back threatening waters, they are broad expanses of raised land meant to resist breaks and withstand overflows.

The approach being tried in California relies on a technology known as time-domain reflectometry. It works on the same principle as radar: a pulse of energy fired down a coaxial cable bounces back when it reaches the end or a distortion, like a bend or crimp.

Careful measurement of the echoes traveling back along the cable can disclose serious distortions and danger. Dr. Kane, of Kane GeoTech, has installed such a system in the Sacramento River delta, along a levee that is threatening to fail.

Could such a system have saved New Orleans? "It would have given them more information," said Charles H. Dowding, a top expert on the technology at Northwestern University. "The failure of a levee would have been detected." But experts say it is still unclear whether such a warning would have been enough to prevent the catastrophic breaches.

Dr. Bras says sensor technologies for detecting levee failure hold much promise. But he adds that less glamorous approaches, like regular maintenance, may be even more valuable, since prevention is always the best cure.

"We have to learn that things have to be reviewed, revised, maintained and repaired as needed," he said. "To see a city like New Orleans suffer such devastation - some of that was preventable."

He added that no matter how ambitious the coastal engineering, no matter how innovative and well maintained, the systems of levees, seawalls and floodgates were likely to suffer sporadic failures.

"Nature will throw big things at us once in a while," he said. "There's always the possibility that nature will trump us."

Time For A Tough Question: Why Rebuild? (WP)

By Klaus Jacob

The Washington Post, September 6, 2005

It is time to swim against the tide. The direction of public discourse in the wake of Katrina goes like this: First we save lives and provide some basic assistance to the victims. Then we clean up New Orleans. And then we rebuild the city. Most will rightly agree on the first two. But should we rebuild New Orleans, 10 feet below sea level, just so it can be wiped out again?

Some say we can raise and strengthen the levees to fully protect the city. Here is some unpleasant truth: The higher the defenses, the deeper the floods that will inevitably follow. The current political climate is not conducive to having scientific arguments heard before political decisions are made. But not doing so leads to the kind of chaos we are seeing now.

This is not a natural disaster. It is a social, political, human and -- to a lesser degree -- engineering disaster. To many experts, it is a disaster that was waiting to happen. In fact, Katrina is not even the worst-case scenario. Had the eye of the storm made landfall just west of the city (instead of to the east, as it did) the wind speeds and its associated coastal storm surge would have been higher in New Orleans (and lower in Gulfport, Miss.). The city would have flooded faster, and the loss of life would have been greater.

What scientific facts do we need before making fateful political, social and economic decisions about New Orleans's future? Here are just two:

First, all river deltas tend to subside as fresh sediment (supplied during floods) compacts and is transformed into rock. The Mississippi River delta is no exception. In the early to mid-20th century, the Army Corps of Engineers was charged with protecting New Orleans from recurring natural floods. At the same time, the Corps kept the river (and some related canals) along defined pathways. These well-intended defensive measures prevented the natural transport of fresh sediments into the geologically subsiding areas. The protected land and the growing city sank, some of it to the point that it is now 10 feet below sea level. Over time, some of the defenses were raised and strengthened to keep up with land subsidence and to protect against river floods and storm surges. But the defenses were never designed to safeguard the city against a direct hit by a Category 5 hurricane (on the Saffir-Simpson scale) or a Category 4 hurricane making landfall just west of the city.

Second, global sea levels have risen less than a foot in the past century, and will rise one to three feet by the end of this century. Yes, there is uncertainty. But there is no doubt in the scientific community that the rise in global sea levels will accelerate.

What does this mean for New Orleans's future? Government officials and academic experts have said for years that in about 100 years, New Orleans may no longer exist. Period.

It is time to face up to some geological realities and start a carefully planned deconstruction of New Orleans, assessing what can or needs to be preserved, or vertically raised and, if affordable, by how much. Some of New Orleans could be transformed into a "floating city" using platforms not unlike the oil platforms offshore, or, over the short term, into a city of boathouses, to allow floods to fill in the 'bowl' with fresh sediment.

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If realized, this "American Venice" would still need protection from the worst of storms. Restoration of mangroves and wetlands between the coast and the city would need to be carefully planned and executed. Much engineering talent would have to go into anchoring the floating assets to prevent chaos during storms. As for oil production, refining and transshipment facilities, buffer zones would have to be established to protect them from the direct onslaught of coastal storm surges.

Many ancient coastal cities of great fame have disappeared or are now shells of their former grandeur. Parts of ancient Alexandria suffered from the subsidence of the Nile delta, and earthquakes and tsunamis toppled the city's famed lighthouse, one of the "Seven Wonders of the Ancient World."

It is time that quantitative, science-based risk assessment became a cornerstone of urban and coastal land-use planning to prevent such disasters from happening again. Politicians and others must not make hollow promises for a future, safe New Orleans. Ten feet below sea level and sinking is not safe. It is time to constructively deconstruct, not destructively reconstruct.

The writer, a geophysicist, is an adjunct professor at Columbia University's School of International and Public Affairs. He teaches and does research on disaster risk management.

'Destroyed' City Clears Out (USAT)

By Patrick O'driscoll

USA Today, September 6, 2005

NEW ORLEANS — An evacuation of this city of 460,000 people was largely complete Monday, though National Guardsmen and Army troops continued searching homes for survivors of Hurricane Katrina — and for an unknown number of dead.

"We have advised people that this city has been destroyed," Deputy Police Superintendent W.J. Riley said. "There is nothing here for them and no reason for them to stay: no food, no jobs, nothing."

There were signs of progress amid the devastation. Repairs were completed on two flood walls that broke last week and allowed floodwaters to gush into New Orleans. Water levels had dropped 1 foot after a day of pumping. Electricity had been restored to some areas.

And for the first time since Katrina struck a week ago, some residents were allowed back into the flooded area to check on their homes. "It's all about salvaging what we can today," said David Jackson, an insurance agent who made it in to Metairie by canoe to retrieve clothes, documents and wedding photos.

Mayor Ray Nagin said the number of deaths in his city could reach 10,000. That would make Katrina the nation's deadliest natural disaster. No state or federal agency has issued an estimate of the death toll, however. The official count of the dead in the five states most directly affected by Katrina stood at 234.

Across the nation, more than a half-million people displaced by the hurricane were trying to restart their lives in strange surroundings. At least 240,000 were in Texas, where Gov. Rick Perry said no more could be accommodated. The American Red Cross said it was caring for 135,000 survivors in 14 states.

In Louisiana, more than 50,000 active-duty and National Guard troops in helicopters, boats and trucks joined in a house-by-house search, plucking survivors from rooftops and locating those who perished. Bodies floated in canals and lay on highways.

Nagin said it could be three months before the city is truly habitable, but that results were beginning to be seen. "We're starting to make the kind of progress that I kind of expected earlier," he said.

The coordinator of military troops in Louisiana said order had been restored to the city, and he lashed out at suggestions that troops could not get food and rescuers to people because of a lack of cooperation between federal and local officials.

"That's B.S.," said Lt. Gen. Russel Honore, commander of Joint Task Force Katrina. "There is no red tape."

President Bush returned to the Gulf Coast areas hit by the disaster for the second time in four days. At a stop in Baton Rouge, Bush said all levels of the government were doing their best.

"Where it's not going right, we're going to make it right," he said. "This is one of these disasters that will test our soul and test our spirit, but we're going to show the world once again that not only can we survive but we will be stronger … for it."

Louisiana Gov. Kathleen Blanco, who has declined Bush's offer of a federal takeover of the relief operation, denied talk of a rift between officials of the governments involved in the effort. "There is no divide. We're all in this together," she said.

Meanwhile, the price of gas tied a record in the face of reduced Gulf of Mexico oil production. The national average for regular-grade gas on Monday hit $3.057 a gallon, according to AAA. Adjusted for inflation, that matches the record of $1.417 in March 1981.

2 Orleans Levees Closed (WT/AP)

By Doug Simpson, Associated Press

DOJ_NMG_0002947

The Washington Times, September 6, 2005

METAIRIE, La. -- Residents of this suburb were allowed to return home briefly to gather possessions as floodwaters started to recede yesterday, and New Orleans' mayor struck a note of optimism as engineers repaired the city's levees.

Almost a third of New Orleans' police force was missing in action, but a caravan of law-enforcement vehicles from across the nation poured into the city to help establish order.

Late yesterday, the Army Corps of Engineers announced that it had repaired two of the city's levees, including the 200-foot-wide breach on the 17th Street Canal. But officials warned that it might take weeks to pump floodwaters from the city.

For the first time in the week since Hurricane Katrina devastated the area, New Orleans Mayor C. Ray Nagin sounded upbeat about the recovery effort.

"We have more troops arriving, so we're starting to make the kind of progress that I kind of expected earlier," Mr. Nagin said.

In suburban Jefferson Parish, a line of cars stretched for miles, as many of the 460,000 residents got their first look at the destruction since being ordered to leave two days before the storm. The towns of Metairie and Kenner suffered heavy flooding, and thousands of homes were damaged.

Katharine Dastugue was overjoyed to find that floodwaters had gone across her lawn but stopped just inches from her doorstep. As she stood waiting for a boat to take her in, she made a list of things she hoped to salvage before being forced to leave again tomorrow.

"If I can just get my kids' baby photos," she said. "You can't replace those."

Estimates of the human toll of the storm were not known, but Mr. Nagin warned yesterday on NBC's "Today" show that "it wouldn't be unreasonable to have 10,000" dead in New Orleans alone.

So far, Louisiana officials have counted 59 deaths from the storm. In Mississippi, officials said Katrina killed 160.

Near Baton Rouge, La., officials opened an emergency morgue with the capacity to hold 5,000 bodies. Officials told Reuters news agency that the facility, installed in a warehouse in St. Gabriel, would be able to process 144 bodies a day with a staff of 100 working in shifts around the clock.

In New Orleans, the mayor said the city had the authority to force residents to evacuate but didn't say whether it was taking that step. Mr. Nagin did, however, say that drinking water will no longer be handed out to residents who refuse to leave.

President Bush yesterday paid his second visit to Louisiana, where he was greeted by an open letter in the New Orleans Times-Picayune, the state's largest newspaper, that called on him to fire every official at the Federal Emergency Management Agency (FEMA).

Meanwhile, the arrival of police reinforcements provided relief to New Orleans' exhausted force. As many as 500 officers on the city's 1,600-member force were unaccounted for, police officials said.

"Some simply left because they said they could not deal with the catastrophe," said Deputy Police Chief W.J. Riley. Officials said officers were being cycled off duty and given five-day vacations in Las Vegas and Atlanta, where they would receive counseling.

Police Superintendent Eddie Compass denied that officers deserted in droves, acknowledging that some officers abandoned their jobs but saying he didn't know how many. Two police officers killed themselves. Another was shot in the head.

Mr. Compass said 150 had to be rescued from 8 feet of water and others had gotten infections from walking through contaminated floodwaters in New Orleans.

"No police department in the history of the world was asked to do what we were asked," Mr. Compass said.

As law-enforcement officials and volunteers search the city for survivors, they encountered a familiar obstacle -- people who have been trapped more than a week in damaged homes yet refused to leave.

"We have advised people that this city has been destroyed," said Deputy Chief Riley, who estimated that fewer than 10,000 residents were still in New Orleans. "There is nothing here for them and no reason for them to stay, no food, no jobs, nothing."

After sheets of metal and repeated helicopter drops of 3,000-pound sandbags succeeded in plugging the gap in the 17th Street Canal, the Corps of Engineers began pumping water back into Lake Pontchartrain. Floodwaters in the city were already receding yesterday, with the low-lying 9th Ward dropping more than a foot.

In Metairie, many residents were happy that the storm spared their homes, but angry that the failure of the levee system left them swamped.

"That's what so devastating, that ... levee breaking," said Bobby Patrick, a resident of the neighborhood now living in Houston. "My home didn't lose a shingle, but it's got six feet of water in it."

DOJ_NMG_0002948

Since the storm, rumors had swirled that looters from New Orleans had begun breaking into evacuated homes in Jefferson Parish. Many were relieved to return home yesterday to find their belongings untouched -- and police checkpoints on every major street corner with ID checks for parish residents.

Along with survivors returning to survey the damage to their homes, the roads into the storm-struck region were jammed with volunteers bringing relief.

FEMA has urged Americans to contact nonprofit organizations if they want to volunteer or donate. But some volunteers insisted on independent action.

On Friday, Gary Maclaughlin of Santa Cruz, Calif., flew to Nashville, Tenn., where he bought a used school bus for $2,000. He used his credit card to buy $1,500 worth of diapers, bottled water, granola bars and peanut butter crackers. By Sunday evening, he was driving loads of evacuees from the New Orleans airport to a rescue shelter in Covington, La.

Water, Water Everywhere (WSJ)

By Ann Carrns, Kris Hudson And Dionne Searcey

The Wall Street Journal, September 6, 2005

Hurricane Katrina submerged New Orleans and quickly moved on, but draining the historic, low-lying city will be a daunting job sure to go on for weeks, or more likely, months to come.

Officials with the U.S. Army Corps of Engineers, which is in charge of repairing the levees, are balking at putting a firm time frame -- or price tag -- on the drainage effort, saying the situation is dynamic and too many variables remain.

Over the weekend, portable pumps began arriving to supplement the city's existing network of permanent pumping stations, known as some of the most powerful in the world. An official with the Corps of Engineers' Mississippi Valley division said at a briefing Sunday in Baton Rouge that it could take between one to three months to drain the water, after all the pumps are operational.

But before the pumps could be used, engineers had to find a way to close several serious breaches in the system of levees and floodwalls meant to protect the city from massive Lake Pontchartrain to the north and the Mississippi River to the south. Otherwise, the water pumped out could flow back into the city.

A storm surge from Hurricane Katrina blew at least five big holes in the levees, inundating New Orleans and some adjoining areas with water a week ago. The levee system was designed to withstand no more than a category-three storm, and Katrina made landfall near New Orleans as a powerful category-four hurricane, overwhelming the system.

Officials said they had had plans in place to repair levees in the event of a breach but added that it's difficult to prepare for the exact conditions and location of a given rupture. The devastation also made it difficult to move repair materials into place.

Flooding nearly obscured a street sign near the 17th Street Canal breach.

"I don't know if you ever anticipate anything to be breached," Al Naomi, an official with the Corps of Engineers in New Orleans, said in a conference call with reporters on Friday. But if a storm hits that exceeds the system's design capacity, "You're going to have problems of some type, whether a breach or overtopping." In response to a question about whether anything was done to fortify levees in the days leading up to storm, Mr. Naomi said: "There's not much you can do in 24 hours, or in 48 hours, to make that situation any better."

By Monday, work was complete on repairs at the 17th Street Canal, which runs along the city's western border and drains into Lake Pontchartrain. Contractors had partially sealed off the canal's entrance to the lake by driving huge sheets of metal into the canal's base.

Work also was completed on repair of the actual breach -- located on the canal's eastern floodwall -- by dumping giant sandbags into it. Once the canal's pumps are working reliably, part of the steel sheets at the canal's entrance will be removed, so that pumped water can flow freely out of the canal into the lake.

At the same time, efforts were under way Monday to restart a major pumping station located near the canal along Interstate 10, which in normal times pumps rainwater out of the city and into the 17th Street Canal. "Now the job at hand is to get the pump station back working, so it can do its job," said Greg Breerwood, deputy district engineer for project management with the Corps of Engineers in New Orleans, in a telephone interview. But work was expected to proceed cautiously to prevent overloading the pumps and further destabilizing the damaged floodwalls. "We're taking it real slow," said Mr. Breerwood.

At 4:10 p.m. Monday, Col. Rich Wagenaar of the Corps of Engineers ordered that one of the main pumps be started at a station along the 17th Street Canal. If the pump keeps running, and the breach plug holds, the draining of New Orleans is under way. "We want to move water," Col. Wagenaar said.

At the London Avenue Canal, where two major breaches occurred, the mouth -- where the canal empties into Lake Pontchartrain -- has been closed off. But the pump on that canal can't be turned on until the breach itself is repaired, and plans for fixing that aren't finalized.

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Work has yet to begin on repairing two more breaches along the Industrial Canal, on the city's eastern border, because crews can't get there yet. Contractors have been hired to remove debris that blocks access to the canal.

The Industrial Canal breaches, believed to have occurred in the early hours of the hurricane on Monday, Aug. 29, inundated low-lying neighborhoods in the eastern part of New Orleans and adjoining areas. Water from those neighborhoods has been draining on its own, flowing back through the breach into the canal.

Farther to the east of New Orleans, in flooded St. Bernard Parish, and to the southeast, in Plaquemines Parish, the Corps of Engineers hired contractors to make new breaches in levees over the weekend, to help drain the area. Pumps were assisting the drainage in St. Bernard, but not in Plaquemines due to high water, officials at the Sunday briefing said.

By Boat Through A Water World (WP)

By Manuel Roig-franzia

The Washington Post, September 6, 2005

NEW ORLEANS, Sept. 5 -- The bad places stink. Musty. Gassy. Spoiled and rotting.

It's the smell of the swamp. And New Orleans is a swamp now, transformed in just eight days from the funkiest of gems into a wild place, a place of black waters, snakes, and spooky, echoing abandonment. Fires burn throughout the city on the surface of oil-slicked water that reaches -- with its spreading algae -- up to the streetlights in some neighborhoods.

There are entire swaths of New Orleans where no one can go without a boat, or hip waders, or foolish courage. But a few go anyway, searching for stranded pets or stranded neighbors, or both. The city -- the worst parts, at least, the deeply flooded east -- is best approached by water.

On the choppy surface of Pontchartrain, the giant lake that poured into the streets with such persisting ferocity, New Orleans looks like a walled medieval city. The huge levees built to keep water out now keep water in.

Edging along the giant lake's shore and poking through myriad canals reveal a netherworld of destruction and vigilantism in some of the city's toughest-to-reach sectors. To the west, a man with a shotgun guarded condominiums at the shredded Orleans Marina. Farther down the shore, a stockbroker slogged through waist-high water, carrying a whimpering pit bull. Way out east, a Catholic-Buddhist-transcendentalist prayed at an altar and took instructions from her long-dead father.

At a boat launch just west of the city, Mike Fitzpatrick wanted what everyone here wanted: a boat ride to get to his guns. He was lucky. He hopped into a little flatboat with a small group of reporters and pointed down the shore toward the smoldering Orleans Marina, where his cache of weapons lay hidden.

The ride took him past the Southern Yacht Club, on the city's western edge. It is charred, a blackened skeleton, overlooking a point pushing into Lake Pontchartrain where New Orleans teenagers would go to make out, using the code words that they were "off to watch the submarine races." Fitzpatrick, a riverboat pilot who people around here call a "Y'at" -- shorthand for the city's signature greeting, "Where y'at?" -- shook his head and grabbed for a ringing cell phone.

"It sunk?" he said to a fellow boat owner, floating past sailboats tossed onto decks and laid out like fallen dominoes. "Was it insured? Ah, good."

Across the marina from Fitzpatrick's place, a 30-foot yacht perched perfectly on top of pilings, 10 feet above the waterline. It was an incredible sight. A storm that treated New Orleans so roughly seemed to lift this boat into the air and then put it down with the most gentle touch -- barely harmed.

Not far away, heavy helicopters ferrying 7,000-pound duffel bags full of sand thundered down to the 17th Street Canal -- the great villain of Hurricane Katrina, with its 500 feet of broken levee that allowed thousands of homes to be engulfed before the gap was closed Monday.

Watching from a nearby bridge, Kenny Crumholt, a resident engineer with the Army Corps of Engineers, remembered the first sandbags dropped in days ago, the ones that disappeared beneath the surface, demonstrating the depth of the chasm. "We would drop them and they would sink," Crumholt said. "We were getting aggravated."

Along the canal, the fortunate -- the ones who live on the opposite side of the levee break, the ones whose houses are dry -- have built ladders out of old crates to watch the progress, or lack thereof. "If this would have broke on our side, it would have been all over for us," Sherry Blue said.

About a mile down shore, Renee Pastor -- a fast-talking redhead with a stubborn streak -- floated into the Orleans Outfall Canal on a rumbling powerboat for a rescue mission. She had to save her dogs left behind by an evacuating pet sitter, and she had to find Mr. McCobb, an elderly neighbor gone missing.

Pastor brought help -- serious help. Dale Coon, sunburned and sporting a barbed-wire tattoo on his left arm, stepped out of her boat and climbed up the canal levee, stuffing a .38 Special and .357 magnum into his pants front.

"That's one good thing about being from a family of rednecks," Pastor said. "Everybody's got guns."

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After Pastor and Coon waded through a street turned pond to collect her bulldog, Chance, and her chubby Labrador, Max, they set off to find Mr. McCobb. Pastor's neighborhood of million-dollar homes, all backing up to a private park, was covered with foul, inky water. The rotten-egg stench of broken gas mains scented their slog past the oil fire, the house burned to its foundation, the submerged park, the BMW flooded to its rooftop.

Her house -- just renovated with pricey Asian flourishes -- sits on a virtual island neighborhood called Lake Vista, bounded on three sides by Lake Pontchartrain, Bayou St. John and the Orleans Canal. Pastor carried a slip of paper with an address, but navigating streets she once knew so well became a series of stops and starts. The water contorted all perceptions, toyed with her sense of direction.

"Go left, big ol' snake there," Coon called out.

The little rescue party, wearing the post-Katrina fashion statement of plastic pants with bootees that go over their shoes and suspenders, veered quickly. Water moccasins, among the deadliest of snakes, have been spotted in the city, and no one wanted to wait around to see if this was one of them.

The snake detour took them to a little white, wooden house. Pastor made everyone stop. "He might be hiding in there with a gun," she said.

"Hellooooo! We're here to help you. Don't shoot," she said, easing toward the house.

Coon turned detective.

"He ain't gone," he said. "Look."

In the driveway lay a survivalist's arsenal: two transistor radios, a cell phone, a half-empty bottle of Napa Valley zinfandel, tobacco, a pipe and some blackberry soda.

Coon stooped and picked up four shiny cylinders: shells from a .22 magnum. "Ain't been long since this been shot," he said, drawing a deep whiff. "He ain't gone. He's hiding. Freaked out. Scared."

Pastor yelled out again: "I'm coming in. Don't shoot. Don't shoot."

Inside the house, her calls went unanswered. Two guns and a pile of knives sat on a table by the door. But no Mr. McCobb.

Thousands Return To Jefferson Parish (LAT)

By David Zucchino

The Los Angeles Times, September 6, 2005

GRETNA, La. — When she saw the ruins of her beloved garden and realized that her prized koi had died in their own pond, Helene Dinh let out a tiny sob, then fell into the arms of her son-in-law.

"Oh, my fish . . . oh, oh, oh," she said, and the tears came.

Dinh, a tiny, spare woman of 61, had forced herself to return at dawn today to her brick ranch house in sprawling Jefferson Parish on New Orleans' southern edge. She had fled just before the parish was lashed by winds and floodwaters from Hurricane Katrina. Now, she said, she wished she had never made the trip back.

"It hurts so much to see this," she said, staring at a tree that had slammed down across her frontyard.

Dinh was among tens of thousands of parish residents allowed to inspect their homes for the first time since the hurricane struck one week earlier. Thousands came supplied with coolers crammed with food and water to sustain them until Thursday, when parish sheriff's deputies will force everyone to leave again.

The parish's temporary return offer, which was criticized by some parish officials as too dangerous, began at 6 a.m. sharp, when police removed cruisers that had blocked a four-lane highway at the western edge of the parish. An estimated 20,000 to 30,000 returning residents, most of whom slept in their cars on the highway Sunday night, sped into the township in a race to their homes that resembled a 19th century land rush.

Swerving past toppled trees and downed power lines, most found their homes intact. The parish, the second largest in the state with 480,000 residents, was spared the widespread flooding that left more than 80% of adjacent New Orleans underwater. About 15% of the parish was flooded, said parish Councilman Chris Roberts.

Although some homes are underwater, Roberts said, most are intact. Thousands lost sections of roofs and siding, and many were struck by falling trees and limbs. Electricity, phones and water have been knocked out, and stores have been looted. Even so, the scale of destruction and displacement was far less than in New Orleans.

The residents' return came as parish officials were condemning the Federal Emergency Management Agency and other national and state relief organizations for failing to offer assistance. Today, a week after Katrina hit land, the parish still has not received outside help, officials said, and is relying on municipal and volunteer assistance.

For instance, outside a Best Buy store, residents who had remained in their homes lined up today for food, water and supplies provided by a Hazard, Ky., radio station and the sheriff's department.

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The parish decided to let residents return until Thursday to check their homes and retrieve belongings so that workers can move into neighborhoods for cleanup and repairs. There is a 6 p.m. curfew each night.

One of the first to arrive back home at first light today was Mike Buclalan, 29, Dinh's son-in-law. He pulled his grey Mitsubishi Montero SUV, loaded with three dachshunds and supplies, into the driveway of his one-story home on Bonnie Ann Drive.

His wife, Marie, rushed inside, searching for their cat, Harry Potter. The animal ran across her path and she scooped him up. "He looks fine," she said. "Just a little frazzled."

The house was fine, too, for the most part. Its roof and siding were intact, though the backyard fence had been blown over. A powerful stench rose up from the meat rotting in the kitchen freezer.

"Oh, man, I'm pretty happy," Mike Buclalan said, inspecting the living room. "I'd have to say I'm pleasantly surprised. It could've been a lot worse."

The damage was worse at Dinh's home a few miles away, where water had been blown into her living room and her elaborate backyard garden was a wreck.

It was Dinh's second time as a refugee. She had come to the United States in 1975 as a refugee from Vietnam.

When her husband died in 1984, gardening had become her therapy, she said. But now her lemon and persimmon trees had been crushed. Her six dead koi were belly up in her pond, smelling strongly of decay.

She couldn't find her four cats, and she broke down again and sobbed.

But later, two of her cats, Tabby and Meow-Meow, crept into the yard. Dinh let out a cry and said, "Tabby, you came home!"

Buclalan tried to console his mother-in-law, mentioning that her orchids had survived.

"All in all, we did OK," he said. "All we asked for was four walls and a ceiling. We're lucky."

Evacuees Allowed Back, For Half A Day (USAT)

By Patrick O'Driscoll

USA Today, September 6, 2005

METAIRIE, La. — Mary Salassi rocks on the porch swing at her son Henry's house as he and his brother-in-law wade a borrowed kayak into three feet of water on West Livingston Place. Dipping wooden paddles meant for stirring a crawfish-boiling pot, they row off toward Salassi's flooded town house, several blocks away.

“I'm not going to worry about it,” she says. “You can't go back and look at what happened. You have to go forward. Like I told my children and grandchildren: You have your family.”

Salassi turned 66 a week ago, the day Hurricane Katrina demolished much of southern Louisiana and Mississippi. “They all said, ‘You're never going to forget this birthday,' ” she muses. “My life's upside down, but I will come back.”

The Salassis were among the first evacuees allowed back to the western and southern suburbs of New Orleans on Monday, having driven all the way from Houston late Sunday. Through Thursday, Jefferson Parish is opening a 12-hour window — 6 a.m. to 6 p.m. CT — for hundreds of thousands to visit their storm-tossed neighborhoods, assess damage and grab a few belongings.

Then the people of Jefferson, whose 435,000 residents make it Louisiana's second-largest parish after New Orleans, must leave. Dubbed “residents-in-exile” by parish council president Aaron Broussard, they won't be allowed home again until power, water and other key services are restored. That could take weeks. Which is better than the months it may take in parts of New Orleans next door.

Most who endured several miles of bumper-to-bumper traffic to get into Jefferson Parish early Monday found that neighborhoods were wind-blown and shredded but dry or only damp; the high waters have receded.

But in Old Metairie, an enclave amid elegantly gnarled oaks on the west doorstep of New Orleans, the murky, sewage-tinged soup is still five feet deep in places.

“We're the highest point along what's called Metairie Ridge. We're where you run to in a flood,” says Newell Normand, the parish's chief deputy sheriff. That was before a now-infamous levee on the 17th Street Canal, which straddles the Jefferson-Orleans boundary, gave way hours after Katrina passed.

“I'm told that the 17th Street Canal pump will go on today, but I've been told a lot of things over the past week that didn't work out,” adds Normand, who has been set up at an emergency command post still without power.

Old Metairie borders the canal, whose breach inundated much of New Orleans and eastern Jefferson Parish. It turned a natural occurrence of extremely bad weather into the worst disaster in U.S. history.

“It's a man mistake, not the hurricane,” Salassi says.

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Whatever the blame, residents who trickle into the neighborhood bring chain saws, boats, generators and rental trucks. Those who haven't left town drift over to a relief center at the Sam's Club parking lot off Airline Highway. National Guard troops in green camouflage have been paired with sheriff's deputies to direct traffic and keep the peace at major intersections.

Despite uncounted fallen trees and thousands of downed power lines, most returnees are able to drive home. Others have to wade or paddle.

David Jackson, an Allstate insurance agent, has come from LaPlace, La., to fetch clothes, documents and wedding photos from a house swamped with two feet of water.

"I came here in a pair of flip-flops and shorts, and my son's track coach lent me a pair of boots and a boat," says Jackson, 43. He glances down at the green rubber footwear and does a double-take. "Two left boots!" he laughs. "But right now, they're the best boots in town."

After three trips in a flat-bottomed Cajun canoe called a pirogue, Jackson loads his pickup and sets out. "It's all about salvaging what we can today," he says. "My family was the most important priority. From tomorrow on, it'll be probably 10- to 12-hour days minimum for me" as he sorts out insurance claims for his clients.

Michael Norton, a computer consultant, drove in from Austin and found two feet of water, too, and a toppled tree. "I had a contract out to take down the pecan tree in my back yard," says Norton, 38. "Too late." And it missed his house. Other homes haven't been so lucky.

Slung over Norton's shoulder is a shotgun. His friend, Dan Sanders, 38, packs a pistol on his belt. "We were expecting the worst," Sanders explains, noting reports of violence spilling out of New Orleans. After half of Oakwood Shopping Mall, on the parish's West Bank, was ransacked and torched last week, tension has spiked in the suburbs. A spray-painted sign in a West Bank neighborhood warns: "U LOOT — WE SHOOT."

But the sheriff's office says the return of residents has gone fairly smoothly. "We haven't had too many problems — yet," Normand says.

As electricity has been restored sporadically, a few older homes have caught fire, probably from old or faulty wiring, he says. More ominous: reports of carbon monoxide poisoning deaths among families who rode out Katrina and fired up gas-powered generators after losing power. "The water surrounded the houses, and they brought their portable generators inside," Normand explains.

Back in Old Metairie, Maria Maginnis, 38, sits in the cab of the family SUV, eager to leave after having been carried piggy-back by her husband, David, through waist-high water to their split-level on Atherton Drive.

"I didn't want to come," she says, dread still in her voice. She laments the condition of her house, which might not be home again for months. "All the sewage," she says. "I didn't expect that."

They first had fled to Nacogdoches, Texas, then drifted closer — first to Beaumont, Texas, then Baton Rouge, the Louisiana capital about an hour west of here. On Monday, they arrived before 3 a.m. Maria stayed in the car at first while David, with flashlight and waders, slogged down the block in the dark.

"The anxiety of seeing your house is what is driving you," David says. "I wanted to do some preliminary checks so it wouldn't be such a shock when the sun came up. Regardless of what shape you find it in, it's a relief."

After sunrise, the couple surveyed a foot of water in the house. They stayed only long enough to grab a few essentials: baseballs and bats, a football, a New Orleans Saints T-shirt, a PlayStation, children's books, and Swimmy, the pet blue fighting fish for sons Cade, 8, and Connor, 4.

"The main thing for us is the kids," explains David, 39, who works for a major Louisiana fresh-tuna supplier. "They're separated from their friends, their everyday activities, their school. The waiting list for schools is incredible."

For Maria, the visit has lasted long enough. "I don't want to come back until it's livable," she says. "I am so ready to go."

At 7:45 a.m., they were gone.

Services Providing Oil, Phones And Electric Restarting (USAT)

By Paul Davidson

USA Today, September 6, 2005

Gulf Coast oil production rigs and refineries shuttered by Hurricane Katrina began to ease their way back into operation over the holiday weekend in moves expected to help relieve U.S. price run-ups and fears of shortages.

Yet facilities generating 70% of the oil and more than half of the natural gas in the Gulf of Mexico remain closed down, the U.S. Minerals Management Service said.

And though several Gulf Coast refineries restarted or were poised to do so this week, four others that account for more than 5% of U.S. capacity were expected to remain shut for weeks or months.

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The halting progress was emblematic of the slow-but-steady rejuvenation of the infrastructure — utility lines, ports and oil pipelines — underpinning the hurricane-ravaged region.

Oil producers such as ExxonMobil are resuming production that was halted when they evacuated offshore workers in preparation for Katrina. The gulf's rich supply of 4,000 offshore oil-and-gas operations, linked to land by 33,000 miles of pipelines, account for more than 25% of U.S. oil production.

As much as 92% of the gulf's oil production was shut when the storm hit more than a week ago, helping push benchmark crude-oil futures to record prices.

Meanwhile, several key refineries were relaunching. Marathon Oil's 245,000-barrel-a-day refinery in Garyville, La., restarted last week and was expected to be at full capacity by today, company spokeswoman Linda Casey said. Motiva Enterprises' 235,000-barrel-a-day refinery in Convent, La., has restarted. Two Norco, La., facilities — a 225,000-barrel-a-day Motiva plant and a Valero Energy refinery — were to restart by midweek.

The Louisiana Offshore Oil Port, a critical facility for unloading and distributing imported crude oil on the gulf, said it's operating at about 75% of capacity after power was restored at its Clovelly, La., storage facility. It's expected to be at full capacity in a week.

But four refineries southeast of New Orleans and in Mississippi were hit more severely and it wasn't clear when they would restart. Those include Chevron's 325,000-barrel-a-day facility in Pascagoula, Miss., and ConocoPhillips' 255,000-barrel-day facility in Belle Chasse, La.

Key oil pipelines that closed down in advance of the storm are also ramping up, said the Association of Oil Pipe Lines. The Colonial Pipeline, which transports refined oil from Houston to New York City, is at 80% capacity.

Two crude-oil pipelines that run from the gulf to Illinois and from Texas to the Southeast are at 75% and 50% of capacity.

About 1 million customers in Louisiana, Mississippi and Alabama were still without power late Monday, down from 2.7 million when the hurricane struck, the Energy Department said.

Entergy has restored power to key sites in New Orleans after restarting its Market Street substation. Those include part of the French Quarter and the lights on the Crescent City Connection bridges.

“We're hoping the lighting will give people hope that the city's coming back,” company spokesman Chanel Lagarde said.

Entergy was also close to restoring power to two key water pumps so city and federal workers could begin draining the city of much of its standing water.

It will be two to four weeks before power is completely restored in outlying counties, Lagarde said. Parts of New Orleans will remain dark for months.

Gulf ports are major gateways for exports of wheat and soybeans and imports of steel, rubber and coffee, handling about 25% of U.S. cargo.

The lower Mississippi River opened during the weekend for barges or shallow-depth ships that can carry low volumes of products such as grain or coal. That means those vessels can offload materials for transfer to larger ships headed to the Midwest.

Among the reopened ports was the Port of Mobile in Alabama. But two key facilities, the Port of New Orleans and the Port of Southern Louisiana, are expected to remain closed for weeks.

About 1.1 million customers in Louisiana, Mississippi and Alabama are without service. That's down from 1.7 million after Katrina hit, BellSouth spokesman Jeffrey Battcher said.

About 90% of the outages are in hard-hit New Orleans and Gulfport, where it could take four to six months to restore service.

“We've got central offices completely destroyed,” Battcher said.

Meanwhile, Verizon Wireless, Cingular Wireless and Sprint Nextel say cellular phone service has largely been restored in the Baton Rouge, Biloxi and Jackson metropolitan areas.

Although progress has been made in New Orleans, with some cell towers operating, service is still spotty, the companies say.

Utility Crews Help Turn Lights Back On In Parts Of The Gulf Region (NYT)

By Barnaby J. Feder

The New York Times, September 6, 2005

JACKSON, Miss., Sept. 5 - Randall W. Helmick, the man whose job it is to get the lights back on in New Orleans and many other parts of Louisiana and southern Mississippi, had finally reached his limit.

So on Friday afternoon he ordered the televisions turned off in the temporary command center for Entergy, the power company for 1.1 million households and businesses that lost electricity in Hurricane Katrina. The news reports were not helping

Mr. Helmick's 100-plus-member team concentrate on coordinating the efforts of thousands of repair workers scattered over hundreds of square miles.

"The focus of the news coverage was on the disaster in New Orleans, and it was depressing and distracting people," Mr. Helmick said. "There was nothing we could do to get the power on in New Orleans, and I saw it draining people's energy."

This week the TV's are back on, but so are many more lights - over half of Entergy's affected customers by Monday evening, mainly in places well away from New Orleans. And even in New Orleans itself, the company had restored some power by nightfall Monday, including to the Convention Center, the warehouse district and the docks where cruise ships tie up. Electricity was also flowing to some parts of the French Quarter, Harrah's Casino and a few hotels near Canal Street. Entergy sent its first work crews into the city on Sunday to see how much could be restored using equipment that had not been flooded and the underground part of the network, made to withstand flooding.

But no one should expect electricity soon elsewhere in New Orleans, said Mr. Helmick, who works behind a plain table adorned with a makeshift sign, "Storm Boss."

"It will be extremely slow going because the rest is underwater or reliant on overhead distribution lines that were heavily damaged," he said. "Now we face some key decisions on whether to focus more resources on the city or the surrounding areas."

Working from an Entergy training center in Jackson, 180 miles north of New Orleans, Mr. Helmick does not want or expect his colleagues to ignore the plight of the company's home city, where Entergy's 22-story headquarters building near the Superdome is a prominent landmark. After all, he and about 1,600 Entergy employees, normally based in or near New Orleans, had to evacuate - leaving homes, relocating families - the weekend before Hurricane Katrina struck. Mr. Helmick's family is now in Baton Rouge, La., but some of his colleagues have moved theirs as far away as Atlanta.

The best thing Entergy could do for New Orleans, Mr. Helmick said, was to restore service as quickly as possible to cities like Jackson and Baton Rouge that have been absorbing refugees. That recovery approach follows traditional utility practice: focus on restoring vital public services where possible and otherwise rebuild by expanding outward from the parts of the power grid still functioning.

Mr. Helmick says he thinks of himself as an air traffic controller rather than a field general. To restore Entergy's power grid as rapidly as possible, the efforts of its distribution companies in Arkansas, Louisiana, Mississippi and Texas most be coordinated with the repair of transmission lines and substations.

The amount of power Entergy generates at its plants must be carefully balanced with the network's ability to deliver it. And the effort requires management of outside resources like the thousands of temporary repair workers from other utility companies or from contractors who specialize in disaster recovery.

Although bristling with phones and PC's, Mr. Helmick's improvised command center belies the years of thought and practice behind Entergy's response. Not only had the company rehearsed its hurricane plan in April, as it does every year, but it had specifically practiced for a storm landfall near New Orleans.

On Saturday, Aug. 27, the day before the storm bore down on New Orleans, more than half the employees in the city were told via e-mail and Web notices not to come to work on Monday and to take whatever steps were necessary to protect their families.

Most of the rest were told to leave the city but stay in touch. The core group of storm managers went to Jackson while other senior managers were dispatched to Baton Rouge and Little Rock, Ark.

But last spring's drills did not anticipate several realities, including the flooding in New Orleans, the civil unrest and the delays in obtaining thousands of workers from other companies, who were still repairing the damage Katrina had caused in Florida. At no time did the company dream it would become more than temporarily homeless itself, and have to determine what to do with thousands of displaced employees.

Last Sunday, Entergy acknowledged that it may be a corporate refugee for months and announced that J. Wayne Leonard, the chief executive, and other senior managers would establish temporary headquarters 10 miles west of here in Clinton, Miss. Entergy is moving to the posh campus that was the headquarters of the telecommunications giant WorldCom before it collapsed in an accounting scandal.

Mr. Leonard vowed to return eventually to New Orleans but said that he had no idea when that would be possible.

In some respects, Entergy has never performed better. As of Monday evening, the company had reconnected 575,000 customers - more than twice as many customers as it handled in July after a tropical storm, Cindy. The reconnected include vital oil refineries and nearly all of its major commercial customers north of New Orleans. But Katrina's impact was so much more extensive than its predecessors that more than 500,000 customers are still without power.

Those still without power include customers in rural areas where days of work may add only a few users, those too flooded to receive power and those like the refineries downriver from New Orleans where Entergy workers must traverse treacherous marshes.

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Within New Orleans, where Entergy is also the natural gas utility, the company is just beginning the painstaking and potentially hazardous task of inspecting and repairing its gas distribution network. The system is functional but is likely to have developed potentially deadly leaks.

In Jackson, where 20 percent of Entergy customers still lack power, hundreds of maintenance crews converge each night on the sprawling parking lot around the Coliseum and the adjoining exhibition center.

Inside the exhibition hall, not far from where the Red Cross provides food and clothing to refugees, Entergy's caterer serves dinner for thousands. Buses ferry the workers to the hotels, church campgrounds and other facilities in which Entergy houses the repair crews. During the weekend, more than 100 men were sleeping on cots in abandoned office cubicles of the largely empty WorldCom campus.

Entergy has hired more than 10,000 workers from other utilities and contractors, all of whom must be trained to work on its network. So far, according to Entergy, the only serious casualty has been an employee of Air2, a contractor based in Timonium, Md., who was crushed last week while handling 75-foot transmission poles.

The workers often arrive in convoys, like the 47 repair vehicles from FirstEnergy, a utility holding company in Akron, Ohio, that pulled into the Coliseum parking lot Saturday. The group arrived from Florida, where it had spent nine days repairing storm damage.

Local Entergy officials like Haley Fisackerly have been scrambling for fuel and other resources required to keep the crews working. On Friday, Mr. Fisackerly learned that a local contractor had photocopied an Entergy letter, which authorizes fuel priority for the contractor's firm, and given it to family members to help them jump gas lines. That led to a hasty redesign of the authorization form to thwart such finagling.

The need to prevent theft once fuel has been acquired is one of many reasons Entergy has found itself requiring far more security workers than anticipated. "We're all running on adrenaline," said Mr. Fisackerly. "People realize there's a worse disaster farther south, so we are trying to fend for ourselves."

According to out-of-state repair workers, that awareness has also made Entergy's customers in this region some of the most grateful they have encountered. "One guy came out and said he wanted to give me a great big hug," said Randy Myers, a contract line repairman from Wyalusing, Pa. "That's not the reception we get on Long Island."

Inside City, The Deluge Came After The Storm (USAT)

By Patrick O'Driscoll, Steve Wieberg, Peter Eisler And Rick Hampson

USA Today, September 6, 2005

Those who stayed
in New Orleans
describe initial
relief followed
by desperation

NEW ORLEANS — The fall of New Orleans was a catastrophe with an added cruelty: hours of false hope, when it seemed the city had been spared the worst, not doomed to a sodden grave.

By noon last Monday, people thought the crisis had passed; by noon the next day, they knew it had just begun.

In between came that moment of exquisite horror when each person still in the city grasped that destruction would come not by great wind or mighty wave, but by water rising inch by inch.

Deborah Caldwell, cowering in her attic, realized there was no way to go but up.

Twanda Otis looked out a second-story window and saw water a few feet below.

Pat Thomas stepped outside for a rake and found she needed a dam.

They didn't know that a 20-foot chunk had burst out of the levee along the 17th Street Canal and that Lake Pontchartrain was filling their city like a soup bowl. They did know this: It was time for fight and flight.

So Caldwell grasped her only implements of escape: an ax and a household hammer. Otis, hugging her newborn, stepped uncertainly into a wobbly boat. Thomas waded off into chest-deep water polluted with who-knew-what.

At dawn Sunday, Aug. 28, Hurricane Katrina was 24 hours from New Orleans. It was a Category 5 hurricane with sustained winds as strong as 160 mph and a potential storm surge 25 feet high — easily enough to top the levees and flood walls that keep water from the city.

For decades, engineers had feared that New Orleans' flood controls weren't sufficient to withstand anything stronger than a Category 3 hurricane. The city sat largely below sea level, surrounded by the Mississippi River, the Gulf of Mexico and Lake Pontchartrain, a huge tidal basin.

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The city was like the little pig who built his house from straw. Years ago, James Lee Witt, then director of the Federal Emergency Management Agency, had asked, “What do you do about New Orleans?”

What would New Orleans do about Katrina? About 80% of its people had left or were leaving.

This is the story of three who stayed.

Caldwell, 44, a casino employee, holed up with her family in her stilt-legged shotgun house not far from the Superdome. She was motivated by a desire to stay put and by a religious fatalism: She was a Christian. She trusted the Lord. She didn't have a problem dying, if it came to that.

Otis, 20, a cook at the Bourbon Street restaurant Remoulade, had two good reasons to leave: her baby, Richard, born seven days earlier, and her 5-year-old son, Philip. She, her children, her boyfriend and nine relatives packed into a van and tried to get out of town Sunday morning. They never made it through a snarl of traffic. Finally, they turned back.

Thomas, 62, a retired school counselor, knew that hurricanes nearly always missed the city and never flooded her Carrollton neighborhood, whose stately homes had withstood a century of storms. So she decided to stay with her dog, Ginger. On Sunday night, as Katrina closed in, she had rice and beans and a big bottle of wine with a few other neighbors who stayed behind. They were sure they could beat the storm.

That's New Orleans: Laissez les bon temps rouler. Let the good times roll.

Before dawn Monday, Katrina had weakened slightly, picking up drier air from the west, and dropped to Category 4. Even better, the storm began turning just east of New Orleans, perhaps sparing it from the worst storm surge.

About 10 a.m., Katrina passed 35 miles east of the city. Winds above 100 mph battered downtown; Pontchartrain, normally a foot above sea level, rose 3 feet. Water began spilling over some flood walls and levees, but they held.

By lunch, the worst of the storm had passed. While some neighborhoods had flooded, particularly along the south side of Pontchartrain, many areas, including the historic French Quarter, had been spared serious water damage.

“The thing we're happy about is that there wasn't as much loss of life or property damage as there might have been,” FEMA spokesman James McIntyre said. Some officials were talking about a relatively quick rebound, but McIntyre warned: “This is still a dangerous situation.”

On its website, the Army Corps of Engineers, which maintains the levees, declared: “The fact that Katrina … didn't cause more damage is a testament to the structural integrity of the hurricane levee protection system.”

Caldwell's house survived the storm. There was some water in the street Monday, but when the family retired for the evening, they had phone service, running water and plenty of food.

Otis and her children rode out the storm at her parents' house, which was undamaged. There seemed little reason for fear. Everyone thought the worst had passed.

At dinnertime, Thomas and her neighbors celebrated their good luck with a New Orleans feast of blackened fish and shrimp cakes.

But New Orleans' armor had begun to crack.

The water level on Pontchartrain had peaked 7 feet above sea level early Monday afternoon. A levee had failed on the city's east side. By late afternoon, water had climbed to the tops of the walls of some one-story homes near the canal, forcing residents to their roofs.

After nightfall, water broke through a flood wall atop a levee along the 17th Street Canal, a main drainage outlet into Pontchartrain. Water from the swollen lake had been pouring over the wall all day, eating away the earthen levee that holds it up. Finally, a 20-foot chunk of the wall burst forward. The rushing water crumbled an additional 400 feet of flood wall.

The corps said it might use barges to block the breaches, or helicopters to fill the holes by dropping sandbags, stone, even Jersey barriers into them — but there was no way to do anything until the next morning's light.

All night, Pontchartrain drained unchecked into the city.

Tuesday morning, it became clear that New Orleans' good fortune had been fool's gold.

Water began to rise through the floorboards of Caldwell's one-story home, forcing everyone into the attic with clothes, fruit, water, flashlights and a bucket, partly filled with water, for a toilet.

The water downstairs was 3 feet deep and rising. Reality was starting to kick in. It was survival time, Caldwell realized.

She and the others chopped a hole through the steeply pitched roof. They took turns poking their heads out and waving a white towel at helicopters passing overhead: FEMA, Red Cross, the military. None indicated it had seen her.

Finally, Caldwell and her 19-year-old son eased into the oily water. Using ice chests, they floated from porch to porch to the end of the block, where they latched onto a chain-link fence and moved along it to dry land. They flagged down a boat. After a night at an open-field camp for evacuees, they were on a bus to Houston.

When Otis and her children drove to her aunt's home nearby, there was ankle-deep water on the street outside her second-floor apartment. Soon, it had climbed halfway up the first floor.

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Her father took a boat from a fire station around the corner. Otis stuffed one bag with Pampers and another with baby formula and bottled water. Clinging to her children, Otis got in the boat and floated off. They reached dry land, eventually walked to the Superdome and later boarded a bus to the Houston Astrodome.

Thomas awoke Tuesday well-rested and ready to clean up the windblown mess outside. But when she opened her door, she thought, "Oh my God! What is this?" Water, which had covered only the street the previous night, had risen over the sidewalk and was lapping at the third of her five front steps.

Thomas knew it was time to move to higher ground. She had the keys to another house but had to walk in water up to her chest for several blocks to get there.

Over the next few days, she lost telephone service and running water. A nearby drugstore was looted. There were gunshots at night and no sign of police.

Thomas wanted to leave, but if she was going to catch a bus out of town, she would have to leave Ginger behind. Then she ran into a neighbor who had a car in a garage downtown. If they could get to it, they would drive to Baton Rouge.

A journalist offered her a ride downtown. So early Friday morning, Thomas loaded Ginger into the car for a circuitous drive through storm-damaged neighborhoods. Soon, they passed the convention center, where a vast, vaguely threatening-looking throng waited for evacuation buses.

Then there was a reassuring sign ahead: a police car at the curb. As she passed it, Thomas saw that the cruiser was battered, abandoned and stripped of its tires.

Laissez les bon temps rouler. The old city's motto had become its epitaph.

US Prepares To House Hurricane Victims (FT)

By Joshua Chaffin, Sheila McNulty And Dan Roberts

Financial Times, September 6, 2005

Authorities as far away as Utah and Detroit are preparing to house evacuees from Hurricane Katrina for many months, as the US grapples with the longer term implications of relocating hundreds of thousands of refugees.

While rescuers try to assess a regional death toll estimated by the New Orleans mayor at up to 10,000, it is becoming clear that the next phase of the tragedy may involve an exodus of people unparalleled in modern American history. "We are basically moving the city of New Orleans to other parts of the country," said Michael Chertoff, secretary of homeland security. "This is a tremendous medium-term and long-term challenge."

The Federal Emergency Management Agency, which is co-ordinating the various agencies involved, said it was too early to tell how many people were involved. But based on the demographics of the region, it estimated more than 1m would need help moving from temporary shelters to longer-term housing.

As refugees began to fan out across the country, President George W. Bush on Monday declared emergencies in states far from the storm, including Utah, Colorado, Georgia and North Carolina. The emergency declarations made federal aid available to help those states deal with the thousands left homeless.

But efforts to co-ordinate the relief strategy are also complicated by resistance among many of those affected, who worry about what awaits them.

"They don't tell you what you're going to do or how you're going to live when you get there," said Darrell Johnson, a cook from New Orleans now sheltering in Baton Rouge. Elsewhere, victims of the storm evacuated to Houston said they were worried about being forced to go back to the hellish conditions they escaped last week.

Rick Perry, Governor of Texas, on Monday prepared to airlift victims of Katrina to other states and bring in cruise ships to house the overflow, as relief operations in the state approached capacity. Texas has received about 230,000 evacuees, though more continue to arrive.

Authorities are also scouring military bases, sports stadiums, hotels and other facilities for lodging. As well as placing huge strain on state and federal resources, the disaster presents politicians with the sensitive question of how much rebuilding will take place in New Orleans and the surrounding areas.

Launching a relief fund with Bill Clinton, former president George Bush warned "recovery is going to take years". His son, president George W. Bush, made his second visit to the region on Monday. After criticism of the government's slow response, Mr Bush promised to "do what it takes" to help victims get back on their feet. Meanwhile, Admiral Timothy Keating, co-ordinating the military's response, said thousands of troops were likely to remain in the area for "months not weeks". The army is leading efforts to repair levees and pump water out of flooded streets - a process some warn could take up to 80 days.

1 Million People Can't Go Home For Months (WP)

By Marc Kaufman

DOJ_NMG_0002958

The Washington Post, September 6, 2005

The vastness of the displacement created by Hurricane Katrina became more clear yesterday as officials struggled to respond to the needs of more than 1 million people who will be out of their Gulf Coast homes for months to come.

So many homeless people flocked to Texas in the past few days that Gov. Rick Perry (R) declared that his state was full and could take no more. Electronic highway signs in Houston directed bus drivers with evacuees to Fort Chaffee, Ark., but that facility quickly filled up as 9,000 people arrived within 16 hours Saturday. Arkansas officials asked for the signs to be removed.

With shelter space in the deep South filling up, the Federal Emergency Management Agency yesterday began to airlift storm survivors to states as far away as Michigan, Utah and California.

FEMA officials said they have secured as many as 50,000 shelter beds in often faraway states, but the flow of people to those states has sometimes been chaotic.

The office of Michigan Gov. Jennifer M. Granholm (D) said, for instance, that FEMA officials told them that more than 1,000 people would be flown to Battle Creek by yesterday evening, but 140 arrived. The airlift of 400 Hurricane Katrina evacuees to the D.C. Armory was delayed indefinitely.

In all, FEMA officials said, more than a quarter million people are living in shelters set up by the American Red Cross, the National Guard, local churches and municipal officials in cities from Albuquerque to Memphis.

Most of the homeless are from Louisiana, where officials estimate about 1 million people evacuated before the hurricane, and another 100,000 were evacuated afterward.

FEMA officials said that about 50,000 people are in Louisiana shelters, but Brecke Latham, spokeswoman for Gov. Kathleen Babineaux Blanco (D), said that virtually none of the 1 million evacuees have been able to return to their homes. Many are now living in hotels, with family or with friends, but officials said they are preparing for many of them to need help as their money, or their welcome, wears out.

In Mississippi, 15,000 people are in shelters and many more are unable to return home. An official in Gov. Haley Barbour's office said that "several hundred thousand" Mississippians are believed to have been displaced and are living elsewhere.

While FEMA and Red Cross officials praised the outpouring of help and offers of lodging from the states, some voiced concern that evacuees were being moved too far from their homes. Speaking at the Astrodome in Houston, Jesse L. Jackson said it will be a shock for many people to wake up in places like Salt Lake City or Minnesota. "It's a long way from home, from where they lived and acculturated," he said.

The Albuquerque Convention Center was one typical relocation site yesterday, and it received 100 people who had spent much of the past week in the Superdome. Carisa Malanum, sales director of SMG, the company that manages the center, said that 500 to 900 more evacuees are expected.

She said that the people can stay in the center indefinitely, but that officials hope to move them into more permanent lodgings within a few weeks. More than 500 Albuquerque area households have signed up to host a family, she said, and an additional 600 apartment units have been offered.

The new arrivals "seem to be doing fine," Malanum said. "We'll have people to help with psychological and emotional issues."

According to FEMA spokesman Butch Kinerney, the agency has been involved in placing more than 229,000 people into shelters. Another 63,000 survivors have been evacuated with unknown destinations. He said a significant number of people in Louisiana and Mississippi are still living in shelters without electricity or running water, and that their relocation out of the area is a top priority. Almost 60 percent of Louisiana and 40 percent of Mississippi remain without power, he said.

Texas officials decided to stop accepting new evacuees after placing almost 130,000 in shelters and providing hotel or family lodging for 100,000 more.

"We are concerned about our capacity to meet this great human need as thousands more arrive by the day," Perry said. "We want to make certain every evacuee has a safe haven where they can receive medical care, water, food and other assistance."

Perry said that some evacuees will be moved to other facilities in Texas, while others will be flown out of state from Houston and Dallas. It was unclear how officials would decide which evacuees would be sent elsewhere, or how much choice they would have on where to go.

"So far, people just seem to be happy to have a place to stay and some food to eat," Kinerney said.

Waves Of Evacuees Swamp Host Cities (USAT)

By Martin Kasindorf

USA Today, September 6, 2005

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More than 500,000 evacuees from Hurricane Katrina are on the move. It is a storm surge of the dispossessed, an exodus on a historic scale in the USA.

The forced migration from flooded Gulf Coast homes is swamping cities in Louisiana and Texas. The waves are rolling to Michigan, New Mexico, Arizona and as far as Oregon and New York. School officials in many states are cutting red tape to enroll more than 160,000 displaced children.

Federal, state and local officials are grappling with housing the homeless after a stumbling start. Chastened by scenes of chaos last week at New Orleans' Superdome and convention center, they are running short-term shelters in sites that range from Houston's Astrodome to three Carnival Cruise Lines ships that will provide berths for about 7,000 evacuees in Galveston, Texas, and Mobile, Ala.

What comes next for governments: Planning longer-term quarters for the most impoverished of the displaced, who may be dispersed to even more disorienting surroundings outside the Deep South.

Meanwhile, charities are groping through an emergency of a long-lasting kind that they've never seen before. “We're trained to deal with major evacuations, but not with the thought that people might never go home again,” says Keith Berger, who oversees four shelters as chairman of volunteers for San Antonio's Red Cross chapter. “We're writing a brand-new book here.”

The Red Cross is caring for 142,000 storm victims at 487 shelters in at least 12 states. Many churches and other private groups are pitching in to transport, house and feed evacuees.

This country hasn't seen mass movements of refugees since Southerners fled Civil War armies. The newly uprooted Americans find themselves added to the 25 million people worldwide who, the United Nations says, have at least temporarily lost their homes in environmental disasters or wars.

In sympathy for the homeless, the welcome mat is out. Nationally, charitable donations are breaking records set after the 9/11 terror attacks and December's Asian tsunami. In Texas, where nearly 250,000 are camping out, emergency shelters have an oversupply of volunteers handing out food and clothes.

Evacuees are taking Detroit Mayor Kwame Kilpatrick up on his offer of free hotel rooms for 500 families. The First African Methodist Episcopal Church of Los Angeles is painting a house donated by comedian Arsenio Hall, preparing to offer a year's free room and board to a Gulf Coast family.

David Perez, owner of a San Diego oil and gas company, spent $250,000 to charter a jet to Louisiana. At a shelter there, he told reporters, he offered rides to California. He got 80 takers, who were put up at San Diego's Kearny High School. Perez then turned the jet around and went back for another load of evacuees.

Robert Lang, director of the Metropolitan Institute of Virginia Tech in Alexandria, Va., likens the generosity to the reception Americans gave South Vietnamese refugees after Saigon fell to communists in 1975. “There's a tradition in this country of providing safe harbor to those who encounter disaster,” Lang says.

There are signs of local uneasiness, too. Unnerved by TV reports of looting and sniping in New Orleans, some homeowners near the Astrodome hired security guards. In Baton Rouge, the display cases for guns at the Wal-Mart in the Cortana Mall have been empty since Thursday. Sales clerk Damon Cephas, 23, says buyers made a run on the weapons as evacuees began making the 80-mile trip from New Orleans. Wal-Mart stores have since stopped selling guns.

“People act like they are in fear of their lives,” Cephas said. “I think all of that (violence) was being done by a small number of bad people. Not everybody from New Orleans is like that, but all the people saw was the bad stuff.”

Houston authorities say there have been some vehicle burglaries and a few intoxication arrests involving hurricane victims. But the new arrivals are overwhelmingly law-abiding, no rowdier than the out-of-towners at “a Super Bowl or an All-Star Game,” assistant police chief Brian Lumpkin says.

Still, police have stepped up patrols in surrounding neighborhoods. To restrict evacuees from meandering outside the Astrodome and the adjoining Reliant Arena and Reliant Center, officials are shoring up perimeter fences. Authorities aren't using the word “curfew,” but they're telling the 23,600 people at the Astrodome complex to be inside by 11 p.m. or they'll be locked out for the night. On a more welcoming note, shelter residents are getting invitations to the nearby Six Flags amusement park, museums and malls.

Many Katrina evacuees are low-income African-Americans. New Orleans was 67% black, and 35% of the city's blacks were living below the poverty line, U.S. Census Bureau figures from 2000 show. That raises a potential for racial conflict. Leaders of the Congressional Black Caucus last week advocated placing black families in cities with large black populations.

The evacuees are making other kinds of substantial impact wherever they've landed:

·Baton Rouge, which had a population of 228,000, swelled by 200,000 evacuees, instantly surpassing New Orleans as Louisiana's largest city. Hotels are bursting. Roads are clogged with traffic. Local service stations are suffering gas shortages and long lines. On busy Florida Boulevard, Wendy's and Church's Chicken stores were warning patrons that there were no more french fries.

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·More than 6,000 evacuee students enrolled in Houston kindergarten through high school classes last week, and the number could reach 10,000, Kevin Hoffman of the Houston Independent Board of Education estimates. Saying Texas shelters are full while "there are shelters set up in other states that are sitting empty," Texas Gov. Rick Perry ordered emergency officials Saturday to airlift some evacuees to other states that have offered help.

·Some resilient, middle-class evacuees are already putting down new roots elsewhere. In Baton Rouge and Jackson, Miss., so many of them are buying houses that Sen. David Vitter, R-La., calls it "the great land rush." The average home price in Baton Rouge has jumped about $25,000, to $200,000, since Katrina, real estate agent Beth Alford says. One New Orleans law firm bought 50 houses in Baton Rouge, sight unseen, says Ann Prewitt, a Madison, Miss., agent.

No racial violence has been reported in any city, but that remains a potential problem, says Jorja Leap, an adjunct professor of social welfare at UCLA.

If the government doesn't allocate low-income, black evacuees to cities with federally backed plans for housing and other services, "I don't think they're going to be absorbed seamlessly into the fabric of American life," Leap says. "Whether it's something as mundane as parking places or seats on a bus in public transportation, competitive pressure on resources will bounce into issues of money and color."

Leap says evacuees are apt to be psychologically battered by "very nearly the same postwar pattern" she discovered in the 1990s in interviewing refugees in Kosovo, Bosnia and Serbia. They'll pass through successive stages of "protest, despair and detachment," she says.

The evacuees' losses of social networks and paying jobs are "a form of identity theft," says Mary Pipher, a clinical psychologist. Her 2002 book, The Middle of Everywhere, examined the impact of refugees from Cambodia and other countries on Lincoln, Neb., where she lives. "Our identities are built around the people around us, the things that we do."

Roy Bernardi, deputy secretary of the U.S. Department of Housing and Urban Development, says the government wants to disperse evacuees from cities already heavily impacted. The government's focus is slowly shifting from emergency shelter to finding housing that can be used by hurricane victims for as long as a year.

HUD issued a plea last week to mayors and county executives across the country for inventories of what's available. The tally should be in this week. HUD also is identifying how many of the 26,000 properties it owns are vacant. And it's studying how many of the manufactured housing kits it owns could be put up.

If HUD has its way, poorer New Orleans residents who were bused to shelters in Texas will be relocated to every U.S. region. The new quarters may be on military bases or in old hospitals, university dorms, nursing homes, schools and public housing.

Detroit's Kilpatrick says his city will work with HUD to place evacuees in permanent subsidized housing, getting them out of the rooms that about 60 area hotels are opening for them. "I want them to really be a part of our community," he says. "I'd say 90% will stay."

The process of planning beyond six months to a year will be complicated by uncertainties. Eight days after Katrina, no one can paint a picture of what the human dimensions of the storm's aftermath will look like in the long term. Some questions it's too early to answer:

·How many people will choose to return to once-beloved places they may now associate with traumas of wind, water, fear and loss? "I'm never going back," Elena Temple, spokeswoman for the U.S. Conference of Mayors, says tearfully. A New Orleans native and current resident of Washington whose family escaped, she doubts that her home in the Garden District will ever be habitable again. She's sure all the family pictures are gone. "Twenty years from now, when I have children, how am I going to be able to explain what my city was like when I grew up?"

·Even if the pull of home is strong, how can people go back if jobs are not re-created? Joseph Gregory, a Gulfport, Miss., optometrist with several offices on the Gulf Coast, has moved temporarily to Jackson but says he may move on to Dallas to restart his practice. His house has been reduced to a slab. His offices survived, but his patients scattered to the winds.

·With 40% of Gulf Coast homeowners lacking flood insurance, how many can afford to rebuild houses that have washed away?

Rebuilding New Orleans is an especially thorny task. The Army Corps of Engineers says it will take at least 38 days to pump water out of the city. That would be just the start of a comeback. The scope of rebuilding could be contentious. To the irritation of Louisiana Gov. Kathleen Blanco, a Democrat, U.S. House Speaker Dennis Hastert, a Republican, has said "it doesn't make sense" to rebuild a city several feet below sea level. He later issued a statement saying he was not "advocating that the city be abandoned or relocated."

"They may not choose to develop the entire site," says Lt. Gen. Carl Strock of the Corps of Engineers.

Lang of Virginia Tech's Metropolitan Institute says that if New Orleans can rebuild, it has a future. Families have lived there for generations, and people will return because the city has its own ethnic identity, language and cuisine, Lang says. "It's one of

the most iconic places that has as strong a regional identity as exists in the United States," he says. "That probably favors reconstitution."

Homesick or not, few evacuees can afford to be jobless for long. Officials in Texas, Tennessee, Georgia and other states with evacuee inflows have started programs to link the newcomers with employers. Craigslist, the Internet-based classified advertising service, is replete with job offers for evacuees willing to relocate for good.

Moves may be permanent for evacuees like the 25 members of Carl Douglas Jr.'s extended family. Rousted from their three homes in New Orleans, they are getting to like the Baton Rouge area. Douglas, 68, says that since reaching a shelter in Gonzales, La., last week, they have been overwhelmed by the welcome: kind volunteers, a comfortable kennel for the dogs, a veterinarian on call. "The people here have been wonderful," Douglas says. "We think we might just move here, period."

Some Of The Dispossessed Say They Won't Return (LAT)

By Solomon Moore

The Los Angeles Times, September 6, 2005

NEW ORLEANS — Displaced residents of this city — especially the poorest blacks, who were hardest hit by the storm — are pondering whether they will try to return to a town the tour guides often missed, one that has suffered decades of crime, corruption and grinding poverty.

"Katrina had a tremendous impact on the black people who lived here," said Lance Hill, director of a diversity training program at Tulane University. "This city was tough on a lot of them even before the hurricane. A lot of them were already unemployed or had minimum-wage jobs. Many of them were renters. They don't have anything to come back to. A lot of them are just not going to come back."

Before the storm, most Americans knew New Orleans as a blend of old Southern elegance and Bourbon Street decadence. The aftermath, however, has highlighted a primarily black city in which one-third of the African American population — more than 100,000 people — lives below the poverty line. Many of those hardest hit by the storm are not sure whether they want to go back.

"I didn't have no money for gas," said Thomas Lallande, a 60-year-old black man, as he rubbed his raw feet after finally evacuating.

Lallande said he wanted to leave before the storm but couldn't afford to. As the flood rose chest high last week, he waded from his submerged apartment in the 9th Ward to the Superdome, where he and thousands of people — nearly all of them black — waited for days without food, water or security.

Lallande escaped New Orleans — he was recuperating at a Baton Rouge shelter Monday — and, for now, he has no plans of going back: "What for? I don't have nothing back there."

And where some saw grim images and shattered futures, the city's most destitute saw rare opportunity.

"Actually, some people were a little better off after the storm," said a 26-year-old man who spoke on condition of anonymity as he took groceries out of a store last week. "I had gotten to the end of my rope. Now, I got a little something."

But even middle-class African Americans are reconsidering their futures in New Orleans. Herman and Christy Taitt, devotees of the city's music and culture, said they already had calls out to several different cities.

Herman, 44, is the head maintenance manager at Dillard University, and Christy, 37, is an accounting supervisor at a pharmaceutical firm. They had a house and three cars — including a Corvette — but they always thought they might have done better outside New Orleans.

Last week, at a Kinko's computer in Baton Rouge, they found aerial photos of their New Orleans home on the Internet. Water had inundated their neighborhood.

"Family kept us here," Herman Taitt said. "And I love the history of this place. The culture. It's the birthplace of jazz. The food. The parties. You can have a good time here. So we stayed. We allowed ourselves to have a second-class status to Southern white folks."

But now, Herman Taitt said, his elderly father is missing — and a crucial bond to the city has been broken.

"We're looking at Houston," he said. "We're looking at L.A."

New Orleans teacher Karen Francois, 53, said her apartment in the 9th Ward was destroyed. Though she would like to return to her job in January, she's thinking about Arizona after that.

"I'll be sad because I don't think there are people like us anywhere else outside of New Orleans," she said. "But you can't get any money there. There's no real opportunities in New Orleans — not for us."

New Orleans has always been a city of ironies. The first European settlers were Frenchmen lured in the 1700s by a Scottish pyramid schemer who paid land speculators with profits he reaped from newer real estate investors.

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By the 19th century, New Orleans was a major cotton producer and market for slaves, many of whom built the beautiful antebellum buildings that drew so many tourists over the last century.

It was also home to one of the nation's largest free black communities. Many of the free were "Creoles" of mixed ancestry, sometimes the offspring of privileged plantation owners and black concubines. Some free blacks even owned property — including slaves.

Now, New Orleans' small but influential black middle-class community is one of the oldest in the nation. Many of them were educated at one of New Orleans' predominately black colleges, including Dillard University and Xavier College, the nation's only historically African American Catholic college and a leading producer of black medical and dentistry graduates.

New Orleans' three-tiered racial structure — white, black and Creole — plays a subtle but decreasing role in the city, residents say. New Orleans natives, especially people of color, say they can tell who's black, and who's Creole, by differentiating between kinky or smooth hair. Most of the city's black leaders have Creole ancestry.

"I can distinguish because I'm from there. My older sister used to go to 'Brown Bag parties' " in the 1950s, said Eric Spurlock, who fled his home in the 9th Ward. "They would hold up a brown paper bag, and if you were darker than that you would have to pay 25 cents to get in."

Francois said she considered herself Creole and acknowledged that her status afforded her access in New Orleans that was not extended to many of her African American friends.

"I went to a white university, I can speak as they do, act as they do," said Francois, the schoolteacher. "Whites are comfortable around me, but it's not that easy for other people I know."

The problems of urban America linger here. Last year, New Orleans' per capita homicide rate was among the nation's highest, as was its illiteracy rate.

In the last decade, the city has been rocked by a series of bribery scandals and police brutality scandals that led to investigations of a former mayor, a parish judge and a variety of other city administrators.

"They was killing each other in broad daylight," complained Tynia Williams, 42, explaining the city's problems with street crime.

Williams had to evacuate her apartment in Jefferson Parish, right on the New Orleans municipal line. She worked and had family members in New Orleans proper, on the other side of the 17th Street Canal.

Williams said her home was destroyed, but she is not sentimental about it. She is looking for work in Baton Rouge.

"The politicians were crooked, the judges were dirty," she said. "A judge convicted my son for murder and sentenced him to a life sentence, and two months later the judge got convicted."

In 2002, Mayor C. Ray Nagin came to office with a mandate to clean up city corruption and to lift residents out of poverty. The latest in a succession of black leaders who have broken into New Orleans' political system since 1978, Nagin ordered the arrests of dozens of city employees on bribery and related charges in the early months of his administration. Several federal corruption investigations were in process when Katrina hit.

In an effort to lower crime, city leaders had set about a controversial plan to replace many public housing projects with single-family homes and businesses. The notorious St. Thomas housing projects, for example, were replaced a few years ago by a Wal-Mart.

Supporters of the program say it is one reason crime had, in fact, been somewhat reduced in New Orleans. Detractors said it would displace black project residents, many of whom went to live in the eastern part of the city, one of the areas hit hardest by the flood.

They needn't have bothered with the debate — Katrina displaced more poor people than gentrification ever could.

Filling A Desperate Need For Shelter Begins With Cruise Ships And Proposals (NYT)

By By Ernest Beck And Edmund L. Andrews

The New York Times, September 6, 2005

Phase 1 of the government's plan to provide desperately needed transitional housing for tens of thousands of hurricane evacuees is scheduled to begin this morning, when homeless elderly people from various Texas locations board 30 buses destined for two Carnival cruise ships in Galveston, Tex.

Relief plans also call for housing evacuees in emergency trailers, hotels, motels, military bases and schools.

The Federal Emergency Management Agency chartered three vessels from Carnival Cruise Lines of Miami, the world's largest cruise-ship company, to lodge evacuees of Hurricane Katrina for up to six months. (All guests whose bookings have been canceled have been offered full refunds, according to the company).

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The two ships, each capable of holding 2,600 people, will remain docked in Galveston; another, with an occupancy of 1,800, will be in Mobile, Ala. They will be used primarily for elderly victims and people with special health problems, with families a second priority, according to James McIntyre, a FEMA spokesman.

Red Cross personnel and the ship's medical team will be on board, but "this is not for those who are severely ill, it's for those who can be effectively independent," Mr. McIntyre said. Nor is it for those expecting luxuries associated with cruises.

"We bought a basic package without amenities - a room to live in, based on need, and food to eat," Mr. McIntyre said. "This is not about being bathed in luxury - it's to get people out of the Astrodome."

A FEMA spokesman said the agency has also put out a call to producers of "manufactured housing" and recreational vehicles - campers and the like - asking for assistance, and has placed orders for more than 50,000 trailers.

"They're looking at all types of housing, whatever anybody has right now and can ship right away," said Joanne Foist, a spokeswoman for Fleetwood Homes, one of the nation's biggest makers of manufactured housing. Fleetwood is based in Riverside, Calif., but it has 11 plants in Georgia, Tennessee, Kentucky and Texas that could supply about 400 homes a week to the hurricane-hit areas.

Mr. McIntyre pointed out that travel trailers were a bit roomier than the cabins on cruise ships, and added that they would be dispatched to locations in Alabama, Mississippi and Louisiana, home states of the displaced, to "return them to some normalcy in their life as quick as possible," he said.

As rescue efforts for the devastated Gulf Coast cities gather pace, relief organizations and policy makers - as well as architects - are also thinking about the next phase. Daniel Libeskind, the celebrity architect known for his crystalline forms and his plan for a soaring Freedom Tower at ground zero, has an idea to help the tens of thousands left homeless by Hurricane Katrina: give them refuge in a low-cost modular shelter he has designed.

What Mr. Libeskind has in mind is a far cry from his more avant-garde buildings, like the Denver Art Museum extension and the Jewish Museum in Berlin. Imagine instead a compact 580-square-foot house with two small bedrooms, a bathroom, a kitchen and possibly a veranda, all for an estimated price of $3,700 or less. Featuring a pitched roof and latticework siding, the house, which is based on his design for a village in Sri Lanka flattened by the tsunami, is a dignified response to the crisis, Mr. Libeskind said, and could be built in about two weeks, depending on the materials.

"People should not be treated like sardines," he said. "These are not barracks."

After a disaster, there is no shortage of possible ways to house the displaced. But there is no best answer. Tents and shipping containers, for example, which have been used in other disaster zones around the world, have many drawbacks.

"In a hot environment, the idea of tents and things of that nature without ventilation or privacy makes for serious conditions," said David Downey, the director of the Center for Communities by Design, a resource center of the American Institute of Architects in Washington for architects interested in sustainable communities.

Shigeru Ban, the renowned Japanese architect, who is designing one of the multimillion-dollar homes in the enclave known as the Houses at Sagaponac in the Hamptons on Long Island, suggested in an interview on Friday that Katrina relief groups use his design for temporary housing made of cardboard tubes and plastic beer crates.

Called paper tube structures, the shelters were used after the 1995 earthquake that badly damaged Kobe, Japan, and after quakes in Turkey and India. One advantage is the cost: using donated materials from local companies and volunteer builders, "the houses are practically free," Mr. Ban said. They can be assembled by six people in six hours, once the materials are assembled.

Any temporary housing, however, has a way of becoming permanent once an initial emergency subsides, financing dries up and news media attention dwindles. Months after Hurricane Andrew flattened a large swath of South Florida in 1992, tent cities put up by relief organizations were still sheltering people, a source of much anger and resentment.

In Punta Gorda, on the west coast of Florida, more than 11,000 homes were wiped out when Hurricane Charley roared through in August of last year. Officials brought in 550 three-bedroom mobile homes as a temporary measure, but today the makeshift community - called "FEMA Village" - remains home to 1,500 people.

Its residents, most of whom lived in public housing before the storm, have had few opportunities to change the situation. Mr. McIntyre says the Punta Gorda mobile homes are "the standard" for those that may be used to house Katrina refugees.

Compared with a mobile home park, a fancy passenger ship - anchored in the Gulf, its cabins full of people in need of housing for months - sounds more inviting. Yet cruise ships are not ideal. On a ship, people would be far removed from any semblance of the life they once knew. A cruise ship, said Roberta Cohen, a co-director of the Brookings-Bern Project on Internal Displacement at the Brookings Institution in Washington, "is not a return to normalcy - it's some sort of 'first world' fantasy idea."

Beyond cruise liners and trailers, a growing number of architects are responding to global crises with innovative designs and concepts for affordable temporary housing that can be erected on the site with local materials or easily shipped to a disaster

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region, including packed-mud structures, durable prefabs and biodegradable "flat pack" units. Sean Godsell, an Australian architect, has designed temporary housing using shipping containers, calling them Future Shacks.

Like all good designs, those promoted by architects can be tweaked to fit different environments and cultures. Kevin Teague, an architect who is working on the Sri Lanka houses in Mr. Libeskind's New York office, said that plastic or fiberglass could be substituted for concrete blocks to make structures lighter.

Still, it is not clear how popular such housing might be. And much depends on the amount of aid made available by governments and relief agencies. Despite the low cost of his shelters, Mr. Ban managed to get only 50 or so cardboard dwellings built in Kobe and 30 in Turkey, aiding a tiny portion of the thousands left homeless and destitute.

Until now, Mr. Ban and Mr. Libeskind have not been in contact with relief organizations. "My energy alone," said Mr. Ban, "cannot build for the mass of the people."

U.S. Delays Planned Airlift Of Evacuees To D.C. Armory (WP)

By Hamil R. Harris And Theola S. Labbe

The Washington Post, September 6, 2005

The proposed airlift of 400 Hurricane Katrina evacuees to the D.C. Armory yesterday was temporarily delayed by federal officials who sought more time to develop a comprehensive national plan for placing victims across the country, authorities said.

"We temporarily paused some airlifts while we identified cities and states who were ready and willing to receive these evacuees," said Russ Knocke, spokesman for the U.S. Department of Homeland Security.

"It is very important that we have an organization in place so that there are city and state officials as well as nonprofit groups ready and willing to receive and care for these individuals," he said.

Knocke said evacuees could be airlifted to the Washington area as early as today.

The postponement frustrated some city officials who had stocked the cavernous D.C. Armory with supplies and hundreds of cots in anticipation of the arrival of evacuees. It also reflected confusion nationwide as federal officials contend with dwindling shelter space in the deep South and a mass movement of displaced people that has sometimes been chaotic.

"There are certain evacuees who have been rescued from their nightmarish scenarios, and they have been taken to certain airports where they are waiting for airlifts and people are able to receive them," Knocke said. "We are working more closely with state and local officials to develop a comprehensive plan while all the while airlifts from the New Orleans airport have continued."

The airlift delay came as District officials were waiting to learn whether the 10 buses they sent to New Orleans on Friday would bring back storm victims. The buses did not take on storm survivors in New Orleans and were rerouted to Baton Rouge and then to other cities. Along the way, survivors who had the chance to board buses reportedly declined. Additionally, city officials confirmed that two bus drivers left the convoy yesterday.

But D.C. Council member David A. Catania (I-At Large), who proposed that the District assist storm victims, said yesterday that the buses had completed part of their mission by delivering food and water, while medical personnel on board treated storm victims in shelters.

Catania said he was disappointed that storm evacuees had not arrived in the District but was confident that they would.

"This is an exercise that requires flexibility and patience," Catania said. "In the next couple of days, we'll have evacuees in Washington. We'll still have them."

On Sunday night, Mayor Anthony A. Williams (D) arranged with Arkansas Gov. Mike Huckabee (R) to house hurricane evacuees after an Arkansas military base received 9,000 evacuees, twice as many as it had prepared for. Yesterday, the state was sending many of the evacuees at Fort Chaffee to summer church camps that had been empty.

Catania said Barbara Childs-Pair, director of the D.C. Emergency Management Agency, spent the day on the phone with federal officials trying to learn the status of the evacuees. City officials had expected them to arrive at Andrews Air Force Base yesterday. Officials at the base told The Post that they had no knowledge of a flight.

"The federal coordination of this disaster is certainly lacking," Catania said. But he added that the additional time would give city officials and nonprofit groups more time to prepare the D.C. Armory. An industrial-size air conditioner is scheduled to arrive today, Catania said.

Meanwhile, Del. Eleanor Holmes Norton (D-D.C.), who said she sought a reason for the airlift delay, said she was told that federal officials needed time to start a tracking system to determine the identity of each person taken to a temporary shelter.

She said she was appalled to learn that such a concern could have delayed evacuees' arrival here.

"These evacuees have been waiting to go someplace now for three or four days," Norton said. "If they are just setting up a tracking system four or five days after the disaster, they've added insult to outrage. The only question ought to be is, 'Do you want to go to x?' "

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At the armory, where preparations continued throughout the day, volunteers arriving in the late afternoon learned from the American Red Cross, which will manage the shelter, that the evacuees would not arrive as planned.

Gwen Rogers, 36, of Alexandria was hoping to donate two boxes of her daughter Cheyanne's baby clothes and toys, and lend a helping hand.

"I'll be back," Rogers said after signing up on the volunteer sheet.

City officials announced yesterday that they would seek reimbursement from the Federal Emergency Management Agency for providing aid. Williams planned to send a letter to the agency requesting reimbursement for costs that the city estimates could run as much as $6 million.

FEMA spokesman Mike Howard said yesterday that 14 states had been approved for federal disaster relief aid and that the agency was considering applications at 100 percent reimbursement.

Texas Agencies Cut Red Tape For Evacuees (LAT)

By Tony Perry

The Los Angeles Times, September 6, 2005

HOUSTON -- Roderick Tureaud, 31, a welder by trade and the father of twin girls, spent his morning Monday in a tent outside the Astrodome filling out job applications and calling prospective employers. .

It was Labor Day, traditionally a time to celebrate the value of work. Tureaud and his wife, Rhodesia, 31, hope for a more personal celebration -- by finding a job for him and a school for her to continue her nursing studies.

There is also the problem of finding child care for Robin and Raven, 3.

"It's a new life now," Tureaud said. "The old life is gone, and we're going to make this one work. We don't have any choice."

Moments earlier, at a news conference a few hundred yards away, former Presidents Clinton and George H.W. Bush announced formation of a fund-raising foundation to help victims of hurricane Katrina -- bushclintonkatrinafund.org.

"A lot of these people have no cars, no work, no home, no nothing, they will depend on us to give them a future," Clinton said.

As Clinton and other high-level officials noted, it will take a national effort to provide that future. But Houston is the front line of that effort.

The nation's fourth-largest city is the ad-hoc home to more than 100,000 evacuees in shelters, motels, hotels and private homes. Officials expect many of the evacuees will not return to their former homes.

The impact on Houston, which calls itself the "city of opportunity," has been swift. The City Council met in emergency session. Two schools closed due to declining enrollment are being reopened to enroll children from evacuee families.

The Astrodome, largely abandoned since the Astros' Major League Baseball team moved to a new stadium, has been given new life as the largest shelter for Katrina victims. Officials said they have made tentative plans to keep it open as a shelter until December.

With more than 220,000 evacuees spread throughout Texas, Gov. Rick Perry on Monday ordered state health officials to develop plans to meet the short and long-term medical needs.

The plan to airlift some evacuees out of Texas has been halted, Perry said, as the Federal Emergency Management Agency develops a multi-state strategy.

The Harris County Housing Authority will announce this week a plan to find several thousands housing units.

Many people who have taken refuge in the Astrodome and three other shelters in public buildings had spent several days waiting to be rescued from the Superdome or the New Orleans convention center.

"Some are very grateful, but others are angry and say things like: 'You're lying to me just like they did in Louisiana,'" said Dianna Gunnels, manager of outplacement services for a company that works for the Texas' equivalent of the state unemployment office.

"I tell them, 'We're doing the best we can.'"

If some evacuees react with anger because of their experience at the Superdome or other gathering spots, others are grateful at the welcoming attitude they found in Houston.

"We were like dogs, thrown-away dogs, to the police in New Orleans," said Antoinette Lamerson, 38, who fled with her three children. "Houston is so much different. We're poor again but we're free and safe."

The Texas Workforce Commission has trailers at the Astrodome to take job applications and help evacuees contact their home states so their unemployment checks can be forwarded to the new Astrodome zip code. A job fair is set for this week in the parking lot .

The Texas agency that deals with child support checks has set up shop in the convention center across from the Astrodome. Like much of the relief effort, it was put together in a rush.

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Alex Camacho, an agency employee, said he thinks the support checks from Louisiana and Mississippi can begin to be sent to newly opened Post Office annex at the Astrodome by the end of the week. Robin Allen, 45, who fled to the Astrodome with her six children, hopes he is right.

"Without that check, I can't begin to start over," she said. "We're here to stay but I need to support my kids."

Allen plans to enroll her five-school age children in school when the Houston district sends registrars to the Astrodome on Tuesday. Elea Batiste, 54, plans to to enroll her four grandchildren.

"Unless your kids are in school, you're not really living here, just surviving," she said. "But we're going to live here if we can."

Texans Handle Influx Of Evacuees (USAT)

By Dan Reed

USA Today, September 6, 2005

FORT WORTH — The Lone Star State is big, wide and generous, but even this great state is beginning to fill up with evacuees from New Orleans and the Gulf Coast.

Along Interstate 45 near Houston, electronic signs flashed messages telling evacuation-bus drivers to divert to Fort Chaffee, Ark., near Fort Smith on the Arkansas-Oklahoma border, the Associated Press reported.

In Houston, Dallas and San Antonio, sports arenas and convention centers are hosting thousands of evacuees. In Fort Worth, they are settling into convention and meeting halls, a high school athletics complex, an unfinished jail and even a nearly deserted terminal at the an old general aviation airport.

Individual families are also taking in far-flung relatives — or strangers.

Texas officials estimate that nearly a quarter of a million people have become new residents of the state since Katrina stormed ashore Aug. 29. With most of the state's official shelters nearing capacity, Gov. Rick Perry called on three big Texas-based airlines — American, Southwest and Continental — for help in flying evacuees to other states.

In Fort Worth, Carlos Walker can't even keep track of how many relatives are coming and going.

“We've got 36 people living here right now,” Walker said Sunday evening. “It was up to 40, I think.” It went down only temporarily because some members of his wife's extended family, all from the New Orleans area, left to go pick up still more relatives.

Some the nine branches of Nakisha Walker's family now living under her roof already are looking for more permanent housing. But the Walkers, who normally share their home with their four small children and a nephew, expect it will be weeks or even months before their home returns to normal.

Nakisha Walker said “God knew what he was doing” when her family felt compelled to buy a four-bedroom home that she fretted was too big. “He knew we would need a lot of space.”

“People have been so good to us,” she added, standing almost waist-deep among donated clothes, shoes, toiletries and bedding that have turned two large rooms, a living room and a dining room into a mini-warehouse.

At night, family members bunk side-by-side on the floor in the bedrooms and a big game room upstairs. The kitchen overflows with food, stacks of bottled water and an assortment of goodies, nearly all from members of the Walkers' church, friends and faculty members at Paschal High School, where Carlos Walker is an assistant football coach. The teenage athletes at the school dug into their own pockets to help out.

This spontaneous outpouring of generosity is evident throughout the state, as churches began converting fellowship halls and Sunday school rooms into temporary housing. Civic groups have organized fundraising campaigns.

Many merchants are giving large discounts to people who can prove they are from the storm-battered region.

In McKinney, a suburb 30 miles north of Dallas, one group of individuals converted an abandoned Wal-Mart store into a privately run shelter in 24 hours. In Weatherford, 20 miles west of Fort Worth, a church took in nearly 40 families.

In Fort Worth, Larry Kelly and his wife, Jean, made several runs to discount stores over the weekend to buy underwear, socks and other necessities and bring them to collection points around the city.

On Sunday, they were in a steady line of trucks and sport-utility vehicles dropping off relief supplies at the sheep barn at the Will Rogers Memorial Center. The sprawling complex includes an exhibition arena that hosts the Fort Worth Stock Show and Rodeo each winter.

Texans' response, Kelly said, is part “cultural, yes, but a lot of it comes from the very deeply ingrained belief system here. And it's that belief system that motivates people to respond this way.”

Randy Austin, a former pastor and now head of security at Southwestern Baptist Theological Seminary in Fort Worth, was among a group of 75 young people and adults who came to the center to do what they could.

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“We came here to pray and witness to people,” said Austin, who also serves as an auxiliary chaplain with the Fort Worth Police Department. “But we learned that God needed us to sort clothes and carry in all this stuff that people are donating. And that's great. We'll still get to pray and witness, but right now God needs our hands and our backs more.”

Inside the nearby Amon G. Carter Jr. Exhibits Hall, about 400 evacuees have settled in and another 400 are expected.

A medical team led by faculty members from the University of North Texas Health Science Center's Texas College of Osteopathic Medicine checked out arriving evacuees. Many were just scared, hungry and dehydrated. Some were chronically ill and had been without their medication for days.

The outpouring of aid and care from Texans overwhelmed many of the evacuees.

The first thing Dave Arns, a 57-year-old restaurant worker from New Orleans, did after his medical checkup was attend a rodeo — sitting in prime seats donated to evacuees. “I will never go home to New Orleans,” he said. “As of now, I am a resident of Texas.”

Houston Finds Business Boon After Katrina (NYT)

By Simon Romero

The New York Times, September 6, 2005

HOUSTON, Sept. 5 - Perhaps no city in the United States is in a better spot than Houston to turn Katrina's tragedy into opportunity. And businesses here are already scrambling to profit in the hurricane's aftermath.

Oil services companies based here are racing to carry out repairs to damaged offshore platforms in the Gulf of Mexico; the promise of plenty of work to do sent shares in two large companies, Halliburton and Baker Hughes, soaring to 52-week highs last week. The Port of Houston is preparing for an increase in traffic as shippers divert cargoes away from the damaged ports of Pascagoula, Miss., and New Orleans.

Owners of office space here are witnessing a surge in leasing as New Orleans companies, including that city's oldest bank, scramble to set up new headquarters in Houston, helping to shore up its sagging property market. With brio that might make an ambulance-chaser proud, one company, National Realty Investments, is offering special financing deals "for hurricane survivors only," with no down payments and discounted closing costs.

All this, of course, is capitalism at work, moving quickly to get resources to where they are needed most. And those who move fastest are likely to do best.

Meanwhile, even small businesses and cheap hotels are benefiting from the population surge, which could total up to 250,000 people. Some hardware stores have sold out their entire supply of gasoline cans and generators to people preparing for an eventual return to the devastated region.

"It feels like the only things left in south Louisiana are snakes and alligators," said John E. Olson, co-manager of Houston Energy Partners, a hedge fund that operates out of a skyscraper downtown. "Houston is positioned for a boom."

Long known for its commercial fervor, Houston is the largest city in the South and has a metropolitan population of more than four million. It has one of the nation's busiest ports and remains unrivaled as a center for the American energy industry.

Halliburton, for instance, moved its headquarters to Houston from Dallas in 2003, joining dozens of companies based here that provide services for oil and natural gas producers.

Halliburton differs from many oil services companies in that it also does significant business with the federal government. The company, which has contracts in Iraq, has a contract with the Navy that has already kept it busy after Hurricane Katrina. The company's KBR unit was doing repairs and cleanup at three naval facilities in Mississippi last week.

Halliburton was also planning to go to New Orleans to start repairs at other naval facilities as soon as it was considered safe to do so, Cathy Mann, a spokeswoman, said.

Executives at other Houston companies said they were wasting little time in carrying out repairs in the Gulf of Mexico, where at least 20 offshore rigs and platforms are believed damaged or destroyed. Tetra Technologies, which repairs or decommissions old platforms in the gulf, had employees in a helicopter the day after the storm passed to survey the damage.

"I always hate to talk about positives in a situation like this, but this is certainly a growth business over the next 6 to 12 months," said Geoffrey M. Hertel, Tetra's chief executive. By Friday, Tetra had been able to send an 800-ton barge it owns, the Arapaho, to the gulf to be used for platform repairs, Mr. Hertel said.

Some here are wary about seeming too gleeful in light of New Orleans's misery. Houston officials were quick to point out on Friday that they were making a convention center downtown available to evacuees from the disaster zone, potentially forcing some events to be canceled. And the Port of Houston Authority tried to soften the blow to other ports as it started to receive shipments diverted from Louisiana and Mississippi.

"We sincerely hope that these great gulf coast ports can get back to work as soon as possible," the port said in a statement last week.

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But the new business is obviously welcome. "We're getting inquiry calls since the beginning of the week," Felicia Griffin, a spokeswoman for the port, said on Friday. "We're prepared to do whatever is necessary to meet the needs of our customers."

If the storm works to Houston's benefit, it would not be the first time a natural disaster of extraordinary size sparked some economic dynamism here. The hurricane of 1900 in nearby Galveston, which killed more than 6,000 people and almost leveled the most thriving commercial city in Texas, paved the way for Houston, located 50 miles inland, to emerge as a regional center for shipping and the refining of oil discovered in East Texas fields.

The displacement of companies to Houston from New Orleans is an abrupt acceleration of a trend that has been going on for decades. Many large companies, particularly those in the energy business, have made that move over the years, leaving New Orleans more dependent on tourism and other service industries.

A surge of business activity in Houston this time around might lift the fortunes of a city that is still struggling to recover from the collapse of Enron and two decades of job cuts in the energy industry, which has shrunk as production of oil in Texas and the United States has declined.

Rising oil and natural gas prices in the last two years have strengthened the finances of Houston's largest energy companies, but have done little to improve employment prospects in the city, where the unemployment rate was 5.5 percent in July, compared with 5 percent nationally. During the last oil boom in the 1970's, 150,000 jobs were created in the business of oil field equipment, according to Barton Smith, director of the Institute for Regional Forecasting at the University of Houston.

However, since the 1980's, about 130,000 of those jobs have been lost as oil and natural gas exploration migrated farther away from Houston, largely to countries in West Africa, the Middle East and Asia - and companies were able to produce oil field equipment more cheaply abroad. Houston remains essential for energy research and is the undisputed center for energy deals and finance, but those activities employ relatively few people.

Partly as a result, Houston has one of the most moribund big-city real estate markets.

"There are many instances of companies coming to Houston for temporary space," said Louis B. Cushman, vice chairman of Cushman & Wakefield, a commercial real estate company here. In its own offices, Cushman has finally been able to sublease some extra space to a business of 8 to 10 people that had been in New Orleans. Mr. Cushman said his firm had found offices for two companies that had already decided they were not going back.

One company that has temporarily exchanged New Orleans for Houston is Whitney Holding, the parent company of Whitney National Bank, founded in 1883 and one of the oldest banks in New Orleans. Another New Orleans oil exploration company, Energy Partners, said in a statement last week that it was also making Houston its temporary headquarters. Other companies are following suit.

"It's exploding," said Stephen D. DuPlantis, senior managing director at CB Richard Ellis. "When I talk to owners of office buildings, they say people are not even negotiating. As tragic as it is for New Orleans, it is a boon for Houston."

Dwaine Ofczarzak, the general manager of Buffalo Hardware, an independent store near central Houston, has seen out-of-towners who seem to be preparing to leave and some who are settling in.

On Friday, Mr. Ofczarzak sold out his supply of five-gallon gasoline cans to people from Louisiana. But some shoppers were coming in to get keys made for their new homes and talking about enrolling their children in local schools. "I have friends who've already done that," he said.

The newcomers may take some getting used to. "Everybody is still pretty much in awe," Mr. Ofczarzak said. "And with everybody coming in the buses, it hit home."

As Evacuees Pour In, A Flood Of Generosity And Some Unease (WSJ)

By Jose De Cordoba, James Bandler and Ann Zimmerman

The Wall Street Journal, September 6, 2005

HOUSTON -- As pastor of Impact Houston Church of Christ, the Rev. Charlie Middlebrook is matching refugees from Hurricane Katrina with volunteers who have offered to share their homes.

But the outpouring of generosity hasn't blinded Mr. Middlebrook to humanity's less noble impulses. With the help of a law firm that is donating its services, he is conducting background searches on all refugees as well as on those who have volunteered to take them in.

"We want to send somebody who is not a danger to you," Mr. Middlebrook tells a caller offering to house a hurricane victim. "We are trying to be very careful." Mr. Middlebrook is requiring from all parties Social Security numbers or driver-license numbers.

Katrina's dislocation of hundreds of thousands of people from Gulf Coast states is inspiring extraordinary acts of charity. In less than a week donations to victims have exceeded $400 million, on top of millions of volunteer man-hours. As of late Monday afternoon, the American Red Cross said it is sheltering more than 135,500 evacuees at more than 470 shelters in 12 states.

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To Jerome Lyons, a New Orleans construction worker who spent five days trapped in waterlogged New Orleans, the wave of help in Houston seems more powerful than the hurricane. "All races, all colors, all express their love," he says. Mr. Lyons, who was rescued by boat from his home, says strangers have given him money on the street to help him get a new start.

But the massive displacement is also creating new fault lines. Many refugees, having lost nearly everything or having had little to lose in the first place, are seeking more than shelter from the storm. They're seeking new lives, competing with locals for jobs and crowding their children into new schools.

Noel Jones, a 38-year-old Houstonian, predicted that some arriving workers are likely to be shut out of construction and manufacturing jobs because of competition from Mexicans and Mexican-Americans. Mr. Jones said the competition often forces him and other African-Americans as well as poor whites into low-paying service jobs.

"Don't stop" in Houston, is Mr. Jones's advice to Katrina refugees. "It ain't meant for you."

Texas Gov. Rick Perry has already called for an airlift of evacuees to other states from Houston and Dallas. He cited strains on Texas, which is hosting about a quarter of a million refugees from Katrina.

Cities and families providing shelter and other help have no way of knowing how long their assistance will be needed. Duchesne Academy of the Sacred Heart, a private, all-girls school in Houston, enrolled 150 students from a related New Orleans school as of Friday, waiving tuition through January. "Hopefully, they'll go home in January," says Beth Speck, Duchesne's director of admissions. "If not, we'll see what happens then."

Interviews with evacuees from New Orleans suggest that some have no intention of returning. Even a modest job in a new home may represent an improvement over what they left behind. Reco Parker, 31, a hairstylist now staying at Houston's Astrodome complex, says he's going back to New Orleans, but only long enough to try to salvage the more than $1,000 worth of hairstyling equipment he left behind. He plans to return to Houston, saying he's bowled over by Texan hospitality.

"They seem like loving people here," he says, adding that he's scared of staying in New Orleans after the hurricane.

One caller to Impact Houston Church of Christ was Janice Stocks, who has offered to share her three-bedroom country home with a couple from 50 to 70 years old. "It's the right thing to do," says Mrs. Stocks, whose husband is an executive with a Houston chemical company. "That could be us on the road, without a place to go."

But she acknowledges some questions and concerns. "What is one supposed to do? Drive with them to the grocery? Drive them to the doctor's office?" As far as the duration of the arrangement, she says, "We are willing to go the whole yard, as long as we get along with one another. I hope we get a good family."

Mayor Laura Miller of Dallas, which has 45,000 refugees in shelters, hotels and homes, worries about the welcome mat fraying. "A group of doctors volunteering at Reunion Arena and the Convention Center told me that they're having fun now, but worry how they'll feel in two weeks, when they're tired from combining volunteering with their day-to-day jobs," she says.

The prospect of dealing with long-term refugees is prompting the federal government to consider some dramatic solutions -- for instance, creating a city of 50,000 people where none exists now, says Lt. Gen. Carl Strock of the Army Corps of Engineers. Gen. Strock says the corps is considering sites for such a city as well as sites for possible trailer and mobile-home parks.

"After the hurricanes in Florida, we went in and built, essentially, trailer parks," he said. "We have general plans on the shelf always but specific planning for New Orleans began before landfall" of the hurricane. He added that authorities also are looking at military bases, including those that have been closed but once housed military personnel.

Those decisions will come later, said Lt. Gen. Strock. Right now authorities are just trying to continue evacuating residents to safer temporary facilities, such as the Astrodome.

Mr. Middlebrook, the Houston pastor, says virtually all callers have been as enthusiastic and sincere as Roxanne Grice, a member of the congregation who on Saturday night cooked a feast of ribs and beans for some 20 hurricane victims. "I just want to hug somebody," said Ms. Grice, stirring a huge pot of beans as she waited for her guests to arrive.

The church did receive a call from one man offering to share his one-bedroom apartment with up to "four ladies." Mr. Middlebrook declined the offer.

In Baton Rouge, A Cool Welcome (WP)

By Wil Haygood

The Washington Post, September 6, 2005

BATON ROUGE, La., Sept. 5 -- When this city's mayor, Melvin "Kip" Holden, issued a stem-winding warning that he would not tolerate "lawlessness" from arriving Hurricane Katrina evacuees, it seemed a page torn from the playbook of the celebrated former governor Huey Long, exposing an us-against-them dictate.

But many blacks here -- and those arriving from New Orleans -- were suddenly wondering whether this city was about to turn into a kind of ground zero of class warfare between blacks and blacks.

Holden himself is black, which had the potency of lifting the debate above the usual black-white fault lines.

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"We know we don't want that criminal element," Sheila Mosby, 40, said while sitting on her front porch on the south side of this city and recalling scenes of recent looting in New Orleans. "I can understand trying to survive. But that element coming here, well, they might try to rob stores. To tell you the truth, it's really going to be something."

While dabbing at sweat beads with a pink hand towel, Mosby, who is black, went on: "Like Mayor Holden said, if they come down here and try to break into people's houses, and stores, there's a place for them."

She -- like the mayor -- was referring to the Baton Rouge jails.

Mosby said she envisioned "shoot to kill" orders if break-ins do occur.

Orders for the police? "No! From the people who live in these homes. They will shoot to kill. They gonna let these people know, 'You ain't in New Orleans. You in Baton Rouge.' "

This city of approximately 260,000 people, which lies 90 miles northwest of New Orleans, has not had the dramatic racial narratives of many other southern cities. There were bus boycotts in the 1960s -- and those of a certain age still remember a violent confrontation that took place during that decade between local Muslims and police here, which resulted in gunfire and injury.

Holden's comments seemed to bring to the surface the reality that local resources may well be strapped; that the holding-on blacks of this community realize there is sudden competition, from other blacks, for help in escaping poverty.

All day Sunday, hundreds had lined up at the Department of Social Services office to get assistance, especially food stamps. Many were Katrina evacuees, but hardly all.

"Now my biggest concern is the schools," said Tara Willimas, 34, a medical transcriber who is black and resides in Baton Rouge. "We don't mind sharing, but there's going to be competition for jobs."

Many, including the mayor, contend this city's population could more than double in the coming days and weeks, exceeding half a million.

"I can understand these people coming here from New Orleans," said Isadore Brown, 32, who also was standing in line for food stamps. He's a crane operator, a black man who says the power at his Baton Rouge home went out, ruining food. Brown says he already has visions of criminals from New Orleans running amok. "They're coming down here from New Orleans making us fear for our lives," he said. "Some people have talked about not leaving their house."

Already, this city -- home to Louisiana State University -- has been showing signs of tension. Some stores are closing early, leaving many to wonder whether they're doing so because of those unsettling images of blacks looting in New Orleans -- or simply because stores are running out of supplies. And it has not been uncommon in recent days to hear gunshots ring out in the night.

"Why do store owners all of a sudden want to close up their stores at 10 p.m.?" wonders Tammy Ruffin, 33, also black. "Many of these stores used to be open 24 hours."

There are upwards of 30 evacuees now staying at the Shiloh Missionary Baptist Church on Eddie Robinson Sr. Drive -- named after the legendary Grambling football coach who grew up on this street. Eula Smith -- wife of Pastor Charles T. Smith -- directs volunteer efforts at the church, which serves a predominantly black congregation.

She says she immediately began to wonder about class divisions in the aftermath of Holden's comments.

"I don't know if the mayor was trying to alienate people or what," she said, seated in her office, the hallway buzzing with the sounds of New Orleans children playing tag. "He didn't say it right. Every population has this criminal element. But it sounded like he said all New Orleans people are thuggish."

Sleep has been hard to come by for Smith and her harried staff. She yelled out for someone to brew more coffee. "Now we do have to be careful," she continued, "that some of our people aren't using this situation to their benefit, getting into our shelters, and what have you. But Baton Rouge is bigger than Mayor Holden anyway. I think he said what he said for the benefit of his white voters, because he's looking to the future."

Simmering class divisions aside, the bugaboo of racism also has reared its head. Barbara Martin, 58, was a teacher in New Orleans. She and her husband, Alphonse, who are black, evacuated here. "Soon as the mayor made his statement about New Orleans," she said, "no-vacancy signs went up everywhere here on apartment complexes."

"We have sat in our car and watched whites go in these places and come out with paperwork to get apartments. The mayor is black. His head must be in the sand," she said. She goes on, her husband amen-ing her every word: "I accept what he said in terms of lawlessness. I don't believe in lawlessness myself. But what he said affected everybody. Some people were on lockdown here, as if we were going to tear up the city."

Martin says she has been made to feel "uncomfortable" in Baton Rouge. "I'm a middle-class black person, and I'm being treated by the color of my skin."

Hundreds Refuse To Evacuate (LAT)

DOJ_NMG_0002971

By Scott Gold, David Zucchino And Stephen Braun

The Los Angeles Times, September 6, 2005

NEW ORLEANS — Search teams pressing to evacuate the living and find the dead after a full week under the high-water sway of Hurricane Katrina found their efforts complicated Monday by the refusal of hundreds of residents to leave the paralyzed city.

President Bush returned Monday for a second tour of the disaster zone, praising emergency workers in Baton Rouge, La., and stressing the work of religious charities during a visit to a church packed with evacuees. Federal officials said relief operations were proceeding apace, but Bush's tour was soured by an ongoing feud with Louisiana's governor over who would manage National Guard troops in the state.

A senior New Orleans police official said Monday that some 10,000 inhabitants remained in the city, hidden inside flooded residences, apartments and housing projects, surviving on foraged scraps and food drops by the military. Searchers have been frustrated by hundreds of holdouts who have refused to leave their homes, fearing possessions will be pillaged, pets will die and their way of life will be erased.

"There are, to our surprise, thousands of people still in the city that we're trying to identify and locate," said Deputy New Orleans Police Chief Warren Riley. "We're trying to convince them there's nothing for them here — no food, no jobs, nothing to let them live the way they're used to."

But there were nascent signs of progress too. The gaping break in the city's 17th Street Canal levee was finally stopped up by metal sheets, tons of earthen fill and a strand of massive 3,000-pound sandbags. Engineers and contractors working on the breach and two other levee ruptures said water levels dropped by as much as a foot Monday in some parts of the city. The next step is "de-watering," the removal of water that is expected to take months.

More than 50,000 anxious evacuees began returning for the first visit to their submerged homes in Jefferson Parish, which borders the city on the west and the south. They waited for hours in cars lined for miles along a clogged highway.

"I was scared to come back," said Mike "Opie" Johnson, 37, who retrieved a pillow-case full of his mother-in-law's jewelry. "I heard there were looters everywhere, but turns out there weren't too many looters in this parish."

Thousands of residents arrived lugging coolers crammed with food and water to sustain them until Thursday, when parish sheriff's deputies will force everyone to leave again. Authorities cautioned that many other residents might not see their homes for months. In New Orleans, Mayor C. Ray Nagin also tamped down expectations, warning that it would take 10 years to rebuild the city and that storm-related deaths could rise as high as 10,000.

A week since Katrina blasted through the Gulf Coast, bursting levees and flooding out hundreds of thousands of residents, New Orleans remains bereft of the spark of high life that has made it a tourist and jazz mecca. It has descended into a nightmarish tableau of gas-line fires, sporadic gunfire and the sound of helicopters on searches for residents still trapped.

Soldiers, looters and scavengers sloshed through murky water under picturesque 18th century flats with trademark iron-gated balconies. The century-old jazz haunts of Storyville and Basin Street, where Louis Armstrong and Sidney Bechet played for tips, were silent as graves. The old port blockaded by Union ironclads during the Civil War remains useless, its entry canals bottled up by loose barges, scrap metal, silt and flood debris.

Yet many survivors ignored pleas to evacuate, foraging for sustenance by day and staying hidden at night in a city deprived of basic functions.

"They're trying to starve us out," said Barnell Roman, 53, who drank a warm beer on the porch of his two-story home on Elysian Fields Avenue in the Mid-City neighborhood.

Roman said he and a dozen other neighborhood residents were no longer able to cadge food or water from National Guard troops posted nearby. Faced with shrinking supplies, two neighbors gave up and accepted a ride from authorities to an evacuation point, he said.

On Interstate 10, where a flooded highway exit served as a ramp to launch rescue boats, search crews said hundreds of people had declined to be rescued over the last two days. One Texas crew operating east of the interstate was turned way by 450 people living in houses surrounded by water. On Monday, the crew rescued 183 people but was turned away by 150 more, said Billy Parker, manager of the Texas Task Force One Water Strike Team.

"They have water up to the porch, but they don't want to go," Parker said. "They sit up on the second floor and say: 'We got food. We got water. We're staying.' " Parker said his crews had no authority to forcibly remove anyone but had passed the information on to state and city agencies.

Nagin has said the city will remove all residents. He has not provided details on how or when the process would be carried out. But Riley warned Monday that officials were considering "stopping food drops" to the stragglers to increase the pressure on them to leave.

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There were emerging signs that water-borne bacterial disease has begun to fester among survivors being brought out of the flood zone by military and police search teams. Medical authorities working in the city report treating several cases of vibrio vulnificus, a gastrointestinal disease that spreads through exposure to polluted water.

Health officials said they clearly identified strains of the disease, which has effects similar to cholera, among some storm refugees. But they do not yet have a handle on the number of cases.

"We are seeing some cases," said Von Roebuck, a spokesman for the Centers for Disease Control and Prevention in Atlanta. "It could be life-threatening."

Among healthy people, the illness can cause vomiting, diarrhea and abdominal pain but is generally not life-threatening. It can be cured with antibiotics. But it can be more serious among people with chronic liver disease and compromised immune systems, leading to fever, chills and septic shock.

"The water quality in the streets continues to deteriorate," said Nagin, who said he was concerned about West Nile virus and other mosquito-borne diseases. "There is some really nasty looking stuff out there."

In a visit to the Louisiana Emergency Operations Center in Baton Rouge, Bush told several hundred local, state and federal public safety officials that their efforts in evacuating and providing medical treatment and food to tens of thousands of flood survivors brought "immediate light to people who needed help."

Bush returned to the storm-torn Gulf Coast region for the second time in three days to boost the morale of authorities and urge churches and other religious organizations to aid the flood victims of Louisiana, Mississippi and Alabama.

"I want to thank every church member who's helping people who have been displaced," Bush said as he toured the Bethany New World Prayer Center in Baton Rouge, consoling refugees along with televangelist T.D. Jakes and Louisiana Gov. Kathleen Babineaux Blanco.

Behind the scenes there were tensions between Blanco and the administration over the White House's attempt last week to force her to cede the constitutional authority she wields over the Louisiana National Guard.

A senior administration official who spoke on condition of anonymity confirmed Monday that top White House officials had pressed her to allow federal officials to unify National Guard and active-duty troops under one chain of command. The official said that "we wanted to unify the command and control for security" under Army Lt. Gen. Russel L. Honore, who is heading National Guard troops in New Orleans.

But Blanco has resisted, fearing the White House is attempting to paint her as the weak link in last week's slow-moving government disaster operations. On Monday, Blanco's aides learned only at the last minute that Bush was touring the state capital in Baton Rouge and complained that she was being punished for holding tight to her constitutional authority over state-based National Guard units.

When the two sat together at the Emergency Operations Center, Bush smiled benignly while Blanco stared ahead solemnly. At one point, Bush leaned over to give her a peck on the cheek, but her stern gaze did not waver.

Later, Blanco minimized rumors of sniping and said she supported the work of the Federal Emergency Management Agency, which has drawn sharp criticism in recent days. "This debate was simply about an organizational structure," she said. "We needed the versatility to use the National Guard members as they needed them."

After attending a meeting with Bush, Blanco and other federal and state officials, James Lee Witt, the former Clinton administration FEMA director, said that "in two days, you'll see a different program down here."

But Witt, who was hired as an advisor last week by Blanco to shore up her emergency planning and to blunt federal efforts to seize authority over military relief operations, also said that the Bush administration had "minimized FEMA" by folding it into the Department of Homeland Security.

"You can't report up through three different chains of people and make things go fast," Witt said. "FEMA needs to be put back as an independent agency with the people and resources to do its job well."

Homeland Security Director Michael Chertoff and FEMA head Michael D. Brown have been under fire for moving aid in too slowly and for not coordinating with local officials. They continued to defend their performance.

During one news conference Monday, a perturbed Brown resorted to listing his previous experience dealing with public emergencies.

"Yeah, I've been through a few disasters in my life," he said.

During a Monday meeting to unveil a fundraising foundation to aid hurricane victims, former Presidents Clinton and George H.W. Bush agreed that sniping between disaster officials should cease while relief operations were still underway. But Clinton said a national commission should investigate mistakes made in the first days after the hurricane, which hit Aug. 29. And he also questioned FEMA's current structure.

"It has something to do with how they reorganized after I left," Clinton said.

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Shoring up his organization, Chertoff named a new federal official to help oversee rescue and recovery operations in New Orleans. Vice Adm. Thad W. Allen, the Coast Guard's chief of staff, will be deputy federal officer under Brown. The Coast Guard has been widely praised for making more than 15,000 rescues of people trapped by the hurricane.

Allen's job will be to set up a new headquarters in New Orleans and work with Honore, who commands Joint Task Force Katrina, the military group in New Orleans.

Troops at the heart of relief operations in New Orleans and Mississippi continued to grow Monday. Major Gen. Bennett Landreneau of the Louisiana National Guard said the total number of forces in the city would climb to 10,000.

Honore, the commanding general of the First Army, seemed to be everywhere during the day.

He directed troops, met with Bush and Blanco, and charmed and blustered at television news anchors who began to mimic his gruff phrasing — repeating his "boots on the ground" to refer to growing troop strength and ending questions with his terse, "Over!"

The general waved off the political firestorm over the Bush administration's halting response, chalking the chaos following Katrina's assault to the vagaries of nature.

"The storm did this. It wasn't anything the government did," Honore said. "The storm had the damn vote. You can't vote that damn water out of the city of New Orleans. Now let's take care of the evacuees! Let's get it on!"

"Over!"

'No Reason To Stay,' But Some Won't Leave (DMN)

By Lee Hancock

The Dallas Morning News, September 6, 2005

NEW ORLEANS – By persuasion and by force, authorities worked Monday to complete the biggest evacuation of an American city in modern times.

Despite a week of flooding, hellish conditions and slim prospects that the city would be livable for months, some people still didn't want to leave.

"This city has been destroyed, has completely been destroyed," Deputy Police Superintendent Warren Riley said. "There's absolutely no reason to stay here. There are no jobs. There are no homes."

Nonetheless, he said, "Unfortunately there are still people that do not want to leave this city."

In the Garden District, police backed by California National Guardsmen stopped pedestrians and bicyclists at a major intersection and ordered them into vans even after some protested that they would be leaving friends and family behind.

It was a stark contrast to suburban areas where Hurricane Katrina's impact was less devastating. Residents were allowed to return to their homes temporarily to inspect damage and salvage belongings.

As authorities began removing dead bodies, engineers scored an initial success in the battle against the floodwaters. Louisiana officials said Monday afternoon that the 17th Street Canal levee, where a huge breach caused the disastrous flooding, had been patched.

After several days of helicopters dropping huge sandbags into the gap, the flow finally stopped and pumps were able to begin pushing water back to Lake Pontchartrain. But much of the city remained under water. Meanwhile, President Bush, who has come under intense criticism for his administration's response to the storm, made his second trip to inspect the damage and chaos. He pledged that "all levels of the federal government are doing the best they can."

'Lock down the city'

In New Orleans, the effort to impose order involved about 4,000 U.S. Army troops and Marines, National Guardsmen and law enforcement officers from across the country. They were patrolling city streets with local police in an effort to, in Mr. Riley's words, "lock down the city."

It wasn't easy. Army Lt. Gen. Russel Honore told ABC that fewer than 10,000 people remained in the city, based on aerial reconnaissance. That would be a fraction of New Orleans' half-million residents, but still a formidable number of holdouts.

Mayor Ray Nagin – who said Monday that the death toll in his city could reach 10,000 – declared that the city had the authority to force residents to evacuate. He would not say if authorities were doing that, but he announced that people who refuse to leave will no longer be given drinking water.

The deputy superintendent stressed voluntary evacuations, saying: "We are working with them and talking to them, trying to convince them to leave."

While some officers went further, others, in a neighborhood off Interstate 10 called Gentilly, said they could only warn people to get away from water that could carry encephalitis, typhoid, dysentery and toxic pollutants.

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Some people wandered the streets, and others scavenged in hotels and apartments for whatever they could find to survive. On Chef Menteur Highway, 73-year-old Navy veteran Silas Walker huddled beside wrecked gas pumps at a gutted Shell station.

"This is the area of the typhoon," he said, rocking back and forth in green hospital pajamas and sock feet. "I don't want to leave."

A police officer who tried to talk Mr. Walker into leaving was frustrated, but sympathetic.

"Some of these people have had so much psychological stress, all they been through, that they have lost their minds," he said.

Boat crews and air searchers continued combing the city for survivors, while police officers from Texas and other parts of Louisiana cruised neighborhoods, handing out food and patrolling for looters.

Humvees packed with heavily armed troops and SUVs filled with SWAT police officers prowled largely deserted streets and guarded the 18-wheelers hauling fuel for emergency vehicles and generators.

In Washington, military officials said that 8,500 active-duty personnel and 38,000 National Guard troops would be deployed in the hurricane-afflicted areas by today, along with 21 Navy ships.

Collecting the dead

The grim task of retrieving the dead began Monday as refrigerated trucks began fanning out across the city, collecting bodies from hospitals, roadways and apartments.

The Federal Emergency Management Agency is overseeing the recovery, setting up a temporary morgue near the New Orleans airport.

One FEMA truck stopped at midafternoon to pick up corpses in the Garden District. It was parked on the grassy median where the city's famous streetcars normally run, while workers wearing masks and white protective suits lifted body bags in.

"We just really got started, and we got nine so far," said Sgt. Richard Hazlewood, a Louisiana state police officer helping the truck navigate through neighborhoods.

In the poorer neighborhoods, the squalor grows worse by the day. Floodwaters have steadily gone down, leaving a malodorous, contaminated stew of sewage, chemicals, garbage and the bodies of animals and people.

In badly hit areas like the Ninth Ward, several residents said, neighborhoods are infested with snakes, prowled by packs of abandoned dogs and dotted with bodies of the dead.

A New Orleans police officer who passed through the area late Sunday on his way to check on his flooded home said some residents were wandering confused and disoriented through the filthy water.

"There were people really about like zombies, like that Night of the Living Dead movie," he said.

Even in the city's lushest neighborhoods, stores have been looted and streets are dotted with garbage and reeking water.

Trying to bring order has sometimes resulted in violence. Police across the city say they've dealt for the past week with sporadic gunfire. Officers based in the French Quarter say they had particular problems from Iberville, a desperately poor area just outside the famed tourist destination.

Police said that a Sunday morning shootout that left two civilians dead and two wounded did not involve U.S. Army Corps of Engineers contractors on their way to help patch a levee, as initial reports indicated.

The incident in East New Orleans began, officials said, when an emergency worker heard gunshots and called police for help. When officers responded, the gunmen began firing at them, and a backup tactical team ended up killing and wounding several of the assailants, Mr. Riley said.

Even in areas packed with police, looters roamed. Several U.S. Marshals and a state police officer, all brandishing M-16s, pulled over a van Monday morning and hauled out five people armed with machetes, knives, rifles, stun guns, brass knuckles and handguns.

The van had been hot-wired, stolen and decorated with an obscenity about Katrina. Inside, police also found a large cache of expensive-looking musical instrument cases. Its occupants were heavily tattooed 20-somethings who sat sullenly, three of them holding mongrel dogs.

"They're from New York, New Jersey," a deputy marshal said. "Looks like they've come down here to do a little looting and stuff."

The officers made the group sit on the ground until a truck came to take them and all but their weapons to an evacuation point. Even though they had obviously stolen the car and possibly the equipment, officers said, they could do nothing but ensure that they left the city unarmed.

"What can we do but evacuate them?" the exasperated deputy marshal said.

In New Orleans, Not Everyone Wants To Be Rescued (CSM)

By Patrik Jonsson

The Christian Science Monitor, September 6, 2005

NEW ORLEANS - Gregory Scott steers a commandeered pleasure boat through the flotsam of New Orleans's flooded 17th Ward, occasionally scraping bottom - actually, the roofs of submerged cars.

The area of modest two-story and shotgun-style homes seems empty of life - and officials believe that hundreds who tried to ride out hurricane Katrina here may have perished in their attics. But Mr. Scott, who makes his presence known by blasting a hand-held horn as he maneuvers the boat forward, knows there's life - even laundry - in some quarters.

"There's people all through here," says mate Timothy Waters.

A mucky brown soup flows through what used to be the 17th Ward's neighborhood of Holly Grove, the only spot Scott has ever called home. Under almost 10 feet of water, the Beautiful People club is gone. Scott's own house, with a broken window where he climbed out just ahead of rising waters, is part of a scene so macabre that even New Orleansian vampire-novelist Anne Rice might struggle to imagine it.

Yet while thousands finally got out over the Labor Day weekend, Scott and Waters are holding on - just two of many who are fierce in their determination to stay, keeping their feet planted in the muck of this Cajun Atlantis.

Such decisions perturb emergency-response officials, who warn that public-health risks posed by the fetid floodwater may worsen, and that two months of flood conditions may await residents who insist upon staying put. A stubborn resistance to leaving, they add, will only waste time and resources of an already-overtaxed search-and-rescue operation. The mission remains dangerous, as a nonfatal crash of a civilian rescue helicopter late Sunday illustrated.

Dennis Nunez, a Louisiana wildlife officer, has seen hundreds of people living deep in the neighborhoods. Some told rescue workers to move on, to save others first. In one mostly Vietnamese neighborhood, people were feeling comfortable enough to have gone fishing, and were drying fresh fish on their porches. "They won't come out," says Mr. Nunez. Less panic, more patience

As response to Katrina enters its second week, 17,000 National Guardsmen patrolled the Big Easy by foot, helicopter, and boat, and the atmosphere shifted from one of panic and scattered violence to one of a soggy siege. Here on the Jefferson Parish line, a few miles from where the 17th Street Canal was breached last Tuesday, the water line has fallen hardly at all as of Sunday afternoon.

On Sunday, many hangers-on gave up. Rescuers pulled one woman, barely conscious, from her home, mattress and all. The job of the day: Extricating a frightened, 400-pound man. Another woman came ashore with three cat carriers, each one containing three cats.

But the conflict between the stranded and the rescuers is playing itself out in ways that, at times, seem bizarre. Rescue helicopters have even come under sniper fire, police say, as some resist relocation.

"It's hard on the rescuers, to risk their lives and have somebody say, 'I don't want to be saved.' It boggles your mind," says Lt. Col. Pete Schneider, a spokesman for the Homeland Security Department, in Baton Rouge, La.

Rescue volunteer Jef Talbert, who has arrived from Texas in a friend's flat-bottom boat (which he's promised to return without bullet holes), says it's an odd feeling to be loading every gun he owns before he heads out to rescue people.

Scott, Waters, and six other men are locals who are aiding with the rescue, camping on a plot of high ground. They've rescued hundreds since last Tuesday, asking only food and water in return. They're using whatever equipment is at hand - whether an 18-wheel truck (which they stalled out in deep water) or a waterski boat with a 130 horsepower Yamaha four-stroke on the back.

As they shove aside downed wires and look for submerged cars and street signs that can damage the propeller on "their" boat, Scott and Waters shout at one house and toot the horn. Two men emerge onto the porch.

"Day 7," yells Anthony Belt, refusing his rescuers, indicating he's got food. He also has a flat-bottom sloop in case he really has to get out.

As the number of those in need, or want, of being rescued diminishes, rescuers are shifting priorities: If they see someone has stockpiled supplies, they've stopped handing out more food.

"If they're not coming out, we're not going to force them," says Lieutenant Colonel Schneider. "But we can't keep coming back to resupply." Fish dinner

If some survivors are struggling, increasingly aware that they are surrounded by a huge septic tank, others seem to be doing fine. Rescuers report seeing large Vietnamese families cooking fish and "looking very comfortable," some even keeping fish in makeshift pools, then hanging them out to dry.

Indeed, the stayers-on may be clinging to a belief that, beyond the muck, is hope. For some, a desire to protect their property is the driving factor in their decisions to stay, and others simply have nowhere else to go and are clinging to their patch

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of the globe. After surviving for a week in hellish conditions, many say perhaps things will only get better, suggests Mike Lindell, a psychologist at Louisiana State University. "We're in uncharted territory for human behavior."

Two women who had walked through chest-high water from the Superdome to their homes to get fresh clothes were glad to jump in Scott's boat, but then started to bicker with each other. Scott wanted none of it. Voice rising, he sounded off, saying the women should lay aside petty differences as they pass through waters of death. As the boat neared a staging area where rescue workers bring their human cargo, one woman, Tina Collins, turned around and said, quietly, "thank you."

Back on the levee, Scott, a tailor and French Quarter doorman, says he's found a new calling that lets him stay close to home, bringing his neighbors to safety when they're ready. Despite the rough conditions, he has no wish to leave.

"They say a rat has many holes, but I've got only one," he says. "And I plan on going down in it."

Crews Plug Levee Break A Week After Storm (AJC/AP)

By Doug Simpson, Associated Press Writer

The Atlanta Journal-Constitution, September 6, 2005

NEW ORLEANS — A week after Hurricane Katrina swept through, engineers plugged the levee break that had swamped much of the city and floodwaters began to recede, but along with the good news came the mayor's direst prediction yet: as many as 10,000 dead.

Crews had put up metal sheets and dropped 3,000-pound sandbags from helicopters onto the 17th Street canal leading to Lake Pontchartrain to plug the 200-foot-wide gap, and water was being pumped from the canal back into the lake.

State officials and the U.S. Army Corps of Engineers say once the canal level is drawn down two feet, Pumping Station No. 6 can begin pumping water out of the bowl-shaped city.

Some parts of the city already showed slipping floodwaters as the repair neared completion, with the low-lying Ninth Ward dropping more than a foot. In downtown New Orleans, some streets were merely wet rather than swamped.

"We're starting to make the kind of progress that I kind of expected earlier," New Orleans Mayor Ray Nagin said even before the plug of the break, which opened up a day after the hurricane and flooded 80 percent of the city.

The news came as many of the 460,000 residents of suburban Jefferson Parish waited in a line of cars that stretched for miles to briefly see their flooded homes, and to scoop up soaked wedding pictures and other cherished mementoes.

"A lot of these people built these houses anticipating some flood water but nobody imagined this," sobbed Diane Dempsey, a 59-year-old retired Army lieutenant colonel who could get no closer than the water line a mile from her Metairie home. "I'm going to pay someone to get me back there, anything I have to do."

"I won't be getting inside today unless I get some scuba gear," added Jack Rabito, a 61-year-old bar owner who waited for a ride to visit his one-story home that had water lapping to the gutters.

Katharine Dastugue was overjoyed to find that floodwaters had gone across her lawn but stopped just inches from her doorstep. As she stood waiting for a boat to take her in, she made a list of things she hoped to salvage before being forced to leave again Wednesday.

"If I can just get my kids' baby photos," she said. "You can't replace those."

In New Orleans, Nagin upticked his estimate of the probable death toll in his city from merely thousands, telling NBC's "Today" show, "It wouldn't be unreasonable to have 10,000."

As law enforcement officers and even bands of civilians — including actor Sean Penn — launched door-to-door searches of the city for survivors, they were running up against a familiar obstacle: People who had been trapped more than a week in damaged homes yet refused to leave.

"We have advised people that this city has been destroyed," said Deputy Police Superintendent W.J. Riley. "There is nothing here for them and no reason for them to stay — no food, no jobs, nothing."

Riley, who estimated fewer than 10,000 people were left in the city, said some simply did not want to leave their homes — while others were hanging back to engage in criminal activities, such as looting.

Nagin said the city had the authority to force residents to evacuate but didn't say if it was taking that step. He did, however, detail one heavy-handed tactic: Water will no longer be handed out to people who refuse to leave.

With almost a third of New Orleans' police force missing in action, a caravan of law enforcement vehicles, emblazoned with emblems from across the nation and blue lights flashing, poured into the city to help establish order on the city's anarchic streets.

Between 400 to 500 officers on New Orleans' 1600-member force were unaccounted for. Some lost their homes. Some were looking for families. "Some simply left because they said they could not deal with the catastrophe," Riley said. Officers were being cycled off duty and given five-day vacations in Las Vegas and Atlanta, where they also would receive counseling.

At a news conference in Baton Rouge, police Superintendent Eddie Compass denied that officers deserted in droves, acknowledging some officers abandoned their jobs but saying he didn't know how many.

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Two police officers killed themselves. Another was shot in the head. Compass said 150 had to be rescued from eight feet of water and others had gotten infections from walking through the murky soup of chemicals and pollutants in flooded areas.

"No police department in the history of the world was asked to do what we were asked," Compass said with a mix of anger and pride.

The leader of troops patrolling New Orleans declared the city largely free of the lawlessness that plagued it in the days following the hurricane. And he angrily lashed out at a reporter who suggested search-and-rescue operations were being stymied by random gunfire and lawlessness.

"Go on the streets of New Orleans — it's secure," said Army Lt. Gen. Russel Honore. "Have you been to New Orleans? Did anybody accost you?"

Hopeful signs of recovery were accompanied by President Bush's second visit to Louisiana, which exposed a continued rift between state and federal officials over the slowness of a relief effort. The first significant convoy of food, water and medicine didn't arrive in New Orleans until four full days after the hurricane, and the mayor and others said some survivors died awaiting relief.

Louisiana's largest newspaper, The Times-Picayune, called for the firing of every official at the Federal Emergency Management Agency in an open letter to President Bush that it published.

At a stop in Baton Rouge, Bush said all levels of the government were doing their best, and he pledged: "So long as any life is in danger, we've got work to do."

Louisiana Gov. Kathleen Blanco has refused to sign over National Guard control to the federal government and has turned to a Clinton administration official, former Federal Emergency Management Agency chief James Lee Witt, to help run relief efforts.

Blanco, a Democrat, was not informed of the timing of Bush's visit, nor was she immediately invited to meet him or travel with him. In fact, Blanco's office didn't know when Bush was coming until told by reporters.

Late Monday, Blanco denied there was tension with Bush.

"We'd like to stop the voices out there trying to create a divide. There is no divide," she said. "Every leader in this nation wants to see this problem solved."

In Texas, U.S. Health and Human Services Secretary Mike Leavitt declared a public health emergency for that state, saying it would speed up federal assistance to help almost 240,000 storm evacuees — the most of any state.

While the New Orleans' refugees were mostly poor and black, Jefferson Parish brought the storm's destruction to a much wider economic cross-section.

The sprawling parish stretches from Grand Isle on the Gulf of Mexico to Lake Pontchartrain in the north, and includes some of the metropolitan area's most exclusive neighborhoods.

In the enclave of Old Metairie, the rows of palatial, six-bedroom homes sustained little structural damage but had some of the worst flooding. Water rippled up the knobs at front doors and completely covered Mercedes-Benzes and BMWs in garages.

Many residents were happy that the storm spared their homes, but angry that the failure of the levee system left them swamped. Some were considering a lawsuit against the federal government for having a levee that could survive no more than a Category 3 hurricane.

"That's what's so devastating, that goddamned levee breaking," said Bobby Patrick, who is now staying in Houston. "My home didn't lose a shingle but it's got six feet of water in it."

Since the storm, rumors had swirled that looters had crossed over the parish line and begun breaking into evacuated homes in Jefferson. Many were relieved to return home Monday to find their belongings untouched.

Across the neighborhood, residents took what items they could fit in a boat. One woman loaded up her boat with her collection of cashmere sweaters, her cat and the 1957 Leica camera that belonged to her grandfather. A man packed his pickup truck with his silverware, his wife's clothes and a cherished animal figurine.

Unlike the poor in New Orleans, these refugees had other places to go. And few here planned to stay through what could be a long recovery. With police checkpoints on every major street corner, even looting was not a major concern.

Said personal trainer Rod McClave: "I'm more concerned about them damaging my stuff just for the hell of it."

New Horrors Discovered As Recovery Effort Goes On (MH)

By Lee Hill Kavanaugh, Natalie Pompilio And Martin Merzer

The Miami Herald, September 6, 2005

NEW ORLEANS - Ghastly new evidence of Hurricane Katrina's horror emerged Monday night when a sheriff reported the recovery of 22 bodies lashed together around a pole - a desperate, futile attempt to survive the storm.

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Sheriff Jack Stephens of St. Bernard Parish, just east of New Orleans, said rescuers found the bodies tied with rope and wrapped around a pole in the tiny village of Violet along the eastern bank of the Mississippi River.

The bodies were found soon after the storm in a flooded area of the village but still haven't been identified, he said. He said he believed they had tied themselves together, one by one, so they could escape the rising water.

The report came on a day when rescue crews still sought the living and the dead, and when New Orleans Mayor Ray Nagin shared a grim estimate of Katrina's human toll - as many as 10,000 people dead, though he didn't cite the basis for that statement.

And more: Biloxi Mayor A.J. Holloway said he expected the death toll in his Mississippi city to exceed that of Hurricane Camille, which killed 200 people in 1969.

Meanwhile Monday, engineers repaired the ruptured 17th Street Canal levee in New Orleans and floodwaters receded a bit as some suburban residents, carrying suitcases and heavy hearts, briefly returned to their homes and sifted through the sodden debris.

Many of those who briefly returned to suburban Jefferson Parish or stayed there throughout the ordeal reported a landscape dotted with bodies.

On Stella Street, Eric Breaux said he saw 15 corpses, most of them caught in barbed wire at the Metairie Country Club. "I don't want to see it again," he said. "I personally tied three dead bodies to street signs."

Authorities permitted residents of the area, a parish just west of New Orleans that includes Metairie and Kenner, to inspect their houses and recover possessions worth removing.

Many neighborhoods still were flooded to the rooftops, but others had dried out, leaving behind an awful, reeking residue. About 460,000 people lived in the suburban parish before the storm, and now some labored on a day that felt like anything but a holiday.

"We have lost everything," Carol Crokem of Kenner said as she surveyed what was left of the home on West Tulane Lane where she and her husband raised three children and two grandchildren.

Maggots gathered at her front door, and sewage and garbage polluted the interior.

In Metaire, Vinson Serio, 59, stacked dining room chairs outside while his wife, Claire, 57, swept malodorous black water from their home. Among the destroyed possessions: his daughter's never worn wedding dress.

"I'm grateful it wasn't death," Serio said. "But it's bad as far as destruction, emotional destruction."

As they and others viewed the wreckage of their houses and their lives - and as the water in and around New Orleans slowly receded, President Bush conducted another partial tour of the region, though he again bypassed New Orleans.

"We're here for the long term," Bush said during a stop in Poplarville, Miss., 45 miles inland but savaged by Katrina. He's been harshly criticized over the federal response.

At the same time, rescue crews continued searching for people still believed trapped throughout the vast region assaulted by Katrina more than a week ago - and for people who chose to stay.

"To our surprise, there are still thousands of people - thousands of people - inside this city who we are trying to identify and relocate," said Warren Riley, deputy chief of New Orleans' police force. "There is absolutely no reason for them to stay. No jobs, no food. ...

"We advise people that this city has been destroyed."

Though there were some exceptions, the large-scale rescues of the weekend seemed nearly over, signifying a shift from finding the living to preparing to recover the dead.

Crews aboard U.S. Navy search-and-rescue helicopters spent much of the morning searching in vain, buzzing the rooftops, floating just above putrid, fuel-stained olive-black waters.

Car and truck roofs remained submerged, and holes in rooftops attested to previously successful rescues.

"You see some of the roofs without holes right next to the ones that have them," said Ren Owens, 26, a Naval rescue officer. "It kind of makes you wonder what's in there or who's in there."

Throughout the day, squads of National Guard troops probed sections of the city, searching for holdouts or the trapped, producing war-like scenes that seemed almost cinematic.

In the city's Garden District, troops formed lines along either side of the oak-lined streets and conducted reconnaissance missions. They found 56 people in a parking garage a few buildings away from their newly commandeered headquarters on St. Charles Avenue.

They picked up 85 more at the intersection of Napoleon and St. Charles avenues, where rescue boats dropped off people plucked from flooded houses.

The order for forced removals hadn't yet come, said Maj. David Parker of the Oklahoma National Guard, but if it does, he's prepared. "We'll use sheer force," he said, "or coercion of some type."

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Elsewhere, at a spot not yet reached by the patrols, a helicopter fluttered overhead and a woman yelled at it. "Please come down," Jarnette Williams said, waving her arms frantically. "We want to leave."

Riley said at least 400 of his 1,600 officers were unaccounted for, but 4,000 soldiers, National Guard troops and police officers from other cities and states augmented his demoralized police force. He said they were bringing order to a city that had descended into anarchy.

Nagin, the New Orleans mayor, said Sunday night that all uniformed New Orleans officers would be pulled off the streets and sent for evaluation and counseling, but Riley offered no such indication Monday.

"We feel the city is very secure," Riley said, though he reminded everyone of the magnitude of the challenge and the scale of the work that remained. "This was probably the greatest catastrophe in an American city."

Asked for his estimate of the death toll, Nagin told NBC's "Today" program: "It wouldn't be unreasonable to have 10,000" dead.

During his visit, Bush stopped in Baton Rouge, a city largely untouched by Katrina but now nearly overwhelmed with evacuees. Its population mushroomed from 225,000 to 325,000 within a week, city officials said, and soon could reach 450,000.

Although the federal effort has been widely criticized as slow, insufficient and uncoordinated, Bush was upbeat.

"All levels of the government are doing the best they can," he said during a stop at a shelter at the Bethany World Prayer Center in Baton Rouge. "So long as any life is in danger, we've got work to do.

"Where it's not going right," he said "we're going to make it right."

Stung by accusations of racism, given that most of the victims are black and poor, he met with several African-American ministers, but many people remained unconvinced.

"How else can you explain it?" said Ronald Walters, a political science professor and director of the African American Leadership Institute at the University of Maryland. "Look at how the president responded to hurricanes that took place on the other side of Florida in predominantly white populations. ...

"White life has always been more valuable than black life," Walters charged. "That explains it for people."

Bush hasn't responded directly to the allegations.

In Small Town, Huge Morgue Takes Shape (NYT)

By Peter Applebome

The New York Times, September 6, 2005

SAINT GABRIEL, La., Sept. 5 - After the wind, after the flood, after countless bodies are fished from muddy bayous or lifted off street corners or carried down from roofs or attics, the road ends here.

At a warehouse next to the modest city hall in this ragged town just past where the sprawl of Baton Rouge gives way to farmland, refrigerated trucks on Sunday began the task of bringing what is expected to be thousands of bodies to the temporary mortuary set up to process victims of Hurricane Katrina.

All day long on Monday, trucks bearing equipment and supplies and sometimes victims clattered down the narrow street just over the railroad tracks to what is called the Disaster Portable Mortuary Unit. There a staff of 100 workers - morticians, forensic pathologists, anthropologists, medical examiners, coroners, fingerprint technicians, radiologists, dental technicians and others - will identify bodies and prepare them for burial.

No one knows how long it will take or how many bodies to expect.

Mayor C. Ray Nagin of New Orleans warned on the NBC program "Today" that "it wouldn't be unreasonable to have 10,000" dead in the city.

Capt. Marlon Defillo, spokesman for the New Orleans police, said city officials did not expect to have even a rough estimate of the number of dead until the end of this week.

"It's not going to be low," Captain Defillo said.

So far only 23 bodies have been brought to the mortuary, and the official death toll for Louisiana stands at 71. Officials said the low count was due mostly to the arduous recovery process and the desire for accuracy. But some also said there was no way to make any kind of reliable projection, so the estimate of 10,000 deaths could turn out to be way off base.

Whatever the number, nearly all bodies will come here, where officials say they are committed to what seems an almost impossibly contradictory mission - handling with dispatch the victims in a death toll that could rival that of any natural disaster in American history and treating each body with the knowledge that it was someone's father, someone's mother, someone's child.

"Our goal is to do everything we can under the circumstances to treat each body with as much dignity and respect as we possibly can," said Bob Johannessen, a spokesman for the Louisiana Department of Health and Hospitals, which is managing the mortuary operation with the Disaster Mortuary Operational Response Team of the Federal Emergency Management Agency. "We're trying to treat them all as individuals."

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Mobile units in New Orleans began collecting bodies from streets and flooded areas on Monday and going house to house in some neighborhoods to look for the dead. Until now, bodies had been left to rot in the streets while rescuers focused on searching for survivors.

Some corpses were tied to road signs and electricity poles so they would not float away, but many have decomposed beyond recognition.

Mr. Johannessen said bodies would first be taken to collection sites where preliminary information would be gathered to help identify them, including where they were found and any documentation or personal effects found with them.

They will then be put in body bags, loaded onto refrigerated trucks and sent to this town of 5,300 just south of Baton Rouge, home to two prisons and the only long-term treatment facility for Hansen's disease, or leprosy, in the continental United States.

The mortuary facility is about the size of football field and had been used by businesses to store merchandise. It can process about 140 bodies a day and is set up to accommodate 1,000 bodies, but it can be upgraded to handle "in excess of 5,000," Mr. Johannessen said. He said he expected that the facility would be able to handle whatever need arose.

Mr. Johannessen said bodies taken to the center, many of which have been decomposing in toxic water for a week, would first be decontaminated so they can be handled safely.

Then officials will begin gathering forensic data, including dental X-rays, photographs, fingerprints and DNA samples, in an effort to identify bodies. Medical records, including information like pacemaker serial numbers or evidence of artificial hips or knees, will be compiled into a profile of each victim and stored in a database made accessible to families looking for missing people. Relatives will not be allowed to visit the bodies at the mortuary, Mr. Johannessen said.

The state is looking for burial space, and victims not immediately identified will be buried there. Officials said families could later move bodies to family plots.

Local residents, who were not told about the facility in advance, had mixed reactions to its presence. Chief Keith Ambeau of the police department acknowledged that some residents had expressed fears about health, odors and the stigma of a giant mortuary operating, perhaps for months, next to a residential area.

"It's human nature to have some concerns about bringing in dead bodies," Chief Ambeau said. "People are going to worry about disease, contamination. But I've been saying all morning, my office is right here. I'm not going to put myself in danger. I think for the most part people are compassionate here. Their hearts go out to those people. New Orleans is only 75 miles away. Those are our brothers, our sisters, our loved ones."

But at a house just a few hundred yards from the mortuary, three residents shuddered at the thought, with one woman expressing concerns about safety and property values.

And echoing the issues of class and race brought up by the tragedy, she asked why it was put in her neighborhood, its residents largely, but not entirely, black and lower income. The per capita income in the town is $8,952, compared with $16,912 for the state and $21,587 for the nation.

"You look around this neighborhood for yourself," said the woman, who is black and did not want to be identified. "You look at what color lives here. What their economic situation is. There's plenty of empty land in Louisiana. Why put it here?"

A few houses closer to the site, Paula Chong, who has two grown children and lives with a baby granddaughter, said she would prefer the mortuary to be elsewhere but believed it would be safe.

"We just need to turn to God," Ms. Chong said. "All I ask is that they be careful and do everything in accordance with the law."

Besides, she said, in the extended family that is south Louisiana, it is a facility that she may need, too.

Counting her missing cousins, Ms. Chong said: "I've got, what, 4, 5, 9 or 10 still missing? Lots of my cousins. So why would I complain when I still have family of my own missing?"

Along Gulf, Aiding The Living And Counting The Dead (WP)

By Timothy Dwyer And Michael A. Fletcher

The Washington Post, September 6, 2005

NEW ORLEANS, Sept. 5 -- Federal officials opened a vast morgue to collect the dead and health officials scrambled to create a health care network to help the living, while states across the country struggled to find housing and other provisions for the more than 1 million people driven from their homes by Hurricane Katrina.

Although the storm's announced death toll was just over 200 on Monday, officials began to brace themselves and the public for a body count that could reach well into the thousands.

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Meanwhile, the U.S. Army Corps of Engineers said it had closed gaps in levees damaged by the hurricane and had begun pumping water out of the city and into Lake Ponchartrain. The flood in the swamped Ninth Ward had dropped by a foot, and downtown streets were wet instead of inundated.

The vast scope of the calamity triggered by the storm was still emerging. officials estimated that more than 1 million people -- many of whom fled with only the clothes on their back and a few prized possessions stuffed in a bag -- have been forced from their homes, most likely for many months.

Amid mounting recriminations about the slow pace of the government response to the calamity unleashed by last week's storm, President Bush visited the stricken area for the second time in four days, and his administration appointed a federal official to assume control of recovery efforts in storm-ravaged New Orleans.

Homeland Security Director Michael Chertoff tapped Coast Guard Vice Adm. Thad Allen to coordinate the government's relief efforts in the city. Allen will report to beleaguered FEMA Director Michael D. Brown, who will keep responsibility for the rest of the Katrina-affected Gulf Coast region.

Bush also declared a state of emergency in eight states -- as far away as Utah and West Virginia -- bringing to 13 the number eligible for special federal aid as a result of the hurricane.

Federal agents, troops and law enforcement officers from around the country continued to pour into New Orleans, and police officials expressed confidence the city was mostly safe from the marauding gangs that had terrorized citizens in the storm's chaotic aftermath.

The rapidly growing scale of the effort was evident in the official statistics of federal personnel involved as of midday Monday: 38,000 National Guardsmen, 6,000 FEMA responders and 4,000 from the U.S. Coast Guard, according to the Department of Homeland Security. The USS Iwo Jima, an amphibious assault ship, pulled into New Orleans port Monday and will assist in aid efforts.

Across the state, doctors and nurses worked feverishly to cobble together a new health care network, transforming abandoned stores, basketball arenas and other spaces into hospitals to treat the hurricane's victims.

The relief effort even grew to include counterfeit clothes, 100,000 items of which were taken from U.S. Customs Service storehouses and distributed to evacuees in Houston's Astrodome. Two cruise ships anchored in Galveston, Tex., were to begin taking on evacuees as well -- as many as 2,600 each.

About 990,000 customers remained without power Monday because of Hurricane Katrina, the Energy Department said, down from 1.3 million on Sunday.

Allen's appointment in New Orleans came as the president moved to reassert his leadership in the wake of withering criticism about what many local officials and residents saw as his administration's lethargic response to the deadly storm. Bush made his second visit since Friday to the devastated region, talking to evacuees in a church-run shelter and meeting with disaster-relief officials in Louisiana before speaking to emergency personnel in Poplarville, Miss.

"I understand the damage. I understand the devastation. I understand the destruction. I understand how long it's going to take," Bush said in Mississippi. "And we're with you. That's what I want you to know."

As Bush visited the region, rescue workers continued their search for survivors. As choppers maneuvered overhead, rescuers trolled debris-strewn city streets in flat-bottom boats, going house to house, peering in windows and knocking on doors in an effort to evacuate the estimated 10,000 New Orleans residents thought to still be in the city.

Often, they found people who refuse to leave.

Keith Edwards, a rescue worker from Arkansas, tried in vain to talk an elderly woman into abandoning her home in a public housing complex not far from the Superdome. Sitting at a table in her darkened apartment, the woman refused his offer to be evacuated by airboat. "Hon, you don't know how dangerous this is?" Edwards said. ". . . the water out in your front yard will kill you."

One New Orleans police officer said the search was still focused on the living. "We're going up to buildings looking for people," said the officer, who said he was not authorized to speak on the record. "When you break the window and the smell comes back at you, you know they're dead." And they move on. "You just can't worry about the dead right now," he explained.

But other workers are. The bodies of those left dead in Katrina's wake were scheduled to start to arrive Monday in a massive warehouse outside Baton Rouge. Lifted from the fetid waters swamping this city, they will be transported in refrigerated trucks to the temporary morgue. A similar morgue has been set up in Mississippi.

As officials forged ahead with the recovery work, Bush spent the day near the storm-ravaged Gulf Coast. Some critics said the impression of a slow federal response to Katrina was only deepened by the president's visit to the region last week, during which Bush seemed tentative in his comments and was kept away from some of the most dire misery spawned by the storm.

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Some civil rights leaders have questioned whether the response to the storm was hindered by the fact that many of those most severely affected are poor and black -- a charge dismissed by federal officials. In the face of the growing denunciations, senior administration officials have fired back by blaming local officials for the inadequate response to the hurricane.

Bush seemed intent on rising above the finger-pointing during his visit, saying that "all levels of government are doing the best they can" to restore order and to address basic needs of the storm victims.

"So long as anybody's life is in danger, we've got work to do," Bush said. "That's why I want people to be assured we're going to do it."

Bush posed for pictures with children and talked with several of the 800 people staying at Bethel World Prayer Center in Baker, a few miles north of the Baton Rouge airport. Some asked the president about the growing use of the word "refugee" to describe them.

"A refugee is a prisoner of war or something," said Paulette Jolla, a New Orleans who left before the storm hit. Also in on the conversation was Terry Thompson, 42, of New Orleans, who said the president agreed to urge officials to start referring to those who escaped the storm as "displaced citizens."

"I don't know who came up with the term 'refugee' anyway," said Thompson. "He said if that term was making us feel like we were less, he didn't want to do that."

Thompson, who served in the National Guard in the Persian Gulf, said the military should have been called upon earlier to bring in helicopters to help evacuate residents and deliver food and water. "He's going over there to save the Iraqis and all that," Thompson said. "But he responded terribly to this tragedy."

Others were more charitable. "It's good that he came," said Iris Henderson, 38, who is at the shelter with her daughter and one grandchild. "People said he doesn't care but it seemed like he does. He showed that he's human. He's trying to do what he can."

Among those joining Bush on his visit to the shelter were the Rev. T.D. Jakes, who is one of the nation's best known African American religious leaders; Louisiana Gov. Kathleen Babineaux Blanco (D), first lady Laura Bush, Baton Rouge Mayor Melvin L. "Kip" Holden and Chertoff.

As Bush visited the region, some residents of Jefferson Parish were allowed to return briefly to their homes for the first time since they were forced to flee. A line of vehicles miles long began moving into the parish west of New Orleans at about 6 a.m.; officials planned to allow traffic in for 12 hours, though they encouraged residents to inspect their property, pick up personal items and leave.

Mississippi officials said the situation in the state was improving -- slowly. The availability of fuel continued to be "a significant problem" in some areas, said Gov. Haley Barbour (R), but, overall, he said, things were getting better.

Many Of The Dead Never To Be Identified (AP)

By Tim Dahlberg, Associated Press Writer

The AP, September 5, 2005

NEW ORLEANS — They died on flooded city streets in the Big Easy and in country homes in Mississippi. One survived seven months of combat in Iraq only to die near his boyhood home. An 80-year-old woman died sitting in a bedroom chair when a tree crashed through the roof. One man was killed when he went out to his car to charge his cell phone during the storm.

A woman known only as "Vera" was struck by a car after the hurricane hit, according to her husband.

Most of the dead from Hurricane Katrina don't have names yet. Many will never be identified because their bodies decomposed in the floodwaters and heat before they were found.

For some, a few details are emerging from relatives who want them remembered:

_ Jewelry shop owner David "Kip" Logan, 49, liked to play golf and hunt and attended a Baptist church. His last act was to tell his wife to run as a tree cracked and fell on the porch of his Laurel, Miss., home, collapsing an awning on top of him.

Deborah Logan suffered two broken vertebrae and broken fingers, but stayed with her husband as neighbors pulled him from the wreckage, dug a damaged car out of the debris and drove him to the hospital.

"I held his head in my hands the whole way," Deborah Logan said.

_ For some reason, 43-year-old Vicky Thaggard wrote a letter to her preacher four months ago describing how she wanted her funeral carried out. She died when a tree fell on her car in Leake County, Miss.

"Different people think you know before you die," said Kay Cain, her niece. "I don't know. ... Why else would she leave a letter like that?"

_ Whenever Merry Thompson went out for a drive, she was accompanied by a 3 1/2-foot-tall stuffed toy, Sylvester the cat. It was a tribute to her late father, who was named Sylvester, and it was guaranteed to draw stares from drivers around Eagle Lake, Miss.

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The 43-year-old died when a tree fell on her mobile home.

"She's crazy — not looney bin crazy — but she just had a lot of personality," her son, Nick Thompson, said. "She's very outgoing and warm."

_ Josh E. Russell had spent a tour in Iraq, then switched to the National Guard from the Marine Corps so he could spend more time at home. The 27-year-old was killed when the Humvee he was riding in hit debris on a highway in Pearl River County, Miss.

Russell was nervous about being called into action, sent into the teeth of the hurricane, said his widow, Jamie Russell.

"He didn't want to go, because he knew it was going to be a bad storm. But he went, because that was his duty," she said.

These are just a few of the dead whose names are known and whose stories are being told. But there are sure to be thousands more in months ahead.

Many, like the man whose body was on a wooden cart on New Orleans' Rampart Street near downtown may simply be buried in anonymous pauper's graves. The elderly man was wrapped in a child's bedsheet decorated with the cartoon characters Batman, Robin and the Riddler. He had one shoe on, one off.

Identifying the dead will be a daunting task, made even more desperate because many will likely be bloated and decomposed by the time they're taken away. FEMA officials said they would try to locate dental records, but urged family members to bring in photos, fingerprints or even a toothbrush or provide DNA samples.

Homeland Security Secretary Michael Chertoff warned the nation to prepare for the worst as bodies believed to be in houses and in floodwaters are recovered.

"It is going to be about as ugly of a scene as I think you can imagine," Chertoff said.

Slowly, though, some faces are being matched with the dead, mostly by family members.

For days, mystery shrouded the body of "Vera" as closely as the sheet that eventually cloaked her body. She stayed there in the Garden District, at the corner of Jackson and Magazine, with a spraypainted tribute on the sheet over her: "Here lies Vera. God help us."

Vera turned out to be 66-year-old Elvira Smith, who lived with her common-law husband, C.N. Keene, about five blocks from where she was killed. Sitting shirtless and with a growth of beard on the front porch of his modest duplex, Keene said he last saw his wife Monday after the hurricane struck.

Keene said she was on her way to Jewel's grocery when someone driving in the frantic aftermath of the hurricane struck her just a few feet from the store entrance and sped away. The next day, Keene said he walked over and put a bedspread over her body but he didn't want to return to it.

On Saturday, Keene was sitting on his porch when a man came up to him with some news.

"Some guy I didn't even know named John came by and said, 'I've just buried Elvira in the park,'" Keene said. Her body remained in the same spot, but a short wall of bricks had been built around her, anchoring the tarp.

"I told him I appreciated it," Keene said.

Bacterial Disease Afflicts Some Evacuees (LAT)

By Scott Gold

The Los Angeles Times, September 6, 2005

NEW ORLEANS — Authorities said Monday that some of Hurricane Katrina's evacuees have contracted a bacterial disease that is considered a more benign cousin of cholera, but is potentially fatal in people whose immune systems have been compromised.

Officials at the Centers for Disease Control and Prevention in Atlanta said the bacterium, vibrio vulnificus, may have been picked up by people with open wounds who were forced to wade through polluted floodwaters for a long time.

Von Roebuck, a CDC spokesman, said officials have detected the disease among some storm evacuees and stragglers but have not been able to determine how many cases there are. It does not appear that anyone has died, Roebuck said.

Since flooding began, authorities have predicted that New Orleans could be stricken with a host of diseases, particularly as unretrieved bodies remained in the water. This appears to be the first confirmation of illness caused by the storm and the flood.

New Orleans Mayor C. Ray Nagin said Monday that the possibility of epidemics is a critical concern.

"The water quality in the streets continues to deteriorate," he said. "There is some really nasty looking stuff out there. I worry about it every day. The more time that passes, there are more dead bodies left floating, and more mosquitoes breeding and hatching. They bite people who are dead."

Nagin said he is also concerned about a wide outbreak of the potentially fatal West Nile virus. For two days, he has called upon the federal government to provide crop dusters that can coat the city with chemicals to kill mosquitoes breeding in the floodwaters. That had not occurred by Monday evening.

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He said he is also concerned about airborne toxic hazards and natural gas in the area.

Those health threats are why every resident must leave the city for now — even those living on dry land, he said, adding that they "will be able to come back."

Vibrio vulnificus belongs to the same family as cholera — and those stricken with the bacterium were only discovered, officials said, because tests were done amid false reports that cholera had been discovered among evacuees.

Among healthy people, vibrio vulnificus causes vomiting, diarrhea and abdominal pain but is generally not life-threatening. It can be readily cured with antibiotics such as doxycycline or cephalosporins, with no long-term effects.

It is substantially more serious in people with chronic liver disease or people who have compromised immune systems, such as those taking transplant drugs. In those cases, the bacterium escapes into the bloodstream, where it causes fever and chills, septic shock — characterized by sharply decreased blood pressure — and blistering skin lesions.

About half of those who contract bloodstream infections die, according to the CDC.

There is no evidence that the bacterium spreads from human to human.

The bacterium can also cause skin infections if people have open wounds, which can lead to skin breakdown and ulceration.

About 45 hospitalizations and 16 deaths are reported each year in the Gulf Coast states, but many experts believe the actual number of cases is far higher. Most cases occur between May and October, when the ocean is warmer.

In New Orleans' 9th Ward, O'Neil Broyard, 67, said Monday that he is not concerned about the threat of disease, although several feet of increasingly fetid water stands just behind his business, the Saturn Bar.

Broyard has been mucking around in the water for days. During the height of the flooding, 2 feet of water was in the bar and he spent three days cleaning it out. He said he took precautions every time he slogged through the water.

"I washed up good," he said. "I got that antibacterial soap and I just put it on my feet."

Like thousands of others left in town, Broyard rejected the mayor's call to evacuate. Instead, he said he was intent on guarding his bar, a small, strange gem in the east of the city that has acquired a cult following over the years for its collection of surreal, comic paintings by a local artist and its earthy, no-nonsense management.

Hurricane Refugees Reach Safety Carrying Many Health Problems (WSJ)

By Betsy McKay, Marilyn Chase and Sarah Lueck

The Wall Street Journal, September 6, 2005

Hurricane victims moving out of the floodwaters of New Orleans and elsewhere are arriving at shelters and medical facilities with troubling health problems, including infectious diseases caused by exposure to contaminated water.

Doctors are seeing many patients with infected wounds and gastrointestinal illnesses, and worry that more are coming in the days ahead. A reported outbreak of gastrointestinal illness sickened a large number of people at a Mississippi shelter. Doctors also are treating a wave of patients with broken bones, dehydration and chronic illnesses such as diabetes and heart disease that were destabilized during the past week.

To prevent disease outbreaks, the federal Health and Human Services Department shipped 90,000 doses of tetanus vaccine, 22,000 doses of Hepatitis A vaccine and 36,000 doses of Hepatitis B vaccine over the weekend to states and health facilities, said HHS spokeswoman Christina Pearson. The department also has provided antibiotics as well as medications for chronic illnesses such as heart disease, diabetes and anxiety. Overall, the government said it has deployed 100 tons of medications and other supplies for victims of the hurricane.

A temporary government medical facility set up last week in Baton Rouge, La., is filling more than 1,400 prescriptions a day, said Ms. Pearson. The facility has seen about 3,500 patients since Tuesday, and an average of about 100 of its 250 beds have been filled.

At a huge Red Cross shelter at the River Center complex in Baton Rouge, volunteer physician Chris Montgomery says he and other doctors have treated several evacuees with skin infections from contaminated water, as well as lacerations and a few cases of diarrhea.

"We're very worried about easily spreadable skin infections," says Dr. Montgomery, a family physician from Poplar Bluff, Ark. He is particularly concerned about serious infections such as an overgrowth of bacteria in the colon that is common in nursing homes and hospitals. The shelter's approximately 6,000 residents include some elderly and infirm patients. The makeshift clinic also is providing continuing medical care to many shelter residents with diabetes and heart and lung problems.

To minimize infections, the Red Cross staff are requiring all shelter residents and visitors to clean their hands with hand sanitizer at the entrance. Dr. Montgomery says he also is coating the inner rim of his nose with antibiotic ointment, to ward off bacteria that he may contract from patients' coughs. He says he also is concerned about viral gastrointestinal diseases, although

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there have been very few cases yet, and no cases of dysentery. Flu is another concern for him -- the season will start in a month or two.

Joseph Guarisco, chief of the emergency department at Ochsner Clinic Foundation in New Orleans, said he saw several cases of gastroenteritis with nausea, vomiting and fever on Friday due to contaminated water or food. A spokeswoman later added that the emergency room over the weekend mostly treated broken bones, including in people brought in by search-and-rescue teams, and dehydration and exhaustion of the elderly. The hospital was seeking to restore the full range of services; it performed a heart catheterization Sunday and was planning lung surgery and a heart bypass.

Dr. Joseph Dalovisio, head of the department of infectious diseases at Ochsner, said he is concerned mostly about tetanus infections and gastrointestinal illnesses related to contaminated food and water, rather than exotic illnesses such as cholera. Noting there were dozens of cases of the mosquito-borne West Nile virus before the storm, he says he is "worried about mosquitoes now that people are out of their houses."

Edward Hill, president of the American Medical Association, said scores of Katrina-affected patients are being brought to the Good Samaritan Clinic, an outpatient center where he works in Tupelo, Miss., about 150 miles north of the most severely hit parts of the state.

"The predominant problem is the lack of medication for hypertension, diabetes and people suffering from heart problems," said Dr. Hill. Physicians in Tupelo have donated drugs, including samples provided to them by drug companies. Pharmacists on site are helping to match patients with available drugs.

Health and Human Services Secretary Mike Leavitt ventured to several affected areas to meet with local health and political leaders. He also signed an order on Sunday that officially declared a public-health emergency in Texas, which will allow Medicaid recipients arriving from other states to continue to get coverage from the health-insurance program for the poor.

Improvising To Replace Services For Many Thousands (WP)

By Ceci Connolly

The Washington Post, September 6, 2005

BATON ROUGE, La., Sept. 5 -- Legions of doctors and nurses are frantically patching together a new medical care network to handle the swelling flow of Hurricane Katrina's victims. The extraordinary process includes the task of converting basketball arenas, an abandoned Kmart and even the New Orleans airport into working hospitals and clinics.

The storm -- and more significantly the flooding, lack of food and exposure to the baking sun that doctors say left victims to "rot alive" -- have presented medical workers with an overwhelming challenge. Overnight, New Orleans and surrounding communities lost 6,000 hospital beds.

The health care demands of this disaster far outstrip those of previous ones. In seven endless days and nights, doctors have delivered babies, revived failed hearts, hooked up diabetics to dialysis, bandaged snakebites and distributed thousands of medications, including many antibiotics for cases of gangrene and other infections caused by the lethal pairing of open wounds and putrid water.

"This is the worst disaster I've ever seen in my life," said Robbie Prepas, a midwife from San Diego who arrived a week ago with a federal Disaster Medical Assistance Team, or DMAT. "And I have been to disasters in Afghanistan, Asia, Africa, Guam after the typhoon."

With an influx of patients who are predominantly poor and in poor health, the emergency medical challenges are compounded by longer-term issues of managing chronic conditions such as high blood pressure, heart disease, diabetes and mental illness. At the same time, officials say they remain on the alert for outbreaks associated with flooding, such as typhoid and cholera, as well as increasing numbers of asthma attacks, fevers, rashes and suicide attempts.

Disaster care in New Orleans was far more difficult than in typical hurricane situations because of the flooding that not only forced downtown hospitals to evacuate but made it impossible for the Federal Emergency Management Agency to set up triage units in hospital parking lots, as it has done in the past.

Predictions about infectious disease outbreaks have yet to come true, though the flooding in New Orleans and disintegrating corpses throughout the Gulf Coast continue to make that a possibility. Hospitals here, operating at full capacity, have seen a spike in cases of pneumonia, stroke, lice, diarrhea and premature birth, said Louis Minsky, medical director of the Baton Rouge emergency response unit.

In many cases, people already weakened by underlying afflictions found the trauma of the storm, the days of heat and a hellacious evacuation through water, sewage and rotting garbage almost too much to endure.

"These are mostly elderly people with chronic diseases who were herded into the convention center with no medications, scared out of their minds," said Lt. Col. Constance McNabb, commander of a Texas Air National Guard unit overseeing medical evacuations in New Orleans. "I don't know how they survived."

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More than 5,000 medical workers have been dispatched by the Bush administration to supplement hundreds of state, local and private health care workers. Already, the federal government has flown in 100 tons of medical supplies, including 90,000 doses of tetanus vaccine, portable oxygen tanks, gloves, sutures and antibiotics.

"Every DMAT team in this country is deployed," said FEMA spokesman Marty Bahamonde. A dozen of the 35-person teams have been treating victims in tents at Louis Armstrong International Airport, just outside New Orleans. The Centers for Disease Control and Prevention dispatched 140 people, while the Department of Health and Human Services has more than 700 people on the ground.

The unprecedented effort to provide care to tens of thousands of people has required millions of dollars, improvised medical techniques and, in at least one case, theft by a physician who persuaded local police to help him snatch medications from a pharmacy. For one full week now, doctors have worked in MASH-style surroundings, leaning over patients on flimsy military cots, flipping through textbooks to make sense of symptoms they have never seen before.

"I'm a pathologist," said Greg Henderson, a physician who moved to the New Orleans area two weeks ago. Roaming the streets of downtown in his surgical scrubs, Henderson was suddenly confronting rashes and illnesses he hadn't seen since medical school. Armed with a Physicians' Desk Reference -- the pharmaceutical bible -- and the stolen medicines, he administered to the sick and dying in a hotel lobby and the corridors of the city's convention center.

Thousands -- including infants, elderly and patients with existing health problems -- literally sat in the sun for days, with no food, water or medicine. "They basically start to rot alive," Henderson said as he led one group of ill people to McNabb's military helicopters.

Many landed on the track field of Louisiana State University here, where they were whisked into the arena named after basketball legend "Pistol Pete" Maravich. In the arena and an adjacent field house, volunteers from Illinois, New Mexico and the federal Public Health Service Commissioned Corps staffed an 800-bed hospital, making the gymnasium the largest acute care facility in the state.

"You have built a city where there was none before," Surgeon General Richard H. Carmona said after touring the improvised hospital Sunday.

With military precision, patients were designated red for most severe, yellow for serious and green for walking wounded. By Monday afternoon, 3,500 patients had passed through the arena and more than 1,400 prescriptions had been filled, said Capt. Charles McGarvey. "One night we had 800 individuals assessed by Public Health Service officers on buses," he said.

"People who were healthy enough to get up and walk out did," said James Gregory, who came to LSU with the Illinois Medical Emergency Response Team. The bulk of his patients have been diabetics, heart patients, the obese, and elderly with a full range of maladies who have no money, no home, no medications, no medical records and no doctor.

As recovery teams shifted Monday from rescuing people to retrieving the dead, health leaders here struggled to conceive of how they will provide care over the long term for hundreds of thousands of new residents.

It appears Baton Rouge has the hospital beds to serve the expected 400,000 people, said Minsky, the emergency medical director. But that amount of population growth will require as many as 2,000 more nurses and about 200 physicians, he said.

At the one-week mark, the latest challenge is treating some of the most severe cases, Minsky said. The most recent arrivals, he said, "are fatigued, been under extreme duress, prolonged exposure to the elements and inappropriate nutrition."

Rescues Taper Off; Recovery Ahead (USAT)

By Kevin Johnson And Matt Kelley

USA Today, September 6, 2005

NEW ORLEANS — The surge of rescues of hurricane victims slowed to a trickle Monday as emergency workers steeled themselves for the shift from joyful rescues of those who survived to the grim task of recovering the bodies of those who didn't.

One Army medical evacuation unit saw their rescues ebb from 200 Thursday to one Monday: Alfred Davis, 67, plucked from the roof of a grocery store near the Superdome.

“We have gotten thousands of people out of there,” said Maj. Patrick Bossetta, who has been directing the rescue effort for the Louisiana National Guard. “But search-and-rescue is coming to an end. What we likely have left are people who have expired. We have a gruesome task ahead. … We could be stacking bodies like wood.”

The rescuers who saved thousands in the week after Hurricane Katrina knew they couldn't find and save everyone. In areas where hundreds of people were plucked to safety a few days ago, there is an eerie stillness punctuated by the rhythmic thud from a fleet of rescue helicopters.

The crew of a Navy MH-60 Knighthawk helicopter anticipated this stage last week when the rescuers saved three elderly people trapped in a boarded-up and flooded New Orleans home.

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Petty Officer Royce Burroughs said the only reason his crewmates found the flood victims was a tip from neighbors rescued from their nearby roof.

Petty Officer Nicholas Kontodiakos, a rescue swimmer, waded through the fetid floodwaters to the home and ripped off some of the boards to find bars over the windows. Finally, an elderly woman's face appeared at a window, and she let rescuers in.

The woman and her husband were huddled in the flooded one-story home's attic. Another elderly man, too sick to move, was in a back bedroom. Kontodiakos found him lying naked on a bed amid the floodwaters.

Burroughs came down from the helicopter and helped Kontodiakos get the man into a basket that was winched up to their helicopter.

These three people weren't on their roof; they were too scared, too frail, to climb onto their roof to signal for help. Kontodiakos winced when he thought of how many others like them there are in the flooded city.

“I can't fathom how many old people there are just floating around in their homes,” he said.

Burroughs and Kontodiakos were among the dozens of rescuers faced with wrenching choices: Whom to take and whom to leave behind?

Their helicopter could hold only about a dozen survivors at a time. “There are so many people, and you can't get them all,” said Burroughs, who operated the helicopter's winch to lower rescuers on a cable and pull survivors to safety. “We know there are dead people because you can't get everyone.”

Kontodiakos and Burroughs worked out their own priority list.

“The people I want to grab first are the people who would have the least chance of living: the babies and their mothers, the elderly, the handicapped,” Kontodiakos said.

The helicopter crew, based in Norfolk, Va., flew search-and-rescue missions starting Wednesday. The team was based on the amphibious assault ship USS Bataan stationed in the Gulf of Mexico, 50-100 miles from New Orleans. The rescuers flew for 12 hours a day or more, calling off efforts in darkness because of the danger of crashing into unlighted buildings.

The crewmembers, flying on one of two Knighthawks from the Bataan, estimated they saved hundreds of people.

“This is why I joined the military. This is what I joined the Navy to do: Save people's lives,” Kontodiakos said.

The crew of another helicopter flying from the Bataan, this one a massive MH-53E Super Stallion, had similar priorities.

Before leaving the ship Saturday morning, pilot Lt. Greg Hill and his crew chief, Petty Officer Cory Appling, agreed to urge authorities on the ground to let them take the sick and elderly first on their helicopter, one of three sent to the Bataan from a unit based in Corpus Christi, Texas.

Their mission: Airlift people from the convention center, where thousands were stranded for days without food, water, electricity or security, to Louis Armstrong New Orleans International Airport for medical treatment or a flight out of their devastated hometown.

Convention center survivor Bobbi Smith called the rescue flights a blessing. “It's been a total disaster,” Smith said as she waited to board a Super Stallion. “No lights, no food, no respect.”

A convention center parking lot had been transformed for the day into a busy heliport. Military troops divided the survivors into two lines. One was for the disabled, ill, elderly and young; the other for the able-bodied. Most of Hill's passengers came from that first line.

Most were elderly, disabled or both, sagging in the unforgiving sun. Relatives or volunteers pushed those who couldn't walk in wheelchairs or nearly anything else with wheels.

The healthier survivors carried all they had, often clutching their belongings to themselves as if their lives, or their sanity, depended on it.

“We're saving the world, one exhausted hurricane survivor at a time,” Hill said during his helicopter crew's brief break for lunch and refueling.

At the airport, medical workers and those they treated faced their own crises.

On Friday, survivors nearly rioted, said Senior Airman Chris Chadwick of the Air Force's 88th Medical Group. One patient stabbed a nurse, and medical workers confiscated knives and other weapons from other patients, he said.

“We were scared for our lives,” Chadwick said Saturday.

“My husband dropped dead, and I had to leave him behind,” said Barbara Pratt, 73, as she waited for a flight out of the New Orleans airport Saturday.

Their home flooded in chest-high water, Pratt and her 75-year-old husband got a boat ride to an elevated section of Interstate 10, where they began walking toward the convention center.

“That's where he died,” Pratt said. She didn't know what killed him.

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An Air National Guard crew stopped to help. “I said I wouldn't leave his body,” Pratt said. “They said to leave his ID on him and leave him. They could only save the living.”

Clutching her only possessions — a brown leather purse, two bottles of water and a roll of toilet paper — Pratt asked passersby at the airport how to direct authorities to recover her husband's body.

No one could answer her question.

Troops Back From Iraq Find Another War Zone (WP)

By Ann Scott Tyson

The Washington Post, September 6, 2005

NEW ORLEANS, Sept. 5 -- Spec. Frank Atkinson, wearing his tan desert fatigues from his recent deployment in Iraq, alternately drove a Humvee through downtown New Orleans streets littered with debris and putrid garbage and held suspected looters at gunpoint with his M-4 rifle.

"It's just so much like Iraq, it's not funny," said Atkinson, of Woodlawn, Ark., "except for all the water, and they speak English."

For a year ending this spring, Atkinson's infantry company of the Arkansas National Guard patrolled Baghdad's deadly Haifa Street, and scores of its members were awarded Purple Heart medals after fighting insurgents. Those war-zone images and instincts came flooding back Friday when Atkinson and 300 other Arkansas guardsmen, wearing helmets and full body armor, rolled into the chaos of central New Orleans.

"It's like Baghdad on a bad day," said Spec. Brian McKay, 19, of Mount Ida, Ark.

The Arkansas contingent is among the estimated 16,000 National Guard troops from 40 states flowing into greater New Orleans to help curb the rash of crime sparked by Hurricane Katrina. An additional 24,000 guardsman and 7,200 active-duty ground troops are committed to relief efforts across the Gulf Coast. Paratroops from the 82nd Airborne Division "locked down" the historic French Quarter on Monday, according to city and military officials.

But the massive military effort remains severely disjointed and hampered by a lack of basic communication between units, Army officers here say. Ground commanders for New Orleans have been functioning without the ability to track the location of some units reporting to them -- something unheard of in Iraq, the officers say.

Much work remains for U.S. soldiers in this gutted no man's land, where looting, drive-by shootings and other crime are rampant. Much as in Iraqi cities, the troops are moving by the hundreds into makeshift bases in schools and other public buildings, setting up checkpoints and 24-hour patrols. The guardsmen have been authorized to seize weapons and detain people.

"We're having some pretty intense gun battles breaking out around the city," said Capt. Jeff Winn of the New Orleans police SWAT team. "Armed gangs of from eight to 15 young men are riding around in pickup trucks, looting and raping," he said. Residents fearful of looters often shout to passing Humvees to alert the soldiers to crimes in progress.

"Hey, stop!" a man wearing a baseball cap yelled to an Arkansas Guard team Sunday afternoon as it drove through the city's Metairie district in Jefferson Parish. "Those people don't live here!" he said, pointing to a white sports car parked outside a large brick home.

Atkinson sped over to the car, hopped out and pointed at it with his M-4 rifle. He and Capt. Derald Neugebauer, 36, of Vilonia, Ark., questioned the two men about looting -- but because they had no radio communication with the New Orleans police, they had to flag down a passing patrol car to hand over the two men.

About an hour later, as dusk fell, Atkinson and Neugebauer were driving down Jefferson Street when the owner of a mini-storage business yelled at them from behind his fence. "Hey, get back here! Those guys just broke into that store!" Across the street, the guardsmen saw two men in their twenties outside a car stereo store with the front window broken in.

Atkinson again swung the Humvee around, and within minutes, the guardsmen had two of the four suspects facedown on the Jefferson Street median. The guardsmen then waved down a passing sheriff's vehicle.

"When I charged a round in the chamber, he got down real fast," Atkinson said later of a suspect.

The guardsmen voiced little hesitation at using deadly force -- a skill honed in Iraq -- on the streets of New Orleans. "If we're out on the streets, we'll fight back and shoot until we kill them. That's too bad but that's what has got to happen," said Spec. Jake Perry, 20, of Camden, Ark. "I didn't spend a year in Iraq to come to Louisiana and get killed."

Indeed, just the smell and feel of a war zone in the city put the soldiers on edge.

"The worst feeling was putting that body armor on," said Spec. Richard Dunlop, 36, also of Camden, who with his comrades has vivid memories of the dozens of Arkansas soldiers who perished in Iraq. "I find myself checking the rooftops. I worry about stepping on something in case it is an IED," he said, referring to an improvised explosive device or roadside bomb.

"I was waiting on a gunfight," he said. "It's weird."

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Many of the guardsmen were shocked and angered by the violence and looting. One described 70-year-old women in new Nike high-tops, and stores along the riverfront that looked bombed out.

"The fear in the eyes of the people, the uncertainty . . . people shooting and killing over little bitty things . . . it surprised me. I didn't think it would be that bad in my own country," said McKay, a history student at the University of Arkansas.

But the soldiers said they were gratified to be able to evacuate so many needy -- from elderly residents in wheelchairs, lifted into the backs of U-Haul trucks, to drug addicts jittery from withdrawal.

Meanwhile, conditions for the troops were no better than for New Orleans residents. They slept outdoors on concrete loading docks, living on bottled water and packaged military meals that many flood victims wouldn't eat. They had virtually no power, and initially no portable toilets.

While some Arkansas guardsmen said they had volunteered for hurricane duty, many felt wearied by the back-to-back deployments. "I'm still stressed out. I'm still having nightmares over Iraq -- give me a break!" said guardsman Dominic Nettles.

Sitting in a warm breeze on the riverfront on a recent night, as fish leapt out of the Mississippi and a fire blazed out of the blackness on a distant shore, Nettles and his buddies smoked cigarettes and traded war stories that transported them back to the banks of the Tigris.

"When I came down here, it was just like I was in Iraq. It was unreal," said Spec. Keithean Heath, 20, of Crossett, Ark., shirtless in the heat. "This doesn't happen in your own back yard."

La. Guard Pilot Has Trouble Taking In Scope Of Destruction (USAT)

By Kevin Johnson

USA Today, September 6, 2005

BATON ROUGE — Maj. Patrick Bossetta has been to Iraq and back, but the helicopter pilot with the Louisiana National Guard still has difficulty believing that the devastation spread below him on countless rescue missions is his beloved New Orleans.

“Sometimes, I feel like an actor in a sci-fi movie,” Bossetta said Monday.

Last week, Bossetta said, a National Guard colleague began hacking into a roof after spotting a white cloth waving from a small attic vent. “When the hole was cut,” Bossetta said, “nine people popped out.”

Days later, Bossetta's voice still reflects disbelief. But the enormous tragedy strikes every time a rope is lowered to another dazed survivor or another body is tagged for pickup.

It was particularly difficult when one of Bossetta's recent rescues took him near the battered St. Christopher Hotel. When he is not directing air missions for the Guard, Bossetta owns and operates the high-rise near the city's French Quarter.

For Bossetta, 45, who returned from Iraq in March, the assignment has become a personal effort to salvage a way of life.

In addition to personal losses, his National Guard unit's problems are substantial. The unit lost its headquarters at Lakefront Airport and millions of dollars in equipment to the storm. Other equipment has not returned from the troops' deployment in Iraq.

For now, Bossetta and his 17 helicopters are operating from Baton Rouge Metropolitan Airport.

“We've lost a lot,” Bossetta said. “Have you seen the Superdome? If I would say there was a hell on Earth, that would be it. That was the same place where I watched Super Bowls and college football championship games. It's stunning.”

With Some Now At The Breaking Point, Officers Tell Of Pain And Pressure (NYT)

By Joseph B. Treaster And John Desantis

The New York Times, September 6, 2005

NEW ORLEANS, Sept. 5 - Sgt. Jeff Sandoz, dressed in black SWAT team fatigues with an assault shotgun nearby, took a break on Monday afternoon for a cheeseburger, his first hot meal in a week, in the breezeway at the shuttered Harrah's casino on the edge of the French Quarter.

Rescuing people from rooftops and attics and chasing looters since Hurricane Katrina flooded the city, the discomforts have piled up, Sergeant Sandoz acknowledged. His shoulder was bruised on Wednesday when his police cruiser was rammed by someone running a stop sign on one of New Orleans's nearly deserted streets. He has been catching about three hours of sleep a night, curled up in the back seat of his patrol car, and showering with a garden hose.

He did not want to talk about the blisters or funguses and rashes that have erupted - after days of wading in polluted water in wet boots and dirty socks - on the feet of most everyone in the eight-man tactical unit he commands.

The last week has been a series of nonstop rescue missions, shootouts in the night and forays into foul-smelling shelters in response to gunshots and reports of rape for Sergeant Sandoz and the others on the New Orleans police force. And like most everyone else in New Orleans, police officers have been traumatized by the loss of homes and family members.

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Morale on the police force is in tatters. About 500 officers - a third of the force and far more than previously estimated - have dropped out of the daily lineup. Some of them may still be in houses cut off by the storm or may have simply gone off to help their families and will eventually return. But most of the missing officers have either told their superiors that they were quitting or simply walked off the job. Two officers have shot themselves to death.

Sergeant Sandoz and his urban commandos, one of the city's toughest, most elite units, have absorbed much of the violence in stride. Unlike some other officers who have succumbed to the pressure, the sergeant said he was not going anywhere except into the streets to do his job.

"You just suck it up and drive on," he said. "I'll be here as long as they need me. I'm not running away from anything."

Still, he reserved judgment, as did many others, of the officers who have abandoned the force or collapsed.

Sergeant Sandoz and his commandos have been tested by the long hours and the nagging inconveniences, like shortages of gasoline for their cars and other supplies. They expressed concerns, like many others, about the security of their jobs in a city that is taking steps to shut down for repairs. They wonder whether they will be paid for the overtime that they are logging under near-battlefield conditions.

Trying to lift spirits, the Police Department is giving every officer a five-day vacation over the next two weeks as the military steps in to replace them. Those who want to go to Las Vegas are being given plane tickets and hotel rooms for them and their families. Their breaks are beginning with physical examinations in Baton Rouge, the state capital, 75 miles north of New Orleans, inoculations against water-borne disease and other necessary medical treatment. After their breaks, the officers will start receiving psychological counseling.

Many officers said Monday that they are grateful for the breather but that they had no interest in going to Las Vegas.

"There's nothing in Las Vegas for me," said Officer Darryl Scheuermann, 41, a SWAT team member. "I'm going to see my family. I miss my wife and my dogs."

In one week, some officers have seen more violence than in a lifetime. Officer Brian French ducked sniper bullets while ferrying 50 women and children to a shelter in a commandeered rental truck.

Lt. Julie Wilson watched a fellow officer and friend being shot by looters attacking a convenience store. Lt. Billy Ceravalo and Lt. Brian Weiss lost their police station in the flooding. The floodwaters also swamped a nearby hospital. Responding to a call for help, the officers raced to the hospital and began helping patients using hand-operated breathing devices. They managed to keep several of the critically ill alive for hours until help arrived.

Some officers stayed in their homes as the hurricane swept over New Orleans and were forced to climb onto roofs with their families as floodwaters rose. Their pleas for help poured in over emergency radios.

"We were hearing officers on the roofs of their houses begging for someone to help them," Lieutenant Wilson said.

One officer, she said, "told me he was trapped in water up to his chest."

"I tried to get somebody out to him," she continued, but "we haven't heard from him since. I don't know if he is alive or dead."

Lieutenant Wilson's 11-year-old son, Daniel, was shipped off to neighbors. But for most of the week she had no idea where he was and worried that he feared for her as well. Now, the promise of a vacation in Las Vegas does not make her feel better.

"It's a really nice gesture," she said. "But I just want to be able to get one night's sleep without hearing helicopters. I don't think I need five days off from this, just a couple of nights."

Officer French, 25, a native of Ohio, joined the New Orleans Police Department because he wanted a chance to do "real police work."

Although he has heard city and state officials criticize the federal government as not coming fast enough, Officer French also questioned why local officers were not mustered sooner for special duty.

"They told us not to come in on Sunday, the day of the storm, to come in the next day to save money on their budget," he said.

But he never made it to work on Monday, at least not to the station house.

Officer French moved his family into a hotel. The hotel flooded, and looters attacked a nearby gasoline station. He went out into the storm, grabbed two of the looters and handcuffed them to a railing at the hotel. But, he eventually let them go.

As the water rose, Officer French and his family escaped to the roof with other guests. They were stuck there for two days, before some boats came along and rescued them.

Afterward, Officer French spent several days rescuing others. On some missions, he worked with Officer Willie Gaunt, who has since resigned.

The city's police superintendent, P. Edwin Compass III, hustled to position boats and cars before the hurricane and afterward directed rescues and charged after looters.

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"We had no food," Mr. Compass told reporters on Monday. "We had no water. We ran out of ammunition. We had no vehicles. We were fighting in waist-deep water."

Mr. Compass has been accused of poorly planning for the hurricane. But he and other city officials said they were simply overwhelmed by a crisis that no municipality could handle. The disaster was compounded, they said, when federal officials in Washington ignored their cries for help for several days.

On Monday afternoon at Harrah's casino, as armored cars, fuel trucks, police cars and ambulances jammed the casino's ramp and spilled into the street, Officer Russell Philibert, 38, turned to Sergeant Sandoz's unit for help. He needed a bulletproof vest. His was lost when he escaped in shorts and sneakers as water gushed into his house.

Shortly before he fled his house, he had received a radio message from another officer who lived nearby and was trapped in his attic by floodwaters in the middle of the storm. With the wind howling, Office Philibert broke a window in that officer's house and dragged him to safety.

Officer Philibert said his unit had now taken shelter in a Wal-Mart. The SWAT team has moved into an elementary school on high ground, where some officers are sleeping on cafeteria tables and kindergarteners' nap pads.

Even the urban commandos acknowledged the strain of what they had seen. "I might have trouble sleeping, thinking about all the horrific stuff," said Officer Robert Haar, 35. "But I'm so exhausted I just pass out."

Halliburton Subsidiary Taps Contract For Repairs (WP/AP)

By Lolita C. Baldor, Associated Press

The Washington Post, September 5, 2005

An Arlington-based Halliburton Co. subsidiary that has been criticized for its reconstruction work in Iraq has begun tapping a $500 million Navy contract to do emergency repairs at Gulf Coast naval and Marine facilities damaged by Hurricane Katrina.

The subsidiary, Kellogg, Brown & Root Services Inc., won the competitive bid contract last July to provide debris removal and other emergency work associated with natural disasters.

Jan Davis, a spokeswoman for the Naval Facilities Engineering Command, said yesterday that KBR would receive $12 million for work at the Naval Air Station at Pascagoula, Miss., the Naval Station at Gulfport, Miss., and Stennis Space Center in Mississippi. KBR will receive $4.6 million for work at two smaller Navy facilities in New Orleans and others in the South.

The company has provided similar work after major disasters in the United States and abroad for more than 15 years, including in Florida after Hurricane Andrew.

KBR has been at the center of scrutiny for receiving a five-year, no-bid contract to restore Iraqi oil fields shortly before the war began in 2003. Halliburton has reported being paid $10.7 billion for Iraq-related government work during 2003 and 2004. The company reported its pretax profits from that work as $163 million. Pentagon auditors have questioned tens of millions of dollars of Halliburton charges for its operations there.

Last month three congressional Democrats asked Defense Secretary Donald H. Rumsfeld to investigate the demotion of a senior civilian Army official, Bunnatine H. Greenhouse, who publicly criticized the awarding of that contract.

Vice President Cheney headed Halliburton from 1995 to 2000, and Democrats have questioned whether the firm received favorable treatment because of his connection.

Rice Defends Bush Against Racism Charges (AP-Y2)

By Lara Jakes Jordan, Associated Press Writer

AP2, September 5, 2005

Secretary of State Condoleezza Rice defended President Bush on Sunday against charges that the government's sluggish response to Hurricane Katrina showed racial insensitivity.

"Nobody, especially the president, would have left people unattended on the basis of race," the administration's highest-ranking black said as she toured damaged parts of her native Alabama.

Later, during a service at the Pilgrim Rest AME Zion church outside Mobile, Rice nodded in agreement as the Rev. Malone Smith Jr. advised the congregation, "Wait for the Lord."

"There are some things the president can do; there are some things the government can do," Smith told about 300 worshippers during a rollicking two-hour service. "But God can do all things. I want you to know he's never late. He's always on time."

Rice later echoed the call for patience.

"The Lord is going to come on time — if we just wait," she said.

It was a sort of homecoming for Rice, an Alabama native and granddaughter of a Presbyterian minister.

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Her visit came as some black leaders, including the Rev. Jesse Jackson, have complained bitterly about the slow response to the disaster, whose victims have been disproportionately black and poor. They have said racial injustice was a factor in the government's slow relief effort.

"How can that be the case? Americans don't want to see Americans suffer," Rice said. "Nobody, especially the president, would have left people unattended on the basis of race."

Since Katrina struck, an estimated 70 nations, from Azerbaijan to Venezuela, have offered hundreds of millions in cash donations for the federal government to relay to the American Red Cross, Rice said. Many countries have also donated supplies, ranging from helicopters and medical aid to food and blankets.

Among the largest contributions was Kuwait's $400 million worth of petroleum product plus $100 million in cash intended for relief efforts. Among the smallest: $25,000 in cash from Sri Lanka, a poor nation still recovering from last December's tsunami.

After the church service, Rice visited a community center in Bayou La Batre, one of Alabama's hardest hit areas. Flood waters following Katrina reached 11 feet in some places in southern Alabama, while about 718,000 homes and businesses in Mobile were left without power for days, and at least two people died.

Republican Alabama Gov. Bob Riley, escorting Rice through the community, said power had been restored to all but about 50,000 residents and businesses, while up to 2,500 Alabamians were still looking for shelter.

"It was devastating, but in comparison to what they had in southern Mississippi and Louisiana, it kind of pales in comparison," Riley said.

While welcoming Rice, some Alabamians expressed frustration with the administration's response.

"It's so unfortunate that the time it's taken to rescue them is too long," Democratic state Rep. Yvonne Kennedy said at the church service. "Had the response been more timely, I think we could have saved lives. To be so slow in coming, people lose hope."

While touring domestic disasters falls outside her official domain, Rice told Bush that "if there is anything I can do outside of my responsibilities as secretary of state, I'd be happy to do that, too." She was criticized last week for attending a Broadway show and shopping in New York during an abbreviated vacation.

Rice Denies Race Had Role In Response (WT)

The Washington Times, September 5, 2005

Secretary of State Condoleezza Rice yesterday said the federal response to Hurricane Katrina was not slowed by racial insensitivity.

"Nobody, especially the president, would have left people unattended on the basis of race," the administration's highest-ranking black said as she toured damaged parts of her native Alabama.

Later, during a service at the Pilgrim Rest African Methodist Episcopal Zion Church outside Mobile, Miss Rice nodded in agreement as the Rev. Malone Smith Jr. advised the congregation, "Wait for the Lord."

"There are some things the president can do; there are some things the government can do," Mr. Smith told about 300 worshippers during a rollicking two-hour service. "But God can do all things. I want you to know he's never late. He's always on time."

Miss Rice later echoed the call for patience. "The Lord is going to come on time -- if we just wait," she said.

It was a sort of homecoming for Miss Rice, an Alabama native and granddaughter of a Presbyterian minister.

Her visit came as some black leaders, including the Rev. Jesse Jackson, have complained bitterly about the slow response to the disaster, whose victims have been disproportionately black and poor. They have said racial injustice was a factor in the government's slow relief effort.

"How can that be the case? Americans don't want to see Americans suffer," Miss Rice said. "Nobody, especially the president, would have left people unattended on the basis of race."

Mr. Jackson complained that television and press coverage of the disaster was racist for calling storm survivors "refugees" and showing images of blacks looting in New Orleans.

Using "refugees" to describe the people evacuated from storm-ravaged areas "is insulting, it is racist, it does not describe American citizens," Mr. Jackson said. "If you characterize them as refugees, it is someone other than citizens."

The veteran activist accused the press of a double standard in its coverage of chaos in New Orleans.

"With a black person, it is called looting; with a white person, it is called finding food," he said.

Bruce Gordon, president of the National Association for the Advancement of Colored People, said any recriminations over the storm response can wait.

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"Right now, the NAACP is in what I call a life-saving mode. We are not in a finger-pointing mode, and until every life has been stabilized and every life has been saved, we will devote all of our energies for that purpose," Mr. Gordon said.

In Maryland yesterday, Claude Allen, a leading official in hurricane recovery efforts as senior domestic policy adviser to President Bush, decried racial discord and appealed for national unity.

"Pray that God would prevail against efforts to divide this nation," Mr. Allen asked 2,000 fellow members of Covenant Life Church in Gaithersburg. "This is not a situation of black or white, rich or poor. This storm was indiscriminate in who it took, and we as a people must pull together."

Mr. Allen, who is black, accompanied the president on his tour of the stricken region. Pray "most of all for peace, because people are trying to find places to lay the blame, and this is not a time for that," said Mr. Allen, who was invited by senior pastor Joshua Harris to address the church.

Amid Criticism Of Federal Efforts, Charges Of Racism Are Lodged (NYT)

By John M. Broder

The New York Times, September 5, 2005

HOUSTON, Sept. 5 - The devastation wrought by Hurricane Katrina became a rallying cry for African-American religious and political leaders here in President Bush's former hometown on Sunday, with pleas for charity mixed with a seething anger at the response to the crisis.

Many blacks voiced suspicions that thousands of people were left to suffer and die in the floodwaters because they were, for the most part, poor and black.

"Are you telling me we can coordinate a relief effort on the other side of the world and we can't do it here?" I. V. Hilliard, pastor of the New Light Christian Center Church in northern Houston, thundered from the pulpit of his megachurch on Sunday morning. "I'm not saying they didn't care. I'm saying they didn't care enough!"

"I can't help but think that race has something to do with it," he added to a chorus of amens. Mr. Hilliard's church is the largest predominantly black congregation in Houston, with 20,000 members, four locations and a broadcast ministry.

Mr. Hilliard's comments were echoed throughout the country over the weekend, as the Rev. Jesse Jackson and Representative Maxine Waters of California made a trip to the convention center in New Orleans and the president of the National Association for the Advancement of Colored People met with the governor of Louisiana and visited the emergency operations center in Baton Rouge.

Interviews with African-American church leaders, local politicians and residents here made clear the damage that the faltering relief effort has had on their perceptions of the Bush administration. Mr. Bush and his chief political advisers have mounted an effort to try to court more conservative black voters, particularly since the 2004 election, by encouraging black Republican candidacies and reaching out to black churches.

But their outreach efforts appear to have been significantly set back. Criticism of the response is coming not only from black members of Congress and national civil rights leaders, but also from prominent local officials and ordinary residents here.

"There is a lot of anger here in Texas," said the Rev. William A. Lawson, retired pastor of the Wheeler Avenue Baptist Church in Houston. "Even a lot of conservative whites are angry. This was not the reaction people expect to a disaster of this magnitude. We wanted to see them get off their butts and get over there."

Rodney Ellis, an African-American Democratic state senator who represents a district in Houston, said he was trying to focus on the needs of the evacuees, thousands of whom are in Houston. Mr. Ellis said that the initial federal response was clearly inadequate and that many in the administration bore responsibility, including Secretary of State Condoleezza Rice, who is black and from Alabama.

"This problem is so mammoth it's not going to go away any time soon," Mr. Ellis said. "There will be ample time for Condi Rice and others in the federal government to redeem themselves. And I'm hoping they do that."

Administration officials have tried over the last two days to repair the damage. Michael Chertoff, the homeland security secretary, met with civil rights leaders and members of the Congressional Black Caucus at the White House on Saturday to discuss aid efforts and accusations of racial indifference.

Mr. Bush held a live news conference in Washington on Saturday to announce that he was sending additional troops to the Gulf Coast and to defend the government's response to the storm. The size of the disaster area, he said, "has created tremendous problems that have strained state and local capabilities."

"The result is that many of our citizens simply are not getting the help they need, especially in New Orleans," he said. "And that is unacceptable."

Ms. Rice visited the Gulf Coast on Sunday, flying to Mobile, Ala., to attend a church service and meet with storm victims.

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On the plane trip from Washington, Ms. Rice challenged accusations that the government had responded slowly because many of the victims were black.

"How can that be the case?" Ms. Rice said, according to The Associated Press. "Americans don't want to see Americans suffer."

She added, "Nobody, especially the president, would have left people unattended on the basis of race."

Later, at Pilgrim Rest A.M.E. Zion Church in Whistler, Ala., the Rev. Malone Smith Jr. invited Ms. Rice to say a few words.

"The Lord Jesus Christ is going to come on time," she said, "if we just wait."

At the New Orleans airport yesterday, Mr. Jackson and Ms. Waters, a California Democrat, offered bitter criticism of those who, they said, had failed them.

"This looks like the hull of a slave ship," Mr. Jackson said as he reviewed the packed sidewalk where families had gathered, their belongings in torn trash bags.

Ms. Waters said she had traveled throughout Africa and never seen anything quite like that scene. "This looks like an undeveloped country," she said. "No time did I think in America we would see this kind of homelessness, this kind of displacement. This is the worst thing I have ever seen."

In Baton Rouge, Bruce S. Gordon, president of the N.A.A.C.P., said federal aid for victims should be commensurate to what was given to those who lost relatives in the Sept. 11 attacks, adding that "the benchmark for recovery should be 9/11."

"Ask yourself," Mr. Gordon said, "have we put the investments, have we put the assets, have we put the resources that we put into 9/11?"

There was also abundant criticism of the news media over the weekend. The Rev. Al Sharpton, after visiting the encampment of displaced Louisianans in the Houston Astrodome on Saturday, objected to the use of the word "refugees" for the people who fled the hurricane.

"These are not refugees," he said. "They are citizens of Louisiana and Mississippi, tax-paying citizens. They are not refugees wandering somewhere looking for charity. They are victims of neglect and a situation they should have never been put in in the first place."

Many also took the news media to task for seeming to single out black people as looters in lawless New Orleans last week.

Kanye West, the rap star, dropped his prepared script at a televised benefit for storm victims on Friday night to say: "I hate the way they portray us in the media. If you see a black family, it says they're looting. See a white family, it says they're looking for food."

Mr. West also said, "George Bush doesn't care about black people."

Ronald Joubert, 41, a member of the New Light congregation in Houston, was a bit more charitable to the president, though not much.

"The people are saying that that's why the people in New Orleans didn't get a more direct response, because they're all black," Mr. Joubert said. "Me, I don't blame Bush personally. I blame the whole government. But 10 or 15 or 20 years from now, people are still going to be blaming Bush."

What Happens To A Race Deferred (NYT)

By Jason Deparle

The New York Times, September 5, 2005

WASHINGTON

THE white people got out. Most of them, anyway. If television and newspaper images can be deemed a statistical sample, it was mostly black people who were left behind. Poor black people, growing more hungry, sick and frightened by the hour as faraway officials counseled patience and warned that rescues take time.

What a shocked world saw exposed in New Orleans last week wasn't just a broken levee. It was a cleavage of race and class, at once familiar and startlingly new, laid bare in a setting where they suddenly amounted to matters of life and death. Hydrology joined sociology throughout the story line, from the settling of the flood-prone city, where well-to-do white people lived on the high ground, to its frantic abandonment.

The pictures of the suffering vied with reports of marauding, of gunshots fired at rescue vehicles and armed bands taking over the streets. The city of quaint eccentricity - of King Cakes, Mardi Gras beads and nice neighbors named Tookie - had taken a Conradian turn.

In the middle of the delayed rescue, the New Orleans mayor, C.Ray Nagin, a local boy made good from a poor, black ward, burst into tears of frustration as he denounced slow moving federal officials and called for martial law.

Even people who had spent a lifetime studying race and class found themselves slack-jawed.

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"This is a pretty graphic illustration of who gets left behind in this society - in a literal way," said Christopher Jencks, a sociologist glued to the televised images from his office at Harvard. Surprised to have found himself surprised, Mr. Jencks took to thinking out loud. "Maybe it's just an in-the-face version of something I already knew," he said. "All the people who don't get out, or don't have the resources, or don't believe the warning are African-American."

"It's not that it's at odds with the way I see American society," Mr. Jencks said. "But it's at odds with the way I want to see American society."

Last week it was how others saw American society, too, in images beamed across the globe. Were it not for the distinctive outlines of the Superdome, the pictures of hovering rescue helicopters might have carried a Somalian dateline. The Sri Lankan ambassador offered to help raise foreign aid.

Anyone who knew New Orleans knew that danger lurked behind the festive front. Let the good times roll, the tourists on Bourbon Street were told. Yet in every season, someone who rolled a few blocks in the wrong direction wound up in the city morgue.

Unusually poor (27.4 percent below the poverty line in 2000), disproportionately black (over two-thirds), the Big Easy is also disproportionately murderous - with a rate that was for years among the country's highest.

Once one of the most mixed societies, in recent decades, the city has become unusually segregated, and the white middle class is all but gone, moved north across Lake Pontchartrain or west to Jefferson Parish - home of David Duke, the one-time Klansman who ran for governor in 1991 and won more than half of the state's white vote.

Shortly after I arrived in town two decades ago as a fledgling reporter, I was dispatched to cover a cheerleading tryout, and I asked a grinning, half-drunk accountant where he was from, city or suburb. "White people don't live in New Orleans," he answered with a where-have-you-been disdain.

For those who loved it, its glories as well as its flaws, last week brought only heartbreak. So much of New Orleans, from its music and its food to its architecture, had shown a rainbow society at its best, even as everyone knew it was more complicated than that.

"New Orleans, first of all, is both in reality and in rhetoric an extraordinarily successful multicultural society," said Philip Carter, a developer and retired journalist whose roots in the city extend back more at least four generations. "But is also a multicultural society riven by race and class, and all this has been exposed by these stormy days. The people of our community are pitted against each other across the barricades of race and class that six months from now may be last remaining levees in New Orleans."

No one was immune, of course. With 80 percent of the city under water, tragedy swallowed the privilege and poor, and traveled spread across racial lines.

But the divides in the city were evident in things as simple as access to a car. The 35 percent of black households that didn't have one, compared with just 15 percent among whites.

"The evacuation plan was really based on people driving out," said Craig E. Colten, a geologist at Louisiana State University and an expert on the city's vulnerable topography. "They didn't have buses. They didn't have trains."

As if to punctuate the divide, the water especially devastated the Ninth Ward, among city's poorest and lowest lying.

"Out West, there is a saying that water flows to money," Mr. Colten said. "But in New Orleans, water flows away from money. Those with resources who control where the drainage goes have always chosen to live on the high ground. So the people in the low areas were hardest hit."

Outrage grew as the week wore on, among black politicians who saw the tragedy as a reflection of a broader neglect of American cities, and in the blogosphere.

"The real reason no one is helping is because of the color of these people!" wrote "myfan88" on the Flickr blog. "This is Hotel Rwanda all over again."

"Is this what the pioneers of the civil rights movement fought to achieve, a society where many black people are as trapped and isolated by their poverty as they were by legal segregation laws?" wrote Mark Naison, director of the urban studies program at Fordham, on another blog.

One question that could not be answered last week was whether, put to a similar test, other cities would fracture along the same lines.

AT one level, everything about New Orleans appears sui generis, not least its location below sea level. Many New Orleanians don't just accept the jokes about living in a Banana Republic. They spread them.

But in a quieter catastrophe, the 1995 heat wave that killed hundreds of Chicagoans, blacks in comparable age groups as whites died at higher rates - in part because they tended to live in greater social isolation, in depopulated parts of town. As in New Orleans, space intertwined with race.

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And the violence? Similarly shocking scenes had erupted in Los Angeles in 1992, after the acquittal of white police officers charged with beating a black man, Rodney King. Newark, Detroit, Washington -all burned in the race riots of the 1960's. It was for residents of any major city, watching the mayhem, to feel certain their community would be immune.

With months still to go just to pump out the water that covers the city, no one can be sure how the social fault lines will rearrange. But with white flight a defining element of New Orleans in the recent past, there was already the fear in the air this week that the breached levee would leave a separated society further apart.

``Maybe we can build the levees back," said Mr. Carter. ``But that sense of extreme division by class and race is going to long survive the physical reconstruction of New Orleans."

In Tale Of Two Families, A Chasm Between Haves And Have-Nots (NYT)

By Jodi Wilgoren

The New York Times, September 5, 2005

KENNER, La., Sept. 4 - It was moving day for the families of Gaynell Porretto and Tracy Jackson, the first page of the next chapter in their Hurricane Katrina horror stories.

Mrs. Porretto's four-car caravan crammed with a lifetime of photo albums, a few changes of clothes and coolers of drinks pulled up to a yellow house with a wide front porch that she had just rented for $600 in the humble hamlet of Arnaudville, La.

It is 125 miles from her storm-sacked home in the New Orleans suburb of Metairie, half the size for twice as many people, but she can see the church steeple from the yard, and her son is signed up for football at the nearby high school.

"I have a ZIP code!" she said, exulting. "It's the happiest I've ever been."

Outside the New Orleans airport here, Ms. Jackson's four sickly and hungry children, ages 1, 3, 5 and 7, were sprawled on a skycap's cart as she slogged through the sweaty, snail-like line, the baby atop a blue plastic bin filled with what they had scrounged from strangers.

It is all they have, their $2,000 cash savings burned up with their belongings - including birth certificates - in a post-flood fire at their apartment in uptown New Orleans. Even as they waited to board a plane, they did not know where they were taking it.

"I'm just hoping it's a better place," she whispered. "I've never been on an airplane before, I'm afraid of heights."

Two families displaced by the same disaster, both facing uncertain futures as they moved forward on Saturday, but in completely divergent circumstances.

Just as it ripped through levees to send water pouring through New Orleans, the storm cleaved a harsh chasm among the region's refugees, providing a stark portrait of the vast divide between America's haves and have-nots.

The more than 100 members of Mrs. Porretto's extended family have cars that carried them out last Sunday morning, well before the hurricane hit.

Ms. Jackson, who does not know how to drive, escaped on foot only after the floodwaters started filling her apartment on Tuesday, walking first to a bridge, then to the squalid Superdome.

Mrs. Porretto, 51, has an American Express card that covered her $564.26 bill at the Hilton in Lafayette, La., where a cousin who works for AT&T secured a low corporate rate when she booked a block of rooms days before of the storm.

Ms. Jackson, 24, does not have a bank account, and her husband, Jerel Brown, spent their last $25 to buy fish and shrimp from men grilling on the street in the chaos, so now there is nothing in the pockets of his baggy jeans but a crushed pack of Benson & Hedges someone gave him to calm him down.

The Porrettos have cellphones and connections in city government and churches that not only helped them find one of the last available rental properties anywhere around here, but also let them sneak back into their neighborhood early this weekend to grab televisions and furnishings for their new house.

Mr. Brown, in tears, has no recourse but to ask a reporter to look for his missing brother, Wallace, and if he turned up, find out how they could get back in touch.

John Edwards, the former senator whose presidential primary campaign last year was based on the theme that America is a country torn in two by race and class, sent an e-mail to supporters last week, saying that the hurricane's destruction exposed "a harsher example of two Americas."

"Every single resident of New Orleans, regardless of their wealth or status, will have terrible losses and life-altering experiences," Mr. Edwards wrote. But poor people, he added, "suffered the most from Katrina because they always suffer the most."

Mrs. Porretto, a court clerk, and her husband, Joel, a retired police officer, are hardly rich. But as they embark on life in exile, they look like royalty compared with Mr. Brown, Ms. Jackson and their children, wandering to a destination unknown with little more than the clothes they have worn for a week.

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"We don't know where we're going, we don't know how we're going to survive when we get there - we're starting all over," Mr. Brown said as he stood in line for three hours in the airport's heat. "I never been out of this city. I'm going to be a stranger."

Nearly one in four of New Orleans' 445,000 residents live in poverty, many of them in neighborhoods like the one where the Jackson-Brown clan huddled in a $350-a-month two-bedroom apartment across from a dilapidated and dangerous housing project; 69 percent of the city is black, and the median household income is $31,369. To the west in Metairie, where Ellen DeGeneres grew up, the median income is $41,265, just below the national average, 87 percent of the 145,000 residents are white, and fewer than 1 in 10 are poor.

But in the hurricane's wake, the poorest have turned desperately destitute, while the well-to-do make do with what they have left.

For the past week, the Porrettos and their many cousins converged at the Hilton, Lafayette's finest hotel, drinking red wine late into the night as they laughed in the lobby. The teenagers put a dollar on a string in front of the elevator, watching guests lunge for it as they yanked it away. The adults stayed up until 2 a.m. daring the dozens of dogs among the evacuated to strut their stuff.

"Every dog that did a trick, we drank a beer," Mrs. Porretto explained.

But some days, she stayed in bed depressed through the afternoon, or burst into tears out of nowhere. Their house has roof damage, and they do not yet know what the water has wrought inside. A Ford Taurus full of prized possessions that her husband parked outside Macy's to ride out the storm has been ravaged. The court where she has worked for 25 years is closed indefinitely. Her sister Kathy Skeins, whose family of four will share the little house along with Mrs. Porretto's 78-year-old mother-in-law, is worried about how her boys, 15 and 11, will fare in public school for the first time, and what will happen to the $3,500 tuition she already paid at the Catholic school back home.

"It hit us Monday that we were homeless," Mrs. Porretto said. "We have meltdowns. You just have nothing to look forward to."

Until they found the shotgun-style house in Arnaudville, a town of 1,400 down a long country road north of Lafayette.

On Saturday, as the two sisters unpacked the storm-survival arsenal they had amassed at the hotel - pounds of ham for sandwiches and a new toaster oven, all manner of snacks and condiments, even a bottle of olives to ease Mrs. Porretto's arthritis - a neighbor stopped by with a box of cleaning supplies.

The landlord, who is lending an air mattress and queen bed, drew a map to the nearby restaurant and movie theater. The women debated whether they need a land line, but agreed cable television was a must, and set out shopping to stock their new shelves.

"We need to make a list, Gay," Mrs. Skeins said. "We need a mop and a broom, so we can keep up the kitchen."

Mrs. Porretto propped a photo collage of her son's first year on a bedroom windowsill, and imagined the morning sun streaming in through the living room. The sisters stocked the refrigerator with bottles of Coors Light they had brought.

"Gotta relax some way," Mrs. Skeins said. "We'll sit on the porch and have a cold beer."

"We've got a porch, Kathy, I can't wait!" Mrs. Porretto said, forgetting the hurricane for a minute. "We grew up with a porch!"

On moving day, Mrs. Porretto wore a clean T-shirt and fresh lipstick. Two hours' drive away at the airport, Ms. Jackson was braless under her soiled shirt and had a blue bandana covering her unwashed hair.

The Skeins' 125-pound Rottweiler, Buster, galloped across the grass in Arnaudville to drink from a spigot, after a week squished in a hotel bathroom; the Jackson children are without their mutt, Max, last seen as their apartment began to burn.

"We heard the dog barking," Ms. Jackson said. "I think he's dead."

Like the Porrettos, Ms. Jackson, Mr. Brown, their children, a nephew and a friend they call Auntie left New Orleans last Sunday morning, to stay with a friend. But they went back on Tuesday, and as the water rose to waist level, they fled with no provisions. After two nights shielding the baby's eyes from dead bodies at the feces-infested Superdome, they set out for the convention center, where rumors of rapes and worse left them taking turns sleeping on the floor in fear for their children's safety.

"Last night I heard a baby screaming, 'Stop, stop, get off me, don't touch me,' " Ms. Jackson recalled.

Their blue plastic bin is filled not with family treasures, but with scraps that other refugees and relief workers have handed out: three rolls of toilet paper, a box of Teddy Grahams, toddlers blue plastic sandals, two apples, a gallon of milk.

Mr. Brown was barefoot until a friend gave him a pair of sneakers that remain unlaced because they are too small; he has no socks. An elderly lady gave Ms. Jackson a quilted handbag to hold diapers and the pink pills the triage nurse gave to 7-year-old Waynenisha, who suffers from febrile seizures.

"It has some perfume and some body spray," she said thankfully. "I'm a lady. I can't walk around smelling like a grown man."

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Now, Ms. Jackson is wondering whether she will be able to enroll her children in school without identification - even her own Social Security card is gone. Mr. Brown, who had been making do washing 18-wheelers and running errands for a convenience store, said he will "go there and get a job if they let me," though he is still unsure where there might be.

"We just started life's journey together," he said, gesturing at the little ones on the luggage cart. "As we're building, it just all fell apart at one time."

Standing in the sweltering line, Mr. Brown occasionally lashed out, slapping the leg of a child on the move or barking at others in line for pushing. When an older woman passed out on the curb, he pushed through the crowd to pour water down her head and back. "Where's the help?" he called out. "We need help! Give her some air, please."

A few minutes later, the Rev. Jesse Jackson turned up with three buses. The Jackson-Browns leaped out of line to rush aboard with their blue plastic bin and grabbed the last row in the air-conditioned coach, leaving the skycap's cart behind.

To The Rescue (USNEWS)

By Anna Mulrine

U.S. News and World Report, September 5, 2005

It didn't look like America, the exodus of stunned refugees wading through turbid, waist-high water, carrying only what mattered most: sick relatives, bundled babies, storm-soaked family Bibles. It looked like another country, the kind of place where armed bandits outnumber police and desperate families search garbage dumpsters for food. A place where the poorest of the poor die in the heat, their corpses ignored on the side of the road.

Across the Gulf Coast, lifelong residents who thought they had seen it all were left with nothing in the wake of a storm that has caused what may well be the worst natural disaster ever to hit the United States. Katrina's lethal one-two punch of 145-mile-per-hour winds and a 25-foot storm surge left 90,000 square miles of heartbreak, devastation, and unhinged lives, as rich and poor alike scrounged for food and water, searched for loved ones in rivers of foul, tea-colored water, and wondered, Why on earth was help so slow in coming? "A national disgrace," Terry Ebbert, New Orleans's homeland-security director, said of Washington's emergency-relief efforts.

The challenges of delivering help and restoring order were without precedent. Experts placed the price tag on the havoc caused by Katrina's wrath at $30 billion, but for now, that can be only an educated guess. What can be said for sure is that Katrina uprooted more Americans than the Civil War, the Dust Bowl storms of the 1930s, or the San Francisco earthquake of 1906. Reaching for a more recent comparison, a weary, crestfallen A. J. Holloway, the mayor of Biloxi, Miss., which saw its own share of despair and heartbreak, said: "This is our tsunami."

Early in the week, the nation had breathed a sigh of relief for its beloved Crescent City--Bourbon Street was dry, and Katrina seemed like just another dodge-the-bullet story as revelers roamed the rain-smeared streets, go-cups in hand. By nightfall after landfall, it looked as if the Bananas Foster would be flaming merrily at Commander's Palace once again. But after the levees broke the next day and the bathtub-shaped Big Easy began filling up with the brackish waters of Lake Pontchartrain, a complicated network of pumps failed and 80 percent of the city was soon under water, creating what public health officials warned could soon become a breeding ground for West Nile virus, dysentery, and a host of other potentially lethal diseases.

"Help us." In what officials say is the largest domestic military relief effort in the nation's history, the Pentagon sent aircraft, rescue crews, and teams of Navy SEAL s to help out. Coast Guard divers descended from hovering helicopters, smashing though roofs with axes, sweeping the sick from makeshift rafts, and spiriting away those most in need of aid.

But for far too many, for the first few days, relief remained elusive. Kids climbed on a roof holding a sign that read simply, "Help us." Bands of looters, some deadly, some merely desperate, roamed the streets. At week's end, the floodwaters covered slightly less than half the city, but police and National Guard units were still keeping a wary eye on looters and gun-toting residents while trying to restore order amid reports of beatings, rapes, and shootings. New Orleans Mayor Ray Nagin issued a "desperate SOS," pleading for more of everything--food and water, relief help, buses to evacuate the sick and elderly--anything that could help jump-start what inevitably will be a slow and tortuous return to something like normal.

'Understanding Katrina (USNEWS)

By Dan Gilgoff

U.S. News and World Report, September 5, 2005

By noon Monday, it was clear there was trouble. It was at the levee along the industrial canal that separates New Orleans from St. Bernard Parish to the east. The breach was obvious and, for the moment, irreparable. On Tuesday morning, there were two more gaps, both along a floodwall of the city's 17th Street Canal. It was the beginning of the end, just a matter of time. The waters rushed in.

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At the worst moment of the worst week in New Orleans's history, the water downtown was 20 feet deep. How could it have happened? The city's levees, many decades old, had been built to withstand only a Category 3 storm. Katrina was a 4. A high 4. The local authorities knew that. But they had no comprehensive plan to evacuate people from even the lowest parts of a city whose virtually every corner lies below sea level. Nor were there plans for an enhanced police presence on the streets after Katrina struck. In Washington, too, there was a curious lassitude, both as the massive storm bore down on the Gulf Coast and in the immediate aftermath of the levees failing. At week's end, an obviously stricken President Bush said: "I don't think anybody anticipated the breach of the levees."

But why not? The potential failure of the city's 350-mile levee system had been studied for years. The extensive network was built to keep floodwaters out, but it can also lock them in when the levees are breached or "overtopped" by surging water on the other side. This is what old New Orleans hands refer to as "flooding the bowl." And it's the very reason the Red Cross listed a direct hurricane hit on New Orleans as the nation's most deadly natural-disaster threat a few years ago. Everyone, it seemed, knew the risks. Scientists at Louisiana State University had warned that even a Category 3 storm could dump up to 27 feet of water in some neighborhoods. "Everybody knew this was coming," says Walter Maestri, director of emergency preparedness for Jefferson Parish (a parish is akin to a county), which borders downtown New Orleans. "But we all hoped it wouldn't be in our lifetime." John Harrald, codirector of the Institute for Crisis, Disaster, and Risk Management at George Washington University in Washington, D.C., agrees. "To paraphrase the 9/11 commission," he said, "we are seeing a failure of imagination."

Shared blame. The failure, however, was not on everyone's part. For years, officials in the New Orleans district office of the U.S. Army Corps of Engineers, which built and administers the levee network, pushed to raise the protection level from Category 3 to Category 5. "We have the ability to protect this city [from Category 4 and 5 storms] for a 2-to-3-billion-dollar investment," Al Naomi, a senior project manager for the corps, told U.S. News in June. "It's not rocket science; its concrete and steel." Environmental groups, meanwhile, lobbied for more than a decade to restore southeastern Louisiana's vanishing wetlands, which once provided New Orleans with a robust, natural hurricane buffer. They got nowhere.

In The Ruins, Angels Of Mercy (USNEWS)

By Nancy Shute

U.S. News and World Report, September 5, 2005

April Fugere has discovered that it takes only about 36 hours to turn a modern American hospital into something more like a Civil War-era battlefield unit. "The stench is unbelievable," Fugere, an intensive care nurse, said from her post at flood-ravaged Charity Hospital last week, a few days after Hurricane Katrina battered New Orleans.

The hospital had no running water or working toilets. Food and bottled water were in short supply. The pain medication was long gone. When the emergency generators gave out, Fugere and her colleagues kept critically ill patients alive by squeezing their ventilator bags by hand. Rescuers had turned away after being fired upon, but by week's end, most of the patients had been evacuated. It was too late for some. "There are lots of patients who died," Fugere says. "They are laying them out in a hospital stairwell, in body bags."

From the flooded city of New Orleans and eastward along the Gulf Coast, doctors and nurses at dozens of hospitals and nursing homes last week struggled against enormous odds to keep thousands of seriously ill people alive without the most basic tools--food, water, medicine. The situation outside hospital walls was no better. Swarms of displaced residents with chronic health problems tried to make do without life-sustaining treatments like insulin and kidney dialysis. Even those who were healthy when the hurricane hit risked serious injury or death through dehydration, infection, or starvation as the week dragged on with no rescue or basic rations in sight. "We're seeing people who have been holed up in heated attics without food or water for days," says Christopher Guarisco, director of the emergency department at the Oschner Clinic Foundation in Jefferson Parish, La. At the New Orleans Convention Center, corpses lay abandoned amid throngs of people desperate to escape. A lucky few got out: Premature babies and other critically ill patients were airlifted to hospitals as far away as Houston. But most were left to suffer.

The healthcare crisis was exacerbated by the fact that hospitals weren't immune to the violence that erupted. "When the crowds tried to take the ambulances away from us, we just abandoned the ambulances and locked them up," says Richard Zuschlag, chief executive officer of Acadian Ambulance Service in Lafayette, La. In their second attempt to evacuate Charity Hospital, "we got shot at," Zuschlag says. But as National Guard troops began entering the city, the ambulance crews started moving again.

"It's utter chaos here," says Deano Bonano, chief deputy administrator for Jefferson Parish, just outside New Orleans. At midweek, the parish's hospitals were crammed with patients, most of them old or frail and in need of dialysis or oxygen, who were moved into the hospitals before the storm hit and had no place to go. "People are lined up in hallways, everywhere we can plug in a machine," Bonano says. "We're trying to relocate these special-needs patients to hospitals outside the area, but transportation right now is hard or impossible." Early in the week, he had taken to going out with the police or National Guard and

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raiding local supermarkets. "We are actually breaking into grocery stores," he says. By week's end, however, Bonano said Wal-Mart and Sam's Club had shipped in tractor-trailers with food, water, and ice, and power and water were being restored to the three open hospitals.

Another Flood That Stunned America (USNEWS)

U.S. News and World Report, September 5, 2005

For days, the rain fell. The rivers swelled, the lakes rose. And when the water could no longer find a place to go, it battered the weakest parts of the levees that had protected thousands of people and blew through, sending a surge of white-capped brown water faster than the spill of Niagara Falls.

So began the Great Mississippi Flood of 1927, the most catastrophic deluge ever to hit the South and one of the worst natural disasters in U.S. history.

The seminal event of pre-integration southern politics, the 1927 flood inundated an area about half the size of New England. It killed as many as 1,000 people and displaced about 700,000 more. At a time when the entire federal budget was barely $3 billion, it caused an estimated $1 billion in damage.

Most significant for the course of America, however, the tragedy hastened the mass migration of African-Americans to northern cities and marked the beginning of the end of southern sharecropping. "You'd say, 'I'd like to talk to you about the 1927 flood,' and you didn't need to explain anything else," says Pete Daniel, author of Deep'n As It Come: The 1927 Mississippi River Flood. "It was the most significant event of their lives."

The 1927 flood spared New Orleans, yet parallels to the aftermath of Hurricane Katrina are hard to miss. Authorities were ill-prepared to deal with refugees, and the brunt of the damage was borne by poor blacks unable to get to high ground.

Like Katrina, the tragedy was in many ways born of man's hubris--fitting because New Orleans itself grew out of man's assumption that he could control nature, no matter how stubborn nature was. The city was founded in 1718 by Jean Baptiste Le Moyne de Bienville on a piece of high ground between the Mississippi and Lake Pontchartrain. It was built below grade, against the advice of engineers. Pumps and canals, its founders thought, would handle the water.

Over the centuries, the same attitude would direct development of the rest of the lower Mississippi. Earthen levees rose ever higher to corral the river in its channel. But they have come at a price: The same volume of water just moves faster through a smaller space, scouring the channel and weakening the levees from below.

When the rains broke records in April 1927, the Gulf of Mexico was full and worked as a stopper to the Mississippi. The Mississippi was full, too, pushing its own waters up tributaries, breaking levees and causing flooding as far as Ohio and Texas. All that water had to go somewhere.

It couldn't go to New Orleans, panicky city fathers told the Army Corps of Engineers; it would devastate the regional economy.

To save New Orleans, the leaders proposed a radical plan. South of the city, the population was mostly rural and poor. The leaders appealed to the federal government to essentially sacrifice those parishes by blowing up an earthen levee and diverting the water to marshland. They promised restitution to people who would lose their homes. Government officials, including Commerce Secretary Herbert Hoover, signed off.

On April 29, the levee at Caernarvon, 13 miles south of New Orleans, succumbed to 39 tons of dynamite. The river rushed through at 250,000 cubic feet per second. New Orleans was saved, but the misery of the flooded parishes had only started. The city fathers took years to make good on their promises, and very few residents ever saw any compensation at all.

The water, which had started rising on Good Friday, would not recede until July. Many victims would never return to their homes. Hoover, who won support for leading relief efforts, went on to win the presidential election. And the Corps of Engineers, who had said the levees would hold, was humbled. Says Daniel: "People complained about the corps . . . but they never blamed the river. They understood: 'That's the river. That's nature. That's what it's supposed to be doing.' " -Judd Slivka

The Lost CityWhat Went Wrong: Devastating A Swath Of The South, Katrina Plunged New Orleans Into Agony. (NWSWK)

Newsweek, September 5, 2005

Sept. 12, 2005 issue - It wasn't exactly a surprise. "This ain't gonna last," New Orleans City Council President Oliver Thomas told his security guard as they watched the waters of Lake Pontchartrain rising and racing and eating away at the dirt levee beneath the concrete floodwall built to protect New Orleans from disaster. It was 4 o'clock on Sunday afternoon, Aug. 28. Hurricane Katrina was still 14 hours away, but the sea surge had begun. Thomas returned to the city's hurricane war room and announced, to anyone who was listening, "The water's coming into the city."

Story continues below ? advertisement

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Thomas was asleep on his office couch early Tuesday morning when he was awakened by the sound of banging on his door and someone yelling, "The levee broke!" Thomas stood up on his soaked carpet and felt as though he were standing in concrete. He was paralyzed, he later said, by the fear of predictions coming true. Thomas, who had been rescued off the roof of his house in New Orleans during Hurricane Betsy in 1965, had been a city councilman for a dozen years. His specialty is water. He knew all about the studies and reports and dire warnings stacked up on the desks of bureaucrats, he knew about all the relief and reconstruction and restoration projects that had been discussed but never paid for or carried out, and he knew his beloved old city was doomed.

A few rescuers were ready, but precious few. On Monday morning, as the storm slammed into the Gulf Coast, Col. Tim Tarchick of the 920th Rescue Wing, Air Force Reserve Command, got on the phone to call every agency he could think of to ask permission to take his three rescue helicopters into the disaster zone as soon as the storm abated. The response was noncommittal. FEMA, the federal agency that is supposed to handle disasters, told Tarchick that it wasn't authorized to task military units. That had to come from the Defense Department. Tarchick wasn't able to cut through the red tape until 4 p.m. Tuesday—more than 24 hours after the storm had passed. His crews plucked hundreds of people off rooftops, but when they delivered them to an assigned landing zone, there was "total chaos. No food, no water, no bathrooms, no nothing." There was "no structure, no organization, no command center," Tarchick told NEWSWEEK.

Only despair. The news could not have been more dispiriting: The reports of gunfire at medical-relief helicopters. The stories of pirates capturing rescue boats. The reports of police standing and watching looters—or joining them. The TV images of hundreds and thousands of people, mostly black and poor, trapped in the shadow of the Superdome. And most horrific: the photographs of dead people floating facedown in the sewage or sitting in wheelchairs where they died, some from lack of water. For many across the city and the Gulf Coast, prayer seemed one of their few options. On CNN, Mayor C. Ray Nagin asked the country to "pray for us," a plea repeated by survivors who needed that, and much more.

New Orleans has long been an inspiration to soulful writers and artists who sing the blues. But there was nothing romantic about Katrina's wake. Most of the poets had headed for higher ground (although legendary R&B man "Fats" Domino stayed, was reported missing, then found alive). Left behind were the poor who couldn't get out, a few defiant members of the local gentry and gangs of predators.

No one seemed to have any idea how many people died, but it was clearly the worst natural disaster since a hurricane wiped out Galveston, Texas, in 1900, killing 6,000 to 12,000 people. No major American city had been evacuated since Richmond and Atlanta in the Civil War. The economic cost will be enormous, starting with gasoline prices jumping to more than $3 a gallon. The political cost to President Bush could also be stiff. When Air Force One dipped below the clouds on Tuesday so the president could peer out the window down at the disaster, the image was uncomfortably imperial. A folksier Bush toured the wretched region on Friday, hugged some victims and did a rare but necessary thing: he admitted that the results of the relief effort had been "not acceptable."

Day after day of images showed exhausted families and their crying children stepping around corpses while they begged: Where is the water? Where are the buses? They seemed helpless, powerless, at the mercy of forces far beyond their control. The lack of rapid response left people in the United States, and all over the world, wondering how an American city could look like Mogadishu or Port-au-Prince. The refugee crisis—a million people without homes, jobs, schools—hardly fit George W. Bush's vision of the American Colossus.

After Failures, Government Officials Play Blame Game (NYT)

By Scott Shane

The New York Times, September 5, 2005

This article was reported by Scott Shane, Eric Lipton and Christopher Drew and written by Mr. Shane.

WASHINGTON, Sept. 4 - As the Bush administration tried to show a more forceful effort to help the victims of Hurricane Katrina, government officials on Sunday escalated their criticism and sniping over who was to blame for the problems plaguing the initial response.

While rescuers were still trying to reach people stranded by the floods, perhaps the only consensus among local, state and federal officials was that the system had failed.

Some federal officials said uncertainty over who was in charge had contributed to delays in providing aid and imposing order, and officials in Louisiana complained that Washington disaster officials had blocked some aid efforts.

Local and state resources were so weakened, said Michael Chertoff, the homeland security secretary, that in the future federal authorities need to take "more of an upfront role earlier on, when we have these truly ultracatastrophes."

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But furious state and local officials insisted that the real problem was that the Federal Emergency Management Agency, which Mr. Chertoff's department oversees, failed to deliver urgently needed help and, through incomprehensible red tape, even thwarted others' efforts to help.

"We wanted soldiers, helicopters, food and water," said Denise Bottcher, press secretary for Gov. Kathleen Babineaux Blanco of Louisiana. "They wanted to negotiate an organizational chart."

Mayor C. Ray Nagin of New Orleans expressed similar frustrations. "We're still fighting over authority," he told reporters on Saturday. "A bunch of people are the boss. The state and federal government are doing a two-step dance."

In one of several such appeals, Senator Hillary Rodham Clinton, Democrat of New York, called on President Bush on Sunday to appoint an independent national commission to examine the relief effort. She also said that she intends to introduce legislation to remove FEMA from the Department of Homeland Security and restore its previous status as an independent agency with cabinet-level status.

Mr. Chertoff tried to deflect the criticism of his department and FEMA by saying there would be time later to decide what went wrong.

"Whatever the criticisms and the after-action report may be about what was right and what was wrong looking back, what would be a horrible tragedy would be to distract ourselves from avoiding further problems because we're spending time talking about problems that have already occurred," he told Tim Russert on "Meet the Press" on NBC.

But local officials, who still feel overwhelmed by the continuing tragedy, demanded accountability and as well as action.

"Why did it happen? Who needs to be fired?" asked Aaron Broussard, president of Jefferson Parish, south of New Orleans.

Far from deferring to state or local officials, FEMA asserted its authority and made things worse, Mr. Broussard complained on "Meet the Press."

When Wal-Mart sent three trailer trucks loaded with water, FEMA officials turned them away, he said. Agency workers prevented the Coast Guard from delivering 1,000 gallons of diesel fuel, and on Saturday they cut the parish's emergency communications line, leading the sheriff to restore it and post armed guards to protect it from FEMA, Mr. Broussard said.

One sign of the continuing battle over who was in charge was Governor Blanco's refusal to sign an agreement proposed by the White House to share control of National Guard forces with the federal authorities.

Under the White House plan, Lt. Gen. Russel L. Honoré would oversee both the National Guard and the active duty federal troops, reporting jointly to the president and Ms. Blanco.

"She would lose control when she had been in control from the very beginning," said Ms. Bottcher, the governor's press secretary.

Ms. Bottcher was one of several officials yesterday who said she believed FEMA had interfered with the delivery of aid, including offers from the mayor of Chicago, Richard M. Daley, and the governor of New Mexico, Bill Richardson.

Adam Sharp, a spokesman for Senator Mary L. Landrieu, Democrat of Louisiana, said the problem was not who was in command. FEMA repeatedly held up assistance that could have been critical, he said.

"FEMA has just been very slow to make these decisions," Mr. Sharp said.

In a clear slap at Mr. Chertoff and the FEMA director, Michael D. Brown, Governor Blanco announced Saturday that she had hired James Lee Witt, the director of FEMA during the Clinton administration, to advise her on the recovery.

Nearly every emergency worker told agonizing stories of communications failures, some of them most likely fatal to victims. Police officers called Senator Landrieu's Washington office because they could not reach commanders on the ground in New Orleans, Mr. Sharp said.

Dr. Ross Judice, chief medical officer for a large ambulance company, recounted how on Tuesday, unable to find out when helicopters would land to pick up critically ill patients at the Superdome, he walked outside and discovered that two helicopters, donated by an oil services company, had been waiting in the parking lot.

Louisiana and New Orleans have received a total of about $750 million in federal emergency and terrorism preparedness grants in the last four years, Homeland Security Department officials said.

Mr. Chertoff said he recognized that the local government's capacity to respond to the disaster was severely compromised by the hurricane and flood.

"What happened here was that essentially, the demolishment of that state and local infrastructure, and I think that really caused the cascading series of breakdowns," he said.

But Mayor Nagin said the root of the breakdown was the failure of the federal government to deliver relief supplies and personnel quickly.

"They kept promising and saying things would happen," he said. "I was getting excited and telling people that. They kept making promises and promises."

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A Delicate Balance Is Undone In A Flash, And A Battered City Waits (NYT)

By Peter Applebome, Christopher Drew, Jere Longman And Andrew Revkin

The New York Times, September 5, 2005

NEW ORLEANS, Sept. 3 - They waited, and they waited, and then they waited some more in the 90-degree heat, as many as 5,000 people huddled at a highway underpass on Interstate 10, waiting for buses that never arrived to take them away from the storm they could not escape.

Babies cried. The sick huddled in the shade in wheelchairs or rested on cots. Dawn Ray, 40, was in tears, looking after an autistic niece who had soiled herself and her son who is blind and has cerebral palsy. A few others, less patient, simply started walking west with nowhere to go, like a man pushing a bike in one hand and pulling a shopping cart in another. But most just waited with resigned patience - sad, angry, incredulous, scared, exhausted, people who seemed as discarded as the bottles of water and food containers that littered the ground.

"Disease, germs," one woman, Claudette Paul, said, covering her mouth with a cloth, her voice smoldering with anger. "We need help. We don't live like this in America."

New Orleans has always existed in a delicate balance between land and water, chaos and order, black and white, the very rich and the very poor. It has been the lacy ironwork of French Quarter balconies, the magical shops and galleries on Royal Street and the magisterial cuisine not just at Galatoire's or Mr. B's or Commander's Palace but also at humble po-boy joints and neighborhood restaurants in every part of town.

But it has also been a place of crushing poverty, of dreary housing projects and failing schools, where crime and violence have been an incessant shadow in daily life, as much a part of the local sensibility as the smothering blanket of heat and humidity.

This week, bit by bit, that delicate balance came completely undone. Water took over earth when levees broke, putting 80 percent of the city under water. The mix of fatalism and bravado that allowed the city's biggest fear - a killer hurricane - to become the marquee drink of Bourbon Street gave way to terror and despair and horrifying spasms of looting and violence. New Orleans became unrecognizable not just physically, but psychologically as well. Faced with a disaster of biblical proportions, everything fell apart, and government was either overmatched or slow to the task.

The flood-control apparatus, which government officials and scientists had long said was inadequate, gave way, but federal engineers did not even realize that a major breach had occurred until the next morning, when citizens began reporting rising flows on Web logs. The city's evacuation plan worked, except for the thousands who were too poor or disabled to find their own way out of the city before the storm. The radios and cellphones that officials and police officers use to communicate failed, erasing any remaining semblance of authority in a city beset by chaos and crime. And finally, a full federal response came only after the dialogue between local and federal officials devolved into anger.

Just two months ago, further evidence emerged that the city and its levees were sinking, increasing the risk of a catastrophic flood, even as federal money to protect the city was being cut afresh. As flood waters rose on Tuesday, Senator Mary L. Landrieu tried to impress upon colleagues in Washington that this was America's tsunami, but she said that the more she pleaded, the more she felt she was not being heard. Most local officials who were supposed to be running the city eventually left, mainly because they could not communicate with the outside world, whose help they desperately needed. It took four days for National Guard troops to arrive to restore order as looting and lawlessness spiraled out of control.

Mayor C. Ray Nagin said federal aid began flowing after he spoke by telephone to President Bush and told him bluntly: "Man, this is a mess, and I am not getting the resources I need. I need help, and if I don't get the help I need this city is going to blow up and this is going to be a national disgrace."

New Orleans, Flannery O'Connor once wrote, is a place where the devil's existence is freely recognized.

But not this devil. Not the devil of bloated bodies floating in muddy waters washing lazily over submerged pickups and campers, of corpses being eaten by rats as they decomposed on city streets, of people dying in wheelchairs outside the convention center as friends poured water over their heads to try to keep them alive.

Not the devil who left Bill and Gail Orris sitting exhausted, dazed after escaping through the hole they poked through the roof of their home in nearby Chalmette, while their 20-year-old daughter, Lennie, unable to walk and mentally disabled, sucked her thumb and jerked spasmodically back and forth in her wheelchair in the hot sun.

Not the devil who left Catherine Weiss, at 75, apologizing profusely for not having her teeth with her - she had left in a hurry, after all, when the water filled her house like a bathtub - and panicked about what had happened to her nephew, Michael Phillippello, who collapsed as a boat ferried them across the river to safety.

Not the man on talk radio, stranded in his house but begging people not to try to come back to see what they had left behind.

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"It's like the five stages of accepting death," he said. "First, I was thinking if I had enough ice to save the good shrimp and tilapia, then it's whether I can save the house, now it's about my life. If I had two AK's I'd feel safe here. As it is, someone could pop me off, and I could end up bloated, no one would check for bullet holes, and I'd just end up in some potter's field. You can feel human life kind of receding like the waters."

The storm that brought those waters began as Tropical Depression 12, yet another swirl of tropical turbulence in the southeastern Bahamas. But at each step of the way Hurricane Katrina seemed to overachieve. It hit Florida with more power than expected, killing nine people and knocking out electricity for a million more. Then it crossed back into the Gulf of Mexico, intensifying into one of the strongest storms on record as, in a horrific bit of timing, it churned directly over the "loop current," a great, deep whorl of tropics-hot seawater that pulses in between the Yucatán and Cuba each year and then stays south of Louisiana into late summer. Often, storms weaken as they suck up cool water that lies stratified beneath the warm surface. But in the loop, even the depths are hot.

"We are facing a storm that most of us have long feared," said Mayor Nagin, who urged people on Saturday to leave town and then gave an evacuation order on Sunday, when it looked as if a Category 5 storm, with winds as high as 175 miles an hour, could be headed for New Orleans. "This is a once-in-a-lifetime event."

Many of the 1.3 million people in the metropolitan area did that. But, as always, many did not. This surprised exactly no one. In a 2003 Louisiana State University poll, 31 percent of New Orleans residents said they would stay in the city even if a Category 4 hurricane struck.

Many stayed because they felt they had no choice.

The survey found that those who said they would stay tended be poor, less educated, disabled, older, childless or isolated, or had lived in the city for a long period. Twenty-eight percent of the population of New Orleans lives below the poverty line, compared with 9 percent nationwide, according to census figures. Twenty-four percent of its adults are disabled, compared with 19 percent nationwide. An estimated 50,000 households in New Orleans do not have cars.

And there was another bit of bad timing: the hurricane came at the end of the month, when those depending on public assistance are waiting for their next checks, typically mailed on the first of every month.

"They wouldn't have had any money to evacuate," said Councilwoman Cynthia Hedge-Morrell.

Experts disagreed on whether there were adequate evacuation plans for those most in need. Brian Wolshon, an L.S.U. civil engineering professor who consulted on the state evacuation plan, said the city relied almost entirely on a "Good Samaritan scenario," in which residents would check on elderly and disabled neighbors and drive them out of the city if necessary.

Planning was stymied by a shortage of buses, he said. As many as 2,000 buses, far more than New Orleans possessed, would be needed to evacuate an estimated 100,000 elderly and disabled people.

But Chester Wilmot, an L.S.U. civil engineering professor who studies evacuation plans, said the city successfully improvised. He said witnesses described seeing city buses shuttle residents to the Superdome before Hurricane Katrina struck.

"What I've heard is that there were buses, but they weren't very well utilized," Professor Wilmot said. "They literally carried very few people."

The two professors agreed that the evacuation of New Orleans residents with cars went well. They said a new "contraflow plan," which used all lanes of I-10 for outbound traffic, avoided the kind of traffic that snarled during a voluntary evacuation of the city during Hurricane Ivan in 2001.

"What you're going to find is that everyone who wanted to get out, got out," said Professor Wolshon. "Except for the people who didn't have access to transportation."

But many other stayed because they wanted to stay. Because their friends were staying. Because they were worried about looters if they left. Because they felt they could protect their property by staying home. They stayed because they had elderly parents who were going to stay, because they thought they knew which parts of the city flooded and which did not. Or because they always had.

"Hard-headed, honey," said Mrs. Weiss, when asked why she rode out the storm in the same brick home where she has stayed for storms for 41 years. "From now on, I'm leaving for a tropical storm."

And then there were the tourists, many of whom came with only the haziest sense of what they were facing and not the slightest idea of what they should do. When Chris and Tammy Distefano, Kris and Mike Miller and Chad and Michelle Toomey arrived from York, Pa., on Saturday morning for their first trip to New Orleans, they asked the limo driver, Joseph, what to expect. Not much, he answered. The storms always went somewhere else. He took them on a tour and dropped them off at their hotel. They dropped off their bags and walked over to Pat O'Brien's for a hurricane, the mix of dark rum, passion fruit and other juices that people drink from plastic cups as they tour the French Quarter. They were scared to death as the storm rattled their hotel, shutting off the power, Sunday night and Monday morning.

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But as Monday rolled into afternoon and the storm moved west, people peeked outside to find streets battered, trees down, roots torn up, but the city mostly dry. It looked like the N'awlins luck had held again.

Thriving on Bluff

And why not? For generations - centuries, really - this city had thrived in part on the poker-hand bluff, its sheer allure masking its starker realities.

Eighteenth-century accounts sent back to France as the first settlers carved into the Mississippi silt focused on the fanciful, not the real, said Craig E. Colten, a geographer at L.S.U. and the author of a new book on the city, "An Unnatural Metropolis."

Few entrepreneurs seeking to sell the idea of building a town on this swampy island mention that as they dug into the earth, they came upon recently buried tree trunks - a sign that they were standing on land laid down by epic floods.

And as the city grew, wedged between the Mississippi River and the broad, shallow Lake Pontchartrain, so too did efforts to ring it with earthen levees. But the very expansion of the city contributed to the rising flood risk, Dr. Colten said. As swampier spots were drained, the drying soil compressed, causing reclaimed land to sink ever more.

In the 20th century, more land was drained as the city's legendary system of pump stations and purging canals spread. But that made it sink all that much faster.

Hurricanes feeding on warmth from the gulf rumbled by most summers. Some potent ones smashed other Gulf Coast towns, like Galveston, Tex., in 1900, and storms in 1947 and 1965, struck New Orleans directly, but with survivable intensity. Hurricane Betsy, in September 1965, finally spurred a federal hurricane protection plan for Lake Pontchartrain and vicinity.

But the system that emerged was a compromise from the start, cut back by competing Army Corps of Engineer projects, by pressure from local communities that had to pay part of the tab, and by the tendency to focus more on current costs than on future risks.

Officials settled on a system of levees sufficient to protect against another Hurricane Betsy - roughly akin to what is now called a Category 3 storm, the kind that statistics estimate might strike New Orleans once in 200 years.

A lull in Atlantic hurricane frequency from around 1970 until 1995 probably contributed to complacency, said Bob Sheets, a former director of the National Hurricane Center.

But more recently, a string of studies found that after 1995, a natural Atlantic cycle had switched from the pattern that stifles storms to one that nurtured them. Other studies pointed to an eventual increase in storm intensity from global warming.

Computer simulations showed ever more clearly how New Orleans could swamp like a low boat in high seas under the assault from certain hurricanes.

Still, the compromises over flood protection persisted. After a scare from Hurricane Georges in 1998, Congress authorized the Corps of Engineers to begin studying bolstering the city's defenses against a Category 5 storm. But money for that study, and simply for finishing the last components of the original plan to protect against a Category 3 storm, dribbled in district at a fraction of annual requests.

In 2004, with insufficient money to close contracts with the companies doing the work, Alfred Naomi, a senior district project manager, told the local East Jefferson Levee Authority, according to the New Orleans Times-Picayune: "The system is in great shape, but the levees are sinking. Everything is sinking, and if we don't get the money fast enough to raise them, then we can't stay ahead of the settlement."

This year, the New Orleans district was hit by a $71.2 million cut. Without more federal money, the district reported in May, the raising of various levees and other "pressing needs" would not be met. In June, at a meeting of emergency planners and hurricane experts, Roy Dokka, an L.S.U. engineer who has spent much of his career refining measurements of elevations around the gulf, presented findings that parts of the coast and New Orleans were sinking 2 to 50 times faster than earlier estimates.

Many spots were two to four feet lower than anyone thought, recalled Stephen Baig, a National Hurricane Center meteorologist, a chilling hint that calculations of the flood potential of particular storms, and the vulnerability of levees, might be significantly underestimated.

"For levee heights, and for our models," Dr. Baig recalled, "that could mean the difference between overtopping and not overtopping."

On Monday, there was nothing dramatic when the levee failed, no sound of an explosion or a crash. At midday, as the storm was blowing out of the city, the Web site of The Times-Picayune quoted residents near the 17th Street canal saying that after experiencing only minor flooding from the storm, suddenly the water in their yards was rising from what seemed to be a breach in the canal. One man said later that afternoon that the water was rising one brick on his house every 20 minutes.

By 4:20 p.m. on Monday, the Web site reported that the water had already rolled through the nearby Lakeview neighborhood and on down to the center of the city. By then, the water in Lakeview had reached the second stories of many

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houses. The berms along Lake Pontchartrain had held. The problem was in canals that had been built to carry water pumped from city drains out to the lake. But on Monday, with the lake rising, the flow in the canals reversed.

A surge, probably 10 feet above normal, flowed in from the lake, rising until it began cascading over the top of the sleek, butter-colored walls that stood between the east side of the 17th Street Canal and the city's Bucktown neighborhood.

Greg Breerwood, a deputy district engineer for the Corps, said it appeared that as the weight of the water pressed on the high part of the wall, the water pouring over the top hit the ground on the other side and ate away at the soil supporting its base.

A section of the wall pushed in and the rush of water turned that breach into a gash as broad as a football field is long. The lake and below-sea-level city were becoming one body of water.

"We heard about the flood wall failing," Mr. Breerwood said. "Then we realized there was an open corridor to the city."

A Reluctance to Leave

Once the levee broke, most long-time New Orleanians knew that the city could unravel quickly, with nothing to stop the lake from pouring into neighborhoods that were still dry and surging across a huge city park and into downtown.

Ms. Landrieu, a Democrat who grew up in New Orleans, whose father, Moon Landrieu, had been mayor, whose brother, Mitch, is currently Louisiana's lieutenant governor, was at the federal and state command center in Baton Rouge when the first warnings about the break flashed on Monday afternoon.

Ms. Landrieu knew how reluctant people could be to leave. This was the first time her own father had ever left during a hurricane. She said in an interview that she knew instantly that thousands who thought they had survived the storm would now be trapped in their houses, racing the rising floodwaters to their second floors, or to their attics or rooftops.

But she and other local officials suddenly faced a new problem: convincing federal officials that just one break in one canal with such a mundane name could bring on a cataclysm.

"I have been with Michael Brown since the minute he landed in this center," Ms. Landrieu said Friday in Baton Rouge, referring to the director of the Federal Emergency Management Agency, "and I have been telling him from the moment he arrived about the urgency of the situation."

But, she said, "I just have to tell you that he had a difficult time understanding the enormity of the task before us."

Natalie Rule, a spokeswoman for FEMA, disputed Ms. Landrieu's account. "There was no doubt in our minds that a Category 3, 4 or 5 headed for New Orleans was going to be dangerous," Ms. Rule said. She said agency officials told state and local leaders: "We will be there for you. You just go for it. We've got your back."

But if they did, no one knew it. And as the flood-control system broke down, so soon did everything else.

There was no immediate announcement that the levee had been breeched or what it meant, but different people realized at different times that maybe the bullet had not been dodged, after all. The prestorm evacuation, as chaotic as it seemed to anyone stuck on the road, was still part of a plan. Now , a whole new ad hoc stage began.

The tourists from York ventured out Monday to see gangs of youths, maybe four, then a dozen, then another four, breaking into the Canal Place Mall, home to high-dollar retailers like Saks and Gucci, Brooks Brothers and Ann Taylor. Worried that things were slipping out of control, they managed to make a plane reservation at $637 a ticket to get out of town. A local family staying at the hotel drove them out for $100 a head, the best money they ever spent. There had been no plans for what to do with stranded tourists, and before long, the hotels were closing down.

With the Superdome overloaded and without food or air-conditioning, the hotels guided visitors to the Ernest N. Morial Convention Center, a huge rectangular building that stretches about a mile and is several hundred yards wide. It has been used for conventions with more than 70,000 people. But soon the situation there devolved into anarchy, too, to the point that officials, often circumspect and cagey with the news media, were just the opposite.

"The tourists are walking around there and as soon as these individuals see them, they're being preyed upon," said P. Edwin Compass III, superintendent of police. "They are beating, they are raping them in the streets."

The Flooded Ninth

Before dawn on Tuesday, Ms. Landrieu's brother, the lieutenant governor, and Sgt. Troy McConnell of the state police left Baton Rouge to assist in the rescue of flooded residents of the Ninth Ward in New Orleans. Mr. Landrieu knew the city intimately. But now he was navigating the Lower Ninth Ward not by car, but by boat. The four men on board would cut the engine and float in watery silence, listening for calls for help from inside houses or attics.

People yelled from rooftops or waved shirts or rags, as if they were flags, from vents in the attic. A few wooden houses floated like buoys.

It had become so hot inside the fetid houses that some residents shivered in the cold water as they swam to the rescue boat. One woman was so heavy and immobile that 12 men were needed to lift her off a gurney.

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They must have rescued 100 people, but by the end of the day the mood began to change to one of irritated impatience. "By dusk, people were getting agitated and upset," Sergeant McConnell said. "They had been in those houses for two days with nothing to eat or drink."

Soon there was a small army of evacuees, refugees with no place to go who were deposited on the island of dry land at the edge of I-10 in Metairie. During the long, hot afternoon and into the humid night, the crowd swelled to 2,000 hungry, flood-weary people, residents of the northern neighborhoods of New Orleans and of St. Bernard Parish to the northeast who had been plucked from their roofs and attics.

Barefoot women cradling naked, screaming babies limped from a National Guard rescue truck, everything they owned on their backs after 36 hours of watching the floodwaters breach their doors, topple their refrigerators and drive them to the only high ground available - roofs, trees, attics and bridge spans. Behind them, elderly couples in nightgowns and slippers leaned on each other for support as they walked slowly from the helicopter that rescued them. Many clutched garbage bags holding all the possessions they could salvage; many had no more than damp tank tops and shorts clinging to their bodies. Most were hungry, thirsty and alone.

Chermaine Daniels, 49, had left her flooded one-story house in the Ninth Ward on Tuesday morning, gashing her ankle on a fence as she struggled to swim to a neighbor's two-story house. Later that day, Ms. Daniels and several others were rescued by a uniformed officer in a boat and deposited at an I-10 encampment.

"What do we do now?" she asked the boat driver.

"You're on your own," the driver replied.

An Array of Complaints

Increasingly, local officials also felt that they were on their own.

On Tuesday night, Mayor Nagin complained that while federal officials had agreed that morning that stemming the flow from the breach was the highest priority, "it didn't get done."

Ms. Landrieu said she had talked to Senator Bill Frist of Tennessee, the majority leader, on Tuesday and told him: " 'You remember when I flew over the tsunami with you? This was worse than anything we saw.' He said, 'No, you've got to be kidding.' I said, 'I know it's hard to grasp.' And he said, 'We're on it.' " Mr. Frist's office did not respond to requests for comment.

By Wednesday, with little visible response from the federal government, Ms. Landrieu said that she talked to FEMA officials. "I started to sense they were thinking I was a little overwrought, that maybe I was exaggerating a little bit," she said. When she pressed Mr. Brown on when he was going to finally get buses to pick up the people who had been trapped at the Superdome, "he just mumbled," she said.

Mayor Nagin said that he could not remember whether he spoke to President Bush on Wednesday or Thursday, but that the president acknowledged the federal government could have done more and promised to fix the situation.

By then, the state leaders also had an array of complaints. People were infuriated about the lack of National Guard troops to keep order and end the looting. How could the Corps of Engineers, which builds and takes care of the levees, have not had a contingency plan for dealing with a levee breach, especially in such a critical spot? And each time another federal agency offered to help, FEMA seemed to delay in providing guarantees that it would reimburse them later.

For instance, a defense agency had packages of communications gear ready to deploy and held them while awaiting FEMA's approval, according to two congressional aides.

Inside New Orleans, city officials were trying to keep some semblance of control over their city, and failing. The most basic reason was a massive breakdown of the communications system. Cellphones failed and satellite phones did not arrive for several days, according to Representative Charlie Melancon, a Democrat who represents suburban New Orleans.

Ms. Landrieu said on Wednesday: "Our communications systems are not functioning adequately; they are compromised. Not Louisiana's communications system. The United States of America. We didn't have the right communications system for 9/11. We don't have the right communications system now. By that I mean the simplest things. A police chief in a city talking to a mayor in a city wasn't happening while this was going on because their cellphones were down and their radios didn't communicate."

Were The Feds Fiddling While New Orleans Flooded? (USNEWS)

U.S. News and World Report, September 5, 2005

Republican strategists were hoping that President Bush's show of leadership and empathy during a tour of Mobile, Biloxi, and New Orleans on Friday would offset his lackluster performance earlier last week--and bring hope not only to the populace of the stricken Gulf Coast but to his political shipmates as well. Anger over what appeared to be a slow federal response to the disaster wreaked by Hurricane Katrina had brought virulent criticism from local officials--and from Democrats everywhere--and Bush's own evaluation at week's end that the federal effort was "not acceptable" didn't help. White House insiders admitted Bush

wasn't at the top of his game earlier in the week, but they predicted he would right himself and turn public perceptions around--much as he did after 9/11 when, after a tentative first reaction, he delivered a powerful call to arms at the World Trade Center. One aide suggested that Bush pick one person to update the public on hurricane relief efforts--"There is nobody holding round-the-clock briefings like Rudy Giuliani did during 9/11" --and that the president provide "inspirational and heartfelt" rhetoric.

Meanwhile, several GOP strategists worried that the slow federal response would seriously hurt the party in 2006. "People already weren't happy before this happened," said one. "It looks like we're not doing anything." In Washington, therefore, the blame game began, with some calling for Homeland Security Secretary Michael Chertoff to get the ax. Administration officials, however, said that firing Chertoff would not be smart in the midst of the Katrina disaster. At any rate, said Joe Lockhart, a Democratic strategist and former White House press secretary for President Bill Clinton, "the buck eventually stops in the Oval Office."

No Shrinking Violet Here at the U.N.

John Bolton is already making waves as U.S. permanent representative to the United Nations. Appointed just a month ago, Bolton is spearheading an effort to redraft a contentious document on U.N. reform, human rights, genocide, and more into a concise statement of principles in sync with Bush administration thinking. Diplomats complain, however, that he proposed so many changes--from slight wording shifts to big stuff, some 750 in all--that he risks scuttling the process that is supposed to churn out the document for an international conclave September 14-16 with more than 170 world leaders--including George Bush.

Meanwhile, in the Middle East...

The Bush administration has frequently outlined its vision for spreading democracy in the Middle East. But a panel of outside experts convened by the National Intelligence Council has issued a worrisome assessment of the region's potential for democratizing. "The odds are still against such a development," it concludes. Several Arab nations have made tentative steps toward limited elections, but the NIC experts deride the moves as "tactical [and] easily reversible." Panelists found that while many people favor democracy, their opinions are "shallow [and] illiberal." Even if these forces gain strength, it would ironically be from Islamist movements. "Most participants believed that significant secular democratic forces are unlikely to emerge," the report says.

With Kenneth T. Walsh, Paul Bedard, Thomas Omestad and Kevin Whitelaw

The Aftermath (TIME)

By NANCY GIBBS

Time, September 5, 2005

New Orleans lives by the water and fights it, a sand castle set on a sponge nine feet below sea level, where people made music from heartache, named their drinks for hurricanes and joked that one day you'd be able to tour the city by gondola.

A city built by rumrunners and slave traders and pirates was never going to play by anyone's rules or plan for the future. So as Katrina, wicked and flirtatious, lingered in the Gulf with her eye on the town, many citizens decided they would stay, stubborn or stoic or too poor to have much choice. As for the ones packing up to go, disaster officials told them to take a look around before they left, because it might never look the same again.

But by the time President Bush touched down in the tormented region on Friday, more than just the topography had changed. Shattered too was a hope that four years after the greatest man-made disaster in our history, we had got smarter about catastrophe, more nimble and visionary in our ability to respond. Is it really possible, after so many commissions and commitments, bureaucracies scrambled and rewired, emergency supplies stockpiled and prepositioned, that when a disaster strikes, the whole newfangled system just seizes up and can't move?

It may be weeks before the lights come back on and months before New Orleans is mopped out, a year before the refugees resettle in whatever will come to function as home, even without anything precious from the days before the flood. But it may take even longer than that before the nature of this American tragedy is clear: whether the storm of '05 is remembered mainly as the worst natural disaster in our history or the worst response to a disaster in our history. Or both.

Watching helpless New Orleans suffering day by day left people everywhere stunned and angry and in ever greater pain. These things happened in Haiti, they said, but not here. "Baghdad under water" is how former Louisiana Senator John Breaux described his beloved city, as state officials told him they feared the death toll could reach as high as 10,000, spread across Louisiana, Mississippi and Alabama. No matter what the final tally, the treatment of the living, black and poor and old and sick, was a disgrace. The problem with putting it all into numbers is that they stop speaking clearly once they get too big: an estimated half a million refugees, a million people without power, 30,000 soldiers, up to $100 billion in damage. "This is our tsunami," said Biloxi, Miss., Mayor A.J. Holloway. The overstatement is forgivable, for at some point suffering becomes immeasurable, reduced to a hopeless search for a place to sleep, or a bottle of water or a body to bury.

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Mother Nature behaved as everyone warned one day she would, but human nature never fails to surprise. Stripped of safety and comfort, survivors made their choices: greed, mercy, mischief, gallantry, depravity or a surrender to despair. So nurses hand-pumped the ventilators of dying patients after the generators and then the batteries failed, while outside the hospitals, snipers fired at ambulances, and invading looters with guns demanded that doctors turn over whatever drugs they had. Hijackers shot the tires of fleeing vehicles, slapped the spares on after the owners escaped and drove the cars away themselves. Some police officers battled the looters; others joined them. As the floodwaters rose, EMS technicians told TIME they were left stranded at the downtown Hampton Inn by panicking cops who jumped into their private cars to flee the city. In the wretched Superdome, where several people died before they could get out, a young violinist took out his instrument and played a Bach adagio. "These people have nothing," he told a Los Angeles Times reporter. "I have a violin. And I should play for them."

Around the country, people watched the scene in growing horror, as babies and old people and diabetics and those worn out surviving the storm died on live television for all to see. Churches started assembling comfort kits; 500,000 hot meals a day are being prepared by Red Cross disaster volunteers. "I just had a gentleman walk in off the street and write a $10,000 check," said a Red Cross director in Massachusetts. She'd never seen him before; he had no family down there. He just said it seemed the right thing to do.

The private response was all the more urgent because the public one seemed so inept. Somehow Harry Connick Jr. could get to the New Orleans Convention Center and offer help, but not the National Guard. Bush praised the "good work" on Thursday, then called the results "not acceptable" on Friday. By then, 55 nations had offered to pitch in--including Sri Lanka, whose disaster scars are still fresh. "Get off your asses, and let's do something," New Orleans Mayor C. Ray Nagin raged in a radio interview that he ended in tears. But he of all people was in a position to understand the odds. A city known both for its charm and its rot, not just from the termites consuming whole neighborhoods but from a corrupt police force, dissolving tax base, neglected infrastructure, rising poverty and a murder rate that inspired old-timers to pack a gun beneath their tuxes on their way to the Mardi Gras parade, could hardly have been less equipped to cope with a catastrophe that everyone knew was coming. "Half of Louisiana is under water," former lawmaker Billy Tauzin used to say, "and the other half is under indictment." Three of the top state emergency officials were recently indicted for mishandling disaster funds.

Louisiana staggered under the blow, but others all along the Gulf Coast were ravaged as Katrina, still spitting tornadoes and spraying wood and shingles and glass, made her way slowly up to Canada to die at last. A sudden twirl coming ashore meant that the Mississippi coast got smacked the hardest. In many towns, what the winds spared the floods claimed, as the gusts flung water into the streets in storm surges as high as 25 ft. "It was like the houses were playing bumper cars around here," said Biloxi fisherman Alan Layne. There were cemetery coffins tossed around the beach, and disemboweled slot machines, and boats perched up in trees like ridiculous overweight birds. In Gulfport, Miss., the sea-salty air smelled of corpses. At one Catholic church, only the foundation remained--and a sign that read MASS AT 9 A.M. BRING A CHAIR.

John Padgett, a boat captain in Pass Christian, Miss., who runs supplies to the off-coast oil rigs, saw his cottage disappear. But he was able to throw his dogs, a tent, a sleeping bag and a Coleman stove and lantern into his pickup before the storm arrived. He's living in the woods just north of Gulfport off Highway 49. "Everything I own now is in that truck," he told TIME, "but the shelters are too overcrowded and uncomfortable. I was born and raised on this coast, so I'm a good little redneck. I got a bow and arrow to kill food, and that's what I'm going to be eating." Where will he go from here? "I don't know," he said. "But at least in the woods I don't have to smell the dead bodies."

But it was in New Orleans where the cameras converged, a city that had braced for the worst, then briefly exhaled when it looked as if the threat had passed. Several hours after the storm moved through on Monday, some streets were essentially dry. Then shortly after midnight, a section almost as long as a football field in a main levee near the 17th Street Canal ruptured, letting Lake Pontchartrain pour in. The city itself turned into a superbowl, roadways crumbled like soup crackers as the levees designed to protect them were now holding the water in. Engineers tried dropping 3,000-lb. sandbags, but the water just swallowed them. As the days passed, the Army Corps of Engineers, which oversees the levees, admitted they weren't able to assess what might work. Part of the problem was a lack of heavy helicopters; the choppers were all busy doing search and rescue.

The levee breach left 80% of the city immediately submerged and 100,000 people stranded. Canal Street lived up to its name. As the temperature rose, the whole city was poached in a vile stew of melted landfill, chemicals, corpses, gasoline, snakes, canal rats; many could not escape their flooded homes without help. Among those who could, only a final act of desperation would drive them into the streets, where the caramel waters stank of sewage and glittered with the gaudy swirls of oil spills. A New Orleans TV station reported that a woman waded down to Charity Hospital, floating her husband's body along on a door.

For the first time ever, a major U.S. city was simply taken offline, closed down. Food and water and power and phones were gone; authority was all but absent. Most of the people left to cope were least equipped: the ones whose Social Security

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checks were just about due, or those who made for the Greyhound station only to find it already closed, or those confined to bed or who used a wheelchair. "We're seeing people that we didn't know exist," declared Federal Emergency Management Agency (FEMA) director Michael Brown in a moment of hideous accidental honesty. Rescue workers could hear people pounding on roofs from the inside, trapped in attics as the waters rose. The lucky ones were able to cut holes with knives and axes to reach the open air. Emergency workers hovered from house to house, plucking out the living, leaving bodies behind. The potential for a disaster in the air was such that pilots told TIME reporter Adam Pitluk, who was embedded with them, to help scan the skies for stray news helicopters and sightseers in Cessnas among the flocks of military craft. "It was like a pickup game," said Lieut. Commander Bill Howey, a Navy helicopter pilot. "You got three or four different types of Army helicopters, same for the Navy. Then there's Customs, Coast Guard, Marines, and then there are the news helicopters." While rescuing a group of blind people trapped for five days, a Marine helicopter pilot told TIME's Tim Padgett, "It's like flying into a hornets' nest."

When Dr. Greg Henderson, a pathologist turned field medic, arrived at the Convention Center on Friday, he was the only doctor for 10,000 people. "They're stacking the dead on the second floor," he told TIME by phone. "People are having seizures in the hallway. People with open running sores, every imaginable disease and disorder, all kinds of psychiatric problems. We have people who haven't had dialysis in several days. They'll be going into kidney failure. I just closed the door on a man who ran out of medicine for his kidney transplant. Very soon his body is going to go into rejection." Henderson went in with New Orleans police, and when people saw him in scrubs, they surged at him from every side. He tried to tend the sickest and the babies first. "The crowds here have gotten a bad rap. There are not many human beings you could cram into a building with 10,000 others, in 105Â° heat, that wouldn't get just a little pissed off." He tried to get them settled and asked them to show him the sickest. "And they lead me. It's not a subtle thing. It's generally the ones who are seizing on the floor."

Helicopters airlifted the sick from around the city to the airport, converted into a field hospital where patients were being pushed around on luggage carts and triaged for evacuation. At Lakefront Airport on the edge of the city, fights broke out for seats on the departing choppers. "The gang bangers," said Jimmy Dennis, 34, a Lakefront Airport fire fighter who had been up for two nights trying to keep order, "couldn't understand that we had to get the sick people out first." Frightened, the small band of fire fighters called in 10 New Orleans police with semiautomatic weapons to settle the crowd.

In the few hospitals left operating, the staff fought to keep people alive until rescue came, only to have days pass with no relief. At Charity Hospital, in the dark but for a lone generator and dying flashlights, nurses who hadn't bathed in days tried to sterilize themselves with hand sanitizer. Two patients on the parking deck died waiting to be evacuated. Caregivers wept as they begged for help that did not come. "They'd been keeping these patients alive for a week with very little in terms of resources," says TIME contributor and CNN correspondent Dr. Sanjay Gupta, "and to see them die on the deck--it really was very difficult."

After Gupta arrived by helicopter on Wednesday, hours passed before it was safe to ferry him past the snipers and across a putrid moat into the hospital building. With a full evacuation still several days away, "people came to me and said, 'Why haven't they taken care of us? Why did they forget us?'" The food supply was down to beans and a few raw vegetables; candy vending machines had long since been emptied. "One of the guys here has been trying to call FEMA, and all he gets is a busy signal or voice mail," Gupta said. The stress was so overwhelming that perhaps half a dozen hospital staff members had to be treated in the psychiatric ward. The basement morgue was flooded, so the growing numbers of bodies were stacked in body bags in the stairwells.

The seething center of the angry Crescent City was the Superdome, refuge of utterly last resort for 25,000 people who had waited out the worst of the storm while the sheet-metal roof peeled like fruit, letting the rains pour in. Soon there was no light, no air, no working toilets. Reports came that four of the weakest died that first night. An elderly man, playing cards and seemingly fine, threw himself over a railing inside the stadium and committed suicide, witnesses told TV reporters. Members of the city's EMS team made their way there only to find anarchy. "We tried to start triaging and getting the special needs in one section," a technician recalls, but his team was overwhelmed by the hungry crowd and retreated with armed guards to Army trucks outside. When a 4th Infantry Division helicopter arrived, all but three of the evacuees had to be wheeled onto the Chinook, the elderly panting like animals suffering heatstroke, their mouths sagging and their tongues heavy and swollen. One paraplegic woman looked as if she had been broiled, her motionless legs beet red on the front and ghostly white on her calves. The evacuees were frightened, of both their plight and the booming helicopter that was there to save them. As the chopper pulled away, mothers down below screamed after it for rescue, holding their children high and sobbing.

Opportunity and desperation make a flammable mix. All along the coast, people broke into parked cars to siphon gas. Police reported that a man in Hattiesburg, Miss., shot his sister in the head in a fight over a bag of ice. A rescue team from Texas that had ferried hundreds of people to safety in their flat-bottom boats were told by a New Orleans sheriff that unless they were armed, they should get out of the city. At one point, rescuer Randy White says, "Someone yelled out to me, 'If you don't get us out by 12 o'clock, we're going to start shooting all the rescuers.'" One man was standing on Canal Boulevard with water up to his chest wearing a mink coat that he had liberated from a store. "This natural disaster is beginning to look like a Watts riot," said a

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worried congressional aide in Washington as he watched the chaos. "There's something really ugly going on here, something wrong at a deeper level."

One thing that was wrong may have been that right and wrong had jumped their tracks. For all the scorching images of armed thugs making off with sneakers and wide-screen TVs, the larger reality wasn't as simple as the President's call for "zero tolerance"of looting. Was it wrong to take a bottle of milk from a store when your baby was sobbing and there was no way to pay for it if you tried? When cans of food are scattered in the debris, does taking them amount to theft, or salvage? At one point, police with guns drawn escorted Dr. Henderson through a Walgreens as he emptied the pharmacy of drugs to use in a French Quarter bar turned makeshift clinic. Dudley Fuqua, tall and lean in baggy blue shorts, broke into neighborhood shops and took canned goods, frozen chicken and ribs and cigarettes to his neighbors, who called him a hero. "I was in a building with no food, no water for five nights," Fuqua's neighbor Mohammed Ally, 70, told TIME's Brian Bennett. "They were taking care of the elderly people." Fuqua saw a neighbor using his empty refrigerator as a rowboat to paddle through the water to get help for his pregnant wife. When the buoyant refrigerator tipped, Fuqua dove off a second-story balcony to help and sliced his feet on a rain gutter. "I was going to make sure everyone was O.K."

Only by Friday did some palpable help arrive, in the form of thousands of National Guard troops and lumbering convoys of supplies. Virtually alone, Lieut. General Russel Honore, commanding Joint Task Force Katrina, whom Mayor Nagin referred to as the John Wayne dude, seemed to be moving pieces into place. He was out in the streets with his troops, directing convoys and telling anxious Guardsmen to keep their weapons pointed down. He "came off the doggone chopper," Nagin said, "and he started cussing, and people started moving. And he's getting some stuff done. They ought to give that guy full authority to get the job done, and we can save some people."

Americans sometimes ask what the governmentÂ does and where their tax money goes. Among other things, it pays for all kinds of invisible but essential safety nets and life belts and guardrails that are useless right up until the day they are priceless. Furious critics charged last week that the government had not heard the warnings. Instead it cut the funds for flood control and storm preparations, mangled the chain of command, missed every opportunity. And an angry debate opened about how much the demands of the Iraq war, on both the budget and the National Guard, were eating into the country's ability to protect itself at home. Louisiana Republican Congressman Jim McCrery--working the phones with FEMA, the Army, the White House, state officials--argues that Katrina revealed how much doesn't work. "Clearly, with all the money we've spent, all the focus we have put on homeland security, we are not prepared for a disaster of this proportion whether it's induced by nature or man."

And this time a crucial consolation was missing. After 9/11, whatever the evidence of intelligence failures, many people still saw that attack as almost unimaginable, so brutal and brazen an assault. But Katrina was in the cards, forewarned, foreseen and yet still dismissed until it was too late. That so many officials were caught so unprepared was a failure less of imagination than will, a realization all the more frightening in light of what lies ahead. For if we couldn't help our citizens in an hour of desperate need, how well will we do in six months or a year, when many are still jobless and homeless, but no longer center stage? With reporting by Mike Billips/Biloxi, Massimo Calabresi, Sally B. Donnelly, Mark Thompson and Douglas Waller/Washington, Ellin Martens, Coco Masters and Carolina A. Miranda/New York and Greg Fulton/Atlanta

The (Big) Ripple Effect (USNEWS)

By Marianne Lavelle

U.S. News and World Report, September 5, 2005

Most Americans watched the ravages of Katrina's Category 4 winds and floodwaters from a safe distance, but they won't be able to escape the storm's economic aftershocks. From California to Maine, the commute to work will cost more. The price of a morning cup of joe is soon to rise. Anyone visiting a hardware store for building supplies should expect sticker shock. And it might be a good idea to stow away some extra cash to pay this winter's home heating bills.

One of the worst storms to hit the United States in modern times chose as its landfall one of the nation's most vital industrial hubs--a key shipping center and a crossroads of the energy business. As a result, Katrina is not expected to have the silver lining that has been typical of hurricanes and other natural disasters: job creation and the economic stimulus of rebuilding. This hurricane's long-term impact is murky, primarily because it has crippled a quarter of the country's oil and natural gas infrastructure when supplies already had been tight and prices painfully high. "Katrina is something new," says Joel Naroff, president of Naroff Economic Advisors. "Until the levee broke, most economists had a reasonable way of evaluating a natural disaster like this. This time we have the effects on the energy sector and a city under water, which is something we have no idea how to evaluate."

Stormy weather. The economic outlook for the rest of 2005 dimmed as the extent of the hurricane's damage became clear. Ian Shepherdson of High Frequency Economics in Valhalla, N.Y., adjusted his third-quarter-growth forecast down a whole percentage point, from 3 to 4 percent growth in gross domestic product, to 2 to 3 percent. He also predicted the economy will

lose 500,000 jobs in September as a result of the storm. Wal-Mart, the nation's biggest retailer, warned Wall Street that Katrina might crimp its sales (the discounter had to close 126 stores in the South because of the storm). Yields on 10-year treasury notes fell sharply, a sign that Wall Street expects a slowing economy.

But few economists were talking recession. The fact that the economy was growing above 3 percent before the storm struck will prevent a downturn, says Anthony Chan, senior economist at JPM organ Fleming Asset Management. In contrast, the 9/11 terrorist attacks happened as the economy was already in recession (though that was not known until later) following the bursting of the Internet stock bubble. Indeed, the unemployment rate for August of 4.9 percent announced last week was the lowest in four years. Post-storm cleanup and rebuilding may create jobs and spur retail spending. The past 10 major hurricanes added 500,000 jobs, on average, to nonfarm payrolls, says Chan, who believes Katrina will cut third- and fourth-quarter growth by about 0.5 percent but will end up boosting the economy over the next 12 months.

Clearly, the energy industry bore the immediate economic impact of the storm. Photos captured the industry's dislocation, such as the oil rigs loosed from their moorings in the Gulf of Mexico that landed on Alabama beaches. But industry officials were hampered in assessing the damage, especially to the eight refineries knocked out of commission. Without electricity, it was impossible to test systems immediately. Power problems also meant a slow restart and reduced operations at the two major pipelines that deliver fuel from the region to the mid-Atlantic and Northeast.

Bigger, Badder Tropical Blows (USNEWS)

By Thomas Hayden and Megan Barnett

U.S. News and World Report, September 6, 2005

Katrina's fury had not yet subsided last week when Germany's environment minister sparked a minitempest of his own. Writing in the Frankfurter Rundschau newspaper, Jurgen Trittin suggested that the hurricane's severity was at least partly a result of global warming and charged that "the American president is closing his eyes to the economic and human costs" of refusing to sign the Kyoto Protocol, which seeks to limit production of climate-warming greenhouse gases.

Trittin's message of "you asked for it" certainly won't be winning him any awards for tact. But with this year threatening to overtake last as the most expensive American hurricane season ever, it's hard not to wonder if maybe he has a point. Are hurricanes getting worse? And if so, is global warming to blame?

Simple enough questions, but the answers are less so. There certainly have been more Atlantic hurricanes recently. According to the National Oceanic and Atmospheric Administration, the Atlantic has kicked up an average of 7.8 hurricanes and 3.8 major hurricanes per year since 1995, compared with an annual average of just five hurricanes and 1.5 major hurricanes over the preceding 25 years. But most scientists agree that the increased frequency is caused by a natural cycle, not global warming. And over the past 50 years at least, increased numbers of hurricanes in the Atlantic are generally offset by fewer tropical cyclones in the Pacific and Indian oceans; the global average is holding steady at about 90 per year.

Still, there is growing evidence that global warming is making the storms stronger and wetter. For all the unstoppability of a fully formed hurricane, a nascent tropical cyclone is a fairly fussy thing, says climate researcher Tom Murphree of the Naval Postgraduate School in Monterey, Calif., requiring just the right conditions in the sea and the air to develop into a destructive powerhouse like Katrina. In a June article in Science, head climate analyst Kevin Trenberth of the National Center for Atmospheric Research in Boulder, Colo., warned that global warming may already be nudging some of those conditions--like warm surface waters and increased moisture in the air--in directions that intensify storms.

Kerry Emanuel, a professor of atmospheric science at the Massachusetts Institute of Technology, thinks he has found evidence of that trend. In a study published last month in Nature, Emanuel calculated the intensity and duration of tropical cyclones for the past 75 years, estimating each storm's destructive power. "When you look at the numbers globally," he says, "you see a 70 to 80 percent increase in the potential destructiveness of tropical cyclones over the last 30 years. That's much more than anyone expected." And that surprising jump, he says "is strongly in concert with increases in the tropical sea surface temperature over the same time period." Many oceanographers are convinced that those warmer seas are the direct result of human-caused global warming.

Building boom. Even though hurricane activity along the Gulf Coast and up the Atlantic is expected to stay high for years, and maybe even intensify, official warnings and expert opinion apparently do nothing to dampen people's desire for living on or near the water. "People think a hurricane might not hit, or it might not flood, for 20 years," says Chip Law, an insurance industry analyst with SNL Financial, a research firm. Coastal development in the hurricane zone has been booming for years, he says, and even after Katrina, "it's not going to slow down."

Understanding hurricanes better may help scientists predict their severity. But thanks to the building boom--aided, in some cases, by taxpayer-backed federal flood insurance--limiting storm damage in the future won't depend on brilliant atmospheric science nearly so much as it will on common-sense planning and regulation.

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SEC Relaxes Rules In Storm Zone (WSJ)

By Deborah Solomon And Siobhan Hughes

The Wall Street Journal, September 6, 2005

The Securities and Exchange Commission will extend filing deadlines and suspend requirements to deliver documents to areas affected by Hurricane Katrina.

"We've got to do everything humanly possible to help our fellow citizens," SEC Chairman Chris Cox said. "No one in the region should have to worry about attempting to file government documents in near-impossible circumstances."

At the same time, the agency warned that it is "on the lookout for Katrina-related securities scams" and vowed to vigorously prosecute those who try to defraud hurricane victims.

The SEC plans to help broker-dealers provide access to accounts held at offices that no longer are operable. Mutual-fund companies and other securities firms won't be required to deliver prospectuses and other documents in the affected area.

"We are also working to ensure that individuals and families who suddenly find themselves in desperate financial circumstances have access to representatives of securities firms that hold their assets," Mr. Cox said.

The SEC established hot lines to answer questions and to identify the needs of those in the securities industry affected by the hurricane. The SEC can be reached at 202-551-3300 or by email at cfhotline@sec.gov.

The National Association of Securities Dealers published a notice outlining procedures for allowing customers continued access to their accounts. The NASD also said its New Orleans District Office, whose operations cover Louisiana, Mississippi, Kentucky, Arkansas, Oklahoma and Tennessee, would be closed indefinitely. The office's enforcement caseload is being transferred to the Chicago district office.

In Louisiana, state regulators asked displaced brokers and money managers to contact the Louisiana Securities Commission to provide updated information that could be passed along to inquiring investors. The phone number to contact is 225-925-4660.

In Mississippi, the business-regulation division plans to reopen today after being closed because of power outages. Mississippi residents with securities-related questions can call 1-888-236-6167.

Foreign Aid Flows In For Storm Victims; 131 Britons Missing (USAT)

By César G. Soriano

USA Today, September 6, 2005

LONDON — British Prime Minister Tony Blair, assailed for doing too little to help Britons caught in Hurricane Katrina, apologized Monday and sent foreign service officers to aid survivors.

“I'm really sorry if there have been difficulties. … But I can assure you some of these staff have been working round the clock,” said Blair, who was in Beijing, for trade talks with China. As of Monday, 131 British citizens were listed as missing in the hurricane.

News of the disaster has dominated British and continental European media since Katrina struck last week. Foreign criticism of slow U.S. relief efforts has combined with official statements of sympathy and aid offers from at least 70 nations, including countries usually on the receiving end of U.S. and other foreign help. Among them was Bangladesh, which Monday pledged $1 million.

British survivors who returned over the weekend told local newspapers they had been stuck in New Orleans' Superdome without help. Some said they were referred to a non-existent British consulate in New Orleans. Others said they felt intimidated as white people in the mostly African-American crowd of displaced persons.

“The army told us to stick in a group and for the women to sit in the middle with the men around the outside and be ready to defend ourselves,” Will Nelson, 21, told The Times of London.

Monday, Britain began airlifting a half-million food ration packs to the USA. The British Embassy in Washington said Britain, which holds the rotating presidency of the 25-member European Union, was coordinating the response of other member states. The European Parliament opened its plenary session Monday with a minute of silence to honor the hurricane victims. “The United States is dealing with a tragedy of incomparable dimensions. Victims will be numerous,” Parliament President Josip Borrell said.

Germany sent 25 tons of food. Italy shipped meals ready to eat (MREs). France flew in tents and blankets from Martinique, a French possession in the Caribbean. The United States accepted a Greek offer of two cruise ships to house evacuees, Greek spokesman Theodoros Rousopoulos said.

U.S. embassies provided lists of supplies needed including forklifts, generators, veterinarian supplies and baby formula and diapers.

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Secretary of State Condoleezza Rice, who traveled Sunday to her home state of Alabama, said U.S. authorities already have used helicopters from Canada and Singapore and Air Canada aircraft to evacuate survivors.

Cuban President Fidel Castro on Sunday repeated an offer of 1,586 Cuban doctors equipped with medical supplies, but he said U.S. authorities had not responded.

Rice expressed appreciation for the foreign offers. “People have said that America has been so generous … in other places, and now it is time to be generous to America.”

But media reaction suggested that the U.S. image, already battered by Iraq, had taken another blow. “Hurricane Katrina has revealed that the U.S. is also fragile at home,” wrote the al-Khaleej newspaper in the United Arab Emirates on Monday.

Hurricane Aid Pours In (CSM)

By Peter Ford

The Christian Science Monitor, September 6, 2005

PARIS - Governments around the world rushed aid and relief teams to America's stricken southern states on Monday - some repaying past favors the United States has offered them to recover from natural disasters - while their citizens continued to express amazement and dismay at the aftermath of Hurricane Katrina.

In a dramatic reversal of usual roles, small nations such as Sri Lanka - badly hit by last December's tsunami - have extended their hands to the most powerful country on earth. And after initial ambivalence, American officials were accepting offers of help from over 50 countries with thanks.

"My country needs a lot of help because it has suffered a catastrophe that has no historical parallel," US ambassador to Spain, Eduardo Aguirre, said in Madrid on Monday, after asking the Spanish government for generators, medical equipment, pumps, and oil. "The most important thing right now is to know that we have friends."

Even America's foreign friends, however, have been free with their criticism of the way the US authorities handled rescue and relief operations in New Orleans last week. Repeated TV images of bodies floating in the floodwaters, crowds of homeless people abandoned to their fate for days, and looters emptying shops have raised harsh questions in Europe about the nature of American society.

"America's dark underbelly has been laid bare," charged London's Daily Mail in a headline Saturday, above a commentary drawing attention to the way in which the large majority of flood victims are poor and black.

As the scale of the disaster that hit Louisiana, Alabama, and Mississippi became clear, and Washington reversed its earlier decision that it did not need foreign aid, its allies readied thousands of tons of emergency supplies and hundreds of millions of dollars to feed, shelter, and care for displaced Americans forced from their homes.

As part of a NATO plan, the British government has flown 500,000 military ration packs to the afflicted zone, while the German government has sent food and is readying a hospital ship in case it is needed.

The French Red Cross has dispatched 17 logistics experts, trained in food distribution, shelter management, and other emergency skills, along with thousands of "family kits" containing food, medical, and hygiene items that had been stocked in Guadeloupe, ready for a disaster in the Caribbean.

The French and Italian governments put their military transport planes to work Sunday, carrying blankets, cots, tents, and inflatable dinghies, but there were signs that the sudden flood of relief supplies was overwhelming US authorities.

The Swedish Rescue Services Agency said Sunday it had postponed sending two portable water purification stations to New Orleans until the authorities were able to install them at Louis Armstrong International Airport.

Asian countries were kicking in too, led by South Korea, which has pledged $30 million and 40 rescue workers. A fleet of Singaporean Chinook helicopters is already lifting survivors from roofs in New Orleans, and the Thai prime minister said Monday that his offer of 100 doctors and nurses had been accepted.

Even tiny Sri Lanka, which is still struggling to rebuild after last December's tsunami, has promised $25,000 to the American Red Cross.

In the Middle East, wealthy Gulf countries have promised funds to pay for the posthurricane clean-up: Kuwait - freed from Iraqi occupation 14 years ago by US-led troops - has pledged $500 million, the largest single donation so far. Even countries unfriendly to the US, such as Iran and Syria, have offered help. Cuba, too, has offered to send 1,100 doctors to Houston, if Washington wants them.

From Iraq, however, came a jarring note: Al Qaeda in Iraq, led by Abu Musab al-Zarqawi, issued a statement on the Internet calling Katrina divine retribution. "God's great wrath has hit the head of the oppressors," the statement read.

Less vicious criticism of the US has been widely voiced in Europe and elsewhere, however, as foreigners expressed their bewilderment at the apparent inability of the government to care for its most desperate citizens in a crisis.

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Commentators have returned time and again to the fact that the vast majority of flood victims, left to fend for themselves, are poor African-Americans. "America has been forced to wake up to the racial injustice that has been its historic curse," Jonathan Freedland wrote in Monday's edition of the left-leaning London daily The Guardian.

Others, including a BBC reporter in New Orleans, have been dismayed by the speed at which social ties broke down under pressure: There were no reports of tourists in Sri Lanka or Thailand being mugged after the tsunami, they point out, nor of looters shooting at policemen.

That might, perhaps, help explain one striking aspect of the international reaction to the tragedy in New Orleans and surrounding areas: It does not appear to have sparked the spontaneous outpouring of charitable solidarity in Europe or elsewhere that last December's tidal wave provoked in millions of people worldwide who sent donations.

As fleets of transport aircraft ferried emergency aid to America from around the world, pointed out Andre Kaspi, a history professor at the Sorbonne University in Paris, "this is intergovernmental solidarity. It is not the popular solidarity that was shown after the tsunami," he told French radio.

US Thanks NATO For Help With Katrina Disaster (REU)

Reuters, September 6, 2005

The top U.S. envoy to NATO thanked European allies on Monday for generous pledges of support in the wake of Hurricane Katrina, which has devastated New Orleans and U.S. Gulf Coast states.

NATO said on Sunday it was coordinating offers of help from its 26 members after Washington asked it and the European Union for help in dealing with the crisis, which has left hundreds and possibly thousands dead.

"The United States has been enormously grateful for the outpouring of support, both emotional and concrete, from allies over the past week," Victoria Nuland, the U.S. ambassador to NATO, said in a statement issued in Brussels.

"We have had specific offers from almost every ally... This once again proves the effectiveness and resilience of this alliance and its value for the American people and all allies."

NATO has activated its internal disaster response center to coordinate offers of help, as it did during a bout of flooding in Romania and Bulgaria earlier this summer. It has also sent an officer to work at the U.S. Federal Emergency Management Agency.

The United States has issued a list of things it needs most to tackle the disaster, ranging from financial aid to bedding, ready-to-eat meals, medical supplies and other humanitarian aid. It is not seeking military equipment such as helicopters.

France has said it is readying 300 tents, 980 field beds and other material for the United States, while over the weekend Germany sent two German army Airbus planes loaded with a combined 25 tonnes of food rations.

Inside Politics (WT)

By Jennifer Harper

The Washington Times, September 6, 2005

Dad's wisdom

During an appearance to appeal for Katrina relief funds in Houston yesterday, former President George Bush was asked how he felt about the unending criticism over the White House response to the hurricane, which has raged in much of the press this week.

Mr. Bush said as a father he does not like the criticism leveled at his son, President Bush, but added, "As a president, it goes with the territory," according to the Associated Press.

Clinton tag team

Hmmm. Could this portend political maneuvers to come? At that very same fundraising appeal yesterday, former President Bill Clinton was also asked about the government's response to Katrina.

"I think there should be an analysis of what happened." Mr. Clinton said, benevolently adding, "The time to do that is after some time passes."

His wife, Sen. Hillary Rodham Clinton, was in the aggressor's role, however, calling the hurricane "a wake-up call." The New York Democrat is already urging the White House to set up a "Katrina Commission" in a letter sent to Mr. Bush.

"It has become increasingly evident that our nation was not prepared," Mrs. Clinton wrote, according to Agence France-Presse yesterday.

Mrs. Clinton also claimed that the pace of relief efforts "seems to confirm that our ability to respond to cataclysmic disasters has not been adequately addressed."

She plans to propose legislation to separate the Federal Emergency Management Agency from the Department of Homeland Security and make it into another Cabinet-level agency.

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A cultural moment

Impoverished Afghanistan will give $100,000 for Katrina relief efforts, the U.S. Embassy has announced.

U.S. Ambassador Ronald Neumann thanked the Afghan people Sunday during a ceremony at which the aid was pledged by the government on behalf of the people of Afghanistan.

"Their compassion and generosity bears testimony to the strength of the ties between our two peoples," Mr. Neumann said, according to Reuters news agency.

Greatest show on Earth

Is the U.S. Senate getting ready to be the "world's greatest deliberative body" or a political circus during upcoming confirmation hearings for U.S. Supreme Court nominee Judge John G. Roberts Jr.?

Newsday's Raymond Keating wants to know, advising viewers and voters to "keep an eye on how their own senators behave," particularly Sen. Charles E. Schumer, New York Democrat.

"Schumer's problem is he seems to forget he is not president and does not get to pick who sits on the federal bench. He also twists the Senate's 'advice and consent' role on court selections, promising to further undermine confidence in the process and the courts.

"New York's senior senator portrays himself as moderation's great defender. ... Schumer summed up the activist view: 'The Supreme Court makes law.' " Mr. Keating writes. "That's a gross misunderstanding, or misrepresentation, of our system of government. The Supreme Court is not supposed to make law, but to apply the law and the Constitution."

"It's also clear that Schumer evaluates judicial nominees based on a set of ideological issues. That's reflected in the long list of questions Schumer handed Roberts, seeking the judge's views on topics like campaign finance, abortion, the death penalty and environmental policy. If such questions become the norm, then nomination hearings will continue to degrade into vicious political games," Mr. Keating concluded.

Questions of the day

The National Pro-Life Action Center has five questions for Judge John G. Roberts Jr. that could provide the nation with a "foundational understanding of Judge Roberts' judicial temperament without asking him to 'forecast' or 'prejudge' any cases that may come before the high court," says director Paul Chaim Schenck.

The group wants to know:

·Do basic human rights come only from government or are they rooted in something that transcends government?

·Is man's inherent human nature fixed, or does raw political power determine who is and is not a member of the human family?

·Is law merely the construct of jurists and lawmakers, or is it based first on principles of morals and justice?

·Is the proper role of the judiciary to restrain/limit itself to interpreting law or does it possess de facto legislative powers?

·Should the judiciary share power equally with the other two branches of government (the legislative and executive) or should its powers transcend them?

End of finger-pointing

It's time to neutralize the caustic Katrina blame game, according to the Chicago Tribune's Dennis Byrne yesterday.

"The ease and earnestness with which people express the knee-jerk belief that one of the most destructive and powerful forces in nature could have been defeated 'if only ...' belies a troubling level of ignorance or naivete," he writes.

"To suggest that all 'they' have to do to beat such a force is to build a sea wall 10 feet higher is screwy. So is the idea that all the food, water and shelter that a million refugees need can be positioned, as if overnight, within a day's ride of the destruction."

"The bigger story is the determination and compassion of the rescuers. So is the patience and courage of all those stranded, struggling, homeless people who have nothing left. How many of us would have so patiently tolerated such conditions? When patience overcomes desperation, it is a huge, moving story," Mr. Byrne wrote.

"This is no apologia ... Rather it is a disagreement with the simplistic view that 'they' can prevent or ameliorate every imaginable calamity. And if 'they' don't, it's proof of someone's incompetence, greed or callousness."

Beach Blanket Bingo (RC)

By Mary Ann Akers

Roll Call, September 6, 2005

Rich is one word that comes to mind when we think of Rep. Darrell Issa (R-Calif.). Skimpy may now be another.

We hear Issa, the second richest Member of Congress, shocked his staff when he showed up at an office whitewater tubing outing wearing bikini briefs. Yes, a Speedo, a banana hammock, a ... well, you get the drift. A Congressional aide who

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relayed the story to HOH said Issa was "out there" for all to see, including the gals, who were sporting their own itsy-bitsy teeny-weeny bikinis.

One person who attended the outing laughed uncontrollably when HOH asked if Issa wore "a Speedo" but managed, between guffawing, to say that the Congressman didn't wear his revealing suit the entire time. He wore swim trunks over his bikini for much of the tubing and then took them off while he was drying off and hanging out with the gang, the source said.

Issa's office declined to comment to HOH about the Congressman's choice in bathing attire.

Congressman Elmo? It must have been a little confusing for the residents of tiny Silverton, Colo., when they tuned into a local radio interview of a guest they thought was Rep. John Salazar (D-Colo.), their Congressman, but who answered a question with, "Tee hee hee hee. Baby Elmo's happy!" There's more to the answer than meets the ear.

It was, indeed, Baby Elmo, not Congressman Salazar, who was giggling and asking for his "ba-ba" on the low-power station, independent KSJC. After Salazar blew off the host of one of the station's rock 'n' chat shows, the free-spirited libertarian host, Nick Sustana, decided to interview his child's Baby Elmo doll instead, pretending that the "Sesame Street" character was Salazar.

"You have to appease your base at some point," Sustana said in one of his first questions, "but you face a unique challenge: 98 percent of your base are less than 2 years old and won't be eligible to vote until the year 2021. How do you plan to win re-election given this seemingly insurmountable challenge?"

The host also attacked "Salazar" for pretending to have rural values when he grew up on a famous street in an urban area with a bunch of misfits. "One of your best friends lived in a trashcan. Another was some goth who thought he was Count Dracula and one youngster there was usually so stoned all he could think about was eating cookies 24 hours a day. Tell me, Congressman, what rural values did they teach you?"

The outrageous interview went on and on, with the host accusing his guest of soiling himself and crying all the time and Congressman Baby Elmo responding with "goo goo ga ga" and "tee hee hee." At one point, Sustana declared mockingly to the people of Silverton — population 531 — that by standing him up, "Congressman Salazar just urinated in all of Silverton's corn flakes."

Well, if he did, he tinkled in his family's corn flakes, too! Salazar has two elderly cousins who live in Silverton who likely would not be pleased to have their public servant cousin likened to Baby Elmo. Sustana told HOH that his station manager called in the middle of his tirade to say "tone it down" on account of Salazar kin living in the area.

Salazar was unaware that Baby Elmo was taking questions on his behalf, but his spokeswoman took the joke — and the obnoxious host's corn flakes jab — with good humor. "Congressman Salazar represents a large district and even though he begins each morning with the 'breakfast of champions' he can't be in two places at once," Nayerra Haq told HOH. "Despite being upstaged by Elmo, John would be 'tickled' to be on the show next time he is in Silverton."

A Hurricane of Support. While devastated residents of New Orleans could not get relief soon enough, plenty of Washingtonians were eager to help inside the Beltway. Bipartisan fundraisers galore have been planned all over town, mostly to benefit the Red Cross and all, of course, promising libations and entertainment for the recess weary.

The biggie of the Big Easy parties is Wednesday night at the lobbying firm Jones Day, a joint fundraiser by the Alabama, Louisiana, Mississippi and Florida state societies. The folk-funky group Down Dexter is opening for the popular Wil Gravatt Band. Organizers were hoping to convince former Louisiana Sen. John Breaux (D) to serve as VIP emcee for the event. Reps. Alcee Hastings (D-Fla.), Mark Foley (R-Fla.) and Charlie Melancon (D-La.) were among those who had RSVP'd as of Friday afternoon.

Admission prices come in three ranges: $20, $1,000 and $2,000 per person. The party's fundraising goal is $50,000, all of which will go to the American Red Cross Disaster Relief Fund for victims of Hurricane Katrina.

Run, Don't Drink. For the non-lushes who want to help disaster victims — or for those who can at least burn the candle at both ends — there will be a Gulf Coast Relief Run on Sept. 17 in Old Town Alexandria. The 5K race is being sponsored by Roll Call, the Great Harvest Bread Company and Mizuno USA.

VIP runners include none other than Ragin' Cajun James Carville, his wife, Mary Matalin, and sports commentator Tony Kornheiser. The cost to enter the race is $25, which includes a T-shirt. Again, all proceeds will go toward the Red Cross relief fund.

Double Trap For Foreign Workers (NYT)

By Ian Urbina

The New York Times, September 6, 2005

BILOXI, Miss., Sept. 5 - Like so many other people here, Pedro, a landscaper from Chiapas, Mexico, is desperately trying to get out of Biloxi. He wants to take his wife, Anna, who is eight months pregnant, someplace cleaner and safer, wherever that might be.

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But aside from being low on gas like everyone else, Pedro, who would not give his last name because he is undocumented, is nervous about traveling in a city swarming with police officers and National Guard troops.

Bran Dize, a prep cook from Spanish Town, Jamaica, near Kingston, worries that Hurricane Katrina may suddenly have made him an illegal immigrant because, he said, his guest worker visa requires him to work at a casino - the Beau Rivage - that, for all practical purposes, no longer exists.

Hurricane Katrina has left its victims feeling vulnerable and uncertain, but for many noncitizens trapped here, the anxiety is especially acute because they worry that they will jeopardize their legal status if they try to leave.

There are worries, too, about those who may not have survived the storm. The Mexican government has opened two mobile consulates in the affected areas, one in Mobile, Ala., and the other in Baton Rouge, La., to begin looking for tens of thousands of their citizens reported missing. The authorities in Mexico estimated that 145,000 Mexicans live in the area. At a tense meeting on Friday with immigration officials from the Jamaican government, a group of about 40 Jamaican guest workers from the Grand Casino, the Beau Rivage and the Casino Magic fired a battery of tough questions.

"Will we get paid for the remaining three months left in our contracts?" one woman asked from the back of the crowd gathered at the Fairview apartments here. "We don't have plane tickets back to Jamaica," another said. "Who will pay for these?"

Solid answers were in short supply. "I'm looking into this right now, but you have to be patient," said Barbara Dacosia, who oversees the 950 or so Jamaicans who work in casinos along the Gulf Coast in a nine-month guest worker program. "We're going to do some practical things, and we're going to do some tropical things, and that means we're going to pray."

Much like these immigrants, the city of Biloxi, defined over the past century by its transient culture of summer vacationers, sailors and gamblers, is at a standstill. Boats have been washed ashore. The number of visitors has dropped to zero from 10 million a year. The floating casinos have sunk. And movement is difficult.

"We tried to get gas, but when we got to the counter with our container, the man waved his hand and said no," Pedro, the Mexican landscaper, said in Spanish. "We couldn't say anything because we thought he might get mad and call the police."

José, also a Chiapas native who did not want to give his last name because he is undocumented, said that the only people he knew outside of Biloxi lived in Denver. But aside from having less than $20 left, he said he was also unsure whether he could make it that far without getting caught by the immigration authorities.

Like the many immigrants who came to the area as cheap labor to help rebuild Biloxi after Hurricane Ivan, José arrived in the area in September 2004 looking for contract work. "If I get a chance to get out of here, I'm going," he said. "This is all I know."

Ian Nelson, a Jamaican guest worker who for the last six months had been a housekeeper for the Grand Casino, said he would also rather not stay in the country. But as the only source of income for his parents in Jamaica, Mr. Nelson said he hoped the casino would find work for him in another state.

"I doubt they are going to help us," he said, "because no one from the company has even checked to see if their workers who are stranded here are O.K." About 344 Jamaican guest workers were in Biloxi, based at the three casinos in the city, said Ms. Dacosia, the chief liaison for the Jamaican Central Labor Organization. It is not clear whether they will be returned home without pay or placed in other jobs, she said.

Mr. Nelson said he had never felt more trapped in his life.

"I have come and gone under the work program for the past four years and never had troubles with the program," he said. "But I paid for my own plane ticket and now I am here and I don't know if I will get the work and money that I was promised."

After Katrina, Insurance Costs To Rise (WSJ)

By Theo Francis

The Wall Street Journal, September 6, 2005

Home and car owners in the Gulf Coast states can expect to see substantial increases in their insurance premiums in coming months, while rate rises could spread more broadly if insurance-company losses from Hurricane Katrina continue to climb.

Early estimates of damage to insured property from the massive hurricane range from $14 billion to $35 billion, with some catastrophe-modeling companies sharply raising their latest forecasts late last week as they gained details about the extent of the devastation from aerial surveys and learned more about damage to offshore oil production. That could make Katrina the costliest U.S. storm on record. Total economic losses -- including damage to uninsured property and flood damage -- is expected to exceed $100 billion.

"No matter where it falls in that range, it puts additional rate pressure on commercial-property and home owners in that region," says Robert Hartwig, chief economist for the Insurance Information Institute, a trade group in New York.

Past calamities suggest that broad increases are possible when the industry receives an unprecedented shock. After 1992's Hurricane Andrew -- currently No. 1 among natural disasters, at $21.6 billion of insured losses in today's dollars --

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homeowners' rates spiked in states beyond the storm-hit region and insurers began offering less-generous policy provisions. After the Sept. 11, 2001, terrorist attacks, which triggered $35.9 billion of insurance claims in today's dollars, commercial-insurance rates soared across the country.

So far, many analysts have been wary of predicting steep rate increases outside the hardest-hit areas, anticipating that insurance regulators elsewhere would be reluctant to approve rate increases for car and home owners in their states if Katrina, as devastating a human tragedy as it has been, eats up only a tiny fraction of the property-casualty sector's overall $400 billion in capital. The more depleted insurers' capital, the assets insurers can draw on to pay claims, the more pressure they would feel to seek rate increases.

"Obviously, the risks to a place like New Orleans were underestimated, and the cost of insurance in those exposed areas will go up," Allstate Corp. Chairman and Chief Executive Edward M. Liddy said in an interview Friday.

Beyond premium increases, homeowners in Louisiana, Mississippi and Alabama could see stark changes in the insurance landscape. Thanks to Hurricane Andrew, Florida homeowners now pay steep deductibles for hurricanes -- often 3% or more of a home's insured value. Many can find coverage only from a state-run insurer of last resort. After the four hurricanes that struck Florida last year, several insurers, including Allstate, stopped writing new policies in the state; many are seeking stiff rate increases from state regulators. Most insurance policies pay damages for wind, including wind-driven rain, but don't cover damage from flooding. The federal government offers residential flood insurance.

The estimates for Katrina-related losses are based on unusually imperfect data. As of Friday, neither the firms that specialize in estimates nor insurers had gotten close enough to flooded New Orleans or Mississippi coast cities to actually survey the damage. Moreover, catastrophe-modeling firms say some wind-speed sensors failed in the storm. At least one firm is taking aerial photos to try to make up for the lack of data.

For insurers, raising rates locally or nationally won't change what is likely to be a significant third-quarter hit to profits, albeit after enjoying strong results in recent years. In the longer term, raising rates could help profitability -- and leave the industry still better-prepared to face similar disasters -- at least until the next time the industry vies for market share, triggering one of its recurring price wars.

Late last week, as TV footage showed looting and fires in New Orleans, a report by Moody's Investors Service cited "unusual characteristics" of Katrina that could make it "relatively more costly for insurers than their recent experiences with Florida hurricanes might suggest, and may cause the industry's insured losses to exceed the midpoint of preliminary estimates, possibly by a large amount."

Moody's noted that automobile claims will be higher than in other storms due to the extensive flooding; although flooding isn't covered under most homeowners' policies, submerged cars could prove costly to auto insurers. The flooding in New Orleans also could lead to "a meaningful amount of disputes between insureds and insurance companies," said Jeffrey Berg, a Moody's senior analyst, as policyholders seek proceeds despite the flooding exclusion.

Also pointing toward higher costs: "the extensive infrastructure damage which will complicate the task of remediating losses, and expected demand surge in labor and material costs," said Moody's Group Managing Director Ted Collins, a co-author of the report.

And the longer New Orleans or other locations are sealed off by authorities, the more insurers will have to pay in business-interruption claims, which compensate commercial policyholders for revenue lost from covered perils.

"Response time is the enemy in all natural disasters and impacts everyone including the insurance industry," says Richard Clinton, president of EQECAT, a catastrophe-modeling company that on Friday raised its estimate of insurance losses to between $14 billion and $22 billion, from an earlier estimate of $9 billion to $16 billion.

Any effort by insurers to seek increases may be fought by consumer groups. Insurers have little excuse for seeking rate increases nationally, or even within the hardest-hit states, maintains Robert Hunter, a former Texas insurance commissioner and director of insurance for the Consumer Federation of America. Despite the four Florida hurricanes last year with a combined $23.7 billion in claims in today's dollars, he says that rates dropped for homeowners' policies last year outside Florida and "the profits continued to roll in," setting industry records in this year's first and second quarters. Moreover, he argues that current rates incorporate the likelihood of severe storms. Given insurers' extensive computer modeling, "the fact that one of the [storm] events happens shouldn't be a surprise," he says.

Bush Nominates Roberts As Chief Justice (WP)

By Peter Baker

The Washington Post, September 6, 2005

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President Bush nominated John G. Roberts Jr. yesterday as the 17th chief justice of the United States, promoting his nominee for associate justice to lead the Supreme Court and the rest of the federal judiciary even before Roberts was confirmed for the first assignment.

Moving swiftly as he copes with the devastation of Hurricane Katrina, Bush announced his decision just two days after the death of Chief Justice William H. Rehnquist and 48 days after picking Roberts to succeed retiring Justice Sandra Day O'Connor. In elevating Roberts, Bush chose the candidate most likely to be confirmed in short order by the Senate, which was poised to ratify the appeals court judge for O'Connor's seat.

The move could ensure Bush's influence on the judiciary long after his presidency ends. In the past half-century, only two other presidents have had the opportunity to name a chief justice to a lifetime appointment. A former Rehnquist clerk, Roberts shares a philosophical outlook with the man he would succeed and, at age 50, would be the youngest chief justice since John Marshall was appointed in 1801, potentially giving him decades to shape the court's direction.

Since O'Connor agreed to remain until her successor is confirmed, the move means that the court could open its next term on Oct. 3 with nine justices sitting. But in shifting Roberts to the center chair, Bush now must find someone else to replace O'Connor, in some ways an even more consequential choice because she cast the swing vote on issues such as affirmative action, abortion and the death penalty for many years.

"It is in the interest of the court and the country to have a chief justice on the bench on the first full day of the fall term," Bush said in the Oval Office before flying to the Gulf Coast for a second time to inspect relief efforts. "The Senate is well along in the process of considering Judge Roberts's qualifications. They know his record and his fidelity to the law. I'm confident that the Senate can complete hearings and confirm him as chief justice within a month."

Roberts, who appeared alone at Bush's side, seemed mindful that he would replace his mentor rather than join him on the court. "I am honored and humbled by the confidence that the president has shown in me," he said. "And I'm very much aware that if I am confirmed, I would succeed a man I deeply respect and admire, a man who has been very kind to me for 25 years."

The Senate Judiciary Committee, which had been scheduled to open hearings on Roberts's confirmation to O'Connor's seat today, decided yesterday to postpone the process probably until Monday in deference to Rehnquist, who will be buried at Arlington National Cemetery tomorrow.

The same liberal groups that opposed Roberts for associate justice declared him even more unfit for chief. "His views are very much out of sync with civil rights, women's rights, privacy," said Nan Aron, president of the Alliance for Justice. "Certainly reviewing so many of those memos and briefs and papers he authored makes one wonder whether he understands how the law affects ordinary people."

Several Senate Democrats argued that Roberts should receive greater scrutiny for chief justice. "The stakes are higher and the Senate's advice and consent responsibility is even more important," said Senate Minority Leader Harry M. Reid (D-Nev.), adding that "the Senate must be vigilant in considering this nomination."

But there was no indication that his nomination faces any significant threat. "He will be an excellent chief," said Senate Majority Leader Bill Frist (R-Tenn.). "I still expect Judge Roberts to be confirmed before the Supreme Court starts its new term on October 3."

Bush always had Roberts in mind for the next chief justice, aides said yesterday. Roberts was first secretly interviewed for a Supreme Court slot in April in anticipation that the cancer-stricken Rehnquist would retire or die. When O'Connor surprised the White House by announcing her retirement in July and Rehnquist declared that he was not stepping down, Bush decided to appoint Roberts to O'Connor's seat.

Even then, aides said yesterday that the president intended to elevate Roberts to chief justice whenever the job came open. "This had been something in the back of the president's mind in case such a scenario came into being, if the chief justice had retired," said White House press secretary Scott McClellan. "The president, when he met with [Roberts], knew he was a natural-born leader."

Bush summoned Roberts to the White House on Sunday, and the two met in the residential quarters at 5:30 p.m. for 30 to 45 minutes, McClellan said. White House Chief of Staff Andrew H. Card Jr. sat in at first and then left the two alone. Bush called Roberts back to the White House at 7:15 a.m. yesterday and offered him the job. Bush made the announcement 45 minutes later.

Card discussed the decision with Frist, Reid, Judiciary Chairman Arlen Specter (R-Pa.) and the committee's ranking Democrat, Patrick J. Leahy (Vt.), while the White House counsel's office called Justice John Paul Stevens, the court's senior member and acting chief, to inform him of the decision. Bush did not call O'Connor to tell her that her retirement may be postponed until after he was on Air Force One flying to Louisiana.

Although the chief justice has no more votes than his eight brethren, he presides over their conferences, sets the initial agenda for considering cases and, when in the majority, assigns which justice will write a ruling, defining the extent of its reach.

He also wields a variety of administrative and policy powers not only over the high court but the broader federal judiciary and has a number of unique responsibilities, such as presiding over presidential impeachment trials and appointing the court that reviews secret wiretaps by U.S. intelligence agencies.

Most chief justices have been appointed from outside the Supreme Court, but in the past century they typically had long tenures on lower courts or had served as governors, Cabinet secretaries or, in one case, president. With just two years on the U.S. Court of Appeals for the D.C. Circuit, Roberts boasts no such credential and would be much younger than the colleagues he would lead. Three and a half decades his senior, Stevens, 85, was already a justice when Roberts was an undergraduate at Harvard University.

But Roberts has the advantage of being well known to the justices, having argued 39 cases before the Supreme Court. "He can pull it off because they really respect him," said Leonard A. Leo, executive vice president of the Federalist Society, a conservative legal group. "What other justices look for in a chief justice is honesty, straight-shooting and smarts. That's what they want, and that's what they'll get."

Roberts grew up in Indiana, graduated magna cum laude from Harvard Law School, clerked for Rehnquist, worked as a lawyer in Ronald Reagan's Justice Department and White House, and served as principal deputy solicitor general under Kenneth W. Starr in the George H.W. Bush administration. A decade of private practice earned him the status of one of Washington's most accomplished appellate lawyers before the president put him on the appeals court in 2003.

Documents released from his government service in the past few weeks revealed Roberts to be a strong conservative with a sharp pen opposed to many affirmative action programs, open to more religion in public arenas and deeply skeptical of what he called the "so-called right to privacy" that undergirds abortion and other rights established by the Supreme Court.

As the Senate digests that record in coming weeks, Bush will turn his attention to his second nomination, although advisers believe he is likely to wait to make an announcement until after the final Roberts confirmation vote to avoid complicating that process and to allow him to publicly focus on disaster relief in the Gulf Coast.

Conservative allies will press the White House to pick another Roberts. "He's a perfect fulfillment of the president's promise," said Wendy E. Long, chief counsel to the Judicial Confirmation Network, a group dedicated to promoting judges who will strictly interpret the Constitution. "There's great happiness with him. If there were another Judge Roberts out there, or the closest thing, I think that would be perfect."

In this view, appeals judges such as J. Michael Luttig, Edith Hollan Jones, Priscilla R. Owen and Emilio M. Garza would be leading contenders. Appellate judge Edith Brown Clement, who fled her home in New Orleans because of Katrina, was a finalist when Roberts was chosen and, although not considered for chief justice, she could again be on the list for associate justice. So, too, could Judge J. Harvie Wilkinson III, who was interviewed by Bush in July, although at 60 he may be older than the president would like to ensure a long tenure.

The most prominent candidate on Bush's list is Attorney General Alberto R. Gonzales, his Texas friend who would be the first nation's Hispanic justice, but conservatives vocally oppose him out of fear that he is a closet moderate.

Sen. John Cornyn (R-Tex.), a Bush ally, said yesterday that the president will probably name a woman or a minority to replace the nation's first female justice and offered a vigorous defense of Gonzales. "He would be a very good nominee and one that I would be happy to support," Cornyn said. "I've read about these concerns from some conservatives, and I really wonder where they are getting some of these strange ideas."

Democrats Seek Increased Scrutiny Of Roberts (REU-Y2)

By Thomas Ferraro

Reuters, September 6, 2005

Key Democrats called for greater scrutiny of John Roberts on Monday after President George W. Bush nominated him to head the U.S. Supreme Court rather than be an associate justice.

Their call was seconded by liberal groups, which have voiced concerns about Roberts' record on civil and women's rights in an uphill bid to deny the 50-year-old conservative a seat on the high court.

But Senate Majority Leader Bill Frist, a Tennessee Republican, hailed Bush's decision and predicted Roberts would win Senate confirmation as chief justice of the Supreme Court before the court begins its new term on October 3.

"This nomination certainly raises the stakes," said Sen. Charles Schumer (news, bio, voting record), a New York Democrat and a member of the Judiciary Committee that will hold confirmation hearings.

Sen. Edward Kennedy (news, bio, voting record), a Massachusetts Democrat, said, "Before the Senate acts on John Roberts' new nomination, we should know even more about his record, and we should know whom the president intends to propose to nominate as a replacement for Sandra Day O'Connor."

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Bush nominated Roberts, a federal appeals court judge the past two years, to replace Chief Justice William Rehnquist, who died on Saturday after a long bout with cancer.

In doing so, Bush recast the nomination he made of Roberts in July to replace retiring Justice Sandra Day O'Connor.

O'Connor, a moderate conservative, often cast the decisive vote on the nine-member court. Rehnquist was one of the most powerful and conservative jurists in U.S. history.

Roberts' confirmation hearing was to begin on Tuesday. But in wake of Rehnquist's death, Bush's new nomination of Roberts as chief justice and Hurricane Katrina, Senate leaders agreed to postpone the proceeding briefly.

Senate leaders arranged to announce on Tuesday a new date.

A congressional aide said the hearing would start next Monday.

Preparing for the hearing, Schumer said, "We hope the White House will reconsider its refusal to release relevant and important documents that will shed light on what kind of Chief Justice Judge Roberts would become."

DOCUMENTS DEBATE

Thousands of pages of documents have been released in recent weeks stemming from Roberts' work as an attorney in the Reagan administration two decades ago.

But the White House has refused to make public records related to his work as deputy solicitor general in the administration of the first President George Bush.

Roberts, who has received the American Bar Association's highest rating, appears to enjoy broad support in the Senate, which Republicans control, holding 55 of 100 seats.

No Senate Democrat has come out against him, while others have spoken glowingly of the nominee. Some say they want to see him closely questioned before making a decision.

Debra Ness of the National Partnership for Women & Families, which opposed the nomination of Roberts as an associate justice, denounced the bid to make him chief justice.

"Judge Roberts stood out, even in the Reagan administration, for his ultra-conservative views and his disdain for measures that would protect rights of critical importance to women and people of color," Ness said.

Senators Differ On Pace Of Hearing (USAT)

By Kathy Kiely

USA Today, September 6, 2005

WASHINGTON — Senate Republicans and at least one key Democrat said Monday that John Roberts appears headed for confirmation this month as the youngest chief justice in more than two centuries.

But some liberal Democrats are arguing for a delay to let senators and the public better assess the impact that filling two vacancies will have on the nation's highest court. Sen. Edward Kennedy, D-Mass., said the Senate should postpone a decision on whether Roberts replaces the late Chief Justice William Rehnquist until President Bush announces how he plans to fill the other court vacancy.

“We should know whom the president intends to propose to nominate as a replacement for Sandra Day O'Connor,” Kennedy said, referring to the retiring Supreme Court justice Roberts originally was tapped to succeed.

Rehnquist's death on Saturday — and Bush's decision Monday to make Roberts, 50, his replacement — set off a tug of war over the timing of confirmation hearings, demonstrating that tensions over the court's makeup are close to the surface in the Senate and could erupt into a political firefight.

Sen. Patrick Leahy of Vermont, the Judiciary Committee's top Democrat, told MSNBC the hearings would begin Monday. However, Senate Majority Leader Bill Frist, R-Tenn., who sets the Senate's schedule, would only say that they would begin within a week.

Liberal Democrats argued for more time, but some conservative Republicans are pushing for an early start. “It is now more critical than ever for the Senate to move quickly,” Sen. Tom Coburn, R-Okla., said.

Frist plans a full Senate vote on Roberts during the last week of the month so the jurist would be in place when the court begins its 2005-2006 term Oct. 3. Minority Leader Harry Reid of Nevada agreed. “We should move forward,” he said, but he'd wait to talk to fellow Democrats about timing.

Even before Rehnquist's death, Roberts was getting favorable reviews from senators, including centrist Democrats such as Joe Lieberman of Connecticut and Ben Nelson of Nebraska.

On Monday, Nelson said Bush “has taken the path of least resistance” in nominating Roberts to replace Rehnquist. Nelson said he doesn't want to commit his vote but said, “I can't imagine there will be anything that comes out that causes me not to vote for him.”

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Nelson and Lieberman are members of the “Gang of 14,” a bipartisan group of senators that stopped a near-political meltdown in the Senate over judges earlier this year. The group brokered a deal that could have a major impact on Bush's pick for the second Supreme Court vacancy.

Frist and other conservatives wanted to eliminate Democrats' ability to filibuster, or block, a nominee by refusing to end debate. Some veteran Senate Republicans such as John Warner of Virginia opposed that, arguing that it would give up an important check on White House power.

The “gang” agreed to preserve the minority's right to filibuster, so long as it is used only in “extraordinary circumstances.”

Senators now believe a battle could be joined over O'Connor's replacement. Unlike Rehnquist, a reliable conservative, “she's a swing vote,” Sen. John Cornyn, R-Texas., said. Cornyn, who is close to the White House, believes the president's choice will be dictated less by ideology than other political considerations.

“I would expect to see either a woman or a minority nominated,” he said.

Hill Calls On Heavyweight Advisers In Supreme Court Battle (WT)

By Charles Hurt

The Washington Times, September 6, 2005

When Sen. Edward M. Kennedy, one of the key Democrats on the Senate Judiciary Committee, faced a re-election fight against an unknown businessman in 1994, he turned to a highly trusted private lawyer to dig up dirt on his opponent.

Now, James Flug has rejoined Mr. Kennedy's staff and will advise him during the Supreme Court confirmation hearings for Judge John G. Roberts Jr.

"Jim Flug is the 8,000-pound gorilla who will be driving this thing," said Makan Delrahim, former Judiciary Committee staff director for Sen. Orrin G. Hatch, Utah Republican.

He is "very personable, experienced and weathered in nominations fights," added Mr. Delrahim. "He knows how to build coalitions, how to ask the probing questions and he knows how to staff somebody like Ted Kennedy."

Conservatives have noted Mr. Flug's role.

"It is hard to fathom Mr. Flug coming back to Capitol Hill after 30 years of private practice for anything other than a bitterly tough confirmation fight," Ed Meese of the Heritage Foundation, Leonard Leo of the Federalist Society and Jay Sekulow of the American Center for Law and Justice warned in a joint statement.

Mr. Flug, who did not respond to e-mail, worked for Mr. Kennedy during the defeat of Nixon Supreme Court nominees Clement Haynesworth and G. Harold Carswell. After leaving Mr. Kennedy's staff for private practice, Mr. Flug rejoined the Kennedy staff two years ago.

But his involvement in Mr. Kennedy's 1994 campaign against Mitt Romney, who is now state governor, caused a stir when the Boston Globe revealed that the campaign had paid Mr. Flug to hire the Investigative Group Inc., the firm run by former Watergate investigator Terry Lenzner, to dig through Mr. Romney's background.

Mr. Flug isn't the only operative brought back for Supreme Court vacancy fights. Michael O'Neill, former nominations counsel to Mr. Hatch, was hired earlier this year to be chief counsel to Judiciary Committee Chairman Arlen Specter of Pennsylvania.

A professor at George Mason University, Mr. O'Neill clerked for Supreme Court Justice Clarence Thomas and served on the U.S. Sentencing Commission from 1999 to 2005. Many Republican judiciary staffers believe Mr. Specter hired Mr. O'Neill to help assuage conservatives that he was committed to ensuring confirmation of President Bush's judicial nominees.

Mr. O'Neill's Democrat counterpart on the committee is Bruce Cohen, chief counsel for Sen. Patrick J. Leahy, Vermont Democrat and ranking minority member of the committee. Mr. Cohen, who joined Mr. Leahy's staff in 1993, was hired by Mr. Specter to be his counsel on the Judiciary Committee in 1981.

One of the most energetic staffers behind the scenes of the confirmation fight will be Don Stewart, the relentless spokesman for Sen. John Cornyn, Texas Republican. Mr. Stewart, a former intelligence analyst in the Army, joined Mr. Cornyn after he was first elected in 2002.

Last week, the Hill publication National Journal predicted that Mr. Cornyn would be one of Judge Roberts' "most staunch and resolute" defenders.

"Cornyn, a savvy freshman who is closely allied with the White House, will vie for the mantle of the quickest, most relentless defender of the nominee," Kirk Victor wrote. "Cornyn's aggressive press shop has established a rapid-response role in which it immediately challenges every charge leveled by Democratic critics against the nominee."

As Mr. Cornyn likes to say: "A charge unrebutted is too often a charge believed."

New Kid On Top (WP)

DOJ_NMG_0003024

By Mark Leibovich
The Washington Post, September 6, 2005
Nice summer for John Roberts's career.

He goes from being a relative unknown to being The Man to being, as of yesterday morning, THE MAN -- all in a few weeks.

If Roberts, 50, is confirmed before the next session, he would be the youngest chief justice since John Marshall, who was 45 when he was sworn in 204 years ago. Fifty is Young Turk territory among Supreme Court justices, if not for the rest of us. Among chief justices, 50 is a Turk in diapers.

Roberts would assume the top position in the third branch of the federal government. He would swear in the successor to the president who just nominated him. And he would succeed the chief justice -- William Rehnquist, who died Saturday at 80-- for whom Roberts himself clerked. From Day One, he would occupy the largest seat on the Supreme Court -- the chief's seat is physically bigger than the others -- and serve with justices who began their legal careers when he was still in a highchair.

It all fixes Roberts as a seminal figure in the annals of whiz kids.

He is Doogie Howser, Rudolph taking over as lead reindeer (and getting a whole song written about him) and the youngest Osmonds -- Donny and Marie -- taking over the family act. He is Dan Quayle with spell check, leapfrogging the GOP older guard to become, overnight, the 41-year-old vice president. He is Michael Corleone in the "The Godfather: Part II," unbothered by need to rise patiently through the ranks.

Okay, so maybe it's a stretch to compare Justice Antonin Scalia to the character played by Dennis Quaid in the 2004 film "In Good Company," whose new whiz-kid boss -- played by Topher Grace -- is considerably younger and less experienced than he (and who also happens to be sleeping with his daughter). But it's worth asking: What happens when three organizational prototypes -- New Kid, Whiz Kid and Top Dog -- all combine at the same time, in the same person?

If confirmed, Roberts will find out.

"It's going to take a great deal of emotional intelligence on John Roberts's part, which I'm confident he has," says Michael Maccoby, a Washington psychoanalyst and anthropologist who has studied the psychology of leadership in business and government. Maccoby distinguishes Roberts from an array of young leaders -- such as Robert McNamara, who took over as president of Ford Motor Co. at 44, and McGeorge Bundy, who became dean of the faculty of arts and sciences at Harvard at 34 -- whom he describes as "radicals," or "narcissistic leaders." Such types tend to be arrogant and show disregard for traditional protocol.

The Supreme Court is hardly a Silicon Valley start-up with a freewheeling sensibility suited to young leaders and radical thinkers. For starters, there is no board of directors that can fire Roberts. "The Senate is John Roberts's board of directors," says Erik Brynjolsson, a professor at MIT's Sloan School of Management. And if he gets past the Senate, Brynjolsson says, "there's nobody who can boot him off the island if they don't like his work."

The lifetime appointment changes a central dynamic of whiz-kid leadership. What's more, the Supreme Court is an institution rich in tradition, grounded in precedent -- and whose customs Roberts understands. "It will certainly help Roberts that he knows the court and that he clerked there," says Rick Garnett, a law professor at the University of Norte Dame who, like Roberts, clerked for Rehnquist.

Unlike an institution such as Congress, the Supreme Court places less emphasis on seniority, Garnett says. There also tends to be less personal jealousy and ego: "These people don't have to stand for election," he says, so there is less emphasis on taking credit and getting out front on matters.

"Maybe I'm an idealist," Garnett adds, "but there is a certain sense that these justices are in this honored profession. It seems like they're doing something loftier than, say, highway appropriations."

Roberts May Replace Mentor As Chief Justice (REU-Y2)

By Jim Vicini
Reuters, September 6, 2005
John Roberts had hoped to soon join Chief Justice William Rehnquist on the U.S. Supreme Court. Now Roberts may succeed the late legal giant, who was one of his earliest conservative mentors.

A generation ago, Roberts served as a young law clerk to Rehnquist, helping the then associate justice research and write court opinions.

On Monday, President George W. Bush nominated Roberts, a federal appeals court judge for the past two years who has also worked in two Republican administrations, to replace Rehnquist, who died on Saturday after a long bout with cancer.

"I am honored and humbled by the confidence that the president has shown in me," Roberts said as he stood beside Bush in the Oval Office.

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"And I'm very much aware that if I am confirmed, I would succeed a man I deeply respect and admire, a man who has been very kind to me for 25 years," Roberts said.

The development came as the Senate prepared to open hearings on Bush's earlier nomination in July of Roberts to succeed retiring Justice Sandra Day O'Connor, a moderate conservative who often cast the decisive vote on the closely divided nine-member court.

Rehnquist's death gave Bush a historic opportunity to reshape the court, which interprets the U.S. Constitution and decides major legal questions such as abortion.

Bush changed the nomination so Roberts, if confirmed by the Senate, would replace Rehnquist, one of the most powerful and conservative jurists in U.S. history during a more than 30-year career on the Supreme Court.

At 50, Roberts would be the youngest chief justice in more than 200 years since John Marshall was appointed in 1801 at the age of 45.

As the 17th chief justice, he could end up holding the lifetime seat for decades and help shape the court and the American way of life on matters from civil rights to voting rights to women's rights.

Bush's selection of Roberts came after weeks of tough scrutiny that found public support for the nominee and no major obstacles despite the concerns of a number of liberal groups.

Roberts' record will be closely examined by Democrats on the Senate Judiciary Committee, who have vowed to question him during his confirmation hearing about his judicial philosophy and whether he supports abortion rights and civil rights.

During Reagan's presidency, Roberts worked as a special assistant to Attorney General William French Smith at the Justice Department in 1981-1982, and then in the White House counsel's office.

PAPER TRAIL

Recently released memos showed that Roberts embraced the conservative Reagan administration's efforts to limit judicial power and opposed a proposed equal rights amendment for women and civil rights remedies such as busing school children.

As a Justice Department aide, Roberts advised O'Connor at her own confirmation hearings in 1981 to avoid specific answers about legal issues likely to come before the court, a tactic he is expected to use to avoid creating any controversy.

Bush first nominated Roberts for the U.S. Circuit Court of Appeals for the District of Columbia. The Senate confirmed Roberts in a voice vote on May 8, 2003.

While on the bench, Roberts has been involved in several important rulings.

He was part of the three-judge panel that handed the Bush administration a critical victory by ruling that the military tribunals for terrorism suspects at Guantanamo Bay, Cuba, could proceed.

The ruling was announced on July 15, the same day that Roberts later disclosed he had been interviewed by Bush about the Supreme Court vacancy.

Some senators plan to question Roberts about whether he had a potential conflict of interest and should have removed himself from the closely watched terrorism case which is now pending before the Supreme Court.

Roberts argued before the Supreme Court as the principal deputy solicitor general from 1989 to 1993, during the presidency of Bush's father.

In 1990, Roberts signed a brief that stated the first Bush administration's belief that the Supreme Court's historic 1973 decision that legalized abortion should be overturned. But at his 2003 confirmation hearings, Roberts described the 1973 decision as "settled law."

Born in Buffalo, New York, in 1955, Roberts was raised in Indiana. He received his undergraduate degree from Harvard in 1976 and then graduated from Harvard Law School in 1979.

Roberts lives in Chevy Chase, Maryland, with his wife, Jane Sullivan Roberts, and with their two adopted children. The couple has a net worth of more than $5 million, Roberts said.

Chief Justice Rehnquist Dies At 80 (LAW)

By Tony Mauro, Legal Times

Law.com, September 5, 2005

The death of Chief Justice William Rehnquist late on Saturday ends his historic 33-year career on the Supreme Court and presents President George W. Bush with a rare challenge to fill a new vacancy just as John Roberts Jr., his nominee to Sandra Day O'Connor's seat on the Court, was about to face Senate hearings.

Bush answered part of that challenge swiftly, nominating Roberts on Monday to replace Rehnquist as chief justice. In an early morning announcement from the Oval Office, the president said he hoped the Senate would confirm Roberts before the Court sits for its next term Oct. 3.

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The Senate is expected to begin Roberts' confirmation hearings as chief justice either Thursday or next Monday. The opening of his previously scheduled confirmation hearings, for the position of associate justice, initially was to be Tuesday, but that was canceled until after Rehnquist's funeral on Wednesday.

Roberts himself was a former Rehnquist clerk who would have been the first former law clerk to serve as a justice alongside the justice for whom he worked. Now Roberts could replace him if he is confirmed as the nation's 17th chief justice.

Rehnquist, 80, died at his home in Arlington, Va. after a 10-month battle with thyroid cancer. He was the first justice to die in office since Robert Jackson in 1954. He had squelched rumors of his retirement in July, promising to stay on the Court as long "as long as my health permits…." But Court spokeswoman Kathy Arberg said his health took "a precipitous decline" in recent days, and his three children were with him when he died.

President Bush in a statement on Sunday said Rehnquist's death was "a tremendous loss for our nation" and indicated he would move quickly to name a replacement. Immediately, the speculation that followed O'Connor's retirement announcement on July 1 resumed. Court historian David Garrow, now at Cambridge University, said Attorney General Alberto Gonzales was "the presumptive favorite" to replace Rehnquist, but other commentators offered a range of scenarios, including the elevation of Justice Antonin Scalia, renominating Roberts as chief justice, and even O'Connor postponing her departure. In a statement Sunday, Gonzales said Rehnquist "will surely be remembered as one of our Nation's greatest Chief Justices, and his leadership, courage and humility will be missed."

Rehnquist's colleagues issued statements Sunday lamenting his passing. Justice John Paul Stevens, who will preside over the Court as senior justice until Rehnquist is replaced, said, "William Rehnquist's independent, impartial, and dedicated leadership of the Supreme Court has been an inspiration to those of us privileged to serve with him--and to the entire Nation as well."

Rehnquist had a remarkable Supreme Court career, morphing from "lone ranger" status as an associate justice into the influential leader of a conservative Court that nonetheless preserved affirmative action and abortion rights and furthered gay and women's rights.

As chief justice and titular head of the federal judiciary since 1986, Rehnquist gently nudged the nation's highest court into the 21st century, complete with a user-friendly web site that made opinions available online, and quick release of oral argument audiotapes in landmark cases. He drew the line, however, at allowing camera coverage of Court proceedings.

With a manner that was alternately genial, shy and stern, Rehnquist won admirers from all parts of the political spectrum. Republicans praised him for his fealty to a conservative jurisprudence while liberals generally found him to be an affable jurist who ran the Court collegially and well, seemingly unperturbed by his failure to steer the Court sharply to the right. "A great chief justice," the late liberal lion Thurgood Marshall once said of Rehnquist.

Though Rehnquist found conservative camaraderie in Justices Antonin Scalia and Clarence Thomas, his potentially conservative juggernaut was kept in check by other Republican appointees O'Connor and David Souter, and, to a lesser extent, Anthony Kennedy. One of only two dissenters in the 1973 case Roe v. Wade, Rehnquist failed to undo abortion rights when O'Connor, Kennedy and Souter joined to preserve abortion rights when it was at its most vulnerable in the 1992 case Planned Parenthood v. Casey. Even Rehnquist's vaunted federalist push to give states greater protection from federal intrusion has seemed to lose steam in the last two terms. Just this June, Rehnquist found himself in the minority in a 6-3 decision that said federal anti-drug laws trumped a state initiative that legalized the medical use of marijuana.

"It is quite clear that there are three dominant chief justices of American history, and they are John Marshall, Earl Warren, and William H. Rehnquist," said O'Melveny & Myers partner Walter Dellinger III, acting solicitor general under President Bill Clinton. "I think that there's just no question that he's of enormous historical importance."

University of Texas Law School professor Douglas Laycock said, "He started as the young radical, the most extreme of the four Nixon appointees. He finishes not too far from the center, voting with O'Connor and Kennedy slightly more often than he votes with Scalia and Thomas."

Rehnquist was born in Milwaukee and served as a meteorologist in the Army Air Corps during World War II. He graduated from Stanford University and Stanford Law School, with a graduate degree from Harvard University in between. At Stanford, he finished first in his law school class just ahead of his future colleague O'Connor.

The Supreme Court dominated much of Rehnquist's post-law school life. In his 1987 book on the Court, Rehnquist recalled the day in 1952 when he first laid eyes on the "magnificent Greek temple of white marble" as a new law clerk to then-Justice Robert Jackson. In a memo he wrote for Jackson that later haunted his reputation, Rehnquist said in the context of the pending Brown v. Board of Education case that the discredited precedent Plessy v. Ferguson was right and should be re-affirmed. Rehnquist said in his confirmation hearings for associate and chief justice that the memo did not reflect his own views.

Rehnquist went into private practice in Phoenix and cemented his conservative credentials by working in Barry Goldwater's presidential campaign. He came back to Washington in 1969 to head the Justice Department's Office of Legal Counsel and soon

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became involved in judicial selection at a time when several vacancies hit the Court. At first President Richard Nixon was not impressed by Rehnquist, who wore his sideburns long, and sported a pink shirt, psychedelic tie and hush puppie shoes at their first meeting. Nixon told an aide that "Renchburg" looked like a clown. As then-White House counsel John Dean wrote in a 2002 book, "All in all, an inauspicious introduction for a future Supreme Court nominee."

Rehnquist himself jokingly discounted his chances of being nominated to the high court, because "I'm not from the South, I'm not a woman, and I'm not mediocre." But as Nixon considered and discarded various candidates, Rehnquist suddenly emerged, along with Lewis Powell Jr., as candidates to fill the seats of John Harlan II and Hugo Black, respectively.

Because of the Jackson memo and allegations that he had harassed black voters as a poll watcher in Phoenix, Rehnquist's confirmation was controversial, and he won by a 68 to 26 Senate vote.

Once on the Court, Rehnquist became the hero of a growing conservative legal movement that valued "strict construction" of the Constitution and a "non-activist" approach to judging that looked askance at expansions of federal power. In a 1985 dissent in Garcia v. San Antonio Metropolitan Transit Authority, Rehnquist objected to the 5-4 majority's grant of broad federal power over state sovereignty. But his dissent was brief. "I do not think it is incumbent on those of us in dissent to spell out further the fine points of a principle that will, I am confident, in time again command the support of the majority of the court." A decade later, he was proven right.

In a series of rulings, Rehnquist led the Court in reining in congressional power under the Commerce Clause and strengthening state sovereignty in disputes with the federal government.

"He has effected a sea-change in American constitutional jurisprudence," said Pepperdine University law professor Douglas Kmiec, a former Reagan Justice Department official. "His sophisticated revival of federalism, in particular, renews that which makes democracy work -- not in theory, but on the ground. It gives divergent voices a chance to be heard and prevail, not in one venue, but in 50. Had the Court heeded his wisdom more thoroughly, there would be less nonsense about red and blue division and far less cultural warfare."

Other scholars wonder whether Rehnquist's federalism trend will persist after his departure. "In the short run, the 'federalism revolution' of the 1990s is undeniably his most significant substantive achievement," said Cambridge University's Garrow. "But whether these rulings will survive in the long run, or instead be reversed, remains to be seen. It's much more likely that the Rehnquist Court's surprisingly liberal rulings -- on abortion, on gay rights, on gender -- will actually represent the most indelible legacy."

Rehnquist's followers began populating the Reagan Justice Department (one being the young John Roberts), and he became a favored choice to replace retiring Chief Justice Warren Burger in 1986. Again, many Democrats balked at Rehnquist's nomination, and he was confirmed by a 65-33 vote.

As chief justice, his judicial views did not change appreciably, but joined by fellow conservatives he was in dissent less often, and seemed more interested in reaching broader common ground.

Hemmed in by liberal precedents, however, he sometimes was unable to advance conservative precepts in his decision-making. Those constraints became obvious in 2000 when, in Dickerson v. United States, Rehnquist wrote the majority opinion upholding the classic pro-defendant ruling Miranda v. Arizona -- a 1966 precedent Rehnquist had often criticized previously. "Whether or not we would agree with Miranda's reasoning and its resulting rule, were we addressing the issue in the first instance, the principles of stare decisis weigh heavily against overruling it now," Rehnquist wrote. "Miranda has become embedded in routine police practice to the point where the warnings have become part of our national culture."

As administrator of the Court, Rehnquist was able to preserve the Court's traditions and penchant for secrecy, while at the same time keeping up with modern technology. In 2000, the Court launched a Web site that makes it easy to track cases. And starting with the Florida presidential election cases in 2000, Rehnquist agreed from time to time to allow immediate release of audiotapes of newsworthy oral arguments. As a result, for the first time the public outside the courtroom was able to hear the Court's debates over current cases involving issues ranging from affirmative action to campaign finance reform to enemy combatants.

The audiotape release seemed to mute, at least temporarily, the chorus of requests that the Court allow television cameras in. On the subject of cameras, Rehnquist was less adamantly opposed than his predecessor Warren Burger, but he still felt camera access might debase the Court's image. Soon after he became chief justice, Rehnquist said, "I hope we don't get to the time where the members of our court are trying to get on the six o'clock news every night, and I think if they did, it would lessen to a certain extent the mystique and moral authority" of the Court.

But Rehnquist's disapproval of the idea did not keep members of the press from trying to get cameras in. In 1990, with his blessing, the Judicial Conference approved an experiment with camera access for civil trials in selected lower courts. The experiment worked, by and large, with few if any negative findings. But in 1994, the conference declined to make access permanent - partly, it appeared, because of the media frenzy at the time over pretrial hearings in O.J. Simpson's murder trial.

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Within the Supreme Court, Rehnquist also seemed open to at least testing the idea of cameras. In 1988, he allowed media lawyer Timothy Dyk -now a judge on the U.S. Court of Appeals for the Federal Circuit - to put on a private demonstration of how cameras worked. The demonstration went off without glitches, but none of the justices felt any strong incentive to alter the status quo.

C-SPAN vice president Bruce Collins said that in comparison to the visibility of the other branches of government, the Rehnquist court's resistance looks "just a bit silly." But he credited Rehnquist with being "the first to open the door" to modern media. "Our hope is that his successor builds on his example."

Rehnquist had a sense of humor and not too high a sense of his own importance. He was shy, even awkward at times, though as his tenure as chief justice lengthened, he became increasingly self-confident.

"He is not a Citronelle kind of guy," said longtime friend and fellow poker player Robert Bennett, partner at Skadden, Arps, Slate, Meagher & Flom in D.C.. referring to a fancy D.C. restaurant. "He never let power go to his head."

"William H. Rehnquist is by nature quiet and humble," said Pepperdine's Kmiec. "His legacy is that he has shown us how to disagree with civility."

In private conversation when he told funny stories, he would sometimes start giggling before he finished his sentence. The Blackmun papers released last year included a bawdy limerick Rehnquist passed to his then-all male colleagues in 1975. In 1995, acting purely on his own whimsy, he began wearing a black robe with four gold stripes on each sleeve. The inspiration for the new attire, he said, was a costume he saw at a local performance of Gilbert & Sullivan's Iolanthe.

Rehnquist came in for some ribbing from his colleagues because of the stripes. The late Justice Harry Blackmun said he and his colleagues asked Rehnquist, "Was he wanting to bring back the crimson in the robes as the British had? What were the rest of us to do about it? Did this make him a sergeant or a captain? He was defensive about it, but not in an offensive way."

Rehnquist, like other justices, basked in anonymity. For his daily constitutional that helped alleviate his back problems, he was able to walk around the perimeter of the Court grounds largely unrecognized, though he was usually shadowed by a Court police officer or two. In a 2004 interview with C-SPAN, he said one of the most appealing aspects of being a Supreme Court justice is that "you don't have to become a celebrity or raise your visibility in order to do your job."

Every four years he emerged from anonymity to conduct presidential inaugural ceremonies -- George W. Bush's on Jan. 20 was his fifth -- and he became even more familiar to the public when he presided over President Clinton's Senate impeachment trial in 1999. On occasion during the trial, television camera crews would camp out near his Arlington home to record his comings and goings--a loss of privacy he did not appreciate.

Rehnquist won high marks for conducting the impeachment trial fairly, but characteristically he made light of his role. In a 2001 interview with PBS, Rehnquist borrowed a line from Gilbert & Sullivan -again from Iolanthe to say of his impeachment trial performance, "I did nothing in particular and I did it very well." He continued, "There wasn't much to do. I realized there wasn't much to do. And I didn't do it."

Rehnquist will also be remembered for presiding over a Supreme Court that decided the outcome of a presidential election. He was in the majority of Bush v. Gore, the 2000 decision that stopped the recount of Florida ballots and sealed the election of President Bush over Democrat Al Gore. The Court's intervention in the case placed it in the center of a political firestorm.

From the bench, Rehnquist could be a stern and forbidding presence. Though he mellowed in recent years, earlier in his tenure as chief justice, Rehnquist would correct lawyers' pronunciation, scold lawyers for glancing at the clock behind the bench, and grow impatient with flabby locutions. In 1993, when then-solicitor general Kenneth Starr said he wanted to "share the record" with the justices, Rehnquist shot back, "Why not tell us the record, rather than sharing it with us."

He also for a time snapped at lawyers who addressed him as "Justice" or "Judge," rather than chief justice. After his pique generated news stories, Rehnquist poked fun at himself; at one meeting he donned a feathered Indian headdress to underline his chiefly status.

But Rehnquist also was keenly aware of the limitations of being chief justice--just one vote among nine, with few powers of persuasion over his independent-minded colleagues. He was usually unable to slow the torrent of questions aimed by justices at the lawyers arguing before them, and spoke enviously of a long-ago Canadian counterpart who was able to quiet his colleagues by tapping his pencil on the bench. "I have occasionally wished that I had similar authority in our court," he said in a 1996 speech.

But after the late Warren Burger's more imperious rule, Rehnquist's lighter touch was welcomed by justices and employees alike.

"Politically or ideologically oriented evaluations of Chief Justice Rehnquist should not overlook what a successful and popular chief justice he was within the Court as the justices' presiding officer," said Garrow. "The contrast between Rehnquist's undeniably happy Court and that of his predecessor, Warren E. Burger, could not have been greater."

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In commencement speeches and talks with young people, Rehnquist urged listeners to live well-rounded lives and not measure success entirely by their work. "Find ways to enrich your life, entertain yourself, and to enjoy activities you might not have participated in before," he told a 1992 high school graduating class in Arlington, where he lived in his Court years. "Enjoyment of this sort is not contingent upon fulfilling some far distant career goal, but can be harvested right now - today and tomorrow... Learn to live a day at a time."

Rehnquist's own interests ranged from oil painting to tennis to poker. For years he participated in a monthly poker game attended, on and off, by the likes of current appeals court judge David Sentelle, former judge Robert Bork, senior judge Laurence Silberman and bigfoot lawyers like Bennett and Leonard Garment. The unspoken rule was that when lawyers were about to bring a case before the Supreme Court, they would drop out of the poker game temporarily, to avoid improper appearances.

Characteristically, Rehnquist said he would never write a memoir, because publishers would want him to spice it up with criticisms of his colleagues - which he refused to do. He invoked Confederate leader Robert E. Lee, who said he did not want to write his memoirs "because he would have to deal unfavorably with a lot of people whom he likes and he was close to," he told PBS in 2001. "I just don't want to do that."

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Associated Press reports contributed to this story.

A Court Choice Well Schooled In Chief Justice Job's Pitfalls (NYT)

By Linda Greenhouse

The New York Times, September 6, 2005

WASHINGTON, Sept. 5 - As a Supreme Court law clerk to William H. Rehnquist decades ago, John G. Roberts Jr. learned how not to be chief justice.

Now that President Bush has chosen him for the position, he will, if the Senate confirms him, have the rare chance to put those lessons into practice.

His boss back in 1980-81 was an associate justice, one who often chafed under the leadership style of Chief Justice Warren E. Burger and who freed, even encouraged, his law clerks to poke fun at what they saw as the chief justice's pomposity and penchant for self-aggrandizement.

Robert M. Weisberg, who clerked during the same term for another justice, said Monday that he would never forget walking down a corridor at the court and coming upon Justice Rehnquist and his law clerks, who were all peering through a window into an inner courtyard, where Chief Justice Burger was supervising preparations for a reception.

"It was very funny to see Rehnquist and his clerks just spontaneously cracking up at the sight of the chief justice directing the proper placement of the silver," Mr. Weisberg said.

Later, when Mr. Roberts was working in the White House counsel's office, memorandums from that period show, he devoted considerable attention to knocking down various proposals from Chief Justice Burger, including one for a new tribunal to ease the Supreme Court's workload.

In a 1983 memorandum, to Fred F. Fielding, the White House counsel, he said a Burger request for authority to name an administrative "chancellor" for the federal courts was "the silliest" of various proposals and added, in a reference to the Anglophilia for which the chief justice was well known around the court, "The bill does not specify whether the Chancellor will wear a powdered wig."

Justice Rehnquist, upon becoming chief justice in 1986, promptly made changes that clearly reflected his own disapproval of how Warren Burger had run the court. For example, he converted the job of administrative assistant to the chief justice into a two-year appointment rather than a permanent position, to avoid the empire-building that had become evident during the Burger years.

The very different Rehnquist management style, straightforward and unadorned, was much appreciated within the court, as reflected in the statements the associate justices issued after Chief Justice Rehnquist's death on Saturday night. Justice Ruth Bader Ginsburg called him "the fairest, most efficient boss I have ever had."

As a law clerk, Judge Roberts, who now sits on the federal appeals court here, would not have been in a position to observe the justices' conference, the twice-weekly closed-door sessions that only the justices themselves attend. But he certainly knew how frustrating Justice Rehnquist found the meandering and confusing way in which the conference proceeded under Chief Justice Burger's leadership.

Among the papers that Justice Harry A. Blackmun left to the Library of Congress is a letter Justice Rehnquist sent to Chief Justice Burger that began: "Dear Chief: I had a feeling that at the very close of today's Conference we may have fitted Matthew

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Arnold's closing lines in 'Dover Beach' wherein he refers to those 'Swept with confused alarms of struggle and flight/Where ignorant armies clash by night.' "

Justice Rehnquist then went on to "take the liberty of stating my understanding" of what had taken place. When he became chief justice, he streamlined the conference considerably, and justices rarely came away with any doubt about what had occurred.

Running the conference is only one of a chief justice's many functions that are not visible to the public. Indeed, the job is somewhat like an iceberg, with much of it below the surface. And it is confusing: there is no one place to look for a definitive description of the job.

The modern chief justiceship is "a mix of custom, practice and statute," according to Judith Resnik, a professor at Yale Law School who has made a close study of the federal judiciary and the role of the chief justice in particular. In an interview on Monday, Professor Resnik noted that there were dozens of federal statutes that mention the chief justice, with "half a dozen that really matter." The Constitution itself did not even establish the office except by implication, mentioning it only in connection with presiding over impeachment trials conducted by the Senate.

"It's basically a role that has developed over the 20th century, as the federal judiciary has developed into a kind of administrative agency," Professor Resnik said. For example, Chief Justice Burger established, and Chief Justice Rehnquist continued, the practice of issuing an annual "state of the judiciary" report to give voice to the concerns of federal judges and the chief justice's own priorities.

The chief justice presides over a corps of some 2,000 federal judges, including 1,200 with life tenure and the rest, including magistrate and bankruptcy judges, who serve for fixed terms. The judicial branch includes a staff of 30,000, with the chief justice picking the most important central administrators, and runs on an annual budget of $5.4 billion. The chief justice also picks the members of important policy-making judicial committees and of specialized courts, including the 11-member Foreign Intelligence Surveillance Act Court, which issues special national security surveillance warrants.

In addition, the chief justice leads the Judicial Conference of the United States, a group of judges who make policy for the federal courts and who present the judiciary's views to Congress. The Judicial Conference has its roots in an organization created by Congress in 1922 at the behest of Chief Justice William Howard Taft, the former president, who carved out an active policy role for the chief justice. He shaped the modern court by lobbying successfully for legislation to give the court discretion in choosing which cases to hear.

As a student of American history, Judge Roberts may find none of this a surprise. Nor is it a surprise that Professor Resnik and other scholars are beginning to ask whether this array of powers, having grown bit by bit over the years, with hardly anyone noticing, really belongs in the hands of a single, unelected, life-tenured official.

"As a democracy, we generally don't believe that power should be centralized in one person for so long," she said, while offering the concededly audacious suggestion that the chief justiceship might rotate every four years or so.

Perhaps that is a conversation that might move from the recesses of the legal academy to the public, sometime during the 25 or 30 years that Chief Justice Roberts would be likely to serve.

Roberts Was Influenced By Critics Of The Warren Court (WP)

By Charles Lane

The Washington Post, September 6, 2005

From his youthful days as a Reagan administration aide to his current job as a judge on the U.S. Court of Appeals for the District of Columbia Circuit, John G. Roberts Jr. has consistently espoused a clear view of federal judicial intervention: Less is more.

This same principle was held dear by the man Roberts served as a Supreme Court clerk, the late William H. Rehnquist -- whose former position as chief justice of the United States is now suddenly within Roberts's grasp.

In the quarter-century since he served as Rehnquist's aide, Roberts has made an instinctual and deeply held conservatism plain at nearly every turn. As a young Reagan administration aide, he registered his skepticism toward court-recognized "fundamental rights," such as the right to privacy. Earlier this year, Judge Roberts voted to permit President Bush to subject terrorism suspects to military trials at Guantanamo Bay.

The question -- more urgent now since Bush nominated him yesterday morning to lead the high court -- is where Roberts's vision of judicial restraint would lead him on the most volatile issues. The woman Roberts was originally tapped to replace, Justice Sandra Day O'Connor, sometimes displayed her conservatism by bowing to precedents on social issues -- notably Roe v. Wade , which established a right to abortion rooted in a right to privacy. Rehnquist labored mightily to reverse some rulings on abortion and the rights of criminal defendants that he thought were wrongly decided in the first place.

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To Roberts's supporters, his history suggests he will be a careful and principled leader of the federal judiciary, one who would restore the true constitutional balance of power between the courts and the people's elected representatives in Congress, the White House and the states.

To his opponents, it suggests a willingness to leave the constitutional rights of women and minorities unprotected against violations by the more political branches of government.

What is unmistakable from Roberts's record, however, is that his essential philosophy about the role of courts in American life is strongly held. There is little prospect that the 50-year-old judge will be any less likely to press his beliefs in conference with colleagues on the court than he was to promote them in memos to his elders in the Reagan administration.

Sounding very much like the 26-year-old aide who ghostwrote articles and speeches on judicial restraint for President Ronald Reagan's Justice Department, Roberts told the Senate firmly in a written submission last month that federal judges "do not have a commission to solve society's problems, as they see them, but simply to decide cases before them according to the rule of law."The Primacy of Process

Roberts has said that defining the proper boundaries of judicial review is a "central problem" of American government. Few legal analysts of any ideological stripe would dispute that.

Throughout history, the Supreme Court has provoked controversy by using its power to declare laws unconstitutional in ways that critics saw as overstepping its authority.

President Thomas Jefferson condemned the 1803 Marbury v. Madison decision that established the doctrine of judicial review.

The Dred Scott case of 1857 -- which declared that black people were "beings of an inferior order" and that congressional efforts to restrict slavery in northern territories were a violation of property rights -- discredited the institution for a generation. A series of rulings striking down state and federal economic regulations provoked President Franklin D. Roosevelt's "court-packing" plan, until the justices backed down and began upholding New Deal legislation.

In the 1950s and '60s, the Supreme Court looked at the country's problems and decided, time and again, that the federal judiciary should reform society and establish individual rights. Even today, long after the death of the chief justice, Earl Warren, who led the court during that period, and long after a majority of the court has been named by Republican presidents who opposed the Warren Court's innovations, the court continues to recognize such Warren-like concepts as a "fundamental right" to privacy that protects abortion and private consensual homosexual conduct.

The Warren revolution remains a model for many people of how the court must act as a guarantor of individual and minority rights. Roberts, however, was one of those who recoiled from the Warren Court's activism.

Roberts grew up in a mostly white Indiana suburb where his father's steel company was touched by federal court battles over affirmative action, and he attended Harvard College and Harvard Law School as Boston was grappling, sometimes violently, with court-ordered school desegregation.

But his gravitation to concepts of judicial restraint probably reflected the natural bent of his orderly, traditionalist mind, rather than the controversies swirling outside the academic setting in which he spent most of the 1970s.

Asked by a senator in 2003 to name the legal text that most influenced him, Roberts chose the 1973 edition of Hart & Wechsler's "The Federal Courts and the Federal System," a 1,657-page legal textbook used in Harvard's class on federal courts. It has always been "within reach of my desk" since law school, he told the Senate. And, indeed, he has often cited it in his writings since Cambridge.

Unknown to most Americans, the Hart & Wechsler volume is instantly recognizable to law professors as an exhaustive, sophisticated -- and deeply skeptical -- treatment of the Warren Court revolution.

It is considered a virtual Bible of a postwar legal movement known as the Legal Process School, especially influential at Harvard, whose leading figures were liberals and conservatives who professed concern not so much for the results the court was reaching as for the damage its overreaching might do to the judiciary's own legitimacy.

Roberts's choice of the book is "extremely revealing," said Cass Sunstein, a professor of law at the University of Chicago.

For the Legal Process School, it was a given that "judges in solving legal problems are not doing the same thing that legislators are doing in solving political problems," says Todd Rakoff, a professor of law at Harvard.

The strength of Legal Process was its insistence that courts adhere to neutral principles, that they "should not become champions of particular causes or litigants," as Dennis J. Hutchinson, a professor of law at the University of Chicago, puts it.

Yet Legal Process has lost influence in more recent years, under attack from a new generation of law professors who fault it for ignoring the political power relationships embedded in the law -- that its insistence on identifying neutral principles is unrealistic.

"The question about legal process," Rakoff says, "is 'Is it true that there are legal answers that aren't political answers?' "A Closet Activist?

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That, in essence, is the critique liberals are raising about Roberts's jurisprudence today: that his insistence on a limited role for the federal courts is a cover for conservative policy preferences.

Announcing its opposition to Roberts, the Alliance for Justice said that Roberts supports "weakening women's rights and civil rights laws, cutting back the vital role of our courts in enforcing legal protections and restricting the ability of the people's democratically elected representatives to enact crucial, nationwide worker, anti-discrimination and environmental safeguards."

Court conservatives such as Rehnquist and Justices Antonin Scalia and Clarence Thomas have also espoused judicial restraint. Yet that has not prevented them from striking down many federal and state statutes, often on the basis of a states'-rights doctrine that dissenting justices on the court have criticized as too loosely based in constitutional text.

The accusation that Roberts is capable of his own brand of activism has not come exclusively from liberal advocacy groups.

On the D.C. Circuit, he wrote an opinion for a 2 to 1 majority in which he interpreted a law to deny a former Amtrak employee the right to sue the government-subsidized railroad in federal court for allegedly spending taxpayer money on defective railroad cars.

Judge Merrick Garland wrote in dissent that Roberts's opinion "falls back on policy considerations" but "the policy on which the court relies are not those of the Congress of the United States."

But to many, Roberts's intellectual pedigree marks him as a careful "lawyer's lawyer," with a healthy recognition of the courts' -- and his own -- fallibility.

"Of all the people Bush could have nominated, this is a guy who is actually telling the truth when he says he can't decide a case until he's seen the facts and the briefs," says Jonathan Macey, a professor of law at Yale University.

St. John's University law professor John Barrett, noting that Roberts has named legal craftsmen such as Justices Felix Frankfurter and Robert Jackson as the Supreme Court members he most admires, suggests that he "may end up disappointing President Bush."

If he remains true to the legal view embodied by the Legal Process School, Barrett said, "he'll shy from agenda-driven decision making" and respect long-established precedents, even those, such as Roe v. Wade , of which he may disapprove.

"A kind of continuity of judicial decision-making is a value in the process world," Barrett said. "Moderation, deference, continuity, caution, candor -- it's not swing for the fences judging."

Another crucial influence on Roberts's judicial philosophy was Henry J. Friendly, a judge on the U.S. Court of Appeals for the 2nd Circuit in New York, for whom Roberts worked as a law clerk in 1979-1980, just after graduating from Harvard.

Friendly, a Rockefeller Republican who served on the 2nd Circuit from 1959 until his death in 1986, is widely regarded as the most talented appeals court judge of his generation. He was a longtime private-sector lawyer who wrote his own rigorous opinions, as well as many influential law review articles.

He regularly plucked top students from Harvard, where he had studied, to be his aides. Roberts, whose credentials as a prize-winning undergraduate majoring in history and managing editor of the Harvard Law Review matched Friendly's own, got his clerkship without even having to be interviewed, according to Richard J. Lazarus, Roberts's close friend.

Friendly could be a stern taskmaster. "Sometimes the clerk thought he had something interesting to say, and sometimes the judge would disagree," said Macey, also a former Friendly clerk.

Roberts loved him. His esteem is evident not only from his frequent citations of Friendly's work in his own writings, including six of his 49 opinions on the D.C. Circuit, but also from the fact that he corresponded with the judge throughout his time as a Reagan aide.

In one letter, dated Nov. 4, 1981, Roberts told Friendly that it was "an exciting time to be at the Justice Department, when so much that has been taken for granted for so long is being seriously reconsidered." He continued: "You assist us down here every day through the articles and opinions that so often light the way."

Friendly's views on many issues paralleled those of the Legal Process School, says Rakoff, a former Friendly clerk. The 1988 edition of the Hart & Wechsler book is dedicated to him.

Friendly felt that the Warren Court's 1966 Miranda v. Arizona ruling, which created the "right to remain silent," was misguided. In a famous 1970 article, Friendly attacked the Warren Court for opening up state criminal convictions to wide-ranging federal court review.

Friendly felt that a state conviction should usually be challengeable in federal court only when the prisoner also had a strong claim of innocence, rather than wasting the courts' time on technical issues raised by guilty defendants.

But the Warren Court had expanded access to the federal courts as a remedy for what it considered the widespread abuse of rights by state criminal justice systems, especially in the South.

Friendly thought state courts were just as capable of protecting federal constitutional rights as federal courts were.

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On Nov. 12, 1981, Roberts offered then-Attorney General William French Smith his unsolicited critique of the Warren Court's decisions, in a memo that cited Friendly's article seven times and the Hart & Wechsler book once.

"The current availability of federal habeas corpus" -- the legal term for post-conviction constitutional challenges -- "particularly for state prisoners, goes far to making a mockery of the entire criminal justice system," he wrote.

In April 2003, Roberts, sitting before the Senate Judiciary Committee as a nominee to the U.S. Court of Appeals for the D.C. Circuit, offered similar comments in response to a question by Sen. Russell Feingold (D-Wis.) about the death penalty -- a major source of habeas corpus petitions in federal court.

Roberts replied that "it's not certain, it's not definite, and there doesn't seem to be any reasonable time limitation. The effectiveness, if you believe in capital punishment, the effectiveness of capital punishment diminishes if the crime was committed 30 years ago. And if it takes that long to get through the system, it's not working, whether you're in favor of the death penalty or against it."

In the meantime, however, conservative critiques of federal habeas had become the law of the land. In 1996, the Republican Congress passed, and President Bill Clinton, a Democrat, signed a bill that sharply restricted access to federal habeas corpus.

Nevertheless, petitions for habeas corpus from state prisoners continue to occupy much of the court's time -- far more than higher-profile issues such as abortion and school prayer.

Chief Justice Favored Roberts (WT)

By Guy Taylor

The Washington Times, September 6, 2005

Judge John G. Roberts Jr. was long regarded as the best Supreme Court lawyer in the nation by the very man whose shoes President Bush has chosen him to fill.

Chief Justice William H. Rehnquist, who died Saturday, played a key role in shaping Judge Roberts by making him a pupil during the early 1980s and propelling his career as a lawyer and federal judge in subsequent years.

Ted Cruz, who clerked for Chief Justice Rehnquist during the mid-1990s, recalled that he and fellow clerks once asked their boss whom he considered to be the most superior Supreme Court litigator.

"He chuckled a little and said with a smile that he thought he could probably get the majority of his colleagues to agree that John Roberts was the best Supreme Court lawyer in the country," said Mr. Cruz, now solicitor general of Texas.

Chief Justice Rehnquist's fondness for Judge Roberts dated back years earlier when he had hired him as a clerk in 1980. Judge Roberts had been recommended by federal appeals Judge Henry Friendly, another esteemed conservative for whom Judge Roberts had clerked in 1979.

In the office of Associate Justice Rehnquist, the young Harvard Law School graduate evidently shined brighter than others.

When the clerkship ended in 1981, Justice Rehnquist phoned Kenneth W. Starr, then chief of staff to U.S. Attorney General William French Smith, to recommend Judge Roberts for a Justice Department job.

"It's not every day you get [such] calls," said Mr. Starr, who won fame as a conservative lawyer during the 1990s investigating the Whitewater and Monica Lewinsky scandals and is now dean of Pepperdine University's School of Law.

When Mr. Bush nominated Judge Roberts to replace outgoing Justice Sandra Day O'Connor, some suggested that it might have been more poetic had Judge Roberts been nominated to replace Chief Justice Rehnquist, because it was under the chief justice's wing that his career in Washington blossomed.

After clerking for Justice Rehnquist and working under Mr. Smith, Judge Roberts was associate counsel to President Reagan from 1982 until 1986, when he entered private practice. He served as deputy solicitor general under President George Bush from 1989 to 1993, winning 25 of 39 Supreme Court cases he argued on the government's behalf.

The elder Mr. Bush later nominated him to be a federal judge, but that nomination was withdrawn before confirmation after Mr. Clinton won the presidency in 1992.

Judge Roberts went back to private practice until President George W. Bush nominated him to be a U.S. Circuit Court of Appeals judge in 2001. That nomination and 29 others were blocked in the Senate Judiciary Committee. He was confirmed after Mr. Bush renominated him in 2003.

Observances Begin Today At High Court (WP)

By Tom Jackman

The Washington Post, September 6, 2005

The flag-draped coffin of Chief Justice William H. Rehnquist will be carried up the long marble stairs to the Supreme Court's main entrance this morning as two days of memorial observances begin.

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After a brief prayer service at the court at 10 a.m., the public may pay respects to the chief justice as his body lies in repose at the court from 10:30 a.m. to 10 p.m. today and from 10 a.m. to noon tomorrow.

Ceremonies will conclude with the chief justice's burial at Arlington National Cemetery tomorrow afternoon, which will be private. Rehnquist, 80, died of thyroid cancer Saturday at his home in Arlington.

Rehnquist's family was in meetings yesterday with officials from the Supreme Court and the Archdiocese of Washington, finalizing the arrangements for the funeral and burial. The family toured St. Matthew's Cathedral in Northwest Washington, where a service will be held at 2 p.m. tomorrow.

Officials have said the funeral is for friends and family.

Rehnquist belonged to a Lutheran church in Bethesda, but the family requested that the funeral be held at St. Matthew's. A spokeswoman for the archdiocese has said that the request apparently was based on such factors as size and availability. The service will be Lutheran, a Supreme Court spokeswoman said.

Details about speakers and expected guests at the funeral were not available yesterday.

Justice William J. Brennan Jr.'s funeral also was held at St. Matthew's, in July 1997, after his coffin lay in the Supreme Court's Great Hall.

Construction began on St. Matthew's in 1893, and the first Mass there was in 1895. Its sanctuary seats about 2,000 and contains the marble cathedra, or seat, of the archbishop of Washington. The church has undergone an $8 million restoration in recent years, including the cleaning and repair of two large mosaics inside and the recovering of its copper dome.

St. Matthew's was the site of the funeral Mass for President John F. Kennedy on Nov. 25, 1963. Pope John Paul II addressed 1,500 area priests there in October 1979 during a visit to Washington. The funerals of Cardinal James A. Hickey and Cardinal Patrick A. O'Boyle also were at St. Matthew's, on Rhode Island Avenue just east of Connecticut Avenue.

District police said yesterday that they had not been informed of any special traffic or security needs for the various services, Sgt. Joe Gentile said. The Supreme Court has its own police force.

Rehnquist was a World War II veteran, entitling him to burial at Arlington. His wife, Natalie Cornell Rehnquist, was buried there in 1991.

Rehnquist's two immediate predecessors, Warren E. Burger and Earl Warren, also lay in repose in the Supreme Court building before they were laid to rest at Arlington.

25 Dems Could Vote For Roberts (HILL)

By Elana Schor

The Hill, September 6, 2005

Members of the Senate Democrats' K Street inner circle are predicting that as many as 25 Democrats will vote to confirm John Roberts as chief justice of the United States.

Several attendees of the Monday Group, as Senate Minority Leader Harry Reid's (D-Nev.) biweekly lobbyist meetings are known, said the Democrats could suffer politically if their Roberts strategy misfires. Left-wing ideological groups are pressuring Democratic lawmakers to expose Roberts's conservative record without workable grounds for a fight, Monday Group lobbyists said.

"It's not a good thing for Democrats to be dragged into a visible, high-profile battle on him for weeks when Congress ought to be dealing with issues the public really cares about," one key Democratic lobbyist said. "That's the biggest danger for Democrats, if they get sucked into something like that because of the ideological left."

Though some Democrats already have called for Congress to focus on aiding the blighted Gulf Coast as the new session begins, planning for the Roberts hearings likely will dominate the Monday Group's next meeting, on Sept. 12. Informal discussions among some lobbyists and Democratic aides during the recess were said to yield little in the way of cohesive counsel.

"There is no real coordinated effort to enlist K Street in getting involved," said another well-connected Democrat, one of many who hailed Roberts as an unassailably shrewd selection. "There's no sense in creating a big dustup now downtown, when what are you going to fight about?"

Democratic lobbyists' greatest concern about Roberts is not pinning down his positions on federal preemption or civil rights, despite the recent Monday Group guest appearance of Wade Henderson, president of the Leadership Conference on Civil Rights. Many K Street Democrats instead questioned what they characterized as poorly coordinated messaging from liberal groups that has unduly influenced some lawmakers.

"The other dirty little secret the Democrats have to deal with is … there may be some in party who see it as, 'It would be worthwhile to drag it out a little bit so we can raise some money off the deal'" from left-wing special interests, a Monday Group member said. "That's shortsighted, and politically dangerous too."

In particular, Democratic lobbyists singled out the NARAL Pro-Choice Alliance decision to endorse Sen. Lincoln Chafee (R-R.I.), who is certain to face a tough reelection fight next year, in a potential bid to sway him on Roberts. If Chafee spurns the pro-abortion-rights group by voting to confirm, his Democratic challenger could be weakened, and Monday Group lobbyists said a Republican voting against Roberts would be highly unlikely.

"I'd advise my clients to stay out of this one," said another lobbyist with ties to Democratic leadership. "Why would they use up political capital on something they can't possibly win on or benefit from? … I don't see a good opening for us."

One Monday Group regular likened the Roberts confirmation to this spring's tension over the "nuclear option," saying that in both cases a swift resolution and moving on to other business would be the best-case scenario.

K Street Democrats agreed that Roberts ultimately would be confirmed with anywhere from 65 to 80 votes, with most centrist and Southern Democrats voting to approve the nomination. Every Democrat who signed the "Gang of 14" agreement to preserve the minority's right of judicial filibuster will vote for Roberts, they predicted, with several openly forecasting that Reid himself will support the nominee.

Some lobbyists credited Reid with ensuring that no Democrat has declared support for Roberts yet, a stance often phrased by the minority leader as "keeping [our] powder dry."

One lobbyist said, "The only concerted strategy I've seen come out of the caucus has been: Don't make any commitments to support him. Leadership's been very successful in keeping everybody on that page."

But, K Street Democrats said, as soon as the hearings begin, either Thursday or Monday, expect Democratic senators such as Ben Nelson (Neb.), Mary Landrieu (La.) or Blanche Lincoln (Ark.) to reveal quickly their votes in Roberts's favor.

Reid spokesman Jim Manley said that Monday Group lobbyists would be consulted as the hearings progress but that they would not be relied upon for messaging. "We talk to them all the time. Are we planning on using them? No," Manley said. "It's up to the members of the Judiciary Committee to carefully review Roberts's qualifications for the job."

Asked whether a majority of the Democratic caucus voting for Roberts would concern Reid, Manley declined to comment. "Let's just wait and see," he said.

All About A Guy Named John (USNEWS)

By Liz Halloran

U.S. News and World Report, September 5, 2005

It was late August 1976, just a week before classes were to begin at Harvard Law School, and first-year student Stuart Miller, intent on a last few days of R&R on Cape Cod, had unloaded his belongings in Shaw Hall dormitory when he noticed an open door down the hall. Curious, he poked his head in and saw a young man surrounded by law books. His new classmate appeared to be at least a quarter of the way through the thick first-year texts. Why, Miller asked with some incredulity, are you doing all this work? "I want to get a head start," replied John G. Roberts, who returned to his books while Miller, now a San Francisco lawyer, set off for the Massachusetts shore.

Nearly three decades later, President George W. Bush's first nominee to the U.S. Supreme Court will have his legendary preparation skills put to the test when the Senate Judiciary Committee opens confirmation hearings this week in the historic caucus room of the Russell Senate Office Building. The hearings, chaired by Republican Sen. Arlen Specter, are expected to continue through early next week (story, Page 44).

True blue? Barring a blockbuster disclosure, Roberts will win support from a majority of the committee's 18 members, 10 of them Republicans. And he's likely to be confirmed by a majority of the full Senate later this month in time to join the court by the October 3 start of its new term.

But the hearings may still have their share of drama. Will the nominee get any Democrats' votes? How will Democrats position themselves, especially those with an eye on congressional and presidential elections to come and another Supreme Court vacancy that could materialize at any time? And, perhaps most important, what about Roberts himself? Is he the true-blue conservative his champions suggest, or might he have a few surprises up his sleeve?

There's little argument that Bush made a savvy choice in the 50-year-old federal appeals court judge who served in the Reagan and George H. W. Bush administrations and clerked for Chief Justice William Rehnquist. His sterling legal credentials and, perhaps more important, his likability and made-for-TV attractiveness have made it difficult for those opposing him to get much traction. The down-and-dirty fight everyone expected over the first appointment to the high court in 11 years simply hasn't happened.

Activist groups on both sides seem to have accepted that reality: They've used press conferences and E-mails to broadcast their messages, stockpiling most of their advertising money for future battles. Even the White House has had to spend little political capital on Roberts, who argued 39 cases before the Supreme Court and earned a small fortune as the top appellate lawyer for the Washington firm Hogan & Hartson. Though every major liberal interest group has announced its opposition to

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Roberts, no Senate Democrat has yet come out against him. "Ninety percent of this," said Democratic committee member Sen. Charles Schumer, "is going to be decided at the hearing."

Democrats plan to aggressively question Roberts about his conservative legal views and judicial philosophy but acknowledge privately that a Senate floor fight would be fruitless and politically damaging. The math doesn't work, either. Democrats are outnumbered by Republicans 55 to 44 (Vermont Sen. James Jeffords is an Independent), and this spring they essentially dealt away their ability to filibuster the nomination by agreeing not to block judicial nominees absent "extraordinary circumstances." "The filibuster deal was an incredible success for us," said the conservative Federalist Society's Leonard Leo. "It took it off the table and defanged the other side."

A Supreme History Of Conflict (USNEWS)

By Bret Schulte

U.S. News and World Report, September 5, 2005

By all accounts, John Roberts will be confirmed to take his place on the high court in a month's time as America's 109th Supreme Court justice. But before it's over, Democrats on the Senate Judiciary Committee intend to rough him up a bit.

For many, the partisan scrapping recalls the failed nomination of Robert Bork in 1987. The Bork fight had it all: overheated rhetoric, warring ideologies, and lingering bitterness among conservatives. The bruising battle over Bork is widely considered one of the most contentious ever. But it was hardly the first.

In fact, bare-knuckle battling has always been part of the process. Of the 148 people nominated to the highest court, 28 have failed to be confirmed. Only a handful were rejected because the candidates were perceived as unqualified. The rest? Politics. "Almost never has a Supreme Court [nominee] been defeated because he was inept . . . . " says James O'Hara, a former legal professor at Loyola College in Baltimore and a trustee of the Supreme Court Historical Society. "Almost always, it's a battle between a significant portion of the Senate and the president." Nominees weren't actually present at confirmation hearings until 1925. But even in the earliest days of the high court, when it carried little prestige (some justices quit the bench to return to private practice), political crossfire took down many a nominee.

Firestorm. The first fight came with the first president--a nearly deified figure in the new nation. But George Washington appeared quite mortal when he nominated John Rutledge, a former governor of South Carolina, to replace Chief Justice John Jay in 1795. Rutledge was a defender of slavery and an advocate of exclusionary voting practices, but that's not what sparked outrage in the Senate. Federalist newspapers and a cadre of northern senators attacked Rutledge for a speech in which he criticized a new treaty with Great Britain. As Peter Irons details in A People's History of the Supreme Court, a whispering campaign ensued alleging that Rutledge's fiery speech was proof that he was "deranged in his mind," according to Attorney General Edmund Randolph, who reported the rumors to President Washington. Whether or not Rutledge was mentally unstable or just a firebrand orator remains a matter of debate, but after seeing his bid go down to defeat by a final vote of 10 to 14, Rutledge attempted suicide. He died a few years later.

In 1835, President Andrew Jackson deliberately ignited his own Supreme Court firestorm by nominating close friend Roger B. Taney. Taney was already radioactive; he'd served as Jackson's secretary of the treasury via a controversial recess appointment after two former secretaries refused to withdraw government funds--as Jackson had requested--from the Second Bank of the United States. The Second Bank was a semipublic institution that acted as the federal depository, which Jackson considered unconstitutional. Taney complied with Jackson's request, but he paid for his loyalty when outraged bank supporters in the Senate refused to accept his nomination to the treasury secretary's post.

John G. Roberts: What Answers Is He Going To Give? (NSWK)

Newsweek

Newsweek, September 5, 2005

In 39 arguments before the U.S. Supreme Court, John G. Roberts earned a reputation as an unflappable advocate for his clients. But this week, when Roberts testifies before the Senate Judiciary Committee in his own bid to join the high court, he'll face a different challenge. Instead of sparring with nine erudite justices interested in ferreting out fine points of the law, Roberts will confront 18 senators eager to score political points and rack up minutes on the cable news channels. The stakes soared after the death of Chief Justice William Rehnquist late last week. While the senators will try to press Roberts for specifics on controversial topics like civil rights, abortion and congressional authority, Roberts will attempt to keep his answers as general as possible without seeming to stonewall. "There's going to be a pretty restrictive line that he's not going to cross, and some senators aren't going to be happy about it," says one person close to Roberts's confirmation team who did not want to be quoted talking about the secretive preparation process.

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Roberts has had plenty of practice. In at least 10 closed "murder board" sessions at the Department of Justice over the past few weeks, the nominee has wrangled with administration officials, lawyers and law professors playing the role of senators. Though a few have been full-blown mock panels of 18 "senators," other sessions have included just a handful of lawyers quizzing Roberts. Used to strict time limits and impatient justices, Roberts was firing off answers quickly; some participants urged him to slow down and let windy senators run out the clock, says an adviser who asked not to be named because the sessions were private. Administration officials assume Roberts will get grilled about abortion and many of the memos released from his days in the Reagan administration. They also worry that he may be pressed on the White House's refusal to release records from his days in the solicitor general's office.

Senators want to pin down Roberts's judicial philosophy, but they know the direct approach may not work. "I don't think you can ask how he would decide Roe for the future [or] extract a commitment from him," Sen. Arlen Specter, Republican committee chair, tells NEWSWEEK. But Specter says he plans to press Roberts on whether Roe—reaffirmed in 38 other decisions—is a "superprecedent" not to be tampered with. A source close to the prep who requested anonymity to speak more freely about the process says Roberts will likely follow the lead of Clarence Thomas, who confirmed a constitutional right to privacy encompassing contraception but steered clear of specifics on abortion in his hearings. "This discussion on the right to privacy will be important," says Sen. Sam Brownback.

Outside the hearing room, interest groups on both sides plan the kind of spin wars usually reserved for a presidential debate. Look for dueling press conferences, a raft of rapid-response e-mails and outside experts armed with talking points. Despite stepped-up efforts from liberal groups, Roberts is widely expected to win Senate confirmation later this month. The key question is margin of victory: a bigger bipartisan win—approaching 80 yea votes—could give George W. Bush more latitude in filling the next court vacancy.

—Debra Rosenberg, Stuart Taylor Jr. and Daniel Klaidman

Roberts' Deputy Post Not So Political (LEGALT)

By Tony Mauro, Legal Times

Legal Times, September 5, 2005

After weeks of document dumps and media scrutiny of John Roberts Jr.'s copious writings, the Supreme Court nominee goes before the Senate Judiciary Committee this week with one important part of his professional life still a mystery.

Roberts' three years and three months as principal deputy solicitor general (the so-called political deputy), from 1989 to 1993, produced easily as much paper as his earlier jobs in government. But except for briefs filed with the Supreme Court, all of it—including memorandums on cases—remains sealed, to the chagrin of Democrats and groups that oppose his nomination.

That part of Roberts' life is likely to provoke questioning from Senate Democrats who are intent on seeing if the conservative views he expressed as a young Reagan White House aide burned as brightly in his psyche a decade later. "The SG materials may be the only real source that reflects his own mature personal thinking," said Sen. Edward Kennedy (D-Mass.) in an Aug. 10 statement.

Adds Nan Aron, president of Alliance for Justice, "At this point, the American people know next to nothing about the legal views Judge Roberts expressed during the most important, most influential period of his career as a lawyer." The group announced its opposition to Roberts last week.

So far, the only formal White House response has been to release a list of the Supreme Court cases Roberts handled—among them, 717 case recommendations, 77 briefs on the merits, and 31 petitions for certiorari. But the Bush administration won't release the texts, holding to the position taken during Miguel Estrada's bid for the U.S. Court of Appeals for the D.C. Circuit in 2002: that releasing the memos he wrote in the SG's office would chill much-needed candor.

Beyond the posturing and politics of the dispute, however, some question how valuable the documents would be, asserting that the tussle results from a gross misunderstanding of the job Roberts held under Solicitor General Kenneth Starr during the first Bush administration.

The documents "still wouldn't tell you his personal views about a case," says Maureen Mahoney of Latham & Watkins, who served alongside Roberts as another deputy in the office. "No matter how you describe the position of political deputy, he does not have the authority to decide to file a brief requesting the Court to overrule Roe v. Wade."

Jones Day's Donald Ayer, Roberts' predecessor in the job, agrees, saying, "The great bulk of what you do does not have any political consequences. You are in the trenches along with everybody else."

Duke University Law School professor H. Jefferson Powell, who held the principal deputy's job for part of the Clinton administration, says that Democrats are wasting their time. "The memos would reveal that he was pushing the positions of President Bush I," says Powell. "That news would make me want to yawn and take a nap."

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Some of the mystery and misunderstanding about the job Roberts held stems from its informal title, the "political deputy" solicitor general. That signifies only that the person filling the position is a political appointee who comes and goes with administrations, unlike the other three or four deputies in the office who are career civil servants. And it also means, in a general sense, that the person is "with the program" of the administration that hires him, as Powell puts it. Beyond that, though, the political nature of the job appears limited.

Yet those who have held the job say they have had to fight the impression that they were White House moles who enforced political or ideological orthodoxy in an office that has a long-standing tradition of independence.

"We thought the person with this job would be a political overseer or a political commissar, but it didn't turn out that way," says Andrew Frey, a Mayer Brown Rowe & Maw partner who served in the SG's office when the position was created, a few years before Roberts arrived.

The job's creation dates back to a 1982 episode that brought rare attention to the Office of the Solicitor General. Bob Jones University was fighting an Internal Revenue Service ruling that had stripped the institution of its tax-exempt status because it did not admit blacks. When the case went before the Supreme Court, Reagan administration officials pressured the Solicitor General's Office to support the university. Rex Lee, then the solicitor general, recused himself from the case, which meant that Lawrence Wallace, a career deputy with seniority in the office, was called on to write the brief. But there was a problem: Wallace believed the IRS position was correct and should be defended.

After much negotiation, Wallace wrote the brief as requested but made it clear in a footnote that he disagreed with it. The footnote launched headlines and editorial comment for weeks, and, ultimately, the Court supported the IRS policy, 8-1. "They didn't listen to me, and they embarrassed themselves," says Wallace, now retired.

In the aftermath of the Bob Jones debacle, Reagan officials pressed for a deputy position that would be a political appointment, so that when the solicitor general could not participate, someone else would be available to espouse the administration's position.

Lee, now deceased, resisted the idea, fearing the politicization of the office. "Rex was not enthusiastic about it," Wallace recalls. "So he decided to use it to enrich the office by bringing in someone with distinction, not someone just with political credentials." Lee recruited the late Harvard Law School professor Paul Bator, who is credited with creating the political deputy's tradition as a largely nonpolitical position equivalent in most ways to that of other deputies. As with the other deputies, the solicitor general himself signs off on all the political deputy's briefs.

Roberts has argued that the job was largely apolitical and that it served to insulate the rest of the office from politics. At a 2002 conference at Brigham Young University, Roberts, then in private practice at Hogan & Hartson, said, "It promotes, rather than undermines, the traditional institutional independence of the Office of the Solicitor General."

Roberts went on to explain that when he was in the position he, rather than the career deputies, would take the angry calls from others in the administration questioning the SG's position in a given case. "It was my job, I thought, to explain to this person that although this particular position . . . may be causing you some political heartburn, here is why we have to do it: It is compelled by our obligation to represent long-standing institutional interests of the United States."

By fielding those calls, Roberts said he protected the career attorneys in the office, who were sometimes suspected of being "holdovers" from previous administrations with different agendas.

As an example, Roberts mentioned the so-called Boston Harbor case. At issue was whether Massachusetts could require union-labor-only contracts in the project to clean up Boston Harbor. Starr filed a brief agreeing that the state acted within its powers.

The Association of Builders and Contractors pressured the administration to withdraw the brief, at one point threatening to oppose President George H. W. Bush's re-election. Starr held his ground, the brief was not withdrawn, and the Court unanimously agreed with his position.

Lawyers in the Solicitor General's Office at the time confirm Roberts' role as a buffer against political pressure. "He was certainly not viewed as a 'fixer,' " says Mahoney. "He was universally admired by lawyers in the office of all political persuasions."

In their document requests, Democrats have focused on a handful of cases in which Roberts signed the brief or handled the oral arguments. Two involve abortion rights: Rust v. Sullivan, a challenge to prohibitions on abortion advice at federally funded clinics, in which Roberts repeated in passing the administration position that Roe v. Wade should be overturned, and Bray v. Alexandria Women's Health Clinic. In that case, Roberts argued in support of the position taken by militant anti-abortion protesters that the Ku Klux Klan Act of 1871 did not apply to their activities.

Democrats hope Roberts' memos on the cases might reveal more of his views, but veterans of the office say that case memos, if released, would likely contain only a handwritten sentence or two from Roberts atop what other attorneys in the office wrote analyzing the case and recommending whether the government should seek review.

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In a Washington Post op-ed column, former acting Solicitor General Walter Dellinger III suggested that because Roberts was a political appointee, a stronger case could be made that his memos should be made public, especially in the context of a Supreme Court nomination. But in an interview, Dellinger says he is not certain they should be released, partly because by doing so, the views of other attorneys in the office would also be revealed. He also says that, by and large, the work of the political deputy is no different from that of any other deputy.

One of the petitions Roberts wrote as a deputy SG might even get him in trouble this week with a Republican. He wrote the government's brief in O'Keefe v. Specter, a dispute over military-base closings, in which Roberts was on the opposite side of Sen. Arlen Specter (R-Pa.), who will preside over Roberts' confirmation hearings. Specter argued the case himself in 1994. He lost, 9-0.

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The Judiciary Committee's Star Turn (LEGALT)

By T.R. Goldman, Legal Times

Legal Times, September 5, 2005

This week's Supreme Court confirmation hearings promise to be as theatrical as Congress gets. But the telegenic John Roberts Jr. will, in some respects, be a supporting actor, sharing the stage with 18 senators who view the hearings as their own star vehicle.

More than simply trying to pin down the elusive Roberts on his jurisprudence, the Senate Judiciary Committee's 10 Republicans and eight Democrats will be putting their own ambitions and agendas on display.

Rival Democrats will be trying to electrify their party base by showing who can be the toughest on the nominee, while Republicans will be seeking to burnish their own national credentials, competing to place Roberts' more controversial statements in the most benign light.

It is a committee of extremes — both liberal and conservative — and, even by Senate standards, of powerful egos. Six members have either run for president or are contemplating a bid (or in Delaware Democrat Joseph Biden Jr.'s case, another bid) in the 2008 election.

And there's another dynamic at play: A Supreme Court confirmation gives Congress a rare chance to tell the Court what it thinks about its co-equal branch.

While the Judiciary Committee already gets plenty of attention — it deals with the most explosive topics facing the country, from gun control to flag burning to abortion — the Roberts hearings will provide a chance for members to enhance or sink their own political futures. Just ask Judiciary Committee Chairman Arlen Specter (R-Pa.), another former presidential candidate. His opposition to Judge Robert Bork nearly cost him his Senate seat, while his aggressive cross-examination of Anita Hill during the Clarence Thomas hearings both failed to assuage hard-line conservatives and drew the wrath of liberal supporters.

"Think of all the legislation Congress does; most of it will be forgotten," says Melissa Patack, a former counsel to Judiciary Committee member Sen. Charles Grassley (R-Iowa), who worked on four Supreme Court nominations. "This will not be forgotten. This will make it into the history books."

JOCKEYING FOR POSITION

Specter, who is a stickler for order and has no problem cutting off the most senior committee members if they speak too long, is expected to run the Roberts hearings with characteristic rigor.

That means members will make statements and use their allotted question time in strict order of committee seniority, alternating between Republican and Democrat. That in itself has strategic implications, because each side will have very different objectives.

For Democrats, the goal is to put Roberts on the spot, to probe his few contentious writings and pin down his legal philosophy as precisely as possible.

Republicans will then do what they delicately refer to as "rehabilitation," holding up those same statements and explaining how the Democrats have willfully misread them.

"The challenge," says one senior Republican committee aide, is that "we don't know what documents they will wave around or what statements they will take out of context."

For example, Sen. Jon Kyl (Ariz.), considered one of the brightest of the 10 GOP members, is set to follow Biden, a former Judiciary chairman, who, despite a tendency for drama, generally asks difficult, well-considered questions. But Biden, like fellow committee Democrat Russell Feingold of Wisconsin and Republican Sam Brownback of Kansas, has presidential ambitions. That, say committee staffers, might make each senator play to his respective constituencies even more than usual.

"What do Feingold and Biden have to gain by voting for Roberts?" asks one Democratic Judiciary counsel. Biden, for example, may be carrying a grudge. He sponsored the Violence Against Women Act of 1994 (VAWA), which the high court

struck down in part in 2000, saying Congress had failed to establish a link between violence toward women and regulating interstate commerce. In recent years the Court has shown hostility to broad prohibitions laid down by the legislative branch.

"The Court has slapped down Congress on more than one occasion — on VAWA, on the CDA, on guns in the schoolyard," says former Democratic Judiciary counsel Beryl Howell, referring to the Communications Decency Act and a 1990 law forbidding students from carrying guns in a school zone. Like VAWA, the Court struck down those laws on the grounds that Congress had exceeded its constitutional authority.

"The Court has slapped Congress and treated them worse than an administrative agency," adds Howell, now the general counsel at Stroz Friedberg in Washington. Biden may demand to know how Roberts views congressional power. And if Biden doesn't like the answer, it may be up to Kyl to smooth it over, to say, in effect, that Biden's question is out of line — something Roberts won't be able to say directly.

For Kyl and two other Republicans, Sens. Mike DeWine (Ohio) and Orrin Hatch (Utah), who ran for president in 2000, the hearings have special significance: The three are up for re-election in 2006. Three committee Democrats are also up next year: Sens. Herbert Kohl (Wis.), Dianne Feinstein (Calif.), and Edward Kennedy (Mass.), whose presidential bid was in 1980 and who will be running for his eighth term.

PLAYING DEFENSE

Republicans, of course, have made educated guesses about the subjects Democratic members are likely to broach and are preparing their responses accordingly.

Kennedy, for example, is viewed as most likely to toe the tough line of liberal special interest groups like the Alliance for Justice and People For the American Way. He will talk about civil rights, voting rights, and affirmative action, while Biden will focus on privacy and women's issues. Ranking member Patrick Leahy of Vermont, often overshadowed by Biden and Kennedy, will raise the issue of Roberts documents missing from the Reagan archives. Kohl, the antitrust subcommittee's ranking Democrat, will most likely bring up business-related queries.

Feinstein, the only woman on the committee, is sure to talk about abortion. Like other Democrats, she's in a bit of a political bind. Roberts was confirmed to the U.S. Court of Appeals for the District of Columbia in 2003 by unanimous consent. If she votes "no," she will be accused of flip-flopping; if she votes "yes," she risks alienating her base.

Feingold is among the most unpredictable of committee Democrats: the only senator of either party to vote against the USA Patriot Act and the only Judiciary Committee Democrat to vote to confirm former Attorney General John Ashcroft. Like Biden, Kennedy, and New York's Charles Schumer, who follows Feingold in committee seniority, he can be a tenacious questioner, especially when it comes to his favorite subjects, such as the death penalty and campaign finance reform.

Of course, says one former Democratic committee counsel, members will have to remain flexible. "You wouldn't expect Feingold to focus on choice, but he follows Feinstein, and if something's left hanging, he'll try to clean it up."

Schumer, so far the most outspoken Democratic critic of the Roberts nomination — and the Democrat conservative Republicans most love to hate — has released a long laundry list of questions he might ask. "All the fireworks will be about how much Chuck Schumer makes this about Chuck Schumer," insists one Republican leadership aide working on the hearing.

Illinois' Richard Durbin, who despite being assistant Senate minority leader is the committee's most junior Democratic member, will likely focus on any subjects that are left. "He's at the bottom of the ladder, so he'll get the crumbs," notes a Democratic aide.

So important is the order of questioning that Republicans are quick to note that, given their 10-8 numerical advantage, the GOP will have three members in a row ask questions: Brownback; Tom Coburn (Okla.), the committee's most junior Republican; and then back to Specter, before Democrats get another shot at Roberts in round 2, which Specter has said will last only 20 minutes per person.

Specter, who will almost certainly vote for Roberts, could nonetheless deliver some of the week's toughest attacks on the 50-year-old judge. Last month he sent Roberts an angry letter denouncing the Court's ruling in U.S. v. Morrison, which declared that Congress could not create a federal civil remedy for gender-related crimes.

"Members of Congress are irate about the Court's denigrating and, really, disrespectful statements about Congress' competence," Specter wrote, referring to the Court's rejection of Congress' "method of reasoning."

In that vein, he is likely to mirror some of Biden's objections, though without Biden's flamboyance.

The committee's second-ranking Republican and its former chairman, Hatch, on the other hand, is Specter's polar opposite. Where Specter's questions are likely to dig in, Hatch is better known for his brand of rehabilitative questioning on the order of, " 'Isn't it true, sir, that you're a really good guy?' " mocks the Democratic counsel.

It's true that while Democrats will have the luxury of remaining on the offensive, and Republicans will largely be forced to play defense, the 10-member GOP team is hardly monolithic.

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Hatch will be followed by Grassley, a longtime committee member; he and Coburn are the panel's only non-lawyers. Grassley, a blunt-speaking farmer; DeWine; and South Carolina's Lindsey Graham are probably the panel's most independent-minded Republicans.

It is the committee's three most junior members — Coburn, Brownback, and, especially, former Texas Supreme Court Justice John Cornyn — who are most likely to do the White House's bidding.

Indeed, while Democrats would love to pin down Roberts on his views on Roe v. Wade, it is possible that the job may be done for them by a conservative Republican such as Brownback, something that would be anathema to most committee Republicans.

"Brownback and [Virginia Sen. George] Allen are the only two Republicans competing for the outer limits of the conservative party," notes a Judiciary Committee counsel for a Republican member. "So of course Brownback would love to pin him down on Roe v. Wade. That way, if he turns out to be another [David] Souter, Brownback can say he tried." But, he adds, "we're working hard on Roberts not to answer."

Brownback's office declined to comment.

The senior leadership staffer, however, denies any split in the ranks. "We've had meeting after meeting on this and we're all very much up the middle," he says. "I'm expecting a relatively dull experience."

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Irritating Them All (USNEWS)

By Terence Samuel

U.S. News and World Report, September 5, 2005

The man with the gavel, Arlen Specter, 75, of Pennsylvania, Republican chair of the Senate Committee on the Judiciary, is, depending on who's talking, a contradiction, a compromise, or a curse. He has been called pragmatic, erratic, and opportunistic. Over a political life of more than 40 years, he has bucked the odds, defied conventional wisdom, and sailed against the wind. But he's no cliche.

A moderate in a party increasingly controlled by conservatives, Specter is pro-abortion rights in a GOP that is antiabortion to its core. He is a contrarian often at odds with fellow Republicans, not just on abortion but on issues like tax cuts and tobacco litigation. He enjoys quoting a popular Democrat on party fealty: "JFK had the best line on that," Specter says, "when he said that sometimes the party asks too much." But Specter annoys the other side, too. His continued political survival remains a source of deep frustration for Democrats, who see him as perpetually vulnerable--but impossible to beat.

Always, he has been singularly Arlen Specter, infuriating his friends and confounding his enemies. It is hard to know what to expect from Arlen Specter. Which is why it will be so fascinating to watch him this week as he chairs the Judiciary Committee's hearings on Supreme Court nominee John G. Roberts.

Roots. Born in Kansas in Wichita, Specter grew up in the town of Russell, which also claims former Senate Majority Leader Bob Dole as a native son. Dole was seven years older and a basketball star; Specter was on the debating team at the same high school. Specter's parents were Jewish immigrants, his father from Ukraine, his mother from Russia. His father ran a junkyard.

Specter went east to college, at the University of Pennsylvania, and then, after a stint in the Air Force, graduated from Yale Law School. After three years at a prestigious Philadelphia firm, Specter joined the Philadelphia district attorney's office in 1959 as an assistant D.A. It was while he was a prosecutor in Philadelphia, in December 1963, that he was invited by a law school friend at the Justice Department to join the staff of the Warren Commission. In that position, Specter, dogged and determined, developed the single-bullet theory to explain how a lone gunman had fired the single shot that killed President Kennedy and injured Texas Gov. John Connally, who was in the car with him.

"I now call it the single-bullet conclusion," Specter writes in his memoir, Passion for Truth. "It began as a theory, but when a theory is established by the facts, it deserves to be called a conclusion." As a commission investigator, Specter drafted 78 questions to ask Lyndon Johnson, "who would, under other circumstances, have been considered a prime suspect." Specter said he didn't think Johnson had anything to do with the assassination, but "no self-respecting investigator would omit a thorough investigation of the slain president's successor." Those questions were never asked, because Johnson submitted just a brief affidavit. But Specter was ready.

Higher Stakes For Roberts (WP)

By E. J. Dionne Jr.

The Washington Post, September 6, 2005

Why did President Bush pull such a quick switch yesterday and name Judge John Roberts to be chief justice of the United States? There are several theories, but here's the most sensible: Bush had always planned to make Roberts chief someday.

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Recall that before Sandra Day O'Connor announced her retirement in July, much of official Washington was expecting that Chief Justice William Rehnquist would be the first to leave. The administration's extensive vetting was organized in large part to find a replacement for Rehnquist.

Roberts's combination of a conciliatory personality with firmly conservative convictions made him the perfect choice to lead the judicial revolution Bush would like to unleash. Successful chief justices need to be good politicians, and Roberts's political gifts were much in evidence this summer as he seemed to be charming his way toward relatively easy Senate approval.

But Rehnquist's passing and Bush's decision to withdraw Roberts's nomination as associate justice so he could name him chief create new political problems for both Bush and his appointee.

Until yesterday, even Roberts's staunchest critics judged their chances of stopping him for O'Connor's seat as bleak. Discussion among Senate Democrats revolved less around a strategy for blocking Roberts than on tactics that would make the best of his likely confirmation.

The debate focused on how many votes Democrats should try to muster against him -- to send a message for the big fight that would come over Rehnquist's job -- and whether senators from states where Bush had been popular should even consider voting no. Should Democrats try to look "moderate" by going along, or cast themselves as fighters for principle?

By proposing that Roberts lead the court, Bush has given the liberal groups that oppose the nomination (and Democratic senators inclined to join them) a chance to regroup and argue that this battle is no longer a practice session for the next round. This is the next round.

"Now that he's been nominated for chief justice, he's not a test case anymore," said a Senate Democratic staffer close to his party's discussions. "There's a difference between being one of nine and Number One of nine. And if he's confirmed, he's likely to hold the job for the next generation."

Fully aware that postponing confirmation hearings scheduled for today would give Roberts's opponents more time to organize, some Senate Republicans urged against any delay. Yesterday, it became clear that the hearings would be put off until either Thursday or next Monday. But the administration's allies are clearly wary of any further postponement.

Democrats, in turn, wanted more time to make the case that their requests for Roberts's past writings as an executive branch official -- documents the administration is holding back -- are more reasonable and appropriate than ever, "given the even greater importance of this new position," as Sen. Charles E. Schumer (D-N.Y.) put it yesterday.

Moreover, now that Bush will be naming not one but two justices, it becomes clear that the argument before the Senate is not primarily about one person and his qualifications, but about the future direction of the judiciary. Sen. Edward M. Kennedy (D-Mass.) was right to say that before the Senate acted on Roberts, "we should know whom the president intends to propose to nominate as a replacement" for O'Connor, since Americans were concerned with "the overall balance of their highest court."

Until yesterday's announcement, Roberts seemed likely to win on the basis of his personal attributes. By raising the stakes, Bush has given the Democratic opposition an opportunity to show some spine. He has reminded senators that this is a vote not just about a smart, affable lawyer, but also about principles that could steer the Supreme Court for 30 years.

There is no telling whether Bush's diminished standing from the disastrous failure of hurricane relief efforts may embolden Democrats to challenge the White House across a much broader front, including the future of the court. But in the statement he issued within hours of Roberts's new nomination, Kennedy wanted no one to miss that possibility. He pointedly referred to Hurricane Katrina as "a defining moment in our nation's history" and urged the president "to take this time to unite and heal the country."

Bush no doubt turned to Roberts as a safe harbor in the midst of the greatest political storm of his presidency, and Roberts may yet triumph. But the fierce winds that have buffeted Bush could imperil what once might have been an easy passage for a calm and collected nominee who, in his warm and witty way, would move the court and the country rightward.

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By proposing that Roberts lead the court, Bush has given liberal groups a chance to regroup and argue that this battle is no longer a practice session for the next round. It is the next round.

A Weakened Bush Plays It Safe On Chief Justice (WSJ)

By Jeanne Cummings And Jess Bravin

The Wall Street Journal, September 6, 2005

WASHINGTON -- At a time of increasing political weakness, President Bush tapped John Roberts as his nominee for chief justice, choosing to avoid -- or at least delay -- a fresh ideological battle over the Supreme Court.

In quickly shifting gears following Chief Justice William H. Rehnquist's death from thyroid cancer Saturday night, the White House steered away from the controversial path some supporters have advocated: elevating to chief one of the court's two most outspoken conservatives, Antonin Scalia or Clarence Thomas.

Judge Roberts -- currently a member of the federal appeals court in Washington, D.C. -- appears more likely to follow the collegial Rehnquist example. While moving the court in a rightward direction on issues such as criminal law, the late chief tried during his 19 years in charge to create an amicable atmosphere. He sometimes shaped his opinions to cement a five-vote majority, rather than hewing completely to his views.

As Hurricane Katrina, rising gas prices and Iraq have sent Mr. Bush's poll ratings to the lowest levels of his administration, the Roberts nomination in July to replace Justice Sandra Day O'Connor has been one of the few moves to go smoothly for the White House lately. Mr. Bush's conservative base praised the pick, while many Democrats have found the genial judge difficult to attack. Public-opinion surveys show the country largely accepting Judge Roberts moving to the high court.

"For the past two months, members of the United States Senate and the American people have learned about the career and character of Judge Roberts," Mr. Bush said in an Oval Office announcement yesterday morning before heading to the Gulf Coast for the second time in four days. "They like what they see."

The White House likes the fact that Judge Roberts, at 50 years old, could run the court for a quarter century or more. If confirmed, he would be the youngest chief justice since John Marshall, who took office in 1801 at the age of 45.

When Judge Roberts was in line to succeed Justice O'Connor, he had the potential to shift the court's positions dramatically on hot-button social issues. Justice O'Connor often split the difference between the left and right on abortion, affirmative action and government support of religion. Now Judge Roberts would replace a jurist whose votes he is thought likely to track. Viewed this way, having Judge Roberts replace Chief Justice Rehnquist, for whom the nominee once clerked, wouldn't affect the court's political balance.

But it leaves open the big question of whom Mr. Bush will choose this time to replace Justice O'Connor. She has said she will stay on the bench until a successor is approved by the Senate.

Will he select a moderate candidate and try to shore up his standing with independents who are losing confidence in the administration? Or should he pick a hard-line conservative and please the party base that still supports him?

If he wanted a strong conservative in the Scalia-Thomas mold, he could turn to Judge J. Michael Luttig, an intellectual heavyweight on the Fourth U.S. Circuit Court of Appeals, who has been outspoken against abortion rights. "There's no question in my mind with what's on the president's plate right now, the war and Katrina in particular, he is not going to create more uncertainty by abandoning the base on this issue," said Leonard Leo, who is helping outside groups build support for the president's judicial nominees. Mr. Leo is on leave from his position of executive vice president of the Federalist Society, a conservative lawyers organization.

But pleasing the base would risk alienating moderate voters already cooling to Republicans ahead of the 2006 mid-term elections. Gender and particularly race may also play a role, especially in post-Katrina politics. The image of poor, black families stranded on New Orleans rooftops or begging for water has rejuvenated a debate over the Republican Party's posture toward minorities. After a week of such images, Republicans may be hesitant about a second white male nominee to the high court.

Nodding to those sensitivities, the president could name his friend from Texas, Attorney General Alberto Gonzales, to fill the slot. Mr. Gonzales would be the first Hispanic on the Supreme Court and has an inspiring story as a self-made man raised by Mexican migrant workers. He has sounded more moderate on abortion rights and affirmative action than some of the other jurists on the short list.

Mr. Bush said yesterday he would choose a new O'Connor replacement "in a timely manner" but aides wouldn't be more specific. The president telephoned Justice O'Connor yesterday to let her know that she might have to stay "a bit longer," said White House spokesman Scott McClellan. If Judge Roberts is cleared quickly by the Senate, the court could open its new session in October with all nine seats filled. If he isn't confirmed by then, John Paul Stevens, the senior associate justice, would preside.

The Senate decided yesterday to delay the start of the Roberts confirmation hearings until after tomorrow's[wed] funeral for Mr. Rehnquist. The Roberts hearings were originally scheduled to open today.

The assumption in Washington has been that, absent a bombshell at those hearings, Judge Roberts would easily win confirmation in time to join the court in October. The White House is betting that as nominee to be chief justice, he will fare just as well.

Records Dispute

Liberal activists and some Democrats, frustrated at their inability to slow the Roberts nomination, argued yesterday that the higher post required a new level of scrutiny. The White House has refused to release records from Judge Roberts's years in the solicitor general's office during the administration of President George H. W. Bush.

"Given the greater importance of this new position, we hope the White House will reconsider its refusal to release relevant and important documents that will shed light on what kind of chief justice Judge Roberts would become," said New York Democrat Sen. Charles Schumer, a member of the Judiciary Committee.

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Democrats hope that, in light of the heightened attention to race because of Hurricane Katrina, they can stir more criticism of Judge Roberts's record on civil rights. As Congress was considering reauthorizing the Voting Rights Act in 1982, Judge Roberts, then a White House lawyer, wrote memos urging the Reagan administration to oppose efforts to expand the law's scope. He criticized a U.S. Civil Rights Commission report that argued for affirmative action. "Under our view of the law it is not enough to say that blacks and women have been historically discriminated against as groups and are therefore entitled to special preferences," he wrote in one memo that Democrats may try to use against him.

In tapping Judge Roberts to be chief justice, President Bush yesterday praised the nominee's "natural gifts as a leader." But just as Judge Roberts's thin two-year resume on the bench makes it hard to divine how he would rule on many issues, his relative lack of management background creates uncertainty over how he would handle being head of the federal judicial system. Apart from serving as a mid-level political aide and a private lawyer, he held the post of principal deputy solicitor general in the Justice Department for four years, more than a decade ago -- his only claim to executive experience.

Judge Roberts may have less combined judicial and management experience than any of the prior 16 chief justices at the time of their confirmation. While Chief Justice Rehnquist had never been a judge before joining the Supreme Court in 1971, he served on the court for 15 years before becoming chief in 1986.

Despite his exalted rank -- something Chief Justice Rehnquist highlighted by adding gold stripes to his robe -- the chief justice has few powers beyond those of the eight associate justices. He presides over the private meetings the justices hold to discuss cases and, when he is in the majority, assigns the writing of opinions. Outside the Supreme Court, the chief justice heads the Judicial Conference, which is the policymaking arm of the federal judiciary.

In both roles, however, the chief justice's influence depends more on force of personality than raw power. Among recent chief justices, Mr. Rehnquist and Earl Warren are considered to have been strong leaders. On the other hand, Warren Burger, chief justice when Judge Roberts was a Supreme Court clerk, garnered respect neither as an intellectual force nor as an effective manager, despite his experience as an appellate judge and assistant attorney general.

Part of Mr. Rehnquist's influence as chief came from his evolution from a hard-edged ideological justice to a cooperative manager of his fellow justices. When he first joined the Supreme Court, his background had been as a Republican political operative and then an architect of the Nixon administration's hard line on criminal justice and political dissent. But when elevated to chief justice in 1986, he became known less for stinging dissents than a deep respect for the Supreme Court.

That leadership style sometimes affected the substance of judging. Chief Justice Rehnquist joined the bench as a fierce critic of the Warren Court's efforts to deter police misconduct by excluding ill-gotten evidence and requiring that authorities advise prisoners of their rights before questioning them. But in 2000, he wrote for a seven-member majority to affirm the 1966 decision that established the famous Miranda warning. "Miranda has become embedded in routine police practice to the point where the warnings have become part of our national culture," he wrote. By siding with the majority -- and against dissenting Justices Scalia and Thomas -- he could assign himself the job of writing the opinion and prevent a more liberal justice from expanding Miranda's sweep.

As a young lawyer, Judge Roberts was, like the young Rehnquist, sharply critical of a judicial establishment he considered too liberal. After serving as a clerk to then-Justice Rehnquist, Judge Roberts helped vet potential Reagan judicial nominees. At one point, he proposed a 15-year judicial term limit to help "ensure that federal judges would not lose all touch with reality through decades of ivory tower existence."

Over the years, however, he has shown signs of having more respect for the judiciary, including its long-serving members. As a litigator before the Supreme Court, he learned to craft arguments to sway the justices he now is poised to lead.

The White House has been debating how to fill the O'Connor seat since Sunday morning. The circle of participants is small, and the primary voices are those of Vice President Dick Cheney, top political adviser Karl Rove, Chief of Staff Andrew Card and White House Counsel Harriet Miers. Mr. Rove keeps the pulse of the party base, regularly communicating with the administration's outside allies.

Although Mr. Bush said he would act quickly, conservative activist groups are counseling against naming an O'Connor replacement before the Senate Judiciary Committee sends Judge Roberts's name to the Senate floor. That could take up to three weeks.

Mr. Bush has long been seen as personally partial to Mr. Gonzales, who served on the Texas Supreme Court when the president was the state's governor. He was on Mr. Bush's short list to fill the O'Connor seat the first time around.

Still, conservatives launched an unusually public campaign to derail his Supreme Court appointment over the summer, arguing he is not sufficiently opposed to abortion rights and affirmative action. It didn't help that Mr. Gonzales, in his early weeks on the job at the Justice Department, met face-to-face with officials from the liberal American Civil Liberties Union. Yesterday, conference calls among conservative activists buzzed with concern that Mr. Bush would nominate Mr. Gonzales. "We've come full circle," one participant said in an interview.

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Among conservative intellectuals, Judge Luttig remains a favorite. After service in the first Bush administration, where he helped prepare Supreme Court nominee Clarence Thomas for confirmation hearings, Judge Luttig was rewarded with a seat on the Fourth U.S. Circuit Court of Appeals in Richmond, Va. There he quickly emerged as a powerhouse. He writes taut and sometimes acerbic opinions and has helped a large numbers of his clerks obtain Supreme Court clerkships and positions of power in the current Bush administration. Many consider Judge Luttig an academic equal of Justice Scalia, for whom he once clerked. He would probably be a more inflammatory choice, likely to provoke a political fight the president may not welcome now.

The White House is also considering naming a woman to replace Justice O'Connor. Officials have already conducted background checks on several, including two on the Fifth U.S. Circuit Court of Appeals in New Orleans: Judge Edith H. Jones and Judge Edith Brown Clement. The White House is likely to expand its list of female candidates to include Karen Williams of the Fourth Circuit and Justice Maura D. Corrigan of the Michigan Supreme Court.

President Names Roberts As Choice For Chief Justice (NYT)

By Richard W. Stevenson

The New York Times, September 6, 2005

WASHINGTON, Sept. 5 - President Bush said on Monday that he would nominate Judge John G. Roberts Jr., who had been his choice to fill the Supreme Court seat being vacated by Justice Sandra Day O'Connor, to succeed William H. Rehnquist as chief justice of the United States.

Mr. Bush announced the switch less than 36 hours after Chief Justice Rehnquist's death and a day before the Senate Judiciary Committee had been scheduled to open hearings on Judge Roberts's nomination to replace Justice O'Connor.

If confirmed after hearings that are now expected to get under way in the next week, Judge Roberts would become the 17th chief justice. In taking the job at age 50, he would be in a position to play a pivotal role for decades in shaping the Supreme Court's rulings.

Saying that the Senate and the American people "like what they see" in Judge Roberts, Mr. Bush hailed what he called "his striking ability as a lawyer and his natural gifts as a leader."

The quick decision reflected the White House's conclusion that Judge Roberts, despite opposition to his conservative views from liberal groups and many Democrats in Congress, had withstood intense scrutiny since being nominated to replace Justice O'Connor and could be confirmed comfortably. Mr. Bush said he wanted him to be sworn in as chief justice before the start of the court's new term on Oct. 3.

In choosing Judge Roberts to be chief justice at a sensitive political time, Mr. Bush avoided the fiery ideological fight that would have been ignited had he chosen to elevate Justice Antonin Scalia, a favorite of many conservatives, or turned to a sitting federal judge with a clearer and more extensive conservative record of opinions on social issues than Judge Roberts has.

The rapid sequence of events left Mr. Bush back where many in Washington had thought he would be at the end of the court's last session in June, when Chief Justice Rehnquist was widely expected to step down first, perhaps to be followed by Justice O'Connor.

Having essentially moved to swap one reliable conservative for another in the chief justice's seat, the president now faces what is likely to be a much more intense battle to replace Justice O'Connor, a swing voter on abortion and other contentious issues. But the political climate Mr. Bush faces now is very different from the one in July, when he first moved to fill Justice O'Connor's seat.

The federal government's slow response to suffering inflicted by Hurricane Katrina, on top of the continued bloodshed in Iraq and high gasoline prices, has eaten into Mr. Bush's political strength, emboldening his opponents.

A senior administration official, speaking on the condition of anonymity because of the sensitivity of personnel issues, said Mr. Bush's decision on the next nominee would not be swayed by the politics of the moment. But the official made a point of saying that Mr. Bush was considering candidates "from all walks of life," signaling that the administration was sensitive to the pressure to nominate a woman or a member of a minority to replace Justice O'Connor.

Mr. Bush offered the job of chief justice to Judge Roberts at a 7:15 meeting Monday morning in the Oval Office. The two men had met in the White House residence on Sunday evening to discuss the situation, Scott McClellan, the White House press secretary, said. The senior administration official who spoke on the condition of anonymity said the president had not interviewed anyone else for the chief justice position after Chief Justice Rehnquist's death late Saturday.

"It is in the interest of the court and the country to have a chief justice on the bench on the first full day of the fall term," Mr. Bush said in disclosing what has the potential to be one of the most consequential personnel decisions of his presidency.

It was fitting, he said, that Chief Justice Rehnquist "be followed in office by a person who shared his deep reverence for the Constitution, his profound respect for the Supreme Court and his complete devotion to the cause of justice."

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Judge Roberts, standing by Mr. Bush in the Oval Office for the hastily arranged announcement just after 8 a.m. as the president prepared to leave for a tour of the storm damage in Louisiana and Mississippi, said he was "honored and humbled." Judge Roberts, a Rehnquist clerk in 1980 and 1981, said that if confirmed he would "succeed a man I deeply respect and admire."

Mr. Bush said he would select a nominee for the O'Connor seat "in a timely manner." White House officials signaled that there would not be an announcement this week and that they saw no real possibility of having a nominee for that seat confirmed by the start of the new term.

Speculation immediately centered on the same group of people who had been most prominently mentioned for the O'Connor seat the first time around. They include Attorney General Alberto R. Gonzales and several federal appeals court judges, including Edith Brown Clement, Edith H. Jones, J. Michael Luttig, Michael W. McConnell, Priscilla R. Owen and J. Harvie Wilkinson III.

Republican leaders in the Senate continued to work late Monday on a timetable for Judge Roberts's confirmation hearings, taking into account the funeral services for Chief Justice Rehnquist on Wednesday. Senator Bill Frist of Tennessee, the majority leader, said the Judiciary Committee would announce a schedule on Tuesday, with the hearings most likely to start on Thursday or next Monday.

With the White House on the defensive over Mr. Bush's performance in dealing with the hurricane, Democrats pressed their advantage on Monday, pledging to subject Judge Roberts to more intensive scrutiny than they had so far and suggesting that the president was already displaying signs of political uncertainty.

Senate Democrats signaled that they would press the White House again to release more documents that might shed light on his thinking about divisive issues likely to come before the court. They have been seeking, unsuccessfully, the release of documents from the four years he spent as principal deputy solicitor general under the first President Bush, when he helped argue the government's position on civil rights issues and other topics of intense interest to liberal groups.

A CBS News poll released Monday found that 57 percent of Americans believed that the Senate should consider a Supreme Court nominee's positions on the issues as well as his or her legal qualifications. That was up from 46 percent last month.

"Now that the president has said he will nominate Judge Roberts as chief justice, the stakes are higher and the Senate's advice and consent responsibility is even more important," said Senator Harry Reid of Nevada, the Democratic leader.

In what amounted to a warning to the White House not to select too conservative a nominee for Justice O'Connor's seat, Mr. Reid also urged Mr. Bush to take into account Justice O'Connor's role as what he called "a voice of moderation and reason on the court" in selecting a replacement.

Senator Charles E. Schumer, Democrat of New York, said there were signs that Mr. Bush was pulling his ideological punches because of political weakness.

"If he had been in a stronger position, he would have nominated Scalia as chief justice," Mr. Schumer said. "The president's general view on court nominees has been to make sure the hard right is happy. His weakened position removes him from that a little bit. We'll see how much."

Mr. Bush called Justice O'Connor from Air Force One on Monday morning, a little more than two hours after announcing his decision about Judge Roberts. A spokeswoman for Mr. Bush, Dana Perino, said Justice O'Connor had not heard the news until the president called. Justice O'Connor repeated to the president that her retirement would become effective when a successor was confirmed, Ms. Perino told reporters traveling with the president, indicating her willingness to start the new term on the bench.

On Sunday, Justice O'Connor said that not having a successor in place by Oct. 3 would present her with a "surprising dilemma."

It is not clear whether she will choose to hear any cases during the opening weeks of the term, since she would most likely have departed by the time they were decided, assuming Mr. Bush makes a choice relatively soon and the nominee appears headed toward confirmation.

Roberts Tapped For Higher Court Calling (CSM)

By Warren Richey And Gail Russell Chaddock

The Christian Science Monitor, September 6, 2005

WASHINGTON - By naming Supreme Court nominee John Roberts to succeed William Rehnquist as chief justice, President Bush is seeking to avoid a Senate showdown that might have left the nation's highest court short-handed and embroiled in controversy with a new term fast approaching.

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Instead, the move maintains the rough balance of power that existed on the high court prior to the chief justice's death on Saturday. It does so by requiring Justice Sandra Day O'Connor to continue to serve on the court until a new nominee to her seat is named and confirmed. What remains unclear, given Mr. Roberts's sparse judicial record, is how a Chief Justice Roberts might compare to Chief Justice Rehnquist. Will Roberts embrace the same conservative constitutional approach as Rehnquist?

"It's too early to tell. Some people believe that Roberts may be similar to Rehnquist in his jurisprudence, although that's not at all clear yet," says Carl Tobias, a constitutional law professor at the University of Richmond Law School.

Should Roberts win Senate confirmation, court watchers will learn the answer soon enough with a lineup of hot-button cases on the court's docket this fall - including assisted suicide on Oct. 5, abortion on Nov. 30, and gay rights on Dec. 6.

The real impact of Rehnquist's sudden passing is that instead of replacing Justice O'Connor, a centrist, with Roberts, who is presumed to be more conservative, the president is now replacing Rehnquist, a conservative, with a prospective chief justice who is to some extent an unknown quantity. The result is likely to be that O'Connor continues to wield her decisive tie-breaking vote in high-profile cases.

Legal analysts and court scholars say the president had few other options.

"To have a Supreme Court open just four weeks from now, the first Monday in October, with only seven people and no chief justice would be unprecedented, and I don't see that happening," says Sheldon Goldman, a political scientist at the University of Massachusetts at Amherst.

Although O'Connor's continued presence on the high court is a welcome development to Democrats, most fear that it will be short-lived. The president is expected to move quickly to appoint an O'Connor replacement who could shift the court significantly to the right.

In the meantime, Democrats say that Roberts's elevation to chief makes his nomination even more controversial and substantially raises the stakes. In anticipation of his confirmation hearings, Democrats are ramping up to use Roberts's record on civil rights and affirmative action as a main point of attack.

"The chief justice is the most important judge in the country, with even more responsibility for the protection of the rights and freedoms of all Americans. Thus, John Roberts bears a heavier burden when he comes before the Senate," says Sen. Edward Kennedy (D) of Massachusetts.

Republicans are praising the White House choice of Roberts as chief justice, noting that he has the necessary leadership skills to guide the high court. Some suggest his service on the court will mirror that of Rehnquist's.

"Throughout his years on the nation's high court, Chief Justice Rehnquist stood as a beacon of judicial restraint and reverence for the Constitution and the institution of the Supreme Court. I believe Judge Roberts will follow the lead of his mentor, and guide our nation's highest court by those same principles and devotion to the rule of law for all," says Sen. John Cornyn (R) Texas.

Although the chief justice casts only one vote like the other justices, the chief has the power when in the majority to assign who will write the majority opinion. In a closely divided court, the assigning power can sometimes be used strategically to draw an otherwise dissenting justice into the majority by naming that justice to write the opinion. The chief justice also has the power to assign the decision to him or herself and thus limit or expand the scope of a decision in subtle but meaningful ways.

The chief justice's personality is also important, legal analysts say. "He does have many of the qualities that potentially can make for a great and influential chief justice," says Professor Tobias. "He has that great intellect, which no one has denied, and a personality in many respects similar to Rehnquist's - a very charming, affable, low-key, modest personality that was able to make the court a much friendlier and somewhat less contentious place."

Liberal advocacy groups say they will continue to oppose the Roberts nomination. Ralph Neas, president of People For the American Way, says the group's objections apply to an even greater degree to efforts to elevate Roberts to chief justice.

"The nomination of John Roberts has evolved considerably since July, when the White House was successful in portraying him as a lawyer above the fray.... Almost daily revelations coming out of the Reagan presidential library show someone at the epicenter of a comprehensive assault on fundamental rights that have been part of the law for decades," says Mr. Neas. The road to confirmation

Supreme Court nominations over the past three decades have encountered a variety of receptions by the Senate.

William Rehnquist

Nominated by President Nixon (R), 1971.

Democrats controlled the Senate.

Senate confirmed 68-26.

John Paul Stevens

Nominated by President Ford (R), 1975.

Democrats controlled the Senate.

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Senate confirmed 98-0.
Sandra Day O'Connor
Nominated by President Reagan (R), 1981.
Republicans controlled the Senate.
Senate confirmed 99-0.
Antonin Scalia
Nominated by President Reagan (R), 1986.
Republicans controlled the Senate.
Senate confirmed 98-0.
William Rehnquist
Nominated as chief justice by President Reagan (R), 1986.
Republicans controlled the Senate.
Senate confirmed 65-33.
Robert Bork
Nominated by President Reagan (R), 1987.
Democrats controlled the Senate.
Senate rejected 42-58.
Anthony Kennedy
Nominated by President Reagan (R), 1987.
Democrats controlled the Senate.
Senate confirmed 97-0.
David Souter
Nominated by President George H.W. Bush (R), 1990.
Democrats controlled the Senate.
Senate confirmed 90-9.
Clarence Thomas
Nominated by President George H.W. Bush (R), 1991.
Democrats controlled the Senate.
Senate confirmed 52-48.
Ruth Bader Ginsburg
Nominated by President Clinton (D), 1993.
Democrats controlled the Senate.
Senate confirmed 96-3.
Stephen Breyer
Nominated by President Clinton (D), 1994.
Democrats controlled the Senate.
Senate confirmed 87-9.
Source: Congressional Directory

Newsview: Bush Takes Safe Path On Roberts (AJC/AP)

By Ron Fournier, Ap Political Writer
The Atlanta Journal-Constitution, September 6, 2005

WASHINGTON — President Bush chose the path of least resistance in nominating John Roberts as chief justice, acting with unusual haste as the war in Iraq and Hurricane Katrina sap his political strength. He was the safest choice Bush could make.

Roberts is a Washington insider well versed in the functions of the Supreme Court and the levers of power in Congress, an accomplished lawyer whose smile and sterling resume seem to take the sharp edges off his deeply conservative ideology.

Liberal activists who opposed Roberts' nomination to replace retiring justice Sandra Day O'Connor had found little in his record to suggest they could thwart that nomination.

He will draw less partisan fire than two other candidates pushed by Bush's conservative backers to succeed the late William H. Rehnquist — associate justices Clarence Thomas and Antonin Scalia.

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While Roberts' confirmation still seems likely, he may face a tougher road to confirmation because the position of chief justice will be held to a higher standard. Bush's weakening political standing could complicate things for Roberts, according to strategists in both parties.

Republican and Democratic strategists also agree that Bush will come under intense pressure now to name a woman or minority to replace O'Connor. It's no small factor that flooding in New Orleans hit poor, black residents the hardest, raising questions about Bush's sensitivity to minorities and the poor.

"When Roberts' record on civil rights is reviewed inside the Judiciary Committee, it's going to sound more jarring post-Katrina than before the hurricane," said Democratic consultant Jenny Backus. "America was reminded about the big issue out there that has not been openly addressed by the administration — economic disparity based on race."

Bush may also be boxed in ideologically — less inclined to nominate somebody as conservative or to the right of Roberts. But officials close to the White House predicted the president would pick a conservative in the mold of Roberts.

"The fight is over the next one," said Democratic consultant Nick Baldick. "Roberts is taking the Rehnquist voting slot and no one worried about him being much more conservative than Rehnquist."

Privately, several Republicans predicted Monday that Bush's political stature will continue to decline as the Gulf Coast death toll mounts. That may make Roberts an easier target.

But the real complications come later, when Bush turns to O'Connor's seat.

As one senior Republican put it: Weak presidents beget weak nominees. Whoever Bush selects next will be vulnerable because the president's political troubles have grown since he first tapped Roberts. The officials, including two who are working closely with the White House on Supreme Court picks, spoke on condition of anonymity because they are not authorized to discuss the process publicly.

Democrats wondered why it took Bush less time to name Rehnquist's replacement than it did to visit the Gulf Coast after Katrina hit.

"This is about who will run the Supreme Court for the next generation and it looks like they rushed a decision together in a way that doesn't look that thoughtful," said Joe Lockhart, press secretary in the Clinton White House.

Some Democrats urged Bush to delay the nomination process while he responds to Katrina, a not-too-subtle dig at his efforts thus far. "In the midst of a national disaster of biblical proportion," Sen. Edward M. Kennedy, D-Mass., said, "it is difficult for the American people to participate fully in the selection of the next chief justice."

In fairness to Bush, he had weeks to consider Roberts' qualifications, and a summer spent in the spotlight turned up no warts on the nominee.

"I think the public vetting proves that this guy is the real deal — bright, knows the issues and can leave a long-term imprint on the court because of his youth and intellect," said Rick Davis, a GOP consultant.

That is a major point that easily gets lost amid the politicking. Roberts, 50, could lead the nation's judicial branch for a generation or more. He may be the last chief justice most Americans know.

On top of that, O'Connor's seat is a critical swing vote — and she may not be the last justice who leaves during Bush's term.

When voters re-elected Bush, they gave Republicans the keys to the future of the U.S. judiciary. Bush and his party control the Judiciary Committee and a solid majority of votes in the Senate. Nobody should be surprised that the Supreme Court, once a liberal bastion, will continue further down the conservative path plowed by Rehnquist himself.

Political Equations Are In For A Revision (USAT)

By Joan Biskupic

USA Today, September 6, 2005

WASHINGTON — By choosing federal judge John Roberts to succeed William Rehnquist as chief justice, President Bush picked someone who has been screened extensively and who could be confirmed by the Senate before the court's term begins Oct. 3.

Roberts, who had faced confirmation hearings this week as Bush's choice to succeed retiring Justice Sandra Day O'Connor, was perfectly positioned to move over to the chief's slot when Rehnquist, 80, died Saturday. Suddenly, the White House was able to put its top choice for the high court in the center seat.

But Bush's nomination of Roberts to be chief justice shakes up the complicated political calculus that invariably accompanies judicial nominations, particularly those involving the Supreme Court. It also reopens the debate over who should replace O'Connor's moderate voice on the divided court at a time when the Bush administration is battling criticism over its response to Hurricane Katrina.

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A key question in the coming weeks will be whether the White House — which has been feisty in its determination to put strict conservatives on the bench in lower courts — now has the appetite for a knock-down, drag-out fight over a Supreme Court nomination. With O'Connor's seat back in play, Bush also will be under increasing pressure to select a woman or a minority for the nine-member court.

The events of the past several weeks mean that a court that went 11 years without a change in membership will be transformed.

Roberts now is in line to replace the solidly conservative Rehnquist rather than the moderately conservative O'Connor. Roberts, a former law clerk to Rehnquist, was a conservative go-getter as a government lawyer during the Reagan and first Bush administrations, before he moved on to a lucrative private-sector legal career. But his paper trail is not complete, and his current views on major issues of the day — such as abortion, affirmative action and religion's role in government — aren't totally clear. Regardless, he has friends in both parties and has been moving toward a relatively easy confirmation.

Meanwhile, the court will eventually be without O'Connor, who supported affirmative action in college admissions and who is one of six justices who have endorsed abortion rights.

Her successor could shift the court to the right — as Bush's conservative base wants — or add more unpredictability.

It's unclear how all the maneuvering will affect the law in America, but there is certain to be a long shakeout period among the members of the nation's highest court. O'Connor's successor probably won't join the court until after the start of the annual term on Oct. 3. O'Connor has said she will stick around to hear cases until her replacement arrives, but the possibility that she will leave the bench during the middle of a case could further complicate matters for the court.

A key political question is how Bush will respond to pressure to pick a woman or a minority for the court. Without O'Connor, the nine-member court will have only one woman, Ruth Bader Ginsburg. There is only one African-American on the bench, Clarence Thomas, and there has never been a Hispanic justice.

“I think the president himself values diversity on the courts,” says David Leitch, a former deputy White House counsel to Bush and now general counsel at Ford Motor Co. “It will be something that he'll consider. But I don't think it's more or less likely to be a factor because of poll ratings or anything else going on in the short-term news cycle.”

If Bush wants to make the court more diverse, that could enhance the prospects for Attorney General Alberto Gonzales, a longtime friend of the president. Gonzales was born in San Antonio to parents whose families immigrated from Mexico.

But Gonzales has a moderate record that has drawn criticism over the years from staunch conservative groups such as the Coalition for a Fair Judiciary. Gonzales has spoken in favor of affirmative action, and as a Texas Supreme Court justice he endorsed the idea of abortion rights.

“Judge Gonzales would be the obvious choice for this next pick, but for the opposition of conservative groups,” says Bradford Berenson, a Washington lawyer who was an associate White House counsel during Bush's first term.

Another candidate for O'Connor's spot could be Larry Thompson, who was deputy attorney general and the highest-ranking African-American law enforcement official in Bush's first term. He is senior vice president and general counsel at PepsiCo in Purchase, N.Y.

Several federal appeals court judges are possible contenders: Samuel Alito of Newark; Janice Rogers Brown of Washington, D.C.; Edith Brown Clement of New Orleans; Emilio Garza of San Antonio; Edith Jones of Houston; Michael Luttig of Alexandria, Va.; Michael McConnell of Salt Lake City; and J. Harvie Wilkinson of Charlottesville, Va.

The president's choice for the O'Connor seat and the resolution of other looming questions will have long-term consequences for the nation's highest court. Rehnquist served 33 years, the last 19 as chief justice. O'Connor is in her 24th year on the bench. Roberts and whoever else is tapped could affect significantly the law for decades to come. This fall, the justices will consider disputes over abortion rights, physician-assisted suicide and campus bans on military recruiting.

Roberts' record generally appears to be in line with Rehnquist's conservative views. Rehnquist presided over a court that curtailed Congress' power in local affairs, reduced protections for criminal defendants and diminished the court's presence in American life, particularly in achieving social goals such as school desegregation and prison reform.

Predicting the high court's decisions in such disputes has become more difficult now that there are two openings. When Roberts was the potential successor to O'Connor, for example, it was easy to see the court taking a slight turn to the right. If Roberts winds up opposing abortion rights, for example, the number of justices in favor of such rights would drop to five.

But if Roberts succeeds Rehnquist — who was a strong opponent of Roe v. Wade, the 1973 decision that made abortion legal nationwide — there might be no change in the court's overall stance on abortion. Roberts is 30 years younger than Rehnquist and is in a generation whose members were young adults when Roe was decided, so it is possible that Roberts could favor restrictions on abortion without voting against the basic right to the procedure. If so, he would represent a softening of the chief justice's position on the issue.

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Some Senate Democrats say Roberts should get tougher scrutiny now that he is being nominated for chief justice. “The chief justice is the most important judge in the country, with even more responsibility for the protection of the rights and freedoms of all Americans,” Sen. Edward Kennedy, D-Mass., said in a statement. “Thus John Roberts bears a heavier burden when he comes before the Senate.”

Marci Hamilton, a law professor at Yeshiva University's Cardozo Law School and a former clerk to O'Connor, says recent events could lead the administration to avoid a nomination fight in the Senate and pick a moderate candidate, someone who could win support from Democrats, to replace O'Connor.

“The poll numbers are bad. Katrina is added to other failures. The moderate choices look better politically,” Hamilton says.

But Leitch, who agrees that a woman or Hispanic jurist is a real possibility, counters that Bush aides “will probably do everything possible to make the best long-term decision, rather than just pay attention to the vicissitudes of the moment. Thirty years from now, you might still have the (new) justice making decisions.”

Roberts's Personal Skills And Political Savvy Seen As Assets (WP)

By Charles Lane

The Washington Post, September 6, 2005

On Chief Justice William H. Rehnquist's Supreme Court, Justice Antonin Scalia has been the acknowledged intellectual leader of the conservative bloc, a brilliant writer and legal thinker with many followers in legal academia.

Yet when it came time to replace Rehnquist as chief justice, President Bush did not tap Scalia, 69, as some conservatives had hoped. Rather, he reached outside the court and selected John G. Roberts Jr.

Roberts, 50, is not only younger than Scalia, but also mellower, a former law clerk of the easygoing Rehnquist. Roberts became known for his astute political judgments in the Reagan administration and his cordial personal relations with many liberal attorneys during his years as a Supreme Court advocate. In a role in which he will have few means of forging majorities other than persuasion and tact, that could make Roberts an effective force for conservatism on the court.

"A committed conservative with interpersonal skills equal to or superior to Rehnquist's would be a far more effective chief justice than a nominee of equal intellect who lacks those graces," said David J. Garrow, a professor of law at Emory University.

Historians have often labeled different eras at the court for the chief justice who presided at the time. Yet whereas the chief justice runs oral argument and closed-door conferences, he has only one vote and few formal means of control over the court. Rehnquist himself once likened leading the Supreme Court's eight associate justices to controlling "hogs on ice." The court's nominal boss, he said, "may at most persuade or cajole" his independent-minded colleagues.

Thus, the Warren Court's jurisprudence probably owed as much to the thinking and interpersonal skills of Justice William J. Brennan Jr. as it did to the ideas of Chief Justice Earl Warren. Sandra Day O'Connor, an appointee of President Ronald Reagan who often found herself unable to agree with Scalia, was the controlling force of the Rehnquist Court.

Probably the chief justice's principal power is the right to assign the writing of opinions for the court when he is in the majority. Rehnquist was known for the fairness with which he distributed opinions among the associates -- especially in contrast to his predecessor, Warren E. Burger, who often generated ill will by manipulating the process.

Rehnquist also prevented the court's conferences from turning into prolonged debates, which had often led to delays and personal feuding at the court earlier in the 20th century.

Instead, Rehnquist's policy was that every justice would speak at least once, to announce his or her vote and view of the case, before anyone would be allowed to raise an objection.

The Burger period was a time of notorious internal bickering at the court, which Roberts saw first-hand as a law clerk for Rehnquist -- then an associate justice -- during the 1980-1981 term.

As chief justice, Rehnquist would sometimes join a majority he probably did not agree with, so as to reserve the opinion-writing for himself and thus limit the damage to his own legal preferences. But he would also take his share of less-glamorous assignments, such as tax and Indian law cases.

As a young aide in the Reagan administration, Roberts was an advocate of conservative policy positions -- but also a keen student of politics and the media who frequently counseled his superiors how to achieve their objectives without ruffling feathers.

In an Aug. 31, 1982, White House memo, Roberts advised his bosses on relations between the executive branch and the Supreme Court. The document showed great solicitude for the sometimes prickly sensibilities of the justices.

"Any effort to improve relations between the Executive Branch and the members of the Supreme Court must be undertaken with extreme care to ensure that there is no appearance of an effort to affect the deliberations or decisions of the Justices," Roberts wrote. "The dignity of the Court must also be maintained, and the Justices should under no circumstances be made to feel that they are being used as part of any political campaign or an effort to achieve any political end."

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In inviting justices to state dinners, Roberts counseled, "no favoritism should be shown based on the Justice's individual views."

If confirmed by the Senate, Roberts, 50, would be the youngest chief justice since John Marshall took office at the age of 45 in 1801; he would also be taking the helm of a group that has been together for the last 11 years and has known no other chief justice during that time.

Yet few expect either Roberts's age or his newness on the court to be liabilities. That is because he is already so familiar to the current justices, both from his 39 oral arguments before them, and from socializing outside the courtroom.

"He probably knows them as judges and as people better than all but a few other people," said David G. Leitch, a former associate White House counsel in the Bush administration who also served as a law clerk to Rehnquist.

As chief justice, Roberts would also serve as head of the Judicial Conference, which makes policy on behalf of the entire federal judiciary. In this role, Roberts will be expected to represent all federal courts in their efforts to win budget funding and salary increases from Congress, as well as to fend off threats to the judicial branch's independence that might come from the legislative or the executive branch.

There is even a cultural side to the post as chief justice. If confirmed, Roberts would, by law, serve on the boards of the Smithsonian Institution, the National Gallery of Art and the Hirshhorn Museum and Sculpture Garden.

Bush Nominates Roberts As Chief Justice (FT)

By Patti Waldmeir

Financial Times, September 6, 2005

President George W. Bush on Monday nominated Judge John Roberts as Chief Justice of the US, but left open the more difficult question of who should fill the second vacant seat on the US Supreme Court.

The president is faced with a rare opportunity to make two appointments to the Supreme Court at once and shift the Court to the right for decades to come.

Apparently eager to return to the urgent task of repairing his tarnished image after Hurricane Katrina, Mr Bush moved swiftly to fill the first of those seats. He promoted Judge Roberts, 50, who was already in line to replace Justice Sandra Day O'Connor to fill the seat vacated by the death of Chief Justice William Rehnquist.

The choice is widely viewed as a shrewd one: John Roberts is respected for intelligence, temperament and demeanour. It seems likely he will be confirmed, even by the bitterly divided Senate.

But that leaves Justice O'Connor's seat vacant. She said in July that she would retire, but offered to stay until a replacement could be seated.

Mr Bush said on Monday he would choose a nominee “in a timely fashion”, and a White House spokesman said he called Justice O'Connor from Air Force One to discuss the decision.

But it was not clear whether the announcement would come before or after Judge Roberts' Senate confirmation hearings.

Those hearings, which were to have begun on Tuesday, are expected to be delayed. Much of the groundwork for them has already been done: Judge Roberts's background as a government lawyer, corporate attorney and appeals court judge has already been thoroughly scrutinised, and nothing has yet emerged to fuel enough opposition to defeat him.

Mr Bush urged the Senate to move quickly before the new Supreme Court term on October 3. One prominent liberal group, People for the American Way, immediately came out against him. It said in a statement that Judge Roberts was “unfit to be Chief Justice” largely because of his “hostility to the laws and remedies that protect Americans from discrimination”.

But overall, liberal groups are likely to fight harder over Justice O'Connor's seat. That nominee could go further in shifting the balance on the evenly divided Court.

Democrats Pledge More Intense Scrutiny Of Roberts (WP)

By Jo Becker

The Washington Post, September 6, 2005

Senate Democrats yesterday promised to subject John G. Roberts Jr. to an increased level of scrutiny in light of President Bush's decision to nominate the 50-year-old appeals court judge to replace the late William H. Rehnquist as chief justice.

But with conservatives and liberals alike saying that Roberts is on track to be confirmed, the focus was already shifting to what both sides believe will be the real battle: Bush's yet-to-be-named pick to replace retiring Justice Sandra Day O'Connor.

O'Connor's seat is critical because she often provided a swing vote on such controversial issues as affirmative action, abortion and prayer in public places. Roberts was initially chosen to replace her, but instead is now poised to succeed Rehnquist, a reliable conservative who died Saturday of thyroid cancer.

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The rare opening of two seats on the nine-member court gives Bush the opportunity to dramatically move the balance of power on the court to the right.

The switch, which comes as the Bush administration struggles to deal with the aftermath of Hurricane Katrina, had both sides hurriedly recalibrating their strategies. Senate leaders agreed to postpone Roberts's confirmation hearings, which had been scheduled to start today, probably until next Monday.

Bush urged the Senate to quickly confirm Roberts in time for the Oct. 3 start of the new Supreme Court term, saying that the Senate was "well along in the process of considering Judge Roberts's qualifications."

But Senate Democrats said that the move to make Roberts the 17th chief justice of the United States required careful deliberation, particularly given Roberts's relatively short, two-year tenure as a federal appeals court judge.

"The stakes are higher and the Senate's advice and consent responsibility is even more important," said Senate Minority Leader Harry M. Reid (D-Nev.). "If confirmed to this lifetime job, John Roberts would become the leader of the third branch of the federal government and the most prominent judge in the nation."

Democrats on the Judiciary Committee plan to renew their calls for the White House to release memos and other documents from Roberts's 1989-1993 tenure as principal deputy solicitor general in the administration of President George H.W. Bush, his highest government posting. "Judge Roberts has a clear obligation to make his views known fully and completely," said Sen. Charles E. Schumer (D-N.Y).

Still, even liberal groups opposed to Roberts's nomination said yesterday that the shift is unlikely to alter his chances of being confirmed, given that Republicans are in firm control of the Senate. Some Republicans argued that it will even help his prospects, given that replacing Rehnquist with Roberts isn't likely to change the ideological center of the court.

Kate Michelman, a former president of NARAL Pro-Choice America, said that what senators must do now is highlight Roberts's record on civil rights, his skeptical writings about the legal underpinnings of abortion rights and other stances to "show people what it means to have his views on the court and lay the groundwork for the next nomination fight."

Democrats are already moving to link the two nominations. Sen. Edward M. Kennedy (D-Mass.) said that a review of memos that Roberts wrote while a young lawyer in the Reagan administration shows that Roberts sought to "weaken voting rights, roll back women's rights, and impede our progress toward a more equal nation."

Before the Senate acts on Roberts's new nomination, Kennedy said, the Senate has a right to know whom Bush intends to nominate for O'Connor's position. "The American people care deeply about the overall balance of their highest court."

With President Bush's approval ratings at an all-time low and his administration under fire over its handling of Hurricane Katrina, some conservatives are worried that Bush will forgo the chance to pick another conservative in favor of someone who will not provoke a fight.

Manuel Miranda, former legal counsel to Senate Majority Leader Bill Frist and the founder of a conservative group that follows judicial issues, said Bush must keep his campaign promise to nominate a justice in the tradition of conservative Justices Antonin Scalia and Clarence Thomas, or risk "sinking even lower in the polls."

"If anything is keeping him afloat right now, it's conservative support," Miranda said.

Meanwhile, Democrats on the Hill are feeling more emboldened by the president's weakened political standing, according to interviews with senior aides and Democratic strategists. Ron Klain, a former aide to President Bill Clinton, said Democrats may be more willing to fight a staunchly conservative second pick.

"As his poll numbers fall, his domestic problems accumulate, and as independent voters increasingly wonder if he is out of touch with what's going on in the country, then Democrats in conservative states have less to fear by crossing him," Klain said.

The question for Democrats is whether the American public, consumed with images of the devastation in the Gulf Coast states, will tune in to the nomination hearings.

Senators are treading carefully. Sen. Patrick J. Leahy (D-Vt.) said that the Senate looks forward to consulting Bush on a successor to O'Connor, a pick he stressed will "affect all of us, and the generations who follow us."

At the same time, he said, "these are not the only challenges facing the nation at this critical time. Most urgent at this moment is providing the necessary help to Americans still suffering in New Orleans and elsewhere along the Gulf Coast."

Special Interests Gear Up For Fight On Court Vacancy (USAT)

By Mark Memmott

USA Today, September 6, 2005

Now that there are two Supreme Court seats to fill, a relatively quiet debate among interest groups is expected to become the more bitter, multimillion-dollar slugfest opposing sides have long anticipated.

“Watch for World War III,” conservative lawyer John Hinderaker wrote Monday on Power Line, his widely read Web log, or blog.

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Interest groups plan to ramp up their rhetoric, TV ad campaigns and grass-roots lobbying even though Chief Justice William Rehnquist's death may not fundamentally change the court.

If President Bush gets his way in the Senate, Rehnquist will be replaced by another conservative — federal judge John Roberts. “That doesn't turn the court to the right,” said Mark Hurwitz of Western Michigan University.

The vacancy Roberts had previously been tapped to fill, the seat of retiring Justice Sandra Day O'Connor, offers the better opportunity for Bush to at least slightly affect the balance on the court.

O'Connor is a moderate on some social issues. Hers is one of six votes on the nine-member panel to support abortion rights.

Before Rehnquist's death on Saturday, Roberts' nomination to fill O'Connor's seat had generated relatively little heat. Progress for America, a conservative group that pledged to spend up to $18 million to support Bush's nominee, had spent just a few million dollars.

Leading liberal groups such as People for the American Way, Alliance for Justice and NARAL Pro-Choice America had announced their opposition to Roberts' confirmation. But among those, only NARAL had run anti-Roberts TV ads.

Overall, efforts by the White House, Republican Party officials and conservative groups to portray Roberts as a “fair” judge who deserved a “fair,” up-or-down vote in the Senate had dampened debate.

Things changed with the prospect of two court openings:

·Ralph Neas, president of People for the American Way, said in a statement that Roberts' “hostility” to laws that many in the left view as guarding Americans from discrimination makes him “unfit for the position of chief justice.” Neas promised his group will “vigorously oppose his confirmation.”

In an interview, Neas said stakes are higher now because as chief justice, Roberts, 50, “could have a tremendous impact on the judiciary well into the 21st century.”

·Nancy Keenan, president of NARAL Pro-Choice America, called on the White House to release documents written by Roberts when he was a deputy solicitor general in the first Bush administration. “The American people need to know where this man stands on the issue of privacy,” Keenan said.

As for the O'Connor vacancy, Neas and Keenan called on Bush to choose a moderate, “consensus” nominee. C. Michael Comiskey, political science professor at Penn State Fayette, said that's unlikely. Bush may be riding low in polls, but “I don't think he's afraid of a fight,” Comiskey said. “He's going to nominate the person he wants.”

Interest groups on the right said they are ready to support the president's nominees. “The left is doing its predictable show of hysterical scare-mongering,” said Sean Rushton, executive director of the conservative Committee for Justice.

“We'll defend and promote the nominees,” said Brian McCabe, president of Progress for America.

The groups “have no reason to exist and collect money if they don't fight on this now,” said Hinderaker, the conservative blogger.

Bush Wants Roberts To Be Next Chief Justice (LAT)

By David G. Savage And Henry Weinstein

The Los Angeles Times, September 6, 2005

WASHINGTON -- President Bush moved quickly Monday to replace the late William H. Rehnquist on the Supreme Court by nominating Rehnquist's onetime law clerk, Judge John G. Roberts Jr., as the 17th chief justice of the United States.

Bush had nominated Roberts in July as an associate justice to succeed Justice Sandra Day O'Connor. When she wrote Bush about her plans to retire, O'Connor had said she would remain on the court until her successor is confirmed, and she reiterated that sentiment Monday.

The Oval Office announcement of Roberts' new status came less than 36 hours after Rehnquist died at his home in Arlington, Va., and just a day before the Senate Judiciary Committee was to open confirmation hearings on Roberts' nomination as an associate justice. Those hearings were put off, at least until Thursday.

The switch permits Bush to replace the conservative chief justice with a 50-year-old appellate court judge who appears to be an ideological twin. And because the Roberts nomination has been generally well-received, both the White House and Senate Republicans expect he will be confirmed before the first Monday in October, when the Supreme Court begins its new term.

"It is in the interest of the court and the country to have a chief justice on the bench on the first full day of the fall term," the president said. He added that Roberts' "striking ability as a lawyer and his natural gifts as a leader" make him an ideal choice to be chief justice, despite his relative youth.

Indeed, Roberts had been the first choice of White House lawyers earlier this year as a successor to Rehnquist, who had been diagnosed with thyroid cancer last October and was widely expected to retire in June, at the end of the court's 2004-05 term. Roberts was chosen as O'Connor's successor only because she unexpectedly announced her retirement first.

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Now, the intense speculation has focused again on a replacement for O'Connor, the court's swing vote on issues such as religion, abortion and affirmative action. In his remarks Monday morning, Bush said he would choose her successor in a "timely manner."

If the president chooses Attorney General Alberto R. Gonzales or Judge Edith Brown Clement from the federal appellate court in New Orleans, the change may not tip the balance of the court to the right. Both are seen as moderate conservatives, somewhat akin to O'Connor.

But Bush could select a nominee with more conservative credentials, such as Judges J. Michael Luttig and J. Harvie Wilkinson of Virginia, Edith H. Jones of Texas or Janice Rogers Brown, the former California Supreme Court justice who was confirmed this summer to the U.S. Court of Appeals in Washington. Any of those nominations would set off a political battle in the Senate.

Bush also could turn to Judges Emilio Garza or Priscilla R. Owen, both Texas conservatives, or to Larry D. Thompson, a former deputy attorney general who is highly regarded by Bush insiders and now serves as general counsel to Pepsico.

Gonzales and Garza are Hispanic, and Thompson and Brown are black. Many legal analysts said Monday they expected that Bush would choose a woman or a member of a minority group to fill O'Connor's seat, and not a conservative white male.

"I expect intense pressure on the president from the loyal opposition to nominate as moderate a voice as he can find for the O'Connor replacement," said Pepperdine University law professor Douglas W. Kmiec. That bodes well for the prospects of Gonzales or Clement, he said.

"The realpolitik of the situation is a president who is low in the polls, facing considerable difficulty externally with Iraq and internally with (Hurricane) Katrina will have more difficulty holding his party together than not. That will not augur well for a ... conservative nominee," he said.

But Northwestern University law professor Steven G. Calabresi, a former law clerk to Justice Antonin Scalia and one of the founders of the Federalist Society, a conservative legal group, contended that Bush's political problems with hurricane recovery efforts would not affect his decision.

"I really think the president regards these decisions as among the most consequential of his presidency," Calabresi said. "He will do what he thinks is right for the country regardless of its immediate impact on his political standing. That doesn't necessarily mean he will do something confrontational."

Meanwhile, the new Roberts nomination was praised as a smart move by conservative activists and some independent analysts.

Bush's action Monday "makes a lot of sense. He now knows with near certainty that Roberts is a survivor, who has been vetted by the press and the legal establishment," said Stephen Gillers, a New York University law professor and legal ethicist. "No skeletons have been found, nothing that could possibly derail his confirmation despite some opposition from progressive groups."

Roberts' confirmation "is a virtual shoo-in," he said.

Kmiec predicted that Roberts would exert real influence as chief justice. "He is genial, warm, welcoming, not quick to take umbrage or disagree. He will be very effective by wit, intelligence and the ability to build coalitions for particular points of view," he said.

Justice Anthony M. Kennedy, who was appointed to the court by President Reagan, has infuriated some conservatives by voting to uphold abortion rights and gay rights, and Kmiec suggested that the presence of Roberts as chief justice "may cause Kennedy to be more faithfully conservative."

Liberal groups that were already sharply critical of Roberts said the new nomination raised the stakes in the confirmation hearings.

People for the American Way called Roberts "unfit to be chief justice of the United States." Roberts has shown "hostility to the laws and remedies that protect Americans from discrimination," the group said.

NARAL Pro-Choice America said it was flatly opposed to Roberts, and the National Organization for Woman called him "an anti-women's rights, anti-civil rights judge."

"It is an outrage and an insult to the women of this country that George W. Bush has nominated such as jurist to be chief justice of the United States," said NOW president Kim Gandy.

Duke University's Erwin Chemerinsky, who last week led a group of liberal law professors in announcing opposition to Roberts, said Bush's move Monday "dramatically changes the dynamics of the Roberts confirmation."

Roberts "by all accounts seems to be like Rehnquist ideologically. This means the focus has to be on replacing O'Connor, because it is that seat in the short term that could change the outcome of so many cases," he said. Viewed through this prism, Roberts' path to confirmation could be eased, he said.

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"If Bush tried to replace O'Connor with Jones or Luttig, the Democrats will go to the wall" on both nominees, he predicted. "The flip side is that if Bush picks a more moderate conservative, Democrats will let both go through because it does not change the overall balance of the court. Again, this makes the crucial issue who replaces O'Connor."

Picking Roberts For Court's Top Job Raises Stakes (USAT)

By Kathy Kiely

USA Today, September 6, 2005

WASHINGTON — President Bush's swift decision Monday to nominate John Roberts as the replacement for Chief Justice William Rehnquist raises the stakes of Supreme Court confirmation hearings as Congress and the White House struggle to cope with anational crisis.

Roberts, 50, whom Bush had previously tapped to succeed retiring Justice Sandra Day O'Connor, got the nod after his mentorRehnquist died Saturday following a battle with thyroid cancer.

Bush made the announcement as a helicopter waited to take him on a second tour of the hurricane-ravaged Gulf Coast.

If confirmed, Roberts would be the youngest chief justice since 1801. That means he could have decades to influence the court's direction. Some Democrats say that argues for tougher hearings.

“Judge Roberts has a clear obligation to make his views known fully and completely,” said Sen. Charles Schumer, D-N.Y.

Roberts, a federal appeals judge, would be the 17th chief justice. Five were promoted from the high court. Eleven came from politics, lower courts and other posts.

Still unresolved: When confirmation hearings should begin. Originally set to start today, they've been postponed until after Rehnquist's funeral Wednesday.

Sen. Edward Kennedy, D-Mass., argued that the nation needs time to cope with the aftermath of Hurricane Katrina. Senate Majority Leader Bill Frist, R-Tenn., pushing for confirmation this month, said hearings will start by next week.

The president said he selected Roberts, a former Rehnquist clerk, because of his “natural gifts as a leader” and to ensure the court has all nine justices when its new session begins Oct. 3. O'Connor has said she will remain until her replacement is confirmed.

The chance for two court appointments gives Bush a historic opportunity, but also increases pressure on him.

Conservatives such as James Dobson of Focus on the Family want a like-minded justice to replace O'Connor, a swing vote on abortion and other issues. Senate Minority Leader Harry Reid, D-Nev., counters: “Justice O'Connor has been a voice of moderation and reason on the court and should be replaced by someone … like her.”

In a USA TODAY/CNN/Gallup Poll taken before Rehnquist's death, 52% said they favored Roberts' confirmation.

Bush Chooses Roberts, Weighs Other Vacancy (AJC/AP)

By Terence Hunt, Ap White House Correspondent

The Atlanta Journal-Constitution, September 6, 2005

WASHINGTON — Seizing a historic opportunity to reshape the Supreme Court, President Bush swiftly chose conservative John Roberts as chief justice Monday and weighed how to fill another vacancy that could push the nation's highest court to the right on issues from abortion to affirmative action.

Polished and plainspoken, Roberts had been on a likely track to be confirmed as an associate justice and it appeared Bush turned to him for the top job to avoid an acrimonious fight at a volatile moment. Bush was on the defensive about the administration's sluggish response to Hurricane Katrina and his poll ratings had fallen to their lowest point of his presidency.

"For the past two months members of the United States Senate and the American people have learned about the career and character of Judge Roberts," Bush said. "They like what they see."

Roberts' nomination, just two days after the death of Chief Justice William H. Rehnquist, raised fears among Democrats about a rightward shift as Bush fills two openings on the nine-member court. Democrats have been frustrated by Roberts' popularity and said the Senate must take a closer look at his new nomination.

"The stakes are higher and the Senate's advice and consent responsibility is even more important," said Senate Minority Leader Harry Reid, D-Nev. Sen. Edward M. Kennedy, D-Mass., expressed concerns about the court's balance.

"Replacing two justices at the same time will have an enormous impact on the court and on the lives and liberties of all Americans for decades," said Ralph Neas, president of the liberal advocacy group People for the American Way, which opposes Roberts' nomination.

Senate Majority Leader Bill Frist, R-Tenn., said Roberts was "one of the most well qualified candidates to come before the Senate." He said he still expects Roberts to be confirmed before the new court session begins Oct. 3.

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Like Rehnquist, Roberts is deeply conservative. He was nominated in July to succeed retiring Justice Sandra Day O'Connor, who angered conservatives with her tie-breaking votes on contentious issues like abortion restrictions, campaign finance limits, discrimination laws, and religion.

The Roberts-for-Rehnquist nomination would not affect the balance, but Bush could force an ideological shift by replacing O'Connor with a reliably conservative vote. O'Connor has offered to remain on the bench until her successor is named, and Bush called her Monday to say he would move quickly to find her replacement as well. He is not expected to name a new O'Connor successor this week.

After turning twice to Roberts, Bush faces increasing pressure to name a woman or a minority. Some conservatives fretted Bush would pick Attorney General Alberto Gonzales whose views on abortion and other issues have raised their suspicions.

"The president promised in two campaigns to nominate justices who will faithfully uphold the text and principles of the Constitution," said Wendy Long, counsel for the conservative Judicial Confirmation Network. "One would expect the president to nominate more exceptional judicial conservatives like Judge Roberts for as many vacancies as occur, whether it is two, three, or more."

But Brad Berenson, a former Bush White House lawyer, said, "My own view is that Judge Gonzales would be a more conservative justice" than O'Connor.

Other possible replacements include federal courts of appeals judges Edith Clement, Edith Hollan Jones and Emilio Garza. Also mentioned are judges J. Michael Luttig, Samuel A. Alito Jr., James Harvie Wilkinson III and Michael McConnell, and former Solicitor General Theodore Olson, lawyer Miguel Estrada and former deputy attorney general Larry Thompson.

No president has nominated two newcomers to the Supreme Court at the same time since Richard Nixon filled a pair of vacancies in 1971.

The change in Roberts' nomination scrambled plans for his confirmation hearings, which had been scheduled to begin Tuesday. Instead, the capital prepared for the ritual of honoring Rehnquist. His body will lie in repose in the Great Hall of the Supreme Court on Tuesday and Wednesday and he will be buried at Arlington National Cemetery following funeral services Wednesday.

Moving swiftly, Bush met with Roberts in the private residence of the White House for about 35 to 40 minutes on Sunday evening, then officially offered him the job at 7:15 a.m. Monday when Roberts arrived at the Oval Office. The president announced the nomination during morning television shows in a live appearance from the Oval Office.

The president praised Roberts as a man of fairness and integrity, a natural leader. He said the Senate was well along in the process of considering Roberts' qualifications and "they know his record and his fidelity to the law. I am confident that the Senate can complete hearings and confirm him as chief justice within a month."

In brief remarks, Roberts said he was "honored and humbled at the confidence that the president has shown in me. And I am very much aware that if I am confirmed I would succeed a man I deeply respect and admire, a man who has been very kind to me for 25 years."

Only 50 years old, Roberts could be a conservative legal force for decades — as was Rehnquist, who served 33 years on the court, 19 of them as its leader.

There are striking similarities between the two men. Both were first in their class in law school, enjoyed reputations for brilliance and were known as good writers. As a young man, Roberts clerked for Rehnquist and the justice was one of many influences in Roberts' life and legal career.

Roberts' conservative views have been illuminated in thousands of documents from his time as a lawyer in the Reagan administration and the first Bush administration and as a federal appeals court judge. Many of those stands put him at odds with O'Connor and in line with Rehnquist.

The papers showed Roberts' support for prayer in public schools and national identification cards and how he fretted over extended death penalty appeals. He advocated broad power for the White House and disparaged state efforts to combat discrimination against women.

Roberts referred in one memo to the "abortion tragedy" and helped write a legal brief that argued for overturning Roe v. Wade, the landmark 1973 case legalizing abortion.

Getting a new chief justice of Bush's choosing in place quickly avoids the scenario of having liberal Justice John Paul Stevens presiding over court sessions, leading private meetings of the justices and thereby influencing court deliberations. As the court's senior justice, Stevens would take over Rehnquist's administrative duties until a new chief is confirmed.

Roberts Tapped To Lead Court (DMN)

By David Jackson

The Dallas Morning News, September 6, 2005

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WASHINGTON – Seeking to put an indelible conservative stamp on the Supreme Court, President Bush said Monday he is nominating John Roberts to replace Chief Justice William Rehnquist.

The sudden move, two days after Justice Rehnquist's death, upped the ante in the battle to succeed Sandra Day O'Connor – often the swing vote on the court's most contentious cases.

"Judge Roberts has earned the nation's confidence," Mr. Bush said during a brief Oval Office ceremony, nearly seven weeks after he had tapped the appeals court jurist to replace Justice O'Connor.

Senate Democrats said they would press for the release of more documents from Judge Roberts' past, though analysts said there is a good chance the federal appeals court judge will be confirmed to replace the conservative Rehnquist.

More intense opposition awaits the proposed successor to Justice O'Connor, often the decisive vote in 5-4 court decisions involving abortion rights, affirmative action and church-state relations.

"These are lifetime appointments that we can expect to extend into the lives of our grandchildren and great-grandchildren," said Sen. Patrick Leahy, D-Vt., top Democrat on the Senate Judiciary Committee.

That committee delayed confirmation hearings for Judge Roberts that were set to start today. Members cited the new nomination, as well as Wednesday's funeral for Justice Rehnquist.

Officials said the Roberts hearings would begin later this week or early next.

Given the new opening for the O'Connor seat, Mr. Bush is likely to be under pressure to nominate a Hispanic or a woman. The search could involve such Texans as Attorney General Al Gonzales and federal appeals Judges Priscilla Owen and Edith Jones.

The eventual nominee, and perhaps Judge Roberts, may be more vulnerable to opposition because of Mr. Bush's weakened political state, analysts said, citing the Iraq war and criticism of the federal response to Hurricane Katrina.

"The timing could not be more difficult for the Bush administration," said Kimi Lynn King, associate professor of political science at the University of North Texas.

The question, analysts said, is whether Mr. Bush nominates a second conservative in the mold of Judge Roberts, or goes with a more moderate figure, such as Mr. Gonzales.

While some Democrats said Mr. Bush should make his second pick before a Senate vote on Judge Roberts, the president offered no timetable, saying he would act "in a timely manner."

In reintroducing Judge Roberts, Mr. Bush noted that the Senate has spent weeks reviewing his record and should act before the Supreme Court begins hearing cases again Oct. 3.

If that happens, the court would have a full complement of nine justices. Justice O'Connor reconfirmed in a telephone conversation with Mr. Bush on Monday her earlier stated intention to stay on until her successor is confirmed.

Judge Roberts, who once clerked for Justice Rehnquist, thanked Mr. Bush for giving him a chance to "succeed a man I deeply respect and admire."

It would not be unusual for someone outside the court to become chief justice. Justice Rehnquist was only the third of 16 chiefs to be promoted from associate justice.

The chief justice has no more nominal power than the other eight associates but assigns opinion writing if he or she is in the majority. The chief justice also runs the entire federal court system.

The added responsibilities are among the reasons Senate Democrats cited in calling for release of more Roberts documents.

The administration has resisted requests for papers from Mr. Roberts' years in the solicitor general's office for the first President Bush. They said Mr. Roberts' advice to his client – the government – should remain private just as with any other attorney-client relationship.

Democrats said the government represents the public and it is entitled to know the full range of Judge Roberts' views, especially now that he is in line to become the nation's top judge.

White House press secretary Scott McClellan said the Senate has been provided with "tens of thousands of pages of documents."

"We'll continue to work to make sure the Senate has what they need to move forward in a timely manner," he said.

The papers that have been reviewed came mostly from Judge Roberts' years as a White House lawyer for President Ronald Reagan.

Liberal interest groups zeroed in on what they called Judge Roberts' hostility to affirmative action, his narrow reading of the Voting Rights Act and opposition to a program designed to equalize pay between men and women.

Conservative groups rallied behind Mr. Roberts, saying he opposed "racial quotas" and believed that the "pay equity" plan involved massive government interference in the economy.

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Before Justice Rehnquist's death, activists who opposed Judge Roberts said they faced an uphill fight, finding it difficult to build much public opposition.

That may still be the case, some of these activists said, especially because the court essentially would be switching one conservative with another.

The politics are different with the O'Connor vacancy, analysts said, given her pivotal role on the court.

There are other pressures at work as well. After Justice O'Connor announced her retirement plans, first lady Laura Bush had asked her husband to appoint a woman.

Mr. Bush is also known to want to nominate the court's first Hispanic member.

Bush supporters urged quick action on filling all Supreme Court vacancies, while critics advised a go-slow approach – and both cited the horrific impact of Hurricane Katrina.

Urging Senate confirmation for Judge Roberts, the conservative group Progress For America cited "this difficult time when Americans need the third branch of the United States government to function at full force."

Sen. Edward M. Kennedy, D-Mass., who expressed "serious concerns" about the Roberts nomination, said, "The president should take this time to unite and heal the country."

Roberts Picked For Chief Justice (WT)

By Bill Sammon

The Washington Times, September 6, 2005

President Bush yesterday upgraded his Supreme Court nomination of Judge John G. Roberts Jr. from associate justice to chief justice and called on the Senate to confirm him before the court reconvenes Oct. 3.

"Judge Roberts has earned the nation's confidence, and I'm pleased to announce that I will nominate him to serve as the 17th chief justice of the Supreme Court," Mr. Bush said in an Oval Office appearance with the nominee.

Judge Roberts, originally tapped to replace retiring Associate Justice Sandra Day O'Connor, is now slated to succeed Chief Justice William H. Rehnquist, who died Saturday.

Judge Roberts' Senate confirmation hearings have been postponed from today until at least Thursday because of Chief Justice Rehnquist's funeral, set for tomorrow.

"I am honored and humbled by the confidence that the president has shown in me," Judge Roberts said. "And I'm very much aware that if I am confirmed, I would succeed a man I deeply respect and admire, a man who has been very kind to me for 25 years."

Judge Roberts, 50, once served as a clerk for Chief Justice Rehnquist and had been looking forward to serving alongside his old boss.

Democrats said the nomination to a higher post justifies a higher level of scrutiny of Judge Roberts' record. Although more than 60,000 pages of documents have been released, liberals want additional papers that the White House deems privileged.

"John Roberts bears a heavier burden when he comes before the Senate," said Sen. Edward M. Kennedy, Massachusetts Democrat and a member of the Senate Judiciary Committee. "Before the Senate acts on John Roberts' new nomination, we should know even more about his record."

Spokesman Scott McClellan said the White House already has "provided them with an enormous amount of information to be able to move forward on his nomination."

After announcing the nomination, Mr. Bush boarded Air Force One to tour the Gulf Coast hurricane damage. En route, he telephoned Justice O'Connor to tell her Judge Roberts no longer would replace her.

Justice O'Connor, who had not seen Mr. Bush's televised announcement minutes earlier, reaffirmed her willingness to remain on the court until a successor is nominated and confirmed, said White House spokeswoman Dana Perino. Mr. Bush is not expected to nominate another justice until Judge Roberts is confirmed.

By tapping Judge Roberts as chief justice, Mr. Bush passed over justices who have been serving on the court for years, including Justices Antonin Scalia and Clarence Thomas. That spares the president from yet another potentially rancorous political battle, because Justice Scalia or Justice Thomas would have had to be confirmed by the Judiciary Committee.

The president always has regarded Judge Roberts as a potential chief justice, White House officials said. The two met in the White House for 30 to 45 minutes late Sunday, with White House Chief of Staff Andrew H. Card Jr. participating in the start of the meeting.

At 7:15 a.m. yesterday, Judge Roberts was summoned to the White House, where the president officially offered the job.

After Judge Roberts accepted and before the 8 a.m. announcement, Mr. Card notified Senate Minority Leader Harry Reid, Nevada Democrat; Senate Majority Leader Bill Frist, Tennessee Republican; Senate Judiciary Committee Chairman Arlen

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Specter, Pennsylvania Republican; Sen. Patrick J. Leahy of Vermont, the ranking Democrat on the panel; and House Speaker J. Dennis Hastert, Illinois Republican.

Meanwhile, the White House counsel's office alerted Justice John Paul Stevens, the senior and most liberal justice, who otherwise would serve as acting chief justice. The confirmation of Judge Roberts would mean that he, not Justice Stevens, will run the court and assign the writing of decisions.

Yesterday, the president praised Judge Roberts' "natural gifts as a leader." Mr. Bush also expressed confidence that the judge would be confirmed.

"Twenty-five years ago, John Roberts came to Washington as a clerk to Justice William Rehnquist," Mr. Bush said. "In his boss, the young law clerk found a role model, a professional mentor and a friend for life.

"I'm certain that Chief Justice Rehnquist was hoping to welcome John Roberts as a colleague, and we're all sorry that day didn't come," he added. "Yet it's fitting that a great chief justice be followed in office by a person who shared his deep reverence for the Constitution."

Several liberal groups, who had voiced discontent with the Roberts choice, were further enraged by the elevation yesterday.

"America can't afford a Supreme Court justice -- let alone a chief justice -- with Roberts' record of eroding the rights of workers and turning back the clock on civil rights," said Eli Pariser, executive director of MoveOn.org Political Action Committee. "There's no mistaking that he's a stealth right-wing candidate."

Conservative-leaning groups also were quick to reiterate their opinion of Judge Roberts and warned against efforts at stalling.

"Opposition to this nomination will be based on nothing but partisan politics, and would be an unfortunate strategy at a time when the Senate ought to be coming together to get things done for the American people," said Brian McCabe, president of Progress for America Inc.

John Roberts Nominated To The Chief Justice Position (KRT)

Knight Ridder, September 6, 2005

Proving that he intends to move swiftly to fill two vacancies on the Supreme Court, President Bush announced Monday that he will nominate John G. Roberts to be Chief Justice, replacing William H. Rehnquist, who died Saturday.

Roberts, already Bush's choice to replace retiring Associate Justice Sandra Day O'Connor, would become the nation's 17th high court leader and would be the first to replace his former boss. Roberts clerked for Rehnquist in the early 1980s; the two have had a close personal and professional relationship ever since.

"I'm certain that Chief Justice Rehnquist was hoping to welcome John Roberts as a colleague, and we're all sorry that day didn't come," Bush said. "Yet it's fitting that a great chief justice be followed in office by a person who shared his deep reverence for the Constitution, his profound respect for the Supreme Court, and his complete devotion to the cause of justice."

Roberts' nomination only partially clears the court's clouded future, as the justices prepare to return to business Oct. 3. His confirmation hearings to succeed O'Connor are scheduled to being Tuesday, but would almost certainly need to be delayed.

Senate Democrats said the chief justice seat is fundamentally different, and more pivotal.

"The stakes are higher and the Senate's Advice and Consent responsibility is even more important," said Sen. Harry Reid (D-Nev.), the minority leader.

"Before the Senate acts on Roberts' new nomination, we should know even more about his record," said Sen. Edward Kennedy (D-Mass.) "And we should know whom the president intends to nominate as a replacement for Sandra Day O'Connor."

Some Senate Democratic staffers said hearings might not begin until next Monday.

The Senate is expected to need at least three weeks to work through the Judiciary Committee's confirmation process and the full chamber's vote. That would put Roberts in the seat just days before the new court term begins.

Roberts' elevation to chief also re-opens the O'Connor seat. Bush said he would move swiftly to nominate someone else for it. He's expected to face new pressure to replace O'Connor, the court's first female justice, with another woman. He could also nominate his attorney General, Alberto Gonzales, to the seat, making him the first Hispanic to sit on the court.

It's unlikely that Bush could get anyone confirmed for O'Connor's seat before Oct. 3, though, leaving the opening of the next term in flux.

O'Connor's resignation is technically set to take effect only once her successor is confirmed, so she may be expected to return to the bench while confirmation proceedings take place. But that raises further complications: She can't hear cases in October or November and then have her successor vote on them when they're decided in January or later.

O'Connor's continued service could also be compromised by personal concerns. One of the reasons she retired was to care for her ailing husband, who is stricken with Alzheimer's disease.

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The Roberts nomination to chief justice unfolds as the nation prepares to pay its final respects to Rehnquist. The former chief justice is scheduled to lie in repose in the Supreme Court's great hall Tuesday and Wednesday. Burial at Arlington National Cemetery will follow a funeral Thursday.

O'Connor's Staying On Might Tie Up The Court (LAT)

By David G. Savage

The Los Angeles Times, September 6, 2005

WASHINGTON -- Justice Sandra Day O'Connor reaffirmed Monday that she would remain on the Supreme Court until her successor is confirmed, but her presence is likely to have more symbolic than practical significance.

That is so because a justice's votes really count only when an opinion is issued, not when the court first hears a case. At first glance, O'Connor would look to be a tie-breaker for cases heard in October or November, before President Bush's nominee to replace her is likely to be confirmed by the Senate.

But the opinions in those cases are not likely to be issued until early next year, after O'Connor presumably would be gone. Therefore, her vote would not count, and the court could find itself evenly split 4-4.

In such instances, the justices can order the case to be reargued before the full nine-member court.

When O'Connor sent a retirement letter to the president on July 1, she closed by saying that her retirement would be "effective upon the nomination and confirmation of my successor." She also said she was leaving to spend more time with her husband.

White House aides said Bush called O'Connor Monday morning to tell her he had named Roberts as chief justice. In that call, she reiterated her pledge to stay on the court until Bush could win confirmation for her replacement.

Senate Democrats also cited O'Connor's presence as a reason for not rushing to choose and confirm a second Bush appointee.

Her presence could prove significant if the Senate were to block Bush's choice for her replacement. But if the president's nominees win confirmation by December, she is not likely to cast decisive votes.

On Oct. 5, two days after the court's term begins, the justices are scheduled to hear a major test of the nation's only right-to-die law. Oregon permits doctors to prescribe lethal medication to individuals who are terminally ill and wish to hasten their deaths.

The Bush administration has sought to nullify the law by threatening doctors with a loss of their right to prescribe medication. They rely on federal drug control laws and argue that prescribing lethal medication is not a legitimate medical use of these drugs.

Oregon's officials and two lower courts have said that the state has the power to regulate the practice of medicine.

The White House says it would like to have Roberts confirmed as chief justice by the time the court convenes and Senate Majority Leader Bill Frist, R-Tenn., said Monday that he expected to have a confirmation vote before the full Senate by late September. There is little chance, however, that a successor to O'Connor would also be confirmed by the court's opening day.

Two days after the argument in the Oregon case, the justices will meet behind closed doors to vote. If the court splits 5-4 with O'Connor in the majority, her vote would look to be decisive. But since the justices typically work months on their majority and dissenting opinions, the ruling probably would not be announced until early next year, after O'Connor's replacement is confirmed. In such a case, the court would be split 4-4, and it would have to reargue the case to include the new justice.

A Shaky Ethics Charge (WP)

By Ronald D. Rotunda

The Washington Post, September 6, 2005

Does John Roberts have an ethics problem?

Three ethics professors argue that Roberts, whom President Bush has just nominated to be chief justice, should have disqualified himself from a case he helped decide earlier this year while serving as a judge on the U.S. Court of Appeals for the D.C. Circuit.

The case, Hamdan v. Rumsfeld, which concerns a key issue in the administration's war on terrorism, may be headed for the Supreme Court, and at the time of the appeals court ruling, Roberts was being considered for a vacancy on the high court, though it did not yet exist.

The three professors -- Stephen Gillers of New York University, David J. Luban of Georgetown University and Steven Lubet of Northwestern University -- say that in not disqualifying himself, Roberts violated the "appearance of impartiality." If true, it may become a prominent issue because it offers one of the few arguments against Roberts. In the case at issue, the appeals court upheld the constitutionality of the administration's plan to use military commissions to try terrorist suspects.

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Just a short time ago, Gillers said that he "saw no problem" with the fact that Bush met with Roberts about the Supreme Court vacancy on July 15, the same day the appeals court ruled 3 to 0 in Bush's favor in Hamdan. But Gillers said he changed his mind after Roberts disclosed the White House interviews in his Senate questionnaire. What seems to be crucial is that Attorney General Alberto Gonzales spoke to Roberts on April 1, six days before oral arguments in the Hamdan case.

Gillers and his colleagues conclude that Roberts violated a federal statute that requires what Gillers calls "an appearance of impartiality." The federal statute doesn't put it that way; it says that the judge should recuse himself if his "impartiality might reasonably be questioned." The case law says the issue should be considered from the perspective of a reasonable, objective lawyer fully informed of the facts.

The American Bar Association says the "appearance of impartiality" standard is "question-begging" and leads to "ad hominem attacks."

We sometimes think, loosely, that ethics are good and that more is better than less. But "more" is not better if it exacts higher costs, measured in vague rules that impose unnecessary disqualifications.

Gillers's main source is Scott v. United States , a 1989 case in which a criminal trial judge in the District was discussing a managerial position with the Justice Department while the U.S. attorney's office was prosecuting a criminal case before the judge. Gillers says the judge acted improperly by presiding at the trial during his employment negotiations.

The problem with Gillers's reliance on the Scott case is that he leaves out what the case really said: "By December 23, 1984, when he had decided to accept the position in the Executive Office for United States Attorneys, the judge had a duty to recuse himself from Scott's case."

The Scott case does not support Gillers's argument; it undermines it. What Scott says, at most, is that Roberts had no obligation to withdraw from a case in which the government is a party before he was offered and decided to accept the position. That date could not be before the vacancy existed; in fact, it could not be before July 15, when he met Bush for the first time. By that time, the Hamdan case had already been decided.

Judges are offered other jobs all the time. A Supreme Court justice may become chief justice, or, like Justice Arthur Goldberg, U.S. ambassador to the United Nations. Appeals court judges may become Cabinet officers. Trial judges may become appellate judges. Gillers's stance would require judges to recuse themselves in any case in which the federal government is a party.

Gillers's response is that the Hamdan case was "hotly contested." I have never found any case to be "coldly contested," or even "warmly contested."

Do we really want to give the president or attorney general the power to force recusal of one or more judges on a panel simply by asking the judge if he might be interested in a different position that is not yet open but that eventually will be? Should Judge (later Justice) Ruth Bader Ginsburg have recused herself from any case involving the federal government from the time that Justice Byron White announced his resignation until the time President Bill Clinton announced her appointment? What of Judge (later Justice) Stephen Breyer, who was not nominated until a year after his initial interview with Clinton?

The president is not the only person responsible for court appointments. In many states, judicial selection committees present choices to the president. The case law (which Gillers does not cite) has uniformly rejected motions for disqualifying judges from cases in which members of the selection committees are directly involved.

Conflict-of-interest charges should not be raised lightly, and historical precedents and case law show the allegations against Roberts are unfounded.

The writer is a law professor at George Mason University; he rejoined the faculty in June after working at the Defense Department and was not assigned to the Hamdan case. This article is based on an ethics opinion he wrote at the request of Senate Judiciary Committee Chairman Arlen Specter (R-Pa.).

The Rehnquist-Roberts Court (WSJ)

The Wall Street Journal, September 6, 2005

With his nomination yesterday of John Roberts to be Chief Justice of the United States, President Bush moved to fulfill the Supreme Court legacy of the late William Rehnquist, and also took what we hope is the first step toward guaranteeing his own.

Elevating Judge Roberts to Chief was a logical decision, both politically and on the merits. The Senate and media have been investigating the nominee since July, and have found superlatives with nary a negative. The Judge is in a position to be rapidly confirmed and ready to preside by the time the High Court begins its new term on October 3.

More importantly, what we have learned about Judge Roberts suggests that he shares Chief Justice Rehnquist's judicial philosophy. If Mr. Bush now follows with the nomination of an equally distinguished conservative for the Court's second opening, the Roberts Court will be able to continue the legal restoration that the late Chief Rehnquist began but was never able to finish.

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That historic mission is to restore the Court to its proper Constitutional role as a judicial arbiter rather than as an engine of liberal policy-making. Judicial activism was in its heyday in 1972, the year Justice Rehnquist arrived at the Court. In his early years, he earned the nickname the "Lone Ranger" because he was often the only dissenter on the nine-member Court. But after he became Chief in 1986, and with the help of other Reagan appointees, he began to move the Court back toward the center.

He made some progress, notably on limiting federal power over state governments (Lopez in 1995); church-state relations, especially with the 5-4 Zelman decision in 2002 that found private-school vouchers constitutional; racial preferences (Richmond v. Croson, 1989); and property rights (Nollan in 1987). It's a tribute to Mr. Rehnquist's principles that he also upheld liberal precedents if they had become embedded in common practice, such as the Miranda warnings (Dickerson v. U.S., 2000) that he had once opposed as policy. Modern liberals never display such deference to precedent when their policy preferences are at risk.

But the Chief was denied a genuine intellectual majority by the protean quality of some of his colleagues. Justices Anthony Kennedy and Sandra Day O'Connor tapered their views to the Beltway winds, while David Souter repudiated his confirmation testimony and joined the Court's liberal wing. When Bill Clinton replaced Byron White (Justice Rehnquist's partner in dissent on Roe v. Wade in 1973) with Ruth Bader Ginsburg in 1993, most conservative momentum stalled.

The judicial left understands these stakes, which is why they are now ratcheting up their rhetoric against Judge Roberts. People for the American Way yesterday called him "unfit" to be Chief, which is the ultimate compliment. They're afraid he's every bit as smart as he seems. Mr. Roberts will be confirmed in any case, but the real game here is to intimidate Mr. Bush into naming a less conservative nominee for the second opening.

All the more so now that Mr. Bush is on the defensive in the aftermath of Hurricane Katrina. With a war in Iraq and down in the polls, Mr. Bush will hear from some of his own advisers that he should play it "safe" with his second choice. They'll suggest he avoid another "divisive" battle by selecting someone who will win the acquiescence of Democrats Ted Kennedy or Chuck Schumer.

We hope he rejects such counsel. With two vacancies, Mr. Bush now has a genuine chance to remake the Court. He told voters during two election campaigns that he'd nominate Justices in the mold of Antonin Scalia and Clarence Thomas. Especially with his other troubles, Mr. Bush can't afford to alienate his most loyal supporters in the hope of buying a confirmation truce.

A battle with Senate liberals over a distinguished conservative nominee would probably even help Mr. Bush politically. While the activist left is howling about Judge Roberts, Red State Democrats have kept a studious silence. They know that the "values" issues that so motivate the political left -- abortion, gay marriage, racial preferences -- are far less popular in Nebraska, North Dakota or Florida.

Democrats from these states will need an excuse beyond ideology to oppose a qualified nominee. And Mr. Bush has many such candidates to choose from: J. Harvie Wilkinson, Edith Jones, Ted Olson, Michael Luttig, Sam Alito, Larry Thompson, Michael McConnell or Janice Rogers Brown. The political trap for Mr. Bush would be to choose someone who is less distinguished but is somehow thought to be easier to confirm. The President should be thinking about his Supreme Court legacy for the next 30 years, not the next 30 days.

John Roberts's Rapid Ascension (NYT)

The New York Times, September 6, 2005

President Bush surprised many with his swift decision to nominate Judge John Roberts Jr. to be the next chief justice of the United States. If Mr. Bush thought Mr. Roberts had already impressed both the public and the Senate with his intelligence and sincerity, he figured correctly. But if he regards the judge as a known commodity whose confirmation should be a shoo-in, he is wrong. The Senate did not have enough information to make an informed judgment about Mr. Roberts when he was the nominee for just one of the nine seats on the court. Now it simply becomes more important than ever that he be questioned thoroughly about his views.

Besides his long and stellar résumé, Mr. Roberts, who was appointed to the United States Court of Appeals for the District of Columbia Circuit less than two and a half years ago, has an extremely short and thin record of actual decisions. Those two attributes may be equally desirable for a Supreme Court nominee these days. The résumé attests to his right to be considered, and the lack of a real judicial record makes it hard for potential critics to guess how he might rule on controversial issues.

Like the president, this page worries about activist judges who might use the Constitution as a cloak for their desires to remake society in the mold of their own political preferences. Unlike Mr. Bush, we believe the record now shows that most of those jurists are conservatives, who strike down laws that do not fit their political philosophies or their extremely narrow view of governmental power.

The Senate has a duty to find out whether Judge Roberts has that kind of mind-set. There are troubling hints that he may. If the coming confirmation hearings were important before, they now become crucial. The chief justice is in many ways

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positioned to have more long-term influence over the nation than any other person. Given a lifetime appointment, Mr. Roberts, 50, could lead the court through the administrations of a half-dozen presidents.

The Bush administration could make the Senate's job easier by handing over all the documents Mr. Roberts prepared when he worked for the administrations of Ronald Reagan and George H. W. Bush. And when Judge Roberts is questioned at his confirmation hearing, he should speak candidly and at some length about his views on important legal issues and precedents. The president could also help by giving the country a fuller idea of how he intends to shape the court. Some Democrats have urged that he make his second nomination, for the seat occupied by Sandra Day O'Connor, before the Senate takes up Judge Roberts's nomination. That seems reasonable. Chief Justice William Rehnquist, who died on Saturday, was a very conservative jurist, and from what we know about Judge Roberts, it is clear that President Bush has nominated a very conservative man to take his place. It is also important to know the president's plans for filling the seat held by the more moderate Justice O'Connor.

A Nominee For Chief (WP)

The Washington Post, September 6, 2005

President Bush lost no time in naming a successor for Chief Justice William H. Rehnquist. If confirmed, Judge John G. Roberts Jr. will bring the same virtues to the job of heading the country's judiciary as he would have brought to the job of associate justice. A highly regarded former appellate lawyer and current appeals court judge, he is a modest, smart lawyer who, unlike some of the president's judicial picks, is generally well regarded across party lines. Mr. Bush deserves credit for acting with dispatch. The Senate should do so as well and, giving a full airing to the issues, should make a point of voting on the nomination before the court reconvenes in October.

In most respects, the change in position ought to signify little in terms of how senators regard Judge Roberts. The difference between the chief justice and the other members of the court, after all, is largely administrative, not substantive; all justices have only one vote. Judge Roberts is, to be sure, on the young side for the job of chief. At 50, he will have, if confirmed, the odd distinction of being the youngest member of the court he heads. On the other hand, his easy manner and collegiality ought to serve him well.

Yet his nomination as chief justice nonetheless raises the stakes in the discussion of what Judge Roberts actually believes -- a subject about which a great deal more has been said than is really known. Liberal groups that feared what a Justice Roberts might do can only fear a Chief Justice Roberts all the more. The hearings will provide an excellent opportunity for the Senate Judiciary Committee to explore -- and for Judge Roberts to address -- a raft of important questions: What is his attitude toward what is called stare decisis , the doctrine of generally letting past cases stand even if wrongly decided? How does he regard the balance of power between the federal government and the states, an ongoing debate in which a new justice could play a dramatic role, either constructive or unfortunate. What does he believe about privacy rights?

Documents from Judge Roberts's service in the Reagan administration -- in the Justice Department and in the White House counsel's office -- have raised fears that he might harbor reactionary views on a range of civil rights questions. Some of this is overblown; opponents have tried to make controversy out of reasonable positions Mr. Roberts took against policies few still advocate today. On the other hand, Judge Roberts opposed changes to the Voting Rights Act that had broad bipartisan support, as well as affirmative action programs and the proposed Equal Rights Amendment. He seemed deeply suspicious of federal review of state convictions. He seems to have objected to decades of Supreme Court rulings restricting the role of religion in public life. Judge Roberts was quite young when these memorandums were drafted, and his views may have evolved as he matured. Which part of this record as a young lawyer does he stand behind now, and which part does he not? All of these questions take on a greater sense of importance -- at least symbolically -- with Judge Roberts now nominated to be chief.

In one critical respect, however, moving Judge Roberts to the chief's slot may actually reduce his impact on the court's ideological balance. Chief Justice Rehnquist, unlike Justice Sandra Day O'Connor, was not often a swing vote on the court. In replacing him, Judge Roberts will be very unlikely to move the court substantially to the right. He would not have to prove all that surprising to move it to the left on certain issues.

This fact, in turn, puts a heavy premium on Mr. Bush's choice regarding a new replacement for Justice O'Connor -- whose decision to stay on the court until a nominee garners confirmation is proving invaluable at a delicate transitional moment. Before nominating Judge Roberts, Mr. Bush consulted widely and emerged with a candidate Senate Democrats have -- by and large, anyway -- treated with respect. As he once again considers a nominee to replace Justice O'Connor, Mr. Bush would do a public service by consulting widely and meaningfully.

How Would Roberts, As Chief Justice, Affect You? (USAT)

USA Today, September 6, 2005

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By all accounts, John Roberts is the kind of guy you might want your daughter to bring home for dinner: brilliant, personable, possibly destined for greatness. Even the sternest father — if he's not too liberal — would probably grant nodding approval, as the Senate is likely to do in the next few weeks, seating Roberts on the Supreme Court.

The positive reaction to Roberts since President Bush first nominated him to the court in July undoubtedly contributed to Bush's decision to choose him Monday to succeed William H. Rehnquist, who died Saturday after nearly 19 years as chief justice.

But as impressive as Roberts has appeared, the most important question about him remains largely unanswered: How would a Chief Justice Roberts affect the country? As the youngest chief justice since 1801, Roberts, 50, would be a potent influence on society for a generation or more.

Would he, for instance, vote to reverse existing law on abortion or, more sweepingly, the right to privacy? His record suggests he might. Would he limit Congress' ability to protect the environment, public health and civil rights? That, too, is open to question.

The Senate Judiciary Committee will plumb for answers in hearings that may begin as early as Thursday, and it needn't linger long on basics. Roberts easily surpasses the threshold qualifications for justices.

By all accounts, he is a brilliant lawyer with a forceful intellect suited to the court. The American Bar Association calls him "well qualified."

Politically, he's conservative but not an outspoken ideologue, with little history of brash pronouncements. But which of the several sharply opposed conservative camps he falls into is in doubt, and the difference stands to affect every American.

Roberts' public record — inconclusive but provocative — raises questions whether he prefers limited government and cautious change, or whether he is an activist who would seek to overturn important Supreme Court precedents and legal protections:

Right to privacy. In memos written when he was in the Reagan administration, he disparaged the notion that there is a constitutional right to privacy. He wrote approvingly of the dissent in the landmark 1965 case that firmly established that right and overturned state laws against birth control. Reversing that decision would reopen the door to government meddling in the most private aspects of life, again criminalizing abortion, gay sex, even contraception.

Abortion. As deputy solicitor general for the first President Bush, he signed a government brief urging reversal of Roe v. Wade, the 1973 decision that state laws banning abortion were unconstitutional. The court has since reaffirmed that decision.

Civil rights. Roberts argued for standards that would make it easier for school districts to evade desegregation orders. He also disparaged affirmative action — still sanctioned by the court in some circumstances — as "recruiting of inadequately prepared candidates" and argued that it is unconstitutional. That record raises questions about whether he would restrain the ability of Congress to help those victimized by discrimination.

Powers of Congress. Roberts parted company with the majority of conservative judges on his appeals court two years ago to take a swipe at the constitutional basis of the Endangered Species Act. The narrower interpretation he seemed to suggest could also limit the reach of federal laws regulating health, safety, civil rights, commerce and the workplace.

Freedom of speech. He argued that a federal law prohibiting flag burning did not violate the First Amendment, even after the Supreme Court had already declared a nearly identical state law unconstitutional.

Freedom of the press. Roberts wrote a memo challenging the 1964 Supreme Court decision New YorkTimes v. Sullivan, a cornerstone of the freedom to report aggressively on public officials. He suggested reverting to an earlier standard that gave officeholders greater ability to prevail in libel suits.

Church-state entanglement. He argued for lowering the wall between church and state and allowing officially led prayers at public school graduations. He criticized the Supreme Court's decision in another school prayer case as "indefensible."

Women's rights. Roberts ridiculed the notion that women are subject to workplace discrimination or entitled to constitutional protection. He also argued for narrowing the government's ability to enforce the ban on gender discrimination in education.

Roberts' defenders point out that most of his statements challenging the legal status quo were made while representing either the interests of a private client or the political commitments of an earlier administration. They might not represent his personal views — and many are more than 20 years old.

Both assertions are accurate. Less defensible is that the Bush administration has spurned Senate requests for records later in Roberts career. Senate questioning will have to fill in those blanks.

Much will be made at the hearings of the doctrine that Roberts should not be asked to say how he might rule in cases coming before the Supreme Court. But that should not deter senators from demanding to know how he views issues more generally and cases already decided — and the standards he would use to overturn settled law.

To suggest that the Senate should simply ignore the impact Roberts would have on constituents is to suggest that it stick its collective head in the sand.

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The Next Chief Justice (LAT)

The Los Angeles Times, September 6, 2005

Maybe if there had been no Katrina, and if the Iraqi occupation were proceeding as Pentagon optimists had once envisioned — with the few thousand remaining U.S. troops in the country lolling about in the dozens of Starbucks cafes popping up across Mesopotamia by now — President Bush would have

tried elevating Antonin Scalia or Clarence Thomas to serve as the chief justice of the United States. But under present conditions, Bush doesn't need any more trouble than he already has. And so, in the wake of William H. Rehnquist's death, the president has wisely nominated John G. Roberts Jr., a former Rehnquist law clerk, to become the next chief justice.

It's a smart move. Roberts has the intellect and temperament to lead the court and the federal judiciary. It's somewhat counterintuitive that newcomers to the court usually become the chief — Rehnquist was an exception — but that tends to preserve good relations among the nine justices. The elevation of either Scalia or Thomas would have proven highly contentious and divisive in Washington, and maybe even on the court.

The Senate confirmation hearings for Roberts' nomination to replace retiring Justice Sandra Day O'Connor had been slated to commence today, but there will now be a short delay to honor Rehnquist. But there is no reason for the Senate to avoid taking action well in advance of the Supreme Court's new term on Oct. 3. The suggestion by some Democratic senators that they will need more time to review Roberts' credentials now that he is in line to be chief justice rings hollow. Yes, the chief justice wields a great deal of subtle power by virtue of his authority to control arguments and assign the writing of opinions, but it's not as if anyone was taking the confirmation of an associate justice lightly.

In their questioning of Roberts, senators should focus special attention on his views on the proper deference that courts owe the executive branch in a time of war. Roberts was on a panel of the U.S. Court of Appeals for the District of Columbia that ruled in July that the Bush administration has virtually unchecked power to try anyone it labels an "unlawful combatant" before a military commission that does not live up to the standards of the Geneva Convention. The extent of presidential power in the war on terror is likely to loom large in the Supreme Court docket for years, and it's a subject that Roberts, a former White House lawyer, should be asked to address in his hearings.

Meanwhile, the president faces a second opening on the court, although O'Connor could still be on the bench on Oct. 3 if her replacement hasn't been confirmed. Many of the candidates reportedly being considered earlier by the White House are radical conservatives who could trigger the kind of opposition we haven't seen to Roberts. Then there is the president's friend and attorney general, Alberto Gonzales, who is not trusted by social conservatives and should be disqualified, in any case, for encouraging the administration to disregard international law in conducting the war on terror.

So, mindful of Bush's other headaches, from Katrina to Iraq, he'd be well served by making another sensible move (is there a surprise candidate up his sleeve?) in replacing O'Connor.

William Rehnquist (WSJ)

By Randy E. Barnett

The Wall Street Journal, September 6, 2005

Last December, during my oral argument in the medical marijuana case of Gonzales v. Raich, the center chair normally occupied by Chief Justice William Rehnquist was empty. Without the towering, and sometimes glowering, visage of the Chief, with his no-nonsense demeanor and questioning, there was a palpable void in the courtroom that day. Now, with his passing, there is a void in the Supreme Court itself. Today we mourn the death of William Rehnquist. One day soon we may mourn the death of his legacy -- the jurisprudence of the Rehnquist Court.

Even before becoming chief justice, often in lonely dissents, it was William Rehnquist who was most personally responsible for what is now called "the New Federalism" -- the revival of the ideas that judiciary should protect the role of the states within the federal system and enforce the textual limits on the powers of Congress. Establishing the New Federalism took enormous effort and leadership by Rehnquist over many years. Now that legacy is in jeopardy.

At the founding, and for some 150 years thereafter, the limits on congressional power provided by the Constitution of 1789 -- as modified by the Fourteenth Amendment -- were enforced by the Supreme Court. According to the textual plan, Congress is, with few exceptions, confined to the express powers enumerated in Article One of the Constitution. While these express powers were understood as flexible, they were nonetheless limited. When the federal government was limited to its enumerated powers, the states were left to the exercise of their police powers, subject to the limitations imposed upon them after the Civil War by the Fourteenth Amendment.

The Founders' plan was more or less intact until the 1930s, when President Roosevelt and the New Deal Congress enacted a massive expansion of federal power. By the 1940s, the textual scheme of limited federal powers was effectively swept

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away by a Supreme Court dominated by appointees of President Roosevelt. In a series of landmark decisions, such as Wickard v. Filburn in 1942, the New Deal Court replaced the Constitution's textual scheme of limited federal power with a policy of judicial deference to any claim by Congress to regulate anything and everything with even a remote connection with the national economy.

By the early 1990s, even the requirement of a remote connection was giving way, as Congress began to regulate subjects that could only be described as "interstate commerce" by Lewis Carroll's Humpty Dumpty, who asserted (in a rather scornful tone) that: "When I use a word, it means just what I choose it to mean -- neither more nor less." With no judiciary to provide a constitutional compass, Congress passed laws reaching activities such as possessing a gun near a school without even trying to show how the regulated activity had any conceivable connection with "commerce . . . among the several states."

* * *

But William Rehnquist had a constitutional compass. In the beginning, he took what he could get. As an associate justice, his opening strategy for nudging the Court back onto the constitutional path was to carve out of federal power exemptions for state discretion. His first major triumph came in the 1976 case of National League of Cities v. Usery, which established a limit on the powers of Congress to interfere with such "traditional governmental functions" as fire prevention, police protection, sanitation, public health, and parks and recreation. Writing for the Court, then-Justice Rehnquist announced that, "This Court has never doubted that there are limits upon the power of Congress to override state sovereignty, even when exercising its otherwise plenary powers to tax or to regulate commerce which are conferred by Art. I of the Constitution." This sort of reliance upon first principles to draw an outer limit to federal power became his trademark.

Rehnquist's initial victory, however, was short-lived. Notwithstanding the precedent of National League, in 1985 the Burger Court reversed itself in Garcia v. San Antonio Metropolitan Transit Authority. In Garcia, the Court announced that the protection of the states would, once again, solely be a political rather than also a judicial question. In a terse four-sentence opinion, Rehnquist presciently predicted, "I do not think it incumbent on those of us in dissent to spell out further the fine points of a principle that will, I am confident, in time again command the support of a majority of this Court."

With Justice Rehnquist's ascension to chief justice, the Rehnquist Court cabined Garcia's laissez-faire approach toward Congressional power with a series of "Tenth Amendment" cases that aimed at protecting state sovereignty from federal interference in a variety of ways. I put Tenth Amendment in quotes because this jurisprudence was never grounded on the original meaning of the Tenth Amendment, which merely affirms that the Federal government is one of delegated powers, and that all powers not delegated are reserved to the states or to the people. With the post-New Deal judiciary interpreting the delegated powers so as to allow the Federal government to do virtually anything it wants, federal power had completely enveloped any "reserved" powers of states. Instead of directly holding Congress to the powers enumerated in the text, these earliest New Federalism cases attempted indirectly to preserve the underlying "principle" of federalism by carving out islands of state sovereignty in a sea of federal power.

Chief Justice Rehnquist understood this, of course. In 1995, he launched a direct attack on the source of the problem in the case of U.S. v. Lopez, which held unconstitutional the Gun Free School Zone Act because it exceeded the power of Congress to "regulate commerce . . . among the several states." There he wrote, "We start with first principles. The Constitution creates a Federal Government of enumerated powers." For the first time in 60 years, the Court found a federal statute to have exceeded the commerce power of Congress. Rehnquist's opinion in Lopez sent shock waves through the legal academy.

Few thought the Rehnquist Court was serious, however, until 2000, when, in U.S. v. Morrison, it struck down a portion of the Violence Against Women Act that created a federal civil cause of action for "gender motivated violence." Once again, the chief justice affirmed that: "The Constitution requires a distinction between what is truly national and what is truly local. . . . In recognizing this fact we preserve one of the few principles that has been consistent since the [Commerce] Clause was adopted."

Together with the Tenth Amendment cases, Rehnquist's opinions in Lopez and Morrison were the keystones of the New Federalism. Had he been able to marshal a consistent majority for the constitutional "first principles" these cases represented, the Rehnquist Court might have overseen a constitutional restoration as substantial as the constitutional demolition begun by the Roosevelt Court. But both decisions were 5-4, with the five more "conservative" justices in the majority and the four more "liberal" justices in strong dissent. The four adamant dissenters have not relented in their opposition and need only pick off one of the New Federalists to uphold the constitutionality of a claim of federal power.

* * *

Perhaps because his illness prevented him from providing his strong personal leadership, in this the final year of the Rehnquist Court there are signs that his legacy may not endure. In Gonzales v. Raich both principles of state sovereignty and of enumerated powers were put to the test. Rehnquist was one of only three justices who were willing to say that Congress cannot magically transform the noncommercial possession of homegrown marijuana into "interstate commerce." The Chief joined the

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dissenting opinion written by Justice Sandra Day O'Connor. Many who now lionize her when discussing her replacement omit mentioning her stalwart support of the New Federalism so strongly advanced by her fellow Arizonian and Stanford classmate.

Sometime this fall, two of the five votes that made up the Lopez and Morrison majorities will have been replaced. Only Justice Clarence Thomas will be left from the three Raich dissenters. As the new chief justice (assuming he is confirmed), will John Roberts assume the role of his mentor William Rehnquist -- for whom he clerked -- and lead the Roberts Court to enforce the Constitution's original plan of limited federal power? Will President Bush now look for a nominee to replace Justice O'Connor who is as committed to the New Federalism as she was? Given that so many of the New Federalism cases were 5-4, if either of the new justices adopts the mantra of "judicial deference" to congressional power, then Chief Justice Rehnquist's death, along with Justice O'Connor's retirement, may presage the second death of federalism. A judicial withdrawal from enforcing the original limits on the powers of Congress would undo the New Federalist legacy of William Rehnquist.

As the president now decides who next to nominate, he would uphold the Constitution by selecting a person with a firm and demonstrated commitment to the Rehnquist Court's New Federalism legacy. Only such a choice would continue the movement to restore the "first principles" of constitutionally limited government that William Rehnquist affirmed so eloquently. One can hardly imagine a sadder end to the tenure of William Rehnquist than that his most prized and important contribution to constitutional law is aborted by a conservative Republican president and a Republican-controlled Senate.

Mr. Barnett, the Austin B. Fletcher Professor of Law at Boston University, is author of "Restoring the Lost Constitution: The Presumption of Liberty" (Princeton, 2004).

Gentleman Of The Court (NYT)

By Laurence H. Tribe

The New York Times, September 6, 2005

Cambridge, Mass.

In October 1971, the White House tapped Assistant Attorney General William H. Rehnquist to respond to my critique of someone at the top of its short list for one of the two vacancies created by the nearly simultaneous resignations of two justices. I found his tepid apologia underwhelming. Yet within two months, when Mr. Rehnquist took the Supreme Court seat once marked for the target of my critique, I began to see how foolish it would have been to measure him by his defense of a candidate about whom he probably felt lukewarm. While it may be too soon to assess the chief justice's enduring impact, it is not too soon to reflect on why so many who served with him as colleagues, worked for him as law clerks or appeared before him as advocates are already prepared to render a verdict of greatness and to tell the world how deeply his passing is mourned.

Seeing past the chief justice's sometimes abrupt manner in oral argument was eased for me by his willingness to engage me, then an unknown law professor in his mid-30's, in a public debate in 1978 on the role of an active judiciary in a pluralistic democracy, moderated by the legendary Judge Henry Friendly. Charmed by his disarming informality and candor during the debate and at the private dinner that followed, my wife and I emerged with fond feelings toward a man whose warmth and humor within the court were not always evident to strangers.

When I began arguing regularly before the Supreme Court two years later, I felt from the start that I was conversing with a brilliant colleague who always got right to the point. In more than 30 oral arguments over the past 25 years, I never saw him ask questions, as his colleagues sometimes do, to hide the ball, parade his brilliance, show up a colleague, or play to the galleries. When he thought you were approaching a dead end, he told you so, as he did in 1997, when he said I wouldn't "find much disposition on the court to enlarge on" a precedent on which one of my arguments rested. Taking the hint, I shifted to the other pillar on which my case stood (and won the case).

Chief Justice Rehnquist was attentive to legal doctrine but impatient with legalisms that ignored reality. His strong pragmatic streak, differentiating him from those on his right, was manifest. In a case about asbestos litigation that I argued in 1998, the legal issue was the propriety of certifying a particular lawsuit to proceed as a class action, but he insisted on knowing how well those allegedly injured would "fare if they just keep fighting their individual lawsuits," especially if the companies they sue "end up in bankruptcy." Had I not been reminded to paint that larger picture, the case might have come out differently.

That Chief Justice Rehnquist was unlike both puritanical conservatives like Warren E. Burger and movement conservatives like Antonin Scalia was evident in the character of his questions in the two gay rights cases I argued in the mid-1980's, one about firing teachers for "advocating" homosexual activity and the other about prosecuting consenting adults for same-sex intimacy. In neither case did his questions have the "I'm shocked" tenor of Chief Justice Burger's contribution to the dialogue. Justice Rehnquist simply pressed me appropriately on the absence of evidence that the challenged school board regulation had "ever been applied to a single living soul." And when I argued that consenting adults have a fundamental right to engage privately in the sex acts of their choice, while Chief Justice Burger and Justice Byron R. White could barely contain their disgust, Justice Rehnquist calmly pursued the question of just when and how that "fundamental right" arose.

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A dry and gentle wit was among the chief justice's greatest strengths. In a 1991 abortion financing gag order case, I tried to lighten things up by responding, when the chief justice suggested that a State Department press secretary has to toe the government's line, that "some of them don't seem to realize that." Chief Justice Rehnquist let me enjoy the laughter before topping me with a deadpan, "Well, some of them may not realize it, but I think they'll soon learn." In the two cases I argued in which Chief Justice Rehnquist penned a dissent (a freedom of speech case in 1980 and a church-state separation case in 1982), his deliberately playful solo opinions were written with so light a touch that I enjoyed reading them far more than I did the sober 8-to-1 opinions in my favor.

Chief Justice Rehnquist's goal of weakening the checks on presidential power happily met decisive opposition within the court, although I worry that the seeds he planted to that end might yet bear dangerous fruit. No pleasure in argument could overcome my sadness at the Supreme Court's performance in the 2000 election, or my disappointment at how far the chief justice succeeded in his goals of lowering the wall of separation between church and state, shrinking Congress's power and reducing the protections accorded the mostly poor people of color who are suspected or accused of crime.

RECENT events might change the direction of the winds that moved America toward the point Justice Rehnquist comfortably occupied from his earliest days on the court. How the new court will tack with or against those winds will be Topic A at the forthcoming confirmation hearings, as it should be. But Topic B had better be the ability of the new justices to help the court earn the respect of all who take part in its proceedings or are affected by its rulings - which means everybody. Chief Justice Rehnquist was a master at that mission. For that, and for the steadiness of his leadership, I will always remember him with profound gratitude and admiration.

Social Security Waits For Action By Divided GOP (WT)

By Amy Fagan, The Washington Times

The Washington Times, September 5, 2005

House Republican leaders, who weeks ago pledged to take the lead on Social Security, still say they will act this fall, but the party remains divided, as some of their members push for a personal accounts bill, some want a broader package and others don't want to act at all.

"We hope to put a bill together," said House Majority Leader Tom DeLay, describing a likely retirement security package that includes personal accounts.

The Texas Republican, however, said he can't guarantee a floor vote until the Ways and Means Committee approves the bill. His statements were more forceful several weeks ago, when he and other leaders pledged action.

House Ways and Means Committee Chairman Bill Thomas, California Republican, has insisted on his broad retirement package, which emphasizes pension reform and private savings.

It is expected to include a Social Security proposal, introduced by Republican Reps. Jim McCrery of Louisiana and E. Clay Shaw Jr. of Florida, that would use the system's surplus to create voluntary private accounts.

Some Republicans and outside advocates would like a vote on the McCrery-Shaw bill by itself, and a few last week said House leaders have decided unofficially to do that.

"From my conversations, they agree this is the best strategy," said Larry Hunter of the Free Enterprise Fund, arguing that such a tactic would pressure the Senate and give House Republicans a concrete and popular proposal to take to constituents.

But Mr. DeLay said Friday: "If it's done, it will be done as part of the retirement security package."

Supporters of the accounts proposal say Republicans remain divided.

"You still have a lot of members in the House that don't want to pass anything only to have the Senate sit on it," said Rep. Jack Kingston of Georgia, one of the few Republicans to address the issue during the August recess. "You have others who want a vote so they can vote yes, and then blame it on the Senate."

Mr. Shaw said his constituents liked his proposal once he explained it, and that Republicans will decide whether to proceed in the next few weeks, perhaps after a vote behind closed doors.

"We need to take the temperature of the conference," he said.

After talking with Mr. Thomas in July, Mr. DeLay said he expected a Social Security bill ready in late September or October. But members, aides and advocates noted that Social Security action likely will wait so that Congress can deal with relief to survivors of Hurricane Katrina, appropriations, budget reconciliation and immigration.

Opponents of private accounts feel confident.

"We come into the fall in a position of strength. The public has overwhelmingly rejected ... private accounts," said Brad Woodhouse, spokesman for Americans United to Protect Social Security.

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"There are a large number of Republicans who want this cup to pass from their lips, and yet the House Republican leadership seems to be convincing itself that this is an easy vote," said Roger Hickey, co-director of Campaign for America's Future.

Where The Rumsfelds Retreat, The Cheneys Soon Could Follow (WP)

By Dan Morse, Washington Post Staff Writer

The Washington Post, September 5, 2005

ST. MICHAELS, Md. -- They've grown used to having a secretary of defense in their midst -- the way his weekend estate is tucked behind a bend in the road, how he takes casual walks tailed by dark SUVs. Now, residents of this Eastern Shore retreat are preparing for someone even bigger to buy a house down the road: the vice president.

"I'd heard it was going to close either Tuesday or Wednesday of this week," Carroll Hurley, a funeral home owner, said Saturday, seated with his breakfast gang at the Carpenter Street saloon and restaurant.

Whether it's true -- that Dick and Lynne Cheney are buying an estate here -- could not be confirmed. Those closest to the deal -- Cheney's office, the purported sellers, the listing agent -- aren't talking. Hurley admits he's not certain: "All I have is hearsay. It wouldn't stand up in court."

Still, a nosy visit here leaves a person with one of two possibilities: Either the Cheneys are coming or a lot of people have bad information. Police Chief Ed Henry -- who breakfasted along with Hurley -- even referred to the lot in question as "Cheney's house."

The house, listed at $2.9 million, backs up in spectacular fashion to an inlet of the Chesapeake Bay. "Right out by [Defense Secretary Donald H.] Rumsfeld's," said Charles Mangold Sr., whose Benson & Mangold agency brokers high-end estates in the area. "It's under contract, but he hasn't settled yet."

Reaction to the two men's presence is embedded into everyday conversation -- even as residents take pride in taking it all in stride. They tick off celebrities who have lived in or visited the area: Margaret Thatcher, Walter Cronkite, James Michener, Yasser Arafat and Vince Vaughan -- the latest during nearby filming of "Wedding Crashers."

Residents joke about the occasional helicopter overhead and what flavor Rumsfeld gets at Justine's Ice Cream parlor. One woman even drew a clear distinction -- pro-Rumsfeld, anti-Cheney.

"Cheney's a politician. He's connected with Bush," said Rhonda Lewis, 58, a bookkeeper at a bike shop in nearby Easton. She has always had a crush on Rumsfeld. "He is just adorable."

She thinks the defense secretary often looks stressed out on TV, and seeing him walk casually through St. Michaels in khakis is comforting. "Bush just dumped all the hard stuff on him," Lewis said.

At Albright's Gun Shop, a highly regarded draw for goose and duck hunters, a photo of the vice president hangs near the counter. "Best Wishes. Dick Cheney," says the autograph.

Near the photo, behind the counter, Jim Kohlhaus remembered a recent day when several security people walked into the store, followed by the vice president. "I'll be . . . ," Kohlhaus said. He recalled telling Cheney he voted for him twice, "and I finally get to shake your hand."

Cheney extended his hand, Kohlhaus said, and bought some shotgun shells.

Rumsfeld bought a weekend house in St. Michaels two years ago, reportedly for about $1.5 million. He gets generally good reviews here for his desire to blend in -- even if that means taking a walk with his wife, Joyce, down a rural stretch of road tailed by SUVs. Residents say he doesn't like to pose for pictures alone, preferring to ask people to stand next to him and have a brief chat.

Lori Cuthbert, who lives nearby, said she met the defense secretary at a neighborhood St. Patrick's Day party. She intends to invite the Rumsfelds to an upcoming barbecue -- despite the Kerry-Edwards bumper sticker on her Honda.

Sue Stockman, an artist who sells jewelry and mosaics, bears witness that different types of people blend together here. Her Volkswagen van parked in her driveway is painted with flowers and sports "Think Peace" and "It Takes a Village to Raise a Child" bumper stickers. She protested the war in Iraq before it started and describes herself as an "environmentalist, holistic thinker and a pacifist."

Stockman reported having a run-in with someone she suspects was part of Rumsfeld's security detail. They argued over the film "Fahrenheit 9/11" at the Blue Crab Coffee shop -- ending with her putting a hand on his shoulder, sending him Reiki energy healing and telling him she had to get going.

A short time later, the man showed up at her house and gave her a small book, Stockman said. She fetched it from inside her house. "The Meaning of Life" is filled with photographs of animals, bits of wisdom and an inscription from the former Marine asking Stockman to accept his apologies and the book "as a token of friendship."

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Cheney seemingly has spent far less time here. He, his wife and the Rumsfelds did dine on April 16 at 208 Talbot, a high-end restaurant in central St. Michaels.

"Cheney had the lamb," said Deborah Miller, seated behind the hostess stand.

She knew something was up that day when security agents showed up in the afternoon to scout out the place. An attache of Cheney's then arrived, saying he'd prefer a table among the regular diners -- rather than in a back room. No one bothered their table, and the foursome couldn't have been more pleasant, Miller recalled. But she didn't know whether Cheney was buying a place.

And the owner of the house in question declined to comment, saying politely from the end of its long driveway that he didn't want to talk about anything.

The estate goes back to 1930 and was said to be built by one of Thomas Edison's daughters, according to Robert Snyder, the Coldwell Banker agent who is listing the property.

The nine-acre lot includes extensive gardens, ornamental pools and spectacular views of the water behind it. Deer and osprey can be seen.

Snyder, who is vice president of the St. Michaels town commission, declined to say when any deal might close and whether the Cheneys were going to move in. "It truly is a magnificent piece of property," he added.

Civil Rights, Terrorism Cases On Circuit Slate (LEGALT)

By Lily Henning, Legal Times

Legal Times, September 5, 2005

The federal appeals court in Washington, where oral arguments resume this week after a nearly three-month summer hiatus, is facing a season of change.

The departure of Judge John Roberts Jr. to Capitol Hill for hearings on his nomination to the Supreme Court and the arrival of Janice Rogers Brown and Thomas Griffith on the circuit court's bench resulted in a reshuffling of panels and argument dates for the fall.

Lawyers with upcoming cases before the U.S. Court of Appeals for the D.C. Circuit say they've received oral argument dates later than usual. As of late last week, the court had posted its calendar through the end of October.

The court's argument calendar, which continues to take shape, opens with the pleas of Guantánamo Bay prisoners. Over the next two months the court will also hear cases involving immunity and liability for public officials such as police officers and will revisit long-running litigation that pits states and interest groups against the federal government.

The D.C. Circuit begins arguments Sept. 8 with two of its most closely watched cases.

That day, Judges A. Raymond Randolph, David Sentelle, and Judith Rogers—appointees of Presidents George H.W. Bush, Ronald Reagan, and Bill Clinton, respectively—will hear the cases of Guantánamo Bay prisoners challenging their detention.

The arguments were originally scheduled to be heard Oct. 6 by a panel that included the D.C. Circuit's two newest judges, Brown and Griffith. The court did not comment on the changes in the panel, but lawyers for the detainees had requested that the hearing date be moved up so that if necessary, they could file an appeal that would reach the Supreme Court during its upcoming term.

"This must feel gigantic to these judges," says Barbara Olshansky, deputy legal director at the Center for Constitutional Rights in New York. "These are the kinds of decisions that are remembered and cited for centuries."

The learning curve is steep for any judge—regardless of whether he or she is a veteran or new to the bench, says Olshansky, who coordinates dozens of pro bono lawyers representing detainees.

Of the three judges, Randolph likely would be most familiar with the detainees' appeals.

In July he wrote the opinion in Hamdan v. Rumsfeld that upheld the military tribunals set up by the Bush administration to try terrorism suspects for war crimes.

Randolph's presence on the panel could create some "hurdles" for the detainees, says Olshansky, but the questions in the current cases are different. Hamdan challenged the legality of the military commissions to try suspected terrorists. The cases to be heard this week contest the legality of the detention of the prisoners, some of whom were picked up outside of the battlefield.

Lakhdar Boumediene v. Bush and Khaled Al Odah v. USA resulted in dramatically different outcomes in the lower court. In Boumediene in early January, U.S. District Judge Richard Leon, a George W. Bush appointee, held that the detainees have no rights under U.S. or international law that can be asserted in federal courts. Weeks later, Senior Judge Joyce Hens Green, appointed by President Jimmy Carter in 1979, ruled in Al Odah that the detainees do "possess enforceable constitutional rights."

No matter which way the circuit rules, the cases are expected to wind up before the Supreme Court, which last year ruled 6-3 that the detainees have a right to file habeas challenges in federal court.

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"We're hoping for a speedy decision," says Stephen Oleskey, a lawyer with Wilmer Hale in Boston who represents a group of Bosnian-Algerians taken into custody in January 2002 and held at Guantánamo Bay.

CONGRESSIONAL IMMUNITY

Thus far, just two cases are slated for review this fall by all active members of the court. In those, the D.C. Circuit will address the unsettled question of whether members of Congress can be sued for employment discrimination by their legislative staffers.

Lawyers say the decision to hear Fields v. Johnson and Hanson v. Dayton en banc was even more unusual because it was done sua sponte — without a request from any of the parties involved.

"It's very, very rare," says Miller Baker, a partner with McDermott, Will & Emery who litigates at both the trial and appellate levels and is not involved in either case.

At issue is whether federal lawmakers are shielded from employment discrimination lawsuits because of a constitutional clause that broadly protects lawmakers' speech, debate, and other "legislative activities."

The 1995 Congressional Accountability Act, passed shortly after Republicans won control of Congress, subjects Congress to various employment statutes that apply to the private sector. But it also preserves Congress' immunity under the constitutional speech or debate clause.

The question in the cases is whether the Constitution bars employment suits filed by certain legislative staffers.

Judges David Tatel, Harry Edwards, and Randolph heard arguments in April in an age and race discrimination case against Rep. Eddie Bernice Johnson, a Texas Democrat. But shortly before scheduled arguments were to be heard in former Hill staffer Brad Hanson's suit against Sen. Mark Dayton (D-Minn.), the court announced it would hear both cases en banc instead. Arguments are scheduled for Sept. 29.

Hanson says that Dayton fired him after learning the aide, who ran a health care help line for constituents, needed heart surgery. Last year, Leon denied Dayton's motion to dismiss the case. The D.C. Circuit denied a request by Hanson's lawyers that the two cases be consolidated.

A group of Republican lawmakers filed a friend of the court brief in support of Johnson and urged the court to shield federal legislators from such lawsuits.

In October, Edwards and Randolph are scheduled to sit on the same panel in another case involving questions of liability and immunity for public officials.

Joined by Judge Karen LeCraft Henderson, they will decide whether D.C. Metropolitan Police Chief Charles Ramsey can be held personally liable for what plaintiffs say were constitutional violations in the arrests of anti-globalism and anti-war protesters. The trial court found the police did not give an order to disperse before ordering the mass arrests in September 2002 in Northwest Washington's Pershing Park.

Ramsey was in command of the police department's operation plan and handling of the demonstrations while Assistant Chief Peter Newsham ordered the Pershing Park arrests.

In September 2004, Judge Emmet Sullivan ruled the two did not have qualified immunity, which shields officials from liability for damages so long as their actions were "objectively reasonable." Ramsey and Newsham, a lawyer and member of the Maryland Bar, filed an emergency appeal.

Mara Verheyden-Hilliard, a lawyer with the Partnership for Civil Justice, which is representing the class, says the question of Ramsey's liability is critical to a wider battle about how police restrain protesters.

"Personal liability is a very important mechanism in making sure that this doesn't happen again," Verheyden-Hilliard says.

LONG HAULS

Key cases in two long-running court battles are also scheduled to come before the court.

Nearly a decade after they started, challenges to the federal government's handling of billions of dollars in assets belonging to Native American heirs and held in trust for more than a century return to the D.C. Circuit.

The main body of the Cobell v. Norton suit, a class action first filed in 1996 against Clinton administration Interior Department Secretary Bruce Babbitt, is pending in federal district court before Judge Royce Lamberth in Washington.

For years, Lamberth has ordered the Interior Department to implement plans to correct past accounting failures and fix the way the agency accounts for the management and dispersal of the trust money in the future.

The case, which is scheduled to be heard by the D.C. Circuit on Sept. 16, is the government's appeal of Lamberth's latest injunction requiring accounting remedies.

Among the disagreements between the government and the class of trust beneficiaries is the scope of the fix. The plaintiffs say that the government needs to remedy its errors reaching as far back as 1887, the year the trust was created. The Department of Justice lawyers handling the case, however, say that the cutoff should be 1938, when another law concerning the management of the accounts was enacted.

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In an added twist to an already dizzyingly complex struggle, Justice Department lawyers made the unusual request on Aug. 15 that Lamberth be removed from the case, claiming that the harsh language in Lamberth's rulings creates an appearance of bias. That question could come before the panel, which includes Senior Judges Laurence Silberman and Stephen Williams and Judge Merrick Garland. The plaintiffs have contested the motion.

On Oct. 18, another appeal in the decades-old fight over plans for a permanent repository for the nation's nuclear waste in Yucca Mountain, Nev., comes before Edwards, Henderson, and Randolph.

The latest iteration of litigation that Nevada Senior Deputy Attorney General Marta Adams calls "tortured" involves the state's protest of a proposed railroad that would transport nuclear waste to Yucca Mountain.

"We sue them over pretty much everything," Adams says. "I think the powers-that-be are surprised that Nevada has put up the argument that it has."

The state contends Congress did not entrust the Department of Energy with the authority to construct a railroad for the project and that, among other things, the agency did not do adequate studies of the environmental impact of the project.

The Nuclear Energy Institute Inc., in an amicus brief filed in support of the government's plans, wrote that Nevada's "dire predictions" about the dangers of transporting the waste by rail through the state do not "square with reality."

Lily Henning can be contacted at lhenning@alm.com.

Alphabet Soup: New Judges Griffith, Brown To Tackle ADA, FDA Cases (LEGALT)

By Lily Henning, Legal Times

Legal Times, September 5, 2005

Nothing says welcome to Washington to a new judge like a case full of acronyms that only wonkish Beltway dwellers can appreciate.

That's how Janice Rogers Brown and Thomas Griffith will be initiated into the complex but largely nonideological work of refereeing federal agencies on the U.S. Court of Appeals for the D.C. Circuit.

Before Brown this month will be a dispute over a plan that would create a hunting season for the trumpeter swan, and Griffith will hear an appeal involving the Federal Motor Carrier Safety Administration.

But in other cases, the judges could have the opportunity to place a personal stamp.

In Gregory Thomas v. George Washington University, Brown will hear the case of a man with a paralyzed leg who is appealing a lower court decision that threw out a favorable jury verdict. Gregory Thomas, a medical resident at GW who lost his position, sued the university for race and disability discrimination. The school claims his performance was poor and that he has an impairment, as opposed to a disability covered by the Americans With Disabilities Act.

As a California Supreme Court justice, Brown had been at odds with colleagues on questions of discrimination and disability. In a 2001 case, Brown split from the majority by advocating for a more limited legal recourse for a disabled worker whose employer did not accommodate her disability.

Brown and Griffith are scheduled to hear seven cases together this fall. On Sept. 16 the judges will hear M.K., et al. v. Porter Goss, a class action filed by Central Intelligence Agency staffers who say the government obstructed their efforts to obtain effective counsel in employment cases. According to court records, one appellant claims they were told that "national security was more important than her right to an attorney."

An unusual question at the intersection of government regulation and medical ethics will come before Griffith. The Washington Legal Foundation wants the Food and Drug Administration to allow medicines in early stages of clinical trials that haven't yet been deemed safe by the agency to be made available to terminally ill patients.

But the clearest signs of where Brown and Griffith stand—and the degree of independence they will hold from their colleagues—will likely be in dissents, which have been rare on the D.C. Circuit.

Because of the workload, "writing a dissent on the appeals court takes a lot of effort," says Frank Cross, a professor at the University of Texas School of Law. "So dissents often tell you which judges are really ideologues."

Lily Henning can be contacted at lhenning@alm.com.

Report: Education Dept.'s PR Funds Need Oversight (USAT)

By Greg Toppo

USA Today, September 6, 2005

Federal investigators probing the Education Department's public relations contracts have found a pattern of deals in which advocacy organizations received grants totaling nearly $4.7 million to promote Bush administration education priorities in newspaper columns and brochures, but didn't disclose that they received taxpayer funds, as required by law.

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The department's inspector general says he detected no "covert propaganda," but he told administration officials to consider asking for some of their money back.

The report, released on the Education Department's website Thursday night, said the department needs to do a better job monitoring how millions of dollars in grants are spent. More than $1.7 million, for example, went to outside public relations contracts that officials said resulted in no visible media products.

The report comes nearly five months after the inspector general criticized the department for its $240,000 contract with commentator Armstrong Williams. That contract called for him to promote President Bush's 2002 No Child Left Behind education reform law in newspaper columns and on his syndicated TV show, and to encourage others to do the same.

After USA TODAY first reported on the Williams deal, several other agencies revealed that freelance commentators wrote pieces promoting Bush administration policies on marriage and on the environment without disclosing they'd received government funds either to write the pieces or to support their interest groups.

In the new report, Inspector General John Higgins found that more than $7.7 million in grants and contracts were either properly notated with government disclaimers or hadn't been disseminated to the public. He also found that Education Department personnel in several instances told groups that the disclaimers were required.

Higgins found that in 10 of 11 cases examined, groups didn't disclose — in print, on radio or in other media, such as brochures or handbooks — that taxpayer funds were used.

"The Department of Education is trying to define itself out of trouble by setting the bar very high for what constitutes covert propaganda," said Rep. George Miller, D-Calif., who requested the probe.

"But this report shows that, in case after case after case, grantees — without disclosing who was paying them — took taxpayers' money and used it to promote controversial policies," Miller said. "Either the department is grossly incompetent when it comes to awarding grants and contracts, or it is misleading investigators and engaging in a coverup of the misuse of taxpayer dollars."

Education Secretary Margaret Spellings' response, filed with the report, agreed with most of the investigators' findings.

OTHER NEWS:

U.S. Appears To Have Avoided Massive Oil Supply Problems (NYT)

By Vikas Bajaj

The New York Times, September 6, 2005

As Americans began heading home from the Labor Day weekend, gasoline stations today continued to report spot shortages, but the country appeared, at least as of this afternoon, to have avoided the massive supply problems that some had feared.

Throughout the weekend, station attendants and analysts said they saw unrelenting demand from drivers who were worried they would find themselves stranded, were panicked by rumors about service stations closing early, or both.

Officials said they continued to make progress in resuming the production and distribution of gasoline and other fuels, which was severely disrupted by Hurricane Katrina last week. But they noted that most refineries and oil production in and along the Gulf of Mexico remained shut down for the seventh day in a row.

Gasoline demand was heaviest along busy thoroughfares between big population centers and vacation destinations, often knocking out several gasoline stations along heavy traffic routes for hours to days at a time.

"It could three or five stations on one stretch running out, that's a fairly real situation that is happening," said Justin McNaull, a spokesman for AAA, formerly known as the American Automobile Association.

Mr. McNaull added that his group had not received any reports of motorists stranded in tourist destinations unable to return home because they could not refuel. "The challenge that gas station operators are having now is not knowing when the next shipment is coming and how much they will be getting," he said.

Rauf Baber, manager of a BP Amoco station in Coney Island, Brooklyn, said he was able to get a special delivery of gasoline late Sunday night after running out earlier in the day. Though he had 6,000 gallons of gasoline this morning, he was still expecting another load this evening.

"People went crazy to fill up, that's why we ran out," Mr. Baber said. "The BP company, they have plenty of gas."

Another Amoco station in Bronx was not quite so lucky. "We ran out about half an hour ago, and people are still coming in looking for gasoline," an attendant who would only give his first name, Jose, said this morning. "We ran out for a while last week, too. We're hoping to get a delivery today."

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Rumors that service stations were closing at 4 p.m. or 5 p.m. appeared to have needlessly sent many motorists on refueling trips, said John Felmy, chief economist at the American Petroleum Institute. "It wasn't as good as I hoped, but it wasn't as bad as I feared," he said about the weekend.

Another key test may come this afternoon and evening as the biggest crush of vacationers begin their voyage home, Mr. McNaull said.

"There certainly will be another push on the demand side there as people make those return trips and potentially as people gas up cars for the Tuesday back-to-work commute," he said.

Nationally, the average retail price for gasoline was $3.057 a gallon this morning, up from $2.867 on Sunday and $2.307 a month ago, according to AAA.

In the New York region, prices seemed to range from $2.95 a gallon to $3.75 a gallon, according to a spot survey done by the staffs of Senators Charles E. Schumer, Democrat of New York, and John Corzine, Democrat of New Jersey. Both politicians called on the Federal Trade Commission to investigate gasoline price increases and suggested it might help to lift the federal gasoline tax at least temporarily.

Gasoline supplies will likely remain tight through much of the coming week if not longer, industry officials and analysts said, as refiners slowly resume operations in the gulf region. It can take several days to restart those facilities, because of the danger of explosions and other accidents.

Of the 10 refineries that were shut down by the storm initially, eight have not resumed operations, two are restarting and hope to be operational in the coming days, and three still do not have electricity, the Energy Department said on Sunday.

At least four refiners that produce about 5 percent of the nation's gasoline and other oil-based fuels have sustained significant damage and could be out of commission for a month or more for repairs, officials and analysts said. Among them are ConocoPhillips' Belle Chase, La. facility; Exxon Mobil's Chalmette, La. plant; and ChevronTexaco's large refinery in Pascagoula, Miss.

Officials at the largest of the four, ChevronTexaco, said they still do not have power or phone service at their plant, where the company is building temporary housing for up to 1,500 employees and their families. It may be days before the company can say how long it will take to restart the plant, which has a capacity to process 325,000 barrels of oil a day.

"There is a cogeneration unit with Mississippi Electric there that needs to get up and running," said Michael Barrett, a company spokesman. "We need to get natural gas there. We are putting generators in there right now. The truth is we don't have telephone lines" working at the refinery.

Of the two major pipelines that bring gasoline, diesel fuel and jet fuel to the eastern half of the United States from Texas and the gulf, the smaller one, the Plantation pipeline, said it was operating at 100 percent. The other, the Colonial pipeline, was at 73 percent as of Saturday and hoped to be at full capacity by the end of the holiday weekend.

Also, the federal government and members of the International Energy Agency, a 26-nation organization created after the 1970's oil crisis, have started releasing crude oil and some gasoline to energy companies in an effort to ease supply constraints. Those moves helped push down crude oil prices 2.1 percent in London tradingtoday. The New York Mercantile Exchange was closed for the Labor Day holiday.

The United States Department of Energy has already agreed to loan 12.6 million barrels of oil to refiners so they can keep producing gasoline and other fuels as production facilities in the gulf recover. This weekend, the government went even further and said it would sell 30 million barrels or more of oil in addition to the loans, which companies have to replace when conditions improve.

But with so much refining capacity out of service, analysts said gasoline prices would remain high in spite of the crude oil that the federal government and its allies are unleashing.

"Some of these refineries will not be back to full operation perhaps well into next year," said Paul Horsnell, an analyst at Barclays Capital in London.

A spokesman for BP, formerly British Petroleum, Scott Dean, said the company was shipping gasoline from Europe to East Coast port to help alleviate shortages but it may take some time for the current supply crunch to wind its way out of the system.

"We are making fuels, we are distributing fuels," he said. "Fuels are arriving at the terminals and going out on trucks and arriving stations, but there are still disruptions."

Average Gas Prices Pumped Past $3 (USAT)

By Chris Woodyard, Dennis Cauchon and Sharon Carty

USA Today, September 6, 2005

The national average price for gasoline crossed the $3-a-gallon mark for the first time Monday in the latest AAA survey, tying the record for highest ever on an inflation-adjusted basis.

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Although motorists in hurricane-whipped areas along the Gulf of Mexico faced gas lines, some resorts across the nation reported strong Labor Day crowds despite soaring fuel prices.

A gallon of regular-grade gas hit $3.057 a gallon Monday, up 19 cents from $2.867 earlier in the weekend, the AAA said. On an inflation-adjusted basis, that's equal to the peak of $1.417 set in March 1981.

Thirty-five states and the District of Columbia had prices averaging $3 or more for regular. Highest: Maryland, $3.26.

Supply disruptions caused by the hurricane are almost sure to raise prices further before settling down in about two weeks, says Tom Kloza of the Oil Price Information Service, which compiles the AAA survey.

Barring another unforeseen event like a new hurricane, “I think the highest prices you may see until February are over the next 15 days,” Kloza said .

One good sign: Shortages feared in the upper Midwest didn't appear, though open gas stations were scarce in hurricane-ravaged areas. “We avoided a widespread panic,” says Dan Pickering of Pickering Energy Partners. There were “spot shortages but nothing on a broad basis, which is the best we could have hoped for.”

Spot shortages are still possible. Although major pipelines have been restored to service, some gulf-area refineries are still not operating. Tankers full of gasoline from Europe are headed to the USA, but it could take a couple of weeks for their cargoes to make a difference.

“There is probably enough (refinery) capacity in Europe to bail us out for awhile,” says Harry Quarls, a managing director for Booz Allen Hamilton.

About a dozen gas stations were open Monday in two hard-hit cities on the Mississippi coast, Gulfport and Biloxi. Police stood guard.

“People get crazy about gasoline when we're not here,” said Gulfport police officer Travis Sheaffer at a gas station near Interstate 10. “They were cutting in line, pulling guns — all types of insanity.”

A few stations have raised prices above $4 a gallon, but most have kept them at about $2.50 a gallon, the price charged before the hurricane. Stations generally limited customers to 10 gallons of gas.

“Some people pushed their cars here for gas,” said Fallon Demoruell, a gas station worker. “A lot of them haven't been too polite.”

Elsewhere, some gas station owners were nervous about supplies. Dawn Baker, manager of a CITGO station in Illiopolis, Ill., 200 miles southwest of Chicago, says she fears that she might not get a full supply when a new tank of gas arrives today. “More than likely it'll be a half load, and we'll have to make do with that,” she says.

Some commuters are saying that $3 is the breaking point for them. Now they're ready to reduce their driving.

Rodolfo Palma, who lives in Saline, Mich., 50 miles west of Detroit, bought a bicycle at the beginning of the summer and used it to run errands instead of taking his car. He even started driving part way to work and riding his bike the rest of the way. He plans to keep doing both.

“Now, after the hurricane, it's going to be a permanent change,” Palma says.

It Won't Be Cheap, But Gas Is To Be Had (NYT)

By By Vikas Bajaj And Richard Pérez-peña

The New York Times, September 6, 2005

Most American travelers managed to avoid any serious gasoline supply disruptions over the holiday weekend, officials said yesterday, but analysts and industry executives warned that fuel prices were likely to remain high and that the nation's oil supply system might not return to normal operations for several weeks, perhaps longer.

Even as the federal government and other nations started releasing crude oil and gasoline into a thirsting world market and pipelines resumed sending supplies from the Gulf Coast, specialists said there were few quick fixes for the biggest remaining bottleneck: refining.

"Some of these refineries will not be back to full operation, perhaps well into next year," said Paul Horsnell, an analyst at Barclays Capital in London, who also said that it would take longer for refiners to turn their attention to producing heating oil for the winter as they struggled to catch up with lost gasoline output.

As many as four refineries, processing about 4 percent of the nation's oil supplies, might stay out of service for weeks or months. Of the remaining six refineries that shut down last week because of Hurricane Katrina, several were starting to resume production over the long weekend, but it will take them several days to get back to full speed.

Oil prices fell about 2 percent in European and Asian trading, and the New York Mercantile Exchange was closed for the Labor Day holiday. Retail prices for regular gasoline appeared to be settling at an average of roughly $3.20 a gallon yesterday, almost a full dollar above what consumers paid a month ago.

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Throughout the weekend, station attendants and analysts said they saw unrelenting demand from drivers who were worried they would find themselves stranded or were panicked by rumors about service stations closing early.

Prices, they said, were being largely determined by suppliers and retailers that were hoping to limit the risk of running out of fuel, and groping to find a balance in various markets between uncertain supplies and skittish demand. Gasoline-buying over the weekend was heaviest along busy highways connecting major population centers with nearby vacation destinations.

"It could be three or five stations on one stretch running out - that's a fairly real situation that is happening," said Justin McNaull, a spokesman for AAA.

Rauf Baber, manager of a BP Amoco station in Coney Island, Brooklyn, said he was able to get a special delivery of gasoline late Sunday night after running out earlier in the day. "People went crazy to fill up, that's why we ran out," he said. "The BP company, they have plenty of gas."

BP indeed has plenty of gasoline but it, like others, could not assure that ample fuel supplies would soon be where they were wanted most. A company spokesman, Scott Dean, said tankers were making their way from Europe to ports along the East Coast. He said that the company's refineries were already processing everything they had on hand.

"We're still working to get the ripples out of the system," he said, "but it's still going to take several days."

On Friday, the Energy Department and the International Energy Agency, a 26-nation consortium established after the 1970's energy crisis, said they would together release 60 million barrels of oil and gasoline reserves at a pace of 2 million barrels a day, helping to bring down soaring prices in futures markets.

But Mr. Horsnell said the oil releases would not be enough to ease gasoline prices or supplies. Among I.E.A. members, only the Europeans have spare gasoline to ship to the United States, and they are already sending all they can. They will struggle to ship more because there are few spare tankers available and East Coast ports are not sitting idle.

"The maximum amount of oil product that can be managed into the U.S. is two million barrels a day," Mr. Horsnell said. "Logistically, it's quite challenging."

About 70 percent of the gulf's offshore crude oil production of 1.5 million barrels a day was still shut down yesterday, as was half of its natural gas production of 10 billion cubic-feet per day.

Most of last week, energy officials focused on restoring power to pumps on two major pipelines that bring gasoline, diesel fuel and jet fuel to the eastern half of the country from Texas and the Gulf of Mexico. Plantation, the smaller of the two, said it was operating at 100 percent capacity yesterday. Colonial, the larger pipeline, was at 73 percent as of Saturday, and its operators said they hoped for it to be at full capacity by the end of the holiday weekend.

Rick Rainey, a spokesman for Kinder Morgan, the energy company that owns Plantation, said the pipeline carried a full load of gasoline and other fuels to the East Coast over the weekend. But volume on the pipeline was beginning to drop off, he said yesterday, "as the backlog has begun to deplete at terminals."

Exxon Mobil's refinery in Baton Rouge, La., the nation's second-largest, is the only one that has continued to supply fuel to the pipeline since the hurricane, Mr. Rainey said.

According to the Energy Department, three Louisiana refineries still did not have power over the weekend: the ConocoPhillips facility in Belle Chasse; the Exxon Mobil plant in Chalmette and the Murphy Oil refinery in Meraux.

A fourth, ChevronTexaco, said that its large refinery in Pascagoula, Miss., was still without electricity or phone service; the company said it could take days before it could even say when operations could resume. A company spokesman, Mickey Driver, said it was still trying to locate all of its 4,400 employees in the region.

Closer to the retail end of the energy pipeline, politicians across the country were talking about how to deal with consumer complaints. State attorneys general threatened to crack down on price gouging and Congressional leaders asked for federal investigations.

Two senators - Charles E. Schumer, Democrat of New York, and Jon S. Corzine, Democrat of New Jersey - said that their staffs had surveyed gas stations and found prices ranging from $2.95 to $3.75 a gallon at stations within a few miles of one another.

Mr. McNaull of AAA said retail prices swung widely last week and were starting to converge in many cities. But retailers in the same area could still have widely different costs, depending on whether they bought gas on contract from a single major supplier or on the spot market from the cheapest provider that day or week.

"The challenge that gas station operators are having now," he said, "is not knowing when the next shipment is coming and how much they will be getting."

Rising Gas Prices May Force States To Suspend Tax (WSJ)

By Robert Guy Matthews

The Wall Street Journal, September 6, 2005

DOJ_NMG_0003078

To soften the blow of higher fuel prices and disrupted supplies, the federal government took steps to increase the supply of diesel fuel as some states moved to suspend gasoline excise taxes.

The Internal Revenue Service said it will temporarily allow all vehicles, including commercial trucks, to use dyed diesel fuel without being subject to a penalty. Dyed diesel usually is restricted to farming and government activities that aren't subject to excise taxes. Under the IRS easing, the usual diesel tax still will be owed when dyed diesel is used in nonexempt ways, but an additional penalty will be waived. California and Michigan also lifted state penalties on the use of dyed diesel fuel.

States that suspend gas taxes stand to lose millions of dollars in revenues that are usually used for road and other highway projects. Even states that don't suspend gas taxes could see revenues drop if drivers cut back on gas purchases due to rising pump prices.

Late last week, Georgia suspended its 7.5 cents-a-gallon gas tax and 4% sales tax on gasoline purchases until Oct. 1. State lawmakers in Oklahoma, Connecticut and Massachusetts have proposed measures to suspend gas taxes, which could reduce the cost to consumers by 12 cents to 20 cents per gallon. Meanwhile, Rep. Steve Pearce (R., N.M.) said he plans to introduce legislation to suspend the federal gas tax, which is 18.4 cents a gallon.

The disruption of gas supplies, coupled with panic buying, has pushed prices to an average of about $3.06 per gallon, according to AAA. In some areas, gas prices have nearly doubled, prompting lawmakers to scramble to show voters that they are trying to ease the pain.

"I think it is important because we need to recognize that gas has gone up 70 cents to a dollar in just a matter of days," said Brad Jones, a Republican state legislator in Massachusetts. He wants to suspend his state's 21-cents-per-gallon gas tax for three months.

Georgia's one-month suspension of its gas tax and sales tax on gasoline is expected to cost the state $75 million, according to state officials. If Mr. Jones's bill is passed in Massachusetts, that state would lose an estimated $175 million. Oklahoma would see a $103 million decline in revenues under one state senator's proposal to suspend its 17 cents-per-gallon tax on diesel fuel.

All 50 states levy a flat-rate tax, usually 10 to 20 cents, on each gallon of gas sold. Most states also apply a sales tax, usually 2% to 5%, on gas purchases.

Most money collected from gasoline taxes is earmarked for state and local road projects, and used as matching funds to win federal money. States with lower matching funds could end up with fewer federal highway dollars.

But analysts say states are unlikely to be badly hurt by a decline in gas-tax receipts because many are showing surpluses due to robust local economies. "It's more symbolic," said Nicholas Jenny, senior policy analyst for the Nelson A. Rockefeller Institute of Government, the public policy research unit of the State University of New York.

In the first eight months of the year, Georgia collected $75 million more in revenues than had been expected, due to an increase in sales-tax receipts resulting from climbing gas prices. The extra money will be offset by the one-month tax suspension. "We expect this to be revenue-neutral," said Shane Hix, a spokesman for Georgia's governor.

Generally, the tax on gasoline is an excise tax that is a fixed amount instead of a percentage. Many states haven't raised the gas tax over the past decade. California, for example, has charged motorists the same excise tax -- 18 cents a gallon -- since 1994.

"A lot of these states have seen the money coming from these taxes go down anyway because of inflation," said Mr. Jenny of the Rockefeller Institute.

This isn't the first time that states have weighed suspending gasoline taxes in the face of sharp price increases. In 2000, Indiana suspended its 5% sales tax on gasoline, resulting in a drop of seven cents to 10 cents a gallon and a $12.6 million decline in state receipts.

Katrina And The Gas Pump (NYT)

The New York Times, September 6, 2005

In Katrina's wake, gasoline prices are rising faster than oil prices - an odd, but explicable, phenomenon. Enough crude oil is being produced to meet global demand, but the ability of the Gulf Coast's many refineries to turn the oil into gasoline has been devastated, as has the ability to transport the gasoline that does become available. Those supply bottlenecks are chiefly responsible for this past week's higher prices at the pump.

President Bush's immediate response is to lend oil from the government's Strategic Petroleum Reserve to refineries and to streamline the refining process by temporarily relaxing environmental standards - sound stopgap measures to help ensure a steady supply of gasoline. The International Energy Agency, whose members are 26 rich nations, has also made a big contribution, pledging on Friday to supply world markets with an additional 60 million barrels of oil and gasoline over the next 30 days, half of which would come from the United States' emergency stockpiles.

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But it would be wrong to think - and act - as if this crisis is fundamentally a supply shock. Rather, it is a supply shock on top of blatantly excessive demand. The near-term responses from Mr. Bush and the international agency, welcome as they are, will not solve the larger problems laid bare by Katrina. Worse, Mr. Bush's record on energy issues does not suggest that he is up to that task.

Gasoline prices seem destined to stay elevated until at least next spring. Even if the damage in the Gulf Coast is repaired soon - a big if - oil producers and refiners will require a premium to compensate for the risk that another killer storm could further disrupt operations in this hurricane season. Moreover, Katrina is causing refineries to draw down oil stockpiles that would have been used to produce home heating fuel for use this winter. That makes for a very thin supply cushion in the months ahead - not to mention high home-heating bills on top of high gasoline prices.

But even before the hurricane hit, oil producers were pumping all-out to meet demand. Driven mainly by gasoline consumption in the United States and industrialization in China and India, the world's consumption of oil is 85 million barrels a day. That is just short of the maximum that can be pumped, and leaves only about 1 million barrels a day in spare capacity, the lowest level in three decades. As with gasoline, the thinner the cushion, the higher the price.

Mr. Bush, who has a wildly overconfident view of how much oil could be pumped if American drillers were given a freer rein, refuses to see the overarching problem as one of excessive demand. Americans' gas-guzzling ways keep prices up, threatening the nation's economic well-being and creating windfall profits for foreign oil producers, some of which are used to finance terrorism.

So it is up to Congress to grapple with the big picture - now, before another disaster strikes. The Senate energy committee is scheduled to meet today, and much of the attention will naturally be devoted to the current problems in the refining process. Those issues must obviously be addressed, including ways to help municipalities overcome the "not in my backyard" obstacles to building state-of-the-art refineries.

But the focus must be - finally - on reducing oil consumption. The lawmakers should call for a rapid, mandatory increase in automobile mileage standards. And they must resist measures that would encourage only more consumption, like temporarily suspending gasoline taxes.

This is the moment to gather the political will to do what should have already been done. If the lawmakers don't act, they are courting problems that may be even harder to solve later on.

Economy Shows Resilience In Face Of Massive Jolt (WSJ)

By Jon E. Hilsenrath and Grep Ip

The Wall Street Journal, September 6, 2005

The U.S. economy's shock absorbers kicked in within days of one of the worst natural disasters in its history, offering hope that the massive jolt to the country's energy and transportation systems won't produce a long-lived, serious economic contraction.

The release of emergency oil and gasoline from global stockpiles, created in the 1970s to counter supply interruptions, sent crude-oil prices down to about pre-hurricane levels in European trading. Long-term interest rates fell despite the prospect of higher inflation, cushioning home buyers and businesses. Temporary-help agencies began to place some workers displaced by the storm. New Orleans's main newspaper, the Times-Picayune, kept publishing on the Internet when printing on paper was impossible. Computerized logistics enabled railroad CSX Corp. to reroute freight normally exchanged with Western railroads at New Orleans to be sent north.

Hurricane Katrina is the biggest test in years of the economy's resilience. But recent history offers encouraging, though by no means definitive evidence of the U.S. economy's ability to bounce back from shocks. Economic growth has become significantly less volatile during the past two decades, a trend some economists dub "the Great Moderation."

The past five years have witnessed a burst stock bubble, terrorist attacks, corporate scandals, wars in Afghanistan and Iraq, and a doubling in crude oil prices. Yet the economy, after a mild recession in 2001, has embarked on a solid expansion with little inflation. Katrina came at a time when the economy was in solid shape. In August, the unemployment rate fell to 4.9%, a four-year low, from 5% in July, and nonfarm payrolls grew a respectable 169,000, the Labor Department said Friday.

"We expect the trend in growth will prove more resilient than is now widely feared," UBS Securities analysts told clients Friday.

Employment and output are likely to take a sizable hit in the next few months; the question is the duration and severity of the blow. Economists surveyed last week by Macroeconomic Advisers LLC, a St. Louis forecasting firm, said the storm would result in growth of only about 3.5%, at an annual rate, in the second half of the year, down from pre-storm expectations of 4%. It grew 3.6% in the first half.

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And the economy does have some worrisome vulnerabilities. The storm hit when world oil producers and U.S. refiners were operating near capacity and they remain highly sensitive to any loss of supply. Higher gasoline prices will act like a tax on consumers who are already stretched: In July their saving rate turned negative as spending exceeded income. Spending might be further hurt if consumer confidence erodes.

As a result, some analysts still believe the economic impact might be severe. "What we're witnessing now is going to turn out to be a really huge shock," said Stephen Cecchetti, an economist at Brandeis University. Businesses may also find it hard to adapt to shifts in spending caused by higher energy prices, much as Detroit found it hard to shift to smaller cars in the 1970s.

But there are several factors in the economy's favor. It's more energy-efficient: The gross domestic product has more than doubled since 1979, but petroleum consumption has risen just 9%, according to the Energy Department. Policy makers have reduced, rather than increased, regulatory constraints on supply. In the 1970s, gasoline price caps and other regulations created shortages and waiting lines. Last week, the federal government temporarily eased environmental and transportation regulations so existing gasoline inventories could reach U.S. customers more easily.

The release of oil and gasoline from the U.S. Strategic Petroleum Reserve and similar stockpiles in Europe has helped contain the rise in oil prices. Benchmark Brent crude oil for October delivery fell $1.22 in London yesterday to $64.84, around where it stood before Katrina. U.S. markets were closed for Labor Day. Wholesale gasoline prices fell sharply Friday from midweek peaks though they remain well above pre-storm levels due to Gulf Coast refinery closures.

The growth of the temporary-staffing industry has helped redeploy workers displaced by both economic and weather events. Terri Blue Edwards, 41, stayed behind in New Orleans with a sister who refused to leave. By Thursday, she says, she, her 23-year old son and her sister waded out of a building in chest-high water, wandered along a scorching-hot highway and found their way to an abandoned dairy truck, which they and more than two dozen others, packed shoulder-to-shoulder, and rode to Austin.

Another son raised money to fly her to Huntsville, Ala., she says, to be reunited with her husband, Leon, who had left New Orleans with elderly parents before the storm. Mr. Edwards was a maintenance engineer in a municipal building, earning $13 an hour. Ms. Edwards didn't work. She says she has health problems but she's going to work now to make ends meet.

By Saturday, Mr. and Mrs. Edwards had landed $7-an-hour jobs at a Huntsville manufacturer through Adecco SA, a Swiss-based temporary staffing company. Mr. Edwards says he was making nearly twice as much in New Orleans. But the job "came right on time," he says. "You need a job to survive."

The transportation system is proving to have some flexibility. The storm wiped out large sections of CSX's tracks and bridges along the Gulf Coast. But within a couple of days, the railroad, based in Jacksonville, Fla., was rerouting freight north, thanks to advances in information technology and deregulation that enable it to reroute shipments in a quarter of the time it would have taken two decades ago. Separately, the lower Mississippi's maritime hub continued to recover as the Coast Guard reopened its main shipping channel to ocean-going vessels Saturday.

The development of new financial instruments has ameliorated the risk that regional stresses could trigger local bank failures. In Baton Rouge, American Gateway Bank, a small regional lender, sells about three-quarters of the mortgages it underwrites to larger banks like J.P. Morgan Chase & Co. or Bank of America Corp., who package the loans into larger, diversified pools of credit sold to investors around the world. That has helped keep credit flowing to real estate even after disaster struck less than 80 miles away.

Oil shocks in the 1970s became embedded in wages and prices, eventually requiring the Fed to raise interest rates dramatically, triggering deep recessions. But those drastic actions eventually cemented its credibility, and in recent years workers and companies haven't responded to higher oil prices or easy money by immediately pressing for higher prices and wages. "One of the benefits of having that credibility is it increases [the Fed's] ability to...stabilize the economy and insulate it from major shocks like this," said J. Alfred Broaddus, former president of the Federal Reserve Bank of Richmond, Va.

While the Fed is unlikely to cut rates, it may choose not to raise them at its Sept. 20 meeting as had been previously expected. The Fed has raised its short-term-rate target to 3.5% from 1% in the past 14 months.

Fed officials say it's too soon to assess the storm's impact on interest-rate moves. Even so, long-term interest rates have declined in anticipation that the Fed will raise rates more slowly or not as high. By keeping mortgage rates down, that, in turn, offered support to the still-strong housing market.

Economic Impact Will Be Widespread Katrina's Costs Will Be Shared By Cities Far Beyond Storm's Path (USAT)

By Del Jones, Dan Reed And Jayne O'Donnell

USA Today, September 6, 2005

DOJ_NMG_0003081

As New Orleans deals with the storm waters that broke its levees last week, dozens of Southern cities from Baton Rouge to Pensacola are coping with a displaced populace numbering in the hundreds of thousands and awaiting the spillover of billions of dollars in disaster aid.

Natural disasters whipsaw local economies as they move from devastation and into rebuilding. That's nothing new. But this time, the disaster was a coiled snake that has lashed out at the nation. Gasoline prices soar, transportation snarls. Hurricane Katrina has already influenced most lives in small ways, but it could have a major influence to those along the migration path of a city of evacuees looking for family, friends and 275 stranger-filled shelters in Alabama, Arkansas, Florida, Louisiana, Mississippi, Tennessee and Texas.

How it will play out is anyone's guess. But in the short run, people and their pets are washing up on doorsteps everywhere. New Orleans hotel and spa owners Keith and Andre West-Harrison fled to family in Evansville, Ind., a 16-hour drive, with six dogs and a cat. Distant places such as Evansville might be able to absorb a few evacuees, but an overwhelmed Houston Astrodome is flashing the no-vacancy sign, sending 25,000 to Reunion Arena in Dallas, another 25,000 to a San Antonio warehouse that was once an Air Force base.

Some companies are erecting their own shelters. Chevron this past weekend planned a 500,000-square-foot tent city in Pascagoula, Miss., to house 1,500 employees and their families who were left homeless by the storm.

Katrina and the flooding triggered by levee failures will have a total economic cost of $100 billion, Risk Management Solutions, a catastrophe-risk-modeling firm, said Friday. Most of the damage done by the levee break is likely not insured. Still, bond-rating company Fitch said Friday that the insured portion of losses could go above $25 billion, surpassing the Sept. 11 terror attack ($20.1 billion in 2004 dollars) and Hurricane Andrew ($20.5 billion) as the largest insured loss in history.

The strain is everywhere. New Orleans had 32,400 school-age children in 2004 who will be landing somewhere. The Greater Houston Partnership, the city's primary business advocate, is calling Houston “the city of hope,” and spokesman Charlie Savino says it is bracing for 150,000 temporary residents, comparable to absorbing the population of Chattanooga, Tenn. Providing for them will cost $6 million a day, assuming $40 a day is spent on each person for food, housing, health care and schooling.

Congress has approved $10.5 billion in emergency disaster relief, and much more is likely on the way. Private donations are rolling in. Need gives berth to opportunity, especially when mixed with money, yet little if anything about this disaster smacks of a windfall. There might be tens of thousands arriving in Texas cities, but, “It's certainly not going to be like (hosting) the Super Bowl,” says Bill Gilmer, a senior economist at the Federal Reserve Bank of Dallas and an expert on the Gulf Coast economy.

For example, Fiesta Mart is within walking distance of the Astrodome, but it's not stocking up on food and staples, says CEO Louis Katopodis. Everyone will be fed three meals a day plus 24-hour snacks on the Dome's concourses. Papa John's is giving away 10,000 pizzas. Aramark, providing the primary concessions, said it isn't yet certain how it will be paid, but it doesn't seem overly worried.

Near Fiesta Mart is a Target store. But most evacuees are low on cash and are getting comfort kits that include soap, a toothbrush and other toiletries. Target won't get swarmed by displaced children in search of school supplies, either. Houston public schools require uniforms, which will help the evacuees fit in, says Houston Independent School District spokeswoman Adriana Villarreal. Businesses are lining up to donate uniforms, and Wal-Mart has pledged any school supplies necessary, Villarreal says.

Houston charter bus company Sierra Trailways owns 13 of the 650 buses contracted by the Federal Emergency Management Agency (FEMA) to transport evacuees from New Orleans to Houston. They get paid a flat fee per mile, says Sierra President Patrick Conner, which will boost revenue during a slow time of year. But it's not about the money, says Conner, who was caught in Hurricane Alicia when it hit Houston in 1983, and there was “never a question” that his company was going to help New Orleans.

“But for the grace of God, this could be us,” Conner said.

La Quinta's hotels from Texas to Arkansas were so filled that last week it phoned those who long ago booked Labor Day reservations and told them not to come because the company will not evict evacuees. Many evacuees can't afford their rooms, and the company is starting to turn to insurance companies, FEMA and the Red Cross for payment. La Quinta also faces losses from eight properties damaged and closed in New Orleans.

Like many companies, La Quinta doesn't know if it will make money or lose it in the disaster. “It's a wait-and-see thing,” spokeswoman Teresa Ferguson says. “We're more worried at this point about doing what's right. It's right to take care of our employees and our guests.”

La Quinta could well be a microcosm of the area's overall business community. It's difficult to tell which force is greater, the gain or the strain, economist Gilmer says.

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Absorbing waves of new and primarily poor people is nothing new to Houston. The city has grown by 1 million people in a decade, 100,000 a year — and 60,000 of those move in from elsewhere, 47,000 from other countries.

"It's an immigration hub from Latin America," Villarreal says, a regular challenge to the school system.

What is new, however, is Houston's role as New Orleans' knight in shining armor. The two cities have been economic rivals for decades, economist Gilmer says, and since the 1950s, Houston has been the clear winner as the energy industry concentrated into Texas with well-paid engineering jobs. The poverty rate is 28% in New Orleans, vs. 19% in Houston, according to 2000 census data compiled by the Urban Institute. Houston, less than half the size of New Orleans in the 1920s, has grown to become the nation's fourth-largest city, while New Orleans has dropped to 37th.

Gilmer predicts Hurricane Katrina will accelerate Houston's relative dominance over New Orleans as companies that relocate employees to temporary offices decide to make the moves permanent.

When a Popeyes Chicken & Biscuits franchisee in California said it could use a couple of managers and assistant managers, it wasn't long before several who were washed out of New Orleans volunteered to relocate, says CEO Ken Keymer.

Houston already has the NFL's Texans, so New Orleans doesn't have to fear the city stealing the Saints. But the Saints can't play in the Superdome, so they're considering playing home games at Louisiana State University's Tiger Stadium in Baton Rouge or San Antonio's Alamodome.

Vacuum manufacturer Oreck, with headquarters in New Orleans, is moving 100 to 150 people to Dallas, mainly executives, staff and those who process orders, says Oreck CEO Tom Oreck. Another 40, mainly from the call center, are heading for Denver.

Hunter Blanks, head of office space leasing for CB Richard Ellis' Dallas office, has been fielding preliminary inquiries from companies in New Orleans looking for temporary office space. "This is going to have a very wide impact on commercial real estate," he said.

Gardere Wynne & Sewell, a law firm that specializes in oil and petrochemical law at its Houston office, has been working to find temporary office space and spare computer equipment for New Orleans law firms. Managing partner Steve Good says he doesn't expect to take clients away from New Orleans firms, but demand for legal services related to oil and petrochemical insurance claims will jump, he said.

Low-paid service workers from New Orleans might also stay away as they find opportunity. La Quinta has bused 250 now-homeless employees to Arlington, Texas, where they're staying in a corporate-owned conference center. Corestaff, a temporary employment company with headquarters in Houston, is encouraging those who have dispersed from New Orleans to apply with them or with state unemployment offices.

The headquarters of Popeyes is in Atlanta, but its heart is in New Orleans, where the chain began in 1972, says CEO Keymer. The storm closed 250 company-owned restaurants employing 800, plus many more owned by franchisees. About 150 have reopened, but some in the flooded area might be closed a long time. The company has created a database so a New Orleans employee who surfaces with relatives in Tennessee can see if Popeyes has something available there.

Information is a scarce commodity. Keymer says he has no idea how many Popeyes restaurants are in the flood zone and destined to remain closed. The Port of Houston Authority expects to absorb cargo that will be diverted from the Port of New Orleans and the Port of South Louisiana, the largest and fifth-largest ports by ton in the USA. But Port of Houston Authority Executive Director Thomas Kornegay says he still has no clue how much extra demand to expect, nor how much extra Houston can absorb. The Houston port already handles far more capacity than it was designed for, yet it figures out how to increase volume by 10% a year anyway, Kornegay said.

"The truth of the matter is, nobody knows where it's going to go. It's a big problem," Kornegay said.

Houston engineers will be so busy fixing the damage in the gulf, they'll be diverted from oil exploration for some time, Gilmer says. Houston will be overtaxed in more ways than one. But it will emerge stronger, while "New Orleans will be out of the game," he says.

The West-Harrisons were taking in $1,000 a day at their small hotel and spa in the French quarter. In Evansville, they are trying to figure out how to start a new business.

They have no money and one change of clothes. Last week, they stopped off at the local Red Cross office looking for a little money for food and clothing. While they were waiting to see someone, five donors dropped off checks. The West-Harrisons got tired of waiting and left with nothing.

States Gear Up To Provide Jobless Benefits (USAT)

By Stephanie Armour

USA Today, September 6, 2005

DOJ_NMG_0003083

Thousands of employees are finding themselves suddenly without paychecks after Hurricane Katrina. Some are rushing to get state aid while others are looking for new jobs.

Some states are reporting an increase in residents requesting benefits.

·In Louisiana, those who are not getting paid because of the hurricane can file for disaster unemployment assistance or unemployment benefits, says Ed Pratt, a spokesman with the Louisiana Department of Labor. They are eligible for up to $256 a week and can find out more at www.laworks.net or by calling 866-783-5567.

"People are applying right now. We're getting thousands," Pratt says. "We're going to go to shelters (to help people) apply."

One challenge: Many applicants no longer have mailing addresses. Between 100,000 and 300,000 people may have to re-establish mailing addresses. Officials are still working out how to handle that, but some applicants are using relatives' addresses.

· Mississippi workers are eligible for unemployment or disaster unemployment assistance of up to $210 a week. Further information is available on its website, mdes.ms.gov, or by calling 888-844-3577.

·Alabama residents are eligible for unemployment or disaster assistance and can apply through call centers. They can get up to $220 a week and can apply toll free at 866-234-5382. Evacuees from Louisiana and Mississippi who are staying in Alabama can also apply through that toll-free number: Their information will be transferred to their home state's unemployment agency.

"We're gearing up for (this) week," says Phyllis Kennedy, director of the state's Department of Industrial Relations.

Although the government reported Friday that the U.S. unemployment rate dipped to a four-year low of 4.9% in August, economists expect employment to drop this month due to jobs lost to Katrina.

"Next month, payrolls will plunge," Ian Shepherdson, chief U.S. Economist at High Frequency Economics said in a recent note to clients.

Adecco, a staffing firm, is seeing a surge in applicants displaced by Katrina looking for short-term work. "We've been inundated," says Tammy Rhodes, the branch manager in Shreveport, La. Many have high-level skills, such as accounting.

Mary Gordon, 54, who left her home in Harahan, La., a suburb of New Orleans, does outside sales for commercial buildings and is now seeking a temporary job. Although still getting paid by her regular employer, she doesn't know how long that will last and has scant savings to fall back on.

"I have to have something to do, but my dream would be to go home," Gordon says.

The Lagging Poor (WP)

The Washington Post, September 6, 2005

The poverty level edged up last year, to 12.7 percent -- the fourth straight annual increase. Overall median income remained flat at $44,389, down 3.8 percent from its peak in 1999. This is a robust economic recovery?

The Census Bureau's annual report on income, poverty and health insurance in the United States is not alarming -- but neither is it cheering, or even reassuring. Rather, the numbers underscore the lagging and uneven nature of the economic recovery since the 2001 recession. According to the new data, 4 million more people were living in poverty in 2004 than in 2001, and 4.6 million more people lacked health insurance.

Administration officials counsel patience, pointing to the downturn of the 1990s, when it took several years for the poverty rate to start to fall. "The last, lonely trailing indicator of the business cycle," Commerce Department official Elizabeth Anderson said of the poverty rate.

This has about it more than a whiff of wishful thinking. For one thing, the increase in poverty between 2003 and 2004 is in fact out of the ordinary; such a rise hasn't happened between the second and third years of an economic recovery since the federal government began collecting poverty data in 1960. For another, the poverty rate may be a lagging indicator, but in this case it's not lonely: See, for example, the median income of working-age households, which declined 1.2 percent.

Another ominous signal involves health insurance coverage. Although the percentage of people with coverage remained unchanged from 2003 to 2004, that masked a shift from employer-provided insurance to government coverage. The percentage of people with employer-based health insurance fell for the fourth year in a row. Most of this slack has been taken up by Medicaid, the shared federal-state health program for the poor and disabled. But with state budgets under increasing strain from Medicaid costs and with Congress poised to make cuts in the program, it's not at all certain that states will be willing or able to maintain coverage for working Americans hovering at the edge of poverty.

In the wake of this data and the devastation caused by Hurricane Katrina, Senate Majority Leader Bill Frist (R-Tenn.) was wise to postpone this week's planned vote to repeal the estate tax. Lawmakers need to remember in the weeks to come that this is an economic recovery that continues to leave too many Americans behind.

Russia Rejects Reporting Iran To Security Council (FT)

DOJ_NMG_0003084

By Stefan Wagstyl And Roula Khalaf

Financial Times, September 6, 2005

Russia on Monday ruled out an early decision to report the Iran nuclear controversy to the United Nations Security Council, undermining US and European efforts to build international consensus for a diplomatic reprimand this month.

A senior Kremlin official said Iran had not violated the rules of the nuclear non-proliferation treaty. Its nuclear programme, he said, should continue to be dealt with at the governing board of the Vienna-based International Atomic Energy Agency, the UN's nuclear watchdog, without involving the Security Council.

Vladimir Putin, the Russian president, adopted a more cautious approach in a meeting with foreign journalists and academics. He did not exclude a future referral to New York, though not at this point, and said it would have be done "in a very precise form".

The international divisions over Iran surfaced as the US and Europe launched a diplomatic campaign to step up the diplomatic pressure on Tehran when the governing board of the IAEA meets on September 19. The IAEA has been investigating Iran's nuclear programme for the past two years without reaching a conclusion on Tehran's intentions.

Until recently European governments had been reluctant to escalate the dispute and involve the Security Council, which would raise the diplomatic stakes. But they joined the US in calling for a referral after talks between Tehran and the so-called EU3 – the UK, France and Germany – broke down last month. The talks were aimed at persuading Tehran to give up all activities related to the enrichment of uranium, which produces the fuel for nuclear reactors or atomic bombs.

The negotiations collapsed after Iran rejected a European proposal and resumed the production of uranium hexafluoride, a nuclear feedstock, at a plant in Isfahan – a process it had agreed to suspend.

European diplomats insist they would not seek economic sanctions against Iran at the UN but are looking for a Security Council statement that would encourage Tehran to resume the suspension of the Isfahan plant.

Diplomats acknowledge they face an uphill battle to win the support of Russia and China. "Both [Russia and China] are reserved and cautious at this stage and seeking to know what will happen in the Council," said a European diplomat.

The US and Europe could secure a vote at the IAEA through a simple majority. But their aim is to win a broad consensus, particularly including the support of Russia and China. The two countries are permanent members of the Security Council, with veto power, so forcing the dispute to New York without their approval could produce deadlock rather than stronger diplomatic action.

Iran Changes Tack In Nuclear Standoff (CSM)

By Scott Peterson

The Christian Science Monitor, September 6, 2005

ISTANBUL, TURKEY - Iran's first fear about its controversial nuclear program has long been that it could provoke a US or Israeli military strike.

And a close second, until now, has been concern in Tehran that Iran could be referred to the United Nations Security Council for violations of the nuclear Non-Proliferation Treaty (NPT).

But even as Western diplomats begin to step up efforts to go after Iran at the UN - canvassing began in Vienna Monday, in the wake of the latest Iran report by the UN's International Atomic Energy Agency (IAEA) - Iran appears to be changing tack.

Tehran is minimizing the risk of Security Council sanction, which in turn is undermining the carrot-and-stick approach used by the EU and Washington in recent years to convince Iran to end all nuclear efforts.

"To a certain extent, [Iranian officials] have lost their fear of the Security Council," says Davoud Hermidas Bavand, a professor of international law at Alameh University in Tehran. "Some even say that Iran should take the issue to the Security Council, against the IAEA," he says, because a technical issue has become "politicized."

Shortly after the hard-liner Mahmoud Ahmadinejad was sworn in as president a month ago, Iran took a long-anticipated step of breaking IAEA seals at its Isfahan plant, ending a unilateral suspension of uranium-conversion activities.

The US says those activities - which the IAEA reports have converted seven tons of raw uranium into gas that can be enriched - are aimed at producing nuclear weapons. Iran denies the charge, saying it needs nuclear power, and that its right to master nuclear fuel technology is enshrined in the NPT.

The suspension was part of an earlier deal between Iran and Britain, France, and Germany, which sought to make it permanent in August by offering modest incentives. Iran rejected the proposal, which included no guarantees from the US of safety or waiving of current sanctions, prompting the Europeans to cancel meetings set for late August.

The confidential report, released Friday, found that 2-1/2 years of "intensive inspections and investigation" have not clarified outstanding issues, and that "Iran's full transparency is indispensable and overdue."

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Still, the IAEA reported "good progress" in resolving a string of issues since 2003, and confirmed that traces of weapons-grade uranium found on centrifuge parts - held up by some US officials as evidence of a clandestine bomb effort - originated in Pakistan, as Iran has claimed.

Iran's new nuclear negotiator, Ali Larijani, said IAEA criticism was politically motivated, and that violations were "neither legal or technical."

"The tide of opinion in Tehran seems to have shifted," says Gary Samore, a nonproliferation official during the Clinton administration and vice president of the MacArthur Foundation in Chicago.

"Over the last two years, Iran's policy has been dominated by the desire to avoid referral to the Security Council, and Iran has been prepared to accept limits on its nuclear program in order to achieve that," says Mr. Samore, who is releasing an Iran dossier Tuesday under the auspices of the International Institute of Strategic Studies in London. "It does appear that Iran feels it's in a much stronger position."

High oil prices may give Tehran confidence that the council would not jeopardize the flow of Iran's petroleum into the market, says Samore. Other factors include American preoccupation with Iraq, and the decisive victory of Mr. Ahmadinejad at the polls last June.

Likely allies of Iran on the council include China and Russia, which is building a nuclear-power plant at Bushehr. Over the weekend, Russian officials made clear they saw "no reason" to send Iran to the council. Mr. Larijani is due to arrive in Pakistan Wednesday, after visits to China and India to galvanize non-Western support.

"The belief that [the US and EU] can weaken the will of this great nation with the baton of the Security Council is mistaken logic, and they are only losing their dignity," Larijani told Iranian state TV.

"Gone is the time when they could deny Iran its rights by threatening it," Foreign Ministry spokesman Hamid Reza Asefi, said on Sunday. "It is our legitimate right to have peaceful nuclear technology, and we will not give that up."

Europeans hope for a shift during talks between Ahmadinejad and other world leaders, including Russia, at the UN General Assembly in New York next week. The IAEA board of governors meets on Sept. 19 to consider the case.

"Ahmadinejad, and [Iran] in general, feels less threatened by the possibility of sanctions - they perceive they are stronger, and much more in control," says Hadi Semati, a political scientist from Tehran University, who is currently at the Woodrow Wilson International Center for Scholars in Washington. "Domestically in Iran, it's going to be very hard for anyone to come out and say: 'OK, we're going to get rid of our [nuclear] fuel cycle' to get a few promises. That is political suicide.

"They know the Europeans are terrified to take Iran to the Security Council, because then the question is: 'What next?' " says Mr. Semati. And "down the line, [they feel] the US is bent on regime change anyway, even if it's not declared policy - so why bother?"

But such conclusions in Tehran are a high-stakes gamble, as is likely to be any Security Council response. Numerous safeguard violations over the past 20 years means that "until Iran restores confidence in its nuclear program, it should accept limits on activities that are dual use, and have military applications," says Samore. "There is a very strong legal case, [but] Council members are going to be very reluctant to impose significant sanctions on Iran."

A tough stance could prompt Iran to relaunch uranium enrichment, kick out inspectors, or - as some hard-liners have demanded - pull Iran out of the NPT.

"I think the council will react very cautiously, very incrementally," adds Samore. "It will take time, but there is no urgency. Iran is still a couple of years from having a nuclear-weapons capability, and there are some pretty significant technical problems."

Palestinian Forces Tour Evacuated Area (USAT)

USA Today, September 6, 2005

Palestinian security forces on Monday got their first look at Jewish settlements razed during Israel's withdrawal from Gaza. They toured the area before the formal hand-over in mid-September. The tour of the settlements in southern Gaza by Palestinian commanders and Israeli military officials was the first time Palestinian officials had been allowed into the communities. Israel removed all 8,500 settlers from Gaza last month.

International mediator James Wolfensohn has been meeting with both sides on unresolved issues, including who will control Gaza's border with Egypt. Israel wants some control over the border to prevent arms from being smuggled into Gaza and used against its people.

9 killed in Austrian ski resort accident

Nine Germans were killed when a helicopter dropped a 1,500-pound chunk of concrete on a cable carrying gondolas at the Soelden ski resort near Innsbruck, Austria.

Police official Edelbert Kohler said the helicopter was carrying material to a mountaintop construction site when it dropped the block, knocking one car off its wires and leaving others swinging so violently that their passengers were thrown out.

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Up to 10 people had been seriously injured, according to the Red Cross.

Nuclear sub collides with ship in Gulf

The nuclear submarine USS Philadelphia, traveling on the surface in the Persian Gulf, collided with a Turkish cargo ship, but no one was hurt, and damage was minor, the 5th Fleet headquarters in Bahrain said. It was the U.S. Navy's second collision with a civilian vessel in the Gulf in 14 months.

Cmdr. Jeffrey Breslau said damage to the sub was “superficial.” He said the Turkish ship Yaso Aysen suffered minor damage to its hull. It was not known which vessel was at fault.

Afghan, U.S. forces kill suspected militants

Two hundred Afghan police, supported by U.S.-led coalition forces, killed 13 suspected Taliban fighters and detained 44 in a bid to curb militancy before elections Sept. 18, Kandahar Gov. Asadullah Khalid said. He said coalition and government forces suffered no casualties in the fighting Sunday in Kandahar province.

Congo hosts conference on saving apes

Governments and conservationists opened a week of talks in Congo's capital, Kinshasa, to study ways to save endangered apes from extinction. Great apes — gorillas, chimpanzees and orangutans — are threatened by logging, poaching and conflict worldwide. There are about 400,000 left in Africa and Asia, according to the United Nations. Representatives of 23 governments — most of them in Africa, plus Indonesia and Malaysia — are attending the meeting.

Egypt Vows To Build A Palestinian Gaza (WT)

By John Phillips

The Washington Times, September 6, 2005

CAIRO -- Egyptian Prime Minister Ahmed Nazif has pledged to help make the Gaza Strip the foundation of a Palestinian state "in every sense" and urged other countries to join Cairo in the push for Middle East peace.

"If we want Gaza to be the basis for a new Palestinian state long term, we have to provide [the residents] with homes and jobs, with security," Mr. Nazif told The Washington Times.

"A lot of effort has to go into rebuilding the infrastructure, not just in the political but in the economic sense."

Mr. Nazif said Cairo will make sure that Gaza has access to the outside world through Egyptian seaports and airports "to prevent the strip of territory being a prison" for its residents.

Egypt, which holds a presidential election tomorrow, also will provide technical support to develop the banking structure, the prime minister said Sunday during an interview at the high-rise office he maintains in a booming technology zone on the edge of the capital.

Egypt will use its knowledge of the Gaza Strip, which was once administered by Cairo, to develop economic assistance, he added. At the same time, it will press the Palestinians "to ensure that the Israelis don't see [Gaza] as a place for attacking them."

"Gaza has to be the beginning of a real state in every sense," Mr. Nazif said.

Other nations should support Egypt's efforts in the region, said the prime minister, 52, who has been credited with bringing a more dynamic style to Egypt's government since his appointment by President Hosni Mubarak last year.

"We have been actively seeking the resolution of the Palestinian-Israeli conflict in the past year and a half. We were almost working alone," he said.

"It culminated in the Sharm el Sheik meeting [between Israeli and Palestinian leaders], which had a calming-down role. ... We have been able to build the bridges that were required."

But now, Mr. Nazif said, "this will have to be followed by others to support and sustain these political gains."

Egypt and Israel have agreed that Israel will withdraw its troops from the Gaza-Egypt border -- to be replaced by 750 Egyptian troops charged with preventing arms smuggling into Gaza.

The Israeli Defense Ministry said yesterday that the Egyptians would begin taking up positions along the border in the coming days.

The forces are to patrol along a volatile corridor on the Gaza side of the border, where Israeli-Palestinian fighting has been particularly intense because of the arms smuggling.

Palestinian leader Mahmoud Abbas said yesterday that he and the Israelis remain at odds over other details of the border arrangement, but he hoped to conclude a deal "very soon."

The crossing into Egypt is the Gazans' most important link to the outside world. The Palestinians say free passage to Egypt will be essential for reviving the territory's economy after a 38-year occupation. But Israel wants to maintain some control over the border, fearing weapons could be smuggled into Gaza.

Mr. Nazif dismissed speculation that Egypt could become involved in a power struggle in Gaza between the Palestinian Authority and the hard-line Hamas movement, which some Egyptian journalists have idolized.

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"I believe that if you ask the average Egyptian today he would support the moderate [Palestinian] factions," the prime minister said.

"You can't leave any faction out. It is important that the Palestinian security forces are organized and are not some kind of militia. The Palestinians understand that. We should not underestimate them."

Egyptian security forces, meanwhile, have concluded an investigation into the July 22 bombings at Sharm el Sheik resort, which killed 56 persons, and have excluded outside involvement in the attack.

"We know who did it, and that takes us a long way to knowing how to prevent it happening again," Mr. Nazif said.

Tourism to Egypt's constellation of dazzling Red Sea and Mediterranean resorts will continue to expand notwithstanding sporadic terrorist attacks, he predicted.

Mr. Nazif said Mr. Mubarak's pledge to achieve 4.5 million jobs over the next six years is feasible given Egypt's oil and gas resources, tourist attractions and economic reforms to encourage investment by cutting taxation and customs duties.

"We have computed that 1 million tourists creates 200,000 jobs a year. We are attracting 1 million more tourists a year. We have started to create a business environment in Egypt [that is] supportive of investment," he said.

Voters Reverse Islamists' Rise In Pakistani Politics (CSM)

By Ashraf Khan

The Christian Science Monitor, September 6, 2005

KARACHI, PAKISTAN - Voters in Pakistan have dealt a surprising blow to religious extremists, bucking the rise in recent years of radical Islam in politics here.

Countrywide elections for local governments, which were held on August 18 and 25 in over 100 districts, reversed the gains made by radical Islamists who came to power in two out of the country's four provinces in 2002. They had played a strong opposition role in the federal parliament and posed a formidable challenge to President Pervez Musharraf's vow to bring "enlightened moderation" to Pakistani society.

The absence of full elections at the federal level has enhanced the importance of Pakistan's local and city government as a political bellwether. Observers here point to a number of reasons for the poor showing for the religious parties, including internal divisions; changes to the ballot; as well as a cooling off of tensions caused by the government's reorientation following Sept. 11, 2001.

"It apparently seems that the establishment has laid their hands off the Islamists and radicals' influence has faded all over the country," says Jaffer Ahmed, chairman of the Pakistan Study Centre at the University of Karachi. "But we can't say that their downfall has started," he hastened to add.

President Musharraf was jubilant the day after the polls closed. "Local body elections have resulted in the victory of moderates and defeat of extremists everywhere in Pakistan," he said.

The unexpected defeat of the Islamists came in the North Western Frontier Province (NWFP), which neighbors Afghanistan. The province had been ruled since 2002 by the Muttahida Majlis-e-Amal (MMA), an umbrella group of six religious parties, including the vanguard radical party Jamaat-e-Islami.

The MMA had emerged as a powerful political force in the October 2002 national elections, riding popular anger at Pakistan's support for the US ouster of the Taliban across the border in Afghanistan. The alliance also used a book as its symbol on the ballot, telling voters that the book represented the Koran, and that a vote for the MMA was a vote for Islam.

Once in office, the religious alliance continued to defy Musharraf's war on terror at home and abroad. Police began waging a Talibanesque antivice drive that included bans on music and attacks on billboard advertisements depicting women.

However, heading into the August vote, differences cropped up in the MMA and the alliance subsequently broke down on the local government level. With some distance from Sept. 11 and without the benefit of the book as its ballot symbol, the religious parties lost their majority to the Awami National Party (ANP), a secular Pashtun party.

"I am more than 100 percent satisfied, says Asfandyar Wali, chief of the ANP, which emerged as the single largest party in the province according to informal results. "We are very much able to head governments in all major cities including Peshawar [the provincial capital]."

When the MMA splintered, intriguing and odd political alliances came to the fore to win over the city governments. Jamaat-e-Islami chose to join hands with ANP, though they have diametrically opposed ideological positions with the ANP, a party formed in 1986 by the merger of several left-leaning parties.

"These are the dynamics of the politics and these are only election alliances not an ideological merger," says Mr. Wali, who pledged to carry on a secular vision of government in the cities.

Waning influence of Islamists, who have given way to secular and moderate parties, makes many believe the wave of fundamentalism could be forestalled effectively in the frontier province and at the polls in the next national elections in 2007.

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But the MMA could yet regroup, especially if outside engagement with Pakistan wanes, says Mr. Ahmed. "It would all depend on the US and Western countries' attitude towards Pakistan, whose role seems to be diminishing now for them," he says.

After New Talks, India Says It May Pull Troops From Kashmir (NYT)

By Somini Sengupta

The New York Times, September 6, 2005

NEW DELHI, Sept. 5 - India will pull back troops from the disputed territory of Kashmir if militant infiltration and violence ends, the prime minister's office announced Monday evening after a rare meeting with Kashmiri separatists.

The meeting, between Prime Minister Manmohan Singh and the All Parties Hurriyat Conference, a coalition of moderate separatists from Kashmir, came barely a week before the leaders of India and Pakistan are to meet during a United Nations General Assembly session in New York. Pakistan has expressed growing frustration with what it calls New Delhi's reluctance to tackle the problem of Kashmir.

The region is the only Muslim-majority state in Hindu-dominated India, and it is at the heart of a half-century conflict between the two South Asian neighbors. Since 1989 Kashmir has been roiled by an anti-Indian insurgency that India blames Pakistan for, and that Pakistan says it supports only by moral and political means. The Hurriyat leaders recently met with President Pervez Musharraf of Pakistan.

In the statement, the prime minister's office said it would also review the cases of all those held under special preventive detention in Kashmir and take steps to "safeguard against human rights violations."

The most far-reaching pledge was on pulling out troops, whose presence across Kashmir is an enduring source of anger and alienation among many Kashmiris.

"The prime minister said that if there is a cessation of violence and an end to infiltration, conditions will be created for the reduction of armed forces," the statement read. "It was agreed that the only way forward is to ensure that all forms of violence at all levels should come to an end."

In an interview with the private New Delhi television station NDTV, the leader of the separatist coalition, Mirwaiz Umar Farooq, heralded the talks as the start of a credible conversation. "For first time, there seems to be a realization in Delhi that we need to have a solution in Kashmir, an honorable solution," he said. "It was definitely a very good beginning."

Insurgency May Not Be Based On Islamic Militancy (WT)

By Shaikh Azizur Rahman

The Washington Times, September 6, 2005

NEW DELHI -- The killing last month of a Hindu militant and the arrests of two others are raising doubts about the government's assertion that the bloody insurgency in Kashmir is being fought simply in the interests of Islamic militancy.

Indian forces killed Uttam Singh, 23, and three Muslim jihadis on Aug. 19. The night-long gunbattle came during an attempt by a group of militants to kill or abduct an Indian Muslim soldier from his house in the border region of Kashmir. Police later discovered that Mr. Singh, alias Saifullah, was one of two Hindu sector commanders in Hizbul-Kashmir, a rebel group that seeks to include all of Kashmir in Pakistan.

Police said that five years ago, Mr. Singh crossed into Pakistan, where he was trained in the use of arms and explosives. In 2003, he returned to India and was made commander of his group in Kashmir's southern Doda region, leading about 120 militants, including seven Hindus.

Just three days after his death, police announced the capture in New Delhi of Virender Singh, a 25-year-old Hindu. Police said he was a Hizbul operative in charge of supplying arms and funds to his jihadi colleagues on missions across the country.

On Aug. 24, Hindu Hizbul militant Chattar Singh was arrested in Doda while carrying a pistol and grenades.

A senior officer at the Defense Ministry in New Delhi subsequently acknowledged that four other Hindu militants had been killed fighting alongside the Kashmiri jihadis in the past three years.

However, he would not accept the notion they might have been willing combatants.

"We have information that about a dozen Hindu militants are still active in Kashmir. We believe they were all forced to join militancy at gunpoint," the officer said.

"Being Hindus, they could never subscribe to the religious or political faith of the jihadis who are fighting for Kashmir's separation from Hindu-majority India."

At least 45,000 people have died in a struggle that India's Hindu political leaders say is purely religious in nature, but that many former and present militant leaders describe as political.

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"Fifteen years ago -- when we started the movement against Indian occupation in Kashmir -- during curfew, our cadres carried rice and vegetables first to the Hindus in Srinagar, before Muslims got them," said Yasin Malik, chairman of the Jammu and Kashmir Liberation Front, the first militant group to fight New Delhi's rule in the region.

Some 125,000 people have fled the Kashmir Valley since the insurgency began in 1989, but Mr. Malik said that "more than 6,000 Muslim families, too, ran away from the valley fearing the guns of the militants. Falsely, we were branded communal and anti-Hindu."

Shakeel Wani, a former Hizbul militant who lost an eye while training at a camp in Pakistan and now sells fruits in Srinagar, said that at least 100 Hindu Kashmiri boys had fought alongside the Muslim jihadis.

"They embraced Islam and touched the Koran before they touched an AK-47 [rifle]. You cannot call them Hindus anymore. Despite being Hindu, on jihadi missions here often they fight more fiercely than their Muslim counterparts, probably to prove their loyalty," he said.

Suresh Yadav, an Indian Border Security Force battalion commander who served in Kashmir for three years, said poverty -- caused in part by the insurgency itself -- was the key factor behind young Hindus joining the militants.

"Hindu boys from poverty-stricken families in the border districts have joined the Islamic rebel groups who offer good [pay] packages to them while they fight, and also to their families in case of their deaths," he said.

Lebanon's President Facing Growing Pressure To Resign (NYT)

By Hassan M. Fattah

The New York Times, September 6, 2005

BEIRUT, Lebanon, Sept. 5 - Pressure has been mounting in recent days for the resignation of President Émile Lahoud, who has clung to office even as his Syrian backers have been forced to withdraw from the country.

Lebanon's recently elected prime minister and his cabinet are avoiding Mr. Lahoud, and his influence is hard to detect in most government offices.

He keeps a low profile, rarely making public appearances or giving interviews. But as hard as he may try to remain out of sight, he has been on many minds here in recent days, as Lebanese have taken to predicting his imminent political demise.

Things appeared to come crashing down on Mr. Lahoud last week, when four senior security men, including his current head of security, Mustafa Hamdan, were cited as suspects by a United Nations investigation into the assassination of a former prime minister, Rafik Hariri.

"It is all but sure now that he will have to step down - the question is when," said Fares Boueiz, a lawyer who is a former minister of foreign affairs and the environment. "The man is no longer able to rule the country, and I don't think this can last another two months."

The suspects - Jamil al-Sayyed, former chief of general security; Ali Hajj, former chief of the Lebanese police; Raymond Azar, a former military intelligence chief; and Mr. Hamdan - were charged with murder, attempted murder and carrying out a terrorist act. The men, once feared as Syria's proxies in Lebanon, faced formal proceedings before a Lebanese investigative judge over the weekend.

Mr. Lahoud is not a formal suspect in the investigation, for which a report is expected to be issued next month, and has been cooperating with investigators, Detlev Mehlis, the chief United Nations investigator, said last week. But Mr. Lahoud's close ties to the suspects and his unusual step of arguing Mr. Hamdan's innocence with the investigators only deepened the suspicion of him.

"They are the president's men, his collaborators, and even though they are not indicted yet, Lahoud is politically isolated," said Nawaf Salam, professor of political science at the American University in Beirut. "The closer we are to the date of the release of Mehlis's report, the more isolated Lahoud will become."

In a defiant statement last week, Mr. Lahoud insisted that he intended to complete his term in office, which ends in 2007. "I will continue to fulfill my responsibilities to safeguard the Constitution, Lebanese laws and the integrity of Lebanese territory," the statement said.

Mr. Lahoud served under the nationalist general Michel Aoun during the final years of the civil war of the 1970's and 80's, then crossed over into Syrian-controlled west Beirut when the war ended, breaking with General Aoun. Mr. Lahoud made his name by uniting and leading the Lebanese Army for almost a decade, then ran for the presidency and won in 1998. His popularity reached a nadir, though, when Syria helped force through a constitutional amendment extending his term last September, which became a touchstone for the political turbulence of the past year.

So far, he has survived thanks to the same force that has kept most other Lebanese bosses in power: sectarianism. He has appealed to fellow Christians who may despise his politics, but would hesitate to bring down one of their own. Earlier

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pressure to oust him failed because Cardinal Nasrallah Sfeir, the influential Maronite prelate, intervened and because of international pressure on the government not to do anything that would destabilize the country.

But much has changed. The government of Prime Minister Fouad Siniora has sought to prove its mettle and build legitimacy, encouraging Lebanon's judiciary to take a leading role in the investigation of Mr. Hariri's killing.

The formal charges placed against the four men on Thursday sent another significant message.

"Pointing to the security chiefs as suspects may have put Lebanon on the track of stability and ended the cycle of assassinations and explosions," said Mr. Salam, the American University professor. "Now people realize that they are held accountable for any act of terror they might commit."

Many government figures have begun publicly demanding Mr. Lahoud's resignation.

"These are the people who worked for Mr. Lahoud," said Nayla Mouawad, minister of social affairs.

Sheik Hassan Nasrallah, the leader of the militant Hezbollah organization and a traditional ally of Mr. Lahoud who had opposed his ouster, acknowledged over the weekend that the president was in an "uncomfortable" position.

Perhaps the biggest factor standing in the way of Mr. Lahoud's ouster is the difficulty of impeaching him. The Lebanese Constitution has little mechanism for impeachment, short of treason. Legal experts say the only way to remove Mr. Lahoud would be through a constitutional amendment.

With a requirement since the settlement at the end of the civil war that the president be a Christian, there is also the problem of a lack of an acceptable alternative to Mr. Lahoud. While many Christian figures have expressed interest in the job, none has the consensus or voting base to take over. Walid Jumblatt and Saad Hariri, son of the assassinated former prime minister, lead the largest voting bloc in Parliament, and are determined to keep General Aoun, who returned from 15 years of exile to a substantial victory in the parliamentary election, out of that position. Christian leaders, meanwhile, are determined that they will not allow the ruling bloc to dictate to them.

"What is keeping him right now is the lack of an agreement between the different powers controlling Lebanon," Nawaf Kabbara, professor of political science at Balamand University in Beirut, said of Mr. Lahoud. "But such an agreement will be reached by the time Mehlis releases his report."

Business Chiefs Give Blunt Warning On Doha Talks (FT)

By Alan Beattie

Financial Times, September 6, 2005

The Doha round of global trade talks may be “on the verge of failure”, an association of global business leaders warns on Tuesday.

A blunt statement from six business associations, including the US Business Roundtable, an association of chief executives of leading corporations, says delay in the agricultural talks is holding up progress in goods and services liberalisation, which is economically far more significant.

“Only a few months remain for World Trade Organisation member governments to save the Doha development agenda,” the statement says. “The great hopes for global economic growth and development promised by this trade round are now at serious risk.”

The warning comes as the WTO returns to work after its summer break, with four months remaining before December's ministerial meeting in Hong Kong. Progress in the talks has been slow. Pascal Lamy, the WTO's new director-general, said last week the director-general “does not have a magic wand” to conjure up a deal.

Without a significant breakthrough in the agricultural talks and, particularly, a commitment from the EU and US to cut farm tariffs rather than the lesser goal of ending export subsidies, the big emerging markets such as India and Brazil are unlikely to agree radical liberalisation of their goods and services markets.

In August, for example, India announced a more ambitious offer to liberalise its service industries, making it easier for foreign architects and life insurers, among others, to set up in India. But officials stressed the offer would merely legally bind the liberalisation the government had already carried out unilaterally rather than allowing fresh business opportunities.

Tuesday's statement says goods tariffs should be cut to zero in sectors where industry demands it. But that request has been rejected by India, which maintains significant tariffs on many of its manufactured imports.

The statement is signed by the Japanese Nippon Keidanren, the European Round Table of Industrialists and by business associations in Australia, Mexico and Canada. Businesses have been accused of directing too much of their lobbying effort into bilateral and regional trade deals rather than into the WTO talks.

Peter Mandelson, trade commissioner, recently complained of a lack of business support for the Doha round.

Guy Sebban, secretary-general of the International Chamber of Commerce, told the FT last week that governments, not businesses, had led the drive towards bilateral deals. ”The sum of all bilaterals is nothing like as good as a far-reaching

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multilateral deal." Harold McGraw, CEO of publisher McGraw-Hill and chairman of the Business Roundtable's trade task force, said: "It is vital that WTO members not lower expectations."

www.trade.businessroundtable.org.

EU And China Near Textile Deal (FT)

By Ben Hall And George Parker

Financial Times, September 6, 2005

China and the European Commission struck an eleventh-hour agreement on Monday to end their dispute about imports of cheap Chinese textiles, but EU member states have yet to approve it.

After marathon talks in Beijing stretching into the early hours of Monday morning, Peter Mandelson, EU trade commissioner, and Bo Xilai, his Chinese counterpart, agreed to release Chinese garments impounded at Europe's ports "as soon as possible".

Mr Mandelson said the two sides had agreed to "sensible, reasonable, burden-sharing" regarding the fate of 77m Chinese sweaters, trousers and bras impounded at the EU's borders.

The Commission proposes to wave through half of the impounded garments. China accepted that the rest would be deducted either from its 2006 textile quota, or switched to other unfilled-quota categories.

The decision marked a softening of China's stance. Trade officials from the EU's 25 member states will on Tuesday consider whether it goes far enough.

Mr Mandelson hopes the agreement will be approved by EU textile producing countries such as France, Spain and Italy, even though it means allowing into the shops 38m unlicensed Chinese garments, ordered by retailers "in good faith" but which fell foul of quotas agreed on June 10.

The EU has already allowed in 135m Chinese pullovers given import licences in a frenetic period between June 10 and July 12, when the new quotas came into force. The agreed pullover quota for 2005 was 69m.

The textile dispute overshadowed an EU-China summit in Beijing, where Tony Blair, who holds the rotating EU presidency, argued the west should welcome China's economic rise.

After talks with Hu Jintao, China's president, and Wen Jiabao, Chinese premier, Mr Blair said further trade liberalisation was inevitable and that Europe should see China's booming economy as an opportunity not a threat.

"There is of course a case for managing change," the prime minister said. "What there is not a case for is resisting change."

Mr Blair and his Chinese counterparts characterised the textiles dispute as a minor irritant in a flourishing EU-China relationship.

But it reflects Europe's difficulty in developing deeper political ties with the emerging superpower, notwithstanding an agreement to co-operate more closely on climate change reached yesterday.

Mr Mandelson, who resisted reintroduction of quotas on China in June, said that this time the EU needed to take greater care in managing the textile quotas and would have to step up contact with importers and producers. The measures were aimed at "smoothing a transition to a period when there are no quotas at all". Sir Digby Jones, director general of UK employers organisation the CBI, said borrowing from next year's quota to satisfy consumer demand was no long-term solution.

"The real answer is to allow access to the EU for goods produced in China and for EU producers to adapt to the competitive challenge," he said. "Quotas, agreed or otherwise, are not the way for the developed world to deal with globalisation."

EU Eases Quotas On China Trade, Breaking Logjam (WSJ)

By Andrew Browne, Federica Bianchi, Juliane Von Reppert-Bismarck And Marc Champion

The Wall Street Journal, September 6, 2005

China and the European Union reached an agreement to end a trade spat yesterday that had left millions of Chinese-made sweaters, bras and trousers stranded at European ports, threatening to sour a meeting of Chinese and European leaders in Beijing.

Both sides hailed the textile accord, which still needs the approval of EU member countries, as a fair compromise.

Tensions over the textiles have been an embarrassment to the EU, which has been courting China as a trade partner and rising strategic power. The standoff also was a setback for the top EU trade official, Peter Mandelson, after a quota system he championed in June to hold back a surge in Chinese textiles ended up creating chaos at European ports and causing division in the 25-nation EU. European importers had rushed to beat deadlines resulting from the June agreement, and in a matter of weeks the annual allotments filled up, leaving the excess clogging European docks.

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Under the June quota system, growth in 10 categories of goods was capped at between 8% and 12.5% until 2008. Now, under yesterday's deal, Europe will ease quotas to admit half of the surplus. China agreed for the remaining half to be deducted from next year's quotas, or from quotas for other types of textiles, said Simon Fraser, a senior aide to Mr. Mandelson. China also agreed not to issue any more export licenses for textiles that have exceeded their European quota, the official said.

EU officials and diplomats expect European governments to approve the agreement today.

"The result was fair and equitable for both sides," Chinese Premier Wen Jiabao said at a news conference after the summit, which focused on issues such as the environment and security as well as trade.

The U.S. also is bogged down in a trade dispute with China over its textile exports, which have rocketed since the demise of a global quota system in January. Just last week, Chinese and U.S. negotiators failed to reach agreement on a comprehensive plan to restrain the overall growth of Chinese textile exports to replace piecemeal U.S. curbs, most recently on bras and synthetic fabric.

Industry analysts said the EU agreement didn't presage a similar breakthrough with the U.S. "They're completely separate," said Paul MacKenzie, head of consumer research at Hong Kong-based CLSA Asia-Pacific Markets. He said the EU deal was aimed at resolving a particular mess that both sides had created by failing to put in place a system to monitor textile trade volumes that is transparent enough to show the rate at which quotas were filling up.

However, Chinese Commerce Minister Bo Xilai, at a separate news conference with Mr. Mandelson after the summit wrapped up, said he expected a textile deal with the U.S. "quite soon." He complimented his EU counterpart, saying that in comparison with U.S. officials, "Mr. Mandelson was more active."

Yesterday's agreement was clinched just in time to lift a cloud over a China-EU summit attended by José Manuel Barroso, president of the European Commission, and Prime Minister Tony Blair of Britain, which holds the six-month rotational EU presidency. The textile row had become a test of the strength of the EU-China relationship and the ability of both sides to handle even more contentious issues, like whether to lift a ban on EU arms exports to China.

As he sought to extricate the EU from its predicament, Mr. Mandelson was caught in the crossfire between retailers in countries like Britain and Sweden, anxious to stock their shelves before winter with Chinese-made warm clothes, and producers in countries like France, Italy and Spain who fear inexpensive Chinese imports will devastate their industry.

Chinese industry players welcomed the EU agreement, which focuses on unblocking 48 million sweaters, 18 million trousers and more than 11 million Chinese-made brassieres.

"It may save losses and mend reputation for both Chinese and European companies," said Cao Xinyu, vice chairman of the China Chamber of Commerce for the Import and Export of Textiles. Mr. Cao said he was confident the standoff was a one-time problem caused by poor implementation of the quota agreement.

European textile producers were less pleased. "This deal has been reached at the expense of industry," said Francesco Marchi, legal adviser at European textile-maker lobby Euratex in Brussels. Admitting half the surplus is "a free gift," he added, "and there is no compensation at all for us."

The EU looks to China as a huge market for its exports. China overtook Japan to become the EU's second largest trading partner in 2003, behind the U.S., and Mr. Blair is just the latest in a string of major European leaders -- including French President Jacques Chirac and German Chancellor Gerhard Schröder last year -- to visit China at the head of a large business delegation in search of contracts.

Unlike Washington, the EU has no significant military presence or ambitions in the Far East or Pacific Ocean, and it has no commitment to aid Taiwan in the event of its attack by Chinese forces. As a result, EU leaders -- and Mr. Chirac in particular -- have seen China as an opportunity to boost job creation in their own high-unemployment economies while at the same time building a strategic partnership not dependent on the U.S.

But this year, the budding EU-China partnership has hit speed bumps. EU leaders had planned in June to lift an embargo on arms sales to China that was imposed after the 1989 Tiananmen Square crackdown, replacing it with a code of conduct that wouldn't be specific to China. But a sharp and ill-timed Chinese declaration on Taiwan, combined with ferocious opposition to lifting the embargo from the U.S. Congress, led the U.K. to force a delay. The EU remains committed in principle to lifting the arms embargo, but with Mr. Blair setting the agenda as the EU's rotating president, the embargo is unlikely to return for debate until next year.

China Oil Firm Refines Kazakh Deal (WSJ)

By Jason Singer and Guy Chazan

The Wall Street Journal, September 6, 2005

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China National Petroleum Corp., which last month triumphed in a bidding war to buy a strategically important oil company with operations in neighboring Kazakhstan, is in talks to sell as much as half of the $4.18 billion acquisition to Kazakhstan's state-owned oil firm even before the first deal is closed, according to people familiar with the matter.

A deal by CNPC, as China National Petroleum is called, to sell a 33% to 50% stake in PetroKazakhstan Inc., a Canadian company with operations in the oil-rich central-Asian state, to KazMunaiGaz, the state-owned oil company, is expected to be sealed in the next few weeks, these people said. The price tag on such a deal with KMG, as the state firm is known, wasn't clear.

The move would be the latest example of a petroleum-rich country exerting more influence on its natural resources during a period of sky-high oil prices. Other oil-exporting nations, from Venezuela to Nigeria, recently have been seeking to claim a larger share of the wealth extracted from oil buried under their land. Russian authorities, too, have been trying to tighten their grip on the country's energy sector.

Kazakhstan is a nation of 15 million people on China's western border that is strategically important because of its proximity to China.

PetroKazakhstan is based in Calgary, Alberta, and analysts say it has promising stores of reserves. However, it is considered a relatively small player in the industry. Its production is estimated to be equivalent to a little more than 1% of China's daily oil needs.

PetroKazakhstan Vice President and Treasurer Jeffrey Auld said he hadn't heard anything about talks between KMG and CNPC. KazMunaiGaz declined to comment. Wang Hongtao, a spokesman for CNPC, said "there are no such talks happening."

For CNPC, selling a stake in PetroKazakhstan to the state-run company would smooth its original $4.18 billion agreement to buy the Kazakh oil assets. In the past, other Chinese firms have tried to buy assets in the oil-rich region only to be blocked by the Kazakh government, which said it wanted them.

CNPC won an auction for PetroKazakhstan in August, beating out a competing bid by a joint venture between ONGC Videsh Ltd., the international arm of India's state-controlled Oil & Natural Gas Corp., and an investment company owned by London steel tycoon Lakshmi Mittal. The losing consortium has said it is still considering making a higher counterbid.

By selling a stake in PetroKazakhstan to the state-run Kazakh firm, CNPC would remove a potential legal hurdle to its acquisition. A new Kazakh law gives the state-owned oil company an option to purchase, pre-emptively, any major oil-and-gas venture put up for sale.

Officials are debating whether the law applies to CNPC's efforts to buy PetroKazakhstan. Some argue it does apply because all of PetroKazakhstan's operations are in Kazakhstan. Others argue it doesn't apply because PetroKazakhstan is based in Canada. In either event, selling a stake to the government could appease both sides.

If it is cleared to go through, CNPC's agreement to buy PetroKazakhstan is scheduled to close in October.

It isn't clear if KMG would buy the stake from CNPC after the closing or, if an agreement can be reached earlier, KMG might pay PetroKazakhstan's shareholders directly for the holding.

It's Time To Calm Down About The China 'Threat' (WSJ)

By George Melloan

The Wall Street Journal, September 6, 2005

The Katrina disaster offered the White House a plausible reason to postpone tomorrow's planned visit from Chinese President Hu Jintao, but the delay was unfortunate. President George W. Bush needs to discuss some important issues with Mr. Hu.

The U.S. wants Mr. Hu to improve human rights, cool down the cross-strait feuding with Taiwan and do more to persuade North Korea that nuclear blackmail is a dangerous game. Mr. Bush, for his part, could try to stop spurious attacks on China for sins it hasn't committed, like currency manipulation. In America's overheated politics, there are far too many ill-informed attempts to paint China as an economic aggressor.

It would be unfortunate if U.S.-China relations, despite years of nurture, descended into a Cold War. But wars, hot and cold, are often provoked by misjudgments, misinformation or mistrust. There's plenty of all three in the current relationship. The U.S., which even China itself recognizes as the senior partner because of its economic and political power, has a global obligation to behave with sufficient maturity to reduce the danger of mischance.

Mr. Hu had planned a speech at Yale and visits to Microsoft and Boeing in Seattle as part of what was billed as a goodwill tour. These were also postponed at last report. He and Mr. Bush will meet on the sidelines of the United Nations General Assembly summit in New York next week. But that won't be an ideal venue for serious talks, given distractions that will include questions about the future of the scandal-ridden U.N. itself.

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The issue that has aroused U.S. politicians is whether China's economic growth and arms buildup pose a threat to U.S. interests. One of Mr. Hu's key advisers, Zheng Bijian, assures us that they don't in the lead article in the latest Foreign Affairs. He writes that China is committed to a "peaceful rise" to great power status.

Mr. Hu, at a ceremony Saturday in the Great Hall of the People commemorating the formal Japanese surrender 60 years ago, declared: "China did not seek hegemony in the past, and it will never seek hegemony in the future." This is the promise Mr. Hu will bring on his first U.S. visit as China's president to Americans fearful of Chinese aggression.

Politicians of course make promises they don't keep and this doesn't denote a fundamental change in Chinese internal politics. The ruling Communist Party Mr. Hu heads is allowing more economic policy debate internally, but it has become more rigid of late on how much political debate it will permit. The party is very much aware of the tensions building up as the greater wealth and privileges of the party elite generate resentments among the broad masses.

Chinese leaders know they can't afford U.S. enmity while they face unrest at home. China has followed the Japanese, South Korean and Taiwanese models of export-led growth, so its continued economic development, and political stability, is heavily dependent on exports. Its foreign trade now totals $851 billion, the highest in the world, Mr. Zheng points out.

Yet he also notes that despite average economic growth of 9.4% a year for the last 27 years, since it opened its doors wide to foreign investment, its economy is only one-seventh the size of the U.S. economy and only one-third the size of Japan's. It is relatively short of arable land, water and natural resources. And ". . . it will take another 45 years -- until 2050 -- before it can be called a modernized, medium-level developed country." Among the problems "is a lack of coordination between economic and social development."

That seemingly anodyne last comment actually carries a world of meaning, especially when you consider that Mr. Zheng may be voicing a major concern of China's leaders. It is quite evident to close observers that a Communist Party that has introduced private capitalism so successfully still is perplexed about how to deal with the social conflicts brought about by increased wealth. Thousands of protests and demonstrations around the country by people demanding their legal rights are broken up by the security police, sending the message that the party is above the law. Falling back on Communist ideology as a unifying force doesn't work.

The U.S. has its own problems. Mr. Bush's political opponents, frustrated by their failures, have resorted to frenzied accusations that he is guilty of everything from Hurricane Katrina to a shortage of condoms in Uganda. This frenzy is feeding on the New Orleans tragedy and what is sure to be a big fight over his Supreme Court nominees.

The self-appointed leader of the China-bashing pack is Democratic Senator Chuck Schumer of New York. He attacked China's trade "unfairness" last month in a paper that among other factual errors claimed that direct investors in China must have Chinese partners. That is no longer true and the report cards of most independent groups say that China has done well in complying with World Trade Organization rules. But in response to such agitation, the U.S. has just reversed itself on the lifting of textile quotas, re-imposing them on some Chinese apparel items.

There is risk inherent in the grandstanding of U.S. politicians on such issues, particularly ones where China is essentially blameless such as currency management or textile exports. The Chinese leadership may fail to manage a transition to more democratic rule, something they clearly aren't handling well at this point. If China falls into chaos, Chinese politicians are just as capable as their American brethren of seeking scapegoats. Given the antipathy towards the American president that has been drummed up from places like Berlin, Paris and the salons of Georgetown, what better scapegoat than George Bush?

That's why Mr. Bush and Mr. Hu need to come to a better understanding, setting aside spurious issues and dwelling on ways the two countries can cooperate to keep China on the course it desires, to become a "modernized, medium-level developed country." Mr. Bush can offer wise counsel: To do that, it will have to become more democratic.

Ukrainian Official Resigns In Protest (WT/AP)

By Natasha Lisova, Associated Press

The Washington Times, September 6, 2005

KIEV -- A close aide to President Viktor Yushchenko who was a chief organizer of the "Orange Revolution" protests said yesterday he had resigned from the government because of systemic corruption around the Ukrainian leader.

Oleksandr Zinchenko, who resigned Saturday, said the situation had grown "even worse" than under former President Leonid Kuchma.

Mr. Zinchenko accused Petro Poroshenko, the head of Ukraine's Defense and Security Council, of being one of the most corrupt members of the government. He also criticized Oleksandr Tretyakov, a top aide to Mr. Yushchenko, and Mykola Martynenko, who heads the president's faction in parliament.

Mr. Poroshenko attended the press conference, which was broadcast live, and stood in the back frowning as Mr. Zinchenko spoke. When Mr. Zinchenko completed his prepared statement, lengthy applause broke out in the room.

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Mr. Zinchenko's departure as state secretary is the first major resignation since Mr. Yushchenko took office in January, after last year's bitter and prolonged campaign in this former Soviet republic.

Mr. Zinchenko said he decided to make such a "sharp public announcement" to ensure that Ukrainians and Mr. Yushchenko understood the extent of the problem. He said he had repeatedly called on Mr. Yushchenko to fire Mr. Poroshenko.

"With my resignation, I am trying to sharply convey this danger to the president and his team," Mr. Zinchenko said.

Mr. Poroshenko took the podium and said it was "the hardest day" of his life. Clearly angry, he accused Mr. Zinchenko of trying to "explode [Mr. Yushchenko's] team from the inside" and challenged him to find evidence to back up his charges.

"He didn't look in my eyes the entire time he was reading his statement," Mr. Poroshenko said of his former ally.

Mr. Zinchenko, who had served as deputy speaker of parliament, was initially aligned with Mr. Kuchma. He was a senior party official in the Ukrainian Socialist Party (United), headed by Mr. Kuchma's former chief of staff, Viktor Medvedchuk.

Experts Find Reduced Effects Of Chernobyl (NYT)

By Elisabeth Rosenthal, International Herald Tribune

The New York Times, September 6, 2005

ROME, Sept. 5 - Nearly 20 years after the huge accident at the Chernobyl nuclear power plant in Ukraine, a new scientific report has found that its aftereffects on health and the environment have not proved as dire as scientists had predicted.

The report was prepared by a panel of more than 100 experts convened by United Nations agencies.

It says huge compensation programs for people in the Chernobyl region have become "a major barrier to the region's recovery," both by creating a culture of dependency and by soaking up a high percentage of the region's resources. It recommends that the compensation programs be cut back.

The report, "Chernobyl's Legacy: Health, Environmental and Socio-Economic Impacts," says 4,000 deaths will probably be attributable to the accident ultimately - compared with the tens of thousands predicted at the time of the accident.

Only 50 deaths - all among the reactor staff and emergency workers - can be directly attributed to acute radiation exposure after Chernobyl's Reactor No. 4 exploded in April 1986, the panel found. The rest will be from cancer at a higher rate than would otherwise be expected in people exposed to radiation near Chernobyl in the wake of the accident.

But for millions of people who were subjected to low levels of radioactive particles spread by the wind, health effects have proved generally minimal, the report found.

The powerful explosion that rocked Chernobyl sent chunks of the reactor core into the surrounding fields and clouds of radioactive particles into the air. The fire burned for 10 days and released radioactive particles that were carried by the wind to large rural swaths of what was then the Soviet Union. The particles settled in human bodies and homes and contaminated fields, forests and livestock.

The report acknowledged that there was a core of people, probably 100,000 to 200,000, who continued to be severely affected by the disaster.

But seven million people in what are now Russia, Ukraine and Belarus still receive some kind of Chernobyl benefits, from monthly stipends to university entrance preference to therapeutic annual vacations. In Ukraine, the number of people designated as permanently disabled by the Chernobyl accident (and their children) increased from 200 in 1991 to 64,500 in 1997 and 91,219 in 2001 - even though the effects of radiation decline over time, the report noted. Both Ukraine and Belarus still spend about 5 percent of their annual budgets on Chernobyl victims.

The panel found that contrary to previous forecasts, there had been no observed rise in the incidence of leukemia, a blood cancer widely associated with radiation exposure - except for a small increase among workers who were in the contaminated plant. Nor has there been the expected detectable decrease in fertility or increase in birth defects.

Indeed, the report concludes that "the largest public health problem unleashed by the accident" is "the mental health impact." Residents of the region, who view themselves as victims of a tragedy they poorly understand, are still haunted by anxiety that has prevented many from restarting their lives.

In the immediate aftermath of the disaster, the Soviet Union declared an 18-mile "exclusion zone" around the reactor, which still exists, and resettled hundreds of thousands of people. Agriculture was forbidden in contaminated areas, as was the collection of forest products like berries and mushrooms. A host of compensation schemes were established.

"People have developed a paralyzing fatalism because they think they are at much higher risk than they are, so that leads to things like drug and alcohol use, and unprotected sex and unemployment," said Dr. Fred A. Mettler, leader of the team analyzing health effects for the Chernobyl Forum, a research group comprising United Nations agencies and representatives of affected countries.

The only concrete health impact in the region has been thyroid cancer in people who were young at the time of the accident and drank contaminated milk from cows that ate grass contaminated with radioactive iodine dispersed during by the

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accident. Radioactive iodine, which is short-lived, concentrates in the thyroid gland. Because the disease is generally treatable, only 9 of the 2,000 who have come down with the disease have died.

Other than the thyroid cancer cases, other cancers and adverse health effects, when they occur, may be particularly difficult to link to the Chernobyl accident, because life expectancy dropped dramatically in the region after the fall of the Soviet Union. "The effect may be difficult to detect against the background noise," Dr. Mettler said.

"Early on, there were all sorts of claims being made because people didn't have much accurate information," said Dr. Mettler, a University of New Mexico expert on the effects of radiation exposure. "Now, at last, we have the eight U.N. agencies and the three governments involved coming to a consensus about the effects and what needs to be done."

Although five million people live in areas still classified as contaminated by Chernobyl, a vast majority are exposed to very low doses of radiation, the study found, with levels no higher than in large areas of China, Brazil or Britain, where naturally occurring background radiation in soil is relatively high.

"People were evacuated from areas that now have dose levels lower than where I live in New Mexico," Dr. Mettler said.

Although there is still a strong stigma against growing or eating agricultural products from anywhere in the area, concentrations of radioactivity "in agricultural food products produced in areas affected by the Chernobyl fallout are generally below national and international action levels," the report found.

Those who continue to be affected by the accident include poor rural dwellers who live in the few severely contaminated areas, those with thyroid cancer and those who were resettled after the disaster but who had never found a new life or employment in their new communities.

"A small but important minority, those caught in the downward spiral, need substantial material assistance to rebuild their lives," the report said. But for the millions of others designated as victims, it said, the priority should be to encourage self-reliance, providing them with realistic information about the minimal risks they face.

Noting that the collapse of the Soviet Union - and the end of Soviet-era benefit programs - worsened the poverty of the region, the researchers said its people should now be provided with incentives to develop small businesses, for example.

"The extensive system of Chernobyl-related benefits has created expectations of long-term direct financial support and entitlement to privileges, and has undermined the capacity of the individuals and communities concerned to tackle their own economic and social problems," the report concluded.

Chernobyl's Harm Was Far Less Than Predicted, U.N. Report Says (WP)

By Peter Finn

The Washington Post, September 6, 2005

MOSCOW, Sept. 5 -- The long-term health and environmental impacts of the 1986 accident at the Chernobyl nuclear power plant in Ukraine, while severe, were far less catastrophic than feared, according to a major new report by eight U.N. agencies.

The governments of Ukraine, Belarus and Russia, the three countries most affected by radioactive fallout from Chernobyl, should strive to end the "paralyzing fatalism" of tens of thousands of their citizens who wrongly believe they are still at risk of an early death, according to the study released Monday.

The 600-page report found that as of the middle of this year, the accident had caused fewer than 50 deaths directly attributable to radiation, most of them among emergency workers who died in the first months after the accident. In the wake of the world's largest nuclear disaster, there were numerous predictions of mass fatalities from radiation.

The report said that nine children had died of thyroid cancer, but that the survival rate among the 4,000 children in the region who had developed thyroid cancer has been 99 percent. An expected spike in fertility problems and birth defects also failed to materialize, the study found.

"The health effects of the accident were potentially horrific, but when you add them up using validated conclusions from good science, the public health effects were not nearly as substantial as had at first been feared," Michael Repacholi, manager of the World Health Organization's radiation program, said in a statement.

U.N. scientists predicted about 4,000 eventual radiation-related deaths among 600,000 people in the affected area, including emergency workers and residents. That is consistent with predictions in the aftermath of the accident by scientists in the Soviet Union, of which Ukraine, Russia and Belarus were then a part.

But the vast majority of residents and emergency workers received relatively low doses of radiation, comparable to naturally occurring levels of exposure, the report said.

Officials said that the continued intense medical monitoring of tens of thousands of people in Ukraine, Russia and Belarus is no longer a smart use of limited resources and is, in fact, contributing to mental health problems among many residents nearly

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20 years later. In Belarus and Ukraine, 5 percent to 7 percent of government spending is consumed by benefits and programs for Chernobyl victims. And in the three countries, as many as 7 million people are receiving Chernobyl-related social benefits.

"The monitoring of people with incredibly low doses uses huge amounts of resources and does more psychological harm than good," said Fred Mettler, a professor of radiology at the University of New Mexico who chaired one of three health groups in the study, titled "Chernobyl's Legacy: Health, Environmental and Socio-Economic Impacts." The study, involving more than 100 scientists, was compiled by U.N. agencies, including the International Atomic Energy Agency, and representatives of the governments of Ukraine, Russia and Belarus.

Shortly after midnight, on April 26, 1986, after a complex chain of events at the Chernobyl plant, the water coolant vaporized and an explosion destroyed the reactor. The plant caught fire and plumes of radioactive material were released. Soviet authorities at first did not report the accident, but radioactive material was quickly detected in Scandinavian countries. Radioactive material continued to be released for another 10 days, spreading across Europe.

Over the next four years, a massive cleanup operation involving 240,000 workers ensued, and there were fears that many of these workers, called "liquidators," would suffer in subsequent years. But most emergency workers and people living in contaminated areas "received relatively low whole radiation doses, comparable to natural background levels," a report summary noted. "No evidence or likelihood of decreased fertility among the affected population has been found, nor has there been any evidence of congenital malformations."

In fact, the report said, apart from radiation-induced deaths, the "largest public health problem created by the accident" was its effect on the mental health of residents who were traumatized by their rapid relocation and the fear, still lingering, that they would almost certainly contract terminal cancer. The report said that lifestyle diseases, such as alcoholism, among affected residents posed a much greater threat than radiation exposure.

The report said that an immediate priority is to re-secure the reactor. After the disaster, a concrete sarcophagus was built over the plant, but it was hastily constructed and is showing signs of wear. "The main potential hazard of the shelter is a possible collapse of its top structures and release of radioactive dust into the environment," the report said.

David Zhania, emergencies minister in Ukraine, said last week that a new steel shelter for the plant would cost nearly $2 billion and that the country hoped to have it built by 2008 or 2009. About 28 foreign governments have already agreed to contribute more than $750 million to the project.

The report also found that except for a nearly 20-mile exclusion zone around the reactor, radiation levels have returned to acceptable levels in many areas where land had been abandoned for fear of contamination. "By radiological criteria alone a significant part of the abandoned agricultural lands (more than 70 percent) could be returned to economic use," the report said.

The abandonment of large tracts of land, combined with a ban on hunting, has led to a dramatic increase in wild animals and birds, including wolves, elk, wild boars, white-tailed eagles, owls, cranes and black storks.

"Without a permanent residency of humans for 20 years, the ecosystems around the Chernobyl site are now flourishing," the report said. "It looks like the nature park it has become."

U.N. Report Calls Chernobyl Dangers Overstated (WSJ)

By John J. Fialka

The Wall Street Journal, September 6, 2005

A team of United Nations researchers said the health dangers from the 1986 Chernobyl nuclear accident were vastly overstated, resulting in a "paralyzing fatalism" among the 350,000 evacuees that proved to be the "largest public health problem."

The team, drawn from eight U.N. agencies, prepared the report in cooperation with the Russian Federation, Belarus and Ukraine, where the accident occurred. The results will be discussed at a special meeting in Vienna, where health experts continue to track medical and mental-health problems caused by the event.

"There are a bunch of lessons in this for the United States, for handling homeland-security events and for terrorism," said Fred Mettler, one of the researchers who prepared the report. He is a professor at the medical school at the University of New Mexico.

The Chernobyl accident spurred a mass evacuation after the nuclear reactor caught fire and began spewing a cloud of radioactive debris. The report notes that the radiation threat was vastly exaggerated and that many evacuees from the area shouldn't have been moved.

While some experts and authorities predicted tens of thousands of deaths, the report notes that so far there have been 59. An additional 3,940 victims, mainly emergency workers and people who lived close to the reactor, are expected to die prematurely as a result of cancers caused by radiation exposure.

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"This was still an horrific accident, but one of the messages here is that events like this are not totally devastating and are manageable," said Dr. Mettler. He said the radioactive doses experienced by many victims were relatively harmless, but because they were evacuated and given long-term aid and frequent medical attention, many still fear their lives will be shortened. Over the years, Dr. Mettler said, the evacuees have absorbed a lot of scarce medical resources that could have been used on more-serious public-health problems in the region.

A lot of the report's recommendations, he said, are designed to get managers of future accidents and natural disasters to focus more on "people who really do have problems and to get other people into a mode where they have more self-confidence."

The 600-page report said that almost 99% of children diagnosed with thyroid cancer after the incident survived. It found "no convincing evidence" that the incidence of leukemia rose among the population exposed to radiation in Russia and Ukraine.

DOJ_NMG_0003099

McDowell, Cynthia

From: McDowell, Cynthia
Sent: Tuesday, September 06, 2005 10:14 AM
To: Andrea Bottner; Andrew Emrich; Brad Schlozman; Brent McIntosh; Bruce Mcdonald; Carl Nichols; Carl Peed; Cheri Nolan; Clifford White; Crystal Roberts; Cybele Daley; Dan Meron; Dana Boente; Deborah Rhodes; Deborah Spagnoli; Domingo Herraiz; Donald Gambatesa; Edward McNally; Elizabeth Kessler; Greg Harris; Gregory Katsas; James Clinger; Jeffrey Bucholtz; Jeffrey Clark; Jeffrey Taylor; John Richter; Jonathan Cohn; Joseph Bianco; Kelly Johnson; Kristi Macklin; Kyle Sampson; Laura Parsky; Lily Swenson; Luis Reyes; Matthew Friedrich; Michael Battle; Monica Goodling; Neil Gorsuch; Nicholas Tzitzon; Pat O'Brien; Patrick Hofer; Patrick Philbin; Rachel Brand; Raul Yanes; Rebecca Seidel; Richard Hertling; Richard Morrison; Robert Flores; Sean McLaughlin; Sharee Freeman; Steve Bradbury; Steven McFarland; Stuart Nash; Tasia Scolinos; Theodore Ullyot; Thomas Barnett; Tracy Henke; Uttam Dhillon; Wan Kim; Alex MacLean; Andrew Ames; Andrew Beach; Angela Williamson; Asheesh Agarwal; Ben Curtis; Beth Collins Cook; Brian Cohen; Bruce Taylor; C. Kevin Marshall; Candice Chiu; Carrie Nelson; Chris Gober; Connor Flaherty; Courtney Elwood; Cynthia Magnuson; Cynthia McKnight; Deborah Underhill; Ebony Lee; Elizabeth Apisson; Eric Akers; Eric Holland; Gordon Todd; Grant Nichols; Jaclyn Lesch; James OConnell; Jan Williams; Jana White; Janet Potter; Jason Torchinsky; Jennifer Korn; Jessica Gavora; John Irving; John Nowacki; Julie Warren; Kerri Strug; Kiahna Sellers; Kimberly Smith; Lara Reynolds; Laura Keehner; Lindsey de la Torre; Mark Metcalf; Mary Neumayr; Matt David; Matt Robinson; Matt Roper; Matthew Miranda; Michael Costigan; Miriam Moore; Molly Donlin; Natalie Voris; Neal Jungeblut; Omar Vargas; Patrick McArthur; Payson Peabody; Price Roe; Raquel Sours; Rena Comisac; Ryan Bounds; Sandra Malloy; Shane Chambers; Theodore Cooperstein; Tim Racicot; Timothy Hagle; Trent Luckinbill; Tucker McNeil; Wanda Martinson; William Otis; William Woodruff
Subject: INFO: Chief Justice William Rehnquist

Dear Political Appointees,

As you may know, The Supreme Court announced Sunday that the public will be invited to pay its respects to Chief Justice Rehnquist on Tuesday and Wednesday, September 6 and 7, 2005. A brief prayer service is currently underway at the court and began at 10:00 a.m. The flag-draped coffin of Chief Justice William H. Rehnquist's body will lie in repose in the Great Hall of the Supreme Court from 10:30 a.m. EDT until 10:00 p.m. on Tuesday and from 10:00 a.m. until 12:00 noon on Wednesday.

Funeral services will be held on an invitation basis to friends and family on Wednesday at 2:00 p.m. at St. Matthew's Cathedral in Washington, D.C. He will be buried at Arlington National Cemetery following funeral services Wednesday. The burial at Arlington will be private.

Rehnquist was a World War II veteran, entitling him to burial at Arlington. His wife, Natalie Cornell Rehnquist,

was buried there in 1991. Rehnquist's two immediate predecessors, Warren E. Burger and Earl Warren, also lay in repose in the Supreme Court building before they were laid to rest at Arlington. *(The Washington Post, 9-6-05)*

The DOJ Office of White House Liaison
Jan Williams, Cynthia McDowell
~

Cynthia R. McDowell
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McKenzie, Peggy (CIV)

From:	McKenzie, Peggy (CIV)
Sent:	Tuesday, September 6, 2005 2:03 PM
To:	/o=USDOJ/ou=CIVIL/cn=Recipients/cn=Mailboxes/cn=CLynch; Agarwal, Asheesh; Allen, Gary (CIV); Bahr, Dorothy (CIV); Baxter, Felix (CIV); Bordeaux, JoAnn (CIV); Bucholtz, Jeffrey (CIV); Calvert, Chris (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davis, Deborah J; Eubanks, Sharon (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Fishback, David (CIV); Fisher, Barbara (CIV); Flentje, August (CIV); Fowler, Liane (SMO); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Goldberg, Arthur (CIV); Gorsuch, Neil M; Gray, Towanda (CIV); Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jennings, Geraldine (CIV); Katsas, Gregory (CIV); Keener, Donald (CIV); Kent, Alexander (CIV); Kohl, Christine (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Liner, Linda (CIV); Lloyd, Shirley (CIV); Lucas, Regina (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Schiffer, Stuart (CIV); Shaw, Aloma A; Swenson, Lily F; Thirolf, Eugene; Williams, Angela (CIV); Williams, Toni (CIV); Willis, Kerry (CIV); Zwick, Ken (CIV)
Subject:	9/6 CIV Weekly Report to the AG
Attachments:	CivDivWkly0906.wpd

U.S. Department of Justice

Civil Division

Assistant Attorney General *Washington, D.C. 20530*

September 6, 2005

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE ACTING DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Peter D. Keisler
Assistant Attorney General
Civil Division

SUBJECT: Civil Division Weekly Report to the Attorney General

A. NEXT WEEK

- ***Seventh Circuit to Hold Oral Argument in Case Challenging Activities of Director of White House Office of Faith-Based and Community Initiatives***
  Freedom From Religion Foundation v. Chao [7th Cir.; Western District of Wisconsin]. On September 13, the Seventh Circuit will hold oral argument in this case, in which plaintiffs allege that the Director of the White House Office of Faith-Based and Community Initiatives and the Directors of several Agency Faith-Based Centers have violated the Establishment Clause by making speeches or sponsoring conferences that endorse religion. The district court dismissed the action because it held that plaintiffs lack taxpayer standing under *Flast v. Cohen*. The Department will argue that the dismissal was proper because the complaint, at its heart, challenges executive action unrelated to the administration of a congressional program authorized by the taxing and spending clause of the Constitution.

- ***D.C. Circuit to Hear Argument on Government's Challenge to Structural Injunction Issued in Indian Trust Funds Class Action Litigation***
  Cobell v. Norton [District of Columbia Circuit; District Court for the District of Columbia]. On September 16, the D.C. Circuit (Silberman, Williams, Garland) will hear

argument on the government's appeal from a structural injunction entered by the district court in the class action litigation seeking accountings of funds held in trust for individual Indians. The structural injunction purports to assume responsibility for all of the government's accounting-related activities and would require the government to spend billions of dollars to account for funds

totaling $400 million. The government has asked the court of appeals to vacate the structural injunction and to reassign the case on remand to a different district judge.

B. THIS WEEK

- ***Oral Argument Set for September 8 in D.C. Circuit Guantanamo Detainee Cases***
Al Odah v. *United States*; *Boumediene* v. *Bush* [District of Columbia Circuit; District Court for the District of Columbia]. In the habeas cases brought by the detainees held at the Guantanamo Bay Naval Base, two district courts reached opposite results. In *Al Odah*, Judge Green ruled that the detainees have due process rights and that the process afforded in determining their enemy combatant status was inadequate. In *Boumediene,* Judge Leon held that the detainees, as aliens outside the United States, cannot invoke rights of the United States Constitution. Both orders were appealed to the District of Columbia Circuit and were briefed on an expedited basis. The cases were consolidated for argument and are now set for oral argument on September 8 before Judges Randolph, Sentelle, and Rodgers.

- ***Justice Department to File Reply Brief Opposing Disclosure of 9/11 Video***
Bingham v. United States Department of Justice and Federal Bureau of Investigation [District of Columbia]. On Friday, September 9, defendants will file their reply brief in further support of their motion for summary judgment. Plaintiff, a private citizen, filed a Freedom of Information Act (FOIA) request seeking any videotapes in the possession of the Federal Bureau of Investigation that may have captured the impact of Flight 77 into the Pentagon on September 11, 2001. The Federal Bureau of Investigation withheld one videotape responsive to plaintiff's request. In consultation with the United States Attorney's Office for the Eastern District of Virginia, defendant has argued that production of this videotape, retained for law enforcement purposes, could reasonably be expected to interfere with the penalty phase of *United States v. Zacarias Moussaoui* (Eastern District of Virginia), and therefore should be temporarily protected from disclosure under FOIA Exemption 7(A).

C. LAST WEEK

- ***Ninth Circuit Rules Sexual Battery in Violation of California Law Is an Aggravated Felony***
  Lisby v. Gonzales [9th Cir.]. On August 22, the Ninth Circuit held that the crime of sexual battery under California Penal Code § 243.4(a) constituted an aggravated felony offense. Focusing on the wording of the statute, which requires the intimate touching of another person while that person is under unlawful restraint, the Court determined that the offense involved a "substantial risk" that physical force against that person may be used within the meaning of a crime of violence.

- ***Eleventh Circuit Holds Aggravated Battery Is a Crime Involving Moral Turpitude***
  Sosa-Martinez v. Gonzales [11th Cir.]. On August 22, the Eleventh Circuit upheld the Board's determination that the alien's conviction for aggravated battery was a crime involving moral turpitude. The Court held that an intentional battery that included, as an element of the offense either: (1) great bodily harm, permanent disability, or permanent disfigurement, or (2) the use of a deadly weapon, constituted a crime of moral turpitude, and dismissed the petition for lack of jurisdiction.

- ***Fourth Circuit Concludes Fraudulent Use of Credit Card Is Not a Theft Offense***
  Soliman v. Gonzales [4th Cir.]. On August 22, the Fourth Circuit reversed the Board's holding that the alien had been convicted of a theft offense qualifying as an aggravated felony. The alien was convicted under a Virginia statute for fraudulent use of a credit card, after using someone else's credit card to obtain over $1,400 in goods or services. The Court disagreed with the Board's conclusion that the common definition of the term "theft" included fraud, and held that the Board's interpretation would render "superfluous" a separate statutory provision specifically addressing fraud, as it would transform all fraud offenses into theft offenses.

- ***$23 Million Collected for Mariner Health Care Fraud Settlement***
  On August 22, 2005, $23 million was transferred from the Centers for Medicare and Medicaid Services (CMS) to the Department of Justice in final settlement of the United States' fraud claims against Mariner Post-Acute Network, Inc. and its affiliates in bankruptcy. The transferred funds represent payments otherwise due to Mariner which CMS withheld in offset against our fraud claims.

- ***Eighth Circuit Applies the One-Year Asylum Bar and Denies Relief to Colombian Aliens***
  Bernal-Rendon, et al. v. Gonzales [8th Cir.]. On August 23, the Eighth Circuit affirmed the Board's denial of asylum, withholding of removal, and protection under the Convention Against Torture. The Court declined to adopt the Ninth Circuit's position that the one-year asylum filing deadline does not apply to minors, and held that it lacked jurisdiction to review the aliens' asylum claim because they failed to file within one year of their arrival in the United States.

Moreover, although a nuclear family can constitute a particular social group for asylum purposes, the aliens failed to demonstrate persecution on that basis.

- ***District Court Orders Government to Submit Plan for Timely Issuance of Green Cards to Aliens Who Win Permanent Residency In Immigration Court***
  Santillan v. Gonzales [Northern District California]. Plaintiffs are a nationwide class of aliens who have sued to compel the government to issue proof of lawful permanent resident status immediately upon request made by an alien with an order from an Immigration Judge granting such status. On August 24, 2005, the Court issued summary judgment for the plaintiff class. The Court rejected the government's national security-based arguments defending delays in order to run background and security checks prior to issuance of any documents. The Court ordered the government to submit, within 60 days, a proposal for timely issuance of evidence of status.

- ***United States Awarded Costs in Defense of Uruguay Round Agreements Act***
  Golan v. Gonzales. On August 24, Chief Judge Lewis T. Babcock of the U.S. District Court for the District of Colorado awarded the government $10,767.77 in costs. The Court dismissed the case on summary judgment in April 2005, upholding the constitutionality of Section 514 of the Uruguay Round Agreements Act, which restored copyright to original works of foreign origin whose authors had previously lost their U.S. copyrights due to eligibility requirements or for failure to comply with U.S. copyright formalities.

- ***Second Circuit Determines That Immigration Proceedings Commence When the Charging Document Is Filed with the Immigration Court***
  Arenas-Yepes v. Gonzales (2d Cir.). On August 25, the Second Circuit affirmed the Board's denial of the alien's application for suspension of deportation. The alien was served with an Order to Show Cause on March 28, 1997, but that document was never filed with the immigration court. Following the 1996 amendments to the immigration statute, the alien was served with a Notice to Appear, which was filed with the immigration court. The Court rejected the alien's claim that his proceedings began when the Order to Show Cause was served, holding that proceedings do not commence until the charging document is filed with the immigration court.

- ***Seventh Circuit Rejects Adverse Credibility Determination of Chinese Alien's Testimony***

Chen v. Gonzales [7th Cir.]. On August 25, the Seventh Circuit reversed the Immigration Judge's denial of asylum, withholding of removal, and protection under the Convention Against Torture. The alien claimed that he had been detained and beaten on account of his activities on behalf of an unauthorized Christian church. The Court held that although significant discrepancies among different versions of an alien's statement are generally a permissible basis for an adverse credibility decision, the inconsistencies cited by the Immigration Judge were too speculative and conjectural to support that conclusion.

- ***Second Circuit Rules Alien Demonstrated "Extraordinary Circumstances" for Not Appearing at Hearing***
  Sun v. Gonzales [2d Cir.]. On August 25, the Second Circuit held that the Board

abused its discretion in denying the alien's motion to reconsider by simply citing a regulation that required appeals to be filed within a certain period of time, without acknowledging the existence of any basis on which an untimely filed appeal may be excused. The alien filed his appeal the day before the filing deadline by an overnight express delivery service, but the service did not deliver the appeal until five days after the deadline. The Court concluded that this was an extraordinary circumstance warranting reopening of his hearing.

- ***Eighth Circuit Affirms Denial of the Alien's Request for Withholding of Removal and for a Continuance***
  Salkeld v. Gonzales [8th Cir.]. On August 25, the Eighth Circuit affirmed the denial of withholding of removal to a Peruvian alien who claimed that his homosexuality would subject him to persecution. The Court held that homosexuality was not penalized by the Peruvian government, that specific instances of violence toward homosexuals were relatively sporadic, and that there were locations within Peru in which homosexuals may live safely. The Court also affirmed the Immigration Judge's denial of the alien's motion for a continuance, holding that pursuant to the REAL ID Act, it had jurisdiction to consider constitutional claims and questions of law relating to the denial of the continuance, but that there was no constitutional violation as the Immigration Judge's denial of the continuance was not arbitrary.

- ***Federal Circuit Affirms Judgment in Government's Favor, Rejecting Regulatory Takings Claim Involving Repeal of Peanut Quota Program***
  Members of Peanut Quota Holders Association, Inc. et al. v. United States (Judge Lourie, Judge Bryson, Judge Gajarsa). On August 25, 2005, the United States Court of Appeals for the Federal Circuit affirmed a decision of the United States Court of Federal Claims that granted summary judgment in favor of the government upon a regulatory takings claim. Appellants are individuals who owned farms to which peanut quotas had been allocated under farm bills, but who leased the quotas and did not produce peanuts. The Farm Security and Rural Investment Act of 2002 repealed the peanut quota program. Disagreeing with the trial court, the Federal Circuit held that appellants did possess a property interest in peanut quota allotments because the quota allotments were transferable and exclusive. The court held, however, that the peanut quota is not compensable under the Fifth Amendment because the property right was a privilege extended by Congress through statutes that were not intended to provide irrevocable benefits.

- ***Fourth Circuit Rejects First Amendment Challenge to Provision of Social Security Act***
  United Seniors Association v. Social Security Administration [4th Cir.; Social Security Administration]. On August 25, the Fourth Circuit (Williams, Shedd, and Hamilton) affirmed the Social Security Administration's determination that certain mailing envelopes distributed by petitioner violated Section 1140 of the Social Security Act. That provision prohibits communications that use the term "Social Security" in a manner that could reasonably be construed as falsely conveying that the communication is approved, endorsed, or authorized by the SSA. The court rejected petitioner's claims that the statute is unconstitutionally vague or overbroad.

- ***District Court Dismisses Case Seeking To Modify A Trust Created By The United States***

  Barbara King, et al. v. United States of America, Civil No. SA-04-CA-747-OG [Western District of Texas] (District Judge Orlando Garcia). On August 25, Judge Garcia dismissed plaintiff's case, which sought to modify the terms of a medical benefits trust created by the United States in settlement of a medical malpractice claim. Plaintiff, a minor, originally filed an FTCA claim in 1995, asserting severe brain injury resulting from medical malpractice by government employees. The case was settled in 1997 for a total amount of $1,310,000, of which sum $690,000 was paid into an irrevocable reversionary medical trust. In the ensuing years, plaintiff sought reimbursement from the trustee for educational and computer expenses necessary for the minor, but the request was denied by the trustee because the trust did not provide for such expenses. On May 27, 2004, plaintiff filed a petition in the Probate Court of Bexar County, Texas, seeking to modify or reinterpret the terms of the trust such that expenses for the minor's education and computer expenses would be paid from the trust. Plaintiff argued that modification of the trust was permitted pursuant to the Texas Property Code § 112.054, which permits modification of an irrevocable trust due to "changed circumstances not anticipated by the grantor." On August 20, 2004, the United States removed the case to the U.S. District Court for the Western District of Texas and then filed a motion to dismiss based on lack of subject matter jurisdiction (FRCP 12(b)(1)) and failure to state a claim (FRCP 12(b)(6)). The court assigned the motion to a magistrate judge, who agreed with both arguments, finding that it did not have jurisdiction to reopen a final settlement and, in the alternative, there was no basis in the law for modifying the clear terms of the trust agreement. The district court judge overruled plaintiffs' objection to the magistrate's recommendation finding that, while there was subject matter jurisdiction for the claim because the trust was a federal contract, the matter would be dismissed for failure to state a claim, as there was no legal basis that would permit the requested modification.

- ***United States Files Statement of Interest Opposing District of Columbia Hazardous Materials Transportation Act***

  CSX Transportation, Inc. v. Williams [District of Columbia]. On August 26, the United States filed a Statement of Interest, an action challenging the District of Columbia Terrorism Prevention in Hazardous Materials Transportation Temporary Act of 2005 as preempted by the Federal Railroad Safety Act, 49 U.S.C. 20101, et seq., and the Hazardous Materials Transportation Act, 49 U.S.C. 5101, et seq., and as a per se violation of the Commerce Clause. The United States contends that the District of Columbia Circuit's decision in *CSX Transportation, Inc. v. Williams*, 406 F.3d 667 (District of Columbia Circuit 2005), reversing the district court's denial of a preliminary injunction, compels that judgment be entered in defendant CSX's favor. The District of Columbia Circuit held that it was likely that a 2003 Department of Transportation regulation covered the same subject matter as the District of Columbia Act, and that the Act did not satisfy any of the three conditions for exception from Federal Railroad Safety Act preemption. Consistent with its position that this lawsuit can be decided as a matter of law, the United States also moved on August 29 for a protective order barring all discovery propounded upon the United States.

- ***Seventh Circuit Rejects Board's Denial of Asylum to Ugandan National***

  Nakibuka v. Gonzales [7th Cir.]. On August 26, the Seventh Circuit reversed the

Board's denial of asylum and withholding of removal. The alien alleged that, as the housemaid of a politically active Ugandan family, she was tied up, beaten, and threatened with death. The Court held that because neither the Immigration Judge nor the Board considered the severity of the attack against the alien or the escalating nature of the events that followed it, the Board's decision was not supported by substantial evidence. The Court vacated and remanded the Board's decision.

- ***Seventh Circuit Reverses Immigration Judge's Denial Of Alien's Motion To Rescind In Absentia Removal Order***
  Sabir v. Gonzales [7th Cir.]. On August 26, the Seventh Circuit ruled that the Immigration Judge properly concluded that adequate notice of the hearing had been provided, but abused his discretion in denying the alien's motion to reopen. The Court determined that the relevant question was not whether the notice was "adequate," but whether it was actually received. The Immigration Judge denied the alien's motion to reopen in the face of conclusive proof that the alien did not receive notice of his hearing.

- ***Court of International Trade Holds Principals Liable for Duties Unpaid as a Result of Agent's Fraudulent Customs Violations***
  United States v. Pan Pacific Group (Senior Judge Goldberg). On August 26, 2005, the United States Court of International Trade granted, in part, the government's motion for partial summary judgment. Beginning in 1993, a freight forwarder, which became the importer of record for defendants and was assigned power of attorney, submitted entry documents to the Customs Service that misdescribed defendants' tracksuits as plastic bags and wooden patio furniture – classifications which carried lower duty rates and were not subject to quota restrictions. In deciding the parties' cross-motions for summary judgment, the court determined that, as a matter of law, a principal may be held liable pursuant to the fraud provisions of
  19 U.S.C. § 1592 for a customs violation committed by an agent acting within its proper scope of authority. The court held that defendants are liable for unpaid customs duties, regardless of whether the principal authorized the agent's specific unlawful conduct constituting the customs violation. The court further held that disputes of material fact regarding defendants' culpability precluded it from granting summary judgment as to the amount of the penalty to be assessed.

- ***Court of International Trade Upholds Department of Commerce Methodology for Imposing Countervailing Duties Based Upon Findings that Private Financial Contributions were "Entrusted or Directed" by a Foreign Government***
  Hynix Semiconductor Inc. v. United States (Senior Judge Goldberg). On August 26, 2005, the United States Court of International Trade upheld the Department of Commerce's methodology for imposing countervailing duties upon a South Korean semiconductor producer that received subsidies from non-government sources at the direction of the South Korean government. Commerce determined that Hynix Semiconductor had received a countervailable subsidy through a government-orchestrated bail-out of the high technology manufacturer. This is the first case to review Commerce's application of the countervailing duty law to a private restructuring "entrusted or directed" by a foreign government. While upholding Commerce's

methodology, the court remanded the case to the agency for further explanation of the South Korean government's involvement in the bailout.

- ***Third Circuit Holds State-Created Danger Doctrine Inapplicable in Immigration Context, but Remands Case to Determine Whether Rebel Leaders Constitute "Public Officials"***
  Kamara v. Attorney General [3d Cir.]. On August 29, the Third Circuit remanded the case to the Board. The alien alleged persecution if returned to Sierra Leone from both the government and the rebel organization and a violation of substantive due process under the state-created danger doctrine if returned. The Court held that the state-created danger doctrine has no place in immigration jurisprudence. It determined the Board's decision to be otherwise adequate but held that, if rebel leaders were found to be "public officials," the Board had to consider the danger to the alien from the government and from the rebel organization in the aggregate, not separately, and remanded with those instructions.

- ***Court of Federal Claims Awards Approximately $48 Million as Just Compensation to HUD Project Owners***
  Cienega Gardens, et al. v. United States; Chancellor Manor, et al. v. United States (Judge Lettow). On August 29, 2005, the United States Court of Federal Claims issued an opinion after trial, awarding $48 million in just compensation to eight plaintiffs, in two separately captioned cases, for the temporary taking of their right to prepay their HUD-insured mortgage. The court concluded that Congress' passage of statutes in 1988 and 1990, which altered the plaintiffs' ability to prepay their mortgages and leave the HUD program, effected a temporary taking of the plaintiffs' contractual rights. The court concluded that the character of the government's action, its economic impact, and its significant interference with plaintiffs' investment backed expectations amounted to a taking. The court based the award of compensation upon a lost-rents model and awarded compound interest upon the award. The court also stated that it would award attorney fees and expenses to plaintiffs pursuant to Section 304(c) of the Uniform Relocation Assistance and Real Property Acquisition Act, 42 U.S.C. § 4654(c).

- ***Federal Circuit Denies Petition for Rehearing and Issues Mandate Reversing Court of Federal Claims Decision in Favor of Contractors in DOD Jet Fuel Case***
  Tesoro Hawaii Corp. v. United States (Judge Radar, Judge Bryson, Judge Gajarsa). On August 29, 2005, the United States Court of Appeals for the Federal Circuit, having denied rehearing, issued the mandate for its April 25, 2005 decision rejecting a fuel supplier's claim that DOD fuel contracts used an illegal pricing mechanism. This is one of 28 similar cases pending before the United States Court of Federal Claims, in which contractors collectively seek more than $3.5 billion. The parties must advise the trial court how they wish to proceed. Plaintiffs will pursue other damages theories, but we believe the Federal Circuit's decision vitiates all causes of action.

- ***Court of International Trade Dismisses Action Brought by Public Interest Organizations Seeking an Embargo Upon Cocoa from Cote D'Ivoire for Lack of Article III Standing***
  International Labor Rights Fund v. United States (Judge Barzilay). On August 29, 2005,

the United States Court of International Trade dismissed the complaint of three public interest organizations seeking the imposition of an embargo upon cocoa from Cote D'Ivoire based upon alleged forced child labor in cocoa production in that country. The court concluded that the plaintiffs lacked Article III standing because 19 U.S.C. § 1307 – the statute that provides for embargoes upon merchandise produced by forced labor – contains an exception that allows entry of such merchandise in cases where domestic production does not meet domestic demand. Because there is no domestic cocoa industry, the court reasoned that plaintiffs had not established a redressable injury-in-fact necessary for Article III standing.

- ***Plaintiff Voluntarily Dismisses Challenge to Treasury Terrorist Financing Regulations***
  Awadallah v. Snow, [Middle District of Florida]. On August 29, plaintiff voluntarily dismissed, with prejudice, an action challenging the constitutionality of Department of the Treasury regulations that authorize the blocking of any property interest of a Specially Designated Terrorist and Specially Designated Global Terrorist. Plaintiff specifically challenged, under 42 U.S.C. § 1983 and the Federal Tort Claims Act, the blocking of his $5000.00 wire transfer to his mother's account at Al Aqsa Islamic Bank, an entity that had been designated an Specially Designated Terrorist and Specially Designated Global Terrorist. Several weeks before Plaintiff filed his action, the Department of the Treasury's Office of Foreign Assets Control unblocked his wire transfer and authorized his bank to release the funds to Plaintiff. Plaintiff failed to disclose this fact in his Complaint.

- ***Sixth Circuit Affirms Denial of all Compensation to Attorney for Bankruptcy Trustee***
  Schilling v. Smith [6th Cir.; Western District of Kentucky]. On August 30, the Sixth Circuit in an unpublished opinion (Nelson, Batchelder and Collier (sitting by designation)), affirmed a bankruptcy court's decision to deny all compensation to J. Baxter Schilling, attorney to an individual debtor's bankruptcy trustee. The court of appeals held that the bankruptcy court did not commit clear error when it found that Mr. Schilling had acted out of self-interest and had breached duties owed to parties with an interest in the bankruptcy estate. The court also concluded that the court had not abused its discretion in holding that Mr. Schilling's breaches of fiduciary duty justified the withholding of all compensation.

- ***Third Circuit Accepts Views of the Copyright Office in Private Dispute***
  Kay Berry, Inc. v. Taylor Gifts, Inc. [3d Cir.; Western District of Pennsylvania]. On August 30, the Third Circuit (McKee, Van Anwerpen, and Weis) held that a Garden Accent Rock -- a decorative, cement-cast, outdoor sculpture with verse inscribed on its face -- was protected by copyright law. After oral argument in this case, the Third Circuit solicited the views of the United States on several copyright issues, including whether the Garden Accent Rock was properly registered and whether the "group registration" procedures apply to sculptural works. The court accepted our view that the group registration procedures do not apply, and, consistent with our views, ordered the case remanded to the district court for consideration of whether the Garden Accent Rock was "first" published in the registered materials.

- ***District Court Dismisses Tort Suit Based on Accident in Kenya; Remands Case to***

United States Agency for International Development (USAID) for Further Administrative Proceedings

Leslie Fair-Gray, et al. v. Dirk Dijkerman, et al. [District of Columbia] (Judge Emmet G. Sullivan). After two years of litigation and extensive discovery, the district court ordered substitution of the United States in place of a USAID official involved in a car accident in Nairobi, Kenya. Upon substitution, the court dismissed all counts pursuant to the FTCA's foreign country exception. Plaintiffs had also alleged a variety of "headquarters claims" against the United States, but those claims were dismissed earlier, in light of the Supreme Court's repudiation of that doctrine in *Sosa v. Alvarez-Machain*, 542 U.S. 692 (2004). Plaintiff's

claims were remanded to USAID for consideration pursuant to Section 636(b) of the Foreign Assistance Act, under which USAID considers overseas claims for relief.

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USDOJ- Office of Public Affairs

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, SEPTEMBER 7, 2005 7:45 AM EDT

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TERRORISM NEWS:

Captured Iraq Terror Suspect Had Thumb Drive Containing London Bombings Information. The Washington Times (9/7, Hess) reports a US military officer has said that a terrorist connected to al-Qaeda, who was captured near the Syrian border in Iraq last month, "had a computer 'thumb drive' that contained planning information about the July 7 suicide bombings in London." The news "fits with other evidence of a growing presence in Iraq by al Qaeda, which has taken responsibility for the British attacks."

British Home Secretary To Call For Increased Scrutiny Of Traveler Data. The Los Angeles Times (9/7, Daniszewski) reports, "Britain's chief law enforcement official will call on European leaders today to put biological data into passports, visas and identity cards, share airline passenger lists and retain telecommunications records to help fight international terrorists and organized crime." Home Secretary Charles Clarke "said he was seeking to strike the right balance between preserving civil liberties and protecting the public. 'It seems to me we have to give the same rights to those humans who want to be able to travel without being blown up on an underground train…as we do to the defendants,' he said."

California Man Pleads Not Guilty To Terror Plot Charges. The AP (9/7, Blood) reports, "One of four men indicted in an alleged terror plot against California targets pleaded not guilty to federal charges Tuesday. Hammad Riaz Samana, a 21-year-old Pakistani national, said only a few words as he appeared with hands shackled to his waist before U.S. Magistrate Judge Arthur Nakazato." The AP notes, "Outside court, defense attorney Timothy Lannen described Samana as a hardworking, upstanding person. … Assistant U.S. Attorney Kevin Smith said that 'the indictment speaks for itself' and that the investigation was continuing. He said he expected the other men to be arraigned later this month." KNBC-TV Los Angeles (9/6) also reports on Samana's plea, noting, "Authorities are not aware of any current threat based on what was learned during the investigation, said Randy Parsons, acting assistant head of the FBI's Los Angeles office."

Judge Denies Bail For Florida Doctor Accused Of Taking Al Qaeda Loyalty Pledge. The Miami Herald (9/7, Benn) reports US District Judge Loretta Preska "denied bail Tuesday for a Boca Raton doctor charged with conspiring to support al Qaeda." Rafiq Sabir "will continue to await trial in a maximum-security prison, his attorney, Ed Wilford, said. … Wilford said he will appeal the decision." The Herald notes, "An undercover FBI agent posed as an al Qaeda recruiter and secretly recorded Sabir and" codefendant Tarik Shah " reciting an alleged oath of allegiance" to al Qaeda in May.

Psychiatrists Disagree On Alleged Ohio Bombing Plotter's Mental State. The AP (9/6) reports, "Mental health experts who examined a Somali man accused of plotting to bomb a shopping mall have concluded he was faking when he became a wild-eyed defendant who tapped his head on a table, mumbled and giggled in court. Documents made public last week from two analysts at the Federal Medical Center in Rochester, Minn., said Nuradin Abdi was pretending to be mentally ill. … However, another psychiatrist requested by Abdi's defense attorney because the first report came from a federal agency said it's possible that Abdi has a 'legitimate psychosis.' Abdi's lawyer, Mahir T. Sherif, said Tuesday the second analysis was done by forensic psychiatrist Dr. Robert Phillips, who previously testified in the case of President Reagan's shooter, John Hinckley Jr."

US Resident Released From Military Detention In Iraq. The Los Angeles Times (9/7, Weinstein) reports, "More than two months after authorities cleared him of suspicion in a mortar attack on a United States base in Baghdad, an Iraqi man was released Tuesday from military custody, just days before government lawyers were due in court to answer questions about his captivity. Tuesday's release of Numan Adnan Al-Kaby, a longtime lawful U.S. resident, from a military prison outside Baghdad marked the second time in two months that authorities freed a captive in Iraq within a week of the American Civil Liberties Union of Southern California filing a federal lawsuit in Washington."

WPost Says Guantanamo Bay Tribunals Should Be Modeled After Courts-Martial. The

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Washington Post (9/7, A24) editorializes that changes to the military tribunals that are being set up at Guantanamo Bay, announced last week by the Pentagon, "improve the system in subtle but important ways, moving it closer to the system of courts-martial by which the military tries its own soldiers. But they don't entirely fix the problems." The Post states that "the more the commissions come to resemble courts-martial, the less sense it makes for the military to create a justice system from scratch rather than using the one it already has -- in which Americans and the international community have high confidence."

HOMELAND RESPONSE:

Coast Guard Raids In California Raise Concerns. The Montery (CA) Herald (9/7, Hennessey) reports, "The Coast Guard boarded and inspected close to 30 vessels, many of them docked, in Monterey Bay over the Labor Day weekend in a operation that raised the eyebrows of some local boaters and the ire of one." The Herald continues, "The operation -- conducted in conjunction with the Monterey County Sheriff's Office, U.S. Immigration and Customs Enforcement and the National Oceanic and Atmospheric Administration -- netted one arrest in Moss Landing Harbor and terminated the voyages of five vessels that were deemed unsafe." The Herald adds, "In all, 28 boats, many of them live-aboard vessels that were moored in the harbors, were boarded and 31 citations were issued. One angry boater said Coast Guard officers came aboard his boat in Moss Landing Harbor late Friday citing authority under the Patriot Act. … In an e-mail to The Herald, Lowell Jones of Moss Landing said the Coast Guard did a 'blanket boarding' in the harbor, "searching boats, and invading people's privacy at 10:30 p.m. They justified this intrusion by citing the Patriot Act. … Coast Guard officials said the operation was not in response to any particular law enforcement report and that search warrants are not required for such inspections."

First Phase Of Rebuilding After 9/11 Begins In Manhattan. The Washington Post (9/7, A2, Garcia) reports, "The first phase of rebuilding on the 16 acres of Lower Manhattan leveled by the Sept. 11 attacks began yesterday with a ceremonial groundbreaking for a new $2.2 billion transportation hub, highlighted by the release of two doves representing 'peace and rebirth.'" The new hub "will link commuter trains from New Jersey, ferries and the city subway system. Officials estimate 250,000 people a day will stream through the transportation hub after its scheduled completion in 2009."

WAR NEWS:

US Strikes Insurgent Targets In Western Iraq. The US launched two attacks against insurgents near Kalibah along the Syrian border. The AP (9/7, Reid) reports, "The airstrikes occurred about six miles east of the border city of Qaim, major parts of which have fallen under control of al-Qaida-linked foreign fighters." Local Iraqis "say al-Qaida in Iraq, led by Abu Musab al-Zarqawi, took over parts of Qaim after residents fled fighting between tribes supporting and opposing the insurgents." US troops maintain "a presence in the area, but U.S. officers have complained privately that they don't have enough American and Iraqi troops to secure Qaim."

The Washington Post (9/7, A20, Sarhan, Fekeiki) adds, "U.S. Marines have a force of about 5,000 to cover the province's 24,000 square miles. American officers in Anbar say the Marines are too few to bring the province under control, but U.S. and Iraqi officials say the U.S. raids have helped disrupt the flow of bombs and recruits into the rest of Iraq." The New York Times (9/7, Oppel Jr.) notes that "In contrast to the military's normally more upbeat assertions about progress curbing the insurgency, the first statement noted that western Anbar residents have 'experienced an increased level of violence at the hands of Al Qaeda in Iraq terrorists.'"

Sunnis Refuse US Military Order To Leave Tall Afar. The refusal of Tall Afar residents to leave the city while the US military hunts for insurgents has complicated the mission. The Washington Post (9/7, A20, Finer) reports, "Fighting has been sporadic so far. One U.S. soldier has been killed, along with at least 200 suspected insurgents, said Col. H.R. McMaster, commander of the 3rd Armored Cavalry Regiment, which is leading the assault." The "small-scale raids and house-to-house searches have allowed troops to encircle Sarai, where commanders here believe insurgents have massed." But Iraqi officials have "asked the military commanders to minimize civilian casualties in this highly volatile region."

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US Transfers Security Of Najaf To Iraqis. As one of the first steps for the withdrawal of thousands of US forces from Iraq by next spring Iraqi security forces were given responsibility for security in the city of Najf. The Washington Post (9/7, A20, Sarhan, Fekeiki) notes that it "marked the first transfer of an entire city from U.S. to Iraqi military responsibility this year. The raising of the Iraqi flag at a former U.S. base was 'pretty much putting the city of Najaf in Iraqi control,' Lt. Col. Steve Boylan, spokesman for the U.S. military, said in Baghdad." The city "has been the scene of relatively few insurgent attacks."

The New York Times (9/7, Oppel Jr.) reports, "American commander, Brig. Gen. Augustus L. Collins, said the 'Iraqi Army in Najaf can control the area,' according to a pool report of the ceremony. But the general also emphasized that a contingent of American troops would remain based nearby in case the Iraqi forces needed help."

The Los Angeles Times (9/7, Khalil, Sanders) says, "Najaf's hand-over scarcely could have been imagined last summer, when thousands of U.S. and Iraqi troops fought a pitched, three-week battle in the city against the militia forces of radical Shiite Muslim cleric Muqtada Sadr after the rebels seized control of several shrines. Hundreds died and much of the Old City was destroyed."

Top Iraqi Bomb Expert Killed By Insurgents. As one example of recent success by insurgents targeting Iraqis assisting the US, USA Today (9/7, Jervis) reports Haqy Asaad was recently gunned down because he was adept at helping disarm IEDS and suicide bombers. Asaad "earned the nickname 'Robot' from U.S. advisers for his dogged disarming of insurgents' bombs." The US military is "working to hand over security responsibilities to Iraqi units such as Asaad's. An increasing number of Iraqi troops are manning checkpoints, policing streets, leading raids on suspected insurgent hide-outs and disarming roadside bombs." But unlike US troops "many Iraqi security personnel return home each night to regular neighborhoods, leaving them susceptible to attacks from guerrillas."

Attacks On Contractors Slow Iraqi Reconstruction. Contractors on US projects to help reconstruct Iraq were increasingly targeted in August. They were mainly Iraqis. USA Today (9/7, Jervis) reports U.S. Project and Contracting Office director of programs Karen Durham-Aguilera said, "August was real bad. … We've had to stop projects because of it." Rebuilding Iraq's infrastructure is a key part of the US strategy "of winning over Iraqis and undermining the insurgency. But insurgents are interfering with this by targeting contractors." And funding for security has "chewed away at the $18.4 billion appropriated by Congress last year for reconstruction in Iraq. Last year, $5 billion of that was redirected to training and equipping Iraq's security forces, a move that resulted in the cancellation of some projects and scaling back others." Yet, "reconstruction projects continue. The Army Corps of Engineers says more than 1,700 projects have been completed since June 2004."

US Strategy To Rebuild Sadr City Seen As Model For Success. In a lengthy article, the Los Angeles Times (9/7, Miller) examines the reasons behind the US success in helping reconstruct Sadr City. The US military's decision to provide sustained, focused attention on the city is credited with the success. The Times describes the rebuilding of Sadr City as "an impressive, if imperfect, accomplishment in Iraq, where many projects remain incomplete and U.S. promises unfulfilled." The US military's strategy "provided the oversight needed to coordinate the military's efforts with those of the U.S. Agency for International Development and the Pentagon's Project and Contracting Office." The reconstruction "also held more immediate significance among mid-level commanders in the field than among higher-level Pentagon officials preoccupied with fighting the war. The field officers focused on short-term, high-visibility projects such as cleaning up trash and digging wells, instead of massive new water treatment plants or power stations that take years to build. They also hired local Iraqi contractors, who in turn employed many of the militia members who had once battled U.S. troops."

Saddam Reportedly Confesses To Ordering Execution Of Kurds. CNN's The Situation Room (9/6, Verjee) reported Iraqi President, Jalal Talabani is saying "that Saddam Hussein has apparently confessed that he gave orders to execute thousands of Kurds back in the 1980s. He gave an interview to a state-funded broadcaster where he said that he had spoken to one of the Iraqi special tribunal judges that was involved in the investigation. Apparently the judge told Talabani that, quote, 'he said he was able to take important confessions from Saddam Hussein,' and that Saddam has signed these confessions, and there is video and audio recordings of these confessions as well. Talabani said that the judge told him Saddam confessed that he gave

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orders for the executions and the military operations that were directed against the Kurds in the late 1980s."

The Washington Post (9/7, A20, Sarhan, Fekeiki) in an article on recent US military activity in Iraq briefly notes Talabani said, "Saddam deserves a death sentence 20 times a day because he tried to assassinate me 20 times." USA Today/AP (9/7) adds, "Talabani said that some of the confessions involved cases under investigation but he gave no specifics."

But according to the New York Times (9/7, Oppel Jr.), Abdel Haq Alani, an attorney for Hussein, "dismissed the statement as a 'fabrication.'" Alani said reports "of a confession 'comes to me as a surprise, a big surprise," and he "said Mr. Hussein had made no mention of a confession during a meeting with his Iraqi lawyer on Monday."

Volcker Report To Criticize Annan, UN For Lax Oversight Of Oil-For-Food Program. The Washington Post (9/7, A20, Lynch) reports, "The U.N. Security Council and Secretary General Kofi Annan failed to adequately manage and police the $64 billion U.N. oil-for-food program, creating a permissive environment that enabled Saddam Hussein's government in Iraq to take billions of dollars in illicit kickbacks, according to the findings of a U.N. investigation to be released Wednesday." Volcker's report "will portray a largely dysfunctional, leaderless international effort to operate the humanitarian relief effort for Iraq from December 1996 until the U.S.-led invasion in March 2003. Volcker will urge world leaders attending a Sept. 14 summit on U.N. reform to support steps to strengthen the quality of independent oversight of the organization's spending."

The Washington Times (9/7, Pisik) notes that while the "Independent Inquiry Committee (IIC) is expected to formally absolve U.N. Secretary-General Kofi Annan in the awarding of a key contract to his son's former employer," Volcker's report "will not spare Mr. Annan's administration from a harsh assessment of its management capabilities." The report will also address "the political sensitivities that compromised the Security Council's ability to make important decisions; the 'grievous absence' of effective auditing and management controls; and the inability to track expenditures across agencies and programs."

The New York Times (9/7, Hoge) reports, "The general conclusion of" Volcker's latest report "is that the United Nations is inefficient, over-politicized, corrupt and in desperate need of immediate repair."

The New York Sun (9/7, Clyne) reports that some U.N. critics have made an hour-long documentary film entitled "Broken Promises: The United Nations at 60." The Sun says the film chronicles "the organization's failings since its inception," and raises "questions about whether the world body should perpetuate itself for another 60 years." The documentary is set to be released nationwide later this month. It "is the brainchild of...actor and activist, Ronald Silver, and the president of the Citizens United Foundation, David Bossie." Silver said "that he hoped a broadly accessible film would heighten public interest as debate over the" UN "escalates in coming weeks, with the imminent release of a [high-profile] report…on the oil-for-food investigation."

US Resident Detained In Iraq Released Before Hearing. The Washington Post (9/7, A6, Leonnig) reports, "An Iraqi-born U.S. resident was released from a U.S. military prison in Baghdad yesterday, two days before a scheduled hearing on why the U.S. government had continued to detain him after clearing him of involvement in a mortar attack." The "decision to free Numan Adnan Al-Kaby comes less than a week after lawyers filed suit demanding his release. A federal judge had scheduled a hearing on Al-Kaby's case for Thursday afternoon, but the government yesterday asked that it be canceled and the complaint be dismissed as moot."

WSJournal Suggests Bolton Lead Effort To Pressure Arab Governments To Support Iraq. The Wall Street Journal (9/7) editorializes, "One of the world's unremarked scandals is how little help Iraq's new government is getting from its fellow Arabs. And now Iraq's elected leaders are becoming increasingly vocal about that fact. On Monday Iraq President Jalal Talabani scored Arab leaders for their minimal-to-nonexistent diplomatic presence in Baghdad." The Journal concludes, "Encouraging Arab help in Iraq would seem to be a job for the State Department. But if Foggy Bottom isn't up to it, perhaps the White House should authorize U.S. Ambassador John Bolton to inform Arab nations…that their relations with the U.S., and especially future economic and military assistance, depend on it."

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Political Tensions Threaten Nascent Iraqi Baseball League. The Iraqi national baseball league, according to the New York Times (9/7, Semple), was founded in 2003 and "has grown to 26 full-fledged baseball teams in 18 provinces stretching from Nineveh in the north to Basra in the south." Yet, "like Iraq since the American invasion, the league, after less than two years in existence, has itself been torn by political infighting and charges of malfeasance that have cast its future into doubt."

Al Qaeda Militants Killed By Saudi Security Forces. The New York Times (9/7, Fattah) reports, "Saudi security forces finally overwhelmed a cell of militants holed up in a house in the Persian Gulf city of Dammam on Tuesday, ending a three-day siege. The bloody firefight was the latest in a string of confrontations between militants and security forces throughout the country." On Monday "the Interior Ministry announced that security forces had killed two militants on Sunday, including the No. 3 most-wanted militant in Saudi Arabia, Zaid Saad Zaid al-Samari, who was sought in connection with numerous attacks." Recently "Saudi security forces have found themselves in almost weekly confrontations with militants."

Economic Progress May Help Reduce Attraction Of Al Qaeda For Saudi Youth. The Washington Times (9/7, Abou-Alsamh) reports, "Record oil prices have sent Saudi revenues soaring and contributed to a sixfold increase in stock prices, but ordinary citizens are just beginning to feel the benefits, financial analysts say." Experts "hope that in time the surge will produce more and better jobs for young Saudis, reducing their interest in joining al Qaeda-linked terrorist groups that have been battling the government."

First Afghan Cadet At West Point Eager To Help Country's Reconstruction. USA Today (9/7, Brook) reports, "The U.S. Military Academy accepted its first cadet from Afghanistan last month as that country takes its initial steps toward building a professional military after decades of war and unrest." Cadet Shoaib Yosoufzai, "who grew up under harsh Taliban rule, wants to learn to build bridges, dams, power plants and roads for his ravaged country."

West Point Cadets Undeterred By Dangers Of Service. USA Today (9/7, Brook) reports Geryah White "and the 1,200 other members of the West Point class of 2009 have the grades and test scores to get into almost any top school -- one that wouldn't bring compulsory military service after graduation. Instead, they accepted this challenge, their eyes wide open to the dangers as American soldiers return home in flag-draped caskets or maimed by roadside bombs." USA Today notes, "The Army and Army National Guard are expected to miss their 2005 recruiting goals by several thousand new soldiers, but interest in West Point hasn't flagged. Applications reached 12,692 in 2003. They're down to 10,733 this year but still high by historical standards, says Lt. Gen. William Lennox, West Point's superintendent."

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Gonzales To Award Medal Of Valor To Families Of 9/11 Victims. The Staten Island Advance (NY) (9/7, Kivlan) reports, "Dozens of Sept. 11 family members are expected to travel here Friday to receive the Congressional Medal of Valor on behalf of the more than 400 firefighters and police officers killed at the World Trade Center. … The medals will be awarded by U.S. Attorney General Alberto Gonzalez in a ceremony at the Justice Department." The Advance continues, "Relatives of the fallen first responders were notified of the event by Justice Department officials by telephone late last week. Free air fare was made available for the family members through a travel agency in the city. … Among the relatives planning to attend was Joanne Barbara of West Brighton, whose husband Gerard, a battalion chief, was among the 343 firefighters who died at Ground Zero." The Advance adds, "She said in an interview that she had mixed feelings about the event. … 'Of course, it will be an honor to accept the Medal of Valor for my husband,' she said. … But Mrs. Barbara said the Justice Department should have informed the families of the ceremony much sooner. 'Our weekend is going to be very emotional as it is,' she said, referring to the 9/11 anniversary. 'And they just added another event to it that we didn't know about.'"

CORPORATE SCANDALS:

Enron Defendants Claim Prosecutors Are Scaring Off Witnesses. The Washington Post (9/7, Johnson) reports, "Defense lawyers for former Enron Corp. executives Kenneth L. Lay and Jeffrey K. Skilling have complained for years about the government's hard-nosed

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tactics in pursuit of their clients." The Post continues, "Now they are hoping for support from an unlikely source: the federal judge overseeing next year's fraud trial against the two. … U.S. District Judge Simeon T. Lake III has scheduled a hearing in Houston for tomorrow to examine why only four former Enron employees have agreed to meet with the defense team. The judge has raised the prospect, employed in other cases, that he could privately inform a limited number of potential witnesses that they have nothing to fear by speaking with Lay's and Skilling's lawyers." The Post adds, "The judge's action comes in response to defense claims, made public yesterday in court filings, that prosecutors abused their power by warning Enron employees that it was not a 'good idea' to help Skilling and Lay. A government lawyer also advised a critical, unidentified witness to 'get rid' of his or her lawyer if the lawyer continued to talk with the defense, the brief said. … A grand jury continues to investigate misconduct at Enron, and prosecutors have said in court papers that they consider 114 people 'unindicted co-conspirators.' … Lake has not ruled that prosecutors at the Justice Department's Enron Task Force acted improperly. Even so, the judge said last week, Lay and Skilling had identified 'a problem I am persuaded exists' in advance of a trial only four months away."

Former Skandia CEO To Be Charged. The Wall Street Journal (9/7, C3, Akerhielm, Nordstrom, Pfalzer) reports that Lars-Eric Petersson, former chief executive officer of insurer Skandia AB, will be prosecuted "for two cases of 'severe' breach of trust." He was "fired by Skandia in 2003 for his involvement in the lifting of a cap on a bonus-payment program to executives. The charges against him won't have any bearing on the 44.9 billion kronor ($6.02, or €4.83 billion) takeover bid for Skandia filed last week by Old Mutual PLC." The first charge against Petersson deals with that decision. "The second charge against Mr. Petersson relates to retirement payments … Without approval from Skandia's board, he added retirement benefits under which his own benefits would always reach at least 97.1 million kronor."

Lawyers Says Misconceptions About Audits Lead To Counterproductive Reforms. Clare Canning, head of commercial litigation, and James Roberts, associate, in the commercial litigation team at Barlow Lyde & Gilbert, who currently act for Ernst & Young in the Equitable Life litigation, in an op-ed in the Financial Times (9/7) reports, "There is a danger that misconceptions about the audit's role will lead to counterproductive attempts to bolster the robustness of the audit opinion … Some of those expressing concerns appear to expect the audit to function like a form of commercial guarantee; a bastion against corporate scandal and a blanket protection for the company and its directors against their own commercial mismanagement." An audit is "an opinion that a company's financial statements show a true and fair view at a particular point in time." Any reform towards "rules-based audit processes" or creating "a criminal offence of 'recklessly' giving an audit opinion" will only "create irresistible pressure towards form over substance" and "frustrate swift and effective operation of the regulatory regime and civil litigation."

Morgan Director's Resignation Is Omen Of Reorganization. The New York Times (9/7, Thomas) reports, "Michael A. Miles, a Morgan Stanley director with close ties to the former chief executive, Philip J. Purcell, has resigned from the board … The move, which was expected, is the latest signal that the new chief executive, John J. Mack, intends to reorganize a board that during the battle over Mr. Purcell's leadership became a lightning rod for criticism and remains the target of several shareholder lawsuits."

Investment Firm Sues To Stop Spitzer Fee Inquiry. The New York Times (9/7, Atlas) reports, "J.& W. Seligman & Company, a New York investment firm, sued the state's attorney general, Eliot Spitzer, yesterday, asserting that he had overstepped his authority in his investigation of improper trading in Seligman's mutual funds" and "seeks to suspend Mr. Spitzer's ability to investigate 'allegedly excessive advisory fees paid to Seligman.'" All of Spitzer's "settlements with fund companies to date" required "a third party to review how fees are set," but "the fee reductions…have been criticized by officials at the S.E.C., who have said it is not the role of the government to set prices."

Delaware Settles With Morgan Stanley Over Trading Complaint. The AP (9/7) reports, "Morgan Stanley Inc. has agreed to pay $700,000 to settle a complaint brought by the state Department of Justice regarding improper trading in a Delaware couple's brokerage account, officials said Tuesday." The AP continues, "The bulk of the settlement will be paid to the Wilmington couple to reimburse them for losses incurred, authorities said." The AP adds, "The

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Division of Securities filed a formal complaint in 2003 against the brokerage firm and two brokers, George Coughlin and Argie Economou who worked in a Morgan Stanley branch office in Burlington, Vt. … The complaint alleged that Morgan Stanley, through Coughlin, executed more than 500 unauthorized transactions and more than 70 'unsuitable' transactions in the couple's account. The complaint also alleged that Morgan Stanley and Economou, who was Coughlins immediate supervisor, failed to properly supervise Coughlins trading activities, in violation of Delaware securities laws."

CRIMINAL LAW:

Prosecutors Could Employ Little-Used Provision In Plame Case. Convictions for leaking sensitive government information to the media are rare, and according to the Washington Post (9/7, A23, Lee), "legal experts say prosecutors will have a hard time putting away anyone in the administration for violating the Intelligence Identities Protection Act in the revelation of CIA operative Valerie Plame's identity in 2003." However, some legal experts say it is not out of the question for prosecutors to use Section 641 in Title 18 of the US Code, which "nominally deals with prohibitions on the embezzlement of public money, property or records for private use. It typically would be used to go after a federal employee who, say, absconds with government laptops. … The statute 'is used by the government from time to time in lieu of not having a criminal prohibition on leaking classified information, generally,' said William Banks, a national security law expert at Syracuse University."

Former Houston Official Sentenced For Corruption. The Houston Chronicle (9/7, Rice) reports, "A former Houston city official was sentenced to two years and six months in federal prison today for accepting cash and gifts from businesses seeking her influence in gaining lucrative city contracts." The Chronicle continues, "The sentencing of Monique McGilbra, former head of the city Building Services Department, follows a three-year sentence she received Friday in Cleveland, Ohio, for accepting bribes from a Cleveland businessman. … McGilbra, 41, is the second Houston city official to plead guilty in a continuing investigation that began in Cleveland and expanded to include Houston and New Orleans." The Chronicle adds, "Oliver Spellman, 51, chief of staff to former Mayor Lee Brown, received probation and a $10,000 fine Friday in Cleveland federal court for taking a $2,000 bribe from a Cleveland consultant. … U.S. District Judge Vanessa Gilmore said McGilbra's Houston sentence will run at the same time as the Cleveland sentence, meaning she will spend no more than three years in prison." The Chronicle notes, "U.S. marshals took McGilbra into custody on orders from Gwin, but Gilmore said McGilbra could be released until ordered to report to prison if Gwin agreed to reconsider his order. … Assistant U.S. Attorney Edward Gallagher and Mary Butler, a prosecutor with the Department of Justice's public integrity unit, told Gilmore McGilbra was cooperating in an ongoing investigation."

Dallas Planning Commissioner Resigns Amid FBI Probe. The Dallas Morning News (9/7, Ramshaw) reports, "Embattled City Plan Commissioner D'Angelo Lee stepped down over the holiday weekend, more than two months after he fell under scrutiny in a far-reaching FBI investigation and days before a second City Council vote over whether to remove him." Mayor Laura Miller "said Tuesday that the resignation should have occurred 'a few months ago.' … 'He has now stepped down, and that's a really good step forward,' Ms. Miller said." WFAA-TV Dallas-Ft. Worth (9/6, Heinbaugh) notes, "Lee's business interests and activities as a City Plan Commissioner have been at the core of the FBI investigation. … Many Council members said they were pleased that Lee's decision will avoid another potential fight."

Nigerian Official Meets With FBI About Nigerian Corruption Investigation. The Nigeria Daily Independent (9/7, Eluemunor, Aruna) reports, "Economic and Financial Crimes Commission…chairman, Nuhu Ribadu, has been holding meetings with the United States Federal Bureau of Investigation…to intensify the search for corrupt Nigerian public officials. He was in the U.S. last week to meet with senior government and FBI officials and to exchange information on the activities of Nigerian politicians, especially governors being investigated for corrupt practices. Ribadu, according to sources, was sighted in Maryland and Washington D.C. where he had meetings with U.S. officials…to obtain additional information on the property deeds of some governors and pass details to the INTERPOL. He also used the visit to obtain more

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information on the raid the FBI carried out last month on the property of Vice President, Atiku Abubakar."

Nigerian Vice President Releases List Of Items Seized In FBI Raid. Nigerian news Web site This Day (9/6, Akogun) reports, "The Office of Vice President Atiku Abubakar yesterday released a list of items taken away from Maryland, US home by operatives of the Federal Bureau of Investigation…during their August 3 raid. … According to the statement, the document containing the report of FBI search was jointly signed by the FBI officials and a representative of the Atiku family." The Day adds, "The statement from the Vice President's office quoted Atiku's family lawyers and added that the content of the FBI document was made public to reassure members of the public and disabuse their minds of what it called 'the fabrication of falsehood'."

Court-Appointed Monitor Finds Chicago Hiring Still Based On Politics. The AP (9/7, Robinson) reports, "Chicago officials have been basing hiring decisions on political clout and not merits, defying a court-ordered ban on patronage employment, a federal monitor said Tuesday. Court-appointed monitor Noelle Brennan urged sweeping changes at City Hall, including requiring top officials to swear under penalty of perjury that hirings aren't based on politics. Brennan made the recommendations in an 11-page report to U.S. District Judge Wayne R. Andersen on how to enforce the decades-old Shakman Decree that bans the use of patronage." The AP notes, "The mayor's office of intergovernmental affairs-- the political high command-- has been excessively involved in the hiring process, Brennan said. She said unqualified applicants who have political clout often get consideration for jobs."

Tennessee Transportation Officials Inspect Guardrails Amid Contract Probe. The Tennessean (9/7, Craig) reports, "The Tennessee Department of Transportation said yesterday that it spent $478,385 to inspect every inch of guardrail across the state for evidence of improper installation, but the state won't say what was found." The Tennessean adds, "Some of the state's guardrail companies are under scrutiny by the FBI, the Tennessee Bureau of Investigation, the U.S. Transportation Department and the state on suspicion of installing guardrail posts shorter than required lengths. Evidence began to surface in January after an anonymous tip from a guardrail employee. As additional evidence came to light, TDOT deployed teams in May to inspect more than 4,000 miles of state highway guardrails.

Suspect Arraigned In Murder Of Convicted Washington Sex Offenders. The New York Times (9/7, Marshall) reports, "A man who told the police that he had found his victims on a sheriff's department Web site was arraigned yesterday in the killings of two convicted sex offenders in Bellingham, Wash. Investigators said the man, Michael A. Mullen, was upset by a child abuse case in Idaho that involved a repeat sex offender. They said Mr. Mullen, 36, telephoned the 911 center in Bellingham on Monday to confess to a double killing in which a man posing as an F.B.I. agent visited the home of three known sex offenders and told them they were on a hit list and in danger." The AP (9/7, Blankinship) notes Mullen "tried to plead guilty Tuesday before he had even been formally charged. … 'Can I have a speedy trial?' Mullen asked a court official, via closed circuit television from jail, during a preliminary hearing Tuesday. 'I would like to plead guilty.'"

The Los Angeles Times (9/7, Tizon) also reports on Mullens' arraignment and confession.

Jurisdiction In Moving Bus Killing Could Mean Life Or Death. The Baltimore Sun (9/7, Goldberg) reports that Kevin G. Johns Jr. has been "charged in Baltimore County with murder," for killing Philip E. Parker Jr. However, as Parker was killed on a bus that moved through several jurisdictions, the choice of venue is important because "Baltimore County seeks the death penalty much, much, much more frequently than any other venue," according to Byron L. Warnken, a University of Baltimore law professor. The standard when dealing with murders in moving vehicles, as set by "a reported opinion by the Court of Special Appeals," only requires the state "to show that the crime occurred 'close enough to the county boundary' when the evidence is ambiguous," and in this case there is a "lack of certainty about the most basic of details."

Judge Dismisses Lawsuit Against FBI Over Bungled Massachusetts Surrender. The Boston Globe (9/7, Murphy) reports US District Judge Reginald C. Lindsay "ruled yesterday that the FBI can't be sued over a clerk's bungling of a call from Gary Lee Sampson when the killer offered to surrender on bank robbery charges, just a day before going on a murderous rampage four years

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ago." Lindsay "dismissed a $10 million lawsuit filed by the family of one of Sampson's three victims, 69-year-old Philip McCloskey, of Taunton." Lindsay "wrote that federal law protects the government from being sued for negligence because former FBI clerk William H. Anderson was exercising his discretion when he disconnected Sampson's call to the FBI's Boston office on July 23, 2001, and failed to tell anyone about it. ... McCloskey's son, Scott, said it was ridiculous that the FBI has no legal responsibility, even though Anderson was sentenced to six months in prison for lying under oath when he initially denied taking Sampson's phone call." The AP (9/7) notes, "Sampson waited several hours for the FBI to arrest him outside a convenient store a day before his rampage."

SCOTUS Asked To Rule On Sleeping Jurors. The New Jersey Law Journal (9/7, Gallagher) reports, "New Jersey's public defender wants the U.S. Supreme Court to issue a bright-line rule that a defendant's due process right to a fair trial is violated when jurors fall asleep during testimony." The Journal continues, "Several jurors allegedly dozed off during Roy Higinia's October 1996 drug-possession trial in Essex County, N.J. The transcript shows that Assistant Deputy Public Defender Rafael Gomez, at a sidebar just prior to cross-examining a police detective, told the judge that four or five jurors were 'deep asleep' and some were 'falling asleep' during his opening. … Superior Court Judge Julius Feinberg said he had not noticed and the case would continue but he would 'wake them up, if necessary.' He then asked the jurors if the room was too hot and when one answered 'a little bit,' he had the windows opened. … The trial proceeded and Higinia was convicted and sentenced to five years in jail." The Journal adds, "The Appellate Division rejected the argument that the defendant was entitled to jurors who have heard all the evidence. In State v. Higinia, A-5515-02, decided March 21, Judges Francine Axelrad and Rudy Coleman said Feinberg took 'proper remedial measures' by opening the windows after surveying the jury. Further, since defense counsel did not request anything more at the time, the issue could not be raised on appeal. … They also found no prejudice because the alleged napping occurred during direct testimony by a prosecution witness and the jurors were awake for the cross-examination. The New Jersey Supreme Court denied certification on May 25."

US, Taiwan Make Additional Counterfeit Seizures In Operation Royal Charm. The AP (9/7) reports that since the arrests of 87 alleged counterfeit smugglers in Operation Royal Charm "authorities seized an additional $1.8 million worth of cigarettes in southern New Jersey on Aug. 21, followed by a seizure of $2.7 million worth of cigarettes the next day at Port Elizabeth, according to the FBI. On Aug. 23, approximately $2 million in counterfeit U.S. currency, commonly referred to as 'super notes,' were seized by Taiwanese and American authorities in Kaohsiung, Taiwan, authorities said. And on Aug. 24, more cigarettes worth more than $500,000 were seized in northern New Jersey."

Federal Prosecutor Says Sliwa Kidnapping Shows Gotti Remained Gambino Boss. The New York Times (9/7, Preston) reports John Gotti "ordered the 1992 kidnapping of the Guardian Angels founder, Curtis Sliwa, because he regarded himself as 'the street boss of his own government,' a federal prosecutor said yesterday in his closing argument in Mr. Gotti's racketeering trial." Assistant US Attorney Joon Kim "pointed to corroboration in testimony about the attack by two former Gambino members, Michael DiLeonardo and Joseph D'Angelo." The Times adds that Charles Carnesi, attorney for codefendant Louis Mariani "said the turncoat witnesses had all shown they were liars. 'They spit out a story and the prosecutors and the F.B.I. decide not to check the story and it becomes the truth,' Mr. Carnesi said. 'The game is rigged.'"

Newsday (9/7, Hurtado) reports Kim said that "Gotti's claim that he retired from mob life after his 1999 guilty plea is 'ridiculous and sounds like a way to get a pass for a lifetime of crime.'" Kim added "that while Gotti pleaded guilty to federal racketeering charges in April 1999, he never stopped committing crimes as Gotti lawyer Jeffrey Lichtman asserted. … 'In Gotti's mind he was not a normal citizen obliged to obey the law,' Kim said." The AP (9/7, Weissenstein) notes, "Gotti continued to meet with gangsters, take their tribute money and plot crimes in the years after his purported renunciation of the mob life, Kim said. 'You've seen no evidence of withdrawal,' he told jurors." Reuters (9/7, Kearney) also report on the prosecution's closing arguments.

Value Of Online Gambling Site Declines. Bloomberg News (9/7) reports, "Shares of PartyGaming Plc, the online poker operator that sold $1.9 billion of stock in a

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June initial public offering, fell as much as 37 percent to below the IPO price after the company said revenue growth is slowing." Bloomberg continues, "The stock dropped as much as 58.75 pence to 98 pence in London, wiping about 2.4 billion pounds ($4.4 billion) from the company's market value. The shares, which were sold to the public at 116 pence each, were at 105 pence at 12:50 p.m. local time. Stock of competitors including Sportingbet Plc also fell. … PartyGaming's share sale was more than three times subscribed by investors on expectations that the increased popularity of online poker will spur growth in an industry that's expanded 10-fold in three years. The company's revenue gains are slowing as more operators seek to enter the market, adding to competition. … 'There were some clear dangers in relation to the valuation of this company and our concerns have been realized,' said Henk Potts, a London-based fund manager at Barclays Private Clients, which manages the equivalent of $45 billion. 'PartyGaming is all about its growth potential, and some investors decided to bet on the growth rather than consider the potential slowdown.'" Bloomberg adds, "Profit rose 25 percent in the first half, PartyGaming said today in a statement, as revenue gained 81 percent. The company incurred costs of $62.3 million related to its stock sale. … Revenue, 92 percent of which comes from fees for poker games played on the company's Web site, increased to $437.4 million, PartyGaming said. Sales in the U.S. gained 77 percent, while growth outside the U.S. more than doubled. … The company makes 87 percent of its revenue in the U.S., where the Justice Department considers online gambling illegal."

Bloomberg News (9/7) reports, "In April 2003, Deputy Assistant Attorney General John Malcolm told the Crime, Terrorism and Homeland Security Committee of the U.S. House of Representatives that if online gambling companies accept bets from customers in the U.S., they are violating federal laws. … 'While the United States can indict these companies or the individuals operating these companies, it may be difficult to bring them to trial in the United States,' Malcolm said. … In his testimony, Malcolm referred to the 1961 Federal Interstate Wire Act. The act states that it's illegal to use a 'wire communication facility,' referring to a telephone, to transmit bets across state borders. Congress developed the act to stop organized crime involvement in sports gambling, says Lawrence Walters, a lawyer at Weston, Garrou, DeWitt & Walters in Altamonte Springs, Florida, who has advised the online gaming industry. … 'The government has used the Wire Act as a threat against anyone providing services such as payment processing or advertising to the online gaming companies,' Walters says. 'Even if they are empty threats, public companies are not going to take a chance.'"

CIVIL LAW:

New Jersey Lawmakers Try To Bar Base Closing. WINS, 1010 AM, New York (9/7) reports, "Lawyers for several New Jersey politicians made their plea Tuesday for a judge to issue a ruling that could keep Fort Monmouth open despite a federal commission's recommendation to close it." WINS continues, "U.S. District Judge Mary L. Cooper told them that she would rule quickly _ but did not specify exactly when. … Timing may be of the essence for the judge, who could order the base removed from the list of installations be closed, keep it on the list or set up future hearings on the matter. … By federal law, a list of recommendations for which military installations to close must be submitted to President Bush by Thursday. Bush has pledged to pass the list on to Congress without making any changes." WINS adds, "A lawyer for the government argued in a hearing Tuesday that if there is a time for the court to intervene in the Base Realignment and Closure Commission's process, it is not now. … Justice Department lawyer Carl Nichols said it's too early for those who believe Fort Monmouth should not be shuttered to make their case, in part because the president and Congress have not approved the closures. … 'At that point, and at that point only, would we know Fort Monmouth would be closed,' Nichols said."

General Dynamics Loses Breach Of Contract Suit Brought By Former Partner. The Washington Post (9/7, Merle) reports, "A federal jury in Greenbelt yesterday ordered General Dynamics Corp. to pay $129.9 million to its onetime partner, Final Analysis Communication Services Inc., a small satellite firm, according to officials for the two companies." The Post continues, "The verdict concluded a seven-week trial in U.S. District Court that included appearances by some of the defense industry's biggest players, including Nicholas D. Chabraja, General Dynamics' chief executive; and Gordon R. England, the former General Dynamics executive who is now acting deputy secretary of defense." The Post adds, "The case centered on whether General Dynamics violated

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agreements to help Lanham-based Final Analysis develop a $400 million project to launch low-flying satellites for data transmissions, including paging and text message services. … James J. McGuire, attorney for Final Analysis, said the jury ordered General Dynamics to pay a total of $137.9 million but also ordered Final Analysis to pay $8 million under a counterclaim, netting $129.9 million for the smaller company." The Post notes, "General Dynamics is awaiting a final decision by the court, said spokesman Kendall Pease. The judge has asked for briefs from both sides, he said. General Dynamics argued in court that a power struggle between the company's founders contributed to the problems, according to the transcripts."

5th Circuit Rules Attorney-Client Privilege No Shield For Company In Whistleblower Suits. The Texas Lawyer (9/7, Council) reports, "For years, it has been nearly impossible for in-house counsel at Texas companies to bring whistleblower suits against their employers, because companies could claim that the attorney-client privilege protected important evidence from disclosure in such litigation. But a recent 5th U.S. Circuit Court of Appeals decision changes all that." Texas Lawyer continues, "The Aug. 24 ruling concerns an appeal of an administrative dismissal of a whistleblower complaint filed by an in-house lawyer. The 5th Circuit held in Willy v. Administrative Review Board, U.S. Department of Labor that the U.S. Department of Labor's Administrative Review Board incorrectly dismissed the in-house lawyer's complaint, after the board determined that a key piece of evidence needed to prove his allegations could not be disclosed because of the attorney-client privilege between the lawyer and the company." Texas Lawyer adds, "The 5th Circuit remanded the case to the Administrative Review Board, noting that the case had 'endured an odyssey through administrative and judicial tribunals' including four appeals to the 5th Circuit. … Coastal Corp. fired Donald J. Willy, then an in-house environmental attorney with the Houston-based company, after a series of events in 1984, according to the 5th Circuit opinion. Willy wrote two reports in 1984, referred to in the opinion as the Belcher Report, in which he concluded that one of the company's subsidiary oil companies was exposed to liability for allegedly violating several federal environmental statutes. Willy's supervisors disagreed with some of his conclusions in the Belcher Report and asked him to delete references to some of the alleged violations, which he refused to do, according to the opinion." Texas Lawyer notes, "Coastal fired Willy after his supervisors accused him of contacting state regulatory officials about environmental matters at a Corpus Christi refinery owned by Coastal, the opinion noted. … In October 1984, Willy filed a complaint with the U.S. Department of Labor, alleging that Coastal violated federal whistleblower laws by firing him in retaliation for writing the Belcher Report -- allegations the company denied."

CIVIL RIGHTS:

Opponents Of Georgia Voter ID Law To Monitor Elections. The Atlanta Journal-Constitution (9/7, Campos) reports, "Several groups opposed to a new law requiring voters to show state-issued photo ID at the polls announced Tuesday plans to monitor local elections on Sept. 20." The AJC continues, "The Rev. Joseph Lowery, head of the Coalition for the People's Agenda, said monitors will 'make sure there's no abuse of citizens who want to exercise their right to vote.'" The AJC adds, "Thirty-three Georgia counties and two cities are holding elections Sept. 20. Most are referendums for special purpose local option sales taxes, including one in Cobb County, but some include races for city council posts. Augusta voters will select a replacement for Democratic state Sen. Charles Walker, convicted earlier this year of federal fraud charges. … Volunteers plan to conduct exit polls asking people if they were denied the opportunity to vote due to a lack of photo ID. The Mexican-American Legal Defense Fund has set up a toll-free hotline to field voter complaints: 1-877-462-5333. … Opponents maintain the law will make it harder for poor people, the elderly and college students to vote. And they allege the law violates the Voting Rights Act, though it has received approval from the U.S. Justice Department."

DOJ Officials To Tour Baltimore Juvenile Justice Center. WJZ-TV, CBS 13, Baltimore, MD (9/7) reports, "Continuing troubles and constant complaints about the Juvenile Justice Center bring federal investigators to Baltimore today. … Federal investigators from the Department of Justice will spend nine days inside the Juvenile Justice Center downtown." WJZ-TV adds, "The state run facility is under scrutiny after a series of complaints of youths being mistreated among other issues. .. Meantime, a

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report on the Justice Department's visit this fall -- should be ready by early next year."

California Assembly Passes Gay Marriage Bill. On a 41-35 vote the California Assembly passed a bill legalizing same-sex marriage. Gov. Arnold Schwarzenegger reportedly opposes the bill, but is expected to let the courts decide the issue. The Los Angeles Times (9/7, Vogel) reports the legislature "made history" as it "became the first in the United States to act without a court order to sanction gay unions. The measure was approved after three Democratic lawmakers, who abstained on a similar proposal that failed in June, changed their minds under intense lobbying by bill author Assemblyman Mark Leno (D-San Francisco) and gay and civil rights activists." The legislation, "which would change California's legal definition of marriage from 'a civil contract between a man and a woman' to a 'civil contract between two persons,' now goes to Gov. Arnold Schwarzenegger. The governor has signaled that he will veto it."

The Washington Times/AP (9/7, Lawrence) notes, "The bill's supporters compared the legislation to such earlier campaigns as women's suffrage and the eradication of slavery." Yet "opponents repeatedly cited the public's vote five years ago" by 61 percent "to approve Proposition 22, an initiative to keep California from recognizing same-sex 'marriages' performed in other states or countries."

The New York Times/AP (9/7) reports a spokesman for Gov. Schwarzenegger said he "believes the issue should be decided by the courts, not by his signature on legislation. A state appellate court is considering appeals of a lower court ruling that overturned California laws banning recognition of gay marriages." Spokeswoman Margita Thompson said, "He will uphold whatever the court decides."

Ohio Ballot Initiative Would Strip GOP Officials Of Control Over Redistricting. The New York Times (9/7, Murphy) reports, "The Ohio secretary of state announced yesterday that a series of election-related constitutional amendments had qualified for the November ballot, including one intended to strip Republican elected officials of their control over drawing legislative districts." One GOP-backed lawsuit to disqualify the amendments was rejected by the Ohio Supreme Court, but a second by former Republican state senator Richard Finan "is to be heard tomorrow in an appeals court in Columbus." He "has said the redistricting measure, if approved, could cost Republicans in Ohio 6 of their 12 seats in Congress and would probably inspire similar Democratic-backed efforts in other states dominated by Republicans."

ANTITRUST:

Unipol Gets Italian Antitrust Nod For BNL Bank Acquisition. The Boston Globe/AP (9/7) reports, "Unipol Assicurazioni SpA said Tuesday it had received the necessary antitrust regulator authorization for its $6.12 billion bid to take over Banca Nazionale del Lavoro SpA." The AP continues, "The bid is pending approval by insurance regulator Isvap and the Bank of Italy." The AP adds, "Italy's market watchdog Consob approved Unipol's prospectus last week but asked the insurer for further information regarding the nature of the agreements with Deutsche Bank. … The German bank has a call option on nearly 5 percent of BNL but is not a member of the shareholder pact led by Unipol that is launching the takeover bid for the Rome-based bank. … Unipol filed the final version of a 400-page document with conditions for its BNL bid to Consob on Friday."

Gas Natural's Endesa Takeover Bid Spurned. The Wall Street Journal (9/7, A3, Johnson, Singer) reports, "Spanish power utility Endesa SA rejected the unsolicited bid of €22.55 billion ($28.27 billion) from Gas Natural SDG SA…setting the stage for a hard-fought takeover battle as the European energy industry undergoes a bout of frantic consolidation." Endesa hired J.P. Morgan Chase & Co., Deutsche Bank AG and Citigroup Inc. "to help it craft its takeover defense … A flurry of deal making is taking place in the European energy sector," spurred "by both the European Union-mandated liberalization of the continent's energy markets and volatile commodity prices."

Court Cases Haven't Reduced Music File Sharing. USA Today (9/7, Graham) reports, "Despite two huge court losses for file-sharing firms, unauthorized online song and movie swapping is at an all-time peak, says Internet measurement company BigChampagne." While "an Australian federal court judge ruled that Sharman Networks, Kazaa's parent firm, must install filters to prevent its software from being used for unauthorized sharing," Kazaa's "popularity already had faded." BigChampagne CEO Eric Garland said "A judgment might have been more meaningful

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a few years ago, when Kazaa was more popular," and that "the industry should spend less time fighting the online pirates and more time turning them into paying customers."

Columnist Bearish On Refinery Merger. In his Washington Post column (9/7), Steven Pearlstein writes, "Last week, as supply shortages sent the price of a gallon of gasoline as high as $6 in some markets, federal officials charged with protecting consumers quietly approved yet another oil industry merger, this one creating the nation's largest oil refiner. … Because of the rush of Katrina news, the merger earned hardly a mention in the general press. And yet by giving its blessing to Valero's $8 billion purchase of Premcor, the Federal Trade Commission not only reinforced its reputation as a patsy for the energy industry but demonstrated a stunning lack of political sensitivity." Pearlstein continues, "Although the FTC and its staff never seem to make the link between industry consolidation, rising energy prices and record profits, Wall Street investors surely can. Over the past year, shares in Valero are up 226 percent, which, as the Financial Times pointed out last week, makes Google (only 186 percent) look like a laggard. … Listen to what Valero's chief executive, Bill Greehey, had to say Thursday in announcing that the deal had closed: 'We are in a new era for refining where I believe you will continue to see higher highs and higher lows for both product margins and sour crude discounts. And now, with 18 refineries, no one is better positioned to benefit from this than Valero.' … Translation: This deal will do nothing for consumers, but it's a home run for investors." Pearlstein adds, "Here's the situation, as far as I can make it out. Refineries in the United States produce about 18 million barrels of refined product a day for an economy that consumes about 21 million. A completely new refinery hasn't been built in this country in nearly 40 years. And although Valero and others have spent $47 billion over the past decade to expand existing capacity by 13 percent, demand has grown even faster. … The reason that supply has not kept up in this industry, as in others, is simple: The industry makes more money that way. And one way the industry is better able to enforce this gentleman's agreement against investing too heavily in new capacity is by reducing the number of players and making entry into the industry even more difficult than it is already." Pearlstein concludes, "Valero is a great company and a real success story. … But what the country needs isn't a bigger Valero -- it's more Valeros, challenging the majors, investing heavily in new capacity and competing for market share. By approving the merger with Premcor, the FTC has reduced the chance of having that kind of full-throttle competition in an industry that desperately needs it."

ENVIRONMENT:

EPA To Bar Use Of Children, Pregnant Women In Pesticide Studies. The EPA plans to propose regulations for human testing of pesticides which will bar the inclusion of children and pregnant women in studies examining the effects of the chemicals. The New York Times (9/7, Janofsky) reports, "The regulations, to be proposed on Wednesday, would also establish an independent oversight panel to ensure that all studies submitted to the agency were conducted ethically and followed internationally accepted protocols for human testing. Agency officials discussed the new regulations with reporters on Tuesday. They declined to make copies of the proposal available, leading at least one major critic of the agency, Senator Barbara Boxer, Democrat of California, to suggest that a close examination of the regulations might reveal weaknesses identified in an earlier version.'

Illegal Off-Road Vehicles Destroying Parkland, "Serious National Problem." The Christian Science Monitor (9/7, Clayton) reports, "Unauthorized off-road vehicles are buzzing through nearly one-third of America's national parks, according to a recently released internal National Park Service (NPS) survey. In one-fifth of the parks, they have damaged natural environments that by law must be preserved for future generations." While the Parks Service "downplay the challenge" of dealing with the problem, "critics say the problem is acute and growing," and "other branches of the Department of Interior…say illegal motorized vehicles are a serious national problem. The chief of the National Forest Service…called it one of his top four management problems."

Bonilla Takes Aim At Eminent Domain. Legislation authored by Rep. Henry Bonilla would deny federal funding to any state or local government that employs the right of eminent domain to transfer property from one private owner to another, The Hill (9/7) reports. Agriculture Committee Chairman Bob Goodlatte "characterized the legislation as the strongest response yet to the Supreme

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Court's June ruling in Kelo v. City of New London, Conn., which affirmed governments' rights to seize property from landowners for private development deemed by elected officials to be in the community interest. The Agriculture Committee, which will hold a hearing on the Bonilla bill today, has been given primary jurisdiction on the issue."

LATimes Urges Congress To Support Coastal Restoration. The Los Angeles Times (9/7) editorializes, "For the next several weeks, and possibly months, the Army Corps of Engineers will pump the water out [of New Orleans]. Meanwhile the Corps, Congress and the Bush administration need to figure out how to avoid a repeat of last week's disaster." The Times goes on to say "the very levees and canals that protect New Orleans and provide navigation divert replenishing sediment. Louisiana loses about 24 square miles of this land barrier each year." This is land that could "present hurricanes with a formidable…barrier to cross before reaching New Orleans. A plan backed by environmentalists, industry and the Corps of Engineers would spend $2 billion to dredge sediment from the Gulf to be used in rebuilding the land, and divert some river sediment toward the marshland. Congress should not only approve that project but should start giving serious consideration to the rest of a $14-billion coastal restoration project supported by 11 state and federal agencies."

FBI/DEA/ATF/USMS:

US Code Provision Has Been Used Against Government Leakers. The Washington Post (9/7, A23, Lee) writes that convictions for "leaking sensitive government information to the media are almost as rare as sightings of the ivory-billed woodpecker." But while there have been few convictions under the Intelligence Identities Protection Act, there is "another statute that federal officials have used to go after government leakers. … The provision, Section 641 in Title 18 of the U.S. Code, nominally deals with prohibitions on the embezzlement of public money, property or records for private use. It typically would be used to go after a federal employee who, say, absconds with government laptops." Prosecutors used the statute against Jonathan Randel, "a former Drug Enforcement Agency intelligence research specialist who in 2003 was sentenced to a year in prison for selling restricted information." Randel "provided information from a DEA database to the Times of London newspaper indicating that the name of Lord Michael Ashcroft -- a dual citizen of Britain and Belize who was treasurer of the Conservative Party -- was in agency files used in investigations of drug trafficking. The newspaper cited the information in stories on Ashcroft and his business dealings in Belize, stories that Ashcroft complained falsely suggested that he was a target of DEA investigations into drug trafficking. (After Ashcroft filed a libel suit, the paper published a statement saying there was no evidence he had been suspected of any drug-related crime.) Prosecutors said Randel was paid $13,000 for the information, which was sensitive but not classified. The newspaper said the money was to cover Randel's expenses and time when he traveled to Britain to help the newspaper prepare a defense to Ashcroft's libel suit." Prosecutors are considering using the provision in any case against a suspect in the Valerie Plame name-leak probe.

Medical Marijuana Does Not Influence Teen Use, MPP Study Suggests. UPI (9/6, Zwillich) reports that, according to a study "funded and released by the Marijuana Policy Project," teenagers in state that allow medical marijuana "are no more likely to use the drug than those in other states." The study "shows widespread reductions in marijuana use have occurred generally at the same rate among all the states, including those allowing medical use. … The group said its findings belie Bush administration claims that medical-marijuana laws send youth a mixed message that helps to encourage drug use. Ten states currently allow patients with certain medical conditions to use marijuana under the supervision of a physician." The US has seen an overall "decrease in marijuana's popularity among teenagers since 2000, after a prolonged increase in use during the 1990s. For example, compared with 1996, about 43 percent fewer 8th graders and 9 percent fewer 12th graders reported they had used the drug in the past 30 days in 2003. California became the first state to permit medical-marijuana use in 1996. At the same time, past-month use dropped by half among the state's 9th graders and by one-quarter among 11th graders, according to the report, which analyzed federal and state statistics. Approximately one-fifth of California's high school juniors now acknowledge using marijuana within the last month. Other states with medical-marijuana laws also saw varying reductions in youth marijuana use. Past-month use by 12th graders in Washington state was down 32 percent since a

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medical-marijuana law was enacted in 1998, though rates dropped only 12 percent among Maine's high school seniors since a similar law was passed there in 1999."

The Los Angeles Times (9/7, Bailey) reports that "Tom Riley, of the president's Office of National Drug Control Policy, said the drop in teen drug use across the nation is attributable to the federal anti-drug advertising campaign in recent years, including $125 million spent during the federal fiscal year that ends Oct. 1. Medical marijuana has only clouded that pitch, he said. 'It's foolish to give kids a message that marijuana can be helpful to them,' Riley said, adding that all Americans 'should be glad that teen drug use is going down. If the drug legalizers are recognizing that, too, I think that says something.'"

"Jury Is Still Out" On Methadone Dependency Risk. The Boston Herald (9/7, Wedge) reports, "Seen by many as a miracle cure for heroin addiction, the jury is still out on whether methadone can itself impair users or create a long-term dependency. 'There still appears to be some controversy about it,' said Jim Ross, a counselor at Taunton's Community Partnerships, which specializes in helping heroin addicts. 'Although it is supposedly not addictive, we've seen firsthand some people do not use it as a stepping stone (toward recovery) and they end up being dependent on methadone their whole life. And that could be a good or a bad thing.' The White House Drug Policy Information Clearinghouse supports methadone programs, saying the drug 'does not impair cognitive functions' and 'is not sedating or intoxicating.' The federal clearinghouse also says the drug does not 'interfere with ordinary activities such as driving a car or operating machinery.'" In addition to "possible side effects, Ross said addicts sometimes stockpile methadone to sell. 'Methadone has been a great saving grace for many heroin addicts,' he said. 'We need to be as supportive as we can to help addicts, but sometimes we need to ask questions to assure we're taking care of public safety as well.'"

Guilty Plea In Texas Drug Money Trafficking Case. The Lufkin (TX) Daily News (9/7, Cook) reports tractor-trailer driver Juan Castanon of Mission, Texas, "pleaded guilty Friday in federal court to trafficking close to $3 million in drug money through Nacogdoches County, according to plea papers filed in court." Castanon "could face up to five years in federal prison on the charge. Details of his plea agreement with the U.S. Attorney's Office remained sealed in court documents. Texas Department of Public Safety Trooper Ryan Koonce found the stash of cocaine-tainted cash during a Feb. 8 traffic stop. The money was hidden in a secret compartment in Castanon's trailer. A drug-sniffing dog alerted Koonce to the bundled and wrapped money, which later tested positive for traces of cocaine."

Fox Challenges Drug Kingpins To Take On Security Forces In Nuevo Laredo. Reuters (9/6) reports that Mexican President Vicente Fox "challenged drug barons" to "take on security forces in a notorious city on the U.S. border where troops and police are locked in a war with traffickers. Fox said in an interview that federal forces were in control of Nuevo Laredo, across from Laredo, Texas, despite more than 100 drug-related murders there this year." Fox said, "We are going to win this battle. We'll see who is tougher, we'll see who is more stubborn." The "explosion of violence among drug gangs vying for control of a cocaine, heroin and marijuana smuggling route into the United States has drawn an influx of Mexican troops to Nuevo Laredo and strained relations with Washington. The murder rate has soared with killings practically every day, and residential neighborhoods have seen shootouts with heavy weaponry, at one point prompting the U.S. Embassy to close a consulate in Nuevo Laredo. But Fox said his government has taken control of the sweltering city, which also is a hub for legitimate trade." Fox said, "Nuevo Laredo now has much less criminal activity from these kingpins than it did two months ago. I can tell you that we have the city under control and from there we will put things in order." But as the "death toll rises, with 15 police officers among those killed by gunmen this year, residents and local activists are skeptical about authorities' ability to stem the tide of violence. Critics say very few cartel henchmen have been put behind bars and there is no evidence the tighter security will curb the flow of drugs across the border."

Spain Leads World In Cocaine Use. The British newspaper the Guardian (9/7, Tremlett) reports, "Spaniards are the most prolific users of cocaine in the world, according to a report from state prosecutors obtained by El País newspaper yesterday. Spain has overtaken the US and left Britain and Ireland behind, with the proportion of people who use the drug rising to more than one in 40. 'Spain occupies the top place in the world,' the report said, citing United

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Nations figures on cocaine use around the globe. The reason for such a high rate in Spain is that much of Europe's cocaine is unloaded on to Spanish beaches." In 2004, 33 tons of cocaine "were seized by Spanish police, much of it being handled by the smuggling clans in the north-western region of Galicia who turned to the lucrative cocaine trade more than 10 years ago. The smugglers offer their services to traffickers from around the world who want to get the drug into Europe. Often cocaine is unloaded from merchant ships into trawlers and then, once near the Spanish coast and under the cover of darkness, into speedboats that land it on Galicia's rugged beaches. The Galician smugglers store it then hand it back to the traffickers. They take a cut of the cocaine as payment. More than 50% of cocaine found by police in Europe is discovered by Spanish officers, who arrested about 600 suspected traffickers from Colombia last year, and 150 from Britain. Spanish police were also reported yesterday to have been behind the discovery of 4.6 tonnes of cocaine unloaded in Rotterdam at the weekend."

IMMIGRATION:

TAX:

Twelve More May Be Indicted Over KPMG Shelters. The Wall Street Journal (9/7, C1, Weil, Scannell) reports that assistant U.S. Attorney Justin Weddle, lead prosecutor in the KPMG LLP tax-shelter investigation, said "the government expects to seek indictments against at least 12 more" as yet unnamed "individuals in the coming weeks, on top of the nine people who were arraigned yesterday … The additional defendants will be named as part of a superseding indictment" that "likely would include obstruction of justice, as well as tax evasion, in addition to the existing conspiracy count that the government unsealed last week." While "prosecutors asked for three months to seek the superseding indictment, citing Justice Department procedures for tax-fraud prosecutions," Judge Lewis A. Kaplan denied the motion, saying, "'You're going to have to move a lot faster. It's not clear to me why you can't.'" The government has an Oct. 17 deadline to file its superseding indictment. Reuters (9/7, Graybow) also reports on the arraignment.

Proceeding Could Be "Unwieldy," Judge Lays Down Rules. The New York Times (9/7, Glater) adds, "The proceedings yesterday offered a hint of how unwieldy the case against the nine executives, let alone against as many as 21 possible defendants, could be." Judge Kaplan "warned prosecutors against lengthy proceedings" and "advised lawyers for both sides to prepare as clear a presentation for jurors as possible, using video presentations, for instance, and avoiding cumbersome binders full of copies of exhibits."

Lawyer-Client Privilege Being Pared Back. The New York Times (9/7, Glater) reports that lawyer-client "privilege has been weakened…as more individual defendants try to argue that their actions were blessed by a lawyer and that, as a result, they did not know they were doing anything wrong." Some "powerful forces have put in play the privilege protecting communications, as well as the so-called work product privilege covering documents and other work by a lawyer in anticipation of litigation." William Ide III, a lawyer at McKenna Long & Aldridge in Atlanta and also chairman of an American Bar Association committee on lawyer-client privilege "and other lawyers say they worry that when prosecutors insist on a waiver, they are essentially making corporations an offer they cannot refuse." Robert S. Bennett, of Skadden Arps Slate Meagher & Flom," said "'In today's climate, in order for a company to avoid an indictment, it must cooperate with the government. And today, cooperation…as a practical matter often requires companies to waive the attorney-client privilege.'" With this erosion, "companies may have difficulty conducting internal inquiries if employees do not talk because they know their statements may end up being handed over to the government; executives may decide not to consult lawyers before making critical business decisions; and lawyers may temper their advice if they know it may one day be exposed."

Thousands Not Taking Advantage Of Higher Education Tax Break. The number of Americans who claimed a federal higher education tax break in 2002 was more than double the number who did in 1996. USA Today (9/7, Marklein) reports that while nearly 10 million Americans claimed the tax break last year, "hundreds of thousands of families who may be eligible for such breaks aren't taking advantage of them, a federal report says." A report issued last week by the GAO, "found that filers of 27% of the 1.8 million returns it analyzed appeared eligible but did not claim either a tuition deduction or tax credit.'

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CONGRESS-ADMINISTRATION:

Bush Mentions Gonzales As Possible O'Connor Replacement. The AP (9/7, Holland) reports President Bush "said the list of possibilities for his second Supreme Court nomination was 'wide open' Tuesday as Senate Republicans urged him to consider a woman and Democrats pressed him to consult with them before making his next pick." The Washington Post (9/7, A9, Baker, Becker) adds Bush "playfully hinted he could choose his friend Alberto R. Gonzales, a prospect that reignited consternation among conservative groups skeptical of the attorney general's politics."

The Washington Times (9/7, Sammon) also reports Bush "reignited speculation that he would nominate" Attorney General Gonzales. Bush "made his comments at a Cabinet meeting, adding that his words 'should create some good speculation here in Washington. And make sure you notice when I said that I looked right at Al Gonzales, who can really create speculation.'" The Times adds, "Although the remark drew chuckles from Cabinet members and journalists, Bush aides said he is seriously considering Mr. Gonzales. That prompted a fresh round of grumbling from conservatives, who fear that Mr. Gonzales would not vote to overturn Roe v. Wade, the 1973 high court ruling that legalized abortion."

The New York Times (9/7, Stevenson, Stolberg) says Bush's "mention of Mr. Gonzales as a possibility, in comments to reporters at the end of a cabinet meeting, fueled concern among conservatives, who were already mobilizing against the attorney general. Conservatives say that Mr. Gonzales has not shown himself to be sufficiently opposed to abortion rights and that nominating him would miss an opportunity to move the court fundamentally to the right."

NBC Nightly News (9/6, story 17, 2:00, P. Williams) reported that "as far as a successor for Justice O'Connor, President Bush suggested today he will not send up a name for another week or so." President Bush: "I want the Senate to focus not on who the next nominee is going to be, but the nominee I got up there now. And it's important for the country that they complete the work."

The Los Angeles Times (9/7, Reynolds) reports Democrats "urged the president to move quickly to fill the vacancy, saying it would be easier for them to support Roberts' nomination if they knew the name of the second nominee." Judiciary Committee member Sen. Richard Durbin said, "If we had an idea of who might fill the other vacancy, it would help put (Roberts' nomination) in perspective. This court is very closely divided, and if the president's next nominee is too extreme, it will worry us that the court is going to change for generations to come." The Times adds Sen. Russell D. Feingold "said it was now more important for the White House to release 16 case files from Roberts' service in George H.W. Bush's administration that the current White House has withheld."

The Roberts story appeared almost universally in local television news broadcasts across the nation. In many newscasts, there were comments about how Robert's new nomination could change the tenor of his confirmation hearings. For example, WFLA-TV Tampa (9/6, 11:10 a.m.) reported, "President Bush's decision to nominate John Roberts as the nation's 17th Supreme Court Chief Justice raises the stakes of the upcoming Senate confirmation hearings." KCNC-TV Denver (9/6. 5:04 a.m.) added, "The legal wrangling from both parts could make the hearings pretty interesting. They are going to say they want an up or down vote before the President has to make his other selection, and the Democrats are going to say 'whoa, we want it as a package deal. We want to know when the other shoe falls before we make a decision on John Roberts.'"

Meanwhile, KONG-TV Seattle (9/6, 7:37 a.m.) said Roberts "may be a better fit to succeed his mentor Rehnquist than to succeed Sandra Day O'Connor, more of a somewhat moderate Republican and swing vote on the Supreme Court. That may now be the big fight for the next Supreme Court nomination after weeks and weeks of trying to dig up things on John Roberts, not much has been found, although Democrats and others have indicated that the questioning will be tougher now because, after all, he is being nominated for Chief Justice of the Supreme Court."

Republicans were portrayed as optimistic as the hearings draw near. KUSA-TV Denver (9/6, 4:10 p.m.) reported, "Republican's expect he'll be approved," while KPRC-TV Houston (9/6, 4:23 p.m.) said "Bill Frist says they hope to have a Chief Justice in place by the end of the month."

Gonzales Possible Supreme Court Nominee, Again. Alberto Gonzales was named as a possible nominee for the Supreme Court by a few stations: WGN-TV Chicago (9/6, 6:44 a.m.), WMAQ-TV Chicago (9/6, 11:16 a.m.), KCCI-TV Des Moines (9/6, 7:11 a.m.), and KAIT-TV Jonesboro (9/6, 5:30 a.m.)

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Katrina Increases Gonzales' Chances. WNBC-TV New York (9/6, 6:36 a.m.) reported, "What the American people have seen in the aftermath of Katrina, probably elevates the imperative on the White House to try to demonstrate to Americans that George Bush is the president of all Americans, that probably helps Alberto Gonzalez, the attorney general, who would be the first Hispanic elevated to the court if chosen."

Terror Policies, Centrism, Gender Work Against Gonzales. KSFY-TV Sioux Falls (9/6, 6:33 a.m.) reported, "Attorney General Alberto Gonzales seems to have dropped off because of opposition to him because of the War on Terror policies he's advocated and because many conservatives see his as too centrist."

KRDO-TV Colorado Springs (9/6, 6:06 a.m.) also reported this in much the same words.

WSPA-TV Greenville (9/6, 5:15 a.m.) reported, "Attorney General Alberto Gonzales is mentioned as a candidate, but analysts say the president is under pressure to nominate a woman."

Key Republicans Said To Be Pressing Bush To Nominate A Woman. The Hill (9/7, Bolton) reports, "Key Republicans and conservatives are pressing President Bush to nominate a woman to replace retiring Supreme Court Justice Sandra Day O'Connor." It "may suggest that, with the president faltering in opinion polls, the right believes it needs the sop of liberal identity politics to get a second conservative justice confirmed. Priscilla Owen, Edith Jones and Edith Brown Clement, all three from the 5th U.S. Circuit Court of Appeals, and Janice Rogers Brown, of the D.C. Circuit Court of Appeals, are considered by conservatives to lead the list of potential female nominees."

Alito Mentionied As Possible Nominee. The AP (9/7, De La Cruz) reports, "A second opening on the U.S. Supreme Court is bringing renewed interest in Samuel A. Alito Jr., a federal judge from New Jersey who used to serve as the state's federal prosecutor." The AP continues, "Alito, who sits on the 3rd U.S. Circuit Court of Appeals, which covers the Garden State, is among several people mentioned by court observers as being on a "short list" of candidates for associate justice to succeed Sandra Day O'Connor. She is retiring but remaining on the bench until her replacement is confirmed. President Bush's original choice for that position, John Roberts, has been nominated to become chief justice following the death Saturday of William H. Rehnquist. … The other possible nominees include U.S. Attorney General Alberto Gonzales, former U.S. Solicitor General Theodore Olson, and former deputy Attorney General Larry Thompson." The AP notes, "Alito, 55, has been dubbed 'Scalito' or 'Scalia-lite' by some lawyers and political pundits because of a reputation as a strong, conservative jurist that often brings comparisons to conservative Supreme Court Justice Antonin Scalia. But Alito, 55, also has a reputation as being scholarly and quiet, rarely asking questions during oral arguments."

Judiciary Committee To Vote On Roberts By September 26. The Wall Street Journal (9/7) reports Senate leaders "said the Judiciary Committee will vote no later than Sept. 26 on the nomination of Appeals Court Judge John Roberts to become the next U.S. chief justice." Judiciary Chairman Arlen Specter said that "the committee will begin confirmation hearings on Monday. The hearings are expected to run a week. Although Republican and Democratic leaders said they are working together to move Mr. Roberts's nomination quickly, the full Senate might not hold a final vote on Judge Roberts until just before the high court convenes for its new term on Oct. 3." Senate Minority Leader Harry Reid "said Democrats plan to work with Republicans to move ahead on the hearings. But he said his party remains largely uncommitted on how it will vote."

NBC Nightly News (9/6, story 17, 2:00, P. Williams) reported Judge Roberts' "'hearings have been put off due to the funeral, but even the Democratic Senate leader predicted a prompt confirmation." Sen. Harry Reed (D) Nevada: "We're going to do everything we can so that we do have a full court by the beginning of term."

Roll Call (9/7, Kane) reports the Senate Judiciary Committee "will kick-start hearings on Judge John Roberts' nomination to be chief justice of the United States on Monday, a six-day delay allowing for the funeral and burial services this week for the late William Rehnquist. The delay, however, still leaves plenty of time for the committee to hold a week's worth of hearings, as originally scheduled, and send the nominee to the full Senate for a vote by the final week of September — the timetable originally laid out by Majority Leader Bill Frist (R-Tenn.)."

The Washington Times (9/7, Hurt) reports Majority Leader Bill Frist said, "The schedule allows us both to pause to pay appropriate respect to Chief Justice Rehnquist and to complete floor action on the nomination of Judge Roberts as chief justice by October 3, the start of the Supreme Court's new term."

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Specter Quizzes Roberts On Hot-Button Issues. The Washington Post (9/7, A9, Babington) reports Judiciary Chairman Specter invited Roberts "to his Senate office shortly after Roberts helped carry William H. Rehnquist's coffin into the Supreme Court, where the late chief justice lay in repose. In an interview, Specter said he asked Roberts, an appeals court judge, a range of questions, including, 'How are you going to handle guys like Scalia? He's a lot older than you.'" Roberts "replied somewhat indirectly, according to Specter, by saying he considers it 'a dialogue among equals' when lawyers argue cases before the Supreme Court." Specter "said he also raised concerns about recent court rulings that he considers confusing and inexplicable. They include two 5 to 4 decisions regarding public displays of the Ten Commandments that in some ways seemed contradictory." But when Specter asked if Roe vs. Wade was a "super-precedent," Roberts "didn't say."

Democrats Plan To Step Up Questioning Of Roberts On Civil Rights. The Washington Post (9/7, A9, Baker, Becker) reports some "influential Democrats signaled that Roberts's ascension" to the chief justiceship "increased their eagerness to press him on his record -- particularly on civil rights, which they said has taken on new salience in the wake of Hurricane Katrina." Sen. Edward Kennedy said, "What the American people have seen is this incredible disparity in which those people who had cars and money got out and those people who were impoverished died." He said the "question for Roberts, he said, is whether he stands for 'a fairer, more just nation' or for 'narrow, stingy interpretations of the law to frustrate progress.'" Democrats will "make that argument in part through their witness list, which includes Rep. John Lewis (D-Ga.), a leader in the 1960s civil rights movement who plans to note that courts historically have led the way in guaranteeing rights for the disenfranchised." Rep. Lewis said, "New Orleans is just a symbol. We are still a nation divided by race and class, and I don't see [Roberts] being an advocate for those who were left out and left behind." Reuters (9/7, Ferraro) reports Democrats are "vowing to take as long as needed to question" Roberts, "who could lead the Supreme Court for decades."

Knight Ridder (9/7, Kuhnhenn) reports that by "opening questions about poverty, race and government policies, Hurricane Katrina has made landfall on Washington's deliberations over vacancies on the U.S. Supreme Court and threatens to make John Roberts' confirmation hearings for chief justice a contentious test of conservative thought." Democrats and liberal groups "say Roberts' past opposition to expanded affirmative action and voting rights laws should get extra scrutiny, especially in light of the disproportionate suffering by poor black residents of New Orleans." Despite the "stepped up scrutiny, Roberts' confirmation still appears likely."

The Legal Times (9/7, Mauro) reports, "By today, Supreme Court nominee John Roberts Jr. was supposed to be answering the questions of Senate Judiciary Committee members as part of his confirmation hearing to replace Justice Sandra Day O'Connor. Instead, because of the death of Chief Justice William Rehnquist on Saturday, and the swift decision by President George W. Bush to put Roberts in the chief justice's spot instead, the Roberts hearing has been put off until Monday. … But when the hearing finally gets underway, the questions will likely be the same, and the dilemma for Roberts will be the same, though possibly more urgent: how candid should he be about his views on the law? It's a crucial decision for Roberts to make. Senate Democrats will be insisting on as much candor as possible, while Republicans hope and expect Roberts will stay out of trouble by invoking a previously unheard of doctrine called the 'Ginsburg precedent.'" The Times continues, "In anticipation of a reticent Roberts, conservatives offered evidence of what the Federalist Society said was the 'vast number' of times Clinton nominee Ruth Bader Ginsburg declined to answer substantive questions during her 1993 confirmation hearing. Liberal groups including the American Constitution Society fired back, documenting all the moments when Ginsburg actually answered questions 'candidly and at length.' … Sen. Charles Schumer, D-NY, gave a speech last week debunking the conservative version of the Ginsburg precedent, warning that if Roberts invokes it, it will sound more like taking the Fifth. On the other side, former Republican Attorneys General Edwin Meese III, Dick Thornburgh and William Barr, among others, wrote to the Judiciary Committee reminding members that Ginsburg said during her hearing that she would give 'no hints, no forecast, no previews' of how she might vote on future cases."

Trivia About Roberts. People (9/12) publishes ten trivia facts about John Roberts, ranging from his taste in music, his handedness (ambidextrous), to anecdotes about his childhood, to how he met his wife and adopted their children. Roberts "has argued 39 cases before the Supreme Court – more than nay of the current justices," and "writes his courtroom speeches in longhand." Roberts "became a first-

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time parent at 45," and he and his wife have "hinted they would like some more." Documents "released to date show [Roberts is] worth $5.3 million."

Bork Backs Roberts For Chief Justice. The Washington Times (9/7, Harper) reports in its "Inside Politics" column, "Robert H. Bork, the Reagan-era Supreme Court nominee rejected by the Senate after his 1987 confirmation hearings devolved into public spectacle, says he wants Judge John G. Roberts Jr. to be confirmed as the next chief justice. Speaking at the National Press Club yesterday, Mr. Bork suggested it's unlikely Supreme Court confirmation hearings ever again will resemble 'any dignified process.'"

Chief Justice Rehnquist Mourned At Supreme Court. NBC Nightly News (9/6, story 17, 2:00, Williams) reported, "There was a rare and dramatic sight today at the US Supreme Court. Chief Justice William Rehnquist, laying in repose: One of the pallbearers was the man nominated to replace him as chief justice." NBC (P. Williams) added, "It was, as far as the experts could remember, unprecedented, a pallbearer helping to carry the casket of a Supreme Court justice he's been nominated to succeed. John Roberts was one of the eight pallbearers, mostly former Rehnquist law clerks, as the chief justice arrived for the final time at the building where he served for more than three decades."

ABC World News Tonight (9/6, story 4, :30, Gibson) reported, "Six justices paid their respects. Among them, a visibly moved Sandra Day O'Connor. President Bush came later in the day. Rehnquist will lie in repose, until his funeral tomorrow afternoon." The CBS Evening News (9/6, story 8, 0:40, Schieffer) reported, "In Washington, the casket of Chief Justice William Rehnquist was carried today to the Supreme Court. Among the pallbearers, was federal judge John Roberts, who was once a law clerk for Rehnquist, and now the nominee to replace him as chief justice. The current justices waited tearfully."

The Washington Post (9/7, A8, Levine, Lane) reports "few gathered in the morning crowd outside the Supreme Court missed the most telling moments: When John G. Roberts Jr., the man nominated to succeed Rehnquist, walked solemnly with the other pallbearers toward the hearse bearing his body, and when an emotional Justice Sandra Day O'Connor, on the eve of her own planned farewell, wiped away tears as the plain white pine coffin passed and entered the building's Great Hall." USA Today (9/7, Biskupic) reports the "moment seemed to symbolize a transition of sorts, and with Roberts facing confirmation hearings in the Senate on Monday it was a reminder of a question that will be part of the backdrop to the hearings: how Roberts' style and brand of conservatism compares with that of the man he would succeed."

USA Today (9/7, Kiely) reports Roberts "was one of eight ex-Rehnquist aides who served as pallbearers. President Bush later paid a solemn visit to the court, a day after nominating the federal appeals court judge to become the nation's 17th chief justice."

USA Today (9/7, Biskupic) reports one "of the most compelling images was the distraught, tear-streaked face of Justice Sandra Day O'Connor. Her public sadness was a reminder of all that Rehnquist and the nation's first female justice had been through together. They met in law school at Stanford University in the late 1940s. The World War II veteran was nearly six years her senior, but they developed a bond that endured through the years. They dated briefly, but then married other college sweethearts. Their families became close as Rehnquist and O'Connor walked remarkably similar paths."

The New York Times (9/7, Greenhouse) reports President Bush "and his wife, Laura, made an unscheduled visit on Tuesday to the Supreme Court to pay their respects to Chief Justice William H. Rehnquist, whose flag-draped coffin lay in the 'great hall' that leads to the courtroom." During their "brief midafternoon visit, the president and first lady walked together to the coffin, and then examined the portrait in the company of Justice Antonin Scalia and Sally Rider, the chief justice's administrative assistant."

The Washington Times (9/7, Mansfield) reports, "Solemn and respectful they stood, single file, and at times the line snaked around the block in the September sunshine: congressional staffers, college kids in baseball caps, tourists, Capitol Hill groundskeepers, many on their lunch break."

Rehnquist's Legacy Noted. USA Today (9/7) says in an editorial, "Chief Justice William Rehnquist was that rarity among public officials: one who worked to make his office less powerful. From his days as a Supreme Court clerk a half-century ago until his death Saturday after 33 years on the court, Rehnquist argued for leaving important decisions to state legislatures or, if necessary, Congress — not the courts. The result was a career that foreshadowed much of today's political debate, and one that helps to focus it."

In a USA Today op-ed (9/7), Tom Mauro says, "It is sad but unsurprising that Chief Justice William Rehnquist's death came at a most inopportune time, full of ironies. Many of the

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ironies of his death were personal. But it also was remarkable that Rehnquist died at a moment when the nation was completely distracted by a crisis that relates significantly to his judicial legacy. The finger-pointing between state and federal officials over the handling of Hurricane Katrina's awful devastation is a debate that Rehnquist would have found familiar."

The New York Times (9/7) says in an editorial that it is "a moment to honor one of the vital but less celebrated hallmarks of Chief Justice Rehnquist's 33-year service on the court: his proud record of defending the independence of the federal judiciary against attacks by politicians. Those attacks, as Chief Justice Rehnquist noted last January in his 19th and final report on the state of the federal courts, have taken a troubling new turn in recent years. Without singling out individual members of Congress by name, he made clear his disapproval of some conservative Republicans, like the House majority leader, Tom DeLay, and others. He disapproved of their moving beyond the normal criticism of judicial decisions to try to bully and intimidate individual judges, strip federal courts of jurisdiction to decide certain constitutional challenges, and otherwise undermine the constitutional separation of powers and checks and balances."

Bush Announces Inquiry Into Government's Response To Katrina. Political fallout from the government's response to Hurricane Katrina was fast and furious yesterday. The President, who met with congressional leaders, announced a review of the Federal response, and said he was sending Vice President Cheney to the affected region to evaluate the damage. As NBC Nightly News (9/6, story 4, 2:05) White House correspondent David Gregory reported, "At the White House, a series of appearances were designed to help the President reassert control over the catastrophe. The message, that hurricane relief is now the top priority for a White House still reeling from criticism it responded too late." Yet even as Bush sought to focus attention on relief and recovery efforts and promised an investigation into what went wrong, congressional Democrats blasted the Administration for the delay in Federal relief. Other members of Congress, such as Sens. Trent Lott and Hillary Clinton, called for taking the Federal Emergency Management Agency out of the Department of Homeland Security.

NBC Nightly News (9/6, story 4, 2:05, Williams) reported Bush "clearly seemed to be trying to get out ahead of this crisis." NBC (Gregory) added, "Stung by blistering criticism of the government's response to Katrina, the President for the first time today promised accountability." Meanwhile, "top Democrats" are "calling for an immediate, independent, 9/11-commission style investigation as troubling questions are raised in Washington about the government's ability to secure Americans after another major storm or worse, a massive terror attack."

ABC World News Tonight (9/6, story 3, 2:35, Moran) reported the White House "was both the hub of a lot of Federal activity aimed at helping people affected by Katrina and a battleground over who should be held accountable for the catastrophic failure to respond last week." Bush told the Cabinet "recovery is their top priority" and he "announced he was sending Vice President Cheney to the Gulf Coast on Thursday to assess the progress on the relief efforts." The President "promised a thorough review of the government's failures," but "all day today the White House refused to discuss holding anyone accountable." On Capitol Hill, "there was scorn." House Minority Leader Nancy Pelosi: "The President said he's going to lead the investigation into what went wrong. He need to look only in the mirror." Moran: "But others argue that Congress itself is to blame, for downgrading the Federal Emergency Management Agency after 9/11, placing it under the control of the Homeland Security secretary."

The CBS Evening News (9/6, lead story, 1:30, Schieffer) led its broadcast by contrasting statements made by President Bush with those of Jefferson Parish executive Aaron Broussard, who said, "Bureaucracy has murdered people in the greater New Orleans area and bureaucracy needs to stand trial before Congress today." Schieffer: "Back in Washington, the President said there will be time enough to pass judgment later."

CNN's The Situation Room (9/6, Blitzer) reported, "The White House knows what happens when Congress comes back to town and that is: The criticism that already has been going on gets louder and louder, closer and closer to the White House. So, it was obvious that the President wanted to try to head that off."

Much of the print coverage this morning suggests the White House's efforts to regain its political "footing" have so far been unsuccessful. The AP (9/7, Loven) reports, "The Bush White House is known for its ability to remain in control of its message and image, sliding out of crises with barely a

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scratch. Not this time." Despite "day after day of appearances by…Bush aimed at undoing the political damage from a poor response to Hurricane Katrina, the White House has not been able to regain its footing, already shaken by the war in Iraq and a death toll exceeding 1,880." The administration yesterday "struggled to deflect calls for an accounting of who was responsible for a hurricane response that even Bush acknowledged was inadequate." White House counselor Dan Bartlett "said the president and his aides are unconcerned for now about the unrelenting criticism. 'Emotions are running high. People are tired,' Bartlett said. 'If we focused more of our attention on decisions that have already been made, rather than on those before us, there's potential for making far greater mistakes. ... We really don't have time to play the political game right now.'"

Reuters (9/7, Holland) adds "partisan tempers flared" yesterday, and "much anger from Democrats and Republicans alike has been directed at Bush for a slow federal response to a catastrophe that may have killed thousands in New Orleans and along the Gulf coast." Along the same lines, the Washington Post (9/7, A19, Balz) runs a story titled, "For Bush, A Deepening Divide; Katrina Crisis Brings No Repeat of 9/11 Bipartisanship." The Post says, "The starkly different verdicts on Bush's stewardship of the two biggest crises of his presidency underscore the deepening polarization of the electorate that has occurred on his watch." This "gaping divide has left the president with no reservoir of good will among his political opponents at a critical moment of national need and has touched off a fresh debate about whether he could have done anything to prevent it." The Post adds, "To his critics, Bush is now reaping what he has sown. Their case against him goes as follows: Facing a divided nation, the president has eschewed unity in both his governing strategy and his political blueprint."

USA Today (9/7, Benedetto) reports Bush "met with his Cabinet, education officials, congressional leaders and the heads of charities involved in the recovery. Afterward, he said the relief effort is improving, more supplies are en route, schooling is being arranged for thousands of displaced children and that he will make sure the recovery continues."

The Los Angeles Times (9/7, Gold, Hart) says Bush "sought to short-circuit congressional criticism by declaring that he will investigate the federal relief effort. … 'What I intend to do is to lead an investigation to find out what went right and what went wrong,' he said."

The New York Times (9/7, Kornblut, Hulse) adds Bush is acting under "relentless political fire," and that he "met with leaders from both parties, capping a day of constant political attention to a crisis that has exposed fault lines within the Republican Party and threatens to overtake the entire Congressional agenda."

The Washington Post (9/7, A18, Weisman, Fletcher) says the President was "stung by criticism" as he "vowed to 'find out what went right and what went wrong.'" Meanwhile, Defense Secretary Donald Rumsfeld "said that the military already has begun a 'lessons-learned' assessment of its coordination with state and local governments. Nine Cabinet members briefed Senate and House leaders last night on the federal response, and key senators pushed for changes that would allow Third World relief efforts to be emulated in the United States."

The Washington Times (9/7, Curl, Scarborough) reports, "Republicans tried to limit the political damage from the botched federal response to Hurricane Katrina – with…Bush, members of Congress and military leaders yesterday all promising to look into the failures." Republicans "said they have received the message that there is frustration over the federal response." But "even as Republicans promised investigations, they made it clear that the first failure was at the state and local levels, where governments are charged with preparation and the first response to disasters."

Whether Bush bounces back from the current crisis, USA Today (9/7, Page) says Katrina has already done much damage to his ambitious domestic agenda, writing, "His plan to overhaul Social Security? Forget it. Repeal the estate tax? Postponed. Make the 2001 tax cuts permanent? Tougher to finance. Stay the course in Iraq? Questions about the deployment of U.S. resources and National Guard troops for the war have been sharpened." The New York Times (9/7, Andrews) runs a similar story under the headline "Hurricane's Toll Is Likely To Reshape Bush's Economic Agenda." The Times reports, "Katrina is about to blow a hole in the federal budget, and it is already jeopardizing President Bush's agenda for cutting taxes and reducing the deficit."

Bush Resists Calls For FEMA Chief's Ouster. The New York Times (9/7, Kornblut, Hulse) reports Bush "resisted renewed calls to fire Michael D. Brown, the director of FEMA, who became a lightning rod for attacks last week when he said he was unaware of a crisis at the New Orleans convention center, news of which had been televised for days." Instead, Mr. Bush accused critics of playing the 'blame

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game' and said he would remain focused on the immediate crisis as evacuees fanned out across the country."

On the CBS Evening News (9/6, lead story, 1:30, Schieffer), Bush was shown saying, "I think one of the things that people want us to do here is to play a blame game. We've got to solve problems. We're problem solvers. There will be ample time for people to find out what went right and what went wrong."

Bush Meets With Faith-Based Charities. The Washington Times (9/7, Curl) says "Bush met in the White House with faith-based and community groups, including representatives from the African Methodist Episcopal Church, the Southern Baptist Convention, the Salvation Army, the American Red Cross, the United Way of America, the YMCA, Catholic Charities USA and several others."

Bush Objects To Term "Refugees." The Los Angeles Times (9/7, Gerstenzang, Curtius) notes that last Monday, "during his second trip to the region in a week, Bush heard one of the storm's victims complain about the use of the term 'refugees.' At the end of the meeting in the White House Roosevelt Room, Bush addressed that issue. 'Let me tell you my attitude and the attitude of people around this table: The people we're talking about are not refugees. They are Americans, and they need the help and love and compassion of our fellow citizens.'"

Poll Finds Public Not Blaming Bush Or Federal Government. USA Today (9/7, Welch) reports on a poll of 609 people Tuesday that "asked who was to blame the most for problems after the hurricane. Twenty-five percent said state and local officials; 18% said the federal government, 13% blamed Bush. But the majority, 38%, said no one is to blame."

Morris Says Bush Will Obtain Political Dividends From Katrina Relief. Dick Morris writes in his column for The Hill (9/7), "Make no mistake about it: Every day for the next year, voters will see nonstop scenes of federal relief, rebuilding, renovation and reconstruction along with the empathy, sympathy and compassion these efforts imply in the heart of George W. Bush. He may have had a terrible first week, but he will rebound big time in the months to come." Morris adds that "in a year, Katrina and the relief and rebuilding efforts that are about to follow will be seen as having imparted a new and crucial momentum to an administration that was obviously increasingly running out of ideas, out of steam, and -- like its nation -- out of gas." Katrina "has the capacity to shape the second Bush term in the same way Sept. 11 shaped his first term."

LATimes Says Katrina Will "Haunt" Bush Presidency. In an editorial, the Los Angeles Times (9/7) is critical of Bush's response to Hurricane Katrina, stating that "the overriding fact on the ground -- both in Washington and along the Gulf -- is this: Too many people died needlessly because their governments were too concerned about the threat of terrorism to pay attention to the threat posed by Mother Nature." The Times argues that the "human tragedy [resulting from the crisis] will haunt the remainder of the Bush presidency."

Bush Criticized. Columnist David Ignatius writes in the Washington Post (9/7, A25), "There were two levee breaks last week: The natural disaster of Katrina ravaged New Orleans and left behind thousands of victims, but there was also a political catastrophe that breached the Bush administration's containment walls and exposed fundamental weaknesses in how this White House makes decisions." Ignatius adds, "The political damage may be harder to repair than the flooded infrastructure. The management flaws that have been so obvious over the past week go to the heart of how President Bush runs the government."

In his Washington Post column (9/7, A25), Harold Meyerson writes, "The world looks on in stunned amazement, unable to understand how a once great nation has grown so indifferent not just to its poor and its blacks but even to the most rudimentary self-preservation. Some of it is institutional racism," but "the primary culprit is the economic libertarianism that the president still espouses whenever he sells his Social Security snake oil. It's that libertarianism, more than anything else, that has transformed a great city into an immense morgue."

Thomas L. Friedman writes in the New York Times (9/7), "An administration whose tax policy has been dominated by the toweringly selfish Grover Norquist…doesn't have the instincts for this moment." Norquist "is the only person about whom I would say this: I hope he owns property around the New Orleans levee that was never properly finished because of a lack of tax dollars. I hope his basement got flooded. And I hope that he was busy drowning government in his bathtub when the levee broke and that he had to wait for a US Army helicopter to get out of town."

Maureen Dowd says in her New York Times (column 9/7, Dowd), "Maybe Mr. Cheney is going down to New Orleans to hunt looters. Or to make sure that Halliburton's

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lucrative contract to rebuild the city is watertight. Or maybe, since former Senator John Breaux of Louisiana described the shattered parish as 'Baghdad under water,' the vice president plans to take his pal Ahmad Chalabi along for a consultation on destroying minority rights."

The Washington Post's Jim Hoagland (9/7) writes that Katrina "left its marks on President Bush's ambitious foreign policy agenda as well. Overcoming these setbacks will require a demonstration that the United States under Bush is not an irrevocably weakened and divided nation about to turn inward on its own problems. … European embassies in Washington are already reporting back to their capitals on how the disaster may further impair Bush's effectiveness as he slips toward lame-duck status."

Bush To Ask Congress For $40 Billion In Hurricane Relief. ABC World News Tonight (9/6, lead story, 3:50, Gibson) reported, "President Bush said today he wants another $40 billion -- $40 billion -- to cover the next phase of recovery. And some in Congress say it's going to cost $150 billion before it is all over." NBC Nightly News (9/6, lead story,4:05, Williams) added "that is just one step the President is now taking after the unrelenting criticism of how the Bush Administration and for that matter state and local government responded to this crisis."

CNN's The Situation Room (9/6, Velshi) reported, "Senate Democratic leader Harry Reid has suggested, after meeting with the President, that there will be a bill, a request emerging for a bill to authorize $40 to $50 billion in emergency hurricane aid. … This substantially ups the estimate of what this hurricane is going to cost. And some of these are direct costs, obviously. We know what the indirect costs are in energy, because we have seen gasoline go to above $3" per gallon. But "there are a whole set of costs beyond that that are going to affect those people hurt by the hurricane and spread across the country. We are now looking at estimates well in excess of $100 billion to the economy, enough to actually start taking the annual growth rate of the economy down."

The Wall Street Journal (9/7, McKinnon, Rogers, Searcey) adds "that will be only a down payment on a federal tab that all now agree is going to reach more eye-popping levels." Reid "was the first to go public, predicting a government commitment of $150 billion. Top Republicans bridled initially, saying any such estimates at this time translated into playing 'political games.'" But GOP Sen. Judd Gregg "subsequently used an even higher $200 billion estimate, and defended Mr. Reid's figure." The Journal adds, "Some of the ideas being discussed on Capitol Hill involved relief far beyond the disaster area. For example, Sen. Charles Grassley, the Iowa Republican, said he wants loan relief for farmers whose crops might not reach market on schedule due to disruption at the New Orleans port. Sen. Ted Stevens, the Alaska Republican, said he favors tax relief for airlines hit by higher fuel costs."

Black Activists Seek Set Asides As Part Of Rebuilding Effort. USA Today (9/7, Leinwand, Eversley) reports, "After accusations that many New Orleans hurricane victims were not evacuated or rescued because they were black and poor, civil rights advocates Tuesday shifted their focus to making sure poor blacks aren't left out of the city's rebuilding. Jesse Jackson, at the Louisiana state emergency center in Baton Rouge, said Hurricane Katrina is an opportunity for the federal government to lift a community out of poverty. New Orleans' impoverished black residents 'should be first in line to get the jobs to clean up their own neighborhoods,' he said. Rep. Mel Watt, D-N.C., head of the Congressional Black Caucus, said the caucus would support any effort to make sure New Orleans residents were part of rebuilding."

Federal Relief Effort Now In Full Swing. The rescue and relief effort in New Orleans has made significant progress since the aftermath of Katrina reached crisis proportions last week. Aid is now readily available, and the Army Corps of Engineers has begun the long process of pumping out the water that is inundating the city. However, the relief effort was still characterized as belated, and as some diehard residents refuse to leave the city, public health officials have grown increasingly worried over the possibility of water-born disease.

In a typical report, the CBS Evening News (9/6, story 4, 3:55, Roberts) reported, "There's a lot of things that are working right in terms of the relief efforts. The problem is that it all got here too late. For example when the National Guard set up a feeding station outside the convention center, the next day people were gone, they had been starving for four days. The USS Iwo Jima is here now, with its big hospital, but it's empty because there's nobody left to treat. They're still trying to get all of those people out of the floodwaters, but it's like they took a canon here and are firing it down the street and there's nothing to hit."

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NBC Nightly News (9/6, lead story,4:05, Williams) reported there are "more Blackhawk helicopters in the air, more ships docked in the harbor, more of a military district, really, than a city. US Army regulars and National Guard have indeed taken up positions, the streets, for the most part are safe, but they are also desolate. New Orleans has been through so much in these eight days and tonight, there are predictions that might have been the easy part for this metropolitan area. While the water is on its way out and some pumps are running, today, an estimated 60% of this city was still under water. Officially, there are now 60,000 troops here, according to the Department of Defense. They have restored order, they've brought food and water, all three of those elements that were so sorely missing last week."

Mayor Authorizes Forced Evacuation Of New Orleans. The AP (9/7, Burdeau) reports New Orleans Mayor Ray Nagin "authorized law enforcement officers and the US military to force the evacuation of all residents who refuse to heed orders to leave the dark, dangerous city. … While acknowledging the emergency declaration, police Capt. Marlon Defillo said late Tuesday that forced removal of citizens had not yet begun. He said that officers who were visiting homes were still reminding people that police may not be able to rescue them if they stay."

Many New Orleans Residents Refuse To Evacuate. ABC World News Tonight (9/6, story 10, 2:20, Woodruff) reported, "We met a lot of people over this past week that said they'd rather endure hell or high water, rather than leave their homes." NBC Nightly News (9/6, story 2, 3:35, Williams) reported, "With conditions the way they are, and we're talking about the toxic water, lack of food and water and electricity, the fact that the city is now a waterlogged ghost town, it is hard to believe, having said that, that anyone would choose to stay here. But as you know, we keep on finding more and more stories of the diehards here, survivors, who won't leave." NBC (Teague) added, "Rescuers tell us there are hundreds of people still in their homes here, but they won't show themselves because they are afraid of being rescued."

New Orleans Levee Breaches Repaired, Some Pumps Operating. Bloomberg (9/7) reports, "Engineers repaired a ruptured levee in New Orleans and began pumping water from the flooded city. … Engineers are pumping water from the flooded areas of New Orleans back into Lake Pontchartrain after patching the levee at the city's 17th Street Canal yesterday, said Jason Binet, a civil engineer with the U.S. Army Corps of Engineers. Today, the repaired breach will be fortified with layers of stone and asphalt, Binet said. About 60 percent of the city is still under water, Corps of Engineers officials said today at a press conference. They estimate it will take 24 to 80 days to drain the city." USA Today (9/7, Eisler) and the New York Times (9/7, Longman, Chan), among other sources, run similar stories this morning.

Tenor Of Network TV Coverage Of Katrina Changing. The tenor of the network coverage of Katrina's aftermath has changed significantly this week. There is a greater focus on refugees dislocated by the disaster and the political "blame game" over the inadequacies of the responses by Federal, state, and local governments. There is a corresponding decrease in air time given to scenes of human pathos, and such stories tend to focus more on less concrete issues, such as the health threat posed by the floodwater in New Orleans. In addition, the networks paid little attention to the situation outside of New Orleans, with only two stories on recovery efforts in Biloxi, Mississippi.

On ABC, roughly one-third of the newscast was devoted to the political fallout from Katrina, while a second third was devoted to scenes of human suffering, devastation, and health threats, and slightly more time was spent covering the plight of the refugees. On CBS, about 25% of the hurricane zone coverage was spent on refugees, 50% was spent on human suffering, and another 25% was devoted to the political situation. On NBC, which ran an hour-long newscast last night, about 15% was spent on the political aspects, while about 40% each was devoted to human suffering and refugees.

Meanwhile, local TV from the Gulf Coast area were split, with half of the stations in the area leading their broadcasts with stories assessing the physical damage the storm has caused, and the rest focusing on the political issues that have emerged in Katrina's wake. Typical of coverage assessing Katrina's destruction was a report from WIAT-TV Birmingham (9/6, 4:58 pm) that "the full extent of the horrors left behind by Hurricane Katrina sits beneath the water that fills the streets of New Orleans. While the water is being pumped out the mayor says it'll take at least three weeks before all of its removed."

WAFF-TV Huntsville (9/6, 4:59 pm) added that de-watering New Orleans is "expected to take two to three months. Thousands have joined the search for the victims and the survivors."

While a majority of stations focusing on the damage Katrina has caused continued to lead with reports from New

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Orleans, some led with stories from Mississippi or with local reports. WCFT-TV Birmingham (9/6 4:58 pm) reported, "Plenty of Alabamians are on the Gulf-Coast tonight as they begin a gruesome recovery-effort. They're digging through tons of debris left behind by Katrina. That rubble could…hide the remains of people who didn't survive." Meanwhile, WAKA-TV Montgomery (9/6, 5:59 pm) reported, "Hurricane Katrina remains evident in Biloxi and Gulfport. More than a week after Katrina hit the Gulf Coast, slabs of wood and piles of rubble are all that are left of some homes."

Stations that led with Katrina's political aftermath focused on investigations into the Federal government's response. Typical of coverage was a report from WPMI-TV Mobile (9/6, 5:00 pm) that, "Both President Bush and Congress are pledging separate investigations into the federal response after Katrina." The President "says he himself will lead an investigation into what happened in the aftermath of Katrina." WSFA-TV Montgomery (9/6, 5:01 pm) noted that "Congress plans to investigate what it calls the government's 'woefully inadequate' response to Katrina. The Governmental Affairs Committee will get a closed briefing tomorrow from FEMA. WVTM-TV Birmingham (9/6, 5:58 pm) added that the President is "also sending Vice President Dick Cheney to the Gulf Coast to find out if the government is doing all it can."

A minority of stations also picked up on House Minority Leader Nancy Pelosi's criticism of FEMA's Brown, noting, as on WBRC-TV Birmingham (9/6, 9:46 pm) that Pelosi "emerged from a White House meeting with the President calling for heads to role." Pelosi was shown saying, "If Michael Brown brings nothing to the table, then he should not continue in that job, unless we want a continuation of the shortcomings that we have had in the response."

A majority of local TV stations nationwide spent an extensive amount of time dealing with the political aspects of the story. For example, WWOR-TV New York (9/6, 10:00 p.m.) reported, "President Bush said he will lead an investigation into finding out what went wrong." The station added, "There's more anger and finger pointing tonight over Hurricane Katrina, and most are pointed straight at the disaster agencies." WFLA-TV Tampa (9/6, 5:02 p.m.) added, "Members of Congress are promising a Federal investigation into the response for help following Hurricane Katrina. President Bush said he will personally head up this investigation."

Fewer stations, meanwhile, chose to focus on continued efforts help speed the recovery process. KDAF-TV Dallas (9/6, 9:33 p.m.) reported, "President Bush is asking for another $40 billion in Hurricane Katrina relief. The President met with lawmakers and his Cabinet today to discuss recovery and rebuilding. During the meeting, the President outlined what needed to be done in the affected areas, saying bureaucracy should be pushed aside to speed up the recovery." Meanwhile, KHOU-TV Houston (9/6, 12:08 p.m.) aired a positive report, noting that "there is a bit of good news today. Half of the Gulf Coast refineries damaged by Hurricane Katrina plan to restart production this week. Eight major refineries that produce gasoline, diesel, jet fuel and heating oil were knocked out of commission."

More Tropical Storms May Be On Way. The CBS Evening News (9/6, story 11, 0:25, Roberts) reported, "Even as the country is dealing with the Katrina disaster, the busiest part of the hurricane season may be just starting. There are three storms now in the Atlantic. Ophelia, a tropical depression, is expected to be a tropical storm when it reaches Florida tomorrow with heavy rain."

NBC Nightly News (9/6, story 5, 0:25, Williams) reported, "We know the last thing this area needs is another hurricane. All eyes are on the Atlantic now that we are at the height of hurricane season. The largest concern out there is something called Tropical Depression 16. It is off the Florida coast, it is likely to strengthen into something called Tropical Storm Ophelia. There are two other storms out there, Nate and Maria, but they, luckily, are not threatening land."

FEMA Director Brown Said To Have "Big Target On His Back." FEMA Director Michael Brown is the focus of much of the criticism over the Federal Government's response to the aftermath of Hurricane Katrina. On the CBS Evening News (9/6, story 4, 3:55), Gloria Borger said, "I think FEMA Director Michael Brown has a big target on his back. There are lots of Democrats today calling for his removal. And I think they're going to hear a lot more of that. Republicans were kind of holding back a little, but they're not too fond of him either these days."

NBC Nightly News (9/6, story 4, 2:05, Gregory) reported, "Top Democrats are calling for the firing of FEMA Director Michael Brown and Administration sources say questions are being raised about whether Homeland Security Secretary Michael Chertoff should continue to oversee the government's Katrina response."

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Meanwhile, ABC World News Tonight (9/6, story 6, :30, Gibson) reported, "A correction on a report last night about FEMA Director Michael Brown. We and other news organizations reported that Brown was college roommates with a man who recommended him for the job, former FEMA Director Joe Allbaugh. Allbaugh told us that was not correct. They were friends, but not roommates. Although Allbaugh said he is a registered lobbyist for Halliburton on disaster relief, he has not lobbied FEMA directly for Halliburton contracts."

USA Today (9/7, Lawrence) reports that in his "online résumé, Michael Brown touts his experience dealing with hurricanes and wildfires. He talks of being a state legislative committee director and an assistant city manager. He doesn't mention the decade he spent as chief rules enforcer for the Arabian Horse Association." The horse job, "which he left in 2000, is now fodder for critics who say Brown" has "botched the Katrina relief operation. Those critics include Republicans, Democrats and newspapers." President Bush "appointed a FEMA director who had 'absolutely no credentials' for the job, House Minority Leader Nancy Pelosi, D-Calif., said Tuesday." Brown says he has "led the federal government's response to more than 160 disasters and emergencies."

The New York Times (9/7, Shane) reports Brown "has faced two simultaneous challenges - coordinating 14 federal agencies with state and local counterparts under grueling conditions, and fending off criticism from those who say that FEMA has failed and put the blame squarely on him." By "all accounts, it was not experience in managing disasters that brought Mr. Brown, 50, a lawyer from Oklahoma, to FEMA in 2001 as general counsel. It was his 30-year friendship with" Allbaugh. But when "pressed yet again to give his qualifications at a news conference on Monday, Mr. Brown gave a practiced answer, running through his learning curve as general counsel, then deputy director and finally, since 2003, director of FEMA. He has overseen the response to 164 presidentially declared disasters, he said, including California wildfires, a rash of tornadoes in the Midwest several years ago and the four Florida hurricanes last year." Brown's "friends say they have cringed watching the criticism of a man they describe as compassionate and dedicated to difficult work."

On CNN's Paula Zahn Now (9/6, 8:39 pm), Mississippi Rep. Bennie Thompson (D) said, "FEMA is clearly is flying by the seat of their pants. What we need is a professional in there trained to run disaster preparedness operations who can make quick decisions, cut through the red tape, and get the job done."

FEMA Sends Evacuees To Wrong Charleston. CNN.com (9/7) reports, "A South Carolina health official said his colleagues scrambled Tuesday when FEMA gave only a half-hour notice to prepare for the arrival of a plane carrying as many as 180 evacuees to Charleston. But the plane, instead, landed in Charleston, West Virginia, 400 miles away. It was not known whether arrangements have been made to care for the evacuees or transport them to the correct destination."

ABC World News Tonight (9/6, lead story, 3:50, Avila) reported, "There are still communication problems between the states affected and FEMA. Today, in Charleston, South Carolina, ambulances were standing by. Shelter arranged for evacuees who never arrived. Why? The plane went to the wrong Charleston. It went to the one in West Virginia. In Wisconsin, the Governor says he was told to expect hundreds of evacuees. None has shown up."

Chertoff Tasks Allen With "Bailing Out" Brown. The Washington Post (9/7, A23, White) reports that with Brown "taking harsh criticism for the slow federal response to Hurricane Katrina, the secretary of homeland security this week assigned a top Coast Guard official to help bail him out." Vice Adm. Thad W. Allen, the Coast Guard's chief of staff, "was assigned on Monday to be Brown's deputy and to take over operational control of the search-and-rescue and recovery efforts along the Gulf Coast. The unprecedented task of coordinating the massive effort was handed off to a leader and expert who was described by colleagues as unflappable, engaging and intensely organized."

Brown Waited Five Hours To Request Personnel From Chertoff. The AP (9/6, Bridis), in a widely distributed article, reported that internal government documents show that Brown asked Homeland Security Secretary Michael Chertoff to send Homeland Security workers into the Gulf Coast region "roughly five hours after Katrina made landfall on Aug. 29." The Director's "memo to Chertoff described Katrina as 'this near catastrophic event' but otherwise lacked any urgent language. The memo politely ended, 'Thank you for your consideration in helping us to meet our responsibilities.'"

Private Relief Efforts Taking Up Slack For FEMA In Mississippi. The CBS Evening News (9/6, story 3, 2:15, Schieffer) reported, "In a major disaster," FEMA "is supposed to move quickly to coordinate aid for victims. But for

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countless survivors of Hurricane Katrina, that never happened. So private citizens are taking up the slack as best they can." CBS (Bowers) added, "It took eight days for FEMA to open its first Mississippi-based disaster response center, here in ocean beach." But "what nobody expected was how quickly and completely everyday people would fill the gap. Big church groups are cooking up three meals a day for thousands of hungry souls. And all across the Gulf Coast good Samaritans are on the ground are getting places the government has yet to find." FEMA "told us today it is no where near ready to start handing out checks. In fact, it can't even get its disaster center up and running in this hard hit city until sometime next week."

Blanco Brings Former FEMA Director Witt On Board. The Hill (9/7, Kaplan) reports it "didn't take long for James Lee Witt, the former head of the Federal Emergency Management Agency (FEMA), to throw his weight around in hurricane-ravaged Louisiana." Witt "has been hired by Louisiana Gov. Kathleen Blanco (D) to help coordinate state and federal responses to the natural disaster." Blanco "introduced Witt to President Bush on Monday, according to a source who has spoken with Witt. Bush promised Witt whatever support he needed and said that Mike Brown, FEMA's embattled director, is his man in charge."

Witt Says FEMA Must Retool Response Plan. In a USA Today op-ed (9/7), Witt says, "I witnessed the incredible abilities and dedication of our nation's emergency response personnel, of which we have the best trained and best equipped possible. Despite their skills, ability and technology, we must do more to be better prepared and protected in the case of such a catastrophe. Our financial recovery mechanisms, which rely primarily on the private insurance market, federal assistance in the form of low-interest loans and a handful of state catastrophe funds, need to be retooled so that they are capable of meeting the immeasurable costs of a catastrophe."

WTimes Says Brown, FEMA Performance Dysfunctional. The Washington Times (9/7) says in an editorial that Brown "confirmed the dysfunctional performance of his organization throughout the first three or four days following Hurricane Katrina's assault on New Orleans. In an interview on CNN's 'Paula Zahn Now,' three-and-a-half days after Katrina made landfall, Mr. Brown insisted that the federal government in general and FEMA in particular had no idea until that very day that tens of thousands of New Orleans residents and tourists had assembled at the city's convention center."

NYTimes Says Brown Should Be Replaced. The New York Times (9/7) says in an editorial, "It's obvious…that Michael Brown has met the expectations of those who warned that he would be a terrible director of the Federal Emergency Management Agency. This is no time to be engaging in a wholesale change of leadership, but in Mr. Brown's case there seems to be precious little leadership to lose. He should be replaced with someone who can do the huge job that remains to be done. But the questions go way beyond Mr. Brown - starting with why federal officials ignored predictions of a disastrous flood in New Orleans - and the answers can come only from an independent commission."

WPost Says DC-Area Should Not Count On FEMA In Disaster. The Washington Post (9/7, A24) says in an editorial, "The District's mission to the storm survivors encountered widespread confusion, made worse by governmental red tape and indecision. Surveying the federal response to Hurricane Katrina and observing that the Washington region itself could be subject to a disaster or terrorist attack, Montgomery County Executive Douglas M. Duncan (D) said yesterday on WTOP Radio's 'Ask the Executive' program that area officials "need to know what we can count on and not count on from FEMA." That observation is aptly borne out by the District's experience in New Orleans and other flood-ravaged communities."

Congress Said To Share Blame For FEMA Problems. Norman Ornstein writes in his column for Roll Call this morning (9/7), "When the Department of Homeland Security bill came to Congress, it ended up facing one and only one serious area of controversy and deliberation: the question of sweeping civil service changes to eliminate many of the regular protections for the 70,000 DHS employees. That issue became a political tool — a major campaign point in the 2002 elections — even as the larger and important questions of what kind of department, and how to fulfill all the real and serious government functions, was ignored. The result was, as we now see in embarrassing fashion, a downgrading of FEMA and confusion about its mission." Much "of the failure to implement the changes needed over the past four years can be laid at the feet of Congress and its leaders."

Blanco Indecision Said To Have Delayed Federal Relief Efforts. The Washington Times (9/7,

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A1, Lakely) reports that while Louisiana Gov. Kathleen Blanco "has been critical of the Bush administration's response to the disastrous aftermath of Hurricane Katrina, but, according to the mayor of New Orleans, her indecision when President Bush offered help delayed rescue efforts and cost lives." New Orleans Mayor Ray Nagin told CNN "he met with Mr. Bush and Mrs. Blanco on Air Force One on Friday and implored the two to 'get in sync.' 'If you don't get in sync, more people are going to die,' Mr. Nagin said." The Times adds Bush "met privately first with Mrs. Blanco, then called Mr. Nagin in for a meeting." Nagin said, "'He said, 'Mr. Mayor, I offered two options to the governor.' I was ready to move. The governor said she needed 24 hours to make a decision." The Times adds that "decision was a request by Mr. Bush to allow the federal government to take over the evacuation of New Orleans, which had been marked by chaos for days. The Democratic governor, who has clashed behind the scenes with the Bush administration since the storm hit, refused."

ABC World News Tonight (9/6, story 5, 2:35, Harris) reported, "FEMA says Gov. Kathleen Blanco failed to ask for help in a timely manner. Shortly before Katrina hit, the Governor sent the President requests for food and provisions, but made no specific request for help with evacuations. One aide to the governor told us today she thought city officials were taking care of the evacuation. Nonetheless, the Federal Government might have been more pro-active." Jerry Hauer, former FEMA official: "If the city and the state are stumbling, or in over their head, then it's FEMA's responsibility to show some leadership."

The Financial Times (9/7, Alden, Swann, Dinmore, Chaffin) says Gov. Blanco "insisted on CNN on Tuesday that 'I asked for everything that we had available from the federal government...and the federal effort was just a little slow in coming. I can't understand why.'" But "at the same time she said that co-operation had improved dramatically in recent days. 'We are parties in this effort. We are a team,' she told a news conference in Baton Rouge, the state capital."

New Orleans Officials Failed To Implement Own Disaster Relief Plan. ABC World News Tonight (9/6, story 5, 2:35, Woodruff) reported, "In New Orleans, both those in peril and those in power have pointed the finger squarely at the Federal Government." But "experts say when natural disasters hit, it is the primary responsibility of state and local governments, not the Federal Government, to respond. New Orleans' own comprehensive emergency plan raises the specter of 'having large numbers of people stranded.' And promises the 'city will utilize all available resources to quickly and safely evacuate threatened areas.'" When Katrina hit, "however, instead of being evacuated, people were told to go to the Superdome or the convention center, where no one provided sufficient sustenance or security." Bob Williams "dealt with emergency response issues after the eruption of Mount St. Helens in Washington state." Bob Williams: "If the plan had been implemented, particularly the early evacuation plan, thousands of lives would have been saved."

NBC Nightly News (9/6, story 6, 2:35, Myers) reported, "Some 200 New Orleans school buses sit underwater in a parking lot, unused, enough to have evacuated at least 13,000 people. Why weren't those buses sent street by street to pick up people before the storm?" A "draft emergency plan obtained by NBC News calls for 400 buses to be prepared to evacuate victims, yet some 200 buses were left abandoned in Katrina's path."

Congress To Probe Federal Response To Katrina, With Focus On FEMA. The CBS Evening News (9/6, story 4, 3:55, Borger) reported, "Official Washington began its angry and accusatory finger pointing." Sen. Patrick Leahy: "Where in God's name were the people who are supposed to give water? Support? People were dying there." Congress "wants answers, and today opened its own investigation." GOP Sen. Susan Collins was shown saying, "If our system did such a poor job, when there was no enemy, how would the Federal, state and local governments have coped with a terrorist attack?"

Reuters (9/7) says Collins "said her Senate Homeland Security Committee would begin its investigation this week into the relief efforts." FEMA "has been a focus of much of the criticism, which has also targeted President George W. Bush." USA Today (9/7, Stone) adds others "called for a 9/11-style commission to investigate failures in responding to the disaster. 'It's hard to untangle all of the causes,' said Sen. Hillary Rodham Clinton, D-N.Y., who will introduce a bill that would create such a commission." She "said cutbacks in funding and personnel at the Federal Emergency Management Agency, as well as unclear lines of command that appear to have bogged down the response, 'have to be thoroughly investigated.'" Clinton also "introduced a bill to separate FEMA, which she and others say bungled the initial response to Katrina, from the Department of Homeland Security." USA Today adds that "some Republicans agreed. Sen. Trent Lott, R-Miss., who lost his home in Pascagoula,

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said it was "a mistake" to take away FEMA's independence. But he warned against finger-pointing while hundreds of thousands of people are homeless."

The Dallas Morning News (9/7, Gillman, Dodge) reports that yesterday, "lawmakers couldn't find enough ways to express their disgust for the planning and response to the disaster." It is "a frenzy President Bush hasn't faced from a Congress controlled for most of his tenure by allies. Through terrorism, war and the occasional scandal, they have protected his administration from the sort of pointed grilling lawmakers are planning over the coming days and weeks. … This time, GOP lawmakers have rushed to the microphones."

The Washington Post (9/7, A19) reports in its "Washington Sketch" column, "As horrendous as the death and dislocation have been in and around New Orleans, the government's 'woefully inadequate' response there, as Collins put it, has left Americans far from the disaster area to assume that, if a terrorist's nuclear bomb goes off on K Street or smallpox is released in Times Square, it will be every man for himself. " On the Hill, "outraged lawmakers launched a bipartisan investigation and demanded to know what good had come from all that homeland security spending. At the White House, the president was still operating in the conditional. 'If things went wrong, we'll correct them,' he said. 'And when things went right, we'll duplicate them.'" Bush, adds the Post, "was in no hurry to probe. … The mood was more urgent on the Hill, where a bipartisan group of lawmakers in the House was preparing legislation to separate FEMA from the Department of Homeland Security."

The Hill (9/7, Kaplan, O'Connor, Tiron) adds "the House and Senate government-oversight committees will hold hearings into the widespread criticism of the federal response to Hurricane Katrina. The hearings are just part of Republicans' response to the public-relations fallout over the administration's admitted mishandling of the devastation in the immediate aftermath of the hurricane." Even though "several GOP leaders pleaded for increased civility, Congress plunged immediately into bitter partisanship as lawmakers returned to work yesterday, with the two parties arguing over blame for the death and destruction left in Hurricane Katrina's wake." Under the headline "Parties Divided Over Katrina Response," Roll Call (9/7, Pierce, Pershing, Billings) adds "the Democrats' proposals and demands for "immediate" Congressional action were received somewhat skeptically by Republicans."

Collins, Lieberman "Stop Short" Of Calling For Resignations. PBS's Newshour With Jim Lehrer (9/6, 7:15 pm) reported that in announcing that the Governmental Affairs Committee would hold investigative hearings into the response to Hurricane Katrina, Sens. Collins and Joseph Lieberman, the ranking member, "stopped short" of calling for the dismissal of Michael Chertoff or Michael Brown. Lieberman said, "Obviously what Michael Chertoff and Michael Brown did in this circumstance would be of great interest in our inquiry, but we want to go at this in a way that's credible and legitimate and open minded. Therefore, I think the last thing we'd want to do right now is to reach judgments about who should stay and who should go."

Lawmakers Chide Chertoff, Other Cabinet Members Over Katrina Response. CNN's NewsNight With Aaron Brown (9/6, 10:00 pm) reported, "At a meeting on Capitol Hill tonight, members of Congress took cabinet officials to task," concerning government response to Hurricane Katrina. The meeting was reported to have been rough not only on Michael Chertoff, but also on a slew of Bush cabinet secretaries who "started out by giving rosy reports about how things are turning out for the better." NewsNight reported that the first question came from a Republican who said, "All of you deserve failing grades, despite what you're saying right now. The response was a disaster."

GOP Wants Congressional Review To Look Beyond Perceived FEMA Failures. CNN's The Situation Room (9/6, Henry) reported that "the bottom line is that Republicans here on the Hill privately feel that Democrats have been beating up on FEMA solely to score political points against this White House. That's a charge that Democrats up here flatly reject. But earlier on Capitol Hill, House Majority Leader Tom DeLay, in fact, tried to spread the blame a little bit here and say that congressional review should focus not just on the federal government, but the local and state government."

Katrina Scrambles Congressional Calendar. Roll Call (9/7, Pershing) reports, "The aftermath of Hurricane Katrina has scrambled Congress' post-recess agenda and calendar, as leaders are frantically reordering their legislative priorities and pushing the anticipated adjournment date back weeks, and possibly more than a month." Both the House and Senate "were already resigned to missing their original departure target of Oct. 1. And with an enormous new set of challenges to tackle in the coming days, House Majority

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Leader Tom DeLay (R-Texas) said Tuesday: 'It's obvious that we're going to be here until Thanksgiving.'"

Federal Officials Warn Of Post-Katrina ID Theft Threat, Relief Scams. The AP (9/7, Kerr) reports the FTC on Tuesday warned "Social Security cards, driver's licenses, credit cards and other personal documents are literally floating around New Orleans, raising the prospect some hurricane survivors could be victimized again -- this time by identity thieves." The AP notes, "The FBI also warned people wanting to donate money for Katrina survivors to beware of scammers who solicit online donations to lure victims into giving up credit card numbers and other sensitive information. 'There are people out there who are willing to stoop so low as to scam people who are willing to open their hearts and wallets to people in need,' said FBI spokesman Paul Bresson. He said the bureau has identified about 2,000 Web sites related to the Katrina relief effort. Most are legitimate, Bresson said, but the FBI is investigating about a dozen for possible fraud."

Reuters (9/7, Hurdle) notes, "After last year's Asian tsunami…the FBI investigated more than 170 Web sites that were preying on donors by mimicking the sites of well-known charities, according to Patrick Meehan, U.S. district attorney for Eastern Pennsylvania. While no evidence has emerged of criminals attempting to divert money destined for hurricane victims, Meehan said authorities were on high alert."

Four Charged In Virginia Aid Scam. The Washington Times (9/7, Emerling) reports, "Fairfax County police arrested four persons on Sunday for operating a roadside scam claiming to collect money for victims of Hurricane Katrina." Joseph J. Murphy Jr., Isaac M. Beavers, Marie S. Golden, and Nicholas P. Flint have been "charged with misdemeanor solicitation violations and released on a summons to appear in court." They "told motorists in the 12100 block of Sunset Hills Road in Reston they represented charities helping hurricane victims and asked for cash donations."

FEMA, HUD Seek Temporary Housing For Evacuees. USA Today (9/7, Hall) reports, "The federal government is pushing ahead with plans to offer makeshift housing -- in cruise ships, abandoned military houses and recreational vehicles — to tens of thousands of Gulf Coast evacuees. Housing and Urban Development (HUD) Secretary Alphonso Jackson said Tuesday that the government is cobbling together enough housing to take care of the hundreds of thousands of people who were displaced by Hurricane Katrina and have nowhere to go as they rebuild their lives. … HUD and the Federal Emergency Management Agency (FEMA) initially looked for temporary housing within a 500-mile range of the devastation along the Gulf Coast. FEMA spokesman James McIntyre said the agency has ordered 70,000 small recreational vehicles, each of which can sleep five. In areas without flooding, the trailers can be parked on people's property." The Washington Times/AP (9/7, Burdeau) reports, "A plan to move thousands of Hurricane Katrina evacuees from the Astrodome to cruise ships was put on hold yesterday after many objected, some because they were terrified by the thought of living on the water." The Washington Post (9/7, A1, Williams) and USA Today (9/7, Cauchon) both carry profiles of families that evacuated the New Orleans area and are now attempting to secure housing, employment and schools for their children.

Barbara Bush's Comments On Evacuees Provoke Controversy. The New York Times (9/7) reports, "As President Bush battled criticism over the response to Hurricane Katrina, his mother declared it a success for evacuees who 'were underprivileged anyway,' saying on Monday that many of the poor people she had seen while touring a Houston relocation site were faring better than before the storm hit. 'What I'm hearing, which is sort of scary, is they all want to stay in Texas,' Barbara Bush said in an interview on Monday with the radio program 'Marketplace.' 'Everyone is so overwhelmed by the hospitality.' 'And so many of the people in the arena here, you know, were underprivileged anyway,' she said, 'so this is working very well for them.'

Evacuees Displaced To 21 States So Far. Evacuees displaced from the Gulf Coast have now been relocated to 21 states, and nine more have offered assistance. ABC World News Tonight (9/6, lead story, 3:50, Gibson) reported, "With approximately one million refugees, the logistical problems are overwhelming. States are stepping up. California and Colorado, taking 1,000 refugees, each. Texas, of course, taking the most, 230,000. Tennessee is next, and Arkansas. … Thirty states in all are accepting evacuees. But many, when they get on planes, don't know where they're going." ABC (Avila) added, "Where do one million evacuees go when their cities, towns and homes are left in ruins? In the aftermath of Katrina, the answer seems to be everywhere and anywhere. Today, 200 arrived in faraway Washington, D.C., 1,100 miles from home. Same story for these evacuees in

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Salt Lake City." The CBS Evening News (9/6, story 10, 2:45, Roberts) reported, "The hurricane disaster has resulted in mass relocations of Americans from three Gulf coast states, the biggest migration in decades. 21 states, Texas in particular, are already housing evacuees. And nine more say they are prepared to take in the homeless." CBS (Strassmann) added, "At this bus depot in Baton Rouge, evacuees fill every outbound seat. 3,000 people a day, heading to Texas, Florida, anywhere."

Influx Of New Orleans Residents Leaves Baton Rouge Uneasy. The New York Times (9/7, Applebome) reports, "Last week came the rumors -- of riots at Wal-Marts, of break-ins at homes, of drug gangs from New Orleans roaming the streets of" Baton Rouge. According to the Times, "the overwhelming response of people in Baton Rouge to Hurricane Katrina has been one of compassion and sacrifice. … But there have also been runs on gun stores, mounting frustration over gridlocked roads and an undercurrent of fear about crime and the effect of the evacuees."

Military, Church Groups Play Key Roles In Biloxi Relief Efforts. NBC Nightly News (9/6, story 3, 1:20, Teague) reported, "Since Sunday, the beach here in Biloxi has been turned into a mini military camp." This "is an L-cat, what they call a landing craft air cushion. And it has been bringing heavy equipment onto the beach to help out with cleanup efforts." The CBS Evening News (9/6, story 3, 2:15, Schieffer) reported that in Biloxi, Mississippi, "What nobody expected was how quickly and completely everyday people would fill the gap" left by the federal response, as "big church groups are cooking up three meals a day for thousands of hungry souls. And all across the Gulf Coast good Samaritans are on the ground are getting places the government has yet to find."

DC Welcomes Nearly 300 Evacuees. The Washington Post (9/7, A1, Labbe, Montgomery) reports, "One by one, the New Orleans survivors of Hurricane Katrina arrived in Washington yesterday, welcomed with smiles and applause from emergency workers and District leaders. … A total of 295 evacuees were flown from New Orleans to Dulles International Airport on two commercial aircraft, and more may arrive here over the next several days."

Up To 20% Of Flood Victims May Suffer Post Traumatic Stress Disorder. NBC Nightly News (9/6, story 12, 2:15, Bazell) reported, "In such a massive tragedy, there is no way of knowing will suffer long-term mental effects, but studies of previous disasters show that 20% of victims end up with post-traumatic stress disorder. At the FEMA emergency medical centers, mental health counselors are well aware of the danger."

FEMA Bureaucracy Said To Be Delaying International Aid. The Washington Post (9/7, A1, Williamson) reports in a front page story, "Offers of foreign aid worth tens of millions of dollars -- including a Swedish water purification system, a German cellular telephone network and two Canadian rescue ships -- have been delayed for days awaiting review by backlogged federal agencies, according to European diplomats and information collected by the State Department." Since Hurricane Katrina, "more than 90 countries and international organizations offered to assist in recovery efforts for the flood-stricken region, but nearly all endeavors remained mired yesterday in bureaucratic entanglements, in most cases, at the Federal Emergency Management Agency."

US Not Accepting All International Offers Of Aid. The Washington Times (9/7, Kralev) reports the US" has accepted help from about 40 countries for the victims of Hurricane Katrina -- fewer than half of those that offered -- including high-speed water pumps, food, cruise ships and more than $400 million in cash, U.S. officials said yesterday." Although "no offer has been rejected officially, proposals from Cuba and other countries to send doctors or nurses have not been accepted because there is enough U.S. medical personnel to deal with the crisis for now, the State Department said."

International Media Portray Katrina Disaster As US Shortcoming. NBC Nightly News (9/6, story 16, 2:25, Williams) reported, "A lot of nations around the world are fascinated by the seeming powerlessness of the most powerful, the richest nation on Earth, to handle relief supplies in the immediate aftermath." NBC (Miller) added, "Germans today loading 25 tons of food rations heading to the US just one of 60 nations reacting to America's call for help: The disturbing images from an American city so heartbreaking that the world has reacted with both kindness and shock." Here "in Britain and elsewhere, newspaper editorials are asking why the world's only superpower appears so helpless, 'The Independent' declaring on its front page, people died because they were poor. In the Middle East, Katrina has dominated evening newscasts." Arab networks "claiming Americans can't fight a war in Iraq and battle storm damage at home. Egyptian newspapers called it shocking that

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America was incapable of handling the disaster." But "rich or poor, nations are lining up to help. Afghanistan pledged $100,000. Singaporians are flying rescue missions. Even tsunami-ravaged Sri Lanka pledged $25,000, all it could afford: Shocked nations offering aid in recognition of America's own tradition of generosity in times of need."

USA Today (9/7) says in an editorial, "To believe some commentary in countries from Europe to Asia to the Middle East, the world's wealthy superpower has, in Katrina's wake, been exposed as a vulnerable supermonster. In this view from abroad, the USA is a place that is callous toward its poor and black. A Pakistani newspaper wrote, for example, of how the U.S. government 'for three days sat smugly apathetic to the people's plight.' It's a place where the early looting reflects a culture of violence and selfishness: 'The darker side of the American dream' was how a columnist for London's Daily Mail put it. And it's a place where a focus on the Iraq war has starved it of resources to deal with natural disasters — a favorite topic in the Arab media. The comments, which contain both distortions and grains of truth, are a jolting reminder that the U.S. image in the world has been in a tailspin since the start of the Iraq war — fueled by anger and frustration over the go-it-alone U.S. approach that has too often disregarded others' opinions or interests."

Bush, Spellings Offering Help To Students, Schools Affected By Katrina. The AP (9/7) reports President Bush says that "the administration is looking at ways to help schools absorb students displaced by Hurricane Katrina." In a meeting with U.S. Secretary of Education Margaret Spellings, he said that "local school districts are extending 'extraordinary efforts' right now to help kids learn." And he "promised that Washington is ready to show flexibility when it comes to college loans."

The New York Times (9/7, Dillon) reports, "School districts from Maine to Washington State were enrolling thousands of students from New Orleans and other devastated Gulf Coast districts yesterday in what experts said could become the largest student resettlement in the nation's history. Schools welcoming the displaced students must not only provide classrooms, teachers and textbooks, but under the terms of President Bush's education law must also almost immediately begin to raise their scholastic achievement unless some provisions of that law are waived. Historians said that those twin challenges surpassed anything that public education had experienced since its creation." So far, "the total number of displaced students is not yet known, but it appears to be well above 200,000." President Bush said that Education Secretary Spellings "was working on a plan to help states absorb the educational costs but gave no hint of what kind of assistance might be provided. The Department of Education set up a Web site to coordinate private donations to schools enrolling displaced students." Spellings "has invited 40 education groups, including the P.T.A. and teachers unions, to meet at the Department of Education today to discuss disaster recovery efforts."

KYW-TV Philadelphia, Pennsylvania (9/6, 4:06 p.m.) reported, "President Bush met today with Education Secretary Margaret Spellings to talk about assistance for displaced students and closed schools in the disaster area. Tens of thousands of students, public and college students, were displaced by Hurricane Katrina."

WTAE-TV Pittsburgh, Pennsylvania (9/6, 5:03 p.m.) reported "Margaret Spellings will meet with education leaders from around the country to come up with a plan to help schools absorb students who have been displaced by the hurricane." WBAL-TV Baltimore, Maryland (9/6, 6:00 p.m.) also reported this story.

Districts Welcome Students. The AP (9/7, Lewan) reports, "Refugee students are getting a tough crash course in adjustment." School districts "have begun hastily enrolling these students, even embracing them" but "the influx is putting a logistical and financial strain on schools at a time when many are grappling with budget and program cuts, soaring gas prices, and the pressure of satisfying the No Child Left Behind Act."

The AP (9/7, Bluestein) reports, "Some 350 evacuees have already enrolled in Georgia public schools." And "although education officials are uncertain how the influx will strain schools throughout the state, the priority now is to 'put them in a classroom and we'll work out the details later,' said spokesman Dana Tofig."

The Minneapolis Star Tribune (9/7, Wascoe) reports, Metairie, Louisiana high school senior Johnathan Smith has enrolled at Minneapolis' Southwest High and "as word spread of the New Orleans emigre's arrival, Johnathan was treated 'like a rock star,' said Josh Collins, a Minneapolis schools spokesman."

The Dallas Morning News (9/7, Booth) reports, "More than 6,100 students fleeing Hurricane Katrina and its aftermath have enrolled in Texas public schools so far…and state education officials promise to release money

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immediately to help affected districts cope. Officials expect 50,000 to 60,000 new students to enroll in Texas schools."

The Washington Times (9/7, Wagner) reports, "Public schools in Maryland and Virginia are enrolling Katrina victims under the federal McKinney-Vento Act, which provides for the enrollment of homeless students without immediately obtaining birth records or requiring the children to receive necessary immunizations."

Pentagon Defends Katrina Response. USA Today (9/7, Kelley) reports the Pentagon's top officials "said Tuesday that the military responded quickly to Hurricane Katrina, although it took nearly four days for troops to begin delivering large amounts of food and water to storm victims." Gen. Richard Myers, chairman of the Joint Chiefs of Staff, said, "Not only was there no delay, I think we anticipated in most cases — not in all cases, but in most cases — the support that was required." USA adds storm victims "in Louisiana, Mississippi and Alabama complained bitterly that the military didn't start large-scale delivery of provisions until Friday. Some military helicopters began search-and-rescue operations Aug. 30."

NBC Nightly News (9/6, story 6, 2:35, Myers) reported, "On the Federal level, clearly the arrival of the military has helped. But why did it take so long? On Wednesday, an Army officer said the nation's elite rapid deployment group, the 82nd Airborne, had 3,500 soldiers and 30 helicopters ready to be in New Orleans within hours. Yet they arrived only yesterday. Today, the Pentagon was defensive." General Richard Myers, Chairman, Joint Chiefs of Staff: "Not only was there no delay, I think we anticipated in most cases, not in all cases, but in most cases, the support that was required, and we were pushing support before we were formally asked for it." Myers: "A persistent unanswered question, why didn't the military just drop pallets of water to those stranded in various locations."

Parallels Between Katrina, Iraq Planning Failures Noted. The Wall Street Journal (9/7, A4, Jaffe) reports, "Military officials surveying the slow federal response to Hurricane Katrina say the problems that hindered early relief efforts along the Gulf Coast are eerily similar to those that have dogged relief and reconstruction efforts in Iraq." The crises "spotlight the inability of disparate departments within the government to plan together before a catastrophe and work quickly together once one hits." Michele Flournoy, a senior adviser at the Center for Strategic and International Studies, said, "Clearly we didn't get a coordinated governmental response in the case of Katrina. The same thing happened in Iraq. The mechanisms to integrate efforts across the government were just lacking." The Journal adds, "Some senior Pentagon officials, however, dispute that analysis. Rather than lack of coordination, they blame the magnitude of the disaster, which wiped out state and local emergency-response efforts."

Two Navy Pilots Reprimanded For Rescuing Hurricane Victims. The New York Times (9/7, Cloud) reports, "Two Navy helicopter pilots and their crews returned from New Orleans on Aug. 30 expecting to be greeted as lifesavers after ferrying more than 100 hurricane victims to safety." Instead, "their superiors chided the pilots, Lt. David Shand and Lt. Matt Udkow, at a meeting the next morning for rescuing civilians when their assignment that day had been to deliver food and water to military installations along the Gulf Coast."

IRS Expands Tax Relief For Hurricane Victims. The Wall Street Journal (9/7, Herman) reports in its "Tax Report" column that the federal government "has greatly expanded the number of areas eligible for special tax relief and is taking other steps designed to ease pressures on taxpayers in the storm-ravaged region. Areas eligible for relief include 64 Louisiana parishes, 52 Mississippi counties and six Alabama counties, the Internal Revenue Service said. Also on the list are three Florida counties: Broward, Miami-Dade and Monroe. Early last week, the IRS initially singled out only 31 Louisiana parishes, 15 Mississippi counties and three Alabama counties."

Private Donations To Charities Setting Records. USA Today (9/7, Koch) reports, "Private fundraising for Hurricane Katrina victims — from bake sales, to carwashes, to football games — has topped a half billion dollars and is outpacing U.S. donations for tsunami relief. The American Red Cross has raised more than $409 million, abetted by corporations, Texas businessman T. Boone Pickens as well as schoolchildren emptying their penny jars. Half of the total has arrived online. … The intensity is expected to continue as schools hold fundraisers, former presidents Bill Clinton and George H.W. Bush plead for donations and entertainers host a TV benefit concert, 'Shelter From the Storm,' Friday." USA Today (9/7, Cava) reports, "While bake sales and food collections have sprung up in

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countless towns, some cities are giving more. Much more. Partly because they're asked to, by both city officials and fate. But mostly because they want to. Such is the case with" San Antonio."

Government Warns About Katrina Relief Scams. NBC Nightly News (9/6, story 8, 0:30, O'Donnell) reported, "The Red Cross estimates more than $400 million in gifts and pledges so far to date. But we have to give you a warning tonight, to look out for charity scams because the government has warned us. For tips on steering clear of these Katrina schemes, log on to our website, the information is there the address is nightly.msnbc.com. Part of the information has to deal with those scam computer addresses."

Some Charitable Organizations Have Trouble Delivering Aid. The Washington Post (9/7, B9, Trejos) reports, "The Rev. William Finch, pastor of St. Raphael's Catholic Church in Rockville, arrived [in Houston] Tuesday ready to sell Montgomery County as a haven for 50 hurricane evacuees living in the Astrodome. … Since deciding to go after watching television coverage of Katrina's catastrophic aftermath last week, Finch has contacted the Red Cross and Texas officials for help identifying evacuees. He said he has not been able to reach anyone who can help. Others who want to assist have been rebuffed. When the D.C. government sent 10 buses to New Orleans to pick up storm victims Friday, people reportedly refused to leave." The Washington Post (9/7) reports, "A convoy of buses that set out Friday to rescue New Orleans evacuees is scheduled to return this morning largely empty-handed. … By the time they made it to New Orleans, though, crowds at the convention center and Superdome had been evacuated, city officials said."

Katrina Expected To Have Big Negative Effect On US Economy. The Christian Science Monitor (9/7, Trumbull) reports this morning that "Katrina has packed an unusually big punch to the United States economy. Though the full impact of the Aug. 29 superstorm is still being assessed, the economic brunt differs in at least three major ways from a typical recovery led by armies of insurance adjusters bearing clipboards and checkbooks." They are, "A region's major city has been entirely displaced, throwing hundreds of thousands of people out of work and casting doubt on the financial future of New Orleans itself. The movement of goods through America's heartland has been disrupted, with key ports still closed and the channel of the Mississippi narrowed by the storm. Oil and gas drilling platforms, refineries, and pipelines are damaged, and some will take months to bring back on line." The result "is a barrage of challenges likely to affect everything from the US unemployment rate to winter heating costs for months to come . The typical forecast now is for slowing growth rather than outright recession."

The Washington Post (9/7, D1, Pressler, Blustein) says "the long-term economic impact of Hurricane Katrina will hinge in large part on how US consumers react to the disaster and resulting surge in gas prices. … Even before Katrina laid waste to the central Gulf Coast, gas prices were dampening consumption, according to a survey in early May for the National Retail Federation. People with low incomes are those most likely to economize when gas prices rise. That is one reason Wal-Mart Stores Inc. reduced its earnings forecast for the third quarter."

Moreover, says the Wall Street Journal (9/7, Barta, Walker, Hilsenrath), "the economic waves from Hurricane Katrina are being felt not just in the US, but around the globe, particularly in countries such as Indonesia and Italy that already were straining from soaring oil costs before the storm disrupted energy supplies. … Few economists expect the global economy to grind to a halt because of the storm alone. Just as the US has become more resilient to energy shocks in the past two decades, so have many of its trading partners." But "given the US role as the world's economic locomotive, the likely slowing of growth and employment here in the months ahead is likely to restrain growth elsewhere." The Financial Times (9/7, Giles, Editor) adds that "the Organisation for Economic Co-operation and Development on Tuesday urged the world's central banks to adopt a relaxed attitude to interest rates in the wake of surging oil prices and Hurricane Katrina."

Katrina Could Cause Increase In Steel Prices. The Wall Street Journal (9/7) reports, "The price of steel used to make cars and industrial equipment is expected to rise by as much as 20% in coming months because New Orleans flooding has limited the supply and distribution of raw materials such as liquid hydrogen and scrap steel." The increase "would be in addition to roughly 20% price increases by steelmakers including Pittsburgh-based US Steel Corp. and Nucor Corp., of Charlotte, N.C., that became effective on Sept. 1 for shipments of key products like hot-rolled coil."

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Insurance Industry Expected To Survive Katrina Aftermath. The Washington Post (9/7, D1, Crenshaw) reports, "Katrina seems likely to become the most expensive natural catastrophe in US history, but unless insured damages go far higher than the current high-endestimate of $35 billion, the insurance industry should be able to pay the claims without threat to its own solvency, industry experts said yesterday." However, "taxpayers, insurance ratepayers and others are likely to be feeling the economic effect of the giant storm for years to come," and some risk experts are starting to raise the question of how -- or if -- houses or other buildings in low-lying areas such as New Orleans should be rebuilt."

Stocks Rally. The Financial Times (9/7, Schurr) reports, "If muted activity last week in the face of Hurricane Katrina was an exercise in restraint, yesterday's market performance could be called a return of animal spirits. Stocks rallied solidly and broadly, with every sector in the S&P 500 posting gains." The S&P 500 rose 15.38 points, or 1.3 per cent, to 1,233.40, the biggest percentage gain since the recent bottom on April 21. The Nasdaq Composite added 25.79 points, or 1.2 per cent, to 2,166.86 and the Dow Jones Industrial Average increased 141.87 points, or 1.4 per cent, to 10,565.12. The Wall Street Journal (9/7) and USA Today (9/7, Shell), among other sources, also report the stock numbers.

New Orleans Law Firms Struggle To Survive In Katrina's Wake. The National Law Journal (9/7, Jones) reports, "Much of the New Orleans legal community is in shambles following the devastation from Hurricane Katrina. … Attorneys and staffers at some law firms were still unaccounted for last week, and office buildings and courthouses -- and the documents inside -- remained soaking under water." The Journal continues, "Legal professionals said that they thought they had planned for the worst, but until some levees collapsed flooding almost 80 percent of the city after the hurricane hit, they believed they had escaped much of the damage predicted from the massive storm. … 'We have never dealt with something of this magnitude, but we're going to have to,' said Gregory Bodin, president of the Baton Rouge Bar Association. With offices at the Louisiana State Bar Association and the New Orleans Bar Association flooded, the Baton Rouge organization is serving as the headquarters for the other groups." The Journal adds, "The New Orleans area was home to about 7,500 lawyers, Bodin said, which equals about one-third of the state's attorneys. 'Most of the lawyers lost their homes, jobs and maybe their practices,' he said. … As most phone and electronic communications remained useless after the barriers protecting the low-lying city failed, law firm leaders and court personnel were struggling to find offices and even housing for their workers."

Senators Say Action On Social Security Is Unlikely This Year. In what the Washington Times (9/7, Fagan) calls the "final blow to President Bush's signature domestic issue," senators "said they don't think they will act on Social Security legislation this year. … 'It's off the radar,' said Sen. Gordon H. Smith, Oregon Republican, adding that hurricane relief is much more important now, and Social Security is an issue 'we'll eventually deal with' down the line, though not likely this year. 'Social Security? I think not much is going to happen there this year,' agreed Sen. Judd Gregg, New Hampshire Republican. 'I can't imagine President Bush is going to go back to it,' Sen. Richard J. Durbin, Illinois Democrat, said of Social Security." The Times adds that some Senate Republicans, including Sens. Orrin Hatch and Craig Thomas, "still say action is possible in their chamber this year."

IG Finds Opinion Columnists Paid By Education Department Failed To Disclose Funding. The Dallas Morning News (9/7, Hillman) reports the U.S. Department of Education "paid education advocacy organizations to submit opinion pieces to newspapers and produce other ads, brochures and postcards -- and many did not disclose their government ties, the department's inspector general has concluded." But department spokeswoman Susan Aspey "cited a letter to the inspector general from Education Secretary Margaret Spellings, who said she agreed with most of the findings and that the department already had moved to 'strengthen the grant-making and contracting processes.'"

Hastings, Mollohan Face Questions About Ethics Panel Staffing. Reps. Doc Hastings and Alan Mollohan, the two top members of the house ethics committee are facing questions on when they will finish hiring staff for the panel. Roll Call (9/7, Bresnahan) reports, "Hastings and Mollohan, chairman and ranking member of the committee, hope to select a new chief counsel/staff director by the end of September or early October, according

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to sources close to the panel. Mollohan also wants to hire at least two additional investigators before initiating any inquiries, and Hastings is expected to accede to that request. But the slow pace of hiring signals that the committee will likely not have completed a preliminary investigation of House Majority Leader Tom DeLay (R-Texas) over his dealings with former GOP lobbyist Jack Abramoff by the end of this year. DeLay then faces the possibility of a second straight election cycle in which the ethics committee releases findings on an investigation of him before voters go to the polls, a daunting challenge for even the most politically astute Member."

OTHER NEWS:

Gulf Repairs, Saudi Cut Lead To Lower Oil, Gas Prices. The Wall Street Journal (9/7, Hotter) reports, "Petroleum futures on the New York Mercantile Exchange fell 2.4% as Gulf of Mexico oil production continued to recover in the wake of Hurricane Katrina." The "massive government response to the supply disruptions caused by the storm eased traders' concerns about curtailed US production. October crude fell $1.61 to $65.96 a barrel."

The Financial Times (9/7, Flood) reports, "The price reduction on its heavy crude is likely to lead to a production increase by the world's largest exporter. This may be confirmed this weekend when the kingdom nominates its October oil export programme." The move "comes ahead of the meeting of the Organisation of the Petroleum Exporting Countries later this month, when Saudi Arabia may push for an increase in the Opec quota from its current level of 28m b/d in an effort to stem the rise in global oil prices."

The Wall Street Journal (9/7, Herrick, Gold, Fialka) adds "the Gulf Coast network of production platforms, pipelines and refineries hammered by Hurricane Katrina last week took a step toward normalcy yesterday, helping to temper the price of crude oil and offering hope that the worst of the current energy crunch may have passed." As a result, "the US average retail price for unleaded gasoline -- having matched an all-time high Monday -- eased about a cent to $3.04 a gallon yesterday, according to AAA, formerly the American Automobile Association, as Labor Day marked the end of the summer driving season."

The New York Times (9/7, Bajaj, Mouawad) also runs a story titled "Gas Prices At Pumps Show Signs Of Easing." USA Today (9/7, Healey), under the headline "Gas Prices Ease As Gulf Production Up," reports "most Americans -- eight of 10 -- told USA TODAY/CNN/Gallup pollsters Monday and Tuesday that gasoline suppliers are taking advantage of the hurricane to charge unfair prices. Prices zoomed past $6 a gallon in some areas after Katrina, and average more than $3 currently."

Network coverage of gas prices was markedly negative and didn't note prices had gone down. ABC World News Tonight (9/6, story 7, :15, Gibson) reported, "The government reported today that gasoline prices have soared to an average of $3.07 a gallon. That is a record 46 cent increase in just one week, since Hurricane Katrina knocked out eight major refineries." The CBS Evening News (9/6, story 9, 0:20, Roberts) reported, "In the week since the hurricane struck, gasoline prices have been rising nearly seven cents a day."

Senators Suggest Raising Fuel Economy Standards. Key senators said yesterday that Congress should consider raising fuel economy standards for all vehicles, citing gasoline shortages and spike in gas prices caused by Hurricane Katrina. The Washington Times (9/7, Hill) reports that Sen. Pete Domenici, chairman of the Senate Energy and Natural Resources Committee, said, "I believe we must take another look at the CAFE standards," adding, "We looked at that before, and it was not politically possible. I'm not sure that will be the case after Katrina." Sen. Jeff Bingaman, the committee's ranking member, "said he also hopes Congress will revisit whether to require cars, trucks and sport utility vehicles to give better mileage than the current standard, which is 27.5 miles per gallon on average for cars."

Lawmakers Also Accuse Oil Companies Of Profiteering. The New York Times (9/7, Kirkpatrick) reports 'the Senate energy committee also "vented bipartisan wrath Tuesday over accusations of energy-company profiteering after the Gulf Coast was struck by a hurricane. 'Hurricane Katrina exposed the harsh reality that we have been skirting and skating on thin ice when it comes to this country's energy concentration on the Gulf Coast,' said Senator Pete V. Domenici, the New Mexico Republican who is chairman of the panel. 'Why are the oil companies making record profits, and what are they doing with them?' he asked." Lawmakers "of both parties were eager to warn oil producers to watch their prices. Senator Dianne Feinstein, Democrat of California, said: 'The distrust is enormous. I hope somebody out there is listening who controls these prices.'" The Times adds, "Several senators from both parties called for the

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Federal Trade Commission to vigorously investigate charges of price gouging."

The AP (9/7, Hebert) reports, "Senators, both Republicans and Democrats, said Tuesday that they suspect price gouging as gasoline costs soared in the aftermath of Hurricane Katrina but complained that the government doesn't have the ability to investigate or prevent such market abuses. … 'The American people are being victimized more than any free market would warrant,' said Sen. Gordon Smith, R-Ore., at Senate hearing on the impact of the hurricane on energy prices." The AP continues, "Smith and other senators said regulators, including the Federal Trade Commission, are not aggressively pursuing price gouging and other market manipulation by energy companies reaping huge profits. … Sen. Pete Domenici, R-N.M., chairman of the Energy and Natural Resources Committee, which held hearings into the recent price spikes, said Congress needs to give agencies the tools to investigate price-gouging complaints. … Sen. Jon Corzine, D-N.J., said that even as crude prices were declining, gasoline prices at the pump soared by 25 percent. … Sen. Byron Dorgan, D-N.D., said he will introduce legislation for a windfall profits tax on oil companies, with the proceeds used to rebate consumers who have paid huge prices at the pump." The AP notes, "Twenty-three states have price-gouging statutes, but Domenici acknowledged they are 'all over the waterfront' as to how they are used. In Virginia, a government must declare an emergency for the law to be used. … The FTC does not have authority over price gouging unless it involves an antitrust or market monopoly issue. … The afternoon of testimony demonstrated that one person's price gouging may be another person's justified price response to changing conditions of supply and demand."

Meanwhile, the Wall Street Journal (9/7) defended the oil companies in an editorial this morning. Says the Journal, "Let's explain why prices have been rising. Katrina has knocked out about 90% of Gulf crude oil production and about 80% of natural gas output." That" translates into about two million barrels a day that are not available to consumers, an 11% decrease in supply. This means that in the near term Americans are going to have to consume two million fewer barrels of gas every day, at least until the refineries are brought back on line and increased output and supplies from other nations arrive. The way the market achieves this reduction in consumption is through a higher price." The argument is also made that "energy companies are reaping windfall profits from the Katrina catastrophe. That is in one sense true -- the oil they've already extracted and refined is more valuable now, and we would be pleased to see some of these extra profits donated to the relief effort." But "artificially holding down the price of gas makes a bad situation worse."

Blunt Requests Gas Price Gouging Investigation. KDEB-TV Springfield, MO (9/6, 9:12 p.m.) reported, "With gas prices continuing to hover around three dollars a gallon here in Missouri, Governor Matt Blunt is once again looking to launch an investigation into price gouging. The governor sent letters today to US Attorney General Alberto Gonzales and the FTC chairman asking their offices to look into the sudden increases with a focus on big oil companies."

KOLR-TV Springfield, MO (9/6, 10:00 p.m.) also ran this story.

DeLay Says There's No Backing For Rolling Back Gasoline Tax. Reuters (9/7) reports, "House Republican Leader Tom DeLay said on Tuesday there was no support for rolling back the federal gasoline tax to offset higher prices. 'Absolutely not,' he told reporters after a meeting with President George W. Bush on issues related to Hurricane Katrina." He added, "Now more than ever you're going to need...that infrastructure, those highway trust funds, to rebuild the bridges that were destroyed, rebuild the railroads that were destroyed. You have to have the infrastructure or you can't have a recovery."

IAEA Report Says Iran Could Develop Nuclear Weapons In Five Years. Preceding a Sept 16 IAEA meeting to decide on penalties for Iran for pursuing its nuclear program, the International Institute of Strategic Studies released a study saying Iran could develop enough weapons-grade uranium for a weapon in five years, but that it would likely focus on developing on production capability for a decade before making a decision on acquiring atomic weapons. The Financial Times (9/7, Spiegel) reports, "The five-year estimate is more aggressive than reported projections of US intelligence agencies, which are believed to have determined Iran is six to ten years away from such a breakthrough. But in spite of a capability to develop weapons-grade uranium by the end of the decade, John Chipman, the IISS director, said that would require Iran to 'throw caution to the wind' and ignore the threat of international sanctions, a move Tehran has been reluctant to pursue." Chipman "noted that a more cautious approach – which would involve building a more sophisticated "industrial-scale" centrifuge plant at Natanz – would allow Iran to have a

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much greater capability to produce the higher enriched uranium needed for weapons in the long-term."

The New York Times (9/7, Cowell) says that with the report being released "at a diplomatically delicate time," Dr. Chipman "said it would be important for negotiators 'to apply pressure and create inducements to persuade Iran not to develop a fuel-cycle capability that it could turn later into a weapons program.'" In addition he said "it will be important to apply international diplomacy in such a way that does not inspire Iran to abandon all restraint and seek a nuclear-weapons capability without regard to international repercussions."

Bolton Offers Compromise On UN Reforms. The New York Times/Reuters (9/7) reports, "Ambassador John R. Bolton of the United States on Tuesday offered compromise language on development and aid spending and climate change to try to resolve a deadlock over a list of goals being prepared for a world summit meeting here next week." With disagreements on the Kyoto protocols and UN foreign aid increases "surfacing again as a logjam in the preparation of the goals list, Mr. Bolton said the United States was ready to accept the use of the catch-all phase 'millennium development goals' throughout the text, 'provided it can be properly defined.'" In effect, US-proposed language "including the phrase would commit world leaders to meet obligations they had undertaken in United Nations climate change agreements, including 'for many of us, the Kyoto Protocol,' according to Mr. Bolton's prepared speaking notes."

WSJournal Lauds Bolton Efforts To Reform UN. The Wall Street Journal (9/7) writes in an editorial that some of Ambassador Bolton's reforms "seem small but are literally worth hundreds of millions of dollars." And Bolton "also focuses on management reform, which will come into special focus with the release today of Paul Volcker's fourth report on the Oil for Food scandal. The report will stress Mr. Annan's multiple supervisory failures, yet Mr. Annan wants the world's leaders to accept his reform plan as a fait accompli before Mr. Volcker's findings are even read, much less considered." The Journal concludes, "Those who want something more than a feckless and corrupt world body should welcome his efforts."

State Department Raises Concerns About Israeli Plans For Construction In West Bank. The AP (9/7, Schweid) reports, "The State Department said Tuesday it had raised with the Israeli government the approval of construction of 117 houses in the Ariel settlement in the heart of the West Bank." Spokesman Sean McCormack "left little doubt that the administration was displeased."

Rice Has "Good" Meeting With UN Official About Gaza. The AP (9/7, Schweid) also notes, "Secretary of State Condoleezza Rice met Tuesday for a half-hour with Karen Koning AbuZayd, counsel-general of the United Nations Relief and Works Agency, on the post-withdrawal situation in Gaza." McCormack said, "They had a good meeting."

Arafat Cousin Killed In Gaza. The Los Angeles Times (9/7, Ellingwood) reports, "Unidentified gunmen in the Gaza Strip shot and killed Moussa Arafat, a former Palestinian Authority security chief and a cousin of the late Yasser Arafat, at his home in Gaza City before dawn today." The Times notes, "The brazen assault heightened worries about chaos and factional violence in the Gaza Strip following Israel's withdrawal from all 21 Jewish settlements there." He "made numerous enemies during his years as a ranking security official and was viewed by many Palestinians as corrupt."

Poll Shows US, Europe Remain In Agreement On Major Policy Issues. The Los Angeles Times (9/7, Rotella) reports, "Europeans and Americans have often starkly different views of each other and the world, but agree on some major issues such as promoting democracy and avoiding war with Iran, according to a survey being released today." While "Western leaders try to mend rifts exacerbated since 2003 by the Iraq war, the fourth annual study of European and U.S. public opinion by the German Marshall Fund depicts a complex, wary transatlantic relationship. But the report, an advanced copy of which was given to The Times, also contradicts stereotypes and common wisdom." And while "a majority of Europeans remain hostile to American global dominance and President Bush in particular, they are enthusiastic about the centerpiece of Bush's foreign policy: promoting democracy around the world."

The Wall Street Journal (9/7, Champion) reports, "An annual survey of opinion in 11 countries published today finds that, while the U.S.'s image no longer is sliding downward, Europeans feel no warmer toward the U.S. than they did a year ago, are no less hostile to U.S. global leadership and still disapprove overwhelmingly of the way Mr. Bush handles

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foreign policy." But although Europeans support some of the Administration's major foreign policy goals, "continuing bloodshed and instability in Iraq dominate. Since the poll was taken, the recent hurricane disaster on the U.S. Gulf Coast also appears to have rekindled distaste for the U.S.'s political system and social values, which are blamed here for leaving thousands of mainly poor and black New Orleans residents behind when the rest of the city evacuated."

US, China Discuss Future Of Korean Peninsula. The Washington Post (9/7, A22, Kessler) reports, "Secretary of State Condoleezza Rice and her deputy, Robert B. Zoellick, have begun to explore with Chinese leaders the economic and political future of the Korean Peninsula 'because the status quo was not going to hold,' Zoellick said in an interview with a small group of reporters yesterday." He "said it was clear the Chinese did not 'want a collapsed state on their border,' a concern that he suggested had hamstrung Chinese officials in pressing North Korea on its illicit weapons programs. He said that in his talks, he picked up a discussion on the Korean Peninsula's future that Rice had initiated during an earlier trip to Beijing." Rice and Zoellick's efforts "appeared to be aimed at reducing the anxiety of the Chinese over a possible reunification of North and South Korea."

Activist Arrested By Chinese Authorities. The Washington Post (9/7, A22, Pan) reports, "Local authorities on Tuesday seized a rural activist who has been leading a high-profile legal campaign against the use of forced sterilization and abortion in China, in an apparent effort to block him from meeting with senior government officials who had expressed support for his cause." Chen Guangcheng's arrest "occurred a few days after he arrived in Beijing for meetings with lawyers and journalists. He was seized just as the Chinese government opened an international legal conference here."

Mubarak Expected To Win Presidential Election. USA Today (9/7, Levinson) reports, "Egyptians will have a choice for the first time in their country's 7,000-year history when they vote for a leader at polls today. But a majority appear likely to vote for" President Hosni Mubarak "who has ruled this country for the past 24 years." USA Today notes, "Egypt is contending with double-digit unemployment and inflation. Still, many voters remain loyal to Mubarak. In a region beset by conflict, Mubarak has guided Egypt through a period of protracted stability. Egyptians who remember the wars and tumult of earlier eras say they are thankful to Mubarak."

German Voters Leaning Right In US-Style Campaign. The Christian Science Monitor (9/7, Tzortzis) reports that while flash polls after the only debate between Chancellor Gerhard Schroeder and his challenger Angela Merkel showed Schroeder had won the exchange, polls "have shown Mr. Schroeder's Social Democratic Party (SPD) a good 10 points behind Ms. Merkel's Christian Democratic Union (CDU) -- pointing to a growing likelihood that the former East German physicist will end the chancellor's seven-year rule." A Merkel victory "would bring a shift to the right that promises better communication with the US, a critical voice in the pledge to include Turkey in the European Union, and -- most important -- a more aggressive approach to Germany's greatest problem: the economy." The German "campaign has seen even more borrowed elements from the US. Merkel's campaign team has set up a professional call center to handle queries from voters, and a so-called 'rapid response' team that contradicts inaccuracies made by Schroeder in speeches or attacks on his opponent, says a CDU campaign official."

Heinz Plant Seized By Venezuela. The Wall Street Journal/Dow Jones (9/7) reports, "Alimentos Heinz, a Venezuela subsidiary of H.J. Heinz Co., said a government takeover of an inactive tomato-processing plant in recent days lacks legal backing." The Heinz plant "wasn't operating because low market demand and low prices didn't make it feasible to keep it running, the company said. Company officials are seeking a meeting with Vice President José Vicente Rangel and Agriculture Ministry officials to discuss the problem, the statement added."

Dominance Of One-Party Rule Seen As Stifling Democracy In Japan. Despite recent gains by the opposition Democratic Party in Japan, polls indicate the Liberal Democratic Party is headed for a big victory in Sunday's general election. The New York Times (9/7, Onishi) credits Prime Minister Junichiro Koizumi with using the campaign to portray his party as standing for reform, but says his victory "will delay, again, the start of a new political era in which power is transferred regularly from one party to another, as it is in other democracies." The Times notes, "Japan's democracy is East Asia's oldest, but its ruling party has held power almost as long as the Communist parties in

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China and North Korea. Younger democracies in South Korea and Taiwan have already experienced changes in ruling parties, and the underpinnings of democracies, from vibrant civil societies to strong, independent news media, appear to be flourishing there more than they are here."

Koizumi Seeks Mandate To Shift Priorities From Rural To Urban Issues. The Wall Street Journal (9/7, Moffett, Woods) reports, "In elections this Sunday, Prime Minister Junichiro Koizumi is betting he can win a mandate to engineer a shift no other Japanese leader has ever dared. His goal: To cut off the decades-long tradition of propping up Japan's declining countryside, and channel resources into the nation's successful cities and industries instead." He "plans to dismantle one of the countryside's biggest crutches, the huge and unusual post office, which in addition to selling stamps also acts as a bank and insurer. It is a vast network of 26,000 offices with 280,000 public employees, plus $3 trillion in savings and life-insurance deposits. The deposits are typically funneled into public-spending projects that have boosted rural economies.

Seriousness Of Chirac Illness Remains Unknown. The New York Times/IHT (9/7, Bennhold, Rosenthal) reports, "After a series of minimalist medical bulletins describing President Jacques Chirac's stay in a Paris hospital, it is still a public mystery what kind of neurological malady has befallen him, although French military doctors at this point certainly know the diagnosis, independent experts said." Official descriptions of a "little vascular accident," have raised concerns because that "means a problem with a blood vessel, which is almost always serious -- or a signal of something serious to come. It includes strokes, torn blood vessels and clots that block vessels, causing damage to the eye or brain."

WPost Criticizes Turkey Over Outspoken Writer's Arrest. The Washington Post (9/7, A24) editorializes, "Orhan Pamuk, one of Turkey's most acclaimed writers, is facing up to three years in prison. His offense, according to the state prosecutor? 'Public denigrating of Turkish identity.' Specifically, Mr. Pamuk told a Swiss newspaper in February that certain topics were off-limits for discussion in Turkey --- citing the massacre of Armenians in 1915 and the more recent conflicts between Turkish security forces and Kurdish separatists." His arrest "will raise questions about the wisdom of Turkey's EU membership bid" and that "may be exactly what those pushing for a prosecution intended; the timing of the charges, as European ministers meet in Wales to discuss Turkey's membership, is suspicious. That makes it even more important for the national government, though it doesn't control the prosecutor who brought the case, to do what it can to halt this case and others like it. Turkey has made important strides in protecting freedom of expression in recent years, including reforming its penal code. The charges against Mr. Pamuk underscore how far it still has to go."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Attends funeral service for Chief Justice William Rehnquist.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: FLOOR SCHEDULE _ 10:30 a.m. Senate reconvenes.

US House: FLOOR SCHEDULE _ 10 a.m. Meets for legislative business. Highlights: H.R. 250 - Manufacturing Technology Competitiveness Act of 2005. Suspensions (3 bills): 1) H.R. 1215 - Green Chemistry Research and Development Act of 2005; 2) H.R. 230 - National Small Business Regulatory Assistance Act of 2005; 3) H.R. 3207 - Second-Stage Small Business Development Act of 2005.

10 a.m. AGRICULTURE _ Full Committee. Hearing to review the Kelo v. City of New London U.S. Supreme Court decision and H.R. 3405, the Strengthening the Ownership of Private Property Act of 2005 (STOPP). Location: Room 1300, Longworth.

10 a.m. APPROPRIATIONS _ The Foreign Operations subcommittee holds an oversight hearing on Iraq reconstruction. Testimony to include: Ambassador James Jeffrey, senior adviser on Iraq to the Secretary of State; James Kunder, USAID assistant administrator; Stuart Bowen, Jr., special inspector general for Iraq reconstruction. Location: Rayburn, Room 2359.

10 a.m. GOVERNMENT REFORM _ Criminal Justice, Drug Policy and Human Resources Subcommittee. Hearing on Hearing on prevention, early detection and treatment of gynecologic cancers. Location: Room 2154, Rayburn.

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10 a.m. HOMELAND SECURITY _ Subcommittee on Economic Security, Infrastructure Protection, and Cybersecurity. Hearing on ``The London Bombings: Protecting Civilian Targets from Terrorist Attacks." Kip Hawley, Administrator, Transportation Security Administration, U.S. Department of Homeland Security; Robert Stephan, Assistant Secretary, Infrastructure Protection Division, U.S. Department of Homeland Security; Bill Miller, President, American Public Transportation Association; Peter Lowy, Chief Executive Officer, Westfield America, Inc.; Michael Norton, Managing Director of Global Property Management, Tishman Speyer Properties; Joe Madsen, Director, Safety & Risk Management, Spokane Public Schools. Location: Room 311, Cannon.

10 a.m. VETERANS AFFAIRS _ Full Committee. Hearing on reorganization of the VA's information technology infrastructure. Location: Room 334, Cannon.

10:30 a.m. EDUCATION AND THE WORKFORCE _ Full Committee. Markup of amendments to the budget reconciliation. Location: Room 2175, Rayburn.

11 a.m. ENERGY AND COMMERCE _ Full Committee. Hearing on Medicaid. Location: Room 2123, Rayburn.

11 a.m. ENERGY AND COMMERCE _ Full Committee. Hearing on the impact of Hurricane Katrina. Panel One: David Garman, undersecretary for Energy, Science and Environment, Department of Energy; Guy Caruso, administrator, Energy Information Agency; John Seesel, associate general counsel for energy, Federal Trade Commission; Kenneth Moran, Federal Communications Commission. Panel Two: Scott Angelle, secretary, Louisiana Department of Natural Resources; Red Cavaney, American Petroleum Institute; Bob Slaughter, National Petrochemical and Refiners Association; James Newsome, New York Mercantile Exchange; Benjamin Cooper, Association of Oil Pipe Lines; Bill Douglass, Douglass Distributing Co.; William Smith, BellSouth Corp.; Mark Cooper, Consumer Federation of America; and Daniel Lashof, National Resources Defense Council. Location: Room 2123, Rayburn.

Other: REHNQUIST _ Funeral and viewing schedule for late Supreme Court Justice William Rehnquist. Highlights: 10 a.m. - 12 p.m. Viewing at the Supreme Court. 2 p.m. Funeral service. St. Matthew's Cathedral, 1725 Rhode Island Ave. NW, with burial at Arlington National Cemetery to follow. Note: Funeral service is open to friends and family members. Burial is private. Media wishing to cover the funeral should call the court's media office for details. No press coverage of the burial. Location: Supreme Court.

TERRORISM SUMMIT _ The New America Foundation sponsors a forum on America's approach to countering terrorism, ``Terrorism, Security, and America's Purpose: Towards a More Comprehensive Strategy." Highlights: 9 a.m. Steven Clemons, New America Foundation. 9:05 a.m. Rep. Jim Saxton, R-N.J., House Armed Services Committee. 9:30 a.m. Francis Fukuyama, SAIS; Zbigniew Brzezinski, former national security advisor to the President; Col. Lawrence Wilkerson, USA (Ret.), former chief of staff, State Department; G. John Ikenberry, Princeton University; Kim Campbell, former prime minister of Canada; moderator Martin Walker, former Washington bureau chief, The Guardian, chief editor, UPI. 10:30 a.m. Madeleine Albright, former secretary of state; interlocutor Andrea Koppel, State Department correspondent, CNN. 11:15 a.m. Jamie Metzl, president, Partnership for a Secure America; Charles Andrew, co-chairman, Partnership for a Secure America; Warren Rudman, former US senator, co-chairman, US Commission on National Security in the 21st Century; Lee Hamilton, president Woodrow Wilson Center. 11:45 a.m. Louise Richardson, Radcliffe Institute for Advanced Study; Robert Hutchings, Princeton University; Charles Kupchan, Georgetown University; Suzanne Spaulding, managing director, The Harbour Group; Michael McFaul, Stanford University; moderator Theodore Piccone, Democracy Coalition Project. 12:45 p.m. Mary Fetchet, founding director, Voices of September 11th. 2 p.m. Marc Sagemen, University of Pennsylvania; Daniel Levy, former advisor, Office of the Prime Minister, Israel; Galima Bukharbaeva, former country director/Uzbekistan, Institute for War and Peace Reporting; Juan Cole, University of Michigan; Karen Greenberg, NYU School of Law; Ivan Eland, Independent Institute; moderator Kelli Arena, CNN. 3:15 p.m. Julian Borger, Washington bureau chief, The Guardian; Yosri Fonda, Al-Jazeera; Tsutomu Watanabe, Asahi Shimbun; Michael Backfisch, Washington bureau chief, Handelsblatt; Nathan Guttman, Washington bureau chief, Jerusalem Post; Paulo Sotero, Washington bureau chief, O Estado de S. Paulo; moderator Nikolas Gvosdev, The National Interest. Location: Capital Hilton, 16th and K Streets, NW.

CHINESE PRESIDENT HU _ 10:30 a.m. ``Who is Hu: A Closer Look at President Hu Jintao," presented by Prof. David Lampton, Johns Hopkins University SAIS. Room 2216, Rayburn House Office Building.

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KATRINA-CUMMINGS _ 8 a.m. Rep. Elijah Cummings, D-Md., discusses relief efforts and homeland security issues with an emphasis on transit security in a speech before the Lawmakers Committee of the National Press Club. Location: National Press Club, McClendon Room.

KATRINA-SMALL BUSINESS _ 8:30 a.m. Sen. Olympia Snowe meets in closed session with Majority Leader Bill Frist on aide to small businesses destroyed by Hurricane Katrina. Media briefing to follow. Location: Capitol, S-207.

HOUSE DEMOCRATS _ 9 a.m. Closed meeting of the House Democratic Caucus. Location: Room 345, Cannon. Notes: Newsx conference following the meeting outside the Cannon Caucus Room at 10 a.m.

VIOXX VERDICT _ 9 a.m. - 11 a.m. The American Enterprise Institute (AEI) hosts a panel discussion on ``The $253 Million Vioxx Verdict: What Does It Mean?" with Dan Troy, Sidley & Austin; Evan Schaeffer, Schaeffer & Lamere, P.C.; John Calfee, AEI; and Ted Frank, AEI. Location: AEI, Wohlstetter Conference Center, 12th Floor, 1150 17th St. NW.

KATRINA-CANADA _ 9:30 a.m. Canada's Ambassador to the U.S., Frank McKenna, briefs reporters on Canadian relief operations being deployed to the Gulf region. Location: Canadian Embassy Briefing Centre, 501 Pennsylvania Ave. NW.

NTSB-AVIATION _ 9:30 a.m. The National Transportation Safety Board holds a board meeting on two items: a safety study concerning risk factors associated with weather-related general aviation accidents, and an aviation accident report concerning a crash during landing of an Executive Airlines Flight 5401, in San Juan, Puerto Rico, on May 9, 2004. Location: NTSB Board Room, 429 L'Enfant Plaza, SW.

SEPTEMBER ECONOMIC OUTLOOK _ 9:30 a.m. - 10 a.m. Business Roundtable, an association of CEOs of leading U.S. companies, releases results of its latest CEO Economic Outlook Survey with reporters via a conference call. Briefer is Hank McKinnell, chairman, Business Roundtable, and chairman and CEO of Pfizer Inc., who will give a brief overview of the survey results and then wil respond to questions. Contacts: Jennifer Handt, 202-496-3288 Notes: Dial-in telephone number: (888) 428-4480. Host: Business Roundtable. Callers will be asked for their name and media outlet before they are admitted to the call. If encountering problems call (202) 872-1260.

REPUBLICAN AGENDA _ 10 a.m. Republican leaders hold a news conference to discuss their legislative agenda. Participants include House Speaker Dennis Hastert, R-Ill; Majority Whip Roy Blunt, R-Mo.; Conference Chairman Deborah Pryce, R-Ohio; Appropriations Chairman Jerry Lewis, R-Calif.; and Budget Chairman Jim Nusslke, R-Iowa. Location: Cannon, HC-6. Notes: Follows 9 a.m. closed meeting at Cannon HC-5.

DEMOCRATS-HOMELAND SECURITY _ 11 a.m. Democratic Leader Rep. Nancy Pelosi holds news conference after closed caucus meeting on homeland security, with Rep. Robert Menendez, D-N.J.; Rep. Bennie Thompson, D-Miss.; Rep. Ed Markey, D-Mass. Location: Capitol, H-203. Notes: Follows 10 a.m. closed meeting at Cannon 345.

PENTAGON BRIEFING _ 11 a.m. Lt. Gen. Joseph Inge, deputy commander of U.S. Northern Command, will brief live from Peterson Air Force Base in Colorado to discuss the status of the Defense Department's Hurricane Katrina relief effort. Location: DoD Briefing Studio, Pentagon 2E579.

NORTH KOREA VISIT _ 11:15 a.m. News conference with Rep. Jim Leach, R-Iowa, and Rep. Tom Lantos, D-Calif. on their Aug. 30 to Sept. 3 visit to North Korea, and looking ahead to the resumption of the Six Party Talks on nuclear disarmament next week. Location: House Radio/TV Gallery.

GAS PRICES _ 12 p.m. Sen. Byron Dorgan holds a news conference to announce a bill to provide relief from high gasoline prices. Location: Senate Radio-TV Gallery.

MEDICAID _ 12 p.m. The Cato Institute hosts a Policy Forum on ``Medicaid and the Long-Term Care Crisis--Who Should Pay?" with Stephen Moses, president, Center for Long-Term Care Reform; Vincent Russo, certified elder law attorney, past president, National Academy of Elder Law Attorneys; Michael Cannon, director of health policy studies, Cato Institute. Location: Cato Institute, 1000 Massachusetts Ave. NW.

COSTS OF IRAQ WAR _ 12:30 p.m. The Institute for Policy Studies hosts a discussion on ``The Real Costs of the Iraq War: Excessive Salaries for CEOs of Defense Contractors and Lives and Tax Dollars Wasted," with IPS Fellows Erik Leaver, Phyllis Bennis, and Sarah Anderson," co-authors of two new reports by IPS on the Iraq war. Location: Institute for Policy Studies, Ste. 1020, 733 15th St. NW.

OIL DEPENDENCE _ 1:30 p.m. Former Reagan administration defense officials discuss by telephone the need to reduce the country's dependence on oil and instead create more efficient transportation. Speakers include Frank Gaffney, former assistant secretary of defense under Reagan

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and Dan Lashof, Natural Resources Defense Council. Contacts: Nicole St. Clair, 202-289-2404. Notes: Telephone news conference. Call 1-877-826-1586 and ask for ``Oil Savings."

PREDATORY LENDING _ 1:30 p.m. The Center for Responsible Lending (CRL) holds a phone-based news conference on legislation currently before Congress jeopardizing consumers by what the Center says is weakening protections against predatory lending already in place across the U.S., with Rep. Brad Miller, D-N.C.; Massachusetts State Rep. John Quinn; New Jersey Department of Banking & Insurance Director H. Robert Tillman; New Mexico Chief Deputy Attorney General Stuart Bluestone; and CRL Executive Vice President Debbie Goldstein. Contacts: Ailis Aaron, 703-276-3265. Notes: To join the live, telephone-based news conference (with full Q&A) dial 1-(800) 860-2442 by 1:30 p.m. ET on Sept. 7 and ask for the ``Attack on state predatory lending laws" news event.

9/11-PENNSYLVANIA MEMORIAL _ 2 p.m. A press conference will be held to announce the winning design for the Flight 93 memorial for 9/11 victims in Somerset County, Pa. Location: U.S. Chamber of Commerce, Hall of Flags, Washington, DC.

DEMOCRACY AT RISK _ 3 p.m. The Brookings Institution hosts a discussion on a new book it published and is sponsored by the American Political Science Association titled ``Democracy at Risk: How Political Choices Undermine Citizen Participation, and What We Can Do About It," with moderator E.J. Dionne, Jr., Washington Post; panelist authors of the book Yvette Alex-Assensoh, Indiana University; Michael Brintnall, American Political Science Association.; William Galston, University of Maryland; Stephen Macedo, Princeton University; Christopher Karpowitz, Princeton University; Rob Reich, Stanford University, Robert Rodgers, Princeton University; and Todd Swanstrom, Saint Louis University. Location: Brookings Institution, Falk Auditorium, 1775 Massachusetts Ave. NW.

KATRINA RELIEF _ 6 p.m. The state societies of Alabama, Louisiana, Mississippi and Florida hold a fund raising reception to benefit Hurricane Katrina victims. Location: Jones Day Building, 7th floor, 311 1st St. NW.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Sadr City Success Story."
"Water Drops, Mayor Hopeful."
"Baton Rouge A Booming Haven For The Displaced."
"A Home For The Brave."
"Donations At $500 Million, And Climbing."
"Legislature OKs Gay Marriage."

USA Today:
"Intimidation, Attacks Take Toll On Contractors In Iraq."
"3 Families With One Question: What Do We Do Now?"
"'Rays Of Light' In New Orleans."

New York Times:
"Flooding Recedes In New Orleans; U.S. Inquiry Is Set."
"Putting Down New Roots On More Solid Ground."
"Across Nation, Storm Victims Crowd Schools."
"Baseball In Iraq: As Pastimes Go, It's Anything But."
"In Nursing Home, A Fight Lost To Rising Waters."

Washington Post:
"Katrina Takes Environmental Toll."
"The Lure Of Coastal Life Outweighs The Risks."
"Offers Of Aid Immediate, But U.S. Approval Delayed For Days."
"California Legislature Approves Gay Marriage."

Washington Times:
"Residents Will Be Forced To Leave."
"'Marriage' Bill OK'd, Goes To Arnold."
"Surge In Saudi Oil Income Seen Aiding Fight On Terror."
"Rehnquist's 'Strong Legacy' Hailed."

Detroit Free Press:
"President, Congress To Lead Investigations."
"State Effort To Recoup Homestead Taxes Falters."

Atlanta Journal-Constitution:
"Overwhelmed."

Dallas Morning News:
"Mayor Orders Holdouts Evacuated."
"Fuming Congress Plans A Battery Of Hearings."
"Texas Expecting Up To 60,000 New Students."
"A 2nd Chance At UT-Austin."

Houston Chronicle:
"Disaster Probes Ahead."
"Focus Now Turns To Providing Services."
"Making Progress, One Sandbag At A Time."
"As Rehnquist Is Mourned, Senate Focuses On Roberts."

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Story Lineup From Last Night's Network News:

ABC: New Orleans Refugees; Refugee Children-School; Bush-Katrina Response; Rehnquist Mourned; New Orleans-Katrina Response; Brown-Allbaugh; Gas Prices; New Orleans-Health Threats; Death Toll; New Orleans-Diehards.

CBS: Katrina-Blame Game; New Orleans-Water Receding; MS-Private Hurricane Relief; Katrina-Blame Game; Refugee Children-School; Iraq KIA Honored; New Orleans Police; Rehnquist Mourned; Gas Prices; New Orleans Refugees; Hurricane Season; Bob Denver Obit.

NBC: New Orleans Update; New Orleans-Diehards; Biloxi-Cleanup; Bush-Katrina Response; Storm Warnings; Pentagon-Katrina Response; Hurricane Evacuees-School; Katrina-Charity Scams; Baton Rouge Airport; Hurricane Relief Update; New Orleans EMS; Katrina-Stress; New Orleans Police; Death Toll; New Orleans-Reconstruction; Katrina-World Reaction; Rehnquist Mourned; Denver Obit; Katrina-Radio Coverage.

Story Lineup From This Morning's Radio News Broadcasts:

ABC: New Orleans-Forced Evacuations; New Orleans-Contaminated Floodwater; Congress-Hurricane Response Questions.

CBS: New Orleans-Forced Evacuations; Bush-Hurricane Relief; Gas Prices; Roberts; CA-Gay Marriage.

NPR: New Orleans-Floodwater Removal; Congress-Hurricane Response Questions; FL-Tropical Storm Warning; CA-Gay Marriage; Wall Street; Palestinian Security Official Killed; UN-Oil For Food Probe; Denver Obit.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, SEPTEMBER 7, 2005 7:45 AM EDT

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TERRORISM NEWS:

Captured Iraq Terror Suspect Had Thumb Drive Containing London Bombings Information. The Washington Times (9/7, Hess) reports a US military officer has said that a terrorist connected to al-Qaeda, who was captured near the Syrian border in Iraq last month, "had a computer 'thumb drive' that contained planning information about the July 7 suicide bombings in London." The news "fits with other evidence of a growing presence in Iraq by al Qaeda, which has taken responsibility for the British attacks."

British Home Secretary To Call For Increased Scrutiny Of Traveler Data. The Los Angeles Times (9/7, Daniszewski) reports, "Britain's chief law enforcement official will call on European leaders today to put biological data into passports, visas and identity cards, share airline passenger lists and retain telecommunications records to help fight international terrorists and organized crime." Home Secretary Charles Clarke "said he was seeking to strike the right balance between preserving civil liberties and protecting the public. 'It seems to me we have to give the same rights to those humans who want to be able to travel without being blown up on an underground train…as we do to the defendants,' he said."

California Man Pleads Not Guilty To Terror Plot Charges. The AP (9/7, Blood) reports, "One of four men indicted in an alleged terror plot against California targets pleaded not guilty to federal charges Tuesday. Hammad Riaz Samana, a 21-year-old Pakistani national, said only a few words as he appeared with hands shackled to his waist before U.S. Magistrate Judge Arthur Nakazato." The AP notes, "Outside court, defense attorney Timothy Lannen described Samana as a hardworking, upstanding person. … Assistant U.S. Attorney Kevin Smith said that 'the indictment speaks for itself' and that the investigation was continuing. He said he expected the other men to be arraigned later this month." KNBC-TV Los Angeles (9/6) also reports on Samana's plea, noting, "Authorities are not aware of any current threat based on what was learned during the investigation, said Randy Parsons, acting assistant head of the FBI's Los Angeles office."

Judge Denies Bail For Florida Doctor Accused Of Taking Al Qaeda Loyalty Pledge. The Miami Herald (9/7, Benn) reports US District Judge Loretta Preska "denied bail Tuesday for a Boca Raton doctor charged with conspiring to support al Qaeda." Rafiq Sabir "will continue to await trial in a maximum-security prison, his attorney, Ed Wilford, said. … Wilford said he will appeal the decision." The Herald notes, "An undercover FBI agent posed as an al Qaeda recruiter and secretly recorded Sabir and" codefendant Tarik Shah " reciting an alleged oath of allegiance" to al Qaeda in May.

Psychiatrists Disagree On Alleged Ohio Bombing Plotter's Mental State. The AP (9/6) reports, "Mental health experts who examined a Somali man accused of plotting to bomb a shopping mall have concluded he was faking when he became a wild-eyed defendant who tapped his head on a table, mumbled and giggled in court. Documents made public last week from two analysts at the Federal Medical Center in Rochester, Minn., said Nuradin Abdi was pretending to be mentally ill. … However, another psychiatrist requested by Abdi's defense attorney because the first report came from a federal agency said it's possible that Abdi has a 'legitimate psychosis.' Abdi's lawyer, Mahir T. Sherif, said Tuesday the second analysis was done by forensic psychiatrist Dr. Robert Phillips, who previously testified in the case of President Reagan's shooter, John Hinckley Jr."

US Resident Released From Military Detention In Iraq. The Los Angeles Times (9/7, Weinstein) reports, "More than two months after authorities cleared him of suspicion in a mortar attack on a United States base in Baghdad, an Iraqi man was released Tuesday from military custody, just days before government lawyers were due in court to answer questions about his captivity. Tuesday's release of Numan Adnan Al-Kaby, a longtime lawful U.S. resident, from a military prison outside Baghdad marked the second time in two months that authorities freed a captive in Iraq within a week of the American Civil Liberties Union of Southern California filing a federal lawsuit in Washington."

WPost Says Guantanamo Bay Tribunals Should Be Modeled After Courts-Martial. The Washington Post (9/7, A24) editorializes that changes to the military tribunals that are being set up at Guantanamo Bay, announced last week by the Pentagon, "improve the system in subtle but important ways, moving it closer to the system of courts-martial by which the military tries its own soldiers. But they don't entirely fix the problems." The Post states that "the more the commissions come to resemble courts-martial, the less sense it makes for the military to create a justice system from scratch rather than using the one it already has -- in which Americans and the international community have high confidence."

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HOMELAND RESPONSE:

Coast Guard Raids In California Raise Concerns. The Montery (CA) Herald (9/7, Hennessey) reports, "The Coast Guard boarded and inspected close to 30 vessels, many of them docked, in Monterey Bay over the Labor Day weekend in a operation that raised the eyebrows of some local boaters and the ire of one." The Herald continues, "The operation -- conducted in conjunction with the Monterey County Sheriff's Office, U.S. Immigration and Customs Enforcement and the National Oceanic and Atmospheric Administration -- netted one arrest in Moss Landing Harbor and terminated the voyages of five vessels that were deemed unsafe." The Herald adds, "In all, 28 boats, many of them live-aboard vessels that were moored in the harbors, were boarded and 31 citations were issued. One angry boater said Coast Guard officers came aboard his boat in Moss Landing Harbor late Friday citing authority under the Patriot Act. … In an e-mail to The Herald, Lowell Jones of Moss Landing said the Coast Guard did a 'blanket boarding' in the harbor, "searching boats, and invading people's privacy at 10:30 p.m. They justified this intrusion by citing the Patriot Act. … Coast Guard officials said the operation was not in response to any particular law enforcement report and that search warrants are not required for such inspections."

First Phase Of Rebuilding After 9/11 Begins In Manhattan. The Washington Post (9/7, A2, Garcia) reports, "The first phase of rebuilding on the 16 acres of Lower Manhattan leveled by the Sept. 11 attacks began yesterday with a ceremonial groundbreaking for a new $2.2 billion transportation hub, highlighted by the release of two doves representing 'peace and rebirth.'" The new hub "will link commuter trains from New Jersey, ferries and the city subway system. Officials estimate 250,000 people a day will stream through the transportation hub after its scheduled completion in 2009."

WAR NEWS:

US Strikes Insurgent Targets In Western Iraq. The US launched two attacks against insurgents near Kalibah along the Syrian border. The AP (9/7, Reid) reports, "The airstrikes occurred about six miles east of the border city of Qaim, major parts of which have fallen under control of al-Qaida-linked foreign fighters." Local Iraqis "say al-Qaida in Iraq, led by Abu Musab al-Zarqawi, took over parts of Qaim after residents fled fighting between tribes supporting and opposing the insurgents." US troops maintain "a presence in the area, but U.S. officers have complained privately that they don't have enough American and Iraqi troops to secure Qaim."

The Washington Post (9/7, A20, Sarhan, Fekeiki) adds, "U.S. Marines have a force of about 5,000 to cover the province's 24,000 square miles. American officers in Anbar say the Marines are too few to bring the province under control, but U.S. and Iraqi officials say the U.S. raids have helped disrupt the flow of bombs and recruits into the rest of Iraq." The New York Times (9/7, Oppel Jr.) notes that "In contrast to the military's normally more upbeat assertions about progress curbing the insurgency, the first statement noted that western Anbar residents have 'experienced an increased level of violence at the hands of Al Qaeda in Iraq terrorists.'"

Sunnis Refuse US Military Order To Leave Tall Afar. The refusal of Tall Afar residents to leave the city while the US military hunts for insurgents has complicated the mission. The Washington Post (9/7, A20, Finer) reports, "Fighting has been sporadic so far. One U.S. soldier has been killed, along with at least 200 suspected insurgents, said Col. H.R. McMaster, commander of the 3rd Armored Cavalry Regiment, which is leading the assault." The "small-scale raids and house-to-house searches have allowed troops to encircle Sarai, where commanders here believe insurgents have massed." But Iraqi officials have "asked the military commanders to minimize civilian casualties in this highly volatile region."

US Transfers Security Of Najaf To Iraqis. As one of the first steps for the withdrawal of thousands of US forces from Iraq by next spring Iraqi security forces were given responsibility for security in the city of Najf. The Washington Post (9/7, A20, Sarhan, Fekeiki) notes that it "marked the first transfer of an entire city from U.S. to Iraqi military responsibility this year. The raising of the Iraqi flag at a former U.S. base was 'pretty much putting the city of Najaf in Iraqi control,' Lt. Col. Steve Boylan, spokesman for the U.S. military, said in Baghdad." The city "has been the scene of relatively few insurgent attacks."

The New York Times (9/7, Oppel Jr.) reports, "American commander, Brig. Gen. Augustus L. Collins, said the 'Iraqi Army in Najaf can control the area,' according to a pool report of the ceremony. But the general also emphasized that a contingent of American troops would remain based nearby in case the Iraqi forces needed help."

The Los Angeles Times (9/7, Khalil, Sanders) says, "Najaf's hand-over scarcely could have been imagined last summer, when thousands of U.S. and Iraqi troops fought a pitched, three-week battle in the city against the militia forces of radical Shiite Muslim cleric Muqtada Sadr after the rebels seized control of several shrines. Hundreds died and much of the Old City was destroyed."

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Top Iraqi Bomb Expert Killed By Insurgents. As one example of recent success by insurgents targeting Iraqis assisting the US, USA Today (9/7, Jervis) reports Haqy Asaad was recently gunned down because he was adept at helping disarm IEDS and suicide bombers. Asaad "earned the nickname 'Robot' from U.S. advisers for his dogged disarming of insurgents' bombs." The US military is "working to hand over security responsibilities to Iraqi units such as Asaad's. An increasing number of Iraqi troops are manning checkpoints, policing streets, leading raids on suspected insurgent hide-outs and disarming roadside bombs." But unlike US troops "many Iraqi security personnel return home each night to regular neighborhoods, leaving them susceptible to attacks from guerrillas."

Attacks On Contractors Slow Iraqi Reconstruction. Contractors on US projects to help reconstruct Iraq were increasingly targeted in August. They were mainly Iraqis. USA Today (9/7, Jervis) reports U.S. Project and Contracting Office director of programs Karen Durham-Aguilera said, "August was real bad. … We've had to stop projects because of it." Rebuilding Iraq's infrastructure is a key part of the US strategy "of winning over Iraqis and undermining the insurgency. But insurgents are interfering with this by targeting contractors." And funding for security has "chewed away at the $18.4 billion appropriated by Congress last year for reconstruction in Iraq. Last year, $5 billion of that was redirected to training and equipping Iraq's security forces, a move that resulted in the cancellation of some projects and scaling back others." Yet, "reconstruction projects continue. The Army Corps of Engineers says more than 1,700 projects have been completed since June 2004."

US Strategy To Rebuild Sadr City Seen As Model For Success. In a lengthy article, the Los Angeles Times (9/7, Miller) examines the reasons behind the US success in helping reconstruct Sadr City. The US military's decision to provide sustained, focused attention on the city is credited with the success. The Times describes the rebuilding of Sadr City as "an impressive, if imperfect, accomplishment in Iraq, where many projects remain incomplete and U.S. promises unfulfilled." The US military's strategy "provided the oversight needed to coordinate the military's efforts with those of the U.S. Agency for International Development and the Pentagon's Project and Contracting Office." The reconstruction "also held more immediate significance among mid-level commanders in the field than among higher-level Pentagon officials preoccupied with fighting the war. The field officers focused on short-term, high-visibility projects such as cleaning up trash and digging wells, instead of massive new water treatment plants or power stations that take years to build. They also hired local Iraqi contractors, who in turn employed many of the militia members who had once battled U.S. troops."

Saddam Reportedly Confesses To Ordering Execution Of Kurds. CNN's The Situation Room (9/6, Verjee) reported Iraqi President, Jalal Talabani is saying "that Saddam Hussein has apparently confessed that he gave orders to execute thousands of Kurds back in the 1980s. He gave an interview to a state-funded broadcaster where he said that he had spoken to one of the Iraqi special tribunal judges that was involved in the investigation. Apparently the judge told Talabani that, quote, 'he said he was able to take important confessions from Saddam Hussein,' and that Saddam has signed these confessions, and there is video and audio recordings of these confessions as well. Talabani said that the judge told him Saddam confessed that he gave orders for the executions and the military operations that were directed against the Kurds in the late 1980s."

The Washington Post (9/7, A20, Sarhan, Fekeiki) in an article on recent US military activity in Iraq briefly notes Talabani said, "Saddam deserves a death sentence 20 times a day because he tried to assassinate me 20 times." USA Today/AP (9/7) adds, "Talabani said that some of the confessions involved cases under investigation but he gave no specifics."

But according to the New York Times (9/7, Oppel Jr.), Abdel Haq Alani, an attorney for Hussein, "dismissed the statement as a 'fabrication.'" Alani said reports "of a confession 'comes to me as a surprise, a big surprise," and he "said Mr. Hussein had made no mention of a confession during a meeting with his Iraqi lawyer on Monday."

Volcker Report To Criticize Annan, UN For Lax Oversight Of Oil-For-Food Program. The Washington Post (9/7, A20, Lynch) reports, "The U.N. Security Council and Secretary General Kofi Annan failed to adequately manage and police the $64 billion U.N. oil-for-food program, creating a permissive environment that enabled Saddam Hussein's government in Iraq to take billions of dollars in illicit kickbacks, according to the findings of a U.N. investigation to be released Wednesday." Volcker's report "will portray a largely dysfunctional, leaderless international effort to operate the humanitarian relief effort for Iraq from December 1996 until the U.S.-led invasion in March 2003. Volcker will urge world leaders attending a Sept. 14 summit on U.N. reform to support steps to strengthen the quality of independent oversight of the organization's spending."

The Washington Times (9/7, Pisik) notes that while the "Independent Inquiry Committee (IIC) is expected to formally absolve U.N. Secretary-General Kofi Annan in the awarding of a key contract to his son's former employer," Volcker's

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report "will not spare Mr. Annan's administration from a harsh assessment of its management capabilities." The report will also address "the political sensitivities that compromised the Security Council's ability to make important decisions; the 'grievous absence' of effective auditing and management controls; and the inability to track expenditures across agencies and programs."

The New York Times (9/7, Hoge) reports, "The general conclusion of" Volcker's latest report "is that the United Nations is inefficient, over-politicized, corrupt and in desperate need of immediate repair."

The New York Sun (9/7, Clyne) reports that some U.N. critics have made an hour-long documentary film entitled "Broken Promises: The United Nations at 60." The Sun says the film chronicles "the organization's failings since its inception," and raises "questions about whether the world body should perpetuate itself for another 60 years." The documentary is set to be released nationwide later this month. It "is the brainchild of…actor and activist, Ronald Silver, and the president of the Citizens United Foundation, David Bossie." Silver said "that he hoped a broadly accessible film would heighten public interest as debate over the" UN "escalates in coming weeks, with the imminent release of a [high-profile] report…on the oil-for-food investigation."

US Resident Detained In Iraq Released Before Hearing. The Washington Post (9/7, A6, Leonnig) reports, "An Iraqi-born U.S. resident was released from a U.S. military prison in Baghdad yesterday, two days before a scheduled hearing on why the U.S. government had continued to detain him after clearing him of involvement in a mortar attack." The "decision to free Numan Adnan Al-Kaby comes less than a week after lawyers filed suit demanding his release. A federal judge had scheduled a hearing on Al-Kaby's case for Thursday afternoon, but the government yesterday asked that it be canceled and the complaint be dismissed as moot."

WSJournal Suggests Bolton Lead Effort To Pressure Arab Governments To Support Iraq. The Wall Street Journal (9/7) editorializes, "One of the world's unremarked scandals is how little help Iraq's new government is getting from its fellow Arabs. And now Iraq's elected leaders are becoming increasingly vocal about that fact. On Monday Iraq President Jalal Talabani scored Arab leaders for their minimal-to-nonexistent diplomatic presence in Baghdad." The Journal concludes, "Encouraging Arab help in Iraq would seem to be a job for the State Department. But if Foggy Bottom isn't up to it, perhaps the White House should authorize U.S. Ambassador John Bolton to inform Arab nations…that their relations with the U.S., and especially future economic and military assistance, depend on it."

Political Tensions Threaten Nascent Iraqi Baseball League. The Iraqi national baseball league, according to the New York Times (9/7, Semple), was founded in 2003 and "has grown to 26 full-fledged baseball teams in 18 provinces stretching from Nineveh in the north to Basra in the south." Yet, "like Iraq since the American invasion, the league, after less than two years in existence, has itself been torn by political infighting and charges of malfeasance that have cast its future into doubt."

Al Qaeda Militants Killed By Saudi Security Forces. The New York Times (9/7, Fattah) reports, "Saudi security forces finally overwhelmed a cell of militants holed up in a house in the Persian Gulf city of Dammam on Tuesday, ending a three-day siege. The bloody firefight was the latest in a string of confrontations between militants and security forces throughout the country." On Monday "the Interior Ministry announced that security forces had killed two militants on Sunday, including the No. 3 most-wanted militant in Saudi Arabia, Zaid Saad Zaid al-Samari, who was sought in connection with numerous attacks." Recently "Saudi security forces have found themselves in almost weekly confrontations with militants."

Economic Progress May Help Reduce Attraction Of Al Qaeda For Saudi Youth. The Washington Times (9/7, Abou-Alsamh) reports, "Record oil prices have sent Saudi revenues soaring and contributed to a sixfold increase in stock prices, but ordinary citizens are just beginning to feel the benefits, financial analysts say." Experts "hope that in time the surge will produce more and better jobs for young Saudis, reducing their interest in joining al Qaeda-linked terrorist groups that have been battling the government."

First Afghan Cadet At West Point Eager To Help Country's Reconstruction. USA Today (9/7, Brook) reports, "The U.S. Military Academy accepted its first cadet from Afghanistan last month as that country takes its initial steps toward building a professional military after decades of war and unrest." Cadet Shoaib Yosoufzai, "who grew up under harsh Taliban rule, wants to learn to build bridges, dams, power plants and roads for his ravaged country."

West Point Cadets Undeterred By Dangers Of Service. USA Today (9/7, Brook) reports Geryah White "and the 1,200 other members of the West Point class of 2009 have the grades and test scores to get into almost any top school -- one that wouldn't bring compulsory military service after graduation. Instead, they accepted this challenge, their eyes wide open to the dangers as American soldiers return

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home in flag-draped caskets or maimed by roadside bombs." USA Today notes, "The Army and Army National Guard are expected to miss their 2005 recruiting goals by several thousand new soldiers, but interest in West Point hasn't flagged. Applications reached 12,692 in 2003. They're down to 10,733 this year but still high by historical standards, says Lt. Gen. William Lennox, West Point's superintendent."

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Gonzales To Award Medal Of Valor To Families Of 9/11 Victims. The Staten Island Advance (NY) (9/7, Kivlan) reports, "Dozens of Sept. 11 family members are expected to travel here Friday to receive the Congressional Medal of Valor on behalf of the more than 400 firefighters and police officers killed at the World Trade Center. … The medals will be awarded by U.S. Attorney General Alberto Gonzalez in a ceremony at the Justice Department." The Advance continues, "Relatives of the fallen first responders were notified of the event by Justice Department officials by telephone late last week. Free air fare was made available for the family members through a travel agency in the city. … Among the relatives planning to attend was Joanne Barbara of West Brighton, whose husband Gerard, a battalion chief, was among the 343 firefighters who died at Ground Zero." The Advance adds, "She said in an interview that she had mixed feelings about the event. … 'Of course, it will be an honor to accept the Medal of Valor for my husband,' she said. … But Mrs. Barbara said the Justice Department should have informed the families of the ceremony much sooner. 'Our weekend is going to be very emotional as it is,' she said, referring to the 9/11 anniversary. 'And they just added another event to it that we didn't know about.'"

CORPORATE SCANDALS:

Enron Defendants Claim Prosecutors Are Scaring Off Witnesses. The Washington Post (9/7, Johnson) reports, "Defense lawyers for former Enron Corp. executives Kenneth L. Lay and Jeffrey K. Skilling have complained for years about the government's hard-nosed tactics in pursuit of their clients." The Post continues, "Now they are hoping for support from an unlikely source: the federal judge overseeing next year's fraud trial against the two. … U.S. District Judge Simeon T. Lake III has scheduled a hearing in Houston for tomorrow to examine why only four former Enron employees have agreed to meet with the defense team. The judge has raised the prospect, employed in other cases, that he could privately inform a limited number of potential witnesses that they have nothing to fear by speaking with Lay's and Skilling's lawyers." The Post adds, "The judge's action comes in response to defense claims, made public yesterday in court filings, that prosecutors abused their power by warning Enron employees that it was not a 'good idea' to help Skilling and Lay. A government lawyer also advised a critical, unidentified witness to 'get rid' of his or her lawyer if the lawyer continued to talk with the defense, the brief said. … A grand jury continues to investigate misconduct at Enron, and prosecutors have said in court papers that they consider 114 people 'unindicted co-conspirators.' … Lake has not ruled that prosecutors at the Justice Department's Enron Task Force acted improperly. Even so, the judge said last week, Lay and Skilling had identified 'a problem I am persuaded exists' in advance of a trial only four months away."

Former Skandia CEO To Be Charged. The Wall Street Journal (9/7, C3, Akerhielm, Nordstrom, Pfalzer) reports that Lars-Eric Petersson, former chief executive officer of insurer Skandia AB, will be prosecuted "for two cases of 'severe' breach of trust." He was "fired by Skandia in 2003 for his involvement in the lifting of a cap on a bonus-payment program to executives. The charges against him won't have any bearing on the 44.9 billion kronor ($6.02, or €4.83 billion) takeover bid for Skandia filed last week by Old Mutual PLC." The first charge against Petersson deals with that decision. "The second charge against Mr. Petersson relates to retirement payments … Without approval from Skandia's board, he added retirement benefits under which his own benefits would always reach at least 97.1 million kronor."

Lawyers Says Misconceptions About Audits Lead To Counterproductive Reforms. Clare Canning, head of commercial litigation, and James Roberts, associate, in the commercial litigation team at Barlow Lyde & Gilbert, who currently act for Ernst & Young in the Equitable Life litigation, in an op-ed in the Financial Times (9/7) reports, "There is a danger that misconceptions about the audit's role will lead to counterproductive attempts to bolster the robustness of the audit opinion … Some of those expressing concerns appear to expect the audit to function like a form of commercial guarantee; a bastion against corporate scandal and a blanket protection for the company and its directors against their own commercial mismanagement." An audit is "an opinion that a company's financial statements show a true and fair view at a particular point in time." Any reform towards "rules-based audit processes" or creating "a criminal offence of 'recklessly' giving an audit opinion" will only "create irresistible pressure towards form over substance" and "frustrate swift and effective operation of the regulatory regime and civil litigation."

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Morgan Director's Resignation Is Omen Of Reorganization. The New York Times (9/7, Thomas) reports, "Michael A. Miles, a Morgan Stanley director with close ties to the former chief executive, Philip J. Purcell, has resigned from the board … The move, which was expected, is the latest signal that the new chief executive, John J. Mack, intends to reorganize a board that during the battle over Mr. Purcell's leadership became a lightning rod for criticism and remains the target of several shareholder lawsuits."

Investment Firm Sues To Stop Spitzer Fee Inquiry. The New York Times (9/7, Atlas) reports, "J.& W. Seligman & Company, a New York investment firm, sued the state's attorney general, Eliot Spitzer, yesterday, asserting that he had overstepped his authority in his investigation of improper trading in Seligman's mutual funds" and "seeks to suspend Mr. Spitzer's ability to investigate 'allegedly excessive advisory fees paid to Seligman.'" All of Spitzer's "settlements with fund companies to date" required "a third party to review how fees are set," but "the fee reductions…have been criticized by officials at the S.E.C., who have said it is not the role of the government to set prices."

Delaware Settles With Morgan Stanley Over Trading Complaint. The AP (9/7) reports, "Morgan Stanley Inc. has agreed to pay $700,000 to settle a complaint brought by the state Department of Justice regarding improper trading in a Delaware couple's brokerage account, officials said Tuesday." The AP continues, "The bulk of the settlement will be paid to the Wilmington couple to reimburse them for losses incurred, authorities said." The AP adds, "The Division of Securities filed a formal complaint in 2003 against the brokerage firm and two brokers, George Coughlin and Argie Economou who worked in a Morgan Stanley branch office in Burlington, Vt. … The complaint alleged that Morgan Stanley, through Coughlin, executed more than 500 unauthorized transactions and more than 70 'unsuitable' transactions in the couple's account. The complaint also alleged that Morgan Stanley and Economou, who was Coughlins immediate supervisor, failed to properly supervise Coughlins trading activities, in violation of Delaware securities laws."

CRIMINAL LAW:

Prosecutors Could Employ Little-Used Provision In Plame Case. Convictions for leaking sensitive government information to the media are rare, and according to the Washington Post (9/7, A23, Lee), "legal experts say prosecutors will have a hard time putting away anyone in the administration for violating the Intelligence Identities Protection Act in the revelation of CIA operative Valerie Plame's identity in 2003." However, some legal experts say it is not out of the question for prosecutors to use Section 641 in Title 18 of the US Code, which "nominally deals with prohibitions on the embezzlement of public money, property or records for private use. It typically would be used to go after a federal employee who, say, absconds with government laptops. … The statute 'is used by the government from time to time in lieu of not having a criminal prohibition on leaking classified information, generally,' said William Banks, a national security law expert at Syracuse University."

Former Houston Official Sentenced For Corruption. The Houston Chronicle (9/7, Rice) reports, "A former Houston city official was sentenced to two years and six months in federal prison today for accepting cash and gifts from businesses seeking her influence in gaining lucrative city contracts." The Chronicle continues, "The sentencing of Monique McGilbra, former head of the city Building Services Department, follows a three-year sentence she received Friday in Cleveland, Ohio, for accepting bribes from a Cleveland businessman. … McGilbra, 41, is the second Houston city official to plead guilty in a continuing investigation that began in Cleveland and expanded to include Houston and New Orleans." The Chronicle adds, "Oliver Spellman, 51, chief of staff to former Mayor Lee Brown, received probation and a $10,000 fine Friday in Cleveland federal court for taking a $2,000 bribe from a Cleveland consultant. … U.S. District Judge Vanessa Gilmore said McGilbra's Houston sentence will run at the same time as the Cleveland sentence, meaning she will spend no more than three years in prison." The Chronicle notes, "U.S. marshals took McGilbra into custody on orders from Gwin, but Gilmore said McGilbra could be released until ordered to report to prison if Gwin agreed to reconsider his order. … Assistant U.S. Attorney Edward Gallagher and Mary Butler, a prosecutor with the Department of Justice's public integrity unit, told Gilmore McGilbra was cooperating in an ongoing investigation."

Dallas Planning Commissioner Resigns Amid FBI Probe. The Dallas Morning News (9/7, Ramshaw) reports, "Embattled City Plan Commissioner D'Angelo Lee stepped down over the holiday weekend, more than two months after he fell under scrutiny in a far-reaching FBI investigation and days before a second City Council vote over whether to remove him." Mayor Laura Miller "said Tuesday that the resignation should have occurred 'a few months ago.' … 'He has now stepped down, and that's a really good step forward,' Ms. Miller said." WFAA-TV Dallas-

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Ft. Worth (9/6, Heinbaugh) notes, "Lee's business interests and activities as a City Plan Commissioner have been at the core of the FBI investigation. … Many Council members said they were pleased that Lee's decision will avoid another potential fight."

Nigerian Official Meets With FBI About Nigerian Corruption Investigation. The Nigeria Daily Independent (9/7, Eluemunor, Aruna) reports, "Economic and Financial Crimes Commission…chairman, Nuhu Ribadu, has been holding meetings with the United States Federal Bureau of Investigation…to intensify the search for corrupt Nigerian public officials. He was in the U.S. last week to meet with senior government and FBI officials and to exchange information on the activities of Nigerian politicians, especially governors being investigated for corrupt practices. Ribadu, according to sources, was sighted in Maryland and Washington D.C. where he had meetings with U.S. officials…to obtain additional information on the property deeds of some governors and pass details to the INTERPOL. He also used the visit to obtain more information on the raid the FBI carried out last month on the property of Vice President, Atiku Abubakar."

Nigerian Vice President Releases List Of Items Seized In FBI Raid. Nigerian news Web site This Day (9/6, Akogun) reports, "The Office of Vice President Atiku Abubakar yesterday released a list of items taken away from Maryland, US home by operatives of the Federal Bureau of Investigation…during their August 3 raid. … According to the statement, the document containing the report of FBI search was jointly signed by the FBI officials and a representative of the Atiku family." The Day adds, "The statement from the Vice President's office quoted Atiku's family lawyers and added that the content of the FBI document was made public to reassure members of the public and disabuse their minds of what it called 'the fabrication of falsehood'."

Court-Appointed Monitor Finds Chicago Hiring Still Based On Politics. The AP (9/7, Robinson) reports, "Chicago officials have been basing hiring decisions on political clout and not merits, defying a court-ordered ban on patronage employment, a federal monitor said Tuesday. Court-appointed monitor Noelle Brennan urged sweeping changes at City Hall, including requiring top officials to swear under penalty of perjury that hirings aren't based on politics. Brennan made the recommendations in an 11-page report to U.S. District Judge Wayne R. Andersen on how to enforce the decades-old Shakman Decree that bans the use of patronage." The AP notes, "The mayor's office of intergovernmental affairs-- the political high command-- has been excessively involved in the hiring process, Brennan said. She said unqualified applicants who have political clout often get consideration for jobs."

Tennessee Transportation Officials Inspect Guardrails Amid Contract Probe. The Tennessean (9/7, Craig) reports, "The Tennessee Department of Transportation said yesterday that it spent $478,385 to inspect every inch of guardrail across the state for evidence of improper installation, but the state won't say what was found." The Tennessean adds, "Some of the state's guardrail companies are under scrutiny by the FBI, the Tennessee Bureau of Investigation, the U.S. Transportation Department and the state on suspicion of installing guardrail posts shorter than required lengths. Evidence began to surface in January after an anonymous tip from a guardrail employee. As additional evidence came to light, TDOT deployed teams in May to inspect more than 4,000 miles of state highway guardrails.

Suspect Arraigned In Murder Of Convicted Washington Sex Offenders. The New York Times (9/7, Marshall) reports, "A man who told the police that he had found his victims on a sheriff's department Web site was arraigned yesterday in the killings of two convicted sex offenders in Bellingham, Wash. Investigators said the man, Michael A. Mullen, was upset by a child abuse case in Idaho that involved a repeat sex offender. They said Mr. Mullen, 36, telephoned the 911 center in Bellingham on Monday to confess to a double killing in which a man posing as an F.B.I. agent visited the home of three known sex offenders and told them they were on a hit list and in danger." The AP (9/7, Blankinship) notes Mullen "tried to plead guilty Tuesday before he had even been formally charged. … 'Can I have a speedy trial?' Mullen asked a court official, via closed circuit television from jail, during a preliminary hearing Tuesday. 'I would like to plead guilty.'"

The Los Angeles Times (9/7, Tizon) also reports on Mullens' arraignment and confession.

Jurisdiction In Moving Bus Killing Could Mean Life Or Death. The Baltimore Sun (9/7, Goldberg) reports that Kevin G. Johns Jr. has been "charged in Baltimore County with murder," for killing Philip E. Parker Jr. However, as Parker was killed on a bus that moved through several jurisdictions, the choice of venue is important because "Baltimore County seeks the death penalty much, much, much more frequently than any other venue," according to Byron L. Warnken, a University of Baltimore law professor. The standard when dealing with murders in moving vehicles, as set by "a reported opinion by the Court of Special Appeals," only requires the state "to show that the crime occurred 'close enough to the county boundary' when the

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evidence is ambiguous," and in this case there is a "lack of certainty about the most basic of details."

Judge Dismisses Lawsuit Against FBI Over Bungled Massachusetts Surrender. The Boston Globe (9/7, Murphy) reports US District Judge Reginald C. Lindsay "ruled yesterday that the FBI can't be sued over a clerk's bungling of a call from Gary Lee Sampson when the killer offered to surrender on bank robbery charges, just a day before going on a murderous rampage four years ago." Lindsay "dismissed a $10 million lawsuit filed by the family of one of Sampson's three victims, 69-year-old Philip McCloskey, of Taunton." Lindsay "wrote that federal law protects the government from being sued for negligence because former FBI clerk William H. Anderson was exercising his discretion when he disconnected Sampson's call to the FBI's Boston office on July 23, 2001, and failed to tell anyone about it. ... McCloskey's son, Scott, said it was ridiculous that the FBI has no legal responsibility, even though Anderson was sentenced to six months in prison for lying under oath when he initially denied taking Sampson's phone call." The AP (9/7) notes, "Sampson waited several hours for the FBI to arrest him outside a convenient store a day before his rampage."

SCOTUS Asked To Rule On Sleeping Jurors. The New Jersey Law Journal (9/7, Gallagher) reports, "New Jersey's public defender wants the U.S. Supreme Court to issue a bright-line rule that a defendant's due process right to a fair trial is violated when jurors fall asleep during testimony." The Journal continues, "Several jurors allegedly dozed off during Roy Higinia's October 1996 drug-possession trial in Essex County, N.J. The transcript shows that Assistant Deputy Public Defender Rafael Gomez, at a sidebar just prior to cross-examining a police detective, told the judge that four or five jurors were 'deep asleep' and some were 'falling asleep' during his opening. … Superior Court Judge Julius Feinberg said he had not noticed and the case would continue but he would 'wake them up, if necessary.' He then asked the jurors if the room was too hot and when one answered 'a little bit,' he had the windows opened. … The trial proceeded and Higinia was convicted and sentenced to five years in jail." The Journal adds, "The Appellate Division rejected the argument that the defendant was entitled to jurors who have heard all the evidence. In State v. Higinia, A-5515-02, decided March 21, Judges Francine Axelrad and Rudy Coleman said Feinberg took 'proper remedial measures' by opening the windows after surveying the jury. Further, since defense counsel did not request anything more at the time, the issue could not be raised on appeal. … They also found no prejudice because the alleged napping occurred during direct testimony by a prosecution witness and the jurors were awake for the cross-examination. The New Jersey Supreme Court denied certification on May 25."

US, Taiwan Make Additional Counterfeit Seizures In Operation Royal Charm. The AP (9/7) reports that since the arrests of 87 alleged counterfeit smugglers in Operation Royal Charm "authorities seized an additional $1.8 million worth of cigarettes in southern New Jersey on Aug. 21, followed by a seizure of $2.7 million worth of cigarettes the next day at Port Elizabeth, according to the FBI. On Aug. 23, approximately $2 million in counterfeit U.S. currency, commonly referred to as 'super notes,' were seized by Taiwanese and American authorities in Kaohsiung, Taiwan, authorities said. And on Aug. 24, more cigarettes worth more than $500,000 were seized in northern New Jersey."

Federal Prosecutor Says Sliwa Kidnapping Shows Gotti Remained Gambino Boss. The New York Times (9/7, Preston) reports John Gotti "ordered the 1992 kidnapping of the Guardian Angels founder, Curtis Sliwa, because he regarded himself as 'the street boss of his own government,' a federal prosecutor said yesterday in his closing argument in Mr. Gotti's racketeering trial." Assistant US Attorney Joon Kim "pointed to corroboration in testimony about the attack by two former Gambino members, Michael DiLeonardo and Joseph D'Angelo." The Times adds that Charles Carnesi, attorney for codefendant Louis Mariani "said the turncoat witnesses had all shown they were liars. 'They spit out a story and the prosecutors and the F.B.I. decide not to check the story and it becomes the truth,' Mr. Carnesi said. 'The game is rigged.'"

Newsday (9/7, Hurtado) reports Kim said that "Gotti's claim that he retired from mob life after his 1999 guilty plea is 'ridiculous and sounds like a way to get a pass for a lifetime of crime.'" Kim added "that while Gotti pleaded guilty to federal racketeering charges in April 1999, he never stopped committing crimes as Gotti lawyer Jeffrey Lichtman asserted. … 'In Gotti's mind he was not a normal citizen obliged to obey the law,' Kim said." The AP (9/7, Weissenstein) notes, "Gotti continued to meet with gangsters, take their tribute money and plot crimes in the years after his purported renunciation of the mob life, Kim said. 'You've seen no evidence of withdrawal,' he told jurors." Reuters (9/7, Kearney) also report on the prosecution's closing arguments.

Value Of Online Gambling Site Declines. Bloomberg News (9/7) reports, "Shares of PartyGaming Plc, the online poker operator that sold $1.9 billion of stock in a June initial public offering, fell as much as 37 percent to below the IPO price after the company said revenue growth is slowing." Bloomberg continues, "The stock dropped as much as 58.75 pence to 98 pence in London, wiping about 2.4

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billion pounds ($4.4 billion) from the company's market value. The shares, which were sold to the public at 116 pence each, were at 105 pence at 12:50 p.m. local time. Stock of competitors including Sportingbet Plc also fell. … PartyGaming's share sale was more than three times subscribed by investors on expectations that the increased popularity of online poker will spur growth in an industry that's expanded 10-fold in three years. The company's revenue gains are slowing as more operators seek to enter the market, adding to competition. … 'There were some clear dangers in relation to the valuation of this company and our concerns have been realized,' said Henk Potts, a London-based fund manager at Barclays Private Clients, which manages the equivalent of $45 billion. 'PartyGaming is all about its growth potential, and some investors decided to bet on the growth rather than consider the potential slowdown.'" Bloomberg adds, "Profit rose 25 percent in the first half, PartyGaming said today in a statement, as revenue gained 81 percent. The company incurred costs of $62.3 million related to its stock sale. … Revenue, 92 percent of which comes from fees for poker games played on the company's Web site, increased to $437.4 million, PartyGaming said. Sales in the U.S. gained 77 percent, while growth outside the U.S. more than doubled. … The company makes 87 percent of its revenue in the U.S., where the Justice Department considers online gambling illegal."

Bloomberg News (9/7) reports, "In April 2003, Deputy Assistant Attorney General John Malcolm told the Crime, Terrorism and Homeland Security Committee of the U.S. House of Representatives that if online gambling companies accept bets from customers in the U.S., they are violating federal laws. … 'While the United States can indict these companies or the individuals operating these companies, it may be difficult to bring them to trial in the United States,' Malcolm said. … In his testimony, Malcolm referred to the 1961 Federal Interstate Wire Act. The act states that it's illegal to use a 'wire communication facility,' referring to a telephone, to transmit bets across state borders. Congress developed the act to stop organized crime involvement in sports gambling, says Lawrence Walters, a lawyer at Weston, Garrou, DeWitt & Walters in Altamonte Springs, Florida, who has advised the online gaming industry. … 'The government has used the Wire Act as a threat against anyone providing services such as payment processing or advertising to the online gaming companies,' Walters says. 'Even if they are empty threats, public companies are not going to take a chance.'"

CIVIL LAW:

New Jersey Lawmakers Try To Bar Base Closing. WINS, 1010 AM, New York (9/7) reports, "Lawyers for several New Jersey politicians made their plea Tuesday for a judge to issue a ruling that could keep Fort Monmouth open despite a federal commission's recommendation to close it." WINS continues, "U.S. District Judge Mary L. Cooper told them that she would rule quickly _ but did not specify exactly when. … Timing may be of the essence for the judge, who could order the base removed from the list of installations be closed, keep it on the list or set up future hearings on the matter. … By federal law, a list of recommendations for which military installations to close must be submitted to President Bush by Thursday. Bush has pledged to pass the list on to Congress without making any changes." WINS adds, "A lawyer for the government argued in a hearing Tuesday that if there is a time for the court to intervene in the Base Realignment and Closure Commission's process, it is not now. … Justice Department lawyer Carl Nichols said it's too early for those who believe Fort Monmouth should not be shuttered to make their case, in part because the president and Congress have not approved the closures. … 'At that point, and at that point only, would we know Fort Monmouth would be closed,' Nichols said."

General Dynamics Loses Breach Of Contract Suit Brought By Former Partner. The Washington Post (9/7, Merle) reports, "A federal jury in Greenbelt yesterday ordered General Dynamics Corp. to pay $129.9 million to its onetime partner, Final Analysis Communication Services Inc., a small satellite firm, according to officials for the two companies." The Post continues, "The verdict concluded a seven-week trial in U.S. District Court that included appearances by some of the defense industry's biggest players, including Nicholas D. Chabraja, General Dynamics' chief executive; and Gordon R. England, the former General Dynamics executive who is now acting deputy secretary of defense." The Post adds, "The case centered on whether General Dynamics violated agreements to help Lanham-based Final Analysis develop a $400 million project to launch low-flying satellites for data transmissions, including paging and text message services. … James J. McGuire, attorney for Final Analysis, said the jury ordered General Dynamics to pay a total of $137.9 million but also ordered Final Analysis to pay $8 million under a counterclaim, netting $129.9 million for the smaller company." The Post notes, "General Dynamics is awaiting a final decision by the court, said spokesman Kendall Pease. The judge has asked for briefs from both sides, he said. General Dynamics argued in court that a power struggle between the company's founders contributed to the problems, according to the transcripts."

5th Circuit Rules Attorney-Client Privilege No Shield For Company In Whistleblower Suits.

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The Texas Lawyer (9/7, Council) reports, "For years, it has been nearly impossible for in-house counsel at Texas companies to bring whistleblower suits against their employers, because companies could claim that the attorney-client privilege protected important evidence from disclosure in such litigation. But a recent 5th U.S. Circuit Court of Appeals decision changes all that." Texas Lawyer continues, "The Aug. 24 ruling concerns an appeal of an administrative dismissal of a whistleblower complaint filed by an in-house lawyer. The 5th Circuit held in Willy v. Administrative Review Board, U.S. Department of Labor that the U.S. Department of Labor's Administrative Review Board incorrectly dismissed the in-house lawyer's complaint, after the board determined that a key piece of evidence needed to prove his allegations could not be disclosed because of the attorney-client privilege between the lawyer and the company." Texas Lawyer adds, "The 5th Circuit remanded the case to the Administrative Review Board, noting that the case had 'endured an odyssey through administrative and judicial tribunals' including four appeals to the 5th Circuit. … Coastal Corp. fired Donald J. Willy, then an in-house environmental attorney with the Houston-based company, after a series of events in 1984, according to the 5th Circuit opinion. Willy wrote two reports in 1984, referred to in the opinion as the Belcher Report, in which he concluded that one of the company's subsidiary oil companies was exposed to liability for allegedly violating several federal environmental statutes. Willy's supervisors disagreed with some of his conclusions in the Belcher Report and asked him to delete references to some of the alleged violations, which he refused to do, according to the opinion." Texas Lawyer notes, "Coastal fired Willy after his supervisors accused him of contacting state regulatory officials about environmental matters at a Corpus Christi refinery owned by Coastal, the opinion noted. … In October 1984, Willy filed a complaint with the U.S. Department of Labor, alleging that Coastal violated federal whistleblower laws by firing him in retaliation for writing the Belcher Report -- allegations the company denied."

CIVIL RIGHTS:

Opponents Of Georgia Voter ID Law To Monitor Elections. The Atlanta Journal-Constitution (9/7, Campos) reports, "Several groups opposed to a new law requiring voters to show state-issued photo ID at the polls announced Tuesday plans to monitor local elections on Sept. 20." The AJC continues, "The Rev. Joseph Lowery, head of the Coalition for the People's Agenda, said monitors will 'make sure there's no abuse of citizens who want to exercise their right to vote.'" The AJC adds, "Thirty-three Georgia counties and two cities are holding elections Sept. 20. Most are referendums for special purpose local option sales taxes, including one in Cobb County, but some include races for city council posts. Augusta voters will select a replacement for Democratic state Sen. Charles Walker, convicted earlier this year of federal fraud charges. … Volunteers plan to conduct exit polls asking people if they were denied the opportunity to vote due to a lack of photo ID. The Mexican-American Legal Defense Fund has set up a toll-free hotline to field voter complaints: 1-877-462-5333. … Opponents maintain the law will make it harder for poor people, the elderly and college students to vote. And they allege the law violates the Voting Rights Act, though it has received approval from the U.S. Justice Department."

DOJ Officials To Tour Baltimore Juvenile Justice Center. WJZ-TV, CBS 13, Baltimore, MD (9/7) reports, "Continuing troubles and constant complaints about the Juvenile Justice Center bring federal investigators to Baltimore today. … Federal investigators from the Department of Justice will spend nine days inside the Juvenile Justice Center downtown." WJZ-TV adds, "The state run facility is under scrutiny after a series of complaints of youths being mistreated among other issues. .. Meantime, a report on the Justice Department's visit this fall -- should be ready by early next year."

California Assembly Passes Gay Marriage Bill. On a 41-35 vote the California Assembly passed a bill legalizing same-sex marriage. Gov. Arnold Schwarzenegger reportedly opposes the bill, but is expected to let the courts decide the issue. The Los Angeles Times (9/7, Vogel) reports the legislature "made history" as it "became the first in the United States to act without a court order to sanction gay unions. The measure was approved after three Democratic lawmakers, who abstained on a similar proposal that failed in June, changed their minds under intense lobbying by bill author Assemblyman Mark Leno (D-San Francisco) and gay and civil rights activists." The legislation, "which would change California's legal definition of marriage from 'a civil contract between a man and a woman' to a 'civil contract between two persons,' now goes to Gov. Arnold Schwarzenegger. The governor has signaled that he will veto it."

The Washington Times/AP (9/7, Lawrence) notes, "The bill's supporters compared the legislation to such earlier campaigns as women's suffrage and the eradication of slavery." Yet "opponents repeatedly cited the public's vote five years ago" by 61 percent "to approve Proposition 22, an initiative to keep California from recognizing same-sex 'marriages' performed in other states or countries."

The New York Times/AP (9/7) reports a spokesman for Gov. Schwarzenegger said he "believes the issue should be decided by the courts, not by his signature on legislation. A state appellate court is considering appeals of a lower court

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ruling that overturned California laws banning recognition of gay marriages." Spokeswoman Margita Thompson said, "He will uphold whatever the court decides."

Ohio Ballot Initiative Would Strip GOP Officials Of Control Over Redistricting. The New York Times (9/7, Murphy) reports, "The Ohio secretary of state announced yesterday that a series of election-related constitutional amendments had qualified for the November ballot, including one intended to strip Republican elected officials of their control over drawing legislative districts." One GOP-backed lawsuit to disqualify the amendments was rejected by the Ohio Supreme Court, but a second by former Republican state senator Richard Finan "is to be heard tomorrow in an appeals court in Columbus." He "has said the redistricting measure, if approved, could cost Republicans in Ohio 6 of their 12 seats in Congress and would probably inspire similar Democratic-backed efforts in other states dominated by Republicans."

ANTITRUST:

Unipol Gets Italian Antitrust Nod For BNL Bank Acquisition. The Boston Globe/AP (9/7) reports, "Unipol Assicurazioni SpA said Tuesday it had received the necessary antitrust regulator authorization for its $6.12 billion bid to take over Banca Nazionale del Lavoro SpA." The AP continues, "The bid is pending approval by insurance regulator Isvap and the Bank of Italy." The AP adds, "Italy's market watchdog Consob approved Unipol's prospectus last week but asked the insurer for further information regarding the nature of the agreements with Deutsche Bank. … The German bank has a call option on nearly 5 percent of BNL but is not a member of the shareholder pact led by Unipol that is launching the takeover bid for the Rome-based bank. … Unipol filed the final version of a 400-page document with conditions for its BNL bid to Consob on Friday."

Gas Natural's Endesa Takeover Bid Spurned. The Wall Street Journal (9/7, A3, Johnson, Singer) reports, "Spanish power utility Endesa SA rejected the unsolicited bid of €22.55 billion ($28.27 billion) from Gas Natural SDG SA…setting the stage for a hard-fought takeover battle as the European energy industry undergoes a bout of frantic consolidation." Endesa hired J.P. Morgan Chase & Co., Deutsche Bank AG and Citigroup Inc. "to help it craft its takeover defense … A flurry of deal making is taking place in the European energy sector," spurred "by both the European Union-mandated liberalization of the continent's energy markets and volatile commodity prices."

Court Cases Haven't Reduced Music File Sharing. USA Today (9/7, Graham) reports, "Despite two huge court losses for file-sharing firms, unauthorized online song and movie swapping is at an all-time peak, says Internet measurement company BigChampagne." While "an Australian federal court judge ruled that Sharman Networks, Kazaa's parent firm, must install filters to prevent its software from being used for unauthorized sharing," Kazaa's "popularity already had faded." BigChampagne CEO Eric Garland said "A judgment might have been more meaningful a few years ago, when Kazaa was more popular," and that "the industry should spend less time fighting the online pirates and more time turning them into paying customers."

Columnist Bearish On Refinery Merger. In his Washington Post column (9/7), Steven Pearlstein writes, "Last week, as supply shortages sent the price of a gallon of gasoline as high as $6 in some markets, federal officials charged with protecting consumers quietly approved yet another oil industry merger, this one creating the nation's largest oil refiner. … Because of the rush of Katrina news, the merger earned hardly a mention in the general press. And yet by giving its blessing to Valero's $8 billion purchase of Premcor, the Federal Trade Commission not only reinforced its reputation as a patsy for the energy industry but demonstrated a stunning lack of political sensitivity." Pearlstein continues, "Although the FTC and its staff never seem to make the link between industry consolidation, rising energy prices and record profits, Wall Street investors surely can. Over the past year, shares in Valero are up 226 percent, which, as the Financial Times pointed out last week, makes Google (only 186 percent) look like a laggard. … Listen to what Valero's chief executive, Bill Greehey, had to say Thursday in announcing that the deal had closed: 'We are in a new era for refining where I believe you will continue to see higher highs and higher lows for both product margins and sour crude discounts. And now, with 18 refineries, no one is better positioned to benefit from this than Valero.' … Translation: This deal will do nothing for consumers, but it's a home run for investors." Pearlstein adds, "Here's the situation, as far as I can make it out. Refineries in the United States produce about 18 million barrels of refined product a day for an economy that consumes about 21 million. A completely new refinery hasn't been built in this country in nearly 40 years. And although Valero and others have spent $47 billion over the past decade to expand existing capacity by 13 percent, demand has grown even faster. … The reason that supply has not kept up in this industry, as in others, is simple: The industry makes more money that way. And one way the industry is better able to enforce this gentleman's agreement against investing too heavily in new capacity is by reducing the number of players and making

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entry into the industry even more difficult than it is already." Pearlstein concludes, "Valero is a great company and a real success story. … But what the country needs isn't a bigger Valero -- it's more Valeros, challenging the majors, investing heavily in new capacity and competing for market share. By approving the merger with Premcor, the FTC has reduced the chance of having that kind of full-throttle competition in an industry that desperately needs it."

ENVIRONMENT:

EPA To Bar Use Of Children, Pregnant Women In Pesticide Studies. The EPA plans to propose regulations for human testing of pesticides which will bar the inclusion of children and pregnant women in studies examining the effects of the chemicals. The New York Times (9/7, Janofsky) reports, "The regulations, to be proposed on Wednesday, would also establish an independent oversight panel to ensure that all studies submitted to the agency were conducted ethically and followed internationally accepted protocols for human testing. Agency officials discussed the new regulations with reporters on Tuesday. They declined to make copies of the proposal available, leading at least one major critic of the agency, Senator Barbara Boxer, Democrat of California, to suggest that a close examination of the regulations might reveal weaknesses identified in an earlier version.'

Illegal Off-Road Vehicles Destroying Parkland, "Serious National Problem." The Christian Science Monitor (9/7, Clayton) reports, "Unauthorized off-road vehicles are buzzing through nearly one-third of America's national parks, according to a recently released internal National Park Service (NPS) survey. In one-fifth of the parks, they have damaged natural environments that by law must be preserved for future generations." While the Parks Service "downplay the challenge" of dealing with the problem, "critics say the problem is acute and growing," and "other branches of the Department of Interior…say illegal motorized vehicles are a serious national problem. The chief of the National Forest Service…called it one of his top four management problems."

Bonilla Takes Aim At Eminent Domain. Legislation authored by Rep. Henry Bonilla would deny federal funding to any state or local government that employs the right of eminent domain to transfer property from one private owner to another, The Hill (9/7) reports. Agriculture Committee Chairman Bob Goodlatte "characterized the legislation as the strongest response yet to the Supreme Court's June ruling in Kelo v. City of New London, Conn., which affirmed governments' rights to seize property from landowners for private development deemed by elected officials to be in the community interest. The Agriculture Committee, which will hold a hearing on the Bonilla bill today, has been given primary jurisdiction on the issue."

LATimes Urges Congress To Support Coastal Restoration. The Los Angeles Times (9/7) editorializes, "For the next several weeks, and possibly months, the Army Corps of Engineers will pump the water out [of New Orleans]. Meanwhile the Corps, Congress and the Bush administration need to figure out how to avoid a repeat of last week's disaster." The Times goes on to say "the very levees and canals that protect New Orleans and provide navigation divert replenishing sediment. Louisiana loses about 24 square miles of this land barrier each year." This is land that could "present hurricanes with a formidable…barrier to cross before reaching New Orleans. A plan backed by environmentalists, industry and the Corps of Engineers would spend $2 billion to dredge sediment from the Gulf to be used in rebuilding the land, and divert some river sediment toward the marshland. Congress should not only approve that project but should start giving serious consideration to the rest of a $14-billion coastal restoration project supported by 11 state and federal agencies."

FBI/DEA/ATF/USMS:

US Code Provision Has Been Used Against Government Leakers. The Washington Post (9/7, A23, Lee) writes that convictions for "leaking sensitive government information to the media are almost as rare as sightings of the ivory-billed woodpecker." But while there have been few convictions under the Intelligence Identities Protection Act, there is "another statute that federal officials have used to go after government leakers. … The provision, Section 641 in Title 18 of the U.S. Code, nominally deals with prohibitions on the embezzlement of public money, property or records for private use. It typically would be used to go after a federal employee who, say, absconds with government laptops." Prosecutors used the statute against Jonathan Randel, "a former Drug Enforcement Agency intelligence research specialist who in 2003 was sentenced to a year in prison for selling restricted information." Randel "provided information from a DEA database to the Times of London newspaper indicating that the name of Lord Michael Ashcroft -- a dual citizen of Britain and Belize who was treasurer of the Conservative Party -- was in agency files used in investigations of drug trafficking. The newspaper cited the information in stories on Ashcroft and his business dealings in Belize, stories that Ashcroft complained falsely suggested that he was a target of DEA investigations into drug trafficking. (After Ashcroft filed a libel suit, the paper

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published a statement saying there was no evidence he had been suspected of any drug-related crime.) Prosecutors said Randel was paid $13,000 for the information, which was sensitive but not classified. The newspaper said the money was to cover Randel's expenses and time when he traveled to Britain to help the newspaper prepare a defense to Ashcroft's libel suit." Prosecutors are considering using the provision in any case against a suspect in the Valerie Plame name-leak probe.

Medical Marijuana Does Not Influence Teen Use, MPP Study Suggests. UPI (9/6, Zwillich) reports that, according to a study "funded and released by the Marijuana Policy Project," teenagers in state that allow medical marijuana "are no more likely to use the drug than those in other states." The study "shows widespread reductions in marijuana use have occurred generally at the same rate among all the states, including those allowing medical use. … The group said its findings belie Bush administration claims that medical-marijuana laws send youth a mixed message that helps to encourage drug use. Ten states currently allow patients with certain medical conditions to use marijuana under the supervision of a physician." The US has seen an overall "decrease in marijuana's popularity among teenagers since 2000, after a prolonged increase in use during the 1990s. For example, compared with 1996, about 43 percent fewer 8th graders and 9 percent fewer 12th graders reported they had used the drug in the past 30 days in 2003. California became the first state to permit medical-marijuana use in 1996. At the same time, past-month use dropped by half among the state's 9th graders and by one-quarter among 11th graders, according to the report, which analyzed federal and state statistics. Approximately one-fifth of California's high school juniors now acknowledge using marijuana within the last month. Other states with medical-marijuana laws also saw varying reductions in youth marijuana use. Past-month use by 12th graders in Washington state was down 32 percent since a medical-marijuana law was enacted in 1998, though rates dropped only 12 percent among Maine's high school seniors since a similar law was passed there in 1999."

The Los Angeles Times (9/7, Bailey) reports that "Tom Riley, of the president's Office of National Drug Control Policy, said the drop in teen drug use across the nation is attributable to the federal anti-drug advertising campaign in recent years, including $125 million spent during the federal fiscal year that ends Oct. 1. Medical marijuana has only clouded that pitch, he said. 'It's foolish to give kids a message that marijuana can be helpful to them,' Riley said, adding that all Americans 'should be glad that teen drug use is going down. If the drug legalizers are recognizing that, too, I think that says something.'"

"Jury Is Still Out" On Methadone Dependency Risk. The Boston Herald (9/7, Wedge) reports, "Seen by many as a miracle cure for heroin addiction, the jury is still out on whether methadone can itself impair users or create a long-term dependency. 'There still appears to be some controversy about it,' said Jim Ross, a counselor at Taunton's Community Partnerships, which specializes in helping heroin addicts. 'Although it is supposedly not addictive, we've seen firsthand some people do not use it as a stepping stone (toward recovery) and they end up being dependent on methadone their whole life. And that could be a good or a bad thing.' The White House Drug Policy Information Clearinghouse supports methadone programs, saying the drug 'does not impair cognitive functions' and 'is not sedating or intoxicating.' The federal clearinghouse also says the drug does not 'interfere with ordinary activities such as driving a car or operating machinery.'" In addition to "possible side effects, Ross said addicts sometimes stockpile methadone to sell. 'Methadone has been a great saving grace for many heroin addicts,' he said. 'We need to be as supportive as we can to help addicts, but sometimes we need to ask questions to assure we're taking care of public safety as well.'"

Guilty Plea In Texas Drug Money Trafficking Case. The Lufkin (TX) Daily News (9/7, Cook) reports tractor-trailer driver Juan Castanon of Mission, Texas, "pleaded guilty Friday in federal court to trafficking close to $3 million in drug money through Nacogdoches County, according to plea papers filed in court." Castanon "could face up to five years in federal prison on the charge. Details of his plea agreement with the U.S. Attorney's Office remained sealed in court documents. Texas Department of Public Safety Trooper Ryan Koonce found the stash of cocaine-tainted cash during a Feb. 8 traffic stop. The money was hidden in a secret compartment in Castanon's trailer. A drug-sniffing dog alerted Koonce to the bundled and wrapped money, which later tested positive for traces of cocaine."

Fox Challenges Drug Kingpins To Take On Security Forces In Nuevo Laredo. Reuters (9/6) reports that Mexican President Vicente Fox "challenged drug barons" to "take on security forces in a notorious city on the U.S. border where troops and police are locked in a war with traffickers. Fox said in an interview that federal forces were in control of Nuevo Laredo, across from Laredo, Texas, despite more than 100 drug-related murders there this year." Fox said, "We are going to win this battle. We'll see who is tougher, we'll see who is more stubborn." The "explosion of violence among drug gangs vying for control of a cocaine, heroin and marijuana smuggling route into the United States has drawn an influx of Mexican troops to Nuevo Laredo and strained relations with Washington. The murder rate has

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soared with killings practically every day, and residential neighborhoods have seen shootouts with heavy weaponry, at one point prompting the U.S. Embassy to close a consulate in Nuevo Laredo. But Fox said his government has taken control of the sweltering city, which also is a hub for legitimate trade." Fox said, "Nuevo Laredo now has much less criminal activity from these kingpins than it did two months ago. I can tell you that we have the city under control and from there we will put things in order." But as the "death toll rises, with 15 police officers among those killed by gunmen this year, residents and local activists are skeptical about authorities' ability to stem the tide of violence. Critics say very few cartel henchmen have been put behind bars and there is no evidence the tighter security will curb the flow of drugs across the border."

Spain Leads World In Cocaine Use. The British newspaper the Guardian (9/7, Tremlett) reports, "Spaniards are the most prolific users of cocaine in the world, according to a report from state prosecutors obtained by El País newspaper yesterday. Spain has overtaken the US and left Britain and Ireland behind, with the proportion of people who use the drug rising to more than one in 40. 'Spain occupies the top place in the world,' the report said, citing United Nations figures on cocaine use around the globe. The reason for such a high rate in Spain is that much of Europe's cocaine is unloaded on to Spanish beaches." In 2004, 33 tons of cocaine "were seized by Spanish police, much of it being handled by the smuggling clans in the north-western region of Galicia who turned to the lucrative cocaine trade more than 10 years ago. The smugglers offer their services to traffickers from around the world who want to get the drug into Europe. Often cocaine is unloaded from merchant ships into trawlers and then, once near the Spanish coast and under the cover of darkness, into speedboats that land it on Galicia's rugged beaches. The Galician smugglers store it then hand it back to the traffickers. They take a cut of the cocaine as payment. More than 50% of cocaine found by police in Europe is discovered by Spanish officers, who arrested about 600 suspected traffickers from Colombia last year, and 150 from Britain. Spanish police were also reported yesterday to have been behind the discovery of 4.6 tonnes of cocaine unloaded in Rotterdam at the weekend."

IMMIGRATION:

TAX:

Twelve More May Be Indicted Over KPMG Shelters. The Wall Street Journal (9/7, C1, Weil, Scannell) reports that assistant U.S. Attorney Justin Weddle, lead prosecutor in the KPMG LLP tax-shelter investigation, said "the government expects to seek indictments against at least 12 more" as yet unnamed "individuals in the coming weeks, on top of the nine people who were arraigned yesterday … The additional defendants will be named as part of a superseding indictment" that "likely would include obstruction of justice, as well as tax evasion, in addition to the existing conspiracy count that the government unsealed last week." While "prosecutors asked for three months to seek the superseding indictment, citing Justice Department procedures for tax-fraud prosecutions," Judge Lewis A. Kaplan denied the motion, saying, "'You're going to have to move a lot faster. It's not clear to me why you can't.'" The government has an Oct. 17 deadline to file its superseding indictment. Reuters (9/7, Graybow) also reports on the arraignment.

Proceeding Could Be "Unwieldy," Judge Lays Down Rules. The New York Times (9/7, Glater) adds, "The proceedings yesterday offered a hint of how unwieldy the case against the nine executives, let alone against as many as 21 possible defendants, could be." Judge Kaplan "warned prosecutors against lengthy proceedings" and "advised lawyers for both sides to prepare as clear a presentation for jurors as possible, using video presentations, for instance, and avoiding cumbersome binders full of copies of exhibits."

Lawyer-Client Privilege Being Pared Back. The New York Times (9/7, Glater) reports that lawyer-client "privilege has been weakened…as more individual defendants try to argue that their actions were blessed by a lawyer and that, as a result, they did not know they were doing anything wrong." Some "powerful forces have put in play the privilege protecting communications, as well as the so-called work product privilege covering documents and other work by a lawyer in anticipation of litigation." William Ide III, a lawyer at McKenna Long & Aldridge in Atlanta and also chairman of an American Bar Association committee on lawyer-client privilege "and other lawyers say they worry that when prosecutors insist on a waiver, they are essentially making corporations an offer they cannot refuse." Robert S. Bennett, of Skadden Arps Slate Meagher & Flom," said "'In today's climate, in order for a company to avoid an indictment, it must cooperate with the government. And today, cooperation…as a practical matter often requires companies to waive the attorney-client privilege.'" With this erosion, "companies may have difficulty conducting internal inquiries if employees do not talk because they know their statements may end up being handed over to the government; executives may decide not to consult lawyers before making critical business decisions; and lawyers may temper their advice if they know it may one day be exposed."

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Thousands Not Taking Advantage Of Higher Education Tax Break. The number of Americans who claimed a federal higher education tax break in 2002 was more than double the number who did in 1996. USA Today (9/7, Marklein) reports that while nearly 10 million Americans claimed the tax break last year, "hundreds of thousands of families who may be eligible for such breaks aren't taking advantage of them, a federal report says." A report issued last week by the GAO, "found that filers of 27% of the 1.8 million returns it analyzed appeared eligible but did not claim either a tuition deduction or tax credit.'

CONGRESS-ADMINISTRATION:

Bush Mentions Gonzales As Possible O'Connor Replacement. The AP (9/7, Holland) reports President Bush "said the list of possibilities for his second Supreme Court nomination was 'wide open' Tuesday as Senate Republicans urged him to consider a woman and Democrats pressed him to consult with them before making his next pick." The Washington Post (9/7, A9, Baker, Becker) adds Bush "playfully hinted he could choose his friend Alberto R. Gonzales, a prospect that reignited consternation among conservative groups skeptical of the attorney general's politics."

The Washington Times (9/7, Sammon) also reports Bush "reignited speculation that he would nominate" Attorney General Gonzales. Bush "made his comments at a Cabinet meeting, adding that his words 'should create some good speculation here in Washington. And make sure you notice when I said that I looked right at Al Gonzales, who can really create speculation.'" The Times adds, "Although the remark drew chuckles from Cabinet members and journalists, Bush aides said he is seriously considering Mr. Gonzales. That prompted a fresh round of grumbling from conservatives, who fear that Mr. Gonzales would not vote to overturn Roe v. Wade, the 1973 high court ruling that legalized abortion."

The New York Times (9/7, Stevenson, Stolberg) says Bush's "mention of Mr. Gonzales as a possibility, in comments to reporters at the end of a cabinet meeting, fueled concern among conservatives, who were already mobilizing against the attorney general. Conservatives say that Mr. Gonzales has not shown himself to be sufficiently opposed to abortion rights and that nominating him would miss an opportunity to move the court fundamentally to the right."

NBC Nightly News (9/6, story 17, 2:00, P. Williams) reported that "as far as a successor for Justice O'Connor, President Bush suggested today he will not send up a name for another week or so." President Bush: "I want the Senate to focus not on who the next nominee is going to be, but the nominee I got up there now. And it's important for the country that they complete the work."

The Los Angeles Times (9/7, Reynolds) reports Democrats "urged the president to move quickly to fill the vacancy, saying it would be easier for them to support Roberts' nomination if they knew the name of the second nominee." Judiciary Committee member Sen. Richard Durbin said, "If we had an idea of who might fill the other vacancy, it would help put (Roberts' nomination) in perspective. This court is very closely divided, and if the president's next nominee is too extreme, it will worry us that the court is going to change for generations to come." The Times adds Sen. Russell D. Feingold "said it was now more important for the White House to release 16 case files from Roberts' service in George H.W. Bush's administration that the current White House has withheld."

The Roberts story appeared almost universally in local television news broadcasts across the nation. In many newscasts, there were comments about how Robert's new nomination could change the tenor of his confirmation hearings. For example, WFLA-TV Tampa (9/6, 11:10 a.m.) reported, "President Bush's decision to nominate John Roberts as the nation's 17th Supreme Court Chief Justice raises the stakes of the upcoming Senate confirmation hearings." KCNC-TV Denver (9/6. 5:04 a.m.) added, "The legal wrangling from both parts could make the hearings pretty interesting. They are going to say they want an up or down vote before the President has to make his other selection, and the Democrats are going to say 'whoa, we want it as a package deal. We want to know when the other shoe falls before we make a decision on John Roberts.'"

Meanwhile, KONG-TV Seattle (9/6, 7:37 a.m.) said Roberts "may be a better fit to succeed his mentor Rehnquist than to succeed Sandra Day O'Connor, more of a somewhat moderate Republican and swing vote on the Supreme Court. That may now be the big fight for the next Supreme Court nomination after weeks and weeks of trying to dig up things on John Roberts, not much has been found, although Democrats and others have indicated that the questioning will be tougher now because, after all, he is being nominated for Chief Justice of the Supreme Court."

Republicans were portrayed as optimistic as the hearings draw near. KUSA-TV Denver (9/6, 4:10 p.m.) reported, "Republican's expect he'll be approved," while KPRC-TV Houston (9/6, 4:23 p.m.) said "Bill Frist says they hope to have a Chief Justice in place by the end of the month."

Gonzales Possible Supreme Court Nominee, Again. Alberto Gonzales was named as a possible nominee for the Supreme Court by a few stations: WGN-TV Chicago (9/6, 6:44 a.m.), WMAQ-TV Chicago (9/6, 11:16 a.m.), KCCI-TV Des Moines (9/6, 7:11 a.m.), and KAIT-TV Jonesboro (9/6, 5:30 a.m.)

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Katrina Increases Gonzales' Chances. WNBC-TV New York (9/6, 6:36 a.m.) reported, "What the American people have seen in the aftermath of Katrina, probably elevates the imperative on the White House to try to demonstrate to Americans that George Bush is the president of all Americans, that probably helps Alberto Gonzalez, the attorney general, who would be the first Hispanic elevated to the court if chosen."

Terror Policies, Centrism, Gender Work Against Gonzales. KSFY-TV Sioux Falls (9/6, 6:33 a.m.) reported, "Attorney General Alberto Gonzales seems to have dropped off because of opposition to him because of the War on Terror policies he's advocated and because many conservatives see his as too centrist."

KRDO-TV Colorado Springs (9/6, 6:06 a.m.) also reported this in much the same words.

WSPA-TV Greenville (9/6, 5:15 a.m.) reported, "Attorney General Alberto Gonzales is mentioned as a candidate, but analysts say the president is under pressure to nominate a woman."

Key Republicans Said To Be Pressing Bush To Nominate A Woman. The Hill (9/7, Bolton) reports, "Key Republicans and conservatives are pressing President Bush to nominate a woman to replace retiring Supreme Court Justice Sandra Day O'Connor." It "may suggest that, with the president faltering in opinion polls, the right believes it needs the sop of liberal identity politics to get a second conservative justice confirmed. Priscilla Owen, Edith Jones and Edith Brown Clement, all three from the 5th U.S. Circuit Court of Appeals, and Janice Rogers Brown, of the D.C. Circuit Court of Appeals, are considered by conservatives to lead the list of potential female nominees."

Alito Mentionied As Possible Nominee. The AP (9/7, De La Cruz) reports, "A second opening on the U.S. Supreme Court is bringing renewed interest in Samuel A. Alito Jr., a federal judge from New Jersey who used to serve as the state's federal prosecutor." The AP continues, "Alito, who sits on the 3rd U.S. Circuit Court of Appeals, which covers the Garden State, is among several people mentioned by court observers as being on a "short list" of candidates for associate justice to succeed Sandra Day O'Connor. She is retiring but remaining on the bench until her replacement is confirmed. President Bush's original choice for that position, John Roberts, has been nominated to become chief justice following the death Saturday of William H. Rehnquist. … The other possible nominees include U.S. Attorney General Alberto Gonzales, former U.S. Solicitor General Theodore Olson, and former deputy Attorney General Larry Thompson." The AP notes, "Alito, 55, has been dubbed 'Scalito' or 'Scalia-lite' by some lawyers and political pundits because of a reputation as a strong, conservative jurist that often brings comparisons to conservative Supreme Court Justice Antonin Scalia. But Alito, 55, also has a reputation as being scholarly and quiet, rarely asking questions during oral arguments."

Judiciary Committee To Vote On Roberts By September 26. The Wall Street Journal (9/7) reports Senate leaders "said the Judiciary Committee will vote no later than Sept. 26 on the nomination of Appeals Court Judge John Roberts to become the next U.S. chief justice." Judiciary Chairman Arlen Specter said that "the committee will begin confirmation hearings on Monday. The hearings are expected to run a week. Although Republican and Democratic leaders said they are working together to move Mr. Roberts's nomination quickly, the full Senate might not hold a final vote on Judge Roberts until just before the high court convenes for its new term on Oct. 3." Senate Minority Leader Harry Reid "said Democrats plan to work with Republicans to move ahead on the hearings. But he said his party remains largely uncommitted on how it will vote."

NBC Nightly News (9/6, story 17, 2:00, P. Williams) reported Judge Roberts' "'hearings have been put off due to the funeral, but even the Democratic Senate leader predicted a prompt confirmation." Sen. Harry Reed (D) Nevada: "We're going to do everything we can so that we do have a full court by the beginning of term."

Roll Call (9/7, Kane) reports the Senate Judiciary Committee "will kick-start hearings on Judge John Roberts' nomination to be chief justice of the United States on Monday, a six-day delay allowing for the funeral and burial services this week for the late William Rehnquist. The delay, however, still leaves plenty of time for the committee to hold a week's worth of hearings, as originally scheduled, and send the nominee to the full Senate for a vote by the final week of September — the timetable originally laid out by Majority Leader Bill Frist (R-Tenn.)."

The Washington Times (9/7, Hurt) reports Majority Leader Bill Frist said, "The schedule allows us both to pause to pay appropriate respect to Chief Justice Rehnquist and to complete floor action on the nomination of Judge Roberts as chief justice by October 3, the start of the Supreme Court's new term."

Specter Quizzes Roberts On Hot-Button Issues. The Washington Post (9/7, A9, Babington) reports Judiciary Chairman Specter invited Roberts "to his Senate office shortly after Roberts helped carry William H. Rehnquist's coffin into the Supreme Court, where the late chief justice lay in repose. In an interview, Specter said he asked Roberts, an appeals court judge, a range of questions, including, 'How are you going to handle guys like Scalia? He's a lot older than you.'" Roberts "replied somewhat indirectly, according to Specter, by saying he considers it 'a dialogue among equals' when lawyers argue cases before the Supreme Court." Specter "said he also raised concerns about recent court rulings that he considers confusing and inexplicable. They include two 5 to 4 decisions regarding public displays of the Ten

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Commandments that in some ways seemed contradictory." But when Specter asked if Roe vs. Wade was a "super-precedent," Roberts "didn't say."

Democrats Plan To Step Up Questioning Of Roberts On Civil Rights. The Washington Post (9/7, A9, Baker, Becker) reports some "influential Democrats signaled that Roberts's ascension" to the chief justiceship "increased their eagerness to press him on his record -- particularly on civil rights, which they said has taken on new salience in the wake of Hurricane Katrina." Sen. Edward Kennedy said, "What the American people have seen is this incredible disparity in which those people who had cars and money got out and those people who were impoverished died." He said the "question for Roberts, he said, is whether he stands for 'a fairer, more just nation' or for 'narrow, stingy interpretations of the law to frustrate progress.'" Democrats will "make that argument in part through their witness list, which includes Rep. John Lewis (D-Ga.), a leader in the 1960s civil rights movement who plans to note that courts historically have led the way in guaranteeing rights for the disenfranchised." Rep. Lewis said, "New Orleans is just a symbol. We are still a nation divided by race and class, and I don't see [Roberts] being an advocate for those who were left out and left behind." Reuters (9/7, Ferraro) reports Democrats are "vowing to take as long as needed to question" Roberts, "who could lead the Supreme Court for decades."

Knight Ridder (9/7, Kuhnhenn) reports that by "opening questions about poverty, race and government policies, Hurricane Katrina has made landfall on Washington's deliberations over vacancies on the U.S. Supreme Court and threatens to make John Roberts' confirmation hearings for chief justice a contentious test of conservative thought." Democrats and liberal groups "say Roberts' past opposition to expanded affirmative action and voting rights laws should get extra scrutiny, especially in light of the disproportionate suffering by poor black residents of New Orleans." Despite the "stepped up scrutiny, Roberts' confirmation still appears likely."

The Legal Times (9/7, Mauro) reports, "By today, Supreme Court nominee John Roberts Jr. was supposed to be answering the questions of Senate Judiciary Committee members as part of his confirmation hearing to replace Justice Sandra Day O'Connor. Instead, because of the death of Chief Justice William Rehnquist on Saturday, and the swift decision by President George W. Bush to put Roberts in the chief justice's spot instead, the Roberts hearing has been put off until Monday. … But when the hearing finally gets underway, the questions will likely be the same, and the dilemma for Roberts will be the same, though possibly more urgent: how candid should he be about his views on the law? It's a crucial decision for Roberts to make. Senate Democrats will be insisting on as much candor as possible, while Republicans hope and expect Roberts will stay out of trouble by invoking a previously unheard of doctrine called the 'Ginsburg precedent.'" The Times continues, "In anticipation of a reticent Roberts, conservatives offered evidence of what the Federalist Society said was the 'vast number' of times Clinton nominee Ruth Bader Ginsburg declined to answer substantive questions during her 1993 confirmation hearing. Liberal groups including the American Constitution Society fired back, documenting all the moments when Ginsburg actually answered questions 'candidly and at length.' … Sen. Charles Schumer, D-NY, gave a speech last week debunking the conservative version of the Ginsburg precedent, warning that if Roberts invokes it, it will sound more like taking the Fifth. On the other side, former Republican Attorneys General Edwin Meese III, Dick Thornburgh and William Barr, among others, wrote to the Judiciary Committee reminding members that Ginsburg said during her hearing that she would give 'no hints, no forecast, no previews' of how she might vote on future cases."

Trivia About Roberts. People (9/12) publishes ten trivia facts about John Roberts, ranging from his taste in music, his handedness (ambidextrous), to anecdotes about his childhood, to how he met his wife and adopted their children. Roberts "has argued 39 cases before the Supreme Court – more than nay of the current justices," and "writes his courtroom speeches in longhand." Roberts "became a first-time parent at 45," and he and his wife have "hinted they would like some more." Documents "released to date show [Roberts is] worth $5.3 million."

Bork Backs Roberts For Chief Justice. The Washington Times (9/7, Harper) reports in its "Inside Politics" column, "Robert H. Bork, the Reagan-era Supreme Court nominee rejected by the Senate after his 1987 confirmation hearings devolved into public spectacle, says he wants Judge John G. Roberts Jr. to be confirmed as the next chief justice. Speaking at the National Press Club yesterday, Mr. Bork suggested it's unlikely Supreme Court confirmation hearings ever again will resemble 'any dignified process.'"

Chief Justice Rehnquist Mourned At Supreme Court. NBC Nightly News (9/6, story 17, 2:00, Williams) reported, "There was a rare and dramatic sight today at the US Supreme Court. Chief Justice William Rehnquist, laying in repose: One of the pallbearers was the man nominated to replace him as chief justice." NBC (P. Williams) added, "It was, as far as the experts could remember, unprecedented, a pallbearer helping to carry the casket of a Supreme Court justice he's been nominated to succeed. John Roberts was one of the eight pallbearers, mostly former Rehnquist law clerks, as the chief justice arrived for the final time at the building where he served for more than three decades."

ABC World News Tonight (9/6, story 4, :30, Gibson) reported, "Six justices paid their respects. Among them, a visibly moved Sandra Day O'Connor. President Bush came later in the day. Rehnquist will lie in repose, until his funeral

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tomorrow afternoon." The CBS Evening News (9/6, story 8, 0:40, Schieffer) reported, "In Washington, the casket of Chief Justice William Rehnquist was carried today to the Supreme Court. Among the pallbearers, was federal judge John Roberts, who was once a law clerk for Rehnquist, and now the nominee to replace him as chief justice. The current justices waited tearfully."

The Washington Post (9/7, A8, Levine, Lane) reports "few gathered in the morning crowd outside the Supreme Court missed the most telling moments: When John G. Roberts Jr., the man nominated to succeed Rehnquist, walked solemnly with the other pallbearers toward the hearse bearing his body, and when an emotional Justice Sandra Day O'Connor, on the eve of her own planned farewell, wiped away tears as the plain white pine coffin passed and entered the building's Great Hall." USA Today (9/7, Biskupic) reports the "moment seemed to symbolize a transition of sorts, and with Roberts facing confirmation hearings in the Senate on Monday it was a reminder of a question that will be part of the backdrop to the hearings: how Roberts' style and brand of conservatism compares with that of the man he would succeed."

USA Today (9/7, Kiely) reports Roberts "was one of eight ex-Rehnquist aides who served as pallbearers. President Bush later paid a solemn visit to the court, a day after nominating the federal appeals court judge to become the nation's 17th chief justice."

USA Today (9/7, Biskupic) reports one "of the most compelling images was the distraught, tear-streaked face of Justice Sandra Day O'Connor. Her public sadness was a reminder of all that Rehnquist and the nation's first female justice had been through together. They met in law school at Stanford University in the late 1940s. The World War II veteran was nearly six years her senior, but they developed a bond that endured through the years. They dated briefly, but then married other college sweethearts. Their families became close as Rehnquist and O'Connor walked remarkably similar paths."

The New York Times (9/7, Greenhouse) reports President Bush "and his wife, Laura, made an unscheduled visit on Tuesday to the Supreme Court to pay their respects to Chief Justice William H. Rehnquist, whose flag-draped coffin lay in the 'great hall' that leads to the courtroom." During their "brief midafternoon visit, the president and first lady walked together to the coffin, and then examined the portrait in the company of Justice Antonin Scalia and Sally Rider, the chief justice's administrative assistant."

The Washington Times (9/7, Mansfield) reports, "Solemn and respectful they stood, single file, and at times the line snaked around the block in the September sunshine: congressional staffers, college kids in baseball caps, tourists, Capitol Hill groundskeepers, many on their lunch break."

Rehnquist's Legacy Noted. USA Today (9/7) says in an editorial, "Chief Justice William Rehnquist was that rarity among public officials: one who worked to make his office less powerful. From his days as a Supreme Court clerk a half-century ago until his death Saturday after 33 years on the court, Rehnquist argued for leaving important decisions to state legislatures or, if necessary, Congress — not the courts. The result was a career that foreshadowed much of today's political debate, and one that helps to focus it."

In a USA Today op-ed (9/7), Tom Mauro says, "It is sad but unsurprising that Chief Justice William Rehnquist's death came at a most inopportune time, full of ironies. Many of the ironies of his death were personal. But it also was remarkable that Rehnquist died at a moment when the nation was completely distracted by a crisis that relates significantly to his judicial legacy. The finger-pointing between state and federal officials over the handling of Hurricane Katrina's awful devastation is a debate that Rehnquist would have found familiar."

The New York Times (9/7) says in an editorial that it is "a moment to honor one of the vital but less celebrated hallmarks of Chief Justice Rehnquist's 33-year service on the court: his proud record of defending the independence of the federal judiciary against attacks by politicians. Those attacks, as Chief Justice Rehnquist noted last January in his 19th and final report on the state of the federal courts, have taken a troubling new turn in recent years. Without singling out individual members of Congress by name, he made clear his disapproval of some conservative Republicans, like the House majority leader, Tom DeLay, and others. He disapproved of their moving beyond the normal criticism of judicial decisions to try to bully and intimidate individual judges, strip federal courts of jurisdiction to decide certain constitutional challenges, and otherwise undermine the constitutional separation of powers and checks and balances."

Bush Announces Inquiry Into Government's Response To Katrina. Political fallout from the government's response to Hurricane Katrina was fast and furious yesterday. The President, who met with congressional leaders, announced a review of the Federal response, and said he was sending Vice President Cheney to the affected region to evaluate the damage. As NBC Nightly News (9/6, story 4, 2:05) White House correspondent David Gregory reported, "At the White House, a series of appearances were designed to help the President reassert control over the catastrophe. The message, that hurricane relief is now the top priority for a White House still reeling from criticism it responded too late." Yet even as Bush sought to focus attention on relief and recovery efforts and promised an investigation into what went wrong,

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congressional Democrats blasted the Administration for the delay in Federal relief. Other members of Congress, such as Sens. Trent Lott and Hillary Clinton, called for taking the Federal Emergency Management Agency out of the Department of Homeland Security.

NBC Nightly News (9/6, story 4, 2:05, Williams) reported Bush "clearly seemed to be trying to get out ahead of this crisis." NBC (Gregory) added, "Stung by blistering criticism of the government's response to Katrina, the President for the first time today promised accountability." Meanwhile, "top Democrats" are "calling for an immediate, independent, 9/11-commission style investigation as troubling questions are raised in Washington about the government's ability to secure Americans after another major storm or worse, a massive terror attack."

ABC World News Tonight (9/6, story 3, 2:35, Moran) reported the White House "was both the hub of a lot of Federal activity aimed at helping people affected by Katrina and a battleground over who should be held accountable for the catastrophic failure to respond last week." Bush told the Cabinet "recovery is their top priority" and he "announced he was sending Vice President Cheney to the Gulf Coast on Thursday to assess the progress on the relief efforts." The President "promised a thorough review of the government's failures," but "all day today the White House refused to discuss holding anyone accountable." On Capitol Hill, "there was scorn." House Minority Leader Nancy Pelosi: "The President said he's going to lead the investigation into what went wrong. He need to look only in the mirror." Moran: "But others argue that Congress itself is to blame, for downgrading the Federal Emergency Management Agency after 9/11, placing it under the control of the Homeland Security secretary."

The CBS Evening News (9/6, lead story, 1:30, Schieffer) led its broadcast by contrasting statements made by President Bush with those of Jefferson Parish executive Aaron Broussard, who said, "Bureaucracy has murdered people in the greater New Orleans area and bureaucracy needs to stand trial before Congress today." Schieffer: "Back in Washington, the President said there will be time enough to pass judgment later."

CNN's The Situation Room (9/6, Blitzer) reported, "The White House knows what happens when Congress comes back to town and that is: The criticism that already has been going on gets louder and louder, closer and closer to the White House. So, it was obvious that the President wanted to try to head that off."

Much of the print coverage this morning suggests the White House's efforts to regain its political "footing" have so far been unsuccessful. The AP (9/7, Loven) reports, "The Bush White House is known for its ability to remain in control of its message and image, sliding out of crises with barely a scratch. Not this time." Despite "day after day of appearances by…Bush aimed at undoing the political damage from a poor response to Hurricane Katrina, the White House has not been able to regain its footing, already shaken by the war in Iraq and a death toll exceeding 1,880." The administration yesterday "struggled to deflect calls for an accounting of who was responsible for a hurricane response that even Bush acknowledged was inadequate." White House counselor Dan Bartlett "said the president and his aides are unconcerned for now about the unrelenting criticism. 'Emotions are running high. People are tired,' Bartlett said. 'If we focused more of our attention on decisions that have already been made, rather than on those before us, there's potential for making far greater mistakes. ... We really don't have time to play the political game right now.'"

Reuters (9/7, Holland) adds "partisan tempers flared" yesterday, and "much anger from Democrats and Republicans alike has been directed at Bush for a slow federal response to a catastrophe that may have killed thousands in New Orleans and along the Gulf coast." Along the same lines, the Washington Post (9/7, A19, Balz) runs a story titled, "For Bush, A Deepening Divide; Katrina Crisis Brings No Repeat of 9/11 Bipartisanship." The Post says, "The starkly different verdicts on Bush's stewardship of the two biggest crises of his presidency underscore the deepening polarization of the electorate that has occurred on his watch." This "gaping divide has left the president with no reservoir of good will among his political opponents at a critical moment of national need and has touched off a fresh debate about whether he could have done anything to prevent it." The Post adds, "To his critics, Bush is now reaping what he has sown. Their case against him goes as follows: Facing a divided nation, the president has eschewed unity in both his governing strategy and his political blueprint."

USA Today (9/7, Benedetto) reports Bush "met with his Cabinet, education officials, congressional leaders and the heads of charities involved in the recovery. Afterward, he said the relief effort is improving, more supplies are en route, schooling is being arranged for thousands of displaced children and that he will make sure the recovery continues."

The Los Angeles Times (9/7, Gold, Hart) says Bush "sought to short-circuit congressional criticism by declaring that he will investigate the federal relief effort. … 'What I intend to do is to lead an investigation to find out what went right and what went wrong,' he said."

The New York Times (9/7, Kornblut, Hulse) adds Bush is acting under "relentless political fire," and that he "met with leaders from both parties, capping a day of constant political attention to a crisis that has exposed fault lines within the Republican Party and threatens to overtake the entire Congressional agenda."

The Washington Post (9/7, A18, Weisman, Fletcher) says the President was "stung by criticism" as he "vowed to

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'find out what went right and what went wrong.'" Meanwhile, Defense Secretary Donald Rumsfeld "said that the military already has begun a 'lessons-learned' assessment of its coordination with state and local governments. Nine Cabinet members briefed Senate and House leaders last night on the federal response, and key senators pushed for changes that would allow Third World relief efforts to be emulated in the United States."

The Washington Times (9/7, Curl, Scarborough) reports, "Republicans tried to limit the political damage from the botched federal response to Hurricane Katrina – with…Bush, members of Congress and military leaders yesterday all promising to look into the failures." Republicans "said they have received the message that there is frustration over the federal response." But "even as Republicans promised investigations, they made it clear that the first failure was at the state and local levels, where governments are charged with preparation and the first response to disasters."

Whether Bush bounces back from the current crisis, USA Today (9/7, Page) says Katrina has already done much damage to his ambitious domestic agenda, writing, "His plan to overhaul Social Security? Forget it. Repeal the estate tax? Postponed. Make the 2001 tax cuts permanent? Tougher to finance. Stay the course in Iraq? Questions about the deployment of U.S. resources and National Guard troops for the war have been sharpened." The New York Times (9/7, Andrews) runs a similar story under the headline "Hurricane's Toll Is Likely To Reshape Bush's Economic Agenda." The Times reports, "Katrina is about to blow a hole in the federal budget, and it is already jeopardizing President Bush's agenda for cutting taxes and reducing the deficit."

Bush Resists Calls For FEMA Chief's Ouster. The New York Times (9/7, Kornblut, Hulse) reports Bush "resisted renewed calls to fire Michael D. Brown, the director of FEMA, who became a lightning rod for attacks last week when he said he was unaware of a crisis at the New Orleans convention center, news of which had been televised for days." Instead, Mr. Bush accused critics of playing the 'blame game' and said he would remain focused on the immediate crisis as evacuees fanned out across the country."

On the CBS Evening News (9/6, lead story, 1:30, Schieffer), Bush was shown saying, "I think one of the things that people want us to do here is to play a blame game. We've got to solve problems. We're problem solvers. There will be ample time for people to find out what went right and what went wrong."

Bush Meets With Faith-Based Charities. The Washington Times (9/7, Curl) says "Bush met in the White House with faith-based and community groups, including representatives from the African Methodist Episcopal Church, the Southern Baptist Convention, the Salvation Army, the American Red Cross, the United Way of America, the YMCA, Catholic Charities USA and several others."

Bush Objects To Term "Refugees." The Los Angeles Times (9/7, Gerstenzang, Curtius) notes that last Monday, "during his second trip to the region in a week, Bush heard one of the storm's victims complain about the use of the term 'refugees.' At the end of the meeting in the White House Roosevelt Room, Bush addressed that issue. 'Let me tell you my attitude and the attitude of people around this table: The people we're talking about are not refugees. They are Americans, and they need the help and love and compassion of our fellow citizens.'"

Poll Finds Public Not Blaming Bush Or Federal Government. USA Today (9/7, Welch) reports on a poll of 609 people Tuesday that "asked who was to blame the most for problems after the hurricane. Twenty-five percent said state and local officials; 18% said the federal government, 13% blamed Bush. But the majority, 38%, said no one is to blame."

Morris Says Bush Will Obtain Political Dividends From Katrina Relief. Dick Morris writes in his column for The Hill (9/7), "Make no mistake about it: Every day for the next year, voters will see nonstop scenes of federal relief, rebuilding, renovation and reconstruction along with the empathy, sympathy and compassion these efforts imply in the heart of George W. Bush. He may have had a terrible first week, but he will rebound big time in the months to come." Morris adds that "in a year, Katrina and the relief and rebuilding efforts that are about to follow will be seen as having imparted a new and crucial momentum to an administration that was obviously increasingly running out of ideas, out of steam, and -- like its nation -- out of gas." Katrina "has the capacity to shape the second Bush term in the same way Sept. 11 shaped his first term."

LATimes Says Katrina Will "Haunt" Bush Presidency. In an editorial, the Los Angeles Times (9/7) is critical of Bush's response to Hurricane Katrina, stating that "the overriding fact on the ground -- both in Washington and along the Gulf -- is this: Too many people died needlessly because their governments were too concerned about the threat of terrorism to pay attention to the threat posed by Mother Nature." The Times argues that the "human tragedy [resulting from the crisis] will haunt the remainder of the Bush presidency."

Bush Criticized. Columnist David Ignatius writes in the Washington Post (9/7, A25), "There were two levee breaks last week: The natural disaster of Katrina ravaged New Orleans and left behind thousands of victims, but there was also a political catastrophe that breached the Bush administration's containment walls and exposed fundamental weaknesses in how this White House makes decisions." Ignatius adds, "The political damage may be harder to repair than the flooded infrastructure. The management flaws that have been so obvious over the past week go to the heart of how President Bush runs the government."

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In his Washington Post column (9/7, A25), Harold Meyerson writes, "The world looks on in stunned amazement, unable to understand how a once great nation has grown so indifferent not just to its poor and its blacks but even to the most rudimentary self-preservation. Some of it is institutional racism," but "the primary culprit is the economic libertarianism that the president still espouses whenever he sells his Social Security snake oil. It's that libertarianism, more than anything else, that has transformed a great city into an immense morgue."

Thomas L. Friedman writes in the New York Times (9/7), "An administration whose tax policy has been dominated by the toweringly selfish Grover Norquist…doesn't have the instincts for this moment." Norquist "is the only person about whom I would say this: I hope he owns property around the New Orleans levee that was never properly finished because of a lack of tax dollars. I hope his basement got flooded. And I hope that he was busy drowning government in his bathtub when the levee broke and that he had to wait for a US Army helicopter to get out of town."

Maureen Dowd says in her New York Times (column 9/7, Dowd), "Maybe Mr. Cheney is going down to New Orleans to hunt looters. Or to make sure that Halliburton's lucrative contract to rebuild the city is watertight. Or maybe, since former Senator John Breaux of Louisiana described the shattered parish as 'Baghdad under water,' the vice president plans to take his pal Ahmad Chalabi along for a consultation on destroying minority rights."

The Washington Post's Jim Hoagland (9/7) writes that Katrina "left its marks on President Bush's ambitious foreign policy agenda as well. Overcoming these setbacks will require a demonstration that the United States under Bush is not an irrevocably weakened and divided nation about to turn inward on its own problems. … European embassies in Washington are already reporting back to their capitals on how the disaster may further impair Bush's effectiveness as he slips toward lame-duck status."

Bush To Ask Congress For $40 Billion In Hurricane Relief. ABC World News Tonight (9/6, lead story, 3:50, Gibson) reported, "President Bush said today he wants another $40 billion -- $40 billion -- to cover the next phase of recovery. And some in Congress say it's going to cost $150 billion before it is all over." NBC Nightly News (9/6, lead story,4:05, Williams) added "that is just one step the President is now taking after the unrelenting criticism of how the Bush Administration and for that matter state and local government responded to this crisis."

CNN's The Situation Room (9/6, Velshi) reported, "Senate Democratic leader Harry Reid has suggested, after meeting with the President, that there will be a bill, a request emerging for a bill to authorize $40 to $50 billion in emergency hurricane aid. … This substantially ups the estimate of what this hurricane is going to cost. And some of these are direct costs, obviously. We know what the indirect costs are in energy, because we have seen gasoline go to above $3" per gallon. But "there are a whole set of costs beyond that that are going to affect those people hurt by the hurricane and spread across the country. We are now looking at estimates well in excess of $100 billion to the economy, enough to actually start taking the annual growth rate of the economy down."

The Wall Street Journal (9/7, McKinnon, Rogers, Searcey) adds "that will be only a down payment on a federal tab that all now agree is going to reach more eye-popping levels." Reid "was the first to go public, predicting a government commitment of $150 billion. Top Republicans bridled initially, saying any such estimates at this time translated into playing 'political games.'" But GOP Sen. Judd Gregg "subsequently used an even higher $200 billion estimate, and defended Mr. Reid's figure." The Journal adds, "Some of the ideas being discussed on Capitol Hill involved relief far beyond the disaster area. For example, Sen. Charles Grassley, the Iowa Republican, said he wants loan relief for farmers whose crops might not reach market on schedule due to disruption at the New Orleans port. Sen. Ted Stevens, the Alaska Republican, said he favors tax relief for airlines hit by higher fuel costs."

Black Activists Seek Set Asides As Part Of Rebuilding Effort. USA Today (9/7, Leinwand, Eversley) reports, "After accusations that many New Orleans hurricane victims were not evacuated or rescued because they were black and poor, civil rights advocates Tuesday shifted their focus to making sure poor blacks aren't left out of the city's rebuilding. Jesse Jackson, at the Louisiana state emergency center in Baton Rouge, said Hurricane Katrina is an opportunity for the federal government to lift a community out of poverty. New Orleans' impoverished black residents 'should be first in line to get the jobs to clean up their own neighborhoods,' he said. Rep. Mel Watt, D-N.C., head of the Congressional Black Caucus, said the caucus would support any effort to make sure New Orleans residents were part of rebuilding."

Federal Relief Effort Now In Full Swing. The rescue and relief effort in New Orleans has made significant progress since the aftermath of Katrina reached crisis proportions last week. Aid is now readily available, and the Army Corps of Engineers has begun the long process of pumping out the water that is inundating the city. However, the relief effort was still characterized as belated, and as some diehard residents refuse to leave the city, public health officials have grown increasingly worried over the possibility of water-born disease.

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In a typical report, the CBS Evening News (9/6, story 4, 3:55, Roberts) reported, "There's a lot of things that are working right in terms of the relief efforts. The problem is that it all got here too late. For example when the National Guard set up a feeding station outside the convention center, the next day people were gone, they had been starving for four days. The USS Iwo Jima is here now, with its big hospital, but it's empty because there's nobody left to treat. They're still trying to get all of those people out of the floodwaters, but it's like they took a canon here and are firing it down the street and there's nothing to hit."

NBC Nightly News (9/6, lead story,4:05, Williams) reported there are "more Blackhawk helicopters in the air, more ships docked in the harbor, more of a military district, really, than a city. US Army regulars and National Guard have indeed taken up positions, the streets, for the most part are safe, but they are also desolate. New Orleans has been through so much in these eight days and tonight, there are predictions that might have been the easy part for this metropolitan area. While the water is on its way out and some pumps are running, today, an estimated 60% of this city was still under water. Officially, there are now 60,000 troops here, according to the Department of Defense. They have restored order, they've brought food and water, all three of those elements that were so sorely missing last week."

Mayor Authorizes Forced Evacuation Of New Orleans. The AP (9/7, Burdeau) reports New Orleans Mayor Ray Nagin "authorized law enforcement officers and the US military to force the evacuation of all residents who refuse to heed orders to leave the dark, dangerous city. … While acknowledging the emergency declaration, police Capt. Marlon Defillo said late Tuesday that forced removal of citizens had not yet begun. He said that officers who were visiting homes were still reminding people that police may not be able to rescue them if they stay."

Many New Orleans Residents Refuse To Evacuate. ABC World News Tonight (9/6, story 10, 2:20, Woodruff) reported, "We met a lot of people over this past week that said they'd rather endure hell or high water, rather than leave their homes." NBC Nightly News (9/6, story 2, 3:35, Williams) reported, "With conditions the way they are, and we're talking about the toxic water, lack of food and water and electricity, the fact that the city is now a waterlogged ghost town, it is hard to believe, having said that, that anyone would choose to stay here. But as you know, we keep on finding more and more stories of the diehards here, survivors, who won't leave." NBC (Teague) added, "Rescuers tell us there are hundreds of people still in their homes here, but they won't show themselves because they are afraid of being rescued."

New Orleans Levee Breaches Repaired, Some Pumps Operating. Bloomberg (9/7) reports, "Engineers repaired a ruptured levee in New Orleans and began pumping water from the flooded city. … Engineers are pumping water from the flooded areas of New Orleans back into Lake Pontchartrain after patching the levee at the city's 17th Street Canal yesterday, said Jason Binet, a civil engineer with the U.S. Army Corps of Engineers. Today, the repaired breach will be fortified with layers of stone and asphalt, Binet said. About 60 percent of the city is still under water, Corps of Engineers officials said today at a press conference. They estimate it will take 24 to 80 days to drain the city." USA Today (9/7, Eisler) and the New York Times (9/7, Longman, Chan), among other sources, run similar stories this morning.

Tenor Of Network TV Coverage Of Katrina Changing. The tenor of the network coverage of Katrina's aftermath has changed significantly this week. There is a greater focus on refugees dislocated by the disaster and the political "blame game" over the inadequacies of the responses by Federal, state, and local governments. There is a corresponding decrease in air time given to scenes of human pathos, and such stories tend to focus more on less concrete issues, such as the health threat posed by the floodwater in New Orleans. In addition, the networks paid little attention to the situation outside of New Orleans, with only two stories on recovery efforts in Biloxi, Mississippi.

On ABC, roughly one-third of the newscast was devoted to the political fallout from Katrina, while a second third was devoted to scenes of human suffering, devastation, and health threats, and slightly more time was spent covering the plight of the refugees. On CBS, about 25% of the hurricane zone coverage was spent on refugees, 50% was spent on human suffering, and another 25% was devoted to the political situation. On NBC, which ran an hour-long newscast last night, about 15% was spent on the political aspects, while about 40% each was devoted to human suffering and refugees.

Meanwhile, local TV from the Gulf Coast area were split, with half of the stations in the area leading their broadcasts with stories assessing the physical damage the storm has caused, and the rest focusing on the political issues that have emerged in Katrina's wake. Typical of coverage assessing Katrina's destruction was a report from WIAT-TV Birmingham (9/6, 4:58 pm) that "the full extent of the horrors left behind by Hurricane Katrina sits beneath the water that fills the streets of New Orleans. While the water is being pumped out the mayor says it'll take at least three weeks before all of its removed."

WAFF-TV Huntsville (9/6, 4:59 pm) added that de-watering New Orleans is "expected to take two to three months. Thousands have joined the search for the victims and the survivors."

While a majority of stations focusing on the damage Katrina has caused continued to lead with reports from New Orleans, some led with stories from Mississippi or with local reports. WCFT-TV Birmingham (9/6 4:58 pm) reported,

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"Plenty of Alabamians are on the Gulf-Coast tonight as they begin a gruesome recovery-effort. They're digging through tons of debris left behind by Katrina. That rubble could…hide the remains of people who didn't survive." Meanwhile, WAKA-TV Montgomery (9/6, 5:59 pm) reported, "Hurricane Katrina remains evident in Biloxi and Gulfport. More than a week after Katrina hit the Gulf Coast, slabs of wood and piles of rubble are all that are left of some homes."

Stations that led with Katrina's political aftermath focused on investigations into the Federal government's response. Typical of coverage was a report from WPMI-TV Mobile (9/6, 5:00 pm) that, "Both President Bush and Congress are pledging separate investigations into the federal response after Katrina." The President "says he himself will lead an investigation into what happened in the aftermath of Katrina." WSFA-TV Montgomery (9/6, 5:01 pm) noted that "Congress plans to investigate what it calls the government's 'woefully inadequate' response to Katrina. The Governmental Affairs Committee will get a closed briefing tomorrow from FEMA. WVTM-TV Birmingham (9/6, 5:58 pm) added that the President is "also sending Vice President Dick Cheney to the Gulf Coast to find out if the government is doing all it can."

A minority of stations also picked up on House Minority Leader Nancy Pelosi's criticism of FEMA's Brown, noting, as on WBRC-TV Birmingham (9/6, 9:46 pm) that Pelosi "emerged from a White House meeting with the President calling for heads to role." Pelosi was shown saying, "If Michael Brown brings nothing to the table, then he should not continue in that job, unless we want a continuation of the shortcomings that we have had in the response."

A majority of local TV stations nationwide spent an extensive amount of time dealing with the political aspects of the story. For example, WWOR-TV New York (9/6, 10:00 p.m.) reported, "President Bush said he will lead an investigation into finding out what went wrong." The station added, "There's more anger and finger pointing tonight over Hurricane Katrina, and most are pointed straight at the disaster agencies." WFLA-TV Tampa (9/6, 5:02 p.m.) added, "Members of Congress are promising a Federal investigation into the response for help following Hurricane Katrina. President Bush said he will personally head up this investigation."

Fewer stations, meanwhile, chose to focus on continued efforts help speed the recovery process. KDAF-TV Dallas (9/6, 9:33 p.m.) reported, "President Bush is asking for another $40 billion in Hurricane Katrina relief. The President met with lawmakers and his Cabinet today to discuss recovery and rebuilding. During the meeting, the President outlined what needed to be done in the affected areas, saying bureaucracy should be pushed aside to speed up the recovery." Meanwhile, KHOU-TV Houston (9/6, 12:08 p.m.) aired a positive report, noting that "there is a bit of good news today. Half of the Gulf Coast refineries damaged by Hurricane Katrina plan to restart production this week. Eight major refineries that produce gasoline, diesel, jet fuel and heating oil were knocked out of commission."

More Tropical Storms May Be On Way. The CBS Evening News (9/6, story 11, 0:25, Roberts) reported, "Even as the country is dealing with the Katrina disaster, the busiest part of the hurricane season may be just starting. There are three storms now in the Atlantic. Ophelia, a tropical depression, is expected to be a tropical storm when it reaches Florida tomorrow with heavy rain."

NBC Nightly News (9/6, story 5, 0:25, Williams) reported, "We know the last thing this area needs is another hurricane. All eyes are on the Atlantic now that we are at the height of hurricane season. The largest concern out there is something called Tropical Depression 16. It is off the Florida coast, it is likely to strengthen into something called Tropical Storm Ophelia. There are two other storms out there, Nate and Maria, but they, luckily, are not threatening land."

FEMA Director Brown Said To Have "Big Target On His Back." FEMA Director Michael Brown is the focus of much of the criticism over the Federal Government's response to the aftermath of Hurricane Katrina. On the CBS Evening News (9/6, story 4, 3:55), Gloria Borger said, "I think FEMA Director Michael Brown has a big target on his back. There are lots of Democrats today calling for his removal. And I think they're going to hear a lot more of that. Republicans were kind of holding back a little, but they're not too fond of him either these days."

NBC Nightly News (9/6, story 4, 2:05, Gregory) reported, "Top Democrats are calling for the firing of FEMA Director Michael Brown and Administration sources say questions are being raised about whether Homeland Security Secretary Michael Chertoff should continue to oversee the government's Katrina response."

Meanwhile, ABC World News Tonight (9/6, story 6, :30, Gibson) reported, "A correction on a report last night about FEMA Director Michael Brown. We and other news organizations reported that Brown was college roommates with a man who recommended him for the job, former FEMA Director Joe Allbaugh. Allbaugh told us that was not correct. They were friends, but not roommates. Although Allbaugh said he is a registered lobbyist for Halliburton on disaster relief, he has not lobbied FEMA directly for Halliburton contracts."

USA Today (9/7, Lawrence) reports that in his "online résumé, Michael Brown touts his experience dealing with hurricanes and wildfires. He talks of being a state legislative committee director and an assistant city manager. He doesn't mention the decade he spent as chief rules enforcer for the Arabian Horse Association." The horse job, "which he left in

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2000, is now fodder for critics who say Brown" has "botched the Katrina relief operation. Those critics include Republicans, Democrats and newspapers." President Bush "appointed a FEMA director who had 'absolutely no credentials' for the job, House Minority Leader Nancy Pelosi, D-Calif., said Tuesday." Brown says he has "led the federal government's response to more than 160 disasters and emergencies."

The New York Times (9/7, Shane) reports Brown "has faced two simultaneous challenges - coordinating 14 federal agencies with state and local counterparts under grueling conditions, and fending off criticism from those who say that FEMA has failed and put the blame squarely on him." By "all accounts, it was not experience in managing disasters that brought Mr. Brown, 50, a lawyer from Oklahoma, to FEMA in 2001 as general counsel. It was his 30-year friendship with" Allbaugh. But when "pressed yet again to give his qualifications at a news conference on Monday, Mr. Brown gave a practiced answer, running through his learning curve as general counsel, then deputy director and finally, since 2003, director of FEMA. He has overseen the response to 164 presidentially declared disasters, he said, including California wildfires, a rash of tornadoes in the Midwest several years ago and the four Florida hurricanes last year." Brown's "friends say they have cringed watching the criticism of a man they describe as compassionate and dedicated to difficult work."

On CNN's Paula Zahn Now (9/6, 8:39 pm), Mississippi Rep. Bennie Thompson (D) said, "FEMA is clearly is flying by the seat of their pants. What we need is a professional in there trained to run disaster preparedness operations who can make quick decisions, cut through the red tape, and get the job done."

FEMA Sends Evacuees To Wrong Charleston. CNN.com (9/7) reports, "A South Carolina health official said his colleagues scrambled Tuesday when FEMA gave only a half-hour notice to prepare for the arrival of a plane carrying as many as 180 evacuees to Charleston. But the plane, instead, landed in Charleston, West Virginia, 400 miles away. It was not known whether arrangements have been made to care for the evacuees or transport them to the correct destination."

ABC World News Tonight (9/6, lead story, 3:50, Avila) reported, "There are still communication problems between the states affected and FEMA. Today, in Charleston, South Carolina, ambulances were standing by. Shelter arranged for evacuees who never arrived. Why? The plane went to the wrong Charleston. It went to the one in West Virginia. In Wisconsin, the Governor says he was told to expect hundreds of evacuees. None has shown up."

Chertoff Tasks Allen With "Bailing Out" Brown. The Washington Post (9/7, A23, White) reports that with Brown "taking harsh criticism for the slow federal response to Hurricane Katrina, the secretary of homeland security this week assigned a top Coast Guard official to help bail him out." Vice Adm. Thad W. Allen, the Coast Guard's chief of staff, "was assigned on Monday to be Brown's deputy and to take over operational control of the search-and-rescue and recovery efforts along the Gulf Coast. The unprecedented task of coordinating the massive effort was handed off to a leader and expert who was described by colleagues as unflappable, engaging and intensely organized."

Brown Waited Five Hours To Request Personnel From Chertoff. The AP (9/6, Bridis), in a widely distributed article, reported that internal government documents show that Brown asked Homeland Security Secretary Michael Chertoff to send Homeland Security workers into the Gulf Coast region "roughly five hours after Katrina made landfall on Aug. 29." The Director's "memo to Chertoff described Katrina as 'this near catastrophic event' but otherwise lacked any urgent language. The memo politely ended, 'Thank you for your consideration in helping us to meet our responsibilities.'"

Private Relief Efforts Taking Up Slack For FEMA In Mississippi. The CBS Evening News (9/6, story 3, 2:15, Schieffer) reported, "In a major disaster," FEMA "is supposed to move quickly to coordinate aid for victims. But for countless survivors of Hurricane Katrina, that never happened. So private citizens are taking up the slack as best they can." CBS (Bowers) added, "It took eight days for FEMA to open its first Mississippi-based disaster response center, here in ocean beach." But "what nobody expected was how quickly and completely everyday people would fill the gap. Big church groups are cooking up three meals a day for thousands of hungry souls. And all across the Gulf Coast good Samaritans are on the ground are getting places the government has yet to find." FEMA "told us today it is no where near ready to start handing out checks. In fact, it can't even get its disaster center up and running in this hard hit city until sometime next week."

Blanco Brings Former FEMA Director Witt On Board. The Hill (9/7, Kaplan) reports it "didn't take long for James Lee Witt, the former head of the Federal Emergency Management Agency (FEMA), to throw his weight around in hurricane-ravaged Louisiana." Witt "has been hired by Louisiana Gov. Kathleen Blanco (D) to help coordinate state and federal responses to the natural disaster." Blanco "introduced Witt to President Bush on Monday, according to a source who has spoken with Witt. Bush promised Witt whatever support he needed and said that Mike Brown, FEMA's embattled director, is his man in charge."

Witt Says FEMA Must Retool Response Plan. In a USA Today op-ed (9/7), Witt says, "I witnessed the incredible abilities and dedication of our nation's emergency response personnel, of which we have the best trained and best equipped possible. Despite their skills, ability and

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technology, we must do more to be better prepared and protected in the case of such a catastrophe. Our financial recovery mechanisms, which rely primarily on the private insurance market, federal assistance in the form of low-interest loans and a handful of state catastrophe funds, need to be retooled so that they are capable of meeting the immeasurable costs of a catastrophe."

WTimes Says Brown, FEMA Performance Dysfunctional. The Washington Times (9/7) says in an editorial that Brown "confirmed the dysfunctional performance of his organization throughout the first three or four days following Hurricane Katrina's assault on New Orleans. In an interview on CNN's 'Paula Zahn Now,' three-and-a-half days after Katrina made landfall, Mr. Brown insisted that the federal government in general and FEMA in particular had no idea until that very day that tens of thousands of New Orleans residents and tourists had assembled at the city's convention center."

NYTimes Says Brown Should Be Replaced. The New York Times (9/7) says in an editorial, "It's obvious…that Michael Brown has met the expectations of those who warned that he would be a terrible director of the Federal Emergency Management Agency. This is no time to be engaging in a wholesale change of leadership, but in Mr. Brown's case there seems to be precious little leadership to lose. He should be replaced with someone who can do the huge job that remains to be done. But the questions go way beyond Mr. Brown - starting with why federal officials ignored predictions of a disastrous flood in New Orleans - and the answers can come only from an independent commission."

WPost Says DC-Area Should Not Count On FEMA In Disaster. The Washington Post (9/7, A24) says in an editorial, "The District's mission to the storm survivors encountered widespread confusion, made worse by governmental red tape and indecision. Surveying the federal response to Hurricane Katrina and observing that the Washington region itself could be subject to a disaster or terrorist attack, Montgomery County Executive Douglas M. Duncan (D) said yesterday on WTOP Radio's 'Ask the Executive' program that area officials "need to know what we can count on and not count on from FEMA." That observation is aptly borne out by the District's experience in New Orleans and other flood-ravaged communities."

Congress Said To Share Blame For FEMA Problems. Norman Ornstein writes in his column for Roll Call this morning (9/7), "When the Department of Homeland Security bill came to Congress, it ended up facing one and only one serious area of controversy and deliberation: the question of sweeping civil service changes to eliminate many of the regular protections for the 70,000 DHS employees. That issue became a political tool — a major campaign point in the 2002 elections — even as the larger and important questions of what kind of department, and how to fulfill all the real and serious government functions, was ignored. The result was, as we now see in embarrassing fashion, a downgrading of FEMA and confusion about its mission." Much "of the failure to implement the changes needed over the past four years can be laid at the feet of Congress and its leaders."

Blanco Indecision Said To Have Delayed Federal Relief Efforts. The Washington Times (9/7, A1, Lakely) reports that while Louisiana Gov. Kathleen Blanco "has been critical of the Bush administration's response to the disastrous aftermath of Hurricane Katrina, but, according to the mayor of New Orleans, her indecision when President Bush offered help delayed rescue efforts and cost lives." New Orleans Mayor Ray Nagin told CNN "he met with Mr. Bush and Mrs. Blanco on Air Force One on Friday and implored the two to 'get in sync.' 'If you don't get in sync, more people are going to die,' Mr. Nagin said." The Times adds Bush "met privately first with Mrs. Blanco, then called Mr. Nagin in for a meeting." Nagin said, "'He said, 'Mr. Mayor, I offered two options to the governor.' I was ready to move. The governor said she needed 24 hours to make a decision." The Times adds that "decision was a request by Mr. Bush to allow the federal government to take over the evacuation of New Orleans, which had been marked by chaos for days. The Democratic governor, who has clashed behind the scenes with the Bush administration since the storm hit, refused."

ABC World News Tonight (9/6, story 5, 2:35, Harris) reported, "FEMA says Gov. Kathleen Blanco failed to ask for help in a timely manner. Shortly before Katrina hit, the Governor sent the President requests for food and provisions, but made no specific request for help with evacuations. One aide to the governor told us today she thought city officials were taking care of the evacuation. Nonetheless, the Federal Government might have been more pro-active." Jerry Hauer, former FEMA official: "If the city and the state are stumbling, or in over their head, then it's FEMA's responsibility to show some leadership."

The Financial Times (9/7, Alden, Swann, Dinmore, Chaffin) says Gov. Blanco "insisted on CNN on Tuesday that 'I asked for everything that we had available from the federal government...and the federal effort was just a little slow in coming. I can't understand why.'" But "at the same time she said that co-operation had improved dramatically in recent days. 'We are parties in this effort. We are a team,' she told a news conference in Baton Rouge, the state capital."

New Orleans Officials Failed To Implement Own Disaster Relief Plan. ABC World News Tonight (9/6, story 5, 2:35, Woodruff) reported, "In New Orleans, both those in peril and those in power have pointed the finger squarely at the Federal Government." But "experts say when natural

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disasters hit, it is the primary responsibility of state and local governments, not the Federal Government, to respond. New Orleans' own comprehensive emergency plan raises the specter of 'having large numbers of people stranded.' And promises the 'city will utilize all available resources to quickly and safely evacuate threatened areas.'" When Katrina hit, "however, instead of being evacuated, people were told to go to the Superdome or the convention center, where no one provided sufficient sustenance or security." Bob Williams "dealt with emergency response issues after the eruption of Mount St. Helens in Washington state." Bob Williams: "If the plan had been implemented, particularly the early evacuation plan, thousands of lives would have been saved."

NBC Nightly News (9/6, story 6, 2:35, Myers) reported, "Some 200 New Orleans school buses sit underwater in a parking lot, unused, enough to have evacuated at least 13,000 people. Why weren't those buses sent street by street to pick up people before the storm?" A "draft emergency plan obtained by NBC News calls for 400 buses to be prepared to evacuate victims, yet some 200 buses were left abandoned in Katrina's path."

Congress To Probe Federal Response To Katrina, With Focus On FEMA. The CBS Evening News (9/6, story 4, 3:55, Borger) reported, "Official Washington began its angry and accusatory finger pointing." Sen. Patrick Leahy: "Where in God's name were the people who are supposed to give water? Support? People were dying there." Congress "wants answers, and today opened its own investigation." GOP Sen. Susan Collins was shown saying, "If our system did such a poor job, when there was no enemy, how would the Federal, state and local governments have coped with a terrorist attack?"

Reuters (9/7) says Collins "said her Senate Homeland Security Committee would begin its investigation this week into the relief efforts." FEMA "has been a focus of much of the criticism, which has also targeted President George W. Bush." USA Today (9/7, Stone) adds others "called for a 9/11-style commission to investigate failures in responding to the disaster. 'It's hard to untangle all of the causes,' said Sen. Hillary Rodham Clinton, D-N.Y., who will introduce a bill that would create such a commission." She "said cutbacks in funding and personnel at the Federal Emergency Management Agency, as well as unclear lines of command that appear to have bogged down the response, 'have to be thoroughly investigated.'" Clinton also "introduced a bill to separate FEMA, which she and others say bungled the initial response to Katrina, from the Department of Homeland Security." USA Today adds that "some Republicans agreed. Sen. Trent Lott, R-Miss., who lost his home in Pascagoula, said it was "a mistake" to take away FEMA's independence. But he warned against finger-pointing while hundreds of thousands of people are homeless."

The Dallas Morning News (9/7, Gillman, Dodge) reports that yesterday, "lawmakers couldn't find enough ways to express their disgust for the planning and response to the disaster." It is "a frenzy President Bush hasn't faced from a Congress controlled for most of his tenure by allies. Through terrorism, war and the occasional scandal, they have protected his administration from the sort of pointed grilling lawmakers are planning over the coming days and weeks. … This time, GOP lawmakers have rushed to the microphones."

The Washington Post (9/7, A19) reports in its "Washington Sketch" column, "As horrendous as the death and dislocation have been in and around New Orleans, the government's 'woefully inadequate' response there, as Collins put it, has left Americans far from the disaster area to assume that, if a terrorist's nuclear bomb goes off on K Street or smallpox is released in Times Square, it will be every man for himself. " On the Hill, "outraged lawmakers launched a bipartisan investigation and demanded to know what good had come from all that homeland security spending. At the White House, the president was still operating in the conditional. 'If things went wrong, we'll correct them,' he said. 'And when things went right, we'll duplicate them.'" Bush, adds the Post, "was in no hurry to probe. … The mood was more urgent on the Hill, where a bipartisan group of lawmakers in the House was preparing legislation to separate FEMA from the Department of Homeland Security."

The Hill (9/7, Kaplan, O'Connor, Tiron) adds "the House and Senate government-oversight committees will hold hearings into the widespread criticism of the federal response to Hurricane Katrina. The hearings are just part of Republicans' response to the public-relations fallout over the administration's admitted mishandling of the devastation in the immediate aftermath of the hurricane." Even though "several GOP leaders pleaded for increased civility, Congress plunged immediately into bitter partisanship as lawmakers returned to work yesterday, with the two parties arguing over blame for the death and destruction left in Hurricane Katrina's wake." Under the headline "Parties Divided Over Katrina Response," Roll Call (9/7, Pierce, Pershing, Billings) adds "the Democrats' proposals and demands for "immediate" Congressional action were received somewhat skeptically by Republicans."

Collins, Lieberman "Stop Short" Of Calling For Resignations. PBS's Newshour With Jim Lehrer (9/6, 7:15 pm) reported that in announcing that the Governmental Affairs Committee would hold investigative hearings into the response to Hurricane Katrina, Sens. Collins and Joseph Lieberman, the ranking member, "stopped short" of calling for the dismissal of Michael Chertoff or Michael Brown. Lieberman said, "Obviously what Michael Chertoff and Michael Brown did in this circumstance would be of great

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interest in our inquiry, but we want to go at this in a way that's credible and legitimate and open minded. Therefore, I think the last thing we'd want to do right now is to reach judgments about who should stay and who should go."

Lawmakers Chide Chertoff, Other Cabinet Members Over Katrina Response. CNN's NewsNight With Aaron Brown (9/6, 10:00 pm) reported, "At a meeting on Capitol Hill tonight, members of Congress took cabinet officials to task," concerning government response to Hurricane Katrina. The meeting was reported to have been rough not only on Michael Chertoff, but also on a slew of Bush cabinet secretaries who "started out by giving rosy reports about how things are turning out for the better." NewsNight reported that the first question came from a Republican who said, "All of you deserve failing grades, despite what you're saying right now. The response was a disaster."

GOP Wants Congressional Review To Look Beyond Perceived FEMA Failures. CNN's The Situation Room (9/6, Henry) reported that "the bottom line is that Republicans here on the Hill privately feel that Democrats have been beating up on FEMA solely to score political points against this White House. That's a charge that Democrats up here flatly reject. But earlier on Capitol Hill, House Majority Leader Tom DeLay, in fact, tried to spread the blame a little bit here and say that congressional review should focus not just on the federal government, but the local and state government."

Katrina Scrambles Congressional Calendar. Roll Call (9/7, Pershing) reports, "The aftermath of Hurricane Katrina has scrambled Congress' post-recess agenda and calendar, as leaders are frantically reordering their legislative priorities and pushing the anticipated adjournment date back weeks, and possibly more than a month." Both the House and Senate "were already resigned to missing their original departure target of Oct. 1. And with an enormous new set of challenges to tackle in the coming days, House Majority Leader Tom DeLay (R-Texas) said Tuesday: 'It's obvious that we're going to be here until Thanksgiving.'"

Federal Officials Warn Of Post-Katrina ID Theft Threat, Relief Scams. The AP (9/7, Kerr) reports the FTC on Tuesday warned "Social Security cards, driver's licenses, credit cards and other personal documents are literally floating around New Orleans, raising the prospect some hurricane survivors could be victimized again -- this time by identity thieves." The AP notes, "The FBI also warned people wanting to donate money for Katrina survivors to beware of scammers who solicit online donations to lure victims into giving up credit card numbers and other sensitive information. 'There are people out there who are willing to stoop so low as to scam people who are willing to open their hearts and wallets to people in need,' said FBI spokesman Paul Bresson. He said the bureau has identified about 2,000 Web sites related to the Katrina relief effort. Most are legitimate, Bresson said, but the FBI is investigating about a dozen for possible fraud."

Reuters (9/7, Hurdle) notes, "After last year's Asian tsunami…the FBI investigated more than 170 Web sites that were preying on donors by mimicking the sites of well-known charities, according to Patrick Meehan, U.S. district attorney for Eastern Pennsylvania. While no evidence has emerged of criminals attempting to divert money destined for hurricane victims, Meehan said authorities were on high alert."

Four Charged In Virginia Aid Scam. The Washington Times (9/7, Emerling) reports, "Fairfax County police arrested four persons on Sunday for operating a roadside scam claiming to collect money for victims of Hurricane Katrina." Joseph J. Murphy Jr., Isaac M. Beavers, Marie S. Golden, and Nicholas P. Flint have been "charged with misdemeanor solicitation violations and released on a summons to appear in court." They "told motorists in the 12100 block of Sunset Hills Road in Reston they represented charities helping hurricane victims and asked for cash donations."

FEMA, HUD Seek Temporary Housing For Evacuees. USA Today (9/7, Hall) reports, "The federal government is pushing ahead with plans to offer makeshift housing -- in cruise ships, abandoned military houses and recreational vehicles — to tens of thousands of Gulf Coast evacuees. Housing and Urban Development (HUD) Secretary Alphonso Jackson said Tuesday that the government is cobbling together enough housing to take care of the hundreds of thousands of people who were displaced by Hurricane Katrina and have nowhere to go as they rebuild their lives. … HUD and the Federal Emergency Management Agency (FEMA) initially looked for temporary housing within a 500-mile range of the devastation along the Gulf Coast. FEMA spokesman James McIntyre said the agency has ordered 70,000 small recreational vehicles, each of which can sleep five. In areas without flooding, the trailers can be parked on people's property." The Washington Times/AP (9/7, Burdeau) reports, "A plan to move thousands of Hurricane Katrina evacuees from the Astrodome to cruise ships was put on hold yesterday after many objected, some because they were terrified by the thought of living on the water." The Washington Post (9/7, A1, Williams) and USA Today (9/7, Cauchon) both carry profiles of families that evacuated the New Orleans area and are now attempting to secure housing, employment and schools for their children.

Barbara Bush's Comments On Evacuees Provoke Controversy. The New York Times (9/7) reports, "As President Bush battled criticism over the response to Hurricane Katrina, his mother declared it a success for evacuees who 'were underprivileged anyway,' saying on Monday that many of the poor people she had seen while touring a Houston relocation site were faring better than

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before the storm hit. 'What I'm hearing, which is sort of scary, is they all want to stay in Texas,' Barbara Bush said in an interview on Monday with the radio program 'Marketplace.' 'Everyone is so overwhelmed by the hospitality.' 'And so many of the people in the arena here, you know, were underprivileged anyway,' she said, 'so this is working very well for them.'

Evacuees Displaced To 21 States So Far. Evacuees displaced from the Gulf Coast have now been relocated to 21 states, and nine more have offered assistance. ABC World News Tonight (9/6, lead story, 3:50, Gibson) reported, "With approximately one million refugees, the logistical problems are overwhelming. States are stepping up. California and Colorado, taking 1,000 refugees, each. Texas, of course, taking the most, 230,000. Tennessee is next, and Arkansas. … Thirty states in all are accepting evacuees. But many, when they get on planes, don't know where they're going." ABC (Avila) added, "Where do one million evacuees go when their cities, towns and homes are left in ruins? In the aftermath of Katrina, the answer seems to be everywhere and anywhere. Today, 200 arrived in faraway Washington, D.C., 1,100 miles from home. Same story for these evacuees in Salt Lake City." The CBS Evening News (9/6, story 10, 2:45, Roberts) reported, "The hurricane disaster has resulted in mass relocations of Americans from three Gulf coast states, the biggest migration in decades. 21 states, Texas in particular, are already housing evacuees. And nine more say they are prepared to take in the homeless." CBS (Strassmann) added, "At this bus depot in Baton Rouge, evacuees fill every outbound seat. 3,000 people a day, heading to Texas, Florida, anywhere."

Influx Of New Orleans Residents Leaves Baton Rouge Uneasy. The New York Times (9/7, Applebome) reports, "Last week came the rumors -- of riots at Wal-Marts, of break-ins at homes, of drug gangs from New Orleans roaming the streets of' Baton Rouge. According to the Times, "the overwhelming response of people in Baton Rouge to Hurricane Katrina has been one of compassion and sacrifice. … But there have also been runs on gun stores, mounting frustration over gridlocked roads and an undercurrent of fear about crime and the effect of the evacuees."

Military, Church Groups Play Key Roles In Biloxi Relief Efforts. NBC Nightly News (9/6, story 3, 1:20, Teague) reported, "Since Sunday, the beach here in Biloxi has been turned into a mini military camp." This "is an L-cat, what they call a landing craft air cushion. And it has been bringing heavy equipment onto the beach to help out with cleanup efforts." The CBS Evening News (9/6, story 3, 2:15, Schieffer) reported that in Biloxi, Mississippi, "What nobody expected was how quickly and completely everyday people would fill the gap" left by the federal response, as "big church groups are cooking up three meals a day for thousands of hungry souls. And all across the Gulf Coast good Samaritans are on the ground are getting places the government has yet to find."

DC Welcomes Nearly 300 Evacuees. The Washington Post (9/7, A1, Labbe, Montgomery) reports, "One by one, the New Orleans survivors of Hurricane Katrina arrived in Washington yesterday, welcomed with smiles and applause from emergency workers and District leaders. … A total of 295 evacuees were flown from New Orleans to Dulles International Airport on two commercial aircraft, and more may arrive here over the next several days."

Up To 20% Of Flood Victims May Suffer Post Traumatic Stress Disorder. NBC Nightly News (9/6, story 12, 2:15, Bazell) reported, "In such a massive tragedy, there is no way of knowing will suffer long-term mental effects, but studies of previous disasters show that 20% of victims end up with post-traumatic stress disorder. At the FEMA emergency medical centers, mental health counselors are well aware of the danger."

FEMA Bureaucracy Said To Be Delaying International Aid. The Washington Post (9/7, A1, Williamson) reports in a front page story, "Offers of foreign aid worth tens of millions of dollars -- including a Swedish water purification system, a German cellular telephone network and two Canadian rescue ships -- have been delayed for days awaiting review by backlogged federal agencies, according to European diplomats and information collected by the State Department." Since Hurricane Katrina, "more than 90 countries and international organizations offered to assist in recovery efforts for the flood-stricken region, but nearly all endeavors remained mired yesterday in bureaucratic entanglements, in most cases, at the Federal Emergency Management Agency."

US Not Accepting All International Offers Of Aid. The Washington Times (9/7, Kralev) reports the US" has accepted help from about 40 countries for the victims of Hurricane Katrina -- fewer than half of those that offered -- including high-speed water pumps, food, cruise ships and more than $400 million in cash, U.S. officials said yesterday." Although "no offer has been rejected officially, proposals from Cuba and other countries to send doctors or nurses have not been accepted because there is enough U.S. medical personnel to deal with the crisis for now, the State Department said."

International Media Portray Katrina Disaster As US Shortcoming. NBC Nightly News (9/6, story 16, 2:25, Williams) reported, "A lot of nations around the world are fascinated by the seeming powerlessness of the most powerful, the richest nation on Earth, to handle relief supplies in the immediate aftermath." NBC (Miller) added, "Germans today loading 25 tons of food rations heading to the US just one of 60 nations reacting to America's call for help: The

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disturbing images from an American city so heartbreaking that the world has reacted with both kindness and shock." Here "in Britain and elsewhere, newspaper editorials are asking why the world's only superpower appears so helpless, 'The Independent' declaring on its front page, people died because they were poor. In the Middle East, Katrina has dominated evening newscasts." Arab networks "claiming Americans can't fight a war in Iraq and battle storm damage at home. Egyptian newspapers called it shocking that America was incapable of handling the disaster." But "rich or poor, nations are lining up to help. Afghanistan pledged $100,000. Singaporians are flying rescue missions. Even tsunami-ravaged Sri Lanka pledged $25,000, all it could afford: Shocked nations offering aid in recognition of America's own tradition of generosity in times of need."

USA Today (9/7) says in an editorial, "To believe some commentary in countries from Europe to Asia to the Middle East, the world's wealthy superpower has, in Katrina's wake, been exposed as a vulnerable supermonster. In this view from abroad, the USA is a place that is callous toward its poor and black. A Pakistani newspaper wrote, for example, of how the U.S. government 'for three days sat smugly apathetic to the people's plight.' It's a place where the early looting reflects a culture of violence and selfishness: 'The darker side of the American dream' was how a columnist for London's Daily Mail put it. And it's a place where a focus on the Iraq war has starved it of resources to deal with natural disasters — a favorite topic in the Arab media. The comments, which contain both distortions and grains of truth, are a jolting reminder that the U.S. image in the world has been in a tailspin since the start of the Iraq war — fueled by anger and frustration over the go-it-alone U.S. approach that has too often disregarded others' opinions or interests."

Bush, Spellings Offering Help To Students, Schools Affected By Katrina. The AP (9/7) reports President Bush says that "the administration is looking at ways to help schools absorb students displaced by Hurricane Katrina." In a meeting with U.S. Secretary of Education Margaret Spellings, he said that "local school districts are extending 'extraordinary efforts' right now to help kids learn." And he "promised that Washington is ready to show flexibility when it comes to college loans."

The New York Times (9/7, Dillon) reports, "School districts from Maine to Washington State were enrolling thousands of students from New Orleans and other devastated Gulf Coast districts yesterday in what experts said could become the largest student resettlement in the nation's history. Schools welcoming the displaced students must not only provide classrooms, teachers and textbooks, but under the terms of President Bush's education law must also almost immediately begin to raise their scholastic achievement unless some provisions of that law are waived. Historians said that those twin challenges surpassed anything that public education had experienced since its creation." So far, "the total number of displaced students is not yet known, but it appears to be well above 200,000." President Bush said that Education Secretary Spellings "was working on a plan to help states absorb the educational costs but gave no hint of what kind of assistance might be provided. The Department of Education set up a Web site to coordinate private donations to schools enrolling displaced students." Spellings "has invited 40 education groups, including the P.T.A. and teachers unions, to meet at the Department of Education today to discuss disaster recovery efforts."

KYW-TV Philadelphia, Pennsylvania (9/6, 4:06 p.m.) reported, "President Bush met today with Education Secretary Margaret Spellings to talk about assistance for displaced students and closed schools in the disaster area. Tens of thousands of students, public and college students, were displaced by Hurricane Katrina."

WTAE-TV Pittsburgh, Pennsylvania (9/6, 5:03 p.m.) reported "Margaret Spellings will meet with education leaders from around the country to come up with a plan to help schools absorb students who have been displaced by the hurricane." WBAL-TV Baltimore, Maryland (9/6, 6:00 p.m.) also reported this story.

Districts Welcome Students. The AP (9/7, Lewan) reports, "Refugee students are getting a tough crash course in adjustment." School districts "have begun hastily enrolling these students, even embracing them" but "the influx is putting a logistical and financial strain on schools at a time when many are grappling with budget and program cuts, soaring gas prices, and the pressure of satisfying the No Child Left Behind Act."

The AP (9/7, Bluestein) reports, "Some 350 evacuees have already enrolled in Georgia public schools." And "although education officials are uncertain how the influx will strain schools throughout the state, the priority now is to 'put them in a classroom and we'll work out the details later,' said spokesman Dana Tofig."

The Minneapolis Star Tribune (9/7, Wascoe) reports, Metairie, Louisiana high school senior Johnathan Smith has enrolled at Minneapolis' Southwest High and "as word spread of the New Orleans emigre's arrival, Johnathan was treated 'like a rock star,' said Josh Collins, a Minneapolis schools spokesman."

The Dallas Morning News (9/7, Booth) reports, "More than 6,100 students fleeing Hurricane Katrina and its aftermath have enrolled in Texas public schools so far…and state education officials promise to release money immediately to help affected districts cope. Officials expect 50,000 to 60,000 new students to enroll in Texas schools."

The Washington Times (9/7, Wagner) reports, "Public schools in Maryland and Virginia are enrolling Katrina victims

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under the federal McKinney-Vento Act, which provides for the enrollment of homeless students without immediately obtaining birth records or requiring the children to receive necessary immunizations."

Pentagon Defends Katrina Response. USA Today (9/7, Kelley) reports the Pentagon's top officials "said Tuesday that the military responded quickly to Hurricane Katrina, although it took nearly four days for troops to begin delivering large amounts of food and water to storm victims." Gen. Richard Myers, chairman of the Joint Chiefs of Staff, said, "Not only was there no delay, I think we anticipated in most cases — not in all cases, but in most cases — the support that was required." USA adds storm victims "in Louisiana, Mississippi and Alabama complained bitterly that the military didn't start large-scale delivery of provisions until Friday. Some military helicopters began search-and-rescue operations Aug. 30."

NBC Nightly News (9/6, story 6, 2:35, Myers) reported, "On the Federal level, clearly the arrival of the military has helped. But why did it take so long? On Wednesday, an Army officer said the nation's elite rapid deployment group, the 82nd Airborne, had 3,500 soldiers and 30 helicopters ready to be in New Orleans within hours. Yet they arrived only yesterday. Today, the Pentagon was defensive." General Richard Myers, Chairman, Joint Chiefs of Staff: "Not only was there no delay, I think we anticipated in most cases, not in all cases, but in most cases, the support that was required, and we were pushing support before we were formally asked for it." Myers: "A persistent unanswered question, why didn't the military just drop pallets of water to those stranded in various locations."

Parallels Between Katrina, Iraq Planning Failures Noted. The Wall Street Journal (9/7, A4, Jaffe) reports, "Military officials surveying the slow federal response to Hurricane Katrina say the problems that hindered early relief efforts along the Gulf Coast are eerily similar to those that have dogged relief and reconstruction efforts in Iraq." The crises "spotlight the inability of disparate departments within the government to plan together before a catastrophe and work quickly together once one hits." Michele Flournoy, a senior adviser at the Center for Strategic and International Studies, said, "Clearly we didn't get a coordinated governmental response in the case of Katrina. The same thing happened in Iraq. The mechanisms to integrate efforts across the government were just lacking." The Journal adds, "Some senior Pentagon officials, however, dispute that analysis. Rather than lack of coordination, they blame the magnitude of the disaster, which wiped out state and local emergency-response efforts."

Two Navy Pilots Reprimanded For Rescuing Hurricane Victims. The New York Times (9/7, Cloud) reports, "Two Navy helicopter pilots and their crews returned from New Orleans on Aug. 30 expecting to be greeted as lifesavers after ferrying more than 100 hurricane victims to safety." Instead, "their superiors chided the pilots, Lt. David Shand and Lt. Matt Udkow, at a meeting the next morning for rescuing civilians when their assignment that day had been to deliver food and water to military installations along the Gulf Coast."

IRS Expands Tax Relief For Hurricane Victims. The Wall Street Journal (9/7, Herman) reports in its "Tax Report" column that the federal government "has greatly expanded the number of areas eligible for special tax relief and is taking other steps designed to ease pressures on taxpayers in the storm-ravaged region. Areas eligible for relief include 64 Louisiana parishes, 52 Mississippi counties and six Alabama counties, the Internal Revenue Service said. Also on the list are three Florida counties: Broward, Miami-Dade and Monroe. Early last week, the IRS initially singled out only 31 Louisiana parishes, 15 Mississippi counties and three Alabama counties."

Private Donations To Charities Setting Records. USA Today (9/7, Koch) reports, "Private fundraising for Hurricane Katrina victims — from bake sales, to carwashes, to football games — has topped a half billion dollars and is outpacing U.S. donations for tsunami relief. The American Red Cross has raised more than $409 million, abetted by corporations, Texas businessman T. Boone Pickens as well as schoolchildren emptying their penny jars. Half of the total has arrived online. … The intensity is expected to continue as schools hold fundraisers, former presidents Bill Clinton and George H.W. Bush plead for donations and entertainers host a TV benefit concert, 'Shelter From the Storm,' Friday." USA Today (9/7, Cava) reports, "While bake sales and food collections have sprung up in countless towns, some cities are giving more. Much more. Partly because they're asked to, by both city officials and fate. But mostly because they want to. Such is the case with" San Antonio."

Government Warns About Katrina Relief Scams. NBC Nightly News (9/6, story 8, 0:30, O'Donnell) reported, "The Red Cross estimates more than $400 million in gifts and pledges so far to date. But we have to give you a warning tonight, to look out for charity scams because the government has warned us. For tips on steering clear of these Katrina schemes, log on to our website, the information is there the address is nightly.msnbc.com. Part of the information has to deal with those scam computer addresses."

Some Charitable Organizations Have Trouble Delivering Aid. The Washington Post (9/7, B9, Trejos) reports, "The Rev. William Finch, pastor of St. Raphael's Catholic Church in Rockville, arrived [in Houston] Tuesday ready to sell Montgomery County as a haven for 50 hurricane

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evacuees living in the Astrodome. … Since deciding to go after watching television coverage of Katrina's catastrophic aftermath last week, Finch has contacted the Red Cross and Texas officials for help identifying evacuees. He said he has not been able to reach anyone who can help. Others who want to assist have been rebuffed. When the D.C. government sent 10 buses to New Orleans to pick up storm victims Friday, people reportedly refused to leave." The Washington Post (9/7) reports, "A convoy of buses that set out Friday to rescue New Orleans evacuees is scheduled to return this morning largely empty-handed. … By the time they made it to New Orleans, though, crowds at the convention center and Superdome had been evacuated, city officials said."

Katrina Expected To Have Big Negative Effect On US Economy. The Christian Science Monitor (9/7, Trumbull) reports this morning that "Katrina has packed an unusually big punch to the United States economy. Though the full impact of the Aug. 29 superstorm is still being assessed, the economic brunt differs in at least three major ways from a typical recovery led by armies of insurance adjusters bearing clipboards and checkbooks." They are, "A region's major city has been entirely displaced, throwing hundreds of thousands of people out of work and casting doubt on the financial future of New Orleans itself. The movement of goods through America's heartland has been disrupted, with key ports still closed and the channel of the Mississippi narrowed by the storm. Oil and gas drilling platforms, refineries, and pipelines are damaged, and some will take months to bring back on line." The result "is a barrage of challenges likely to affect everything from the US unemployment rate to winter heating costs for months to come . The typical forecast now is for slowing growth rather than outright recession."

The Washington Post (9/7, D1, Pressler, Blustein) says "the long-term economic impact of Hurricane Katrina will hinge in large part on how US consumers react to the disaster and resulting surge in gas prices. … Even before Katrina laid waste to the central Gulf Coast, gas prices were dampening consumption, according to a survey in early May for the National Retail Federation. People with low incomes are those most likely to economize when gas prices rise. That is one reason Wal-Mart Stores Inc. reduced its earnings forecast for the third quarter."

Moreover, says the Wall Street Journal (9/7, Barta, Walker, Hilsenrath), "the economic waves from Hurricane Katrina are being felt not just in the US, but around the globe, particularly in countries such as Indonesia and Italy that already were straining from soaring oil costs before the storm disrupted energy supplies. … Few economists expect the global economy to grind to a halt because of the storm alone. Just as the US has become more resilient to energy shocks in the past two decades, so have many of its trading partners." But "given the US role as the world's economic locomotive, the likely slowing of growth and employment here in the months ahead is likely to restrain growth elsewhere." The Financial Times (9/7, Giles, Editor) adds that "the Organisation for Economic Co-operation and Development on Tuesday urged the world's central banks to adopt a relaxed attitude to interest rates in the wake of surging oil prices and Hurricane Katrina."

Katrina Could Cause Increase In Steel Prices. The Wall Street Journal (9/7) reports, "The price of steel used to make cars and industrial equipment is expected to rise by as much as 20% in coming months because New Orleans flooding has limited the supply and distribution of raw materials such as liquid hydrogen and scrap steel." The increase "would be in addition to roughly 20% price increases by steelmakers including Pittsburgh-based US Steel Corp. and Nucor Corp., of Charlotte, N.C., that became effective on Sept. 1 for shipments of key products like hot-rolled coil."

Insurance Industry Expected To Survive Katrina Aftermath. The Washington Post (9/7, D1, Crenshaw) reports, "Katrina seems likely to become the most expensive natural catastrophe in US history, but unless insured damages go far higher than the current high-endestimate of $35 billion, the insurance industry should be able to pay the claims without threat to its own solvency, industry experts said yesterday." However, "taxpayers, insurance ratepayers and others are likely to be feeling the economic effect of the giant storm for years to come," and some risk experts are starting to raise the question of how -- or if -- houses or other buildings in low-lying areas such as New Orleans should be rebuilt."

Stocks Rally. The Financial Times (9/7, Schurr) reports, "If muted activity last week in the face of Hurricane Katrina was an exercise in restraint, yesterday's market performance could be called a return of animal spirits. Stocks rallied solidly and broadly, with every sector in the S&P 500 posting gains." The S&P 500 rose 15.38 points, or 1.3 per cent, to 1,233.40, the biggest percentage gain since the recent bottom on April 21. The Nasdaq Composite added 25.79 points, or 1.2 per cent, to 2,166.86 and the Dow Jones Industrial Average increased 141.87 points, or 1.4 per cent, to 10,565.12. The Wall Street Journal (9/7) and USA Today (9/7, Shell), among other sources, also report the stock numbers.

New Orleans Law Firms Struggle To Survive In Katrina's Wake. The National Law Journal (9/7, Jones) reports, "Much of the New Orleans legal community is in shambles following the devastation from Hurricane Katrina. … Attorneys and staffers at some law firms were still

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unaccounted for last week, and office buildings and courthouses -- and the documents inside -- remained soaking under water." The Journal continues, "Legal professionals said that they thought they had planned for the worst, but until some levees collapsed flooding almost 80 percent of the city after the hurricane hit, they believed they had escaped much of the damage predicted from the massive storm. … 'We have never dealt with something of this magnitude, but we're going to have to,' said Gregory Bodin, president of the Baton Rouge Bar Association. With offices at the Louisiana State Bar Association and the New Orleans Bar Association flooded, the Baton Rouge organization is serving as the headquarters for the other groups." The Journal adds, "The New Orleans area was home to about 7,500 lawyers, Bodin said, which equals about one-third of the state's attorneys. 'Most of the lawyers lost their homes, jobs and maybe their practices,' he said. … As most phone and electronic communications remained useless after the barriers protecting the low-lying city failed, law firm leaders and court personnel were struggling to find offices and even housing for their workers."

Senators Say Action On Social Security Is Unlikely This Year. In what the Washington Times (9/7, Fagan) calls the "final blow to President Bush's signature domestic issue," senators "said they don't think they will act on Social Security legislation this year. … 'It's off the radar,' said Sen. Gordon H. Smith, Oregon Republican, adding that hurricane relief is much more important now, and Social Security is an issue 'we'll eventually deal with' down the line, though not likely this year. 'Social Security? I think not much is going to happen there this year,' agreed Sen. Judd Gregg, New Hampshire Republican. 'I can't imagine President Bush is going to go back to it,' Sen. Richard J. Durbin, Illinois Democrat, said of Social Security." The Times adds that some Senate Republicans, including Sens. Orrin Hatch and Craig Thomas, "still say action is possible in their chamber this year."

IG Finds Opinion Columnists Paid By Education Department Failed To Disclose Funding. The Dallas Morning News (9/7, Hillman) reports the U.S. Department of Education "paid education advocacy organizations to submit opinion pieces to newspapers and produce other ads, brochures and postcards -- and many did not disclose their government ties, the department's inspector general has concluded." But department spokeswoman Susan Aspey "cited a letter to the inspector general from Education Secretary Margaret Spellings, who said she agreed with most of the findings and that the department already had moved to 'strengthen the grant-making and contracting processes.'"

Hastings, Mollohan Face Questions About Ethics Panel Staffing. Reps. Doc Hastings and Alan Mollohan, the two top members of the house ethics committee are facing questions on when they will finish hiring staff for the panel. Roll Call (9/7, Bresnahan) reports, "Hastings and Mollohan, chairman and ranking member of the committee, hope to select a new chief counsel/staff director by the end of September or early October, according to sources close to the panel. Mollohan also wants to hire at least two additional investigators before initiating any inquiries, and Hastings is expected to accede to that request. But the slow pace of hiring signals that the committee will likely not have completed a preliminary investigation of House Majority Leader Tom DeLay (R-Texas) over his dealings with former GOP lobbyist Jack Abramoff by the end of this year. DeLay then faces the possibility of a second straight election cycle in which the ethics committee releases findings on an investigation of him before voters go to the polls, a daunting challenge for even the most politically astute Member."

OTHER NEWS:

Gulf Repairs, Saudi Cut Lead To Lower Oil, Gas Prices. The Wall Street Journal (9/7, Hotter) reports, "Petroleum futures on the New York Mercantile Exchange fell 2.4% as Gulf of Mexico oil production continued to recover in the wake of Hurricane Katrina." The "massive government response to the supply disruptions caused by the storm eased traders' concerns about curtailed US production. October crude fell $1.61 to $65.96 a barrel."

The Financial Times (9/7, Flood) reports, "The price reduction on its heavy crude is likely to lead to a production increase by the world's largest exporter. This may be confirmed this weekend when the kingdom nominates its October oil export programme." The move "comes ahead of the meeting of the Organisation of the Petroleum Exporting Countries later this month, when Saudi Arabia may push for an increase in the Opec quota from its current level of 28m b/d in an effort to stem the rise in global oil prices."

The Wall Street Journal (9/7, Herrick, Gold, Fialka) adds "the Gulf Coast network of production platforms, pipelines and refineries hammered by Hurricane Katrina last week took a step toward normalcy yesterday, helping to temper the price of crude oil and offering hope that the worst of the current energy crunch may have passed." As a result, "the US average retail price for unleaded gasoline -- having matched an all-time high Monday -- eased about a cent to $3.04 a gallon yesterday, according to AAA, formerly the American Automobile Association, as Labor Day marked the end of the summer driving season."

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The New York Times (9/7, Bajaj, Mouawad) also runs a story titled "Gas Prices At Pumps Show Signs Of Easing." USA Today (9/7, Healey), under the headline "Gas Prices Ease As Gulf Production Up," reports "most Americans -- eight of 10 -- told USA TODAY/CNN/Gallup pollsters Monday and Tuesday that gasoline suppliers are taking advantage of the hurricane to charge unfair prices. Prices zoomed past $6 a gallon in some areas after Katrina, and average more than $3 currently."

Network coverage of gas prices was markedly negative and didn't note prices had gone down. ABC World News Tonight (9/6, story 7, :15, Gibson) reported, "The government reported today that gasoline prices have soared to an average of $3.07 a gallon. That is a record 46 cent increase in just one week, since Hurricane Katrina knocked out eight major refineries." The CBS Evening News (9/6, story 9, 0:20, Roberts) reported, "In the week since the hurricane struck, gasoline prices have been rising nearly seven cents a day."

Senators Suggest Raising Fuel Economy Standards. Key senators said yesterday that Congress should consider raising fuel economy standards for all vehicles, citing gasoline shortages and spike in gas prices caused by Hurricane Katrina. The Washington Times (9/7, Hill) reports that Sen. Pete Domenici, chairman of the Senate Energy and Natural Resources Committee, said, "I believe we must take another look at the CAFE standards," adding, "We looked at that before, and it was not politically possible. I'm not sure that will be the case after Katrina." Sen. Jeff Bingaman, the committee's ranking member, "said he also hopes Congress will revisit whether to require cars, trucks and sport utility vehicles to give better mileage than the current standard, which is 27.5 miles per gallon on average for cars."

Lawmakers Also Accuse Oil Companies Of Profiteering. The New York Times (9/7, Kirkpatrick) reports 'the Senate energy committee also "vented bipartisan wrath Tuesday over accusations of energy-company profiteering after the Gulf Coast was struck by a hurricane. 'Hurricane Katrina exposed the harsh reality that we have been skirting and skating on thin ice when it comes to this country's energy concentration on the Gulf Coast,' said Senator Pete V. Domenici, the New Mexico Republican who is chairman of the panel. 'Why are the oil companies making record profits, and what are they doing with them?' he asked." Lawmakers "of both parties were eager to warn oil producers to watch their prices. Senator Dianne Feinstein, Democrat of California, said: 'The distrust is enormous. I hope somebody out there is listening who controls these prices.'" The Times adds, "Several senators from both parties called for the Federal Trade Commission to vigorously investigate charges of price gouging."

The AP (9/7, Hebert) reports, "Senators, both Republicans and Democrats, said Tuesday that they suspect price gouging as gasoline costs soared in the aftermath of Hurricane Katrina but complained that the government doesn't have the ability to investigate or prevent such market abuses. … 'The American people are being victimized more than any free market would warrant,' said Sen. Gordon Smith, R-Ore., at Senate hearing on the impact of the hurricane on energy prices." The AP continues, "Smith and other senators said regulators, including the Federal Trade Commission, are not aggressively pursuing price gouging and other market manipulation by energy companies reaping huge profits. … Sen. Pete Domenici, R-N.M., chairman of the Energy and Natural Resources Committee, which held hearings into the recent price spikes, said Congress needs to give agencies the tools to investigate price-gouging complaints. … Sen. Jon Corzine, D-N.J., said that even as crude prices were declining, gasoline prices at the pump soared by 25 percent. … Sen. Byron Dorgan, D-N.D., said he will introduce legislation for a windfall profits tax on oil companies, with the proceeds used to rebate consumers who have paid huge prices at the pump." The AP notes, "Twenty-three states have price-gouging statutes, but Domenici acknowledged they are 'all over the waterfront' as to how they are used. In Virginia, a government must declare an emergency for the law to be used. … The FTC does not have authority over price gouging unless it involves an antitrust or market monopoly issue. … The afternoon of testimony demonstrated that one person's price gouging may be another person's justified price response to changing conditions of supply and demand."

Meanwhile, the Wall Street Journal (9/7) defended the oil companies in an editorial this morning. Says the Journal, "Let's explain why prices have been rising. Katrina has knocked out about 90% of Gulf crude oil production and about 80% of natural gas output." That" translates into about two million barrels a day that are not available to consumers, an 11% decrease in supply. This means that in the near term Americans are going to have to consume two million fewer barrels of gas every day, at least until the refineries are brought back on line and increased output and supplies from other nations arrive. The way the market achieves this reduction in consumption is through a higher price." The argument is also made that "energy companies are reaping windfall profits from the Katrina catastrophe. That is in one sense true -- the oil they've already extracted and refined is more valuable now, and we would be pleased to see some of these extra profits donated to the relief effort." But "artificially holding down the price of gas makes a bad situation worse."

Blunt Requests Gas Price Gouging Investigation. KDEB-TV Springfield, MO (9/6, 9:12 p.m.) reported, "With gas prices continuing to hover around three dollars a gallon here in Missouri, Governor Matt Blunt is once again looking to launch an investigation into price gouging. The governor sent letters today to US Attorney General Alberto Gonzales and

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the FTC chairman asking their offices to look into the sudden increases with a focus on big oil companies."

KOLR-TV Springfield, MO (9/6, 10:00 p.m.) also ran this story.

DeLay Says There's No Backing For Rolling Back Gasoline Tax. Reuters (9/7) reports, "House Republican Leader Tom DeLay said on Tuesday there was no support for rolling back the federal gasoline tax to offset higher prices. 'Absolutely not,' he told reporters after a meeting with President George W. Bush on issues related to Hurricane Katrina." He added, "Now more than ever you're going to need...that infrastructure, those highway trust funds, to rebuild the bridges that were destroyed, rebuild the railroads that were destroyed. You have to have the infrastructure or you can't have a recovery."

IAEA Report Says Iran Could Develop Nuclear Weapons In Five Years. Preceding a Sept 16 IAEA meeting to decide on penalties for Iran for pursuing its nuclear program, the International Institute of Strategic Studies released a study saying Iran could develop enough weapons-grade uranium for a weapon in five years, but that it would likely focus on developing on production capability for a decade before making a decision on acquiring atomic weapons. The Financial Times (9/7, Spiegel) reports, "The five-year estimate is more aggressive than reported projections of US intelligence agencies, which are believed to have determined Iran is six to ten years away from such a breakthrough. But in spite of a capability to develop weapons-grade uranium by the end of the decade, John Chipman, the IISS director, said that would require Iran to 'throw caution to the wind' and ignore the threat of international sanctions, a move Tehran has been reluctant to pursue." Chipman "noted that a more cautious approach – which would involve building a more sophisticated "industrial-scale" centrifuge plant at Natanz – would allow Iran to have a much greater capability to produce the higher enriched uranium needed for weapons in the long-term."

The New York Times (9/7, Cowell) says that with the report being released "at a diplomatically delicate time," Dr. Chipman "said it would be important for negotiators 'to apply pressure and create inducements to persuade Iran not to develop a fuel-cycle capability that it could turn later into a weapons program.'" In addition he said "it will be important to apply international diplomacy in such a way that does not inspire Iran to abandon all restraint and seek a nuclear-weapons capability without regard to international repercussions."

Bolton Offers Compromise On UN Reforms. The New York Times/Reuters (9/7) reports, "Ambassador John R. Bolton of the United States on Tuesday offered compromise language on development and aid spending and climate change to try to resolve a deadlock over a list of goals being prepared for a world summit meeting here next week." With disagreements on the Kyoto protocols and UN foreign aid increases "surfacing again as a logjam in the preparation of the goals list, Mr. Bolton said the United States was ready to accept the use of the catch-all phase 'millennium development goals' throughout the text, 'provided it can be properly defined.'" In effect, US-proposed language "including the phrase would commit world leaders to meet obligations they had undertaken in United Nations climate change agreements, including 'for many of us, the Kyoto Protocol,' according to Mr. Bolton's prepared speaking notes."

WSJournal Lauds Bolton Efforts To Reform UN. The Wall Street Journal (9/7) writes in an editorial that some of Ambassador Bolton's reforms "seem small but are literally worth hundreds of millions of dollars." And Bolton "also focuses on management reform, which will come into special focus with the release today of Paul Volcker's fourth report on the Oil for Food scandal. The report will stress Mr. Annan's multiple supervisory failures, yet Mr. Annan wants the world's leaders to accept his reform plan as a fait accompli before Mr. Volcker's findings are even read, much less considered." The Journal concludes, "Those who want something more than a feckless and corrupt world body should welcome his efforts."

State Department Raises Concerns About Israeli Plans For Construction In West Bank. The AP (9/7, Schweid) reports, "The State Department said Tuesday it had raised with the Israeli government the approval of construction of 117 houses in the Ariel settlement in the heart of the West Bank." Spokesman Sean McCormack "left little doubt that the administration was displeased."

Rice Has "Good" Meeting With UN Official About Gaza. The AP (9/7, Schweid) also notes, "Secretary of State Condoleezza Rice met Tuesday for a half-hour with Karen Koning AbuZayd, counsel-general of the United Nations Relief and Works Agency, on the post-withdrawal situation in Gaza." McCormack said, "They had a good meeting."

Arafat Cousin Killed In Gaza. The Los Angeles Times (9/7, Ellingwood) reports, "Unidentified gunmen in the Gaza Strip shot and killed Moussa Arafat, a former Palestinian Authority security chief and a cousin of the late Yasser Arafat, at his home in Gaza City before dawn today." The Times notes, "The brazen assault heightened worries about chaos and factional violence in the Gaza Strip following Israel's withdrawal from all 21 Jewish settlements there." He "made numerous enemies during his years as a ranking security official and was viewed by many Palestinians as corrupt."

Poll Shows US, Europe Remain In Agreement On Major Policy Issues. The Los Angeles Times (9/7,

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Rotella) reports, "Europeans and Americans have often starkly different views of each other and the world, but agree on some major issues such as promoting democracy and avoiding war with Iran, according to a survey being released today." While "Western leaders try to mend rifts exacerbated since 2003 by the Iraq war, the fourth annual study of European and U.S. public opinion by the German Marshall Fund depicts a complex, wary transatlantic relationship. But the report, an advanced copy of which was given to The Times, also contradicts stereotypes and common wisdom." And while "a majority of Europeans remain hostile to American global dominance and President Bush in particular, they are enthusiastic about the centerpiece of Bush's foreign policy: promoting democracy around the world."

The Wall Street Journal (9/7, Champion) reports, "An annual survey of opinion in 11 countries published today finds that, while the U.S.'s image no longer is sliding downward, Europeans feel no warmer toward the U.S. than they did a year ago, are no less hostile to U.S. global leadership and still disapprove overwhelmingly of the way Mr. Bush handles foreign policy." But although Europeans support some of the Administration's major foreign policy goals, "continuing bloodshed and instability in Iraq dominate. Since the poll was taken, the recent hurricane disaster on the U.S. Gulf Coast also appears to have rekindled distaste for the U.S.'s political system and social values, which are blamed here for leaving thousands of mainly poor and black New Orleans residents behind when the rest of the city evacuated."

US, China Discuss Future Of Korean Peninsula. The Washington Post (9/7, A22, Kessler) reports, "Secretary of State Condoleezza Rice and her deputy, Robert B. Zoellick, have begun to explore with Chinese leaders the economic and political future of the Korean Peninsula 'because the status quo was not going to hold,' Zoellick said in an interview with a small group of reporters yesterday." He "said it was clear the Chinese did not 'want a collapsed state on their border,' a concern that he suggested had hamstrung Chinese officials in pressing North Korea on its illicit weapons programs. He said that in his talks, he picked up a discussion on the Korean Peninsula's future that Rice had initiated during an earlier trip to Beijing." Rice and Zoellick's efforts "appeared to be aimed at reducing the anxiety of the Chinese over a possible reunification of North and South Korea."

Activist Arrested By Chinese Authorities. The Washington Post (9/7, A22, Pan) reports, "Local authorities on Tuesday seized a rural activist who has been leading a high-profile legal campaign against the use of forced sterilization and abortion in China, in an apparent effort to block him from meeting with senior government officials who had expressed support for his cause." Chen Guangcheng's arrest "occurred a few days after he arrived in Beijing for meetings with lawyers and journalists. He was seized just as the Chinese government opened an international legal conference here."

Mubarak Expected To Win Presidential Election. USA Today (9/7, Levinson) reports, "Egyptians will have a choice for the first time in their country's 7,000-year history when they vote for a leader at polls today. But a majority appear likely to vote for" President Hosni Mubarak "who has ruled this country for the past 24 years." USA Today notes, "Egypt is contending with double-digit unemployment and inflation. Still, many voters remain loyal to Mubarak. In a region beset by conflict, Mubarak has guided Egypt through a period of protracted stability. Egyptians who remember the wars and tumult of earlier eras say they are thankful to Mubarak."

German Voters Leaning Right In US-Style Campaign. The Christian Science Monitor (9/7, Tzortzis) reports that while flash polls after the only debate between Chancellor Gerhard Schroeder and his challenger Angela Merkel showed Schroeder had won the exchange, polls "have shown Mr. Schroeder's Social Democratic Party (SPD) a good 10 points behind Ms. Merkel's Christian Democratic Union (CDU) -- pointing to a growing likelihood that the former East German physicist will end the chancellor's seven-year rule." A Merkel victory "would bring a shift to the right that promises better communication with the US, a critical voice in the pledge to include Turkey in the European Union, and -- most important -- a more aggressive approach to Germany's greatest problem: the economy." The German "campaign has seen even more borrowed elements from the US. Merkel's campaign team has set up a professional call center to handle queries from voters, and a so-called 'rapid response' team that contradicts inaccuracies made by Schroeder in speeches or attacks on his opponent, says a CDU campaign official."

Heinz Plant Seized By Venezuela. The Wall Street Journal/Dow Jones (9/7) reports, "Alimentos Heinz, a Venezuela subsidiary of H.J. Heinz Co., said a government takeover of an inactive tomato-processing plant in recent days lacks legal backing." The Heinz plant "wasn't operating because low market demand and low prices didn't make it feasible to keep it running, the company said. Company officials are seeking a meeting with Vice President José Vicente Rangel and Agriculture Ministry officials to discuss the problem, the statement added."

Dominance Of One-Party Rule Seen As Stifling Democracy In Japan. Despite recent gains by the opposition Democratic Party in Japan, polls indicate the Liberal Democratic Party is headed for a big victory in Sunday's general election. The New York Times (9/7, Onishi)

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credits Prime Minister Junichiro Koizumi with using the campaign to portray his party as standing for reform, but says his victory "will delay, again, the start of a new political era in which power is transferred regularly from one party to another, as it is in other democracies." The Times notes, "Japan's democracy is East Asia's oldest, but its ruling party has held power almost as long as the Communist parties in China and North Korea. Younger democracies in South Korea and Taiwan have already experienced changes in ruling parties, and the underpinnings of democracies, from vibrant civil societies to strong, independent news media, appear to be flourishing there more than they are here."

Koizumi Seeks Mandate To Shift Priorities From Rural To Urban Issues. The Wall Street Journal (9/7, Moffett, Woods) reports, "In elections this Sunday, Prime Minister Junichiro Koizumi is betting he can win a mandate to engineer a shift no other Japanese leader has ever dared. His goal: To cut off the decades-long tradition of propping up Japan's declining countryside, and channel resources into the nation's successful cities and industries instead." He "plans to dismantle one of the countryside's biggest crutches, the huge and unusual post office, which in addition to selling stamps also acts as a bank and insurer. It is a vast network of 26,000 offices with 280,000 public employees, plus $3 trillion in savings and life-insurance deposits. The deposits are typically funneled into public-spending projects that have boosted rural economies.

Seriousness Of Chirac Illness Remains Unknown. The New York Times/IHT (9/7, Bennhold, Rosenthal) reports, "After a series of minimalist medical bulletins describing President Jacques Chirac's stay in a Paris hospital, it is still a public mystery what kind of neurological malady has befallen him, although French military doctors at this point certainly know the diagnosis, independent experts said." Official descriptions of a "little vascular accident," have raised concerns because that "means a problem with a blood vessel, which is almost always serious -- or a signal of something serious to come. It includes strokes, torn blood vessels and clots that block vessels, causing damage to the eye or brain."

WPost Criticizes Turkey Over Outspoken Writer's Arrest. The Washington Post (9/7, A24) editorializes, "Orhan Pamuk, one of Turkey's most acclaimed writers, is facing up to three years in prison. His offense, according to the state prosecutor? 'Public denigrating of Turkish identity.' Specifically, Mr. Pamuk told a Swiss newspaper in February that certain topics were off-limits for discussion in Turkey --- citing the massacre of Armenians in 1915 and the more recent conflicts between Turkish security forces and Kurdish separatists." His arrest "will raise questions about the wisdom of Turkey's EU membership bid" and that "may be exactly what those pushing for a prosecution intended; the timing of the charges, as European ministers meet in Wales to discuss Turkey's membership, is suspicious. That makes it even more important for the national government, though it doesn't control the prosecutor who brought the case, to do what it can to halt this case and others like it. Turkey has made important strides in protecting freedom of expression in recent years, including reforming its penal code. The charges against Mr. Pamuk underscore how far it still has to go."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Attends funeral service for Chief Justice William Rehnquist.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: FLOOR SCHEDULE _ 10:30 a.m. Senate reconvenes.

US House: FLOOR SCHEDULE _ 10 a.m. Meets for legislative business. Highlights: H.R. 250 - Manufacturing Technology Competitiveness Act of 2005. Suspensions (3 bills): 1) H.R. 1215 - Green Chemistry Research and Development Act of 2005; 2) H.R. 230 - National Small Business Regulatory Assistance Act of 2005; 3) H.R. 3207 - Second-Stage Small Business Development Act of 2005.

10 a.m. AGRICULTURE _ Full Committee. Hearing to review the Kelo v. City of New London U.S. Supreme Court decision and H.R. 3405, the Strengthening the Ownership of Private Property Act of 2005 (STOPP). Location: Room 1300, Longworth.

10 a.m. APPROPRIATIONS _ The Foreign Operations subcommittee holds an oversight hearing on Iraq reconstruction. Testimony to include: Ambassador James Jeffrey, senior adviser on Iraq to the Secretary of State; James Kunder, USAID assistant administrator; Stuart Bowen, Jr., special inspector general for Iraq reconstruction. Location: Rayburn, Room 2359.

10 a.m. GOVERNMENT REFORM _ Criminal Justice, Drug Policy and Human Resources Subcommittee. Hearing on Hearing on prevention, early detection and treatment of gynecologic cancers. Location: Room 2154, Rayburn.

10 a.m. HOMELAND SECURITY _ Subcommittee on Economic Security, Infrastructure Protection, and Cybersecurity. Hearing on ``The London Bombings: Protecting Civilian Targets from Terrorist Attacks." Kip Hawley, Administrator, Transportation Security Administration, U.S. Department of Homeland Security;

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Robert Stephan, Assistant Secretary, Infrastructure Protection Division, U.S. Department of Homeland Security; Bill Miller, President, American Public Transportation Association; Peter Lowy, Chief Executive Officer, Westfield America, Inc.; Michael Norton, Managing Director of Global Property Management, Tishman Speyer Properties; Joe Madsen, Director, Safety & Risk Management, Spokane Public Schools. Location: Room 311, Cannon.

10 a.m. VETERANS AFFAIRS _ Full Committee. Hearing on reorganization of the VA's information technology infrastructure. Location: Room 334, Cannon.

10:30 a.m. EDUCATION AND THE WORKFORCE _ Full Committee. Markup of amendments to the budget reconciliation. Location: Room 2175, Rayburn.

11 a.m. ENERGY AND COMMERCE _ Full Committee. Hearing on Medicaid. Location: Room 2123, Rayburn.

11 a.m. ENERGY AND COMMERCE _ Full Committee. Hearing on the impact of Hurricane Katrina. Panel One: David Garman, undersecretary for Energy, Science and Environment, Department of Energy; Guy Caruso, administrator, Energy Information Agency; John Seesel, associate general counsel for energy, Federal Trade Commission; Kenneth Moran, Federal Communications Commission. Panel Two: Scott Angelle, secretary, Louisiana Department of Natural Resources; Red Cavaney, American Petroleum Institute; Bob Slaughter, National Petrochemical and Refiners Association; James Newsome, New York Mercantile Exchange; Benjamin Cooper, Association of Oil Pipe Lines; Bill Douglass, Douglass Distributing Co.; William Smith, BellSouth Corp.; Mark Cooper, Consumer Federation of America; and Daniel Lashof, National Resources Defense Council. Location: Room 2123, Rayburn.

Other: REHNQUIST _ Funeral and viewing schedule for late Supreme Court Justice William Rehnquist. Highlights: 10 a.m. - 12 p.m. Viewing at the Supreme Court. 2 p.m. Funeral service. St. Matthew's Cathedral, 1725 Rhode Island Ave. NW, with burial at Arlington National Cemetery to follow. Note: Funeral service is open to friends and family members. Burial is private. Media wishing to cover the funeral should call the court's media office for details. No press coverage of the burial. Location: Supreme Court.

TERRORISM SUMMIT _ The New America Foundation sponsors a forum on America's approach to countering terrorism, ``Terrorism, Security, and America's Purpose: Towards a More Comprehensive Strategy." Highlights: 9 a.m. Steven Clemons, New America Foundation. 9:05 a.m. Rep. Jim Saxton, R-N.J., House Armed Services Committee. 9:30 a.m. Francis Fukuyama, SAIS; Zbigniew Brzezinski, former national security advisor to the President; Col. Lawrence Wilkerson, USA (Ret.), former chief of staff, State Department; G. John Ikenberry, Princeton University; Kim Campbell, former prime minister of Canada; moderator Martin Walker, former Washington bureau chief, The Guardian, chief editor, UPI. 10:30 a.m. Madeleine Albright, former secretary of state; interlocutor Andrea Koppel, State Department correspondent, CNN. 11:15 a.m. Jamie Metzl, president, Partnership for a Secure America; Charles Andrew, co-chairman, Partnership for a Secure America; Warren Rudman, former US senator, co-chairman, US Commission on National Security in the 21st Century; Lee Hamilton, president Woodrow Wilson Center. 11:45 a.m. Louise Richardson, Radcliffe Institute for Advanced Study; Robert Hutchings, Princeton University; Charles Kupchan, Georgetown University; Suzanne Spaulding, managing director, The Harbour Group; Michael McFaul, Stanford University; moderator Theodore Piccone, Democracy Coalition Project. 12:45 p.m. Mary Fetchet, founding director, Voices of September 11th. 2 p.m. Marc Sagemen, University of Pennsylvania; Daniel Levy, former advisor, Office of the Prime Minister, Israel; Galima Bukharbaeva, former country director/Uzbekistan, Institute for War and Peace Reporting; Juan Cole, University of Michigan; Karen Greenberg, NYU School of Law; Ivan Eland, Independent Institute; moderator Kelli Arena, CNN. 3:15 p.m. Julian Borger, Washington bureau chief, The Guardian; Yosri Fonda, Al-Jazeera; Tsutomu Watanabe, Asahi Shimbun; Michael Backfisch, Washington bureau chief, Handelsblatt; Nathan Guttman, Washington bureau chief, Jerusalem Post; Paulo Sotero, Washington bureau chief, O Estado de S. Paulo; moderator Nikolas Gvosdev, The National Interest. Location: Capital Hilton, 16th and K Streets, NW.

CHINESE PRESIDENT HU _ 10:30 a.m. ``Who is Hu: A Closer Look at President Hu Jintao," presented by Prof. David Lampton, Johns Hopkins University SAIS. Room 2216, Rayburn House Office Building.

KATRINA-CUMMINGS _ 8 a.m. Rep. Elijah Cummings, D-Md., discusses relief efforts and homeland security issues with an emphasis on transit security in a speech before the Lawmakers Committee of the National Press Club. Location: National Press Club, McClendon Room.

KATRINA-SMALL BUSINESS _ 8:30 a.m. Sen. Olympia Snowe meets in closed session with Majority Leader Bill Frist on aide to small businesses destroyed by Hurricane Katrina. Media briefing to follow. Location: Capitol, S-207.

HOUSE DEMOCRATS _ 9 a.m. Closed meeting of the House Democratic Caucus. Location: Room 345, Cannon. Notes: Newsx conference following the meeting outside the Cannon Caucus Room at 10 a.m.

VIOXX VERDICT _ 9 a.m. - 11 a.m. The American Enterprise Institute (AEI) hosts a panel discussion on ``The $253 Million Vioxx Verdict: What Does It Mean?" with Dan Troy, Sidley & Austin; Evan Schaeffer, Schaeffer & Lamere, P.C.; John Calfee, AEI; and Ted Frank, AEI. Location: AEI, Wohlstetter Conference Center, 12th Floor, 1150 17th St. NW.

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KATRINA-CANADA _ 9:30 a.m. Canada's Ambassador to the U.S., Frank McKenna, briefs reporters on Canadian relief operations being deployed to the Gulf region. Location: Canadian Embassy Briefing Centre, 501 Pennsylvania Ave. NW.

NTSB-AVIATION _ 9:30 a.m. The National Transportation Safety Board holds a board meeting on two items: a safety study concerning risk factors associated with weather-related general aviation accidents, and an aviation accident report concerning a crash during landing of an Executive Airlines Flight 5401, in San Juan, Puerto Rico, on May 9, 2004. Location: NTSB Board Room, 429 L'Enfant Plaza, SW.

SEPTEMBER ECONOMIC OUTLOOK _ 9:30 a.m. - 10 a.m. Business Roundtable, an association of CEOs of leading U.S. companies, releases results of its latest CEO Economic Outlook Survey with reporters via a conference call. Briefer is Hank McKinnell, chairman, Business Roundtable, and chairman and CEO of Pfizer Inc., who will give a brief overview of the survey results and then wil respond to questions. Contacts: Jennifer Handt, 202-496-3288 Notes: Dial-in telephone number: (888) 428-4480. Host: Business Roundtable. Callers will be asked for their name and media outlet before they are admitted to the call. If encountering problems call (202) 872-1260.

REPUBLICAN AGENDA _ 10 a.m. Republican leaders hold a news conference to discuss their legislative agenda. Participants include House Speaker Dennis Hastert, R-Ill; Majority Whip Roy Blunt, R-Mo.; Conference Chairman Deborah Pryce, R-Ohio; Appropriations Chairman Jerry Lewis, R-Calif.; and Budget Chairman Jim Nusslke, R-Iowa. Location: Cannon, HC-6. Notes: Follows 9 a.m. closed meeting at Cannon HC-5.

DEMOCRATS-HOMELAND SECURITY _ 11 a.m. Democratic Leader Rep. Nancy Pelosi holds news conference after closed caucus meeting on homeland security, with Rep. Robert Menendez, D-N.J.; Rep. Bennie Thompson, D-Miss.; Rep. Ed Markey, D-Mass. Location: Capitol, H-203. Notes: Follows 10 a.m. closed meeting at Cannon 345.

PENTAGON BRIEFING _ 11 a.m. Lt. Gen. Joseph Inge, deputy commander of U.S. Northern Command, will brief live from Peterson Air Force Base in Colorado to discuss the status of the Defense Department's Hurricane Katrina relief effort. Location: DoD Briefing Studio, Pentagon 2E579.

NORTH KOREA VISIT _ 11:15 a.m. News conference with Rep. Jim Leach, R-Iowa, and Rep. Tom Lantos, D-Calif. on their Aug. 30 to Sept. 3 visit to North Korea, and looking ahead to the resumption of the Six Party Talks on nuclear disarmament next week. Location: House Radio/TV Gallery.

GAS PRICES _ 12 p.m. Sen. Byron Dorgan holds a news conference to announce a bill to provide relief from high gasoline prices. Location: Senate Radio-TV Gallery.

MEDICAID _ 12 p.m. The Cato Institute hosts a Policy Forum on ``Medicaid and the Long-Term Care Crisis--Who Should Pay?" with Stephen Moses, president, Center for Long-Term Care Reform; Vincent Russo, certified elder law attorney, past president, National Academy of Elder Law Attorneys; Michael Cannon, director of health policy studies, Cato Institute. Location: Cato Institute, 1000 Massachusetts Ave. NW.

COSTS OF IRAQ WAR _ 12:30 p.m. The Institute for Policy Studies hosts a discussion on ``The Real Costs of the Iraq War: Excessive Salaries for CEOs of Defense Contractors and Lives and Tax Dollars Wasted," with IPS Fellows Erik Leaver, Phyllis Bennis, and Sarah Anderson," co-authors of two new reports by IPS on the Iraq war. Location: Institute for Policy Studies, Ste. 1020, 733 15th St. NW.

OIL DEPENDENCE _ 1:30 p.m. Former Reagan administration defense officials discuss by telephone the need to reduce the country's dependence on oil and instead create more efficient transportation. Speakers include Frank Gaffney, former assistant secretary of defense under Reagan and Dan Lashof, Natural Resources Defense Council. Contacts: Nicole St. Clair, 202-289-2404. Notes: Telephone news conference. Call 1-877-826-1586 and ask for ``Oil Savings."

PREDATORY LENDING _ 1:30 p.m. The Center for Responsible Lending (CRL) holds a phone-based news conference on legislation currently before Congress jeopardizing consumers by what the Center says is weakening protections against predatory lending already in place across the U.S., with Rep. Brad Miller, D-N.C.; Massachusetts State Rep. John Quinn; New Jersey Department of Banking & Insurance Director H. Robert Tillman; New Mexico Chief Deputy Attorney General Stuart Bluestone; and CRL Executive Vice President Debbie Goldstein. Contacts: Ailis Aaron, 703-276-3265. Notes: To join the live, telephone-based news conference (with full Q&A) dial 1-(800) 860-2442 by 1:30 p.m. ET on Sept. 7 and ask for the ``Attack on state predatory lending laws" news event.

9/11-PENNSYLVANIA MEMORIAL _ 2 p.m. A press conference will be held to announce the winning design for the Flight 93 memorial for 9/11 victims in Somerset County, Pa. Location: U.S. Chamber of Commerce, Hall of Flags, Washington, DC.

DEMOCRACY AT RISK _ 3 p.m. The Brookings Institution hosts a discussion on a new book it published and is sponsored by the American Political Science Association titled ``Democracy at Risk: How Political Choices Undermine Citizen Participation, and What We Can Do About It," with moderator E.J. Dionne, Jr., Washington Post; panelist authors of the book Yvette Alex-Assensoh, Indiana University; Michael Brintnall, American Political Science

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Association.; William Galston, University of Maryland; Stephen Macedo, Princeton University; Christopher Karpowitz, Princeton University; Rob Reich, Stanford University, Robert Rodgers, Princeton University; and Todd Swanstrom, Saint Louis University. Location: Brookings Institution, Falk Auditorium, 1775 Massachusetts Ave. NW.

KATRINA RELIEF _ 6 p.m. The state societies of Alabama, Louisiana, Mississippi and Florida hold a fund raising reception to benefit Hurricane Katrina victims. Location: Jones Day Building, 7th floor, 311 1st St. NW.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Sadr City Success Story."
"Water Drops, Mayor Hopeful."
"Baton Rouge A Booming Haven For The Displaced."
"A Home For The Brave."
"Donations At $500 Million, And Climbing."
"Legislature OKs Gay Marriage."

USA Today:
"Intimidation, Attacks Take Toll On Contractors In Iraq."
"3 Families With One Question: What Do We Do Now?"
"'Rays Of Light' In New Orleans."

New York Times:
"Flooding Recedes In New Orleans; U.S. Inquiry Is Set."
"Putting Down New Roots On More Solid Ground."
"Across Nation, Storm Victims Crowd Schools."
"Baseball In Iraq: As Pastimes Go, It's Anything But."
"In Nursing Home, A Fight Lost To Rising Waters."

Washington Post:
"Katrina Takes Environmental Toll."
"The Lure Of Coastal Life Outweighs The Risks."
"Offers Of Aid Immediate, But U.S. Approval Delayed For Days."
"California Legislature Approves Gay Marriage."

Washington Times:
"Residents Will Be Forced To Leave."
"'Marriage' Bill OK'd, Goes To Arnold."
"Surge In Saudi Oil Income Seen Aiding Fight On Terror."
"Rehnquist's 'Strong Legacy' Hailed."

Detroit Free Press:
"President, Congress To Lead Investigations."
"State Effort To Recoup Homestead Taxes Falters."

Atlanta Journal-Constitution:
"Overwhelmed."

Dallas Morning News:
"Mayor Orders Holdouts Evacuated."
"Fuming Congress Plans A Battery Of Hearings."
"Texas Expecting Up To 60,000 New Students."
"A 2nd Chance At UT-Austin."

Houston Chronicle:
"Disaster Probes Ahead."
"Focus Now Turns To Providing Services."
"Making Progress, One Sandbag At A Time."
"As Rehnquist Is Mourned, Senate Focuses On Roberts."

Story Lineup From Last Night's Network News:
ABC: New Orleans Refugees; Refugee Children-School; Bush-Katrina Response; Rehnquist Mourned; New Orleans-Katrina Response; Brown-Allbaugh; Gas Prices; New Orleans-Health Threats; Death Toll; New Orleans-Diehards.
CBS: Katrina-Blame Game; New Orleans-Water Receding; MS-Private Hurricane Relief; Katrina-Blame Game; Refugee Children-School; Iraq KIA Honored; New Orleans Police; Rehnquist Mourned; Gas Prices; New Orleans Refugees; Hurricane Season; Bob Denver Obit.
NBC: New Orleans Update; New Orleans-Diehards; Biloxi-Cleanup; Bush-Katrina Response; Storm Warnings; Pentagon-Katrina Response; Hurricane Evacuees-School; Katrina-Charity Scams; Baton Rouge Airport; Hurricane Relief Update; New Orleans EMS; Katrina-Stress; New Orleans Police; Death Toll; New Orleans-Reconstruction; Katrina-World Reaction; Rehnquist Mourned; Denver Obit; Katrina-Radio Coverage.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: New Orleans-Forced Evacuations; New Orleans-Contaminated Floodwater; Congress-Hurricane Response Questions.
CBS: New Orleans-Forced Evacuations; Bush-Hurricane Relief; Gas Prices; Roberts; CA-Gay Marriage.
NPR: New Orleans-Floodwater Removal; Congress-Hurricane Response Questions; FL-Tropical Storm Warning; CA-Gay Marriage; Wall Street; Palestinian Security Official Killed; UN-Oil For Food Probe; Denver Obit.

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USDOJ- Office of Public Affairs

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Sent: Wednesday, September 07, 2005 8:30 AM
To: USDOJ- Office of Public Affairs
Subject: Department of Justice News Clips 9/7/05
Attachments: dojclips050907.pdf; dojclips050907.doc

DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, SEPTEMBER 7, 2005 7:45 AM EDT

TODAY'S EDITION

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TERRORISM NEWS:

Terrorist Had Plans For London Attacks (WT/UPI)

By Pam Hess, United Press International

The Washington Times, September 7, 2005

MOSUL, Iraq -- A terrorist captured near the Syrian border last month had a computer "thumb drive" that contained planning information about the July 7 suicide bombings in London, according to a U.S. military officer.

Col. Robert Brown, commander of the 1st Brigade 25th Infantry Division in Mosul, said that the man was captured north of Qaim in western Iraq and that authorities had connected him to the al Qaeda terrorist network.

It is the first evidence of a link between the London bombs and terrorists in Iraq, but fits with other evidence of a growing presence in Iraq by al Qaeda, which has taken responsibility for the British attacks.

Qaim, a Euphrates River border town, fell under the control of fighters claiming allegiance to Osama bin Laden's terrorist organization Monday, according to tribal members, officials, residents and others quoted yesterday by the Associated Press.

The sources said members of the group led by terror chief Abu Musab Zarqawi had killed U.S. collaborators and imposed strict Islamic law, posting a sign at an entrance to the town declaring, "Welcome to the Islamic Republic of Qaim."

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Col. Brown declined to discuss the specific nature of the information on the thumb drive -- a miniature data storage device that plugs into a computer's USB port -- but said it indicated al Qaeda involvement in the attacks on London's bus and subway system.

"I don't think anyone's done a good enough job explaining" the relationship between Iraq and al Qaeda, he said.

The Arabic language satellite channel Al Jazeera last week aired parts of a videotape in which al Qaeda's second-in-command, Ayman al-Zawahri, took responsibility for the blasts, thought to have used a potent but easily manufactured homemade explosive called TATP.

The same video carried a recorded statement by one of the four British Muslims who killed themselves and 52 others in the near-simultaneous attacks. The London bomber also cited his admiration for Zarqawi.

Bashar al-Naher, an adviser to Iraqi Prime Minister Ibrahim al-Jaafari, told The Washington Times that he had not heard about the Mosul discovery but said, "This does not surprise me. We are noting a pattern of involvement by [Iraqi hard-liners] in terrorist plots abroad."

The U.S. Central Command estimates that about 100 to 150 "foreign fighters" enter Iraq each month. These men are responsible for the great majority of suicide bombs, the most devastating weapon the insurgents and terrorists have in their arsenal.

Most such attacks are coordinated by Zarqawi's group, which calls itself al Qaeda in Iraq. Zarqawi claims allegiance to al Qaeda leader Osama bin Laden, but little is known about the level of direct cooperation between the groups.

Briton To Urge Europe To Tighten Security (LAT)

By John Daniszewski

The Los Angeles Times, September 7, 2005

LONDON — Britain's chief law enforcement official will call on European leaders today to put biological data into passports, visas and identity cards, share airline passenger lists and retain telecommunications records to help fight international terrorists and organized crime.

Concerns for safeguarding liberties must be weighed against the right of law-abiding people to be protected from crime and terrorist attacks, Home Secretary Charles Clarke will argue, according to an advance text of his remarks released to reporters before his address to the European Parliament in Strasbourg, France.

The British proposals to the EU come during a time of heightened fear of terrorism in Europe after the July 7 bombings of the London transportation network. They also coincide with growing public doubts about the merits of further European integration; this spring voters in France and the Netherlands rejected a proposed European constitution.

Drawing a connection between the issues, Clarke in his speech argues that a rising "Euro-skepticism" on the continent is in part due to doubts among ordinary people that European institutions are effective and sufficiently tough to protect them.

One solution he proposes is for Europe to adopt practical steps for police and security agencies to collect and share intelligence data and use them in cross-border prosecutions.

"This European Parliament, as well as national parliaments throughout Europe, needs to face up to the fact that the legal framework within which we currently operate makes the collection and use of this intelligence very difficult and in some cases impossible," Clarke plans to tell his audience. "The rules that currently govern our law enforcement bodies seriously inhibit their ability to protect us against criminals."

As an example of how laws undermine police efforts, Clarke cited regulations in some European countries that oblige telecom companies to destroy data on phone calls and electronic messages if they have no business purposes. Such information can be instrumental for police to establish links between suspects and to dismantle criminal networks, he argues.

Clarke says he hopes Britain's proposals will lead to "hard-headed discussions and practical agreement."

Britain recently assumed the presidency of the European Union, a post that rotates every six months.

Discussing his speech with reporters in London on Tuesday, Clarke said he was seeking to strike the right balance between preserving civil liberties and protecting the public. "It seems to me we have to give the same rights to those humans who want to be able to travel without being blown up on an underground train … as we do to the defendants," he said.

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If European governments agreed to put "biometric data" into passports, visas and identity cards, Clarke said, the information would be "an important means of ensuring that people have the identity which is genuinely theirs, and [are] not stealing other identities as some criminals or terrorists seek to do."

Clarke's suggestion that national and European courts must be pragmatic and sensitive to public opinion in weighing whether to deport terrorist suspects could run into opposition from legislators who fear undermining the European Convention on Human Rights, which forbids extraditing or deporting suspects to countries that practice torture.

Britain, which wants to deport radical Islamic clerics that it accuses of fomenting hatred and violence, is in the process of negotiating bilateral agreements with several countries promising that deported prisoners would not face ill treatment, Clarke said.

Although opponents argue that the agreements would not be respected, Clarke said the existence of such an agreement between sovereign governments ought to be enough to satisfy European courts.

"The judges need to understand that the people of Europe and people of Britain will not for a long time accept that action cannot be taken against people who are offering a real threat to our way of life and who are seeking to destroy it," he told the reporters Tuesday. "That is a message I shall send very strongly indeed."

Man Held In California Terrorism Probe Pleads Not Guilty (SACBEE)

By MICHAEL R. BLOOD, Associated Press Writer

The Sacramento Bee, September 7, 2005

SANTA ANA, Calif. (AP) - One of four men indicted in an alleged terror plot against California targets pleaded not guilty to federal charges Tuesday.

Hammad Riaz Samana, a 21-year-old Pakistani national, said only a few words as he appeared with hands shackled to his waist before U.S. Magistrate Judge Arthur Nakazato.

Trial was set for Sept. 27 before U.S. District Judge Cormack Carney, but a postponement was expected.

Samana and the others were indicted last week on charges of conspiring to wage war against the U.S. government through terrorism.

Federal prosecutors allege the plot targeted military facilities, synagogues and other Los Angeles-area sites. Authorities claim the four men were a cell of a California prison gang of radical Muslims.

Named with Samana in the indictment were Levar Haley Washington, 25; Gregory Vernon Patterson, 21; and Kevin James, 29. All but Samana are American born and Muslim converts.

Outside court, defense attorney Timothy Lannen described Samana as a hardworking, upstanding person.

"He's a peace-loving, respectful young man," Lannen said to reporters.

The attorney said Samana is a dean's list student at Santa Monica College and was working two jobs. Samana only met the others named in the indictment a few months ago, Lannen said.

When the case plays out the public will recognize "the decent young man that he is," Lannen said of his client.

Assistant U.S. Attorney Kevin Smith said that "the indictment speaks for itself" and that the investigation was continuing. He said he expected the other men to be arraigned later this month.

Prosecutors allege that Washington, Patterson and Samana robbed gas stations to finance plans to target military sites, synagogues, the Israeli Consulate and the El Al counter at Los Angeles International Airport. Patterson bought a rifle. Samana received "firearms training and physical training," according to the indictment.

James, an inmate at California State Prison, Sacramento, is suspected of being the mastermind. He founded the radical group Jamiyyat Ul-Islam Is-Saheeh, or JIS. Washington converted to Islam while imprisoned there on a robbery conviction.

Terror Suspect Pleads Not Guilty To Conspiracy Charges (KNBC-TV)

KNBC-TV, September 7, 2005

SANTA ANA, Calif. -- A Pakistani man accused of plotting a terrorist campaign in the Southland -- using gas station holdups to fund the attacks -- pleaded not guilty Tuesday in Santa Ana to conspiracy-related charges.

Aug. 17 Images: FBI: Former Inmate Visited Mosque To Recruit For Alleged Plot

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Hammad Samana, 21 -- who has permanent-resident status -- denied charges of conspiracy to levy war against the U.S. government through terrorism; conspiracy to kill members of the U.S. military; conspiracy to kill foreign officials and conspiracy to use firearms in a crime of violence.

U.S. District Magistrate Judge Arthur Nakazato set a trial date of Sept. 27 and a status conference of Sept. 19. He assigned the case to U.S. District Judge Cormac Carney.

According to a federal grand jury indictment, Samana plotted with Kevin James, the founder of a group called Jamiyyat Ul-Islam Is-Saheeh -- or JIS -- and two other Southland men, Levar Washington and Gregory Patterson.

U.S. authorities allege the defendants intended to use money taken in holdups in Los Angeles and Orange counties to buy weapons and make other purchases needed to carry out attacks on local National Guard and Israeli facilities, according to court papers.

Samana is accused of participating in two of the 11 gas station robberies listed in a six-count federal grand jury indictment: a robbery on June 12 in Playa Del Rey -- in which Patterson was allegedly armed with a shotgun -- and a robbery on June 21 in the city of Orange.

Patterson and Washington were arrested July 5 after allegedly using shotgun to rob a Chevron gas station in Fullerton.

Four people who were in court during the arraignment of Samana, who is being held without bail, declined to comment outside the courtroom.

Defense attorney Timothy Lannen issued a statement about his client outside the courtroom and refused to take questions.

"He is a peace-loving, respectful young man," Lannen said.

Samana is on the dean's list at Santa Monica College, Lannen said, and "when arrested was working two jobs to support his family."

In response to the attorney's description of Samana, Assistant U.S. Attorney Kevin Smith said the lawyer "is free to characterize his client any way he wished.

In "plain terms," Smith said, Samana is accused of "conspiring to kill" U.S. military personnel, Israel officials and Jewish people at targeted synagogues.

Smith said he expects Patterson and Washington to appear for arraignment on Sept. 12. They are being held in the Men's Central Jail in Los Angeles, while James is set for arraignment on Sept. 26. He is being held in state prison.

Smith declined to provide additional details not specifically mentioned in the indictment, but did say that "We have charged everyone that could or should be charged based on the evidence."

In November, James, while in prison, allegedly recruited Washington, who was serving a robbery sentence, to join JIS, according to the indictment.

After Washington was paroled from a state prison late that month, James told him to recruit five individuals without felony convictions and "train them in covert operations," prosecutors allege.

Washington allegedly recruited Samana and Patterson, fellow attendees of the Jamat-E-Masijidul Islam mosque in Inglewood. At some point, Washington allegedly "reaffirmed his allegiance ... by pledging his loyalty until death by martyrdom."

According to authorities, Samana is the only one of the four not born in the United States.

Before the arrests, the defendants had been "on the verge of launching the attacks," which "had the potential to cause significant bloodshed," U.S. Attorney Debra Yang said in a news conference last week.

James, 29, preached that members of his group had a duty to "target for violent attack any enemies of Islam, or `infidels,'" including the U.S. government and supporters of Israel, the indictment states.

Samana and Patterson allegedly used the Internet to research the locations of military recruitment offices, Jewish events in the months of July and August and research on the Israeli consulate in Los Angeles, including the identity of specific Israeli officials.

James will remain in state prison, serving a sentence for being a prisoner in possession of a weapon, until transferred to federal custody, Smith said.

James, who was originally incarcerated for attempted robbery, allegedly founded JIS while behind bars in 1997. If convicted of all the charges, the defendants face life prison sentences.

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Authorities say the investigation began slightly more than eight weeks ago when Torrance police received a tip concerning a string of gas station robberies in Los Angeles and Orange counties.

After tailing Washington, 25, and Patterson, 21, for two days, Torrance officers allegedly saw them rob a gas station in Fullerton.

Police then arrested the pair and searched a South Los Angeles apartment they shared. That search turned up materials that led police to believe the men might be plotting attacks, said Torrance police Chief James Herren.

According to the indictment, the synagogue attacks were planned to coincide with the Jewish high holy days of Rosh Hashana and Yom Kippur "in order to maximize the number of casualties to be inflicted."

The 10-day high-holyday period starts Oct. 3, the first day of Rosh Hashana, the Jewish New Year, and ends Oct. 12 on Yom Kippur, the Day of Atonement, which is regarded as the holiest day on the Jewish calendar.

Authorities said they believed some targets would have been attacked soon if the arrests had not taken place.

Authorities are not aware of any current threat based on what was learned during the investigation, said Randy Parsons, acting assistant head of the FBI's Los Angeles office.

Boca Doctor Charged With Supporting Al Qaeda Denied Bail (MH)

By EVAN S. BENN

The Miami Herald, September 7, 2005

A federal judge in New York denied bail Tuesday for a Boca Raton doctor charged with conspiring to support al Qaeda.

Dr. Rafiq Sabir, 51, will continue to await trial in a maximum-security prison, his attorney, Ed Wilford, said.

"I indicated to the court that we had $1.5 million ready to be secured" for bail, Wilford said in a telephone interview after the hearing.

But U.S. District Court Judge Loretta Preska denied the motion, ruling that Sabir would pose a flight risk if granted bail.

Wilford said he will appeal the decision.

A federal grand jury handed up a one-count indictment June 27 against Sabir and Tarik Shah, an alleged co-conspirator who will be tried with Sabir. Shah, 42, also is being detained without bail.

The indictment supported the government's allegation that the men pledged an oath of loyalty to Osama bin Laden and his terrorist network on May 20.

An undercover FBI agent posed as an al Qaeda recruiter and secretly recorded Sabir and Shah reciting an alleged oath of allegiance on May 20.

Prosecutors claim that Shah, a martial-arts instructor, and Sabir, a medical doctor, promised to use their skills to help train and treat jihadists.

Federal agents arrested Sabir at his Boca Raton home on May 28, a few days before he was scheduled to fly to Saudi Arabia.

Both men pleaded not guilty to the charge of conspiring to support a terrorist organization. If convicted, they would face 15 years in prison and a $250,000 fine.

Attorneys for Sabir and Shah have said their clients, both U.S. citizens who are Muslim, committed no crime.

"In this case, I think we have a clear-cut violation of Dr. Sabir's First Amendment right to freedom of speech," said Wilford, who has previously represented defendants facing terrorism charges.

Sabir's previous attorney, Lighthouse Point lawyer Khurrum Wahid, said Tuesday that a full caseload forced him to hand over the Sabir case to Wilford.

At Tuesday's hearing, prosecutors said a third defendant would likely be added to the case against Sabir and Shah, but those two men will not face additional charges.

The man, Mahmud Faruq Brent, of Baltimore, was arrested Aug. 4 and charged with conspiring to support a terrorist organization. The government claims Brent and Shah are associates and that Brent went to Pakistan and trained to become a jihadist fighter.

Sabir and Shah are scheduled to be back in court Oct. 17 for a status conference.

Government's Doctors: Man Accused Of Mall Bomb Plot Faked Illness (ABJ/AP)

Associated Press

Akron Beacon Journal, September 7, 2005

COLUMBUS, Ohio - Mental health experts who examined a Somali man accused of plotting to bomb a shopping mall have concluded he was faking when he became a wild-eyed defendant who tapped his head on a table, mumbled and giggled in court.

Documents made public last week from two analysts at the Federal Medical Center in Rochester, Minn., said Nuradin Abdi was pretending to be mentally ill.

Abdi told psychiatrists that Hillary Rodham Clinton and Teresa Heinz Kerry would represent him in his terrorism trial.

He sometimes refused to shower, or he showered with his clothes on. Although a devout Muslim, he tore up a copy of the Quran and shoved the pieces into a toilet.

"We believe such behaviors were calculated attempts to appear severely mentally ill," forensic psychologist Andrew Simcox and staff psychiatrist Daniel Shine Jr. said in their report.

However, another psychiatrist requested by Abdi's defense attorney because the first report came from a federal agency said it's possible that Abdi has a "legitimate psychosis."

Abdi's lawyer, Mahir T. Sherif, said Tuesday the second analysis was done by forensic psychiatrist Dr. Robert Phillips, who previously testified in the case of President Reagan's shooter, John Hinckley Jr.

According to Sherif, Phillips reported that Abdi showed "clear signs of severe mental illness," particularly since he ate his own feces while imprisoned.

Abdi, 33, has pleaded innocent to charges of conspiring to aid terrorists and lying to gain political asylum in the United States as a refugee. His trial is scheduled for Sept. 26.

Abdi's attorneys have sought to bar statements he made to authorities in which he admitted to falsifying immigration documents and planning to blow up an undetermined Columbus-area shopping mall.

U.S. District Judge Algenon Marbley has said he will rule before the trial but indicated he would not discount the statements Abdi made with a lawyer at his side.

Prosecutors accuse Abdi of obtaining travel documents in 1999 by telling officials he planned to visit Germany and Saudi Arabia when he actually went to a military-style training camp for terrorists in Ethiopia.

Federal agents arrested Abdi on Nov. 28, 2003, after convicted al-Qaida operative Iyman Faris told them Abdi suggested shooting up a shopping mall.

Marbley last month criticized federal agents for arresting Abdi without a warrant.

Agents testified they were unable to get a warrant for the arrest because information leading them to have probable cause was classified and they wanted to act before the holiday shopping season.

Sherif argued Abdi's arrest was illegal and he was coerced and mistreated.

Investigators said Abdi was polite and cooperative during the interviews.

Officials said Abdi went from a model prisoner to one who abused himself, failed to communicate appropriately and had to be watched.

Simcox and Shine said Abdi had reason to feign mental illness, to avoid being tried on charges that could send him to prison for decades.

They said Abdi had no history of mental illness, that the onset of the symptoms was convenient, that the symptoms didn't match those of legitimate illness and_ testing didn't support a finding of mental illness.

By the time Abdi left the center in August 2004, he was acting normally again, they said.

His lawyer has a theory for Abdi's apparent turnaround. Sherif said his client's mind began to heal and he was "brought back to reality" after being allowed his first visits with family members and his legal counsel.

Abdi now is in the Franklin County jail.

U.S. Resident Held In Iraq Is Freed (LAT)

By Henry Weinstein, Times Staff Writer

The Los Angeles Times, September 7, 2005

More than two months after authorities cleared him of suspicion in a mortar attack on a United States base in Baghdad, an Iraqi man was released Tuesday from military custody, just days before government lawyers were due in court to answer questions about his captivity.

Tuesday's release of Numan Adnan Al-Kaby, a longtime lawful U.S. resident, from a military prison outside Baghdad marked the second time in two months that authorities freed a captive in Iraq within a week of the American Civil Liberties Union of Southern California filing a federal lawsuit in Washington.

Mark Rosenbaum, legal director of the ACLU's Southern California chapter, said he was pleased that Al-Kaby had been released but disturbed that the prisoner had been held two months after a military review board first declared him an "innocent civilian."

"The U.S. government does not want to appear in front of a federal judge and answer questions about their indefensible detention policies in Iraq. This is a military and executive scandal," said Rosenbaum, who believes that more people are being held illegally by the U.S. military in Iraq.

A Pentagon spokesman, speaking on condition he not be identified, said, "I certainly understand the frustration people would feel by what they perceive is a delay, but it's a delay out of necessity, making sure that we are not releasing someone who is a threat to the security of Iraq or the Iraqi people."

Al-Kaby, 38, was originally taken into custody in April after calling in sick the day of a mortar attack on the base where he was doing construction work. He strenuously denied any advance knowledge of the attack, and was cleared by a military review board on July 4, but not released.

On Aug. 31, the ACLU filed suit after learning of Al-Kaby's situation from Los Angeles filmmaker Cyrus Kar, who also was freed from a Baghdad prison with the ACLU's intervention. The Times ran a story on Al-Kaby's detention the same day.

The suit was due to be heard Thursday in U.S. District Court in Washington, D.C. But late Friday afternoon, Justice Department attorneys in Washington, led by Assistant Atty. Gen. Peter D. Keisler, filed papers seeking a 23-day delay to respond to the ACLU's suit.

The Justice Department did not mention that Al-Kaby had been cleared July 4, but said the ACLU suit raised "novel factual and legal questions."

In a motion filed Sunday, the ACLU issued a sharp retort: "The only truly novel question here is chilling … whether a determination of innocence of a lawful permanent resident by a military tribunal may be arbitrarily voided or ignored such that liberty becomes illusory."

On Tuesday, Col. James Coyne, staff judge advocate for the multinational force in Iraq, filed a declaration saying the military had held Al-Kaby past July 4 based on "new factual information." He did not provide details.

However, Coyne said that on Friday — just two days after the ACLU filed suit — the military had conducted another review and again recommended that the captive be freed.

The ACLU suit asserted that Al-Kaby was being held in violation of the U.S. Constitution, the Geneva Convention and international law.

As part of the suit, friends and relatives filed declarations stating that Al-Kaby was a Shiite whose family had long been opposed to the Sunni regime of Saddam Hussein. He fled Iraq in 1991 following the first Gulf War, and spent three years in a refugee camp in Saudi Arabia before coming to the U.S. and gaining political asylum.

He settled in Kalamazoo, Mich., where he opened a small restaurant with his cousin Haider Al-Saedy.

In 2003, both men applied for U.S. citizenship. Al-Kaby provided assistance to the FBI "to assist the government in the U.S. invasion of Iraq and even took a polygraph test to prove that the information he gave was truthful," the ACLU suit said.

After U.S. forces toppled Hussein, Al-Kaby decided to return to his native land to rejoin family members.

The day of the mortar attack, Al-Kaby had taken the day off so he could take his brother to buy a car in Baghdad, the ACLU contended.

Kar met Al-Kaby while both were incarcerated at Camp Cropper in Baghdad — where Saddam Hussein also is being held. Kar was released July 10 after being held captive in Iraq for 55 days.

In a court declaration last week, Kar said both he and Al-Kaby had received identical letters from the U.S. military declaring that each man was an "innocent civilian."

ACLU attorney Ranjana Natarajan said that if the government "had new information on Al-Kaby, it did not bother to tell the court what it was," in papers filed last week.

Her colleague Rosenbaum added, "The so-called new evidence is a transparent fabrication, intended to provide a fig leaf to cover five months of solitary confinement of an innocent man. This is an administration whose trademark is incompetence and indifference to human suffering."

The Guantanamo Trials (WP)

The Washington Post, September 7, 2005

The Pentagon announced changes last week to the military tribunals that it has been trying to set up at the Guantanamo Bay naval base -- for years now -- to try terrorist suspects on war crimes charges. The tribunals, known as commissions, so far have been a total failure. Not a single detainee has been actually been put on trial. The system has been mired in litigation. There are serious problems of fairness and appropriate process for defendants who could face long prison terms or even the death penalty. The administration's changes improve the system in subtle but important ways, moving it closer to the system of courts-martial by which the military tries its own soldiers. But they don't entirely fix the problems.

The most substantial change in the new order separates the function of the commission's presiding officers from its other members. Under the previous order, all commission members functioned as both judge and jury. Under the new order, the presiding officer will function as the judge, responsible for rulings on matters of law -- though the other members of the commission could still override a decision concerning whether to admit certain evidence. The other commission members would decide guilt and sentencing, decisions in which the presiding officer would not participate. In addition, the order tightens a bit the right of the accused to be present at trial, subject to the need to protect classified information -- a largely symbolic change. And more important, it requires that if any material is withheld from the accused because of national security concerns and a reasonable summary cannot be provided, that material must be excluded from trial if its admission as evidence would preclude a fair trial.

Important differences remain between the commissions and true courts-martial, differences that leave the commissions wanting. The commissions still lack any direct appeal to the federal court system, which is a significant flaw. Their rules of evidence are more relaxed as well. But the more the commissions come to resemble courts-martial, the less sense it makes for the military to create a justice system from scratch rather than using the one it already has -- in which Americans and the international community have high confidence.

The administration's explanations on this point are increasingly less persuasive as time goes on. Al Qaeda operatives, officials note, did not fight according to the laws of war and, as a consequence, are not entitled to the privileges of honorable soldiers -- one of which is trial before court-martial. This is true enough. But is it really worth years of delay and litigation in order to bring defendants to trial under conditions whose fairness many people will doubt? The military also argues that commissions afford the government certain flexibility with respect to classified information and security that could not be easily handled in a court-martial. Again, that's true, but if Congress were to get involved and authorize courts-martial for accused terrorists, it could tinker with the model for these highly specialized circumstances.

At this stage, the critical matter is for fair rules to be clearly written in law. While the commissions are getting better, they still constitute a system in which the executive branch writes the rules (and rewrites them in midstream if need be), carries out the trials, hears the appeals and executes the sentences without input from the other two branches. Even if the commissions were perfectly designed -- and they still are far from that -- this would not be the best way to bring accused terrorists to trial.

HOMELAND RESPONSE:

DOJ_NMG_0003214

Coast Guard Raids Moored Harbor Vessels (MHCA)

By Virginia Hennessey

Montery (CA) Herald, September 7, 2005

The Coast Guard boarded and inspected close to 30 vessels, many of them docked, in Monterey Bay over the Labor Day weekend in a operation that raised the eyebrows of some local boaters and the ire of one.

The operation -- conducted in conjunction with the Monterey County Sheriff's Office, U.S. Immigration and Customs Enforcement and the National Oceanic and Atmospheric Administration -- netted one arrest in Moss Landing Harbor and terminated the voyages of five vessels that were deemed unsafe.

In all, 28 boats, many of them live-aboard vessels that were moored in the harbors, were boarded and 31 citations were issued. One angry boater said Coast Guard officers came aboard his boat in Moss Landing Harbor late Friday citing authority under the Patriot Act.

In an e-mail to The Herald, Lowell Jones of Moss Landing said the Coast Guard did a "blanket boarding" in the harbor, "searching boats, and invading people's privacy at 10:30 p.m. They justified this intrusion by citing the Patriot Act.

"The locals are not happy, and the boating community as a whole has expressed concerns over privacy relating to such dockside boardings of legal live-aboard residents," he wrote.

Coast Guard officials said the operation was not in response to any particular law enforcement report and that search warrants are not required for such inspections.

"It wasn't a drill. But it wasn't in response to any Homeland Security threat we received," said Gabriel Flesher, chief of the Coast Guard's San Francisco division, which oversees Homeland Security issues in the area. "The exercise was developed as a random operation with local law enforcement agencies (and) we have the authority to board dockside."

Lt. Todd Moe of the Coast Guard's Monterey division said the operation was directed at boating safety during the busiest boating weekend of the year and was authorized under maritime law dating to the 1700s, which gives the Coast Guard jurisdiction over federal waters, including waterways that lead to the open seas.

Jon Copley, chief of the Coast Guard's law enforcement division in San Francisco, said he would be "very surprised" if one of the agency's officers cited the Patriot Act.

The U.S. Code allows the Coast Guard to "make inquiries, examinations, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction, for the prevention, detection, and suppression of violations of laws of the United States. For such purposes, commissioned, warrant, and petty officers may at any time go on board of any vessel subject to the jurisdiction... of the United States, address inquiries to those on board, examine the ship's documents and papers, and examine, inspect, and search the vessel and use all necessary force to compel compliance."

Moe said "99 percent of the feedback" he'd received was positive and that the operation resulted in the safest Labor Day on record on the Monterey Bay. The Coast Guard was called out to only one incident.

Safety violations that were cited included boats lacking floatation and fire-extinguishing devices and proper documentation. Moe said he did not know the identity of the one man who was arrested by the Sheriff's Office possession of marijuana and an illegal weapon. The deputies involved in the arrest were not available on Tuesday.

Harbormasters in Monterey, Moss Landing and Santa Cruz said they were not notified in advance of the operation. Moss Landing Harbormaster Linda McIntyre said she supports the Coast Guard's efforts to improve safety on the bay, but added that she'd never known the agency to do "door-to-door" inspections of docked vessels.

She said she had received complaints by some residents, but heard others praise the guard.

Monterey Harbormaster Steve Scheiblauer said in his 30 years as a harbormaster in Monterey and Santa Cruz, he'd never heard of any law enforcement agency randomly searching vessels being used as homes. Like several other harbormasters, Scheiblauer was under the impression the Coast Guard's blanket boarding authorization applied only to vessels that were underway.

"That is, on the face of it, pretty preposterous. They can board boats when they're underway. But when a boat is tied up, particularly as a residence, I don't think there's any probable cause to go aboard and search. As a random search, that would be very controversial, I would think, among the public."

Kimbra Eldridge, operations manager of the Santa Cruz Harbor, said her agency does not board boats "unless we have a particular cause."

Reports of the Coast Guard's operation also came as a surprise to Eric Endersby, chief harbor patrol officer in Morro Bay Harbor.

"The Coast Guard has the authority to board any vessel that's underway," he said. "But boats in slips are not underway and my understanding was the Coast Guard didn't have authority to board a boat that's tied up in a slip."

"That's a little scary," he added.

Andy Turpin, senior editor at Latitude 38, a widely read sailing magazine in Marin County, said Coast Guard boardings in the San Francisco Bay Area were an "accepted annoyance."

"It's common to be boarded and it's something you have to put up with," he said.

The practice was even more common during the height of the "zero tolerance" drug wars, he said, but even then, the Coast Guard did not randomly board docked boats.

"I have never heard of that happening up here," he said. "Before 9/11, when they had a little more time on their hands, they would come to a marina and offer free safety inspections and give you a sticker to keep you from being boarded on your Sunday sail."

Rebuilding Begins Where Terror Struck (WP)

By Michelle Garcia

The Washington Post, September 7, 2005

NEW YORK, Sept. 6 -- The first phase of rebuilding on the 16 acres of Lower Manhattan leveled by the Sept. 11 attacks began yesterday with a ceremonial groundbreaking for a new $2.2 billion transportation hub, highlighted by the release of two doves representing "peace and rebirth."

Five days before the four-year anniversary of the 2001 terrorist attacks, federal and state officials celebrated the first phase of reconstruction at a site still considered a cemetery by survivors.

"Today, we begin to take back a site and restore something that was taken away from us on September 11," said Anthony Coscia, chairman of the Port Authority of New York and New Jersey, which owns the site.

The transportation hub, designed by Spanish architect Santiago Calatrava, will link commuter trains from New Jersey, ferries and the city subway system. Officials estimate 250,000 people a day will stream through the transportation hub after its scheduled completion in 2009.

"New York is taking off again and set to soar to greater heights than ever before," said U.S. Transportation Secretary Norman Y. Mineta, speaking in the 70-foot pit where the city's tallest buildings once stood.

The transportation hub is being financed by federal grants of $1.9 billion and by $300 million raised by the Port Authority. In the next six months, a total of $10 billion in new construction will get underway, said Mayor Michael R. Bloomberg (R). The planned projects include an underground memorial and the 1,776-foot Freedom Tower.

Construction of the transportation hub will begin next week. Families of Sept. 11 victims requested that the building's footprints remain uncovered for a 9/11 commemoration ceremony planned for the weekend, said Steve Coleman, a spokesman for the Port Authority. Workers will then lay a protective cover on the steel footings of the twin towers.

The design and intent of the rebuilding effort have been a focus of conflict and controversy. Some families of Sept. 11 victims waged a campaign against two museums planned for a new cultural center, charging they planned to host exhibits critical of the U.S. government.

Some officials at the ceremony drew parallels between the task of rebuilding the World Trade Center site and the challenges facing the Gulf Coast in the aftermath of Hurricane Katrina.

"Let what we are doing be a beacon to the people of New Orleans," said Sen. Charles E. Schumer (D-N.Y.). "They should always know there is always hope, hope that is represented today by the rebuilding."

WAR NEWS:

DOJ_NMG_0003216

U.S. Attacks Insurgent Targets In Iraq (AJC/AP)

By Robert H. Reid, Associated Press Writer

The Atlanta Journal-Constitution, September 7, 2005

BAGHDAD, Iraq — U.S. jets struck targets Tuesday near the Syrian border where al-Qaida has expanded its presence, and civilians fled fighting in the northern city of Tal Afar, complaining they were running short of food and water.

To the south, U.S. troops handed the Iraqi army control of a Shiite city that saw bitter fighting last year — a sign of the uneven pattern of insecurity in this fragmented country.

The U.S. command also said four more Americans had been killed in action.

The airstrikes took place near Karabilah, about 185 miles west of Baghdad and one of a cluster of towns near the Syrian border used by foreign fighters to slip into Iraq.

In the first attack, Marine F/A-18 jets dropped bombs shortly after midnight on two bridges across the Euphrates River that the U.S. command said insurgents used to move fighters and arms toward Baghdad and other cities.

Hours later, a Marine jet destroyed a building used by insurgents to fire on U.S. and Iraqi troops, a U.S. statement said. One Iraqi soldier was wounded when Marines and Iraqi soldiers stormed the building, killing two foreigners and arresting three, it said.

Late Tuesday, Iraqi civilians reported a suicide bomber struck a checkpoint in Haditha, 60 miles east of Karabilah. There were no reports of casualties.

The airstrikes occurred about six miles east of the border city of Qaim, major parts of which have fallen under control of al-Qaida-linked foreign fighters.

Iraqi officials and residents say al-Qaida in Iraq, led by Abu Musab al-Zarqawi, took over parts of Qaim after residents fled fighting between tribes supporting and opposing the insurgents.

The U.S. military maintains a presence in the area, but U.S. officers have complained privately that they don't have enough American and Iraqi troops to secure Qaim.

Elsewhere, thousands of civilians fled Tal Afar, a predominantly ethnic Turkomen city 260 miles northwest of Baghdad where U.S. and Iraqi soldiers are trying to wrest control from insurgents.

Plumes of smoke rose from the city, which sits along a major trade and smuggling route to Syria. Ambulances were seen carrying at least 10 wounded civilians toward nearby Mosul.

Some of those who fled sought refuge in the village of Taha, where local officials scrambled to provide for about 700 families. Some of the refugees disputed claims by Iraqi officials that foreign fighters had joined local insurgents in the fighting inside Tal Afar.

"We did not see any strangers like Saudis, Syrians or others," said Hazem Mohammed Ali, deputy chairman of a Turkomen association in Tal Afar. "The people are suffering from lack of food stuff, drinkable water and blankets, because it is getting cold during the night here."

One U.S. soldier was killed Monday in Tal Afar, the military reported. Two others died Tuesday in a roadside bombing in Baghdad, and another was killed the day before near Ramadi west of Baghdad.

The deaths brought to at least 1,893 the number of U.S. military personnel who have died since the war began in March 2003, according to an Associated Press count.

Despite the fighting, security is better in Shiite Muslim areas of central and southern Iraq, including the holy city of Najaf, scene of heavy combat last year between American soldiers and Shiite Muslim extremists.

But the Shiite clerical hierarchy mediated a truce, and the area was deemed peaceful enough for U.S. forces to hand over one of their bases in the city to Iraq's army. The transfer of Forward Operating Base Hotel means Iraqis are fully responsible for security in the city.

During a ceremony Tuesday, Lt. Col. James Oliver handed the ceremonial keys to the base to the new Iraqi commander, Col. Saadi Salih al-Maliky. About 1,500 Iraqi soldiers from the 2nd Battalion, 1st Brigade, 8th Division marched by.

U.S. troops relocated to a base outside the city in case their help is needed in a major security crisis.

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The move is the first step in a plan to gradually hand over areas once Iraqi forces are deemed capable of ensuring security. The goal is for the United States and its international partners to begin drawing down their troop numbers next year and focus on the insurgency-ridden Sunni Arab areas to the north.

"This is indeed a very important day for the province of Najaf," said Brig. Gen. Augustus L. Collins, commander of the 155th Brigade Combat Team. "It gives me great pleasure to say the Iraqi army in Najaf can control the area."

U.S. and Iraqi officials also hope a new constitution, which goes to the voters in an Oct. 15 referendum, will weaken the insurgency by luring Sunni Arabs into political participation.

However, Sunni negotiators rejected the proposed charter last month and vowed to defeat it in the referendum. The bitter, protracted talks appeared to raise tensions among Iraq's ethnic and religious communities.

U.S. Forces Give Iraqis Full Control Of Najaf (WP)

By Saad Sarhan And Omar Fekeiki

The Washington Post, September 7, 2005

NAJAF, Iraq, Sept. 6 -- The U.S. military pulled hundreds of troops out of the southern city of Najaf on Tuesday, transferring security duties to Iraqi forces and sticking to a schedule that the United States hopes will allow the withdrawal of tens of thousands of its forces by early spring.

The handover came as Marine F/A-18 jets bombed two bridges near the Syrian border, hitting infrastructure in an area where insurgents have maintained effective control despite off-and-on offensives by U.S. forces. Insurgents have used the bridges to move fighters and arms across the Euphrates River toward Baghdad and other cities, the U.S. military said.

In the same area, U.S. warplanes later destroyed a building that insurgents had used to fire upon American and Iraqi troops, a U.S. military statement said. At least two suspected foreign fighters were killed, the military said.

Suspected insurgents in the same western province, Anbar, kidnapped the son of the new governor in Ramadi, the provincial capital, officials said Tuesday. Insurgents kidnapped the previous Anbar governor in May; he was killed in a U.S. attack on the house where he was being held.

U.S. Marines have a force of about 5,000 to cover the province's 24,000 square miles. American officers in Anbar say the Marines are too few to bring the province under control, but U.S. and Iraqi officials say the U.S. raids have helped disrupt the flow of bombs and recruits into the rest of Iraq.

Roadside bombs killed two American service members Tuesday, one in Baghdad and one in Ramadi, the U.S. military said.

In Baghdad, meanwhile, President Jalal Talabani told al-Iraqiya television that former president Saddam Hussein had confessed to crimes, including killings, committed on his orders. Talabani said he had been told by an investigating judge that "he was able to extract confessions from Saddam's mouth."

"Saddam deserves a death sentence 20 times a day because he tried to assassinate me 20 times," Talabani said, recalling his days as a Kurdish rebel leader. Hussein is scheduled to face trial on Oct. 19 for his role in a 1982 massacre of 143 Shiite Muslims in the town of Dujail.

The handover ceremony in Najaf marked the first transfer of an entire city from U.S. to Iraqi military responsibility this year. The raising of the Iraqi flag at a former U.S. base was "pretty much putting the city of Najaf in Iraqi control," Lt. Col. Steve Boylan, spokesman for the U.S. military, said in Baghdad.

U.S. forces will continue to support Iraqi troops in an advisory role and with logistics, Boylan said.

Najaf has been the scene of relatively few insurgent attacks. In August 2004, U.S. and Iraqi forces here launched a major assault to disarm the Mahdi Army, a militia loyal to the Shiite cleric Moqtada Sadr that had staged two uprisings against the U.S. military presence in Iraq. The assault claimed dozens of lives from both sides and ended only when Iraq's most influential cleric, Grand Ayatollah Ali Sistani, ordered Sadr to rein in his fighters.

Tensions surged again last month when clashes erupted between Sadr's men and Iraqi Interior Ministry forces seen as loyal to a rival Shiite bloc, the Supreme Council for the Islamic Revolution in Iraq. Nineteen died in those battles.

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"There's always [the] possibility of little spurts of violence here and there," Boylan said, but for U.S. forces now, "the top priority is foreign fighters and the Iraqis who support them."

About 400 U.S. soldiers left the base in Tuesday's handover, Lt. Col. James Oliver, commander of Forward Operating Base Hotel, told reporters, and "more will leave in the future."

The United States, which has 138,000 troops in Iraq, is pushing for major withdrawals to begin in early spring. Iraqi and U.S. officials had identified Najaf as one of the first places where the United States could draw down its forces. Other cities in the heavily Shiite south, and in the Kurdish north, are likely to be next.

The mostly Shiite Iraqi force assuming command here immediately renamed the post Base Karrar, or Base Warrior, a reference to one of Shiite Islam's most important figures, Ali, a cousin of the prophet Muhammad.

"Our forces are capable of defending the city," said Abdul Hussein Abdulridha Abtan, Najaf's deputy governor. "They are able to defeat the biggest terrorist operation."

Some residents of Najaf welcomed the handover.

"It is a happy event for Iraqis when we take care of our affairs, not the occupier," said Mustafa Hamdani, 19, a university student. "But we want them to continue [to] train our soldiers."

Others, however, expressed concern.

"It's true we would prefer not to have U.S. forces in the city -- but we need them," said boutique owner Aqil Farhan, 25. "The Iraqi forces are not capable of maintaining security yet."

Hussein Confessed To Massacre Order, Iraqi President Says (NYT)

By Richard A. Oppel Jr.

The New York Times, September 7, 2005

BAGHDAD, Iraq, Sept. 6 - The deposed Iraqi dictator Saddam Hussein has confessed to crimes in meetings with investigators for the special tribunal that will try him later this year, President Jalal Talabani said in a televised interview Tuesday night. But a lawyer for Mr. Hussein's family dismissed the statement as a "fabrication."

Speaking on the state-run Iraqiya network, Mr. Talabani, a Kurd, said investigators have told him the "good news" that Mr. Hussein had confessed to ordering the Anfal massacre against the Kurds in northern Iraq in 1988 and to ordering other executions.

"He confessed about the Anfal executions, and the orders issued by his name," Mr. Talabani said. "Saddam should be executed 20 times."

It was not clear from the interview whether Mr. Talabani was saying that Mr. Hussein had acknowledged that his actions were criminal or that the former leader had merely admitted he had ordered killings he believed were proper. In the past he has not denied that he ordered people killed.

After the broadcast, a lawyer for Mr. Hussein's family criticized Mr. Talabani's remarks and suggested in an interview with The Associated Press that his statements had been false. Claims of a confession "comes to me as a surprise, a big surprise," said the lawyer, Abdel Haq Alani. He said Mr. Hussein had made no mention of a confession during a meeting with his Iraqi lawyer on Monday.

Mr. Alani added, "Is this the fabrication of Talabani or what?"

Fighting against Sunni Arab insurgents continued in western and northern Iraq. Some residents fled the northern insurgent stronghold of Tal Afar as fighting continued between American and Iraqi forces and insurgents who have controlled much of the city for almost a year. Residents complained of severe food shortages, and news services reported that the fighting had killed and wounded civilians and that residents had been bracing for a new round of combat.

Insurgents used a large roadside bomb to kill one American soldier in Tal Afar on Monday, the military said. American troops have been fighting since May to wrest control of the city from insurgents who moved in after the military largely abandoned Tal Afar last year.

DOJ_NMG_0003219

In western Iraq, military jets launched two airstrikes against insurgents near the Syrian border on Tuesday, the latest assault against militants who control much of the desolate badlands of western Anbar Province that are home turf to the most hardened elements of the Sunni Arab insurgency.

Shortly after midnight on Tuesday, jets bombed two bridges near the town of Karabila that insurgents had used to transport foreign fighters and weapons into central Iraq, a statement by the United States Marines said. Hours later, jets flattened a "foreign fighter safe house" near the bridges after a gun battle with marines there that killed two insurgents, another statement said.

In contrast to the military's normally more upbeat assertions about progress curbing the insurgency, the first statement noted that western Anbar residents have "experienced an increased level of violence at the hands of Al Qaeda in Iraq terrorists."

In central Baghdad, two American soldiers were killed Tuesday morning and two more were wounded when insurgents attacked their vehicle with a large roadside bomb. Another American soldier died Monday in Ramadi, the provincial capital of Anbar, when his vehicle was struck by a roadside bomb.

In other violence, the Iraqi police found four bodies in a sewage duct in southern Baghdad on Tuesday afternoon, according to an official at the Iraqi Interior Ministry. The official also said that shortly after 9 p.m., attackers shooting from a car window opened fire on people gathered at a Sunni mosque in northern Baghdad, killing three and wounding two. There were also unconfirmed reports that the son of Anbar Province's governor had been kidnapped from his college.

Iraqi officials say Mr. Hussein's first trial is expected to begin Oct. 19, when he faces charges that he ordered the killing of nearly 150 men and boys from the Shiite village of Dujail, 35 miles north of Baghdad, after a failed assassination attempt against him there in 1982.

If convicted, Mr. Hussein could be hanged soon afterward, eliminating the need for other prosecutions of charges of crimes against humanity, Iraqi officials have said. Those charges include ordering the Anfal massacre, where tens of thousands of Kurds were gassed or otherwise killed and dumped into mass graves, and the suppression of the Shiite uprising in southern Iraq in 1991, when 150,000 people were killed and bulldozed into graves.

Across many parts of Iraq with heavy Sunni Arab populations - especially in western Anbar - Iraqi security forces are far from being able to battle the insurgency on their own. But in the Shiite-dominated south, a battalion of 1,500 Iraqi troops formally assumed control of the holy city of Najaf, where Shiite insurgents fought fierce battles with American troops just last year.

The American 155th Brigade Combat Team handed over control of the main military encampment in Najaf, Forward Operating Base Hotel, to Iraqi troops during a ceremony on Tuesday.

The American commander, Brig. Gen. Augustus L. Collins, said the "Iraqi Army in Najaf can control the area," according to a pool report of the ceremony. But the general also emphasized that a contingent of American troops would remain based nearby in case the Iraqi forces needed help.

"Although we are transferring authority at this F.O.B., we will still be here to help the people of Najaf," he said.

With Death At Their Door, Few Leave Iraqi City (WP)

By Jonathan Finer

The Washington Post, September 7, 2005

TALL AFAR, Iraq, Sept. 6 -- On one side of the concertina wire lining an avenue stood 100 U.S. troops, five Bradley Fighting Vehicles and two M1-A1 Abrams tanks. Across the street were about 1,000 men, women and children of this embattled northwestern city.

The military had warned in leaflets dropped by helicopter and messages played over loudspeaker Tuesday morning that it would soon raid the insurgent-controlled neighborhood of Sarai, east of the city center, and asked civilians to evacuate through checkpoints in the southern part of town. But the Sarai residents, most of them Sunni Turkmens, insisted they would either flee northward or remain in their homes, come what may.

After an eight-hour standoff marked by a cycle of negotiation, miscommunication, occasional gunfire and flashes of anger, one family, about 17 people, agreed to leave the city with a military escort, after a U.S. commander gave the crowd "one final chance." The rest retreated into Sarai, vowing to take their chances.

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"A lot of people are just barricading themselves in, which is a big mistake," said Staff Sgt. George Kakeletris, a psychological operations soldier who drove a Humvee all day up and down the avenue, which the military calls Bel Air, blaring messages in Arabic from speakers mounted on the roof.

About 5,000 U.S. and Iraqi soldiers entered Tall Afar four days ago in an offensive aimed at dislodging insurgents. Fighting has been sporadic so far. One U.S. soldier has been killed, along with at least 200 suspected insurgents, said Col. H.R. McMaster, commander of the 3rd Armored Cavalry Regiment, which is leading the assault.

Five civilians were killed Tuesday when a suicide bomb detonated near an Iraqi army checkpoint. Four days of small-scale raids and house-to-house searches have allowed troops to encircle Sarai, where commanders here believe insurgents have massed.

The Iraqi government has asked the military commanders to minimize civilian casualties in this highly volatile region. A U.S.-led invasion of Tall Afar one year ago this month outraged the Turkish government, which argued that the assault victimized Turkmens, who share ethnic ties with Turks. When the U.S. withdrew, insurgents returned, capitalizing on anger over the offensive to consolidate control over the city, which has also been marred by sectarian violence between Sunni and Shiite tribes.

"Steps are being taken to ensure that this is done with the least possible amount of harm done to civilians," McMaster said.

But several Sarai residents said they had been warned that Shiite residents or policemen, who are concentrated in southern Tall Afar, would attack if they left in that direction.

"I would rather die from American bombs in my home with my family than walk south," a man in a gray dishdasha, or robe, and white head scarf explained to soldiers. "People are saying the Shiites will kill you or kidnap you. That is a disgrace."

The evacuation of Sarai, the oldest section of Tall Afar and a web of narrow streets where fighting is expected to be difficult, was supposed to help prevent civilians from being hurt or killed during the offensive's final phase. The military strung nearly a mile of concertina wire along Bel Air, on the northern edge of the neighborhood, on Sunday to encourage people to migrate south, where it had established checkpoints to prevent insurgents from fleeing undetected. Among 200 people who followed instructions and fled south Tuesday, soldiers discovered a man suspected of being an insurgent who was dressed as a woman, complete with prosthetic breasts.

For the military, problems began at 8 a.m. Tuesday when soldiers who had spent the night in an abandoned house awoke to about 300 Sarai residents who had picked their way across the wire and were sitting in the street outside the house, asking how they could get out of Tall Afar.

The soldiers escorted the crowd back to the other side of the wire but found that at least 500 other people were waiting to come across. To block them, they placed tanks and Bradleys along Bel Air and sent soldiers with rifles to the roofs overlooking the street.

Men who identified themselves as tribal leaders of the people attempting to flee would periodically walk across the street -- which is pockmarked with dozens of craters caused by explosions -- stepping gingerly over the wire to negotiate with soldiers. Some residents said that their relatives were too sick or frail to travel south of the city or that their tribe was located in the north so they needed to go in that direction. Others said they actually lived outside Sarai but had spent the night in the neighborhood and were trapped by the concertina wire. The soldiers refused to let them pass.

"I am sure 99 percent of you are good people who are telling us the truth," Capt. Alan Blackburn, commander of the 3rd Armored Cavalry Regiment's Eagle Troop, 2nd Squadron, which was policing the area around Bel Air, told one of the men who wanted to go north. "But I am sure that there are a few people in that crowd who are not good people. And we don't have the facilities here to check them. You have to go south."

"I am not going unless you drive me in a tank," the man said. "There are no bad people in Sarai. If you come with me, I will take you to all the houses and you can see. The bad people are the Shiites in the south."

Late in the afternoon, the soldiers relented and offered a compromise. They told the residents they could exit to the north if they agreed to board military trucks bound for a base just outside the city where they could be processed and then released if they proved not to have ties to the insurgency.

"It sounds like a trick to take us south to the Shiites," one man said.

"We will go only if we can drive our own vehicles," another countered.

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About 3 p.m., Lt. Col. Christopher Hickey, the Squadron commander, arrived to make a final plea. "I am trying to help you to get out of a very dangerous situation. You are going to be in danger if you stay here, I am telling you," he said. "Please, this is your last chance."

As he turned away from the crowd, one family emerged, with nine adults carrying baggage and eight children in tow. "Anyone else?" Hickey asked, beckoning. "Okay, then we will save these people," he said, and walked away.

Iraqi Army Takes Control Of Najaf (LAT)

By Ashraf Khalil And Edmund Sanders

The Los Angeles Times, September 7, 2005

NAJAF, Iraq — U.S. troops withdrew from this holy city in southern Iraq on Tuesday, an initial step in the military's effort to pull back from the country's urban centers and turn over authority to Iraqi forces.

Under waving Iraqi flags, U.S. commanders formally turned over control of Forward Operating Base Hotel, a square, concrete-walled American base on the edge of Najaf, a shrine city about 100 miles south of Baghdad that saw intense fighting last year.

"The Iraqi army is operating successfully throughout the region," said Lt. Col. James Oliver, the outgoing base commander, as he handed over the ceremonial keys to the base. "They are fully independent and capable of responding to all security needs. We are now here in a strictly advisory mode."

Najaf's hand-over scarcely could have been imagined last summer, when thousands of U.S. and Iraqi troops fought a pitched, three-week battle in the city against the militia forces of radical Shiite Muslim cleric Muqtada Sadr after the rebels seized control of several shrines. Hundreds died and much of the Old City was destroyed.

Calm was restored after followers of Grand Ayatollah Ali Sistani, Iraq's leading Shiite cleric, marched on the city and brokered a resolution. Since then, violence has flared sporadically in Najaf — just two weeks ago, six people were killed when clashes erupted between Sadr's forces and another Shiite faction — but commanders decided the situation had stabilized enough to warrant Tuesday morning's transfer of authority.

The withdrawal is partially symbolic because U.S. forces will maintain a sizable force at Forward Operating Base Duke, a much larger facility about 20 miles away. But the move is an important psychological benchmark because the U.S. military presence in Iraq's holiest city has long been a sore spot for Shiites in Iraq and around the world.

Najaf Police Chief Gen. Abbas Karim Moadel hailed the hand-over as "a historic moment" and a tribute to the growing capability of the Iraqi security forces.

The Hotel base, renamed Camp Karrar, is one of two dozen turned over to the Iraqi security forces so far, U.S. Army spokesman Lt. Col. Steve Boylan said.

Before the transfer ceremony, soldiers of the Shiite-dominated Iraqi battalion chanted, "We stand for Iraq!" and "Saddam is a coward!"

Despite Oliver's statement that the U.S. remained only in an "advisory mode," several Iraqi soldiers said they expected U.S. forces to continue regular patrols in Najaf. It "remains to be seen" whether U.S. patrols would continue, Boylan said.

Some Najaf residents expressed a hope that the American troops would stick around a while longer. A complete American withdrawal from Najaf could spark violent competition among different Shiite factions within the police and army, said Haidar Sayid Salman, owner of a stationery store in the Old City.

"I trust them to fight terrorism, but their loyalty is not to the government," Salman said, referring to Iraqi security forces. "I wish we were ready for [independence], but we're not."

As the transfer of authority in Najaf proceeded Tuesday, violence was reported in the capital and restive Al Anbar province.

In Baghdad, two U.S. soldiers were killed and two others injured Tuesday morning when their vehicle hit a makeshift bomb and rolled over.

On Monday, a Marine assigned to the 2nd Marine Division in Al Anbar was killed by an improvised explosive during combat operations in Ramadi. Names of the dead were withheld pending family notification.

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Fighting continued late Monday night near the Syrian border, where battles broke out last month between two rival tribes, one aligned with the Iraqi government and the other with insurgents led by Jordanian-born militant Abu Musab Zarqawi.

In a midnight attack, U.S. warplanes bombed two small bridges spanning the Euphrates River near Karabila. Military officials said insurgents used the bridges to move foreign fighters and equipment to central Iraq.

Marine F/A-18D jets damaged the bridges with concrete-filled bombs but did not destroy them, the military said.

In a related raid, U.S. troops attacked a nearby safe house that they said was being used by foreign fighters.

Two suspected foreign fighters were killed and three were arrested, U.S. officials said. One coalition soldier was wounded by "friendly fire."

Gunman Kills 'one Of The Best' Explosives Experts (USAT)

By Rick Jervis

USA Today, September 7, 2005

BAGHDAD — Haqy Asaad made a living snipping wires off bombs around Baghdad.

He was once flung back from the force of a roadside bomb that detonated prematurely, killing a colleague but only slightly wounding him.

In July, he carefully defused an explosives vest worn on a would-be suicide bomber outside the Green Zone, the fortified area housing U.S. and some Iraqi government offices.

He earned the nickname "Robot" from U.S. advisers for his dogged disarming of insurgents' bombs and was profiled in USA TODAY in July.

Asaad, an explosives expert with the Interior Ministry, was killed last week, not by bomb shrapnel but from a gunshot wound to the gut.

Gunmen ambushed him down the road from his home in southern Baghdad on Aug. 30. Officials are investigating the incident but believe Asaad was targeted by insurgents because of his job, said Brig. Hussein Muhssin, his supervisor.

Asaad was the eighth person in his unit to be killed either by bombs or insurgents. "I lost one of the best members of our department," Muhssin said. "He was so devoted to his work, very daring, brave and smart. But he was always in a rush. I warned him so many times our work needs to be cautious, accurate."

U.S. troops operating in Iraq are working to hand over security responsibilities to Iraqi units such as Asaad's. An increasing number of Iraqi troops are manning checkpoints, policing streets, leading raids on suspected insurgent hide-outs and disarming roadside bombs.

Unlike U.S. troops, however, who live in heavily fortified camps, many Iraqi security personnel return home each night to regular neighborhoods, leaving them susceptible to attacks from guerrillas.

Asaad, 38, was part of the 13-member Criminal Investigations Directorate/Explosives Ordnance Detachment. He was paid the equivalent of $330 month, a large salary by Iraqi standards, to disarm roadside bombs and car bombs discovered before they detonated.

Asaad had worked as an explosives expert with the Interior Ministry under Saddam Hussein. He lost his job in 2003, when former members of the ruling Baath Party were expunged from government under the U.S.-led Coalition Provisional Authority, Muhssin said. But U.S. military officials rehired him last fall and dispatched him to Florida for explosives training, he said.

Armed with little more than a pocket tool, Asaad grew adept at defusing roadside bombs, the weapon of choice for insurgents, Muhssin said. He learned how the devices worked and would mouth the common Muslim refrain — "There is no god but Allah, and Mohammed is the messenger of Allah" — before each crucial snip, Asaad said in the USA TODAY article.

Each month, he would hand over to U.S. explosives experts about 120 munitions — including mortar and artillery shells — collected from defused roadside bombs, said Maj. Alayne Conway, a spokeswoman with the Army's 3rd Infantry Division, which worked with Asaad.

"I can't just leave these bombs in all these neighborhoods," Asaad said in July. "I want to live in a peaceful Iraq someday."

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In July, Asaad neutralized a bomb worn by a would-be suicide bomber. The bomber had been hit with shrapnel from another suicide bomber, leaving him nearly unconscious. Asaad disarmed the bomb and slipped the vest off the assailant to the cheers of U.S. and Iraqi personnel watching from a distance near the main entrance to the Green Zone.

"He was setting a standard for other Iraqis to follow," Conway said. "He knew that if he didn't do it, no one else would."

Asaad's success at his job was also making him a target among insurgents. He had received several threats the past few months, Muhssin said.

The latest one, scribbled on a sheet of paper and dropped in the garden outside his home last month, called him a "traitor and spy" and warned he would be killed if he didn't quit his job, Muhssin said.

On Aug. 30, Asaad called in sick, complaining of stomach pains. As he took a walk from his home in Baghdad's Dora neighborhood, witnesses saw two cars full of men, their faces concealed behind scarves, approach Asaad, Muhssin said. One jumped out and shot Asaad in the abdomen.

Asaad's wife called the police and accompanied her husband to Baghdad's Yarmouk Hospital, Muhssin said. In the back seat of the police car, Asaad told her to take good care of herself and their three children, ages 8, 15 and 17.

He died upon arrival at the hospital.

Intimidation, Attacks Take Toll On Contractors In Iraq (USAT)

By Rick Jervis

USA Today, September 7, 2005

BAGHDAD — Attacks on contractors working on U.S.-funded projects in August reached one of the highest levels in the past year.

Insurgents killed seven contractors and injured 11 last month, according to the U.S. Project and Contracting Office in Baghdad. Sixteen more contractors were suspected or confirmed kidnapped.

"August was real bad," said Karen Durham-Aguilera, director of programs in the contracting office. "We've had to stop projects because of it."

August was the second most violent month since the contracting office began keeping records on the violence in September 2004. The worst was November, with nine deaths.

Most of those attacked were Iraqis working on U.S.-funded projects. Of the 34 people who were killed, wounded or went missing in August, 32 were Iraqis. None was American. Iraqi contractors, who rarely have security, are more vulnerable to attack than U.S. and some foreign contractors, who generally travel in armored convoys with armed security.

An important part of U.S. strategy in Iraq is to rebuild its aging infrastructure as a way of winning over Iraqis and undermining the insurgency. But insurgents are interfering with this by targeting contractors.

Security costs have chewed away at the $18.4 billion appropriated by Congress last year for reconstruction in Iraq. Last year, $5 billion of that was redirected to training and equipping Iraq's security forces, a move that resulted in the cancellation of some projects and scaling back others.

"Security is our biggest challenge," said Brig. Gen. William McCoy, an Army Corps of Engineers commander in Iraq. "We're losing a lot of contractors to a campaign of intimidation and terror."

Most recently, an Iraqi contractor recruiting security guards for reconstruction projects in Mosul was kidnapped last week and later killed, said Lt. Col. Stanley Heath, an Army Corps of Engineers spokesman.

In another incident, a supervisor for a Fallujah police station project was killed in his home on Aug. 19. The murder of the Iraqi supervisor prompted the contractor to halt construction on that and three other Fallujah police stations, Heath said.

A terrorist known as Abu Bakr, who leads a splinter cell of al-Qaeda in Iraq, specializes in disrupting reconstruction and is behind many of the attacks, McCoy said.

"He goes to sites, handing out workers a letter saying, 'I know where you live, and I'll kill you and your family,' " McCoy said. "He's out there kidnapping and killing these people."

Despite the threat, reconstruction projects continue. The Army Corps of Engineers says more than 1,700 projects have been completed since June 2004.

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Sadr City Success Story (LAT)

By T. Christian Miller

The Los Angeles Times, September 7, 2005

BAGHDAD — Crammed into armored Humvees heaving with weapons, Lt. Col. S. Jamie Gayton and his soldiers were greeted by a surprising sight as they rolled into one of Baghdad's poorest neighborhoods.

Men stood and waved. Women smiled. Children flashed thumbs-up signs as the convoy rumbled across the potholed streets of Sadr City.

It was a far more welcoming scene than the urban war zone of a year ago, when U.S. troops and black-clad guerrilla fighters battled in the narrow alleys of the squalid slum.

"We're making a huge impact," Gayton said as his men pulled up to a sewer station newly repaired with U.S. funds. "It has been incredibly safe, incredibly quiet and incredibly secure."

Sadr City has become one of the rare success stories of the U.S. reconstruction effort, say local residents, Iraqi and U.S. officials. Although vast swaths remain blighted, the neighborhood of 2 million mostly impoverished Shiites is one of the calmest in Baghdad. One U.S. soldier has been killed and one car bomb detonated in the last year, the military says.

The improvements are the result of an intense effort in the wake of the street battles last August with fighters loyal to anti-American cleric Muqtada Sadr. Within a month, U.S. officials decided to make Sadr City a showcase for rebuilding, and increased spending to $805 million in a neighborhood long neglected under Saddam Hussein.

Having covered the U.S. reconstruction effort in Iraq for the last 22 months, I decided to take a measure of progress by going back to the same people I interviewed last August, in addition to talking with U.S. and Iraqi officials involved in the program.

Their stories provide insight into why the rebuilding of Sadr City is an impressive, if imperfect, accomplishment in Iraq, where many projects remain incomplete and U.S. promises unfulfilled.

Unlike elsewhere in Iraq, where the reconstruction fell under the purview of a hodgepodge of U.S. civilian agencies, the American military provided sustained, focused leadership in a limited geographic area. That focus provided the oversight needed to coordinate the military's efforts with those of the U.S. Agency for International Development and the Pentagon's Project and Contracting Office, the primary reconstruction agencies.

The rebuilding also held more immediate significance among mid-level commanders in the field than among higher-level Pentagon officials preoccupied with fighting the war. The field officers focused on short-term, high-visibility projects such as cleaning up trash and digging wells, instead of massive new water treatment plants or power stations that take years to build. They also hired local Iraqi contractors, who in turn employed many of the militia members who had once battled U.S. troops.

Finally, unlike the U.S. multinationals contracted to build large infrastructure projects, the military did not have to rely on expensive security contractors for protection. That enabled soldiers to more easily communicate with Iraqis, monitor progress and overcome problems.

The results can be seen in the life of Ahmed Kadhem, who spent much of August 2004 huddled with his family inside their home as the war raged outside. The family had limited electricity, no water and no sewer connection.

A year later, his family remains without those basic services. But he has seen improvements all around him. And he is ready to give the Americans a chance.

"There is some movement," he said last month. "People have taken note."

The effects of the U.S. effort were apparent on a recent visit to Sadr City.

At the newly repaired sewer station, a local family guarding it greeted Gayton like an old friend; he had visited several times before.

Haita Zamel showed Gayton how the local sewer authority was fixing a problem that had developed in one pump. She proudly showed off the small home that had been built on the site to replace a dilapidated trailer where her family of six once lived. She even asked Gayton for computer software to teach English to her children.

"When you tell me something, I know you'll do it," she said, clutching tightly at the white scarf covering her head. "To the last day of our life, we are with you. Us and all of our neighbors."

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Gayton and his men clambered back into the Humvees and moved on. A few minutes later, he ordered his driver to make a random stop in front of a group of stores where water lines had been installed. He wanted to make sure the water was flowing.

As a crowd gathered, the shop owners acknowledged better water. But they complained about electricity, saying that power lines were being installed at nearby shops but not theirs.

Gayton smiled. The military had divided Sadr City into four segments, each targeted for different improvements such as new sewers or clean water. That way, each area saw the improvements going on in the others, providing proof of progress and an incentive to remain cooperative.

"Everything happens one step at a time," Gayton told the men.

"We have to cooperate with the Americans. We know," said shopkeeper Amed Ali Ibrahim.

But the continuing risks were evident a moment later. As Gayton and his men roared away, one soldier, fearing a possible car bomb, fired into the ground to warn a vehicle that was getting too close.

Still, at each of half a dozen stops, the complaints were tempered by friendly banter and acknowledgment of improvements.

Residents and workers praised a health clinic being built at another site. But then they pointed in anger at a huge puddle of sickly green sewage blocking the entrance. Gayton promised to prod the Iraqis to make repairs.

"We are suffering," one worker, Jabbar Abed Khalef, told Gayton. Batting away flies, Khalef held up his shoes, coated in black muck. "Our children are sick. The road is blocked. It's a disaster."

But a moment later, Khalef was praising the U.S. for working more quickly than the Iraqi government.

"We know that if the Americans don't do it, the Iraqi government will take a long time," he said.

At the end of the run, Gayton appeared pleased. A tall, fit man with an easy command of figures, he appeared excited whenever the convoy passed a garbage truck at work. He said the investment made by the U.S. had paid dividends.

Last year, soldiers at Gayton's base were the target of more than 1,000 mortar strikes. This year, there have been none. There have been a handful of attacks on U.S. troops, mostly gunfire, and no clashes so far with Sadr's militiamen.

Gayton does not claim that the reconstruction alone has led to the decrease in violence. And he acknowledges that the militia members may well rise up again if commanded by Sadr.

But Gayton believes that fewer people will heed the call this time.

"Our goal is to provide them with hope so they see that tomorrow is better than today," he said. "We want them to look to the left and the right and say, 'Hey, joining hands with the [Iraqi] government and the coalition [forces] is going to help us more so than anybody else.' "

Kadhem doesn't deny progress. But it's easy enough for him to see the problems that remain.

His home is a one-story cinderblock house just off Sadr City's main drag. The potholed boulevard slices through the 8-mile-square district, a ragged sprawl of low-slung homes and dingy shops. Street vendors hawk everything from fat, ripe watermelons to AK-47s. Cars, trucks and horse-drawn wagons choke intersections. Sheep and goats wander through the filth.

Last August, Kadhem and his family of four were trapped in their house, a long, narrow structure with a threadbare rug, bare concrete floors and a fluorescent light that flickered to life during the rare occasions when electricity flowed.

The frequent blackouts meant that the temperature inside soared to 130 degrees. The stench of a pool of sewage just outside wafted in on the occasional hot, humid breeze.

"They said they were going to fix many things, and still nothing has happened," Kadhem said at the time, with fighting in the streets outside. "If the Americans had done well, most people would be with the Americans and we would not have these problems."

A year later, the blackouts are more frequent; his water remains undrinkable. The pond of sewage is gone — but that's only because Kadhem and his neighbors took up a collection and paid a private contractor to come and clean it up.

"No government has helped us," said Kadhem, a slight man with a Van Dyke pointy beard and a quick, broad smile. "We have helped the government."

Kadhem remains suspicious of the American presence in Iraq. Still, when members of Sadr's militia came around with a petition demanding the withdrawal of the Americans, Kadhem and his wife did not sign.

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"We refused to sign not because we love the occupiers or to be your friends, but I really believe that if the Americans leave Iraq now, it'll be chaos," Kadhem said. "Nobody loves the occupier. But there's no alternative."

Despite his hesitance, Kadhem acknowledged that things had gotten better.

His four children can play in streets now free from fighting. Among other evident improvements, Kadhem and his wife, both teachers, have seen their schools painted, books and supplies donated and new classrooms and bathrooms built.

But Kadhem has benefited most in two ways: First, and most important, Hussein's ouster has meant new opportunities for once-repressed Shiite Muslims. And second, his pay increased tenfold because of a state worker salary hike implemented under L. Paul Bremer III, the U.S. civilian administrator in Iraq at the time.

Kadhem took the extra money and his newfound freedom and decided to open a business.

A talented carpenter, he opened a workshop in northern Baghdad, where services are markedly better because they weren't subjected to deliberate neglect during Hussein's rule. The streets are paved, and clean water comes from the tap.

He now spends every free moment from his teaching career at the store, a narrow garage on the first floor of a home in a middle-class neighborhood of Sunnis and Shiites. In one corner sits a graceful, curved headboard made of wood imported from Malaysia. In another sits a partially completed bedroom set, built from a picture in a catalog.

On one recent morning, several customers stopped by to check on the progress of their orders. Kadhem's son and two other employees flitted in and out, carrying wood, sodas and supplies. Sawdust flew through the air and a generator chugged to power a band saw.

Kadhem proudly showed off his venture. As a young man, he had always wanted to be an artist. Now, he was finally putting his skills to use in woodworking.

Kadhem said that for the first time, he could imagine a future for his children better than his own.

"Things are different. Before, we felt afraid. Now, there is freedom and we feel there will be a solution and it will be better," he said. "At this stage, we have to endure.

"The change from a dictatorship to a democracy is not easy."

Iraq President Says Saddam Confessed To Crimes; U.S. Hits Bridges (USAT/AP)

By The Associated Press

USA Today, September 7, 2005

BAGHDAD — Iraq's president said Tuesday that Saddam Hussein had confessed to killings and other crimes committed during his regime.

President Jalal Talabani told Iraqi television that he had been informed by an investigating judge that “he was able to extract confessions from Saddam's mouth” about crimes “such as executions” that the ousted leader had personally ordered.

Saddam's lawyers couldn't be reached for comment.

Talabani said that some of the confessions involved cases under investigation but he gave no specifics. Saddam faces his first trial Oct. 19 for his alleged role in the massacre of Shiites in Dujail in 1982. He could face the death penalty if convicted.

Also Tuesday, the U.S. military said four more Americans had been killed in action. One U.S. soldier was killed Monday in Tal Afar. Two others died Tuesday in a roadside bombing in Baghdad, and another was killed the day before near Ramadi west of Baghdad, U.S. command said.

The military also said Marine jets on Tuesday attacked two bridges across the Euphrates River near the Syrian border to prevent insurgents from moving foreign fighters and munitions toward Baghdad and other cities.

The airstrikes took place near Karabilah, about 185 miles west of Baghdad and one of a cluster of towns near the border used by foreign fighters to slip into Iraq.

Marine F/A-18 jets dropped bombs shortly after midnight on two Euphrates bridges. Hours later, a Marine jet destroyed a building used by insurgents to fire on U.S. and Iraqi forces, a military statement said.

One Iraqi soldier was wounded when Marines and Iraqi troops stormed the building, killing two foreigners and arresting three others, the statement said.

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In Tal Afar, civilians were fleeing the city, 260 miles northwest of Baghdad, where U.S. and Iraqi soldiers have launched an offensive. Plumes of smoke could be seen rising from the city, which sits along a major trade and smuggling route to Syria.

"The people are suffering from lack of food stuff, drinkable water and blankets," said Hazem Mohammed Ali, deputy chairman of a Turkomen association in Tal Afar.

To the south, U.S. forces handed the Iraqis control of the Shiite city, Najaf, once a scene of bitter conflict between American troops and militiamen. The transfer of U.S. Forward Operating Base Hotel means Iraqis are fully responsible for security in the city.

Oil-For-Food Probe: UN Needs Overhaul To Stop Fraud (WP)

By Colum Lynch

The Washington Post, September 7, 2005

UNITED NATIONS, Sept. 6 -- The U.N. Security Council and Secretary General Kofi Annan failed to adequately manage and police the $64 billion U.N. oil-for-food program, creating a permissive environment that enabled Saddam Hussein's government in Iraq to take billions of dollars in illicit kickbacks, according to the findings of a U.N. investigation to be released Wednesday.

The report by Paul A. Volcker, the former U.S. Federal Reserve chairman who heads the U.N. Independent Inquiry Committee, will portray a largely dysfunctional, leaderless international effort to operate the humanitarian relief effort for Iraq from December 1996 until the U.S.-led invasion in March 2003. Volcker will urge world leaders attending a Sept. 14 summit on U.N. reform to support steps to strengthen the quality of independent oversight of the organization's spending.

"To settle for less, to permit delay and dilution, will invite failure, further erode public support, and dishonor the ideals upon which the United Nations is built," says the preface of Volcker's report.

The document, which is expected to exceed 700 pages, is the fourth and most comprehensive report by Volcker's panel and will summarize previously published findings while offering new details of abuses in the program.

Among those conclusions, the report will say that Iraq's neighbors, including Jordan, Turkey and Syria, violated U.N. sanctions by smuggling billions of dollars of Iraqi oil from Hussein's government, U.N. sources said. The report will also fault key Security Council members, including France and Russia, for impeding efforts to reform the oil-for-food program. And it will criticize the United States for doing too little to discourage allies in the region from violating the sanctions and by abetting the smuggling of Iraqi oil by Jordan immediately before the invasion, the sources said.

"The committee report documents how differences among member states impeded decisions, tolerated large-scale smuggling, and aided and abetted grievous weaknesses in administrative practices within the [U.N.] Secretariat," says the preface, which was released Tuesday. "As the years passed, reports spread of waste, inefficiency, and corruption, even within the United Nations itself. Some was rumor and exaggeration, but much -- too much -- has turned out to be true."

The U.N. program was established to allow Iraq, which was under a U.N. trade embargo following its 1990 invasion of Kuwait, to sell oil and use the proceeds to buy food and medicine and pay billions of dollars in war reparations. The report to be issued Wednesday says the program achieved "important successes" by improving nutritional and health standards and by undermining Hussein's efforts to build weapons of mass destruction. But it says the United Nations allowed Hussein to abuse the program by bribing U.N. officials and by forcing hundreds of companies to pay kickbacks in exchange for the right to trade in oil and humanitarian goods. The abuses cast a "dark shadow" over the program, Volcker's report says.

The oil-for-food scandal has triggered federal criminal investigations and several congressional probes of the United Nations' management of the program. The U.S. attorney for the Southern District of New York has charged two Russian nationals with wire fraud and money laundering. One of them, a U.N. procurement officer who has pleaded guilty, was cited in a previous Volcker report for soliciting a bribe from a Swiss company seeking to do business in the oil-for-food program and for receiving more than $950,000 in bribes from contractors in other U.N. programs.

Volcker's new report will sharply criticize Annan's oversight of the oil program as lax, citing "serious instances of illicit, unethical, and corrupt behavior" by U.N. officials under his watch. The report will draw attention to administrative shortcomings by the nine U.N. humanitarian agencies, including the U.N. Development Program and Habitat, the main housing agency. It also will

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accuse the 15-nation Security Council of providing "uncertain, wavering direction" to U.N. officials running the program. "Neither the Security Council nor the Secretariat leadership was clearly in command," the preface states.

Annan conceded in an interview with the BBC on Monday that "mistakes were made" in managing the program, but he insisted that there were "concessions that had to be made to get Saddam Hussein to agree."

"I accept responsibility for inadequacies and failures," he told the BBC. But "when it comes to Iraq, on this issue, no one is entirely covered in glory. . . . Honestly, I wish we had never been given that program, and I wish the U.N. will never be asked to undertake that kind of program again."

The Volcker panel singled out Annan's son, Kojo, for abusing diplomatic privileges extended to his father. The report claims that Kojo Annan received a $3,000 loan in 1998 to buy a $39,000 Mercedes-Benz from an executive of a Swiss company, Cotecna, that was trying to do business with the United Nations through the oil-for-food program, according to a member of Volcker's staff.

The report will also assert that Kojo Annan obtained thousands of dollars in diplomatic benefits -- including breaks on taxes and customs fees -- from the transaction by falsely claiming that he was purchasing the car for his father, according to the staff member. The sale was first reported by Time magazine. Efforts to reach Kojo Annan's attorney last night were unsuccessful.

Panel Hits U.N. On Oil-for-food Failures (WT)

By Betsy Pisik

The Washington Times, September 7, 2005

NEW YORK -- An outside accounting of the U.N. oil-for-food program strongly criticizes the world body for failures ranging from a lack of oversight by the Secretariat to political interference from the Security Council, which established it.

The Independent Inquiry Committee (IIC) is expected to formally absolve U.N. Secretary-General Kofi Annan in the awarding of a key contract to his son's former employer when it issues its final report today.

But a five-page preface, which became public yesterday, makes clear that the commission, headed by former Federal Reserve Chairman Paul Volcker, will not spare Mr. Annan's administration from a harsh assessment of its management capabilities.

The 1,000-page report comes only a week before world leaders gather at the United Nations for a summit devoted to strengthening and defining the organization for the 21st century.

"The committee reports reveal serious instances of illicit, unethical and corrupt behavior with the United Nations," according to the IIC, which also finds "wholesale corruption" by companies doing business with Saddam Hussein.

The IIC was created by Mr. Annan, authorized by the Security Council, and financed with $35 million from the same aid program it is investigating.

In three previous reports, the IIC investigated the quest for kickbacks and bribes by former U.N. officials, detailed misuse of funds and document-shredding by senior officials, and chipped away at management structures that failed to catch wrongdoing.

Today's report will examine the roles of the U.N.'s administrative staff, the Secretariat, in managing the program, and the nine primary U.N. agencies that carried out the humanitarian and reconstruction work in Iraq.

It also will address the political sensitivities that compromised the Security Council's ability to make important decisions; the "grievous absence" of effective auditing and management controls; and the inability to track expenditures across agencies and programs.

"The inescapable conclusion from the committee's work is that the U.N. organization needs thoroughgoing reform -- and it needs it urgently," the authors conclude.

The panel suggests that the secretary-general create a post of chief operating officer to oversee administration and coordination.

The Security Council, which winnowed Iraq's shopping list and vetted contracts from vendors through a committee, comes in for plenty of criticism.

From the beginning, the council allowed Saddam's regime too much power over the design and implementation of the program, it says. In an unusual move, diplomats were allowed to control program operations rather than just give advice.

At the end of the day, the IIC finds, neither the council nor the Secretariat was in clear control.

"When things went awry -- and they surely did when troublesome conflicts arose between political objectives and administrative effectiveness -- decisions were delayed, bungled or simply shunned," the report says.

U.N. officials yesterday declined to comment on the preface. But Mr. Annan told the British Broadcasting Corp. this week that the organization had been ill-equipped to take on a project as complex as the oil-for-food program.

"I suspect that there will be lots of criticism," Mr Annan said. "Honestly, I wish we were never given that program."

The IIC, found that the program did, in fact, accomplish its two primary objectives -- feeding ordinary Iraqis who were hurt by U.N. sanctions, and depriving Saddam of weapons of mass destruction.

But with charges of waste, inefficiency and corruption "those successes fell under an increasingly dark shadow," the preface says.

Although the report will run close to 1,000 pages, the panel stresses that investigators from 28 countries still don't have a complete picture.

"Constraints of time, concerns for personnel security in Iraq and lack of full cooperation by some member states and individuals means that examination of some parts of the program have been less detailed than others," the forward says.

Annan Failed To Curb Corruption In Iraq's Oil-for-Food Program, Investigators Report (NYT)

By Warren Hoge

The New York Times, September 7, 2005

UNITED NATIONS, Sept. 6 - A yearlong investigation has concluded that Secretary General Kofi Annan failed to curb corruption and mismanagement at the United Nations, but it did not find evidence to support charges that he improperly influenced the scandal-tainted oil-for-food program.

"His sins were ones of omission basically; there were things that he might well have done and should have done that he didn't do," a senior investigator said Tuesday.

Typical of the lapses, the investigator said, was Mr. Annan's failure to look more thoroughly into the activities of his son, Kojo Annan, to see if his working for a company that received an oil-for-food contract posed a conflict of interest for his father.

The committee, led by Paul A. Volcker, a former chairman of the Federal Reserve Bank, found no evidence that Kofi Annan knew about the contract, but it found instances where Kojo Annan did try to influence it, and in general exploited his father's name, the investigator said.

In one incident, he said, Kojo Annan bought a new Mercedes using his father's name, which yielded him a diplomatic discount and enabled him to import the vehicle to Ghana without paying import duty.

The report, to be released on Wednesday, also details an instance in which Mr. Annan's predecessor, Boutros Boutros-Ghali of Egypt, was the target of an effort to exploit the oil-for-food program.

It says that an Iraqi-American businessman, Samir Vincent, and a Korean lobbyist, Tongsun Park, tried to pass $1 million to Mr. Boutros-Ghali but that there was no evidence that Mr. Boutros-Ghali had received or agreed to receive the money.

The report says that Iraq also tried to secure another high level contact at the United Nations in 1997 when Mr. Park invested $1 million of Iraqi money in a company controlled by Maurice Strong, a Canadian entrepreneur then serving as Mr. Annan's coordinator for United Nations reform. The committee said it found no evidence that Mr. Strong himself was involved.

Mr. Vincent pleaded guilty earlier this year to federal charges of illegal lobbying for Iraq. Mr. Park, who was also charged, is believed to be in South Korea. Mr. Strong stepped aside from his post as Mr. Annan's special envoy to North Korea because of past associations with Mr. Park, and the United Nations announced in July that his contract would not be renewed.

Mr. Volcker is to present the results of his $34 million inquiry to Mr. Annan and the Security Council in an open hearing on Wednesday.

The general conclusion of the 860-page report, the fourth and most definitive from Mr. Volcker's panel, is that the United Nations is inefficient, over-politicized, corrupt and in desperate need of immediate repair.

"The inescapable conclusion from the committee's work is that the United Nations organization needs thoroughgoing reform - and it needs it urgently," says the report's five-page preface, which was made public by The Associated Press.

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The report comes a week before more than 170 presidents and prime ministers are due at the United Nations to update goals from the 2000 millennium summit conference and to approve sweeping changes to the way the United Nations is run.

The much disputed $64 billion oil-for-food program was intended to ease the effects of sanctions on the 27 million Iraqis by supplying them with food and medicine in exchange for letting Saddam Hussein export oil. But its manipulation by Mr. Hussein and illicit profits it generated for the Iraqi government caused it to become a lightning rod for critics of the United Nations, and provoked calls from Republican lawmakers in Washington for Mr. Annan's resignation.

Mr. Annan's spokesman, Stéphane Dujarric of France, said Tuesday that Mr. Annan intended to fill out his term, which ends in late 2006.

The report, while criticizing Mr. Annan, acknowledges that the United Nations Charter gives him the responsibility of being the chief administrative officer without the resources to meet the demands.

"Whatever the founders had in mind, the secretary general - any secretary general - has not been chosen for his managerial or administrative skills, nor has he been provided with a structure and instruments conducive to strong executive oversight and control," the preface says.

In an allusion to the widespread cronyism at the United Nations, it says that a secretary general must see to it that personnel choices are based on "professional competence" rather than on "narrow political interests of member states."

"The reality is that the secretary general has come to be viewed as chief diplomatic and political agent of the United Nations," the preface says. "The present secretary general is widely respected for precisely those qualities. In these turbulent times, those responsibilities tend to be all-consuming. The record amply reflects consequent administrative failings."

The investigator who described the report said the committee had produced conclusive figures showing that the amount of Mr. Hussein's profits from kickbacks and surcharges connected to the oil-for-food program amounted to $10.99 billion, while smuggling amounted to $1.8 billion.

The preface said the committee had found "instances of illicit, unethical and corrupt behavior" among lower ranking United Nations staff members in the field, but the investigator said the report would not detail it.

"You had thousands of new employees over there, hired on the spot without much vetting, with transactions made only in cash," he said. "You're living in a corrupt environment, you're pushed by political pressures, but whether senior officials are involved is another question. We're neutral on that. We have not been able to pin any of it down."

According to the preface, "wholesale corruption" took place among private companies that were manipulated by Mr. Hussein's government. The committee plans a separate report next month detailing the companies and the abuses.

In the only instances of corruption that the Volcker committee has uncovered at headquarters, Benon V. Sevan of Cyprus, the former executive director of the program, was accused last month of banking at least $147,000 in kickbacks and a procurement officer, Aleksandr V. Yakovlev of Russia, was found to have solicited a bribe, unsuccessfully, from a program contractor.

Given the United Nations' international responsibilities, it is critical that it combat corruption, the preface said.

"Corrosive corruption, private and public, has been far too common, not least in the member states in which the United Nations has programs of economic and humanitarian assistance," the preface said.

Standing in the way of this, it said, was the "absence of a strong organizational ethic, an ethic that should permeate at its leadership and staff if the United nations is to command the respect upon which its work depends."

The investigator said he had sometimes asked himself whether the charges of corruption had been exaggerated.

"You can say, what the hell did you expect in a program this complicated, an international organization, political differences, it's kind of run of the mill and after all, the program was kind of successful getting food in there, maintaining sanctions," he said.

"But then another point of view is that the U.N. is the U.N., and they better try to meet very high standards because, with the sheer corruption in this world, maybe a good example by the U.N., considering all the corrupt places they have to work in, would help."

U.N. Naysayers Greet 60th Anniversary With Biting Documentary (NYSUN)

By Meghan Clyne

New York Sun, September 7, 2005

As the United Nations prepares to commence the 60th session of the General Assembly next week with a three-day summit on institutional reform, some of the world body's critics have readied suggestions of their own. An hour-long documentary film, "Broken Promises: The United Nations at 60," uses this year's milestone as an occasion to chronicle the organization's failings since its inception, and to raise questions about whether the world body should perpetuate itself for another 60 years.

The film, set for nationwide release this month, is the brainchild of an actor and activist, Ronald Silver, and the president of the Citizens United Foundation, David Bossie. Citizens United is a Washington, D.C.-based conservative advocacy organization that, among its other activities, produced "Celsius 41.11," one of the documentary films to emerge last year as a rebuttal to Michael Moore's "Fahrenheit 911." Mr. Bossie is a former chief investigator for the House of Representatives.

In "Broken Promises," Mr. Bossie turns his investigative instincts to the United Nations, to provide a "broad look ... to show just what the U.N. has successfully and not so successfully done in the last 60 years." The film, Mr. Bossie said, documents the world body's failures to intervene in massive human-rights abuses over the decades, and touches on recent financial scandals, including oil for food and the organization's proposed $1.2 billion renovation of its headquarters at Turtle Bay.

The documentary, which Mr. Bossie said cost around a half-million dollars to make, contains interviews with a diverse assortment of commentators. They include an Israeli politician and former Soviet dissident, Natan Sharansky; a former chief of the U.N.'s peacekeeping mission in Rwanda during the 1994 genocide, Romeo Dallaire, who is a retired Canadian general; a former Senate majority leader, George Mitchell, who, along with a former House speaker, Newt Gingrich, serves on an American congressional task force on U.N. reform, and the spokesman for Secretary-General Kofi Annan, Stephane Dujarric.

Among the issues the film addresses are the United Nations' failure to prevent genocide in Cambodia, in Bosnia, in Rwanda, and, most recently, in Dar fur, and the world body's failure to stand up to the murderous regime of the former Iraqi tyrant Saddam Hussein. The world body's treatment of Israel, too, is discussed, including its determination in 1975, in the form of resolution 3379, that Zionism is racism. Closer to home, the documentary features coverage of the organization's proposed renovation plans and the opposition from state lawmakers that has stalled U.N. hopes of expanding the Turtle Bay campus.

Two of the key players in that drama are also featured in the film: New York State Senator Martin Golden, Republican of Brooklyn, and the developer Donald Trump. Messrs. Golden and Trump testified before Congress about the renovation project in July, when Mr. Trump said the proposed costs of the refurbishment were exorbitant and offered to manage the project himself for a fraction of the price.

Mr. Bossie said "Broken Promises" would be the first documentary to turn a critical eye toward the world body, adding that he hoped it would bring another perspective to the discussions surrounding the 60th anniversary. Mr. Silver said that while U.N. reform has been a subject of ample discussion among journalists, politicians, and academics of late, part of the film's goal was to include in that dialogue American taxpayers, who, since they shoulder 22% of the world body's operating costs, have a special interest in ensuring that it lives up to its promises.

"We wanted to make it watchable and enjoyable regardless of how much information people had about the U.N.," Mr. Silver told The New York Sun, adding that he hoped a broadly accessible film would heighten public interest as debate over the United Nations escalates in coming weeks, with the imminent release of a report by the former Federal Reserve Board chairman, Paul Volcker, on the oil-for-food investigation, and of a report from the International Atomic Energy Agency on Iran's nuclear-weapons program.

Mr. Silver, in a phone interview Saturday, said his desire to document the United Nations' shortcomings on film was born of a long-running disillusionment. Growing up in Manhattan, Mr. Silver said, the United Nations was for him a source of pride, a nearby symbol of triumph over tyranny and a beacon of global optimism.

"The U.N. meant the birth of Israel," Mr. Silver added, referring to U.N. resolution 181, which in 1947 established the state of Israel.

Even in better, earlier times, however, the institutional makeup of the United Nations boded ill for the world body's ability to carry out its stated mission, Mr. Silver said. "Broken Promises," he said, examines some of these structural flaws, which, over

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decades, resulted in the United Nations' corruption. He cited, in particular, giving two of five permanent seats on the Security Council to the Soviet Union and Communist China.

Messrs. Bossie and Silver both said "Broken Promises" is not intended to propagate a particular political agenda, to advocate elimination of the United Nations, or to act as a hit piece on the world body. Indeed, Mr. Silver said he was surprised and impressed by the level of cooperation from the United Nations, which granted the production team extensive access to its Turtle Bay facilities, Mr. Silver said.

The public will have its first glimpse of the film on DVD next week, when the documentary is released to coincide with the opening of the General Assembly on September 13, Mr. Silver said. The New York City release will take place September 27 at the AMC Empire Theater in Times Square. Those unable to catch the film on the big screen can visit www.brokenpromisesmovie.com, Mr. Bossie said, where, starting next week, they will be able to download a trailer and film clips. The Web site will also be a portal for ordering the DVD, which sells for $19.99 and will be available in stores next month.

U.S. Resident Freed From Baghdad Prison (WP)

By Carol D. Leonnig

The Washington Post, September 7, 2005

An Iraqi-born U.S. resident was released from a U.S. military prison in Baghdad yesterday, two days before a scheduled hearing on why the U.S. government had continued to detain him after clearing him of involvement in a mortar attack.

The government's decision to free Numan Adnan Al-Kaby comes less than a week after lawyers filed suit demanding his release. A federal judge had scheduled a hearing on Al-Kaby's case for Thursday afternoon, but the government yesterday asked that it be canceled and the complaint be dismissed as moot.

Al-Kaby was arrested in April in Baghdad after a mortar attack on U.S. forces, but in July a military tribunal concluded he was not involved and recommended his release. In court papers filed yesterday, Justice Department lawyers acknowledged that Al-Kaby had been declared not guilty, but they said the military received additional information shortly after that decision and completed its investigation Friday -- two days after Al-Kaby's lawsuit was filed. Officials formally concluded he could be released to his family in Iraq yesterday.

Al-Kaby was a neighbor in prison of Cyrus Kar, an Iranian American filmmaker who was arrested in May on suspicion that he was involved in a terrorist plot. Like Al-Kaby, Kar was cleared by a military panel and recommended for release but remained in jail until days after his family filed suit in July.

One of Al-Kaby's attorneys, Mark Rosenbaum of the American Civil Liberties Union's Southern California chapter, called the government's explanation "a baldfaced lie" and charged that the government was covering up a "huge scandal" involving illegal detention of potentially hundreds or thousands of innocent people in Iraq.

"It certainly makes you wonder how many more people have been sitting in military jails for weeks and months after they know the person is innocent," said Arthur Spitzer of the ACLU's Washington office.

The Justice Department declined to comment.

Iraq And The Arabs (WSJ)

The Wall Street Journal, September 7, 2005

One of the world's unremarked scandals is how little help Iraq's new government is getting from its fellow Arabs. And now Iraq's elected leaders are becoming increasingly vocal about that fact. On Monday Iraq President Jalal Talabani scored Arab leaders for their minimal-to-nonexistent diplomatic presence in Baghdad, and their failure to offer condolences or help in the wake of last week's stampede that left nearly 1,000 dead.

"We stood with our Arab brothers in their hard times," he said. "For instance, we sent a letter expressing our condolences on the terrorist attack which claimed a lot of innocent lives in Sharm el Sheik."

It's a fairly open secret, of course, that most Arab autocracies -- even supposedly "moderate" ones like Egypt -- are alarmed at the precedent of a successful Iraqi democracy. Still, it takes chutzpah to declare, as Arab League Secretary-General and former Egyptian Foreign Minister Amr Moussa did recently, that Iraq's new constitution is a "dangerous" document. We don't

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recall the Arab League voicing such concerns about Iraq's old regime, which was run by a man who recognized no limits on his power.

Encouraging Arab help in Iraq would seem to be a job for the State Department. But if Foggy Bottom isn't up to it, perhaps the White House should authorize U.S. Ambassador John Bolton to inform Arab nations -- whose heads of state will visit the United Nations next week -- that their relations with the U.S., and especially future economic and military assistance, depend on it.

Baseball In Iraq: As Pastimes Go, It's Anything But (NYT)

By Kirk Semple

The New York Times, September 7, 2005

BAGHDAD, Iraq - The opening pitch of the Northern Regional Junior Baseball Tournament last March was a slow ball that struck the dirt an inch behind home plate, bounced into the catcher's face mask and knocked him to the ground.

For anyone focusing on details, like skill, it may have seemed an inauspicious start. But to the players and the two dozen spectators, most of whom did not know the difference between a ball and a strike, the moment underscored something far more important: Baseball had come to Iraq.

Founded in the fall of 2003 by Ismael Khalil Ismael, a shop owner in Baghdad, the national league has grown to 26 full-fledged baseball teams in 18 provinces stretching from Nineveh in the north to Basra in the south. Using hand-me-down gloves and other cast-off equipment, much of it donated from the United States, the teams play on sandy lots, rutted pastures and soccer pitches.

"I'm doing it for the history of Iraq," he declared.

If this were the full outline of the league's narrative, it would be a rare, happy story for this troubled country. But like Iraq since the American invasion, the league, after less than two years in existence, has itself been torn by political infighting and charges of malfeasance that have cast its future into doubt.

And as if that were not enough, Mr. Ismael said he had been menaced by people who have who accused him of supporting an American cultural export.

"I'm under huge pressure," he said. "There is no freedom and democracy here. There is only plotting and conspiracy."

Mr. Ismael, 40, a former member of the national judo team, said he first heard of baseball when he was a child. His father had been working with an American contracting company building a dam near the northern city of Sulaimaniya, and the American workers would play.

The sport had also popped up at some private grade schools around the country, he said, though it never extended beyond physical education class.

In 1994, a cousin working at the Iraqi Embassy in Washington, sent him a supply of bats, balls and gloves - "enough for a team," recalled Mr. Ismael, whose physique these days is less outfielder and more home plate umpire.

But fearful that his interest in a decidedly American sport would antagonize Saddam Hussein, he shelved the idea. "My friends advised me not to fulfill my dream because I might be interrogated or put in prison," he recalled on a recent afternoon while sitting in one of four clothes and gift shops he owns in the lobby of the Babylon Hotel.

After the fall of Mr. Hussein's government, Mr. Ismael felt free to start the baseball league. In visits to sports clubs and college campuses, he mustered interest in the new sport, and held his first practice in November 2003.

In July 2004, the National Olympic Committee of Iraq admitted the league as a member and since then has budgeted more than $50,000 to support it. Called the Iraqi Baseball and Softball Federation, the league also includes 15 women's softball teams and a national baseball team, which has yet to play an international game.

The Olympic committee's contribution, Mr. Ismael said, helps to pay for equipment, salaries for himself ($150 per month) and his vice president ($60 per month), a $25 per month honorarium for each player on the national team, team travel and clinics for players, coaches and umpires.

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Mr. Ismael said the amount was not enough to cover all the league's expenses and he says he has contributed thousands of dollars of his own to keep the organization alive. The scarcity of resources is so bad, he said, that teams in Baghdad need to practice on alternate days because there is not enough equipment to go around.

League officials have been particularly conflicted about whether they should approach the most obvious source of financing - the American authorities here - and how they might go about it.

On one hand, Mr. Ismael points out, he desperately needs help, both financial and instructional. But on the other hand, he does not want to appear to be supported by the Americans, thereby inspiring attacks by insurgents.

He has already received menacing cellphone calls and two e-mail notes from strangers questioning his devotion to what one writer, a Saudi man, bitterly called "an imported sport."

That opposition - and the threat of something worse - has put Mr. Ismael in an unfortunate dilemma: a higher profile could invite more problems, yet without promotion the league can not grow.

"I've said this more than once: We are not bringing weapons of mass destruction to Iraq," he sighed. "We're only playing a simple game."

In spite of the threats, he has had surprisingly little trouble finding players. More than 200 people have attended his seminars and clinics, which he offers without charge.

"I like it because it's a new game in Iraq and it's exciting" said Yassir Abdullah, 21, a muscular second baseman on Baghdad's Salam, or Peace, team and a third-year student at the College of Athletic Education at Baghdad University. Like many players, he has caught only glimpses of American baseball in the background of movies.

The league took a bad turn in July when 15 players filed a complaint with the Olympic committee accusing Mr. Ismael of using the league's minibus for personal business and of providing them with substandard food and lodging during a road trip to Sulaimaniya. The committee has opened an investigation into the allegations.

A high-ranking committee official, Salman Abdul Hamza, suggested that the details of the league had probably overwhelmed Mr. Ismael. "He's a hard worker; he's doing a good job," Mr. Hamza said. "But some people may do good things in their job but administratively are not successful."

Mr. Ismael denies the charges and says they are part of an attempted power grab by people envious of his successes. At the same time, he has accused the president of the Olympic committee, Ahmed Assamarai, of underfinancing the sport in retribution for his refusal to allow Mr. Assamarai's son to run the league.

The spokesman for the Olympic committee denied that Mr. Assamarai had ever insisted that his son be put in charge of the league. Mr. Assamarai's son, the spokesman pointed out, lives in Britain.

The new season is supposed to begin sometime in September when the weather begins to cool down - Mr. Ismael said there was no particular opening day. The summer heat has made any regular practices absolutely unbearable, though on a recent afternoon, Mr. Ismael assembled a squad, including several players from the south, to put on a demonstration for a visiting reporter.

The players laid out the bases at the edge of a fallow soccer pitch, where the grass had grown to shin height and was full of dust from sand storms. A herd of cows and sheep grazed nearby. The players drew from a communal stockpile of gloves - most do not own their own - and took turns batting and running the bases.

There were a lot of wild throws, and few hits made it out of the infield. The shortstop was out of position, playing nearly on top of second base, and for some reason everyone referred to the catcher as "the umpire." Many players in the league said they had never seen the sport played by non-Iraqis; even Mr. Ismael has only seen college or professional players from abroad on instructional DVD's and videos.

But there was no shortage of enthusiasm. Ali Muhsen, the 27-year-old captain of the national team, said afterward that he dreamed of one day traveling to the United States with the Iraqi national team and playing the Americans.

Asked if beating the Americans was also part of the plan, he smiled bashfully and shook his head no.

The conversation went on but Mr. Muhsen remained silent, apparently reconsidering his answer.

"Inshallah," he finally said. "I hope."

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Saudis Kill Top Militant, Ending Skirmish With A Qaeda Cell (NYT)

By Hassan M. Fattah

The New York Times, September 7, 2005

DAMASCUS, Syria, Sept. 6 - Saudi security forces finally overwhelmed a cell of militants holed up in a house in the Persian Gulf city of Dammam on Tuesday, ending a three-day siege. The bloody firefight was the latest in a string of confrontations between militants and security forces throughout the country.

Late Monday, the Interior Ministry announced that security forces had killed two militants on Sunday, including the No. 3 most-wanted militant in Saudi Arabia, Zaid Saad Zaid al-Samari, who was sought in connection with numerous attacks.

The militants took refuge in the seaside house on Sunday night and held security men at bay with heavy arms until Tuesday.

An Interior Ministry source, quoted by SPA, the official Saudi news agency, said security forces completed the operation in the Almubarakia neighborhood of Dammam by midday Tuesday. The agency said 4 policemen had been killed, 10 wounded and an unspecified number of militants killed.

"The security forces are currently securing and clearing the site where burnt remains are scattered," SPA reported.

A spokesman for the ministry said the gunmen were affiliated with a "deviant group," meaning Al Qaeda.

Gunfire and explosions rocked the neighborhood for hours on Tuesday as security officers dropped from helicopters and laid siege to the villa.

At one point, an explosion blasted debris, and smoke billowed out of a neighboring building, The Associated Press reported, and then there was silence.

The three-day siege forced the closing on Monday of the United States Consulate in Dhahran, about 15 miles away.

In recent months, Saudi security forces have found themselves in almost weekly confrontations with militants. Since May 2003, Islamic militants have carried out numerous attacks, suicide bombings and kidnappings in the kingdom, including an attack on the United States Consulate in Jidda, mainly singling out Westerners in a bid to hamper the country's economy.

Surge In Saudi Oil Income Seen Aiding Fight On Terror (WT)

By Rasheed Abou-alsamh

The Washington Times, September 7, 2005

JIDDA, Saudi Arabia -- Record oil prices have sent Saudi revenues soaring and contributed to a sixfold increase in stock prices, but ordinary citizens are just beginning to feel the benefits, financial analysts say.

Economists hope that in time the surge will produce more and better jobs for young Saudis, reducing their interest in joining al Qaeda-linked terrorist groups that have been battling the government.

A midyear financial report by the Samba Financial Group, one of the largest and most profitable private banks in the kingdom, said oil revenue this year is expected to reach $157 billion, a 48 percent increase over 2004's oil revenue of $106 billion.

The Saudi stock market, meanwhile, has seen its capitalization grow from $82.1 billion at the end of June 2002 to $517.6 billion at the end of June 2005, or an increase of $435 billion in just three years.

"The increased wealth is beginning to trickle down to ordinary Saudis," said Ihsan Buhuleiga, a leading economist and member of the Shura Council, in an interview with The Washington Times.

While some economic analysts have expressed worries over an overheating stock market, Mr. Buhuleiga said he hoped to see the surge of new listings continue.

"The number of companies currently listed are only 80. In Oman, they have double that number. More Saudi companies should be listed, as this will encourage more job creation," he said.

Job creation is something the Saudi government desperately wants to achieve in order to stop young, unemployed Saudi men from being lured into joining terrorist groups.

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While some foreign critics of the Saudi government worry that some of the increased oil revenues will find their way into the pockets of the terrorists, Anthony Cordesman, a specialist in Saudi affairs at the Center for Strategic and International Studies, thinks the new revenues will allow the Saudi government to both battle the insurgents and develop the country.

The spurt in oil revenue may also help the ruling al-Saud royal family to secure its popularity.

On Aug. 22, the government announced a 15 percent increase in the wages of all government employees, a move ordered by newly enthroned Saudi King Abdullah to garner popular support and to inject money into the local economy.

Even before the salary raise, Saudis had seen their per-capita gross domestic product grow from $7,437 in 1998 to $11,052 in 2004. Samba estimates per capita GDP in 2005 to reach $13,603.

However, Mr. Buhuleiga warned that the government must avoid spending profligately and establish a buffer fund to tide the country over during leaner times.

"We don't know where oil prices will be in five years from now. We need to create a public budget-stabilization fund, in which all oil revenue is deposited, in order to finance budget deficits," he said.

"I don't think we want to be in the situation again of having to borrow money from our pension funds to cover our deficits. The government regularly overspends its budget by 15 [percent] to 20 percent. They should stop doing so. We need fiscal responsibility."

Saudi Arabia's current total population is 26 million of which more than 5 million are foreign workers. Mr. Buhuleiga cites this as evidence of the kingdom's overwhelming dependence on foreign labor to keep the economy growing.

"It is not going to be the normal state of things in the next three years. We should be talking about developing the citizen. We need to learn from the extremely hard lesson we had in 1998 when oil went below $10 a barrel. We must continue with economic reforms to maintain our competitive advantage," the economist said.

Government spending on infrastructure and education was cut back in the late 1990s owing to the low oil prices on international markets.

The government began to catch up by allocating $21.3 billion toward building new roads, water-desalination plants and schools through 2006.

1st Afghan At U.S. Academy Sees Move As Way To Help His Country (USAT)

By Tom Vanden Brook

USA Today, September 7, 2005

WEST POINT, N.Y. — The U.S. Military Academy accepted its first cadet from Afghanistan last month as that country takes its initial steps toward building a professional military after decades of war and unrest.

Shoaib Yosoufzai wears a slight smile, even after an all-night march that caps six weeks of training. The 20-year-old, who grew up under harsh Taliban rule, wants to learn to build bridges, dams, power plants and roads for his ravaged country.

“I want to study civil engineering so that I can work on practical things,” Yosoufzai says. “We need that in my country. We need professional officers.”

The U.S. Military Academy has taught international cadets for more than a century. Since it began tracking foreign students in 1889, West Point has had 324 international graduates from dozens of countries, says Capt. Robert Romans, the academy's international admissions officer.

Among them: Fidel Ramos, who became president of the Philippines; Anastasio Somoza, later the president of Nicaragua; and Jose Maria Figueres, who went on to become president of Costa Rica.

The Defense secretary decides which countries are invited to participate. Currently there are 140 countries eligible to send cadets to West Point, the Naval Academy in Annapolis, Md., and the Air Force Academy in Colorado Springs.

West Point has a limit of 60 international cadets a year. It currently has 55.

Yosoufzai's father, Hamdullah Yosoufzai, is a colonel in the Afghan army and dean of its new military academy. West Point officers have advised their Afghan counterparts in how to train cadets.

They're starting almost from scratch.

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The Soviet Union invaded Afghanistan in 1979. Guerrilla forces chased out the Soviets 10 years later and toppled the communist government there in 1992. Factional fighting among warlords followed. In 1996, the Taliban, backed by neighboring Pakistan, seized Kabul, the capital, and installed a fundamentalist Islamic government that sheltered terrorists. A U.S.-led coalition ousted the Taliban in 2001 after the Sept. 11 attacks.

U.S. forces in Afghanistan recognized Yosoufzai as West Point material, and the U.S. Embassy in Kabul recommended him for admission, Romans says. Yosoufzai spent a year at the University of Nebraska at Omaha, polishing his English and adjusting to the USA.

"He had a little trouble at first with our food," Romans says. "Not a lot of burgers and fries in Afghanistan."

Yosoufzai agrees the transition has been rough at times.

"It is hard," he says. "I miss my family, my country, my friends. But if you can succeed here, you can succeed anywhere."

He says he wants to return to Afghanistan and help it make the transition to a modern society.

He's proved a quick study and today counts a young man from Burke, Va., as one of his best friends.

"I feel very proud to be his roommate," says Steve Hojnicki, 18, who, like Yosoufzai, comes from a military family. His father, Leon, belongs to the West Point Class of '81.

"Shoaib's country is going to need everything that this institution has to offer," Hojnicki says.

Despite War, Cadets Line Up For West Point (USAT)

By Tom Vanden Brook

USA Today, September 7, 2005

More than 10,000 applied for this year's 1,200 slots;

students 'prepared to accept the risks' of military service

WEST POINT, N.Y. — Geryah White, fresh from a 15-mile overnight march over rocks and gullies, stretches her legs and pronounces herself ready for more.

The challenge before her is four years of academic and military training at the U.S. Military Academy followed by five years of active duty in the Army.

"It's more mentally tough than physically tough," White, 19, says after her first six weeks at West Point. "It's just a matter of going one step further than you thought you could. I'm ready for the challenge. I'm ready for more."

White and the 1,200 other members of the West Point class of 2009 have the grades and test scores to get into almost any top school — one that wouldn't bring compulsory military service after graduation. Instead, they accepted this challenge, their eyes wide open to the dangers as American soldiers return home in flag-draped caskets or maimed by roadside bombs.

The Army and Army National Guard are expected to miss their 2005 recruiting goals by several thousand new soldiers, but interest in West Point hasn't flagged. Applications reached 12,692 in 2003. They're down to 10,733 this year but still high by historical standards, says Lt. Gen. William Lennox, West Point's superintendent.

"These kids are volunteers," says Lennox, who refers to the new class as the first of the post-9/11 generation. "They know about Iraq, Afghanistan, the war on terror."

The message is driven home when they apply to the academy.

"We convey to them the dangers by being very frank about the job of being a lieutenant, probably being in harm's way with what's going on in the world," says Col. Michael Jones, director of admissions at West Point.

A graduate of the academy receives a commission as a lieutenant.

The news of casualties in Iraq is unavoidable, and Kristina Dionne, 18, of Raymond, N.H., pays attention to it.

News of the death of the first female graduate of the academy since 9/11 reached the young cadets just days after they were formally admitted. First Lt. Laura Walker was killed with another soldier in Afghanistan when their Humvee struck a land mine Aug. 18.

"It's always something to think about," says Dionne, who hopes to study Arabic and Russian and specialize in military intelligence. "But West Point trains you to handle it better than anywhere, and you have to be prepared to accept the risks."

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Parents, particularly mothers in the past few years, have expressed anxiety about military service, Jones says. Yet their children still come. Alumni say the cadets' attitude is patriotism mixed with a thirst for adventure and a youthful feeling of invincibility.

Col. Don Sando, West Point class of '81, says the new cadets may be aware of the dangers but feel they're immune to them.

Sando, based at Fort Benning, Ga., says he has seen enough 18-year-old infantry privates to know that many believe they're "bulletproof, indestructible." He also sees "a basic motivation for adventure" among the young soldiers as well as a desire to serve their country.

The same holds true at West Point, he surmises.

"I suspect their motivations are as varied as there are faces in the crowd," Sando says. "But I believe the fact that West Point offers so much more than an undergraduate education — to develop leaders of character for a lifetime of service — goes a long way.

"And the notion of selfless service remains strong in the American culture."

John Wheeler, a 1966 academy graduate and Vietnam veteran, put it this way: "They may be just 15, 16 or 17 years old when they make that decision. But being young is no bar to figuring out the things that matter most in life."

Family influence can sway a decision to attend West Point. Jeffrey Caslen, 19, has watched his father climb the ranks to brigadier general.

"I've been an Army brat my whole life," says Jeffrey, who plans to study engineering. "This seems like a natural choice. There won't be the distractions here that there are at other colleges."

Brig. Gen. Robert Caslen, class of '75, deputy director for the War on Terrorism at the Pentagon, beams a smile at his son.

"As a dad in the Army, I'm humbled that he chose to follow the same path," the general says. "I'm anxious, too. There are huge demands and incredible sacrifices. His mom is tremendously nervous, too. It's one thing for her to see me off to combat and another with her son. She knows up close and personal the sacrifices."

Gerald and Ann White recall signs at an early age of the woman daughter Geryah would become.

Gerald White remembers a take-charge little girl pulling herself up as a toddler and taking her first steps unaided. Ann White says Geryah tugged on a basket of laundry at age 2, insisting on carrying the load.

"She wanted everything in the right place," Ann White says. "She's always had that inner drive to succeed."

It came as no surprise, the Whites say, when their daughter announced her interest in West Point after attending a college fair in Tampa.

"She didn't have to do this," Ann White says. "She had a choice of great universities, and she chose West Point."

Gerald White has seen a photo of his daughter emerging from a room filled with noxious gas during her training this summer. She is grim-acing, but she got through it.

"When I saw that, I thought, 'She can hang. She can hang,' " he says. "She's a strong, determined, tough young lady. She's going to serve her country well. She's a soldier."

As the first rays of peach-colored sun begin to burn off the fog obscuring the Hudson River Valley gorge, the new cadets sling 50 pounds of gear to the ground and take a break on the dew-slick grass on the steep grade of Victor Constant Ski Slope.

White says she thrives on challenges, physical and mental. That's what appealed to her about West Point, where she plans to study psychology and compete in track.

She has calculated the dangers of military service, noting that the casualty rate is "very low in Iraq," and says she's comfortable with the risks.

Since the 9/11 attacks, 26 West Point graduates have been killed in action.

"It comes with the job. You can't be naive about it," she says. "But you could get hit by a bus walking down the street, too."

Sweaty, smelly and smiling, the new cadets swill Gatorade. White gathers her gear and prepares to march again after a brief break.

"You know what they say," she jokes. "It sucks to be here now, but it will be great to be from here in four years."

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Medals Of Valor To Be Given To Families Of 9/11 Heroes (STNIA)

By TERENCE J. KIVLAN

Staten Island Advance (NY), September 7, 2005

WASHINGTON -- Dozens of Sept. 11 family members are expected to travel here Friday to receive the Congressional Medal of Valor on behalf of the more than 400 firefighters and police officers killed at the World Trade Center.

The medals will be awarded by U.S. Attorney General Alberto Gonzalez in a ceremony at the Justice Department.

Relatives of the fallen first responders were notified of the event by Justice Department officials by telephone late last week. Free air fare was made available for the family members through a travel agency in the city.

Advertisement

Among the relatives planning to attend was Joanne Barbara of West Brighton, whose husband Gerard, a battalion chief, was among the 343 firefighters who died at Ground Zero.

She said in an interview that she had mixed feelings about the event.

"Of course, it will be an honor to accept the Medal of Valor for my husband," she said.

But Mrs. Barbara said the Justice Department should have informed the families of the ceremony much sooner. "Our weekend is going to be very emotional as it is," she said, referring to the 9/11 anniversary. "And they just added another event to it that we didn't know about."

"We are not just to put on exhibition," said Mrs. Barbara. "We have feelings."

Congress created the medal in 2001 to honor public safety officers who displayed "exceptional courage." Winners are selected through a peer review process conducted by an advisory board of ex-police officers and firefighters.

Congress specifically authorized the issuance of the medal to the first responders killed in the 9/11 rescue efforts at the World Trade Center and the Pentagon in legislation passed in 2002. It was co-sponsored by Republican Rep. Vito Fossella

A total of 428 rescue workers were killed at Ground Zero, including 37 Port Authority cops, 23 city police officers, three state court uniformed officers and two federal agents.

Among those killed were 78 firefighters from Staten Island, one city police officer and two Port Authority cops.

Altogether, 442 public safety officers died in the 9/11 attacks. They were certified by Gonzalez to receive the valor award in July.

The list was compiled from the list of 9/11 rescue workers whose relatives received benefits from the Public Safety Officers Benefits Program. The program provides tax-free payments of $250,000 to the families of first responders killed in the line of duty.

Terence J. Kivlan is Washington correspondent for the Advance. He may be reached at terence.kivlan@newhouse.com

CORPORATE SCANDALS:

Enron Defendants Cry Foul (WP)

By Carrie Johnson, Washington Post Staff Writer

The Washington Post, September 7, 2005

Defense lawyers for former Enron Corp. executives Kenneth L. Lay and Jeffrey K. Skilling have complained for years about the government's hard-nosed tactics in pursuit of their clients.

Now they are hoping for support from an unlikely source: the federal judge overseeing next year's fraud trial against the two.

U.S. District Judge Simeon T. Lake III has scheduled a hearing in Houston for tomorrow to examine why only four former Enron employees have agreed to meet with the defense team. The judge has raised the prospect, employed in other cases, that he could privately inform a limited number of potential witnesses that they have nothing to fear by speaking with Lay's and Skilling's lawyers.

The judge's action comes in response to defense claims, made public yesterday in court filings, that prosecutors abused their power by warning Enron employees that it was not a "good idea" to help Skilling and Lay. A government lawyer also advised a critical, unidentified witness to "get rid" of his or her lawyer if the lawyer continued to talk with the defense, the brief said.

A grand jury continues to investigate misconduct at Enron, and prosecutors have said in court papers that they consider 114 people "unindicted co-conspirators."

Lake has not ruled that prosecutors at the Justice Department's Enron Task Force acted improperly. Even so, the judge said last week, Lay and Skilling had identified "a problem I am persuaded exists" in advance of a trial only four months away.

"Both sides have to have access to witnesses in order to try a case," Michael Ramsey, a defense lawyer for Lay, said in a telephone interview.

Daniel M. Petrocelli, Skilling's lead trial counsel, told the judge at a hearing in May: "There's hundreds of witnesses, and we can't get to anybody, and we need some relief."

Nearly three dozen former employees and those who did business with them have been charged with crimes in the Enron investigation. Several key figures, including finance chief Andrew S. Fastow and investor relations director Mark E. Koenig, pleaded guilty and agreed to testify against their former superiors.

The clash over access to witnesses is merely the first in a series of battles for control of the courtroom, the media and potential jurors who will be selected in January, experts said.

"As a general matter, witnesses refusing to talk to the defense is a huge problem," said Barry Boss, a partner at Cozen O'Connor LLP in the District who is not involved in the Enron case.

Unlike in civil cases, defendants who are charged with crimes do not automatically receive copies of written statements and information that witnesses provide to the government.

"The defense really doesn't have any clout" to force people to talk, said Stephen A. Saltzburg, a George Washington University law professor. Such concerns are increasingly common in sophisticated cases, he said. Defense lawyers for former WorldCom Inc. chief executive Bernard J. Ebbers cited similar problems as a basis for an appeal of his conviction for fraud and making false statements.

Lay, Skilling and former chief accountant Richard A. Causey, who is on trial with them, do have some guidance about the evidence marshaled against them -- in part because of the vast impact of Enron's 2001 collapse. The company's bankruptcy examiner filed several weighty reports citing e-mail messages and other documents. Congressional reports flagged other materials the government may use in its prosecution. And depositions of witnesses continue in shareholder lawsuits against Enron executives.

Defense lawyers for Skilling and Lay, however, say that 56 witnesses have invoked their constitutional rights against self-incrimination in connection with the civil case. Prosecutors have sought to postpone depositions of others, including Sherron Watkins, who sent Lay an anonymous letter in 2001 warning him that the company could implode in a wave of accounting fraud.

The Justice Department filed a motion late yesterday calling the defense brief "inflammatory."

"The government respects the right of any witness to meet or not meet with whomever they want," Justice Department spokesman Bryan Sierra said. "The majority of witnesses in this case are represented by experienced counsel who are in the best position to advise them on whether to meet with the government or defense counsel."

Sweden Will Prosecute Ex-CEO Of Insurer Skandia (WSJ/DJN)

By Maria Akerhielm, Louise Nordstrom and Janina Pfalzer, Dow Jones Newswires

The Wall Street Journal, September 7, 2005

STOCKHOLM -- Swedish state prosecutor Christer van der Kwast decided to prosecute Lars-Eric Petersson, former chief executive officer of insurer Skandia AB, for two cases of "severe" breach of trust.

Mr. Petersson was fired by Skandia in 2003 for his involvement in the lifting of a cap on a bonus-payment program to executives. The charges against him won't have any bearing on the 44.9 billion kronor ($6.02, or €4.83 billion) takeover bid for Skandia filed last week by Old Mutual PLC. The Old Mutual offer has to be approved by the Swedish company's board before Sept. 23.

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Mr. Petersson's attorney, Torgny Wetterberg, told Dow Jones Newswires he doesn't understand the prosecutor's reasoning. In his view, the preliminary investigation should have been discontinued.

"As I see it, there are insufficiencies in the presented circumstances, and we find it peculiar that the prosecutor has made the assessment that there is intent in this case," Mr. Wetterberg said. He added that he was confident that a trial would lead to an acquittal.

Officials from Skandia weren't available to comment.

The state prosecutor said he will decide in early October whether he will prosecute two other former Skandia executives, Ola Ramstedt and Ulf Spaang.

Mr. Petersson is being prosecuted for abusing his position of trust when he, as Skandia's CEO, lifted the cap on the bonus program Wealthbuilder without approval from Skandia's board, the prosecutor said.

Mr. Petersson is alleged to have set payment of the program 185 million kronor above the amount authorized by the board. This, the prosecutor said, has caused considerable damage to the company, and, therefore, the crime is "severe."

The prosecutor said the second charge against Mr. Petersson relates to retirement payments.

Without approval from Skandia's board, he added retirement benefits under which his own benefits would always reach at least 97.1 million kronor, the prosecutor said.

Parallel to the civil process against Mr. Petersson, Skandia is currently involved in arbitration against him, relating to his involvement in benefiting from the lifting of the payment cap of the bonus program. The company is seeking 300 million kronor in compensation from Mr. Petersson. It had previously said it expected the outcome of the arbitration to be reached early next year.

The Debate On Auditing Must First Clarify Its Purpose (FT)

By Clare Canning and James Roberts

Financial Times, September 7, 2005

The statutory audit continues to generate headlines, with reforms being either supported or attacked. Expectations of the audit process can rapidly exceed what can reasonably be delivered. There is a danger that misconceptions about the audit's role will lead to counterproductive attempts to bolster the robustness of the audit opinion.

Take the debate over the effect of the introduction of international accounting standards, which partially replace the concept of "true and fair view" by "presents fairly". Some investor groups have argued that this undermines the robustness of the audit opinion, through a shift away from the traditional UK approach of over-arching judgments based on general principles towards a US style of "tick box" or rules-based audit processes.

The Financial Reporting Council has come out firmly against these concerns with a vote of confidence in the system, rejecting the notion that these technical reforms have weakened the UK audit. Ultimately it will be for the courts and regulatory bodies to determine whether this is the case. What seems certain, however, is that the FRC is unlikely to have won over all its detractors. Is there not a danger that the problem underlying this debate is the more fundamental issue of what it is that the investor and business communities think auditors do? What is the statutory audit designed to safeguard against? Until these questions are addressed and there is clarity between service providers and consumers, issues about the niceties of any particular reform seem academic.

Some of those expressing concerns appear to expect the audit to function like a form of commercial guarantee; a bastion against corporate scandal and a blanket protection for the company and its directors against their own commercial mismanagement. These expectations are misplaced. This firm has defended many misconceived lawsuits brought against auditors over the years. The problem often arises because the claimant has a skewed view of the auditor's role. The audit is not an exercise in verifying or double checking commercial management. Auditors do not underwrite a company's commercial viability. It is easy to forget that primary responsibility for safeguarding against corporate scandal can only lie with the business principals. One cannot help but surmise that the focus on the audit role is largely aimed, certainly in the context of litigation, at what is perceived to be behind the auditor – its deep pocket.

Let us assume that what the business community realistically understands it has from an audit is, not an insurance policy against any commercial error, but an opinion that a company's financial statements show a true and fair view at a particular point

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in time. Are the government's proposals to introduce a limited form of proportionate liability by contract for auditors then to be welcomed? No other professional is required in the same way to accept unlimited legal liability. Refusing limitation would only seem likely to encourage the profession to focus on the ticking of boxes to avoid the exposure of subjective judgments. Allowing auditors some scope to limit their liability should help to resist any trend for auditors to seek refuge in form over substance in the audit process.

The government is also considering introducing a criminal offence of "recklessly" giving an audit opinion. What exactly is involved in recklessness in this context is hard to define and even harder to apply. The mere risk of a prosecution may destroy an auditor's career. If, as is likely, the offence were to result in a risk of criminalisation in a swathe of circumstances, this too would create irresistible pressure towards form over substance. Excessive criminalisation would also frustrate swift and effective operation of the regulatory regime and civil litigation.

How unattractive does auditing need to become before the big four and others find it impossible to recruit quality staff and encourage their best partners to stay in audit? It may be that there is more that unites auditors, investors and the public when it comes to what will really bolster the giving of robust audit opinions. Conversely, initiatives based on unrealistic expectations will only fuel more speculative, expensive and ultimately unsuccessful litigation. That cannot be in the investment communities' interests.

Clare Canning is head of commercial litigation and James Roberts an associate in the commercial litigation team at Barlow Lyde & Gilbert, who currently act for Ernst & Young in the Equitable Life litigation

Morgan Director Resigns, A Sign That A Reorganization Is Likely (NYT)

By Landon Thomas Jr.

The New York Times, September 7, 2005

Michael A. Miles, a Morgan Stanley director with close ties to the former chief executive, Philip J. Purcell, has resigned from the board, the bank said yesterday.

The move, which was expected, is the latest signal that the new chief executive, John J. Mack, intends to reorganize a board that during the battle over Mr. Purcell's leadership became a lightning rod for criticism and remains the target of several shareholder lawsuits.

A former chief executive of Philip Morris, Mr. Miles, 66, was one of the original directors of Dean Witter when the investment bank was spun off from its parent, Sears, in 1993.

As head of Morgan's nominating committee, Mr. Miles was an architect of a board that included several former chief executives, many of whom lived in the Chicago suburbs, who defended Mr. Purcell in the years after the Dean Witter Morgan Stanley merger.

"I believe there is always a need for change and refreshment in any organization," Mr. Miles said in his letter of resignation.

A longtime director with years of boardroom experience - at one time he was on seven boards in addition to Morgan Stanley - Mr. Miles was one of Mr. Purcell's closest advisers during the bitter dispute with the group of eight dissident executives who were calling for Mr. Purcell's resignation.

From the beginning, Mr. Miles defended Mr. Purcell's record and, even as other directors began to waver, he remained a vocal critic of the campaign being waged by the retired executives, known widely as the group of eight.

While his resignation is the first since Mr. Mack became chief executive, another director with ties to Mr. Purcell, Edward A. Brennan, the former chief of Sears, will not stand for re-election next year because he will have exceeded the board's age limit of 72.

Mr. Mack has already welcomed three new directors - Charles H. Noski, a former chief financial officer at AT&T; Roy J. Bostock, a former advertising chief executive; and O. Griffith Sexton, a former Morgan Stanley executive and professor of finance at Columbia Business School.

Firm Sues To Block Mutual Fund Fee Inquiry (NYT)

By Riva D. Atlas

The New York Times, September 7, 2005

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J.& W. Seligman & Company, a New York investment firm, sued the state's attorney general, Eliot Spitzer, yesterday, asserting that he had overstepped his authority in his investigation of improper trading in Seligman's mutual funds.

The lawsuit, filed in Federal District Court in Manhattan, seeks to suspend Mr. Spitzer's ability to investigate "allegedly excessive advisory fees paid to Seligman."

Seligman, founded in 1864 and one of the nation's oldest investment firms, is one of the few mutual fund managers that have yet to reach a settlement with Mr. Spitzer regarding market timing in its funds.

Market timing - the rapid trading in and out of mutual funds - has been the focus of an investigation made public by Mr. Spitzer two years ago this week.

The attorney general and other regulators have accused fund managers of permitting favored investors to make short-term trades, even when their public filings indicated that they discouraged the practice.

A long list of fund companies have agreed to ban the practice, and to pay about $3 billion worth of fines, restitution and fee reductions to investors harmed by the trading.

In recent months, however, some parties have begun to challenge Mr. Spitzer in the mutual fund investigation and beyond. In June, a jury found against the attorney general on most charges in a criminal case against a former broker at Bank of America, Theodore C. Sihpol III. Mr. Spitzer had accused Mr. Sihpol of helping Canary Capital Partners, a hedge fund, in market timing.

The same month, certain banks, including J. P. Morgan Chase, sought to prevent Mr. Spitzer from investigating whether the banks were charging excessive interest rates on mortgages to minorities. A court hearing is scheduled for today in Federal District Court in Manhattan on the matter.

A few months after Mr. Spitzer's mutual fund investigation became public, Seligman agreed to pay nearly $2 million to investors in three of its mutual funds where there had been rapid trading. It also said it would reduce fees on one of those funds by 0.05 percent for two years beginning in June 2004.

Despite the voluntary fee cuts, Mr. Spitzer's investigation continued, because he believed that the actions the firm had taken were not sufficient, a person briefed on the investigation said. That person said he could not speak for attribution because the talks were confidential.

Seligman reached a tentative agreement in August with Mr. Spitzer's office and the Securities and Exchange Commission, but talks broke down after Mr. Spitzer "sought to impose operating conditions on Seligman which were unacceptable to Seligman," the lawsuit said.

Mr. Spitzer's office wanted Seligman to appoint an independent monitor to review how the fund's managers negotiated fees, the lawsuit said. Seligman said monitoring its fees "is the regulatory province of the S.E.C., and only the S.E.C.," the lawsuit said.

After the talks broke down, Mr. Spitzer issued a series of subpoenas in late August against directors and executives at Seligman in an effort to pressure Seligman into agreeing to his terms, the lawsuit said.

Requiring a third party to review how fees are set has been a condition of all of Mr. Spitzer's settlements with fund companies to date, said David D. Brown IV, director of the attorney general's Investment Protection Bureau and the person overseeing the day-to-day operations of the mutual fund investigation.

The fee reductions, however, have been criticized by officials at the S.E.C., who have said it is not the role of the government to set prices.

Even with the fee reductions, expenses at many Seligman funds are above average, Mr. Brown said, citing data from Morningstar, a research firm that tracks mutual funds. "Why don't they want to join other mutual fund companies in reducing inordinately high fees?" he said.

Expenses at Seligman funds, on average, are 1.93 percent of assets, according to Morningstar, compared with an average of 1.47 percent at large fund companies. Performance at many Seligman funds has also been weak.

Last year, Seligman named a new chief investment officer, John B. Cunningham, who is making positive changes at the firm, said Todd Trubey, a Morningstar analyst.

"He came in to clean things up and we have found him to be a pretty straight shooter," Mr. Trubey said. For now, Morningstar is willing to give Seligman the benefit of the doubt, even with this lawsuit, Mr. Trubey said. The research firm plans to meet with Seligman executives within the next few days, he said.

Morgan Stanley To Pay To Settle Complaint (FINDLAW/AP)

Find Law, September 7, 2005

(AP) - WILMINGTON, Del.-Morgan Stanley Inc. has agreed to pay $700,000 to settle a complaint brought by the state Department of Justice regarding improper trading in a Delaware couple's brokerage account, officials said Tuesday.

The bulk of the settlement will be paid to the Wilmington couple to reimburse them for losses incurred, authorities said.

The Division of Securities filed a formal complaint in 2003 against the brokerage firm and two brokers, George Coughlin and Argie Economou who worked in a Morgan Stanley branch office in Burlington, Vt.

The complaint alleged that Morgan Stanley, through Coughlin, executed more than 500 unauthorized transactions and more than 70 "unsuitable" transactions in the couple's account. The complaint also alleged that Morgan Stanley and Economou, who was Coughlins immediate supervisor, failed to properly supervise Coughlins trading activities, in violation of Delaware securities laws.

As part of the settlement, Morgan Stanley and the brokers named in the complaint neither admitted nor denied the allegations.

CRIMINAL LAW:

Legal Experts Call Current Law A Poor Fit For Leak Prosecutions (WP)

By Christopher Lee

The Washington Post, September 7, 2005

Convictions for leaking sensitive government information to the media are almost as rare as sightings of the ivory-billed woodpecker.

Only twice have government employees gone to prison for such misdeeds. And legal experts say prosecutors will have a hard time putting away anyone in the administration for violating the Intelligence Identities Protection Act in the revelation of CIA operative Valerie Plame's identity in 2003.

The bar for breaking the 1982 law is high. Whoever makes the disclosure must know that the person was a "covert agent" and must intentionally reveal the agent's identity to someone not authorized to know it.

There is, however, another statute that federal officials have used to go after government leakers. Some legal experts say it is not out of the question that prosecutors in the Plame case could bring it out again -- although it, too, seems a long shot.

The provision, Section 641 in Title 18 of the U.S. Code, nominally deals with prohibitions on the embezzlement of public money, property or records for private use. It typically would be used to go after a federal employee who, say, absconds with government laptops.

Prosecutors used the statute -- somewhat creatively, legal experts say -- to help build successful cases against Samuel L. Morison, a former Navy intelligence analyst who was sentenced to two years in prison in 1985 after being convicted of espionage and theft in leaking secret U.S. spy satellite photographs to a British magazine, and Jonathan Randel, a former Drug Enforcement Agency intelligence research specialist who in 2003 was sentenced to a year in prison for selling restricted information.

The statute "is used by the government from time to time in lieu of not having a criminal prohibition on leaking classified information, generally," said William Banks, a national security law expert at Syracuse University. "It isn't a good fit, but it's the best available."

Kevin M. Goldberg, a partner at Cohn and Marks LLP in Washington and an expert on First Amendment issues, said that prosecutors might try to use it.

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"I think that's a really bad precedent to set, however," Goldberg said. "Essentially, you are just creating almost an Official Secrets Act in which all government information belongs to the government, and can never be given out to a member of the public."

Morison, who worked at the Naval Intelligence Support Center in Suitland, sent Jane's Defence Weekly, for which he moonlighted as an editor, three photographs of the first Soviet nuclear aircraft carrier under construction at a Black Sea shipyard. His attorneys unsuccessfully argued that their client was a supporter of President Ronald Reagan and bigger defense budgets who wanted to publicize the Soviet threat.

Randel provided information from a DEA database to the Times of London newspaper indicating that the name of Lord Michael Ashcroft -- a dual citizen of Britain and Belize who was treasurer of the Conservative Party -- was in agency files used in investigations of drug trafficking.

The newspaper cited the information in stories on Ashcroft and his business dealings in Belize, stories that Ashcroft complained falsely suggested that he was a target of DEA investigations into drug trafficking. (After Ashcroft filed a libel suit, the paper published a statement saying there was no evidence he had been suspected of any drug-related crime.) Prosecutors said Randel was paid $13,000 for the information, which was sensitive but not classified. The newspaper said the money was to cover Randel's expenses and time when he traveled to Britain to help the newspaper prepare a defense to Ashcroft's libel suit.

At Randel's sentencing, U.S. District Judge Richard W. Story of the Northern District of Georgia said: "This is like the drunk driver who gets home without killing somebody. . . . No agent was killed as a result of the information that was leaked and no investigation was compromised, but the risk that was created was certainly there. And that is of grave concern."

In an essay published July 15 on CNN.com, former Nixon White House Counsel John Dean argued that White House Deputy Chief of Staff Karl Rove could be vulnerable on the same grounds. Time magazine reporter Matthew Cooper has said that Rove told him in 2003 that Plame, the wife of President Bush critic Joseph C. Wilson IV, worked for the CIA, but that Rove said nothing about her being a covert operative.

"Rove had no idea what the specific consequences of giving a reporter the name of a CIA agent [about whom he says he knew nothing] would be," Dean wrote. ". . . [I]f the risk Randel was taking was a 'tremendous' risk, surely Rove's leak was monumental." Rove has said he did nothing illegal.

Several experts disagree with Dean's assessment, saying the embezzlement statute is an especially poor fit for the Plame case. For one thing, it requires that there be an intent to convert the purloined property or record -- the "thing of value" -- to one's use or gain. Morison was paid as an editor for Jane's. Randel got money from the Times of London. But political gain does not count, the experts said.

"This is for people who steal public property. This is used all the time, but not for situations like this," Banks said. "Because there isn't anybody in this for gain -- for pecuniary gain -- I think it's a bit of a stretch."

Victoria Toensing, a Washington lawyer who helped write the Intelligence Identities Protection Act, said prosecutors would "absolutely never" try to use the embezzlement statute in the Plame case.

Dean "is trying to put the stepsister's foot in Cinderella's shoe," she said. "What was converted? . . . Where is the 'value' given to Karl Rove? . . . The story shouldn't even be written, because it's so off the wall to give it any credence."

Former City Official Gets 30 Months In Prison (HC)

By Harvey Rice

Houston Chronicle, September 7, 2005

A former Houston city official was sentenced to two years and six months in federal prison today for accepting cash and gifts from businesses seeking her influence in gaining lucrative city contracts.

The sentencing of Monique McGilbra, former head of the city Building Services Department, follows a three-year sentence she received Friday in Cleveland, Ohio, for accepting bribes from a Cleveland businessman.

McGilbra, 41, is the second Houston city official to plead guilty in a continuing investigation that began in Cleveland and expanded to include Houston and New Orleans.

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Oliver Spellman, 51, chief of staff to former Mayor Lee Brown, received probation and a $10,000 fine Friday in Cleveland federal court for taking a $2,000 bribe from a Cleveland consultant.

U.S. District Judge Vanessa Gilmore said McGilbra's Houston sentence will run at the same time as the Cleveland sentence, meaning she will spend no more than three years in prison.

McGilbra was more repentant in her statement to Gilmore than in her statement to U.S. District Judge James Gwin in Cleveland, who was unmoved when she told him that having expensive tastes shouldn't be a crime.

"I'd like to say how regretful and sorrowful I am," McGilbra told Gilmore. "I'll spend the rest of my life trying to make amends for that."

U.S. marshals took McGilbra into custody on orders from Gwin, but Gilmore said McGilbra could be released until ordered to report to prison if Gwin agreed to reconsider his order.

Assistant U.S. Attorney Edward Gallagher and Mary Butler, a prosecutor with the Department of Justice's public integrity unit, told Gilmore McGilbra was cooperating in an ongoing investigation.

"We are striving to discover the extent of corruption and we are not going to leave any stone unturned," Gallagher said outside the courtroom.

In return for agreeing to cooperate with the government, McGilbra pleaded guilty to one count of conspiracy to commit mail and wire fraud.

She admitted she received numerous gifts from representatives of the Keystone Group, controlled by Houston businessman Andy Schatte, including $1,000 in cash in a box containing champagne, use of a condominium for a ski trip to northern California, tickets to professional football games and a Neiman Marcus gift certificate on her birthday.

McGilbra admitted she accepted cash payments from her then-boyfriend, a consultant for the Keystone Group, and agreed to split a $250,000 cash bonus with him if the Keystone Group won a fire-station contract with the city.

She also admitted to using her influence to secure a consulting agreement for her boyfriend with an energy company she had helped obtain a city contract.

After clinching the energy company contract, she asked for and received financial assistance from a contractor seeking consulting work under the energy company, she admitted.

Gifts she received from the energy company and the contractor included $6,000 in cash, a $700 gift certificate from Louis Vuitton, and tickets to the Lion King worth about $1,000, according to the sentencing agreement.

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Embattled Lee Quits Plan Board (DMN)

By Emily Ramshaw, The Dallas Morning News

The Dallas Morning News, September 7, 2005

File / DMN D'Angelo Lee

Embattled City Plan Commissioner D'Angelo Lee stepped down over the holiday weekend, more than two months after he fell under scrutiny in a far-reaching FBI investigation and days before a second City Council vote over whether to remove him.

Mayor Pro Tem Don Hill, who nominated Mr. Lee to the commission in 2003 and, until this weekend, had vowed to keep him in his post, accepted Mr. Lee's resignation in a memo sent out Tuesday morning. The city secretary did not receive an official resignation letter from Mr. Lee on Tuesday.

"He has been a visionary for economic development in the Southern Sector of Dallas, however his primary objectives are to clear his name and to develop his private business interests," wrote Mr. Hill, who did not return phone calls. "Achieving these objectives is very difficult in the present environment. This decision to resign from the City Plan and Zoning Commission is in the best interest of his family and our city."

Mr. Lee, Mr. Hill, and five other city officials – council members James Fantroy, Leo Chaney and Maxine Thornton-Reese and Plan Commissioners Melvin Traylor and Carol Brandon – have been named in federal subpoenas served at City Hall.

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Mayor Laura Miller, who led the charge to remove Mr. Lee from the City Plan Commission after allegations surfaced that he was not reporting gifts and was voting on zoning cases where he was being paid as a consultant, said Tuesday that the resignation should have occurred "a few months ago."

Also Online

Chris Heinbaugh reports

She said it's going to take a lot of hard decisions "to make sure that we restore public trust at City Hall."

"He has now stepped down, and that's a really good step forward," Ms. Miller said.

Mr. Lee did not return phone calls on Tuesday. But his attorney, Doug Greene, said the pressure finally got to Mr. Lee.

"He respected Don Hill and didn't want to bring any ill repute on him or the citizens of Dallas," Mr. Greene said. "Based on that, and based on the spiraling investigation and reports, he thought it would be prudent for everyone at this point if he resigned."

The mayor spearheaded a City Council vote last month to forcibly remove Mr. Lee. It failed, with a majority of council members voting to delay the matter three weeks and wait for the city's Ethics Commission to rule on Mr. Lee.

In the meantime, two ethics complaints were filed against Mr. Lee, and a preliminary Ethics Commission hearing was set for Sept. 16.

On Saturday, four days before today's rescheduled council vote on Mr. Lee, The Dallas Morning News reported that Mr. Lee had nearly $1,600 in unpaid traffic violations since 2000, and, as such, was ineligible to serve on the Plan Commission. Mr. Lee also had reported different birthdays – within one day and one year of one another – on city nomination forms, The News reported.

Mr. Greene said Mr. Lee took care of the fines over the weekend.

"He posted bond on those, and they're in the process of being handled," he said.

His explanation of the birthday discrepancies was less clear.

On various public documents, Mr. Lee listed his birth date variously as Dec. 22, 1965; Dec. 23, 1966; and Dec. 23, 1965.

Mr. Greene said Mr. Lee told him he was born at midnight on the night of Dec. 22-23, 1965, and therefore celebrated both days as his birthday. As far as the mistaken year, he said, Mr. Lee told him someone must have made a typographical error. The birth dates were written by hand.

Mr. Greene said he doubted the Ethics Commission would proceed with a hearing on the complaints against Mr. Lee, considering the resignation. But Assistant City Secretary Deborah Watkins said the complaints would still be heard.

"If there's a complaint filed, whether they are a current or former city official, we will hear the complaint," she said.

Mr. Lee is not the only city official named in federal subpoenas to leave the Plan Commission. Mr. Chaney said Tuesday he would not renominate Mr. Traylor, who is employed by Southwest Housing, a development company under scrutiny in the FBI probe.

"I believe in Mr. Traylor. It's not because of" the FBI investigation, said Mr. Chaney. He has asked District 7 resident Ann Bagley to serve on the Plan Commission and said he would nominate Mr. Traylor to the municipal library board. "I'm shaking things up. I just want to provide others with the opportunity to serve."

Ms. Brandon, who represents District 8 on the Plan Commission, will not be relieved of her post, Mr. Fantroy said.

"Don't even think about it," he said.

Mr. Lee should have stepped down "a long time ago," said council member Bill Blaydes, one of two people who filed ethics complaints against him. "The city benefited greatly by him doing so."

But Mr. Lee's resignation is only one step, Ms. Miller said. Today, she will reveal a slate of proposed reforms to clean up the city's zoning process – rules that, if approved, would require plan commissioners and City Council members to be vested in citywide land-use decisions.

Too often, Ms. Miller said, elected and appointed officials defer to the district representative when deciding complicated and controversial zoning cases, rather than learning the details and voting their convictions.

"I think if you put them all together, it really changes how we do business with zoning at City Hall," Ms. Miller said. "And those changes need to happen."

WFAA-TV (Channel 8) reporter Chris Heinbaugh contributed to this report.

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Lee Resigns From Plan Commission (WFAA-TV)

By CHRIS HEINBAUGH

WFAA-TV, September 7, 2005

A key figure in the FBI investigation at Dallas City Hall has resigned.

City Plan Commissioner D'Angelo Lee submitted his resignation to Council member Don Hill. In a news release, Hill said he is regrettably accepting Lee's resignation.

Lee's business interests and activities as a City Plan Commissioner have been at the core of the FBI investigation.

Hill's memo said Lee's focus is clearing his name and developing his business interests. Hill said Lee can't do that in the present environment.

Hill said says Lee's resignation is in the best interest of his family and the city.

Three weeks ago, a sharply divided City Council refused a request from Mayor Laura Miller to remove Lee from the Plan Commission. The item was to be reconsidered on Wednesday.

Many Council members said they were pleased that Lee's decision will avoid another potential fight.

"Nobody likes a divided city," said Council member Elba Garcia. "I think that we'll need to move forward, work together, and make the best that we can for the city."

"This will help," Councilman Mitchell Rasansky agreed. "Surely it isn't going to hurt, but it should have been done several months ago."

Lee has reportedly has been driving a car belonging to someone else, and allegedly accepted fees from groups with business before the City Plan commission.

Lee is not the only member of the City Plan Commission who will be leaving his post.

Melvyn Traylor, whose name appeared in a recent subpoena, will not be back. City Council member Leo Chaney said he will not reappoint Traylor to the job.

Chaney insisted it was part of an overhaul of his appointee and had nothing to do with the FBI investigation.

The mayor is presenting a controversial package of reforms for the city plan commission.

"...There are some things going on behind the scenes that are not appropriate," she said. "And hopefully with these plan commission recommendations and city council recommendations tomorrow for reform, we won't have those problems anymore."

As for Don Hill, he said in light of the human tragedy caused by Hurricane Katrina, he would not answer questions today about Lee's resignation.

E-mail cheinbaugh@wfaa.com

Ribadu, FBI Meet In U.S. (NDI)

By Tony Eluemunor (Abuja) and Habib Aruna (Lagos)

Nigeria Daily Independent, September 7, 2005

Economic and Financial Crimes Commission (EFCC) chairman, Nuhu Ribadu, has been holding meetings with the United States Federal Bureau of Investigation (FBI) to intensify the search for corrupt Nigerian public officials.

He was in the U.S. last week to meet with senior government and FBI officials and to exchange information on the activities of Nigerian politicians, especially governors being investigated for corrupt practices.

Ribadu, according to sources, was sighted in Maryland and Washington D.C. where he had meetings with U.S. officials (in the company of an EFCC investigator) to obtain additional information on the property deeds of some governors and pass details to the INTERPOL.

He also used the visit to obtain more information on the raid the FBI carried out last month on the property of Vice President, Atiku Abubakar.

The search of his home in Maryland attracted national attention in Nigeria last week.

It was linked to the investigation of Congressman William Jefferson, whom Atiku had hosted during his visit to the U.S.

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But Ribadu, who returned later in the week, reportedly achieved little success due to the national outcry generated by the slow response of the American Government to the destruction of New Orleans by Hurricane Katrina.

Besides, the FBI has tarried in its investigation of Jefferson who incidentally hails from New Orleans.

"The FBI is threading carefully in pursuing new leads in the investigation against Jefferson because of the sensitive nature and political dimension it might take", a source explained.

In any case, Daily Independent has obtained a list of what the FBI seized during the raid.

The document, titled "Receipt for Property Received/Returned/Released/Seized", was signed by the leader of the FBI team.

It stated that the items included

• 1A envelope with house sketch.
• Employee schedule information and employee contact information.
• 2005 appointment book.
• Possible list of camera locations.
• Software and operation manual for DVR.
• Kalatel digital recorder.
• Multiplayer.
• Manila envelope containing miscellaneous papers with William Jefferson's return address.

Atiku's family lawyers supplied Daily Independent with the document.

They deplored the attempt by some newspapers to sensationalise the issue through the "fabrication of falsehood".

'What FBI Took From Atiku's US Home' (THISDAY)

By Kunle Akogun

This Day (Nigeria), September 7, 2005

The Office of Vice President Atiku Abub-akar yesterday rele-ased a list of items taken away from Maryland, US home by operatives of the Federal Bureau of Investigation (FBI) during their August 3 raid.

In an e-mailed press statement titled "What FBI Took From The Atiku Family House" and signed by his deputy Press Scretary, Mohammed Yakub.

The Vice President's office listed the items as including: 1A envelop with house sketch, employee schedule information and employee contact information, green standard diary, 2005 appointment book and possible list of camera locations.

Other items are software and operation manual for DVR, Kalatel digital reco-rder, multiplexer as well as manila envelop containing miscellaneous papers with William Jefferson's return address.

According to the statement, the document containing the report of FBI search was jointly signed by the FBI officials and a representative of the Atiku family.

THISDAY checks revealed that the release of the document entitled "Receipt for Property Received/Returned/Released/Seized" dated August 3, 2005, might not be unconnected with the need to refute publication in a weekly newsmagazine that during the search of Atiku's house in Maryland, USA, FBI agents found some documents on payments to American congressmen through William Jerfferson, an eight-term member of the US congress.

The statement from the Vice President's office quotted Atiku's family lawyers and added that the content of the FBI document was made public to reassure members of the public and disabuse their minds of what it called "the fabrication of falsehood".

It noted that at the time of conducting the search on Atiku's house, the FBI agents "certified that the (listed items) above represents all that was obtained by special agents of the Federal Bureau of Investigation, US Department of Justice."

The Vice President's family lawyers deplored the attempt by some newspapers to sensationalise the issue through the "fabrication of falsehood", the statement added.

On August 27, American newspapers were awash with stories of the FBI raid of the Maryland, US residence of Vice President Atiku Abub-akar.

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The raid, according to the papers, was part of a probe into whether eight-term congressman William Jefferson made payments to top Nigerian and Ghanaian officials.

A source familiar with the investigation said subpoenas showed federal agents were looking for records indicating whether Jefferson paid, offered to pay or authorized payments to Nigerian or Ghanaian government officials, The Times-Picayune said.

Agents were seeking documents related to Jefferson's dealings with Atiku and the vice president of Ghana, Aliu Mahama. Jefferson returned from a five-day visit to Ghana in mid-July, about three weeks before the FBI raided his homes, according to the newspaper.

The subpoenas focused in part on a telecommunications deal Jefferson was trying to engineer in Nigeria over the past year, according to documents and those familiar with details of the investigation.

Sources familiar with the telecommunications deal said Jefferson was attempting to smooth the way for iGate Corp., a small Kentucky company, to offer its high-speed broadband technology to Nigeria's fast-growing telecommunications market.

In its reaction the Federal Government immediately said security agencies had been directed to investigate the matter which it described as an individual affair. However, in his reaction, Atiku had said that no wrong doing had been established against him.

Atiku in and a statement signed by Yakub, acknowledged that his US home was raided by the FBI following a visit by Congressman Jefferson, who unknown to him then was under investigation.

The Vice President later disclosed that he had before Jefferson's visit received a letter from Nigeria's Ambassador to the United States, Dr. George Obiozor, requesting that he look into the business dealings between the NITEL, another unnamed Nigerian firm and an American company.

He said since the business had not been sealed he immediately gave instructions to one of his aides that the letter be forwarded to the Minister of Communications, Chief Cornelius Adebayo, for necessary action and advice.

He said Jefferson's visit to his Maryland home while he was on vacation in the US, was a follow-up to the letter he received from Obiozor.

Monitor: City Defying Ban On Political Hiring (CHIST/AP)

By MIKE ROBINSON, ASSOCIATED PRESS

Chicago Sun-Times, September 7, 2005

Chicago officials have been basing hiring decisions on political clout and not merits, defying a court-ordered ban on patronage employment, a federal monitor said Tuesday.

Court-appointed monitor Noelle Brennan urged sweeping changes at City Hall, including requiring top officials to swear under penalty of perjury that hirings aren't based on politics.

Brennan made the recommendations in an 11-page report to U.S. District Judge Wayne R. Andersen on how to enforce the decades-old Shakman Decree that bans the use of patronage.

"We did find that the city has been substantially noncompliant with the Shakman Decree for a significant period of time," Brennan said in delivering the report to Andersen.

Brennan's conclusions reinforced long-standing claims by critics of City Hall that the 1983 decree issued in a lawsuit brought by attorney Michael Shakman has been violated almost since its inception.

Daley's former patronage chief, Robert Sorich, and another former city official, Patrick Slattery, are under federal indictment in an 18-month investigation of hiring abuses.

Brennan's report brought immediate praise from city Corporation Counsel Mara Georges, who promised to continue to work with the court-appointed monitor and help her to get information.

"We are there to facilitate the process and give her whatever information she requires," Georges said. But in response to questions from reporters she said that the city would continue with its effort to have a federal appeals court overturn the Shakman Decree.

"That case is just a strong as it ever was," Georges told reporters.

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Shakman, himself, said the preliminary report was "a very good first step at addressing how to eliminate the culture of corruption and clout in city hiring and promotion practices."

Andersen said he wants fast progress on making changes in the way the city does its hiring and asked both Brennan and Georges to be back next month to update him on the process.

The use of patronage in city hiring and promotions has been at the heart of the so-called Chicago Machine for decades. Numerous precinct captains who get out the vote for the regular Democratic organization on Election Day have jobs on the city payroll.

In recent years, City Hall watchers have said that money to pay for television advertising has become much more important in winning elections than such doorbell-ringing foot soldiers.

But recent court hearings have made it plain that political officials still place a high premium on getting jobs for those who turn out the vote.

Among other things, Brennan found that available jobs are not always posted and frequently filled based on political factors. She said applicants without clout have been largely ignored.

The mayor's office of intergovernmental affairs-- the political high command-- has been excessively involved in the hiring process, Brennan said. She said unqualified applicants who have political clout often get consideration for jobs.

And the city has been unresponsive to complaints about violations, she said.

She said the city should immediately hire additional employees for the Department of Personal so that it can act as a buffer between political officials and the job applicants. She said that she should have a role in hiring the new employees for the department.

Brennan said she should be notified of new hires and there should be random auditing of some of the hires to determine if there was compliance with the Shakman Decree. There should also be an order barring retaliation against anyone assisting in her work, Brennan said.

State Spent $478,385 To Check Guardrails (TENN)

The Tennessean, September 7, 2005

The Tennessee Department of Transportation said yesterday that it spent $478,385 to inspect every inch of guardrail across the state for evidence of improper installation, but the state won't say what was found.

Efforts are under way to repair any deficient guardrails.

Some of the state's guardrail companies are under scrutiny by the FBI, the Tennessee Bureau of Investigation, the U.S. Transportation Department and the state on suspicion of installing guardrail posts shorter than required lengths.

Evidence began to surface in January after an anonymous tip from a guardrail employee. As additional evidence came to light, TDOT deployed teams in May to inspect more than 4,000 miles of state highway guardrails. The state inspection wrapped up Sept. 1, said Kim Keelor, a TDOT spokeswoman, adding that the results of the review are not being made public as ordered by the state attorney general's office.

"We will try to recoup as much of that money as possible, through legal recourses, from contractors involved in installing any guardrail found to be deficient," Keelor said.

The findings are confidential for litigation reasons, said Sharon Curtis-Flair, spokeswoman for the attorney general's office.

"Like TDOT, we're always concerned about the public's safety," Curtis-Flair said. "We're going to see to it that the (guardrails) get fixed as quickly as they can."

Keelor said TDOT crews are beginning to "pull, check, and replace if needed, any guardrail terminals that were flagged as possibly being deficient."

This phase of the guardrail improvements is expected to take until the end of the year.

Man Charged In Killings Of Sex Offenders (NYT)

By Carolyn Marshall

The New York Times, September 7, 2005

DOJ_NMG_0003252

A man who told the police that he had found his victims on a sheriff's department Web site was arraigned yesterday in the killings of two convicted sex offenders in Bellingham, Wash.

Investigators said the man, Michael A. Mullen, was upset by a child abuse case in Idaho that involved a repeat sex offender.

They said Mr. Mullen, 36, telephoned the 911 center in Bellingham on Monday to confess to a double killing in which a man posing as an F.B.I. agent visited the home of three known sex offenders and told them they were on a hit list and in danger.

One of the three left for work, and upon returning found the other two, Hank Eisses, 49, and Victor Vasquez, 68, dead from single gunshot wounds to the head.

After calling the police to confess to the killings on Monday, Mr. Mullen surrendered to the authorities. He was arraigned in Whatcom County Superior Court yesterday, just hours after the police charged him with two counts of first-degree murder.

"I can't think of another set of circumstances out there where such a killing has occurred," said Lt. Craige Ambrose of the Bellingham Police Department.

Mr. Mullen said that he had been planning the murders for some time, officials said, and that he was upset over killings in Idaho in which a sex offender is charged.

A common theme in the interview was the case in Idaho, Lieutenant Ambrose said, adding: "He was upset that a sex offender killed a family and abducted the kids. He said that a couple of times. That was one of the things that may have triggered this."

The Idaho case involved a repeat sex offender, Joseph E. Duncan III, who is accused of fatally beating three people with a hammer in a house outside Coeur d'Alene and then abducting two children. One of the children, Shasta Groene, 8, was with Mr. Duncan when he was arrested. The body of her brother, Dylan, 9, was found two days later.

Mr. Mullen told the police that he searched the Whatcom County sheriff's sex offender Web site. The site includes addresses for the convicted offenders, with the number of the street address partly withheld. He focused on the home of Hank Eisses, who lived with the two other sex offenders.

Mr. Mullen, who the police said "selected at least one of the two victims," went to the Eisses house on Aug. 26, posing as a federal agent. The police said he wore a black ball cap with the F.B.I. insignia and a dark blue jump suit.

The roommate who escaped harm, James A. Russell, 42, has been moved to an undisclosed location.

Kit Bail, the regional administrator for the Washington Department of Corrections, said the authorities had contacted other sex offenders in Whatcom County and advised them to screen visitors and request identification.

"We are letting them know about the potential threats and giving them some perspective on what can make them safe," Ms. Bail said.

The authorities said they had not determined whether Mr. Mullen was acting alone. Letters sent to a newspaper and television station in Bellingham just after the killings warned that more sex offenders would die.

"We did, of course, take the letters seriously since we already had two people killed," Ms. Bail said. "The letter claimed there was a conspiracy, threatened the lives of other sex offenders and suggested the notion that there was a vigilante out there, seeking other targets."

Washington's sex offender registration law is 15 years old and like the laws in other states, tries to monitor the rehabilitation of sex offenders returned to the county of their convictions and the risk presented by them.

Corrections officials had been satisfied with the progress of Mr. Eisses, Mr. Vasquez and Mr. Russell, who was the most recent to move into the Bellingham house.

"They were what we called a success story," Ms. Bail said. "They had lived there for a number of years and although neighbors were not particularly happy about it, they all knew them. There had been no community problems and they had not reoffended."

Man In Wash. Murders Tries To Plead Guilty (TLPA)

By Donna Gordon Blankinship

Times Leader (NE PA), September 7, 2005

DOJ_NMG_0003253

BELLINGHAM, Wash. - A man arrested in the shooting deaths of two convicted child rapists tried to plead guilty Tuesday before he had even been formally charged.

Police believe Michael Anthony Mullen might have targeted the men in reaction to a notorious case in Idaho in May in which two children were abducted and one was slain.

"Can I have a speedy trial?" Mullen asked a court official, via closed circuit television from jail, during a preliminary hearing Tuesday. "I would like to plead guilty."

Prosecutor Mac Setter said Mullen would be formally charged with the murders Wednesday. Whatcom County Superior Court Commissioner David Thorn set bail at $1 million and scheduled Mullen's arraignment - when a formal plea may be entered - for Sept. 16.

Police said Mullen, 35, called them on Monday to turn himself in and later confessed to killing Hank Eisses and Victor Vazquez in their home on Aug. 27.

The hearing revealed that Mullen may have had help on the day the two men died. Setter said an unidentified woman whom he described as a witness had driven Mullen to and from the scene.

Mullen may have been motivated by the case of Joseph Edward Duncan, a convicted sex offender who is accused of killings and child abductions in Idaho, police said.

"One possible reason was the case in Idaho," Bellingham Police Lt. Craige Ambrose told The Associated Press. Ambrose wouldn't elaborate, and Setter refused to discuss possible motives.

Police said they believe Mullen's claim that he killed the Bellingham sex offenders because he knew details only the killer would know: the caliber of the weapon used, and that the victims were each shot once in the head.

"Mullen also said that he had planned the murders for some time and that on July 13, 2005, he had accessed the county sheriff's sex offender Web site, and from that selected at least one of the two victims," according to a police statement.

As is typical in Washington, the sheriff's Web site lists the residences of sex offenders who are required to register with local authorities.

Mullen has a criminal record but no history of violence, Ambrose said.

In the Idaho case, Joseph Edward Duncan is accused of fatally beating three people with a hammer in a home outside Coeur d'Alene in order to abduct two children for sex.

He was arrested July 2 at a restaurant with one of the children, 8-year-old Shasta Groene. Remains of her 9-year-old brother, Dylan, were found in a Montana forest two days later.

According to police, Mullen said he mailed a letter about the Bellingham killings to several news outlets last week. The Bellingham Herald, the daily newspaper in this college and mill town of about 71,000, reported Thursday that the letter threatened other sexual predators.

Eisses, 49, and Vazquez, 68, were both classified as Level 3 sex offenders, the type considered most likely to re-offend.

Their bodies were found by a roommate, also a sex offender, who said a man wearing a blue jumpsuit and a cap that said "FBI" came to the house, told them he was an FBI agent and said he wanted to discuss their status as sex offenders.

The supposed federal agent told them that one of them was on a "hit list," police said.

The roommate said he left while the FBI impostor was still there and he found the bodies when he returned about four hours later.

Vazquez was convicted in 1991 of molesting several relatives, according to court documents. He was released from prison about two years ago and remained under supervision.

Eisses was sentenced to 5 1/2 years in prison in 1997 for raping a 13-year-old boy. He was released from supervision about two years ago, said Kit Bail, Corrections Department field supervisor for the county.

Man Admits To Killing 2 Sex Offenders, Cites Idaho Case (LAT)

By Tomas Alex Tizon, Times Staff Writer

The Los Angeles Times, September 7, 2005

SEATTLE — The man who confessed to slaying two registered sex offenders in Bellingham, Wash., told police that he was outraged by the recent case of Joseph Edward Duncan III, a convicted sexual predator being held in Idaho.

Michael Anthony Mullen, 36, made a brief court appearance Tuesday in Whatcom County Superior Court, about 80 miles north of here, after turning himself in to Bellingham police Monday afternoon.

Mullen, a longtime resident of Whatcom County with a history of petty crimes, faces charges in the Aug. 26 shooting deaths of Hank Eisses, 49, and Victor Vasquez, 68. Both victims were Level III sex offenders, considered the most likely to commit similar crimes again. Mullen's arrest all but ended fears that a vigilante was on the loose targeting other registered sex offenders in the Bellingham area.

"It's a relief that he's not running around anymore with who-knows-what on his mind, probably more of the same," said Bellingham Mayor Mark Asmundson, who was informed of Mullen's arrest minutes after it happened.

Police said Mullen called 911 from a Bellingham restaurant and confessed to the murders. He was arrested and questioned for "hours and hours," said Bellingham police Lt. Craige Ambrose.

Investigators said Mullen provided details of the crime that only the killer would know, such as the caliber of the weapon and the way in which each victim was shot: once in the head. Ambrose said that during the interview Mullen repeatedly "came back around to the Idaho incident," referring to the Duncan case.

"Let's just say he was influenced by what happened there," Ambrose said.

Duncan, a 42-year-old convicted sex predator from Tacoma, Wash., is in Kootenai County, Idaho, awaiting trial in the slayings of four people and the kidnapping of two children in May near Coeur D'Alene, Idaho. Duncan is being investigated in the deaths of other children across four states, including California.

Less than two weeks after Duncan's case made national headlines, police said, Mullen got on a Whatcom County website that listed the names and addresses of all Level III sex offenders in the county.

Eisses and Vasquez lived with a third sex offender in a little green house on Northwest Avenue.

According to earlier reports, a man entered the victims' home, just north of downtown Bellingham, impersonating an FBI agent. He told the men that there was a hit list targeting sex offenders and that he was there to warn them.

The third occupant left for work with the man still in the house. When he returned home from work, he found his housemates dead. Eisses had been convicted of child rape and Vasquez of child rape and molestation. Both men had committed their crimes in Whatcom County.

On Aug. 31, five days after the slayings, the Bellingham Herald received a letter from someone claiming responsibility for the killings and threatening to kill all other Whatcom County sex offenders designated as Level III. The county has 31 registered Level III offenders, including four in Bellingham, which has a population of 71,000.

Police said Mullen had confessed to sending the letter and told investigators that more letters would soon be arriving at other media outlets. Ambrose said he did not know the content of those letters.

Ambrose said Mullen, standing 6 feet 5 and weighing about 250 pounds, had no known history of violence but had an extensive history of theft and other property crimes. Mullen had no permanent address, police said.

The slayings stirred debate over the 1990 state law requiring sex offenders to register their addresses. Washington was the first state to pass such a law, which is intended to help the public keep track of dangerous sexual predators. In 1994, Congress mandated that states create registers of sex offenders. Now all 50 states have their own version of Washington's Community Protection Act.

Supporters say the public has a right to know about such offenders, but opponents argue that publicizing exact addresses invites vigilantism and prevents sexual offenders from leading normal lives.

Lawyers Protest Court Venue For Prison-bus Killing (BSUN)

By Lisa Goldberg

The Baltimore Sun, September 7, 2005

The night Philip E. Parker Jr. was killed, the crime scene was on the move.

DOJ_NMG_0003255

As a prison bus rumbled through the darkness on a winter night, passing through four Maryland counties and into Baltimore on a 75-mile trek to the city's Supermax prison, Parker was strangled and left slumped between rows of seats.

A fellow inmate was charged in Baltimore County with murder, which suggests that investigators believe the crime occurred there. But attorneys for the man, Kevin G. Johns Jr., say Parker likely died elsewhere -- and legal observers say a judge's ruling could be a matter of life and death.

"Baltimore County seeks the death penalty much, much, much more frequently than any other venue, so certainly on the defense side, you don't want to be in Baltimore County," said Byron L. Warnken, a University of Baltimore law professor.

The death penalty is never mentioned in court papers challenging Baltimore County prosecutors' right to try Johns, 22, but it lurks under the surface.

In 2002, researchers from Columbia, Rutgers and New York universities ranked Baltimore County second among large counties nationwide in the rate at which convicted murderers are sentenced to death. A University of Maryland study released a year later found that the county dominates the state in death-penalty cases and that prosecutors there are 13 times more likely to seek the death penalty than are prosecutors in the city.

"The stakes are very high for Mr. Johns," said Douglas Colbert, a University of Maryland law professor.

A hearing to determine which jurisdiction should try the case was originally scheduled for last month but was delayed because of the illness of one of Johns' lawyers. Last week, Baltimore County Circuit Judge Thomas J. Bollinger postponed the matter until the first week of January and set a trial date for July 31.

While Johns' case might seem an apt one for any prosecutor to consider seeking the death penalty -- he has previously been convicted of two murders, one inside and one outside prison -- the decision for many jurisdictions often comes down to a question of resources, court observers say.

In other areas, "there are so many factors that enter that decision," Colbert said.

William C. Brennan Jr., one of Johns' lawyers, would not comment beyond the court filings in the case.

Evidence conflicts

Exactly what led authorities to choose Baltimore County as the place to charge Johns is still unclear. Prosecutor S. Ann Brobst said there is "ample evidence" that Parker was killed in Baltimore County, but she would not discuss the specifics.

A termination notice for one of the correctional officers involved in the transport notes that "the trip proceeded without apparent incident" until the bus reached the area of Security Square Mall in the county, where one officer said he saw Johns switch seats "and became suspicious that there was a problem."

Johns and Parker, 20, were among more than 30 inmates and five correctional officers on the bus as it traveled along Interstate 70 from the Maryland Correctional Training Center near Hagerstown to the Maryland Correctional Adjustment Center, also known as Supermax, during the early-morning hours of Feb. 2.

Johns' lawyers argue in court filings that the strangling likely took place in Howard County -- although they also point to statements from inmates on the bus that alternately place the act in Washington, Frederick and Howard counties.

Johns said in an interview with authorities that the attack took place about 15 minutes after the bus left the Hagerstown prison, according to a defense brief.

Evidence points to the attack taking place before the bus reached Baltimore County, making that jurisdiction the wrong venue for the case, the lawyers wrote.

Case is 'trickier'

What makes the case unique is the lack of certainty about the most basic of details, legal observers say.

"Your normal murder occurs within a particular boundary, on a street corner or in a person's home -- not in a moving vehicle -- so it's very clear where the crime scene is," said defense attorney Margaret Mead, who unsuccessfully argued a decade ago to have a client's trial moved to Baltimore City based on similar circumstances. When a moving car or bus is involved, "that's when it gets trickier."

In Mead's previous case, a woman was fatally stabbed in 1995 while traveling from the city to the county on northbound Interstate 83. Two women were charged after they were seen dumping the body of 30-year-old Myra Harrison in northern Baltimore County.

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Mead said it would have been better for her client, Latina Rose Smith, to be tried by a city jury. Her client was not facing the death penalty but was afraid of facing a Baltimore County jury, she said.

"I think it was a better jury pool [in the city] to have listen to the dynamics between these women," she said.

Previous case set mark

But Mead lost her motion at the Baltimore County Circuit Court level and, later, in a reported opinion by the Court of Special Appeals that set the benchmark for determining venue in a case -- allowing the state to use a less stringent standard of proof to determine where a case should be tried.

The state only has to show that the crime occurred "close enough to the county boundary" when the evidence is ambiguous, Colbert said.

To prevail in the Johns case, the defense will have to prove a timeline of events and the location of each, Mead said.

"What's going to be hard is getting any precise location of where death occurred," she said.

Inmate made threat

Parker's mother, Melissa Rodriguez, said she worries that people have forgotten her son as the focus shifts to Johns.

The day before Parker's death, Johns said in open court that he would likely kill again if he didn't get the psychiatric help he needed. He was sentenced to life without parole for the death of his 16-year-old cellmate at a hearing in which Parker was called to testify on his behalf.

Several correctional officers were fired or disciplined after the killing on the bus.

Parker, who was serving a three-year sentence for unarmed robbery at the time of his death, had about 15 months left before his release, his mother said.

'I just want it done'

Rodriguez would not say whether she was in favor of the county's decision to seek death for Johns but said she doesn't want the case to move now. Doing so would take away the Baltimore County-based support system she's already come to rely on, she said.

"It already started there. I know the people there, and I feel comfortable with them," she said. "I just want it done and over with."

Judge Finds FBI Not Liable For Bungling Call From Killer (BOS)

By Shelley Murphy, Globe Staff

The Boston Globe, September 7, 2005

A federal judge ruled yesterday that the FBI can't be sued over a clerk's bungling of a call from Gary Lee Sampson when the killer offered to surrender on bank robbery charges, just a day before going on a murderous rampage four years ago.

US District Judge Reginald C. Lindsay dismissed a $10 million lawsuit filed by the family of one of Sampson's three victims, 69-year-old Philip McCloskey, of Taunton.

In a 24-page opinion, the judge wrote that federal law protects the government from being sued for negligence because former FBI clerk William H. Anderson was exercising his discretion when he disconnected Sampson's call to the FBI's Boston office on July 23, 2001, and failed to tell anyone about it.

The FBI's broad discretion to decide whether to investigate or apprehend someone "encompasses the discretion of an individual officer like Anderson to report or not report a particular call," Lindsay wrote.

McCloskey's son, Scott, said it was ridiculous that the FBI has no legal responsibility, even though Anderson was sentenced to six months in prison for lying under oath when he initially denied taking Sampson's phone call.

"He was made accountable for his mistake, so why can't the FBI be held accountable for their mistake?" said Scott McCloskey, of Plymouth.

After Sampson pleaded guilty to federal carjacking and murder charges, a jury recommended in December 2003 that he be executed -- making him the only person ever sentenced to the federal death penalty in Massachusetts. He's currently on death row at the federal prison in Terre Haute, Ind., while he appeals his sentence.

DOJ_NMG_0003257

The Abington native admitted that he carjacked McCloskey in Weymouth on July 24, 2001, and forced him at knifepoint to drive to Marshfield, where he walked him deep into the woods, tied him up, and stabbed him 24 times.

Three days later, Sampson carjacked 19-year-old Jonathan Rizzo, of Kingston, outside a Plymouth restaurant. He forced the college sophomore to drive to Abington, where he tied him to a tree in the woods and repeatedly stabbed him.

Sampson then fled in Rizzo's car to New Hampshire, where he broke into a vacation home on Lake Winnipesaukee and stabbed 59-year-old Robert "Eli" Whitney to death when he arrived to cut the lawn.

Sampson called police and surrendered the next day after breaking into a ski chalet in Plymouth, Vt., and setting off a burglar alarm. Then, Sampson, who was wanted for bank robberies in North Carolina, revealed that he had called the FBI's Boston office from a convenience store in Abington the day before going on his rampage and offered to surrender.

Sampson said he waited outside the store for several hours, but the FBI never showed up.

"They didn't even make an attempt to come and arrest him," Scott McCloskey said. "If they did show up and caught him they would have got all kinds of glory for catching this bank robber . . . and my father would still be alive."

Anderson, who had been filling in for a switchboard operator at lunchtime, said he had inadvertently disconnected Sampson's call when trying to switch it to an agent.

FBI officials said at the time that the bureau doesn't record its calls and didn't have the ability to track the lost call.

The McCloskeys also named Sampson, who is indigent, in the suit and were seeking $25 million in damages from him. The judge ruled yesterday that if the McCloskeys want to go forward against Sampson they must take their suit to state court.

Brockton attorney Kevin Reddington, who represents the McCloskeys, said he'll review the judge's decision with the family and then decide whether to appeal it. He added, "We believe the government owes a duty of protection to its citizens."

In his ruling, Lindsay also rejected the McCloskeys' claim that the FBI had a responsibility to protect the public from Sampson.

The judge wrote that in an unrelated lawsuit brought against the FBI by the family of Debra Davis, one of the victims of South Boston crime boss James "Whitey" Bulger, he'd concluded that the government had a duty to protect the public because Bulger was a longtime informant.

However, Lindsay wrote that the FBI had no special relationship with Sampson that obligated the government to control Sampson's conduct, because he was neither an informant nor in FBI custody.

David V. Kirby, the United States attorney for Vermont, who defended the government against the lawsuit, declined to comment yesterday on Lindsay's ruling.

But in its motion seeking dismissal of the suit, federal prosecutors wrote that the FBI could not have foreseen that Sampson would commit murders after his phone call was disconnected.

"Plaintiffs simply cannot establish that any alleged negligence by the FBI actually or proximately caused McCloskey's murder," the prosecutors wrote.

Judge Dismisses Suit Against FBI (BOS)

The Boston Globe, September 7, 2005

BOSTON --A lawsuit against the FBI filed by the family of one of Gary Sampson's victims has been dismissed by a federal judge, who ruled that the government is protected from such suits despite bungling Sampson's offer to surrender.

U.S. District Judge Reginald C. Lindsay on Tuesday threw out the $10 million suit filed by the family of 69-year-old Philip McCloskey, who was one of Sampson's three victims during his interstate murder spree four years ago.

The judge, in a 24-page decision, said federal law protects the government from being sued for negligence because former FBI clerk William H. Anderson was using his discretion when he disconnected Sampson's call, and failed to notify anyone.

Sampson had called the FBI to surrender to bank robbery charges, but the call was disconnected. Sampson waited several hours for the FBI to arrest him outside a convenient store a day before his rampage.

He later admitted to killing two Massachusetts men and a New Hampshire man.

Scott McCloskey, the victim's son, told The Boston Globe that Anderson was held responsible -- he was sentenced to six months in prison for lying under oath when he initially denied taking Sampson's call -- but not the FBI.

DOJ_NMG_0003258

"He was made accountable for his mistake," McCloskey said, "so why can't the FBI be held accountable for their mistake?"

A drifter who grew up in Abington, Sampson confessed to killing McCloskey, Jonathan Rizzo, 19, of Kingston, and Robert "Eli" Whitney of Meredith, N.H., in July 2001. His weeklong crime spree ended with his capture in Vermont.

A jury in December 2003 sentenced Sampson to death. He is being held in a federal prison in Terre Haute, Ind., while he appeals the death sentence.

U.S. Supreme Court Is Asked To Decide If It's Proper To Let Sleeping Jurors Lie (LAW)

By Mary P. Gallagher, New Jersey Law Journal

Law.com, September 7, 2005

New Jersey's public defender wants the U.S. Supreme Court to issue a bright-line rule that a defendant's due process right to a fair trial is violated when jurors fall asleep during testimony.

Several jurors allegedly dozed off during Roy Higinia's October 1996 drug-possession trial in Essex County, N.J. The transcript shows that Assistant Deputy Public Defender Rafael Gomez, at a sidebar just prior to cross-examining a police detective, told the judge that four or five jurors were "deep asleep" and some were "falling asleep" during his opening.

Superior Court Judge Julius Feinberg said he had not noticed and the case would continue but he would "wake them up, if necessary." He then asked the jurors if the room was too hot and when one answered "a little bit," he had the windows opened.

The trial proceeded and Higinia was convicted and sentenced to five years in jail.

The Appellate Division rejected the argument that the defendant was entitled to jurors who have heard all the evidence. In State v. Higinia, A-5515-02, decided March 21, Judges Francine Axelrad and Rudy Coleman said Feinberg took "proper remedial measures" by opening the windows after surveying the jury. Further, since defense counsel did not request anything more at the time, the issue could not be raised on appeal.

They also found no prejudice because the alleged napping occurred during direct testimony by a prosecution witness and the jurors were awake for the cross-examination. The New Jersey Supreme Court denied certification on May 25.

In the petition for certiorari filed Aug. 23, Assistant Deputy Public Defender Lon Taylor said the appeals judges ignored state precedent that places an affirmative duty on the trial court to assure an attentive jury. Taylor asked the Court to rule that a sleeping juror is per se a structural error not amenable to harmless error review and so requires reversal.

The petition points out that Higinia, who admitted possessing cocaine, claimed that police fabricated the distribution charges and that jurors who slept through police testimony would miss the chance to assess credibility based on factors like body language and demeanor.

Sleeping jurors are not uncommon. A 1996 survey of state and federal judges by Vanderbilt Law Professor Nancy King found that 69 percent of the 562 respondents had seen at least one in an estimated 2,300 cases during the preceding three years.

Rachel Sacharow, a spokeswoman for the state Division of Criminal Justice, declined comment last week, saying her office had not yet seen the petition.

Millions More In Bogus Cigarettes, Cash Seized By Feds (NSDY)

Long Island Newsday, September 7, 2005

NEWARK, N.J. -- In the weeks since federal authorities said they smashed a smuggling ring that brought counterfeit cash, cigarettes, and drugs into the U.S., additional raids have netted $5 million more in bogus cigarettes and $2 million more in fake U.S. currency.

Operation Royal Charm, in which 87 Asians and U.S. citizens were arrested in mid-August, netted $4.4 million in high-quality fake $100 bills, more than 1 billion counterfeit cigarettes worth $42 million, and hundreds of thousands of dollars worth of ecstasy, methamphetamines and Viagra, officials said.

At the time of the arrests, officials said some of the cigarettes were made in China and the money appeared to have been produced in North Korea.

Since the arrests, authorities seized an additional $1.8 million worth of cigarettes in southern New Jersey on Aug. 21, followed by a seizure of $2.7 million worth of cigarettes the next day at Port Elizabeth, according to the FBI.

DOJ_NMG_0003259

On Aug. 23, approximately $2 million in counterfeit U.S. currency, commonly referred to as "super notes," were seized by Taiwanese and American authorities in Kaohsiung, Taiwan, authorities said.

And on Aug. 24, more cigarettes worth more than $500,000 were seized in northern New Jersey.

Some of the arrests were made when alleged smugglers expected to attend a lavish wedding aboard a yacht in Atlantic City but were instead transported into the hands of federal agents.

Gotti Was 'A Street Boss,' Prosecutors Say In Closing (NYT)

By Julia Preston

The New York Times, September 7, 2005

John A. Gotti, the prince of the Gambino crime family, ordered the 1992 kidnapping of the Guardian Angels founder, Curtis Sliwa, because he regarded himself as "the street boss of his own government," a federal prosecutor said yesterday in his closing argument in Mr. Gotti's racketeering trial.

Summing up the government's case in the four-week trial, the prosecutor, Joon Kim, said Mr. Gotti would not have been satisfied to "write a letter to the editor" with his complaints about Mr. Sliwa's tirades against the Gotti family on his morning radio show on WABC-AM.

"Instead of engaging in a public debate, Gotti responded in the Gambino crime family's native language: violence," Mr. Kim said.

Mr. Gotti, the son of John J. Gotti, the late Gambino boss, is on trial in Federal District Court in Manhattan on broad racketeering-conspiracy charges that include the June 19, 1992, attack on Mr. Sliwa. Mr. Sliwa was abducted in a New York taxicab and shot in the leg and abdomen at point-blank range before escaping through an open window.

Mr. Kim pointed to corroboration in testimony about the attack by two former Gambino members, Michael DiLeonardo and Joseph D'Angelo, who said he was the driver of the cab.

The prosecutor concluded his three-hour summation assailing Mr. Gotti's defense argument that he withdrew from organized crime after he was arrested in 1997 on earlier racketeering charges. Mr. Gotti pleaded guilty in 1999, and has served more than six years in jail.

"This argument is simply nonsense," Mr. Kim said. "You've seen no evidence of withdrawal."

To comply with a five-year statute of limitations on the charges, the prosecutors must show that Mr. Gotti continued to commit crimes with the Gambino organization after July 1999 - while he was in Ray Brook federal prison in upstate New York. Mr. Kim pointed to testimony from Mr. DiLeonardo that he complied in mid-2000 after Mr. Gotti asked him for $50,000 in loan sharking funds that Mr. DiLeonardo had been holding. Mr. Lichtman, Mr. Gotti's lawyer, is to sum up his defense today.

Also on trial are Louis Mariani, accused of extortion and securities fraud, and Michael Yannotti, charged with shooting Mr. Sliwa, among other crimes. Mr. Mariani's lawyer, Charles Carnesi, said the turncoat witnesses had all shown they were liars.

"They spit out a story and the prosecutors and the F.B.I. decide not to check the story and it becomes the truth," Mr. Carnesi said. "The game is rigged."

Prosecutors: Gotti Son Ordered Sliwa Attack As Part Of Criminal Reign (NYNSDY)

By Patricia Hurtado, Staff Writer

New York Newsday, September 7, 2005

A federal prosecutor contended Tuesday that John "Junior" Gotti's claim that he retired from mob life after his 1999 guilty plea is "ridiculous and sounds like a way to get a pass for a lifetime of crime."

In closing arguments to the jury after the month-long trial, Assistant Manhattan U.S. Attorney Joon Kim said that while Gotti pleaded guilty to federal racketeering charges in April 1999, he never stopped committing crimes as Gotti lawyer Jeffrey Lichtman asserted.

Kim said Gotti was appointed the "street boss" of the Gambino crime family after his father, mob boss John Gotti, was imprisoned in 1992.

Kim also said Junior Gotti was so enraged by comments radio talk show host Curtis Sliwa made about the "Dapper Don" that Junior Gotti dispatched two thugs to inflict a beating on Sliwa so severe "he would have to be scraped off the ground."

"In Gotti's mind he was not a normal citizen obliged to obey the law," Kim said of the younger man. "He believed he was special because he had become the street boss of his own government, a government which had its own set of rules and law, whose only purpose is to make money and commit crimes."

Kim cited the testimony of Joseph D'Angelo, a former Gambino soldier, who testified as a government witness that Junior Gotti dispatched him and Michael Yanotti to kidnap Sliwa and put him in the hospital.

"In Gotti's government, there is no right of free speech," Kim said.

Yanotti, charged with conspiracy and attempted murder for shooting Sliwa during the foiled kidnapping, is on trial with Gotti.

D'angelo testified Gotti oversaw nearly every aspect of the Sliwa attack, and yesterday, Kim reminded jurors that when D'angelo balked at attacking Sliwa, Gotti said: "I want it to be personal. I want him to know we had our hands on him."

And Kim asserted that testimony from other mobsters who once were close to Gotti, including former best friend Michael DiLeonardo, proved that Gotti continued his life of crime behind bars and reaped millions of dollars from the Gambinos' extortion of unions and construction firms and through loan sharking.

"We've seen no evidence of withdrawal," Kim said. "Instead, we've heard Gotti continued to receive illegal proceeds and benefits through 2001."

Kim said that six months after Junior Gotti was incarcerated he sent a message to subordinates to "push out" thousands of dollars in loansharking for the mob. Gotti later used mob proceeds to purchase commercial property on Hempstead Avenue in Queens Village, Kim said.

Lichtman is to deliver his closing arguments today.

Charles Carnesi, a lawyer for Gotti another co-defendant, Louis Mariani, a reputed Gambino associate, told jurors in his closing arguments yesterday that there was no evidence his client reaped millions of dollars from illicit Gambino operations.

Mariani is charged with racketeering, loansharking and stock fraud.

Prosecutor: Gotti's Son Ordered Sliwa Hit (AP)

By MICHAEL WEISSENSTEIN, The Associated Press

AP, September 7, 2005

NEW YORK (AP) — New York was buzzing about Gambino crime boss John Gotti in the spring of 1992, and radio host Curtis Sliwa didn't hide his disdain for the "Dapper Don."

Calling the boss "America's No. 1 drug dealer," Sliwa infuriated the late mobster's son and protege, John A. "Junior" Gotti, a federal prosecutor said Tuesday as the younger Gotti's racketeering trial drew to a close.

Gotti "didn't respond like an ordinary citizen," Assistant U.S. Attorney Joon Kim said in his closing argument. "Instead of engaging in public debate, Gotti responded to Sliwa's words in the Gambino family native language: violence."

Advertisement

The younger Gotti sent thugs to beat Sliwa with baseball bats, Kim said. But Sliwa didn't shut up, so two mobsters were dispatched to pick him up in a stolen cab, the prosecutor said.

As Sliwa struggled to escape, a hitman opened fire, leaving the Guardian Angels founder weak and bleeding in the back seat, Kim said.

Sliwa escaped by throwing himself out the cab window but other Gambino family rivals were not as lucky, Kim said, describing the machine-gun slaying of two other men, one killed simply because he was with the intended target.

Defense attorneys claim the younger Gotti, 41, had nothing to do with Sliwa's shooting and other attacks and quit the mob after a 1999 racketeering conviction.

But Kim called that argument "simply nonsense," saying Gotti was "a man who used his name to get to the top of this criminal enterprise ... a man who used his position in the family to line his pockets with millions of dollars in illegal money."

Gotti continued to meet with gangsters, take their tribute money and plot crimes in the years after his purported renunciation of the mob life, Kim said.

"You've seen no evidence of withdrawal," he told jurors.

Gotti's alleged role in the Sliwa attack is part of racketeering charges that could keep him in prison for up to 30 years. Gotti's attorney was to begin his summation Wednesday.

The elder Gotti was sentenced to life in prison in 1992 and died in prison in 2002.

Sliwa described the cab attack to jurors in gruesome detail last month, recounting how a masked gunman hiding in the front passenger seat "popped up like a jack-in-the-box," swore at him and began shooting.

Wounded in the stomach and bleeding profusely, Sliwa discovered the cab had been rigged so he couldn't open the back doors. He said he saved himself by throwing himself into the front seat and out the passenger window as the cab sped down the street.

"He would be dead if he didn't somehow leap out the window of a speeding cab," Kim said.

The trial has also featured the testimony of Michael "Mikey Scars" DiLeonardo, one of the highest-ranking Gambinos to become a cooperator.

Trial Of 'Junior' Gotti Draws To Close In New York (REU)

By Christine Kearney

Reuters, September 7, 2005

NEW YORK (Reuters) - The son of late mob boss John Gotti ordered a vicious attack from prison on the founder of the Guardian Angels anti-crime patrol as retribution for comments the man made about Gotti's father, prosecutors said on Tuesday.

John A. Gotti, also known as "Junior," rose to become the "street boss" of the Gambino crime family for most of the 1990s after his father, known as the "Dapper Don," went to prison, prosecutor Joon Kim told the jury in closing arguments at Gotti's federal trial in Manhattan.

Kim said the younger Gotti ordered an attack in 1992 on Curtis Sliwa that left the Guardian Angels' founder bloodied in a taxi cab with multiple bullet wounds after Sliwa made derogatory comments about his infamous father on his talk radio show.

In an attack on Sliwa a few months earlier, three thugs pummeled him with baseball bats, the prosecutor said.

"He (Gotti) sent his underlings to do his dirty work for him," said Kim. "Gotti responded to Sliwa's words in the Gambino family's native language: violence."

In the racketeering trial, Gotti faces a number of charges, including conspiracy to commit securities fraud, extortion of construction businesses and loan sharking, as well as the attempted kidnapping of Sliwa. If convicted, he faces up to 30 years in prison.

Jeffrey Lichtman, Gotti's defense attorney, has argued that his client turned away from crime since pleading guilty to racketeering charges in 1999. Lichtman described Gotti as a devoted father of five who drove a minivan and changed diapers.

Lichtman has said the prosecution's case was based on an array of untrustworthy witnesses who agreed to testify against Gotti so that they could get lighter prison terms.

Kim told jurors the array of mob turncoats who testified during the trial, including the driver of the taxi, Joseph D'Angelo, was "powerful, corroborating evidence." Sliwa provided colorful testimony, in which he described how he used the back seat of the taxi like a trampoline to escape through the window.

"He told you in frightening detail what happened to him that morning," Kim told jurors, noting how Sliwa described "blood oozing out of his body and soaking his shirt."

"Curtis Sliwa was shot in the stomach and the leg at point blank range. He would be dead if he didn't somehow leap out of the window of a speeding cab," he said.

The prosecutor said Gotti's contention he wanted out of organized crime after pleading guilty to racketeering charges in 1999 in a separate case was "nonsense" and that he continued to commit crimes from prison following the earlier plea.

Gotti's defense attorney planned to present closing arguments on Wednesday.

The elder Gotti died in prison in 2002.

PartyGaming Shares Plunge As Growth Rates To Slow (Update5) (BLOOM)

Bloomberg, September 7, 2005

Shares of PartyGaming Plc, the online poker operator that sold $1.9 billion of stock in a June initial public offering, fell as much as 37 percent to below the IPO price after the company said revenue growth is slowing.

The stock dropped as much as 58.75 pence to 98 pence in London, wiping about 2.4 billion pounds ($4.4 billion) from the company's market value. The shares, which were sold to the public at 116 pence each, were at 105 pence at 12:50 p.m. local time. Stock of competitors including Sportingbet Plc also fell.

PartyGaming's share sale was more than three times subscribed by investors on expectations that the increased popularity of online poker will spur growth in an industry that's expanded 10-fold in three years. The company's revenue gains are slowing as more operators seek to enter the market, adding to competition.

``There were some clear dangers in relation to the valuation of this company and our concerns have been realized," said Henk Potts, a London-based fund manager at Barclays Private Clients, which manages the equivalent of $45 billion. ``PartyGaming is all about its growth potential, and some investors decided to bet on the growth rather than consider the potential slowdown."

Profit rose 25 percent in the first half, PartyGaming said today in a statement, as revenue gained 81 percent. The company incurred costs of $62.3 million related to its stock sale.

World Series of Poker

The drop in PartyGaming's share price has redressed the ``hype" that caused the stock to gain after the IPO, said Paul Leyland, an analyst at Seymour Pierce in London.

``The market has misinterpreted what's actually just happened in the same way that it misinterpreted that poker was going to the moon ad infinitum initially," said Leyland, who doesn't have a formal recommendation on the stock.

Gibraltar-based PartyGaming, formed in 1997, said revenue growth in July and August was slower and weaker than expected. This may have been caused by the later screening of the World Series of Poker, which this year started on Aug. 23, Chief Executive Richard Segal said on a conference call. The event, aired by Walt Disney Co.'s ESPN, began last year on July 6.

``We may have revenues which are slightly lower than what we had initially anticipated based on a softer pick-up in the third quarter," Finance Director Martin Weigold said on the call. ``That may just be a blip, it may be a trend."

The poker industry has swelled as events such as the World Series of Poker have encouraged more people play games such as Texas Hold'em on line. About 29,000 players competed for more than $103 million of prize money at this year's tournament in Las Vegas.

`Highly Competitive'

The number of days on which regular users played poker rose 59 percent in July and August from the same period last year, slowing from a 102 percent gain in the first half, Segal said.

PartyGaming said customer retention rates are falling as more casual players come on line. Competition is increasing in the market, which is 51 percent-controlled by Gibraltar-based PartyGaming. Empire Online Ltd., which helps poker and casino Web sites win customers, also had an initial public offering in June, and 888 Holdings Plc, the world's largest Web casino operator by number of visitors, is planning a $500 million share sale.

``The market has been highly competitive for some time and remains highly competitive," Segal said.

A spokesman for 888 said the company's IPO plan remains on track and amid ``very positive feedback" from investors.

According to research company Christensen Capital Advisors, growth in online poker will slow to 60 percent in 2006 from 130 percent in 2005, and to 30 percent in 2007. The industry grew to $1 billion in 2004 from $90 million in 2002, Christensen says.

Gaming companies have raised $4.5 billion selling shares over the last 12 months. Sportingbet sold stock twice in the period, raising a total of $220 million, Bloomberg data show.

First-Half Results

Shares of Sportingbet, the owner of Paradise Poker, fell as much as 18 percent in London today. Stock of Ukbetting Plc, which operates Ukbettingpoker.co.uk, dropped as much as 9 percent.

PartyGaming said first-half net income rose to $171 million, or 4.5 cents a share, from $136.5 million, or 3.6 cents, a year earlier. Earnings before interest, tax, depreciation and goodwill amortization rose 70 percent to $257.7 million.

Revenue, 92 percent of which comes from fees for poker games played on the company's Web site, increased to $437.4 million, PartyGaming said. Sales in the U.S. gained 77 percent, while growth outside the U.S. more than doubled.

The company makes 87 percent of its revenue in the U.S., where the Justice Department considers online gambling illegal.

Dresdner Kleinwort Wasserstein cut its 2006 estimate for earnings before interest, tax and amortization by 12 percent to $622 million, according to a research note.

Segal said the company is ``monitoring developments'' at Empire Online after Sportingbet said yesterday that it may make a takeover offer.

To contact the reporter on this story: Paul Jarvis in London at pjarvis@bloomberg.net. Last Updated: September 6, 2005 08:11 EDT

Betfair Makes Online Odds On AC Milan, Hillary Clinton, Weather (BLOOM)

Bloomberg, September 7, 2005

On a rainy July afternoon on the opening day of Glorious Goodwood, a two-century-old British horse- racing extravaganza, cricket star Michael Atherton is mingling in the box rented by Betfair, an online gambling site that processes 2 million wagers a day, six times the trades on the London Stock Exchange.

Betfair co-founder Andrew Black, 42, sneaks in two hours late, flinging a blue tie around his neck to conform to the ``jacket and tie'' dress code.

``I'm still feeling rough,'' Black quips. Twelve hours earlier, he'd dressed up as a jockey with a cap and leather whip to celebrate the fifth birthday of his company, London-based Sporting Exchange Ltd., which operates under the Betfair name.

Black has more than one reason to celebrate. In June, Betfair hired Morgan Stanley, the world's largest securities firm, and Goldman Sachs Group Inc., the second-biggest adviser for global acquisitions, to look into its financial options, including a potential initial public offering.

Given the valuations of gambling companies that have gone public in the past six months, Betfair would be worth as much as 600 million pounds ($1.1 billion), says Martin Oelbermann, a director at Munich-based research firm MECN GmbH. The valuation takes Betfair's profit of 17.1 million pounds for the year ended in April and applies the price-earnings multiples of online gaming companies such as Empire Online Ltd., which directs gamblers to poker Web sites.

``The Internet has proven to be a fantastic medium for gambling,'' says Richard Carter, an equities analyst who covers the leisure industry at London-based brokerage Numis Corp.

Gambling Bubble?

Carter says as many as seven Internet gambling companies may sell shares to the public this year. ``Every online gambling sector is growing faster than its land-based counterpart,'' he says, comparing Internet gaming to traditional betting shops and casinos.

The hubbub surrounding Betfair and the host of new gambling sites recalls the Internet bubble of the late 1990s, says Paul Leyland, an analyst at London-based brokerage Seymour Pierce Ltd.

``For these valuations to hold, there is an assumption that all companies in the medium to long term can grow at double-digit rates,'' Leyland says. ``We are skeptical.''

Yesterday, shares of PartyGaming Plc, which runs PartyPoker.com, the world's biggest poker site, plunged 33 percent to 105 pence, below the IPO price of 116 pence, after the company said revenue growth is slowing.

PartyGaming's Slowdown

Gibraltar-based PartyGaming went public in June, raising 1.04 billion pounds. It was the U.K.'s biggest IPO since Reading, England-based Yell Group Plc, which publishes Yellow Pages directories, raised 1.2 billion pounds in 2003.

Chief Executive Officer Richard Segal said on yesterday's conference call that the number of days during which regular users played poker rose 102 percent in the first half of 2005 from the same period a year earlier. In July and August, the pace slowed to 59 percent, he said.

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In addition, the revenue that each active player generates is falling because casual gamblers are joining and they play less frequently. ``The market has been highly competitive for some time and remains highly competitive," Segal said.

Online gaming generated $8.2 billion in revenue last year, or about 3 percent of the $243 billion global gambling market, according to New York-based research firm Christiansen Capital Advisors.

Betfair Stands Out

The online poker market alone soared to $1 billion in 2004 from $92 million in 2002. While revenue at traditional casino and gaming companies is likely to edge up 3 percent a year through 2009, revenue at online companies will surge about 22 percent annually to reach about $23 billion in that year, Christiansen predicts.

Oelbermann says Betfair stands out from competitors. He compares it to EBay Inc., the San Jose, California-based online auction house that matches buyers and sellers in a global marketplace.

Betfair charges nothing to a person who offers a wager. It takes a maximum cut of 5 percent of a winning bet. The strategy eliminates the bookmaker, the agent who offers odds and accepts bets for a fee.

In traditional casinos or gambling sites, customers play against the house, which builds a profit margin into the odds, making it hard to win, Black says.

In contrast, Betfair is a betting exchange -- an inspiration Black says he took from his stint in 1995 trading U.S. equities and learning about the New York Stock Exchange.

Split-Second Timing

A person who accesses Betfair's Web site can offer a bet and set the odds. If the odds are attractive, other bettors will take the counter position. This happens with split-second timing, and it's anonymous. Everybody has funds in the system to back their wagers. Transactions are reconciled immediately after the event is completed.

Betfair's 300,000 clients can -- and do -- bet on anything, from whether New York Senator Hillary Clinton will win the 2008 Democratic Party presidential nomination and how high home prices will rise in the U.K. to who will win MTV's best dance video and how hot the British summer will be.

Recent bets slightly favored Clinton's nomination, had housing prices reaching an average of 157,000 pounds to 158,999 pounds by December 2005, had Jennifer Lopez winning in the Best Dance Video category and were against temperatures reaching 100 degrees Fahrenheit (38 degrees Celsius).

In May, Betfair notched a company record of more than 10 million pounds of wagers on one event when the U.K.'s Liverpool soccer club came back from a 0-3 deficit against Italy's AC Milan to win the European Champions League final on penalty kicks.

`First-Mover Advantage'

``You can't beat the first-mover advantage," says Oelbermann, referring to the benefit he says Betfair and EBay have gained by being the first to strike it big from profits on client transactions. ``Nobody will be able to beat Betfair unless the management makes a massive mistake."

The gambling craze is spurring action on the acquisition front. Sportingbet Plc, which operates an online casino, accepts sports wagers and runs poker games, announced on Sept. 5 that it's in talks to buy Empire Online, which is based in the British Virgin Islands. Empire's shares have risen 44 percent this year to 252 pence yesterday. Sportingbet shares have gained 64 percent to 311 pence.

``The next wave of activity will be mergers and acquisitions," predicts Nigel Payne, Sportingbet's CEO. ``There will be 50 M&A deals in the next two years."

Getting big quickly may be the best way to ensure survival. Sporting Options Plc, a betting exchange like Betfair, filed for bankruptcy protection with debts of 5.4 million pounds in November 2004.

Failed Bet

Started in May 2002, Sporting Options took a maximum cut of 3 percent on a winning bet, less than Betfair's 5 percent ceiling. By 2003, losses had widened ninefold to 1 million pounds. The company struggled to attract 5,500 customers, less than one-tenth of Betfair's regular monthly clients.

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Black, who provided a 3.5 million-pound bailout for Sporting Options customers and took on some of the company's bets, declined to comment on plans for a Betfair IPO. He prefers to talk about how his company lets him do what he knows best. ``I read somewhere that to be a successful entrepreneur means being able to do things that you don't like," Black says as he watches half a dozen horses speed by Betfair's box. ``That's not me. I don't like to do things that I don't like."

From his earliest years, conforming was never part of Black's agenda. His grandfather was Sir Cyril Black, a teetotaler who campaigned against gambling as a Conservative Party Member of Parliament for Wimbledon, south of London.

Exeter University

The younger Black was expelled from Exeter University in southwestern England after he spent time gambling rather than studying.

He stacked shelves at a do-it-yourself store and toured Europe as a golf caddy -- a circuitous route to becoming a gambling mogul who's shaking up the old guard. Last year, Betfair processed $10 billion of wagers. Its strategy of taking a cut of every winning bet translated to a 63 percent jump in profit in the recent fiscal year. Revenue soared 61 percent to 107 million pounds.

Black says Betfair avoids legal headaches by taking no bets from residents of the U.S., a hotbed for online gamblers that produced 87 percent of PartyGaming's $600 million in revenue last year.

U.S. Laws

In April 2003, Deputy Assistant Attorney General John Malcolm told the Crime, Terrorism and Homeland Security Committee of the U.S. House of Representatives that if online gambling companies accept bets from customers in the U.S., they are violating federal laws.

``While the United States can indict these companies or the individuals operating these companies, it may be difficult to bring them to trial in the United States," Malcolm said.

In his testimony, Malcolm referred to the 1961 Federal Interstate Wire Act. The act states that it's illegal to use a ``wire communication facility," referring to a telephone, to transmit bets across state borders. Congress developed the act to stop organized crime involvement in sports gambling, says Lawrence Walters, a lawyer at Weston, Garrou, DeWitt & Walters in Altamonte Springs, Florida, who has advised the online gaming industry.

``The government has used the Wire Act as a threat against anyone providing services such as payment processing or advertising to the online gaming companies," Walters says. ``Even if they are empty threats, public companies are not going to take a chance."

Spitzer's Role

In June 2002, New York-based Citigroup Inc., the biggest issuer of credit cards at that time, reached an accord with state Attorney General Eliot Spitzer, agreeing not to process transactions made at online casinos and other Internet gambling operations. Banks followed suit.

MBNA Corp., the Wilmington, Delaware-based bank that Bank of America Corp. has agreed to buy; Chase Manhattan, now part of JPMorgan Chase & Co., the third-largest U.S. bank; and Wells Fargo & Co., the top U.S. home equity lender, have agreed not to process online casino transactions. American Express Co., the fourth-biggest U.S. credit card issuer, prohibits cardholders from using their cards to gamble on line worldwide.

In July 2002, Spitzer subpoenaed PayPal Inc., the payment provider owned by EBay, questioning its use for online wagers. PayPal agreed to end payments for online gambling. U.S. Justice Department spokesman Bryan Sierra declined to comment on specific online gambling companies or cases. ``Our view is that online gambling in the United States is illegal," he says.

`Not Illegal'

PartyGaming's Segal says his company isn't doing anything wrong. ``We are satisfied that what we are doing is not illegal," he says.

Segal says he bases his reasoning on a court case in Louisiana and a ruling by the World Trade Organization. In 2001, Judge Stanwood Duval of the U.S. District Court for the Eastern District of Louisiana in New Orleans dismissed a case against the world's second-biggest credit card brand, MasterCard International Inc. The suit asserted that MasterCard had run afoul of the Wire Act when it let customers use their cards to gamble and lose money at online casinos. The claimants argued that they shouldn't have to repay their debts because online gambling is illegal.

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``At this point in time, Internet casino gambling is not a violation of federal law," Duval ruled. The Fifth Circuit Court of Appeals, also in New Orleans, affirmed the decision in November 2002.

Address Required

Then, in April 2005, the Geneva-based WTO's appellate body said that because a number of U.S. states allow online gaming on lotteries and some permit online betting on horse racing, it was difficult for the U.S. to justify banning online gaming internationally.

Betfair customers must give their address to register and submit bank details to deposit money into their account before they can wager. ``We don't accept bets from customers with a U.S. address or U.S. credit card," says CEO Stephen Hill, 44, sitting in a corner room in the company's glass and steel offices overlooking the Thames in West London.

On its home turf, Betfair is irritating traditional betting houses. David Harding, CEO of William Hill Plc, the U.K.'s biggest gambling company, says Betfair fosters unlicensed bookmaking because it lets anybody act as a bookmaker. The U.K. requires that bookmakers hold a permit from the Betting and Licensing Committee of a local Magistrates' Court.

`Perfectly Fine'

``If I go into a pub and offer to take bets from the public, I'd be arrested," Harding says, adding sarcastically, ``I do it on my computer, then that's perfectly fine."

In addition, Harding says, some regulated bookmakers use Betfair to avoid paying the U.K. racing levy. U.K. law mandates that bookmakers pay as much as 10 percent of their gross profits to the horse-racing industry. When a licensed bookmaker offers a bet on Betfair, he avoids paying that tax, Harding says.

``No overheads and no taxes to pay means that bookmakers using Betfair can offer better odds," he says. Betfair itself is subject to the U.K.'s 30 percent corporate tax and 15 percent gross-profits tax on its take of customers' winnings.

The rise of online casinos is also prompting debate about gambling addiction. People who gamble on the Internet may be more likely than traditional gamblers to have a problem, says Guy Clark, chairman of the nonprofit, Washington-based National Coalition Against Legalized Gambling.

Gambling Behavior

Clark cites a report by University of Connecticut psychologists George Ladd and Nancy Petry, who studied the gambling behavior of 389 people. They found that almost 11 percent were problem gamblers and more than 15 percent met the criteria for pathological gamblers, showing an inability to resist the impulse to gamble. The study further identified those with Internet gambling experience as having the most serious addictions.

``There is an awful lot of opposition to foreign online gambling companies becoming pervasive across the U.S.," Clark says.

Black grew up around traditional betting shops, the smoke- filled parlors where anyone can wager on a sporting event -- mostly horse races or football matches. The son of a property developer, Black attended Kings College, a private school for 7- to 18-year-olds in Wimbledon, the same district that his grandfather represented in Parliament. He got the nickname ``Bert" when a teacher mistakenly called him by the wrong name.

Even as Black's grandfather legislated against drinking and gambling, Black's father took his 8-year-old son to the Goodwood racetrack in the Sussex countryside.

Hooked on Excitement

Black says he became hooked on the excitement and the tactics for picking winners -- an avocation that hurt his studies when he enrolled at Exeter to study mathematics in 1981. The university expelled him two years later for failing some of his exams, he says.

``I got good grades in the ones I did take," Black says, declining to say which ones those were.

Black followed with part-time jobs. In between, he tried to perfect his gambling to make a living betting on horses and playing bridge. In 1984, Black met his best friend, Jeremy Wray, at the Young Chelsea Bridge Club in London's Earls Court neighborhood.

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In 1986, Black's brother Kevin, who was five years younger, contracted a brain infection that left him a paraplegic. Kevin died in 1988. Black says he decided to seek a regular job, joining the London branch of Track Data Corp., a New York-based financial information services company.

20-Pound Combination

All the same, he kept up his visits to the bookies. In 1992, he made his first big gambling profit. Black walked into his local bookmaking shop in Broadgate, near the Liverpool Street train station.

He put down a 20-pound combination bet on two horses named Party Politics and High Low to win the so-called spring double in the Grand National and Lincoln Handicap races. Both horses won, and Black scooped up 25,000 pounds. ``That was a very good day," Black says with a smile. ``That allowed me to quit my job."

He tried his hand at professional gambling and got bored. In 1995, he joined Boxall Asset Management Ltd., a private money management company in London. The firm, which has since disbanded, traded U.S. equities and derivatives. Black traded U.S. stocks, learning how a financial exchange operates.

He quit after he had a falling out with his boss, he says, and got married and set himself up writing computer database programs for Internet companies such as Deckchair.com, an online travel agency. ``I could come up with creative solutions, which was more valuable than my coding skills," Black says.

`Take It or Leave It'

The idea for Betfair popped up in 1998 when Black was writing software for the British government's GCHQ, part of its intelligence service. After work, he'd think about how to translate what he'd learned about stock trading to sports betting.

``On the NYSE, everyone bids and offers against everyone else," Black says. ``You put your bid on the board, and anyone can come and post their bid. But bookies set the price, and you can either take it or leave it."

Black began toying with the idea of a site that would allow bettors to bypass bookies and to bet not only on an outcome but also against an outcome, much like shorting a stock. The project foundered until the death of his father in 1999. While his brother's death spurred Black to get a full-time job, his father's death jolted him to pursue his betting-site idea.

``So many people go through life with great ideas and never do anything about it," Black says. ``I had to take a chance."

Business Plan

Black put up 50,000 pounds of his own money and persuaded Jeremy Wray's younger brother to join him. Edward Wray, now 37, was a trader in debt capital markets at J.P. Morgan & Co. in London and could provide management know-how and open doors to raise new capital, Black recalls thinking.

With a business plan in hand, the pair visited venture capitalists in London. At the peak of the dot-com boom, they found no takers. One reason was that a company called Flutter was peddling a similar idea. Josh Hannah, 34, and Vince Monical, 35, former Bain & Co. management consultants from San Francisco, had beaten Black and Wray by getting to the venture capitalist community first.

``We tried to raise money and failed miserably," Wray says. ``Flutter had been there ahead of us."

Like Betfair, Flutter's site removed the bookmaker from the gambling equation. Unlike Betfair, Flutter was aiming for the casual bettor. ``It was about creating a community and a way of settling disputes you make with a friend in a pub or at work," says Hannah, who now runs a San Francisco online information service called Ehow.com and is the entrepreneur-in-residence at Menlo Park, California-based Benchmark Capital, which funded EBay. Venture capitalists loved Flutter.

30 Million Pounds

Hannah raised 30 million pounds from Benchmark, Geneva-based Index Ventures and Zurich-based UBS Capital. Black's idea of an exchange focusing on gamblers found no takers.

``Maybe they looked at me and thought I was past my sell-by date," he says. ``If you think Flutter is likely to be the leader, then you back it."

Wray and Black turned to friends and family and scraped together 1 million pounds in increments as small as 25,000 pounds. Flutter went on line in May 2000. Betfair followed four weeks later. The timing was propitious. Betfair's first day was Oaks Day, a major horse-racing event in the U.K. The company hired an actor to parade in a coffin around Russell Square in central London with a banner that read ``death of the traditional bookmaker."

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`Liquidity and Size'

Betfair took in almost 1,000 pounds in bets on the horse race. Black says he knew he had a hit.

``Flutter was designed by management consultants who knew the Internet," he says. ``I knew gambling. I had been thinking about this for years."

In a few months, Betfair had about 95 percent of the betting exchange market based on volume of bets, says Simon Holliday, a partner at Global Betting & Gaming Consultants, a research firm in Wolverhampton, England.

Flutter's Hannah says he realized he'd been outflanked. ``This market is about liquidity and size," he says. ``It made sense to combine the two companies."

Hannah recalls that the decision to merge Betfair and Flutter happened over beers. The two combined in December 2001. The new company took the Betfair name, and Edward Wray became CEO. Fifteen months later, in April 2003, Betfair was handling 50 million pounds of bets a week and had increased its employees to 200 from 20. The company won a Queen's Award for Enterprise for ``outstanding innovation in the sports betting market."

Professional Gamblers

Betfair's arrival is spawning a new breed of professional gamblers. Jonathan Gale, 36, quit his job in the City of London, where he worked writing programs to determine options pricing at Deutsche Bank AG and other banks. He now spends as much as eight hours a day in an office 100 yards from his north London house, betting on intraday price movements of stock indexes using four computers and sophisticated software for program trading.

``With Betfair, your transactional costs are nil because you only pay a commission on your winnings," says Gale, who says he doesn't regret leaving his job. ``In the past 18 months, I haven't had a losing week."

Black is taking his company on the road. In Australia, Betfair has joined with Kerry Packer, the country's richest man, who owns Melbourne's Crown Casino. In July 2004, Black and Packer applied for a license to operate a betting exchange.

Australian Opposition

The local companies aren't in a hurry to put out the welcome mat. Michael Piggott, CEO of wagering at Melbourne-based Tabcorp Holdings Ltd., Australia's biggest gaming company, says Tabcorp has always opposed betting exchanges.

``Licensed bookmakers are the only people that can accept bets," Piggott said via e-mail. ``That has been a cornerstone of maintaining integrity in the conduct of racing. The public cannot offer to accept bets."

In the U.K., Betfair has joined forces with Yahoo! Inc., operator of the world's most-visited Web site. Yahoo Betting provides a stripped-down version of Betfair aimed at casual gamblers. It offers a limited number of categories and no wagers on financial indexes or exchanges.

William Hill's Harding wants the U.K. government to tax Betfair on the volume of transactions that cross its exchange rather than on its profits. In March 2004, U.K. Chancellor of the Exchequer Gordon Brown said the Treasury would review the tax treatment of betting exchanges and their clients. A decision is expected in November, as part of the Treasury's pre-budget report, Betfair's Hill says.

Offshore Move?

Should the report be unfavorable to Betfair, Hill says, the company will give up its U.K. headquarters. ``If we have to pay more taxes, we'll move offshore," he says.

Betfair already has a license to operate in Malta, which charges gambling companies a 0.5 percent tax on their revenue. ``We'd like to be in the U.K. because it offers many advantages," he says, noting that the country's regulatory environment for financial companies would help investors feel safe investing in Betfair.

Regulation, taxes and concerns about gambling addiction all loom as Betfair and other online gaming sites strive to keep their growth streaks alive. The longest odds may be on Betfair's ability to prove that online gambling isn't another Internet bubble ready to burst.

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CIVIL LAW:

Pols To Court To Stop NJ Base Closing (WINS)

WINS, 1010 AM, New York, September 7, 2005

(1010 WINS) (TRENTON) Lawyers for several New Jersey politicians made their plea Tuesday for a judge to issue a ruling that could keep Fort Monmouth open despite a federal commission's recommendation to close it.

U.S. District Judge Mary L. Cooper told them that she would rule quickly _ but did not specify exactly when.

Timing may be of the essence for the judge, who could order the base removed from the list of installations be closed, keep it on the list or set up future hearings on the matter.

By federal law, a list of recommendations for which military installations to close must be submitted to President Bush by Thursday. Bush has pledged to pass the list on to Congress without making any changes.

Congress can only vote the closures up or down. In past rounds of base closures, Congress has always accepted the commission's plan.

A lawyer for the government argued in a hearing Tuesday that if there is a time for the court to intervene in the Base Realignment and Closure Commission's process, it is not now.

Justice Department lawyer Carl Nichols said it's too early for those who believe Fort Monmouth should not be shuttered to make their case, in part because the president and Congress have not approved the closures.

``At that point, and at that point only, would we know Fort Monmouth would be closed," Nichols said.

Last month, BRAC recommended closing or consolidating 62 major military bases and 775 smaller installations across the country.

Among them, only the Fort Monmouth came with an asterisk: Fort Monmouth should be closed, the commission said, only if doing so would not interfere with the fort's work supporting the war on terror.

The closing would mean the loss of thousands of military and civilian contractors' jobs at a base where research is conducted. Fort Monmouth is headquarters of the U.S. Army's Communications Electronics Command, which designs radios, computers and software that keep troops in contact with each other.

Lawyers for a coalition including U.S. Sens. Jon Corzine and Frank Lautenberg, acting Gov. Richard J. Codey and other political and union leaders argued that BRAC did not follow six of Congress' eight criteria when it decided to close Fort Monmouth.

The effort to use the courts to save Fort Monmouth is probably a long shot, the lawyers conceded. But lawyer Frank G. Capece said Cooper's announced intention to issue a written opinion instead of an oral one gave some hope.

Corzine insisted the lawyers ``leave no procedural stone unturned," Capece said, and pursuing a lawsuit now leaves open the possibility of further action later.

General Dynamics Loses Suit (WP)

By Renae Merle, Washington Post Staff Writer

The Washington Post, September 7, 2005

A federal jury in Greenbelt yesterday ordered General Dynamics Corp. to pay $129.9 million to its onetime partner, Final Analysis Communication Services Inc., a small satellite firm, according to officials for the two companies.

The verdict concluded a seven-week trial in U.S. District Court that included appearances by some of the defense industry's biggest players, including Nicholas D. Chabraja, General Dynamics' chief executive; and Gordon R. England, the former General Dynamics executive who is now acting deputy secretary of defense.

The case centered on whether General Dynamics violated agreements to help Lanham-based Final Analysis develop a $400 million project to launch low-flying satellites for data transmissions, including paging and text message services.

James J. McGuire, attorney for Final Analysis, said the jury ordered General Dynamics to pay a total of $137.9 million but also ordered Final Analysis to pay $8 million under a counterclaim, netting $129.9 million for the smaller company.

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General Dynamics is awaiting a final decision by the court, said spokesman Kendall Pease. The judge has asked for briefs from both sides, he said. General Dynamics argued in court that a power struggle between the company's founders contributed to the problems, according to the transcripts.

In the midst of the telecommunications boom in 1998, Final Analysis forged what executives hoped would be a critical partnership with Falls Church-based General Dynamics. The large defense contractor, best known for building tanks and submarines, would buy a 30 percent interest in the smaller company and help with the engineering work. Final Analysis launched three test satellites and was once valued at $400 million to $600 million, according to court documents.

But by 2000, as the telecommunications boom turned into a bust, General Dynamics had backed out, Final Analysis argued in its breach of contract lawsuit. When General Dynamics stopped work on the project, the firm's parent company, Final Analysis Inc., fell into bankruptcy without ever having launched a working satellite or started its service, McGuire said.

Final Analysis is appealing the loss of its Federal Communications Commission license and hopes to use the money the jury awarded to rebuild its business, McGuire said.

Attorney-Client Privilege Doesn't Shield Company In Suit (LAW)

By John Council, Texas Lawyer

Law.com, September 7, 2005

For years, it has been nearly impossible for in-house counsel at Texas companies to bring whistleblower suits against their employers, because companies could claim that the attorney-client privilege protected important evidence from disclosure in such litigation. But a recent 5th U.S. Circuit Court of Appeals decision changes all that.

The Aug. 24 ruling concerns an appeal of an administrative dismissal of a whistleblower complaint filed by an in-house lawyer. The 5th Circuit held in Willy v. Administrative Review Board, U.S. Department of Labor that the U.S. Department of Labor's Administrative Review Board incorrectly dismissed the in-house lawyer's complaint, after the board determined that a key piece of evidence needed to prove his allegations could not be disclosed because of the attorney-client privilege between the lawyer and the company.

The 5th Circuit remanded the case to the Administrative Review Board, noting that the case had "endured an odyssey through administrative and judicial tribunals" including four appeals to the 5th Circuit.

Coastal Corp. fired Donald J. Willy, then an in-house environmental attorney with the Houston-based company, after a series of events in 1984, according to the 5th Circuit opinion. Willy wrote two reports in 1984, referred to in the opinion as the Belcher Report, in which he concluded that one of the company's subsidiary oil companies was exposed to liability for allegedly violating several federal environmental statutes. Willy's supervisors disagreed with some of his conclusions in the Belcher Report and asked him to delete references to some of the alleged violations, which he refused to do, according to the opinion.

Coastal fired Willy after his supervisors accused him of contacting state regulatory officials about environmental matters at a Corpus Christi refinery owned by Coastal, the opinion noted.

In October 1984, Willy filed a complaint with the U.S. Department of Labor, alleging that Coastal violated federal whistleblower laws by firing him in retaliation for writing the Belcher Report -- allegations the company denied.

The company alleged the Belcher Report was protected by attorney-client privilege and refused to produce the report as part of the litigation.

Nevertheless, an administrative law judge allowed into evidence two draft versions of the Belcher Report that Willy had in his possession.

After a series of dismissals and reversals of dismissals by administrative law judges of Willy's complaint, in February 2004, the Department of Labor's Administrative Review Board (ARB) issued a final decision and dismissal order. The board concluded that there was no exception to the attorney-client privilege that would allow the Belcher Report to be admitted into evidence; therefore Willy could not prove his complaint.

The 5th Circuit found that the ARB incorrectly ruled that Willy could not introduce the Belcher Report.

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"The case law amply demonstrates the narrower proposition that the attorney-client privilege only prohibits a party from simultaneously using confidential information as both a shield and sword," wrote Judge Jacques Wiener in an opinion joined by Judges Patrick Higginbotham and Rhesa Barksdale.

"Stated differently, the 'shield and sword' analogy is conjunctive; it does not stand broadly for the proposition that an attorney may never use confidential information offensively," the judges concluded.

20+ YEARS

Willy, who coincidentally has been employed as a federal administrative law judge in Houston for the past 10 years, says he's pleased with the ruling.

"Look at the Constitution. The Fifth Amendment says you have a right to due process," Willy says. "How can you not have a right to due process because of your occupation?"

Willy represents himself in the case and argued it at the 5th Circuit. Judicial canons prevent judges from representing other people in court but permit judges to represent themselves. Another lawyer who had represented Willy dropped out of the case years earlier, Willy says.

"It's almost impossible to find someone to represent you in a case that's been pending for 20 years," Willy says. "I was forced to handle it, because there was no one else to handle it. It would be impossible for me to acquaint them with the case," which he says contains thousands of pages of documents.

J. Richard Hammett, a partner in the Houston office of Baker & McKenzie who represents Coastal, did not return two telephone calls seeking comment before press time on Sept. 1. Mark Edward Papadopoulos, a U.S. Department of Labor attorney who represents the agency in the case, declines comment.

Michael Maslanka, a partner in the Dallas office of Ford & Harrison who defends companies in employment suits, says Willy is a big deal for in-house counsel who want to sue their employers -- especially when the opinion is put in the context of the Sarbanes-Oxley Act of 2002, which strengthened financial audit requirements in an attempt to prevent corporate fraud.

"This is a very empowering case for corporate counsel who believe they've been retaliated against under Sarbanes-Oxley," Maslanka says. "It removes a huge obstacle for them."

Maslanka says he has successfully used the attorney-client privilege to defend companies in Sarbanes-Oxley suits filed by in-house counsel. But Willy gives in-house counsel the same ability to file whistleblower cases against their employers as other employees have, Maslanka says.

"I think the lesson to draw from this is, if you haven't already done so, you make sure you have avenues where corporate counsel can register concerns with corporate governance," Maslanka says.

"The same good management techniques that stop other lawsuits from getting filed now apply to corporate counsel," Maslanka says. "Human resources has to treat corporate counsel as a potential plaintiff and listen to their concerns."

Rob Roby, a corporate defense attorney and partner in Dallas' Gwinn & Roby, says the opinion may have a chilling effect on a company's relationship with its own in-house counsel.

"I think it could be very critical in hindering communications that management thought would remain confidential. That's the real value of the attorney-client privilege," Roby says. "The goal is to have candid communication to stop things before they happen or fix them once they have happened."

Ken Molberg, a partner in Dallas' Wilson Williams & Molberg who represents employees in employment disputes, applauds the opinion.

"It's a common-sense approach, frankly. It says people in those positions are entitled to the protection under the law just like other people," says Molberg, president of the Texas Employment Lawyers Association.

"It really has broader implications. There are a series of cases out that circumscribe the rights of HR people who aren't even lawyers from using documents that will help their cases," Molberg says. "This speaks very loudly to that line of judicial reasoning."

CIVIL RIGHTS:

DOJ_NMG_0003272

Voter ID Opponents To Monitor Elections (AJC)

By Carlos Campos, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, September 7, 2005

Several groups opposed to a new law requiring voters to show state-issued photo ID at the polls announced Tuesday plans to monitor local elections on Sept. 20.

The Rev. Joseph Lowery, head of the Coalition for the People's Agenda, said monitors will "make sure there's no abuse of citizens who want to exercise their right to vote."

Thirty-three Georgia counties and two cities are holding elections Sept. 20. Most are referendums for special purpose local option sales taxes, including one in Cobb County, but some include races for city council posts. Augusta voters will select a replacement for Democratic state Sen. Charles Walker, convicted earlier this year of federal fraud charges.

Volunteers plan to conduct exit polls asking people if they were denied the opportunity to vote due to a lack of photo ID. The Mexican-American Legal Defense Fund has set up a toll-free hotline to field voter complaints: 1-877-462-5333.

Lowery was joined at the announcement by Atlanta Mayor Shirley Franklin and representatives of MALDEF, ACLU Voting Rights Project, the NAACP and the Southern Christian Leadership Conference.

The new law was passed by the General Assembly earlier this year. Supporters say it is intended to curb fraud by requiring voters to show a government-issued photo ID, such as a driver's license, state ID card, a public college ID or U.S. passport. Previously, voters were allowed to show non-photo identification, such as utility bills.

Opponents maintain the law will make it harder for poor people, the elderly and college students to vote. And they allege the law violates the Voting Rights Act, though it has received approval from the U.S. Justice Department.

Feds Tour Juvenile Justice Center (WJZ-TV)

WJZ-TV, CBS 13, Baltimore, MD, September 7, 2005

(WJZ) Baltimore, MD Continuing troubles and constant complaints about the Juvenile Justice Center bring federal investigators to Baltimore today.

Federal investigators fromthe Department of Justice will spend nine days inside the Juvenile Justice Center downtown.

The state run facility is under scrutiny after a series of complaints of youths being mistreated among other issues.

The Hickey School will close in November.

Meantime, a report on the Justice Department's visit this fall -- should be ready by early next year.

Right now, about 130 young offenders are housed inside the Juvenile Justice Center.

Gay-Marriage Bill Narrowly Passes California Assembly (LAT)

By Nancy Vogel

The Los Angeles Times, September 7, 2005

SACRAMENTO—The California Legislature made history Tuesday as the Assembly passed a bill to legalize same-sex marriage. With no votes to spare, California's lawmakers became the first in the United States to act without a court order to sanction gay unions. The measure was approved after three Democratic lawmakers, who abstained on a similar proposal that failed in June, changed their minds under intense lobbying by bill author Assemblyman Mark Leno (D-San Francisco) and gay and civil rights activists.

The bill, which would change California's legal definition of marriage from "a civil contract between a man and a woman" to a "civil contract between two persons," now goes to Gov. Arnold Schwarzenegger. The governor has signaled that he will veto it.

Tuesday's partisan vote came after 23 lawmakers spoke for an hour and a half, many of them describing the historic importance of their action, others relating intensely personal stories.

In a moment of high drama, with dozens of gay-rights supporters watching from the Assembly gallery, Salinas hesitated for several seconds as the tally hung at 40 "ayes" — one short of passage. Then, having promised Leno months ago that he would not let the bill fail if it garnered 40 votes, Salinas pressed the "aye" button on his desk, making the final vote 41-35. Those seconds

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"seemed like an eternity," said Mark Guzman of El Dorado Hills, as he and his partner of 14 years, J. Scott Coatsworth, celebrated in the Capitol rotunda after the voting.

Assemblymembers Tom Umberg of Anaheim, Gloria Negrete-McLeod of Chino and Simon Salinas of Salinas provided the key votes. Assemblymember Mervyn Dymally (D-Compton), who had missed the Assembly floor vote in June, also helped the bill prevail.

Assemblyman Jerome Horton, (D-Inglewood), one of the lawmakers who abstained in June when Leno's bill failed 37-36, withheld his vote again Tuesday. Assemblywoman Bonnie Garcia (R-Imperial City) abstained after having voted "no" in June. Assemblyman Joe Baca, Jr. (D-Rialto) also abstained Tuesday.

Two of the lawmakers who switched their votes from abstain to "aye" said in floor speeches that they were glad for another chance.

Umberg elicited applause and whoops in the otherwise hushed chamber when he described why he had changed his mind. He said he had been "cajoled, been harassed, been harangued and been threatened" by friends over the issue.

"This is one of those time when history looks upon us to see where we are," said Umberg. "Ten years from now, there are a handful of issues that history will record where we stood and this is one of those issues."

"History will record whether we pushed a bit, took the lead to encourage tolerance, to encourage equality to encourage fairness," he said.

"The constituency I'm concerned about is a very small one," said Umberg, "and that's the constituency of my three children, should they decide to look back on my record ... and reflect on where I was when we could make a difference."

Negrete-McLeod similarly said she regretted abstaining in June.

The fight over same-sex marriage will now shift to the governor's office -- and to the courts and perhaps the ballot box. A case testing the legality of gay marriage is moving toward the state Supreme Court, and opponents of same-sex marriage are trying to qualify two different initiatives to ban gay marriage for the ballot next year.

Leno characterized gay marriage as the most important civil rights issue of the 21st century. He enlisted Dolores Huerta, co-founder of the United Farm Workers of America, and Alice Huffman, California president of the National Assn. for the Advancement of Colored People, to help him lobby undecided lawmakers.

Huerta said she spoke to Salinas last week and "went back to our old culture, the Latino culture."

"Respecting other people's rights is peace," she said. "Respecting other people's rights to marry who they want is a constitutional right, it's a human right and it's a privacy right. I said to Simon, 'You've got to be a leader . . . .You've got to have courage.' "

Opponents of same-sex marriage call Leno's bill unconstitutional, saying that it overturns what voters put into law five years ago when they passed Proposition 22 by 61%. That initiative stated that only marriage between a man and a woman is valid and recognized in California.

"The only word I can see here is prostitution," said Randy Thomasson, president of the nonprofit Campaign for Children and Families. "Instead of obeying the votes and the constitution, the Democratic politicians have prostituted themselves to the homosexual marriage agenda. It's not gay, it's bad."

After Leno's bill fell three votes short of passing the Assembly in June, he inserted the gay marriage legislation into a bill about marine research that was pending in the Senate. That bill, AB 849, cleared the Senate on Thursday, also with the minimum number of votes necessary.

Some Republicans, none of whom voted for Leno's bill, downplayed the historic significance of the vote and said gay marriage is not an issue of civil rights.

Others criticized Leno for reviving the bill after the June defeat and called homosexual marriage immoral.

"The institution of marriage transcends political fads," said Assemblyman Ray Haynes (R-Murrieta). "We are talking about an institution that has been defined for thousands of years . . . and we are being asked to engage in a great social experiment."

Leno said he optimistic that Schwarzenegger has an open mind on his bill, which the governor has until Oct. 9 to veto or sign. He noted that public opinion on gay marriage is evenly split, 46% to 46%, in California based on a recent poll by the Public Policy Institute of California.

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"I believe this is a governor who at his core is a libertarian on issues of social matters," said Leno, "and that he is very fair -- minded."

"I think he also takes the longer, rather than shorter, view of history," he said.

After the Assembly vote, Schwarzenegger spokeswoman Margita Thompson said, "The people spoke when they passed Proposition 22.

"The issue subsequently went to the courts. The governor believes the courts are the correct venue for this decision to be made, " Thompson said. "He will uphold whatever decision the court renders."

'Marriage' Bill OK'd, Goes To Arnold (WT/AP)

By Steve Lawrence, Associated Press

The Washington Times, September 7, 2005

SACRAMENTO, Calif. -- The California Legislature yesterday became the first legislative body in the country to approve same-sex "marriage," as homosexual rights advocates overcame two earlier defeats in the Assembly.

The 41-35 vote sends the bill to Gov. Arnold Schwarzenegger, who had no comment on the bill when it cleared the Senate last week, in what was widely seen as a symbolic vote at the time because of lower house's earlier rejections.

His office did not immediately respond late last night to a call seeking comment.

Although Mr. Schwarzenegger generally favors homosexual rights and domestic partnerships, he said in a 2003 interview with radio talk-show host Sean Hannity: "I think ... marriage is something that should be between a man and a woman."

He also criticized the San Francisco mayor's issuance of marriage licenses to same-sex couples in February 2004, saying they "fail to meet legal standards." California voters approved a ballot referendum defining marriage as the union of a man and a woman.

The bill's supporters compared the legislation to such earlier campaigns as women's suffrage and the eradication of slavery.

"Do what we know is in our hearts," said the bill's sponsor, San Francisco Democrat Mark Leno, who is homosexual. "Make sure all California families will have the same protection under the law."

Mr. Leno's bill had failed in the Assembly by four votes in June, but he was confident he could get it through on a second try after the Senate approved a same-sex "marriage" bill last week.

Democratic Assemblyman Paul Koretz called the opposite-sex definition of marriage "the last frontier of bigotry and discrimination, and it's time we put an end to it."

Assemblyman Tom Umberg, a Democrat who abstained when another homosexual "marriage" bill fell four votes short in June, said he was concerned about what his three children would think of him if he didn't join those "who sought to take a leadership role in terms of tolerance, equality and fairness."

But opponents repeatedly cited the public's vote five years ago to approve Proposition 22, an initiative to keep California from recognizing same-sex "marriages" performed in other states or countries.

"History will record that you betrayed your constituents and their moral and ethical values," Republican Assemblyman Jay La Suer said.

The vote was hailed by homosexual advocates, including Geoff Kors, executive director of Equality California, a backer of the bill.

"As the debate today shows, love conquers fear, principle conquers politics and equality conquers injustice, and the governor can now secure his legacy as a true leader by signing this bill," Mr. Kors said.

California already gives same-sex couples many of the rights and duties of marriage if they register with the state as domestic partners.

Massachusetts' highest court ruled in November 2003 that the state constitution guarantees same-sex couples the right to "marry." The nation's first state-sanctioned, same-sex "weddings" began taking place in May 2004.

Vermont began offering civil unions in 2000, after a ruling by the state's Supreme Court. Earlier this year, Connecticut became the first state to approve civil unions without being forced by the courts.

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Regardless of what the governor does, California's debate over homosexual "marriage" will continue on several fronts.

A state appeals court is considering challenges to a lower court ruling that overturned California laws defining marriage as the union of a man and a woman. Opponents of same-sex "marriage" are trying to qualify initiatives for the 2006 ballot that would amend the state Constitution.

Calif. Lawmakers Pass Gay Marriage Bill (NYT/AP)

By The Associated Press

The New York Times, September 7, 2005

Filed at 12:28 a.m. ET

SACRAMENTO, Calif. (AP) -- The California Legislature on Tuesday became the first legislative body in the country to approve a bill allowing same-sex marriages, but the measure faces an uncertain future with Gov. Arnold Schwarzenegger.

There were loud cheers by gay-rights activists in the Assembly gallery as lawmakers voted 41-35 to approve the bill and send it to the governor. The Assembly had twice defeated similar legislation.

A spokeswoman for the Republican governor said Schwarzenegger believes the issue should be decided by the courts, not by his signature on legislation. A state appellate court is considering appeals of a lower court ruling that overturned California laws banning recognition of gay marriages.

"He will uphold whatever the court decides," Schwarzenegger spokeswoman Margita Thompson said.

Gay-marriage supporters nonetheless rejoiced the victory. They compared the legislation to earlier civil rights campaigns to eradicate slavery and give women the right to vote.

"As the debate today shows, love conquers fear, principle conquers politics and equality conquers injustice, and the governor can now secure his legacy as a true leader by signing this bill," said Geoff Kors, executive director of Equality California, a backer of the bill.

The bill, sponsored by San Francisco Democrat Mark Leno, had failed in the Assembly by four votes in June, but Leno was confident he could get it through on a second try after the Senate approved a same-sex marriage bill last week.

"Do what we know is in our hearts," Leno said. "Make sure all California families will have the same protection under the law."

Assemblyman Tom Umberg, a Democrat who abstained in the vote in June, said he was concerned about what his three children would think of him if he didn't join those "who sought to take a leadership role in terms of tolerance, equality and fairness."

But opponents repeatedly cited the public's vote five years ago to approve Proposition 22, an initiative put on the ballot by gay marriage opponents to keep California from recognizing same-sex marriages performed in other states or countries.

"History will record that you betrayed your constituents and their moral and ethical values," said Republican Assemblyman Jay La Suer.

Randy Thomasson, president of the Campaign for Children and Families, a conservative group opposed to the bill, said Schwarzenegger should announce immediately that he would veto the legislation.

"Schwarzenegger can't afford to sign the gay marriage license bill," he said. "He'll actually become a hero to the majority of Californians when he vetoes it."

California already gives same-sex couples many of the rights and duties of marriage if they register with the state as domestic partners.

Massachusetts' highest court ruled in November 2003 that the state constitution guarantees same-sex couples the right to marry. The nation's first state-sanctioned, same-sex weddings began taking place in May 2004.

Vermont began offering civil unions in 2000, after a ruling by the state's Supreme Court. Earlier this year, Connecticut became the first state to approve civil unions without being forced by the courts.

Regardless of what action the governor takes, California's debate over gay marriage will continue on several fronts.

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A state appeals court is considering challenges to a lower court ruling that overturned California laws banning recognition of gay marriages. And opponents of same-sex marriage are trying to qualify initiatives for the 2006 ballot that would amend the state Constitution to ban same-sex marriages.

Democrats And Labor Get Redistricting Vote On Ohio Ballot (NYT)

By Dean E. Murphy

The New York Times, September 7, 2005

The Ohio secretary of state announced yesterday that a series of election-related constitutional amendments had qualified for the November ballot, including one intended to strip Republican elected officials of their control over drawing legislative districts.

The amendments are sponsored by Reform Ohio Now, a coalition dominated by Democrats, unions and watchdog groups. It celebrated the announcement and said a statewide campaign to win approval in November had begun.

"It's not like we're posting yard signs yet, but we're close to that," the campaign manager of Reform Ohio Now, Scarlett Bauder, said. "Right now the time is ripe for reform."

The State Supreme Court rejected last month a Republican-backed move to disqualify the measures, but a second suit by a former Republican state senator is to be heard tomorrow in an appeals court in Columbus.

The former senator, Richard H. Finan, wants the amendments declared invalid because Secretary of State J. Kenneth Blackwell allowed Reform Ohio Now to use out-of-state signature gatherers.

Mr. Finan has said the redistricting measure, if approved, could cost Republicans in Ohio 6 of their 12 seats in Congress and would probably inspire similar Democratic-backed efforts in other states dominated by Republicans.

A spokesman for the Ohio First Education Fund, a group founded by Mr. Finan, said Republicans were moving forward with fund-raising in case they lost the court battle.

The spokesman, David L. Hopcraft, said the campaign was drawing money from outside the state because of Ohio's significance as a swing state in presidential elections, though he did not give specific dollar amounts.

"If the issues make it to the ballot," Mr. Hopcraft said, "we will have a vigorous campaign that speaks to the ballot-box power of every Ohioan, which we think is clearly threatened under these amendments."

"These issues," he added, "are being backed by people who did not like the results of the last election and want to nullify Ohio's vote."

Ms. Bauder said Reform Ohio Now, which has raised $1.2 million, had enemies on both sides of the aisle.

"To me, that says it is true reform, because people in both parties don't like it," she said.

Mr. Blackwell, a Republican, has said that the signature gatherers acted legally, but that Attorney General Jim Petro, also a Republican, had sided with Mr. Finan in the court case.

"Ohio law clearly says the right to petition our state government in this manner belongs solely to the citizens of Ohio," Mr. Petro said in filing court papers last week.

The secretary of state's office said Reform Ohio Now had collected 353,094 valid signatures, 30,000 more than required. A spokesman, Carlo LoParo, said the amendments were submitted as a package but would appear as four separate ballot measures.

The redistricting amendment calls for an independent commission that would replace state lawmakers in determining the boundaries of legislative districts. The other amendments would lower some campaign contribution limits, extend early voting to all voters and transfer oversight of elections to an appointed election master from the secretary of state's office.

ANTITRUST:

Unipol Gets Antitrust OK For BNL Bank (BOS)

The Boston Globe, September 7, 2005

DOJ_NMG_0003277

MILAN, Italy --Unipol Assicurazioni SpA said Tuesday it had received the necessary antitrust regulator authorization for its $6.12 billion bid to take over Banca Nazionale del Lavoro SpA.

The bid is pending approval by insurance regulator Isvap and the Bank of Italy.

Italy's market watchdog Consob approved Unipol's prospectus last week but asked the insurer for further information regarding the nature of the agreements with Deutsche Bank.

The German bank has a call option on nearly 5 percent of BNL but is not a member of the shareholder pact led by Unipol that is launching the takeover bid for the Rome-based bank.

Unipol filed the final version of a 400-page document with conditions for its BNL bid to Consob on Friday.

Unipol's all-cash offer to acquire the 59 percent of BNL that it doesn't already own has torpedoed a rival all-share offer from Spain's Banco Bilbao Vizcaya Argentaria SA which ended unsuccessfully in July.

Endesa Rejects Gas Natural's Bid (WSJ)

By Keith Johnson and Jason Singer

The Wall Street Journal, September 7, 2005

Spanish power utility Endesa SA rejected the unsolicited bid of €22.55 billion ($28.27 billion) from Gas Natural SDG SA, a smaller natural-gas company, setting the stage for a hard-fought takeover battle as the European energy industry undergoes a bout of frantic consolidation.

After huddling for most of the day in Madrid, Endesa's board advised its shareholders against accepting the Gas Natural offer, calling it "hostile" and saying the price "does not reflect the real value of the company."

The Endesa board appointed three investment banks -- J.P. Morgan Chase & Co., Deutsche Bank AG and Citigroup Inc. -- to help it craft its takeover defense, according to people familiar with the matter.

"It was in the script," Gas Natural Chief Executive Rafael Villaseca said in an interview, shrugging off Endesa's negative response to the bid. "In any event, it will be up to the shareholders to decide, and business logic will end up prevailing."

Based on Monday's prices, Gas Natural's cash-and-stock offer values Endesa at €21.30 ($26.70) a share. Endesa's American depositary receipts were up $2.46, or 11%, at $25.75 in 4 p.m. New York Stock Exchange composite trading. In Madrid, Gas Natural shares fell 2.2% to close at €24.24.

A flurry of deal making is taking place in the European energy sector. Last month, France's Suez SA moved to acquire the 49.9% of Belgian power utility Electrabel SA it doesn't own. On Monday, Germany's E.On AG said it was considering a takeover bid for ScottishPower PLC, the United Kingdom's fifth-largest power producer. And France is preparing to sell shares in its former power monopoly, Electricité de France SA, to public investors this fall, following the initial public offering of natural-gas provider Gaz de France SA this summer. (See related article.)

The intense activity is being spurred by both the European Union-mandated liberalization of the continent's energy markets and volatile commodity prices, industry executives and analysts said.

Until recently, most European energy utilities enjoyed dominant positions in their home countries and captive clients. Sheltered from market vagaries, they could pass on higher production prices to their consumers.

But the EU has begun opening its power and gas markets to competition in staggered phases, first to corporate and then to residential clients. EU members must fully open their power markets to competition by July 2007 and their natural-gas markets by the end of 2008. As these deadlines approach, European energy utilities are seeking more size, a pan-European presence and a more balanced energy-generation portfolio.

In the past year, they also have had to contend with a volatile market for oil and natural gas, which have reached record prices, driving up their costs of producing electricity.

The combination of these factors has pushed some companies to seek vertical integration by controlling their own supply of raw materials -- a main rationale behind Gas Natural's bid. Gas Natural hopes to use its plentiful supply of natural gas to power Endesa's gas-fired turbines, which produce cheaper and environmentally cleaner electricity than older coal-fired plants.

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"Some utilities that have been squeezed by commodity prices on the one hand and by consumers and regulators at the other end are beginning to think they should move upstream, to capture a greater share of the energy value-chain margin," said Vittorio Perona, head of the power and natural-resources corporate-finance division at Dresdner Kleinwort Wasserstein.

Gas Natural, based in Barcelona, Spain, outlined details of its offer yesterday, arguing that it would spur competition to the benefit of consumers in Spain, while creating a strong "national champion" able to compete with other European energy titans when the continent's power markets are fully liberalized.

"The only possible solution" to growing energy demand in Europe is "more gas-fired plants," Mr. Villaseca said. "And that means utilities have to have a flexible and available supply of natural gas."

Rival Spanish utility Union Fenosa SA is following a similar strategy by teaming up with Italian oil-and-gas titan ENI SpA to build liquefication and regassification plants that will bring natural gas from Egypt to Spain by ship to power its turbines at a competitive price. In Germany, E.On relies on its E.On Ruhrgas unit to supply it with natural gas to power its turbines.

In the near term, the strategy carries financial risks. Credit concern Standard & Poor's Ratings Group placed Gas Natural and Endesa on review with a negative outlook yesterday, citing the increased debt load that the combined company would carry if the deal were successful. Gas Natural also must convince Spanish regulators that a merged company wouldn't have too dominant a position in Spain.

Gas Natural said it expects the deal to pass muster thanks to a pre-agreed selloff of some of Endesa's generation assets to a Spanish rival, Iberdrola, under a deal reached with Iberdrola.

The takeover offer sparked a rally in the shares of European utilities yesterday. The DJ Stoxx utilities index rose 1.5%.

Endesa's advisers are trying to determine whether other utilities could emerge as counterbidders. Any foreign bidder, though, risks entering a highly political dogfight.

Court Cases Don't Scare Music File Swappers Away (USAT)

By Jefferson Graham

USA Today, September 7, 2005

Despite two huge court losses for file-sharing firms, unauthorized online song and movie swapping is at an all-time peak, says Internet measurement company BigChampagne.

“File sharing has never been more popular than it is now,” says BigChampagne CEO Eric Garland. “People have heard all the legal threats and admonitions, but that's not enough. They don't believe it.”

He says about 9.6 million people were logged onto sharing networks at any one time in August, up from 6.8 million the year before.

The recording industry has filed 14,000 copyright infringement lawsuits against song swappers in the last two years, at a time when more than 1 billion songs have been offered for trading each month on services such as Kazaa and eDonkey. The industry has also looked to the courts for relief.

On Monday, an Australian federal court judge ruled that Sharman Networks, Kazaa's parent firm, must install filters to prevent its software from being used for unauthorized sharing.

The ruling followed a U.S. Supreme Court decision in June that said software firms Grokster and StreamCast Networks, which operates the Morpheus service, could be held liable for their users' actions.

The Supreme Court decision hasn't curbed online swapping, and neither will the Australian court ruling, says Phil Leigh, an analyst at research firm Inside Digital Media. “A lot of college students still don't feel vulnerable at all,” Leigh says.

The Australian decision is only enforceable there. Kazaa, meanwhile, is a global product whose popularity already had faded.

Once the most-used sharing software, it has been in steady decline. According to Internet research firm CacheLogic, Kazaa's market share tumbled to 9% in July from 24% a year earlier. Currently, eDonkey is the most popular sharing software, with a 50% market share, CacheLogic says.

Kazaa is bloated with too much backdoor, spyware-type advertising, Garland says. “People went elsewhere. A judgment might have been more meaningful a few years ago, when Kazaa was more popular.”

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Recording Industry Association of America CEO Mitch Bainwol said he is pleased with the Kazaa decision, which "reflects a growing, international chorus: Those who promote theft can be held accountable no matter how they may attempt to escape responsibility."

Garland says the industry should spend less time fighting the online pirates and more time turning them into paying customers.

Legitimate online music stores have taken off since Apple's popular iTunes site made its debut. But Garland says Apple and competitors Napster, RealNetworks and others could sell even more if they made their songs compatible with each other's systems.

Songs purchased at iTunes can't be transferred to non-Apple digital music players without some workarounds, and vice versa with songs from Napster. "The incompatibility is a nightmare for consumers," Garland says.

Refiners' Merger Good For Business, Not Consumers (WP)

Steven Pearlstein

The Washington Post, September 7, 2005

Last week, as supply shortages sent the price of a gallon of gasoline as high as $6 in some markets, federal officials charged with protecting consumers quietly approved yet another oil industry merger, this one creating the nation's largest oil refiner.

Because of the rush of Katrina news, the merger earned hardly a mention in the general press. And yet by giving its blessing to Valero's $8 billion purchase of Premcor, the Federal Trade Commission not only reinforced its reputation as a patsy for the energy industry but demonstrated a stunning lack of political sensitivity.

Although the FTC and its staff never seem to make the link between industry consolidation, rising energy prices and record profits, Wall Street investors surely can. Over the past year, shares in Valero are up 226 percent, which, as the Financial Times pointed out last week, makes Google (only 186 percent) look like a laggard.

Listen to what Valero's chief executive, Bill Greehey, had to say Thursday in announcing that the deal had closed: "We are in a new era for refining where I believe you will continue to see higher highs and higher lows for both product margins and sour crude discounts. And now, with 18 refineries, no one is better positioned to benefit from this than Valero."

Translation: This deal will do nothing for consumers, but it's a home run for investors.

Here's the situation, as far as I can make it out. Refineries in the United States produce about 18 million barrels of refined product a day for an economy that consumes about 21 million. A completely new refinery hasn't been built in this country in nearly 40 years. And although Valero and others have spent $47 billion over the past decade to expand existing capacity by 13 percent, demand has grown even faster.

The reason that supply has not kept up in this industry, as in others, is simple: The industry makes more money that way. And one way the industry is better able to enforce this gentleman's agreement against investing too heavily in new capacity is by reducing the number of players and making entry into the industry even more difficult than it is already.

The FTC uses a different analysis. Its staff finds no evidence that this merger -- or any of the dozens of others they have approved -- gives the acquiring companies the power to raise prices. After all, even with this latest refinery deal, no company controls more than 13 percent of the national market nor more than 20 percent in any region.

But that analysis misses the point. As long as the industry can coordinate its investments, keep supplies tight and free-ride on OPEC price fixing, there is no need to unilaterally raise prices. In the mismatch of supply and demand, the "free" market does it for them.

The industry likes to explain away the lack of adequate refining capacity by arguing that government regulation makes building a refinery virtually impossible. The last time we heard the "government regulation" excuse, it was from Vice President Cheney during the California energy crisis. It turned out our energy-maven vice president didn't know what he was talking about, and that the real reason for skyrocketing prices was that Enron and the others were secretly manipulating the market by strategically withholding supply.

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In the case of oil refineries, there's no doubt that, given voters' natural antipathy to having a refinery in the neighborhood, finding a new site requires much time, money and patience. But when President Bush floated the idea last year of speeding site approval by locating new refineries on inactive military bases, Valero's chief operating officer declared he wasn't interested. When you look at industry rates of return, he told The Post's Justin Blum, it's just not worth it.

This is the oil industry's other Big Lie. Every year, Fortune Magazine, in its Fortune 500 issue, calculates the rate of return on shareholder equity for each major industry. Last year, when oil prices were a lot lower than they are now, the average return for both independent refiners and integrated majors was 23.9 percent. This year, it's been even higher. And over the past decade, according to Fortune, the return on equity in the sector has averaged 16 percent, well above the investment hurdle rates in most other sectors of the economy.

Valero is a great company and a real success story. Since 1997, it has bought up lots of lousy refineries, fixed them up and run them right -- in the process adding the equivalent of two refineries' worth of new capacity. Essentially, it has put the lie to the self-serving complaint from the integrated majors that there was no money to be made from refining and from other downstream operations.

But what the country needs isn't a bigger Valero -- it's more Valeros, challenging the majors, investing heavily in new capacity and competing for market share. By approving the merger with Premcor, the FTC has reduced the chance of having that kind of full-throttle competition in an industry that desperately needs it.

Steven Pearlstein will host a web discussion at 11 a.m. today athttp://washingtonpost.com. He can be reached atpearlsteins@washpost.com.

ENVIRONMENT:

E.P.A. To Bar Data From Pesticide Studies Involving Children And Pregnant Women (NYT)

By Michael Janofsky

The New York Times, September 7, 2005

WASHINGTON, Sept. 6 - Researchers will no longer be allowed to include children and pregnant women in studies examining the effects of pesticides to help set federal standards, according to the first regulations for human testing of pesticides that the Environmental Protection Agency plans to propose.

The regulations, to be proposed on Wednesday, would also establish an independent oversight panel to ensure that all studies submitted to the agency were conducted ethically and followed internationally accepted protocols for human testing.

Agency officials discussed the new regulations with reporters on Tuesday. They declined to make copies of the proposal available, leading at least one major critic of the agency, Senator Barbara Boxer, Democrat of California, to suggest that a close examination of the regulations might reveal weaknesses identified in an earlier version. Agency officials said those weaknesses were removed from a draft sent to the Office of Management and Budget last month.

In a statement, Senator Boxer said of the proposal: "One thing is clear. It must be changed dramatically from the version E.P.A. forwarded to O.M.B. just a few weeks ago. If not, it will be a direct attack on our most vulnerable citizens."

The proposed regulations, which would take effect in January after a public comment period, came several months after Congress put restrictions on human pesticide tests as part of an appropriations bill. Congressional concern grew after reports that parents in Florida would be paid to participate in a program, known as Cheers, by allowing their children to be tested to measure household exposure to pesticides.

"This proposed rule contains some of the strongest protections for human subjects ever proposed by the federal government," Jim Jones, director of pesticide programs for the agency, said Tuesday in a conference call with reporters.

Mr. Jones said the agency was so alarmed by public anger over pesticide testing involving humans that the new protocols would bar the agency from considering any tests that include pregnant women and children.

He also said the proposed regulations would apply to the 22 toxicity tests involving humans that are now before the agency. Two of them included children, though none involved pregnant women, Mr. Jones said.

Environmental groups expressed worry that the agency might blur the lines between past and future tests.

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"This is a huge problem if they are going to accept studies already done," said Erik D. Olson, a senior lawyer with the Natural Resources Defense Council. "Dozens of past unethical studies are now before the E.P.A. If they accept them, the new rules are plainly inadequate."

The leading trade organization for pesticide manufacturers, CropLife America, defended its testing practices, saying its members have always worked to ensure the safety of participants.

At the same time, the group's president, Jay Vroom, welcomed the new E.P.A. regulations, saying they "have the potential to establish ethical and scientific safeguards and uniform standards to protect research subjects and improve the risk assessment process."

Mr. Vroom also said future tests would "only involve healthy adult volunteers and exclude pregnant women."

In most cases, the tests are conducted by chemical manufacturers and the results submitted to the E.P.A. as part of a chemical's approval process. But critics in recent years have questioned the effectiveness of a system in which the companies have an enormous financial interest in winning approval.

Mr. Jones said an oversight panel to review tests involving pesticides would include medical ethicists and experts in chemical tests and would exclude anyone with connections to the agency or chemical companies.

National Parks Grapple With Surge Of Illegal Off-road Vehicles (CSM)

By Mark Clayton

The Christian Science Monitor, September 7, 2005

The Big Cypress National Preserve in Florida is crisscrossed with so many illegal swamp-buggy ruts - more than 23,000 miles of them - that park officials in August began limiting off-road vehicles to 400 miles of trails in order to protect the Florida panther and the preserve.

In Yosemite National Park, off-road vehicles are involved in "numerous" violations, according to a staffer's memo.

And each day of a long summer weekend like Labor Day, as many as 2,200 motorized vehicles hit the beaches of Cape Hatteras National Seashore in North Carolina. "Not one of those is there legally," says Don Barger, southeastern regional director of the National Parks Conservation Association, a watchdog group.

In all, unauthorized off-road vehicles are buzzing through nearly one-third of America's national parks, according to a recently released internal National Park Service (NPS) survey. In one-fifth of the parks, they have damaged natural environments that by law must be preserved for future generations. Preservation vs. recreation

The survey highlights a conundrum for the park service. It has gone to bat for broader access for motorized off-road vehicles - including snowmobiles in Yellowstone National Park. At least 29 of its parks have allowed illegal off-road vehicles. On the other hand, in some cases, the parks are prohibited from doing so by their authorizing legislation; in other cases, they haven't conducted required environmental impact evaluations of the vehicles, according to a legal analysis by Bluewater Network, an environmental group in San Francisco.

In March, the NPS convened a workshop of rangers and other park officials to develop a "national strategy" for dealing with the problem, according to a senior park official.

NPS officials downplay the challenge.

"Some of the illegal use is very infrequent. Some of it is crossing boundaries that may not be well marked," says Jerry Case, the service's regulations program manager. "We're certainly working on it. [But] there are probably just a handful [of parks] that have significant illegal use causing significant environmental damage."

The Cape Hatteras seashore is one facility that until recently had not conducted the required legal reviews to allow off-road vehicles, though it is doing so now.

"We certainly recognize that some [facilities] need to get back in line with the executive order and regulations, but for the most part I think we're doing all right," Mr. Case says. Tracking illegal vehicles

Other branches of the Department of Interior, however, say illegal motorized vehicles are a serious national problem. The chief of the National Forest Service, for instance, has called it one of his top four management problems.

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An Interior Department spokesman told Congress in July that 43 of the nation's federal "park units" allow snowmobiles, 25 allow off-road vehicles, and nine allow personal watercraft.

But he made no mention of any problem with the illegal vehicles highlighted by the internal survey.

Critics say the problem is acute and growing, even if not yet felt uniformly. "The pressure to increase these kinds of uses in national parks is constantly increasing," Mr. Barger says. "Our park lands are becoming more and more like isolated islands, with the demands for their use from everybody."

At least 113 of the nation's 388 park units report illegal off-road vehicles, the internal survey showed, and 85 of those report that the vehicles have caused environmental or other damage. Striking as those results are, they may understate the scope of the problem, says Sean Smith, public lands director for Bluewater Network. Only 273 of the 388 park units had responded to the survey. Parks like Yellowstone, Acadia, and Shenandoah National Parks had not responded. Trampling on protected lands

There are signs of movement. Sections of Cape Hatteras were closed this summer to limit damage to nesting piping plover. The tiny shorebird's chicks are often trapped in the ruts left on the beach by off-road vehicles and run over.

But in the survey, many parks reported they lacked the staff or funding needed to chase down the illegal vehicles, says Bluewater's counsel Robert Rosenbaum of the law firm Arnold & Porter in Washington.

"Operators are rarely caught due to staffing limitations," wrote a park official in the survey from Arches National Park and Canyon lands National Park in Utah, cited in a June letter by Blue water to the Park Service. "There are a number of locations where off-road travel has destroyed microbiotic soil crust, destroyed desert vegetations, crushed animal burrows ... impacts that may last for years."

Although Yellowstone National Park was not part of the survey results, a now infamous example occurred in 2003 when two men on off-road vehicles damaged Lone Star Geyser by driving around its cone and in surrounding meadows, according to park reports. Just last year, other illegal drivers cornered a herd of bison in a stand of trees at the park.

"To allow that kind of thing just because a set of recreational users want to take snowmobiles and whatever else into Yellowstone is crazy," says Bill Wade, a former superintendent of Shenandoah National Park, now a spokesman for the Coalition of National Park Service Retirees, a watchdog group based in Tucson, Ariz.

"It's like me saying that because I like skeet-shooting, I should be able to do that in the Sistine Chapel," he says. "There are some places with such high degree of reverence [vehicles] just should not be allowed."

Bonilla Bill Targets Eminent Domain (HILL)

By Jeffrey Young

The Hill, September 7, 2005

Any local or state government that employs the right of eminent domain to transfer property from one private owner to another would be denied funding for all federal programs under legislation written by Rep. Henry Bonilla (R-Texas).

Agriculture Committee Chairman Bob Goodlatte (R-Va.) characterized the legislation as the strongest response yet to the Supreme Court's June ruling in Kelo v. City of New London, Conn., which affirmed governments' rights to seize property from landowners for private development deemed by elected officials to be in the community interest. The Agriculture Committee, which will hold a hearing on the Bonilla bill today, has been given primary jurisdiction on the issue.

The Supreme Court's decision has generated a backlash from conservatives and liberals alike. Bonilla boasts several Democratic co-sponsors, including Rep. Stephanie Herseth (S.D.) and Agriculture Committee ranking member Collin Peterson (Minn.).

The House Judiciary Committee plans action on less sweeping legislation.

Let Nature Help (LAT)

The Los Angeles Times, September 7, 2005

The catastrophe that devastated New Orleans has been centuries in the making. Since its founding in 1718, the city has lain uneasily between two watery and potentially lethal boundaries: Lake Pontchartrain to the north and the Mississippi River to the south.

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Engineers have protected the city over the years by fortifying the earthen barriers between high water and low land. New Orleans' efforts to keep dry also sank it lower — a process called subsidence, caused when groundwater is pumped regularly out of silty soil. At the same time, the levees and canals around New Orleans diverted the flow of river sediment, dumping it in the Gulf of Mexico instead of allowing it to spread to the protective marshes and islands at the river's mouth.

In 1965, Hurricane Betsy brought a heavy hint of the dangers when a surge of storm water caused Lake Pontchartrain to overflow the levees, flooding large parts of the city. But that flood pales in comparison to the devastation of Hurricane Katrina's water surge, which caused a series of levee breaks that allowed the lake water to fill the bowl that is greater New Orleans.

For the next several weeks, and possibly months, the Army Corps of Engineers will pump the water out. Meanwhile the Corps, Congress and the Bush administration need to figure out how to avoid a repeat of last week's disaster. Clearly, if they plant the 1.3 million residents back in the bowl, after billions of dollars spent on cleanup and rebuilding, they'll need to devise better protection.

After Hurricane Betsy, Congress authorized a $732-million effort to raise the levees around the city to 16 feet. After a flood in 1995 claimed six lives, lawmakers authorized an equally ambitious venture to refortify the city's slowly sinking defenses. Finishing these projects took a back seat during the last few years to war and homeland security. Even if they are now fast-tracked to completion, they aren't enough to guarantee New Orleans protection against another Katrina-strength storm. Other nations — most notably the Netherlands — have engineered stronger, smarter levees and other coastal defenses, such as floodgates and raised shelters.

Devastating hurricanes are more likely in coming years. Warmer ocean surface temperatures, no matter what their cause, fuel more violent hurricanes, which derive their power from the water's heat.

One of the most effective shore defenses has been not only ignored but undermined. Barrier islands and the marshes of the Mississippi River Delta used to present hurricanes with a formidable land barrier to cross before reaching New Orleans. But the very levees and canals that protect New Orleans and provide navigation divert replenishing sediment. Louisiana loses about 24 square miles of this land barrier each year.

A plan backed by environmentalists, industry and the Corps of Engineers would spend $2 billion to dredge sediment from the Gulf to be used in rebuilding the land, and divert some river sediment toward the marshland. Congress should not only approve that project but should start giving serious consideration to the rest of a $14-billion coastal restoration project supported by 11 state and federal agencies.

Funding environmental projects isn't just a luxury that makes tree-huggers happy. It's a natural way to protect people and a bargain compared with the economic and human toll exacted by Katrina.

FBI/DEA/ATF/USMS:

Medical Marijuana No Influence On Teen Use (UPI)

By TODD ZWILLICH

United Press International, September 7, 2005

WASHINGTON, Sept. 6 (UPI) -- Teens in the handful of states allowing medical marijuana are no more likely to use the drug than those in other states, according to a study released Tuesday.

The study shows widespread reductions in marijuana use have occurred generally at the same rate among all the states, including those allowing medical use.

The study was funded and released by the Marijuana Policy Project, a group backing medical-marijuana efforts nationwide. The group said its findings belie Bush administration claims that medical-marijuana laws send youth a mixed message that helps to encourage drug use.

Ten states currently allow patients with certain medical conditions to use marijuana under the supervision of a physician.

Overall, the United States has seen a decrease in marijuana's popularity among teenagers since 2000, after a prolonged increase in use during the 1990s. For example, compared with 1996, about 43 percent fewer 8th graders and 9 percent fewer 12th graders reported they had used the drug in the past 30 days in 2003.

California became the first state to permit medical-marijuana use in 1996.

At the same time, past-month use dropped by half among the state's 9th graders and by one-quarter among 11th graders, according to the report, which analyzed federal and state statistics. Approximately one-fifth of California's high school juniors now acknowledge using marijuana within the last month.

Other states with medical-marijuana laws also saw varying reductions in youth marijuana use. Past-month use by 12th graders in Washington state was down 32 percent since a medical-marijuana law was enacted in 1998, though rates dropped only 12 percent among Maine's high school seniors since a similar law was passed there in 1999.

Alaska, Colorado, Hawaii, Nevada and Oregon also allow some medical marijuana, and all showed some reductions in youth use since the laws were passed. Montana and Vermont have enacted similar laws, but they did so too recently to detect any trends, the researchers said.

Several other states are considering measures allowing the use of marijuana by patients, backed by some evidence the drug can ease a variety of health problems, including pain, nausea and weight loss caused by cancer, as well as AIDS and glaucoma.

Bush administration drug officials have consistently fought the laws, stressing that such measures undermine efforts to persuade youth that marijuana is a dangerous drug.

"Contrary to the fears expressed by opponents of medical-marijuana laws, there is no evidence that the enactment of 10 state medical-marijuana laws has produced an increase in adolescent marijuana use in those states or nationwide," the MPP study concluded. "Opponents of medical marijuana laws should cease making such unsubstantiated claims."

Mitch Earleywine, one of the study's investigators, told United Press International the results show medical-marijuana laws have not stopped or slowed progress against illegal drug use in the eight states studied.

"Use is clearly decreasing regardless of medical marijuana laws," said Earleywine, an associate professor of psychology at the State University of New York at Albany.

Tom Riley, a spokesman for the White House Office of National Drug Control Policy, said in a statement that youth drug use has fallen largely because of increased perception among teens that drugs are dangerous.

"Misleading messages that harmful substances are somehow 'good for them' send teens exactly the wrong message," Riley said. His statement did not directly address the study's state-by-state findings.

Earlier this year the U.S. Supreme Court ruled federal anti-drug agencies have the right to enforce nationwide bans on marijuana, even in states that allow medical use. The ruling was seen as a victory for the Bush administration, but it did not prevent states from enacting new medical-marijuana measures.

Pot Use Down Where Medical Use OK (LAT)

By Eric Bailey, Times Staff Writer

The Los Angeles Times, September 7, 2005

SACRAMENTO — Bucking dire predictions by anti-drug warriors, the 10 states that approved medical marijuana laws over the last decade have experienced sharp declines in cannabis use among teenagers, according to a new study by a marijuana advocacy group.

California has seen usage among ninth-graders drop 47% since 1996, the year the state became the nation's first to legalize medical marijuana. Over the same period, the nation as a whole experienced a 43% decline among eighth-graders.

The study, released today, is based on data from national and state surveys, which show a drop in marijuana use by teens.

Although debate over medical marijuana is often shaded by concerns about increasing drug abuse among young people, the report suggested the opposite has been true.

The study's authors were Mitch Earleywine, a State University of New York psychology professor, and Karen O'Keefe, a legislative analyst with Marijuana Policy Project, the organization that commissioned the research based on state and federal data.

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That data "strongly suggests" that approval of medical marijuana has not increased recreational use of cannabis among adolescents, Earleywine and O'Keefe concluded. And the decline in many of the states with medical marijuana laws is "slightly more favorable" than trends nationwide, they said.

California, Washington and Colorado have all experienced greater drops in marijuana usage than have occurred nationwide. Only three states with medical marijuana laws — Maine, Oregon and Nevada — have lagged behind the national drop in teen marijuana use, the report said.

"If medical marijuana laws send the wrong message to children," the authors said, widespread attention to the debate "would be expected to produce a nationwide increase in marijuana use, the largest increase in those states enacting medical marijuana laws. But just the opposite has occurred."

Tom Riley, of the president's Office of National Drug Control Policy, said the drop in teen drug use across the nation is attributable to the federal anti-drug advertising campaign in recent years, including $125 million spent during the federal fiscal year that ends Oct. 1.

Medical marijuana has only clouded that pitch, he said.

"It's foolish to give kids a message that marijuana can be helpful to them," Riley said, adding that all Americans "should be glad that teen drug use is going down. If the drug legalizers are recognizing that, too, I think that says something."

But the researchers sketched a different hypothesis: that medical marijuana shifted the perception among some teens about pot.

"Perhaps medical marijuana laws send a very different message," they wrote. Teens may increasingly consider pot "a treatment for serious illness, not a toy, and requires cautious and careful handling."

The most extensive available data was in California, where a survey of about 6,000 students every two years showed that pot use among teens was climbing before passage of the 1996 medical marijuana law. For all grades, marijuana use dropped significantly between early 1996 and 2004, with the biggest downward shift among ninth-graders.

Between 1996 and 2004, the number of high school freshmen in the state who reported using pot in the last 30 days dropped 47%, while the number of freshmen who had tried cannabis at least once dropped 35%.

Jury's Still Out On Narcotic's Effects (BOSH)

By Dave Wedge

Boston Herald, September 7, 2005

Seen by many as a miracle cure for heroin addiction, the jury is still out on whether methadone can itself impair users or create a long-term dependency.

``There still appears to be some controversy about it," said Jim Ross, a counselor at Taunton's Community Partnerships, which specializes in helping heroin addicts. ``Although it is supposedly not addictive, we've seen firsthand some people do not use it as a stepping stone (toward recovery) and they end up being dependent on methadone their whole life. And that could be a good or a bad thing."

The White House Drug Policy Information Clearinghouse supports methadone programs, saying the drug ``does not impair cognitive functions" and ``is not sedating or intoxicating." The federal clearinghouse also says the drug does not ``interfere with ordinary activities such as driving a car or operating machinery."

Originally created by German pharmaceutical companies during World War II, methadone was first marketed as ``dolophine" and was used as a painkiller. Today, it is prescribed by doctors and usually dispensed at clinics at levels that are supposed to quash heroin cravings but not impair or intoxicate.

But studies by scientists in New Zealand have found that methadone's effects can include pain relief, feeling of well being, nausea, vomiting, dilated pupils, body temperature drops and slowing pulse and blood pressure. Some European scientists claim methadone can affect motor skills, while doctors in Amsterdam have found it can be addictive, just like heroin, and can cause dangerous respiratory problems, constipation, sedation and vertigo.

In addition to possible side effects, Ross said addicts sometimes stockpile methadone to sell.

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``Methadone has been a great saving grace for many heroin addicts," he said. ``We need to be as supportive as we can to help addicts, but sometimes we need to ask questions to assure we're taking care of public safety as well."

Truck Driver Pleads Guilty To Trafficking (LUFNEWS)

By ASHLEY COOK, The Lufkin Daily News

Lufkin (TX) Daily News, September 7, 2005

A tractor-trailer driver pleaded guilty Friday in federal court to trafficking close to $3 million in drug money through Nacogdoches County, according to plea papers filed in court.

Juan A. Castanon, 34, of Mission, Texas, could face up to five years in federal prison on the charge. Details of his plea agreement with the U.S. Attorney's Office remained sealed in court documents.

Texas Department of Public Safety Trooper Ryan Koonce found the stash of cocaine-tainted cash during a Feb. 8 traffic stop. The money was hidden in a secret compartment in Castanon's trailer.

A drug-sniffing dog alerted Koonce to the bundled and wrapped money, which later tested positive for traces of cocaine.

Koonce became suspicious of Castanon when his log book didn't match his story. He'd driven the trailer, rented from Guiterrez Trucking in Donna, Texas, from Atlanta toward Mission.

The cash was forfeited to the government by court order. By law, the government must run an advertisement in the local newspaper, The (Nacogdoches) Daily Sentinel, giving the public an opportunity to file any claims to the money.

Mexico's Fox To Border Drug Lords: Who's Tougher? (REU)

Reuters, September 7, 2005

ZACATECAS, Mexico, Sept 6 (Reuters) - Mexican President Vicente Fox challenged drug barons on Tuesday to take on security forces in a notorious city on the U.S. border where troops and police are locked in a war with traffickers.

Fox said in an interview that federal forces were in control of Nuevo Laredo, across from Laredo, Texas, despite more than 100 drug-related murders there this year.

"We are going to win this battle. We'll see who is tougher, we'll see who is more stubborn," he told Reuters during a visit to the central state of Zacatecas.

The explosion of violence among drug gangs vying for control of a cocaine, heroin and marijuana smuggling route into the United States has drawn an influx of Mexican troops to Nuevo Laredo and strained relations with Washington.

The murder rate has soared with killings practically every day, and residential neighborhoods have seen shootouts with heavy weaponry, at one point prompting the U.S. Embassy to close a consulate in Nuevo Laredo.

But Fox said his government has taken control of the sweltering city, which also is a hub for legitimate trade.

"Nuevo Laredo now has much less criminal activity from these kingpins than it did two months ago," he said. "I can tell you that we have the city under control and from there we will put things in order."

But as the death toll rises, with 15 police officers among those killed by gunmen this year, residents and local activists are skeptical about authorities' ability to stem the tide of violence. Critics say very few cartel henchmen have been put behind bars and there is no evidence the tighter security will curb the flow of drugs across the border.

Nuevo Laredo is the most urgent front in the fight against drug gangs, but Fox said his government also has stepped up law enforcement in the Pacific state of Guerrero and in Tijuana, Ciudad Juarez and Sinaloa state near the U.S. border, places where drug-related violence also seems to be rising.

His proposed spending plan for next year, which was sent to Congress late on Monday, calls for a 20 percent increase in federal funding to fight organized crime, he said.

U.S. officials also have sought to crackdown on drug smugglers. Texas recently allocated $5 million to improve law enforcement communication in border communities.

But the violence has caused diplomatic fallout. Washington has repeatedly warned U.S. citizens against traveling in the region and urged Mexico to restore order. Mexico has told U.S. officials to keep out of its affairs.

Spain Tops Table Of Cocaine Use (GUARDIAN)

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By Giles Tremlett

Guardian (UK), September 7, 2005

Spaniards are the most prolific users of cocaine in the world, according to a report from state prosecutors obtained by El País newspaper yesterday.

Spain has overtaken the US and left Britain and Ireland behind, with the proportion of people who use the drug rising to more than one in 40. "Spain occupies the top place in the world," the report said, citing United Nations figures on cocaine use around the globe.

Article continues

The reason for such a high rate in Spain is that much of Europe's cocaine is unloaded on to Spanish beaches.

Last year 33 tonnes of it were seized by Spanish police, much of it being handled by the smuggling clans in the north-western region of Galicia who turned to the lucrative cocaine trade more than 10 years ago. The smugglers offer their services to traffickers from around the world who want to get the drug into Europe.

Often cocaine is unloaded from merchant ships into trawlers and then, once near the Spanish coast and under the cover of darkness, into speedboats that land it on Galicia's rugged beaches. The Galician smugglers store it then hand it back to the traffickers. They take a cut of the cocaine as payment.

More than 50% of cocaine found by police in Europe is discovered by Spanish officers, who arrested about 600 suspected traffickers from Colombia last year, and 150 from Britain.

Spanish police were also reported yesterday to have been behind the discovery of 4.6 tonnes of cocaine unloaded in Rotterdam at the weekend.

TAX:

U.S. Expects To Indict At Least 12 More Over KPMG Shelters (WSJ)

By Jonathan Weil and Kara Scannell

The Wall Street Journal, September 7, 2005

NEW YORK -- The lead prosecutor in the KPMG LLP tax-shelter investigation said the government expects to seek indictments against at least 12 more individuals in the coming weeks, on top of the nine people who were arraigned yesterday in a federal court in Manhattan.

The additional defendants will be named as part of a superseding indictment and could include additional charges against the nine people whose bond requirements were set yesterday by U.S. District Judge Lewis A. Kaplan. The government's lead prosecutor, Assistant U.S. Attorney Justin Weddle, said the additional charges in the superseding indictment likely would include obstruction of justice, as well as tax evasion, in addition to the existing conspiracy count that the government unsealed last week.

Prosecutors didn't identify who the additional defendants might be. Possibilities include additional former KPMG partners, as well as others outside the firm who were involved in the sale or use of four shelters that KPMG sold to hundreds of wealthy Americans from 1996 to 2002. The shelters went by the names Blips, Flip, Opis and Short Option Strategy.

At yesterday's arraignment hearing, Mr. Weddle said the government believed that some of the nine defendants already named in the case used allegedly fraudulent KPMG shelters to shave their own personal tax bills.

He also said tax-evasion charges would be sought against some defendants who allegedly helped KPMG clients evade taxes by creating and marketing the shelters.

Prosecutors asked for three months to seek the superseding indictment, citing Justice Department procedures for tax-fraud prosecutions. In denying the government's request, Judge Kaplan said, "You're going to have to move a lot faster. It's not clear to me why you can't." He added, "Multibillion-dollar takeovers get litigated in that time. You can do it." The judge set an Oct. 17 deadline for the government to file its superseding indictment and scheduled trial proceedings to begin May 1, 2006.

Prosecutors estimated that a trial of the nine people arraigned yesterday could take three months.

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At the same time, Judge Kaplan said that the "chances of having a single trial" for more than 20 defendants "are not too great." Some of the defense lawyers at yesterday's hearing, including a lawyer for former KPMG Deputy Chairman Jeffrey Stein, said they believed the case should be broken up into different groups of defendants for multiple trials.

Of the nine defendants arraigned yesterday, eight are former KPMG tax professionals, including Mr. Stein. Other defendants include former KPMG Vice Chairmen Richard Smith and John Lanning, and Raymond J. Ruble, a former New York partner at the law firm Sidley Austin Brown & Wood LLP.

Under the terms of a $456 million settlement last month, KPMG admitted criminal wrongdoing in connection with past shelter sales, but it will not be criminally prosecuted so long as it complies with certain requirements, including continued cooperation with prosecutors.

The nine defendants were released yesterday on their personal recognizance and have two weeks to meet additional bond requirements. Judge Kaplan set Mr. Stein's bond at $3.5 million, the highest among the nine defendants.

Prosecutors described Mr. Stein as one of the leaders of the alleged conspiracy at KPMG to sell fraudulent tax shelters to wealthy Americans, and they had asked that his bond be set at $5 million. Among other things, prosecutors cited a severance payment of more than $9 million that they said Mr. Stein received from KPMG last year, after he had been notified that he was under criminal investigation. Mr. Stein's attorney said that KPMG, under pressure from the government, reduced the severance package; he declined to offer details.

Five of the defendants' bonds were set at $1 million each, while two others' bonds were set at $300,000 and $500,000, respectively. Mr. Smith's bond was set at $1.5 million; his bond must be co-signed by his wife and secured by their home and any real estate his wife owns. All nine defendants must surrender their passports.

In setting the May 1, 2006, trial date, Judge Kaplan warned Mr. Weddle about his three-month trial estimate. "You're going to put the jury to sleep and lose them completely," he said. "The name of the game is to boil this down and move it."

US Sees More Defendants In KPMG Tax Case (REU)

By Martha Graybow

Reuters, September 7, 2005

NEW YORK (Reuters) - Eight former executives of accounting firm KPMG LLP and an outside tax lawyer pleaded not guilty in a tax shelter case on Tuesday, while a U.S. prosecutor said he expects charges to be brought against 12 or more additional defendants.

Assistant U.S. Attorney Justin Weddle also told Manhattan federal judge Lewis Kaplan at an arraignment hearing for the nine defendants currently in the case that additional counts were expected against some of them. Weddle said those charges, contained in a so-called superseding indictment, likely would relate to alleged tax evasion stemming from tax shelter transactions.

Weddle did not elaborate on the new defendants expected to be named in a revised indictment.

The nine current defendants, including former KPMG deputy chairman Jeffrey Stein, were indicted last week on charges of conspiring to defraud the government in connection with tax shelters KPMG sold to wealthy individuals. A conviction on the conspiracy charge carries a maximum prison term of five years for each defendant.

The defendants were released on personal recognizance bonds on Tuesday and agreed to travel restrictions.

The arraignments took place a week after KPMG agreed to pay $456 million to settle a three-year-long federal investigation of its sales of tax shelters, avoiding a criminal indictment that might have crippled the audit firm.

KPMG declined comment on Tuesday.

At the hearing, Weddle called Stein and former KPMG vice chairman Richard Smith "leaders of the fraud" and asked the judge to impose higher bail amounts on them as a condition of their release.

The judge ordered Stein to be released on a $3.5 million bond, while Smith was ordered to post a $1.5 million bond. The other defendants were released on bonds ranging from $300,000 to $1 million.

Prosecutors said they expect an updated indictment with new charges to be ready in about three months, but Judge Kaplan urged them to issue any new charges by October 17. He set a May 1, 2006 trial date.

The U.S. government said last week that KPMG made $115 million in fees in a conspiracy that spanned from 1996 to 2003. The accounting firm generated at least $11 billion in fraudulent tax losses for wealthy individuals and prevented the government from collecting $2.5 billion in tax receipts, the Justice Department said.

U.S. To Widen Inquiry Of KPMG Tax Shelters (NYT)

By Jonathan D. Glater

The New York Times, September 7, 2005

Federal prosecutors said yesterday that they planned to file new charges and name as many as a dozen new defendants in their investigation of questionable tax shelters sold by the accounting firm KPMG.

Prosecutors described the widening criminal investigation yesterday at the arraignment of nine former executives who were charged last month with conspiracy to devise and sell fraudulent tax shelters. The additional charges against the nine could include tax evasion and obstruction of justice for hindering aspects of the government's investigation of the tax shelters, prosecutors said.

The nine defendants, a former lawyer at Sidley Austin Brown & Wood and eight former partners at KPMG, pleaded not guilty.

The prosecutors' statements are a sign of the depth and breadth of the criminal investigation into the tax shelters, which were sold to about 350 people from 1996 to 2002 and cost the government at least $1.4 billion in unpaid taxes, according to Senate investigators. The investigators found that KPMG earned fees of $124 million on those sales; other financial institutions, including banks and law firms, had a role in the transactions.

KPMG reached a settlement agreement with the government late last month, acknowledging wrongdoing, agreeing to pay a $456 million penalty and accepting limits on the scope of its tax practice, among other restrictions.

"This is an ongoing investigation," Justin S. Weddle, an assistant United States attorney, told the presiding judge, Lewis A. Kaplan, in Federal District Court in Manhattan yesterday.

Lawyers for the nine defendants wrangled with prosecutors over their access to documents collected in the course of the government's investigation. Mr. Weddle told defense lawyers that prosecutors had gathered about 300 boxes from different firms, including Deutsche Bank, that were involved in the shelters. A spokeswoman for Deutsche Bank declined to comment on the investigation.

Prosecutors said they also had about 1,300 boxes of documents from the Internal Revenue Service, some gathered in the course of the agency's audit of KPMG itself and others in the course of investigating individual taxpayers who bought the questionable shelters, Mr. Weddle said.

For a moment the discussion of what evidence the government would provide to the defense lawyers appeared to verge on acrimony, leading Judge Kaplan to intervene.

"Everybody chill out," he advised the courtroom.

Lawyers also discussed the timing of the case, which Judge Kaplan scheduled for trial beginning May 1, 2006. Prosecutors initially told the judge that a new, or superseding, indictment, which would require approval from the tax division of the Justice Department in Washington, could require three months. The judge advised prosecutors to have the indictment ready instead by Oct. 17, and he told defense lawyers to file motions relating to the current indictment by Nov. 14. One lawyer said he planned to object to the entire charge; another said he planned to try to sever his client's case from the other defendants'.

The proceedings yesterday offered a hint of how unwieldy the case against the nine executives, let alone against as many as 21 possible defendants, could be. Defense lawyers had to take chairs from the spectators' gallery of the courtroom, and the defendants were directed to seats normally reserved for members of a jury. Judge Kaplan's clerk asked only once how each defendant pleaded, guilty or not guilty, and each defendant's lawyer stood to respond. The arraignment took more than an hour.

Judge Kaplan also showed a hint of testiness about the pace of the government's case, commenting that if prosecutors could spend a year and a half investigating before bringing one criminal charge, they should not need another three months to add any new charges or new defendants. He also warned prosecutors against lengthy proceedings. Prosecutors said they anticipated a three-month trial.

A complex case would confuse jurors and make it harder for them to convict, Judge Kaplan said. "The idea of a three- or four-month tax trial, well, it's a daunting prospect" for potential jurors, he added.

The judge also advised lawyers for both sides to prepare as clear a presentation for jurors as possible, using video presentations, for instance, and avoiding cumbersome binders full of copies of exhibits.

The individual defendants were released after the arraignment yesterday. The court required each to provide a bond of $300,000 to $3.5 million.

David Spears, a lawyer representing Jeffrey Stein, one of the former KPMG partners, filed a request with the court seeking bail in a "reasonable amount."

The filing also offered a preview of the arguments that Mr. Spears will probably make on Mr. Stein's behalf at the trial. The document states, "Mr. Stein relied on the hard work and advice of the tax experts who approved the strategies at issue and continues to have no reason to doubt the validity of the tax advice he ultimately provided."

The Squeezing Of Lawyer-Client Privilege (NYT)

By Jonathan D. Glater

The New York Times, September 7, 2005

In its agreement with the government that headed off an indictment, the accounting firm KPMG promised not to try to use "any claim of privilege" to keep information from prosecutors.

The pledge did not get much attention, perhaps because waiving the privilege that protects communications between a lawyer and client is now commonplace for corporate defendants.

But the privilege has been weakened in other ways, too, as more individual defendants try to argue that their actions were blessed by a lawyer and that, as a result, they did not know they were doing anything wrong.

Some lawyers say they are worried that weakening the privilege will mean that clients will be less candid, making legal advice less reliable. Other lawyers counter that anyone advising a company, an executive or an individual will give better advice because of the possibility that the advice may someday become public. But all agree that the privilege today is much more negotiable than in years past.

"It's clear that there's this chill out there, that the privilege is vulnerable," said R. William Ide III, a lawyer at McKenna Long & Aldridge in Atlanta and also chairman of an American Bar Association committee on lawyer-client privilege. "We don't think it should be in play."

But powerful forces have put in play the privilege protecting communications, as well as the so-called work product privilege covering documents and other work by a lawyer in anticipation of litigation. Examples abound in recent years of lawyers providing evidence - in cases involving HealthSouth, Tyco, Credit Suisse First Boston, Enron and others. A recent bar association report notes that while it is difficult to determine how frequently companies are asked by regulators and prosecutors to waive the privilege, those interviewed by the committee said "these requests, backed by an express or implied threat of harsh treatment for refusing, have become increasingly common."

KPMG provides a case study. Former partners there who have been indicted on charges of tax shelter conspiracy want to tell jurors that they could have had no improper intent because they cleared all their actions with their lawyers. Lawyers will also be useful sources of evidence because of their involvement in the transactions - an increasingly common fact of life, as transactions become ever more complicated and lawyers become essential guides.

"This is something where lawyers were all over it," Stanley Arkin, who is defending Jeffrey Eischeid, one of the former KPMG partners facing a criminal charge, said in an interview last week. If lawyers approved the tax shelter transactions at issue in the KPMG investigation, he said, then people like his client did not know they were doing anything wrong, which would mean they did not break the law. Mr. Arkin said he expected to call the lawyers who approved the shelters to testify.

"Even if in retrospect these shelters are something that was inappropriate, did someone at the time they were doing this think they were engaging in some kind of crime?" he asked.

Michael Ramsey, who represents Kenneth L. Lay, the former chief executive of Enron, said he expected testimony from former Enron lawyers to figure prominently in his client's trial, expected to begin early next year.

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"With the complexity of litigation growing more and more dense, if you will, we are seeing, and we will continue to see, executives who think they are doing the right thing because they consulted with counsel," Mr. Ramsey said.

KPMG had good reason to agree to waive its privilege to placate prosecutors weighing whether to indict the firm. In making the decision whether to indict, prosecutors consider whether a company has cooperated, and the government defines cooperation to include sharing information that may otherwise be protected by privilege. Under the terms of its agreement with the government, KPMG has also turned over documents and other information to investigators and made a strong statement acknowledging past wrongdoing.

Prosecutors say that they usually do not seek to learn what advice a lawyer provides to a client, but are trying only to learn the facts. In an interview in 2003, James B. Comey, a former United States attorney, said, "They are just seeking the facts, including factual attorney work product." Lawyers for former KPMG partners have already excoriated the firm's cooperation and, in particular, its acknowledgment of wrongdoing, contending that the firm did not undertake a thorough internal investigation to justify such a statement. (The statement is unlikely to be admitted in evidence in the criminal case against the former partners, though, lawyers said, and, in any event, it does not identify specific wrongdoers.)

Robert S. Bennett, whose firm, Skadden Arps Slate Meagher & Flom, helped persuade prosecutors not to indict KPMG, responded that KPMG could have been destroyed if it had been indicted, and that would have hurt far more people than the eight former partners named in the indictment.

"When you are saving a company, you are saving more than just bricks and mortar," Mr. Bennett said, adding that the firm was comfortable with the acknowledgment that it made. Mr. Bennett is familiar with such brinkmanship after advising the boards at HealthSouth and Enron; both waived privilege, to satisfy prosecutors that they were cooperating. Mr. Bennett declined to comment on any of those specific instances, but he said that corporate defendants generally waive the privilege in more cases, for more reasons and more often now than in the past.

"It's very hard being a defense lawyer these days," Mr. Bennett said. "In today's climate, in order for a company to avoid an indictment, it must cooperate with the government. And today, cooperation, under the Thompson guidelines, as a practical matter often requires companies to waive the attorney-client privilege and cooperate in other ways."

The so-called Thompson memorandum, drafted in 2003 by the deputy attorney general, Larry Thompson, in the wake of a wave of corporate fraud, laid out guidelines on prosecutions of corporations. The guidelines state that "one factor the prosecutor may weigh in assessing the adequacy of a corporation's cooperation is the completeness of its disclosure including, if necessary, a waiver of the attorney-client and work product protections, both with respect to its internal investigation and with respect to communications between specific officers, directors and employees and counsel."

But Mr. Ide, the chairman of the bar association's task force, and other lawyers say they worry that when prosecutors insist on a waiver, they are essentially making corporations an offer they cannot refuse.

That may have serious consequences. For example, companies may have difficulty conducting internal inquiries if employees do not talk because they know their statements may end up being handed over to the government; executives may decide not to consult lawyers before making critical business decisions; and lawyers may temper their advice if they know it may one day be exposed.

"One concern is that this will chill corporate officials' willingness to get good legal advice," said Michael Young, a lawyer at Willkie Farr & Gallagher. "The result ironically would be less access to sound legal counsel."

Not everyone is worried about weakening the privilege for corporations, though. John R. Kroger, a law professor at Lewis & Clark Law School and a former federal prosecutor, said that knowing what lawyers told executives is crucial to learning what happened at a company

"It's really in the public's interest to get out on the table whether there's any possibility executives engaged in wrongdoing were really following legal advice or not," Mr. Kroger said.

Many Families Miss Tuition Tax Breaks (USAT)

By Mary Beth Marklein

USA Today, September 7, 2005

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Nearly 10 million Americans claimed a federal higher-education tax break in 2002, more than double the number who did in 1998.

But hundreds of thousands of families who may be eligible for such breaks aren't taking advantage of them, a federal report says.

Meanwhile, with Congress under pressure to reduce the federal deficit, the legislators responsible for student loans have been given a Sept. 16 deadline to detail how they will trim about $13 billion from mandatory programs in their jurisdiction.

The tax-related report, released last week by the Government Accountability Office, found that filers of 27% of the 1.8 million returns it analyzed appeared eligible but did not claim either a tuition deduction or tax credit.

The report said those filers could have reduced their tax liability by $169 on average; 10% of them could have cut their liability by more than $500.

A major reason people did not take advantage of it may be that the tax provisions are "difficult for families to understand and use correctly," the report said.

It called on the Department of Education to sponsor research on the effectiveness of tools to assist students and families — not only with tax breaks but also student aid programs, through which more than 8.4 Americans received grants or loans in 2002.

In 2004, about $14 billion in grants and $56 billion in loans were made available through federal programs while post-secondary tax breaks amounted to $10 billion, the report said.

Now, with Congress looking to trim budgets, higher education groups expect cuts to federal loan programs of between $7 billion and $10 billion over five years, says Terry Hartle of the American Council on Education, an umbrella group for colleges and universities.

And as Congress prepares to consider a package of bills aimed at making college more accessible, critics of a student aid provision wending its way through the legislative process argue that the measure would raise the cost of loans for some borrowers.

That provision, passed by a key House committee in July, would offer new options for students and greater flexibility for loan repayment, says Rep. John Boehner, R-Ohio, chairman of the Education and the Workforce Committee.

That committee is a key architect of the Higher Education Act, which is renewed every five years.

But a coalition of public interest groups, including the United States Student Association and the State Public Interest Research Groups, say the costs far outweigh the bill's benefits.

They say new loan fees, higher interest rates and the elimination of certain borrower benefits would hike loan costs by as much as $5,800.

Meanwhile, an 85-member coalition of loan providers is urging a Senate committee to oppose "excessive cuts" as members look for ways to save money.

Significant cuts, the coalition says, "could destabilize the loan program and create more barriers to higher education for the neediest students."

CONGRESS-ADMINISTRATION:

Bush: List For Second Vacancy 'Wide Open' (CO)

By Jesse J. Holland

The Charlotte Observer, September 7, 2005

WASHINGTON - President Bush said the list of possibilities for his second Supreme Court nomination was "wide open" Tuesday as Senate Republicans urged him to consider a woman and Democrats pressed him to consult with them before making his next pick.

The president said the Senate should concentrate on confirming U.S. Appeals Judge John Roberts to replace the late Chief Justice William H. Rehnquist before worrying about any other choices.

"I want the Senate to focus not on who the next nominee is going to be, but the nominee I got up there now," Bush said.

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Roberts' confirmation hearing before the Senate Judiciary Committee will begin next Monday, one week after Bush named him to replace the justice he worked for as a Supreme Court law clerk. Roberts was originally slated to be Sandra Day O'Connor's replacement, but Bush formally withdrew that nomination Tuesday and made the 50-year-old judge the chief justice nominee.

O'Connor has agreed to stay on until her successor is in place, Bush noted, ensuring there will be a nine-member court if Roberts is confirmed before the new term begins on Oct. 3.

Senate Majority Leader Bill Frist, R-Tenn., and Judiciary chairman Arlen Specter, R-Pa., said they expected to be finished with Roberts before then.

Specter and Sen. Kay Bailey Hutchison of Texas - who will be the Senate's No. 3 Republican next year - said Bush should choose a woman since O'Connor's retirement would leave only one woman on the court, Ruth Bader Ginsburg.

"Two women, I think, are a minimum," Specter said.

Several senators suggested the president should wait before making any new selection public, given that the Senate is working on relief for the hurricane-stricken Gulf Coast as well as Roberts' nomination. "We've got more than a full plate right now," said John Cornyn, R-Texas.

"I think you should do one nomination at a time, even though it would be nice to know who the president is thinking of," added Sen. Charles Schumer, D-N.Y.

Democrats urged Bush to talk with them before replacing O'Connor, who sometimes has sided with more liberal justices.

"The list is wide open, which should create some good speculation here in Washington," Bush said, playfully glancing at Attorney General Alberto Gonzales, who has been mentioned as a possible nominee. If named, Gonzales would become the first Hispanic justice on the Supreme Court.

Bush Pledges Wide Search For Court Seat (WP)

By Peter Baker And Jo Becker

The Washington Post, September 7, 2005

President Bush vowed yesterday to "take a good, long look" at a "wide open" list of candidates before deciding whom to nominate for a second open seat on the Supreme Court, as both sides girded for twin confirmation battles and recalibrated strategies after the dizzying events of recent days.

The casket of the late Chief Justice William H. Rehnquist was laid in repose in the Great Hall of the Supreme Court, borne by a cast of pallbearers that included his former clerk and would-be successor, John G. Roberts Jr. Some influential Democrats signaled that Roberts's ascension increased their eagerness to press him on his record -- particularly on civil rights, which they said has taken on new salience in the wake of Hurricane Katrina.

"What the American people have seen is this incredible disparity in which those people who had cars and money got out and those people who were impoverished died," Sen. Edward M. Kennedy (D-Mass.) said in an interview . The question for Roberts, he said, is whether he stands for "a fairer, more just nation" or for "narrow, stingy interpretations of the law to frustrate progress."

Bush, who tapped Roberts on Monday to replace Rehnquist, suggested that he will take his time finding a new candidate for the seat of retiring Justice Sandra Day O'Connor, which was originally supposed to go to the appellate judge. Aides said they expect no announcement this week as Washington focuses on the damage wrought by Hurricane Kristina.

At the same time, Bush playfully hinted he could choose his friend Alberto R. Gonzales, a prospect that reignited consternation among conservative groups skeptical of the attorney general's politics.

"The list is wide open, which should create some good speculation here in Washington," Bush told reporters after a Cabinet meeting, generating laughter. With a sly look, he added: "And make sure you notice when I said that, I looked right at Al Gonzales, who can really create speculation."

Whether or not the president actually intends to nominate Gonzales, who would be the first Hispanic on the court, that lighthearted remark crystallized the renewed battle within the Bush camp over the selection of an associate justice -- a virtual replay of the fight that preceded Roberts's original nomination in July, pitting the Republican right against the White House.

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At the same time, having already chosen a white man for the high court, Bush came under pressure from within his party to make diversity a priority. Republican Sens. Arlen Specter (Pa.), Kay Bailey Hutchison (Tex.) and John Cornyn (Tex.) all advised the president to consider a woman or a member of a minority. O'Connor and first lady Laura Bush have both previously stated a preference for a second woman on the bench as well, while Secretary of State Condoleezza Rice smiled broadly yesterday when Bush was asked whether he would name a female nominee.

With O'Connor's pending departure, the court would be left with one woman, Ruth Bader Ginsburg, and one minority, Clarence Thomas. "Two women are, I think, a minimum," Specter said, though he added he does not favor a quota.

Complicating the picture is the political aftermath of Katrina, which analysts say has left Bush weakened amid recriminations over a slow, ineffectual initial response. Some analysts speculated that Bush might avoid a provocative conservative in favor of a less ideologically pure nominee, possibly Gonzales. But White House advisers scoffed at the notion, suggesting that fundamentally misunderstands Bush's nature.

Conservatives lobbied against shifting course because of Katrina. "The court is a long-term thing," said William Kristol, the influential editor of the Weekly Standard. "It's crazy to mess up your long-term legacy to possibly help him with a short-term PR problem. I think Gonzales would be a disaster."

Some Republican strategists reason that the hurricane may actually work in their favor in that the public has no appetite for a fiery, partisan battle over the Supreme Court. "People are in no mood for a circus," said a senior administration official who spoke anonymously because of the sensitivity of the situation. "The country is dealing with a terrible tragedy. The American people want a dignified process."

Specter, chairman of the Judiciary Committee, yesterday rescheduled hearings originally slated for today until Monday. Preparing for a showdown, some Democrats mapped plans to link Roberts's past opposition to affirmative action and other civil rights measures to the unfolding scenes of mostly poor African Americans hit hardest by the hurricane.

Democrats will make that argument in part through their witness list, which includes Rep. John Lewis (D-Ga.), a leader in the 1960s civil rights movement who plans to note that courts historically have led the way in guaranteeing rights for the disenfranchised. "New Orleans is just a symbol," he said in an interview. "We are still a nation divided by race and class, and I don't see [Roberts] being an advocate for those who were left out and left behind."

Democrats used the delay in the Roberts hearings to renew their request for documents related to his service as principal deputy solicitor general under President George H.W. Bush, but Specter rejected the appeal. The government has released tens of thousands of pages of memos and papers from Roberts's early service in the Reagan administration while refusing to turn over those from the solicitor general's office on the grounds of preserving confidential deliberations.

On other matters, Democrats sent mixed messages as party leaders seemed to search for a consensus strategy. Some said Roberts should be held to a higher scrutiny because of the influence of a chief justice. "Look at [Earl] Warren and Rehnquist," said Sen. Charles E. Schumer (D-N.Y.), referring to two long-serving chiefs credited with moving the court to the left and right, respectively.

But other Democrats said the switch of Roberts to replace Rehnquist rather than O'Connor actually made his confirmation less significant because now it would be trading one conservative for another. Unlike Rehnquist, O'Connor was a decisive vote in many cases. "She has been the swing vote on so many of the freedoms" important to Americans, said Sen. Barbara Boxer (D-Calif.).

In a similar vein, Democrats also split on whether Bush should signal his choice for O'Connor's seat before the Senate votes on Roberts. Shortly after Bush picked Roberts for chief, Kennedy said the president should disclose his proposed replacement for O'Connor expeditiously. But Minority Leader Harry M. Reid (D-Nev.) urged Bush not to rush. "It would seem to me the White House may want to take it a little more slowly," Reid told reporters.

Bush appeared in no rush. "I'll take a good, long look at who should replace Justice O'Connor," he said. Bush noted that he spoke with O'Connor on Monday to inform her that Roberts would be submitted for Rehnquist's seat instead of hers and to remind her that she had agreed to remain on the court until her successor is confirmed. "Her first reaction was that she better get back to doing her homework," he said.

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Having gone through a selection process just two months ago, Bush has a good sense of the universe of candidates, who besides Gonzales appear to include former deputy attorney general Larry D. Thompson and a plethora of appeals court judges, including J. Michael Luttig, Edith Hollan Jones and Priscilla R. Owen. Bush has not scheduled any more candidate interviews, nor is he holding any regular meetings with aides, instead discussing the choice on a more ad hoc basis by calling advisers when he has a thought or question, officials said.

"He's got his mind organized around a short, decent list of people," said one senior official close to the process who spoke on the condition of anonymity because of the confidentiality of the process. "But he's not close-minded about this at this point."

As much as anything, timing may be the open question. Bush is unlikely to announce the next nomination in the midst of next week's hearings on Roberts, but the president's advisers are debating whether it would be better to go ahead after the hearings or to wait until after a final floor vote, now scheduled for the week of Sept. 26.

Even if O'Connor is sitting on the court when its next term opens Oct. 3, her presence may not matter much. If she is not still there when decisions are written and issued months later, her vote would not count. In instances when that would leave a 4 to 4 tie, the cases might have to be reargued for her successor's benefit.

"The president ought to act expeditiously simply to fill the slot as quickly as possible," said Todd F. Gaziano, a scholar at the Heritage Foundation and former Jones clerk.

Others argue that even with two appointments, Bush needs another to effect lasting change. "While this weekend was filled with dramatic events, they won't transform the court in the way people on both sides hope or fear," said M. Edward Whelan III, president of the Ethics and Public Policy Center and a former clerk to Justice Antonin Scalia. "Real transformation requires replacing someone on the left with a proponent of judicial restraint."

Bush Hints At Gonzales For Court Opening (WT)

By Bill Sammon

The Washington Times, September 7, 2005

President Bush yesterday reignited speculation that he would nominate Attorney General Alberto R. Gonzales to the Supreme Court, saying the list of potential candidates to replace retiring Justice Sandra Day O'Connor is "wide open."

Mr. Bush made his comments at a Cabinet meeting, adding that his words "should create some good speculation here in Washington."

"And make sure you notice when I said that I looked right at Al Gonzales, who can really create speculation."

Although the remark drew chuckles from Cabinet members and journalists, Bush aides said he is seriously considering Mr. Gonzales. That prompted a fresh round of grumbling from conservatives, who fear that Mr. Gonzales would not vote to overturn Roe v. Wade, the 1973 high court ruling that legalized abortion.

"He's obviously not pro-life," said Mark Crutcher, president of Life Dynamics.

Stephen Peroutka, chairman of National Pro-Life Action Center, pointed out that Mr. Gonzales voted to allow a girl have an abortion without telling her parents in 2000 when he was on the Texas Supreme Court.

Mr. Bush emphasized that he is casting a wide net for his second Supreme Court nominee in two months. His first nominee, Judge John G. Roberts Jr., was chosen in July and will appear before the Senate Judiciary Committee next week for confirmation hearings.

"I was deliberate in my process last time; I'll be deliberative this time," Mr. Bush said.

The president said he does not expect to name a replacement until Judge Roberts is seated on the bench as a replacement for Chief Justice William H. Rehnquist, who died Saturday. Mr. Roberts was initially tapped to replace Justice O'Connor, but was renominated to become chief justice after Chief Justice's Rehnquist's death.

"I want the Senate to focus not on who the next nominee is going to be, but the nominee I've got up there now," Mr. Bush said.

Meanwhile, Justice O'Connor has agreed to stay on the court until her replacement is found.

"She'll be there when the court is seated with a new chief justice," the president said.

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Senate Minority Leader Harry Reid said he expects to be consulted on the new nominee and urged the president not to nominate a staunch conservative.

"I look forward to consulting with the president on the O'Connor seat," the Nevada Democrat said on the Senate floor. "Justice O'Connor has been a voice of moderation and reason on the court and should be replaced by someone who, like her, embodies the fundamental American values of fairness, liberty and equality."

In July, Mr. Reid said Mr. Gonzales is "qualified" to sit on the Supreme Court, which made some conservatives even more suspicious of the potential nominee's credentials. But it also suggested that Mr. Gonzales, if nominated, would garner at least some Democratic votes in the Senate.

ABC News political editor Mark Halperin yesterday wondered whether "the White House will secretly welcome the opposition of a few conservative groups, making Gonzales seem more moderate."

Gonzales Is Mentioned In Supreme Court Remarks (NYT)

By Richard W. Stevenson And Sheryl Gay Stolberg

The New York Times, September 7, 2005

WASHINGTON, Sept. 6 - President Bush said Tuesday that his list of candidates to replace Justice Sandra Day O'Connor was "wide open," and he jokingly but pointedly singled out Attorney General Alberto R. Gonzales.

Mr. Bush's mention of Mr. Gonzales as a possibility, in comments to reporters at the end of a cabinet meeting, fueled concern among conservatives, who were already mobilizing against the attorney general. Conservatives say that Mr. Gonzales has not shown himself to be sufficiently opposed to abortion rights and that nominating him would miss an opportunity to move the court fundamentally to the right.

Mr. Bush said that he had yet to make up his mind and that he would "take a good, long look at who should replace Justice O'Connor." But he mentioned only one name, that of Mr. Gonzales, a longtime friend and aide who, if nominated and confirmed, would be the first Hispanic on the court.

"The list is wide open, which should create some good speculation here in Washington," Mr. Bush said to laughter in the Cabinet Room, with the attorney general sitting directly across from him. "And make sure you notice when I said that, I looked right at Al Gonzales, who can really create speculation."

The president's remark came as the Senate delayed until next week confirmation hearings for Judge John G. Roberts Jr., who had been nominated to fill Justice O'Connor's seat but who was selected by Mr. Bush on Monday as his nominee for chief justice after William H. Rehnquist died on Saturday. The hearings on Judge Roberts's nomination to Justice O'Connor's seat had been scheduled to begin Tuesday.

The White House has already signaled that Mr. Bush will not announce a selection of a new replacement for Justice O'Connor this week. The president went further on Tuesday, suggesting that he would hold off on a selection at least until Judge Roberts's nomination reached the Senate floor, if not until he was confirmed.

"I want the Senate to focus not on who the next nominee is going to be, but the nominee I've got up there now," Mr. Bush said.

It has never been clear how seriously Mr. Bush has considered Mr. Gonzales for the Supreme Court, and it was hard to tell if the president's remarks were calculated to send a signal or were simply a reflection of his sense of humor and his disdain for Washington guessing games.

Mr. Bush, as governor of Texas, named Mr. Gonzales to the State Supreme Court in 1999 after employing him as one of his top aides, and then brought him to Washington as White House counsel in 2001. He became attorney general this year.

A senior administration official, speaking on the condition of anonymity to provide his interpretation of Mr. Bush's remarks on Tuesday, said that the president was "giving a jab to a good friend" and that both men are "immune to speculation and rumors."

But by mentioning Mr. Gonzales, however lightheartedly, Mr. Bush increased the likelihood that conservative groups would reprise and perhaps intensify their largely behind-the-scenes effort earlier this summer to convince the White House that selecting Mr. Gonzales for Justice O'Connor's seat would be a betrayal of his most ardent supporters.

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"Would any of his aides have the nerve to tell him that as Supreme Court jurists go, Gonzales would be mediocre - and not a solid bet to move the court in a constitutionalist direction?" William Kristol, editor of The Weekly Standard, wrote in an article posted Tuesday afternoon on that conservative magazine's Web site. "Would any of them have the nerve to explain to the president that a Gonzales nomination would utterly demoralize many of his supporters, who are sticking with him and his party, through troubles in Iraq and screw-ups with Hurricane Katrina, precisely because they want a few important things out of a Bush presidency - and one of these is a more conservative court?"

Conservatives have been hoping for years to replace Justice O'Connor, a swing vote on abortion, immigration, religion and other divisive social issues, with a conservative who could fundamentally alter the balance on the court. They have been pressing Mr. Bush to choose someone like Judge J. Michael Luttig of the United States Court of Appeals for the Fourth Circuit, in Virginia, a strong opponent of abortion rights.

Confirmation hearings for Judge Roberts, a former Rehnquist clerk, had been scheduled to begin Tuesday when lawmakers returned from a monthlong recess. Now the hearings on his nomination as chief justice will begin Monday, giving liberal groups more time to develop their case against him.

Democrats have called on Mr. Bush to ask Justice O'Connor to stay on for a full year, saying such a move would bring stability to the court and avoid a divisive confirmation process in the devastating aftermath of the hurricane.

"If he wants to be a hero," said Senator Barbara Boxer, Democrat of California, referring to the president, "he can pick up the phone and call Sandra Day O'Connor."

Republicans said that as a replacement they were looking for someone like Judge Roberts, a conservative whose impressive legal résumé has made him difficult for Democrats to challenge.

"I'd be pleased if you could clone John Roberts," said Senator Jeff Sessions, Republican of Alabama.

Senator John Cornyn, Republican of Texas, said, "I don't know whether John Roberts has a twin, perhaps a sister or, uh, someone with a Hispanic last name."

Mr. Bush's remark about Mr. Gonzales left many conservative allies of the White House guessing. Some took it as just an off-the-cuff comment, intended to tweak a good friend.

Others wondered if Mr. Bush was "testing the waters," in the words of Marion Edwyn Harrison, president of the Free Congress Foundation, a conservative group whose chairman, Paul Weyrich, has expressed serious reservations about putting Mr. Gonzales on the court.

Should Mr. Bush nominate Mr. Gonzales, he would also arouse the ire of some liberals, who have been critical of Mr. Gonzales's role in setting administration policy regarding torture and the treatment of prisoners seized in what the White House calls the global war on terrorism.

But he is seen by some Democrats in Congress as a relatively moderate option who could steer clear of an ideological showdown.

"I think what most Americans are looking for is someone in the image of Sandra Day O'Connor," Senator Charles E. Schumer, Democrat of New York, said, "and while we don't know a lot of details about Attorney General Gonzales, at first blush he would seem to be in that image."

Pressure Rises With Roberts Hearings Set For Next Week (LAT)

By Maura Reynolds

The Los Angeles Times, September 7, 2005

WASHINGTON — Senate leaders said Tuesday that the Judiciary Committee would begin hearings Monday on President Bush's nomination of John G. Roberts Jr. to be chief justice, and the president said he would take his time selecting a candidate from a "wide open" field to fill the Supreme Court's second vacancy.

At midday, Bush formally sent Roberts' name to the Senate to succeed Chief Justice William H. Rehnquist, who died Saturday, and withdrew the earlier nomination of Roberts to fill the seat of Justice Sandra Day O'Connor, who is retiring.

"I want the Senate to focus not on who the next nominee is going to be, but the nominee I got up there now," Bush said. "In the meantime, the country can be assured that I'll take a good, long look at who should replace Justice O'Connor."

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Democrats urged the president to move quickly to fill the vacancy, saying it would be easier for them to support Roberts' nomination if they knew the name of the second nominee.

Senators on Tuesday spent their first full day on the job after their summer recess adjusting to a new reality: two Supreme Court vacancies that will need to be addressed against the backdrop of the national emergency caused by the devastation of Hurricane Katrina.

Even though the hearings on Roberts' nomination will start six days later than first planned as a result of Rehnquist's death, Senate leaders were optimistic that a vote on Roberts would take place before the Supreme Court term begins Oct. 3.

"Judge Roberts does have the skill, he does have the mind, he does have the intellect and the temperament to lead the Supreme Court for decades to come," said Senate Majority Leader Bill Frist, R-Tenn.

Bush's decision Monday to nominate Roberts as chief justice forced both parties to recalibrate their political compasses.

Democrats, worried about the balance of conservatives and liberals on the court, started pressuring Bush to quickly announce a nominee to replace O'Connor. She has been a swing vote between the court's liberal and conservative wings.

"If we had an idea of who might fill the other vacancy, it would help put (Roberts' nomination) in perspective," said Sen. Richard J. Durbin, D-Ill., a member of the Judiciary Committee. "This court is very closely divided, and if the president's next nominee is too extreme, it will worry us that the court is going to change for generations to come."

Republicans, apparently recognizing that delaying a second nomination might give the president more options, deferred to the White House. Over the weekend, Bush aides suggested the president would choose another nominee quickly. After a Cabinet meeting Tuesday morning, the president suggested a more measured pace.

"I was deliberate in my process last time. I will be deliberative this time," Bush said.

Democrats, who had indicated they were unlikely to try to block Roberts' confirmation, said the proposal to make him chief justice raised the stakes.

"At his age, we could see him for 25 or 30 years," said Sen. Patrick J. Leahy, D-Vt., the senior Democrat on the Judiciary Committee.Roberts is 50 years old.

Sen. Russell D. Feingold, D-Wis., said it was now more important for the White House to release 16 case files from Roberts' service in George H.W. Bush's administration that the current White House has withheld.

Democrats worry that the president could use a second nomination to name a conservative ideologue to placate the Republican Party's right wing, which privately has expressed concerns that Roberts might not be as reliable a conservative vote as they would like. Democrats express the opposite fear, that Roberts will be rigidly conservative.

"It really falls on us to ask important questions about who he really is and to require the administration to produce enough evidence about who he is and what he believes that we can make a reasonable judgment," Durbin said.

There is considerable speculation in both parties that Bush will try to name a woman or a member of an ethnic minority to promote more diversity among the justices.

"It is desirable to have balance on the court, and two women, I think, are a minimum," said Sen. Arlen Specter, R-Pa., the committee chairman. "But I don't think you can have a quota system either for women or a minority as an absolute determinant."

Senators said that the aftermath of Katrina had created an unusual backdrop for the Roberts hearings, but that it was important to move forward after the weeklong delay to mourn Rehnquist and the hurricane victims.

"All three branches of government are critical (even in) those Southeastern states that are suffering so terribly," said Sen Orrin G. Hatch, R-Utah, a member of the judiciary panel. "But this is one of the most important responsibilities the Senate has, and we need to exercise that responsibility."

The Right Wants A Woman (HILL)

By Alexander Bolton

The Hill, September 7, 2005

Key Republicans and conservatives are pressing President Bush to nominate a woman to replace retiring Supreme Court Justice Sandra Day O'Connor.

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This is despite welcoming the nomination seven weeks ago of Judge John Roberts, a white man and a member of Washington's elite, who was elevated Monday as the nominee to replace the late Chief Justice William Rehnquist.

It may suggest that, with the president faltering in opinion polls, the right believes it needs the sop of liberal identity politics to get a second conservative justice confirmed.

Priscilla Owen, Edith Jones and Edith Brown Clement, all three from the 5th U.S. Circuit Court of Appeals, and Janice Rogers Brown, of the D.C. Circuit Court of Appeals, are considered by conservatives to lead the list of potential female nominees.

Senate Judiciary Committee Chairman Arlen Specter (R-Pa.) yesterday signaled that he would like Bush to nominate a woman.

"It is desirable to have a balance on the court," he said when asked about Bush's next nominee. "Two women, I think, are a minimum."

In the same breath, however, Specter added that the Supreme Court should not have a quota system for nominees.

Many conservative activists are talking behind the scenes about the desirability of a female nominee to replace O'Connor.

Paul Weyrich, chairman of the Free Congress Foundation and a longtime leader of the conservative movement, told The Hill, "I've heard from any number of people who think that way." He said, however, that he didn't think the seat should be reserved for a woman.

Owen's name has arisen more frequently this week than it did when O'Connor announced her retirement in June.

The Senate confirmed Owen, a former Texas Supreme Court justice, at the end of May by a vote of 55-43 after Democrats had blocked her nomination for nearly four years.

Another activist said that "conservatives would embrace" Owen, Jones, Clement and Brown.

Clement was on the president's shortlist to replace O'Connor two months ago, but her stock is believed to have declined among conservatives since then.

Manuel Miranda, a former strategist to Senate Majority Leader Bill Frist (R-Tenn.) on judicial nominations, said there is pressure on Bush to appoint a woman or a member of a racial minority now that that he has selected Roberts to lead the court.

Referring to the pressure, he said, "I think it's greater to appoint a woman but also [there's pressure to name] a Hispanic."

Two Republican Judiciary Committee members, Sens. Orrin Hatch (Utah) and Tom Coburn (Okla.), said Bush should not let sex considerations drive his choice.

"I don't think it should be a question of a woman or a Hispanic or a Caucasian," said Hatch, who nevertheless added: "There are some outstanding women in the law whom the president is considering."

Democrats say they would like the president to announce his next nominee before they cast a final vote on Roberts's confirmation. Sen. Charles Schumer (D-N.Y.), a member of the Judiciary panel, said it would be helpful.

Sen. Russ Feingold (D-Wis.), another member of the committee, said he did not perceive "the point of waiting," when asked whether the president should make the announcement before Roberts has passed through the Senate.

Feingold also raised the possibility that Roberts may not be able to be confirmed within the three-week timeline Republicans set yesterday. Even before the delay of Roberts's hearing, he said, confirmation by October was uncertain.

Sen. Dick Durbin (Ill.), the Democratic whip, said that Democrats were committed to beginning Roberts's confirmation hearings this Monday but that it was too early to predict whether they would allow a final vote on Roberts to take place if Bush has not named O'Connor's successor.

Several liberal and conservative strategists said that linking Roberts and O'Connor's replacement would help Democrats portray Bush as trying to alter the makeup of the court dramatically by appointing two very conservative nominees at the same time.

Frist, Specter, Minority Leader Harry Reid (D-Nev.) and Judiciary Committee ranking Democrat Patrick Leahy (Vt.) announced yesterday a new schedule for Roberts's confirmation hearings.

Frist said the schedule would allow lawmakers to complete action on Roberts's nomination by Oct. 3, the start of the Supreme Court's new term. But Reid countered that Democrats had made no commitment to holding a final vote by the start of the new term.

"You never know what is going to happen," Reid said.

Schumer indicated that Democrats reserve their power to extend the confirmation process as long as possible.

During interparty negotiations, Schumer insisted that Democrats not commit to a deadline for a final vote on Roberts or to limited rounds of questioning of the nominee.

Roberts's hearing will begin at noon Monday with a round of opening statements, followed by two days of questioning and a day of outside witness testimony.

Specter and Leahy have tentatively agreed to a committee vote on Roberts on Sept. 20. Specter acknowledged that Democrats could invoke Senate rules to delay the committee vote until the following week but said he hoped "no one will exercise the right to carry it over a week." Specter added that committee Democrats had assured their Republican colleagues that they want to move without unnecessary delay.

Leahy, who met with his committee colleagues over the Labor Day weekend, said that "substantive questions will be asked" but that Democrats would not create procedural delays.

Specter said that if lawmakers could not agree unanimously to a vote during the week of Sept. 20, the following Monday, Sept. 26, would be the fallback date for the committee vote, enabling Frist to schedule a final floor on one of the last four days of the month.

NJ Judge Mentioned As Possible Supreme Court Nominee (AP)

By DONNA DE LA CRUZ, ASSOCIATED PRESS WRITER

AP, September 7, 2005

WASHINGTON (AP) -- A second opening on the U.S. Supreme Court is bringing renewed interest in Samuel A. Alito Jr., a federal judge from New Jersey who used to serve as the state's federal prosecutor.

Alito, who sits on the 3rd U.S. Circuit Court of Appeals, which covers the Garden State, is among several people mentioned by court observers as being on a "short list" of candidates for associate justice to succeed Sandra Day O'Connor. She is retiring but remaining on the bench until her replacement is confirmed. President Bush's original choice for that position, John Roberts, has been nominated to become chief justice following the death Saturday of William H. Rehnquist.

The other possible nominees include U.S. Attorney General Alberto Gonzales, former U.S. Solicitor General Theodore Olson, and former deputy Attorney General Larry Thompson.

Alito, 55, has been dubbed "Scalito" or "Scalia-lite" by some lawyers and political pundits because of a reputation as a strong, conservative jurist that often brings comparisons to conservative Supreme Court Justice Antonin Scalia. But Alito, 55, also has a reputation as being scholarly and quiet, rarely asking questions during oral arguments.

Alito's New Jersey ties run deep. Alito was born in Trenton, as was Scalia, although Scalia moved with his family to Queens, N.Y., when he was 5. Both Alito and Scalia are Italian-Americans.

Alito's deceased father, Samuel Alito Sr., was the director of the New Jersey's Office of Legislative Services from 1952 to 1984. Alito's sister, Rosemary Alito, is a partner with the law firm of Kirkpatrick & Lockhart Nicholson Graham in Newark, and is regarded as one of New Jersey's top employment lawyers.

Alito earned his undergraduate degree from Princeton University in 1972 and graduated from Yale Law School in 1975. He served as a law clerk from 1976-1977 for Leonard Garth, a judge on the 3rd U.S. Circuit in Philadelphia. He returned to New Jersey in 1977 to work as an assistant U.S. attorney.

From 1981 to 1987, Alito worked in Washington, first as an assistant to the U.S. solicitor general and a deputy assistant U.S. attorney general. Alito returned to New Jersey in 1987, where he served as the U.S. Attorney for the District of New Jersey until 1990, when the first President Bush nominated him to the 3rd U.S. Circuit Court of Appeals.

Among Alito's noteworthy opinions was his sole dissent in the 1991 case that struck down a Pennsylvania law requiring women seeking abortions to tell their husbands. The Supreme Court later struck down the spousal notification.

But in 2000, Alito joined the majority in ruling that a New Jersey law banning late-term abortions was unconstitutional.

In a 1997 ruling, Alito said that Jersey City officials did not violate the Constitution with a holiday display that included a creche, a menorah and other secular symbols.

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Alito and his wife, Martha, live in West Caldwell. They have two children, a college-age son Philip and a younger daughter, Laura. His interests include tennis, music and the Philadelphia Phillies.

Target Date Is Set For Committee Vote On Roberts (WSJ/DJN)

By Dow Jones Newswires

The Wall Street Journal, September 7, 2005

WASHINGTON -- Senate leaders said the Judiciary Committee will vote no later than Sept. 26 on the nomination of Appeals Court Judge John Roberts to become the next U.S. chief justice.

Senate Judiciary Chairman Arlen Specter (R., Pa.) said yesterday that the committee will begin confirmation hearings on Monday. The hearings are expected to run a week. Although Republican and Democratic leaders said they are working together to move Mr. Roberts's nomination quickly, the full Senate might not hold a final vote on Judge Roberts until just before the high court convenes for its new term on Oct. 3.

"We have tried to work through all of the issues," Mr. Specter said. "I'm optimistic we will be able to dispense the duties of the committee and the full Senate."

Senate Minority Leader Harry Reid (D., Nev.) said Democrats plan to work with Republicans to move ahead on the hearings. But he said his party remains largely uncommitted on how it will vote. Mr. Reid said he has "some concerns" about Mr. Roberts's writings on civil rights and women's issues from when he worked for Presidents Ronald Reagan and George H.W. Bush.

Following the death of Chief Justice William Rehnquist on Saturday, President Bush named Judge Roberts to fill the top job. He was originally nominated to fill the seat of Justice Sandra Day O'Connor, who announced her retirement July 1.

Rehnquist's Casket Lies in Supreme Court

Meanwhile, Chief Justice Rehnquist's casket was carried up the steps of the Supreme Court Tuesday by former clerks including John Roberts, the man nominated to succeed him as chief justice. Official Washington began paying its last respects at the court to the nation's 16th chief justice.

Judge Roberts -- currently a member of the federal appeals court in Washington, D.C. -- and the seven other pallbearers bore the flag-draped casket up some 40 steps of the high court to the Great Hall, where busts of the former chief justices are displayed in niches and on marble pedestals along the walls.

The doors to the court chamber, where Chief Justice Rehnquist had served for 33 years, were open at the east end of the hall. His casket was placed on the Lincoln Catafalque, the structure on which President Lincoln's coffin rested in the Rotunda of the Capitol a century and a half earlier.

Lining the steps to greet the casket were six justices, including Sandra Day O'Connor, who was in tears as the casket passed by. She announced her plans to retire in July, resulting in President Bush's nomination of Judge Roberts to replace her. Mr. Bush said Monday he would nominate Judge Roberts to be chief justice instead. Senate leaders said his confirmation hearings are set to begin Monday, after being delayed.

Absent from Tuesday's ceremonies were Justices Anthony M. Kennedy and David Souter.

The Rev. George Evans Jr., the Rehnquist family pastor at the Lutheran Church of the Redeemer in Virginia, offered a prayer as the justices, former clerks, court staff and family surrounded the casket. Two sprays of flowers and a large portrait of the chief justice were on display.

After the brief ceremony, a long line of people formed outside the court and people began walking inside past the coffin of the chief justice, who died Saturday night.

Public viewing was to take place until 10 p.m. Eastern Time on Tuesday and from 10 a.m. until noon Wednesday. On Wednesday, funeral services will be at 2 p.m. at St. Matthew's Cathedral in Washington, open to friends and family.

Burial at Arlington National Cemetery will be private. The bodies of Chief Justice Rehnquist's two immediate predecessors, Warren E. Burger and Earl Warren, also are buried at Arlington. Chief Justices Burger and Warren lay in repose in the Supreme Court Building before their services.

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Given his office, Chief Justice Rehnquist is entitled to a state-sponsored official funeral, a ceremony that includes a 19-gun salute, four ruffles and flourishes from drums and bugles, and the last 32 bars of the John Philip Sousa march "Stars and Stripes Forever" among other military honors.

Hearings Set For Monday (RC)

By Paul Kane

Roll Call, September 7, 2005

The Senate Judiciary Committee will kick-start hearings on Judge John Roberts' nomination to be chief justice of the United States on Monday, a six-day delay allowing for the funeral and burial services this week for the late William Rehnquist.

The delay, however, still leaves plenty of time for the committee to hold a week's worth of hearings, as originally scheduled, and send the nominee to the full Senate for a vote by the final week of September — the timetable originally laid out by Majority Leader Bill Frist (R-Tenn.).

"Assurances have been made that everybody wants to get it concluded," Judiciary Chairman Arlen Specter (R-Pa.) said, although Minority Leader Harry Reid (D-Nev.) stipulated that those were general assurances of cooperation and not an iron-clad guarantee that Democrats wouldn't attempt to slow the process.

Regardless, without any new revelations that require the hearings to extend well into the month, Specter said they would conclude on Sept. 16. In order to send the nomination to the full Senate with a recommendation, the committee will then reconvene one of three days: Sept. 20 or Sept. 22, but Sept. 26 at the latest.

That gives the Senate almost three full weeks to take up other legislation, particularly any related to fallout from Katrina's devastation, and then handle the Roberts nomination beginning Sept. 26 and continuing through the rest of that week.

Specter said he expected President Bush would fairly quickly make a new appointment to fill the vacancy created by Justice Sandra Day O'Connor's retirement earlier this summer. "My instinct is the White House will be ready for an appointment reasonably soon," he said.

But that announcement is not likely to interrupt the Roberts proceedings in any way, although Specter said the early phases of the new nomination battle could get under way while the Senate is still handling Roberts.

"We can pat our head and rub our stomach at the same time," he said.

Senate Sets Date For Roberts Confirmation Hearings (WT)

By Charles Hurt

The Washington Times, September 7, 2005

Senate leaders agreed to begin confirmation hearings for federal Judge John G. Roberts Jr. on Monday, giving Congress this week to mourn the death of Chief Justice William H. Rehnquist.

"The schedule allows us both to pause to pay appropriate respect to Chief Justice Rehnquist and to complete floor action on the nomination of Judge Roberts as chief justice by October 3, the start of the Supreme Court's new term," Majority Leader Bill Frist, Tennessee Republican, said yesterday.

The schedule allows for a Judiciary Committee vote on Judge Roberts' nomination by Sept. 22, followed by at least a week of debate on the floor of the Senate, according to committee Chairman Arlen Specter, Pennsylvania Republican.

"You can never know for sure about a completion date because we conclude when the last senator stops talking, and that's always hard to predict," said Mr. Specter, who is becoming known for keeping loquacious senators under control during his committee's proceedings.

Republicans had been under pressure to postpone the Roberts hearings, first for Hurricane Katrina and then for the death of Justice Rehnquist.

Even the mayor of New Orleans, C. Ray Nagin, took time out of his frantic efforts to salvage his city to call Mr. Specter over the weekend and ask that the Roberts hearings be delayed.

"Events overtook us with the passing of Chief Justice Rehnquist and concern for the sentiments for the Rehnquist family," Mr. Specter said. "And then events overtook us again with the naming by the president of Judge Roberts to be chief justice, if confirmed."

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Despite the postponement, Mr. Specter and Sen. Patrick J. Leahy, Vermont Democrat and ranking minority member on the committee, agreed that the hearings should commence without too much partisan delay. At times during a joint briefing yesterday, the two men were cordial -- even jovial -- with one another

"Senator Leahy and I have talked at great, great length about how we're proceeding and it is significantly on the basis of good faith that I am optimistic," Mr. Specter said.

Mr. Leahy said he would work with Mr. Specter, "as I have all the way through this, to keep things in line to make sure there's not procedural delays." He added that "substantive questions will be asked."

Some Democrats have said that since Judge Roberts' nomination has been elevated to chief justice, more documents should be handed over, including the solicitor general reports that the White House says are protected under attorney-client privilege.

Mr. Specter dismissed the idea, saying the more than 70,000 pages of documents provided thus far have shed plenty of light on the nominee's record.

"Judge Roberts has a very, very extensive paper trail," Mr. Specter said. "He has commented, I think, on all the issues which are of concern."

Specter Asks; Roberts Answers, For The Most Part (WP)

By Charles Babington

The Washington Post, September 7, 2005

There are advantages to being Senate Judiciary Committee chairman, and Arlen Specter used them yesterday to sit down with the man nominated to be chief justice of the United States and to quiz him about abortion, consensus-building and other topics.

Specter (R-Pa.) invited John G. Roberts Jr. to his Senate office shortly after Roberts helped carry William H. Rehnquist's coffin into the Supreme Court, where the late chief justice lay in repose. In an interview, Specter said he asked Roberts, an appeals court judge, a range of questions, including, "How are you going to handle guys like Scalia? He's a lot older than you."

Justice Antonin Scalia, once considered a contender for chief justice, is 69. Roberts, 50, replied somewhat indirectly, according to Specter, by saying he considers it "a dialogue among equals" when lawyers argue cases before the Supreme Court.

"I'm intrigued by his concept of a dialogue among equals," Specter said, because it suggests Roberts will bring a needed tone of humility to court interactions. "I think for Judge Roberts to approach the court that way shows a lot of confidence," Specter said.

Specter said he also raised concerns about recent court rulings that he considers confusing and inexplicable. They include two 5 to 4 decisions regarding public displays of the Ten Commandments that in some ways seemed contradictory. Justice Stephen G. Breyer was the crucial swing vote in both cases, but "there's no explanation" of his reasoning, Specter said.

"I talked to him about consensus-building," the senator said. "He said that was something that he thought was important" and will be a priority if he is confirmed.

Specter said he also told Roberts that the 1973 landmark abortion rights case Roe v. Wade has been followed by 38 Supreme Court rulings meant to refine or clarify its guidelines, and he asked, "Is Roe a super-precedent?"

And the nominee's reply? "He didn't say," Specter said. Even a committee chairmanship, it seems, has its limits.

Roberts Confirmation Hearing Set For Monday (REU-Y2)

By Thomas Ferraro

Reuters, September 7, 2005

U.S. Chief Justice nominee John Roberts' confirmation hearing will begin on Monday, Senate leaders said, with Democrats vowing to take as long as needed to question the 50-year-old conservative who could lead the Supreme Court for decades.

At the White House, President George W. Bush said the field was "wide open" for his other pick for the nation's highest court but that the pending nominee was unlikely to be in place by the time the court begins its new term on October 3.

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Bush also dampened Democratic hopes they would know who the second nominee was before they vote on Roberts, a federal appeals court judge the past two years who appears to have broad support to become the nation's 17th chief justice.

"I want the Senate to focus not on who the next nominee is going to be but the nominee I've got up there now," Bush said.

Bush originally nominated Roberts in July to fill the lifetime post of retiring Justice Sandra Day O'Connor, a moderate conservative who had been a swing vote on the sharply divided court.

But on Monday, Bush switched and nominated Roberts to replace Chief Justice William Rehnquist, a leading conservative who died on Saturday at the age of 80 of cancer.

Roberts' hearing was to have begun on Tuesday. But it was delayed until next week in the wake of Rehnquist's death and Bush's nomination of Roberts as the new chief justice.

"It would have been unseemly to go forward with a hearing on his successor this week," said Sen. Patrick Leahy (news, bio, voting record) of Vermont, ranking Democrat on the Judiciary Committee that will hold the hearing.

In announcing the rescheduled hearing to begin at noon EDT September 12, Senate Majority Leader Bill Frist expressed confidence Roberts would win Senate confirmation by the time the high court begins its new term.

Senate Minority Leader Harry Reid, a Nevada Democrat, promised bipartisan cooperation, but said there was no guarantee on when a Senate vote would take place.

"There are no commitments of a date certain to vote on the nomination, so everyone should understand that," said Reid, flanked by fellow Senate leaders.

At the White House Bush noted O'Connor, who will not step down until her replacement is confirmed, would still be on the nine-member court when the session begins.

"The list is wide open, which should create some good speculation here in Washington," Bush said of her pending new replacement. "And make sure you notice when I said that I looked right at Al Gonzales."

Gonzales, the attorney general, has been among those considered potential picks for the Supreme Court even though some of Bush's fellow conservatives complain his longtime friend may not be not be conservative enough.

The Judiciary Committee will spend four or five days on the nomination of Roberts, which has drawn the support of conservative groups and opposition from liberal organizations.

"While we mourn the chief's passing, we look forward with confidence at the president's new nominee for chief justice," said Frist, a Tennessee Republican.

Several Senate Democrats have spoken glowingly of Roberts, who served in two Republican administrations and received the American Bar Association's highest rating for a seat on the Supreme Court.

But a number of Democrats and other groups have questioned his record on civil rights and women's rights, based largely on a review of tens of thousands of pages of documents from his work as a lawyer in the Reagan administration two decades ago.

Democrats have said they will withhold final judgment until after what promises to be a bruising confirmation hearing.

"I'm very happy that (in) my Democratic caucus -- no one has made a commitment how they're going to vote," Reid said. "And I think that's appropriate because these hearings, as far as I'm concerned, are very important."

(Additional reporting by Tabassum Zakaria)

Katrina Thrusts Government's Role To The Fore In Confirmation Battle (KRT)

By James Kuhnhenn

Knight Ridder, September 7, 2005

WASHINGTON - By opening questions about poverty, race and government policies, Hurricane Katrina has made landfall on Washington's deliberations over vacancies on the U.S. Supreme Court and threatens to make John Roberts' confirmation hearings for chief justice a contentious test of conservative thought.

Democrats and liberal groups say Roberts' past opposition to expanded affirmative action and voting rights laws should get extra scrutiny, especially in light of the disproportionate suffering by poor black residents of New Orleans.

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Democrats have long advocated a more activist government, while conservatives have pressed for a smaller federal bureaucracy that gives more power to the states. Democrats believe that Katrina has focused attention on a broader function of the federal government - not only in rescue, relief and rebuilding but also in setting policies that protect the most vulnerable.

In that vein, the questions Roberts will face will be part of a larger Democratic strategy designed to confront conservative orthodoxy head on.

"The events of the past week have only underscored that we need Supreme Court justices who value the role of the courts in protecting individuals' rights and freedoms, who understand the nature of discrimination and its continuing impact on our country, and who will uphold the role of the federal government in preserving those rights and acting to protect the common good," said Ralph Neas, president of the liberal People for the American Way.

Roberts was to face hearings Tuesday before the Senate Judiciary Committee as the nominee to replace retiring Justice Sandra Day O'Connor. But on Monday, President Bush nominated Roberts to replace Chief Justice William H. Rehnquist, who died Saturday. The Judiciary Committee planned to delay the start of Roberts' hearings to later this week or next week.

Sen. John Cornyn, R-Texas, a member of the Judiciary Committee, said he believed using Katrina to question Roberts on civil rights was "a stretch."

He said Roberts' legal conservatism makes him much more like Rehnquist than O'Connor, who is considered more moderate. "A Roberts for a Rehnquist ought to be less controversial than a Roberts for an O'Connor," he said.

But Sen. Edward Kennedy, who already was prepared before Katrina hit to spend his hearing time questioning Roberts about civil rights, was expected to emphasize the racial disparities revealed by Katrina's destruction.

Kennedy, D-Mass., is expected to zero in on Roberts' internal memoranda while he was a young lawyer in the Reagan administration, when he advised the White House to fight efforts to expand the reach of anti-discrimination laws and the Voting Rights Act.

"Roberts wants to restrict the role of government," said Jenny Backus, a Democratic consultant. "His early writings ... have really raised question about what he will perceive as the appropriate role for strong centralized government. You will see more questions about that, especially with him as chief."

Despite the stepped up scrutiny, Roberts' confirmation still appears likely.

Chief justices are considered first among equals, but have significant authority in assigning court opinions when they are in the majority, a power that can determine whether a ruling will have broad legal implications or narrow applications.

When Rehnquist was elevated to chief justice in 1986, Democrats criticized his record on civil rights and accused him of working to intimidate black and Hispanic voters as a Republican poll watcher in Arizona in the early 1960s. In the end, Rehnquist got 33 "no" votes, more than any other chief justice in history.

Will Roberts Choose Candor Or Silence Before Senate? (LAW)

By Tony Mauro, Legal Times

Law.com, September 7, 2005

By today, Supreme Court nominee John Roberts Jr. was supposed to be answering the questions of Senate Judiciary Committee members as part of his confirmation hearing to replace Justice Sandra Day O'Connor. Instead, because of the death of Chief Justice William Rehnquist on Saturday, and the swift decision by President George W. Bush to put Roberts in the chief justice's spot instead, the Roberts hearing has been put off until Monday.

But when the hearing finally gets underway, the questions will likely be the same, and the dilemma for Roberts will be the same, though possibly more urgent: how candid should he be about his views on the law? It's a crucial decision for Roberts to make. Senate Democrats will be insisting on as much candor as possible, while Republicans hope and expect Roberts will stay out of trouble by invoking a previously unheard of doctrine called the "Ginsburg precedent."

In anticipation of a reticent Roberts, conservatives offered evidence of what the Federalist Society said was the "vast number" of times Clinton nominee Ruth Bader Ginsburg declined to answer substantive questions during her 1993 confirmation hearing. Liberal groups including the American Constitution Society fired back, documenting all the moments when Ginsburg actually answered questions "candidly and at length."

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Sen. Charles Schumer, D-NY, gave a speech last week debunking the conservative version of the Ginsburg precedent, warning that if Roberts invokes it, it will sound more like taking the Fifth. On the other side, former Republican Attorneys General Edwin Meese III, Dick Thornburgh and William Barr, among others, wrote to the Judiciary Committee reminding members that Ginsburg said during her hearing that she would give "no hints, no forecast, no previews" of how she might vote on future cases.

But Ginsburg is far from the only nominee who said little -- or a lot, depending on which version you believe -- to the assembled senators reviewing a Supreme Court nomination.

During the 1986 cakewalk enjoyed by Justice Antonin Scalia, the late Sen. Strom Thurmond asked him a softball question about the meaning of Marbury v. Madison, the 1803 decision that declared the Court's power to review acts of Congress. "I do not think I should answer questions regarding any specific Supreme Court opinion, even one as fundamental as Marbury v. Madison," Scalia said coyly.

More famously, nominee Clarence Thomas in his 1991 hearing denied ever having discussed Roe v. Wade as a law student. Few believed him, but it may have been a safer answer than if he had been more candid.

All recent nominees, in fact, have declined to answer questions that they or their handlers thought would get them in trouble. But they also have yielded just enough information to give the media something to chew on and give senators a feeling of accomplishment.

Nominee David Souter in 1990 probably gave Sen. Herb Kohl, D-Wis., more than he expected when he asked Souter an unusual question: How he thought his predecessor, William Brennan, Jr. would be remembered. Souter replied that Brennan would be remembered as "one of the most fearless, principled guardians of the American Constitution that it has ever had and ever will have." In retrospect, Souter's fervor in praising the liberal lion might have been an early signal that Souter was not the conservative that Republicans hoped he would be.

If Roberts wants to be more candid next week than some past nominees, he would have ample precedent from both ends of the spectrum.

In 2002 Scalia -- the same justice who would not discuss Marbury v. Madison -- took a more expansive view in his ruling in Republican Party of Minnesota v. White. That decision dealt with what judicial candidates can and cannot say during a judicial election, but Scalia's words resonate in the context of appointed candidates.

"A judge's lack of predisposition regarding the relevant legal issues in a case has never been thought a necessary component of equal justice, and with good reason," wrote Scalia. "For one thing, it is virtually impossible to find a judge who does not have preconceptions about the law."

Indeed, Scalia added, "even if it were possible to select judges who did not have preconceived views on legal issues, it would hardly be desirable to do so," since it would indicate that the judge had not thought much about the law.

A more recent example of judicial candor came just last month from the more liberal Justice John Paul Stevens. In a speech before the Clark County Bar Association in Las Vegas Aug. 18, Stevens reviewed Supreme Court decisions from last term that produced "results that I consider unwise." They were also, he added, decisions he either wrote or joined.

Two of the cases he mentioned were ones he actually wrote: Kelo v. City of New London and Gonzales v. Raich.

In the controversial Kelo case, Stevens upheld the power of the town of New London, Conn., to take private property by eminent domain for private development by others, a result he said was "entirely divorced from my judgment concerning the wisdom of the program."

Likewise in Raich, Stevens said he agreed with "the policy choice made by millions of voters" in California to legalize the medical use of marijuana. Yet he wrote an opinion favoring the federal anti-drug laws that supersede the California initiative.

As a result of his speech, the public now knows what Stevens personally believes about eminent domain and medical marijuana. Yet if those issues come to the Court again, would anyone suggest that Stevens could not rule impartially?

By the same token, what would happen if Roberts were just as candid and told the Senate Judiciary Committee what he really thinks about issues large and small? Then the question would be whether he, like Stevens, could set aside those views as a Supreme Court justice. And that may be the most important and difficult question of all.

Inside Politics (WT)

DOJ_NMG_0003307

By Jennifer Harper

The Washington Times, September 7, 2005

Minutemen go north

Former Yonkers, N.Y., Mayor John Spencer is joining with the Minutemen to bring the all-volunteer patrol to America's northern borders.

The Minutemen have concentrated their efforts in the Southwest to discourage illegal immigration from Mexico. What about New York, Maine, New Hampshire and Vermont?

Mr. Spencer will meet with the Minutemen on Saturday at an American Legion Hall in Babylon, N.Y. He is intent on organizing and training volunteers to patrol the northern border in those four states.

"Those immigrating are not the enemy; the drug dealers, the criminals and the potential terrorists hiding among them are the enemy," Mr. Spencer said yesterday calling the Minutemen "force multipliers."

Mr. Spencer is a candidate for the Republican nomination to challenge New York Sen. Hillary Rodham Clinton in 2006.

One judge to another

Robert H. Bork, the Reagan-era Supreme Court nominee rejected by the Senate after his 1987 confirmation hearings devolved into public spectacle, says he wants Judge John G. Roberts Jr. to be confirmed as the next chief justice.

Speaking at the National Press Club yesterday, Mr. Bork suggested it's unlikely Supreme Court confirmation hearings ever again will resemble "any dignified process."

"Today's confirmations are political struggles, political circuses, and there may be no going back," said Mr. Bork, a former federal judge.

"Mr. Bork offered Judge Roberts, and any other upcoming nominee, advice for a Senate hearing:

"Don't write or say anything about the Constitution. Judge Roberts has already satisfied that requirement. The second: Don't commit your vote at the hearings on any issues. If you are drawn into a commitment to how you will vote, you'll only be ratifying the corruption of the confirmation process. And third, don't make it obvious that you think some of the senators' questions reveal that they haven't a clue about the Constitution or its interpretations."

Dad to the rescue

Former President George Bush is fed up with unreasonable attacks on his son, President Bush.

"The media has a fascination with the blame game," the senior Mr. Bush told CNN. "There was one particularly vicious comment that the president didn't care, was insensitive on ethnicity, insensitive about race. That one hurt, because I know this president, and I know he does care."

Mr. Bush continued: "Huge numbers of dollars have been appropriated or signed off on for the Congress, both Senate and the House, and he had to push forward. He cannot listen to every critic from the editorial page of the New York Times."

The former president also questioned certain media reports.

"I talked to Haley Barbour, the governor of Mississippi, yesterday because some people were saying, 'Well, if you hadn't sent your National Guard to Iraq, we here in Mississippi would be better off.' He told me 'I've been out in the field every single day, hour, for four days and no one, not one single mention of the word 'Iraq.'

"Where does that come from?" Mr. Bush asked. "Where does that story come from if the governor is not picking up one word about it?"

17, 5 and 2

"The New York Times today seemed so excited to see former President Bill Clinton involved in hurricane relief that it practically ignored his partner in this pursuit, former President [George] Bush," the Media Research Center noted yesterday.

According to one analysis, one Times story cited "Mr. Clinton by name at least 17 times, his wife five times, while the former President Bush is actually only named twice. From this, one would think that he's such an afterthought that this effort should be called the Clinton-Clinton Katrina Fund," the watchdog noted.

Celeb update

The trail of Hollywood hand-wringers grows in the wake of Katrina.

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Among the stars who have either sounded off about -- or arrived in -- New Orleans for better or worse: Oprah Winfrey, the gray-bearded ex-James Bond Pierce Brosnan, Halle Berry, John Travolta and Sean Penn, who sank in his own ill-fated rescue boat.

Some showbiz types take action, though. Talk-radio host Rush Limbaugh has announced he will stage a benefit performance for hurricane victims in Manhattan. "Rush On Broadway" will have a single show Oct. 18 at New York's New Amsterdam Theater.

The event also will feature a special introduction by Fox News and talk-radio host Sean Hannity.

An insoluble woe?

Former Attorney General John Ashcroft yesterday said that U.S. problems with immigration along its porous border might be insoluble, reports Shaun Waterman of United Press International.

Speaking on efforts to address what he called government's "biggest challenge" -- the country's immigration policy and border-control regime -- Mr. Ashcroft said: "We're a long way from home there, and I don't know if we'll ever get that solved."

He spoke during a conference organized by the New America Foundation on terrorism and U.S. security.

Mr. Ashcroft said that the border's intractability mostly stems from conflicting goals, and also the sheer scale of the issue.

"We've got to try and find a way to welcome people and facilitate people who are bringing productivity and industry into the country," he said, "while at the same time we're careful about welcoming people who would bring devastation into the country."

"The real big problem is we've got 550 million border crossings a year," he said. "Think about that."

Question of attitude

Scripps Howard columnist Star Parker yesterday denounced statements by the Congressional Black Caucus, the Rev. Jesse Jackson and others that imply rescue efforts in New Orleans were impeded by racism.

"It is grossly irresponsible to imply that racism is at work here," said Miss Parker, founder of the Los Angeles-based Coalition on Urban Renewal and Education.

"The relevant question to ask is: 'Why, after these many years, does our African American population remain disproportionately poor?' " she said. "Those who assert that rescue efforts were impeded because of racism also assert that black poverty persists because of racism. It is this attitude, the welfare-state mentality, that has contributed in no small part to the tragedy we have witnessed."

For Chief Justice, A Final Session With His Court (WP)

By Susan Levine And Charles Lane

The Washington Post, September 7, 2005

The flag-draped wooden coffin of Chief Justice William H. Rehnquist was carried with slow, halting steps yesterday, up the long marble sweep of the institution where he presided for nearly two decades, between two silent lines of colleagues, staff and former law clerks, into a columned corridor where the mighty and humble alike began paying respects.

It was a journey that lasted only minutes, yet few gathered in the morning crowd outside the Supreme Court missed the most telling moments: when John G. Roberts Jr., the man nominated to succeed Rehnquist, walked solemnly with the other pallbearers toward the hearse bearing his body, and when an emotional Justice Sandra Day O'Connor, on the eve of her own planned farewell, wiped away tears as the plain white pine coffin passed and entered the building's Great Hall.

There, it was placed on the historic Lincoln Catafalque, which was covered in black velvet. Busts of Rehnquist's 15 predecessors as chief justice line the room where O'Connor and five other justices joined with his children and grandchildren in a short prayer service.

"Rest here now, child of God, William Hubbs Rehnquist," intoned the Rev. George W. Evans Jr., pastor of Lutheran Church of the Holy Redeemer in McLean, which Rehnquist attended for many years. "Rest here in the halls you know so well."

In those usually calm, reasoned halls -- where Rehnquist had been known simply as "the Chief" since President Ronald Reagan elevated him to the post in 1986 -- feelings flowed freely. Roberts, one of those former clerks, seemed to struggle to keep his composure. Justice Antonin Scalia brushed a tear from his eye.

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And O'Connor, a tough westerner raised amid cattlemen and rattlesnakes, sobbed openly; her friendship with Rehnquist dated more than a half-century to their law school days at Stanford University.

Outside, flags flew at half staff as a steady procession of visitors waited for admittance through the court's massive bronze doors. President Bush and the first lady arrived just before 4 p.m. and were escorted in through another, secured entrance. They stood before the coffin briefly, then walked over to view the formal painting of Rehnquist in his black judicial robes, on display for the first time.

Official Washington was joined throughout the day by tourists, teachers, bankers, ministers. Even when disagreeing with Rehnquist's unwaveringly conservative legal views, they said they appreciated his consistency, his leadership, the brilliance of his reasoning.

"He served this country well for a very long time," said sociology professor Roger Nemeth of Holland, Mich., drawing nods from those around him.

Representing Rehnquist's native state was Shirley S. Abrahamson, chief justice of the Wisconsin Supreme Court, whose take on his legacy is far more honed than most. So, too, is her personal connection: Rehnquist swore her into her position nearly a decade ago.

"You have someone who is widely praised as an administrator and chief, who's been fair and equitable with all the justices and managed to win their respect and regard" -- despite often sharp differences of opinion, Abrahamson reflected. "He stood up for administrative issues and judicial independence."

At 9:40 p.m., 20 minutes before the viewing was to end, more than 200 people still waited. They formed a line that stretched for 1 1/2 blocks, even after some were told by police that they probably would not make it inside the building.

At least 70 people remained as 10 p.m. came -- and went. The door remained open, and all those in line were allowed to pay their respects.

The public viewing continues from 10 a.m. to noon today. The 80-year-old Rehnquist, who died Saturday at his home in Arlington after battling thyroid cancer, will be buried at Arlington National Cemetery after a funeral service at 2 p.m. today at St. Matthew's Cathedral in Northwest Washington.

Evans and two other ministers from Holy Redeemer will conduct the service. Bush and O'Connor are expected to offer eulogies, as are two of the chief justice's children, James Rehnquist and Nancy Spears, and granddaughter Natalie Lynch.

Court officials said all eight justices will attend. Justice Anthony M. Kennedy was unable to make it back yesterday from travels in China, and Justice David H. Souter also was out of town.

Roberts, Rehnquist Compel Comparisons (USAT)

By Joan Biskupic

USA Today, September 7, 2005

WASHINGTON — For a quarter-century, William Rehnquist was a mentor to John Roberts, the federal appeals court judge now nominated to succeed the late chief justice.

Roberts was a law clerk to Rehnquist in 1980-81, and like Rehnquist, he became a lawyer for a conservative White House. When he wrote policy memos for President Reagan and legal briefs for the first President Bush, Roberts occasionally cited the work of Rehnquist, who died Saturday of thyroid cancer at age 80.

The close relationship between the two Midwesterners was evident Tuesday, when Roberts, 50, was one of eight pallbearers who carried Rehnquist's casket up the marble steps to the Supreme Court's Great Hall. The moment seemed to symbolize a transition of sorts, and with Roberts facing confirmation hearings in the Senate on Monday it was a reminder of a question that will be part of the backdrop to the hearings: how Roberts' style and brand of conservatism compares with that of the man he would succeed.

“It's hard to imagine a choice more similar to Chief Justice Rehnquist than John Roberts,” says Walter Dellinger, a former U.S. solicitor general. “They both love the law and they both are among a handful of the most intellectually accomplished legal minds.”

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Although Roberts' brief record in his work for the government and his 2½ years as a federal judge makes it difficult to predict precisely how he would view the law as chief justice, Dellinger believes that Roberts' views "would be closer to Rehnquist's than any other justice on the court."

Rehnquist, who was on the high court for 33 years — 19 of them as chief — sought a limited role for federal judges in American life and had a narrow view of individual rights. He voted against the court's decision in Roe v. Wade, the 1973 ruling that made abortion legal nationwide. He opposed affirmative action and policies intended to help racial minorities rebound after years of segregation. He also endorsed a low wall of separation between church and state.

Overall, Rehnquist believed that the nation's social dilemmas should be resolved by legislators, not judges. When he was appointed to the court in 1972 by President Nixon, Rehnquist's views often made him a lone dissenter on what was then a liberal court. But as Republican presidents continued to make appointments and Rehnquist was elevated to chief justice in 1986 by President Reagan, Rehnquist gained a majority on many fronts. (Abortion is an exception; six justices on the current court — including the retiring Sandra Day O'Connor — have backed abortion rights.)

Ted Cruz, a Texas solicitor general who is another former law clerk to Rehnquist, says he believes Roberts shares Rehnquist's support of judicial restraint. "Both believe it is principally the role of the democratically elected officials to make policy," says Cruz, who is here for Rehnquist's funeral today.

Much remains unknown about Roberts' current views, however. Thousands of pages of memos from his years in the Reagan and first Bush administrations indicate that he was a loyal foot soldier for conservative agendas. But it's not clear how he might vote today on divisive issues such as abortion rights, affirmative action and the separation of church and state.

Some Democratic senators, including Edward Kennedy of Massachusetts and Charles Schumer of New York, say they are troubled by Roberts' writings on civil rights and women's issues.

When he was a lawyer in the Reagan White House in the 1980s, Roberts sometimes was dismissive about women's claims of job and pay discrimination. He also sought to curtail the use of affirmative action in government and to limit judicial orders for school busing. He criticized a 1985 Supreme Court ruling that struck down an Alabama law requiring a "moment of silence" in schools, and he praised Rehnquist's stance in dissent of the ruling.

And yet, since President Bush originally nominated Roberts in mid-July to succeed O'Connor, Roberts' nomination generally has been well-received by senators.

Now that Bush has switched gears and nominated Roberts for the Rehnquist opening, Roberts is poised to make history: A few former Supreme Court law clerks have gone on to be justices — including Rehnquist, who worked for Justice Robert Jackson in the 1952-53 term — but Roberts would be the first court appointee to take the seat of his former boss.

Friends and colleagues of Rehnquist and Roberts use phrases such as "down to earth" and "amiable" to describe the personalities of Rehnquist, a Wisconsin native, and Roberts, who was born in Buffalo and grew up in Indiana. "There's a lot of personal warmth there," says Chuck Cooper, who like Roberts was a law clerk to Rehnquist and then worked in the Reagan administration. Cooper also says that Roberts and Rehnquist have compatible views of the law.

Their somewhat similar styles — along with the fact that Roberts argued 39 cases before the high court as a lawyer in government and private practice — could make it easier for Roberts to suddenly become the senior member of the bench and run the justices' private conferences.

"It will be an extraordinary moment in the first confidential conference when a legendary figure like William Rehnquist is replaced at the head of the table by someone so junior," says Dellinger, who was a law clerk to the late Justice Hugo Black. "But John Roberts is one of the few people who would be up to that challenge."

There are differences between the two men. Being 30 years younger than Rehnquist, Roberts might ultimately reveal a different worldview on contemporary issues such as gay rights. Rehnquist consistently voted against gay rights. Roberts, when he was in private practice, helped a team of lawyers that successfully urged the high court to strike down a Colorado law that barred cities from protecting lesbians and gay men from discrimination.

During court sessions, Rehnquist also had a no-nonsense devotion to punctuality that Roberts would be hard-pressed to match. The late chief justice insisted that lawyers at the lectern stop talking as soon as a red light in the court illuminated, signaling their time was up. When lawyers made their arguments, Rehnquist often would cut them off in midsentence.

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"When that light went on, if you didn't notice it, he certainly did," Cooper says. "I would be surprised if John is as abrupt and severe as the boss."

Former Aide Roberts Helps Bear Rehnquist's Coffin (USAT)

By Kathy Kiely

USA Today, September 7, 2005

WASHINGTON — The man who hopes to succeed William Rehnquist as chief justice helped carry the late jurist's plain pine coffin Tuesday up the marble steps of the Supreme Court, where friends, family and the public filed by all day to pay last respects.

John Roberts was one of eight ex-Rehnquist aides who served as pallbearers. President Bush later paid a solemn visit to the court, a day after nominating the federal appeals court judge to become the nation's 17th chief justice.

Rehnquist died of cancer Saturday at age 80. Bush will be one of the speakers today at a service at St. Matthew's Cathedral. Rehnquist will be buried at Arlington National Cemetery after the state funeral.

After a brief ceremony at the Supreme Court, Roberts crossed the street for a meeting with Senate Judiciary Committee Chairman Arlen Specter. The Pennsylvania Republican will preside over Roberts' confirmation hearings beginning Monday. Specter predicted a "thorough and piercing" confirmation process for Roberts, who could influence the court for decades. Roberts, 50, would be the youngest chief justice since 1801, when John Adams appointed 45-year-old John Marshall.

Democrats say that will mean even closer scrutiny for Roberts, originally tapped to succeed retiring Justice Sandra Day O'Connor. Bush switched Roberts to the chief justice job after Rehnquist's death.

"I have some concerns with his writings a number of years ago concerning the rights of women and civil rights," said Senate Minority Leader Harry Reid, D-Nev.

Some of the memos that have been released from Roberts' years as a lawyer for the Reagan White House show him arguing to limit the reach of federal laws designed to protect the rights of minorities and women.

Senate Majority Leader Bill Frist, R-Tenn., is pushing for a Senate vote on Roberts by the last week of the month, which would allow the judge to take his seat on the high court when it opens its next session Oct. 3. Reid said he's making no promises on the date for a confirmation vote. However, he and Sen. Patrick Leahy of Vermont, top-ranking Judiciary Committee Democrat, indicated any slowdown would be due to substantive questions, not parliamentary maneuvering.

"I will work with Sen. Specter to make sure there are no procedural delays," Leahy said.

Leahy and Specter said they would like to see Bush nominate a woman to O'Connor's seat. "The two women are, I think, a minimum," said Specter, referring to O'Connor and Justice Ruth Bader Ginsburg. However, he added, "I don't believe anybody ought to tie the president's hands."

O'Connor, who has agreed to stay on until the Senate confirms her successor, was standing on the steps with five of her fellow justices Monday. She wept as Rehnquist's flag-draped coffin passed.

Inside the court, the coffin was set onto a black catafalque first constructed in 1865 for President Lincoln. Since then, it has been used as a bier for a number of American leaders, most recently for former president Ronald Reagan.

A portrait of Rehnquist stood at the head of the room. Two bouquets of red roses, white snapdragons and blue bellflowers stood at either end of the coffin.

Mourners ranged from 12-year-old Sarah Strickland, visiting with her parents from Enterprise, Ala., and hoping for a glimpse of history, to Lloyd Roberts, a retired Supreme Court policeman who occasionally served as a driver for Rehnquist and called him "a real intellectual." Roberts is no relation to the Supreme Court nominee.

Bo Rutledge, a former law clerk for Justice Clarence Thomas, said Rehnquist was "very approachable" and liked to lunch with clerks. "He always took an interest in the people around him," said Rutledge, who teaches at Catholic University law school.

Chief Justice's Death Hits O'Connor Hard (USAT)

By Joan Biskupic

USA Today, September 7, 2005

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WASHINGTON — As Chief Justice William Rehnquist's flag-draped casket was carried up the Supreme Court steps Tuesday morning, one of the most compelling images was the distraught, tear-streaked face of Justice Sandra Day O'Connor.

Her public sadness was a reminder of all that Rehnquist and the nation's first female justice had been through together. They met in law school at Stanford University in the late 1940s. The World War II veteran was nearly six years her senior, but they developed a bond that endured through the years. They dated briefly, but then married other college sweethearts. Their families became close as Rehnquist and O'Connor walked remarkably similar paths.

In the 1960s, they lived in Phoenix and practiced law. They were active in Republican politics and became acolytes of conservative Arizona Sen. Barry Goldwater.

Rehnquist was an assistant U.S. attorney general on Oct. 21, 1971, when President Nixon nominated him to the Supreme Court. O'Connor, then a state senator in Arizona, sprung into action on Rehnquist's behalf. On the floor of the Arizona Senate the next day, she called her friend "one of the most brilliant legal minds in the country" and said that because he was only 47, he might one day be elevated to chief.

When Rehnquist was sworn in as an associate justice on Jan. 7, 1972, O'Connor was in the courtroom. She joined him on the bench in 1981, tapped by President Reagan in a historic appointment. Five years later, Reagan made Rehnquist chief justice when Warren Burger retired.

On June 27 of this year, their last day together in the courtroom, O'Connor helped Rehnquist down from the bench. Suffering from thyroid cancer, he looked frail.

As Rehnquist was expected to retire, it came as a surprise that week when O'Connor, 75, said she was stepping down to take care of her ailing husband, John. President Bush chose federal judge John Roberts to replace O'Connor, who said she would stay on the court until she was replaced. But after Rehnquist's death Saturday, Bush made Roberts the nominee for chief. So now, with her friend gone, O'Connor remains.

Bush And First Lady Visit Rehnquist's Coffin At Court (NYT)

By Linda Greenhouse

The New York Times, September 7, 2005

WASHINGTON, Sept. 6 - President Bush and his wife, Laura, made an unscheduled visit on Tuesday to the Supreme Court to pay their respects to Chief Justice William H. Rehnquist, whose flag-draped coffin lay in the "great hall" that leads to the courtroom.

Hours earlier, Judge John G. Roberts Jr., whom the president has nominated to succeed the chief justice, had helped to carry the coffin into the court building and place it on the historic Lincoln Catafalque, on which President Lincoln's coffin once lay.

All day, members of official Washington as well as private citizens and tourists filed by the coffin. An oil portrait of the chief justice, who died Saturday at the age of 80, was placed nearby. Painted in 1994 by Thomas Loepp, it shows the four gold stripes with which the chief justice decorated each sleeve of his judicial robe and depicts him with a slightly bemused expression.

During their brief midafternoon visit, the president and first lady walked together to the coffin, and then examined the portrait in the company of Justice Antonin Scalia and Sally Rider, the chief justice's administrative assistant.

Chief Justice Rehnquist will be buried at Arlington National Cemetery on Wednesday after a funeral at St. Matthew's Cathedral here. Reporters will be permitted to attend the Mass, although no still or television cameras will be allowed. The press will be barred from the burial. The grandson of Swedish immigrants, Chief Justice Rehnquist was Lutheran, not Roman Catholic.

His pastor, the Rev. George W. Evans Jr., of the Lutheran Church of the Redeemer in McLean, Va., told reporters that with 350 seats, that church was too small. He said the Roman Catholic Archdiocese had offered the 2,000-seat cathedral, familiar to many of the justices for its annual Red Mass, a worship service that honors the judiciary.

Judge Roberts, a clerk for then-Associate Justice Rehnquist 25 years ago, was one of eight pallbearers. The others were a former administrative assistant to the chief justice, James Duff, and six other former law clerks: David G. Leitch, Frederick W. Lambert, Ronald J. Tenpas, Kerri Martin Bartlett, Gregory G. Garre and John C. Englander.

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Dozens of other clerks who served the chief justice during his 33-year tenure also joined family members and six of the current justices in paying respects, standing by the white-pine coffin at a brief prayer service that Mr. Evans led before the court was opened to the public.

Along with Justice Scalia, Justices John Paul Stevens, Sandra Day O'Connor, Clarence Thomas, Ruth Bader Ginsburg and Stephen G. Breyer were present for the service. Justice Anthony M. Kennedy was returning from China, and Justice David H. Souter from New Hampshire. All the justices will be at the funeral.

After the service, the chief justices' former law clerks took turns standing guard in pairs by the coffin. The building, while closed for official business all day, remained open to the public for viewing the coffin until 10 p.m. and will be open again on Wednesday morning.

Court employees, from the most senior officers to the most junior workers, also attended the brief private service. For most, Chief Justice Rehnquist had been a presence during their working lives at the court.

Among members of the public, the first in line was Martha Hamilton, a graduate student at Regent University in Virginia Beach, who arrived at 4 a.m. She had deferred her return to school after the Labor Day weekend because, she said, "I felt like this was a historic opportunity to participate in honoring the chief justice and the position of chief justice."

Others in the line, which stretched the length of the court steps and down the block, included David and T. J. Voell, 35-year-old twins from Wilmington, Del., both bankers who had taken time off to come to Washington and attend the confirmation hearing for Judge Roberts that had been scheduled to begin Tuesday. The hearing has been postponed until next Monday.

Rehnquist's 'Strong Legacy' Hailed (WT)

By Stephanie Mansfield

The Washington Times, September 7, 2005

Solemn and respectful they stood, single file, and at times the line snaked around the block in the September sunshine: congressional staffers, college kids in baseball caps, tourists, Capitol Hill groundskeepers, many on their lunch break.

Few had met Chief Justice William H. Rehnquist, who was lying in a plain wooden coffin draped with an American flag inside the Supreme Court building yesterday, but all expressed the same sentiment: They were there to pay their respects.

"I met him once when I was a White House fellow," said Army Lt. Col. Barrye Price, wearing his dark green uniform and black beret. "I respect his service to our nation. You felt his sense of power and his sense of humility."

In attendance were Chief Justice Rehnquist's colleagues, including a tearful Justice Sandra Day O'Connor, who was once his Stanford Law School classmate.

The nation's 16th chief justice will be buried today at Arlington National Cemetery.

One veteran came from Fort Belvoir, Va., to pay his respects.

"He leaves a strong legacy for the country," said Steve Clark, 38, who lost his right arm in a road explosion in Iraq two years ago.

As they waited, the mourners discussed Chief Justice Rehnquist's long tenure on the nation's highest court.

"Courts in general have gotten too active," said contractor David Paine, 51. "I think he was a good man, and I supported his ideas. Like him, I think less should be more."

Marlin Britton, 38, who works at the Library of Congress, wasn't interested in the chief justice's politics or beliefs. "Let history tell how well he did the job. This is of historical interest. You respect someone of his stature."

Barbara Mack, 81, was visiting from Chicago. "We respected Justice Rehnquist greatly. We wanted to pay our respects," she said.

Once inside the Great Hall, up the long white marble steps, mourners walked slowly past the coffin. It was carried up the step yesterday morning, borne by Chief Justice Rehnquist's seven former law clerks, including Judge John G. Roberts Jr. Judge Roberts has been picked to replace his former boss, and his Senate confirmation hearings will begin next week.

Flanked by two tall freestanding floral arrangements of blood-red full-blown roses and white and purple delphinium, the coffin rested on the Lincoln catafalque, the bier where President Lincoln's body was placed after his assassination in 1865.

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Resting on an easel was a 1994 oil portrait by Thomas Loepp, showing the chief justice in his court robes, next to a globe that was a gift from his law clerks.

The morning began with a prayer service attended by his colleagues, children and grandchildren, and former staffers. Many had tears in their eyes.

Chief Justice Rehnquist, 80, died of thyroid cancer at his Arlington home Saturday. He was a member of the Redeemer Lutheran Church in McLean, where he will be remembered more for his familial than judicial duties.

"I was more impressed by him as a father and grandfather, as well as chief justice," said fellow church member Chuck Clopton, who was standing in line yesterday to pay his respects. "I loved his sense of humor. He was a very kind man, and not impressed with himself."

Mr. Clopton said he is planning to attend Chief Justice Rehnquist's funeral today at 2 p.m. at St. Matthew's Cathedral in Northwest Washington. The World War II veteran will be interred in a private burial service at Arlington, where his predecessors as chief justice, Warren E. Burger and Earl Warren, are buried -- as is his wife, Natalie, who died in 1991.

"He was really a great leader and upheld many decisions that were controversial," said 21-year-old Katherine Litras, a student at American University who came yesterday with two friends. "I hope they find someone as great to replace him."

Rehnquist's Legacy (USAT)

USA Today, September 7, 2005

Chief Justice William Rehnquist was that rarity among public officials: one who worked to make his office less powerful. From his days as a Supreme Court clerk a half-century ago until his death Saturday after 33 years on the court, Rehnquist argued for leaving important decisions to state legislatures or, if necessary, Congress — not the courts. The result was a career that foreshadowed much of today's political debate, and one that helps to focus it.

In his early years on the court, Rehnquist, an intensely conservative member of what was then a very liberal court, was so isolated that he was sometimes called the "Lone Ranger." As the nation as a whole grew more conservative, the court moved in his direction. States gained more latitude, producing restrictions on abortion, and blurring the line between church and state. Congressional power increasingly came under challenge. Affirmative action was restricted.

In most cases, Rehnquist led that charge, reflecting a judicial philosophy formed much earlier, one that not only favored state power over federal but also over the individual.

While clerking for Justice Robert Jackson during the 1951 and '53 terms, Rehnquist objected to "ivory tower jurisprudence" — hearing appeals from criminals claiming to have been wrongly convicted in state courts or brutalized by the police. He derided justices with qualms about the death penalty as "like a bunch of old women." He rejected calls for civil rights laws as unnecessary and wrote a memo for his boss, from which he later tried to distance himself, defending the constitutionality of racial segregation.

Such attitudes were not uncommon at the time. But Rehnquist remained at odds with the direction the court would take during the 1950s and 1960s as it overturned the national stain of racial segregation, extended protections to criminal suspects and defendants and, for a time, outlawed the death penalty.

After joining the court in 1972 (he was elevated to chief justice in 1986), Rehnquist regularly objected to broad interpretations of the Constitution on social issues such as abortion and on routinely allowing federal mandates on the states.

How Rehnquist's record is viewed will depend on where the viewer resides on the political spectrum. Over the years in this space, we've both favored and opposed positions Rehnquist joined, but we've regularly expressed concern about intrusions on personal rights — from privacy, to a woman's right to choose, to religious freedom, to issues of race.

We'd argue now that for the nation's minorities and women, for defendants railroaded by a flawed system of justice and for others who have turned to the courts for redress, it's fortunate that Rehnquist's views on those subjects have not prevailed.

But that does not detract from the man's significance, or his integrity, or his devotion to the law — all of which are substantial and not fully recognized by the public. His aggressive questioning of lawyers in oral arguments, and his blunt refusal to consider allowing cameras in the courtroom, as well as the political intensity his views provoked, created a gruff image at odds with the one described by those who knew him best.

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Rehnquist's conduct of the televised Senate impeachment trial of President Clinton introduced the chief justice to many Americans as a calm and fair-minded administrator, a trait that drew praise over the years even from the justices who disagreed with him most often on the law. The personal fondness he inspired was on view Tuesday as mourners passed by his casket at the Supreme Court before today's funeral service.

In the pulling and hauling of public debate, it is important that articulate voices such as Rehnquist's be heard, particularly when they are in the minority. That is even more important on the court, where judges isolated from much of society benefit from a diversity of thought and experience. The downside of a legal philosophy that limits the power of the court is that it also limits the protection of individual rights and liberties.

Ironies Abound As Rehnquist Leaves Us (USAT)

By Tony Mauro

USA Today, September 7, 2005

Death knows no timetable, so it is sad but unsurprising that Chief Justice William Rehnquist's death came at a most inopportune time, full of ironies.

Many of the ironies of his death were personal. But it also was remarkable that Rehnquist died at a moment when the nation was completely distracted by a crisis that relates significantly to his judicial legacy. The finger-pointing between state and federal officials over the handling of Hurricane Katrina's awful devastation is a debate that Rehnquist would have found familiar.

At the personal level, it is sad that this determined and devoted man did not live long enough to see his friend and former clerk John Roberts Jr. become a colleague on the court. Rehnquist had toughed out his battle with thyroid cancer and seemed fixated on working until he could work no more. Perhaps he was inspired to stay to the bitter end by Robert Jackson, the justice for whom he had clerked more than 50 years earlier. Jackson rose from his sick bed to join the court's landmark Brown v. Board of Education decision in 1954 and died a few months later. Ironically, until Rehnquist, Jackson was the last Supreme Court justice to die in office.

It would have been a first for Rehnquist to serve alongside one of his own former law clerks, and it would have made Rehnquist very proud. Roberts had been appointed in July to replace Justice Sandra Day O'Connor; instead, with Rehnquist's passing on Saturday, President Bush shuffled things around and appointed Roberts on Monday to replace Rehnquist. Another irony: Roberts regards Rehnquist as his mentor, and now is about to replace him.

Roberts and Rehnquist have many similarities, not only in their conservative perspectives but also in their sharp intellect and keen sense of humor. When Rehnquist, an unassuming man, told a funny story, he would start giggling before he finished his sentence. Years ago, when I asked Roberts why he lost a case before the court 9-0, his deadpan answer was, "Because there are only nine justices."

State vs. federal role

If Hurricane Katrina had not wreaked havoc on the Gulf Coast, we would have been reading more about Rehnquist and his legacy. But the hurricane's aftermath actually turns out to be a teachable moment about Rehnquist.

Much of the nationwide anger has been over the delay in the federal response to the hurricane's awful onslaught. Federal officials, for their part, have suggested that states and localities have primary responsibility in such matters, and did not move quickly enough either.

The balance of power between state and federal government is a perennial debate, and Rehnquist spent much of his career on the Supreme Court trying to readjust that balance in favor of states. Following what he believed to be the intent of the Constitution's framers, Rehnquist tried mightily to rein in Congress and keep it and federal agencies from turning states into unimportant subsidiaries that must depend on the federal government to act. The Bush administration is filled with adherents to Rehnquist's doctrine; Michael Leavitt, the secretary of Health and Human Services who has become a familiar figure since the hurricane, first gained national attention as a Utah governor who pushed hard against federal domination of the states.

So at a policy level, it probably should have been no surprise that the Bush administration hung back too long before federalizing the relief effort. In a broad context, there are valid arguments to be made against excessive federal power. If you think

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about it, it should be difficult to send U.S. soldiers into the streets of the USA for essentially law enforcement duties; it is in our national genes not to want federal troops used against our own citizens.

That said, though, there has to be a way to overcome this reluctance more quickly when troops are needed domestically for humanitarian reasons. And the hurricane aftermath proves the seemingly obvious point that there are times when a swift and strong federal response must pre-empt competing or confused state and local interests. The terrorist attacks on Sept. 11, 2001, also showed the need for a strong national government; states and localities are not equipped to chase after Osama bin Laden.

A shift on the court

In fact, it seems that since 9/11, some of the steam went out of Chief Justice Rehnquist's conservative, pro-states juggernaut. And it's not just because a strong federal government comes in handy sometimes; it's also because some states are doing some pretty liberal things, legalizing everything from medical marijuana to same-sex marriages. A few months before he died, Rehnquist voted in favor of California's medical marijuana law on states' rights grounds, but he was on the losing side. Even Justice Antonin Scalia, a usual ally in protecting state power, suddenly embraced federal preeminence in the area of drug laws. Progressives, observing the Republican-dominated federal government, are turning to the states to fight their battles.

Usually, the tension between state and federal power is discussed at the eye-glazing level of theory and abstraction. Hurricane Katrina has laid the debate before us in dramatic, real-life terms: When should states take care of themselves, and when should the federal government take over?

Continuing that debate and drawing clearer lines of authority would be a more fitting way to honor the memory of Rehnquist than banner headlines about his death. He never much liked being in the spotlight anyway.

A Defender Of Independent Courts (NYT)

The New York Times, September 7, 2005

Today's funeral service for Chief Justice William Rehnquist and the imminent start of hearings in the Senate on Judge John Roberts Jr., the nominee to succeed him on the Supreme Court, provide a moment to honor one of the vital but less celebrated hallmarks of Chief Justice Rehnquist's 33-year service on the court: his proud record of defending the independence of the federal judiciary against attacks by politicians.

Those attacks, as Chief Justice Rehnquist noted last January in his 19th and final report on the state of the federal courts, have taken a troubling new turn in recent years. Without singling out individual members of Congress by name, he made clear his disapproval of some conservative Republicans, like the House majority leader, Tom DeLay, and others. He disapproved of their moving beyond the normal criticism of judicial decisions to try to bully and intimidate individual judges, strip federal courts of jurisdiction to decide certain constitutional challenges, and otherwise undermine the constitutional separation of powers and checks and balances.

One glaring example proving the validity of the chief justice's concerns followed his final report: the meddling by Florida officials and Congress in the case of Terri Schiavo, and the way some Republican lawmakers later denounced the string of federal judges who had rightly upheld earlier state court rulings and rejected ghoulish Congressional meddling in her death.

"A judge's judicial acts may not serve as a basis for impeachment," the chief justice wrote in answer to rising threats to impeach judges labeled by some Republican politicians as "activists" and worse because of their views of the Constitution.

"Any other rule would destroy judicial independence," he explained. "Instead of trying to apply the law fairly, regardless of public opinion, judges would be concerned about inflaming any group that might be able to muster the votes in Congress to impeach and convict them."

Chief Justice Rehnquist was also duly critical of hastily enacted limitations on judicial sentencing decisions, and the potential damage that compiling information on the sentencing habits of individual judges could do to fair and impartial justice. Chief Justice Rehnquist plainly saw his role as defender in chief of the nation's independent court system, which he famously called "one of the crown jewels of our system of government."

When confirmation hearings begin on Monday, we would like to hear Mr. Roberts use at least part of his opening statement to make it clear that he intends to continue this legacy, even at the risk of offending some fellow conservatives. On issues like these, that never stopped Chief Justice Rehnquist.

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Newsview: White House Falls Out Of Step (NSDY/AP)

By Jennifer Loven, Associated Press Writer

Long Island Newsday, September 7, 2005

WASHINGTON -- The Bush White House is known for its ability to remain in control of its message and image, sliding out of crises with barely a scratch. Not this time.

Despite day after day of appearances by President Bush aimed at undoing the political damage from a poor response to Hurricane Katrina, the White House has not been able to regain its footing, already shaken by the war in Iraq and a death toll exceeding 1,880.

The administration on Tuesday struggled to deflect calls for an accounting of who was responsible for a hurricane response that even Bush acknowledged was inadequate. There were increasing calls for the resignation or firing of Michael Brown, director of the Federal Emergency Management Agency.

"I think it's clear we're in damage control now," said Norman Ornstein, political analyst at the American Enterprise Institute think tank.

It's a troubling position for Bush, already suffering the lowest approval ratings of his presidency.

The mistakes have come one upon the other.

Even as Katrina was bearing down on the Gulf Coast that Sunday night and early Monday, Aug. 28-29, and the National Hurricane Center was warning of growing danger, the White House didn't alter the president's plans to fly from his Texas ranch to the West to promote a new Medicare prescription drug benefit.

By the time Bush landed in Arizona that Monday, the storm was unleashing its fury on Louisiana and Mississippi. The president inserted into his speech only a brief promise of prayers and federal help.

He continued his schedule in California, and he didn't decide until the next day that he should return to Washington. But it took him another day to get there, as he flew back to Texas to spend another night at his home before leaving for the White House.

Once the president was in Washington, the criticism only intensified.

While a drowned New Orleans descended into lawless misery, Bush delivered remarks from the Rose Garden that were seen as flat and corporate. It was a sharp contrast to the commanding, empathetic president the public rallied around in the days after the Sept. 11, 2001, attacks.

In a television interview, Bush said -- mistakenly -- that nobody anticipated the breach of the levees in a serious storm.

Even Monday's trip to the region was a redo, hurriedly arranged by the White House over the weekend after lukewarm response to Bush's first in-person visit to the Gulf Coast last Friday.

Bush had raised eyebrows on his first trip by, among other things, picking Sen. Trent Lott, R-Miss. -- instead of the thousands of mostly poor and black storm victims -- as an example of loss. "Out of the rubbles of Trent Lott's house -- he's lost his entire house -- there's going to be a fantastic house. And I'm looking forward to sitting on the porch," Bush said with a laugh from an airplane hangar in Mobile, Ala.

In the same remarks, Bush gave FEMA chief Brown -- the face for many of the inadequate federal response -- a hearty endorsement. "Brownie, you're doing a heck of a job," Bush said.

Later in Biloxi, Miss., Bush tried to comfort two stunned women wandering their neighborhood clutching Hefty bags, looking in vain for something to salvage from the rubble of their home. He kept insisting they could find help at a Salvation Army center down the street, even after another bystander had informed him it had been destroyed.

And at his last stop that day, at the airport outside of New Orleans, Bush lauded the increasingly desperate city as a great town because he used go there and "enjoy myself -- occasionally too much."

Unlike his galvanizing appearance in the rubble of the World Trade Center just days after the 2001 attacks, Bush has stayed far from the epicenter of New Orleans' suffering. His only foray into the city was to its edges to watch crews plugging one of the breached levees on Friday.

On Monday, he skipped the hardest-hit coastal areas entirely, choosing instead to visit Baton Rouge, the state capital about 80 miles northwest of New Orleans, which sustained no damage. He also went to Poplarville, Miss., to walk the streets of a

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middle-class neighborhood that seemed to suffer little more than snapped trees, a couple off-kilter carport roofs and a downed power line or two.

White House spokeswoman Dana Perino said the president avoided New Orleans to stay out of the way of search-and-rescue operations.

"It's going to be almost impossible to overcome the perception about the president that he didn't show compassion and didn't get control of the policy failures," American University political scientist James Thurber said. "The vivid images that are coming across the television are really destroying his image as a leader."

White House counselor Dan Bartlett said the president and his aides are unconcerned for now about the unrelenting criticism.

"Emotions are running high. People are tired," Bartlett said. "If we focused more of our attention on decisions that have already been made, rather than on those before us, there's potential for making far greater mistakes. ... We really don't have time to play the political game right now."

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EDITOR'S NOTE: Jennifer Loven has reported from Washington since 1993 and covers the White House for The Associated Press.

Bush Resists Immediate Probe Into Katrina Response (REU)

By Steve Holland

Reuters, September 7, 2005

President George W. Bush pledged on Tuesday to review what went wrong in the initial response to Hurricane Katrina but resisted any immediate probe and lawmakers launched an investigation of their own.

Partisan tempers flared, the projected cost of Katrina recovery efforts mushroomed and Pentagon leaders denied there was any delay in the military response to the relief effort last week.

After a Cabinet meeting on the myriad challenges posed by his biggest crisis since the attacks of September 11, 2001, Bush said he would lead an investigation into what went wrong. But he said he first wanted to save lives and solve problems before assessing blame.

"I think one of the things that people want us to do is to play a blame game," Bush said of critics of the initial administration response. "We've got to solve problems. There will be ample time for people to figure out what went right, and what went wrong."

He added: "I'm going to find out over time what went right and what went wrong."

Key senators launched an oversight review to determine how federal, state and local authorities bungled the relief effort in the first days after the hurricane struck.

"It is difficult to understand the lack of preparedness and the ineffective initial response to a disaster that had been predicted for years and for which specific dire warnings had been given for days," said Sen. Susan Collins (news, bio, voting record), the Maine Republican who chairs the Senate homeland security committee.

Tempers flared in the driveway of the White House after congressional leaders emerged from a meeting with Bush to brief reporters.

House of Representatives Speaker Dennis Hastert of Illinois, backing up Bush's position, agreed on the need for an investigation, but only after the recovery is well under way.

"There's going to be a lot of time to point fingers after we get through there," he said.

House Democratic leader Nancy Pelosi of California quickly approached the microphone.

"Let me just say because my colleague said I was pointing fingers too soon: You're darned right, you're darned right. We're a week behind where we should be in terms of responding to Katrina."

Pelosi said Michael Brown, the head of the Federal Emergency Management Agency, "should not continue in that job unless we want a continuation of the shortcomings that we have had in the response."

With $10.5 billion already set aside, Senate Democratic Leader Harry Reid of Nevada predicted the recovery effort could end up costing $150 billion -- a figure that could put pressure on Bush to give up some tax cuts he wants to extend.

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Reid said he expected the White House budget director, Josh Bolten, to make a new emergency spending request in 24 hours that could be $40 billion to $50 billion.

The No. 2 House Republican, Tom DeLay of Texas, scolded Reid. "People that just throw numbers out, not knowing what they're talking about, I think it's pretty irresponsible," DeLay said.

With some critics pointing to the fact that insufficient troops at the outset slowed the relief effort, top Pentagon officials denied there had been any delay.

But Defense Secretary Donald Rumsfeld said he had ordered an internal Pentagon study of "lessons learned" from the disaster.

"You know, you can never be perfect in a tragedy like this," said Gen. Richard Myers, chairman of the Joint Chiefs of Staff. "You'd like to be perfect and be there the moment someone needs help. But as hard as these people tried and the states tried, it's just not possible."

Much anger from Democrats and Republicans alike has been directed at Bush for a slow federal response to a catastrophe that may have killed thousands in New Orleans and along the Gulf coast.

Bush said he was dispatching Vice President Dick Cheney to the disaster zone on Thursday to try to remove any "bureaucratic obstacles that may be preventing us from achieving our goals."

With calls for an independent commission to investigate the disaster, the White House was cautious.

Asked where the buck stops in the Bush administration, White House spokesman Scott McClellan said: "The president." But he said to launch a probe now could divert people involved in the recovery effort from doing their jobs.

(Additional reporting by Patricia Wilson, Tabassum Zakaria, Will Dunham and Donna Smith)

For Bush, A Deepening Divide (WP)

By Dan Balz

The Washington Post, September 7, 2005

When terrorists struck on Sept. 11, 2001, Americans came together in grief and resolve, rallying behind President Bush in an extraordinary show of national unity. But when Hurricane Katrina hit last week, the opposite occurred, with Americans dividing along sharply partisan lines in their judgment of the president's and the federal government's response.

The starkly different verdicts on Bush's stewardship of the two biggest crises of his presidency underscore the deepening polarization of the electorate that has occurred on his watch. This gaping divide has left the president with no reservoir of good will among his political opponents at a critical moment of national need and has touched off a fresh debate about whether he could have done anything to prevent it.

To his critics, Bush is now reaping what he has sown. Their case against him goes as follows: Facing a divided nation, the president has eschewed unity in both his governing strategy and his political blueprint. These opponents argue that he has favored confrontation over conciliation with the Democrats while favoring a set of policies aimed at deepening support among his conservative base at the expense of ideas that might produce bipartisan consensus and broader approval among the voters. His allies and advisers, while acknowledging that polarization has worsened during the past five years, say the opposition party bears the brunt of responsibility. Democrats, by this reckoning, have rebuffed Bush's efforts at bipartisanship, put up a wall to ideas that once enjoyed some support on their side, and, even in the current crisis along the Gulf Coast, are seeking to score political points rather than joining hands with the president to speed the recovery and relief to the victims.

Wherever reality lies between these mutual recriminations, the path from post-9/11 unity to the rancor and finger-pointing in the aftermath of Katrina's fury charts a clear deterioration in political consensus in the United States and a growing willingness to interpret events through a partisan prism. It is a problem that now appears destined to follow Bush through the final years of his presidency -- a clear failure of his 2000 campaign promise to be a "uniter, not a divider."

A Washington Post-ABC News poll taken last Friday illustrates the point vividly. Just 17 percent of Democrats said they approved of the way Bush was handling the Katrina crisis while 74 percent of Republicans said they approved. About two in three Republicans rated the federal government's response as good or excellent, while two in three Democrats rated it not so good or poor.

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"Bush is the most partisan president in modern American history," said William Galston, a professor at the University of Maryland and previously a top domestic adviser to former President Bill Clinton. "As a result, voters in both parties are focusing on him, rather than on the specifics of the policies."

In Galston's view, Bush bears principal responsibility for that condition, saying that on three occasions he passed up opportunities to govern from the center and work more constructively with the Democrats and instead chose a path designed to mobilize conservatives. The first came after the disputed election of 2000, in the early days of Bush's new administration. The second came after the Sept. 11 attacks, when Bush's approval rating rose to 90 percent. The third came after the hard-fought and polarizing election last year.

"While White House aides can provide familiar talking points on gestures of cooperation across party lines, the fact of the matter is on all three occasions, the principal thrust of Bush's policies was toward polarization rather than conciliation," Galston said. "We are now living in the shadow of nearly five years in which that has been the dominant political message coming out of the White House."

Republican National Committee Chairman Ken Mehlman offered a vigorous rebuttal to that criticism yesterday. "They've got a one-way street of unity," he said. "It's 'Do what we want, or you're not a unifier.' "

Mehlman said Bush has produced an unprecedented record of bipartisan accomplishment, citing the passage of the No Child Left Behind education act, prescription drug benefits for Medicare recipients, the USA Patriot Act and the creation of the Department of Homeland Security, which he said was advanced initially by Democratic Sen. Joseph I. Lieberman (Conn.) and eventually embraced by Bush. (Democrats say Bush embraced the department only when public opinion showed it to be extremely popular.) Mehlman also said Democrats are now attempting to take advantage of the politics of Katrina and pointed specifically at Sen. Hillary Rodham Clinton (D-N.Y.), who yesterday introduced legislation calling for the Federal Emergency Management Agency (FEMA) to be reconstituted as an independent, Cabinet-level agency, rather than a unit in the new Homeland Security Department. "You tell me who's taking what should be a moment of national unity and trying to score politically," he said. William Mayer, a political scientist at Northeastern University, said the public divide over Bush's handling of the natural disaster bears considerable resemblance to divisions over Clinton's handling of the standoff with the Branch Davidian followers of David Koresh in Waco early in his presidency, which ended in a fire that killed more than 80 people. Democrats supported Clinton did the best he could "dealing with a crazy man," Mayer said, while Republicans "said this was a massively bungled affair."

Mayer and Nolan McCarty, a professor of politics and public affairs at Princeton said that while polarization has worsened under Bush, the president bears only some of the responsibility. McCarty said Bush could try to rise above the current criticism but noted that partisans now have jumped in. "It will polarize things worse," he said.

Mark McKinnon, Bush's campaign media adviser, said Bush is still dealing with divisions that came out of the election 2000 but said the current crisis presents an opportunity for the administration "to show leadership and coordination and response and compassion of a nature that could affect the political dynamics of the country."

Galston agreed that is possible, but he said he doubted even a well-judged performance will fundamentally change Bush's ability to work across party lines on controversial issues. The hurricane may have washed away much of the Gulf Coast, but political polarization has proved resistant to its forces.

Bush Pledges To Stay On Top Of Relief Effort, Says It's Improving (USAT)

By Richard Benedetto

USA Today, September 7, 2005

WASHINGTON — President Bush spent Tuesday in a series of meetings aimed at making sure the resources of the federal government are focused on the Hurricane Katrina recovery effort.

He met with his Cabinet, education officials, congressional leaders and the heads of charities involved in the recovery. Afterward, he said the relief effort is improving, more supplies are en route, schooling is being arranged for thousands of displaced children and that he will make sure the recovery continues.

“Bureaucracy is not going to stand in the way of getting the job done for the people,” Bush said.

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Bush and his administration continue to be criticized for what many see as a slow and inadequate federal response to the storm that ravaged three states and flooded the city of New Orleans.

"We're a week behind where we should be in responding to Katrina," House Minority Leader Nancy Pelosi, D-Calif., said after meeting with Bush at the White House.

Tuesday's meetings came the day after Bush's Labor Day visit to the disaster region, his second visit in four days. Bush said he will send Vice President Cheney and first lady Laura Bush to the region Thursday.

Bush acknowledged last week that the initial federal response was "unacceptable."

Bush will ask Congress as soon as today for more money for Katrina relief, on top of the $10.5 billon in emergency funds appropriated by Congress last week.

Additional money will be requested as the needs are further assessed, White House spokesman Scott McClellan said.

Senate Minority Leader Harry Reid, D-Nev., said Bush's new request will be as much as $50 billion, and he said the overall cost could top $150 billion.

Bush said he will personally lead an investigation into what went wrong with the early federal response to Katrina.

After their meeting with the president, congressional leaders said they would conduct a bipartisan investigation.

Reid also called for a probe by an independent commission "comparable to the 9/11 Commission," which looked into why the federal government wasn't able to stop the 2001 terrorist attacks on New York City and Washington.

Bush said that while critics want "to play a blame game," he and his administration have "got to solve problems. … There will be ample time for people to figure out what went right and what went wrong. What I'm interested in is helping save lives."

The president praised the work of community and faith-based organizations aiding hurricane victims and urged Americans to send them cash donations to support their efforts.

He also pledged to speed Social Security, unemployment and other federal benefit checks to those in affected areas.

Bush Counters Criticism Of Federal Relief Effort (LAT)

By Scott Gold And Lianne Hart

The Los Angeles Times, September 7, 2005

NEW ORLEANS — As the recovery effort persisted and the floodwaters continued to recede in this shattered city, President Bush sought to short-circuit congressional criticism by declaring that he will investigate the federal relief effort.

Bush has made two trips through the Gulf Coast and has visited relief agencies in Washington as part of his effort to persuade people that his administration cares about the disaster and will use all means to help the region recover, and in particular the hard-hit city of New Orleans.

Local officials have been fiercely critical of the federal government, saying that basic necessities were delayed, costing lives. With Congress returning today to Washington, the anger has been growing as some legislators launched their own investigation and promised hearings to determine who is at fault.

In an effort to get ahead of the issue, Bush said he will lead his own probe.

"What I intend to do is to lead an investigation to find out what went right and what went wrong," he said.

"It's very important for us to understand the relationship between the federal government, the state government and the local government when it comes to a major catastrophe. And the reason it's important is, is that we still live in an unsettled world. We want to make sure that we can respond properly if there's a WMD attack or another major storm. And so I'm going to find out over time what went right and what went wrong," the president said.

Katrina dealt New Orleans a glancing blow, but it was severe enough to break two levees that turned the city in a disease-ridden cesspool whose inhabitants had to be evacuated. Tens of thousands of people went days without food and water before transportation arrived to carry them to safety.

With 250,000 people evacuated to Texas and hundreds of thousands more from Southern Louisiana voluntarily fleeing, the city has turned into a watery ghost town.

Even though the reconstruction will take weeks and months, there was a sense of optimism as waters continued to ebb and the bulk of the evacuations has been completed.

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"We now have the resources to get the job done," Mayor C. Ray Nagin told reporters today. "I want to thank the governor and the president and I want to thank that John Wayne dude."

The mayor was referring to Lt. Gen. Russel Honore, who is leading the forces that entered the city last week, restored order and ended the looting so that large-scale relief efforts could take place.

More than 32,000 people have been rescued in Louisiana since Katrina hit last week, according to David Passey, a spokesman for the Federal Emergency Management Agency. To date, FEMA has allocated $2.8 billion to provide emergency assistance to Louisiana, he said.

In addition, 315,568 households have registered for federal and state assistance, officials said.

Nagin said the mandatory evacuation remains in effect and that the city will begin moving emergency people out of the area to Las Vegas and Atlanta so they can recharge.

"Las Vegas is a party town," he said, fending off criticism. "New Orleans is a party town. Get over it."

Nagin said that the city is now 60% underwater — still in a debilitated state, but much improved from the weekend, when the saturation reached 80%. Several pumps are now sending water gushing over the levee system into Lake Pontchartrain, and the city is trying to get Pump Station 6 — a critical facility that Nagin called "the big daddy" — operating as soon as possible.

"Even in places where the water was up to the rooftops, we are now starting to see part of the buildings," Nagin said after his daily helicopter ride over the city.

Nagin said a power plant on Carrollton Street could be operating soon. Officials had attempted to construct a dam around the plant to rid that portion of the city of water but the dam did not hold. So the city is bringing in portable pumps to suck the water out continuously.

Water service could begin flowing into the city within 24 hours, Nagin said, but he cautioned that officials were wary of how clean the water would be. The water supply is off — and the water flowing through pipes once they are fixed is so full of pollution and bacteria it cannot be drunk even after it is boiled, Nagin said.

"We have to flush the system," he said.

Officials continue to find people who are alive and awaiting rescue from houses, attics and rooftops, he said. Many are elderly, delirious or severely dehydrated.

Nagin also said reports that authorities had withheld food and water from some neighborhoods in an effort to flush out stragglers who don't want to leave are "absolutely false."

He said he told his officers and other authorities: "Do not harm anyone. Do not allow anyone to starve. Do not allow anyone to go without water."

On Monday, the Army Corps of Engineers plugged one of the broken levees and officials continued their efforts today to pump water out of the city. Water pumps are slowly being restarted as the water recedes and workers can dry and repair them. It will take 24 days to drain eastern Orleans Parish, and as much as 80 days to remove the water from Chalmette, said Dan Hitchings, a spokesman for the Corps.

As the waters recede, more bodies are expected to be found.

Gov. Kathleen Babineaux Blanco said that disease is going to be "big, big problem" in New Orleans.

"We certainly don't want disease outbreaks. That is our next big worry, and can be the next big tragedy," she said. "We have a massive clean-up operation, and that's why we're asking citizens to be patient and not try to get in there because we don't know what we're going to find. We have to let the medical experts get in and test."

In the face of ongoing criticism about the speed and effectiveness of the hurricane relief effort, the nation's top health officials today defended federal efforts to provide health services in Katrina's aftermath.

"We are one week out, and so far so good," said Health and Human Services Secretary Mike Leavitt during a news conference by telephone.

Leavitt said that security risks and chaotic conditions delayed health services for evacuees crowded into the New Orleans Convention Center and the Superdome.

Leavitt and Dr. Julie Gerberding, director of the federal Centers for Disease Control and Prevention, emphasized that disaster preparations had been based on the smaller-scale disasters seen after previous hurricanes.

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Leavitt, who toured the disaster area over the Labor Day weekend, said federal health officers are present in all major shelters for evacuees, and are working with local medical professionals to provide services despite the primitive conditions.

"The response was massive, led in large measure by local communities. I would judge it to have been strong and high quality, but predictably imperfect. It drained resources from local service providers. They have responded in a remarkable way," Leavitt said. "We walked through medical shelters that were staffed by the heads of departments to major hospitals working alongside medical students. The quality of service they were [delivering] was amazingly high."

The Louisiana governor was also more upbeat than in recent days.

"The resources are strengthening as we speak. Those of us in the decision-making chairs are feeling better about the coordinated effort. The supply chain has improved the morale, and I think it will continue to get better," she said.

With police getting a break, the Pentagon began sending paratroopers from the Army's 82nd Airborne Division to New Orleans to use small boats, including inflatable Zodiac craft, to launch a new search-and-rescue effort.

Maj. Gen. William B. Caldwell IV, division commander, said about 5,000 paratroopers would be in place by today.

Fires, some started by candles used to replace broken electric lights, have also been a problem. Several blazes were burning, pouring thick smoke into the air.

Officials announced in Baton Rouge that they have begun testing the quality of the air. Scientists are also sampling the brackish floodwater in New Orleans as well as the water in Lake Pontchartrain, said Mike McDaniel, secretary of the Louisiana Department of Environmental Quality.

"It is simply infeasible" to pump the floodwater anywhere but the lake, he said. "We have to get the water out of the city or the nightmare gets worse. We will deal with the issues of the water, but right now the priority is to save lives," he said.

"There's lots of discussion about toxic soup, a witch's brew, but I've seen no data that backs up that kind of statement," McDaniel said.

He said there will obviously be bacteria in the water.

"After all, we have humans with no waste treatment facilities, we have backed up facilities. They're showing a large number of fecal indicators," he said.

McDaniel said he also believes gas, fuel, and traces of toxic materials like pesticides and heavy metals will be found. Test results will be known in about two days, he said.

With 2,200 facilities with underground storage tanks; 140,000 to 160,000 flooded homes that will have to be condemned; 25 major sewage treatment facilities offline, as well as 505 medium to small sewage treatment plants out, McDaniel said there's good reason for concern.

"It is almost unimaginable the things we are going to have to plan for and deal with," he said.

The impact of the storm on the Louisiana coast is enormous, he said. "The aerials we see are complete devastation. It will take a while to reestablish."

About 68,000 barrels of oil spilled into the Mississippi River, near Venice, La., and is now being blown into the gulf. Another 10,000 barrels of oil has spilled into a flooded neighborhood in Chalmette.

"Everywhere we look there are spills. It all adds up to an almost solid sheen over the area now," McDaniel said.

Earlier, Bush called congressional leaders to the White House for their first meeting since Hurricane Katrina hit the Gulf Coast on Aug. 29 and rampaged through more than four Southern states. The death toll is estimated at perhaps 10,000 and the cost of the damage is put at more than $25 billion in insurance claims alone, with tens of billions more to rebuild.

"Government at all levels failed," Sen. Susan Collins (R-Maine) said at a Capitol news conference, where she announced that the Senate Governmental Affairs Committee would hold hearings.

"It is difficult to understand the lack of preparedness and the ineffective initial response to a disaster that had been predicted for years, and for which specific, dire warnings had been given for days," she said.

During his Cabinet session, Bush rejected playing "a blame game. We've got to solve problems. We're problem-solvers. There will be ample time for people to figure out what went right and what went wrong.

"This administration is not going to rest until every life can be saved, until families are reconnected, until this recovery is complete," he said.

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Even though security has improved, a New Orleans man was arrested and faces federal charges for allegedly firing shots at a military helicopter, according to U.S. Atty. Jim Letten. Wendell Bailey, 20, was charged with attempting to damage and destroy an aircraft, which carries a sentence of up to 20 years, and with illegal possession of firearms, which can be punished with 10 years in prison.

Bush Promises To Seek Answers To Failures Of Hurricane Relief (NYT)

By Anne E. Kornblut And Carl Hulse

The New York Times, September 7, 2005

WASHINGTON, Sept. 6 - Under relentless political fire over the federal response to Hurricane Katrina, President Bush on Tuesday tried to steer the public debate toward progress in the region, promising to investigate earlier stumbles, as anxious lawmakers returned to the Capitol pledging inquiries of their own and aid money for the storm victims.

Mr. Bush, in a flurry of meetings at the White House, said he would dispatch Vice President Dick Cheney to the Gulf Coast this week to cut through any bureaucratic obstacles slowing recovery efforts. Members of Congress demanded answers and awaited a new emergency spending measure from the White House, calculating the growing cost of the recovery at $50 billion, if not more than twice that.

Fresh from their summer recess, lawmakers questioned the effectiveness of the Federal Emergency Management Agency and pledged to hold hearings and possibly enact legislation to address the failures in the response system.

"It is difficult to understand the lack of preparedness and the ineffective initial response to a disaster that had been predicted for years and for which specific dire warnings had been given for days," said Senator Susan Collins, Republican of Maine and chairwoman of the Homeland Security and Governmental Affairs Committee, which will conduct one of the main inquiries.

There will be at least two sets of Congressional hearings, leaders said, beginning as early as next week, to examine issues like failures in the command and control structure, shortcomings in the evacuation plan for New Orleans, and any organizational problems that may have contributed to the slow response.

The hearings will also address whether the government missed critical opportunities to shore up the levees in New Orleans and whether planning for future disasters is sufficient.

Lawmakers, at least in the Senate, said it would be too early to consider whether Mr. Bush would be called to testify.

For the first time since the hurricane hit, Mr. Bush met with leaders from both parties, capping a day of constant political attention to a crisis that has exposed fault lines within the Republican Party and threatens to overtake the entire Congressional agenda. Mr. Bush promised to lead an investigation into what went wrong, although a White House spokesman quickly qualified the statement, saying the inquiry would come later to avoid diverting resources from the recovery efforts.

Mr. Bush also resisted renewed calls to fire Michael D. Brown, the director of FEMA, who became a lightning rod for attacks last week when he said he was unaware of a crisis at the New Orleans convention center, news of which had been televised for days. Instead, Mr. Bush accused critics of playing the "blame game" and said he would remain focused on the immediate crisis as evacuees fanned out across the country.

"We've got to solve problems; we're problem-solvers," he said. "There will be ample time for people to figure out what went right and what went wrong. What I'm interested in is helping save lives."

At issue in the immediate future is the amount of money the government will allocate for the recovery and reconstruction efforts. Mr. Bush signed a $10.5 billion spending measure last Friday, and Congressional leaders said they expected to receive a $40 billion to $50 billion supplemental spending request this week. Senator Harry Reid of Nevada, the Democratic leader, said the total bill could reach $150 billion, further squeezing a budget constrained by the nearly $5 billion spent each month on the Iraq war and the $333 billion federal deficit.

The $150 billion projection was quickly disputed by Representative Tom DeLay of Texas, the Republican leader, who suggested that Mr. Reid was "playing politics" by giving that figure when no official projections were available. But White House officials have not disputed estimates in the tens of billions of dollars.

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Senior administration officials rejected accusations that the federal government had been slow to respond, detailing progress on the military, education and social services fronts. Mr. Bush, after meeting with Education Secretary Margaret Spellings, said the administration was reviewing ways to help states like Texas absorb the costs of accommodating thousands of children of evacuees in their public school systems.

At the Pentagon, senior officials pointed to the arrival of forces in the Gulf Coast in recent days, with more than 41,000 National Guardsmen and about 17,000 active-duty personnel committed to the mission. Gen. Richard B. Myers, chairman of the Joint Chiefs of Staff, praised what he described as a more than adequate military response.

"Not only was there no delay, I think we anticipated, in most cases - not in all cases - but in most cases, the support that was required," General Myers said at a news briefing. "And we were pushing support before we were formally asked for it."

Even so, Defense Secretary Donald H. Rumsfeld said he had ordered the military to conduct a "lessons learned" study on the armed forces' response to the hurricane to determine whether it could have been more timely.

And Mr. Bush, in the first of several hurricane-related events throughout the day, made an unexpected pledge to personally lead an inquiry into earlier failures.

"What I intend to do is lead a - to lead an investigation to find out what went right and what went wrong," Mr. Bush, after meeting with his cabinet, said in response to a question about who would be held accountable.

"And I'll tell you why," he continued. "It's very important for us to understand the relationship between the federal government, the state government and the local government when it comes to a major catastrophe. And the reason it's important is, is that we still live in an unsettled world."

Pressed for details about the investigation, Scott McClellan, the White House spokesman, said it would not begin until the immediate crisis had passed.

Describing it as an "analysis," not an investigation, Mr. McClellan would not say whether the emergency failures would be examined by an independent commission, as the Sept. 11 attacks were, or even when the president wanted the process to start.

"There will be a time to do a thorough analysis," Mr. McClellan said. "Now is not the time to do that."

Instead, Congress appeared poised to take the lead.

Senator Hillary Rodham Clinton, Democrat of New York, said she was introducing legislation to create an independent commission.

Representative Thomas M. Davis III, Republican of Virginia and chairman of the Government Reform Committee, said his panel would begin hearings on the government response, a move that came after Senate leaders had announced their own plans for hearings and that appeared to catch House leaders off guard.

"We are going to look at Mr. Davis's hearing," said Speaker J. Dennis Hastert, Republican of Illinois. "What we don't want to have happen is that the people who are on the ground in the Gulf States have to come up here and talk to 13 or 14 different groups."

Senator Joseph I. Lieberman, a Connecticut Democrat who will help lead the Senate investigation with Ms. Collins, said the federal response to Hurricane Katrina had shaken the public's confidence in the ability of the government to protect them .

"Hurricane Katrina was in one sense the most significant test of the new national emergency preparedness and response system that was created after 9/11, and it obviously did not pass that test," Mr. Lieberman said.

Some Republican lawmakers said they had tried to impress upon their party's leaders what they believe are the political risks involved in the disaster response, fearing that Republicans have exposed themselves to significant political risk in next year's elections by having appeared not to take the hurricane and its aftermath seriously at first.

Already, the hurricane has upended the fall legislative agenda. Leaders of both the House and the Senate have said their chief mission in the coming weeks would be to provide relief to storm victims and begin rebuilding devastated communities.

Under pressure from Democrats, the Senate postponed a vote on a proposal to eliminate the estate tax, while House officials said they expected to delay a budget bill that would require cuts in health care and education.

Bush To Probe Storm Response (WP)

By Jonathan Weisman And Michael A. Fletcher

DOJ_NMG_0003326

The Washington Post, September 7, 2005

Stung by criticism of the federal response to Hurricane Katrina, President Bush yesterday promised to investigate his own administration's emergency management, then readied a request for tens of billions of dollars for relief and cleanup.

From the Pentagon to Capitol Hill, official Washington spent yesterday grappling with a hurricane recovery effort that, according to some estimates, will cost more than $100 billion and influence a broad range of federal policy, from emergency response to coastal development, from expanded domestic oil exploration to the future of the estate tax.

Bush vowed to "find out what went right and what went wrong." Defense Secretary Donald H. Rumsfeld said that the military already has begun a "lessons-learned" assessment of its coordination with state and local governments. Nine Cabinet members briefed Senate and House leaders last night on the federal response, and key senators pushed for changes that would allow Third World relief efforts to be emulated in the United States.

"Nothing will be the same again," said Sen. Trent Lott (R-Miss.), whose Pascagoula home was destroyed.

Just days after Congress approved a $10.5 billion emergency relief package, Bush informed congressional leaders of a request of as much as $40 billion, making Katrina the federal government's most expensive domestic emergency ever. The package could be passed as early as today, aides said.

But with the Federal Emergency Management Agency spending more than $500 million a day, lawmakers from both parties said the cost will climb much higher. Senate Minority Leader Harry M. Reid (D-Nev.) suggested the total could exceed $150 billion, with $100 billion for FEMA alone. Lott said the cost will be "well in excess of $100 billion," and few were disagreeing.

Beyond money, congressional leaders ordered committee chairmen to draft any legislation that could remedy the problems revealed by the hurricane and its aftermath. And after nearly a week of recriminations, Washington slipped into an extraordinary bout of self-reflection.

"It is fair to say the overall response to this emergency could have and should have been better," House Majority Leader Tom DeLay (R-Tex.) said.

Sen. Barbara A. Mikulski (D-Md.) called for FEMA Director Michael D. Brown to leave and be replaced by "an experienced, professional emergency manager."

Speaking to reporters after a Cabinet meeting , Bush said: "It's very important for us to understand the relationship between the federal government, the state government and the local government when it comes to a major catastrophe. . . . We want to make sure that we can respond properly if there's a WMD [weapons of mass destruction] attack or another major storm."

Bush, who has called the response to the hurricane unacceptable only to amend that to say the results were not acceptable, offered no specifics on his planned investigation. Still, the call for an investigation was unusual coming from a president who rarely admits mistakes.

House Republican leaders suggested that Congress launch one comprehensive examination of the disaster response, possibly a joint House-Senate investigation. But Senate committees were already moving forward. The Senate Homeland Security and Government Affairs Committee has scheduled hearings next week to examine the federal disaster response.

Sen. James M. Inhofe (R-Okla.), chairman of the Senate Environment and Public Works Committee, promised his own examination of Gulf Coast infrastructure, water projects and coastal erosion. Next week, the panel will look into Katrina's impact on energy supplies, a subject examined yesterday by the Senate Energy and Natural Resources Committee and set to be examined today by the House Energy and Commerce Committee.

At the Senate Energy Committee hearing, Sen. Pete V. Domenici (R-N.M.) said Congress must accept politically difficult measures that lawmakers have repeated rejected, such as raising car and truck fuel efficiency standards.

House Minority Leader Nancy Pelosi (D-Calif.) castigated the Cabinet's performance as two hours of "self-congratulatory" talk. "This administration does not live in reality," Pelosi said. "To hear them talk, everything went right. . . . They have very low standards, and no performance, and no accountability."

DeLay said the GOP leadership was working to bring legislation to the floor, possibly this week, that would loosen rules that govern federal assistance programs. He chastised Rep. Thomas M. Davis III (R-Va.) for seeking to open hearings next week on the response.

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Senate Finance Committee Chairman Charles E. Grassley (R-Iowa) proposed retooling a resettlement program for foreign refugees to help Americans displaced by Katrina.

But there was little immediate agreement on how to proceed and many notes of discord.

House and Senate lawmakers said they will proceed with a package of $70 billion in tax cuts and $35 billion in entitlement spending cuts, including as much as $10 billion out of a Medicaid program they simultaneously were suggesting expanding.

Before Katrina struck, the House and Senate were at loggerheads over an energy and water spending plan for the fiscal year that begins in October, with the Senate hoping to spend $700 million more than the House on water projects, including $27 million more on flood control in southeastern Louisiana and $20 million more on Louisiana coastal protection. House Appropriations Committee spokesman John Scofield said the committee has received no instructions to budge: "We are committed to living within our budget."

With federal resources stretched, Grassley questioned a rush to temporarily lift the tax on airline fuel, and he lambasted proposals to offer more tax incentives to oil companies for domestic oil exploration. "With $60 [a barrel] oil, you don't need more incentives," he said. "What we need is for the oil companies to take some of their profits and lower the cost of gasoline."

DeLay had a similar response to suggestions that the federal gasoline tax be suspended: "Now more than ever you're going to need . . . those highway trust funds, to rebuild the bridges that were destroyed, rebuild the railroads that were destroyed."

At the Pentagon, Rumsfeld said the involvement of troops in hurricane relief efforts will not diminish the military's ability to sustain operations in Iraq and Afghanistan.

He noted that more than 300,000 Army National Guard and Air National Guard troops remain available to help. He sharply rejected the suggestion that the commitment of large numbers of troops to Iraq -- including National Guard soldiers from Louisiana and Mississippi -- had delayed the military's response. About 41,000 Guard troops are in assisting the region.

"Not only was there no delay," said Gen. Richard B. Myers, chairman of the Joint Chiefs of Staff. "I think we anticipated in most cases -- not in all cases, but in most cases -- the support that was required."

GOP Begins Damage Control (WT)

By Joseph Curl And Rowan Scarborough

The Washington Times, September 7, 2005

Republicans tried to limit the political damage from the botched federal response to Hurricane Katrina -- with President Bush, members of Congress and military leaders yesterday all promising to look into the failures.

"What I intend to do is lead an investigation to find out what went right and what went wrong," the president said after meeting with Cabinet members at the White House.

Republicans said they have received the message that there is frustration over the federal response.

"Have I got an earful? You betcha," said Sen. Norm Coleman, Minnesota Republican, who said he heard about it from voters at Minnesota's state fair this weekend.

But even as Republicans promised investigations, they made it clear that the first failure was at the state and local levels, where governments are charged with preparation and the first response to disasters.

"I'm a former mayor," Mr. Coleman said. "The leadership starts at the local level. I didn't see the local mayor. I didn't hear from the mayor."

His focus on state and local officials was echoed by Mr. Bush, Defense Secretary Donald H. Rumsfeld and top congressional Republicans, who said the federal response fell short because, in Mr. Coleman's words, "the federal officials didn't do a good enough job of filling that void fast enough."

The senator from Minnesota said that the federal government must now turn its immediate failure into an opportunity to show it is in control.

Now, both Congress and the president are rushing to fill that void with money.

Mr. Bush was expected to send Congress a reported $40 billion emergency spending package last night, five days after a $10.5 billion emergency bill passed.

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The top Democrat in the Senate said the final cost could be $150 billion -- the first long-term cost estimate placed on the storm by a high official.

"Through my conversations with officials on the ground and in consultation with Senator Mary Landrieu [of Louisiana], I believe that the recovery and relief operations will cost up to and could exceed $150 billion," said Senate Minority Leader Harry Reid, Nevada Democrat.

At the Pentagon yesterday, the nation's two top military leaders rejected criticism that they were too slow in deploying troops to storm-ravaged Gulf states, saying they are in the middle of the largest domestic disaster relief effort in U.S. history.

Mr. Rumsfeld and Gen. Richard B. Myers, Joint Chiefs chairman, said Pentagon planners made contingencies once Katrina strengthened in the Gulf of Mexico and ordered thousands of troops and relief supplies once the request was made.

Mr. Rumsfeld ordered a mandatory "lessons learned" on what the armed forces had done right and wrong in the week-old disaster that likely killed thousands in Louisiana, Mississippi and Alabama.

He added that the military's involvement will not affect the U.S. effort in Iraq.

"We have the forces, the capabilities and the intention to fully prosecute the global war on terror while responding to this unprecedented humanitarian crisis here at home," Mr. Rumsfeld said.

At the White House, Mr. Bush said a thorough review is necessary to prepare for the next catastrophe.

"We still live in an unsettled world. We want to make sure that we can respond properly if there's a WMD attack or another major storm," he said.

Even as the president was trying to put out fires, he might have created more ill will at an afternoon meeting with congressional leaders.

During the meeting, Mr. Reid and House Minority Leader Nancy Pelosi, California Democrat, tried to learn the size of the new spending request, but Office of Management and Budget Director Joshua B. Bolten said he did not have a figure, Mr. Reid's spokesman said.

As the leaders left the meeting, they found out from press reports that someone had told the Associated Press the total would be $40 billion.

Meanwhile, there was disagreement among Republicans over how quickly to proceed on the investigations.

The Republicans who run the House and Senate oversight committees both said they will begin next week, even though House leaders and Sen. Trent Lott, a Mississippi Republican whose home was destroyed by the storm, asked them not to distract from the relief effort.

Hearings called by House Government Reform Committee Chairman Thomas M. Davis III seemed to catch House Speaker J. Dennis Hastert off guard yesterday when a reporter asked about it at a press conference.

"What we don't want to have happen is the people who are on the ground in the Gulf states have to come up here to talk to 13 or 14 different groups," said Mr. Hastert, Illinois Republican.

Rep. Mark Foley said particular blame lies at the feet of the Federal Emergency Management Agency (FEMA) and, by extension, Congress, which put FEMA under the Department of Homeland Security.

The Florida Republican said the agency had flaws in responding to the hurricanes in Florida last year.

"There'll be a lot of blame to go around, and we can all reasonably take a share of it," he said, though he also said political blame will recede with time. "It gets worse for a while and finally people see the light at the end of the tunnel."

Storm Upheaves Bush's Second-term Agenda (USAT)

By Susan Page

USA Today, September 7, 2005

WASHINGTON — Eight months into President Bush's first term, the nation was rocked and his agenda overtaken by terrorist attacks on New York and Washington.

Now, at nearly the same point in his second term, a natural disaster that has struck New Orleans and the Gulf Coast has revived questions about the government's preparedness to protect its citizens and reshuffled the priorities the president faces in coming months.

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His plan to overhaul Social Security? Forget it. Repeal the estate tax? Postponed. Make the 2001 tax cuts permanent? Tougher to finance. Stay the course in Iraq? Questions about the deployment of U.S. resources and National Guard troops for the war have been sharpened.

"This is a shot to the solar plexus of George Bush's agenda," says William Galston, a professor of public policy at the University of Maryland and a White House adviser to President Clinton in his first term. "The ripples go out in so many different directions, to so many different areas of policy, domestic and foreign. It's second only to 9/11 in its impact on the course of the presidency."

"The aftermath of Katrina poses a threat to his entire second term," the lead editorial in the Bush-friendly Wall Street Journal declared Tuesday.

The perils may be even greater for Bush than they were in 2001.

His resolute leadership in the aftermath of the Sept. 11 attacks rallied the nation to his side, but the lack of urgency he conveyed in the first days after the hurricane and his administration's fumbling response to desperate human needs have brought scathing bipartisan criticism. He has sought to recover in recent days, traveling to the region twice to comfort victims and clearing his schedule to focus on the crisis.

But after five years in charge, Bush is being called to account for shortcomings in the administration in a way he wasn't when he was new to office. There is little sense, as there was after 9/11, that criticizing the president is unpatriotic. "A lot of the strong part of his image is now at least temporarily tarnished — the notion of the can-do guy," says Fred Greenstein, a presidential scholar at Princeton University.

The investigations into what went wrong — including the decision to downgrade the Federal Emergency Management Agency's status and the performance of the new Department of Homeland Security — are starting long before all the water has been pumped from New Orleans' streets. The Senate Committee on Homeland Security and Governmental Affairs convenes its first briefing on the issue today.

Senate Majority Leader Bill Frist joined his Democratic counterpart, Harry Reid, in criticizing the pace of relief efforts. "We are going to take a hard, hard look at our disaster response," Frist said.

Reid blasted those who have blamed state officials. "This is a huge federal issue," he said. "The buck stops at 1600 Pennsylvania Avenue."

In the short run, the confirmation of two Supreme Court justices and the need to deal with the aftermath of Hurricane Katrina will dominate the White House and Congress. To the dismay of some anti-tax conservatives, the Senate indefinitely postponed its scheduled vote this week on repealing the estate tax. "Ridiculous," fumes Mallory Factor, chairman of the Free Enterprise Fund. He called the delay unwise and an attempt to be "politically correct."

In the long run, Bush's agenda has been upended.

•Adding individual investment accounts to Social Security was, Bush has said, the top domestic priority of his second term. With Democrats united against it and some Republicans wary of embracing it, the odds of passing fundamental changes to the nation's most popular social safety net already were distant. Now, they seem impossible.

"Our members, like Congress and the American people, are rightly preoccupied with doing their part to assist in hurricane relief, recover and rebuilding, (and) I think the timing of much of the congressional agenda may have to be put on hold for a time," says Derrick Max, director of the Alliance for Worker Retirement Security, a leading business-backed group supporting Bush's plan. "But as soon as Congress returns to its other legislative priorities, we would expect work to continue on Social Security reform."

•Revising the tax code has been another Bush priority. A blue-ribbon panel he appointed is supposed to report back by the end of the month with a plan to simplify the tax code, ameliorate the impact of the alternative minimum tax on middle-income families and make permanent the tax cuts passed in 2001.

Now those proposals will have to compete with demands to increase federal spending on relief and infrastructure repair. The $10.5 billion aid package passed last week was only a down payment.

Former senator Connie Mack, co-chairman of the panel, says the hurricane's aftermath may delay but won't derail consideration of the proposal, which is supposed to be revenue-neutral. "I always saw this as a 2006 issue," he says.

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•Maintaining U.S. troop levels in Iraq until a constitution has been approved and a democratic government installed is an even higher priority for Bush, but now there are demands for active-duty troops and National Guard units, already strained by tours of duty in Iraq, to maintain order and provide hurricane relief at home.

About 8,500 active-duty troops are being dispatched to the Gulf Coast, probably for months, the Pentagon says. About 2,800 soldiers from the Louisiana National Guard are being allowed to return from Iraq immediately, a month or two earlier than scheduled. Most will join relief efforts.

•Reaching out to African-American voters, the Democrats' most loyal supporters, has been a concerted effort this year by Republican National Committee Chairman Ken Mehlman, Bush's campaign manager in 2004. But the TV footage of hurricane victims showed mostly minorities and poor people. "I don't think the outreach was working all that well, but this destroys it," says political scientist Ronald Walters, author of Freedom is Not Enough: Black Voters, Black Candidates, and American Presidential Politics. "The perception is that he didn't move quickly enough because a lot of the people involved were black. Whether that's true or not, that is the perception in our community."

Presidential terms are often shaped by the unexpected — wars, crises and scandals that never surfaced during the campaign. George H.W. Bush's presidency was shaped by Iraq's invasion of Kuwait. Jimmy Carter faced oil shocks and a hostage crisis in Iran. Franklin Roosevelt, elected to deal with the Depression, led the nation into World War II. He told Americans: "Dr. New Deal has become Dr. Win-the-War."

"That's why pragmatism is such a central ingredient of an effective presidency," says historian Robert Dallek, the author of books on FDR, John Kennedy and Lyndon Johnson. "If you're not pragmatic, not responsive to changing realities, then you don't succeed."

But Stanley Renshon, a political scientist at City University of New York, argues that Bush's resilience is underestimated. "As control is re-established and help is coming in, Bush will be seen as somebody who rallied in the same way he did with 9/11 and mastered the circumstance," he predicts.

Americans are divided in rating Bush's response. In a USA TODAY/CNN/Gallup Poll taken Monday and Tuesday, 42% said Bush had done a bad or terrible job in responding to the hurricane and the subsequent flooding; 35% said he had done a good or great job. The survey of 609 adults has a margin of error of +/-4 percentage points.

Whatever happens to his standing, the issues on Bush's plate have changed. "There are other priorities that we remain committed to," White House spokesman Scott McClellan said Tuesday. "Right now our highest priority is on the response and recovery to Hurricane Katrina."

When Congress returned to work Tuesday, the agenda drafted when they left a month ago — immigration changes, Social Security and tax cuts — had been sidelined. Congressional leaders who met with Bush at the White House discussed how to rebuild the Gulf Coast, reopen the crucial Port of New Orleans, provide federal benefits for victims and protect other American cities that rely on aging earthen levees. And high gas prices are "the No. 1 issue on people's minds," Frist says.

The most fundamental issue ahead may be this: Four years after the Sept. 11 attacks, despite the president's unrelenting focus and the expenditure of billions of dollars for homeland security, the government seemed unable to respond to a crisis that had been forecast days before it happened.

Hurricane's Toll Is Likely To Reshape Bush's Economic Agenda (NYT)

By Edmund L. Andrews

The New York Times, September 7, 2005

WASHINGTON, Sept. 6 - Hurricane Katrina is about to blow a hole in the federal budget, and it is already jeopardizing President Bush's agenda for cutting taxes and reducing the deficit.

Administration officials told Republican lawmakers on Tuesday that relief efforts were running close to $700 million a day, and that the total federal cost could reach as high as $100 billion.

That would be many times the cost of any other natural disaster or even the $21 billion that was allocated for New York City after the terrorist attacks of Sept. 11, 2001.

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The expenses would come just as Mr. Bush and Republican leaders are trying to push through spending cuts for programs like Medicaid and student loans, extend about $70 billion in expiring tax cuts, and reduce the federal budget deficit.

"There is no question but that the costs of this are going to exceed the costs of New York City after 9/11 by a significant multiple," said Senator Judd Gregg, Republican of New Hampshire and chairman of the Senate Budget Committee.

White House officials are planning to ask Congress as early as Wednesday for a second round of emergency financing, perhaps as much as $40 billion, but they said even that would be a "stopgap" measure while they assessed the full costs.

Though it is still too early for accurate estimates, the costs are all but certain to wreak havoc with Mr. Bush's plans to reduce the federal deficit and possibly his plans to extend tax cuts.

On Monday, the Senate majority leader, Bill Frist, postponed plans to push for a vote on repealing the estate tax, a move that would benefit the wealthiest 1 percent of households, costing more than $70 billion a year once fully put in effect.

House and Senate leaders are also grappling with their pre-hurricane plan to propose $35 billion in spending cuts over the next five years for entitlement programs like Medicaid, student loans, food stamps and welfare payments.

Those cuts could suddenly prove politically unpalatable to Mr. Bush and Republican lawmakers, who are trying to rebuff criticism that the federal government shortchanged the hurricane's poorest victims.

Congressional Democrats are already using the hurricane as a reason to block Republican tax and spending plans.

"Democrats think this is the worst possible time to be cutting taxes for those at the very top and cutting the social safety net of those at the very bottom, and adding $35 billion," said Thomas S. Kahn, staff director for Democrats on the House Budget Committee.

Budget analysts said the magnitude and unique characteristics of the hurricane made it unlike any previous natural disaster, resulting in a variety of extraordinary costs:

¶Shelter for as many as a million people for months.

¶A potentially high share of uninsured property losses that stem from flooding, which is not covered by private insurers.

¶Education and health care for hundreds of thousands forced to live outside their home states.

"Katrina could easily become a milestone in the history of the federal budget," said Stanley Collender, a longtime budget analyst here. "Policies that never would have been considered before could now become standard."

Indeed, there were signs on Tuesday that Republicans and Democrats had already begun to compete with each other over who might be willing to spend more.

Senator Harry Reid of Nevada, the Senate Democratic leader, predicted on Tuesday that costs could total $150 billion. Top Republican lawmakers, meanwhile, have begun to call for "stimulus" measures to buck up the overall economy.

White House officials contend that costs attributable to the hurricane are separate from Mr. Bush's underlying budget goals, which include cutting the deficit in half over the next four years and permanently extending most of the tax cuts passed in 2001 and 2003.

Budget analysts also note that natural disasters are essentially one-time costs that do not affect the government's long-run fiscal health.

"We can afford $100 billion - one time," said Douglas Holtz-Eakin, director of the Congressional Budget Office. "What we cannot afford is $100 billion in additional spending year after year."

The problem is that, even without the hurricane, the federal government's underlying fiscal health is in poor shape. In July, the White House predicted that surging tax revenues would reduce the deficit this year to $333 billion from $412 billion in 2004.

But many analysts believe that the tax surge was largely a one-time event and that overall government spending is still poised to climb rapidly as a result of the war in Iraq, the Medicare prescription drug benefit and the growing number of baby boomers who will soon reach retirement age.

Before the hurricane, House and Senate Republicans were preparing to work out $35 billion in spending cuts over the next five years that would trim Medicaid payments by $10 billion and make smaller cuts in student loan programs, farm programs, food stamps, housing and cash assistance to poor families.

Under the budget resolution that Congress passed this spring, Congressional committees are supposed to spell out the proposed cuts by Sept. 16. House and Senate leaders had been planning to pass the cuts within a week or so after that.

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Bush Praises Americans' Aid To Hurricane Victims (WT)

By Joseph Curl

The Washington Times, September 7, 2005

President Bush yesterday urged Americans to continue to donate to private charitable organizations and faith-based groups in the aftermath of Hurricane Katrina.

"We've got people who represent thousands of volunteers who are in the midst of helping save lives," the president said as he praised charity leaders at the White House. "If you want to help, support the Red Cross or the Salvation Army or your church or the United Way."

Mr. Bush met in the White House with faith-based and community groups, including representatives from the African Methodist Episcopal Church, the Southern Baptist Convention, the Salvation Army, the American Red Cross, the United Way of America, the YMCA, Catholic Charities USA and several others.

Private donations to U.S. charities giving meals, water and shelter to victims of Hurricane Katrina had topped $300 million by Monday. The American Red Cross, which accounts for the bulk of private donations, said it had received $196.9 million so far, including roughly $85 million from corporate donors.

Still, more money is needed. American Red Cross spokeswoman Sarah Marchetti said her group did not have a specific target figure for donations, but that she knew the relief efforts would cost far more than the $130 million spent after the four hurricanes that hit the United States last year.

Mr. Bush has appointed his father, former President George Bush, and former President Bill Clinton to lead fundraising efforts in the United States, as they did for the Dec. 26, 2004, tsunami in Asia.

Radio and television stations across the country have set a goal of raising at least $100 million, and the National Association of Broadcasters has designated Friday as a day for stations to hold telethons and other fundraising events.

During brief comments after his White House meeting, Mr. Bush took issue with the use of the word "refugees" to describe those displaced from New Orleans.

"There's a debate here about refugees. Let me tell you my attitude and the attitude of people around this table: The people we're talking about are not refugees. They are Americans, and they need the help and love and compassion of our fellow citizens. And the people at this table are providing that help and compassion and love," the president said.

Mr. Bush also assured Americans that displaced people will continue to receive their Social Security checks, their veteran's benefits checks and unemployment checks.

The Rev. Larry Snyder, president of Catholic Charities USA, which consists of more than 1,300 local agencies and institutions nationwide, was among those at the White House.

"Catholic Charities USA is firmly committed to helping people rebuild their lives," Mr. Snyder said.

Mr. Bush assured the religious leaders that their efforts are having an effect.

"Out of the darkness will come some light," he said.

Bush Taps Cheney To Assess Recovery Effort (LAT)

By James Gerstenzang And Mary Curtius

The Los Angeles Times, September 7, 2005

WASHINGTON — President Bush said today he was dispatching Vice President Dick Cheney to the region to assess the recovery efforts after Hurricane Katrina struck the Gulf Coast, amid growing unhappiness in Congress with the government's response.

The Senate Government Affairs Committee announced it would begin an investigation of the government's performance, and Bush said he, too, would look into his administration's response to the storm and the disaster that followed.

The president made the announcement at the end of a Cabinet meeting at which department heads reported on their agencies' work in the week since the storm.

Pledging to press ahead with the effort to meet the demands posed by the catastrophe, the president said: "This administration is not going to rest until every life can be saved, until families are reconnected, until this recovery is complete."

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The meeting was the first of several the president has scheduled for today, after running into sharp criticism throughout last week that his administration had been slow to recognize the scope of the disaster and to begin federal assistance to the stricken Gulf Coast.

Later in the morning he met with representatives of national voluntary organizations for what his spokesman, Scott McClellan, presented as a report on what charitable organizations were doing in the region.

Bush also called congressional leaders to the White House for their first meeting since Hurricane Katrina hit the Gulf Coast on Aug. 29 and rampaged through more than four Southern states.

The death toll is estimated at perhaps 10,000 and the cost of the damage is put at more than $25 billion in insurance claims alone, with tens of billions more to rebuild.

"Government at all levels failed," Sen. Susan Collins (R-Maine) said at a Capitol news conference, where she announced that the Senate Governmental Affairs Committee would hold hearings.

"It is difficult to understand the lack of preparedness and the ineffective initial response to a disaster that had been predicted for years, and for which specific, dire warnings had been given for days," she said.

Sen. Joseph I. Lieberman of Connecticut, the senior Democrat on the committee, said "governmental failures in preparing for, and responding to, Hurricane Katrina allowed much more human suffering and property destruction to occur than should have."

He said the storm was "the most significant test of our national emergency preparedness and response system" since the attacks of Sept. 11, 2001. The system, he said, "obviously did not pass the test."

On Monday, during his second trip to the region in a week, Bush heard one of the storm's victims complain about the use of the term "refugees." At the end of the meeting in the White House Roosevelt Room, Bush addressed that issue.

"Let me tell you my attitude and the attitude of people around this table: The people we're talking about are not refugees. They are Americans, and they need the help and love and compassion of our fellow citizens.

He also promised, as he did during the Cabinet meeting, that Social Security checks and other government benefit payments would be dispatched.

At the Cabinet meeting, Bush said that the vice president's mission would be to determine whether the government was meeting its most pressing goals, including searching for victims, restoring essential services, draining the flooded region, removing debris, and protecting health and safety.

He also said Cheney would focus on whether bureaucratic obstacles were interfering with the delivery of aid.

"Bureaucracy is not going to stand in the way of getting the job done for the people," the president said.

Over the weekend, would-be rescuers working for state and local agencies, and others, lambasted the Federal Emergency Management Agency for imposing bureaucratic roadblocks to their work.

Bush and McClellan refused to respond directly to questions about whether any senior officials would be fired as a result of their performance.

The president said he intended "to lead an investigation to find out what went right and what went wrong."

"We want to make sure that we can respond properly if there's a WMD attack or another major storm," Bush said.

The focus of any investigation becomes a contentious issue.

Urging the Senate committee to keep the focus on what needed to be done in the immediate aftermath of the storm, Sen. Trent Lott (R-Miss.) said he asked Collins to "please don't have a hearing tying up people who need to make decisions."

The top priority, he said, should not be affixing blame, but on figuring out "how to fix things fast."

Some Democrats called for the formation of a commission similar to the independent panel that studied the Sept. 11 attacks to determine whether there had been an intelligence failure and to look at the government's response.

Some Republicans, including Sen. John McCain of Arizona, who pushed for creation of the 9/11 commission, said a similar inquiry may yet be required. But McCain and others said they first wanted to see Congress exercise its oversight role.

However, House Majority Leader Tom DeLay (R-Texas) said no such commission was necessary. DeLay said he hoped that Congress would mount its own bipartisan, bicameral investigation into what went wrong. But he said the immediate focus should be on what needs to be done to aid victims.

DeLay said the House was likely to pass a second aid bill before week's end that would try to cut through bureaucratic red tape and get unemployment benefits to evacuees. The Congress passed, and Bush signed, a $10.5 billion aid bill last week.

DeLay refused to say how much additional funding might be included for hurricane relief. He accused Senate Minority Leader Harry Reid (D-Nev.) of "playing politics" by putting out a statement estimating that "an initial investment of $150 billion will be needed" for immediate relief efforts. DeLay said no one knows how much money would be needed.

'Rays Of Light' In New Orleans (USAT)

By William M. Welch

USA Today, September 7, 2005

The draining of New Orleans quickened Tuesday as huge pumps made headway in lowering floodwaters in a city that braced for how many victims of Hurricane Katrina the dropping waterline may reveal.

Meanwhile, President Bush was readying a request for as much as $50 billion for the Gulf Coast region, which equals $625 for every household in America. And he announced plans to look into the government response.

"What I intend to do is lead an investigation to find out what went right and what went wrong," he said.

Already, a $10.5 billion check approved last week is "being used at an increasingly rapid pace," said Scott Milburn, an Office of Management and Budget spokesman. "We're readying a second installment now."

Senate Democratic Minority Leader Harry Reid said after Bush met with congressional leaders that the president planned to ask for $50 billion more.

Relief and recovery needs will be the "No. 1 priority for the foreseeable future," said House Majority Leader Tom DeLay of Texas.

A USA TODAY poll of 609 people Tuesday asked who was to blame the most for problems after the hurricane. Twenty-five percent said state and local officials; 18% said the federal government, 13% blamed Bush. But the majority, 38%, said no one is to blame.

In New Orleans, major flood wall breaks were at last plugged with rocks and sandbags. The Army Corps of Engineers reported its pumping efforts had reduced the scope of flooding to 60% of the low-lying city, down from 80% at the high-water mark. Mayor Ray Nagin said it offered the first "rays of light" for a city that overnight turned from tourist attraction to disaster site. But he was worried about the human toll.

"It's going to be awful, and it's going to wake the nation up again," said Nagin, renewing warnings that the bodies of thousands of victims of the flooding left by Katrina could soon surface.

The Pentagon beefed up its presence, dispatching 4,000 paratroopers from the 82nd Airborne Division to finish evacuating the city. Gen. Richard Myers, chairman of the Joint Chiefs of Staff, said "in most cases" the military had contributed the troops needed to help with the recovery effort.

The military was returning from Iraq about 2,800 members of a Louisiana combat brigade a month ahead of schedule, and some Mississippi National Guard members were also being sent home early.

The death count grew slowly. The number of confirmed dead was 294, including 83 in Louisiana and 196 in Mississippi. Effort intensified to reunite thousands of survivors with their loved ones. That is being led by groups such as the American Red Cross, television networks and Internet bulletin boards.

Sniper fire and looting have declined dramatically since the arrival days ago of National Guard troops, police Lt. Troy Savage said. But big fires hampered search-and-rescue efforts, including fires at antebellum homes in the fashionable Garden District.

Bush Will Rebound From Katrina Missteps (HILL)

By Dick Morris

The Hill, September 7, 2005

Normally, disasters such as floods, hurricanes, tornadoes and such are chances for the president to gain popularity and for his administration to shine. It was the unique and inexplicable inability of the Bush people to understand the magnitude of what

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they confronted and to respond to it quickly that managed to transform this chance for a big political gain into a monstrous liability.

Americans will want to know why the trucks didn't start rolling when the winds started blowing. And when they quieted, where were the airlifts and evacuations that could have fed and watered thousands and prevented many deaths and much psychic and physical harm?

But make no mistake about it: Every day for the next year, voters will see nonstop scenes of federal relief, rebuilding, renovation and reconstruction along with the empathy, sympathy and compassion these efforts imply in the heart of George W. Bush. He may have had a terrible first week, but he will rebound big time in the months to come.

The aid an administration gives in the aftermath of a momentous disaster will be covered continuously by the media. Every relief convoy will get a wide slice of publicity. As the pumps run and the city and the gulf region drain, the nation will feel a surge of heady optimism at our ability to bounce back from disaster. Happy visuals will replace tragic ones, and interviews with homeowners joyously moving back in will run instead of the tearful stories of refugees.

After Sept. 11, Bush was heavily criticized too. Remember the slowly ticking minutes in Michael Moore's film "Fahrenheit 9/11" during which Bush continued to read to a class of children even after hearing about the Trade Center attack? (Bush was absolutely right not to bolt from the room and traumatize the kids and the nation even more.) It was not until his bullhorn speech several days later that the president got ahead of the story. Soon his response to Sept. 11 was the mainstay of his popularity and of his claim for a second term on the job.

The recovery from Katrina may well follow a similar trajectory. While the air in Washington will be filled with recriminations about why the levee wasn't reinforced and why the aid was so slow in coming after the storm hit, the airwaves around the nation will be filled with evidence of the administration's response, just as they were in the months after Sept. 11.

All this is not to take away from our justifiable anger at the human pain, loss of life and needless suffering that FEMA's inability to get off the dime fast caused. To watch those pictures of Americans crowded into what was increasingly called the Sewerdome is to simmer in rage at the dunderheads in Washington who stood on ceremony, budgetary considerations, bureaucratic constraints and chain of command rather than rushing to help those in need before a weather disaster became a human one.

It is also not to take away from the need for a thorough examination, preferably through a Sept. 11-style commission, of why the levee was not strengthened after the warnings of Hurricane Ivan a year before and of why relief was so slow in coming.

But let the Democrats hold their rejoicing. In a year, Katrina and the relief and rebuilding efforts that are about to follow will be seen as having imparted a new and crucial momentum to an administration that was obviously increasingly running out of ideas, out of steam, and — like its nation — out of gas.

Katrina has the capacity to shape the second Bush term in the same way Sept. 11 shaped his first term — not only in rebuilding New Orleans but in taking preventative steps around the nation to bolster our defenses against natural and manmade disasters and terror strikes. Responding to disasters is a source of presidential strength and popularity, and Bush is about to show how it is done.

Morris is the author of Rewriting History, a rebuttal of Sen. Hillary Rodham Clinton's (D-N.Y.) memoir, Living History.

A Swamped Nation-builder (LAT)

The Los Angeles Times, September 7, 2005

NOW WE KNOW HE'S SERIOUS: President Bush has taken the most important issue facing his administration, the Katrina relief mission, and kicked it upstairs to the vice president's office. Bush announced Tuesday that he is deploying Dick Cheney to the Gulf Coast region on Thursday, and Cheney will join the thousands of troops who have poured in to impose order on the relief effort. After its initial halting response, the federal government is bringing the full force of its power to bear on the crisis. The Coast Guard, FEMA, the National Guard, active military units and even the Border Patrol have been coordinating the rescue of tens of thousands of Gulf Coast residents. The evacuation of survivors has become far more orderly. On Tuesday, the Army Corps of Engineers plugged one of New Orleans' broken levees, and pumping water out of the city quickened.

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Still, the overriding fact on the ground — both in Washington and along the Gulf — is this: Too many people died needlessly because their governments were too concerned about the threat of terrorism to pay attention to the threat posed by Mother Nature.

There will be plenty of time for politicians to play the blame game and to embrace facile, inside-the-Beltway solutions to the botched rescue. (A Cabinet seat for FEMA! Repeal the Posse Comitatus Act!) And some of the investigations now being called for — the president himself has graciously offered to lead one of them — may yield some useful information.

But the human tragedy will haunt the remainder of the Bush presidency. Bush was dismissive of nation-building in 2000; now his presidency will be judged largely by his performance as a nation-builder — both in Iraq and at home.

Setting aside the government's overall performance, the president himself, already reeling from extraordinarily low approval ratings, has not been sure-footed in responding to Katrina. He embarrassed himself on TV last Thursday when he said that he didn't think "anybody anticipated the breach of the levees." On Tuesday, sounding more like someone who'd just wandered into the Oval Office than like the commander in chief who saw us through 9/11, Bush said: "It's very important for us to understand the relationship between the federal government, the state government and the local government when it comes to a major catastrophe."

Get it together, Mr. President.

A CEO's Weaknesses (WP)

By David Ignatius

The Washington Post, September 7, 2005

There were two levee breaks last week: The natural disaster of Katrina ravaged New Orleans and left behind thousands of victims, but there was also a political catastrophe that breached the Bush administration's containment walls and exposed fundamental weaknesses in how this White House makes decisions.

The political damage may be harder to repair than the flooded infrastructure. The management flaws that have been so obvious over the past week go to the heart of how President Bush runs the government.

Early in his first term, it was popular to speak of how this Harvard Business School graduate was operating an "MBA Presidency." He insisted that everyone be on time to meetings; he wanted his aides to be properly dressed; he favored delegation of power, crisp meetings, early bedtimes. But these chief executive officer habits disguised a deeper reality: that Bush's management style was often haphazard and reactive. Like Isaiah Berlin's famous hedgehog, he came to focus on one big thing -- the war against terrorism -- and let many lesser things slide. Loyalty counted for more for this CEO than performance -- an attitude that is deadly in managing any enterprise.

The most pointed criticism of Bush's management I've read over the past week comes from the conservative columnist William Kristol. "Almost every Republican I have spoken with is disappointed" by the administration's response to Katrina, Kristol told The Post's Jim VandeHei. "He is a strong president . . . but he has never really focused on the importance of good execution. I think that is true in many parts of his presidency."

The part of this administration I know best is foreign policy. While I respect some of Bush's decisions, I see an underlying weakness in decision making that is very similar to the post-Katrina fiasco. This White House doesn't move effectively to fix broken bureaucracies, such as the Central Intelligence Agency or the Department of Homeland Security; it doesn't use interagency meetings to force clear decisions and then implement them, as has been clear in continuing policy confusion on Iraq, North Korea and Iran; and it doesn't mobilize the government well to deal with crisis warnings, as the Sept. 11 commission reported.

What accounts for this management failure? Experts cite a number of factors. First, this White House lacks a strong, substantive chief of staff who could act as a kind of deputy president, riding herd on the Cabinet agencies. Bush's chief, Andrew Card, is good at organizing the president's schedule, but he hasn't played the broader, make-the-trains-run role of many of his predecessors. Another problem is Bush's own style: As a key adviser once told me, this president isn't interested in hitting singles and doubles; he wants home runs. This approach almost guarantees that the administration won't do well at crisis prevention -- which succeeds best when nothing dramatic happens at all, thanks to good planning.

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Even on the issues Bush has identified as his priorities, there has been a surprising reactive quality. Take the war on terrorism: The two bureaucracies that are crucial for protecting Americans -- the Department of Homeland Security and the intelligence community -- have been in obvious disarray over the past two years. Yet Bush has not seized the initiative in either case and has let others set the agenda for reorganization. The disorientation today at those two mission-critical bureaucracies is genuinely dangerous for the country.

Iraq, too, has been a policy disconnect. The president insists (admirably, in my view) that America must stay the course, but as the situation there has deteriorated, he has failed to explain clearly what that course is. That's not a new problem: From the beginning, the administration has had difficulty framing a single Iraq strategy and mobilizing all the resources necessary for it to succeed. There hasn't been one Iraq policy but several competing versions.

Managing the government isn't as glamorous as politics, and on the political side it must be said that Bush has been very skillful. His top political adviser, Karl Rove, is one of the most gifted, if also ruthless, people ever to play that role. And this White House is good at reaction and damage control -- at mobilizing the apparatus of government after initial mistakes, as we're finally seeing on the Gulf Coast.

What this White House needs most is the tonic of honest accountability, as illustrated by an anecdote from presidential scholar Fred Greenstein. He recalls a moment in the 1950s when an aide walked out of the Oval Office, congratulating himself for telling President Dwight D. Eisenhower "what he wanted to hear." Ike's national security adviser, Gen. Andrew Goodpaster, overheard the aide and angrily sent him back to tell the president the truth, no matter how unpleasant.

The 'Stuff Happens' Presidency (WP)

By Harold Meyerson

The Washington Post, September 7, 2005

We're not number one. We're not even close.

By which measures, precisely, do we lead the world? Caring for our countrymen? You jest. A first-class physical infrastructure? Tell that to New Orleans. Throwing so much money at the rich that we've got nothing left over to promote the general welfare? Now you're talking.

The problem goes beyond the fact that we can't count on our government to be there for us in catastrophes. It's that a can't-do spirit, a shouldn't-do spirit, guides the men who run the nation. Consider the congressional testimony of Joe Allbaugh, George W. Bush's 2000 campaign manager, who assumed the top position at FEMA in 2001. He characterized the organization as "an oversized entitlement program," and counseled states and cities to rely instead on "faith-based organizations . . . like the Salvation Army and the Mennonite Disaster Service."

Is it any surprise, then, that the administration's response to the devastation in New Orleans is of a piece with its response to the sacking of Baghdad once our troops arrived? "Stuff happens" was the way Don Rumsfeld described the destruction of Baghdad's hospitals, universities and museums while American soldiers stood around. Now stuff has happened in New Orleans, too, even as FEMA was turning away offers of assistance. This is the stuff-happens administration. And it's willing, apparently, to sacrifice any claim America may have to national greatness rather than inconvenience the rich by taxing them to build a more secure nation.

As a matter of social policy, the catastrophic lack of response in New Orleans is exceptional only in its scale and immediacy. When it comes to caring for our fellow countrymen, we all know that America has never ranked very high. We are, of course, the only democracy in the developed world that doesn't offer health care to its citizens as a matter of right. We rank 34th among nations in infant mortality rates, behind such rival superpowers as Cyprus, Andorra and Brunei.

But these are chronic conditions, and even many of us who argue for universal health coverage have grown inured to that distinctly American indifference to the common good, to our radical lack of solidarity with our fellow citizens. Besides, the poor generally have the decency to die discreetly, and discretely -- not conspicuously, not in droves. Come rain or come shine, we leave millions of beleaguered Americans to fend for themselves on a daily basis. It's just a lot more noticeable in a horrific rain, and when the ordinary lack of access to medical care is augmented by an extraordinary lack of access to emergency services.

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Even if we'll never win the national-greatness sweepstakes for solidarity, though, we've long been the model of the world in matters infrastructural, in roads, bridges and dams and the like. But the America in which Eisenhower the Good decreed the construction of the interstate highway system now seems a far-off land in which even conservatives believed in public expenditures for the public good. The radical-capitalist conservatives of the past quarter-century not only haven't supported the public expenditures, they don't even believe there is such a thing as the public good. Let the Dutch build their dikes through some socialistic scheme of taxing and spending; that isn't the American way. Here, the business of government is to let the private sector create wealth -- even if that wealth doesn't circulate where it's most needed. So George W. Bush threw trillions of dollars in tax cuts to the wealthiest Americans, and what did they do with it? Did the Walton family up in Bentonville raise the levees in New Orleans? Did the Bass family over in Texas write a tax-deductible check to the Mennonites for the billions of dollars they would need to rescue the elderly from inundated nursing homes?

Even now, with bedraggled rescuers pulling decomposed bodies from the muck of New Orleans, Bill Frist, the moral cretin who runs the U.S. Senate, wanted its first order of business this week to be the permanent repeal of the estate tax, until the public outcry persuaded him to change course. The Republicans profess belief in trickle-down, but what they've given us is the Flood.

The world looks on in stunned amazement, unable to understand how a once great nation has grown so indifferent not just to its poor and its blacks but even to the most rudimentary self-preservation. Some of it is institutional racism, but the primary culprit is the economic libertarianism that the president still espouses whenever he sells his Social Security snake oil. It's that libertarianism, more than anything else, that has transformed a great city into an immense morgue.

But, hey -- stuff happens.

Osama And Katrina (NYT)

By Thomas L. Friedman

The New York Times, September 7, 2005

On the day after 9/11, I was in Jerusalem and was interviewed by Israeli TV. The reporter asked me, "Do you think the Bush administration is up to responding to this attack?" As best I can recall, I answered: "Absolutely. One thing I can assure you about these guys is that they know how to pull the trigger."

It was just a gut reaction that George Bush and Dick Cheney were the right guys to deal with Osama. I was not alone in that feeling, and as a result, Mr. Bush got a mandate, almost a blank check, to rule from 9/11 that he never really earned at the polls. Unfortunately, he used that mandate not simply to confront the terrorists but to take a radically uncompassionate conservative agenda - on taxes, stem cells, the environment and foreign treaties - that was going nowhere before 9/11, and drive it into a post-9/11 world. In that sense, 9/11 distorted our politics and society.

Well, if 9/11 is one bookend of the Bush administration, Katrina may be the other. If 9/11 put the wind at President Bush's back, Katrina's put the wind in his face. If the Bush-Cheney team seemed to be the right guys to deal with Osama, they seem exactly the wrong guys to deal with Katrina - and all the rot and misplaced priorities it's exposed here at home.

These are people so much better at inflicting pain than feeling it, so much better at taking things apart than putting them together, so much better at defending "intelligent design" as a theology than practicing it as a policy.

For instance, it's unavoidably obvious that we need a real policy of energy conservation. But President Bush can barely choke out the word "conservation." And can you imagine Mr. Cheney, who has already denounced conservation as a "personal virtue" irrelevant to national policy, now leading such a campaign or confronting oil companies for price gouging?

And then there are the president's standard lines: "It's not the government's money; it's your money," and, "One of the last things that we need to do to this economy is to take money out of your pocket and fuel government." Maybe Mr. Bush will now also tell us: "It's not the government's hurricane - it's your hurricane."

An administration whose tax policy has been dominated by the toweringly selfish Grover Norquist - who has been quoted as saying: "I don't want to abolish government. I simply want to reduce it to the size where I can drag it into the bathroom and drown it in the bathtub" - doesn't have the instincts for this moment. Mr. Norquist is the only person about whom I would say this: I hope he owns property around the New Orleans levee that was never properly finished because of a lack of tax dollars. I hope his

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basement got flooded. And I hope that he was busy drowning government in his bathtub when the levee broke and that he had to wait for a U.S. Army helicopter to get out of town.

The Bush team has engaged in a tax giveaway since 9/11 that has had one underlying assumption: There will never be another rainy day. Just spend money. You knew that sooner or later there would be a rainy day, but Karl Rove has assumed it wouldn't happen on Mr. Bush's watch - that someone else would have to clean it up. Well, it did happen on his watch.

Besides ripping away the roofs of New Orleans, Katrina ripped away the argument that we can cut taxes, properly educate our kids, compete with India and China, succeed in Iraq, keep improving the U.S. infrastructure, and take care of a catastrophic emergency - without putting ourselves totally into the debt of Beijing.

So many of the things the Bush team has ignored or distorted under the guise of fighting Osama were exposed by Katrina: its refusal to impose a gasoline tax after 9/11, which would have begun to shift our economy much sooner to more fuel-efficient cars, helped raise money for a rainy day and eased our dependence on the world's worst regimes for energy; its refusal to develop some form of national health care to cover the 40 million uninsured; and its insistence on cutting more taxes, even when that has contributed to incomplete levees and too small an Army to deal with Katrina, Osama and Saddam at the same time.

As my Democratic entrepreneur friend Joel Hyatt once remarked, the Bush team's philosophy since 9/11 has been: "We're at war. Let's party."

Well, the party is over. If Mr. Bush learns the lessons of Katrina, he has a chance to replace his 9/11 mandate with something new and relevant. If that happens, Katrina will have destroyed New Orleans, but helped to restore America. If Mr. Bush goes back to his politics as usual, he'll be thwarted at every turn. Katrina will have destroyed a city and a presidency.

Haunted By Hesitation (NYT)

By Maureen Dowd

The New York Times, September 7, 2005

WASHINGTON

It took a while, but the president finally figured out a response to the destruction of New Orleans.

Later this week (no point rushing things) W. is dispatching Dick Cheney to the rancid lake that was a romantic city. The vice president has at long last lumbered back from a Wyoming vacation, and, reportedly, from shopping for a $2.9 million waterfront estate in St. Michael's, a retreat in the Chesapeake Bay where Rummy has a weekend home, where "Wedding Crashers" was filmed and where rich lobbyists hunt.

Maybe Mr. Cheney is going down to New Orleans to hunt looters. Or to make sure that Halliburton's lucrative contract to rebuild the city is watertight. Or maybe, since former Senator John Breaux of Louisiana described the shattered parish as "Baghdad under water," the vice president plans to take his pal Ahmad Chalabi along for a consultation on destroying minority rights.

The water that breached the New Orleans levees and left a million people homeless and jobless has also breached the White House defenses. Reality has come flooding in. Since 9/11, the Bush administration has been remarkably successful at blowing off "the reality-based community," as it derisively calls the press.

But now, when W., Mr. Cheney, Laura, Rummy, Gen. Richard Myers, Michael Chertoff and the rest of the gang tell us everything's under control, our cities are safe, stay the course - who believes them?

This time we can actually see the bodies.

As the water recedes, more and more decaying bodies will testify to the callous and stumblebum administration response to Katrina's rout of 90,000 square miles of the South.

The Bush administration bungled the Iraq occupation, arrogantly throwing away State Department occupation plans and C.I.A. insurgency warnings. But the human toll of those mistakes has not been as viscerally evident because the White House pulled a curtain over the bodies: the president has avoided the funerals of soldiers, and the Pentagon has censored the coffins of the dead coming home and never acknowledges the number of Iraqi civilians killed.

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But this time, the bodies of those who might have been saved between Monday and Friday, when the president failed to rush the necessary resources to a disaster that his own general describes as "biblical," or even send in the 82nd Airborne, are floating up in front of our eyes.

New Orleans's literary lore and tourist lure was its fascination with the dead and undead, its lavish annual Halloween party, its famous above-ground cemeteries, its love of vampires and voodoo and zombies. But now that the city is decimated, reeking with unnecessary death and destruction, the restless spirits of New Orleans will haunt the White House.

The administration's foreign policy is entirely constructed around American self-love - the idea that the U.S. is superior, that we are the model everyone looks up to, that everyone in the world wants what we have.

But when people around the world look at Iraq, they don't see freedom. They see chaos and sectarian hatred. And when they look at New Orleans, they see glaring incompetence and racial injustice, where the rich white people were saved and the poor black people were left to die hideous deaths. They see some conservatives blaming the poor for not saving themselves. So much for W.'s "culture of life."

The president won re-election because he said that the war in Iraq and the Homeland Security Department would make us safer. Hogwash.

W.'s 2004 convention was staged like "The Magnificent Seven" with the Republicans' swaggering tough guys - from Rudy Giuliani to Arnold Schwarzenegger to John McCain - riding in to save an embattled town.

These were the steely-eyed gunslingers we needed to protect us, they said, not those sissified girlie-men Democrats. But now it turns out that W. can't save the town, not even from hurricane damage that everyone has been predicting for years, much less from unpredictable terrorists.

His campaigns presented the arc of his life story as that of a man who stumbled around until he was 40, then found himself and developed a laserlike focus.

But now that the people of New Orleans need an ark, we have to question the president's arc. He's stumbling in Iraq and he's stumbling on Katrina.

Let's play the blame game: the man who benefited more than anyone in history from safety nets set up by family did not bother to provide one for those who lost their families.

Katrina's Global Lessons (WP)

By Jim Hoagland

The Washington Post, September 7, 2005

MOSCOW -- Hurricane Katrina has raked a vivid scar across America's image abroad -- and left its marks on President Bush's ambitious foreign policy agenda as well. Overcoming these setbacks will require a demonstration that the United States under Bush is not an irrevocably weakened and divided nation about to turn inward on its own problems.

The stories and images of lawlessness, refugees dying of deprivation or mayhem, and the desperation of befouled human sanctuaries in New Orleans have at times resembled dispatches from Darfur or Afghanistan. The initial shock abroad comes not from the sights of such human misery but from the fact that it occurred in the United States, which has always been quick both to help and to lecture those swept up in natural and man-made disasters in foreign lands.

The feet of clay of a nation that has regularly vaunted its standing as the world's only remaining superpower have been in plain view in recent days.

Here in the Russian capital and elsewhere abroad, the focus is shifting quickly to take in political consequences as well as relief efforts. European embassies in Washington are already reporting back to their capitals on how the disaster may further impair Bush's effectiveness as he slips toward lame-duck status. Diplomatic cables raise the key question of which America will emerge from this harrowing test of national resolve and compassion.

Will post-Katrina America be humbler, more cooperative and more understanding of other nations' problems and failures? Or will the United States let its active engagement in the world's human and political crises become another casualty of Katrina's winds and floodwaters -- and of the political turmoil they have triggered?

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"I look at this and cannot believe my eyes," Russian President Vladimir Putin said when I asked him Monday evening about Katrina's damage. "It tells us however strong and powerful we think we are, we are nothing in the eyes of nature and of God Almighty. . . . We are all vulnerable and must cooperate to help each other."

Putin reeled off details of the emergency aid that Russia has offered to airlift to Louisiana. But remarks by Putin and others at the annual Valdai conference, which brings together Europeans, Russians, Asians and Americans for discussions on Russia, seemed to reflect an expectation of a fairly quick return to the world stage by Bush, to whom Putin referred at one point simply as "George." The two leaders are due to meet in New York and then in Washington next week.

But the Russian will find that Bush has his hands full at home as he tries to cope with the angry complaints of residents of Louisiana and Mississippi who feel they have received little or no immediate help, while the victims of Asia's tsunami were lavishly aided and taxpayer money was flowing to Iraq.

The anger over their deplorable conditions and the incompetent reactions by federal and local authorities that contributed to those conditions is more than justified. And no one can doubt that there will be some lessening of U.S. capacity to alleviate suffering abroad when there is so much of it at home.

But the kind of deprivation and peril that Americans have witnessed in New Orleans in recent days is roughly what people in much of the Third World experience every day of their lives -- with no hope of a National Guard ever arriving, or an escape route being opened, unless there is significant outside help, especially from the United States.

Our own needs should not drive Americans farther away from other peoples in distress or cause us to abandon them to their own fate. To the contrary. This crisis -- like those in Darfur and elsewhere -- underlines the common humanity and the common destiny that all nations share.

Bush will go to New York next week to address the U.N. General Assembly, the symbol of "the international community" that his administration has regularly derided. This is the moment for the president to show the humility he once promised to bring to America's world leadership, but which he largely abandoned once in office.

For all its horror, Katrina could yet hold a political silver lining if the disaster reminds both Bush and his harshest critics that America's role in the world is not defined just by the personalities and policies of the current occupants of the White House. America is big enough in heart, resources and intelligence to recover at home and be active abroad -- if it shows national unity in the face of national disaster.

First Estimates On Katrina Costs For Washington Hit $200 Billion (WSJ)

By John D. McKinnon, David Rogers and Dionne Searcey

The Wall Street Journal, September 7, 2005

The federal government could spend as much as $150 billion to $200 billion caring for the victims of Hurricane Katrina and rebuilding from its devastation, according to early congressional estimates -- a total bill that would far surpass the initial costs of recovering from the 9/11 terror attacks and could put Katrina on track to become the most expensive natural disaster in American history.

The early estimates are rough, but they are so high that some in Congress already are talking of creating a new government entity simply to manage the costs, similar to the effort by then-Commerce Secretary Herbert Hoover after floods in the same regions in the 1920s. All told, the process of paying for relief and repair is likely to be a "three-to-four-year exercise," said Sen. Judd Gregg, the New Hampshire Republican who heads the Budget Committee.

Even as levee breaches were being repaired in New Orleans and oil spills and fires were posing new problems, a torrent of federal relief spending was under way. The Federal Emergency Management Agency is committing funds at a rate close to $1 billion to $2 billion a day, officials estimated.

President Bush meets with cabinet members and says, "This administration is not going to rest until every life can be saved." Plus, U.S. Labor Secretary Elaine Chao discusses the federal programs in place for Hurricane Katrina victims.

Lawmakers said the $10.5 billion already allocated to relief efforts in an emergency measure late last week was likely to be gone in a matter of days. As a result, they expect the White House to ask shortly for an additional $40 billion. That alone will drive the cost of Katrina to more than three times the federal cost of the four big hurricanes that struck Florida last year. Approval is

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virtually certain: Louisiana is a politically important swing state coveted by both Republicans and Democrats, and neither party will want to be seen as shortchanging the effort.

But that will be only a down payment on a federal tab that all now agree is going to reach more eye-popping levels. The width of the storm's impact adds to costs. Among other things, the federal aid will include not only immediate relief but also major payments under the national flood-insurance program, and new appropriations to subsidize small-business disaster loans. What makes this disaster's costs extraordinary, however, is the fact that so many people face such a lengthy displacement and will now need housing and individual income and health assistance under a government safety net that didn't exist when the famous floods of the 1920s hit the same region.

In many cases, such as Medicaid or welfare-related payments, states typically share in the costs. But the federal government will be asked to carry more of the burden, both because the affected states such as Louisiana have been so devastated financially, and because relief workers want to create the maximum flexibility to allow families to resettle around the country.

Senate Democratic Leader Harry Reid of Nevada was the first to go public, predicting a government commitment of $150 billion. Top Republicans bridled initially, saying any such estimates at this time translated into playing "political games."

But Mr. Gregg subsequently used an even higher $200 billion estimate, and defended Mr. Reid's figure. "I don't find that crazy at all," Mr. Gregg said. "That's a reasonable estimate from what we know so far."

Mr. Gregg said the requests for additional money will be coming regularly. "I think we'll be doing them every week or bi-weekly for a while," he said. "They are pulling down huge numbers right now."

The spending will surpass the federal costs of recovering from the Sept. 11 terrorist attacks on New York and Washington. After those attacks, the federal government allocated $20 billion to rebuild Lower Manhattan. Overall, the forecasting firm Economy.com estimates that Sept. 11-related aid by all levels of government totaled about $67.3 billion in current dollars.

Some of the ideas being discussed on Capitol Hill involved relief far beyond the disaster area. For example, Sen. Charles Grassley, the Iowa Republican, said he wants loan relief for farmers whose crops might not reach market on schedule due to disruption at the New Orleans port. Sen. Ted Stevens, the Alaska Republican, said he favors tax relief for airlines hit by higher fuel costs. Sen. Kay Bailey Hutchison, the Texas Republican, said she envisions broad-based aid to local governments for the added costs of schooling, housing and providing health care to evacuees, even temporarily. "There are many costs for the states like Texas that are taking these people in need in," she said.

Cecil Picard, Louisiana's superintendent of education, said he was hoping for federal help for some of the myriad issues schools will be facing as 187,000 students from storm-affected areas have been displaced. He wants federal money to make up the pay difference for teachers forced into substitute teaching jobs in outlying areas.

The large outlays overall will have many ripple effects. For one, Mr. Gregg said there is little question that the spending will drive up the 2006 deficit above the $333 billion forecast for the current fiscal year ending Sept. 30.

In addition, the sums now being discussed could add to anger over the fact that New Orleans, at least, wasn't better protected, and accelerate demands for investigations. In response to a question, President Bush said he himself would direct one probe.

"What I intend to do is lead...an investigation to find out what went right and what went wrong," Mr. Bush said yesterday at a cabinet meeting. He offered no further details. But signaling that federal officials probably would point to state and local officials as a source of the problems, the president added, "It's very important for us to understand the relationship between the federal government, the state government and the local government when it comes to a major catastrophe.... We still live in an unsettled world. We want to make sure that we can respond. "

As Washington grappled with the costs, developments in the hurricane-struck region illustrated the kinds of after-effects that will make recovery and rebuilding so expensive. Officials toting up the damage in New Orleans said the storm generated as much as 90 million tons of solid waste and rendered 140,000 to 160,000 homes unusable. Environmental workers are worrying about everything from radioactive waste to wood infested with the ravenous Formosan termites that infest many Southern states.

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Clean-up was getting under way at two major oil spills that unleashed 78,000 barrels of oil; the larger spill was moving out to the Gulf of Mexico. Nearly all of Louisiana's 530 sewage treatment facilities in the storm-ravaged region were damaged, with some barely visible under the floodwater.

Fires were burning yesterday in several places -- one in a staging area for Mardi Gras floats and some where gas lines were broken. Contributing to the mess: flooded homes where pesticides or old batteries were stored; overturned cars and boats where gas is leaking; submerged rail cars possibly carrying hazardous materials; termite-infested wood; and numerous animal carcasses.

"Everywhere we look there's spills," said Mike McDaniel, secretary of the Louisiana State Department of Environmental Quality. "It all adds up to almost a solid sheen over the area right now, but we expect over time that will take care of itself."

There's nowhere for the contaminated floodwater in the city to go but into Lake Pontchartrain, he said, though that will create environmental problems down the road. "We have to get the water out of the city or the nightmare gets only worse," he said. "We'll have to deal with the issues in the lake. The priority is on saving lives."

As a result, it could be years before drinking water is restored to everyone, he said: "It is almost unimaginable the things we're going to have to plan for and deal with."

The Army Corps of Engineers said yesterday that progress continued, albeit fitfully, on efforts to repair damaged levees and position pumps to drain floodwaters from New Orleans. Officials said about 60% of the city remains under water, and they stood by earlier estimates that it could take one to three months to complete the pumping.

In a conference call yesterday afternoon with reporters, the officials estimated that about 10 of roughly 40 pumping stations in the New Orleans vicinity are operating. One major pump located along Interstate 10 near the 17th Street Canal is running and is sending water into the canal, where it drains into Lake Pontchartrain. But a second pump, known as Pump Station Six, at the head of the canal near the lake, had to be shut down shortly after it was started Monday. It overheated because of trash in the water clogging it.

"Various pump stations are starting up," said engineer Walter Baumy. "It's a very small number but at least it's progress."

The New Orleans flooding was caused by what officials now describe as three "major" breaches, and several smaller ones, in the system of protective barriers protecting New Orleans and surrounding areas. As officials begin to gain access to heavily flooded areas south and southeast of the city, they are finding additional levee damage.

Administration officials said yesterday that the levees that failed were all completed projects. Despite complaints of cuts to the Army Corps of Engineers budget and charges that the cuts may have blocked projects to bolster the levees, no improvements to those facilities were in the pipeline, they said.

Aides to Mr. Reid, the Senate Democratic leader, said their overall estimate of $150 billion in federal relief costs included not just relief efforts, but about $50 billion of public works to rebuild the area's infrastructure. As the picture of the damage and costs came into clearer focus, some Republicans were talking of managing the outlays now needed by using an entity modeled after the Lower Manhattan Development Corp., created to help rebuild following the terrorist attacks of Sept. 11, 2001.

For his part, Mr. Gregg, the Budget Committee chairman, says his model of what should be the efforts by the future President Herbert Hoover, after floods in the same region in the 1920s. "You've got to have some central management entity that's on the ground, in the region, headed up by somebody of substance whom people respect," he said.

Mr. Gregg said Congress can still meet its commitment to wring some savings from federal benefit programs over five years as promised in a budget resolution passed last spring. Medicaid, the federal-state health-care program for the poor, is one of the areas targeted for multiyear savings. But he also said that in the short term, Washington may have to increase its commitment to maintain health coverage for families whose homes were destroyed by the storm and have been forced to relocate out of state.

Despite the looming bills, Mr. Gregg said he saw no reason to retreat on the level of tax cuts assumed in the budget. And Senate Finance Committee Chairman Charles Grassley, an Iowa Republican, said the greater impetus after Katrina is to do more to bring "additional tax policy into place to help investment."

Mr. Grassley was cautious about promising any added tax relief for airlines, which are being hurt badly by rising fuel costs in Katrina's wake, saying that a pending pension bill had already been shaped to help the industry by stretching out its payment

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obligations. But Senate Commerce Committee Chairman Ted Stevens, an Alaska Republican, said the finance panel should consider a suspension of federal fuel taxes for airlines.

Leaders Push To Make Sure Blacks Given Fair Share Of Rebuilding Jobs (USAT)

By Donna Leinwand And Melanie Eversley

USA Today, September 7, 2005

BATON ROUGE — After accusations that many New Orleans hurricane victims were not evacuated or rescued because they were black and poor, civil rights advocates Tuesday shifted their focus to making sure poor blacks aren't left out of the city's rebuilding.

Jesse Jackson, at the Louisiana state emergency center in Baton Rouge, said Hurricane Katrina is an opportunity for the federal government to lift a community out of poverty.

New Orleans' impoverished black residents "should be first in line to get the jobs to clean up their own neighborhoods," he said.

Rep. Mel Watt, D-N.C., head of the Congressional Black Caucus, said the caucus would support any effort to make sure New Orleans residents were part of rebuilding.

Blacks make up 67% of New Orleans' population of about 450,000. A quarter of the city's blacks are considered poor. By federal standards, a family of four earning less than $19,307 a year is poor.

Poverty rates in neighboring Gulf states Mississippi and Alabama, which also were hit by the hurricane, are higher than the national average of 13.1%. Mississippi is the USA's poorest state with 21.6% below the poverty line; Alabama is among the top 10 with 16.1% below poverty.

Many blacks in New Orleans were marooned for days after levees broke and the city flooded. Thousands were stranded in their homes or waiting in the Superdome and at the Ernest N. Morial Convention Center, where conditions deteriorated rapidly. There was a shortage of food, water and medicine.

Black leaders have been angry at the response.

"We cannot allow it to be said by history that the difference between those who lived and those who died in the great storm and flood of 2005 was nothing more than poverty, age or skin color," said Rep. Elijah E. Cummings, D-Md., past chairman of the Congressional Black Caucus, at a news conference last week.

At a concert fundraiser for victims, rapper Kanye West lashed out at the president: "George Bush doesn't care about black people."

Now that most stranded residents have been moved to shelters across the country, Jackson is calling for a Marshall Plan for the region, referring to the massive U.S. aid plan that helped rebuild Western Europe after World War II.

Jackson said evacuees should be kept close to home so that families are not separated. He's also advocating a moratorium on foreclosures for affected homeowners and business owners.

Jackson is urging that blacks from New Orleans be given temporary housing on Louisiana military bases rather than being dispersed to other states.

In-state resettlement increases chances they will get first crack at rebuilding jobs — and lessens the risk they'll wear out their welcome in cities outside Louisiana that have offered to take them in, Jackson said.

"Race and class is an issue when the land is dry," he said.

New Orleans resident Karl Spain, 26, a black day laborer who made it to Baton Rouge after a three-day odyssey, said he'd be first in line for a rebuilding job in his home city but would take work wherever he could find it.

Spain said he escaped the floodwaters in New Orleans by carrying his 11-month-old daughter through waist-high water. He and his family made it to a roadside and got a ride to Baton Rouge, where a church shelter took him in.

"Right now, we don't have nothing at all," Spain said. "We're just trying to survive."

New Orleans Mayor Orders Forced Evacuation (AJC/AP)

By Cain Burdeau, Associated Press Writer

The Atlanta Journal-Constitution, September 7, 2005

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NEW ORLEANS — As flood waters receded inch by inch Tuesday, New Orleans Mayor C. Ray Nagin authorized law enforcement officers and the U.S. military to force the evacuation of all residents who refuse to heed orders to leave the dark, dangerous city.

Nagin's emergency declaration released late Tuesday targets those still in the city unless they have been designated by government officials as helping with the relief effort.

The move comes after some citizens bluntly told authorities who had come to deliver them from the flooded metropolis that they would not leave their homes and property. An estimated 10,000 residents are believed to still be in New Orleans, and some have been holed up in their homes for more than a week.

While acknowledging the emergency declaration, police Capt. Marlon Defillo said late Tuesday that forced removal of citizens had not yet begun. He said that officers who were visiting homes were still reminding people that police may not be able to rescue them if they stay.

"That would be a P.R. nightmare for us," Defillo said of any forced evacuations. "That's an absolute last resort."

Repeated telephone calls to Nagin's spokeswoman, Tami Frazier, seeking comment were not returned.

Meanwhile, engineers struggled to drain the saucer of a city of billions of gallons of water, a Herculean task that could take weeks — if they are lucky.

The Army Corps of Engineers said the timetable ranges from three weeks to nearly three months, depending on a string of variables, including rainfall, the still-unknown condition of the pumps abandoned to Hurricane Katrina, and whether the system can withstand the flotsam of broken buildings, trees, trash and corpses.

Work has also been impeded by sporadic gunfire coming from "criminals with guns," said Col. Richard Wagenaar, the Corps' chief district engineer.

The contractors are "getting used to it and that's pretty scary," Wagenaar said.

Despite complications, "we have to get the water out of the city or the nightmare will continue," said Louisiana Environmental Secretary Mike McDaniel. He said the water will be pumped into Lake Pontchartrain even though it is fouled with sewage, heavy metals, gasoline and other dangerous substances.

The pumping began after the Corps used hundreds of sandbags and rocks over the Labor Day weekend to close a 200-foot gap in the 17th Street Canal levee that burst in the aftermath of the storm and swamped 80 percent of this below sea-level city.

Following an aerial tour Tuesday, Nagin said the water was dropping ever so slightly, and he estimated that it covered only 60 percent of the city.

"Even in areas where the water was as high as the rooftops, I started to see parts of the buildings," he said, adding, "I'm starting to see rays of light."

But he also warned of the horrors that could be revealed when the waters recede. "It's going to be awful and it's going to wake the nation up again," said Nagin, who a day earlier upped his estimate of the death toll in his city to as much as 10,000.

The job to rid the city of water got off to a woefully slow start.

Once all of the city's pumping stations are running, they can move water at a rate of 29 billion gallons a day and lower the water level a half-inch per hour, or about a foot per day. But by late Tuesday afternoon, Corps officials said only three of New Orleans' normal contingent of 148 drainage pumps were operating.

With the water dropping, military and police turned their attention to evacuating the streets. Among those refusing to leave was 69-year-old John Ebanks, who waved off would-be rescuers from a porch stocked with food, mosquito spray and other supplies.

"You've got to protect your property, that's the main thing," Ebanks said. "This is all I've got. I'm pretty damn old to start over."

In St. Bernard Parish, 38-year-old Dennis Rizzuto took a break from a Monopoly game with his family to emerge from the second-floor window of his home.

He said he had plenty of water, food to last a month and a generator powering his home. "They're going to have to drag me" out, Rizzuto said.

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In a plea to holdouts who might be listening to portable radios in the powerless city, Nagin warned that the fetid water could carry disease and that natural gas was leaking all over town.

"This is not a safe environment," Nagin said. "I understand the spirit that's basically, `I don't want to abandon my city.' It's OK. Leave for a little while. Let us get you to a better place. Let us clean the city up."

To that end, the Pentagon began sending 5,000 paratroopers from the Army's storied 82nd Airborne Division to use small boats, including inflatable Zodiac craft, to launch a new search-and-rescue effort in flooded sections of the city.

Some National Guardsmen and helicopters were diverted from their search missions Tuesday to fight fires, an emerging threat in a city that is still at least a day and a half away from restoring the first running water since the storm.

A candle was blamed for starting one major blaze in the lower Garden District — a historic neighborhood of mostly wooden homes. The flames started in an abandoned brick building and spread to a neighboring apartment house. The blazes burned for hours before Chinook helicopters with water pouches were brought in to fight the blaze.

New Orleans Police Superintendent Eddie Compass said lawlessness in the city "has subsided tremendously," and officers warned that those caught looting in an area where the governor has declared an emergency can get up to 15 years in prison. About 124 prisoners filled a downtown jail set up at the city's train and bus terminal.

"We continue to get better day by day," Compass said.

The signs of hope came against increasingly angry rhetoric over the federal response as too little too late. In Washington, congressional leaders planned hearings into the aftermath of the storm.

"We need to rebuild the confidence of the American people ... in our government's ability to protect them from attack, whether it comes from nature or from terrorists," said Sen. Joseph Lieberman, D-Conn. "The government simply did not act quickly and effectively enough."

Jefferson Parish president Aaron Broussard was even more blunt.

"Bureaucracy has murdered people in the greater New Orleans area," he said on CBS' "Early Show." "Take whatever idiot they have at the top of whatever agency and give me a better idiot. Give me a caring idiot. Give me a sensitive idiot. Just don't give me the same idiot."

Five of the 13 sub-basins in New Orleans were still seriously flooded, and barges and crews were getting into place to fix levee breaches at two other spots — the London Avenue canal and the Industrial canal. The London Avenue canal is in the northwestern section of the city, the Industrial canal in the east.

The Corps is concentrating on the London Avenue canal, where workers will spend at least two weeks filling a 45-foot hole with rocks and sandbags, Wagenaar said. Once that drainage canal is fixed, then more pumps can start running.

Before work can even begin on the Industrial canal two barges pushed onto a bridge by Katrina and a sunken barge need to be removed. The Coast Guard has said 110 barges, ships and boats sank or ran aground during the storm — 67 of them in the Mississippi River, and another 43 along the coast.

The levees were deliberately breached in some spots to let the water flow back out into Lake Pontchartrain, where the water level had dropped below that inside the city.

How long it takes to drain the city could depend on the condition of the pumps — especially whether they were submerged and damaged, the Corps said. Also, the water is full of debris, and while there are screens on the pumps, it may be necessary to stop and clean them from time to time.

"We're working every avenue to do whatever we can to get things back in order," said Walter Baumy, Corps manager for the project. "We're going to accomplish the mission of getting the water out of the city."

New Orleans Levees Patched, Army Starts Pumping Water (Update6) (BLOOM)

By Heather Burke

Bloomberg, September 7, 2005

Sept. 6 (Bloomberg) -- Engineers repaired a ruptured levee in New Orleans and began pumping water from the flooded city as workers intensified the search for survivors and those killed in the aftermath of Hurricane Katrina.

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Rescuers are combing through in the areas hit hardest by Katrina ``to see if we missed anybody and to gather bodies missed previously," said Brigadier General Gary Jones of the Louisiana National Guard. Officials estimated that some 10,000 people still need rescuing in the city.

``We are starting to see some significant progress," New Orleans Mayor Ray Nagin said today in a televised news conference. ``The individuals we are pulling out are in pretty bad shape," Nagin said. ``Most of them are delirious, they're dehydrated."

Rescuers are confronted with a community awash in filth, as fires broke out around the city, including the historic Garden District. The water in New Orleans is fouled by pesticides, gasoline, metals and fecal waste, said Mike McDaniel, secretary of the Louisiana Department of Environmental Quality.

As many as 160,000 homes are submerged, McDaniel said. Oil leaking from underground fuel tanks, submerged vehicles and other equipment have made the area a vast toxic waste site, McDaniel said. ``It adds up to a solid sheen over the area," he said.

Thousands Presumed Dead

Thousands are presumed dead in what officials called the worst natural disaster in U.S. history. Katrina ripped into the north coast of the Gulf of Mexico on Aug. 29, breaching levees that protected New Orleans. About 80 percent of the city, which lies below sea level, was under water as deep as 20 feet. The storm left a $100 billion trail of destruction, according to Risk Management Solutions Inc., an insurance-industry consultant.

The hurricane may be the deadliest U.S. storm since one that swept through Galveston, Texas, in 1900, killing an estimated 8,000 to 12,000. The 1906 San Francisco earthquake and fire killed 5,000 to 6,000.

Louisiana has recorded 71 dead so far, said Bob Johannessen, a spokesman for the state Health and Hospitals Department. Mississippi officials estimate that 161 were killed in the state.

Temporary Morgue

Louisiana set up a temporary morgue in St. Gabriel Parish, about 50 miles north of New Orleans, which can hold about 1,000 bodies and can be expanded, Johannessen said.

The Federal Emergency Management Agency has allocated more than $2.87 billion in aid, including purchases of relief supplies, construction of camps and military evacuations, said spokesman David Passey.

As of 1 p.m. Washington time today, 32,000 people had been rescued and 182,000 people were housed in 559 shelters, the Department of Homeland Security said.

The department said 15,000 active-duty military, 43,000 National Guard members, 4,000 Coast Guard personnel and 7,000 FEMA responders were on the ground in the hurricane-stricken areas.

Two thousand people have been evacuated to hospitals, U.S. Health and Human Services Secretary Michael Leavitt said today.

While many people are being lifted by helicopter from damaged homes and off rooftops, some residents have refused to leave, doubting they'll be allowed back.

Coaxing People to Leave

Louisiana Governor Kathleen Blanco said state officials are bringing in chaplains and other people to persuade people to leave their homes.

``Some of them are in shock, they're scared," Blanco told reporters today.

About 356 U.S. Public Health Service workers and 340 disease trackers from the U.S. Centers for Disease Control and Prevention will be working in shelters, U.S. officials said in a press conference in Baton Rouge, Louisiana.

Health officials are investigating outbreaks of diarrhea at Texas shelters for people displaced by the storm, CDC Director Julie Gerberding said. They are also concerned about possible outbreaks of typhoid and respiratory diseases, she said.

Engineers are pumping water from the flooded areas of New Orleans back into Lake Pontchartrain after patching the levee at the city's 17th Street Canal yesterday, said Jason Binet, a civil engineer with the U.S. Army Corps of Engineers. Today, the repaired breach will be fortified with layers of stone and asphalt, Binet said.

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About 60 percent of the city is still under water, Corps of Engineers officials said today at a press conference. They estimate it will take 24 to 80 days to drain the city.

Closing Ruptures

Two ruptures remain at the London Avenue Canal. Engineers are building a dike out of rocks at the head of canal to stop the water flowing, then will use steel sheets to fix the breaches, officials said.

Troops are using portable pumps to remove the water, Binet said. The permanent pumps need to be fixed because portable ones can't reach the city's center, he said. Some pump stations are under water, and their electrical machinery has to dry out, he said.

The city of almost 500,000 depends on pumps and levees to keep dry. The walls shield New Orleans from the Mississippi River to the south and the Lake Pontchartrain to the north.

Open the Port

The Port of New Orleans, the biggest U.S. port by tonnage handled, opened to Hurricane Katrina relief ships today and commercial shipments may resume in two weeks.

BellSouth Corp. is working to restore telephone lines as it also contends with 6,500 employees who live in the areas along the Gulf coast. The company has set up tent cities in Baton Rogue and Kenner, Louisiana, and Gulfport, Mississippi, to provid e workers with food, beds, and a staging area for those working to restore lines.

About 810,000 lines in Mississippi, Louisiana and Alabama were knocked out, and 19 central offices were shut by the storm, Atlanta-based BellSouth said in a statement today. The company said it may have to pay as much as $600 million to fix its network.

About 946,000 people remained without power in the Gulf region today, according to figures released by Entergy Corp., Southern Co., Cleco Corp. and the Energy Department.

New Orleans began rotating police officers, firefighters and emergency-medical workers on five-day rest periods. About 315 firefighters from New York are in New Orleans, said Captain John Hellmers of the New Orleans Fire Department. The New Yorkers are manning 12 New Orleans fire trucks. Firefighters have handled eight fires in the city today, Hellmers said.

Failing to Report

The police department said as many as 500 of its 1,600 officers have failed to report for work. Many may be searching for family members after losing their homes, New Orleans Police Deputy Chief Warren Riley said during a televised press conference.

In Washington, lawmakers from both parties criticized the government, saying officials failed to send emergency aid fast enough. Senate Minority Leader Harry Reid joined Senator Hillary Clinton to ask President George W. Bush to create a special commission to investigate.

Bush said he will call for a probe into how the federal government responded to the disaster.

``We want to make sure we can respond properly," Bush said after a meeting with his Cabinet today at the White House. ``If things went wrong, we'll correct" them.

Help From Cheney

Bush said he will send Vice President Dick Cheney to the area later this week to ``help me determine" whether the government is meeting its goals in the search for survivors and in restoring public services.

The Senate will begin public hearings as early as next week into the ``failures of all levels of government" in the response to Hurricane Katrina, said Susan Collins, a Maine Republican and chairwoman of the Homeland Security and Government Affairs Committee.

The U.S. Federal Reserve should hold off on increasing interest rates later this month to allay any consumer doubts about the nation's economic health, said Senator Charles Grassley, an Iowa Republican and chairman of the Senate Finance Committee.

``It would probably bring some confidence to people that are concerned about the overall economy and not hurt our fight against inflation," Grassley said.

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Scenes of the city's devastation, played out on cable news channels, Web sites and in newspapers, led Americans to donate at least $500 million toward Katrina relief, according to the Chronicle of Philanthropy.

Days of Chaos

The first days following the storm were marred by chaos and lawlessness, as police focused on saving people. Military officials say crime is now under control. Curfews are in effect in several parishes, said Lieutenant Kevin Cowan of the Louisiana emergency preparedness office. Federal agents arrested a 20-year- old man for firing a handgun at a military rescue helicopter in New Orleans, said U.S. Attorney Jim Letten. The man was arraigned in Baton Rouge today, charged with the first federal crime related to Katrina, Letten said.

The storm ravaged energy production in the Gulf of Mexico, source of about a third of the oil consumed in the U.S. and about one-fifth of the natural gas.

Katrina shut 870,374 barrels of daily oil output, or 58 percent of normal Gulf production, according to a report from the U.S. Minerals Management Service in Washington. Daily oil output rose 173,307 barrels from yesterday.

The average U.S. pump price for regular gasoline fell to $3.041 a gallon today from a record $3.057 a gallon yesterday, according to the American Automobile Association. Prices range from $3.35 a gallon in Washington, D.C., to $2.74 in Louisiana, according to the AAA.

Storms Brewing

In the Atlantic Ocean, other storms are brewing. Hurricane Maria, with maximum sustained winds of about 100 mph (160 kph) was 545 miles (875 kilometers) east-northeast of Bermuda as of 11 a.m. New York time, the National Hurricane Center said. Maria, which was weakening, is forecast to remain at sea.

Tropical storm Nate was about 275 miles (440 km) south- southwest of Bermuda and showing little movement, the hurricane center said. It has top winds of about 60 mph.

Tropical-storm warnings were issued along Florida's eastern coast for yet another storm, as yet unnamed, that and may strengthen tomorrow, the hurricane center said. It was about 180 miles (290 km) southeast of Cape Canaveral, Florida, and likely to move slowly north-northwest, the center said.

Huge Pumps Start Draining Toxic Floodwater From City Runoff Flowing Into Pontchartrain May Threaten Lake's Health (USAT)

By Peter Eisler, Tom Kenworthy And Traci Watson

USA Today, September 7, 2005

Engineers fired up a few of New Orleans' giant pump stations Tuesday to drain flood water into Lake Pontchartrain, a task that will pour millions of gallons of toxic runoff into the lake in the coming weeks.

Officials from the Army Corps of Engineers said it should take from 24 to 80 days to drain the bowl-shaped city completely. They said about 60% of New Orleans remains under water, down from 80% that was submerged after flood walls around the city gave way last week in the wake of Hurricane Katrina.

“We're getting access to areas we could not get to, and that's going to help us greatly,” said Walter Baumy, chief engineer for the corps' New Orleans district. Crews have sealed off the biggest breaches in the city's flood walls. They started up four major pump stations and a few smaller ones — about a quarter of the 40 or so pumps. “It's not a large (pumping) capacity at this point … but at least it's progress.”

The corps still could not say how long it would be until the city is dry enough to allow people to return to their homes and begin reconstruction. There's simply too much water on the ground to do a credible damage assessment.

“We can't even get in there to have a chance to look at that and see the condition of the infrastructure,” said Al Naomi, another corps engineer.

New Orleans sits largely below sea level. The city is ringed by Lake Pontchartrain, the Mississippi River and the marshes of the Gulf of Mexico, so floodwater can't flow out on its own. A 350-mile system of levees and flood walls protects the city, but Katrina caused three major breaches and several smaller ones. The massive pumps that normally push rain and floodwaters out to the lake were overwhelmed.

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Engineers from the corps and the state and local agencies that help maintain the levee and drainage systems now face an unprecedented challenge. Because the floodwaters are filled with debris, it's hard to predict how efficiently the pumps will be able to empty the city. Also, the water is filled with sewage overflows, petrochemicals from ruptured fuel tanks and other toxic wastes. So no one knows how much damage Lake Pontchartrain will suffer when millions of gallons of that fetid water are pumped into the lake.

State and federal environmental teams are assessing contamination levels. They will monitor water quality in the lake as the city is drained, said Donna Myers, chief of national water quality assessment at the U.S. Geological Survey (USGS). Until the results are in, she added, it's tough to gauge the impact. “It's a large volume of water, and there are many contaminant sources,” Myers said, and “we're not sure how this all moves together. We don't know if there are very high (contamination) levels.”

Myers and Jeff Williams, another USGS scientist, noted that the lake already is polluted. Still, it is a critical estuary that supports important fisheries and wildlife habitat. “Clearly, there is cause for concern” about the impact of the floodwaters, Williams said. “How much of a negative impact … we are not in a position to say.”

Harold Zeliger, a chemical toxicology consultant in Saratoga, N.Y., predicted “a huge environmental impact” and offered a “best-guess estimate” that it would take the lake three to five years to recover.

The more immediate concern was draining the city. To that end, the federal Environmental Protection Agency and its state counterpart have issued the corps temporary permits to immediately pump floodwater into Pontchartrain. Environmental groups, such as the local Sierra Club branch, said they did not object.

Engineers punched holes in several levees in parts of the city where flood levels were higher than the water in drainage canals leading to Pontchartrain. That allowed water to flow out of those neighborhoods; some saw floodwaters drop by 5 feet, Baumy said. Now, engineers are closing those holes and sealing off other canals where damaged flood walls allowed the lake's waters to flow into the city.

Engineers also are evaluating pumping stations. One major station, where a breached flood wall on the 17th Street Canal allowed flooding, was shut down due to debris, Baumy said. That pump and others are expected to be on line later this week.

The intentional breaches bring “a more dramatic and appreciable lowering of the water,” said Don Basham, the corps' construction chief. Now that water levels inside and outside the levees have equalized, the rest of the flooding will have to be pumped out, he added, so the drawdown from now on will be “less dramatic.”

Flooding Recedes In New Orleans; U.S. Inquiry Is Set (NYT)

By Jere Longman And Sewell Chan

The New York Times, September 7, 2005

NEW ORLEANS, Sept. 6 - The floodwaters began to drain fitfully from this crippled city on Tuesday as a handful of pumps came back into operation. But with growing concerns about gas leaks, fires, toxic water and diseases spread by mosquitoes, Mayor C. Ray Nagin said he wanted to ratchet up pressure on the estimated 5,000 to 10,000 remaining citizens to leave.

Mr. Nagin said he was reissuing a mandatory evacuation order and urged stragglers to leave immediately, saying he did not want possible explosions and disease to increase a death toll that, Lt. David Benelli, president of the Police Association of New Orleans, said could reach 2,000 to 20,000.

In Washington, President Bush promised an investigation into what went wrong in the response to Hurricane Katrina and planned to dispatch Vice President Dick Cheney to the Gulf Coast to cut through any bureaucratic obstacles slowing the recovery. [Page A17.]

The Senate and the House also announced their own investigation into the government's response, with Senator Susan Collins of Maine, a leading Republican, calling the response "woefully inadequate."

"If our system did such a poor job when there was no enemy," said Ms. Collins, chairwoman of the Homeland Security Committee, "how would the federal, state and local governments have coped with a terrorist attack that provided no advance warning and that was intent on causing as much death and destruction as possible?"

The committee is preparing for public hearings next week on response to the storm.

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Officials said about 60 percent of New Orleans was still under water, but that was down from a peak of about 80 percent. Most of the gain came because the Army Corps of Engineers began opening gaps in the city's levees after the water level in surrounding bodies of water fell. The holes ensured that the levees - designed to keep water out of the below-sea-level city - would not hold it in.

Four of the approximately 40 pumping stations in the New Orleans area were running on Tuesday at least at partial capacity, officials said, but haltingly; a fifth giant one, at the 17th Street Canal, site of a major levee breach, started but had to be shut off again because the pumps sucked in debris.

Officials said it would take 24 days to pump the water from an eastern section of New Orleans and 80 days to clear the flooding from Chalmette, the nearby seat of St. Bernard Parish.

The receding waters were expected to reveal ever more bodies, to be identified by a team of forensic pathologists, medical examiners, coroners and morticians from local funeral homes.

"We are going to take one deceased victim at a time and count one at a time," said Robert Johannessen, a spokesman for Louisiana's Department of Health and Hospitals. Of the process of identifying the bodies, Mr. Johannessen said, "It could take days, it could take years, it could take lifetimes."

The official death toll in Louisiana stood at 83, but state officials said the counting had only begun. In Mississippi, Gov. Haley Barbour announced Tuesday evening that the state's "unofficial but credible estimate" of the death toll was at 196, but that it was still rising. Mr. Barbour said that more than a quarter of the deaths had been reported in inland counties, not along the coast.

Evacuees continued to come back into Jefferson Parish to check on their homes, overwhelming roads and bridges. Interstate 10, which connects Baton Rouge and New Orleans, was backed up for about five miles.

Louisiana officials offered a first glimpse at the environmental wreckage. The state secretary of environmental quality, Michael D. McDaniel, said that wildlife habitats along hundreds of miles of coastline had been destroyed and that the hurricane exacerbated the slow coastal erosion that had already made the coast more vulnerable to hurricanes.

Mr. McDaniel said that there was no alternative to pumping billions of gallons of brackish water back into Lake Pontchartrain, but that it was too early to determine the harmfulness of the toxins and pollutants that were being slowly sifted out of New Orleans.

"I know there's been a lot of discussion about 'toxic soup' and 'witch's brew,' " he said. "I've seen no data to date that backs up that kind of statement. We do know and would expect that there are a lot of bacteriological contaminants in the water."

In New Orleans, four major fires had broken out by Tuesday morning and gas leaks were numerous, Mayor Nagin said.

"I don't want make any statement that suggests I'm giving up on New Orleans," he said at a news conference. "But it's a very volatile situation in the city right now. There's lots of oil on the water and there's gas leaks where it's bubbling up, and there's fire on top of that. If those two unite, God bless us. I don't know what's going to happen."

Mr. Nagin said in an interview that a new evacuation order would eliminate exemptions that had allowed people to stay in hotels and hospitals. Essentially, the city will be closed to everyone but law enforcement, military, and public safety and health officials while it is drained of water and utilities are restored. The 82nd Airborne Division closed a Hyatt hotel to civilians on Tuesday afternoon.

The new evacuation order has been drafted and will be issued shortly, Mr. Nagin said, even though Louisiana state officials question his authority to issue such a command. "I don't care, I'm doing it," he said. "We have to get people out."

That meant people were once again bound to the city's convention center, where 25,000 people or more had huddled in desperate conditions for days. At St. Charles and Louisiana Avenues, about two dozen people were patted down by federal customs officials and placed on a bus for the convention center, where they were to be airlifted out of town.

Told that some people were waiting as long as three hours at the convention center before being flown out, Mr. Nagin said that was a considerable improvement over the five days that it took some people to be evacuated last week.

Lucas Russ, 65, a retired school district employee, said, "It's getting nasty and really smelly," as he prepared to board a bus with a bag of his belongings.

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Mr. Russ said that National Guard troops had told him he had to leave and that he would receive no more food and water. Guard officials denied that, and Mr. Nagin said that many evacuees were delirious, severely dehydrated, missing their medication and in need of immediate medical attention.

The mayor said that the National Guard had asked him whether handing out sustenance provisions would encourage people to stay, but that his response was, "Do not harm anyone, do not allow anyone to starve, do not allow anyone to go without water and always treat everyone with respect."

That left officials with the question of how to strongly encourage holdouts to leave. No one is being forced to leave yet, but officials said that could change.

"We may have to force people out to save their lives, if we get to that point," said P. Edwin Compass III, superintendent of police. "I'm using this as a tactic to scare people into leaving."

Brig. Gen. Michael P. Fleming, an Army National Guard commander said of a forced evacuation: "It's a tough decision. Between the mayor and governor, if they decide that's what's to be done, the New Orleans Police Department, the state police and National Guard would be part of it. We would help them implement it if we're called on to do so."

With assistance from 4,000 National Guard troops and another 4,000 troops from the 82nd Airborne, New Orleans was now secure and "locked down," with looting reduced to minimal levels, said Warren J. Riley, the deputy superintendent of the New Orleans police.

Mr. Nagin said, "I think we're turning the corner."

Still, parts of the city, like the Ninth Ward and New Orleans East, along with Chalmette in neighboring St. Bernard Parish, remain inundated, and it could take two months to get electricity fully restored to the hardest-hit areas, officials said. Police officers and firefighters have been inoculated against hepatitis, cholera, typhoid, tetanus and diphtheria.

The spine of St. Charles Avenue, with its broken canopy of oak trees and its streetcar tracks laced with downed power lines, provided a look at the successes and failures of New Orleans's recovery effort on Tuesday. Near St. Charles and Josephine Street, a fire consumed two city blocks, officials from the Oklahoma National Guard said.

At Lee Circle, Victor Mejia, 58, a janitor, stood in the shade and said he had no intention of leaving. "I live here," he said. "Where am I going to go?"

With attention turning to what had gone wrong, Mr. Nagin said he wanted an independent assessment of the missteps, saying he believed the matter was beyond the ability of politicians to solve. He blamed a lack of coordination, a rescue plan that was slow to be carried out and what he called a "two-step" danced by federal and state officials to determine who was in charge.

The mayor said he welcomed any effort to criticize his own handling of the crisis.

"My big question to anybody who's trying to shift the blame is, 'Where were you?' " Mr. Nagin said. "I was here. I know what happened. I walked among the people in the Superdome and in the convention center. I saw babies dying. I saw old people so tired, they said, 'Just let me lay down and die.' They can talk that, but bring it on. I'm ready for it."

No Photographing the Dead

NEW ORLEANS, Sept. 6 (Reuters) - The Federal Emergency Management Agency said on Tuesday that it did not want news photographers to take pictures of the dead as they were recovered in New Orleans.

FEMA rejected requests from journalists to accompany rescue boats.

An agency spokeswoman said that "the recovery of the victims is being treated with dignity and the utmost respect."

FEMA Director Faces His Own Storm Of Controversy (USAT)

By Jill Lawrence

USA Today, September 7, 2005

WASHINGTON — In his online résumé, Michael Brown touts his experience dealing with hurricanes and wildfires. He talks of being a state legislative committee director and an assistant city manager. He doesn't mention the decade he spent as chief rules enforcer for the Arabian Horse Association.

The horse job, which he left in 2000, is now fodder for critics who say Brown, head of the Federal Emergency Management Agency (FEMA), has botched the Katrina relief operation. Those critics include Republicans, Democrats and newspapers.

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President Bush appointed a FEMA director who had “absolutely no credentials” for the job, House Minority Leader Nancy Pelosi, D-Calif., said Tuesday.

“The more one learns about him,” Republican commentator William Kristol said on Fox News Sunday, “one is surprised that he's in that job in the first place.”

Sen. Orrin Hatch, R-Utah, however, said FEMA had a disaster plan in place, but Louisiana leaders did not implement it. “Brown is getting a bad rap,” he said.

More not-so-bad news for Brown: Only 29% in a new USA TODAY/CNN/Gallup Poll said that any top federal officials handling relief efforts should be fired.

Brown, 50, an Oklahoma native, was active in Republican politics and ran unsuccessfully for Congress in 1988. He practiced law in Oklahoma and Colorado before taking the job with the horse association.

He came to the Bush administration through Joe Allbaugh, a college friend of Brown's who was Bush's chief of staff when he was Texas governor and his campaign manager in 2000.

Allbaugh became FEMA director in 2001, when Bush took office, and hired Brown as general counsel. Brown was promoted to deputy director and by 2003 had the top job, after Allbaugh left for the private sector.

Brown says he has led the federal government's response to more than 160 disasters and emergencies. He assured the public last week that “the full force of the U.S. government” was being brought to bear in “an unprecedented response” to the disaster.

On national TV Thursday, Bush called him “Brownie” and said he was doing “a heck of a job.” Brown himself was all over TV, four networks on Friday morning alone.

But his appearances were contentious. He said people were “getting the help they need” and called New Orleans security “pretty darn good,” contradicting reports and video from the scene. He was forced to explain why, despite extensive TV coverage, he didn't know that thousands of people were stranded without food or water at the New Orleans Convention Center.

“Every official at the Federal Emergency Management Agency should be fired, Director Michael Brown especially,” the New Orleans Times-Picayune newspaper said Sunday in an “open letter” to Bush.

By then, Brown had vanished from sight, and his boss, Homeland Security Secretary Michael Chertoff, had become the face of the federal response. Homeland Security spokesman Russ Knocke said Brown briefs the media but otherwise is focused on his mission: “aiding those in need and getting about the reconstruction and rebuilding process.”

Bush and other leaders were non-committal Tuesday about Brown's future. Asked if he was going to fire anyone, Bush replied, “I'm going to find out over time what went right and what went wrong.”

Senate Majority Leader Bill Frist, R-Tenn., told NBC “it's too early to judge” whether Brown should go. Sen. Hillary Rodham Clinton, D-N.Y., said “there needs to be some accountability” for the federal failures, but “where it starts and who it should be, I will expect the administration to handle.”

Havidn Rodrguez, director of the Disaster Research Center at the University of Delaware, said FEMA lost autonomy, money, focus and direct access to the president when it was folded into the mammoth new Department of Homeland Security in 2003. “These are issues that go well beyond one person,” he said.

Clinton introduced a bill Tuesday that would separate FEMA from Homeland Security. It would also require FEMA directors to have emergency- management experience.

Michael DeWayne Brown: Facing Blame In A Disaster (NYT)

By Scott Shane

The New York Times, September 7, 2005

WASHINGTON, Sept. 6 - Speaking at a Florida university last year, Michael D. Brown, director of the Federal Emergency Management Agency, recalled his small-town Oklahoma upbringing and offered advice he said few graduation speakers would offer.

"Everything in life is not perfect," Mr. Brown said. "Expect to make those mistakes. Expect to fall down every now and then. And expect to occasionally fail at something."

Mr. Brown may be calling on those maxims himself today, in his second week as on-the-ground manager of the largest disaster response in American history. He has faced two simultaneous challenges - coordinating 14 federal agencies with state and local counterparts under grueling conditions, and fending off criticism from those who say that FEMA has failed and put the blame squarely on him.

By all accounts, it was not experience in managing disasters that brought Mr. Brown, 50, a lawyer from Oklahoma, to FEMA in 2001 as general counsel. It was his 30-year friendship with Joe M. Allbaugh, who managed President Bush's 2000 presidential campaign and became his first director of the emergency agency..

But when pressed yet again to give his qualifications at a news conference on Monday, Mr. Brown gave a practiced answer, running through his learning curve as general counsel, then deputy director and finally, since 2003, director of FEMA.

He has overseen the response to 164 presidentially declared disasters, he said, including California wildfires, a rash of tornadoes in the Midwest several years ago and the four Florida hurricanes last year. "So, yes," he said, "I've been through a few disasters in my life."

Mr. Brown's spokeswoman, Natalie Rule, added on Tuesday that he oversaw an agency with a lot of experience in disaster management. "What you need is what he is - a leader who can manage budget, personnel and policy."

Nonetheless, Mr. Brown has been a hands-on manager, trudging through each new scene of devastation dispensing aid and encouragement. Since Hurricane Katrina, he has been a constant presence on television, rattling off statistics on people rescued and meals delivered.

But he stunned several national television interviewers last week with the admission that he did not know about the 20,000 evacuees at the convention center in New Orleans until Thursday, 24 hours after it was featured in news reports.

Senator Mary L. Landrieu offered a devastating critique on Friday in Baton Rouge. "I have been telling him from the moment he arrived about the urgency of the situation," she said. "I just have to tell you that he had a difficult time understanding the enormity of the task before us."

Since then, the news for Mr. Brown has not gotten better. The Times-Picayune, Louisiana's largest newspaper, asked Mr. Bush in an open letter to clean house at FEMA, calling "especially" for the ouster of Mr. Brown. On Monday, Homeland Security Secretary Michael Chertoff placed the Coast Guard's chief of staff, Vice Admiral Thad W. Allen, in charge of the New Orleans relief effort, clearly a move to beef up management where the problems have been most severe. And on Tuesday, Senator Hillary Rodham Clinton, in calling for FEMA to be made a separate cabinet-level agency, said its director should have emergency management experience.

Mr. Brown's friends say they have cringed watching the criticism of a man they describe as compassionate and dedicated to difficult work.

Mary Ann Karns, who worked as city attorney in Edmond, Okla., in the 1970's when Mr. Brown was her assistant, said, "He was interested in politics not for glory and not for power, but because he wanted to make things better for people."

Michael DeWayne Brown was born on Nov. 11, 1954 in Guymon, Okla. He and his wife, Tamara, have two grown children, Jared and Amy. His friends say he is an admirer of Theodore Roosevelt, an avid hiker and fly fisherman, and a collector of antique maps of the West.

In addition to his brief experience as a city official, Mr. Brown has practiced law, worked for the Oklahoma State Senate and served as counsel to an insurance company. He lost a race for Congress in 1988. But the job he did for a decade before joining FEMA is curiously omitted from his online agency résumé.

From 1991 to 2001, as commissioner of the International Arabian Horse Association, Mr. Brown enforced the rules administered by judges at the association's 300 annual horse shows. His decisions provoked a number of lawsuits, including one from David Boggs, a trainer whom Mr. Brown accused of having cosmetic surgery performed on horses.

Mr. Brown's critics in the horse world say he was forced to resign in January 2001 because association officers were upset that he had accepted donations to a personal legal defense fund. But Andy Lester, a friend of Mr. Brown's and his lawyer, said that his departure was "negotiated" and that there was no wrongdoing.

An ethics review panel upheld the charges against Mr. Boggs and suspended him for five years.

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Mr. Lester said that Mr. Brown showed backbone in pursuing the charges despite the controversy that erupted in the horse industry.

"He did not fold under pressure," Mr. Lester said. By 2001, Mr. Brown was tired of the uproar and was ready to move on, said Tom Connelly, the president of the horse association at the time. He had often spoken of the possibility of a Washington job should Mr. Bush become president, Mr. Connelly recalled.

"What has surprised me is that he rose to the position he has now so quickly," Mr. Connelly said. "But when he started with the association, he didn't know horses. And he caught up in a hurry."

Right City, Wrong State (CNN)

CNN.com, September 7, 2005

(CNN) -- Add geography to the growing list of FEMA fumbles.

A South Carolina health official said his colleagues scrambled Tuesday when FEMA gave only a half-hour notice to prepare for the arrival of a plane carrying as many as 180 evacuees to Charleston.

But the plane, instead, landed in Charleston, West Virginia, 400 miles away.

It was not known whether arrangements have been made to care for the evacuees or transport them to the correct destination.

A call seeking comment from FEMA was not immediately returned.

"We called in all the available resources," said Dr. John Simkovich, director of public health for the South Carolina Department of Health and Environmental Control.

"They responded within 30 minutes, which is phenomenal, to meet the needs of the citizens coming in from Louisiana," he said.

Simkovich said that the agency had described some of the evacuees as needing "some minor treatment ... possibly some major treatment."

"Unfortunately, the plane did not come in," Simkovich said. "There was a mistake in the system, coming out through FEMA, that we did not receive the aircraft this afternoon. It went to Charleston, West Virginia."

A line of buses and ambulances idled behind him at Charleston International Airport as he described what happened.

"This is a 'no event' for today," Simkovich said.

Coast Guard's Chief Of Staff To Assist FEMA Head Brown (WP)

By Josh White

The Washington Post, September 7, 2005

With Michael D. Brown, the embattled public face of the Federal Emergency Management Agency, taking harsh criticism for the slow federal response to Hurricane Katrina, the secretary of homeland security this week assigned a top Coast Guard official to help bail him out.

Vice Adm. Thad W. Allen, the Coast Guard's chief of staff, was assigned on Monday to be Brown's deputy and to take over operational control of the search-and-rescue and recovery efforts along the Gulf Coast. The unprecedented task of coordinating the massive effort was handed off to a leader and expert who was described by colleagues as unflappable, engaging and intensely organized.

Allen is also familiar with the inner workings of the Department of Homeland Security, where the Coast Guard has landed alongside FEMA as one of the designated main protectors of the United States. Allen has been one of the primary shepherds of change at the Coast Guard since the Sept. 11, 2001, terrorist attacks and has been praised for his ability to reach out to other agencies to develop "big-picture" approaches to homeland defense.

Retired Adm. James M. Loy, former commandant of the Coast Guard and former deputy secretary of Homeland Security, said yesterday that Allen has the experience to help steer the federal response to the Katrina catastrophe in the right direction after early shortfalls. When Loy was the Coast Guard chief of staff from 1996 to 1998, Allen was his resource director, and Loy said he "always brings a new idea per minute to the table as far as how to grapple with difficult situations."

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DHS Secretary Michael Chertoff handpicked Allen to essentially lead the federal recovery efforts in New Orleans. As Brown's deputy, Allen will work with Army Lt. Gen. Russel L. Honore -- head of the military's Joint Task Force Katrina -- to oversee, manage and lead all military and civilian recovery efforts.

Loy also praised Allen's experience, which ranges from being a sailor in the early part of his career to leading the Coast Guard's transition into the Department of Homeland Security. Allen also led the Coast Guard's maritime response to the Sept. 11 attacks, mobilizing his Atlantic forces to shut down major seaports and to control U.S. waters.

Since then, Allen has been working on transforming the Coast Guard's dominant missions of drug interdiction and migrant issues to protecting the borders from terrorism.

"If I was confronted with a multi-stakeholder nightmare, Thad Allen is the guy I would want to have put in charge of coming up with the solution that would keep the stakeholders engaged, participating and focused on the chore at hand," said Loy, who is now a senior counselor at the Cohen Group in Washington.

The task in Louisiana and Mississippi is in some ways uniquely suited for the Coast Guard, which is routinely involved in search-and-rescue, recovery, waterway reconstitution and pollution cleanup efforts. The Coast Guard has rescued thousands of people stranded last week as a result of the hurricane and subsequent flooding.

Allen, 56, is a native of Tucson, and he graduated from the U.S. Coast Guard Academy in 1971. He later went on to earn a master's degree in Public Administration from George Washington University and a master of science degree from the Sloan School of Management at MIT.

After the Sept. 11 attacks, Allen provided the Coast Guard with an oral history of the day's events, discussing the decision to block the Potomac River and secure ports in New York and Boston. He spoke of the need to "keep cool" and "not get excited about everything," according to a transcript of the interview.

"I guess what I'm saying was I wasn't overcome by the magnitude of the event where it paralyzed or impacted my thinking," Allen said in the March 2002 interview. "I was treating it like I would a major catastrophe because we get involved in those over our career a lot. This was an order of magnitude that nobody could imagine. But nonetheless you get on task and you start working."

Adm. Thomas H. Collins, the Coast Guard's commandant, said yesterday that Allen will make a great deputy principal federal official, the official title of Brown's deputy.

"The Coast Guard is blessed with many talented personnel," Collins said in a statement. "Vice Admiral Allen is a tested leader and knows how to manage a crisis. We're glad we could send one of our best to help [Brown] manage the extraordinary challenges of this rescue and recovery effort."

Cmdr. Brendan McPherson, who was Allen's public affairs officer on 9/11 and is now at Coast Guard headquarters in Washington, said Allen is an extremely effective leader, especially in crisis situations.

"He has an amazing ability to quickly recognize a situation that needs leadership, that needs action, and then to develop a plan that can be quickly implemented," McPherson said, adding he was impressed with Allen during and after the terrorist attacks. "He quickly identified that, pulled in the resources that he needed, developed a plan, and then implemented a plan to secure the maritime borders."

Allen lives with his wife, Pamela, in Potomac, and they have three grown children and two grandchildren. The couple was away for the past week and returned to learn that Allen was going to be assigned to Louisiana. Their 30th wedding anniversary is in October, and Pamela Allen is not sure he will be home to celebrate.

"We've been sitting back wanting to help, and he was given the privilege of being able to help," said Pamela Allen, who is assistant dean for academic and career services at the George Mason University School of Management.

"He's been in the Coast Guard his entire life, and one of the things he does and does well is what the Coast Guard motto is, be always prepared. He takes every new event and gets down and starts working and sees it to its end."

FEMA Chief Sent Help Only When Storm Ended (AP)

By TED BRIDIS

The AP, September 6, 2005

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WASHINGTON - The top U.S. disaster official waited hours after Hurricane Katrina struck the Gulf Coast before he proposed to his boss sending at least 1,000 Homeland Security workers into the region to support rescuers, internal documents show.

Part of the mission, according to the documents obtained by The Associated Press, was to "convey a positive image" about the government's response for victims.

Acknowledging that such a move would take two days, Michael Brown, director of the Federal Emergency Management Agency, sought the approval from Homeland Security Secretary Michael Chertoff roughly five hours after Katrina made landfall on Aug. 29.

Before then, FEMA had positioned smaller rescue and communications teams across the Gulf Coast. But officials acknowledged the first department-wide appeal for help came only as the storm raged.

Brown's memo to Chertoff described Katrina as "this near catastrophic event" but otherwise lacked any urgent language. The memo politely ended, "Thank you for your consideration in helping us to meet our responsibilities."

The initial responses of the government and Brown came under escalating criticism as the breadth of destruction and death grew. President Bush and Congress on Tuesday pledged separate investigations into the federal response to Katrina. "Governments at all levels failed," said Sen. Susan Collins, R-Maine.

Homeland Security spokesman Russ Knocke said Brown had positioned front-line rescue teams and Coast Guard helicopters before the storm. Brown's memo on Aug. 29 aimed to assemble the necessary federal work force to support the rescues, establish communications, and coordinate with victims and community groups, Knocke said.

Instead of rescuing people or recovering bodies, these employees would focus on helping victims find the help they needed, he said.

"There will be plenty of time to assess what worked and what didn't work," Knocke said. "Clearly there will be time for blame to be assigned and to learn from some of the successful efforts."

Brown's memo told employees that among their duties, they would be expected to "convey a positive image of disaster operations to government officials, community organizations and the general public."

"FEMA response and recovery operations are a top priority of the department and as we know, one of yours," Brown wrote Chertoff. He proposed sending 1,000 Homeland Security Department employees within 48 hours and 2,000 within seven days.

Knocke said the 48-hour period indicated for the Homeland employees was to ensure they had adequate training. "They were training to help the lifesavers," Knocke said.

Employees required a supervisor's approval and at least 24 hours of disaster training in Maryland, Florida or Georgia. "You must be physically able to work in a disaster area without refrigeration for medications and have the ability to work in the outdoors all day," Brown wrote.

The same day Brown wrote Chertoff, Brown also urged local fire and rescue departments outside Louisiana, Alabama and Mississippi not to send trucks or emergency workers into disaster areas without an explicit request for help from state or local governments. Brown said it was vital to coordinate fire and rescue efforts.

Sen. Barbara Mikulski, D-Md., said Tuesday that Brown should resign.

After a senators-only briefing by Chertoff and other Cabinet members, Sen. Charles Schumer said lawmakers weren't getting their questions answered.

"What people up there want to know, Democrats and Republicans, is what is the challenge ahead, how are you handling that and what did you do wrong in the past," said Schumer, D-N.Y.

Meanwhile, the airline industry said the government's request for help evacuating storm victims didn't come until late Thursday afternoon. The president of the Air Transport Association, James May, said the Homeland Security Department called then to ask whether the group could participate in an airlift for refugees.

Witt Makes Presence Known In La. (HILL)

By Jonathan E. Kaplan

The Hill, September 7, 2005

It didn't take long for James Lee Witt, the former head of the Federal Emergency Management Agency (FEMA), to throw his weight around in hurricane-ravaged Louisiana.

Witt, who headed FEMA during the Clinton administration, has been hired by Louisiana Gov. Kathleen Blanco (D) to help coordinate state and federal responses to the natural disaster.

Blanco introduced Witt to President Bush on Monday, according to a source who has spoken with Witt. Bush promised Witt whatever support he needed and said that Mike Brown, FEMA's embattled director, is his man in charge.

Andrew Card, Bush's chief of staff, called Witt to give him his home phone number and reiterate Bush's support.

According to the source, Witt told Brown, "Mike, you're going to do your job, and I'm going to make you do your job. And I'm going to show you how to do your job."

Many lawmakers on both sides of the aisle are pleased that Witt, who contributed thousands of dollars to congressional Democrats last year, is involved in the disaster-relief effort.

Over the past several years, GOP lawmakers have sought Witt's counsel, including Reps. Bill Shuster (Pa.), Christopher Shays (Conn.) and Jerry Lewis (Calif.).

"James Lee Witt was an outstanding director of FEMA and is a good choice by the governor, regardless of the activities of FEMA," said former Rep. Bob Livingston (R-La.), who is now a top lobbyist.

Witt met with Shuster and Shays earlier this summer to discuss the fallout of removing FEMA's emergency-preparedness function from its mission.

As fires raged in his congressional district in 2003, Lewis — who had chaired the appropriations subcommittee that funds FEMA when Witt was FEMA's chief — became frustrated with the agency because it did not respond to the disaster as quickly as it should have, said Lewis spokesman Jim Specht.

"[Lewis's] biggest concern was that FEMA hadn't been able to come up with a plan" to prepare for a disaster, Specht added.

Lewis relied on Witt to help cajole FEMA's bureaucracy to plan for what could have become a federal disaster area. Lewis and Brown eventually toured the vicinity in a helicopter.

After a week of mixed signals and non-communication, state and federal officials began holding joint press conferences, set up a joint command structure, worked to restore cell-phone coverage to the area and prepared to restore electrical power in New Orleans by stationing an additional 1,000 firefighters in case there were fires when the power came on.

For the first 45 to 60 days, Witt is working on a pro-bono basis for the state of Louisiana. After that, a contract will be negotiated, said a spokeswoman for Witt.

The spokeswoman added, "Witt is going to be the Bush administration's knight in shining armor."

"FEMA has never been without criticism, but it was once much more nimble, as it needs to be, and now is apparently becoming a responsive afterthought," said former Rep. Ken Bentsen (D-Texas), who often dealt with FEMA when tropical storms and hurricanes flooded Houston and who credited Joe Albaugh, Bush's first FEMA director, for responding effectively to Tropical Storm Allison in 2001.

"Congress should look into this quickly and employ some management expertise to boot," Bentsen said.

Witt left the government in 2001 to start his own consulting and lobbying shop.

We Can't Afford Not To Plan For Catastrophes (USAT)

By James Lee Witt

USA Today, September 7, 2005

Hundreds of thousands of residents jammed the highways to get out of Hurricane Katrina's path, which included 145-mph wind gusts and storm surges of more than 20 feet. That was just the beginning.

Local, state and federal resources were mobilized as one of the most powerful hurricanes in history made landfall along the Gulf Coast regions of Louisiana, Mississippi and Alabama.

During my years as director of the Federal Emergency Management Agency (FEMA), I witnessed the incredible abilities and dedication of our nation's emergency response personnel, of which we have the best trained and best equipped possible.

Despite their skills, ability and technology, we must do more to be better prepared and protected in the case of such a catastrophe.

Our financial recovery mechanisms, which rely primarily on the private insurance market, federal assistance in the form of low-interest loans and a handful of state catastrophe funds, need to be retooled so that they are capable of meeting the immeasurable costs of a catastrophe.

Conservative estimates indicate that the costs of recovery from Hurricane Katrina will rival any natural catastrophe we've experienced in the USA. Initial predictions indicate that recovery costs could surpass the $30 billion cost of recovering from the attacks of Sept. 11, 2001.

A replay of any of our previous natural catastrophes would result in similarly astounding costs:

• A 1938 hurricane, the "Long Island Express," missed Manhattan by only a few miles and caused $308 million in damage. A replay of that storm today is projected to have a recovery cost of $24 billion in Suffolk County, alone.

• If the 1906 San Francisco earthquake happened in the same spot as it did a century ago, damages are estimated to exceed $400 billion.

From a financial standpoint, state and federal catastrophe funds provide a necessary backstop for families, businesses and communities in the case of extraordinary events. Florida has funds in place to deal with hurricanes; California has such funds for earthquakes. New York is considering a similar fund as well.

Policymakers in other disaster-prone states should follow their example. States can move faster than the federal government. And they should move now.

On the other hand, catastrophes are not a state-by-state problem. Hurricanes that hit North Carolina can wreak havoc on New England. Earthquakes in California can cause damage well into the Pacific Northwest.

A national solution is every bit as important as the steps being taken in the states. Steps to be taken include a national catastrophe fund that would shore up private insurers in instances when truly catastrophic events occur. Such a fund would be a financially responsible way to ensure the viability of the private market and its ability to provide coverage to families, businesses and communities.

James Lee Witt is the CEO and chairman of James Lee Witt Associates, a public safety and crisis management consulting firm. Witt served as the director of FEMA from 1993 to 2001. Witt has been hired by Louisiana to help advise the governor on hurricane recovery efforts.

FEMA Fails Its Core Mission (WT)

The Washington Times, September 7, 2005

Federal Emergency Management Agency (FEMA) head Michael Brown confirmed the dysfunctional performance of his organization throughout the first three or four days following Hurricane Katrina's assault on New Orleans. In an interview on CNN's "Paula Zahn Now," three-and-a-half days after Katrina made landfall, Mr. Brown insisted that the federal government in general and FEMA in particular had no idea until that very day that tens of thousands of New Orleans residents and tourists had assembled at the city's convention center.

"Sir, you aren't just telling me you just learned that the folks at the convention center didn't have food and water until today [Thursday], are you?" Mrs. Zahn asked incredulously. "You had no idea they were completely cut off?"

"Paula, the federal government did not even know about the convention center people until today," Mr. Brown said, ever so matter-of-factly. With that reply, he confirmed the enormous size of the disaster that was the federal response.

How the federal government should respond to emergencies and disasters is detailed in the National Response Plan, a 426-page report issued by the Department of Homeland Security. "The National Response Plan embodies our nation's commitment to the concept of one team, one goal," Tom Ridge, the secretary of Homeland Security at the time, declared on Jan. 6, 2005, when the response plan was revealed. "This achievement is a bold step forward in bringing unity in our response to disasters and terrorist threats and attacks." The plan was overwhelmed by events in its first major test with reality.

Guiding the nation's response to emergencies and disasters, the National Response Plan "establishes a comprehensive all-hazards approach to enhance the ability of the United States to manage domestic incidents," the Department of Homeland

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Security asserted. "The plan incorporates best practices and procedures from incident management disciplines," including emergency management, law enforcement and public health, "and integrates them into a unified structure. It forms the basis of how the federal government coordinates with state, local and tribal governments and the private sector during incidents." Contemplating a national catastrophe comparable to Katrina, a department fact sheet states that the response plan "ensures the seamless integration of the federal government when an incident exceeds local and state capabilities." Moreover, the plan "provided the means to swiftly deliver federal support in response to catastrophic incidents."

In the wake of the disastrous initial responses to the Katrina disaster, the self-congratulatory conclusion asserted in the preface of the response plan is particularly disturbing. "The end result is vastly improved coordination among federal, state, local and tribal organizations to help save lives and protect America's communities by increasing the speed, effectiveness and efficiency of incident management." By FEMA's own description of its mission, they failed.

It's Not A 'Blame Game' (NYT)

The New York Times, September 7, 2005

With the size and difficulty of the task of rescuing and rebuilding New Orleans and other Gulf Coast areas still unfolding, it seemed early to talk about investigating how this predicted cataclysm had been allowed to occur and why the government's response was so slow and inept. Until yesterday, that is, when President Bush blithely announced at a photo-op cabinet meeting that he, personally, was going to "find out what went right and what went wrong." We can't imagine a worse idea.

No administration could credibly investigate such an immense failure on its own watch. And we have learned through bitter experience - the Abu Ghraib nightmare is just one example - that when this administration begins an internal investigation, it means a whitewash in which no one important is held accountable and no real change occurs.

Mr. Bush signaled yesterday that we are in for more of the same when he sneered and said, "One of the things that people want us to do here is to play a blame game." This is not a game. It is critical to know what "things went wrong," as Mr. Bush put it. But we also need to know which officials failed - not to humiliate them, but to replace them with competent people.

It's obvious, for instance, that Michael Brown has met the expectations of those who warned that he would be a terrible director of the Federal Emergency Management Agency. This is no time to be engaging in a wholesale change of leadership, but in Mr. Brown's case there seems to be precious little leadership to lose. He should be replaced with someone who can do the huge job that remains to be done.

But the questions go way beyond Mr. Brown - starting with why federal officials ignored predictions of a disastrous flood in New Orleans - and the answers can come only from an independent commission. We agree with the Senate minority leader, Harry Reid, Senator Hillary Clinton and others who say that such a panel should follow the successful formula of the 9/11 commission: bipartisan leadership and members chosen by the White House and both parties in Congress on the basis of real expertise. It should have subpoena power and a staff expert enough to find answers and offer remedies.

Mrs. Clinton has also proposed pulling FEMA out of the Homeland Security Department and restoring its cabinet-level status. That is premature. The current setup makes sense, at least in theory. The nation should not have to support two different bureaucracies for dealing with sudden disasters.

Before throwing the system into chaos again, an investigation should determine whether the problem lies in the structure or in execution. Yesterday, The Wall Street Journal showed how the Bush administration had systematically stripped power and money from FEMA, which had been painfully rebuilt under President Bill Clinton but had long been a target of Republican "small government" ideologues. The Journal said state officials had been warning Washington - as recently as July 27 - that the homeland secretary, Michael Chertoff, was planning further disastrous cuts.

This page supported the creation of Mr. Chertoff's department. But it was poorly run by the first secretary, Tom Ridge, with his maddening color-wheel alerts.

It is clearly in need of a hard look and perhaps serious reorganization. Senators Susan Collins, Republican of Maine, and Joseph Lieberman, Democrat of Connecticut, have plans for hearings, which is fine. But they created the department in the first place and may have more of a stake in the outcome than a panel of impartial experts.

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The panel should also look at the shortcomings of local officials and governments. It was chilling, to put it mildly, to read Mayor Ray Nagin's comment in The Journal that New Orleans's hurricane plan was "get people to higher ground and have the feds and the state airlift supplies to them."

But disasters like this are not a city or a state issue. They concern the entire nation and demand a national response - certainly a better one than the White House comments that "tremendous progress" had been made in Louisiana. We're used to that dismissive formula when questions are raised about Iraq. Americans deserve better about a disaster of this magnitude in their own country.

Convoy To Chaos (WP)

The Washington Post, September 7, 2005

District officials deserve praise for their prompt response to the needs of displaced Gulf Coast residents. The rescue operation launched Friday demonstrated how communities can quickly mobilize to help each other at a time of crisis, even when the federal government falls down on the job. But the District's mission to the storm survivors encountered widespread confusion, made worse by governmental red tape and indecision. Surveying the federal response to Hurricane Katrina and observing that the Washington region itself could be subject to a disaster or terrorist attack, Montgomery County Executive Douglas M. Duncan (D) said yesterday on WTOP Radio's "Ask the Executive" program that area officials "need to know what we can count on and not count on from FEMA." That observation is aptly borne out by the District's experience in New Orleans and other flood-ravaged communities.

The District's convoy of 10 buses filled with food, diapers, water and 30 D.C. officials set out Friday, hoping to return this week with as many as 400 evacuees. Instead, the buses are expected to return today with the mission only partially accomplished. Tons of relief supplies were, in fact, delivered, but to the Alabama Red Cross. The caravan also picked up four people in New Orleans and dropped them off at a Red Cross staging area, according to WTOP Radio. But there were no crowds of evacuees waiting in New Orleans as had been promised. Nor did the caravan find evacuees waiting for transport in Baton Rouge, La., where it was dispatched by officials from the Federal Emergency Management Agency. Fuel was given to the Louisiana National Guard, but the buses are returning with only one or two hurricane evacuees. Meanwhile, nearly 300 evacuees were airlifted to Washington yesterday and are being housed in the D.C. Armory.

City leaders and emergency preparedness workers expected to find chaotic conditions near the damaged communities, with thousands of displaced storm victims on the move and shelter space dwindling on the battered Gulf Coast. But they also expected the federal relief effort to be better organized and at least up to managing the influx of assistance pouring in from around the country. That was not the case.

There is a lesson here for the Washington region. The federal-local law enforcement partnership that worked smoothly during the sniper attacks may not reemerge in a future natural disaster. As Mr. Duncan noted, FEMA is a changed agency, buried within a huge, slow-moving federal bureaucracy. If ever there were a time for local leaders to come together to review and coordinate their emergency and relief efforts, it's now. Otherwise, we may witness another descent into chaos -- only next time it will be closer to home.

Congress Should Share A Big Part Of The Blame For Katrina Response (RC)

By Norman Ornstein

Roll Call, September 7, 2005

In four days, we will mark the fourth anniversary of the tragedy of the Sept. 11, 2001, terrorist attacks. It's been four years — but in terms of our preparation for the aftermath of a devastating terrorist attack, it might just as well be one day after 9/11. [IMGCAP(1)]

This is not a time to mince words. The performance of the federal government in the Hurricane Katrina disaster — the policy wing of the federal government, not the dedicated employees — has been abysmal. Sen. David Vitter (R-La.) was right: The grade should be an F. But the failures of the past several days are a symptom of the bigger fiasco, one that should leave all of us furious — and nervous. And in that fiasco, Congress stands front and center in the line of miscreants.

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On 9/11, the inability of firefighters and police in New York to work their radios contributed to the loss of many lives. At the Pentagon, the inability of emergency workers from Montgomery and Prince George's counties in Maryland and Fairfax and Arlington counties in Virginia to communicate with each other made the response there much more difficult.

Now, four years have passed. A few metropolitan areas, on their own and without adequate federal assistance, have acted to make their own radio systems interoperable. The broader problems? They're the same, in essence, as they were before and during 9/11.

On 9/11, it became obvious that the resources and training available to the nation's first responders — fire, police, emergency medical technicians, public health clinics and so on — were woefully inadequate to deal with the new threats, not to mention larger natural disasters. No capability for dealing with chemical or biological threats, not enough gas masks (or appropriate ones), no training to deal with the collapse of large buildings. Four years later, regrettably, we can say the same thing. Instead of allocating the resources necessary to deal with these problems, we have in fact cut them in many areas.

On 9/11, a new set of broad threats emerged: the international network of terrorists out to kill as many of us as it could. The threat had existed beforehand, but suddenly it took on a new magnitude. The Hart-Rudman Commission, understanding this threat, had recommended prior to 9/11 the creation of a new Department of Homeland Security to bring together agencies and bureaus with other missions to incorporate the new missions of combating the terrorist threats and responding to a disaster that terrorists could bring — disasters of a different form and magnitude than a natural catastrophe, but with many similar characteristics.

Four years after 9/11, we have a DHS, and it's much larger than the Hart-Rudman Commission had envisioned. Its bureaucracy is still reeling from the task of integrating more than 20 separate entities into one — the largest reorganization in federal government history. When Katrina struck, DHS was not the centerpiece of federal response that its outside framers had foreseen, but rather a bloated bureaucracy that was unable for days to figure out what to do, and which produced a leaderless response that only compounded the tragedy.

The idea of creating such a department was a solid one; the magnitude and form of such a department was more debatable. But it was never debated. After vehemently resisting the idea of a department for almost nine months, the president turned around virtually overnight and embraced it, unveiling a plan much more sweeping than the original, and which had been hatched in secrecy by several key administration aides working in the situation room to ensure confidentiality. The normal debate and deliberative process that would have questioned the sweep of the reorganization plan and its breakneck pace was absent. Absent, too, was the notion of starting with a new Department of Border Security and moving in increments to something grander.

When the Department of Homeland Security bill came to Congress, it ended up facing one and only one serious area of controversy and deliberation: the question of sweeping civil service changes to eliminate many of the regular protections for the 70,000 DHS employees. That issue became a political tool — a major campaign point in the 2002 elections — even as the larger and important questions of what kind of department, and how to fulfill all the real and serious government functions, was ignored.

The result was, as we now see in embarrassing fashion, a downgrading of FEMA and confusion about its mission. After the creation of the department, at least these issues could have been raised through Congressional oversight. But the Senate never established a committee with full legislative responsibilities over these areas; the House, after much footdragging, created a select committee with no legislative jurisdiction.

So these issues received virtually no serious oversight. Even after the 9/11 Commission pushed Congress to reorganize itself, there was a wholly inadequate response — a bit of lip service paid to the House committee, which still sits under the thumb of such rival powers as Judiciary and Transportation, and a Senate committee with a new title and surface jurisdiction, but not the real cachet and authority that it needs. Much of the failure to implement the changes needed over the past four years can be laid at the feet of Congress and its leaders.

It is not as if we did not know what to do; other commissions and smart individuals with serious credentials have been out shouting about the problems and what to do about them. Read Steve Flynn's book, "America the Vulnerable," and ask yourself: What has been done to deal with threats to chemical and nuclear plants, railway stations with hazardous materials coming in every day and ports?

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This is a sham and a travesty. Congress has underfunded first responders; DHS has downplayed the response to an attack while focusing the lion's share of its resources on prevention; the administration has shown no urgency about these issues of homeland security.

Are local and state officials culpable for the aftermath of Katrina? Of course. But keep this in mind: On 9/11, the tragedies that struck New York and Virginia spilled over into Connecticut, New Jersey, Maryland and the District of Columbia. It was clear that leaving the response largely to state and local officials could not work in the same way that local responses might have decades earlier. FEMA worked under the Clinton administration's James Lee Witt. It worked, if less well, under Joe Allbaugh. It does not work now, and it may be neutered further under the new DHS reorganization plan unless great care is paid to its role in every kind of disaster.

Actions have consequences. Inactions have consequences, too — in this case unspeakably tragic ones. Those responsible, including the leaders of Congress, should be made accountable, and if they are decent, they will admit their failures and make new efforts to correct them. But if the past four years is any guide, I am not sanguine.

Norman Ornstein is a resident scholar at the American Enterprise Institute.

Mayor Slams Blanco For Stalling (WT)

By James G. Lakely

The Washington Times, September 7, 2005

Louisiana Gov. Kathleen Babineaux Blanco has been critical of the Bush administration's response to the disastrous aftermath of Hurricane Katrina, but, according to the mayor of New Orleans, her indecision when President Bush offered help delayed rescue efforts and cost lives.

New Orleans Mayor C. Ray Nagin told CNN's "American Morning" Monday that he met with Mr. Bush and Mrs. Blanco on Air Force One on Friday and implored the two to "get in sync."

"If you don't get in sync, more people are going to die," Mr. Nagin said.

Mr. Bush met privately first with Mrs. Blanco, then called Mr. Nagin in for a meeting.

"He called me in that office," Mr. Nagin said. "And he said, 'Mr. Mayor, I offered two options to the governor.' I was ready to move. The governor said she needed 24 hours to make a decision."

That decision was a request by Mr. Bush to allow the federal government to take over the evacuation of New Orleans, which had been marked by chaos for days. The Democratic governor, who has clashed behind the scenes with the Bush administration since the storm hit, refused.

White House spokesman Scott McClellan confirmed the Air Force One meeting with Mrs. Blanco and the governor's decision not to cede her authority over the Louisiana National Guard, but added that he didn't think "it helps any situation to get into all those internal discussions."

"This isn't a time when people are trying to look at who's to blame or try to shift responsibility," Mr. McClellan said. "This is a time when we're all trying to work together to get things done."

Mr. Bush, at the request of Mrs. Blanco, declared the entire state of Louisiana a disaster area 48 hours before the hurricane made landfall. He also asked Mrs. Blanco to order a mandatory evacuation of New Orleans on Aug. 27 -- two days before the hurricane hit -- but she did not make the order until Aug. 28.

Mr. Bush and federal officials have come under harsh criticism for what some see as a slow reaction to a humanitarian crisis that unfolded last week.

"Instead of unconscionably blaming others, President Bush must take charge and take responsibility, and must get it right, and that is my concern and the message that I will bring to the president," said House Minority Leader Nancy Pelosi, California Democrat. "Mr. President, you should have taken charge and you should have taken responsibility."

When the levees broke Aug. 30 and flooded New Orleans, the city descended into violence, looting and confusion. Hundreds of New Orleans police officers walked off the job, and some survivors housed in the Superdome and the city's convention center described rapes, robberies and killings in and around the facilities.

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Mrs. Blanco yesterday complained on ABC's "Good Morning America" that the federal government didn't act fast enough as the crisis grew.

"We didn't have enough resources," Mrs. Blanco said. "We were begging for resources, too. We needed helicopters because of all the water, we needed helicopters that could actually do this rescue mission, and we needed boats.

"We brought in everything we had, and we were begging for more, and nothing came as quickly as we needed it," she said.

Supporters of the president, however, say Mrs. Blanco and Mr. Nagin, who left New Orleans for the safety of Baton Rouge before the storm hit, also should share some blame.

"Kathleen Blanco and Ray Nagin weren't exactly Pataki and Guiliani," said a political adviser with close ties to the White House, referring to the New York governor and mayor praised for their response to the September 11 attacks. "They'll have their own problems when this crisis abates."

Sen. David Vitter, Louisiana Republican, said, "Hindsight is 20/20," but added that Mrs. Blanco was too slow in calling out the National Guard to keep order in New Orleans and save lives.

"We needed to make this a full-scale military operation starting with the National Guard immediately," Mr. Vitter said on ABC's "Good Morning America."

Paul Simpson, a political blogger who lives in the New Orleans suburb of Metairie, La., said he and other locals are puzzled by the governor's refusal to let the federal government temporarily command the state's National Guard.

"I thought it was as standard as sunshine in California that the governor would tell the president, 'You have the Guard.' I thought that was a given," Mr. Simpson said. "She absolutely has no clue."

Critics have long derided Mrs. Blanco for her tendency to call for studies and special commissions to find solutions for the state's biggest problems.

In 2003, the Shreveport Times, in endorsing her Republican opponent for governor, Bobby Jindal, called Mrs. Blanco "indecisive" and "unprepared" for the rigors of the job.

But defenders say that this merely reflects Mrs. Blanco's deliberative temperament. Shortly after Mrs. Blanco took office, Dan Juneau, president of the Louisiana Association of Business and Industry, defended her as a woman who "likes to accumulate as much information as possible before finalizing a major decision."

"She would rather be criticized for taking her time in finding the right approach than for shooting from the hip and moving in the wrong direction," Mr. Juneau wrote.

Congress Investigates 'woeful' Response To Katrina (FT)

By Edward Alden, Christopher Swann, Guy Dinmore And Joshua Chaffin

Financial Times, September 7, 2005

President George W. Bush and members of Congress on Tuesday promised full investigations into the slow government response to Hurricane Katrina, with Mr Bush suggesting that "bureaucratic obstacles" from state and local officials were partly to blame.

Following a meeting with his cabinet on Tuesday morning, Mr Bush said: "I intend to lead an investigation to find out what went right and what went wrong.

"It's very important for us to understand the relationship between the federal government, the state government and the local government when it comes to a major catastrophe." Mr Bush's statement came as leading members of Congress also said they would begin hearings on what they called the "woeful" effort to aid those trapped by the storm and the flooding in New Orleans.

Republican senator Susan Collins and Democrat Joe Lieberman, who head the Senate homeland security committee, said they would start immediately with closed-door sessions with officials from the Federal Emergency Management Agency, which led the response.

"The first obligation of government is to protect its citizens. In its initial response to the catastrophe of Hurricane Katrina, particularly in Louisiana, governments at all levels failed in this obligation," said Ms Collins.

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Dick Cheney, the powerful US vice-president, will travel to the region on Wednesday to assess the recovery effort. Mr Bush said Mr Cheney would "make sure that we remove any bureaucratic obstacles that may be preventing us from achieving our goals. In other words, bureaucracy's not going to stand in the way of getting the job done for people."

Much of the focus is likely to be on whether the state government sought federal help quickly enough, or put up obstacles preventing that help from being delivered.

Kathleen Blanco, the Democratic governor of Louisiana, insisted on CNN on Tuesday that "I asked for everything that we had available from the federal government...and the federal effort was just a little slow in coming. I can't understand why."

But at the same time she said that co-operation had improved dramatically in recent days. "We are parties in this effort. We are a team," she told a news conference in Baton Rouge, the state capital.

She called for a "Marshall-like plan" for reconstruction after the storm, saying the priorities for Louisiana's economic rebuilding should be tourism, energy, transportation, manufacturing and technology.

Harry Reid, the Senate Democratic leader, said that Mr Bush would seek an additional $40bn-$50bn for the relief effort, following the $10.5bn approved by Congress on Friday. Mr Reid suggested the costs for reconstruction could exceed $150bn.

In New Orleans' Jefferson parish, which has over 400,000 residents, a massive operation to restore utilities was launched. A few areas already have power.

Several of the levees breached in the storm were also repaired, and engineers began pumping water out of the flooded city. But General Myles Deering, of the joint task force assigned to Baton Rouge, was cautious about the progress. "This is going to be a long process," he said. "It's hard to celebrate the triumphs when they have such disaster."

Lawmakers Prepare Katrina Probe, Financial Aid (REU)

By Donna Smith

Reuters, September 7, 2005

WASHINGTON (Reuters) - The Republican senator leading a Senate investigation into the government's response to Hurricane Katrina said on Tuesday it was "woefully inadequate" and it had raised doubts about the U.S. ability to cope with a terrorist attack.

Sen. Susan Collins, a Maine Republican, spoke as lawmakers prepared to provide a second round of emergency money to cope with the devastation on the Gulf coast expected to total around $40 billion.

Collins said her Senate Homeland Security Committee would begin its investigation this week into the relief efforts.

"If our system did such a poor job when there was no enemy, how would the federal, state and local governments have coped with a terrorist attack that provided no advance warning and that was intent on causing as much death and destruction as possible?" she told reporters.

Collins and the panel's top Democrat, Joseph Lieberman of Connecticut, promised a bipartisan, wide-ranging review, which was requested by Senate Majority Leader Bill Frist.

The Federal Emergency Management Agency, part of the Homeland Security Department, has been a focus of much of the criticism, which has also targeted President George W. Bush.

"Katrina was a disaster that scientists, emergency management officials and political leaders had anticipated for years, yet the initial response was woefully inadequate," Collins said.

Lawmakers moved on several fronts to respond to Katrina's devastation. House Government Reform Committee Chairman Tom Davis, a Virginia Republican, said his committee would hold a hearing next week on the disaster response.

MORE EMERGENCY AID

In the House of Representatives, Republican leaders said they expected a fresh Bush administration request for emergency funds for FEMA. They declined to say how much the White House wanted on top of the $10.5 billion approved last week, but Senate aides said they expected it to be about $40 billion.

House and Senate leaders met with Bush on Tuesday to discuss relief efforts and House Speaker Dennis Hastert, an Illinois Republican, said the new aid package could be approved by the end of the week.

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Senate Democratic leader Harry Reid of Nevada said the cost of recovery and relief could exceed $150 billion. The estimate was "not unreasonable," but the numbers were not yet clear, said Jenny Manley, a spokeswoman for the Senate Appropriations Committee.

House Majority Leader Tom DeLay, a Texas Republican, said other legislation would be needed to help victims of Hurricane Katrina. He noted the storm hit at the end of the month just before Social Security and other government checks were mailed to beneficiaries who no longer have a place to live.

"We have to remove the red tape so they can get these checks and start to rebuild their lives," DeLay said.

Lawmakers were also taking a hard look at FEMA and whether it should stay in the Homeland Security Department created after the September 11, 2001, attacks.

Democratic Sens. Hillary Clinton of New York and Barbara Mikulski of Maryland said they were introducing legislation making FEMA a separate cabinet-level agency, which it was when it was created in 1979.

"We've given billions of dollars to the Department of Homeland Security," said Sen. Patrick Leahy, a Vermont Democrat. "I voted for those billions of dollars as a member of the Appropriations Committee. We have given as many tools as they've asked for. What in heaven's name was happening?"

(Additional reporting by Richard Cowan, Joanne Kenen and Vicki Allen)

Members Of Congress Return From Recess, Call For Probes (USAT)

By Andrea Stone

USA Today, September 7, 2005

WASHINGTON — Congress returned from a five-week recess Tuesday to an agenda swept clean by Hurricane Katrina, a disaster that has sent lawmakers scrambling to aid its victims and figure out why help came to them so late.

“It is difficult to understand the lack of preparedness and the ineffective initial response to a disaster that had been predicted for years, and for which specific, dire warnings had been given for days,” said Sen. Susan Collins, R-Maine, head of the Senate Governmental Affairs Committee.

Collins called for congressional hearings as early as next week.

Others called for a 9/11-style commission to investigate failures in responding to the disaster. “It's hard to untangle all of the causes,” said Sen. Hillary Rodham Clinton, D-N.Y., who will introduce a bill that would create such a commission. She said cutbacks in funding and personnel at the Federal Emergency Management Agency, as well as unclear lines of command that appear to have bogged down the response, “have to be thoroughly investigated.”

Clinton also introduced a bill to separate FEMA, which she and others say bungled the initial response to Katrina, from the Department of Homeland Security. FEMA was an independent agency before Congress put it under the new Cabinet department.

Some Republicans agreed. Sen. Trent Lott, R-Miss., who lost his home in Pascagoula, said it was “a mistake” to take away FEMA's independence. But he warned against finger-pointing while hundreds of thousands of people are homeless.

“Our response has not been perfect,” he said, but he urged colleagues, “Please, let's not try to affix blame now. There'll be time” later.

Senators and representatives began working to address the crisis. Members of the Senate Health, Education, Labor and Pensions Committee met with relief organizations in a “listening session” to determine the most critical needs of evacuees. Sen. Edward Kennedy, D-Mass., released a wish list of legislation that included waiving income and residency requirements for Medicaid, mental health outreach and providing $2,500 per child to school districts that take in displaced students.

House Majority Leader Tom DeLay, R-Texas, said he hopes to introduce legislation this week that would include reducing red tape on dispersing aid for those left jobless. Sen. Chuck Grassley, R-Iowa, wants to retool a federal resettlement program for displaced people from other countries to help Americans displaced by Katrina.

“We can try to help people get back to their lives and get started again much sooner,” Grassley said.

Sen. Orrin Hatch, R-Utah, and others called for cutting taxes to encourage investment in the affected areas.

That enraged some Democrats.

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"This is the height of fiscal irresponsibility," said Sen. Dick Durbin, D-Ill. "I can just see these poor, homeless people sitting in the Houston Astrodome saying, 'Thank God, I don't have to pay some death tax.' "

Fuming Congress Plans A Battery Of Hearings (DMN)

By Todd J. Gillman And Robert Dodge

The Dallas Morning News, September 7, 2005

WASHINGTON – Congress returned from a five-week recess Tuesday hopping mad and ready to start swearing in witnesses. One committee after another announced hearings on Hurricane Katrina, and lawmakers couldn't find enough ways to express their disgust for the planning and response to the disaster.

It's a frenzy President Bush hasn't faced from a Congress controlled for most of his tenure by allies. Through terrorism, war and the occasional scandal, they have protected his administration from the sort of pointed grilling lawmakers are planning over the coming days and weeks.

"There's clearly a mood for aggressive oversight on this issue because people are demanding it. It's a national catastrophe," said Sen. John McCain, R-Ariz. "I don't know if it affects the general mood of Congress on every issue, but certainly there's a strong desire ... to find out what went wrong and what went right."

House and Senate Republican leaders have rarely allowed embarrassing oversight hearings in recent years, routinely brushing aside Democratic demands on Iraq and weapons of mass destruction, and on allegations of prisoner abuse at Abu Ghraib and Guantánamo Bay. It took an outcry from victims' families to jump-start the Sept. 11 commission.

This time, GOP lawmakers have rushed to the microphones.

'On the defensive'

"If you were a president, you couldn't have asked for more than he's [historically] gotten from these [Republican leadership] guys," said Joel Aberbach, director of the Center for American Politics and Public Policy at the University of California Los Angeles and author of Keeping a Watchful Eye: The Politics of Congressional Oversight.

But the shortcomings involving Katrina have been too overt and terrible to ignore, he said, even for congressional stalwarts who have kept their troops disciplined for years.

"The Republican Party and the president in particular are tremendously on the defensive now because of how miserably the government has performed," Dr. Aberbach said.

Mr. Bush spent the day focused on disaster response. He met with volunteers, his Cabinet and congressional leaders of both parties. Congressional aides said he'll seek $40 billion more from Congress for the next phase of response and recovery. He announced that he will personally oversee an investigation into what went wrong and why, and will dispatch Vice President Cheney as his point man in Louisiana.

"Bureaucracy is not going to stand in the way of getting the job done for the people," Mr. Bush said.

But Mr. Bush is the head of the federal bureaucracy, and Democrats weren't about to let that go unnoticed. House Minority Leader Nancy Pelosi of California accused him of "unconscionably blaming others" rather than taking responsibility for his administration's failures.

Anger on the coast

Demands for congressional inquiries came most poignantly from those in the disaster zone.

"Bureaucracy has murdered people in the greater New Orleans area. And bureaucracy needs to stand trial before Congress today," Jefferson Parish president Aaron Broussard said on CBS' The Early Show. "So I'm asking Congress, please investigate this now. Take whatever idiot they have at the top of whatever agency and give me a better idiot. Give me a caring idiot. Give me a sensitive idiot. Just don't give me the same idiot."

At the Capitol, Republicans went out of their way to criticize state and local governments.

"Governments at all levels failed," said Senate homeland security committee chairwoman Susan Collins, R-Maine, announcing hearings into the disaster response. "It is difficult to understand the lack of preparedness and the ineffective initial response to a disaster that had been predicted for years and for which specific dire warnings had been given for days."

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Even Mr. Bush's staunchest defenders called hearings inevitable, though some such as Florida Sen. Mel Martinez, Mr. Bush's former housing secretary, said he'd prefer to hold off a while.

"I'm not going to be quick to be finger-pointing and looking for ways of making easy answers out of complicated problems," Mr. Martinez said. "And there's plenty of responsibility of local state and federal government that ought to be reviewed. But I don't think anybody wants to whitewash what might have gone wrong."

Democrats were harsher, demanding that President Bush fire the director of the Federal Emergency Management Agency, Michael Brown. And they shrugged off warnings against trying to score political points, issuing detailed suggestions for coping with the disaster.

Ms. Pelosi also asked Speaker Dennis Hastert to create a hurricane relief task force to investigate the failures of the initial response.

House Majority Leader Tom DeLay, R-Sugar Land, didn't immediately dismiss the idea. He called for a "comprehensive congressional review," a bipartisan inquiry with a more ambitious scope than committee-by-committee hearings.

"This work will require us to ask serious and difficult questions," he said. "It is Congress' responsibility to look into what happened before the disaster and after the disaster."

Meanwhile, the hearings are already under way. A Senate panel heard testimony Tuesday on the spike in gasoline prices. The House energy committee, chaired by Rep. Joe Barton, R-Ennis, plans a similar hearing today. Other panels will focus on disaster planning and response.

House committee chairmen met Tuesday night to brainstorm legislation their panels might offer in the next weeks and months to keep the economy humming, address energy prices, ensure the flow of Midwest farm products that depended on the Mississippi, rebuilding oil platforms and, of course, helping Katrina's victims and rebuilding New Orleans and other devastated areas.

Pressure also is mounting from states for congressional relief – those reeling directly from the storm and those facing the prospect of absorbing the hundreds of thousands of evacuees.

Sen. Kay Bailey Hutchison, R-Texas, said it's important for the federal government to reimburse Texas cities for their costs quickly.

"We are taking 250,000 people in now for a much longer term than anyone has ever had before," she said. "We're having to add to our school systems. We're going to have to add security. There are many costs for the states like Texas that are taking these people in need."

Sen. Trent Lott, R-Miss., said federal and state governments had made mistakes, but with the crisis ongoing, he was reluctant to be critical, even as his state seeks its share of hurricane aid.

"My mama don't raise no idiot. I ain't going to bite the hand that's trying to save me," he said.

Deconstructing Katrina (WP)

By Dana Milbank

The Washington Post, September 7, 2005

"Never did we dream that they would use our own airplanes as weapons."

-- President Bush, April 20, 2004.

"I don't think anyone anticipated the breach of the levees."

-- Bush, Sept. 1, 2005.

Sen. Susan Collins (R-Maine) wore a burgundy suit, dangling earrings and a demure smile when she appeared in the Senate television studio yesterday. But the questions she asked were sharp and unnerving.

"If our system did such a poor job when there was no enemy, how would the federal, state and local governments have coped with a terrorist attack that provided no advance warning and that was intent on causing as much death and destruction as possible?" the chairman of the Senate Homeland Security Committee wondered, announcing a probe into the response to Hurricane Katrina. "How is it possible that almost four years to the day after the attacks on our country, with billions of dollars spent to improve our preparedness, that a major area of our nation was so ill prepared to respond to a catastrophe?"

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As horrendous as the death and dislocation have been in and around New Orleans, the government's "woefully inadequate" response there, as Collins put it, has left Americans far from the disaster area to assume that, if a terrorist's nuclear bomb goes off on K Street or smallpox is released in Times Square, it will be every man for himself. Bush linked the two yesterday, telling reporters, "We want to make sure that we can respond properly if there's a WMD attack or another major storm."

But there was a disconnect yesterday at opposite ends of Pennsylvania Avenue. On the Hill, outraged lawmakers launched a bipartisan investigation and demanded to know what good had come from all that homeland security spending. At the White House, the president was still operating in the conditional. "If things went wrong, we'll correct them," he said. "And when things went right, we'll duplicate them."

Collins and Sen. Joseph I. Lieberman (Conn.), the ranking Democrat on the committee, had scheduled their announcement of an investigation for 11:15 yesterday morning. Bush preempted them, inviting reporters into the Cabinet Room at 11:08. "What I intend to do is to lead an investigation to find out what went right and what went wrong," the president said.

Bush was in no hurry to probe. "There will be ample time to assess," he said. Rearranging a presidential coaster on the Cabinet table, he said that to ask questions while the relief operation is underway would be "to play a blame game."

The mood was more urgent on the Hill, where a bipartisan group of lawmakers in the House was preparing legislation to separate FEMA from the Department of Homeland Security. In the Senate, the issue eclipsed the excitement over the sudden emergence of a second Supreme Court vacancy, with the death of Chief Justice William H. Rehnquist.

At an otherwise subdued briefing announcing the postponement of confirmation hearings for John G. Roberts Jr., Sen. Patrick J. Leahy (D-Vt.) erupted when asked about the hurricane response. "We've given billions of dollars to the Department of Homeland Security," he said, almost shouting. "What in heaven's name was happening?"

Collins, performing before a standing-room-only crowd, had an answer to Bush's objections. She said her committee's goal is not "to fix blame," and she promised "not to divert resources from the rescue and recovery."

But she said the questions could not wait; hearings are planned for next week. "We would be remiss," she said, "if we did not ask the hard questions needed to understand what went so wrong and what our country must do to improve our ability to respond to future crises, whether they are natural disasters or terrorist attacks."

Lieberman, too, spoke of a problem bigger than New Orleans. "Hurricane Katrina was in one sense the most significant test of the new national emergency preparedness and response system that was created after 9/11, and it obviously did not pass that test," he said. "We need to know why -- not just to fix what went wrong, but in my opinion, to rebuild the confidence of the American people."

The normally adept White House has had trouble settling on a message over the past week. Officials have condemned the "blame game" even as they point fingers at state and local authorities. They have made public assertions -- that nobody anticipated a levee breach and that Louisiana did not declare a state of emergency -- that turned out to be flat wrong. Now, Bush is in the position of promising to lead an investigation but saying it's still a question of "if things went wrong."

After a midday meeting with the president at the White House, even top GOP congressional leaders dropped the "if." House Speaker J. Dennis Hastert (Ill.) called for investigations "to make sure that this doesn't happen again." And Senate Majority Leader Bill Frist (Tenn.), promising to "investigate aggressively," floated the idea of an independent commission or bicameral committee. "If we don't have a strong disaster response," he said, things such as a bioterrorism attack "could result in not hundreds of deaths, but thousands of deaths and indeed millions of deaths."

Storm Rages In The Wake Of Katrina (HILL)

By Jonathan E. Kaplan , Patrick O'Connor And Roxana Tiron

The Hill, September 7, 2005

The House and Senate government-oversight committees will hold hearings into the widespread criticism of the federal response to Hurricane Katrina.

The hearings are just part of Republicans' response to the public-relations fallout over the administration's admitted mishandling of the devastation in the immediate aftermath of the hurricane.

President Bush also plans to hold a separate investigation.

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The decision to hold House hearings comes after Rep. Henry Waxman (Calif.), the top-ranking Democrat on the government-reform panel, and several other Democrats wrote a letter to Government Reform Committee Chairman Tom Davis (R-Va.) and Transportation and Infrastructure Committee Chairman Don Young (R-Alaska) calling for "thorough oversight to examine the preparation for and response to Hurricane Katrina."

The 17-page letter, dated Sept. 6, was signed by Waxman, as well as Democratic Reps. James Oberstar (Minn.) and Bennie Thompson (Miss.), a prominent member of the Congressional Black Caucus.

Even though several GOP leaders pleaded for increased civility, Congress plunged immediately into bitter partisanship as lawmakers returned to work yesterday, with the two parties arguing over blame for the death and destruction left in Hurricane Katrina's wake.

Echoing the White House, Republican lawmakers faulted Louisiana local and state officials for bungled relief efforts in New Orleans while House Democrats distributed talking points saying Bush's administration underfunded disaster relief programs and GOP lawmakers "voted against ensuring New Orleans safety through FEMA and Army Corps of Engineer funding."

Rep. Tom Feeney (R-Fla.) said, "Local and state officials were totally unprepared. Governor Blanco was all but AWOL. Only at President Bush's urging did she declare a state of emergency," he said.

In fact, Louisiana Gov. Kathleen Blanco (D) requested a declaration Aug. 26, two days before the hurricane struck her state.

The sniping did not stop after House Republican and Democratic leaders met with President Bush at the White House. At the stakeout, Senate Minority Leader Harry Reid (D-Nev.) could be heard muttering as House Majority Leader Tom DeLay (R-Texas) spoke to reporters and Minority Leader Nancy Pelosi (D-Calif.) told Bush directly that FEMA director Michael Brown should be fired.

DeLay counseled caution during the early stages of the oversight process and called for a bipartisan, bicameral review of how the government prepared for the storm and of the emergency response to the flooding.

DeLay said he was reluctant to have an independent commission review the federal government's response; Sen. Hillary Rodham Clinton (D-N.Y.) called earlier this week for just such a commission in the mold of the Sept. 11 commission.

"I have concerns about holding hearings," the majority leader told reporters, adding that he did not want to take local, state and federal officials away from the rebuilding effort. "My own impression is that whole system broke down."

DeLay said he opposed legislation aimed at separating the FEMA from the Department of Homeland Security (DHS), saying, "I think it's way too premature."

Speaker Dennis Hastert (R-Ill.) and DeLay have been discussing congressional oversight but were not ready to offer specifics. DeLay said Congress would try to reduce red tape so that federal agencies could extend Social Security, student-loan and unemployment benefits to people displaced by the hurricane.

He said the House would take action this week by:

• Providing relief for Pell Grant recipients who had to withdraw from school.

• Allowing FEMA to transfer money directly to private charities and faith-based groups.

• Suspending red tape requirements for distributing unemployment benefits.

• Letting states use surplus unemployment funds to provide relief.

Asked about Reid's proposal for a $150 billion bailout package, DeLay said it was too early to put a cost on the disaster.

The flurry of legislation will probably postpone budget reconciliation by a week or more, but the House is still committed to moving bills that would reform retirement security and border security as well as to finishing the annual appropriations process.

"We can do more than one thing in this Congress," DeLay said.

In the Senate, Majority Leader Bill Frist (R-Tenn.) directed the Homeland Security and Governmental Affairs Committee to investigate the widely criticized federal response to Hurricane Katrina and whether FEMA should be separated from DHS.

"I tend to think that FEMA should stay at DHS," said Sen. Susan Collins (R-Maine), the committee chairwoman.

She and Sen. Joe Lieberman (D-Conn.), the committee's ranking Democrat, who wrote the legislation creating the DHS, will get a closed-door briefing from FEMA today before considering whether to restore FEMA's status as an independent agency.

"We have to consider every question, including our own work" and the decision to put FEMA into DHS, Lieberman said at the press conference.

Collins did not call for Brown or DHS Secretary Michael Chertoff to resign but said her panel will take a careful look at all the roles played by federal officials.

Lieberman seemed to take a more aggressive stance, saying, "What Michael Brown and Michael Chertoff did is at the center of the investigation."

The Senate appropriated almost $2.9 billion for emergency preparedness and response in the 2006 DHS budget. Congress approved an emergency $10.5 billion aid package last week and now Democrats are calling for as much as another $50 billion.

Responding to the rising gas prices, House Energy and Commerce Chairman Joe Barton (R-Texas) will hold a press conference today on price gouging and energy issues related to Katrina.

Despite the apparent widespread agreement that the response to the storm and flooding was inadequate, most lawmakers, except Pelosi, stopped short of calling for Brown's resignation.

"It's too chaotic to suggest that," said Foley, who slammed FEMA for its response to the four hurricanes that swamped Florida last year and wants the agency to be pulled out of DHS. "I am for looking at the agency function before calling for heads to roll."

Parties Divided Over Katrina Response (RC)

By By Emily Pierce, Ben Pershing And Erin P. Billings

Roll Call, September 7, 2005

Proposals to help the victims of Hurricane Katrina ran the gamut in Congress on Tuesday, with Democrats pressing for action as early as this week on a long list of social welfare bills while Republican leaders cautioned that Congress may need more than a few days to devise legislative solutions.

In the meantime, Members braced for the second spending request for the Federal Emergency Management Agency in just five days. This time, Congressional aides estimated that the Bush administration would ask for as much as $40 billion because FEMA is using up the initial $10.5 billion Congress appropriated on Friday at a faster rate than it had expected. As of press time, it was unclear whether the White House would make the request last night or today.

Beyond emergency appropriations, Senate Minority Leader Harry Reid (D-Nev.) and other Democrats pressed to pass legislation by the end of this week that would extend federal social programs such as Medicaid, subsidized housing and unemployment insurance to newly homeless and jobless residents of Louisiana, Mississippi and Alabama. Reid also estimated that the "initial investment" for Katrina relief would be upwards of $150 billion.

But the Democrats' proposals and demands for "immediate" Congressional action were received somewhat skeptically by Republicans.

Senate Republican Policy Committee Chairman Jon Kyl (Ariz.) urged Members to "take a deep breath and think carefully." Kyl suggested creating a bipartisan task force that would develop a legislative package within 30 days.

Senate Majority Leader Bill Frist (R-Tenn.) said that he will be talking with his chairmen over the next two days "to pull together their ideas for the immediate response, the midterm response, and the long-term response" to the hurricane. But he was short on specifics, saying only, "There are a lot of human practical needs that have to be addressed right now, and the federal government has a major role as we look at health and social services and housing, when you look at food and look at shelter."

Frist spokeswoman Amy Call said that the Majority Leader and other Senate GOP leaders would "have a better sense of what the [legislative] package will look like" after Frist meets with Republican committee chairmen this morning.

Senate Health, Education, Labor and Pensions Chairman Mike Enzi (R-Wyo.) said his panel would hold a hearing Thursday on legislative solutions to the crisis caused by Katrina.

"One of the worst things you can do in politics is start announcing the decisions before you listen to the people," said Enzi, who, along with ranking member Edward Kennedy (D-Mass.), met with representatives from relief agencies Tuesday to find out what they can do legislatively. Enzi also asked for suggestions for what Congress can do to be submitted to the HELP Committee Web site.

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However, Kennedy, like many Democrats, offered a list of actions he believes Congress should take in the near future, including extending disaster unemployment insurance to more people, helping fund school districts that are accepting children from the storm-ravaged region, freezing student loan payments and interest for those affected by the disaster and providing mental in addition to physical health care for victims.

Sen. Trent Lott (R-Miss.), who represents a state severely affected by Katrina, appeared to take the middle ground, urging a combination of caution and haste.

"We need thoughtful things. We need innovative things, but we do need speed," said Lott, who noted that many of the things Democrats are pressing for have already been done by the agencies in charge of health care and unemployment insurance.

For example, Lott said waivers are already in place to help disaster victims secure access to Medicaid as well as for worker compensation if their jobs have been lost.

House Republicans are also taking a somewhat cautious approach to the Congressional response, hesitating to place a dollar figure on the damages. House Majority Leader Tom DeLay (R-Texas), for one, reacted negatively to Reid's suggestion that the reconstruction effort might cost $150 billion.

"I don't think anybody knows, and anybody trying to know is just playing political games," he said.

Still, DeLay called the Katrina effort "the House's No. 1 priority for the foreseeable future" and said he expected an initial Katrina package to be "ready for the floor later this week."

DeLay suggested Tuesday that the package would likely contain a number of small provisions designed to cut red tape and allow money to be shifted around to cover various shortfalls.

In the meantime, the Louisiana Congressional delegation has continued to craft a legislative package that could provide immediate relief to the displaced hurricane victims. Brian Richardson, spokesman for Sen. Mary Landrieu (D-La.), said the package would likely include Democratic proposals to make sure that Medicaid, housing and unemployment benefits are available to victims in the long term.

The package may also include provisions that enable displaced children to enroll in school without having to produce former school records as well as possible changes to a bankruptcy law passed earlier this year that would make it easier for disaster victims to erase their debts, Richardson said.

"It will be a huge bill, because this is a huge national tragedy," said Richardson.

Lott said he would work with Landrieu and her Republican colleague, Sen. David Vitter (La.), but he cautioned that the Louisiana delegation bill should not "duplicate or complicate efforts" currently under way.

In the meantime, Senate Finance Chairman Chuck Grassley (R-Iowa) said he was considering proposals to make Medicaid available to storm victims and is working on extending the duties of Office of Refugee Resettlements within the Health and Human Services Department to help not just displaced persons from other countries but also victims of Katrina.

With even Lott saying that relief efforts could cost as much as $100 billion, lawmakers from both parties appeared largely resigned to the fact that billions of dollars would be added to the federal deficit.

Even Senate Budget Chairman Judd Gregg (R-N.H.) acknowledged, "We're going to have to spend money to do whatever it takes to solve the problem. ... Yes, it will obviously increase the deficit significantly."

But Enzi noted that lawmakers need to carefully weigh the proposed solutions being offered, particularly the most costly ones.

"We want to do it as effectively as we can, but there are cost constraints," Enzi said of Congress' legislative contributions to the relief efforts. "We have to look at it realistically to see what kinds of things can be done."

House Democrats joined their Senate colleagues in calling for a multi-tiered response to the disaster. Minority Leader Nancy Pelosi (D-Calif.), along with other Democratic leaders, urged the government to provide immediate compensation and financial assistance to victims, to eliminate bureaucratic hurdles to those needing help and to make a long-term commitment of support to rebuild the Gulf Coast.

Pelosi did not estimate how much the recovery would cost, saying only that the $10.5 billion appropriated so far is "not enough." She also cautioned against "nickel-and-diming" the region, calling for additional funding for housing, food stamps, unemployment benefits and schools.

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Rep. Bennie Thompson (D-Miss.), ranking member on the Homeland Security Committee, said: "We take the position that the government has a responsibility to fix it, and to fix it, we've got to pay for it."

Federal assistance aside, the Democratic leadership also insisted that Republican leaders hold House hearings on the federal response, and the request was granted Tuesday.

Rep. Henry Waxman (Calif.), ranking member on the Government Reform Committee, joined other ranking members by writing a letter to his committee's chairman, Rep. Tom Davis (R-Va.) and Transportation Chairman Don Young (R-Alaska), outlining his reasons for the inquiry.

"We need to learn for the future what went wrong," Waxman said. "We need to know why it has happened the way it has."

Davis announced Tuesday that he would hold hearings next week.

Republican leaders have emphasized that they expect several different committees to probe the government's response to the disaster and to explore ways to improve future contingency plans.

"It's fair to say the overall response to this emergency could have and should have been better," DeLay said.

The Majority Leader dismissed the need for an investigative commission, similar to that which followed the Sept. 11, 2001, terrorist attacks, saying that the legislative branch is fully capable of examining the situation itself. Some Members have suggested an independent body look into the response.

"It's Congress' responsibility to look into what happened," he said, though he emphasized that committees should be "deliberate" in scheduling oversight hearings so as not to force too many key administration officials to leave their duties to testify on the Hill all at once.

DeLay said the damage wrought by Katrina could provide the impetus for passage of another energy bill that could include "items that Democrats forced us to take out of the [last] energy bill that, frankly, we ought to have kept."

House Democrats are also pushing for legislation to remove the Federal Emergency Management Agency from the Homeland Security Department. Rep. John Dingell (D-Mich.) advanced a bill Tuesday to make the agency fully independent.

As leaders from both parties contemplate their next move, the Congressional Black Caucus planned to meet last night to discuss the crisis and come up with its own plan for the coming days.

The CBC, which is concerned about the large number of blacks affected by Katrina, is trying to organize a group to visit the region, possibly as early as Friday. The members are also meeting this morning with Marty Evans, president of the Red Cross, for a briefing on the conditions and are working on ways to help the displaced.

"We're not going to sit back and wait," said one CBC staffer. "Somebody's got to step up."

Rep. Elijah Cummings (D-Md.), a vocal critic of the government's handling of the catastrophe, is calling on the White House to declare a national day of prayer for the victims. He is also working with his Congressional colleagues and the CBC to set up a relief fund for those affected by Katrina.

"We have got to do what we can do to help," he said.

Cummings said Congress and the Bush administration first have an obligation to go "door to door" to rescue victims, and then to help the displaced reconstruct their lives. He said every Member should be furious at the recent course of events, and must come together to help the recovery efforts.

New Exit Plan: Thanksgiving (RC)

By Ben Pershing

Roll Call, September 7, 2005

The aftermath of Hurricane Katrina has scrambled Congress' post-recess agenda and calendar, as leaders are frantically reordering their legislative priorities and pushing the anticipated adjournment date back weeks, and possibly more than a month.

Both the House and Senate were already resigned to missing their original departure target of Oct. 1. And with an enormous new set of challenges to tackle in the coming days, House Majority Leader Tom DeLay (R-Texas) said Tuesday: "It's obvious that we're going to be here until Thanksgiving."

The sentiment is similar on the Senate side, where the schedule is even more crowded following the death of Chief Justice William Rehnquist.

"Considering that we have another Supreme Court nominee to do, I think Thanksgiving is realistic [for adjournment], if not after," said a Senate GOP leadership aide.

In the House, Republican leaders spent much of Tuesday in meetings trying to determine how best to approach Katrina's aftermath. While sources said issues such as Social Security and immigration were not prominently discussed at those sessions, Members and aides are aware that the heavier workload and the new political environment created by Katrina could change how the House approaches the rest of its agenda.

"We are seriously involved in Katrina, and there has not been a lot of time to figure out where the rest of the agenda falls into place," said a House Republican leadership staffer.

Another leadership aide said that — as happens often — much of what the House decides to do will depend on what the Senate does, since that chamber's schedule is even more crowded than the House's.

"The House is very much capable of multitasking," said the second aide. "The bigger question is what the Senate is going to be able to swallow."

The first significant item that could be bumped by Katrina is the budget reconciliation process. Under this year's budget agreement, authorizing committees have until Sept. 16 to submit proposed spending cuts under their area of jurisdiction, and the House Ways and Means and Senate Finance Committees have until Sept. 23 to finish the overall reconciliation package.

DeLay said Tuesday that he expected those deadlines would be pushed back a week. The issue was set to be officially decided at a meeting between the Majority Leader and House committee chairmen Tuesday night.

On Social Security, meanwhile, the same uncertainties that plagued the issue in the House before the recess persist after Katrina.

While the Ways and Means Committee continues work on a broad retirement security package, GOP leaders have been unable to reach agreement on their tactical approach to the issue. Specifically, senior Republicans have not formed a consensus on whether they should push forward and pass a bill this year even if the Senate would be unlikely to follow suit.

Though Speaker Dennis Hastert (R-Ill.) and DeLay are in favor of moving a bill regardless of the Senate's plans, GOP sources said some lawmakers are wary of subjecting everyone to a tough vote on a measure that might never reach the president's desk.

In addition to Social Security and reconciliation, the House will also likely tackle a potentially divisive immigration bill or bills and the remaining appropriations conference reports.

Despite the heavy workload, GOP leaders remain confident they can still accomplish their pre-Katrina goals.

"We can do more than one thing [at a time] in the House," DeLay said.

Experts Warn Of Katrina Identity Theft (WP/AP)

By Jennifer C. Kerr, The Associated Press

The Washington Post, September 7, 2005

WASHINGTON -- Social Security cards, driver's licenses, credit cards and other personal documents are literally floating around New Orleans, raising the prospect some hurricane survivors could be victimized again _ this time by identity thieves.

Betsy Broder, the attorney who oversees the Federal Trade Commission's identity theft program, said the agency has not received any complaints yet. However, it's still early after the disaster and people have been focusing on more pressing needs, such as shelter, food and medicine.

"This is probably not the most immediate concern that people have, but at a certain point they need to stop and take stock of their financial health," Broder said Tuesday.

As survivors begin to rebuild their lives, she said, they can take steps to avoid becoming the victims of identity scammers.

Broder said survivors giving personal data to insurance adjustors or Federal Emergency Management Agency representatives should be certain they're dealing with legitimate individuals and "not crooks who are trying to trick them out of their information so they can commit identity theft."

Once victims are able to get access to phones, Internet and mail, they should check their credit card and bank statements to see if there's been any unusual activity.

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They can also obtain their credit report, for free, to make certain no one has accessed their accounts. Under federal law, consumers can request a free credit report each year from any of the three major credit bureaus _ Equifax Inc., Experian Information Solutions and TransUnion.

The FBI also warned people wanting to donate money for Katrina survivors to beware of scammers who solicit online donations to lure victims into giving up credit card numbers and other sensitive information.

"There are people out there who are willing to stoop so low as to scam people who are willing to open their hearts and wallets to people in need," said FBI spokesman Paul Bresson.

He said the bureau has identified about 2,000 Web sites related to the Katrina relief effort. Most are legitimate, Bresson said, but the FBI is investigating about a dozen for possible fraud.

The Better Business Bureau advised Americans who want to give to seek out familiar charities such as the American Red Cross and The Salvation Army.

"In a disaster like this, you must give to well-known organizations that have a track record for providing this type of relief," said Art Taylor, president of the BBB's Wise Giving Alliance. Besides concerns about phony groups, he said, "it's impossible for a newly established organization to get to these victims at this time."

People who think their personal information has been misused should contact the local police, the FTC's Broder said. They can also contact the FTC on the Web at http://www.consumer.gov/idtheft or by phone at 877-IDTHEFT.

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On the Net:

Federal Trade Commission: http://www.ftc.gov

Better Business Bureau: http://www.bbb.org

U.S. Officials Warn Against Hurricane Aid Scams (REU)

By Jon Hurdle

Reuters, September 7, 2005

PHILADELPHIA (Reuters) - U.S. government officials warned on Tuesday that scam artists will try to profit from the outpouring of donations to aid victims of Hurricane Katrina.

After last year's Asian tsunami that killed nearly 300,000 people, the FBI investigated more than 170 Web sites that were preying on donors by mimicking the sites of well-known charities, according to Patrick Meehan, U.S. district attorney for Eastern Pennsylvania.

While no evidence has emerged of criminals attempting to divert money destined for hurricane victims, Meehan said authorities were on high alert.

"If the lessons of September 11th and the Asian tsunami are learned, some cold-hearted evil scam artists will use this occasion to perpetrate fraud, lining their own pockets at the expense of hurricane victims," Meehan told a news conference.

Private donors should avoid giving personal data such as social security numbers, dates of birth and bank account information to any organization that says it is seeking disaster aid, and should make sure they are giving money to a legitimate organization, officials said.

Some scam artists seek funds by adopting names that are similar to those of well-known organizations, such as "Red Shield" instead of Red Cross. Others attempt to win the confidence of the donor by thanking them for past donations.

"Be skeptical if someone thanks you for a pledge you don't remember making," said Oriey Glenn of the U.S. Postal Inspection Service, which is on the lookout for such scams.

Officials said the public should give directly to well-known organizations such as the Red Cross, rather than to an intermediary that might claim a "processing fee" to forward the donation. They also warned against organizations seeking a fee to help locate a family member caught up in the disaster.

The Red Cross said it had so far received $409.2 million in pledges from individuals, corporations and foundations.

Meehan urged people to avoid giving to Web sites whose addresses end in ".com" since most nonprofit organizations use ."org," and beware of emails soliciting donations, since legitimate charitable groups typically avoid that approach.

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Donors seeking to confirm the legitimacy of a charity were urged to check the Web sites of the American Institute of Philanthropy and Charity Navigator, an organization that evaluates charities.

Four Held In Scam Soliciting Money (WT)

By Gary Emerling

The Washington Times, September 7, 2005

Fairfax County police arrested four persons on Sunday for operating a roadside scam claiming to collect money for victims of Hurricane Katrina.

Police said Joseph J. Murphy Jr., 23, of Warrenton, Va., and Isaac M. Beavers, 22, Marie S. Golden, 22, and Nicholas P. Flint, 19, all of Manassas, Va., told motorists in the 12100 block of Sunset Hills Road in Reston they represented charities helping hurricane victims and asked for cash donations.

"They were at the intersection, going up to the cars and people walking by," said Fairfax police spokesman Officer Edward Orellana. "They were able to collect some money."

Officer Orellana said the suspects did not represent any specific charities. Police would not disclose the amount of money they collected.

The suspects were charged with misdemeanor solicitation violations and released on a summons to appear in court.

Police in Arlington, Montgomery and Prince George's counties said they have not received reports yet of any relief-related scams. But area officials are still urging people to be cautious in their rush to help.

"Bottom-feeding con artists always try to find ways to exploit tragic headlines to cash in on unsuspecting investors," Maryland Attorney General J. Joseph Curran Jr. said.

In February, scam artists dressed as Red Cross volunteers bilked money from motorists in Prince George's County under the guise of raising funds to help survivors of the deadly tsunami in Southeast Asia.

Similar schemes were spread via the Internet following the tsunami, as fake fundraising messages claiming to be from relief organizations or tsunami survivors themselves were e-mailed around the world.

Financial scammers already are hitting investors with post-Katrina stock scams tied to speculation about spiking energy prices. One spam e-mail making the rounds on the Internet refers to "a spate of refinery glitches and an unusually active hurricane season" and says investors could more than double their money in just days on certain penny stocks, the Securities and Exchange Commission said.

Mr. Curran said people also could be targeted for oil and gas investment scams because of current oil prices.

After the terrorist attacks of September 11, 2001, the SEC accused Texon Energy Corp. of soliciting elderly people to invest in an oil and gas Ponzi scheme by telling them Texon would profit from rising energy prices.

A 2002 court judgment ordered Texon to repay $1.2 million after a settlement agreement with the SEC.

Mr. Curran said investors should simply hang up on aggressive cold callers and ignore unsolicited e-mail.

"Whenever something is too good to be true, it really is," he said. "Sadly, there are people who fall for it."

Government Works To Arrange Places For The Displaced (USAT)

By Mimi Hall

USA Today, September 7, 2005

The federal government is pushing ahead with plans to offer makeshift housing — in cruise ships, abandoned military houses and recreational vehicles — to tens of thousands of Gulf Coast evacuees.

Housing and Urban Development (HUD) Secretary Alphonso Jackson said Tuesday that the government is cobbling together enough housing to take care of the hundreds of thousands of people who were displaced by Hurricane Katrina and have nowhere to go as they rebuild their lives.

The effort is the latest by the government, criticized for its lack of speedy response to the Katrina crisis, to address the basic needs of hurricane-battered residents.

HUD and the Federal Emergency Management Agency (FEMA) initially looked for temporary housing within a 500-mile range of the devastation along the Gulf Coast.

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The search was expanded nationwide.

FEMA spokesman James McIntyre said the agency has ordered 70,000 small recreational vehicles, each of which can sleep five. In areas without flooding, the trailers can be parked on people's property.

In Alabama, where 2,600 trailers have arrived, people can begin moving into them today.

For those who can't go home, FEMA will use city-owned parks or commercial land to build small temporary cities.

In some cases, FEMA may set up temporary stores for the residents. Starting Friday, McIntyre said, FEMA expects 500 trailers a day to begin arriving outside New Orleans.

The agencies also are offering space on cruise ships — 8,000 beds are available on three ships in Galveston, Texas, and Mobile, Ala. — and in apartment complexes, on military bases and elsewhere.

"We will work until we get every displaced citizen into some type of housing," McIntyre said.

But there have been glitches along the way. The cruise ship space was offered Monday to evacuees 65 and over. By Tuesday morning, emergency workers were finding that many evacuees in shelters didn't want to move again.

Even with the prospect of a private room and bath, people were too traumatized to move once again and be isolated on a ship, McIntyre said.

Jackson said government relief workers were bringing in ministers and local leaders to talk with evacuees and convince them that they won't be able to return to their homes or neighborhoods any time soon and that they shouldn't stay in warehouse-style shelters such as the Houston Astrodome for long.

"It is very difficult to convince many people in the shelter that they're not going to be returning home very quickly," he said. "We have to be sensitive."

Among other government efforts underway:

•The Department of Veterans Affairs will make some of the 5,000 properties it owns nationwide available, spokesman Scott Hogenson said. About 2,000 of the homes — property seized from veterans who defaulted on loans — are in nine states in or around the disaster area, he said.

•The Agriculture Department said states could offer $50 food benefit cards to evacuees before processing their applications for food stamps.

•The Social Security Administration sent workers to the Astrodome and other shelters to help cut checks and let people know how they can get their checked cashed.

Spokesman Mark Hinkle said the agency is working with the U.S. Postal Service to mail checks to shelters and other temporary homes.

"We can issue emergency funds anywhere," Hinkle said. "We can send your check wherever you want us to."

•HUD granted a 90-day moratorium on foreclosures of Federal Housing Administration-insured homes.

At the White House, President Bush said he intends to "make sure those poor folks … get the help they need."

Miscommunication has continued to plague the relief operation in and around New Orleans.

One example: a 10-bus caravan full of supplies from Washington arrived outside New Orleans over the weekend with plans to take 400 evacuees back to a shelter in the capital. By the time the buses arrived, the evacuees scheduled to be moved to Washington had been flown out, and there was no need for more supplies in New Orleans. The convoy headed for Alabama but got only one taker there. Tuesday, the 10 buses were headed back to Washington with one evacuee on board.

Residents Will Be Forced To Leave (WT/AP)

By Cain Burdeau, Associated Press

The Washington Times, September 7, 2005

NEW ORLEANS -- Engineers struggled yesterday with the weeks-long task of draining this flooded saucer of a city, while the mayor last night issued an order authorizing the forced removal of people refusing to leave a city that was rapidly becoming a health risk.

Mayor C. Ray Nagin told all public safety officers "to compel the evacuation of all persons ... regardless of whether such persons are on private property or do not desire to leave."

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Meanwhile, authorities braced for the horrors that would be revealed by the slow drainage of waters from Hurricane Katrina, a herculean task that was being measured by inches yesterday.

The pumping began after the Army Corps of Engineers used hundreds of sandbags and rocks over the Labor Day weekend to close a 200-foot gap in the 17th Street Canal levee that burst in the aftermath of the storm and swamped 80 percent of this below-sea-level city.

After an aerial tour yesterday, Mr. Nagin said the water was dropping ever so slightly, and he estimated that it covered only 60 percent of the city.

"Even in areas where the water was as high as the rooftops, I started to see parts of the buildings," he said, adding, "I'm starting to see rays of light."

In Washington, congressional officials said President Bush intends to seek as much as $40 billion to cover the next phase of relief and recovery as leading lawmakers and the White House pledged to investigate an initial federal response that was widely condemned as woefully inadequate.

As Congress convened after a five-week vacation, House Majority Leader Tom DeLay, Texas Republican, said Katrina aid will be the "number one priority for the foreseeable future," a priority that Senate Minority Leader Harry Reid, Nevada Democrat, said might cost the federal government more than $150 billion.

In New Orleans, the pumping got off to a woefully slow start.

Once all of the city's pumping stations are running, they can move water at a rate of 29 billion gallons a day and lower the water level a half-inch per hour -- or about a foot per day. But by late yesterday afternoon, Corps officials said only three of New Orleans' normal contingent of 148 drainage pumps were operating.

The Army Corps of Engineers said the timetable ranges from three weeks to nearly three months, depending on a string of variables, including rainfall, the still-unknown condition of the abandoned pumps and whether the system can withstand the flotsam of broken buildings, trees, and trash -- and corpses.

"We have to get the water out of the city or the nightmare will continue," said Louisiana Environmental Secretary Mike McDaniel.

Mr. Nagin also warned of what could be revealed when the waters recede.

"It's going to be awful, and it's going to wake the nation up again," said the mayor, who a day earlier increased his estimate of the death toll in his city to as much as 10,000.

With the water dropping, military and police turned their attention to evacuating the streets of the estimated 10,000 people still thought to be in the city. Some have been holed up in their homes for more than a week and refuse to leave.

"You've got to protect your property, that's the main thing," said 69-year-old John Ebanks, who waved off would-be rescuers from a porch stocked with food, mosquito spray and other supplies. "This is all I've got. I'm [too] old to start over."

New Orleans Police Superintendent Eddie Compass told CNN: "These citizens will have to be removed for their own good."

The mayor's forced removal order did not apply to people in Algiers on the west side of Orleans Parish, CNN reported.

In a plea to holdouts who might be listening to portable radios in the powerless city, Mr. Nagin warned that the fetid water could carry disease and that natural gas was leaking all over town.

"This is not a safe environment," Mr. Nagin said. "I understand the spirit that's basically: 'I don't want to abandon my city.' It's OK. Leave for a little while. Let us get you to a better place. Let us clean the city up."

To that end, the Pentagon began sending 5,000 paratroopers from the Army's storied 82nd Airborne Division to use small boats, including inflatable Zodiac craft, to launch a new search-and-rescue effort in flooded sections of the city.

But the water from Katrina has been standing for more than a week and is contaminated with E. coli bacteria, a highly placed official in the New Orleans mayor's office told CNN yesterday.

"It's absolutely unhealthy to be anywhere near the water," said the official, who declined to be identified.

Public-health officials in Washington yesterday announced the first deaths suspected to be related to tainted floodwaters, although they were not apparently related to E. coli, a bacteria that can cause fatal diarrhea in children and the elderly.

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Tom Skinner, spokesman for the Centers for Disease Control and Prevention, said four persons -- one a hurricane refugee evacuated to Texas, the other three in Mississippi -- might have died of a waterborne bacterial infection circulating in Hurricane Katrina's floodwaters.

The deaths appear to have been caused by Vibrio vulnificus, a germ common in warm Gulf Coast waters that's usually spread by eating contaminated food but can also penetrate open wounds, the suspected mode of transmission in these cases.

And in Houston's Astrodome, health officials took steps yesterday against a diarrhea-causing virus made infamous by recent cruise-ship outbreaks.

Officials handed out alcohol-based hand sanitizers to stem the spread of norovirus, an easily spread cause of diarrhea and vomiting. Officials isolated some refugees with the illness, although they couldn't provide an exact count. No treatment exists except to keep sufferers hydrated.

No large outbreaks are attributed to the hurricane, but infection control within shelters housing thousands of evacuees is a top priority, said Dr. Julie Gerberding, CDC's director.

A plan to move thousands of Hurricane Katrina evacuees from the Astrodome to cruise ships was put on hold yesterday after many objected, some because they were terrified by the thought of living on the water.

"I can't live over water. I can't swim," said Donna Smith, 24. "I wouldn't want to see no more water. I saw enough already."

Some National Guardsmen and helicopters were diverted from their search missions yesterday to fight fires, an emerging threat in a city that is still at least a day and a half away from restoring the first running water since the storm.

A candle was blamed for starting one major blaze in the lower Garden District -- a historic neighborhood of mostly wooden homes. The flames started in an abandoned brick building and spread to a neighboring apartment house. The blazes burned for hours before Chinook helicopters with water pouches were brought in to fight the blaze.

Superintendent Compass said lawlessness in the city "has subsided tremendously," and officers warned that those caught looting in an area where the governor has declared an emergency can get up to 15 years in prison.

The signs of hope came against increasingly angry rhetoric over the federal response as too little too late. In Washington, congressional leaders planned hearings into the aftermath of the storm.

"We need to rebuild the confidence of the American people ... in our government's ability to protect them from attack, whether it comes from nature or from terrorists," said Sen. Joe Lieberman, Connecticut Democrat.

Jefferson Parish President Aaron Broussard was even more blunt.

"Bureaucracy has murdered people in the greater New Orleans area," he said on CBS' "Early Show." "Take whatever idiot they have at the top of whatever agency and give me a better idiot. Give me a caring idiot. Give me a sensitive idiot. Just don't give me the same idiot."

Together In Houston: 'We're Going To Survive As A Family' (WP)

By Krissah Williams

The Washington Post, September 7, 2005

HOUSTON -- At first, it was almost like a family vacation. The boys brought their Microsoft Xbox and all the games with them to the hotel in Houston. The night the hurricane hit New Orleans, Blaire Garnett and her cousins went to a nightclub and partied hard.

Then the floodwaters began to rise, and by Tuesday, Garnett's family members were riveted to the televisions in their hotel rooms, watching their home town drown. At the nearby Astrodome, they found a cousin who had escaped the Louisiana Superdome. He joined them at the hotel, 35 members of the same clan crammed into four cramped rooms.

Later, a relative got through on a cell phone to tell them that Garnett's aunt, who was mentally disabled, had died on the Interstate 10 bridge in New Orleans, awaiting help. The mood turned to disbelief.

So much is gone, but one thing is intact: the family's will to stand together. They have gone hunting for jobs as a group and have rented six apartments in the same complex to house them all. If their life in New Orleans is gone, they will remake it in Houston.

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"We came here as a family, and we're going to survive as a family," said Blaire's cousin Gregory Garnett, 20, an electrical engineering student at the University of New Orleans.

The Garnett family wasn't rich before the storm, but they were comfortable. Blaire Garnett, 21, lived with her mom, stepdad and sister in a three-bedroom house in a quiet neighborhood of rental homes in Metairie, a suburb of New Orleans on the south shore of Lake Pontchartrain. Blaire, a third-year business administration student at the University of New Orleans, says she wants to be a lawyer.

To help pay the bills, Blaire worked in a factory that made conveyor belts. She liked the job because it paid well -- $12 an hour plus health benefits -- and because her mom, Lucille Garnett Wiggins; her sister, Crystal; and two of her cousins worked there.

"We all liked our jobs. It was a good company," she said. "They send conveyor belts around the world."

Blaire's stepdad, Chad Wiggins, worked in a plant mixing chemicals for $8 an hour. It was Wiggins who alerted the family that they might want to leave town to ride out the hurricane. When he went to cash his paycheck Friday night, he saw a long line of people who warned that the hurricane might be severe. The next morning, they headed to Houston because it looked to be outside the storm path.

The family had fled hurricanes before and thought they knew the drill. Blaire said her mom told them: "Throw some jeans and T-shirts in a bag. We'll be home by Tuesday."

That sense of optimism vanished after the family spent those first few days watching the suffering of the displaced people on television.

"These are not refugees; this is our country," Blaire said emotionally as she and her cousins discussed the evacuation in disbelief last week. They said they felt the federal government's response would have come more quickly for white people. "This is happening right here in our country, " Crystal said.

It became clear the family could not quickly return to New Orleans. They heard reports that the neighborhoods where their home, companies and schools were had all been flooded. Many people helped them. One company gave all the evacuees in the hotel T-shirts, brought the children Barbie dolls and puzzles and twice prepared barbecue dinners for them. One night, a customer at Church's Chicken paid for the family's chicken when he realized they were from New Orleans. And the Texas Health and Human Services Commission provided the family with food stamps.

But the family realized that was not enough. Blaire tried to call the conveyor belt factory last week to see if workers would be paid but got busy signals. The family concluded they could no longer afford $200 a night for four hotel rooms and needed to move to apartments. But many places refused to rent to tenants without jobs.

On Thursday, Blaire and five of her cousins went to the Texas Workforce Commission, where a woman helped them type resumes and sent them to Randstad, a temporary-staffing company. Randstad found six $7-an-hour positions at Drake Pack, a packing and assembly company that needed workers for a few days to pack canvas tool belts in boxes.

For the past five days, Blaire and her cousins have worked in the hot Drake Pack warehouse, slicing open boxes, removing tool belts, putting barcodes and tags on them, repacking the belts and sealing them shut. Yesterday was their last day at the packing company, but a Randstad official said he plans to make sure the family members continue to get work.

Other family members went apartment hunting. At each complex, they repeated their story: They were a family of 35 who had fled the storm and wanted to stay together.

They asked if owners had any deals for people from New Orleans. One did -- $99 down payment per apartment, with the first month's rent free. After the first month, rent would be $540. The owner waived the standard credit checks and job requirement.

The apartment he was offering was brick with green grass and blue awnings. It looked safe. They signed leases for six apartments. The family plans to leave the Sheraton today and move into the first two apartments. The other four apartments will be ready later in the week. The children will enroll in the public schools nearby.

Blaire is relieved that the family will have an address. But she thinks wistfully of what she left behind, little things, such as her collection of Will Smith paraphernalia, including a candle with Smith's photo printed on it and T -shirts that had her photo and his, along with the words "Mr. and Mrs. Will Smith."

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She also misses her old nail salon. She figures it will be a long time before she finds one in Houston that can buff her fingernails the same way. Glancing down at her hand, she sighs, "I would spend my last to get my nails done."

Some sense of normalcy is returning. On Monday, Crystal bought a hair weave at a beauty supply store, and her 17-year-old cousin Tiffany sat with a fine-toothed black comb and parted Crystal's hair, braiding in the weave.

Later that night, Crystal got on the Internet and was finally able to contact the conveyor belt company. The company said Crystal, Blaire and Lucille would be paid through September. The checks will be mailed to their new apartment, though the company could not give a precise date when the checks would arrive.

"I understand they are going to pay us, but we are out of funds," Lucille said. She also says she's worried that the paycheck will be smaller than normal, because she generally works 20 hours of overtime. She isn't expecting more than $400 this check.

Meanwhile, other family members are looking for jobs. Blaire's uncle Matthew, who worked for UPS in New Orleans, says he hopes the company can find him a similar job in Houston. He said he's done with New Orleans, tired of running scared every time a hurricane warning sounds.

Blaire's mom, Lucille, agrees, saying she is afraid to return to New Orleans.

Not Blaire. She misses her life back there. But where she settles next may depend largely on where she can continue her education.

Her federal financial-aid loan has already been processed by the University of New Orleans. Since she hasn't been able to reach anyone at the school, she doesn't know whether she can transfer the loan to another college.

She figures she won't be able to start at a new school until next semester. "I've already missed like four weeks of school," she said. "If I go to school right now, I might be behind."

She knows she fared better than many, and she says she'll just keep on pushing. "We are used to living at a certain level, and it is hard," Blaire said. "We have to keep working. I don't want to be complaining and whining. We are blessed."

Stunned By Scope Of Destruction, Couple Wonder Whether To Begin Rebuilding Home (USAT)

By Dennis Cauchon

USA Today, September 7, 2005

D'IBERVILLE, Miss. — Katherine and Marshall Hill had a thriving, happy family life here near Biloxi before Hurricane Katrina struck. He installs and repairs slot machines at local casinos. She is chief financial officer for a chain of medical clinics that serve low-income patients.

The Hills had a four-bedroom, 2,000-square-foot ranch house and a new air-conditioning system. They had a boat, a motorcycle, a widescreen TV and a Bose surround-sound audio system. They had a pool table in the family room that attracted neighborhood kids, and saltwater aquariums full of expensive lion fish that Marshall Hill watched to relax. Hurricane Katrina destroyed all that — except the boat.

The Hills are putting their lives together, almost from scratch, and it's hard for them to know where to begin. “I gave up last week,” says Marshall Hill, 41. “I looked around, saw everything destroyed and said, ‘I'm never coming back.’” But after a couple days, seeing many people worse off than his family, Hill regained his fighting spirit and the desire to stay in the area where he's lived since he was a child.

For now, the family is staying at his parents' house in Woolmarket, 10 miles inland from the coast. The adults sleep in a spare bedroom. Matt, 19, sleeps in the den until he returns to junior college and pursues his dream of becoming a Major League pitcher. Ashley, 11, who likes dirt bikes and cheerleading, sleeps on the living room sofa. Another daughter, Shawnessy, 16, is staying with her boyfriend's family for now but will return soon.

This arrangement may last months.

The Hills have to decide first what to do about school for the kids. The school year started in early August but may not resume for three to six months. Students may have to go to Mobile, Ala., 60 miles away, or Jackson, Miss., 180 miles away, to attend classes. The Hills could send Ashley to live with cousins in Kingsport, Tenn., and have her go to school there.

Ashley wants to stay home, and the parents are torn.

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“I don't know if it's right to send my daughter away to a school where she doesn't have friends and will stay only a few months,” says Katherine Hill, 38.

Maybe they'll home-school her for a while, they think. Maybe they'll hold her back a year. “Sometimes life teaches you more than school,” Marshall Hill says.

The Hills met with their insurance company after the storm. They learned that half their house is covered by insurance and half is not. Damage to the back of their house is covered by homeowner's insurance because it was caused by wind that ripped a hole in the roof. The front of the house is not covered because it was damaged by rising water.

The Hills did not have flood insurance, because at 34 feet above sea level they were not in a flood plain. Still, the house took on 18 inches of water during the storm, forcing the nine people and four dogs in the house — friends and family — onto pool tables and beds to stay above water. Five cars owned by family and friends were destroyed at their house in the flood. Insurance will cover that.

Right now, the Hills are using a truck borrowed from parents. Katherine Hill's 2000 Buick LeSabre will have to be replaced. After the storm, you could pull out the dipstick and measure the water in the engine.

Since insurance will cover only part of their loss, the Hills must decide how to spend the money they do get.

“We lived like many Americans — too many car loans, too much credit-card debt. We had a great life, paycheck to paycheck,” Marshall Hill says. Insurance might help pay off the debts, but it won't leave much to rebuild.

Family members have offered to come immediately with tools to rebuild the house, which still stands although everything is ruined. The Hills have asked them to stay put until they know what they will do next. Marshall Hill expects to do much of the work himself. “I want the house to be fixed up totally before we buy new anything,” he says. “I don't want to just put in a carpet and make do.”

The best news: The Hills don't expect to lose their jobs. The slot machine company he works for says it will find jobs for people hurt by the hurricane. But he wonders if that means he may have to work temporarily in Las Vegas or elsewhere as a repairman.

Katherine Hill prepared for Hurricane Katrina by going into work the Saturday before the storm and running the payroll early for her company's 200 workers. The money was scheduled to be credited to employee accounts this past Friday. It didn't happen.

After solving the payroll problem, she'll have to reconstruct the company's records. Her computers were destroyed, and her backup records were in a safe that flooded. She hopes the company's information systems manager has a copy, but she hasn't been able to reach him because he lives in a hard-hit area closer to New Orleans.

“I have to come up with a new record-keeping system from scratch,” she says. “I'm worried less about the billing records than about getting patient records.”

For all the hard work ahead of them, the Hills consider themselves lucky. They have family in the area, unlike many casino workers. Their house is uninhabitable but still standing. And everyone is alive.

Over the weekend, power came back on at his mother's house where they are staying. They took a warm shower. For breakfast, they had eggs. The small pleasures of life made them laugh with delight.

Barbara Bush Calls Evacuees Better Off (NYT)

By The New York Times

The New York Times, September 7, 2005

WASHINGTON, Sept. 6 - As President Bush battled criticism over the response to Hurricane Katrina, his mother declared it a success for evacuees who "were underprivileged anyway," saying on Monday that many of the poor people she had seen while touring a Houston relocation site were faring better than before the storm hit.

"What I'm hearing, which is sort of scary, is they all want to stay in Texas," Barbara Bush said in an interview on Monday with the radio program "Marketplace." "Everyone is so overwhelmed by the hospitality."

"And so many of the people in the arena here, you know, were underprivileged anyway," she said, "so this is working very well for them."

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Mrs. Bush toured the Astrodome complex with her husband, former President George Bush, as part of an administration campaign throughout the Gulf Coast region to counter criticism of the response to the storm. Former President Bush and former President Bill Clinton are helping raise money for the rebuilding effort.

White House officials did not respond on Tuesday to calls for comment on Mrs. Bush's remarks.

Amid One City's Welcome, A Tinge Of Backlash (NYT)

By Peter Applebome

The New York Times, September 7, 2005

BATON ROUGE, La., Sept. 6 - Last week came the rumors - of riots at Wal-Marts, of break-ins at homes, of drug gangs from New Orleans roaming the streets of its more sedate neighbor 75 miles up Interstate 10.

Today came the reality - of a dozen or more relatives crowded under one roof, of hours stuck in traffic trying to get to school or work, of frustration and fear about what kind of city Baton Rouge will be with at least 100,000 evacuees and rescue workers added to the 227,000 residents it had before the storm hit.

Make no mistake. The overwhelming response of people in Baton Rouge to Hurricane Katrina has been one of compassion and sacrifice with every church in town, it seems, housing or feeding evacuees.

But there have also been runs on gun stores, mounting frustration over gridlocked roads and an undercurrent of fear about crime and the effect of the evacuees.

After the chaos of the storm, which did some damage here, and a long weekend, Tuesday was the first day most residents returned to work and school. Before the evacuation, blacks made up about half the population of Baton Rouge and almost 70 percent of New Orleans, and in conversations in which race is often explicit or just below the surface, voices on the street, in shops, and especially in the anonymous hothouse of talk radio were raising a new question: just how compassionate can this community, almost certainly home to more evacuees than any other, afford to be?

"You can't take the city out of the yat, and you can't take the yat out of the city," said Frank Searle, a longtime Baton Rouge resident, using a slang term for New Orleanians derived from the local greeting, "Where y'at?"

"These people will not assimilate here," Mr. Searle said. "They put up with the crime in New Orleans, and now it's staring them in the face, but up here that's not going to be tolerated. People are going to handle it individually if they have to. This is the South. We will take care of it."

For a week Baton Rouge, the state capital, home of Louisiana State University and a place that sees itself as a less raucous cousin to what had been the kingdom of sin and merriment to its south, has been trying to come to terms with its sudden status as the state's most populous city.

"It's a new Baton Rouge we're living in, isn't it?" said Jeanine Smallwood of suburban Prairieville, in the middle of a 90-minute drive to work that should have taken 20.

Like many people in and near Baton Rouge, Mrs. Smallwood, her 1,700-square-foot house now sheltering 14 people, is trying to balance the need for compassion with the vertigo of a changed city. And so while she wishes all the evacuees well, she said she feared an influx of people from the housing projects of New Orleans, places, she has heard, where people walk around in T-shirts that read, "Kill the cops."

"Or so the story has it," she said. "Those aren't neighborhoods I go to."

She was so rattled, she said, she told her daughter she might have to move. On reflection, she said, there is little chance of that. Instead, she is hoping for the best.

"People are, what's the word? Not frustrated, not scared, it's more like their lives are on hold, everything's changed and we're trying to figure out what the new normal is going to be," Mrs. Smallwood said.

Many relief workers and volunteers say the worries over crime reflect more wholesale stereotyping of people fleeing a catastrophe than anything based in fact, but safety is a major issue. At the height of the post-storm panic last week, people waited in line for three and a half hours at Jim's Firearms, a giant gun and sporting goods store. Many were people from New Orleans with their own safety issues. But many were local residents jumpy about the newcomers from New Orleans and stocking up on Glock and Smith & Wesson handguns.

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Jim Siegmund, a salesman at Jim's recently returned from military service in Iraq, said he did not think there was anything to worry about. Still, holding a cellphone in his hand and comparing it to a 9-millimeter handgun he said: "When push comes to shove, this won't protect you, but a Glock 9 will."

Joel Phillips, a 38-year-old contractor, said he had never owned a gun in his life, but after watching an angry argument at a gas station, he stood in line for three hours at Jim's to buy a 9-millimeter Ruger handgun and then went with a friend to a firing range over the weekend to learn how to use it.

"I have two daughters, I sometimes have to work in bad neighborhoods," Mr. Phillips said. "I probably don't need it, but I'll feel better knowing that I have some protection."

Many evacuees are staying with family or friends, their campers, S.U.V.'s and pickups parked on front lawns or circular driveways.

Most people at the broad array of shelters were dazed but appreciative of the help from local volunteers like the Louisiana State University students, upbeat and attentive, tending to sick and exhausted evacuees at the triage center on campus.

But others, particularly those at the main Red Cross shelter at the River Center convention center downtown, were seething with frustration, not just over the disaster they were fleeing, but from the sense that they were being treated not so much like guests as people being warehoused until they could be shipped elsewhere.

Patricia Perry, a postal employee from New Orleans, said anyone with a wristband from the River Center shelter was being stereotyped outside it as one of "those people" - looters, criminals, outcasts.

"It's like a stigma," she said. "All they really want to do is get us out of town. Well, I'm from Louisiana. I work hard. I pay my taxes. Surely, this state can find a place for us to live."

Still, many residents, with the sense of intimacy that remains so much a part of Southern life, took their role as hosts seriously, as if it would be bad manners, the ultimate sin in the South, to do otherwise.

So when Pam Robertson, manager of a convenience store, asked a customer how he was doing, it was not dutiful chatter but a real question that begged for a real answer.

When it came, she took the man's hand in hers over the counter and talked about her friend Hunter, evacuated from Loyola University, about her upbringing in the town of Henderson in the heart of Cajun country, about the grid of local streets here.

She greeted one and all with the same missionary zeal, as if the right words could somehow undo the disaster of the past week.

And when asked how she was doing, or even when they didn't, she replied: "I'm tired, but I'm hanging in. It's good. It's all good. God is good. We'll get through it."

Hundreds Of Storm Survivors Arrive In Capital (WP)

By Theola S. Labbe And Lori Montgomery

The Washington Post, September 7, 2005

He was the first person to step inside the D.C. Armory yesterday, the tall elderly man who carried all his belongings in a plastic grocery bag and walked with a slight limp. Behind him was a woman in a plaid dress who pushed a walker, a girl with a pink barrette in her hair and a small boy in a lime-green T-shirt who was scooped up into a hug by a D.C. official.

One by one, the New Orleans survivors of Hurricane Katrina arrived in Washington yesterday, welcomed with smiles and applause from emergency workers and District leaders. Some came on stretchers or makeshift wheelchairs. Others could move on their own but looked tired and dazed.

Along with the clothes on their backs and the scraps of their lives stuffed into trash bags, the evacuees brought tales of fear and survival -- and were grateful to finally be able to call someplace home.

"I feel very warm," said Jameila Anderson, 19, until last week a sophomore at Dillard University in New Orleans, who arrived at the shelter with her boyfriend and his mother. "I feel relieved. I feel like everything is going to be all right."

A total of 295 evacuees were flown from New Orleans to Dulles International Airport on two commercial aircraft, and more may arrive here over the next several days. They were taken to the armory on Metrobuses and fed a hearty lunch of meatballs, egg noodles and mixed vegetables with a garden salad.

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Workers with the American Red Cross, which is managing the shelter, planned to issue identification cards and assess whether evacuees needed such services as medical treatment, mental health counseling, job referrals or help with school enrollment. They will be able to stay at the armory 30 days, perhaps longer.

"This is Step 1. They're here," said Linda Cropp, chairman of the D.C. Council, who stood with Mayor Anthony A. Williams (D) and other city officials shortly before the evacuees arrived. "We now must get them involved in our community."

Although District officials initially had planned to receive a group of hurricane survivors being housed in Arkansas, the Federal Emergency Management Agency on Monday night instead arranged the airlift from the New Orleans airport.

City Administrator Robert C. Bobb, who met the first plane at Dulles, said that although many people were relieved to reach a well-equipped shelter, others were astonished and dismayed to find themselves in the nation's capital, "thousands of miles from home."

"People were real irritated. 'Why am I in Washington when I wanted to go to Texas?' I heard that on two or three occasions," Bobb said. "No one told them where they were going until they got on the plane."

Three people arrived at the armory only to demand a ride back to the airport so they could travel at their own expense to Texas, Bobb said. Another man asked to go to Alabama.

Other jurisdictions in the region also were making plans to put up evacuees in shelters if needed.

"We will treat them like we treat our sisters and brothers," said Prince George's County Executive Jack B. Johnson (D), with Maryland Gov. Robert L. Ehrlich Jr. (R) by his side, at a news conference where government and religious leaders pledged help.

Virginia Gov. Mark R. Warner (D) said the state has identified temporary living facilities for at least 3,000 evacuees. He said that as many as 1,000 will be housed at Fort Pickett, an Army National Guard facility in central Virginia, and others in 4-H centers run by the state or in private homes identified by churches and synagogues.

During health screenings of the evacuees who arrived in the District, some were suffering from diarrhea and dehydration, but most were in good physical condition, said D.C. Department of Health Director Gregg A. Pane. Sixteen people were taken to a hospital for immediate treatment, he said.

Outside the Stadium-Armory Metro station, a group of people stood in front of the iron fence and waited as evacuees periodically came to talk with them.

"We slept on the roof for three days. We were lucky we had a two-story house," said Cleo Breland, 48, who used to help shampoo hair in New Orleans. "Man, I don't have no ID on me, no nothing."

A rescue boat left him on a highway, he slept on a funeral home floor and then was told to go to the New Orleans convention center.

Now, he said, everybody wanted to help, wanted to treat the evacuees "like movie stars."

"It was weird," he said.

John Vaughn, 42, a New Orleans restaurant worker who was rescued two days ago, flew to Washington with his sister and her three teenage sons. He said he has no money and needs to find work quickly.

Gary Graham, 49, a hospital pharmacist, said he stayed in New Orleans during the hurricane because he was classified as an essential worker. When his house became uninhabitable, he moved into his truck and ate canned food until he was rescued Thursday.

He ended up in the vast sea of humanity at the New Orleans airport and said he was unaware he was coming to Washington until he asked a flight attendant.

Many of the area residents outside the armory hoped to help.

Geraldine Pritchett, president of Labor of Love Homeless Institute in Fairfax County, was offering donations from Costco and Giant in Northern Virginia. "We've got diapers, baby food, children's books and toys," she said, "and we hope to help get people into homes."

Donna Coates, a D.C. resident, wanted to contribute clothing. Elsa Malloy, of Maryland, wanted to help organize apartments. And Meshelle Carter, of Northeast Washington, wanted all 295 evacuees to come to a welcome picnic" at her house Saturday.

Carter, a security officer, said she knew what it meant not to have. "My heart just went out" to the evacuees, she said.

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Offers Of Aid Immediate, But U.S. Approval Delayed For Days (WP)

By Elizabeth Williamson

The Washington Post, September 7, 2005

Offers of foreign aid worth tens of millions of dollars -- including a Swedish water purification system, a German cellular telephone network and two Canadian rescue ships -- have been delayed for days awaiting review by backlogged federal agencies, according to European diplomats and information collected by the State Department.

Since Hurricane Katrina, more than 90 countries and international organizations offered to assist in recovery efforts for the flood-stricken region, but nearly all endeavors remained mired yesterday in bureaucratic entanglements, in most cases, at the Federal Emergency Management Agency.

In Germany, a massive telecommunication system and two technicians await the green light to fly to Louisiana, after its donors spent four days searching for someone willing to accept the gift.

"FEMA? That was a lost case," said Mirit Hemy, an executive with the Netherlands-based New Skies Satellite, who made the phone calls. "We got zero help, and we lost one week trying to get hold of them."

In Sweden, a transport plane loaded with a water purification system and a cellular network has been ready to take off for four days, while Swedish officials wait for flight clearance. Nearly a week after they were offered, four Canadian rescue vessels and two helicopters have been accepted but probably won't arrive from Halifax, Nova Scotia, until Saturday. The Canadians' offer of search and rescue divers has so far gone begging.

Matching offers of aid -- from Panamanian bananas to British engineers -- with needs in the devastated Gulf region is a laborious process, in a disaster whose scope is unheard of in recent U.S. history, especially for a country that is more accustomed to giving than receiving aid.

State Department spokesman Sean McCormack said yesterday that to his knowledge, all offers of foreign aid have been accepted but must be vetted by emergency relief specialists. "I think the experts will take a look at exactly what is needed now," he said.

FEMA spokeswoman Natalie Rule said the foreign complaints echo those from governors and officials "across the nation."

"There has been that common thought that because [offers of aid] are not tapped immediately, they're not prudently used," Rule said. "We are pulling everything into a centralized database. We are trying not to suck everything in all at once, whether we need it or not."

European diplomats said publicly that they understand the difficulty of coordinating such a massive recovery effort. In an open letter released yesterday, though, Ambassador John Bruton, head of the Delegation of the European Commission to the United States, wrote:

"Perhaps one of those lessons will be that rugged individualism is not always enough in such a crisis, particularly if an individual does not have the material and psychological means to escape the fury of a hurricane in time."

Soon after the flooding, the government of Sweden offered a C-130 Hercules transport plane, loaded with water purification equipment, and a cellular network donated by Ericsson.

"As far as I know, it's still on the ground," said Claes Thorson, press counselor at the Swedish Embassy in Washington. He said that along with 20 other European Union nations that have pledged money and goods, "We are ready to send our things. We know they are needed, but what seems to be a problem is getting all these offers into the country."

So far, Thorson said, the State Department has denied Sweden's request for flight clearance. "We don't know exactly why, but we have a suspicion that the system is clogged on the receiving end," he said. "But we keep a request alive all the time, so we are not forgotten."

German telecommunications company KB Impuls contacted another company, Unisat, based in Rhode Island, with the idea of contributing an integrated satellite and cellular telephone system.

In a region with its communications systems in tatters, the $3 million system could handle 5,000 calls at once, routing them, if necessary, through Germany.

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KB Impuls would contribute the equipment and two engineers, supplied with their own food, water and generator fuel, to set it up. Unisat contacted another firm, New Skies Satellite, based in the Netherlands with offices in Washington, which agreed to contribute satellite capacity.

New Skies even arranged transport, securing a C-130 cargo plane from the Israeli Air Force, to pick up the equipment and technicians from Germany and bring them to Louisiana. "With one call, I got an airplane," Hemy said. And then, over four days, she and the owner of Unisat, Uri Bar-Zemer, called contacts at FEMA, the American Red Cross, the State Department, even members of Congress, trying to find someone to accept the gift.

Finally the State Department told them that to receive flight clearance, the gift must have a specific recipient. "I was ringing, ringing, ringing -- and nothing," Hemy said. Finally, yesterday, she got a call from the U.S. Air Force's Joint Task Force Katrina Communication Operations division, thanking the companies for the gift and inquiring about the system's technical specifications.

As of late yesterday, the companies were waiting for a written order from the Northern Command to begin the mission. "I don't have a problem confirming that," Bar-Zemer said of the story. But he expressed concerns that disclosing the difficulties in donating could jeopardize the company's chances of actually delivering the aid.

U.S. Declines Some Foreign Offers Of Hurricane Aid (WT)

By Nicholas Kralev

The Washington Times, September 7, 2005

The United States has accepted help from about 40 countries for the victims of Hurricane Katrina -- fewer than half of those that offered -- including high-speed water pumps, food, cruise ships and more than $400 million in cash, U.S. officials said yesterday.

Although no offer has been rejected officially, proposals from Cuba and other countries to send doctors or nurses have not been accepted because there is enough U.S. medical personnel to deal with the crisis for now, the State Department said.

"There's been a robust response from the American medical community in terms of medical supplies, in terms of medical professionals, doctors, nurses, as well as public health officials," spokesman Sean McCormack told reporters.

A senior State Department official added: "We have the people we need right now, and we have more in the pipeline."

A Belgian offer to send medical teams to assist the American Red Cross was accepted, but they include only logistical personnel, U.S. officials said.

The State Department sent a cable to U.S. embassies around the world over the weekend with what one diplomat in Europe described as a "generic list" of needs that the Federal Emergency Management Agency had identified as top priorities.

The list did not include medical professionals, diplomats in Washington and overseas said.

"The cable said that interested governments should let us know what from the list they can provide," the U.S. diplomat in Europe said.

Once those governments respond, Washington will decide what to take from each of them, he said.

He also noted that some foreign officials are asking why it took Washington so long to compile the list, but the Bush administration said the enormity of the crisis required time and care for a comprehensive list to be produced.

"Over 90 countries and organizations around the world have made offers of assistance to the United States and the American people in our time of need," Mr. McCormack said.

"As needs are identified, certainly if they can be filled from the international offers of assistance, that is something that we have and will go back to foreign countries to try to meet," he said.

He noted that Germany and the Netherlands are sending high-speed pumps, and that Greek cruise ships are on their way to the Gulf of Mexico region.

"There is a process of matching needs with the expertise and the donations that have been made. This is going to be an ongoing process over a period of time," Mr. McCormack said.

The largest cash contributions so far, $100 million each, have come from three Persian Gulf countries -- Qatar, the United Arab Emirates and Kuwait. The latter is also shipping $400 million worth of oil.

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The United States has accepted help even from poor countries like Afghanistan that are recipients of substantial amounts of U.S. aid.

"What we do is, we accept these offers in the spirit in which they are given," Mr. McCormack said.

A Foreign Aid Twist: U.S. Gets, Others Give (USAT)

USA Today, September 7, 2005

World reaction to Hurricane Katrina has been like viewing the USA through a Hall of Mirrors. To believe some commentary in countries from Europe to Asia to the Middle East, the world's wealthy superpower has, in Katrina's wake, been exposed as a vulnerable supermonster.

In this view from abroad, the USA is a place that is callous toward its poor and black. A Pakistani newspaper wrote, for example, of how the U.S. government "for three days sat smugly apathetic to the people's plight."

It's a place where the early looting reflects a culture of violence and selfishness: "The darker side of the American dream" was how a columnist for London's Daily Mail put it.

And it's a place where a focus on the Iraq war has starved it of resources to deal with natural disasters — a favorite topic in the Arab media.

The comments, which contain both distortions and grains of truth, are a jolting reminder that the U.S. image in the world has been in a tailspin since the start of the Iraq war — fueled by anger and frustration over the go-it-alone U.S. approach that has too often disregarded others' opinions or interests.

And yet Hurricane Katrina also presents a fleeting moment of opportunity to start repairing that image. Generous international offers of aid have accompanied the criticism. The United Nations is offering its emergency response system, including disaster relief teams, equipment and expertise. As many as 90 nations have deluged the State Department with offers.

A few come tinged with political agendas or are cynical public relations ploys: Iran, for example, wants to send oil — just so long as sanctions are first lifted to allow it. Cuba wants to send doctors.

But most of the offers spring from a reflexive generosity, including much reciprocity for past U.S. help. One of the largest donation pledges, of half a billion dollars, is from Kuwait — liberated from Iraqi occupation by U.S.-led troops 14 years ago. Even small Sri Lanka, badly hit by last year's tsunami and a recipient of U.S. aid, has promised a $25,000 donation to the American Red Cross.

The manner in which the United States accepts or rejects the offers of help has the potential to influence the soured global mood. International relations are, when all's said and done, much like everyday human relationships. Psychology plays a large role. Right now, it's as if the whole neighborhood is reaching out in a time of trouble, despite having felt slighted by what many see as the rich bully on the block.

For months, Secretary of State Condoleezza Rice has made changing the international mood a priority. That has been hard, particularly as other nations have been reluctant to help in Iraq. Graciously accepting most offers can telegraph a newfound humility and appreciation of the value of international cooperation.

Not that doing so is easy.

Receiving help can be embarrassing and goes against the American character of self sufficiency. Americans see themselves as aid donors, not recipients, and appropriately so given the nation's wealth. No one should take from others in greater need. So far, U.S. officials seem to be playing it just about right.

Rice has profusely thanked other countries for their compassion. And not only is the United States accepting much of the international generosity, it is making specific requests. Germany, for example, can supply forklifts, veterinary supplies and ready-to-eat meals. That is in part just good common sense. For all its resources, the United States can't match the U.N. or others in some aspects of disaster relief. The U.N. has long experience dealing with traumatized children and is sending pre-made playgrounds, much as it did to tsunami victims.

Accepting Hurricane Katrina aid with grace can't magically make the United States popular, particularly when it comes to sworn U.S. enemies. Some in the Muslim world, for example, are portraying Katrina as God's wrath, as are some thoughtless Christian leaders here.

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But it can be a start on rebuilding alliances.

Four years ago this weekend, after the Sept. 11 attacks on New York and Washington, the world had a very different reaction to the U.S. distress. Besides offers of help, the world was united with Americans. As a headline in France's Le Monde newspaper trumpeted: "We Are All Americans."

Recalling that more pure generosity — of spirit and practical help — is heartening. It's a reminder that, not so long ago, the world saw the United States much as it likes to think of itself: as a generous-spirited, socially-responsible beacon of democracy. Regaining that cleareyed international admiration is an ideal. The international response to Hurricane Katrina provides an opening.

Bush: Aministration Looking To Help Schools Absorb Kids Displaced By Katrina (AP)

AP, September 7, 2005

President Bush says the administration is looking at ways to help schools absorb students displaced by Hurricane Katrina.During a meeting with Education Secretary Margaret Spellings, the president said local school districts are extending "extaordinary efforts" right now to help kids learn.Bush said he's sending his wife Laura to DeSoto County, Mississippi, tomorrow to talk to school officials about their problems.At the same time, Bush promised that Washington is ready to show flexibility when it comes to college loans. He says Katrina has forced many college students to change plans, and the Education Department will show what he calls "loan forebearance."

Across Nation, Storm Victims Crowd Schools (NYT)

By Sam Dillon

The New York Times, September 7, 2005

School districts from Maine to Washington State were enrolling thousands of students from New Orleans and other devastated Gulf Coast districts yesterday in what experts said could become the largest student resettlement in the nation's history.

Schools welcoming the displaced students must not only provide classrooms, teachers and textbooks, but under the terms of President Bush's education law must also almost immediately begin to raise their scholastic achievement unless some provisions of that law are waived.

Historians said that those twin challenges surpassed anything that public education had experienced since its creation after the Civil War, including disasters that devastated whole school districts, like the San Francisco earthquake and the Chicago fire.

"In terms of school systems absorbing kids whose lives and homes have been shattered, what we're going to watch over the next weeks is unprecedented in American education," said Jeffrey Mirel, a professor of history and education at the University of Michigan.

The vast resettlement was already under way last week, with schools in Baton Rouge, La., Houston and other cities near the Gulf Coast enrolling some students. Yesterday, officials in cities including San Antonio; Phoenix; Olympia, Wash.; Freeport, Me.; Memphis; Washington; Las Vegas; Salt Lake City; Chicago; Detroit; and Philadelphia reported enrolling students or preparing for their arrival.

The total number of displaced students is not yet known, but it appears to be well above 200,000. In Louisiana, 135,000 public school students and 52,000 private school students have been displaced from Orleans, Jefferson, St. Bernard and Plaquemines Parishes.

President Bush, speaking with reporters at the White House yesterday, thanked the nation's educators "for reaching out and doing their duty," and he said that Secretary of Education Margaret Spellings was working on a plan to help states absorb the educational costs but gave no hint of what kind of assistance might be provided. The Department of Education set up a Web site to coordinate private donations to schools enrolling displaced students.

"They said we could brace for about 500 kids," said Sue Steele, coordinator of homeless student programs for the public schools in Wichita, where buses carrying 1,800 storm victims were expected to arrive yesterday, part of some 7,000 headed for Kansas.

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Many students were concentrated in districts along an arc from the Florida Panhandle west through Georgia, Tennessee, Arkansas and Texas.

The Santa Rosa County School District in the Florida Panhandle has enrolled 137 students, said Carol Calfee, a district official.

"And we still have folks coming in," she said. "They're walking through the door and some of them just have nothing, so it's really hard." The local United Way has said it will try to buy school supplies for every displaced student, she said.

The crisis poses new challenges for Ms. Spellings, including financial. The Department of Education's budget this year for homeless student programs is about $61 million, which she said was insufficient.

Ms. Spellings, who has spent her first months in office fighting a backlash by local educators and state lawmakers against the federal law known as No Child Left Behind, is also hearing calls from advocacy groups that she take emergency measures that could be controversial.

The National Education Association, the nation's largest teachers union, asked her on Friday to waive the accountability provisions of the law for schools in the hurricane's path as well as in Texas and other states receiving large numbers of students, a move Ms. Spellings said she was reluctant to take.

Private companies that operate online courses or charter schools are urging her to use emergency powers to authorize them to enroll displaced students at the Houston Astrodome and other shelters across the nation.

Ms. Spellings has invited 40 education groups, including the P.T.A. and teachers unions, to meet at the Department of Education today to discuss disaster recovery efforts. Reg Weaver, president of the N.E.A., which has challenged No Child Left Behind in federal court, said he immediately accepted the invitation.

But in a separate letter, he also asked Ms. Spellings to use her powers to waive provisions of the law, which requires school districts to raise student scores on standardized tests each year by a percentage set by each state, a goal known as making adequate yearly progress.

"Until these children, their teachers, districts and families gain their footing under these extremely difficult circumstances, I encourage you to implement the provisions in N.C.L.B. that deal with the impact of natural disasters on testing and adequate yearly progress," Mr. Weaver's letter said.

Ms. Spellings is consulting with state school superintendents as she considers whether to waive the law's accountability provisions in some cases, said her spokeswoman, Susan Aspey. One consideration is how many displaced students that individual schools or districts enroll; those with higher concentrations may be more likely to receive waivers, Ms. Aspey said.

"There is no one-size-fits-all approach," she said.

Even before the storm, hundreds of schools that had failed to meet the federal law's proficiency requirements for several years, most of which educate the urban poor or non-English speaking immigrants, were facing sanctions that include school closings and the firing of staff. Thousands of others were expected to be placed on academic probation or labeled as low-performing.

Theodore R. Sizer, a visiting professor of history at Harvard, said that unless the law's accountability provisions were waived during the emergency, they would add tensions to the resettlement crisis.

"Imagine you're the principal of a big high school in city X, and your scores are above the state minimums, so you're doing fine with the law, and suddenly you have 300 displaced kids," Mr. Sizer said. "That not only brings crowding but also means that on the next exams your scores could plummet and the federal law will say you run a terrible school."

The Bush administration must also make decisions about another hotly debated issue in public education: charter schools. The National Council of Education Providers, which represents the nation's largest commercial school management companies, has asked the Department of Education to authorize it to enroll students housed at emergency shelters in Internet-based courses offered by its companies.

The National Council's Web site yesterday highlighted its request to the department to establish a "national virtual charter school" that would "serve evacuees wherever they are."

"Once students have access to computers and connectivity - borrowed, donated or shared - companies are standing by to waive state restrictions and log these students on," the Web site said. The restrictions in question include enrollment caps in

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state laws that apply to charter schools. The National Council wants the federal government to waive those laws during the emergency.

Jeanne Allen, a paid consultant to the National Council who is also president of the Center for Education Reform, a nonprofit organization, said she delivered a draft "Emergency Public Charter School Act" to members of Congress yesterday.

Hard Lessons For Kids Starting Class Far From Home (AP)

By TODD LEWAN

AP, September 7, 2005

HOUSTON — On their first day in class after the Labor Day weekend, second-graders of Briarmeadow Charter School were excitedly playing "Subtraction Wars" with toy blocks in their math class.

Not Jameall Gatlin. The 8-year-old boy had a donated new blue polo shirt, new khaki shorts, new Nike sneakers. But he was quiet and shy, understandably so: He's a long way from his home in devastated New Orleans.

"It's very different," he mumbled, shoving his hands in his pockets, when asked what he thought of his new school.

Here, as in towns and cities around the country that have taken in Hurricane Katrina's dispossessed, refugee students are getting a tough crash course in adjustment.

Katrina forced an unprecedented displacement of students from the Gulf Coast, just as schools across America are starting the academic year. From Maine to California, districts have begun hastily enrolling these students, even embracing them — with a smile, a hug or a welcome sign drawn in art class.

The influx is putting a logistical and financial strain on schools at a time when many are grappling with budget and program cuts, soaring gas prices, and the pressure of satisfying the No Child Left Behind Act, which requires yearly progress in math and reading among all students.

Classroom space, textbooks, transportation and teachers for new students — how much it will cost? No one can say. Still, says Paul Houston, executive director of the American Association of School Administrators, "I think districts will keep taking the students and figure it all out later."

Even before Katrina, Texas, which has absorbed nearly a quarter-million refugees, was already having problems funding its growing, public school system. In 2003, about 300 school districts sued the state, claiming that not enough money was going to schools.

This year, in response to the lawsuit, Gov. Rich Perry convened three emergency sessions of the Texas Legislature to resolve the money problem. Still, lawmakers failed to come up with a new plan.

Regardless of such challenges, schools are welcoming displaced kids.

By yesterday afternoon, the Houston Independent School District had taken in 889 students, a number expected to grow by 5,000 or more in the coming days, said spokesman Terry Abbott. The district is hiring retired teachers and certified instructors from Louisiana, and getting breaks on textbooks from publishers, he said.

Teachers and administrators are also trying to make "Katrina kids" and their parents feel at home.

"The first thing we do is give them a hug and say, 'How can we help you,'" says Lynn Barnes, the principal at Briarmeadow, which had enrolled at least 22 refugee students. When Briarmeadow runs out of room, "we will contact other schools."

River Oaks Elementary has been preparing since last week for the flood of Katrina evacuees. One art class got a special assignment: to make a poster that read, "Welcome, Louisiana children."

Some New Orleans students were resettling in Louisiana itself. Schools sent employees to shelters and churches in Baton Rouge to give beleaguered parents tips on where to find school supplies, clothes, food and donated, day-to-day spending money.

The Bernard Terrace Elementary School signed up two dozen refugee students for classes on Tuesday, and Principal Deborah Daniels said the school, now with 480 students, would "take however many they want me to."

The uprooted students miss their homes, their friends — their stuff. "They say they want to go back and get this and that," said Trellis Royal, as she waited to register her 10- and 14-year-old daughters at a Baton Rouge school.

Katrina Forces Children To Start School Again In Georgia (AP)

By Greg Bluestein

DOJ_NMG_0003392

AP, September 7, 2005

ATLANTA - Fifth-grader Layanda Grinstead looked like she was having fun playing badminton with her sister Leslea in the halls of a Red Cross shelter, but secretly, she said, she's eager to hit the books.

"I'm not nervous at all. I'm ready to get back," she said.

Her mom, Latanya, is too. "I'm so ready for them to go to school," she said. "They have the attitude that it's a new start even though it's hard losing everything."

Hundreds of students who fled from Hurricane Katrina will take their seats at schools across the state this week as state officials struggle to direct a smooth transition.

Some 350 evacuees have already enrolled in Georgia public schools - a number that's expected to increase significantly this week. And dozens more are expected to enroll in the state's lottery-funded pre-kindergarten program, which announced today it would open its doors to storm victims.

Although education officials are uncertain how the influx will strain schools throughout the state, the priority now is to "put them in a classroom and we'll work out the details later," said spokesman Dana Tofig.

The state board of education will also likely relax rules that limit class sizes. "The systems don't want to worry that they're being penalized to open their doors," Tofig said.

At the state's largest shelter, Georgia Tech's Alexander Memorial Coliseum, an Atlanta Public Schools liaison was helping direct students to a van early Tuesday that dropped them off at nearby schools.

Some children, like second-grader Bobby Whittey, aren't quite ready to get back to the daily grind. While at the shelter, Whittey said he's gotten used to "playing and sleeping" since his family escaped New Orleans.

His grandmother, Velma Whittey, had other ideas.

"He's got to go back to school," she said. "He's got so much energy sometimes I got to pray to the Lord so I can get some peace to deal with this little boy."

Student Displaced By Hurricane Instant 'Rock Star' At Local School (MINNST)

By Dan Wascoe

Minneapolis Star Tribune, September 7, 2005

Two weeks ago, before Katrina turned New Orleans into a deadly, fetid lake, Johnathan Smith, 18, began his senior year in nearby Metairie, La.

On Tuesday, uprooted by the hurricane from his mother, brother, sister, school and city, he began classes again, this time at Minneapolis' Southwest High. He said he is grateful for the chance to make a fast transition by moving in with his father, Crosby Smith. But he's also itching for the chance to enlist in the National Guard.

As he made new friends, grabbed a quick lunch at a nearby Dairy Queen and stood still for media attention, he was quick to note differences between his old school and his new one.

Archbishop Rummel in Metairie is a private, Catholic, all-boys, nearly all-white school of about 1,330 students in grades 8 to 12. All of them wear blue, short-sleeved, button-down shirts and khaki-colored pants.

Southwest has a coed, racially diverse enrollment of more than 1,600 in grades 9 to 12 and tolerates a greater range of apparel. Smith sported a small earring Tuesday that he said would not have been allowed at Rummel. He would have worn a cross instead.

In these ways, he acknowledged, his new start is almost a liberation -- although he admitted that attending an all-boys school reduced the distraction of what he called "social drama."

The drama quotient was definitely higher Tuesday at Southwest. As word spread of the New Orleans emigre's arrival, Johnathan was treated "like a rock star," said Josh Collins, a Minneapolis schools spokesman.

He accepted greetings and condolences from staff and students who learned of his predicament. One parent asked whether he played football. No, but he did play rugby and served on Rummel's Student Council.

A loquacious student who often calls adults "Sir" and "Ma'am," Smith started his day with Southwest Counselor Jean Sherwood. She spent about 50 minutes helping him enroll in physics, pre-calculus, psychology, Advanced Placement English

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and economics/government classes. He has one period free, which could help him search for a job. He'll have no 1½-hour religion course as he did at Rummel, but his lunch break at Southwest is a half-hour rather than the hour and a half he was used to.

By day's end, he said Southwest "is interesting once you learn your way around."

After his brushes with media earlier in the day, he sat quietly in his government class during a discussion of current events in New Orleans. He finished an English homework assignment in class but otherwise said the first day's coursework centered on orientation.

Studying Minnesota

Crosby Smith said his son adapts well to changing situations and was a natural candidate to make do in Minneapolis after Crosby's ex-wife and their other children left their home two days before Katrina struck.

"We're very lucky," he said. "We had options that other families didn't have."

Within days of arriving in Minneapolis after a long drive with his father from Memphis, Johnathan used the Internet to meet other Southwest students. He also visited the Minnesota State Fair, where he sampled cheese curds and described the lambs and pigs as "neat." But he couldn't understand how a Minnesota audience at the fair could resist dancing to a band playing Cajun music.

Except for one or two people, he said, "They just sat there."

Even so, he said he was impressed by the willingness of Minnesotans to help people displaced by the hurricane.

Back in Louisiana, he said, his mother, Peggy, and 13-year-old brother, Philip, were staying with relatives in New Roads, north of Baton Rouge. Their house near a Jefferson Parish levee may soon be used by doctors and staff at a nearby hospital. The storm tore siding from the house and broke tree limbs but did not flood the property. His sister Christine, 19, hopes to resume her sophomore year soon at Louisiana State University.

Crosby Smith said that during his son's drive from Louisiana to rendezvous with him in Memphis, Johnathan nearly ran out of gas. But a computer search by a friend in Minneapolis located a well-supplied service station 25 miles out of the way.

Although not sure how long he'll stay in Minneapolis with his father -- a semester seems likely -- he intends to enlist soon in the National Guard, either in Minnesota or Louisiana.

"I was kind of ticked last year," he said, because his folks wouldn't let him sign up at age 17. If that had happened, he said, "I could have been with the Guard now helping out down there."

Texas Expecting Up To 60,000 New Students (DMN)

By Herb Booth

The Dallas Morning News, September 7, 2005

More than 6,100 students fleeing Hurricane Katrina and its aftermath have enrolled in Texas public schools so far – including about 2,000 in North Texas – and state education officials promise to release money immediately to help affected districts cope.

Officials expect 50,000 to 60,000 new students to enroll in Texas schools.

And the federal government is doing its part, sending $250,000 apiece to six Texas regional education service centers, including Dallas' Region 10.

Dallas Independent School District spokesman Donald Claxton said it's still too early to tell how many students displaced by the killer hurricane would enroll.

"We had 255 kids report for classes today," Mr. Claxton said Tuesday. "But we expect that number to rise. There were a number of parents who held on to their kids today to see what FEMA assistance they might get to rebuild."

Normally, it takes a year for districts to begin receiving money for students on its rolls. But Mr. Claxton said DISD has begun to receive funds for its new pupils.

"We started collecting average daily attendance money on these students right away," Mr. Claxton said. "For us, it's not an immediate impact. It's still too early to see how it will affect the classroom."

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Suzanne Marchman, spokeswoman for the Texas Education Agency, said the entity urged districts to maintain records for Title 1 and FEMA reimbursement detailing how much money is spent on evacuee students.

But the state is contributing funding as well.

"If more than 50 students enroll in a district or a smaller district is impacted, the district should contact our financial office to begin receiving additional funding as soon as possible," Ms. Marchman said. "We anticipate hearing from Dallas, Houston, San Antonio and others soon. We want to create some normalcy for these kids as soon as possible."

Some educators wondered about where these new students might be in their education.

John Rose, principal at Irving's Crockett Middle School, said there are no records to tell administrators how the students did on tests or in certain subjects.

Waiting to enroll

Some parents had mixed feelings on when to send their children to school, and many opted to wait.

"We're really trying to find housing before we get them into school," said Rosalind Armour, a New Orleans resident who took shelter at Reunion Arena and has two school-age children. "The goal is to get settled first."

But Willie Williams wasn't having any delay in his child's education. On Friday, he anticipated starting her in school as soon as possible.

"I didn't want her to miss any school," Mr. Williams said of his daughter Brittany, 9.

About 140 displaced students had joined the Frisco school system by yesterday afternoon, according to Shana McKay-Wortham, the district's communications director.

With the majority of them staying at the homes of family and friends, it's difficult for officials to tell how long many of them will remain in the district.

"When they're enrolling, we're figuring they are going to be with us for a while," Ms. McKay-Wortham said.

DeSoto has enrolled about 170 Hurricane Katrina evacuees. "The community has been amazing with the outreach," Superintendent Alton Frailey said. "We're providing vouchers for uniforms. There are funds for school supplies. So many people have made donations. The feeling I get is that for a number of these people, the move might be permanent. They appreciate the reception they've gotten in DeSoto."

Relocating for good?

So much so, that some of them will make the Dallas area their permanent home.

Sharon Price, DeSoto school district's assistant superintendent for administration and operations, said many of the parents are picking up job applications as they enroll their children.

"They've applied for all types of jobs, from clerical to professional to construction to secretarial," Ms. Price said.

But it isn't just parents and students who are coming to North Texas for the long haul. Some Louisiana teachers are coming here, too.

One, Clifford Hawkins, has relocated for good from the New Orleans area and has landed a job at Arlington's South Davis Elementary School as a fifth-grade teacher.

"We got out in time. So did all our family," said Mr. Hawkins, who has taught for more than 26 years. "I'm not going back. I might go just to visit, but this is my home now. A visit might do more harm than good"

Like thousands of others who fled New Orleans, Mr. Hawkins said his home and Parkview Academy, a New Orleans elementary school, sat in areas of town that were inundated with water and severe storm damage.

Mr. Hawkins, 50, said that his son lives in Arlington and that the school district impressed him whenever he visited.

Veronica Sopher, Arlington school district spokeswoman, said Mr. Hawkins showed up with a suitcase, a laptop and a memory stick. She said district officials were able to verify Mr. Hawkins' teaching certification and are glad to get him.

"He had the foresight to know life wasn't going to be what it was for a while," Ms. Sopher said.

Local Schools Open Doors For Displaced (WT)

By Gary Emerling and Arlo Wagner

The Washington Times, September 7, 2005

DOJ_NMG_0003395

The first day of school in Northern Virginia yesterday symbolized the start of a new life for some children whose homes were destroyed by Hurricane Katrina, as area officials opened their doors to many displaced students from the Gulf Coast.

On the day after Labor Day, most public schools opened in Alexandria, and in Arlington, Fairfax and Prince William counties.

So far, 11 children from devastated parts of the Gulf Coast have registered to attend school in Arlington County.

"There's concern for the families in the Gulf Coast and we want to provide some stability in the lives of those students," said Robert Smith, Arlington County schools superintendent. "I suspect in most of these cases we're dealing with family members taking in these children."

Public schools in Maryland and Virginia are enrolling Katrina victims under the federal McKinney-Vento Act, which provides for the enrollment of homeless students without immediately obtaining birth records or requiring the children to receive necessary immunizations.

About 25 displaced students have enrolled to attend school in Prince George's County. Officials have been told to waive tuition and provide school supplies to students in need during the expedited enrollment process.

Montgomery County has enrolled eight displaced students, and Alexandria has enrolled three. School officials in Anne Arundel and Fairfax counties said they did not have a count of how many displaced students had been enrolled in their respective school systems.

D.C. officials also did not know how many hurricane victims were enrolled, but said staff members were registering students arriving from the Gulf Coast at Shaw Junior High School in Northwest and at the D.C. Armory.

Patricia Williams, a D.C. school official, said students in need will receive free immunizations, school meals and school supplies.

"The most important thing is the superintendent wants these families and these children to know they are absolutely welcome in the District of Columbia public schools," she said. "We are going to do everything we can to make sure their transition is as smooth as possible because they've already been through enough."

Catholic schools within the Archdiocese of Washington have enrolled 31 students from the Gulf Coast.

Within minutes after the newly built South County Secondary School in Lorton opened its doors, its 2,500 students were asked to donate toiletries, clothing, baby items, bedding and canned food for Katrina victims.

School counselor Marci Norem said two tractor-trailers loaded with 4,620 gallons of water and 20,000 meals ready to eat from a local business was expected to arrive at the school today to pick up donated items and take them to Biloxi, Miss.

By yesterday afternoon, the school lobby was filled with so many goods that Miss Norem was searching for more boxes.

Principal Dale Rumberger called the service project "a teachable moment."

"You're never too busy to give," he said.

Fairfax County Schools Superintendent Jack D. Dale, who toured the new 410,000 square-foot school yesterday, said the school system has expedited registration for those displaced by Katrina and will hire more teachers if necessary.

"I know we have kids throughout the county from different parts of the Katrina disaster. We're just saying all kids are welcome," said Mr. Dale, who heads up Virginia's largest public school system of about 165,000 students.

South County was built on 73 acres across a field from the former Lorton Prison. Its enrollment will mostly alleviate Hayfield Secondary School near Fort Belvoir, Mr. Dale said.

Top Pentagon Brass Defend Response Time (USAT)

By Matt Kelley

USA Today, September 7, 2005

WASHINGTON — The Pentagon's top officials said Tuesday that the military responded quickly to Hurricane Katrina, although it took nearly four days for troops to begin delivering large amounts of food and water to storm victims.

“Not only was there no delay, I think we anticipated in most cases — not in all cases, but in most cases — the support that was required,” Gen. Richard Myers, chairman of the Joint Chiefs of Staff, said at a Pentagon news conference.

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Storm victims in Louisiana, Mississippi and Alabama complained bitterly that the military didn't start large-scale delivery of provisions until Friday. Some military helicopters began search-and-rescue operations Aug. 30.

Defense Secretary Donald Rumsfeld said he had appointed Navy Adm. Edmund Giambastiani to study the military's response to Hurricane Katrina to determine whether any mistakes were made. Giambastiani, a close Rumsfeld ally, is vice chairman of the Joint Chiefs of Staff.

The commander of the first large Navy ship to participate in relief efforts said last week that she was notified the night of Aug. 28 — the day before the storm hit — that her vessel might be needed to provide relief. But she wasn't told to do so until late Aug. 30, the day flooding started in New Orleans, she said.

"I've got sailors I could send to the beach, but I can't force myself on people," Capt. Nora Tyson said Friday in an interview on the bridge of her ship, the USS Bataan.

Myers said military officials worked from the afternoon of Aug. 30 through the morning of Aug. 31 to assess the situation in New Orleans and decide what to do.

Myers and Rumsfeld said the military had planned its hurricane response but was caught off guard by the flooding. Experts, including those from the Army Corps of Engineers, have predicted for years that a hurricane as large as Katrina could cause widespread flooding in New Orleans.

Katrina, Iraq Aid Efforts Hit Same Hurdles (WSJ)

By Greg Jaffe

The Wall Street Journal, September 7, 2005

WASHINGTON -- Military officials surveying the slow federal response to Hurricane Katrina say the problems that hindered early relief efforts along the Gulf Coast are eerily similar to those that have dogged relief and reconstruction efforts in Iraq.

The crises spotlight the inability of disparate departments within the government to plan together before a catastrophe and work quickly together once one hits.

"Clearly we didn't get a coordinated governmental response in the case of Katrina," said Michele Flournoy, a senior adviser at the Center for Strategic and International Studies, or CSIS, a nonpartisan think tank in Washington, which studied the U.S. response in Iraq. "The same thing happened in Iraq. The mechanisms to integrate efforts across the government were just lacking."

Some senior Pentagon officials, however, dispute that analysis. Rather than lack of coordination, they blame the magnitude of the disaster, which wiped out state and local emergency-response efforts. "The federal response is designed so assistance flows through the state and local government," said Peter Verga, the principal deputy assistant secretary of defense for Homeland Defense. "In this case not only did we have to backfill [state and local forces], we had to fill their front ranks as well because the breadth of the disaster overwhelmed the first responders, making them victims as well."

The failure of federal agencies to work together in a coordinated fashion has been a major issue since the Iraq war. In Iraq, the Pentagon and the State Department developed separate plans for reconstructing the war-torn country, without significant input from each other. The State Department plans for postwar Iraq eventually were shelved. The Pentagon even told top officials not to attend meetings tied to the State Department's postwar Iraq effort.

As a result there was poor coordination between the military campaign to topple Saddam Hussein and the postwar efforts to deal with the ensuing chaos. As looters tore through the country -- something expected by State Department planners, based on experiences in Haiti and the Balkans -- senior military officials on the ground largely were caught off guard.

Similarly, many months before Hurricane Katrina, senior military officers within the Pentagon's Northern Command -- formed shortly after the Sept. 11, 2001, terrorist attacks to oversee the military contribution to homeland defense and disaster relief -- complained that they often were hindered from planning and working alongside other key government agencies such as the Department of Homeland Security. The commander of the Pentagon's Northern Command reports directly to Secretary of Defense Donald Rumsfeld.

Retired Gen. Ralph Eberhart, who was the senior officer in Northern Command until late last year, frequently complained that he had to get approval from the Office of the Secretary of Defense before he or his senior staff could work together with the

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Department of Homeland Security, said military officials who worked with the general. In some cases, Northern Command was able to work around the bureaucratic barriers, senior military officials said.

"Ultimately, everything that Northern Command wanted to do with Homeland Security had to go through the Pentagon and be approved by the Office of the Secretary of Defense. It was a huge issue," said retired Marine Col. T.X. Hammes, a professor at the Pentagon's National Defense University who also commanded the Marine Corps' Chemical Biological Incident Response Force. "Every time you add a layer of staff you slow down the response."

A senior Pentagon official confirmed that there were limits on interaction between the Northern Command and Department of Homeland Security. But he says those applied only to policy-level discussions regarding how the Pentagon would support civil authorities, like state and local police, the defense official said. And he said the limits applied only to the most senior officials. He said the Pentagon encouraged the Northern Command and Department of Homeland Security staffs to conduct joint exercises and planning.

Northern Command didn't respond to calls seeking comment for this article. Secretary Rumsfeld Tuesday defended the Pentagon's response, saying that some troops and helicopters began to prepare for rescue and relief missions before the storm hit. "As the storm was approaching the Department of Defense met and discussed the importance of anticipating things that the department could be asked and ... actually prepositioning things before [the hurricane] ever hit," Mr. Rumsfeld told reporters.

On Aug. 30, shortly after the magnitude of the crisis in New Orleans became clear, Gen. Richard B. Myers, the military's top officer, said he told the four-star generals in charge of the Army, Navy, Air Force and Marine Corps to work directly with Northern Command to speed troops, ships and helicopters to the Gulf Coast. The order cut through at least two layers of bureaucracy, such as requirements that the Department of Homeland Security formally request forces and that Mr. Rumsfeld's office and the Joint Chiefs of Staff approve them.

"I think we anticipated the support required and were pushing support before it was requested," Gen. Myers told reporters at the Pentagon.

Still the predisaster barriers limited how much planning Northern Command could do with Homeland Security, some military officials said. One senior Army official said "the same problem" that hindered reconstruction efforts in postwar Iraq arose with the response to Katrina. "It is the interagency problem," he said. "How do you rapidly integrate all the powers of the U.S. government."

About a year ago Gen. Eberhart pitched a solution to senior Pentagon officials, some of his former staffers said. He pushed to create a permanent task force that would include people from Northern Command, the Pentagon, the Federal Emergency Management Agency, the Justice Department, the Coast Guard and the Federal Aviation Administration. The members of the task force would plan and train together and during a crisis would form the core of a headquarters to oversee the relief effort. The task force would be headed by a civilian who would oversee all relief efforts if and when there were a terrorist attack or a natural disaster.

Many in the Pentagon thought it a good idea, said one senior military official involved in developing the concept. But other crises -- such as the wars in Iraq and Afghanistan -- took precedence and the idea was put on the back burner, this military official said.

At about the same time, a team from CSIS had begun briefing senior U.S. officials on their solution to some of the planning problems that plagued Iraq. Although the team focused on overseas efforts and not domestic ones, it came up with a similar solution. The team called for the U.S. to build rapidly deployable teams of representatives from the Defense, State, Commerce and Justice departments. All told, the task forces would total about 100 people who "know how to mobilize the assets of their department quickly," said Ms. Flournoy, who was one of the authors of the CSIS study.

The CSIS study got a warm response from the Pentagon and, in particular, from Gen. Peter Pace, who is set to become the next chairman of the Joint Chiefs of Staff. The Pentagon is exploring how to build such task forces for wars overseas.

Navy Pilots Who Rescued Victims Are Reprimanded (NYT)

By David S. Cloud

The New York Times, September 7, 2005

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PENSACOLA, Fla., Sept. 6 - Two Navy helicopter pilots and their crews returned from New Orleans on Aug. 30 expecting to be greeted as lifesavers after ferrying more than 100 hurricane victims to safety.

Instead, their superiors chided the pilots, Lt. David Shand and Lt. Matt Udkow, at a meeting the next morning for rescuing civilians when their assignment that day had been to deliver food and water to military installations along the Gulf Coast.

"I felt it was a great day because we resupplied the people we needed to and we rescued people, too," Lieutenant Udkow said. But the air operations commander at Pensacola Naval Air Station "reminded us that the logistical mission needed to be our area of focus."

The episode illustrates how the rescue effort in the days immediately after Hurricane Katrina had to compete with the military's other, more mundane logistical needs.

Only in recent days, after the federal response to the disaster has come to be seen as inadequate, have large numbers of troops and dozens of helicopters, trucks and other equipment been poured into to the effort. Early on, the military rescue operations were smaller, often depending on the initiative of individuals like Lieutenants Shand and Udkow.

The two lieutenants were each piloting a Navy H-3 helicopter - a type often used in rescue operations as well as transport and other missions - on that Tuesday afternoon, delivering emergency food, water and other supplies to Stennis Space Center, a federal facility near the Mississippi coast. The storm had cut off electricity and water to the center, and the two helicopters were supposed to drop their loads and return to Pensacola, their home base, said Cmdr. Michael Holdener, Pensacola's air operations chief.

"Their orders were to go and deliver water and parts and to come back," Commander Holdener said.

But as the two helicopters were heading back home, the crews picked up a radio transmission from the Coast Guard saying helicopters were needed near the University of New Orleans to help with rescue efforts, the two pilots said.

Out of range for direct radio communication with Pensacola, more than 100 miles to the east, the pilots said, they decided to respond and turned their helicopters around, diverting from their mission without getting permission from their home base. Within minutes, they were over New Orleans.

"We're not technically a search-and-rescue unit, but we're trained to do search and rescue," said Lieutenant Shand, a 17-year Navy veteran.

Flying over Biloxi and Gulfport and other areas of Mississippi, they could see rescue personnel on the ground, Lieutenant Udkow said, but he noticed that there were few rescue units around the flooded city of New Orleans, on the ground or in the air. "It was shocking," he said.

Seeing people on the roofs of houses waving to him, Lieutenant Udkow headed in their direction. Hovering over power lines, his crew dropped a basket to pick up two residents at a time. He took them to Lakefront Airport, where local emergency medical teams had established a makeshift medical center.

Meanwhile, Lieutenant Shand landed his helicopter on the roof of an apartment building, where more than a dozen people were marooned. Women and children were loaded first aboard the helicopter and ferried to the airport, he said.

Returning to pick up the rest, the crew learned that two blind residents had not been able to climb up through the attic to the roof and were still in the building. Two crew members entered the darkened building to find the men, and led them to the roof and into the helicopter, Lieutenant Shand said.

Recalling the rescues in an interview, he became so emotional that he had to stop and compose himself. At one point, he said, he executed a tricky landing at a highway overpass, where more than 35 people were marooned.

Lieutenant Udkow said that he saw few other rescue helicopters in New Orleans that day. The toughest part, he said, was seeing so many people imploring him to pick them up and having to leave some.

"I would be looking at a family of two on one roof and maybe a family of six on another roof, and I would have to make a decision who to rescue," he said. "It wasn't easy."

While refueling at a Coast Guard landing pad in early evening, Lieutenant Udkow said, he called Pensacola and received permission to continue rescues that evening. According to the pilots and other military officials, they rescued 110 people.

The next morning, though, the two crews were called to a meeting with Commander Holdener, who said he told them that while helping civilians was laudable, the lengthy rescue effort was an unacceptable diversion from their main mission of

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delivering supplies. With only two helicopters available at Pensacola to deliver supplies, the base did not have enough to allow pilots to go on prolonged search and rescue operations.

"We all want to be the guys who rescue people," Commander Holdener said. "But they were told we have other missions we have to do right now and that is not the priority."

The order to halt civilian relief efforts angered some helicopter crews. Lieutenant Udkow, who associates say was especially vocal about voicing his disagreement to superiors, was taken out of the squadron's flying rotation temporarily and assigned to oversee a temporary kennel established at Pensacola to hold pets of service members evacuated from the hurricane-damaged areas, two members of the unit said. Lieutenant Udkow denied that he had complained and said he did not view the kennel assignment as punishment.

Dozens of military aircraft are now conducting search and rescue missions over the affected areas. But privately some members of the Pensacola unit say the base's two available transport helicopters should have been allowed to do more to help civilian victims in the days after the storm hit, when large numbers of military helicopters had not reached the affected areas.

In protest, some members of the unit have stopped wearing a search and rescue patch on their sleeves that reads, "So Others May Live."

IRS Offers Relief To Katrina Victims (WSJ)

By Tom Herman

The Wall Street Journal, September 7, 2005

As evidence mounts of Hurricane Katrina's devastation, the federal government has greatly expanded the number of areas eligible for special tax relief and is taking other steps designed to ease pressures on taxpayers in the storm-ravaged region.

Areas eligible for relief include 64 Louisiana parishes, 52 Mississippi counties and six Alabama counties, the Internal Revenue Service said. Also on the list are three Florida counties: Broward, Miami-Dade and Monroe. Early last week, the IRS initially singled out only 31 Louisiana parishes, 15 Mississippi counties and three Alabama counties.

That means many more people now are eligible for a special tax break that applies when the president declares a place a federal disaster area. They can choose to deduct their disaster losses for 2005 on their tax returns for 2005, to be filed next year -- or on their returns for 2004. (If you've already filed for 2004, as most people have, just file an amended return on Form 1040X.) Ordinarily, taxpayers can deduct casualty losses only for the year in which they actually occur.

IRS officials also have suspended many compliance activities, such as liens, levies and seizures, for those affected by Katrina. This general suspension will last for at least 60 days, the IRS said.

Officials are extending filing deadlines and abating interest payments and penalties. For example, they have extended the Sept. 15 due date for paying estimated taxes until Oct. 31. For the hardest-hit areas, the IRS "anticipates extending these deadlines even further in the near future."

The IRS also set up a special toll-free disaster hotline (866-562-5227). Those affected by the disaster who need copies of tax returns to apply for aid or some other purpose can have the usual user fee waived, the IRS said. Write "Hurricane Katrina" in red across the top margin of Form 4506, which you use to ask for a copy of a tax return.

Separately, the IRS, citing shortages of clear diesel fuel caused by Katrina, said it won't impose a tax penalty when so-called dyed diesel fuel is sold for use or used on the highway. The IRS said this special relief applied beginning Aug. 25 in Florida, Aug. 30 in Alabama, Louisiana and Mississippi, and Aug. 31 in the rest of the nation. It will remain in effect through Sept. 15. (According to the IRS, dyed diesel fuel usually isn't taxed because it's typically sold for uses exempt from excise tax, such as to farmers and to local governments for buses.)

Yesterday, the IRS promised "an expedited review and approval process" for new groups seeking tax-exempt status in order to provide relief for storm victims. New organizations should apply by filing Form 1023. Write at the top "Disaster Relief, Hurricane Katrina."

For more details on this and other recent IRS moves related to Katrina, go to the IRS Web site (www.irs.gov) and click on the box that says "Helping Hurricane Katrina Victims."

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The choice of whether to deduct casualty losses on your return for 2004 or 2005 can be tricky. Many people will be better off by claiming their losses on their returns for 2004 because it will mean an earlier infusion of cash. But others will want to wait to claim their losses on their returns for 2005.

For example, you can't deduct any losses unless you itemize your deductions. If you itemize, you must first reduce your casualty losses by $100 for each event. Then you have to reduce your total casualty losses for the year by 10% of adjusted gross income.

H&R Block Inc. says it's offering Katrina victims free preparation and filing of amended 2004 returns that claim weather- and theft-related losses resulting from the storm. Liberty Tax Service also is offering free services to victims.

Taxpayers facing extraordinary hardships who can't get satisfaction through normal IRS channels should consider contacting representatives of the IRS Taxpayer Advocate Service (877-777-4778). This IRS unit, headed by National Taxpayer Advocate Nina Olson, is designed to help taxpayers untangle problems with the IRS. Ms. Olson also recommends legislative changes to Congress designed to fix problems in tax administration.

* * *

BEWARE of con artists asking for donations for Katrina victims.

When disaster strikes, scamsters often lurk close behind. For example, watch out for phony charities, warns JJ MacNab, a financial planner in Bethesda, Md.

"Stick with big-name charities -- and, if you have any questions, verify that it's a real charity" by checking sources such as GuideStar (www.guidestar.org), Ms. MacNab says. GuideStar offers access to a vast database on nonprofit organizations.

Other sources include BBB Wise Giving Alliance (www.give.org), FEMA (www.fema.gov), the IRS (www.irs.gov) and the Federal Trade Commission (www.ftc.gov), which offers a guide to "giving wisely." For example, donors should be wary of charities with names that sound like other nationally known groups. Ask for identification when a solicitor approaches you in person. Don't provide personal or financial information, such as your Social Security number. Don't give or send cash. And try to verify whatever you're being told.

If you aren't sure if a charity is qualified to receive tax-deductible gifts, start by checking out the IRS site. Clicking on "Helping Hurricane Katrina Victims" should lead you to a page with information about charitable giving, including a search feature for the IRS's huge list of qualified charities. (The IRS says it doesn't endorse charities.) But some organizations, such as churches and governments, "may be qualified even though they're not listed," the IRS says. Thus, donors may need to do additional research on the Web, such as search for news articles.

Also see IRS Publication 3833, which can help people who want to make gifts or form a new charity.

* * *

A PRESIDENTIAL PANEL on overhauling the tax system meets tomorrow.

President Bush's advisory panel on federal tax reform, headed by former U.S. Sen. Connie Mack, is scheduled to meet in Washington tomorrow morning at the Marriott Wardman Park Hotel. The panel (taxreformpanel.gov) has set another meeting for Sept. 15.

The panel's report is due by Sept. 30.

* * *

BRIEFS: Indiana plans a tax amnesty starting Sept. 15 and running through Nov. 15. The state calls it a "limited-time opportunity" for individuals and businesses to pay and file taxes free of penalty, interest and collection fees, and without fear or prosecution.... Many other states have offered various forms of amnesty in recent decades.

Storm Giving Outpaces That Of 9/11, Tsunami (USAT)

By Wendy Koch

USA Today, September 7, 2005

Private fundraising for Hurricane Katrina victims — from bake sales, to carwashes, to football games — has topped a half billion dollars and is outpacing U.S. donations for tsunami relief.

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The American Red Cross has raised more than $409 million, abetted by corporations, Texas businessman T. Boone Pickens as well as schoolchildren emptying their penny jars. Half of the total has arrived online.

"It's going gangbusters," says Devorah Goldburg, the group's spokeswoman. She says the amount is more than double what was raised in a similar time period after southern Asia's disaster in December.

The intensity is expected to continue as schools hold fundraisers, former presidents Bill Clinton and George H.W. Bush plead for donations and entertainers host a TV benefit concert, "Shelter From the Storm," Friday.

Next month, talk radio host Rush Limbaugh will appear on a show on Broadway to raise money for hurricane relief.

Today more than 40 different education groups meet with Education Secretary Margaret Spellings to brainstorm ways schools can both help displaced students and teach the value of good citizenship.

The Salvation Army, which raised $20 million after the tsunami, has already pulled in at least $51 million for Katrina victims.

"People are responding at a record pace," says Major George Hood, national community relations secretary. He notes the tsunami, however, occurred right after the Christmas season, and many people had already contributed to the charity.

Hood says fundraising for Katrina is occurring faster than after 9/11, when the Salvation Army raised $90 million for victims over an extended period. Many online donations have come from abroad, including the United Kingdom, Canada, Australia and Europe.

Catholic Charities received 20,000 online donations in the past two days, spokeswoman Shelley Borysiewicz says. She says it usually gets 6,000 such donations in a year. The group has raised more than $5 million, most of it online. She says the total doesn't include special collections taken in churches.

Nationwide, the young and the old have mobilized disaster relief. In Omaha, kids distributed fundraising leaflets at soccer tournaments and high school girls held a carwash. In DeSoto, Kan., Mill Valley High School students plan to collect bottled water at a football game Friday. Ohio State University is sponsoring a "September to Remember" effort in which the athletic department will donate $2 from programs sold at home games.

In Parma, Ind., Mayor Dean DePiero asked residents to donate goods — bottled water, over-the-counter medicines, clothes, diapers, toilet paper — to help 7,000 evacuees being bused to Marksville, La. He says volunteers quickly filled two semi trucks.

"It's been overwhelming," he says. At one point, he had to ask residents to hold off so that the donations could be boxed. A third truck is on the way. Among the donations: dolls given by little girls.

In Katrina's Wake, Generosity (USAT)

By Marco R. Della Cava

USA Today, September 7, 2005

SAN ANTONIO — If this nation has a hallmark, forged in communal hardship, it is this: In the face of inexplicable sorrow, we give.

Money. Time. Materials. Love. Whatever it takes.

And so it is with Hurricane Katrina. But while bake sales and food collections have sprung up in countless towns, some cities are giving more. Much more. Partly because they're asked to, by both city officials and fate. But mostly because they want to. Such is the case with Texas' historic Alamo City, where nearly 12,000 of Katrina's dazed evacuees have turned up in recent days.

In response, citizens have pulled all-nighters volunteering in shelter kitchens, offered rooms to elderly survivors and left their own young ones to tend to the babies of strangers.

It might be 98 degrees in the shade here, but folks are out and about, organizing toy drives downtown, lemonade sales in tony suburbs and barbecues in poor districts. Put simply, the exceptional has become the norm, a baseline for tireless displays of charity.

The catastrophe in New Orleans has many assigning blame. Some say American leaders failed. But the American people have not.

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“I watched on TV, and I just thought of myself and my little children, that it could have been us running,” says Jill Fitch, explaining how she came to be bouncing another woman's infant on her knee at a child-care center inside KellyUSA, a former military facility that is housing the bulk of the evacuees.

“I feel I'm my brother's and my sister's keeper. It's really as simple as that.” The baby squawks. Fitch brushes away a tear. “I feel almost bad for what I have.”

An emotion-fueled sentiment. But being in the presence of the truly destitute will do that. Just look straight down in this cavernous cot-filled space: Most feet are shod only in socks and flip-flops. Everywhere you go in this makeshift mini-city, flip flop, flip flop.

New shoes are said to be on the way. In the meantime, the halls of KellyUSA bustle like a New York city block. Kids play with a new puzzle, two mothers load up on diapers, and a trio of men tune into a baseball game on a donated TV. Over here someone's getting a haircut, down there a grandfather is pushed about in an office chair, the only wheelchairs around. And this being a First World calamity, the air trills with sounds of cellphones.

Sometimes you even see smiles. Flooding, mayhem and rage have been replaced by air conditioning, regular meals and naked gratitude.

“If it wasn't for the care of the persons here in San Antonio, I don't know what would have become of me. It's been an emotionally overwhelming experience,” says Bernadine Holbert, whose escape from her ruined home has become routine in its hellishness.

Waiting in water. Bodies floating past. A boat ride to a field followed by a night under a highway overpass. Finally, evacuation.

“There are people whose bodies will never be identified, there are babies …” Her voice trails off as she turns away for a moment. “Although this has begun, it also will end. You just have to let go of what you think you've lost. I am very grateful to be alive.”

The what-next question, however, can't be avoided. In fact, volunteers with mental health expertise say that as the evacuees get over the shock of their ordeal, a natural anger begins to set in.

“Most of these people have no clue what happens now, and we frankly can't give them many answers,” says Ramona Leonards, a child counselor who took off work to help the Red Cross here. “Sure, most people are grateful for the food and shelter. But others feel that's too little.”

Leonards says the best approach is to solve problems one at a time. In Holbert's case, Leonards is helping her get a transfer to Dallas, where she hopes to lean on her employer, the Army Corps of Engineers, to find work.

Indeed, few evacuees talk about returning to New Orleans. Bruce Gaten, a jazz trumpeter who lost all three of his horns to the waters, says he'll go to Houston.

“It's music, right? I'll just play it there,” he says, lying on a green Army-issue cot as he stares at the ceiling. “I tell you, lots of people say they won't go back, and I think it's because they finally got out of town for the first time.”

Fernell Augustine had never been to San Antonio, but he likes what he sees. And his chances for staying just improved. An impromptu Labor Day visit by Texas Gov. Rick Perry turned into a chance chat between the two. After the governor and his entourage left, Augustine explained that he had asked for help getting his wife and seven children transferred here from another Texas shelter.

“I am tired of the murder in New Orleans, and I want something better for my family,” he says, adding that he battled both looters and snakes while escaping the Big Easy. “This town has shown us love. I am a cook and a handyman. I will do anything. I just want a chance.”

If the altruism on display here means anything, it is that Augustine could get that chance.

Consider that when calls went out on radio stations asking for donations, lines nearly 100 cars long stretched back from the massive Salvation Army warehouse on the west side of town.

“This is so insanely wonderful,” says Denise Curran, who along with her husband, Scott, spent nearly 33 hours helping sort donations, which ranged from the eclectic (Hawaiian shirts on hangers) to the indispensable (cartons of baby formula). “Everyone's coming out, blacks, whites, Hispanics. I am very proud of this town.”

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Consider that when Sibyl and Don White, both 79, finally made it out of New Orleans to stay with their son and daughter-in-law here, they immediately went to shop for new clothes and had an unforgettable experience.

When a young man in the store heard they had survived the calamity, he handed them $5 and said he wished he could do more. The Whites, who are financially secure and white, were overwhelmed by their African-American benefactor, who they say was of modest means. "We gave the bill back to him with a hug," says Sibyl. "I will never forget that."

Consider that when the owner of local Pizza Hut stores was asked if he'd sell a huge order at a discounted price to help feed those pouring off planes and buses, he simply gave 320 pies away.

"I mean, you see the plight these people are in, leaving their homes with nothing but the clothes on their backs. Something had to be done," says Jack Richmond, who owns 31 stores throughout the city and county. "I figured a nice slice of pizza might help start their stay here right."

Consider that when neighbors from an elegant northern suburb noticed their children trying to process the scenes on their television, they didn't have to wait long before the kids themselves asked to set up a lemonade stand to benefit evacuees.

"It was wonderful to see these kids get a huge lesson in humility and compassion all on their own," says Tom Heffron, whose kids (Cody, 11, Kyle, 10, and Connor, 7) joined the Jones kids (Scottie, 11, Emily, 10, Johnnie, 6) on a blazing hot street near their gated community. The older ones had spent the morning hauling boxes of donations at the Salvation Army depot. "You want them to understand that the way they live isn't the way others live, says the elder Heffron. "I sense they get that right now."

Consider that when one of the city's leading Jewish citizens heard about an 86-year-old woman who had arrived at KellyUSA disoriented, he immediately opened his home to her.

"This woman spent four days in her New Orleans home alone, with little food or water," says M.H. Levine, director of the Jewish Family and Children's Service, which also has collected mountains of food, clothing and toys for evacuees. "We found she had a son in Houston, who is about to come pick her up. But she did tell me the other night that she likes it here so much, maybe she'll stay. How about that?"

But how would that work? So far, the indicators are promising.

This city of 1.1 million — nearly split between whites and Hispanics, with 6% African-Americans — has a falling unemployment rate of just under 5%, and will soon boast a new Toyota factory.

As for housing, the latest Census reports that 7% of the city's half-million housing units are vacant, and real estate agents and apartment managers are quickly updating local officials on their inventory.

"Folks we see (at KellyUSA) who were in public housing in New Orleans can get vouchers for public housing here quickly," says Melanie Villalobos of the San Antonio Housing Authority. "So far, we're finding that people are taking whatever is available and worrying about the rest later. They want to get back on their feet."

For some, regaining dignity and self-sufficiency is as simple as being given a few dollars and taken to a local store to spend it themselves. "It's just a way of taking back some control, which they've lost so much of in these past days," says volunteer social worker Leonards, who has organized such trips.

For others, it means finding their way to relatives here who can promise them unlimited shelter until it is time to see what remains of their old lives. Pharmacist Famous Washington, who along with his wife, Lisa, grew up in New Orleans, is sheltering 16 of his distraught relatives who have made their way to his expansive suburban home.

"Most of my relatives were insured, so we hope eventually they'll get something back. But for now, we just wait," says Washington, whose guests, ages 9 months to 77 years, are Lisa's extended family. The younger ones already have been accepted at local public schools, which have gone out of their way to make room for Katrina kids.

Although the Washington house was filled with the smell of blackened chicken and baked beans over the holiday weekend, festive smiles were wanting. Lisa's sister-in-law lost both her aunt and uncle when, after days of medical neglect, they died on a crowded highway overpass. "It was a general evacuation, right?" Lisa says with a quiet rage. "I don't understand why buses weren't sent for everyone."

Says Famous: "This tragedy has brought out the bad and the good."

Around here, it's the good that is shining through, a welcome respite from the death, lawlessness and neglect that have punctuated these past 10 days.

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The kind of good that radiates from Tiffany Collins, a parks and recreation secretary who, in volunteering at KellyUSA, befriended single mom Shantrice Wyatt and her children, Latrice, 6, and Gregory, 3.

On a recent afternoon, Collins thought it was time for Wyatt to catch a break from parent duty and for the kids to get away from the shelter's fluorescent lights. So she whisked the kids over to her modest house on the working-class side of town.

There she filled up a little plastic pool and smiled as two innocents who had escaped New Orleans played with her two children, Ayanna, 2, and Nate, 5. “They've been through an ordeal,” she says. “I figured maybe this would cheer them up.”

Back at KellyUSA, Wyatt is the one who is smiling.

“I have lost everything, like a lot of folks, but ever since I got here, people have been good to me,” she says. “I was a janitor back home. Maybe I can find that work here. All I know is, it's time for a fresh start. A new beginning. This could be a nice place to do that.”

A Mission Of Mercy To Houston (WP)

By Nancy Trejos

The Washington Post, September 7, 2005

HOUSTON, Sept. 6 -- "Need a home?" the flier asked.

The Rev. William Finch, pastor of St. Raphael's Catholic Church in Rockville, arrived here Tuesday ready to sell Montgomery County as a haven for 50 hurricane evacuees living in the Astrodome.

He's printed 100 fliers outlining the package that he and his parishioners have assembled for those who get on his bus for Maryland: $500 in cash, unlimited use of cell phones, access to schools, help finding jobs. And they will live in some of the nicest homes in Rockville and Potomac for as long as it takes to reestablish themselves.

An ambitious and generous plan. But getting his congregation's 3,300 families, many of them well-to-do, to donate more than $100,000 was the easy part. As he prepared to board a flight for Houston on Tuesday, he realized that his busload of good intentions could go for naught.

"I'm scared to death," the 51-year-old District native said.

Since deciding to go after watching television coverage of Katrina's catastrophic aftermath last week, Finch has contacted the Red Cross and Texas officials for help identifying evacuees. He said he has not been able to reach anyone who can help.

Others who want to assist have been rebuffed. When the D.C. government sent 10 buses to New Orleans to pick up storm victims Friday, people reportedly refused to leave.

With no contacts, Finch's game plan is pretty simple. He plans to go to the Astrodome on Wednesday, walk around and ask people if they want to live in Maryland.

What if nobody wants to come? What if he can't even get into the Astrodome?

If that happens, Finch said, he will donate the money to Catholic Charities, which has taken an active role in helping the hurricane victims.

"At least we tried," he said. "Our people wanted to do something other than write checks."

Despite the uncertainty, Finch persuaded others to travel here with him. On Monday, he called Jeffrey Dunckel, a Bethesda parishioner who works for the Montgomery County Department of Public Works and Transportation. Dunckel called his supervisor and requested the week off, then got a seat on Finch's plane.

"He gave a very inspired call to action," Dunckel said.

Luisa Duarte, the Hispanic coordinator at St. Raphael's, didn't need much convincing. She left Cuba 43 years ago without her parents. "I know what it's like not knowing what's going to happen next," she said.

Since announcing his plan to parishioners during Mass over Labor Day weekend, help has emerged from all directions.

Robert Ivany, president of the University of St. Thomas in Houston, agreed to house Finch and his crew for a couple of nights. The Marriott Corp., which had offices in Bethesda and employs several of his parishioners, donated 30 free hotel rooms at a Fairfield Inn in Knoxville, Tenn., where they plan to spend Thursday night during their 22-hour drive back.

Once they get back to Maryland, Finch's staff will match evacuees to the 34 parishioners who have offered their homes. Pediatricians, dentists and counselors will offer their services.

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Once the evacuees have settled into their new homes, Finch said, he will help them find jobs. Dunckel said Montgomery County will train any evacuees over age 21 as Ride On bus drivers. There are currently 25 vacancies, he said.

Regular potluck dinners will keep the evacuees together, Finch said. Parishioners are willing to house them, possibly for a year or longer.

"This is a long-term project," he said. "We will carefully watch over them and guard them."

New Orleans Bus Convoy Returning Mostly Empty (WP)

The Washington Post, September 7, 2005

A convoy of buses that set out Friday to rescue New Orleans evacuees is scheduled to return this morning largely empty-handed, but city officials say the effort was not in vain.

A caravan of 10 motor coaches, staffed with medical crews, social service workers and police officers, departed Friday in hopes of bringing 400 evacuees to the District and sheltering them at the D.C. Armory. By the time they made it to New Orleans, though, crowds at the convention center and Superdome had been evacuated, city officials said. The caravan tried other areas, but crowds had been cleared or evacuees declined a free trip to the capital.

The District's convoy carried 19 social service workers, two mental health workers, three emergency management employees, two doctors and one physician assistant from Georgetown University and 28 police officers, said Jo'Ellen Countee, a spokeswoman for the D.C. Emergency Management Agency.

As the buses returned, Countee said, the only evacuees on board were one or two college students who needed to get to Washington.

Council member David A. Catania (I-At Large) said the mission was a success. The convoy delivered food, water, fuel, diapers and medical aid and equipment to evacuees and emergency responders.

The District received about 200 evacuees yesterday, flown in from New Orleans International Airport.

US Economy Takes Big Hit (CSM)

By Mark Trumbull

The Christian Science Monitor, September 7, 2005

As devastating storms go, hurricane Katrina has packed an unusually big punch to the United States economy.

Though the full impact of the Aug. 29 superstorm is still being assessed, the economic brunt differs in at least three major ways from a typical recovery led by armies of insurance adjusters bearing clipboards and checkbooks.

• A region's major city has been entirely displaced, throwing hundreds of thousands of people out of work and casting doubt on the financial future of New Orleans itself.

• The movement of goods through America's heartland has been disrupted, with key ports still closed and the channel of the Mississippi narrowed by the storm.

• Oil and gas drilling platforms, refineries, and pipelines are damaged, and some will take months to bring back on line.

The result is a barrage of challenges likely to affect everything from the US unemployment rate to winter heating costs for months to come. The typical forecast now is for slowing growth rather than outright recession.

With unprecedented prices at gasoline pumps and an unprecedented humanitarian crisis fast rippling outward, the deeper worry is that Katrina's aftereffects could erode consumer confidence.

"That's what we're very concerned about," says Robert Dye of Economy.com. "This is really an unprecedented event."

American consumers have consistently surprised economists in recent years with their buoyancy amid rising debts and difficult job markets. That could happen again, but evidence was mounting even before Katrina that consumer confidence may be weakening in the face of high gasoline prices. The red-hot housing market shows signs of cooling, for example, as "for sale" signs stay up longer in some cities and demand for home mortgages shrinks.

"Consumers are unlikely to be able to rely on their homes for a ready source of cash," as they have in the recent past, concludes Gina Martin, an analyst with Wachovia, a bank based in Charlotte, N.C. This, coupled with "out of gas" signs at service stations, could prompt a pullback in consumer spending, but not a sustained decline, she predicts.

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The prevailing view now is that Katrina will curb the nation's economic growth - which has been running at an annualized rate of more than 3 percent - by perhaps 0.5 percent in the second half of 2005. Then, the economy could get a Katrina stimulus, as rebuilding gets under way in earnest early in the new year.

Still, for now, the storm's shock remains significant and unpredictable, given the magnitude of job losses and the damage to industrial infrastructure.

In the Gulf region, where the effects are concentrated, the human impact begins with a death toll expected to be in the thousands. Countless survivors in one of the nation's poorest regions now face a future with uncertain job prospects and no earthly belongings. Insurance payouts, which eventually may reach $25 billion by some forecasts, will cover only part of the storm's damage.

"In our preliminary analysis, employment levels will not be back to pre- hurricane levels for another six to seven years" in New Orleans, says Mr. Dye.

The city, ranked ninth lowest in the US in median income, faces a twin challenge: Its labor force is now almost totally absent, and the city was already struggling economically before Katrina.

To be sure, many residents will return, eager to revive the cacophony of jazz and jambalaya. But it's also safe to assume that a number of businesses will never reopen - or will relocate for good, Dye says.

The now-displaced labor force, too, "will want to start working as soon as possible," he says, even if it's in Memphis rather than Metairie.

A silver lining, for these workers, is that the national job market has been improving in recent months. Still, their migration onto jobless rolls could yield somber national job reports for several months, predicts economist Nariman Behravesh of Global Insight in Lexington, Mass.

Ripples from Katrina have hit far inland as well, as a disruption of shipping impedes the flow of goods up and down one of the world's most important rivers. Some 60 percent of US grain exports flow down the Mississippi, while imports, from steel to tropical fruits, travel upstream.

The Port of New Orleans, usually one of the nation's busiest, has been scrambling to restore electricity, putting out an urgent call Monday for diesel fuel to run generators. The Mississippi is now open to ships with a draft of 35 feet or less during daylight hours, but it is unclear how soon full-scale traffic will resume.

"It's a major disruption and it's going to continue for a while," says Jerry McReynolds, president of the Kansas Association of Wheat Growers.

Growers in his state, already coping with a six-year drought, now face falling prices for their product, because of the uncertainty about how to ship it to foreign customers. At the same time, Mr. McReynolds says, "Our fuel costs have skyrocketed."

Indeed, it is via energy costs that Katrina reaches into the pocketbook of every American.

Foreign governments have moved to open international reserves, to ease the burden of slowed US oil production. That has helped stabilize crude oil prices below $70 a barrel for now.

From pipelines to refineries, much of Louisiana's energy infrastructure appears to be coming back quickly. But four refineries - representing 5 percent of US capacity - could be off-line for weeks or longer, so the price of gasoline, jet fuel, and other refined products may spike higher than crude-oil prices suggest.

"You don't burn a barrel of oil," says John Tobin of the Energy Literacy Project. "You burn the products that it makes."

Even at $70, the price of oil reflects a new dynamic of tight supply worldwide. Supplies, as a sum of commercial stocks, strategic reserves, and excess capacity, "are going to be at their lowest levels in history by next week," says A.F. Alhajji, an oil expert at Ohio Northern University in Ada.

The ability to transport oil and natural gas from offshore rigs is also impaired.

"Prices are going up," Dr. Alhajji says. "Or at least they will stay high."

Long-Term Impact Depends On Consumers (WP)

By Margaret Webb Pressler And Paul Blustein

The Washington Post, September 7, 2005

DOJ_NMG_0003407

The long-term economic impact of Hurricane Katrina will hinge in large part on how U.S. consumers react to the disaster and resulting surge in gas prices. Will they fall into the camp represented by Lisa Kays of the District or Heather Rories of Burke?

Kays, who works in international development, said the hurricane has forced big changes in her spending plans.

"It reinforced to me the need to save, to have cash," Kays said while sitting in a sandwich shop near Dupont Circle. "We've been thinking about buying a car, but after this, I'm like, no, it's not worth it."

Likewise, one of Kays's lunch companions said she and her boyfriend had planned to drive to New York over the weekend but settled on a day trip to Annapolis instead.

But a little farther down Connecticut Avenue, Rories, a librarian for a downtown law firm, said rising gas prices have had no impact on her spending or travel plans. She and her family drove to Charlotte over the holiday weekend, she said, and "every time we stopped, the gas prices had gone up."

"I just felt fortunate we could afford it," Rories said.

Consumer spending on food, clothing, services and big-ticket items accounts or about 70 percent of U.S. economic output. So much is riding on the extent to which Americans change their spending in response to high gas prices.

The surge in gasoline prices in the week ending on Labor Day was virtually unprecedented -- the retail price rose 45 cents, to a nationwide average of about $3.057 a gallon (with prices in the Washington area about 20 cents above that). In inflation-adjusted terms, that's the highest since 1981.

"Of course, we don't know whether the price is going to stay at $3," said Nigel Gault, U.S. economist at Global Insight Inc., a forecasting and research firm. "But the longer prices stay at this level, the harder it is to believe that consumers will just carry on doing what they were doing."

Even before Katrina laid waste to the central Gulf Coast, gas prices were dampening consumption, according to a survey in early May for the National Retail Federation. People with low incomes are those most likely to economize when gas prices rise. That is one reason Wal-Mart Stores Inc. reduced its earnings forecast for the third quarter.

Americans are hardly about to abandon their free-spending ways. Craig Johnson, president of Customer Growth Partners, a retail consultancy in New York, issued a study yesterday showing that after disasters, U.S. consumers tend to be "resilient."

Citing evidence from Hurricane Andrew in 1992; the Northridge, Calif., earthquake in 1994; the Sept. 11, 2001, terrorist attacks; and the four hurricanes in Florida last year, Johnson said, "Although the months of the event may briefly stun retail momentum, consumer spending tends to snap back sharply." On average, the firm's data show, retail spending (excluding autos and food service) was nearly 6 percent higher than the year before by the first Christmas after the event.

Katrina, however, knocked out a substantial portion of the nation's petroleum infrastructure, especially refineries that produce gasoline, when gas supplies were already stretched thin. "The larger worry may not be Katrina itself," Johnson said, "but if energy prices were to continue their sharp climb."

Since the price of gas has risen about 70 cents a gallon since early August, keeping it at that level for a year would mean motorists would have to pour an additional $84 billion into gas pumps -- equal to almost 1 percent of their incomes. "So it's not trivial," Gault of Global Insight said.

What people choose to pass up will also affect the severity of the economic impact. Larry Osborne of Forestville said that it costs him $70 to fill up his Cadillac Deville, up from about $35 not long ago, and that as a result he is eating out less. "It's impacted food and entertainment, mostly," he said.

Some economists say that continued strong sales of luxury goods will help offset cutbacks consumers are making on other retail products. But they wonder how long those pockets of strength can hold out as the storm's effects widen.

The storm's impact will come in phases, said Michael P. Niemira, chief economist for the International Council of Shopping Centers. "We haven't really seen the impact from the home heating oil and natural gas use that will kick in in the wintertime."

Storm's Economic Impact Is Felt Around Globe (WSJ)

By Patrick Barta, Marcus Walker and Jon E. Hilsenrath

The Wall Street Journal, September 7, 2005

DOJ_NMG_0003408

The economic waves from Hurricane Katrina are being felt not just in the U.S., but around the globe, particularly in countries such as Indonesia and Italy that already were straining from soaring oil costs before the storm disrupted energy supplies.

In Australia, economists blame Katrina for a roughly 15-cent-a-gallon increase at the pumps. Germany saw gasoline prices jump by about the same amount, and a car drivers' association accused gasoline companies of gouging customers in the hurricane's aftermath. In Asia, government subsidies widely used to shield consumers from high oil prices, which already were costly before the storm, are pressuring government finances and boosting the odds of a slowdown in consumer spending.

Few economists expect the global economy to grind to a halt because of the storm alone. Just as the U.S. has become more resilient to energy shocks in the past two decades, so have many of its trading partners.

But given the U.S. role as the world's economic locomotive, the likely slowing of growth and employment here in the months ahead is likely to restrain growth elsewhere.

"Katrina has made it less likely that there will be [an energy] price fallback and more likely that there will be a price increase," says Michael Mussa, an economist with the Institute of International Economics. "It has made a growth slowdown that was already in the cards probably a little bit steeper and more likely."

In April, Mr. Mussa projected growth in the global economy would slow to an annual rate of just under 4% in 2005 and 2006 from around 5% in 2004. He is sticking to his 2005 projection, but now says growth next year is likely to be a little more than 3%. Morgan Stanley is paring its world growth forecast to 3.7% in 2006 from its earlier 4.1%, primarily because of the accumulated impact of higher energy prices over the past few months.

Though oil prices have returned to pre-Katrina levels, the retreat has come only after a drawdown of emergency reserves in the U.S., Europe and Asia. The shutdown of refineries in the U.S. is putting strain on global gasoline prices, pushing up consumer costs everywhere there are drivers. Many U.S. trading partners depend on U.S. consumers to gobble up their exports of cars, sneakers, appliances and other products. With U.S. households tested by a combination of low savings and rising costs at the pump, the ripple effects of a consumer slowdown in the U.S., if any, will be widespread.

"Should the overextended American consumer falter under the weight of the energy shock -- a distinct possibility, in my view -- China would be on the leading edge," said Stephen Roach, the chief global economist at Morgan Stanley and a well-known "bear" on the economy. "Asian vulnerabilities cannot be minimized."

Even before Katrina, growth had slowed sharply in Thailand. At the Siam Square Mall, a giant complex of shops and restaurants popular among Thai teenagers, stores are reporting weaker sales. Maitong Sonakum, who manages a shoes and handbags shop called Lovely Shoes, said sales have dropped by half since oil prices started rising. The store hung a sign promising discounts of 50% to 80%, "but we still don't have as many customers as before," she said.

China, too, has been grappling with unexpected problems. Because of government rules that force refineries to cap the price they charge consumers for refined products, many Chinese refineries are opting to sell their products abroad where they can get higher prices. That has resulted in gasoline shortages and forced some users to ration fuel or delay travel, which in turn could slow economic growth.

In Indonesia, Southeast Asia's largest economy, worries over fuel subsidies helped push the local currency, the rupiah, to its lowest level in four years last week, forcing officials to raise interest rates and pledge politically explosive fuel-price boosts in the months ahead. On Friday, credit rating agency Standard & Poor's downgraded the outlook on Indonesia's single-B-plus rating to "stable" from "positive."

In India, state oil companies reported a cumulative $280 million loss in the last quarter to pay for oil subsidies, according to UBS. India has raised gasoline prices about 7% in an attempt to ease the burden, but some analysts said it wasn't enough to dispel the worries. India's minister for petroleum and natural gas recently predicted revenue losses due to subsidies at oil companies such as Indian Oil Corp., Bharat Petroleum Corp. and Hindustan Petroleum Corp., could hit about $9 billion in the fiscal year ending March 31.

The effects on America's closest trading partners, Mexico and Canada, are more mixed, because both are net exporters of energy.

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But Europe has its own problems. In Italy, truckers who deliver new cars to dealerships recently walked off their jobs for an entire month to protest higher diesel prices. The strike blocked the delivery of 140,000 new cars and forced Fiat Auto SpA to temporarily shutter all of its Italian factories when it ran out of space to store cars that couldn't be delivered.

Energy-related woes have continued to pile up in recent days. Yesterday Belgian industrial foam maker Recticel SA blamed the higher price of raw materials influenced by the oil market for the company's 35% drop in operating profit during the first half of this year.

Rising energy costs currently are adding about one percentage point to consumer inflation in the euro zone, which is eroding the purchasing power of slow-growing personal incomes in the 12 countries that share the euro. Higher energy prices are making it harder for the European Central Bank to cut interest rates to stimulate the euro-zone economy, despite political pressure from national governments to do so.

With consumer spending forecast to remain weak, Germany's meager economic growth is expected to reach little over 1% this year, leaving it heavily dependent on rising exports -- and therefore consumer demand in the U.S.

OECD Tells Banks To Relax Over Rates (FT)

By Chris Giles

Financial Times, September 7, 2005

The Organisation for Economic Co-operation and Development on Tuesday urged the world's central banks to adopt a relaxed attitude to interest rates in the wake of surging oil prices and Hurricane Katrina.

Describing the $20-a-barrel rise in oil prices since May as a big economic shock, Jean-Philippe Cotis, the OECD's chief economist, said the ability of economies to shake off its effects would depend on their underlying momentum. The US and Japan were better placed than the eurozone or the UK, he said.

The OECD said the economic effects of Katrina “cannot yet be gauged with any confidence”, although Mr Cotis quoted independent economists who are tending to estimate that it will have a temporary effect, reducing US economic output by 0.25 - 0.5 per cent in the second half of 2005.

The OECD delivered recommendations to each of the four most important central banks, some of which will not be received gratefully.

Mr Cotis said he thought the underlying strength of the US economy left it well placed but the rise in oil prices without any corresponding pick-up in core inflation meant monetary policy tightening could be slowed.

“The Federal Reserve should continue to move back towards neutrality, although possibly at a more measured pace thanhitherto,” Mr Cotis said.

Worried that the Bank of Japan might move away from its zero interest rates, the OECD warned that it should maintain its extremely easy monetary policy for “as long as underlying inflation is not durably positive”.

He also advised the Bank of England to set lower interest rates than would have been the case before the oil price rises.

Steel Prices Could Rise Further As Flooding Stalls Key Materials (WSJ)

By Paul Glader

The Wall Street Journal, September 7, 2005

The price of steel used to make cars and industrial equipment is expected to rise by as much as 20% in coming months because New Orleans flooding has limited the supply and distribution of raw materials such as liquid hydrogen and scrap steel.

The increase would be in addition to roughly 20% price increases by steelmakers including Pittsburgh-based U.S. Steel Corp. and Nucor Corp., of Charlotte, N.C., that became effective on Sept. 1 for shipments of key products like hot-rolled coil.

Liquid hydrogen is needed to make higher-quality steels such as galvanized or cold-rolled coils, which are used in products from auto panels to garage doors. Scrap steel is used to make new steel.

As buyers begin stockpiling to avoid higher prices and shortages, prices could escalate by as much as $80 a ton on such products, according to some analysts, although others forecast a more modest increase. Currently, hot-rolled coil, which is used to make cold-rolled coil, costs about $500 a ton. Concrete reinforcing bar, used in construction, also is expected to rise.

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"To the extent that supply becomes somewhat impacted, there could be further increases in steel prices in general as a result of Katrina. But the magnitude of those prices is yet to unfold," says Mark Parr, a steel analyst at KeyBanc Capital Markets in Cleveland.

Steel-company shares are already seeing a boost. Nucor's shares were at $57.65 on the New York Stock Exchange in 4 p.m. composite trading yesterday, up nearly 11%, from $52 a share when Hurricane Katrina first hit the Gulf Coast. U.S. Steel's share price was $43.77 a share in 4 p.m. trading, up about 9% over the same period.

Analysts suggest some larger auto makers may begin looking to ship extra supplies of steel from abroad. Dave Elshoff, a Detroit-based spokesman for DaimlerChrysler AG, says his company is monitoring the situation, but "as of this time, all our suppliers have found alternate sources" of hydrogen.

Steel prices soared last year amid strong global demand. Prices have eased as China's growing steel production contributed to a glut. But in recent months, steelmakers have said they expected price increases as the glut has diminished.

Air Products & Chemicals Inc., a major U.S. producer of hydrogen, says it can't deliver liquid hydrogen to customers because of damage to its plant in New Orleans. The Allentown, Pa., company is uncertain when it can restart production.

Steelmaker Steel Dynamics Inc., of Fort Wayne, Ind., told customers Friday it is suspending future orders of value-added products such as cold-rolled, galvanized and painted sheet-steel products because Air Products was its main hydrogen supplier. U.S. Steel, Nucor and Netherlands-based Mittal Steel Co. said they have alternate supplies of hydrogen and don't expect the shortage to affect them greatly.

Surviving Katrina's Huge Damage Claims (WP)

By Albert B. Crenshaw

The Washington Post, September 7, 2005

Hurricane Katrina seems likely to become the most expensive natural catastrophe in U.S. history, but unless insured damages go far higher than the current high-endestimate of $35 billion, the insurance industry should be able to pay the claims without threat to its own solvency, industry experts said yesterday.

Because of the nature of the storm and the type of damage inflicted, private insurers will probably bear only a fraction of the total losses suffered in Louisiana, Mississippi and Alabama -- estimated at more than $100 billion by Risk Management Solutions Inc., a California firm that does computer modeling of damages from catastrophes.

But taxpayers, insurance ratepayers and others are likely to be feeling the economic effect of the giant storm for years to come, they acknowledged.

And some risk experts are starting to raise the question of how -- or if -- houses or other buildings in low-lying areas such as New Orleans should be rebuilt.

"There is a lot of variability" in loss estimates so far, said Robert P. Hartwig, chief economist at the Insurance Information Institute, an industry group, adding that insurers are expecting more than 1 million claims. Adjusters are already at work in some areas, though not yet in New Orleans.

But "the industry approached the '05 hurricane season in a position of financial strength," following eight months of very strong earnings, he said.

Insurers "were able to bear the $23 billion [in losses] from last year's four storms" in Florida with no significant insolvencies, and "that situation will remain the same this year," Hartwig said.

The $100 billion loss figure includes damages covered by private insurers, those covered by the federal government's National Flood Insurance Program and those not covered by any kind of insurance, often because the owners couldn't afford coverage or because they self-insured. Many municipalities self-insure with roads, bridges and other infrastructure, on the ground they can simply fix anything that goes wrong.

Laurie Johnson of RMS said the company is analyzing satellite images to try to determine how much of the flooding coincided with the coverage area. "When we know much of that flood exposure" was actually flooded, she said, "we will see the loss."

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But ultimately the numbers suggest that $60 billion to $70 billion in property losses from Katrina will have to be absorbed by taxpayers, through government programs and repairs, and by owners of homes and businesses.

The storm will push insurance rates up for some consumers. "It always does, because in the end, who else is there to pay the bill except ultimately the consumer?" said Tom Upton, a financial services analyst with Standard & Poor's in New York. But the Insurance Information Institute's Hartwig said the impact should be confined to hurricane-prone areas. "It does put upward pressure on rates as to higher risk areas," he said. "That's been the case in Florida. But those effects are isolated to the states likely to be impacted."

A key reason is that rates, at least for personal insurance, are regulated by states, and state officials aren't likely to allow a company to raise rates because of risks elsewhere. Regulators in Minnesota wouldn't approve a company's request to raise rates there because of what happened in, say, Florida, Hartwig said.

However, several experts said Katrina will increase companies' and regulators' awareness of the risk involved in coastal areas.

It could be the largest "housing reconstruction project this country has ever known," involving tens of thousands of units, said RMS's Johnson.

But if that is done, how much protection should new units be given?

"Challenge number one is the decision, not 'do we repair the levees to the preexisting level' but 'what is the design scenario we want them built to,' " Johnson said. Noting that there are 350 miles of levees around Lake Ponchartrain and New Orleans, she said "the cost of bringing that up to a design" that could protect the city from a Category 4 or 5 storm "has to be explored, and a benefit-cost analysis has to be done."

"That will really define the rest of the reconstruction project," Johnson said. "The second major decision that follows," she said, is whether there are "certain parts of the city we are not going to rebuild," where it may make sense to buy out those properties and relocate the people.

There is precedent for such action, though on a much smaller scale. Twice in the 1990s following floods in the Midwest, small communities were partly or totally bought out by federal and state agencies and the residents relocated to higher ground.

But in coastal resort areas, the years following severe hurricanes have also brought into sharp relief the continuing conflict that pits developers and their customers who want to live close to the shore against insurers who don't want to underwrite such risks, at least not at a price the developers and homebuyers find acceptable.

Unwilling to either cut off development or drive out insurers, politicians in Florida and some East Coast states have increasingly allowed insurers to add wind or hail deductibles to their policies. These deductibles, rather than flat dollar amounts, are a percentage of the home's value, such as 5 percent. This shifts more risk to the homeowner.

Also, some states have turned to "pools" and other state-sponsored arrangements to provide coverage that would not otherwise be available. Florida's Hurricane Catastrophe Fund, for example, is funded by insurers but backed by the state.

Wall Street Rallies As Crude Prices Ease (FT)

By Stephen Schurr

Financial Times, September 7, 2005

If muted activity last week in the face of Hurricane Katrina was an exercise in restraint, yesterday's market performance could be called a return of animal spirits. Stocks rallied solidly and broadly, with every sector in the S&P 500 posting gains.

The S&P 500 rose 15.38 points, or 1.3 per cent, to 1,233.40, the biggest percentage gain since the recent bottom on April 21. The Nasdaq Composite added 25.79 points, or 1.2 per cent, to 2,166.86 and the Dow Jones Industrial Average increased 141.87 points, or 1.4 per cent, to 10,565.12.

Declining crude prices were a tailwind for equities. Light sweet crude for October delivery fell $1.61 to $65.96 a barrel on the New York Mercantile Exchange; the contract price is off 7 per cent since surging above $70 last week. Hopeful for an interruption in interest-rate increases, Wall Street was also optimistic the rebuilding of the Gulf Coast would stimulate the economy.

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Not everybody was so cheery. Stephanie Pomboy, who runs the research firm MacroMavens, warned that the markets were being cavalier about risk. “The markets are priced for absolute perfection at a time when, in my mind, the imperfections are manifold. It just strikes me that you have an environment that’s highly risky and nobody is paid to acknowledge that.”

For one day, at least, such concerns were cast aside. Every sector on the S&P 500 came up a winner. The real estate index and the retailers index rose more than 2.3 per cent apiece, and even the lagging energy index inched up 0.7 per cent.

Shares of Wal-Mart, which have been reliably moving in the opposite direction of energy prices amid concerns about consumer spending, posted a moderate rally. They gained 2.6 per cent to $45.69, but the shares remain 21 per cent off their 52-week high. Other retailers performed well, with discount-store Dollar General up 1.2 per cent to $18.41 and Target rising 1.5 per cent to $53.96.

Energy stocks lagged but held up; the group lead the market last week amid concerns about soaring energy prices and distribution gridlock. Valero Energy, this year’s strongest S&P component, added 0.9 per cent to $109.41, while Dynegy declined 3.1 per cent to $4.36. The support for energy stocks suggested Wall Street was not convinced the sector’s rally was finished.

Katrina was still affecting the market. Home Depot added 3.4 per cent to $41.71 on the belief that the home-improvement retailer would increase sales in the rebuilding effort. Tenet Healthcare fell 0.6 per cent to $11.93 as its six hospitals in the affected region continued to evacuate patients and employees.

Elsewhere, Chiron added 1.7 per cent to $43.51 after the drug company rejected a bid from Novartis, fuelling Wall Street hopes for a higher offer. Novartis added 0.4 per cent to $49.28.

Apple shares added 5.6 per cent to an all-time high of $48.80 ahead of the consumer-technology company’s plans to launch iTunes for mobile phones. Apple’s stock, which had retreated earlier this year after 2004’s robust gains, now stands at an all-time high.

Investors Gauge Katrina Impact (WSJ)

By Scott Patterson

The Wall Street Journal, September 7, 2005

Stocks soared Tuesday as investors sensed relief from two places that have kept equities on a leash this year: oil prices and interest rates.

The surge in stocks has left the three major benchmark indexes well higher than they were before the Hurricane Katrina struck last Monday. An economic report indicating momentum in the service sector ahead of the storm also buoyed stocks.

A sharp decline in oil and gasoline prices gave some hope that an energy shock might be avoided after Katrina disrupted a vital cog in the nation's energy-distribution network. Speculation that the Federal Reserve may pause in its interest-rate tightening campaign at one or more of its meetings this year added further fuel to equities, and boosted shares of financial companies such as American Express and Citigroup, which jumped 2.9% and 1% respectively.

Investors "clearly are responding to the possibility that the Fed will postpone rate hikes until it can assess the damage that has been done to the economy" from Katrina, said Ned Riley of Riley Asset Management.

"The Fed pause is one element of what might be economic stimulus from the rebuilding efforts from Hurricane Katrina," said Kenneth Tower, chief investment strategist at CyberTrader.

The Dow Jones Industrial Average rose 141.87 points, or 1.36%, to 10589.24. Home Depot gained 3.4% amid expectations of higher demand for the home-improvement wares in the rebuilding effort in Louisiana, Alabama and Mississippi. Coca-Cola added 1.4% after a Bank of America upgrade to "buy" from "neutral." McDonald's rose 2.4% and Johnson & Johnson gained 1.4%. Wal-Mart Stores, which has suffered from concern that high gasoline prices could eat into its sales, tacked on 2.6%.

The Standard & Poor's 500-stock index added 15.42, or 1.27%, to 1233.02 and the Nasdaq Composite Index gained 25.79 points, or 1.2%, to 2166.86.

Oil prices slid after last week's decision by industrialized nations to release 60 million barrels of crude from strategic stockpiles. Light, sweet crude for October delivery fell $1.61 to $65.96 a barrel on the New York Mercantile Exchange. Meanwhile, unleaded gasoline futures shed nearly 13 cents to $2.06 a gallon.

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More than a week after Katrina struck the U.S. Gulf Coast, investors continued to take stock of the economic impact. Some analysts argued that reconstruction will help boost the profitability of a number of companies, such as Home Depot, and help the economy continue to grow.

Others weren't as sanguine. Jeffrey Saut, chief investment strategist at Raymond James, wrote that "the downside risks to the economy have increased" after Katrina. "We think investors are ignoring the potential economic impact of the situation, as well as the potential inflationary impact of the rebuild," he wrote.

Lehman Brothers analyst Chip Dickson said in a note that the hurricane has "increased the level of economic risk," warranting an increase in his recommended cash weighting to 20% from 12.5% and a decrease in equity weighting to 65% from 70%. "Rising energy prices and health-care costs put the consumer under more pressure," he said.

A report showing solid growth in the nation's service sector in August reinforced Wall Street's expectation that the nation's economy was chugging along solidly before the hurricane. The Institute for Supply Management said its index for nonmanufacturing activity rose to 65 from 60.5 in July, well above expectations for a reading of 60. It was it highest reading since April 2004.

The Minerals Management Service, an arm of the Department of Interior, said 28% of drilling platforms and oil rigs remained evacuated in the Gulf of Mexico, down from 40% on Friday. About 70% of oil production and 52% of natural-gas production remains offline, the MMS said.

Still, gasoline prices remain high as several refineries in the Gulf are shut down. AAA on Monday said the nationwide average price of regular unleaded gasoline reached $3.06 a gallon, up more than 30% from $2.31 a month earlier. The storm disrupted roughly one million barrels a day of gasoline output, about 10% of U.S. capacity.

In major market action:

Stocks rose. On the Big Board, where 1.4 billion shares traded, 2,389 stocks rose and 882 fell on Friday. On the Nasdaq Stock Market, where 1.4 billion shares traded, 2,034 stocks advanced and 1,032 declined.

Bonds declined. The benchmark 10-year Treasury fell 13/32, or $4.06 per $1,000 invested, to yield 4.086% early Tuesday. The 30-year bond was off 1 2/32 to yield 4.357%. Yields move inversely to prices.

The dollar advanced. It traded at 109.72 yen, down from 109.65 yen late Friday, while the euro slipped to $1.2474 from $1.2543.

Stocks Rally With Investors' Outlook (USAT)

By Adam Shell

USA Today, September 7, 2005

NEW YORK — The Dow Jones industrial average posted its biggest point gain since early July on Tuesday, bolstered by a sizable drop in the price of oil and evidence that progress was being made in fixing energy-related infrastructure damaged by Hurricane Katrina.

Wall Street sent its most forceful message to date that the initial doomsday scenarios of a national recession and a 1970s-style oil shock are unlikely to come to fruition as a result of the hurricane early last week.

The Dow rose almost 142 points, or 1.4%, to 10,589. It was the Dow's best rally since July 8 and boosted its gain to nearly 200 points, or 1.8%, since Katrina struck Aug. 29.

“Investors are now realizing that their (worst fears) were overblown,” says John Bollinger, president of Bollinger Capital Management.

Wall Street is also benefiting from two key factors that seemed unlikely a week ago:

•Energy prices are retreating. Initially, with little information on how badly oil pipelines, refineries and rigs were damaged, crude oil spiked above $70 a barrel, a record. And some pundits warned of even higher prices.

But the gradual recovery of petroleum operations in recent days has minimized fears of long-lasting supply disruptions, sending the price of crude lower, says Jack Ablin, chief investment officer at Harris Private Bank.

A barrel of crude closed down $1.61 to $65.96 Tuesday. Gasoline futures also fell, raising hopes that pump prices above $3 a gallon gas won't last much longer.

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•There's a possibility that the Federal Reserve might pause or halt its campaign to raise interest rates until it can measure the fallout from Katrina, says Chuck Carlson, CEO of Horizon Investment Services. The Fed has raised its target for short-term rates to 3.50% from 1% since June 2004.

The market's resilience may be proof that "investors have gotten used to the fact that natural disasters do not have long-lasting impact" on the stock market, says Byron Wien, market strategist at Morgan Stanley.

In Katrina's Wake, Law Firm Disaster Teams See Action (LAW)

By Leigh Jones, The National Law Journal

Law.com, September 7, 2005

Much of the New Orleans legal community is in shambles following the devastation from Hurricane Katrina.

Attorneys and staffers at some law firms were still unaccounted for last week, and office buildings and courthouses -- and the documents inside -- remained soaking under water.

Legal professionals said that they thought they had planned for the worst, but until some levees collapsed flooding almost 80 percent of the city after the hurricane hit, they believed they had escaped much of the damage predicted from the massive storm.

"We have never dealt with something of this magnitude, but we're going to have to," said Gregory Bodin, president of the Baton Rouge Bar Association. With offices at the Louisiana State Bar Association and the New Orleans Bar Association flooded, the Baton Rouge organization is serving as the headquarters for the other groups.

The New Orleans area was home to about 7,500 lawyers, Bodin said, which equals about one-third of the state's attorneys. "Most of the lawyers lost their homes, jobs and maybe their practices," he said.

As most phone and electronic communications remained useless after the barriers protecting the low-lying city failed, law firm leaders and court personnel were struggling to find offices and even housing for their workers.

"We're totally unaware of when we might have access to the building," said Charles Landry, managing partner of Jones, Walker, Waechter, Poitevent, Carrere & Denegre's Baton Rouge office. The New Orleans-based firm had 300 people, including 165 attorneys, working at its location on St. Charles Avenue.

Its building "appeared to be sound" said Landry, according to preliminary information he had received, but it was surrounded by water. Landry said that the firm had heard from most of its New Orleans workers, who had evacuated the city before the storm. But it had not made contact with one attorney who had stayed in the city, he said.

The condition of the New Orleans offices of Baker, Donelson, Bearman, Caldwell & Berkowitz was unclear, said firm Chairman Ben Adams. The firm has offices in New Orleans and Mandeville, La., where a total of 70 people work, including about 35 attorneys.

"We don't have them all accounted for yet," Adams said. "Each day we're tracking down more and more people."

'DISASTER TEAM' IN ACTION

The firm's "disaster team" met last week to implement a plan for its displaced workers, which may include opening an office in nearby Baton Rouge, Adams said. Leaders of both firms said that they had backed up electronic data before the storm, but the condition of paper documents was uncertain.

Web sites also were down at many law firms and government offices, or were operating with limited messages. Posted on Jones Walker's Web site last week was an urgent message to New Orleans attorneys asking them to contact the firm's Baton Rouge office.

"We need to know your needs and how to contact you," the message said.

Landry said that workers were using BlackBerry messaging to help make contact, a plan that the firm formulated before the hurricane hit. He said the firm's real estate group was trying to find housing for its displaced workers.

Phelps Dunbar, which is based in New Orleans and had about 90 attorneys at its offices on Canal Street, also posted a message on its Web site announcing that its New Orleans and Gulfport, Miss., offices were closed. It urged employees to call its emergency hotline phone number.

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Atlanta-based Fisher Phillips, which had 14 attorneys working from its New Orleans location before Katrina landed, had obtained photographs of its offices, which showed shattered windows and curtains flapping in the wind. Roger Quillen, managing partner of Fisher Phillips' Atlanta location, said the New Orleans office would stay closed at least until Sept. 15.

The Web site of Tulane University, which houses its law school in New Orleans, included a "current status" report, updated every few hours, notifying readers that it had evacuated its campus. No other information besides the status reports appeared on the school's Web site.

Offices for the Committee on Bar Admissions also were flooded. Those offices contained recent bar examinations, which examiners were slated to evaluate this month.

The Baton Rouge Bar Association was in the process last week of implementing a nationwide lawyer donation program on its Web site. The program, which the Louisiana State Bar Foundation will handle, will enable lawyers and others across the country to assist Louisiana practitioners. Bodin said that eventually the bar associations would like to train local lawyers to help area residents fill out government assistance forms and other documents to obtain financial relief.

Note: For related news, see Kicked Out of the Big Easy by Katrina, the 5th Circuit Heads to Houston.

Social Security Reform 'Off Radar'? (WT)

By Amy Fagan

The Washington Times, September 7, 2005

With two Supreme Court vacancies and a massive hurricane-relief effort dominating the agenda now, senators said they don't think they will act on Social Security legislation this year, which would be the final blow to President Bush's signature domestic issue.

The Senate was already having major problems agreeing to a Social Security proposal -- even Republicans couldn't agree on whether a bill should include the Social Security private accounts Mr. Bush has pushed for. With recent events, members on both sides of the aisle said chances of action are even more unlikely.

"It's off the radar," said Sen. Gordon H. Smith, Oregon Republican, adding that hurricane relief is much more important now, and Social Security is an issue "we'll eventually deal with" down the line, though not likely this year.

"Social Security? I think not much is going to happen there this year," agreed Sen. Judd Gregg, New Hampshire Republican.

"I can't imagine President Bush is going to go back to it," Sen. Richard J. Durbin, Illinois Democrat, said of Social Security.

"That is not likely to be part of any future agenda in Congress," he said, clarifying that he meant not the near-future agenda at least.

Senate Finance Committee Chairman Charles E. Grassley, Iowa Republican, said he will continue talking to his colleagues to try and reach agreement on a Social Security bill, but conceded the issue now ranks about fourth or fifth on his agenda. His top priorities now are crafting Hurricane Katrina relief legislation, helping fellow Judiciary Committee members fill the Supreme Court vacancies, dealing with must-pass spending bills, addressing budget-reconciliation legislation, and then tackling Social Security.

Mr. Grassley said House passage of a Social Security bill might provide the Senate yet another opportunity to act, but noted even House action isn't certain. "They may not move," he said. "But if they do move, that gives us another bite at the apple."

It's been anticipated that the House would take the lead on Social Security legislation this fall. Last week, House Majority Leader Tom DeLay, Texas Republican, said he still hopes to move a retirement-security bill this fall that includes voluntary personal accounts, but he also hedged by saying a floor vote can't be guaranteed until the House Ways and Means Committee produces a bill.

Behind the scenes, rank-and-file House Republicans are divided on whether or not it's wise to act now. Last week, Rep. Jack Kingston, Georgia Republican, a strong supporter of Social Security reform, said House Republicans would likely spend the next few weeks hammering out strategies on hurricane disaster relief, gas prices and illegal immigration. "In that mix, we will need to decide whether we're going to move forward on Social Security or not," he said.

Some Senate Republicans still say action is possible in their chamber this year.

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Sen. Orrin G. Hatch, Utah Republican, said the issue probably "has to be deferred for a while," but isn't dead yet, since there are a group of senators who really want to get something done this year. "It's going to be tough, but I think there's a chance," he said.

Sen. Craig Thomas, Wyoming Republican, agreed action is indeed possible this year, predicting the Senate will produce a bill that begins to fix Social Security's long-term financial problems, but doesn't include personal accounts.

U.S. Agency Funded Opinion Columns (DMN)

By G. Robert Hillman, The Dallas Morning News

The Dallas Morning News, September 7, 2005

WASHINGTON – The Department of Education paid education advocacy organizations to submit opinion pieces to newspapers and produce other ads, brochures and postcards – and many did not disclose their government ties, the department's inspector general has concluded.

"People looking at advertisements or reading their local newspapers would have had no idea that what they were reading was bought and paid for with their tax dollars," said Rep. George Miller of California, the ranking Democrat on the House Education and Workforce Committee who requested the review.

"No matter which way you slice it, that is propaganda," he added Tuesday in a prepared statement.

Mr. Miller had sought the review last January after reports that the department had paid commentator Armstrong Williams $240,000 to promote President Bush's No Child Left Behind initiative. Again, there were no disclosures.

Among the advocacy groups, Inspector General John Higgins concluded the arrangements were not "covert propaganda," though further review was required on one contract.

There was also no evidence, he said, that the contracts were awarded with any "intent to influence public opinion through the undisclosed use of third-party grantees."

Still, Mr. Higgins said, the opinion pieces and other material financed by the department should have disclosed the government relationship, and efforts should be made to recover at least some of the money. Contracts totaling several million dollars were reviewed, but not all were found to violate the disclosure requirement.

Responding, department spokeswoman Susan Aspey cited a letter to the inspector general from Education Secretary Margaret Spellings, who said she agreed with most of the findings and that the department already had moved to "strengthen the grant-making and contracting processes."

Two of the opinion pieces cited by the inspector general were in The Dallas Morning News and another in its Spanish-language newspaper Al Día.

The author, Marcela Garcini of Dallas, director of parent outreach for the Hispanic Council for Reform and Educational Options, said she and her organization had "never had any bad intentions."

Keven Ann Willey, vice president and editor of the editorial page at The News, said the newspaper had solicited the first column in an outreach for diverse parental views and paid Ms. Garcini a freelance writer's fee. The second column was offered by Ms. Garcini, Ms. Willey said, and the newspaper did not pay her.

"We regret there was not greater disclosure in the financial relationship that her organization had with the Department of Education," Ms. Willey said of the second piece. Al Día editors expressed similar regrets.

In the second piece, critical of the Dallas Independent School District, Ms. Garcini said she was "tired of hearing excuses about the lack of funding for schools, particularly under No Child Left Behind."

"We parents must be prepared to transfer our children to other schools that can better serve their needs," she wrote.

Responding to the inspector general's report, Dallas schools spokesman Donald Claxton said, "It would be disappointing to find out the federal government is paying someone to write ugly things about us."

Under another contract with the Education Department, the inspector general said that Kate Walsh, president of the National Council on Teacher Quality, had authored several opinion pieces for other newspapers.

Her organization had not known of the disclosure requirement, she said, and had returned the federal money later and sent letters of apology to the newspapers.

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Staff writer Tawnell D. Hobbs in Dallas contributed to this report.

Ethics Staffing Slow As Panel's Caseload Mounts (RC)

By John Bresnahan

Roll Call, September 7, 2005

As the House returns from the month-long August recess, the top two Members of the ethics committee, Reps. Doc Hastings (R-Wash.) and Alan Mollohan (D-W.Va.), face new questions on when they will complete hiring staff for their panel, as well as what cases they will take up once they have investigators in place.

Hastings and Mollohan, chairman and ranking member of the committee, hope to select a new chief counsel/staff director by the end of September or early October, according to sources close to the panel. Mollohan also wants to hire at least two additional investigators before initiating any inquiries, and Hastings is expected to accede to that request.

But the slow pace of hiring signals that the committee will likely not have completed a preliminary investigation of House Majority Leader Tom DeLay (R-Texas) over his dealings with former GOP lobbyist Jack Abramoff by the end of this year. DeLay then faces the possibility of a second straight election cycle in which the ethics committee releases findings on an investigation of him before voters go to the polls, a daunting challenge for even the most politically astute Member.

Hastings and Mollohan have begun reviewing résumés of applicants for the chief counsel post, said the sources. The new chief counsel will have to be approved by both men, and with the leadership of each party monitoring the vetting process closely, the new counsel will have to be someone viewed as free from any partisan bias.

"The bar is very high for the Republicans," said a senior House Democratic aide. "Any sign of partisan background in a candidate will be met with strong opposition and continue the stalemate of a non-functioning ethics committee, one that is unprecedented and unacceptable."

Once a new chief counsel and additional investigators are in place, the ethics committee is expected to initiate informal probes into DeLay and House Administration Chairman Bob Ney (R-Ohio), both of whom have ties to Abramoff. Abramoff and a former business associate recently were indicted in Florida on federal fraud charges related to their purchase of a Miami-based gambling cruise ship company.

Neither DeLay nor Ney have been implicated in that case, but the two lawmakers face questions about their dealings with Abramoff on other issues, as well as allegations that Abramoff may have improperly funded overseas trips taken by the two men and their aides.

Those two informal probes could become full-blown investigations featuring investigative subcommittees with subpoena power appointed to oversee the inquiries, according to House insiders and ethics experts.

Abramoff's indictment in Florida, however, could present problems for a Congressional ethics probe. Traditionally, the ethics committee has steered clear of cases in which federal or state officials are already investigating Members over allegations of criminal conduct, as was the case last year when the ethics committee declined to look into a case involving DeLay associates already being probed by a Texas grand jury.

But that abstention by the panel is not an ironclad one, and the committee in the past initiated its own probes of former Reps. Bud Shuster (R-Pa.) and Jay Kim (R-Calif.) even as the Justice Department was investigating the lawmakers.

Regarding Abramoff's indictment in Florida, legal experts suggest that case is so specific — centering on alleged efforts in September 2000 by Abramoff and Adam Kidan, his then business partner, to falsify loan documents used to help purchase Sun Cruz Casinos — that the ethics committee could begin its own investigation of DeLay and Ney without jeopardizing the government's case.

"I don't see any problem for the ethics committee on that front," said a GOP ethics lawyer who requested anonymity. "They can do whatever they want."

Where there may be problems, however, is if a Washington, D.C.-based federal grand jury investigating Abramoff over his dealing with American Indian tribes indicts the former lobbyist. Ney, in particular, has faced allegations that he attempted to help Abramoff enact legislation to help one of his tribal clients in return for campaign contributions, a charge that the Ohio Republican

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has vehemently denied. If Abramoff were indicted by the grand jury over his actions on behalf of Indian tribes, then any probe of Ney could touch directly on that case.

"Ney, in a weird way, could benefit if Abramoff were indicted again," said the GOP lawyer. "There is no way Abramoff could or would testify before the ethics committee, so it becomes all Ney's side of the story."

Republicans are not alone in facing ethics problems, however. An investigative subcommittee has already been appointed to look into Rep. Jim McDermott's (D-Wash.) leaking of an illegal recorded 1997 phone call between House GOP leaders. McDermott and Rep. John Boehner (R-Ohio) have been involved in a long-running legal dispute over the tape, and McDermott could end up having to pay hundreds of thousands of dollars in lawyers' fees in the case. A complaint with the ethics panel against McDermott was filed by Rep. David Hobson (R-Ohio), a close Boehner ally.

Rep. John Conyers (D-Mich.) also faces questions over potential violations of House ethics rules. Several House insiders predict that the ethics panel will approve a full-blown investigation into whether Conyers improperly allowed partisan political activity by his staff designed to benefit Conyers' wife, who was running for a state office.

Other lawmakers, including Reps. Curt Weldon (R-Pa.), John Murtha (D-Pa.) and Maxine Waters (D-Calif.), could also come under scrutiny by the Ethics panel as well. All three have been alleged in media reports to have used their official offices to help out business activities by family members.

Two other Members — Reps. Duke Cunningham (R-Calif.) and William Jefferson (D-La.) — are the subject of ongoing federal corruption investigations, and the outcome of those probes will have an impact on whether the ethics committee gets involved in either case.

Cunningham is being investigated by a federal task force over his ties to a defense contractor, MZM Inc., and its former CEO, Mitchell Wade. Wade purchased Cunningham's San Diego-area home in 2003 and then later resold it at a $700,000 loss. Cunningham also lived on a yacht berthed in Washington that was owned by Wade. MZM, with backing from Cunningham and other lawmakers, has helped snare more than $160 million in federal defense contracts, mainly in intelligence-related activities. Cunningham serves on the House Appropriations and Intelligence committees. Cunningham, who has stated that he did nothing wrong in his dealings with Wade, has already announced his decision to retire from Congress at the end of next year.

Jefferson is being investigated over his dealings with a high-tech startup company. The Maryland home of a top Nigerian official with ties to Jefferson was searched by the FBI in early August. Jefferson has denied any wrongdoing in the matter.

Both Cunningham and Jefferson have faced searches of their homes and other property by federal agents. In Jefferson's case, federal agents reportedly found a bundle of cash in his freezer, according to the Washington Post.

As is the case with the Abramoff-related probes, the ethics committee will have to move cautiously to not interfere with the Justice Department investigation into either lawmaker, although that does not mean the committee can't begin a probe into either lawmaker on its own.

"Just because the Justice Department is looking into something, that doesn't preclude the ethics committee from investigating as well," warned a senior House Democrat familiar with the situation. "The ethics committee has the authority to do what it must to guard the integrity of the House, and it will do so how it best sees fit."

OTHER NEWS:

Zinc Tumbles 3.7% After Stockpiles Prove Unaffected By Storm (WSJ)

By Emily Parkinson

The Wall Street Journal, September 7, 2005

LONDON -- Zinc futures at the London Metal Exchange fell sharply following reports that warehouse stocks in New Orleans were unaffected by Hurricane Katrina.

Zinc for three-month delivery fell 3.7%, or $21, to $1,391 a metric ton, but had rallied as high as $1,452.50, an eight-year high. The market rose earlier in the session after the LME temporarily suspended warrants for zinc stored in New Orleans warehouses and imposed a backwardation limit on the zinc market, the exchange said.

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A market is in backwardation when the futures price is lower than the cash price. LME warrants are documents enabling the holder to take possession of a specified parcel of metal at a specified LME warehouse.

The decision was made in light of the potential effect on the LME markets of flooding in New Orleans following Hurricane Katrina.

The LME said that "to safeguard the orderliness of trading, the exchange has decided temporarily to suspend New Orleans warrants until the situation can be clarified."

In other commodity markets:

CRUDE OIL: Petroleum futures on the New York Mercantile Exchange fell 2.4% as Gulf of Mexico oil production continued to recover in the wake of Hurricane Katrina. The massive government response to the supply disruptions caused by the storm eased traders' concerns about curtailed U.S. production. October crude fell $1.61 to $65.96 a barrel.

GASOLINE: Nymex gasoline futures plunged 6% as some of the U.S. refineries shut by Hurricane Katrina restarted. About half of the affected refining capacity was either back on line or expected back by midweek. A surge in European gasoline imports and a seasonal decline in demand was also seen easing supply tightness. October gasoline futures fell 12.87 cents to $2.0550 a gallon.

Crude Oil Lower After Saudi Price Cut (FT)

By Chris Flood

Financial Times, September 7, 2005

The price reduction on its heavy crude is likely to lead to a production increase by the world's largest exporter. This may be confirmed this weekend when the kingdom nominates its October oil export programme.

The move comes ahead of the meeting of the Organisation of the Petroleum Exporting Countries later this month, when Saudi Arabia may push for an increase in the Opec quota from its current level of 28m b/d in an effort to stem the rise in global oil prices.

Saudi Aramco, the state oil company, lowered its monthly crude oil selling prices to the US, Europe and Asia and made the largest cut to the price of its heaviest grades, which are harder to refine, with Arab Heavy down $2.75 for Europe and $2.25 for the United States. The discount of Arab Heavy to the European benchmark is close to the record discounts seen last October of about $14 a barrel.

Although more than two-thirds of US Gulf of Mexico oil production remains closed, according to the US Minerals Management Service yesterday, US energy prices retreated as traders returned after the Labor Day holiday. The October West Texas Intermediate contract fell $1.67 to $65.90. IPE Brent for October delivery declined 19 cents to $64.66 a barrel.

Refiners have until Friday afternoon to submit bids for 30m barrels of crude offered for sale from the US government's emergency stockpile with a base reference price of $68.67 a barrel set for sweet crude and $61.66 a barrel for sour crude.

Nymex October gasoline declined 6.6 cents to $2.1177 a gallon while Nymex October heating oil fell 1.21 cents to $2.0790 a gallon.

Zinc prices hit an eight-year high after the London Metal Exchange suspended delivery against warranted metals stored in New Orleans where almost half of the LME stockpile is stored.

Traders said high inventory levels had prevented prices from rising as fast as other base metals in recent years, but the market was increasingly nervous about availability of supplies.

Three-month zinc prices reached $1,452.50 a tonne before easing back to $1,394.5. Three-month copper edged lower to $3,655.5 a tonne after reaching an all-time peak of $3,725 a tonne on Friday. Analysts expect higher demand for base metals like copper from a surge in reconstruction spending in areas affected by Katrina.

Gold prices eased modestly to $443.95 a troy ounce from Monday's close in London of $445.85 after a bounce in the dollar. Traders said that a correction to lower levels was still a risk due to speculative long positions.

Gulf's Energy Infrastructure Begins To Regain Its Footing (WSJ)

By Thaddeus Herrick, Russell Gold and John J. Fialka

The Wall Street Journal, September 7, 2005

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The Gulf Coast network of production platforms, pipelines and refineries hammered by Hurricane Katrina last week took a step toward normalcy yesterday, helping to temper the price of crude oil and offering hope that the worst of the current energy crunch may have passed.

The U.S. average retail price for unleaded gasoline -- having matched an all-time high Monday -- eased about a cent to $3.04 a gallon yesterday, according to AAA, formerly the American Automobile Association, as Labor Day marked the end of the summer driving season. While analysts said it was unclear whether Americans were conserving gasoline, the supply shortages and gas-station lines so far have failed to match those of the oil shocks of the 1970s and 1980s.

"You may not be able to find gasoline where and when you want it," said Geoff Sundstrom, a spokesman for AAA. "But there is gasoline."

The sharp rise in gasoline prices -- and forecasts that oil companies will see increased profitability as a result -- have drawn congressional scrutiny. Leaders of the Senate Energy Committee yesterday said that Congress will "revisit" auto fuel-economy standards and more-flexible leasing of federal offshore land for energy exploration. But Republican lawmakers showed little enthusiasm for Democratic proposals for a federal law on price gouging.

Late yesterday afternoon, benchmark crude for October delivery fell $1.61 to $65.96 a barrel on the New York Mercantile Exchange. The drop came as Saudi Arabia slashed prices by more than $2 a barrel on its high-sulfur grades of oil, which now sell for roughly $50 or more a barrel. Because the U.S. temporarily has relaxed tough environmental standards for oil products, refineries may be able to use more high-sulfur Middle Eastern crudes that normally need more refining.

Gasoline futures declined 12.87 cents to $2.055 a gallon in Nymex trading. Natural-gas futures, which have maintained higher levels even as oil has slipped, fell 3.4 cents to close at $11.657 per million British thermal units.

Questions remain about the swirl of pipelines that feed into the southeastern tip of Louisiana. These pipelines are particularly susceptible to the underwater mudslides triggered by Katrina. Mudslides can snap pipelines, moving segments hundreds of feet, and leave them inoperable until they can be reconnected. Similar damage in the wake of last year's Hurricane Ivan reduced production for weeks.

Weather continues to hamper assessment: El Paso Corp., which operates the Southern Natural Gas pipeline system in the gulf, said surveying has been postponed at least until tomorrow Yesterday, a Department of Energy official told the Senate Energy Committee damage hasn't yet been found, though inspections continue.

Also yesterday, the U.S. Coast Guard increased its count of destroyed platforms to 29 from 26. Still, the U.S. Minerals Management Service said that more than 50% of the combined oil and natural-gas production idled in anticipation of Katrina had been restarted. The oil and natural-gas equivalent of 1.6 million barrels a day still was shuttered.

Crews have had adequate time to bring a number of large, oil-and gas-producing platforms and accompanying pipelines back to service. BP PLC said its deep-water Holstein platform, just west of Katrina's path, has resumed production, pumping the oil and gas equivalent of 70,000 barrels a day. Two pipelines that connect Holstein to the shore are running again.

Oil companies are beginning their search for new oil and gas. Anadarko Petroleum Corp. said at least five drilling rigs, moveable floating platforms that can drill wells to depths of about 26,000 feet, have started churning through the earth again. An additional two drillers are being assessed for damage, the company said.

More importantly, perhaps, two critical pipelines carrying fuel to the Northeast U.S. are running again and four of eight refineries in the hurricane's path are in the process of restarting, with Marathon Oil Corp.'s Garyville, La., plant the first of the group to begin processing crude oil into products such as gasoline and diesel.

Still, the hurricane's wrath has laid bare the vulnerabilities of the U.S.'s oil and gas supplies. The region ravaged by Katrina is home to about a quarter of America's oil and natural-gas production -- with pumping platforms far out to sea, refinery complexes that turn crude into gasoline, and pipelines linking them all. The storm temporarily closed down about two million barrels a day of oil-refining capacity, resulting in the loss of one million barrels a day of gasoline output, representing 10% of U.S. capacity.

And while capacity representing 5% of U.S. demand appears likely to restart in coming days and weeks, four refineries that represent the other 5% will be offline for at least a month. Among them are two industry heavyweights: Exxon Mobil Corp's

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185,000 barrel-a-day plant in Chalmette, La., co-owned by Petróleos de Venezuela, and Chevron Corp.'s plant in Pascagoula, Miss., which processes 325,000 barrels of crude oil a day.

Even more, expectations of bigger profits for energy companies, especially refiners, following Katrina, have touched off a political storm. Sen. Byron L. Dorgan, (D., N.D.) said he will introduce a "windfall profits rebate act" today that would penalize oil companies for reaping above-normal profits unless they made new investments in domestic oil and gas production or in oil-refining capacity.

While Democrats slammed the oil industry for alleged "price gouging," several witnesses told the committee that the impact of Katrina on an already tight supply market for gasoline made it extremely difficult to set prices. "Last week was one of the most unusual weeks I've ever been through," said William Shipley, the chairman and chief executive of Shipley Stores, which runs a chain of 26 gasoline-selling convenience stores in central Pennsylvania. He said he ordered price increases of 15 cents a gallon each day because he saw his wholesale costs were rising. "You have to pay for the next shipment and anticipate the increased cost."

Lawmakers also said they plan to take another look at a proposal to allow states to lease land for exploration for natural gas in federal lands offshore.

Guy Caruso, administrator of the DOE's Information Administration, said that "significant numbers of tankers" coming from Europe carrying gasoline should put "some downward pressure" on U.S. prices during the next two to three weeks. His agency predicted that gasoline prices will drop to $2.60 a gallon by the end of October and to $2.40 by next year.

Also yesterday, the Japanese government unveiled plans to release some of its strategic oil reserves held by refiners to the oil market. Shoichi Nakagawa, minister of Economy, Trade and Industry, said Japan will start releasing about 200,000 barrels a day of crude oil and refined products from its oil reserves held by refiners to the market beginning today.

The International Energy Agency, the energy watchdog for industrialized nations, announced Friday that its 26 members, including Japan, would draw on two million barrels a day of oil during the next 30 days to help offset the loss of output and refining capacity in the U.S.

Gas Prices At Pumps Show Signs Of Easing (NYT)

By Vikas Bajaj And Jad Mouawad

The New York Times, September 7, 2005

Gasoline prices at the pump inched lower yesterday for the first time since Hurricane Katrina hit the Gulf Coast last week, suggesting that fuel costs, while still high, are leveling off and may not lead to as severe an energy shock as once feared.

But even as the surge in prices appeared to be easing, policy makers and consumer groups nationwide increased calls for a host of government interventions to punish those shown to be profiteers, reduce gas taxes and institute price caps.

In Washington, a Senate committee held the first of two scheduled hearings on energy supplies and gasoline prices, which topped $3 a gallon last week after Katrina knocked out vital parts of the nation's energy supply system. [Page C5] At the same time, officials from several states said they were taking forceful measures against what they viewed as price gouging.

Nationwide, retail prices averaged $3.041 a gallon for regular unleaded gasoline yesterday, up significantly from a week ago but down from a peak of $3.057 on Monday, according to AAA. At the wholesale level, gasoline for October delivery fell by 12.87 cents a gallon, or 5.9 percent, to $2.055 after climbing past $2.60 last week on the New York Mercantile Exchange. Crude oil prices fell $1.61 a barrel, to $65.96; last week they closed as high as $69.81.

The stock market also rose as investors sensed some relief on the energy front and expressed more optimism that the Federal Reserve might pause soon in its campaign of regular interest rate increases. The Standard & Poor's 500 index climbed 1.3 percent, to 1,233.39; the Dow industrials gained 141.87 points, to 10,589.24.

While a majority of the gulf's offshore production remained down yesterday, oil companies have been achieving steady gains in restoring output and are moving aggressively to resume wider refining and distribution of oil products.

About 870,000 barrels a day of oil, or 58 percent of the gulf's total output, are still shut down, according to the latest government figures. That is an increase from last week when the storm cut 95 percent of the gulf's production. The region accounts for more than 25 percent of domestic oil production and about 2 percent of global oil supplies.

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Still, a public reaction against sharp gasoline price increases appeared to be rising and some policy makers called for reimposing energy price controls, which were eliminated in the early 1980's.

"We have a million people displaced and we have 100 million Americans that are opening up their hearts and homes," Senator Carl Levin, Democrat of Michigan, said in a telephone interview yesterday. "We have some people who are trying to take advantage of it for their own personal profit. And we should stop them in their tracks."

Mr. Levin asked President Bush to impose emergency price caps on gasoline until supplies are restored to levels before the hurricane struck.

Most economists are extremely wary of price caps and say they do more harm than good by leading to artificial shortages caused in part by encouraging consumers to buy more gasoline when they should be curbing demand. By contrast, market-driven price increases, as painful as they may seem, help reduce unnecessary driving and bring out additional supplies, allowing the system to return to balance, economists say.

"Let prices do a good job of telling people what cars to drive and how much to drive them and how to spend their weekends," said Stephen P. A. Brown, director of energy economics at the Federal Reserve Bank of Dallas. "I don't have any statistics on it, but my understanding was that a lot of people didn't travel this weekend, the roads were a lot less crowded, and $3 gasoline did it."

Mr. Levin dismissed that analysis: "By that logic," he said, "you could raise prices to $10 a gallon and you make sure that people walk." Most consumers cannot choose to stop driving, he said, adding that imposing a short-term cap on prices would not hurt oil companies, which are already making record profits.

State and federal officials say that consumer complaints have soared as they have registered outrage at price increases of 30 to 80 cents a gallon - sometimes more - that gas stations instituted literally overnight last week.

The Energy Department said yesterday it had created a toll-free number, (800) 244-3301, for consumers to lodge complaints about prices. Those complaints will be sent to the Federal Trade Commission, the Justice Department and state attorneys general. Consumers can also complain online at gaswatch.energy.gov.

"While we've largely seen the best of American generosity and unity throughout the recovery effort, we recognize that there are some bad actors that may try to take advantage of the situation," Energy Secretary Samuel W. Bodman said in a statement.

In Florida, Attorney General Charlie Crist said that his office had dispatched 40 investigators to canvas gasoline stations to see if any were violating a price gouging law that went into effect when Governor Jeb Bush imposed a state of emergency in July just before Hurricane Dennis struck Florida. The statute defines gouging as any price increase in "gross disparity" to what was being charged before.

"It's somewhat subjective, obviously, and intentionally so, I presume," Mr. Crist, a Republican who is running for governor, said. "What we are trying to calculate into the equation are the market forces that are fairly apparent to all of us as it relates to refineries and pipelines and some offshore rigs that have been displaced."

Mr. Crist has already subpoenaed Murphy Oil and Colonial Oil Industries, two independent oil companies with retail outlets in Florida. His office is also coordinating investigations with attorneys general from Alabama, Mississippi and Louisiana. In the Midwest, Illinois, Wisconsin and Iowa have undertaken similar joint efforts.

When asked what he thought about economists' view that allowing market forces to set prices served a useful function, Mr. Crist said "being unfair is never appropriate."

"I am not very sympathetic to the economic theory that it's good for people to charge them through the nose," he said.

Economists say they recognize the appeal of that sentiment but also note that without the pain of higher prices consumers might buy more gasoline and make a bad supply situation worse.

"The trade-off is the following: if you keep the price low you have to ration in some other way," said Steven Suranovic, an associate professor of economics at George Washington University in Washington. "And rationing is going to come about in lines forming at gasoline companies and some stations being closed."

Other lawmakers and officials suggested the federal and state governments should reduce or suspend taxes on gasoline purchases. The federal government imposes an excise tax of 18.4 cents a gallon on gasoline; the states, on average, add another 21 cents a gallon in excise taxes. At least 11 states also impose sales and other additional taxes.

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On Friday, Governor Sonny Perdue of Georgia suspended that state's 7.5-cent excise tax and 4 percent sales tax on motor fuels. On Monday, Senators Jon Corzine, Democrat of New Jersey, and Charles F. Schumer, Democrat of New York, offered conditional support for removing the federal gasoline taxes.

Here too, many economists parted with politicians, noting that reducing taxes would also encourage consumers to buy more gasoline.

Some analysts said gasoline prices might have already peaked. "Futures prices have come down and spot prices have gone down, and retail prices have already started to decline," said John Felmy, chief economist at the American Petroleum Institute.

But even though driving demands are expected to ease now that the summer vacation period has ended, prices are likely to remain elevated well above pre-hurricane levels for at least the next few weeks or months as energy companies turn to restoring full refinery operations and begin shifting to greater output of heating oil. Imports of gasoline from Europe and improved offshore production should also help increase supplies within the next few weeks.

Four major refineries are expected to remain out of service for at least the next several weeks. Meanwhile, workers are just beginning to return to offshore platforms - at least 20 of them missing or adrift - and starting to examine underwater pipelines to assess the damage to the gulf's intricate energy infrastructure.

Gas Prices Ease As Gulf Production Up (USAT)

By James R. Healey

USA Today, September 7, 2005

U.S. gasoline prices appear to have peaked as energy operations in the Gulf of Mexico, clobbered by Hurricane Katrina last week, resume production.

Other energy prices also retreated Tuesday. But damage to the economy already could be significant.

“American consumers spent nearly $10 billion more last week on energy than they did in the same week three years ago. That's not sustainable,” energy price consultant Peter Beutel says.

Most Americans — eight of 10 — told USA TODAY/CNN/Gallup pollsters Monday and Tuesday that gasoline suppliers are taking advantage of the hurricane to charge unfair prices. Prices zoomed past $6 a gallon in some areas after Katrina, and average more than $3 currently.

The official view is opposite.

“Energy prices are being set fairly,” James Overdahl, chief economist at the Commodity Futures Trading Commission, said in remarks prepared for a Senate hearing Tuesday. The CFTC regulates exchanges that trade futures contracts for energy and other commodities.

U.S. average for unleaded regular was $3.041 a gallon, AAA said Tuesday. That was down 1.6 cents from a nominal record $3.057 over the Labor Day weekend. The inflation-adjusted record is $3.113, set in March 1981, the U.S. Energy Information Administration says.

“Demand has dropped off the table” as high prices and shortages discourage driving, but it's unclear how long that will last, says Tom Kloza, analyst at the Oil Price Information Service.

Cheapest gas, averaging about $2.74, was in the states hit hardest by Katrina, Louisiana and Mississippi, because of anti-price-gouging regulations and because some “major oil companies froze prices in those areas to assist recovery efforts,” AAA's Geoff Sundstrom says.

Georgia Gov. Sonny Perdue signed an order suspending state gas taxes temporarily to keep prices down. Other governors are considering it, and some in Congress are asking for “gas-tax holidays.”

Oil closed Tuesday at $65.96, down $1.61. Wholesale gasoline for October delivery was $2.055, down 13 cents. Gas for immediate delivery was about $2.18 at the gulf, roughly 90 cents cheaper than “the most manic number last Thursday,” Kloza says.

Retail gas prices tend to be 60 to 65 cents a gallon more than the average wholesale prices, EIA says.

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The U.S. Minerals Management Service reported Tuesday that gulf oil production was 616,000 barrels a day, or 42% of normal, up 9% from Monday.

Says Beutel: “Unless Tropical Storm Maria follows in Katrina's footsteps, we may be able to look back on this weekend as the worst of a bad situation.”

Senators Urge Boost In Standards Of Fuel Economy (WT)

By Patrice Hill

The Washington Times, September 7, 2005

Congress should consider raising fuel-economy standards for all vehicles for the first time in 30 years in light of the gasoline shortages and huge spike in pump prices caused by Hurricane Katrina, key senators said yesterday.

"I believe we must take another look at the CAFE standards," said Sen. Pete V. Domenici, New Mexico Republican and chairman of the Senate Energy and Natural Resources Committee, referring to the Corporate Average Fuel Economy rules enacted in the mid-1970s but not updated since.

"We looked at that before, and it was not politically possible. I'm not sure that will be the case after Katrina," he said.

His comments came as the government reported that gas prices last week breached the $3 level for the first time on average nationwide, with the biggest increases seen in Mid-Atlantic states such as Virginia and Maryland, and in the District, where the average price for regular was $3.29 a gallon.

Republicans and Democrats both said they suspected price gouging as gasoline costs soared in the aftermath of Katrina, but they complained that the government doesn't have the ability to prevent such market abuses.

"The American people are being victimized more than any free market would warrant," said Sen. Gordon H. Smith, Oregon Republican.

Mr. Smith and other senators at a committee hearing yesterday said regulators, including the Federal Trade Commission, are not aggressively pursuing price gouging and other market manipulation by energy companies reaping huge profits.

"There are growing concerns that oil companies are making too much in profits at the expense of consumers," Mr. Domenici said.

Some relief at the pump is on the way as the prices of crude oil and wholesale gasoline dropped for a second day in New York trading, and are close to levels that prevailed before the hurricane struck the Gulf Coast, the heart of the nation's oil-producing sector.

Witnesses at yesterday's hearing said pump prices will remain high for weeks and possibly months, however, because the hurricane knocked out about 10 percent of production at oil wells and 5 percent of production at refineries that could take up to a half-year to restore.

Mr. Domenici acknowledged that the energy law his committee drafted and enacted this summer did not go far enough to prevent crises such as the current one, although the Bush administration last week did use the new powers it received to temporarily lift environmental requirements for fuels during emergencies.

"We left some issues out" in the interest of getting the much-debated legislation passed, Mr. Domenici said. "Things that were not politically possible two months ago are now before us."

Sen. Jeff Bingaman, New Mexico Democrat and the committee's ranking member, said he also hopes Congress will revisit whether to require cars, trucks and sport utility vehicles to give better mileage than the current standard, which is 27.5 miles per gallon on average for cars.

Witnesses at the hearing agreed that the sharp spike in fuel prices in the past week shows that Congress needs to rethink policies that have led to an overwhelming dependence on heavy, inefficient cars and trucks at a time of tight supplies and turmoil in world oil markets.

"As Hurricane Katrina has reminded us, we are never more than a disaster away from this type of crisis," said Robert L. Darbelnet, president of AAA, a driver advocacy group.

"If we do not reduce our dependency on fossil fuel or increase our access to a reliable source of it, the narrow margin we rely on for stability will continue to erode."

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Mr. Darbelnet said the improved fuel-efficiency standards for SUVs and light trucks proposed last month by the administration do not go far enough, particularly because they do not "address the largest and heaviest passenger vehicles on the road today."

The Environmental Protection Agency also needs to revise the fuel-efficiency tests that result in estimated miles per gallon for each vehicle on the road, he said. It has been substantially overstating mileage potential by assuming that, among other things, drivers do not use their air conditioners or drive faster than 55 miles per hour.

Since the hurricane struck more than a week ago, the shutdown of nearly all the oil and gas facilities in the Gulf of Mexico has been partially reversed, witnesses said, and the three major pipelines feeding gasoline to the Northeast, Mid-Atlantic and Midwest have been mostly restored to operation.

The availability of fuel to feed into the pipelines will remain a problem, however, as four heavily damaged oil platforms producing about 10 percent of the Gulf oil will take three to six months to repair, said Rebecca Watson, assistant interior secretary for land and minerals management.

Ms. Watson said her office and the oil companies it supervises are working hard to get facilities back in operation, but continue to be hampered by flooding, a lack of power and the loss of workers. Her agency's office in New Orleans had to be closed, for example, and 67 employees remain missing.

Although half of the 1.8 million barrels a day of lost refining capacity should be restored by the end of the week, that still would leave gasoline output about 5 percent lower at a time when fuel is in short supply worldwide, said Guy Caruso, head of the Energy Information Administration.

Some Senators On Panel Ask Angry Questions About Gasoline Pricing And Profits (NYT)

By David D. Kirkpatrick

The New York Times, September 7, 2005

WASHINGTON, Sept. 6 - Opening a series of Congressional hearings on rising fuel prices, the Senate energy committee vented bipartisan wrath Tuesday over accusations of energy-company profiteering after the Gulf Coast was struck by a hurricane.

"Hurricane Katrina exposed the harsh reality that we have been skirting and skating on thin ice when it comes to this country's energy concentration on the Gulf Coast," said Senator Pete V. Domenici, the New Mexico Republican who is chairman of the panel.

"Why are the oil companies making record profits, and what are they doing with them?" he asked. "Our job is to make sure that one, price gouging, and, two, unfair profiteering and unconscionable profiteering, do not take place and especially does not take place as a result of the hurricane."

With gasoline prices hovering near the peaks set over the weekend, members of Congress say they consider fuel costs the biggest issue on voters' minds. On their first day back from the summer recess they began debating potential remedies with an intensity not seen since the oil shortages of the 1970's.

Lawmakers of both parties were eager to warn oil producers to watch their prices.

Senator Dianne Feinstein, Democrat of California, said: "The distrust is enormous. I hope somebody out there is listening who controls these prices."

Several senators from both parties called for the Federal Trade Commission to vigorously investigate charges of price gouging. On Wednesday, the commission chairwoman, Deborah Platt Majoras, will testify at a House committee hearing also investigating price increases.

Mr. Domenici said he hoped public reaction might press Congress to pass measures that were excluded from the energy bill passed in July, including new vehicle fuel efficiency standards, the expansion of offshore drilling and support for building new refineries.

Several agreed that the concentration of refineries had created a dangerous dependence on the gulf region to process a large share of the nation's fuel supplies. "We are just in the beginning of the hurricane season," said Senator Lisa Murkowski, Republican of Alaska. "What happens if there is another hurricane?"

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Senator Domenici and Senator Jeff Bingaman, who is also from New Mexico and the ranking Democrat on the committee, agreed to send a letter to President Bush asking him to require government agencies to begin conserving gas in their vehicles, saying that would set an example for consumers.

Democrats called for more aggressive measures. Senator Byron L. Dorgan, Democrat of North Dakota, said he was introducing a bill to tax oil companies for high oil profits and pay a rebate to consumers. "There is nothing about this market that is free," he said, arguing that the OPEC cartel sets prices and that the consolidation of petroleum companies had made the pricing situation worse for consumers.

Senator Maria Cantwell, Democrat of Washington, called on the president to reinstate the emergency powers that expired after the 1970's "to look at this issue of price gouging and look at what level of price increase is realistic."

Republicans on the committee, however, argued that price controls of the 1970's had worsened shortages. Senator George Allen, Republican of Virginia, said Congress should instead consider extending the temporary lifting of some regulations on gasoline contents that the president imposed after the hurricane.

Several others argued for expanding domestic oil drilling in Alaska and offshore. Pointing the finger at environmental regulations he blamed for constricting domestic oil supplies, Senator Larry Craig, Republican of Idaho, questioned his colleagues stern words for the oil companies and other energy producers.

"Is it possible," he asked, "that the anger of the American consumer is misdirected at those who produce it instead of those who deny production?"

Senate Holds Hearing On Gas Price Gouging (AP)

By H. JOSEF HEBERT, Associated Press Writer

AP, September 7, 2005

Sep. 7, 2005 - Senators, both Republicans and Democrats, said Tuesday that they suspect price gouging as gasoline costs soared in the aftermath of Hurricane Katrina but complained that the government doesn't have the ability to investigate or prevent such market abuses.

"The American people are being victimized more than any free market would warrant," said Sen. Gordon Smith, R-Ore., at Senate hearing on the impact of the hurricane on energy prices.

Smith and other senators said regulators, including the Federal Trade Commission, are not aggressively pursuing price gouging and other market manipulation by energy companies reaping huge profits.

Sen. Pete Domenici, R-N.M., chairman of the Energy and Natural Resources Committee, which held hearings into the recent price spikes, said Congress needs to give agencies the tools to investigate price-gouging complaints.

"There are growing concerns that oil companies are making too much in profits at the expense of consumers," said Domenici.

Sen. Jon Corzine, D-N.J., said that even as crude prices were declining, gasoline prices at the pump soared by 25 percent. "There's something not right in how the market is working," he said.

Several Democrats called for gasoline price controls.

"The president needs to have emergency powers to halt gas price gouging," said Sen. Maria Cantwell, D-Wash.

Sen. Byron Dorgan, D-N.D., said he will introduce legislation for a windfall profits tax on oil companies, with the proceeds used to rebate consumers who have paid huge prices at the pump. He was not optimistic about the proposal's prospects.

"Most likely Congress will do little or nothing but talk a great deal and hold hearings," said Dorgan.

Twenty-three states have price-gouging statutes, but Domenici acknowledged they are "all over the waterfront" as to how they are used. In Virginia, a government must declare an emergency for the law to be used.

The FTC does not have authority over price gouging unless it involves an antitrust or market monopoly issue.

The afternoon of testimony demonstrated that one person's price gouging may be another person's justified price response to changing conditions of supply and demand.

James Overdahl, chief economist for the Commodity Futures Trading Commission, said the agency is stepping up its oversight of the gasoline futures markets but has not seen evidence of price manipulation related to Hurricane Katrina.

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Industry representatives blamed retail-price spikes on the disruption of supplies and the anticipation of shortages.

Separately, the Energy Department said it was expanding its "hotline" for complaints from motorists about price gouging at pumps to including a toll-free number, 1-800-244-3301, that can be used for complaints.

"We recognize there are some bad actors that may be to take advantage of the situation," said Energy Secretary Samuel Bodman. Complaints to DOE are forwarded to the Federal Trade Commission.

Meanwhile, the federal Energy Information Administration told lawmakers that the high gasoline prices triggered by disruptions from Hurricane Katrina were expected to ease in the coming weeks.

Crude prices and wholesale gasoline prices dropped for a second straight trading day Tuesday on the New York Mercantile Exchange.

"We expect gas prices to ease off in the coming weeks" and more Gulf refineries return to operation and more gasoline imports begin coming into the country, said EIA Director Guy Caruso.

Caruso said if recovery of Gulf refineries and offshore production facilities goes as anticipated, EIA projects gasoline prices to average $2.60 a gallon nationwide in the third quarter of this year and $2.40 a gallon next year. The EIA said the average price of regular-grade gasoline soared by nearly 46 cents a gallon to an average of $3.069 nationwide last week.

The Interior Department reported that offshore oil production facilities in the Gulf, though temporarily shut down, avoided extensive, long-term damage from Katrina.

The hurricane disrupted 95 percent of Gulf oil production, a region that accounts for 29 percent of U.S. domestic production.

Interior Assistant Secretary Rebecca Watson said many of those platforms are coming back into operation and that 90 percent of the offshore production facilities in the Gulf avoided extensive, long-term damage.

In Praise Of 'Gouging' (WSJ)

The Wall Street Journal, September 7, 2005

One test of leadership in a crisis is whether politicians keep cool enough to resist populist furies, especially when it comes to the inevitable economic fallout. Sadly, that's not what we're seeing in the current demagoguery over alleged oil-profiteering.

"Price gouging," says Missouri GOP Governor Matt Blunt, "is unconscionable and illegal ... and should be rooted out and punished." In Georgia, Republican Governor Sonny Perdue has signed an emergency executive order imposing sanctions on service stations that raise their prices too much. In Illinois, Democratic Governor Rod Blagojevich has pledged to prosecute gas companies that profit from the price spike, as has Ernie Fletcher, his Republican counterpart in Kentucky.

Some 20 states, most of them in the south, already have anti-price-gouging laws on their books -- and many governors have declared emergencies to invoke them. These de facto price controls typically place ceilings of between 10% and 25% on how much companies can raise prices in the wake of a natural disaster. In almost all cases such laws are wrong-headed, because they exacerbate supply problems by short-circuiting the price system that matches supply with demand.

As infuriating as higher gas prices will be over the next weeks and perhaps months, there is one economic certainty here: If governments will not allow the price system to ration the demand for gas, a new "price" system will emerge called gas lines, which have already appeared in many locales.

Let's explain why prices have been rising. Katrina has knocked out about 90% of Gulf crude oil production and about 80% of natural gas output. That translates into about two million barrels a day that are not available to consumers, an 11% decrease in supply. This means that in the near term Americans are going to have to consume two million fewer barrels of gas every day, at least until the refineries are brought back on line and increased output and supplies from other nations arrive. The way the market achieves this reduction in consumption is through a higher price.

The argument is also made that energy companies are reaping windfall profits from the Katrina catastrophe. That is in one sense true -- the oil they've already extracted and refined is more valuable now, and we would be pleased to see some of these extra profits donated to the relief effort. But artificially holding down the price of gas makes a bad situation worse.

This is also why many of the nation's governors are misguided, even if well-intentioned, in their attempts to suspend state gas taxes. Given the high demand for gas and constricted supply, this gas tax cut will have one of two undesirable

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consequences. If the savings are somehow passed on to consumers at the pump, demand will be elevated, thus heightening the risk of gas lines and/or "sold out" signs at service stations. The alternative is that energy companies will keep the market-clearing pump price the same, and pocket the 10 to 20 cents a gallon reduction in the tax -- which would only increase their windfall. Either way, consumers won't benefit.

So are the gas sellers guilty of "profiteering?" Price gouging laws say companies can't charge significantly more than their "cost." But what matters for wholesalers and gas stations isn't what they paid for the last tanker of fuel but what they expect to pay for the next one. Economists call this the "replacement cost," and any gas station owner would soon be out of business if he charged $2 a gallon for gas that he knew would cost him $2.50 a gallon to replace. As these replacement costs soar, it is entirely appropriate for gas stations to raise prices on a daily, or even hourly, basis.

"If prices do not increase," explained the White House Council of Economic Advisers in a section on "unexpected shortages" its 2004 Report to the President, "consumers do not receive a signal to cut their consumption and suppliers might not have the proper incentives to increase supply adequately."

Anti-gouging laws also punish companies for building excess capacity and reserves in advance of a crisis like the one we're now having. One lesson of Katrina is that we should reward companies for stockpiling oil and gas for the times when it is most urgently needed. Price gouging laws give them no incentive to endure the costs of carrying this excess inventory.

We could fill these pages with all the ways government has undermined U.S. energy security and raised production costs. These include reformulated gas mandates, prohibitions on offshore and Alaska oil drilling, and environmental regulations and price controls that go a long way to explaining why not a single new oil refinery has been built in the U.S. since 1976. Not one -- in 29 years.

These are the longer-term causes of the post-Katrina price increases. And they are energy policy dysfunctions that Congress would do well to fix before the memory of this catastrophe fades. In the meantime we can only hope politicians don't make this crisis worse by engaging in profiteering of their own, at everyone else's expense.

Tom DeLay: No Support To Roll Back Gas Tax (REU-Y2)

Reuters, September 7, 2005

House Republican Leader Tom DeLay said on Tuesday there was no support for rolling back the federal gasoline tax to offset higher prices.

"Absolutely not," he told reporters after a meeting with President George W. Bush on issues related to Hurricane Katrina.

"Now more than ever you're going to need ... that infrastructure, those highway trust funds, to rebuild the bridges that were destroyed, rebuild the railroads that were destroyed. You have to have the infrastructure or you can't have a recovery," DeLay said.

Iran Five Years From Nuclear Arms, Says IISS (FT)

By Peter Spiegel

Financial Times, September 7, 2005

A London-based think-tank which has become a leading authority on the unconventional weapons capabilities of so-called “rogue states” has estimated that Iran could develop enough weapons-grade uranium to develop a nuclear weapon within five years.

But in a 128-page dossier on Iran on Tuesday, the International Institute of Strategic Studies (IISS) also said Iran’s was more likely to build up a production capability over more than a decade and then decide whether to acquire atomic weapons.

The five-year estimate is more aggressive than reported projections of US intelligence agencies, which are believed to have determined Iran is six to ten years away from such a breakthrough. But in spite of a capability to develop weapons-grade uranium by the end of the decade, John Chipman, the IISS director, said that would require Iran to “throw caution to the wind” and ignore the threat of international sanctions, a move Tehran has been reluctant to pursue.

He noted that a more cautious approach – which would involve building a more sophisticated “industrial-scale” centrifuge plant at Natanz – would allow Iran to have a much greater capability to produce the higher enriched uranium needed for weapons in the long-term. Building such a plant would take more than a decade.

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The IISS assessment comes as the 35-member governing board of the International Atomic Energy Agency (IAEA) prepares for a crucial meeting on September 19 to decide whether the Iran case should be reported to the UN Security Council for reprimand.

"The logical next step is for this to be reported to the security council," a senior EU diplomat said on Tuesday. The US and Europe face resistance from Russia and China, which argue that Iran has not breached its obligations under the Nuclear non-Proliferation Treaty, which allows it to build a civilian nuclear programme.

The IISS also found that in spite of progress on a centrifuge enrichment programme, it is unclear whether Iran has the capability to actually design and fabricate nuclear weapons from any fissile material it produces.

Moreover, after two years of inspections by the IAEA "Iran does not have any significant stocks of undeclared nuclear weapons-usable fissile materials or is hiding facilities capable of producing such material," said the report.

Although there has been speculation that Iran may have acquired a nuclear design from the network of disgraced Pakistani physicist AQ Kahn, John Chipman, IISS's director, said there is no publicly-available evidence of such a link.

Gary Samore, the former US administration counter-proliferation official who authored the report, declined to comment on any discrepancies between the IISS assessment and official US findings, noting that American intelligence estimates remain classified and reporting on the Bush administration's assessment has been conflicting. Mr Samore added, however, that almost all analysts, including those in the US intelligence community, are relying on a "very similar database" from inspections by the IAEA. Any differences in estimates, he said, are different interpretations of the same data.

"No one can estimate with any precision how long this will take," Mr Samore said, noting there is a long list of hurdles in developing a centrifuge plant that can produce enough "clean" fissile material for a weapon. "Nobody can actually know, including the Iranians themselves, how long it will take to work out those problems."

Nuclear Weapon Is Years Off For Iran, Research Panel Says (NYT)

By Alan Cowell

The New York Times, September 7, 2005

LONDON, Sept. 6 - A leading British research institute said Tuesday that Iran was at least five years away from producing sufficient material for "a single nuclear weapon," and that it could make one only if it chose to ignore international reaction and "throw caution to the wind."

The researchers, at the International Institute for Strategic Studies, said the conclusions were based on public sources of information, including visits to nuclear sites arranged by Iranian authorities. "Nevertheless," the institute's director, John Chipman, told reporters, "there remains a good deal that cannot be known for certain from the outside."

Dr. Chipman presented the report at a diplomatically delicate time. Iran angered Western negotiators by resuming limited uranium conversion at Isfahan on Aug. 8, ending a suspension of nuclear activities agreed with the European Union last November. And on Sept. 19, the board of the United Nations nuclear watchdog agency is to meet to consider the next step.

Western nations, including the United States, have threatened to refer Iran to the Security Council, where it could face an array of penalties over its nuclear policies.

The United States argues that Iran is using its program to further its ambitions to produce nuclear weapons, but Iran maintains that the program has only peaceful purposes.

The new report broadly concurs with one completed in May by American intelligence agencies, which concluded that Iran was not expected to build a nuclear weapon before the next decade.

The institute's report suggests that Iran has two principal options to produce highly enriched weapons-grade uranium, one at a relatively small pilot centrifuge at Natanz and the other at a planned industrial-scale centrifuge there, which might take more than a decade to build.

"If Iran threw caution to the wind and sought a nuclear weapon capability as quickly as possible without regard for international reaction, it might be able to produce enough highly enriched uranium for a single nuclear weapon by the end of this decade," and then only if it overcame an array of technical difficulties, the report said.

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By contrast, "if Teheran does not feel compelled to acquire nuclear weapons urgently or judges that the risk of breaking out with a marginal capacity is too great, it could wait until it completes the industrial-scale centrifuge plant at Natanz."

While that might take more than 10 years, it would make it easier "to pursue covert enrichment options," the report said.

It said Iran's "ability to produce weapons-grade plutonium seems more distant."

The report described Iran's chemical and biological weapons as "much more difficult to assess." In a section on missiles, it said Iran had deployed up to 72 short- and medium-range missiles and possibly 12 intermediate-range missiles capable of striking targets in Israel, Turkey and southern Russia.

Dr. Chipman said the liquid fuel technology for the missiles had been acquired from North Korea.

"As far as is known, Iran's missile forces are armed with conventional high-explosive warheads," he said, adding that Iran could probably build primitive chemical or biological warheads "if it chose to do so."

Describing the diplomatic calculations, Dr. Chipman said it would be important for negotiators "to apply pressure and create inducements to persuade Iran not to develop a fuel-cycle capability that it could turn later into a weapons program."

"On the other hand, it will be important to apply international diplomacy in such a way that does not inspire Iran to abandon all restraint and seek a nuclear-weapons capability without regard to international repercussions," he said.

Compromise Sought For U.N. Meeting (NYT/REU)

By Reuters

The New York Times, September 7, 2005

UNITED NATIONS, Sept. 6 (Reuters) - Ambassador John R. Bolton of the United States on Tuesday offered compromise language on development and aid spending and climate change to try to resolve a deadlock over a list of goals being prepared for a world summit meeting here next week.

Washington has long and adamantly resisted the Kyoto Protocol on climate change and the United Nations target for increasing foreign aid, supported by most other members.

But with disagreements on those and many other issues surfacing again as a logjam in the preparation of the goals list, Mr. Bolton said the United States was ready to accept the use of the catch-all phase "millennium development goals" throughout the text, "provided it can be properly defined."

He submitted amendments to the group of 32 ambassadors negotiating over issues to be discussed at the summit meeting, which will be held from Sept. 14 to 16.

The phrase millennium development goals refers to objectives on poverty, hunger, primary education, AIDS and other issues, with specific goals to be achieved by 2015. The goals were generally agreed to by leaders at a summit conference in 2000.

In essence, the United States-proposed language including the phrase would commit world leaders to meet obligations they had undertaken in United Nations climate change agreements, including "for many of us, the Kyoto Protocol," according to Mr. Bolton's prepared speaking notes.

The Bolton Edit (WSJ)

The Wall Street Journal, September 7, 2005

What's wrong with the following:

"We are encouraged by recent commitments to substantial increases in official development assistance, while recognizing that a substantial increase in ODA is required to achieve the internationally agreed goals including, by 2015, the MDGs."

If your answer is that it's incomprehensible, you're right. But here's another answer: The statement forms part of the document that is Secretary General Kofi Annan's vision for a reformed U.N. and to which world leaders are supposed to affix their names when they meet next week in New York. It is a product of an opaque U.N. process presided over by a former Minister of Information of Gabon.

And it is antithetical to American interests, which is why new U.S. Ambassador to the U.N. John Bolton has taken a red marker to it and dozens of other misbegotten statements and suggested new language in their place. This is causing consternation in predictable quarters, but we hope Mr. Bolton keeps at it.

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On foreign aid, for example, he wants to stress not just the amount of assistance, which is the main concern at the U.N. Mr. Bolton wants the U.N. to acknowledge what leaders of the G-8 nations recently agreed to, which is that the aid should go "particularly for countries that are making efforts to use resources wisely, strengthen governance, and reduce poverty through sustainable economic growth."

That is, the aid should go to countries that aren't corrupt and will do something useful with it. By the way, the U.S. has increased its development assistance by 90% since President Bush took office, to $19 billion from $10 billion -- a point rarely mentioned by those who carp about U.S. "stinginess."

There's more. In the section on nonproliferation, the U.N. draft offers a windy sentence on the need for progress in disarmament. Mr. Bolton rightly wants to strike that language, which is often used by Iran and other rogue states as an alibi to skirt their nonproliferation commitments. In its place, he suggests: "The proliferation of weapons of mass destruction and their means of delivery, and the possibility that terrorists might acquire such weapons, remain the greatest threats to international peace and security." As Henry Kissinger likes to say, that has the added advantage of being true.

Some of Mr. Bolton's edits seem small but are literally worth hundreds of millions of dollars. The U.N. draft "commends" the Secretary General "to modernize the United Nations, in particular its headquarters." Mr. Bolton deletes the language about headquarters. Why? The U.N. is seeking to move into temporary Manhattan real estate as it renovates its Turtle Bay facility. Government auditors fear a billion-dollar boondoggle there, and believe millions in savings could be realized if the U.N. alters existing plans.

He also focuses on management reform, which will come into special focus with the release today of Paul Volcker's fourth report on the Oil for Food scandal. The report will stress Mr. Annan's multiple supervisory failures, yet Mr. Annan wants the world's leaders to accept his reform plan as a fait accompli before Mr. Volcker's findings are even read, much less considered.

For years, the U.N. has got by on the assumption that nobody, at least nobody in the U.S., is paying much attention. Its defenders have spun Mr. Bolton's efforts as a last-minute rogue operation designed to hurt the U.N. But in fact Mr. Bolton is doing Turtle Bay the favor of taking its words seriously. Those who want something more than a feckless and corrupt world body should welcome his efforts.

White House Questions Israel Construction (AJC/AP)

By Barry Schweid, Ap Diplomatic Writer

The Atlanta Journal-Constitution, September 7, 2005

WASHINGTON — The State Department said Tuesday it had raised with the Israeli government the approval of construction of 117 houses in the Ariel settlement in the heart of the West Bank.

Spokesman Sean McCormack provided no details, but he left little doubt that the administration was displeased.

"Our views on that issue are well-known," McCormack said. And they were expressed recently to the Israeli government, he said.

"We have had an ongoing discussion on this, as well as other issues, with Israel," McCormack said. "It's a close friend and I'm not going to get into the content of those diplomatic exchanges."

The long-held view of U.S. administrations is that an expansion of Israeli settlements on the West Bank could complicate negotiations with the Palestinians over the future of the territory.

Still, the presence of Israeli settlements in Sinai did not prevent a peace treaty in 1979 in which Israel gave all the territory to Egypt. Nor did Israeli settlements in Gaza stop Israel from relinquishing the territory to the Palestinians.

However, the Palestinians and their supporters suspect Prime Minister Ariel Sharon intends to hold onto much of the West Bank and is expanding settlements to tighten Israel's grip on the area.

Meanwhile, Secretary of State Condoleezza Rice met Tuesday for a half-hour with Karen Koning AbuZayd, counsel-general of the United Nations Relief and Works Agency, on the post-withdrawal situation in Gaza.

"They had a good meeting," McCormack said.

Arafat's Cousin Is Assassinated (LAT)

By Ken Ellingwood

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The Los Angeles Times, September 7, 2005

JERUSALEM — Unidentified gunmen in the Gaza Strip shot and killed Moussa Arafat, a former Palestinian Authority security chief and a cousin of the late Yasser Arafat, at his home in Gaza City before dawn today.

The brazen assault heightened worries about chaos and factional violence in the Gaza Strip following Israel's withdrawal from all 21 Jewish settlements there. Israeli forces are expected to hand over the Gaza Strip in coming weeks, turning the impoverished enclave into a test of Palestinian rule.

Police and witnesses said the attackers arrived at Moussa Arafat's house in a convoy of cars and began firing rocketpropelled grenades at the home, overwhelming his bodyguards. The men then pulled Arafat, 66, from the house and shot him in the street, witnesses said.

The gunmen also seized Arafat's son, Manhal, a security officer thought to be in his 30s, and drove away. Witnesses reported heavy gunfire during the incident.

There was no immediate claim of responsibility. The Palestinian Authority had no immediate comment; officials said they were investigating.

Arafat, who was sacked as head of military intelligence this year, made numerous enemies during his years as a ranking security official and was viewed by many Palestinians as corrupt.

He had survived several assassination attempts, most recently in October when a car parked nearby exploded as his convoy was leaving the main security headquarters in Gaza City. Arafat was not injured.

The shooting may stem from infighting among the rival forces that have sown disorder in Gaza since Palestinian Authority President Yasser Arafat's death in November.

Moussa Arafat had headed the powerful military intelligence agency since arriving in Gaza in 1994, when the Palestinian Authority was created as a result of the Oslo peace accords.

Over the years, he tangled with Palestinian militants, spearheading a crackdown on Hamas in the mid-1990s.

Palestinian Authority President Mahmoud Abbas removed Arafat from his post but kept him as an advisor.

Transatlantic Divide Deep, Not So Wide, Poll Finds (LAT)

By Sebastian Rotella

The Los Angeles Times, September 7, 2005

PARIS — Europeans and Americans have often starkly different views of each other and the world, but agree on some major issues such as promoting democracy and avoiding war with Iran, according to a survey being released today.

As Western leaders try to mend rifts exacerbated since 2003 by the Iraq war, the fourth annual study of European and U.S. public opinion by the German Marshall Fund depicts a complex, wary transatlantic relationship. But the report, an advanced copy of which was given to The Times, also contradicts stereotypes and common wisdom.

Although a majority of Europeans remain hostile to American global dominance and President Bush in particular, they are enthusiastic about the centerpiece of Bush's foreign policy: promoting democracy around the world.

Despite three major terrorist attacks in Europe during the last two years and increased debate about the difficulties of integrating a large Muslim population, Europeans fear terrorism, Islamic extremism and immigration less than Americans do, according to the survey.

And Americans agree with Europeans that the European Union, an economic giant but a military dwarf, should evolve into a global superpower even if that means Europe asserts increasing independence.

The findings reflect the fact that the U.S. and Europe work well together in many places other than Iraq, said John K. Glenn of the German Marshall Fund, a U.S.-European think tank that studies and promotes transatlantic relations.

"The rift over Iraq has taken longer to heal than expected, but things haven't gotten worse," said Glenn, the fund's director of foreign policy, who is based in Washington. "There are very real differences in the way that Americans and Europeans view the world…. You have to separate out the trauma of Iraq, which has been more enduring, more searing if you will, for Europeans than Americans might have expected. The data shows enough common ground that I don't think we are at the beginning of a civilizational split."

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The report compiles polling data from the United States, Britain, France, Germany, Italy, the Netherlands, Poland, Portugal, Slovakia, Spain and Turkey, which straddles the Asian and European continents and aspires to join the EU. Pollsters questioned about 1,000 men and women in each country and identified a margin of error of plus or minus 3 percentage points.

The questions were designed to take the "temperature" of the transatlantic relationship. If Europe and the U.S. were a married couple, the findings suggest that divorce is not imminent, but aggressive counseling would be a good idea.

Europeans have "moderately warm" feelings toward Americans overall, the survey found. Britons and Italians are the most positive, Spaniards and Turks the most anti-American.

In contrast, the survey found, "Americans give their European allies more positive evaluations." The surge of anti-French feeling after Paris' leadership in opposing the Iraq invasion has apparently abated. American warmth toward France increased for the second year in a row, going from 45 to 53 on a scale of 1 to 100. Because European politics tend to be further to the left than those in the U.S., ideological antipathy to the Bush administration shapes European attitudes.

But Europeans agree with the president's drive for democracy in the Middle East and elsewhere, the centerpiece of his foreign policy in his second term, the survey found.

About 74% of European respondents, compared with 51% of Americans, want their governments to help establish democracy in other countries. The breakdown in responses among Americans was 76% among Republican voters and 43% of Democrats, probably because the latter associate the "democracy promotion" phrase with Bush, Glenn said.

That means European views on the matter resemble those of the GOP, contradicting at least on this issue the image of Democrats as being ideologically closer to Europe.

Both Americans and Europeans favor "soft" tactics such as election monitoring over use of force to spread democracy, the poll found.

"There are unexpected areas where Europeans and Americans can work together if we separate military intervention as an exceptional case from overall policies," Glenn said.

In fact, the Bush administration teams with France and other European allies in hot spots such as Ukraine, where they collaborated in helping reformists take power; Lebanon, where they joined to pressure Syrian forces to leave; and Afghanistan, where European troops play a front-line role.

The public on both continents backs the EU diplomatic approach to the dispute with Iran over Tehran's nuclear ambitions. Only 5% of Europeans and 15% of Americans support a military solution. And slim majorities want human rights reforms in China as a condition for increased trade with Beijing.

Nonetheless, the transatlantic divide widens when it comes to global threats. Americans consistently see the world as a more dangerous place.

"Americans feel significantly more likely to be personally affected by terrorism (71% vs. 53% of Europeans), by the spread of nuclear weapons (67% vs. 55%) and by Islamic fundamentalism (50% vs. 40%)," the report says. At the same time, Europeans worry more than Americans (73% to 64%) about global warming, the survey found.

A key factor for the divergence is the resounding effect on the American psyche of the Sept. 11 attacks, Glenn said.

U.S. Fails To Mend Image In Europe (WSJ)

By Marc Champion

The Wall Street Journal, September 7, 2005

LONDON -- Months after President Bush launched a campaign to repair strained relations with Europe, he has made no progress with Europe's public.

An annual survey of opinion in 11 countries published today finds that, while the U.S.'s image no longer is sliding downward, Europeans feel no warmer toward the U.S. than they did a year ago, are no less hostile to U.S. global leadership and still disapprove overwhelmingly of the way Mr. Bush handles foreign policy.

"We found that, despite major efforts to repair relations, there is still a rift in how we view each other and the world," said Craig Kennedy, president of the German Marshall Fund, which conducted the survey of roughly 1,000 people in the U.S. and about 1,000 people in each of nine European Union countries, plus Turkey, in June.

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After his re-election last year, Mr. Bush selected Europe for the first trip of his second term and visited Brussels, home to the EU institutions, and Germany. His new secretary of state, Condoleezza Rice, had just visited Paris on her tour to prepare the visit. The efforts were intended to offer an olive branch to the countries that opposed the U.S.-led invasion of Iraq in March 2003.

With Mr. Bush's fellow leaders, also eager to repair bridges, his outreach seemed to work. Since last year, the U.S. has cooperated closely with France to help push Syria out of Lebanon; it has held out the possibility of World Trade Organization membership to Iran in an effort to help the Europeans negotiate nuclear concessions from that country; and it has gained some credit for Israel's pullout from the Gaza Strip. A disagreement over the EU's plan to lift its arms embargo on China also receded when the EU delayed a decision in June.

For the wider public, however, continuing bloodshed and instability in Iraq dominate. Since the poll was taken, the recent hurricane disaster on the U.S. Gulf Coast also appears to have rekindled distaste for the U.S.'s political system and social values, which are blamed here for leaving thousands of mainly poor and black New Orleans residents behind when the rest of the city evacuated.

"A presidential visit to Europe doesn't counteract all the media attention to the Iraq war," Mr. Kennedy said.

The survey points up some bedrock differences between American and European values. For example, more Americans than Europeans consistently favor the use of force and economic sanctions, while fewer Americans worry about global warming.

Hostility toward U.S. foreign policies also is clear in the 10 non-U.S. countries surveyed: France, Germany, the U.K., Italy, the Netherlands, Poland, Portugal, Spain, Slovakia and Turkey. Some 36% of Europeans think it is desirable that the U.S. exert strong global leadership, while 59% don't -- almost identical to last year and approximately the inverse of findings in 2002. The survey's margin of error was plus or minus three percentage points.

Similarly, 23% of Europeans approve and 72% disapprove of the way Mr. Bush handles foreign policy -- compared with 20% who approved last year and 75% who disapproved. Asked to say how warmly they felt about countries on a scale of 1 to 100, Europeans gave the U.S. 50 -- compared with 52 last year and 64 in 2002. Britons remain warmest to the U.S., at 57, down from 62 last year. Turks remain the coolest, at 28.

The survey also found that European hostility toward EU membership for Turkey is growing as the start of membership talks approaches on Oct. 3. Just 22% of Europeans outside Turkey said its membership would be a good thing, compared with 30% a year earlier.

Zoellick Details Discussions With China On Future Of The Korean Peninsula (WP)

By Glenn Kessler

The Washington Post, September 7, 2005

Secretary of State Condoleezza Rice and her deputy, Robert B. Zoellick, have begun to explore with Chinese leaders the economic and political future of the Korean Peninsula "because the status quo was not going to hold," Zoellick said in an interview with a small group of reporters yesterday.

China is North Korea's chief patron, supplying much of its energy, and has played an important role in prodding the reclusive communist country to return to six-nation talks about the elimination of its nuclear programs. The talks are in recess but could resume as early as next week.

Zoellick, who held nearly 20 hours of talks on a variety of issues in Beijing in early August, said it was clear the Chinese did not "want a collapsed state on their border," a concern that he suggested had hamstrung Chinese officials in pressing North Korea on its illicit weapons programs. He said that in his talks, he picked up a discussion on the Korean Peninsula's future that Rice had initiated during an earlier trip to Beijing.

"Part of what I was trying to explain to them was that the status quo was not going to hold anyway," Zoellick said. "The status quo wouldn't hold in part because we would have to take defensive countermeasures of various types" against not only Pyongyang's nuclear activities but counterfeiting and other criminal activities. "It's a criminal state," he said.

The effort by Rice and Zoellick appeared to be aimed at reducing the anxiety of the Chinese over a possible reunification of North and South Korea. The North is viewed by China as a buffer against having U.S. troops close to China's border.

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Zoellick also suggested that the United States was interested in using the six-nation talks -- which also include South Korea, Russia and Japan -- as a springboard for creating a multilateral security framework for northern Asia that would mirror organizations in the southeastern part of the continent.

Zoellick said he urged the Chinese to consider scenarios for the Korean Peninsula that "would be benign to us and which would be benign to them." He said he told the Chinese that the United States had always supported reunification and emphasized that "we think it would be healthy if the North Koreans took a Chinese model of economic development."

President Bush postponed a planned visit to the White House today by Chinese President Hu Jintao to continue dealing with the aftermath of Hurricane Katrina. The visit has not been rescheduled, but Bush and Hu will meet on the sidelines of the U.N. General Assembly next week.

Zoellick said that the Chinese, preoccupied with managing internal challenges, indicated they were puzzled by the anxiety in Washington over China's economic rise.

He said he tried to explain why China's integration into the world economy had generated such concern, although yesterday he offered a relatively benign interpretation of Chinese intentions in the energy field.

Zoellick said that in a global marketplace, China cannot simply lock up energy resources, as some have feared. He said that if China obtains its oil from Venezuela, a major U.S. supplier, he did not feel the United States would be "threatened . . . because if it is an emergency situation and we had to interrupt the energy flow, would you rather interrupt it in the Caribbean or in Russia?"

He said he did not know if the Chinese deals being struck with countries the United States considers problematic were driven by individual bureaucracies seeking market openings or part of a "strategic plan."

But Zoellick said he warned the Chinese that the deals with such countries as Sudan, Burma and Iran had the prospect of backfiring, from a broader foreign policy perspective, because "what advantage do you really gain over time if you are associated with genocide and guys who are running their countries into the ground?"

Rural Activist Seized In Beijing (WP)

By Philip P. Pan

The Washington Post, September 7, 2005

BEIJING, Sept. 6 -- Local authorities on Tuesday seized a rural activist who has been leading a high-profile legal campaign against the use of forced sterilization and abortion in China, in an apparent effort to block him from meeting with senior government officials who had expressed support for his cause.

The detention of Chen Guangcheng, 34, a blind peasant who has been preparing a class-action lawsuit to challenge population-control abuses in the eastern city of Linyi, occurred a few days after he arrived in Beijing for meetings with lawyers and journalists. He was seized just as the Chinese government opened an international legal conference here.

Several men in plain clothes grabbed Chen when he left an apartment building on Tuesday afternoon, witnesses said. The men did not identify themselves, and Chen resisted, shouting for help as they dragged him across a parking lot and pushed him headfirst into an unmarked car with tinted windows, the witnesses said.

A small group of people, upset by seeing the rough treatment, surrounded the vehicle and prevented it from driving away. As two men held Chen down in the back seat, he could be heard screaming and appeared to be in pain.

Residents called Beijing police. Two uniformed officers arrived, consulted with the men who had seized Chen, then cleared a way for the car to leave. The officers said the men who seized Chen were police from China's Shandong province, where Linyi is located. Tu Bisheng, a friend who was with Chen at the time, said local officials from Linyi were also present.

"We feel this is extremely inappropriate," said Li Heping, one of the lawyers working with Chen. He said the Linyi officials appeared to be "taking revenge on him for trying to protect the rights of local citizens and exercising his right to criticize the government."

A spokesman for the Shandong public security bureau said he knew nothing about Chen's detention and declined to accept questions about the case.

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Chen was seized just hours after meeting with a reporter who works for Time magazine, Tu said. Over the past few days, Chen also met with a Washington Post correspondent, diplomats from the U.S. Embassy and several lawyers in Beijing who have volunteered to help him sue officials in Linyi, a city of 10 million located about 400 miles southeast of Beijing.

In March, residents said, the Linyi government began requiring parents with two children to be sterilized and forcing women pregnant with a third child to have abortions. Officials also have been detaining family members of such people who fled, beating them and holding them hostage until their relatives return and submit to the operations, according to residents interviewed in Linyi.

Chen's attempt to organize a class-action lawsuit against Linyi was the subject of a report in The Washington Post on Aug. 27. At the time, officials in Beijing said the practices described by Linyi residents were illegal and expressed support for the lawsuit.

After publication of the article, the National Population and Family Planning Commission, the cabinet-level ministry that manages population growth in China, sent a team of officials to investigate the allegations in Linyi. The investigators tried to meet with Chen, but he had already traveled to Beijing.

In an interview before his arrest, Chen said he was thinking about meeting with commission officials, but was worried about being arrested.

A commission official, contacted by telephone, said the ministry was unaware of Chen's detention and could not immediately comment on it. The official said the ministry would try to contact Shandong authorities to determine what happened to Chen. The ministry considers the Linyi case a priority and will severely punish family planning officials who violate the law, the official said.

Provincial authorities wield tremendous power in China's one-party political system and often disobey ministries in the central government. But the seizure of Chen represents an unusually public act of defiance, which could embarrass the governing Communist Party as it seeks to project an image that it has abandoned coercive methods to limit population growth.

Local officials throughout China began using forced abortions and compulsory sterilization to enforce the one-child policy in the early 1980s, but the central government since the mid-1990s has tried to eliminate such practices and move toward a more flexible system of economic rewards and fines to slow population growth.

Jerome Cohen, a specialist on Chinese law at New York University who is teaching in Beijing this fall, said he met with Chen on Monday night and discussed the risks of the lawsuit with him. Chen was determined to press ahead, Cohen said.

"This seems to be a case of local officials who have blatantly abused their legal powers, and have no legitimate defense against the case he brought against them, resorting to extralegal methods to cut off his ability to pursue justice," Cohen said. "It's very, very sad, and another example of how rough the legal situation is in rural areas."

For First Time, Egypt Has More Than 1 Presidential Candidate (USAT)

By Charles Levinson

USA Today, September 7, 2005

CAIRO — Egyptians will have a choice for the first time in their country's 7,000-year history when they vote for a leader at polls today. But a majority appear likely to vote for the man who has ruled this country for the past 24 years.

President Hosni Mubarak, 77, who is running for a fifth six-year term, is backed by a formidable party machine and a regime that controls the media, the economy and the government.

“No one seriously doubts that Mubarak is going to win a fifth term in Egypt's first competitive presidential elections," says Michael C. Dunn, editor of The Middle East Journal, a quarterly publication of the Middle East Institute. “Because of the nature of the elections — the high bar for independent candidates, which virtually prevents their running, and the restrictions on who may run from a recognized party, which prevents Muslim Brotherhood candidates from standing under another party banner — many dismiss the whole exercise. It is certainly not a competitive race in any normal sense."

Mubarak has been elected four times, but always in single candidate yes-no referendums. In February, facing growing pressure at home and abroad, he announced that Egypt would hold its first multi-candidate presidential election.

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Of the nine men challenging Mubarak, only two are widely known. Noman Gomaa, 71, leads the weak Wafd Party. Ayman Nour, 41, is a lawyer who took the helm of the 11-month-old Tomorrow Party, which is competing against long-established and well-organized parties. Both are self-identified liberals. The Muslim Brotherhood, a better organized Islamic opposition group, has been banned for 50 years.

Egypt is contending with double-digit unemployment and inflation. Still, many voters remain loyal to Mubarak. In a region beset by conflict, Mubarak has guided Egypt through a period of protracted stability. Egyptians who remember the wars and tumult of earlier eras say they are thankful to Mubarak.

"I care about my children, and we haven't had a war," says Eid Tilib, 57, a teacher with rutty scars on his legs and arms from the 1967 and 1973 wars against Israel. "I know Mubarak is old, and there are problems. There is unemployment. But Mubarak has protected my children, so I must protect him."

Today's vote follows three weeks of rare political openness. During the 19-day campaign, opposition candidates toured the country freely, staged public rallies and railed against corruption, unemployment — and even Mubarak. A few years ago, few dared to publicly criticize the president. "This is a total mindset change for the country that is going to enrich the political system," says Hossam Badrawi, a Mubarak campaign official.

However, a government-appointed election commission has been given unimpeachable powers over the vote. It rejected a court ruling allowing independent monitors. A higher court then supported the commission's decision. The government also has ignored requests by the Bush administration to allow international observers.

Angry over the refusal to allow monitors, hundreds of judges, the traditional overseers of Egyptian elections, have begun to speak out. They say there is nothing to prevent widespread fraud. .

"Egyptians are no longer afraid," says Saad Eddin Ibrahim, a democracy advocate jailed by the regime in 2000 after he pointed out electoral fraud. Ibrahim, speaking Tuesday at the Woodrow Wilson Center for International Scholars in Washington, said Egypt still doesn't have democracy as it is known in the West. "That will take another generation," Ibrahim says.

Germans Lean To Right (CSM)

By Andreas Tzortzis

The Christian Science Monitor, September 7, 2005

BERLIN - A few days after the only TV debate between Chancellor Gerhard Schroeder and his conservative challenger Angela Merkel in the run-up to Sept. 18 elections, the verdict was almost unanimous.

The media-savvy chancellor had, as expected, won the exchange, according to flash polls. But Germans elect parties, not the main candidates. And for three months, those poll numbers have shown Mr. Schroeder's Social Democratic Party (SPD) a good 10 points behind Ms. Merkel's Christian Democratic Union (CDU) - pointing to a growing likelihood that the former East German physicist will end the chancellor's seven-year rule.

In a campaign that has taken cues from US-style spin and image-shaping, a Merkel win would bring a shift to the right that promises better communication with the US, a critical voice in the pledge to include Turkey in the European Union, and - most important - a more aggressive approach to Germany's greatest problem: the economy.

Seven years since he made his promise to bring down unemployment to less than 3 million, the country's jobless number more than 4.7 million.

The economic situation, and the political defeats it has caused his party in several state elections over the past year, is what prompted Schroeder in May to call for elections one year early.

For the roughly 30 percent of people who polls show as undecided, Sunday's debate offered little that is new. The flash polls conducted after the debate showed people had more or less expected each candidate to perform as they did: Schroeder was confident and jovial; Merkel, not as warm, but very authoritative.

The impressions gell with the packaging that hordes of advisers and campaign staff for the country's two major parties had fashioned for their lead candidates at rousing party congresses and flashy stump speeches ahead of Sunday's debate. If the methods employed - campaign theme songs, bus tours throughout the country, even call centers - look familiar, it's because they

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are. In shaping their candidates and messages, the parties are increasingly borrowing methods fashioned and perfected in the United States, say former media advisors and analysts.

"The Americanization of German campaigning is, above all, a professionalization of the campaigns," says Michael Spreng.

In 2002, Mr. Spreng managed the conservative candidate Edmund Stoiber's failed campaign bid to unseat Schroeder as chancellor. The election marked the first time in Germany candidates held televised debates with one another. Spreng sent an assistant to the US to research debate rules and watch videotape of past debates.

The 2005 campaign has seen even more borrowed elements from the US. Merkel's campaign team has set up a professional call center to handle queries from voters, and a so-called "rapid response" team that contradicts inaccuracies made by Schroeder in speeches or attacks on his opponent, says a CDU campaign official.

The conservatives' party congress, held on Aug. 21, featured a one-and-a-half-hour performance by singers from the musical "Queen" and the arrival of Merkel to raucous cheers and a sea of orange placards bearing the name "Angie," a very un-German nickname given the candidate by her campaign and likely designed to broaden her appeal.

"It was completely new in the party's history," says the official. "Almost the entire party congress was designed with show and television in mind. It was pretty modern for a conservative, white-bread party like ours."

Like the party's use of the Rolling Stones song "Angie" at stump speeches, the congress was designed to lend a little flash to a candidate who voters think of as capable, but uninspiring, says the official. "We wanted to stir up some emotions," he says.

The SPD offered a toned-down version of their party congress last week in order to serve as a contrast to the conservatives. Campaign manager Kajo Wasserhoevel said the party will use grass-roots methods like canvassing - that the SPD first learned by watching John F. Kennedy's campaign in 1960 - in the final weeks. But the party will continue to personalize the campaign, building on Schroeder's high popularity ratings in an effort to sway voters to his party.

"We want to show his strengths, his courage in reforming the country and his work for peace," says Mr. Wasserhoevel.

Some critics say this type of personalization is strange in a political system where the party, not the individual, is the focal point and worry about a campaign future based on style, not substance. But campaign veterans like Peter Radunski, a political consultant and former campaign manager for Chancellor Helmut Kohl, say it's the natural development in the age of television, and with a candidate as telegenic and accomplished in front of the camera as Schroeder.

"You could call it Americanization, but you could also call it a modernization," says Mr. Radunski. "If there's television, then you should use it."

There are some things German strategists will never be able to copy. Broadcast rules restrict campaign ads to being shown only on select channels in the evening time, sparing voters an avalanche of campaign spots.

German campaigns will also never be able to match the money shelled out by US Democrats and Republicans. Germans typically don't contribute to campaigns, and the 25 million euros ($31 million) the SPD is planning to spend and the 23 euros million the CDU will spend, pale in comparison to the figures spent on the other side of the Atlantic. Even if they had such cash, Spreng says a complete adoption of American campaign tactics would be a waste of money.

"It's never going to be as showy as in America," says Spreng. "The voters understand it's part of a show ... but they know not to mix more politics and show business. The Germans are more fact-based and skeptical."

Venezuela Seizes Idled Plant Of Heinz Subsidiary (WSJ/DJN)

By Dow Jones Newswires

The Wall Street Journal, September 7, 2005

CARACAS, Venezuela -- Alimentos Heinz, a Venezuela subsidiary of H.J. Heinz Co., said a government takeover of an inactive tomato-processing plant in recent days lacks legal backing.

The company, which makes Heinz ketchup, yesterday said the government never notified it of a possible takeover or of any plans to expropriate the plant.

"We hope the reasons for these actions are clarified since the company has received no notice from the authorities about the intervention/expropriation," the company said.

Heinz officials couldn't be reached for additional comment.

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The plant, in the state of Maturin, wasn't operating because low market demand and low prices didn't make it feasible to keep it running, the company said. Company officials are seeking a meeting with Vice President José Vicente Rangel and Agriculture Ministry officials to discuss the problem, the statement added.

A Venezuelan state governor ordered the military to seize the inactive plant late last week.

State officials said the takeover sought to protect the plant from looting.

President Hugo Chávez has warned that idle land and company assets could be declared as "public interest" and expropriated. His government already has seized the assets of two failed companies by first sending in troops to secure the assets and then approving an expropriation in Congress.

The Chávez government has recently taken over the grain-storage facilities of Alimentos Polar, the largest food company in Venezuela. Polar also is disputing the takeover.

Why Japan Seems Content To Be Run By One Party (NYT)

By Norimitsu Onishi

The New York Times, September 7, 2005

TOKYO, Sept. 6 - The Liberal Democratic Party, which has governed Japan nearly continuously for half a century, appears headed for another victory in the general election on Sunday - a big one, if polls are correct.

And this will delay, again, the start of a new political era in which power is transferred regularly from one party to another, as it is in other democracies.

Japan's democracy is East Asia's oldest, but its ruling party has held power almost as long as the Communist parties in China and North Korea. Younger democracies in South Korea and Taiwan have already experienced changes in ruling parties, and the underpinnings of democracies, from vibrant civil societies to strong, independent news media, appear to be flourishing there more than they are here.

Since calling an early election last month, Prime Minister Junichiro Koizumi has shrewdly refashioned the image of the Liberal Democrats into the party of reform by fielding telegenic women as candidates and portraying opponents of his signature postal privatization bill as reactionaries. The main opposition Democratic Party, whose gains in recent years now face erosion, has looked on helplessly.

In the past, when issues were rarely raised in campaigns, politicians ran simply by promising favors to supporters, said Masayasu Kitagawa, a former Liberal Democratic lawmaker, independent governor of Mie Prefecture and now a professor at Waseda University.

"The relationship was that of patron and client," Mr. Kitagawa said. "This was not actually democracy, but rather the opposite of democracy."

To encourage political accountability and voter awareness, Mr. Kitagawa has been the leading proponent of election "manifestoes" detailing parties' agendas. The word and concept was little understood in the general election two years ago, but it has taken root this time, with both main parties proffering their manifestoes.

"I'd be satisfied if the introduction of manifestoes made Japanese realize that what they had believed to be democracy was an illusion," he said.

The illusion was formed in 1955 with the foundation of the Liberal Democratic Party, which focused single-mindedly on turning Japan into an economic power. With strong support from the United States and the powerful bureaucracy, as well as effective pork-barrel politics, the party's grip on power went unshaken for decades.

Internal factions vied for power, but decisions were made and some prime ministers even chosen in backroom deals. Because of the cold war and Japan's military dependence on the United States, the longtime opposition, the Socialists, were never taken seriously.

Voters feared that "the friendly Japan-U.S. relationship would be destroyed and Japan would become poor once more if the L.D.P. government collapsed and the Socialists came to power," said Eiji Oguma, an associate professor of policy management at Keio University.

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A split inside the party led to a 10-month ouster from power in 1993. During that brief period, however, a coalition of minor parties pushed through far-reaching reforms, including changing multiseat districts into single-seat ones, that would eventually weaken the dominance of the Liberal Democrats.

The present main opposition Democratic Party, which was formed in 1998, has been gaining voters in recent years, especially in urban areas. But the half-century rule by a single party has stunted the growth of Japanese democracy, experts say, and its effects are still being felt today.

Civil society remains weak. Although private organizations focusing on welfare and international aid have mushroomed in recent years, those delving into delicate issues, like human rights, freedom of information and the workings of government, wield little influence. Japanese feel little personal connection with their country's democracy, said Yukiko Miki, executive director of Information Clearinghouse Japan, a private group that fights to gain access to government-held information.

"Japanese citizens are ultimate free riders," Ms. Miki said. "Support from citizens is necessary to form a base for democracy, but Japanese people don't seem to feel they are the ones who should support civil society."

The Liberal Democrats' grip on power has also limited the dissemination of information. For instance, the Internet has raised interest in elections elsewhere and was widely credited with helping propel South Korea's president, Roh Moo Hyun, to power in 2003. But here in one of the world's most wired countries, election law bars Web sites from promoting candidates for a specific election and candidates from renewing their home pages during the 12-day campaign period.

The Liberal Democrats have maintained the restrictions because their core supporters tend to be older and are not likely to be heavy Internet users.

Yoshito Hori, an entrepreneur, recently created the YES! Project, a Web site that encourages young Japanese to vote and discuss politics. "By using the Internet, you can reach people in their 20's to their early 40's, people who were uninterested in politics," Mr. Hori said.

With no history of power alternation, the mass media tend to stick to the Liberal Democratic Party's line. In this election, the press has ignored issues like Mr. Koizumi's policy toward Asian countries or his deployment of troops to Iraq that would likely hurt the party at the ballot box. (The opposition Democratic Party has said it would withdraw Japanese troops from Iraq and repair relations with its Asian neighbors.) Since April 2004, no major Japanese news organization has sent a journalist to cover the Japanese troops in Samawa, in southern Iraq.

Just as these pillars of Japanese democracy tend to be tenuous, experts doubt the soundness of the main Democratic Party opposition. The party, made up of former Liberal Democrats, Socialists and other groups, famously lacks unity and could disintegrate if it loses badly.

But Park Cheol Hee, an expert in Japanese politics at Seoul National University, said a more mature democracy was set to emerge here.

"This is the last stage of one-party rule," Mr. Park said. "I don't think the L.D.P. will rule for another 50 years - possibly another 5 or 10. The Democratic Party might fail this time, but they will try again. This will eventually produce a competitive, two-party system and lead Japan to a true democracy."

As Japan Votes, Aid To Countryside Hangs In Balance (WSJ)

By Sebastian Moffett And Ginny Parker Woods

The Wall Street Journal, September 7, 2005

HIWA, Japan -- In elections this Sunday, Prime Minister Junichiro Koizumi is betting he can win a mandate to engineer a shift no other Japanese leader has ever dared. His goal: To cut off the decades-long tradition of propping up Japan's declining countryside, and channel resources into the nation's successful cities and industries instead.

To achieve that vision, Mr. Koizumi plans to dismantle one of the countryside's biggest crutches, the huge and unusual post office, which in addition to selling stamps also acts as a bank and insurer. It is a vast network of 26,000 offices with 280,000 public employees, plus $3 trillion in savings and life-insurance deposits. The deposits are typically funneled into public-spending projects that have boosted rural economies.

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That system has long been a boon to remote villages like Hiwa in the mountains of western Japan. Hiwa's 600 residents are mainly elderly and get around on electric wheelchairs. Its only industry is rice farming.

Hiwa has benefited from many public-works projects through the post office, such as a new tunnel and a smooth road partly connecting the village to a neighboring town -- even though there's hardly any traffic. When the weather is bad, the local postmaster helps residents by withdrawing their cash from the post-office bank and delivering it to their doors.

"It would be tough if the post office went away," says 88-year-old Shizue Miura, who walked 20 minutes to the post office recently to withdraw money. Without the branch, Ms. Miura says she would have to travel more than six miles to the next village to get her money from a different branch.

Mr. Koizumi says bitter medicine is the only way for Japan to survive. The country's central government stoked rural economies for more than three decades with road and bridge projects, trying to haul up the countryside to city levels of prosperity. But the attempt to invigorate the rural economies failed. The spending added to snowballing national debt, which is now 163% of gross domestic product, the highest level among major industrialized nations. In the U.S., national debt is 66% of GDP, according to the Organization for Economic Cooperation and Development.

So Mr. Koizumi is withdrawing support for villages like Hiwa. Since taking office in 2001, he has promoted a small-government recipe for Japan, slashing subsidies to the regions. "They said there's no money anymore," says Katsumasa Miyake, who leads policy planning for the prefecture government of Shimane, where Hiwa is located. "Part of the process of putting the national finances right is that the regions have to suffer."

Mr. Koizumi is betting Japan's future on proven successes. That means big cities like the capital Tokyo, which is emerging from the nation's "lost decade" of economic gloom and is bustling with new office and shopping developments. It also includes private corporations, many of which have reported record profits over the past two years, spurred by deregulation and lowered corporate taxes that Mr. Koizumi put in place.

Mr. Koizumi's attempt to overhaul Japan is crucial to the world's second-largest economy. The country entered a long slump in the early 1990s after its stock and property bubbles burst. When Mr. Koizumi took office, prices of land, industrial products and consumer goods were falling steadily in the economy-shrinking phenomenon known as deflation. Japan's financial system was also jammed with bad loans made during the bubble era.

Since 2003, the economy has brightened, fueled by corporate cost cutting and surging exports to China's roaring manufacturing sector. Mr. Koizumi's policies have also helped. Following a bank-cleanup package in 2002, bad loans are now less than half their 2002 total of $480 billion. Unemployment has fallen to 4.4% from a 2002 peak of 5.5%. The economy grew 2% in 2003 and 1.9% in 2004, and economists are expecting similar growth this year.

Still, Japan's fast-aging population and declining birthrate are causing a long-term decline in the size of the total work force. With fewer workers, the country could find it hard to grow. One solution is to use resources more efficiently so each Japanese worker produces more.

Mr. Koizumi called the election last month after failing to pass bills to privatize the post office. He has vowed to revive the plan if he wins. In the bills, Mr. Koizumi proposed splitting the post office into four separate and privatized businesses -- one each for mail delivery, banking services and insurance, with a fourth handling employee salaries and managing post-office properties. If the plan had been put in place, postal workers would have lost their civil-servant status. The privatization process would have kicked off in 2007, and the post office would sell shares in its four companies by 2017.

The bills were rejected largely because of the workings of parliamentary politics. The main opposition Democratic Party of Japan voted against the bills because they favor a different form of post-office privatization. In a crucial swing vote, some rebel lawmakers from Mr. Koizumi's ruling Liberal Democratic Party also opposed the bills.

Postal privatization has since gained public support because Mr. Koizumi's risky and dramatic decision to call an election over the issue appealed to voters. According to the most recent poll by the daily newspaper Sankei Shimbun, 38% of respondents supported Mr. Koizumi and the LDP, compared with just 20% for the opposition Democratic Party. If his party and a coalition fail to win a majority of seats, Mr. Koizumi says he will resign, clouding the future of his plan.

All of this leaves provinces like Shimane on edge. The prefecture thrived under Japan's old system. With its local industries -- silver mining and charcoal -- long dead, Shimane received a steady flow of public-works projects from the central government,

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some of which were financed by savings in the post-office bank. The prefecture has two airports, even though it is sparsely populated. Public investment is 15.7% of the prefecture's gross domestic product, compared with 2.1% for Tokyo, according to the San-in Economics and Management Institute, a research center affiliated with Shimane's biggest bank.

But these projects failed to spark momentum. One airport has just four flights a day. A 50-acre industrial estate set up near Hiwa in 1997 attracted one company. The estate is now being converted into a prison complex. Five years ago, a city government built a $60 million bridge to a nearby island with 324 inhabitants. It said it planned to build a fish breeding center there, but the facility hasn't materialized.

Since Mr. Koizumi took office, the value of public works in Shimane has been cut sharply. In 2004, the spending fell to $998 million, down 32% from $1.5 billion in 2002. It is set to halve again by 2008.

While reducing subsidies to the regions, Mr. Koizumi has lowered corporate taxes and boosted tax breaks for technology investments. In response, more than 760 large Japanese manufacturers surveyed by the nation's Ministry of Economy, Trade and Industry recently said they plan to increase domestic capital investment by 21% in the fiscal year through March 2006 over the previous year. Foreign firms such as Pfizer Inc. and Cisco Systems Inc. are also increasing their investment in Japan. Mr. Koizumi has "crafted a lot of policies that benefit companies," says Yoshiharu Obata, an official at the Keidanren, Japan's largest business organization.

As Shimane struggles, Tokyo is thriving. Tokyo's land prices began rising this year for the first time in 13 years, while Shimane's continued to fall. Tokyo's population has grown to 12.2 million, up 5.2% from 11.6 million in 1997. Shimane's population has fallen 20% to 749,000, down from a 1955 peak of 929,000. A quarter of its residents are over 60, making Shimane Japan's oldest prefecture.

The migration to cities will likely increase as Japan's population declines and ages, says Hiroyuki Tada, general manager of the Space and Environment Institute, a research institute at Mitsui Fudosan Co., one of the country's largest real-estate developers. He says the elderly will relocate to urban areas where medical care is concentrated. Younger people are also moving to cities to find jobs.

That trend is apparent to Shimane resident Toshimitsu Fukushima. The 70-year-old worked for telephone company Nippon Telegraph & Telephone Corp. in Shimane's biggest city, Matsue, where he met his wife nearly half a century ago. He maintained wireless equipment and she worked in the telephone exchange. "Fifty years ago there were more jobs," he says. "Now there is no need for those kinds of jobs."

All three of Mr. Fukushima's children have moved to the Tokyo area. His son, Masao, 41, works for a big shipping company and says in an interview that he plans to spend his working life in the city. He envies high-school friends who stayed in Shimane for their spacious homes with yards, while he lives in a small apartment in central Tokyo. But, he says, "I couldn't return home to Shimane if I wanted to -- there's hardly any work there."

Shimane voters are split over Mr. Koizumi's plans. In the past, they always delivered an LDP representative to the national parliament in Tokyo. But this time, postal reform has complicated matters.

Mr. Koizumi is refusing to let the rebel LDP politicians who voted against the postal bills to stand as party candidates. One of those is Shimane politician Hisaoki Kamei, 65, who is now running as a candidate for a small, newly formed party in the western part of the prefecture, which includes Hiwa.

Mr. Kamei's posters call him the "Friend of the Common People." He doesn't like Mr. Koizumi's administration, which he says has widened the gaps between the city and country, large and small business, and the rich and poor. "You have to have public infrastructure that allows people everywhere -- in the cities and the country -- to have the same quality of life," he says. "Otherwise, the countryside is just going to become harder and harder to live in."

Mr. Kamei's opponent, the official LDP candidate, is Wataru Takeshita, half-brother of a former prime minister. Mr. Takeshita supports postal privatization.

One voter, Kazuharu Shimogaki, is president of a construction company in central Shimane, and did well out of Japan's old system. At its peak in 1995, his company, Shimogaki Construction Co., generated $5.5 million of revenue from publicly funded civil-engineering projects.

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Today, such work brings in just a tenth of that amount. Mr. Shimogaki has branched out to new businesses like growing blueberries, which are popular among Japan's elderly after reports several years ago that the fruit may be good for eyes.

Mr. Shimogaki accepts the days of big public works projects are over, and thinks it's time to move on and develop new businesses rather than cling to the past. So he has decided to vote for Mr. Takeshita as a way of backing Mr. Koizumi. "Japan has come to a turning point," he says.

In Hiwa, many residents aren't as confident. Mr. Koizumi's postal bills provided some funds to maintain the post-office network. But because a privatized organization would have to try to make a profit, village locals assume those funds wouldn't last. Eventually, many believe, branches such as Hiwa Post Office would disappear.

Hiwa Postmaster Chikashi Teramoto, the local postmaster for the past 16 years, won't say which way he plans to vote. But the 46-year-old admits to being concerned about the future of the shrinking village. The automated teller machine at the local agricultural cooperative, the only one in the village besides the one at the post office, is scheduled to disappear next year. After that, without the post office, villagers would have to travel through a 1.5-mile tunnel to the next village to withdraw their pension money.

"What would happen if a wheelchair battery went dead in the tunnel?" Mr. Teramoto says.

On a recent outing, Mr. Teramoto surveyed Hiwa. An elderly couple struggled to gather the first rice of their harvest from a paddy field. He pointed to a building that looks inhabitable. "That's an empty house," he said. "They've gone to Osaka," the biggest city in western Japan. Further along the road, he pointed again: "They've gone to Hiroshima."

Chirac's Illness Remains A Mystery, Despite Official Details (NYT)

By Katrin Bennhold And Elisabeth Rosenthal, International Herald Tribune

The New York Times, September 7, 2005

PARIS, Sept. 6 - After a series of minimalist medical bulletins describing President Jacques Chirac's stay in a Paris hospital, it is still a public mystery what kind of neurological malady has befallen him, although French military doctors at this point certainly know the diagnosis, independent experts said.

Because of the French tradition of secrecy regarding the health of its leaders, it is unclear if Mr. Chirac is suffering from a minor condition or a potentially life-threatening illness. He has not been seen on television since his admission.

The terse phrases officially released have sought to play down the illness, but they have often sounded like a contradiction in terms, talking of a "little vascular accident," and a "slight vision problem," which nonetheless merited a week's hospital stay.

A vascular accident means a problem with a blood vessel, which is almost always serious - or a signal of something serious to come. It includes strokes, torn blood vessels and clots that block vessels, causing damage to the eye or brain.

The most detailed official bulletin said only that Mr. Chirac had suffered from "a small-sized hematoma, explaining the isolated and limited character of his vision trouble." It did not say anything about the location of the hematoma, a pool of blood that has leaked outside blood vessels, or the cause.

Experts said the details that had been released did not add up to a clear-cut diagnosis. "The whole story is hard to put together," said John Pike-Spellman, professor of Neurology and Radiology at Columbia Presbyterian Hospital in New York.

But several neurologists agreed that Mr. Chirac had most likely suffered a small stroke at the back of the brain, as a result of high blood pressure, that is now slowly resolving. "If it was a small hemorrhage in that part of the brain it would explain the visual symptoms, that could be limited and settled down quickly," said Dr. Peter Rothwell, professor of clinical neurology at Oxford University.

He said the main reasons for hospitalization were to run tests and to control the patient's blood pressure in order to prevent subsequent incidents. After such strokes there is statistically a 10 percent to 20 percent chance of a second stroke in the next year, Dr. Rothwell said.

Dr. Olivier Simon, a neurologist at Bichat Hospital in Paris, said that when a brain vessel ruptured under the force of high blood pressure, the onset of symptoms was usually sudden, as it appears to have been for Mr. Chirac on Friday night. "We see this pretty regularly around here," he said. "A small artery probably burst in the posterior part of his brain, which is mostly linked to vision."

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After a full day of meeting and receptions last Friday, Mr. Chirac developed a bad headache and vision problems in one eye. It was presumably rather extreme, since he called the doctor. "The president is of a school where you don't complain about pain, you deal with it," an aide said.

He was admitted to Val de Grâce Military Hospital that night, although the hospitalization was not reported to the press or even government officials until the next day. Aides said he still tentatively planned to travel to a summit meeting at the United Nations in New York next week, although the foreign minister or prime minister would take his place if doctors advised against it.

President Chirac's sudden illness has reignited a debate about the secrecy traditionally surrounding the health of France's head of state.

The news media, opposition leaders and even politicians from the president's own political camp have sharply criticized his office for the sparse and vaguely phrased health updates issued in the past four days.

"In France, we practice a cult of secrecy which would have done the Kremlin in the former Soviet Union proud," Le Monde said in an editorial on Tuesday.

If Mr. Chirac has not had a stroke, other conditions that may explain the symptoms are bleeding in an eye itself, or the rupture of a brain aneurysm, a weak and bulging area of a blood vessels.

Leaking aneurysms tend to announce themselves with a severe headache and neurological symptoms - although those symptoms are seldom limited to a bit of vision loss in one eye. Instead they are generally catastrophic events that lead to death or severe disability.

Free Speech For Turkey (WP)

The Washington Post, September 7, 2005

Orhan Pamuk, one of Turkey's most acclaimed writers, is facing up to three years in prison. His offense, according to the state prosecutor? "Public denigrating of Turkish identity." Specifically, Mr. Pamuk told a Swiss newspaper in February that certain topics were off-limits for discussion in Turkey -- citing the massacre of Armenians in 1915 and the more recent conflicts between Turkish security forces and Kurdish separatists. "Thirty-thousand Kurds were killed here, 1 million Armenians as well. And almost no one talks about it," he said. "Therefore, I do."

As mild as these comments sound to American ears, they touched off a firestorm in Turkey, where the government line is that the Armenian deaths were the consequence of war, not genocide, and public discussion of the issue is hazardous. The uproar over Mr. Pamuk's remarks, which included death threats and burnings of his books, culminated with the filing of the criminal case under Article 301/1 of the Turkish Penal Code, which applies criminal penalties to "a person who explicitly insults being a Turk, the Republic or Turkish Grand National Assembly." Under Turkish law, Mr. Pamuk isn't even permitted to comment on the charges before his case is heard in December.

The prosecution of Mr. Pamuk is, of course, outrageous; the charges should be dropped as soon as possible. The ill-advised use of this ill-advised provision to punish Mr. Pamuk contravenes Turkey's commitment to comply with the free-speech provisions of international agreements such as the European Convention on Human Rights. It's exactly the wrong signal for Turkey to be sending as Europe debates its admission to the European Union. As Mr. Pamuk's translator, Maureen Freely, wrote in the British newspaper the Independent, "There is no doubt that it will raise questions about the wisdom of Turkey's EU membership bid. How can it possibly claim to be a European country if it has such laws on the books, and if public prosecutors can bring such cases?"

This reaction, indeed, may be exactly what those pushing for a prosecution intended; the timing of the charges, as European ministers meet in Wales to discuss Turkey's membership, is suspicious. That makes it even more important for the national government, though it doesn't control the prosecutor who brought the case, to do what it can to halt this case and others like it. Turkey has made important strides in protecting freedom of expression in recent years, including reforming its penal code. The charges against Mr. Pamuk underscore how far it still has to go.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

Terrorist Had Plans For London Attacks (WT/UPI)

By Pam Hess, United Press International

The Washington Times, September 7, 2005

MOSUL, Iraq -- A terrorist captured near the Syrian border last month had a computer "thumb drive" that contained planning information about the July 7 suicide bombings in London, according to a U.S. military officer.

Col. Robert Brown, commander of the 1st Brigade 25th Infantry Division in Mosul, said that the man was captured north of Qaim in western Iraq and that authorities had connected him to the al Qaeda terrorist network.

It is the first evidence of a link between the London bombs and terrorists in Iraq, but fits with other evidence of a growing presence in Iraq by al Qaeda, which has taken responsibility for the British attacks.

Qaim, a Euphrates River border town, fell under the control of fighters claiming allegiance to Osama bin Laden's terrorist organization Monday, according to tribal members, officials, residents and others quoted yesterday by the Associated Press.

The sources said members of the group led by terror chief Abu Musab Zarqawi had killed U.S. collaborators and imposed strict Islamic law, posting a sign at an entrance to the town declaring, "Welcome to the Islamic Republic of Qaim."

Col. Brown declined to discuss the specific nature of the information on the thumb drive -- a miniature data storage device that plugs into a computer's USB port -- but said it indicated al Qaeda involvement in the attacks on London's bus and subway system.

"I don't think anyone's done a good enough job explaining" the relationship between Iraq and al Qaeda, he said.

The Arabic language satellite channel Al Jazeera last week aired parts of a videotape in which al Qaeda's second-in-command, Ayman al-Zawahri, took responsibility for the blasts, thought to have used a potent but easily manufactured homemade explosive called TATP.

The same video carried a recorded statement by one of the four British Muslims who killed themselves and 52 others in the near-simultaneous attacks. The London bomber also cited his admiration for Zarqawi.

Bashar al-Naher, an adviser to Iraqi Prime Minister Ibrahim al-Jaafari, told The Washington Times that he had not heard about the Mosul discovery but said, "This does not surprise me. We are noting a pattern of involvement by [Iraqi hard-liners] in terrorist plots abroad."

The U.S. Central Command estimates that about 100 to 150 "foreign fighters" enter Iraq each month. These men are responsible for the great majority of suicide bombs, the most devastating weapon the insurgents and terrorists have in their arsenal.

Most such attacks are coordinated by Zarqawi's group, which calls itself al Qaeda in Iraq. Zarqawi claims allegiance to al Qaeda leader Osama bin Laden, but little is known about the level of direct cooperation between the groups.

Briton To Urge Europe To Tighten Security (LAT)

By John Daniszewski

The Los Angeles Times, September 7, 2005

LONDON — Britain's chief law enforcement official will call on European leaders today to put biological data into passports, visas and identity cards, share airline passenger lists and retain telecommunications records to help fight international terrorists and organized crime.

Concerns for safeguarding liberties must be weighed against the right of law-abiding people to be protected from crime and terrorist attacks, Home Secretary Charles Clarke will argue, according to an advance text of his remarks released to reporters before his address to the European Parliament in Strasbourg, France.

The British proposals to the EU come during a time of heightened fear of terrorism in Europe after the July 7 bombings of the London transportation network. They also coincide with growing public doubts about the merits of further European integration; this spring voters in France and the Netherlands rejected a proposed European constitution.

Drawing a connection between the issues, Clarke in his speech argues that a rising "Euro-skepticism" on the continent is in part due to doubts among ordinary people that European institutions are effective and sufficiently tough to protect them.

One solution he proposes is for Europe to adopt practical steps for police and security agencies to collect and share intelligence data and use them in cross-border prosecutions.

"This European Parliament, as well as national parliaments throughout Europe, needs to face up to the fact that the legal framework within which we currently operate makes the collection and use of this intelligence very difficult and in some cases

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impossible," Clarke plans to tell his audience. "The rules that currently govern our law enforcement bodies seriously inhibit their ability to protect us against criminals."

As an example of how laws undermine police efforts, Clarke cited regulations in some European countries that oblige telecom companies to destroy data on phone calls and electronic messages if they have no business purposes. Such information can be instrumental for police to establish links between suspects and to dismantle criminal networks, he argues.

Clarke says he hopes Britain's proposals will lead to "hard-headed discussions and practical agreement."

Britain recently assumed the presidency of the European Union, a post that rotates every six months.

Discussing his speech with reporters in London on Tuesday, Clarke said he was seeking to strike the right balance between preserving civil liberties and protecting the public. "It seems to me we have to give the same rights to those humans who want to be able to travel without being blown up on an underground train … as we do to the defendants," he said.

If European governments agreed to put "biometric data" into passports, visas and identity cards, Clarke said, the information would be "an important means of ensuring that people have the identity which is genuinely theirs, and [are] not stealing other identities as some criminals or terrorists seek to do."

Clarke's suggestion that national and European courts must be pragmatic and sensitive to public opinion in weighing whether to deport terrorist suspects could run into opposition from legislators who fear undermining the European Convention on Human Rights, which forbids extraditing or deporting suspects to countries that practice torture.

Britain, which wants to deport radical Islamic clerics that it accuses of fomenting hatred and violence, is in the process of negotiating bilateral agreements with several countries promising that deported prisoners would not face ill treatment, Clarke said.

Although opponents argue that the agreements would not be respected, Clarke said the existence of such an agreement between sovereign governments ought to be enough to satisfy European courts.

"The judges need to understand that the people of Europe and people of Britain will not for a long time accept that action cannot be taken against people who are offering a real threat to our way of life and who are seeking to destroy it," he told the reporters Tuesday. "That is a message I shall send very strongly indeed."

Man Held In California Terrorism Probe Pleads Not Guilty (SACBEE)

By MICHAEL R. BLOOD, Associated Press Writer

The Sacramento Bee, September 7, 2005

SANTA ANA, Calif. (AP) - One of four men indicted in an alleged terror plot against California targets pleaded not guilty to federal charges Tuesday.

Hammad Riaz Samana, a 21-year-old Pakistani national, said only a few words as he appeared with hands shackled to his waist before U.S. Magistrate Judge Arthur Nakazato.

Trial was set for Sept. 27 before U.S. District Judge Cormack Carney, but a postponement was expected.

Samana and the others were indicted last week on charges of conspiring to wage war against the U.S. government through terrorism.

Federal prosecutors allege the plot targeted military facilities, synagogues and other Los Angeles-area sites. Authorities claim the four men were a cell of a California prison gang of radical Muslims.

Named with Samana in the indictment were Levar Haley Washington, 25; Gregory Vernon Patterson, 21; and Kevin James, 29. All but Samana are American born and Muslim converts.

Outside court, defense attorney Timothy Lannen described Samana as a hardworking, upstanding person.

"He's a peace-loving, respectful young man," Lannen said to reporters.

The attorney said Samana is a dean's list student at Santa Monica College and was working two jobs. Samana only met the others named in the indictment a few months ago, Lannen said.

When the case plays out the public will recognize "the decent young man that he is," Lannen said of his client.

Assistant U.S. Attorney Kevin Smith said that "the indictment speaks for itself" and that the investigation was continuing. He said he expected the other men to be arraigned later this month.

Prosecutors allege that Washington, Patterson and Samana robbed gas stations to finance plans to target military sites, synagogues, the Israeli Consulate and the El Al counter at Los Angeles International Airport. Patterson bought a rifle. Samana received "firearms training and physical training," according to the indictment.

James, an inmate at California State Prison, Sacramento, is suspected of being the mastermind. He founded the radical group Jamiyyat Ul-Islam Is-Saheeh, or JIS. Washington converted to Islam while imprisoned there on a robbery conviction.

Terror Suspect Pleads Not Guilty To Conspiracy Charges (KNBC-TV)

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KNBC-TV, September 7, 2005

SANTA ANA, Calif. -- A Pakistani man accused of plotting a terrorist campaign in the Southland -- using gas station holdups to fund the attacks -- pleaded not guilty Tuesday in Santa Ana to conspiracy-related charges.

Aug. 17 Images: FBI: Former Inmate Visited Mosque To Recruit For Alleged Plot

Hammad Samana, 21 -- who has permanent-resident status -- denied charges of conspiracy to levy war against the U.S. government through terrorism; conspiracy to kill members of the U.S. military; conspiracy to kill foreign officials and conspiracy to use firearms in a crime of violence.

U.S. District Magistrate Judge Arthur Nakazato set a trial date of Sept. 27 and a status conference of Sept. 19. He assigned the case to U.S. District Judge Cormac Carney.

According to a federal grand jury indictment, Samana plotted with Kevin James, the founder of a group called Jamiyyat Ul-Islam Is-Saheeh -- or JIS -- and two other Southland men, Levar Washington and Gregory Patterson.

U.S. authorities allege the defendants intended to use money taken in holdups in Los Angeles and Orange counties to buy weapons and make other purchases needed to carry out attacks on local National Guard and Israeli facilities, according to court papers.

Samana is accused of participating in two of the 11 gas station robberies listed in a six-count federal grand jury indictment: a robbery on June 12 in Playa Del Rey -- in which Patterson was allegedly armed with a shotgun -- and a robbery on June 21 in the city of Orange.

Patterson and Washington were arrested July 5 after allegedly using shotgun to rob a Chevron gas station in Fullerton.

Four people who were in court during the arraignment of Samana, who is being held without bail, declined to comment outside the courtroom.

Defense attorney Timothy Lannen issued a statement about his client outside the courtroom and refused to take questions.

"He is a peace-loving, respectful young man," Lannen said.

Samana is on the dean's list at Santa Monica College, Lannen said, and "when arrested was working two jobs to support his family."

In response to the attorney's description of Samana, Assistant U.S. Attorney Kevin Smith said the lawyer "is free to characterize his client any way he wished.

In "plain terms," Smith said, Samana is accused of "conspiring to kill" U.S. military personnel, Israel officials and Jewish people at targeted synagogues.

Smith said he expects Patterson and Washington to appear for arraignment on Sept. 12. They are being held in the Men's Central Jail in Los Angeles, while James is set for arraignment on Sept. 26. He is being held in state prison.

Smith declined to provide additional details not specifically mentioned in the indictment, but did say that "We have charged everyone that could or should be charged based on the evidence."

In November, James, while in prison, allegedly recruited Washington, who was serving a robbery sentence, to join JIS, according to the indictment.

After Washington was paroled from a state prison late that month, James told him to recruit five individuals without felony convictions and "train them in covert operations," prosecutors allege.

Washington allegedly recruited Samana and Patterson, fellow attendees of the Jamat-E-Masijidul Islam mosque in Inglewood. At some point, Washington allegedly "reaffirmed his allegiance ... by pledging his loyalty until death by martyrdom."

According to authorities, Samana is the only one of the four not born in the United States.

Before the arrests, the defendants had been "on the verge of launching the attacks," which "had the potential to cause significant bloodshed," U.S. Attorney Debra Yang said in a news conference last week.

James, 29, preached that members of his group had a duty to "target for violent attack any enemies of Islam, or `infidels,'" including the U.S. government and supporters of Israel, the indictment states.

Samana and Patterson allegedly used the Internet to research the locations of military recruitment offices, Jewish events in the months of July and August and research on the Israeli consulate in Los Angeles, including the identity of specific Israeli officials.

James will remain in state prison, serving a sentence for being a prisoner in possession of a weapon, until transferred to federal custody, Smith said.

James, who was originally incarcerated for attempted robbery, allegedly founded JIS while behind bars in 1997. If convicted of all the charges, the defendants face life prison sentences.

Authorities say the investigation began slightly more than eight weeks ago when Torrance police received a tip concerning a string of gas station robberies in Los Angeles and Orange counties.

After tailing Washington, 25, and Patterson, 21, for two days, Torrance officers allegedly saw them rob a gas station in Fullerton.

Police then arrested the pair and searched a South Los Angeles apartment they shared. That search turned up materials that led police to believe the men might be plotting attacks, said Torrance police Chief James Herren.

According to the indictment, the synagogue attacks were planned to coincide with the Jewish high holy days of Rosh Hashana and Yom Kippur "in order to maximize the number of casualties to be inflicted."

The 10-day high-holyday period starts Oct. 3, the first day of Rosh Hashana, the Jewish New Year, and ends Oct. 12 on Yom Kippur, the Day of Atonement, which is regarded as the holiest day on the Jewish calendar.

Authorities said they believed some targets would have been attacked soon if the arrests had not taken place.

Authorities are not aware of any current threat based on what was learned during the investigation, said Randy Parsons, acting assistant head of the FBI's Los Angeles office.

Boca Doctor Charged With Supporting Al Qaeda Denied Bail (MH)

By EVAN S. BENN

The Miami Herald, September 7, 2005

A federal judge in New York denied bail Tuesday for a Boca Raton doctor charged with conspiring to support al Qaeda.

Dr. Rafiq Sabir, 51, will continue to await trial in a maximum-security prison, his attorney, Ed Wilford, said.

"I indicated to the court that we had $1.5 million ready to be secured" for bail, Wilford said in a telephone interview after the hearing.

But U.S. District Court Judge Loretta Preska denied the motion, ruling that Sabir would pose a flight risk if granted bail.

Wilford said he will appeal the decision.

A federal grand jury handed up a one-count indictment June 27 against Sabir and Tarik Shah, an alleged co-conspirator who will be tried with Sabir. Shah, 42, also is being detained without bail.

The indictment supported the government's allegation that the men pledged an oath of loyalty to Osama bin Laden and his terrorist network on May 20.

An undercover FBI agent posed as an al Qaeda recruiter and secretly recorded Sabir and Shah reciting an alleged oath of allegiance on May 20.

Prosecutors claim that Shah, a martial-arts instructor, and Sabir, a medical doctor, promised to use their skills to help train and treat jihadists.

Federal agents arrested Sabir at his Boca Raton home on May 28, a few days before he was scheduled to fly to Saudi Arabia.

Both men pleaded not guilty to the charge of conspiring to support a terrorist organization. If convicted, they would face 15 years in prison and a $250,000 fine.

Attorneys for Sabir and Shah have said their clients, both U.S. citizens who are Muslim, committed no crime.

"In this case, I think we have a clear-cut violation of Dr. Sabir's First Amendment right to freedom of speech," said Wilford, who has previously represented defendants facing terrorism charges.

Sabir's previous attorney, Lighthouse Point lawyer Khurrum Wahid, said Tuesday that a full caseload forced him to hand over the Sabir case to Wilford.

At Tuesday's hearing, prosecutors said a third defendant would likely be added to the case against Sabir and Shah, but those two men will not face additional charges.

The man, Mahmud Faruq Brent, of Baltimore, was arrested Aug. 4 and charged with conspiring to support a terrorist organization. The government claims Brent and Shah are associates and that Brent went to Pakistan and trained to become a jihadist fighter.

Sabir and Shah are scheduled to be back in court Oct. 17 for a status conference.

Government's Doctors: Man Accused Of Mall Bomb Plot Faked Illness (ABJ/AP)

Associated Press

Akron Beacon Journal, September 7, 2005

COLUMBUS, Ohio - Mental health experts who examined a Somali man accused of plotting to bomb a shopping mall have concluded he was faking when he became a wild-eyed defendant who tapped his head on a table, mumbled and giggled in court.

Documents made public last week from two analysts at the Federal Medical Center in Rochester, Minn., said Nuradin Abdi was pretending to be mentally ill.

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Abdi told psychiatrists that Hillary Rodham Clinton and Teresa Heinz Kerry would represent him in his terrorism trial.

He sometimes refused to shower, or he showered with his clothes on. Although a devout Muslim, he tore up a copy of the Quran and shoved the pieces into a toilet.

"We believe such behaviors were calculated attempts to appear severely mentally ill," forensic psychologist Andrew Simcox and staff psychiatrist Daniel Shine Jr. said in their report.

However, another psychiatrist requested by Abdi's defense attorney because the first report came from a federal agency said it's possible that Abdi has a "legitimate psychosis."

Abdi's lawyer, Mahir T. Sherif, said Tuesday the second analysis was done by forensic psychiatrist Dr. Robert Phillips, who previously testified in the case of President Reagan's shooter, John Hinckley Jr.

According to Sherif, Phillips reported that Abdi showed "clear signs of severe mental illness," particularly since he ate his own feces while imprisoned.

Abdi, 33, has pleaded innocent to charges of conspiring to aid terrorists and lying to gain political asylum in the United States as a refugee. His trial is scheduled for Sept. 26.

Abdi's attorneys have sought to bar statements he made to authorities in which he admitted to falsifying immigration documents and planning to blow up an undetermined Columbus-area shopping mall.

U.S. District Judge Algenon Marbley has said he will rule before the trial but indicated he would not discount the statements Abdi made with a lawyer at his side.

Prosecutors accuse Abdi of obtaining travel documents in 1999 by telling officials he planned to visit Germany and Saudi Arabia when he actually went to a military-style training camp for terrorists in Ethiopia.

Federal agents arrested Abdi on Nov. 28, 2003, after convicted al-Qaida operative Iyman Faris told them Abdi suggested shooting up a shopping mall.

Marbley last month criticized federal agents for arresting Abdi without a warrant.

Agents testified they were unable to get a warrant for the arrest because information leading them to have probable cause was classified and they wanted to act before the holiday shopping season.

Sherif argued Abdi's arrest was illegal and he was coerced and mistreated.

Investigators said Abdi was polite and cooperative during the interviews.

Officials said Abdi went from a model prisoner to one who abused himself, failed to communicate appropriately and had to be watched.

Simcox and Shine said Abdi had reason to feign mental illness, to avoid being tried on charges that could send him to prison for decades.

They said Abdi had no history of mental illness, that the onset of the symptoms was convenient, that the symptoms didn't match those of legitimate illness and_ testing didn't support a finding of mental illness.

By the time Abdi left the center in August 2004, he was acting normally again, they said.

His lawyer has a theory for Abdi's apparent turnaround. Sherif said his client's mind began to heal and he was "brought back to reality" after being allowed his first visits with family members and his legal counsel.

Abdi now is in the Franklin County jail.

U.S. Resident Held In Iraq Is Freed (LAT)

By Henry Weinstein, Times Staff Writer

The Los Angeles Times, September 7, 2005

More than two months after authorities cleared him of suspicion in a mortar attack on a United States base in Baghdad, an Iraqi man was released Tuesday from military custody, just days before government lawyers were due in court to answer questions about his captivity.

Tuesday's release of Numan Adnan Al-Kaby, a longtime lawful U.S. resident, from a military prison outside Baghdad marked the second time in two months that authorities freed a captive in Iraq within a week of the American Civil Liberties Union of Southern California filing a federal lawsuit in Washington.

Mark Rosenbaum, legal director of the ACLU's Southern California chapter, said he was pleased that Al-Kaby had been released but disturbed that the prisoner had been held two months after a military review board first declared him an "innocent civilian."

"The U.S. government does not want to appear in front of a federal judge and answer questions about their indefensible detention policies in Iraq. This is a military and executive scandal," said Rosenbaum, who believes that more people are being held illegally by the U.S. military in Iraq.

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A Pentagon spokesman, speaking on condition he not be identified, said, "I certainly understand the frustration people would feel by what they perceive is a delay, but it's a delay out of necessity, making sure that we are not releasing someone who is a threat to the security of Iraq or the Iraqi people."

Al-Kaby, 38, was originally taken into custody in April after calling in sick the day of a mortar attack on the base where he was doing construction work. He strenuously denied any advance knowledge of the attack, and was cleared by a military review board on July 4, but not released.

On Aug. 31, the ACLU filed suit after learning of Al-Kaby's situation from Los Angeles filmmaker Cyrus Kar, who also was freed from a Baghdad prison with the ACLU's intervention. The Times ran a story on Al-Kaby's detention the same day.

The suit was due to be heard Thursday in U.S. District Court in Washington, D.C. But late Friday afternoon, Justice Department attorneys in Washington, led by Assistant Atty. Gen. Peter D. Keisler, filed papers seeking a 23-day delay to respond to the ACLU's suit.

The Justice Department did not mention that Al-Kaby had been cleared July 4, but said the ACLU suit raised "novel factual and legal questions."

In a motion filed Sunday, the ACLU issued a sharp retort: "The only truly novel question here is chilling … whether a determination of innocence of a lawful permanent resident by a military tribunal may be arbitrarily voided or ignored such that liberty becomes illusory."

On Tuesday, Col. James Coyne, staff judge advocate for the multinational force in Iraq, filed a declaration saying the military had held Al-Kaby past July 4 based on "new factual information." He did not provide details.

However, Coyne said that on Friday — just two days after the ACLU filed suit — the military had conducted another review and again recommended that the captive be freed.

The ACLU suit asserted that Al-Kaby was being held in violation of the U.S. Constitution, the Geneva Convention and international law.

As part of the suit, friends and relatives filed declarations stating that Al-Kaby was a Shiite whose family had long been opposed to the Sunni regime of Saddam Hussein. He fled Iraq in 1991 following the first Gulf War, and spent three years in a refugee camp in Saudi Arabia before coming to the U.S. and gaining political asylum.

He settled in Kalamazoo, Mich., where he opened a small restaurant with his cousin Haider Al-Saedy.

In 2003, both men applied for U.S. citizenship. Al-Kaby provided assistance to the FBI "to assist the government in the U.S. invasion of Iraq and even took a polygraph test to prove that the information he gave was truthful," the ACLU suit said.

After U.S. forces toppled Hussein, Al-Kaby decided to return to his native land to rejoin family members.

The day of the mortar attack, Al-Kaby had taken the day off so he could take his brother to buy a car in Baghdad, the ACLU contended.

Kar met Al-Kaby while both were incarcerated at Camp Cropper in Baghdad — where Saddam Hussein also is being held. Kar was released July 10 after being held captive in Iraq for 55 days.

In a court declaration last week, Kar said both he and Al-Kaby had received identical letters from the U.S. military declaring that each man was an "innocent civilian."

ACLU attorney Ranjana Natarajan said that if the government "had new information on Al-Kaby, it did not bother to tell the court what it was," in papers filed last week.

Her colleague Rosenbaum added, "The so-called new evidence is a transparent fabrication, intended to provide a fig leaf to cover five months of solitary confinement of an innocent man. This is an administration whose trademark is incompetence and indifference to human suffering."

The Guantanamo Trials (WP)

The Washington Post, September 7, 2005

The Pentagon announced changes last week to the military tribunals that it has been trying to set up at the Guantanamo Bay naval base -- for years now -- to try terrorist suspects on war crimes charges. The tribunals, known as commissions, so far have been a total failure. Not a single detainee has been actually been put on trial. The system has been mired in litigation. There are serious problems of fairness and appropriate process for defendants who could face long prison terms or even the death penalty. The administration's changes improve the system in subtle but important ways, moving it closer to the system of courts-martial by which the military tries its own soldiers. But they don't entirely fix the problems.

The most substantial change in the new order separates the function of the commission's presiding officers from its other members. Under the previous order, all commission members functioned as both judge and jury. Under the new order, the presiding officer will function as the judge, responsible for rulings on matters of law -- though the other members of the commission could still override a decision concerning whether to admit certain evidence. The other commission members would

decide guilt and sentencing, decisions in which the presiding officer would not participate. In addition, the order tightens a bit the right of the accused to be present at trial, subject to the need to protect classified information -- a largely symbolic change. And more important, it requires that if any material is withheld from the accused because of national security concerns and a reasonable summary cannot be provided, that material must be excluded from trial if its admission as evidence would preclude a fair trial.

Important differences remain between the commissions and true courts-martial, differences that leave the commissions wanting. The commissions still lack any direct appeal to the federal court system, which is a significant flaw. Their rules of evidence are more relaxed as well. But the more the commissions come to resemble courts-martial, the less sense it makes for the military to create a justice system from scratch rather than using the one it already has -- in which Americans and the international community have high confidence.

The administration's explanations on this point are increasingly less persuasive as time goes on. Al Qaeda operatives, officials note, did not fight according to the laws of war and, as a consequence, are not entitled to the privileges of honorable soldiers -- one of which is trial before court-martial. This is true enough. But is it really worth years of delay and litigation in order to bring defendants to trial under conditions whose fairness many people will doubt? The military also argues that commissions afford the government certain flexibility with respect to classified information and security that could not be easily handled in a court-martial. Again, that's true, but if Congress were to get involved and authorize courts-martial for accused terrorists, it could tinker with the model for these highly specialized circumstances.

At this stage, the critical matter is for fair rules to be clearly written in law. While the commissions are getting better, they still constitute a system in which the executive branch writes the rules (and rewrites them in midstream if need be), carries out the trials, hears the appeals and executes the sentences without input from the other two branches. Even if the commissions were perfectly designed -- and they still are far from that -- this would not be the best way to bring accused terrorists to trial.

HOMELAND RESPONSE:

Coast Guard Raids Moored Harbor Vessels (MHCA)

By Virginia Hennessey

Montery (CA) Herald, September 7, 2005

The Coast Guard boarded and inspected close to 30 vessels, many of them docked, in Monterey Bay over the Labor Day weekend in a operation that raised the eyebrows of some local boaters and the ire of one.

The operation -- conducted in conjunction with the Monterey County Sheriff's Office, U.S. Immigration and Customs Enforcement and the National Oceanic and Atmospheric Administration -- netted one arrest in Moss Landing Harbor and terminated the voyages of five vessels that were deemed unsafe.

In all, 28 boats, many of them live-aboard vessels that were moored in the harbors, were boarded and 31 citations were issued. One angry boater said Coast Guard officers came aboard his boat in Moss Landing Harbor late Friday citing authority under the Patriot Act.

In an e-mail to The Herald, Lowell Jones of Moss Landing said the Coast Guard did a "blanket boarding" in the harbor, "searching boats, and invading people's privacy at 10:30 p.m. They justified this intrusion by citing the Patriot Act.

"The locals are not happy, and the boating community as a whole has expressed concerns over privacy relating to such dockside boardings of legal live-aboard residents," he wrote.

Coast Guard officials said the operation was not in response to any particular law enforcement report and that search warrants are not required for such inspections.

"It wasn't a drill. But it wasn't in response to any Homeland Security threat we received," said Gabriel Flesher, chief of the Coast Guard's San Francisco division, which oversees Homeland Security issues in the area. "The exercise was developed as a random operation with local law enforcement agencies (and) we have the authority to board dockside."

Lt. Todd Moe of the Coast Guard's Monterey division said the operation was directed at boating safety during the busiest boating weekend of the year and was authorized under maritime law dating to the 1700s, which gives the Coast Guard jurisdiction over federal waters, including waterways that lead to the open seas.

Jon Copley, chief of the Coast Guard's law enforcement division in San Francisco, said he would be "very surprised" if one of the agency's officers cited the Patriot Act.

The U.S. Code allows the Coast Guard to "make inquiries, examinations, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction, for the prevention, detection, and suppression of violations of laws of the United States. For such purposes, commissioned, warrant, and petty officers may at any time go on

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board of any vessel subject to the jurisdiction... of the United States, address inquiries to those on board, examine the ship's documents and papers, and examine, inspect, and search the vessel and use all necessary force to compel compliance."

Moe said "99 percent of the feedback" he'd received was positive and that the operation resulted in the safest Labor Day on record on the Monterey Bay. The Coast Guard was called out to only one incident.

Safety violations that were cited included boats lacking floatation and fire-extinguishing devices and proper documentation. Moe said he did not know the identity of the one man who was arrested by the Sheriff's Office possession of marijuana and an illegal weapon. The deputies involved in the arrest were not available on Tuesday.

Harbormasters in Monterey, Moss Landing and Santa Cruz said they were not notified in advance of the operation. Moss Landing Harbormaster Linda McIntyre said she supports the Coast Guard's efforts to improve safety on the bay, but added that she'd never known the agency to do "door-to-door" inspections of docked vessels.

She said she had received complaints by some residents, but heard others praise the guard.

Monterey Harbormaster Steve Scheiblauer said in his 30 years as a harbormaster in Monterey and Santa Cruz, he'd never heard of any law enforcement agency randomly searching vessels being used as homes. Like several other harbormasters, Scheiblauer was under the impression the Coast Guard's blanket boarding authorization applied only to vessels that were underway.

"That is, on the face of it, pretty preposterous. They can board boats when they're underway. But when a boat is tied up, particularly as a residence, I don't think there's any probable cause to go aboard and search. As a random search, that would be very controversial, I would think, among the public."

Kimbra Eldridge, operations manager of the Santa Cruz Harbor, said her agency does not board boats "unless we have a particular cause."

Reports of the Coast Guard's operation also came as a surprise to Eric Endersby, chief harbor patrol officer in Morro Bay Harbor.

"The Coast Guard has the authority to board any vessel that's underway," he said. "But boats in slips are not underway and my understanding was the Coast Guard didn't have authority to board a boat that's tied up in a slip."

"That's a little scary," he added.

Andy Turpin, senior editor at Latitude 38, a widely read sailing magazine in Marin County, said Coast Guard boardings in the San Francisco Bay Area were an "accepted annoyance."

"It's common to be boarded and it's something you have to put up with," he said.

The practice was even more common during the height of the "zero tolerance" drug wars, he said, but even then, the Coast Guard did not randomly board docked boats.

"I have never heard of that happening up here," he said. "Before 9/11, when they had a little more time on their hands, they would come to a marina and offer free safety inspections and give you a sticker to keep you from being boarded on your Sunday sail."

Rebuilding Begins Where Terror Struck (WP)

By Michelle Garcia

The Washington Post, September 7, 2005

NEW YORK, Sept. 6 -- The first phase of rebuilding on the 16 acres of Lower Manhattan leveled by the Sept. 11 attacks began yesterday with a ceremonial groundbreaking for a new $2.2 billion transportation hub, highlighted by the release of two doves representing "peace and rebirth."

Five days before the four-year anniversary of the 2001 terrorist attacks, federal and state officials celebrated the first phase of reconstruction at a site still considered a cemetery by survivors.

"Today, we begin to take back a site and restore something that was taken away from us on September 11," said Anthony Coscia, chairman of the Port Authority of New York and New Jersey, which owns the site.

The transportation hub, designed by Spanish architect Santiago Calatrava, will link commuter trains from New Jersey, ferries and the city subway system. Officials estimate 250,000 people a day will stream through the transportation hub after its scheduled completion in 2009.

"New York is taking off again and set to soar to greater heights than ever before," said U.S. Transportation Secretary Norman Y. Mineta, speaking in the 70-foot pit where the city's tallest buildings once stood.

The transportation hub is being financed by federal grants of $1.9 billion and by $300 million raised by the Port Authority. In the next six months, a total of $10 billion in new construction will get underway, said Mayor Michael R. Bloomberg (R). The planned projects include an underground memorial and the 1,776-foot Freedom Tower.

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Construction of the transportation hub will begin next week. Families of Sept. 11 victims requested that the building's footprints remain uncovered for a 9/11 commemoration ceremony planned for the weekend, said Steve Coleman, a spokesman for the Port Authority. Workers will then lay a protective cover on the steel footings of the twin towers.

The design and intent of the rebuilding effort have been a focus of conflict and controversy. Some families of Sept. 11 victims waged a campaign against two museums planned for a new cultural center, charging they planned to host exhibits critical of the U.S. government.

Some officials at the ceremony drew parallels between the task of rebuilding the World Trade Center site and the challenges facing the Gulf Coast in the aftermath of Hurricane Katrina.

"Let what we are doing be a beacon to the people of New Orleans," said Sen. Charles E. Schumer (D-N.Y.). "They should always know there is always hope, hope that is represented today by the rebuilding."

WAR NEWS:

U.S. Attacks Insurgent Targets In Iraq (AJC/AP)

By Robert H. Reid, Associated Press Writer

The Atlanta Journal-Constitution, September 7, 2005

BAGHDAD, Iraq — U.S. jets struck targets Tuesday near the Syrian border where al-Qaida has expanded its presence, and civilians fled fighting in the northern city of Tal Afar, complaining they were running short of food and water.

To the south, U.S. troops handed the Iraqi army control of a Shiite city that saw bitter fighting last year — a sign of the uneven pattern of insecurity in this fragmented country.

The U.S. command also said four more Americans had been killed in action.

The airstrikes took place near Karabilah, about 185 miles west of Baghdad and one of a cluster of towns near the Syrian border used by foreign fighters to slip into Iraq.

In the first attack, Marine F/A-18 jets dropped bombs shortly after midnight on two bridges across the Euphrates River that the U.S. command said insurgents used to move fighters and arms toward Baghdad and other cities.

Hours later, a Marine jet destroyed a building used by insurgents to fire on U.S. and Iraqi troops, a U.S. statement said. One Iraqi soldier was wounded when Marines and Iraqi soldiers stormed the building, killing two foreigners and arresting three, it said.

Late Tuesday, Iraqi civilians reported a suicide bomber struck a checkpoint in Haditha, 60 miles east of Karabilah. There were no reports of casualties.

The airstrikes occurred about six miles east of the border city of Qaim, major parts of which have fallen under control of al-Qaida-linked foreign fighters.

Iraqi officials and residents say al-Qaida in Iraq, led by Abu Musab al-Zarqawi, took over parts of Qaim after residents fled fighting between tribes supporting and opposing the insurgents.

The U.S. military maintains a presence in the area, but U.S. officers have complained privately that they don't have enough American and Iraqi troops to secure Qaim.

Elsewhere, thousands of civilians fled Tal Afar, a predominantly ethnic Turkomen city 260 miles northwest of Baghdad where U.S. and Iraqi soldiers are trying to wrest control from insurgents.

Plumes of smoke rose from the city, which sits along a major trade and smuggling route to Syria. Ambulances were seen carrying at least 10 wounded civilians toward nearby Mosul.

Some of those who fled sought refuge in the village of Taha, where local officials scrambled to provide for about 700 families. Some of the refugees disputed claims by Iraqi officials that foreign fighters had joined local insurgents in the fighting inside Tal Afar.

"We did not see any strangers like Saudis, Syrians or others," said Hazem Mohammed Ali, deputy chairman of a Turkomen association in Tal Afar. "The people are suffering from lack of food stuff, drinkable water and blankets, because it is getting cold during the night here."

One U.S. soldier was killed Monday in Tal Afar, the military reported. Two others died Tuesday in a roadside bombing in Baghdad, and another was killed the day before near Ramadi west of Baghdad.

The deaths brought to at least 1,893 the number of U.S. military personnel who have died since the war began in March 2003, according to an Associated Press count.

Despite the fighting, security is better in Shiite Muslim areas of central and southern Iraq, including the holy city of Najaf, scene of heavy combat last year between American soldiers and Shiite Muslim extremists.

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But the Shiite clerical hierarchy mediated a truce, and the area was deemed peaceful enough for U.S. forces to hand over one of their bases in the city to Iraq's army. The transfer of Forward Operating Base Hotel means Iraqis are fully responsible for security in the city.

During a ceremony Tuesday, Lt. Col. James Oliver handed the ceremonial keys to the base to the new Iraqi commander, Col. Saadi Salih al-Maliky. About 1,500 Iraqi soldiers from the 2nd Battalion, 1st Brigade, 8th Division marched by.

U.S. troops relocated to a base outside the city in case their help is needed in a major security crisis.

The move is the first step in a plan to gradually hand over areas once Iraqi forces are deemed capable of ensuring security. The goal is for the United States and its international partners to begin drawing down their troop numbers next year and focus on the insurgency-ridden Sunni Arab areas to the north.

"This is indeed a very important day for the province of Najaf," said Brig. Gen. Augustus L. Collins, commander of the 155th Brigade Combat Team. "It gives me great pleasure to say the Iraqi army in Najaf can control the area."

U.S. and Iraqi officials also hope a new constitution, which goes to the voters in an Oct. 15 referendum, will weaken the insurgency by luring Sunni Arabs into political participation.

However, Sunni negotiators rejected the proposed charter last month and vowed to defeat it in the referendum. The bitter, protracted talks appeared to raise tensions among Iraq's ethnic and religious communities.

U.S. Forces Give Iraqis Full Control Of Najaf (WP)

By Saad Sarhan And Omar Fekeiki

The Washington Post, September 7, 2005

NAJAF, Iraq, Sept. 6 -- The U.S. military pulled hundreds of troops out of the southern city of Najaf on Tuesday, transferring security duties to Iraqi forces and sticking to a schedule that the United States hopes will allow the withdrawal of tens of thousands of its forces by early spring.

The handover came as Marine F/A-18 jets bombed two bridges near the Syrian border, hitting infrastructure in an area where insurgents have maintained effective control despite off-and-on offensives by U.S. forces. Insurgents have used the bridges to move fighters and arms across the Euphrates River toward Baghdad and other cities, the U.S. military said.

In the same area, U.S. warplanes later destroyed a building that insurgents had used to fire upon American and Iraqi troops, a U.S. military statement said. At least two suspected foreign fighters were killed, the military said.

Suspected insurgents in the same western province, Anbar, kidnapped the son of the new governor in Ramadi, the provincial capital, officials said Tuesday. Insurgents kidnapped the previous Anbar governor in May; he was killed in a U.S. attack on the house where he was being held.

U.S. Marines have a force of about 5,000 to cover the province's 24,000 square miles. American officers in Anbar say the Marines are too few to bring the province under control, but U.S. and Iraqi officials say the U.S. raids have helped disrupt the flow of bombs and recruits into the rest of Iraq.

Roadside bombs killed two American service members Tuesday, one in Baghdad and one in Ramadi, the U.S. military said.

In Baghdad, meanwhile, President Jalal Talabani told al-Iraqiya television that former president Saddam Hussein had confessed to crimes, including killings, committed on his orders. Talabani said he had been told by an investigating judge that "he was able to extract confessions from Saddam's mouth."

"Saddam deserves a death sentence 20 times a day because he tried to assassinate me 20 times," Talabani said, recalling his days as a Kurdish rebel leader. Hussein is scheduled to face trial on Oct. 19 for his role in a 1982 massacre of 143 Shiite Muslims in the town of Dujail.

The handover ceremony in Najaf marked the first transfer of an entire city from U.S. to Iraqi military responsibility this year. The raising of the Iraqi flag at a former U.S. base was "pretty much putting the city of Najaf in Iraqi control," Lt. Col. Steve Boylan, spokesman for the U.S. military, said in Baghdad.

U.S. forces will continue to support Iraqi troops in an advisory role and with logistics, Boylan said.

Najaf has been the scene of relatively few insurgent attacks. In August 2004, U.S. and Iraqi forces here launched a major assault to disarm the Mahdi Army, a militia loyal to the Shiite cleric Moqtada Sadr that had staged two uprisings against the U.S. military presence in Iraq. The assault claimed dozens of lives from both sides and ended only when Iraq's most influential cleric, Grand Ayatollah Ali Sistani, ordered Sadr to rein in his fighters.

Tensions surged again last month when clashes erupted between Sadr's men and Iraqi Interior Ministry forces seen as loyal to a rival Shiite bloc, the Supreme Council for the Islamic Revolution in Iraq. Nineteen died in those battles.

"There's always [the] possibility of little spurts of violence here and there," Boylan said, but for U.S. forces now, "the top priority is foreign fighters and the Iraqis who support them."

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About 400 U.S. soldiers left the base in Tuesday's handover, Lt. Col. James Oliver, commander of Forward Operating Base Hotel, told reporters, and "more will leave in the future."

The United States, which has 138,000 troops in Iraq, is pushing for major withdrawals to begin in early spring. Iraqi and U.S. officials had identified Najaf as one of the first places where the United States could draw down its forces. Other cities in the heavily Shiite south, and in the Kurdish north, are likely to be next.

The mostly Shiite Iraqi force assuming command here immediately renamed the post Base Karrar, or Base Warrior, a reference to one of Shiite Islam's most important figures, Ali, a cousin of the prophet Muhammad.

"Our forces are capable of defending the city," said Abdul Hussein Abdulridha Abtan, Najaf's deputy governor. "They are able to defeat the biggest terrorist operation."

Some residents of Najaf welcomed the handover.

"It is a happy event for Iraqis when we take care of our affairs, not the occupier," said Mustafa Hamdani, 19, a university student. "But we want them to continue [to] train our soldiers."

Others, however, expressed concern.

"It's true we would prefer not to have U.S. forces in the city -- but we need them," said boutique owner Aqil Farhan, 25. "The Iraqi forces are not capable of maintaining security yet."

Hussein Confessed To Massacre Order, Iraqi President Says (NYT)

By Richard A. Oppel Jr.

The New York Times, September 7, 2005

BAGHDAD, Iraq, Sept. 6 - The deposed Iraqi dictator Saddam Hussein has confessed to crimes in meetings with investigators for the special tribunal that will try him later this year, President Jalal Talabani said in a televised interview Tuesday night. But a lawyer for Mr. Hussein's family dismissed the statement as a "fabrication."

Speaking on the state-run Iraqiya network, Mr. Talabani, a Kurd, said investigators have told him the "good news" that Mr. Hussein had confessed to ordering the Anfal massacre against the Kurds in northern Iraq in 1988 and to ordering other executions.

"He confessed about the Anfal executions, and the orders issued by his name," Mr. Talabani said. "Saddam should be executed 20 times."

It was not clear from the interview whether Mr. Talabani was saying that Mr. Hussein had acknowledged that his actions were criminal or that the former leader had merely admitted he had ordered killings he believed were proper. In the past he has not denied that he ordered people killed.

After the broadcast, a lawyer for Mr. Hussein's family criticized Mr. Talabani's remarks and suggested in an interview with The Associated Press that his statements had been false. Claims of a confession "comes to me as a surprise, a big surprise," said the lawyer, Abdel Haq Alani. He said Mr. Hussein had made no mention of a confession during a meeting with his Iraqi lawyer on Monday.

Mr. Alani added, "Is this the fabrication of Talabani or what?"

Fighting against Sunni Arab insurgents continued in western and northern Iraq. Some residents fled the northern insurgent stronghold of Tal Afar as fighting continued between American and Iraqi forces and insurgents who have controlled much of the city for almost a year. Residents complained of severe food shortages, and news services reported that the fighting had killed and wounded civilians and that residents had been bracing for a new round of combat.

Insurgents used a large roadside bomb to kill one American soldier in Tal Afar on Monday, the military said. American troops have been fighting since May to wrest control of the city from insurgents who moved in after the military largely abandoned Tal Afar last year.

In western Iraq, military jets launched two airstrikes against insurgents near the Syrian border on Tuesday, the latest assault against militants who control much of the desolate badlands of western Anbar Province that are home turf to the most hardened elements of the Sunni Arab insurgency.

Shortly after midnight on Tuesday, jets bombed two bridges near the town of Karabila that insurgents had used to transport foreign fighters and weapons into central Iraq, a statement by the United States Marines said. Hours later, jets flattened a "foreign fighter safe house" near the bridges after a gun battle with marines there that killed two insurgents, another statement said.

In contrast to the military's normally more upbeat assertions about progress curbing the insurgency, the first statement noted that western Anbar residents have "experienced an increased level of violence at the hands of Al Qaeda in Iraq terrorists."

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In central Baghdad, two American soldiers were killed Tuesday morning and two more were wounded when insurgents attacked their vehicle with a large roadside bomb. Another American soldier died Monday in Ramadi, the provincial capital of Anbar, when his vehicle was struck by a roadside bomb.

In other violence, the Iraqi police found four bodies in a sewage duct in southern Baghdad on Tuesday afternoon, according to an official at the Iraqi Interior Ministry. The official also said that shortly after 9 p.m., attackers shooting from a car window opened fire on people gathered at a Sunni mosque in northern Baghdad, killing three and wounding two. There were also unconfirmed reports that the son of Anbar Province's governor had been kidnapped from his college.

Iraqi officials say Mr. Hussein's first trial is expected to begin Oct. 19, when he faces charges that he ordered the killing of nearly 150 men and boys from the Shiite village of Dujail, 35 miles north of Baghdad, after a failed assassination attempt against him there in 1982.

If convicted, Mr. Hussein could be hanged soon afterward, eliminating the need for other prosecutions of charges of crimes against humanity, Iraqi officials have said. Those charges include ordering the Anfal massacre, where tens of thousands of Kurds were gassed or otherwise killed and dumped into mass graves, and the suppression of the Shiite uprising in southern Iraq in 1991, when 150,000 people were killed and bulldozed into graves.

Across many parts of Iraq with heavy Sunni Arab populations - especially in western Anbar - Iraqi security forces are far from being able to battle the insurgency on their own. But in the Shiite-dominated south, a battalion of 1,500 Iraqi troops formally assumed control of the holy city of Najaf, where Shiite insurgents fought fierce battles with American troops just last year.

The American 155th Brigade Combat Team handed over control of the main military encampment in Najaf, Forward Operating Base Hotel, to Iraqi troops during a ceremony on Tuesday.

The American commander, Brig. Gen. Augustus L. Collins, said the "Iraqi Army in Najaf can control the area," according to a pool report of the ceremony. But the general also emphasized that a contingent of American troops would remain based nearby in case the Iraqi forces needed help.

"Although we are transferring authority at this F.O.B., we will still be here to help the people of Najaf," he said.

With Death At Their Door, Few Leave Iraqi City (WP)

By Jonathan Finer

The Washington Post, September 7, 2005

TALL AFAR, Iraq, Sept. 6 -- On one side of the concertina wire lining an avenue stood 100 U.S. troops, five Bradley Fighting Vehicles and two M1-A1 Abrams tanks. Across the street were about 1,000 men, women and children of this embattled northwestern city.

The military had warned in leaflets dropped by helicopter and messages played over loudspeaker Tuesday morning that it would soon raid the insurgent-controlled neighborhood of Sarai, east of the city center, and asked civilians to evacuate through checkpoints in the southern part of town. But the Sarai residents, most of them Sunni Turkmens, insisted they would either flee northward or remain in their homes, come what may.

After an eight-hour standoff marked by a cycle of negotiation, miscommunication, occasional gunfire and flashes of anger, one family, about 17 people, agreed to leave the city with a military escort, after a U.S. commander gave the crowd "one final chance." The rest retreated into Sarai, vowing to take their chances.

"A lot of people are just barricading themselves in, which is a big mistake," said Staff Sgt. George Kakeletris, a psychological operations soldier who drove a Humvee all day up and down the avenue, which the military calls Bel Air, blaring messages in Arabic from speakers mounted on the roof.

About 5,000 U.S. and Iraqi soldiers entered Tall Afar four days ago in an offensive aimed at dislodging insurgents. Fighting has been sporadic so far. One U.S. soldier has been killed, along with at least 200 suspected insurgents, said Col. H.R. McMaster, commander of the 3rd Armored Cavalry Regiment, which is leading the assault.

Five civilians were killed Tuesday when a suicide bomb detonated near an Iraqi army checkpoint. Four days of small-scale raids and house-to-house searches have allowed troops to encircle Sarai, where commanders here believe insurgents have massed.

The Iraqi government has asked the military commanders to minimize civilian casualties in this highly volatile region. A U.S.-led invasion of Tall Afar one year ago this month outraged the Turkish government, which argued that the assault victimized Turkmens, who share ethnic ties with Turks. When the U.S. withdrew, insurgents returned, capitalizing on anger over the offensive to consolidate control over the city, which has also been marred by sectarian violence between Sunni and Shiite tribes.

"Steps are being taken to ensure that this is done with the least possible amount of harm done to civilians," McMaster said.

But several Sarai residents said they had been warned that Shiite residents or policemen, who are concentrated in southern Tall Afar, would attack if they left in that direction.

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"I would rather die from American bombs in my home with my family than walk south," a man in a gray dishdasha , or robe, and white head scarf explained to soldiers. "People are saying the Shiites will kill you or kidnap you. That is a disgrace."

The evacuation of Sarai, the oldest section of Tall Afar and a web of narrow streets where fighting is expected to be difficult, was supposed to help prevent civilians from being hurt or killed during the offensive's final phase. The military strung nearly a mile of concertina wire along Bel Air, on the northern edge of the neighborhood, on Sunday to encourage people to migrate south, where it had established checkpoints to prevent insurgents from fleeing undetected. Among 200 people who followed instructions and fled south Tuesday, soldiers discovered a man suspected of being an insurgent who was dressed as a woman, complete with prosthetic breasts.

For the military, problems began at 8 a.m. Tuesday when soldiers who had spent the night in an abandoned house awoke to about 300 Sarai residents who had picked their way across the wire and were sitting in the street outside the house, asking how they could get out of Tall Afar.

The soldiers escorted the crowd back to the other side of the wire but found that at least 500 other people were waiting to come across. To block them, they placed tanks and Bradleys along Bel Air and sent soldiers with rifles to the roofs overlooking the street.

Men who identified themselves as tribal leaders of the people attempting to flee would periodically walk across the street -- which is pockmarked with dozens of craters caused by explosions -- stepping gingerly over the wire to negotiate with soldiers. Some residents said that their relatives were too sick or frail to travel south of the city or that their tribe was located in the north so they needed to go in that direction. Others said they actually lived outside Sarai but had spent the night in the neighborhood and were trapped by the concertina wire. The soldiers refused to let them pass.

"I am sure 99 percent of you are good people who are telling us the truth," Capt. Alan Blackburn, commander of the 3rd Armored Cavalry Regiment's Eagle Troop, 2nd Squadron, which was policing the area around Bel Air, told one of the men who wanted to go north. "But I am sure that there are a few people in that crowd who are not good people. And we don't have the facilities here to check them. You have to go south."

"I am not going unless you drive me in a tank," the man said. "There are no bad people in Sarai. If you come with me, I will take you to all the houses and you can see. The bad people are the Shiites in the south."

Late in the afternoon, the soldiers relented and offered a compromise. They told the residents they could exit to the north if they agreed to board military trucks bound for a base just outside the city where they could be processed and then released if they proved not to have ties to the insurgency.

"It sounds like a trick to take us south to the Shiites," one man said.

"We will go only if we can drive our own vehicles," another countered.

About 3 p.m., Lt. Col. Christopher Hickey, the Squadron commander, arrived to make a final plea. "I am trying to help you to get out of a very dangerous situation. You are going to be in danger if you stay here, I am telling you," he said. "Please, this is your last chance."

As he turned away from the crowd, one family emerged, with nine adults carrying baggage and eight children in tow. "Anyone else?" Hickey asked, beckoning. "Okay, then we will save these people," he said, and walked away.

Iraqi Army Takes Control Of Najaf (LAT)

By Ashraf Khalil And Edmund Sanders

The Los Angeles Times, September 7, 2005

NAJAF, Iraq — U.S. troops withdrew from this holy city in southern Iraq on Tuesday, an initial step in the military's effort to pull back from the country's urban centers and turn over authority to Iraqi forces.

Under waving Iraqi flags, U.S. commanders formally turned over control of Forward Operating Base Hotel, a square, concrete-walled American base on the edge of Najaf, a shrine city about 100 miles south of Baghdad that saw intense fighting last year.

"The Iraqi army is operating successfully throughout the region," said Lt. Col. James Oliver, the outgoing base commander, as he handed over the ceremonial keys to the base. "They are fully independent and capable of responding to all security needs. We are now here in a strictly advisory mode."

Najaf's hand-over scarcely could have been imagined last summer, when thousands of U.S. and Iraqi troops fought a pitched, three-week battle in the city against the militia forces of radical Shiite Muslim cleric Muqtada Sadr after the rebels seized control of several shrines. Hundreds died and much of the Old City was destroyed.

Calm was restored after followers of Grand Ayatollah Ali Sistani, Iraq's leading Shiite cleric, marched on the city and brokered a resolution. Since then, violence has flared sporadically in Najaf — just two weeks ago, six people were killed when

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clashes erupted between Sadr's forces and another Shiite faction — but commanders decided the situation had stabilized enough to warrant Tuesday morning's transfer of authority.

The withdrawal is partially symbolic because U.S. forces will maintain a sizable force at Forward Operating Base Duke, a much larger facility about 20 miles away. But the move is an important psychological benchmark because the U.S. military presence in Iraq's holiest city has long been a sore spot for Shiites in Iraq and around the world.

Najaf Police Chief Gen. Abbas Karim Moadel hailed the hand-over as "a historic moment" and a tribute to the growing capability of the Iraqi security forces.

The Hotel base, renamed Camp Karrar, is one of two dozen turned over to the Iraqi security forces so far, U.S. Army spokesman Lt. Col. Steve Boylan said.

Before the transfer ceremony, soldiers of the Shiite-dominated Iraqi battalion chanted, "We stand for Iraq!" and "Saddam is a coward!"

Despite Oliver's statement that the U.S. remained only in an "advisory mode," several Iraqi soldiers said they expected U.S. forces to continue regular patrols in Najaf. It "remains to be seen" whether U.S. patrols would continue, Boylan said.

Some Najaf residents expressed a hope that the American troops would stick around a while longer. A complete American withdrawal from Najaf could spark violent competition among different Shiite factions within the police and army, said Haidar Sayid Salman, owner of a stationery store in the Old City.

"I trust them to fight terrorism, but their loyalty is not to the government," Salman said, referring to Iraqi security forces. "I wish we were ready for [independence], but we're not."

As the transfer of authority in Najaf proceeded Tuesday, violence was reported in the capital and restive Al Anbar province.

In Baghdad, two U.S. soldiers were killed and two others injured Tuesday morning when their vehicle hit a makeshift bomb and rolled over.

On Monday, a Marine assigned to the 2nd Marine Division in Al Anbar was killed by an improvised explosive during combat operations in Ramadi. Names of the dead were withheld pending family notification.

Fighting continued late Monday night near the Syrian border, where battles broke out last month between two rival tribes, one aligned with the Iraqi government and the other with insurgents led by Jordanian-born militant Abu Musab Zarqawi.

In a midnight attack, U.S. warplanes bombed two small bridges spanning the Euphrates River near Karabila. Military officials said insurgents used the bridges to move foreign fighters and equipment to central Iraq.

Marine F/A-18D jets damaged the bridges with concrete-filled bombs but did not destroy them, the military said.

In a related raid, U.S. troops attacked a nearby safe house that they said was being used by foreign fighters.

Two suspected foreign fighters were killed and three were arrested, U.S. officials said. One coalition soldier was wounded by "friendly fire."

Gunman Kills ‘one Of The Best' Explosives Experts (USAT)

By Rick Jervis

USA Today, September 7, 2005

BAGHDAD — Haqy Asaad made a living snipping wires off bombs around Baghdad.

He was once flung back from the force of a roadside bomb that detonated prematurely, killing a colleague but only slightly wounding him.

In July, he carefully defused an explosives vest worn on a would-be suicide bomber outside the Green Zone, the fortified area housing U.S. and some Iraqi government offices.

He earned the nickname “Robot” from U.S. advisers for his dogged disarming of insurgents' bombs and was profiled in USA TODAY in July.

Asaad, an explosives expert with the Interior Ministry, was killed last week, not by bomb shrapnel but from a gunshot wound to the gut.

Gunmen ambushed him down the road from his home in southern Baghdad on Aug. 30. Officials are investigating the incident but believe Asaad was targeted by insurgents because of his job, said Brig. Hussein Muhssin, his supervisor.

Asaad was the eighth person in his unit to be killed either by bombs or insurgents. “I lost one of the best members of our department,” Muhssin said. “He was so devoted to his work, very daring, brave and smart. But he was always in a rush. I warned him so many times our work needs to be cautious, accurate.”

U.S. troops operating in Iraq are working to hand over security responsibilities to Iraqi units such as Asaad's. An increasing number of Iraqi troops are manning checkpoints, policing streets, leading raids on suspected insurgent hide-outs and disarming roadside bombs.

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Unlike U.S. troops, however, who live in heavily fortified camps, many Iraqi security personnel return home each night to regular neighborhoods, leaving them susceptible to attacks from guerrillas.

Asaad, 38, was part of the 13-member Criminal Investigations Directorate/Explosives Ordnance Detachment. He was paid the equivalent of $330 month, a large salary by Iraqi standards, to disarm roadside bombs and car bombs discovered before they detonated.

Asaad had worked as an explosives expert with the Interior Ministry under Saddam Hussein. He lost his job in 2003, when former members of the ruling Baath Party were expunged from government under the U.S.-led Coalition Provisional Authority, Muhssin said. But U.S. military officials rehired him last fall and dispatched him to Florida for explosives training, he said.

Armed with little more than a pocket tool, Asaad grew adept at defusing roadside bombs, the weapon of choice for insurgents, Muhssin said. He learned how the devices worked and would mouth the common Muslim refrain — "There is no god but Allah, and Mohammed is the messenger of Allah" — before each crucial snip, Asaad said in the USA TODAY article.

Each month, he would hand over to U.S. explosives experts about 120 munitions — including mortar and artillery shells — collected from defused roadside bombs, said Maj. Alayne Conway, a spokeswoman with the Army's 3rd Infantry Division, which worked with Asaad.

"I can't just leave these bombs in all these neighborhoods," Asaad said in July. "I want to live in a peaceful Iraq someday."

In July, Asaad neutralized a bomb worn by a would-be suicide bomber. The bomber had been hit with shrapnel from another suicide bomber, leaving him nearly unconscious. Asaad disarmed the bomb and slipped the vest off the assailant to the cheers of U.S. and Iraqi personnel watching from a distance near the main entrance to the Green Zone.

"He was setting a standard for other Iraqis to follow," Conway said. "He knew that if he didn't do it, no one else would."

Asaad's success at his job was also making him a target among insurgents. He had received several threats the past few months, Muhssin said.

The latest one, scribbled on a sheet of paper and dropped in the garden outside his home last month, called him a "traitor and spy" and warned he would be killed if he didn't quit his job, Muhssin said.

On Aug. 30, Asaad called in sick, complaining of stomach pains. As he took a walk from his home in Baghdad's Dora neighborhood, witnesses saw two cars full of men, their faces concealed behind scarves, approach Asaad, Muhssin said. One jumped out and shot Asaad in the abdomen.

Asaad's wife called the police and accompanied her husband to Baghdad's Yarmouk Hospital, Muhssin said. In the back seat of the police car, Asaad told her to take good care of herself and their three children, ages 8, 15 and 17.

He died upon arrival at the hospital.

Intimidation, Attacks Take Toll On Contractors In Iraq (USAT)

By Rick Jervis

USA Today, September 7, 2005

BAGHDAD — Attacks on contractors working on U.S.-funded projects in August reached one of the highest levels in the past year.

Insurgents killed seven contractors and injured 11 last month, according to the U.S. Project and Contracting Office in Baghdad. Sixteen more contractors were suspected or confirmed kidnapped.

"August was real bad," said Karen Durham-Aguilera, director of programs in the contracting office. "We've had to stop projects because of it."

August was the second most violent month since the contracting office began keeping records on the violence in September 2004. The worst was November, with nine deaths.

Most of those attacked were Iraqis working on U.S.-funded projects. Of the 34 people who were killed, wounded or went missing in August, 32 were Iraqis. None was American. Iraqi contractors, who rarely have security, are more vulnerable to attack than U.S. and some foreign contractors, who generally travel in armored convoys with armed security.

An important part of U.S. strategy in Iraq is to rebuild its aging infrastructure as a way of winning over Iraqis and undermining the insurgency. But insurgents are interfering with this by targeting contractors.

Security costs have chewed away at the $18.4 billion appropriated by Congress last year for reconstruction in Iraq. Last year, $5 billion of that was redirected to training and equipping Iraq's security forces, a move that resulted in the cancellation of some projects and scaling back others.

"Security is our biggest challenge," said Brig. Gen. William McCoy, an Army Corps of Engineers commander in Iraq. "We're losing a lot of contractors to a campaign of intimidation and terror."

Most recently, an Iraqi contractor recruiting security guards for reconstruction projects in Mosul was kidnapped last week and later killed, said Lt. Col. Stanley Heath, an Army Corps of Engineers spokesman.

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In another incident, a supervisor for a Fallujah police station project was killed in his home on Aug. 19. The murder of the Iraqi supervisor prompted the contractor to halt construction on that and three other Fallujah police stations, Heath said.

A terrorist known as Abu Bakr, who leads a splinter cell of al-Qaeda in Iraq, specializes in disrupting reconstruction and is behind many of the attacks, McCoy said.

"He goes to sites, handing out workers a letter saying, 'I know where you live, and I'll kill you and your family,' " McCoy said. "He's out there kidnapping and killing these people."

Despite the threat, reconstruction projects continue. The Army Corps of Engineers says more than 1,700 projects have been completed since June 2004.

Sadr City Success Story (LAT)

By T. Christian Miller

The Los Angeles Times, September 7, 2005

BAGHDAD — Crammed into armored Humvees heaving with weapons, Lt. Col. S. Jamie Gayton and his soldiers were greeted by a surprising sight as they rolled into one of Baghdad's poorest neighborhoods.

Men stood and waved. Women smiled. Children flashed thumbs-up signs as the convoy rumbled across the potholed streets of Sadr City.

It was a far more welcoming scene than the urban war zone of a year ago, when U.S. troops and black-clad guerrilla fighters battled in the narrow alleys of the squalid slum.

"We're making a huge impact," Gayton said as his men pulled up to a sewer station newly repaired with U.S. funds. "It has been incredibly safe, incredibly quiet and incredibly secure."

Sadr City has become one of the rare success stories of the U.S. reconstruction effort, say local residents, Iraqi and U.S. officials. Although vast swaths remain blighted, the neighborhood of 2 million mostly impoverished Shiites is one of the calmest in Baghdad. One U.S. soldier has been killed and one car bomb detonated in the last year, the military says.

The improvements are the result of an intense effort in the wake of the street battles last August with fighters loyal to anti-American cleric Muqtada Sadr. Within a month, U.S. officials decided to make Sadr City a showcase for rebuilding, and increased spending to $805 million in a neighborhood long neglected under Saddam Hussein.

Having covered the U.S. reconstruction effort in Iraq for the last 22 months, I decided to take a measure of progress by going back to the same people I interviewed last August, in addition to talking with U.S. and Iraqi officials involved in the program.

Their stories provide insight into why the rebuilding of Sadr City is an impressive, if imperfect, accomplishment in Iraq, where many projects remain incomplete and U.S. promises unfulfilled.

Unlike elsewhere in Iraq, where the reconstruction fell under the purview of a hodgepodge of U.S. civilian agencies, the American military provided sustained, focused leadership in a limited geographic area. That focus provided the oversight needed to coordinate the military's efforts with those of the U.S. Agency for International Development and the Pentagon's Project and Contracting Office, the primary reconstruction agencies.

The rebuilding also held more immediate significance among mid-level commanders in the field than among higher-level Pentagon officials preoccupied with fighting the war. The field officers focused on short-term, high-visibility projects such as cleaning up trash and digging wells, instead of massive new water treatment plants or power stations that take years to build. They also hired local Iraqi contractors, who in turn employed many of the militia members who had once battled U.S. troops.

Finally, unlike the U.S. multinationals contracted to build large infrastructure projects, the military did not have to rely on expensive security contractors for protection. That enabled soldiers to more easily communicate with Iraqis, monitor progress and overcome problems.

The results can be seen in the life of Ahmed Kadhem, who spent much of August 2004 huddled with his family inside their home as the war raged outside. The family had limited electricity, no water and no sewer connection.

A year later, his family remains without those basic services. But he has seen improvements all around him. And he is ready to give the Americans a chance.

"There is some movement," he said last month. "People have taken note."

The effects of the U.S. effort were apparent on a recent visit to Sadr City.

At the newly repaired sewer station, a local family guarding it greeted Gayton like an old friend; he had visited several times before.

Haita Zamel showed Gayton how the local sewer authority was fixing a problem that had developed in one pump. She proudly showed off the small home that had been built on the site to replace a dilapidated trailer where her family of six once lived. She even asked Gayton for computer software to teach English to her children.

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"When you tell me something, I know you'll do it," she said, clutching tightly at the white scarf covering her head. "To the last day of our life, we are with you. Us and all of our neighbors."

Gayton and his men clambered back into the Humvees and moved on. A few minutes later, he ordered his driver to make a random stop in front of a group of stores where water lines had been installed. He wanted to make sure the water was flowing.

As a crowd gathered, the shop owners acknowledged better water. But they complained about electricity, saying that power lines were being installed at nearby shops but not theirs.

Gayton smiled. The military had divided Sadr City into four segments, each targeted for different improvements such as new sewers or clean water. That way, each area saw the improvements going on in the others, providing proof of progress and an incentive to remain cooperative.

"Everything happens one step at a time," Gayton told the men.

"We have to cooperate with the Americans. We know," said shopkeeper Amed Ali Ibrahim.

But the continuing risks were evident a moment later. As Gayton and his men roared away, one soldier, fearing a possible car bomb, fired into the ground to warn a vehicle that was getting too close.

Still, at each of half a dozen stops, the complaints were tempered by friendly banter and acknowledgment of improvements.

Residents and workers praised a health clinic being built at another site. But then they pointed in anger at a huge puddle of sickly green sewage blocking the entrance. Gayton promised to prod the Iraqis to make repairs.

"We are suffering," one worker, Jabbar Abed Khalef, told Gayton. Batting away flies, Khalef held up his shoes, coated in black muck. "Our children are sick. The road is blocked. It's a disaster."

But a moment later, Khalef was praising the U.S. for working more quickly than the Iraqi government.

"We know that if the Americans don't do it, the Iraqi government will take a long time," he said.

At the end of the run, Gayton appeared pleased. A tall, fit man with an easy command of figures, he appeared excited whenever the convoy passed a garbage truck at work. He said the investment made by the U.S. had paid dividends.

Last year, soldiers at Gayton's base were the target of more than 1,000 mortar strikes. This year, there have been none. There have been a handful of attacks on U.S. troops, mostly gunfire, and no clashes so far with Sadr's militiamen.

Gayton does not claim that the reconstruction alone has led to the decrease in violence. And he acknowledges that the militia members may well rise up again if commanded by Sadr.

But Gayton believes that fewer people will heed the call this time.

"Our goal is to provide them with hope so they see that tomorrow is better than today," he said. "We want them to look to the left and the right and say, 'Hey, joining hands with the [Iraqi] government and the coalition [forces] is going to help us more so than anybody else.' "

Kadhem doesn't deny progress. But it's easy enough for him to see the problems that remain.

His home is a one-story cinderblock house just off Sadr City's main drag. The potholed boulevard slices through the 8-mile-square district, a ragged sprawl of low-slung homes and dingy shops. Street vendors hawk everything from fat, ripe watermelons to AK-47s. Cars, trucks and horse-drawn wagons choke intersections. Sheep and goats wander through the filth.

Last August, Kadhem and his family of four were trapped in their house, a long, narrow structure with a threadbare rug, bare concrete floors and a fluorescent light that flickered to life during the rare occasions when electricity flowed.

The frequent blackouts meant that the temperature inside soared to 130 degrees. The stench of a pool of sewage just outside wafted in on the occasional hot, humid breeze.

"They said they were going to fix many things, and still nothing has happened," Kadhem said at the time, with fighting in the streets outside. "If the Americans had done well, most people would be with the Americans and we would not have these problems."

A year later, the blackouts are more frequent; his water remains undrinkable. The pond of sewage is gone — but that's only because Kadhem and his neighbors took up a collection and paid a private contractor to come and clean it up.

"No government has helped us," said Kadhem, a slight man with a Van Dyke pointy beard and a quick, broad smile. "We have helped the government."

Kadhem remains suspicious of the American presence in Iraq. Still, when members of Sadr's militia came around with a petition demanding the withdrawal of the Americans, Kadhem and his wife did not sign.

"We refused to sign not because we love the occupiers or to be your friends, but I really believe that if the Americans leave Iraq now, it'll be chaos," Kadhem said. "Nobody loves the occupier. But there's no alternative."

Despite his hesitance, Kadhem acknowledged that things had gotten better.

His four children can play in streets now free from fighting. Among other evident improvements, Kadhem and his wife, both teachers, have seen their schools painted, books and supplies donated and new classrooms and bathrooms built.

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But Kadhem has benefited most in two ways: First, and most important, Hussein's ouster has meant new opportunities for once-repressed Shiite Muslims. And second, his pay increased tenfold because of a state worker salary hike implemented under L. Paul Bremer III, the U.S. civilian administrator in Iraq at the time.

Kadhem took the extra money and his newfound freedom and decided to open a business.

A talented carpenter, he opened a workshop in northern Baghdad, where services are markedly better because they weren't subjected to deliberate neglect during Hussein's rule. The streets are paved, and clean water comes from the tap.

He now spends every free moment from his teaching career at the store, a narrow garage on the first floor of a home in a middle-class neighborhood of Sunnis and Shiites. In one corner sits a graceful, curved headboard made of wood imported from Malaysia. In another sits a partially completed bedroom set, built from a picture in a catalog.

On one recent morning, several customers stopped by to check on the progress of their orders. Kadhem's son and two other employees flitted in and out, carrying wood, sodas and supplies. Sawdust flew through the air and a generator chugged to power a band saw.

Kadhem proudly showed off his venture. As a young man, he had always wanted to be an artist. Now, he was finally putting his skills to use in woodworking.

Kadhem said that for the first time, he could imagine a future for his children better than his own.

"Things are different. Before, we felt afraid. Now, there is freedom and we feel there will be a solution and it will be better," he said. "At this stage, we have to endure.

"The change from a dictatorship to a democracy is not easy."

Iraq President Says Saddam Confessed To Crimes; U.S. Hits Bridges (USAT/AP)

By The Associated Press

USA Today, September 7, 2005

BAGHDAD — Iraq's president said Tuesday that Saddam Hussein had confessed to killings and other crimes committed during his regime.

President Jalal Talabani told Iraqi television that he had been informed by an investigating judge that “he was able to extract confessions from Saddam's mouth” about crimes “such as executions” that the ousted leader had personally ordered.

Saddam's lawyers couldn't be reached for comment.

Talabani said that some of the confessions involved cases under investigation but he gave no specifics. Saddam faces his first trial Oct. 19 for his alleged role in the massacre of Shiites in Dujail in 1982. He could face the death penalty if convicted.

Also Tuesday, the U.S. military said four more Americans had been killed in action. One U.S. soldier was killed Monday in Tal Afar. Two others died Tuesday in a roadside bombing in Baghdad, and another was killed the day before near Ramadi west of Baghdad, U.S. command said.

The military also said Marine jets on Tuesday attacked two bridges across the Euphrates River near the Syrian border to prevent insurgents from moving foreign fighters and munitions toward Baghdad and other cities.

The airstrikes took place near Karabilah, about 185 miles west of Baghdad and one of a cluster of towns near the border used by foreign fighters to slip into Iraq.

Marine F/A-18 jets dropped bombs shortly after midnight on two Euphrates bridges. Hours later, a Marine jet destroyed a building used by insurgents to fire on U.S. and Iraqi forces, a military statement said.

One Iraqi soldier was wounded when Marines and Iraqi troops stormed the building, killing two foreigners and arresting three others, the statement said.

In Tal Afar, civilians were fleeing the city, 260 miles northwest of Baghdad, where U.S. and Iraqi soldiers have launched an offensive. Plumes of smoke could be seen rising from the city, which sits along a major trade and smuggling route to Syria.

“The people are suffering from lack of food stuff, drinkable water and blankets,” said Hazem Mohammed Ali, deputy chairman of a Turkomen association in Tal Afar.

To the south, U.S. forces handed the Iraqis control of the Shiite city, Najaf, once a scene of bitter conflict between American troops and militiamen. The transfer of U.S. Forward Operating Base Hotel means Iraqis are fully responsible for security in the city.

Oil-For-Food Probe: UN Needs Overhaul To Stop Fraud (WP)

By Colum Lynch

The Washington Post, September 7, 2005

UNITED NATIONS, Sept. 6 -- The U.N. Security Council and Secretary General Kofi Annan failed to adequately manage and police the $64 billion U.N. oil-for-food program, creating a permissive environment that enabled Saddam Hussein's

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government in Iraq to take billions of dollars in illicit kickbacks, according to the findings of a U.N. investigation to be released Wednesday.

The report by Paul A. Volcker, the former U.S. Federal Reserve chairman who heads the U.N. Independent Inquiry Committee, will portray a largely dysfunctional, leaderless international effort to operate the humanitarian relief effort for Iraq from December 1996 until the U.S.-led invasion in March 2003. Volcker will urge world leaders attending a Sept. 14 summit on U.N. reform to support steps to strengthen the quality of independent oversight of the organization's spending.

"To settle for less, to permit delay and dilution, will invite failure, further erode public support, and dishonor the ideals upon which the United Nations is built," says the preface of Volcker's report.

The document, which is expected to exceed 700 pages, is the fourth and most comprehensive report by Volcker's panel and will summarize previously published findings while offering new details of abuses in the program.

Among those conclusions, the report will say that Iraq's neighbors, including Jordan, Turkey and Syria, violated U.N. sanctions by smuggling billions of dollars of Iraqi oil from Hussein's government, U.N. sources said. The report will also fault key Security Council members, including France and Russia, for impeding efforts to reform the oil-for-food program. And it will criticize the United States for doing too little to discourage allies in the region from violating the sanctions and by abetting the smuggling of Iraqi oil by Jordan immediately before the invasion, the sources said.

"The committee report documents how differences among member states impeded decisions, tolerated large-scale smuggling, and aided and abetted grievous weaknesses in administrative practices within the [U.N.] Secretariat," says the preface, which was released Tuesday. "As the years passed, reports spread of waste, inefficiency, and corruption, even within the United Nations itself. Some was rumor and exaggeration, but much -- too much -- has turned out to be true."

The U.N. program was established to allow Iraq, which was under a U.N. trade embargo following its 1990 invasion of Kuwait, to sell oil and use the proceeds to buy food and medicine and pay billions of dollars in war reparations. The report to be issued Wednesday says the program achieved "important successes" by improving nutritional and health standards and by undermining Hussein's efforts to build weapons of mass destruction. But it says the United Nations allowed Hussein to abuse the program by bribing U.N. officials and by forcing hundreds of companies to pay kickbacks in exchange for the right to trade in oil and humanitarian goods. The abuses cast a "dark shadow" over the program, Volcker's report says.

The oil-for-food scandal has triggered federal criminal investigations and several congressional probes of the United Nations' management of the program. The U.S. attorney for the Southern District of New York has charged two Russian nationals with wire fraud and money laundering. One of them, a U.N. procurement officer who has pleaded guilty, was cited in a previous Volcker report for soliciting a bribe from a Swiss company seeking to do business in the oil-for-food program and for receiving more than $950,000 in bribes from contractors in other U.N. programs.

Volcker's new report will sharply criticize Annan's oversight of the oil program as lax, citing "serious instances of illicit, unethical, and corrupt behavior" by U.N. officials under his watch. The report will draw attention to administrative shortcomings by the nine U.N. humanitarian agencies, including the U.N. Development Program and Habitat, the main housing agency. It also will accuse the 15-nation Security Council of providing "uncertain, wavering direction" to U.N. officials running the program. "Neither the Security Council nor the Secretariat leadership was clearly in command," the preface states.

Annan conceded in an interview with the BBC on Monday that "mistakes were made" in managing the program, but he insisted that there were "concessions that had to be made to get Saddam Hussein to agree."

"I accept responsibility for inadequacies and failures," he told the BBC. But "when it comes to Iraq, on this issue, no one is entirely covered in glory. . . . Honestly, I wish we had never been given that program, and I wish the U.N. will never be asked to undertake that kind of program again."

The Volcker panel singled out Annan's son, Kojo, for abusing diplomatic privileges extended to his father. The report claims that Kojo Annan received a $3,000 loan in 1998 to buy a $39,000 Mercedes-Benz from an executive of a Swiss company, Cotecna, that was trying to do business with the United Nations through the oil-for-food program, according to a member of Volcker's staff.

The report will also assert that Kojo Annan obtained thousands of dollars in diplomatic benefits -- including breaks on taxes and customs fees -- from the transaction by falsely claiming that he was purchasing the car for his father, according to the staff member. The sale was first reported by Time magazine. Efforts to reach Kojo Annan's attorney last night were unsuccessful.

Panel Hits U.N. On Oil-for-food Failures (WT)

By Betsy Pisik

The Washington Times, September 7, 2005

NEW YORK -- An outside accounting of the U.N. oil-for-food program strongly criticizes the world body for failures ranging from a lack of oversight by the Secretariat to political interference from the Security Council, which established it.

The Independent Inquiry Committee (IIC) is expected to formally absolve U.N. Secretary-General Kofi Annan in the awarding of a key contract to his son's former employer when it issues its final report today.

But a five-page preface, which became public yesterday, makes clear that the commission, headed by former Federal Reserve Chairman Paul Volcker, will not spare Mr. Annan's administration from a harsh assessment of its management capabilities.

The 1,000-page report comes only a week before world leaders gather at the United Nations for a summit devoted to strengthening and defining the organization for the 21st century.

"The committee reports reveal serious instances of illicit, unethical and corrupt behavior with the United Nations," according to the IIC, which also finds "wholesale corruption" by companies doing business with Saddam Hussein.

The IIC was created by Mr. Annan, authorized by the Security Council, and financed with $35 million from the same aid program it is investigating.

In three previous reports, the IIC investigated the quest for kickbacks and bribes by former U.N. officials, detailed misuse of funds and document-shredding by senior officials, and chipped away at management structures that failed to catch wrongdoing.

Today's report will examine the roles of the U.N.'s administrative staff, the Secretariat, in managing the program, and the nine primary U.N. agencies that carried out the humanitarian and reconstruction work in Iraq.

It also will address the political sensitivities that compromised the Security Council's ability to make important decisions; the "grievous absence" of effective auditing and management controls; and the inability to track expenditures across agencies and programs.

"The inescapable conclusion from the committee's work is that the U.N. organization needs thoroughgoing reform -- and it needs it urgently," the authors conclude.

The panel suggests that the secretary-general create a post of chief operating officer to oversee administration and coordination.

The Security Council, which winnowed Iraq's shopping list and vetted contracts from vendors through a committee, comes in for plenty of criticism.

From the beginning, the council allowed Saddam's regime too much power over the design and implementation of the program, it says. In an unusual move, diplomats were allowed to control program operations rather than just give advice.

At the end of the day, the IIC finds, neither the council nor the Secretariat was in clear control.

"When things went awry -- and they surely did when troublesome conflicts arose between political objectives and administrative effectiveness -- decisions were delayed, bungled or simply shunned," the report says.

U.N. officials yesterday declined to comment on the preface. But Mr. Annan told the British Broadcasting Corp. this week that the organization had been ill-equipped to take on a project as complex as the oil-for-food program.

"I suspect that there will be lots of criticism," Mr Annan said. "Honestly, I wish we were never given that program."

The IIC, found that the program did, in fact, accomplish its two primary objectives -- feeding ordinary Iraqis who were hurt by U.N. sanctions, and depriving Saddam of weapons of mass destruction.

But with charges of waste, inefficiency and corruption "those successes fell under an increasingly dark shadow," the preface says.

Although the report will run close to 1,000 pages, the panel stresses that investigators from 28 countries still don't have a complete picture.

"Constraints of time, concerns for personnel security in Iraq and lack of full cooperation by some member states and individuals means that examination of some parts of the program have been less detailed than others," the forward says.

Annan Failed To Curb Corruption In Iraq's Oil-for-Food Program, Investigators Report (NYT)

By Warren Hoge

The New York Times, September 7, 2005

UNITED NATIONS, Sept. 6 - A yearlong investigation has concluded that Secretary General Kofi Annan failed to curb corruption and mismanagement at the United Nations, but it did not find evidence to support charges that he improperly influenced the scandal-tainted oil-for-food program.

"His sins were ones of omission basically; there were things that he might well have done and should have done that he didn't do," a senior investigator said Tuesday.

Typical of the lapses, the investigator said, was Mr. Annan's failure to look more thoroughly into the activities of his son, Kojo Annan, to see if his working for a company that received an oil-for-food contract posed a conflict of interest for his father.

The committee, led by Paul A. Volcker, a former chairman of the Federal Reserve Bank, found no evidence that Kofi Annan knew about the contract, but it found instances where Kojo Annan did try to influence it, and in general exploited his father's name, the investigator said.

In one incident, he said, Kojo Annan bought a new Mercedes using his father's name, which yielded him a diplomatic discount and enabled him to import the vehicle to Ghana without paying import duty.

The report, to be released on Wednesday, also details an instance in which Mr. Annan's predecessor, Boutros Boutros-Ghali of Egypt, was the target of an effort to exploit the oil-for-food program.

It says that an Iraqi-American businessman, Samir Vincent, and a Korean lobbyist, Tongsun Park, tried to pass $1 million to Mr. Boutros-Ghali but that there was no evidence that Mr. Boutros-Ghali had received or agreed to receive the money.

The report says that Iraq also tried to secure another high level contact at the United Nations in 1997 when Mr. Park invested $1 million of Iraqi money in a company controlled by Maurice Strong, a Canadian entrepreneur then serving as Mr. Annan's coordinator for United Nations reform. The committee said it found no evidence that Mr. Strong himself was involved.

Mr. Vincent pleaded guilty earlier this year to federal charges of illegal lobbying for Iraq. Mr. Park, who was also charged, is believed to be in South Korea. Mr. Strong stepped aside from his post as Mr. Annan's special envoy to North Korea because of past associations with Mr. Park, and the United Nations announced in July that his contract would not be renewed.

Mr. Volcker is to present the results of his $34 million inquiry to Mr. Annan and the Security Council in an open hearing on Wednesday.

The general conclusion of the 860-page report, the fourth and most definitive from Mr. Volcker's panel, is that the United Nations is inefficient, over-politicized, corrupt and in desperate need of immediate repair.

"The inescapable conclusion from the committee's work is that the United Nations organization needs thoroughgoing reform - and it needs it urgently," says the report's five-page preface, which was made public by The Associated Press.

The report comes a week before more than 170 presidents and prime ministers are due at the United Nations to update goals from the 2000 millennium summit conference and to approve sweeping changes to the way the United Nations is run.

The much disputed $64 billion oil-for-food program was intended to ease the effects of sanctions on the 27 million Iraqis by supplying them with food and medicine in exchange for letting Saddam Hussein export oil. But its manipulation by Mr. Hussein and illicit profits it generated for the Iraqi government caused it to become a lightning rod for critics of the United Nations, and provoked calls from Republican lawmakers in Washington for Mr. Annan's resignation.

Mr. Annan's spokesman, Stéphane Dujarric of France, said Tuesday that Mr. Annan intended to fill out his term, which ends in late 2006.

The report, while criticizing Mr. Annan, acknowledges that the United Nations Charter gives him the responsibility of being the chief administrative officer without the resources to meet the demands.

"Whatever the founders had in mind, the secretary general - any secretary general - has not been chosen for his managerial or administrative skills, nor has he been provided with a structure and instruments conducive to strong executive oversight and control," the preface says.

In an allusion to the widespread cronyism at the United Nations, it says that a secretary general must see to it that personnel choices are based on "professional competence" rather than on "narrow political interests of member states."

"The reality is that the secretary general has come to be viewed as chief diplomatic and political agent of the United Nations," the preface says. "The present secretary general is widely respected for precisely those qualities. In these turbulent times, those responsibilities tend to be all-consuming. The record amply reflects consequent administrative failings."

The investigator who described the report said the committee had produced conclusive figures showing that the amount of Mr. Hussein's profits from kickbacks and surcharges connected to the oil-for-food program amounted to $10.99 billion, while smuggling amounted to $1.8 billion.

The preface said the committee had found "instances of illicit, unethical and corrupt behavior" among lower ranking United Nations staff members in the field, but the investigator said the report would not detail it.

"You had thousands of new employees over there, hired on the spot without much vetting, with transactions made only in cash," he said. "You're living in a corrupt environment, you're pushed by political pressures, but whether senior officials are involved is another question. We're neutral on that. We have not been able to pin any of it down."

According to the preface, "wholesale corruption" took place among private companies that were manipulated by Mr. Hussein's government. The committee plans a separate report next month detailing the companies and the abuses.

In the only instances of corruption that the Volcker committee has uncovered at headquarters, Benon V. Sevan of Cyprus, the former executive director of the program, was accused last month of banking at least $147,000 in kickbacks and a procurement officer, Aleksandr V. Yakovlev of Russia, was found to have solicited a bribe, unsuccessfully, from a program contractor.

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Given the United Nations' international responsibilities, it is critical that it combat corruption, the preface said.

"Corrosive corruption, private and public, has been far too common, not least in the member states in which the United Nations has programs of economic and humanitarian assistance," the preface said.

Standing in the way of this, it said, was the "absence of a strong organizational ethic, an ethic that should permeate at its leadership and staff if the United nations is to command the respect upon which its work depends."

The investigator said he had sometimes asked himself whether the charges of corruption had been exaggerated.

"You can say, what the hell did you expect in a program this complicated, an international organization, political differences, it's kind of run of the mill and after all, the program was kind of successful getting food in there, maintaining sanctions," he said.

"But then another point of view is that the U.N. is the U.N., and they better try to meet very high standards because, with the sheer corruption in this world, maybe a good example by the U.N., considering all the corrupt places they have to work in, would help."

U.N. Naysayers Greet 60th Anniversary With Biting Documentary (NYSUN)

By Meghan Clyne

New York Sun, September 7, 2005

As the United Nations prepares to commence the 60th session of the General Assembly next week with a three-day summit on institutional reform, some of the world body's critics have readied suggestions of their own. An hour-long documentary film, "Broken Promises: The United Nations at 60," uses this year's milestone as an occasion to chronicle the organization's failings since its inception, and to raise questions about whether the world body should perpetuate itself for another 60 years.

The film, set for nationwide release this month, is the brainchild of an actor and activist, Ronald Silver, and the president of the Citizens United Foundation, David Bossie. Citizens United is a Washington, D.C.-based conservative advocacy organization that, among its other activities, produced "Celsius 41.11," one of the documentary films to emerge last year as a rebuttal to Michael Moore's "Fahrenheit 911." Mr. Bossie is a former chief investigator for the House of Representatives.

In "Broken Promises," Mr. Bossie turns his investigative instincts to the United Nations, to provide a "broad look ... to show just what the U.N. has successfully and not so successfully done in the last 60 years." The film, Mr. Bossie said, documents the world body's failures to intervene in massive human-rights abuses over the decades, and touches on recent financial scandals, including oil for food and the organization's proposed $1.2 billion renovation of its headquarters at Turtle Bay.

The documentary, which Mr. Bossie said cost around a half-million dollars to make, contains interviews with a diverse assortment of commentators. They include an Israeli politician and former Soviet dissident, Natan Sharansky; a former chief of the U.N.'s peacekeeping mission in Rwanda during the 1994 genocide, Romeo Dallaire, who is a retired Canadian general; a former Senate majority leader, George Mitchell, who, along with a former House speaker, Newt Gingrich, serves on an American congressional task force on U.N. reform, and the spokesman for Secretary-General Kofi Annan, Stephane Dujarric.

Among the issues the film addresses are the United Nations' failure to prevent genocide in Cambodia, in Bosnia, in Rwanda, and, most recently, in Dar fur, and the world body's failure to stand up to the murderous regime of the former Iraqi tyrant Saddam Hussein. The world body's treatment of Israel, too, is discussed, including its determination in 1975, in the form of resolution 3379, that Zionism is racism. Closer to home, the documentary features coverage of the organization's proposed renovation plans and the opposition from state lawmakers that has stalled U.N. hopes of expanding the Turtle Bay campus.

Two of the key players in that drama are also featured in the film: New York State Senator Martin Golden, Republican of Brooklyn, and the developer Donald Trump. Messrs. Golden and Trump testified before Congress about the renovation project in July, when Mr. Trump said the proposed costs of the refurbishment were exorbitant and offered to manage the project himself for a fraction of the price.

Mr. Bossie said "Broken Promises" would be the first documentary to turn a critical eye toward the world body, adding that he hoped it would bring another perspective to the discussions surrounding the 60th anniversary. Mr. Silver said that while U.N. reform has been a subject of ample discussion among journalists, politicians, and academics of late, part of the film's goal was to include in that dialogue American taxpayers, who, since they shoulder 22% of the world body's operating costs, have a special interest in ensuring that it lives up to its promises.

"We wanted to make it watchable and enjoyable regardless of how much information people had about the U.N.," Mr. Silver told The New York Sun, adding that he hoped a broadly accessible film would heighten public interest as debate over the United Nations escalates in coming weeks, with the imminent release of a report by the former Federal Reserve Board chairman, Paul Volcker, on the oil-for-food investigation, and of a report from the International Atomic Energy Agency on Iran's nuclear-weapons program.

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Mr. Silver, in a phone interview Saturday, said his desire to document the United Nations' shortcomings on film was born of a long-running disillusionment. Growing up in Manhattan, Mr. Silver said, the United Nations was for him a source of pride, a nearby symbol of triumph over tyranny and a beacon of global optimism.

"The U.N. meant the birth of Israel," Mr. Silver added, referring to U.N. resolution 181, which in 1947 established the state of Israel.

Even in better, earlier times, however, the institutional makeup of the United Nations boded ill for the world body's ability to carry out its stated mission, Mr. Silver said. "Broken Promises," he said, examines some of these structural flaws, which, over decades, resulted in the United Nations' corruption. He cited, in particular, giving two of five permanent seats on the Security Council to the Soviet Union and Communist China.

Messrs. Bossie and Silver both said "Broken Promises" is not intended to propagate a particular political agenda, to advocate elimination of the United Nations, or to act as a hit piece on the world body. Indeed, Mr. Silver said he was surprised and impressed by the level of cooperation from the United Nations, which granted the production team extensive access to its Turtle Bay facilities, Mr. Silver said.

The public will have its first glimpse of the film on DVD next week, when the documentary is released to coincide with the opening of the General Assembly on September 13, Mr. Silver said. The New York City release will take place September 27 at the AMC Empire Theater in Times Square. Those unable to catch the film on the big screen can visit www.brokenpromisesmovie.com, Mr. Bossie said, where, starting next week, they will be able to download a trailer and film clips. The Web site will also be a portal for ordering the DVD, which sells for $19.99 and will be available in stores next month.

U.S. Resident Freed From Baghdad Prison (WP)

By Carol D. Leonnig

The Washington Post, September 7, 2005

An Iraqi-born U.S. resident was released from a U.S. military prison in Baghdad yesterday, two days before a scheduled hearing on why the U.S. government had continued to detain him after clearing him of involvement in a mortar attack.

The government's decision to free Numan Adnan Al-Kaby comes less than a week after lawyers filed suit demanding his release. A federal judge had scheduled a hearing on Al-Kaby's case for Thursday afternoon, but the government yesterday asked that it be canceled and the complaint be dismissed as moot.

Al-Kaby was arrested in April in Baghdad after a mortar attack on U.S. forces, but in July a military tribunal concluded he was not involved and recommended his release. In court papers filed yesterday, Justice Department lawyers acknowledged that Al-Kaby had been declared not guilty, but they said the military received additional information shortly after that decision and completed its investigation Friday -- two days after Al-Kaby's lawsuit was filed. Officials formally concluded he could be released to his family in Iraq yesterday.

Al-Kaby was a neighbor in prison of Cyrus Kar, an Iranian American filmmaker who was arrested in May on suspicion that he was involved in a terrorist plot. Like Al-Kaby, Kar was cleared by a military panel and recommended for release but remained in jail until days after his family filed suit in July.

One of Al-Kaby's attorneys, Mark Rosenbaum of the American Civil Liberties Union's Southern California chapter, called the government's explanation "a baldfaced lie" and charged that the government was covering up a "huge scandal" involving illegal detention of potentially hundreds or thousands of innocent people in Iraq.

"It certainly makes you wonder how many more people have been sitting in military jails for weeks and months after they know the person is innocent," said Arthur Spitzer of the ACLU's Washington office.

The Justice Department declined to comment.

Iraq And The Arabs (WSJ)

The Wall Street Journal, September 7, 2005

One of the world's unremarked scandals is how little help Iraq's new government is getting from its fellow Arabs. And now Iraq's elected leaders are becoming increasingly vocal about that fact. On Monday Iraq President Jalal Talabani scored Arab leaders for their minimal-to-nonexistent diplomatic presence in Baghdad, and their failure to offer condolences or help in the wake of last week's stampede that left nearly 1,000 dead.

"We stood with our Arab brothers in their hard times," he said. "For instance, we sent a letter expressing our condolences on the terrorist attack which claimed a lot of innocent lives in Sharm el Sheik."

It's a fairly open secret, of course, that most Arab autocracies -- even supposedly "moderate" ones like Egypt -- are alarmed at the precedent of a successful Iraqi democracy. Still, it takes chutzpah to declare, as Arab League Secretary-General and former Egyptian Foreign Minister Amr Moussa did recently, that Iraq's new constitution is a "dangerous" document. We don't

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recall the Arab League voicing such concerns about Iraq's old regime, which was run by a man who recognized no limits on his power.

Encouraging Arab help in Iraq would seem to be a job for the State Department. But if Foggy Bottom isn't up to it, perhaps the White House should authorize U.S. Ambassador John Bolton to inform Arab nations -- whose heads of state will visit the United Nations next week -- that their relations with the U.S., and especially future economic and military assistance, depend on it.

Baseball In Iraq: As Pastimes Go, It's Anything But (NYT)

By Kirk Semple

The New York Times, September 7, 2005

BAGHDAD, Iraq - The opening pitch of the Northern Regional Junior Baseball Tournament last March was a slow ball that struck the dirt an inch behind home plate, bounced into the catcher's face mask and knocked him to the ground.

For anyone focusing on details, like skill, it may have seemed an inauspicious start. But to the players and the two dozen spectators, most of whom did not know the difference between a ball and a strike, the moment underscored something far more important: Baseball had come to Iraq.

Founded in the fall of 2003 by Ismael Khalil Ismael, a shop owner in Baghdad, the national league has grown to 26 full-fledged baseball teams in 18 provinces stretching from Nineveh in the north to Basra in the south. Using hand-me-down gloves and other cast-off equipment, much of it donated from the United States, the teams play on sandy lots, rutted pastures and soccer pitches.

"I'm doing it for the history of Iraq," he declared.

If this were the full outline of the league's narrative, it would be a rare, happy story for this troubled country. But like Iraq since the American invasion, the league, after less than two years in existence, has itself been torn by political infighting and charges of malfeasance that have cast its future into doubt.

And as if that were not enough, Mr. Ismael said he had been menaced by people who have who accused him of supporting an American cultural export.

"I'm under huge pressure," he said. "There is no freedom and democracy here. There is only plotting and conspiracy."

Mr. Ismael, 40, a former member of the national judo team, said he first heard of baseball when he was a child. His father had been working with an American contracting company building a dam near the northern city of Sulaimaniya, and the American workers would play.

The sport had also popped up at some private grade schools around the country, he said, though it never extended beyond physical education class.

In 1994, a cousin working at the Iraqi Embassy in Washington, sent him a supply of bats, balls and gloves - "enough for a team," recalled Mr. Ismael, whose physique these days is less outfielder and more home plate umpire.

But fearful that his interest in a decidedly American sport would antagonize Saddam Hussein, he shelved the idea. "My friends advised me not to fulfill my dream because I might be interrogated or put in prison," he recalled on a recent afternoon while sitting in one of four clothes and gift shops he owns in the lobby of the Babylon Hotel.

After the fall of Mr. Hussein's government, Mr. Ismael felt free to start the baseball league. In visits to sports clubs and college campuses, he mustered interest in the new sport, and held his first practice in November 2003.

In July 2004, the National Olympic Committee of Iraq admitted the league as a member and since then has budgeted more than $50,000 to support it. Called the Iraqi Baseball and Softball Federation, the league also includes 15 women's softball teams and a national baseball team, which has yet to play an international game.

The Olympic committee's contribution, Mr. Ismael said, helps to pay for equipment, salaries for himself ($150 per month) and his vice president ($60 per month), a $25 per month honorarium for each player on the national team, team travel and clinics for players, coaches and umpires.

Mr. Ismael said the amount was not enough to cover all the league's expenses and he says he has contributed thousands of dollars of his own to keep the organization alive. The scarcity of resources is so bad, he said, that teams in Baghdad need to practice on alternate days because there is not enough equipment to go around.

League officials have been particularly conflicted about whether they should approach the most obvious source of financing - the American authorities here - and how they might go about it.

On one hand, Mr. Ismael points out, he desperately needs help, both financial and instructional. But on the other hand, he does not want to appear to be supported by the Americans, thereby inspiring attacks by insurgents.

He has already received menacing cellphone calls and two e-mail notes from strangers questioning his devotion to what one writer, a Saudi man, bitterly called "an imported sport."

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That opposition - and the threat of something worse - has put Mr. Ismael in an unfortunate dilemma: a higher profile could invite more problems, yet without promotion the league can not grow.

"I've said this more than once: We are not bringing weapons of mass destruction to Iraq," he sighed. "We're only playing a simple game."

In spite of the threats, he has had surprisingly little trouble finding players. More than 200 people have attended his seminars and clinics, which he offers without charge.

"I like it because it's a new game in Iraq and it's exciting" said Yassir Abdullah, 21, a muscular second baseman on Baghdad's Salam, or Peace, team and a third-year student at the College of Athletic Education at Baghdad University. Like many players, he has caught only glimpses of American baseball in the background of movies.

The league took a bad turn in July when 15 players filed a complaint with the Olympic committee accusing Mr. Ismael of using the league's minibus for personal business and of providing them with substandard food and lodging during a road trip to Sulaimaniya. The committee has opened an investigation into the allegations.

A high-ranking committee official, Salman Abdul Hamza, suggested that the details of the league had probably overwhelmed Mr. Ismael. "He's a hard worker; he's doing a good job," Mr. Hamza said. "But some people may do good things in their job but administratively are not successful."

Mr. Ismael denies the charges and says they are part of an attempted power grab by people envious of his successes. At the same time, he has accused the president of the Olympic committee, Ahmed Assamarai, of underfinancing the sport in retribution for his refusal to allow Mr. Assamarai's son to run the league.

The spokesman for the Olympic committee denied that Mr. Assamarai had ever insisted that his son be put in charge of the league. Mr. Assamarai's son, the spokesman pointed out, lives in Britain.

The new season is supposed to begin sometime in September when the weather begins to cool down - Mr. Ismael said there was no particular opening day. The summer heat has made any regular practices absolutely unbearable, though on a recent afternoon, Mr. Ismael assembled a squad, including several players from the south, to put on a demonstration for a visiting reporter.

The players laid out the bases at the edge of a fallow soccer pitch, where the grass had grown to shin height and was full of dust from sand storms. A herd of cows and sheep grazed nearby. The players drew from a communal stockpile of gloves - most do not own their own - and took turns batting and running the bases.

There were a lot of wild throws, and few hits made it out of the infield. The shortstop was out of position, playing nearly on top of second base, and for some reason everyone referred to the catcher as "the umpire." Many players in the league said they had never seen the sport played by non-Iraqis; even Mr. Ismael has only seen college or professional players from abroad on instructional DVD's and videos.

But there was no shortage of enthusiasm. Ali Muhsen, the 27-year-old captain of the national team, said afterward that he dreamed of one day traveling to the United States with the Iraqi national team and playing the Americans.

Asked if beating the Americans was also part of the plan, he smiled bashfully and shook his head no.

The conversation went on but Mr. Muhsen remained silent, apparently reconsidering his answer.

"Inshallah," he finally said. "I hope."

Saudis Kill Top Militant, Ending Skirmish With A Qaeda Cell (NYT)

By Hassan M. Fattah

The New York Times, September 7, 2005

DAMASCUS, Syria, Sept. 6 - Saudi security forces finally overwhelmed a cell of militants holed up in a house in the Persian Gulf city of Dammam on Tuesday, ending a three-day siege. The bloody firefight was the latest in a string of confrontations between militants and security forces throughout the country.

Late Monday, the Interior Ministry announced that security forces had killed two militants on Sunday, including the No. 3 most-wanted militant in Saudi Arabia, Zaid Saad Zaid al-Samari, who was sought in connection with numerous attacks.

The militants took refuge in the seaside house on Sunday night and held security men at bay with heavy arms until Tuesday.

An Interior Ministry source, quoted by SPA, the official Saudi news agency, said security forces completed the operation in the Almubarakia neighborhood of Dammam by midday Tuesday. The agency said 4 policemen had been killed, 10 wounded and an unspecified number of militants killed.

"The security forces are currently securing and clearing the site where burnt remains are scattered," SPA reported.

A spokesman for the ministry said the gunmen were affiliated with a "deviant group," meaning Al Qaeda.

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Gunfire and explosions rocked the neighborhood for hours on Tuesday as security officers dropped from helicopters and laid siege to the villa.

At one point, an explosion blasted debris, and smoke billowed out of a neighboring building, The Associated Press reported, and then there was silence.

The three-day siege forced the closing on Monday of the United States Consulate in Dhahran, about 15 miles away.

In recent months, Saudi security forces have found themselves in almost weekly confrontations with militants. Since May 2003, Islamic militants have carried out numerous attacks, suicide bombings and kidnappings in the kingdom, including an attack on the United States Consulate in Jidda, mainly singling out Westerners in a bid to hamper the country's economy.

Surge In Saudi Oil Income Seen Aiding Fight On Terror (WT)

By Rasheed Abou-alsamh

The Washington Times, September 7, 2005

JIDDA, Saudi Arabia -- Record oil prices have sent Saudi revenues soaring and contributed to a sixfold increase in stock prices, but ordinary citizens are just beginning to feel the benefits, financial analysts say.

Economists hope that in time the surge will produce more and better jobs for young Saudis, reducing their interest in joining al Qaeda-linked terrorist groups that have been battling the government.

A midyear financial report by the Samba Financial Group, one of the largest and most profitable private banks in the kingdom, said oil revenue this year is expected to reach $157 billion, a 48 percent increase over 2004's oil revenue of $106 billion.

The Saudi stock market, meanwhile, has seen its capitalization grow from $82.1 billion at the end of June 2002 to $517.6 billion at the end of June 2005, or an increase of $435 billion in just three years.

"The increased wealth is beginning to trickle down to ordinary Saudis," said Ihsan Buhuleiga, a leading economist and member of the Shura Council, in an interview with The Washington Times.

While some economic analysts have expressed worries over an overheating stock market, Mr. Buhuleiga said he hoped to see the surge of new listings continue.

"The number of companies currently listed are only 80. In Oman, they have double that number. More Saudi companies should be listed, as this will encourage more job creation," he said.

Job creation is something the Saudi government desperately wants to achieve in order to stop young, unemployed Saudi men from being lured into joining terrorist groups.

While some foreign critics of the Saudi government worry that some of the increased oil revenues will find their way into the pockets of the terrorists, Anthony Cordesman, a specialist in Saudi affairs at the Center for Strategic and International Studies, thinks the new revenues will allow the Saudi government to both battle the insurgents and develop the country.

The spurt in oil revenue may also help the ruling al-Saud royal family to secure its popularity.

On Aug. 22, the government announced a 15 percent increase in the wages of all government employees, a move ordered by newly enthroned Saudi King Abdullah to garner popular support and to inject money into the local economy.

Even before the salary raise, Saudis had seen their per-capita gross domestic product grow from $7,437 in 1998 to $11,052 in 2004. Samba estimates per capita GDP in 2005 to reach $13,603.

However, Mr. Buhuleiga warned that the government must avoid spending profligately and establish a buffer fund to tide the country over during leaner times.

"We don't know where oil prices will be in five years from now. We need to create a public budget-stabilization fund, in which all oil revenue is deposited, in order to finance budget deficits," he said.

"I don't think we want to be in the situation again of having to borrow money from our pension funds to cover our deficits. The government regularly overspends its budget by 15 [percent] to 20 percent. They should stop doing so. We need fiscal responsibility."

Saudi Arabia's current total population is 26 million of which more than 5 million are foreign workers. Mr. Buhuleiga cites this as evidence of the kingdom's overwhelming dependence on foreign labor to keep the economy growing.

"It is not going to be the normal state of things in the next three years. We should be talking about developing the citizen. We need to learn from the extremely hard lesson we had in 1998 when oil went below $10 a barrel. We must continue with economic reforms to maintain our competitive advantage," the economist said.

Government spending on infrastructure and education was cut back in the late 1990s owing to the low oil prices on international markets.

The government began to catch up by allocating $21.3 billion toward building new roads, water-desalination plants and schools through 2006.

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1st Afghan At U.S. Academy Sees Move As Way To Help His Country (USAT)

By Tom Vanden Brook

USA Today, September 7, 2005

WEST POINT, N.Y. — The U.S. Military Academy accepted its first cadet from Afghanistan last month as that country takes its initial steps toward building a professional military after decades of war and unrest.

Shoaib Yosoufzai wears a slight smile, even after an all-night march that caps six weeks of training. The 20-year-old, who grew up under harsh Taliban rule, wants to learn to build bridges, dams, power plants and roads for his ravaged country.

"I want to study civil engineering so that I can work on practical things," Yosoufzai says. "We need that in my country. We need professional officers."

The U.S. Military Academy has taught international cadets for more than a century. Since it began tracking foreign students in 1889, West Point has had 324 international graduates from dozens of countries, says Capt. Robert Romans, the academy's international admissions officer.

Among them: Fidel Ramos, who became president of the Philippines; Anastasio Somoza, later the president of Nicaragua; and Jose Maria Figueres, who went on to become president of Costa Rica.

The Defense secretary decides which countries are invited to participate. Currently there are 140 countries eligible to send cadets to West Point, the Naval Academy in Annapolis, Md., and the Air Force Academy in Colorado Springs.

West Point has a limit of 60 international cadets a year. It currently has 55.

Yosoufzai's father, Hamdullah Yosoufzai, is a colonel in the Afghan army and dean of its new military academy. West Point officers have advised their Afghan counterparts in how to train cadets.

They're starting almost from scratch.

The Soviet Union invaded Afghanistan in 1979. Guerrilla forces chased out the Soviets 10 years later and toppled the communist government there in 1992. Factional fighting among warlords followed. In 1996, the Taliban, backed by neighboring Pakistan, seized Kabul, the capital, and installed a fundamentalist Islamic government that sheltered terrorists. A U.S.-led coalition ousted the Taliban in 2001 after the Sept. 11 attacks.

U.S. forces in Afghanistan recognized Yosoufzai as West Point material, and the U.S. Embassy in Kabul recommended him for admission, Romans says. Yosoufzai spent a year at the University of Nebraska at Omaha, polishing his English and adjusting to the USA.

"He had a little trouble at first with our food," Romans says. "Not a lot of burgers and fries in Afghanistan."

Yosoufzai agrees the transition has been rough at times.

"It is hard," he says. "I miss my family, my country, my friends. But if you can succeed here, you can succeed anywhere."

He says he wants to return to Afghanistan and help it make the transition to a modern society.

He's proved a quick study and today counts a young man from Burke, Va., as one of his best friends.

"I feel very proud to be his roommate," says Steve Hojnicki, 18, who, like Yosoufzai, comes from a military family. His father, Leon, belongs to the West Point Class of '81.

"Shoaib's country is going to need everything that this institution has to offer," Hojnicki says.

Despite War, Cadets Line Up For West Point (USAT)

By Tom Vanden Brook

USA Today, September 7, 2005

More than 10,000 applied for this year's 1,200 slots;

students 'prepared to accept the risks' of military service

WEST POINT, N.Y. — Geryah White, fresh from a 15-mile overnight march over rocks and gullies, stretches her legs and pronounces herself ready for more.

The challenge before her is four years of academic and military training at the U.S. Military Academy followed by five years of active duty in the Army.

"It's more mentally tough than physically tough," White, 19, says after her first six weeks at West Point. "It's just a matter of going one step further than you thought you could. I'm ready for the challenge. I'm ready for more."

White and the 1,200 other members of the West Point class of 2009 have the grades and test scores to get into almost any top school — one that wouldn't bring compulsory military service after graduation. Instead, they accepted this challenge, their eyes wide open to the dangers as American soldiers return home in flag-draped caskets or maimed by roadside bombs.

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The Army and Army National Guard are expected to miss their 2005 recruiting goals by several thousand new soldiers, but interest in West Point hasn't flagged. Applications reached 12,692 in 2003. They're down to 10,733 this year but still high by historical standards, says Lt. Gen. William Lennox, West Point's superintendent.

“These kids are volunteers,” says Lennox, who refers to the new class as the first of the post-9/11 generation. “They know about Iraq, Afghanistan, the war on terror.”

The message is driven home when they apply to the academy.

“We convey to them the dangers by being very frank about the job of being a lieutenant, probably being in harm's way with what's going on in the world,” says Col. Michael Jones, director of admissions at West Point.

A graduate of the academy receives a commission as a lieutenant.

The news of casualties in Iraq is unavoidable, and Kristina Dionne, 18, of Raymond, N.H., pays attention to it.

News of the death of the first female graduate of the academy since 9/11 reached the young cadets just days after they were formally admitted. First Lt. Laura Walker was killed with another soldier in Afghanistan when their Humvee struck a land mine Aug. 18.

“It's always something to think about,” says Dionne, who hopes to study Arabic and Russian and specialize in military intelligence. “But West Point trains you to handle it better than anywhere, and you have to be prepared to accept the risks.”

Parents, particularly mothers in the past few years, have expressed anxiety about military service, Jones says. Yet their children still come. Alumni say the cadets' attitude is patriotism mixed with a thirst for adventure and a youthful feeling of invincibility.

Col. Don Sando, West Point class of '81, says the new cadets may be aware of the dangers but feel they're immune to them.

Sando, based at Fort Benning, Ga., says he has seen enough 18-year-old infantry privates to know that many believe they're “bulletproof, indestructible.” He also sees “a basic motivation for adventure” among the young soldiers as well as a desire to serve their country.

The same holds true at West Point, he surmises.

“I suspect their motivations are as varied as there are faces in the crowd,” Sando says. “But I believe the fact that West Point offers so much more than an undergraduate education — to develop leaders of character for a lifetime of service — goes a long way.

“And the notion of selfless service remains strong in the American culture.”

John Wheeler, a 1966 academy graduate and Vietnam veteran, put it this way: “They may be just 15, 16 or 17 years old when they make that decision. But being young is no bar to figuring out the things that matter most in life.”

Family influence can sway a decision to attend West Point. Jeffrey Caslen, 19, has watched his father climb the ranks to brigadier general.

“I've been an Army brat my whole life,” says Jeffrey, who plans to study engineering. “This seems like a natural choice. There won't be the distractions here that there are at other colleges.”

Brig. Gen. Robert Caslen, class of '75, deputy director for the War on Terrorism at the Pentagon, beams a smile at his son.

“As a dad in the Army, I'm humbled that he chose to follow the same path,” the general says. “I'm anxious, too. There are huge demands and incredible sacrifices. His mom is tremendously nervous, too. It's one thing for her to see me off to combat and another with her son. She knows up close and personal the sacrifices.”

Gerald and Ann White recall signs at an early age of the woman daughter Geryah would become.

Gerald White remembers a take-charge little girl pulling herself up as a toddler and taking her first steps unaided. Ann White says Geryah tugged on a basket of laundry at age 2, insisting on carrying the load.

“She wanted everything in the right place,” Ann White says. “She's always had that inner drive to succeed.”

It came as no surprise, the Whites say, when their daughter announced her interest in West Point after attending a college fair in Tampa.

“She didn't have to do this,” Ann White says. “She had a choice of great universities, and she chose West Point.”

Gerald White has seen a photo of his daughter emerging from a room filled with noxious gas during her training this summer. She is grim-acing, but she got through it.

“When I saw that, I thought, ‘She can hang. She can hang,' ” he says. “She's a strong, determined, tough young lady. She's going to serve her country well. She's a soldier.”

As the first rays of peach-colored sun begin to burn off the fog obscuring the Hudson River Valley gorge, the new cadets sling 50 pounds of gear to the ground and take a break on the dew-slick grass on the steep grade of Victor Constant Ski Slope.

White says she thrives on challenges, physical and mental. That's what appealed to her about West Point, where she plans to study psychology and compete in track.

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She has calculated the dangers of military service, noting that the casualty rate is “very low in Iraq,” and says she's comfortable with the risks.

Since the 9/11 attacks, 26 West Point graduates have been killed in action.

“It comes with the job. You can't be naive about it,” she says. “But you could get hit by a bus walking down the street, too.”

Sweaty, smelly and smiling, the new cadets swill Gatorade. White gathers her gear and prepares to march again after a brief break.

“You know what they say,” she jokes. “It sucks to be here now, but it will be great to be from here in four years.”

DOJ:

Medals Of Valor To Be Given To Families Of 9/11 Heroes (STNIA)

By TERENCE J. KIVLAN

Staten Island Advance (NY), September 7, 2005

WASHINGTON -- Dozens of Sept. 11 family members are expected to travel here Friday to receive the Congressional Medal of Valor on behalf of the more than 400 firefighters and police officers killed at the World Trade Center.

The medals will be awarded by U.S. Attorney General Alberto Gonzalez in a ceremony at the Justice Department.

Relatives of the fallen first responders were notified of the event by Justice Department officials by telephone late last week. Free air fare was made available for the family members through a travel agency in the city.

Advertisement

Among the relatives planning to attend was Joanne Barbara of West Brighton, whose husband Gerard, a battalion chief, was among the 343 firefighters who died at Ground Zero.

She said in an interview that she had mixed feelings about the event.

"Of course, it will be an honor to accept the Medal of Valor for my husband," she said.

But Mrs. Barbara said the Justice Department should have informed the families of the ceremony much sooner. "Our weekend is going to be very emotional as it is," she said, referring to the 9/11 anniversary. "And they just added another event to it that we didn't know about."

"We are not just to put on exhibition," said Mrs. Barbara. "We have feelings."

Congress created the medal in 2001 to honor public safety officers who displayed "exceptional courage." Winners are selected through a peer review process conducted by an advisory board of ex-police officers and firefighters.

Congress specifically authorized the issuance of the medal to the first responders killed in the 9/11 rescue efforts at the World Trade Center and the Pentagon in legislation passed in 2002. It was co-sponsored by Republican Rep. Vito Fossella

A total of 428 rescue workers were killed at Ground Zero, including 37 Port Authority cops, 23 city police officers, three state court uniformed officers and two federal agents.

Among those killed were 78 firefighters from Staten Island, one city police officer and two Port Authority cops.

Altogether, 442 public safety officers died in the 9/11 attacks. They were certified by Gonzalez to receive the valor award in July.

The list was compiled from the list of 9/11 rescue workers whose relatives received benefits from the Public Safety Officers Benefits Program. The program provides tax-free payments of $250,000 to the families of first responders killed in the line of duty.

Terence J. Kivlan is Washington correspondent for the Advance. He may be reached at terence.kivlan@newhouse.com

CORPORATE SCANDALS:

Enron Defendants Cry Foul (WP)

By Carrie Johnson, Washington Post Staff Writer

The Washington Post, September 7, 2005

Defense lawyers for former Enron Corp. executives Kenneth L. Lay and Jeffrey K. Skilling have complained for years about the government's hard-nosed tactics in pursuit of their clients.

Now they are hoping for support from an unlikely source: the federal judge overseeing next year's fraud trial against the two.

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U.S. District Judge Simeon T. Lake III has scheduled a hearing in Houston for tomorrow to examine why only four former Enron employees have agreed to meet with the defense team. The judge has raised the prospect, employed in other cases, that he could privately inform a limited number of potential witnesses that they have nothing to fear by speaking with Lay's and Skilling's lawyers.

The judge's action comes in response to defense claims, made public yesterday in court filings, that prosecutors abused their power by warning Enron employees that it was not a "good idea" to help Skilling and Lay. A government lawyer also advised a critical, unidentified witness to "get rid" of his or her lawyer if the lawyer continued to talk with the defense, the brief said.

A grand jury continues to investigate misconduct at Enron, and prosecutors have said in court papers that they consider 114 people "unindicted co-conspirators."

Lake has not ruled that prosecutors at the Justice Department's Enron Task Force acted improperly. Even so, the judge said last week, Lay and Skilling had identified "a problem I am persuaded exists" in advance of a trial only four months away.

"Both sides have to have access to witnesses in order to try a case," Michael Ramsey, a defense lawyer for Lay, said in a telephone interview.

Daniel M. Petrocelli, Skilling's lead trial counsel, told the judge at a hearing in May: "There's hundreds of witnesses, and we can't get to anybody, and we need some relief."

Nearly three dozen former employees and those who did business with them have been charged with crimes in the Enron investigation. Several key figures, including finance chief Andrew S. Fastow and investor relations director Mark E. Koenig, pleaded guilty and agreed to testify against their former superiors.

The clash over access to witnesses is merely the first in a series of battles for control of the courtroom, the media and potential jurors who will be selected in January, experts said.

"As a general matter, witnesses refusing to talk to the defense is a huge problem," said Barry Boss, a partner at Cozen O'Connor LLP in the District who is not involved in the Enron case.

Unlike in civil cases, defendants who are charged with crimes do not automatically receive copies of written statements and information that witnesses provide to the government.

"The defense really doesn't have any clout" to force people to talk, said Stephen A. Saltzburg, a George Washington University law professor. Such concerns are increasingly common in sophisticated cases, he said. Defense lawyers for former WorldCom Inc. chief executive Bernard J. Ebbers cited similar problems as a basis for an appeal of his conviction for fraud and making false statements.

Lay, Skilling and former chief accountant Richard A. Causey, who is on trial with them, do have some guidance about the evidence marshaled against them -- in part because of the vast impact of Enron's 2001 collapse. The company's bankruptcy examiner filed several weighty reports citing e-mail messages and other documents. Congressional reports flagged other materials the government may use in its prosecution. And depositions of witnesses continue in shareholder lawsuits against Enron executives.

Defense lawyers for Skilling and Lay, however, say that 56 witnesses have invoked their constitutional rights against self-incrimination in connection with the civil case. Prosecutors have sought to postpone depositions of others, including Sherron Watkins, who sent Lay an anonymous letter in 2001 warning him that the company could implode in a wave of accounting fraud.

The Justice Department filed a motion late yesterday calling the defense brief "inflammatory."

"The government respects the right of any witness to meet or not meet with whomever they want," Justice Department spokesman Bryan Sierra said. "The majority of witnesses in this case are represented by experienced counsel who are in the best position to advise them on whether to meet with the government or defense counsel."

Sweden Will Prosecute Ex-CEO Of Insurer Skandia (WSJ/DJN)

By Maria Akerhielm, Louise Nordstrom and Janina Pfalzer, Dow Jones Newswires

The Wall Street Journal, September 7, 2005

STOCKHOLM -- Swedish state prosecutor Christer van der Kwast decided to prosecute Lars-Eric Petersson, former chief executive officer of insurer Skandia AB, for two cases of "severe" breach of trust.

Mr. Petersson was fired by Skandia in 2003 for his involvement in the lifting of a cap on a bonus-payment program to executives. The charges against him won't have any bearing on the 44.9 billion kronor ($6.02, or €4.83 billion) takeover bid for Skandia filed last week by Old Mutual PLC. The Old Mutual offer has to be approved by the Swedish company's board before Sept. 23.

Mr. Petersson's attorney, Torgny Wetterberg, told Dow Jones Newswires he doesn't understand the prosecutor's reasoning. In his view, the preliminary investigation should have been discontinued.

"As I see it, there are insufficiencies in the presented circumstances, and we find it peculiar that the prosecutor has made the assessment that there is intent in this case," Mr. Wetterberg said. He added that he was confident that a trial would lead to an acquittal.

Officials from Skandia weren't available to comment.

The state prosecutor said he will decide in early October whether he will prosecute two other former Skandia executives, Ola Ramstedt and Ulf Spaang.

Mr. Petersson is being prosecuted for abusing his position of trust when he, as Skandia's CEO, lifted the cap on the bonus program Wealthbuilder without approval from Skandia's board, the prosecutor said.

Mr. Petersson is alleged to have set payment of the program 185 million kronor above the amount authorized by the board. This, the prosecutor said, has caused considerable damage to the company, and, therefore, the crime is "severe."

The prosecutor said the second charge against Mr. Petersson relates to retirement payments.

Without approval from Skandia's board, he added retirement benefits under which his own benefits would always reach at least 97.1 million kronor, the prosecutor said.

Parallel to the civil process against Mr. Petersson, Skandia is currently involved in arbitration against him, relating to his involvement in benefiting from the lifting of the payment cap of the bonus program. The company is seeking 300 million kronor in compensation from Mr. Petersson. It had previously said it expected the outcome of the arbitration to be reached early next year.

The Debate On Auditing Must First Clarify Its Purpose (FT)

By Clare Canning and James Roberts

Financial Times, September 7, 2005

The statutory audit continues to generate headlines, with reforms being either supported or attacked. Expectations of the audit process can rapidly exceed what can reasonably be delivered. There is a danger that misconceptions about the audit's role will lead to counterproductive attempts to bolster the robustness of the audit opinion.

Take the debate over the effect of the introduction of international accounting standards, which partially replace the concept of "true and fair view" by "presents fairly". Some investor groups have argued that this undermines the robustness of the audit opinion, through a shift away from the traditional UK approach of over-arching judgments based on general principles towards a US style of "tick box" or rules-based audit processes.

The Financial Reporting Council has come out firmly against these concerns with a vote of confidence in the system, rejecting the notion that these technical reforms have weakened the UK audit. Ultimately it will be for the courts and regulatory bodies to determine whether this is the case. What seems certain, however, is that the FRC is unlikely to have won over all its detractors. Is there not a danger that the problem underlying this debate is the more fundamental issue of what it is that the investor and business communities think auditors do? What is the statutory audit designed to safeguard against? Until these questions are addressed and there is clarity between service providers and consumers, issues about the niceties of any particular reform seem academic.

Some of those expressing concerns appear to expect the audit to function like a form of commercial guarantee; a bastion against corporate scandal and a blanket protection for the company and its directors against their own commercial mismanagement. These expectations are misplaced. This firm has defended many misconceived lawsuits brought against auditors over the years. The problem often arises because the claimant has a skewed view of the auditor's role. The audit is not an exercise in verifying or double checking commercial management. Auditors do not underwrite a company's commercial viability. It is easy to forget that primary responsibility for safeguarding against corporate scandal can only lie with the business principals. One cannot help but surmise that the focus on the audit role is largely aimed, certainly in the context of litigation, at what is perceived to be behind the auditor – its deep pocket.

Let us assume that what the business community realistically understands it has from an audit is, not an insurance policy against any commercial error, but an opinion that a company's financial statements show a true and fair view at a particular point in time. Are the government's proposals to introduce a limited form of proportionate liability by contract for auditors then to be welcomed? No other professional is required in the same way to accept unlimited legal liability. Refusing limitation would only seem likely to encourage the profession to focus on the ticking of boxes to avoid the exposure of subjective judgments. Allowing auditors some scope to limit their liability should help to resist any trend for auditors to seek refuge in form over substance in the audit process.

The government is also considering introducing a criminal offence of "recklessly" giving an audit opinion. What exactly is involved in recklessness in this context is hard to define and even harder to apply. The mere risk of a prosecution may destroy an auditor's career. If, as is likely, the offence were to result in a risk of criminalisation in a swathe of circumstances, this too

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would create irresistible pressure towards form over substance. Excessive criminalisation would also frustrate swift and effective operation of the regulatory regime and civil litigation.

How unattractive does auditing need to become before the big four and others find it impossible to recruit quality staff and encourage their best partners to stay in audit? It may be that there is more that unites auditors, investors and the public when it comes to what will really bolster the giving of robust audit opinions. Conversely, initiatives based on unrealistic expectations will only fuel more speculative, expensive and ultimately unsuccessful litigation. That cannot be in the investment communities' interests.

Clare Canning is head of commercial litigation and James Roberts an associate in the commercial litigation team at Barlow Lyde & Gilbert, who currently act for Ernst & Young in the Equitable Life litigation

Morgan Director Resigns, A Sign That A Reorganization Is Likely (NYT)

By Landon Thomas Jr.

The New York Times, September 7, 2005

Michael A. Miles, a Morgan Stanley director with close ties to the former chief executive, Philip J. Purcell, has resigned from the board, the bank said yesterday.

The move, which was expected, is the latest signal that the new chief executive, John J. Mack, intends to reorganize a board that during the battle over Mr. Purcell's leadership became a lightning rod for criticism and remains the target of several shareholder lawsuits.

A former chief executive of Philip Morris, Mr. Miles, 66, was one of the original directors of Dean Witter when the investment bank was spun off from its parent, Sears, in 1993.

As head of Morgan's nominating committee, Mr. Miles was an architect of a board that included several former chief executives, many of whom lived in the Chicago suburbs, who defended Mr. Purcell in the years after the Dean Witter Morgan Stanley merger.

"I believe there is always a need for change and refreshment in any organization," Mr. Miles said in his letter of resignation.

A longtime director with years of boardroom experience - at one time he was on seven boards in addition to Morgan Stanley - Mr. Miles was one of Mr. Purcell's closest advisers during the bitter dispute with the group of eight dissident executives who were calling for Mr. Purcell's resignation.

From the beginning, Mr. Miles defended Mr. Purcell's record and, even as other directors began to waver, he remained a vocal critic of the campaign being waged by the retired executives, known widely as the group of eight.

While his resignation is the first since Mr. Mack became chief executive, another director with ties to Mr. Purcell, Edward A. Brennan, the former chief of Sears, will not stand for re-election next year because he will have exceeded the board's age limit of 72.

Mr. Mack has already welcomed three new directors - Charles H. Noski, a former chief financial officer at AT&T; Roy J. Bostock, a former advertising chief executive; and O. Griffith Sexton, a former Morgan Stanley executive and professor of finance at Columbia Business School.

Firm Sues To Block Mutual Fund Fee Inquiry (NYT)

By Riva D. Atlas

The New York Times, September 7, 2005

J.& W. Seligman & Company, a New York investment firm, sued the state's attorney general, Eliot Spitzer, yesterday, asserting that he had overstepped his authority in his investigation of improper trading in Seligman's mutual funds.

The lawsuit, filed in Federal District Court in Manhattan, seeks to suspend Mr. Spitzer's ability to investigate "allegedly excessive advisory fees paid to Seligman."

Seligman, founded in 1864 and one of the nation's oldest investment firms, is one of the few mutual fund managers that have yet to reach a settlement with Mr. Spitzer regarding market timing in its funds.

Market timing - the rapid trading in and out of mutual funds - has been the focus of an investigation made public by Mr. Spitzer two years ago this week.

The attorney general and other regulators have accused fund managers of permitting favored investors to make short-term trades, even when their public filings indicated that they discouraged the practice.

A long list of fund companies have agreed to ban the practice, and to pay about $3 billion worth of fines, restitution and fee reductions to investors harmed by the trading.

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In recent months, however, some parties have begun to challenge Mr. Spitzer in the mutual fund investigation and beyond. In June, a jury found against the attorney general on most charges in a criminal case against a former broker at Bank of America, Theodore C. Sihpol III. Mr. Spitzer had accused Mr. Sihpol of helping Canary Capital Partners, a hedge fund, in market timing.

The same month, certain banks, including J. P. Morgan Chase, sought to prevent Mr. Spitzer from investigating whether the banks were charging excessive interest rates on mortgages to minorities. A court hearing is scheduled for today in Federal District Court in Manhattan on the matter.

A few months after Mr. Spitzer's mutual fund investigation became public, Seligman agreed to pay nearly $2 million to investors in three of its mutual funds where there had been rapid trading. It also said it would reduce fees on one of those funds by 0.05 percent for two years beginning in June 2004.

Despite the voluntary fee cuts, Mr. Spitzer's investigation continued, because he believed that the actions the firm had taken were not sufficient, a person briefed on the investigation said. That person said he could not speak for attribution because the talks were confidential.

Seligman reached a tentative agreement in August with Mr. Spitzer's office and the Securities and Exchange Commission, but talks broke down after Mr. Spitzer "sought to impose operating conditions on Seligman which were unacceptable to Seligman," the lawsuit said.

Mr. Spitzer's office wanted Seligman to appoint an independent monitor to review how the fund's managers negotiated fees, the lawsuit said. Seligman said monitoring its fees "is the regulatory province of the S.E.C., and only the S.E.C.," the lawsuit said.

After the talks broke down, Mr. Spitzer issued a series of subpoenas in late August against directors and executives at Seligman in an effort to pressure Seligman into agreeing to his terms, the lawsuit said.

Requiring a third party to review how fees are set has been a condition of all of Mr. Spitzer's settlements with fund companies to date, said David D. Brown IV, director of the attorney general's Investment Protection Bureau and the person overseeing the day-to-day operations of the mutual fund investigation.

The fee reductions, however, have been criticized by officials at the S.E.C., who have said it is not the role of the government to set prices.

Even with the fee reductions, expenses at many Seligman funds are above average, Mr. Brown said, citing data from Morningstar, a research firm that tracks mutual funds. "Why don't they want to join other mutual fund companies in reducing inordinately high fees?" he said.

Expenses at Seligman funds, on average, are 1.93 percent of assets, according to Morningstar, compared with an average of 1.47 percent at large fund companies. Performance at many Seligman funds has also been weak.

Last year, Seligman named a new chief investment officer, John B. Cunningham, who is making positive changes at the firm, said Todd Trubey, a Morningstar analyst.

"He came in to clean things up and we have found him to be a pretty straight shooter," Mr. Trubey said. For now, Morningstar is willing to give Seligman the benefit of the doubt, even with this lawsuit, Mr. Trubey said. The research firm plans to meet with Seligman executives within the next few days, he said.

Morgan Stanley To Pay To Settle Complaint (FINDLAW/AP)

Find Law, September 7, 2005

(AP) - WILMINGTON, Del.-Morgan Stanley Inc. has agreed to pay $700,000 to settle a complaint brought by the state Department of Justice regarding improper trading in a Delaware couple's brokerage account, officials said Tuesday.

The bulk of the settlement will be paid to the Wilmington couple to reimburse them for losses incurred, authorities said.

The Division of Securities filed a formal complaint in 2003 against the brokerage firm and two brokers, George Coughlin and Argie Economou who worked in a Morgan Stanley branch office in Burlington, Vt.

The complaint alleged that Morgan Stanley, through Coughlin, executed more than 500 unauthorized transactions and more than 70 "unsuitable" transactions in the couple's account. The complaint also alleged that Morgan Stanley and Economou, who was Coughlins immediate supervisor, failed to properly supervise Coughlins trading activities, in violation of Delaware securities laws.

As part of the settlement, Morgan Stanley and the brokers named in the complaint neither admitted nor denied the allegations.

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CRIMINAL LAW:

Legal Experts Call Current Law A Poor Fit For Leak Prosecutions (WP)

By Christopher Lee

The Washington Post, September 7, 2005

Convictions for leaking sensitive government information to the media are almost as rare as sightings of the ivory-billed woodpecker.

Only twice have government employees gone to prison for such misdeeds. And legal experts say prosecutors will have a hard time putting away anyone in the administration for violating the Intelligence Identities Protection Act in the revelation of CIA operative Valerie Plame's identity in 2003.

The bar for breaking the 1982 law is high. Whoever makes the disclosure must know that the person was a "covert agent" and must intentionally reveal the agent's identity to someone not authorized to know it.

There is, however, another statute that federal officials have used to go after government leakers. Some legal experts say it is not out of the question that prosecutors in the Plame case could bring it out again -- although it, too, seems a long shot.

The provision, Section 641 in Title 18 of the U.S. Code, nominally deals with prohibitions on the embezzlement of public money, property or records for private use. It typically would be used to go after a federal employee who, say, absconds with government laptops.

Prosecutors used the statute -- somewhat creatively, legal experts say -- to help build successful cases against Samuel L. Morison, a former Navy intelligence analyst who was sentenced to two years in prison in 1985 after being convicted of espionage and theft in leaking secret U.S. spy satellite photographs to a British magazine, and Jonathan Randel, a former Drug Enforcement Agency intelligence research specialist who in 2003 was sentenced to a year in prison for selling restricted information.

The statute "is used by the government from time to time in lieu of not having a criminal prohibition on leaking classified information, generally," said William Banks, a national security law expert at Syracuse University. "It isn't a good fit, but it's the best available."

Kevin M. Goldberg, a partner at Cohn and Marks LLP in Washington and an expert on First Amendment issues, said that prosecutors might try to use it.

"I think that's a really bad precedent to set, however," Goldberg said. "Essentially, you are just creating almost an Official Secrets Act in which all government information belongs to the government, and can never be given out to a member of the public."

Morison, who worked at the Naval Intelligence Support Center in Suitland, sent Jane's Defence Weekly, for which he moonlighted as an editor, three photographs of the first Soviet nuclear aircraft carrier under construction at a Black Sea shipyard. His attorneys unsuccessfully argued that their client was a supporter of President Ronald Reagan and bigger defense budgets who wanted to publicize the Soviet threat.

Randel provided information from a DEA database to the Times of London newspaper indicating that the name of Lord Michael Ashcroft -- a dual citizen of Britain and Belize who was treasurer of the Conservative Party -- was in agency files used in investigations of drug trafficking.

The newspaper cited the information in stories on Ashcroft and his business dealings in Belize, stories that Ashcroft complained falsely suggested that he was a target of DEA investigations into drug trafficking. (After Ashcroft filed a libel suit, the paper published a statement saying there was no evidence he had been suspected of any drug-related crime.) Prosecutors said Randel was paid $13,000 for the information, which was sensitive but not classified. The newspaper said the money was to cover Randel's expenses and time when he traveled to Britain to help the newspaper prepare a defense to Ashcroft's libel suit.

At Randel's sentencing, U.S. District Judge Richard W. Story of the Northern District of Georgia said: "This is like the drunk driver who gets home without killing somebody. . . . No agent was killed as a result of the information that was leaked and no investigation was compromised, but the risk that was created was certainly there. And that is of grave concern."

In an essay published July 15 on CNN.com, former Nixon White House Counsel John Dean argued that White House Deputy Chief of Staff Karl Rove could be vulnerable on the same grounds. Time magazine reporter Matthew Cooper has said that Rove told him in 2003 that Plame, the wife of President Bush critic Joseph C. Wilson IV, worked for the CIA, but that Rove said nothing about her being a covert operative.

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"Rove had no idea what the specific consequences of giving a reporter the name of a CIA agent [about whom he says he knew nothing] would be," Dean wrote. ". . . [I]f the risk Randel was taking was a 'tremendous' risk, surely Rove's leak was monumental." Rove has said he did nothing illegal.

Several experts disagree with Dean's assessment, saying the embezzlement statute is an especially poor fit for the Plame case. For one thing, it requires that there be an intent to convert the purloined property or record -- the "thing of value" -- to one's use or gain. Morison was paid as an editor for Jane's. Randel got money from the Times of London. But political gain does not count, the experts said.

"This is for people who steal public property. This is used all the time, but not for situations like this," Banks said. "Because there isn't anybody in this for gain -- for pecuniary gain -- I think it's a bit of a stretch."

Victoria Toensing, a Washington lawyer who helped write the Intelligence Identities Protection Act, said prosecutors would "absolutely never" try to use the embezzlement statute in the Plame case.

Dean "is trying to put the stepsister's foot in Cinderella's shoe," she said. "What was converted? . . . Where is the 'value' given to Karl Rove? . . . The story shouldn't even be written, because it's so off the wall to give it any credence."

Former City Official Gets 30 Months In Prison (HC)

By Harvey Rice

Houston Chronicle, September 7, 2005

A former Houston city official was sentenced to two years and six months in federal prison today for accepting cash and gifts from businesses seeking her influence in gaining lucrative city contracts.

The sentencing of Monique McGilbra, former head of the city Building Services Department, follows a three-year sentence she received Friday in Cleveland, Ohio, for accepting bribes from a Cleveland businessman.

McGilbra, 41, is the second Houston city official to plead guilty in a continuing investigation that began in Cleveland and expanded to include Houston and New Orleans.

Oliver Spellman, 51, chief of staff to former Mayor Lee Brown, received probation and a $10,000 fine Friday in Cleveland federal court for taking a $2,000 bribe from a Cleveland consultant.

U.S. District Judge Vanessa Gilmore said McGilbra's Houston sentence will run at the same time as the Cleveland sentence, meaning she will spend no more than three years in prison.

McGilbra was more repentant in her statement to Gilmore than in her statement to U.S. District Judge James Gwin in Cleveland, who was unmoved when she told him that having expensive tastes shouldn't be a crime.

"I'd like to say how regretful and sorrowful I am," McGilbra told Gilmore. "I'll spend the rest of my life trying to make amends for that."

U.S. marshals took McGilbra into custody on orders from Gwin, but Gilmore said McGilbra could be released until ordered to report to prison if Gwin agreed to reconsider his order.

Assistant U.S. Attorney Edward Gallagher and Mary Butler, a prosecutor with the Department of Justice's public integrity unit, told Gilmore McGilbra was cooperating in an ongoing investigation.

"We are striving to discover the extent of corruption and we are not going to leave any stone unturned," Gallagher said outside the courtroom.

In return for agreeing to cooperate with the government, McGilbra pleaded guilty to one count of conspiracy to commit mail and wire fraud.

She admitted she received numerous gifts from representatives of the Keystone Group, controlled by Houston businessman Andy Schatte, including $1,000 in cash in a box containing champagne, use of a condominium for a ski trip to northern California, tickets to professional football games and a Neiman Marcus gift certificate on her birthday.

McGilbra admitted she accepted cash payments from her then-boyfriend, a consultant for the Keystone Group, and agreed to split a $250,000 cash bonus with him if the Keystone Group won a fire-station contract with the city.

She also admitted to using her influence to secure a consulting agreement for her boyfriend with an energy company she had helped obtain a city contract.

After clinching the energy company contract, she asked for and received financial assistance from a contractor seeking consulting work under the energy company, she admitted.

Gifts she received from the energy company and the contractor included $6,000 in cash, a $700 gift certificate from Louis Vuitton, and tickets to the Lion King worth about $1,000, according to the sentencing agreement.

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Embattled Lee Quits Plan Board (DMN)

By Emily Ramshaw, The Dallas Morning News

The Dallas Morning News, September 7, 2005

File / DMN D'Angelo Lee

Embattled City Plan Commissioner D'Angelo Lee stepped down over the holiday weekend, more than two months after he fell under scrutiny in a far-reaching FBI investigation and days before a second City Council vote over whether to remove him.

Mayor Pro Tem Don Hill, who nominated Mr. Lee to the commission in 2003 and, until this weekend, had vowed to keep him in his post, accepted Mr. Lee's resignation in a memo sent out Tuesday morning. The city secretary did not receive an official resignation letter from Mr. Lee on Tuesday.

"He has been a visionary for economic development in the Southern Sector of Dallas, however his primary objectives are to clear his name and to develop his private business interests," wrote Mr. Hill, who did not return phone calls. "Achieving these objectives is very difficult in the present environment. This decision to resign from the City Plan and Zoning Commission is in the best interest of his family and our city."

Mr. Lee, Mr. Hill, and five other city officials – council members James Fantroy, Leo Chaney and Maxine Thornton-Reese and Plan Commissioners Melvin Traylor and Carol Brandon – have been named in federal subpoenas served at City Hall.

Mayor Laura Miller, who led the charge to remove Mr. Lee from the City Plan Commission after allegations surfaced that he was not reporting gifts and was voting on zoning cases where he was being paid as a consultant, said Tuesday that the resignation should have occurred "a few months ago."

Also Online

Chris Heinbaugh reports

She said it's going to take a lot of hard decisions "to make sure that we restore public trust at City Hall."

"He has now stepped down, and that's a really good step forward," Ms. Miller said.

Mr. Lee did not return phone calls on Tuesday. But his attorney, Doug Greene, said the pressure finally got to Mr. Lee.

"He respected Don Hill and didn't want to bring any ill repute on him or the citizens of Dallas," Mr. Greene said. "Based on that, and based on the spiraling investigation and reports, he thought it would be prudent for everyone at this point if he resigned."

The mayor spearheaded a City Council vote last month to forcibly remove Mr. Lee. It failed, with a majority of council members voting to delay the matter three weeks and wait for the city's Ethics Commission to rule on Mr. Lee.

In the meantime, two ethics complaints were filed against Mr. Lee, and a preliminary Ethics Commission hearing was set for Sept. 16.

On Saturday, four days before today's rescheduled council vote on Mr. Lee, The Dallas Morning News reported that Mr. Lee had nearly $1,600 in unpaid traffic violations since 2000, and, as such, was ineligible to serve on the Plan Commission. Mr. Lee also had reported different birthdays – within one day and one year of one another – on city nomination forms, The News reported.

Mr. Greene said Mr. Lee took care of the fines over the weekend.

"He posted bond on those, and they're in the process of being handled," he said.

His explanation of the birthday discrepancies was less clear.

On various public documents, Mr. Lee listed his birth date variously as Dec. 22, 1965; Dec. 23, 1966; and Dec. 23, 1965.

Mr. Greene said Mr. Lee told him he was born at midnight on the night of Dec. 22-23, 1965, and therefore celebrated both days as his birthday. As far as the mistaken year, he said, Mr. Lee told him someone must have made a typographical error. The birth dates were written by hand.

Mr. Greene said he doubted the Ethics Commission would proceed with a hearing on the complaints against Mr. Lee, considering the resignation. But Assistant City Secretary Deborah Watkins said the complaints would still be heard.

"If there's a complaint filed, whether they are a current or former city official, we will hear the complaint," she said.

Mr. Lee is not the only city official named in federal subpoenas to leave the Plan Commission. Mr. Chaney said Tuesday he would not renominate Mr. Traylor, who is employed by Southwest Housing, a development company under scrutiny in the FBI probe.

"I believe in Mr. Traylor. It's not because of" the FBI investigation, said Mr. Chaney. He has asked District 7 resident Ann Bagley to serve on the Plan Commission and said he would nominate Mr. Traylor to the municipal library board. "I'm shaking things up. I just want to provide others with the opportunity to serve."

Ms. Brandon, who represents District 8 on the Plan Commission, will not be relieved of her post, Mr. Fantroy said.

"Don't even think about it," he said.

Mr. Lee should have stepped down "a long time ago," said council member Bill Blaydes, one of two people who filed ethics complaints against him. "The city benefited greatly by him doing so."

But Mr. Lee's resignation is only one step, Ms. Miller said. Today, she will reveal a slate of proposed reforms to clean up the city's zoning process – rules that, if approved, would require plan commissioners and City Council members to be vested in citywide land-use decisions.

Too often, Ms. Miller said, elected and appointed officials defer to the district representative when deciding complicated and controversial zoning cases, rather than learning the details and voting their convictions.

"I think if you put them all together, it really changes how we do business with zoning at City Hall," Ms. Miller said. "And those changes need to happen."

WFAA-TV (Channel 8) reporter Chris Heinbaugh contributed to this report.

Lee Resigns From Plan Commission (WFAA-TV)

By CHRIS HEINBAUGH

WFAA-TV, September 7, 2005

A key figure in the FBI investigation at Dallas City Hall has resigned.

City Plan Commissioner D'Angelo Lee submitted his resignation to Council member Don Hill. In a news release, Hill said he is regrettably accepting Lee's resignation.

Lee's business interests and activities as a City Plan Commissioner have been at the core of the FBI investigation.

Hill's memo said Lee's focus is clearing his name and developing his business interests. Hill said Lee can't do that in the present environment.

Hill said says Lee's resignation is in the best interest of his family and the city.

Three weeks ago, a sharply divided City Council refused a request from Mayor Laura Miller to remove Lee from the Plan Commission. The item was to be reconsidered on Wednesday.

Many Council members said they were pleased that Lee's decision will avoid another potential fight.

"Nobody likes a divided city," said Council member Elba Garcia. "I think that we'll need to move forward, work together, and make the best that we can for the city."

"This will help," Councilman Mitchell Rasansky agreed. "Surely it isn't going to hurt, but it should have been done several months ago."

Lee has reportedly has been driving a car belonging to someone else, and allegedly accepted fees from groups with business before the City Plan commission.

Lee is not the only member of the City Plan Commission who will be leaving his post.

Melvyn Traylor, whose name appeared in a recent subpoena, will not be back. City Council member Leo Chaney said he will not reappoint Traylor to the job.

Chaney insisted it was part of an overhaul of his appointee and had nothing to do with the FBI investigation.

The mayor is presenting a controversial package of reforms for the city plan commission.

"...There are some things going on behind the scenes that are not appropriate," she said. "And hopefully with these plan commission recommendations and city council recommendations tomorrow for reform, we won't have those problems anymore."

As for Don Hill, he said in light of the human tragedy caused by Hurricane Katrina, he would not answer questions today about Lee's resignation.

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Ribadu, FBI Meet In U.S. (NDI)

By Tony Eluemunor (Abuja) and Habib Aruna (Lagos)

Nigeria Daily Independent, September 7, 2005

Economic and Financial Crimes Commission (EFCC) chairman, Nuhu Ribadu, has been holding meetings with the United States Federal Bureau of Investigation (FBI) to intensify the search for corrupt Nigerian public officials.

He was in the U.S. last week to meet with senior government and FBI officials and to exchange information on the activities of Nigerian politicians, especially governors being investigated for corrupt practices.

Ribadu, according to sources, was sighted in Maryland and Washington D.C. where he had meetings with U.S. officials (in the company of an EFCC investigator) to obtain additional information on the property deeds of some governors and pass details to the INTERPOL.

He also used the visit to obtain more information on the raid the FBI carried out last month on the property of Vice President, Atiku Abubakar.

The search of his home in Maryland attracted national attention in Nigeria last week.

It was linked to the investigation of Congressman William Jefferson, whom Atiku had hosted during his visit to the U.S.

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But Ribadu, who returned later in the week, reportedly achieved little success due to the national outcry generated by the slow response of the American Government to the destruction of New Orleans by Hurricane Katrina.

Besides, the FBI has tarried in its investigation of Jefferson who incidentally hails from New Orleans.

"The FBI is threading carefully in pursuing new leads in the investigation against Jefferson because of the sensitive nature and political dimension it might take", a source explained.

In any case, Daily Independent has obtained a list of what the FBI seized during the raid.

The document, titled "Receipt for Property Received/Returned/Released/Seized", was signed by the leader of the FBI team.

It stated that the items included

· 1A envelope with house sketch.
· Employee schedule information and employee contact information.
· 2005 appointment book.
· Possible list of camera locations.
· Software and operation manual for DVR.
· Kalatel digital recorder.
· Multiplayer.
· Manila envelope containing miscellaneous papers with William Jefferson's return address.

Atiku's family lawyers supplied Daily Independent with the document.

They deplored the attempt by some newspapers to sensationalise the issue through the "fabrication of falsehood".

'What FBI Took From Atiku's US Home' (THISDAY)

By Kunle Akogun

This Day (Nigeria), September 7, 2005

The Office of Vice President Atiku Abub-akar yesterday rele-ased a list of items taken away from Maryland, US home by operatives of the Federal Bureau of Investigation (FBI) during their August 3 raid.

In an e-mailed press statement titled "What FBI Took From The Atiku Family House" and signed by his deputy Press Scretary, Mohammed Yakub.

The Vice President's office listed the items as including: 1A envelop with house sketch, employee schedule information and employee contact information, green standard diary, 2005 appointment book and possible list of camera locations.

Other items are software and operation manual for DVR, Kalatel digital reco-rder, multiplexer as well as manila envelop containing miscellaneous papers with William Jefferson's return address.

According to the statement, the document containing the report of FBI search was jointly signed by the FBI officials and a representative of the Atiku family.

THISDAY checks revealed that the release of the document entitled "Receipt for Property Received/Returned/Released/Seized" dated August 3, 2005, might not be unconnected with the need to refute publication in a weekly newsmagazine that during the search of Atiku's house in Maryland, USA, FBI agents found some documents on payments to American congressmen through William Jerfferson, an eight-term member of the US congress.

The statement from the Vice President's office quotted Atiku's family lawyers and added that the content of the FBI document was made public to reassure members of the public and disabuse their minds of what it called "the fabrication of falsehood".

It noted that at the time of conducting the search on Atiku's house, the FBI agents "certified that the (listed items) above represents all that was obtained by special agents of the Federal Bureau of Investigation, US Department of Justice."

The Vice President's family lawyers deplored the attempt by some newspapers to sensationalise the issue through the "fabrication of falsehood", the statement added.

On August 27, American newspapers were awash with stories of the FBI raid of the Maryland, US residence of Vice President Atiku Abub-akar.

The raid, according to the papers, was part of a probe into whether eight-term congressman William Jefferson made payments to top Nigerian and Ghanaian officials.

A source familiar with the investigation said subpoenas showed federal agents were looking for records indicating whether Jefferson paid, offered to pay or authorized payments to Nigerian or Ghanaian government officials, The Times-Picayune said.

Agents were seeking documents related to Jefferson's dealings with Atiku and the vice president of Ghana, Aliu Mahama. Jefferson returned from a five-day visit to Ghana in mid-July, about three weeks before the FBI raided his homes, according to the newspaper.

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The subpoenas focused in part on a telecommunications deal Jefferson was trying to engineer in Nigeria over the past year, according to documents and those familiar with details of the investigation.

Sources familiar with the telecommunications deal said Jefferson was attempting to smooth the way for iGate Corp., a small Kentucky company, to offer its high-speed broadband technology to Nigeria's fast-growing telecommunications market.

In its reaction the Federal Government immediately said security agencies had been directed to investigate the matter which it described as an individual affair. However, in his reaction, Atiku had said that no wrong doing had been established against him.

Atiku in and a statement signed by Yakub, acknowledged that his US home was raided by the FBI following a visit by Congressman Jefferson, who unknown to him then was under investigation.

The Vice President later disclosed that he had before Jefferson's visit received a letter from Nigeria's Ambassador to the United States, Dr. George Obiozor, requesting that he look into the business dealings between the NITEL, another unnamed Nigerian firm and an American company.

He said since the business had not been sealed he immediately gave instructions to one of his aides that the letter be forwarded to the Minister of Communications, Chief Cornelius Adebayo, for necessary action and advice.

He said Jefferson's visit to his Maryland home while he was on vacation in the US, was a follow-up to the letter he received from Obiozor.

Monitor: City Defying Ban On Political Hiring (CHIST/AP)

By MIKE ROBINSON, ASSOCIATED PRESS

Chicago Sun-Times, September 7, 2005

Chicago officials have been basing hiring decisions on political clout and not merits, defying a court-ordered ban on patronage employment, a federal monitor said Tuesday.

Court-appointed monitor Noelle Brennan urged sweeping changes at City Hall, including requiring top officials to swear under penalty of perjury that hirings aren't based on politics.

Brennan made the recommendations in an 11-page report to U.S. District Judge Wayne R. Andersen on how to enforce the decades-old Shakman Decree that bans the use of patronage.

"We did find that the city has been substantially noncompliant with the Shakman Decree for a significant period of time," Brennan said in delivering the report to Andersen.

Brennan's conclusions reinforced long-standing claims by critics of City Hall that the 1983 decree issued in a lawsuit brought by attorney Michael Shakman has been violated almost since its inception.

Daley's former patronage chief, Robert Sorich, and another former city official, Patrick Slattery, are under federal indictment in an 18-month investigation of hiring abuses.

Brennan's report brought immediate praise from city Corporation Counsel Mara Georges, who promised to continue to work with the court-appointed monitor and help her to get information.

"We are there to facilitate the process and give her whatever information she requires," Georges said. But in response to questions from reporters she said that the city would continue with its effort to have a federal appeals court overturn the Shakman Decree.

"That case is just a strong as it ever was," Georges told reporters.

Shakman, himself, said the preliminary report was "a very good first step at addressing how to eliminate the culture of corruption and clout in city hiring and promotion practices."

Andersen said he wants fast progress on making changes in the way the city does its hiring and asked both Brennan and Georges to be back next month to update him on the process.

The use of patronage in city hiring and promotions has been at the heart of the so-called Chicago Machine for decades. Numerous precinct captains who get out the vote for the regular Democratic organization on Election Day have jobs on the city payroll.

In recent years, City Hall watchers have said that money to pay for television advertising has become much more important in winning elections than such doorbell-ringing foot soldiers.

But recent court hearings have made it plain that political officials still place a high premium on getting jobs for those who turn out the vote.

Among other things, Brennan found that available jobs are not always posted and frequently filled based on political factors. She said applicants without clout have been largely ignored.

The mayor's office of intergovernmental affairs-- the political high command-- has been excessively involved in the hiring process, Brennan said. She said unqualified applicants who have political clout often get consideration for jobs.

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And the city has been unresponsive to complaints about violations, she said.

She said the city should immediately hire additional employees for the Department of Personal so that it can act as a buffer between political officials and the job applicants. She said that she should have a role in hiring the new employees for the department.

Brennan said she should be notified of new hires and there should be random auditing of some of the hires to determine if there was compliance with the Shakman Decree. There should also be an order barring retaliation against anyone assisting in her work, Brennan said.

State Spent $478,385 To Check Guardrails (TENN)

The Tennessean, September 7, 2005

The Tennessee Department of Transportation said yesterday that it spent $478,385 to inspect every inch of guardrail across the state for evidence of improper installation, but the state won't say what was found.

Efforts are under way to repair any deficient guardrails.

Some of the state's guardrail companies are under scrutiny by the FBI, the Tennessee Bureau of Investigation, the U.S. Transportation Department and the state on suspicion of installing guardrail posts shorter than required lengths.

Evidence began to surface in January after an anonymous tip from a guardrail employee. As additional evidence came to light, TDOT deployed teams in May to inspect more than 4,000 miles of state highway guardrails. The state inspection wrapped up Sept. 1, said Kim Keelor, a TDOT spokeswoman, adding that the results of the review are not being made public as ordered by the state attorney general's office.

"We will try to recoup as much of that money as possible, through legal recourses, from contractors involved in installing any guardrail found to be deficient," Keelor said.

The findings are confidential for litigation reasons, said Sharon Curtis-Flair, spokeswoman for the attorney general's office.

"Like TDOT, we're always concerned about the public's safety," Curtis-Flair said. "We're going to see to it that the (guardrails) get fixed as quickly as they can."

Keelor said TDOT crews are beginning to "pull, check, and replace if needed, any guardrail terminals that were flagged as possibly being deficient."

This phase of the guardrail improvements is expected to take until the end of the year.

Man Charged In Killings Of Sex Offenders (NYT)

By Carolyn Marshall

The New York Times, September 7, 2005

A man who told the police that he had found his victims on a sheriff's department Web site was arraigned yesterday in the killings of two convicted sex offenders in Bellingham, Wash.

Investigators said the man, Michael A. Mullen, was upset by a child abuse case in Idaho that involved a repeat sex offender.

They said Mr. Mullen, 36, telephoned the 911 center in Bellingham on Monday to confess to a double killing in which a man posing as an F.B.I. agent visited the home of three known sex offenders and told them they were on a hit list and in danger.

One of the three left for work, and upon returning found the other two, Hank Eisses, 49, and Victor Vasquez, 68, dead from single gunshot wounds to the head.

After calling the police to confess to the killings on Monday, Mr. Mullen surrendered to the authorities. He was arraigned in Whatcom County Superior Court yesterday, just hours after the police charged him with two counts of first-degree murder.

"I can't think of another set of circumstances out there where such a killing has occurred," said Lt. Craige Ambrose of the Bellingham Police Department.

Mr. Mullen said that he had been planning the murders for some time, officials said, and that he was upset over killings in Idaho in which a sex offender is charged.

A common theme in the interview was the case in Idaho, Lieutenant Ambrose said, adding: "He was upset that a sex offender killed a family and abducted the kids. He said that a couple of times. That was one of the things that may have triggered this."

The Idaho case involved a repeat sex offender, Joseph E. Duncan III, who is accused of fatally beating three people with a hammer in a house outside Coeur d'Alene and then abducting two children. One of the children, Shasta Groene, 8, was with Mr. Duncan when he was arrested. The body of her brother, Dylan, 9, was found two days later.

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Mr. Mullen told the police that he searched the Whatcom County sheriff's sex offender Web site. The site includes addresses for the convicted offenders, with the number of the street address partly withheld. He focused on the home of Hank Eisses, who lived with the two other sex offenders.

Mr. Mullen, who the police said "selected at least one of the two victims," went to the Eisses house on Aug. 26, posing as a federal agent. The police said he wore a black ball cap with the F.B.I. insignia and a dark blue jump suit.

The roommate who escaped harm, James A. Russell, 42, has been moved to an undisclosed location.

Kit Bail, the regional administrator for the Washington Department of Corrections, said the authorities had contacted other sex offenders in Whatcom County and advised them to screen visitors and request identification.

"We are letting them know about the potential threats and giving them some perspective on what can make them safe," Ms. Bail said.

The authorities said they had not determined whether Mr. Mullen was acting alone. Letters sent to a newspaper and television station in Bellingham just after the killings warned that more sex offenders would die.

"We did, of course, take the letters seriously since we already had two people killed," Ms. Bail said. "The letter claimed there was a conspiracy, threatened the lives of other sex offenders and suggested the notion that there was a vigilante out there, seeking other targets."

Washington's sex offender registration law is 15 years old and like the laws in other states, tries to monitor the rehabilitation of sex offenders returned to the county of their convictions and the risk presented by them.

Corrections officials had been satisfied with the progress of Mr. Eisses, Mr. Vasquez and Mr. Russell, who was the most recent to move into the Bellingham house.

"They were what we called a success story," Ms. Bail said. "They had lived there for a number of years and although neighbors were not particularly happy about it, they all knew them. There had been no community problems and they had not reoffended."

Man In Wash. Murders Tries To Plead Guilty (TLPA)

By Donna Gordon Blankinship

Times Leader (NE PA), September 7, 2005

BELLINGHAM, Wash. - A man arrested in the shooting deaths of two convicted child rapists tried to plead guilty Tuesday before he had even been formally charged.

Police believe Michael Anthony Mullen might have targeted the men in reaction to a notorious case in Idaho in May in which two children were abducted and one was slain.

"Can I have a speedy trial?" Mullen asked a court official, via closed circuit television from jail, during a preliminary hearing Tuesday. "I would like to plead guilty."

Prosecutor Mac Setter said Mullen would be formally charged with the murders Wednesday. Whatcom County Superior Court Commissioner David Thorn set bail at $1 million and scheduled Mullen's arraignment - when a formal plea may be entered - for Sept. 16.

Police said Mullen, 35, called them on Monday to turn himself in and later confessed to killing Hank Eisses and Victor Vazquez in their home on Aug. 27.

The hearing revealed that Mullen may have had help on the day the two men died. Setter said an unidentified woman whom he described as a witness had driven Mullen to and from the scene.

Mullen may have been motivated by the case of Joseph Edward Duncan, a convicted sex offender who is accused of killings and child abductions in Idaho, police said.

"One possible reason was the case in Idaho," Bellingham Police Lt. Craige Ambrose told The Associated Press. Ambrose wouldn't elaborate, and Setter refused to discuss possible motives.

Police said they believe Mullen's claim that he killed the Bellingham sex offenders because he knew details only the killer would know: the caliber of the weapon used, and that the victims were each shot once in the head.

"Mullen also said that he had planned the murders for some time and that on July 13, 2005, he had accessed the county sheriff's sex offender Web site, and from that selected at least one of the two victims," according to a police statement.

As is typical in Washington, the sheriff's Web site lists the residences of sex offenders who are required to register with local authorities.

Mullen has a criminal record but no history of violence, Ambrose said.

In the Idaho case, Joseph Edward Duncan is accused of fatally beating three people with a hammer in a home outside Coeur d'Alene in order to abduct two children for sex.

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He was arrested July 2 at a restaurant with one of the children, 8-year-old Shasta Groene. Remains of her 9-year-old brother, Dylan, were found in a Montana forest two days later.

According to police, Mullen said he mailed a letter about the Bellingham killings to several news outlets last week. The Bellingham Herald, the daily newspaper in this college and mill town of about 71,000, reported Thursday that the letter threatened other sexual predators.

Eisses, 49, and Vazquez, 68, were both classified as Level 3 sex offenders, the type considered most likely to re-offend.

Their bodies were found by a roommate, also a sex offender, who said a man wearing a blue jumpsuit and a cap that said "FBI" came to the house, told them he was an FBI agent and said he wanted to discuss their status as sex offenders.

The supposed federal agent told them that one of them was on a "hit list," police said.

The roommate said he left while the FBI impostor was still there and he found the bodies when he returned about four hours later.

Vazquez was convicted in 1991 of molesting several relatives, according to court documents. He was released from prison about two years ago and remained under supervision.

Eisses was sentenced to 5 1/2 years in prison in 1997 for raping a 13-year-old boy. He was released from supervision about two years ago, said Kit Bail, Corrections Department field supervisor for the county.

Man Admits To Killing 2 Sex Offenders, Cites Idaho Case (LAT)

By Tomas Alex Tizon, Times Staff Writer

The Los Angeles Times, September 7, 2005

SEATTLE — The man who confessed to slaying two registered sex offenders in Bellingham, Wash., told police that he was outraged by the recent case of Joseph Edward Duncan III, a convicted sexual predator being held in Idaho.

Michael Anthony Mullen, 36, made a brief court appearance Tuesday in Whatcom County Superior Court, about 80 miles north of here, after turning himself in to Bellingham police Monday afternoon.

Mullen, a longtime resident of Whatcom County with a history of petty crimes, faces charges in the Aug. 26 shooting deaths of Hank Eisses, 49, and Victor Vasquez, 68. Both victims were Level III sex offenders, considered the most likely to commit similar crimes again. Mullen's arrest all but ended fears that a vigilante was on the loose targeting other registered sex offenders in the Bellingham area.

"It's a relief that he's not running around anymore with who-knows-what on his mind, probably more of the same," said Bellingham Mayor Mark Asmundson, who was informed of Mullen's arrest minutes after it happened.

Police said Mullen called 911 from a Bellingham restaurant and confessed to the murders. He was arrested and questioned for "hours and hours," said Bellingham police Lt. Craige Ambrose.

Investigators said Mullen provided details of the crime that only the killer would know, such as the caliber of the weapon and the way in which each victim was shot: once in the head. Ambrose said that during the interview Mullen repeatedly "came back around to the Idaho incident," referring to the Duncan case.

"Let's just say he was influenced by what happened there," Ambrose said.

Duncan, a 42-year-old convicted sex predator from Tacoma, Wash., is in Kootenai County, Idaho, awaiting trial in the slayings of four people and the kidnapping of two children in May near Coeur D'Alene, Idaho. Duncan is being investigated in the deaths of other children across four states, including California.

Less than two weeks after Duncan's case made national headlines, police said, Mullen got on a Whatcom County website that listed the names and addresses of all Level III sex offenders in the county.

Eisses and Vasquez lived with a third sex offender in a little green house on Northwest Avenue.

According to earlier reports, a man entered the victims' home, just north of downtown Bellingham, impersonating an FBI agent. He told the men that there was a hit list targeting sex offenders and that he was there to warn them.

The third occupant left for work with the man still in the house. When he returned home from work, he found his housemates dead. Eisses had been convicted of child rape and Vasquez of child rape and molestation. Both men had committed their crimes in Whatcom County.

On Aug. 31, five days after the slayings, the Bellingham Herald received a letter from someone claiming responsibility for the killings and threatening to kill all other Whatcom County sex offenders designated as Level III. The county has 31 registered Level III offenders, including four in Bellingham, which has a population of 71,000.

Police said Mullen had confessed to sending the letter and told investigators that more letters would soon be arriving at other media outlets. Ambrose said he did not know the content of those letters.

Ambrose said Mullen, standing 6 feet 5 and weighing about 250 pounds, had no known history of violence but had an extensive history of theft and other property crimes. Mullen had no permanent address, police said.

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The slayings stirred debate over the 1990 state law requiring sex offenders to register their addresses. Washington was the first state to pass such a law, which is intended to help the public keep track of dangerous sexual predators. In 1994, Congress mandated that states create registers of sex offenders. Now all 50 states have their own version of Washington's Community Protection Act.

Supporters say the public has a right to know about such offenders, but opponents argue that publicizing exact addresses invites vigilantism and prevents sexual offenders from leading normal lives.

Lawyers Protest Court Venue For Prison-bus Killing (BSUN)

By Lisa Goldberg

The Baltimore Sun, September 7, 2005

The night Philip E. Parker Jr. was killed, the crime scene was on the move.

As a prison bus rumbled through the darkness on a winter night, passing through four Maryland counties and into Baltimore on a 75-mile trek to the city's Supermax prison, Parker was strangled and left slumped between rows of seats.

A fellow inmate was charged in Baltimore County with murder, which suggests that investigators believe the crime occurred there. But attorneys for the man, Kevin G. Johns Jr., say Parker likely died elsewhere -- and legal observers say a judge's ruling could be a matter of life and death.

"Baltimore County seeks the death penalty much, much, much more frequently than any other venue, so certainly on the defense side, you don't want to be in Baltimore County," said Byron L. Warnken, a University of Baltimore law professor.

The death penalty is never mentioned in court papers challenging Baltimore County prosecutors' right to try Johns, 22, but it lurks under the surface.

In 2002, researchers from Columbia, Rutgers and New York universities ranked Baltimore County second among large counties nationwide in the rate at which convicted murderers are sentenced to death. A University of Maryland study released a year later found that the county dominates the state in death-penalty cases and that prosecutors there are 13 times more likely to seek the death penalty than are prosecutors in the city.

"The stakes are very high for Mr. Johns," said Douglas Colbert, a University of Maryland law professor.

A hearing to determine which jurisdiction should try the case was originally scheduled for last month but was delayed because of the illness of one of Johns' lawyers. Last week, Baltimore County Circuit Judge Thomas J. Bollinger postponed the matter until the first week of January and set a trial date for July 31.

While Johns' case might seem an apt one for any prosecutor to consider seeking the death penalty -- he has previously been convicted of two murders, one inside and one outside prison -- the decision for many jurisdictions often comes down to a question of resources, court observers say.

In other areas, "there are so many factors that enter that decision," Colbert said.

William C. Brennan Jr., one of Johns' lawyers, would not comment beyond the court filings in the case.

Evidence conflicts

Exactly what led authorities to choose Baltimore County as the place to charge Johns is still unclear. Prosecutor S. Ann Brobst said there is "ample evidence" that Parker was killed in Baltimore County, but she would not discuss the specifics.

A termination notice for one of the correctional officers involved in the transport notes that "the trip proceeded without apparent incident" until the bus reached the area of Security Square Mall in the county, where one officer said he saw Johns switch seats "and became suspicious that there was a problem."

Johns and Parker, 20, were among more than 30 inmates and five correctional officers on the bus as it traveled along Interstate 70 from the Maryland Correctional Training Center near Hagerstown to the Maryland Correctional Adjustment Center, also known as Supermax, during the early-morning hours of Feb. 2.

Johns' lawyers argue in court filings that the strangling likely took place in Howard County -- although they also point to statements from inmates on the bus that alternately place the act in Washington, Frederick and Howard counties.

Johns said in an interview with authorities that the attack took place about 15 minutes after the bus left the Hagerstown prison, according to a defense brief.

Evidence points to the attack taking place before the bus reached Baltimore County, making that jurisdiction the wrong venue for the case, the lawyers wrote.

Case is 'trickier'

What makes the case unique is the lack of certainty about the most basic of details, legal observers say.

"Your normal murder occurs within a particular boundary, on a street corner or in a person's home -- not in a moving vehicle -- so it's very clear where the crime scene is," said defense attorney Margaret Mead, who unsuccessfully argued a

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decade ago to have a client's trial moved to Baltimore City based on similar circumstances. When a moving car or bus is involved, "that's when it gets trickier."

In Mead's previous case, a woman was fatally stabbed in 1995 while traveling from the city to the county on northbound Interstate 83. Two women were charged after they were seen dumping the body of 30-year-old Myra Harrison in northern Baltimore County.

Mead said it would have been better for her client, Latina Rose Smith, to be tried by a city jury. Her client was not facing the death penalty but was afraid of facing a Baltimore County jury, she said.

"I think it was a better jury pool [in the city] to have listen to the dynamics between these women," she said.

Previous case set mark

But Mead lost her motion at the Baltimore County Circuit Court level and, later, in a reported opinion by the Court of Special Appeals that set the benchmark for determining venue in a case -- allowing the state to use a less stringent standard of proof to determine where a case should be tried.

The state only has to show that the crime occurred "close enough to the county boundary" when the evidence is ambiguous, Colbert said.

To prevail in the Johns case, the defense will have to prove a timeline of events and the location of each, Mead said.

"What's going to be hard is getting any precise location of where death occurred," she said.

Inmate made threat

Parker's mother, Melissa Rodriguez, said she worries that people have forgotten her son as the focus shifts to Johns.

The day before Parker's death, Johns said in open court that he would likely kill again if he didn't get the psychiatric help he needed. He was sentenced to life without parole for the death of his 16-year-old cellmate at a hearing in which Parker was called to testify on his behalf.

Several correctional officers were fired or disciplined after the killing on the bus.

Parker, who was serving a three-year sentence for unarmed robbery at the time of his death, had about 15 months left before his release, his mother said.

'I just want it done'

Rodriguez would not say whether she was in favor of the county's decision to seek death for Johns but said she doesn't want the case to move now. Doing so would take away the Baltimore County-based support system she's already come to rely on, she said.

"It already started there. I know the people there, and I feel comfortable with them," she said. "I just want it done and over with."

Judge Finds FBI Not Liable For Bungling Call From Killer (BOS)

By Shelley Murphy, Globe Staff

The Boston Globe, September 7, 2005

A federal judge ruled yesterday that the FBI can't be sued over a clerk's bungling of a call from Gary Lee Sampson when the killer offered to surrender on bank robbery charges, just a day before going on a murderous rampage four years ago.

US District Judge Reginald C. Lindsay dismissed a $10 million lawsuit filed by the family of one of Sampson's three victims, 69-year-old Philip McCloskey, of Taunton.

In a 24-page opinion, the judge wrote that federal law protects the government from being sued for negligence because former FBI clerk William H. Anderson was exercising his discretion when he disconnected Sampson's call to the FBI's Boston office on July 23, 2001, and failed to tell anyone about it.

The FBI's broad discretion to decide whether to investigate or apprehend someone "encompasses the discretion of an individual officer like Anderson to report or not report a particular call," Lindsay wrote.

McCloskey's son, Scott, said it was ridiculous that the FBI has no legal responsibility, even though Anderson was sentenced to six months in prison for lying under oath when he initially denied taking Sampson's phone call.

"He was made accountable for his mistake, so why can't the FBI be held accountable for their mistake?" said Scott McCloskey, of Plymouth.

After Sampson pleaded guilty to federal carjacking and murder charges, a jury recommended in December 2003 that he be executed -- making him the only person ever sentenced to the federal death penalty in Massachusetts. He's currently on death row at the federal prison in Terre Haute, Ind., while he appeals his sentence.

The Abington native admitted that he carjacked McCloskey in Weymouth on July 24, 2001, and forced him at knifepoint to drive to Marshfield, where he walked him deep into the woods, tied him up, and stabbed him 24 times.

Three days later, Sampson carjacked 19-year-old Jonathan Rizzo, of Kingston, outside a Plymouth restaurant. He forced the college sophomore to drive to Abington, where he tied him to a tree in the woods and repeatedly stabbed him.

Sampson then fled in Rizzo's car to New Hampshire, where he broke into a vacation home on Lake Winnipesaukee and stabbed 59-year-old Robert "Eli" Whitney to death when he arrived to cut the lawn.

Sampson called police and surrendered the next day after breaking into a ski chalet in Plymouth, Vt., and setting off a burglar alarm. Then, Sampson, who was wanted for bank robberies in North Carolina, revealed that he had called the FBI's Boston office from a convenience store in Abington the day before going on his rampage and offered to surrender.

Sampson said he waited outside the store for several hours, but the FBI never showed up.

"They didn't even make an attempt to come and arrest him," Scott McCloskey said. "If they did show up and caught him they would have got all kinds of glory for catching this bank robber . . . and my father would still be alive."

Anderson, who had been filling in for a switchboard operator at lunchtime, said he had inadvertently disconnected Sampson's call when trying to switch it to an agent.

FBI officials said at the time that the bureau doesn't record its calls and didn't have the ability to track the lost call.

The McCloskeys also named Sampson, who is indigent, in the suit and were seeking $25 million in damages from him. The judge ruled yesterday that if the McCloskeys want to go forward against Sampson they must take their suit to state court.

Brockton attorney Kevin Reddington, who represents the McCloskeys, said he'll review the judge's decision with the family and then decide whether to appeal it. He added, "We believe the government owes a duty of protection to its citizens."

In his ruling, Lindsay also rejected the McCloskeys' claim that the FBI had a responsibility to protect the public from Sampson.

The judge wrote that in an unrelated lawsuit brought against the FBI by the family of Debra Davis, one of the victims of South Boston crime boss James "Whitey" Bulger, he'd concluded that the government had a duty to protect the public because Bulger was a longtime informant.

However, Lindsay wrote that the FBI had no special relationship with Sampson that obligated the government to control Sampson's conduct, because he was neither an informant nor in FBI custody.

David V. Kirby, the United States attorney for Vermont, who defended the government against the lawsuit, declined to comment yesterday on Lindsay's ruling.

But in its motion seeking dismissal of the suit, federal prosecutors wrote that the FBI could not have foreseen that Sampson would commit murders after his phone call was disconnected.

"Plaintiffs simply cannot establish that any alleged negligence by the FBI actually or proximately caused McCloskey's murder," the prosecutors wrote.

Judge Dismisses Suit Against FBI (BOS)

The Boston Globe, September 7, 2005

BOSTON --A lawsuit against the FBI filed by the family of one of Gary Sampson's victims has been dismissed by a federal judge, who ruled that the government is protected from such suits despite bungling Sampson's offer to surrender.

U.S. District Judge Reginald C. Lindsay on Tuesday threw out the $10 million suit filed by the family of 69-year-old Philip McCloskey, who was one of Sampson's three victims during his interstate murder spree four years ago.

The judge, in a 24-page decision, said federal law protects the government from being sued for negligence because former FBI clerk William H. Anderson was using his discretion when he disconnected Sampson's call, and failed to notify anyone.

Sampson had called the FBI to surrender to bank robbery charges, but the call was disconnected. Sampson waited several hours for the FBI to arrest him outside a convenient store a day before his rampage.

He later admitted to killing two Massachusetts men and a New Hampshire man.

Scott McCloskey, the victim's son, told The Boston Globe that Anderson was held responsible -- he was sentenced to six months in prison for lying under oath when he initially denied taking Sampson's call -- but not the FBI.

"He was made accountable for his mistake," McCloskey said, "so why can't the FBI be held accountable for their mistake?"

A drifter who grew up in Abington, Sampson confessed to killing McCloskey, Jonathan Rizzo, 19, of Kingston, and Robert "Eli" Whitney of Meredith, N.H., in July 2001. His weeklong crime spree ended with his capture in Vermont.

A jury in December 2003 sentenced Sampson to death. He is being held in a federal prison in Terre Haute, Ind., while he appeals the death sentence.

U.S. Supreme Court Is Asked To Decide If It's Proper To Let Sleeping Jurors Lie (LAW)

By Mary P. Gallagher, New Jersey Law Journal

Law.com, September 7, 2005

DOJ_NMG_0003494

New Jersey's public defender wants the U.S. Supreme Court to issue a bright-line rule that a defendant's due process right to a fair trial is violated when jurors fall asleep during testimony.

Several jurors allegedly dozed off during Roy Higinia's October 1996 drug-possession trial in Essex County, N.J. The transcript shows that Assistant Deputy Public Defender Rafael Gomez, at a sidebar just prior to cross-examining a police detective, told the judge that four or five jurors were "deep asleep" and some were "falling asleep" during his opening.

Superior Court Judge Julius Feinberg said he had not noticed and the case would continue but he would "wake them up, if necessary." He then asked the jurors if the room was too hot and when one answered "a little bit," he had the windows opened.

The trial proceeded and Higinia was convicted and sentenced to five years in jail.

The Appellate Division rejected the argument that the defendant was entitled to jurors who have heard all the evidence. In State v. Higinia, A-5515-02, decided March 21, Judges Francine Axelrad and Rudy Coleman said Feinberg took "proper remedial measures" by opening the windows after surveying the jury. Further, since defense counsel did not request anything more at the time, the issue could not be raised on appeal.

They also found no prejudice because the alleged napping occurred during direct testimony by a prosecution witness and the jurors were awake for the cross-examination. The New Jersey Supreme Court denied certification on May 25.

In the petition for certiorari filed Aug. 23, Assistant Deputy Public Defender Lon Taylor said the appeals judges ignored state precedent that places an affirmative duty on the trial court to assure an attentive jury. Taylor asked the Court to rule that a sleeping juror is per se a structural error not amenable to harmless error review and so requires reversal.

The petition points out that Higinia, who admitted possessing cocaine, claimed that police fabricated the distribution charges and that jurors who slept through police testimony would miss the chance to assess credibility based on factors like body language and demeanor.

Sleeping jurors are not uncommon. A 1996 survey of state and federal judges by Vanderbilt Law Professor Nancy King found that 69 percent of the 562 respondents had seen at least one in an estimated 2,300 cases during the preceding three years.

Rachel Sacharow, a spokeswoman for the state Division of Criminal Justice, declined comment last week, saying her office had not yet seen the petition.

Millions More In Bogus Cigarettes, Cash Seized By Feds (NSDY)

Long Island Newsday, September 7, 2005

NEWARK, N.J. -- In the weeks since federal authorities said they smashed a smuggling ring that brought counterfeit cash, cigarettes, and drugs into the U.S., additional raids have netted $5 million more in bogus cigarettes and $2 million more in fake U.S. currency.

Operation Royal Charm, in which 87 Asians and U.S. citizens were arrested in mid-August, netted $4.4 million in high-quality fake $100 bills, more than 1 billion counterfeit cigarettes worth $42 million, and hundreds of thousands of dollars worth of ecstasy, methamphetamines and Viagra, officials said.

At the time of the arrests, officials said some of the cigarettes were made in China and the money appeared to have been produced in North Korea.

Since the arrests, authorities seized an additional $1.8 million worth of cigarettes in southern New Jersey on Aug. 21, followed by a seizure of $2.7 million worth of cigarettes the next day at Port Elizabeth, according to the FBI.

On Aug. 23, approximately $2 million in counterfeit U.S. currency, commonly referred to as "super notes," were seized by Taiwanese and American authorities in Kaohsiung, Taiwan, authorities said.

And on Aug. 24, more cigarettes worth more than $500,000 were seized in northern New Jersey.

Some of the arrests were made when alleged smugglers expected to attend a lavish wedding aboard a yacht in Atlantic City but were instead transported into the hands of federal agents.

Gotti Was 'A Street Boss,' Prosecutors Say In Closing (NYT)

By Julia Preston

The New York Times, September 7, 2005

John A. Gotti, the prince of the Gambino crime family, ordered the 1992 kidnapping of the Guardian Angels founder, Curtis Sliwa, because he regarded himself as "the street boss of his own government," a federal prosecutor said yesterday in his closing argument in Mr. Gotti's racketeering trial.

Summing up the government's case in the four-week trial, the prosecutor, Joon Kim, said Mr. Gotti would not have been satisfied to "write a letter to the editor" with his complaints about Mr. Sliwa's tirades against the Gotti family on his morning radio show on WABC-AM.

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"Instead of engaging in a public debate, Gotti responded in the Gambino crime family's native language: violence," Mr. Kim said.

Mr. Gotti, the son of John J. Gotti, the late Gambino boss, is on trial in Federal District Court in Manhattan on broad racketeering-conspiracy charges that include the June 19, 1992, attack on Mr. Sliwa. Mr. Sliwa was abducted in a New York taxicab and shot in the leg and abdomen at point-blank range before escaping through an open window.

Mr. Kim pointed to corroboration in testimony about the attack by two former Gambino members, Michael DiLeonardo and Joseph D'Angelo, who said he was the driver of the cab.

The prosecutor concluded his three-hour summation assailing Mr. Gotti's defense argument that he withdrew from organized crime after he was arrested in 1997 on earlier racketeering charges. Mr. Gotti pleaded guilty in 1999, and has served more than six years in jail.

"This argument is simply nonsense," Mr. Kim said. "You've seen no evidence of withdrawal."

To comply with a five-year statute of limitations on the charges, the prosecutors must show that Mr. Gotti continued to commit crimes with the Gambino organization after July 1999 - while he was in Ray Brook federal prison in upstate New York. Mr. Kim pointed to testimony from Mr. DiLeonardo that he complied in mid-2000 after Mr. Gotti asked him for $50,000 in loan sharking funds that Mr. DiLeonardo had been holding. Mr. Lichtman, Mr. Gotti's lawyer, is to sum up his defense today.

Also on trial are Louis Mariani, accused of extortion and securities fraud, and Michael Yannotti, charged with shooting Mr. Sliwa, among other crimes. Mr. Mariani's lawyer, Charles Carnesi, said the turncoat witnesses had all shown they were liars.

"They spit out a story and the prosecutors and the F.B.I. decide not to check the story and it becomes the truth," Mr. Carnesi said. "The game is rigged."

Prosecutors: Gotti Son Ordered Sliwa Attack As Part Of Criminal Reign (NYNSDY)

By Patricia Hurtado, Staff Writer

New York Newsday, September 7, 2005

A federal prosecutor contended Tuesday that John "Junior" Gotti's claim that he retired from mob life after his 1999 guilty plea is "ridiculous and sounds like a way to get a pass for a lifetime of crime."

In closing arguments to the jury after the month-long trial, Assistant Manhattan U.S. Attorney Joon Kim said that while Gotti pleaded guilty to federal racketeering charges in April 1999, he never stopped committing crimes as Gotti lawyer Jeffrey Lichtman asserted.

Kim said Gotti was appointed the "street boss" of the Gambino crime family after his father, mob boss John Gotti, was imprisoned in 1992.

Kim also said Junior Gotti was so enraged by comments radio talk show host Curtis Sliwa made about the "Dapper Don" that Junior Gotti dispatched two thugs to inflict a beating on Sliwa so severe "he would have to be scraped off the ground."

"In Gotti's mind he was not a normal citizen obliged to obey the law," Kim said of the younger man. "He believed he was special because he had become the street boss of his own government, a government which had its own set of rules and law, whose only purpose is to make money and commit crimes."

Kim cited the testimony of Joseph D'Angelo, a former Gambino soldier, who testified as a government witness that Junior Gotti dispatched him and Michael Yanotti to kidnap Sliwa and put him in the hospital.

"In Gotti's government, there is no right of free speech," Kim said.

Yanotti, charged with conspiracy and attempted murder for shooting Sliwa during the foiled kidnapping, is on trial with Gotti.

D'angelo testified Gotti oversaw nearly every aspect of the Sliwa attack, and yesterday, Kim reminded jurors that when D'angelo balked at attacking Sliwa, Gotti said: "I want it to be personal. I want him to know we had our hands on him."

And Kim asserted that testimony from other mobsters who once were close to Gotti, including former best friend Michael DiLeonardo, proved that Gotti continued his life of crime behind bars and reaped millions of dollars from the Gambinos' extortion of unions and construction firms and through loan sharking.

"We've seen no evidence of withdrawal," Kim said. "Instead, we've heard Gotti continued to receive illegal proceeds and benefits through 2001."

Kim said that six months after Junior Gotti was incarcerated he sent a message to subordinates to "push out" thousands of dollars in loansharking for the mob. Gotti later used mob proceeds to purchase commercial property on Hempstead Avenue in Queens Village, Kim said.

Lichtman is to deliver his closing arguments today.

Charles Carnesi, a lawyer for Gotti another co-defendant, Louis Mariani, a reputed Gambino associate, told jurors in his closing arguments yesterday that there was no evidence his client reaped millions of dollars from illicit Gambino operations.

Mariani is charged with racketeering, loansharking and stock fraud.

Prosecutor: Gotti's Son Ordered Sliwa Hit (AP)

By MICHAEL WEISSENSTEIN, The Associated Press

AP, September 7, 2005

NEW YORK (AP) — New York was buzzing about Gambino crime boss John Gotti in the spring of 1992, and radio host Curtis Sliwa didn't hide his disdain for the "Dapper Don."

Calling the boss "America's No. 1 drug dealer," Sliwa infuriated the late mobster's son and protege, John A. "Junior" Gotti, a federal prosecutor said Tuesday as the younger Gotti's racketeering trial drew to a close.

Gotti "didn't respond like an ordinary citizen," Assistant U.S. Attorney Joon Kim said in his closing argument. "Instead of engaging in public debate, Gotti responded to Sliwa's words in the Gambino family native language: violence."

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The younger Gotti sent thugs to beat Sliwa with baseball bats, Kim said. But Sliwa didn't shut up, so two mobsters were dispatched to pick him up in a stolen cab, the prosecutor said.

As Sliwa struggled to escape, a hitman opened fire, leaving the Guardian Angels founder weak and bleeding in the back seat, Kim said.

Sliwa escaped by throwing himself out the cab window but other Gambino family rivals were not as lucky, Kim said, describing the machine-gun slaying of two other men, one killed simply because he was with the intended target.

Defense attorneys claim the younger Gotti, 41, had nothing to do with Sliwa's shooting and other attacks and quit the mob after a 1999 racketeering conviction.

But Kim called that argument "simply nonsense," saying Gotti was "a man who used his name to get to the top of this criminal enterprise ... a man who used his position in the family to line his pockets with millions of dollars in illegal money."

Gotti continued to meet with gangsters, take their tribute money and plot crimes in the years after his purported renunciation of the mob life, Kim said.

"You've seen no evidence of withdrawal," he told jurors.

Gotti's alleged role in the Sliwa attack is part of racketeering charges that could keep him in prison for up to 30 years. Gotti's attorney was to begin his summation Wednesday.

The elder Gotti was sentenced to life in prison in 1992 and died in prison in 2002.

Sliwa described the cab attack to jurors in gruesome detail last month, recounting how a masked gunman hiding in the front passenger seat "popped up like a jack-in-the-box," swore at him and began shooting.

Wounded in the stomach and bleeding profusely, Sliwa discovered the cab had been rigged so he couldn't open the back doors. He said he saved himself by throwing himself into the front seat and out the passenger window as the cab sped down the street.

"He would be dead if he didn't somehow leap out the window of a speeding cab," Kim said.

The trial has also featured the testimony of Michael "Mikey Scars" DiLeonardo, one of the highest-ranking Gambinos to become a cooperator.

Trial Of 'Junior' Gotti Draws To Close In New York (REU)

By Christine Kearney

Reuters, September 7, 2005

NEW YORK (Reuters) - The son of late mob boss John Gotti ordered a vicious attack from prison on the founder of the Guardian Angels anti-crime patrol as retribution for comments the man made about Gotti's father, prosecutors said on Tuesday.

John A. Gotti, also known as "Junior," rose to become the "street boss" of the Gambino crime family for most of the 1990s after his father, known as the "Dapper Don," went to prison, prosecutor Joon Kim told the jury in closing arguments at Gotti's federal trial in Manhattan.

Kim said the younger Gotti ordered an attack in 1992 on Curtis Sliwa that left the Guardian Angels' founder bloodied in a taxi cab with multiple bullet wounds after Sliwa made derogatory comments about his infamous father on his talk radio show.

In an attack on Sliwa a few months earlier, three thugs pummeled him with baseball bats, the prosecutor said.

"He (Gotti) sent his underlings to do his dirty work for him," said Kim. "Gotti responded to Sliwa's words in the Gambino family's native language: violence."

In the racketeering trial, Gotti faces a number of charges, including conspiracy to commit securities fraud, extortion of construction businesses and loan sharking, as well as the attempted kidnapping of Sliwa. If convicted, he faces up to 30 years in prison.

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Jeffrey Lichtman, Gotti's defense attorney, has argued that his client turned away from crime since pleading guilty to racketeering charges in 1999. Lichtman described Gotti as a devoted father of five who drove a minivan and changed diapers.

Lichtman has said the prosecution's case was based on an array of untrustworthy witnesses who agreed to testify against Gotti so that they could get lighter prison terms.

Kim told jurors the array of mob turncoats who testified during the trial, including the driver of the taxi, Joseph D'Angelo, was "powerful, corroborating evidence." Sliwa provided colorful testimony, in which he described how he used the back seat of the taxi like a trampoline to escape through the window.

"He told you in frightening detail what happened to him that morning," Kim told jurors, noting how Sliwa described "blood oozing out of his body and soaking his shirt."

"Curtis Sliwa was shot in the stomach and the leg at point blank range. He would be dead if he didn't somehow leap out of the window of a speeding cab," he said.

The prosecutor said Gotti's contention he wanted out of organized crime after pleading guilty to racketeering charges in 1999 in a separate case was "nonsense" and that he continued to commit crimes from prison following the earlier plea.

Gotti's defense attorney planned to present closing arguments on Wednesday.

The elder Gotti died in prison in 2002.

PartyGaming Shares Plunge As Growth Rates To Slow (Update5) (BLOOM)

Bloomberg, September 7, 2005

Shares of PartyGaming Plc, the online poker operator that sold $1.9 billion of stock in a June initial public offering, fell as much as 37 percent to below the IPO price after the company said revenue growth is slowing.

The stock dropped as much as 58.75 pence to 98 pence in London, wiping about 2.4 billion pounds ($4.4 billion) from the company's market value. The shares, which were sold to the public at 116 pence each, were at 105 pence at 12:50 p.m. local time. Stock of competitors including Sportingbet Plc also fell.

PartyGaming's share sale was more than three times subscribed by investors on expectations that the increased popularity of online poker will spur growth in an industry that's expanded 10-fold in three years. The company's revenue gains are slowing as more operators seek to enter the market, adding to competition.

``There were some clear dangers in relation to the valuation of this company and our concerns have been realized,'' said Henk Potts, a London-based fund manager at Barclays Private Clients, which manages the equivalent of $45 billion. ``PartyGaming is all about its growth potential, and some investors decided to bet on the growth rather than consider the potential slowdown.''

Profit rose 25 percent in the first half, PartyGaming said today in a statement, as revenue gained 81 percent. The company incurred costs of $62.3 million related to its stock sale.

World Series of Poker

The drop in PartyGaming's share price has redressed the ``hype'' that caused the stock to gain after the IPO, said Paul Leyland, an analyst at Seymour Pierce in London.

``The market has misinterpreted what's actually just happened in the same way that it misinterpreted that poker was going to the moon ad infinitum initially,'' said Leyland, who doesn't have a formal recommendation on the stock.

Gibraltar-based PartyGaming, formed in 1997, said revenue growth in July and August was slower and weaker than expected. This may have been caused by the later screening of the World Series of Poker, which this year started on Aug. 23, Chief Executive Richard Segal said on a conference call. The event, aired by Walt Disney Co.'s ESPN, began last year on July 6.

``We may have revenues which are slightly lower than what we had initially anticipated based on a softer pick-up in the third quarter,'' Finance Director Martin Weigold said on the call. ``That may just be a blip, it may be a trend.''

The poker industry has swelled as events such as the World Series of Poker have encouraged more people play games such as Texas Hold'em on line. About 29,000 players competed for more than $103 million of prize money at this year's tournament in Las Vegas.

`Highly Competitive'

The number of days on which regular users played poker rose 59 percent in July and August from the same period last year, slowing from a 102 percent gain in the first half, Segal said.

PartyGaming said customer retention rates are falling as more casual players come on line. Competition is increasing in the market, which is 51 percent-controlled by Gibraltar-based PartyGaming. Empire Online Ltd., which helps poker and casino Web sites win customers, also had an initial public offering in June, and 888 Holdings Plc, the world's largest Web casino operator by number of visitors, is planning a $500 million share sale.

``The market has been highly competitive for some time and remains highly competitive," Segal said.

A spokesman for 888 said the company's IPO plan remains on track and amid ``very positive feedback" from investors.

According to research company Christensen Capital Advisors, growth in online poker will slow to 60 percent in 2006 from 130 percent in 2005, and to 30 percent in 2007. The industry grew to $1 billion in 2004 from $90 million in 2002, Christensen says.

Gaming companies have raised $4.5 billion selling shares over the last 12 months. Sportingbet sold stock twice in the period, raising a total of $220 million, Bloomberg data show.

First-Half Results

Shares of Sportingbet, the owner of Paradise Poker, fell as much as 18 percent in London today. Stock of Ukbetting Plc, which operates Ukbettingpoker.co.uk, dropped as much as 9 percent.

PartyGaming said first-half net income rose to $171 million, or 4.5 cents a share, from $136.5 million, or 3.6 cents, a year earlier. Earnings before interest, tax, depreciation and goodwill amortization rose 70 percent to $257.7 million.

Revenue, 92 percent of which comes from fees for poker games played on the company's Web site, increased to $437.4 million, PartyGaming said. Sales in the U.S. gained 77 percent, while growth outside the U.S. more than doubled.

The company makes 87 percent of its revenue in the U.S., where the Justice Department considers online gambling illegal.

Dresdner Kleinwort Wasserstein cut its 2006 estimate for earnings before interest, tax and amortization by 12 percent to $622 million, according to a research note.

Segal said the company is ``monitoring developments" at Empire Online after Sportingbet said yesterday that it may make a takeover offer.

To contact the reporter on this story: Paul Jarvis in London at pjarvis@bloomberg.net. Last Updated: September 6, 2005 08:11 EDT

Betfair Makes Online Odds On AC Milan, Hillary Clinton, Weather (BLOOM)

Bloomberg, September 7, 2005

On a rainy July afternoon on the opening day of Glorious Goodwood, a two-century-old British horse- racing extravaganza, cricket star Michael Atherton is mingling in the box rented by Betfair, an online gambling site that processes 2 million wagers a day, six times the trades on the London Stock Exchange.

Betfair co-founder Andrew Black, 42, sneaks in two hours late, flinging a blue tie around his neck to conform to the ``jacket and tie" dress code.

``I'm still feeling rough," Black quips. Twelve hours earlier, he'd dressed up as a jockey with a cap and leather whip to celebrate the fifth birthday of his company, London-based Sporting Exchange Ltd., which operates under the Betfair name.

Black has more than one reason to celebrate. In June, Betfair hired Morgan Stanley, the world's largest securities firm, and Goldman Sachs Group Inc., the second-biggest adviser for global acquisitions, to look into its financial options, including a potential initial public offering.

Given the valuations of gambling companies that have gone public in the past six months, Betfair would be worth as much as 600 million pounds ($1.1 billion), says Martin Oelbermann, a director at Munich-based research firm MECN GmbH. The valuation takes Betfair's profit of 17.1 million pounds for the year ended in April and applies the price-earnings multiples of online gaming companies such as Empire Online Ltd., which directs gamblers to poker Web sites.

``The Internet has proven to be a fantastic medium for gambling," says Richard Carter, an equities analyst who covers the leisure industry at London-based brokerage Numis Corp.

Gambling Bubble?

Carter says as many as seven Internet gambling companies may sell shares to the public this year. ``Every online gambling sector is growing faster than its land-based counterpart," he says, comparing Internet gaming to traditional betting shops and casinos.

The hubbub surrounding Betfair and the host of new gambling sites recalls the Internet bubble of the late 1990s, says Paul Leyland, an analyst at London-based brokerage Seymour Pierce Ltd.

``For these valuations to hold, there is an assumption that all companies in the medium to long term can grow at double-digit rates," Leyland says. ``We are skeptical."

Yesterday, shares of PartyGaming Plc, which runs PartyPoker.com, the world's biggest poker site, plunged 33 percent to 105 pence, below the IPO price of 116 pence, after the company said revenue growth is slowing.

PartyGaming's Slowdown

Gibraltar-based PartyGaming went public in June, raising 1.04 billion pounds. It was the U.K.'s biggest IPO since Reading, England-based Yell Group Plc, which publishes Yellow Pages directories, raised 1.2 billion pounds in 2003.

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Chief Executive Officer Richard Segal said on yesterday's conference call that the number of days during which regular users played poker rose 102 percent in the first half of 2005 from the same period a year earlier. In July and August, the pace slowed to 59 percent, he said.

In addition, the revenue that each active player generates is falling because casual gamblers are joining and they play less frequently. ``The market has been highly competitive for some time and remains highly competitive," Segal said.

Online gaming generated $8.2 billion in revenue last year, or about 3 percent of the $243 billion global gambling market, according to New York-based research firm Christiansen Capital Advisors.

Betfair Stands Out

The online poker market alone soared to $1 billion in 2004 from $92 million in 2002. While revenue at traditional casino and gaming companies is likely to edge up 3 percent a year through 2009, revenue at online companies will surge about 22 percent annually to reach about $23 billion in that year, Christiansen predicts.

Oelbermann says Betfair stands out from competitors. He compares it to EBay Inc., the San Jose, California-based online auction house that matches buyers and sellers in a global marketplace.

Betfair charges nothing to a person who offers a wager. It takes a maximum cut of 5 percent of a winning bet. The strategy eliminates the bookmaker, the agent who offers odds and accepts bets for a fee.

In traditional casinos or gambling sites, customers play against the house, which builds a profit margin into the odds, making it hard to win, Black says.

In contrast, Betfair is a betting exchange -- an inspiration Black says he took from his stint in 1995 trading U.S. equities and learning about the New York Stock Exchange.

Split-Second Timing

A person who accesses Betfair's Web site can offer a bet and set the odds. If the odds are attractive, other bettors will take the counter position. This happens with split-second timing, and it's anonymous. Everybody has funds in the system to back their wagers. Transactions are reconciled immediately after the event is completed.

Betfair's 300,000 clients can -- and do -- bet on anything, from whether New York Senator Hillary Clinton will win the 2008 Democratic Party presidential nomination and how high home prices will rise in the U.K. to who will win MTV's best dance video and how hot the British summer will be.

Recent bets slightly favored Clinton's nomination, had housing prices reaching an average of 157,000 pounds to 158,999 pounds by December 2005, had Jennifer Lopez winning in the Best Dance Video category and were against temperatures reaching 100 degrees Fahrenheit (38 degrees Celsius).

In May, Betfair notched a company record of more than 10 million pounds of wagers on one event when the U.K.'s Liverpool soccer club came back from a 0-3 deficit against Italy's AC Milan to win the European Champions League final on penalty kicks.

`First-Mover Advantage'

``You can't beat the first-mover advantage," says Oelbermann, referring to the benefit he says Betfair and EBay have gained by being the first to strike it big from profits on client transactions. ``Nobody will be able to beat Betfair unless the management makes a massive mistake."

The gambling craze is spurring action on the acquisition front. Sportingbet Plc, which operates an online casino, accepts sports wagers and runs poker games, announced on Sept. 5 that it's in talks to buy Empire Online, which is based in the British Virgin Islands. Empire's shares have risen 44 percent this year to 252 pence yesterday. Sportingbet shares have gained 64 percent to 311 pence.

``The next wave of activity will be mergers and acquisitions," predicts Nigel Payne, Sportingbet's CEO. ``There will be 50 M&A deals in the next two years."

Getting big quickly may be the best way to ensure survival. Sporting Options Plc, a betting exchange like Betfair, filed for bankruptcy protection with debts of 5.4 million pounds in November 2004.

Failed Bet

Started in May 2002, Sporting Options took a maximum cut of 3 percent on a winning bet, less than Betfair's 5 percent ceiling. By 2003, losses had widened ninefold to 1 million pounds. The company struggled to attract 5,500 customers, less than one-tenth of Betfair's regular monthly clients.

Black, who provided a 3.5 million-pound bailout for Sporting Options customers and took on some of the company's bets, declined to comment on plans for a Betfair IPO. He prefers to talk about how his company lets him do what he knows best. ``I read somewhere that to be a successful entrepreneur means being able to do things that you don't like," Black says as he watches half a dozen horses speed by Betfair's box. ``That's not me. I don't like to do things that I don't like."

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From his earliest years, conforming was never part of Black's agenda. His grandfather was Sir Cyril Black, a teetotaler who campaigned against gambling as a Conservative Party Member of Parliament for Wimbledon, south of London.

Exeter University

The younger Black was expelled from Exeter University in southwestern England after he spent time gambling rather than studying.

He stacked shelves at a do-it-yourself store and toured Europe as a golf caddy -- a circuitous route to becoming a gambling mogul who's shaking up the old guard. Last year, Betfair processed $10 billion of wagers. Its strategy of taking a cut of every winning bet translated to a 63 percent jump in profit in the recent fiscal year. Revenue soared 61 percent to 107 million pounds.

Black says Betfair avoids legal headaches by taking no bets from residents of the U.S., a hotbed for online gamblers that produced 87 percent of PartyGaming's $600 million in revenue last year.

U.S. Laws

In April 2003, Deputy Assistant Attorney General John Malcolm told the Crime, Terrorism and Homeland Security Committee of the U.S. House of Representatives that if online gambling companies accept bets from customers in the U.S., they are violating federal laws.

``While the United States can indict these companies or the individuals operating these companies, it may be difficult to bring them to trial in the United States,'' Malcolm said.

In his testimony, Malcolm referred to the 1961 Federal Interstate Wire Act. The act states that it's illegal to use a ``wire communication facility,'' referring to a telephone, to transmit bets across state borders. Congress developed the act to stop organized crime involvement in sports gambling, says Lawrence Walters, a lawyer at Weston, Garrou, DeWitt & Walters in Altamonte Springs, Florida, who has advised the online gaming industry.

``The government has used the Wire Act as a threat against anyone providing services such as payment processing or advertising to the online gaming companies,'' Walters says. ``Even if they are empty threats, public companies are not going to take a chance.''

Spitzer's Role

In June 2002, New York-based Citigroup Inc., the biggest issuer of credit cards at that time, reached an accord with state Attorney General Eliot Spitzer, agreeing not to process transactions made at online casinos and other Internet gambling operations. Banks followed suit.

MBNA Corp., the Wilmington, Delaware-based bank that Bank of America Corp. has agreed to buy; Chase Manhattan, now part of JPMorgan Chase & Co., the third-largest U.S. bank; and Wells Fargo & Co., the top U.S. home equity lender, have agreed not to process online casino transactions. American Express Co., the fourth-biggest U.S. credit card issuer, prohibits cardholders from using their cards to gamble on line worldwide.

In July 2002, Spitzer subpoenaed PayPal Inc., the payment provider owned by EBay, questioning its use for online wagers. PayPal agreed to end payments for online gambling. U.S. Justice Department spokesman Bryan Sierra declined to comment on specific online gambling companies or cases. ``Our view is that online gambling in the United States is illegal,'' he says.

`Not Illegal'

PartyGaming's Segal says his company isn't doing anything wrong. ``We are satisfied that what we are doing is not illegal,'' he says.

Segal says he bases his reasoning on a court case in Louisiana and a ruling by the World Trade Organization. In 2001, Judge Stanwood Duval of the U.S. District Court for the Eastern District of Louisiana in New Orleans dismissed a case against the world's second-biggest credit card brand, MasterCard International Inc. The suit asserted that MasterCard had run afoul of the Wire Act when it let customers use their cards to gamble and lose money at online casinos. The claimants argued that they shouldn't have to repay their debts because online gambling is illegal.

``At this point in time, Internet casino gambling is not a violation of federal law,'' Duval ruled. The Fifth Circuit Court of Appeals, also in New Orleans, affirmed the decision in November 2002.

Address Required

Then, in April 2005, the Geneva-based WTO's appellate body said that because a number of U.S. states allow online gaming on lotteries and some permit online betting on horse racing, it was difficult for the U.S. to justify banning online gaming internationally.

Betfair customers must give their address to register and submit bank details to deposit money into their account before they can wager. ``We don't accept bets from customers with a U.S. address or U.S. credit card,'' says CEO Stephen Hill, 44, sitting in a corner room in the company's glass and steel offices overlooking the Thames in West London.

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On its home turf, Betfair is irritating traditional betting houses. David Harding, CEO of William Hill Plc, the U.K.'s biggest gambling company, says Betfair fosters unlicensed bookmaking because it lets anybody act as a bookmaker. The U.K. requires that bookmakers hold a permit from the Betting and Licensing Committee of a local Magistrates' Court.

`Perfectly Fine'

``If I go into a pub and offer to take bets from the public, I'd be arrested,'' Harding says, adding sarcastically, ``I do it on my computer, then that's perfectly fine.''

In addition, Harding says, some regulated bookmakers use Betfair to avoid paying the U.K. racing levy. U.K. law mandates that bookmakers pay as much as 10 percent of their gross profits to the horse-racing industry. When a licensed bookmaker offers a bet on Betfair, he avoids paying that tax, Harding says.

``No overheads and no taxes to pay means that bookmakers using Betfair can offer better odds,'' he says. Betfair itself is subject to the U.K.'s 30 percent corporate tax and 15 percent gross-profits tax on its take of customers' winnings.

The rise of online casinos is also prompting debate about gambling addiction. People who gamble on the Internet may be more likely than traditional gamblers to have a problem, says Guy Clark, chairman of the nonprofit, Washington-based National Coalition Against Legalized Gambling.

Gambling Behavior

Clark cites a report by University of Connecticut psychologists George Ladd and Nancy Petry, who studied the gambling behavior of 389 people. They found that almost 11 percent were problem gamblers and more than 15 percent met the criteria for pathological gamblers, showing an inability to resist the impulse to gamble. The study further identified those with Internet gambling experience as having the most serious addictions.

``There is an awful lot of opposition to foreign online gambling companies becoming pervasive across the U.S.,'' Clark says.

Black grew up around traditional betting shops, the smoke- filled parlors where anyone can wager on a sporting event -- mostly horse races or football matches. The son of a property developer, Black attended Kings College, a private school for 7- to 18-year-olds in Wimbledon, the same district that his grandfather represented in Parliament. He got the nickname ``Bert'' when a teacher mistakenly called him by the wrong name.

Even as Black's grandfather legislated against drinking and gambling, Black's father took his 8-year-old son to the Goodwood racetrack in the Sussex countryside.

Hooked on Excitement

Black says he became hooked on the excitement and the tactics for picking winners -- an avocation that hurt his studies when he enrolled at Exeter to study mathematics in 1981. The university expelled him two years later for failing some of his exams, he says.

``I got good grades in the ones I did take,'' Black says, declining to say which ones those were.

Black followed with part-time jobs. In between, he tried to perfect his gambling to make a living betting on horses and playing bridge. In 1984, Black met his best friend, Jeremy Wray, at the Young Chelsea Bridge Club in London's Earls Court neighborhood.

In 1986, Black's brother Kevin, who was five years younger, contracted a brain infection that left him a paraplegic. Kevin died in 1988. Black says he decided to seek a regular job, joining the London branch of Track Data Corp., a New York-based financial information services company.

20-Pound Combination

All the same, he kept up his visits to the bookies. In 1992, he made his first big gambling profit. Black walked into his local bookmaking shop in Broadgate, near the Liverpool Street train station.

He put down a 20-pound combination bet on two horses named Party Politics and High Low to win the so-called spring double in the Grand National and Lincoln Handicap races. Both horses won, and Black scooped up 25,000 pounds. ``That was a very good day,'' Black says with a smile. ``That allowed me to quit my job.''

He tried his hand at professional gambling and got bored. In 1995, he joined Boxall Asset Management Ltd., a private money management company in London. The firm, which has since disbanded, traded U.S. equities and derivatives. Black traded U.S. stocks, learning how a financial exchange operates.

He quit after he had a falling out with his boss, he says, and got married and set himself up writing computer database programs for Internet companies such as Deckchair.com, an online travel agency. ``I could come up with creative solutions, which was more valuable than my coding skills,'' Black says.

`Take It or Leave It'

The idea for Betfair popped up in 1998 when Black was writing software for the British government's GCHQ, part of its intelligence service. After work, he'd think about how to translate what he'd learned about stock trading to sports betting.

``On the NYSE, everyone bids and offers against everyone else," Black says. ``You put your bid on the board, and anyone can come and post their bid. But bookies set the price, and you can either take it or leave it."

Black began toying with the idea of a site that would allow bettors to bypass bookies and to bet not only on an outcome but also against an outcome, much like shorting a stock. The project foundered until the death of his father in 1999. While his brother's death spurred Black to get a full-time job, his father's death jolted him to pursue his betting-site idea.

``So many people go through life with great ideas and never do anything about it," Black says. ``I had to take a chance."

Business Plan

Black put up 50,000 pounds of his own money and persuaded Jeremy Wray's younger brother to join him. Edward Wray, now 37, was a trader in debt capital markets at J.P. Morgan & Co. in London and could provide management know-how and open doors to raise new capital, Black recalls thinking.

With a business plan in hand, the pair visited venture capitalists in London. At the peak of the dot-com boom, they found no takers. One reason was that a company called Flutter was peddling a similar idea. Josh Hannah, 34, and Vince Monical, 35, former Bain & Co. management consultants from San Francisco, had beaten Black and Wray by getting to the venture capitalist community first.

``We tried to raise money and failed miserably," Wray says. ``Flutter had been there ahead of us."

Like Betfair, Flutter's site removed the bookmaker from the gambling equation. Unlike Betfair, Flutter was aiming for the casual bettor. ``It was about creating a community and a way of settling disputes you make with a friend in a pub or at work," says Hannah, who now runs a San Francisco online information service called Ehow.com and is the entrepreneur-in-residence at Menlo Park, California-based Benchmark Capital, which funded EBay. Venture capitalists loved Flutter.

30 Million Pounds

Hannah raised 30 million pounds from Benchmark, Geneva-based Index Ventures and Zurich-based UBS Capital. Black's idea of an exchange focusing on gamblers found no takers.

``Maybe they looked at me and thought I was past my sell-by date," he says. ``If you think Flutter is likely to be the leader, then you back it."

Wray and Black turned to friends and family and scraped together 1 million pounds in increments as small as 25,000 pounds. Flutter went on line in May 2000. Betfair followed four weeks later. The timing was propitious. Betfair's first day was Oaks Day, a major horse-racing event in the U.K. The company hired an actor to parade in a coffin around Russell Square in central London with a banner that read ``death of the traditional bookmaker."

`Liquidity and Size'

Betfair took in almost 1,000 pounds in bets on the horse race. Black says he knew he had a hit.

``Flutter was designed by management consultants who knew the Internet," he says. ``I knew gambling. I had been thinking about this for years."

In a few months, Betfair had about 95 percent of the betting exchange market based on volume of bets, says Simon Holliday, a partner at Global Betting & Gaming Consultants, a research firm in Wolverhampton, England.

Flutter's Hannah says he realized he'd been outflanked. ``This market is about liquidity and size," he says. ``It made sense to combine the two companies."

Hannah recalls that the decision to merge Betfair and Flutter happened over beers. The two combined in December 2001. The new company took the Betfair name, and Edward Wray became CEO. Fifteen months later, in April 2003, Betfair was handling 50 million pounds of bets a week and had increased its employees to 200 from 20. The company won a Queen's Award for Enterprise for ``outstanding innovation in the sports betting market."

Professional Gamblers

Betfair's arrival is spawning a new breed of professional gamblers. Jonathan Gale, 36, quit his job in the City of London, where he worked writing programs to determine options pricing at Deutsche Bank AG and other banks. He now spends as much as eight hours a day in an office 100 yards from his north London house, betting on intraday price movements of stock indexes using four computers and sophisticated software for program trading.

``With Betfair, your transactional costs are nil because you only pay a commission on your winnings," says Gale, who says he doesn't regret leaving his job. ``In the past 18 months, I haven't had a losing week."

Black is taking his company on the road. In Australia, Betfair has joined with Kerry Packer, the country's richest man, who owns Melbourne's Crown Casino. In July 2004, Black and Packer applied for a license to operate a betting exchange.

Australian Opposition

The local companies aren't in a hurry to put out the welcome mat. Michael Piggott, CEO of wagering at Melbourne-based Tabcorp Holdings Ltd., Australia's biggest gaming company, says Tabcorp has always opposed betting exchanges.

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``Licensed bookmakers are the only people that can accept bets," Piggott said via e-mail. ``That has been a cornerstone of maintaining integrity in the conduct of racing. The public cannot offer to accept bets."

In the U.K., Betfair has joined forces with Yahoo! Inc., operator of the world's most-visited Web site. Yahoo Betting provides a stripped-down version of Betfair aimed at casual gamblers. It offers a limited number of categories and no wagers on financial indexes or exchanges.

William Hill's Harding wants the U.K. government to tax Betfair on the volume of transactions that cross its exchange rather than on its profits. In March 2004, U.K. Chancellor of the Exchequer Gordon Brown said the Treasury would review the tax treatment of betting exchanges and their clients. A decision is expected in November, as part of the Treasury's pre-budget report, Betfair's Hill says.

Offshore Move?

Should the report be unfavorable to Betfair, Hill says, the company will give up its U.K. headquarters. ``If we have to pay more taxes, we'll move offshore," he says.

Betfair already has a license to operate in Malta, which charges gambling companies a 0.5 percent tax on their revenue. ``We'd like to be in the U.K. because it offers many advantages," he says, noting that the country's regulatory environment for financial companies would help investors feel safe investing in Betfair.

Regulation, taxes and concerns about gambling addiction all loom as Betfair and other online gaming sites strive to keep their growth streaks alive. The longest odds may be on Betfair's ability to prove that online gambling isn't another Internet bubble ready to burst.

To contact the reporter on this story: Kambiz Foroohar in London at kforoohar@bloomberg.net. Last Updated: September 6, 2005 21:20 EDT

CIVIL LAW:

Pols To Court To Stop NJ Base Closing (WINS)

WINS, 1010 AM, New York, September 7, 2005

(1010 WINS) (TRENTON) Lawyers for several New Jersey politicians made their plea Tuesday for a judge to issue a ruling that could keep Fort Monmouth open despite a federal commission's recommendation to close it.

U.S. District Judge Mary L. Cooper told them that she would rule quickly _ but did not specify exactly when.

Timing may be of the essence for the judge, who could order the base removed from the list of installations be closed, keep it on the list or set up future hearings on the matter.

By federal law, a list of recommendations for which military installations to close must be submitted to President Bush by Thursday. Bush has pledged to pass the list on to Congress without making any changes.

Congress can only vote the closures up or down. In past rounds of base closures, Congress has always accepted the commission's plan.

A lawyer for the government argued in a hearing Tuesday that if there is a time for the court to intervene in the Base Realignment and Closure Commission's process, it is not now.

Justice Department lawyer Carl Nichols said it's too early for those who believe Fort Monmouth should not be shuttered to make their case, in part because the president and Congress have not approved the closures.

``At that point, and at that point only, would we know Fort Monmouth would be closed," Nichols said.

Last month, BRAC recommended closing or consolidating 62 major military bases and 775 smaller installations across the country.

Among them, only the Fort Monmouth came with an asterisk: Fort Monmouth should be closed, the commission said, only if doing so would not interfere with the fort's work supporting the war on terror.

The closing would mean the loss of thousands of military and civilian contractors' jobs at a base where research is conducted. Fort Monmouth is headquarters of the U.S. Army's Communications Electronics Command, which designs radios, computers and software that keep troops in contact with each other.

Lawyers for a coalition including U.S. Sens. Jon Corzine and Frank Lautenberg, acting Gov. Richard J. Codey and other political and union leaders argued that BRAC did not follow six of Congress' eight criteria when it decided to close Fort Monmouth.

The effort to use the courts to save Fort Monmouth is probably a long shot, the lawyers conceded. But lawyer Frank G. Capece said Cooper's announced intention to issue a written opinion instead of an oral one gave some hope.

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Corzine insisted the lawyers ``leave no procedural stone unturned,'' Capece said, and pursuing a lawsuit now leaves open the possibility of further action later.

General Dynamics Loses Suit (WP)

By Renae Merle, Washington Post Staff Writer

The Washington Post, September 7, 2005

A federal jury in Greenbelt yesterday ordered General Dynamics Corp. to pay $129.9 million to its onetime partner, Final Analysis Communication Services Inc., a small satellite firm, according to officials for the two companies.

The verdict concluded a seven-week trial in U.S. District Court that included appearances by some of the defense industry's biggest players, including Nicholas D. Chabraja, General Dynamics' chief executive; and Gordon R. England, the former General Dynamics executive who is now acting deputy secretary of defense.

The case centered on whether General Dynamics violated agreements to help Lanham-based Final Analysis develop a $400 million project to launch low-flying satellites for data transmissions, including paging and text message services.

James J. McGuire, attorney for Final Analysis, said the jury ordered General Dynamics to pay a total of $137.9 million but also ordered Final Analysis to pay $8 million under a counterclaim, netting $129.9 million for the smaller company.

General Dynamics is awaiting a final decision by the court, said spokesman Kendall Pease. The judge has asked for briefs from both sides, he said. General Dynamics argued in court that a power struggle between the company's founders contributed to the problems, according to the transcripts.

In the midst of the telecommunications boom in 1998, Final Analysis forged what executives hoped would be a critical partnership with Falls Church-based General Dynamics. The large defense contractor, best known for building tanks and submarines, would buy a 30 percent interest in the smaller company and help with the engineering work. Final Analysis launched three test satellites and was once valued at $400 million to $600 million, according to court documents.

But by 2000, as the telecommunications boom turned into a bust, General Dynamics had backed out, Final Analysis argued in its breach of contract lawsuit. When General Dynamics stopped work on the project, the firm's parent company, Final Analysis Inc., fell into bankruptcy without ever having launched a working satellite or started its service, McGuire said.

Final Analysis is appealing the loss of its Federal Communications Commission license and hopes to use the money the jury awarded to rebuild its business, McGuire said.

Attorney-Client Privilege Doesn't Shield Company In Suit (LAW)

By John Council, Texas Lawyer

Law.com, September 7, 2005

For years, it has been nearly impossible for in-house counsel at Texas companies to bring whistleblower suits against their employers, because companies could claim that the attorney-client privilege protected important evidence from disclosure in such litigation. But a recent 5th U.S. Circuit Court of Appeals decision changes all that.

The Aug. 24 ruling concerns an appeal of an administrative dismissal of a whistleblower complaint filed by an in-house lawyer. The 5th Circuit held in Willy v. Administrative Review Board, U.S. Department of Labor that the U.S. Department of Labor's Administrative Review Board incorrectly dismissed the in-house lawyer's complaint, after the board determined that a key piece of evidence needed to prove his allegations could not be disclosed because of the attorney-client privilege between the lawyer and the company.

The 5th Circuit remanded the case to the Administrative Review Board, noting that the case had "endured an odyssey through administrative and judicial tribunals" including four appeals to the 5th Circuit.

Coastal Corp. fired Donald J. Willy, then an in-house environmental attorney with the Houston-based company, after a series of events in 1984, according to the 5th Circuit opinion. Willy wrote two reports in 1984, referred to in the opinion as the Belcher Report, in which he concluded that one of the company's subsidiary oil companies was exposed to liability for allegedly violating several federal environmental statutes. Willy's supervisors disagreed with some of his conclusions in the Belcher Report and asked him to delete references to some of the alleged violations, which he refused to do, according to the opinion.

Coastal fired Willy after his supervisors accused him of contacting state regulatory officials about environmental matters at a Corpus Christi refinery owned by Coastal, the opinion noted.

In October 1984, Willy filed a complaint with the U.S. Department of Labor, alleging that Coastal violated federal whistleblower laws by firing him in retaliation for writing the Belcher Report -- allegations the company denied.

The company alleged the Belcher Report was protected by attorney-client privilege and refused to produce the report as part of the litigation.

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Nevertheless, an administrative law judge allowed into evidence two draft versions of the Belcher Report that Willy had in his possession.

After a series of dismissals and reversals of dismissals by administrative law judges of Willy's complaint, in February 2004, the Department of Labor's Administrative Review Board (ARB) issued a final decision and dismissal order. The board concluded that there was no exception to the attorney-client privilege that would allow the Belcher Report to be admitted into evidence; therefore Willy could not prove his complaint.

The 5th Circuit found that the ARB incorrectly ruled that Willy could not introduce the Belcher Report.

"The case law amply demonstrates the narrower proposition that the attorney-client privilege only prohibits a party from simultaneously using confidential information as both a shield and sword," wrote Judge Jacques Wiener in an opinion joined by Judges Patrick Higginbotham and Rhesa Barksdale.

"Stated differently, the 'shield and sword' analogy is conjunctive; it does not stand broadly for the proposition that an attorney may never use confidential information offensively," the judges concluded.

20+ YEARS

Willy, who coincidentally has been employed as a federal administrative law judge in Houston for the past 10 years, says he's pleased with the ruling.

"Look at the Constitution. The Fifth Amendment says you have a right to due process," Willy says. "How can you not have a right to due process because of your occupation?"

Willy represents himself in the case and argued it at the 5th Circuit. Judicial canons prevent judges from representing other people in court but permit judges to represent themselves. Another lawyer who had represented Willy dropped out of the case years earlier, Willy says.

"It's almost impossible to find someone to represent you in a case that's been pending for 20 years," Willy says. "I was forced to handle it, because there was no one else to handle it. It would be impossible for me to acquaint them with the case," which he says contains thousands of pages of documents.

J. Richard Hammett, a partner in the Houston office of Baker & McKenzie who represents Coastal, did not return two telephone calls seeking comment before press time on Sept. 1. Mark Edward Papadopoulos, a U.S. Department of Labor attorney who represents the agency in the case, declines comment.

Michael Maslanka, a partner in the Dallas office of Ford & Harrison who defends companies in employment suits, says Willy is a big deal for in-house counsel who want to sue their employers -- especially when the opinion is put in the context of the Sarbanes-Oxley Act of 2002, which strengthened financial audit requirements in an attempt to prevent corporate fraud.

"This is a very empowering case for corporate counsel who believe they've been retaliated against under Sarbanes-Oxley," Maslanka says. "It removes a huge obstacle for them."

Maslanka says he has successfully used the attorney-client privilege to defend companies in Sarbanes-Oxley suits filed by in-house counsel. But Willy gives in-house counsel the same ability to file whistleblower cases against their employers as other employees have, Maslanka says.

"I think the lesson to draw from this is, if you haven't already done so, you make sure you have avenues where corporate counsel can register concerns with corporate governance," Maslanka says.

"The same good management techniques that stop other lawsuits from getting filed now apply to corporate counsel," Maslanka says. "Human resources has to treat corporate counsel as a potential plaintiff and listen to their concerns."

Rob Roby, a corporate defense attorney and partner in Dallas' Gwinn & Roby, says the opinion may have a chilling effect on a company's relationship with its own in-house counsel.

"I think it could be very critical in hindering communications that management thought would remain confidential. That's the real value of the attorney-client privilege," Roby says. "The goal is to have candid communication to stop things before they happen or fix them once they have happened."

Ken Molberg, a partner in Dallas' Wilson Williams & Molberg who represents employees in employment disputes, applauds the opinion.

"It's a common-sense approach, frankly. It says people in those positions are entitled to the protection under the law just like other people," says Molberg, president of the Texas Employment Lawyers Association.

"It really has broader implications. There are a series of cases out that circumscribe the rights of HR people who aren't even lawyers from using documents that will help their cases," Molberg says. "This speaks very loudly to that line of judicial reasoning."

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CIVIL RIGHTS:

Voter ID Opponents To Monitor Elections (AJC)

By Carlos Campos, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, September 7, 2005

Several groups opposed to a new law requiring voters to show state-issued photo ID at the polls announced Tuesday plans to monitor local elections on Sept. 20.

The Rev. Joseph Lowery, head of the Coalition for the People's Agenda, said monitors will "make sure there's no abuse of citizens who want to exercise their right to vote."

Thirty-three Georgia counties and two cities are holding elections Sept. 20. Most are referendums for special purpose local option sales taxes, including one in Cobb County, but some include races for city council posts. Augusta voters will select a replacement for Democratic state Sen. Charles Walker, convicted earlier this year of federal fraud charges.

Volunteers plan to conduct exit polls asking people if they were denied the opportunity to vote due to a lack of photo ID. The Mexican-American Legal Defense Fund has set up a toll-free hotline to field voter complaints: 1-877-462-5333.

Lowery was joined at the announcement by Atlanta Mayor Shirley Franklin and representatives of MALDEF, ACLU Voting Rights Project, the NAACP and the Southern Christian Leadership Conference.

The new law was passed by the General Assembly earlier this year. Supporters say it is intended to curb fraud by requiring voters to show a government-issued photo ID, such as a driver's license, state ID card, a public college ID or U.S. passport. Previously, voters were allowed to show non-photo identification, such as utility bills.

Opponents maintain the law will make it harder for poor people, the elderly and college students to vote. And they allege the law violates the Voting Rights Act, though it has received approval from the U.S. Justice Department.

Feds Tour Juvenile Justice Center (WJZ-TV)

WJZ-TV, CBS 13, Baltimore, MD, September 7, 2005

(WJZ) Baltimore, MD Continuing troubles and constant complaints about the Juvenile Justice Center bring federal investigators to Baltimore today.

Federal investigators fromthe Department of Justice will spend nine days inside the Juvenile Justice Center downtown.

The state run facility is under scrutiny after a series of complaints of youths being mistreated among other issues.

The Hickey School will close in November.

Meantime, a report on the Justice Department's visit this fall -- should be ready by early next year.

Right now, about 130 young offenders are housed inside the Juvenile Justice Center.

Gay-Marriage Bill Narrowly Passes California Assembly (LAT)

By Nancy Vogel

The Los Angeles Times, September 7, 2005

SACRAMENTO—The California Legislature made history Tuesday as the Assembly passed a bill to legalize same-sex marriage. With no votes to spare, California's lawmakers became the first in the United States to act without a court order to sanction gay unions. The measure was approved after three Democratic lawmakers, who abstained on a similar proposal that failed in June, changed their minds under intense lobbying by bill author Assemblyman Mark Leno (D-San Francisco) and gay and civil rights activists.

The bill, which would change California's legal definition of marriage from "a civil contract between a man and a woman" to a "civil contract between two persons," now goes to Gov. Arnold Schwarzenegger. The governor has signaled that he will veto it.

Tuesday's partisan vote came after 23 lawmakers spoke for an hour and a half, many of them describing the historic importance of their action, others relating intensely personal stories.

In a moment of high drama, with dozens of gay-rights supporters watching from the Assembly gallery, Salinas hesitated for several seconds as the tally hung at 40 "ayes" — one short of passage. Then, having promised Leno months ago that he would not let the bill fail if it garnered 40 votes, Salinas pressed the "aye" button on his desk, making the final vote 41-35. Those seconds "seemed like an eternity," said Mark Guzman of El Dorado Hills, as he and his partner of 14 years, J. Scott Coatsworth, celebrated in the Capitol rotunda after the voting.

Assemblymembers Tom Umberg of Anaheim, Gloria Negrete-McLeod of Chino and Simon Salinas of Salinas provided the key votes. Assemblymember Mervyn Dymally (D-Compton), who had missed the Assembly floor vote in June, also helped the bill prevail.

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Assemblyman Jerome Horton, (D-Inglewood), one of the lawmakers who abstained in June when Leno's bill failed 37-36, withheld his vote again Tuesday. Assemblywoman Bonnie Garcia (R-Imperial City) abstained after having voted "no" in June. Assemblyman Joe Baca, Jr. (D-Rialto) also abstained Tuesday.

Two of the lawmakers who switched their votes from abstain to "aye" said in floor speeches that they were glad for another chance.

Umberg elicited applause and whoops in the otherwise hushed chamber when he described why he had changed his mind. He said he had been "cajoled, been harassed, been harangued and been threatened" by friends over the issue.

"This is one of those time when history looks upon us to see where we are," said Umberg. "Ten years from now, there are a handful of issues that history will record where we stood and this is one of those issues."

"History will record whether we pushed a bit, took the lead to encourage tolerance, to encourage equality to encourage fairness," he said.

"The constituency I'm concerned about is a very small one," said Umberg, "and that's the constituency of my three children, should they decide to look back on my record ... and reflect on where I was when we could make a difference."

Negrete-McLeod similarly said she regretted abstaining in June.

The fight over same-sex marriage will now shift to the governor's office -- and to the courts and perhaps the ballot box. A case testing the legality of gay marriage is moving toward the state Supreme Court, and opponents of same-sex marriage are trying to qualify two different initiatives to ban gay marriage for the ballot next year.

Leno characterized gay marriage as the most important civil rights issue of the 21st century. He enlisted Dolores Huerta, co-founder of the United Farm Workers of America, and Alice Huffman, California president of the National Assn. for the Advancement of Colored People, to help him lobby undecided lawmakers.

Huerta said she spoke to Salinas last week and "went back to our old culture, the Latino culture."

"Respecting other people's rights is peace," she said. "Respecting other people's rights to marry who they want is a constitutional right, it's a human right and it's a privacy right. I said to Simon, 'You've got to be a leader . . . .You've got to have courage.' "

Opponents of same-sex marriage call Leno's bill unconstitutional, saying that it overturns what voters put into law five years ago when they passed Proposition 22 by 61%. That initiative stated that only marriage between a man and a woman is valid and recognized in California.

"The only word I can see here is prostitution," said Randy Thomasson, president of the nonprofit Campaign for Children and Families. "Instead of obeying the votes and the constitution, the Democratic politicians have prostituted themselves to the homosexual marriage agenda. It's not gay, it's bad."

After Leno's bill fell three votes short of passing the Assembly in June, he inserted the gay marriage legislation into a bill about marine research that was pending in the Senate. That bill, AB 849, cleared the Senate on Thursday, also with the minimum number of votes necessary.

Some Republicans, none of whom voted for Leno's bill, downplayed the historic significance of the vote and said gay marriage is not an issue of civil rights.

Others criticized Leno for reviving the bill after the June defeat and called homosexual marriage immoral.

"The institution of marriage transcends political fads," said Assemblyman Ray Haynes (R-Murrieta). "We are talking about an institution that has been defined for thousands of years . . . and we are being asked to engage in a great social experiment."

Leno said he optimistic that Schwarzenegger has an open mind on his bill, which the governor has until Oct. 9 to veto or sign. He noted that public opinion on gay marriage is evenly split, 46% to 46%, in California based on a recent poll by the Public Policy Institute of California.

"I believe this is a governor who at his core is a libertarian on issues of social matters," said Leno, "and that he is very fair -- minded."

"I think he also takes the longer, rather than shorter, view of history," he said.

After the Assembly vote, Schwarzenegger spokeswoman Margita Thompson said, "The people spoke when they passed Proposition 22.

"The issue subsequently went to the courts. The governor believes the courts are the correct venue for this decision to be made, " Thompson said. "He will uphold whatever decision the court renders."

'Marriage' Bill OK'd, Goes To Arnold (WT/AP)

By Steve Lawrence, Associated Press

The Washington Times, September 7, 2005

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SACRAMENTO, Calif. -- The California Legislature yesterday became the first legislative body in the country to approve same-sex "marriage," as homosexual rights advocates overcame two earlier defeats in the Assembly.

The 41-35 vote sends the bill to Gov. Arnold Schwarzenegger, who had no comment on the bill when it cleared the Senate last week, in what was widely seen as a symbolic vote at the time because of lower house's earlier rejections.

His office did not immediately respond late last night to a call seeking comment.

Although Mr. Schwarzenegger generally favors homosexual rights and domestic partnerships, he said in a 2003 interview with radio talk-show host Sean Hannity: "I think ... marriage is something that should be between a man and a woman."

He also criticized the San Francisco mayor's issuance of marriage licenses to same-sex couples in February 2004, saying they "fail to meet legal standards." California voters approved a ballot referendum defining marriage as the union of a man and a woman.

The bill's supporters compared the legislation to such earlier campaigns as women's suffrage and the eradication of slavery.

"Do what we know is in our hearts," said the bill's sponsor, San Francisco Democrat Mark Leno, who is homosexual. "Make sure all California families will have the same protection under the law."

Mr. Leno's bill had failed in the Assembly by four votes in June, but he was confident he could get it through on a second try after the Senate approved a same-sex "marriage" bill last week.

Democratic Assemblyman Paul Koretz called the opposite-sex definition of marriage "the last frontier of bigotry and discrimination, and it's time we put an end to it."

Assemblyman Tom Umberg, a Democrat who abstained when another homosexual "marriage" bill fell four votes short in June, said he was concerned about what his three children would think of him if he didn't join those "who sought to take a leadership role in terms of tolerance, equality and fairness."

But opponents repeatedly cited the public's vote five years ago to approve Proposition 22, an initiative to keep California from recognizing same-sex "marriages" performed in other states or countries.

"History will record that you betrayed your constituents and their moral and ethical values," Republican Assemblyman Jay La Suer said.

The vote was hailed by homosexual advocates, including Geoff Kors, executive director of Equality California, a backer of the bill.

"As the debate today shows, love conquers fear, principle conquers politics and equality conquers injustice, and the governor can now secure his legacy as a true leader by signing this bill," Mr. Kors said.

California already gives same-sex couples many of the rights and duties of marriage if they register with the state as domestic partners.

Massachusetts' highest court ruled in November 2003 that the state constitution guarantees same-sex couples the right to "marry." The nation's first state-sanctioned, same-sex "weddings" began taking place in May 2004.

Vermont began offering civil unions in 2000, after a ruling by the state's Supreme Court. Earlier this year, Connecticut became the first state to approve civil unions without being forced by the courts.

Regardless of what the governor does, California's debate over homosexual "marriage" will continue on several fronts.

A state appeals court is considering challenges to a lower court ruling that overturned California laws defining marriage as the union of a man and a woman. Opponents of same-sex "marriage" are trying to qualify initiatives for the 2006 ballot that would amend the state Constitution.

Calif. Lawmakers Pass Gay Marriage Bill (NYT/AP)

By The Associated Press

The New York Times, September 7, 2005

Filed at 12:28 a.m. ET

SACRAMENTO, Calif. (AP) -- The California Legislature on Tuesday became the first legislative body in the country to approve a bill allowing same-sex marriages, but the measure faces an uncertain future with Gov. Arnold Schwarzenegger.

There were loud cheers by gay-rights activists in the Assembly gallery as lawmakers voted 41-35 to approve the bill and send it to the governor. The Assembly had twice defeated similar legislation.

A spokeswoman for the Republican governor said Schwarzenegger believes the issue should be decided by the courts, not by his signature on legislation. A state appellate court is considering appeals of a lower court ruling that overturned California laws banning recognition of gay marriages.

"He will uphold whatever the court decides," Schwarzenegger spokeswoman Margita Thompson said.

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Gay-marriage supporters nonetheless rejoiced the victory. They compared the legislation to earlier civil rights campaigns to eradicate slavery and give women the right to vote.

"As the debate today shows, love conquers fear, principle conquers politics and equality conquers injustice, and the governor can now secure his legacy as a true leader by signing this bill," said Geoff Kors, executive director of Equality California, a backer of the bill.

The bill, sponsored by San Francisco Democrat Mark Leno, had failed in the Assembly by four votes in June, but Leno was confident he could get it through on a second try after the Senate approved a same-sex marriage bill last week.

"Do what we know is in our hearts," Leno said. "Make sure all California families will have the same protection under the law."

Assemblyman Tom Umberg, a Democrat who abstained in the vote in June, said he was concerned about what his three children would think of him if he didn't join those "who sought to take a leadership role in terms of tolerance, equality and fairness."

But opponents repeatedly cited the public's vote five years ago to approve Proposition 22, an initiative put on the ballot by gay marriage opponents to keep California from recognizing same-sex marriages performed in other states or countries.

"History will record that you betrayed your constituents and their moral and ethical values," said Republican Assemblyman Jay La Suer.

Randy Thomasson, president of the Campaign for Children and Families, a conservative group opposed to the bill, said Schwarzenegger should announce immediately that he would veto the legislation.

"Schwarzenegger can't afford to sign the gay marriage license bill," he said. "He'll actually become a hero to the majority of Californians when he vetoes it."

California already gives same-sex couples many of the rights and duties of marriage if they register with the state as domestic partners.

Massachusetts' highest court ruled in November 2003 that the state constitution guarantees same-sex couples the right to marry. The nation's first state-sanctioned, same-sex weddings began taking place in May 2004.

Vermont began offering civil unions in 2000, after a ruling by the state's Supreme Court. Earlier this year, Connecticut became the first state to approve civil unions without being forced by the courts.

Regardless of what action the governor takes, California's debate over gay marriage will continue on several fronts.

A state appeals court is considering challenges to a lower court ruling that overturned California laws banning recognition of gay marriages. And opponents of same-sex marriage are trying to qualify initiatives for the 2006 ballot that would amend the state Constitution to ban same-sex marriages.

Democrats And Labor Get Redistricting Vote On Ohio Ballot (NYT)

By Dean E. Murphy

The New York Times, September 7, 2005

The Ohio secretary of state announced yesterday that a series of election-related constitutional amendments had qualified for the November ballot, including one intended to strip Republican elected officials of their control over drawing legislative districts.

The amendments are sponsored by Reform Ohio Now, a coalition dominated by Democrats, unions and watchdog groups. It celebrated the announcement and said a statewide campaign to win approval in November had begun.

"It's not like we're posting yard signs yet, but we're close to that," the campaign manager of Reform Ohio Now, Scarlett Bauder, said. "Right now the time is ripe for reform."

The State Supreme Court rejected last month a Republican-backed move to disqualify the measures, but a second suit by a former Republican state senator is to be heard tomorrow in an appeals court in Columbus.

The former senator, Richard H. Finan, wants the amendments declared invalid because Secretary of State J. Kenneth Blackwell allowed Reform Ohio Now to use out-of-state signature gatherers.

Mr. Finan has said the redistricting measure, if approved, could cost Republicans in Ohio 6 of their 12 seats in Congress and would probably inspire similar Democratic-backed efforts in other states dominated by Republicans.

A spokesman for the Ohio First Education Fund, a group founded by Mr. Finan, said Republicans were moving forward with fund-raising in case they lost the court battle.

The spokesman, David L. Hopcraft, said the campaign was drawing money from outside the state because of Ohio's significance as a swing state in presidential elections, though he did not give specific dollar amounts.

"If the issues make it to the ballot," Mr. Hopcraft said, "we will have a vigorous campaign that speaks to the ballot-box power of every Ohioan, which we think is clearly threatened under these amendments."

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"These issues," he added, "are being backed by people who did not like the results of the last election and want to nullify Ohio's vote."

Ms. Bauder said Reform Ohio Now, which has raised $1.2 million, had enemies on both sides of the aisle.

"To me, that says it is true reform, because people in both parties don't like it," she said.

Mr. Blackwell, a Republican, has said that the signature gatherers acted legally, but that Attorney General Jim Petro, also a Republican, had sided with Mr. Finan in the court case.

"Ohio law clearly says the right to petition our state government in this manner belongs solely to the citizens of Ohio," Mr. Petro said in filing court papers last week.

The secretary of state's office said Reform Ohio Now had collected 353,094 valid signatures, 30,000 more than required. A spokesman, Carlo LoParo, said the amendments were submitted as a package but would appear as four separate ballot measures.

The redistricting amendment calls for an independent commission that would replace state lawmakers in determining the boundaries of legislative districts. The other amendments would lower some campaign contribution limits, extend early voting to all voters and transfer oversight of elections to an appointed election master from the secretary of state's office.

ANTITRUST:

Unipol Gets Antitrust OK For BNL Bank (BOS)

The Boston Globe, September 7, 2005

MILAN, Italy --Unipol Assicurazioni SpA said Tuesday it had received the necessary antitrust regulator authorization for its $6.12 billion bid to take over Banca Nazionale del Lavoro SpA.

The bid is pending approval by insurance regulator Isvap and the Bank of Italy.

Italy's market watchdog Consob approved Unipol's prospectus last week but asked the insurer for further information regarding the nature of the agreements with Deutsche Bank.

The German bank has a call option on nearly 5 percent of BNL but is not a member of the shareholder pact led by Unipol that is launching the takeover bid for the Rome-based bank.

Unipol filed the final version of a 400-page document with conditions for its BNL bid to Consob on Friday.

Unipol's all-cash offer to acquire the 59 percent of BNL that it doesn't already own has torpedoed a rival all-share offer from Spain's Banco Bilbao Vizcaya Argentaria SA which ended unsuccessfully in July.

Endesa Rejects Gas Natural's Bid (WSJ)

By Keith Johnson and Jason Singer

The Wall Street Journal, September 7, 2005

Spanish power utility Endesa SA rejected the unsolicited bid of €22.55 billion ($28.27 billion) from Gas Natural SDG SA, a smaller natural-gas company, setting the stage for a hard-fought takeover battle as the European energy industry undergoes a bout of frantic consolidation.

After huddling for most of the day in Madrid, Endesa's board advised its shareholders against accepting the Gas Natural offer, calling it "hostile" and saying the price "does not reflect the real value of the company."

The Endesa board appointed three investment banks -- J.P. Morgan Chase & Co., Deutsche Bank AG and Citigroup Inc. -- to help it craft its takeover defense, according to people familiar with the matter.

"It was in the script," Gas Natural Chief Executive Rafael Villaseca said in an interview, shrugging off Endesa's negative response to the bid. "In any event, it will be up to the shareholders to decide, and business logic will end up prevailing."

Based on Monday's prices, Gas Natural's cash-and-stock offer values Endesa at €21.30 ($26.70) a share. Endesa's American depositary receipts were up $2.46, or 11%, at $25.75 in 4 p.m. New York Stock Exchange composite trading. In Madrid, Gas Natural shares fell 2.2% to close at €24.24.

A flurry of deal making is taking place in the European energy sector. Last month, France's Suez SA moved to acquire the 49.9% of Belgian power utility Electrabel SA it doesn't own. On Monday, Germany's E.On AG said it was considering a takeover bid for ScottishPower PLC, the United Kingdom's fifth-largest power producer. And France is preparing to sell shares in its former power monopoly, Electricité de France SA, to public investors this fall, following the initial public offering of natural-gas provider Gaz de France SA this summer. (See related article.)

The intense activity is being spurred by both the European Union-mandated liberalization of the continent's energy markets and volatile commodity prices, industry executives and analysts said.

Until recently, most European energy utilities enjoyed dominant positions in their home countries and captive clients. Sheltered from market vagaries, they could pass on higher production prices to their consumers.

But the EU has begun opening its power and gas markets to competition in staggered phases, first to corporate and then to residential clients. EU members must fully open their power markets to competition by July 2007 and their natural-gas markets by the end of 2008. As these deadlines approach, European energy utilities are seeking more size, a pan-European presence and a more balanced energy-generation portfolio.

In the past year, they also have had to contend with a volatile market for oil and natural gas, which have reached record prices, driving up their costs of producing electricity.

The combination of these factors has pushed some companies to seek vertical integration by controlling their own supply of raw materials -- a main rationale behind Gas Natural's bid. Gas Natural hopes to use its plentiful supply of natural gas to power Endesa's gas-fired turbines, which produce cheaper and environmentally cleaner electricity than older coal-fired plants.

"Some utilities that have been squeezed by commodity prices on the one hand and by consumers and regulators at the other end are beginning to think they should move upstream, to capture a greater share of the energy value-chain margin," said Vittorio Perona, head of the power and natural-resources corporate-finance division at Dresdner Kleinwort Wasserstein.

Gas Natural, based in Barcelona, Spain, outlined details of its offer yesterday, arguing that it would spur competition to the benefit of consumers in Spain, while creating a strong "national champion" able to compete with other European energy titans when the continent's power markets are fully liberalized.

"The only possible solution" to growing energy demand in Europe is "more gas-fired plants," Mr. Villaseca said. "And that means utilities have to have a flexible and available supply of natural gas."

Rival Spanish utility Union Fenosa SA is following a similar strategy by teaming up with Italian oil-and-gas titan ENI SpA to build liquefication and regassification plants that will bring natural gas from Egypt to Spain by ship to power its turbines at a competitive price. In Germany, E.On relies on its E.On Ruhrgas unit to supply it with natural gas to power its turbines.

In the near term, the strategy carries financial risks. Credit concern Standard & Poor's Ratings Group placed Gas Natural and Endesa on review with a negative outlook yesterday, citing the increased debt load that the combined company would carry if the deal were successful. Gas Natural also must convince Spanish regulators that a merged company wouldn't have too dominant a position in Spain.

Gas Natural said it expects the deal to pass muster thanks to a pre-agreed selloff of some of Endesa's generation assets to a Spanish rival, Iberdrola, under a deal reached with Iberdrola.

The takeover offer sparked a rally in the shares of European utilities yesterday. The DJ Stoxx utilities index rose 1.5%.

Endesa's advisers are trying to determine whether other utilities could emerge as counterbidders. Any foreign bidder, though, risks entering a highly political dogfight.

Court Cases Don't Scare Music File Swappers Away (USAT)

By Jefferson Graham

USA Today, September 7, 2005

Despite two huge court losses for file-sharing firms, unauthorized online song and movie swapping is at an all-time peak, says Internet measurement company BigChampagne.

“File sharing has never been more popular than it is now,” says BigChampagne CEO Eric Garland. “People have heard all the legal threats and admonitions, but that's not enough. They don't believe it.”

He says about 9.6 million people were logged onto sharing networks at any one time in August, up from 6.8 million the year before.

The recording industry has filed 14,000 copyright infringement lawsuits against song swappers in the last two years, at a time when more than 1 billion songs have been offered for trading each month on services such as Kazaa and eDonkey. The industry has also looked to the courts for relief.

On Monday, an Australian federal court judge ruled that Sharman Networks, Kazaa's parent firm, must install filters to prevent its software from being used for unauthorized sharing.

The ruling followed a U.S. Supreme Court decision in June that said software firms Grokster and StreamCast Networks, which operates the Morpheus service, could be held liable for their users' actions.

The Supreme Court decision hasn't curbed online swapping, and neither will the Australian court ruling, says Phil Leigh, an analyst at research firm Inside Digital Media. “A lot of college students still don't feel vulnerable at all,” Leigh says.

The Australian decision is only enforceable there. Kazaa, meanwhile, is a global product whose popularity already had faded.

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Once the most-used sharing software, it has been in steady decline. According to Internet research firm CacheLogic, Kazaa's market share tumbled to 9% in July from 24% a year earlier. Currently, eDonkey is the most popular sharing software, with a 50% market share, CacheLogic says.

Kazaa is bloated with too much backdoor, spyware-type advertising, Garland says. “People went elsewhere. A judgment might have been more meaningful a few years ago, when Kazaa was more popular.”

Recording Industry Association of America CEO Mitch Bainwol said he is pleased with the Kazaa decision, which “reflects a growing, international chorus: Those who promote theft can be held accountable no matter how they may attempt to escape responsibility.”

Garland says the industry should spend less time fighting the online pirates and more time turning them into paying customers.

Legitimate online music stores have taken off since Apple's popular iTunes site made its debut. But Garland says Apple and competitors Napster, RealNetworks and others could sell even more if they made their songs compatible with each other's systems.

Songs purchased at iTunes can't be transferred to non-Apple digital music players without some workarounds, and vice versa with songs from Napster. “The incompatibility is a nightmare for consumers,” Garland says.

Refiners' Merger Good For Business, Not Consumers (WP)

Steven Pearlstein

The Washington Post, September 7, 2005

Last week, as supply shortages sent the price of a gallon of gasoline as high as $6 in some markets, federal officials charged with protecting consumers quietly approved yet another oil industry merger, this one creating the nation's largest oil refiner.

Because of the rush of Katrina news, the merger earned hardly a mention in the general press. And yet by giving its blessing to Valero's $8 billion purchase of Premcor, the Federal Trade Commission not only reinforced its reputation as a patsy for the energy industry but demonstrated a stunning lack of political sensitivity.

Although the FTC and its staff never seem to make the link between industry consolidation, rising energy prices and record profits, Wall Street investors surely can. Over the past year, shares in Valero are up 226 percent, which, as the Financial Times pointed out last week, makes Google (only 186 percent) look like a laggard.

Listen to what Valero's chief executive, Bill Greehey, had to say Thursday in announcing that the deal had closed: "We are in a new era for refining where I believe you will continue to see higher highs and higher lows for both product margins and sour crude discounts. And now, with 18 refineries, no one is better positioned to benefit from this than Valero."

Translation: This deal will do nothing for consumers, but it's a home run for investors.

Here's the situation, as far as I can make it out. Refineries in the United States produce about 18 million barrels of refined product a day for an economy that consumes about 21 million. A completely new refinery hasn't been built in this country in nearly 40 years. And although Valero and others have spent $47 billion over the past decade to expand existing capacity by 13 percent, demand has grown even faster.

The reason that supply has not kept up in this industry, as in others, is simple: The industry makes more money that way. And one way the industry is better able to enforce this gentleman's agreement against investing too heavily in new capacity is by reducing the number of players and making entry into the industry even more difficult than it is already.

The FTC uses a different analysis. Its staff finds no evidence that this merger -- or any of the dozens of others they have approved -- gives the acquiring companies the power to raise prices. After all, even with this latest refinery deal, no company controls more than 13 percent of the national market nor more than 20 percent in any region.

But that analysis misses the point. As long as the industry can coordinate its investments, keep supplies tight and free-ride on OPEC price fixing, there is no need to unilaterally raise prices. In the mismatch of supply and demand, the "free" market does it for them.

The industry likes to explain away the lack of adequate refining capacity by arguing that government regulation makes building a refinery virtually impossible. The last time we heard the "government regulation" excuse, it was from Vice President Cheney during the California energy crisis. It turned out our energy-maven vice president didn't know what he was talking about, and that the real reason for skyrocketing prices was that Enron and the others were secretly manipulating the market by strategically withholding supply.

In the case of oil refineries, there's no doubt that, given voters' natural antipathy to having a refinery in the neighborhood, finding a new site requires much time, money and patience. But when President Bush floated the idea last year of speeding site

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approval by locating new refineries on inactive military bases, Valero's chief operating officer declared he wasn't interested. When you look at industry rates of return, he told The Post's Justin Blum, it's just not worth it.

This is the oil industry's other Big Lie. Every year, Fortune Magazine, in its Fortune 500 issue, calculates the rate of return on shareholder equity for each major industry. Last year, when oil prices were a lot lower than they are now, the average return for both independent refiners and integrated majors was 23.9 percent. This year, it's been even higher. And over the past decade, according to Fortune, the return on equity in the sector has averaged 16 percent, well above the investment hurdle rates in most other sectors of the economy.

Valero is a great company and a real success story. Since 1997, it has bought up lots of lousy refineries, fixed them up and run them right -- in the process adding the equivalent of two refineries' worth of new capacity. Essentially, it has put the lie to the self-serving complaint from the integrated majors that there was no money to be made from refining and from other downstream operations.

But what the country needs isn't a bigger Valero -- it's more Valeros, challenging the majors, investing heavily in new capacity and competing for market share. By approving the merger with Premcor, the FTC has reduced the chance of having that kind of full-throttle competition in an industry that desperately needs it.

Steven Pearlstein will host a web discussion at 11 a.m. today athttp://washingtonpost.com. He can be reached atpearlsteins@washpost.com.

ENVIRONMENT:

E.P.A. To Bar Data From Pesticide Studies Involving Children And Pregnant Women (NYT)

By Michael Janofsky

The New York Times, September 7, 2005

WASHINGTON, Sept. 6 - Researchers will no longer be allowed to include children and pregnant women in studies examining the effects of pesticides to help set federal standards, according to the first regulations for human testing of pesticides that the Environmental Protection Agency plans to propose.

The regulations, to be proposed on Wednesday, would also establish an independent oversight panel to ensure that all studies submitted to the agency were conducted ethically and followed internationally accepted protocols for human testing.

Agency officials discussed the new regulations with reporters on Tuesday. They declined to make copies of the proposal available, leading at least one major critic of the agency, Senator Barbara Boxer, Democrat of California, to suggest that a close examination of the regulations might reveal weaknesses identified in an earlier version. Agency officials said those weaknesses were removed from a draft sent to the Office of Management and Budget last month.

In a statement, Senator Boxer said of the proposal: "One thing is clear. It must be changed dramatically from the version E.P.A. forwarded to O.M.B. just a few weeks ago. If not, it will be a direct attack on our most vulnerable citizens."

The proposed regulations, which would take effect in January after a public comment period, came several months after Congress put restrictions on human pesticide tests as part of an appropriations bill. Congressional concern grew after reports that parents in Florida would be paid to participate in a program, known as Cheers, by allowing their children to be tested to measure household exposure to pesticides.

"This proposed rule contains some of the strongest protections for human subjects ever proposed by the federal government," Jim Jones, director of pesticide programs for the agency, said Tuesday in a conference call with reporters.

Mr. Jones said the agency was so alarmed by public anger over pesticide testing involving humans that the new protocols would bar the agency from considering any tests that include pregnant women and children.

He also said the proposed regulations would apply to the 22 toxicity tests involving humans that are now before the agency. Two of them included children, though none involved pregnant women, Mr. Jones said.

Environmental groups expressed worry that the agency might blur the lines between past and future tests.

"This is a huge problem if they are going to accept studies already done," said Erik D. Olson, a senior lawyer with the Natural Resources Defense Council. "Dozens of past unethical studies are now before the E.P.A. If they accept them, the new rules are plainly inadequate."

The leading trade organization for pesticide manufacturers, CropLife America, defended its testing practices, saying its members have always worked to ensure the safety of participants.

At the same time, the group's president, Jay Vroom, welcomed the new E.P.A. regulations, saying they "have the potential to establish ethical and scientific safeguards and uniform standards to protect research subjects and improve the risk assessment process."

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Mr. Vroom also said future tests would "only involve healthy adult volunteers and exclude pregnant women."

In most cases, the tests are conducted by chemical manufacturers and the results submitted to the E.P.A. as part of a chemical's approval process. But critics in recent years have questioned the effectiveness of a system in which the companies have an enormous financial interest in winning approval.

Mr. Jones said an oversight panel to review tests involving pesticides would include medical ethicists and experts in chemical tests and would exclude anyone with connections to the agency or chemical companies.

National Parks Grapple With Surge Of Illegal Off-road Vehicles (CSM)

By Mark Clayton

The Christian Science Monitor, September 7, 2005

The Big Cypress National Preserve in Florida is crisscrossed with so many illegal swamp-buggy ruts - more than 23,000 miles of them - that park officials in August began limiting off-road vehicles to 400 miles of trails in order to protect the Florida panther and the preserve.

In Yosemite National Park, off-road vehicles are involved in "numerous" violations, according to a staffer's memo.

And each day of a long summer weekend like Labor Day, as many as 2,200 motorized vehicles hit the beaches of Cape Hatteras National Seashore in North Carolina. "Not one of those is there legally," says Don Barger, southeastern regional director of the National Parks Conservation Association, a watchdog group.

In all, unauthorized off-road vehicles are buzzing through nearly one-third of America's national parks, according to a recently released internal National Park Service (NPS) survey. In one-fifth of the parks, they have damaged natural environments that by law must be preserved for future generations. Preservation vs. recreation

The survey highlights a conundrum for the park service. It has gone to bat for broader access for motorized off-road vehicles - including snowmobiles in Yellowstone National Park. At least 29 of its parks have allowed illegal off-road vehicles. On the other hand, in some cases, the parks are prohibited from doing so by their authorizing legislation; in other cases, they haven't conducted required environmental impact evaluations of the vehicles, according to a legal analysis by Bluewater Network, an environmental group in San Francisco.

In March, the NPS convened a workshop of rangers and other park officials to develop a "national strategy" for dealing with the problem, according to a senior park official.

NPS officials downplay the challenge.

"Some of the illegal use is very infrequent. Some of it is crossing boundaries that may not be well marked," says Jerry Case, the service's regulations program manager. "We're certainly working on it. [But] there are probably just a handful [of parks] that have significant illegal use causing significant environmental damage."

The Cape Hatteras seashore is one facility that until recently had not conducted the required legal reviews to allow off-road vehicles, though it is doing so now.

"We certainly recognize that some [facilities] need to get back in line with the executive order and regulations, but for the most part I think we're doing all right," Mr. Case says. Tracking illegal vehicles

Other branches of the Department of Interior, however, say illegal motorized vehicles are a serious national problem. The chief of the National Forest Service, for instance, has called it one of his top four management problems.

An Interior Department spokesman told Congress in July that 43 of the nation's federal "park units" allow snowmobiles, 25 allow off-road vehicles, and nine allow personal watercraft.

But he made no mention of any problem with the illegal vehicles highlighted by the internal survey.

Critics say the problem is acute and growing, even if not yet felt uniformly. "The pressure to increase these kinds of uses in national parks is constantly increasing," Mr. Barger says. "Our park lands are becoming more and more like isolated islands, with the demands for their use from everybody."

At least 113 of the nation's 388 park units report illegal off-road vehicles, the internal survey showed, and 85 of those report that the vehicles have caused environmental or other damage. Striking as those results are, they may understate the scope of the problem, says Sean Smith, public lands director for Bluewater Network. Only 273 of the 388 park units had responded to the survey. Parks like Yellowstone, Acadia, and Shenandoah National Parks had not responded. Trampling on protected lands

There are signs of movement. Sections of Cape Hatteras were closed this summer to limit damage to nesting piping plover. The tiny shorebird's chicks are often trapped in the ruts left on the beach by off-road vehicles and run over.

But in the survey, many parks reported they lacked the staff or funding needed to chase down the illegal vehicles, says Bluewater's counsel Robert Rosenbaum of the law firm Arnold & Porter in Washington.

"Operators are rarely caught due to staffing limitations," wrote a park official in the survey from Arches National Park and Canyon lands National Park in Utah, cited in a June letter by Blue water to the Park Service. "There are a number of locations

where off-road travel has destroyed microbiotic soil crust, destroyed desert vegetations, crushed animal burrows ... impacts that may last for years."

Although Yellowstone National Park was not part of the survey results, a now infamous example occurred in 2003 when two men on off-road vehicles damaged Lone Star Geyser by driving around its cone and in surrounding meadows, according to park reports. Just last year, other illegal drivers cornered a herd of bison in a stand of trees at the park.

"To allow that kind of thing just because a set of recreational users want to take snowmobiles and whatever else into Yellowstone is crazy," says Bill Wade, a former superintendent of Shenandoah National Park, now a spokesman for the Coalition of National Park Service Retirees, a watchdog group based in Tucson, Ariz.

"It's like me saying that because I like skeet-shooting, I should be able to do that in the Sistine Chapel," he says. "There are some places with such high degree of reverence [vehicles] just should not be allowed."

Bonilla Bill Targets Eminent Domain (HILL)

By Jeffrey Young

The Hill, September 7, 2005

Any local or state government that employs the right of eminent domain to transfer property from one private owner to another would be denied funding for all federal programs under legislation written by Rep. Henry Bonilla (R-Texas).

Agriculture Committee Chairman Bob Goodlatte (R-Va.) characterized the legislation as the strongest response yet to the Supreme Court's June ruling in Kelo v. City of New London, Conn., which affirmed governments' rights to seize property from landowners for private development deemed by elected officials to be in the community interest. The Agriculture Committee, which will hold a hearing on the Bonilla bill today, has been given primary jurisdiction on the issue.

The Supreme Court's decision has generated a backlash from conservatives and liberals alike. Bonilla boasts several Democratic co-sponsors, including Rep. Stephanie Herseth (S.D.) and Agriculture Committee ranking member Collin Peterson (Minn.).

The House Judiciary Committee plans action on less sweeping legislation.

Let Nature Help (LAT)

The Los Angeles Times, September 7, 2005

The catastrophe that devastated New Orleans has been centuries in the making. Since its founding in 1718, the city has lain uneasily between two watery and potentially lethal boundaries: Lake Pontchartrain to the north and the Mississippi River to the south.

Engineers have protected the city over the years by fortifying the earthen barriers between high water and low land. New Orleans' efforts to keep dry also sank it lower — a process called subsidence, caused when groundwater is pumped regularly out of silty soil. At the same time, the levees and canals around New Orleans diverted the flow of river sediment, dumping it in the Gulf of Mexico instead of allowing it to spread to the protective marshes and islands at the river's mouth.

In 1965, Hurricane Betsy brought a heavy hint of the dangers when a surge of storm water caused Lake Pontchartrain to overflow the levees, flooding large parts of the city. But that flood pales in comparison to the devastation of Hurricane Katrina's water surge, which caused a series of levee breaks that allowed the lake water to fill the bowl that is greater New Orleans.

For the next several weeks, and possibly months, the Army Corps of Engineers will pump the water out. Meanwhile the Corps, Congress and the Bush administration need to figure out how to avoid a repeat of last week's disaster. Clearly, if they plant the 1.3 million residents back in the bowl, after billions of dollars spent on cleanup and rebuilding, they'll need to devise better protection.

After Hurricane Betsy, Congress authorized a $732-million effort to raise the levees around the city to 16 feet. After a flood in 1995 claimed six lives, lawmakers authorized an equally ambitious venture to refortify the city's slowly sinking defenses. Finishing these projects took a back seat during the last few years to war and homeland security. Even if they are now fast-tracked to completion, they aren't enough to guarantee New Orleans protection against another Katrina-strength storm. Other nations — most notably the Netherlands — have engineered stronger, smarter levees and other coastal defenses, such as floodgates and raised shelters.

Devastating hurricanes are more likely in coming years. Warmer ocean surface temperatures, no matter what their cause, fuel more violent hurricanes, which derive their power from the water's heat.

One of the most effective shore defenses has been not only ignored but undermined. Barrier islands and the marshes of the Mississippi River Delta used to present hurricanes with a formidable land barrier to cross before reaching New Orleans. But the very levees and canals that protect New Orleans and provide navigation divert replenishing sediment. Louisiana loses about 24 square miles of this land barrier each year.

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A plan backed by environmentalists, industry and the Corps of Engineers would spend $2 billion to dredge sediment from the Gulf to be used in rebuilding the land, and divert some river sediment toward the marshland. Congress should not only approve that project but should start giving serious consideration to the rest of a $14-billion coastal restoration project supported by 11 state and federal agencies.

Funding environmental projects isn't just a luxury that makes tree-huggers happy. It's a natural way to protect people and a bargain compared with the economic and human toll exacted by Katrina.

FBI/DEA/ATF/USMS:

Medical Marijuana No Influence On Teen Use (UPI)

By TODD ZWILLICH

United Press International, September 7, 2005

WASHINGTON, Sept. 6 (UPI) -- Teens in the handful of states allowing medical marijuana are no more likely to use the drug than those in other states, according to a study released Tuesday.

The study shows widespread reductions in marijuana use have occurred generally at the same rate among all the states, including those allowing medical use.

The study was funded and released by the Marijuana Policy Project, a group backing medical-marijuana efforts nationwide. The group said its findings belie Bush administration claims that medical-marijuana laws send youth a mixed message that helps to encourage drug use.

Ten states currently allow patients with certain medical conditions to use marijuana under the supervision of a physician.

Overall, the United States has seen a decrease in marijuana's popularity among teenagers since 2000, after a prolonged increase in use during the 1990s. For example, compared with 1996, about 43 percent fewer 8th graders and 9 percent fewer 12th graders reported they had used the drug in the past 30 days in 2003.

California became the first state to permit medical-marijuana use in 1996.

At the same time, past-month use dropped by half among the state's 9th graders and by one-quarter among 11th graders, according to the report, which analyzed federal and state statistics. Approximately one-fifth of California's high school juniors now acknowledge using marijuana within the last month.

Other states with medical-marijuana laws also saw varying reductions in youth marijuana use. Past-month use by 12th graders in Washington state was down 32 percent since a medical-marijuana law was enacted in 1998, though rates dropped only 12 percent among Maine's high school seniors since a similar law was passed there in 1999.

Alaska, Colorado, Hawaii, Nevada and Oregon also allow some medical marijuana, and all showed some reductions in youth use since the laws were passed. Montana and Vermont have enacted similar laws, but they did so too recently to detect any trends, the researchers said.

Several other states are considering measures allowing the use of marijuana by patients, backed by some evidence the drug can ease a variety of health problems, including pain, nausea and weight loss caused by cancer, as well as AIDS and glaucoma.

Bush administration drug officials have consistently fought the laws, stressing that such measures undermine efforts to persuade youth that marijuana is a dangerous drug.

"Contrary to the fears expressed by opponents of medical-marijuana laws, there is no evidence that the enactment of 10 state medical-marijuana laws has produced an increase in adolescent marijuana use in those states or nationwide," the MPP study concluded. "Opponents of medical marijuana laws should cease making such unsubstantiated claims."

Mitch Earleywine, one of the study's investigators, told United Press International the results show medical-marijuana laws have not stopped or slowed progress against illegal drug use in the eight states studied.

"Use is clearly decreasing regardless of medical marijuana laws," said Earleywine, an associate professor of psychology at the State University of New York at Albany.

Tom Riley, a spokesman for the White House Office of National Drug Control Policy, said in a statement that youth drug use has fallen largely because of increased perception among teens that drugs are dangerous.

"Misleading messages that harmful substances are somehow 'good for them' send teens exactly the wrong message," Riley said. His statement did not directly address the study's state-by-state findings.

Earlier this year the U.S. Supreme Court ruled federal anti-drug agencies have the right to enforce nationwide bans on marijuana, even in states that allow medical use. The ruling was seen as a victory for the Bush administration, but it did not prevent states from enacting new medical-marijuana measures.

Pot Use Down Where Medical Use OK (LAT)

By Eric Bailey, Times Staff Writer

The Los Angeles Times, September 7, 2005

SACRAMENTO — Bucking dire predictions by anti-drug warriors, the 10 states that approved medical marijuana laws over the last decade have experienced sharp declines in cannabis use among teenagers, according to a new study by a marijuana advocacy group.

California has seen usage among ninth-graders drop 47% since 1996, the year the state became the nation's first to legalize medical marijuana. Over the same period, the nation as a whole experienced a 43% decline among eighth-graders.

The study, released today, is based on data from national and state surveys, which show a drop in marijuana use by teens.

Although debate over medical marijuana is often shaded by concerns about increasing drug abuse among young people, the report suggested the opposite has been true.

The study's authors were Mitch Earleywine, a State University of New York psychology professor, and Karen O'Keefe, a legislative analyst with Marijuana Policy Project, the organization that commissioned the research based on state and federal data.

That data "strongly suggests" that approval of medical marijuana has not increased recreational use of cannabis among adolescents, Earleywine and O'Keefe concluded. And the decline in many of the states with medical marijuana laws is "slightly more favorable" than trends nationwide, they said.

California, Washington and Colorado have all experienced greater drops in marijuana usage than have occurred nationwide. Only three states with medical marijuana laws — Maine, Oregon and Nevada — have lagged behind the national drop in teen marijuana use, the report said.

"If medical marijuana laws send the wrong message to children," the authors said, widespread attention to the debate "would be expected to produce a nationwide increase in marijuana use, the largest increase in those states enacting medical marijuana laws. But just the opposite has occurred."

Tom Riley, of the president's Office of National Drug Control Policy, said the drop in teen drug use across the nation is attributable to the federal anti-drug advertising campaign in recent years, including $125 million spent during the federal fiscal year that ends Oct. 1.

Medical marijuana has only clouded that pitch, he said.

"It's foolish to give kids a message that marijuana can be helpful to them," Riley said, adding that all Americans "should be glad that teen drug use is going down. If the drug legalizers are recognizing that, too, I think that says something."

But the researchers sketched a different hypothesis: that medical marijuana shifted the perception among some teens about pot.

"Perhaps medical marijuana laws send a very different message," they wrote. Teens may increasingly consider pot "a treatment for serious illness, not a toy, and requires cautious and careful handling."

The most extensive available data was in California, where a survey of about 6,000 students every two years showed that pot use among teens was climbing before passage of the 1996 medical marijuana law. For all grades, marijuana use dropped significantly between early 1996 and 2004, with the biggest downward shift among ninth-graders.

Between 1996 and 2004, the number of high school freshmen in the state who reported using pot in the last 30 days dropped 47%, while the number of freshmen who had tried cannabis at least once dropped 35%.

Jury's Still Out On Narcotic's Effects (BOSH)

By Dave Wedge

Boston Herald, September 7, 2005

Seen by many as a miracle cure for heroin addiction, the jury is still out on whether methadone can itself impair users or create a long-term dependency.

``There still appears to be some controversy about it," said Jim Ross, a counselor at Taunton's Community Partnerships, which specializes in helping heroin addicts. ``Although it is supposedly not addictive, we've seen firsthand some people do not use it as a stepping stone (toward recovery) and they end up being dependent on methadone their whole life. And that could be a good or a bad thing."

The White House Drug Policy Information Clearinghouse supports methadone programs, saying the drug ``does not impair cognitive functions" and ``is not sedating or intoxicating." The federal clearinghouse also says the drug does not ``interfere with ordinary activities such as driving a car or operating machinery."

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Originally created by German pharmaceutical companies during World War II, methadone was first marketed as ``dolophine'' and was used as a painkiller. Today, it is prescribed by doctors and usually dispensed at clinics at levels that are supposed to quash heroin cravings but not impair or intoxicate.

But studies by scientists in New Zealand have found that methadone's effects can include pain relief, feeling of well being, nausea, vomiting, dilated pupils, body temperature drops and slowing pulse and blood pressure. Some European scientists claim methadone can affect motor skills, while doctors in Amsterdam have found it can be addictive, just like heroin, and can cause dangerous respiratory problems, constipation, sedation and vertigo.

In addition to possible side effects, Ross said addicts sometimes stockpile methadone to sell.

``Methadone has been a great saving grace for many heroin addicts,'' he said. ``We need to be as supportive as we can to help addicts, but sometimes we need to ask questions to assure we're taking care of public safety as well.''

Truck Driver Pleads Guilty To Trafficking (LUFNEWS)

By ASHLEY COOK, The Lufkin Daily News

Lufkin (TX) Daily News, September 7, 2005

A tractor-trailer driver pleaded guilty Friday in federal court to trafficking close to $3 million in drug money through Nacogdoches County, according to plea papers filed in court.

Juan A. Castanon, 34, of Mission, Texas, could face up to five years in federal prison on the charge. Details of his plea agreement with the U.S. Attorney's Office remained sealed in court documents.

Texas Department of Public Safety Trooper Ryan Koonce found the stash of cocaine-tainted cash during a Feb. 8 traffic stop. The money was hidden in a secret compartment in Castanon's trailer.

A drug-sniffing dog alerted Koonce to the bundled and wrapped money, which later tested positive for traces of cocaine.

Koonce became suspicious of Castanon when his log book didn't match his story. He'd driven the trailer, rented from Guiterrez Trucking in Donna, Texas, from Atlanta toward Mission.

The cash was forfeited to the government by court order. By law, the government must run an advertisement in the local newspaper, The (Nacogdoches) Daily Sentinel, giving the public an opportunity to file any claims to the money.

Mexico's Fox To Border Drug Lords: Who's Tougher? (REU)

Reuters, September 7, 2005

ZACATECAS, Mexico, Sept 6 (Reuters) - Mexican President Vicente Fox challenged drug barons on Tuesday to take on security forces in a notorious city on the U.S. border where troops and police are locked in a war with traffickers.

Fox said in an interview that federal forces were in control of Nuevo Laredo, across from Laredo, Texas, despite more than 100 drug-related murders there this year.

"We are going to win this battle. We'll see who is tougher, we'll see who is more stubborn," he told Reuters during a visit to the central state of Zacatecas.

The explosion of violence among drug gangs vying for control of a cocaine, heroin and marijuana smuggling route into the United States has drawn an influx of Mexican troops to Nuevo Laredo and strained relations with Washington.

The murder rate has soared with killings practically every day, and residential neighborhoods have seen shootouts with heavy weaponry, at one point prompting the U.S. Embassy to close a consulate in Nuevo Laredo.

But Fox said his government has taken control of the sweltering city, which also is a hub for legitimate trade.

"Nuevo Laredo now has much less criminal activity from these kingpins than it did two months ago," he said. "I can tell you that we have the city under control and from there we will put things in order."

But as the death toll rises, with 15 police officers among those killed by gunmen this year, residents and local activists are skeptical about authorities' ability to stem the tide of violence. Critics say very few cartel henchmen have been put behind bars and there is no evidence the tighter security will curb the flow of drugs across the border.

Nuevo Laredo is the most urgent front in the fight against drug gangs, but Fox said his government also has stepped up law enforcement in the Pacific state of Guerrero and in Tijuana, Ciudad Juarez and Sinaloa state near the U.S. border, places where drug-related violence also seems to be rising.

His proposed spending plan for next year, which was sent to Congress late on Monday, calls for a 20 percent increase in federal funding to fight organized crime, he said.

U.S. officials also have sought to crackdown on drug smugglers. Texas recently allocated $5 million to improve law enforcement communication in border communities.

But the violence has caused diplomatic fallout. Washington has repeatedly warned U.S. citizens against traveling in the region and urged Mexico to restore order. Mexico has told U.S. officials to keep out of its affairs.

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Spain Tops Table Of Cocaine Use (GUARDIAN)

By Giles Tremlett

Guardian (UK), September 7, 2005

Spaniards are the most prolific users of cocaine in the world, according to a report from state prosecutors obtained by El País newspaper yesterday.

Spain has overtaken the US and left Britain and Ireland behind, with the proportion of people who use the drug rising to more than one in 40. "Spain occupies the top place in the world," the report said, citing United Nations figures on cocaine use around the globe.

Article continues

The reason for such a high rate in Spain is that much of Europe's cocaine is unloaded on to Spanish beaches.

Last year 33 tonnes of it were seized by Spanish police, much of it being handled by the smuggling clans in the north-western region of Galicia who turned to the lucrative cocaine trade more than 10 years ago. The smugglers offer their services to traffickers from around the world who want to get the drug into Europe.

Often cocaine is unloaded from merchant ships into trawlers and then, once near the Spanish coast and under the cover of darkness, into speedboats that land it on Galicia's rugged beaches. The Galician smugglers store it then hand it back to the traffickers. They take a cut of the cocaine as payment.

More than 50% of cocaine found by police in Europe is discovered by Spanish officers, who arrested about 600 suspected traffickers from Colombia last year, and 150 from Britain.

Spanish police were also reported yesterday to have been behind the discovery of 4.6 tonnes of cocaine unloaded in Rotterdam at the weekend.

TAX:

U.S. Expects To Indict At Least 12 More Over KPMG Shelters (WSJ)

By Jonathan Weil and Kara Scannell

The Wall Street Journal, September 7, 2005

NEW YORK -- The lead prosecutor in the KPMG LLP tax-shelter investigation said the government expects to seek indictments against at least 12 more individuals in the coming weeks, on top of the nine people who were arraigned yesterday in a federal court in Manhattan.

The additional defendants will be named as part of a superseding indictment and could include additional charges against the nine people whose bond requirements were set yesterday by U.S. District Judge Lewis A. Kaplan. The government's lead prosecutor, Assistant U.S. Attorney Justin Weddle, said the additional charges in the superseding indictment likely would include obstruction of justice, as well as tax evasion, in addition to the existing conspiracy count that the government unsealed last week.

Prosecutors didn't identify who the additional defendants might be. Possibilities include additional former KPMG partners, as well as others outside the firm who were involved in the sale or use of four shelters that KPMG sold to hundreds of wealthy Americans from 1996 to 2002. The shelters went by the names Blips, Flip, Opis and Short Option Strategy.

At yesterday's arraignment hearing, Mr. Weddle said the government believed that some of the nine defendants already named in the case used allegedly fraudulent KPMG shelters to shave their own personal tax bills.

He also said tax-evasion charges would be sought against some defendants who allegedly helped KPMG clients evade taxes by creating and marketing the shelters.

Prosecutors asked for three months to seek the superseding indictment, citing Justice Department procedures for tax-fraud prosecutions. In denying the government's request, Judge Kaplan said, "You're going to have to move a lot faster. It's not clear to me why you can't." He added, "Multibillion-dollar takeovers get litigated in that time. You can do it." The judge set an Oct. 17 deadline for the government to file its superseding indictment and scheduled trial proceedings to begin May 1, 2006.

Prosecutors estimated that a trial of the nine people arraigned yesterday could take three months.

At the same time, Judge Kaplan said that the "chances of having a single trial" for more than 20 defendants "are not too great." Some of the defense lawyers at yesterday's hearing, including a lawyer for former KPMG Deputy Chairman Jeffrey Stein, said they believed the case should be broken up into different groups of defendants for multiple trials.

Of the nine defendants arraigned yesterday, eight are former KPMG tax professionals, including Mr. Stein. Other defendants include former KPMG Vice Chairmen Richard Smith and John Lanning, and Raymond J. Ruble, a former New York partner at the law firm Sidley Austin Brown & Wood LLP.

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Under the terms of a $456 million settlement last month, KPMG admitted criminal wrongdoing in connection with past shelter sales, but it will not be criminally prosecuted so long as it complies with certain requirements, including continued cooperation with prosecutors.

The nine defendants were released yesterday on their personal recognizance and have two weeks to meet additional bond requirements. Judge Kaplan set Mr. Stein's bond at $3.5 million, the highest among the nine defendants.

Prosecutors described Mr. Stein as one of the leaders of the alleged conspiracy at KPMG to sell fraudulent tax shelters to wealthy Americans, and they had asked that his bond be set at $5 million. Among other things, prosecutors cited a severance payment of more than $9 million that they said Mr. Stein received from KPMG last year, after he had been notified that he was under criminal investigation. Mr. Stein's attorney said that KPMG, under pressure from the government, reduced the severance package; he declined to offer details.

Five of the defendants' bonds were set at $1 million each, while two others' bonds were set at $300,000 and $500,000, respectively. Mr. Smith's bond was set at $1.5 million; his bond must be co-signed by his wife and secured by their home and any real estate his wife owns. All nine defendants must surrender their passports.

In setting the May 1, 2006, trial date, Judge Kaplan warned Mr. Weddle about his three-month trial estimate. "You're going to put the jury to sleep and lose them completely," he said. "The name of the game is to boil this down and move it."

US Sees More Defendants In KPMG Tax Case (REU)

By Martha Graybow

Reuters, September 7, 2005

NEW YORK (Reuters) - Eight former executives of accounting firm KPMG LLP and an outside tax lawyer pleaded not guilty in a tax shelter case on Tuesday, while a U.S. prosecutor said he expects charges to be brought against 12 or more additional defendants.

Assistant U.S. Attorney Justin Weddle also told Manhattan federal judge Lewis Kaplan at an arraignment hearing for the nine defendants currently in the case that additional counts were expected against some of them. Weddle said those charges, contained in a so-called superseding indictment, likely would relate to alleged tax evasion stemming from tax shelter transactions.

Weddle did not elaborate on the new defendants expected to be named in a revised indictment.

The nine current defendants, including former KPMG deputy chairman Jeffrey Stein, were indicted last week on charges of conspiring to defraud the government in connection with tax shelters KPMG sold to wealthy individuals. A conviction on the conspiracy charge carries a maximum prison term of five years for each defendant.

The defendants were released on personal recognizance bonds on Tuesday and agreed to travel restrictions.

The arraignments took place a week after KPMG agreed to pay $456 million to settle a three-year-long federal investigation of its sales of tax shelters, avoiding a criminal indictment that might have crippled the audit firm.

KPMG declined comment on Tuesday.

At the hearing, Weddle called Stein and former KPMG vice chairman Richard Smith "leaders of the fraud" and asked the judge to impose higher bail amounts on them as a condition of their release.

The judge ordered Stein to be released on a $3.5 million bond, while Smith was ordered to post a $1.5 million bond. The other defendants were released on bonds ranging from $300,000 to $1 million.

Prosecutors said they expect an updated indictment with new charges to be ready in about three months, but Judge Kaplan urged them to issue any new charges by October 17. He set a May 1, 2006 trial date.

The U.S. government said last week that KPMG made $115 million in fees in a conspiracy that spanned from 1996 to 2003. The accounting firm generated at least $11 billion in fraudulent tax losses for wealthy individuals and prevented the government from collecting $2.5 billion in tax receipts, the Justice Department said.

U.S. To Widen Inquiry Of KPMG Tax Shelters (NYT)

By Jonathan D. Glater

The New York Times, September 7, 2005

Federal prosecutors said yesterday that they planned to file new charges and name as many as a dozen new defendants in their investigation of questionable tax shelters sold by the accounting firm KPMG.

Prosecutors described the widening criminal investigation yesterday at the arraignment of nine former executives who were charged last month with conspiracy to devise and sell fraudulent tax shelters. The additional charges against the nine could include tax evasion and obstruction of justice for hindering aspects of the government's investigation of the tax shelters, prosecutors said.

The nine defendants, a former lawyer at Sidley Austin Brown & Wood and eight former partners at KPMG, pleaded not guilty.

The prosecutors' statements are a sign of the depth and breadth of the criminal investigation into the tax shelters, which were sold to about 350 people from 1996 to 2002 and cost the government at least $1.4 billion in unpaid taxes, according to Senate investigators. The investigators found that KPMG earned fees of $124 million on those sales; other financial institutions, including banks and law firms, had a role in the transactions.

KPMG reached a settlement agreement with the government late last month, acknowledging wrongdoing, agreeing to pay a $456 million penalty and accepting limits on the scope of its tax practice, among other restrictions.

"This is an ongoing investigation," Justin S. Weddle, an assistant United States attorney, told the presiding judge, Lewis A. Kaplan, in Federal District Court in Manhattan yesterday.

Lawyers for the nine defendants wrangled with prosecutors over their access to documents collected in the course of the government's investigation. Mr. Weddle told defense lawyers that prosecutors had gathered about 300 boxes from different firms, including Deutsche Bank, that were involved in the shelters. A spokeswoman for Deutsche Bank declined to comment on the investigation.

Prosecutors said they also had about 1,300 boxes of documents from the Internal Revenue Service, some gathered in the course of the agency's audit of KPMG itself and others in the course of investigating individual taxpayers who bought the questionable shelters, Mr. Weddle said.

For a moment the discussion of what evidence the government would provide to the defense lawyers appeared to verge on acrimony, leading Judge Kaplan to intervene.

"Everybody chill out," he advised the courtroom.

Lawyers also discussed the timing of the case, which Judge Kaplan scheduled for trial beginning May 1, 2006. Prosecutors initially told the judge that a new, or superseding, indictment, which would require approval from the tax division of the Justice Department in Washington, could require three months. The judge advised prosecutors to have the indictment ready instead by Oct. 17, and he told defense lawyers to file motions relating to the current indictment by Nov. 14. One lawyer said he planned to object to the entire charge; another said he planned to try to sever his client's case from the other defendants'.

The proceedings yesterday offered a hint of how unwieldy the case against the nine executives, let alone against as many as 21 possible defendants, could be. Defense lawyers had to take chairs from the spectators' gallery of the courtroom, and the defendants were directed to seats normally reserved for members of a jury. Judge Kaplan's clerk asked only once how each defendant pleaded, guilty or not guilty, and each defendant's lawyer stood to respond. The arraignment took more than an hour.

Judge Kaplan also showed a hint of testiness about the pace of the government's case, commenting that if prosecutors could spend a year and a half investigating before bringing one criminal charge, they should not need another three months to add any new charges or new defendants. He also warned prosecutors against lengthy proceedings. Prosecutors said they anticipated a three-month trial.

A complex case would confuse jurors and make it harder for them to convict, Judge Kaplan said. "The idea of a three- or four-month tax trial, well, it's a daunting prospect" for potential jurors, he added.

The judge also advised lawyers for both sides to prepare as clear a presentation for jurors as possible, using video presentations, for instance, and avoiding cumbersome binders full of copies of exhibits.

The individual defendants were released after the arraignment yesterday. The court required each to provide a bond of $300,000 to $3.5 million.

David Spears, a lawyer representing Jeffrey Stein, one of the former KPMG partners, filed a request with the court seeking bail in a "reasonable amount."

The filing also offered a preview of the arguments that Mr. Spears will probably make on Mr. Stein's behalf at the trial. The document states, "Mr. Stein relied on the hard work and advice of the tax experts who approved the strategies at issue and continues to have no reason to doubt the validity of the tax advice he ultimately provided."

The Squeezing Of Lawyer-Client Privilege (NYT)

By Jonathan D. Glater

The New York Times, September 7, 2005

In its agreement with the government that headed off an indictment, the accounting firm KPMG promised not to try to use "any claim of privilege" to keep information from prosecutors.

The pledge did not get much attention, perhaps because waiving the privilege that protects communications between a lawyer and client is now commonplace for corporate defendants.

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But the privilege has been weakened in other ways, too, as more individual defendants try to argue that their actions were blessed by a lawyer and that, as a result, they did not know they were doing anything wrong.

Some lawyers say they are worried that weakening the privilege will mean that clients will be less candid, making legal advice less reliable. Other lawyers counter that anyone advising a company, an executive or an individual will give better advice because of the possibility that the advice may someday become public. But all agree that the privilege today is much more negotiable than in years past.

"It's clear that there's this chill out there, that the privilege is vulnerable," said R. William Ide III, a lawyer at McKenna Long & Aldridge in Atlanta and also chairman of an American Bar Association committee on lawyer-client privilege. "We don't think it should be in play."

But powerful forces have put in play the privilege protecting communications, as well as the so-called work product privilege covering documents and other work by a lawyer in anticipation of litigation. Examples abound in recent years of lawyers providing evidence - in cases involving HealthSouth, Tyco, Credit Suisse First Boston, Enron and others. A recent bar association report notes that while it is difficult to determine how frequently companies are asked by regulators and prosecutors to waive the privilege, those interviewed by the committee said "these requests, backed by an express or implied threat of harsh treatment for refusing, have become increasingly common."

KPMG provides a case study. Former partners there who have been indicted on charges of tax shelter conspiracy want to tell jurors that they could have had no improper intent because they cleared all their actions with their lawyers. Lawyers will also be useful sources of evidence because of their involvement in the transactions - an increasingly common fact of life, as transactions become ever more complicated and lawyers become essential guides.

"This is something where lawyers were all over it," Stanley Arkin, who is defending Jeffrey Eischeid, one of the former KPMG partners facing a criminal charge, said in an interview last week. If lawyers approved the tax shelter transactions at issue in the KPMG investigation, he said, then people like his client did not know they were doing anything wrong, which would mean they did not break the law. Mr. Arkin said he expected to call the lawyers who approved the shelters to testify.

"Even if in retrospect these shelters are something that was inappropriate, did someone at the time they were doing this think they were engaging in some kind of crime?" he asked.

Michael Ramsey, who represents Kenneth L. Lay, the former chief executive of Enron, said he expected testimony from former Enron lawyers to figure prominently in his client's trial, expected to begin early next year.

"With the complexity of litigation growing more and more dense, if you will, we are seeing, and we will continue to see, executives who think they are doing the right thing because they consulted with counsel," Mr. Ramsey said.

KPMG had good reason to agree to waive its privilege to placate prosecutors weighing whether to indict the firm. In making the decision whether to indict, prosecutors consider whether a company has cooperated, and the government defines cooperation to include sharing information that may otherwise be protected by privilege. Under the terms of its agreement with the government, KPMG has also turned over documents and other information to investigators and made a strong statement acknowledging past wrongdoing.

Prosecutors say that they usually do not seek to learn what advice a lawyer provides to a client, but are trying only to learn the facts. In an interview in 2003, James B. Comey, a former United States attorney, said, "They are just seeking the facts, including factual attorney work product." Lawyers for former KPMG partners have already excoriated the firm's cooperation and, in particular, its acknowledgment of wrongdoing, contending that the firm did not undertake a thorough internal investigation to justify such a statement. (The statement is unlikely to be admitted in evidence in the criminal case against the former partners, though, lawyers said, and, in any event, it does not identify specific wrongdoers.)

Robert S. Bennett, whose firm, Skadden Arps Slate Meagher & Flom, helped persuade prosecutors not to indict KPMG, responded that KPMG could have been destroyed if it had been indicted, and that would have hurt far more people than the eight former partners named in the indictment.

"When you are saving a company, you are saving more than just bricks and mortar," Mr. Bennett said, adding that the firm was comfortable with the acknowledgment that it made. Mr. Bennett is familiar with such brinkmanship after advising the boards at HealthSouth and Enron; both waived privilege, to satisfy prosecutors that they were cooperating. Mr. Bennett declined to comment on any of those specific instances, but he said that corporate defendants generally waive the privilege in more cases, for more reasons and more often now than in the past.

"It's very hard being a defense lawyer these days," Mr. Bennett said. "In today's climate, in order for a company to avoid an indictment, it must cooperate with the government. And today, cooperation, under the Thompson guidelines, as a practical matter often requires companies to waive the attorney-client privilege and cooperate in other ways."

The so-called Thompson memorandum, drafted in 2003 by the deputy attorney general, Larry Thompson, in the wake of a wave of corporate fraud, laid out guidelines on prosecutions of corporations. The guidelines state that "one factor the prosecutor

may weigh in assessing the adequacy of a corporation's cooperation is the completeness of its disclosure including, if necessary, a waiver of the attorney-client and work product protections, both with respect to its internal investigation and with respect to communications between specific officers, directors and employees and counsel."

But Mr. Ide, the chairman of the bar association's task force, and other lawyers say they worry that when prosecutors insist on a waiver, they are essentially making corporations an offer they cannot refuse.

That may have serious consequences. For example, companies may have difficulty conducting internal inquiries if employees do not talk because they know their statements may end up being handed over to the government; executives may decide not to consult lawyers before making critical business decisions; and lawyers may temper their advice if they know it may one day be exposed.

"One concern is that this will chill corporate officials' willingness to get good legal advice," said Michael Young, a lawyer at Willkie Farr & Gallagher. "The result ironically would be less access to sound legal counsel."

Not everyone is worried about weakening the privilege for corporations, though. John R. Kroger, a law professor at Lewis & Clark Law School and a former federal prosecutor, said that knowing what lawyers told executives is crucial to learning what happened at a company

"It's really in the public's interest to get out on the table whether there's any possibility executives engaged in wrongdoing were really following legal advice or not," Mr. Kroger said.

Many Families Miss Tuition Tax Breaks (USAT)

By Mary Beth Marklein

USA Today, September 7, 2005

Nearly 10 million Americans claimed a federal higher-education tax break in 2002, more than double the number who did in 1998.

But hundreds of thousands of families who may be eligible for such breaks aren't taking advantage of them, a federal report says.

Meanwhile, with Congress under pressure to reduce the federal deficit, the legislators responsible for student loans have been given a Sept. 16 deadline to detail how they will trim about $13 billion from mandatory programs in their jurisdiction.

The tax-related report, released last week by the Government Accountability Office, found that filers of 27% of the 1.8 million returns it analyzed appeared eligible but did not claim either a tuition deduction or tax credit.

The report said those filers could have reduced their tax liability by $169 on average; 10% of them could have cut their liability by more than $500.

A major reason people did not take advantage of it may be that the tax provisions are “difficult for families to understand and use correctly,” the report said.

It called on the Department of Education to sponsor research on the effectiveness of tools to assist students and families — not only with tax breaks but also student aid programs, through which more than 8.4 Americans received grants or loans in 2002.

In 2004, about $14 billion in grants and $56 billion in loans were made available through federal programs while post-secondary tax breaks amounted to $10 billion, the report said.

Now, with Congress looking to trim budgets, higher education groups expect cuts to federal loan programs of between $7 billion and $10 billion over five years, says Terry Hartle of the American Council on Education, an umbrella group for colleges and universities.

And as Congress prepares to consider a package of bills aimed at making college more accessible, critics of a student aid provision wending its way through the legislative process argue that the measure would raise the cost of loans for some borrowers.

That provision, passed by a key House committee in July, would offer new options for students and greater flexibility for loan repayment, says Rep. John Boehner, R-Ohio, chairman of the Education and the Workforce Committee.

That committee is a key architect of the Higher Education Act, which is renewed every five years.

But a coalition of public interest groups, including the United States Student Association and the State Public Interest Research Groups, say the costs far outweigh the bill's benefits.

They say new loan fees, higher interest rates and the elimination of certain borrower benefits would hike loan costs by as much as $5,800.

Meanwhile, an 85-member coalition of loan providers is urging a Senate committee to oppose “excessive cuts” as members look for ways to save money.

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Significant cuts, the coalition says, “could destabilize the loan program and create more barriers to higher education for the neediest students.”

CONGRESS-ADMINISTRATION:

Bush: List For Second Vacancy 'Wide Open' (CO)

By Jesse J. Holland

The Charlotte Observer, September 7, 2005

WASHINGTON - President Bush said the list of possibilities for his second Supreme Court nomination was "wide open" Tuesday as Senate Republicans urged him to consider a woman and Democrats pressed him to consult with them before making his next pick.

The president said the Senate should concentrate on confirming U.S. Appeals Judge John Roberts to replace the late Chief Justice William H. Rehnquist before worrying about any other choices.

"I want the Senate to focus not on who the next nominee is going to be, but the nominee I got up there now," Bush said.

Roberts' confirmation hearing before the Senate Judiciary Committee will begin next Monday, one week after Bush named him to replace the justice he worked for as a Supreme Court law clerk. Roberts was originally slated to be Sandra Day O'Connor's replacement, but Bush formally withdrew that nomination Tuesday and made the 50-year-old judge the chief justice nominee.

O'Connor has agreed to stay on until her successor is in place, Bush noted, ensuring there will be a nine-member court if Roberts is confirmed before the new term begins on Oct. 3.

Senate Majority Leader Bill Frist, R-Tenn., and Judiciary chairman Arlen Specter, R-Pa., said they expected to be finished with Roberts before then.

Specter and Sen. Kay Bailey Hutchison of Texas - who will be the Senate's No. 3 Republican next year - said Bush should choose a woman since O'Connor's retirement would leave only one woman on the court, Ruth Bader Ginsburg.

"Two women, I think, are a minimum," Specter said.

Several senators suggested the president should wait before making any new selection public, given that the Senate is working on relief for the hurricane-stricken Gulf Coast as well as Roberts' nomination. "We've got more than a full plate right now," said John Cornyn, R-Texas.

"I think you should do one nomination at a time, even though it would be nice to know who the president is thinking of," added Sen. Charles Schumer, D-N.Y.

Democrats urged Bush to talk with them before replacing O'Connor, who sometimes has sided with more liberal justices.

"The list is wide open, which should create some good speculation here in Washington," Bush said, playfully glancing at Attorney General Alberto Gonzales, who has been mentioned as a possible nominee. If named, Gonzales would become the first Hispanic justice on the Supreme Court.

Bush Pledges Wide Search For Court Seat (WP)

By Peter Baker And Jo Becker

The Washington Post, September 7, 2005

President Bush vowed yesterday to "take a good, long look" at a "wide open" list of candidates before deciding whom to nominate for a second open seat on the Supreme Court, as both sides girded for twin confirmation battles and recalibrated strategies after the dizzying events of recent days.

The casket of the late Chief Justice William H. Rehnquist was laid in repose in the Great Hall of the Supreme Court, borne by a cast of pallbearers that included his former clerk and would-be successor, John G. Roberts Jr. Some influential Democrats signaled that Roberts's ascension increased their eagerness to press him on his record -- particularly on civil rights, which they said has taken on new salience in the wake of Hurricane Katrina.

"What the American people have seen is this incredible disparity in which those people who had cars and money got out and those people who were impoverished died," Sen. Edward M. Kennedy (D-Mass.) said in an interview . The question for Roberts, he said, is whether he stands for "a fairer, more just nation" or for "narrow, stingy interpretations of the law to frustrate progress."

Bush, who tapped Roberts on Monday to replace Rehnquist, suggested that he will take his time finding a new candidate for the seat of retiring Justice Sandra Day O'Connor, which was originally supposed to go to the appellate judge. Aides said they expect no announcement this week as Washington focuses on the damage wrought by Hurricane Kristina.

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At the same time, Bush playfully hinted he could choose his friend Alberto R. Gonzales, a prospect that reignited consternation among conservative groups skeptical of the attorney general's politics.

"The list is wide open, which should create some good speculation here in Washington," Bush told reporters after a Cabinet meeting, generating laughter. With a sly look, he added: "And make sure you notice when I said that, I looked right at Al Gonzales, who can really create speculation."

Whether or not the president actually intends to nominate Gonzales, who would be the first Hispanic on the court, that lighthearted remark crystallized the renewed battle within the Bush camp over the selection of an associate justice -- a virtual replay of the fight that preceded Roberts's original nomination in July, pitting the Republican right against the White House.

At the same time, having already chosen a white man for the high court, Bush came under pressure from within his party to make diversity a priority. Republican Sens. Arlen Specter (Pa.), Kay Bailey Hutchison (Tex.) and John Cornyn (Tex.) all advised the president to consider a woman or a member of a minority. O'Connor and first lady Laura Bush have both previously stated a preference for a second woman on the bench as well, while Secretary of State Condoleezza Rice smiled broadly yesterday when Bush was asked whether he would name a female nominee.

With O'Connor's pending departure, the court would be left with one woman, Ruth Bader Ginsburg, and one minority, Clarence Thomas. "Two women are, I think, a minimum," Specter said, though he added he does not favor a quota.

Complicating the picture is the political aftermath of Katrina, which analysts say has left Bush weakened amid recriminations over a slow, ineffectual initial response. Some analysts speculated that Bush might avoid a provocative conservative in favor of a less ideologically pure nominee, possibly Gonzales. But White House advisers scoffed at the notion, suggesting that fundamentally misunderstands Bush's nature.

Conservatives lobbied against shifting course because of Katrina. "The court is a long-term thing," said William Kristol, the influential editor of the Weekly Standard. "It's crazy to mess up your long-term legacy to possibly help him with a short-term PR problem. I think Gonzales would be a disaster."

Some Republican strategists reason that the hurricane may actually work in their favor in that the public has no appetite for a fiery, partisan battle over the Supreme Court. "People are in no mood for a circus," said a senior administration official who spoke anonymously because of the sensitivity of the situation. "The country is dealing with a terrible tragedy. The American people want a dignified process."

Specter, chairman of the Judiciary Committee, yesterday rescheduled hearings originally slated for today until Monday. Preparing for a showdown, some Democrats mapped plans to link Roberts's past opposition to affirmative action and other civil rights measures to the unfolding scenes of mostly poor African Americans hit hardest by the hurricane.

Democrats will make that argument in part through their witness list, which includes Rep. John Lewis (D-Ga.), a leader in the 1960s civil rights movement who plans to note that courts historically have led the way in guaranteeing rights for the disenfranchised. "New Orleans is just a symbol," he said in an interview. "We are still a nation divided by race and class, and I don't see [Roberts] being an advocate for those who were left out and left behind."

Democrats used the delay in the Roberts hearings to renew their request for documents related to his service as principal deputy solicitor general under President George H.W. Bush, but Specter rejected the appeal. The government has released tens of thousands of pages of memos and papers from Roberts's early service in the Reagan administration while refusing to turn over those from the solicitor general's office on the grounds of preserving confidential deliberations.

On other matters, Democrats sent mixed messages as party leaders seemed to search for a consensus strategy. Some said Roberts should be held to a higher scrutiny because of the influence of a chief justice. "Look at [Earl] Warren and Rehnquist," said Sen. Charles E. Schumer (D-N.Y.), referring to two long-serving chiefs credited with moving the court to the left and right, respectively.

But other Democrats said the switch of Roberts to replace Rehnquist rather than O'Connor actually made his confirmation less significant because now it would be trading one conservative for another. Unlike Rehnquist, O'Connor was a decisive vote in many cases. "She has been the swing vote on so many of the freedoms" important to Americans, said Sen. Barbara Boxer (D-Calif.).

In a similar vein, Democrats also split on whether Bush should signal his choice for O'Connor's seat before the Senate votes on Roberts. Shortly after Bush picked Roberts for chief, Kennedy said the president should disclose his proposed replacement for O'Connor expeditiously. But Minority Leader Harry M. Reid (D-Nev.) urged Bush not to rush. "It would seem to me the White House may want to take it a little more slowly," Reid told reporters.

Bush appeared in no rush. "I'll take a good, long look at who should replace Justice O'Connor," he said. Bush noted that he spoke with O'Connor on Monday to inform her that Roberts would be submitted for Rehnquist's seat instead of hers and to remind her that she had agreed to remain on the court until her successor is confirmed. "Her first reaction was that she better get back to doing her homework," he said.

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Having gone through a selection process just two months ago, Bush has a good sense of the universe of candidates, who besides Gonzales appear to include former deputy attorney general Larry D. Thompson and a plethora of appeals court judges, including J. Michael Luttig, Edith Hollan Jones and Priscilla R. Owen. Bush has not scheduled any more candidate interviews, nor is he holding any regular meetings with aides, instead discussing the choice on a more ad hoc basis by calling advisers when he has a thought or question, officials said.

"He's got his mind organized around a short, decent list of people," said one senior official close to the process who spoke on the condition of anonymity because of the confidentiality of the process. "But he's not close-minded about this at this point."

As much as anything, timing may be the open question. Bush is unlikely to announce the next nomination in the midst of next week's hearings on Roberts, but the president's advisers are debating whether it would be better to go ahead after the hearings or to wait until after a final floor vote, now scheduled for the week of Sept. 26.

Even if O'Connor is sitting on the court when its next term opens Oct. 3, her presence may not matter much. If she is not still there when decisions are written and issued months later, her vote would not count. In instances when that would leave a 4 to 4 tie, the cases might have to be reargued for her successor's benefit.

"The president ought to act expeditiously simply to fill the slot as quickly as possible," said Todd F. Gaziano, a scholar at the Heritage Foundation and former Jones clerk.

Others argue that even with two appointments, Bush needs another to effect lasting change. "While this weekend was filled with dramatic events, they won't transform the court in the way people on both sides hope or fear," said M. Edward Whelan III, president of the Ethics and Public Policy Center and a former clerk to Justice Antonin Scalia. "Real transformation requires replacing someone on the left with a proponent of judicial restraint."

Bush Hints At Gonzales For Court Opening (WT)

By Bill Sammon

The Washington Times, September 7, 2005

President Bush yesterday reignited speculation that he would nominate Attorney General Alberto R. Gonzales to the Supreme Court, saying the list of potential candidates to replace retiring Justice Sandra Day O'Connor is "wide open."

Mr. Bush made his comments at a Cabinet meeting, adding that his words "should create some good speculation here in Washington."

"And make sure you notice when I said that I looked right at Al Gonzales, who can really create speculation."

Although the remark drew chuckles from Cabinet members and journalists, Bush aides said he is seriously considering Mr. Gonzales. That prompted a fresh round of grumbling from conservatives, who fear that Mr. Gonzales would not vote to overturn Roe v. Wade, the 1973 high court ruling that legalized abortion.

"He's obviously not pro-life," said Mark Crutcher, president of Life Dynamics.

Stephen Peroutka, chairman of National Pro-Life Action Center, pointed out that Mr. Gonzales voted to allow a girl have an abortion without telling her parents in 2000 when he was on the Texas Supreme Court.

Mr. Bush emphasized that he is casting a wide net for his second Supreme Court nominee in two months. His first nominee, Judge John G. Roberts Jr., was chosen in July and will appear before the Senate Judiciary Committee next week for confirmation hearings.

"I was deliberate in my process last time; I'll be deliberative this time," Mr. Bush said.

The president said he does not expect to name a replacement until Judge Roberts is seated on the bench as a replacement for Chief Justice William H. Rehnquist, who died Saturday. Mr. Roberts was initially tapped to replace Justice O'Connor, but was renominated to become chief justice after Chief Justice's Rehnquist's death.

"I want the Senate to focus not on who the next nominee is going to be, but the nominee I've got up there now," Mr. Bush said.

Meanwhile, Justice O'Connor has agreed to stay on the court until her replacement is found.

"She'll be there when the court is seated with a new chief justice," the president said.

Senate Minority Leader Harry Reid said he expects to be consulted on the new nominee and urged the president not to nominate a staunch conservative.

"I look forward to consulting with the president on the O'Connor seat," the Nevada Democrat said on the Senate floor. "Justice O'Connor has been a voice of moderation and reason on the court and should be replaced by someone who, like her, embodies the fundamental American values of fairness, liberty and equality."

In July, Mr. Reid said Mr. Gonzales is "qualified" to sit on the Supreme Court, which made some conservatives even more suspicious of the potential nominee's credentials. But it also suggested that Mr. Gonzales, if nominated, would garner at least some Democratic votes in the Senate.

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ABC News political editor Mark Halperin yesterday wondered whether "the White House will secretly welcome the opposition of a few conservative groups, making Gonzales seem more moderate."

Gonzales Is Mentioned In Supreme Court Remarks (NYT)

By Richard W. Stevenson And Sheryl Gay Stolberg

The New York Times, September 7, 2005

WASHINGTON, Sept. 6 - President Bush said Tuesday that his list of candidates to replace Justice Sandra Day O'Connor was "wide open," and he jokingly but pointedly singled out Attorney General Alberto R. Gonzales.

Mr. Bush's mention of Mr. Gonzales as a possibility, in comments to reporters at the end of a cabinet meeting, fueled concern among conservatives, who were already mobilizing against the attorney general. Conservatives say that Mr. Gonzales has not shown himself to be sufficiently opposed to abortion rights and that nominating him would miss an opportunity to move the court fundamentally to the right.

Mr. Bush said that he had yet to make up his mind and that he would "take a good, long look at who should replace Justice O'Connor." But he mentioned only one name, that of Mr. Gonzales, a longtime friend and aide who, if nominated and confirmed, would be the first Hispanic on the court.

"The list is wide open, which should create some good speculation here in Washington," Mr. Bush said to laughter in the Cabinet Room, with the attorney general sitting directly across from him. "And make sure you notice when I said that, I looked right at Al Gonzales, who can really create speculation."

The president's remark came as the Senate delayed until next week confirmation hearings for Judge John G. Roberts Jr., who had been nominated to fill Justice O'Connor's seat but who was selected by Mr. Bush on Monday as his nominee for chief justice after William H. Rehnquist died on Saturday. The hearings on Judge Roberts's nomination to Justice O'Connor's seat had been scheduled to begin Tuesday.

The White House has already signaled that Mr. Bush will not announce a selection of a new replacement for Justice O'Connor this week. The president went further on Tuesday, suggesting that he would hold off on a selection at least until Judge Roberts's nomination reached the Senate floor, if not until he was confirmed.

"I want the Senate to focus not on who the next nominee is going to be, but the nominee I've got up there now," Mr. Bush said.

It has never been clear how seriously Mr. Bush has considered Mr. Gonzales for the Supreme Court, and it was hard to tell if the president's remarks were calculated to send a signal or were simply a reflection of his sense of humor and his disdain for Washington guessing games.

Mr. Bush, as governor of Texas, named Mr. Gonzales to the State Supreme Court in 1999 after employing him as one of his top aides, and then brought him to Washington as White House counsel in 2001. He became attorney general this year.

A senior administration official, speaking on the condition of anonymity to provide his interpretation of Mr. Bush's remarks on Tuesday, said that the president was "giving a jab to a good friend" and that both men are "immune to speculation and rumors."

But by mentioning Mr. Gonzales, however lightheartedly, Mr. Bush increased the likelihood that conservative groups would reprise and perhaps intensify their largely behind-the-scenes effort earlier this summer to convince the White House that selecting Mr. Gonzales for Justice O'Connor's seat would be a betrayal of his most ardent supporters.

"Would any of his aides have the nerve to tell him that as Supreme Court jurists go, Gonzales would be mediocre - and not a solid bet to move the court in a constitutionalist direction?" William Kristol, editor of The Weekly Standard, wrote in an article posted Tuesday afternoon on that conservative magazine's Web site. "Would any of them have the nerve to explain to the president that a Gonzales nomination would utterly demoralize many of his supporters, who are sticking with him and his party, through troubles in Iraq and screw-ups with Hurricane Katrina, precisely because they want a few important things out of a Bush presidency - and one of these is a more conservative court?"

Conservatives have been hoping for years to replace Justice O'Connor, a swing vote on abortion, immigration, religion and other divisive social issues, with a conservative who could fundamentally alter the balance on the court. They have been pressing Mr. Bush to choose someone like Judge J. Michael Luttig of the United States Court of Appeals for the Fourth Circuit, in Virginia, a strong opponent of abortion rights.

Confirmation hearings for Judge Roberts, a former Rehnquist clerk, had been scheduled to begin Tuesday when lawmakers returned from a monthlong recess. Now the hearings on his nomination as chief justice will begin Monday, giving liberal groups more time to develop their case against him.

Democrats have called on Mr. Bush to ask Justice O'Connor to stay on for a full year, saying such a move would bring stability to the court and avoid a divisive confirmation process in the devastating aftermath of the hurricane.

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"If he wants to be a hero," said Senator Barbara Boxer, Democrat of California, referring to the president, "he can pick up the phone and call Sandra Day O'Connor."

Republicans said that as a replacement they were looking for someone like Judge Roberts, a conservative whose impressive legal résumé has made him difficult for Democrats to challenge.

"I'd be pleased if you could clone John Roberts," said Senator Jeff Sessions, Republican of Alabama.

Senator John Cornyn, Republican of Texas, said, "I don't know whether John Roberts has a twin, perhaps a sister or, uh, someone with a Hispanic last name."

Mr. Bush's remark about Mr. Gonzales left many conservative allies of the White House guessing. Some took it as just an off-the-cuff comment, intended to tweak a good friend.

Others wondered if Mr. Bush was "testing the waters," in the words of Marion Edwyn Harrison, president of the Free Congress Foundation, a conservative group whose chairman, Paul Weyrich, has expressed serious reservations about putting Mr. Gonzales on the court.

Should Mr. Bush nominate Mr. Gonzales, he would also arouse the ire of some liberals, who have been critical of Mr. Gonzales's role in setting administration policy regarding torture and the treatment of prisoners seized in what the White House calls the global war on terrorism.

But he is seen by some Democrats in Congress as a relatively moderate option who could steer clear of an ideological showdown.

"I think what most Americans are looking for is someone in the image of Sandra Day O'Connor," Senator Charles E. Schumer, Democrat of New York, said, "and while we don't know a lot of details about Attorney General Gonzales, at first blush he would seem to be in that image."

Pressure Rises With Roberts Hearings Set For Next Week (LAT)

By Maura Reynolds

The Los Angeles Times, September 7, 2005

WASHINGTON — Senate leaders said Tuesday that the Judiciary Committee would begin hearings Monday on President Bush's nomination of John G. Roberts Jr. to be chief justice, and the president said he would take his time selecting a candidate from a "wide open" field to fill the Supreme Court's second vacancy.

At midday, Bush formally sent Roberts' name to the Senate to succeed Chief Justice William H. Rehnquist, who died Saturday, and withdrew the earlier nomination of Roberts to fill the seat of Justice Sandra Day O'Connor, who is retiring.

"I want the Senate to focus not on who the next nominee is going to be, but the nominee I got up there now," Bush said. "In the meantime, the country can be assured that I'll take a good, long look at who should replace Justice O'Connor."

Democrats urged the president to move quickly to fill the vacancy, saying it would be easier for them to support Roberts' nomination if they knew the name of the second nominee.

Senators on Tuesday spent their first full day on the job after their summer recess adjusting to a new reality: two Supreme Court vacancies that will need to be addressed against the backdrop of the national emergency caused by the devastation of Hurricane Katrina.

Even though the hearings on Roberts' nomination will start six days later than first planned as a result of Rehnquist's death, Senate leaders were optimistic that a vote on Roberts would take place before the Supreme Court term begins Oct. 3.

"Judge Roberts does have the skill, he does have the mind, he does have the intellect and the temperament to lead the Supreme Court for decades to come," said Senate Majority Leader Bill Frist, R-Tenn.

Bush's decision Monday to nominate Roberts as chief justice forced both parties to recalibrate their political compasses.

Democrats, worried about the balance of conservatives and liberals on the court, started pressuring Bush to quickly announce a nominee to replace O'Connor. She has been a swing vote between the court's liberal and conservative wings.

"If we had an idea of who might fill the other vacancy, it would help put (Roberts' nomination) in perspective," said Sen. Richard J. Durbin, D-Ill., a member of the Judiciary Committee. "This court is very closely divided, and if the president's next nominee is too extreme, it will worry us that the court is going to change for generations to come."

Republicans, apparently recognizing that delaying a second nomination might give the president more options, deferred to the White House. Over the weekend, Bush aides suggested the president would choose another nominee quickly. After a Cabinet meeting Tuesday morning, the president suggested a more measured pace.

"I was deliberate in my process last time. I will be deliberative this time," Bush said.

Democrats, who had indicated they were unlikely to try to block Roberts' confirmation, said the proposal to make him chief justice raised the stakes.

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"At his age, we could see him for 25 or 30 years," said Sen. Patrick J. Leahy, D-Vt., the senior Democrat on the Judiciary Committee.Roberts is 50 years old.

Sen. Russell D. Feingold, D-Wis., said it was now more important for the White House to release 16 case files from Roberts' service in George H.W. Bush's administration that the current White House has withheld.

Democrats worry that the president could use a second nomination to name a conservative ideologue to placate the Republican Party's right wing, which privately has expressed concerns that Roberts might not be as reliable a conservative vote as they would like. Democrats express the opposite fear, that Roberts will be rigidly conservative.

"It really falls on us to ask important questions about who he really is and to require the administration to produce enough evidence about who he is and what he believes that we can make a reasonable judgment," Durbin said.

There is considerable speculation in both parties that Bush will try to name a woman or a member of an ethnic minority to promote more diversity among the justices.

"It is desirable to have balance on the court, and two women, I think, are a minimum," said Sen. Arlen Specter, R-Pa., the committee chairman. "But I don't think you can have a quota system either for women or a minority as an absolute determinant."

Senators said that the aftermath of Katrina had created an unusual backdrop for the Roberts hearings, but that it was important to move forward after the weeklong delay to mourn Rehnquist and the hurricane victims.

"All three branches of government are critical (even in) those Southeastern states that are suffering so terribly," said Sen Orrin G. Hatch, R-Utah, a member of the judiciary panel. "But this is one of the most important responsibilities the Senate has, and we need to exercise that responsibility."

The Right Wants A Woman (HILL)

By Alexander Bolton

The Hill, September 7, 2005

Key Republicans and conservatives are pressing President Bush to nominate a woman to replace retiring Supreme Court Justice Sandra Day O'Connor.

This is despite welcoming the nomination seven weeks ago of Judge John Roberts, a white man and a member of Washington's elite, who was elevated Monday as the nominee to replace the late Chief Justice William Rehnquist.

It may suggest that, with the president faltering in opinion polls, the right believes it needs the sop of liberal identity politics to get a second conservative justice confirmed.

Priscilla Owen, Edith Jones and Edith Brown Clement, all three from the 5th U.S. Circuit Court of Appeals, and Janice Rogers Brown, of the D.C. Circuit Court of Appeals, are considered by conservatives to lead the list of potential female nominees.

Senate Judiciary Committee Chairman Arlen Specter (R-Pa.) yesterday signaled that he would like Bush to nominate a woman.

"It is desirable to have a balance on the court," he said when asked about Bush's next nominee. "Two women, I think, are a minimum."

In the same breath, however, Specter added that the Supreme Court should not have a quota system for nominees.

Many conservative activists are talking behind the scenes about the desirability of a female nominee to replace O'Connor.

Paul Weyrich, chairman of the Free Congress Foundation and a longtime leader of the conservative movement, told The Hill, "I've heard from any number of people who think that way." He said, however, that he didn't think the seat should be reserved for a woman.

Owen's name has arisen more frequently this week than it did when O'Connor announced her retirement in June.

The Senate confirmed Owen, a former Texas Supreme Court justice, at the end of May by a vote of 55-43 after Democrats had blocked her nomination for nearly four years.

Another activist said that "conservatives would embrace" Owen, Jones, Clement and Brown.

Clement was on the president's shortlist to replace O'Connor two months ago, but her stock is believed to have declined among conservatives since then.

Manuel Miranda, a former strategist to Senate Majority Leader Bill Frist (R-Tenn.) on judicial nominations, said there is pressure on Bush to appoint a woman or a member of a racial minority now that that he has selected Roberts to lead the court.

Referring to the pressure, he said, "I think it's greater to appoint a woman but also [there's pressure to name] a Hispanic."

Two Republican Judiciary Committee members, Sens. Orrin Hatch (Utah) and Tom Coburn (Okla.), said Bush should not let sex considerations drive his choice.

"I don't think it should be a question of a woman or a Hispanic or a Caucasian," said Hatch, who nevertheless added: "There are some outstanding women in the law whom the president is considering."

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Democrats say they would like the president to announce his next nominee before they cast a final vote on Roberts's confirmation. Sen. Charles Schumer (D-N.Y.), a member of the Judiciary panel, said it would be helpful.

Sen. Russ Feingold (D-Wis.), another member of the committee, said he did not perceive "the point of waiting," when asked whether the president should make the announcement before Roberts has passed through the Senate.

Feingold also raised the possibility that Roberts may not be able to be confirmed within the three-week timeline Republicans set yesterday. Even before the delay of Roberts's hearing, he said, confirmation by October was uncertain.

Sen. Dick Durbin (Ill.), the Democratic whip, said that Democrats were committed to beginning Roberts's confirmation hearings this Monday but that it was too early to predict whether they would allow a final vote on Roberts to take place if Bush has not named O'Connor's successor.

Several liberal and conservative strategists said that linking Roberts and O'Connor's replacement would help Democrats portray Bush as trying to alter the makeup of the court dramatically by appointing two very conservative nominees at the same time.

Frist, Specter, Minority Leader Harry Reid (D-Nev.) and Judiciary Committee ranking Democrat Patrick Leahy (Vt.) announced yesterday a new schedule for Roberts's confirmation hearings.

Frist said the schedule would allow lawmakers to complete action on Roberts's nomination by Oct. 3, the start of the Supreme Court's new term. But Reid countered that Democrats had made no commitment to holding a final vote by the start of the new term.

"You never know what is going to happen," Reid said.

Schumer indicated that Democrats reserve their power to extend the confirmation process as long as possible.

During interparty negotiations, Schumer insisted that Democrats not commit to a deadline for a final vote on Roberts or to limited rounds of questioning of the nominee.

Roberts's hearing will begin at noon Monday with a round of opening statements, followed by two days of questioning and a day of outside witness testimony.

Specter and Leahy have tentatively agreed to a committee vote on Roberts on Sept. 20. Specter acknowledged that Democrats could invoke Senate rules to delay the committee vote until the following week but said he hoped "no one will exercise the right to carry it over a week." Specter added that committee Democrats had assured their Republican colleagues that they want to move without unnecessary delay.

Leahy, who met with his committee colleagues over the Labor Day weekend, said that "substantive questions will be asked" but that Democrats would not create procedural delays.

Specter said that if lawmakers could not agree unanimously to a vote during the week of Sept. 20, the following Monday, Sept. 26, would be the fallback date for the committee vote, enabling Frist to schedule a final floor on one of the last four days of the month.

NJ Judge Mentioned As Possible Supreme Court Nominee (AP)

By DONNA DE LA CRUZ, ASSOCIATED PRESS WRITER

AP, September 7, 2005

WASHINGTON (AP) -- A second opening on the U.S. Supreme Court is bringing renewed interest in Samuel A. Alito Jr., a federal judge from New Jersey who used to serve as the state's federal prosecutor.

Alito, who sits on the 3rd U.S. Circuit Court of Appeals, which covers the Garden State, is among several people mentioned by court observers as being on a "short list" of candidates for associate justice to succeed Sandra Day O'Connor. She is retiring but remaining on the bench until her replacement is confirmed. President Bush's original choice for that position, John Roberts, has been nominated to become chief justice following the death Saturday of William H. Rehnquist.

The other possible nominees include U.S. Attorney General Alberto Gonzales, former U.S. Solicitor General Theodore Olson, and former deputy Attorney General Larry Thompson.

Alito, 55, has been dubbed "Scalito" or "Scalia-lite" by some lawyers and political pundits because of a reputation as a strong, conservative jurist that often brings comparisons to conservative Supreme Court Justice Antonin Scalia. But Alito, 55, also has a reputation as being scholarly and quiet, rarely asking questions during oral arguments.

Alito's New Jersey ties run deep. Alito was born in Trenton, as was Scalia, although Scalia moved with his family to Queens, N.Y., when he was 5. Both Alito and Scalia are Italian-Americans.

Alito's deceased father, Samuel Alito Sr., was the director of the New Jersey's Office of Legislative Services from 1952 to 1984. Alito's sister, Rosemary Alito, is a partner with the law firm of Kirkpatrick & Lockhart Nicholson Graham in Newark, and is regarded as one of New Jersey's top employment lawyers.

Alito earned his undergraduate degree from Princeton University in 1972 and graduated from Yale Law School in 1975. He served as a law clerk from 1976-1977 for Leonard Garth, a judge on the 3rd U.S. Circuit in Philadelphia. He returned to New Jersey in 1977 to work as an assistant U.S. attorney.

From 1981 to 1987, Alito worked in Washington, first as an assistant to the U.S. solicitor general and a deputy assistant U.S. attorney general. Alito returned to New Jersey in 1987, where he served as the U.S. Attorney for the District of New Jersey until 1990, when the first President Bush nominated him to the 3rd U.S. Circuit Court of Appeals.

Among Alito's noteworthy opinions was his sole dissent in the 1991 case that struck down a Pennsylvania law requiring women seeking abortions to tell their husbands. The Supreme Court later struck down the spousal notification.

But in 2000, Alito joined the majority in ruling that a New Jersey law banning late-term abortions was unconstitutional.

In a 1997 ruling, Alito said that Jersey City officials did not violate the Constitution with a holiday display that included a creche, a menorah and other secular symbols.

Alito and his wife, Martha, live in West Caldwell. They have two children, a college-age son Philip and a younger daughter, Laura. His interests include tennis, music and the Philadelphia Phillies.

Target Date Is Set For Committee Vote On Roberts (WSJ/DJN)

By Dow Jones Newswires

The Wall Street Journal, September 7, 2005

WASHINGTON -- Senate leaders said the Judiciary Committee will vote no later than Sept. 26 on the nomination of Appeals Court Judge John Roberts to become the next U.S. chief justice.

Senate Judiciary Chairman Arlen Specter (R., Pa.) said yesterday that the committee will begin confirmation hearings on Monday. The hearings are expected to run a week. Although Republican and Democratic leaders said they are working together to move Mr. Roberts's nomination quickly, the full Senate might not hold a final vote on Judge Roberts until just before the high court convenes for its new term on Oct. 3.

"We have tried to work through all of the issues," Mr. Specter said. "I'm optimistic we will be able to dispense the duties of the committee and the full Senate."

Senate Minority Leader Harry Reid (D., Nev.) said Democrats plan to work with Republicans to move ahead on the hearings. But he said his party remains largely uncommitted on how it will vote. Mr. Reid said he has "some concerns" about Mr. Roberts's writings on civil rights and women's issues from when he worked for Presidents Ronald Reagan and George H.W. Bush.

Following the death of Chief Justice William Rehnquist on Saturday, President Bush named Judge Roberts to fill the top job. He was originally nominated to fill the seat of Justice Sandra Day O'Connor, who announced her retirement July 1.

Rehnquist's Casket Lies in Supreme Court

Meanwhile, Chief Justice Rehnquist's casket was carried up the steps of the Supreme Court Tuesday by former clerks including John Roberts, the man nominated to succeed him as chief justice. Official Washington began paying its last respects at the court to the nation's 16th chief justice.

Judge Roberts -- currently a member of the federal appeals court in Washington, D.C. -- and the seven other pallbearers bore the flag-draped casket up some 40 steps of the high court to the Great Hall, where busts of the former chief justices are displayed in niches and on marble pedestals along the walls.

The doors to the court chamber, where Chief Justice Rehnquist had served for 33 years, were open at the east end of the hall. His casket was placed on the Lincoln Catafalque, the structure on which President Lincoln's coffin rested in the Rotunda of the Capitol a century and a half earlier.

Lining the steps to greet the casket were six justices, including Sandra Day O'Connor, who was in tears as the casket passed by. She announced her plans to retire in July, resulting in President Bush's nomination of Judge Roberts to replace her. Mr. Bush said Monday he would nominate Judge Roberts to be chief justice instead. Senate leaders said his confirmation hearings are set to begin Monday, after being delayed.

Absent from Tuesday's ceremonies were Justices Anthony M. Kennedy and David Souter.

The Rev. George Evans Jr., the Rehnquist family pastor at the Lutheran Church of the Redeemer in Virginia, offered a prayer as the justices, former clerks, court staff and family surrounded the casket. Two sprays of flowers and a large portrait of the chief justice were on display.

After the brief ceremony, a long line of people formed outside the court and people began walking inside past the coffin of the chief justice, who died Saturday night.

Public viewing was to take place until 10 p.m. Eastern Time on Tuesday and from 10 a.m. until noon Wednesday. On Wednesday, funeral services will be at 2 p.m. at St. Matthew's Cathedral in Washington, open to friends and family.

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Burial at Arlington National Cemetery will be private. The bodies of Chief Justice Rehnquist's two immediate predecessors, Warren E. Burger and Earl Warren, also are buried at Arlington. Chief Justices Burger and Warren lay in repose in the Supreme Court Building before their services.

Given his office, Chief Justice Rehnquist is entitled to a state-sponsored official funeral, a ceremony that includes a 19-gun salute, four ruffles and flourishes from drums and bugles, and the last 32 bars of the John Philip Sousa march "Stars and Stripes Forever" among other military honors.

Hearings Set For Monday (RC)

By Paul Kane

Roll Call, September 7, 2005

The Senate Judiciary Committee will kick-start hearings on Judge John Roberts' nomination to be chief justice of the United States on Monday, a six-day delay allowing for the funeral and burial services this week for the late William Rehnquist.

The delay, however, still leaves plenty of time for the committee to hold a week's worth of hearings, as originally scheduled, and send the nominee to the full Senate for a vote by the final week of September — the timetable originally laid out by Majority Leader Bill Frist (R-Tenn.).

"Assurances have been made that everybody wants to get it concluded," Judiciary Chairman Arlen Specter (R-Pa.) said, although Minority Leader Harry Reid (D-Nev.) stipulated that those were general assurances of cooperation and not an iron-clad guarantee that Democrats wouldn't attempt to slow the process.

Regardless, without any new revelations that require the hearings to extend well into the month, Specter said they would conclude on Sept. 16. In order to send the nomination to the full Senate with a recommendation, the committee will then reconvene one of three days: Sept. 20 or Sept. 22, but Sept. 26 at the latest.

That gives the Senate almost three full weeks to take up other legislation, particularly any related to fallout from Katrina's devastation, and then handle the Roberts nomination beginning Sept. 26 and continuing through the rest of that week.

Specter said he expected President Bush would fairly quickly make a new appointment to fill the vacancy created by Justice Sandra Day O'Connor's retirement earlier this summer. "My instinct is the White House will be ready for an appointment reasonably soon," he said.

But that announcement is not likely to interrupt the Roberts proceedings in any way, although Specter said the early phases of the new nomination battle could get under way while the Senate is still handling Roberts.

"We can pat our head and rub our stomach at the same time," he said.

Senate Sets Date For Roberts Confirmation Hearings (WT)

By Charles Hurt

The Washington Times, September 7, 2005

Senate leaders agreed to begin confirmation hearings for federal Judge John G. Roberts Jr. on Monday, giving Congress this week to mourn the death of Chief Justice William H. Rehnquist.

"The schedule allows us both to pause to pay appropriate respect to Chief Justice Rehnquist and to complete floor action on the nomination of Judge Roberts as chief justice by October 3, the start of the Supreme Court's new term," Majority Leader Bill Frist, Tennessee Republican, said yesterday.

The schedule allows for a Judiciary Committee vote on Judge Roberts' nomination by Sept. 22, followed by at least a week of debate on the floor of the Senate, according to committee Chairman Arlen Specter, Pennsylvania Republican.

"You can never know for sure about a completion date because we conclude when the last senator stops talking, and that's always hard to predict," said Mr. Specter, who is becoming known for keeping loquacious senators under control during his committee's proceedings.

Republicans had been under pressure to postpone the Roberts hearings, first for Hurricane Katrina and then for the death of Justice Rehnquist.

Even the mayor of New Orleans, C. Ray Nagin, took time out of his frantic efforts to salvage his city to call Mr. Specter over the weekend and ask that the Roberts hearings be delayed.

"Events overtook us with the passing of Chief Justice Rehnquist and concern for the sentiments for the Rehnquist family," Mr. Specter said. "And then events overtook us again with the naming by the president of Judge Roberts to be chief justice, if confirmed."

Despite the postponement, Mr. Specter and Sen. Patrick J. Leahy, Vermont Democrat and ranking minority member on the committee, agreed that the hearings should commence without too much partisan delay. At times during a joint briefing yesterday, the two men were cordial -- even jovial -- with one another

"Senator Leahy and I have talked at great, great length about how we're proceeding and it is significantly on the basis of good faith that I am optimistic," Mr. Specter said.

Mr. Leahy said he would work with Mr. Specter, "as I have all the way through this, to keep things in line to make sure there's not procedural delays." He added that "substantive questions will be asked."

Some Democrats have said that since Judge Roberts' nomination has been elevated to chief justice, more documents should be handed over, including the solicitor general reports that the White House says are protected under attorney-client privilege.

Mr. Specter dismissed the idea, saying the more than 70,000 pages of documents provided thus far have shed plenty of light on the nominee's record.

"Judge Roberts has a very, very extensive paper trail," Mr. Specter said. "He has commented, I think, on all the issues which are of concern."

Specter Asks; Roberts Answers, For The Most Part (WP)

By Charles Babington

The Washington Post, September 7, 2005

There are advantages to being Senate Judiciary Committee chairman, and Arlen Specter used them yesterday to sit down with the man nominated to be chief justice of the United States and to quiz him about abortion, consensus-building and other topics.

Specter (R-Pa.) invited John G. Roberts Jr. to his Senate office shortly after Roberts helped carry William H. Rehnquist's coffin into the Supreme Court, where the late chief justice lay in repose. In an interview, Specter said he asked Roberts, an appeals court judge, a range of questions, including, "How are you going to handle guys like Scalia? He's a lot older than you."

Justice Antonin Scalia, once considered a contender for chief justice, is 69. Roberts, 50, replied somewhat indirectly, according to Specter, by saying he considers it "a dialogue among equals" when lawyers argue cases before the Supreme Court.

"I'm intrigued by his concept of a dialogue among equals," Specter said, because it suggests Roberts will bring a needed tone of humility to court interactions. "I think for Judge Roberts to approach the court that way shows a lot of confidence," Specter said.

Specter said he also raised concerns about recent court rulings that he considers confusing and inexplicable. They include two 5 to 4 decisions regarding public displays of the Ten Commandments that in some ways seemed contradictory. Justice Stephen G. Breyer was the crucial swing vote in both cases, but "there's no explanation" of his reasoning, Specter said.

"I talked to him about consensus-building," the senator said. "He said that was something that he thought was important" and will be a priority if he is confirmed.

Specter said he also told Roberts that the 1973 landmark abortion rights case Roe v. Wade has been followed by 38 Supreme Court rulings meant to refine or clarify its guidelines, and he asked, "Is Roe a super-precedent?"

And the nominee's reply? "He didn't say," Specter said. Even a committee chairmanship, it seems, has its limits.

Roberts Confirmation Hearing Set For Monday (REU-Y2)

By Thomas Ferraro

Reuters, September 7, 2005

U.S. Chief Justice nominee John Roberts' confirmation hearing will begin on Monday, Senate leaders said, with Democrats vowing to take as long as needed to question the 50-year-old conservative who could lead the Supreme Court for decades.

At the White House, President George W. Bush said the field was "wide open" for his other pick for the nation's highest court but that the pending nominee was unlikely to be in place by the time the court begins its new term on October 3.

Bush also dampened Democratic hopes they would know who the second nominee was before they vote on Roberts, a federal appeals court judge the past two years who appears to have broad support to become the nation's 17th chief justice.

"I want the Senate to focus not on who the next nominee is going to be but the nominee I've got up there now," Bush said.

Bush originally nominated Roberts in July to fill the lifetime post of retiring Justice Sandra Day O'Connor, a moderate conservative who had been a swing vote on the sharply divided court.

But on Monday, Bush switched and nominated Roberts to replace Chief Justice William Rehnquist, a leading conservative who died on Saturday at the age of 80 of cancer.

Roberts' hearing was to have begun on Tuesday. But it was delayed until next week in the wake of Rehnquist's death and Bush's nomination of Roberts as the new chief justice.

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"It would have been unseemly to go forward with a hearing on his successor this week," said Sen. Patrick Leahy (news, bio, voting record) of Vermont, ranking Democrat on the Judiciary Committee that will hold the hearing.

In announcing the rescheduled hearing to begin at noon EDT September 12, Senate Majority Leader Bill Frist expressed confidence Roberts would win Senate confirmation by the time the high court begins its new term.

Senate Minority Leader Harry Reid, a Nevada Democrat, promised bipartisan cooperation, but said there was no guarantee on when a Senate vote would take place.

"There are no commitments of a date certain to vote on the nomination, so everyone should understand that," said Reid, flanked by fellow Senate leaders.

At the White House Bush noted O'Connor, who will not step down until her replacement is confirmed, would still be on the nine-member court when the session begins.

"The list is wide open, which should create some good speculation here in Washington," Bush said of her pending new replacement. "And make sure you notice when I said that I looked right at Al Gonzales."

Gonzales, the attorney general, has been among those considered potential picks for the Supreme Court even though some of Bush's fellow conservatives complain his longtime friend may not be not be conservative enough.

The Judiciary Committee will spend four or five days on the nomination of Roberts, which has drawn the support of conservative groups and opposition from liberal organizations.

"While we mourn the chief's passing, we look forward with confidence at the president's new nominee for chief justice," said Frist, a Tennessee Republican.

Several Senate Democrats have spoken glowingly of Roberts, who served in two Republican administrations and received the American Bar Association's highest rating for a seat on the Supreme Court.

But a number of Democrats and other groups have questioned his record on civil rights and women's rights, based largely on a review of tens of thousands of pages of documents from his work as a lawyer in the Reagan administration two decades ago.

Democrats have said they will withhold final judgment until after what promises to be a bruising confirmation hearing.

"I'm very happy that (in) my Democratic caucus -- no one has made a commitment how they're going to vote," Reid said. "And I think that's appropriate because these hearings, as far as I'm concerned, are very important."

(Additional reporting by Tabassum Zakaria)

Katrina Thrusts Government's Role To The Fore In Confirmation Battle (KRT)

By James Kuhnhenn

Knight Ridder, September 7, 2005

WASHINGTON - By opening questions about poverty, race and government policies, Hurricane Katrina has made landfall on Washington's deliberations over vacancies on the U.S. Supreme Court and threatens to make John Roberts' confirmation hearings for chief justice a contentious test of conservative thought.

Democrats and liberal groups say Roberts' past opposition to expanded affirmative action and voting rights laws should get extra scrutiny, especially in light of the disproportionate suffering by poor black residents of New Orleans.

Democrats have long advocated a more activist government, while conservatives have pressed for a smaller federal bureaucracy that gives more power to the states. Democrats believe that Katrina has focused attention on a broader function of the federal government - not only in rescue, relief and rebuilding but also in setting policies that protect the most vulnerable.

In that vein, the questions Roberts will face will be part of a larger Democratic strategy designed to confront conservative orthodoxy head on.

"The events of the past week have only underscored that we need Supreme Court justices who value the role of the courts in protecting individuals' rights and freedoms, who understand the nature of discrimination and its continuing impact on our country, and who will uphold the role of the federal government in preserving those rights and acting to protect the common good," said Ralph Neas, president of the liberal People for the American Way.

Roberts was to face hearings Tuesday before the Senate Judiciary Committee as the nominee to replace retiring Justice Sandra Day O'Connor. But on Monday, President Bush nominated Roberts to replace Chief Justice William H. Rehnquist, who died Saturday. The Judiciary Committee planned to delay the start of Roberts' hearings to later this week or next week.

Sen. John Cornyn, R-Texas, a member of the Judiciary Committee, said he believed using Katrina to question Roberts on civil rights was "a stretch."

He said Roberts' legal conservatism makes him much more like Rehnquist than O'Connor, who is considered more moderate. "A Roberts for a Rehnquist ought to be less controversial than a Roberts for an O'Connor," he said.

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But Sen. Edward Kennedy, who already was prepared before Katrina hit to spend his hearing time questioning Roberts about civil rights, was expected to emphasize the racial disparities revealed by Katrina's destruction.

Kennedy, D-Mass., is expected to zero in on Roberts' internal memoranda while he was a young lawyer in the Reagan administration, when he advised the White House to fight efforts to expand the reach of anti-discrimination laws and the Voting Rights Act.

"Roberts wants to restrict the role of government," said Jenny Backus, a Democratic consultant. "His early writings ... have really raised question about what he will perceive as the appropriate role for strong centralized government. You will see more questions about that, especially with him as chief."

Despite the stepped up scrutiny, Roberts' confirmation still appears likely.

Chief justices are considered first among equals, but have significant authority in assigning court opinions when they are in the majority, a power that can determine whether a ruling will have broad legal implications or narrow applications.

When Rehnquist was elevated to chief justice in 1986, Democrats criticized his record on civil rights and accused him of working to intimidate black and Hispanic voters as a Republican poll watcher in Arizona in the early 1960s. In the end, Rehnquist got 33 "no" votes, more than any other chief justice in history.

Will Roberts Choose Candor Or Silence Before Senate? (LAW)

By Tony Mauro, Legal Times

Law.com, September 7, 2005

By today, Supreme Court nominee John Roberts Jr. was supposed to be answering the questions of Senate Judiciary Committee members as part of his confirmation hearing to replace Justice Sandra Day O'Connor. Instead, because of the death of Chief Justice William Rehnquist on Saturday, and the swift decision by President George W. Bush to put Roberts in the chief justice's spot instead, the Roberts hearing has been put off until Monday.

But when the hearing finally gets underway, the questions will likely be the same, and the dilemma for Roberts will be the same, though possibly more urgent: how candid should he be about his views on the law? It's a crucial decision for Roberts to make. Senate Democrats will be insisting on as much candor as possible, while Republicans hope and expect Roberts will stay out of trouble by invoking a previously unheard of doctrine called the "Ginsburg precedent."

In anticipation of a reticent Roberts, conservatives offered evidence of what the Federalist Society said was the "vast number" of times Clinton nominee Ruth Bader Ginsburg declined to answer substantive questions during her 1993 confirmation hearing. Liberal groups including the American Constitution Society fired back, documenting all the moments when Ginsburg actually answered questions "candidly and at length."

Sen. Charles Schumer, D-NY, gave a speech last week debunking the conservative version of the Ginsburg precedent, warning that if Roberts invokes it, it will sound more like taking the Fifth. On the other side, former Republican Attorneys General Edwin Meese III, Dick Thornburgh and William Barr, among others, wrote to the Judiciary Committee reminding members that Ginsburg said during her hearing that she would give "no hints, no forecast, no previews" of how she might vote on future cases.

But Ginsburg is far from the only nominee who said little -- or a lot, depending on which version you believe -- to the assembled senators reviewing a Supreme Court nomination.

During the 1986 cakewalk enjoyed by Justice Antonin Scalia, the late Sen. Strom Thurmond asked him a softball question about the meaning of Marbury v. Madison, the 1803 decision that declared the Court's power to review acts of Congress. "I do not think I should answer questions regarding any specific Supreme Court opinion, even one as fundamental as Marbury v. Madison," Scalia said coyly.

More famously, nominee Clarence Thomas in his 1991 hearing denied ever having discussed Roe v. Wade as a law student. Few believed him, but it may have been a safer answer than if he had been more candid.

All recent nominees, in fact, have declined to answer questions that they or their handlers thought would get them in trouble. But they also have yielded just enough information to give the media something to chew on and give senators a feeling of accomplishment.

Nominee David Souter in 1990 probably gave Sen. Herb Kohl, D-Wis., more than he expected when he asked Souter an unusual question: How he thought his predecessor, William Brennan, Jr. would be remembered. Souter replied that Brennan would be remembered as "one of the most fearless, principled guardians of the American Constitution that it has ever had and ever will have." In retrospect, Souter's fervor in praising the liberal lion might have been an early signal that Souter was not the conservative that Republicans hoped he would be.

If Roberts wants to be more candid next week than some past nominees, he would have ample precedent from both ends of the spectrum.

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In 2002 Scalia -- the same justice who would not discuss Marbury v. Madison -- took a more expansive view in his ruling in Republican Party of Minnesota v. White. That decision dealt with what judicial candidates can and cannot say during a judicial election, but Scalia's words resonate in the context of appointed candidates.

"A judge's lack of predisposition regarding the relevant legal issues in a case has never been thought a necessary component of equal justice, and with good reason," wrote Scalia. "For one thing, it is virtually impossible to find a judge who does not have preconceptions about the law."

Indeed, Scalia added, "even if it were possible to select judges who did not have preconceived views on legal issues, it would hardly be desirable to do so," since it would indicate that the judge had not thought much about the law.

A more recent example of judicial candor came just last month from the more liberal Justice John Paul Stevens. In a speech before the Clark County Bar Association in Las Vegas Aug. 18, Stevens reviewed Supreme Court decisions from last term that produced "results that I consider unwise." They were also, he added, decisions he either wrote or joined.

Two of the cases he mentioned were ones he actually wrote: Kelo v. City of New London and Gonzales v. Raich.

In the controversial Kelo case, Stevens upheld the power of the town of New London, Conn., to take private property by eminent domain for private development by others, a result he said was "entirely divorced from my judgment concerning the wisdom of the program."

Likewise in Raich, Stevens said he agreed with "the policy choice made by millions of voters" in California to legalize the medical use of marijuana. Yet he wrote an opinion favoring the federal anti-drug laws that supersede the California initiative.

As a result of his speech, the public now knows what Stevens personally believes about eminent domain and medical marijuana. Yet if those issues come to the Court again, would anyone suggest that Stevens could not rule impartially?

By the same token, what would happen if Roberts were just as candid and told the Senate Judiciary Committee what he really thinks about issues large and small? Then the question would be whether he, like Stevens, could set aside those views as a Supreme Court justice. And that may be the most important and difficult question of all.

Inside Politics (WT)

By Jennifer Harper

The Washington Times, September 7, 2005

Minutemen go north

Former Yonkers, N.Y., Mayor John Spencer is joining with the Minutemen to bring the all-volunteer patrol to America's northern borders.

The Minutemen have concentrated their efforts in the Southwest to discourage illegal immigration from Mexico. What about New York, Maine, New Hampshire and Vermont?

Mr. Spencer will meet with the Minutemen on Saturday at an American Legion Hall in Babylon, N.Y. He is intent on organizing and training volunteers to patrol the northern border in those four states.

"Those immigrating are not the enemy; the drug dealers, the criminals and the potential terrorists hiding among them are the enemy," Mr. Spencer said yesterday calling the Minutemen "force multipliers."

Mr. Spencer is a candidate for the Republican nomination to challenge New York Sen. Hillary Rodham Clinton in 2006.

One judge to another

Robert H. Bork, the Reagan-era Supreme Court nominee rejected by the Senate after his 1987 confirmation hearings devolved into public spectacle, says he wants Judge John G. Roberts Jr. to be confirmed as the next chief justice.

Speaking at the National Press Club yesterday, Mr. Bork suggested it's unlikely Supreme Court confirmation hearings ever again will resemble "any dignified process."

"Today's confirmations are political struggles, political circuses, and there may be no going back," said Mr. Bork, a former federal judge.

"Mr. Bork offered Judge Roberts, and any other upcoming nominee, advice for a Senate hearing:

"Don't write or say anything about the Constitution. Judge Roberts has already satisfied that requirement. The second: Don't commit your vote at the hearings on any issues. If you are drawn into a commitment to how you will vote, you'll only be ratifying the corruption of the confirmation process. And third, don't make it obvious that you think some of the senators' questions reveal that they haven't a clue about the Constitution or its interpretations."

Dad to the rescue

Former President George Bush is fed up with unreasonable attacks on his son, President Bush.

"The media has a fascination with the blame game," the senior Mr. Bush told CNN. "There was one particularly vicious comment that the president didn't care, was insensitive on ethnicity, insensitive about race. That one hurt, because I know this president, and I know he does care."

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Mr. Bush continued: "Huge numbers of dollars have been appropriated or signed off on for the Congress, both Senate and the House, and he had to push forward. He cannot listen to every critic from the editorial page of the New York Times."

The former president also questioned certain media reports.

"I talked to Haley Barbour, the governor of Mississippi, yesterday because some people were saying, 'Well, if you hadn't sent your National Guard to Iraq, we here in Mississippi would be better off.' He told me 'I've been out in the field every single day, hour, for four days and no one, not one single mention of the word 'Iraq.'

"Where does that come from?" Mr. Bush asked. "Where does that story come from if the governor is not picking up one word about it?"

17, 5 and 2

"The New York Times today seemed so excited to see former President Bill Clinton involved in hurricane relief that it practically ignored his partner in this pursuit, former President [George] Bush," the Media Research Center noted yesterday.

According to one analysis, one Times story cited "Mr. Clinton by name at least 17 times, his wife five times, while the former President Bush is actually only named twice. From this, one would think that he's such an afterthought that this effort should be called the Clinton-Clinton Katrina Fund," the watchdog noted.

Celeb update

The trail of Hollywood hand-wringers grows in the wake of Katrina.

Among the stars who have either sounded off about -- or arrived in -- New Orleans for better or worse: Oprah Winfrey, the gray-bearded ex-James Bond Pierce Brosnan, Halle Berry, John Travolta and Sean Penn, who sank in his own ill-fated rescue boat.

Some showbiz types take action, though. Talk-radio host Rush Limbaugh has announced he will stage a benefit performance for hurricane victims in Manhattan. "Rush On Broadway" will have a single show Oct. 18 at New York's New Amsterdam Theater.

The event also will feature a special introduction by Fox News and talk-radio host Sean Hannity.

An insoluble woe?

Former Attorney General John Ashcroft yesterday said that U.S. problems with immigration along its porous border might be insoluble, reports Shaun Waterman of United Press International.

Speaking on efforts to address what he called government's "biggest challenge" -- the country's immigration policy and border-control regime -- Mr. Ashcroft said: "We're a long way from home there, and I don't know if we'll ever get that solved."

He spoke during a conference organized by the New America Foundation on terrorism and U.S. security.

Mr. Ashcroft said that the border's intractability mostly stems from conflicting goals, and also the sheer scale of the issue.

"We've got to try and find a way to welcome people and facilitate people who are bringing productivity and industry into the country," he said, "while at the same time we're careful about welcoming people who would bring devastation into the country."

"The real big problem is we've got 550 million border crossings a year," he said. "Think about that."

Question of attitude

Scripps Howard columnist Star Parker yesterday denounced statements by the Congressional Black Caucus, the Rev. Jesse Jackson and others that imply rescue efforts in New Orleans were impeded by racism.

"It is grossly irresponsible to imply that racism is at work here," said Miss Parker, founder of the Los Angeles-based Coalition on Urban Renewal and Education.

"The relevant question to ask is: 'Why, after these many years, does our African American population remain disproportionately poor?' " she said. "Those who assert that rescue efforts were impeded because of racism also assert that black poverty persists because of racism. It is this attitude, the welfare-state mentality, that has contributed in no small part to the tragedy we have witnessed."

For Chief Justice, A Final Session With His Court (WP)

By Susan Levine And Charles Lane

The Washington Post, September 7, 2005

The flag-draped wooden coffin of Chief Justice William H. Rehnquist was carried with slow, halting steps yesterday, up the long marble sweep of the institution where he presided for nearly two decades, between two silent lines of colleagues, staff and former law clerks, into a columned corridor where the mighty and humble alike began paying respects.

It was a journey that lasted only minutes, yet few gathered in the morning crowd outside the Supreme Court missed the most telling moments: when John G. Roberts Jr., the man nominated to succeed Rehnquist, walked solemnly with the other pallbearers toward the hearse bearing his body, and when an emotional Justice Sandra Day O'Connor, on the eve of her own planned farewell, wiped away tears as the plain white pine coffin passed and entered the building's Great Hall.

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There, it was placed on the historic Lincoln Catafalque, which was covered in black velvet. Busts of Rehnquist's 15 predecessors as chief justice line the room where O'Connor and five other justices joined with his children and grandchildren in a short prayer service.

"Rest here now, child of God, William Hubbs Rehnquist," intoned the Rev. George W. Evans Jr., pastor of Lutheran Church of the Holy Redeemer in McLean, which Rehnquist attended for many years. "Rest here in the halls you know so well."

In those usually calm, reasoned halls -- where Rehnquist had been known simply as "the Chief" since President Ronald Reagan elevated him to the post in 1986 -- feelings flowed freely. Roberts, one of those former clerks, seemed to struggle to keep his composure. Justice Antonin Scalia brushed a tear from his eye.

And O'Connor, a tough westerner raised amid cattlemen and rattlesnakes, sobbed openly; her friendship with Rehnquist dated more than a half-century to their law school days at Stanford University.

Outside, flags flew at half staff as a steady procession of visitors waited for admittance through the court's massive bronze doors. President Bush and the first lady arrived just before 4 p.m. and were escorted in through another, secured entrance. They stood before the coffin briefly, then walked over to view the formal painting of Rehnquist in his black judicial robes, on display for the first time.

Official Washington was joined throughout the day by tourists, teachers, bankers, ministers. Even when disagreeing with Rehnquist's unwaveringly conservative legal views, they said they appreciated his consistency, his leadership, the brilliance of his reasoning.

"He served this country well for a very long time," said sociology professor Roger Nemeth of Holland, Mich., drawing nods from those around him.

Representing Rehnquist's native state was Shirley S. Abrahamson, chief justice of the Wisconsin Supreme Court, whose take on his legacy is far more honed than most. So, too, is her personal connection: Rehnquist swore her into her position nearly a decade ago.

"You have someone who is widely praised as an administrator and chief, who's been fair and equitable with all the justices and managed to win their respect and regard" -- despite often sharp differences of opinion, Abrahamson reflected. "He stood up for administrative issues and judicial independence."

At 9:40 p.m., 20 minutes before the viewing was to end, more than 200 people still waited. They formed a line that stretched for 1 1/2 blocks, even after some were told by police that they probably would not make it inside the building.

At least 70 people remained as 10 p.m. came -- and went. The door remained open, and all those in line were allowed to pay their respects.

The public viewing continues from 10 a.m. to noon today. The 80-year-old Rehnquist, who died Saturday at his home in Arlington after battling thyroid cancer, will be buried at Arlington National Cemetery after a funeral service at 2 p.m. today at St. Matthew's Cathedral in Northwest Washington.

Evans and two other ministers from Holy Redeemer will conduct the service. Bush and O'Connor are expected to offer eulogies, as are two of the chief justice's children, James Rehnquist and Nancy Spears, and granddaughter Natalie Lynch.

Court officials said all eight justices will attend. Justice Anthony M. Kennedy was unable to make it back yesterday from travels in China, and Justice David H. Souter also was out of town.

Roberts, Rehnquist Compel Comparisons (USAT)

By Joan Biskupic

USA Today, September 7, 2005

WASHINGTON — For a quarter-century, William Rehnquist was a mentor to John Roberts, the federal appeals court judge now nominated to succeed the late chief justice.

Roberts was a law clerk to Rehnquist in 1980-81, and like Rehnquist, he became a lawyer for a conservative White House. When he wrote policy memos for President Reagan and legal briefs for the first President Bush, Roberts occasionally cited the work of Rehnquist, who died Saturday of thyroid cancer at age 80.

The close relationship between the two Midwesterners was evident Tuesday, when Roberts, 50, was one of eight pallbearers who carried Rehnquist's casket up the marble steps to the Supreme Court's Great Hall. The moment seemed to symbolize a transition of sorts, and with Roberts facing confirmation hearings in the Senate on Monday it was a reminder of a question that will be part of the backdrop to the hearings: how Roberts' style and brand of conservatism compares with that of the man he would succeed.

“It's hard to imagine a choice more similar to Chief Justice Rehnquist than John Roberts,” says Walter Dellinger, a former U.S. solicitor general. “They both love the law and they both are among a handful of the most intellectually accomplished legal minds.”

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Although Roberts' brief record in his work for the government and his 2½ years as a federal judge makes it difficult to predict precisely how he would view the law as chief justice, Dellinger believes that Roberts' views "would be closer to Rehnquist's than any other justice on the court."

Rehnquist, who was on the high court for 33 years — 19 of them as chief — sought a limited role for federal judges in American life and had a narrow view of individual rights. He voted against the court's decision in Roe v. Wade, the 1973 ruling that made abortion legal nationwide. He opposed affirmative action and policies intended to help racial minorities rebound after years of segregation. He also endorsed a low wall of separation between church and state.

Overall, Rehnquist believed that the nation's social dilemmas should be resolved by legislators, not judges. When he was appointed to the court in 1972 by President Nixon, Rehnquist's views often made him a lone dissenter on what was then a liberal court. But as Republican presidents continued to make appointments and Rehnquist was elevated to chief justice in 1986 by President Reagan, Rehnquist gained a majority on many fronts. (Abortion is an exception; six justices on the current court — including the retiring Sandra Day O'Connor — have backed abortion rights.)

Ted Cruz, a Texas solicitor general who is another former law clerk to Rehnquist, says he believes Roberts shares Rehnquist's support of judicial restraint. "Both believe it is principally the role of the democratically elected officials to make policy," says Cruz, who is here for Rehnquist's funeral today.

Much remains unknown about Roberts' current views, however. Thousands of pages of memos from his years in the Reagan and first Bush administrations indicate that he was a loyal foot soldier for conservative agendas. But it's not clear how he might vote today on divisive issues such as abortion rights, affirmative action and the separation of church and state.

Some Democratic senators, including Edward Kennedy of Massachusetts and Charles Schumer of New York, say they are troubled by Roberts' writings on civil rights and women's issues.

When he was a lawyer in the Reagan White House in the 1980s, Roberts sometimes was dismissive about women's claims of job and pay discrimination. He also sought to curtail the use of affirmative action in government and to limit judicial orders for school busing. He criticized a 1985 Supreme Court ruling that struck down an Alabama law requiring a "moment of silence" in schools, and he praised Rehnquist's stance in dissent of the ruling.

And yet, since President Bush originally nominated Roberts in mid-July to succeed O'Connor, Roberts' nomination generally has been well-received by senators.

Now that Bush has switched gears and nominated Roberts for the Rehnquist opening, Roberts is poised to make history: A few former Supreme Court law clerks have gone on to be justices — including Rehnquist, who worked for Justice Robert Jackson in the 1952-53 term — but Roberts would be the first court appointee to take the seat of his former boss.

Friends and colleagues of Rehnquist and Roberts use phrases such as "down to earth" and "amiable" to describe the personalities of Rehnquist, a Wisconsin native, and Roberts, who was born in Buffalo and grew up in Indiana. "There's a lot of personal warmth there," says Chuck Cooper, who like Roberts was a law clerk to Rehnquist and then worked in the Reagan administration. Cooper also says that Roberts and Rehnquist have compatible views of the law.

Their somewhat similar styles — along with the fact that Roberts argued 39 cases before the high court as a lawyer in government and private practice — could make it easier for Roberts to suddenly become the senior member of the bench and run the justices' private conferences.

"It will be an extraordinary moment in the first confidential conference when a legendary figure like William Rehnquist is replaced at the head of the table by someone so junior," says Dellinger, who was a law clerk to the late Justice Hugo Black. "But John Roberts is one of the few people who would be up to that challenge."

There are differences between the two men. Being 30 years younger than Rehnquist, Roberts might ultimately reveal a different worldview on contemporary issues such as gay rights. Rehnquist consistently voted against gay rights. Roberts, when he was in private practice, helped a team of lawyers that successfully urged the high court to strike down a Colorado law that barred cities from protecting lesbians and gay men from discrimination.

During court sessions, Rehnquist also had a no-nonsense devotion to punctuality that Roberts would be hard-pressed to match. The late chief justice insisted that lawyers at the lectern stop talking as soon as a red light in the court illuminated, signaling their time was up. When lawyers made their arguments, Rehnquist often would cut them off in midsentence.

"When that light went on, if you didn't notice it, he certainly did," Cooper says. "I would be surprised if John is as abrupt and severe as the boss."

Former Aide Roberts Helps Bear Rehnquist's Coffin (USAT)

By Kathy Kiely

USA Today, September 7, 2005

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WASHINGTON — The man who hopes to succeed William Rehnquist as chief justice helped carry the late jurist's plain pine coffin Tuesday up the marble steps of the Supreme Court, where friends, family and the public filed by all day to pay last respects.

John Roberts was one of eight ex-Rehnquist aides who served as pallbearers. President Bush later paid a solemn visit to the court, a day after nominating the federal appeals court judge to become the nation's 17th chief justice.

Rehnquist died of cancer Saturday at age 80. Bush will be one of the speakers today at a service at St. Matthew's Cathedral. Rehnquist will be buried at Arlington National Cemetery after the state funeral.

After a brief ceremony at the Supreme Court, Roberts crossed the street for a meeting with Senate Judiciary Committee Chairman Arlen Specter. The Pennsylvania Republican will preside over Roberts' confirmation hearings beginning Monday. Specter predicted a "thorough and piercing" confirmation process for Roberts, who could influence the court for decades. Roberts, 50, would be the youngest chief justice since 1801, when John Adams appointed 45-year-old John Marshall.

Democrats say that will mean even closer scrutiny for Roberts, originally tapped to succeed retiring Justice Sandra Day O'Connor. Bush switched Roberts to the chief justice job after Rehnquist's death.

"I have some concerns with his writings a number of years ago concerning the rights of women and civil rights," said Senate Minority Leader Harry Reid, D-Nev.

Some of the memos that have been released from Roberts' years as a lawyer for the Reagan White House show him arguing to limit the reach of federal laws designed to protect the rights of minorities and women.

Senate Majority Leader Bill Frist, R-Tenn., is pushing for a Senate vote on Roberts by the last week of the month, which would allow the judge to take his seat on the high court when it opens its next session Oct. 3. Reid said he's making no promises on the date for a confirmation vote. However, he and Sen. Patrick Leahy of Vermont, top-ranking Judiciary Committee Democrat, indicated any slowdown would be due to substantive questions, not parliamentary maneuvering.

"I will work with Sen. Specter to make sure there are no procedural delays," Leahy said.

Leahy and Specter said they would like to see Bush nominate a woman to O'Connor's seat. "The two women are, I think, a minimum," said Specter, referring to O'Connor and Justice Ruth Bader Ginsburg. However, he added, "I don't believe anybody ought to tie the president's hands."

O'Connor, who has agreed to stay on until the Senate confirms her successor, was standing on the steps with five of her fellow justices Monday. She wept as Rehnquist's flag-draped coffin passed.

Inside the court, the coffin was set onto a black catafalque first constructed in 1865 for President Lincoln. Since then, it has been used as a bier for a number of American leaders, most recently for former president Ronald Reagan.

A portrait of Rehnquist stood at the head of the room. Two bouquets of red roses, white snapdragons and blue bellflowers stood at either end of the coffin.

Mourners ranged from 12-year-old Sarah Strickland, visiting with her parents from Enterprise, Ala., and hoping for a glimpse of history, to Lloyd Roberts, a retired Supreme Court policeman who occasionally served as a driver for Rehnquist and called him "a real intellectual." Roberts is no relation to the Supreme Court nominee.

Bo Rutledge, a former law clerk for Justice Clarence Thomas, said Rehnquist was "very approachable" and liked to lunch with clerks. "He always took an interest in the people around him," said Rutledge, who teaches at Catholic University law school.

Chief Justice's Death Hits O'Connor Hard (USAT)

By Joan Biskupic

USA Today, September 7, 2005

WASHINGTON — As Chief Justice William Rehnquist's flag-draped casket was carried up the Supreme Court steps Tuesday morning, one of the most compelling images was the distraught, tear-streaked face of Justice Sandra Day O'Connor.

Her public sadness was a reminder of all that Rehnquist and the nation's first female justice had been through together. They met in law school at Stanford University in the late 1940s. The World War II veteran was nearly six years her senior, but they developed a bond that endured through the years. They dated briefly, but then married other college sweethearts. Their families became close as Rehnquist and O'Connor walked remarkably similar paths.

In the 1960s, they lived in Phoenix and practiced law. They were active in Republican politics and became acolytes of conservative Arizona Sen. Barry Goldwater.

Rehnquist was an assistant U.S. attorney general on Oct. 21, 1971, when President Nixon nominated him to the Supreme Court. O'Connor, then a state senator in Arizona, sprung into action on Rehnquist's behalf. On the floor of the Arizona Senate the next day, she called her friend "one of the most brilliant legal minds in the country" and said that because he was only 47, he might one day be elevated to chief.

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When Rehnquist was sworn in as an associate justice on Jan. 7, 1972, O'Connor was in the courtroom. She joined him on the bench in 1981, tapped by President Reagan in a historic appointment. Five years later, Reagan made Rehnquist chief justice when Warren Burger retired.

On June 27 of this year, their last day together in the courtroom, O'Connor helped Rehnquist down from the bench. Suffering from thyroid cancer, he looked frail.

As Rehnquist was expected to retire, it came as a surprise that week when O'Connor, 75, said she was stepping down to take care of her ailing husband, John. President Bush chose federal judge John Roberts to replace O'Connor, who said she would stay on the court until she was replaced. But after Rehnquist's death Saturday, Bush made Roberts the nominee for chief. So now, with her friend gone, O'Connor remains.

Bush And First Lady Visit Rehnquist's Coffin At Court (NYT)

By Linda Greenhouse

The New York Times, September 7, 2005

WASHINGTON, Sept. 6 - President Bush and his wife, Laura, made an unscheduled visit on Tuesday to the Supreme Court to pay their respects to Chief Justice William H. Rehnquist, whose flag-draped coffin lay in the "great hall" that leads to the courtroom.

Hours earlier, Judge John G. Roberts Jr., whom the president has nominated to succeed the chief justice, had helped to carry the coffin into the court building and place it on the historic Lincoln Catafalque, on which President Lincoln's coffin once lay.

All day, members of official Washington as well as private citizens and tourists filed by the coffin. An oil portrait of the chief justice, who died Saturday at the age of 80, was placed nearby. Painted in 1994 by Thomas Loepp, it shows the four gold stripes with which the chief justice decorated each sleeve of his judicial robe and depicts him with a slightly bemused expression.

During their brief midafternoon visit, the president and first lady walked together to the coffin, and then examined the portrait in the company of Justice Antonin Scalia and Sally Rider, the chief justice's administrative assistant.

Chief Justice Rehnquist will be buried at Arlington National Cemetery on Wednesday after a funeral at St. Matthew's Cathedral here. Reporters will be permitted to attend the Mass, although no still or television cameras will be allowed. The press will be barred from the burial. The grandson of Swedish immigrants, Chief Justice Rehnquist was Lutheran, not Roman Catholic.

His pastor, the Rev. George W. Evans Jr., of the Lutheran Church of the Redeemer in McLean, Va., told reporters that with 350 seats, that church was too small. He said the Roman Catholic Archdiocese had offered the 2,000-seat cathedral, familiar to many of the justices for its annual Red Mass, a worship service that honors the judiciary.

Judge Roberts, a clerk for then-Associate Justice Rehnquist 25 years ago, was one of eight pallbearers. The others were a former administrative assistant to the chief justice, James Duff, and six other former law clerks: David G. Leitch, Frederick W. Lambert, Ronald J. Tenpas, Kerri Martin Bartlett, Gregory G. Garre and John C. Englander.

Dozens of other clerks who served the chief justice during his 33-year tenure also joined family members and six of the current justices in paying respects, standing by the white-pine coffin at a brief prayer service that Mr. Evans led before the court was opened to the public.

Along with Justice Scalia, Justices John Paul Stevens, Sandra Day O'Connor, Clarence Thomas, Ruth Bader Ginsburg and Stephen G. Breyer were present for the service. Justice Anthony M. Kennedy was returning from China, and Justice David H. Souter from New Hampshire. All the justices will be at the funeral.

After the service, the chief justices' former law clerks took turns standing guard in pairs by the coffin. The building, while closed for official business all day, remained open to the public for viewing the coffin until 10 p.m. and will be open again on Wednesday morning.

Court employees, from the most senior officers to the most junior workers, also attended the brief private service. For most, Chief Justice Rehnquist had been a presence during their working lives at the court.

Among members of the public, the first in line was Martha Hamilton, a graduate student at Regent University in Virginia Beach, who arrived at 4 a.m. She had deferred her return to school after the Labor Day weekend because, she said, "I felt like this was a historic opportunity to participate in honoring the chief justice and the position of chief justice."

Others in the line, which stretched the length of the court steps and down the block, included David and T. J. Voell, 35-year-old twins from Wilmington, Del., both bankers who had taken time off to come to Washington and attend the confirmation hearing for Judge Roberts that had been scheduled to begin Tuesday. The hearing has been postponed until next Monday.

Rehnquist's 'Strong Legacy' Hailed (WT)

By Stephanie Mansfield

The Washington Times, September 7, 2005

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Solemn and respectful they stood, single file, and at times the line snaked around the block in the September sunshine: congressional staffers, college kids in baseball caps, tourists, Capitol Hill groundskeepers, many on their lunch break.

Few had met Chief Justice William H. Rehnquist, who was lying in a plain wooden coffin draped with an American flag inside the Supreme Court building yesterday, but all expressed the same sentiment: They were there to pay their respects.

"I met him once when I was a White House fellow," said Army Lt. Col. Barrye Price, wearing his dark green uniform and black beret. "I respect his service to our nation. You felt his sense of power and his sense of humility."

In attendance were Chief Justice Rehnquist's colleagues, including a tearful Justice Sandra Day O'Connor, who was once his Stanford Law School classmate.

The nation's 16th chief justice will be buried today at Arlington National Cemetery.

One veteran came from Fort Belvoir, Va., to pay his respects.

"He leaves a strong legacy for the country," said Steve Clark, 38, who lost his right arm in a road explosion in Iraq two years ago.

As they waited, the mourners discussed Chief Justice Rehnquist's long tenure on the nation's highest court.

"Courts in general have gotten too active," said contractor David Paine, 51. "I think he was a good man, and I supported his ideas. Like him, I think less should be more."

Marlin Britton, 38, who works at the Library of Congress, wasn't interested in the chief justice's politics or beliefs. "Let history tell how well he did the job. This is of historical interest. You respect someone of his stature."

Barbara Mack, 81, was visiting from Chicago. "We respected Justice Rehnquist greatly. We wanted to pay our respects," she said.

Once inside the Great Hall, up the long white marble steps, mourners walked slowly past the coffin. It was carried up the step yesterday morning, borne by Chief Justice Rehnquist's seven former law clerks, including Judge John G. Roberts Jr. Judge Roberts has been picked to replace his former boss, and his Senate confirmation hearings will begin next week.

Flanked by two tall freestanding floral arrangements of blood-red full-blown roses and white and purple delphinium, the coffin rested on the Lincoln catafalque, the bier where President Lincoln's body was placed after his assassination in 1865.

Resting on an easel was a 1994 oil portrait by Thomas Loepp, showing the chief justice in his court robes, next to a globe that was a gift from his law clerks.

The morning began with a prayer service attended by his colleagues, children and grandchildren, and former staffers. Many had tears in their eyes.

Chief Justice Rehnquist, 80, died of thyroid cancer at his Arlington home Saturday. He was a member of the Redeemer Lutheran Church in McLean, where he will be remembered more for his familial than judicial duties.

"I was more impressed by him as a father and grandfather, as well as chief justice," said fellow church member Chuck Clopton, who was standing in line yesterday to pay his respects. "I loved his sense of humor. He was a very kind man, and not impressed with himself."

Mr. Clopton said he is planning to attend Chief Justice Rehnquist's funeral today at 2 p.m. at St. Matthew's Cathedral in Northwest Washington. The World War II veteran will be interred in a private burial service at Arlington, where his predecessors as chief justice, Warren E. Burger and Earl Warren, are buried -- as is his wife, Natalie, who died in 1991.

"He was really a great leader and upheld many decisions that were controversial," said 21-year-old Katherine Litras, a student at American University who came yesterday with two friends. "I hope they find someone as great to replace him."

Rehnquist's Legacy (USAT)

USA Today, September 7, 2005

Chief Justice William Rehnquist was that rarity among public officials: one who worked to make his office less powerful. From his days as a Supreme Court clerk a half-century ago until his death Saturday after 33 years on the court, Rehnquist argued for leaving important decisions to state legislatures or, if necessary, Congress — not the courts. The result was a career that foreshadowed much of today's political debate, and one that helps to focus it.

In his early years on the court, Rehnquist, an intensely conservative member of what was then a very liberal court, was so isolated that he was sometimes called the "Lone Ranger." As the nation as a whole grew more conservative, the court moved in his direction. States gained more latitude, producing restrictions on abortion, and blurring the line between church and state. Congressional power increasingly came under challenge. Affirmative action was restricted.

In most cases, Rehnquist led that charge, reflecting a judicial philosophy formed much earlier, one that not only favored state power over federal but also over the individual.

While clerking for Justice Robert Jackson during the 1951 and '53 terms, Rehnquist objected to "ivory tower jurisprudence" — hearing appeals from criminals claiming to have been wrongly convicted in state courts or brutalized by the police. He derided

justices with qualms about the death penalty as "like a bunch of old women." He rejected calls for civil rights laws as unnecessary and wrote a memo for his boss, from which he later tried to distance himself, defending the constitutionality of racial segregation.

Such attitudes were not uncommon at the time. But Rehnquist remained at odds with the direction the court would take during the 1950s and 1960s as it overturned the national stain of racial segregation, extended protections to criminal suspects and defendants and, for a time, outlawed the death penalty.

After joining the court in 1972 (he was elevated to chief justice in 1986), Rehnquist regularly objected to broad interpretations of the Constitution on social issues such as abortion and on routinely allowing federal mandates on the states.

How Rehnquist's record is viewed will depend on where the viewer resides on the political spectrum. Over the years in this space, we've both favored and opposed positions Rehnquist joined, but we've regularly expressed concern about intrusions on personal rights — from privacy, to a woman's right to choose, to religious freedom, to issues of race.

We'd argue now that for the nation's minorities and women, for defendants railroaded by a flawed system of justice and for others who have turned to the courts for redress, it's fortunate that Rehnquist's views on those subjects have not prevailed.

But that does not detract from the man's significance, or his integrity, or his devotion to the law — all of which are substantial and not fully recognized by the public. His aggressive questioning of lawyers in oral arguments, and his blunt refusal to consider allowing cameras in the courtroom, as well as the political intensity his views provoked, created a gruff image at odds with the one described by those who knew him best.

Rehnquist's conduct of the televised Senate impeachment trial of President Clinton introduced the chief justice to many Americans as a calm and fair-minded administrator, a trait that drew praise over the years even from the justices who disagreed with him most often on the law. The personal fondness he inspired was on view Tuesday as mourners passed by his casket at the Supreme Court before today's funeral service.

In the pulling and hauling of public debate, it is important that articulate voices such as Rehnquist's be heard, particularly when they are in the minority. That is even more important on the court, where judges isolated from much of society benefit from a diversity of thought and experience. The downside of a legal philosophy that limits the power of the court is that it also limits the protection of individual rights and liberties.

Ironies Abound As Rehnquist Leaves Us (USAT)

By Tony Mauro

USA Today, September 7, 2005

Death knows no timetable, so it is sad but unsurprising that Chief Justice William Rehnquist's death came at a most inopportune time, full of ironies.

Many of the ironies of his death were personal. But it also was remarkable that Rehnquist died at a moment when the nation was completely distracted by a crisis that relates significantly to his judicial legacy. The finger-pointing between state and federal officials over the handling of Hurricane Katrina's awful devastation is a debate that Rehnquist would have found familiar.

At the personal level, it is sad that this determined and devoted man did not live long enough to see his friend and former clerk John Roberts Jr. become a colleague on the court. Rehnquist had toughed out his battle with thyroid cancer and seemed fixated on working until he could work no more. Perhaps he was inspired to stay to the bitter end by Robert Jackson, the justice for whom he had clerked more than 50 years earlier. Jackson rose from his sick bed to join the court's landmark Brown v. Board of Education decision in 1954 and died a few months later. Ironically, until Rehnquist, Jackson was the last Supreme Court justice to die in office.

It would have been a first for Rehnquist to serve alongside one of his own former law clerks, and it would have made Rehnquist very proud. Roberts had been appointed in July to replace Justice Sandra Day O'Connor; instead, with Rehnquist's passing on Saturday, President Bush shuffled things around and appointed Roberts on Monday to replace Rehnquist. Another irony: Roberts regards Rehnquist as his mentor, and now is about to replace him.

Roberts and Rehnquist have many similarities, not only in their conservative perspectives but also in their sharp intellect and keen sense of humor. When Rehnquist, an unassuming man, told a funny story, he would start giggling before he finished his sentence. Years ago, when I asked Roberts why he lost a case before the court 9-0, his deadpan answer was, "Because there are only nine justices."

State vs. federal role

If Hurricane Katrina had not wreaked havoc on the Gulf Coast, we would have been reading more about Rehnquist and his legacy. But the hurricane's aftermath actually turns out to be a teachable moment about Rehnquist.

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Much of the nationwide anger has been over the delay in the federal response to the hurricane's awful onslaught. Federal officials, for their part, have suggested that states and localities have primary responsibility in such matters, and did not move quickly enough either.

The balance of power between state and federal government is a perennial debate, and Rehnquist spent much of his career on the Supreme Court trying to readjust that balance in favor of states. Following what he believed to be the intent of the Constitution's framers, Rehnquist tried mightily to rein in Congress and keep it and federal agencies from turning states into unimportant subsidiaries that must depend on the federal government to act. The Bush administration is filled with adherents to Rehnquist's doctrine; Michael Leavitt, the secretary of Health and Human Services who has become a familiar figure since the hurricane, first gained national attention as a Utah governor who pushed hard against federal domination of the states.

So at a policy level, it probably should have been no surprise that the Bush administration hung back too long before federalizing the relief effort. In a broad context, there are valid arguments to be made against excessive federal power. If you think about it, it should be difficult to send U.S. soldiers into the streets of the USA for essentially law enforcement duties; it is in our national genes not to want federal troops used against our own citizens.

That said, though, there has to be a way to overcome this reluctance more quickly when troops are needed domestically for humanitarian reasons. And the hurricane aftermath proves the seemingly obvious point that there are times when a swift and strong federal response must pre-empt competing or confused state and local interests. The terrorist attacks on Sept. 11, 2001, also showed the need for a strong national government; states and localities are not equipped to chase after Osama bin Laden.

A shift on the court

In fact, it seems that since 9/11, some of the steam went out of Chief Justice Rehnquist's conservative, pro-states juggernaut. And it's not just because a strong federal government comes in handy sometimes; it's also because some states are doing some pretty liberal things, legalizing everything from medical marijuana to same-sex marriages. A few months before he died, Rehnquist voted in favor of California's medical marijuana law on states' rights grounds, but he was on the losing side. Even Justice Antonin Scalia, a usual ally in protecting state power, suddenly embraced federal preeminence in the area of drug laws. Progressives, observing the Republican-dominated federal government, are turning to the states to fight their battles.

Usually, the tension between state and federal power is discussed at the eye-glazing level of theory and abstraction. Hurricane Katrina has laid the debate before us in dramatic, real-life terms: When should states take care of themselves, and when should the federal government take over?

Continuing that debate and drawing clearer lines of authority would be a more fitting way to honor the memory of Rehnquist than banner headlines about his death. He never much liked being in the spotlight anyway.

A Defender Of Independent Courts (NYT)

The New York Times, September 7, 2005

Today's funeral service for Chief Justice William Rehnquist and the imminent start of hearings in the Senate on Judge John Roberts Jr., the nominee to succeed him on the Supreme Court, provide a moment to honor one of the vital but less celebrated hallmarks of Chief Justice Rehnquist's 33-year service on the court: his proud record of defending the independence of the federal judiciary against attacks by politicians.

Those attacks, as Chief Justice Rehnquist noted last January in his 19th and final report on the state of the federal courts, have taken a troubling new turn in recent years. Without singling out individual members of Congress by name, he made clear his disapproval of some conservative Republicans, like the House majority leader, Tom DeLay, and others. He disapproved of their moving beyond the normal criticism of judicial decisions to try to bully and intimidate individual judges, strip federal courts of jurisdiction to decide certain constitutional challenges, and otherwise undermine the constitutional separation of powers and checks and balances.

One glaring example proving the validity of the chief justice's concerns followed his final report: the meddling by Florida officials and Congress in the case of Terri Schiavo, and the way some Republican lawmakers later denounced the string of federal judges who had rightly upheld earlier state court rulings and rejected ghoulish Congressional meddling in her death.

"A judge's judicial acts may not serve as a basis for impeachment," the chief justice wrote in answer to rising threats to impeach judges labeled by some Republican politicians as "activists" and worse because of their views of the Constitution.

"Any other rule would destroy judicial independence," he explained. "Instead of trying to apply the law fairly, regardless of public opinion, judges would be concerned about inflaming any group that might be able to muster the votes in Congress to impeach and convict them."

Chief Justice Rehnquist was also duly critical of hastily enacted limitations on judicial sentencing decisions, and the potential damage that compiling information on the sentencing habits of individual judges could do to fair and impartial justice.

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Chief Justice Rehnquist plainly saw his role as defender in chief of the nation's independent court system, which he famously called "one of the crown jewels of our system of government."

When confirmation hearings begin on Monday, we would like to hear Mr. Roberts use at least part of his opening statement to make it clear that he intends to continue this legacy, even at the risk of offending some fellow conservatives. On issues like these, that never stopped Chief Justice Rehnquist.

Newsview: White House Falls Out Of Step (NSDY/AP)

By Jennifer Loven, Associated Press Writer

Long Island Newsday, September 7, 2005

WASHINGTON -- The Bush White House is known for its ability to remain in control of its message and image, sliding out of crises with barely a scratch. Not this time.

Despite day after day of appearances by President Bush aimed at undoing the political damage from a poor response to Hurricane Katrina, the White House has not been able to regain its footing, already shaken by the war in Iraq and a death toll exceeding 1,880.

The administration on Tuesday struggled to deflect calls for an accounting of who was responsible for a hurricane response that even Bush acknowledged was inadequate. There were increasing calls for the resignation or firing of Michael Brown, director of the Federal Emergency Management Agency.

"I think it's clear we're in damage control now," said Norman Ornstein, political analyst at the American Enterprise Institute think tank.

It's a troubling position for Bush, already suffering the lowest approval ratings of his presidency.

The mistakes have come one upon the other.

Even as Katrina was bearing down on the Gulf Coast that Sunday night and early Monday, Aug. 28-29, and the National Hurricane Center was warning of growing danger, the White House didn't alter the president's plans to fly from his Texas ranch to the West to promote a new Medicare prescription drug benefit.

By the time Bush landed in Arizona that Monday, the storm was unleashing its fury on Louisiana and Mississippi. The president inserted into his speech only a brief promise of prayers and federal help.

He continued his schedule in California, and he didn't decide until the next day that he should return to Washington. But it took him another day to get there, as he flew back to Texas to spend another night at his home before leaving for the White House.

Once the president was in Washington, the criticism only intensified.

While a drowned New Orleans descended into lawless misery, Bush delivered remarks from the Rose Garden that were seen as flat and corporate. It was a sharp contrast to the commanding, empathetic president the public rallied around in the days after the Sept. 11, 2001, attacks.

In a television interview, Bush said -- mistakenly -- that nobody anticipated the breach of the levees in a serious storm.

Even Monday's trip to the region was a redo, hurriedly arranged by the White House over the weekend after lukewarm response to Bush's first in-person visit to the Gulf Coast last Friday.

Bush had raised eyebrows on his first trip by, among other things, picking Sen. Trent Lott, R-Miss. -- instead of the thousands of mostly poor and black storm victims -- as an example of loss. "Out of the rubbles of Trent Lott's house -- he's lost his entire house -- there's going to be a fantastic house. And I'm looking forward to sitting on the porch," Bush said with a laugh from an airplane hangar in Mobile, Ala.

In the same remarks, Bush gave FEMA chief Brown -- the face for many of the inadequate federal response -- a hearty endorsement. "Brownie, you're doing a heck of a job," Bush said.

Later in Biloxi, Miss., Bush tried to comfort two stunned women wandering their neighborhood clutching Hefty bags, looking in vain for something to salvage from the rubble of their home. He kept insisting they could find help at a Salvation Army center down the street, even after another bystander had informed him it had been destroyed.

And at his last stop that day, at the airport outside of New Orleans, Bush lauded the increasingly desperate city as a great town because he used go there and "enjoy myself -- occasionally too much."

Unlike his galvanizing appearance in the rubble of the World Trade Center just days after the 2001 attacks, Bush has stayed far from the epicenter of New Orleans' suffering. His only foray into the city was to its edges to watch crews plugging one of the breached levees on Friday.

On Monday, he skipped the hardest-hit coastal areas entirely, choosing instead to visit Baton Rouge, the state capital about 80 miles northwest of New Orleans, which sustained no damage. He also went to Poplarville, Miss., to walk the streets of a

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middle-class neighborhood that seemed to suffer little more than snapped trees, a couple off-kilter carport roofs and a downed power line or two.

White House spokeswoman Dana Perino said the president avoided New Orleans to stay out of the way of search-and-rescue operations.

"It's going to be almost impossible to overcome the perception about the president that he didn't show compassion and didn't get control of the policy failures," American University political scientist James Thurber said. "The vivid images that are coming across the television are really destroying his image as a leader."

White House counselor Dan Bartlett said the president and his aides are unconcerned for now about the unrelenting criticism.

"Emotions are running high. People are tired," Bartlett said. "If we focused more of our attention on decisions that have already been made, rather than on those before us, there's potential for making far greater mistakes. ... We really don't have time to play the political game right now."

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EDITOR'S NOTE: Jennifer Loven has reported from Washington since 1993 and covers the White House for The Associated Press.

Bush Resists Immediate Probe Into Katrina Response (REU)

By Steve Holland

Reuters, September 7, 2005

President George W. Bush pledged on Tuesday to review what went wrong in the initial response to Hurricane Katrina but resisted any immediate probe and lawmakers launched an investigation of their own.

Partisan tempers flared, the projected cost of Katrina recovery efforts mushroomed and Pentagon leaders denied there was any delay in the military response to the relief effort last week.

After a Cabinet meeting on the myriad challenges posed by his biggest crisis since the attacks of September 11, 2001, Bush said he would lead an investigation into what went wrong. But he said he first wanted to save lives and solve problems before assessing blame.

"I think one of the things that people want us to do is to play a blame game," Bush said of critics of the initial administration response. "We've got to solve problems. There will be ample time for people to figure out what went right, and what went wrong."

He added: "I'm going to find out over time what went right and what went wrong."

Key senators launched an oversight review to determine how federal, state and local authorities bungled the relief effort in the first days after the hurricane struck.

"It is difficult to understand the lack of preparedness and the ineffective initial response to a disaster that had been predicted for years and for which specific dire warnings had been given for days," said Sen. Susan Collins (news, bio, voting record), the Maine Republican who chairs the Senate homeland security committee.

Tempers flared in the driveway of the White House after congressional leaders emerged from a meeting with Bush to brief reporters.

House of Representatives Speaker Dennis Hastert of Illinois, backing up Bush's position, agreed on the need for an investigation, but only after the recovery is well under way.

"There's going to be a lot of time to point fingers after we get through there," he said.

House Democratic leader Nancy Pelosi of California quickly approached the microphone.

"Let me just say because my colleague said I was pointing fingers too soon: You're darned right, you're darned right. We're a week behind where we should be in terms of responding to Katrina."

Pelosi said Michael Brown, the head of the Federal Emergency Management Agency, "should not continue in that job unless we want a continuation of the shortcomings that we have had in the response."

With $10.5 billion already set aside, Senate Democratic Leader Harry Reid of Nevada predicted the recovery effort could end up costing $150 billion -- a figure that could put pressure on Bush to give up some tax cuts he wants to extend.

Reid said he expected the White House budget director, Josh Bolten, to make a new emergency spending request in 24 hours that could be $40 billion to $50 billion.

The No. 2 House Republican, Tom DeLay of Texas, scolded Reid. "People that just throw numbers out, not knowing what they're talking about, I think it's pretty irresponsible," DeLay said.

With some critics pointing to the fact that insufficient troops at the outset slowed the relief effort, top Pentagon officials denied there had been any delay.

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But Defense Secretary Donald Rumsfeld said he had ordered an internal Pentagon study of "lessons learned" from the disaster.

"You know, you can never be perfect in a tragedy like this," said Gen. Richard Myers, chairman of the Joint Chiefs of Staff. "You'd like to be perfect and be there the moment someone needs help. But as hard as these people tried and the states tried, it's just not possible."

Much anger from Democrats and Republicans alike has been directed at Bush for a slow federal response to a catastrophe that may have killed thousands in New Orleans and along the Gulf coast.

Bush said he was dispatching Vice President Dick Cheney to the disaster zone on Thursday to try to remove any "bureaucratic obstacles that may be preventing us from achieving our goals."

With calls for an independent commission to investigate the disaster, the White House was cautious.

Asked where the buck stops in the Bush administration, White House spokesman Scott McClellan said: "The president." But he said to launch a probe now could divert people involved in the recovery effort from doing their jobs.

(Additional reporting by Patricia Wilson, Tabassum Zakaria, Will Dunham and Donna Smith)

For Bush, A Deepening Divide (WP)

By Dan Balz

The Washington Post, September 7, 2005

When terrorists struck on Sept. 11, 2001, Americans came together in grief and resolve, rallying behind President Bush in an extraordinary show of national unity. But when Hurricane Katrina hit last week, the opposite occurred, with Americans dividing along sharply partisan lines in their judgment of the president's and the federal government's response.

The starkly different verdicts on Bush's stewardship of the two biggest crises of his presidency underscore the deepening polarization of the electorate that has occurred on his watch. This gaping divide has left the president with no reservoir of good will among his political opponents at a critical moment of national need and has touched off a fresh debate about whether he could have done anything to prevent it.

To his critics, Bush is now reaping what he has sown. Their case against him goes as follows: Facing a divided nation, the president has eschewed unity in both his governing strategy and his political blueprint. These opponents argue that he has favored confrontation over conciliation with the Democrats while favoring a set of policies aimed at deepening support among his conservative base at the expense of ideas that might produce bipartisan consensus and broader approval among the voters. His allies and advisers, while acknowledging that polarization has worsened during the past five years, say the opposition party bears the brunt of responsibility. Democrats, by this reckoning, have rebuffed Bush's efforts at bipartisanship, put up a wall to ideas that once enjoyed some support on their side, and, even in the current crisis along the Gulf Coast, are seeking to score political points rather than joining hands with the president to speed the recovery and relief to the victims.

Wherever reality lies between these mutual recriminations, the path from post-9/11 unity to the rancor and finger-pointing in the aftermath of Katrina's fury charts a clear deterioration in political consensus in the United States and a growing willingness to interpret events through a partisan prism. It is a problem that now appears destined to follow Bush through the final years of his presidency -- a clear failure of his 2000 campaign promise to be a "uniter, not a divider."

A Washington Post-ABC News poll taken last Friday illustrates the point vividly. Just 17 percent of Democrats said they approved of the way Bush was handling the Katrina crisis while 74 percent of Republicans said they approved. About two in three Republicans rated the federal government's response as good or excellent, while two in three Democrats rated it not so good or poor.

"Bush is the most partisan president in modern American history," said William Galston, a professor at the University of Maryland and previously a top domestic adviser to former President Bill Clinton. "As a result, voters in both parties are focusing on him, rather than on the specifics of the policies."

In Galston's view, Bush bears principal responsibility for that condition, saying that on three occasions he passed up opportunities to govern from the center and work more constructively with the Democrats and instead chose a path designed to mobilize conservatives. The first came after the disputed election of 2000, in the early days of Bush's new administration. The second came after the Sept. 11 attacks, when Bush's approval rating rose to 90 percent. The third came after the hard-fought and polarizing election last year.

"While White House aides can provide familiar talking points on gestures of cooperation across party lines, the fact of the matter is on all three occasions, the principal thrust of Bush's policies was toward polarization rather than conciliation," Galston said. "We are now living in the shadow of nearly five years in which that has been the dominant political message coming out of the White House."

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Republican National Committee Chairman Ken Mehlman offered a vigorous rebuttal to that criticism yesterday. "They've got a one-way street of unity," he said. "It's 'Do what we want, or you're not a unifier.' "

Mehlman said Bush has produced an unprecedented record of bipartisan accomplishment, citing the passage of the No Child Left Behind education act, prescription drug benefits for Medicare recipients, the USA Patriot Act and the creation of the Department of Homeland Security, which he said was advanced initially by Democratic Sen. Joseph I. Lieberman (Conn.) and eventually embraced by Bush. (Democrats say Bush embraced the department only when public opinion showed it to be extremely popular.) Mehlman also said Democrats are now attempting to take advantage of the politics of Katrina and pointed specifically at Sen. Hillary Rodham Clinton (D-N.Y.), who yesterday introduced legislation calling for the Federal Emergency Management Agency (FEMA) to be reconstituted as an independent, Cabinet-level agency, rather than a unit in the new Homeland Security Department. "You tell me who's taking what should be a moment of national unity and trying to score politically," he said. William Mayer, a political scientist at Northeastern University, said the public divide over Bush's handling of the natural disaster bears considerable resemblance to divisions over Clinton's handling of the standoff with the Branch Davidian followers of David Koresh in Waco early in his presidency, which ended in a fire that killed more than 80 people. Democrats supported Clinton did the best he could "dealing with a crazy man," Mayer said, while Republicans "said this was a massively bungled affair."

Mayer and Nolan McCarty, a professor of politics and public affairs at Princeton said that while polarization has worsened under Bush, the president bears only some of the responsibility. McCarty said Bush could try to rise above the current criticism but noted that partisans now have jumped in. "It will polarize things worse," he said.

Mark McKinnon, Bush's campaign media adviser, said Bush is still dealing with divisions that came out of the election 2000 but said the current crisis presents an opportunity for the administration "to show leadership and coordination and response and compassion of a nature that could affect the political dynamics of the country."

Galston agreed that is possible, but he said he doubted even a well-judged performance will fundamentally change Bush's ability to work across party lines on controversial issues. The hurricane may have washed away much of the Gulf Coast, but political polarization has proved resistant to its forces.

Bush Pledges To Stay On Top Of Relief Effort, Says It's Improving (USAT)

By Richard Benedetto

USA Today, September 7, 2005

WASHINGTON — President Bush spent Tuesday in a series of meetings aimed at making sure the resources of the federal government are focused on the Hurricane Katrina recovery effort.

He met with his Cabinet, education officials, congressional leaders and the heads of charities involved in the recovery. Afterward, he said the relief effort is improving, more supplies are en route, schooling is being arranged for thousands of displaced children and that he will make sure the recovery continues.

“Bureaucracy is not going to stand in the way of getting the job done for the people,” Bush said.

Bush and his administration continue to be criticized for what many see as a slow and inadequate federal response to the storm that ravaged three states and flooded the city of New Orleans.

“We're a week behind where we should be in responding to Katrina,” House Minority Leader Nancy Pelosi, D-Calif., said after meeting with Bush at the White House.

Tuesday's meetings came the day after Bush's Labor Day visit to the disaster region, his second visit in four days. Bush said he will send Vice President Cheney and first lady Laura Bush to the region Thursday.

Bush acknowledged last week that the initial federal response was “unacceptable.”

Bush will ask Congress as soon as today for more money for Katrina relief, on top of the $10.5 billon in emergency funds appropriated by Congress last week.

Additional money will be requested as the needs are further assessed, White House spokesman Scott McClellan said.

Senate Minority Leader Harry Reid, D-Nev., said Bush's new request will be as much as $50 billion, and he said the overall cost could top $150 billion.

Bush said he will personally lead an investigation into what went wrong with the early federal response to Katrina.

After their meeting with the president, congressional leaders said they would conduct a bipartisan investigation.

Reid also called for a probe by an independent commission “comparable to the 9/11 Commission,” which looked into why the federal government wasn't able to stop the 2001 terrorist attacks on New York City and Washington.

Bush said that while critics want “to play a blame game,” he and his administration have “got to solve problems. … There will be ample time for people to figure out what went right and what went wrong. What I'm interested in is helping save lives.”

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The president praised the work of community and faith-based organizations aiding hurricane victims and urged Americans to send them cash donations to support their efforts.

He also pledged to speed Social Security, unemployment and other federal benefit checks to those in affected areas.

Bush Counters Criticism Of Federal Relief Effort (LAT)

By Scott Gold And Lianne Hart

The Los Angeles Times, September 7, 2005

NEW ORLEANS — As the recovery effort persisted and the floodwaters continued to recede in this shattered city, President Bush sought to short-circuit congressional criticism by declaring that he will investigate the federal relief effort.

Bush has made two trips through the Gulf Coast and has visited relief agencies in Washington as part of his effort to persuade people that his administration cares about the disaster and will use all means to help the region recover, and in particular the hard-hit city of New Orleans.

Local officials have been fiercely critical of the federal government, saying that basic necessities were delayed, costing lives. With Congress returning today to Washington, the anger has been growing as some legislators launched their own investigation and promised hearings to determine who is at fault.

In an effort to get ahead of the issue, Bush said he will lead his own probe.

"What I intend to do is to lead an investigation to find out what went right and what went wrong," he said.

"It's very important for us to understand the relationship between the federal government, the state government and the local government when it comes to a major catastrophe. And the reason it's important is, is that we still live in an unsettled world. We want to make sure that we can respond properly if there's a WMD attack or another major storm. And so I'm going to find out over time what went right and what went wrong," the president said.

Katrina dealt New Orleans a glancing blow, but it was severe enough to break two levees that turned the city in a disease-ridden cesspool whose inhabitants had to be evacuated. Tens of thousands of people went days without food and water before transportation arrived to carry them to safety.

With 250,000 people evacuated to Texas and hundreds of thousands more from Southern Louisiana voluntarily fleeing, the city has turned into a watery ghost town.

Even though the reconstruction will take weeks and months, there was a sense of optimism as waters continued to ebb and the bulk of the evacuations has been completed.

"We now have the resources to get the job done," Mayor C. Ray Nagin told reporters today. "I want to thank the governor and the president and I want to thank that John Wayne dude."

The mayor was referring to Lt. Gen. Russel Honore, who is leading the forces that entered the city last week, restored order and ended the looting so that large-scale relief efforts could take place.

More than 32,000 people have been rescued in Louisiana since Katrina hit last week, according to David Passey, a spokesman for the Federal Emergency Management Agency. To date, FEMA has allocated $2.8 billion to provide emergency assistance to Louisiana, he said.

In addition, 315,568 households have registered for federal and state assistance, officials said.

Nagin said the mandatory evacuation remains in effect and that the city will begin moving emergency people out of the area to Las Vegas and Atlanta so they can recharge.

"Las Vegas is a party town," he said, fending off criticism. "New Orleans is a party town. Get over it."

Nagin said that the city is now 60% underwater — still in a debilitated state, but much improved from the weekend, when the saturation reached 80%. Several pumps are now sending water gushing over the levee system into Lake Pontchartrain, and the city is trying to get Pump Station 6 — a critical facility that Nagin called "the big daddy" — operating as soon as possible.

"Even in places where the water was up to the rooftops, we are now starting to see part of the buildings," Nagin said after his daily helicopter ride over the city.

Nagin said a power plant on Carrollton Street could be operating soon. Officials had attempted to construct a dam around the plant to rid that portion of the city of water but the dam did not hold. So the city is bringing in portable pumps to suck the water out continuously.

Water service could begin flowing into the city within 24 hours, Nagin said, but he cautioned that officials were wary of how clean the water would be. The water supply is off — and the water flowing through pipes once they are fixed is so full of pollution and bacteria it cannot be drunk even after it is boiled, Nagin said.

"We have to flush the system," he said.

Officials continue to find people who are alive and awaiting rescue from houses, attics and rooftops, he said. Many are elderly, delirious or severely dehydrated.

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Nagin also said reports that authorities had withheld food and water from some neighborhoods in an effort to flush out stragglers who don't want to leave are "absolutely false."

He said he told his officers and other authorities: "Do not harm anyone. Do not allow anyone to starve. Do not allow anyone to go without water."

On Monday, the Army Corps of Engineers plugged one of the broken levees and officials continued their efforts today to pump water out of the city. Water pumps are slowly being restarted as the water recedes and workers can dry and repair them. It will take 24 days to drain eastern Orleans Parish, and as much as 80 days to remove the water from Chalmette, said Dan Hitchings, a spokesman for the Corps.

As the waters recede, more bodies are expected to be found.

Gov. Kathleen Babineaux Blanco said that disease is going to be "big, big problem" in New Orleans.

"We certainly don't want disease outbreaks. That is our next big worry, and can be the next big tragedy," she said. "We have a massive clean-up operation, and that's why we're asking citizens to be patient and not try to get in there because we don't know what we're going to find. We have to let the medical experts get in and test."

In the face of ongoing criticism about the speed and effectiveness of the hurricane relief effort, the nation's top health officials today defended federal efforts to provide health services in Katrina's aftermath.

"We are one week out, and so far so good," said Health and Human Services Secretary Mike Leavitt during a news conference by telephone.

Leavitt said that security risks and chaotic conditions delayed health services for evacuees crowded into the New Orleans Convention Center and the Superdome.

Leavitt and Dr. Julie Gerberding, director of the federal Centers for Disease Control and Prevention, emphasized that disaster preparations had been based on the smaller-scale disasters seen after previous hurricanes.

Leavitt, who toured the disaster area over the Labor Day weekend, said federal health officers are present in all major shelters for evacuees, and are working with local medical professionals to provide services despite the primitive conditions.

"The response was massive, led in large measure by local communities. I would judge it to have been strong and high quality, but predictably imperfect. It drained resources from local service providers. They have responded in a remarkable way," Leavitt said. "We walked through medical shelters that were staffed by the heads of departments to major hospitals working alongside medical students. The quality of service they were [delivering] was amazingly high."

The Louisiana governor was also more upbeat than in recent days.

"The resources are strengthening as we speak. Those of us in the decision-making chairs are feeling better about the coordinated effort. The supply chain has improved the morale, and I think it will continue to get better," she said.

With police getting a break, the Pentagon began sending paratroopers from the Army's 82nd Airborne Division to New Orleans to use small boats, including inflatable Zodiac craft, to launch a new search-and-rescue effort.

Maj. Gen. William B. Caldwell IV, division commander, said about 5,000 paratroopers would be in place by today.

Fires, some started by candles used to replace broken electric lights, have also been a problem. Several blazes were burning, pouring thick smoke into the air.

Officials announced in Baton Rouge that they have begun testing the quality of the air. Scientists are also sampling the brackish floodwater in New Orleans as well as the water in Lake Pontchartrain, said Mike McDaniel, secretary of the Louisiana Department of Environmental Quality.

"It is simply infeasible" to pump the floodwater anywhere but the lake, he said. "We have to get the water out of the city or the nightmare gets worse. We will deal with the issues of the water, but right now the priority is to save lives," he said.

"There's lots of discussion about toxic soup, a witch's brew, but I've seen no data that backs up that kind of statement," McDaniel said.

He said there will obviously be bacteria in the water.

"After all, we have humans with no waste treatment facilities, we have backed up facilities. They're showing a large number of fecal indicators," he said.

McDaniel said he also believes gas, fuel, and traces of toxic materials like pesticides and heavy metals will be found. Test results will be known in about two days, he said.

With 2,200 facilities with underground storage tanks; 140,000 to 160,000 flooded homes that will have to be condemned; 25 major sewage treatment facilities offline, as well as 505 medium to small sewage treatment plants out, McDaniel said there's good reason for concern.

"It is almost unimaginable the things we are going to have to plan for and deal with," he said.

The impact of the storm on the Louisiana coast is enormous, he said. "The aerials we see are complete devastation. It will take a while to reestablish."

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About 68,000 barrels of oil spilled into the Mississippi River, near Venice, La., and is now being blown into the gulf. Another 10,000 barrels of oil has spilled into a flooded neighborhood in Chalmette.

"Everywhere we look there are spills. It all adds up to an almost solid sheen over the area now," McDaniel said.

Earlier, Bush called congressional leaders to the White House for their first meeting since Hurricane Katrina hit the Gulf Coast on Aug. 29 and rampaged through more than four Southern states. The death toll is estimated at perhaps 10,000 and the cost of the damage is put at more than $25 billion in insurance claims alone, with tens of billions more to rebuild.

"Government at all levels failed," Sen. Susan Collins (R-Maine) said at a Capitol news conference, where she announced that the Senate Governmental Affairs Committee would hold hearings.

"It is difficult to understand the lack of preparedness and the ineffective initial response to a disaster that had been predicted for years, and for which specific, dire warnings had been given for days," she said.

During his Cabinet session, Bush rejected playing "a blame game. We've got to solve problems. We're problem-solvers. There will be ample time for people to figure out what went right and what went wrong.

"This administration is not going to rest until every life can be saved, until families are reconnected, until this recovery is complete," he said.

Even though security has improved, a New Orleans man was arrested and faces federal charges for allegedly firing shots at a military helicopter, according to U.S. Atty. Jim Letten. Wendell Bailey, 20, was charged with attempting to damage and destroy an aircraft, which carries a sentence of up to 20 years, and with illegal possession of firearms, which can be punished with 10 years in prison.

Bush Promises To Seek Answers To Failures Of Hurricane Relief (NYT)

By Anne E. Kornblut And Carl Hulse

The New York Times, September 7, 2005

WASHINGTON, Sept. 6 - Under relentless political fire over the federal response to Hurricane Katrina, President Bush on Tuesday tried to steer the public debate toward progress in the region, promising to investigate earlier stumbles, as anxious lawmakers returned to the Capitol pledging inquiries of their own and aid money for the storm victims.

Mr. Bush, in a flurry of meetings at the White House, said he would dispatch Vice President Dick Cheney to the Gulf Coast this week to cut through any bureaucratic obstacles slowing recovery efforts. Members of Congress demanded answers and awaited a new emergency spending measure from the White House, calculating the growing cost of the recovery at $50 billion, if not more than twice that.

Fresh from their summer recess, lawmakers questioned the effectiveness of the Federal Emergency Management Agency and pledged to hold hearings and possibly enact legislation to address the failures in the response system.

"It is difficult to understand the lack of preparedness and the ineffective initial response to a disaster that had been predicted for years and for which specific dire warnings had been given for days," said Senator Susan Collins, Republican of Maine and chairwoman of the Homeland Security and Governmental Affairs Committee, which will conduct one of the main inquiries.

There will be at least two sets of Congressional hearings, leaders said, beginning as early as next week, to examine issues like failures in the command and control structure, shortcomings in the evacuation plan for New Orleans, and any organizational problems that may have contributed to the slow response.

The hearings will also address whether the government missed critical opportunities to shore up the levees in New Orleans and whether planning for future disasters is sufficient.

Lawmakers, at least in the Senate, said it would be too early to consider whether Mr. Bush would be called to testify.

For the first time since the hurricane hit, Mr. Bush met with leaders from both parties, capping a day of constant political attention to a crisis that has exposed fault lines within the Republican Party and threatens to overtake the entire Congressional agenda. Mr. Bush promised to lead an investigation into what went wrong, although a White House spokesman quickly qualified the statement, saying the inquiry would come later to avoid diverting resources from the recovery efforts.

Mr. Bush also resisted renewed calls to fire Michael D. Brown, the director of FEMA, who became a lightning rod for attacks last week when he said he was unaware of a crisis at the New Orleans convention center, news of which had been televised for days. Instead, Mr. Bush accused critics of playing the "blame game" and said he would remain focused on the immediate crisis as evacuees fanned out across the country.

"We've got to solve problems; we're problem-solvers," he said. "There will be ample time for people to figure out what went right and what went wrong. What I'm interested in is helping save lives."

At issue in the immediate future is the amount of money the government will allocate for the recovery and reconstruction efforts. Mr. Bush signed a $10.5 billion spending measure last Friday, and Congressional leaders said they expected to receive a

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$40 billion to $50 billion supplemental spending request this week. Senator Harry Reid of Nevada, the Democratic leader, said the total bill could reach $150 billion, further squeezing a budget constrained by the nearly $5 billion spent each month on the Iraq war and the $333 billion federal deficit.

The $150 billion projection was quickly disputed by Representative Tom DeLay of Texas, the Republican leader, who suggested that Mr. Reid was "playing politics" by giving that figure when no official projections were available. But White House officials have not disputed estimates in the tens of billions of dollars.

Senior administration officials rejected accusations that the federal government had been slow to respond, detailing progress on the military, education and social services fronts. Mr. Bush, after meeting with Education Secretary Margaret Spellings, said the administration was reviewing ways to help states like Texas absorb the costs of accommodating thousands of children of evacuees in their public school systems.

At the Pentagon, senior officials pointed to the arrival of forces in the Gulf Coast in recent days, with more than 41,000 National Guardsmen and about 17,000 active-duty personnel committed to the mission. Gen. Richard B. Myers, chairman of the Joint Chiefs of Staff, praised what he described as a more than adequate military response.

"Not only was there no delay, I think we anticipated, in most cases - not in all cases - but in most cases, the support that was required," General Myers said at a news briefing. "And we were pushing support before we were formally asked for it."

Even so, Defense Secretary Donald H. Rumsfeld said he had ordered the military to conduct a "lessons learned" study on the armed forces' response to the hurricane to determine whether it could have been more timely.

And Mr. Bush, in the first of several hurricane-related events throughout the day, made an unexpected pledge to personally lead an inquiry into earlier failures.

"What I intend to do is lead a - to lead an investigation to find out what went right and what went wrong," Mr. Bush, after meeting with his cabinet, said in response to a question about who would be held accountable.

"And I'll tell you why," he continued. "It's very important for us to understand the relationship between the federal government, the state government and the local government when it comes to a major catastrophe. And the reason it's important is, is that we still live in an unsettled world."

Pressed for details about the investigation, Scott McClellan, the White House spokesman, said it would not begin until the immediate crisis had passed.

Describing it as an "analysis," not an investigation, Mr. McClellan would not say whether the emergency failures would be examined by an independent commission, as the Sept. 11 attacks were, or even when the president wanted the process to start.

"There will be a time to do a thorough analysis," Mr. McClellan said. "Now is not the time to do that."

Instead, Congress appeared poised to take the lead.

Senator Hillary Rodham Clinton, Democrat of New York, said she was introducing legislation to create an independent commission.

Representative Thomas M. Davis III, Republican of Virginia and chairman of the Government Reform Committee, said his panel would begin hearings on the government response, a move that came after Senate leaders had announced their own plans for hearings and that appeared to catch House leaders off guard.

"We are going to look at Mr. Davis's hearing," said Speaker J. Dennis Hastert, Republican of Illinois. "What we don't want to have happen is that the people who are on the ground in the Gulf States have to come up here and talk to 13 or 14 different groups."

Senator Joseph I. Lieberman, a Connecticut Democrat who will help lead the Senate investigation with Ms. Collins, said the federal response to Hurricane Katrina had shaken the public's confidence in the ability of the government to protect them.

"Hurricane Katrina was in one sense the most significant test of the new national emergency preparedness and response system that was created after 9/11, and it obviously did not pass that test," Mr. Lieberman said.

Some Republican lawmakers said they had tried to impress upon their party's leaders what they believe are the political risks involved in the disaster response, fearing that Republicans have exposed themselves to significant political risk in next year's elections by having appeared not to take the hurricane and its aftermath seriously at first.

Already, the hurricane has upended the fall legislative agenda. Leaders of both the House and the Senate have said their chief mission in the coming weeks would be to provide relief to storm victims and begin rebuilding devastated communities.

Under pressure from Democrats, the Senate postponed a vote on a proposal to eliminate the estate tax, while House officials said they expected to delay a budget bill that would require cuts in health care and education.

Bush To Probe Storm Response (WP)

By Jonathan Weisman And Michael A. Fletcher

The Washington Post, September 7, 2005

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Stung by criticism of the federal response to Hurricane Katrina, President Bush yesterday promised to investigate his own administration's emergency management, then readied a request for tens of billions of dollars for relief and cleanup.

From the Pentagon to Capitol Hill, official Washington spent yesterday grappling with a hurricane recovery effort that, according to some estimates, will cost more than $100 billion and influence a broad range of federal policy, from emergency response to coastal development, from expanded domestic oil exploration to the future of the estate tax.

Bush vowed to "find out what went right and what went wrong." Defense Secretary Donald H. Rumsfeld said that the military already has begun a "lessons-learned" assessment of its coordination with state and local governments. Nine Cabinet members briefed Senate and House leaders last night on the federal response, and key senators pushed for changes that would allow Third World relief efforts to be emulated in the United States.

"Nothing will be the same again," said Sen. Trent Lott (R-Miss.), whose Pascagoula home was destroyed.

Just days after Congress approved a $10.5 billion emergency relief package, Bush informed congressional leaders of a request of as much as $40 billion, making Katrina the federal government's most expensive domestic emergency ever. The package could be passed as early as today, aides said.

But with the Federal Emergency Management Agency spending more than $500 million a day, lawmakers from both parties said the cost will climb much higher. Senate Minority Leader Harry M. Reid (D-Nev.) suggested the total could exceed $150 billion, with $100 billion for FEMA alone. Lott said the cost will be "well in excess of $100 billion," and few were disagreeing.

Beyond money, congressional leaders ordered committee chairmen to draft any legislation that could remedy the problems revealed by the hurricane and its aftermath. And after nearly a week of recriminations, Washington slipped into an extraordinary bout of self-reflection.

"It is fair to say the overall response to this emergency could have and should have been better," House Majority Leader Tom DeLay (R-Tex.) said.

Sen. Barbara A. Mikulski (D-Md.) called for FEMA Director Michael D. Brown to leave and be replaced by "an experienced, professional emergency manager."

Speaking to reporters after a Cabinet meeting , Bush said: "It's very important for us to understand the relationship between the federal government, the state government and the local government when it comes to a major catastrophe. . . . We want to make sure that we can respond properly if there's a WMD [weapons of mass destruction] attack or another major storm."

Bush, who has called the response to the hurricane unacceptable only to amend that to say the results were not acceptable, offered no specifics on his planned investigation. Still, the call for an investigation was unusual coming from a president who rarely admits mistakes.

House Republican leaders suggested that Congress launch one comprehensive examination of the disaster response, possibly a joint House-Senate investigation. But Senate committees were already moving forward. The Senate Homeland Security and Government Affairs Committee has scheduled hearings next week to examine the federal disaster response.

Sen. James M. Inhofe (R-Okla.), chairman of the Senate Environment and Public Works Committee, promised his own examination of Gulf Coast infrastructure, water projects and coastal erosion. Next week, the panel will look into Katrina's impact on energy supplies, a subject examined yesterday by the Senate Energy and Natural Resources Committee and set to be examined today by the House Energy and Commerce Committee.

At the Senate Energy Committee hearing, Sen. Pete V. Domenici (R-N.M.) said Congress must accept politically difficult measures that lawmakers have repeated rejected, such as raising car and truck fuel efficiency standards.

House Minority Leader Nancy Pelosi (D-Calif.) castigated the Cabinet's performance as two hours of "self-congratulatory" talk. "This administration does not live in reality," Pelosi said. "To hear them talk, everything went right. . . . They have very low standards, and no performance, and no accountability."

DeLay said the GOP leadership was working to bring legislation to the floor, possibly this week, that would loosen rules that govern federal assistance programs. He chastised Rep. Thomas M. Davis III (R-Va.) for seeking to open hearings next week on the response.

Senate Finance Committee Chairman Charles E. Grassley (R-Iowa) proposed retooling a resettlement program for foreign refugees to help Americans displaced by Katrina.

But there was little immediate agreement on how to proceed and many notes of discord.

House and Senate lawmakers said they will proceed with a package of $70 billion in tax cuts and $35 billion in entitlement spending cuts, including as much as $10 billion out of a Medicaid program they simultaneously were suggesting expanding.

Before Katrina struck, the House and Senate were at loggerheads over an energy and water spending plan for the fiscal year that begins in October, with the Senate hoping to spend $700 million more than the House on water projects, including $27 million more on flood control in southeastern Louisiana and $20 million more on Louisiana coastal protection. House

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Appropriations Committee spokesman John Scofield said the committee has received no instructions to budge: "We are committed to living within our budget."

With federal resources stretched, Grassley questioned a rush to temporarily lift the tax on airline fuel, and he lambasted proposals to offer more tax incentives to oil companies for domestic oil exploration. "With $60 [a barrel] oil, you don't need more incentives," he said. "What we need is for the oil companies to take some of their profits and lower the cost of gasoline."

DeLay had a similar response to suggestions that the federal gasoline tax be suspended: "Now more than ever you're going to need . . . those highway trust funds, to rebuild the bridges that were destroyed, rebuild the railroads that were destroyed."

At the Pentagon, Rumsfeld said the involvement of troops in hurricane relief efforts will not diminish the military's ability to sustain operations in Iraq and Afghanistan.

He noted that more than 300,000 Army National Guard and Air National Guard troops remain available to help. He sharply rejected the suggestion that the commitment of large numbers of troops to Iraq -- including National Guard soldiers from Louisiana and Mississippi -- had delayed the military's response. About 41,000 Guard troops are in assisting the region.

"Not only was there no delay," said Gen. Richard B. Myers, chairman of the Joint Chiefs of Staff. "I think we anticipated in most cases -- not in all cases, but in most cases -- the support that was required."

GOP Begins Damage Control (WT)

By Joseph Curl And Rowan Scarborough

The Washington Times, September 7, 2005

Republicans tried to limit the political damage from the botched federal response to Hurricane Katrina -- with President Bush, members of Congress and military leaders yesterday all promising to look into the failures.

"What I intend to do is lead an investigation to find out what went right and what went wrong," the president said after meeting with Cabinet members at the White House.

Republicans said they have received the message that there is frustration over the federal response.

"Have I got an earful? You betcha," said Sen. Norm Coleman, Minnesota Republican, who said he heard about it from voters at Minnesota's state fair this weekend.

But even as Republicans promised investigations, they made it clear that the first failure was at the state and local levels, where governments are charged with preparation and the first response to disasters.

"I'm a former mayor," Mr. Coleman said. "The leadership starts at the local level. I didn't see the local mayor. I didn't hear from the mayor."

His focus on state and local officials was echoed by Mr. Bush, Defense Secretary Donald H. Rumsfeld and top congressional Republicans, who said the federal response fell short because, in Mr. Coleman's words, "the federal officials didn't do a good enough job of filling that void fast enough."

The senator from Minnesota said that the federal government must now turn its immediate failure into an opportunity to show it is in control.

Now, both Congress and the president are rushing to fill that void with money.

Mr. Bush was expected to send Congress a reported $40 billion emergency spending package last night, five days after a $10.5 billion emergency bill passed.

The top Democrat in the Senate said the final cost could be $150 billion -- the first long-term cost estimate placed on the storm by a high official.

"Through my conversations with officials on the ground and in consultation with Senator Mary Landrieu [of Louisiana], I believe that the recovery and relief operations will cost up to and could exceed $150 billion," said Senate Minority Leader Harry Reid, Nevada Democrat.

At the Pentagon yesterday, the nation's two top military leaders rejected criticism that they were too slow in deploying troops to storm-ravaged Gulf states, saying they are in the middle of the largest domestic disaster relief effort in U.S. history.

Mr. Rumsfeld and Gen. Richard B. Myers, Joint Chiefs chairman, said Pentagon planners made contingencies once Katrina strengthened in the Gulf of Mexico and ordered thousands of troops and relief supplies once the request was made.

Mr. Rumsfeld ordered a mandatory "lessons learned" on what the armed forces had done right and wrong in the week-old disaster that likely killed thousands in Louisiana, Mississippi and Alabama.

He added that the military's involvement will not affect the U.S. effort in Iraq.

"We have the forces, the capabilities and the intention to fully prosecute the global war on terror while responding to this unprecedented humanitarian crisis here at home," Mr. Rumsfeld said.

At the White House, Mr. Bush said a thorough review is necessary to prepare for the next catastrophe.

"We still live in an unsettled world. We want to make sure that we can respond properly if there's a WMD attack or another major storm," he said.

Even as the president was trying to put out fires, he might have created more ill will at an afternoon meeting with congressional leaders.

During the meeting, Mr. Reid and House Minority Leader Nancy Pelosi, California Democrat, tried to learn the size of the new spending request, but Office of Management and Budget Director Joshua B. Bolten said he did not have a figure, Mr. Reid's spokesman said.

As the leaders left the meeting, they found out from press reports that someone had told the Associated Press the total would be $40 billion.

Meanwhile, there was disagreement among Republicans over how quickly to proceed on the investigations.

The Republicans who run the House and Senate oversight committees both said they will begin next week, even though House leaders and Sen. Trent Lott, a Mississippi Republican whose home was destroyed by the storm, asked them not to distract from the relief effort.

Hearings called by House Government Reform Committee Chairman Thomas M. Davis III seemed to catch House Speaker J. Dennis Hastert off guard yesterday when a reporter asked about it at a press conference.

"What we don't want to have happen is the people who are on the ground in the Gulf states have to come up here to talk to 13 or 14 different groups," said Mr. Hastert, Illinois Republican.

Rep. Mark Foley said particular blame lies at the feet of the Federal Emergency Management Agency (FEMA) and, by extension, Congress, which put FEMA under the Department of Homeland Security.

The Florida Republican said the agency had flaws in responding to the hurricanes in Florida last year.

"There'll be a lot of blame to go around, and we can all reasonably take a share of it," he said, though he also said political blame will recede with time. "It gets worse for a while and finally people see the light at the end of the tunnel."

Storm Upheaves Bush's Second-term Agenda (USAT)

By Susan Page

USA Today, September 7, 2005

WASHINGTON — Eight months into President Bush's first term, the nation was rocked and his agenda overtaken by terrorist attacks on New York and Washington.

Now, at nearly the same point in his second term, a natural disaster that has struck New Orleans and the Gulf Coast has revived questions about the government's preparedness to protect its citizens and reshuffled the priorities the president faces in coming months.

His plan to overhaul Social Security? Forget it. Repeal the estate tax? Postponed. Make the 2001 tax cuts permanent? Tougher to finance. Stay the course in Iraq? Questions about the deployment of U.S. resources and National Guard troops for the war have been sharpened.

“This is a shot to the solar plexus of George Bush's agenda,” says William Galston, a professor of public policy at the University of Maryland and a White House adviser to President Clinton in his first term. “The ripples go out in so many different directions, to so many different areas of policy, domestic and foreign. It's second only to 9/11 in its impact on the course of the presidency.”

“The aftermath of Katrina poses a threat to his entire second term,” the lead editorial in the Bush-friendly Wall Street Journal declared Tuesday.

The perils may be even greater for Bush than they were in 2001.

His resolute leadership in the aftermath of the Sept. 11 attacks rallied the nation to his side, but the lack of urgency he conveyed in the first days after the hurricane and his administration's fumbling response to desperate human needs have brought scathing bipartisan criticism. He has sought to recover in recent days, traveling to the region twice to comfort victims and clearing his schedule to focus on the crisis.

But after five years in charge, Bush is being called to account for shortcomings in the administration in a way he wasn't when he was new to office. There is little sense, as there was after 9/11, that criticizing the president is unpatriotic. “A lot of the strong part of his image is now at least temporarily tarnished — the notion of the can-do guy,” says Fred Greenstein, a presidential scholar at Princeton University.

The investigations into what went wrong — including the decision to downgrade the Federal Emergency Management Agency's status and the performance of the new Department of Homeland Security — are starting long before all the water has been pumped from New Orleans' streets. The Senate Committee on Homeland Security and Governmental Affairs convenes its first briefing on the issue today.

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Senate Majority Leader Bill Frist joined his Democratic counterpart, Harry Reid, in criticizing the pace of relief efforts. “We are going to take a hard, hard look at our disaster response,” Frist said.

Reid blasted those who have blamed state officials. “This is a huge federal issue,” he said. “The buck stops at 1600 Pennsylvania Avenue.”

In the short run, the confirmation of two Supreme Court justices and the need to deal with the aftermath of Hurricane Katrina will dominate the White House and Congress. To the dismay of some anti-tax conservatives, the Senate indefinitely postponed its scheduled vote this week on repealing the estate tax. “Ridiculous,” fumes Mallory Factor, chairman of the Free Enterprise Fund. He called the delay unwise and an attempt to be “politically correct.”

In the long run, Bush's agenda has been upended.

·Adding individual investment accounts to Social Security was, Bush has said, the top domestic priority of his second term. With Democrats united against it and some Republicans wary of embracing it, the odds of passing fundamental changes to the nation's most popular social safety net already were distant. Now, they seem impossible.

“Our members, like Congress and the American people, are rightly preoccupied with doing their part to assist in hurricane relief, recover and rebuilding, (and) I think the timing of much of the congressional agenda may have to be put on hold for a time,” says Derrick Max, director of the Alliance for Worker Retirement Security, a leading business-backed group supporting Bush's plan. “But as soon as Congress returns to its other legislative priorities, we would expect work to continue on Social Security reform.”

·Revising the tax code has been another Bush priority. A blue-ribbon panel he appointed is supposed to report back by the end of the month with a plan to simplify the tax code, ameliorate the impact of the alternative minimum tax on middle-income families and make permanent the tax cuts passed in 2001.

Now those proposals will have to compete with demands to increase federal spending on relief and infrastructure repair. The $10.5 billion aid package passed last week was only a down payment.

Former senator Connie Mack, co-chairman of the panel, says the hurricane's aftermath may delay but won't derail consideration of the proposal, which is supposed to be revenue-neutral. “I always saw this as a 2006 issue,” he says.

·Maintaining U.S. troop levels in Iraq until a constitution has been approved and a democratic government installed is an even higher priority for Bush, but now there are demands for active-duty troops and National Guard units, already strained by tours of duty in Iraq, to maintain order and provide hurricane relief at home.

About 8,500 active-duty troops are being dispatched to the Gulf Coast, probably for months, the Pentagon says. About 2,800 soldiers from the Louisiana National Guard are being allowed to return from Iraq immediately, a month or two earlier than scheduled. Most will join relief efforts.

·Reaching out to African-American voters, the Democrats' most loyal supporters, has been a concerted effort this year by Republican National Committee Chairman Ken Mehlman, Bush's campaign manager in 2004. But the TV footage of hurricane victims showed mostly minorities and poor people. “I don't think the outreach was working all that well, but this destroys it,” says political scientist Ronald Walters, author of Freedom is Not Enough: Black Voters, Black Candidates, and American Presidential Politics. “The perception is that he didn't move quickly enough because a lot of the people involved were black. Whether that's true or not, that is the perception in our community.”

Presidential terms are often shaped by the unexpected — wars, crises and scandals that never surfaced during the campaign. George H.W. Bush's presidency was shaped by Iraq's invasion of Kuwait. Jimmy Carter faced oil shocks and a hostage crisis in Iran. Franklin Roosevelt, elected to deal with the Depression, led the nation into World War II. He told Americans: “Dr. New Deal has become Dr. Win-the-War.”

“That's why pragmatism is such a central ingredient of an effective presidency,” says historian Robert Dallek, the author of books on FDR, John Kennedy and Lyndon Johnson. “If you're not pragmatic, not responsive to changing realities, then you don't succeed.”

But Stanley Renshon, a political scientist at City University of New York, argues that Bush's resilience is underestimated. “As control is re-established and help is coming in, Bush will be seen as somebody who rallied in the same way he did with 9/11 and mastered the circumstance,” he predicts.

Americans are divided in rating Bush's response. In a USA TODAY/CNN/Gallup Poll taken Monday and Tuesday, 42% said Bush had done a bad or terrible job in responding to the hurricane and the subsequent flooding; 35% said he had done a good or great job. The survey of 609 adults has a margin of error of +/-4 percentage points.

Whatever happens to his standing, the issues on Bush's plate have changed. “There are other priorities that we remain committed to,” White House spokesman Scott McClellan said Tuesday. “Right now our highest priority is on the response and recovery to Hurricane Katrina.”

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When Congress returned to work Tuesday, the agenda drafted when they left a month ago — immigration changes, Social Security and tax cuts — had been sidelined. Congressional leaders who met with Bush at the White House discussed how to rebuild the Gulf Coast, reopen the crucial Port of New Orleans, provide federal benefits for victims and protect other American cities that rely on aging earthen levees. And high gas prices are “the No. 1 issue on people's minds,” Frist says.

The most fundamental issue ahead may be this: Four years after the Sept. 11 attacks, despite the president's unrelenting focus and the expenditure of billions of dollars for homeland security, the government seemed unable to respond to a crisis that had been forecast days before it happened.

Hurricane's Toll Is Likely To Reshape Bush's Economic Agenda (NYT)

By Edmund L. Andrews

The New York Times, September 7, 2005

WASHINGTON, Sept. 6 - Hurricane Katrina is about to blow a hole in the federal budget, and it is already jeopardizing President Bush's agenda for cutting taxes and reducing the deficit.

Administration officials told Republican lawmakers on Tuesday that relief efforts were running close to $700 million a day, and that the total federal cost could reach as high as $100 billion.

That would be many times the cost of any other natural disaster or even the $21 billion that was allocated for New York City after the terrorist attacks of Sept. 11, 2001.

The expenses would come just as Mr. Bush and Republican leaders are trying to push through spending cuts for programs like Medicaid and student loans, extend about $70 billion in expiring tax cuts, and reduce the federal budget deficit.

"There is no question but that the costs of this are going to exceed the costs of New York City after 9/11 by a significant multiple," said Senator Judd Gregg, Republican of New Hampshire and chairman of the Senate Budget Committee.

White House officials are planning to ask Congress as early as Wednesday for a second round of emergency financing, perhaps as much as $40 billion, but they said even that would be a "stopgap" measure while they assessed the full costs.

Though it is still too early for accurate estimates, the costs are all but certain to wreak havoc with Mr. Bush's plans to reduce the federal deficit and possibly his plans to extend tax cuts.

On Monday, the Senate majority leader, Bill Frist, postponed plans to push for a vote on repealing the estate tax, a move that would benefit the wealthiest 1 percent of households, costing more than $70 billion a year once fully put in effect.

House and Senate leaders are also grappling with their pre-hurricane plan to propose $35 billion in spending cuts over the next five years for entitlement programs like Medicaid, student loans, food stamps and welfare payments.

Those cuts could suddenly prove politically unpalatable to Mr. Bush and Republican lawmakers, who are trying to rebuff criticism that the federal government shortchanged the hurricane's poorest victims.

Congressional Democrats are already using the hurricane as a reason to block Republican tax and spending plans.

"Democrats think this is the worst possible time to be cutting taxes for those at the very top and cutting the social safety net of those at the very bottom, and adding $35 billion," said Thomas S. Kahn, staff director for Democrats on the House Budget Committee.

Budget analysts said the magnitude and unique characteristics of the hurricane made it unlike any previous natural disaster, resulting in a variety of extraordinary costs:

¶Shelter for as many as a million people for months.

¶A potentially high share of uninsured property losses that stem from flooding, which is not covered by private insurers.

¶Education and health care for hundreds of thousands forced to live outside their home states.

"Katrina could easily become a milestone in the history of the federal budget," said Stanley Collender, a longtime budget analyst here. "Policies that never would have been considered before could now become standard."

Indeed, there were signs on Tuesday that Republicans and Democrats had already begun to compete with each other over who might be willing to spend more.

Senator Harry Reid of Nevada, the Senate Democratic leader, predicted on Tuesday that costs could total $150 billion. Top Republican lawmakers, meanwhile, have begun to call for "stimulus" measures to buck up the overall economy.

White House officials contend that costs attributable to the hurricane are separate from Mr. Bush's underlying budget goals, which include cutting the deficit in half over the next four years and permanently extending most of the tax cuts passed in 2001 and 2003.

Budget analysts also note that natural disasters are essentially one-time costs that do not affect the government's long-run fiscal health.

"We can afford $100 billion - one time," said Douglas Holtz-Eakin, director of the Congressional Budget Office. "What we cannot afford is $100 billion in additional spending year after year."

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The problem is that, even without the hurricane, the federal government's underlying fiscal health is in poor shape. In July, the White House predicted that surging tax revenues would reduce the deficit this year to $333 billion from $412 billion in 2004.

But many analysts believe that the tax surge was largely a one-time event and that overall government spending is still poised to climb rapidly as a result of the war in Iraq, the Medicare prescription drug benefit and the growing number of baby boomers who will soon reach retirement age.

Before the hurricane, House and Senate Republicans were preparing to work out $35 billion in spending cuts over the next five years that would trim Medicaid payments by $10 billion and make smaller cuts in student loan programs, farm programs, food stamps, housing and cash assistance to poor families.

Under the budget resolution that Congress passed this spring, Congressional committees are supposed to spell out the proposed cuts by Sept. 16. House and Senate leaders had been planning to pass the cuts within a week or so after that.

Bush Praises Americans' Aid To Hurricane Victims (WT)

By Joseph Curl

The Washington Times, September 7, 2005

President Bush yesterday urged Americans to continue to donate to private charitable organizations and faith-based groups in the aftermath of Hurricane Katrina.

"We've got people who represent thousands of volunteers who are in the midst of helping save lives," the president said as he praised charity leaders at the White House. "If you want to help, support the Red Cross or the Salvation Army or your church or the United Way."

Mr. Bush met in the White House with faith-based and community groups, including representatives from the African Methodist Episcopal Church, the Southern Baptist Convention, the Salvation Army, the American Red Cross, the United Way of America, the YMCA, Catholic Charities USA and several others.

Private donations to U.S. charities giving meals, water and shelter to victims of Hurricane Katrina had topped $300 million by Monday. The American Red Cross, which accounts for the bulk of private donations, said it had received $196.9 million so far, including roughly $85 million from corporate donors.

Still, more money is needed. American Red Cross spokeswoman Sarah Marchetti said her group did not have a specific target figure for donations, but that she knew the relief efforts would cost far more than the $130 million spent after the four hurricanes that hit the United States last year.

Mr. Bush has appointed his father, former President George Bush, and former President Bill Clinton to lead fundraising efforts in the United States, as they did for the Dec. 26, 2004, tsunami in Asia.

Radio and television stations across the country have set a goal of raising at least $100 million, and the National Association of Broadcasters has designated Friday as a day for stations to hold telethons and other fundraising events.

During brief comments after his White House meeting, Mr. Bush took issue with the use of the word "refugees" to describe those displaced from New Orleans.

"There's a debate here about refugees. Let me tell you my attitude and the attitude of people around this table: The people we're talking about are not refugees. They are Americans, and they need the help and love and compassion of our fellow citizens. And the people at this table are providing that help and compassion and love," the president said.

Mr. Bush also assured Americans that displaced people will continue to receive their Social Security checks, their veteran's benefits checks and unemployment checks.

The Rev. Larry Snyder, president of Catholic Charities USA, which consists of more than 1,300 local agencies and institutions nationwide, was among those at the White House.

"Catholic Charities USA is firmly committed to helping people rebuild their lives," Mr. Snyder said.

Mr. Bush assured the religious leaders that their efforts are having an effect.

"Out of the darkness will come some light," he said.

Bush Taps Cheney To Assess Recovery Effort (LAT)

By James Gerstenzang And Mary Curtius

The Los Angeles Times, September 7, 2005

WASHINGTON — President Bush said today he was dispatching Vice President Dick Cheney to the region to assess the recovery efforts after Hurricane Katrina struck the Gulf Coast, amid growing unhappiness in Congress with the government's response.

The Senate Government Affairs Committee announced it would begin an investigation of the government's performance, and Bush said he, too, would look into his administration's response to the storm and the disaster that followed.

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The president made the announcement at the end of a Cabinet meeting at which department heads reported on their agencies' work in the week since the storm.

Pledging to press ahead with the effort to meet the demands posed by the catastrophe, the president said: "This administration is not going to rest until every life can be saved, until families are reconnected, until this recovery is complete."

The meeting was the first of several the president has scheduled for today, after running into sharp criticism throughout last week that his administration had been slow to recognize the scope of the disaster and to begin federal assistance to the stricken Gulf Coast.

Later in the morning he met with representatives of national voluntary organizations for what his spokesman, Scott McClellan, presented as a report on what charitable organizations were doing in the region.

Bush also called congressional leaders to the White House for their first meeting since Hurricane Katrina hit the Gulf Coast on Aug. 29 and rampaged through more than four Southern states.

The death toll is estimated at perhaps 10,000 and the cost of the damage is put at more than $25 billion in insurance claims alone, with tens of billions more to rebuild.

"Government at all levels failed," Sen. Susan Collins (R-Maine) said at a Capitol news conference, where she announced that the Senate Governmental Affairs Committee would hold hearings.

"It is difficult to understand the lack of preparedness and the ineffective initial response to a disaster that had been predicted for years, and for which specific, dire warnings had been given for days," she said.

Sen. Joseph I. Lieberman of Connecticut, the senior Democrat on the committee, said "governmental failures in preparing for, and responding to, Hurricane Katrina allowed much more human suffering and property destruction to occur than should have."

He said the storm was "the most significant test of our national emergency preparedness and response system" since the attacks of Sept. 11, 2001. The system, he said, "obviously did not pass the test."

On Monday, during his second trip to the region in a week, Bush heard one of the storm's victims complain about the use of the term "refugees." At the end of the meeting in the White House Roosevelt Room, Bush addressed that issue.

"Let me tell you my attitude and the attitude of people around this table: The people we're talking about are not refugees. They are Americans, and they need the help and love and compassion of our fellow citizens.

He also promised, as he did during the Cabinet meeting, that Social Security checks and other government benefit payments would be dispatched.

At the Cabinet meeting, Bush said that the vice president's mission would be to determine whether the government was meeting its most pressing goals, including searching for victims, restoring essential services, draining the flooded region, removing debris, and protecting health and safety.

He also said Cheney would focus on whether bureaucratic obstacles were interfering with the delivery of aid.

"Bureaucracy is not going to stand in the way of getting the job done for the people," the president said.

Over the weekend, would-be rescuers working for state and local agencies, and others, lambasted the Federal Emergency Management Agency for imposing bureaucratic roadblocks to their work.

Bush and McClellan refused to respond directly to questions about whether any senior officials would be fired as a result of their performance.

The president said he intended "to lead an investigation to find out what went right and what went wrong."

"We want to make sure that we can respond properly if there's a WMD attack or another major storm," Bush said.

The focus of any investigation becomes a contentious issue.

Urging the Senate committee to keep the focus on what needed to be done in the immediate aftermath of the storm, Sen. Trent Lott (R-Miss.) said he asked Collins to "please don't have a hearing tying up people who need to make decisions."

The top priority, he said, should not be affixing blame, but on figuring out "how to fix things fast."

Some Democrats called for the formation of a commission similar to the independent panel that studied the Sept. 11 attacks to determine whether there had been an intelligence failure and to look at the government's response.

Some Republicans, including Sen. John McCain of Arizona, who pushed for creation of the 9/11 commission, said a similar inquiry may yet be required. But McCain and others said they first wanted to see Congress exercise its oversight role.

However, House Majority Leader Tom DeLay (R-Texas) said no such commission was necessary. DeLay said he hoped that Congress would mount its own bipartisan, bicameral investigation into what went wrong. But he said the immediate focus should be on what needs to be done to aid victims.

DeLay said the House was likely to pass a second aid bill before week's end that would try to cut through bureaucratic red tape and get unemployment benefits to evacuees. The Congress passed, and Bush signed, a $10.5 billion aid bill last week.

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DeLay refused to say how much additional funding might be included for hurricane relief. He accused Senate Minority Leader Harry Reid (D-Nev.) of "playing politics" by putting out a statement estimating that "an initial investment of $150 billion will be needed" for immediate relief efforts. DeLay said no one knows how much money would be needed.

'Rays Of Light' In New Orleans (USAT)

By William M. Welch

USA Today, September 7, 2005

The draining of New Orleans quickened Tuesday as huge pumps made headway in lowering floodwaters in a city that braced for how many victims of Hurricane Katrina the dropping waterline may reveal.

Meanwhile, President Bush was readying a request for as much as $50 billion for the Gulf Coast region, which equals $625 for every household in America. And he announced plans to look into the government response.

"What I intend to do is lead an investigation to find out what went right and what went wrong," he said.

Already, a $10.5 billion check approved last week is "being used at an increasingly rapid pace," said Scott Milburn, an Office of Management and Budget spokesman. "We're readying a second installment now."

Senate Democratic Minority Leader Harry Reid said after Bush met with congressional leaders that the president planned to ask for $50 billion more.

Relief and recovery needs will be the "No. 1 priority for the foreseeable future," said House Majority Leader Tom DeLay of Texas.

A USA TODAY poll of 609 people Tuesday asked who was to blame the most for problems after the hurricane. Twenty-five percent said state and local officials; 18% said the federal government, 13% blamed Bush. But the majority, 38%, said no one is to blame.

In New Orleans, major flood wall breaks were at last plugged with rocks and sandbags. The Army Corps of Engineers reported its pumping efforts had reduced the scope of flooding to 60% of the low-lying city, down from 80% at the high-water mark. Mayor Ray Nagin said it offered the first "rays of light" for a city that overnight turned from tourist attraction to disaster site. But he was worried about the human toll.

"It's going to be awful, and it's going to wake the nation up again," said Nagin, renewing warnings that the bodies of thousands of victims of the flooding left by Katrina could soon surface.

The Pentagon beefed up its presence, dispatching 4,000 paratroopers from the 82nd Airborne Division to finish evacuating the city. Gen. Richard Myers, chairman of the Joint Chiefs of Staff, said "in most cases" the military had contributed the troops needed to help with the recovery effort.

The military was returning from Iraq about 2,800 members of a Louisiana combat brigade a month ahead of schedule, and some Mississippi National Guard members were also being sent home early.

The death count grew slowly. The number of confirmed dead was 294, including 83 in Louisiana and 196 in Mississippi. Effort intensified to reunite thousands of survivors with their loved ones. That is being led by groups such as the American Red Cross, television networks and Internet bulletin boards.

Sniper fire and looting have declined dramatically since the arrival days ago of National Guard troops, police Lt. Troy Savage said. But big fires hampered search-and-rescue efforts, including fires at antebellum homes in the fashionable Garden District.

Bush Will Rebound From Katrina Missteps (HILL)

By Dick Morris

The Hill, September 7, 2005

Normally, disasters such as floods, hurricanes, tornadoes and such are chances for the president to gain popularity and for his administration to shine. It was the unique and inexplicable inability of the Bush people to understand the magnitude of what they confronted and to respond to it quickly that managed to transform this chance for a big political gain into a monstrous liability.

Americans will want to know why the trucks didn't start rolling when the winds started blowing. And when they quieted, where were the airlifts and evacuations that could have fed and watered thousands and prevented many deaths and much psychic and physical harm?

But make no mistake about it: Every day for the next year, voters will see nonstop scenes of federal relief, rebuilding, renovation and reconstruction along with the empathy, sympathy and compassion these efforts imply in the heart of George W. Bush. He may have had a terrible first week, but he will rebound big time in the months to come.

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The aid an administration gives in the aftermath of a momentous disaster will be covered continuously by the media. Every relief convoy will get a wide slice of publicity. As the pumps run and the city and the gulf region drain, the nation will feel a surge of heady optimism at our ability to bounce back from disaster. Happy visuals will replace tragic ones, and interviews with homeowners joyously moving back in will run instead of the tearful stories of refugees.

After Sept. 11, Bush was heavily criticized too. Remember the slowly ticking minutes in Michael Moore's film "Fahrenheit 9/11" during which Bush continued to read to a class of children even after hearing about the Trade Center attack? (Bush was absolutely right not to bolt from the room and traumatize the kids and the nation even more.) It was not until his bullhorn speech several days later that the president got ahead of the story. Soon his response to Sept. 11 was the mainstay of his popularity and of his claim for a second term on the job.

The recovery from Katrina may well follow a similar trajectory. While the air in Washington will be filled with recriminations about why the levee wasn't reinforced and why the aid was so slow in coming after the storm hit, the airwaves around the nation will be filled with evidence of the administration's response, just as they were in the months after Sept. 11.

All this is not to take away from our justifiable anger at the human pain, loss of life and needless suffering that FEMA's inability to get off the dime fast caused. To watch those pictures of Americans crowded into what was increasingly called the Sewerdome is to simmer in rage at the dunderheads in Washington who stood on ceremony, budgetary considerations, bureaucratic constraints and chain of command rather than rushing to help those in need before a weather disaster became a human one.

It is also not to take away from the need for a thorough examination, preferably through a Sept. 11-style commission, of why the levee was not strengthened after the warnings of Hurricane Ivan a year before and of why relief was so slow in coming.

But let the Democrats hold their rejoicing. In a year, Katrina and the relief and rebuilding efforts that are about to follow will be seen as having imparted a new and crucial momentum to an administration that was obviously increasingly running out of ideas, out of steam, and — like its nation — out of gas.

Katrina has the capacity to shape the second Bush term in the same way Sept. 11 shaped his first term — not only in rebuilding New Orleans but in taking preventative steps around the nation to bolster our defenses against natural and manmade disasters and terror strikes. Responding to disasters is a source of presidential strength and popularity, and Bush is about to show how it is done.

Morris is the author of Rewriting History, a rebuttal of Sen. Hillary Rodham Clinton's (D-N.Y.) memoir, Living History.

A Swamped Nation-builder (LAT)

The Los Angeles Times, September 7, 2005

NOW WE KNOW HE'S SERIOUS: President Bush has taken the most important issue facing his administration, the Katrina relief mission, and kicked it upstairs to the vice president's office. Bush announced Tuesday that he is deploying Dick Cheney to the Gulf Coast region on Thursday, and Cheney will join the thousands of troops who have poured in to impose order on the relief effort. After its initial halting response, the federal government is bringing the full force of its power to bear on the crisis. The Coast Guard, FEMA, the National Guard, active military units and even the Border Patrol have been coordinating the rescue of tens of thousands of Gulf Coast residents. The evacuation of survivors has become far more orderly. On Tuesday, the Army Corps of Engineers plugged one of New Orleans' broken levees, and pumping water out of the city quickened.

Still, the overriding fact on the ground — both in Washington and along the Gulf — is this: Too many people died needlessly because their governments were too concerned about the threat of terrorism to pay attention to the threat posed by Mother Nature.

There will be plenty of time for politicians to play the blame game and to embrace facile, inside-the-Beltway solutions to the botched rescue. (A Cabinet seat for FEMA! Repeal the Posse Comitatus Act!) And some of the investigations now being called for — the president himself has graciously offered to lead one of them — may yield some useful information.

But the human tragedy will haunt the remainder of the Bush presidency. Bush was dismissive of nation-building in 2000; now his presidency will be judged largely by his performance as a nation-builder — both in Iraq and at home.

Setting aside the government's overall performance, the president himself, already reeling from extraordinarily low approval ratings, has not been sure-footed in responding to Katrina. He embarrassed himself on TV last Thursday when he said that he didn't think "anybody anticipated the breach of the levees." On Tuesday, sounding more like someone who'd just wandered into the Oval Office than like the commander in chief who saw us through 9/11, Bush said: "It's very important for us to understand the relationship between the federal government, the state government and the local government when it comes to a major catastrophe."

Get it together, Mr. President.

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A CEO's Weaknesses (WP)

By David Ignatius

The Washington Post, September 7, 2005

There were two levee breaks last week: The natural disaster of Katrina ravaged New Orleans and left behind thousands of victims, but there was also a political catastrophe that breached the Bush administration's containment walls and exposed fundamental weaknesses in how this White House makes decisions.

The political damage may be harder to repair than the flooded infrastructure. The management flaws that have been so obvious over the past week go to the heart of how President Bush runs the government.

Early in his first term, it was popular to speak of how this Harvard Business School graduate was operating an "MBA Presidency." He insisted that everyone be on time to meetings; he wanted his aides to be properly dressed; he favored delegation of power, crisp meetings, early bedtimes. But these chief executive officer habits disguised a deeper reality: that Bush's management style was often haphazard and reactive. Like Isaiah Berlin's famous hedgehog, he came to focus on one big thing -- the war against terrorism -- and let many lesser things slide. Loyalty counted for more for this CEO than performance -- an attitude that is deadly in managing any enterprise.

The most pointed criticism of Bush's management I've read over the past week comes from the conservative columnist William Kristol. "Almost every Republican I have spoken with is disappointed" by the administration's response to Katrina, Kristol told The Post's Jim VandeHei. "He is a strong president . . . but he has never really focused on the importance of good execution. I think that is true in many parts of his presidency."

The part of this administration I know best is foreign policy. While I respect some of Bush's decisions, I see an underlying weakness in decision making that is very similar to the post-Katrina fiasco. This White House doesn't move effectively to fix broken bureaucracies, such as the Central Intelligence Agency or the Department of Homeland Security; it doesn't use interagency meetings to force clear decisions and then implement them, as has been clear in continuing policy confusion on Iraq, North Korea and Iran; and it doesn't mobilize the government well to deal with crisis warnings, as the Sept. 11 commission reported.

What accounts for this management failure? Experts cite a number of factors. First, this White House lacks a strong, substantive chief of staff who could act as a kind of deputy president, riding herd on the Cabinet agencies. Bush's chief, Andrew Card, is good at organizing the president's schedule, but he hasn't played the broader, make-the-trains-run role of many of his predecessors. Another problem is Bush's own style: As a key adviser once told me, this president isn't interested in hitting singles and doubles; he wants home runs. This approach almost guarantees that the administration won't do well at crisis prevention -- which succeeds best when nothing dramatic happens at all, thanks to good planning.

Even on the issues Bush has identified as his priorities, there has been a surprising reactive quality. Take the war on terrorism: The two bureaucracies that are crucial for protecting Americans -- the Department of Homeland Security and the intelligence community -- have been in obvious disarray over the past two years. Yet Bush has not seized the initiative in either case and has let others set the agenda for reorganization. The disorientation today at those two mission-critical bureaucracies is genuinely dangerous for the country.

Iraq, too, has been a policy disconnect. The president insists (admirably, in my view) that America must stay the course, but as the situation there has deteriorated, he has failed to explain clearly what that course is. That's not a new problem: From the beginning, the administration has had difficulty framing a single Iraq strategy and mobilizing all the resources necessary for it to succeed. There hasn't been one Iraq policy but several competing versions.

Managing the government isn't as glamorous as politics, and on the political side it must be said that Bush has been very skillful. His top political adviser, Karl Rove, is one of the most gifted, if also ruthless, people ever to play that role. And this White House is good at reaction and damage control -- at mobilizing the apparatus of government after initial mistakes, as we're finally seeing on the Gulf Coast.

What this White House needs most is the tonic of honest accountability, as illustrated by an anecdote from presidential scholar Fred Greenstein. He recalls a moment in the 1950s when an aide walked out of the Oval Office, congratulating himself for telling President Dwight D. Eisenhower "what he wanted to hear." Ike's national security adviser, Gen. Andrew Goodpaster, overheard the aide and angrily sent him back to tell the president the truth, no matter how unpleasant.

The 'Stuff Happens' Presidency (WP)

By Harold Meyerson

The Washington Post, September 7, 2005

We're not number one. We're not even close.

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By which measures, precisely, do we lead the world? Caring for our countrymen? You jest. A first-class physical infrastructure? Tell that to New Orleans. Throwing so much money at the rich that we've got nothing left over to promote the general welfare? Now you're talking.

The problem goes beyond the fact that we can't count on our government to be there for us in catastrophes. It's that a can't-do spirit, a shouldn't-do spirit, guides the men who run the nation. Consider the congressional testimony of Joe Allbaugh, George W. Bush's 2000 campaign manager, who assumed the top position at FEMA in 2001. He characterized the organization as "an oversized entitlement program," and counseled states and cities to rely instead on "faith-based organizations . . . like the Salvation Army and the Mennonite Disaster Service."

Is it any surprise, then, that the administration's response to the devastation in New Orleans is of a piece with its response to the sacking of Baghdad once our troops arrived? "Stuff happens" was the way Don Rumsfeld described the destruction of Baghdad's hospitals, universities and museums while American soldiers stood around. Now stuff has happened in New Orleans, too, even as FEMA was turning away offers of assistance. This is the stuff-happens administration. And it's willing, apparently, to sacrifice any claim America may have to national greatness rather than inconvenience the rich by taxing them to build a more secure nation.

As a matter of social policy, the catastrophic lack of response in New Orleans is exceptional only in its scale and immediacy. When it comes to caring for our fellow countrymen, we all know that America has never ranked very high. We are, of course, the only democracy in the developed world that doesn't offer health care to its citizens as a matter of right. We rank 34th among nations in infant mortality rates, behind such rival superpowers as Cyprus, Andorra and Brunei.

But these are chronic conditions, and even many of us who argue for universal health coverage have grown inured to that distinctly American indifference to the common good, to our radical lack of solidarity with our fellow citizens. Besides, the poor generally have the decency to die discreetly, and discretely -- not conspicuously, not in droves. Come rain or come shine, we leave millions of beleaguered Americans to fend for themselves on a daily basis. It's just a lot more noticeable in a horrific rain, and when the ordinary lack of access to medical care is augmented by an extraordinary lack of access to emergency services.

Even if we'll never win the national-greatness sweepstakes for solidarity, though, we've long been the model of the world in matters infrastructural, in roads, bridges and dams and the like. But the America in which Eisenhower the Good decreed the construction of the interstate highway system now seems a far-off land in which even conservatives believed in public expenditures for the public good. The radical-capitalist conservatives of the past quarter-century not only haven't supported the public expenditures, they don't even believe there is such a thing as the public good. Let the Dutch build their dikes through some socialistic scheme of taxing and spending; that isn't the American way. Here, the business of government is to let the private sector create wealth -- even if that wealth doesn't circulate where it's most needed. So George W. Bush threw trillions of dollars in tax cuts to the wealthiest Americans, and what did they do with it? Did the Walton family up in Bentonville raise the levees in New Orleans? Did the Bass family over in Texas write a tax-deductible check to the Mennonites for the billions of dollars they would need to rescue the elderly from inundated nursing homes?

Even now, with bedraggled rescuers pulling decomposed bodies from the muck of New Orleans, Bill Frist, the moral cretin who runs the U.S. Senate, wanted its first order of business this week to be the permanent repeal of the estate tax, until the public outcry persuaded him to change course. The Republicans profess belief in trickle-down, but what they've given us is the Flood.

The world looks on in stunned amazement, unable to understand how a once great nation has grown so indifferent not just to its poor and its blacks but even to the most rudimentary self-preservation. Some of it is institutional racism, but the primary culprit is the economic libertarianism that the president still espouses whenever he sells his Social Security snake oil. It's that libertarianism, more than anything else, that has transformed a great city into an immense morgue.

But, hey -- stuff happens.

Osama And Katrina (NYT)

By Thomas L. Friedman

The New York Times, September 7, 2005

On the day after 9/11, I was in Jerusalem and was interviewed by Israeli TV. The reporter asked me, "Do you think the Bush administration is up to responding to this attack?" As best I can recall, I answered: "Absolutely. One thing I can assure you about these guys is that they know how to pull the trigger."

It was just a gut reaction that George Bush and Dick Cheney were the right guys to deal with Osama. I was not alone in that feeling, and as a result, Mr. Bush got a mandate, almost a blank check, to rule from 9/11 that he never really earned at the polls. Unfortunately, he used that mandate not simply to confront the terrorists but to take a radically uncompassionate

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conservative agenda - on taxes, stem cells, the environment and foreign treaties - that was going nowhere before 9/11, and drive it into a post-9/11 world. In that sense, 9/11 distorted our politics and society.

Well, if 9/11 is one bookend of the Bush administration, Katrina may be the other. If 9/11 put the wind at President Bush's back, Katrina's put the wind in his face. If the Bush-Cheney team seemed to be the right guys to deal with Osama, they seem exactly the wrong guys to deal with Katrina - and all the rot and misplaced priorities it's exposed here at home.

These are people so much better at inflicting pain than feeling it, so much better at taking things apart than putting them together, so much better at defending "intelligent design" as a theology than practicing it as a policy.

For instance, it's unavoidably obvious that we need a real policy of energy conservation. But President Bush can barely choke out the word "conservation." And can you imagine Mr. Cheney, who has already denounced conservation as a "personal virtue" irrelevant to national policy, now leading such a campaign or confronting oil companies for price gouging?

And then there are the president's standard lines: "It's not the government's money; it's your money," and, "One of the last things that we need to do to this economy is to take money out of your pocket and fuel government." Maybe Mr. Bush will now also tell us: "It's not the government's hurricane - it's your hurricane."

An administration whose tax policy has been dominated by the toweringly selfish Grover Norquist - who has been quoted as saying: "I don't want to abolish government. I simply want to reduce it to the size where I can drag it into the bathroom and drown it in the bathtub" - doesn't have the instincts for this moment. Mr. Norquist is the only person about whom I would say this: I hope he owns property around the New Orleans levee that was never properly finished because of a lack of tax dollars. I hope his basement got flooded. And I hope that he was busy drowning government in his bathtub when the levee broke and that he had to wait for a U.S. Army helicopter to get out of town.

The Bush team has engaged in a tax giveaway since 9/11 that has had one underlying assumption: There will never be another rainy day. Just spend money. You knew that sooner or later there would be a rainy day, but Karl Rove has assumed it wouldn't happen on Mr. Bush's watch - that someone else would have to clean it up. Well, it did happen on his watch.

Besides ripping away the roofs of New Orleans, Katrina ripped away the argument that we can cut taxes, properly educate our kids, compete with India and China, succeed in Iraq, keep improving the U.S. infrastructure, and take care of a catastrophic emergency - without putting ourselves totally into the debt of Beijing.

So many of the things the Bush team has ignored or distorted under the guise of fighting Osama were exposed by Katrina: its refusal to impose a gasoline tax after 9/11, which would have begun to shift our economy much sooner to more fuel-efficient cars, helped raise money for a rainy day and eased our dependence on the world's worst regimes for energy; its refusal to develop some form of national health care to cover the 40 million uninsured; and its insistence on cutting more taxes, even when that has contributed to incomplete levees and too small an Army to deal with Katrina, Osama and Saddam at the same time.

As my Democratic entrepreneur friend Joel Hyatt once remarked, the Bush team's philosophy since 9/11 has been: "We're at war. Let's party."

Well, the party is over. If Mr. Bush learns the lessons of Katrina, he has a chance to replace his 9/11 mandate with something new and relevant. If that happens, Katrina will have destroyed New Orleans, but helped to restore America. If Mr. Bush goes back to his politics as usual, he'll be thwarted at every turn. Katrina will have destroyed a city and a presidency.

Haunted By Hesitation (NYT)

By Maureen Dowd

The New York Times, September 7, 2005

WASHINGTON

It took a while, but the president finally figured out a response to the destruction of New Orleans.

Later this week (no point rushing things) W. is dispatching Dick Cheney to the rancid lake that was a romantic city. The vice president has at long last lumbered back from a Wyoming vacation, and, reportedly, from shopping for a $2.9 million waterfront estate in St. Michael's, a retreat in the Chesapeake Bay where Rummy has a weekend home, where "Wedding Crashers" was filmed and where rich lobbyists hunt.

Maybe Mr. Cheney is going down to New Orleans to hunt looters. Or to make sure that Halliburton's lucrative contract to rebuild the city is watertight. Or maybe, since former Senator John Breaux of Louisiana described the shattered parish as "Baghdad under water," the vice president plans to take his pal Ahmad Chalabi along for a consultation on destroying minority rights.

The water that breached the New Orleans levees and left a million people homeless and jobless has also breached the White House defenses. Reality has come flooding in. Since 9/11, the Bush administration has been remarkably successful at blowing off "the reality-based community," as it derisively calls the press.

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But now, when W., Mr. Cheney, Laura, Rummy, Gen. Richard Myers, Michael Chertoff and the rest of the gang tell us everything's under control, our cities are safe, stay the course - who believes them?

This time we can actually see the bodies.

As the water recedes, more and more decaying bodies will testify to the callous and stumblebum administration response to Katrina's rout of 90,000 square miles of the South.

The Bush administration bungled the Iraq occupation, arrogantly throwing away State Department occupation plans and C.I.A. insurgency warnings. But the human toll of those mistakes has not been as viscerally evident because the White House pulled a curtain over the bodies: the president has avoided the funerals of soldiers, and the Pentagon has censored the coffins of the dead coming home and never acknowledges the number of Iraqi civilians killed.

But this time, the bodies of those who might have been saved between Monday and Friday, when the president failed to rush the necessary resources to a disaster that his own general describes as "biblical," or even send in the 82nd Airborne, are floating up in front of our eyes.

New Orleans's literary lore and tourist lure was its fascination with the dead and undead, its lavish annual Halloween party, its famous above-ground cemeteries, its love of vampires and voodoo and zombies. But now that the city is decimated, reeking with unnecessary death and destruction, the restless spirits of New Orleans will haunt the White House.

The administration's foreign policy is entirely constructed around American self-love - the idea that the U.S. is superior, that we are the model everyone looks up to, that everyone in the world wants what we have.

But when people around the world look at Iraq, they don't see freedom. They see chaos and sectarian hatred. And when they look at New Orleans, they see glaring incompetence and racial injustice, where the rich white people were saved and the poor black people were left to die hideous deaths. They see some conservatives blaming the poor for not saving themselves. So much for W.'s "culture of life."

The president won re-election because he said that the war in Iraq and the Homeland Security Department would make us safer. Hogwash.

W.'s 2004 convention was staged like "The Magnificent Seven" with the Republicans' swaggering tough guys - from Rudy Giuliani to Arnold Schwarzenegger to John McCain - riding in to save an embattled town.

These were the steely-eyed gunslingers we needed to protect us, they said, not those sissified girlie-men Democrats. But now it turns out that W. can't save the town, not even from hurricane damage that everyone has been predicting for years, much less from unpredictable terrorists.

His campaigns presented the arc of his life story as that of a man who stumbled around until he was 40, then found himself and developed a laserlike focus.

But now that the people of New Orleans need an ark, we have to question the president's arc. He's stumbling in Iraq and he's stumbling on Katrina.

Let's play the blame game: the man who benefited more than anyone in history from safety nets set up by family did not bother to provide one for those who lost their families.

Katrina's Global Lessons (WP)

By Jim Hoagland

The Washington Post, September 7, 2005

MOSCOW -- Hurricane Katrina has raked a vivid scar across America's image abroad -- and left its marks on President Bush's ambitious foreign policy agenda as well. Overcoming these setbacks will require a demonstration that the United States under Bush is not an irrevocably weakened and divided nation about to turn inward on its own problems.

The stories and images of lawlessness, refugees dying of deprivation or mayhem, and the desperation of befouled human sanctuaries in New Orleans have at times resembled dispatches from Darfur or Afghanistan. The initial shock abroad comes not from the sights of such human misery but from the fact that it occurred in the United States, which has always been quick both to help and to lecture those swept up in natural and man-made disasters in foreign lands.

The feet of clay of a nation that has regularly vaunted its standing as the world's only remaining superpower have been in plain view in recent days.

Here in the Russian capital and elsewhere abroad, the focus is shifting quickly to take in political consequences as well as relief efforts. European embassies in Washington are already reporting back to their capitals on how the disaster may further impair Bush's effectiveness as he slips toward lame-duck status. Diplomatic cables raise the key question of which America will emerge from this harrowing test of national resolve and compassion.

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Will post-Katrina America be humbler, more cooperative and more understanding of other nations' problems and failures? Or will the United States let its active engagement in the world's human and political crises become another casualty of Katrina's winds and floodwaters -- and of the political turmoil they have triggered?

"I look at this and cannot believe my eyes," Russian President Vladimir Putin said when I asked him Monday evening about Katrina's damage. "It tells us however strong and powerful we think we are, we are nothing in the eyes of nature and of God Almighty. . . . We are all vulnerable and must cooperate to help each other."

Putin reeled off details of the emergency aid that Russia has offered to airlift to Louisiana. But remarks by Putin and others at the annual Valdai conference, which brings together Europeans, Russians, Asians and Americans for discussions on Russia, seemed to reflect an expectation of a fairly quick return to the world stage by Bush, to whom Putin referred at one point simply as "George." The two leaders are due to meet in New York and then in Washington next week.

But the Russian will find that Bush has his hands full at home as he tries to cope with the angry complaints of residents of Louisiana and Mississippi who feel they have received little or no immediate help, while the victims of Asia's tsunami were lavishly aided and taxpayer money was flowing to Iraq.

The anger over their deplorable conditions and the incompetent reactions by federal and local authorities that contributed to those conditions is more than justified. And no one can doubt that there will be some lessening of U.S. capacity to alleviate suffering abroad when there is so much of it at home.

But the kind of deprivation and peril that Americans have witnessed in New Orleans in recent days is roughly what people in much of the Third World experience every day of their lives -- with no hope of a National Guard ever arriving, or an escape route being opened, unless there is significant outside help, especially from the United States.

Our own needs should not drive Americans farther away from other peoples in distress or cause us to abandon them to their own fate. To the contrary. This crisis -- like those in Darfur and elsewhere -- underlines the common humanity and the common destiny that all nations share.

Bush will go to New York next week to address the U.N. General Assembly, the symbol of "the international community" that his administration has regularly derided. This is the moment for the president to show the humility he once promised to bring to America's world leadership, but which he largely abandoned once in office.

For all its horror, Katrina could yet hold a political silver lining if the disaster reminds both Bush and his harshest critics that America's role in the world is not defined just by the personalities and policies of the current occupants of the White House. America is big enough in heart, resources and intelligence to recover at home and be active abroad -- if it shows national unity in the face of national disaster.

First Estimates On Katrina Costs For Washington Hit $200 Billion (WSJ)

By John D. McKinnon, David Rogers and Dionne Searcey

The Wall Street Journal, September 7, 2005

The federal government could spend as much as $150 billion to $200 billion caring for the victims of Hurricane Katrina and rebuilding from its devastation, according to early congressional estimates -- a total bill that would far surpass the initial costs of recovering from the 9/11 terror attacks and could put Katrina on track to become the most expensive natural disaster in American history.

The early estimates are rough, but they are so high that some in Congress already are talking of creating a new government entity simply to manage the costs, similar to the effort by then-Commerce Secretary Herbert Hoover after floods in the same regions in the 1920s. All told, the process of paying for relief and repair is likely to be a "three-to-four-year exercise," said Sen. Judd Gregg, the New Hampshire Republican who heads the Budget Committee.

Even as levee breaches were being repaired in New Orleans and oil spills and fires were posing new problems, a torrent of federal relief spending was under way. The Federal Emergency Management Agency is committing funds at a rate close to $1 billion to $2 billion a day, officials estimated.

President Bush meets with cabinet members and says, "This administration is not going to rest until every life can be saved." Plus, U.S. Labor Secretary Elaine Chao discusses the federal programs in place for Hurricane Katrina victims.

Lawmakers said the $10.5 billion already allocated to relief efforts in an emergency measure late last week was likely to be gone in a matter of days. As a result, they expect the White House to ask shortly for an additional $40 billion. That alone will drive the cost of Katrina to more than three times the federal cost of the four big hurricanes that struck Florida last year. Approval is virtually certain: Louisiana is a politically important swing state coveted by both Republicans and Democrats, and neither party will want to be seen as shortchanging the effort.

But that will be only a down payment on a federal tab that all now agree is going to reach more eye-popping levels. The width of the storm's impact adds to costs. Among other things, the federal aid will include not only immediate relief but also major

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payments under the national flood-insurance program, and new appropriations to subsidize small-business disaster loans. What makes this disaster's costs extraordinary, however, is the fact that so many people face such a lengthy displacement and will now need housing and individual income and health assistance under a government safety net that didn't exist when the famous floods of the 1920s hit the same region.

In many cases, such as Medicaid or welfare-related payments, states typically share in the costs. But the federal government will be asked to carry more of the burden, both because the affected states such as Louisiana have been so devastated financially, and because relief workers want to create the maximum flexibility to allow families to resettle around the country.

Senate Democratic Leader Harry Reid of Nevada was the first to go public, predicting a government commitment of $150 billion. Top Republicans bridled initially, saying any such estimates at this time translated into playing "political games."

But Mr. Gregg subsequently used an even higher $200 billion estimate, and defended Mr. Reid's figure. "I don't find that crazy at all," Mr. Gregg said. "That's a reasonable estimate from what we know so far."

Mr. Gregg said the requests for additional money will be coming regularly. "I think we'll be doing them every week or bi-weekly for a while," he said. "They are pulling down huge numbers right now."

The spending will surpass the federal costs of recovering from the Sept. 11 terrorist attacks on New York and Washington. After those attacks, the federal government allocated $20 billion to rebuild Lower Manhattan. Overall, the forecasting firm Economy.com estimates that Sept. 11-related aid by all levels of government totaled about $67.3 billion in current dollars.

Some of the ideas being discussed on Capitol Hill involved relief far beyond the disaster area. For example, Sen. Charles Grassley, the Iowa Republican, said he wants loan relief for farmers whose crops might not reach market on schedule due to disruption at the New Orleans port. Sen. Ted Stevens, the Alaska Republican, said he favors tax relief for airlines hit by higher fuel costs. Sen. Kay Bailey Hutchison, the Texas Republican, said she envisions broad-based aid to local governments for the added costs of schooling, housing and providing health care to evacuees, even temporarily. "There are many costs for the states like Texas that are taking these people in need in," she said.

Cecil Picard, Louisiana's superintendent of education, said he was hoping for federal help for some of the myriad issues schools will be facing as 187,000 students from storm-affected areas have been displaced. He wants federal money to make up the pay difference for teachers forced into substitute teaching jobs in outlying areas.

The large outlays overall will have many ripple effects. For one, Mr. Gregg said there is little question that the spending will drive up the 2006 deficit above the $333 billion forecast for the current fiscal year ending Sept. 30.

In addition, the sums now being discussed could add to anger over the fact that New Orleans, at least, wasn't better protected, and accelerate demands for investigations. In response to a question, President Bush said he himself would direct one probe.

"What I intend to do is lead...an investigation to find out what went right and what went wrong," Mr. Bush said yesterday at a cabinet meeting. He offered no further details. But signaling that federal officials probably would point to state and local officials as a source of the problems, the president added, "It's very important for us to understand the relationship between the federal government, the state government and the local government when it comes to a major catastrophe.... We still live in an unsettled world. We want to make sure that we can respond. "

As Washington grappled with the costs, developments in the hurricane-struck region illustrated the kinds of after-effects that will make recovery and rebuilding so expensive. Officials toting up the damage in New Orleans said the storm generated as much as 90 million tons of solid waste and rendered 140,000 to 160,000 homes unusable. Environmental workers are worrying about everything from radioactive waste to wood infested with the ravenous Formosan termites that infest many Southern states.

Clean-up was getting under way at two major oil spills that unleashed 78,000 barrels of oil; the larger spill was moving out to the Gulf of Mexico. Nearly all of Louisiana's 530 sewage treatment facilities in the storm-ravaged region were damaged, with some barely visible under the floodwater.

Fires were burning yesterday in several places -- one in a staging area for Mardi Gras floats and some where gas lines were broken. Contributing to the mess: flooded homes where pesticides or old batteries were stored; overturned cars and boats where gas is leaking; submerged rail cars possibly carrying hazardous materials; termite-infested wood; and numerous animal carcasses.

"Everywhere we look there's spills," said Mike McDaniel, secretary of the Louisiana State Department of Environmental Quality. "It all adds up to almost a solid sheen over the area right now, but we expect over time that will take care of itself."

There's nowhere for the contaminated floodwater in the city to go but into Lake Pontchartrain, he said, though that will create environmental problems down the road. "We have to get the water out of the city or the nightmare gets only worse," he said. "We'll have to deal with the issues in the lake. The priority is on saving lives."

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As a result, it could be years before drinking water is restored to everyone, he said: "It is almost unimaginable the things we're going to have to plan for and deal with."

The Army Corps of Engineers said yesterday that progress continued, albeit fitfully, on efforts to repair damaged levees and position pumps to drain floodwaters from New Orleans. Officials said about 60% of the city remains under water, and they stood by earlier estimates that it could take one to three months to complete the pumping.

In a conference call yesterday afternoon with reporters, the officials estimated that about 10 of roughly 40 pumping stations in the New Orleans vicinity are operating. One major pump located along Interstate 10 near the 17th Street Canal is running and is sending water into the canal, where it drains into Lake Pontchartrain. But a second pump, known as Pump Station Six, at the head of the canal near the lake, had to be shut down shortly after it was started Monday. It overheated because of trash in the water clogging it.

"Various pump stations are starting up," said engineer Walter Baumy. "It's a very small number but at least it's progress."

The New Orleans flooding was caused by what officials now describe as three "major" breaches, and several smaller ones, in the system of protective barriers protecting New Orleans and surrounding areas. As officials begin to gain access to heavily flooded areas south and southeast of the city, they are finding additional levee damage.

Administration officials said yesterday that the levees that failed were all completed projects. Despite complaints of cuts to the Army Corps of Engineers budget and charges that the cuts may have blocked projects to bolster the levees, no improvements to those facilities were in the pipeline, they said.

Aides to Mr. Reid, the Senate Democratic leader, said their overall estimate of $150 billion in federal relief costs included not just relief efforts, but about $50 billion of public works to rebuild the area's infrastructure. As the picture of the damage and costs came into clearer focus, some Republicans were talking of managing the outlays now needed by using an entity modeled after the Lower Manhattan Development Corp., created to help rebuild following the terrorist attacks of Sept. 11, 2001.

For his part, Mr. Gregg, the Budget Committee chairman, says his model of what should be the efforts by the future President Herbert Hoover, after floods in the same region in the 1920s. "You've got to have some central management entity that's on the ground, in the region, headed up by somebody of substance whom people respect," he said.

Mr. Gregg said Congress can still meet its commitment to wring some savings from federal benefit programs over five years as promised in a budget resolution passed last spring. Medicaid, the federal-state health-care program for the poor, is one of the areas targeted for multiyear savings. But he also said that in the short term, Washington may have to increase its commitment to maintain health coverage for families whose homes were destroyed by the storm and have been forced to relocate out of state.

Despite the looming bills, Mr. Gregg said he saw no reason to retreat on the level of tax cuts assumed in the budget. And Senate Finance Committee Chairman Charles Grassley, an Iowa Republican, said the greater impetus after Katrina is to do more to bring "additional tax policy into place to help investment."

Mr. Grassley was cautious about promising any added tax relief for airlines, which are being hurt badly by rising fuel costs in Katrina's wake, saying that a pending pension bill had already been shaped to help the industry by stretching out its payment obligations. But Senate Commerce Committee Chairman Ted Stevens, an Alaska Republican, said the finance panel should consider a suspension of federal fuel taxes for airlines.

Leaders Push To Make Sure Blacks Given Fair Share Of Rebuilding Jobs (USAT)

By Donna Leinwand And Melanie Eversley

USA Today, September 7, 2005

BATON ROUGE — After accusations that many New Orleans hurricane victims were not evacuated or rescued because they were black and poor, civil rights advocates Tuesday shifted their focus to making sure poor blacks aren't left out of the city's rebuilding.

Jesse Jackson, at the Louisiana state emergency center in Baton Rouge, said Hurricane Katrina is an opportunity for the federal government to lift a community out of poverty.

New Orleans' impoverished black residents “should be first in line to get the jobs to clean up their own neighborhoods,” he said.

Rep. Mel Watt, D-N.C., head of the Congressional Black Caucus, said the caucus would support any effort to make sure New Orleans residents were part of rebuilding.

Blacks make up 67% of New Orleans' population of about 450,000. A quarter of the city's blacks are considered poor. By federal standards, a family of four earning less than $19,307 a year is poor.

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Poverty rates in neighboring Gulf states Mississippi and Alabama, which also were hit by the hurricane, are higher than the national average of 13.1%. Mississippi is the USA's poorest state with 21.6% below the poverty line; Alabama is among the top 10 with 16.1% below poverty.

Many blacks in New Orleans were marooned for days after levees broke and the city flooded. Thousands were stranded in their homes or waiting in the Superdome and at the Ernest N. Morial Convention Center, where conditions deteriorated rapidly. There was a shortage of food, water and medicine.

Black leaders have been angry at the response.

"We cannot allow it to be said by history that the difference between those who lived and those who died in the great storm and flood of 2005 was nothing more than poverty, age or skin color," said Rep. Elijah E. Cummings, D-Md., past chairman of the Congressional Black Caucus, at a news conference last week.

At a concert fundraiser for victims, rapper Kanye West lashed out at the president: "George Bush doesn't care about black people."

Now that most stranded residents have been moved to shelters across the country, Jackson is calling for a Marshall Plan for the region, referring to the massive U.S. aid plan that helped rebuild Western Europe after World War II.

Jackson said evacuees should be kept close to home so that families are not separated. He's also advocating a moratorium on foreclosures for affected homeowners and business owners.

Jackson is urging that blacks from New Orleans be given temporary housing on Louisiana military bases rather than being dispersed to other states.

In-state resettlement increases chances they will get first crack at rebuilding jobs — and lessens the risk they'll wear out their welcome in cities outside Louisiana that have offered to take them in, Jackson said.

"Race and class is an issue when the land is dry," he said.

New Orleans resident Karl Spain, 26, a black day laborer who made it to Baton Rouge after a three-day odyssey, said he'd be first in line for a rebuilding job in his home city but would take work wherever he could find it.

Spain said he escaped the floodwaters in New Orleans by carrying his 11-month-old daughter through waist-high water. He and his family made it to a roadside and got a ride to Baton Rouge, where a church shelter took him in.

"Right now, we don't have nothing at all," Spain said. "We're just trying to survive."

New Orleans Mayor Orders Forced Evacuation (AJC/AP)

By Cain Burdeau, Associated Press Writer

The Atlanta Journal-Constitution, September 7, 2005

NEW ORLEANS — As flood waters receded inch by inch Tuesday, New Orleans Mayor C. Ray Nagin authorized law enforcement officers and the U.S. military to force the evacuation of all residents who refuse to heed orders to leave the dark, dangerous city.

Nagin's emergency declaration released late Tuesday targets those still in the city unless they have been designated by government officials as helping with the relief effort.

The move comes after some citizens bluntly told authorities who had come to deliver them from the flooded metropolis that they would not leave their homes and property. An estimated 10,000 residents are believed to still be in New Orleans, and some have been holed up in their homes for more than a week.

While acknowledging the emergency declaration, police Capt. Marlon Defillo said late Tuesday that forced removal of citizens had not yet begun. He said that officers who were visiting homes were still reminding people that police may not be able to rescue them if they stay.

"That would be a P.R. nightmare for us," Defillo said of any forced evacuations. "That's an absolute last resort."

Repeated telephone calls to Nagin's spokeswoman, Tami Frazier, seeking comment were not returned.

Meanwhile, engineers struggled to drain the saucer of a city of billions of gallons of water, a Herculean task that could take weeks — if they are lucky.

The Army Corps of Engineers said the timetable ranges from three weeks to nearly three months, depending on a string of variables, including rainfall, the still-unknown condition of the pumps abandoned to Hurricane Katrina, and whether the system can withstand the flotsam of broken buildings, trees, trash and corpses.

Work has also been impeded by sporadic gunfire coming from "criminals with guns," said Col. Richard Wagenaar, the Corps' chief district engineer.

The contractors are "getting used to it and that's pretty scary," Wagenaar said.

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Despite complications, "we have to get the water out of the city or the nightmare will continue," said Louisiana Environmental Secretary Mike McDaniel. He said the water will be pumped into Lake Pontchartrain even though it is fouled with sewage, heavy metals, gasoline and other dangerous substances.

The pumping began after the Corps used hundreds of sandbags and rocks over the Labor Day weekend to close a 200-foot gap in the 17th Street Canal levee that burst in the aftermath of the storm and swamped 80 percent of this below sea-level city.

Following an aerial tour Tuesday, Nagin said the water was dropping ever so slightly, and he estimated that it covered only 60 percent of the city.

"Even in areas where the water was as high as the rooftops, I started to see parts of the buildings," he said, adding, "I'm starting to see rays of light."

But he also warned of the horrors that could be revealed when the waters recede. "It's going to be awful and it's going to wake the nation up again," said Nagin, who a day earlier upped his estimate of the death toll in his city to as much as 10,000.

The job to rid the city of water got off to a woefully slow start.

Once all of the city's pumping stations are running, they can move water at a rate of 29 billion gallons a day and lower the water level a half-inch per hour, or about a foot per day. But by late Tuesday afternoon, Corps officials said only three of New Orleans' normal contingent of 148 drainage pumps were operating.

With the water dropping, military and police turned their attention to evacuating the streets. Among those refusing to leave was 69-year-old John Ebanks, who waved off would-be rescuers from a porch stocked with food, mosquito spray and other supplies.

"You've got to protect your property, that's the main thing," Ebanks said. "This is all I've got. I'm pretty damn old to start over."

In St. Bernard Parish, 38-year-old Dennis Rizzuto took a break from a Monopoly game with his family to emerge from the second-floor window of his home.

He said he had plenty of water, food to last a month and a generator powering his home. "They're going to have to drag me" out, Rizzuto said.

In a plea to holdouts who might be listening to portable radios in the powerless city, Nagin warned that the fetid water could carry disease and that natural gas was leaking all over town.

"This is not a safe environment," Nagin said. "I understand the spirit that's basically, `I don't want to abandon my city.' It's OK. Leave for a little while. Let us get you to a better place. Let us clean the city up."

To that end, the Pentagon began sending 5,000 paratroopers from the Army's storied 82nd Airborne Division to use small boats, including inflatable Zodiac craft, to launch a new search-and-rescue effort in flooded sections of the city.

Some National Guardsmen and helicopters were diverted from their search missions Tuesday to fight fires, an emerging threat in a city that is still at least a day and a half away from restoring the first running water since the storm.

A candle was blamed for starting one major blaze in the lower Garden District — a historic neighborhood of mostly wooden homes. The flames started in an abandoned brick building and spread to a neighboring apartment house. The blazes burned for hours before Chinook helicopters with water pouches were brought in to fight the blaze.

New Orleans Police Superintendent Eddie Compass said lawlessness in the city "has subsided tremendously," and officers warned that those caught looting in an area where the governor has declared an emergency can get up to 15 years in prison. About 124 prisoners filled a downtown jail set up at the city's train and bus terminal.

"We continue to get better day by day," Compass said.

The signs of hope came against increasingly angry rhetoric over the federal response as too little too late. In Washington, congressional leaders planned hearings into the aftermath of the storm.

"We need to rebuild the confidence of the American people ... in our government's ability to protect them from attack, whether it comes from nature or from terrorists," said Sen. Joseph Lieberman, D-Conn. "The government simply did not act quickly and effectively enough."

Jefferson Parish president Aaron Broussard was even more blunt.

"Bureaucracy has murdered people in the greater New Orleans area," he said on CBS' "Early Show." "Take whatever idiot they have at the top of whatever agency and give me a better idiot. Give me a caring idiot. Give me a sensitive idiot. Just don't give me the same idiot."

Five of the 13 sub-basins in New Orleans were still seriously flooded, and barges and crews were getting into place to fix levee breaches at two other spots — the London Avenue canal and the Industrial canal. The London Avenue canal is in the northwestern section of the city, the Industrial canal in the east.

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The Corps is concentrating on the London Avenue canal, where workers will spend at least two weeks filling a 45-foot hole with rocks and sandbags, Wagenaar said. Once that drainage canal is fixed, then more pumps can start running.

Before work can even begin on the Industrial canal two barges pushed onto a bridge by Katrina and a sunken barge need to be removed. The Coast Guard has said 110 barges, ships and boats sank or ran aground during the storm — 67 of them in the Mississippi River, and another 43 along the coast.

The levees were deliberately breached in some spots to let the water flow back out into Lake Pontchartrain, where the water level had dropped below that inside the city.

How long it takes to drain the city could depend on the condition of the pumps — especially whether they were submerged and damaged, the Corps said. Also, the water is full of debris, and while there are screens on the pumps, it may be necessary to stop and clean them from time to time.

"We're working every avenue to do whatever we can to get things back in order," said Walter Baumy, Corps manager for the project. "We're going to accomplish the mission of getting the water out of the city."

New Orleans Levees Patched, Army Starts Pumping Water (Update6) (BLOOM)

By Heather Burke

Bloomberg, September 7, 2005

Sept. 6 (Bloomberg) -- Engineers repaired a ruptured levee in New Orleans and began pumping water from the flooded city as workers intensified the search for survivors and those killed in the aftermath of Hurricane Katrina.

Rescuers are combing through in the areas hit hardest by Katrina ``to see if we missed anybody and to gather bodies missed previously," said Brigadier General Gary Jones of the Louisiana National Guard. Officials estimated that some 10,000 people still need rescuing in the city.

``We are starting to see some significant progress," New Orleans Mayor Ray Nagin said today in a televised news conference. ``The individuals we are pulling out are in pretty bad shape," Nagin said. ``Most of them are delirious, they're dehydrated."

Rescuers are confronted with a community awash in filth, as fires broke out around the city, including the historic Garden District. The water in New Orleans is fouled by pesticides, gasoline, metals and fecal waste, said Mike McDaniel, secretary of the Louisiana Department of Environmental Quality.

As many as 160,000 homes are submerged, McDaniel said. Oil leaking from underground fuel tanks, submerged vehicles and other equipment have made the area a vast toxic waste site, McDaniel said. ``It adds up to a solid sheen over the area," he said.

Thousands Presumed Dead

Thousands are presumed dead in what officials called the worst natural disaster in U.S. history. Katrina ripped into the north coast of the Gulf of Mexico on Aug. 29, breaching levees that protected New Orleans. About 80 percent of the city, which lies below sea level, was under water as deep as 20 feet. The storm left a $100 billion trail of destruction, according to Risk Management Solutions Inc., an insurance-industry consultant.

The hurricane may be the deadliest U.S. storm since one that swept through Galveston, Texas, in 1900, killing an estimated 8,000 to 12,000. The 1906 San Francisco earthquake and fire killed 5,000 to 6,000.

Louisiana has recorded 71 dead so far, said Bob Johannessen, a spokesman for the state Health and Hospitals Department. Mississippi officials estimate that 161 were killed in the state.

Temporary Morgue

Louisiana set up a temporary morgue in St. Gabriel Parish, about 50 miles north of New Orleans, which can hold about 1,000 bodies and can be expanded, Johannessen said.

The Federal Emergency Management Agency has allocated more than $2.87 billion in aid, including purchases of relief supplies, construction of camps and military evacuations, said spokesman David Passey.

As of 1 p.m. Washington time today, 32,000 people had been rescued and 182,000 people were housed in 559 shelters, the Department of Homeland Security said.

The department said 15,000 active-duty military, 43,000 National Guard members, 4,000 Coast Guard personnel and 7,000 FEMA responders were on the ground in the hurricane-stricken areas.

Two thousand people have been evacuated to hospitals, U.S. Health and Human Services Secretary Michael Leavitt said today.

While many people are being lifted by helicopter from damaged homes and off rooftops, some residents have refused to leave, doubting they'll be allowed back.

Coaxing People to Leave

Louisiana Governor Kathleen Blanco said state officials are bringing in chaplains and other people to persuade people to leave their homes.

``Some of them are in shock, they're scared," Blanco told reporters today.

About 356 U.S. Public Health Service workers and 340 disease trackers from the U.S. Centers for Disease Control and Prevention will be working in shelters, U.S. officials said in a press conference in Baton Rouge, Louisiana.

Health officials are investigating outbreaks of diarrhea at Texas shelters for people displaced by the storm, CDC Director Julie Gerberding said. They are also concerned about possible outbreaks of typhoid and respiratory diseases, she said.

Engineers are pumping water from the flooded areas of New Orleans back into Lake Pontchartrain after patching the levee at the city's 17th Street Canal yesterday, said Jason Binet, a civil engineer with the U.S. Army Corps of Engineers. Today, the repaired breach will be fortified with layers of stone and asphalt, Binet said.

About 60 percent of the city is still under water, Corps of Engineers officials said today at a press conference. They estimate it will take 24 to 80 days to drain the city.

Closing Ruptures

Two ruptures remain at the London Avenue Canal. Engineers are building a dike out of rocks at the head of canal to stop the water flowing, then will use steel sheets to fix the breaches, officials said.

Troops are using portable pumps to remove the water, Binet said. The permanent pumps need to be fixed because portable ones can't reach the city's center, he said. Some pump stations are under water, and their electrical machinery has to dry out, he said.

The city of almost 500,000 depends on pumps and levees to keep dry. The walls shield New Orleans from the Mississippi River to the south and the Lake Pontchartrain to the north.

Open the Port

The Port of New Orleans, the biggest U.S. port by tonnage handled, opened to Hurricane Katrina relief ships today and commercial shipments may resume in two weeks.

BellSouth Corp. is working to restore telephone lines as it also contends with 6,500 employees who live in the areas along the Gulf coast. The company has set up tent cities in Baton Rogue and Kenner, Louisiana, and Gulfport, Mississippi, to provide workers with food, beds, and a staging area for those working to restore lines.

About 810,000 lines in Mississippi, Louisiana and Alabama were knocked out, and 19 central offices were shut by the storm, Atlanta-based BellSouth said in a statement today. The company said it may have to pay as much as $600 million to fix its network.

About 946,000 people remained without power in the Gulf region today, according to figures released by Entergy Corp., Southern Co., Cleco Corp. and the Energy Department.

New Orleans began rotating police officers, firefighters and emergency-medical workers on five-day rest periods. About 315 firefighters from New York are in New Orleans, said Captain John Hellmers of the New Orleans Fire Department. The New Yorkers are manning 12 New Orleans fire trucks. Firefighters have handled eight fires in the city today, Hellmers said.

Failing to Report

The police department said as many as 500 of its 1,600 officers have failed to report for work. Many may be searching for family members after losing their homes, New Orleans Police Deputy Chief Warren Riley said during a televised press conference.

In Washington, lawmakers from both parties criticized the government, saying officials failed to send emergency aid fast enough. Senate Minority Leader Harry Reid joined Senator Hillary Clinton to ask President George W. Bush to create a special commission to investigate.

Bush said he will call for a probe into how the federal government responded to the disaster.

``We want to make sure we can respond properly," Bush said after a meeting with his Cabinet today at the White House. ``If things went wrong, we'll correct" them.

Help From Cheney

Bush said he will send Vice President Dick Cheney to the area later this week to ``help me determine" whether the government is meeting its goals in the search for survivors and in restoring public services.

The Senate will begin public hearings as early as next week into the ``failures of all levels of government" in the response to Hurricane Katrina, said Susan Collins, a Maine Republican and chairwoman of the Homeland Security and Government Affairs Committee.

The U.S. Federal Reserve should hold off on increasing interest rates later this month to allay any consumer doubts about the nation's economic health, said Senator Charles Grassley, an Iowa Republican and chairman of the Senate Finance Committee.

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``It would probably bring some confidence to people that are concerned about the overall economy and not hurt our fight against inflation," Grassley said.

Scenes of the city's devastation, played out on cable news channels, Web sites and in newspapers, led Americans to donate at least $500 million toward Katrina relief, according to the Chronicle of Philanthropy.

Days of Chaos

The first days following the storm were marred by chaos and lawlessness, as police focused on saving people. Military officials say crime is now under control. Curfews are in effect in several parishes, said Lieutenant Kevin Cowan of the Louisiana emergency preparedness office. Federal agents arrested a 20-year- old man for firing a handgun at a military rescue helicopter in New Orleans, said U.S. Attorney Jim Letten. The man was arraigned in Baton Rouge today, charged with the first federal crime related to Katrina, Letten said.

The storm ravaged energy production in the Gulf of Mexico, source of about a third of the oil consumed in the U.S. and about one-fifth of the natural gas.

Katrina shut 870,374 barrels of daily oil output, or 58 percent of normal Gulf production, according to a report from the U.S. Minerals Management Service in Washington. Daily oil output rose 173,307 barrels from yesterday.

The average U.S. pump price for regular gasoline fell to $3.041 a gallon today from a record $3.057 a gallon yesterday, according to the American Automobile Association. Prices range from $3.35 a gallon in Washington, D.C., to $2.74 in Louisiana, according to the AAA.

Storms Brewing

In the Atlantic Ocean, other storms are brewing. Hurricane Maria, with maximum sustained winds of about 100 mph (160 kph) was 545 miles (875 kilometers) east-northeast of Bermuda as of 11 a.m. New York time, the National Hurricane Center said. Maria, which was weakening, is forecast to remain at sea.

Tropical storm Nate was about 275 miles (440 km) south- southwest of Bermuda and showing little movement, the hurricane center said. It has top winds of about 60 mph.

Tropical-storm warnings were issued along Florida's eastern coast for yet another storm, as yet unnamed, that and may strengthen tomorrow, the hurricane center said. It was about 180 miles (290 km) southeast of Cape Canaveral, Florida, and likely to move slowly north-northwest, the center said.

Huge Pumps Start Draining Toxic Floodwater From City Runoff Flowing Into Pontchartrain May Threaten Lake's Health (USAT)

By Peter Eisler, Tom Kenworthy And Traci Watson

USA Today, September 7, 2005

Engineers fired up a few of New Orleans' giant pump stations Tuesday to drain flood water into Lake Pontchartrain, a task that will pour millions of gallons of toxic runoff into the lake in the coming weeks.

Officials from the Army Corps of Engineers said it should take from 24 to 80 days to drain the bowl-shaped city completely. They said about 60% of New Orleans remains under water, down from 80% that was submerged after flood walls around the city gave way last week in the wake of Hurricane Katrina.

“We're getting access to areas we could not get to, and that's going to help us greatly,” said Walter Baumy, chief engineer for the corps' New Orleans district. Crews have sealed off the biggest breaches in the city's flood walls. They started up four major pump stations and a few smaller ones — about a quarter of the 40 or so pumps. “It's not a large (pumping) capacity at this point … but at least it's progress.”

The corps still could not say how long it would be until the city is dry enough to allow people to return to their homes and begin reconstruction. There's simply too much water on the ground to do a credible damage assessment.

“We can't even get in there to have a chance to look at that and see the condition of the infrastructure,” said Al Naomi, another corps engineer.

New Orleans sits largely below sea level. The city is ringed by Lake Pontchartrain, the Mississippi River and the marshes of the Gulf of Mexico, so floodwater can't flow out on its own. A 350-mile system of levees and flood walls protects the city, but Katrina caused three major breaches and several smaller ones. The massive pumps that normally push rain and floodwaters out to the lake were overwhelmed.

Engineers from the corps and the state and local agencies that help maintain the levee and drainage systems now face an unprecedented challenge. Because the floodwaters are filled with debris, it's hard to predict how efficiently the pumps will be able to empty the city. Also, the water is filled with sewage overflows, petrochemicals from ruptured fuel tanks and other toxic wastes.

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So no one knows how much damage Lake Pontchartrain will suffer when millions of gallons of that fetid water are pumped into the lake.

State and federal environmental teams are assessing contamination levels. They will monitor water quality in the lake as the city is drained, said Donna Myers, chief of national water quality assessment at the U.S. Geological Survey (USGS). Until the results are in, she added, it's tough to gauge the impact. “It's a large volume of water, and there are many contaminant sources,” Myers said, and “we're not sure how this all moves together. We don't know if there are very high (contamination) levels.”

Myers and Jeff Williams, another USGS scientist, noted that the lake already is polluted. Still, it is a critical estuary that supports important fisheries and wildlife habitat. “Clearly, there is cause for concern” about the impact of the floodwaters, Williams said. “How much of a negative impact … we are not in a position to say.”

Harold Zeliger, a chemical toxicology consultant in Saratoga, N.Y., predicted “a huge environmental impact” and offered a “best-guess estimate” that it would take the lake three to five years to recover.

The more immediate concern was draining the city. To that end, the federal Environmental Protection Agency and its state counterpart have issued the corps temporary permits to immediately pump floodwater into Pontchartrain. Environmental groups, such as the local Sierra Club branch, said they did not object.

Engineers punched holes in several levees in parts of the city where flood levels were higher than the water in drainage canals leading to Pontchartrain. That allowed water to flow out of those neighborhoods; some saw floodwaters drop by 5 feet, Baumy said. Now, engineers are closing those holes and sealing off other canals where damaged flood walls allowed the lake's waters to flow into the city.

Engineers also are evaluating pumping stations. One major station, where a breached flood wall on the 17th Street Canal allowed flooding, was shut down due to debris, Baumy said. That pump and others are expected to be on line later this week.

The intentional breaches bring “a more dramatic and appreciable lowering of the water,” said Don Basham, the corps' construction chief. Now that water levels inside and outside the levees have equalized, the rest of the flooding will have to be pumped out, he added, so the drawdown from now on will be “less dramatic.”

Flooding Recedes In New Orleans; U.S. Inquiry Is Set (NYT)

By Jere Longman And Sewell Chan

The New York Times, September 7, 2005

NEW ORLEANS, Sept. 6 - The floodwaters began to drain fitfully from this crippled city on Tuesday as a handful of pumps came back into operation. But with growing concerns about gas leaks, fires, toxic water and diseases spread by mosquitoes, Mayor C. Ray Nagin said he wanted to ratchet up pressure on the estimated 5,000 to 10,000 remaining citizens to leave.

Mr. Nagin said he was reissuing a mandatory evacuation order and urged stragglers to leave immediately, saying he did not want possible explosions and disease to increase a death toll that, Lt. David Benelli, president of the Police Association of New Orleans, said could reach 2,000 to 20,000.

In Washington, President Bush promised an investigation into what went wrong in the response to Hurricane Katrina and planned to dispatch Vice President Dick Cheney to the Gulf Coast to cut through any bureaucratic obstacles slowing the recovery. [Page A17.]

The Senate and the House also announced their own investigation into the government's response, with Senator Susan Collins of Maine, a leading Republican, calling the response "woefully inadequate."

"If our system did such a poor job when there was no enemy," said Ms. Collins, chairwoman of the Homeland Security Committee, "how would the federal, state and local governments have coped with a terrorist attack that provided no advance warning and that was intent on causing as much death and destruction as possible?"

The committee is preparing for public hearings next week on response to the storm.

Officials said about 60 percent of New Orleans was still under water, but that was down from a peak of about 80 percent. Most of the gain came because the Army Corps of Engineers began opening gaps in the city's levees after the water level in surrounding bodies of water fell. The holes ensured that the levees - designed to keep water out of the below-sea-level city - would not hold it in.

Four of the approximately 40 pumping stations in the New Orleans area were running on Tuesday at least at partial capacity, officials said, but haltingly; a fifth giant one, at the 17th Street Canal, site of a major levee breach, started but had to be shut off again because the pumps sucked in debris.

Officials said it would take 24 days to pump the water from an eastern section of New Orleans and 80 days to clear the flooding from Chalmette, the nearby seat of St. Bernard Parish.

The receding waters were expected to reveal ever more bodies, to be identified by a team of forensic pathologists, medical examiners, coroners and morticians from local funeral homes.

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"We are going to take one deceased victim at a time and count one at a time," said Robert Johannessen, a spokesman for Louisiana's Department of Health and Hospitals. Of the process of identifying the bodies, Mr. Johannessen said, "It could take days, it could take years, it could take lifetimes."

The official death toll in Louisiana stood at 83, but state officials said the counting had only begun. In Mississippi, Gov. Haley Barbour announced Tuesday evening that the state's "unofficial but credible estimate" of the death toll was at 196, but that it was still rising. Mr. Barbour said that more than a quarter of the deaths had been reported in inland counties, not along the coast.

Evacuees continued to come back into Jefferson Parish to check on their homes, overwhelming roads and bridges. Interstate 10, which connects Baton Rouge and New Orleans, was backed up for about five miles.

Louisiana officials offered a first glimpse at the environmental wreckage. The state secretary of environmental quality, Michael D. McDaniel, said that wildlife habitats along hundreds of miles of coastline had been destroyed and that the hurricane exacerbated the slow coastal erosion that had already made the coast more vulnerable to hurricanes.

Mr. McDaniel said that there was no alternative to pumping billions of gallons of brackish water back into Lake Pontchartrain, but that it was too early to determine the harmfulness of the toxins and pollutants that were being slowly sifted out of New Orleans.

"I know there's been a lot of discussion about 'toxic soup' and 'witch's brew,' " he said. "I've seen no data to date that backs up that kind of statement. We do know and would expect that there are a lot of bacteriological contaminants in the water."

In New Orleans, four major fires had broken out by Tuesday morning and gas leaks were numerous, Mayor Nagin said.

"I don't want make any statement that suggests I'm giving up on New Orleans," he said at a news conference. "But it's a very volatile situation in the city right now. There's lots of oil on the water and there's gas leaks where it's bubbling up, and there's fire on top of that. If those two unite, God bless us. I don't know what's going to happen."

Mr. Nagin said in an interview that a new evacuation order would eliminate exemptions that had allowed people to stay in hotels and hospitals. Essentially, the city will be closed to everyone but law enforcement, military, and public safety and health officials while it is drained of water and utilities are restored. The 82nd Airborne Division closed a Hyatt hotel to civilians on Tuesday afternoon.

The new evacuation order has been drafted and will be issued shortly, Mr. Nagin said, even though Louisiana state officials question his authority to issue such a command. "I don't care, I'm doing it," he said. "We have to get people out."

That meant people were once again bound to the city's convention center, where 25,000 people or more had huddled in desperate conditions for days. At St. Charles and Louisiana Avenues, about two dozen people were patted down by federal customs officials and placed on a bus for the convention center, where they were to be airlifted out of town.

Told that some people were waiting as long as three hours at the convention center before being flown out, Mr. Nagin said that was a considerable improvement over the five days that it took some people to be evacuated last week.

Lucas Russ, 65, a retired school district employee, said, "It's getting nasty and really smelly," as he prepared to board a bus with a bag of his belongings.

Mr. Russ said that National Guard troops had told him he had to leave and that he would receive no more food and water. Guard officials denied that, and Mr. Nagin said that many evacuees were delirious, severely dehydrated, missing their medication and in need of immediate medical attention.

The mayor said that the National Guard had asked him whether handing out sustenance provisions would encourage people to stay, but that his response was, "Do not harm anyone, do not allow anyone to starve, do not allow anyone to go without water and always treat everyone with respect."

That left officials with the question of how to strongly encourage holdouts to leave. No one is being forced to leave yet, but officials said that could change.

"We may have to force people out to save their lives, if we get to that point," said P. Edwin Compass III, superintendent of police. "I'm using this as a tactic to scare people into leaving."

Brig. Gen. Michael P. Fleming, an Army National Guard commander said of a forced evacuation: "It's a tough decision. Between the mayor and governor, if they decide that's what's to be done, the New Orleans Police Department, the state police and National Guard would be part of it. We would help them implement it if we're called on to do so."

With assistance from 4,000 National Guard troops and another 4,000 troops from the 82nd Airborne, New Orleans was now secure and "locked down," with looting reduced to minimal levels, said Warren J. Riley, the deputy superintendent of the New Orleans police.

Mr. Nagin said, "I think we're turning the corner."

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Still, parts of the city, like the Ninth Ward and New Orleans East, along with Chalmette in neighboring St. Bernard Parish, remain inundated, and it could take two months to get electricity fully restored to the hardest-hit areas, officials said. Police officers and firefighters have been inoculated against hepatitis, cholera, typhoid, tetanus and diphtheria.

The spine of St. Charles Avenue, with its broken canopy of oak trees and its streetcar tracks laced with downed power lines, provided a look at the successes and failures of New Orleans's recovery effort on Tuesday. Near St. Charles and Josephine Street, a fire consumed two city blocks, officials from the Oklahoma National Guard said.

At Lee Circle, Victor Mejia, 58, a janitor, stood in the shade and said he had no intention of leaving. "I live here," he said. "Where am I going to go?"

With attention turning to what had gone wrong, Mr. Nagin said he wanted an independent assessment of the missteps, saying he believed the matter was beyond the ability of politicians to solve. He blamed a lack of coordination, a rescue plan that was slow to be carried out and what he called a "two-step" danced by federal and state officials to determine who was in charge.

The mayor said he welcomed any effort to criticize his own handling of the crisis.

"My big question to anybody who's trying to shift the blame is, 'Where were you?' " Mr. Nagin said. "I was here. I know what happened. I walked among the people in the Superdome and in the convention center. I saw babies dying. I saw old people so tired, they said, 'Just let me lay down and die.' They can talk that, but bring it on. I'm ready for it."

No Photographing the Dead

NEW ORLEANS, Sept. 6 (Reuters) - The Federal Emergency Management Agency said on Tuesday that it did not want news photographers to take pictures of the dead as they were recovered in New Orleans.

FEMA rejected requests from journalists to accompany rescue boats.

An agency spokeswoman said that "the recovery of the victims is being treated with dignity and the utmost respect."

FEMA Director Faces His Own Storm Of Controversy (USAT)

By Jill Lawrence

USA Today, September 7, 2005

WASHINGTON — In his online résumé, Michael Brown touts his experience dealing with hurricanes and wildfires. He talks of being a state legislative committee director and an assistant city manager. He doesn't mention the decade he spent as chief rules enforcer for the Arabian Horse Association.

The horse job, which he left in 2000, is now fodder for critics who say Brown, head of the Federal Emergency Management Agency (FEMA), has botched the Katrina relief operation. Those critics include Republicans, Democrats and newspapers.

President Bush appointed a FEMA director who had “absolutely no credentials” for the job, House Minority Leader Nancy Pelosi, D-Calif., said Tuesday.

“The more one learns about him,” Republican commentator William Kristol said on Fox News Sunday, “one is surprised that he's in that job in the first place.”

Sen. Orrin Hatch, R-Utah, however, said FEMA had a disaster plan in place, but Louisiana leaders did not implement it. “Brown is getting a bad rap,” he said.

More not-so-bad news for Brown: Only 29% in a new USA TODAY/CNN/Gallup Poll said that any top federal officials handling relief efforts should be fired.

Brown, 50, an Oklahoma native, was active in Republican politics and ran unsuccessfully for Congress in 1988. He practiced law in Oklahoma and Colorado before taking the job with the horse association.

He came to the Bush administration through Joe Allbaugh, a college friend of Brown's who was Bush's chief of staff when he was Texas governor and his campaign manager in 2000.

Allbaugh became FEMA director in 2001, when Bush took office, and hired Brown as general counsel. Brown was promoted to deputy director and by 2003 had the top job, after Allbaugh left for the private sector.

Brown says he has led the federal government's response to more than 160 disasters and emergencies. He assured the public last week that “the full force of the U.S. government” was being brought to bear in “an unprecedented response” to the disaster.

On national TV Thursday, Bush called him “Brownie” and said he was doing “a heck of a job.” Brown himself was all over TV, four networks on Friday morning alone.

But his appearances were contentious. He said people were “getting the help they need” and called New Orleans security “pretty darn good,” contradicting reports and video from the scene. He was forced to explain why, despite extensive TV coverage, he didn't know that thousands of people were stranded without food or water at the New Orleans Convention Center.

“Every official at the Federal Emergency Management Agency should be fired, Director Michael Brown especially,” the New Orleans Times-Picayune newspaper said Sunday in an “open letter” to Bush.

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By then, Brown had vanished from sight, and his boss, Homeland Security Secretary Michael Chertoff, had become the face of the federal response. Homeland Security spokesman Russ Knocke said Brown briefs the media but otherwise is focused on his mission: “aiding those in need and getting about the reconstruction and rebuilding process.”

Bush and other leaders were non-committal Tuesday about Brown's future. Asked if he was going to fire anyone, Bush replied, “I'm going to find out over time what went right and what went wrong.”

Senate Majority Leader Bill Frist, R-Tenn., told NBC “it's too early to judge” whether Brown should go. Sen. Hillary Rodham Clinton, D-N.Y., said “there needs to be some accountability” for the federal failures, but “where it starts and who it should be, I will expect the administration to handle.”

Havidn Rodrguez, director of the Disaster Research Center at the University of Delaware, said FEMA lost autonomy, money, focus and direct access to the president when it was folded into the mammoth new Department of Homeland Security in 2003. “These are issues that go well beyond one person,” he said.

Clinton introduced a bill Tuesday that would separate FEMA from Homeland Security. It would also require FEMA directors to have emergency- management experience.

Michael DeWayne Brown: Facing Blame In A Disaster (NYT)

By Scott Shane

The New York Times, September 7, 2005

WASHINGTON, Sept. 6 - Speaking at a Florida university last year, Michael D. Brown, director of the Federal Emergency Management Agency, recalled his small-town Oklahoma upbringing and offered advice he said few graduation speakers would offer.

"Everything in life is not perfect," Mr. Brown said. "Expect to make those mistakes. Expect to fall down every now and then. And expect to occasionally fail at something."

Mr. Brown may be calling on those maxims himself today, in his second week as on-the-ground manager of the largest disaster response in American history. He has faced two simultaneous challenges - coordinating 14 federal agencies with state and local counterparts under grueling conditions, and fending off criticism from those who say that FEMA has failed and put the blame squarely on him.

By all accounts, it was not experience in managing disasters that brought Mr. Brown, 50, a lawyer from Oklahoma, to FEMA in 2001 as general counsel. It was his 30-year friendship with Joe M. Allbaugh, who managed President Bush's 2000 presidential campaign and became his first director of the emergency agency..

But when pressed yet again to give his qualifications at a news conference on Monday, Mr. Brown gave a practiced answer, running through his learning curve as general counsel, then deputy director and finally, since 2003, director of FEMA.

He has overseen the response to 164 presidentially declared disasters, he said, including California wildfires, a rash of tornadoes in the Midwest several years ago and the four Florida hurricanes last year. "So, yes," he said, "I've been through a few disasters in my life."

Mr. Brown's spokeswoman, Natalie Rule, added on Tuesday that he oversaw an agency with a lot of experience in disaster management. "What you need is what he is - a leader who can manage budget, personnel and policy."

Nonetheless, Mr. Brown has been a hands-on manager, trudging through each new scene of devastation dispensing aid and encouragement. Since Hurricane Katrina, he has been a constant presence on television, rattling off statistics on people rescued and meals delivered.

But he stunned several national television interviewers last week with the admission that he did not know about the 20,000 evacuees at the convention center in New Orleans until Thursday, 24 hours after it was featured in news reports.

Senator Mary L. Landrieu offered a devastating critique on Friday in Baton Rouge. "I have been telling him from the moment he arrived about the urgency of the situation," she said. "I just have to tell you that he had a difficult time understanding the enormity of the task before us."

Since then, the news for Mr. Brown has not gotten better. The Times-Picayune, Louisiana's largest newspaper, asked Mr. Bush in an open letter to clean house at FEMA, calling "especially" for the ouster of Mr. Brown. On Monday, Homeland Security Secretary Michael Chertoff placed the Coast Guard's chief of staff, Vice Admiral Thad W. Allen, in charge of the New Orleans relief effort, clearly a move to beef up management where the problems have been most severe. And on Tuesday, Senator Hillary Rodham Clinton, in calling for FEMA to be made a separate cabinet-level agency, said its director should have emergency management experience.

Mr. Brown's friends say they have cringed watching the criticism of a man they describe as compassionate and dedicated to difficult work.

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Mary Ann Karns, who worked as city attorney in Edmond, Okla., in the 1970's when Mr. Brown was her assistant, said, "He was interested in politics not for glory and not for power, but because he wanted to make things better for people."

Michael DeWayne Brown was born on Nov. 11, 1954 in Guymon, Okla. He and his wife, Tamara, have two grown children, Jared and Amy. His friends say he is an admirer of Theodore Roosevelt, an avid hiker and fly fisherman, and a collector of antique maps of the West.

In addition to his brief experience as a city official, Mr. Brown has practiced law, worked for the Oklahoma State Senate and served as counsel to an insurance company. He lost a race for Congress in 1988. But the job he did for a decade before joining FEMA is curiously omitted from his online agency résumé.

From 1991 to 2001, as commissioner of the International Arabian Horse Association, Mr. Brown enforced the rules administered by judges at the association's 300 annual horse shows. His decisions provoked a number of lawsuits, including one from David Boggs, a trainer whom Mr. Brown accused of having cosmetic surgery performed on horses.

Mr. Brown's critics in the horse world say he was forced to resign in January 2001 because association officers were upset that he had accepted donations to a personal legal defense fund. But Andy Lester, a friend of Mr. Brown's and his lawyer, said that his departure was "negotiated" and that there was no wrongdoing.

An ethics review panel upheld the charges against Mr. Boggs and suspended him for five years.

Mr. Lester said that Mr. Brown showed backbone in pursuing the charges despite the controversy that erupted in the horse industry.

"He did not fold under pressure," Mr. Lester said. By 2001, Mr. Brown was tired of the uproar and was ready to move on, said Tom Connelly, the president of the horse association at the time. He had often spoken of the possibility of a Washington job should Mr. Bush become president, Mr. Connelly recalled.

"What has surprised me is that he rose to the position he has now so quickly," Mr. Connelly said. "But when he started with the association, he didn't know horses. And he caught up in a hurry."

Right City, Wrong State (CNN)

CNN.com, September 7, 2005

(CNN) -- Add geography to the growing list of FEMA fumbles.

A South Carolina health official said his colleagues scrambled Tuesday when FEMA gave only a half-hour notice to prepare for the arrival of a plane carrying as many as 180 evacuees to Charleston.

But the plane, instead, landed in Charleston, West Virginia, 400 miles away.

It was not known whether arrangements have been made to care for the evacuees or transport them to the correct destination.

A call seeking comment from FEMA was not immediately returned.

"We called in all the available resources," said Dr. John Simkovich, director of public health for the South Carolina Department of Health and Environmental Control.

"They responded within 30 minutes, which is phenomenal, to meet the needs of the citizens coming in from Louisiana," he said.

Simkovich said that the agency had described some of the evacuees as needing "some minor treatment ... possibly some major treatment."

"Unfortunately, the plane did not come in," Simkovich said. "There was a mistake in the system, coming out through FEMA, that we did not receive the aircraft this afternoon. It went to Charleston, West Virginia."

A line of buses and ambulances idled behind him at Charleston International Airport as he described what happened.

"This is a 'no event' for today," Simkovich said.

Coast Guard's Chief Of Staff To Assist FEMA Head Brown (WP)

By Josh White

The Washington Post, September 7, 2005

With Michael D. Brown, the embattled public face of the Federal Emergency Management Agency, taking harsh criticism for the slow federal response to Hurricane Katrina, the secretary of homeland security this week assigned a top Coast Guard official to help bail him out.

Vice Adm. Thad W. Allen, the Coast Guard's chief of staff, was assigned on Monday to be Brown's deputy and to take over operational control of the search-and-rescue and recovery efforts along the Gulf Coast. The unprecedented task of coordinating the massive effort was handed off to a leader and expert who was described by colleagues as unflappable, engaging and intensely organized.

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Allen is also familiar with the inner workings of the Department of Homeland Security, where the Coast Guard has landed alongside FEMA as one of the designated main protectors of the United States. Allen has been one of the primary shepherds of change at the Coast Guard since the Sept. 11, 2001, terrorist attacks and has been praised for his ability to reach out to other agencies to develop "big-picture" approaches to homeland defense.

Retired Adm. James M. Loy, former commandant of the Coast Guard and former deputy secretary of Homeland Security, said yesterday that Allen has the experience to help steer the federal response to the Katrina catastrophe in the right direction after early shortfalls. When Loy was the Coast Guard chief of staff from 1996 to 1998, Allen was his resource director, and Loy said he "always brings a new idea per minute to the table as far as how to grapple with difficult situations."

DHS Secretary Michael Chertoff handpicked Allen to essentially lead the federal recovery efforts in New Orleans. As Brown's deputy, Allen will work with Army Lt. Gen. Russel L. Honore -- head of the military's Joint Task Force Katrina -- to oversee, manage and lead all military and civilian recovery efforts.

Loy also praised Allen's experience, which ranges from being a sailor in the early part of his career to leading the Coast Guard's transition into the Department of Homeland Security. Allen also led the Coast Guard's maritime response to the Sept. 11 attacks, mobilizing his Atlantic forces to shut down major seaports and to control U.S. waters.

Since then, Allen has been working on transforming the Coast Guard's dominant missions of drug interdiction and migrant issues to protecting the borders from terrorism.

"If I was confronted with a multi-stakeholder nightmare, Thad Allen is the guy I would want to have put in charge of coming up with the solution that would keep the stakeholders engaged, participating and focused on the chore at hand," said Loy, who is now a senior counselor at the Cohen Group in Washington.

The task in Louisiana and Mississippi is in some ways uniquely suited for the Coast Guard, which is routinely involved in search-and-rescue, recovery, waterway reconstitution and pollution cleanup efforts. The Coast Guard has rescued thousands of people stranded last week as a result of the hurricane and subsequent flooding.

Allen, 56, is a native of Tucson, and he graduated from the U.S. Coast Guard Academy in 1971. He later went on to earn a master's degree in Public Administration from George Washington University and a master of science degree from the Sloan School of Management at MIT.

After the Sept. 11 attacks, Allen provided the Coast Guard with an oral history of the day's events, discussing the decision to block the Potomac River and secure ports in New York and Boston. He spoke of the need to "keep cool" and "not get excited about everything," according to a transcript of the interview.

"I guess what I'm saying was I wasn't overcome by the magnitude of the event where it paralyzed or impacted my thinking," Allen said in the March 2002 interview. "I was treating it like I would a major catastrophe because we get involved in those over our career a lot. This was an order of magnitude that nobody could imagine. But nonetheless you get on task and you start working."

Adm. Thomas H. Collins, the Coast Guard's commandant, said yesterday that Allen will make a great deputy principal federal official, the official title of Brown's deputy.

"The Coast Guard is blessed with many talented personnel," Collins said in a statement. "Vice Admiral Allen is a tested leader and knows how to manage a crisis. We're glad we could send one of our best to help [Brown] manage the extraordinary challenges of this rescue and recovery effort."

Cmdr. Brendan McPherson, who was Allen's public affairs officer on 9/11 and is now at Coast Guard headquarters in Washington, said Allen is an extremely effective leader, especially in crisis situations.

"He has an amazing ability to quickly recognize a situation that needs leadership, that needs action, and then to develop a plan that can be quickly implemented," McPherson said, adding he was impressed with Allen during and after the terrorist attacks. "He quickly identified that, pulled in the resources that he needed, developed a plan, and then implemented a plan to secure the maritime borders."

Allen lives with his wife, Pamela, in Potomac, and they have three grown children and two grandchildren. The couple was away for the past week and returned to learn that Allen was going to be assigned to Louisiana. Their 30th wedding anniversary is in October, and Pamela Allen is not sure he will be home to celebrate.

"We've been sitting back wanting to help, and he was given the privilege of being able to help," said Pamela Allen, who is assistant dean for academic and career services at the George Mason University School of Management.

"He's been in the Coast Guard his entire life, and one of the things he does and does well is what the Coast Guard motto is, be always prepared. He takes every new event and gets down and starts working and sees it to its end."

FEMA Chief Sent Help Only When Storm Ended (AP)

By TED BRIDIS

DOJ_NMG_0003580

The AP, September 6, 2005

WASHINGTON - The top U.S. disaster official waited hours after Hurricane Katrina struck the Gulf Coast before he proposed to his boss sending at least 1,000 Homeland Security workers into the region to support rescuers, internal documents show.

Part of the mission, according to the documents obtained by The Associated Press, was to "convey a positive image" about the government's response for victims.

Acknowledging that such a move would take two days, Michael Brown, director of the Federal Emergency Management Agency, sought the approval from Homeland Security Secretary Michael Chertoff roughly five hours after Katrina made landfall on Aug. 29.

Before then, FEMA had positioned smaller rescue and communications teams across the Gulf Coast. But officials acknowledged the first department-wide appeal for help came only as the storm raged.

Brown's memo to Chertoff described Katrina as "this near catastrophic event" but otherwise lacked any urgent language. The memo politely ended, "Thank you for your consideration in helping us to meet our responsibilities."

The initial responses of the government and Brown came under escalating criticism as the breadth of destruction and death grew. President Bush and Congress on Tuesday pledged separate investigations into the federal response to Katrina. "Governments at all levels failed," said Sen. Susan Collins, R-Maine.

Homeland Security spokesman Russ Knocke said Brown had positioned front-line rescue teams and Coast Guard helicopters before the storm. Brown's memo on Aug. 29 aimed to assemble the necessary federal work force to support the rescues, establish communications, and coordinate with victims and community groups, Knocke said.

Instead of rescuing people or recovering bodies, these employees would focus on helping victims find the help they needed, he said.

"There will be plenty of time to assess what worked and what didn't work," Knocke said. "Clearly there will be time for blame to be assigned and to learn from some of the successful efforts."

Brown's memo told employees that among their duties, they would be expected to "convey a positive image of disaster operations to government officials, community organizations and the general public."

"FEMA response and recovery operations are a top priority of the department and as we know, one of yours," Brown wrote Chertoff. He proposed sending 1,000 Homeland Security Department employees within 48 hours and 2,000 within seven days.

Knocke said the 48-hour period indicated for the Homeland employees was to ensure they had adequate training. "They were training to help the lifesavers," Knocke said.

Employees required a supervisor's approval and at least 24 hours of disaster training in Maryland, Florida or Georgia. "You must be physically able to work in a disaster area without refrigeration for medications and have the ability to work in the outdoors all day," Brown wrote.

The same day Brown wrote Chertoff, Brown also urged local fire and rescue departments outside Louisiana, Alabama and Mississippi not to send trucks or emergency workers into disaster areas without an explicit request for help from state or local governments. Brown said it was vital to coordinate fire and rescue efforts.

Sen. Barbara Mikulski, D-Md., said Tuesday that Brown should resign.

After a senators-only briefing by Chertoff and other Cabinet members, Sen. Charles Schumer said lawmakers weren't getting their questions answered.

"What people up there want to know, Democrats and Republicans, is what is the challenge ahead, how are you handling that and what did you do wrong in the past," said Schumer, D-N.Y.

Meanwhile, the airline industry said the government's request for help evacuating storm victims didn't come until late Thursday afternoon. The president of the Air Transport Association, James May, said the Homeland Security Department called then to ask whether the group could participate in an airlift for refugees.

Witt Makes Presence Known In La. (HILL)

By Jonathan E. Kaplan

The Hill, September 7, 2005

It didn't take long for James Lee Witt, the former head of the Federal Emergency Management Agency (FEMA), to throw his weight around in hurricane-ravaged Louisiana.

Witt, who headed FEMA during the Clinton administration, has been hired by Louisiana Gov. Kathleen Blanco (D) to help coordinate state and federal responses to the natural disaster.

Blanco introduced Witt to President Bush on Monday, according to a source who has spoken with Witt. Bush promised Witt whatever support he needed and said that Mike Brown, FEMA's embattled director, is his man in charge.

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Andrew Card, Bush's chief of staff, called Witt to give him his home phone number and reiterate Bush's support.

According to the source, Witt told Brown, "Mike, you're going to do your job, and I'm going to make you do your job. And I'm going to show you how to do your job."

Many lawmakers on both sides of the aisle are pleased that Witt, who contributed thousands of dollars to congressional Democrats last year, is involved in the disaster-relief effort.

Over the past several years, GOP lawmakers have sought Witt's counsel, including Reps. Bill Shuster (Pa.), Christopher Shays (Conn.) and Jerry Lewis (Calif.).

"James Lee Witt was an outstanding director of FEMA and is a good choice by the governor, regardless of the activities of FEMA," said former Rep. Bob Livingston (R-La.), who is now a top lobbyist.

Witt met with Shuster and Shays earlier this summer to discuss the fallout of removing FEMA's emergency-preparedness function from its mission.

As fires raged in his congressional district in 2003, Lewis — who had chaired the appropriations subcommittee that funds FEMA when Witt was FEMA's chief — became frustrated with the agency because it did not respond to the disaster as quickly as it should have, said Lewis spokesman Jim Specht.

"[Lewis's] biggest concern was that FEMA hadn't been able to come up with a plan" to prepare for a disaster, Specht added.

Lewis relied on Witt to help cajole FEMA's bureaucracy to plan for what could have become a federal disaster area. Lewis and Brown eventually toured the vicinity in a helicopter.

After a week of mixed signals and non-communication, state and federal officials began holding joint press conferences, set up a joint command structure, worked to restore cell-phone coverage to the area and prepared to restore electrical power in New Orleans by stationing an additional 1,000 firefighters in case there were fires when the power came on.

For the first 45 to 60 days, Witt is working on a pro-bono basis for the state of Louisiana. After that, a contract will be negotiated, said a spokeswoman for Witt.

The spokeswoman added, "Witt is going to be the Bush administration's knight in shining armor."

"FEMA has never been without criticism, but it was once much more nimble, as it needs to be, and now is apparently becoming a responsive afterthought," said former Rep. Ken Bentsen (D-Texas), who often dealt with FEMA when tropical storms and hurricanes flooded Houston and who credited Joe Allbaugh, Bush's first FEMA director, for responding effectively to Tropical Storm Allison in 2001.

"Congress should look into this quickly and employ some management expertise to boot," Bentsen said.

Witt left the government in 2001 to start his own consulting and lobbying shop.

We Can't Afford Not To Plan For Catastrophes (USAT)

By James Lee Witt

USA Today, September 7, 2005

Hundreds of thousands of residents jammed the highways to get out of Hurricane Katrina's path, which included 145-mph wind gusts and storm surges of more than 20 feet. That was just the beginning.

Local, state and federal resources were mobilized as one of the most powerful hurricanes in history made landfall along the Gulf Coast regions of Louisiana, Mississippi and Alabama.

During my years as director of the Federal Emergency Management Agency (FEMA), I witnessed the incredible abilities and dedication of our nation's emergency response personnel, of which we have the best trained and best equipped possible. Despite their skills, ability and technology, we must do more to be better prepared and protected in the case of such a catastrophe.

Our financial recovery mechanisms, which rely primarily on the private insurance market, federal assistance in the form of low-interest loans and a handful of state catastrophe funds, need to be retooled so that they are capable of meeting the immeasurable costs of a catastrophe.

Conservative estimates indicate that the costs of recovery from Hurricane Katrina will rival any natural catastrophe we've experienced in the USA. Initial predictions indicate that recovery costs could surpass the $30 billion cost of recovering from the attacks of Sept. 11, 2001.

A replay of any of our previous natural catastrophes would result in similarly astounding costs:

· A 1938 hurricane, the "Long Island Express," missed Manhattan by only a few miles and caused $308 million in damage. A replay of that storm today is projected to have a recovery cost of $24 billion in Suffolk County, alone.

· If the 1906 San Francisco earthquake happened in the same spot as it did a century ago, damages are estimated to exceed $400 billion.

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From a financial standpoint, state and federal catastrophe funds provide a necessary backstop for families, businesses and communities in the case of extraordinary events. Florida has funds in place to deal with hurricanes; California has such funds for earthquakes. New York is considering a similar fund as well.

Policymakers in other disaster-prone states should follow their example. States can move faster than the federal government. And they should move now.

On the other hand, catastrophes are not a state-by-state problem. Hurricanes that hit North Carolina can wreak havoc on New England. Earthquakes in California can cause damage well into the Pacific Northwest.

A national solution is every bit as important as the steps being taken in the states. Steps to be taken include a national catastrophe fund that would shore up private insurers in instances when truly catastrophic events occur. Such a fund would be a financially responsible way to ensure the viability of the private market and its ability to provide coverage to families, businesses and communities.

James Lee Witt is the CEO and chairman of James Lee Witt Associates, a public safety and crisis management consulting firm. Witt served as the director of FEMA from 1993 to 2001. Witt has been hired by Louisiana to help advise the governor on hurricane recovery efforts.

FEMA Fails Its Core Mission (WT)

The Washington Times, September 7, 2005

Federal Emergency Management Agency (FEMA) head Michael Brown confirmed the dysfunctional performance of his organization throughout the first three or four days following Hurricane Katrina's assault on New Orleans. In an interview on CNN's "Paula Zahn Now," three-and-a-half days after Katrina made landfall, Mr. Brown insisted that the federal government in general and FEMA in particular had no idea until that very day that tens of thousands of New Orleans residents and tourists had assembled at the city's convention center.

"Sir, you aren't just telling me you just learned that the folks at the convention center didn't have food and water until today [Thursday], are you?" Mrs. Zahn asked incredulously. "You had no idea they were completely cut off?"

"Paula, the federal government did not even know about the convention center people until today," Mr. Brown said, ever so matter-of-factly. With that reply, he confirmed the enormous size of the disaster that was the federal response.

How the federal government should respond to emergencies and disasters is detailed in the National Response Plan, a 426-page report issued by the Department of Homeland Security. "The National Response Plan embodies our nation's commitment to the concept of one team, one goal," Tom Ridge, the secretary of Homeland Security at the time, declared on Jan. 6, 2005, when the response plan was revealed. "This achievement is a bold step forward in bringing unity in our response to disasters and terrorist threats and attacks." The plan was overwhelmed by events in its first major test with reality.

Guiding the nation's response to emergencies and disasters, the National Response Plan "establishes a comprehensive all-hazards approach to enhance the ability of the United States to manage domestic incidents," the Department of Homeland Security asserted. "The plan incorporates best practices and procedures from incident management disciplines," including emergency management, law enforcement and public health, "and integrates them into a unified structure. It forms the basis of how the federal government coordinates with state, local and tribal governments and the private sector during incidents." Contemplating a national catastrophe comparable to Katrina, a department fact sheet states that the response plan "ensures the seamless integration of the federal government when an incident exceeds local and state capabilities." Moreover, the plan "provided the means to swiftly deliver federal support in response to catastrophic incidents."

In the wake of the disastrous initial responses to the Katrina disaster, the self-congratulatory conclusion asserted in the preface of the response plan is particularly disturbing. "The end result is vastly improved coordination among federal, state, local and tribal organizations to help save lives and protect America's communities by increasing the speed, effectiveness and efficiency of incident management." By FEMA's own description of its mission, they failed.

It's Not A 'Blame Game' (NYT)

The New York Times, September 7, 2005

With the size and difficulty of the task of rescuing and rebuilding New Orleans and other Gulf Coast areas still unfolding, it seemed early to talk about investigating how this predicted cataclysm had been allowed to occur and why the government's response was so slow and inept. Until yesterday, that is, when President Bush blithely announced at a photo-op cabinet meeting that he, personally, was going to "find out what went right and what went wrong." We can't imagine a worse idea.

No administration could credibly investigate such an immense failure on its own watch. And we have learned through bitter experience - the Abu Ghraib nightmare is just one example - that when this administration begins an internal investigation, it means a whitewash in which no one important is held accountable and no real change occurs.

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Mr. Bush signaled yesterday that we are in for more of the same when he sneered and said, "One of the things that people want us to do here is to play a blame game." This is not a game. It is critical to know what "things went wrong," as Mr. Bush put it. But we also need to know which officials failed - not to humiliate them, but to replace them with competent people.

It's obvious, for instance, that Michael Brown has met the expectations of those who warned that he would be a terrible director of the Federal Emergency Management Agency. This is no time to be engaging in a wholesale change of leadership, but in Mr. Brown's case there seems to be precious little leadership to lose. He should be replaced with someone who can do the huge job that remains to be done.

But the questions go way beyond Mr. Brown - starting with why federal officials ignored predictions of a disastrous flood in New Orleans - and the answers can come only from an independent commission. We agree with the Senate minority leader, Harry Reid, Senator Hillary Clinton and others who say that such a panel should follow the successful formula of the 9/11 commission: bipartisan leadership and members chosen by the White House and both parties in Congress on the basis of real expertise. It should have subpoena power and a staff expert enough to find answers and offer remedies.

Mrs. Clinton has also proposed pulling FEMA out of the Homeland Security Department and restoring its cabinet-level status. That is premature. The current setup makes sense, at least in theory. The nation should not have to support two different bureaucracies for dealing with sudden disasters.

Before throwing the system into chaos again, an investigation should determine whether the problem lies in the structure or in execution. Yesterday, The Wall Street Journal showed how the Bush administration had systematically stripped power and money from FEMA, which had been painfully rebuilt under President Bill Clinton but had long been a target of Republican "small government" ideologues. The Journal said state officials had been warning Washington - as recently as July 27 - that the homeland secretary, Michael Chertoff, was planning further disastrous cuts.

This page supported the creation of Mr. Chertoff's department. But it was poorly run by the first secretary, Tom Ridge, with his maddening color-wheel alerts.

It is clearly in need of a hard look and perhaps serious reorganization. Senators Susan Collins, Republican of Maine, and Joseph Lieberman, Democrat of Connecticut, have plans for hearings, which is fine. But they created the department in the first place and may have more of a stake in the outcome than a panel of impartial experts.

The panel should also look at the shortcomings of local officials and governments. It was chilling, to put it mildly, to read Mayor Ray Nagin's comment in The Journal that New Orleans's hurricane plan was "get people to higher ground and have the feds and the state airlift supplies to them."

But disasters like this are not a city or a state issue. They concern the entire nation and demand a national response - certainly a better one than the White House comments that "tremendous progress" had been made in Louisiana. We're used to that dismissive formula when questions are raised about Iraq. Americans deserve better about a disaster of this magnitude in their own country.

Convoy To Chaos (WP)

The Washington Post, September 7, 2005

District officials deserve praise for their prompt response to the needs of displaced Gulf Coast residents. The rescue operation launched Friday demonstrated how communities can quickly mobilize to help each other at a time of crisis, even when the federal government falls down on the job. But the District's mission to the storm survivors encountered widespread confusion, made worse by governmental red tape and indecision. Surveying the federal response to Hurricane Katrina and observing that the Washington region itself could be subject to a disaster or terrorist attack, Montgomery County Executive Douglas M. Duncan (D) said yesterday on WTOP Radio's "Ask the Executive" program that area officials "need to know what we can count on and not count on from FEMA." That observation is aptly borne out by the District's experience in New Orleans and other flood-ravaged communities.

The District's convoy of 10 buses filled with food, diapers, water and 30 D.C. officials set out Friday, hoping to return this week with as many as 400 evacuees. Instead, the buses are expected to return today with the mission only partially accomplished. Tons of relief supplies were, in fact, delivered, but to the Alabama Red Cross. The caravan also picked up four people in New Orleans and dropped them off at a Red Cross staging area, according to WTOP Radio. But there were no crowds of evacuees waiting in New Orleans as had been promised. Nor did the caravan find evacuees waiting for transport in Baton Rouge, La., where it was dispatched by officials from the Federal Emergency Management Agency. Fuel was given to the Louisiana National Guard, but the buses are returning with only one or two hurricane evacuees. Meanwhile, nearly 300 evacuees were airlifted to Washington yesterday and are being housed in the D.C. Armory.

City leaders and emergency preparedness workers expected to find chaotic conditions near the damaged communities, with thousands of displaced storm victims on the move and shelter space dwindling on the battered Gulf Coast. But they also

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expected the federal relief effort to be better organized and at least up to managing the influx of assistance pouring in from around the country. That was not the case.

There is a lesson here for the Washington region. The federal-local law enforcement partnership that worked smoothly during the sniper attacks may not reemerge in a future natural disaster. As Mr. Duncan noted, FEMA is a changed agency, buried within a huge, slow-moving federal bureaucracy. If ever there were a time for local leaders to come together to review and coordinate their emergency and relief efforts, it's now. Otherwise, we may witness another descent into chaos -- only next time it will be closer to home.

Congress Should Share A Big Part Of The Blame For Katrina Response (RC)

By Norman Ornstein

Roll Call, September 7, 2005

In four days, we will mark the fourth anniversary of the tragedy of the Sept. 11, 2001, terrorist attacks. It's been four years — but in terms of our preparation for the aftermath of a devastating terrorist attack, it might just as well be one day after 9/11. [IMGCAP(1)]

This is not a time to mince words. The performance of the federal government in the Hurricane Katrina disaster — the policy wing of the federal government, not the dedicated employees — has been abysmal. Sen. David Vitter (R-La.) was right: The grade should be an F. But the failures of the past several days are a symptom of the bigger fiasco, one that should leave all of us furious — and nervous. And in that fiasco, Congress stands front and center in the line of miscreants.

On 9/11, the inability of firefighters and police in New York to work their radios contributed to the loss of many lives. At the Pentagon, the inability of emergency workers from Montgomery and Prince George's counties in Maryland and Fairfax and Arlington counties in Virginia to communicate with each other made the response there much more difficult.

Now, four years have passed. A few metropolitan areas, on their own and without adequate federal assistance, have acted to make their own radio systems interoperable. The broader problems? They're the same, in essence, as they were before and during 9/11.

On 9/11, it became obvious that the resources and training available to the nation's first responders — fire, police, emergency medical technicians, public health clinics and so on — were woefully inadequate to deal with the new threats, not to mention larger natural disasters. No capability for dealing with chemical or biological threats, not enough gas masks (or appropriate ones), no training to deal with the collapse of large buildings. Four years later, regrettably, we can say the same thing. Instead of allocating the resources necessary to deal with these problems, we have in fact cut them in many areas.

On 9/11, a new set of broad threats emerged: the international network of terrorists out to kill as many of us as it could. The threat had existed beforehand, but suddenly it took on a new magnitude. The Hart-Rudman Commission, understanding this threat, had recommended prior to 9/11 the creation of a new Department of Homeland Security to bring together agencies and bureaus with other missions to incorporate the new missions of combating the terrorist threats and responding to a disaster that terrorists could bring — disasters of a different form and magnitude than a natural catastrophe, but with many similar characteristics.

Four years after 9/11, we have a DHS, and it's much larger than the Hart-Rudman Commission had envisioned. Its bureaucracy is still reeling from the task of integrating more than 20 separate entities into one — the largest reorganization in federal government history. When Katrina struck, DHS was not the centerpiece of federal response that its outside framers had foreseen, but rather a bloated bureaucracy that was unable for days to figure out what to do, and which produced a leaderless response that only compounded the tragedy.

The idea of creating such a department was a solid one; the magnitude and form of such a department was more debatable. But it was never debated. After vehemently resisting the idea of a department for almost nine months, the president turned around virtually overnight and embraced it, unveiling a plan much more sweeping than the original, and which had been hatched in secrecy by several key administration aides working in the situation room to ensure confidentiality. The normal debate and deliberative process that would have questioned the sweep of the reorganization plan and its breakneck pace was absent. Absent, too, was the notion of starting with a new Department of Border Security and moving in increments to something grander.

When the Department of Homeland Security bill came to Congress, it ended up facing one and only one serious area of controversy and deliberation: the question of sweeping civil service changes to eliminate many of the regular protections for the 70,000 DHS employees. That issue became a political tool — a major campaign point in the 2002 elections — even as the larger and important questions of what kind of department, and how to fulfill all the real and serious government functions, was ignored.

The result was, as we now see in embarrassing fashion, a downgrading of FEMA and confusion about its mission. After the creation of the department, at least these issues could have been raised through Congressional oversight. But the Senate never

established a committee with full legislative responsibilities over these areas; the House, after much footdragging, created a select committee with no legislative jurisdiction.

So these issues received virtually no serious oversight. Even after the 9/11 Commission pushed Congress to reorganize itself, there was a wholly inadequate response — a bit of lip service paid to the House committee, which still sits under the thumb of such rival powers as Judiciary and Transportation, and a Senate committee with a new title and surface jurisdiction, but not the real cachet and authority that it needs. Much of the failure to implement the changes needed over the past four years can be laid at the feet of Congress and its leaders.

It is not as if we did not know what to do; other commissions and smart individuals with serious credentials have been out shouting about the problems and what to do about them. Read Steve Flynn's book, "America the Vulnerable," and ask yourself: What has been done to deal with threats to chemical and nuclear plants, railway stations with hazardous materials coming in every day and ports?

This is a sham and a travesty. Congress has underfunded first responders; DHS has downplayed the response to an attack while focusing the lion's share of its resources on prevention; the administration has shown no urgency about these issues of homeland security.

Are local and state officials culpable for the aftermath of Katrina? Of course. But keep this in mind: On 9/11, the tragedies that struck New York and Virginia spilled over into Connecticut, New Jersey, Maryland and the District of Columbia. It was clear that leaving the response largely to state and local officials could not work in the same way that local responses might have decades earlier. FEMA worked under the Clinton administration's James Lee Witt. It worked, if less well, under Joe Allbaugh. It does not work now, and it may be neutered further under the new DHS reorganization plan unless great care is paid to its role in every kind of disaster.

Actions have consequences. Inactions have consequences, too — in this case unspeakably tragic ones. Those responsible, including the leaders of Congress, should be made accountable, and if they are decent, they will admit their failures and make new efforts to correct them. But if the past four years is any guide, I am not sanguine.

Norman Ornstein is a resident scholar at the American Enterprise Institute.

Mayor Slams Blanco For Stalling (WT)

By James G. Lakely

The Washington Times, September 7, 2005

Louisiana Gov. Kathleen Babineaux Blanco has been critical of the Bush administration's response to the disastrous aftermath of Hurricane Katrina, but, according to the mayor of New Orleans, her indecision when President Bush offered help delayed rescue efforts and cost lives.

New Orleans Mayor C. Ray Nagin told CNN's "American Morning" Monday that he met with Mr. Bush and Mrs. Blanco on Air Force One on Friday and implored the two to "get in sync."

"If you don't get in sync, more people are going to die," Mr. Nagin said.

Mr. Bush met privately first with Mrs. Blanco, then called Mr. Nagin in for a meeting.

"He called me in that office," Mr. Nagin said. "And he said, 'Mr. Mayor, I offered two options to the governor.' I was ready to move. The governor said she needed 24 hours to make a decision."

That decision was a request by Mr. Bush to allow the federal government to take over the evacuation of New Orleans, which had been marked by chaos for days. The Democratic governor, who has clashed behind the scenes with the Bush administration since the storm hit, refused.

White House spokesman Scott McClellan confirmed the Air Force One meeting with Mrs. Blanco and the governor's decision not to cede her authority over the Louisiana National Guard, but added that he didn't think "it helps any situation to get into all those internal discussions."

"This isn't a time when people are trying to look at who's to blame or try to shift responsibility," Mr. McClellan said. "This is a time when we're all trying to work together to get things done."

Mr. Bush, at the request of Mrs. Blanco, declared the entire state of Louisiana a disaster area 48 hours before the hurricane made landfall. He also asked Mrs. Blanco to order a mandatory evacuation of New Orleans on Aug. 27 -- two days before the hurricane hit -- but she did not make the order until Aug. 28.

Mr. Bush and federal officials have come under harsh criticism for what some see as a slow reaction to a humanitarian crisis that unfolded last week.

"Instead of unconscionably blaming others, President Bush must take charge and take responsibility, and must get it right, and that is my concern and the message that I will bring to the president," said House Minority Leader Nancy Pelosi, California Democrat. "Mr. President, you should have taken charge and you should have taken responsibility."

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When the levees broke Aug. 30 and flooded New Orleans, the city descended into violence, looting and confusion. Hundreds of New Orleans police officers walked off the job, and some survivors housed in the Superdome and the city's convention center described rapes, robberies and killings in and around the facilities.

Mrs. Blanco yesterday complained on ABC's "Good Morning America" that the federal government didn't act fast enough as the crisis grew.

"We didn't have enough resources," Mrs. Blanco said. "We were begging for resources, too. We needed helicopters because of all the water, we needed helicopters that could actually do this rescue mission, and we needed boats.

"We brought in everything we had, and we were begging for more, and nothing came as quickly as we needed it," she said.

Supporters of the president, however, say Mrs. Blanco and Mr. Nagin, who left New Orleans for the safety of Baton Rouge before the storm hit, also should share some blame.

"Kathleen Blanco and Ray Nagin weren't exactly Pataki and Guiliani," said a political adviser with close ties to the White House, referring to the New York governor and mayor praised for their response to the September 11 attacks. "They'll have their own problems when this crisis abates."

Sen. David Vitter, Louisiana Republican, said, "Hindsight is 20/20," but added that Mrs. Blanco was too slow in calling out the National Guard to keep order in New Orleans and save lives.

"We needed to make this a full-scale military operation starting with the National Guard immediately," Mr. Vitter said on ABC's "Good Morning America."

Paul Simpson, a political blogger who lives in the New Orleans suburb of Metairie, La., said he and other locals are puzzled by the governor's refusal to let the federal government temporarily command the state's National Guard.

"I thought it was as standard as sunshine in California that the governor would tell the president, 'You have the Guard.' I thought that was a given," Mr. Simpson said. "She absolutely has no clue."

Critics have long derided Mrs. Blanco for her tendency to call for studies and special commissions to find solutions for the state's biggest problems.

In 2003, the Shreveport Times, in endorsing her Republican opponent for governor, Bobby Jindal, called Mrs. Blanco "indecisive" and "unprepared" for the rigors of the job.

But defenders say that this merely reflects Mrs. Blanco's deliberative temperament. Shortly after Mrs. Blanco took office, Dan Juneau, president of the Louisiana Association of Business and Industry, defended her as a woman who "likes to accumulate as much information as possible before finalizing a major decision."

"She would rather be criticized for taking her time in finding the right approach than for shooting from the hip and moving in the wrong direction," Mr. Juneau wrote.

Congress Investigates 'woeful' Response To Katrina (FT)

By Edward Alden, Christopher Swann, Guy Dinmore And Joshua Chaffin

Financial Times, September 7, 2005

President George W. Bush and members of Congress on Tuesday promised full investigations into the slow government response to Hurricane Katrina, with Mr Bush suggesting that "bureaucratic obstacles" from state and local officials were partly to blame.

Following a meeting with his cabinet on Tuesday morning, Mr Bush said: "I intend to lead an investigation to find out what went right and what went wrong.

"It's very important for us to understand the relationship between the federal government, the state government and the local government when it comes to a major catastrophe." Mr Bush's statement came as leading members of Congress also said they would begin hearings on what they called the "woeful" effort to aid those trapped by the storm and the flooding in New Orleans.

Republican senator Susan Collins and Democrat Joe Lieberman, who head the Senate homeland security committee, said they would start immediately with closed-door sessions with officials from the Federal Emergency Management Agency, which led the response.

"The first obligation of government is to protect its citizens. In its initial response to the catastrophe of Hurricane Katrina, particularly in Louisiana, governments at all levels failed in this obligation," said Ms Collins.

Dick Cheney, the powerful US vice-president, will travel to the region on Wednesday to assess the recovery effort. Mr Bush said Mr Cheney would "make sure that we remove any bureaucratic obstacles that may be preventing us from achieving our goals. In other words, bureaucracy's not going to stand in the way of getting the job done for people."

Much of the focus is likely to be on whether the state government sought federal help quickly enough, or put up obstacles preventing that help from being delivered.

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Kathleen Blanco, the Democratic governor of Louisiana, insisted on CNN on Tuesday that "I asked for everything that we had available from the federal government...and the federal effort was just a little slow in coming. I can't understand why."

But at the same time she said that co-operation had improved dramatically in recent days. "We are parties in this effort. We are a team," she told a news conference in Baton Rouge, the state capital.

She called for a "Marshall-like plan" for reconstruction after the storm, saying the priorities for Louisiana's economic rebuilding should be tourism, energy, transportation, manufacturing and technology.

Harry Reid, the Senate Democratic leader, said that Mr Bush would seek an additional $40bn-$50bn for the relief effort, following the $10.5bn approved by Congress on Friday. Mr Reid suggested the costs for reconstruction could exceed $150bn.

In New Orleans' Jefferson parish, which has over 400,000 residents, a massive operation to restore utilities was launched. A few areas already have power.

Several of the levees breached in the storm were also repaired, and engineers began pumping water out of the flooded city. But General Myles Deering, of the joint task force assigned to Baton Rouge, was cautious about the progress. "This is going to be a long process," he said. "It's hard to celebrate the triumphs when they have such disaster."

Lawmakers Prepare Katrina Probe, Financial Aid (REU)

By Donna Smith

Reuters, September 7, 2005

WASHINGTON (Reuters) - The Republican senator leading a Senate investigation into the government's response to Hurricane Katrina said on Tuesday it was "woefully inadequate" and it had raised doubts about the U.S. ability to cope with a terrorist attack.

Sen. Susan Collins, a Maine Republican, spoke as lawmakers prepared to provide a second round of emergency money to cope with the devastation on the Gulf coast expected to total around $40 billion.

Collins said her Senate Homeland Security Committee would begin its investigation this week into the relief efforts.

"If our system did such a poor job when there was no enemy, how would the federal, state and local governments have coped with a terrorist attack that provided no advance warning and that was intent on causing as much death and destruction as possible?" she told reporters.

Collins and the panel's top Democrat, Joseph Lieberman of Connecticut, promised a bipartisan, wide-ranging review, which was requested by Senate Majority Leader Bill Frist.

The Federal Emergency Management Agency, part of the Homeland Security Department, has been a focus of much of the criticism, which has also targeted President George W. Bush.

"Katrina was a disaster that scientists, emergency management officials and political leaders had anticipated for years, yet the initial response was woefully inadequate," Collins said.

Lawmakers moved on several fronts to respond to Katrina's devastation. House Government Reform Committee Chairman Tom Davis, a Virginia Republican, said his committee would hold a hearing next week on the disaster response.

MORE EMERGENCY AID

In the House of Representatives, Republican leaders said they expected a fresh Bush administration request for emergency funds for FEMA. They declined to say how much the White House wanted on top of the $10.5 billion approved last week, but Senate aides said they expected it to be about $40 billion.

House and Senate leaders met with Bush on Tuesday to discuss relief efforts and House Speaker Dennis Hastert, an Illinois Republican, said the new aid package could be approved by the end of the week.

Senate Democratic leader Harry Reid of Nevada said the cost of recovery and relief could exceed $150 billion. The estimate was "not unreasonable," but the numbers were not yet clear, said Jenny Manley, a spokeswoman for the Senate Appropriations Committee.

House Majority Leader Tom DeLay, a Texas Republican, said other legislation would be needed to help victims of Hurricane Katrina. He noted the storm hit at the end of the month just before Social Security and other government checks were mailed to beneficiaries who no longer have a place to live.

"We have to remove the red tape so they can get these checks and start to rebuild their lives," DeLay said.

Lawmakers were also taking a hard look at FEMA and whether it should stay in the Homeland Security Department created after the September 11, 2001, attacks.

Democratic Sens. Hillary Clinton of New York and Barbara Mikulski of Maryland said they were introducing legislation making FEMA a separate cabinet-level agency, which it was when it was created in 1979.

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"We've given billions of dollars to the Department of Homeland Security," said Sen. Patrick Leahy, a Vermont Democrat. "I voted for those billions of dollars as a member of the Appropriations Committee. We have given as many tools as they've asked for. What in heaven's name was happening?"

(Additional reporting by Richard Cowan, Joanne Kenen and Vicki Allen)

Members Of Congress Return From Recess, Call For Probes (USAT)

By Andrea Stone

USA Today, September 7, 2005

WASHINGTON — Congress returned from a five-week recess Tuesday to an agenda swept clean by Hurricane Katrina, a disaster that has sent lawmakers scrambling to aid its victims and figure out why help came to them so late.

"It is difficult to understand the lack of preparedness and the ineffective initial response to a disaster that had been predicted for years, and for which specific, dire warnings had been given for days," said Sen. Susan Collins, R-Maine, head of the Senate Governmental Affairs Committee.

Collins called for congressional hearings as early as next week.

Others called for a 9/11-style commission to investigate failures in responding to the disaster. "It's hard to untangle all of the causes," said Sen. Hillary Rodham Clinton, D-N.Y., who will introduce a bill that would create such a commission. She said cutbacks in funding and personnel at the Federal Emergency Management Agency, as well as unclear lines of command that appear to have bogged down the response, "have to be thoroughly investigated."

Clinton also introduced a bill to separate FEMA, which she and others say bungled the initial response to Katrina, from the Department of Homeland Security. FEMA was an independent agency before Congress put it under the new Cabinet department.

Some Republicans agreed. Sen. Trent Lott, R-Miss., who lost his home in Pascagoula, said it was "a mistake" to take away FEMA's independence. But he warned against finger-pointing while hundreds of thousands of people are homeless.

"Our response has not been perfect," he said, but he urged colleagues, "Please, let's not try to affix blame now. There'll be time" later.

Senators and representatives began working to address the crisis. Members of the Senate Health, Education, Labor and Pensions Committee met with relief organizations in a "listening session" to determine the most critical needs of evacuees. Sen. Edward Kennedy, D-Mass., released a wish list of legislation that included waiving income and residency requirements for Medicaid, mental health outreach and providing $2,500 per child to school districts that take in displaced students.

House Majority Leader Tom DeLay, R-Texas, said he hopes to introduce legislation this week that would include reducing red tape on dispersing aid for those left jobless. Sen. Chuck Grassley, R-Iowa, wants to retool a federal resettlement program for displaced people from other countries to help Americans displaced by Katrina.

"We can try to help people get back to their lives and get started again much sooner," Grassley said.

Sen. Orrin Hatch, R-Utah, and others called for cutting taxes to encourage investment in the affected areas.

That enraged some Democrats.

"This is the height of fiscal irresponsibility," said Sen. Dick Durbin, D-Ill. "I can just see these poor, homeless people sitting in the Houston Astrodome saying, 'Thank God, I don't have to pay some death tax.' "

Fuming Congress Plans A Battery Of Hearings (DMN)

By Todd J. Gillman And Robert Dodge

The Dallas Morning News, September 7, 2005

WASHINGTON – Congress returned from a five-week recess Tuesday hopping mad and ready to start swearing in witnesses. One committee after another announced hearings on Hurricane Katrina, and lawmakers couldn't find enough ways to express their disgust for the planning and response to the disaster.

It's a frenzy President Bush hasn't faced from a Congress controlled for most of his tenure by allies. Through terrorism, war and the occasional scandal, they have protected his administration from the sort of pointed grilling lawmakers are planning over the coming days and weeks.

"There's clearly a mood for aggressive oversight on this issue because people are demanding it. It's a national catastrophe," said Sen. John McCain, R-Ariz. "I don't know if it affects the general mood of Congress on every issue, but certainly there's a strong desire ... to find out what went wrong and what went right."

House and Senate Republican leaders have rarely allowed embarrassing oversight hearings in recent years, routinely brushing aside Democratic demands on Iraq and weapons of mass destruction, and on allegations of prisoner abuse at Abu Ghraib and Guantánamo Bay. It took an outcry from victims' families to jump-start the Sept. 11 commission.

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This time, GOP lawmakers have rushed to the microphones.

'On the defensive'

"If you were a president, you couldn't have asked for more than he's [historically] gotten from these [Republican leadership] guys," said Joel Aberbach, director of the Center for American Politics and Public Policy at the University of California Los Angeles and author of Keeping a Watchful Eye: The Politics of Congressional Oversight.

But the shortcomings involving Katrina have been too overt and terrible to ignore, he said, even for congressional stalwarts who have kept their troops disciplined for years.

"The Republican Party and the president in particular are tremendously on the defensive now because of how miserably the government has performed," Dr. Aberbach said.

Mr. Bush spent the day focused on disaster response. He met with volunteers, his Cabinet and congressional leaders of both parties. Congressional aides said he'll seek $40 billion more from Congress for the next phase of response and recovery. He announced that he will personally oversee an investigation into what went wrong and why, and will dispatch Vice President Cheney as his point man in Louisiana.

"Bureaucracy is not going to stand in the way of getting the job done for the people," Mr. Bush said.

But Mr. Bush is the head of the federal bureaucracy, and Democrats weren't about to let that go unnoticed. House Minority Leader Nancy Pelosi of California accused him of "unconscionably blaming others" rather than taking responsibility for his administration's failures.

Anger on the coast

Demands for congressional inquiries came most poignantly from those in the disaster zone.

"Bureaucracy has murdered people in the greater New Orleans area. And bureaucracy needs to stand trial before Congress today," Jefferson Parish president Aaron Broussard said on CBS' The Early Show. "So I'm asking Congress, please investigate this now. Take whatever idiot they have at the top of whatever agency and give me a better idiot. Give me a caring idiot. Give me a sensitive idiot. Just don't give me the same idiot."

At the Capitol, Republicans went out of their way to criticize state and local governments.

"Governments at all levels failed," said Senate homeland security committee chairwoman Susan Collins, R-Maine, announcing hearings into the disaster response. "It is difficult to understand the lack of preparedness and the ineffective initial response to a disaster that had been predicted for years and for which specific dire warnings had been given for days."

Even Mr. Bush's staunchest defenders called hearings inevitable, though some such as Florida Sen. Mel Martinez, Mr. Bush's former housing secretary, said he'd prefer to hold off a while.

"I'm not going to be quick to be finger-pointing and looking for ways of making easy answers out of complicated problems," Mr. Martinez said. "And there's plenty of responsibility of local state and federal government that ought to be reviewed. But I don't think anybody wants to whitewash what might have gone wrong."

Democrats were harsher, demanding that President Bush fire the director of the Federal Emergency Management Agency, Michael Brown. And they shrugged off warnings against trying to score political points, issuing detailed suggestions for coping with the disaster.

Ms. Pelosi also asked Speaker Dennis Hastert to create a hurricane relief task force to investigate the failures of the initial response.

House Majority Leader Tom DeLay, R-Sugar Land, didn't immediately dismiss the idea. He called for a "comprehensive congressional review," a bipartisan inquiry with a more ambitious scope than committee-by-committee hearings.

"This work will require us to ask serious and difficult questions," he said. "It is Congress' responsibility to look into what happened before the disaster and after the disaster."

Meanwhile, the hearings are already under way. A Senate panel heard testimony Tuesday on the spike in gasoline prices. The House energy committee, chaired by Rep. Joe Barton, R-Ennis, plans a similar hearing today. Other panels will focus on disaster planning and response.

House committee chairmen met Tuesday night to brainstorm legislation their panels might offer in the next weeks and months to keep the economy humming, address energy prices, ensure the flow of Midwest farm products that depended on the Mississippi, rebuilding oil platforms and, of course, helping Katrina's victims and rebuilding New Orleans and other devastated areas.

Pressure also is mounting from states for congressional relief – those reeling directly from the storm and those facing the prospect of absorbing the hundreds of thousands of evacuees.

Sen. Kay Bailey Hutchison, R-Texas, said it's important for the federal government to reimburse Texas cities for their costs quickly.

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"We are taking 250,000 people in now for a much longer term than anyone has ever had before," she said. "We're having to add to our school systems. We're going to have to add security. There are many costs for the states like Texas that are taking these people in need."

Sen. Trent Lott, R-Miss., said federal and state governments had made mistakes, but with the crisis ongoing, he was reluctant to be critical, even as his state seeks its share of hurricane aid.

"My mama don't raise no idiot. I ain't going to bite the hand that's trying to save me," he said.

Deconstructing Katrina (WP)

By Dana Milbank

The Washington Post, September 7, 2005

"Never did we dream that they would use our own airplanes as weapons."

-- President Bush, April 20, 2004.

"I don't think anyone anticipated the breach of the levees."

-- Bush, Sept. 1, 2005.

Sen. Susan Collins (R-Maine) wore a burgundy suit, dangling earrings and a demure smile when she appeared in the Senate television studio yesterday. But the questions she asked were sharp and unnerving.

"If our system did such a poor job when there was no enemy, how would the federal, state and local governments have coped with a terrorist attack that provided no advance warning and that was intent on causing as much death and destruction as possible?" the chairman of the Senate Homeland Security Committee wondered, announcing a probe into the response to Hurricane Katrina. "How is it possible that almost four years to the day after the attacks on our country, with billions of dollars spent to improve our preparedness, that a major area of our nation was so ill prepared to respond to a catastrophe?"

As horrendous as the death and dislocation have been in and around New Orleans, the government's "woefully inadequate" response there, as Collins put it, has left Americans far from the disaster area to assume that, if a terrorist's nuclear bomb goes off on K Street or smallpox is released in Times Square, it will be every man for himself. Bush linked the two yesterday, telling reporters, "We want to make sure that we can respond properly if there's a WMD attack or another major storm."

But there was a disconnect yesterday at opposite ends of Pennsylvania Avenue. On the Hill, outraged lawmakers launched a bipartisan investigation and demanded to know what good had come from all that homeland security spending. At the White House, the president was still operating in the conditional. "If things went wrong, we'll correct them," he said. "And when things went right, we'll duplicate them."

Collins and Sen. Joseph I. Lieberman (Conn.), the ranking Democrat on the committee, had scheduled their announcement of an investigation for 11:15 yesterday morning. Bush preempted them, inviting reporters into the Cabinet Room at 11:08. "What I intend to do is to lead an investigation to find out what went right and what went wrong," the president said.

Bush was in no hurry to probe. "There will be ample time to assess," he said. Rearranging a presidential coaster on the Cabinet table, he said that to ask questions while the relief operation is underway would be "to play a blame game."

The mood was more urgent on the Hill, where a bipartisan group of lawmakers in the House was preparing legislation to separate FEMA from the Department of Homeland Security. In the Senate, the issue eclipsed the excitement over the sudden emergence of a second Supreme Court vacancy, with the death of Chief Justice William H. Rehnquist.

At an otherwise subdued briefing announcing the postponement of confirmation hearings for John G. Roberts Jr., Sen. Patrick J. Leahy (D-Vt.) erupted when asked about the hurricane response. "We've given billions of dollars to the Department of Homeland Security," he said, almost shouting. "What in heaven's name was happening?"

Collins, performing before a standing-room-only crowd, had an answer to Bush's objections. She said her committee's goal is not "to fix blame," and she promised "not to divert resources from the rescue and recovery."

But she said the questions could not wait; hearings are planned for next week. "We would be remiss," she said, "if we did not ask the hard questions needed to understand what went so wrong and what our country must do to improve our ability to respond to future crises, whether they are natural disasters or terrorist attacks."

Lieberman, too, spoke of a problem bigger than New Orleans. "Hurricane Katrina was in one sense the most significant test of the new national emergency preparedness and response system that was created after 9/11, and it obviously did not pass that test," he said. "We need to know why -- not just to fix what went wrong, but in my opinion, to rebuild the confidence of the American people."

The normally adept White House has had trouble settling on a message over the past week. Officials have condemned the "blame game" even as they point fingers at state and local authorities. They have made public assertions -- that nobody

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anticipated a levee breach and that Louisiana did not declare a state of emergency -- that turned out to be flat wrong. Now, Bush is in the position of promising to lead an investigation but saying it's still a question of "if things went wrong."

After a midday meeting with the president at the White House, even top GOP congressional leaders dropped the "if." House Speaker J. Dennis Hastert (Ill.) called for investigations "to make sure that this doesn't happen again." And Senate Majority Leader Bill Frist (Tenn.), promising to "investigate aggressively," floated the idea of an independent commission or bicameral committee. "If we don't have a strong disaster response," he said, things such as a bioterrorism attack "could result in not hundreds of deaths, but thousands of deaths and indeed millions of deaths."

Storm Rages In The Wake Of Katrina (HILL)

By Jonathan E. Kaplan , Patrick O'Connor And Roxana Tiron

The Hill, September 7, 2005

The House and Senate government-oversight committees will hold hearings into the widespread criticism of the federal response to Hurricane Katrina.

The hearings are just part of Republicans' response to the public-relations fallout over the administration's admitted mishandling of the devastation in the immediate aftermath of the hurricane.

President Bush also plans to hold a separate investigation.

The decision to hold House hearings comes after Rep. Henry Waxman (Calif.), the top-ranking Democrat on the government-reform panel, and several other Democrats wrote a letter to Government Reform Committee Chairman Tom Davis (R-Va.) and Transportation and Infrastructure Committee Chairman Don Young (R-Alaska) calling for "thorough oversight to examine the preparation for and response to Hurricane Katrina."

The 17-page letter, dated Sept. 6, was signed by Waxman, as well as Democratic Reps. James Oberstar (Minn.) and Bennie Thompson (Miss.), a prominent member of the Congressional Black Caucus.

Even though several GOP leaders pleaded for increased civility, Congress plunged immediately into bitter partisanship as lawmakers returned to work yesterday, with the two parties arguing over blame for the death and destruction left in Hurricane Katrina's wake.

Echoing the White House, Republican lawmakers faulted Louisiana local and state officials for bungled relief efforts in New Orleans while House Democrats distributed talking points saying Bush's administration underfunded disaster relief programs and GOP lawmakers "voted against ensuring New Orleans safety through FEMA and Army Corps of Engineer funding."

Rep. Tom Feeney (R-Fla.) said, "Local and state officials were totally unprepared. Governor Blanco was all but AWOL. Only at President Bush's urging did she declare a state of emergency," he said.

In fact, Louisiana Gov. Kathleen Blanco (D) requested a declaration Aug. 26, two days before the hurricane struck her state.

The sniping did not stop after House Republican and Democratic leaders met with President Bush at the White House. At the stakeout, Senate Minority Leader Harry Reid (D-Nev.) could be heard muttering as House Majority Leader Tom DeLay (R-Texas) spoke to reporters and Minority Leader Nancy Pelosi (D-Calif.) told Bush directly that FEMA director Michael Brown should be fired.

DeLay counseled caution during the early stages of the oversight process and called for a bipartisan, bicameral review of how the government prepared for the storm and of the emergency response to the flooding.

DeLay said he was reluctant to have an independent commission review the federal government's response; Sen. Hillary Rodham Clinton (D-N.Y.) called earlier this week for just such a commission in the mold of the Sept. 11 commission.

"I have concerns about holding hearings," the majority leader told reporters, adding that he did not want to take local, state and federal officials away from the rebuilding effort. "My own impression is that whole system broke down."

DeLay said he opposed legislation aimed at separating the FEMA from the Department of Homeland Security (DHS), saying, "I think it's way too premature."

Speaker Dennis Hastert (R-Ill.) and DeLay have been discussing congressional oversight but were not ready to offer specifics. DeLay said Congress would try to reduce red tape so that federal agencies could extend Social Security, student-loan and unemployment benefits to people displaced by the hurricane.

He said the House would take action this week by:

· Providing relief for Pell Grant recipients who had to withdraw from school.

· Allowing FEMA to transfer money directly to private charities and faith-based groups.

· Suspending red tape requirements for distributing unemployment benefits.

· Letting states use surplus unemployment funds to provide relief.

Asked about Reid's proposal for a $150 billion bailout package, DeLay said it was too early to put a cost on the disaster.

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The flurry of legislation will probably postpone budget reconciliation by a week or more, but the House is still committed to moving bills that would reform retirement security and border security as well as to finishing the annual appropriations process.

"We can do more than one thing in this Congress," DeLay said.

In the Senate, Majority Leader Bill Frist (R-Tenn.) directed the Homeland Security and Governmental Affairs Committee to investigate the widely criticized federal response to Hurricane Katrina and whether FEMA should be separated from DHS.

"I tend to think that FEMA should stay at DHS," said Sen. Susan Collins (R-Maine), the committee chairwoman.

She and Sen. Joe Lieberman (D-Conn.), the committee's ranking Democrat, who wrote the legislation creating the DHS, will get a closed-door briefing from FEMA today before considering whether to restore FEMA's status as an independent agency.

"We have to consider every question, including our own work" and the decision to put FEMA into DHS, Lieberman said at the press conference.

Collins did not call for Brown or DHS Secretary Michael Chertoff to resign but said her panel will take a careful look at all the roles played by federal officials.

Lieberman seemed to take a more aggressive stance, saying, "What Michael Brown and Michael Chertoff did is at the center of the investigation."

The Senate appropriated almost $2.9 billion for emergency preparedness and response in the 2006 DHS budget. Congress approved an emergency $10.5 billion aid package last week and now Democrats are calling for as much as another $50 billion.

Responding to the rising gas prices, House Energy and Commerce Chairman Joe Barton (R-Texas) will hold a press conference today on price gouging and energy issues related to Katrina.

Despite the apparent widespread agreement that the response to the storm and flooding was inadequate, most lawmakers, except Pelosi, stopped short of calling for Brown's resignation.

"It's too chaotic to suggest that," said Foley, who slammed FEMA for its response to the four hurricanes that swamped Florida last year and wants the agency to be pulled out of DHS. "I am for looking at the agency function before calling for heads to roll."

Parties Divided Over Katrina Response (RC)

By By Emily Pierce, Ben Pershing And Erin P. Billings

Roll Call, September 7, 2005

Proposals to help the victims of Hurricane Katrina ran the gamut in Congress on Tuesday, with Democrats pressing for action as early as this week on a long list of social welfare bills while Republican leaders cautioned that Congress may need more than a few days to devise legislative solutions.

In the meantime, Members braced for the second spending request for the Federal Emergency Management Agency in just five days. This time, Congressional aides estimated that the Bush administration would ask for as much as $40 billion because FEMA is using up the initial $10.5 billion Congress appropriated on Friday at a faster rate than it had expected. As of press time, it was unclear whether the White House would make the request last night or today.

Beyond emergency appropriations, Senate Minority Leader Harry Reid (D-Nev.) and other Democrats pressed to pass legislation by the end of this week that would extend federal social programs such as Medicaid, subsidized housing and unemployment insurance to newly homeless and jobless residents of Louisiana, Mississippi and Alabama. Reid also estimated that the "initial investment" for Katrina relief would be upwards of $150 billion.

But the Democrats' proposals and demands for "immediate" Congressional action were received somewhat skeptically by Republicans.

Senate Republican Policy Committee Chairman Jon Kyl (Ariz.) urged Members to "take a deep breath and think carefully." Kyl suggested creating a bipartisan task force that would develop a legislative package within 30 days.

Senate Majority Leader Bill Frist (R-Tenn.) said that he will be talking with his chairmen over the next two days "to pull together their ideas for the immediate response, the midterm response, and the long-term response" to the hurricane. But he was short on specifics, saying only, "There are a lot of human practical needs that have to be addressed right now, and the federal government has a major role as we look at health and social services and housing, when you look at food and look at shelter."

Frist spokeswoman Amy Call said that the Majority Leader and other Senate GOP leaders would "have a better sense of what the [legislative] package will look like" after Frist meets with Republican committee chairmen this morning.

Senate Health, Education, Labor and Pensions Chairman Mike Enzi (R-Wyo.) said his panel would hold a hearing Thursday on legislative solutions to the crisis caused by Katrina.

"One of the worst things you can do in politics is start announcing the decisions before you listen to the people," said Enzi, who, along with ranking member Edward Kennedy (D-Mass.), met with representatives from relief agencies Tuesday to find out

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what they can do legislatively. Enzi also asked for suggestions for what Congress can do to be submitted to the HELP Committee Web site.

However, Kennedy, like many Democrats, offered a list of actions he believes Congress should take in the near future, including extending disaster unemployment insurance to more people, helping fund school districts that are accepting children from the storm-ravaged region, freezing student loan payments and interest for those affected by the disaster and providing mental in addition to physical health care for victims.

Sen. Trent Lott (R-Miss.), who represents a state severely affected by Katrina, appeared to take the middle ground, urging a combination of caution and haste.

"We need thoughtful things. We need innovative things, but we do need speed," said Lott, who noted that many of the things Democrats are pressing for have already been done by the agencies in charge of health care and unemployment insurance.

For example, Lott said waivers are already in place to help disaster victims secure access to Medicaid as well as for worker compensation if their jobs have been lost.

House Republicans are also taking a somewhat cautious approach to the Congressional response, hesitating to place a dollar figure on the damages. House Majority Leader Tom DeLay (R-Texas), for one, reacted negatively to Reid's suggestion that the reconstruction effort might cost $150 billion.

"I don't think anybody knows, and anybody trying to know is just playing political games," he said.

Still, DeLay called the Katrina effort "the House's No. 1 priority for the foreseeable future" and said he expected an initial Katrina package to be "ready for the floor later this week."

DeLay suggested Tuesday that the package would likely contain a number of small provisions designed to cut red tape and allow money to be shifted around to cover various shortfalls.

In the meantime, the Louisiana Congressional delegation has continued to craft a legislative package that could provide immediate relief to the displaced hurricane victims. Brian Richardson, spokesman for Sen. Mary Landrieu (D-La.), said the package would likely include Democratic proposals to make sure that Medicaid, housing and unemployment benefits are available to victims in the long term.

The package may also include provisions that enable displaced children to enroll in school without having to produce former school records as well as possible changes to a bankruptcy law passed earlier this year that would make it easier for disaster victims to erase their debts, Richardson said.

"It will be a huge bill, because this is a huge national tragedy," said Richardson.

Lott said he would work with Landrieu and her Republican colleague, Sen. David Vitter (La.), but he cautioned that the Louisiana delegation bill should not "duplicate or complicate efforts" currently under way.

In the meantime, Senate Finance Chairman Chuck Grassley (R-Iowa) said he was considering proposals to make Medicaid available to storm victims and is working on extending the duties of Office of Refugee Resettlements within the Health and Human Services Department to help not just displaced persons from other countries but also victims of Katrina.

With even Lott saying that relief efforts could cost as much as $100 billion, lawmakers from both parties appeared largely resigned to the fact that billions of dollars would be added to the federal deficit.

Even Senate Budget Chairman Judd Gregg (R-N.H.) acknowledged, "We're going to have to spend money to do whatever it takes to solve the problem. ... Yes, it will obviously increase the deficit significantly."

But Enzi noted that lawmakers need to carefully weigh the proposed solutions being offered, particularly the most costly ones.

"We want to do it as effectively as we can, but there are cost constraints," Enzi said of Congress' legislative contributions to the relief efforts. "We have to look at it realistically to see what kinds of things can be done."

House Democrats joined their Senate colleagues in calling for a multi-tiered response to the disaster. Minority Leader Nancy Pelosi (D-Calif.), along with other Democratic leaders, urged the government to provide immediate compensation and financial assistance to victims, to eliminate bureaucratic hurdles to those needing help and to make a long-term commitment of support to rebuild the Gulf Coast.

Pelosi did not estimate how much the recovery would cost, saying only that the $10.5 billion appropriated so far is "not enough." She also cautioned against "nickel-and-diming" the region, calling for additional funding for housing, food stamps, unemployment benefits and schools.

Rep. Bennie Thompson (D-Miss.), ranking member on the Homeland Security Committee, said: "We take the position that the government has a responsibility to fix it, and to fix it, we've got to pay for it."

Federal assistance aside, the Democratic leadership also insisted that Republican leaders hold House hearings on the federal response, and the request was granted Tuesday.

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Rep. Henry Waxman (Calif.), ranking member on the Government Reform Committee, joined other ranking members by writing a letter to his committee's chairman, Rep. Tom Davis (R-Va.) and Transportation Chairman Don Young (R-Alaska), outlining his reasons for the inquiry.

"We need to learn for the future what went wrong," Waxman said. "We need to know why it has happened the way it has."

Davis announced Tuesday that he would hold hearings next week.

Republican leaders have emphasized that they expect several different committees to probe the government's response to the disaster and to explore ways to improve future contingency plans.

"It's fair to say the overall response to this emergency could have and should have been better," DeLay said.

The Majority Leader dismissed the need for an investigative commission, similar to that which followed the Sept. 11, 2001, terrorist attacks, saying that the legislative branch is fully capable of examining the situation itself. Some Members have suggested an independent body look into the response.

"It's Congress' responsibility to look into what happened," he said, though he emphasized that committees should be "deliberate" in scheduling oversight hearings so as not to force too many key administration officials to leave their duties to testify on the Hill all at once.

DeLay said the damage wrought by Katrina could provide the impetus for passage of another energy bill that could include "items that Democrats forced us to take out of the [last] energy bill that, frankly, we ought to have kept."

House Democrats are also pushing for legislation to remove the Federal Emergency Management Agency from the Homeland Security Department. Rep. John Dingell (D-Mich.) advanced a bill Tuesday to make the agency fully independent.

As leaders from both parties contemplate their next move, the Congressional Black Caucus planned to meet last night to discuss the crisis and come up with its own plan for the coming days.

The CBC, which is concerned about the large number of blacks affected by Katrina, is trying to organize a group to visit the region, possibly as early as Friday. The members are also meeting this morning with Marty Evans, president of the Red Cross, for a briefing on the conditions and are working on ways to help the displaced.

"We're not going to sit back and wait," said one CBC staffer. "Somebody's got to step up."

Rep. Elijah Cummings (D-Md.), a vocal critic of the government's handling of the catastrophe, is calling on the White House to declare a national day of prayer for the victims. He is also working with his Congressional colleagues and the CBC to set up a relief fund for those affected by Katrina.

"We have got to do what we can do to help," he said.

Cummings said Congress and the Bush administration first have an obligation to go "door to door" to rescue victims, and then to help the displaced reconstruct their lives. He said every Member should be furious at the recent course of events, and must come together to help the recovery efforts.

New Exit Plan: Thanksgiving (RC)

By Ben Pershing

Roll Call, September 7, 2005

The aftermath of Hurricane Katrina has scrambled Congress' post-recess agenda and calendar, as leaders are frantically reordering their legislative priorities and pushing the anticipated adjournment date back weeks, and possibly more than a month.

Both the House and Senate were already resigned to missing their original departure target of Oct. 1. And with an enormous new set of challenges to tackle in the coming days, House Majority Leader Tom DeLay (R-Texas) said Tuesday: "It's obvious that we're going to be here until Thanksgiving."

The sentiment is similar on the Senate side, where the schedule is even more crowded following the death of Chief Justice William Rehnquist.

"Considering that we have another Supreme Court nominee to do, I think Thanksgiving is realistic [for adjournment], if not after," said a Senate GOP leadership aide.

In the House, Republican leaders spent much of Tuesday in meetings trying to determine how best to approach Katrina's aftermath. While sources said issues such as Social Security and immigration were not prominently discussed at those sessions, Members and aides are aware that the heavier workload and the new political environment created by Katrina could change how the House approaches the rest of its agenda.

"We are seriously involved in Katrina, and there has not been a lot of time to figure out where the rest of the agenda falls into place," said a House Republican leadership staffer.

Another leadership aide said that — as happens often — much of what the House decides to do will depend on what the Senate does, since that chamber's schedule is even more crowded than the House's.

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"The House is very much capable of multitasking," said the second aide. "The bigger question is what the Senate is going to be able to swallow."

The first significant item that could be bumped by Katrina is the budget reconciliation process. Under this year's budget agreement, authorizing committees have until Sept. 16 to submit proposed spending cuts under their area of jurisdiction, and the House Ways and Means and Senate Finance Committees have until Sept. 23 to finish the overall reconciliation package.

DeLay said Tuesday that he expected those deadlines would be pushed back a week. The issue was set to be officially decided at a meeting between the Majority Leader and House committee chairmen Tuesday night.

On Social Security, meanwhile, the same uncertainties that plagued the issue in the House before the recess persist after Katrina.

While the Ways and Means Committee continues work on a broad retirement security package, GOP leaders have been unable to reach agreement on their tactical approach to the issue. Specifically, senior Republicans have not formed a consensus on whether they should push forward and pass a bill this year even if the Senate would be unlikely to follow suit.

Though Speaker Dennis Hastert (R-Ill.) and DeLay are in favor of moving a bill regardless of the Senate's plans, GOP sources said some lawmakers are wary of subjecting everyone to a tough vote on a measure that might never reach the president's desk.

In addition to Social Security and reconciliation, the House will also likely tackle a potentially divisive immigration bill or bills and the remaining appropriations conference reports.

Despite the heavy workload, GOP leaders remain confident they can still accomplish their pre-Katrina goals.

"We can do more than one thing [at a time] in the House," DeLay said.

Experts Warn Of Katrina Identity Theft (WP/AP)

By Jennifer C. Kerr, The Associated Press

The Washington Post, September 7, 2005

WASHINGTON -- Social Security cards, driver's licenses, credit cards and other personal documents are literally floating around New Orleans, raising the prospect some hurricane survivors could be victimized again _ this time by identity thieves.

Betsy Broder, the attorney who oversees the Federal Trade Commission's identity theft program, said the agency has not received any complaints yet. However, it's still early after the disaster and people have been focusing on more pressing needs, such as shelter, food and medicine.

"This is probably not the most immediate concern that people have, but at a certain point they need to stop and take stock of their financial health," Broder said Tuesday.

As survivors begin to rebuild their lives, she said, they can take steps to avoid becoming the victims of identity scammers.

Broder said survivors giving personal data to insurance adjustors or Federal Emergency Management Agency representatives should be certain they're dealing with legitimate individuals and "not crooks who are trying to trick them out of their information so they can commit identity theft."

Once victims are able to get access to phones, Internet and mail, they should check their credit card and bank statements to see if there's been any unusual activity.

They can also obtain their credit report, for free, to make certain no one has accessed their accounts. Under federal law, consumers can request a free credit report each year from any of the three major credit bureaus _ Equifax Inc., Experian Information Solutions and TransUnion.

The FBI also warned people wanting to donate money for Katrina survivors to beware of scammers who solicit online donations to lure victims into giving up credit card numbers and other sensitive information.

"There are people out there who are willing to stoop so low as to scam people who are willing to open their hearts and wallets to people in need," said FBI spokesman Paul Bresson.

He said the bureau has identified about 2,000 Web sites related to the Katrina relief effort. Most are legitimate, Bresson said, but the FBI is investigating about a dozen for possible fraud.

The Better Business Bureau advised Americans who want to give to seek out familiar charities such as the American Red Cross and The Salvation Army.

"In a disaster like this, you must give to well-known organizations that have a track record for providing this type of relief," said Art Taylor, president of the BBB's Wise Giving Alliance. Besides concerns about phony groups, he said, "it's impossible for a newly established organization to get to these victims at this time."

People who think their personal information has been misused should contact the local police, the FTC's Broder said. They can also contact the FTC on the Web at http://www.consumer.gov/idtheft or by phone at 877-IDTHEFT.

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On the Net:
Federal Trade Commission: http://www.ftc.gov
Better Business Bureau: http://www.bbb.org

U.S. Officials Warn Against Hurricane Aid Scams (REU)

By Jon Hurdle
Reuters, September 7, 2005

PHILADELPHIA (Reuters) - U.S. government officials warned on Tuesday that scam artists will try to profit from the outpouring of donations to aid victims of Hurricane Katrina.

After last year's Asian tsunami that killed nearly 300,000 people, the FBI investigated more than 170 Web sites that were preying on donors by mimicking the sites of well-known charities, according to Patrick Meehan, U.S. district attorney for Eastern Pennsylvania.

While no evidence has emerged of criminals attempting to divert money destined for hurricane victims, Meehan said authorities were on high alert.

"If the lessons of September 11th and the Asian tsunami are learned, some cold-hearted evil scam artists will use this occasion to perpetrate fraud, lining their own pockets at the expense of hurricane victims," Meehan told a news conference.

Private donors should avoid giving personal data such as social security numbers, dates of birth and bank account information to any organization that says it is seeking disaster aid, and should make sure they are giving money to a legitimate organization, officials said.

Some scam artists seek funds by adopting names that are similar to those of well-known organizations, such as "Red Shield" instead of Red Cross. Others attempt to win the confidence of the donor by thanking them for past donations.

"Be skeptical if someone thanks you for a pledge you don't remember making," said Oriey Glenn of the U.S. Postal Inspection Service, which is on the lookout for such scams.

Officials said the public should give directly to well-known organizations such as the Red Cross, rather than to an intermediary that might claim a "processing fee" to forward the donation. They also warned against organizations seeking a fee to help locate a family member caught up in the disaster.

The Red Cross said it had so far received $409.2 million in pledges from individuals, corporations and foundations.

Meehan urged people to avoid giving to Web sites whose addresses end in ".com" since most nonprofit organizations use ."org," and beware of emails soliciting donations, since legitimate charitable groups typically avoid that approach.

Donors seeking to confirm the legitimacy of a charity were urged to check the Web sites of the American Institute of Philanthropy and Charity Navigator, an organization that evaluates charities.

Four Held In Scam Soliciting Money (WT)

By Gary Emerling
The Washington Times, September 7, 2005

Fairfax County police arrested four persons on Sunday for operating a roadside scam claiming to collect money for victims of Hurricane Katrina.

Police said Joseph J. Murphy Jr., 23, of Warrenton, Va., and Isaac M. Beavers, 22, Marie S. Golden, 22, and Nicholas P. Flint, 19, all of Manassas, Va., told motorists in the 12100 block of Sunset Hills Road in Reston they represented charities helping hurricane victims and asked for cash donations.

"They were at the intersection, going up to the cars and people walking by," said Fairfax police spokesman Officer Edward Orellana. "They were able to collect some money."

Officer Orellana said the suspects did not represent any specific charities. Police would not disclose the amount of money they collected.

The suspects were charged with misdemeanor solicitation violations and released on a summons to appear in court.

Police in Arlington, Montgomery and Prince George's counties said they have not received reports yet of any relief-related scams. But area officials are still urging people to be cautious in their rush to help.

"Bottom-feeding con artists always try to find ways to exploit tragic headlines to cash in on unsuspecting investors," Maryland Attorney General J. Joseph Curran Jr. said.

In February, scam artists dressed as Red Cross volunteers bilked money from motorists in Prince George's County under the guise of raising funds to help survivors of the deadly tsunami in Southeast Asia.

Similar schemes were spread via the Internet following the tsunami, as fake fundraising messages claiming to be from relief organizations or tsunami survivors themselves were e-mailed around the world.

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Financial scammers already are hitting investors with post-Katrina stock scams tied to speculation about spiking energy prices. One spam e-mail making the rounds on the Internet refers to "a spate of refinery glitches and an unusually active hurricane season" and says investors could more than double their money in just days on certain penny stocks, the Securities and Exchange Commission said.

Mr. Curran said people also could be targeted for oil and gas investment scams because of current oil prices.

After the terrorist attacks of September 11, 2001, the SEC accused Texon Energy Corp. of soliciting elderly people to invest in an oil and gas Ponzi scheme by telling them Texon would profit from rising energy prices.

A 2002 court judgment ordered Texon to repay $1.2 million after a settlement agreement with the SEC.

Mr. Curran said investors should simply hang up on aggressive cold callers and ignore unsolicited e-mail.

"Whenever something is too good to be true, it really is," he said. "Sadly, there are people who fall for it."

Government Works To Arrange Places For The Displaced (USAT)

By Mimi Hall

USA Today, September 7, 2005

The federal government is pushing ahead with plans to offer makeshift housing — in cruise ships, abandoned military houses and recreational vehicles — to tens of thousands of Gulf Coast evacuees.

Housing and Urban Development (HUD) Secretary Alphonso Jackson said Tuesday that the government is cobbling together enough housing to take care of the hundreds of thousands of people who were displaced by Hurricane Katrina and have nowhere to go as they rebuild their lives.

The effort is the latest by the government, criticized for its lack of speedy response to the Katrina crisis, to address the basic needs of hurricane-battered residents.

HUD and the Federal Emergency Management Agency (FEMA) initially looked for temporary housing within a 500-mile range of the devastation along the Gulf Coast.

The search was expanded nationwide.

FEMA spokesman James McIntyre said the agency has ordered 70,000 small recreational vehicles, each of which can sleep five. In areas without flooding, the trailers can be parked on people's property.

In Alabama, where 2,600 trailers have arrived, people can begin moving into them today.

For those who can't go home, FEMA will use city-owned parks or commercial land to build small temporary cities.

In some cases, FEMA may set up temporary stores for the residents. Starting Friday, McIntyre said, FEMA expects 500 trailers a day to begin arriving outside New Orleans.

The agencies also are offering space on cruise ships — 8,000 beds are available on three ships in Galveston, Texas, and Mobile, Ala. — and in apartment complexes, on military bases and elsewhere.

“We will work until we get every displaced citizen into some type of housing,” McIntyre said.

But there have been glitches along the way. The cruise ship space was offered Monday to evacuees 65 and over. By Tuesday morning, emergency workers were finding that many evacuees in shelters didn't want to move again.

Even with the prospect of a private room and bath, people were too traumatized to move once again and be isolated on a ship, McIntyre said.

Jackson said government relief workers were bringing in ministers and local leaders to talk with evacuees and convince them that they won't be able to return to their homes or neighborhoods any time soon and that they shouldn't stay in warehouse-style shelters such as the Houston Astrodome for long.

“It is very difficult to convince many people in the shelter that they're not going to be returning home very quickly,” he said. “We have to be sensitive.”

Among other government efforts underway:

·The Department of Veterans Affairs will make some of the 5,000 properties it owns nationwide available, spokesman Scott Hogenson said. About 2,000 of the homes — property seized from veterans who defaulted on loans — are in nine states in or around the disaster area, he said.

·The Agriculture Department said states could offer $50 food benefit cards to evacuees before processing their applications for food stamps.

·The Social Security Administration sent workers to the Astrodome and other shelters to help cut checks and let people know how they can get their checked cashed.

Spokesman Mark Hinkle said the agency is working with the U.S. Postal Service to mail checks to shelters and other temporary homes.

“We can issue emergency funds anywhere,” Hinkle said. “We can send your check wherever you want us to.”

·HUD granted a 90-day moratorium on foreclosures of Federal Housing Administration-insured homes.

At the White House, President Bush said he intends to “make sure those poor folks … get the help they need.”

Miscommunication has continued to plague the relief operation in and around New Orleans.

One example: a 10-bus caravan full of supplies from Washington arrived outside New Orleans over the weekend with plans to take 400 evacuees back to a shelter in the capital. By the time the buses arrived, the evacuees scheduled to be moved to Washington had been flown out, and there was no need for more supplies in New Orleans. The convoy headed for Alabama but got only one taker there. Tuesday, the 10 buses were headed back to Washington with one evacuee on board.

Residents Will Be Forced To Leave (WT/AP)

By Cain Burdeau, Associated Press

The Washington Times, September 7, 2005

NEW ORLEANS -- Engineers struggled yesterday with the weeks-long task of draining this flooded saucer of a city, while the mayor last night issued an order authorizing the forced removal of people refusing to leave a city that was rapidly becoming a health risk.

Mayor C. Ray Nagin told all public safety officers "to compel the evacuation of all persons ... regardless of whether such persons are on private property or do not desire to leave."

Meanwhile, authorities braced for the horrors that would be revealed by the slow drainage of waters from Hurricane Katrina, a herculean task that was being measured by inches yesterday.

The pumping began after the Army Corps of Engineers used hundreds of sandbags and rocks over the Labor Day weekend to close a 200-foot gap in the 17th Street Canal levee that burst in the aftermath of the storm and swamped 80 percent of this below-sea-level city.

After an aerial tour yesterday, Mr. Nagin said the water was dropping ever so slightly, and he estimated that it covered only 60 percent of the city.

"Even in areas where the water was as high as the rooftops, I started to see parts of the buildings," he said, adding, "I'm starting to see rays of light."

In Washington, congressional officials said President Bush intends to seek as much as $40 billion to cover the next phase of relief and recovery as leading lawmakers and the White House pledged to investigate an initial federal response that was widely condemned as woefully inadequate.

As Congress convened after a five-week vacation, House Majority Leader Tom DeLay, Texas Republican, said Katrina aid will be the "number one priority for the foreseeable future," a priority that Senate Minority Leader Harry Reid, Nevada Democrat, said might cost the federal government more than $150 billion.

In New Orleans, the pumping got off to a woefully slow start.

Once all of the city's pumping stations are running, they can move water at a rate of 29 billion gallons a day and lower the water level a half-inch per hour -- or about a foot per day. But by late yesterday afternoon, Corps officials said only three of New Orleans' normal contingent of 148 drainage pumps were operating.

The Army Corps of Engineers said the timetable ranges from three weeks to nearly three months, depending on a string of variables, including rainfall, the still-unknown condition of the abandoned pumps and whether the system can withstand the flotsam of broken buildings, trees, and trash -- and corpses.

"We have to get the water out of the city or the nightmare will continue," said Louisiana Environmental Secretary Mike McDaniel.

Mr. Nagin also warned of what could be revealed when the waters recede.

"It's going to be awful, and it's going to wake the nation up again," said the mayor, who a day earlier increased his estimate of the death toll in his city to as much as 10,000.

With the water dropping, military and police turned their attention to evacuating the streets of the estimated 10,000 people still thought to be in the city. Some have been holed up in their homes for more than a week and refuse to leave.

"You've got to protect your property, that's the main thing," said 69-year-old John Ebanks, who waved off would-be rescuers from a porch stocked with food, mosquito spray and other supplies. "This is all I've got. I'm [too] old to start over."

New Orleans Police Superintendent Eddie Compass told CNN: "These citizens will have to be removed for their own good."

The mayor's forced removal order did not apply to people in Algiers on the west side of Orleans Parish, CNN reported.

In a plea to holdouts who might be listening to portable radios in the powerless city, Mr. Nagin warned that the fetid water could carry disease and that natural gas was leaking all over town.

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"This is not a safe environment," Mr. Nagin said. "I understand the spirit that's basically: 'I don't want to abandon my city.' It's OK. Leave for a little while. Let us get you to a better place. Let us clean the city up."

To that end, the Pentagon began sending 5,000 paratroopers from the Army's storied 82nd Airborne Division to use small boats, including inflatable Zodiac craft, to launch a new search-and-rescue effort in flooded sections of the city.

But the water from Katrina has been standing for more than a week and is contaminated with E. coli bacteria, a highly placed official in the New Orleans mayor's office told CNN yesterday.

"It's absolutely unhealthy to be anywhere near the water," said the official, who declined to be identified.

Public-health officials in Washington yesterday announced the first deaths suspected to be related to tainted floodwaters, although they were not apparently related to E. coli, a bacteria that can cause fatal diarrhea in children and the elderly.

Tom Skinner, spokesman for the Centers for Disease Control and Prevention, said four persons -- one a hurricane refugee evacuated to Texas, the other three in Mississippi -- might have died of a waterborne bacterial infection circulating in Hurricane Katrina's floodwaters.

The deaths appear to have been caused by Vibrio vulnificus, a germ common in warm Gulf Coast waters that's usually spread by eating contaminated food but can also penetrate open wounds, the suspected mode of transmission in these cases.

And in Houston's Astrodome, health officials took steps yesterday against a diarrhea-causing virus made infamous by recent cruise-ship outbreaks.

Officials handed out alcohol-based hand sanitizers to stem the spread of norovirus, an easily spread cause of diarrhea and vomiting. Officials isolated some refugees with the illness, although they couldn't provide an exact count. No treatment exists except to keep sufferers hydrated.

No large outbreaks are attributed to the hurricane, but infection control within shelters housing thousands of evacuees is a top priority, said Dr. Julie Gerberding, CDC's director.

A plan to move thousands of Hurricane Katrina evacuees from the Astrodome to cruise ships was put on hold yesterday after many objected, some because they were terrified by the thought of living on the water.

"I can't live over water. I can't swim," said Donna Smith, 24. "I wouldn't want to see no more water. I saw enough already."

Some National Guardsmen and helicopters were diverted from their search missions yesterday to fight fires, an emerging threat in a city that is still at least a day and a half away from restoring the first running water since the storm.

A candle was blamed for starting one major blaze in the lower Garden District -- a historic neighborhood of mostly wooden homes. The flames started in an abandoned brick building and spread to a neighboring apartment house. The blazes burned for hours before Chinook helicopters with water pouches were brought in to fight the blaze.

Superintendent Compass said lawlessness in the city "has subsided tremendously," and officers warned that those caught looting in an area where the governor has declared an emergency can get up to 15 years in prison.

The signs of hope came against increasingly angry rhetoric over the federal response as too little too late. In Washington, congressional leaders planned hearings into the aftermath of the storm.

"We need to rebuild the confidence of the American people ... in our government's ability to protect them from attack, whether it comes from nature or from terrorists," said Sen. Joe Lieberman, Connecticut Democrat.

Jefferson Parish President Aaron Broussard was even more blunt.

"Bureaucracy has murdered people in the greater New Orleans area," he said on CBS' "Early Show." "Take whatever idiot they have at the top of whatever agency and give me a better idiot. Give me a caring idiot. Give me a sensitive idiot. Just don't give me the same idiot."

Together In Houston: 'We're Going To Survive As A Family' (WP)

By Krissah Williams

The Washington Post, September 7, 2005

HOUSTON -- At first, it was almost like a family vacation. The boys brought their Microsoft Xbox and all the games with them to the hotel in Houston. The night the hurricane hit New Orleans, Blaire Garnett and her cousins went to a nightclub and partied hard.

Then the floodwaters began to rise, and by Tuesday, Garnett's family members were riveted to the televisions in their hotel rooms, watching their home town drown. At the nearby Astrodome, they found a cousin who had escaped the Louisiana Superdome. He joined them at the hotel, 35 members of the same clan crammed into four cramped rooms.

Later, a relative got through on a cell phone to tell them that Garnett's aunt, who was mentally disabled, had died on the Interstate 10 bridge in New Orleans, awaiting help. The mood turned to disbelief.

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So much is gone, but one thing is intact: the family's will to stand together. They have gone hunting for jobs as a group and have rented six apartments in the same complex to house them all. If their life in New Orleans is gone, they will remake it in Houston.

"We came here as a family, and we're going to survive as a family," said Blaire's cousin Gregory Garnett, 20, an electrical engineering student at the University of New Orleans.

The Garnett family wasn't rich before the storm, but they were comfortable. Blaire Garnett, 21, lived with her mom, stepdad and sister in a three-bedroom house in a quiet neighborhood of rental homes in Metairie, a suburb of New Orleans on the south shore of Lake Pontchartrain. Blaire, a third-year business administration student at the University of New Orleans, says she wants to be a lawyer.

To help pay the bills, Blaire worked in a factory that made conveyor belts. She liked the job because it paid well -- $12 an hour plus health benefits -- and because her mom, Lucille Garnett Wiggins; her sister, Crystal; and two of her cousins worked there.

"We all liked our jobs. It was a good company," she said. "They send conveyor belts around the world."

Blaire's stepdad, Chad Wiggins, worked in a plant mixing chemicals for $8 an hour. It was Wiggins who alerted the family that they might want to leave town to ride out the hurricane. When he went to cash his paycheck Friday night, he saw a long line of people who warned that the hurricane might be severe. The next morning, they headed to Houston because it looked to be outside the storm path.

The family had fled hurricanes before and thought they knew the drill. Blaire said her mom told them: "Throw some jeans and T-shirts in a bag. We'll be home by Tuesday."

That sense of optimism vanished after the family spent those first few days watching the suffering of the displaced people on television.

"These are not refugees; this is our country," Blaire said emotionally as she and her cousins discussed the evacuation in disbelief last week. They said they felt the federal government's response would have come more quickly for white people. "This is happening right here in our country, " Crystal said.

It became clear the family could not quickly return to New Orleans. They heard reports that the neighborhoods where their home, companies and schools were had all been flooded. Many people helped them. One company gave all the evacuees in the hotel T-shirts, brought the children Barbie dolls and puzzles and twice prepared barbecue dinners for them. One night, a customer at Church's Chicken paid for the family's chicken when he realized they were from New Orleans. And the Texas Health and Human Services Commission provided the family with food stamps.

But the family realized that was not enough. Blaire tried to call the conveyor belt factory last week to see if workers would be paid but got busy signals. The family concluded they could no longer afford $200 a night for four hotel rooms and needed to move to apartments. But many places refused to rent to tenants without jobs.

On Thursday, Blaire and five of her cousins went to the Texas Workforce Commission, where a woman helped them type resumes and sent them to Randstad, a temporary-staffing company. Randstad found six $7-an-hour positions at Drake Pack, a packing and assembly company that needed workers for a few days to pack canvas tool belts in boxes.

For the past five days, Blaire and her cousins have worked in the hot Drake Pack warehouse, slicing open boxes, removing tool belts, putting barcodes and tags on them, repacking the belts and sealing them shut. Yesterday was their last day at the packing company, but a Randstad official said he plans to make sure the family members continue to get work.

Other family members went apartment hunting. At each complex, they repeated their story: They were a family of 35 who had fled the storm and wanted to stay together.

They asked if owners had any deals for people from New Orleans. One did -- $99 down payment per apartment, with the first month's rent free. After the first month, rent would be $540. The owner waived the standard credit checks and job requirement.

The apartment he was offering was brick with green grass and blue awnings. It looked safe. They signed leases for six apartments. The family plans to leave the Sheraton today and move into the first two apartments. The other four apartments will be ready later in the week. The children will enroll in the public schools nearby.

Blaire is relieved that the family will have an address. But she thinks wistfully of what she left behind, little things, such as her collection of Will Smith paraphernalia, including a candle with Smith's photo printed on it and T-shirts that had her photo and his, along with the words "Mr. and Mrs. Will Smith."

She also misses her old nail salon. She figures it will be a long time before she finds one in Houston that can buff her fingernails the same way. Glancing down at her hand, she sighs, "I would spend my last to get my nails done."

Some sense of normalcy is returning. On Monday, Crystal bought a hair weave at a beauty supply store, and her 17-year-old cousin Tiffany sat with a fine-toothed black comb and parted Crystal's hair, braiding in the weave.

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Later that night, Crystal got on the Internet and was finally able to contact the conveyor belt company. The company said Crystal, Blaire and Lucille would be paid through September. The checks will be mailed to their new apartment, though the company could not give a precise date when the checks would arrive.

"I understand they are going to pay us, but we are out of funds," Lucille said. She also says she's worried that the paycheck will be smaller than normal, because she generally works 20 hours of overtime. She isn't expecting more than $400 this check.

Meanwhile, other family members are looking for jobs. Blaire's uncle Matthew, who worked for UPS in New Orleans, says he hopes the company can find him a similar job in Houston. He said he's done with New Orleans, tired of running scared every time a hurricane warning sounds.

Blaire's mom, Lucille, agrees, saying she is afraid to return to New Orleans.

Not Blaire. She misses her life back there. But where she settles next may depend largely on where she can continue her education.

Her federal financial-aid loan has already been processed by the University of New Orleans. Since she hasn't been able to reach anyone at the school, she doesn't know whether she can transfer the loan to another college.

She figures she won't be able to start at a new school until next semester. "I've already missed like four weeks of school," she said. "If I go to school right now, I might be behind."

She knows she fared better than many, and she says she'll just keep on pushing. "We are used to living at a certain level, and it is hard," Blaire said. "We have to keep working. I don't want to be complaining and whining. We are blessed."

Stunned By Scope Of Destruction, Couple Wonder Whether To Begin Rebuilding Home (USAT)

By Dennis Cauchon

USA Today, September 7, 2005

D'IBERVILLE, Miss. — Katherine and Marshall Hill had a thriving, happy family life here near Biloxi before Hurricane Katrina struck. He installs and repairs slot machines at local casinos. She is chief financial officer for a chain of medical clinics that serve low-income patients.

The Hills had a four-bedroom, 2,000-square-foot ranch house and a new air-conditioning system. They had a boat, a motorcycle, a widescreen TV and a Bose surround-sound audio system. They had a pool table in the family room that attracted neighborhood kids, and saltwater aquariums full of expensive lion fish that Marshall Hill watched to relax. Hurricane Katrina destroyed all that — except the boat.

The Hills are putting their lives together, almost from scratch, and it's hard for them to know where to begin. “I gave up last week,” says Marshall Hill, 41. “I looked around, saw everything destroyed and said, ‘I'm never coming back.' ” But after a couple days, seeing many people worse off than his family, Hill regained his fighting spirit and the desire to stay in the area where he's lived since he was a child.

For now, the family is staying at his parents' house in Woolmarket, 10 miles inland from the coast. The adults sleep in a spare bedroom. Matt, 19, sleeps in the den until he returns to junior college and pursues his dream of becoming a Major League pitcher. Ashley, 11, who likes dirt bikes and cheerleading, sleeps on the living room sofa. Another daughter, Shawnessy, 16, is staying with her boyfriend's family for now but will return soon.

This arrangement may last months.

The Hills have to decide first what to do about school for the kids. The school year started in early August but may not resume for three to six months. Students may have to go to Mobile, Ala., 60 miles away, or Jackson, Miss., 180 miles away, to attend classes. The Hills could send Ashley to live with cousins in Kingsport, Tenn., and have her go to school there.

Ashley wants to stay home, and the parents are torn.

“I don't know if it's right to send my daughter away to a school where she doesn't have friends and will stay only a few months,” says Katherine Hill, 38.

Maybe they'll home-school her for a while, they think. Maybe they'll hold her back a year. “Sometimes life teaches you more than school,” Marshall Hill says.

The Hills met with their insurance company after the storm. They learned that half their house is covered by insurance and half is not. Damage to the back of their house is covered by homeowner's insurance because it was caused by wind that ripped a hole in the roof. The front of the house is not covered because it was damaged by rising water.

The Hills did not have flood insurance, because at 34 feet above sea level they were not in a flood plain. Still, the house took on 18 inches of water during the storm, forcing the nine people and four dogs in the house — friends and family — onto pool tables and beds to stay above water. Five cars owned by family and friends were destroyed at their house in the flood. Insurance will cover that.

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Right now, the Hills are using a truck borrowed from parents. Katherine Hill's 2000 Buick LeSabre will have to be replaced. After the storm, you could pull out the dipstick and measure the water in the engine.

Since insurance will cover only part of their loss, the Hills must decide how to spend the money they do get.

"We lived like many Americans — too many car loans, too much credit-card debt. We had a great life, paycheck to paycheck," Marshall Hill says. Insurance might help pay off the debts, but it won't leave much to rebuild.

Family members have offered to come immediately with tools to rebuild the house, which still stands although everything is ruined. The Hills have asked them to stay put until they know what they will do next. Marshall Hill expects to do much of the work himself. "I want the house to be fixed up totally before we buy new anything," he says. "I don't want to just put in a carpet and make do."

The best news: The Hills don't expect to lose their jobs. The slot machine company he works for says it will find jobs for people hurt by the hurricane. But he wonders if that means he may have to work temporarily in Las Vegas or elsewhere as a repairman.

Katherine Hill prepared for Hurricane Katrina by going into work the Saturday before the storm and running the payroll early for her company's 200 workers. The money was scheduled to be credited to employee accounts this past Friday. It didn't happen.

After solving the payroll problem, she'll have to reconstruct the company's records. Her computers were destroyed, and her backup records were in a safe that flooded. She hopes the company's information systems manager has a copy, but she hasn't been able to reach him because he lives in a hard-hit area closer to New Orleans.

"I have to come up with a new record-keeping system from scratch," she says. "I'm worried less about the billing records than about getting patient records."

For all the hard work ahead of them, the Hills consider themselves lucky. They have family in the area, unlike many casino workers. Their house is uninhabitable but still standing. And everyone is alive.

Over the weekend, power came back on at his mother's house where they are staying. They took a warm shower. For breakfast, they had eggs. The small pleasures of life made them laugh with delight.

Barbara Bush Calls Evacuees Better Off (NYT)

By The New York Times

The New York Times, September 7, 2005

WASHINGTON, Sept. 6 - As President Bush battled criticism over the response to Hurricane Katrina, his mother declared it a success for evacuees who "were underprivileged anyway," saying on Monday that many of the poor people she had seen while touring a Houston relocation site were faring better than before the storm hit.

"What I'm hearing, which is sort of scary, is they all want to stay in Texas," Barbara Bush said in an interview on Monday with the radio program "Marketplace." "Everyone is so overwhelmed by the hospitality."

"And so many of the people in the arena here, you know, were underprivileged anyway," she said, "so this is working very well for them."

Mrs. Bush toured the Astrodome complex with her husband, former President George Bush, as part of an administration campaign throughout the Gulf Coast region to counter criticism of the response to the storm. Former President Bush and former President Bill Clinton are helping raise money for the rebuilding effort.

White House officials did not respond on Tuesday to calls for comment on Mrs. Bush's remarks.

Amid One City's Welcome, A Tinge Of Backlash (NYT)

By Peter Applebome

The New York Times, September 7, 2005

BATON ROUGE, La., Sept. 6 - Last week came the rumors - of riots at Wal-Marts, of break-ins at homes, of drug gangs from New Orleans roaming the streets of its more sedate neighbor 75 miles up Interstate 10.

Today came the reality - of a dozen or more relatives crowded under one roof, of hours stuck in traffic trying to get to school or work, of frustration and fear about what kind of city Baton Rouge will be with at least 100,000 evacuees and rescue workers added to the 227,000 residents it had before the storm hit.

Make no mistake. The overwhelming response of people in Baton Rouge to Hurricane Katrina has been one of compassion and sacrifice with every church in town, it seems, housing or feeding evacuees.

But there have also been runs on gun stores, mounting frustration over gridlocked roads and an undercurrent of fear about crime and the effect of the evacuees.

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After the chaos of the storm, which did some damage here, and a long weekend, Tuesday was the first day most residents returned to work and school. Before the evacuation, blacks made up about half the population of Baton Rouge and almost 70 percent of New Orleans, and in conversations in which race is often explicit or just below the surface, voices on the street, in shops, and especially in the anonymous hothouse of talk radio were raising a new question: just how compassionate can this community, almost certainly home to more evacuees than any other, afford to be?

"You can't take the city out of the yat, and you can't take the yat out of the city," said Frank Searle, a longtime Baton Rouge resident, using a slang term for New Orleanians derived from the local greeting, "Where y'at?"

"These people will not assimilate here," Mr. Searle said. "They put up with the crime in New Orleans, and now it's staring them in the face, but up here that's not going to be tolerated. People are going to handle it individually if they have to. This is the South. We will take care of it."

For a week Baton Rouge, the state capital, home of Louisiana State University and a place that sees itself as a less raucous cousin to what had been the kingdom of sin and merriment to its south, has been trying to come to terms with its sudden status as the state's most populous city.

"It's a new Baton Rouge we're living in, isn't it?" said Jeanine Smallwood of suburban Prairieville, in the middle of a 90-minute drive to work that should have taken 20.

Like many people in and near Baton Rouge, Mrs. Smallwood, her 1,700-square-foot house now sheltering 14 people, is trying to balance the need for compassion with the vertigo of a changed city. And so while she wishes all the evacuees well, she said she feared an influx of people from the housing projects of New Orleans, places, she has heard, where people walk around in T-shirts that read, "Kill the cops."

"Or so the story has it," she said. "Those aren't neighborhoods I go to."

She was so rattled, she said, she told her daughter she might have to move. On reflection, she said, there is little chance of that. Instead, she is hoping for the best.

"People are, what's the word? Not frustrated, not scared, it's more like their lives are on hold, everything's changed and we're trying to figure out what the new normal is going to be," Mrs. Smallwood said.

Many relief workers and volunteers say the worries over crime reflect more wholesale stereotyping of people fleeing a catastrophe than anything based in fact, but safety is a major issue. At the height of the post-storm panic last week, people waited in line for three and a half hours at Jim's Firearms, a giant gun and sporting goods store. Many were people from New Orleans with their own safety issues. But many were local residents jumpy about the newcomers from New Orleans and stocking up on Glock and Smith & Wesson handguns.

Jim Siegmund, a salesman at Jim's recently returned from military service in Iraq, said he did not think there was anything to worry about. Still, holding a cellphone in his hand and comparing it to a 9-millimeter handgun he said: "When push comes to shove, this won't protect you, but a Glock 9 will."

Joel Phillips, a 38-year-old contractor, said he had never owned a gun in his life, but after watching an angry argument at a gas station, he stood in line for three hours at Jim's to buy a 9-millimeter Ruger handgun and then went with a friend to a firing range over the weekend to learn how to use it.

"I have two daughters, I sometimes have to work in bad neighborhoods," Mr. Phillips said. "I probably don't need it, but I'll feel better knowing that I have some protection."

Many evacuees are staying with family or friends, their campers, S.U.V.'s and pickups parked on front lawns or circular driveways.

Most people at the broad array of shelters were dazed but appreciative of the help from local volunteers like the Louisiana State University students, upbeat and attentive, tending to sick and exhausted evacuees at the triage center on campus.

But others, particularly those at the main Red Cross shelter at the River Center convention center downtown, were seething with frustration, not just over the disaster they were fleeing, but from the sense that they were being treated not so much like guests as people being warehoused until they could be shipped elsewhere.

Patricia Perry, a postal employee from New Orleans, said anyone with a wristband from the River Center shelter was being stereotyped outside it as one of "those people" - looters, criminals, outcasts.

"It's like a stigma," she said. "All they really want to do is get us out of town. Well, I'm from Louisiana. I work hard. I pay my taxes. Surely, this state can find a place for us to live."

Still, many residents, with the sense of intimacy that remains so much a part of Southern life, took their role as hosts seriously, as if it would be bad manners, the ultimate sin in the South, to do otherwise.

So when Pam Robertson, manager of a convenience store, asked a customer how he was doing, it was not dutiful chatter but a real question that begged for a real answer.

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When it came, she took the man's hand in hers over the counter and talked about her friend Hunter, evacuated from Loyola University, about her upbringing in the town of Henderson in the heart of Cajun country, about the grid of local streets here.

She greeted one and all with the same missionary zeal, as if the right words could somehow undo the disaster of the past week.

And when asked how she was doing, or even when they didn't, she replied: "I'm tired, but I'm hanging in. It's good. It's all good. God is good. We'll get through it."

Hundreds Of Storm Survivors Arrive In Capital (WP)

By Theola S. Labbe And Lori Montgomery

The Washington Post, September 7, 2005

He was the first person to step inside the D.C. Armory yesterday, the tall elderly man who carried all his belongings in a plastic grocery bag and walked with a slight limp. Behind him was a woman in a plaid dress who pushed a walker, a girl with a pink barrette in her hair and a small boy in a lime-green T-shirt who was scooped up into a hug by a D.C. official.

One by one, the New Orleans survivors of Hurricane Katrina arrived in Washington yesterday, welcomed with smiles and applause from emergency workers and District leaders. Some came on stretchers or makeshift wheelchairs. Others could move on their own but looked tired and dazed.

Along with the clothes on their backs and the scraps of their lives stuffed into trash bags, the evacuees brought tales of fear and survival -- and were grateful to finally be able to call someplace home.

"I feel very warm," said Jameila Anderson, 19, until last week a sophomore at Dillard University in New Orleans, who arrived at the shelter with her boyfriend and his mother. "I feel relieved. I feel like everything is going to be all right."

A total of 295 evacuees were flown from New Orleans to Dulles International Airport on two commercial aircraft, and more may arrive here over the next several days. They were taken to the armory on Metrobuses and fed a hearty lunch of meatballs, egg noodles and mixed vegetables with a garden salad.

Workers with the American Red Cross, which is managing the shelter, planned to issue identification cards and assess whether evacuees needed such services as medical treatment, mental health counseling, job referrals or help with school enrollment. They will be able to stay at the armory 30 days, perhaps longer.

"This is Step 1. They're here," said Linda Cropp, chairman of the D.C. Council, who stood with Mayor Anthony A. Williams (D) and other city officials shortly before the evacuees arrived. "We now must get them involved in our community."

Although District officials initially had planned to receive a group of hurricane survivors being housed in Arkansas, the Federal Emergency Management Agency on Monday night instead arranged the airlift from the New Orleans airport.

City Administrator Robert C. Bobb, who met the first plane at Dulles, said that although many people were relieved to reach a well-equipped shelter, others were astonished and dismayed to find themselves in the nation's capital, "thousands of miles from home."

"People were real irritated. 'Why am I in Washington when I wanted to go to Texas?' I heard that on two or three occasions," Bobb said. "No one told them where they were going until they got on the plane."

Three people arrived at the armory only to demand a ride back to the airport so they could travel at their own expense to Texas, Bobb said. Another man asked to go to Alabama.

Other jurisdictions in the region also were making plans to put up evacuees in shelters if needed.

"We will treat them like we treat our sisters and brothers," said Prince George's County Executive Jack B. Johnson (D), with Maryland Gov. Robert L. Ehrlich Jr. (R) by his side, at a news conference where government and religious leaders pledged help.

Virginia Gov. Mark R. Warner (D) said the state has identified temporary living facilities for at least 3,000 evacuees. He said that as many as 1,000 will be housed at Fort Pickett, an Army National Guard facility in central Virginia, and others in 4-H centers run by the state or in private homes identified by churches and synagogues.

During health screenings of the evacuees who arrived in the District, some were suffering from diarrhea and dehydration, but most were in good physical condition, said D.C. Department of Health Director Gregg A. Pane. Sixteen people were taken to a hospital for immediate treatment, he said.

Outside the Stadium-Armory Metro station, a group of people stood in front of the iron fence and waited as evacuees periodically came to talk with them.

"We slept on the roof for three days. We were lucky we had a two-story house," said Cleo Breland, 48, who used to help shampoo hair in New Orleans. "Man, I don't have no ID on me, no nothing."

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A rescue boat left him on a highway, he slept on a funeral home floor and then was told to go to the New Orleans convention center.

Now, he said, everybody wanted to help, wanted to treat the evacuees "like movie stars."

"It was weird," he said.

John Vaughn, 42, a New Orleans restaurant worker who was rescued two days ago, flew to Washington with his sister and her three teenage sons. He said he has no money and needs to find work quickly.

Gary Graham, 49, a hospital pharmacist, said he stayed in New Orleans during the hurricane because he was classified as an essential worker. When his house became uninhabitable, he moved into his truck and ate canned food until he was rescued Thursday.

He ended up in the vast sea of humanity at the New Orleans airport and said he was unaware he was coming to Washington until he asked a flight attendant.

Many of the area residents outside the armory hoped to help.

Geraldine Pritchett, president of Labor of Love Homeless Institute in Fairfax County, was offering donations from Costco and Giant in Northern Virginia. "We've got diapers, baby food, children's books and toys," she said, "and we hope to help get people into homes."

Donna Coates, a D.C. resident, wanted to contribute clothing. Elsa Malloy, of Maryland, wanted to help organize apartments. And Meshelle Carter, of Northeast Washington, wanted all 295 evacuees to come to a welcome picnic" at her house Saturday.

Carter, a security officer, said she knew what it meant not to have. "My heart just went out" to the evacuees, she said.

Offers Of Aid Immediate, But U.S. Approval Delayed For Days (WP)

By Elizabeth Williamson

The Washington Post, September 7, 2005

Offers of foreign aid worth tens of millions of dollars -- including a Swedish water purification system, a German cellular telephone network and two Canadian rescue ships -- have been delayed for days awaiting review by backlogged federal agencies, according to European diplomats and information collected by the State Department.

Since Hurricane Katrina, more than 90 countries and international organizations offered to assist in recovery efforts for the flood-stricken region, but nearly all endeavors remained mired yesterday in bureaucratic entanglements, in most cases, at the Federal Emergency Management Agency.

In Germany, a massive telecommunication system and two technicians await the green light to fly to Louisiana, after its donors spent four days searching for someone willing to accept the gift.

"FEMA? That was a lost case," said Mirit Hemy, an executive with the Netherlands-based New Skies Satellite, who made the phone calls. "We got zero help, and we lost one week trying to get hold of them."

In Sweden, a transport plane loaded with a water purification system and a cellular network has been ready to take off for four days, while Swedish officials wait for flight clearance. Nearly a week after they were offered, four Canadian rescue vessels and two helicopters have been accepted but probably won't arrive from Halifax, Nova Scotia, until Saturday. The Canadians' offer of search and rescue divers has so far gone begging.

Matching offers of aid -- from Panamanian bananas to British engineers -- with needs in the devastated Gulf region is a laborious process, in a disaster whose scope is unheard of in recent U.S. history, especially for a country that is more accustomed to giving than receiving aid.

State Department spokesman Sean McCormack said yesterday that to his knowledge, all offers of foreign aid have been accepted but must be vetted by emergency relief specialists. "I think the experts will take a look at exactly what is needed now," he said.

FEMA spokeswoman Natalie Rule said the foreign complaints echo those from governors and officials "across the nation."

"There has been that common thought that because [offers of aid] are not tapped immediately, they're not prudently used," Rule said. "We are pulling everything into a centralized database. We are trying not to suck everything in all at once, whether we need it or not."

European diplomats said publicly that they understand the difficulty of coordinating such a massive recovery effort. In an open letter released yesterday, though, Ambassador John Bruton, head of the Delegation of the European Commission to the United States, wrote:

"Perhaps one of those lessons will be that rugged individualism is not always enough in such a crisis, particularly if an individual does not have the material and psychological means to escape the fury of a hurricane in time."

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Soon after the flooding, the government of Sweden offered a C-130 Hercules transport plane, loaded with water purification equipment, and a cellular network donated by Ericsson.

"As far as I know, it's still on the ground," said Claes Thorson, press counselor at the Swedish Embassy in Washington. He said that along with 20 other European Union nations that have pledged money and goods, "We are ready to send our things. We know they are needed, but what seems to be a problem is getting all these offers into the country."

So far, Thorson said, the State Department has denied Sweden's request for flight clearance. "We don't know exactly why, but we have a suspicion that the system is clogged on the receiving end," he said. "But we keep a request alive all the time, so we are not forgotten."

German telecommunications company KB Impuls contacted another company, Unisat, based in Rhode Island, with the idea of contributing an integrated satellite and cellular telephone system.

In a region with its communications systems in tatters, the $3 million system could handle 5,000 calls at once, routing them, if necessary, through Germany.

KB Impuls would contribute the equipment and two engineers, supplied with their own food, water and generator fuel, to set it up. Unisat contacted another firm, New Skies Satellite, based in the Netherlands with offices in Washington, which agreed to contribute satellite capacity.

New Skies even arranged transport, securing a C-130 cargo plane from the Israeli Air Force, to pick up the equipment and technicians from Germany and bring them to Louisiana. "With one call, I got an airplane," Hemy said. And then, over four days, she and the owner of Unisat, Uri Bar-Zemer, called contacts at FEMA, the American Red Cross, the State Department, even members of Congress, trying to find someone to accept the gift.

Finally the State Department told them that to receive flight clearance, the gift must have a specific recipient. "I was ringing, ringing, ringing -- and nothing," Hemy said. Finally, yesterday, she got a call from the U.S. Air Force's Joint Task Force Katrina Communication Operations division, thanking the companies for the gift and inquiring about the system's technical specifications.

As of late yesterday, the companies were waiting for a written order from the Northern Command to begin the mission. "I don't have a problem confirming that," Bar-Zemer said of the story. But he expressed concerns that disclosing the difficulties in donating could jeopardize the company's chances of actually delivering the aid.

U.S. Declines Some Foreign Offers Of Hurricane Aid (WT)

By Nicholas Kralev

The Washington Times, September 7, 2005

The United States has accepted help from about 40 countries for the victims of Hurricane Katrina -- fewer than half of those that offered -- including high-speed water pumps, food, cruise ships and more than $400 million in cash, U.S. officials said yesterday.

Although no offer has been rejected officially, proposals from Cuba and other countries to send doctors or nurses have not been accepted because there is enough U.S. medical personnel to deal with the crisis for now, the State Department said.

"There's been a robust response from the American medical community in terms of medical supplies, in terms of medical professionals, doctors, nurses, as well as public health officials," spokesman Sean McCormack told reporters.

A senior State Department official added: "We have the people we need right now, and we have more in the pipeline."

A Belgian offer to send medical teams to assist the American Red Cross was accepted, but they include only logistical personnel, U.S. officials said.

The State Department sent a cable to U.S. embassies around the world over the weekend with what one diplomat in Europe described as a "generic list" of needs that the Federal Emergency Management Agency had identified as top priorities.

The list did not include medical professionals, diplomats in Washington and overseas said.

"The cable said that interested governments should let us know what from the list they can provide," the U.S. diplomat in Europe said.

Once those governments respond, Washington will decide what to take from each of them, he said.

He also noted that some foreign officials are asking why it took Washington so long to compile the list, but the Bush administration said the enormity of the crisis required time and care for a comprehensive list to be produced.

"Over 90 countries and organizations around the world have made offers of assistance to the United States and the American people in our time of need," Mr. McCormack said.

"As needs are identified, certainly if they can be filled from the international offers of assistance, that is something that we have and will go back to foreign countries to try to meet," he said.

He noted that Germany and the Netherlands are sending high-speed pumps, and that Greek cruise ships are on their way to the Gulf of Mexico region.

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"There is a process of matching needs with the expertise and the donations that have been made. This is going to be an ongoing process over a period of time," Mr. McCormack said.

The largest cash contributions so far, $100 million each, have come from three Persian Gulf countries -- Qatar, the United Arab Emirates and Kuwait. The latter is also shipping $400 million worth of oil.

The United States has accepted help even from poor countries like Afghanistan that are recipients of substantial amounts of U.S. aid.

"What we do is, we accept these offers in the spirit in which they are given," Mr. McCormack said.

A Foreign Aid Twist: U.S. Gets, Others Give (USAT)

USA Today, September 7, 2005

World reaction to Hurricane Katrina has been like viewing the USA through a Hall of Mirrors. To believe some commentary in countries from Europe to Asia to the Middle East, the world's wealthy superpower has, in Katrina's wake, been exposed as a vulnerable supermonster.

In this view from abroad, the USA is a place that is callous toward its poor and black. A Pakistani newspaper wrote, for example, of how the U.S. government "for three days sat smugly apathetic to the people's plight."

It's a place where the early looting reflects a culture of violence and selfishness: "The darker side of the American dream" was how a columnist for London's Daily Mail put it.

And it's a place where a focus on the Iraq war has starved it of resources to deal with natural disasters — a favorite topic in the Arab media.

The comments, which contain both distortions and grains of truth, are a jolting reminder that the U.S. image in the world has been in a tailspin since the start of the Iraq war — fueled by anger and frustration over the go-it-alone U.S. approach that has too often disregarded others' opinions or interests.

And yet Hurricane Katrina also presents a fleeting moment of opportunity to start repairing that image. Generous international offers of aid have accompanied the criticism. The United Nations is offering its emergency response system, including disaster relief teams, equipment and expertise. As many as 90 nations have deluged the State Department with offers.

A few come tinged with political agendas or are cynical public relations ploys: Iran, for example, wants to send oil — just so long as sanctions are first lifted to allow it. Cuba wants to send doctors.

But most of the offers spring from a reflexive generosity, including much reciprocity for past U.S. help. One of the largest donation pledges, of half a billion dollars, is from Kuwait — liberated from Iraqi occupation by U.S.-led troops 14 years ago. Even small Sri Lanka, badly hit by last year's tsunami and a recipient of U.S. aid, has promised a $25,000 donation to the American Red Cross.

The manner in which the United States accepts or rejects the offers of help has the potential to influence the soured global mood. International relations are, when all's said and done, much like everyday human relationships. Psychology plays a large role. Right now, it's as if the whole neighborhood is reaching out in a time of trouble, despite having felt slighted by what many see as the rich bully on the block.

For months, Secretary of State Condoleezza Rice has made changing the international mood a priority. That has been hard, particularly as other nations have been reluctant to help in Iraq. Graciously accepting most offers can telegraph a newfound humility and appreciation of the value of international cooperation.

Not that doing so is easy.

Receiving help can be embarrassing and goes against the American character of self sufficiency. Americans see themselves as aid donors, not recipients, and appropriately so given the nation's wealth. No one should take from others in greater need. So far, U.S. officials seem to be playing it just about right.

Rice has profusely thanked other countries for their compassion. And not only is the United States accepting much of the international generosity, it is making specific requests. Germany, for example, can supply forklifts, veterinary supplies and ready-to-eat meals. That is in part just good common sense. For all its resources, the United States can't match the U.N. or others in some aspects of disaster relief. The U.N. has long experience dealing with traumatized children and is sending pre-made playgrounds, much as it did to tsunami victims.

Accepting Hurricane Katrina aid with grace can't magically make the United States popular, particularly when it comes to sworn U.S. enemies. Some in the Muslim world, for example, are portraying Katrina as God's wrath, as are some thoughtless Christian leaders here.

But it can be a start on rebuilding alliances.

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Four years ago this weekend, after the Sept. 11 attacks on New York and Washington, the world had a very different reaction to the U.S. distress. Besides offers of help, the world was united with Americans. As a headline in France's Le Monde newspaper trumpeted: "We Are All Americans."

Recalling that more pure generosity — of spirit and practical help — is heartening. It's a reminder that, not so long ago, the world saw the United States much as it likes to think of itself: as a generous-spirited, socially-responsible beacon of democracy. Regaining that cleareyed international admiration is an ideal. The international response to Hurricane Katrina provides an opening.

Bush: Aministration Looking To Help Schools Absorb Kids Displaced By Katrina (AP)

AP, September 7, 2005

President Bush says the administration is looking at ways to help schools absorb students displaced by Hurricane Katrina.During a meeting with Education Secretary Margaret Spellings, the president said local school districts are extending "extaordinary efforts" right now to help kids learn.Bush said he's sending his wife Laura to DeSoto County, Mississippi, tomorrow to talk to school officials about their problems.At the same time, Bush promised that Washington is ready to show flexibility when it comes to college loans. He says Katrina has forced many college students to change plans, and the Education Department will show what he calls "loan forebearance."

Across Nation, Storm Victims Crowd Schools (NYT)

By Sam Dillon

The New York Times, September 7, 2005

School districts from Maine to Washington State were enrolling thousands of students from New Orleans and other devastated Gulf Coast districts yesterday in what experts said could become the largest student resettlement in the nation's history.

Schools welcoming the displaced students must not only provide classrooms, teachers and textbooks, but under the terms of President Bush's education law must also almost immediately begin to raise their scholastic achievement unless some provisions of that law are waived.

Historians said that those twin challenges surpassed anything that public education had experienced since its creation after the Civil War, including disasters that devastated whole school districts, like the San Francisco earthquake and the Chicago fire.

"In terms of school systems absorbing kids whose lives and homes have been shattered, what we're going to watch over the next weeks is unprecedented in American education," said Jeffrey Mirel, a professor of history and education at the University of Michigan.

The vast resettlement was already under way last week, with schools in Baton Rouge, La., Houston and other cities near the Gulf Coast enrolling some students. Yesterday, officials in cities including San Antonio; Phoenix; Olympia, Wash.; Freeport, Me.; Memphis; Washington; Las Vegas; Salt Lake City; Chicago; Detroit; and Philadelphia reported enrolling students or preparing for their arrival.

The total number of displaced students is not yet known, but it appears to be well above 200,000. In Louisiana, 135,000 public school students and 52,000 private school students have been displaced from Orleans, Jefferson, St. Bernard and Plaquemines Parishes.

President Bush, speaking with reporters at the White House yesterday, thanked the nation's educators "for reaching out and doing their duty," and he said that Secretary of Education Margaret Spellings was working on a plan to help states absorb the educational costs but gave no hint of what kind of assistance might be provided. The Department of Education set up a Web site to coordinate private donations to schools enrolling displaced students.

"They said we could brace for about 500 kids," said Sue Steele, coordinator of homeless student programs for the public schools in Wichita, where buses carrying 1,800 storm victims were expected to arrive yesterday, part of some 7,000 headed for Kansas.

Many students were concentrated in districts along an arc from the Florida Panhandle west through Georgia, Tennessee, Arkansas and Texas.

The Santa Rosa County School District in the Florida Panhandle has enrolled 137 students, said Carol Calfee, a district official.

"And we still have folks coming in," she said. "They're walking through the door and some of them just have nothing, so it's really hard." The local United Way has said it will try to buy school supplies for every displaced student, she said.

The crisis poses new challenges for Ms. Spellings, including financial. The Department of Education's budget this year for homeless student programs is about $61 million, which she said was insufficient.

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Ms. Spellings, who has spent her first months in office fighting a backlash by local educators and state lawmakers against the federal law known as No Child Left Behind, is also hearing calls from advocacy groups that she take emergency measures that could be controversial.

The National Education Association, the nation's largest teachers union, asked her on Friday to waive the accountability provisions of the law for schools in the hurricane's path as well as in Texas and other states receiving large numbers of students, a move Ms. Spellings said she was reluctant to take.

Private companies that operate online courses or charter schools are urging her to use emergency powers to authorize them to enroll displaced students at the Houston Astrodome and other shelters across the nation.

Ms. Spellings has invited 40 education groups, including the P.T.A. and teachers unions, to meet at the Department of Education today to discuss disaster recovery efforts. Reg Weaver, president of the N.E.A., which has challenged No Child Left Behind in federal court, said he immediately accepted the invitation.

But in a separate letter, he also asked Ms. Spellings to use her powers to waive provisions of the law, which requires school districts to raise student scores on standardized tests each year by a percentage set by each state, a goal known as making adequate yearly progress.

"Until these children, their teachers, districts and families gain their footing under these extremely difficult circumstances, I encourage you to implement the provisions in N.C.L.B. that deal with the impact of natural disasters on testing and adequate yearly progress," Mr. Weaver's letter said.

Ms. Spellings is consulting with state school superintendents as she considers whether to waive the law's accountability provisions in some cases, said her spokeswoman, Susan Aspey. One consideration is how many displaced students that individual schools or districts enroll; those with higher concentrations may be more likely to receive waivers, Ms. Aspey said.

"There is no one-size-fits-all approach," she said.

Even before the storm, hundreds of schools that had failed to meet the federal law's proficiency requirements for several years, most of which educate the urban poor or non-English speaking immigrants, were facing sanctions that include school closings and the firing of staff. Thousands of others were expected to be placed on academic probation or labeled as low-performing.

Theodore R. Sizer, a visiting professor of history at Harvard, said that unless the law's accountability provisions were waived during the emergency, they would add tensions to the resettlement crisis.

"Imagine you're the principal of a big high school in city X, and your scores are above the state minimums, so you're doing fine with the law, and suddenly you have 300 displaced kids," Mr. Sizer said. "That not only brings crowding but also means that on the next exams your scores could plummet and the federal law will say you run a terrible school."

The Bush administration must also make decisions about another hotly debated issue in public education: charter schools. The National Council of Education Providers, which represents the nation's largest commercial school management companies, has asked the Department of Education to authorize it to enroll students housed at emergency shelters in Internet-based courses offered by its companies.

The National Council's Web site yesterday highlighted its request to the department to establish a "national virtual charter school" that would "serve evacuees wherever they are."

"Once students have access to computers and connectivity - borrowed, donated or shared - companies are standing by to waive state restrictions and log these students on," the Web site said. The restrictions in question include enrollment caps in state laws that apply to charter schools. The National Council wants the federal government to waive those laws during the emergency.

Jeanne Allen, a paid consultant to the National Council who is also president of the Center for Education Reform, a nonprofit organization, said she delivered a draft "Emergency Public Charter School Act" to members of Congress yesterday.

Hard Lessons For Kids Starting Class Far From Home (AP)

By TODD LEWAN

AP, September 7, 2005

HOUSTON — On their first day in class after the Labor Day weekend, second-graders of Briarmeadow Charter School were excitedly playing "Subtraction Wars" with toy blocks in their math class.

Not Jameall Gatlin. The 8-year-old boy had a donated new blue polo shirt, new khaki shorts, new Nike sneakers. But he was quiet and shy, understandably so: He's a long way from his home in devastated New Orleans.

"It's very different," he mumbled, shoving his hands in his pockets, when asked what he thought of his new school.

Here, as in towns and cities around the country that have taken in Hurricane Katrina's dispossessed, refugee students are getting a tough crash course in adjustment.

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Katrina forced an unprecedented displacement of students from the Gulf Coast, just as schools across America are starting the academic year. From Maine to California, districts have begun hastily enrolling these students, even embracing them — with a smile, a hug or a welcome sign drawn in art class.

The influx is putting a logistical and financial strain on schools at a time when many are grappling with budget and program cuts, soaring gas prices, and the pressure of satisfying the No Child Left Behind Act, which requires yearly progress in math and reading among all students.

Classroom space, textbooks, transportation and teachers for new students — how much it will cost? No one can say. Still, says Paul Houston, executive director of the American Association of School Administrators, "I think districts will keep taking the students and figure it all out later."

Even before Katrina, Texas, which has absorbed nearly a quarter-million refugees, was already having problems funding its growing, public school system. In 2003, about 300 school districts sued the state, claiming that not enough money was going to schools.

This year, in response to the lawsuit, Gov. Rich Perry convened three emergency sessions of the Texas Legislature to resolve the money problem. Still, lawmakers failed to come up with a new plan.

Regardless of such challenges, schools are welcoming displaced kids.

By yesterday afternoon, the Houston Independent School District had taken in 889 students, a number expected to grow by 5,000 or more in the coming days, said spokesman Terry Abbott. The district is hiring retired teachers and certified instructors from Louisiana, and getting breaks on textbooks from publishers, he said.

Teachers and administrators are also trying to make "Katrina kids" and their parents feel at home.

"The first thing we do is give them a hug and say, 'How can we help you,'" says Lynn Barnes, the principal at Briarmeadow, which had enrolled at least 22 refugee students. When Briarmeadow runs out of room, "we will contact other schools."

River Oaks Elementary has been preparing since last week for the flood of Katrina evacuees. One art class got a special assignment: to make a poster that read, "Welcome, Louisiana children."

Some New Orleans students were resettling in Louisiana itself. Schools sent employees to shelters and churches in Baton Rouge to give beleaguered parents tips on where to find school supplies, clothes, food and donated, day-to-day spending money.

The Bernard Terrace Elementary School signed up two dozen refugee students for classes on Tuesday, and Principal Deborah Daniels said the school, now with 480 students, would "take however many they want me to."

The uprooted students miss their homes, their friends — their stuff. "They say they want to go back and get this and that," said Trellis Royal, as she waited to register her 10- and 14-year-old daughters at a Baton Rouge school.

Katrina Forces Children To Start School Again In Georgia (AP)

By Greg Bluestein

AP, September 7, 2005

ATLANTA - Fifth-grader Layanda Grinstead looked like she was having fun playing badminton with her sister Leslea in the halls of a Red Cross shelter, but secretly, she said, she's eager to hit the books.

"I'm not nervous at all. I'm ready to get back," she said.

Her mom, Latanya, is too. "I'm so ready for them to go to school," she said. "They have the attitude that it's a new start even though it's hard losing everything."

Hundreds of students who fled from Hurricane Katrina will take their seats at schools across the state this week as state officials struggle to direct a smooth transition.

Some 350 evacuees have already enrolled in Georgia public schools - a number that's expected to increase significantly this week. And dozens more are expected to enroll in the state's lottery-funded pre-kindergarten program, which announced today it would open its doors to storm victims.

Although education officials are uncertain how the influx will strain schools throughout the state, the priority now is to "put them in a classroom and we'll work out the details later," said spokesman Dana Tofig.

The state board of education will also likely relax rules that limit class sizes. "The systems don't want to worry that they're being penalized to open their doors," Tofig said.

At the state's largest shelter, Georgia Tech's Alexander Memorial Coliseum, an Atlanta Public Schools liaison was helping direct students to a van early Tuesday that dropped them off at nearby schools.

Some children, like second-grader Bobby Whittey, aren't quite ready to get back to the daily grind. While at the shelter, Whittey said he's gotten used to "playing and sleeping" since his family escaped New Orleans.

His grandmother, Velma Whittey, had other ideas.

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"He's got to go back to school," she said. "He's got so much energy sometimes I got to pray to the Lord so I can get some peace to deal with this little boy."

Student Displaced By Hurricane Instant 'Rock Star' At Local School (MINNST)

By Dan Wascoe

Minneapolis Star Tribune, September 7, 2005

Two weeks ago, before Katrina turned New Orleans into a deadly, fetid lake, Johnathan Smith, 18, began his senior year in nearby Metairie, La.

On Tuesday, uprooted by the hurricane from his mother, brother, sister, school and city, he began classes again, this time at Minneapolis' Southwest High. He said he is grateful for the chance to make a fast transition by moving in with his father, Crosby Smith. But he's also itching for the chance to enlist in the National Guard.

As he made new friends, grabbed a quick lunch at a nearby Dairy Queen and stood still for media attention, he was quick to note differences between his old school and his new one.

Archbishop Rummel in Metairie is a private, Catholic, all-boys, nearly all-white school of about 1,330 students in grades 8 to 12. All of them wear blue, short-sleeved, button-down shirts and khaki-colored pants.

Southwest has a coed, racially diverse enrollment of more than 1,600 in grades 9 to 12 and tolerates a greater range of apparel. Smith sported a small earring Tuesday that he said would not have been allowed at Rummel. He would have worn a cross instead.

In these ways, he acknowledged, his new start is almost a liberation -- although he admitted that attending an all-boys school reduced the distraction of what he called "social drama."

The drama quotient was definitely higher Tuesday at Southwest. As word spread of the New Orleans emigre's arrival, Johnathan was treated "like a rock star," said Josh Collins, a Minneapolis schools spokesman.

He accepted greetings and condolences from staff and students who learned of his predicament. One parent asked whether he played football. No, but he did play rugby and served on Rummel's Student Council.

A loquacious student who often calls adults "Sir" and "Ma'am," Smith started his day with Southwest Counselor Jean Sherwood. She spent about 50 minutes helping him enroll in physics, pre-calculus, psychology, Advanced Placement English and economics/government classes. He has one period free, which could help him search for a job. He'll have no 1½-hour religion course as he did at Rummel, but his lunch break at Southwest is a half-hour rather than the hour and a half he was used to.

By day's end, he said Southwest "is interesting once you learn your way around."

After his brushes with media earlier in the day, he sat quietly in his government class during a discussion of current events in New Orleans. He finished an English homework assignment in class but otherwise said the first day's coursework centered on orientation.

Studying Minnesota

Crosby Smith said his son adapts well to changing situations and was a natural candidate to make do in Minneapolis after Crosby's ex-wife and their other children left their home two days before Katrina struck.

"We're very lucky," he said. "We had options that other families didn't have."

Within days of arriving in Minneapolis after a long drive with his father from Memphis, Johnathan used the Internet to meet other Southwest students. He also visited the Minnesota State Fair, where he sampled cheese curds and described the lambs and pigs as "neat." But he couldn't understand how a Minnesota audience at the fair could resist dancing to a band playing Cajun music.

Except for one or two people, he said, "They just sat there."

Even so, he said he was impressed by the willingness of Minnesotans to help people displaced by the hurricane.

Back in Louisiana, he said, his mother, Peggy, and 13-year-old brother, Philip, were staying with relatives in New Roads, north of Baton Rouge. Their house near a Jefferson Parish levee may soon be used by doctors and staff at a nearby hospital. The storm tore siding from the house and broke tree limbs but did not flood the property. His sister Christine, 19, hopes to resume her sophomore year soon at Louisiana State University.

Crosby Smith said that during his son's drive from Louisiana to rendezvous with him in Memphis, Johnathan nearly ran out of gas. But a computer search by a friend in Minneapolis located a well-supplied service station 25 miles out of the way.

Although not sure how long he'll stay in Minneapolis with his father -- a semester seems likely -- he intends to enlist soon in the National Guard, either in Minnesota or Louisiana.

"I was kind of ticked last year," he said, because his folks wouldn't let him sign up at age 17. If that had happened, he said, "I could have been with the Guard now helping out down there."

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Texas Expecting Up To 60,000 New Students (DMN)

By Herb Booth

The Dallas Morning News, September 7, 2005

More than 6,100 students fleeing Hurricane Katrina and its aftermath have enrolled in Texas public schools so far – including about 2,000 in North Texas – and state education officials promise to release money immediately to help affected districts cope.

Officials expect 50,000 to 60,000 new students to enroll in Texas schools.

And the federal government is doing its part, sending $250,000 apiece to six Texas regional education service centers, including Dallas' Region 10.

Dallas Independent School District spokesman Donald Claxton said it's still too early to tell how many students displaced by the killer hurricane would enroll.

"We had 255 kids report for classes today," Mr. Claxton said Tuesday. "But we expect that number to rise. There were a number of parents who held on to their kids today to see what FEMA assistance they might get to rebuild."

Normally, it takes a year for districts to begin receiving money for students on its rolls. But Mr. Claxton said DISD has begun to receive funds for its new pupils.

"We started collecting average daily attendance money on these students right away," Mr. Claxton said. "For us, it's not an immediate impact. It's still too early to see how it will affect the classroom."

Suzanne Marchman, spokeswoman for the Texas Education Agency, said the entity urged districts to maintain records for Title 1 and FEMA reimbursement detailing how much money is spent on evacuee students.

But the state is contributing funding as well.

"If more than 50 students enroll in a district or a smaller district is impacted, the district should contact our financial office to begin receiving additional funding as soon as possible," Ms. Marchman said. "We anticipate hearing from Dallas, Houston, San Antonio and others soon. We want to create some normalcy for these kids as soon as possible."

Some educators wondered about where these new students might be in their education.

John Rose, principal at Irving's Crockett Middle School, said there are no records to tell administrators how the students did on tests or in certain subjects.

Waiting to enroll

Some parents had mixed feelings on when to send their children to school, and many opted to wait.

"We're really trying to find housing before we get them into school," said Rosalind Armour, a New Orleans resident who took shelter at Reunion Arena and has two school-age children. "The goal is to get settled first."

But Willie Williams wasn't having any delay in his child's education. On Friday, he anticipated starting her in school as soon as possible.

"I didn't want her to miss any school," Mr. Williams said of his daughter Brittany, 9.

About 140 displaced students had joined the Frisco school system by yesterday afternoon, according to Shana McKay-Wortham, the district's communications director.

With the majority of them staying at the homes of family and friends, it's difficult for officials to tell how long many of them will remain in the district.

"When they're enrolling, we're figuring they are going to be with us for a while," Ms. McKay-Wortham said.

DeSoto has enrolled about 170 Hurricane Katrina evacuees. "The community has been amazing with the outreach," Superintendent Alton Frailey said. "We're providing vouchers for uniforms. There are funds for school supplies. So many people have made donations. The feeling I get is that for a number of these people, the move might be permanent. They appreciate the reception they've gotten in DeSoto."

Relocating for good?

So much so, that some of them will make the Dallas area their permanent home.

Sharon Price, DeSoto school district's assistant superintendent for administration and operations, said many of the parents are picking up job applications as they enroll their children.

"They've applied for all types of jobs, from clerical to professional to construction to secretarial," Ms. Price said.

But it isn't just parents and students who are coming to North Texas for the long haul. Some Louisiana teachers are coming here, too.

One, Clifford Hawkins, has relocated for good from the New Orleans area and has landed a job at Arlington's South Davis Elementary School as a fifth-grade teacher.

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"We got out in time. So did all our family," said Mr. Hawkins, who has taught for more than 26 years. "I'm not going back. I might go just to visit, but this is my home now. A visit might do more harm than good"

Like thousands of others who fled New Orleans, Mr. Hawkins said his home and Parkview Academy, a New Orleans elementary school, sat in areas of town that were inundated with water and severe storm damage.

Mr. Hawkins, 50, said that his son lives in Arlington and that the school district impressed him whenever he visited.

Veronica Sopher, Arlington school district spokeswoman, said Mr. Hawkins showed up with a suitcase, a laptop and a memory stick. She said district officials were able to verify Mr. Hawkins' teaching certification and are glad to get him.

"He had the foresight to know life wasn't going to be what it was for a while," Ms. Sopher said.

Local Schools Open Doors For Displaced (WT)

By Gary Emerlingand Arlo Wagner

The Washington Times, September 7, 2005

The first day of school in Northern Virginia yesterday symbolized the start of a new life for some children whose homes were destroyed by Hurricane Katrina, as area officials opened their doors to many displaced students from the Gulf Coast.

On the day after Labor Day, most public schools opened in Alexandria, and in Arlington, Fairfax and Prince William counties.

So far, 11 children from devastated parts of the Gulf Coast have registered to attend school in Arlington County.

"There's concern for the families in the Gulf Coast and we want to provide some stability in the lives of those students," said Robert Smith, Arlington County schools superintendent. "I suspect in most of these cases we're dealing with family members taking in these children."

Public schools in Maryland and Virginia are enrolling Katrina victims under the federal McKinney-Vento Act, which provides for the enrollment of homeless students without immediately obtaining birth records or requiring the children to receive necessary immunizations.

About 25 displaced students have enrolled to attend school in Prince George's County. Officials have been told to waive tuition and provide school supplies to students in need during the expedited enrollment process.

Montgomery County has enrolled eight displaced students, and Alexandria has enrolled three. School officials in Anne Arundel and Fairfax counties said they did not have a count of how many displaced students had been enrolled in their respective school systems.

D.C. officials also did not know how many hurricane victims were enrolled, but said staff members were registering students arriving from the Gulf Coast at Shaw Junior High School in Northwest and at the D.C. Armory.

Patricia Williams, a D.C. school official, said students in need will receive free immunizations, school meals and school supplies.

"The most important thing is the superintendent wants these families and these children to know they are absolutely welcome in the District of Columbia public schools," she said. "We are going to do everything we can to make sure their transition is as smooth as possible because they've already been through enough."

Catholic schools within the Archdiocese of Washington have enrolled 31 students from the Gulf Coast.

Within minutes after the newly built South County Secondary School in Lorton opened its doors, its 2,500 students were asked to donate toiletries, clothing, baby items, bedding and canned food for Katrina victims.

School counselor Marci Norem said two tractor-trailers loaded with 4,620 gallons of water and 20,000 meals ready to eat from a local business was expected to arrive at the school today to pick up donated items and take them to Biloxi, Miss.

By yesterday afternoon, the school lobby was filled with so many goods that Miss Norem was searching for more boxes.

Principal Dale Rumberger called the service project "a teachable moment."

"You're never too busy to give," he said.

Fairfax County Schools Superintendent Jack D. Dale, who toured the new 410,000 square-foot school yesterday, said the school system has expedited registration for those displaced by Katrina and will hire more teachers if necessary.

"I know we have kids throughout the county from different parts of the Katrina disaster. We're just saying all kids are welcome," said Mr. Dale, who heads up Virginia's largest public school system of about 165,000 students.

South County was built on 73 acres across a field from the former Lorton Prison. Its enrollment will mostly alleviate Hayfield Secondary School near Fort Belvoir, Mr. Dale said.

Top Pentagon Brass Defend Response Time (USAT)

By Matt Kelley

USA Today, September 7, 2005

DOJ_NMG_0003614

WASHINGTON — The Pentagon's top officials said Tuesday that the military responded quickly to Hurricane Katrina, although it took nearly four days for troops to begin delivering large amounts of food and water to storm victims.

"Not only was there no delay, I think we anticipated in most cases — not in all cases, but in most cases — the support that was required," Gen. Richard Myers, chairman of the Joint Chiefs of Staff, said at a Pentagon news conference.

Storm victims in Louisiana, Mississippi and Alabama complained bitterly that the military didn't start large-scale delivery of provisions until Friday. Some military helicopters began search-and-rescue operations Aug. 30.

Defense Secretary Donald Rumsfeld said he had appointed Navy Adm. Edmund Giambastiani to study the military's response to Hurricane Katrina to determine whether any mistakes were made. Giambastiani, a close Rumsfeld ally, is vice chairman of the Joint Chiefs of Staff.

The commander of the first large Navy ship to participate in relief efforts said last week that she was notified the night of Aug. 28 — the day before the storm hit — that her vessel might be needed to provide relief. But she wasn't told to do so until late Aug. 30, the day flooding started in New Orleans, she said.

"I've got sailors I could send to the beach, but I can't force myself on people," Capt. Nora Tyson said Friday in an interview on the bridge of her ship, the USS Bataan.

Myers said military officials worked from the afternoon of Aug. 30 through the morning of Aug. 31 to assess the situation in New Orleans and decide what to do.

Myers and Rumsfeld said the military had planned its hurricane response but was caught off guard by the flooding. Experts, including those from the Army Corps of Engineers, have predicted for years that a hurricane as large as Katrina could cause widespread flooding in New Orleans.

Katrina, Iraq Aid Efforts Hit Same Hurdles (WSJ)

By Greg Jaffe

The Wall Street Journal, September 7, 2005

WASHINGTON -- Military officials surveying the slow federal response to Hurricane Katrina say the problems that hindered early relief efforts along the Gulf Coast are eerily similar to those that have dogged relief and reconstruction efforts in Iraq.

The crises spotlight the inability of disparate departments within the government to plan together before a catastrophe and work quickly together once one hits.

"Clearly we didn't get a coordinated governmental response in the case of Katrina," said Michele Flournoy, a senior adviser at the Center for Strategic and International Studies, or CSIS, a nonpartisan think tank in Washington, which studied the U.S. response in Iraq. "The same thing happened in Iraq. The mechanisms to integrate efforts across the government were just lacking."

Some senior Pentagon officials, however, dispute that analysis. Rather than lack of coordination, they blame the magnitude of the disaster, which wiped out state and local emergency-response efforts. "The federal response is designed so assistance flows through the state and local government," said Peter Verga, the principal deputy assistant secretary of defense for Homeland Defense. "In this case not only did we have to backfill [state and local forces], we had to fill their front ranks as well because the breadth of the disaster overwhelmed the first responders, making them victims as well."

The failure of federal agencies to work together in a coordinated fashion has been a major issue since the Iraq war. In Iraq, the Pentagon and the State Department developed separate plans for reconstructing the war-torn country, without significant input from each other. The State Department plans for postwar Iraq eventually were shelved. The Pentagon even told top officials not to attend meetings tied to the State Department's postwar Iraq effort.

As a result there was poor coordination between the military campaign to topple Saddam Hussein and the postwar efforts to deal with the ensuing chaos. As looters tore through the country -- something expected by State Department planners, based on experiences in Haiti and the Balkans -- senior military officials on the ground largely were caught off guard.

Similarly, many months before Hurricane Katrina, senior military officers within the Pentagon's Northern Command -- formed shortly after the Sept. 11, 2001, terrorist attacks to oversee the military contribution to homeland defense and disaster relief -- complained that they often were hindered from planning and working alongside other key government agencies such as the Department of Homeland Security. The commander of the Pentagon's Northern Command reports directly to Secretary of Defense Donald Rumsfeld.

Retired Gen. Ralph Eberhart, who was the senior officer in Northern Command until late last year, frequently complained that he had to get approval from the Office of the Secretary of Defense before he or his senior staff could work together with the Department of Homeland Security, said military officials who worked with the general. In some cases, Northern Command was able to work around the bureaucratic barriers, senior military officials said.

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"Ultimately, everything that Northern Command wanted to do with Homeland Security had to go through the Pentagon and be approved by the Office of the Secretary of Defense. It was a huge issue," said retired Marine Col. T.X. Hammes, a professor at the Pentagon's National Defense University who also commanded the Marine Corps' Chemical Biological Incident Response Force. "Every time you add a layer of staff you slow down the response."

A senior Pentagon official confirmed that there were limits on interaction between the Northern Command and Department of Homeland Security. But he says those applied only to policy-level discussions regarding how the Pentagon would support civil authorities, like state and local police, the defense official said. And he said the limits applied only to the most senior officials. He said the Pentagon encouraged the Northern Command and Department of Homeland Security staffs to conduct joint exercises and planning.

Northern Command didn't respond to calls seeking comment for this article. Secretary Rumsfeld Tuesday defended the Pentagon's response, saying that some troops and helicopters began to prepare for rescue and relief missions before the storm hit. "As the storm was approaching the Department of Defense met and discussed the importance of anticipating things that the department could be asked and ... actually prepositioning things before [the hurricane] ever hit," Mr. Rumsfeld told reporters.

On Aug. 30, shortly after the magnitude of the crisis in New Orleans became clear, Gen. Richard B. Myers, the military's top officer, said he told the four-star generals in charge of the Army, Navy, Air Force and Marine Corps to work directly with Northern Command to speed troops, ships and helicopters to the Gulf Coast. The order cut through at least two layers of bureaucracy, such as requirements that the Department of Homeland Security formally request forces and that Mr. Rumsfeld's office and the Joint Chiefs of Staff approve them.

"I think we anticipated the support required and were pushing support before it was requested," Gen. Myers told reporters at the Pentagon.

Still the predisaster barriers limited how much planning Northern Command could do with Homeland Security, some military officials said. One senior Army official said "the same problem" that hindered reconstruction efforts in postwar Iraq arose with the response to Katrina. "It is the interagency problem," he said. "How do you rapidly integrate all the powers of the U.S. government."

About a year ago Gen. Eberhart pitched a solution to senior Pentagon officials, some of his former staffers said. He pushed to create a permanent task force that would include people from Northern Command, the Pentagon, the Federal Emergency Management Agency, the Justice Department, the Coast Guard and the Federal Aviation Administration. The members of the task force would plan and train together and during a crisis would form the core of a headquarters to oversee the relief effort. The task force would be headed by a civilian who would oversee all relief efforts if and when there were a terrorist attack or a natural disaster.

Many in the Pentagon thought it a good idea, said one senior military official involved in developing the concept. But other crises -- such as the wars in Iraq and Afghanistan -- took precedence and the idea was put on the back burner, this military official said.

At about the same time, a team from CSIS had begun briefing senior U.S. officials on their solution to some of the planning problems that plagued Iraq. Although the team focused on overseas efforts and not domestic ones, it came up with a similar solution. The team called for the U.S. to build rapidly deployable teams of representatives from the Defense, State, Commerce and Justice departments. All told, the task forces would total about 100 people who "know how to mobilize the assets of their department quickly," said Ms. Flournoy, who was one of the authors of the CSIS study.

The CSIS study got a warm response from the Pentagon and, in particular, from Gen. Peter Pace, who is set to become the next chairman of the Joint Chiefs of Staff. The Pentagon is exploring how to build such task forces for wars overseas.

Navy Pilots Who Rescued Victims Are Reprimanded (NYT)

By David S. Cloud

The New York Times, September 7, 2005

PENSACOLA, Fla., Sept. 6 - Two Navy helicopter pilots and their crews returned from New Orleans on Aug. 30 expecting to be greeted as lifesavers after ferrying more than 100 hurricane victims to safety.

Instead, their superiors chided the pilots, Lt. David Shand and Lt. Matt Udkow, at a meeting the next morning for rescuing civilians when their assignment that day had been to deliver food and water to military installations along the Gulf Coast.

"I felt it was a great day because we resupplied the people we needed to and we rescued people, too," Lieutenant Udkow said. But the air operations commander at Pensacola Naval Air Station "reminded us that the logistical mission needed to be our area of focus."

The episode illustrates how the rescue effort in the days immediately after Hurricane Katrina had to compete with the military's other, more mundane logistical needs.

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Only in recent days, after the federal response to the disaster has come to be seen as inadequate, have large numbers of troops and dozens of helicopters, trucks and other equipment been poured into to the effort. Early on, the military rescue operations were smaller, often depending on the initiative of individuals like Lieutenants Shand and Udkow.

The two lieutenants were each piloting a Navy H-3 helicopter - a type often used in rescue operations as well as transport and other missions - on that Tuesday afternoon, delivering emergency food, water and other supplies to Stennis Space Center, a federal facility near the Mississippi coast. The storm had cut off electricity and water to the center, and the two helicopters were supposed to drop their loads and return to Pensacola, their home base, said Cmdr. Michael Holdener, Pensacola's air operations chief.

"Their orders were to go and deliver water and parts and to come back," Commander Holdener said.

But as the two helicopters were heading back home, the crews picked up a radio transmission from the Coast Guard saying helicopters were needed near the University of New Orleans to help with rescue efforts, the two pilots said.

Out of range for direct radio communication with Pensacola, more than 100 miles to the east, the pilots said, they decided to respond and turned their helicopters around, diverting from their mission without getting permission from their home base. Within minutes, they were over New Orleans.

"We're not technically a search-and-rescue unit, but we're trained to do search and rescue," said Lieutenant Shand, a 17-year Navy veteran.

Flying over Biloxi and Gulfport and other areas of Mississippi, they could see rescue personnel on the ground, Lieutenant Udkow said, but he noticed that there were few rescue units around the flooded city of New Orleans, on the ground or in the air. "It was shocking," he said.

Seeing people on the roofs of houses waving to him, Lieutenant Udkow headed in their direction. Hovering over power lines, his crew dropped a basket to pick up two residents at a time. He took them to Lakefront Airport, where local emergency medical teams had established a makeshift medical center.

Meanwhile, Lieutenant Shand landed his helicopter on the roof of an apartment building, where more than a dozen people were marooned. Women and children were loaded first aboard the helicopter and ferried to the airport, he said.

Returning to pick up the rest, the crew learned that two blind residents had not been able to climb up through the attic to the roof and were still in the building. Two crew members entered the darkened building to find the men, and led them to the roof and into the helicopter, Lieutenant Shand said.

Recalling the rescues in an interview, he became so emotional that he had to stop and compose himself. At one point, he said, he executed a tricky landing at a highway overpass, where more than 35 people were marooned.

Lieutenant Udkow said that he saw few other rescue helicopters in New Orleans that day. The toughest part, he said, was seeing so many people imploring him to pick them up and having to leave some.

"I would be looking at a family of two on one roof and maybe a family of six on another roof, and I would have to make a decision who to rescue," he said. "It wasn't easy."

While refueling at a Coast Guard landing pad in early evening, Lieutenant Udkow said, he called Pensacola and received permission to continue rescues that evening. According to the pilots and other military officials, they rescued 110 people.

The next morning, though, the two crews were called to a meeting with Commander Holdener, who said he told them that while helping civilians was laudable, the lengthy rescue effort was an unacceptable diversion from their main mission of delivering supplies. With only two helicopters available at Pensacola to deliver supplies, the base did not have enough to allow pilots to go on prolonged search and rescue operations.

"We all want to be the guys who rescue people," Commander Holdener said. "But they were told we have other missions we have to do right now and that is not the priority."

The order to halt civilian relief efforts angered some helicopter crews. Lieutenant Udkow, who associates say was especially vocal about voicing his disagreement to superiors, was taken out of the squadron's flying rotation temporarily and assigned to oversee a temporary kennel established at Pensacola to hold pets of service members evacuated from the hurricane-damaged areas, two members of the unit said. Lieutenant Udkow denied that he had complained and said he did not view the kennel assignment as punishment.

Dozens of military aircraft are now conducting search and rescue missions over the affected areas. But privately some members of the Pensacola unit say the base's two available transport helicopters should have been allowed to do more to help civilian victims in the days after the storm hit, when large numbers of military helicopters had not reached the affected areas.

In protest, some members of the unit have stopped wearing a search and rescue patch on their sleeves that reads, "So Others May Live."

IRS Offers Relief To Katrina Victims (WSJ)

By Tom Herman

The Wall Street Journal, September 7, 2005

As evidence mounts of Hurricane Katrina's devastation, the federal government has greatly expanded the number of areas eligible for special tax relief and is taking other steps designed to ease pressures on taxpayers in the storm-ravaged region.

Areas eligible for relief include 64 Louisiana parishes, 52 Mississippi counties and six Alabama counties, the Internal Revenue Service said. Also on the list are three Florida counties: Broward, Miami-Dade and Monroe. Early last week, the IRS initially singled out only 31 Louisiana parishes, 15 Mississippi counties and three Alabama counties.

That means many more people now are eligible for a special tax break that applies when the president declares a place a federal disaster area. They can choose to deduct their disaster losses for 2005 on their tax returns for 2005, to be filed next year -- or on their returns for 2004. (If you've already filed for 2004, as most people have, just file an amended return on Form 1040X.) Ordinarily, taxpayers can deduct casualty losses only for the year in which they actually occur.

IRS officials also have suspended many compliance activities, such as liens, levies and seizures, for those affected by Katrina. This general suspension will last for at least 60 days, the IRS said.

Officials are extending filing deadlines and abating interest payments and penalties. For example, they have extended the Sept. 15 due date for paying estimated taxes until Oct. 31. For the hardest-hit areas, the IRS "anticipates extending these deadlines even further in the near future."

The IRS also set up a special toll-free disaster hotline (866-562-5227). Those affected by the disaster who need copies of tax returns to apply for aid or some other purpose can have the usual user fee waived, the IRS said. Write "Hurricane Katrina" in red across the top margin of Form 4506, which you use to ask for a copy of a tax return.

Separately, the IRS, citing shortages of clear diesel fuel caused by Katrina, said it won't impose a tax penalty when so-called dyed diesel fuel is sold for use or used on the highway. The IRS said this special relief applied beginning Aug. 25 in Florida, Aug. 30 in Alabama, Louisiana and Mississippi, and Aug. 31 in the rest of the nation. It will remain in effect through Sept. 15. (According to the IRS, dyed diesel fuel usually isn't taxed because it's typically sold for uses exempt from excise tax, such as to farmers and to local governments for buses.)

Yesterday, the IRS promised "an expedited review and approval process" for new groups seeking tax-exempt status in order to provide relief for storm victims. New organizations should apply by filing Form 1023. Write at the top "Disaster Relief, Hurricane Katrina."

For more details on this and other recent IRS moves related to Katrina, go to the IRS Web site (www.irs.gov) and click on the box that says "Helping Hurricane Katrina Victims."

The choice of whether to deduct casualty losses on your return for 2004 or 2005 can be tricky. Many people will be better off by claiming their losses on their returns for 2004 because it will mean an earlier infusion of cash. But others will want to wait to claim their losses on their returns for 2005.

For example, you can't deduct any losses unless you itemize your deductions. If you itemize, you must first reduce your casualty losses by $100 for each event. Then you have to reduce your total casualty losses for the year by 10% of adjusted gross income.

H&R Block Inc. says it's offering Katrina victims free preparation and filing of amended 2004 returns that claim weather- and theft-related losses resulting from the storm. Liberty Tax Service also is offering free services to victims.

Taxpayers facing extraordinary hardships who can't get satisfaction through normal IRS channels should consider contacting representatives of the IRS Taxpayer Advocate Service (877-777-4778). This IRS unit, headed by National Taxpayer Advocate Nina Olson, is designed to help taxpayers untangle problems with the IRS. Ms. Olson also recommends legislative changes to Congress designed to fix problems in tax administration.

* * *

BEWARE of con artists asking for donations for Katrina victims.

When disaster strikes, scamsters often lurk close behind. For example, watch out for phony charities, warns JJ MacNab, a financial planner in Bethesda, Md.

"Stick with big-name charities -- and, if you have any questions, verify that it's a real charity" by checking sources such as GuideStar (www.guidestar.org), Ms. MacNab says. GuideStar offers access to a vast database on nonprofit organizations.

Other sources include BBB Wise Giving Alliance (www.give.org), FEMA (www.fema.gov), the IRS (www.irs.gov) and the Federal Trade Commission (www.ftc.gov), which offers a guide to "giving wisely." For example, donors should be wary of charities with names that sound like other nationally known groups. Ask for identification when a solicitor approaches you in person. Don't provide personal or financial information, such as your Social Security number. Don't give or send cash. And try to verify whatever you're being told.

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If you aren't sure if a charity is qualified to receive tax-deductible gifts, start by checking out the IRS site. Clicking on "Helping Hurricane Katrina Victims" should lead you to a page with information about charitable giving, including a search feature for the IRS's huge list of qualified charities. (The IRS says it doesn't endorse charities.) But some organizations, such as churches and governments, "may be qualified even though they're not listed," the IRS says. Thus, donors may need to do additional research on the Web, such as search for news articles.

Also see IRS Publication 3833, which can help people who want to make gifts or form a new charity.

* * *

A PRESIDENTIAL PANEL on overhauling the tax system meets tomorrow.

President Bush's advisory panel on federal tax reform, headed by former U.S. Sen. Connie Mack, is scheduled to meet in Washington tomorrow morning at the Marriott Wardman Park Hotel. The panel (taxreformpanel.gov) has set another meeting for Sept. 15.

The panel's report is due by Sept. 30.

* * *

BRIEFS: Indiana plans a tax amnesty starting Sept. 15 and running through Nov. 15. The state calls it a "limited-time opportunity" for individuals and businesses to pay and file taxes free of penalty, interest and collection fees, and without fear or prosecution.... Many other states have offered various forms of amnesty in recent decades.

Storm Giving Outpaces That Of 9/11, Tsunami (USAT)

By Wendy Koch

USA Today, September 7, 2005

Private fundraising for Hurricane Katrina victims — from bake sales, to carwashes, to football games — has topped a half billion dollars and is outpacing U.S. donations for tsunami relief.

The American Red Cross has raised more than $409 million, abetted by corporations, Texas businessman T. Boone Pickens as well as schoolchildren emptying their penny jars. Half of the total has arrived online.

“It's going gangbusters,” says Devorah Goldburg, the group's spokeswoman. She says the amount is more than double what was raised in a similar time period after southern Asia's disaster in December.

The intensity is expected to continue as schools hold fundraisers, former presidents Bill Clinton and George H.W. Bush plead for donations and entertainers host a TV benefit concert, “Shelter From the Storm,” Friday.

Next month, talk radio host Rush Limbaugh will appear on a show on Broadway to raise money for hurricane relief.

Today more than 40 different education groups meet with Education Secretary Margaret Spellings to brainstorm ways schools can both help displaced students and teach the value of good citizenship.

The Salvation Army, which raised $20 million after the tsunami, has already pulled in at least $51 million for Katrina victims.

“People are responding at a record pace,” says Major George Hood, national community relations secretary. He notes the tsunami, however, occurred right after the Christmas season, and many people had already contributed to the charity.

Hood says fundraising for Katrina is occurring faster than after 9/11, when the Salvation Army raised $90 million for victims over an extended period. Many online donations have come from abroad, including the United Kingdom, Canada, Australia and Europe.

Catholic Charities received 20,000 online donations in the past two days, spokeswoman Shelley Borysiewicz says. She says it usually gets 6,000 such donations in a year. The group has raised more than $5 million, most of it online. She says the total doesn't include special collections taken in churches.

Nationwide, the young and the old have mobilized disaster relief. In Omaha, kids distributed fundraising leaflets at soccer tournaments and high school girls held a carwash. In DeSoto, Kan., Mill Valley High School students plan to collect bottled water at a football game Friday. Ohio State University is sponsoring a “September to Remember” effort in which the athletic department will donate $2 from programs sold at home games.

In Parma, Ind., Mayor Dean DePiero asked residents to donate goods — bottled water, over-the-counter medicines, clothes, diapers, toilet paper — to help 7,000 evacuees being bused to Marksville, La. He says volunteers quickly filled two semi trucks.

“It's been overwhelming,” he says. At one point, he had to ask residents to hold off so that the donations could be boxed. A third truck is on the way. Among the donations: dolls given by little girls.

In Katrina's Wake, Generosity (USAT)

By Marco R. Della Cava

USA Today, September 7, 2005

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SAN ANTONIO — If this nation has a hallmark, forged in communal hardship, it is this: In the face of inexplicable sorrow, we give.

Money. Time. Materials. Love. Whatever it takes.

And so it is with Hurricane Katrina. But while bake sales and food collections have sprung up in countless towns, some cities are giving more. Much more. Partly because they're asked to, by both city officials and fate. But mostly because they want to. Such is the case with Texas' historic Alamo City, where nearly 12,000 of Katrina's dazed evacuees have turned up in recent days.

In response, citizens have pulled all-nighters volunteering in shelter kitchens, offered rooms to elderly survivors and left their own young ones to tend to the babies of strangers.

It might be 98 degrees in the shade here, but folks are out and about, organizing toy drives downtown, lemonade sales in tony suburbs and barbecues in poor districts. Put simply, the exceptional has become the norm, a baseline for tireless displays of charity.

The catastrophe in New Orleans has many assigning blame. Some say American leaders failed. But the American people have not.

“I watched on TV, and I just thought of myself and my little children, that it could have been us running,” says Jill Fitch, explaining how she came to be bouncing another woman's infant on her knee at a child-care center inside KellyUSA, a former military facility that is housing the bulk of the evacuees.

“I feel I'm my brother's and my sister's keeper. It's really as simple as that.” The baby squawks. Fitch brushes away a tear. “I feel almost bad for what I have.”

An emotion-fueled sentiment. But being in the presence of the truly destitute will do that. Just look straight down in this cavernous cot-filled space: Most feet are shod only in socks and flip-flops. Everywhere you go in this makeshift mini-city, flip flop, flip flop.

New shoes are said to be on the way. In the meantime, the halls of KellyUSA bustle like a New York city block. Kids play with a new puzzle, two mothers load up on diapers, and a trio of men tune into a baseball game on a donated TV. Over here someone's getting a haircut, down there a grandfather is pushed about in an office chair, the only wheelchairs around. And this being a First World calamity, the air trills with sounds of cellphones.

Sometimes you even see smiles. Flooding, mayhem and rage have been replaced by air conditioning, regular meals and naked gratitude.

“If it wasn't for the care of the persons here in San Antonio, I don't know what would have become of me. It's been an emotionally overwhelming experience,” says Bernadine Holbert, whose escape from her ruined home has become routine in its hellishness.

Waiting in water. Bodies floating past. A boat ride to a field followed by a night under a highway overpass. Finally, evacuation.

“There are people whose bodies will never be identified, there are babies …” Her voice trails off as she turns away for a moment. “Although this has begun, it also will end. You just have to let go of what you think you've lost. I am very grateful to be alive.”

The what-next question, however, can't be avoided. In fact, volunteers with mental health expertise say that as the evacuees get over the shock of their ordeal, a natural anger begins to set in.

“Most of these people have no clue what happens now, and we frankly can't give them many answers,” says Ramona Leonards, a child counselor who took off work to help the Red Cross here. “Sure, most people are grateful for the food and shelter. But others feel that's too little.”

Leonards says the best approach is to solve problems one at a time. In Holbert's case, Leonards is helping her get a transfer to Dallas, where she hopes to lean on her employer, the Army Corps of Engineers, to find work.

Indeed, few evacuees talk about returning to New Orleans. Bruce Gaten, a jazz trumpeter who lost all three of his horns to the waters, says he'll go to Houston.

“It's music, right? I'll just play it there,” he says, lying on a green Army-issue cot as he stares at the ceiling. “I tell you, lots of people say they won't go back, and I think it's because they finally got out of town for the first time.”

Fernell Augustine had never been to San Antonio, but he likes what he sees. And his chances for staying just improved. An impromptu Labor Day visit by Texas Gov. Rick Perry turned into a chance chat between the two. After the governor and his entourage left, Augustine explained that he had asked for help getting his wife and seven children transferred here from another Texas shelter.

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“I am tired of the murder in New Orleans, and I want something better for my family,” he says, adding that he battled both looters and snakes while escaping the Big Easy. “This town has shown us love. I am a cook and a handyman. I will do anything. I just want a chance.”

If the altruism on display here means anything, it is that Augustine could get that chance.

Consider that when calls went out on radio stations asking for donations, lines nearly 100 cars long stretched back from the massive Salvation Army warehouse on the west side of town.

“This is so insanely wonderful,” says Denise Curran, who along with her husband, Scott, spent nearly 33 hours helping sort donations, which ranged from the eclectic (Hawaiian shirts on hangers) to the indispensable (cartons of baby formula). “Everyone's coming out, blacks, whites, Hispanics. I am very proud of this town.”

Consider that when Sibyl and Don White, both 79, finally made it out of New Orleans to stay with their son and daughter-in-law here, they immediately went to shop for new clothes and had an unforgettable experience.

When a young man in the store heard they had survived the calamity, he handed them $5 and said he wished he could do more. The Whites, who are financially secure and white, were overwhelmed by their African-American benefactor, who they say was of modest means. “We gave the bill back to him with a hug,” says Sibyl. “I will never forget that.”

Consider that when the owner of local Pizza Hut stores was asked if he'd sell a huge order at a discounted price to help feed those pouring off planes and buses, he simply gave 320 pies away.

“I mean, you see the plight these people are in, leaving their homes with nothing but the clothes on their backs. Something had to be done,” says Jack Richmond, who owns 31 stores throughout the city and county. “I figured a nice slice of pizza might help start their stay here right.”

Consider that when neighbors from an elegant northern suburb noticed their children trying to process the scenes on their television, they didn't have to wait long before the kids themselves asked to set up a lemonade stand to benefit evacuees.

“It was wonderful to see these kids get a huge lesson in humility and compassion all on their own,” says Tom Heffron, whose kids (Cody, 11, Kyle, 10, and Connor, 7) joined the Jones kids (Scottie, 11, Emily, 10, Johnnie, 6) on a blazing hot street near their gated community. The older ones had spent the morning hauling boxes of donations at the Salvation Army depot. “You want them to understand that the way they live isn't the way others live, says the elder Heffron. “I sense they get that right now.”

Consider that when one of the city's leading Jewish citizens heard about an 86-year-old woman who had arrived at KellyUSA disoriented, he immediately opened his home to her.

“This woman spent four days in her New Orleans home alone, with little food or water,” says M.H. Levine, director of the Jewish Family and Children's Service, which also has collected mountains of food, clothing and toys for evacuees. “We found she had a son in Houston, who is about to come pick her up. But she did tell me the other night that she likes it here so much, maybe she'll stay. How about that?”

But how would that work? So far, the indicators are promising.

This city of 1.1 million — nearly split between whites and Hispanics, with 6% African-Americans — has a falling unemployment rate of just under 5%, and will soon boast a new Toyota factory.

As for housing, the latest Census reports that 7% of the city's half-million housing units are vacant, and real estate agents and apartment managers are quickly updating local officials on their inventory.

“Folks we see (at KellyUSA) who were in public housing in New Orleans can get vouchers for public housing here quickly,” says Melanie Villalobos of the San Antonio Housing Authority. “So far, we're finding that people are taking whatever is available and worrying about the rest later. They want to get back on their feet.”

For some, regaining dignity and self-sufficiency is as simple as being given a few dollars and taken to a local store to spend it themselves. “It's just a way of taking back some control, which they've lost so much of in these past days,” says volunteer social worker Leonards, who has organized such trips.

For others, it means finding their way to relatives here who can promise them unlimited shelter until it is time to see what remains of their old lives. Pharmacist Famous Washington, who along with his wife, Lisa, grew up in New Orleans, is sheltering 16 of his distraught relatives who have made their way to his expansive suburban home.

“Most of my relatives were insured, so we hope eventually they'll get something back. But for now, we just wait,” says Washington, whose guests, ages 9 months to 77 years, are Lisa's extended family. The younger ones already have been accepted at local public schools, which have gone out of their way to make room for Katrina kids.

Although the Washington house was filled with the smell of blackened chicken and baked beans over the holiday weekend, festive smiles were wanting. Lisa's sister-in-law lost both her aunt and uncle when, after days of medical neglect, they died on a crowded highway overpass. “It was a general evacuation, right?” Lisa says with a quiet rage. “I don't understand why buses weren't sent for everyone.”

Says Famous: “This tragedy has brought out the bad and the good.”

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Around here, it's the good that is shining through, a welcome respite from the death, lawlessness and neglect that have punctuated these past 10 days.

The kind of good that radiates from Tiffany Collins, a parks and recreation secretary who, in volunteering at KellyUSA, befriended single mom Shantrice Wyatt and her children, Latrice, 6, and Gregory, 3.

On a recent afternoon, Collins thought it was time for Wyatt to catch a break from parent duty and for the kids to get away from the shelter's fluorescent lights. So she whisked the kids over to her modest house on the working-class side of town.

There she filled up a little plastic pool and smiled as two innocents who had escaped New Orleans played with her two children, Ayanna, 2, and Nate, 5. “They've been through an ordeal,” she says. “I figured maybe this would cheer them up.”

Back at KellyUSA, Wyatt is the one who is smiling.

“I have lost everything, like a lot of folks, but ever since I got here, people have been good to me,” she says. “I was a janitor back home. Maybe I can find that work here. All I know is, it's time for a fresh start. A new beginning. This could be a nice place to do that.”

A Mission Of Mercy To Houston (WP)

By Nancy Trejos

The Washington Post, September 7, 2005

HOUSTON, Sept. 6 -- "Need a home?" the flier asked.

The Rev. William Finch, pastor of St. Raphael's Catholic Church in Rockville, arrived here Tuesday ready to sell Montgomery County as a haven for 50 hurricane evacuees living in the Astrodome.

He's printed 100 fliers outlining the package that he and his parishioners have assembled for those who get on his bus for Maryland: $500 in cash, unlimited use of cell phones, access to schools, help finding jobs. And they will live in some of the nicest homes in Rockville and Potomac for as long as it takes to reestablish themselves.

An ambitious and generous plan. But getting his congregation's 3,300 families, many of them well-to-do, to donate more than $100,000 was the easy part. As he prepared to board a flight for Houston on Tuesday, he realized that his busload of good intentions could go for naught.

"I'm scared to death," the 51-year-old District native said.

Since deciding to go after watching television coverage of Katrina's catastrophic aftermath last week, Finch has contacted the Red Cross and Texas officials for help identifying evacuees. He said he has not been able to reach anyone who can help.

Others who want to assist have been rebuffed. When the D.C. government sent 10 buses to New Orleans to pick up storm victims Friday, people reportedly refused to leave.

With no contacts, Finch's game plan is pretty simple. He plans to go to the Astrodome on Wednesday, walk around and ask people if they want to live in Maryland.

What if nobody wants to come? What if he can't even get into the Astrodome?

If that happens, Finch said, he will donate the money to Catholic Charities, which has taken an active role in helping the hurricane victims.

"At least we tried," he said. "Our people wanted to do something other than write checks."

Despite the uncertainty, Finch persuaded others to travel here with him. On Monday, he called Jeffrey Dunckel, a Bethesda parishioner who works for the Montgomery County Department of Public Works and Transportation. Dunckel called his supervisor and requested the week off, then got a seat on Finch's plane.

"He gave a very inspired call to action," Dunckel said.

Luisa Duarte, the Hispanic coordinator at St. Raphael's, didn't need much convincing. She left Cuba 43 years ago without her parents. "I know what it's like not knowing what's going to happen next," she said.

Since announcing his plan to parishioners during Mass over Labor Day weekend, help has emerged from all directions.

Robert Ivany, president of the University of St. Thomas in Houston, agreed to house Finch and his crew for a couple of nights. The Marriott Corp., which had offices in Bethesda and employs several of his parishioners, donated 30 free hotel rooms at a Fairfield Inn in Knoxville, Tenn., where they plan to spend Thursday night during their 22-hour drive back.

Once they get back to Maryland, Finch's staff will match evacuees to the 34 parishioners who have offered their homes. Pediatricians, dentists and counselors will offer their services.

Once the evacuees have settled into their new homes, Finch said, he will help them find jobs. Dunckel said Montgomery County will train any evacuees over age 21 as Ride On bus drivers. There are currently 25 vacancies, he said.

Regular potluck dinners will keep the evacuees together, Finch said. Parishioners are willing to house them, possibly for a year or longer.

"This is a long-term project," he said. "We will carefully watch over them and guard them."

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New Orleans Bus Convoy Returning Mostly Empty (WP)

The Washington Post, September 7, 2005

A convoy of buses that set out Friday to rescue New Orleans evacuees is scheduled to return this morning largely empty-handed, but city officials say the effort was not in vain.

A caravan of 10 motor coaches, staffed with medical crews, social service workers and police officers, departed Friday in hopes of bringing 400 evacuees to the District and sheltering them at the D.C. Armory. By the time they made it to New Orleans, though, crowds at the convention center and Superdome had been evacuated, city officials said. The caravan tried other areas, but crowds had been cleared or evacuees declined a free trip to the capital.

The District's convoy carried 19 social service workers, two mental health workers, three emergency management employees, two doctors and one physician assistant from Georgetown University and 28 police officers, said Jo'Ellen Countee, a spokeswoman for the D.C. Emergency Management Agency.

As the buses returned, Countee said, the only evacuees on board were one or two college students who needed to get to Washington.

Council member David A. Catania (I-At Large) said the mission was a success. The convoy delivered food, water, fuel, diapers and medical aid and equipment to evacuees and emergency responders.

The District received about 200 evacuees yesterday, flown in from New Orleans International Airport.

US Economy Takes Big Hit (CSM)

By Mark Trumbull

The Christian Science Monitor, September 7, 2005

As devastating storms go, hurricane Katrina has packed an unusually big punch to the United States economy.

Though the full impact of the Aug. 29 superstorm is still being assessed, the economic brunt differs in at least three major ways from a typical recovery led by armies of insurance adjusters bearing clipboards and checkbooks.

· A region's major city has been entirely displaced, throwing hundreds of thousands of people out of work and casting doubt on the financial future of New Orleans itself.

· The movement of goods through America's heartland has been disrupted, with key ports still closed and the channel of the Mississippi narrowed by the storm.

· Oil and gas drilling platforms, refineries, and pipelines are damaged, and some will take months to bring back on line.

The result is a barrage of challenges likely to affect everything from the US unemployment rate to winter heating costs for months to come. The typical forecast now is for slowing growth rather than outright recession.

With unprecedented prices at gasoline pumps and an unprecedented humanitarian crisis fast rippling outward, the deeper worry is that Katrina's aftereffects could erode consumer confidence.

"That's what we're very concerned about," says Robert Dye of Economy.com. "This is really an unprecedented event."

American consumers have consistently surprised economists in recent years with their buoyancy amid rising debts and difficult job markets. That could happen again, but evidence was mounting even before Katrina that consumer confidence may be weakening in the face of high gasoline prices. The red-hot housing market shows signs of cooling, for example, as "for sale" signs stay up longer in some cities and demand for home mortgages shrinks.

"Consumers are unlikely to be able to rely on their homes for a ready source of cash," as they have in the recent past, concludes Gina Martin, an analyst with Wachovia, a bank based in Charlotte, N.C. This, coupled with "out of gas" signs at service stations, could prompt a pullback in consumer spending, but not a sustained decline, she predicts.

The prevailing view now is that Katrina will curb the nation's economic growth - which has been running at an annualized rate of more than 3 percent - by perhaps 0.5 percent in the second half of 2005. Then, the economy could get a Katrina stimulus, as rebuilding gets under way in earnest early in the new year.

Still, for now, the storm's shock remains significant and unpredictable, given the magnitude of job losses and the damage to industrial infrastructure.

In the Gulf region, where the effects are concentrated, the human impact begins with a death toll expected to be in the thousands. Countless survivors in one of the nation's poorest regions now face a future with uncertain job prospects and no earthly belongings. Insurance payouts, which eventually may reach $25 billion by some forecasts, will cover only part of the storm's damage.

"In our preliminary analysis, employment levels will not be back to pre- hurricane levels for another six to seven years" in New Orleans, says Mr. Dye.

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The city, ranked ninth lowest in the US in median income, faces a twin challenge: Its labor force is now almost totally absent, and the city was already struggling economically before Katrina.

To be sure, many residents will return, eager to revive the cacophony of jazz and jambalaya. But it's also safe to assume that a number of businesses will never reopen - or will relocate for good, Dye says.

The now-displaced labor force, too, "will want to start working as soon as possible," he says, even if it's in Memphis rather than Metairie.

A silver lining, for these workers, is that the national job market has been improving in recent months. Still, their migration onto jobless rolls could yield somber national job reports for several months, predicts economist Nariman Behravesh of Global Insight in Lexington, Mass.

Ripples from Katrina have hit far inland as well, as a disruption of shipping impedes the flow of goods up and down one of the world's most important rivers. Some 60 percent of US grain exports flow down the Mississippi, while imports, from steel to tropical fruits, travel upstream.

The Port of New Orleans, usually one of the nation's busiest, has been scrambling to restore electricity, putting out an urgent call Monday for diesel fuel to run generators. The Mississippi is now open to ships with a draft of 35 feet or less during daylight hours, but it is unclear how soon full-scale traffic will resume.

"It's a major disruption and it's going to continue for a while," says Jerry McReynolds, president of the Kansas Association of Wheat Growers.

Growers in his state, already coping with a six-year drought, now face falling prices for their product, because of the uncertainty about how to ship it to foreign customers. At the same time, Mr. McReynolds says, "Our fuel costs have skyrocketed."

Indeed, it is via energy costs that Katrina reaches into the pocketbook of every American.

Foreign governments have moved to open international reserves, to ease the burden of slowed US oil production. That has helped stabilize crude oil prices below $70 a barrel for now.

From pipelines to refineries, much of Louisiana's energy infrastructure appears to be coming back quickly. But four refineries - representing 5 percent of US capacity - could be off-line for weeks or longer, so the price of gasoline, jet fuel, and other refined products may spike higher than crude-oil prices suggest.

"You don't burn a barrel of oil," says John Tobin of the Energy Literacy Project. "You burn the products that it makes."

Even at $70, the price of oil reflects a new dynamic of tight supply worldwide. Supplies, as a sum of commercial stocks, strategic reserves, and excess capacity, "are going to be at their lowest levels in history by next week," says A.F. Alhajji, an oil expert at Ohio Northern University in Ada.

The ability to transport oil and natural gas from offshore rigs is also impaired.

"Prices are going up," Dr. Alhajji says. "Or at least they will stay high."

Long-Term Impact Depends On Consumers (WP)

By Margaret Webb Pressler And Paul Blustein

The Washington Post, September 7, 2005

The long-term economic impact of Hurricane Katrina will hinge in large part on how U.S. consumers react to the disaster and resulting surge in gas prices. Will they fall into the camp represented by Lisa Kays of the District or Heather Rories of Burke?

Kays, who works in international development, said the hurricane has forced big changes in her spending plans.

"It reinforced to me the need to save, to have cash," Kays said while sitting in a sandwich shop near Dupont Circle. "We've been thinking about buying a car, but after this, I'm like, no, it's not worth it."

Likewise, one of Kays's lunch companions said she and her boyfriend had planned to drive to New York over the weekend but settled on a day trip to Annapolis instead.

But a little farther down Connecticut Avenue, Rories, a librarian for a downtown law firm, said rising gas prices have had no impact on her spending or travel plans. She and her family drove to Charlotte over the holiday weekend, she said, and "every time we stopped, the gas prices had gone up."

"I just felt fortunate we could afford it," Rories said.

Consumer spending on food, clothing, services and big-ticket items accounts or about 70 percent of U.S. economic output. So much is riding on the extent to which Americans change their spending in response to high gas prices.

The surge in gasoline prices in the week ending on Labor Day was virtually unprecedented -- the retail price rose 45 cents, to a nationwide average of about $3.057 a gallon (with prices in the Washington area about 20 cents above that). In inflation-adjusted terms, that's the highest since 1981.

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"Of course, we don't know whether the price is going to stay at $3," said Nigel Gault, U.S. economist at Global Insight Inc., a forecasting and research firm. "But the longer prices stay at this level, the harder it is to believe that consumers will just carry on doing what they were doing."

Even before Katrina laid waste to the central Gulf Coast, gas prices were dampening consumption, according to a survey in early May for the National Retail Federation. People with low incomes are those most likely to economize when gas prices rise. That is one reason Wal-Mart Stores Inc. reduced its earnings forecast for the third quarter.

Americans are hardly about to abandon their free-spending ways. Craig Johnson, president of Customer Growth Partners, a retail consultancy in New York, issued a study yesterday showing that after disasters, U.S. consumers tend to be "resilient."

Citing evidence from Hurricane Andrew in 1992; the Northridge, Calif., earthquake in 1994; the Sept. 11, 2001, terrorist attacks; and the four hurricanes in Florida last year, Johnson said, "Although the months of the event may briefly stun retail momentum, consumer spending tends to snap back sharply." On average, the firm's data show, retail spending (excluding autos and food service) was nearly 6 percent higher than the year before by the first Christmas after the event.

Katrina, however, knocked out a substantial portion of the nation's petroleum infrastructure, especially refineries that produce gasoline, when gas supplies were already stretched thin. "The larger worry may not be Katrina itself," Johnson said, "but if energy prices were to continue their sharp climb."

Since the price of gas has risen about 70 cents a gallon since early August, keeping it at that level for a year would mean motorists would have to pour an additional $84 billion into gas pumps -- equal to almost 1 percent of their incomes. "So it's not trivial," Gault of Global Insight said.

What people choose to pass up will also affect the severity of the economic impact. Larry Osborne of Forestville said that it costs him $70 to fill up his Cadillac Deville, up from about $35 not long ago, and that as a result he is eating out less. "It's impacted food and entertainment, mostly," he said.

Some economists say that continued strong sales of luxury goods will help offset cutbacks consumers are making on other retail products. But they wonder how long those pockets of strength can hold out as the storm's effects widen.

The storm's impact will come in phases, said Michael P. Niemira, chief economist for the International Council of Shopping Centers. "We haven't really seen the impact from the home heating oil and natural gas use that will kick in in the wintertime."

Storm's Economic Impact Is Felt Around Globe (WSJ)

By Patrick Barta, Marcus Walker and Jon E. Hilsenrath

The Wall Street Journal, September 7, 2005

The economic waves from Hurricane Katrina are being felt not just in the U.S., but around the globe, particularly in countries such as Indonesia and Italy that already were straining from soaring oil costs before the storm disrupted energy supplies.

In Australia, economists blame Katrina for a roughly 15-cent-a-gallon increase at the pumps. Germany saw gasoline prices jump by about the same amount, and a car drivers' association accused gasoline companies of gouging customers in the hurricane's aftermath. In Asia, government subsidies widely used to shield consumers from high oil prices, which already were costly before the storm, are pressuring government finances and boosting the odds of a slowdown in consumer spending.

Few economists expect the global economy to grind to a halt because of the storm alone. Just as the U.S. has become more resilient to energy shocks in the past two decades, so have many of its trading partners.

But given the U.S. role as the world's economic locomotive, the likely slowing of growth and employment here in the months ahead is likely to restrain growth elsewhere.

"Katrina has made it less likely that there will be [an energy] price fallback and more likely that there will be a price increase," says Michael Mussa, an economist with the Institute of International Economics. "It has made a growth slowdown that was already in the cards probably a little bit steeper and more likely."

In April, Mr. Mussa projected growth in the global economy would slow to an annual rate of just under 4% in 2005 and 2006 from around 5% in 2004. He is sticking to his 2005 projection, but now says growth next year is likely to be a little more than 3%. Morgan Stanley is paring its world growth forecast to 3.7% in 2006 from its earlier 4.1%, primarily because of the accumulated impact of higher energy prices over the past few months.

Though oil prices have returned to pre-Katrina levels, the retreat has come only after a drawdown of emergency reserves in the U.S., Europe and Asia. The shutdown of refineries in the U.S. is putting strain on global gasoline prices, pushing up consumer costs everywhere there are drivers. Many U.S. trading partners depend on U.S. consumers to gobble up their exports of cars, sneakers, appliances and other products. With U.S. households tested by a combination of low savings and rising costs at the pump, the ripple effects of a consumer slowdown in the U.S., if any, will be widespread.

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"Should the overextended American consumer falter under the weight of the energy shock -- a distinct possibility, in my view -- China would be on the leading edge," said Stephen Roach, the chief global economist at Morgan Stanley and a well-known "bear" on the economy. "Asian vulnerabilities cannot be minimized."

Even before Katrina, growth had slowed sharply in Thailand. At the Siam Square Mall, a giant complex of shops and restaurants popular among Thai teenagers, stores are reporting weaker sales. Maitong Sonakum, who manages a shoes and handbags shop called Lovely Shoes, said sales have dropped by half since oil prices started rising. The store hung a sign promising discounts of 50% to 80%, "but we still don't have as many customers as before," she said.

China, too, has been grappling with unexpected problems. Because of government rules that force refineries to cap the price they charge consumers for refined products, many Chinese refineries are opting to sell their products abroad where they can get higher prices. That has resulted in gasoline shortages and forced some users to ration fuel or delay travel, which in turn could slow economic growth.

In Indonesia, Southeast Asia's largest economy, worries over fuel subsidies helped push the local currency, the rupiah, to its lowest level in four years last week, forcing officials to raise interest rates and pledge politically explosive fuel-price boosts in the months ahead. On Friday, credit rating agency Standard & Poor's downgraded the outlook on Indonesia's single-B-plus rating to "stable" from "positive."

In India, state oil companies reported a cumulative $280 million loss in the last quarter to pay for oil subsidies, according to UBS. India has raised gasoline prices about 7% in an attempt to ease the burden, but some analysts said it wasn't enough to dispel the worries. India's minister for petroleum and natural gas recently predicted revenue losses due to subsidies at oil companies such as Indian Oil Corp., Bharat Petroleum Corp. and Hindustan Petroleum Corp., could hit about $9 billion in the fiscal year ending March 31.

The effects on America's closest trading partners, Mexico and Canada, are more mixed, because both are net exporters of energy.

But Europe has its own problems. In Italy, truckers who deliver new cars to dealerships recently walked off their jobs for an entire month to protest higher diesel prices. The strike blocked the delivery of 140,000 new cars and forced Fiat Auto SpA to temporarily shutter all of its Italian factories when it ran out of space to store cars that couldn't be delivered.

Energy-related woes have continued to pile up in recent days. Yesterday Belgian industrial foam maker Recticel SA blamed the higher price of raw materials influenced by the oil market for the company's 35% drop in operating profit during the first half of this year.

Rising energy costs currently are adding about one percentage point to consumer inflation in the euro zone, which is eroding the purchasing power of slow-growing personal incomes in the 12 countries that share the euro. Higher energy prices are making it harder for the European Central Bank to cut interest rates to stimulate the euro-zone economy, despite political pressure from national governments to do so.

With consumer spending forecast to remain weak, Germany's meager economic growth is expected to reach little over 1% this year, leaving it heavily dependent on rising exports -- and therefore consumer demand in the U.S.

OECD Tells Banks To Relax Over Rates (FT)

By Chris Giles

Financial Times, September 7, 2005

The Organisation for Economic Co-operation and Development on Tuesday urged the world's central banks to adopt a relaxed attitude to interest rates in the wake of surging oil prices and Hurricane Katrina.

Describing the $20-a-barrel rise in oil prices since May as a big economic shock, Jean-Philippe Cotis, the OECD's chief economist, said the ability of economies to shake off its effects would depend on their underlying momentum. The US and Japan were better placed than the eurozone or the UK, he said.

The OECD said the economic effects of Katrina “cannot yet be gauged with any confidence”, although Mr Cotis quoted independent economists who are tending to estimate that it will have a temporary effect, reducing US economic output by 0.25-0.5 per cent in the second half of 2005.

The OECD delivered recommendations to each of the four most important central banks, some of which will not be received gratefully.

Mr Cotis said he thought the underlying strength of the US economy left it well placed but the rise in oil prices without any corresponding pick-up in core inflation meant monetary policy tightening could be slowed.

“The Federal Reserve should continue to move back towards neutrality, although possibly at a more measured pace thanhitherto,” Mr Cotis said.

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Worried that the Bank of Japan might move away from its zero interest rates, the OECD warned that it should maintain its extremely easy monetary policy for “as long as underlying inflation is not durably positive”.

He also advised the Bank of England to set lower interest rates than would have been the case before the oil price rises.

Steel Prices Could Rise Further As Flooding Stalls Key Materials (WSJ)

By Paul Glader

The Wall Street Journal, September 7, 2005

The price of steel used to make cars and industrial equipment is expected to rise by as much as 20% in coming months because New Orleans flooding has limited the supply and distribution of raw materials such as liquid hydrogen and scrap steel.

The increase would be in addition to roughly 20% price increases by steelmakers including Pittsburgh-based U.S. Steel Corp. and Nucor Corp., of Charlotte, N.C., that became effective on Sept. 1 for shipments of key products like hot-rolled coil.

Liquid hydrogen is needed to make higher-quality steels such as galvanized or cold-rolled coils, which are used in products from auto panels to garage doors. Scrap steel is used to make new steel.

As buyers begin stockpiling to avoid higher prices and shortages, prices could escalate by as much as $80 a ton on such products, according to some analysts, although others forecast a more modest increase. Currently, hot-rolled coil, which is used to make cold-rolled coil, costs about $500 a ton. Concrete reinforcing bar, used in construction, also is expected to rise.

"To the extent that supply becomes somewhat impacted, there could be further increases in steel prices in general as a result of Katrina. But the magnitude of those prices is yet to unfold," says Mark Parr, a steel analyst at KeyBanc Capital Markets in Cleveland.

Steel-company shares are already seeing a boost. Nucor's shares were at $57.65 on the New York Stock Exchange in 4 p.m. composite trading yesterday, up nearly 11%, from $52 a share when Hurricane Katrina first hit the Gulf Coast. U.S. Steel's share price was $43.77 a share in 4 p.m. trading, up about 9% over the same period.

Analysts suggest some larger auto makers may begin looking to ship extra supplies of steel from abroad. Dave Elshoff, a Detroit-based spokesman for DaimlerChrysler AG, says his company is monitoring the situation, but "as of this time, all our suppliers have found alternate sources" of hydrogen.

Steel prices soared last year amid strong global demand. Prices have eased as China's growing steel production contributed to a glut. But in recent months, steelmakers have said they expected price increases as the glut has diminished.

Air Products & Chemicals Inc., a major U.S. producer of hydrogen, says it can't deliver liquid hydrogen to customers because of damage to its plant in New Orleans. The Allentown, Pa., company is uncertain when it can restart production.

Steelmaker Steel Dynamics Inc., of Fort Wayne, Ind., told customers Friday it is suspending future orders of value-added products such as cold-rolled, galvanized and painted sheet-steel products because Air Products was its main hydrogen supplier. U.S. Steel, Nucor and Netherlands-based Mittal Steel Co. said they have alternate supplies of hydrogen and don't expect the shortage to affect them greatly.

Surviving Katrina's Huge Damage Claims (WP)

By Albert B. Crenshaw

The Washington Post, September 7, 2005

Hurricane Katrina seems likely to become the most expensive natural catastrophe in U.S. history, but unless insured damages go far higher than the current high-endestimate of $35 billion, the insurance industry should be able to pay the claims without threat to its own solvency, industry experts said yesterday.

Because of the nature of the storm and the type of damage inflicted, private insurers will probably bear only a fraction of the total losses suffered in Louisiana, Mississippi and Alabama -- estimated at more than $100 billion by Risk Management Solutions Inc., a California firm that does computer modeling of damages from catastrophes.

But taxpayers, insurance ratepayers and others are likely to be feeling the economic effect of the giant storm for years to come, they acknowledged.

And some risk experts are starting to raise the question of how -- or if -- houses or other buildings in low-lying areas such as New Orleans should be rebuilt.

"There is a lot of variability" in loss estimates so far, said Robert P. Hartwig, chief economist at the Insurance Information Institute, an industry group, adding that insurers are expecting more than 1 million claims. Adjusters are already at work in some areas, though not yet in New Orleans.

But "the industry approached the '05 hurricane season in a position of financial strength," following eight months of very strong earnings, he said.

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Insurers "were able to bear the $23 billion [in losses] from last year's four storms" in Florida with no significant insolvencies, and "that situation will remain the same this year," Hartwig said.

The $100 billion loss figure includes damages covered by private insurers, those covered by the federal government's National Flood Insurance Program and those not covered by any kind of insurance, often because the owners couldn't afford coverage or because they self-insured. Many municipalities self-insure with roads, bridges and other infrastructure, on the ground they can simply fix anything that goes wrong.

Laurie Johnson of RMS said the company is analyzing satellite images to try to determine how much of the flooding coincided with the coverage area. "When we know much of that flood exposure" was actually flooded, she said, "we will see the loss."

But ultimately the numbers suggest that $60 billion to $70 billion in property losses from Katrina will have to be absorbed by taxpayers, through government programs and repairs, and by owners of homes and businesses.

The storm will push insurance rates up for some consumers. "It always does, because in the end, who else is there to pay the bill except ultimately the consumer?" said Tom Upton, a financial services analyst with Standard & Poor's in New York. But the Insurance Information Institute's Hartwig said the impact should be confined to hurricane-prone areas. "It does put upward pressure on rates as to higher risk areas," he said. "That's been the case in Florida. But those effects are isolated to the states likely to be impacted."

A key reason is that rates, at least for personal insurance, are regulated by states, and state officials aren't likely to allow a company to raise rates because of risks elsewhere. Regulators in Minnesota wouldn't approve a company's request to raise rates there because of what happened in, say, Florida, Hartwig said.

However, several experts said Katrina will increase companies' and regulators' awareness of the risk involved in coastal areas.

It could be the largest "housing reconstruction project this country has ever known," involving tens of thousands of units, said RMS's Johnson.

But if that is done, how much protection should new units be given?

"Challenge number one is the decision, not 'do we repair the levees to the preexisting level' but 'what is the design scenario we want them built to,' " Johnson said. Noting that there are 350 miles of levees around Lake Ponchartrain and New Orleans, she said "the cost of bringing that up to a design" that could protect the city from a Category 4 or 5 storm "has to be explored, and a benefit-cost analysis has to be done."

"That will really define the rest of the reconstruction project," Johnson said. "The second major decision that follows," she said, is whether there are "certain parts of the city we are not going to rebuild," where it may make sense to buy out those properties and relocate the people.

There is precedent for such action, though on a much smaller scale. Twice in the 1990s following floods in the Midwest, small communities were partly or totally bought out by federal and state agencies and the residents relocated to higher ground.

But in coastal resort areas, the years following severe hurricanes have also brought into sharp relief the continuing conflict that pits developers and their customers who want to live close to the shore against insurers who don't want to underwrite such risks, at least not at a price the developers and homebuyers find acceptable.

Unwilling to either cut off development or drive out insurers, politicians in Florida and some East Coast states have increasingly allowed insurers to add wind or hail deductibles to their policies. These deductibles, rather than flat dollar amounts, are a percentage of the home's value, such as 5 percent. This shifts more risk to the homeowner.

Also, some states have turned to "pools" and other state-sponsored arrangements to provide coverage that would not otherwise be available. Florida's Hurricane Catastrophe Fund, for example, is funded by insurers but backed by the state.

Wall Street Rallies As Crude Prices Ease (FT)

By Stephen Schurr

Financial Times, September 7, 2005

If muted activity last week in the face of Hurricane Katrina was an exercise in restraint, yesterday's market performance could be called a return of animal spirits. Stocks rallied solidly and broadly, with every sector in the S&P 500 posting gains.

The S&P 500 rose 15.38 points, or 1.3 per cent, to 1,233.40, the biggest percentage gain since the recent bottom on April 21. The Nasdaq Composite added 25.79 points, or 1.2 per cent, to 2,166.86 and the Dow Jones Industrial Average increased 141.87 points, or 1.4 per cent, to 10,565.12.

Declining crude prices were a tailwind for equities. Light sweet crude for October delivery fell $1.61 to $65.96 a barrel on the New York Mercantile Exchange; the contract price is off 7 per cent since surging above $70 last week. Hopeful for an

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interruption in interest-rate increases, Wall Street was also optimistic the rebuilding of the Gulf Coast would stimulate the economy.

Not everybody was so cheery. Stephanie Pomboy, who runs the research firm MacroMavens, warned that the markets were being cavalier about risk. “The markets are priced for absolute perfection at a time when, in my mind, the imperfections are manifold. It just strikes me that you have an environment that’s highly risky and nobody is paid to acknowledge that.”

For one day, at least, such concerns were cast aside. Every sector on the S&P 500 came up a winner. The real estate index and the retailers index rose more than 2.3 per cent apiece, and even the lagging energy index inched up 0.7 per cent.

Shares of Wal-Mart, which have been reliably moving in the opposite direction of energy prices amid concerns about consumer spending, posted a moderate rally. They gained 2.6 per cent to $45.69, but the shares remain 21 per cent off their 52-week high. Other retailers performed well, with discount-store Dollar General up 1.2 per cent to $18.41 and Target rising 1.5 per cent to $53.96.

Energy stocks lagged but held up; the group lead the market last week amid concerns about soaring energy prices and distribution gridlock. Valero Energy, this year’s strongest S&P component, added 0.9 per cent to $109.41, while Dynegy declined 3.1 per cent to $4.36. The support for energy stocks suggested Wall Street was not convinced the sector’s rally was finished.

Katrina was still affecting the market. Home Depot added 3.4 per cent to $41.71 on the belief that the home-improvement retailer would increase sales in the rebuilding effort. Tenet Healthcare fell 0.6 per cent to $11.93 as its six hospitals in the affected region continued to evacuate patients and employees.

Elsewhere, Chiron added 1.7 per cent to $43.51 after the drug company rejected a bid from Novartis, fuelling Wall Street hopes for a higher offer. Novartis added 0.4 per cent to $49.28.

Apple shares added 5.6 per cent to an all-time high of $48.80 ahead of the consumer-technology company’s plans to launch iTunes for mobile phones. Apple’s stock, which had retreated earlier this year after 2004’s robust gains, now stands at an all-time high.

Investors Gauge Katrina Impact (WSJ)

By Scott Patterson

The Wall Street Journal, September 7, 2005

Stocks soared Tuesday as investors sensed relief from two places that have kept equities on a leash this year: oil prices and interest rates.

The surge in stocks has left the three major benchmark indexes well higher than they were before the Hurricane Katrina struck last Monday. An economic report indicating momentum in the service sector ahead of the storm also buoyed stocks.

A sharp decline in oil and gasoline prices gave some hope that an energy shock might be avoided after Katrina disrupted a vital cog in the nation's energy-distribution network. Speculation that the Federal Reserve may pause in its interest-rate tightening campaign at one or more of its meetings this year added further fuel to equities, and boosted shares of financial companies such as American Express and Citigroup, which jumped 2.9% and 1% respectively.

Investors "clearly are responding to the possibility that the Fed will postpone rate hikes until it can assess the damage that has been done to the economy" from Katrina, said Ned Riley of Riley Asset Management.

"The Fed pause is one element of what might be economic stimulus from the rebuilding efforts from Hurricane Katrina," said Kenneth Tower, chief investment strategist at CyberTrader.

The Dow Jones Industrial Average rose 141.87 points, or 1.36%, to 10589.24. Home Depot gained 3.4% amid expectations of higher demand for the home-improvement wares in the rebuilding effort in Louisiana, Alabama and Mississippi. Coca-Cola added 1.4% after a Bank of America upgrade to "buy" from "neutral." McDonald's rose 2.4% and Johnson & Johnson gained 1.4%. Wal-Mart Stores, which has suffered from concern that high gasoline prices could eat into its sales, tacked on 2.6%.

The Standard & Poor's 500-stock index added 15.42, or 1.27%, to 1233.02 and the Nasdaq Composite Index gained 25.79 points, or 1.2%, to 2166.86.

Oil prices slid after last week's decision by industrialized nations to release 60 million barrels of crude from strategic stockpiles. Light, sweet crude for October delivery fell $1.61 to $65.96 a barrel on the New York Mercantile Exchange. Meanwhile, unleaded gasoline futures shed nearly 13 cents to $2.06 a gallon.

More than a week after Katrina struck the U.S. Gulf Coast, investors continued to take stock of the economic impact. Some analysts argued that reconstruction will help boost the profitability of a number of companies, such as Home Depot, and help the economy continue to grow.

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Others weren't as sanguine. Jeffrey Saut, chief investment strategist at Raymond James, wrote that "the downside risks to the economy have increased" after Katrina. "We think investors are ignoring the potential economic impact of the situation, as well as the potential inflationary impact of the rebuild," he wrote.

Lehman Brothers analyst Chip Dickson said in a note that the hurricane has "increased the level of economic risk," warranting an increase in his recommended cash weighting to 20% from 12.5% and a decrease in equity weighting to 65% from 70%. "Rising energy prices and health-care costs put the consumer under more pressure," he said.

A report showing solid growth in the nation's service sector in August reinforced Wall Street's expectation that the nation's economy was chugging along solidly before the hurricane. The Institute for Supply Management said its index for nonmanufacturing activity rose to 65 from 60.5 in July, well above expectations for a reading of 60. It was it highest reading since April 2004.

The Minerals Management Service, an arm of the Department of Interior, said 28% of drilling platforms and oil rigs remained evacuated in the Gulf of Mexico, down from 40% on Friday. About 70% of oil production and 52% of natural-gas production remains offline, the MMS said.

Still, gasoline prices remain high as several refineries in the Gulf are shut down. AAA on Monday said the nationwide average price of regular unleaded gasoline reached $3.06 a gallon, up more than 30% from $2.31 a month earlier. The storm disrupted roughly one million barrels a day of gasoline output, about 10% of U.S. capacity.

In major market action:

Stocks rose. On the Big Board, where 1.4 billion shares traded, 2,389 stocks rose and 882 fell on Friday. On the Nasdaq Stock Market, where 1.4 billion shares traded, 2,034 stocks advanced and 1,032 declined.

Bonds declined. The benchmark 10-year Treasury fell 13/32, or $4.06 per $1,000 invested, to yield 4.086% early Tuesday. The 30-year bond was off 1 2/32 to yield 4.357%. Yields move inversely to prices.

The dollar advanced. It traded at 109.72 yen, down from 109.65 yen late Friday, while the euro slipped to $1.2474 from $1.2543.

Stocks Rally With Investors' Outlook (USAT)

By Adam Shell

USA Today, September 7, 2005

NEW YORK — The Dow Jones industrial average posted its biggest point gain since early July on Tuesday, bolstered by a sizable drop in the price of oil and evidence that progress was being made in fixing energy-related infrastructure damaged by Hurricane Katrina.

Wall Street sent its most forceful message to date that the initial doomsday scenarios of a national recession and a 1970s-style oil shock are unlikely to come to fruition as a result of the hurricane early last week.

The Dow rose almost 142 points, or 1.4%, to 10,589. It was the Dow's best rally since July 8 and boosted its gain to nearly 200 points, or 1.8%, since Katrina struck Aug. 29.

“Investors are now realizing that their (worst fears) were overblown,” says John Bollinger, president of Bollinger Capital Management.

Wall Street is also benefiting from two key factors that seemed unlikely a week ago:

·Energy prices are retreating. Initially, with little information on how badly oil pipelines, refineries and rigs were damaged, crude oil spiked above $70 a barrel, a record. And some pundits warned of even higher prices.

But the gradual recovery of petroleum operations in recent days has minimized fears of long-lasting supply disruptions, sending the price of crude lower, says Jack Ablin, chief investment officer at Harris Private Bank.

A barrel of crude closed down $1.61 to $65.96 Tuesday. Gasoline futures also fell, raising hopes that pump prices above $3 a gallon gas won't last much longer.

·There's a possibility that the Federal Reserve might pause or halt its campaign to raise interest rates until it can measure the fallout from Katrina, says Chuck Carlson, CEO of Horizon Investment Services. The Fed has raised its target for short-term rates to 3.50% from 1% since June 2004.

The market's resilience may be proof that “investors have gotten used to the fact that natural disasters do not have long-lasting impact” on the stock market, says Byron Wien, market strategist at Morgan Stanley.

In Katrina's Wake, Law Firm Disaster Teams See Action (LAW)

By Leigh Jones, The National Law Journal

Law.com, September 7, 2005

Much of the New Orleans legal community is in shambles following the devastation from Hurricane Katrina.

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Attorneys and staffers at some law firms were still unaccounted for last week, and office buildings and courthouses -- and the documents inside -- remained soaking under water.

Legal professionals said that they thought they had planned for the worst, but until some levees collapsed flooding almost 80 percent of the city after the hurricane hit, they believed they had escaped much of the damage predicted from the massive storm.

"We have never dealt with something of this magnitude, but we're going to have to," said Gregory Bodin, president of the Baton Rouge Bar Association. With offices at the Louisiana State Bar Association and the New Orleans Bar Association flooded, the Baton Rouge organization is serving as the headquarters for the other groups.

The New Orleans area was home to about 7,500 lawyers, Bodin said, which equals about one-third of the state's attorneys. "Most of the lawyers lost their homes, jobs and maybe their practices," he said.

As most phone and electronic communications remained useless after the barriers protecting the low-lying city failed, law firm leaders and court personnel were struggling to find offices and even housing for their workers.

"We're totally unaware of when we might have access to the building," said Charles Landry, managing partner of Jones, Walker, Waechter, Poitevent, Carrere & Denegre's Baton Rouge office. The New Orleans-based firm had 300 people, including 165 attorneys, working at its location on St. Charles Avenue.

Its building "appeared to be sound" said Landry, according to preliminary information he had received, but it was surrounded by water. Landry said that the firm had heard from most of its New Orleans workers, who had evacuated the city before the storm. But it had not made contact with one attorney who had stayed in the city, he said.

The condition of the New Orleans offices of Baker, Donelson, Bearman, Caldwell & Berkowitz was unclear, said firm Chairman Ben Adams. The firm has offices in New Orleans and Mandeville, La., where a total of 70 people work, including about 35 attorneys.

"We don't have them all accounted for yet," Adams said. "Each day we're tracking down more and more people."

'DISASTER TEAM' IN ACTION

The firm's "disaster team" met last week to implement a plan for its displaced workers, which may include opening an office in nearby Baton Rouge, Adams said. Leaders of both firms said that they had backed up electronic data before the storm, but the condition of paper documents was uncertain.

Web sites also were down at many law firms and government offices, or were operating with limited messages. Posted on Jones Walker's Web site last week was an urgent message to New Orleans attorneys asking them to contact the firm's Baton Rouge office.

"We need to know your needs and how to contact you," the message said.

Landry said that workers were using BlackBerry messaging to help make contact, a plan that the firm formulated before the hurricane hit. He said the firm's real estate group was trying to find housing for its displaced workers.

Phelps Dunbar, which is based in New Orleans and had about 90 attorneys at its offices on Canal Street, also posted a message on its Web site announcing that its New Orleans and Gulfport, Miss., offices were closed. It urged employees to call its emergency hotline phone number.

Atlanta-based Fisher Phillips, which had 14 attorneys working from its New Orleans location before Katrina landed, had obtained photographs of its offices, which showed shattered windows and curtains flapping in the wind. Roger Quillen, managing partner of Fisher Phillips' Atlanta location, said the New Orleans office would stay closed at least until Sept. 15.

The Web site of Tulane University, which houses its law school in New Orleans, included a "current status" report, updated every few hours, notifying readers that it had evacuated its campus. No other information besides the status reports appeared on the school's Web site.

Offices for the Committee on Bar Admissions also were flooded. Those offices contained recent bar examinations, which examiners were slated to evaluate this month.

The Baton Rouge Bar Association was in the process last week of implementing a nationwide lawyer donation program on its Web site. The program, which the Louisiana State Bar Foundation will handle, will enable lawyers and others across the country to assist Louisiana practitioners. Bodin said that eventually the bar associations would like to train local lawyers to help area residents fill out government assistance forms and other documents to obtain financial relief.

Note: For related news, see Kicked Out of the Big Easy by Katrina, the 5th Circuit Heads to Houston.

Social Security Reform 'Off Radar'? (WT)

By Amy Fagan

The Washington Times, September 7, 2005

DOJ_NMG_0003631

With two Supreme Court vacancies and a massive hurricane-relief effort dominating the agenda now, senators said they don't think they will act on Social Security legislation this year, which would be the final blow to President Bush's signature domestic issue.

The Senate was already having major problems agreeing to a Social Security proposal -- even Republicans couldn't agree on whether a bill should include the Social Security private accounts Mr. Bush has pushed for. With recent events, members on both sides of the aisle said chances of action are even more unlikely.

"It's off the radar," said Sen. Gordon H. Smith, Oregon Republican, adding that hurricane relief is much more important now, and Social Security is an issue "we'll eventually deal with" down the line, though not likely this year.

"Social Security? I think not much is going to happen there this year," agreed Sen. Judd Gregg, New Hampshire Republican.

"I can't imagine President Bush is going to go back to it," Sen. Richard J. Durbin, Illinois Democrat, said of Social Security.

"That is not likely to be part of any future agenda in Congress," he said, clarifying that he meant not the near-future agenda at least.

Senate Finance Committee Chairman Charles E. Grassley, Iowa Republican, said he will continue talking to his colleagues to try and reach agreement on a Social Security bill, but conceded the issue now ranks about fourth or fifth on his agenda. His top priorities now are crafting Hurricane Katrina relief legislation, helping fellow Judiciary Committee members fill the Supreme Court vacancies, dealing with must-pass spending bills, addressing budget-reconciliation legislation, and then tackling Social Security.

Mr. Grassley said House passage of a Social Security bill might provide the Senate yet another opportunity to act, but noted even House action isn't certain. "They may not move," he said. "But if they do move, that gives us another bite at the apple."

It's been anticipated that the House would take the lead on Social Security legislation this fall. Last week, House Majority Leader Tom DeLay, Texas Republican, said he still hopes to move a retirement-security bill this fall that includes voluntary personal accounts, but he also hedged by saying a floor vote can't be guaranteed until the House Ways and Means Committee produces a bill.

Behind the scenes, rank-and-file House Republicans are divided on whether or not it's wise to act now. Last week, Rep. Jack Kingston, Georgia Republican, a strong supporter of Social Security reform, said House Republicans would likely spend the next few weeks hammering out strategies on hurricane disaster relief, gas prices and illegal immigration. "In that mix, we will need to decide whether we're going to move forward on Social Security or not," he said.

Some Senate Republicans still say action is possible in their chamber this year.

Sen. Orrin G. Hatch, Utah Republican, said the issue probably "has to be deferred for a while," but isn't dead yet, since there are a group of senators who really want to get something done this year. "It's going to be tough, but I think there's a chance," he said.

Sen. Craig Thomas, Wyoming Republican, agreed action is indeed possible this year, predicting the Senate will produce a bill that begins to fix Social Security's long-term financial problems, but doesn't include personal accounts.

U.S. Agency Funded Opinion Columns (DMN)

By G. Robert Hillman, The Dallas Morning News

The Dallas Morning News, September 7, 2005

WASHINGTON – The Department of Education paid education advocacy organizations to submit opinion pieces to newspapers and produce other ads, brochures and postcards – and many did not disclose their government ties, the department's inspector general has concluded.

"People looking at advertisements or reading their local newspapers would have had no idea that what they were reading was bought and paid for with their tax dollars," said Rep. George Miller of California, the ranking Democrat on the House Education and Workforce Committee who requested the review.

"No matter which way you slice it, that is propaganda," he added Tuesday in a prepared statement.

Mr. Miller had sought the review last January after reports that the department had paid commentator Armstrong Williams $240,000 to promote President Bush's No Child Left Behind initiative. Again, there were no disclosures.

Among the advocacy groups, Inspector General John Higgins concluded the arrangements were not "covert propaganda," though further review was required on one contract.

There was also no evidence, he said, that the contracts were awarded with any "intent to influence public opinion through the undisclosed use of third-party grantees."

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Still, Mr. Higgins said, the opinion pieces and other material financed by the department should have disclosed the government relationship, and efforts should be made to recover at least some of the money. Contracts totaling several million dollars were reviewed, but not all were found to violate the disclosure requirement.

Responding, department spokeswoman Susan Aspey cited a letter to the inspector general from Education Secretary Margaret Spellings, who said she agreed with most of the findings and that the department already had moved to "strengthen the grant-making and contracting processes."

Two of the opinion pieces cited by the inspector general were in The Dallas Morning News and another in its Spanish-language newspaper Al Día.

The author, Marcela Garcini of Dallas, director of parent outreach for the Hispanic Council for Reform and Educational Options, said she and her organization had "never had any bad intentions."

Keven Ann Willey, vice president and editor of the editorial page at The News, said the newspaper had solicited the first column in an outreach for diverse parental views and paid Ms. Garcini a freelance writer's fee. The second column was offered by Ms. Garcini, Ms. Willey said, and the newspaper did not pay her.

"We regret there was not greater disclosure in the financial relationship that her organization had with the Department of Education," Ms. Willey said of the second piece. Al Día editors expressed similar regrets.

In the second piece, critical of the Dallas Independent School District, Ms. Garcini said she was "tired of hearing excuses about the lack of funding for schools, particularly under No Child Left Behind."

"We parents must be prepared to transfer our children to other schools that can better serve their needs," she wrote.

Responding to the inspector general's report, Dallas schools spokesman Donald Claxton said, "It would be disappointing to find out the federal government is paying someone to write ugly things about us."

Under another contract with the Education Department, the inspector general said that Kate Walsh, president of the National Council on Teacher Quality, had authored several opinion pieces for other newspapers.

Her organization had not known of the disclosure requirement, she said, and had returned the federal money later and sent letters of apology to the newspapers.

Staff writer Tawnell D. Hobbs in Dallas contributed to this report.

Ethics Staffing Slow As Panel's Caseload Mounts (RC)

By John Bresnahan

Roll Call, September 7, 2005

As the House returns from the month-long August recess, the top two Members of the ethics committee, Reps. Doc Hastings (R-Wash.) and Alan Mollohan (D-W.Va.), face new questions on when they will complete hiring staff for their panel, as well as what cases they will take up once they have investigators in place.

Hastings and Mollohan, chairman and ranking member of the committee, hope to select a new chief counsel/staff director by the end of September or early October, according to sources close to the panel. Mollohan also wants to hire at least two additional investigators before initiating any inquiries, and Hastings is expected to accede to that request.

But the slow pace of hiring signals that the committee will likely not have completed a preliminary investigation of House Majority Leader Tom DeLay (R-Texas) over his dealings with former GOP lobbyist Jack Abramoff by the end of this year. DeLay then faces the possibility of a second straight election cycle in which the ethics committee releases findings on an investigation of him before voters go to the polls, a daunting challenge for even the most politically astute Member.

Hastings and Mollohan have begun reviewing résumés of applicants for the chief counsel post, said the sources. The new chief counsel will have to be approved by both men, and with the leadership of each party monitoring the vetting process closely, the new counsel will have to be someone viewed as free from any partisan bias.

"The bar is very high for the Republicans," said a senior House Democratic aide. "Any sign of partisan background in a candidate will be met with strong opposition and continue the stalemate of a non-functioning ethics committee, one that is unprecedented and unacceptable."

Once a new chief counsel and additional investigators are in place, the ethics committee is expected to initiate informal probes into DeLay and House Administration Chairman Bob Ney (R-Ohio), both of whom have ties to Abramoff. Abramoff and a former business associate recently were indicted in Florida on federal fraud charges related to their purchase of a Miami-based gambling cruise ship company.

Neither DeLay nor Ney have been implicated in that case, but the two lawmakers face questions about their dealings with Abramoff on other issues, as well as allegations that Abramoff may have improperly funded overseas trips taken by the two men and their aides.

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Those two informal probes could become full-blown investigations featuring investigative subcommittees with subpoena power appointed to oversee the inquiries, according to House insiders and ethics experts.

Abramoff's indictment in Florida, however, could present problems for a Congressional ethics probe. Traditionally, the ethics committee has steered clear of cases in which federal or state officials are already investigating Members over allegations of criminal conduct, as was the case last year when the ethics committee declined to look into a case involving DeLay associates already being probed by a Texas grand jury.

But that abstention by the panel is not an ironclad one, and the committee in the past initiated its own probes of former Reps. Bud Shuster (R-Pa.) and Jay Kim (R-Calif.) even as the Justice Department was investigating the lawmakers.

Regarding Abramoff's indictment in Florida, legal experts suggest that case is so specific — centering on alleged efforts in September 2000 by Abramoff and Adam Kidan, his then business partner, to falsify loan documents used to help purchase Sun Cruz Casinos — that the ethics committee could begin its own investigation of DeLay and Ney without jeopardizing the government's case.

"I don't see any problem for the ethics committee on that front," said a GOP ethics lawyer who requested anonymity. "They can do whatever they want."

Where there may be problems, however, is if a Washington, D.C.-based federal grand jury investigating Abramoff over his dealing with American Indian tribes indicts the former lobbyist. Ney, in particular, has faced allegations that he attempted to help Abramoff enact legislation to help one of his tribal clients in return for campaign contributions, a charge that the Ohio Republican has vehemently denied. If Abramoff were indicted by the grand jury over his actions on behalf of Indian tribes, then any probe of Ney could touch directly on that case.

"Ney, in a weird way, could benefit if Abramoff were indicted again," said the GOP lawyer. "There is no way Abramoff could or would testify before the ethics committee, so it becomes all Ney's side of the story."

Republicans are not alone in facing ethics problems, however. An investigative subcommittee has already been appointed to look into Rep. Jim McDermott's (D-Wash.) leaking of an illegal recorded 1997 phone call between House GOP leaders. McDermott and Rep. John Boehner (R-Ohio) have been involved in a long-running legal dispute over the tape, and McDermott could end up having to pay hundreds of thousands of dollars in lawyers' fees in the case. A complaint with the ethics panel against McDermott was filed by Rep. David Hobson (R-Ohio), a close Boehner ally.

Rep. John Conyers (D-Mich.) also faces questions over potential violations of House ethics rules. Several House insiders predict that the ethics panel will approve a full-blown investigation into whether Conyers improperly allowed partisan political activity by his staff designed to benefit Conyers' wife, who was running for a state office.

Other lawmakers, including Reps. Curt Weldon (R-Pa.), John Murtha (D-Pa.) and Maxine Waters (D-Calif.), could also come under scrutiny by the Ethics panel as well. All three have been alleged in media reports to have used their official offices to help out business activities by family members.

Two other Members — Reps. Duke Cunningham (R-Calif.) and William Jefferson (D-La.) — are the subject of ongoing federal corruption investigations, and the outcome of those probes will have an impact on whether the ethics committee gets involved in either case.

Cunningham is being investigated by a federal task force over his ties to a defense contractor, MZM Inc., and its former CEO, Mitchell Wade. Wade purchased Cunningham's San Diego-area home in 2003 and then later resold it at a $700,000 loss. Cunningham also lived on a yacht berthed in Washington that was owned by Wade. MZM, with backing from Cunningham and other lawmakers, has helped snare more than $160 million in federal defense contracts, mainly in intelligence-related activities. Cunningham serves on the House Appropriations and Intelligence committees. Cunningham, who has stated that he did nothing wrong in his dealings with Wade, has already announced his decision to retire from Congress at the end of next year.

Jefferson is being investigated over his dealings with a high-tech startup company. The Maryland home of a top Nigerian official with ties to Jefferson was searched by the FBI in early August. Jefferson has denied any wrongdoing in the matter.

Both Cunningham and Jefferson have faced searches of their homes and other property by federal agents. In Jefferson's case, federal agents reportedly found a bundle of cash in his freezer, according to the Washington Post.

As is the case with the Abramoff-related probes, the ethics committee will have to move cautiously to not interfere with the Justice Department investigation into either lawmaker, although that does not mean the committee can't begin a probe into either lawmaker on its own.

"Just because the Justice Department is looking into something, that doesn't preclude the ethics committee from investigating as well," warned a senior House Democrat familiar with the situation. "The ethics committee has the authority to do what it must to guard the integrity of the House, and it will do so how it best sees fit."

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OTHER NEWS:

Zinc Tumbles 3.7% After Stockpiles Prove Unaffected By Storm (WSJ)

By Emily Parkinson

The Wall Street Journal, September 7, 2005

LONDON -- Zinc futures at the London Metal Exchange fell sharply following reports that warehouse stocks in New Orleans were unaffected by Hurricane Katrina.

Zinc for three-month delivery fell 3.7%, or $21, to $1,391 a metric ton, but had rallied as high as $1,452.50, an eight-year high. The market rose earlier in the session after the LME temporarily suspended warrants for zinc stored in New Orleans warehouses and imposed a backwardation limit on the zinc market, the exchange said.

A market is in backwardation when the futures price is lower than the cash price. LME warrants are documents enabling the holder to take possession of a specified parcel of metal at a specified LME warehouse.

The decision was made in light of the potential effect on the LME markets of flooding in New Orleans following Hurricane Katrina.

The LME said that "to safeguard the orderliness of trading, the exchange has decided temporarily to suspend New Orleans warrants until the situation can be clarified."

In other commodity markets:

CRUDE OIL: Petroleum futures on the New York Mercantile Exchange fell 2.4% as Gulf of Mexico oil production continued to recover in the wake of Hurricane Katrina. The massive government response to the supply disruptions caused by the storm eased traders' concerns about curtailed U.S. production. October crude fell $1.61 to $65.96 a barrel.

GASOLINE: Nymex gasoline futures plunged 6% as some of the U.S. refineries shut by Hurricane Katrina restarted. About half of the affected refining capacity was either back on line or expected back by midweek. A surge in European gasoline imports and a seasonal decline in demand was also seen easing supply tightness. October gasoline futures fell 12.87 cents to $2.0550 a gallon.

Crude Oil Lower After Saudi Price Cut (FT)

By Chris Flood

Financial Times, September 7, 2005

The price reduction on its heavy crude is likely to lead to a production increase by the world's largest exporter. This may be confirmed this weekend when the kingdom nominates its October oil export programme.

The move comes ahead of the meeting of the Organisation of the Petroleum Exporting Countries later this month, when Saudi Arabia may push for an increase in the Opec quota from its current level of 28m b/d in an effort to stem the rise in global oil prices.

Saudi Aramco, the state oil company, lowered its monthly crude oil selling prices to the US, Europe and Asia and made the largest cut to the price of its heaviest grades, which are harder to refine, with Arab Heavy down $2.75 for Europe and $2.25 for the United States. The discount of Arab Heavy to the European benchmark is close to the record discounts seen last October of about $14 a barrel.

Although more than two-thirds of US Gulf of Mexico oil production remains closed, according to the US Minerals Management Service yesterday, US energy prices retreated as traders returned after the Labor Day holiday. The October West Texas Intermediate contract fell $1.67 to $65.90. IPE Brent for October delivery declined 19 cents to $64.66 a barrel.

Refiners have until Friday afternoon to submit bids for 30m barrels of crude offered for sale from the US government's emergency stockpile with a base reference price of $68.67 a barrel set for sweet crude and $61.66 a barrel for sour crude.

Nymex October gasoline declined 6.6 cents to $2.1177 a gallon while Nymex October heating oil fell 1.21 cents to $2.0790 a gallon.

Zinc prices hit an eight-year high after the London Metal Exchange suspended delivery against warranted metals stored in New Orleans where almost half of the LME stockpile is stored.

Traders said high inventory levels had prevented prices from rising as fast as other base metals in recent years, but the market was increasingly nervous about availability of supplies.

Three-month zinc prices reached $1,452.50 a tonne before easing back to $1,394.5. Three-month copper edged lower to $3,655.5 a tonne after reaching an all-time peak of $3,725 a tonne on Friday. Analysts expect higher demand for base metals like copper from a surge in reconstruction spending in areas affected by Katrina.

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Gold prices eased modestly to $443.95 a troy ounce from Monday's close in London of $445.85 after a bounce in the dollar. Traders said that a correction to lower levels was still a risk due to speculative long positions.

Gulf's Energy Infrastructure Begins To Regain Its Footing (WSJ)

By Thaddeus Herrick, Russell Gold and John J. Fialka

The Wall Street Journal, September 7, 2005

The Gulf Coast network of production platforms, pipelines and refineries hammered by Hurricane Katrina last week took a step toward normalcy yesterday, helping to temper the price of crude oil and offering hope that the worst of the current energy crunch may have passed.

The U.S. average retail price for unleaded gasoline -- having matched an all-time high Monday -- eased about a cent to $3.04 a gallon yesterday, according to AAA, formerly the American Automobile Association, as Labor Day marked the end of the summer driving season. While analysts said it was unclear whether Americans were conserving gasoline, the supply shortages and gas-station lines so far have failed to match those of the oil shocks of the 1970s and 1980s.

"You may not be able to find gasoline where and when you want it," said Geoff Sundstrom, a spokesman for AAA. "But there is gasoline."

The sharp rise in gasoline prices -- and forecasts that oil companies will see increased profitability as a result -- have drawn congressional scrutiny. Leaders of the Senate Energy Committee yesterday said that Congress will "revisit" auto fuel-economy standards and more-flexible leasing of federal offshore land for energy exploration. But Republican lawmakers showed little enthusiasm for Democratic proposals for a federal law on price gouging.

Late yesterday afternoon, benchmark crude for October delivery fell $1.61 to $65.96 a barrel on the New York Mercantile Exchange. The drop came as Saudi Arabia slashed prices by more than $2 a barrel on its high-sulfur grades of oil, which now sell for roughly $50 or more a barrel. Because the U.S. temporarily has relaxed tough environmental standards for oil products, refineries may be able to use more high-sulfur Middle Eastern crudes that normally need more refining.

Gasoline futures declined 12.87 cents to $2.055 a gallon in Nymex trading. Natural-gas futures, which have maintained higher levels even as oil has slipped, fell 3.4 cents to close at $11.657 per million British thermal units.

Questions remain about the swirl of pipelines that feed into the southeastern tip of Louisiana. These pipelines are particularly susceptible to the underwater mudslides triggered by Katrina. Mudslides can snap pipelines, moving segments hundreds of feet, and leave them inoperable until they can be reconnected. Similar damage in the wake of last year's Hurricane Ivan reduced production for weeks.

Weather continues to hamper assessment: El Paso Corp., which operates the Southern Natural Gas pipeline system in the gulf, said surveying has been postponed at least until tomorrow Yesterday, a Department of Energy official told the Senate Energy Committee damage hasn't yet been found, though inspections continue.

Also yesterday, the U.S. Coast Guard increased its count of destroyed platforms to 29 from 26. Still, the U.S. Minerals Management Service said that more than 50% of the combined oil and natural-gas production idled in anticipation of Katrina had been restarted. The oil and natural-gas equivalent of 1.6 million barrels a day still was shuttered.

Crews have had adequate time to bring a number of large, oil-and gas-producing platforms and accompanying pipelines back to service. BP PLC said its deep-water Holstein platform, just west of Katrina's path, has resumed production, pumping the oil and gas equivalent of 70,000 barrels a day. Two pipelines that connect Holstein to the shore are running again.

Oil companies are beginning their search for new oil and gas. Anadarko Petroleum Corp. said at least five drilling rigs, moveable floating platforms that can drill wells to depths of about 26,000 feet, have started churning through the earth again. An additional two drillers are being assessed for damage, the company said.

More importantly, perhaps, two critical pipelines carrying fuel to the Northeast U.S. are running again and four of eight refineries in the hurricane's path are in the process of restarting, with Marathon Oil Corp.'s Garyville, La., plant the first of the group to begin processing crude oil into products such as gasoline and diesel.

Still, the hurricane's wrath has laid bare the vulnerabilities of the U.S.'s oil and gas supplies. The region ravaged by Katrina is home to about a quarter of America's oil and natural-gas production -- with pumping platforms far out to sea, refinery complexes that turn crude into gasoline, and pipelines linking them all. The storm temporarily closed down about two million barrels a day of oil-refining capacity, resulting in the loss of one million barrels a day of gasoline output, representing 10% of U.S. capacity.

And while capacity representing 5% of U.S. demand appears likely to restart in coming days and weeks, four refineries that represent the other 5% will be offline for at least a month. Among them are two industry heavyweights: Exxon Mobil Corp's 185,000 barrel-a-day plant in Chalmette, La., co-owned by Petróleos de Venezuela, and Chevron Corp.'s plant in Pascagoula, Miss., which processes 325,000 barrels of crude oil a day.

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Even more, expectations of bigger profits for energy companies, especially refiners, following Katrina, have touched off a political storm. Sen. Byron L. Dorgan, (D., N.D.) said he will introduce a "windfall profits rebate act" today that would penalize oil companies for reaping above-normal profits unless they made new investments in domestic oil and gas production or in oil-refining capacity.

While Democrats slammed the oil industry for alleged "price gouging," several witnesses told the committee that the impact of Katrina on an already tight supply market for gasoline made it extremely difficult to set prices. "Last week was one of the most unusual weeks I've ever been through," said William Shipley, the chairman and chief executive of Shipley Stores, which runs a chain of 26 gasoline-selling convenience stores in central Pennsylvania. He said he ordered price increases of 15 cents a gallon each day because he saw his wholesale costs were rising. "You have to pay for the next shipment and anticipate the increased cost."

Lawmakers also said they plan to take another look at a proposal to allow states to lease land for exploration for natural gas in federal lands offshore.

Guy Caruso, administrator of the DOE's Information Administration, said that "significant numbers of tankers" coming from Europe carrying gasoline should put "some downward pressure" on U.S. prices during the next two to three weeks. His agency predicted that gasoline prices will drop to $2.60 a gallon by the end of October and to $2.40 by next year.

Also yesterday, the Japanese government unveiled plans to release some of its strategic oil reserves held by refiners to the oil market. Shoichi Nakagawa, minister of Economy, Trade and Industry, said Japan will start releasing about 200,000 barrels a day of crude oil and refined products from its oil reserves held by refiners to the market beginning today.

The International Energy Agency, the energy watchdog for industrialized nations, announced Friday that its 26 members, including Japan, would draw on two million barrels a day of oil during the next 30 days to help offset the loss of output and refining capacity in the U.S.

Gas Prices At Pumps Show Signs Of Easing (NYT)

By Vikas Bajaj And Jad Mouawad

The New York Times, September 7, 2005

Gasoline prices at the pump inched lower yesterday for the first time since Hurricane Katrina hit the Gulf Coast last week, suggesting that fuel costs, while still high, are leveling off and may not lead to as severe an energy shock as once feared.

But even as the surge in prices appeared to be easing, policy makers and consumer groups nationwide increased calls for a host of government interventions to punish those shown to be profiteers, reduce gas taxes and institute price caps.

In Washington, a Senate committee held the first of two scheduled hearings on energy supplies and gasoline prices, which topped $3 a gallon last week after Katrina knocked out vital parts of the nation's energy supply system. [Page C5] At the same time, officials from several states said they were taking forceful measures against what they viewed as price gouging.

Nationwide, retail prices averaged $3.041 a gallon for regular unleaded gasoline yesterday, up significantly from a week ago but down from a peak of $3.057 on Monday, according to AAA. At the wholesale level, gasoline for October delivery fell by 12.87 cents a gallon, or 5.9 percent, to $2.055 after climbing past $2.60 last week on the New York Mercantile Exchange. Crude oil prices fell $1.61 a barrel, to $65.96; last week they closed as high as $69.81.

The stock market also rose as investors sensed some relief on the energy front and expressed more optimism that the Federal Reserve might pause soon in its campaign of regular interest rate increases. The Standard & Poor's 500 index climbed 1.3 percent, to 1,233.39; the Dow industrials gained 141.87 points, to 10,589.24.

While a majority of the gulf's offshore production remained down yesterday, oil companies have been achieving steady gains in restoring output and are moving aggressively to resume wider refining and distribution of oil products.

About 870,000 barrels a day of oil, or 58 percent of the gulf's total output, are still shut down, according to the latest government figures. That is an increase from last week when the storm cut 95 percent of the gulf's production. The region accounts for more than 25 percent of domestic oil production and about 2 percent of global oil supplies.

Still, a public reaction against sharp gasoline price increases appeared to be rising and some policy makers called for reimposing energy price controls, which were eliminated in the early 1980's.

"We have a million people displaced and we have 100 million Americans that are opening up their hearts and homes," Senator Carl Levin, Democrat of Michigan, said in a telephone interview yesterday. "We have some people who are trying to take advantage of it for their own personal profit. And we should stop them in their tracks."

Mr. Levin asked President Bush to impose emergency price caps on gasoline until supplies are restored to levels before the hurricane struck.

Most economists are extremely wary of price caps and say they do more harm than good by leading to artificial shortages caused in part by encouraging consumers to buy more gasoline when they should be curbing demand. By contrast, market-

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driven price increases, as painful as they may seem, help reduce unnecessary driving and bring out additional supplies, allowing the system to return to balance, economists say.

"Let prices do a good job of telling people what cars to drive and how much to drive them and how to spend their weekends," said Stephen P. A. Brown, director of energy economics at the Federal Reserve Bank of Dallas. "I don't have any statistics on it, but my understanding was that a lot of people didn't travel this weekend, the roads were a lot less crowded, and $3 gasoline did it."

Mr. Levin dismissed that analysis: "By that logic," he said, "you could raise prices to $10 a gallon and you make sure that people walk." Most consumers cannot choose to stop driving, he said, adding that imposing a short-term cap on prices would not hurt oil companies, which are already making record profits.

State and federal officials say that consumer complaints have soared as they have registered outrage at price increases of 30 to 80 cents a gallon - sometimes more - that gas stations instituted literally overnight last week.

The Energy Department said yesterday it had created a toll-free number, (800) 244-3301, for consumers to lodge complaints about prices. Those complaints will be sent to the Federal Trade Commission, the Justice Department and state attorneys general. Consumers can also complain online at gaswatch.energy.gov.

"While we've largely seen the best of American generosity and unity throughout the recovery effort, we recognize that there are some bad actors that may try to take advantage of the situation," Energy Secretary Samuel W. Bodman said in a statement.

In Florida, Attorney General Charlie Crist said that his office had dispatched 40 investigators to canvas gasoline stations to see if any were violating a price gouging law that went into effect when Governor Jeb Bush imposed a state of emergency in July just before Hurricane Dennis struck Florida. The statute defines gouging as any price increase in "gross disparity" to what was being charged before.

"It's somewhat subjective, obviously, and intentionally so, I presume," Mr. Crist, a Republican who is running for governor, said. "What we are trying to calculate into the equation are the market forces that are fairly apparent to all of us as it relates to refineries and pipelines and some offshore rigs that have been displaced."

Mr. Crist has already subpoenaed Murphy Oil and Colonial Oil Industries, two independent oil companies with retail outlets in Florida. His office is also coordinating investigations with attorneys general from Alabama, Mississippi and Louisiana. In the Midwest, Illinois, Wisconsin and Iowa have undertaken similar joint efforts.

When asked what he thought about economists' view that allowing market forces to set prices served a useful function, Mr. Crist said "being unfair is never appropriate."

"I am not very sympathetic to the economic theory that it's good for people to charge them through the nose," he said.

Economists say they recognize the appeal of that sentiment but also note that without the pain of higher prices consumers might buy more gasoline and make a bad supply situation worse.

"The trade-off is the following: if you keep the price low you have to ration in some other way," said Steven Suranovic, an associate professor of economics at George Washington University in Washington. "And rationing is going to come about in lines forming at gasoline companies and some stations being closed."

Other lawmakers and officials suggested the federal and state governments should reduce or suspend taxes on gasoline purchases. The federal government imposes an excise tax of 18.4 cents a gallon on gasoline; the states, on average, add another 21 cents a gallon in excise taxes. At least 11 states also impose sales and other additional taxes.

On Friday, Governor Sonny Perdue of Georgia suspended that state's 7.5-cent excise tax and 4 percent sales tax on motor fuels. On Monday, Senators Jon Corzine, Democrat of New Jersey, and Charles F. Schumer, Democrat of New York, offered conditional support for removing the federal gasoline taxes.

Here too, many economists parted with politicians, noting that reducing taxes would also encourage consumers to buy more gasoline.

Some analysts said gasoline prices might have already peaked. "Futures prices have come down and spot prices have gone down, and retail prices have already started to decline," said John Felmy, chief economist at the American Petroleum Institute.

But even though driving demands are expected to ease now that the summer vacation period has ended, prices are likely to remain elevated well above pre-hurricane levels for at least the next few weeks or months as energy companies turn to restoring full refinery operations and begin shifting to greater output of heating oil. Imports of gasoline from Europe and improved offshore production should also help increase supplies within the next few weeks.

Four major refineries are expected to remain out of service for at least the next several weeks. Meanwhile, workers are just beginning to return to offshore platforms - at least 20 of them missing or adrift - and starting to examine underwater pipelines to assess the damage to the gulf's intricate energy infrastructure.

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Gas Prices Ease As Gulf Production Up (USAT)

By James R. Healey

USA Today, September 7, 2005

U.S. gasoline prices appear to have peaked as energy operations in the Gulf of Mexico, clobbered by Hurricane Katrina last week, resume production.

Other energy prices also retreated Tuesday. But damage to the economy already could be significant.

“American consumers spent nearly $10 billion more last week on energy than they did in the same week three years ago. That's not sustainable,” energy price consultant Peter Beutel says.

Most Americans — eight of 10 — told USA TODAY/CNN/Gallup pollsters Monday and Tuesday that gasoline suppliers are taking advantage of the hurricane to charge unfair prices. Prices zoomed past $6 a gallon in some areas after Katrina, and average more than $3 currently.

The official view is opposite.

“Energy prices are being set fairly,” James Overdahl, chief economist at the Commodity Futures Trading Commission, said in remarks prepared for a Senate hearing Tuesday. The CFTC regulates exchanges that trade futures contracts for energy and other commodities.

U.S. average for unleaded regular was $3.041 a gallon, AAA said Tuesday. That was down 1.6 cents from a nominal record $3.057 over the Labor Day weekend. The inflation-adjusted record is $3.113, set in March 1981, the U.S. Energy Information Administration says.

“Demand has dropped off the table” as high prices and shortages discourage driving, but it's unclear how long that will last, says Tom Kloza, analyst at the Oil Price Information Service.

Cheapest gas, averaging about $2.74, was in the states hit hardest by Katrina, Louisiana and Mississippi, because of anti-price-gouging regulations and because some “major oil companies froze prices in those areas to assist recovery efforts,” AAA's Geoff Sundstrom says.

Georgia Gov. Sonny Perdue signed an order suspending state gas taxes temporarily to keep prices down. Other governors are considering it, and some in Congress are asking for “gas-tax holidays.”

Oil closed Tuesday at $65.96, down $1.61. Wholesale gasoline for October delivery was $2.055, down 13 cents. Gas for immediate delivery was about $2.18 at the gulf, roughly 90 cents cheaper than “the most manic number last Thursday,” Kloza says.

Retail gas prices tend to be 60 to 65 cents a gallon more than the average wholesale prices, EIA says.

The U.S. Minerals Management Service reported Tuesday that gulf oil production was 616,000 barrels a day, or 42% of normal, up 9% from Monday.

Says Beutel: “Unless Tropical Storm Maria follows in Katrina's footsteps, we may be able to look back on this weekend as the worst of a bad situation.”

Senators Urge Boost In Standards Of Fuel Economy (WT)

By Patrice Hill

The Washington Times, September 7, 2005

Congress should consider raising fuel-economy standards for all vehicles for the first time in 30 years in light of the gasoline shortages and huge spike in pump prices caused by Hurricane Katrina, key senators said yesterday.

"I believe we must take another look at the CAFE standards," said Sen. Pete V. Domenici, New Mexico Republican and chairman of the Senate Energy and Natural Resources Committee, referring to the Corporate Average Fuel Economy rules enacted in the mid-1970s but not updated since.

"We looked at that before, and it was not politically possible. I'm not sure that will be the case after Katrina," he said.

His comments came as the government reported that gas prices last week breached the $3 level for the first time on average nationwide, with the biggest increases seen in Mid-Atlantic states such as Virginia and Maryland, and in the District, where the average price for regular was $3.29 a gallon.

Republicans and Democrats both said they suspected price gouging as gasoline costs soared in the aftermath of Katrina, but they complained that the government doesn't have the ability to prevent such market abuses.

"The American people are being victimized more than any free market would warrant," said Sen. Gordon H. Smith, Oregon Republican.

Mr. Smith and other senators at a committee hearing yesterday said regulators, including the Federal Trade Commission, are not aggressively pursuing price gouging and other market manipulation by energy companies reaping huge profits.

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"There are growing concerns that oil companies are making too much in profits at the expense of consumers," Mr. Domenici said.

Some relief at the pump is on the way as the prices of crude oil and wholesale gasoline dropped for a second day in New York trading, and are close to levels that prevailed before the hurricane struck the Gulf Coast, the heart of the nation's oil-producing sector.

Witnesses at yesterday's hearing said pump prices will remain high for weeks and possibly months, however, because the hurricane knocked out about 10 percent of production at oil wells and 5 percent of production at refineries that could take up to a half-year to restore.

Mr. Domenici acknowledged that the energy law his committee drafted and enacted this summer did not go far enough to prevent crises such as the current one, although the Bush administration last week did use the new powers it received to temporarily lift environmental requirements for fuels during emergencies.

"We left some issues out" in the interest of getting the much-debated legislation passed, Mr. Domenici said. "Things that were not politically possible two months ago are now before us."

Sen. Jeff Bingaman, New Mexico Democrat and the committee's ranking member, said he also hopes Congress will revisit whether to require cars, trucks and sport utility vehicles to give better mileage than the current standard, which is 27.5 miles per gallon on average for cars.

Witnesses at the hearing agreed that the sharp spike in fuel prices in the past week shows that Congress needs to rethink policies that have led to an overwhelming dependence on heavy, inefficient cars and trucks at a time of tight supplies and turmoil in world oil markets.

"As Hurricane Katrina has reminded us, we are never more than a disaster away from this type of crisis," said Robert L. Darbelnet, president of AAA, a driver advocacy group.

"If we do not reduce our dependency on fossil fuel or increase our access to a reliable source of it, the narrow margin we rely on for stability will continue to erode."

Mr. Darbelnet said the improved fuel-efficiency standards for SUVs and light trucks proposed last month by the administration do not go far enough, particularly because they do not "address the largest and heaviest passenger vehicles on the road today."

The Environmental Protection Agency also needs to revise the fuel-efficiency tests that result in estimated miles per gallon for each vehicle on the road, he said. It has been substantially overstating mileage potential by assuming that, among other things, drivers do not use their air conditioners or drive faster than 55 miles per hour.

Since the hurricane struck more than a week ago, the shutdown of nearly all the oil and gas facilities in the Gulf of Mexico has been partially reversed, witnesses said, and the three major pipelines feeding gasoline to the Northeast, Mid-Atlantic and Midwest have been mostly restored to operation.

The availability of fuel to feed into the pipelines will remain a problem, however, as four heavily damaged oil platforms producing about 10 percent of the Gulf oil will take three to six months to repair, said Rebecca Watson, assistant interior secretary for land and minerals management.

Ms. Watson said her office and the oil companies it supervises are working hard to get facilities back in operation, but continue to be hampered by flooding, a lack of power and the loss of workers. Her agency's office in New Orleans had to be closed, for example, and 67 employees remain missing.

Although half of the 1.8 million barrels a day of lost refining capacity should be restored by the end of the week, that still would leave gasoline output about 5 percent lower at a time when fuel is in short supply worldwide, said Guy Caruso, head of the Energy Information Administration.

Some Senators On Panel Ask Angry Questions About Gasoline Pricing And Profits (NYT)

By David D. Kirkpatrick

The New York Times, September 7, 2005

WASHINGTON, Sept. 6 - Opening a series of Congressional hearings on rising fuel prices, the Senate energy committee vented bipartisan wrath Tuesday over accusations of energy-company profiteering after the Gulf Coast was struck by a hurricane.

"Hurricane Katrina exposed the harsh reality that we have been skirting and skating on thin ice when it comes to this country's energy concentration on the Gulf Coast," said Senator Pete V. Domenici, the New Mexico Republican who is chairman of the panel.

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"Why are the oil companies making record profits, and what are they doing with them?" he asked. "Our job is to make sure that one, price gouging, and, two, unfair profiteering and unconscionable profiteering, do not take place and especially does not take place as a result of the hurricane."

With gasoline prices hovering near the peaks set over the weekend, members of Congress say they consider fuel costs the biggest issue on voters' minds. On their first day back from the summer recess they began debating potential remedies with an intensity not seen since the oil shortages of the 1970's.

Lawmakers of both parties were eager to warn oil producers to watch their prices.

Senator Dianne Feinstein, Democrat of California, said: "The distrust is enormous. I hope somebody out there is listening who controls these prices."

Several senators from both parties called for the Federal Trade Commission to vigorously investigate charges of price gouging. On Wednesday, the commission chairwoman, Deborah Platt Majoras, will testify at a House committee hearing also investigating price increases.

Mr. Domenici said he hoped public reaction might press Congress to pass measures that were excluded from the energy bill passed in July, including new vehicle fuel efficiency standards, the expansion of offshore drilling and support for building new refineries.

Several agreed that the concentration of refineries had created a dangerous dependence on the gulf region to process a large share of the nation's fuel supplies. "We are just in the beginning of the hurricane season," said Senator Lisa Murkowski, Republican of Alaska. "What happens if there is another hurricane?"

Senator Domenici and Senator Jeff Bingaman, who is also from New Mexico and the ranking Democrat on the committee, agreed to send a letter to President Bush asking him to require government agencies to begin conserving gas in their vehicles, saying that would set an example for consumers.

Democrats called for more aggressive measures. Senator Byron L. Dorgan, Democrat of North Dakota, said he was introducing a bill to tax oil companies for high oil profits and pay a rebate to consumers. "There is nothing about this market that is free," he said, arguing that the OPEC cartel sets prices and that the consolidation of petroleum companies had made the pricing situation worse for consumers.

Senator Maria Cantwell, Democrat of Washington, called on the president to reinstate the emergency powers that expired after the 1970's "to look at this issue of price gouging and look at what level of price increase is realistic."

Republicans on the committee, however, argued that price controls of the 1970's had worsened shortages. Senator George Allen, Republican of Virginia, said Congress should instead consider extending the temporary lifting of some regulations on gasoline contents that the president imposed after the hurricane.

Several others argued for expanding domestic oil drilling in Alaska and offshore. Pointing the finger at environmental regulations he blamed for constricting domestic oil supplies, Senator Larry Craig, Republican of Idaho, questioned his colleagues stern words for the oil companies and other energy producers.

"Is it possible," he asked, "that the anger of the American consumer is misdirected at those who produce it instead of those who deny production?"

Senate Holds Hearing On Gas Price Gouging (AP)

By H. JOSEF HEBERT, Associated Press Writer

AP, September 7, 2005

Sep. 7, 2005 - Senators, both Republicans and Democrats, said Tuesday that they suspect price gouging as gasoline costs soared in the aftermath of Hurricane Katrina but complained that the government doesn't have the ability to investigate or prevent such market abuses.

"The American people are being victimized more than any free market would warrant," said Sen. Gordon Smith, R-Ore., at Senate hearing on the impact of the hurricane on energy prices.

Smith and other senators said regulators, including the Federal Trade Commission, are not aggressively pursuing price gouging and other market manipulation by energy companies reaping huge profits.

Sen. Pete Domenici, R-N.M., chairman of the Energy and Natural Resources Committee, which held hearings into the recent price spikes, said Congress needs to give agencies the tools to investigate price-gouging complaints.

"There are growing concerns that oil companies are making too much in profits at the expense of consumers," said Domenici.

Sen. Jon Corzine, D-N.J., said that even as crude prices were declining, gasoline prices at the pump soared by 25 percent. "There's something not right in how the market is working," he said.

Several Democrats called for gasoline price controls.

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"The president needs to have emergency powers to halt gas price gouging," said Sen. Maria Cantwell, D-Wash.

Sen. Byron Dorgan, D-N.D., said he will introduce legislation for a windfall profits tax on oil companies, with the proceeds used to rebate consumers who have paid huge prices at the pump. He was not optimistic about the proposal's prospects.

"Most likely Congress will do little or nothing but talk a great deal and hold hearings," said Dorgan.

Twenty-three states have price-gouging statutes, but Domenici acknowledged they are "all over the waterfront" as to how they are used. In Virginia, a government must declare an emergency for the law to be used.

The FTC does not have authority over price gouging unless it involves an antitrust or market monopoly issue.

The afternoon of testimony demonstrated that one person's price gouging may be another person's justified price response to changing conditions of supply and demand.

James Overdahl, chief economist for the Commodity Futures Trading Commission, said the agency is stepping up its oversight of the gasoline futures markets but has not seen evidence of price manipulation related to Hurricane Katrina.

Industry representatives blamed retail-price spikes on the disruption of supplies and the anticipation of shortages.

Separately, the Energy Department said it was expanding its "hotline" for complaints from motorists about price gouging at pumps to including a toll-free number, 1-800-244-3301, that can be used for complaints.

"We recognize there are some bad actors that may be to take advantage of the situation," said Energy Secretary Samuel Bodman. Complaints to DOE are forwarded to the Federal Trade Commission.

Meanwhile, the federal Energy Information Administration told lawmakers that the high gasoline prices triggered by disruptions from Hurricane Katrina were expected to ease in the coming weeks.

Crude prices and wholesale gasoline prices dropped for a second straight trading day Tuesday on the New York Mercantile Exchange.

"We expect gas prices to ease off in the coming weeks" and more Gulf refineries return to operation and more gasoline imports begin coming into the country, said EIA Director Guy Caruso.

Caruso said if recovery of Gulf refineries and offshore production facilities goes as anticipated, EIA projects gasoline prices to average $2.60 a gallon nationwide in the third quarter of this year and $2.40 a gallon next year. The EIA said the average price of regular-grade gasoline soared by nearly 46 cents a gallon to an average of $3.069 nationwide last week.

The Interior Department reported that offshore oil production facilities in the Gulf, though temporarily shut down, avoided extensive, long-term damage from Katrina.

The hurricane disrupted 95 percent of Gulf oil production, a region that accounts for 29 percent of U.S. domestic production.

Interior Assistant Secretary Rebecca Watson said many of those platforms are coming back into operation and that 90 percent of the offshore production facilities in the Gulf avoided extensive, long-term damage.

In Praise Of 'Gouging' (WSJ)

The Wall Street Journal, September 7, 2005

One test of leadership in a crisis is whether politicians keep cool enough to resist populist furies, especially when it comes to the inevitable economic fallout. Sadly, that's not what we're seeing in the current demagoguery over alleged oil-profiteering.

"Price gouging," says Missouri GOP Governor Matt Blunt, "is unconscionable and illegal ... and should be rooted out and punished." In Georgia, Republican Governor Sonny Perdue has signed an emergency executive order imposing sanctions on service stations that raise their prices too much. In Illinois, Democratic Governor Rod Blagojevich has pledged to prosecute gas companies that profit from the price spike, as has Ernie Fletcher, his Republican counterpart in Kentucky.

Some 20 states, most of them in the south, already have anti-price-gouging laws on their books -- and many governors have declared emergencies to invoke them. These de facto price controls typically place ceilings of between 10% and 25% on how much companies can raise prices in the wake of a natural disaster. In almost all cases such laws are wrong-headed, because they exacerbate supply problems by short-circuiting the price system that matches supply with demand.

As infuriating as higher gas prices will be over the next weeks and perhaps months, there is one economic certainty here: If governments will not allow the price system to ration the demand for gas, a new "price" system will emerge called gas lines, which have already appeared in many locales.

Let's explain why prices have been rising. Katrina has knocked out about 90% of Gulf crude oil production and about 80% of natural gas output. That translates into about two million barrels a day that are not available to consumers, an 11% decrease in supply. This means that in the near term Americans are going to have to consume two million fewer barrels of gas every day, at least until the refineries are brought back on line and increased output and supplies from other nations arrive. The way the market achieves this reduction in consumption is through a higher price.

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The argument is also made that energy companies are reaping windfall profits from the Katrina catastrophe. That is in one sense true -- the oil they've already extracted and refined is more valuable now, and we would be pleased to see some of these extra profits donated to the relief effort. But artificially holding down the price of gas makes a bad situation worse.

This is also why many of the nation's governors are misguided, even if well-intentioned, in their attempts to suspend state gas taxes. Given the high demand for gas and constricted supply, this gas tax cut will have one of two undesirable consequences. If the savings are somehow passed on to consumers at the pump, demand will be elevated, thus heightening the risk of gas lines and/or "sold out" signs at service stations. The alternative is that energy companies will keep the market-clearing pump price the same, and pocket the 10 to 20 cents a gallon reduction in the tax -- which would only increase their windfall. Either way, consumers won't benefit.

So are the gas sellers guilty of "profiteering?" Price gouging laws say companies can't charge significantly more than their "cost." But what matters for wholesalers and gas stations isn't what they paid for the last tanker of fuel but what they expect to pay for the next one. Economists call this the "replacement cost," and any gas station owner would soon be out of business if he charged $2 a gallon for gas that he knew would cost him $2.50 a gallon to replace. As these replacement costs soar, it is entirely appropriate for gas stations to raise prices on a daily, or even hourly, basis.

"If prices do not increase," explained the White House Council of Economic Advisers in a section on "unexpected shortages" its 2004 Report to the President, "consumers do not receive a signal to cut their consumption and suppliers might not have the proper incentives to increase supply adequately."

Anti-gouging laws also punish companies for building excess capacity and reserves in advance of a crisis like the one we're now having. One lesson of Katrina is that we should reward companies for stockpiling oil and gas for the times when it is most urgently needed. Price gouging laws give them no incentive to endure the costs of carrying this excess inventory.

We could fill these pages with all the ways government has undermined U.S. energy security and raised production costs. These include reformulated gas mandates, prohibitions on offshore and Alaska oil drilling, and environmental regulations and price controls that go a long way to explaining why not a single new oil refinery has been built in the U.S. since 1976. Not one -- in 29 years.

These are the longer-term causes of the post-Katrina price increases. And they are energy policy dysfunctions that Congress would do well to fix before the memory of this catastrophe fades. In the meantime we can only hope politicians don't make this crisis worse by engaging in profiteering of their own, at everyone else's expense.

Tom DeLay: No Support To Roll Back Gas Tax (REU-Y2)

Reuters, September 7, 2005

House Republican Leader Tom DeLay said on Tuesday there was no support for rolling back the federal gasoline tax to offset higher prices.

"Absolutely not," he told reporters after a meeting with President George W. Bush on issues related to Hurricane Katrina.

"Now more than ever you're going to need ... that infrastructure, those highway trust funds, to rebuild the bridges that were destroyed, rebuild the railroads that were destroyed. You have to have the infrastructure or you can't have a recovery," DeLay said.

Iran Five Years From Nuclear Arms, Says IISS (FT)

By Peter Spiegel

Financial Times, September 7, 2005

A London-based think-tank which has become a leading authority on the unconventional weapons capabilities of so-called “rogue states” has estimated that Iran could develop enough weapons-grade uranium to develop a nuclear weapon within five years.

But in a 128-page dossier on Iran on Tuesday, the International Institute of Strategic Studies (IISS) also said Iran’s was more likely to build up a production capability over more than a decade and then decide whether to acquire atomic weapons.

The five-year estimate is more aggressive than reported projections of US intelligence agencies, which are believed to have determined Iran is six to ten years away from such a breakthrough. But in spite of a capability to develop weapons-grade uranium by the end of the decade, John Chipman, the IISS director, said that would require Iran to “throw caution to the wind” and ignore the threat of international sanctions, a move Tehran has been reluctant to pursue.

He noted that a more cautious approach – which would involve building a more sophisticated “industrial-scale” centrifuge plant at Natanz – would allow Iran to have a much greater capability to produce the higher enriched uranium needed for weapons in the long-term. Building such a plant would take more than a decade.

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The IISS assessment comes as the 35-member governing board of the International Atomic Energy Agency (IAEA) prepares for a crucial meeting on September 19 to decide whether the Iran case should be reported to the UN Security Council for reprimand.

"The logical next step is for this to be reported to the security council," a senior EU diplomat said on Tuesday. The US and Europe face resistance from Russia and China, which argue that Iran has not breached its obligations under the Nuclear non-Proliferation Treaty, which allows it to build a civilian nuclear programme.

The IISS also found that in spite of progress on a centrifuge enrichment programme, it is unclear whether Iran has the capability to actually design and fabricate nuclear weapons from any fissile material it produces.

Moreover, after two years of inspections by the IAEA "Iran does not have any significant stocks of undeclared nuclear weapons-usable fissile materials or is hiding facilities capable of producing such material," said the report.

Although there has been speculation that Iran may have acquired a nuclear design from the network of disgraced Pakistani physicist AQ Kahn, John Chipman, IISS's director, said there is no publicly-available evidence of such a link.

Gary Samore, the former US administration counter-proliferation official who authored the report, declined to comment on any discrepancies between the IISS assessment and official US findings, noting that American intelligence estimates remain classified and reporting on the Bush administration's assessment has been conflicting. Mr Samore added, however, that almost all analysts, including those in the US intelligence community, are relying on a "very similar database" from inspections by the IAEA. Any differences in estimates, he said, are different interpretations of the same data.

"No one can estimate with any precision how long this will take," Mr Samore said, noting there is a long list of hurdles in developing a centrifuge plant that can produce enough "clean" fissile material for a weapon. "Nobody can actually know, including the Iranians themselves, how long it will take to work out those problems."

Nuclear Weapon Is Years Off For Iran, Research Panel Says (NYT)

By Alan Cowell

The New York Times, September 7, 2005

LONDON, Sept. 6 - A leading British research institute said Tuesday that Iran was at least five years away from producing sufficient material for "a single nuclear weapon," and that it could make one only if it chose to ignore international reaction and "throw caution to the wind."

The researchers, at the International Institute for Strategic Studies, said the conclusions were based on public sources of information, including visits to nuclear sites arranged by Iranian authorities. "Nevertheless," the institute's director, John Chipman, told reporters, "there remains a good deal that cannot be known for certain from the outside."

Dr. Chipman presented the report at a diplomatically delicate time. Iran angered Western negotiators by resuming limited uranium conversion at Isfahan on Aug. 8, ending a suspension of nuclear activities agreed with the European Union last November. And on Sept. 19, the board of the United Nations nuclear watchdog agency is to meet to consider the next step.

Western nations, including the United States, have threatened to refer Iran to the Security Council, where it could face an array of penalties over its nuclear policies.

The United States argues that Iran is using its program to further its ambitions to produce nuclear weapons, but Iran maintains that the program has only peaceful purposes.

The new report broadly concurs with one completed in May by American intelligence agencies, which concluded that Iran was not expected to build a nuclear weapon before the next decade.

The institute's report suggests that Iran has two principal options to produce highly enriched weapons-grade uranium, one at a relatively small pilot centrifuge at Natanz and the other at a planned industrial-scale centrifuge there, which might take more than a decade to build.

"If Iran threw caution to the wind and sought a nuclear weapon capability as quickly as possible without regard for international reaction, it might be able to produce enough highly enriched uranium for a single nuclear weapon by the end of this decade," and then only if it overcame an array of technical difficulties, the report said.

By contrast, "if Teheran does not feel compelled to acquire nuclear weapons urgently or judges that the risk of breaking out with a marginal capacity is too great, it could wait until it completes the industrial-scale centrifuge plant at Natanz."

While that might take more than 10 years, it would make it easier "to pursue covert enrichment options," the report said.

It said Iran's "ability to produce weapons-grade plutonium seems more distant."

The report described Iran's chemical and biological weapons as "much more difficult to assess." In a section on missiles, it said Iran had deployed up to 72 short- and medium-range missiles and possibly 12 intermediate-range missiles capable of striking targets in Israel, Turkey and southern Russia.

Dr. Chipman said the liquid fuel technology for the missiles had been acquired from North Korea.

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"As far as is known, Iran's missile forces are armed with conventional high-explosive warheads," he said, adding that Iran could probably build primitive chemical or biological warheads "if it chose to do so."

Describing the diplomatic calculations, Dr. Chipman said it would be important for negotiators "to apply pressure and create inducements to persuade Iran not to develop a fuel-cycle capability that it could turn later into a weapons program."

"On the other hand, it will be important to apply international diplomacy in such a way that does not inspire Iran to abandon all restraint and seek a nuclear-weapons capability without regard to international repercussions," he said.

Compromise Sought For U.N. Meeting (NYT/REU)

By Reuters

The New York Times, September 7, 2005

UNITED NATIONS, Sept. 6 (Reuters) - Ambassador John R. Bolton of the United States on Tuesday offered compromise language on development and aid spending and climate change to try to resolve a deadlock over a list of goals being prepared for a world summit meeting here next week.

Washington has long and adamantly resisted the Kyoto Protocol on climate change and the United Nations target for increasing foreign aid, supported by most other members.

But with disagreements on those and many other issues surfacing again as a logjam in the preparation of the goals list, Mr. Bolton said the United States was ready to accept the use of the catch-all phase "millennium development goals" throughout the text, "provided it can be properly defined."

He submitted amendments to the group of 32 ambassadors negotiating over issues to be discussed at the summit meeting, which will be held from Sept. 14 to 16.

The phrase millennium development goals refers to objectives on poverty, hunger, primary education, AIDS and other issues, with specific goals to be achieved by 2015. The goals were generally agreed to by leaders at a summit conference in 2000.

In essence, the United States-proposed language including the phrase would commit world leaders to meet obligations they had undertaken in United Nations climate change agreements, including "for many of us, the Kyoto Protocol," according to Mr. Bolton's prepared speaking notes.

The Bolton Edit (WSJ)

The Wall Street Journal, September 7, 2005

What's wrong with the following:

"We are encouraged by recent commitments to substantial increases in official development assistance, while recognizing that a substantial increase in ODA is required to achieve the internationally agreed goals including, by 2015, the MDGs."

If your answer is that it's incomprehensible, you're right. But here's another answer: The statement forms part of the document that is Secretary General Kofi Annan's vision for a reformed U.N. and to which world leaders are supposed to affix their names when they meet next week in New York. It is a product of an opaque U.N. process presided over by a former Minister of Information of Gabon.

And it is antithetical to American interests, which is why new U.S. Ambassador to the U.N. John Bolton has taken a red marker to it and dozens of other misbegotten statements and suggested new language in their place. This is causing consternation in predictable quarters, but we hope Mr. Bolton keeps at it.

On foreign aid, for example, he wants to stress not just the amount of assistance, which is the main concern at the U.N. Mr. Bolton wants the U.N. to acknowledge what leaders of the G-8 nations recently agreed to, which is that the aid should go "particularly for countries that are making efforts to use resources wisely, strengthen governance, and reduce poverty through sustainable economic growth."

That is, the aid should go to countries that aren't corrupt and will do something useful with it. By the way, the U.S. has increased its development assistance by 90% since President Bush took office, to $19 billion from $10 billion -- a point rarely mentioned by those who carp about U.S. "stinginess."

There's more. In the section on nonproliferation, the U.N. draft offers a windy sentence on the need for progress in disarmament. Mr. Bolton rightly wants to strike that language, which is often used by Iran and other rogue states as an alibi to skirt their nonproliferation commitments. In its place, he suggests: "The proliferation of weapons of mass destruction and their means of delivery, and the possibility that terrorists might acquire such weapons, remain the greatest threats to international peace and security." As Henry Kissinger likes to say, that has the added advantage of being true.

Some of Mr. Bolton's edits seem small but are literally worth hundreds of millions of dollars. The U.N. draft "commends" the Secretary General "to modernize the United Nations, in particular its headquarters." Mr. Bolton deletes the language about

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headquarters. Why? The U.N. is seeking to move into temporary Manhattan real estate as it renovates its Turtle Bay facility. Government auditors fear a billion-dollar boondoggle there, and believe millions in savings could be realized if the U.N. alters existing plans.

He also focuses on management reform, which will come into special focus with the release today of Paul Volcker's fourth report on the Oil for Food scandal. The report will stress Mr. Annan's multiple supervisory failures, yet Mr. Annan wants the world's leaders to accept his reform plan as a fait accompli before Mr. Volcker's findings are even read, much less considered.

For years, the U.N. has got by on the assumption that nobody, at least nobody in the U.S., is paying much attention. Its defenders have spun Mr. Bolton's efforts as a last-minute rogue operation designed to hurt the U.N. But in fact Mr. Bolton is doing Turtle Bay the favor of taking its words seriously. Those who want something more than a feckless and corrupt world body should welcome his efforts.

White House Questions Israel Construction (AJC/AP)

By Barry Schweid, Ap Diplomatic Writer

The Atlanta Journal-Constitution, September 7, 2005

WASHINGTON — The State Department said Tuesday it had raised with the Israeli government the approval of construction of 117 houses in the Ariel settlement in the heart of the West Bank.

Spokesman Sean McCormack provided no details, but he left little doubt that the administration was displeased.

"Our views on that issue are well-known," McCormack said. And they were expressed recently to the Israeli government, he said.

"We have had an ongoing discussion on this, as well as other issues, with Israel," McCormack said. "It's a close friend and I'm not going to get into the content of those diplomatic exchanges."

The long-held view of U.S. administrations is that an expansion of Israeli settlements on the West Bank could complicate negotiations with the Palestinians over the future of the territory.

Still, the presence of Israeli settlements in Sinai did not prevent a peace treaty in 1979 in which Israel gave all the territory to Egypt. Nor did Israeli settlements in Gaza stop Israel from relinquishing the territory to the Palestinians.

However, the Palestinians and their supporters suspect Prime Minister Ariel Sharon intends to hold onto much of the West Bank and is expanding settlements to tighten Israel's grip on the area.

Meanwhile, Secretary of State Condoleezza Rice met Tuesday for a half-hour with Karen Koning AbuZayd, counsel-general of the United Nations Relief and Works Agency, on the post-withdrawal situation in Gaza.

"They had a good meeting," McCormack said.

Arafat's Cousin Is Assassinated (LAT)

By Ken Ellingwood

The Los Angeles Times, September 7, 2005

JERUSALEM — Unidentified gunmen in the Gaza Strip shot and killed Moussa Arafat, a former Palestinian Authority security chief and a cousin of the late Yasser Arafat, at his home in Gaza City before dawn today.

The brazen assault heightened worries about chaos and factional violence in the Gaza Strip following Israel's withdrawal from all 21 Jewish settlements there. Israeli forces are expected to hand over the Gaza Strip in coming weeks, turning the impoverished enclave into a test of Palestinian rule.

Police and witnesses said the attackers arrived at Moussa Arafat's house in a convoy of cars and began firing rocketpropelled grenades at the home, overwhelming his bodyguards. The men then pulled Arafat, 66, from the house and shot him in the street, witnesses said.

The gunmen also seized Arafat's son, Manhal, a security officer thought to be in his 30s, and drove away. Witnesses reported heavy gunfire during the incident.

There was no immediate claim of responsibility. The Palestinian Authority had no immediate comment; officials said they were investigating.

Arafat, who was sacked as head of military intelligence this year, made numerous enemies during his years as a ranking security official and was viewed by many Palestinians as corrupt.

He had survived several assassination attempts, most recently in October when a car parked nearby exploded as his convoy was leaving the main security headquarters in Gaza City. Arafat was not injured.

The shooting may stem from infighting among the rival forces that have sown disorder in Gaza since Palestinian Authority President Yasser Arafat's death in November.

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Moussa Arafat had headed the powerful military intelligence agency since arriving in Gaza in 1994, when the Palestinian Authority was created as a result of the Oslo peace accords.

Over the years, he tangled with Palestinian militants, spearheading a crackdown on Hamas in the mid-1990s.

Palestinian Authority President Mahmoud Abbas removed Arafat from his post but kept him as an advisor.

Transatlantic Divide Deep, Not So Wide, Poll Finds (LAT)

By Sebastian Rotella

The Los Angeles Times, September 7, 2005

PARIS — Europeans and Americans have often starkly different views of each other and the world, but agree on some major issues such as promoting democracy and avoiding war with Iran, according to a survey being released today.

As Western leaders try to mend rifts exacerbated since 2003 by the Iraq war, the fourth annual study of European and U.S. public opinion by the German Marshall Fund depicts a complex, wary transatlantic relationship. But the report, an advanced copy of which was given to The Times, also contradicts stereotypes and common wisdom.

Although a majority of Europeans remain hostile to American global dominance and President Bush in particular, they are enthusiastic about the centerpiece of Bush's foreign policy: promoting democracy around the world.

Despite three major terrorist attacks in Europe during the last two years and increased debate about the difficulties of integrating a large Muslim population, Europeans fear terrorism, Islamic extremism and immigration less than Americans do, according to the survey.

And Americans agree with Europeans that the European Union, an economic giant but a military dwarf, should evolve into a global superpower even if that means Europe asserts increasing independence.

The findings reflect the fact that the U.S. and Europe work well together in many places other than Iraq, said John K. Glenn of the German Marshall Fund, a U.S.-European think tank that studies and promotes transatlantic relations.

"The rift over Iraq has taken longer to heal than expected, but things haven't gotten worse," said Glenn, the fund's director of foreign policy, who is based in Washington. "There are very real differences in the way that Americans and Europeans view the world…. You have to separate out the trauma of Iraq, which has been more enduring, more searing if you will, for Europeans than Americans might have expected. The data shows enough common ground that I don't think we are at the beginning of a civilizational split."

The report compiles polling data from the United States, Britain, France, Germany, Italy, the Netherlands, Poland, Portugal, Slovakia, Spain and Turkey, which straddles the Asian and European continents and aspires to join the EU. Pollsters questioned about 1,000 men and women in each country and identified a margin of error of plus or minus 3 percentage points.

The questions were designed to take the "temperature" of the transatlantic relationship. If Europe and the U.S. were a married couple, the findings suggest that divorce is not imminent, but aggressive counseling would be a good idea.

Europeans have "moderately warm" feelings toward Americans overall, the survey found. Britons and Italians are the most positive, Spaniards and Turks the most anti-American.

In contrast, the survey found, "Americans give their European allies more positive evaluations." The surge of anti-French feeling after Paris' leadership in opposing the Iraq invasion has apparently abated. American warmth toward France increased for the second year in a row, going from 45 to 53 on a scale of 1 to 100. Because European politics tend to be further to the left than those in the U.S., ideological antipathy to the Bush administration shapes European attitudes.

But Europeans agree with the president's drive for democracy in the Middle East and elsewhere, the centerpiece of his foreign policy in his second term, the survey found.

About 74% of European respondents, compared with 51% of Americans, want their governments to help establish democracy in other countries. The breakdown in responses among Americans was 76% among Republican voters and 43% of Democrats, probably because the latter associate the "democracy promotion" phrase with Bush, Glenn said.

That means European views on the matter resemble those of the GOP, contradicting at least on this issue the image of Democrats as being ideologically closer to Europe.

Both Americans and Europeans favor "soft" tactics such as election monitoring over use of force to spread democracy, the poll found.

"There are unexpected areas where Europeans and Americans can work together if we separate military intervention as an exceptional case from overall policies," Glenn said.

In fact, the Bush administration teams with France and other European allies in hot spots such as Ukraine, where they collaborated in helping reformists take power; Lebanon, where they joined to pressure Syrian forces to leave; and Afghanistan, where European troops play a front-line role.

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The public on both continents backs the EU diplomatic approach to the dispute with Iran over Tehran's nuclear ambitions. Only 5% of Europeans and 15% of Americans support a military solution. And slim majorities want human rights reforms in China as a condition for increased trade with Beijing.

Nonetheless, the transatlantic divide widens when it comes to global threats. Americans consistently see the world as a more dangerous place.

"Americans feel significantly more likely to be personally affected by terrorism (71% vs. 53% of Europeans), by the spread of nuclear weapons (67% vs. 55%) and by Islamic fundamentalism (50% vs. 40%)," the report says. At the same time, Europeans worry more than Americans (73% to 64%) about global warming, the survey found.

A key factor for the divergence is the resounding effect on the American psyche of the Sept. 11 attacks, Glenn said.

U.S. Fails To Mend Image In Europe (WSJ)

By Marc Champion

The Wall Street Journal, September 7, 2005

LONDON -- Months after President Bush launched a campaign to repair strained relations with Europe, he has made no progress with Europe's public.

An annual survey of opinion in 11 countries published today finds that, while the U.S.'s image no longer is sliding downward, Europeans feel no warmer toward the U.S. than they did a year ago, are no less hostile to U.S. global leadership and still disapprove overwhelmingly of the way Mr. Bush handles foreign policy.

"We found that, despite major efforts to repair relations, there is still a rift in how we view each other and the world," said Craig Kennedy, president of the German Marshall Fund, which conducted the survey of roughly 1,000 people in the U.S. and about 1,000 people in each of nine European Union countries, plus Turkey, in June.

After his re-election last year, Mr. Bush selected Europe for the first trip of his second term and visited Brussels, home to the EU institutions, and Germany. His new secretary of state, Condoleezza Rice, had just visited Paris on her tour to prepare the visit. The efforts were intended to offer an olive branch to the countries that opposed the U.S.-led invasion of Iraq in March 2003.

With Mr. Bush's fellow leaders, also eager to repair bridges, his outreach seemed to work. Since last year, the U.S. has cooperated closely with France to help push Syria out of Lebanon; it has held out the possibility of World Trade Organization membership to Iran in an effort to help the Europeans negotiate nuclear concessions from that country; and it has gained some credit for Israel's pullout from the Gaza Strip. A disagreement over the EU's plan to lift its arms embargo on China also receded when the EU delayed a decision in June.

For the wider public, however, continuing bloodshed and instability in Iraq dominate. Since the poll was taken, the recent hurricane disaster on the U.S. Gulf Coast also appears to have rekindled distaste for the U.S.'s political system and social values, which are blamed here for leaving thousands of mainly poor and black New Orleans residents behind when the rest of the city evacuated.

"A presidential visit to Europe doesn't counteract all the media attention to the Iraq war," Mr. Kennedy said.

The survey points up some bedrock differences between American and European values. For example, more Americans than Europeans consistently favor the use of force and economic sanctions, while fewer Americans worry about global warming.

Hostility toward U.S. foreign policies also is clear in the 10 non-U.S. countries surveyed: France, Germany, the U.K., Italy, the Netherlands, Poland, Portugal, Spain, Slovakia and Turkey. Some 36% of Europeans think it is desirable that the U.S. exert strong global leadership, while 59% don't -- almost identical to last year and approximately the inverse of findings in 2002. The survey's margin of error was plus or minus three percentage points.

Similarly, 23% of Europeans approve and 72% disapprove of the way Mr. Bush handles foreign policy -- compared with 20% who approved last year and 75% who disapproved. Asked to say how warmly they felt about countries on a scale of 1 to 100, Europeans gave the U.S. 50 -- compared with 52 last year and 64 in 2002. Britons remain warmest to the U.S., at 57, down from 62 last year. Turks remain the coolest, at 28.

The survey also found that European hostility toward EU membership for Turkey is growing as the start of membership talks approaches on Oct. 3. Just 22% of Europeans outside Turkey said its membership would be a good thing, compared with 30% a year earlier.

Zoellick Details Discussions With China On Future Of The Korean Peninsula (WP)

By Glenn Kessler

The Washington Post, September 7, 2005

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Secretary of State Condoleezza Rice and her deputy, Robert B. Zoellick, have begun to explore with Chinese leaders the economic and political future of the Korean Peninsula "because the status quo was not going to hold," Zoellick said in an interview with a small group of reporters yesterday.

China is North Korea's chief patron, supplying much of its energy, and has played an important role in prodding the reclusive communist country to return to six-nation talks about the elimination of its nuclear programs. The talks are in recess but could resume as early as next week.

Zoellick, who held nearly 20 hours of talks on a variety of issues in Beijing in early August, said it was clear the Chinese did not "want a collapsed state on their border," a concern that he suggested had hamstrung Chinese officials in pressing North Korea on its illicit weapons programs. He said that in his talks, he picked up a discussion on the Korean Peninsula's future that Rice had initiated during an earlier trip to Beijing.

"Part of what I was trying to explain to them was that the status quo was not going to hold anyway," Zoellick said. "The status quo wouldn't hold in part because we would have to take defensive countermeasures of various types" against not only Pyongyang's nuclear activities but counterfeiting and other criminal activities. "It's a criminal state," he said.

The effort by Rice and Zoellick appeared to be aimed at reducing the anxiety of the Chinese over a possible reunification of North and South Korea. The North is viewed by China as a buffer against having U.S. troops close to China's border.

Zoellick also suggested that the United States was interested in using the six-nation talks -- which also include South Korea, Russia and Japan -- as a springboard for creating a multilateral security framework for northern Asia that would mirror organizations in the southeastern part of the continent.

Zoellick said he urged the Chinese to consider scenarios for the Korean Peninsula that "would be benign to us and which would be benign to them." He said he told the Chinese that the United States had always supported reunification and emphasized that "we think it would be healthy if the North Koreans took a Chinese model of economic development."

President Bush postponed a planned visit to the White House today by Chinese President Hu Jintao to continue dealing with the aftermath of Hurricane Katrina. The visit has not been rescheduled, but Bush and Hu will meet on the sidelines of the U.N. General Assembly next week.

Zoellick said that the Chinese, preoccupied with managing internal challenges, indicated they were puzzled by the anxiety in Washington over China's economic rise.

He said he tried to explain why China's integration into the world economy had generated such concern, although yesterday he offered a relatively benign interpretation of Chinese intentions in the energy field.

Zoellick said that in a global marketplace, China cannot simply lock up energy resources, as some have feared. He said that if China obtains its oil from Venezuela, a major U.S. supplier, he did not feel the United States would be "threatened . . . because if it is an emergency situation and we had to interrupt the energy flow, would you rather interrupt it in the Caribbean or in Russia?"

He said he did not know if the Chinese deals being struck with countries the United States considers problematic were driven by individual bureaucracies seeking market openings or part of a "strategic plan."

But Zoellick said he warned the Chinese that the deals with such countries as Sudan, Burma and Iran had the prospect of backfiring, from a broader foreign policy perspective, because "what advantage do you really gain over time if you are associated with genocide and guys who are running their countries into the ground?"

Rural Activist Seized In Beijing (WP)

By Philip P. Pan

The Washington Post, September 7, 2005

BEIJING, Sept. 6 -- Local authorities on Tuesday seized a rural activist who has been leading a high-profile legal campaign against the use of forced sterilization and abortion in China, in an apparent effort to block him from meeting with senior government officials who had expressed support for his cause.

The detention of Chen Guangcheng, 34, a blind peasant who has been preparing a class-action lawsuit to challenge population-control abuses in the eastern city of Linyi, occurred a few days after he arrived in Beijing for meetings with lawyers and journalists. He was seized just as the Chinese government opened an international legal conference here.

Several men in plain clothes grabbed Chen when he left an apartment building on Tuesday afternoon, witnesses said. The men did not identify themselves, and Chen resisted, shouting for help as they dragged him across a parking lot and pushed him headfirst into an unmarked car with tinted windows, the witnesses said.

A small group of people, upset by seeing the rough treatment, surrounded the vehicle and prevented it from driving away. As two men held Chen down in the back seat, he could be heard screaming and appeared to be in pain.

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Residents called Beijing police. Two uniformed officers arrived, consulted with the men who had seized Chen, then cleared a way for the car to leave. The officers said the men who seized Chen were police from China's Shandong province, where Linyi is located. Tu Bisheng, a friend who was with Chen at the time, said local officials from Linyi were also present.

"We feel this is extremely inappropriate," said Li Heping, one of the lawyers working with Chen. He said the Linyi officials appeared to be "taking revenge on him for trying to protect the rights of local citizens and exercising his right to criticize the government."

A spokesman for the Shandong public security bureau said he knew nothing about Chen's detention and declined to accept questions about the case.

Chen was seized just hours after meeting with a reporter who works for Time magazine, Tu said. Over the past few days, Chen also met with a Washington Post correspondent, diplomats from the U.S. Embassy and several lawyers in Beijing who have volunteered to help him sue officials in Linyi, a city of 10 million located about 400 miles southeast of Beijing.

In March, residents said, the Linyi government began requiring parents with two children to be sterilized and forcing women pregnant with a third child to have abortions. Officials also have been detaining family members of such people who fled, beating them and holding them hostage until their relatives return and submit to the operations, according to residents interviewed in Linyi.

Chen's attempt to organize a class-action lawsuit against Linyi was the subject of a report in The Washington Post on Aug. 27. At the time, officials in Beijing said the practices described by Linyi residents were illegal and expressed support for the lawsuit.

After publication of the article, the National Population and Family Planning Commission, the cabinet-level ministry that manages population growth in China, sent a team of officials to investigate the allegations in Linyi. The investigators tried to meet with Chen, but he had already traveled to Beijing.

In an interview before his arrest, Chen said he was thinking about meeting with commission officials, but was worried about being arrested.

A commission official, contacted by telephone, said the ministry was unaware of Chen's detention and could not immediately comment on it. The official said the ministry would try to contact Shandong authorities to determine what happened to Chen. The ministry considers the Linyi case a priority and will severely punish family planning officials who violate the law, the official said.

Provincial authorities wield tremendous power in China's one-party political system and often disobey ministries in the central government. But the seizure of Chen represents an unusually public act of defiance, which could embarrass the governing Communist Party as it seeks to project an image that it has abandoned coercive methods to limit population growth.

Local officials throughout China began using forced abortions and compulsory sterilization to enforce the one-child policy in the early 1980s, but the central government since the mid-1990s has tried to eliminate such practices and move toward a more flexible system of economic rewards and fines to slow population growth.

Jerome Cohen, a specialist on Chinese law at New York University who is teaching in Beijing this fall, said he met with Chen on Monday night and discussed the risks of the lawsuit with him. Chen was determined to press ahead, Cohen said.

"This seems to be a case of local officials who have blatantly abused their legal powers, and have no legitimate defense against the case he brought against them, resorting to extralegal methods to cut off his ability to pursue justice," Cohen said. "It's very, very sad, and another example of how rough the legal situation is in rural areas."

For First Time, Egypt Has More Than 1 Presidential Candidate (USAT)

By Charles Levinson

USA Today, September 7, 2005

CAIRO — Egyptians will have a choice for the first time in their country's 7,000-year history when they vote for a leader at polls today. But a majority appear likely to vote for the man who has ruled this country for the past 24 years.

President Hosni Mubarak, 77, who is running for a fifth six-year term, is backed by a formidable party machine and a regime that controls the media, the economy and the government.

“No one seriously doubts that Mubarak is going to win a fifth term in Egypt's first competitive presidential elections," says Michael C. Dunn, editor of The Middle East Journal, a quarterly publication of the Middle East Institute. “Because of the nature of the elections — the high bar for independent candidates, which virtually prevents their running, and the restrictions on who may run from a recognized party, which prevents Muslim Brotherhood candidates from standing under another party banner — many dismiss the whole exercise. It is certainly not a competitive race in any normal sense."

Mubarak has been elected four times, but always in single candidate yes-no referendums. In February, facing growing pressure at home and abroad, he announced that Egypt would hold its first multi-candidate presidential election.

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Of the nine men challenging Mubarak, only two are widely known. Noman Gomaa, 71, leads the weak Wafd Party. Ayman Nour, 41, is a lawyer who took the helm of the 11-month-old Tomorrow Party, which is competing against long-established and well-organized parties. Both are self-identified liberals. The Muslim Brotherhood, a better organized Islamic opposition group, has been banned for 50 years.

Egypt is contending with double-digit unemployment and inflation. Still, many voters remain loyal to Mubarak. In a region beset by conflict, Mubarak has guided Egypt through a period of protracted stability. Egyptians who remember the wars and tumult of earlier eras say they are thankful to Mubarak.

"I care about my children, and we haven't had a war," says Eid Tilib, 57, a teacher with rutty scars on his legs and arms from the 1967 and 1973 wars against Israel. "I know Mubarak is old, and there are problems. There is unemployment. But Mubarak has protected my children, so I must protect him."

Today's vote follows three weeks of rare political openness. During the 19-day campaign, opposition candidates toured the country freely, staged public rallies and railed against corruption, unemployment — and even Mubarak. A few years ago, few dared to publicly criticize the president. "This is a total mindset change for the country that is going to enrich the political system," says Hossam Badrawi, a Mubarak campaign official.

However, a government-appointed election commission has been given unimpeachable powers over the vote. It rejected a court ruling allowing independent monitors. A higher court then supported the commission's decision. The government also has ignored requests by the Bush administration to allow international observers.

Angry over the refusal to allow monitors, hundreds of judges, the traditional overseers of Egyptian elections, have begun to speak out. They say there is nothing to prevent widespread fraud. .

"Egyptians are no longer afraid," says Saad Eddin Ibrahim, a democracy advocate jailed by the regime in 2000 after he pointed out electoral fraud. Ibrahim, speaking Tuesday at the Woodrow Wilson Center for International Scholars in Washington, said Egypt still doesn't have democracy as it is known in the West. "That will take another generation," Ibrahim says.

Germans Lean To Right (CSM)

By Andreas Tzortzis

The Christian Science Monitor, September 7, 2005

BERLIN - A few days after the only TV debate between Chancellor Gerhard Schroeder and his conservative challenger Angela Merkel in the run-up to Sept. 18 elections, the verdict was almost unanimous.

The media-savvy chancellor had, as expected, won the exchange, according to flash polls. But Germans elect parties, not the main candidates. And for three months, those poll numbers have shown Mr. Schroeder's Social Democratic Party (SPD) a good 10 points behind Ms. Merkel's Christian Democratic Union (CDU) - pointing to a growing likelihood that the former East German physicist will end the chancellor's seven-year rule.

In a campaign that has taken cues from US-style spin and image-shaping, a Merkel win would bring a shift to the right that promises better communication with the US, a critical voice in the pledge to include Turkey in the European Union, and - most important - a more aggressive approach to Germany's greatest problem: the economy.

Seven years since he made his promise to bring down unemployment to less than 3 million, the country's jobless number more than 4.7 million.

The economic situation, and the political defeats it has caused his party in several state elections over the past year, is what prompted Schroeder in May to call for elections one year early.

For the roughly 30 percent of people who polls show as undecided, Sunday's debate offered little that is new. The flash polls conducted after the debate showed people had more or less expected each candidate to perform as they did: Schroeder was confident and jovial; Merkel, not as warm, but very authoritative.

The impressions gell with the packaging that hordes of advisers and campaign staff for the country's two major parties had fashioned for their lead candidates at rousing party congresses and flashy stump speeches ahead of Sunday's debate. If the methods employed - campaign theme songs, bus tours throughout the country, even call centers - look familiar, it's because they are. In shaping their candidates and messages, the parties are increasingly borrowing methods fashioned and perfected in the United States, say former media advisors and analysts.

"The Americanization of German campaigning is, above all, a professionalization of the campaigns," says Michael Spreng.

In 2002, Mr. Spreng managed the conservative candidate Edmund Stoiber's failed campaign bid to unseat Schroeder as chancellor. The election marked the first time in Germany candidates held televised debates with one another. Spreng sent an assistant to the US to research debate rules and watch videotape of past debates.

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The 2005 campaign has seen even more borrowed elements from the US. Merkel's campaign team has set up a professional call center to handle queries from voters, and a so-called "rapid response" team that contradicts inaccuracies made by Schroeder in speeches or attacks on his opponent, says a CDU campaign official.

The conservatives' party congress, held on Aug. 21, featured a one-and-a-half-hour performance by singers from the musical "Queen" and the arrival of Merkel to raucous cheers and a sea of orange placards bearing the name "Angie," a very un-German nickname given the candidate by her campaign and likely designed to broaden her appeal.

"It was completely new in the party's history," says the official. "Almost the entire party congress was designed with show and television in mind. It was pretty modern for a conservative, white-bread party like ours."

Like the party's use of the Rolling Stones song "Angie" at stump speeches, the congress was designed to lend a little flash to a candidate who voters think of as capable, but uninspiring, says the official. "We wanted to stir up some emotions," he says.

The SPD offered a toned-down version of their party congress last week in order to serve as a contrast to the conservatives. Campaign manager Kajo Wasserhoevel said the party will use grass-roots methods like canvassing - that the SPD first learned by watching John F. Kennedy's campaign in 1960 - in the final weeks. But the party will continue to personalize the campaign, building on Schroeder's high popularity ratings in an effort to sway voters to his party.

"We want to show his strengths, his courage in reforming the country and his work for peace," says Mr. Wasserhoevel.

Some critics say this type of personalization is strange in a political system where the party, not the individual, is the focal point and worry about a campaign future based on style, not substance. But campaign veterans like Peter Radunski, a political consultant and former campaign manager for Chancellor Helmut Kohl, say it's the natural development in the age of television, and with a candidate as telegenic and accomplished in front of the camera as Schroeder.

"You could call it Americanization, but you could also call it a modernization," says Mr. Radunski. "If there's television, then you should use it."

There are some things German strategists will never be able to copy. Broadcast rules restrict campaign ads to being shown only on select channels in the evening time, sparing voters an avalanche of campaign spots.

German campaigns will also never be able to match the money shelled out by US Democrats and Republicans. Germans typically don't contribute to campaigns, and the 25 million euros ($31 million) the SPD is planning to spend and the 23 euros million the CDU will spend, pale in comparison to the figures spent on the other side of the Atlantic. Even if they had such cash, Spreng says a complete adoption of American campaign tactics would be a waste of money.

"It's never going to be as showy as in America," says Spreng. "The voters understand it's part of a show ... but they know not to mix more politics and show business. The Germans are more fact-based and skeptical."

Venezuela Seizes Idled Plant Of Heinz Subsidiary (WSJ/DJN)

By Dow Jones Newswires

The Wall Street Journal, September 7, 2005

CARACAS, Venezuela -- Alimentos Heinz, a Venezuela subsidiary of H.J. Heinz Co., said a government takeover of an inactive tomato-processing plant in recent days lacks legal backing.

The company, which makes Heinz ketchup, yesterday said the government never notified it of a possible takeover or of any plans to expropriate the plant.

"We hope the reasons for these actions are clarified since the company has received no notice from the authorities about the intervention/expropriation," the company said.

Heinz officials couldn't be reached for additional comment.

The plant, in the state of Maturin, wasn't operating because low market demand and low prices didn't make it feasible to keep it running, the company said. Company officials are seeking a meeting with Vice President José Vicente Rangel and Agriculture Ministry officials to discuss the problem, the statement added.

A Venezuelan state governor ordered the military to seize the inactive plant late last week.

State officials said the takeover sought to protect the plant from looting.

President Hugo Chávez has warned that idle land and company assets could be declared as "public interest" and expropriated. His government already has seized the assets of two failed companies by first sending in troops to secure the assets and then approving an expropriation in Congress.

The Chávez government has recently taken over the grain-storage facilities of Alimentos Polar, the largest food company in Venezuela. Polar also is disputing the takeover.

Why Japan Seems Content To Be Run By One Party (NYT)

By Norimitsu Onishi

DOJ_NMG_0003652

The New York Times, September 7, 2005

TOKYO, Sept. 6 - The Liberal Democratic Party, which has governed Japan nearly continuously for half a century, appears headed for another victory in the general election on Sunday - a big one, if polls are correct.

And this will delay, again, the start of a new political era in which power is transferred regularly from one party to another, as it is in other democracies.

Japan's democracy is East Asia's oldest, but its ruling party has held power almost as long as the Communist parties in China and North Korea. Younger democracies in South Korea and Taiwan have already experienced changes in ruling parties, and the underpinnings of democracies, from vibrant civil societies to strong, independent news media, appear to be flourishing there more than they are here.

Since calling an early election last month, Prime Minister Junichiro Koizumi has shrewdly refashioned the image of the Liberal Democrats into the party of reform by fielding telegenic women as candidates and portraying opponents of his signature postal privatization bill as reactionaries. The main opposition Democratic Party, whose gains in recent years now face erosion, has looked on helplessly.

In the past, when issues were rarely raised in campaigns, politicians ran simply by promising favors to supporters, said Masayasu Kitagawa, a former Liberal Democratic lawmaker, independent governor of Mie Prefecture and now a professor at Waseda University.

"The relationship was that of patron and client," Mr. Kitagawa said. "This was not actually democracy, but rather the opposite of democracy."

To encourage political accountability and voter awareness, Mr. Kitagawa has been the leading proponent of election "manifestoes" detailing parties' agendas. The word and concept was little understood in the general election two years ago, but it has taken root this time, with both main parties proffering their manifestoes.

"I'd be satisfied if the introduction of manifestoes made Japanese realize that what they had believed to be democracy was an illusion," he said.

The illusion was formed in 1955 with the foundation of the Liberal Democratic Party, which focused single-mindedly on turning Japan into an economic power. With strong support from the United States and the powerful bureaucracy, as well as effective pork-barrel politics, the party's grip on power went unshaken for decades.

Internal factions vied for power, but decisions were made and some prime ministers even chosen in backroom deals. Because of the cold war and Japan's military dependence on the United States, the longtime opposition, the Socialists, were never taken seriously.

Voters feared that "the friendly Japan-U.S. relationship would be destroyed and Japan would become poor once more if the L.D.P. government collapsed and the Socialists came to power," said Eiji Oguma, an associate professor of policy management at Keio University.

A split inside the party led to a 10-month ouster from power in 1993. During that brief period, however, a coalition of minor parties pushed through far-reaching reforms, including changing multiseat districts into single-seat ones, that would eventually weaken the dominance of the Liberal Democrats.

The present main opposition Democratic Party, which was formed in 1998, has been gaining voters in recent years, especially in urban areas. But the half-century rule by a single party has stunted the growth of Japanese democracy, experts say, and its effects are still being felt today.

Civil society remains weak. Although private organizations focusing on welfare and international aid have mushroomed in recent years, those delving into delicate issues, like human rights, freedom of information and the workings of government, wield little influence. Japanese feel little personal connection with their country's democracy, said Yukiko Miki, executive director of Information Clearinghouse Japan, a private group that fights to gain access to government-held information.

"Japanese citizens are ultimate free riders," Ms. Miki said. "Support from citizens is necessary to form a base for democracy, but Japanese people don't seem to feel they are the ones who should support civil society."

The Liberal Democrats' grip on power has also limited the dissemination of information. For instance, the Internet has raised interest in elections elsewhere and was widely credited with helping propel South Korea's president, Roh Moo Hyun, to power in 2003. But here in one of the world's most wired countries, election law bars Web sites from promoting candidates for a specific election and candidates from renewing their home pages during the 12-day campaign period.

The Liberal Democrats have maintained the restrictions because their core supporters tend to be older and are not likely to be heavy Internet users.

Yoshito Hori, an entrepreneur, recently created the YES! Project, a Web site that encourages young Japanese to vote and discuss politics. "By using the Internet, you can reach people in their 20's to their early 40's, people who were uninterested in politics," Mr. Hori said.

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With no history of power alternation, the mass media tend to stick to the Liberal Democratic Party's line. In this election, the press has ignored issues like Mr. Koizumi's policy toward Asian countries or his deployment of troops to Iraq that would likely hurt the party at the ballot box. (The opposition Democratic Party has said it would withdraw Japanese troops from Iraq and repair relations with its Asian neighbors.) Since April 2004, no major Japanese news organization has sent a journalist to cover the Japanese troops in Samawa, in southern Iraq.

Just as these pillars of Japanese democracy tend to be tenuous, experts doubt the soundness of the main Democratic Party opposition. The party, made up of former Liberal Democrats, Socialists and other groups, famously lacks unity and could disintegrate if it loses badly.

But Park Cheol Hee, an expert in Japanese politics at Seoul National University, said a more mature democracy was set to emerge here.

"This is the last stage of one-party rule," Mr. Park said. "I don't think the L.D.P. will rule for another 50 years - possibly another 5 or 10. The Democratic Party might fail this time, but they will try again. This will eventually produce a competitive, two-party system and lead Japan to a true democracy."

As Japan Votes, Aid To Countryside Hangs In Balance (WSJ)

By Sebastian Moffett And Ginny Parker Woods

The Wall Street Journal, September 7, 2005

HIWA, Japan -- In elections this Sunday, Prime Minister Junichiro Koizumi is betting he can win a mandate to engineer a shift no other Japanese leader has ever dared. His goal: To cut off the decades-long tradition of propping up Japan's declining countryside, and channel resources into the nation's successful cities and industries instead.

To achieve that vision, Mr. Koizumi plans to dismantle one of the countryside's biggest crutches, the huge and unusual post office, which in addition to selling stamps also acts as a bank and insurer. It is a vast network of 26,000 offices with 280,000 public employees, plus $3 trillion in savings and life-insurance deposits. The deposits are typically funneled into public-spending projects that have boosted rural economies.

That system has long been a boon to remote villages like Hiwa in the mountains of western Japan. Hiwa's 600 residents are mainly elderly and get around on electric wheelchairs. Its only industry is rice farming.

Hiwa has benefited from many public-works projects through the post office, such as a new tunnel and a smooth road partly connecting the village to a neighboring town -- even though there's hardly any traffic. When the weather is bad, the local postmaster helps residents by withdrawing their cash from the post-office bank and delivering it to their doors.

"It would be tough if the post office went away," says 88-year-old Shizue Miura, who walked 20 minutes to the post office recently to withdraw money. Without the branch, Ms. Miura says she would have to travel more than six miles to the next village to get her money from a different branch.

Mr. Koizumi says bitter medicine is the only way for Japan to survive. The country's central government stoked rural economies for more than three decades with road and bridge projects, trying to haul up the countryside to city levels of prosperity. But the attempt to invigorate the rural economies failed. The spending added to snowballing national debt, which is now 163% of gross domestic product, the highest level among major industrialized nations. In the U.S., national debt is 66% of GDP, according to the Organization for Economic Cooperation and Development.

So Mr. Koizumi is withdrawing support for villages like Hiwa. Since taking office in 2001, he has promoted a small-government recipe for Japan, slashing subsidies to the regions. "They said there's no money anymore," says Katsumasa Miyake, who leads policy planning for the prefecture government of Shimane, where Hiwa is located. "Part of the process of putting the national finances right is that the regions have to suffer."

Mr. Koizumi is betting Japan's future on proven successes. That means big cities like the capital Tokyo, which is emerging from the nation's "lost decade" of economic gloom and is bustling with new office and shopping developments. It also includes private corporations, many of which have reported record profits over the past two years, spurred by deregulation and lowered corporate taxes that Mr. Koizumi put in place.

Mr. Koizumi's attempt to overhaul Japan is crucial to the world's second-largest economy. The country entered a long slump in the early 1990s after its stock and property bubbles burst. When Mr. Koizumi took office, prices of land, industrial products and consumer goods were falling steadily in the economy-shrinking phenomenon known as deflation. Japan's financial system was also jammed with bad loans made during the bubble era.

Since 2003, the economy has brightened, fueled by corporate cost cutting and surging exports to China's roaring manufacturing sector. Mr. Koizumi's policies have also helped. Following a bank-cleanup package in 2002, bad loans are now less than half their 2002 total of $480 billion. Unemployment has fallen to 4.4% from a 2002 peak of 5.5%. The economy grew 2% in 2003 and 1.9% in 2004, and economists are expecting similar growth this year.

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Still, Japan's fast-aging population and declining birthrate are causing a long-term decline in the size of the total work force. With fewer workers, the country could find it hard to grow. One solution is to use resources more efficiently so each Japanese worker produces more.

Mr. Koizumi called the election last month after failing to pass bills to privatize the post office. He has vowed to revive the plan if he wins. In the bills, Mr. Koizumi proposed splitting the post office into four separate and privatized businesses -- one each for mail delivery, banking services and insurance, with a fourth handling employee salaries and managing post-office properties. If the plan had been put in place, postal workers would have lost their civil-servant status. The privatization process would have kicked off in 2007, and the post office would sell shares in its four companies by 2017.

The bills were rejected largely because of the workings of parliamentary politics. The main opposition Democratic Party of Japan voted against the bills because they favor a different form of post-office privatization. In a crucial swing vote, some rebel lawmakers from Mr. Koizumi's ruling Liberal Democratic Party also opposed the bills.

Postal privatization has since gained public support because Mr. Koizumi's risky and dramatic decision to call an election over the issue appealed to voters. According to the most recent poll by the daily newspaper Sankei Shimbun, 38% of respondents supported Mr. Koizumi and the LDP, compared with just 20% for the opposition Democratic Party. If his party and a coalition fail to win a majority of seats, Mr. Koizumi says he will resign, clouding the future of his plan.

All of this leaves provinces like Shimane on edge. The prefecture thrived under Japan's old system. With its local industries -- silver mining and charcoal -- long dead, Shimane received a steady flow of public-works projects from the central government, some of which were financed by savings in the post-office bank. The prefecture has two airports, even though it is sparsely populated. Public investment is 15.7% of the prefecture's gross domestic product, compared with 2.1% for Tokyo, according to the San-in Economics and Management Institute, a research center affiliated with Shimane's biggest bank.

But these projects failed to spark momentum. One airport has just four flights a day. A 50-acre industrial estate set up near Hiwa in 1997 attracted one company. The estate is now being converted into a prison complex. Five years ago, a city government built a $60 million bridge to a nearby island with 324 inhabitants. It said it planned to build a fish breeding center there, but the facility hasn't materialized.

Since Mr. Koizumi took office, the value of public works in Shimane has been cut sharply. In 2004, the spending fell to $998 million, down 32% from $1.5 billion in 2002. It is set to halve again by 2008.

While reducing subsidies to the regions, Mr. Koizumi has lowered corporate taxes and boosted tax breaks for technology investments. In response, more than 760 large Japanese manufacturers surveyed by the nation's Ministry of Economy, Trade and Industry recently said they plan to increase domestic capital investment by 21% in the fiscal year through March 2006 over the previous year. Foreign firms such as Pfizer Inc. and Cisco Systems Inc. are also increasing their investment in Japan. Mr. Koizumi has "crafted a lot of policies that benefit companies," says Yoshiharu Obata, an official at the Keidanren, Japan's largest business organization.

As Shimane struggles, Tokyo is thriving. Tokyo's land prices began rising this year for the first time in 13 years, while Shimane's continued to fall. Tokyo's population has grown to 12.2 million, up 5.2% from 11.6 million in 1997. Shimane's population has fallen 20% to 749,000, down from a 1955 peak of 929,000. A quarter of its residents are over 60, making Shimane Japan's oldest prefecture.

The migration to cities will likely increase as Japan's population declines and ages, says Hiroyuki Tada, general manager of the Space and Environment Institute, a research institute at Mitsui Fudosan Co., one of the country's largest real-estate developers. He says the elderly will relocate to urban areas where medical care is concentrated. Younger people are also moving to cities to find jobs.

That trend is apparent to Shimane resident Toshimitsu Fukushima. The 70-year-old worked for telephone company Nippon Telegraph & Telephone Corp. in Shimane's biggest city, Matsue, where he met his wife nearly half a century ago. He maintained wireless equipment and she worked in the telephone exchange. "Fifty years ago there were more jobs," he says. "Now there is no need for those kinds of jobs."

All three of Mr. Fukushima's children have moved to the Tokyo area. His son, Masao, 41, works for a big shipping company and says in an interview that he plans to spend his working life in the city. He envies high-school friends who stayed in Shimane for their spacious homes with yards, while he lives in a small apartment in central Tokyo. But, he says, "I couldn't return home to Shimane if I wanted to -- there's hardly any work there."

Shimane voters are split over Mr. Koizumi's plans. In the past, they always delivered an LDP representative to the national parliament in Tokyo. But this time, postal reform has complicated matters.

Mr. Koizumi is refusing to let the rebel LDP politicians who voted against the postal bills to stand as party candidates. One of those is Shimane politician Hisaoki Kamei, 65, who is now running as a candidate for a small, newly formed party in the western part of the prefecture, which includes Hiwa.

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Mr. Kamei's posters call him the "Friend of the Common People." He doesn't like Mr. Koizumi's administration, which he says has widened the gaps between the city and country, large and small business, and the rich and poor. "You have to have public infrastructure that allows people everywhere -- in the cities and the country -- to have the same quality of life," he says. "Otherwise, the countryside is just going to become harder and harder to live in."

Mr. Kamei's opponent, the official LDP candidate, is Wataru Takeshita, half-brother of a former prime minister. Mr. Takeshita supports postal privatization.

One voter, Kazuharu Shimogaki, is president of a construction company in central Shimane, and did well out of Japan's old system. At its peak in 1995, his company, Shimogaki Construction Co., generated $5.5 million of revenue from publicly funded civil-engineering projects.

Today, such work brings in just a tenth of that amount. Mr. Shimogaki has branched out to new businesses like growing blueberries, which are popular among Japan's elderly after reports several years ago that the fruit may be good for eyes.

Mr. Shimogaki accepts the days of big public works projects are over, and thinks it's time to move on and develop new businesses rather than cling to the past. So he has decided to vote for Mr. Takeshita as a way of backing Mr. Koizumi. "Japan has come to a turning point," he says.

In Hiwa, many residents aren't as confident. Mr. Koizumi's postal bills provided some funds to maintain the post-office network. But because a privatized organization would have to try to make a profit, village locals assume those funds wouldn't last. Eventually, many believe, branches such as Hiwa Post Office would disappear.

Hiwa Postmaster Chikashi Teramoto, the local postmaster for the past 16 years, won't say which way he plans to vote. But the 46-year-old admits to being concerned about the future of the shrinking village. The automated teller machine at the local agricultural cooperative, the only one in the village besides the one at the post office, is scheduled to disappear next year. After that, without the post office, villagers would have to travel through a 1.5-mile tunnel to the next village to withdraw their pension money.

"What would happen if a wheelchair battery went dead in the tunnel?" Mr. Teramoto says.

On a recent outing, Mr. Teramoto surveyed Hiwa. An elderly couple struggled to gather the first rice of their harvest from a paddy field. He pointed to a building that looks inhabitable. "That's an empty house," he said. "They've gone to Osaka," the biggest city in western Japan. Further along the road, he pointed again: "They've gone to Hiroshima."

Chirac's Illness Remains A Mystery, Despite Official Details (NYT)

By Katrin Bennhold And Elisabeth Rosenthal, International Herald Tribune

The New York Times, September 7, 2005

PARIS, Sept. 6 - After a series of minimalist medical bulletins describing President Jacques Chirac's stay in a Paris hospital, it is still a public mystery what kind of neurological malady has befallen him, although French military doctors at this point certainly know the diagnosis, independent experts said.

Because of the French tradition of secrecy regarding the health of its leaders, it is unclear if Mr. Chirac is suffering from a minor condition or a potentially life-threatening illness. He has not been seen on television since his admission.

The terse phrases officially released have sought to play down the illness, but they have often sounded like a contradiction in terms, talking of a "little vascular accident," and a "slight vision problem," which nonetheless merited a week's hospital stay.

A vascular accident means a problem with a blood vessel, which is almost always serious - or a signal of something serious to come. It includes strokes, torn blood vessels and clots that block vessels, causing damage to the eye or brain.

The most detailed official bulletin said only that Mr. Chirac had suffered from "a small-sized hematoma, explaining the isolated and limited character of his vision trouble." It did not say anything about the location of the hematoma, a pool of blood that has leaked outside blood vessels, or the cause.

Experts said the details that had been released did not add up to a clear-cut diagnosis. "The whole story is hard to put together," said John Pike-Spellman, professor of Neurology and Radiology at Columbia Presbyterian Hospital in New York.

But several neurologists agreed that Mr. Chirac had most likely suffered a small stroke at the back of the brain, as a result of high blood pressure, that is now slowly resolving. "If it was a small hemorrhage in that part of the brain it would explain the visual symptoms, that could be limited and settled down quickly," said Dr. Peter Rothwell, professor of clinical neurology at Oxford University.

He said the main reasons for hospitalization were to run tests and to control the patient's blood pressure in order to prevent subsequent incidents. After such strokes there is statistically a 10 percent to 20 percent chance of a second stroke in the next year, Dr. Rothwell said.

Dr. Olivier Simon, a neurologist at Bichat Hospital in Paris, said that when a brain vessel ruptured under the force of high blood pressure, the onset of symptoms was usually sudden, as it appears to have been for Mr. Chirac on Friday night. "We see

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this pretty regularly around here," he said. "A small artery probably burst in the posterior part of his brain, which is mostly linked to vision."

After a full day of meeting and receptions last Friday, Mr. Chirac developed a bad headache and vision problems in one eye. It was presumably rather extreme, since he called the doctor. "The president is of a school where you don't complain about pain, you deal with it," an aide said.

He was admitted to Val de Grâce Military Hospital that night, although the hospitalization was not reported to the press or even government officials until the next day. Aides said he still tentatively planned to travel to a summit meeting at the United Nations in New York next week, although the foreign minister or prime minister would take his place if doctors advised against it.

President Chirac's sudden illness has reignited a debate about the secrecy traditionally surrounding the health of France's head of state.

The news media, opposition leaders and even politicians from the president's own political camp have sharply criticized his office for the sparse and vaguely phrased health updates issued in the past four days.

"In France, we practice a cult of secrecy which would have done the Kremlin in the former Soviet Union proud," Le Monde said in an editorial on Tuesday.

If Mr. Chirac has not had a stroke, other conditions that may explain the symptoms are bleeding in an eye itself, or the rupture of a brain aneurysm, a weak and bulging area of a blood vessels.

Leaking aneurysms tend to announce themselves with a severe headache and neurological symptoms - although those symptoms are seldom limited to a bit of vision loss in one eye. Instead they are generally catastrophic events that lead to death or severe disability.

Free Speech For Turkey (WP)

The Washington Post, September 7, 2005

Orhan Pamuk, one of Turkey's most acclaimed writers, is facing up to three years in prison. His offense, according to the state prosecutor? "Public denigrating of Turkish identity." Specifically, Mr. Pamuk told a Swiss newspaper in February that certain topics were off-limits for discussion in Turkey -- citing the massacre of Armenians in 1915 and the more recent conflicts between Turkish security forces and Kurdish separatists. "Thirty-thousand Kurds were killed here, 1 million Armenians as well. And almost no one talks about it," he said. "Therefore, I do."

As mild as these comments sound to American ears, they touched off a firestorm in Turkey, where the government line is that the Armenian deaths were the consequence of war, not genocide, and public discussion of the issue is hazardous. The uproar over Mr. Pamuk's remarks, which included death threats and burnings of his books, culminated with the filing of the criminal case under Article 301/1 of the Turkish Penal Code, which applies criminal penalties to "a person who explicitly insults being a Turk, the Republic or Turkish Grand National Assembly." Under Turkish law, Mr. Pamuk isn't even permitted to comment on the charges before his case is heard in December.

The prosecution of Mr. Pamuk is, of course, outrageous; the charges should be dropped as soon as possible. The ill-advised use of this ill-advised provision to punish Mr. Pamuk contravenes Turkey's commitment to comply with the free-speech provisions of international agreements such as the European Convention on Human Rights. It's exactly the wrong signal for Turkey to be sending as Europe debates its admission to the European Union. As Mr. Pamuk's translator, Maureen Freely, wrote in the British newspaper the Independent, "There is no doubt that it will raise questions about the wisdom of Turkey's EU membership bid. How can it possibly claim to be a European country if it has such laws on the books, and if public prosecutors can bring such cases?"

This reaction, indeed, may be exactly what those pushing for a prosecution intended; the timing of the charges, as European ministers meet in Wales to discuss Turkey's membership, is suspicious. That makes it even more important for the national government, though it doesn't control the prosecutor who brought the case, to do what it can to halt this case and others like it. Turkey has made important strides in protecting freedom of expression in recent years, including reforming its penal code. The charges against Mr. Pamuk underscore how far it still has to go.

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Miller, Charles S

From: Miller, Charles S
Sent: Wednesday, September 07, 2005 10:41 AM
To: Allen, Gary (CIV); Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Eubanks, Sharon (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D. (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Morgan, Julian (CIV); Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Thirolf, Eugene; Wiggins, Mike; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 9/7/05 Civil Division News

ACLU: Govt. memo exaggerates police rights

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AP
9-7-2005

ACLU: Govt. memo exaggerates police rights

By Michael Weissenstein
Associated Press

NEW YORK - The Justice Department believes state and local police have the right to enforce federal immigration laws, according to a government memo released Wednesday by the American Civil Liberties Union.

The ACLU said the Justice Department opinion makes the "sweeping and unprecedented" legal argument that state and local law enforcement officers can arrest anyone who violates a federal law.

"We therefore do not believe that the authority of state police to make arrests for violation of federal law is limited to those instances in which they are exercising delegated federal power," the memo says.

A Justice Department spokesman had no immediate comment.

A coalition of civil and immigrants' rights groups received the memo under court order in July after suing under the Freedom of Information Act.

Then-Attorney General John Ashcroft and his staff had repeatedly used the memo to justify a decision to start letting local police arrest people after traffic stops and other encounters if they were found to have committed civil immigration violations, such as overstaying a visa.

The ACLU said the memo, by then-Assistant Attorney General Jay S. Bybee, stretched the definition of local law enforcers' roles so far that it could be used to justify giving them the right to enforce the U.S. tax code, environmental rules and other federal laws.

"That result is simply absurd," the group said in a statement released with a government-redacted copy of the memo.

The 2002 opinion reversed a 1996 letter of advice from the Justice Department's Office of Legal Counsel, which said that state and local police could enforce only criminal immigration violations such as sneaking across a border.

Bybee wrote Ashcroft three years ago that the Office of Legal Counsel had determined that its initial decision was wrong. It was based on three state and federal appeals court rulings, a federal law and a previous internal opinion.

"We believe that the authorities we cited in the 1996 OLC opinion provide no support for our opinion," that state police could not enforce civil immigration laws, wrote Bybee, who later became a federal judge.

Bybee made headlines around the world by arguing in a Jan. 22, 2002, memo that the president has the power to issue orders that violate the Geneva Conventions and international and U.S. laws prohibiting torture.

The government argued that the Justice Department was not required to release Bybee's immigration memo because it had not formally adopted the document and because of attorney-client privilege.

An appeals court rejected both arguments, saying it could not let the government "make public use of the memorandum when it serves the department's ends but claim the attorney-client privilege when it does not."

The court noted that Ashcroft and his representatives used the memorandum to justify and explain the department's policy of expanded local immigration powers.

END

The Los Angeles Times
September 7, 2005

U.S. Resident Held in Iraq Is Freed

By Henry Weinstein, Times Staff Writer

More than two months after authorities cleared him of suspicion in a mortar attack on a United States base in Baghdad, an Iraqi man was released Tuesday from military custody, just days before government lawyers were due in court to answer questions about his captivity.

Tuesday's release of Numan Adnan Al-Kaby, a longtime lawful U.S. resident, from a military prison outside Baghdad marked the second time in two months that authorities freed a captive in Iraq within a week of the American Civil Liberties Union of Southern California filing a federal lawsuit in Washington.

Mark Rosenbaum, legal director of the ACLU's Southern California chapter, said he was pleased that Al-Kaby had been released but disturbed that the prisoner had been held two months after a military review board first declared him an "innocent civilian."

"The U.S. government does not want to appear in front of a federal judge and answer questions about their indefensible detention policies in Iraq. This is a military and executive scandal," said Rosenbaum, who believes that more people are being held illegally by the U.S. military in Iraq.

A Pentagon spokesman, speaking on condition he not be identified, said, "I certainly understand the frustration people would feel by what they perceive is a delay, but it's a delay out of necessity, making sure that we are not releasing someone who is a threat to the security of Iraq or the Iraqi people."

Al-Kaby, 38, was originally taken into custody in April after calling in sick the day of a mortar attack on the base where he was doing construction work. He strenuously denied any advance knowledge of the attack, and was cleared by a military review board on July 4, but not released.

On Aug. 31, the ACLU filed suit after learning of Al-Kaby's situation from Los Angeles filmmaker Cyrus Kar, who also was freed from a Baghdad prison with the ACLU's intervention. The Times ran a story on Al-Kaby's detention the same day.

The suit was due to be heard Thursday in U.S. District Court in Washington, D.C. But late Friday afternoon, Justice Department attorneys in Washington, led by Assistant Atty. Gen. Peter D. Keisler, filed papers seeking a 23-day delay to respond to the ACLU's suit.

The Justice Department did not mention that Al-Kaby had been cleared July 4, but said the ACLU suit raised "novel factual and legal questions."

In a motion filed Sunday, the ACLU issued a sharp retort: "The only truly novel question here is chilling … whether a determination of innocence of a lawful permanent resident by a military tribunal may be arbitrarily voided or ignored such that liberty becomes illusory."

On Tuesday, Col. James Coyne, staff judge advocate for the multinational force in Iraq, filed a declaration saying the military had held Al-Kaby past July 4 based on "new factual information." He did not provide details.

However, Coyne said that on Friday — just two days after the ACLU filed suit — the military had conducted another review and again recommended that the captive be freed.

The ACLU suit asserted that Al-Kaby was being held in violation of the U.S. Constitution, the Geneva Convention and international law.

As part of the suit, friends and relatives filed declarations stating that Al-Kaby was a Shiite whose family had long been opposed to the Sunni regime of Saddam Hussein. He fled Iraq in 1991 following the first Gulf War, and spent three years in a refugee camp in Saudi Arabia before coming to the U.S. and gaining political asylum.

He settled in Kalamazoo, Mich., where he opened a small restaurant with his cousin Haider Al-Saedy.

In 2003, both men applied for U.S. citizenship. Al-Kaby provided assistance to the FBI "to assist the government in the U.S. invasion of Iraq and even took a polygraph test to prove that the information he gave was truthful," the ACLU suit said.

After U.S. forces toppled Hussein, Al-Kaby decided to return to his native land to rejoin family members.

The day of the mortar attack, Al-Kaby had taken the day off so he could take his brother to buy a car in Baghdad, the ACLU contended.

Kar met Al-Kaby while both were incarcerated at Camp Cropper in Baghdad — where Saddam Hussein also is being held. Kar was released July 10 after being held captive in Iraq for 55 days.

In a court declaration last week, Kar said both he and Al-Kaby had received identical letters from the U.S. military declaring that each man was an "innocent civilian."

ACLU attorney Ranjana Natarajan said that if the government "had new information on Al-Kaby, it did not bother to tell the court what it was," in papers filed last week.

Her colleague Rosenbaum added, "The so-called new evidence is a transparent fabrication, intended to provide a fig leaf to cover five months of solitary confinement of an innocent man. This is an administration whose trademark is incompetence and indifference to human suffering."

END

AP
September 7, 2005

Judge dismisses lawsuit seeking to keep Fort Monmouth open

By GEOFF MULVHILL
Associated Press Writer

TRENTON, N.J._A federal judge has dismissed a lawsuit filed by several New Jersey politicians seeking to keep Fort Monmouth open.

U.S. District Judge Mary L. Cooper said in a ruling issued late Tuesday that federal courts do not have jurisdiction over the federal Base Realignment and Closure Commission process.

Cooper's decision mirrored the arguments of a U.S. government lawyer who argued the matter before her Tuesday afternoon.

Lawyers for the politicians who filed the lawsuit last week in a last-ditch effort to keep the base open said they expected it would ultimately be decided by a higher court _ a hint that they would appeal if they lost.

Lawyer Eugene M. LaVergne said Tuesday night that his clients, including U.S. Sens. Jon Corzine and Frank Lautenberg and several other political leaders and union officials, would have to decide whether to appeal.

But he said in light of a ruling last month from a judge in the Eastern District of Pennsylvania, which found that the federal courts do have jurisdiction in base-closure matters, Tuesday's ruling seemed like an invitation to appeal to the 3rd U.S. Circuit Court of Appeals, which handles appeals from both New Jersey

and Pennsylvania.

U.S. Rep. Frank Pallone, D-Long Branch, one of the plaintiffs, said he would recommend to the others involved that they appeal. A decision could be made as soon as Wednesday, he said. The government has already appealed in the Pennsylvania case, which came down on Aug. 26.

The BRAC recommendations are expected to go to President Bush on Thursday. He has pledged not to make any changes to them when he sends them to Congress for an up-or-down vote.

While politicians across the country are angry about bases in their areas being on the closure list, New Jersey leaders believe they have sound legal grounds to object to Fort Monmouth's inclusion on the list.

They say the Eatontown base did not meet six of the eight criteria for closures that Congress directed BRAC to consider.

Also, of the 62 major bases and 775 smaller installations slated for closure or consolidation, only Fort Monmouth came with an asterisk: Fort Monmouth should be closed, the commission said, only if doing so would not interfere with the fort's work supporting the war on terror.

The closing would mean the loss of thousands of military and civilian contractors' jobs at a base where research is conducted. Fort Monmouth is headquarters of the U.S. Army's Communications Electronics Command, which designs radios, computers and software that keep troops in contact with each other. Many of the fort's duties _ along with thousands of jobs _ would move to Aberdeen Proving Ground in Maryland under the commission's recommendation.

The effort to use the courts to save Fort Monmouth is probably a long shot, the lawyers conceded. But Corzine and the others insisted the lawyers "leave no procedural stone unturned," lawyer Frank G. Capece said, and pursuing a lawsuit now leaves open the possibility of further action later.

END

Cape Cod Times
9/7/05

State will sue to save Otis

By KEVIN DENNEHY
STAFF WRITER

Attorney General Thomas Reilly today will file litigation against the federal government to block the closing of Otis Air National Guard base.

In a lawsuit being submitted in the United States District Court in Boston, the state will argue the U.S. government cannot close a state National Guard unit without consent of the governor.

Named as defendants are Secretary of Defense Donald Rumsfeld, the independent Base Realignment and Closure Commission, and all nine commission members.

Reilly and Gov. Mitt Romney announced the lawsuit yesterday in a joint statement as the region prepared for the Otis arrival of more than 2,500 evacuees of Hurricane Katrina.

Reilly's case will mirror arguments being made, with mixed results, by state leaders nationwide: that the federal government cannot move or dissolve state Guard units without the governor's approval.

"As governor, I have not agreed to the closing of Otis," Romney said in a late afternoon statement, "and therefore the BRAC commission's failure to solicit and obtain my consent as governor renders its recommendations legally deficient."

Reilly, a Democratic candidate for governor, said he was "proud to stand with Governor Romney" in this fight.

"There is an important principle at stake here," he said, "that the governor must have input on decisions that impact the security of our state."

On May 13, the Pentagon recommended the closure of Otis, the Cape Cod home to the first military unit to respond to the Sept. 11, 2001, terror attacks. That recommendation, part of a broader Air Force plan to consolidate its fighter assets, was approved two weeks ago by the independent BRAC commission.

If the plan is approved, the Cape base's F-15 fighter jets would be moved to Barnes Air National Guard Base in Westfield.

Reilly wanted to submit the litigation before the BRAC commission sends its final recommendation for base closings to President Bush tomorrow.

No state has successfully fought the closure of a military base since the BRAC law was passed in the late 1980s.

But those familiar with the process suggest there may be some legal argument this time because the federal government has targeted so many Air Guard units, which are jointly overseen by the Pentagon and state governors.

In states from Tennessee to Pennsylvania, governors have staked their cases on questions of federalism and states rights.

"That's the kind of question that can wind up very easily in the Supreme Court," Jeremiah Gertler, an analyst during the 1995 BRAC process and fellow with the Washington-based Center for Strategic and International Studies, said last week.

But it's no sure thing. After Pennsylvania Gov. Edward Rendell convinced a federal judge that the BRAC process doesn't allow the Pentagon to dissolve an Air Guard unit, the BRAC commission maintained the Pennsylvania Guard's 111th Fighter Wing, but took away its jets. In Illinois, a judge threw out a similar lawsuit altogether.

In the Bay State, Reilly's office will seek a temporary restraining order, though a hearing date has not been scheduled.

State Sen. Therese Murray, D-Plymouth, said state plans to invite hurricane victims from the Gulf Coast shows the importance of the base.

"It is obvious that we need

to be better prepared in this nation to deal with any disaster," she said in a statement early last night, "and the federal

government is doing a disservice to this nation by closing this critical homeland security base."

END

Copley News Service
Sept. 7, 2005

Judge tosses governor's lawsuit

By Adriana Colindres
OF Copley News Service

SPRINGFIELD - U.S. District Judge Jeanne Scott on Tuesday dismissed a lawsuit that Gov. Rod Blagojevich filed last week to try to block the transfer of Illinois Air National Guard fighter jets from Springfield to Fort Wayne, Ind.

Blagojevich lacks legal standing to sue U.S. Defense Secretary Donald Rumsfeld and members of the Defense Base Closure and Realignment Commission, Scott said in a 10-page opinion.

"This case is closed," she wrote.

But in a statement, the governor said he would continue his efforts to prevent the fighter jets from leaving Springfield. If the 183rd Fighter Wing of the Air Guard is realigned, its 15 active F-16s would go to Fort Wayne International Airport to become part of another Air Guard unit, and 163 full-time personnel would leave the Springfield base.

"Our battle to do what is right for Illinois and our country is certainly not over," Blagojevich said.

The dispute centers on a recommendation from the Pentagon to realign the Illinois Air National Guard's 183rd Fighter Wing, headquartered at Abraham Lincoln Capital Airport. The BRAC Commission endorsed the Pentagon's recommendation last month, and it is to present a report to President Bush by Thursday. The president has until Sept. 23 to either accept all of the commission's recommendations or reject all of them.

Blagojevich, who is represented in the lawsuit by Attorney General Lisa Madigan's office, contends that federal law requires governors to agree to any type of realignment of a state's National Guard bases. Blagojevich did not consent to the plan to move the fighter jets out of Springfield, and he said his rights have been violated.

But Scott, citing a 1994 U.S. Supreme Court decision, rejected Blagojevich's argument.

"The Supreme Court has determined that the recommendations of the Secretary (of Defense) and the (BRAC) Commission in the base-closing process are only preliminary recommendations to the President that have no legal effect," Scott's opinion said.

Those recommendations "do not cause injury to the Governor," she added.

Scott also canceled a hearing that had been scheduled for Wednesday to consider state officials' motion for a preliminary injunction intended to stop the BRAC Commission from sending President Bush its recommendation to realign the 183rd.

Representatives for Blagojevich and Madigan said Tuesday they were still reviewing Scott's opinion and deciding what steps to take next.

Blagojevich said: "As the commander-in-chief of the Illinois Air National Guard, I will never consent to a recommendation that would compromise our homeland and national security, in addition to wasting $10 million to move our F-16s to Indiana. Throughout this entire process, the Pentagon and the BRAC Commission has conveniently ignored the facts, but we are making sure they can't ignore the law."

Springfield Mayor Tim Davlin issued a statement expressing disappointment with the judge's opinion. But he also noted the local BRAC committee will pursue other missions for the Air National Guard facility.

END

Indianz.Com.
Wednesday, September 7, 2005

Opinion: Media lets DOI off the hook on trust fund

"One of the biggest problems covering civil litigation that has lasted for nearly a decade is simply remembering who said what.

That's an issue I have encountered in assisting a group that filed a lawsuit in 1996 over the federal government's long-troubled Indian Trust program. I covered the filing of the suit when I was a Washington Post reporter. None of the other reporters from those days are still around and, as a result, government officials are getting away with misstatements about the lawsuit, titled Cobell versus Norton. The tempo of their misstatements has increased as Congress has begun to explore ways of settling the suit by legislation.

What is happening now is that Interior officials are attempting nothing short of trying to rewrite the history of the trust, contending that there are, in reality, few problems with the trust's current accounts.

One example of a rewrite is a comment by Ross Swimmer, the senior Interior official in charge of the Indian trust programs, who says the Cobell lawsuit is not about mismanagement at all. That’s not the way others see it. As the US Court of Appeals for the District of Columbia said in 2001 in ordering the government to make an accounting of the Indian trust accounts: 'These trusts were created over 100 years ago through an Act of Congress and have been mismanaged nearly as long.'"

END

USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Friday, September 9, 2005 8:21 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing 9/9/05
Attachments:	agnb050909.pdf; agnb050909.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, SEPTEMBER 9, 2005 7:45 AM EDT

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TERRORISM NEWS:

Alleged Torture Victim Indicted For Bush Assassination Plot. The Washington Post (9/9, A4, Markon) reports, "An American student was charged yesterday in an al Qaeda plot to kill President Bush, with prosecutors alleging that Ahmed Omar Abu Ali and his confederates planned to use multiple snipers to shoot Bush or to blow him up in a suicide bombing." The Post continues, "The expanded indictment of Abu Ali, returned by a federal grand jury in Alexandria, also claimed for the first time that he proposed a plan to bring members of an al Qaeda cell into the United States through Mexico. They would then link up with Abu Ali to conduct terrorist operations in this country, the indictment said." The Post adds, "Abu Ali, 24, of Falls Church was first charged in February with terrorism counts that included trying to establish an al Qaeda cell in the United States. That indictment referred to the plot to kill Bush, but Abu Ali was not charged with conspiring to assassinate the president until yesterday. The case is among the highest-profile terrorism prosecutions in the United States since the Sept. 11, 2001, terrorist attacks. … The new nine-count indictment also adds charges of conspiracy to commit aircraft piracy and destroy aircraft, part of the Justice Department's allegations that Abu Ali was plotting with al Qaeda to conduct a Sept. 11-style attack in the United States that would include hijacking planes."

Appeals Court Panel Questions Detainee's Lack Of Court Access. The AP (9/8, Yost) reports, "A federal appeals court Thursday questioned the Bush administration's handling of detainees at Guantanamo Bay, suggesting the judiciary might have authority to delve into the conduct of military tribunals which have categorized almost all of the inmates as enemy combatants." The AP continues, "The two hours of arguments were in sharp contrast to those of several years ago when the appeals court suggested detainees at the Guantanamo Naval base were not entitled to have access to the U.S. courts, and then ruled against them. The U.S. Supreme Court reversed that decision a year ago." The AP adds, "On Thursday, a panel of three appeals court judges two appointed by Republican presidents and one by a Democratic president aggressively questioned Justice Department attorney Gregory Katsas about the possibility of court scrutiny over the detainee review process. … 'There is nothing in the habeas statute that requires us to defer to a military tribunal,' A. Raymond Randolph, an appointee of President Bush's father, told Katsas. The other judges on the panel are David Sentelle, an appointee of President Reagan, and Judith Rogers, an appointee of President Clinton."

Reuters (9/8, Vicini) reports, "Guantanamo Bay prisoners should be given the chance to prove in court that they have been mistakenly labelled as 'enemy combatants' and have been unlawfully detained, their attorney said on Thursday. … 'Since day one, these people have been saying you've got the wrong guys. They want a fair hearing to show that,' attorney Thomas Wilner told a U.S. appeals court during more than two hours of arguments. … But Justice Department lawyer Gregory Katsas repeated the Bush administration's position that the prisoners were not entitled to any constitutional due process rights, and he defended the military tribunals set up to review their cases."

Witness Testifies Al Arian Associates Linked To PIJ-Connected Mosque. The Tampa Tribune (9/9, Silvestrini) reports, "A witness in the trial of Sami al-Arian testified Thursday morning that Ramadan Shallah served briefly as the religious leader of a mosque in Chicago. Mohammed Hasan, who testified under a grant of immunity, also placed Al-Arian codefendant Hatim Fariz at a 1991 rally in Chicago." The Tribune notes, "Prosecutors have alleged in court papers that the mosque was 'an entity we believe to be a component of the PIJ enterprise.'"

CAIR To Run Anti-Terrorism Ad In Tampa Markets This Weekend. The AP (9/9) reports the Council on American-Islamic Relations "plans to denounce terrorism in a paid television commercial airing in the Tampa market this weekend to coincide with the anniversary of the Sept. 11, 2001, terrorist attacks. The 30-second spot…features two American Muslims, a man and a woman, denouncing violence in the name of Islam and vowing to 'not to allow our faith to be hijacked by criminals.' The spot will run 105 times Thursday through Sunday on 13 cable channels in Tampa, including CNN, Fox Sports Net and the Weather Channel, according to CAIR's Florida office."

Aswat To Remain In Custody Pending Extradition Hearing. BBC (9/8) reports on its Web site, Haroon Rashid Aswat, "accused of trying to set up a terror

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training camp in the US has been ordered to remain in custody while an extradition case is prepared. … A lawyer for US authorities told Bow Street magistrates the extradition case would be complete within 10 days." Aswat "is due to appear again on 6 October."

PATRIOT ACT:

Michigan Town Rejects Anti-Patriot Act Resolution. The Grand Rapids Press (9/8, Martinez) reports that the Holland, MI, City Council "on Tuesday rejected a resolution expressing concern with sections of the federal Patriot Act." The Press continues, "The resolution was proposed by the city's Human Relations Commission and on put on the agenda Wednesday by Councilman David Hoekstra. … The council rejected the resolution 5-2, with only the 6th Ward councilman Hoekstra and Councilman At-Large Jerome Kobes voting in favor. Mayor Al McGeehan and 2nd Ward Victor Orozco were absent." The Press adds, "Both Mayor Pro-Tem Craig Rich and 5th Ward Councilman Kurt Dykstra said they felt the Patriot Act doesn't fall under the council's jurisdiction. … 'I'm one of those people who don't think its appropriate (for the City Council) to take a stand on a national issue. What's next? Are we going to be asked to vote on gay marriages next week or the war in Iraq the following week?' Rich said. 'We are elected to represent our constituents on local issues...This is grandstanding if we do it. That's all it is.'" The Press notes, "While he didn't agree with the HRC's recommendation, 4th Ward Councilman Bob Vande Vusse said he appreciated the work of the HRC, which spent more than a year studying the issue."

HOMELAND RESPONSE:

New York Recognizes 9/11 EMT Victim With Rescuer Status. The AP (9/8, Gormley) reports, "On Sept. 11, 2001, as Glenn Winuk's co-workers were ordered to run to safety from their lower Manhattan office building, he ran the other way a block toward ground zero. There he told New York City fire officials he was an emergency medical technician in his hometown volunteer fire department and wanted to help the victims. … Moments later, he died when the South Tower collapsed, the medical kit he was issued at his side." The AP continues, "On Thursday he was officially recognized by the state as a rescuer in the historic effort that saved thousands, rather than as a civilian casualty, a distinction his family has been seeking for nearly four years. … 'They all ran for safety, but he ran toward the scene as he did in "93"' for the first World Trade Center bombing, said Winuk's brother, Jay Winuk. 'He ran toward danger because he knew he could save lives.'" The AP notes, "The recognition was delayed because Glenn Winuk was technically an associate member of the Jericho Volunteer Fire Department in Nassau County and was no longer an active firefighter or EMT in the department he served with for 19 years. His status changed when he moved to Manhattan and became a partner in his law firm, keeping him from being recognized by the federal government as an official rescue worker for memorials, historic records, and for a $278,658 Public Safety Officers benefit for his parents. … The federal government rejected the family's request citing, in part, the fact that Winuk hadn't even been officially recognized by the state as a rescue worker, said state Sen. Carl Marcellino, a Long Island Republican. But his bill, co-sponsored by Democratic Assemblyman Charles Lavine and recently signed by Pataki, changed that. … A federal decision is expected in 30 days."

Port Authority Workers Among Posthumous Medal Of Valor Awardees. The Newark Star-Ledger (9/8, Marsico) reports, "After the terrorist planes hit the Twin Towers on 9/11, Edward Calderon, a civilian employee with the Port Authority of New York and New Jersey, told a colleague by phone he was staying inside one of the buildings to help with evacuation operations. … 'I'm a Marine and we don't leave anyone behind,' snapped Calderon, a former member of the corps and a resident of Union." The Star-Ledger continues, "James Barbella, an agency property manager from Oceanside, N.Y., led would-be rescuers up the stairs desperately trying to find a way to save people trapped in the top-floor restaurant, Windows on the World. … Robert Lynch, another property manager from Cranford, ensured that a child-care facility and bookstore were clear before heading through the plaza to help with the evacuation of a tower." The Star-Ledger adds, "Lynch, Barbella and Calderon were killed when the buildings collapsed. Tomorrow, they will be among 13 Port Authority civilian employees given a special 9/11 heroes' 'Medal of Valor' posthumously by President Bush in Washington, D.C., along with the 37 Port Authority Police officers who also died that day. … Port Authority officials successfully lobbied to get the employees' families the medals because the 13 individuals provided critical

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electrical, structural, mechanical and operations information to police and fire officials during the evacuation that saved thousands. Officials said their role has been little known by members of the general public. … 'There was a great deal of unforgettable tragedy on 9/11. One positive note, however, was that approximately 25,000 people were evacuated from the World Trade Center,' the agency's chairman and executive director wrote in a June letter to U.S. Attorney General Alberto Gonzales. 'These fallen Port Authority civilians assisted all uniformed rescue workers in all aspects of the evacuation and collectively all groups significantly contributed to saving all those lives.'"

Study Finds Mismanagement Of 9/11 SBA Program. The CBS Evening News (9/8, story 11, 0:30, Roberts) reported, "An investigation by the Associated Press finds the Federal Government's $5 billion program to help businesses recover after 9/11 was so badly managed, it gave low-interest loans to companies not affected by the attacks. Loan recipients included a country music radio station in South Dakota, a perfume shop in the Virgin Islands, a dog boutique in Utah, and more than 100 Subway Sandwich and Dunkin' Donuts shops."

Most Post-9/11 Loan Funds Went To Firms Far From New York, DC. The AP (9/9, Dobbin) reports, "An Associated Press review of two Small Business Administration programs that doled out Sept. 11 recovery loans, found the government provided, approved or guaranteed nearly $4.9 billion in loans, and took credit for saving 20,000 jobs. That puts the average cost of saving a job at about a quarter million dollars each." The AP continues, "Of the 19,000 loans, fewer than 11 percent went to companies in New York City and Washington, an AP computer analysis showed. Officials conceded the SBA allocated few resources to oversee the congressionally-approved loan programs, leaving banks on an honor system to determine who should get terror recovery loans." The AP adds, "SBA documents obtained by AP show the banks had a strong incentive to approve as many loans as possible from the terror program - their cost was reduced in half. … The SBA said it first learned of the problems through AP's review and was weighing whether an investigation was needed. … Among the hardest-hit enterprises in places far removed from the devastation were travel agencies, tourist shops, food caterers, limousine fleets, hotels and bars. Americans weren't traveling far from home like they used to."

Citing Lack of Confidence In CIA Leadership, Senior Clandestine Service Official Retires. The Washington Post (9/9, A5, Priest, Pincus) reports, "Robert Richer, the second-ranking official in the CIA's clandestine service, has announced his retirement, telling colleagues that he lacked confidence in the agency's leadership." Some officials say "Richer's decision revolved around an ongoing debate over how to improve human intelligence and the direction of the CIA," but other assert it "involved disputes over 'operational issues' that they would not specify, and a clash of personalities between Richer" and CIA Director Porter J. Goss "and his top aides," the reason "Richer's predecessor and his boss resigned" last year.

Pentagon's Freedom Walk Has "Unusual" Security Constraints. The Washington Post (9/9, A1, Dvorak) reports that the Pentagon's 9/11 memorial Freedom Walk has "extraordinary measures to control participation in the march and concert." The route has "not been specified but will be lined with four-foot-high snow fencing to keep it closed and 'sterile,'" and "the U.S. Park Police will have its entire Washington force of several hundred on duty and along the route," ready to "arrest anyone who joins the march or concert without a credential and refuses to leave." It's "unusual" for an event on the Mall to have "fences, required preregistration and the threat of arrest." Allison Barber, deputy assistant secretary of defense, said "police had requested" the "stringent measures," but Park Police Chief Dwight E. Pettiford said "the Pentagon restricted the event in its permit application."

Ground Zero Rebuilding Could Take "A Generation" To Complete. The Christian Science Monitor (9/9, Marks) reports that rebuilding at ground zero in New York City "has been slow going, due in part to the seeming incompatibility of rebuilding a vital commercial, retail, and financial hub on what many now consider to be a sacred burial ground." Also, it takes extra time to ensure "that ground zero…rises stronger than before." The project is "expected to be the most publicly debated, disputed, reviewed, and revised in world history," an "urban rebirth that could take more than a decade, if not a generation, to complete."

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WAR NEWS:

Powell Regrets Relying On Intelligence Pointing To Existence Of Iraqi WMD. In an interview to be broadcast on ABC Friday evening former Secretary of State Colin Powell reiterated his disappointment with US intelligence on Iraqi weapons programs. The New York Times (9/9, Weisman) reports Powell says "his 2003 speech to the United Nations, in which he gave a detailed description of Iraqi weapons programs that turned out not to exist, was 'painful' for him personally and would be a permanent 'blot' on his record." Powell said he felt "Terrible" when he learned "that he had been misled about the accuracy of intelligence on which he relied" and "added that it was 'devastating' to learn later that some intelligence agents knew the information he had was unreliable but did not speak up." He "also implied in the interview that the United States did not go to war in Iraq with sufficient troops to secure the country and failed to keep sufficient Iraqi forces to help stabilize the country." Powell's "expressions of regret about the weapons intelligence and the lack of troops were consistent with many of his statements in office, especially after it became clear that Iraq had none of the weapons that Mr. Powell had said it was stockpiling."

200 Insurgents Captured In Syrian Border Staging Ground. US and Iraqi forces captured 200 mostly foreign insurgents at a staging ground near Tall Afar along the Syrian border. The New York Times/AP (9/9) reports the US-Iraqi operation to clear Tall Afar of insurgents "would intensify." And "one of captives was Amr Omayer, an Iraqi who was believed to be commander of all insurgent operations stemming from Tal Afar." Some captives were believed to be from Afghanistan while others "were from Syria, Sudan, Yemen and Jordan."

Iraqi Forces Prove Effective In Identifying Insurgents. Iraqi forces are becoming increasingly effective as they work with US forces, particularly in helping interrogate insurgents. The Washington Post (9/9, A21, Finer) reports that "identifying fighters who blend seamlessly into the local population" is one of the most difficult tasks facing US forces and "American commanders have long insisted that growing numbers of Iraqi security forces will make that job much easier." But, "U.S. commanders also acknowledge that the Iraqi troops' reputation for heavy-handed treatment of prisoners cuts two ways: It can terrify prisoners into talking but undermine the rapport policemen and soldiers have with the populations they serve." Another negative is that few of the Iraqi forces are Sunni. Iraqi forces are not only "fully integrated into nearly every aspect of the Tall Afar operation," but hundreds "are also being brought to the city to man stations that U.S. forces have said they will establish once the fighting wanes." According to US commanders, the "performance of Iraqi troops in this region has improved dramatically since the 3rd Armored Cavalry arrived in April."

Insurgents Forced Out Of Tall Afar. The Washington Post (9/9, A21, Finer), in an article on the improvement of Iraqi forces, also reports, "Heavy bombing continued Thursday evening, as U.S. jets dropped 500-pound J-DAM precision bombs and other munitions into the insurgent-controlled neighborhood of Sarai, while playing messages over loudspeakers that called on residents to evacuate. Nearly 1,000 people left the city through U.S. checkpoints Thursday, and commanders said intelligence showed that insurgent leaders were attempting to vacate the city."

US Forces Struggle With Toll Of Duty In Iraq. The Washington Post (9/9, A1, Fainaru) in a front page story examines the daily dangers facing US troops operating in Iraq. After describing the aftermath of an IED attack on one US platoon the Post reports, "Six hours after the attack, and with only a few hours of sleep" the platoon was "back patrolling the bomb-cratered streets of Balad. … The attack quickly faded, taking its place alongside myriad others that have occurred during the platoon's first eight months of a yearlong combat tour in Iraq." Their experiences "go to the heart of the growing debate over the continued involvement of U.S. troops in Iraq. The days are infused not with the politics of war but the stark realities of it: tragedy and loss, loneliness and exhaustion, resilience and camaraderie in the face of a stubborn and deadly insurgency. The platoon's daily life has been ordered by nothing more than the merciless patrol schedule, twice-daily, four-hour combat missions that inevitably place the soldiers in the paths of attacks aimed at killing them." In interviews "the physical and emotional toll of prosecuting the war in Iraq was vividly apparent."

Indicators Highlight Importance Of Passing Iraq Constitution. Nina Kamp and Michael O'Hanlon, a senior research assistant and a senior fellow at the

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Brookings Institution, and graphic designer Amy Unikewicz in an op-ed in the New York Times (9/9) updates their chart tracking progress in Iraq and warn, "It was not a good summer in Iraq. After the midwinter bright spots -- reductions in violence, greater economic vitality, the famous purple fingers of voters -- the situation worsened as the weather warmed. Most worrisome, the constitutional process has failed to bring aboard Sunni Arabs, who remain the core of the insurgency. While Shiites and Kurds wisely compromised on some key points, they favor an oil-allocation scheme that Sunnis fear could deprive them of their fair share of Iraq's natural wealth." Despite some positive news, "on balance the indicators are troubling. … On one point at least, pessimists and optimists about Iraq tend to agree: the situation needs a major boost from the political process. In that light, the Oct. 15 referendum on the draft constitution looms very large."

Columnist Urges Iraqi Political Factions To Support Constitution. Thomas Friedman in his column in the New York Times (9/9) urges Iraqi Shiites, Kurds and Sunnis to work together to approve a constitution because in the aftermath of Katrina the US may become distracted. Friedman says "most Democrats have opposed the war from the start, and many Republicans no longer support the war per se, but only George Bush." Bush "has carried this war on his shoulders, and the more he's weakened politically by Katrina, the less he will be able to carry. Yes, Mr. Bush has said we'll do whatever it takes to finish the job in Iraq, but he said that before there was another huge job to do." Friedman states, "If there is a constitution basically supported by all the key parties, a decent outcome is still possible in Iraq. Yes, Mr. Bush says he intends to stay the course there no matter what, but without a constitution embraced by all three communities, there will be no course to stay. The pressure on us to leave will only grow."

Oil-For-Food Report Reflects Badly On Democratic Party "Icon" Sorensen. The New York Sun (9/9, Avni) reports, "A Democratic Party icon of the Kennedy days, Theodore Sorensen, was hired in 1993 by an agent of Saddam Hussein, Samir Vincent, to influence top Turtle Bay officials, according to Wednesday's Volcker report on the U.N. oil-for-food program. Vincent and his Korean partner, Tongsun Park, also financed an American pro-U.N. organization known as UNA-USA with Taiwanese money." Sorenson was hired by Vincent "to shape what ultimately became oil for food."

WSJournal Says Volcker Report Shows Corruption At Heart Of UN. The Wall Street Journal (9/9) says in an editorial, "With the release Wednesday of Paul Volcker's fourth report on Oil for Food, we have the clearest account yet of what this quote-unquote" oil for food "scandal is really about." Oil for Food is "not about some isolated incidents of perceived or actual wrongdoing during the course of a seven-year effort to maintain sanctions on Iraq, monitor its oil flows and feed its people. Oil for Food is a story about what the U.N. is. And our conclusion from reading the 847-page report is that the U.N. is Oil for Food." Press reports "often cite the overall size of Oil for Food at $60 billion, but Mr. Volcker's report makes clear that the real figure was in excess of $100 billion. From this, Saddam was able to derive $10.2 billion from illicit transactions. But the important point is that he was able to steer 10 times that sum toward his preferred clients in the service of his political aims." Volcker's report "is replete with examples of incompetent U.N. oversight and tales of political wrangling among the permanent members of the Security Council. But the abiding fact is that it was the Western powers, not Saddam, who wanted Oil for Food at virtually any cost, because it offered the appearance of a meaningful policy in the absence of a real one, namely regime change."

The Wall Street Journal (9/9) also excerpts a portion of the latest report of Paul Volcker's Independent Inquiry Committee on the United Nations' Oil for Food program.

Taliban Insurgents Kill Six Afghan Policemen. The New York Times (9/9, Gall) reports Taliban insurgents "attacked an Afghan National Army weapons depot south of Kabul on Thursday, killing six Afghan policemen, the state Bakhtar news agency said." Two suspected Taliban insurgents "were killed in the firefight that ensued, and one was captured, Bakhtar reported, quoting the press office of the Interior Ministry." Gunmen "also attacked a parliamentary candidate in eastern Afghanistan. The candidate, Safia Siddiqui, a well-known figure and spokeswoman at the national constitutional convention in 2004, was campaigning in her native Nangarhar Province when she came under fire. She was not injured, but three of her supporters were wounded, Agence France-Presse reported."

Funds For War On Terror Said Better Spent On Disease Prevention, Research. Reuters (9/9,

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Fox) reports Dr. Erica Frank of the Department of Family and Preventive Medicine at Emory University School of Medicine in Atlanta says "the US 'war on terror' is saving fewer lives than just spending the money on disease prevention and research, and has probably caused deaths by taking money away from basic services." The "accusation is not new, but" Dr. Frank "said she has calculated the cost, in terms of lives, of the Bush administration's terror policies." Frank "warned there is a threat that because of the U.S. government's policy, enormous numbers of Americans will die unnecessarily."

US Strategy In "Global War Against Terrorism" Critiqued. In a Washington Post op-ed (9/9, A25), former diplomat Richard Holbrooke says global war on terror "is not an accurate description of America's enemy or of what we are engaged in. Unless people know whom we are fighting, it will be virtually impossible to win the war of ideas that is such a key part of this struggle. The new undersecretary of state for public diplomacy, Karen Hughes, who is charged with primary responsibility for this part of the war, has a chance to fix the problem, but only if she is willing to change some deeply ingrained rhetoric and the political reasons behind it." The "long-term battle is against the underlying ideas and leaders behind these specific groups of terrorists. Despite factionalism and fierce doctrinal disputes, our enemies, broadly speaking, constitute a movement, with goals, gurus, ideologues, myths and martyrs. They share a core set of virulently anti-Western beliefs and have common goals: to destroy the moderate (and still majority) wing of Islam, to establish Islamist theocracies that look backward toward a mythic 'golden age,' to seek the destruction of Israel, and to inflict maximum damage and human suffering through acts of terrorism." But the US "has not made it a primary goal to expose Osama bin Laden as the monster he is, something Roosevelt and Winston Churchill did to Hitler, and American leadership did to communism during the Cold War by demonstrating its moral and intellectual bankruptcy."

Mark Helprin, Senior Fellow of the Claremont Institute and Distinguished Visiting Fellow of Hillsdale College, in an op-ed in the Wall Street Journal (9/9) faults the Administration for not committing enough resources to national security and says, "The war in Iraq has been poorly planned and executed from the beginning, and now, like a hurricane over warm water, the insurgency is in a position to take immense energy from the fundamental divisions in that nation. The rise of Chinese military power, although lately noted, has met with no response. America's borders are open, its cities vulnerable, its civil defense nonexistent, its armies stretched thin. We have taken only deeply inadequate steps to prepare for and forestall a viral pandemic that by the testimony of experts is a high probability and could kill scores of millions in this country alone. That we do not see relatively simple and necessary courses of action, and are not led and inspired to them, represents a catastrophic failure of leadership that bridges party lines."

9/11 Recruits' Motivations, Fates Examined. USA Today (9/9, Hampson) report that "contrary to popular belief, there never was an upsurge in military enlistments as a result of the attacks that killed almost 3,000 people four years ago. But in a time of retreat and collapse, when Americans were urged to maintain their routines and get on with their lives, a few people stepped forward and did just the opposite. Although statistically insignificant, they epitomized a raw patriotism that bolstered the nation's spirit in the bleakest days since Pearl Harbor." USA goes on to profile a number of 9/11 recruits.

Panel Disciplines New York Judge Who Left Bench To Work In Iraq. The New York Law Journal (9/9, Caher) reports, "For the first time in its history, the New York State Commission on Judicial Conduct has disciplined a judge for flat-out failing to do his job." The Journal continues, "In a determination released Thursday, the commission called for the removal of North Hudson Town Justice Glenn T. Fiore of Essex County, who abandoned his judicial position to take a yearlong position as a truck driver in Iraq." The Journal adds, "Justice Fiore continued to draw his $10,000 a year judicial salary, leaving North Hudson, where he was elected, without a town judge. The town had to pay a neighboring judge to handle matters within its borders while Justice Fiore worked for a private subsidiary of the Halliburton Corp. … Records show that Fiore returned from Iraq after four months, indicating that he was giving up his private position to resume his judicial duties. However, he did not resume his position and ultimately resigned under pressure last month for what he said were patriotic reasons."

The AP (9/9, Johnson) reports, "Fiore, 54, said he would not appeal the ruling. … In March, he took a one-year job in Iraq driving a truck for Kellogg, Brown & Root Services Inc. … He didn't give the town of North Hudson, 90 miles north of Albany, any notice that he was leaving. Instead, he left his son

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in place as court clerk to cover for him and planned to render decisions when he returned." The AP adds, "Fiore said Thursday that he took the job in Iraq because he went out of business as an independent truck driver and needed to pay some bills. Fiore, who served in the Marines in Vietnam, said he also headed to Iraq out of a sense of patriotism."

CORPORATE SCANDALS:

Lay, Skilling Attorneys Allege Prosecutorial Misconduct. The AP (9/8, Hays) reports, "Lawyers for Enron Corp. founder Kenneth Lay and former CEO Jeffrey Skilling say 'deliberate, systematic prosecutorial misconduct' has choked their efforts to prepare for trial in January." The AP continues, "Lay, Skilling and the third defendant in their case, former top Enron accountant Richard Causey, say obvious or veiled threats from prosecutors that dozens of witnesses may be indicted or, if they have pleaded guilty to crimes, face harsh prison sentences if they talk to the former executives has shut off critical information sources." The AP adds, "Daniel Petrocelli, Skilling's lead trial lawyer, said the defense teams have whittled that list to 38 particularly crucial witnesses who have consistently refused to talk to them. … Lay's lawyer, Michael Ramsey, told U.S. District Judge Sim Lake in a hearing Thursday that the defense teams have seen a 'pervasive freeze-up of witnesses,' though he acknowledged out of court that it was possible at least some just don't want to help his client or the others." The AP notes, "The trio wants to dismiss the sprawling case against them on grounds that the Justice Department's Enron Task Force 'has engaged in deliberate, systematic prosecutorial misconduct that has irreparably harmed defendants' ability to prepare for trial,' according to a court filing made public this week. … But while awaiting Lake's ruling on that request, the trio wants the judge to compel those witnesses to appear in court later this month so Lake can assure them that they can talk to the defendants about the case and testify on their behalf without fear of government reprisal. … Sean Berkowitz, head of the task force, insisted that prosecutors do not want to block anyone from talking to the defense teams. … 'The government does not want any witness to not speak to the defense out of fear of retribution from the United States,' he said."

Florida Attorney Charged In Currency Trading Scheme. The Palm Beach Post (FL) (9/8, Sedore) reports, "A federal grand jury in Cleveland has indicted a Palm Beach County securities lawyer on charges of securities fraud in connection with a $14 million currency trading scheme." The Post continues, "The indictment, dated Sept. 1, alleges that Delmer C. Gowing III, 61, of Ocean Ridge helped a Cleveland-based brokerage, Capital Markets Trading Group, convince 10 investors that they could earn yields as high as 20 percent a month through a currency trading deal Capital Markets claimed it had with insurance giant AIG. That arrangement didn't exist, and most of the millions invested four years ago was either lost in trades or allegedly pocketed by Capital Markets' principals, including Gowing." The Post adds, "Gowing, arrested Friday by U.S. marshals, was released Monday from the Palm Beach County Jail on $100,000 bond. He faces a trial in federal court in Cleveland. A call Wednesday to the U.S. attorney's office in Cleveland wasn't returned. … Gowing's attorney, Gary Eric Susser of Boynton Beach, said his client is innocent and denies that he had an active role in the scheme other than acting as the lawyer for Capital Markets. … According to the indictment, Capital Markets began soliciting money in early 2000 from investors by claiming it had an arrangement to trade foreign currencies through AIG, one of the largest insurers in the world. … But the indictment alleges that no such arrangement existed. Instead, Capital Markets wired the money to an Irish company called Magenta Forex Corp. Ltd., which did the trading and produced 'substantial losses' that weren't disclosed to investors."

CRIMINAL LAW:

DOJ In Settlement Talks With Boeing To Close Two Probes. The Wall Street Journal (9/9, Pasztor, Squeo) reports, "The Justice Department and Boeing Co. are negotiating a settlement in which the company could be required to pay up to $500 million but would avoid prosecution in two federal probes, said people familiar with the details." The Journal continues, "The settlement would resolve allegations that Boeing improperly acquired thousands of pages of Lockheed Martin Corp.'s proprietary documents dealing with rocket programs, and illegally recruited a senior Air Force official while she still had oversight of billions of dollars in other Boeing contracts." The Journal adds, "Talks are continuing and details could change, these people said, with a final agreement expected to take at least several more weeks to emerge. But the terms

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currently under discussion would make the pact one of the largest and most comprehensive corporate fraud settlements in recent years. … Based on the broad outlines so far, the settlement also is likely to entail the stiffest financial penalty ever imposed on a U.S. defense contractor for alleged procurement violations, said people familiar with the situation -- far exceeding those meted out during Pentagon scandals in the 1980s and 1990s, which stayed under $200 million." The Journal notes, "The two separate, much-publicized probes, which spanned two years, sent two former high-ranking Boeing executives to jail and set off events that helped lead to the departure of two Boeing chief executives. The company wasn't formally charged in that period, but it was stripped of some important contracts, became a frequent target of Congressional critics and ended up embroiled in the most serious military-procurement scandal of the past two decades."

Lawyers Say Plame Leak Probe Could Be Nearing End. The Boston Globe/Reuters (9/9) reports, "New York Times reporter Judith Miller, locked up for refusing to reveal who told her a covert CIA operative's name in a probe that may be nearing a conclusion" this week "marked two months -- 65 days as of Thursday -- at the Alexandria Detention Center just outside Washington for refusing to testify to a grand jury trying to determine who in the Bush administration leaked CIA operative Valerie Plame's identity." Miller's attorney Floyd Abrams "said Miller remained 'resolute' and would not reveal her confidential source to a grand jury in the case, which could shake up an administration already reeling from criticism over its response to Hurricane Katrina. The probe has ensnarled President George W. Bush's top political adviser, Karl Rove. … But lawyers close to the investigation say there are signs that the 20-month-long inquiry could be wrapped up within weeks in a final flurry of negotiations and legal maneuvering." Reuters adds, "Asked if talks were under way with special counsel Patrick Fitzgerald, a Justice Department prosecutor, to secure Miller's testimony and release, Abrams said: 'If there are any discussions, they would be private.'" Reuters notes, "Several lawyers involved in the case say Fitzgerald was likely to wrap up his inquiry this fall, if not sooner, though they say they have not heard from his office in weeks."

Berger Fined $50,000 For Taking Documents. Former Clinton national security advisor Sandy Berger was fined $50,000, ordered to serve 100 hours of community service and sentenced to two years' probation for removing classified documents from the National Archives. The Wall Street Journal/AP (9/9) reports the fine "exceeded the $10,000 fine recommended by government lawyers. Under the deal, Mr. Berger avoids prison time but he must surrender access to classified government materials for three years." The Washington Post (9/9, A7, Leonnig) adds Berger "admitted to stuffing copies of documents in his coat jacket as he left the National Archives and then destroying some at his office and pretending he had never possessed them."

The New York Times (9/9, Lichtblau) reports, "His motivation in taking the documents remains a matter of fierce debate in political circles, and Mr. Berger himself did little to shed light on the mystery Thursday, except to say, without elaboration, that he had put his own 'personal convenience' in reviewing the documents ahead of federal law." But new court records provide some possible explanations, suggesting "that prosecutors and defense lawyers believe Mr. Berger's decision to remove the documents was triggered by pressure, fatigue and confusion, rather than by any intent to hide damaging information about the Clinton administration, as Republican critics have charged." Berger's lawyers "said in their pre-sentencing memorandum to the judge this week that Mr. Berger, in reviewing material at the archives for several days for as long as 10 hours a day, became overwhelmed." DOJ prosecutors "offered no evidence to suggest any ulterior motive by Mr. Berger. On the contrary, prosecutors noted that the Sept. 11 commission reviewed copies of all the documents that Mr. Berger took and that there was 'no evidence that any unique document was destroyed or lost.'"

Federal Agents Raid Chicago-Area Police Station. The AP (9/9) reports, "Federal agents armed with a search warrant raided the police station in suburban Melrose Park on Thursday, an FBI spokesman said." FBI spokesman Ross Rice said that the raid "was part of an ongoing investigation but he declined to give details. He also declined to say what the agents were looking for and what, if anything, they found. 'No arrests have been made and no charges have been filed,' he said." The AP notes, "In recent years, a federal investigation of illegal electronic gambling devices controlled by the mob found that many were installed

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in Melrose Park taverns and strip joints. And the FBI said recently that the mob has a street crew based in the suburb."

The Chicago network affiliates also report on the raid on their Web sites from stories broadcast Thursday. WLS-TV (9/8, Thomas) reports, "ABC 7 has learned the investigators were searching employment records going back several years to determine on what days and at what times certain officers worked." WMAQ-TV (9/8, Rogers) adds, "The investigators came from the FBI and the IRS, as well as the postal inspectors and the U.S. Department of Labor. The investigation has been lengthy and there are no signs it is nearing completion," and "it is believed that the federal agents on Thursday were seeking records relating to a private security firm operated by Melrose Park Police Chief Vito Scavo." WBBM-TV (9/8, Tucker) notes, "For four hours the FBI agents, along with investigators from the labor department and the U.S. Postal Service, collected documents and information."

Powerful Illinois Lobbyist's Top Aid Sentenced To Probation In Operation Safe Road Probe. The Chicago Tribune (9/9, O'Connor) reports, "Saying she regretted ever getting involved in 'the world of politics and political favors,' a former trusted lieutenant to one of the state's most powerful lobbyists was spared prison Thursday for lying to investigators in the Operation Safe Road probe. Julie Starsiak, a longtime close aide to lobbyist Al Ronan, was placed on probation for 5 years and ordered to complete 200 hours of community service by U.S. District Judge Blanche Manning. Ronan hasn't been charged with wrongdoing, but his lobbying firm, Ronan Potts LLC, pleaded guilty to rigging a bid so a client won a contract to oversee a huge expansion at McCormick Place." The Tribune notes, "Assistant U.S. Atty. Scott Levine called Starsiak's cooperation valuable and confirmed her help resulted in the opening of an investigation that 'is bearing fruit.'"

The AP (9/9, Robinson) notes Starsiak "pleaded guilty in February 2004 to making false statements to FBI agents who were investigating bid rigging in the competition to get the contract to manage the expansion. She said she lied when she told them" Ronan "was the one who called an engineering firm with confidential bidding information. Starsiak now says that she made the call, although defense attorney Chris Gair told Manning that Ronan was part of the scheme."

Daley Names Former Federal Prosecutor Chicago Inspector General. The AP (9/9, Reichgott) reports, "Mayor Richard M. Daley, struggling to clean up his administration's image amid an ongoing federal investigation of bribe-taking and political hiring, named a former federal prosecutor Thursday to be his new inspector general. David Hoffman will take over for Alexander Vroustouris, who resigned in June amid allegations that investigations performed by his office were delayed and incomplete." The AP notes, "Eight members of Daley's Cabinet have either resigned or been fired since May as the mayor has worked to maintain the public's confidence. Federal investigators have been looking into City Hall for months, first examining bribes traded for jobs in a contract hauling program and most recently looking into allegations of fraud in the city's hiring practices." The Chicago Tribune (9/9) also reports on Hoffman's appointment.

Philadelphia Defense Lawyer Sentenced To House Arrest In Ticket Fixing Probe. The Philadelphia Daily News (9/9, Warner) reports, "A widely known defense attorney who admitted taking $7,000 in bribes in a parking-ticket scandal was spared a jail sentence yesterday by a federal judge. Charles P. Mirarchi III, who cooperated with prosecutors and pleaded guilty to one count of mail fraud, will have to spend six months under house arrest, pay a $5,000 fine and face additional restitution payments, U.S. District Judge Bruce W. Kauffman ruled." Kauffman "cited Mirarchi's 'substantial and significant cooperation' with the prosecutors and wished Mirarchi 'Good luck' after pronouncing the sentence." The Philadelphia Inquirer (9/9, Ditzen) notes, "The moral of the story yesterday…was this: He who admits his crime and diligently atones for it may hope for kindness at sentencing."

FBI, Minneapolis Police Raid City Councilman's Home. KARE-TV Minneapolis (9/8) reports on its Web site from a story broadcast Thursday, "FBI agents pulled up to the home of Minneapolis City Councilman Dean Zimmerman around 3 p.m. on Thursday afternoon. Agents were executing a search warrant at the councilman's home. … Neither the FBI or the Minneapolis Police, who were assisting in the removal of items from Zimmerman's home, would comment on the reason for the search warrant. But during the three hours police and FBI officials were at the house, they were seen removing everything relating to Zimmermann's re-election campaign plus personal financial records." WCCO-TV (9/8) notes, "The

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FBI said they executed a 'court-authorized federal search warrant as part of an ongoing federal investigation.'" Zimmerman campaign manager Lauren Maker "said she believed the search was politically motivated because it was so close to the election."

North Carolina Housing Official Pleads Not Guilty To Embezzlement Charges. The Winston Salem Journal (9/9, Gutierrez) reports, "A senior official with the Housing Authority of Winston-Salem pleaded not guilty yesterday in U.S. District Court here to three felony charges: stealing, embezzlement and money laundering. Federal prosecutors filed the charges Aug. 30 against Kenneth Love, the assistant director of housing services for the housing authority, after a four-year investigation by the U.S. Department of Housing and Urban Development and the FBI. The same charges were filed against a Virginia businessman, Sylvester Clay, who pleaded not guilty on Tuesday. … Federal investigators say that Love and Clay worked together to bid on contracts and get paid for phantom jobs through Clay's maintenance companies."

New Jersey Bribery Probe Suspect Arrested On Assault Charges. The AP (9/9) reports, "A developer accused of bribing officials in Monmouth County has been charged with threatening a 22-year-old woman at gunpoint in a community-college parking lot." Anthony Spalliero "fled when an officer at the Middletown campus of Brookdale Community College heard the woman scream about 1:30 p.m. Tuesday, college spokesman Stephen Nacco said. Spalliero had put a gun against the woman's ribs and told her to come with him, Nacco said. … He was charged with possession of a weapon for an unlawful purpose, making terroristic threats, and aggravated assault, the Monmouth County Prosecutor's Office said." The AP notes, "In May, Spalliero was arrested by the FBI and charged with passing bribes, including offering then-Mayor Matthew V. Scannapieco of Marlboro about $143,500 from 2001 to 2003."

Fourth Person Charged In Alleged Scheme To Defraud Kodak. The AP (9/9) reports former Eastman Kodak executive David Finnman "on Thursday became the fourth person charged in a multimillion-dollar scheme that federal prosecutors claim defrauded the company and suburban Rochester taxpayers." Finnman "faces two felony counts of mail fraud and one count of conspiracy to defraud. He worked at Kodak from 1970 to 1999. … The FBI said Finnman and co-defendant Charles Schwab, a former Greece assessor, created a business in the Bahamas around February 1998 to hide bribes and kickbacks paid by co-defendant John Nicolo, a regional appraiser. Investigators claim Finnman and Schwab each admitted receiving about $200,000 and investing it in an offshore account. The new charges said another company, Global Crossing, was the victim of fraud because Finnman worked there until 2003."

Tennessee Lt. Gov. Reverses Statement About Loan Under Federal Scrutiny. The AP (9/8, Gouras) reports Tennessee Lt. Gov. John Wilder "has changed his position on whether he talked to a fellow lawmaker about a bank loan now involved in a federal fraud trial." On Wednesday, Wilder said that "he was incorrect when he said last week that he had talked with Sen. Jerry Cooper about getting a loan at Wilder's bank." Cooper "is an unindicted co-conspirator in a federal indictment alleging fraud against two men involved in the sale of property owned by Cooper." The AP notes, "It's the second time this year that Wilder has backtracked from public comments. In May, right after the Tennessee Waltz sting that nabbed five current and former lawmakers, Wilder criticized the FBI for 'entrapping' the indicted legislators. A week later, he said the remarks were meant to express only his belief that 'entrapment is wrong.'"

Grand Jury Indicts PAC Linked To DeLay. The Los Angeles Times (9/9, Schmitt) reports, "A Texas grand jury today indicted a political action committee affiliated with House Majority Leader Tom DeLay (R-Texas), alleging that it took illegal campaign contributions during the 2002 election that led to a historic realignment of the Texas Legislature."

The Washington Post (9/9, A3, Smith) reports, "DeLay, who was a member of the committee's advisory board, signed fundraising solicitations and participated in at least one conference call to discuss the committee's plans." But "DeLay spokesman Kevin Madden responded to the indictment with a written statement saying that it 'is limited to a political organization and does not affect Mr. DeLay.'" He "also disclosed for the first time that DeLay had 'voluntarily' talked to Earle's office about the investigation last month, and

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that DeLay said then that his involvement in the committee's activities was 'limited to serving on the political action committee's advisory board along with other elected Texas officials and…appearing at fundraising events.'"

The New York Times/AP (9/9) reports DeLay "was not indicted by a Travis County grand jury in the charges made public Thursday, although three of his political associates were charged earlier." Reuters (9/9, Seba) also reported the details of the indictment.

Missouri Senators Seek To Close Sexual Predator Loophole. The AP (9/9, Hananel) reports, "Missouri's senators want to close a legal loophole they say allowed a Missouri judge to throw out a conviction of a sexual predator." The AP continues, "Sens. Kit Bond and Jim Talent, both Republicans, introduced a bill Thursday that makes it a crime to solicit sex online from a minor even if the person solicited is an undercover agent over 18. … The move is a response to the case of Jan P. Helder, a Mission Hills, Kan., attorney accused of using an Internet chat service to solicit sex from someone he believed to be a 14-year-old girl." The AP adds, "A federal jury convicted Helder, 42, but U.S. District Judge Dean Whipple in Kansas City threw out the verdict last month, saying Helder could not be guilty because the person he communicated with online was actually an undercover Platte County detective. … Whipple's decision outraged children's advocates who worried it could curb the success of such Internet stings. Undercover agents typically pose as minors, waiting for sex offenders to make contact and arrange in-person meetings. … Don Ledford, a spokesman for U.S. Attorney Todd Graves in Kansas City, said the government plans to appeal Whipple's decision. Ledford said the office would have no other comment on the decision or the legislation because the case is pending." The AP notes, "At least four federal appeals courts have rejected the type of defense used by Helder, but those decisions are not binding on Whipple. The 8th U.S. Circuit Court of Appeals, which covers Missouri, has not yet addressed the issue. … Under the change proposed by Bond and Talent, federal law would expressly provide that communicating with a law enforcement officer pretending to be a child is not a defense. Such language is already included in state law in Missouri."

California City To Ask For DOJ Audit Of Accounts. The Palm Springs (CA) Desert Sun (9/8, Rodriguez) reports, "The Desert Hot Springs (CA) City Council voted unanimously to ask the U.S. Department of Justice to look into the city's accounts for the past five years." The Sun continues, "Interim City Manager Corky Larson said she was approached by city residents in the past month who suggested that the city - growing fast, but struggling with City Hall openness and budget issues - ask for a Department of Justice forensic audit." The Sun adds, "Asked what types of things the citizens asked for the Department of Justice to look at, Larson said one example might be building fees, but she would not elaborate. … Desert Hot Springs - exploding with residential growth - has in recent years been collecting millions in building fees, which are required by state law to be deposited in particular city accounts. … Any audit performed would check all revenue and expense flows for the city, receipts, contracts and ensure that any fees associated with planning and building the thousands of new homes going up in the scenic city at the base of the mountains were sent to the appropriate budget accounts."

US Charges Florida Deputy Sheriff With Embezzlement. The Orlando Sentinel (9/9) reports, "An Orange County deputy sheriff indicted on federal embezzlement charges was arrested today by deputy U.S. marshals and relieved of duty without pay, authorities said. The Sentinel continues, "Deputy Tawanda McNeil, a four-year veteran, was assigned to the agency's uniform patrol division in the agency's Sector 2, which covers east Orange County." The Sentinel adds, "The U.S. Attorney's Office in Orlando said a federal grand jury indicted McNeil on Wednesday on 18 counts of embezzlement related to payments she erroneously received when the U.S. military called her up for duty. … McNeil was not activated and was not entitled to the the payments, said Carolyn Adams, chief of the U.S. Attorney's Office in Orlando."

Minnesota School District Sues For Items Seized In FBI Probe Of School Shooting. The Minneapolis Star Tribune (9/9, Haga) reports, "Red Lake's school district has gone to federal court to seek recovery of documents and equipment seized by the FBI during its investigation of the March 21 shootings on the reservation, in part to protect itself against potential liability lawsuits. In a motion filed Thursday in U.S. District Court in Minneapolis, the district said it needs the return of security video footage, education records of shooter Jeffrey Weise, witness statements of district employees and computer hard drives,

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among other things. Those materials are 'crucial,' according to the filing, for the district to evaluate its security system and procedures in effect on March 21 'and to defend against likely lawsuits.'" Red Lake District attorney Shamus O'Meara said that "federal investigators 'basically told us to seek access to the materials through the Freedom of Information Act. … We did that, and it was denied. From the district's perspective, this is a last resort.'"

The St. Paul Pioneer Press (9/9, Ragsdale) notes, "U.S. Attorney Tom Heffelfinger, whose office is leading the criminal investigation into the shootings, said he had not yet reviewed the papers and could not comment on the district's request. … The school district said it is also seeking access to educational records for Weise, who was at home that day on the school's homebound instruction program. Included in the district's request are records from the teacher who visited Weise at home during the school year. The district also said it believes the FBI has a psychiatrist's report on Weise."

Arizona Man Sentenced To Prison For Child Pornography. The Tucson Citizen (9/9, Rowley) reports, "A Tucson martial arts instructor has been sentenced to 2.5 years in federal prison for possessing hundreds of child pornography images." The Citizen continues, "David Michael Lader, 41 will also be fined $30,000 followed by lifetime supervised release with sex offender conditions, a U.S. Attorney's Office news release said. He was ordered to provide a DNA sample." The Citizen adds, "Lader pleaded guilty to possessing more than 300 child pornography images on his home computer. Many were acquired over the Internet and involved children younger than 12, officials said. U.S. Immigration and Customs Enforcement agents arrested him in April 2004. Lader, who is not in custody, must surrender to U.S. marshals Oct. 12. … In delivering the sentence yesterday, U.S. District Judge Raner Collins noted that at the time of the crime, Lader was a registered sex offender yet was teaching children and adults."

Wisconsin Murder Trial Pits Rural, Urban Ways. The New York Times (9/9, Ruethling) reports, "A jury was chosen in this liberal bastion on Thursday for the trial of a Hmong immigrant charged with killing six hunters, causing consternation in the North Woods, where the shootings took place." The Times continues, "Some residents of Rice Lake, where all the victims lived or grew up, said they were concerned that the jurors from Dane County, which encompasses Madison, might not grasp the nuances of rural life." The Times adds, "Judge Norman L. Yackel of Sawyer County Circuit Court ruled in June that the jury for the trial of the immigrant, Chai Soua Vang, would be chosen from Dane County after the defense argued that publicity and strong emotions in the Rice Lake area jeopardized Mr. Vang's chances for a fair trial. … The concern about the composition of the jury stems in part from the racial overtones of the case. Mr. Vang, 36, a refugee from Laos who lived in St. Paul, Minn., told police that he had been sitting in a tree stand on private hunting land about 25 miles northeast of Rice Lake one Sunday last November when the hunters, who were white, swore at him and used ethnic slurs."

CIVIL LAW:

Ginsburg Rejects Administration Appeal To Block BRAC Challenges. The New York Times/AP (9/9) reports, "The Bush administration lost a last-minute bid on Thursday to persuade the Supreme Court to intervene and protect a federal panel's recommendations for the closing and realignment of military bases." The AP continues, "Judges in Connecticut and Tennessee had blocked the panel from recommending changes at local Air National Guard bases, and Justice Ruth Bader Ginsburg on Thursday rejected the administration's request for intervention. Another appeal could be filed later and handled by the full court."

Meanwhile, the Washington Post/AP (9/9, A26) reports, "Separately, Illinois, Missouri and New Jersey lost emergency Supreme Court appeals intended to stop the commission from sending the report to the president. Facilities in those states are among hundreds targeted by the panel for closure or consolidation in the first round of base closings in a decade."

Caremark Settles Whistleblower Suit With DOJ. The AP (9/8) reports, "Pharmacy benefits manager Caremark and the Justice Department agreed Thursday to a $137.5 million settlement of lawsuits originally filed by whistleblowers claiming a predecessor company received kickbacks affecting several federal health care programs." The AP continues, "Nashville-based Caremark Rx Inc. admitted no wrongdoing in making the settlement, which was approved by a Philadelphia federal court Thursday. … The lawsuits were filed in 2002 under the whistleblower provisions of the Federal False Claims Act by three former executives of

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AdvancePCS Inc., a Texas-based pharmacy benefits manager that Caremark acquired in March 2004. The Justice Department joined the lawsuits after they were filed." The AP adds, "The lawsuits contended AdvancePCS took kickbacks from drug manufacturers to give their products favorable treatment under contracts with the Federal Employees Health Benefit Program, the Mailhandlers Health Benefit Program, Medicare+Choice and other government programs. … The court filings also charged that AdvancePCS paid existing and potential customers kickbacks to sign pharmacy benefits management contracts. All the allegations date to before Caremark took over AdvancePCS. … Also pending against Caremark is a separate Justice Department and whistleblower lawsuit alleging the company did not appropriately repay Medicaid and other federal health insurance programs. Caremark has denied those claims."

Senate Panel To Subpoena Asbestos Companies. Reuters (9/9, Cornwell) reports in a unanimous vote the Senate Judiciary Committee "gave its leaders authority to subpoena information from companies facing asbestos lawsuits as lawmakers work on legislation creating a $140 billion fund for asbestos victims." Chairman Arlen Specter "told members he did not know if subpoenas would be necessary, but he wanted 'a little muscle' in case companies continued to resist producing the data." He "said he hopes to bring the bill to the Senate floor the first week of October. Aides said the industry information could be used to make changes necessary to build Senate support for the bill."

US Alleges Safety Violations By American Airlines. The AP (9/9) reports, "American Airlines put its passengers at risk and violated multiple U.S. air-safety regulations in 2003 by allowing one of its jets to fly with a leaky fuel tank, according to a civil complaint filed by the U.S. attorney's office in Brooklyn." The AP continues, "The complaint, which was made public on Thursday, seeks more than $1 million in penalties against the airline." The AP adds, "The complaint alleges that on Nov. 17, 2003, a Federal Aviation Administration inspector was a passenger on an American flight from Orlando, Florida, to New York's La Guardia Airport when he saw fuel leaking from a wing of the McDonnell Douglas MD-82. … The inspector warned the flight crew about the leak and demanded it be recorded in the aircraft's maintenance log. However, 'no such entry was made by the pilot or maintenance personnel,' the complaint said."

SCOTUS Could Broaden Civil RICO's Reach. The National Law Journal (9/9, Maclean) reports, "Many believe that the 1970 civil racketeering law was created to apply only to traditional Mafia-style criminals as a way to force them to pay for their criminal enterprise." The Journal continues, "Over the years, interpretation of civil RICO (Racketeer Influenced and Corrupt Organizations Act) has evolved into a tug of war between the U.S. Supreme Court, which reads the law broadly to reach beyond the mob, and appellate courts, which have repeatedly curtailed plaintiffs' use of the act." The Journal adds, "The notion that the law should only allow recovery for harm caused by organized crime members is a myth, said G. Robert Blakey, drafter of the original statute and a law professor at Notre Dame University. … 'The mob was the occasion for RICO but it does not define its scope,' he said. 'When it was argued on the House and Senate floors, the principal spokesman said, "No, it is not a mafia statute,"' Blakey said." The Journal notes, "The welter of legal standards imposed by courts over the years has created a patchwork of splits in the circuits around the country. Despite this, the Supreme Court has been 'vacillating in the degree to which it is willing to intervene to clarify,' Blakey said. … But the new term may change that. The justices have granted review in two RICO cases, and the U.S. solicitor general is pushing for review of a third, while a fourth appeal is on the way."

Bankruptcy Attorneys Brace For Changes To Code. The National Law Journal (9/9, Geier) reports, "The bankruptcy bar is bracing for the bumpy landing many practitioners expect when the new Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 touches down next month." The Journal continues, "Most bankruptcy lawyers agree that the new code is highly complex and technical, that it will cause significant changes in consumer and business bankruptcy practice, and that it is so poorly drafted that it will take time for the courts to sort out its ambiguities." The Journal adds, "Observers also warn that a law purportedly aimed at financially undisciplined consumers is sure to bear unintended consequences for entrepreneurs, independent contractors and self-employed people -- particularly innovators who use bankruptcy relief when caught in a lean business cycle. … Alan N. Resnick, a co-editor-in-

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chief of 'Collier on Bankruptcy,' a comprehensive 23-volume treatise on statutory and procedural bankruptcy law and a professor of bankruptcy law at Hofstra University School of Law in Hempstead, N.Y., said lawyers will have their hands full getting used to the changes. … 'First and foremost for lawyers and practitioners is the learning curve. It's a very large bill, it's voluminous -- over 500 pages. Every time you look at the bill you see something else,' said Resnick, also of counsel to the bankruptcy and restructuring department at Fried, Frank, Harris, Shriver & Jacobson in New York and a member of the bankruptcy rules advisory committee of the Judicial Conference of the United States. He agrees with many other bankruptcy practitioners that the legislation, which becomes effective Oct. 17, is very poorly written and filled with ambiguities. … 'I don't think there's any doubt that we will see a lot of litigation in the year to come over interpreting many ambiguities in these provisions. It needs a technical amendments bill to clean it up,' Resnick said."

Pope Seeks Head-Of-State Immunity From Texas Lawsuit. The Texas Lawyer (9/9, Jeffreys) reports, "Joseph Ratzinger, a defendant in a Texas suit filed before he was elected Pope Benedict XVI, wants to be dismissed from the litigation, arguing he has head-of-state immunity. … But lawyers for the three plaintiffs, who allege in the civil suit they were abused by a former seminary student in Houston, vow to challenge any suggestion of immunity issued by the U.S. Department of State in response to Ratzinger's request, a challenge that could put the immunity argument to a test. … 'This is a case of first impression,' says plaintiffs lawyer Tahira Kahn Merritt of Dallas. … 'We shall see what the political arm of government does,' says Daniel Shea, a solo practitioner in Houston who represents one of the plaintiffs in John Doe 1, et al. v The Archdiocese of Galveston-Houston, et al., which is pending before U.S. District Judge Lee Rosenthal in Houston. … 'It's a legitimate political question,' Shea says. 'I would assume that they wouldn't make a decision on that without running it by the president of the United States.'" The Texas Lawyer continues, "According to a status report filed by Ratzinger on Aug. 23, the request remains under review before the State Department. Joanne Moore, a press officer for the State Department, says it does not comment on specific cases. … A lawyer for Ratzinger, Jeffrey S. Lena, a solo practitioner in Berkeley, Calif., says he cannot comment on the allegations in the suit or on the request for immunity. But in Ratzinger's Amended Motions to Dismiss, filed in May, the pope alleges he should be dismissed from the suit on several grounds, including his presumed immunity. … Ratzinger also says he should be dismissed from the suit on First Amendment grounds because the plaintiffs' claims would intrude on the internal working of the Roman Catholic Church and would require the court to interpret the meaning of religious documents and resolve issues of church governance."

CIVIL RIGHTS:

DOJ Settles Pregnancy Bias Charges With DC Fire Department. WUSA-TV, CBS 9, Washington, DC (9/9) reports, "The Justice Department today announced a settlement agreement with the District of Columbia regarding pregnancy-related discrimination in the District's Fire and Emergency Medical Services Department (FEMSD)." WUSA-TV continues, "The complaint alleged that individuals seeking employment as emergency medical technicians with the FEMSD were required to undergo a pre-hiring pregnancy test, with subsequent employment offers contingent on a negative test result. The complaint further alleged that, once hired, emergency medical technicians were advised by FEMSD management that any technician who became pregnant during her first year of employment would be in jeopardy of losing her job. … 'Using pregnancy as a barrier to a woman's entry into the workplace and continued job security is illegal and inexcusable,' said Bradley J. Schlozman, Acting Assistant Attorney General for the Civil Rights Division. 'Forcing women to choose between their baby and their job clearly contravenes federal law and will not be tolerated by this Administration.'"

Jury Acquits Border Officer Of Civil Rights Violation. The AP (9/8, Thompson) reports, "A Homeland Security officer was found not guilty (in Buffalo, NY) Thursday of beating a female Chinese tourist." The AP continues, "Jurors deliberated about five hours over two days before acquitting Robert Rhodes, a Customs and Border Protection officer, of a single federal count of violating the civil rights of Zhao Yan, 38, a businesswoman from Tianjin, China, who was touring Niagara Falls." The AP adds, "The case provoked anger in China after pictures of Zhao, her face swollen from pepper spray and her eyes and forehead bruised, were widely published after the incident last July. … Defence lawyer Steven Cohen accused the U.S. government

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on Thursday of prosecuting Rhodes to protect delicate U.S.-Chinese relations. Cohen said Rhodes was an easy target because he was openly gay and had complained about discrimination on the job. … Despite that, Cohen said, Rhodes would like to return to the job he has held for 17 years." The AP notes, "Government prosecutors claimed Rhodes used excessive force by slamming Zhao's head into pavement and striking her with his knee after pepper-spraying her at a Niagara Falls inspection station in July 2004. … Rhodes told investigators he believed Zhao and two companions might have been associated with a drug suspect who had just been caught and that the women ran when ordered inside. He said he followed proper Customs and Border Protection procedure in subduing the struggling woman."

NAACP Calls For Immediate FBI Probe Of Ohio Police Shooting Death. WEWS-TV Cleveland (9/8) reports on its Web site from a story broadcast Thursday, "Funeral services were held Thursday for a Cleveland teen shot and killed by police last week, and now the Cleveland NAACP is joining the chorus of those calling for answers and for action. Brandon McCloud, 15, was shot by police last Thursday in the bedroom of his home. … Police were carrying out a search warrant at McCloud's Jeffries Street home when they say the teen came at the officers from a closet with a knife. The preliminary ruling was that the shooting was justifiable." WEWS notes, "Cleveland police said they have asked the FBI civil rights team to step in and monitor their process. But the NAACP wants specific action taken, and they want it now."

FBI Finds No Racial Motivation For UVa Graffiti. The Charlottesville Daily Progress (9/9, Mayhew) reports, "Cryptic graffiti scrawled on the University of Virginia's Beta Bridge…was not racially motivated, the FBI has concluded. UVa President John T. Casteen III recently asked the Civil Rights Unit of the FBI in Washington to review photos of the graffiti images to determine their meaning. James Lamb, an FBI special agent, reported the FBI's findings to university police. 'A review by agents in the Civil Rights Unit found nothing to suggest racial implications,' Lamb said." The Daily Progress notes, "Members of two historically black organizations had painted announcements for their events on both sides of the bridge. Shortly after they began advertising their events, the graffiti appeared. … The information from the FBI is one more step in quelling hatred at the university, said Leonard W. Sandridge Jr., executive vice president and chief operating officer."

Azeri Man In California Sentenced To Prison For Immigrant Smuggling. The San Diego Union Tribune (9/7, Soto) reports Azeri native Yervand Asriyants was sentenced on Tuesday "to three years in prison and forced to give up his house." The Union Tribune notes, "Asriyants was arrested after an investigation by FBI and Immigration and Customs Enforcement agents into a series of smuggling attempts at the region's border crossings involving Eastern European men, women and children. 'He was smuggling aliens across the border that were not what we consider to be typical,' said FBI agent Roy Lemons, who added that the case had special urgency because of security concerns after the Sept. 11, 2001, terrorist attacks. Lemons said no terrorist links were found."

Massachusetts Anti-Gay Marriage Initiative Moves Forward. The AP (9/9, Emery) reports, "A proposed ballot initiative that would ban gay marriage passed a key hurdle Wednesday when the state attorney general ruled it would be permitted under a section of the state constitution allowing voters to overturn court decisions." The AP continues, "The action by Attorney General Tom Reilly, a Democrat who is expected to run for governor in 2006, clears the way for conservative groups to begin the long process of gathering signatures and lobbying lawmakers in hopes of putting the issue before voters in 2008." The AP adds, "Supporters now must go out and gather the signatures of at least 65,825 Massachusetts voters. If they are successful, the question then must by approved by 25 percent of two successive sittings of the 200-member state Legislature. The question would then be placed before voters again as a constitutional amendment in 2008. … The state's highest court ruled in 2003 that it was unconstitutional for the state to ban marriages between gays and lesbians. The following spring, the nation's first state-sanctioned same-sex marriages began taking place in Massachusetts and thousands of gay couples have since tied the knot."

ANTITRUST:

DOJ Files Antitrust Suit Against Realtors Association Over Internet Listings. The AP

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(9/9) reports, "The Justice Department sued the National Association of Realtors on Thursday, claiming it unfairly limits competition by allowing real estate agents to withhold home listings from Internet-based brokers." The AP continues, "The antitrust lawsuit, filed in U.S. District Court in Chicago, follows lengthy negotiations in which the government pressed the Realtors to drop restrictions designed to protect traditional brokers. … The association announced changes to its original plan Thursday, but the new steps were insufficient to ward off the lawsuit because the organization kept in place brokers' ability to discriminate against competitors who post listings online, said J. Bruce McDonald, deputy assistant attorney general in the Antitrust Division."

The Wall Street Journal (9/9, Wilke, Hagerty) reports, "The lawsuit is part of a broader effort by the Justice Department and the Federal Trade Commission to protect competition in the residential-real-estate market. Strong sales and rising prices have been a huge boon to brokers, who despite higher prices continue to charge commissions of 5% to 6% of a home's sale price -- reaping an estimated $60 billion in such fees last year." The Journal adds, "Officials of the National Association of Realtors defend their bylaws as promoting competition, and they had hoped that a revised, less-restrictive Internet rule that was offered in settlement talks with the government might head off a suit."

Reuters (9/9) reports, "The Justice Department said in a statement that the National Association of Realtors (NAR) rule 'prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourage discounting.'" Reuters adds, "The NAR said in May it would back away from the disputed bylaw that the department's antitrust division feared would allow real estate brokers to bar their property listings from being displayed by some discount rivals. … The Justice Department Thursday acknowledged that the NAR had revised the rule but said the modified version still discriminated against 'innovative' brokers and did not resolve its concerns."

The Washington Post (9/9, Downey) reports, "Discount brokerages are undercutting the traditional 6 percent commission rate that has continued to dominate even as home prices in some markets, including the Washington area, have doubled over the last five years. … The Realtors group announced yesterday that it was changing its online sales listing policy to make listings more widely available, but Justice Department officials said the changes do not go far enough." The Post adds, "At issue in the lawsuit are Internet listing rules adopted by the Realtors in 2003 that would have allowed real estate brokers to opt out of having their listings appear on the Web sites of other brokers. The rules were controversial from the beginning and association officials said they were never fully implemented, but Justice Department officials said at a news conference yesterday that of about 1,000 affiliated multiple listing services, about 200 adopted the restrictive policy."

The Agence France-Presse (9/9) quotes McDonald as saying, "The purchase of a home is one of the most significant financial decisions a family can make, and NAR's policy stifles competition to advantage some of its members at the expense of home buyers and sellers across the country … Consumers benefit when real estate brokers are free to compete vigorously by offering innovative services."

The Chicago Tribune (9/9) reports, "The suit is the latest chapter in a long-running industry fight over who should be able to access home listings. The earlier policy, known as Virtual Office Website, allowed brokerages that are members of multiple listing services to pick and choose which competitors' Web sites could display their listings. … Critics said VOW effectively undercut smaller, Internet-based competitors with lower overhead than traditional bricks-and-mortar brokerages. But many brokerages maintain that they spend so much money in marketing in order to obtain the listings--essentially their "inventory"--that they don't owe competitors any such access." The Tribune adds, "The new policy, called Internet Listing Display, forbids real estate agents from selecting which brokers can and can't receive their listings. However, individual real estate companies can opt out of sharing their data across the board. … 'The new policy raises some of the same problems as the old one,' said Deputy Assistant Atty. Gen. J. Bruce McDonald. He said the Justice Department would like to eliminate the opt-out provision entirely because consumers should have full access to online listings in order to find homes more efficiently, presumably at a lower cost. … 'The way we go about obtaining goods and services on the Web is threatening to bricks-and-mortar business models,' McDonald said."

Bloomberg News (9/8) reports, "The lawsuit is part of a broader effort by U.S. authorities to open the real estate business to more competition, McDonald said. Internet brokers, who seek to cut costs by letting customers do much of the work of traditional real estate agents, sprung up in the late 1990s and now operate in all major metropolitan areas."

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Bloomberg adds, "The Chicago-based realtors group announced a revised policy earlier today that it said responded to Justice Department concerns. The association has more than 1 million members who work in residential and commercial real estate. … Responding to today's lawsuit, the realtors issued another statement saying their new 'policy is fair, pro-consumer, pro- competitive and accommodates innovation' in the real estate business."

Inman News (9/8, Swesey) reports, "While NAR's new policy no longer allows brokers to pick and choose who among their competitors is allowed to display their listings, it still enables them to withhold listings from all brokers in the MLS. The Justice Department claims the NAR policy prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourage discounting. … 'The repackaged policy narrows the opt-out a bit, but it remains effective,'" McDonald said. "

The Baltimore Sun (8/9, Mirabella) reports, "The suit…highlights the profound transformation the Internet is bringing to the housing market, just as it has changed the way consumers shop for everything from airline tickets to stocks, cars, books and music. The NAR has reported that seven of 10 home buyers turn to the Internet when buying a home." The Sun adds, "The Realtors contend that brokers who work for their listings should be able to choose whether or not to help their competitors' business. … 'A broker gets the opportunity to choose whether or not he wants to facilitate the business fortunes of another competitor, and he ought to have that right,' said Ralph Holmen, associate general counsel for NAR in Chicago. 'Real estate is unique in that competitors cooperate in the sale of property in a way you don't see in many other industries.' … But one local Realtor, John E. Rawlings Jr., a Coldwell Banker agent in Owings Mills, said the Internet has already become a crucial tool for both traditional and Web-based brokers and agents. … 'It's the wave of the present,' he said. 'Most people shop on the Internet for listings before they even call their Realtor. It would do a disservice to the seller if they didn't have the maximum coverage possible. ... A full-service company has to show the value clients are getting for the service we offer.'"

The IDG News Service (9/9, Gross) also reports on the suit.

Taubman Family To Relinquish Control Of Sotheby's. The Wall Street Journal (9/9, Baram) reports, "Sotheby's Holdings Inc. announced a major recapitalization that saw the auction house's leading shareholders, the Taubman family, relinquish control and open the company to more outside investment." The Journal continues, "As of midnight Wednesday, former chairman A. Alfred Taubman and his family and affiliates reduced their stake in Sotheby's from almost 22% of total shares outstanding and 62% of the votes to 12.4% of both. They exchanged 14 million of their special Class B shares for 7.1 million in common stock and $168 million in cash from the auction house. As a result, Sotheby's dropped its two-class voting structure involving Class B super shares and Class A shares for a single class of stock. The dual class share structure, which is rare in public companies, had been instituted at Sotheby's before the New York-based company went public in 1988. … 'There are a lot more investors who will consider investing in Sotheby's when you have a single class of stock,' says William Ruprecht, Sotheby's president and chief executive officer. 'This will give us a degree of financial flexibility and open us up to a lot of opportunities for the future, such as equity-linked securities.' … The move also represents a retreat for Mr. Taubman, a real-estate developer, who bought the company in 1983 and served as its chairman until he was convicted of price fixing in 2001. … Mr. Taubman will remain an investor for at least two years and his son, Robert, will remain on the board of directors but will step down as a member of the executive and nominating committees, the company said. With the Taubmans ratcheting down, the largest shareholder now is Ariel Capital Management, which currently owns 8.7 million shares. Last June, Ariel informed their investors that despite Sotheby's tough year so far, they 'are confident in the long-term prospects of the business.'"

The New York Times (9/9, Sorkin, Vogel) reports, "The deal closes the chapter on the Taubman family's long role at Sotheby's and has already ignited speculation that the transaction could be a precursor to a sale or merger of the company, the largest publicly traded auction house in the nation." The Times adds, "The price-fixing scandal sent Mr. Taubman to prison for 10 months starting in July 2002 after he was convicted of conspiring to rig auction prices with Sotheby's archrival, Christie's. Afterward, employees say, he lost interest in the auction house. His son, Robert, who joined the board, had little interest in the art world and was just keeping an eye on the family investment." The Times notes, "The exorbitant expenses of the price-fixing scandal drained Sotheby's cash. The company became so cash poor that two

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and a half years ago it was forced to sell its York Avenue headquarters to RFR Holding for $175 million."

Art Dealers Spar With Archaeologists Over US-Italian Art Pact. The New York Times (9/9, Eakin) reports, "Lawyers representing art dealers and Sotheby's auction house sparred with archaeologists and cultural property experts on Thursday at a State Department committee hearing on the future of a sweeping agreement banning the import of antiquities from Italy." The Times continues, "Known formally as a memorandum of understanding, the five-year-old agreement is intended to reduce the flow of illicitly excavated Italian antiquities to the United States in return for heightened cultural cooperation between the Italian government and American arts institutions. … In the hearing, before the State Department's cultural property advisory committee, archaeologists argued for the effectiveness of the agreement, which is set to expire in January unless it is renewed. … 'The agreement has had very significant consequences,' said Malcolm Bell III, a University of Virginia archaeologist and specialist in Sicilian archaeology, citing improved policing of looting of ancient artworks in Italy and the availability of long-term archaeological loans to American institutions." The Times adds, "Mr. Bell's comments were echoed by Patti Gerstenblith, a law professor at DePaul University and cultural property specialist, who said the agreement helped provide a basis for a growing number of international regulations for the antiquities trade. … But William Pearlstein, a lawyer representing several dealers, asserted that Italian officials were not living up to the agreement. … 'In contrast to the love fest portrayed here, there is a not-so-quiet war between Italy and American museums against which it is trying to pursue cultural patrimony claims,' he said, referring to Italian action to recover some artworks."

Investment Group To Purchase Hertz For $15 Billion. The New York Times (9/9, Sorkin) reports, "In one of the largest leveraged buyouts in more than a decade, the Ford Motor Company yesterday agreed to sell Hertz, the nation's largest rental car company, to a consortium of private investors for about $15 billion in cash and debt, executives involved in the negotiations said. … Ford is expected to announce the transaction as early as today, the executives said." The Times continues, "The sale, to a group including Clayton, Dubilier & Rice, the Carlyle Group and Merrill Lynch Global Private Equity, is the latest super-sized buyout by a team of private equity firms. … Earlier this year, a consortium of investment firms paid $11.3 billion for SunGard Data Systems, which provides software and services to financial companies." The Times adds, "The largest leveraged buyout ever remains the purchase by Kohlberg Kravis Roberts & Company of RJR Nabisco in 1989 for $25 billion. … The deal ends a heated auction for Hertz, which started after Ford announced in April that it was considering putting the company up for sale or spinning it off. The winning investor group beat another team that included Bain Capital Partners, the Blackstone Group, the Texas Pacific Group and Thomas H. Lee Partners. "

European Companies Takeovers "Surge." The Wall Street Journal (9/9, Singer, Karnitschnig) reports, "A sudden surge in takeover activity in Europe, with more than $70 billion of potential deals disclosed in the first several working days of September alone, highlights a new willingness by European corporate chiefs to pursue mergers and acquisitions." The activity is "unusual in its outright aggressiveness," suggesting the region's approach to business "may have changed for good." The activity "is notable because the deals are bigger and there are more of them" than normal, and "executives and bankers say there are signs the spurt will continue." While the many industries are involved in the trend, "fueled by a confluence of factors," the "main driver of the new deal-making is a realization that shareholders have started rewarding ambitious tie-ups."

Takeover Bid Sides Seek Favorable Regulators. The Wall Street Journal (9/9, Singer, Jacoby, Johnson) reports that in Gas Natural SDG SA's $28 billion hostile takeover bid for domestic rival Endesa SA, the two companies are "clashing over who would approve any potential deal: the Spanish government or the European Commission," with each seeking the "regulator it thinks will be most sympathetic to its side." However, "lawyers who specialize in European antitrust issues say Endesa won't be able to wrest control of the approval process from Madrid."

Dell To Retain E-Mail, Data For Use In AMD-Intel Suit. Reuters (9/9) reports, "Dell Inc. has agreed to retain e-mail and other documents that could be used against its close partner Intel Corp. in a private antitrust suit filed by Intel rival Advanced Micro Devices Inc. , court papers show." Reuters continues, "The agreement, filed on Wednesday in the U.S. District Court in Delaware, comes as AMD presses

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its case against Intel, accusing the world's largest chip maker of using its market power to lock out AMD and its microprocessors from computer makers such as Dell, Hewlett-Packard Co. and others." Reuters adds, "Dell, the largest PC maker, buys microprocessors exclusively from Intel. The Texas-based PC maker agreed to preserve relevant information and copy hard drives of employees identified as 'custodians' -- those who were involved in negotiating microprocessor purchases. … Among the 28 custodians listed were Michael Dell, the company's founder and chairman. Dell Inc. reserved its right to contest a subpoena for the documents." Reuters notes, "AMD has sought information on pricing, contracts and other information from dozens of PC makers and distributors, and virtually all companies in the United States and Japan have agreed to take steps to protect data, AMD's lead counsel, Chuck Diamond, said in an interview. … AMD began talks with companies on legal document preservation in early July, Diamond said. A process of culling millions of pages of documents will follow before the case goes to trial. AMD has already served a subpoena on PC maker Gateway Inc. , according to court papers filed this week."

ENVIRONMENT:

Bipartisan Resolution Would Block Rule On Mercury Emissions. The New York Times (9/9, Janofsky) reports, "With a deadline for action approaching," Sens. Susan Collins, Patrick Leahy and James Jeffords "rallied support on Thursday for a resolution that would kill the Bush administration's proposed rule to limit mercury emissions from coal-fired power plants." They "said the rule was written to satisfy the utility industry and would take too long to produce benefits, causing serious health problems for thousands of people, especially pregnant women and young children living near the plants." The Times notes, "The deadline for the vote is Monday, although Senator Bill Frist of Tennessee, the majority leader, said other issues might force him to extend it by several days."

3rd Circuit Rejects Substantial Continuity Test In Superfund Case. The Legal Intelligencer (9/9, Duffy) reports, "It's not too often that a federal judge declares that five of the judges on her own bench were wrong about a point of law in a string of decisions spanning a decade. … What's even rarer is when that lone judge learns, just days after she sticks her neck out, that she was right to do so -- due to the coincidence of an appellate court decision in an unrelated case that tackles the same legal question." The Intelligencer continues, "Both decisions are sure to grab the attention of environmental lawyers because they clarify the rules courts should use in deciding when a corporation may be held liable under the Superfund law on a theory of 'successor liability.' … On Aug. 31, U.S. District Judge of the Eastern District of Pennsylvania Anita B. Brody handed down a 37-page decision in Action Manufacturing Co. Inc. v. Simon Wrecking Co., in which she rejected the plaintiff's argument that Marcegaglia USA Inc. should share responsibility for the costs of an environmental clean-up in Malvern, Pa. … Lawyers for Action Manufacturing had argued that Marcegaglia was also liable as the successor-in-interest to Bishop Tube Co. because it had purchased the assets of Bishop Tube in a bankruptcy court sale. … To win its argument, Action Manufacturing had to persuade Brody to apply the so-called 'substantial continuity' test." The Intelligencer adds, "Brody said she recognized that five of her Eastern District colleagues have applied the substantial continuity test in toxic clean-up cases brought under the Comprehensive Environmental Response, Compensation and Liability Act, or CERCLA, in a string of decisions spanning from 1993 to 2002. … Although the 3rd U.S. Circuit Court of Appeals has never endorsed the test, Brody found that, in light of the 1998 decision of the U.S. Supreme Court in United States v. Bestfoods, it is no longer good law, and that 'the national trend is to reject the substantial continuity test.'"

NYTimes Applauds Challenge To Administration On Forest Protection. The New York Times (9/9) editorializes, "The Bush administration has largely succeeded in its systematic effort to roll back environmental protections for America's national forests." But now "a rebellion is brewing where the White House least expected it. Western governors are challenging the most controversial rollback of all: the decision to repeal a popular rule approved near the end of the Clinton administration to protect nearly 60 million acres of remote national forest from commercial development." It "is an embarrassment for an administration that had assumed that the governors would leap at the chance to exercise states' rights." It "should also improve the prospects of" a bipartisan bill introduced by Rep. Sherwood Boehlert and Rep. Jay Inslee "to restore the old roadless rule. Now that the governors have spoken, there

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seems to be no reason to further indulge the commercial interests of a few timber companies."

FBI/DEA/ATF/USMS:

Five California Prison Gang Leaders Sentenced To Life. The AP (9/9) reports, "Five Pelican Bay State Prison gang leaders were sentenced Thursday to life in federal prison on various racketeering, drug and weapons violations after Gov. Arnold Schwarzenegger commuted their state terms." The AP continues, "The inmates were already serving life sentences at the notorious state prison in Crescent City that houses California's worst offenders. With their convictions, they will be transferred to separate federal prisons around the country. … 'By incarcerating these defendants in federal maximum security prisons, this organization's operational capabilities will be seriously disrupted,' U.S. Attorney Kevin Ryan said." The AP adds, "Defendants Cornelio Tristan, 44, James Morado, 57, Joseph Hernandez, 55, Gerald Rubalcaba, 50, and Tex Hernandez, 50, were leaders of the Nuestra Familia prison gang. They admitted that while they were behind bars, the organization murdered two former gang members and engaged in numerous drug transactions from which they profited. … The five defendants were the last of 22 Nuestra Familia members and associates sentenced in the federal case that began five years ago." The AP notes, "The U.S. Justice Department's key witness in the case, former Nuestra Familia leader Daniel Fred Hernandez, will soon walk free even though he admitted to selling drugs and committing other crimes while working for the government. … Hernandez, 42, cut a deal with federal prosecutors for a reduced sentence in return for providing evidence against fellow gang members. He was arrested nearly five years ago and faced life in prison on the same racketeering charges as the others. … As part of his plea deal, Hernandez agreed to wear a wire and set up drug and gun buys for fellow gang members."

The Monterey Herald (9/9, Reynolds, Sanchez) reports that after the sentencing, US District Court Judge Charles Breyer said that "federal prison officials now…need to make sure they keep the gang from spreading throughout the country the way it spread though the California prison system. … 'At the time of the pleas, I voiced concerns' about the potential for contamination of the federal system, Breyer said. 'I think what I said then is true today. It is a serious concern.'" The Herald notes, "Operation Black Widow began with the promise of crippling the Nuestra Familia. In 2000, federal prosecutor Robert Mueller, now head of the FBI, began the case in Salinas with 11 indictments, saying the arrests would have 'a dramatic impact on criminal activities' in Monterey County and elsewhere. This week, it all ended quietly and without fanfare."

Hundreds Of Suspected Latin Gang Members Arrested In International Crackdown. The AP (9/9, Sherman) reports, "More than 650 suspected members of MS-13 and other gangs were arrested in the United States, Mexico, El Salvador, Guatemala and Honduras in a coordinated crackdown on violent Hispanic gangs, officials said Thursday. But even as a senior FBI official set a goal of dismantling MS-13 in the next 18 months, police officials from the other countries described vast challenges in quelling gang activity in their prisons and disrupting recruitment. The roundup, conducted Wednesday by 6,400 law enforcement officers in the five countries, was run out of FBI headquarters in Washington, FBI assistant director Chris Swecker said. 'Our end game is to take out the leadership elements especially,' Swecker said at a news conference. 'These arrests are a means to that end.' Police and federal agents made 73 arrests, more than half on immigration charges, in 13 states, Swecker said." The Los Angeles Times (9/9, Kraul) notes, "U.S. police and federal agents made 73 arrests, more than half on immigration charges, in 13 states, Swecker said. Thirty-two of the arrests were in California.

CNN.com (9/8, Frieden) adds, "Top officials from each country coordinated from a joint command post at FBI headquarters in Washington. 'I haven't seen anything like this in 23 years,' said veteran FBI Assistant Director Chris Swecker, who oversaw the operation. … The operation's scope and collaborative effort 'sent a message to MS-13 and other like gangs that their criminal enterprise and the violence they perpetrate will not be tolerated,' Swecker said." KNBC-TV Los Angeles (9/8) reports on its Web site that Swecker said in a statement, "These gangs are organizing internationally, and so are we." KNBC adds, "The effort was..coordinated by the FBI's National Gang Task Force, which was established last year to fight gang violence. … Swecker described Thursday's operation as 'historic ... unprecedented in scope.' … 'This represents but a beginning, another step, in an ongoing national and

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international effort to go on offense and to strike back against gang violence,' Swecker said."

Oregon Arrests. The Oregonian (9/8, Crombie) reports, "Federal agents arrested five self-described MS-13 gang members on Wednesday as part of a nationwide crackdown on the notoriously brutal street gang. … Immigration authorities would not release the names, citing their practice of not identifying individuals accused of administrative violations." FBI Oregon SAC Robert Jordan "announced the arrests, saying authorities are 'seeing the beginnings of a movement of members to Oregon, and we are very serious about making sure MS-13 can't establish a strong foothold in our communities.' The suspected gang members were identified through criminal investigations throughout the country, said Dan Nielsen, assistant special agent in charge of the FBI in Portland." The AP (9/8) notes that Jordan, announcing the arrests, "said the FBI is serious about ensuring that MS-13 can't establish a strong foothold in the communities. Last year, the FBI set up a national task force to focus on dismantling MS-13."

Georgia Arrests. The Gwinnett Daily Post (9/9, Brooks) reports, "Four arrests were made Wednesday in Gwinnett County as part of an international investigation into the violent street gang 'Mara Salvatrucha,' federal officials said Thursday. Nationwide, 73 individuals were arrested in the FBI-led crackdown involving local police officers and federal agents in 15 states. … Six gang members were arrested across metro Atlanta, including four in Gwinnett, said FBI Special Agent Steve Emmett." The Daily Post notes that among those arrested was Gustavo 'Conejo' Martinez, who "is the leader of a local 'set of MS-13,' according to the FBI."

Wisconsin Police Arrest OTC Drug Theft Suspects With Possible MS-13 Ties. WMTV-TV Madison (9/8, Swaby) reports on its Web site from a story broadcast Thursday, "'$45,000 to $55,000 on an average day,' says Captain Richard Bach of Madison Police's North District. Police claim that dollar figure is what their suspects brought in by allegedly stealing over the counter medications while having ties to MS-13, a violent gang." WMTV notes, "An FBI tip brought officers to a Northside Madison motel on August 29th. A four hour stake out brought in the two suspects, 21-year old Leonel Avendano and 23-year old Elvis Fuentes-Lazo as well as two boxes of evidence. Bach says, 'in their possession was about $10,000 worth of stolen over the counter medication that they had stolen from about 22 Walgreens in the Madison area the day before.'"

Federal Agents Arrest 10 Suspects In Haiti-Miami Cocaine Ring. The Miami Herald (9/9) reports, "Federal agents arrested 10 suspects in an alleged Haiti-to-Miami cocaine-smuggling ring whose members include a trio of baggage handlers at Miami International Airport, according to sources familiar with the investigation. The illegal drugs were transported in suitcases on American Airlines flights departing from Port-au-Prince and arriving at MIA, sources said. The baggage handlers received tips about which luggage contained the cocaine, so they could unload it to evade authorities." The Herald notes, "The unsealed indictment names 11 defendants, including one who is still at large. The investigation, by the FBI, Drug Enforcement Administration and Immigration and Customs Enforcement, is targeting other suspects. Officials with the FBI, which is leading the inquiry, declined to comment."

US Law Enforcement Fighting Increased Drug Gang Currency Smuggling. Reuters (9/8, Gaynor) reports, "For decades, U.S. law enforcement agencies have clamped down on Mexican drug cartels hauling cocaine, marijuana, heroin and amphetamines north over an ever-more tightly watched border to the United States. Now, with stricter controls on bank accounts and wire transfers, officials are concerned that drug gangs are increasingly running illicit profits back to Mexico in piles of hard cash in cars, trucks and even on foot. U.S. authorities have seized almost $40 million in bank notes headed into Mexico since 2002." Reuters notes, "Hard currency seizures are also vigorous within the interior of the United States, where the Federal Bureau of Investigation netted $12 million bound for the so-called Juarez cartel in just one operation last year, dubbed 'Baja Kings.'"

DEA, Local Authorities Arrest 44, Seize Drugs In East Palo Alto, California Crackdown. The San Francisco Chronicle (9/9, Gaura) reports that a "crackdown on organized drug gangs in East Palo Alto has resulted in 44 arrests and the seizure of $500,000 worth of crack and powdered cocaine, methamphetamine and heroin, police officials announced today. Police are searching for another 12 fugitives connected with the case. Spurred by a rising tide of violence and homicides in East Palo Alto, which has seen 13 killings since January, local officials teamed up with an array of state and federal law enforcement agencies to crack down on drug gangs that have taken over local parks and terrified residents

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here." East Palo Alto Police Chief Ron Davis said the city "acted on lessons learned in the early 1990s, when gang warfare and 42 homicides in one year made the town the per-capita slaying capital of the United States. 'We made promises at that time that we would never let the violence rise as high as it was in the '90s,' Davis said. Officials sought help from state and federal agencies in March, when the city had experienced four homicides, but observers could tell that gang violence was on the rise. The resulting collaboration with the Mobile Enforcement Team -- a special group of agents within the federal Drug Enforcement Administration -- brought together officers from Palo Alto police, the San Mateo County Sheriff's Department, the San Mateo County Narcotics Task Force, the U.S. Attorney's Office, the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives and U.S. Immigration and Customs. In the course of serving 20 search warrants, agents seized 6.1 pounds of crack cocaine, 3.8 pounds of powdered cocaine, 2.7 pounds of methamphetamine, 3.5 pounds of heroin, five vehicles, 17 firearms and $129,113 in cash. Those arrested face anywhere from 10 years to life sentences in prison, according to DEA Special Agent Javier F. Pena."

The San Francisco Examiner (9/9, Carpenter) reports, "Sheriff Don Horsley said the DEA was brought in for its Mobile Enforcement Team program, which can be deployed to a city to investigate individuals and organizations involved in drug trafficking. 'We asked that the DEA come and give us a hand on this, in light of an 18-month upswing in gang violence' in East Palo Alto and other Peninsula cities. Since January, 13 people have been shot to death in East Palo Alto. Horsley pledged to continue working with state and federal authorities to gather intelligence on the most violent gangs and those responsible for drug distribution in the county over the long term. The increased gang activity in East Palo Alto and on the Peninsula in general can be largely attributed to recruitment efforts by prison parolees looking to regain territorial control in the area, police said."

US Illicit Drug Use Down In 2004. USA Today/AP (9/9) reports that the "percentage of Americans using illicit drugs declined slightly last year, though the results were more pronounced for youths, according to a survey released Thursday. For people ages 12-17, there was a 9% drop in illicit drug use between 2002 and 2004, the federal government announced." ONDCP Director John P. Walters said, "Today's survey confirms the welcome trend on teen drug use." Overall, "19.1 million Americans used illicit drugs last year, or 7.9%. The numbers were basically the same for the surveys taken in the previous two years, when about 8% of Americans reported using illicit drugs within the previous month. The National Survey on Drug Use and Health is an annual survey of close to 70,000 people. It measures drug and alcohol use through several categories, including age, ethnicity and type of drug. The survey showed that illicit drug use dropped from 11.6% to 10.6% among youths ages 12-17 from 2002 to 2004. However, binge drinking, which is defined as five or more drinks in one setting, increased in the same age group -- from 10.6% to 11.1% from 2003 to 2004."

House Government Reform Panel Mulls What To Do About Palmeiro. The Baltimore Sun (9/9, Barker) reports that the House Committee on Government Reform "remains uncertain whether there is enough evidence to warrant referring Rafael Palmeiro's steroids case to the Justice Department for a perjury investigation, and it is considering several options for handling his case." In one scenario, the committee "would make public the documents it received Aug. 12 from Major League Baseball related to the Orioles first baseman's positive steroids test, according to officials familiar with the discussions. That way, the public could decide for itself about Palmeiro, who had told lawmakers in a March 17 hearing that he had never used the performance-enhancing drugs. The document release could happen in the next two weeks. The documents include the results of Palmeiro's drug tests, the date of the tests and a record of secret proceedings before an arbitration panel to which Palmeiro had appealed the results of his positive test. His appeal was denied, and Palmeiro served a 10-day suspension beginning Aug. 1." Releasing the documents "would answer at least one important question: How did Palmeiro choose to defend himself when he appeared before the arbitration panel several months ago with his reputation at stake?"

San Antonio Couple Pleads Guilty To Drug Ring Role. The San Antonio Express-News (9/9, Contreras) reports, "A San Antonio couple pleaded guilty Thursday to charges they were involved in a drug-distribution cell linked to the Texas Mexican Mafia that used a local police officer to avoid detection." Mike Flores and Toni Lopez "also admitted that federal prosecutors could show at trial that they dealt heroin and cocaine and that then-San

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Antonio police officer Enrique Hinojosa, 32, tipped them off to drug investigations. The conspiracy is alleged to go back to at least April 2001. Flores pleaded guilty to conspiracy to distribute more than 100 grams of heroin, and Lopez pleaded guilty to aiding and abetting the possession of heroin. Their pleas came just days before their trial was to begin. Hinojosa, who worked with the San Antonio Police Department from January 2001 to March 2004, is now the only one in the case scheduled for trial Monday before U.S. District Judge Orlando Garcia."

IMMIGRATION:

Danbury, CT, Police Enforcing Federal Immigration Laws. The Danbury (CT) News-Times (9/9, Reid) reports, "Earlier this year, (Danbury, CT) Mayor Mark Boughton wanted the federal government to deputize state police officers so they could enforce immigration laws. … As it turns out, the extra authority might not have been needed." The News-Times continues, "A recently unearthed U.S. Justice Department memo says state and local cops can make arrests after traffic stops if they find civil immigration violations, such as someone overstaying a visa. … No specific federal authority is needed for local officers to make such arrests, according to the 2002 memo, which came to light in a recent court case." The News-Times adds, "Danbury officials said the memo will have little impact on law enforcement in a city that has seen a sizable increase in South American immigrants in recent years. … At the same time, however, Danbury officials confirmed city police officers are checking the immigration status of some drivers and making some arrests on immigration charges. … They complained, however, they receive little help from the federal government in prosecuting the cases. … 'The problem of enforcement is not at the local level,' Boughton said. 'We don't get the cooperation we need from Immigrations and Custom Enforcement.'"

Schwarzenegger Expected To Veto Immigrant Drivers License Bill. The Los Angeles Times (9/9, Salladay, Vogel) reports, "The fate of a bill that could extend driver's licenses to illegal immigrants remained unclear today as some Californians condemned it and others praised the measure." The legislature sent it to Gov. Arnold Schwarzenegger "despite signals that the Republican governor would veto it" because he is waiting for the DHS to implement new Federal regulations. Federal lawmakers "gave states the option to create distinct driver's licenses for illegal immigrants under the Real ID Act passed in May. That sweeping law will require most states to change the information they include on driver's licenses, the documents they require to issue a license and how they store driver's license data." Many state are waiting for the new DHS rules which will be issued in 2006.

NYTimes Criticizes Expected Veto Of Gay Marriage Bill. The New York Times (9/9) in an editorial says, "Gov. Arnold Schwarzenegger was a profile in timidity this week when he vowed to veto a pioneering bill authorizing gay marriage in California." He "could not find the courage to sign the bill into law. Instead, even before receiving the bill, he announced a tortured rationale for vetoing it." The Times surmises he vetoed the bill because while he "was initially hailed as a centrist Republican superhero…his popularity has plummeted, and polls show that most Californians are inclined to oppose his re-election. Only his Republican base continues to back him." His "own views of gay marriage are hidden beneath vague, elusive, sometimes contradictory comments that add up to ducking the issue." He "is afraid to say what he really thinks. He falls back on a rationale that would leave the issue to the courts or another vote of the people. Anything to get him off the hook."

Immigration Judge Orders Minnesota School Squatter Deported. The AP (9/9) reports, "A Mexican immigrant who was found living at a (Bloomington, MN) high school last winter must leave the country, an immigration judge decided Wednesday." The AP continues, "Francisco Serrano was ordered to depart within 120 days, though he plans to appeal the decision." The AP continues, "Serrano, who is in his early 20s, hid at Apple Valley High School, which he had once attended, and was arrested by immigration officials after he was discovered in the school's boiler room. … He has said he and his family moved to Connecticut after his sophomore year here. He said he returned to Minnesota on Christmas Eve with only $200 in his pocket." The AP adds, "Serrano's situation drew some support from parents who e-mailed the school after the man was discovered, though the school was also criticized for allowing someone to live there undetected. … Tim Counts, a spokesman for the Bureau of Immigration and Customs Enforcement, said it was a clear case of someone abusing their visa privileges."

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TAX:

US Indicts "Survivor" Winner Hatch For Tax Evasion. Reuters (9/8) reports, "A federal grand jury on Thursday indicted Richard Hatch, who took home $1 million as the first winner of the CBS hit reality show 'Survivor,' for tax evasion, bank fraud and other charges." Reuters continues, "The U.S. Attorney's office in Providence, Rhode Island, accused Hatch, a motivational speaker, of failing to report the $1 million winnings in 2000 and about $391,000 he earned from half a dozen other sources. … The 10-count indictment follows a grand jury investigation that began in March when Hatch backed out of a deal with prosecutors to plead guilty to two tax evasion charges that carried a maximum 10-year jail sentence and a $500,000 fine."

The AP (9/8, Johnson) reports, "Hatch faces 10 charges, including tax evasion, filing a false tax return, wire fraud, bank fraud and mail fraud. U.S. Attorney Robert Clark Corrente said Hatch, 44, did not pay taxes on his 'Survivor' prize, income from a radio show and rental income. The Newport resident also allegedly used donations to his charity, Horizon Bound, to cover personal expenses." The AP adds, "Prosecutors charged Hatch with two counts of tax evasion in January. He agreed to plead guilty, but backed out of the deal in March, saying he thought CBS was responsible for paying the taxes on his prize. CBS has said Hatch was well aware of his obligations to pay taxes on the money. … The grand jury, which received the case after the plea deal fell apart, indicted Hatch for filing false 2000 and 2001 tax returns, which omitted his income from the reality show, $327,000 he was paid to co-host 'The Wilde Show' on a Boston radio station and $28,000 in rent on a property he owns in Newport."

CONGRESS-ADMINISTRATION:

Bush Signs Katrina Relief Bill, Vows Federal Action "For The Long Haul." President Bush last night signed a $51.8 billion relief package for Katrina recovery aid. The President also vowed to take steps to speed up the Federal effort in the affected region, and tried to reassure the victims that the government will be at their side "for the long haul." Throughout the day, the President continued to come under fire from Democrats and media commentators, and new polls show the American people are also giving him low marks for his handling of the hurricane's destruction. These developments take place in an atmosphere of increased partisan sniping in Washington. As the Washington Post (9/9, A18, Babington) says this morning, yesterday's events "left little doubt that political reaction to the catastrophic storm will be dramatically more partisan than was the response to the Sept. 11, 2001, terrorist attacks." GOP Sen. Jeff Sessions of Alabama may have summed up mood on Capitol Hill when he told reporters, "We are reaching a perfect political storm."

Earlier yesterday, the President tried to reassure the hurricane's victims. ABC World News Tonight (9/8, lead story, 3:25, Vargas) reported, "A week and half after Hurricane Katrina, the government and the country's major relief agencies are still struggling in a major way to get hurricane victims the help they need. $10 billion has already been spent on that effort. $10 billion. And today, President Bush said it was only the beginning." Bush was shown saying, "The government is going to be with you for the long haul. In all the steps we take, our goal is not simply to provide benefits, but to make them easy and simple as possible to collect." CNN's The Situation Room (9/8, Blitzer) added Bush also" declared next Friday, September 16, a national day of prayer and remembrance."

Reuters (9/9, Cowan) reports Bush signed the aid bill last night. The Senate approved it "by a vote of 97-0 after receiving it from the House of Representatives," where it "also passed it overwhelmingly." In a statement, the President said, "The people affected by this storm have immediate needs that we must continue to meet without delay. More resources will be needed as we work to help people get back on their feet."

Analyzing the politics of the Katrina recovery effort, the CBS Evening News (9/8, story 2, 2:50, Borger) added, "There's no rallying around the President as there was after 9/11. This time, the enemy is incompetence." A "new CBS poll shows that two out of three Americans think the President himself responded too slowly. His leadership rating, usually his strong suit, is the lowest of his presidency, a full 35 points less than it was after 9/11. Democrats see a political opportunity, criticizing what they describe as the President's mismanagement of the crisis and his skewed domestic priorities. The Republican refrain: Look ahead, blame later." NBC Nightly News (9/8, story 2, 2:10, Gregory) added, "The criticism grows. A new Pew Research poll shows two-thirds think the President should have done more to speed up relief efforts. And the President's mother has herself been criticized as being insensitive" for her remarks about Katrina victims.

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CNN's The Situation Room (9/8, Bash) analyzed the Administration's moves yesterday from a political standpoint, saying, "What we're seeing here at the White House…is a continuation of the attempt to try to reverse some of that initial criticism. Today, what the President announced were some initiatives to try to cut through the red tape, some initiatives like relaxing requirements in order to get some of these evacuees their benefits, federal benefits, like Medicare, Medicaid, unemployment checks faster." He also "promised that states taking in evacuees would be reimbursed. All of this, the president said, is part of an effort that will take some time." CNN added, "The White House is well aware of the fact that Americans will start seeing a lot more of what we have been record reporting on CNN today, bodies being recovered. And they want to show that the President is, first of all, in touch with what was is going on, on the ground. And also, they understand that Americans might have some more outrage when they hear more and more of the grim news."

The Washington Post (9/9, A1, Baker, Goldstein) reports on the new poll numbers, and says Bush "has scrapped his schedule to focus on hurricane relief after being criticized for reacting too slowly to Katrina's devastation." A Pew Research Center survey "found that 67 percent of Americans think Bush could have done more to respond to the storm. The survey placed his overall job approval rating at 40 percent, down 10 points since January. A poll by Zogby America recorded its lowest-ever approval rating for Bush, 41 percent." The Los Angeles Times (9/9, Vieth, Curtius) also says "new polls suggested that many Americans were displeased with the government's performance. … The dissatisfaction suggested that the White House was still struggling to divert attention from mistakes made during the initial response and focus instead on signs of progress moving forward." The Financial Times (9/9, Daniel), Reuters (9/9, Whitesides) and Bloomberg (9/9), among other sources, also report on the new poll numbers.

The Christian Science Monitor (9/9, Feldmann) says this morning, "As distasteful as it is to many Americans, the politics of hurricane Katrina have rushed in to fill the agendas of elected officials nearly as quickly as the floodwaters inundated New Orleans." Katrina, says the Monitor, "has become an anti-9/11 of sorts. Whereas four years ago people dropped their red and blue identities to rally around their leaders, Katrina seems to have exacerbated the extreme polarization of the Bush years."

The Baltimore Sun/AP (9/9, Espo) notes Congress acted "with extraordinary speed" on the spending bill. White House "officials said the money was needed without delay to prevent an interruption in the massive operation designed to repair the damage along the Gulf Coast and bring hope to an almost unimaginable number of evacuees forced to flee." The bill "brought the total in disaster aid to $62.3 billion -- a total that is certain to rise as the full impact of the storm becomes clear." Also commenting on the speed of Congress' actions, the Wall Street Journal (9/9, Rogers) adds, "Rarely has the House, for example, considered such a large appropriations bill under the strict procedures applied yesterday, which severely limited debate and permitted no amendments."

Throughout the day, TV broadcasts across the nation continued to provide saturation coverage of Katrina's aftermath. On the networks' evening news shows, approximately 60% of the coverage of the hurricane zone last night was devoted to stories of human suffering and hardship, such as the ongoing evacuation of New Orleans and health threats in the city, difficulties in finding aid or applying for it, and other stresses on social service networks coping with the influx of Katrina survivors. About 40% of the coverage was devoted to the Federal Government's response to the disaster, including political debate over the funding for relief efforts, criticism of FEMA's response, and events such as visits to the zone by Vice President Cheney and First Lady Laura Bush.

A majority of local newscasts chose to lead their coverage with the news that a large hurricane aid package has been approved in Washington. KCAL-TV Los Angeles (9/8, 8:00 p.m.) reported, "Late tonight, Congress joined forces to approve the $51.8 billion bill that will help victims of Hurricane Katrina. The Senate vote was unanimous." KTVT-TV Dallas (9/8, 10:11 p.m.) noted that the bill has already been signed by the President: "Nearly $52 billion of Federal aid will pour into areas hit hard by Hurricane Katrina. Congress approved the aid package requested by the White House and President Bush immediately signed it."

Many reports also noted Bush's call for a day of prayer. For example, WABC-TV New York (9/8, 5:08 p.m.) reported, "President Bush has called for September 16th as a National Day of Prayer for the victims of Hurricane Katrina." Many other stations pointed out that Vice President Cheney paid a visit to the region affected by Katrina. KTVI-TV Chicago (9/8, 5:40 p.m.) reported, "Fresh from his vacation in Wyoming,

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Vice President Dick Cheney is touring the hurricane devastation." Cheney "arrived in Mississippi today to meet with local and state officials and [assess] the damage caused by Hurricane Katrina. His wife, Lynne, and Attorney General Alberto Gonzales are with him on the trip." KGMH-TV Denver (9/8, 11:01 a.m.) led with the Cheney story, stating that he was also "accompanied by [Homeland Security Secretary] Michael Chertoff."

KSAZ-TV Phoenix (9/8, 9:41 p.m.), as many other stations across the country, put the story in the context of criticism being lobbed at the Federal government for its performance in response to the disaster. As the station reported, "In wake of bitter criticism [that] this Federal government bungled its response to Hurricane Katrina, Vice President Cheney toured Gulfport, Mississippi, promising to cut through the red tape."

Some stations noted criticism of the Administration from local lawmakers. WLS-TV Chicago (9/8, 5:06 p.m.) reported, "US Senator Dick Durbin is joining the Democratic chorus demanding that the FEMA head resign. Durbin says Michael Brown lacked experience and exercised poor judgment in the early response to Hurricane Katrina." Still, even with such accusations seeming commonplace, WGN-TV Chicago (9/8, 12:05 p.m.) reported, "A widespread 'blame game' on the response to Hurricane Katrina has been going on for days. But a new CNN/USA Today poll finds most of people surveyed think no one is to blame. Of the 609 people questioned, 38% said no one is to blame"

Other stations focused on the economic impact the hurricane will have on the country as a whole. A good example of this was WAGA-TV Atlanta (9/8, 6:23 p.m.), which reported, "Experts say Hurricane Katrina will impact more than just jobs and the price of gasoline. The storm's destruction will put a strain on home-building supplies made from oil such as asphalt, shingles, plastic plumbing pipe and some types of insulation. The Farm Bureau estimates that Katrina caused a billion dollars in damage to agriculture, wrecking sugar cane and poultry farms. The price of coffee could also go up."

"Yankee Reserve," Management Style Among Reasons Offered For Bush's Performance. A number of newspaper stories this morning analyze Bush's actions in Katrina's aftermath, and offer differing explanations for what many consider a lackluster performance. USA Today (9/9, Keen, Benedetto) says, "Bush has shown that he can be empathetic, sensitive and decisive." But "there's another side to Bush. He can seem detached and unaware of the messages conveyed by his words and conduct." Bush's "critics say his response to the hurricane proves that he's not a leader. … Others say he inherited from his parents a Yankee reserve that sometimes prevents him from quickly grasping the emotional requirements of pivotal events." In his 1992 re-election campaign, "President George H.W. Bush seemed disconnected from the pain of persistent joblessness and glanced at his watch during a debate with Bill Clinton. Bush's mother, former first lady Barbara Bush, said Monday at Houston's Astrodome that some evacuees there 'were underprivileged anyway, so this is working very well for them.'" NBC Nightly News (9/8, story 2, 2:10, Gregory) also reported "the President's mother has herself been criticized as being insensitive" for remarks about Katrina victims.

Meanwhile, Knight Ridder (9/9, Thomma) blames Bush's perceived failure on his "long record of avoiding critics, rewarding loyalty even in the face of failure and shunning -- even punishing -- those who disagree with him. It's a management style that shapes how he governs -- disdaining compromise with Democrats in Congress, for example -- and one that brushes off whole sectors of the American electorate." That "could come back to haunt him, as is now evident in the two problems -- Iraq and Katrina -- that together have sent his approval ratings to the lowest levels of his presidency and threaten his second-term agenda." His "style of isolating himself from unwelcome voices pleases his core supporters, who don't want him to compromise, but it sacrifices the broader public appeal that helped Ronald Reagan and Bill Clinton weather second-term setbacks."

More criticism of Bush's performance appears in the opinion pages of major newspapers today. Al Neuharth writes in his USA Today column (9/9), "Bush used to be part owner of a major league baseball team. He once coveted the Baseball Commissioner's job. So, he'll understand this baseball parlance." He "has had three really big at-bats during his four-plus years in the White House. First, 9/11. Then, the Iraq War. Now, the Katrina Hurricane tragedy. His batting performance: One home run (9/11). Two strikeouts (Iraq and Katrina)." Neuharth adds, "A .333 batting average is pretty good for a baseball player." But "in the Oval Office, two strikeouts in three crucial at-bats is bringing boos from more than half the crowd, as national polls show."

Columnist David Ignatius writes in the Washington Post (9/9, A25) reports, "In the aftermath of Katrina, there's an

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opening for a different kind of politics in America. The new politics isn't about values; it isn't about settling scores. It's about performance. It's about putting a wounded, shaken country back on its feet, much as Franklin Delano Roosevelt did in his famous First Hundred Days." The Administration "remains in its hunkered-down defensive crouch," and it is "outrageous to read that Homeland Security Secretary Michael Chertoff has been telling members of Congress that media reports are overstating the problems for storm survivors -- this from a man who was denying on National Public Radio last Thursday that there was any crisis at the New Orleans convention center at the very hour reporters were finding dead bodies and abandoned, starving people there. If the administration maintains that tone, it will self-destruct."

E.J. Dionne writes in the Washington Post (9/9, A25), "'Accountability.' Keep that word in mind whenever you hear defenders of President Bush accusing his political opponents of playing the 'blame game' by daring to pose pointed questions about why so many people in New Orleans, most of them very poor, had to wait so long for relief from their suffering." The White House "must have run the phrases 'blame game' and 'finger-pointing' through its focus groups. In his Wednesday briefing, White House press secretary Scott McClellan used variations on those formulations eight times each." Bush's critics "aren't backing off, because they've been here before. Former Senate Democratic leader Tom Daschle, who cooperated with Bush in the days after Sept. 11 but lost his South Dakota seat after a long, White House-inspired campaign accusing him of being 'obstructionist,' speaks from experience. 'Democrats to this day remain outraged at the blatant efforts that Republicans, especially in the administration, made to undermine the perception of our patriotism and our motivations,' Daschle said in an interview."

Paul Krugman writes in the New York Times (9/9), "Now that the Bush administration has botched its own response to disaster, we're not supposed to play the 'blame game.' Scott McClellan used that phrase 15 times over the course of just two White House press briefings." Krugman later writes, "In Iraq, the administration displayed a combination of paralysis and denial after the fall of Baghdad, as uncontrolled looting destroyed much of Iraq's infrastructure. The same deer-in-the-headlights immobility prevailed as Katrina approached and struck the Gulf Coast. The storm gave plenty of warning."

Dana Milbank wrote in Washington Post's (9/9, A2) "Washington Sketch" column, "The image of the United States has taken a beating over the past 10 days, as foreign television and newspapers show images of death, chaos and disease in New Orleans. Even lowly Bangladesh (per capita income: $400 a year) was moved to send $1 million in foreign aid. But Karen Hughes has another view. The Bush confidante, now undersecretary of state for public diplomacy, held a meeting with her staff in Foggy Bottom yesterday and was asked about the international ramifications of the response to the New Orleans flooding. The problem, Hughes replied, was not a failed relief effort but a foreign press that did not appreciate the federal government's good work. … Ten days after Katrina struck, the administration and its critics faced credibility challenges. On one side, Bush and his aides continued to admit what even key Republicans in Congress have said: that the response to the hurricane was a debacle. On the other side, liberals ratcheted up their criticism of the administration, giving Bush support for his accusation that they are playing politics. … Yet the Bush administration, whether discussing Iraq or Katrina, remains unfailingly upbeat."

GOP Senators Ask Bush To Appoint Relief Czar; Giuliani, Powell, Franks Mentioned. Reuters (9/9, Zakaria) reports GOP Sens. Sens. Kay Bailey Hutchison and Rick Santorum "pressed President George W. Bush on Thursday to appoint a top official to lead the long-term recovery from the devastation of Hurricane Katrina." White House officials "have not ruled out such an option, saying it is among several being discussed for confronting long-term problems in Katrina's aftermath." Reuters adds, "Various names have been mentioned in Washington for the job, such as former New York Mayor Rudolph Giuliani, former Secretary of State Colin Powell and retired Gen. Tommy Franks, former head of the US Central Command."

Democrats Reject GOP Plan For Hill Inquiry, Will Not Appoint Members. The New York Times (9/9, Hulse) reports, "Congressional Democratic leaders said Thursday that they would not appoint members to a new House-Senate committee to investigate failures in the government response to Hurricane Katrina, calling instead for an independent inquiry." House Minority Leader Nancy Senate Minority Leader Harry Reid "said they would not cooperate because the committee would be controlled by Republicans, would have uncertain authority and was created without consultation with Democrats." Reid "said he would not place any Senate Democrats on the panel 'as it is currently described,' adding: 'The only way to ensure that all levels of our government are held accountable to the people is to take this process out of

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the hands of politicians with a vested interest in the outcome.'" Republicans "said they would still move forward with the panel initiated Wednesday by the House speaker, J. Dennis Hastert, and Senator Bill Frist, the majority leader, and would try to persuade Democrats to drop their objections."

Reuters (9/9, Smith) adds, "While the joint congressional inquiry appears to be getting off to a rocky start, a Senate panel began its investigation into the government response effort." Sen. Susan Collins, "who heads the Senate Homeland Security Committee, said she is committed to pushing the inquiry forward on a bipartisan basis." She and Sen. Joseph Lieberman, the top Democrat on the panel, "spoke to reporters following a closed-door committee session with officials from the Federal Emergency Management Agency and the Coast Guard."

Democrats Forced Vote On Taking Control Of Relief Funds Away From FEMA. The Wall Street Journal (9/9, Rogers) reports that during debate on the relief package in the House, there was "growing frustration that Congress finds itself in a situation where it is pouring tens of billions of dollars into disaster accounts administered by the same Federal Emergency Management Agency that many lawmakers have so roundly criticized." On a "party-line 221-193 vote," Democrats "made a doomed attempt to permit a vote calling for a reorganization of the relief effort." The House "modified the administration's request to provide $15 million to beef up the inspector general's office at the Department of Homeland Security to audit FEMA's expenditures. But the agency is spending money so quickly that neither the House nor Senate has held a single hearing on the requests."

Costs Of Relief Effort Generate Partisan Sniping. As estimates of the costs from Hurricane Katrina exceed $100 billion, the political debate in Washington over how to fund the unprecedented disaster relief and recovery effort also took on a more charged and partisan tone. ABC World News Tonight (9/8, story 3, 2:45, Vargas) reported "people are asking all across the country and in Washington, can this country really afford it?" ABC (Moran) added there is "going to be a huge political fight over how to pay" for Katrina. Treasury Secretary John Snow "said the growing US economy can handle it." Secretary Snow was shown saying, "The fact that the underlying fundamentals are so solid, gives us a better ability to deal with the disaster." Moran: "Many Democrats are mindful that the country is spending $5 billion per month in Iraq, and demand that Mr. Bush curtail his tax cuts." Conservatives "are worried about the costs, too, with some House Republicans suggesting a one-year delay in the new prescription drug benefit program." The Administration "says the country can simply borrow the money, since the costs of Katrina, while huge, are one-time expenses." White House spokesman Scott McClellan: "It will have an impact on the budget, at least in the short-term. But these are one-time costs we're talking about."

CNN's Lou Dobbs Tonight (9/8, Henry) reported that "today for the first time we started hearing some tough questions by leaders in both parties about how high this price tag will be and whether or not it's a blank check. You're hearing Republican lawmakers like Mike Pence say they're concerned. They want to see some cuts in other federal programs in order to offset all this relief money. You're hearing Democrats like Senator Harry Reid say they're concerned that over 90 percent of the money is going to go to FEMA, the beleaguered federal agency that has had a lot of questions about its management raised. … And Senator John McCain told me that Congress could probably have a better job of finding ways to pay for this if they cut some of the pork out of the recent highway and energy bills, but obviously that's very unlikely to happen."

USA Today (9/9, Wolf) reports Katrina "has set the federal government on a spending spree. … As the months pass, the government will face pressure to pay for health and education services usually rendered by states, cities and school districts. That will apply not just in Louisiana, Mississippi and Alabama, but in states housing and caring for Katrina's evacuees." That is "likely to push the deficit for fiscal year 2006, which begins Oct. 1, beyond last year's record $412 billion. Before Katrina, the 2006 deficit was projected to be $314 billion." Bill Hoagland, the top budget aide to Senate Majority Leader Bill Frist, "agreed that the deficit is likely to top $400 billion." Leon Panetta, White House chief of staff and budget director under President Clinton, "said it could hit $500 billion."

The New York Times (9/9, Andrews, Hulse) adds, "Other ideas circulating through Congress that could entail significant costs include these notions: Turning New Orleans and other cities affected by the storm into big new tax-free zones. Providing reconstruction money for tens of thousands of homeowners and small businesses that did not have federal flood insurance on their houses or buildings. Making most hurricane victims eligible for health care under Medicaid and having the federal government pay the full cost

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rather than the current practice of splitting costs with states." The Times adds, "The torrent of money -- more than $2 billion a day over the weekend, and expected to remain above $500 million a day for the foreseeable future -- prompted several lawmakers to warn about the perils of an open checkbook."

Lobbyists Try To Work Projects Into Katrina Relief Bills. The Wall Street Journal (9/9, Mullins) reports, "Bolstered by the shift in political winds from Hurricane Katrina, US corporations are pressing lawmakers to approve a range of issues that have languished on Capitol Hill, some of which have little to do with hurricane relief." For example, "airlines are asking Congress to suspend federal jet-fuel taxes. Oil and gas companies want drilling rights in new parts of the Gulf Coast. Insurance companies want the ability to use tax-free funds to create a multibillion-dollar industry fund to cover future claims from natural disasters. Shipbuilders such as Northrop Grumman Corp. want billions of dollars to help rebuild shipyards in Mississippi. Even small chicken farmers are asking Congress for low-interest loans to fix or replace hundreds of damaged or destroyed chicken coops in Mississippi."

Katrina Evoked In Medicaid Overhaul Debate. The Wall Street Journal's (9/9, A4, Harwood) "Washington Wire" reports, "A bipartisan group of senators urges Finance Chairman Grassley to delay slicing $10 billion from Medicaid and other entitlement programs serving many of those displaced by Katrina. 'We must remain focused on the relief efforts and ways to deliver both short- and long-term aid,' write Republicans Smith and Snowe, joined by Democrats Bingaman and Lincoln." But "conservatives like Rep. Barton of Texas warn Katrina shouldn't become an excuse to block Medicaid overhaul. 'Let me repeat, so that everybody hears me -- evacuees from Hurricane Katrina would not be hurt!' he says."

LATimes Urges Congress To Reconsider Bankruptcy Law In Wake Of Katrina. In an editorial, the Los Angeles Times (9/9) discusses a specific category of Hurricane Katrina victims, those "families with the means to flee the hurricane, perhaps even with insurance to cover some losses, but without the resources to make a living immediately. … They have lost their homes but are living off their credit cards and maybe a little savings. As those savings dwindle, however, the mortgage keeps coming due and their credit card nears its limit. Soon the paycheck may stop, and with it their health insurance." The Times argues that Congress "should take this opportunity to revisit the new bankruptcy law, which goes into effect Oct. 17," and "treats those affected by a natural disaster the same as the deadbeat who spent it all on luxury cars, jewelry and cocaine." The Times states, "Before Katrina, supporters of the new law argued it would curb abuse of the bankruptcy code. This argument was always dubious, and in the aftermath of the hurricane, the new law appears simply callous. Does Congress really want to use Katrina's victims as test cases in some sort of grand experiment in bankruptcy reform?"

US Hurricane Response Criticized In World Media. USA Today (9/9) examines coverage in the world press of Hurricane Katrina. Mehdi Mohammadi, "in a column in Keyhan (Tehran, Iran): 'Reports come from New Orleans that show that the pitiful situation of the people in affected areas cannot be entirely attributed to Katrina. A greater tragedy that has astonished the world's people is the widespread chaos, insecurity and plundering that have been caused by thieves, criminals and murderers. ... What kind of human beings are these people who have ambushed and plundered the helpless men and women? ... Americans have created a nationwide scandal." People's Daily in Beijing editorialized, "People have reason to feel disgusted: when Indonesia was hit by a tsunami last year, everybody lent a helping hand and nobody looted. But now this happened in the United States, showing people another side of this 'civilized country.' In fact, it revealed a fragility of the American society, as well as despair and disorder." Ontario's National Post editorialized, "The sense that government would be there to make everything all right…is not surprising given that for so many New Orleanians, a general reliance on social assistance is a normal part of daily life. … If there was a problem, many of the residents had been conditioned to think, then surely the same people who came through every month with money for food, prescription drugs, housing and child care would be there to take care of it."

Brown's Résumé Said To Contain Fabrications. Time (9/8, Fonda, Healy) reports on its website that when President Bush nominated Michael Brown to head FEMA in 2003, "Brown's boss at the time, Joe Albaugh, declared, 'the President couldn't have chosen a better man to help...prepare and protect the nation.'" But Time has now "found discrepancies in his online legal profile and official bio, including a description of Brown released by the White House at the time of his nomination in 2001 to the

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job as deputy chief of FEMA." Before joining FEMA, Brown's "only previous stint in emergency management, according to his bio posted on FEMA's website, was 'serving as an assistant city manager with emergency services oversight.'" The White House said in 2001 that "Brown worked for the city of Edmond, Okla., from 1975 to 1978 'overseeing the emergency services division.'" But an Edmond official said Brown "was an 'assistant to the city manager' from 1977 to 1980, not a manager himself, and had no authority over other employees." And Brown's "lack of experience in emergency management isn't the only apparent bit of padding on his resume, which raises questions about how rigorously the White House vetted him before putting him in charge of FEMA." His FindLaw.com profile lists an Oklahoma university professorship that the school says he never held, and also says he directed an Edmond nursing home. An administrator at the home said Brown "is 'not a person that anyone here is familiar with.'"

Criticism Of FEMA Moves Beyond Brown. CNN's Lou Dobbs Tonight (9/8, Henry) reported that criticism of the relief effort has "gotten beyond Michael Brown at this point. The administration is not really putting him out there very much. You can see Michael Chertoff and other officials being put out further. And in fact, while some Republicans, like Senate Majority Leader Bill Frist just today, said that clearly the federal government, including FEMA, did not do enough early on."

DSCC Removes Fundraising Pitch From Online Petition Calling For Brown's Firing. The AP (9/9, Barrett) reports, "A new Democratic effort to whip up indignation about the Bush administration's handling of Hurricane Katrina also tried to raise money for Democratic candidates." DSCC Chairman Charles Schumer "issued an appeal Thursday urging people to sign an online petition to fire the head of the Federal Emergency Management Agency over his handling of the Katrina response." When the AP questioned the appeal "the DSCC quickly pulled down the page and said they would donate to charity any money raised by the anti-FEMA petition." At the top of the online petition a link "had asked for a donation to the DSCC." NRSC spokesman Brian Nick said, "It's a disgrace to exploit Hurricane Katrina to raise political funds."

NYTimes Says Brown Too Focused On Public Relations. The New York Times (9/9) editorializes that Brown "was made the director after he was asked to resign from the International Arabian Horse Association, and the other top officials at FEMA don't exactly have impressive résumés in emergency management either. … When Mr. Brown finally got around to asking Homeland Security Secretary Michael Chertoff for extra people for Katrina, it wasn't much of a departure for Mr. Brown to say that one of the things he wanted them to do was to 'convey a positive image of disaster operations to government officials, community organizations and the general public.' We'd like them to stay focused on conveying food, water and medical help to victims."

Five Top FEMA Officials Had "Virtually No Experience" With Disasters. The Washington Post (9/9, A1, Hsu) reports that "five of eight" leading FEMA officials "came to their posts with virtually no experience in handling disasters and now lead an agency whose ranks of seasoned crisis managers have thinned dramatically since the Sept. 11, 2001, attacks." Brown, Chief of Staff Patrick Rhode, and Deputy Chief of Staff Brooks Altshuler "arrived with ties to President Bush's 2000 campaign or to the White House advance operation, according to the agency. Two other senior operational jobs are filled by a former Republican lieutenant governor of Nebraska and a U.S. Chamber of Commerce official who was once a political operative."

The Los Angeles Times (9/9, Silverstein) also reports that Brown "is just one of at least five current and former senior FEMA officials appointed under President Bush whose professional backgrounds showed few qualifications in the area of disaster relief when they arrived at the agency." But Vice President Cheney "defended the administration's FEMA appointees in remarks to reporters on Thursday." Cheney said, "You've got to have people at the top who respond to and are selected by presidents, and you pick the best people you can to do the jobs that need to be done. We've also got some great career professionals, an absolute and vital part of the operation -- couldn't do it without them." But congressional Democrats "have attacked Brown and other top FEMA appointees." Rep. Henry Waxman said, "FEMA is an important agency and needs to be run by professionals, not political cronies. Instead of a loyalty test, we need people with experience and competence."

The New York Times (9/9, Stout) reports that Cheney said in Mississippi, "Most of government runs on the basis of the combination of civilian leadership that's elected and career professionals that fill the jobs underneath them. And we're always trying to strike the right balance. But I think

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generally that overall principle has served us well as a government over the years."

FEMA Union Says Inclusion In DHS Hurt Disaster Response. ABC World News Tonight (9/8, story 5, 3:00, Stark) reported, "Inside FEMA, long-time employees were convinced FEMA wasn't ready for Katrina." Leo Bosner, FEMA employee union president: "All of us were just shaking our heads and saying, 'This isn't going to be enough, and the Director has to know this isn't going to be enough, but nothing more seemed to be happening." Bosner "says FEMA has been systematically dismantled since it became part of the massive Department of Homeland Security." Bosner: "One of the big differences I see, aside from taking away our staff, our budget and our training, is homeland security, now, in my view, slows down the process." Stark: "The union also sent this letter to Congress a year ago, warning about FEMA's decline. It's a view widely shared by stage emergency managers, who also warned Capitol Hill and the Department of Homeland Security, just weeks ago, that the department was too focused on" terrorism.

Meanwhile, USA Today (9/9) editorializes, "Katrina was a blow from nature, not man. But it has amounted to the first test of the new and improved security system constructed after Sept. 11, 2001. The storm's effects were much like an assault with weapons of mass destruction, something that has long been the worst U.S. terrorism nightmare: thousands of displaced people, many needing medical help along with food, shelter and information. … Have the past four years, and the vast sums spent on better protection, been squandered? By one measure, the answer would seem to be no. Since 2001, there hasn't been a terrorist attack on U.S. soil. … Nevertheless, as Hurricane Katrina has shown, the answers to three central questions are troubling: Are preparations in place if an attack happens? … What about the aftermath of an attack? … Is enough being done to prevent an attack?"

Columnist Finds Plenty Of Blame To Go Around. In his Washington Post (9/9, A25) column, Charles Krauthammer writes, "In less enlightened times there was no catastrophe independent of human agency. When the plague or some other natural disaster struck, witches were burned, Jews were massacred and all felt better (except the witches and Jews). A few centuries later, our progressive thinkers have progressed not an inch. No fall of a sparrow on this planet is not attributed to sin and human perfidy. The three current favorites are: (1) global warming, (2) the war in Iraq and (3) tax cuts. Katrina hits and the unholy trinity is immediately invoked to damn sinner-in-chief George W. Bush. … The author of this calamity was, first and foremost, Nature (or if you prefer, Nature's God). The suffering was augmented, aided and abetted in descending order of culpability by the following: 1. The mayor of New Orleans. He knows the city. He knows the danger. … The governor. It's her job to call up the National Guard and get it to where it has to go. … The head of FEMA. Late, slow and in way over his head. … The president. Late, slow, and simply out of tune with the urgency and magnitude of the disaster. … Congress. Now as always playing holier-than-thou. … The American people. They have made it impossible for any politician to make any responsible energy policy over the past 30 years."

FEMA To "Rethink" Debit Card Distribution Following Problems. ABC World News Tonight (9/8, lead story, 3:25, Vargas) reported that in Houston, "thousands and thousands of evacuees began lining up to get these -- debit cards from the Red Cross," but "many of those people came away, however, empty-handed." ABC (Osunsami) added, "Thousands of people showed up today, hoping for the FEMA credit card, worth $2,000. If they came home with anything at all, they walked home with a Red Cross debit card, worth much less. It was total confusion." Late today, FEMA "announced that their debit cards will only be distributed here, in Houston, which means evacuees in other locations have to wait for direct deposit to hit their checking accounts."

CNN's Lou Dobbs Tonight (9/8, Nguyen) reported, "FEMA has decided to rethink these debit cards, which they were planning to distribute tomorrow. We have learned that, indeed, they will continue distributing debit cards tomorrow. … But outside of this Houston area we've learned from a regional officer with FEMA that they've decided to rethink that, and they're going to go with electronic funds, transferring."

The New York Times (9/9, Dewan) reports that in announcing the debit card program on Wednesday, FEMA Director Michael Brown said it was "designed to 'empower' evacuees 'to make their own decisions about what they need to have to restart their lives.' But he did not say when and where the cards would be distributed. In Baton Rouge, The Associated Press reported, people went to a Red Cross office believing they could get the debit cards there. Callers to a Baton Rouge radio station from as far away as Atlanta and

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Houston complained that they did not know how to get the cards. One person said she had called the FEMA office in New York, only to be told that the cards were in Atlanta."

The New York Times (9/9, Stout) additionally writes that the "continuing confusion in the federal response to the crisis could be discerned in a comparison of the president's remarks with those of Mr. Passey, the FEMA spokesman." Bush, "in speaking to those affected by the storm, said he understood that 'some of you do not have access to a savings or checking account, or ways to cash a check.'" But Passey said, "As we've looked at the logistics of expanding the debit card, we believe that our normal methods of delivery -- checks and electronic funds transfer -- will suffice."

The Houston Chronicle/Reuters (9/9) reports that "after seeing mile-long lines form today for Red Cross cards, authorities were urging those who aren't yet registered with FEMA to do so by calling 1-800-621-FEMA or going to the agency's Web site. … Organizers and evacuees alike are hoping that Friday's inevitable lines won't match today's, which included elderly hurricane victims in wheelchairs and children who haven't yet been registered for school. Hurricane victims held newspapers and scraps of cardboard over the heads to shield themselves from the sun as volunteers passed out water and doctors arrived to watch for overheating or dehydration."

FEMA's Website Found Difficult To Use. NBC Nightly News (9/8, story 6, 1:35, Corke) reported, "It's supposed to be easy: If you're an evacuee displaced by Katrina, just click on FEMA.gov…to register for help. Of course, that assumes you're lucky enough to have Internet access to begin with." But it "took us six tries just to get onto the home page. Then we had to click here, and here, and here, and here, and here, and here -- seven pages total before we even got to the application."

Cheney Visits Hurricane Zone. Vice President Cheney yesterday visited areas affected by Hurricane Katrina. His trip was noted by all three networks. On CBS and NBC last night it was characterized in both reports as "damage control." The CBS Evening News (9/8, story 2, 2:50, Roberts) reported Cheney "got a look at" the scenes of devastation "as he flew from Mississippi to New Orleans to review the relief operations." CBS (Borger) added, "Ten days after Hurricane Katrina flooded the Gulf Coast, the Administration is still knee-deep in damage control." Cheney defended the relief effort, saying, "I think the progress we're making is significant."

NBC Nightly News (9/8, story 2, 2:10, Williams) reported, "On all fronts today, it was Administration damage control. The Vice President was dispatched to tour the hurricane zone." Cheney was shown saying, "The President asked me to come down to take a look at things, to begin to focus on the longer term."

ABC World News Tonight (9/8, story 2, 2:40, Woodruff) added the Vice President "was impressed by all of the relief efforts. Most of the people who the Vice President met today were happy he was there. Although a few said this was just a media opportunity for him."

The AP (9/9, Raum) reports, "Standing by Louisiana's governor, Democrat Kathleen Blanco, Cheney spoke of how the flooding of New Orleans and the destruction of many communities in the region was 'a major tragedy in modern times.'" Joining Cheney on the trip, says the AP, "were Attorney General Alberto Gonzales and Homeland Security Secretary Michael Chertoff."

CNN's The Situation Room (9/8, Blitzer) said Cheney hailed "what he called significant progress made so far in devastated areas. The vice president saw a housing development in Gulfport that was leveled by the hurricane." CNN (Chernoff) added that Cheney "did try to lift spirits here. He said we face a tremendous challenge, but he also said he believes the country is up to the task and he certainly was very encouraging in terms of offering federal support."

Man Shouts Obscenity At Cheney. Reuters (9/9, Bohan) reports from New Orleans that "while he was speaking, a young man shouted an obscenity at the vice-president, saying 'Go fuck yourself, Mr Cheney' in an outburst that reflected frayed tempers and patience in the stricken region." The CBS Evening News (9/8, story 2, 2:50, Borger) showed an unidentified male shouting, "Go [no audio] yourself, Mister Cheney!"

The AP (9/9) also reports that while Cheney spoke, "a passer-by hurled an expletive at the vice president. 'First time I've heard it,' Cheney said, when asked if he was hearing a lot of such sentiments."

Gonzales Tours Gulf With Cheney. Attorney General Gonzales was often mentioned by local television news as accompanying Vice President Dick Cheney as he toured the hurricane damage and relief efforts in the Gulf. WWL-TV New Orleans (9/8, 12:01 p.m.) reported, "Vice President Dick Cheney and attorney general Alberto Gonzales toured stricken Gulf Coast areas this morning beginning with coastal Mississippi before heading later to Louisiana. Air Force 2

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flew over heavily damaged houses as it landed at Gulfport Biloxi airport."

WLBT-TV Jackson, MS (9/8, 5:01 p.m.) reported, "Cheney was also accompanied by attorney general Alberto Gonzales and homeland security secretary Michael Chertoff."

WAFB-TV Baton Rouge (9/8, 12:02 p.m.) reported, "Flew over heavily damaged houses as it landed at the Gulfport- Biloxi international airport this morning."

KRIV-TV Houston (9/8, 12:06 p.m.) reported, "They'll be busy spending the day visiting with storm victims and reviewing thousands of people still holding out."

WDAF-TV Kansas City (9/8, 5:59 p.m.) reported, "They met with local and state officials."

Amongst the other stations carrying this story are WJTV-TV Jackson, MS (9/8 6:15 p.m.), CLTV-TV Chicago (9/8, 11:04 p.m.), WJLA-TV Washington, DC (9/8, 12:00 p.m.), WAGA-TV Atlanta (9/8, 10:29 p.m.), KTVK-TV Phoenix (9/8, 7:00 a.m), WFOR-TV Miami (9/8, 12:21 p.m.) , WTAE-TV Pittsburgh (9/8, 12:01 p.m.), WCPO-TV Cincinnati (9/8, 4:57 p.m.), and WGME-TV Portland (9/8, 5:23 p.m.).

First Lady Defends Government Response. NBC Nightly News (9/8, story 2, 2:10, Gregory) reported, "At a school in Mississippi, it was the First Lady defending the government's response to Katrina." Laura Bush was shown saying, "I think we've seen a lot of the same footage over and over that isn't necessarily representative of what really happened in both, in a lot of ways. Overall, it was a very good response." On the CBS Evening News (9/8, story 2, 2:50, Borger), the First lady was shown saying, "Well, I think across the board, very, very well."

CNN's The Situation Room (9/8, Blitzer) added Mrs. Bush "addressed the plight of children displaced by the hurricane. She urged parents to make sure their children are safe in school. And, earlier, she visited a school in Iowa that is taking care of children of evacuees."

The Des Moines Register (9/9, Beaumont) also reports the First Lady visited Des Moines, where she visited Lovejoy Elementary School. Mrs. Bush "toured the school" with US Secretary of Education Margaret Spellings.

The Biloxi Sun Herald (9/9) reports, "First Lady Laura Bush visited with hurricane victims in Southaven Thursday and cradled what could be the storm's youngest refugee -- a three-day old infant born to a New Orleans couple seeking shelter in Mississippi." She spoke at Greenbrook Elementary School and "praised DeSoto County residents and Superintendent Milton Kuykendall for enrolling storm refugees in the DeSoto County School District."

The Commercial Appeal (TN) (9/9, Covington) reports, "Hurricane evacuees at a Southaven church shelter said a visit by first lady Laura Bush on Thursday raised their spirits as they try to deal with their losses." Bush "drew applause from more than 100 evacuees and church volunteers when she entered the foyer of the church's education building shortly after 2 p.m." Bush "also was greeted warmly at Greenbrook Elementary School in Southaven, where she visited a second-grade music class and met with nine evacuee children at the school and 12 of their parents."

First Lady Describes Dean, West Criticism Of Bush As "Disgusting." The AP (9/9) reports, "Laura Bush described as 'disgusting' comments by rapper Kanye West and Democratic chairman Howard Dean blaming her husband for the disproportionate number of black hurricane victims. 'I think all of those remarks are disgusting, to be perfectly frank, because of course President Bush cares about everyone in our country,' the first lady said Thursday in an interview. … 'And I know that. I mean, I'm the person who lives with him,' she said. 'I know what he's like and I know what he thinks and I know how he cares about people.'" The AP notes, "On a nationally televised telethon Friday, broadcast live on NBC, West departed from the script to declare 'George Bush doesn't care about black people.'" Dean, earlier this week, "told the National Baptist Convention of America, a black religious group, that race played a role in the hurricane casualty numbers. Mrs. Bush said it was clear that poor people were more vulnerable when the hurricane hit. 'They lived in poorer neighborhoods. Their neighborhoods were the ones that were more likely to flood, as we saw in New Orleans. Their housing was more vulnerable,' she said. 'And that's what we saw, and that's what we want to address in our country.'"

White House Considered Taking Direct Control Of Louisiana Relief Effort. The New York Times (9/9, Lipton, Schmitt, Shanker) reports that as New Orleans "descended into chaos last week and Louisiana's governor asked for 40,000 soldiers, President Bush's senior advisers debated whether the president should speed the arrival of active-duty troops by seizing control of the hurricane relief mission from the governor. For reasons of practicality and politics, officials at the Justice Department and the Pentagon, and then at the White House, decided not to urge

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Mr. Bush to take command of the effort. Instead, the Washington officials decided to rely on the growing number of National Guard personnel flowing into Louisiana, who were under Gov. Kathleen Babineaux Blanco's control." The debate began after officials realized Katrina "had exposed a critical flaw in the national disaster response plans created after the Sept. 11 attacks. According to the administration's senior domestic security officials, the plan failed to recognize that local police, fire and medical personnel might be incapacitated."

The Wall Street Journal (9/9, McKinnon) reports that while the "Bush administration briefly sought to take control of local law enforcement to quell the violence and get help to victims" in New Orleans. Blanco, "in a letter to the White House on Saturday morning, said she would retain control of her state's National Guard troops, and requested the creation a federal joint task force that combined regular military and National Guard units."

Chaotic Logistics, Flawed Decisions Said To Have Hurt Rescue Efforts. NBC Nightly News (9/8, story 5, 2:40, Myers) reported, "As the floodwaters rose last Tuesday, the civilian director of the New Orleans Port Police," Cynthia Swain, "made a stunning decision. She ordered all harbor officers to abandon their posts and flee to higher ground," and "only the police chief and two officers stayed on duty." The decision "was just one of many questionable calls, at all levels of government, which delayed or deprived victims of desperately needed help." One medical assessment team, "veterans of 31 disasters, can treat hundreds of patients a day. But for 11 days, it's been repeatedly redirected by FEMA, from Alabama to Biloxi to Dallas to Galveston. So far, they've treated one small cut." Last Friday, Mississippi "asked FEMA for 20,000 trailers for temporary housing. On Monday, when nothing had happened, Sen. Trent Lott asked the President to intervene personally. The next day he was told that 400 trailers are on the way." Today "hundreds of trailers" are "still sitting in a facility in Georgia."

The Houston Chronicle/AP (9/9) reports that according to a Louisiana State University civil engineering professor, New Orleans officials "had 550 municipal buses and hundreds of additional school buses at their disposal but made no plans to use them to get people out of New Orleans before the storm. … Instead, local buses were used to ferry people from 12 pickup points to poorly supplied 'shelters of last resort' in the city." And "at least two public hospitals, loaded with more than 1,000 caregivers and patients, had their generators in their basements, which made them vulnerable in a flood. That violated the state's hurricane plan but had gone uncorrected for years because the hospitals did not have the money to fix the situation."

New Orleans Mayor's Office Lost Contact With Outside World For Days. The Wall Street Journal (9/9, Rhoads) reports that a "small corps" of New Orleans city leaders, "holed up at the Hyatt Hotel," had "virtually no way to communicate with the outside world" for the first days of the crisis. At "12:27 a.m. on Wednesday, Aug. 31, the mayor's inner circle made its first outside call in two days. … During the first days of Katrina, the besieged mayor's office struggled to stay connected. It was forced to rely on ingenuity and extreme methods, including breaking in to an Office Depot -- as the chief of police stood watch and chased away unofficial looters -- to obtain necessary equipment."

Landrieu Defends Louisiana Response. USA Today (9/9, Stone) reports that Sen. Mary Landrieu "returned to Capitol Hill on Thursday to defend Louisiana's response to Hurricane Katrina and chastise how Washington handled the disaster." Landrieu, "speaking on the Senate floor for the first time since the disaster, dismissed critics who have blamed local officials." In an interview later, she said, "I'm angry that some people in Washington….would blame state and local governments for something that is a federal responsibility. For God's sake, they were trying to make decisions under 10 feet of water."

The Washington Post (9/9, C1, Leibovich) reports that as Landrieu returned to Washington yesterday, she "had the shellshocked bearing of someone who's been in a place difficult to describe. People greeted Landrieu delicately, like a mourner." Landrieu "had spent the past 10 days at an Embassy Suites in Baton Rouge after evacuating her family's summer home in Slidell on Lake Pontchartrain, since obliterated. Last she heard, her childhood home in New Orleans was filled with five feet of water. … She was reluctant to come back to Washington, Landrieu said. Don't focus on her, she pleaded -- a rare instance of a senator saying something like that and maybe even meaning it. But of course, there was fuss everywhere Landrieu went, the clop-clop-clop of her heels echoing down hallways amid camera clicks, processions of well-wishers, trailing reporters, the whole bit."

Displacements Could Alter Louisiana Political Equations. The Wall Street Journal's (9/9, A4, Harwood)

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"Washington Wire" reports Louisiana Sen. Mary Landrieu "could find margins squeezed if thousands of Democratic-leaning African-Americans don't return by her 2008 re-election. Louisiana political analyst John Maginnis says state could even lose one of seven House seats in next redistricting. Two shaky House incumbents, Democrat Melancon and Republican Boustany, hope response to hurricane rallies voters behind them. House Republican campaign chief Reynolds touts chance to market conservative social-policy solutions; Rep. Baker of Baton Rouge is overheard telling lobbyists: 'We finally cleaned up public housing in New Orleans. We couldn't do it, but God did.' Baker explains later he didn't intend flippancy but has long wanted to improve low-income housing."

Police, Military Urge Remaining New Orleans Residents To Leave. Police and the military set on what a front page story in the Washington Post (9/9, A1, Dwyer, Tyson) calls "an aggressive door-to-door campaign" Thursday to urge remaining New Orleans residents "to leave or be removed by force. … The evacuation effort, however, appeared haphazard at best. Affluent areas that were not flooded, such as parts of the Garden District and Uptown, appear to be a low priority for mandatory evacuations."

USA Today (9/9, Johnson) says police and soldiers "held back" from "their threatened use of force." Police Superintendent Eddie Compass "urged residents to leave and said that at some point police and the National Guard would begin using a 'minimal amount of force' to get people to leave. … Mayor Ray Nagin had said he would order people out of the city if they did not leave."

Knight Ridder (9/9, Pompilio, Nesmith, Merzer) says, "More people seemed motivated to leave, having heard the term 'mandatory evacuation,' and fewer than 10,000 people remained."

The Wall Street Journal (9/9, Cooper, Searcey) adds that "receding floodwaters could make some of those hunkered down in their homes more than 10 days after Hurricane Katrina hit even more determined to stay." The Journal adds that "key tourist and historic districts such as the French Quarter and Garden District, generally located near the Mississippi River, are dry, and soldiers said many people remain in those areas."

ABC World News Tonight (9/8, story 2, 2:40, Woodruff) reported the police and the National Guard "got a lot tougher on the holdouts. Not only the flooded areas. But New Orleans' driest and wealthiest neighborhoods, too." There are "no orders to use force, just strong persuasion. Sometimes entering open houses with guns drawn and instructions to disarm anyone inside." For "many of the police and guard troops, it is an uncomfortable job to do this in an American city."

The CBS Evening News (9/8, lead story, 3:35, Roberts) added, "The police say most who were willing to leave voluntarily have done so. For the rest, officers have orders to remove them, but they say they will do that with as little force as necessary."

Police Confiscate Weapons In Anticipation Of Forced Evacuations. The New York Times (9/9, Berenson, Broder) reports that police "began confiscating weapons from civilians in preparation for a forced evacuation of the last holdouts still living here, as President Bush steeled the nation for the grisly scenes of recovering the dead that will unfold in coming days. … Although it appeared Wednesday night that forced evacuations were beginning, on Thursday the authorities were still looking for those willing to leave voluntarily. The police said that the search was about 80 percent done, and that afterward they would begin enforcing Mayor C. Ray Nagin's order to remove residents by force."

CNN's The Situation Room (9/8, Penhaul) reported that there is "no idea when the process of forced evacuations will get underway. But it's essential to get the first wave out first. Nor any details of how those forced evacuations will get underway, because many of the agents that are involved in law enforcement here, although they say, yes, they're willing to take part in forced evacuations, say they don't yet feel comfortable going into people's homes and dragging people out. They say they feel that they have suffered enough so far."

Louisiana Provides 25,000 Body Bags To New Orleans. The CBS Evening News (9/8, lead story, 3:35, Pitts) reported, "There are still decomposing bodies on the streets here. But now, there are makeshift morgues sets up outside the city, and the state of Louisiana has provided 25,000 body bags to the city: A sign perhaps of what's to come."

Crews Work To Repair New Orleans Flood Walls. USA Today (9/9, Levin) reports on efforts to repair holes in New Orleans' flood walls. The Army Corps of Engineers "is leading the effort to drain the vast areas of rotting water covering this city. So far, water levels throughout the city have dropped no more than a foot or two. … With the closure earlier this week of a breach in the 17th Street Canal, the Army Corps' efforts to dry out New Orleans have shifted here

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to London Avenue. … Across the city, crews continued to try to get giant pumps that failed in Hurricane Katrina's wake to come back to life. The corps predicts it could take up to 80 days to drain the city. The debris clogging pumps could contain human remains, and in some cases that was slowing the recovery effort."

USA Today (9/9, Cauchon) says the "skeleton of normality is slowly returning to the Mississippi Gulf Coast." In "a few patches…civil society is being restored thanks to electricity, running water, cellular phones and the extraordinary efforts of business owners and workers.'

Traditional New Orleans Funerals Gone In Wake Of Hurricane. A front page story in the Wall Street Journal (9/9, Gray, Perez) reports, "Few cities bury their dead in the high style of New Orleans, where funerals can last a week, feature jazz bands as well as parades and draw bigger crowds than weddings do. But those traditions are, for the time being, yet another casualty of Hurricane Katrina. The same flood that ended so many lives in New Orleans shut down most of the city's institutions of death -- its funeral homes, churches and cemeteries. It also scattered the crowds that make New Orleans funerals so extraordinary. For thousands of survivors, this loss could complicate the effort to accept the death of a loved one."

FEMA Restrictions On Media Access Draw Criticism. The Washington Post (9/9, C1, Kurtz) reports in its "Media Notes" column, "As rescue and recovery efforts continue in the wake of Hurricane Katrina, reporters and press analysts are growing increasingly critical of restrictions on media access. The Federal Emergency Management Agency, under heavy journalistic fire for its slow response to the disaster, has sparked new criticism by asking news organizations not to take pictures of bodies being recovered in Louisiana and Mississippi. FEMA spokesman Mark Pfeifle said yesterday that the agency 'has asked that those images not be shown,' but that this is only a request. … Some Louisiana officials, whether taking their cue from FEMA or not, are attempting to make the policy mandatory."

Katrina Sparks Debate About Military Role In Disaster Response. The Washington Post (9/9, A15, Graham) reports that the "breakdown of local and state agencies" in the Katrina response has "spurred fresh debate about whether disasters of such magnitude ought to be turned over to the U.S. military and other federal authorities to manage at the outset. National plans developed after the Sept. 11, 2001, terrorist attacks rest on the notion that police, fire and other emergency groups are best positioned to serve as first responders. Federal agencies are supposed to function as backup to state and local ones, and military forces are meant to play a largely supporting role to civilian authorities. But Katrina showed what can happen when the foundation of this organizational structure is quickly overwhelmed and disintegrates, according to government officials and independent analysts."

In his Wall Street Journal (9/9, A16) "Wonder Land" column, Daniel Henninger writes, "The popular impression left the past week -- that the government was wholly unprepared for Katrina -- is not true. Significant U.S. military assistance was on alert throughout the week prior to Katrina's landfall. Why those highly trained and drilled assets did not move into New Orleans sooner is a question that should now sit at the center of a debate over who should have the authority -- the states or the federal government -- to be the 'first mover.'"

Honoré Seen As "Giuliani Of The Gulf Coast." The Christian Science Monitor (9/9, Jonsson) profiles First Army Lt. Gen. Russel Honoré, who "has emerged as the Rudy Giuliani of the Gulf Coast." A "rough-talking Louisiana native, he is credited with changing the character of the relief effort from a mad scramble to an increasingly orderly and effective rescue and restoration. But General Honoré is also having to navigate a fine line between necessary leadership and the specter of federal troops using force against American citizens. So far, he appears to have succeeded."

Hurricane Decimates Region's Legal System. The New York Times (9/9, Applebome, Glater) says Hurricane Katrina "decimated the legal system of the New Orleans region. More than a third of the state's lawyers have lost their offices, some for good. Most computer records will be saved. Many other records will be lost forever. Some local courthouses have been flooded, imperiling a vast universe of files, records and documents. Court proceedings from divorces to murder trials, to corporate litigation, to custody cases will be indefinitely halted and when proceedings resume lawyers will face prodigious - if not insurmountable - obstacles in finding witnesses and principals and in recovering evidence." The Wall Street

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Journal (9/9, Burton) adds, "The extent of the destroyed evidence and lawsuit files remains uncertain, as several courts remain inaccessible or under water. But because of the damage, Louisiana Gov. Kathleen Babineaux Blanco this week issued an order suspending all state civil-court deadlines, such as statutes of limitations dictating when cases must be filed, at least through Sept. 25. Many civil and criminal trial courts have suspended operations in the parishes, or counties, in the New Orleans area. The federal district court in New Orleans says it is 'closed until further notice' and that it hopes to reopen in three locations -- Houma, Baton Rouge and Lafayette, La. The Louisiana Supreme Court has moved to Baton Rouge, and the U.S. Fifth Circuit Court of Appeals has shifted temporarily to Houston." Knight Ridder distributes a Dallas Morning News article (9/9, Townsend, Hancock) that reports, "The Louisiana Supreme Court building was flooded and many critical files and evidence boxes are presumably destroyed. City and district court buildings in neighboring parishes have been similarly hit. … Lawyers and judges alike are scrambling to answer previously unimaginable questions: What will happen to pending cases? What about the out-on-bail defendants, witnesses and even law-enforcement officials who are among the several hundred thousand evacuees sprinkled throughout the country, many in Texas?" The News adds, "Judge Patrick Higginbotham said his formerly New Orleans-based 5th Circuit Court of Appeals will be back in business in Houston by next week. … But Katrina's devastating aftermath will be 'enormously disruptive' for the Gulf Coast region's state and local courts, he said. … 'I don't think the tasks we face are nearly as difficult as those in the state courts in the Gulf Coast region,' the Austin, Texas-based Higginbotham said."

Compass Defends Efforts Of New Orleans Police. The New York Times (9/9, Longman) reports on New Orleans Police Superintendent P. Edwin Compass III, who has been "widely criticized for his inability to keep the peace as New Orleans sank into mayhem, and to sustain the morale of his officers, about 500 of whom abandoned the 1,700-member force in anger or despair." Compass "has returned the verbal fire with a raw, impassioned defense of his department. He pointed to those officers who stayed and helped restore order despite a shortage of manpower and ammunition, and volleys of gunshot from what he said were dozens of people trying to thwart rescue efforts." Compass "said he believed that his officers did the best they could, considering that their communications system was inoperable and that the city's ammunition depot was left inaccessible beneath 10 feet of water." The Times adds, "Some police officers, speaking on the condition of anonymity, complained Wednesday that the superintendent was largely invisible immediately after the flooding began. But others said he had maintained a strong public presence, and they praised him for supporting his officers in a department whose reputation suffered severe damage from corruption scandals in the 1990's."

Hundreds Of New Orleans Police Officers Missing. The Los Angeles Times (9/9, Cart, Chen, Gold) reports, "Hundreds of police officers are missing and many may be dead from Hurricane Katrina, according to a top police official, who in an interview today also said that the population of the city may sharply drop because of the storm. Deputy Police Supt. Warren Riley said about 700 of the city's 1,600-officer force was told to stay home until the storm passed so that they would be available to be deployed wherever they were needed. Between 400 and 500 officers remain unaccounted for and many are feared dead, though some are believed to have walked away from the job, he said."

DOJ To Set Up Katrina Anti-Fraud Task Force. Agence France-Presse (9/9) reports, "With billions of dollars pouring in to help victims of Hurricane Katrina, the US government has established a task force to hunt down fraud, White House spokesman Scott McClellan announced. … 'Unfortunately, there are some who are intent on setting up fraudulent schemes to take advantage of the victims and the people who are trying to help those who have been affected,' he told reporters. … 'These are despicable acts that will not be tolerated. Those who take advantage of the situation will be pursued and will be prosecuted,' said McClellan." AFP adds, "Attorney General Alberto Gonzales has created the Hurricane Katrina Task Force on Fraud 'to deter, investigate and prosecute disaster-related federal crimes including fraudulent charities, insurance fraud, identity theft and government benefit fraud,' said the spokesman. … The national task force includes officials with the Justice Department's criminal division and the Federal Bureau of Investigation, he said."

Experts Warn Katrina Victims Of ID Theft. Reuters (9/8, Sullivan) reports, "Birth certificates and other sensitive documents left among the waterlogged debris of Hurricane Katrina could put the storm's victims at heightened risk for identity theft, experts said on Thursday." Reuter continues, "U.S. officials and consumer advocates said they had not yet

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heard of any cases of identity theft related to the disaster because the crime usually takes months to unfold. … But consumers should keep a close eye on their bank statements and order a copy of their credit reports once they get their lives back together to make sure they are not being victimized, they said. … 'We tell people not to be alarmed but to be cautious,' said Betsy Broder, an assistant director in the Federal Trade Commission's Bureau of Consumer Protection." Reuters adds, "Those who wish to contribute to relief efforts are at risk as well. Internet-security company Websense said on Sunday that it had found a 'phishing' e-mail campaign that seeks to trick Internet users into providing their credit-card numbers to a Web site that looks like one run by the Red Cross. … In order to avoid such scams, donors should type the address of charitable Web sites directly into their browsers, rather than clicking on a link in the e-mail, experts said. … The FBI is investigating at least a dozen suspicious Web sites and e-mail messages for fraud, spokesman Paul Bresson said."

Administration Hires Contractors, Suspends Davis-Bacon Rules. The Bush Administration has hired five private contractors to accelerate efforts to rebuild damaged areas in the Gulf region. The Wall Street Journal (9/9, Dreazen) reports, "The Federal Emergency Management Agency announced yesterday that it was awarding contracts to Bechtel National Inc. of San Francisco and Fluor Corp. of Aliso Veijo, Calif., both of which are involved in Iraq. The other companies awarded FEMA work are Shaw Group of Baton Rouge, La., Denver-based CH2M Hill, which is providing housing in Alabama, and Dewberry Technologies of Fairfax, Va., which is providing planning and reporting tools to help guide the efforts." The White House also "took the controversial step" of "suspending in the disaster area so-called Davis-Bacon rules requiring prevailing wages be paid to workers on federal contracts." The Washington Post (9/9, D3, Edsall) adds "the action infuriated labor leaders and their Democratic supporters in Congress, who said it will lower wages and make it harder for union contractors to win bids."

Relief Agencies Organize Emergency Medical System. NBC Nightly News (9/8, story 3, 1:55, Teague) reported on "the health threat all along the Gulf Coast: We know already of those four deaths from seawater-borne bacteria and several cases of Norwalk virus have broken out in a Mississippi shelter. Then there's the potential health disaster in New Orleans. But there's also been a huge medical response here." NBC (Bazell) added, "Navy hovercrafts are now bringing tons of medical supplies hourly to beaches in Biloxi. Nearby at a shelter, Navy and FEMA doctors form a so-called strike team today to check the residents for the first signs of illness. Those who are sick get care onsite immediately, while state and CDC experts monitor the medical records daily for any signs of a dangerous outbreak."

Norton Express Concern Over Water-Borne Diseases. In New Orleans. Interior Secretary Gale Norton said on CNN's The Situation Room (9/8), "We in the United States have been fortunate that we have not had to cope with the kinds of health problems that people in many parts of the world have to cope with on a daily basis. The concern about having clean drinking water for people is obviously a big one. The concern about water-borne diseases is something we usually don't have to cope with in the United States. We're working to try to address those things. My bureau of reclamation, for example, has just provided a water purification system for the hospital in Biloxi that will help 40,000 people have pure water. That's something that is vitally important that we focus on, the basic needs right now, for the health and safety."

Charity Hospital Doctor Profiled. The New York Times (9/9) reports on Dr. Norman E. McSwain Jr., Chief of Trauma Surgery at Charity hospital, who became "\would become one of the hurricane's reluctant celebrities. As Charity Hospital withered around him - low on electricity, water and oxygen; its food supplies down to canned fruit cocktail; surrounded by thugs firing at rescue boats - he finally despaired of official channels and cried out to the news media: 'We have been trying to call the mayor's office. We have been trying to call the governor's office. We are turning to you. Please help us.'"

HUD, VA Offer Some Southern Homes To Katrina Victims. USA Today (9/9, 1B, Koch) reports that the Federal government "is making some, but not all, of the thousands of homes it owns in Southern states available to displaced victims of Hurricane Katrina." HUD has "taken all its homes in stricken states off the market to consider which ones can house evacuees. It has identified 1,380 homes in seven states as livable and plans to move people into them, spokesman Lemar Wooley says. But the Department of

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Veterans Affairs continues to sell its homes. In some cases, wealthier Katrina evacuees are buying them." VA spokesman Scott Hogenson said, "If there's a need for additional housing, VA houses will be taken off the market immediately. We are ready to move." He adds that the VA is coordinating its efforts with HUD and FEMA.

Evacuees Airlifted To New England. Hurricane evacuees were airlifted to the Northeast yesterday. The New York Times (9/9, Cowan) reports that they taken to Cape Cod "where they will be temporarily housed in a rejuvenated barracks at the Otis Air National Guard Base. The trickle of arrivals - 107 people moved out of homes or plucked off rooftops and off highways in recent days, and flown to Massachusetts by the Federal Emergency Management Agency - marked the first official evacuation to New England of victims of Hurricane Katrina. But thousands of beds in shelters, barracks and apartments have been prepared by state and local governments in the region, awaiting an influx of families from the South that has been slow to come."

Many Evacuees Leaving Astrodome For Other Housing. The New York Times (9/9, Romero) says the population at the Houston Astrodome "dwindled to about 3,000 on Wednesday from an estimated 15,000 over the weekend, with many people seizing on local job opportunities and inexpensive housing. Because of a building boom over the last few years, there is a glut of affordable housing in Houston and its metropolitan area, which includes about 4.5 million people. Hotels are also offering a 14-day stay at no charge to storm victims, with reimbursements to come from the Federal Emergency Management Agency. Add the outpouring of offers of shelter across the country and an acknowledgment by the government that the original estimates may have been high, and it appears that the Astrodome might be empty soon."

Influx Of Katrina Survivors Strains Baton Rouge. NBC Nightly News (9/8, story 4, 2:20, Williams) reported, "They call it West New Orleans these days because Baton Rouge has absorbed so many people. It has almost doubled in size overnight." NBC (Seigenthaler) added, "The influx of a quarter of a million evacuees has pushed Baton Rouge to its limit." The "parking lot at stores like Wal-Mart fills up quickly each day. Inside, there are plenty of empty shelves." People here "have to wait in line for almost everything, including gas. Housing here is also limited. There are no apartments available for rent. And some homebuyers are purchasing sight unseen." Some "are actually frightened that this sudden explosion in population will lead to an increase in crime, and that's why stores like this are selling 10 times the number of guns they sold before the storm." The Baton Rouge Police Department "has said there has been no increase in crime. But there is fear based on stereotyping of evacuees."

Small Texas Town Welcomes Hurricane Evacuees. The Washington Post (9/9, A16, Reid) reports on the town of Orange, Texas, "a bayou town on the Texas-Louisiana border that has seen its population swell from more than 18,000 to about 20,000 in one week as evacuees have moved in. … If New Orleans has been a locus of destruction, chaos and crime, the news from Orange and numerous other small-town havens is the old familiar story of neighbor helping neighbor. The exodus from Katrina has filled the string of hotels along Interstate 10 at the north end of town. Beyond that, Red Cross officials say five shelters have opened in Orange, plus two more in nearby hamlets."

Computer Forecast Last Year Predicted Damage Similar To Katrina. The CBS Evening News (9/8, story 10, 2:10, Mason) reported that while Katrina "seemed to catch many government officials by surprise," last summer, "this computer model forecast just what Katrina would bring." The storm surge projection for the fictitious Hurricane Pam "showed the levees" of New Orleans "would be overwhelmed by even a Category 3 hurricane they were designed to withstand, and the city would be swamped under 20 feet of water."

Hurricane Ophelia Lurking Off Florida Coast. ABC World News Tonight (9/8, story 4, :20, Woodruff) reported, "Another hurricane is brewing. This would be the seventh of the season. Ophelia is now 70 miles off the coast of Cape Canaveral, with sustained winds of 75 miles per hour. There's no way to tell right now if it will make landfall. But the coast is already seeing heavy rains and strong winds."

The CBS Evening News (9/8, story 5, 0:40, Roberts) reported, "Ophelia is expected to head farther out to sea then perhaps make a U turn back to Florida next week. But experts admit they really don't know yet where it's going."

WPost Calls For "Rational Construction" Of Gulf Coast. The Washington Post (9/9, A24) editorializes, "Even with the evacuation unfinished and the structural damage unassessed, it is not too early to start talking about how to rebuild New Orleans and the rest of the Gulf Coast. When residents return to their communities, many will want to rebuild everything exactly as it was. That is understandable.

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But lessons of the past suggest that this is exactly what should not happen. … The time to start planning for a rational reconstruction of the Gulf Coast is now. Six months or more down the road, when the rebuilding has already begun, will be too late."

Officials Urge Insurers To Pay Valid Claims. Mississippi's insurance commissioner has notified carriers that they will be required to prove that damage was caused by water, not by wind if they deny a claim. The Washington Post (9/9, D1, Crenshaw) reports that Lousiana's insurance commissioner "also urged a large group of insurers and reinsurers to pay all valid claims. In many cases, the key to deciding which homeowners recover will be whether wind or water caused the damage. Many homeowners' and business insurance policies exclude flood damage from their coverage. Flood coverage is written by the federal government through its National Flood Insurance Program, but only a small fraction of property owners in Mississippi and Alabama have bought it."

US Seeks NATO Help In Transporting Aid From Abroad. The Bush Administration has asked NATO for help transporting to the US relief equipment that has been offered by other nations to hurricane victims. The Los Angeles Times (9/9, Richter) reports, "Ninety-five countries have offered about $1 billion in cash and goods, as well as technical assistance, U.S. officials said. But some of the supplies remained abroad, where foreign officials in some instances said they had not heard back from U.S. counterparts on whether their offers would be accepted. The North Atlantic Treaty Organization told U.S. officials that its crews could transport aid to the Gulf Coast. Eleven cargo planes landed Thursday in Little Rock, Ark., carrying aid from abroad, after 11 others Wednesday. But some countries said they still had no word on whether their offers would be accepted."

MoveOn Anti-Roberts Ad Will Not Use Images Of Katrina Evacuees. USA Today (9/9, Memmott) reports MoveOn said "one of its officials was wrong when he said it would broadcast a TV ad with images of poverty-stricken hurricane victims to raise questions about the civil rights record of John Roberts." The "change underscores how quickly political messages can backfire if they trod too hard on sensitive issues, said Brooks Jackson, director of the University of Pennsylvania's Annenberg Political Fact Check program."

Conservatives Seek Female Supreme Court Nominee. The Wall Street Journal's (9/9, A4, Harwood) "Washington Wire" reports, "Conservatives tout female court pick to block Gonzales. Right rallies around antiabortion appeals-court judges, including Edith Jones and Priscilla Owen; Janice Rogers Brown, an African-American, would meet post-Katrina calls for Bush to appoint a minority. All are seen as more conservative than Attorney General Gonzales, who'd be the first Hispanic pick. Some close to White House predict Bush won't announce O'Connor's successor until Roberts clears Senate Judiciary Committee."

Bush Urged To Nominate Latino To Supreme Court. Attorney Raul A. Reyes, a member of USA TODAY's board of contributors, in an op-ed in USA Today (9/9) writes that "a Latino presence on the high court is overdue and would have monumental implications for the country." For example, a Latino "would recognize that 'Mexican appearance' is a flawed basis for an immigration check. He would see that English-only laws and the Real ID Act, which prohibits driver's licenses for illegal aliens, can be adversely applied to Hispanics." Reyes concludes, "It's worth noting that the Supreme Court will face issues with broad effect on Latinos: bilingual education, affirmative action, immigration and workers' and voters' rights. It is imperative that the concerns of Latinos are represented."

NC8-TV Washington, DC (9/8, 10:47 a.m.) reported, "President Bush has rekindled speculation that he may nominate attorney general Alberto Gonzales to the Supreme Court. The president said the list of potential candidates to replace retiring Justice Sandra Day O'Connor is 'wide open,' then he proceeded to look directly at Gonzales, which drew laughs during the meeting."

Role Of Veteran Guides For Top Nominees Examined. Lobbyist Kenneth Duberstein describes the behind-the-scenes role of former top officials in helping top Administration nominees survive the nomination process. The Washington Post (9/9, A23, Lee) reports, "When John G. Roberts Jr. was nominated by President Bush in July to be an associate justice, he was promptly provided with two guides: former senator Fred D. Thompson (R-Tenn.) and former Republican National Committee chairman Ed Gillespie. Both are considered savvy Washington insiders who are now comfortably on the outside." Duberstein says, "There are several roles you play. … You are the chief strategist for the

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ultimate goal of getting that person confirmed. You are also the traffic cop, because everybody wants to see the prospective nominee. You are a coach and you're also a confidant of the nominee. You are the chief liaison with the Hill, but also the chief liaison within the administration. You are an enforcer, but you are also a negotiator.'" He "said the job of guiding Roberts should not change because he has been nominated for chief justice. 'I don't recall that there would be any distinction,' he said."

OTHER NEWS:

Economists Expect Katrina To Cut GDP By 0.4% In Second Half Of Year. The Wall Street Journal (9/9, Annett) reports a group of economists surveyed by the journal think Hurricane Katrina "is likely to slow growth and boost inflation pressures in the second half of this year," but "the economy could receive a modest boost early next year amid recovery efforts on the Gulf Coast." To "reflect the expected economic impact of Katrina," the surveyed economists "marked down their annualized forecasts for growth in gross domestic product for the second half of this year by 0.4 percentage point. The survey was conducted Sept. 2-7." These private-sector economists "expect a somewhat smaller impact than what has been predicted by the Congressional Budget Office, which has said that second-half growth could be trimmed by a half to a full percentage point." The 56 economists "now expect GDP, the broadest measure of U.S. economic activity, to expand at a 3.6% seasonally adjusted annual rate in the third quarter and at a 3.2% rate in the fourth quarter."

Katrina Expected To Affect Job Growth Adversely. The Wall Street Journal (9/9, Rebello, Bater) reports Hurricane Katrina "caused at least 10,000 job losses in Louisiana, Mississippi and Alabama last week, although nationwide the number of U.S. workers filing first-time applications for unemployment benefits declined slightly, the government said Thursday." Initial jobless claims "declined by 1,000 to a seasonally adjusted level of 319,000 in the week that ended Saturday, the Labor Department said." However, a Labor Department statistician "said the claims numbers are likely to be revised upward in coming weeks." Economists "have begun to predict that the nation's job growth will suffer this month because of Katrina's devastation."

The Washington Post (9/9, D1, Williams) reports, "The assimilation of Hurricane Katrina evacuees into Texas's big cities and into communities across the country will be far from seamless. Almost all the evacuees are now unemployed, and many are also homeless. They are scrambling to find work so they can get out of the Federal Emergency Management Administration's massive shelters, into apartments and on with their lives. … The Congressional Budget Office has estimated that 400,000 jobs were lost throughout the Gulf Coast due to Katrina. So far, only an estimated 10,000 workers who lost their jobs have filed for unemployment benefits, the Labor Department said Thursday. That number would have been higher, but many claims offices in the affected region were shut down. The Labor Department predicted that the number of disaster-related claims will rise sharply in coming weeks and that hundreds of thousands of displaced workers will soon be seeking benefits."

The CBS Evening News (9/8, story 4, 2:30, Roberts) reported, "As many as one million survivors have been displaced. And then there's the growing economic toll of this disaster. The government said today that, so far, 10,000 of the workers who lost their jobs because of Katrina have joined the line for unemployment insurance. Others joined the line for those $2,000 debit cards the government is offering."

Katrina Expected To Boost Inflation. USA Today (9/9, Kirchhoff) reports Hurricane Katrina, "which has already pushed gasoline above $3 a gallon, is prompting higher prices for everything from building supplies to natural gas and chemicals." Economists have "increased their projections for consumer inflation, some significantly. Global Insight expects inflation to reach 5.7% at an annual rate in third-quarter 2005, compared with its earlier 3.4% estimate. Economy.com expects 3.4% inflation through the end of 2005, up from 2.7%." Both firms "expect the inflation gains to be transitory — oil is off its $70-a-barrel peak, though still running $64.49 — with more manageable inflation in 2006. There are questions regarding how much of the price increases will bleed through to core inflation, which excludes food and energy and is the inflation measure most watched by the Federal Reserve." But some "say price gains could last longer."

Stock Markets Down On Katrina Uncertainties. NBC Nightly News (9/8, story 8, 0:15, O'Donnell) reported, "In business news tonight, economic uncertainties in the wake of this hurricane have pushed stocks lower. On Wall Street, the Dow lost more than 37 points today [to close at 10, 595.93]. NASDAQ ended this day down 6 points [to close at 2,166.03]."

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The Wall Street Journal (9/9, Patterson) reports after "two days of solid gains on Wall Street, investors stepped away from the plate Thursday, and stocks drifted lower as crude oil ticked up." Home builders "took it on the chin amid concerns that the housing boom could slow. The trigger was a lackluster earnings report by Hovnanian Enterprises, which posted net income of $1.76 a share for the third quarter late Wednesday, two cents below expectations." Light, sweet crude "jumped toward the end of open-outcry trading on the New York Mercantile Exchange, settling up 12 cents to $64.49 a barrel on news of a large decline in output from the Gulf of Mexico." The report "was one of the first yardsticks of the damage done to the oil-and-gas supply system in the Gulf Coast since Hurricane Katrina struck last Monday."

Gulf Coast Banks Rebound. The Wall Street Journal (9/9, Sidel, Bauerlein, Hagerty) reports the Federal Deposit Insurance Corp. "estimates that some 280 locally based institutions may have been affected by Katrina, representing $270 billion in assets and $201.3 billion in deposits. Big names in the area include Regions Financial Corp., AmSouth Bancorp, Compass Bancshares Inc. and Whitney Holding Corp." Although the "stocks of some affected banks tumbled last week when the storm's devastation became apparent, investors are betting that the area's economic recovery will generate enormous revenue and loan growth next year."

Other Gulf Coast Industries Hard Hit. The CBS Evening News (9/8, story 4, 2:30, Whitaker) reported, "The Mississippi Department of Wildlife, on a mercy mission delivering food to shrimpers trapped in a fetid canal, reeking of rotted shrimp, unrecovered bodies, sewage and fuel. … This is the $250-million a year Mississippi shrimp industry today." If you "made your living on the Gulf, you're hurting: Ports, from Gulfport, Mississippi to the granddaddy of them all -- New Orleans -- out of commission. In Mississippi, they build their casinos on the water. Katrina destroyed all of these along the Gulf Coast, washing away the $500,000 a day they pay in state taxes, a big hit for a poor state. Katrina closed down the Hard Rock even before its grand opening." But "things are slowly recovering."

NBC Nightly News (9/8, lead story, 2:45, Brown) reported, "There are signs that some are beginning to think about rebuilding." In the New Orleans suburbs "where flooding wasn't so bad, a few places are already up and running: Too few, judging by the line at this Domino's Pizza, or this Walgreen's, where dozens of people waited to fill prescriptions. And some here say they were told by their companies to show up for work as early as Monday." But the "number of people who will lose their jobs because of Katrina is staggering. The Labor Department estimates 10,000 people on the Gulf Coast have already filed for unemployment benefits, with that number likely to spike next week. And the government predicts another 400,000 jobs will be lost in the months ahead. Mitch Landrieu, Louisiana's lieutenant governor, is already asking businesses for a firm commitment to come back and expecting the Federal Government to step up." Lt. Gov. Landrieu: "What we need is a long-term commitment from the government to rebuild. If we don't get that, that's going to be very difficult thing to do." Brown: "He says the Federal government and others, meaning the taxpayers, will have to make a hefty contribution. They predict it will cost $150 billion to rebuild New Orleans."

WSJournal Calls For Cutting Duties On Four Products In Response To Katrina. The Wall Street Journal (9/9) says in an editorial that if "the feds really want to help the economy post-Katrina, here are four words: lumber, cement, shrimp and steel. They all have prices higher than necessary because of U.S. anti-dumping trade law." Lumber and cement "will soon be in great demand to rebuild the tens of thousands of damaged homes. Prices are sure to rise as reconstruction begins, but thanks to U.S. tariffs as high as 27% on Canadian lumber, American home buyers already pay an extra $1,000 on average for their shelter. The same goes for U.S. duties on Mexican cement, which have averaged 55% since 1990. Now would be an ideal time for Washington to declare a truce in these trade spats and reduce the price of rebuilding." Then "there's shrimp, an increasingly popular part of the American diet whose prices may well rise sharply in Katrina's wake. Louisiana shrimpers represent the bulk of the domestic industry and were all but wiped out by the hurricane." While "we're at it, consider specialty steel, which depends on hydrogen gas produced in the Gulf."

Analysts Suspect Strategic Oil Release Aimed At Price, Not Supply. The Financial Times (9/9, Hoyos, Blas) reports the US and Europe are "releasing more emergency crude oil than refineries in the Gulf of Mexico can handle, reinforcing suspicions that governments are using the crisis triggered by Hurricane Katrina to cap record oil prices." US refineries "will on Friday begin to bid for the 30m barrels of crude oil that the US government is releasing from the its emergency reserves but, with many

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refineries disabled, analysts say the additional supply may not be needed." Data released on Thursday "suggested that, while petrol is in short supply, oil companies still have plenty of crude in their inventories. The companies' stocks fell 6.45m barrels last week, significantly less than the 13.6m barrels of production capacity lost to the hurricane suggesting that the shortfall did not warrant the scale of the governments' responses."

Energy Experts Predict Gulf Output Won't Recover For Some Time. The USA Today (9/9, Lynch) reports, "Restoration of energy output to pre-Katrina levels stalled late this week as industry specialists began addressing some of the worst damage to the region's sprawling energy infrastructure." Ten days after Katrina, "gulf oil production Thursday was less than 40% of normal levels, down from 43% one day earlier, according to the U.S. Minerals Management Service." Natural gas output Thursday "stood at 59%, almost unchanged from the previous day." Oil prices, which "had eased a bit earlier in the week, rose slightly on the discouraging gulf numbers. Light sweet crude for October delivery closed at $64.49 a barrel, up 12 cents, on the New York Mercantile Exchange."

Gas Inventories Fall To Lowest Levels In Five Years. The New York Times (9/9, Bajaj) reports the nation's gasoline inventories "fell last week to their lowest levels in almost five years, the government said yesterday, quantifying for the first time Hurricane Katrina's effect on energy supplies and production." Americans "bought and used about as much gasoline as they did a year earlier - 9.3 million barrels a day - in the week that ended last Friday, but gasoline inventories fell 2.2 percent from the previous week because of supply and production disruptions, the Energy Department reported." A gallon of regular unleaded gasoline "was selling yesterday for an average of $3.03 nationwide, down from $3.04 on Wednesday, according to AAA."

The Christian Science Monitor (9/9, Trumbull) reports gasoline prices "have begun to ease, but even when all Gulf Coast refineries are running again later this year, consumers may not see a full retreat to pre-Katrina levels. That conclusion, analysts say, stems from a simple equation involving the cost of a barrel of crude, markups by middlemen, and little margin for error in the nation's energy infrastructure." How far "and how quickly prices fall now depend on a few critical factors: When four damaged refineries come back on line, how quickly emergency shipments of gasoline from foreign refineries arrive, and most important, where oil prices go from here."

But Demand For Gas Appears To Have Dropped. The Los Angeles Times (9/9, Peltz, Hoffman) reports drivers' "demand for gasoline appears to have downshifted since Hurricane Katrina sent pump prices soaring above $3 a gallon across much of the nation." Katrina "initially sparked panic buying, sporadic shortages and televised images of long lines at some service stations. Then, consumers pulled back as prices hit record highs, analysts said Thursday."

The Wall Street Journal (9/9, Ball, Gold) reports Americans "used 4% less gasoline amid skyrocketing pump prices last week than they did the week before Hurricane Katrina hit, the federal government reported. But whether that indicates consumers have decided to conserve or merely that they couldn't find all the gasoline they wanted isn't clear."

Arizona Governor Says Administration Not Dealing With High Gas Prices. The Phoenix Business Journal (9/9, Sunnucks) reports Arizona Gov. Janet Napolitano "criticized the Bush administration Thursday for failing to deal with the oil industry and record high gasoline prices." Napolitano said the Bush Administration "has not been aggressive enough in dealing with sky high gasoline prices in recent years and in the aftermath of Hurricane Katrina. The Democratic governor said the Republican White House has not been interested in consumers when it comes to the energy industry."

Gas Stations Report Growing Number Of "Drive Offs." The New York Times (9/9, Steinhauer) reports as "fuel prices rise, and the tempers of American drivers with them, so, too, has the number of people who are stealing gasoline." From Maine to Oklahoma, "gas station owners are reporting a surge in the number of drivers who pull up to the pump, fill up and drive off without paying. The incidents, known as 'drive offs' - which are typically concentrated at stations near big cities and Interstates - are forcing stations across the country to adopt prepay policies for cash customers."

State Department Shifts Position On Cuban Biological Weapons. The Christian Science Monitor (9/9) "Terrorism and Security" column writes that in 2002, John Bolton said Cuba had "'biological weapons capabilities' and was sharing them with 'rogue nations.' Mr. Bolton and the Bush administration were adamant that Cuba was a potential threat to the United States because of this. So it came as somewhat of a surprise last Tuesday when the US retreated from this early claim that Cuba has 'an offensive

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biological weapons effort.' The new position was made public in a State Department document released last Tuesday, when almost the entire United States was focusing on the effects of Hurricane Katrina in the Gulf of Mexico region." A Knight Ridder report "notes that this is the first time that the US has 'publicly softened' its charge that Cuba had biological weapons, which has been 'controversial from the outset.'"

China Announces Resumption Of North Korean Nuclear Talks. The New York Times (9/9, Brinkley) reports that China said that "six-nation talks over North Korea's nuclear weapons program will resume Tuesday," prompting several parties to restate "positions that helped push the last round into a stalemate." The same day, Jay Lefkowitz, the US special envoy on human rights in North Korea, "said he planned to publicize whatever he learned about human rights abuses in North Korea," such as "starved to death" political prisoners. "North Korea typically reacts quickly and angrily to critical statements from Washington," and Lefkowitz's mere appointment to his position "was a factor in the North's decision to postpone resumption of the disarmament talks by two weeks."

Experts Brief Rice On North Korea Visit. The Washington Post (9/9, A21, Kessler) reports that John W. Lewis, a retired Stanford University professor, and Siegfried S. Hecker, retired director of Los Alamos National Laboratory, both "prominent experts on North Korea who recently made an unpublicized visit" there, "briefed Secretary of State Condoleezza Rice yesterday." They provided "details of their talks with key North Korean officials" and "summarized their conversations in Pyongyang, made some suggestions for bridging gaps, and provided an assessment of the chances of reaching an agreement." North Korean officials "made it clear that they intend to insist that the statement of principles acknowledge North Korea's right to peaceful use of nuclear power."

Ukrainian President Fires Cabinet. The Financial Times (9/9, Warner) reports, "Ukraine's President Viktor Yushchenko yesterday sacked his cabinet and appointed" Yuri Yekhanurov, a veteran government official "with a record of avoiding direct political confrontations," to take over as prime minister "from the populist Yulia Tymoshenko." The Los Angeles Times (9/9, Murphy) adds that the move was Yushchenko's "attempt to reassert his leadership. Tymoshenko's "popularity had been one of Yushchenko's most valuable weapons." The New York Times (9/9, Myers) adds that Oleksandr V. Turchinov, chairman of the Ukrainian Security Services, "resigned in protest" warning that "the president's decision 'threatened the national security of Ukraine.'"

The Financial Times (9/9, Warner) reports that Yushchenko cited "the long-simmering conflict between Ms Tymoshenko and" national security chief Petro Poroshenko, which reached a "crisis point after the surprise resignation earlier this week of Olexander Zinchenko, the president's chief of staff, who on Monday accused Mr Poroshenko of corruption and interference in the media and justice system."

The New York Times (9/9, Myers) adds that Yushchenko "described his decision as a reluctant, though necessary one, saying that as president he 'should not baby-sit' his squabbling aides." The "heart of the divisions - and evidently the source of the accusations of corruption - have been the government's efforts to undo some of the dubious privatizations that took place under Mr. Kuchma."

The Washington Post (9/9, A20, Finn) adds, "The dismissal was triggered by a series of resignations by top officials who charged that some of the most powerful people around Yushchenko were using their positions to enrich themselves and reneging on one of the most important promises of last December's revolt, the eradication of endemic graft." Analysts said that "the public airing of" allegations of corruption "was designed to force other divisions to a climax."

The Financial Times (9/9, Warner) reports that the "dismissal of Ms Tymoshenko is likely to lead to a damaging confrontation with her and her political team that could further bog down reforms."

The Los Angeles Times (9/9, Murphy) adds that Yulia Mostovaya, assistant editor of the respected liberal weekly Zerkalo Nedeli, said, "Without Tymoshenko's support…Yushchenko never would have become president," but he's now created his own powerbase, "building it up on a basement of wealthy, financially strong tycoons."

The Washington Post (9/9, A20, Finn) adds that after the next election "the prime minister and cabinet will be chosen by parliament rather than the president, as they currently are. The powers of the prime minister will also increase at the expense of the president." However, "the crisis is likely to deepen public disillusionment with the government's failure to

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deliver quickly on some of the basic promises of the Orange Revolution, particularly rapid economic improvement."

Fate Of Ukrainian Reform Said To Rest With Tymoshenko. Robin Shepherd, an adjunct fellow of the Center for Strategic and International Studies, in an op-ed in the Wall Street Journal (9/9, Shepherd) argues, "We are watching…the first tentative steps in a desperately difficult transition," and "will get a pretty good idea of whether that task can, in the end, be accomplished in the days and weeks ahead." The political crisis "should be understood…in terms of flaws in the" Orange Revolution "which were apparent from the start," especially "the fractious nature of the democratic forces that took power in January." Prime Minister Yulia Tymoshenko "has barely concealed her own ambitions to take the president's place as the key player in national politics and has been engaged in all-out warfare with other members of the government for months." If she works against Yushchenko and other reformers, it "could prove disastrous for the reform movement, either pushing it out of power completely or, more likely, forcing reformists to make damaging concessions to supporters of the previous administration in order to form a new government."

NYTimes Calls Political Upheaval "Serious Blow" For Regional Reform. The New York Times (9/9) editorializes, "Yushchenko declared that his one goal was to ensure stability. But the Ukrainian protesters wanted change." Tymoshenko "is certain to turn" her "fiery speeches and powerful presence" on "the president and his new government." The situation "is a serious blow to the hopes and expectations that had been raised for the future of Ukraine, and for reformers in Belarus and other former Soviet republics." Yushchenko and Tymoshenko "squandered the momentum generated on Kiev's streets, struggling over control of lucrative industries, over relations with Russia and over how to cope with soaring energy prices." Yushchenko "needs to convince his country, and a very wary West, that he not only believes in democracy, free markets and the rule of law, but is also capable of leading Ukraine in that direction."

West Praises Egyptian Vote Amid Fraud Charges. The Washington Post (9/9, A20, Williams, Wright) reports, "Egyptian government officials leaked partial results Thursday of the first multi-candidate presidential election to show that President Hosni Mubarak had won at least 70 percent of the vote, but controversy still swirled about alleged irregularities and fraud in Wednesday's vote." As "government officials worked hard to persuade the public that the vote was valid, outside Egypt Butros Boutros-Ghali, the former U.N. secretary general, "declared the election a 'positive experience,'" and the State Department "praised the vote." One senior administration official said, "it's important to get all the public political energy into the political sphere, or it will go elsewhere."

WPost Says Bush Needs To Push Egypt For Additional Reforms. The Washington Post (9/9) editorializes that when the results of Egypt's vote are announced, "there will be no reason for anyone to take them seriously," due to the irregularities Mubarak allowed. However, "another election coming this fall, for parliament, that in many ways is more important than the presidential poll … If the upcoming vote is fair, it will drastically reduce the suffocating authority of the ruling party." The Bush administration "cites the democratization of the Middle East as one of its top priorities," but "persists in describing" the election "as 'a positive first step,'" despite "Mubarak's insistence on heavy-handed steps to control the election's outcome." The Administration can do more, and "need not ask Mr. Mubarak for radical change -- only for steps that liberal activists in his own party favor," such as "allowing slates of parliamentary candidates to be elected by proportional representation," allowing "more of the real Egyptian opposition into the process," and making the "next vote…free and fair, and certified as such by both local and international monitors."

Koizumi Coalition Poised To Win Election. USA Today (9/9, Wiseman, Takahashi) reports, "Advocates for change in Japan could emerge rejuvenated from Sunday's legislative elections, thanks to Prime Minister Junichiro Koizumi's decision last month to wage war on obstructionist lawmakers in his own ruling party. A poll this week by the daily Asahi Shimbun showed Koizumi's ruling coalition -- his Liberal Democratic Party (LDP) and its ally New Komeito -- leading the top opposition party." When members of his party in parliament defeated his plan to privatize the post office, he "dissolved the legislature and called the election," had an "internal purge of the party," then "recruited a group of attractive candidates, dubbed by the daily Mainichi the 'assassins' and 'female ninjas,' to defeat them in the polls."

EU Nations Raise Billions For Vaccination Of Needy. The New York Times (9/9, Dugger) reports,

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"Britain, France, Spain, Italy and Sweden will announce an agreement on Friday to raise almost $4 billion on the bond markets for an enormously expanded use of vaccines across the developing world … The pact marks the first time rich nations have used pledges of increased aid to back government bonds as a means of financing a major development program. This so-called international finance facility is the brainchild of Gordon Brown, Britain's chancellor of the exchequer." The World Health Organization estimates the money will "save the lives of five million children over the next decade." Administration officials explained earlier this year that they would not join the effort because "the long-term commitment to raise money through the bond market is not consistent with the annual appropriations process in Congress."

China Unexpectedly Rehabilitates Reformer Whose Death Triggered Demonstrations. The Washington Post (9/9, A1, Pan) reports, "Chinese President Hu Jintao has agreed to restore the standing of the reform-minded Communist leader whose death triggered the 1989 Tiananmen Square demonstrations, a surprising reversal of party dogma that could prompt new calls for democratic change in China." While there are "no plans to change the party's position that the 1989 Tiananmen Square protests were subversive, or to admit it was wrong to use troops to crush them," the "decision to rehabilitate Hu Yaobang…suggested such reversals might be possible in the future." It was "unclear why the Chinese president…decided to rehabilitate Hu Yaobang." The move "was out of character for the president, who has developed a reputation over a long career in the party as an extremely cautious bureaucrat unwilling to take risks" and "surprised many party officials."

Columnist Says Administration Deference To Chavez Due To "Sheer Ignorance." Anastasia O'Grady, in her column in the Wall Street Journal (9/9) argues, "The overly deferential Washington mindset toward Venezuela's Hugo Chávez, based on the myth that we need his oil," is a "display of sheer ignorance in the area of energy -- mixing dangerously with personal ambition, of course -- that threatens a policy mess." When the State Department endorsed "the results of the fraudulent recall referendum," it fed "the egomania of South America's newest would-be dictator." In reality, "Chávez has very little influence over how much the U.S. pays for oil, unless of course he wants to take Venezuela out of its role as a producer. That's unlikely, since he's now spending like a drunken sailor on arms and politics and relies on oil income to hold onto power." As long as Venezuela is selling oil to the world at large, economic theory shows it "cannot punish one buyer over another."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Speaks at the swearing in ceremony for Karen Hughes as Undersecretary of State for Public Diplomacy and Public Affairs, State Department; remarks at the 9/11 Heroes Medal of Valor Award Ceremony, White House.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: PRESIDENT JALAL TALABANI OF IRAQ _ Highlights: 11 a.m. Holds news conference. Room 1528-A, VOA, 330 Independence Ave. SW. Event contact: Joe O'Connell, 202-401-7000. 1:15 p.m. Attends honor cordon at the Pentagon, hosted by Defense Secretary Donald Rumsfeld. Pentagon steps, Pentagon River Entrance. Media must arrive no later than 12:45 p.m. at North Parking Entrance for escort.

BIOETHICS _ Meeting of the President's Council on Bioethics at which, among other things, it will continue its discussion of ethical issues relating to the treatment of the aged and the long-term care of patients with dementia. Location: Wyndham City Center, 1143 New Hampshire Ave. NW.

KATRINA-BLACK CAUCUS _ Rep. Melvin Watt, D-N.C., Rep. William Jefferson, D-La., and other members of the Congressional Black Caucus visit Baton Rouge, La. and Houston to visit hurricane evacuees. Highlights: 8:30 a.m. Visit hurricane survivors, The River Center, 175 S. River Rd. East Baton Rouge, La. 1 p.m. Visit hurricane suvivors, George Brown Convention Center, Houston, Texas.

UN REFORM _ 8:30 a.m. - 12 p.m. Bridging Nations, CSIS, the Mansfield Foundation, and the Asia Society Washington Center, host a breakfast discussion on ``Prioritizing U.N. Reform" in advance of the September 2005

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UN summit in New York to review progress since the Millennium Declaration adopted by all member states in 2000. Participants include John Hamre, CEO, CSIS; Shirin Tahir-Kheli, advisor to the Secretary of State on UN Reform; Shashi Tharoor (via video), Under-Secretary-General for Communications at the UN; and John Zogby, CEO, Zogby International. Location: CSIS, Conference Room B-1, 1800 K St. NW.

COUNTER DEMONSTRATION _ 9 a.m. A coalition of conservative groups hold a news a news conference to announce a series of counter demonstrations to the anti-war protests scheduled around the World Bank-IMF meetings. Location: National Press Club.

DEPARTMENT OF EDUCATION _ 9:30 a.m. The American Enterprise Institute (AEI) hosts three former secretaries of education and a former presidential education advisor to examine lessons learned about the crafting of federal education policy from the department's first quarter century, with William Bennett, Claremont Institute; Sen. Lamar Alexander, R-Tenn.; Rod Paige, Woodrow Wilson Center; Andrew Rotherham, Education Sector; and moderator Frederick Hess, AEI. Location: AEI, Wohlstetter Conference Center, 12th Floor, 1150 17th St. NW.

HUGHES _ 10 a.m. Swearing in ceremony for Karen Hughes as Undersecretary of State for Public Diplomacy and Public Affairs. Location: Franklin Room, State Department.

TERRORISM-UNIVERSITIES _ 10 a.m. The University of Maryland, College Park, hosts a panel discussion on ``Strategic Visioning Four Years After 9/11: The University's Role in Informing Counter-Terrorism Policy and Practice. Panelists include: Melvin Bernstein, Department of Homeland Security director of university programs; Jacques Gansler, University of Maryland vice president for research and former U.S. under secretary of defense; Arie Kruglanski, University of Maryland psychologist and expert on the psychology of terrorism; Gary LaFree, University of Maryland criminologist and director of the National Consortium for the Study of Terrorism and Responses to Terrorism. The event is part of the official launch of a consortium of 25 institutions around the world focusing on research that can assist the war on terror. Highlights: 10:30 a.m. - 11 a.m. DHS Under Secretary Charles McQueary gives remarks. Location: Univerity of Maryland, College Park, Stamp Student Union, Colony Ball Room.

KATRINA-HEALING COMMUNITIES _ 10:15 a.m. Senators Edward Kennedy and Debbie Stabenow, Rep. Donna Christensen and others hold a news conference with NAACP President Bruce Gordon and members of the faith community to discuss long-term support for the communities destroyed by Hurricane Katrina. The news conference follows a closed meeting among the participants. Location: Capitol, LBJ Room, S-211.

WOLF-AFGHANISTAN _ 10:30 a.m. Rep. Frank Wolf holds a press conference to report on his most recent trip to Iraq and Afghanistan. Location: House Radio and TV Gallery.

CENSUS-UNINSURED _ 12 p.m. The American Enterprise Institute holds a panel discussion to discuss the Census Bureau's recent annual estimate of the uninsured, comparing it to other HHS estimates showing different results. Keynote address by Sen. Robert Bennett, with presentations by Linda Bilheimer and Robin Cohen of the National Center for Health Statistics, Steve Cohen of the Agency for Healthcare Research and Quality, others. Location: 12th floor, AEI, 1150 17th St. NW.

KATRINA-PROTEST _ 12 p.m. Black Voices for Peace and the National Black Environmental Justice Network hold a demonstration to demand accountability for the Hurricane Katrina response and to protest the treatment of victims. Location: Lafayette Park.

THE TROUBLE WITH MEDICAID _ 12 p.m. The Cato Institute hosts a Capitol Hill briefing on ``The Trouble with Medicaid." Speakers are Stephen Moses, president, Center for Long-Term Care Reform; Jagadeesh Gokhale, senior fellow, Cato Institute; and Michael Cannon, director of health policy studies, Cato Institute. Location: Room B-354, Rayburn House Office Building.

BIBLE CURRICULUM _ 1 p.m. Actor Chuck Norris, his wife Gena, Alveda king of King for America, others, hold a news conference to speak about the inclusion of an elective Bible course in schools nationwide. Location: National Press Club.

PELOSI-HOUSTON _ 1 p.m. House Democratic Leader Nancy Pelosi and other members of Congress visit hurricane evacuees in Houston. Press availability to follow at 2 p.m. Location: George R. Brown Convention Center, 1001 Avenida de las Americas, Houston. Hall C Entrance.

KATRINA _ 3 p.m. Georgetown University Law Center holds a panel discussion on whether human decisions made the impact of Hurricane Katrina worse. Participants include Vicki Arroyo, Pew Center on Global Climate Change; Mark Davis, Coalition to Restore Coastal Louisiana; others. Robert

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R.M. Verchick, Loyola University, New Orleans. Location: room 200, at the law school, 600 New Jersey Ave. NW.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Bush Pledges Aid For 'Long Haul.'"
"Putting It All On The Line."
"Among The Ruins, Something To Build On."
"Lives And History Adrift On A Soggy Paper Trail."
"Many L.A. County Jail Inmates Still Held Too Long."
"Crews Roust Holdouts, Brace For The Body Count."

USA Today:
"9/11 Recruits: They Enlisted When USA Was Under Fire."
"Police Hold Off Use Of Force."
"Katrina Aid Package Could Push Deficit To New High."

New York Times:
"Cost Of Recovery Surges, As Do Bids To Join In Effort."
"Political Issues Snarled Plans For Troop Aid."
"Storm Leaves Legal System A Shambles."
"Holdouts On Dry Ground Say, 'Why Leave Now?'"
"9/11 Firefighters Told Of Isolation Amid Disaster."
"A Bleak Symbol Of Apartheid, Soweto Sees Signs Of Prosperity."

Washington Post:
"Congress Approves $51.8 Billion For Victims."
"Troops Escalate Urgency Of Evacuation."
"Leaders Lacking Disaster Experience."
"Tight Constraints On Pentagon's Freedom Walk."
"For U.S. Platoon In Iraq, Merciless Missions."
"China Plans To Honor A Reformer."

Washington Times:
"Congress OKs $51.8 Billion."
"Berger Fined For Taking Papers."
"Unwed Women Set Record For Births In 2003."
"Cropp Signs Proliferate In D.C."

Detroit Free Press:
"Michigan Squads Lay Down Law In The South."
"Grief Persists For Vets' Families."
"Veteran Journalist Joins Out Team Of Editors."

Atlanta Journal-Constitution:
"Thousands Seek Public Assistance."
"Inhaled Insulin Closer To Reality."
"Agencies Ease Rules For Evacuees With No ID."
"Thunderbolts Fly As Preachers Vie."

Dallas Morning News:
"Stragglers Surrender."
"Bush's Advisers Debated Seizing Louisiana Effort."
"N. Texas Absorbing Part Of Wiped-Out Economy."
"A Legal Quagmire Without Precedent."
"Business Group Charged With Illegal Funding."

Houston Chronicle:
"A Crush For Debit Cards."
"Relatives Cling To Hope, Anxiously Await Word."
"BP Kept Unit Running Despite Memo On Eroded Pipes."

Story Lineup From Last Night's Network News:
ABC: Hurricane Relief Costs; New Orleans Evacuation; Hurricane Recovery Costs; Hurricane Ophelia; FEMA-Hurricane Response; Hurricane Zone-Reunited Families; Hurricane Zone-Animals.
CBS: New Orleans-Health Threat; Bush-Hurricane Response; Death Toll; Hurricane-Gulf Economy; Hurricane Ophelia; Iraq KIA Honored; Storm Babies; Hurricane Zone-Animals; FDA-Inhaled Insulin; FEMA-Hurricane Exercise; Mismanaged 9/11 Funds; Hurricane Relief Efforts.
NBC: New Orleans Evacuation; Bush-Hurricane Response; Medical Strike Teams; Baton Rouge-Overcrowding; Emergency Response Delays; FEMA-Complicated Website; Hurricane Zone-Animals; Stock Market; Galveston Hurricane Anniversary; Hurricane-Young Evacuees.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Congress-Hurricane Relief; Hurricane-FEMA Debit Cards; New Orleans Evacuations; Hurricane Preparations; Hurricane Ophelia.
CBS: Congress-Hurricane Relief; Hurricane-Red Cross Debit Cards; Hurricane-International Aid; Brown-Biography Questions; Hurricane Ophelia; CA-Illegal Immigrant Driver's Licenses; Hatch-Tax Evasion Allegations; ABC Television-Spanish Translations; Wall Street.
NPR: Congress-Hurricane Relief; Hurricane-Cheney Visit; New Orleans Evacuations; Hurricane-International Aid; FBI-Hurricane Charity Scams; Wall Street; Iraq-Saddam Confession; DeLay PAC Indictment.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, SEPTEMBER 9, 2005 7:45 AM EDT

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TERRORISM NEWS:

Alleged Torture Victim Indicted For Bush Assassination Plot. The Washington Post (9/9, A4, Markon) reports, "An American student was charged yesterday in an al Qaeda plot to kill President Bush, with prosecutors alleging that Ahmed Omar Abu Ali and his confederates planned to use multiple snipers to shoot Bush or to blow him up in a suicide bombing." The Post continues, "The expanded indictment of Abu Ali, returned by a federal grand jury in Alexandria, also claimed for the first time that he proposed a plan to bring members of an al Qaeda cell into the United States through Mexico. They would then link up with Abu Ali to conduct terrorist operations in this country, the indictment said." The Post adds, "Abu Ali, 24, of Falls Church was first charged in February with terrorism counts that included trying to establish an al Qaeda cell in the United States. That indictment referred to the plot to kill Bush, but Abu Ali was not charged with conspiring to assassinate the president until yesterday. The case is among the highest-profile terrorism prosecutions in the United States since the Sept. 11, 2001, terrorist attacks. … The new nine-count indictment also adds charges of conspiracy to commit aircraft piracy and destroy aircraft, part of the Justice Department's allegations that Abu Ali was plotting with al Qaeda to conduct a Sept. 11-style attack in the United States that would include hijacking planes."

Appeals Court Panel Questions Detainee's Lack Of Court Access. The AP (9/8, Yost) reports, "A federal appeals court Thursday questioned the Bush administration's handling of detainees at Guantanamo Bay, suggesting the judiciary might have authority to delve into the conduct of military tribunals which have categorized almost all of the inmates as enemy combatants." The AP continues, "The two hours of arguments were in sharp contrast to those of several years ago when the appeals court suggested detainees at the Guantanamo Naval base were not entitled to have access to the U.S. courts, and then ruled against them. The U.S. Supreme Court reversed that decision a year ago." The AP adds, "On Thursday, a panel of three appeals court judges two appointed by Republican presidents and one by a Democratic president aggressively questioned Justice Department attorney Gregory Katsas about the possibility of court scrutiny over the detainee review process. … 'There is nothing in the habeas statute that requires us to defer to a military tribunal,' A. Raymond Randolph, an appointee of President Bush's father, told Katsas. The other judges on the panel are David Sentelle, an appointee of President Reagan, and Judith Rogers, an appointee of President Clinton."

Reuters (9/8, Vicini) reports, "Guantanamo Bay prisoners should be given the chance to prove in court that they have been mistakenly labelled as 'enemy combatants' and have been unlawfully detained, their attorney said on Thursday. … 'Since day one, these people have been saying you've got the wrong guys. They want a fair hearing to show that,' attorney Thomas Wilner told a U.S. appeals court during more than two hours of arguments. … But Justice Department lawyer Gregory Katsas repeated the Bush administration's position that the prisoners were not entitled to any constitutional due process rights, and he defended the military tribunals set up to review their cases."

Witness Testifies Al Arian Associates Linked To PIJ-Connected Mosque. The Tampa Tribune (9/9, Silvestrini) reports, "A witness in the trial of Sami al-Arian testified Thursday morning that Ramadan Shallah served briefly as the religious leader of a mosque in Chicago. Mohammed Hasan, who testified under a grant of immunity, also placed Al-Arian codefendant Hatim Fariz at a 1991 rally in Chicago." The Tribune notes, "Prosecutors have alleged in court papers that the mosque was 'an entity we believe to be a component of the PIJ enterprise.'"

CAIR To Run Anti-Terrorism Ad In Tampa Markets This Weekend. The AP (9/9) reports the Council on American-Islamic Relations "plans to denounce terrorism in a paid television commercial airing in the Tampa market this weekend to coincide with the anniversary of the Sept. 11, 2001, terrorist attacks. The 30-second spot…features two American Muslims, a man and a woman, denouncing violence in the name of Islam and vowing to 'not to allow our faith to be hijacked by criminals.' The spot will run 105 times Thursday through Sunday on 13 cable channels in Tampa, including CNN, Fox Sports Net and the Weather Channel, according to CAIR's Florida office."

Aswat To Remain In Custody Pending Extradition Hearing. BBC (9/8) reports on its Web site, Haroon Rashid Aswat, "accused of trying to set up a terror training camp in the US has been ordered to remain in custody while an extradition case is prepared. … A lawyer for US authorities told Bow Street magistrates the extradition case would be complete within 10 days." Aswat "is due to appear again on 6 October."

PATRIOT ACT:

Michigan Town Rejects Anti-Patriot Act Resolution. The Grand Rapids Press (9/8, Martinez) reports that the Holland, MI, City Council "on Tuesday rejected a resolution expressing concern with sections of the

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federal Patriot Act." The Press continues, "The resolution was proposed by the city's Human Relations Commission and on put on the agenda Wednesday by Councilman David Hoekstra. … The council rejected the resolution 5-2, with only the 6th Ward councilman Hoekstra and Councilman At-Large Jerome Kobes voting in favor. Mayor Al McGeehan and 2nd Ward Victor Orozco were absent." The Press adds, "Both Mayor Pro-Tem Craig Rich and 5th Ward Councilman Kurt Dykstra said they felt the Patriot Act doesn't fall under the council's jurisdiction. … 'I'm one of those people who don't think its appropriate (for the City Council) to take a stand on a national issue. What's next? Are we going to be asked to vote on gay marriages next week or the war in Iraq the following week?' Rich said. 'We are elected to represent our constituents on local issues...This is grandstanding if we do it. That's all it is.'" The Press notes, "While he didn't agree with the HRC's recommendation, 4th Ward Councilman Bob Vande Vusse said he appreciated the work of the HRC, which spent more than a year studying the issue."

HOMELAND RESPONSE:

New York Recognizes 9/11 EMT Victim With Rescuer Status. The AP (9/8, Gormley) reports, "On Sept. 11, 2001, as Glenn Winuk's co-workers were ordered to run to safety from their lower Manhattan office building, he ran the other way a block toward ground zero. There he told New York City fire officials he was an emergency medical technician in his hometown volunteer fire department and wanted to help the victims. … Moments later, he died when the South Tower collapsed, the medical kit he was issued at his side." The AP continues, "On Thursday he was officially recognized by the state as a rescuer in the historic effort that saved thousands, rather than as a civilian casualty, a distinction his family has been seeking for nearly four years. … 'They all ran for safety, but he ran toward the scene as he did in "93"' for the first World Trade Center bombing, said Winuk's brother, Jay Winuk. 'He ran toward danger because he knew he could save lives.'" The AP notes, "The recognition was delayed because Glenn Winuk was technically an associate member of the Jericho Volunteer Fire Department in Nassau County and was no longer an active firefighter or EMT in the department he served with for 19 years. His status changed when he moved to Manhattan and became a partner in his law firm, keeping him from being recognized by the federal government as an official rescue worker for memorials, historic records, and for a $278,658 Public Safety Officers benefit for his parents. … The federal government rejected the family's request citing, in part, the fact that Winuk hadn't even been officially recognized by the state as a rescue worker, said state Sen. Carl Marcellino, a Long Island Republican. But his bill, co-sponsored by Democratic Assemblyman Charles Lavine and recently signed by Pataki, changed that. … A federal decision is expected in 30 days."

Port Authority Workers Among Posthumous Medal Of Valor Awardees. The Newark Star-Ledger (9/8, Marsico) reports, "After the terrorist planes hit the Twin Towers on 9/11, Edward Calderon, a civilian employee with the Port Authority of New York and New Jersey, told a colleague by phone he was staying inside one of the buildings to help with evacuation operations. … 'I'm a Marine and we don't leave anyone behind,' snapped Calderon, a former member of the corps and a resident of Union." The Star-Ledger continues, "James Barbella, an agency property manager from Oceanside, N.Y., led would-be rescuers up the stairs desperately trying to find a way to save people trapped in the top-floor restaurant, Windows on the World. … Robert Lynch, another property manager from Cranford, ensured that a child-care facility and bookstore were clear before heading through the plaza to help with the evacuation of a tower." The Star-Ledger adds, "Lynch, Barbella and Calderon were killed when the buildings collapsed. Tomorrow, they will be among 13 Port Authority civilian employees given a special 9/11 heroes' 'Medal of Valor' posthumously by President Bush in Washington, D.C., along with the 37 Port Authority Police officers who also died that day. … Port Authority officials successfully lobbied to get the employees' families the medals because the 13 individuals provided critical electrical, structural, mechanical and operations information to police and fire officials during the evacuation that saved thousands. Officials said their role has been little known by members of the general public. … 'There was a great deal of unforgettable tragedy on 9/11. One positive note, however, was that approximately 25,000 people were evacuated from the World Trade Center,' the agency's chairman and executive director wrote in a June letter to U.S. Attorney General Alberto Gonzales. 'These fallen Port Authority civilians assisted all uniformed rescue workers in all aspects of the evacuation and collectively all groups significantly contributed to saving all those lives.'"

Study Finds Mismanagement Of 9/11 SBA Program. The CBS Evening News (9/8, story 11, 0:30, Roberts) reported, "An investigation by the Associated Press finds the Federal Government's $5 billion program to help businesses recover after 9/11 was so badly managed, it gave low-interest loans to companies not affected by the attacks. Loan recipients included a country music radio station in South Dakota, a perfume shop in the Virgin Islands, a dog boutique in Utah, and more than 100 Subway Sandwich and Dunkin' Donuts shops."

Most Post-9/11 Loan Funds Went To Firms Far From New York, DC. The AP (9/9, Dobbin) reports, "An Associated Press review of two Small Business

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Administration programs that doled out Sept. 11 recovery loans, found the government provided, approved or guaranteed nearly $4.9 billion in loans, and took credit for saving 20,000 jobs. That puts the average cost of saving a job at about a quarter million dollars each." The AP continues, "Of the 19,000 loans, fewer than 11 percent went to companies in New York City and Washington, an AP computer analysis showed. Officials conceded the SBA allocated few resources to oversee the congressionally-approved loan programs, leaving banks on an honor system to determine who should get terror recovery loans." The AP adds, "SBA documents obtained by AP show the banks had a strong incentive to approve as many loans as possible from the terror program - their cost was reduced in half. … The SBA said it first learned of the problems through AP's review and was weighing whether an investigation was needed. … Among the hardest-hit enterprises in places far removed from the devastation were travel agencies, tourist shops, food caterers, limousine fleets, hotels and bars. Americans weren't traveling far from home like they used to."

Citing Lack of Confidence In CIA Leadership, Senior Clandestine Service Official Retires. The Washington Post (9/9, A5, Priest, Pincus) reports, "Robert Richer, the second-ranking official in the CIA's clandestine service, has announced his retirement, telling colleagues that he lacked confidence in the agency's leadership." Some officials say "Richer's decision revolved around an ongoing debate over how to improve human intelligence and the direction of the CIA," but other assert it "involved disputes over 'operational issues' that they would not specify, and a clash of personalities between Richer" and CIA Director Porter J. Goss "and his top aides," the reason "Richer's predecessor and his boss resigned" last year.

Pentagon's Freedom Walk Has "Unusual" Security Constraints. The Washington Post (9/9, A1, Dvorak) reports that the Pentagon's 9/11 memorial Freedom Walk has "extraordinary measures to control participation in the march and concert." The route has "not been specified but will be lined with four-foot-high snow fencing to keep it closed and 'sterile,'" and "the U.S. Park Police will have its entire Washington force of several hundred on duty and along the route," ready to "arrest anyone who joins the march or concert without a credential and refuses to leave." It's "unusual" for an event on the Mall to have "fences, required preregistration and the threat of arrest." Allison Barber, deputy assistant secretary of defense, said "police had requested" the "stringent measures," but Park Police Chief Dwight E. Pettiford said "the Pentagon restricted the event in its permit application."

Ground Zero Rebuilding Could Take "A Generation" To Complete. The Christian Science Monitor (9/9, Marks) reports that rebuilding at ground zero in New York City "has been slow going, due in part to the seeming incompatibility of rebuilding a vital commercial, retail, and financial hub on what many now consider to be a sacred burial ground." Also, it takes extra time to ensure "that ground zero…rises stronger than before." The project is "expected to be the most publicly debated, disputed, reviewed, and revised in world history," an "urban rebirth that could take more than a decade, if not a generation, to complete."

WAR NEWS:

Powell Regrets Relying On Intelligence Pointing To Existence Of Iraqi WMD. In an interview to be broadcast on ABC Friday evening former Secretary of State Colin Powell reiterated his disappointment with US intelligence on Iraqi weapons programs. The New York Times (9/9, Weisman) reports Powell says "his 2003 speech to the United Nations, in which he gave a detailed description of Iraqi weapons programs that turned out not to exist, was 'painful' for him personally and would be a permanent 'blot' on his record." Powell said he felt "Terrible" when he learned "that he had been misled about the accuracy of intelligence on which he relied" and "added that it was 'devastating' to learn later that some intelligence agents knew the information he had was unreliable but did not speak up." He "also implied in the interview that the United States did not go to war in Iraq with sufficient troops to secure the country and failed to keep sufficient Iraqi forces to help stabilize the country." Powell's "expressions of regret about the weapons intelligence and the lack of troops were consistent with many of his statements in office, especially after it became clear that Iraq had none of the weapons that Mr. Powell had said it was stockpiling."

200 Insurgents Captured In Syrian Border Staging Ground. US and Iraqi forces captured 200 mostly foreign insurgents at a staging ground near Tall Afar along the Syrian border. The New York Times/AP (9/9) reports the US-Iraqi operation to clear Tall Afar of insurgents "would intensify." And "one of captives was Amr Omayer, an Iraqi who was believed to be commander of all insurgent operations stemming from Tal Afar." Some captives were believed to be from Afghanistan while others "were from Syria, Sudan, Yemen and Jordan."

Iraqi Forces Prove Effective In Identifying Insurgents. Iraqi forces are becoming increasingly

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effective as they work with US forces, particularly in helping interrogate insurgents. The Washington Post (9/9, A21, Finer) reports that "identifying fighters who blend seamlessly into the local population" is one of the most difficult tasks facing US forces and "American commanders have long insisted that growing numbers of Iraqi security forces will make that job much easier." But, "U.S. commanders also acknowledge that the Iraqi troops' reputation for heavy-handed treatment of prisoners cuts two ways: It can terrify prisoners into talking but undermine the rapport policemen and soldiers have with the populations they serve." Another negative is that few of the Iraqi forces are Sunni. Iraqi forces are not only "fully integrated into nearly every aspect of the Tall Afar operation," but hundreds "are also being brought to the city to man stations that U.S. forces have said they will establish once the fighting wanes." According to US commanders, the "performance of Iraqi troops in this region has improved dramatically since the 3rd Armored Cavalry arrived in April."

Insurgents Forced Out Of Tall Afar. The Washington Post (9/9, A21, Finer), in an article on the improvement of Iraqi forces, also reports, "Heavy bombing continued Thursday evening, as U.S. jets dropped 500-pound J-DAM precision bombs and other munitions into the insurgent-controlled neighborhood of Sarai, while playing messages over loudspeakers that called on residents to evacuate. Nearly 1,000 people left the city through U.S. checkpoints Thursday, and commanders said intelligence showed that insurgent leaders were attempting to vacate the city."

US Forces Struggle With Toll Of Duty In Iraq. The Washington Post (9/9, A1, Fainaru) in a front page story examines the daily dangers facing US troops operating in Iraq. After describing the aftermath of an IED attack on one US platoon the Post reports, "Six hours after the attack, and with only a few hours of sleep" the platoon was "back patrolling the bomb-cratered streets of Balad. … The attack quickly faded, taking its place alongside myriad others that have occurred during the platoon's first eight months of a yearlong combat tour in Iraq." Their experiences "go to the heart of the growing debate over the continued involvement of U.S. troops in Iraq. The days are infused not with the politics of war but the stark realities of it: tragedy and loss, loneliness and exhaustion, resilience and camaraderie in the face of a stubborn and deadly insurgency. The platoon's daily life has been ordered by nothing more than the merciless patrol schedule, twice-daily, four-hour combat missions that inevitably place the soldiers in the paths of attacks aimed at killing them." In interviews "the physical and emotional toll of prosecuting the war in Iraq was vividly apparent."

Indicators Highlight Importance Of Passing Iraq Constitution. Nina Kamp and Michael O'Hanlon, a senior research assistant and a senior fellow at the Brookings Institution, and graphic designer Amy Unikewicz in an op-ed in the New York Times (9/9) updates their chart tracking progress in Iraq and warn, "It was not a good summer in Iraq. After the midwinter bright spots -- reductions in violence, greater economic vitality, the famous purple fingers of voters -- the situation worsened as the weather warmed. Most worrisome, the constitutional process has failed to bring aboard Sunni Arabs, who remain the core of the insurgency. While Shiites and Kurds wisely compromised on some key points, they favor an oil-allocation scheme that Sunnis fear could deprive them of their fair share of Iraq's natural wealth." Despite some positive news, "on balance the indicators are troubling. … On one point at least, pessimists and optimists about Iraq tend to agree: the situation needs a major boost from the political process. In that light, the Oct. 15 referendum on the draft constitution looms very large."

Columnist Urges Iraqi Political Factions To Support Constitution. Thomas Friedman in his column in the New York Times (9/9) urges Iraqi Shiites, Kurds and Sunnis to work together to approve a constitution because in the aftermath of Katrina the US may become distracted. Friedman says "most Democrats have opposed the war from the start, and many Republicans no longer support the war per se, but only George Bush." Bush "has carried this war on his shoulders, and the more he's weakened politically by Katrina, the less he will be able to carry. Yes, Mr. Bush has said we'll do whatever it takes to finish the job in Iraq, but he said that before there was another huge job to do." Friedman states, "If there is a constitution basically supported by all the key parties, a decent outcome is still possible in Iraq. Yes, Mr. Bush says he intends to stay the course there no matter what, but without a constitution embraced by all three communities, there will be no course to stay. The pressure on us to leave will only grow."

Oil-For-Food Report Reflects Badly On Democratic Party "Icon" Sorensen. The New York Sun (9/9, Avni) reports, "A Democratic Party icon of the Kennedy days, Theodore Sorensen, was hired in 1993 by an agent of Saddam Hussein, Samir Vincent, to influence top Turtle Bay officials, according to Wednesday's Volcker report on the U.N. oil-for-food program. Vincent and his Korean partner, Tongsun Park, also financed an American pro-U.N. organization known as UNA-USA with Taiwanese money." Sorenson was hired by Vincent "to shape what ultimately became oil for food."

WSJournal Says Volcker Report Shows Corruption At Heart Of UN. The Wall Street Journal (9/9) says in an editorial, "With the release Wednesday of Paul Volcker's

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fourth report on Oil for Food, we have the clearest account yet of what this quote-unquote" oil for food "scandal is really about." Oil for Food is "not about some isolated incidents of perceived or actual wrongdoing during the course of a seven-year effort to maintain sanctions on Iraq, monitor its oil flows and feed its people. Oil for Food is a story about what the U.N. is. And our conclusion from reading the 847-page report is that the U.N. is Oil for Food." Press reports "often cite the overall size of Oil for Food at $60 billion, but Mr. Volcker's report makes clear that the real figure was in excess of $100 billion. From this, Saddam was able to derive $10.2 billion from illicit transactions. But the important point is that he was able to steer 10 times that sum toward his preferred clients in the service of his political aims." Volcker's report "is replete with examples of incompetent U.N. oversight and tales of political wrangling among the permanent members of the Security Council. But the abiding fact is that it was the Western powers, not Saddam, who wanted Oil for Food at virtually any cost, because it offered the appearance of a meaningful policy in the absence of a real one, namely regime change."

The Wall Street Journal (9/9) also excerpts a portion of the latest report of Paul Volcker's Independent Inquiry Committee on the United Nations' Oil for Food program.

Taliban Insurgents Kill Six Afghan Policemen. The New York Times (9/9, Gall) reports Taliban insurgents "attacked an Afghan National Army weapons depot south of Kabul on Thursday, killing six Afghan policemen, the state Bakhtar news agency said." Two suspected Taliban insurgents "were killed in the firefight that ensued, and one was captured, Bakhtar reported, quoting the press office of the Interior Ministry." Gunmen "also attacked a parliamentary candidate in eastern Afghanistan. The candidate, Safia Siddiqui, a well-known figure and spokeswoman at the national constitutional convention in 2004, was campaigning in her native Nangarhar Province when she came under fire. She was not injured, but three of her supporters were wounded, Agence France-Presse reported."

Funds For War On Terror Said Better Spent On Disease Prevention, Research. Reuters (9/9, Fox) reports Dr. Erica Frank of the Department of Family and Preventive Medicine at Emory University School of Medicine in Atlanta says "the US 'war on terror' is saving fewer lives than just spending the money on disease prevention and research, and has probably caused deaths by taking money away from basic services." The "accusation is not new, but" Dr. Frank "said she has calculated the cost, in terms of lives, of the Bush administration's terror policies." Frank "warned there is a threat that because of the U.S. government's policy, enormous numbers of Americans will die unnecessarily."

US Strategy In "Global War Against Terrorism" Critiqued. In a Washington Post op-ed (9/9, A25), former diplomat Richard Holbrooke says global war on terror "is not an accurate description of America's enemy or of what we are engaged in. Unless people know whom we are fighting, it will be virtually impossible to win the war of ideas that is such a key part of this struggle. The new undersecretary of state for public diplomacy, Karen Hughes, who is charged with primary responsibility for this part of the war, has a chance to fix the problem, but only if she is willing to change some deeply ingrained rhetoric and the political reasons behind it." The "long-term battle is against the underlying ideas and leaders behind these specific groups of terrorists. Despite factionalism and fierce doctrinal disputes, our enemies, broadly speaking, constitute a movement, with goals, gurus, ideologues, myths and martyrs. They share a core set of virulently anti-Western beliefs and have common goals: to destroy the moderate (and still majority) wing of Islam, to establish Islamist theocracies that look backward toward a mythic 'golden age,' to seek the destruction of Israel, and to inflict maximum damage and human suffering through acts of terrorism." But the US "has not made it a primary goal to expose Osama bin Laden as the monster he is, something Roosevelt and Winston Churchill did to Hitler, and American leadership did to communism during the Cold War by demonstrating its moral and intellectual bankruptcy."

Mark Helprin, Senior Fellow of the Claremont Institute and Distinguished Visiting Fellow of Hillsdale College, in an op-ed in the Wall Street Journal (9/9) faults the Administration for not committing enough resources to national security and says, "The war in Iraq has been poorly planned and executed from the beginning, and now, like a hurricane over warm water, the insurgency is in a position to take immense energy from the fundamental divisions in that nation. The rise of Chinese military power, although lately noted, has met with no response. America's borders are open, its cities vulnerable, its civil defense nonexistent, its armies stretched thin. We have taken only deeply inadequate steps to prepare for and forestall a viral pandemic that by the testimony of experts is a high probability and could kill scores of millions in this country alone. That we do not see relatively simple and necessary courses of action, and are not led and inspired to them, represents a catastrophic failure of leadership that bridges party lines."

9/11 Recruits' Motivations, Fates Examined. USA Today (9/9, Hampson) report that "contrary to popular belief, there never was an upsurge in military enlistments as a result of the attacks that killed almost 3,000 people four years ago. But in a time of retreat and collapse, when Americans were urged to maintain their routines and get on with their lives, a few people stepped forward and did just the opposite.

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Although statistically insignificant, they epitomized a raw patriotism that bolstered the nation's spirit in the bleakest days since Pearl Harbor." USA goes on to profile a number of 9/11 recruits.

Panel Disciplines New York Judge Who Left Bench To Work In Iraq. The New York Law Journal (9/9, Caher) reports, "For the first time in its history, the New York State Commission on Judicial Conduct has disciplined a judge for flat-out failing to do his job." The Journal continues, "In a determination released Thursday, the commission called for the removal of North Hudson Town Justice Glenn T. Fiore of Essex County, who abandoned his judicial position to take a yearlong position as a truck driver in Iraq." The Journal adds, "Justice Fiore continued to draw his $10,000 a year judicial salary, leaving North Hudson, where he was elected, without a town judge. The town had to pay a neighboring judge to handle matters within its borders while Justice Fiore worked for a private subsidiary of the Halliburton Corp. … Records show that Fiore returned from Iraq after four months, indicating that he was giving up his private position to resume his judicial duties. However, he did not resume his position and ultimately resigned under pressure last month for what he said were patriotic reasons."

The AP (9/9, Johnson) reports, "Fiore, 54, said he would not appeal the ruling. … In March, he took a one-year job in Iraq driving a truck for Kellogg, Brown & Root Services Inc. … He didn't give the town of North Hudson, 90 miles north of Albany, any notice that he was leaving. Instead, he left his son in place as court clerk to cover for him and planned to render decisions when he returned." The AP adds, "Fiore said Thursday that he took the job in Iraq because he went out of business as an independent truck driver and needed to pay some bills. Fiore, who served in the Marines in Vietnam, said he also headed to Iraq out of a sense of patriotism."

CORPORATE SCANDALS:

Lay, Skilling Attorneys Allege Prosecutorial Misconduct. The AP (9/8, Hays) reports, "Lawyers for Enron Corp. founder Kenneth Lay and former CEO Jeffrey Skilling say 'deliberate, systematic prosecutorial misconduct' has choked their efforts to prepare for trial in January." The AP continues, "Lay, Skilling and the third defendant in their case, former top Enron accountant Richard Causey, say obvious or veiled threats from prosecutors that dozens of witnesses may be indicted or, if they have pleaded guilty to crimes, face harsh prison sentences if they talk to the former executives has shut off critical information sources." The AP adds, "Daniel Petrocelli, Skilling's lead trial lawyer, said the defense teams have whittled that list to 38 particularly crucial witnesses who have consistently refused to talk to them. … Lay's lawyer, Michael Ramsey, told U.S. District Judge Sim Lake in a hearing Thursday that the defense teams have seen a 'pervasive freeze-up of witnesses,' though he acknowledged out of court that it was possible at least some just don't want to help his client or the others." The AP notes, "The trio wants to dismiss the sprawling case against them on grounds that the Justice Department's Enron Task Force 'has engaged in deliberate, systematic prosecutorial misconduct that has irreparably harmed defendants' ability to prepare for trial,' according to a court filing made public this week. … But while awaiting Lake's ruling on that request, the trio wants the judge to compel those witnesses to appear in court later this month so Lake can assure them that they can talk to the defendants about the case and testify on their behalf without fear of government reprisal. … Sean Berkowitz, head of the task force, insisted that prosecutors do not want to block anyone from talking to the defense teams. … 'The government does not want any witness to not speak to the defense out of fear of retribution from the United States,' he said."

Florida Attorney Charged In Currency Trading Scheme. The Palm Beach Post (FL) (9/8, Sedore) reports, "A federal grand jury in Cleveland has indicted a Palm Beach County securities lawyer on charges of securities fraud in connection with a $14 million currency trading scheme." The Post continues, "The indictment, dated Sept. 1, alleges that Delmer C. Gowing III, 61, of Ocean Ridge helped a Cleveland-based brokerage, Capital Markets Trading Group, convince 10 investors that they could earn yields as high as 20 percent a month through a currency trading deal Capital Markets claimed it had with insurance giant AIG. That arrangement didn't exist, and most of the millions invested four years ago was either lost in trades or allegedly pocketed by Capital Markets' principals, including Gowing." The Post adds, "Gowing, arrested Friday by U.S. marshals, was released Monday from the Palm Beach County Jail on $100,000 bond. He faces a trial in federal court in Cleveland. A call Wednesday to the U.S. attorney's office in Cleveland wasn't returned. … Gowing's attorney, Gary Eric Susser of Boynton Beach, said his client is innocent and denies that he had an active role in the scheme other than acting as the lawyer for Capital Markets. … According to the indictment, Capital Markets began soliciting money in early 2000 from investors by claiming it had an arrangement to trade foreign currencies through AIG, one of the largest insurers in the world. … But the indictment alleges that no such arrangement existed. Instead, Capital Markets wired the money to an Irish company called Magenta Forex Corp. Ltd., which did the trading and produced 'substantial losses' that weren't disclosed to investors."

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CRIMINAL LAW:

DOJ In Settlement Talks With Boeing To Close Two Probes. The Wall Street Journal (9/9, Pasztor, Squeo) reports, "The Justice Department and Boeing Co. are negotiating a settlement in which the company could be required to pay up to $500 million but would avoid prosecution in two federal probes, said people familiar with the details." The Journal continues, "The settlement would resolve allegations that Boeing improperly acquired thousands of pages of Lockheed Martin Corp.'s proprietary documents dealing with rocket programs, and illegally recruited a senior Air Force official while she still had oversight of billions of dollars in other Boeing contracts." The Journal adds, "Talks are continuing and details could change, these people said, with a final agreement expected to take at least several more weeks to emerge. But the terms currently under discussion would make the pact one of the largest and most comprehensive corporate fraud settlements in recent years. … Based on the broad outlines so far, the settlement also is likely to entail the stiffest financial penalty ever imposed on a U.S. defense contractor for alleged procurement violations, said people familiar with the situation -- far exceeding those meted out during Pentagon scandals in the 1980s and 1990s, which stayed under $200 million." The Journal notes, "The two separate, much-publicized probes, which spanned two years, sent two former high-ranking Boeing executives to jail and set off events that helped lead to the departure of two Boeing chief executives. The company wasn't formally charged in that period, but it was stripped of some important contracts, became a frequent target of Congressional critics and ended up embroiled in the most serious military-procurement scandal of the past two decades."

Lawyers Say Plame Leak Probe Could Be Nearing End. The Boston Globe/Reuters (9/9) reports, "New York Times reporter Judith Miller, locked up for refusing to reveal who told her a covert CIA operative's name in a probe that may be nearing a conclusion" this week "marked two months -- 65 days as of Thursday -- at the Alexandria Detention Center just outside Washington for refusing to testify to a grand jury trying to determine who in the Bush administration leaked CIA operative Valerie Plame's identity." Miller's attorney Floyd Abrams "said Miller remained 'resolute' and would not reveal her confidential source to a grand jury in the case, which could shake up an administration already reeling from criticism over its response to Hurricane Katrina. The probe has ensnarled President George W. Bush's top political adviser, Karl Rove. … But lawyers close to the investigation say there are signs that the 20-month-long inquiry could be wrapped up within weeks in a final flurry of negotiations and legal maneuvering." Reuters adds, "Asked if talks were under way with special counsel Patrick Fitzgerald, a Justice Department prosecutor, to secure Miller's testimony and release, Abrams said: 'If there are any discussions, they would be private.'" Reuters notes, "Several lawyers involved in the case say Fitzgerald was likely to wrap up his inquiry this fall, if not sooner, though they say they have not heard from his office in weeks."

Berger Fined $50,000 For Taking Documents. Former Clinton national security advisor Sandy Berger was fined $50,000, ordered to serve 100 hours of community service and sentenced to two years' probation for removing classified documents from the National Archives. The Wall Street Journal/AP (9/9) reports the fine "exceeded the $10,000 fine recommended by government lawyers. Under the deal, Mr. Berger avoids prison time but he must surrender access to classified government materials for three years." The Washington Post (9/9, A7, Leonnig) adds Berger "admitted to stuffing copies of documents in his coat jacket as he left the National Archives and then destroying some at his office and pretending he had never possessed them."

The New York Times (9/9, Lichtblau) reports, "His motivation in taking the documents remains a matter of fierce debate in political circles, and Mr. Berger himself did little to shed light on the mystery Thursday, except to say, without elaboration, that he had put his own 'personal convenience' in reviewing the documents ahead of federal law." But new court records provide some possible explanations, suggesting "that prosecutors and defense lawyers believe Mr. Berger's decision to remove the documents was triggered by pressure, fatigue and confusion, rather than by any intent to hide damaging information about the Clinton administration, as Republican critics have charged." Berger's lawyers "said in their pre-sentencing memorandum to the judge this week that Mr. Berger, in reviewing material at the archives for several days for as long as 10 hours a day, became overwhelmed." DOJ prosecutors "offered no evidence to suggest any ulterior motive by Mr. Berger. On the contrary, prosecutors noted that the Sept. 11 commission reviewed copies of all the documents that Mr. Berger took and that there was 'no evidence that any unique document was destroyed or lost.'"

Federal Agents Raid Chicago-Area Police Station. The AP (9/9) reports, "Federal agents armed with a search warrant raided the police station in suburban Melrose Park on Thursday, an FBI spokesman said." FBI spokesman Ross Rice said that the raid "was part of an ongoing investigation but he declined to give details. He also declined to say what the agents were looking for and what, if anything, they found. 'No arrests have been made and no

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charges have been filed,' he said." The AP notes, "In recent years, a federal investigation of illegal electronic gambling devices controlled by the mob found that many were installed in Melrose Park taverns and strip joints. And the FBI said recently that the mob has a street crew based in the suburb."

The Chicago network affiliates also report on the raid on their Web sites from stories broadcast Thursday. WLS-TV (9/8, Thomas) reports, "ABC 7 has learned the investigators were searching employment records going back several years to determine on what days and at what times certain officers worked." WMAQ-TV (9/8, Rogers) adds, "The investigators came from the FBI and the IRS, as well as the postal inspectors and the U.S. Department of Labor. The investigation has been lengthy and there are no signs it is nearing completion," and "it is believed that the federal agents on Thursday were seeking records relating to a private security firm operated by Melrose Park Police Chief Vito Scavo." WBBM-TV (9/8, Tucker) notes, "For four hours the FBI agents, along with investigators from the labor department and the U.S. Postal Service, collected documents and information."

Powerful Illinois Lobbyist's Top Aid Sentenced To Probation In Operation Safe Road Probe. The Chicago Tribune (9/9, O'Connor) reports, "Saying she regretted ever getting involved in 'the world of politics and political favors,' a former trusted lieutenant to one of the state's most powerful lobbyists was spared prison Thursday for lying to investigators in the Operation Safe Road probe. Julie Starsiak, a longtime close aide to lobbyist Al Ronan, was placed on probation for 5 years and ordered to complete 200 hours of community service by U.S. District Judge Blanche Manning. Ronan hasn't been charged with wrongdoing, but his lobbying firm, Ronan Potts LLC, pleaded guilty to rigging a bid so a client won a contract to oversee a huge expansion at McCormick Place." The Tribune notes, "Assistant U.S. Atty. Scott Levine called Starsiak's cooperation valuable and confirmed her help resulted in the opening of an investigation that 'is bearing fruit.'"

The AP (9/9, Robinson) notes Starsiak "pleaded guilty in February 2004 to making false statements to FBI agents who were investigating bid rigging in the competition to get the contract to manage the expansion. She said she lied when she told them" Ronan "was the one who called an engineering firm with confidential bidding information. Starsiak now says that she made the call, although defense attorney Chris Gair told Manning that Ronan was part of the scheme."

Daley Names Former Federal Prosecutor Chicago Inspector General. The AP (9/9, Reichgott) reports, "Mayor Richard M. Daley, struggling to clean up his administration's image amid an ongoing federal investigation of bribe-taking and political hiring, named a former federal prosecutor Thursday to be his new inspector general. David Hoffman will take over for Alexander Vroustouris, who resigned in June amid allegations that investigations performed by his office were delayed and incomplete." The AP notes, "Eight members of Daley's Cabinet have either resigned or been fired since May as the mayor has worked to maintain the public's confidence. Federal investigators have been looking into City Hall for months, first examining bribes traded for jobs in a contract hauling program and most recently looking into allegations of fraud in the city's hiring practices." The Chicago Tribune (9/9) also reports on Hoffman's appointment.

Philadelphia Defense Lawyer Sentenced To House Arrest In Ticket Fixing Probe. The Philadelphia Daily News (9/9, Warner) reports, "A widely known defense attorney who admitted taking $7,000 in bribes in a parking-ticket scandal was spared a jail sentence yesterday by a federal judge. Charles P. Mirarchi III, who cooperated with prosecutors and pleaded guilty to one count of mail fraud, will have to spend six months under house arrest, pay a $5,000 fine and face additional restitution payments, U.S. District Judge Bruce W. Kauffman ruled." Kauffman "cited Mirarchi's 'substantial and significant cooperation' with the prosecutors and wished Mirarchi 'Good luck' after pronouncing the sentence." The Philadelphia Inquirer (9/9, Ditzen) notes, "The moral of the story yesterday…was this: He who admits his crime and diligently atones for it may hope for kindness at sentencing."

FBI, Minneapolis Police Raid City Councilman's Home. KARE-TV Minneapolis (9/8) reports on its Web site from a story broadcast Thursday, "FBI agents pulled up to the home of Minneapolis City Councilman Dean Zimmerman around 3 p.m. on Thursday afternoon. Agents were executing a search warrant at the councilman's home. … Neither the FBI or the Minneapolis Police, who were assisting in the removal of items from Zimmerman's home, would comment on the reason for the search warrant. But during the three hours police and FBI officials were at the house, they were seen removing everything relating to Zimmermann's re-election campaign plus personal financial records." WCCO-TV (9/8) notes, "The FBI said they executed a 'court-authorized federal search warrant as part of an ongoing federal investigation.'" Zimmerman campaign manager Lauren Maker "said she believed the search was politically motivated because it was so close to the election."

North Carolina Housing Official Pleads Not Guilty To Embezzlement Charges. The Winston Salem Journal (9/9, Gutierrez) reports, "A senior official with the Housing Authority of Winston-Salem pleaded not guilty yesterday in U.S. District Court here to three felony charges:

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stealing, embezzlement and money laundering. Federal prosecutors filed the charges Aug. 30 against Kenneth Love, the assistant director of housing services for the housing authority, after a four-year investigation by the U.S. Department of Housing and Urban Development and the FBI. The same charges were filed against a Virginia businessman, Sylvester Clay, who pleaded not guilty on Tuesday. … Federal investigators say that Love and Clay worked together to bid on contracts and get paid for phantom jobs through Clay's maintenance companies."

New Jersey Bribery Probe Suspect Arrested On Assault Charges. The AP (9/9) reports, "A developer accused of bribing officials in Monmouth County has been charged with threatening a 22-year-old woman at gunpoint in a community-college parking lot." Anthony Spalliero "fled when an officer at the Middletown campus of Brookdale Community College heard the woman scream about 1:30 p.m. Tuesday, college spokesman Stephen Nacco said. Spalliero had put a gun against the woman's ribs and told her to come with him, Nacco said. … He was charged with possession of a weapon for an unlawful purpose, making terroristic threats, and aggravated assault, the Monmouth County Prosecutor's Office said." The AP notes, "In May, Spalliero was arrested by the FBI and charged with passing bribes, including offering then-Mayor Matthew V. Scannapieco of Marlboro about $143,500 from 2001 to 2003."

Fourth Person Charged In Alleged Scheme To Defraud Kodak. The AP (9/9) reports former Eastman Kodak executive David Finnman "on Thursday became the fourth person charged in a multimillion-dollar scheme that federal prosecutors claim defrauded the company and suburban Rochester taxpayers." Finnman "faces two felony counts of mail fraud and one count of conspiracy to defraud. He worked at Kodak from 1970 to 1999. … The FBI said Finnman and co-defendant Charles Schwab, a former Greece assessor, created a business in the Bahamas around February 1998 to hide bribes and kickbacks paid by co-defendant John Nicolo, a regional appraiser. Investigators claim Finnman and Schwab each admitted receiving about $200,000 and investing it in an offshore account. The new charges said another company, Global Crossing, was the victim of fraud because Finnman worked there until 2003."

Tennessee Lt. Gov. Reverses Statement About Loan Under Federal Scrutiny. The AP (9/8, Gouras) reports Tennessee Lt. Gov. John Wilder "has changed his position on whether he talked to a fellow lawmaker about a bank loan now involved in a federal fraud trial." On Wednesday, Wilder said that "he was incorrect when he said last week that he had talked with Sen. Jerry Cooper about getting a loan at Wilder's bank." Cooper "is an unindicted co-conspirator in a federal indictment alleging fraud against two men involved in the sale of property owned by Cooper." The AP notes, "It's the second time this year that Wilder has backtracked from public comments. In May, right after the Tennessee Waltz sting that nabbed five current and former lawmakers, Wilder criticized the FBI for 'entrapping' the indicted legislators. A week later, he said the remarks were meant to express only his belief that 'entrapment is wrong.'"

Grand Jury Indicts PAC Linked To DeLay. The Los Angeles Times (9/9, Schmitt) reports, "A Texas grand jury today indicted a political action committee affiliated with House Majority Leader Tom DeLay (R-Texas), alleging that it took illegal campaign contributions during the 2002 election that led to a historic realignment of the Texas Legislature."

The Washington Post (9/9, A3, Smith) reports, "DeLay, who was a member of the committee's advisory board, signed fundraising solicitations and participated in at least one conference call to discuss the committee's plans." But "DeLay spokesman Kevin Madden responded to the indictment with a written statement saying that it 'is limited to a political organization and does not affect Mr. DeLay.'" He "also disclosed for the first time that DeLay had 'voluntarily' talked to Earle's office about the investigation last month, and that DeLay said then that his involvement in the committee's activities was 'limited to serving on the political action committee's advisory board along with other elected Texas officials and…appearing at fundraising events.'"

The New York Times/AP (9/9) reports DeLay "was not indicted by a Travis County grand jury in the charges made public Thursday, although three of his political associates were charged earlier." Reuters (9/9, Seba) also reported the details of the indictment.

Missouri Senators Seek To Close Sexual Predator Loophole. The AP (9/9, Hananel) reports, "Missouri's senators want to close a legal loophole they say allowed a Missouri judge to throw out a conviction of a sexual predator." The AP continues, "Sens. Kit Bond and Jim Talent, both Republicans, introduced a bill Thursday that makes it a crime to solicit sex online from a minor even if the person solicited is an undercover agent over 18. … The move is a response to the case of Jan P. Helder, a Mission Hills, Kan., attorney accused of using an Internet chat service to solicit sex from someone he believed to be a 14-year-old girl." The AP adds, "A federal jury convicted Helder, 42, but U.S. District Judge Dean Whipple in Kansas City threw out the verdict last month, saying Helder could not be guilty because the person he communicated with online was actually an undercover Platte County detective. … Whipple's decision outraged children's advocates who worried it could curb the

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success of such Internet stings. Undercover agents typically pose as minors, waiting for sex offenders to make contact and arrange in-person meetings. … Don Ledford, a spokesman for U.S. Attorney Todd Graves in Kansas City, said the government plans to appeal Whipple's decision. Ledford said the office would have no other comment on the decision or the legislation because the case is pending." The AP notes, "At least four federal appeals courts have rejected the type of defense used by Helder, but those decisions are not binding on Whipple. The 8th U.S. Circuit Court of Appeals, which covers Missouri, has not yet addressed the issue. … Under the change proposed by Bond and Talent, federal law would expressly provide that communicating with a law enforcement officer pretending to be a child is not a defense. Such language is already included in state law in Missouri."

California City To Ask For DOJ Audit Of Accounts. The Palm Springs (CA) Desert Sun (9/8, Rodriguez) reports, "The Desert Hot Springs (CA) City Council voted unanimously to ask the U.S. Department of Justice to look into the city's accounts for the past five years." The Sun continues, "Interim City Manager Corky Larson said she was approached by city residents in the past month who suggested that the city - growing fast, but struggling with City Hall openness and budget issues - ask for a Department of Justice forensic audit." The Sun adds, "Asked what types of things the citizens asked for the Department of Justice to look at, Larson said one example might be building fees, but she would not elaborate. … Desert Hot Springs - exploding with residential growth - has in recent years been collecting millions in building fees, which are required by state law to be deposited in particular city accounts. … Any audit performed would check all revenue and expense flows for the city, receipts, contracts and ensure that any fees associated with planning and building the thousands of new homes going up in the scenic city at the base of the mountains were sent to the appropriate budget accounts."

US Charges Florida Deputy Sheriff With Embezzlement. The Orlando Sentinel (9/9) reports, "An Orange County deputy sheriff indicted on federal embezzlement charges was arrested today by deputy U.S. marshals and relieved of duty without pay, authorities said. The Sentinel continues, "Deputy Tawanda McNeil, a four-year veteran, was assigned to the agency's uniform patrol division in the agency's Sector 2, which covers east Orange County." The Sentinel adds, "The U.S. Attorney's Office in Orlando said a federal grand jury indicted McNeil on Wednesday on 18 counts of embezzlement related to payments she erroneously received when the U.S. military called her up for duty. … McNeil was not activated and was not entitled to the the payments, said Carolyn Adams, chief of the U.S. Attorney's Office in Orlando."

Minnesota School District Sues For Items Seized In FBI Probe Of School Shooting. The Minneapolis Star Tribune (9/9, Haga) reports, "Red Lake's school district has gone to federal court to seek recovery of documents and equipment seized by the FBI during its investigation of the March 21 shootings on the reservation, in part to protect itself against potential liability lawsuits. In a motion filed Thursday in U.S. District Court in Minneapolis, the district said it needs the return of security video footage, education records of shooter Jeffrey Weise, witness statements of district employees and computer hard drives, among other things. Those materials are 'crucial,' according to the filing, for the district to evaluate its security system and procedures in effect on March 21 'and to defend against likely lawsuits.'" Red Lake District attorney Shamus O'Meara said that "federal investigators 'basically told us to seek access to the materials through the Freedom of Information Act. … We did that, and it was denied. From the district's perspective, this is a last resort.'"

The St. Paul Pioneer Press (9/9, Ragsdale) notes, "U.S. Attorney Tom Heffelfinger, whose office is leading the criminal investigation into the shootings, said he had not yet reviewed the papers and could not comment on the district's request. … The school district said it is also seeking access to educational records for Weise, who was at home that day on the school's homebound instruction program. Included in the district's request are records from the teacher who visited Weise at home during the school year. The district also said it believes the FBI has a psychiatrist's report on Weise."

Arizona Man Sentenced To Prison For Child Pornography. The Tucson Citizen (9/9, Rowley) reports, "A Tucson martial arts instructor has been sentenced to 2.5 years in federal prison for possessing hundreds of child pornography images." The Citizen continues, "David Michael Lader, 41 will also be fined $30,000 followed by lifetime supervised release with sex offender conditions, a U.S. Attorney's Office news release said. He was ordered to provide a DNA sample." The Citizen adds, "Lader pleaded guilty to possessing more than 300 child pornography images on his home computer. Many were acquired over the Internet and involved children younger than 12, officials said. U.S. Immigration and Customs Enforcement agents arrested him in April 2004. Lader, who is not in custody, must surrender to U.S. marshals Oct. 12. … In delivering the sentence yesterday, U.S. District Judge Raner Collins noted that at the time of the crime, Lader was a registered sex offender yet was teaching children and adults."

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Wisconsin Murder Trial Pits Rural, Urban Ways. The New York Times (9/9, Ruethling) reports, "A jury was chosen in this liberal bastion on Thursday for the trial of a Hmong immigrant charged with killing six hunters, causing consternation in the North Woods, where the shootings took place." The Times continues, "Some residents of Rice Lake, where all the victims lived or grew up, said they were concerned that the jurors from Dane County, which encompasses Madison, might not grasp the nuances of rural life." The Times adds, "Judge Norman L. Yackel of Sawyer County Circuit Court ruled in June that the jury for the trial of the immigrant, Chai Soua Vang, would be chosen from Dane County after the defense argued that publicity and strong emotions in the Rice Lake area jeopardized Mr. Vang's chances for a fair trial. … The concern about the composition of the jury stems in part from the racial overtones of the case. Mr. Vang, 36, a refugee from Laos who lived in St. Paul, Minn., told police that he had been sitting in a tree stand on private hunting land about 25 miles northeast of Rice Lake one Sunday last November when the hunters, who were white, swore at him and used ethnic slurs."

CIVIL LAW:

Ginsburg Rejects Administration Appeal To Block BRAC Challenges. The New York Times/AP (9/9) reports, "The Bush administration lost a last-minute bid on Thursday to persuade the Supreme Court to intervene and protect a federal panel's recommendations for the closing and realignment of military bases." The AP continues, "Judges in Connecticut and Tennessee had blocked the panel from recommending changes at local Air National Guard bases, and Justice Ruth Bader Ginsburg on Thursday rejected the administration's request for intervention. Another appeal could be filed later and handled by the full court."

Meanwhile, the Washington Post/AP (9/9, A26) reports, "Separately, Illinois, Missouri and New Jersey lost emergency Supreme Court appeals intended to stop the commission from sending the report to the president. Facilities in those states are among hundreds targeted by the panel for closure or consolidation in the first round of base closings in a decade."

Caremark Settles Whistleblower Suit With DOJ. The AP (9/8) reports, "Pharmacy benefits manager Caremark and the Justice Department agreed Thursday to a $137.5 million settlement of lawsuits originally filed by whistleblowers claiming a predecessor company received kickbacks affecting several federal health care programs." The AP continues, "Nashville-based Caremark Rx Inc. admitted no wrongdoing in making the settlement, which was approved by a Philadelphia federal court Thursday. … The lawsuits were filed in 2002 under the whistleblower provisions of the Federal False Claims Act by three former executives of AdvancePCS Inc., a Texas-based pharmacy benefits manager that Caremark acquired in March 2004. The Justice Department joined the lawsuits after they were filed." The AP adds, "The lawsuits contended AdvancePCS took kickbacks from drug manufacturers to give their products favorable treatment under contracts with the Federal Employees Health Benefit Program, the Mailhandlers Health Benefit Program, Medicare+Choice and other government programs. … The court filings also charged that AdvancePCS paid existing and potential customers kickbacks to sign pharmacy benefits management contracts. All the allegations date to before Caremark took over AdvancePCS. … Also pending against Caremark is a separate Justice Department and whistleblower lawsuit alleging the company did not appropriately repay Medicaid and other federal health insurance programs. Caremark has denied those claims."

Senate Panel To Subpoena Asbestos Companies. Reuters (9/9, Cornwell) reports in a unanimous vote the Senate Judiciary Committee "gave its leaders authority to subpoena information from companies facing asbestos lawsuits as lawmakers work on legislation creating a $140 billion fund for asbestos victims." Chairman Arlen Specter "told members he did not know if subpoenas would be necessary, but he wanted 'a little muscle' in case companies continued to resist producing the data." He "said he hopes to bring the bill to the Senate floor the first week of October. Aides said the industry information could be used to make changes necessary to build Senate support for the bill."

US Alleges Safety Violations By American Airlines. The AP (9/9) reports, "American Airlines put its passengers at risk and violated multiple U.S. air-safety regulations in 2003 by allowing one of its jets to fly with a leaky fuel tank, according to a civil complaint filed by the U.S. attorney's office in Brooklyn." The AP continues, "The complaint, which was made public on Thursday, seeks more than $1 million in penalties against the airline." The AP adds, "The complaint alleges that on Nov. 17, 2003, a Federal Aviation Administration inspector was a passenger on an American flight from Orlando, Florida, to New York's La Guardia Airport when he saw fuel leaking from a wing of the McDonnell Douglas MD-82. … The inspector warned the flight crew about the leak and demanded it be recorded in the aircraft's maintenance log. However, 'no such entry was made by the pilot or maintenance personnel,' the complaint said."

SCOTUS Could Broaden Civil RICO's Reach. The National Law Journal (9/9, Maclean) reports, "Many believe that the 1970 civil racketeering law was created to

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apply only to traditional Mafia-style criminals as a way to force them to pay for their criminal enterprise." The Journal continues, "Over the years, interpretation of civil RICO (Racketeer Influenced and Corrupt Organizations Act) has evolved into a tug of war between the U.S. Supreme Court, which reads the law broadly to reach beyond the mob, and appellate courts, which have repeatedly curtailed plaintiffs' use of the act." The Journal adds, "The notion that the law should only allow recovery for harm caused by organized crime members is a myth, said G. Robert Blakey, drafter of the original statute and a law professor at Notre Dame University. … 'The mob was the occasion for RICO but it does not define its scope,' he said. 'When it was argued on the House and Senate floors, the principal spokesman said, "No, it is not a mafia statute,"' Blakey said." The Journal notes, "The welter of legal standards imposed by courts over the years has created a patchwork of splits in the circuits around the country. Despite this, the Supreme Court has been 'vacillating in the degree to which it is willing to intervene to clarify,' Blakey said. … But the new term may change that. The justices have granted review in two RICO cases, and the U.S. solicitor general is pushing for review of a third, while a fourth appeal is on the way."

Bankruptcy Attorneys Brace For Changes To Code. The National Law Journal (9/9, Geier) reports, "The bankruptcy bar is bracing for the bumpy landing many practitioners expect when the new Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 touches down next month." The Journal continues, "Most bankruptcy lawyers agree that the new code is highly complex and technical, that it will cause significant changes in consumer and business bankruptcy practice, and that it is so poorly drafted that it will take time for the courts to sort out its ambiguities." The Journal adds, "Observers also warn that a law purportedly aimed at financially undisciplined consumers is sure to bear unintended consequences for entrepreneurs, independent contractors and self-employed people -- particularly innovators who use bankruptcy relief when caught in a lean business cycle. … Alan N. Resnick, a co-editor-in-chief of 'Collier on Bankruptcy,' a comprehensive 23-volume treatise on statutory and procedural bankruptcy law and a professor of bankruptcy law at Hofstra University School of Law in Hempstead, N.Y., said lawyers will have their hands full getting used to the changes. … 'First and foremost for lawyers and practitioners is the learning curve. It's a very large bill, it's voluminous -- over 500 pages. Every time you look at the bill you see something else,' said Resnick, also of counsel to the bankruptcy and restructuring department at Fried, Frank, Harris, Shriver & Jacobson in New York and a member of the bankruptcy rules advisory committee of the Judicial Conference of the United States. He agrees with many other bankruptcy practitioners that the legislation, which becomes effective Oct. 17, is very poorly written and filled with ambiguities. … 'I don't think there's any doubt that we will see a lot of litigation in the year to come over interpreting many ambiguities in these provisions. It needs a technical amendments bill to clean it up,' Resnick said."

Pope Seeks Head-Of-State Immunity From Texas Lawsuit. The Texas Lawyer (9/9, Jeffreys) reports, "Joseph Ratzinger, a defendant in a Texas suit filed before he was elected Pope Benedict XVI, wants to be dismissed from the litigation, arguing he has head-of-state immunity. … But lawyers for the three plaintiffs, who allege in the civil suit they were abused by a former seminary student in Houston, vow to challenge any suggestion of immunity issued by the U.S. Department of State in response to Ratzinger's request, a challenge that could put the immunity argument to a test. … 'This is a case of first impression,' says plaintiffs lawyer Tahira Kahn Merritt of Dallas. … 'We shall see what the political arm of government does,' says Daniel Shea, a solo practitioner in Houston who represents one of the plaintiffs in John Doe 1, et al. v The Archdiocese of Galveston-Houston, et al., which is pending before U.S. District Judge Lee Rosenthal in Houston. … 'It's a legitimate political question,' Shea says. 'I would assume that they wouldn't make a decision on that without running it by the president of the United States.'" The Texas Lawyer continues, "According to a status report filed by Ratzinger on Aug. 23, the request remains under review before the State Department. Joanne Moore, a press officer for the State Department, says it does not comment on specific cases. … A lawyer for Ratzinger, Jeffrey S. Lena, a solo practitioner in Berkeley, Calif., says he cannot comment on the allegations in the suit or on the request for immunity. But in Ratzinger's Amended Motions to Dismiss, filed in May, the pope alleges he should be dismissed from the suit on several grounds, including his presumed immunity. … Ratzinger also says he should be dismissed from the suit on First Amendment grounds because the plaintiffs' claims would intrude on the internal working of the Roman Catholic Church and would require the court to interpret the meaning of religious documents and resolve issues of church governance."

CIVIL RIGHTS:

DOJ Settles Pregnancy Bias Charges With DC Fire Department. WUSA-TV, CBS 9, Washington, DC (9/9) reports, "The Justice Department today announced a settlement agreement with the District of Columbia regarding pregnancy-related discrimination in the District's Fire and Emergency Medical Services Department (FEMSD)." WUSA-TV continues, "The complaint alleged that individuals seeking

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employment as emergency medical technicians with the FEMSD were required to undergo a pre-hiring pregnancy test, with subsequent employment offers contingent on a negative test result. The complaint further alleged that, once hired, emergency medical technicians were advised by FEMSD management that any technician who became pregnant during her first year of employment would be in jeopardy of losing her job. … 'Using pregnancy as a barrier to a woman's entry into the workplace and continued job security is illegal and inexcusable,' said Bradley J. Schlozman, Acting Assistant Attorney General for the Civil Rights Division. 'Forcing women to choose between their baby and their job clearly contravenes federal law and will not be tolerated by this Administration.'"

Jury Acquits Border Officer Of Civil Rights Violation. The AP (9/8, Thompson) reports, "A Homeland Security officer was found not guilty (in Buffalo, NY) Thursday of beating a female Chinese tourist." The AP continues, "Jurors deliberated about five hours over two days before acquitting Robert Rhodes, a Customs and Border Protection officer, of a single federal count of violating the civil rights of Zhao Yan, 38, a businesswoman from Tianjin, China, who was touring Niagara Falls." The AP adds, "The case provoked anger in China after pictures of Zhao, her face swollen from pepper spray and her eyes and forehead bruised, were widely published after the incident last July. … Defence lawyer Steven Cohen accused the U.S. government on Thursday of prosecuting Rhodes to protect delicate U.S.-Chinese relations. Cohen said Rhodes was an easy target because he was openly gay and had complained about discrimination on the job. … Despite that, Cohen said, Rhodes would like to return to the job he has held for 17 years." The AP notes, "Government prosecutors claimed Rhodes used excessive force by slamming Zhao's head into pavement and striking her with his knee after pepper-spraying her at a Niagara Falls inspection station in July 2004. … Rhodes told investigators he believed Zhao and two companions might have been associated with a drug suspect who had just been caught and that the women ran when ordered inside. He said he followed proper Customs and Border Protection procedure in subduing the struggling woman."

NAACP Calls For Immediate FBI Probe Of Ohio Police Shooting Death. WEWS-TV Cleveland (9/8) reports on its Web site from a story broadcast Thursday, "Funeral services were held Thursday for a Cleveland teen shot and killed by police last week, and now the Cleveland NAACP is joining the chorus of those calling for answers and for action. Brandon McCloud, 15, was shot by police last Thursday in the bedroom of his home. … Police were carrying out a search warrant at McCloud's Jeffries Street home when they say the teen came at the officers from a closet with a knife. The preliminary ruling was that the shooting was justifiable." WEWS notes, "Cleveland police said they have asked the FBI civil rights team to step in and monitor their process. But the NAACP wants specific action taken, and they want it now."

FBI Finds No Racial Motivation For UVa Graffiti. The Charlottesville Daily Progress (9/9, Mayhew) reports, "Cryptic graffiti scrawled on the University of Virginia's Beta Bridge…was not racially motivated, the FBI has concluded. UVa President John T. Casteen III recently asked the Civil Rights Unit of the FBI in Washington to review photos of the graffiti images to determine their meaning. James Lamb, an FBI special agent, reported the FBI's findings to university police. 'A review by agents in the Civil Rights Unit found nothing to suggest racial implications,' Lamb said." The Daily Progress notes, "Members of two historically black organizations had painted announcements for their events on both sides of the bridge. Shortly after they began advertising their events, the graffiti appeared. … The information from the FBI is one more step in quelling hatred at the university, said Leonard W. Sandridge Jr., executive vice president and chief operating officer."

Azeri Man In California Sentenced To Prison For Immigrant Smuggling. The San Diego Union Tribune (9/7, Soto) reports Azeri native Yervand Asriyants was sentenced on Tuesday "to three years in prison and forced to give up his house." The Union Tribune notes, "Asriyants was arrested after an investigation by FBI and Immigration and Customs Enforcement agents into a series of smuggling attempts at the region's border crossings involving Eastern European men, women and children. 'He was smuggling aliens across the border that were not what we consider to be typical,' said FBI agent Roy Lemons, who added that the case had special urgency because of security concerns after the Sept. 11, 2001, terrorist attacks. Lemons said no terrorist links were found."

Massachusetts Anti-Gay Marriage Initiative Moves Forward. The AP (9/9, Emery) reports, "A proposed ballot initiative that would ban gay marriage passed a key hurdle Wednesday when the state attorney general ruled it would be permitted under a section of the state constitution allowing voters to overturn court decisions." The AP continues, "The action by Attorney General Tom Reilly, a Democrat who is expected to run for governor in 2006, clears the way for conservative groups to begin the long process of gathering signatures and lobbying lawmakers in hopes of putting the issue before voters in 2008." The AP adds, "Supporters now must go out and gather the signatures of at

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least 65,825 Massachusetts voters. If they are successful, the question then must by approved by 25 percent of two successive sittings of the 200-member state Legislature. The question would then be placed before voters again as a constitutional amendment in 2008. … The state's highest court ruled in 2003 that it was unconstitutional for the state to ban marriages between gays and lesbians. The following spring, the nation's first state-sanctioned same-sex marriages began taking place in Massachusetts and thousands of gay couples have since tied the knot."

ANTITRUST:

DOJ Files Antitrust Suit Against Realtors Association Over Internet Listings. The AP (9/9) reports, "The Justice Department sued the National Association of Realtors on Thursday, claiming it unfairly limits competition by allowing real estate agents to withhold home listings from Internet-based brokers." The AP continues, "The antitrust lawsuit, filed in U.S. District Court in Chicago, follows lengthy negotiations in which the government pressed the Realtors to drop restrictions designed to protect traditional brokers. … The association announced changes to its original plan Thursday, but the new steps were insufficient to ward off the lawsuit because the organization kept in place brokers' ability to discriminate against competitors who post listings online, said J. Bruce McDonald, deputy assistant attorney general in the Antitrust Division."

The Wall Street Journal (9/9, Wilke, Hagerty) reports, "The lawsuit is part of a broader effort by the Justice Department and the Federal Trade Commission to protect competition in the residential-real-estate market. Strong sales and rising prices have been a huge boon to brokers, who despite higher prices continue to charge commissions of 5% to 6% of a home's sale price -- reaping an estimated $60 billion in such fees last year." The Journal adds, "Officials of the National Association of Realtors defend their bylaws as promoting competition, and they had hoped that a revised, less-restrictive Internet rule that was offered in settlement talks with the government might head off a suit."

Reuters (9/9) reports, "The Justice Department said in a statement that the National Association of Realtors (NAR) rule 'prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourage discounting.'" Reuters adds, "The NAR said in May it would back away from the disputed bylaw that the department's antitrust division feared would allow real estate brokers to bar their property listings from being displayed by some discount rivals. … The Justice Department Thursday acknowledged that the NAR had revised the rule but said the modified version still discriminated against 'innovative' brokers and did not resolve its concerns."

The Washington Post (9/9, Downey) reports, "Discount brokerages are undercutting the traditional 6 percent commission rate that has continued to dominate even as home prices in some markets, including the Washington area, have doubled over the last five years. … The Realtors group announced yesterday that it was changing its online sales listing policy to make listings more widely available, but Justice Department officials said the changes do not go far enough." The Post adds, "At issue in the lawsuit are Internet listing rules adopted by the Realtors in 2003 that would have allowed real estate brokers to opt out of having their listings appear on the Web sites of other brokers. The rules were controversial from the beginning and association officials said they were never fully implemented, but Justice Department officials said at a news conference yesterday that of about 1,000 affiliated multiple listing services, about 200 adopted the restrictive policy."

The Agence France-Presse (9/9) quotes McDonald as saying, "The purchase of a home is one of the most significant financial decisions a family can make, and NAR's policy stifles competition to advantage some of its members at the expense of home buyers and sellers across the country … Consumers benefit when real estate brokers are free to compete vigorously by offering innovative services."

The Chicago Tribune (9/9) reports, "The suit is the latest chapter in a long-running industry fight over who should be able to access home listings. The earlier policy, known as Virtual Office Website, allowed brokerages that are members of multiple listing services to pick and choose which competitors' Web sites could display their listings. … Critics said VOW effectively undercut smaller, Internet-based competitors with lower overhead than traditional bricks-and-mortar brokerages. But many brokerages maintain that they spend so much money in marketing in order to obtain the listings--essentially their "inventory"--that they don't owe competitors any such access." The Tribune adds, "The new policy, called Internet Listing Display, forbids real estate agents from selecting which brokers can and can't receive their listings. However, individual real estate companies can opt out of sharing their data across the board. … 'The new policy raises some of the same problems as the old one,' said Deputy Assistant Atty. Gen. J. Bruce McDonald. He said the Justice Department would like to eliminate the opt-out provision entirely because consumers should have full access to online listings in order to find homes more efficiently, presumably at a lower cost. … 'The way we go about obtaining goods and services on the Web is threatening to bricks-and-mortar business models,' McDonald said."

Bloomberg News (9/8) reports, "The lawsuit is part of a broader effort by U.S. authorities to open the real estate

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business to more competition, McDonald said. Internet brokers, who seek to cut costs by letting customers do much of the work of traditional real estate agents, sprung up in the late 1990s and now operate in all major metropolitan areas." Bloomberg adds, "The Chicago-based realtors group announced a revised policy earlier today that it said responded to Justice Department concerns. The association has more than 1 million members who work in residential and commercial real estate. … Responding to today's lawsuit, the realtors issued another statement saying their new 'policy is fair, pro-consumer, pro- competitive and accommodates innovation' in the real estate business."

Inman News (9/8, Swesey) reports, "While NAR's new policy no longer allows brokers to pick and choose who among their competitors is allowed to display their listings, it still enables them to withhold listings from all brokers in the MLS. The Justice Department claims the NAR policy prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourage discounting. … 'The repackaged policy narrows the opt-out a bit, but it remains effective,'" McDonald said. "

The Baltimore Sun (8/9, Mirabella) reports, "The suit…highlights the profound transformation the Internet is bringing to the housing market, just as it has changed the way consumers shop for everything from airline tickets to stocks, cars, books and music. The NAR has reported that seven of 10 home buyers turn to the Internet when buying a home." The Sun adds, "The Realtors contend that brokers who work for their listings should be able to choose whether or not to help their competitors' business. … 'A broker gets the opportunity to choose whether or not he wants to facilitate the business fortunes of another competitor, and he ought to have that right,' said Ralph Holmen, associate general counsel for NAR in Chicago. 'Real estate is unique in that competitors cooperate in the sale of property in a way you don't see in many other industries.' … But one local Realtor, John E. Rawlings Jr., a Coldwell Banker agent in Owings Mills, said the Internet has already become a crucial tool for both traditional and Web-based brokers and agents. … 'It's the wave of the present,' he said. 'Most people shop on the Internet for listings before they even call their Realtor. It would do a disservice to the seller if they didn't have the maximum coverage possible. ... A full-service company has to show the value clients are getting for the service we offer.'"

The IDG News Service (9/9, Gross) also reports on the suit.

Taubman Family To Relinquish Control Of Sotheby's. The Wall Street Journal (9/9, Baram) reports, "Sotheby's Holdings Inc. announced a major recapitalization that saw the auction house's leading shareholders, the Taubman family, relinquish control and open the company to more outside investment." The Journal continues, "As of midnight Wednesday, former chairman A. Alfred Taubman and his family and affiliates reduced their stake in Sotheby's from almost 22% of total shares outstanding and 62% of the votes to 12.4% of both. They exchanged 14 million of their special Class B shares for 7.1 million in common stock and $168 million in cash from the auction house. As a result, Sotheby's dropped its two-class voting structure involving Class B super shares and Class A shares for a single class of stock. The dual class share structure, which is rare in public companies, had been instituted at Sotheby's before the New York-based company went public in 1988. … 'There are a lot more investors who will consider investing in Sotheby's when you have a single class of stock,' says William Ruprecht, Sotheby's president and chief executive officer. 'This will give us a degree of financial flexibility and open us up to a lot of opportunities for the future, such as equity-linked securities.' … The move also represents a retreat for Mr. Taubman, a real-estate developer, who bought the company in 1983 and served as its chairman until he was convicted of price fixing in 2001. … Mr. Taubman will remain an investor for at least two years and his son, Robert, will remain on the board of directors but will step down as a member of the executive and nominating committees, the company said. With the Taubmans ratcheting down, the largest shareholder now is Ariel Capital Management, which currently owns 8.7 million shares. Last June, Ariel informed their investors that despite Sotheby's tough year so far, they 'are confident in the long-term prospects of the business.'"

The New York Times (9/9, Sorkin, Vogel) reports, "The deal closes the chapter on the Taubman family's long role at Sotheby's and has already ignited speculation that the transaction could be a precursor to a sale or merger of the company, the largest publicly traded auction house in the nation." The Times adds, "The price-fixing scandal sent Mr. Taubman to prison for 10 months starting in July 2002 after he was convicted of conspiring to rig auction prices with Sotheby's archrival, Christie's. Afterward, employees say, he lost interest in the auction house. His son, Robert, who joined the board, had little interest in the art world and was just keeping an eye on the family investment." The Times notes, "The exorbitant expenses of the price-fixing scandal drained Sotheby's cash. The company became so cash poor that two and a half years ago it was forced to sell its York Avenue headquarters to RFR Holding for $175 million."

Art Dealers Spar With Archaeologists Over US-Italian Art Pact. The New York Times (9/9, Eakin) reports, "Lawyers representing art dealers and Sotheby's auction house sparred with archaeologists and cultural property experts on Thursday at a State Department committee hearing on the future of a sweeping agreement banning the import of antiquities from Italy." The Times continues, "Known

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formally as a memorandum of understanding, the five-year-old agreement is intended to reduce the flow of illicitly excavated Italian antiquities to the United States in return for heightened cultural cooperation between the Italian government and American arts institutions. … In the hearing, before the State Department's cultural property advisory committee, archaeologists argued for the effectiveness of the agreement, which is set to expire in January unless it is renewed. … 'The agreement has had very significant consequences,' said Malcolm Bell III, a University of Virginia archaeologist and specialist in Sicilian archaeology, citing improved policing of looting of ancient artworks in Italy and the availability of long-term archaeological loans to American institutions." The Times adds, "Mr. Bell's comments were echoed by Patti Gerstenblith, a law professor at DePaul University and cultural property specialist, who said the agreement helped provide a basis for a growing number of international regulations for the antiquities trade. … But William Pearlstein, a lawyer representing several dealers, asserted that Italian officials were not living up to the agreement. … 'In contrast to the love fest portrayed here, there is a not-so-quiet war between Italy and American museums against which it is trying to pursue cultural patrimony claims,' he said, referring to Italian action to recover some artworks."

Investment Group To Purchase Hertz For $15 Billion. The New York Times (9/9, Sorkin) reports, "In one of the largest leveraged buyouts in more than a decade, the Ford Motor Company yesterday agreed to sell Hertz, the nation's largest rental car company, to a consortium of private investors for about $15 billion in cash and debt, executives involved in the negotiations said. … Ford is expected to announce the transaction as early as today, the executives said." The Times continues, "The sale, to a group including Clayton, Dubilier & Rice, the Carlyle Group and Merrill Lynch Global Private Equity, is the latest super-sized buyout by a team of private equity firms. … Earlier this year, a consortium of investment firms paid $11.3 billion for SunGard Data Systems, which provides software and services to financial companies." The Times adds, "The largest leveraged buyout ever remains the purchase by Kohlberg Kravis Roberts & Company of RJR Nabisco in 1989 for $25 billion. … The deal ends a heated auction for Hertz, which started after Ford announced in April that it was considering putting the company up for sale or spinning it off. The winning investor group beat another team that included Bain Capital Partners, the Blackstone Group, the Texas Pacific Group and Thomas H. Lee Partners. "

European Companies Takeovers "Surge." The Wall Street Journal (9/9, Singer, Karnitschnig) reports, "A sudden surge in takeover activity in Europe, with more than $70 billion of potential deals disclosed in the first several working days of September alone, highlights a new willingness by European corporate chiefs to pursue mergers and acquisitions." The activity is "unusual in its outright aggressiveness," suggesting the region's approach to business "may have changed for good." The activity "is notable because the deals are bigger and there are more of them" than normal, and "executives and bankers say there are signs the spurt will continue." While the many industries are involved in the trend, "fueled by a confluence of factors," the "main driver of the new deal-making is a realization that shareholders have started rewarding ambitious tie-ups."

Takeover Bid Sides Seek Favorable Regulators. The Wall Street Journal (9/9, Singer, Jacoby, Johnson) reports that in Gas Natural SDG SA's $28 billion hostile takeover bid for domestic rival Endesa SA, the two companies are "clashing over who would approve any potential deal: the Spanish government or the European Commission," with each seeking the "regulator it thinks will be most sympathetic to its side." However, "lawyers who specialize in European antitrust issues say Endesa won't be able to wrest control of the approval process from Madrid."

Dell To Retain E-Mail, Data For Use In AMD-Intel Suit. Reuters (9/9) reports, "Dell Inc. has agreed to retain e-mail and other documents that could be used against its close partner Intel Corp. in a private antitrust suit filed by Intel rival Advanced Micro Devices Inc. , court papers show." Reuters continues, "The agreement, filed on Wednesday in the U.S. District Court in Delaware, comes as AMD presses its case against Intel, accusing the world's largest chip maker of using its market power to lock out AMD and its microprocessors from computer makers such as Dell, Hewlett-Packard Co. and others." Reuters adds, "Dell, the largest PC maker, buys microprocessors exclusively from Intel. The Texas-based PC maker agreed to preserve relevant information and copy hard drives of employees identified as 'custodians' -- those who were involved in negotiating microprocessor purchases. … Among the 28 custodians listed were Michael Dell, the company's founder and chairman. Dell Inc. reserved its right to contest a subpoena for the documents." Reuters notes, "AMD has sought information on pricing, contracts and other information from dozens of PC makers and distributors, and virtually all companies in the United States and Japan have agreed to take steps to protect data, AMD's lead counsel, Chuck Diamond, said in an interview. … AMD began talks with companies on legal document preservation in early July, Diamond said. A process of culling millions of pages of documents will follow before the case goes to trial. AMD has already served a subpoena on PC maker Gateway Inc. , according to court papers filed this week."

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ENVIRONMENT:

Bipartisan Resolution Would Block Rule On Mercury Emissions. The New York Times (9/9, Janofsky) reports, "With a deadline for action approaching," Sens. Susan Collins, Patrick Leahy and James Jeffords "rallied support on Thursday for a resolution that would kill the Bush administration's proposed rule to limit mercury emissions from coal-fired power plants." They "said the rule was written to satisfy the utility industry and would take too long to produce benefits, causing serious health problems for thousands of people, especially pregnant women and young children living near the plants." The Times notes, "The deadline for the vote is Monday, although Senator Bill Frist of Tennessee, the majority leader, said other issues might force him to extend it by several days."

3rd Circuit Rejects Substantial Continuity Test In Superfund Case. The Legal Intelligencer (9/9, Duffy) reports, "It's not too often that a federal judge declares that five of the judges on her own bench were wrong about a point of law in a string of decisions spanning a decade. … What's even rarer is when that lone judge learns, just days after she sticks her neck out, that she was right to do so -- due to the coincidence of an appellate court decision in an unrelated case that tackles the same legal question." The Intelligencer continues, "Both decisions are sure to grab the attention of environmental lawyers because they clarify the rules courts should use in deciding when a corporation may be held liable under the Superfund law on a theory of 'successor liability.' … On Aug. 31, U.S. District Judge of the Eastern District of Pennsylvania Anita B. Brody handed down a 37-page decision in Action Manufacturing Co. Inc. v. Simon Wrecking Co., in which she rejected the plaintiff's argument that Marcegaglia USA Inc. should share responsibility for the costs of an environmental clean-up in Malvern, Pa. … Lawyers for Action Manufacturing had argued that Marcegaglia was also liable as the successor-in-interest to Bishop Tube Co. because it had purchased the assets of Bishop Tube in a bankruptcy court sale. … To win its argument, Action Manufacturing had to persuade Brody to apply the so-called 'substantial continuity' test." The Intelligencer adds, "Brody said she recognized that five of her Eastern District colleagues have applied the substantial continuity test in toxic clean-up cases brought under the Comprehensive Environmental Response, Compensation and Liability Act, or CERCLA, in a string of decisions spanning from 1993 to 2002. … Although the 3rd U.S. Circuit Court of Appeals has never endorsed the test, Brody found that, in light of the 1998 decision of the U.S. Supreme Court in United States v. Bestfoods, it is no longer good law, and that 'the national trend is to reject the substantial continuity test.'"

NYTimes Applauds Challenge To Administration On Forest Protection. The New York Times (9/9) editorializes, "The Bush administration has largely succeeded in its systematic effort to roll back environmental protections for America's national forests." But now "a rebellion is brewing where the White House least expected it. Western governors are challenging the most controversial rollback of all: the decision to repeal a popular rule approved near the end of the Clinton administration to protect nearly 60 million acres of remote national forest from commercial development." It "is an embarrassment for an administration that had assumed that the governors would leap at the chance to exercise states' rights." It "should also improve the prospects of" a bipartisan bill introduced by Rep. Sherwood Boehlert and Rep. Jay Inslee "to restore the old roadless rule. Now that the governors have spoken, there seems to be no reason to further indulge the commercial interests of a few timber companies."

FBI/DEA/ATF/USMS:

Five California Prison Gang Leaders Sentenced To Life. The AP (9/9) reports, "Five Pelican Bay State Prison gang leaders were sentenced Thursday to life in federal prison on various racketeering, drug and weapons violations after Gov. Arnold Schwarzenegger commuted their state terms." The AP continues, "The inmates were already serving life sentences at the notorious state prison in Crescent City that houses California's worst offenders. With their convictions, they will be transferred to separate federal prisons around the country. … 'By incarcerating these defendants in federal maximum security prisons, this organization's operational capabilities will be seriously disrupted,' U.S. Attorney Kevin Ryan said." The AP adds, "Defendants Cornelio Tristan, 44, James Morado, 57, Joseph Hernandez, 55, Gerald Rubalcaba, 50, and Tex Hernandez, 50, were leaders of the Nuestra Familia prison gang. They admitted that while they were behind bars, the organization murdered two former gang members and engaged in numerous drug transactions from which they profited. … The five defendants were the last of 22 Nuestra Familia members and associates sentenced in the federal case that began five years ago." The AP notes, "The U.S. Justice Department's key witness in the case, former Nuestra Familia leader Daniel Fred Hernandez, will soon walk free even though he admitted to selling drugs and committing other crimes while working for the government. … Hernandez, 42, cut a deal with federal prosecutors for a reduced sentence in return for providing evidence against fellow gang members. He was arrested

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nearly five years ago and faced life in prison on the same racketeering charges as the others. … As part of his plea deal, Hernandez agreed to wear a wire and set up drug and gun buys for fellow gang members."

The Monterey Herald (9/9, Reynolds, Sanchez) reports that after the sentencing, US District Court Judge Charles Breyer said that "federal prison officials now…need to make sure they keep the gang from spreading throughout the country the way it spread though the California prison system. … 'At the time of the pleas, I voiced concerns' about the potential for contamination of the federal system, Breyer said. 'I think what I said then is true today. It is a serious concern.'" The Herald notes, "Operation Black Widow began with the promise of crippling the Nuestra Familia. In 2000, federal prosecutor Robert Mueller, now head of the FBI, began the case in Salinas with 11 indictments, saying the arrests would have 'a dramatic impact on criminal activities' in Monterey County and elsewhere. This week, it all ended quietly and without fanfare."

Hundreds Of Suspected Latin Gang Members Arrested In International Crackdown. The AP (9/9, Sherman) reports, "More than 650 suspected members of MS-13 and other gangs were arrested in the United States, Mexico, El Salvador, Guatemala and Honduras in a coordinated crackdown on violent Hispanic gangs, officials said Thursday. But even as a senior FBI official set a goal of dismantling MS-13 in the next 18 months, police officials from the other countries described vast challenges in quelling gang activity in their prisons and disrupting recruitment. The roundup, conducted Wednesday by 6,400 law enforcement officers in the five countries, was run out of FBI headquarters in Washington, FBI assistant director Chris Swecker said. 'Our end game is to take out the leadership elements especially,' Swecker said at a news conference. 'These arrests are a means to that end.' Police and federal agents made 73 arrests, more than half on immigration charges, in 13 states, Swecker said." The Los Angeles Times (9/9, Kraul) notes, "U.S. police and federal agents made 73 arrests, more than half on immigration charges, in 13 states, Swecker said. Thirty-two of the arrests were in California.

CNN.com (9/8, Frieden) adds, "Top officials from each country coordinated from a joint command post at FBI headquarters in Washington. 'I haven't seen anything like this in 23 years,' said veteran FBI Assistant Director Chris Swecker, who oversaw the operation. … The operation's scope and collaborative effort 'sent a message to MS-13 and other like gangs that their criminal enterprise and the violence they perpetrate will not be tolerated,' Swecker said." KNBC-TV Los Angeles (9/8) reports on its Web site that Swecker said in a statement, "These gangs are organizing internationally, and so are we." KNBC adds, "The effort was..coordinated by the FBI's National Gang Task Force, which was established last year to fight gang violence. … Swecker described Thursday's operation as 'historic ... unprecedented in scope.' … 'This represents but a beginning, another step, in an ongoing national and international effort to go on offense and to strike back against gang violence,' Swecker said."

Oregon Arrests. The Oregonian (9/8, Crombie) reports, "Federal agents arrested five self-described MS-13 gang members on Wednesday as part of a nationwide crackdown on the notoriously brutal street gang. … Immigration authorities would not release the names, citing their practice of not identifying individuals accused of administrative violations." FBI Oregon SAC Robert Jordan "announced the arrests, saying authorities are 'seeing the beginnings of a movement of members to Oregon, and we are very serious about making sure MS-13 can't establish a strong foothold in our communities.' The suspected gang members were identified through criminal investigations throughout the country, said Dan Nielsen, assistant special agent in charge of the FBI in Portland." The AP (9/8) notes that Jordan, announcing the arrests, "said the FBI is serious about ensuring that MS-13 can't establish a strong foothold in the communities. Last year, the FBI set up a national task force to focus on dismantling MS-13."

Georgia Arrests. The Gwinnett Daily Post (9/9, Brooks) reports, "Four arrests were made Wednesday in Gwinnett County as part of an international investigation into the violent street gang 'Mara Salvatrucha,' federal officials said Thursday. Nationwide, 73 individuals were arrested in the FBI-led crackdown involving local police officers and federal agents in 15 states. … Six gang members were arrested across metro Atlanta, including four in Gwinnett, said FBI Special Agent Steve Emmett." The Daily Post notes that among those arrested was Gustavo 'Conejo' Martinez, who "is the leader of a local 'set of MS-13,' according to the FBI."

Wisconsin Police Arrest OTC Drug Theft Suspects With Possible MS-13 Ties. WMTV-TV Madison (9/8, Swaby) reports on its Web site from a story broadcast Thursday, "'$45,000 to $55,000 on an average day,' says Captain Richard Bach of Madison Police's North District. Police claim that dollar figure is what their suspects brought in by allegedly stealing over the counter medications while having ties to MS-13, a violent gang." WMTV notes, "An FBI tip brought officers to a Northside Madison motel on August 29th. A four hour stake out brought in the two suspects, 21-year old Leonel Avendano and 23-year old Elvis Fuentes-Lazo as well as two boxes of evidence. Bach says, 'in their possession was about $10,000 worth of stolen over the counter medication that they had stolen from about 22 Walgreens in the Madison area the day before.'"

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Federal Agents Arrest 10 Suspects In Haiti-Miami Cocaine Ring. The Miami Herald (9/9) reports, "Federal agents arrested 10 suspects in an alleged Haiti-to-Miami cocaine-smuggling ring whose members include a trio of baggage handlers at Miami International Airport, according to sources familiar with the investigation. The illegal drugs were transported in suitcases on American Airlines flights departing from Port-au-Prince and arriving at MIA, sources said. The baggage handlers received tips about which luggage contained the cocaine, so they could unload it to evade authorities." The Herald notes, "The unsealed indictment names 11 defendants, including one who is still at large. The investigation, by the FBI, Drug Enforcement Administration and Immigration and Customs Enforcement, is targeting other suspects. Officials with the FBI, which is leading the inquiry, declined to comment."

US Law Enforcement Fighting Increased Drug Gang Currency Smuggling. Reuters (9/8, Gaynor) reports, "For decades, U.S. law enforcement agencies have clamped down on Mexican drug cartels hauling cocaine, marijuana, heroin and amphetamines north over an ever-more tightly watched border to the United States. Now, with stricter controls on bank accounts and wire transfers, officials are concerned that drug gangs are increasingly running illicit profits back to Mexico in piles of hard cash in cars, trucks and even on foot. U.S. authorities have seized almost $40 million in bank notes headed into Mexico since 2002." Reuters notes, "Hard currency seizures are also vigorous within the interior of the United States, where the Federal Bureau of Investigation netted $12 million bound for the so-called Juarez cartel in just one operation last year, dubbed 'Baja Kings.'"

DEA, Local Authorities Arrest 44, Seize Drugs In East Palo Alto, California Crackdown. The San Francisco Chronicle (9/9, Gaura) reports that a "crackdown on organized drug gangs in East Palo Alto has resulted in 44 arrests and the seizure of $500,000 worth of crack and powdered cocaine, methamphetamine and heroin, police officials announced today. Police are searching for another 12 fugitives connected with the case. Spurred by a rising tide of violence and homicides in East Palo Alto, which has seen 13 killings since January, local officials teamed up with an array of state and federal law enforcement agencies to crack down on drug gangs that have taken over local parks and terrified residents here." East Palo Alto Police Chief Ron Davis said the city "acted on lessons learned in the early 1990s, when gang warfare and 42 homicides in one year made the town the per-capita slaying capital of the United States. 'We made promises at that time that we would never let the violence rise as high as it was in the '90s,' Davis said. Officials sought help from state and federal agencies in March, when the city had experienced four homicides, but observers could tell that gang violence was on the rise. The resulting collaboration with the Mobile Enforcement Team -- a special group of agents within the federal Drug Enforcement Administration -- brought together officers from Palo Alto police, the San Mateo County Sheriff's Department, the San Mateo County Narcotics Task Force, the U.S. Attorney's Office, the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives and U.S. Immigration and Customs. In the course of serving 20 search warrants, agents seized 6.1 pounds of crack cocaine, 3.8 pounds of powdered cocaine, 2.7 pounds of methamphetamine, 3.5 pounds of heroin, five vehicles, 17 firearms and $129,113 in cash. Those arrested face anywhere from 10 years to life sentences in prison, according to DEA Special Agent Javier F. Pena."

The San Francisco Examiner (9/9, Carpenter) reports, "Sheriff Don Horsley said the DEA was brought in for its Mobile Enforcement Team program, which can be deployed to a city to investigate individuals and organizations involved in drug trafficking. 'We asked that the DEA come and give us a hand on this, in light of an 18-month upswing in gang violence' in East Palo Alto and other Peninsula cities. Since January, 13 people have been shot to death in East Palo Alto. Horsley pledged to continue working with state and federal authorities to gather intelligence on the most violent gangs and those responsible for drug distribution in the county over the long term. The increased gang activity in East Palo Alto and on the Peninsula in general can be largely attributed to recruitment efforts by prison parolees looking to regain territorial control in the area, police said."

US Illicit Drug Use Down In 2004. USA Today/AP (9/9) reports that the "percentage of Americans using illicit drugs declined slightly last year, though the results were more pronounced for youths, according to a survey released Thursday. For people ages 12-17, there was a 9% drop in illicit drug use between 2002 and 2004, the federal government announced." ONDCP Director John P. Walters said, "Today's survey confirms the welcome trend on teen drug use." Overall, "19.1 million Americans used illicit drugs last year, or 7.9%. The numbers were basically the same for the surveys taken in the previous two years, when about 8% of Americans reported using illicit drugs within the previous month. The National Survey on Drug Use and Health is an annual survey of close to 70,000 people. It measures drug and alcohol use through several categories, including age, ethnicity and type of drug. The survey showed that illicit drug use dropped from 11.6% to 10.6% among youths ages 12-17 from 2002 to 2004. However, binge drinking, which is defined as five or more drinks in one setting, increased in the same age group -- from 10.6% to 11.1% from 2003 to 2004."

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House Government Reform Panel Mulls What To Do About Palmeiro. The Baltimore Sun (9/9, Barker) reports that the House Committee on Government Reform "remains uncertain whether there is enough evidence to warrant referring Rafael Palmeiro's steroids case to the Justice Department for a perjury investigation, and it is considering several options for handling his case." In one scenario, the committee "would make public the documents it received Aug. 12 from Major League Baseball related to the Orioles first baseman's positive steroids test, according to officials familiar with the discussions. That way, the public could decide for itself about Palmeiro, who had told lawmakers in a March 17 hearing that he had never used the performance-enhancing drugs. The document release could happen in the next two weeks. The documents include the results of Palmeiro's drug tests, the date of the tests and a record of secret proceedings before an arbitration panel to which Palmeiro had appealed the results of his positive test. His appeal was denied, and Palmeiro served a 10-day suspension beginning Aug. 1." Releasing the documents "would answer at least one important question: How did Palmeiro choose to defend himself when he appeared before the arbitration panel several months ago with his reputation at stake?"

San Antonio Couple Pleads Guilty To Drug Ring Role. The San Antonio Express-News (9/9, Contreras) reports, "A San Antonio couple pleaded guilty Thursday to charges they were involved in a drug-distribution cell linked to the Texas Mexican Mafia that used a local police officer to avoid detection." Mike Flores and Toni Lopez "also admitted that federal prosecutors could show at trial that they dealt heroin and cocaine and that then-San Antonio police officer Enrique Hinojosa, 32, tipped them off to drug investigations. The conspiracy is alleged to go back to at least April 2001. Flores pleaded guilty to conspiracy to distribute more than 100 grams of heroin, and Lopez pleaded guilty to aiding and abetting the possession of heroin. Their pleas came just days before their trial was to begin. Hinojosa, who worked with the San Antonio Police Department from January 2001 to March 2004, is now the only one in the case scheduled for trial Monday before U.S. District Judge Orlando Garcia."

IMMIGRATION:

Danbury, CT, Police Enforcing Federal Immigration Laws. The Danbury (CT) News-Times (9/9, Reid) reports, "Earlier this year, (Danbury, CT) Mayor Mark Boughton wanted the federal government to deputize state police officers so they could enforce immigration laws. … As it turns out, the extra authority might not have been needed." The News-Times continues, "A recently unearthed U.S. Justice Department memo says state and local cops can make arrests after traffic stops if they find civil immigration violations, such as someone overstaying a visa. … No specific federal authority is needed for local officers to make such arrests, according to the 2002 memo, which came to light in a recent court case." The News-Times adds, "Danbury officials said the memo will have little impact on law enforcement in a city that has seen a sizable increase in South American immigrants in recent years. … At the same time, however, Danbury officials confirmed city police officers are checking the immigration status of some drivers and making some arrests on immigration charges. … They complained, however, they receive little help from the federal government in prosecuting the cases. … 'The problem of enforcement is not at the local level,' Boughton said. 'We don't get the cooperation we need from Immigrations and Custom Enforcement.'"

Schwarzenegger Expected To Veto Immigrant Drivers License Bill. The Los Angeles Times (9/9, Salladay, Vogel) reports, "The fate of a bill that could extend driver's licenses to illegal immigrants remained unclear today as some Californians condemned it and others praised the measure." The legislature sent it to Gov. Arnold Schwarzenegger "despite signals that the Republican governor would veto it" because he is waiting for the DHS to implement new Federal regulations. Federal lawmakers "gave states the option to create distinct driver's licenses for illegal immigrants under the Real ID Act passed in May. That sweeping law will require most states to change the information they include on driver's licenses, the documents they require to issue a license and how they store driver's license data." Many state are waiting for the new DHS rules which will be issued in 2006.

NYTimes Criticizes Expected Veto Of Gay Marriage Bill. The New York Times (9/9) in an editorial says, "Gov. Arnold Schwarzenegger was a profile in timidity this week when he vowed to veto a pioneering bill authorizing gay marriage in California." He "could not find the courage to sign the bill into law. Instead, even before receiving the bill, he announced a tortured rationale for vetoing it." The Times surmises he vetoed the bill because while he "was initially hailed as a centrist Republican superhero…his popularity has plummeted, and polls show that most Californians are inclined to oppose his re-election. Only his Republican base continues to back him." His "own views of gay marriage are hidden beneath vague, elusive, sometimes contradictory comments that add up to ducking the issue." He "is afraid to say what he really thinks. He falls back on a rationale that

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would leave the issue to the courts or another vote of the people. Anything to get him off the hook."

Immigration Judge Orders Minnesota School Squatter Deported. The AP (9/9) reports, "A Mexican immigrant who was found living at a (Bloomington, MN) high school last winter must leave the country, an immigration judge decided Wednesday." The AP continues, "Francisco Serrano was ordered to depart within 120 days, though he plans to appeal the decision." The AP continues, "Serrano, who is in his early 20s, hid at Apple Valley High School, which he had once attended, and was arrested by immigration officials after he was discovered in the school's boiler room. … He has said he and his family moved to Connecticut after his sophomore year here. He said he returned to Minnesota on Christmas Eve with only $200 in his pocket." The AP adds, "Serrano's situation drew some support from parents who e-mailed the school after the man was discovered, though the school was also criticized for allowing someone to live there undetected. … Tim Counts, a spokesman for the Bureau of Immigration and Customs Enforcement, said it was a clear case of someone abusing their visa privileges."

TAX:

US Indicts "Survivor" Winner Hatch For Tax Evasion. Reuters (9/8) reports, "A federal grand jury on Thursday indicted Richard Hatch, who took home $1 million as the first winner of the CBS hit reality show 'Survivor,' for tax evasion, bank fraud and other charges." Reuters continues, "The U.S. Attorney's office in Providence, Rhode Island, accused Hatch, a motivational speaker, of failing to report the $1 million winnings in 2000 and about $391,000 he earned from half a dozen other sources. … The 10-count indictment follows a grand jury investigation that began in March when Hatch backed out of a deal with prosecutors to plead guilty to two tax evasion charges that carried a maximum 10-year jail sentence and a $500,000 fine."

The AP (9/8, Johnson) reports, "Hatch faces 10 charges, including tax evasion, filing a false tax return, wire fraud, bank fraud and mail fraud. U.S. Attorney Robert Clark Corrente said Hatch, 44, did not pay taxes on his 'Survivor' prize, income from a radio show and rental income. The Newport resident also allegedly used donations to his charity, Horizon Bound, to cover personal expenses." The AP adds, "Prosecutors charged Hatch with two counts of tax evasion in January. He agreed to plead guilty, but backed out of the deal in March, saying he thought CBS was responsible for paying the taxes on his prize. CBS has said Hatch was well aware of his obligations to pay taxes on the money. … The grand jury, which received the case after the plea deal fell apart, indicted Hatch for filing false 2000 and 2001 tax returns, which omitted his income from the reality show, $327,000 he was paid to co-host 'The Wilde Show' on a Boston radio station and $28,000 in rent on a property he owns in Newport."

CONGRESS-ADMINISTRATION:

Bush Signs Katrina Relief Bill, Vows Federal Action "For The Long Haul." President Bush last night signed a $51.8 billion relief package for Katrina recovery aid. The President also vowed to take steps to speed up the Federal effort in the affected region, and tried to reassure the victims that the government will be at their side "for the long haul." Throughout the day, the President continued to come under fire from Democrats and media commentators, and new polls show the American people are also giving him low marks for his handling of the hurricane's destruction. These developments take place in an atmosphere of increased partisan sniping in Washington. As the Washington Post (9/9, A18, Babington) says this morning, yesterday's events "left little doubt that political reaction to the catastrophic storm will be dramatically more partisan than was the response to the Sept. 11, 2001, terrorist attacks." GOP Sen. Jeff Sessions of Alabama may have summed up mood on Capitol Hill when he told reporters, "We are reaching a perfect political storm."

Earlier yesterday, the President tried to reassure the hurricane's victims. ABC World News Tonight (9/8, lead story, 3:25, Vargas) reported, "A week and half after Hurricane Katrina, the government and the country's major relief agencies are still struggling in a major way to get hurricane victims the help they need. $10 billion has already been spent on that effort. $10 billion. And today, President Bush said it was only the beginning." Bush was shown saying, "The government is going to be with you for the long haul. In all the steps we take, our goal is not simply to provide benefits, but to make them easy and simple as possible to collect." CNN's The Situation Room (9/8, Blitzer) added Bush also" declared next Friday, September 16, a national day of prayer and remembrance."

Reuters (9/9, Cowan) reports Bush signed the aid bill last night. The Senate approved it "by a vote of 97-0 after receiving it from the House of Representatives," where it "also passed it overwhelmingly." In a statement, the President said, "The people affected by this storm have immediate needs that we must continue to meet without delay. More resources will be needed as we work to help people get back on their feet."

Analyzing the politics of the Katrina recovery effort, the CBS Evening News (9/8, story 2, 2:50, Borger) added, "There's no rallying around the President as there was after 9/11. This time, the enemy is incompetence." A "new CBS

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poll shows that two out of three Americans think the President himself responded too slowly. His leadership rating, usually his strong suit, is the lowest of his presidency, a full 35 points less than it was after 9/11. Democrats see a political opportunity, criticizing what they describe as the President's mismanagement of the crisis and his skewed domestic priorities. The Republican refrain: Look ahead, blame later." NBC Nightly News (9/8, story 2, 2:10, Gregory) added, "The criticism grows. A new Pew Research poll shows two-thirds think the President should have done more to speed up relief efforts. And the President's mother has herself been criticized as being insensitive" for her remarks about Katrina victims.

CNN's The Situation Room (9/8, Bash) analyzed the Administration's moves yesterday from a political standpoint, saying, "What we're seeing here at the White House…is a continuation of the attempt to try to reverse some of that initial criticism. Today, what the President announced were some initiatives to try to cut through the red tape, some initiatives like relaxing requirements in order to get some of these evacuees their benefits, federal benefits, like Medicare, Medicaid, unemployment checks faster." He also "promised that states taking in evacuees would be reimbursed. All of this, the president said, is part of an effort that will take some time." CNN added, "The White House is well aware of the fact that Americans will start seeing a lot more of what we have been record reporting on CNN today, bodies being recovered. And they want to show that the President is, first of all, in touch with what was is going on, on the ground. And also, they understand that Americans might have some more outrage when they hear more and more of the grim news."

The Washington Post (9/9, A1, Baker, Goldstein) reports on the new poll numbers, and says Bush "has scrapped his schedule to focus on hurricane relief after being criticized for reacting too slowly to Katrina's devastation." A Pew Research Center survey "found that 67 percent of Americans think Bush could have done more to respond to the storm. The survey placed his overall job approval rating at 40 percent, down 10 points since January. A poll by Zogby America recorded its lowest-ever approval rating for Bush, 41 percent." The Los Angeles Times (9/9, Vieth, Curtius) also says "new polls suggested that many Americans were displeased with the government's performance. … The dissatisfaction suggested that the White House was still struggling to divert attention from mistakes made during the initial response and focus instead on signs of progress moving forward." The Financial Times (9/9, Daniel), Reuters (9/9, Whitesides) and Bloomberg (9/9), among other sources, also report on the new poll numbers.

The Christian Science Monitor (9/9, Feldmann) says this morning, "As distasteful as it is to many Americans, the politics of hurricane Katrina have rushed in to fill the agendas of elected officials nearly as quickly as the floodwaters inundated New Orleans." Katrina, says the Monitor, "has become an anti-9/11 of sorts. Whereas four years ago people dropped their red and blue identities to rally around their leaders, Katrina seems to have exacerbated the extreme polarization of the Bush years."

The Baltimore Sun/AP (9/9, Espo) notes Congress acted "with extraordinary speed" on the spending bill. White House "officials said the money was needed without delay to prevent an interruption in the massive operation designed to repair the damage along the Gulf Coast and bring hope to an almost unimaginable number of evacuees forced to flee." The bill "brought the total in disaster aid to $62.3 billion -- a total that is certain to rise as the full impact of the storm becomes clear." Also commenting on the speed of Congress' actions, the Wall Street Journal (9/9, Rogers) adds, "Rarely has the House, for example, considered such a large appropriations bill under the strict procedures applied yesterday, which severely limited debate and permitted no amendments."

Throughout the day, TV broadcasts across the nation continued to provide saturation coverage of Katrina's aftermath. On the networks' evening news shows, approximately 60% of the coverage of the hurricane zone last night was devoted to stories of human suffering and hardship, such as the ongoing evacuation of New Orleans and health threats in the city, difficulties in finding aid or applying for it, and other stresses on social service networks coping with the influx of Katrina survivors. About 40% of the coverage was devoted to the Federal Government's response to the disaster, including political debate over the funding for relief efforts, criticism of FEMA's response, and events such as visits to the zone by Vice President Cheney and First Lady Laura Bush.

A majority of local newscasts chose to lead their coverage with the news that a large hurricane aid package has been approved in Washington. KCAL-TV Los Angeles (9/8, 8:00 p.m.) reported, "Late tonight, Congress joined forces to approve the $51.8 billion bill that will help victims of Hurricane Katrina. The Senate vote was unanimous." KTVT-TV Dallas (9/8, 10:11 p.m.) noted that the bill has already been signed by the President: "Nearly $52 billion of Federal aid will pour into areas hit hard by Hurricane Katrina. Congress approved the aid package requested by the White House and President Bush immediately signed it."

Many reports also noted Bush's call for a day of prayer. For example, WABC-TV New York (9/8, 5:08 p.m.) reported, "President Bush has called for September 16th as a National Day of Prayer for the victims of Hurricane Katrina." Many other stations pointed out that Vice President Cheney paid a visit to the region affected by Katrina. KTVI-TV Chicago (9/8, 5:40 p.m.) reported, "Fresh from his vacation in Wyoming, Vice President Dick Cheney is touring the hurricane devastation." Cheney "arrived in Mississippi today to meet

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with local and state officials and [assess] the damage caused by Hurricane Katrina. His wife, Lynne, and Attorney General Alberto Gonzales are with him on the trip." KGMH-TV Denver (9/8, 11:01 a.m.) led with the Cheney story, stating that he was also "accompanied by [Homeland Security Secretary] Michael Chertoff."

KSAZ-TV Phoenix (9/8, 9:41 p.m.), as many other stations across the country, put the story in the context of criticism being lobbed at the Federal government for its performance in response to the disaster. As the station reported, "In wake of bitter criticism [that] this Federal government bungled its response to Hurricane Katrina, Vice President Cheney toured Gulfport, Mississippi, promising to cut through the red tape."

Some stations noted criticism of the Administration from local lawmakers. WLS-TV Chicago (9/8, 5:06 p.m.) reported, "US Senator Dick Durbin is joining the Democratic chorus demanding that the FEMA head resign. Durbin says Michael Brown lacked experience and exercised poor judgment in the early response to Hurricane Katrina." Still, even with such accusations seeming commonplace, WGN-TV Chicago (9/8, 12:05 p.m.) reported, "A widespread 'blame game' on the response to Hurricane Katrina has been going on for days. But a new CNN/USA Today poll finds most of people surveyed think no one is to blame. Of the 609 people questioned, 38% said no one is to blame"

Other stations focused on the economic impact the hurricane will have on the country as a whole. A good example of this was WAGA-TV Atlanta (9/8, 6:23 p.m.), which reported, "Experts say Hurricane Katrina will impact more than just jobs and the price of gasoline. The storm's destruction will put a strain on home-building supplies made from oil such as asphalt, shingles, plastic plumbing pipe and some types of insulation. The Farm Bureau estimates that Katrina caused a billion dollars in damage to agriculture, wrecking sugar cane and poultry farms. The price of coffee could also go up."

"Yankee Reserve," Management Style Among Reasons Offered For Bush's Performance. A number of newspaper stories this morning analyze Bush's actions in Katrina's aftermath, and offer differing explanations for what many consider a lackluster performance. USA Today (9/9, Keen, Benedetto) says, "Bush has shown that he can be empathetic, sensitive and decisive." But "there's another side to Bush. He can seem detached and unaware of the messages conveyed by his words and conduct." Bush's "critics say his response to the hurricane proves that he's not a leader. … Others say he inherited from his parents a Yankee reserve that sometimes prevents him from quickly grasping the emotional requirements of pivotal events." In his 1992 re-election campaign, "President George H.W. Bush seemed disconnected from the pain of persistent joblessness and glanced at his watch during a debate with Bill Clinton. Bush's mother, former first lady Barbara Bush, said Monday at Houston's Astrodome that some evacuees there 'were underprivileged anyway, so this is working very well for them.'" NBC Nightly News (9/8, story 2, 2:10, Gregory) also reported "the President's mother has herself been criticized as being insensitive" for remarks about Katrina victims.

Meanwhile, Knight Ridder (9/9, Thomma) blames Bush's perceived failure on his "long record of avoiding critics, rewarding loyalty even in the face of failure and shunning -- even punishing -- those who disagree with him. It's a management style that shapes how he governs -- disdaining compromise with Democrats in Congress, for example -- and one that brushes off whole sectors of the American electorate." That "could come back to haunt him, as is now evident in the two problems -- Iraq and Katrina -- that together have sent his approval ratings to the lowest levels of his presidency and threaten his second-term agenda." His "style of isolating himself from unwelcome voices pleases his core supporters, who don't want him to compromise, but it sacrifices the broader public appeal that helped Ronald Reagan and Bill Clinton weather second-term setbacks."

More criticism of Bush's performance appears in the opinion pages of major newspapers today. Al Neuharth writes in his USA Today column (9/9), "Bush used to be part owner of a major league baseball team. He once coveted the Baseball Commissioner's job. So, he'll understand this baseball parlance." He "has had three really big at-bats during his four-plus years in the White House. First, 9/11. Then, the Iraq War. Now, the Katrina Hurricane tragedy. His batting performance: One home run (9/11). Two strikeouts (Iraq and Katrina)." Neuharth adds, "A .333 batting average is pretty good for a baseball player." But "in the Oval Office, two strikeouts in three crucial at-bats is bringing boos from more than half the crowd, as national polls show."

Columnist David Ignatius writes in the Washington Post (9/9, A25) reports, "In the aftermath of Katrina, there's an opening for a different kind of politics in America. The new politics isn't about values; it isn't about settling scores. It's about performance. It's about putting a wounded, shaken country back on its feet, much as Franklin Delano Roosevelt did in his famous First Hundred Days." The Administration "remains in its hunkered-down defensive crouch," and it is "outrageous to read that Homeland Security Secretary Michael Chertoff has been telling members of Congress that media reports are overstating the problems for storm survivors -- this from a man who was denying on National Public Radio last Thursday that there was any crisis at the New Orleans convention center at the very hour reporters were finding dead bodies and abandoned, starving people there. If the administration maintains that tone, it will self-destruct."

E.J. Dionne writes in the Washington Post (9/9, A25), "'Accountability.' Keep that word in mind whenever you hear

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defenders of President Bush accusing his political opponents of playing the 'blame game' by daring to pose pointed questions about why so many people in New Orleans, most of them very poor, had to wait so long for relief from their suffering." The White House "must have run the phrases 'blame game' and 'finger-pointing' through its focus groups. In his Wednesday briefing, White House press secretary Scott McClellan used variations on those formulations eight times each." Bush's critics "aren't backing off, because they've been here before. Former Senate Democratic leader Tom Daschle, who cooperated with Bush in the days after Sept. 11 but lost his South Dakota seat after a long, White House-inspired campaign accusing him of being 'obstructionist,' speaks from experience. 'Democrats to this day remain outraged at the blatant efforts that Republicans, especially in the administration, made to undermine the perception of our patriotism and our motivations,' Daschle said in an interview."

Paul Krugman writes in the New York Times (9/9), "Now that the Bush administration has botched its own response to disaster, we're not supposed to play the 'blame game.' Scott McClellan used that phrase 15 times over the course of just two White House press briefings." Krugman later writes, "In Iraq, the administration displayed a combination of paralysis and denial after the fall of Baghdad, as uncontrolled looting destroyed much of Iraq's infrastructure. The same deer-in-the-headlights immobility prevailed as Katrina approached and struck the Gulf Coast. The storm gave plenty of warning."

Dana Milbank wrote in Washington Post's (9/9, A2) "Washington Sketch" column, "The image of the United States has taken a beating over the past 10 days, as foreign television and newspapers show images of death, chaos and disease in New Orleans. Even lowly Bangladesh (per capita income: $400 a year) was moved to send $1 million in foreign aid. But Karen Hughes has another view. The Bush confidante, now undersecretary of state for public diplomacy, held a meeting with her staff in Foggy Bottom yesterday and was asked about the international ramifications of the response to the New Orleans flooding. The problem, Hughes replied, was not a failed relief effort but a foreign press that did not appreciate the federal government's good work. … Ten days after Katrina struck, the administration and its critics faced credibility challenges. On one side, Bush and his aides continued to admit what even key Republicans in Congress have said: that the response to the hurricane was a debacle. On the other side, liberals ratcheted up their criticism of the administration, giving Bush support for his accusation that they are playing politics. … Yet the Bush administration, whether discussing Iraq or Katrina, remains unfailingly upbeat."

GOP Senators Ask Bush To Appoint Relief Czar; Giuliani, Powell, Franks Mentioned. Reuters (9/9, Zakaria) reports GOP Sens. Sens. Kay Bailey Hutchison and Rick Santorum "pressed President George W. Bush on Thursday to appoint a top official to lead the long-term recovery from the devastation of Hurricane Katrina." White House officials "have not ruled out such an option, saying it is among several being discussed for confronting long-term problems in Katrina's aftermath." Reuters adds, "Various names have been mentioned in Washington for the job, such as former New York Mayor Rudolph Giuliani, former Secretary of State Colin Powell and retired Gen. Tommy Franks, former head of the US Central Command."

Democrats Reject GOP Plan For Hill Inquiry, Will Not Appoint Members. The New York Times (9/9, Hulse) reports, "Congressional Democratic leaders said Thursday that they would not appoint members to a new House-Senate committee to investigate failures in the government response to Hurricane Katrina, calling instead for an independent inquiry." House Minority Leader Nancy Senate Minority Leader Harry Reid "said they would not cooperate because the committee would be controlled by Republicans, would have uncertain authority and was created without consultation with Democrats." Reid "said he would not place any Senate Democrats on the panel 'as it is currently described,' adding: 'The only way to ensure that all levels of our government are held accountable to the people is to take this process out of the hands of politicians with a vested interest in the outcome.'" Republicans "said they would still move forward with the panel initiated Wednesday by the House speaker, J. Dennis Hastert, and Senator Bill Frist, the majority leader, and would try to persuade Democrats to drop their objections."

Reuters (9/9, Smith) adds, "While the joint congressional inquiry appears to be getting off to a rocky start, a Senate panel began its investigation into the government response effort." Sen. Susan Collins, "who heads the Senate Homeland Security Committee, said she is committed to pushing the inquiry forward on a bipartisan basis." She and Sen. Joseph Lieberman, the top Democrat on the panel, "spoke to reporters following a closed-door committee session with officials from the Federal Emergency Management Agency and the Coast Guard."

Democrats Forced Vote On Taking Control Of Relief Funds Away From FEMA. The Wall Street Journal (9/9, Rogers) reports that during debate on the relief package in the House, there was "growing frustration that Congress finds itself in a situation where it is pouring tens of billions of dollars into disaster accounts administered by the same Federal Emergency Management Agency that many lawmakers have so roundly criticized." On a "party-line 221-193 vote," Democrats "made a doomed attempt to permit a vote calling for a reorganization of the relief effort." The House "modified the administration's request to provide $15 million to beef up the inspector general's office at the Department of Homeland

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Security to audit FEMA's expenditures. But the agency is spending money so quickly that neither the House nor Senate has held a single hearing on the requests."

Costs Of Relief Effort Generate Partisan Sniping. As estimates of the costs from Hurricane Katrina exceed $100 billion, the political debate in Washington over how to fund the unprecedented disaster relief and recovery effort also took on a more charged and partisan tone. ABC World News Tonight (9/8, story 3, 2:45, Vargas) reported "people are asking all across the country and in Washington, can this country really afford it?" ABC (Moran) added there is "going to be a huge political fight over how to pay" for Katrina. Treasury Secretary John Snow "said the growing US economy can handle it." Secretary Snow was shown saying, "The fact that the underlying fundamentals are so solid, gives us a better ability to deal with the disaster." Moran: "Many Democrats are mindful that the country is spending $5 billion per month in Iraq, and demand that Mr. Bush curtail his tax cuts." Conservatives "are worried about the costs, too, with some House Republicans suggesting a one-year delay in the new prescription drug benefit program." The Administration "says the country can simply borrow the money, since the costs of Katrina, while huge, are one-time expenses." White House spokesman Scott McClellan: "It will have an impact on the budget, at least in the short-term. But these are one-time costs we're talking about."

CNN's Lou Dobbs Tonight (9/8, Henry) reported that "today for the first time we started hearing some tough questions by leaders in both parties about how high this price tag will be and whether or not it's a blank check. You're hearing Republican lawmakers like Mike Pence say they're concerned. They want to see some cuts in other federal programs in order to offset all this relief money. You're hearing Democrats like Senator Harry Reid say they're concerned that over 90 percent of the money is going to go to FEMA, the beleaguered federal agency that has had a lot of questions about its management raised. … And Senator John McCain told me that Congress could probably have a better job of finding ways to pay for this if they cut some of the pork out of the recent highway and energy bills, but obviously that's very unlikely to happen."

USA Today (9/9, Wolf) reports Katrina "has set the federal government on a spending spree. … As the months pass, the government will face pressure to pay for health and education services usually rendered by states, cities and school districts. That will apply not just in Louisiana, Mississippi and Alabama, but in states housing and caring for Katrina's evacuees." That is "likely to push the deficit for fiscal year 2006, which begins Oct. 1, beyond last year's record $412 billion. Before Katrina, the 2006 deficit was projected to be $314 billion." Bill Hoagland, the top budget aide to Senate Majority Leader Bill Frist, "agreed that the deficit is likely to top $400 billion." Leon Panetta, White House chief of staff and budget director under President Clinton, "said it could hit $500 billion."

The New York Times (9/9, Andrews, Hulse) adds, "Other ideas circulating through Congress that could entail significant costs include these notions: Turning New Orleans and other cities affected by the storm into big new tax-free zones. Providing reconstruction money for tens of thousands of homeowners and small businesses that did not have federal flood insurance on their houses or buildings. Making most hurricane victims eligible for health care under Medicaid and having the federal government pay the full cost rather than the current practice of splitting costs with states." The Times adds, "The torrent of money -- more than $2 billion a day over the weekend, and expected to remain above $500 million a day for the foreseeable future -- prompted several lawmakers to warn about the perils of an open checkbook."

Lobbyists Try To Work Projects Into Katrina Relief Bills. The Wall Street Journal (9/9, Mullins) reports, "Bolstered by the shift in political winds from Hurricane Katrina, US corporations are pressing lawmakers to approve a range of issues that have languished on Capitol Hill, some of which have little to do with hurricane relief." For example, "airlines are asking Congress to suspend federal jet-fuel taxes. Oil and gas companies want drilling rights in new parts of the Gulf Coast. Insurance companies want the ability to use tax-free funds to create a multibillion-dollar industry fund to cover future claims from natural disasters. Shipbuilders such as Northrop Grumman Corp. want billions of dollars to help rebuild shipyards in Mississippi. Even small chicken farmers are asking Congress for low-interest loans to fix or replace hundreds of damaged or destroyed chicken coops in Mississippi."

Katrina Evoked In Medicaid Overhaul Debate. The Wall Street Journal's (9/9, A4, Harwood) "Washington Wire" reports, "A bipartisan group of senators urges Finance Chairman Grassley to delay slicing $10 billion from Medicaid and other entitlement programs serving many of those displaced by Katrina. 'We must remain focused on the relief efforts and ways to deliver both short- and long-term aid,' write Republicans Smith and Snowe, joined by Democrats Bingaman and Lincoln." But "conservatives like Rep. Barton of Texas warn Katrina shouldn't become an excuse to block Medicaid overhaul. 'Let me repeat, so that everybody hears me -- evacuees from Hurricane Katrina would not be hurt!' he says."

LATimes Urges Congress To Reconsider Bankruptcy Law In Wake Of Katrina. In an editorial, the Los Angeles Times (9/9) discusses a specific category of Hurricane Katrina victims, those "families with the means to flee the hurricane, perhaps even with insurance to cover some losses, but without the resources to make a living immediately. … They have lost their homes but are living off their credit cards and maybe a little savings. As those

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savings dwindle, however, the mortgage keeps coming due and their credit card nears its limit. Soon the paycheck may stop, and with it their health insurance." The Times argues that Congress "should take this opportunity to revisit the new bankruptcy law, which goes into effect Oct. 17," and "treats those affected by a natural disaster the same as the deadbeat who spent it all on luxury cars, jewelry and cocaine." The Times states, "Before Katrina, supporters of the new law argued it would curb abuse of the bankruptcy code. This argument was always dubious, and in the aftermath of the hurricane, the new law appears simply callous. Does Congress really want to use Katrina's victims as test cases in some sort of grand experiment in bankruptcy reform?"

US Hurricane Response Criticized In World Media. USA Today (9/9) examines coverage in the world press of Hurricane Katrina. Mehdi Mohammadi, "in a column in Keyhan (Tehran, Iran): 'Reports come from New Orleans that show that the pitiful situation of the people in affected areas cannot be entirely attributed to Katrina. A greater tragedy that has astonished the world's people is the widespread chaos, insecurity and plundering that have been caused by thieves, criminals and murderers. ... What kind of human beings are these people who have ambushed and plundered the helpless men and women? ... Americans have created a nationwide scandal." People's Daily in Beijing editorialized, "People have reason to feel disgusted: when Indonesia was hit by a tsunami last year, everybody lent a helping hand and nobody looted. But now this happened in the United States, showing people another side of this 'civilized country.' In fact, it revealed a fragility of the American society, as well as despair and disorder." Ontario's National Post editorialized, "The sense that government would be there to make everything all right…is not surprising given that for so many New Orleanians, a general reliance on social assistance is a normal part of daily life. … If there was a problem, many of the residents had been conditioned to think, then surely the same people who came through every month with money for food, prescription drugs, housing and child care would be there to take care of it."

Brown's Résumé Said To Contain Fabrications.

Time (9/8, Fonda, Healy) reports on its website that when President Bush nominated Michael Brown to head FEMA in 2003, "Brown's boss at the time, Joe Allbaugh, declared, 'the President couldn't have chosen a better man to help...prepare and protect the nation.'" But Time has now "found discrepancies in his online legal profile and official bio, including a description of Brown released by the White House at the time of his nomination in 2001 to the job as deputy chief of FEMA." Before joining FEMA, Brown's "only previous stint in emergency management, according to his bio posted on FEMA's website, was 'serving as an assistant city manager with emergency services oversight.'" The White House said in 2001 that "Brown worked for the city of Edmond, Okla., from 1975 to 1978 'overseeing the emergency services division.'" But an Edmond official said Brown "was an 'assistant to the city manager' from 1977 to 1980, not a manager himself, and had no authority over other employees." And Brown's "lack of experience in emergency management isn't the only apparent bit of padding on his resume, which raises questions about how rigorously the White House vetted him before putting him in charge of FEMA." His FindLaw.com profile lists an Oklahoma university professorship that the school says he never held, and also says he directed an Edmond nursing home. An administrator at the home said Brown "is 'not a person that anyone here is familiar with.'"

Criticism Of FEMA Moves Beyond Brown. CNN's Lou Dobbs Tonight (9/8, Henry) reported that criticism of the relief effort has "gotten beyond Michael Brown at this point. The administration is not really putting him out there very much. You can see Michael Chertoff and other officials being put out further. And in fact, while some Republicans, like Senate Majority Leader Bill Frist just today, said that clearly the federal government, including FEMA, did not do enough early on."

DSCC Removes Fundraising Pitch From Online Petition Calling For Brown's Firing. The AP (9/9, Barrett) reports, "A new Democratic effort to whip up indignation about the Bush administration's handling of Hurricane Katrina also tried to raise money for Democratic candidates." DSCC Chairman Charles Schumer "issued an appeal Thursday urging people to sign an online petition to fire the head of the Federal Emergency Management Agency over his handling of the Katrina response." When the AP questioned the appeal "the DSCC quickly pulled down the page and said they would donate to charity any money raised by the anti-FEMA petition." At the top of the online petition a link "had asked for a donation to the DSCC." NRSC spokesman Brian Nick said, "It's a disgrace to exploit Hurricane Katrina to raise political funds."

NYTimes Says Brown Too Focused On Public Relations. The New York Times (9/9) editorializes that Brown "was made the director after he was asked to resign from the International Arabian Horse Association, and the other top officials at FEMA don't exactly have impressive résumés in emergency management either. … When Mr. Brown finally got around to asking Homeland Security Secretary Michael Chertoff for extra people for Katrina, it wasn't much of a departure for Mr. Brown to say that one of the things he wanted them to do was to 'convey a positive image of disaster operations to government officials, community organizations and the general public.' We'd like them to stay focused on conveying food, water and medical help to victims."

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Five Top FEMA Officials Had "Virtually No Experience" With Disasters. The Washington Post (9/9, A1, Hsu) reports that "five of eight" leading FEMA officials "came to their posts with virtually no experience in handling disasters and now lead an agency whose ranks of seasoned crisis managers have thinned dramatically since the Sept. 11, 2001, attacks." Brown, Chief of Staff Patrick Rhode, and Deputy Chief of Staff Brooks Altshuler "arrived with ties to President Bush's 2000 campaign or to the White House advance operation, according to the agency. Two other senior operational jobs are filled by a former Republican lieutenant governor of Nebraska and a U.S. Chamber of Commerce official who was once a political operative."

The Los Angeles Times (9/9, Silverstein) also reports that Brown "is just one of at least five current and former senior FEMA officials appointed under President Bush whose professional backgrounds showed few qualifications in the area of disaster relief when they arrived at the agency." But Vice President Cheney "defended the administration's FEMA appointees in remarks to reporters on Thursday." Cheney said, "You've got to have people at the top who respond to and are selected by presidents, and you pick the best people you can to do the jobs that need to be done. We've also got some great career professionals, an absolute and vital part of the operation -- couldn't do it without them." But congressional Democrats "have attacked Brown and other top FEMA appointees." Rep. Henry Waxman said, "FEMA is an important agency and needs to be run by professionals, not political cronies. Instead of a loyalty test, we need people with experience and competence."

The New York Times (9/9, Stout) reports that Cheney said in Mississippi, "Most of government runs on the basis of the combination of civilian leadership that's elected and career professionals that fill the jobs underneath them. And we're always trying to strike the right balance. But I think generally that overall principle has served us well as a government over the years."

FEMA Union Says Inclusion In DHS Hurt Disaster Response. ABC World News Tonight (9/8, story 5, 3:00, Stark) reported, "Inside FEMA, long-time employees were convinced FEMA wasn't ready for Katrina." Leo Bosner, FEMA employee union president: "All of us were just shaking our heads and saying, 'This isn't going to be enough, and the Director has to know this isn't going to be enough, but nothing more seemed to be happening." Bosner "says FEMA has been systematically dismantled since it became part of the massive Department of Homeland Security." Bosner: "One of the big differences I see, aside from taking away our staff, our budget and our training, is homeland security, now, in my view, slows down the process." Stark: "The union also sent this letter to Congress a year ago, warning about FEMA's decline. It's a view widely shared by stage emergency managers, who also warned Capitol Hill and the Department of Homeland Security, just weeks ago, that the department was too focused on" terrorism.

Meanwhile, USA Today (9/9) editorializes, "Katrina was a blow from nature, not man. But it has amounted to the first test of the new and improved security system constructed after Sept. 11, 2001. The storm's effects were much like an assault with weapons of mass destruction, something that has long been the worst U.S. terrorism nightmare: thousands of displaced people, many needing medical help along with food, shelter and information. … Have the past four years, and the vast sums spent on better protection, been squandered? By one measure, the answer would seem to be no. Since 2001, there hasn't been a terrorist attack on U.S. soil. … Nevertheless, as Hurricane Katrina has shown, the answers to three central questions are troubling: Are preparations in place if an attack happens? … What about the aftermath of an attack? … Is enough being done to prevent an attack?"

Columnist Finds Plenty Of Blame To Go Around. In his Washington Post (9/9, A25) column, Charles Krauthammer writes, "In less enlightened times there was no catastrophe independent of human agency. When the plague or some other natural disaster struck, witches were burned, Jews were massacred and all felt better (except the witches and Jews). A few centuries later, our progressive thinkers have progressed not an inch. No fall of a sparrow on this planet is not attributed to sin and human perfidy. The three current favorites are: (1) global warming, (2) the war in Iraq and (3) tax cuts. Katrina hits and the unholy trinity is immediately invoked to damn sinner-in-chief George W. Bush. … The author of this calamity was, first and foremost, Nature (or if you prefer, Nature's God). The suffering was augmented, aided and abetted in descending order of culpability by the following: 1. The mayor of New Orleans. He knows the city. He knows the danger. … The governor. It's her job to call up the National Guard and get it to where it has to go. … The head of FEMA. Late, slow and in way over his head. … The president. Late, slow, and simply out of tune with the urgency and magnitude of the disaster. … Congress. Now as always playing holier-than-thou. … The American people. They have made it impossible for any politician to make any responsible energy policy over the past 30 years."

FEMA To "Rethink" Debit Card Distribution Following Problems. ABC World News Tonight (9/8, lead story, 3:25, Vargas) reported that in Houston, "thousands and thousands of evacuees began lining up to get these -- debit cards from the Red Cross," but "many of those people came away, however, empty-handed." ABC (Osunsami) added, "Thousands of people showed up today, hoping for the FEMA credit card, worth $2,000. If they came

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home with anything at all, they walked home with a Red Cross debit card, worth much less. It was total confusion." Late today, FEMA "announced that their debit cards will only be distributed here, in Houston, which means evacuees in other locations have to wait for direct deposit to hit their checking accounts."

CNN's Lou Dobbs Tonight (9/8, Nguyen) reported, "FEMA has decided to rethink these debit cards, which they were planning to distribute tomorrow. We have learned that, indeed, they will continue distributing debit cards tomorrow. … But outside of this Houston area we've learned from a regional officer with FEMA that they've decided to rethink that, and they're going to go with electronic funds, transferring."

The New York Times (9/9, Dewan) reports that in announcing the debit card program on Wednesday, FEMA Director Michael Brown said it was "designed to 'empower' evacuees 'to make their own decisions about what they need to have to restart their lives.' But he did not say when and where the cards would be distributed. In Baton Rouge, The Associated Press reported, people went to a Red Cross office believing they could get the debit cards there. Callers to a Baton Rouge radio station from as far away as Atlanta and Houston complained that they did not know how to get the cards. One person said she had called the FEMA office in New York, only to be told that the cards were in Atlanta."

The New York Times (9/9, Stout) additionally writes that the "continuing confusion in the federal response to the crisis could be discerned in a comparison of the president's remarks with those of Mr. Passey, the FEMA spokesman." Bush, "in speaking to those affected by the storm, said he understood that 'some of you do not have access to a savings or checking account, or ways to cash a check.'" But Passey said, "As we've looked at the logistics of expanding the debit card, we believe that our normal methods of delivery -- checks and electronic funds transfer -- will suffice."

The Houston Chronicle/Reuters (9/9) reports that "after seeing mile-long lines form today for Red Cross cards, authorities were urging those who aren't yet registered with FEMA to do so by calling 1-800-621-FEMA or going to the agency's Web site. … Organizers and evacuees alike are hoping that Friday's inevitable lines won't match today's, which included elderly hurricane victims in wheelchairs and children who haven't yet been registered for school. Hurricane victims held newspapers and scraps of cardboard over the heads to shield themselves from the sun as volunteers passed out water and doctors arrived to watch for overheating or dehydration."

FEMA's Website Found Difficult To Use. NBC Nightly News (9/8, story 6, 1:35, Corke) reported, "It's supposed to be easy: If you're an evacuee displaced by Katrina, just click on FEMA.gov…to register for help. Of course, that assumes you're lucky enough to have Internet access to begin with." But it "took us six tries just to get onto the home page. Then we had to click here, and here, and here, and here, and here, and here, and here -- seven pages total before we even got to the application."

Cheney Visits Hurricane Zone. Vice President Cheney yesterday visited areas affected by Hurricane Katrina. His trip was noted by all three networks. On CBS and NBC last night it was characterized in both reports as "damage control." The CBS Evening News (9/8, story 2, 2:50, Roberts) reported Cheney "got a look at" the scenes of devastation "as he flew from Mississippi to New Orleans to review the relief operations." CBS (Borger) added, "Ten days after Hurricane Katrina flooded the Gulf Coast, the Administration is still knee-deep in damage control." Cheney defended the relief effort, saying, "I think the progress we're making is significant."

NBC Nightly News (9/8, story 2, 2:10, Williams) reported, "On all fronts today, it was Administration damage control. The Vice President was dispatched to tour the hurricane zone." Cheney was shown saying, "The President asked me to come down to take a look at things, to begin to focus on the longer term."

ABC World News Tonight (9/8, story 2, 2:40, Woodruff) added the Vice President "was impressed by all of the relief efforts. Most of the people who the Vice President met today were happy he was there. Although a few said this was just a media opportunity for him."

The AP (9/9, Raum) reports, "Standing by Louisiana's governor, Democrat Kathleen Blanco, Cheney spoke of how the flooding of New Orleans and the destruction of many communities in the region was 'a major tragedy in modern times.'" Joining Cheney on the trip, says the AP, "were Attorney General Alberto Gonzales and Homeland Security Secretary Michael Chertoff."

CNN's The Situation Room (9/8, Blitzer) said Cheney hailed "what he called significant progress made so far in devastated areas. The vice president saw a housing development in Gulfport that was leveled by the hurricane." CNN (Chernoff) added that Cheney "did try to lift spirits here. He said we face a tremendous challenge, but he also said he believes the country is up to the task and he certainly was very encouraging in terms of offering federal support."

Man Shouts Obscenity At Cheney. Reuters (9/9, Bohan) reports from New Orleans that "while he was speaking, a young man shouted an obscenity at the vice-president, saying 'Go fuck yourself, Mr Cheney' in an outburst that reflected frayed tempers and patience in the stricken region." The CBS Evening News (9/8, story 2, 2:50, Borger) showed an unidentified male shouting, "Go [no audio] yourself, Mister Cheney!"

The AP (9/9) also reports that while Cheney spoke, "a passer-by hurled an expletive at the vice president. 'First

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time I've heard it,' Cheney said, when asked if he was hearing a lot of such sentiments."

Gonzales Tours Gulf With Cheney. Attorney General Gonzales was often mentioned by local television news as accompanying Vice President Dick Cheney as he toured the hurricane damage and relief efforts in the Gulf. WWL-TV New Orleans (9/8, 12:01 p.m.) reported, "Vice President Dick Cheney and attorney general Alberto Gonzales toured stricken Gulf Coast areas this morning beginning with coastal Mississippi before heading later to Louisiana. Air Force 2 flew over heavily damaged houses as it landed at Gulfport Biloxi airport."

WLBT-TV Jackson, MS (9/8, 5:01 p.m.) reported, "Cheney was also accompanied by attorney general Alberto Gonzales and homeland security secretary Michael Chertoff."

WAFB-TV Baton Rouge (9/8, 12:02 p.m.) reported, "Flew over heavily damaged houses as it landed at the Gulfport- Biloxi international airport this morning."

KRIV-TV Houston (9/8, 12:06 p.m.) reported, "They'll be busy spending the day visiting with storm victims and reviewing thousands of people still holding out."

WDAF-TV Kansas City (9/8, 5:59 p.m.) reported, "They met with local and state officials."

Amongst the other stations carrying this story are WJTV-TV Jackson, MS (9/8 6:15 p.m.), CLTV-TV Chicago (9/8, 11:04 p.m.), WJLA-TV Washington, DC (9/8, 12:00 p.m.), WAGA-TV Atlanta (9/8, 10:29 p.m.), KTVK-TV Phoenix (9/8, 7:00 a.m), WFOR-TV Miami (9/8, 12:21 p.m.) , WTAE-TV Pittsburgh (9/8, 12:01 p.m.), WCPO-TV Cincinnati (9/8, 4:57 p.m.), and WGME-TV Portland (9/8, 5:23 p.m.).

First Lady Defends Government Response. NBC Nightly News (9/8, story 2, 2:10, Gregory) reported, "At a school in Mississippi, it was the First Lady defending the government's response to Katrina." Laura Bush was shown saying, "I think we've seen a lot of the same footage over and over that isn't necessarily representative of what really happened in both, in a lot of ways. Overall, it was a very good response." On the CBS Evening News (9/8, story 2, 2:50, Borger), the First lady was shown saying, "Well, I think across the board, very, very well."

CNN's The Situation Room (9/8, Blitzer) added Mrs. Bush "addressed the plight of children displaced by the hurricane. She urged parents to make sure their children are safe in school. And, earlier, she visited a school in Iowa that is taking care of children of evacuees."

The Des Moines Register (9/9, Beaumont) also reports the First Lady visited Des Moines, where she visited Lovejoy Elementary School. Mrs. Bush "toured the school" with US Secretary of Education Margaret Spellings.

The Biloxi Sun Herald (9/9) reports, "First Lady Laura Bush visited with hurricane victims in Southaven Thursday and cradled what could be the storm's youngest refugee -- a three-day old infant born to a New Orleans couple seeking shelter in Mississippi." She spoke at Greenbrook Elementary School and "praised DeSoto County residents and Superintendent Milton Kuykendall for enrolling storm refugees in the DeSoto County School District."

The Commercial Appeal (TN) (9/9, Covington) reports, "Hurricane evacuees at a Southaven church shelter said a visit by first lady Laura Bush on Thursday raised their spirits as they try to deal with their losses." Bush "drew applause from more than 100 evacuees and church volunteers when she entered the foyer of the church's education building shortly after 2 p.m." Bush "also was greeted warmly at Greenbrook Elementary School in Southaven, where she visited a second-grade music class and met with nine evacuee children at the school and 12 of their parents."

First Lady Describes Dean, West Criticism Of Bush As "Disgusting." The AP (9/9) reports, "Laura Bush described as 'disgusting' comments by rapper Kanye West and Democratic chairman Howard Dean blaming her husband for the disproportionate number of black hurricane victims. 'I think all of those remarks are disgusting, to be perfectly frank, because of course President Bush cares about everyone in our country,' the first lady said Thursday in an interview. … 'And I know that. I mean, I'm the person who lives with him,' she said. 'I know what he's like and I know what he thinks and I know how he cares about people.'" The AP notes, "On a nationally televised telethon Friday, broadcast live on NBC, West departed from the script to declare 'George Bush doesn't care about black people.'" Dean, earlier this week, "told the National Baptist Convention of America, a black religious group, that race played a role in the hurricane casualty numbers. Mrs. Bush said it was clear that poor people were more vulnerable when the hurricane hit. 'They lived in poorer neighborhoods. Their neighborhoods were the ones that were more likely to flood, as we saw in New Orleans. Their housing was more vulnerable,' she said. 'And that's what we saw, and that's what we want to address in our country.'"

White House Considered Taking Direct Control Of Louisiana Relief Effort. The New York Times (9/9, Lipton, Schmitt, Shanker) reports that as New Orleans "descended into chaos last week and Louisiana's governor asked for 40,000 soldiers, President Bush's senior advisers debated whether the president should speed the arrival of active-duty troops by seizing control of the hurricane relief mission from the governor. For reasons of practicality and politics, officials at the Justice Department and the Pentagon, and then at the White House, decided not to urge Mr. Bush to take command of the effort. Instead, the Washington officials decided to rely on the growing number of National Guard personnel flowing into Louisiana, who were under Gov.

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Kathleen Babineaux Blanco's control." The debate began after officials realized Katrina "had exposed a critical flaw in the national disaster response plans created after the Sept. 11 attacks. According to the administration's senior domestic security officials, the plan failed to recognize that local police, fire and medical personnel might be incapacitated."

The Wall Street Journal (9/9, McKinnon) reports that while the "Bush administration briefly sought to take control of local law enforcement to quell the violence and get help to victims" in New Orleans. Blanco, "in a letter to the White House on Saturday morning, said she would retain control of her state's National Guard troops, and requested the creation a federal joint task force that combined regular military and National Guard units."

Chaotic Logistics, Flawed Decisions Said To Have Hurt Rescue Efforts. NBC Nightly News (9/8, story 5, 2:40, Myers) reported, "As the floodwaters rose last Tuesday, the civilian director of the New Orleans Port Police," Cynthia Swain, "made a stunning decision. She ordered all harbor officers to abandon their posts and flee to higher ground," and "only the police chief and two officers stayed on duty." The decision "was just one of many questionable calls, at all levels of government, which delayed or deprived victims of desperately needed help." One medical assessment team, "veterans of 31 disasters, can treat hundreds of patients a day. But for 11 days, it's been repeatedly redirected by FEMA, from Alabama to Biloxi to Dallas to Galveston. So far, they've treated one small cut." Last Friday, Mississippi "asked FEMA for 20,000 trailers for temporary housing. On Monday, when nothing had happened, Sen. Trent Lott asked the President to intervene personally. The next day he was told that 400 trailers are on the way." Today "hundreds of trailers" are "still sitting in a facility in Georgia."

The Houston Chronicle/AP (9/9) reports that according to a Louisiana State University civil engineering professor, New Orleans officials "had 550 municipal buses and hundreds of additional school buses at their disposal but made no plans to use them to get people out of New Orleans before the storm. … Instead, local buses were used to ferry people from 12 pickup points to poorly supplied 'shelters of last resort' in the city." And "at least two public hospitals, loaded with more than 1,000 caregivers and patients, had their generators in their basements, which made them vulnerable in a flood. That violated the state's hurricane plan but had gone uncorrected for years because the hospitals did not have the money to fix the situation."

New Orleans Mayor's Office Lost Contact With Outside World For Days. The Wall Street Journal (9/9, Rhoads) reports that a "small corps" of New Orleans city leaders, "holed up at the Hyatt Hotel," had "virtually no way to communicate with the outside world" for the first days of the crisis. At "12:27 a.m. on Wednesday, Aug. 31, the mayor's inner circle made its first outside call in two days. … During the first days of Katrina, the besieged mayor's office struggled to stay connected. It was forced to rely on ingenuity and extreme methods, including breaking in to an Office Depot -- as the chief of police stood watch and chased away unofficial looters -- to obtain necessary equipment."

Landrieu Defends Louisiana Response. USA Today (9/9, Stone) reports that Sen. Mary Landrieu "returned to Capitol Hill on Thursday to defend Louisiana's response to Hurricane Katrina and chastise how Washington handled the disaster." Landrieu, "speaking on the Senate floor for the first time since the disaster, dismissed critics who have blamed local officials." In an interview later, she said, "I'm angry that some people in Washington….would blame state and local governments for something that is a federal responsibility. For God's sake, they were trying to make decisions under 10 feet of water."

The Washington Post (9/9, C1, Leibovich) reports that as Landrieu returned to Washington yesterday, she "had the shellshocked bearing of someone who's been in a place difficult to describe. People greeted Landrieu delicately, like a mourner." Landrieu "had spent the past 10 days at an Embassy Suites in Baton Rouge after evacuating her family's summer home in Slidell on Lake Pontchartrain, since obliterated. Last she heard, her childhood home in New Orleans was filled with five feet of water. … She was reluctant to come back to Washington, Landrieu said. Don't focus on her, she pleaded -- a rare instance of a senator saying something like that and maybe even meaning it. But of course, there was fuss everywhere Landrieu went, the clop-clop-clop of her heels echoing down hallways amid camera clicks, processions of well-wishers, trailing reporters, the whole bit."

Displacements Could Alter Louisiana Political Equations. The Wall Street Journal's (9/9, A4, Harwood) "Washington Wire" reports Louisiana Sen. Mary Landrieu "could find margins squeezed if thousands of Democratic-leaning African-Americans don't return by her 2008 re-election. Louisiana political analyst John Maginnis says state could even lose one of seven House seats in next redistricting. Two shaky House incumbents, Democrat Melancon and Republican Boustany, hope response to hurricane rallies voters behind them. House Republican campaign chief Reynolds touts chance to market conservative social-policy solutions; Rep. Baker of Baton Rouge is overheard telling lobbyists: 'We finally cleaned up public housing in New Orleans. We couldn't do it, but God did.' Baker explains later he didn't intend flippancy but has long wanted to improve low-income housing."

Police, Military Urge Remaining New Orleans Residents To Leave. Police and the military set on what a front page story in the Washington Post (9/9, A1,

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Dwyer, Tyson) calls "an aggressive door-to-door campaign" Thursday to urge remaining New Orleans residents "to leave or be removed by force. … The evacuation effort, however, appeared haphazard at best. Affluent areas that were not flooded, such as parts of the Garden District and Uptown, appear to be a low priority for mandatory evacuations."

USA Today (9/9, Johnson) says police and soldiers "held back" from "their threatened use of force." Police Superintendent Eddie Compass "urged residents to leave and said that at some point police and the National Guard would begin using a 'minimal amount of force' to get people to leave. … Mayor Ray Nagin had said he would order people out of the city if they did not leave."

Knight Ridder (9/9, Pompilio, Nesmith, Merzer) says, "More people seemed motivated to leave, having heard the term 'mandatory evacuation,' and fewer than 10,000 people remained."

The Wall Street Journal (9/9, Cooper, Searcey) adds that "receding floodwaters could make some of those hunkered down in their homes more than 10 days after Hurricane Katrina hit even more determined to stay." The Journal adds that "key tourist and historic districts such as the French Quarter and Garden District, generally located near the Mississippi River, are dry, and soldiers said many people remain in those areas."

ABC World News Tonight (9/8, story 2, 2:40, Woodruff) reported the police and the National Guard "got a lot tougher on the holdouts. Not only the flooded areas. But New Orleans' driest and wealthiest neighborhoods, too." There are "no orders to use force, just strong persuasion. Sometimes entering open houses with guns drawn and instructions to disarm anyone inside." For "many of the police and guard troops, it is an uncomfortable job to do this in an American city."

The CBS Evening News (9/8, lead story, 3:35, Roberts) added, "The police say most who were willing to leave voluntarily have done so. For the rest, officers have orders to remove them, but they say they will do that with as little force as necessary."

Police Confiscate Weapons In Anticipation Of Forced Evacuations. The New York Times (9/9, Berenson, Broder) reports that police "began confiscating weapons from civilians in preparation for a forced evacuation of the last holdouts still living here, as President Bush steeled the nation for the grisly scenes of recovering the dead that will unfold in coming days. … Although it appeared Wednesday night that forced evacuations were beginning, on Thursday the authorities were still looking for those willing to leave voluntarily. The police said that the search was about 80 percent done, and that afterward they would begin enforcing Mayor C. Ray Nagin's order to remove residents by force."

CNN's The Situation Room (9/8, Penhaul) reported that there is "no idea when the process of forced evacuations will get underway. But it's essential to get the first wave out first. Nor any details of how those forced evacuations will get underway, because many of the agents that are involved in law enforcement here, although they say, yes, they're willing to take part in forced evacuations, say they don't yet feel comfortable going into people's homes and dragging people out. They say they feel that they have suffered enough so far."

Louisiana Provides 25,000 Body Bags To New Orleans. The CBS Evening News (9/8, lead story, 3:35, Pitts) reported, "There are still decomposing bodies on the streets here. But now, there are makeshift morgues sets up outside the city, and the state of Louisiana has provided 25,000 body bags to the city: A sign perhaps of what's to come."

Crews Work To Repair New Orleans Flood Walls. USA Today (9/9, Levin) reports on efforts to repair holes in New Orleans' flood walls. The Army Corps of Engineers "is leading the effort to drain the vast areas of rotting water covering this city. So far, water levels throughout the city have dropped no more than a foot or two. … With the closure earlier this week of a breach in the 17th Street Canal, the Army Corps' efforts to dry out New Orleans have shifted here to London Avenue. … Across the city, crews continued to try to get giant pumps that failed in Hurricane Katrina's wake to come back to life. The corps predicts it could take up to 80 days to drain the city. The debris clogging pumps could contain human remains, and in some cases that was slowing the recovery effort."

USA Today (9/9, Cauchon) says the "skeleton of normality is slowly returning to the Mississippi Gulf Coast." In "a few patches…civil society is being restored thanks to electricity, running water, cellular phones and the extraordinary efforts of business owners and workers.'

Traditional New Orleans Funerals Gone In Wake Of Hurricane. A front page story in the Wall Street Journal (9/9, Gray, Perez) reports, "Few cities bury their dead in the high style of New Orleans, where funerals can last a week, feature jazz bands as well as parades and draw bigger crowds than weddings do. But those traditions are, for the time being, yet another casualty of Hurricane Katrina. The same flood that ended so many lives in New Orleans shut down most of the city's institutions of death -- its funeral homes, churches and cemeteries. It also scattered the crowds that make New Orleans funerals so extraordinary. For thousands of survivors, this loss could complicate the effort to accept the death of a loved one."

FEMA Restrictions On Media Access Draw Criticism. The Washington Post (9/9, C1, Kurtz) reports in its "Media Notes" column, "As rescue and recovery efforts continue in the wake of Hurricane Katrina, reporters and press analysts are growing increasingly critical of restrictions

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on media access. The Federal Emergency Management Agency, under heavy journalistic fire for its slow response to the disaster, has sparked new criticism by asking news organizations not to take pictures of bodies being recovered in Louisiana and Mississippi. FEMA spokesman Mark Pfeifle said yesterday that the agency 'has asked that those images not be shown,' but that this is only a request. … Some Louisiana officials, whether taking their cue from FEMA or not, are attempting to make the policy mandatory."

Katrina Sparks Debate About Military Role In Disaster Response. The Washington Post (9/9, A15, Graham) reports that the "breakdown of local and state agencies" in the Katrina response has "spurred fresh debate about whether disasters of such magnitude ought to be turned over to the U.S. military and other federal authorities to manage at the outset. National plans developed after the Sept. 11, 2001, terrorist attacks rest on the notion that police, fire and other emergency groups are best positioned to serve as first responders. Federal agencies are supposed to function as backup to state and local ones, and military forces are meant to play a largely supporting role to civilian authorities. But Katrina showed what can happen when the foundation of this organizational structure is quickly overwhelmed and disintegrates, according to government officials and independent analysts."

In his Wall Street Journal (9/9, A16) "Wonder Land" column, Daniel Henninger writes, "The popular impression left the past week -- that the government was wholly unprepared for Katrina -- is not true. Significant U.S. military assistance was on alert throughout the week prior to Katrina's landfall. Why those highly trained and drilled assets did not move into New Orleans sooner is a question that should now sit at the center of a debate over who should have the authority -- the states or the federal government -- to be the 'first mover.'"

Honoré Seen As "Giuliani Of The Gulf Coast." The Christian Science Monitor (9/9, Jonsson) profiles First Army Lt. Gen. Russel Honoré, who "has emerged as the Rudy Giuliani of the Gulf Coast." A "rough-talking Louisiana native, he is credited with changing the character of the relief effort from a mad scramble to an increasingly orderly and effective rescue and restoration. But General Honoré is also having to navigate a fine line between necessary leadership and the specter of federal troops using force against American citizens. So far, he appears to have succeeded."

Hurricane Decimates Region's Legal System. The New York Times (9/9, Applebome, Glater) says Hurricane Katrina "decimated the legal system of the New Orleans region. More than a third of the state's lawyers have lost their offices, some for good. Most computer records will be saved. Many other records will be lost forever. Some local courthouses have been flooded, imperiling a vast universe of files, records and documents. Court proceedings from divorces to murder trials, to corporate litigation, to custody cases will be indefinitely halted and when proceedings resume lawyers will face prodigious - if not insurmountable - obstacles in finding witnesses and principals and in recovering evidence." The Wall Street Journal (9/9, Burton) adds, "The extent of the destroyed evidence and lawsuit files remains uncertain, as several courts remain inaccessible or under water. But because of the damage, Louisiana Gov. Kathleen Babineaux Blanco this week issued an order suspending all state civil-court deadlines, such as statutes of limitations dictating when cases must be filed, at least through Sept. 25. Many civil and criminal trial courts have suspended operations in the parishes, or counties, in the New Orleans area. The federal district court in New Orleans says it is 'closed until further notice' and that it hopes to reopen in three locations -- Houma, Baton Rouge and Lafayette, La. The Louisiana Supreme Court has moved to Baton Rouge, and the U.S. Fifth Circuit Court of Appeals has shifted temporarily to Houston." Knight Ridder distributes a Dallas Morning News article (9/9, Townsend, Hancock) that reports, "The Louisiana Supreme Court building was flooded and many critical files and evidence boxes are presumably destroyed. City and district court buildings in neighboring parishes have been similarly hit. … Lawyers and judges alike are scrambling to answer previously unimaginable questions: What will happen to pending cases? What about the out-on-bail defendants, witnesses and even law-enforcement officials who are among the several hundred thousand evacuees sprinkled throughout the country, many in Texas?" The News adds, "Judge Patrick Higginbotham said his formerly New Orleans-based 5th Circuit Court of Appeals will be back in business in Houston by next week. … But Katrina's devastating aftermath will be 'enormously disruptive' for the Gulf Coast region's state and local courts, he said. … 'I don't think the tasks we face are nearly as difficult as those in the state courts in the Gulf Coast region,' the Austin, Texas-based Higginbotham said."

Compass Defends Efforts Of New Orleans Police. The New York Times (9/9, Longman) reports on New Orleans Police Superintendent P. Edwin Compass III, who has been "widely criticized for his inability to keep the peace as New Orleans sank into mayhem, and to sustain the morale of his officers, about 500 of whom abandoned the 1,700-member force in anger or despair." Compass "has returned the verbal fire with a raw, impassioned defense of his department. He pointed to those officers who stayed and helped restore order despite a shortage of manpower and ammunition, and volleys of gunshot from what he said were dozens of people trying to thwart rescue efforts." Compass "said he believed that his officers did the best they could, considering that their communications system was inoperable and that the city's

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ammunition depot was left inaccessible beneath 10 feet of water." The Times adds, "Some police officers, speaking on the condition of anonymity, complained Wednesday that the superintendent was largely invisible immediately after the flooding began. But others said he had maintained a strong public presence, and they praised him for supporting his officers in a department whose reputation suffered severe damage from corruption scandals in the 1990's."

Hundreds Of New Orleans Police Officers Missing. The Los Angeles Times (9/9, Cart, Chen, Gold) reports, "Hundreds of police officers are missing and many may be dead from Hurricane Katrina, according to a top police official, who in an interview today also said that the population of the city may sharply drop because of the storm. Deputy Police Supt. Warren Riley said about 700 of the city's 1,600-officer force was told to stay home until the storm passed so that they would be available to be deployed wherever they were needed. Between 400 and 500 officers remain unaccounted for and many are feared dead, though some are believed to have walked away from the job, he said."

DOJ To Set Up Katrina Anti-Fraud Task Force. Agence France-Presse (9/9) reports, "With billions of dollars pouring in to help victims of Hurricane Katrina, the US government has established a task force to hunt down fraud, White House spokesman Scott McClellan announced. … 'Unfortunately, there are some who are intent on setting up fraudulent schemes to take advantage of the victims and the people who are trying to help those who have been affected,' he told reporters. … 'These are despicable acts that will not be tolerated. Those who take advantage of the situation will be pursued and will be prosecuted,' said McClellan." AFP adds, "Attorney General Alberto Gonzales has created the Hurricane Katrina Task Force on Fraud 'to deter, investigate and prosecute disaster-related federal crimes including fraudulent charities, insurance fraud, identity theft and government benefit fraud,' said the spokesman. … The national task force includes officials with the Justice Department's criminal division and the Federal Bureau of Investigation, he said."

Experts Warn Katrina Victims Of ID Theft. Reuters (9/8, Sullivan) reports, "Birth certificates and other sensitive documents left among the waterlogged debris of Hurricane Katrina could put the storm's victims at heightened risk for identity theft, experts said on Thursday." Reuter continues, "U.S. officials and consumer advocates said they had not yet heard of any cases of identity theft related to the disaster because the crime usually takes months to unfold. … But consumers should keep a close eye on their bank statements and order a copy of their credit reports once they get their lives back together to make sure they are not being victimized, they said. … 'We tell people not to be alarmed but to be cautious,' said Betsy Broder, an assistant director in the Federal Trade Commission's Bureau of Consumer Protection." Reuters adds, "Those who wish to contribute to relief efforts are at risk as well. Internet-security company Websense said on Sunday that it had found a 'phishing' e-mail campaign that seeks to trick Internet users into providing their credit-card numbers to a Web site that looks like one run by the Red Cross. … In order to avoid such scams, donors should type the address of charitable Web sites directly into their browsers, rather than clicking on a link in the e-mail, experts said. … The FBI is investigating at least a dozen suspicious Web sites and e-mail messages for fraud, spokesman Paul Bresson said."

Administration Hires Contractors, Suspends Davis-Bacon Rules. The Bush Administration has hired five private contractors to accelerate efforts to rebuild damaged areas in the Gulf region. The Wall Street Journal (9/9, Dreazen) reports, "The Federal Emergency Management Agency announced yesterday that it was awarding contracts to Bechtel National Inc. of San Francisco and Fluor Corp. of Aliso Veijo, Calif., both of which are involved in Iraq. The other companies awarded FEMA work are Shaw Group of Baton Rouge, La., Denver-based CH2M Hill, which is providing housing in Alabama, and Dewberry Technologies of Fairfax, Va., which is providing planning and reporting tools to help guide the efforts." The White House also "took the controversial step" of "suspending in the disaster area so-called Davis-Bacon rules requiring prevailing wages be paid to workers on federal contracts." The Washington Post (9/9, D3, Edsall) adds "the action infuriated labor leaders and their Democratic supporters in Congress, who said it will lower wages and make it harder for union contractors to win bids."

Relief Agencies Organize Emergency Medical System. NBC Nightly News (9/8, story 3, 1:55, Teague) reported on "the health threat all along the Gulf Coast: We know already of those four deaths from seawater-borne bacteria and several cases of Norwalk virus have broken out in a Mississippi shelter. Then there's the potential health disaster in New Orleans. But there's also been a huge medical response here." NBC (Bazell) added, "Navy hovercrafts are now bringing tons of medical supplies hourly to beaches in Biloxi. Nearby at a shelter, Navy and FEMA doctors form a so-called strike team today to check the residents for the first signs of illness. Those who are sick get care onsite immediately, while state and CDC experts monitor the medical records daily for any signs of a dangerous outbreak."

Norton Express Concern Over Water-Borne Diseases. In New Orleans. Interior Secretary Gale Norton said on CNN's The Situation Room (9/8), "We in the United States have been fortunate that we have not had to cope with

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the kinds of health problems that people in many parts of the world have to cope with on a daily basis. The concern about having clean drinking water for people is obviously a big one. The concern about water-borne diseases is something we usually don't have to cope with in the United States. We're working to try to address those things. My bureau of reclamation, for example, has just provided a water purification system for the hospital in Biloxi that will help 40,000 people have pure water. That's something that is vitally important that we focus on, the basic needs right now, for the health and safety."

Charity Hospital Doctor Profiled. The New York Times (9/9) reports on Dr. Norman E. McSwain Jr., Chief of Trauma Surgery at Charity hospital, who became "\would become one of the hurricane's reluctant celebrities. As Charity Hospital withered around him - low on electricity, water and oxygen; its food supplies down to canned fruit cocktail; surrounded by thugs firing at rescue boats - he finally despaired of official channels and cried out to the news media: 'We have been trying to call the mayor's office. We have been trying to call the governor's office. We are turning to you. Please help us.'"

HUD, VA Offer Some Southern Homes To Katrina Victims. USA Today (9/9, 1B, Koch) reports that the Federal government "is making some, but not all, of the thousands of homes it owns in Southern states available to displaced victims of Hurricane Katrina." HUD has "taken all its homes in stricken states off the market to consider which ones can house evacuees. It has identified 1,380 homes in seven states as livable and plans to move people into them, spokesman Lemar Wooley says. But the Department of Veterans Affairs continues to sell its homes. In some cases, wealthier Katrina evacuees are buying them." VA spokesman Scott Hogenson said, "If there's a need for additional housing, VA houses will be taken off the market immediately. We are ready to move." He adds that the VA is coordinating its efforts with HUD and FEMA.

Evacuees Airlifted To New England. Hurricane evacuees were airlifted to the Northeast yesterday. The New York Times (9/9, Cowan) reports that they taken to Cape Cod "where they will be temporarily housed in a rejuvenated barracks at the Otis Air National Guard Base. The trickle of arrivals - 107 people moved out of homes or plucked off rooftops and off highways in recent days, and flown to Massachusetts by the Federal Emergency Management Agency - marked the first official evacuation to New England of victims of Hurricane Katrina. But thousands of beds in shelters, barracks and apartments have been prepared by state and local governments in the region, awaiting an influx of families from the South that has been slow to come."

Many Evacuees Leaving Astrodome For Other Housing. The New York Times (9/9, Romero) says the population at the Houston Astrodome "dwindled to about 3,000 on Wednesday from an estimated 15,000 over the weekend, with many people seizing on local job opportunities and inexpensive housing. Because of a building boom over the last few years, there is a glut of affordable housing in Houston and its metropolitan area, which includes about 4.5 million people. Hotels are also offering a 14-day stay at no charge to storm victims, with reimbursements to come from the Federal Emergency Management Agency. Add the outpouring of offers of shelter across the country and an acknowledgment by the government that the original estimates may have been high, and it appears that the Astrodome might be empty soon."

Influx Of Katrina Survivors Strains Baton Rouge. NBC Nightly News (9/8, story 4, 2:20, Williams) reported, "They call it West New Orleans these days because Baton Rouge has absorbed so many people. It has almost doubled in size overnight." NBC (Seigenthaler) added, "The influx of a quarter of a million evacuees has pushed Baton Rouge to its limit." The "parking lot at stores like Wal-Mart fills up quickly each day. Inside, there are plenty of empty shelves." People here "have to wait in line for almost everything, including gas. Housing here is also limited. There are no apartments available for rent. And some homebuyers are purchasing sight unseen." Some "are actually frightened that this sudden explosion in population will lead to an increase in crime, and that's why stores like this are selling 10 times the number of guns they sold before the storm." The Baton Rouge Police Department "has said there has been no increase in crime. But there is fear based on stereotyping of evacuees."

Small Texas Town Welcomes Hurricane Evacuees. The Washington Post (9/9, A16, Reid) reports on the town of Orange, Texas, "a bayou town on the Texas-Louisiana border that has seen its population swell from more than 18,000 to about 20,000 in one week as evacuees have moved in. … If New Orleans has been a locus of destruction, chaos and crime, the news from Orange and numerous other small-town havens is the old familiar story of neighbor helping neighbor. The exodus from Katrina has filled the string of hotels along Interstate 10 at the north end of town. Beyond that, Red Cross officials say five shelters have opened in Orange, plus two more in nearby hamlets."

Computer Forecast Last Year Predicted Damage Similar To Katrina. The CBS Evening News (9/8, story 10, 2:10, Mason) reported that while Katrina "seemed to catch many government officials by surprise," last summer, "this computer model forecast just what Katrina would bring." The storm surge projection for the fictitious Hurricane Pam "showed the levees" of New Orleans "would be overwhelmed by even a Category 3 hurricane they were

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designed to withstand, and the city would be swamped under 20 feet of water."

Hurricane Ophelia Lurking Off Florida Coast. ABC World News Tonight (9/8, story 4, :20, Woodruff) reported, "Another hurricane is brewing. This would be the seventh of the season. Ophelia is now 70 miles off the coast of Cape Canaveral, with sustained winds of 75 miles per hour. There's no way to tell right now if it will make landfall. But the coast is already seeing heavy rains and strong winds."

The CBS Evening News (9/8, story 5, 0:40, Roberts) reported, "Ophelia is expected to head farther out to sea then perhaps make a U turn back to Florida next week. But experts admit they really don't know yet where it's going."

WPost Calls For "Rational Construction" Of Gulf Coast. The Washington Post (9/9, A24) editorializes, "Even with the evacuation unfinished and the structural damage unassessed, it is not too early to start talking about how to rebuild New Orleans and the rest of the Gulf Coast. When residents return to their communities, many will want to rebuild everything exactly as it was. That is understandable. But lessons of the past suggest that this is exactly what should not happen. … The time to start planning for a rational reconstruction of the Gulf Coast is now. Six months or more down the road, when the rebuilding has already begun, will be too late."

Officials Urge Insurers To Pay Valid Claims. Mississippi's insurance commissioner has notified carriers that they will be required to prove that damage was caused by water, not by wind if they deny a claim. The Washington Post (9/9, D1, Crenshaw) reports that Lousiana's insurance commissioner "also urged a large group of insurers and reinsurers to pay all valid claims. In many cases, the key to deciding which homeowners recover will be whether wind or water caused the damage. Many homeowners' and business insurance policies exclude flood damage from their coverage. Flood coverage is written by the federal government through its National Flood Insurance Program, but only a small fraction of property owners in Mississippi and Alabama have bought it."

US Seeks NATO Help In Transporting Aid From Abroad. The Bush Administration has asked NATO for help transporting to the US relief equipment that has been offered by other nations to hurricane victims. The Los Angeles Times (9/9, Richter) reports, "Ninety-five countries have offered about $1 billion in cash and goods, as well as technical assistance, U.S. officials said. But some of the supplies remained abroad, where foreign officials in some instances said they had not heard back from U.S. counterparts on whether their offers would be accepted. The North Atlantic Treaty Organization told U.S. officials that its crews could transport aid to the Gulf Coast. Eleven cargo planes landed Thursday in Little Rock, Ark., carrying aid from abroad, after 11 others Wednesday. But some countries said they still had no word on whether their offers would be accepted."

MoveOn Anti-Roberts Ad Will Not Use Images Of Katrina Evacuees. USA Today (9/9, Memmott) reports MoveOn said "one of its officials was wrong when he said it would broadcast a TV ad with images of poverty-stricken hurricane victims to raise questions about the civil rights record of John Roberts." The "change underscores how quickly political messages can backfire if they trod too hard on sensitive issues, said Brooks Jackson, director of the University of Pennsylvania's Annenberg Political Fact Check program."

Conservatives Seek Female Supreme Court Nominee. The Wall Street Journal's (9/9, A4, Harwood) "Washington Wire" reports, "Conservatives tout female court pick to block Gonzales. Right rallies around antiabortion appeals-court judges, including Edith Jones and Priscilla Owen; Janice Rogers Brown, an African-American, would meet post-Katrina calls for Bush to appoint a minority. All are seen as more conservative than Attorney General Gonzales, who'd be the first Hispanic pick. Some close to White House predict Bush won't announce O'Connor's successor until Roberts clears Senate Judiciary Committee."

Bush Urged To Nominate Latino To Supreme Court. Attorney Raul A. Reyes, a member of USA TODAY's board of contributors, in an op-ed in USA Today (9/9) writes that "a Latino presence on the high court is overdue and would have monumental implications for the country." For example, a Latino "would recognize that 'Mexican appearance' is a flawed basis for an immigration check. He would see that English-only laws and the Real ID Act, which prohibits driver's licenses for illegal aliens, can be adversely applied to Hispanics." Reyes concludes, "It's worth noting that the Supreme Court will face issues with broad effect on Latinos: bilingual education, affirmative action, immigration and workers' and voters' rights. It is imperative that the concerns of Latinos are represented."

NC8-TV Washington, DC (9/8, 10:47 a.m.) reported, "President Bush has rekindled speculation that he may nominate attorney general Alberto Gonzales to the Supreme Court. The president said the list of potential candidates to replace retiring Justice Sandra Day O'Connor is 'wide open,' then he proceeded to look directly at Gonzales, which drew laughs during the meeting."

Role Of Veteran Guides For Top Nominees Examined. Lobbyist Kenneth Duberstein describes the behind-the-scenes role of former top officials in helping top Administration nominees survive the nomination process. The Washington Post (9/9, A23, Lee) reports, "When John G. Roberts Jr. was nominated by President Bush in July to be an

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associate justice, he was promptly provided with two guides: former senator Fred D. Thompson (R-Tenn.) and former Republican National Committee chairman Ed Gillespie. Both are considered savvy Washington insiders who are now comfortably on the outside." Duberstein says, "There are several roles you play. … You are the chief strategist for the ultimate goal of getting that person confirmed. You are also the traffic cop, because everybody wants to see the prospective nominee. You are a coach and you're also a confidant of the nominee. You are the chief liaison with the Hill, but also the chief liaison within the administration. You are an enforcer, but you are also a negotiator.'" He "said the job of guiding Roberts should not change because he has been nominated for chief justice. 'I don't recall that there would be any distinction,' he said."

OTHER NEWS:

Economists Expect Katrina To Cut GDP By 0.4% In Second Half Of Year. The Wall Street Journal (9/9, Annett) reports a group of economists surveyed by the journal think Hurricane Katrina "is likely to slow growth and boost inflation pressures in the second half of this year," but "the economy could receive a modest boost early next year amid recovery efforts on the Gulf Coast." To "reflect the expected economic impact of Katrina," the surveyed economists "marked down their annualized forecasts for growth in gross domestic product for the second half of this year by 0.4 percentage point. The survey was conducted Sept. 2-7." These private-sector economists "expect a somewhat smaller impact than what has been predicted by the Congressional Budget Office, which has said that second-half growth could be trimmed by a half to a full percentage point." The 56 economists "now expect GDP, the broadest measure of U.S. economic activity, to expand at a 3.6% seasonally adjusted annual rate in the third quarter and at a 3.2% rate in the fourth quarter."

Katrina Expected To Affect Job Growth Adversely. The Wall Street Journal (9/9, Rebello, Bater) reports Hurricane Katrina "caused at least 10,000 job losses in Louisiana, Mississippi and Alabama last week, although nationwide the number of U.S. workers filing first-time applications for unemployment benefits declined slightly, the government said Thursday." Initial jobless claims "declined by 1,000 to a seasonally adjusted level of 319,000 in the week that ended Saturday, the Labor Department said." However, a Labor Department statistician "said the claims numbers are likely to be revised upward in coming weeks." Economists "have begun to predict that the nation's job growth will suffer this month because of Katrina's devastation."

The Washington Post (9/9, D1, Williams) reports, "The assimilation of Hurricane Katrina evacuees into Texas's big cities and into communities across the country will be far from seamless. Almost all the evacuees are now unemployed, and many are also homeless. They are scrambling to find work so they can get out of the Federal Emergency Management Administration's massive shelters, into apartments and on with their lives. … The Congressional Budget Office has estimated that 400,000 jobs were lost throughout the Gulf Coast due to Katrina. So far, only an estimated 10,000 workers who lost their jobs have filed for unemployment benefits, the Labor Department said Thursday. That number would have been higher, but many claims offices in the affected region were shut down. The Labor Department predicted that the number of disaster-related claims will rise sharply in coming weeks and that hundreds of thousands of displaced workers will soon be seeking benefits."

The CBS Evening News (9/8, story 4, 2:30, Roberts) reported, "As many as one million survivors have been displaced. And then there's the growing economic toll of this disaster. The government said today that, so far, 10,000 of the workers who lost their jobs because of Katrina have joined the line for unemployment insurance. Others joined the line for those $2,000 debit cards the government is offering."

Katrina Expected To Boost Inflation. USA Today (9/9, Kirchhoff) reports Hurricane Katrina, "which has already pushed gasoline above $3 a gallon, is prompting higher prices for everything from building supplies to natural gas and chemicals." Economists have "increased their projections for consumer inflation, some significantly. Global Insight expects inflation to reach 5.7% at an annual rate in third-quarter 2005, compared with its earlier 3.4% estimate. Economy.com expects 3.4% inflation through the end of 2005, up from 2.7%." Both firms "expect the inflation gains to be transitory — oil is off its $70-a-barrel peak, though still running $64.49 — with more manageable inflation in 2006. There are questions regarding how much of the price increases will bleed through to core inflation, which excludes food and energy and is the inflation measure most watched by the Federal Reserve." But some "say price gains could last longer."

Stock Markets Down On Katrina Uncertainties. NBC Nightly News (9/8, story 8, 0:15, O'Donnell) reported, "In business news tonight, economic uncertainties in the wake of this hurricane have pushed stocks lower. On Wall Street, the Dow lost more than 37 points today [to close at 10, 595.93]. NASDAQ ended this day down 6 points [to close at 2,166.03]."

The Wall Street Journal (9/9, Patterson) reports after "two days of solid gains on Wall Street, investors stepped away from the plate Thursday, and stocks drifted lower as crude oil ticked up." Home builders "took it on the chin amid

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concerns that the housing boom could slow. The trigger was a lackluster earnings report by Hovnanian Enterprises, which posted net income of $1.76 a share for the third quarter late Wednesday, two cents below expectations." Light, sweet crude "jumped toward the end of open-outcry trading on the New York Mercantile Exchange, settling up 12 cents to $64.49 a barrel on news of a large decline in output from the Gulf of Mexico." The report "was one of the first yardsticks of the damage done to the oil-and-gas supply system in the Gulf Coast since Hurricane Katrina struck last Monday."

Gulf Coast Banks Rebound. The Wall Street Journal (9/9, Sidel, Bauerlein, Hagerty) reports the Federal Deposit Insurance Corp. "estimates that some 280 locally based institutions may have been affected by Katrina, representing $270 billion in assets and $201.3 billion in deposits. Big names in the area include Regions Financial Corp., AmSouth Bancorp, Compass Bancshares Inc. and Whitney Holding Corp." Although the "stocks of some affected banks tumbled last week when the storm's devastation became apparent, investors are betting that the area's economic recovery will generate enormous revenue and loan growth next year."

Other Gulf Coast Industries Hard Hit. The CBS Evening News (9/8, story 4, 2:30, Whitaker) reported, "The Mississippi Department of Wildlife, on a mercy mission delivering food to shrimpers trapped in a fetid canal, reeking of rotted shrimp, unrecovered bodies, sewage and fuel. … This is the $250-million a year Mississippi shrimp industry today." If you "made your living on the Gulf, you're hurting: Ports, from Gulfport, Mississippi to the granddaddy of them all -- New Orleans -- out of commission. In Mississippi, they build their casinos on the water. Katrina destroyed all of these along the Gulf Coast, washing away the $500,000 a day they pay in state taxes, a big hit for a poor state. Katrina closed down the Hard Rock even before its grand opening." But "things are slowly recovering."

NBC Nightly News (9/8, lead story, 2:45, Brown) reported, "There are signs that some are beginning to think about rebuilding." In the New Orleans suburbs "where flooding wasn't so bad, a few places are already up and running: Too few, judging by the line at this Domino's Pizza, or this Walgreen's, where dozens of people waited to fill prescriptions. And some here say they were told by their companies to show up for work as early as Monday." But the "number of people who will lose their jobs because of Katrina is staggering. The Labor Department estimates 10,000 people on the Gulf Coast have already filed for unemployment benefits, with that number likely to spike next week. And the government predicts another 400,000 jobs will be lost in the months ahead. Mitch Landrieu, Louisiana's lieutenant governor, is already asking businesses for a firm commitment to come back and expecting the Federal Government to step up." Lt. Gov. Landrieu: "What we need is a long-term commitment from the government to rebuild. If we don't get that, that's going to be very difficult thing to do." Brown: "He says the Federal government and others, meaning the taxpayers, will have to make a hefty contribution. They predict it will cost $150 billion to rebuild New Orleans."

WSJournal Calls For Cutting Duties On Four Products In Response To Katrina. The Wall Street Journal (9/9) says in an editorial that if "the feds really want to help the economy post-Katrina, here are four words: lumber, cement, shrimp and steel. They all have prices higher than necessary because of U.S. anti-dumping trade law." Lumber and cement "will soon be in great demand to rebuild the tens of thousands of damaged homes. Prices are sure to rise as reconstruction begins, but thanks to U.S. tariffs as high as 27% on Canadian lumber, American home buyers already pay an extra $1,000 on average for their shelter. The same goes for U.S. duties on Mexican cement, which have averaged 55% since 1990. Now would be an ideal time for Washington to declare a truce in these trade spats and reduce the price of rebuilding." Then "there's shrimp, an increasingly popular part of the American diet whose prices may well rise sharply in Katrina's wake. Louisiana shrimpers represent the bulk of the domestic industry and were all but wiped out by the hurricane." While "we're at it, consider specialty steel, which depends on hydrogen gas produced in the Gulf."

Analysts Suspect Strategic Oil Release Aimed At Price, Not Supply. The Financial Times (9/9, Hoyos, Blas) reports the US and Europe are "releasing more emergency crude oil than refineries in the Gulf of Mexico can handle, reinforcing suspicions that governments are using the crisis triggered by Hurricane Katrina to cap record oil prices." US refineries "will on Friday begin to bid for the 30m barrels of crude oil that the US government is releasing from the its emergency reserves but, with many refineries disabled, analysts say the additional supply may not be needed." Data released on Thursday "suggested that, while petrol is in short supply, oil companies still have plenty of crude in their inventories. The companies' stocks fell 6.45m barrels last week, significantly less than the 13.6m barrels of production capacity lost to the hurricane suggesting that the shortfall did not warrant the scale of the governments' responses."

Energy Experts Predict Gulf Output Won't Recover For Some Time. The USA Today (9/9, Lynch) reports, "Restoration of energy output to pre-Katrina levels stalled late this week as industry specialists began addressing some of the worst damage to the region's sprawling energy infrastructure." Ten days after Katrina, "gulf oil production Thursday was less than 40% of normal levels, down from 43% one day earlier, according to the U.S. Minerals Management Service." Natural gas output Thursday "stood at 59%, almost unchanged from the previous day." Oil prices, which "had eased a bit earlier in the week, rose slightly on the

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discouraging gulf numbers. Light sweet crude for October delivery closed at $64.49 a barrel, up 12 cents, on the New York Mercantile Exchange."

Gas Inventories Fall To Lowest Levels In Five Years. The New York Times (9/9, Bajaj) reports the nation's gasoline inventories "fell last week to their lowest levels in almost five years, the government said yesterday, quantifying for the first time Hurricane Katrina's effect on energy supplies and production." Americans "bought and used about as much gasoline as they did a year earlier - 9.3 million barrels a day - in the week that ended last Friday, but gasoline inventories fell 2.2 percent from the previous week because of supply and production disruptions, the Energy Department reported." A gallon of regular unleaded gasoline "was selling yesterday for an average of $3.03 nationwide, down from $3.04 on Wednesday, according to AAA."

The Christian Science Monitor (9/9, Trumbull) reports gasoline prices "have begun to ease, but even when all Gulf Coast refineries are running again later this year, consumers may not see a full retreat to pre-Katrina levels. That conclusion, analysts say, stems from a simple equation involving the cost of a barrel of crude, markups by middlemen, and little margin for error in the nation's energy infrastructure." How far "and how quickly prices fall now depend on a few critical factors: When four damaged refineries come back on line, how quickly emergency shipments of gasoline from foreign refineries arrive, and most important, where oil prices go from here."

But Demand For Gas Appears To Have Dropped. The Los Angeles Times (9/9, Peltz, Hoffman) reports drivers' "demand for gasoline appears to have downshifted since Hurricane Katrina sent pump prices soaring above $3 a gallon across much of the nation." Katrina "initially sparked panic buying, sporadic shortages and televised images of long lines at some service stations. Then, consumers pulled back as prices hit record highs, analysts said Thursday."

The Wall Street Journal (9/9, Ball, Gold) reports Americans "used 4% less gasoline amid skyrocketing pump prices last week than they did the week before Hurricane Katrina hit, the federal government reported. But whether that indicates consumers have decided to conserve or merely that they couldn't find all the gasoline they wanted isn't clear."

Arizona Governor Says Administration Not Dealing With High Gas Prices. The Phoenix Business Journal (9/9, Sunnucks) reports Arizona Gov. Janet Napolitano "criticized the Bush administration Thursday for failing to deal with the oil industry and record high gasoline prices." Napolitano said the Bush Administration "has not been aggressive enough in dealing with sky high gasoline prices in recent years and in the aftermath of Hurricane Katrina. The Democratic governor said the Republican White House has not been interested in consumers when it comes to the energy industry."

Gas Stations Report Growing Number Of "Drive Offs." The New York Times (9/9, Steinhauer) reports as "fuel prices rise, and the tempers of American drivers with them, so, too, has the number of people who are stealing gasoline." From Maine to Oklahoma, "gas station owners are reporting a surge in the number of drivers who pull up to the pump, fill up and drive off without paying. The incidents, known as 'drive offs' - which are typically concentrated at stations near big cities and Interstates - are forcing stations across the country to adopt prepay policies for cash customers."

State Department Shifts Position On Cuban Biological Weapons. The Christian Science Monitor (9/9) "Terrorism and Security" column writes that in 2002, John Bolton said Cuba had "'biological weapons capabilities' and was sharing them with 'rogue nations.' Mr. Bolton and the Bush administration were adamant that Cuba was a potential threat to the United States because of this. So it came as somewhat of a surprise last Tuesday when the US retreated from this early claim that Cuba has 'an offensive biological weapons effort.' The new position was made public in a State Department document released last Tuesday, when almost the entire United States was focusing on the effects of Hurricane Katrina in the Gulf of Mexico region." A Knight Ridder report "notes that this is the first time that the US has 'publicly softened' its charge that Cuba had biological weapons, which has been 'controversial from the outset.'"

China Announces Resumption Of North Korean Nuclear Talks. The New York Times (9/9, Brinkley) reports that China said that "six-nation talks over North Korea's nuclear weapons program will resume Tuesday," prompting several parties to restate "positions that helped push the last round into a stalemate." The same day, Jay Lefkowitz, the US special envoy on human rights in North Korea, "said he planned to publicize whatever he learned about human rights abuses in North Korea," such as "starved to death" political prisoners. "North Korea typically reacts quickly and angrily to critical statements from Washington," and Lefkowitz's mere appointment to his position "was a factor in the North's decision to postpone resumption of the disarmament talks by two weeks."

Experts Brief Rice On North Korea Visit. The Washington Post (9/9, A21, Kessler) reports that John W. Lewis, a retired Stanford University professor, and Siegfried S. Hecker, retired director of Los Alamos National Laboratory, both "prominent experts on North Korea who recently made an unpublicized visit" there, "briefed Secretary of State Condoleezza Rice yesterday." They provided "details of their talks with key North Korean officials" and "summarized their conversations in Pyongyang, made some suggestions for

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bridging gaps, and provided an assessment of the chances of reaching an agreement." North Korean officials "made it clear that they intend to insist that the statement of principles acknowledge North Korea's right to peaceful use of nuclear power."

Ukrainian President Fires Cabinet. The Financial Times (9/9, Warner) reports, "Ukraine's President Viktor Yushchenko yesterday sacked his cabinet and appointed" Yuri Yekhanurov, a veteran government official "with a record of avoiding direct political confrontations," to take over as prime minister "from the populist Yulia Tymoshenko." The Los Angeles Times (9/9, Murphy) adds that the move was Yushchenko's "attempt to reassert his leadership. Tymoshenko's "popularity had been one of Yushchenko's most valuable weapons." The New York Times (9/9, Myers) adds that Oleksandr V. Turchinov, chairman of the Ukrainian Security Services, "resigned in protest" warning that "the president's decision 'threatened the national security of Ukraine.'"

The Financial Times (9/9, Warner) reports that Yushchenko cited "the long-simmering conflict between Ms Tymoshenko and" national security chief Petro Poroshenko, which reached a "crisis point after the surprise resignation earlier this week of Olexander Zinchenko, the president's chief of staff, who on Monday accused Mr Poroshenko of corruption and interference in the media and justice system."

The New York Times (9/9, Myers) adds that Yushchenko "described his decision as a reluctant, though necessary one, saying that as president he 'should not baby-sit' his squabbling aides." The "heart of the divisions - and evidently the source of the accusations of corruption - have been the government's efforts to undo some of the dubious privatizations that took place under Mr. Kuchma."

The Washington Post (9/9, A20, Finn) adds, "The dismissal was triggered by a series of resignations by top officials who charged that some of the most powerful people around Yushchenko were using their positions to enrich themselves and reneging on one of the most important promises of last December's revolt, the eradication of endemic graft." Analysts said that "the public airing of" allegations of corruption "was designed to force other divisions to a climax."

The Financial Times (9/9, Warner) reports that the "dismissal of Ms Tymoshenko is likely to lead to a damaging confrontation with her and her political team that could further bog down reforms."

The Los Angeles Times (9/9, Murphy) adds that Yulia Mostovaya, assistant editor of the respected liberal weekly Zerkalo Nedeli, said, "Without Tymoshenko's support…Yushchenko never would have become president," but he's now created his own powerbase, "building it up on a basement of wealthy, financially strong tycoons."

The Washington Post (9/9, A20, Finn) adds that after the next election "the prime minister and cabinet will be chosen by parliament rather than the president, as they currently are. The powers of the prime minister will also increase at the expense of the president." However, "the crisis is likely to deepen public disillusionment with the government's failure to deliver quickly on some of the basic promises of the Orange Revolution, particularly rapid economic improvement."

Fate Of Ukrainian Reform Said To Rest With Tymoshenko. Robin Shepherd, an adjunct fellow of the Center for Strategic and International Studies, in an op-ed in the Wall Street Journal (9/9, Shepherd) argues, "We are watching…the first tentative steps in a desperately difficult transition," and "will get a pretty good idea of whether that task can, in the end, be accomplished in the days and weeks ahead." The political crisis "should be understood…in terms of flaws in the" Orange Revolution "which were apparent from the start," especially "the fractious nature of the democratic forces that took power in January." Prime Minister Yulia Tymoshenko "has barely concealed her own ambitions to take the president's place as the key player in national politics and has been engaged in all-out warfare with other members of the government for months." If she works against Yushchenko and other reformers, it "could prove disastrous for the reform movement, either pushing it out of power completely or, more likely, forcing reformists to make damaging concessions to supporters of the previous administration in order to form a new government."

NYTimes Calls Political Upheaval "Serious Blow" For Regional Reform. The New York Times (9/9) editorializes, "Yushchenko declared that his one goal was to ensure stability. But the Ukrainian protesters wanted change." Tymoshenko "is certain to turn" her "fiery speeches and powerful presence" on "the president and his new government." The situation "is a serious blow to the hopes and expectations that had been raised for the future of Ukraine, and for reformers in Belarus and other former Soviet republics." Yushchenko and Tymoshenko "squandered the momentum generated on Kiev's streets, struggling over control of lucrative industries, over relations with Russia and over how to cope with soaring energy prices." Yushchenko "needs to convince his country, and a very wary West, that he not only believes in democracy, free markets and the rule of law, but is also capable of leading Ukraine in that direction."

West Praises Egyptian Vote Amid Fraud Charges. The Washington Post (9/9, A20, Williams, Wright) reports, "Egyptian government officials leaked partial results Thursday of the first multi-candidate presidential election to show that President Hosni Mubarak had won at least 70 percent of the vote, but controversy still swirled about alleged irregularities and fraud in Wednesday's vote." As

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"government officials worked hard to persuade the public that the vote was valid, outside Egypt Butros Boutros-Ghali, the former U.N. secretary general, "declared the election a 'positive experience,'" and the State Department "praised the vote." One senior administration official said, "it's important to get all the public political energy into the political sphere, or it will go elsewhere."

WPost Says Bush Needs To Push Egypt For Additional Reforms. The Washington Post (9/9) editorializes that when the results of Egypt's vote are announced, "there will be no reason for anyone to take them seriously," due to the irregularities Mubarak allowed. However, "another election coming this fall, for parliament, that in many ways is more important than the presidential poll … If the upcoming vote is fair, it will drastically reduce the suffocating authority of the ruling party." The Bush administration "cites the democratization of the Middle East as one of its top priorities," but "persists in describing" the election "as 'a positive first step,'" despite "Mubarak's insistence on heavy-handed steps to control the election's outcome." The Administration can do more, and "need not ask Mr. Mubarak for radical change -- only for steps that liberal activists in his own party favor," such as "allowing slates of parliamentary candidates to be elected by proportional representation," allowing "more of the real Egyptian opposition into the process," and making the "next vote…free and fair, and certified as such by both local and international monitors."

Koizumi Coalition Poised To Win Election. USA Today (9/9, Wiseman, Takahashi) reports, "Advocates for change in Japan could emerge rejuvenated from Sunday's legislative elections, thanks to Prime Minister Junichiro Koizumi's decision last month to wage war on obstructionist lawmakers in his own ruling party. A poll this week by the daily Asahi Shimbun showed Koizumi's ruling coalition -- his Liberal Democratic Party (LDP) and its ally New Komeito -- leading the top opposition party." When members of his party in parliament defeated his plan to privatize the post office, he "dissolved the legislature and called the election," had an "internal purge of the party," then "recruited a group of attractive candidates, dubbed by the daily Mainichi the 'assassins' and 'female ninjas,' to defeat them in the polls."

EU Nations Raise Billions For Vaccination Of Needy. The New York Times (9/9, Dugger) reports, "Britain, France, Spain, Italy and Sweden will announce an agreement on Friday to raise almost $4 billion on the bond markets for an enormously expanded use of vaccines across the developing world … The pact marks the first time rich nations have used pledges of increased aid to back government bonds as a means of financing a major development program. This so-called international finance facility is the brainchild of Gordon Brown, Britain's chancellor of the exchequer." The World Health Organization estimates the money will "save the lives of five million children over the next decade." Administration officials explained earlier this year that they would not join the effort because "the long-term commitment to raise money through the bond market is not consistent with the annual appropriations process in Congress."

China Unexpectedly Rehabilitates Reformer Whose Death Triggered Demonstrations. The Washington Post (9/9, A1, Pan) reports, "Chinese President Hu Jintao has agreed to restore the standing of the reform-minded Communist leader whose death triggered the 1989 Tiananmen Square demonstrations, a surprising reversal of party dogma that could prompt new calls for democratic change in China." While there are "no plans to change the party's position that the 1989 Tiananmen Square protests were subversive, or to admit it was wrong to use troops to crush them," the "decision to rehabilitate Hu Yaobang…suggested such reversals might be possible in the future." It was "unclear why the Chinese president…decided to rehabilitate Hu Yaobang." The move "was out of character for the president, who has developed a reputation over a long career in the party as an extremely cautious bureaucrat unwilling to take risks" and "surprised many party officials."

Columnist Says Administration Deference To Chavez Due To "Sheer Ignorance." Anastasia O'Grady, in her column in the Wall Street Journal (9/9) argues, "The overly deferential Washington mindset toward Venezuela's Hugo Chávez, based on the myth that we need his oil," is a "display of sheer ignorance in the area of energy -- mixing dangerously with personal ambition, of course -- that threatens a policy mess." When the State Department endorsed "the results of the fraudulent recall referendum," it fed "the egomania of South America's newest would-be dictator." In reality, "Chávez has very little influence over how much the U.S. pays for oil, unless of course he wants to take Venezuela out of its role as a producer. That's unlikely, since he's now spending like a drunken sailor on arms and politics and relies on oil income to hold onto power." As long as Venezuela is selling oil to the world at large, economic theory shows it "cannot punish one buyer over another."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

DOJ_NMG_0003760

PRESIDENT BUSH — Speaks at the swearing in ceremony for Karen Hughes as Undersecretary of State for Public Diplomacy and Public Affairs, State Department; remarks at the 9/11 Heroes Medal of Valor Award Ceremony, White House.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: PRESIDENT JALAL TALABANI OF IRAQ _ Highlights: 11 a.m. Holds news conference. Room 1528-A, VOA, 330 Independence Ave. SW. Event contact: Joe O'Connell, 202-401-7000. 1:15 p.m. Attends honor cordon at the Pentagon, hosted by Defense Secretary Donald Rumsfeld. Pentagon steps, Pentagon River Entrance. Media must arrive no later than 12:45 p.m. at North Parking Entrance for escort.

BIOETHICS _ Meeting of the President's Council on Bioethics at which, among other things, it will continue its discussion of ethical issues relating to the treatment of the aged and the long-term care of patients with dementia. Location: Wyndham City Center, 1143 New Hampshire Ave. NW.

KATRINA-BLACK CAUCUS _ Rep. Melvin Watt, D-N.C., Rep. William Jefferson, D-La., and other members of the Congressional Black Caucus visit Baton Rouge, La. and Houston to visit hurricane evacuees. Highlights: 8:30 a.m. Visit hurricane survivors, The River Center, 175 S. River Rd. East Baton Rouge, La. 1 p.m. Visit hurricane suvivors, George Brown Convention Center, Houston, Texas.

UN REFORM _ 8:30 a.m. - 12 p.m. Bridging Nations, CSIS, the Mansfield Foundation, and the Asia Society Washington Center, host a breakfast discussion on ``Prioritizing U.N. Reform" in advance of the September 2005 UN summit in New York to review progress since the Millennium Declaration adopted by all member states in 2000. Participants include John Hamre, CEO, CSIS; Shirin Tahir-Kheli, advisor to the Secretary of State on UN Reform; Shashi Tharoor (via video), Under-Secretary-General for Communications at the UN; and John Zogby, CEO, Zogby International. Location: CSIS, Conference Room B-1, 1800 K St. NW.

COUNTER DEMONSTRATION _ 9 a.m. A coalition of conservative groups hold a news a news conference to announce a series of counter demonstrations to the anti-war protests scheduled around the World Bank-IMF meetings. Location: National Press Club.

DEPARTMENT OF EDUCATION _ 9:30 a.m. The American Enterprise Institute (AEI) hosts three former secretaries of education and a former presidential education advisor to examine lessons learned about the crafting of federal education policy from the department's first quarter century, with William Bennett, Claremont Institute; Sen. Lamar Alexander, R-Tenn.; Rod Paige, Woodrow Wilson Center; Andrew Rotherham, Education Sector; and moderator Frederick Hess, AEI. Location: AEI, Wohlstetter Conference Center, 12th Floor, 1150 17th St. NW.

HUGHES _ 10 a.m. Swearing in ceremony for Karen Hughes as Undersecretary of State for Public Diplomacy and Public Affairs. Location: Franklin Room, State Department.

TERRORISM-UNIVERSITIES _ 10 a.m. The University of Maryland, College Park, hosts a panel discussion on ``Strategic Visioning Four Years After 9/11: The University's Role in Informing Counter-Terrorism Policy and Practice. Panelists include: Melvin Bernstein, Department of Homeland Security director of university programs; Jacques Gansler, University of Maryland vice president for research and former U.S. under secretary of defense; Arie Kruglanski, University of Maryland psychologist and expert on the psychology of terrorism; Gary LaFree, University of Maryland criminologist and director of the National Consortium for the Study of Terrorism and Responses to Terrorism. The event is part of the official launch of a consortium of 25 institutions around the world focusing on research that can assist the war on terror. Highlights: 10:30 a.m. - 11 a.m. DHS Under Secretary Charles McQueary gives remarks. Location: Univerity of Maryland, College Park, Stamp Student Union, Colony Ball Room.

KATRINA-HEALING COMMUNITIES _ 10:15 a.m. Senators Edward Kennedy and Debbie Stabenow, Rep. Donna Christensen and others hold a news conference with NAACP President Bruce Gordon and members of the faith community to discuss long-term support for the communities destroyed by Hurricane Katrina. The news conference follows a closed meeting among the participants. Location: Capitol, LBJ Room, S-211.

WOLF-AFGHANISTAN _ 10:30 a.m. Rep. Frank Wolf holds a press conference to report on his most recent trip to Iraq and Afghanistan. Location: House Radio and TV Gallery.

CENSUS-UNINSURED _ 12 p.m. The American Enterprise Institute holds a panel discussion to discuss the Census Bureau's recent annual estimate of the uninsured, comparing it to other HHS estimates showing different results. Keynote address by Sen. Robert Bennett, with presentations by Linda Bilheimer and Robin Cohen of the National Center for Health Statistics, Steve Cohen of the Agency for Healthcare Research and Quality, others. Location: 12th floor, AEI, 1150 17th St. NW.

KATRINA-PROTEST _ 12 p.m. Black Voices for Peace and the National Black Environmental Justice Network hold a demonstration to demand accountability for the Hurricane Katrina response and to protest the treatment of victims. Location: Lafayette Park.

THE TROUBLE WITH MEDICAID _ 12 p.m. The Cato Institute hosts a Capitol Hill briefing on ``The Trouble with

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Medicaid." Speakers are Stephen Moses, president, Center for Long-Term Care Reform; Jagadeesh Gokhale, senior fellow, Cato Institute; and Michael Cannon, director of health policy studies, Cato Institute. Location: Room B-354, Rayburn House Office Building.

BIBLE CURRICULUM _ 1 p.m. Actor Chuck Norris, his wife Gena, Alveda king of King for America, others, hold a news conference to speak about the inclusion of an elective Bible course in schools nationwide. Location: National Press Club.

PELOSI-HOUSTON _ 1 p.m. House Democratic Leader Nancy Pelosi and other members of Congress visit hurricane evacuees in Houston. Press availability to follow at 2 p.m. Location: George R. Brown Convention Center, 1001 Avenida de las Americas, Houston. Hall C Entrance.

KATRINA _ 3 p.m. Georgetown University Law Center holds a panel discussion on whether human decisions made the impact of Hurricane Katrina worse. Participants include Vicki Arroyo, Pew Center on Global Climate Change; Mark Davis, Coalition to Restore Coastal Louisiana; others. Robert R.M. Verchick, Loyola University, New Orleans. Location: room 200, at the law school, 600 New Jersey Ave. NW.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Bush Pledges Aid For 'Long Haul.'"
"Putting It All On The Line."
"Among The Ruins, Something To Build On."
"Lives And History Adrift On A Soggy Paper Trail."
"Many L.A. County Jail Inmates Still Held Too Long."
"Crews Roust Holdouts, Brace For The Body Count."

USA Today:
"9/11 Recruits: They Enlisted When USA Was Under Fire."
"Police Hold Off Use Of Force."
"Katrina Aid Package Could Push Deficit To New High."

New York Times:
"Cost Of Recovery Surges, As Do Bids To Join In Effort."
"Political Issues Snarled Plans For Troop Aid."
"Storm Leaves Legal System A Shambles."
"Holdouts On Dry Ground Say, 'Why Leave Now?'"
"9/11 Firefighters Told Of Isolation Amid Disaster."
"A Bleak Symbol Of Apartheid, Soweto Sees Signs Of Prosperity."

Washington Post:
"Congress Approves $51.8 Billion For Victims."
"Troops Escalate Urgency Of Evacuation."
"Leaders Lacking Disaster Experience."
"Tight Constraints On Pentagon's Freedom Walk."
"For U.S. Platoon In Iraq, Merciless Missions."
"China Plans To Honor A Reformer."

Washington Times:
"Congress OKs $51.8 Billion."
"Berger Fined For Taking Papers."
"Unwed Women Set Record For Births In 2003."
"Cropp Signs Proliferate In D.C."

Detroit Free Press:
"Michigan Squads Lay Down Law In The South."
"Grief Persists For Vets' Families."
"Veteran Journalist Joins Out Team Of Editors."

Atlanta Journal-Constitution:
"Thousands Seek Public Assistance."
"Inhaled Insulin Closer To Reality."
"Agencies Ease Rules For Evacuees With No ID."
"Thunderbolts Fly As Preachers Vie."

Dallas Morning News:
"Stragglers Surrender."
"Bush's Advisers Debated Seizing Louisiana Effort."
"N. Texas Absorbing Part Of Wiped-Out Economy."
"A Legal Quagmire Without Precedent."
"Business Group Charged With Illegal Funding."

Houston Chronicle:
"A Crush For Debit Cards."
"Relatives Cling To Hope, Anxiously Await Word."
"BP Kept Unit Running Despite Memo On Eroded Pipes."

Story Lineup From Last Night's Network News:
ABC: Hurricane Relief Costs; New Orleans Evacuation; Hurricane Recovery Costs; Hurricane Ophelia; FEMA-Hurricane Response; Hurricane Zone-Reunited Families; Hurricane Zone-Animals.
CBS: New Orleans-Health Threat; Bush-Hurricane Response; Death Toll; Hurricane-Gulf Economy; Hurricane Ophelia; Iraq KIA Honored; Storm Babies; Hurricane Zone-Animals; FDA-Inhaled Insulin; FEMA-Hurricane Exercise; Mismanaged 9/11 Funds; Hurricane Relief Efforts.
NBC: New Orleans Evacuation; Bush-Hurricane Response; Medical Strike Teams; Baton Rouge-Overcrowding; Emergency Response Delays; FEMA-Complicated Website; Hurricane Zone-Animals; Stock Market; Galveston Hurricane Anniversary; Hurricane-Young Evacuees.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Congress-Hurricane Relief; Hurricane-FEMA Debit Cards; New Orleans Evacuations; Hurricane Preparations; Hurricane Ophelia.
CBS: Congress-Hurricane Relief; Hurricane-Red Cross Debit Cards; Hurricane-International Aid; Brown-Biography Questions; Hurricane Ophelia; CA-Illegal Immigrant Driver's

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Licenses; Hatch-Tax Evasion Allegations; ABC Television-Spanish Translations; Wall Street.
NPR: Congress-Hurricane Relief; Hurricane-Cheney Visit; New Orleans Evacuations; Hurricane-International Aid; FBI-Hurricane Charity Scams; Wall Street; Iraq-Saddam Confession; DeLay PAC Indictment.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, SEPTEMBER 9, 2005 7:45 AM EDT

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TERRORISM NEWS:

N.Va. Man Indicted In Plot Against Bush (WP)

By Jerry Markon

The Washington Post, September 9, 2005

An American student was charged yesterday in an al Qaeda plot to kill President Bush, with prosecutors alleging that Ahmed Omar Abu Ali and his confederates planned to use multiple snipers to shoot Bush or to blow him up in a suicide bombing.

The expanded indictment of Abu Ali, returned by a federal grand jury in Alexandria, also claimed for the first time that he proposed a plan to bring members of an al Qaeda cell into the United States through Mexico. They would then link up with Abu Ali to conduct terrorist operations in this country, the indictment said.

Abu Ali, 24, of Falls Church was first charged in February with terrorism counts that included trying to establish an al Qaeda cell in the United States. That indictment referred to the plot to kill Bush, but Abu Ali was not charged with conspiring to assassinate the president until yesterday. The case is among the highest-profile terrorism prosecutions in the United States since the Sept. 11, 2001, terrorist attacks.

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The new nine-count indictment also adds charges of conspiracy to commit aircraft piracy and destroy aircraft, part of the Justice Department's allegations that Abu Ali was plotting with al Qaeda to conduct a Sept. 11-style attack in the United States that would include hijacking planes.

If convicted on the assassination count alone, Abu Ali faces up to life in prison. Earlier, his maximum penalty on all counts had been 80 years in prison.

An attorney for Abu Ali, who has pleaded not guilty, did not return telephone calls late yesterday, and a White House spokesman referred calls to the Justice Department. Prosecutors would not comment beyond the indictment.

Abu Ali was arrested by security officials in June 2003 while studying at a university in Saudi Arabia. His family mounted a highly public campaign in the United States for his release. He was held until he was flown back to the United States in February to face charges.

Defense attorneys and Abu Ali's family have contended that any statements he made in Saudi custody were obtained through torture. Two doctors who examined Abu Ali found evidence that he was tortured in Saudi Arabia, including scars on his back consistent with having been whipped, defense lawyers have said in court papers.

Prosecutors have denied that Abu Ali was tortured. But if a federal judge concludes that he was, much of the evidence against him could be thrown out because it was obtained under duress. The torture allegations are expected to play a key role in a hearing scheduled to start Sept. 19.

Law enforcement sources have said the plot against Bush, allegedly hatched while Abu Ali was studying in Saudi Arabia and after he joined an al Qaeda cell there, never advanced beyond the talking stage. The new indictment says two options were considered: multiple snipers shooting the president or a suicide operation.

The earlier indictment said nothing about snipers, only that Abu Ali would get close enough to Bush to "shoot him on the street" or would detonate a car bomb.

Several other allegations emerged yesterday about Abu Ali's alleged relationship with Osama bin Laden's organization. The indictment says he performed guard duty in 2003 for an al Qaeda cell at one of its locations in the Medina area of Saudi Arabia. It also says that in response to a request from an al Qaeda co-conspirator, Abu Ali translated from English into Arabic the audio portions of a video concerning operations by U.S. military aircraft in Afghanistan.

Abu Ali's case has generated strong interest among Muslims in Northern Virginia. The government says he confessed to the assassination plot while being detained in Saudi Arabia and admitted discussing with al Qaeda his plans to conduct attacks in the United States that included crashing hijacked planes into buildings.

Abu Ali will be arraigned on the charges in the new indictment on Wednesday.

Court Questions Guantanamo Detainee Issues (AP)

By PETE YOST, The Associated Press

AP, September 8, 2005

Sep. 8, 2005 - A federal appeals court Thursday questioned the Bush administration's handling of detainees at Guantanamo Bay, suggesting the judiciary might have authority to delve into the conduct of military tribunals which have categorized almost all of the inmates as enemy combatants.

The two hours of arguments were in sharp contrast to those of several years ago when the appeals court suggested detainees at the Guantanamo Naval base were not entitled to have access to the U.S. courts, and then ruled against them. The U.S. Supreme Court reversed that decision a year ago.

On Thursday, a panel of three appeals court judges two appointed by Republican presidents and one by a Democratic president aggressively questioned Justice Department attorney Gregory Katsas about the possibility of court scrutiny over the detainee review process.

"There is nothing in the habeas statute that requires us to defer to a military tribunal," A. Raymond Randolph, an appointee of President Bush's father, told Katsas. The other judges on the panel are David Sentelle, an appointee of President Reagan, and Judith Rogers, an appointee of President Clinton.

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The detainees are not allowed to have legal representation before the tribunals and cannot see classified information being used to classify them as enemy combatants.

Lower court judges are divided on the detainee procedures at Guantanamo Bay. U.S. District Judge Joyce Hens Green ruled that the tribunal hearings are unconstitutional. U.S. District Judge Richard Leon threw out a lawsuit by some of the detainees, saying the place for them to challenge the procedures is before the U.S. military, not in civilian courts.

Katsas said the detainees are granted many rights by the tribunals, which ruled that all but 38 of 596 detainees were enemy combatants and were not entitled to prisoner-of-war protections under the Geneva Conventions.

The government is trying to beat back challenges on behalf of dozens of the Guantanamo Bay detainees who say they are not being afforded a legally proper opportunity to challenge their status as enemy combatants.

In the nearly three years since the U.S. military started transporting detainees to the Navy prison camp in Cuba, the words Guantanamo Bay have become synonymous with the Bush administration's tactics in the war on terror: indefinite detention and no legal rights.

Evidence of detainee abuse at Guantanamo Bay has put the administration on the defensive and the government is trying to deal with the problem by downsizing the prison camp, returning many of the detainees to their home countries.

In the meantime, the government has dug in for a protracted legal battle, defending the course it set in late 2001 with Bush's declaration that all suspected terrorists are enemy combatants rather than prisoners of war entitled to protections under international treaty.

The Pentagon says it is holding 505 prisoners at the Guantanamo Bay prison compound. Many were captured in Afghanistan in the months following the U.S. invasion in October 2001, and some have been there since the detention compound was opened in January 2002.

Guantanamo Bay Prisoners Seek US Court Hearings (REU)

By James Vicini

Reuters, September 8, 2005

WASHINGTON (Reuters) - Guantanamo Bay prisoners should be given the chance to prove in court that they have been mistakenly labelled as "enemy combatants" and have been unlawfully detained, their attorney said on Thursday.

"Since day one, these people have been saying you've got the wrong guys. They want a fair hearing to show that," attorney Thomas Wilner told a U.S. appeals court during more than two hours of arguments.

But Justice Department lawyer Gregory Katsas repeated the Bush administration's position that the prisoners were not entitled to any constitutional due process rights, and he defended the military tribunals set up to review their cases.

More than 500 prisoners are now being held at the U.S. military base in Cuba after the U.S. government designated them as enemy combatants. Only four have been charged with a crime.

The suspected al Qaeda and Taliban members were captured after the U.S.-led Afghanistan war that followed the September 11, 2001, attacks. Many have been held since the Guantanamo prison camp opened in January 2002.

Under the military's review process, 38 prisoners, accounting for 7 percent of the detainees, were determined to not be enemy combatants despite their earlier designation.

The appeals court considered a pair of Guantanamo cases after two different U.S. District Court judges in Washington came to opposite conclusions in January.

One judge ruled the prisoners have the constitutional right not to be deprived of liberty without due process of law, and that the military tribunals were constitutionally flawed. The other judge said the prisoners have no constitutional rights.

Wilner argued that the prisoners do have fundamental rights under the U.S. Constitution, that they also can use the habeas law to challenge their detention and they have the right to review in court.

Under that law, the government must give a legal and factual basis for the detention, he said.

All three appellate judges sharply questioned the government's lawyer.

Judge David Sentelle questioned the government's position that the prisoners have no rights because the base was outside the United States. "What does Cuba really have left in terms of sovereignty over Guantanamo?" he asked.

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Judge A. Raymond Randolph repeatedly asked why the prisoners under the habeas law would not be entitled to some determination in court on whether they have been held under lawful authority.

Sentelle and Randolph both questioned whether the courts could defer to the judgments of the military tribunals.

Judge Judith Rogers questioned whether the military tribunals provided sufficient legal protections.

Lawyers for the prisoners have said the tribunals improperly denied detainees legal representation and provided no opportunity for them to rebut the allegations and evidence against them.

The three-judge panel is expected to rule sometime next year. Any decision most likely will be appealed to the full appeals court or to the U.S. Supreme Court.

Witness Testifies Under Grant Of Immunity (TAMPTRIB)

By ELAINE SILVESTRINI

Tampa Tribune, September 9, 2005

TAMPA - A witness in the trial of Sami al-Arian testified Thursday morning that Ramadan Shallah served briefly as the religious leader of a mosque in Chicago.

Mohammed Hasan, who testified under a grant of immunity, also placed Al-Arian codefendant Hatim Fariz at a 1991 rally in Chicago.

Now the secretary general of the Palestinian Islamic Jihad, Shallah worked at Al-Arian's think tank, World and Islam Studies Enterprise in the early 1990s and also was employed as an adjunct professor at the University of South Florida.

Fariz and fellow codefendant, Ghassan Zayed Ballut, were members of the Al Quassam mosque in Chicago, said Hassan, who lives in a Chicago suburb.

Hassan said Shallah, whom he knew as Ramadan Abdullah, served as imam of the mosque for four or five months in 1990 or 1991. He was replaced by Suleiman Odeh, brother of Abd Al Aziz Awda, the spiritual leader of the Islamic Jihad. Odeh was later replaced by Naim Nasser Bulbol.

Both Odeh and Bulbol are considered unindicted coconspirators in the case. Prosecutors have alleged in court papers that the mosque was a ``an entity we believe to be a component of the PIJ enterprise."

Muslim Anti-terrorism Ads To Coincide With 9/11 Anniversary (AP)

AP, September 8, 2005

TAMPA -- A Muslim civil liberties group plans to denounce terrorism in a paid television commercial airing in the Tampa market this weekend to coincide with the anniversary of the Sept. 11, 2001, terrorist attacks.

The 30-second spot, produced by the nonprofit Council on American-Islamic Relations, features two American Muslims, a man and a woman, denouncing violence in the name of Islam and vowing to ``not to allow our faith to be hijacked by criminals."

The spot will run 105 times Thursday through Sunday on 13 cable channels in Tampa, including CNN, Fox Sports Net and the Weather Channel, according to CAIR's Florida office.

CAIR spokesman Ahmed Bedier said the spots were produced after the London bombings in July and distributed nationwide as public-service announcements, meaning stations could choose to air them or not. Research showed they were seen by as many as 5 million people.

Members of the Tampa chapter donated the money to get the ads on as paid commercials in prime time in the local market this weekend, at a cost of more than $10,000, Bedier said. He said he didn't know of any other CAIR chapters airing the ads as paid commercials.

``We're basically piloting it to consider doing it in other markets," Bedier said. ``We'll be following up and try to gauge the perception and see if there's positive feedback."

For Tampa Muslims, adding to image problems in the aftermath of the Sept. 11 attacks is the ongoing federal trial of former college professor Sami Al-Arian, who is accused of supporting the Palestinian Islamic Jihad, an Islamic terrorist group that targeted Israelis.

Washington D.C.-based CAIR is America's largest Muslim civil liberties group with 31 offices and chapters in the United States and Canada.

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US 'terror Camp' Suspect Remanded (BBC)

BBC.com, September 9, 2005

Haroon Rashid Aswat was initially deported from Zambia to the UK A British man accused of trying to set up a terror training camp in the US has been ordered to remain in custody while an extradition case is prepared.

Suspected terrorist Haroon Rashid Aswat, 30, who denies the claim and opposes extradition, appeared by video link from Belmarsh Prison.

A lawyer for US authorities told Bow Street magistrates the extradition case would be complete within 10 days.

Aswat of Dewbury, West Yorks, is due to appear again on 6 October.

'Fight jihad'

US prosecutors allege that Aswat, who was deported from Zambia to Britain in August and arrested by UK authorities, conspired to provide material support for terrorism in the US in 1999-2000.

They said he and another man helped to set up a camp in Bly, Oregon, to train people to "fight jihad" in Afghanistan.

The camp was to provide weapons training and schooling for hand-to-hand combat and martial arts for militants, US prosecutors said.

They say he flew to New York on 26 November 1999 and then a bus to Bly, via Seattle.

Two-year term

US prosecutors say he was carrying CD-ROM information on how to make bombs and poisons and on military conduct.

A second claim was that he conspired with others so that any training would "arouse reasonable apprehension" that people were being prepared to "fight jihad" in Afghanistan.

James Ujaama, 38, a Muslim convert from Seattle who has lived in Britain, pleaded guilty to involvement in a plot in April 2003.

He faced up to 25 years in prison but received a two-year sentence after agreeing to co-operate in terrorism investigations until 2013.

Family's fears for terror suspect

PATRIOT ACT:

Patriot Act Resolution Rejected (GRPRESS)

By Shandra Martinez, The Grand Rapids Press

The Grand Rapids Press, September 8, 2005

HOLLAND -- The City Council on Tuesday rejected a resolution expressing concern with sections of the federal Patriot Act.

The resolution was proposed by the city's Human Relations Commission and on put on the agenda Wednesday by Councilman David Hoekstra.

The council rejected the resolution 5-2, with only the 6th Ward councilman Hoekstra and Councilman At-Large Jerome Kobes voting in favor. Mayor Al McGeehan and 2nd Ward Victor Orozco were absent.

Both Mayor Pro-Tem Craig Rich and 5th Ward Councilman Kurt Dykstra said they felt the Patriot Act doesn't fall under the council's jurisdiction.

"I'm one of those people who don't think its appropriate (for the City Council) to take a stand on a national issue. What's next? Are we going to be asked to vote on gay marriages next week or the war in Iraq the following week?" Rich said. "We are elected to represent our constituents on local issues...This is grandstanding if we do it. That's all it is."

While he didn't agree with the HRC's recommendation, 4th Ward Councilman Bob Vande Vusse said he appreciated the work of the HRC, which spent more than a year studying the issue.

"(But) it wouldn't be responsible on my part to give the impression that the entire city shares this position," said Vande Vusse, adding that as a librarian, he has some concerns about the federal legislation.

Hoekstra, council liaison on the HRC, said after a lot of study, he agreed with the resolution and felt the Patriot Act poses a threat to civil rights.

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"My fear is in our well-intentioned effort to be safe, we forget what makes us truly strong," Hoekstra said.

While the resolution drew comment from council members, no one in the audience addressed council on the subject. Hoekstra said he was pleased with the discussion council gave to the topic.

"We talked about it, wrestled with it. That's a victory," Hoekstra said.

HOMELAND RESPONSE:

Fallen EMT Volunteer On Sept. 11 Gets Rescuer Status (AP)

By MICHAEL GORMLEY, The Associated Press

AP, September 8, 2005

ALBANY, N.Y. (AP) — On Sept. 11, 2001, as Glenn Winuk's co-workers were ordered to run to safety from their lower Manhattan office building, he ran the other way a block toward ground zero. There he told New York City fire officials he was an emergency medical technician in his hometown volunteer fire department and wanted to help the victims.

Moments later, he died when the South Tower collapsed, the medical kit he was issued at his side.

On Thursday he was officially recognized by the state as a rescuer in the historic effort that saved thousands, rather than as a civilian casualty, a distinction his family has been seeking for nearly four years.

Advertisement

"They all ran for safety, but he ran toward the scene as he did in `93" for the first World Trade Center bombing, said Winuk's brother, Jay Winuk. "He ran toward danger because he knew he could save lives."

Gov. George Pataki called him a hero.

"His bravery, service, and dedication on that terrible day saved the lives of many, and must never be forgotten," Pataki said.

The recognition was delayed because Glenn Winuk was technically an associate member of the Jericho Volunteer Fire Department in Nassau County and was no longer an active firefighter or EMT in the department he served with for 19 years. His status changed when he moved to Manhattan and became a partner in his law firm, keeping him from being recognized by the federal government as an official rescue worker for memorials, historic records, and for a $278,658 Public Safety Officers benefit for his parents.

The federal government rejected the family's request citing, in part, the fact that Winuk hadn't even been officially recognized by the state as a rescue worker, said state Sen. Carl Marcellino, a Long Island Republican. But his bill, co-sponsored by Democratic Assemblyman Charles Lavine and recently signed by Pataki, changed that.

A federal decision is expected in 30 days.

A Justice Department spokesman didn't immediately respond to a request for comment.

"We're not talking about a fortune and money is not the point," said Jay Winuk of Mahopac, Putnam County. "It's only about doing the right thing."

He said the Justice Department first supported the request, but then denied it after he passed on the good news to his parents, Seymour and Elaine, in Jericho.

"It's been a painful road for my family to pursue," he said. But, "he's my little brother."

"He stood up when it was time to stand up," Marcellino said of Glenn Winuk. "I think we should stand up for him now."

Fallen Heroes To Get 9/11 Medals (NSL)

By RON MARSICO, Star-Ledger Staff

Newark Star-Ledger, September 8, 2005

After the terrorist planes hit the Twin Towers on 9/11, Edward Calderon, a civilian employee with the Port Authority of New York and New Jersey, told a colleague by phone he was staying inside one of the buildings to help with evacuation operations.

"I'm a Marine and we don't leave anyone behind," snapped Calderon, a former member of the corps and a resident of Union.

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James Barbella, an agency property manager from Oceanside, N.Y., led would-be rescuers up the stairs desperately trying to find a way to save people trapped in the top-floor restaurant, Windows on the World.

Robert Lynch, another property manager from Cranford, ensured that a child-care facility and bookstore were clear before heading through the plaza to help with the evacuation of a tower.

Lynch, Barbella and Calderon were killed when the buildings collapsed. Tomorrow, they will be among 13 Port Authority civilian employees given a special 9/11 heroes' "Medal of Valor" posthumously by President Bush in Washington, D.C., along with the 37 Port Authority Police officers who also died that day.

"They were true first responders that day," said Alan Reiss, who on 9/11 was director of the Port Authority's World Trade Department and oversaw the 13 employees who served as civilian emergency responders. "They just didn't wear a uniform. They wore a suit."

Port Authority officials successfully lobbied to get the employees' families the medals because the 13 individuals provided critical electrical, structural, mechanical and operations information to police and fire officials during the evacuation that saved thousands. Officials said their role has been little known by members of the general public.

"There was a great deal of unforgettable tragedy on 9/11. One positive note, however, was that approximately 25,000 people were evacuated from the World Trade Center," the agency's chairman and executive director wrote in a June letter to U.S. Attorney General Alberto Gonzales. "These fallen Port Authority civilians assisted all uniformed rescue workers in all aspects of the evacuation and collectively all groups significantly contributed to saving all those lives."

Port Authority officials also credited U.S. Rep. Joseph Crowley, a New York Democrat, for helping get the recognition for the 13 civilians.

Overall, a total of 2,749 people died at the World Trade Center on 9/11.

The role of the Port Authority Police, which lost 37 officers that day, has been well documented. Those to be similarly honored by Bush also include members of the New York City Police and Fire Department who perished that day. In total, 443 responders will be recognized on the White House lawn.

The other 10 civilian employees to be honored are Douglas Karpiloff of Mamaroneck, N.Y.; Eugene Raggio of Staten Island; Edward Strauss of Edison; Francis Riccardelli of Westwood; Carlos Da Costa of Elizabeth; Frank DeMartini of Brooklyn; David Ortiz of Nanuet, N.Y.; Joseph Amatuccio of Baldwin Harbor, N.Y.; Peter Negron of Elizabeth, and Ken Grouzalis of Lyndhurst.

They had received training for emergencies and participated in response drills. On 9/11, they helped staff the fire command center and direct rescuers to people trapped in elevators and various other parts of the buildings.

All 13 civilians were not obligated to go to the emergency posts because the building had been leased to developer Larry Silverstein the previous July, and the Port Authority had become the tenant. But the employees still felt duty-bound and stayed voluntarily.

"These people knew these buildings like the back of their hands," said Lillian Valenti, chief of the Port Authority's Office of Medical Services. "They were really the road map and the eyes and ears of people who didn't know the complex."

Ron Marsico covers the Port Authority. He may be reached at rmarsico@starledger.com or (973) 392-7860.

AP: 9/11 Loans Wind Up Far From Manhattan (FINDLAW/AP)

By Ben Dobbin, Ap Business Writer

Find Law, September 9, 2005

(AP) - CHURCHVILLE, N.Y.-Richard Parsons Jr., a veterinarian in a country suburb 280 miles from ground zero in Manhattan, felt the ripple effects of Sept. 11, 2001, about a year later. It almost put him out of business.

Called up for duty with the Army Reserves in fall 2002, Parsons spent 10 months in Afghanistan. He hired a substitute vet and barely kept his one-man practice near Rochester from going bankrupt by obtaining a low-interest, $72,800 loan from a federal program designed to help small businesses recover from 9/11.

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It upsets the 43-year-old father of two that all manner of companies in upstate New York not damaged in the slightest by the terror attacks - from chiropractors to auto-repair shops to fast-food franchises - could dip into the same $5 billion disaster-relief fund administered by the Small Business Association.

"It seems like when the government has a big pot of money, there's always charlatans that are going to try to, in some way, finagle out money," he said. "I guess when you're dealing with such massive amounts of money and numbers of applications, people are going to get away with things."

His words reverberated in cafes, on street corners and around the dinner table.

"It doesn't sound right to me, it doesn't sound fair," said security guard Doug Kleinhammer, 50, as he hopped on his motorcycle outside the World Wide News store in Rochester. "It's unnecessary spending of money. The people who needed it were those directly affected."

An Associated Press review of two Small Business Administration programs that doled out Sept. 11 recovery loans, found the government provided, approved or guaranteed nearly $4.9 billion in loans, and took credit for saving 20,000 jobs. That puts the average cost of saving a job at about a quarter million dollars each.

Of the 19,000 loans, fewer than 11 percent went to companies in New York City and Washington, an AP computer analysis showed. Officials conceded the SBA allocated few resources to oversee the congressionally-approved loan programs, leaving banks on an honor system to determine who should get terror recovery loans.

SBA documents obtained by AP show the banks had a strong incentive to approve as many loans as possible from the terror program - their cost was reduced in half.

The SBA said it first learned of the problems through AP's review and was weighing whether an investigation was needed.

Among the hardest-hit enterprises in places far removed from the devastation were travel agencies, tourist shops, food caterers, limousine fleets, hotels and bars. Americans weren't traveling far from home like they used to.

"The country as a whole was not in a jovial mood. We saw people drinking less, eating less and buying less tickets to special events," said Stephen Waite, whose three-story brew pub in downtown Albany saw a sudden 25 percent to 30 percent drop in revenues.

"It was like this kind of guilt feeling of, `There's no time for just foolhardily passing the time like we used to, we need to be serious and more into our family.'"

Waite, 51, a lawyer who recently sold The Big House Brewing Co., got a $1.1 million loan from the Small Business Administration's "supplemental terrorist activity recovery" program in 2002. Even though his nightlife venture took about 18 months to recover, he had no idea the fund was specifically intended to deal with the terrorist aftershocks.

"We just went through a banking group, that's a typical way to obtain loans," he said. "There was no discussion of the 9/11 situation. I wasn't even aware of that program.

"As long as people are filling out applications correctly, I guess I'm not as upset as I would be at the people approving them," he said. "I'm sure every governmental agency is going to get a ton of applications that don't fit within the program and their job responsibility is to reject."

Lorraine Serpe, 44, was on the brink of folding her Lorraine's Lunch Basket food-catering firm in Rochester when her $153,500 loan came through in June 2002.

"Business was just dead, it was just nothing," Serpe said. "We were catering to Xerox, Bausch & Lomb, Kodak and they just all stopped traveling. I was speaking to my accountant about the hard times I was in and, by a miracle of God, she said `Oh my God, I've heard of this disaster relief fund.' She says `Try it, try it!' I tried it. I explained my situation and they said I qualified."

Thre "affected the world," Serpe said. "It affected me, and I'm only in little Rochester."

In contrast, chiropractor Colby Shores said his business in Irondequoit, a Rochester suburb along Lake Ontario, was unaffected. While his patients "were devastated" by 9/11, "they weren't putting their health second to anything else," he said.

Nonetheless, Shores obtained a $87,000 loan with a 4 percent interest rate. He, too, said he was unaware of the type of program he was tapping into.

"I had nothing to do with the financing," he said. "I hired a contractor and they found the correct amount of funds I needed for my small business loan."

In Bath in western New York, Arvind "Andy" Patel, 50, said his $350,000 loan in fall 2002 to remodel his Dunkin' Donuts store was arranged through a bank approved by the fast-food chain's corporate office.

Patel, a native of Bombay, India, who bought another Dunkin' Donuts in Wilmington, Del., in 1998, moved into his Bath store on Sept. 6, 2001.

The catastrophe five days later had no impact on his business. "Not at all," he said.

On the Net:

An AP interactive with data on SBA loans in each state can be viewed at:

http://hosted.ap.org/dynamic/files/specials/interactives/-national/terror-lo ans/index.html

SBA: http://www.sba.gov

Key Official In Clandestine Service Of CIA To Retire (WP)

By Dana Priest And Walter Pincus

The Washington Post, September 9, 2005

Robert Richer, the second-ranking official in the CIA's clandestine service, has announced his retirement, telling colleagues that he lacked confidence in the agency's leadership, according to current and former intelligence officials.

Richer, who was one of CIA Director Porter J. Goss's key personnel choices, made his announcement last Friday at a meeting of the Directorate of Operations leaders, according to some of the officials.

Some of them said Richer's decision revolved around an ongoing debate over how to improve human intelligence and the direction of the CIA. The agency's role and influence have waned with the appointment of John D. Negroponte as the overall director of national intelligence.

Other government officials disagreed with that assertion and said Richer's departure involved disputes over "operational issues" that they would not specify, and a clash of personalities between Richer, a former Marine, and Goss and his top aides.

Last year, Richer's predecessor and his boss resigned after clashing with Goss's aides. During Friday's meeting, Richer said he and his boss, the deputy director of operations -- who cannot be named because he remains undercover -- had been frustrated by Goss and his staff in their efforts to implement certain measures, sources said. Richer subsequently met with national security adviser Stephen J. Hadley to explain his decision.

A CIA spokesman declined to comment on the matter. Other intelligence sources would speak only anonymously because of agency rules and traditions against speaking to the media.

Yesterday, Goss sent an unusual worldwide message to all CIA employees praising Richer for his nearly 35 years of service. That only fueled the belief among some former intelligence officials that Richer's resignation reflects ongoing problems at the agency.

Richer has served for less than a year as the number two in the spy service, having been promoted from being chief of the Near East division.

The CIA has been under pressure to make changes after a presidential commission and the Sept. 11 commission found last year that human intelligence collection had failed regarding both the al Qaeda terrorist network and whether Saddam Hussein had weapons of mass destruction.

The presidential commission recommended creation of a Human Intelligence Directorate within the CIA, which would rank above the agency's Directorate of Operations and coordinate foreign human-intelligence collection across the intelligence community, including the Pentagon and the FBI.

Some top administration officials favor a plan to make the clandestine service, as the Directorate of Operations is known, the central focus of the CIA, with all other functions -- such as analysis and technology -- subordinate to the human intelligence role.

Tight Constraints On Pentagon's Freedom Walk (WP)

By Petula Dvorak

The Washington Post, September 9, 2005

DOJ_NMG_0003776

Organizers of the Pentagon's 9/11 memorial Freedom Walk on Sunday are taking extraordinary measures to control participation in the march and concert, with the route fenced off and lined with police and the event closed to anyone who does not register online by 4:30 p.m. today.

The march, sponsored by the Department of Defense, will wend its way from the Pentagon to the Mall along a route that has not been specified but will be lined with four-foot-high snow fencing to keep it closed and "sterile," said Allison Barber, deputy assistant secretary of defense.

The U.S. Park Police will have its entire Washington force of several hundred on duty and along the route, on foot, horseback and motorcycles and monitoring from above by helicopter. Officers are prepared to arrest anyone who joins the march or concert without a credential and refuses to leave, said Park Police Chief Dwight E. Pettiford.

The event, the America Supports You Freedom Walk, is billed as a memorial to victims of the 2001 terrorist attacks and a show of support for those serving in the military, topped off with a concert by country singer Clint Black, known for his pro-troops anthem, "Iraq and Roll." Organizers said they expect 3,000 to 10,000 participants.

Barber said that organizers would rather not have such stringent measures on their event but that police had requested them.

Pettiford said officers would patrol to keep interlopers out because the Pentagon restricted the event in its permit application. "That is what their permit called for, so we have those fences to keep the public out."

Once the National Park Service approves the permit, it is normal for police to do what they can to adhere to the organizers' requests. "It's a permitted event. That means [organizers] are allowed to say who is in and who's out," said Sgt. Scott Fear, a Park Police spokesman. He declined to say how many officers were in the Park Police, which had a Washington detail of about 400 two years ago.

What's unusual for an event on the Mall is the combination of fences, required preregistration and the threat of arrest.

Park Police officials said security and safety were concerns, especially because Secretary of Defense Donald H. Rumsfeld will participate in some of the day's events. They said they have approved a permit for a small group of protesters that plans to stand along Independence Avenue.

Barber at first said this week that event organizers would rather not be so strict but that they were complying with police orders. But yesterday she said Park Police offered two options: Screen participants at the Mall, as police did for the Fourth of July fireworks and concert, where bags would be searched and restricted items such as alcohol, weapons, animals or glass bottles would be seized; or screen them at the Pentagon and, by restricting access throughout the march, "make sure the same people who were screened at the Pentagon are the same people going to the concert," she said.

Barber added: "We didn't want a bottleneck at the concert. We didn't want people to miss the concert while waiting to be screened. So we decided to do the screening at the Pentagon. That means the entire route has to be kept closed."

Some military supporters have welcomed the event as a way to counter the antiwar movement and back the troops abroad. Antiwar groups say they are convinced that the event was orchestrated to boost the war effort and link the war to the Sept. 11, 2001, terrorist attacks -- and to undercut an antiwar protest planned for Sept. 24.

One restricted group will be the media, whose members will not be allowed to walk along the march route. Reporters and cameras are restricted to three enclosed areas along the route but are not permitted to walk alongside participants walking from the Pentagon, across the Memorial Bridge to the Mall.

The Washington Post and other corporate entities initially signed on as co-sponsors. But critics from within the newspaper and from the antiwar movement said partnering with the Pentagon raised questions about objectivity, and three weeks ago The Post pulled its co-sponsorship.

Other media co-sponsors -- WTOP radio, WJLA-TV and NewsChannel 8 -- support the effort with advertising.

Opponents of the Freedom Walk took issue with the way the Pentagon is staging the event. When the walk first was publicized, participants were required to submit their names, ages, e-mail addresses and home addresses. After some groups accused the Pentagon of using the registration as a recruiting tool for the military, the requirements were changed.

Barber said the government now asks for a full name, age group, T-shirt size and e-mail address (each registered walker will get a T-shirt). Walkers have until 4:30 p.m. today to register, which must be done online (http://www.asyfreedomwalk.com).

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Officials at the Pentagon, where 184 people died in the attack, decided to open the attack site and memorial chapel to the public tomorrow for the first time.

Visitors will be welcome from 10 a.m. to 2 p.m. and can see the stone that marks the crash site of American Airlines Flight 77 and the memorial chapel built there.

There is no need to register to visit the memorial chapel tomorrow.

After Four Years, First Signs Of Renewal At Ground Zero (CSM)

By Alexandra Marks

The Christian Science Monitor, September 9, 2005

NEW YORK - Dust still powders ground zero where the World Trade Center once stood, but it's construction dust that the wind now whips gently around this deep, 16-acre hole.

Called "the bathtub," it reveals the strides and the stumbling, as well as the dogged determination, that have marked the rebuilding effort in the four years since terrorists slammed two planes into the twin symbols of New York's financial prowess.

There has been progress: A grand master plan is in place, complete with a soaring 1,776-foot Freedom Tower and a sunken, sacred memorial where waterfalls cascade in the two footprints of the original towers.

But it has been slow going, due in part to the seeming incompatibility of rebuilding a vital commercial, retail, and financial hub on what many now consider to be a sacred burial ground. What's more, there's a determination to see that ground zero - an international symbol of the West's refusal to bow to terrorism - rises stronger than before. Though it's taking extra time to ensure that happens, planners hope ground zero will come to stand for America's resilience, its ability to overcome hatred, and a celebration of its values.

Chief among those values, particularly in New York, is democracy. But that, too, is adding to the slow pace of development. In this gritty city that pioneered urban planning, everybody has an opinion: Wall Street tycoons and cabbies alike aren't afraid to tell you exactly what they think.

So before a new skyline pierces the void now in lower Manhattan, this major urban project is expected to be the most publicly debated, disputed, reviewed, and revised in world history. As a top developer puts it, the master plan is very much a "living document."

Add to that the challenge of making the new structures as secure as possible to prevent future devastation, and you have an urban rebirth that could take more than a decade, if not a generation, to complete.

"I'd like to tell you we're building a city on a hill, and we may get there, but it's certainly in fits and starts," says Robert Yarrow, president of the Regional Planning Association, which has been involved with the planning process from the start. "While a lot of progress has been made, there's a lot that's still very much in the air."

From the vantage point of the bottom of the bathtub, progress is evident on the eastern wall of the hole, where sunlight glints off the new, exposed steel of the temporary train station that's already moving commuters uptown and across the Hudson River. On the west side, the massive steel bolts that reinforce a retaining wall dot the barren concrete. In the northwest corner hangs a huge American flag, marking where ground was broken this week on a new transportation hub.

The design of the transportation center is meant to evoke the rising wings of a dove. Underground, the hub will connect 11 subways, the PATH train system, and walkways to the Hudson River ferries, as well as future rail links to Kennedy International Airport and Long Island. Gov. George Pataki (R) calls it an "iconic transportation facility - an architectural marvel and a grand terminal." When construction begins Monday, it will be the first time in four years a spade was put in this 16-acre site to begin construction on a permanent structure.

This summer the city secured a commitment for another permanent anchor in the area: Goldman Sachs, the massive investment house that last spring pulled plans to build its $2.9 billion headquarters across from the site because of security and traffic concerns. After state officials moved a planned tunnel and offered an additional $1.6 billion in 9/11 Liberty Bonds, the firm changed its mind again. Construction is slated to begin later this year.

But hovering above all the activity, the damaged and contaminated Deutsche Bank building still stands shrouded in black mesh cloth, awaiting the demolition ball. In the ground, the Freedom Tower cornerstone sits ignored. Both are testaments to the

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legal, insurance, security, and political obstacles that have stymied the rebuilding. The Freedom Tower is a case in point. The cornerstone was solemnly laid a year ago, only to have the police department demand that construction be halted. The NYPD's security experts said the design - already approved by other parties - would leave the new building too vulnerable to attack from a suicide truck bomber.

Plans for a new tower were finally agreed upon and presented to the public in June, but construction could be a year off. The cornerstone, meanwhile, sits there waiting to be moved.

"Anyone who thinks the agenda is done when the shovels are put in the ground here are sadly mistaken, but at least in the last few months there's been some real progress," Sen. Charles Schumer (D) of New York said before this week's groundbreaking. "Goldman Sachs and now this station are a one-two punch that say maybe this culture of gridlock and inertia is changing."

The rebuilding lessons at ground zero may prove instructive to the Gulf Coast - inspiring hope that reconstruction can be done, but also providing a reality check. These things take time. Gulf Coast planners, to their credit, are moving quickly. They've already contacted the Lower Manhattan Development Corp. (LMDC), created to oversee the rebuilding of ground zero.

"We plan to continue assisting in any way that will be useful in terms of the precedents established here, the lessons learned, and ... to offer encouragement that there is a better future ahead," says Stefan Pryor, LMDC president. "We have every confidence that Louisiana and the Gulf states will recover better than ever, just as lower Manhattan is doing."

Part of that confidence comes from the rebuilding process itself, despite the setbacks and slow pace.

"I would have loved it if it had gone faster," says Mayor Michael Bloomberg. But given the magnitude of the project, it is probably not unusual to be taking some time, he adds. "In the end, the only thing that people will remember is whether we do the right thing, not whether it took two years or four years or eight years."

WAR NEWS:

Powell Calls His U.N. Speech A Lasting Blot On His Record (NYT)

By Steven R. Weisman

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 - The former secretary of state, Colin L. Powell, says in a television interview to be broadcast Friday that his 2003 speech to the United Nations, in which he gave a detailed description of Iraqi weapons programs that turned out not to exist, was "painful" for him personally and would be a permanent "blot" on his record.

"I'm the one who presented it on behalf of the United States to the world," Mr. Powell told Barbara Walters of ABC News, adding that the presentation "will always be a part of my record."

Asked by Ms. Walters how painful this was for him, Mr. Powell replied: "It was painful. It's painful now." Asked further how he felt upon learning that he had been misled about the accuracy of intelligence on which he relied, Mr. Powell said, "Terrible." He added that it was "devastating" to learn later that some intelligence agents knew the information he had was unreliable but did not speak up.

Mr. Powell also implied in the interview that the United States did not go to war in Iraq with sufficient troops to secure the country and failed to keep sufficient Iraqi forces to help stabilize the country.

"What we didn't do in the immediate aftermath of the war was to impose our will on the whole country with enough troops of our own, with enough troops from coalition forces or by re-creating the Iraqi forces, armed forces, more quickly than we are doing now," he said.

But with Iraq still violent and plagued by sectarian conflict, the United States has "little choice but to keep investing in the Iraqi armed forces and to do everything we can to increase their size and their capability and their strength."

Since leaving office in January, Mr. Powell has declined interview requests. But his expressions of regret about the weapons intelligence and the lack of troops were consistent with many of his statements in office, especially after it became clear that Iraq had none of the weapons that Mr. Powell had said it was stockpiling.

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He acknowledged several times that intelligence failures lay behind his presentation on the eve of the Iraq war two years ago, but he has never expressed any regret about the war itself. Asked by Ms. Walters, "When the president made the decision to go to war, you were for it?" Mr. Powell said, "Yes."

Asked about editorials asserting that he had put loyalty "ahead of leadership," Mr. Powell parried the question. "Well, loyalty is a trait that I value, and yes, I am loyal," he replied. "And there are some who say, 'Well, you shouldn't have supported it, you should have resigned.' But I'm glad that Saddam Hussein is gone."

Mr. Powell said he did not blame George J. Tenet, then the director of central intelligence, for the failures and did not believe that Mr. Tenet tried to mislead him.

"No, George Tenet did not sit there for five days with me, misleading me," he said, referring to the week he spent at the Central Intelligence Agency reviewing the evidence on Iraq before making his presentation to the United Nations. "There were some people in the intelligence community who knew at that time that some of these sources were not good, and shouldn't be relied upon, and they didn't speak up. That devastated me."

U.S.-Iraqi Sweep Arrests 200 In Rebel Staging Area (NYT/AP)

By The Associated Press

The New York Times, September 9, 2005

TAL AFAR, Iraq, Sept. 8 (AP) - As a joint force of American and Iraqi troops moved into Tal Afar, a major insurgent staging ground near the Syrian border, the Iraqi Army said Thursday that it had arrested 200 people suspected of being militants in the sweep and that three-fourths of them were foreigners.

Most of the estimated civilian population of 200,000 has fled this predominantly Turkmen city, where 70 percent of that ethnic group is Sunni Muslim, the sect that dominates the Iraqi insurgency. The American military reported killing seven insurgents in the last two days, and indications were growing that the joint force would intensify the operation.

Tal Afar was swept as election officials tallied voter registration figures from three Sunni-dominated provinces, where registration had been extended a week in preparation for the Oct. 15 nationwide referendum on the new constitution.

"Turnout was unbelievable, and people were very enthusiastic, especially in Falluja and Ramadi," said Farid Ayar, an electoral commission spokesman in Baghdad. Falluja and Ramadi are Sunni insurgent bastions in Anbar Province, which stretches west from Baghdad to the Syrian, Jordanian and Saudi borders.

The heavy voter registration suggests the minority Sunnis are mobilizing to defeat the draft charter, a shift from January, when their boycott of the parliamentary vote gave control of the National Assembly to Shiites and Kurds.

The draft constitution was approved and sent to voters by a coalition of Shiites and Kurds, over the objections of Sunnis, who fear it would allow the country to split into sectarian and ethnic mini-states. That could cut Sunnis out of Iraq's oil wealth.

Sunni clerics are now urging their people to take part in the referendum and the parliamentary balloting in December.

Rejection of the draft constitution would mean elections in December for a Parliament under the rules of the interim constitution. The new Parliament would start drafting a constitution from scratch.

Demographics are a big problem for the Sunni Arabs, about 20 percent of Iraq's 27 million people. Sunnis form the majority in four of the 18 provinces, but their numbers are overwhelming in only two, Anbar and Salahuddin. Under election rules, a "no" vote by a two-thirds majority in any three provinces would defeat the referendum.

In Anbar and Salahuddin, about 75 percent of eligible voters had signed up by Wednesday, the deadline, election officials said, while cautioning the tally was not final. In Diyala, a province with a Sunni majority where the count was final, 417,000 of 750,000 eligible voters, or 56 percent, had registered, said Amir Latif, director of the provincial elections commission. He spoke from Baquba, the provincial capital, 35 miles northeast of Baghdad.

Sunnis also hold a majority in Nineveh Province, home to Mosul, Iraq's third-largest city, and Tal Afar. But much of the Sunni population in the province is Kurdish and committed to the draft charter.

In the Tal Afar sweep, Capt. Muhammad Ahmed of the Iraqi Army said that one of captives was Amr Omayer, an Iraqi who was believed to be commander of all insurgent operations stemming from Tal Afar.

Captain Ahmed said some of those arrested could not speak Arabic.

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"We believe they are Afghans, but we have not checked their nationalities so far," he said. The Arab-speaking captives were from Syria, Sudan, Yemen and Jordan, he said. Captain Ahmed said eight civilians were killed Wednesday in the city by a suicide car bomber. The Iraqi police said Thursday that they had found 17 bullet-ridden bodies near Mahmudiya, a heavily Sunni town south of Baghdad. Two more bodies, blindfolded and handcuffed, were found on Baghdad's outskirts. The United States announced the death on Wednesday of a soldier in an accident at Camp Taqaddum near Falluja.

U.S. Forces Chase Ghost Fighters Amid Iraqis (WP)

By Jonathan Finer

The Washington Post, September 9, 2005

TALL AFAR, Iraq, Sept. 8 -- The U.S. soldiers sensed something wasn't quite right when an ambulance carrying two dead bodies arrived Thursday morning at a checkpoint for people evacuating this city under siege.

Hanging off the sides of the vehicle were three young men who said they were escorting the remains of family members killed in the previous night's bombardment to a local hospital. But when an Iraqi policeman looked them over, he pointed to a man who wore white sweatpants and a white shirt and appeared to be in his early twenties. "I know him. He must be detained," the officer said. "He murdered a policeman."

The interrogation by American soldiers initially went nowhere. The man insisted he spoke Turkish, not Arabic, and therefore could not communicate with the Americans' interpreters. Asked his name, he kept alternating between "Habib" and "Faris." At one point, he rolled on the floor making retching noises as if he were going to throw up. But everything changed when exasperated soldiers said they had no choice but to turn him over to the Iraqis, who were anxious to take him into custody.

"Yes, I am a terrorist, yes," the man said in perfect Arabic, his ailment apparently forgotten. "I would rather you shoot me in the head than give me to them."

The episode underscored what many U.S. troops have said is among the most difficult tasks they face in battling the insurgency across Iraq: identifying fighters who blend seamlessly into the local population.

American commanders have long insisted that growing numbers of Iraqi security forces will make that job much easier by providing an insider's knowledge of local communities. Privately, U.S. commanders also acknowledge that the Iraqi troops' reputation for heavy-handed treatment of prisoners cuts two ways: It can terrify prisoners into talking but undermine the rapport policemen and soldiers have with the populations they serve.

In Tall Afar, where a week ago U.S. and Iraqi troops launched their largest urban assault since the push into Fallujah last November, soldiers are simultaneously working to help people flee in anticipation of an imminent attack on the city center and to prevent insurgents among them from escaping undetected.

Heavy bombing continued Thursday evening, as U.S. jets dropped 500-pound J-DAM precision bombs and other munitions into the insurgent-controlled neighborhood of Sarai, while playing messages over loudspeakers that called on residents to evacuate. Nearly 1,000 people left the city through U.S. checkpoints Thursday, and commanders said intelligence showed that insurgent leaders were attempting to vacate the city.

Iraqi policemen and soldiers are fully integrated into nearly every aspect of the Tall Afar operation, often attached to units from the U.S. Army's 3rd Armored Cavalry Regiment, which is leading the assault, or advised by small groups of U.S. Special Forces soldiers. Among the units here are several battalions of the Iraqi army's 3rd Division, which is based in northwestern Iraq, and a battalion of Kurdish soldiers assigned to Tall Afar for this operation. Hundreds of regular Iraqi policemen and police commandos are also being brought to the city to man stations that U.S. forces have said they will establish once the fighting wanes.

The performance of Iraqi troops in this region has improved dramatically since the 3rd Armored Cavalry arrived in April, U.S. commanders said. In early June, an Iraqi platoon led by two U.S. soldiers was ambushed in Sarai. When machine-gun fire rained down on the platoon, most of its members fled. An American lieutenant colonel was killed in the engagement.

"When we started with them, whenever they would receive a little fire they would either run or do what we called the 'death blossom' -- basically spraying in all directions, which was dangerous for us and dangerous for the town," said Lt. Col. Christopher

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Hickey, who leads the 3rd Armored Cavalry's Sabre Squadron and works closely with Iraqi commanders. "Through leadership and experience, they have become more disciplined."

Lacking sufficient numbers of skilled interpreters for interrogations, U.S. forces operating independently of Iraqi units have sometimes struggled in their attempts to find insurgents during several days of house-to-house searches in Tall Afar.

On Sunday, soldiers from Eagle Squadron's Blue Platoon raided the home of a suspected insurgent named Suleiman Dawou. When they arrived at the house, Dawou was gone, but they found a man they believed to be his cousin. They asked in English if the cousin knew where Dawou was, and the man said no. Believing he was lying, the soldiers placed him in plastic cuffs and told him that he was being detained. They began filling out paperwork required to take him into custody when an interpreter arrived and tried questioning him one last time.

"I thought the soldiers said Salman Dawou," the man told the interpreter. "I know Suleiman, but I have not seen him for months." The soldiers let him go.

But while Hickey and other commanders said the participation of Iraqi troops will help immeasurably with efforts to identify insurgents, there is also concern here, as in other Sunni Arab communities across Iraq, because the Iraqi units are predominantly composed of Shiite Muslims or ethnic Kurds. Hickey said that U.S. forces have met with local Sunni leaders to encourage recruitment of Sunnis into police and army units. But after a series of meetings last month in which the tribal leaders said they would provide lists of candidates, only three names were put forward.

"Part of the problem is the security situation is so bad here that no one wants to be a policeman," Hickey said. "Once that improves, we are hoping more of them will sign up. The ideal is for people to be policing their own people, their own neighborhoods, so they have a stake in doing it right."

Civilians fleeing Tall Afar, where most residents are Sunnis from the Turkmen ethnic group, were told by U.S. troops to evacuate through checkpoints in the southern part of the city. But many said they were too afraid to enter south-side neighborhoods where most police and residents are Shiites.

The Kurdish soldiers involved in the operation here are members of the pesh merga militia that battled the Sunni-led government of former president Saddam Hussein and that supports Kurdish forces fighting the government of neighboring Turkey. They will particularly relish their role invading a stronghold of the Turkmens, who have strong ethnic ties to Turkey, American commanders said.

"They are champing at the bit," said Hickey, who denied that zeal would lead to overly aggressive tactics. "They are a professional fighting force with a good reputation. They want to keep that intact."

The man who was plucked from the ambulance and interrogated Thursday appeared genuinely frightened of facing the Iraqi police. "Please no," he repeated several times. Once soldiers realized they had a lever to extract information, they called for Iraqi policemen to sit in on the questioning. The officers said the man was involved in a gruesome killing of a local policeman who was beheaded, his corpse placed on the street with a bomb lodged inside of it that exploded when a dog began sniffing at the body.

When the policemen first entered the room, the man turned to face the corner, refusing to look at them. After a series of increasingly pointed questions shouted at him, he became defiant.

"No matter what you say, I am a holy warrior. I am going to paradise," he told the interrogators, referring to the belief cited by many insurgent fighters that those who die for their cause have a special place in the afterlife. "The rest of you are infidels who will go to hell."

For A U.S. Platoon In Iraq, Merciless Missions (WP)

By Steve Fainaru

The Washington Post, September 9, 2005

BALAD, Iraq -- On an asphalt road surrounded by apple trees and date palms, a bomb went off beneath an armored Humvee leading a midnight patrol. The towering fireball, followed by an explosion, lit up the night and propelled the five-ton vehicle two feet into the air.

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The Humvee fell and sputtered to a halt, its bulletproof windshield cracked, its electrical system shut down. Inside, four American soldiers and an Iraqi interpreter choked on dust and grit. The attack was witnessed by a reporter riding along on the Aug. 26 patrol and later described by soldiers involved.

"My face! My face! I can't see!" screamed Sgt. Jason Fishbein, 30, a diminutive gunner from the New York City borough of Queens. Along with the Humvee's other occupants, Fishbein was unharmed: the gray dust had momentarily blinded him and it was sweat -- not blood, as he feared -- that poured from his face.

"Man, I got a headache now," said Cpl. William Young, the 24-year-old driver of the second Humvee, which careened into a ditch as fist-sized chunks of asphalt hurtled toward it. Young reached into the back seat, where Sgt. Joseph Smith, 29 and deaf in his right ear from an earlier blast, handed him an extra-large bottle of migraine medicine.

Six hours after the attack, and with only a few hours of sleep, the soldiers of the 3rd Platoon, Charlie Company, 5th Battalion, 7th Cavalry Regiment, were back patrolling the bomb-cratered streets of Balad, an agricultural city about 50 miles north of Baghdad. The attack quickly faded, taking its place alongside myriad others that have occurred during the platoon's first eight months of a yearlong combat tour in Iraq.

The experiences of the 17-man "Blue Platoon," as the unit is called, go to the heart of the growing debate over the continued involvement of U.S. troops in Iraq. The days are infused not with the politics of war but the stark realities of it: tragedy and loss, loneliness and exhaustion, resilience and camaraderie in the face of a stubborn and deadly insurgency. The platoon's daily life has been ordered by nothing more than the merciless patrol schedule, twice-daily, four-hour combat missions that inevitably place the soldiers in the paths of attacks aimed at killing them.

"I can tell you right now: We ready to go home," said L.B. Baker, 38, a lanky trumpet player and farmer from Belcher, La., who as platoon sergeant is responsible for holding the unit together.

"I tell my guys every day, 'Look, this is the home stretch,' " Baker said. "I don't want them to relax right now. It's not the time to start thinking this is a game."

In three days of patrols culminating in the roadside attack, the physical and emotional toll of prosecuting the war in Iraq was vividly apparent in interviews, personal diaries written by the soldiers, and even songs they recorded in makeshift barracks studios. Weighted down by 50 pounds of body armor and ammunition, the soldiers venture out every day in 120-degree heat to find the insurgents. More often than not, they never do, even after bombs explode directly on them, a source of endless frustration compounded by what the soldiers said is the unwillingness of most Iraqis to help them.

"It's always kul shee maku ," said Sgt. Rob Hammer, a 32-year-old squad leader from Sublette, Kan., reciting the Arabic phrase for "there is nothing," which the entire platoon has memorized.

In such an unforgiving environment, the Americans said they found meaning in their commitment to each other, "the friends who would take a bullet for me, friends who would kill their own selves to save my life," said Sgt. Patrick Hagood, 24, of Anderson, S.C.

In the tense moments after Friday's bombing, Blue Platoon's medic, Pfc. James Tickal, 23, of Oviedo, Fla., first checked to make sure his soldiers were okay. He then took out a brown, leather-bound diary he keeps inside his Humvee and recorded the incident in the middle of rubble.

Prefacing the entry with an obscenity, he wrote: "I'm still shaking. Boom! My humvee just got hit by an IED about two minutes ago. I am sick of getting hit w/ this crap. Aw man that was a big bomb that they blew up right underneath us. Thank God for keeping everyone OK in my humvee. Now that's a direct hit."The First Losses

Tragedy hit the platoon on Feb. 13. While patrolling the outskirts of Balad around 4:30 a.m., one of the four Humvees overshot a right turn and tumbled upside down into a freezing, seven-foot-deep canal, and three soldiers drowned, along with an Air Force firefighter who fell in during the rescue effort.

Memories of the three popular men -- Sgt. Rene Knox Jr., 22, of New Orleans; Sgt. Chad Lake, 26, of Ocala, Fla., and Sgt. Dakotah Gooding, 21, of Des Moines -- hovered over soldiers "like a mist," said Tickal,

Tickal soon began to narrate what he was seeing, first in jottings in an all-weather field book he kept behind his Humvee's sun visor, then in the thick diary that his ex-girlfriend, Spec. Jessica Williams, a reservist, sent him from the United States.

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"I am currently in Iraq, my tour is half way over," he wrote in June. "When we first got to Iraq I lost three friends in the first month: Gooding, Knox and Lake. Gooding and I were pretty chill. He told me how he met his wife and mostly how much he loved her. He was also the funniest guy I have ever met. He would always say, 'foreeeal.' "

Even as the scorching summer heated up, Tickal, a bespectacled 23-year-old who studied biology at the University of Central Florida before joining the Army, frequently began his entries: "Today is a beautiful day." A self-described "dreamer" he punctuated passages with smiley faces or frowning faces; on one page he sketched a picture of Garfield, the cartoon cat, firing an M-4 assault rifle from the turret of a Humvee.

Tickal described himself as apolitical: "Truthfully, I don't care who the president is. I would have signed up to come over here anyway." But he criticized the apathy of Americans who, he wrote, failed to understand the stakes in Iraq: "I hope people back home understand what we are doing, keeping our country free. Truthfully I think our country needs a kick in the ass. Most people believe it doesn't affect them. Who cares? Well, I CARE."

Tickal worried that he "could die any day." On July 4, he described a phone conversation in which Williams "asked me what my biggest fears are. I never told her but I imagine a car bomb going off all the time. People screaming in my dreams."

"If I was a cat I would be down to maybe 2 lives left, I hope," he wrote six days later. "There is no way I am going to die in a place like this."Growing Frustration

By July, Blue Platoon was increasingly under attack.

The frequency of indirect fire -- mortars and rockets fired at Camp Paliwoda -- had diminished significantly. But the number of roadside bombs, which have accounted for about 26 percent of the nearly 1,900 deaths of U.S. military personnel in Iraq, had more than doubled, to nearly two a day, within the battalion's 20-by-15-mile area of operation.

Many of the attacks were concentrated in al-Ruashid, a Sunni tribal neighborhood northwest of Balad. The insurgents seemed to operate invisibly amid the orchards. The locus was a one-lane road known as the Isaki Highway, its asphalt surface pocked with an obstacle course of bomb craters.

Tickal's diary reflected the growing tension, the platoon's exhaustion and frustration. "The day is half way over. It's about 136 degrees out," he wrote on July 29. "This morning seemed to disappear. The heat kind of puts you to sleep."

On Aug. 5, the platoon was hit by a roadside bomb on the way back from picking up a commander, who was returning from leave in the United States. "I told the captain, Welcome home,' " wrote Tickal. Using a racial epithet, he wrote, "I am getting tired of getting bombed and not catching" them.

On Aug. 6, Charlie Company's "Red Platoon" captured some insurgents with an artillery round. "That make me feel really great when we catch these jerkoffs," Tickal wrote. "They think they can get away w/anything. The thing is that it could be anyone. Everyone is poor in this country and I don't blame them. If I was poor I would take a few thousand dollars to place a road bomb. Man, I hate these insurgents."

On Aug. 7, the company's "White Platoon" was "hit by an IED for the 6th time in 2 days," Tickal wrote. "This time Big Will got hit. His whole right leg was hit by shrapnel."

By Aug. 10, it was "full out war," Tickal wrote. White Platoon was attacked by two roadside bombs and rocket-propelled grenades, wounding two soldiers. When Blue Platoon arrived to assist, the soldiers came under small-arms fire. "I kept on hearing, pew, pew, pew," Tickal wrote. "Taylor my gunner started unloading amo can after amo can into the wood line. We ended up being there about 2 hours. The first hour was nothing but gunfire."

Each day, the platoon would seek out information to find the men who were attacking them. The soldiers acted on tips and stopped at random houses. They questioned nervous residents through masked translators who went by nicknames like "Fly" and "Steve" and struggled with English themselves.

The platoon did not expect much. Few residents offered information; some were openly hostile. On the morning of Aug. 24, the platoon dismounted and strolled through a neighborhood of modest homes and mud huts. The soldiers came upon a young farmer, Bassam Hazim Mohammed, 19, sitting in the shade beneath an arbor.

"He says he doesn't like coalition forces," the interpreter told the platoon.

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"I'm gonna tell him right now the fastest way to get rid of us: approve a constitution, stop shooting at us, and stop blowing stuff up," said 1st Lt. Lamarius Workman, 31, the platoon leader. As he spoke, a few Americans split off to search Mohammed's home.

"So, basically, the easiest way to get rid of us is to just fake like they like us, just fake it," implored Workman. "I'm serious. Just sacrifice a little pride and fake it for six months and you'll see we'll be gone in no time."Lyrics of Loneliness

As the grueling month wore on, Baker, the platoon sergeant and an accomplished trumpet player, recorded his latest song about Iraq with Anthony Blocker, 27, of Marietta, Ga., another platoon sergeant in Charlie Company.

The two men used a music software program and microphone, mixing the songs on a laptop computer in a tiny wooden studio that Blocker built in his room. Baker wrote songs about the three drowned soldiers, the platoon's desolate base, the isolation of being away from family. "If it feels like I'm gonna cry a little bit, then I know it's good," he said.

Baker called this latest song, "August." Its haunting melody was set against lyrics that spoke of loneliness and resilience during endless separation:

A year long
A year gone
Is so damn long
Baby, hold on
It won't be long
Till I come home
There's been ups
There's been downs
We stay strong
Hold on
It won't be long
Till I come homeMidnight Attack

On Aug. 26, Blue Platoon went back on patrol at 8 p.m. It was the second patrol of the day; earlier that morning, the platoon had been shot at outside a mosque.

Dusk was fading as the soldiers made their way around the city, stopping to question residents, inspecting an Iraqi police checkpoint. The brutal afternoon heat broke, giving way to a soft summer night.

At 10:30, the four Humvees raced down the dangerous Isaki Highway. The platoon reached a shuttered white store at the end of the road, stopped to fix a jammed grenade launcher, then doubled back down the highway.

The convoy slowed to about 20 miles per hour and headed east, the vehicles' headlights cutting a path through the darkness. Every hundred yards or so, the Humvees swerved to avoid bomb craters in the asphalt road.

Baker, driving the lead vehicle, swerved right to avoid one of the three-foot-deep craters. Beside it, buried beneath the asphalt and unbeknownst to him, was another bomb. "I was just going around the hole and it blew," Baker said.

"The truck came off the ground, sir," he continued, recounting the incident the next day in his room. "It kind of lifted it up and set it back down on the ground."

"It felt like we were flying," said Fishbein, the gunner.

About 25 yards back, Young found himself driving toward an orange fireball. Rocks and huge chunks of the road smashed the windshield, spreading a web of cracks. Young jerked the Humvee to the right. "Stop! Stop!" yelled Hagood, who was seated in the passenger seat. The vehicle stopped in a ditch surrounded by tall grass.

The gunners shot illumination flares and lit up the night. Now, able to see across the orchards, the gunners opened a barrage of fire with their M-240 machine guns, hoping to kill the unseen insurgents who had detonated the bomb. The red-hot shell casings fell down into the Humvees; one landed on Smith, scorched him through his pants.

"Ow!" he screamed, swearing.

The soldiers became euphoric as they learned no one had been hurt.

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Inside the lead vehicle, Baker and Sgt. Ernest Daniels, of Harlem, N.Y., patted the dashboard, thanking the Humvee for protecting them.

"Good job, baby," Baker said.

"Yeah, baby," Daniels said. "Good job, good job."

Young backed the second Humvee out of the ditch and parked in the middle of the road.

"Thank God, whoever's praying for us," he said as the shooting subsided.

Once bomb experts arrived to inspect the site, the soldiers got out of their Humvees and walked over to the crater.

It stretched about six feet wide and three feet deep. Thousands of pieces of rubble were spread across the road. Next to the new crater was the old one that had been used as a decoy. Inside it was a battery bound with masking tape and attached to a thin copper wire.

Young, Hammer, Hagood and an explosives expert followed the wire across the road, along a wide dirt path. The wire ended abruptly after about 50 yards away, at another path that led back into the orchard.

The soldiers used flashlights at the end of their M-16 assault rifles to search the darkened fields. They scanned the tall grass between the bushy, 20-foot apple trees, warily sweeping their weapons.

"Something's moving right there," Hammer said, pointing his rifle. "I got my laser on it."

The soldiers pointed in unison. Lights and three red dots danced over the grass, which seemed to move.

"It's a rabbit," someone said finally.

The soldiers hiked over gullies and through the scrub before finally turning back to the vehicles.

The Humvees slowly headed back to the base, Baker's vehicle hobbling on a flat tire. Their headlights were dark; to see, the drivers used night vision goggles.

About 20 minutes later, the platoon arrived at Camp Paliwoda. The sign outside the gate displayed the American and Iraqi flags and read: "Partners in Peace, Balad, Iraq."

Once inside, Young began to sing the Army promotional jingle: "Be all you can be"

Two days later, at the onset of a morning patrol, Tickal pulled out his diary. "The sun is starting to rise," he wrote. "Thank you God for another day on this beautiful planet. Yesterday my humvee's windshields were being replaced. Thank goodness for bullet proof glass, huh?"

The State Of Iraq: An Update (NYT)

By Nina Kamp, Michael O'hanlon And Amy Unikewicz

The New York Times, September 9, 2005

It was not a good summer in Iraq. After the midwinter bright spots - reductions in violence, greater economic vitality, the famous purple fingers of voters - the situation worsened as the weather warmed. Most worrisome, the constitutional process has failed to bring aboard Sunni Arabs, who remain the core of the insurgency. While Shiites and Kurds wisely compromised on some key points, they favor an oil-allocation scheme that Sunnis fear could deprive them of their fair share of Iraq's natural wealth.

There is, as always, some good news. The government has made progress on managing inflation, rewriting banking laws and adopting strict budgetary rules to prevent deficit spending. Telephone and Internet use continue to increase; gross domestic product is greater than during Saddam Hussein's latter years in power; school enrollment is up 20 percent since 2000. And somewhere between one-tenth and one-fifth of Iraqi security forces are now fairly capable.

But on balance the indicators are troubling. Electricity production remains stuck at prewar levels even as demand soars, and the power is off in Baghdad more often than it is on. Unemployment is stubbornly high. Infant mortality rates are still among the Middle East's highest. And Iraq is the most violent country in the region, not only in terms of war casualties but of criminal murders as well. On one point at least, pessimists and optimists about Iraq tend to agree: the situation needs a major boost from the political process. In that light, the Oct. 15 referendum on the draft constitution looms very large.

New Orleans And Baghdad (NYT)

By Thomas L. Friedman

DOJ_NMG_0003786

The New York Times, September 9, 2005

Memo to: Iraq's Kurdish, Shiite and Sunni leaders.

From: An American friend.

Dear Sirs: As someone who really wishes you well, I am writing to give you my best sense of how the aftermath of Hurricane Katrina is going to affect the U.S. mission in Iraq. Let me begin with an analogy offered by Michael Mandelbaum, author of the forthcoming book "The Case for Goliath: How America Acts as the World's Government in the 21st Century." He points out: "The U.S. military presence in Iraq today is like the dikes and levees that were protecting New Orleans from the flood. The equivalent of the flood for Iraq is a civil war between Sunnis, Shiites and Kurds. The U.S. military right now is holding that back."

Therefore, the key question in Iraq is whether your constitutional process now unfolding can produce a power-sharing accord between Shiites, Sunnis and Kurds that can be a homegrown, self-sustaining dike against civil war, replacing the Americans. In the wake of Katrina, this is now an urgent question. No, we will not be pulling out tomorrow just because of Katrina, let alone before your December parliamentary elections. But after that, when we will be in a Congressional election year, who knows what pressures may build.

Why? Because most Democrats have opposed the war from the start, and many Republicans no longer support the war per se, but only George Bush. The president has carried this war on his shoulders, and the more he's weakened politically by Katrina, the less he will be able to carry. Yes, Mr. Bush has said we'll do whatever it takes to finish the job in Iraq, but he said that before there was another huge job to do.

Can you imagine if Mr. Bush had to go to Congress this week to ask for yet another $100 billion to keep fixing Iraq, when an entire U.S. city needs rebuilding? And the Katrina TV drama is not going away. Hell hath no fury like journalists with a compelling TV story where they get to be the heroes and the government the fools.

Now, as for your draft constitution, it is at one level a remarkable document - a rare example of the elected citizens of an Arab state having a horizontal dialogue and forging their own social contract. There is already more free politics in Iraq than anywhere else in the Arab world except Lebanon. But this draft constitution will come to life only if Iraqi Sunnis of good will publicly embrace it, and up to now they have not.

Some Sunnis are intimidated, others are posturing for the elections, and some are acting in bad faith, still fantasizing that their Baath Party will come to power again. But Sunnis of good will, and Iraq has many, can be brought around if the constitution creates a politically and economically viable central government, and doesn't pave the way for Kurdish and Shiite separatism, which would leave the Sunnis isolated in central Iraq without power or oil.

As Yitzhak Nakash, the Brandeis University expert on the Shiites, put it: "We need to see a form of federalism in Iraq that is uniting Iraqis, not dividing them - a form of federalism that gives Shiites, Sunnis and Kurds a degree of cultural and religious autonomy without compromising either Iraq's political unity or Baghdad's role as the locus of national politics. The draft constitution is not quite there yet."

I know how justifiably bitter the Shiites and the Kurds of Iraq are over what they have suffered at the hands of murderous Sunni Baathists and jihadist fascists. But it is in their interest and ours to see if we can nurture more Iraqi Sunnis who understand that their best future lies in working with a new Iraq, rather than trying to subvert it. Will Iraqi Sunnis, like the Palestinians, waste a generation trying to reverse history - and destroy themselves and Iraq in the process? Or will they accept the fact that they are a minority that can no longer rule all of a fascist Iraq, but can get its fair share of power and oil in a free Iraq? I don't know.

The only way to find out is to make them an offer they can't refuse. If there is a constitution basically supported by all the key parties, a decent outcome is still possible in Iraq. Yes, Mr. Bush says he intends to stay the course there no matter what, but without a constitution embraced by all three communities, there will be no course to stay. The pressure on us to leave will only grow.

And if the dikes of stability that U.S. soldiers are holding together in Iraq give way, well, you all will envy the people of New Orleans. Most of them had somewhere to go when their floods hit. You and your neighbors will not.

Saddam Aide Hired Camelot Attorney To Bribe U.N. Staff (NYSUN)

By Benny Avni

DOJ_NMG_0003787

New York Sun, September 9, 2005

UNITED NATIONS - A Democratic Party icon of the Kennedy days, Theodore Sorensen, was hired in 1993 by an agent of Saddam Hussein, Samir Vincent, to influence top Turtle Bay officials, according to Wednesday's Volcker report on the U.N. oil-for-food program. Vincent and his Korean partner, Tongsun Park, also financed an American pro-U.N. organization known as UNA-USA with Taiwanese money.

In the spring of 1993, Vincent, who has since pleaded guilty in a federal court to charges of acting as an unregistered agent for the Iraqi government, "sought legal advice" from Mr. Sorensen, according to the Volcker report. Attempting "to obtain an agreement between the United Nations and Iraq," Mr. Vincent retained the services of Mr. Sorensen, who is described in the report as "a New York attorney and former special council and adviser to the United States President John F. Kennedy."

The famed attorney was still basking in the glow of Camelot when he was hired by the Iraqi dictator's agent to shape what ultimately became oil for food. Launched officially in 1996, the program grew into a cash cow for Saddam, fraught with bribery and corruption, according to the U.N-authorized Independent Inquiry Committee's report. Mr. Sorensen was hired in the spring of 1993 for an undisclosed sum "to provide advice on how a 'plan of compliance' could be proposed to the United Nations between the two parties," the report says.

In the spring of 1993, as Mr. Sorensen was put on Saddam's payroll by Mr. Vincent - an undeclared foreign agent - the attorney's wife, Gillian Sorensen, was hired by then-Secretary-General Boutros-Ghali as his special adviser for public policy, according to a biography of her posted on the United Nations Foundation Web site. Ms. Sorensen has been involved in U.N. affairs ever since, and today is a senior adviser and national advocate at the U.N. Foundation, a pro-Turtle Bay organization founded by Ted Turner.

Ms. Sorensen is also involved in Democratic Party foreign policy circles, and was among a small group of Democratic "Friends of Annan" who last year gathered at the Manhattan apartment of a former U.N. ambassador Richard Holbrooke, to try to reshape Secretary-General Annan's agenda and save his job as he was criticized for his possible missteps in oil for food.

"There was no connection whatsoever" between her husband's work for Mr. Vincent and hers for being hired at the same time by Mr. Boutros-Ghali, Mrs. Sorensen told The New York Sun yesterday.

Mr. Vincent, who has been cooperating with the federal prosecutor for the Southern District of New York since pleading guilty, is said by the Volcker report to have solicited millions of dollars from the Saddam regime to target officials, including Mr. Boutros-Ghali, for bribery. Mr. Volcker told the Sun at a Wednesday press conference that the investigation regarding Mr. Boutros-Ghali is "ongoing."

Another man who was recruited for the bribery scheme, according to the Volcker committee, was the North Korean-born Mr. Park, who was at the center of a Washington influence-peddling scandal in the 1970s, and who was indicted this year for his part in the attempt to bribe top U.N. officials on behalf of Saddam. Already known for his involvement in the Washington scandal known as "Koreagate," Mr. Park, according to the new Volcker report, assisted Mr. Boutros-Ghali in 1993 and 1994 in raising funds for the 50th anniversary of the United Nations.

A company controlled by Mr. Park, according to the Volcker report, arranged a $4 million contribution to a Washington-based U.N. advocacy group, the United Nations Association of the United States of America. The contribution went through a Taiwanese entity known as the Chinese National Association of Industry and Commerce. The Volcker report stresses that although Mr. Boutros-Ghali knew Mr. Park was a Taiwanese lobbyist, he said he was not aware of the donation from Taiwan.

UNA-USA yesterday issued a statement welcoming the release of the Volcker report, using many talking points used in the last 48 hours by U.N. spokesmen, including support for Mr. Annan and calls for reform at Turtle Bay. The UNA-USA statement does not address Mr. Volcker's findings about the organization itself, and the questions it raises, including whether, as a non-for-profit organization, it listed Taiwan - a nonmember of the U.N. - as one of its donors.

An organization spokeswoman, in fact, first heard of the reference to UNA-USA in the Volcker report from a reporter. "We have no comment at this time," Director of Communications Peggy Atherlay told the Sun, adding that the $4 million donation was received when the organization was under a previous administration, and that it is now seeking answers.

Oil For Food As Usual (WSJ)

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The Wall Street Journal, September 9, 2005

"The scandal, quote, unquote, is, in my view, nonsense." Thus did Denis Halliday, a former United Nations Assistant Secretary General, opine in November 2004 on the U.N.'s Oil for Food program. With the release Wednesday of Paul Volcker's fourth report on Oil for Food, we have the clearest account yet of what this quote-unquote scandal is really about.

Let's begin with what this scandal is not about, at least not fundamentally. It is not about the dubious business practices of the Swiss Inspections company Cotecna, which was improperly awarded a multimillion-dollar Oil for Food contract while employing Secretary General Kofi Annan's son Kojo, although this taught us something about the nepotism that typifies U.N. dealings. Nor is it about Kofi Annan's personal probity, which had been called into question by evidence that he was aware of, and tried to influence, the Cotecna bid. Mr. Volcker has found no conclusive proof on this score.

In other words, Oil for Food is not about some isolated incidents of perceived or actual wrongdoing during the course of a seven-year effort to maintain sanctions on Iraq, monitor its oil flows and feed its people. Oil for Food is a story about what the U.N. is. And our conclusion from reading the 847-page report is that the U.N. is Oil for Food. * * *

To better understand the scandal, it helps to distinguish its political and managerial components. Responsibility for administering the program fell primarily to the U.N. Secretariat, which established the Office of Iraq Program (OIP) under the direction of Benon Sevan.

But the program itself was designed by members of the U.N. Security Council following protracted negotiations with the government of Saddam Hussein. It was the Security Council, for example, that approved Saddam's right to choose the companies, contractors and middlemen with whom Iraq would do business, and through which the entire program was corrupted. The Security Council also ran its own supervisory "661 Committee," named after the 1990 Security Council resolution that imposed sanctions on Iraq following its invasion of Kuwait.

The result of this bifurcated structure was that real responsibility for overseeing Oil for Food fell between two stools -- and into the lap of Mr. Sevan and his staff. Mr. Volcker's previous reports tell us that Mr. Sevan was in the pay of the Iraqi government.

The current report adds to our knowledge of what the Iraqis got for their money. For example, Mr. Sevan and his staff failed to inform the Secretariat and the 661 Committee of the extent of Iraq's various kickback schemes -- involving as many as 2,500 companies -- and dismissed media reports about them as "groundless allegations, provocative suggestions and factual mistakes." Mr. Sevan also fought tooth-and-nail the Bush Administration's successful attempt to impose retroactive pricing standards on the sale of Iraqi oil, which helped curb some of Saddam's abuses.

However, part of the reason Mr. Sevan was able to get away with his malfeasance was that neither the Secretariat nor the 661 Committee showed any appetite to exercise their fiduciary obligations. Mr. Annan testified to the Committee that Mr. Sevan worked directly for the 661 Committee. Yet as the report acidly notes, "the difficulty with the Secretary-General's view is that he appointed Mr. Sevan and he created OIP in the first place." Maybe former Enron CEO Kenneth Lay should call Mr. Annan to testify as an expert witness at his trial.

Mr. Annan is also on record telling the Committee he viewed Oil for Food as "a very transparent operation." Yet as the report shows, Mr. Annan was himself complicit in covering up Iraqi violations of the sanctions regime. Specifically, Mr. Annan was aware of the kickback issue from at least February 2001, yet "the Secretary General's quarterly reports never mentioned the emerging problem." (See the report excerpt nearby.)

Why Mr. Annan chose to see no evil on Iraqi sanctions violations, much less use his bully pulpit to denounce it (as he later denounced the Iraq war as "illegal"), is an interesting question. Our sense is that the U.N. Secretariat as a whole took the view that the sanctions regime was immoral and that Saddam was within his rights to break free of it.

Whatever the case, the Secretariat had a more than willing partner in the 661 Committee, and for reasons that are more easily comprehended. Iraq regularly steered contracts to Security Council members it believed were friendly to its political interests. Russian companies, for instance, did $19 billion in oil deals with Iraq, and French companies sold Saddam $3 billion in humanitarian assistance (much of which, the report notes, was diverted for Iraqi military purposes).

It's no coincidence, comrade, that France and Russia, as well as China (which did its own thriving business with Saddam) consistently downplayed the kickback allegations and pushed to have the sanctions regime eased. Only the U.S. and Britain made any effort to monitor Oil for Food for fraud, although even these efforts were lackluster until the Bush Administration came

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to office. We should also note the U.S. was itself guilty of looking the other way when it came to Iraq's oil smuggling through allies Jordan and Turkey. * * *

So it was that the largest fraud ever recorded in history came about. Press reports often cite the overall size of Oil for Food at $60 billion, but Mr. Volcker's report makes clear that the real figure was in excess of $100 billion. From this, Saddam was able to derive $10.2 billion from illicit transactions. But the important point is that he was able to steer 10 times that sum toward his preferred clients in the service of his political aims.

None of this happened by accident. Mr. Volcker's report is replete with examples of incompetent U.N. oversight and tales of political wrangling among the permanent members of the Security Council. But the abiding fact is that it was the Western powers, not Saddam, who wanted Oil for Food at virtually any cost, because it offered the appearance of a meaningful policy in the absence of a real one, namely regime change. And it was the political convenience of this chimera that led the U.S. and the U.K. to tolerate, and the rest of the Security Council to feast on, the opportunities for corruption that were inscribed in the very nature of the program.

As for the U.N., it proved its worth to Saddam as the one hall of mirrors in which such shenanigans could take place. Yet even now we are told that "at least" Oil for Food fed the Iraqi people when they were on the edge of starvation, and this is accounted a U.N. success. That is false. Oil for Food offered a lifeline of cash and influence to a regime that was starving its people. The program did not corrupt the U.N. so much as exploit its essential nature. Now Mr. Annan wants to use this report as an endorsement of his "reform" proposals. Only at the U.N. could he dare to think he could get away with this.

The View From The 38th Floor (WSJ)

The Wall Street Journal, September 9, 2005

What follows is an excerpt from the latest report of Paul Volcker's Independent Inquiry Committee on the United Nations' Oil for Food program. Benon Sevan, the former director of the Office of Iraq Program (OIP) that oversaw Oil for Food, has been accused by the Committee of taking nearly $150,000 in bribes from Iraq. "The 38th Floor" refers to Secretary General Kofi Annan's offices at U.N. headquarters. The "661 Committee" was a U.N. Security Council body, outside of Mr. Annan's Secretariat, which helped oversee the Oil for Food program.

"When interviewed by the Committee, the Secretary General, the Deputy Secretary-General [Louise Frechette] and [Chief of Staff Iqbal] Riza each struggled to rationalize the role of the 38th Floor in overseeing OIP. Instead, they offered conflicting views of their own responsibilities as well the functions of Mr. Sevan vis-a-vis the program. These inconsistencies demonstrate a basic confusion within the highest offices of the Secretariat. . . .

"When interviewed by the Committee, the Secretary General insisted that the program was "a very transparent operation" -- "one of the most transparent programs [he has] seen" in terms of the process it required for reports to be made by the Secretariat to the Security Council. However, significant information was routinely withheld from the 661 Committee. Despite mounting evidence of a widespread kickback scheme, the Secretary General's quarterly reports never mentioned the emerging problem. . . .

"To be sure, the Secretary General and Deputy Secretary General were apparently not aware of the full scope of evidence that OIP had accumulated and, clearly, Mr. Sevan bears responsibility for withholding information. . . . But the Secretary-General and Deputy Secretary-General (and Mr. Riza) were aware of the kickback scheme at least as early as February 2001. The Secretary General discussed the kickback allegations and other sanctions violations with Mr. Sevan on numerous occasions. . . .

"In the final analysis, Mr. Sevan ran a $100 billion program with very little oversight from the supervisory authority that created his position and OIP. Through a combination of an unclear reporting structure, a lack of supervision by the 38th Floor, and a general unwillingness to recognize and address significant issues on the part of the Secretary General and Deputy Secretary General, Mr. Sevan had substantial autonomy to shape the program's direction. He failed to resist and challenge the Iraqi regime's rampant sanctions violations through which the regime diverted billions of dollars away from the humanitarian effort."

Taliban Kill 6 Afghan Police In Attack On Army Arms Depot (NYT)

By Carlotta Gall

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The New York Times, September 9, 2005

KABUL, Afghanistan, Sept. 8 - Taliban insurgents attacked an Afghan National Army weapons depot south of Kabul on Thursday, killing six Afghan policemen, the state Bakhtar news agency said. Two men suspected of being Taliban insurgents were killed in the firefight that ensued, and one was captured, Bakhtar reported, quoting the press office of the Interior Ministry.

The attack took place in Muqur, a district of Ghazni Province, south of Kabul, a spokesman for the ministry said.

Gunmen also attacked a parliamentary candidate in eastern Afghanistan. The candidate, Safia Siddiqui, a well-known figure and spokeswoman at the national constitutional convention in 2004, was campaigning in her native Nangarhar Province when she came under fire. She was not injured, but three of her supporters were wounded, Agence France-Presse reported.

International and Afghan security forces have tightened security in anticipation of the Sept. 18 elections, as the Taliban have increased attacks on candidates and government targets. Six candidates and four election workers have been killed recently, and government officials have warned that there may be more violence, in particular roadside bombs in the provinces and suicide bombs in the cities.

The violence on Thursday followed a report that a car laden with explosives had blown up Wednesday in southern Afghanistan, killing its two occupants. The local police said that the two were suspected of being suicide bombers and that their explosives had detonated early. A Taliban spokesman said that the group claimed responsibility and that the car bomb had been aimed at American forces.

"War On Terror" Saves Few Lives: Expert (REU-Y2)

By Maggie Fox, Health And Science Correspondent

Reuters, September 9, 2005

The U.S. "war on terror" is saving fewer lives than just spending the money on disease prevention and research, and has probably caused deaths by taking money away from basic services, an expert said on Thursday.

The accusation is not new, but Dr. Erica Frank of the Department of Family and Preventive Medicine at Emory University School of Medicine in Atlanta said she has calculated the cost, in terms of lives, of the Bush administration's terror policies.

"The most recent effects of these diversions of funding have been seen in the unfolding tragedy of Hurricane Katrina in New Orleans and the surrounding area," Frank wrote in a commentary published in the British Medical Journal.

"Governments must protect their citizens, and anticipating these possible future threats is appropriate and could prove essential to Americans' health."

Frank warned there is a threat that because of the U.S. government's policy, enormous numbers of Americans will die unnecessarily.

On September 11, 2001, 3,400 people died because of the four intentional plane crashes in New York, Washington and Pennsylvania. But 5,200 other Americans died that same day from common diseases, according to Frank.

To estimate how many Americans died of routine causes on September 11, Frank used national estimates of mortality from various causes.

"Predictable tragedies happen every day. We know strategies to reduce deaths from tobacco, alcohol, poor diet, unintentional injuries, and other predictable causes. And we know that millions of people will die unless we protect the population against these routine causes of death," she wrote.

Yet more money is spent to protect against deaths that are not likely to happen.

"For example, in September 2002, New York was awarded $1.3 million to reduce heart disease, the leading killer of New Yorkers, while $34 million was awarded for bioterrorism preparedness in the state," Frank added.

Proponents have argued that bioterror preparedness would build up the public health structure in general.

"If this is an improvement it sure is frightening to think what this might have looked like before," Frank said in a telephone interview.

She cited numerous reports showing the federal government cut spending to reinforce the levees built to protect New Orleans from the flood that has devastated the city.

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"Since the point of investing in counterterror is to protect American lives, the question is a dollar better spent in Iraq or is it better spent here?" she asked.

Our Enemy's Face (WP)

By Richard Holbrooke

The Washington Post, September 9, 2005

Let us take a hard look at some extremely important words: "the global war on terrorism." Since Sept. 11, this phrase -- often reduced in Washingtonese to "GWOT" -- has entered the English language, popularized by journalists and administration officials. It is the way our highest national priority is described by almost everyone.

But "GWOT" is not an accurate description of America's enemy or of what we are engaged in. Unless people know whom we are fighting, it will be virtually impossible to win the war of ideas that is such a key part of this struggle. The new undersecretary of state for public diplomacy, Karen Hughes, who is charged with primary responsibility for this part of the war, has a chance to fix the problem, but only if she is willing to change some deeply ingrained rhetoric and the political reasons behind it.

Stopping terrorists, using all necessary means, is vital in protecting the nation. We cannot win without the use of force and first-rate intelligence. But suicide bombers are merely the expendable, deluded cannon fodder of ruthless ideologues. This has been true with terrorists throughout history. The long-term battle is against the underlying ideas and leaders behind these specific groups of terrorists.

Despite factionalism and fierce doctrinal disputes, our enemies, broadly speaking, constitute a movement, with goals, gurus, ideologues, myths and martyrs. They share a core set of virulently anti-Western beliefs and have common goals: to destroy the moderate (and still majority) wing of Islam, to establish Islamist theocracies that look backward toward a mythic "golden age," to seek the destruction of Israel, and to inflict maximum damage and human suffering through acts of terrorism.

Among its leaders, there is one whose face is as internationally recognized today as Adolf Hitler's was in 1941. He was responsible for Sept. 11. Yet the United States has not made it a primary goal to expose Osama bin Laden as the monster he is, something Roosevelt and Winston Churchill did to Hitler, and American leadership did to communism during the Cold War by demonstrating its moral and intellectual bankruptcy. Bin Laden (unlike Saddam Hussein) has been virtually ignored in public by official Washington.

Terrorism is not an end in itself; it is a tactic, just as it has been for countless other movements throughout history that sought to destroy or paralyze the established order, or attract attention to their cause. Over two years ago, Zbigniew Brzezinski, among others, pointed out that a "war on terror" was like a "war on blitzkrieg" or a "war on war." For this important insight, the former national security adviser was both attacked and ignored. During the 2004 campaign, I stumbled into a public dispute with senior administration officials, including Vice President Cheney, when, as a John Kerry surrogate, I told a New York Times Magazine writer that the phrase could be considered a metaphor and compared it to phrases such as the "war on poverty." For this both Kerry and I were assailed as naive, and I was asked, in the sneering tones of certain cable television interviewers, if I really thought we were at war with a "metaphor."

Of course not. But despite the grand rhetoric, does anyone think the United States is actually fighting "terror" or "terrorism" globally? We may detest terrorism in Sri Lanka, but we are not engaged in that civil war. Nor in Nepal, northern Uganda, Aceh or countless places around the world.

By calling both Iraq and Sept. 11 part of the war on terrorism, the administration has been partially successful in linking public support for the less popular war in Iraq to the universally supported fight against al Qaeda, even though no convincing evidence has been produced connecting the two. No other explanation has proved as valuable in keeping Americans, albeit in declining numbers, behind our increasingly controversial involvement in Iraq. "GWOT," as Dan Froomkin wrote on The Post's Web site last month, is "the metaphor that has consistently been [President Bush's] most potent weapon in the battle for public opinion."

The struggle against violent extremism will continue, of course, long after bin Laden is eliminated by death or capture. It will be a long conflict, with casualties and high costs, just like the efforts against fascism and communism. But fundamentally this is a war of ideas, and a more aggressive, direct attack on those ideas, and the men behind them, is necessary.

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For starters, Osama bin Laden must be discredited, even if he remains at large. He is not, as some argue, irrelevant simply because his war will continue after he is gone (although, of course, it will). He remains a folk hero to millions of Muslims; youths wear T-shirts of him and children are named after him throughout the Muslim world. The United States should stop ignoring him and his henchmen; exposing them must become a top priority. He is a false prophet who incites mass murder, but he is clearly eloquent and charismatic. His ideas, no matter how insane they seem to us, appeal to many people. (Hitler had those qualities, too.)

Which brings us back to Karen Hughes. With her enormous bureaucratic clout, derived from her closeness with President Bush, the new undersecretary of state has a chance to make history. To do so, however, she must change some fundamental parts of our public message, and then devise better delivery systems for it -- precisely what she did so effectively for Bush during so many campaigns.

Hughes should begin by revisiting what her own boss said on Aug. 6, 2004, speaking without a text. "We actually misnamed the war on terror," the president said that day. "It ought to be the struggle against ideological extremists who do not believe in free societies, who happen to use terror as a weapon." He was, inexplicably, laughed at for this remark, and rapidly retreated to safer rhetorical terrain. More recently, when Defense Secretary Donald Rumsfeld tried to replace "GWOT" with the "global struggle against violent extremism" -- a somewhat more accurate phrase -- the president immediately overruled him and again linked GWOT closely to Iraq during a series of public appearances.

But the president got it right last year. Words matter, and we need better ones to explain to the world, and to ourselves, who the enemy is. How about making it simple and specific: something like "the war against Osama bin laden and his followers"? And then create an all-out, no-holds-barred campaign to expose, ridicule and destroy everything he and his ilk stand for -- murder, horror, intolerance, disrespect for human life and a false view of Islam.

Richard Holbrooke, an ambassador to the United Nations during the Clinton administration, writes a monthly column for The Post.

'They Are All So Wrong' (WSJ)

By Mark Helprin

The Wall Street Journal, September 9, 2005

September 11 was not so much a discrete event as part of a continuum. It was the result of broad strategic failures that, preceding it by decades, continue to this day and are likely to continue on. It is as if the country has lost, as exemplified by the Left now out of power, a great deal of the will to self-preservation, and, as exemplified by the Right now in charge, not a little of its capacity for self-defense. Our politics and policies have somehow been parceled out to opportunists like Michael Moore -- purveyor of conspiracy theories and hatreds, whose presentation, unclean in every respect, is honored nonetheless by the controlling rump of Democrats -- and to Bushmen like "Kip" Hawley of Homeland Security, father of the proposal to allow carry-on ice-picks, bows and arrows, and knives with blades up to five-inches long. * * *

For more than 20 years prior to September 11, Islamic terrorists imprisoned and murdered our diplomats and military personnel, destroyed our civil aviation, machine-gunned our civilians, razed our embassies, attacked an American warship and, in 1993, the U.S. itself. For varying reasons, none legitimate, we hesitated to mount an offensive against the terrorists' infrastructure, hunt them down, eliminate a single rogue regime that supported them, or properly disconcert our fatted allies whose robes they infested. This was comparable in its way to Munich. Only in 2001, when it became obvious to any rational being that we must, did we retaliate, but even then in the face of domestic pressure to judicialize the response, which was exactly what we had done all along.

The underlying corollary to this reflex of appeasement is the notion that our military options are constrained financially, as if we are not a nation of stupendous wealth and it has not been the American tradition since the Civil War to spend, in support of war, with the intensity of war itself. In 1945, we devoted 38.5% of GNP to defense, the equivalent of $4.76 trillion now. The current $400 billion defense budget is a twelfth of that and only 3.2% of GDP, as opposed to the average of 5.7% of GNP in the peacetime years between 1940 and 2000. A false sense of constraint has arisen in every quarter of society. It is the ethos of the

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administration, the press, the civilian side of the Pentagon, and many of the prominent uniformed military brought to high rank in recent years.

They are all so wrong. In violating established tradition and throwing aside advantage and elemental common sense, they waste American lives. And for what? What moral construction would allow anyone to spend more than 2,000 dead and tens of thousands of wounded in Iraq and Afghanistan -- so far -- while insisting without major exception that cutting costs is a virtue? When is holding back from one's troops at war the reinforcements, armor and basic equipment they need a virtue rather than a sin?

Is it not the duty of the secretary of defense, his chiefs, and the wide array of generals to press energetically -- even to the point of resignation -- for whatever is necessary (not the minimum, but a safe surplus) to support the armies in the field? If they do not, who will? Had the president gone to Congress on September 12 and asked for almost anything, he would have been granted it. But he never did. This was a fundamental strategic error. If you must go to war, do not do so hesitantly, with half a heart. And in answer to the rationale that the casualties of this war are relatively light, one does not decently measure casualties against those of previous wars, but in terms of whether they can be avoided.

Apart from the paucity of armored vehicles, body armor, and other staples of battle, the chief problem of prosecuting the Iraq war has been the size and scale of the force. Despite inaccurate claims of unprecedented speed in the advance to Baghdad, the three weeks of halting action it took to get there, with lines of supply that are to this day poorly protected, were both spur and instruction for the insurgency. In what is only apparently a paradox, the military objective should have been less the conquest of territory and echelons than of morale, and, to accomplish this, territory and echelons would have to have been subdued with the blinding speed, shock and awe of the Six-Day and Gulf wars. The instant the Arab world realized that the promised shock and awe had not materialized, the insurgency was born.

We then nurtured it by deploying a fraction of the ratio (10:1) long experience indicates is necessary for suppression; by dismissing the enemy as mere "thugs," when, although they are thugs and worse, they have the thousand-year motivation of their civilization defending its heartland from Persians, Mongols, Shiites, and now Christians; and by gratuitously elevating our aims from the purely defensive to the transcendental, while steadily diluting the little power we have in the hope of forcing the entire Arab and Muslim worlds to a new politics. From a country where they have been held down in their beleaguered enclaves for two-and-a-half years, how are 140,000 soldiers to transform the highly aggressive and deeply rooted political cultures of 1.2 billion people? * * *

Ceaselessly, we court strategic error. At the end of the Cold War, assuming that history had concluded, we discarded too much military power. This continues through the present, rationalized by reference to transformation. But it is yet further error to believe that military-technical evolution can make up for the kind of deficiencies and poor strategic judgments from which no machine can save an army. Continual and remarkable innovation is both indispensable and expensive, but President Clinton required budgetary choice between innovation and everything else, and his successor has yet to disagree. The root of the error that offers transformation as a substitute for so much that is crucial is the conviction that having both would exceed reasonable military expenditures and somehow break the common weal.

Having made many wrong choices, we find ourselves at yet another strategic crossroads, where invisibly to the general public we are about to choose wrongly again. We are reshaping the military into a gendarmerie, configured for small wars, counterinsurgency, peacekeeping and nation-building, all at the expense of the type of force that could deter or defeat a rising China. Although we need a gendarmerie, we cannot do without heavy formations and the many additional ships required for a navy -- now less than half the size of the Reagan fleet and shrinking -- to exploit our natural advantage in the Pacific.

The U.S. will chase every terrorist mouse (which is good, unless it means also neglecting the core competencies of the armed forces), while lessening and dispersing its power, and moving from previous centers of gravity (Europe, the Western Pacific) to Africa, Central Asia and the Middle East. This will create a long and open alley through which China will run. Among other things, by placing markers in every trouble spot, we will probably be tied down and distracted, taxingly and often, to our enemies' delight.

When China completes its run up the broad alley we have afforded it, it will much sooner be the other pole in a once-again bipolar world, which will create the opportunity for terrorists in the guise of liberation movements to gather under its wing, as they

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did with the Soviet Bloc during the Cold War. Ironically, in reconfiguring the military to focus primarily on terrorism, we may not only give China a great opening, but create for the terrorists a new lease on life.

The war in Iraq has been poorly planned and executed from the beginning, and now, like a hurricane over warm water, the insurgency is in a position to take immense energy from the fundamental divisions in that nation. The rise of Chinese military power, although lately noted, has met with no response. America's borders are open, its cities vulnerable, its civil defense nonexistent, its armies stretched thin. We have taken only deeply inadequate steps to prepare for and forestall a viral pandemic that by the testimony of experts is a high probability and could kill scores of millions in this country alone. That we do not see relatively simple and necessary courses of action, and are not led and inspired to them, represents a catastrophic failure of leadership that bridges party lines.

Perhaps this and previous administrations have had an effective policy just too difficult to comprehend because they have ingeniously sheltered it under the pretense of their incompetence. But failing that, the legacy of this generation's presidents will be promiscuous declarations and alliances, badly defined war aims, opportunities inexplicably forgone, ill-supported troops sent into the field, a country at risk without adequate civil protections, and a military shaped to fight neither the last war nor this one nor the next.

Mr. Helprin, a Journal contributing editor, is Senior Fellow of the Claremont Institute and Distinguished Visiting Fellow of Hillsdale College. He is the author, most recently, of "Freddy and Fredericka" (Penguin, 2005).

9/11 Recruits: They Enlisted When USA Was Under Fire (USAT)

By Rick Hampson

USA Today, September 9, 2005

One year ago, Cpl. Kevin Mincio stood before his platoon at an Army base in the Iraqi desert and tried to explain why a 31-year-old Goldman Sachs vice president had upped and enlisted in the infantry.

The short answer: 9/11.

“Three years ago,” he began, reading what he'd written down, “I stood in disbelief on the corner of Liberty and Church streets and watched as just a half a block away, a Boeing 767 flew into the south tower of the World Trade Center.”

Mincio was an unusual recruit in more than age and background. Contrary to popular belief, there never was an upsurge in military enlistments as a result of the attacks that killed almost 3,000 people four years ago.

But in a time of retreat and collapse, when Americans were urged to maintain their routines and get on with their lives, a few people stepped forward and did just the opposite. Although statistically insignificant, they epitomized a raw patriotism that bolstered the nation's spirit in the bleakest days since Pearl Harbor.

They were people like Kevin Mincio, people for whom the military has no exact count — the 9/11 recruits.

Four years later, USA TODAY spoke with about two dozen 9/11 recruits or their relatives. Most are still in active service or the reserves. Some are in Iraq or Afghanistan. A few never made it into the service. A few have been discharged. A few have been killed.

Most of the 9/11 recruits say they did the right thing and would do it again. They largely defend the war in Iraq but are far more enthusiastic in their support for the troops. Because many remain in the service, however, it's hard to know how free they feel to speak.

Many see a link between the Sept. 11, 2001, attacks and the war in Iraq, although there is little evidence of ties between Saddam Hussein and al-Qaeda.

Above all, they say they're better for having served — that they grew personally through their military experiences. “You learn not to take for granted what we have in this country,” says Mincio, who spent a year in Iraq. “And you learn to handle pressure.”

The most famous 9/11 recruit was Pat Tillman, the NFL star who gave up a big contract to join the Army and was killed by friendly fire in Afghanistan.

But there were others.

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Mincio, who worked next door to the Trade Center, gave up his six-figure income, boat and beachfront house. He wound up in Iraq, where for a time he lived in his Army vehicle, showered once a week and dodged mortar fire. Why did he do it? Partly to do something different, to get out from behind a desk. Partly to do something about the crime he witnessed.

Mincio wasn't the only 9/11 recruit who was galvanized by a personal connection that Tuesday morning.

In Manheim, Pa., Patrick Troccoli, a financial-planning intern, was on the phone with his cousin in Brooklyn, who said he could hear the roar of the jetliners and the rumble of the towers collapsing.

In Hempstead, N.Y., Tom Duffy was visiting a friend at Hofstra University whose high-rise dorm room had a view of the smoke rising from lower Manhattan.

In Washington, PricewaterhouseCoopers senior associate Kyle Conley was driving to work over the Theodore Roosevelt Bridge when he saw black smoke rising from the Pentagon.

Until that day, Duffy was planning a career in law enforcement. Conley, married with a young child, had just begun training to swim the English Channel. Troccoli didn't even believe in the military. Within the month, each decided to enlist.

Some didn't even wait that long. On the day after, Sept. 12:

•Actor Sean Huze walked into the Marine recruiter's office at Sunset and La Brea in Los Angeles, expecting a line. Instead, he was the only one there. He signed up on the spot.

•Josh Hyland, who already had completed a four-year hitch in the Army as an enlisted man, signed up for ROTC at the University of Montana, where he was working on a degree in business. “He wanted to make a difference in the world,” his mother would recall. “He was excited about it.”

•Jim O'Shaughnessy, a philosophy major at John Carroll University in Cleveland, had been going summers to officer candidate school. But after 9/11, he decided not to wait and enlisted as a private in the Marines.

He told a Cleveland Plain Dealer reporter at the recruiting office he was “sick to my stomach angry. … If they need people now, this would be the time to go. I just didn't want to look back when I was 50 and everybody else did their share and I didn't.”

Over the next week and month, as Americans discussed how much life had or hadn't changed, 9/11 recruits made life-altering decisions.

Steven Gill of Round Rock, Texas, was so intent on signing up that his parents had to persuade him to finish the semester at Concordia University in Austin, where he was studying to be a youth minister before enlisting in the Marine reserve.

Bryan Hancock of Lebanon, Ohio, a former paratrooper, made two big decisions within 72 hours of the attacks: to re-enter the Army and to marry his girlfriend so she and their month-old son would be provided for. They married that Friday; the groom wore army boots.

Chris Petite of Lake Arrowhead, Calif., took the attacks personally — he was a volunteer firefighter, and his girlfriend's aunt was an American Airlines flight attendant. He enlisted a month to the day after the attacks, saying that the war on terrorism “is too big for me not to get involved in.” The first thing his father, an Air Force officer during Vietnam, knew about it was when Chris came home and told him, “I joined.”

They were brave, they were altruistic, and they were aberrations. In the weeks after 9/11 military recruiters got more calls, more visits, more website hits, but the upsurge in enlistments was an urban myth.

Many who volunteered were too old — the Kentucky National Guard got a call from a 48-year-old teacher. Others were disabled or unbalanced or unqualified. Jonathan Ridlin volunteered at the Marine recruiting station in Pasadena, Calf.; he was rejected because of a charge of driving under the influence.

For some, 9/11 was not the only motivation. Some already had been thinking about military service, often for the usual reasons — to learn a skill or earn college money. They were waiting to jump; the attacks just gave them a push.

Dan Greeley was a freshman at the State University of New York at Albany. On 9/11 he had an uncle in Rescue One, a New York Fire Department company in Manhattan. His uncle survived, but two other firefighters whom he knew did not.

Later that month, Greeley enlisted in the Marines. But it wasn't only the attacks, he admits: “I was bored in school.”

Today, the 9/11 recruits are scattered across the country and the globe. Duffy, who saw smoke that morning from the dorm room, will leave the Air Force this year and go into business with his brother back home in New Jersey. Troccoli is still in the Navy, waiting for his first overseas posting. Conley, who served seven months in Iraq in 2003, is back at PricewaterhouseCoopers.

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O'Shaughnessy, the philosophy major, served seven months in Afghanistan last year. Now he's the Marine recruiter in Wheeling, W.Va. He's nostalgic about the days after 9/11: "There was just blanket 'Go, America' patriotism. Now, there's not as strong a belief that what we're doing is right anymore."

Hyland, the Montana Army veteran who joined ROTC, got his officer's commission and went to Afghanistan in March. He was killed last month when a bomb exploded under a bridge his convoy was crossing.

Petite, the volunteer fireman from California, is with the Marines in Iraq.

In an e-mail, he writes that enlisting "was the best thing to do. Looking back on it now, out here in Iraq, I find a new reason every day. Mostly for my nephews, so that they don't have to grow up in a world filled with people hell bent on destroying everything that the U.S. stands for."

Hancock, the ex-paratrooper who got married as a prelude to re-enlisting, was eventually rejected because of back problems. He's a state prison guard in Ohio.

Gill, the future youth minister, was killed July 23 in Iraq when an improvised explosive went off during an operation near Zaidon. He was 24 and had been in the country since March.

Greeley, the bored college student, has completed two tours in Iraq. He says 9/11 gives meaning to those who fight there.

Mincio was discharged from the Army in May, two months after appearing with the secretary of the Army at a congressional appropriations hearing. He has a new job in Seattle, where he lives with his wife. He's not moving back to New York. He won't comment on the wisdom of the war in Iraq, other than to say: "There are a lot of soldiers over there trying to do the right thing. I'm with all those soldiers."

He stands by what he told his platoon one year ago. He's still trying to understand 9/11 and its role in where he is today:

"I am not proud of everything I have done since then, but I am proud to be amongst people who have done something, people who care about our way of life. People who haven't forgotten."

N.Y. Judge Who Abandoned His Post For Iraq Is Removed (LAW)

By John Caher, New York Law Journal

Law.com, September 9, 2005

For the first time in its history, the New York State Commission on Judicial Conduct has disciplined a judge for flat-out failing to do his job.

In a determination released Thursday, the commission called for the removal of North Hudson Town Justice Glenn T. Fiore of Essex County, who abandoned his judicial position to take a yearlong position as a truck driver in Iraq.

Justice Fiore continued to draw his $10,000 a year judicial salary, leaving North Hudson, where he was elected, without a town judge. The town had to pay a neighboring judge to handle matters within its borders while Justice Fiore worked for a private subsidiary of the Halliburton Corp.

Records show that Fiore returned from Iraq after four months, indicating that he was giving up his private position to resume his judicial duties. However, he did not resume his position and ultimately resigned under pressure last month for what he said were patriotic reasons.

"It is with great satisfaction that I am resigning my elected position of Town Justice," he wrote in a letter to the North Hudson Town Board. He said in the letter that the board, by complaining of his absence, had "revealed its true nature and color." He expressed a preference to "serve the boots on the ground" rather than his constituents.

"You people use words like honor, integrity, independence while the people I work with embody those very words," Fiore wrote. "Have any of you done anything for your country lately? I bet not. Thank GOD we don't have people like you defending this nation. ... Sleep well, the true Patriots are protecting you."

Commission Administrator Robert H. Tembeckjian said the matter has nothing to do with patriotism or the war in Iraq.

"It is simply about a judge who abandoned his post for paid private employment overseas, leaving his town without a judge, while still collecting his judicial salary," Tembeckjian said.

Tembeckjian said the commission has never before taken action against a judge for neglecting to show up for work.

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The commission, in its determination, noted that the state Constitution empowers the panel to discipline a judge for "persistent failure to perform his duties." Additionally, it said §100.3(A) of the Rules Governing Judicial Conduct require that the judicial duties of a judge take precedence over other interests.

"Respondent's flagrant, voluntary abandonment of his judicial position in order to pursue other employment requires the sanction of removal," the commission said in a 10-0 determination.

The panel noted that Justice Fiore apparently planned to have his son, who was also his clerk, cover for him and to perform judicial duties when the judge was home on vacation. However, he apparently never sought an ethics opinion or court administration approval of that plan.

"It would appear that his motive was to draw two salaries, one as a judge and the other as a [civilian] employee in Iraq," the commission said. "His conduct is inexcusable and in no way justified by his professed patriotism or support of the war effort."

Under the order, Fiore is barred from holding judicial office in the future.

Fiore was censured in 1998 for claiming on campaign literature that he was the "senior associate" at a law firm, Muller & Muller in Glens Falls. Actually, Justice Fiore was licensed to represent clients before the Workers' Compensation Board and permitted to represent individuals before the Social Security Administration. He is not licensed to practice law.

John T. Wilkins of Wilkins & Griffin in Lake Placid represented Fiore, but did not appear at oral argument before the commission. Appearing for the commission were staff attorneys Cathleen S. Cenci and Kathryn J. Blake.

Panel Says N.Y. Judge Should Be Removed (FINDLAW/AP)

By Mark Johnson, Associated Press Writer

Find Law, September 9, 2005

(AP) - ALBANY, N.Y.-A town justice who abandoned his part-time post, but not his paycheck, to take a job in Iraq should be removed from office, a judicial commission said Thursday.

The New York State Commission on Judicial Conduct said Judge Glenn Fiore's flagrant abandonment of his position requires the sanction of removal because ethical rules require a judge to put his judicial duties over all other activities.

Fiore, 54, said he would not appeal the ruling.

In March, he took a one-year job in Iraq driving a truck for Kellogg, Brown & Root Services Inc.

He didn't give the town of North Hudson, 90 miles north of Albany, any notice that he was leaving. Instead, he left his son in place as court clerk to cover for him and planned to render decisions when he returned.

Because of Fiore's absence from his $10,000 a year post, the town had to secure the services of a judge from another town at additional expense, according to the commission's ruling.

Fiore returned after four months and told the commission in an affidavit that he had resigned from his Iraq job and was ready to resume his court duties. Three weeks later he resigned his judgeship.

A resignation does not stop the commission from acting on conduct cases. Any recommendation or penalty can be used in the future should a person decide to pursue public office again.

Fiore said Thursday that he took the job in Iraq because he went out of business as an independent truck driver and needed to pay some bills. Fiore, who served in the Marines in Vietnam, said he also headed to Iraq out of a sense of patriotism.

CORPORATE SCANDALS:

Skilling, Lay Allege Case Misconduct (AP)

By KRISTEN HAYS, AP Business Writer

AP, September 8, 2005

HOUSTON (AP) - Lawyers for Enron Corp. founder Kenneth Lay and former CEO Jeffrey Skilling say "deliberate, systematic prosecutorial misconduct" has choked their efforts to prepare for trial in January.

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Lay, Skilling and the third defendant in their case, former top Enron accountant Richard Causey, say obvious or veiled threats from prosecutors that dozens of witnesses may be indicted or, if they have pleaded guilty to crimes, face harsh prison sentences if they talk to the former executives has shut off critical information sources.

Daniel Petrocelli, Skilling's lead trial lawyer, said the defense teams have whittled that list to 38 particularly crucial witnesses who have consistently refused to talk to them.

Lay's lawyer, Michael Ramsey, told U.S. District Judge Sim Lake in a hearing Thursday that the defense teams have seen a "pervasive freeze-up of witnesses," though he acknowledged out of court that it was possible at least some just don't want to help his client or the others.

The trio wants to dismiss the sprawling case against them on grounds that the Justice Department's Enron Task Force "has engaged in deliberate, systematic prosecutorial misconduct that has irreparably harmed defendants' ability to prepare for trial," according to a court filing made public this week.

But while awaiting Lake's ruling on that request, the trio wants the judge to compel those witnesses to appear in court later this month so Lake can assure them that they can talk to the defendants about the case and testify on their behalf without fear of government reprisal.

Lake said Thursday that such a move could embarrass potential witnesses forced to appear in open court and therefore be counterproductive. He said instead he would send letters to attorneys for the 38 witnesses reiterating that they are free to talk to the defense teams without fear.

Petrocelli said he didn't think the letters would help, particularly since the defense lawyers had sent witnesses a copy of Lake's May order advising witnesses that they could meet with one or more defendants and their lawyers with no worries of government repercussions.

Instead, he said Lake could order prosecutors to require those witnesses to talk to the defense teams. Lake declined.

Sean Berkowitz, head of the task force, insisted that prosecutors do not want to block anyone from talking to the defense teams.

"The government does not want any witness to not speak to the defense out of fear of retribution from the United States," he said.

At a status hearing last week, Lake told attorneys on both sides that he would do what he could to help the defendants gain access to witnesses so they could adequately prepare for trial. The judge told prosecutors last week he wasn't acknowledging that any such misconduct had taken place, but he wanted to help facilitate trial preparations to preclude any possible requests to postpone the Jan. 17 trial.

Skilling and Causey are charged with more than 30 counts of fraud, conspiracy, insider trading and other charges stemming from various alleged schemes over several years to fool investors into believing Enron was a financially solid growth machine. The government alleges in the 11 conspiracy and fraud counts against Lay that he took over the ruse after Skilling abruptly resigned in August 2001 until Enron spiraled into bankruptcy in December that year. All three pleaded innocent.

Local Lawyer Charged In Currency Trading Scheme (PALMBEACHP)

By David Sedore, Palm Beach Post Staff Writer

Palm Beach Post (FL), September 8, 2005

A federal grand jury in Cleveland has indicted a Palm Beach County securities lawyer on charges of securities fraud in connection with a $14 million currency trading scheme.

The indictment, dated Sept. 1, alleges that Delmer C. Gowing III, 61, of Ocean Ridge helped a Cleveland-based brokerage, Capital Markets Trading Group, convince 10 investors that they could earn yields as high as 20 percent a month through a currency trading deal Capital Markets claimed it had with insurance giant AIG. That arrangement didn't exist, and most of the millions invested four years ago was either lost in trades or allegedly pocketed by Capital Markets' principals, including Gowing.

Gowing, arrested Friday by U.S. marshals, was released Monday from the Palm Beach County Jail on $100,000 bond. He faces a trial in federal court in Cleveland. A call Wednesday to the U.S. attorney's office in Cleveland wasn't returned.

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Gowing's attorney, Gary Eric Susser of Boynton Beach, said his client is innocent and denies that he had an active role in the scheme other than acting as the lawyer for Capital Markets.

"When a lawyer's client does bad things, sometime the lawyer gets sucked into it," Susser said.

According to the indictment, Capital Markets began soliciting money in early 2000 from investors by claiming it had an arrangement to trade foreign currencies through AIG, one of the largest insurers in the world.

But the indictment alleges that no such arrangement existed. Instead, Capital Markets wired the money to an Irish company called Magenta Forex Corp. Ltd., which did the trading and produced "substantial losses" that weren't disclosed to investors.

Capital Markets returned some money to investors, claiming it was their profits from successful trades, while soliciting more of their money.

The alleged scheme came to an end in 2001 when Capital Markets told the investors that their money had been stolen by a third party.

One investor, Carolyn Cline, a plastic surgeon from San Francisco who now lives in Long Boat Key, gave Capital Markets $10.6 million. Last year, Cline sued Gowing and others, accusing them of defrauding her. Susser, Gowing's attorney, blames that ongoing suit for Gowing's indictment.

"This case arises out of one person," Susser said. "I'm convinced that the criminal justice system is being used as a collection agency."

Gowing, well-known in the Palm Beach County legal community as a securities lawyer, moved to the county from Bloomfield Hills, Mich., in the late 1980s.

He worked for two large Michigan-based law firms here before forming a securities law firm with partner Lloyd Schwed in West Palm Beach.

That firm fell apart in 1997 when Schwed won arbitration awards totaling $1 million in back pay for four brokers who were stiffed by their former employer, D. Blech & Co. of Boca Raton, which was under investigation by the Securities and Exchange Commission. Schwed got caught trying to leverage some allegedly incriminating tape recordings into payment for his clients.

CRIMINAL LAW:

Boeing Could Avoid Prosecution, Pay Up To $500 Million To U.S. (WSJ)

By Andy Pasztor And Anne Marie Squeo, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 9, 2005

The Justice Department and Boeing Co. are negotiating a settlement in which the company could be required to pay up to $500 million but would avoid prosecution in two federal probes, said people familiar with the details.

The settlement would resolve allegations that Boeing improperly acquired thousands of pages of Lockheed Martin Corp.'s proprietary documents dealing with rocket programs, and illegally recruited a senior Air Force official while she still had oversight of billions of dollars in other Boeing contracts.

Talks are continuing and details could change, these people said, with a final agreement expected to take at least several more weeks to emerge. But the terms currently under discussion would make the pact one of the largest and most comprehensive corporate fraud settlements in recent years.

Based on the broad outlines so far, the settlement also is likely to entail the stiffest financial penalty ever imposed on a U.S. defense contractor for alleged procurement violations, said people familiar with the situation -- far exceeding those meted out during Pentagon scandals in the 1980s and 1990s, which stayed under $200 million.

The two separate, much-publicized probes, which spanned two years, sent two former high-ranking Boeing executives to jail and set off events that helped lead to the departure of two Boeing chief executives. The company wasn't formally charged in that period, but it was stripped of some important contracts, became a frequent target of Congressional critics and ended up embroiled in the most serious military-procurement scandal of the past two decades.

With the company struggling to overcome the negative impact of its ethical lapses, Boeing's management sees a comprehensive settlement with the Justice Department as an essential step in reviving its image. The latest moves partly appear

to reflect the desire of Jim McNerney, Boeing's recently installed chairman and CEO, to move past its troubles and focus on Boeing's future, said people familiar with the matter.

Justice Department spokesmen declined to comment. A Boeing spokesman said the company "continues to cooperate fully with government investigators."

Under the terms of what's known as a deferred prosecution agreement, Boeing wouldn't plead guilty to any specific charges but would admit wrongdoing in both the rocket and employment cases, according to the people familiar with the matter. Prosecutors would retain the right to charge Boeing if it runs afoul of the law during the course of the agreement, said people familiar with the matter. It isn't clear how long Boeing's deal with the government would run.

As part of the package, Boeing's outside legal team has been discussing possible payments to the U.S. government of between $300 million and $500 million, these people said. Earlier this year, government officials suggested that under some legal theories, the maximum penalty could approach $700 million.

A major theme of Boeing's legal arguments has been that regardless of what comes next, it already has suffered considerable harm and been subjected to various types of punishment. Indeed, all sides, including prosecutors in northern Virginia and Los Angeles, seem eager to wrap up the long-running cases. The California team recently agreed to forego prosecuting Boeing, according to one person close to the issue. Without commenting on any specifics, Paul McNulty, the U.S. attorney in Alexandria, Va., said, "Everyone with an interest is working together on this."

After months of apparent stalemate, the prospect of a settlement is relatively good news for Boeing, which has been buffeted in recent months by a 20-month suspension from bidding on some Pentagon work, loss of existing contracts, high-profile scrutiny of ethical lapses and turmoil in its management and worker ranks. Last week, 18,300 machinists at the company's commercial airline unit, which wasn't touched by the ethics scandals, went on strike and shut down production.

For Boeing, the economic pain of a settlement would represent fewer risks than an outright guilty plea to felony charges. The company has worried that criminal charges would further tarnish its reputation and potentially jeopardize billions of dollars more in U.S. government contracts.

No high-ranking executives are expected to be prosecuted beyond Boeing's former chief financial officer, Michael Sears, who previously admitted recruiting Air Force official Darleen Druyun for a $250,000-a-year Boeing job in violation of conflict-of-interest laws. Both Mr. Sears and Ms. Druyun were sentenced to prison after guilty pleas that ratcheted up the investigation of Boeing's business practices and ethical missteps.

In an interview last week, Mr. McNulty, the top U.S. prosecutor in Alexandria, the office that has purview over the Pentagon, said, "We've held a senior, very senior officer criminally liable, and other things typically flow from that."

While Boeing initially tried to attribute wrongdoing to a few rogue employees, prosecutors discovered evidence that misconduct was more extensive. Court documents that accompanied Mr. Sears' guilty plea indicated other high-level officials knew of the company's efforts to hire Ms. Druyun, who failed to remove herself quickly enough from a decision-making role over Boeing's defense businesses. In the rocket case, only two former managers have been indicted, but other executives have been punished, reassigned or forced out.

In recent months, Boeing has undergone numerous internal and external reviews of its behavior. At the Air Force's insistence, it accepted an unprecedented level of government oversight of its corporate-ethics programs. For example, it agreed to provide the Air Force monthly reports on the status of sensitive, in-house investigations, as well as information about suspected misconduct anywhere in its army of subcontractors.

It also set up a hotline for employees to report ethical lapses. One tip to that hotline led to the departure earlier this year of CEO Harry C. Stonecipher when a caller reported his consensual relationship with a female executive.

So-called deferred-prosecution agreements have been used in recent years against roughly a dozen large companies, including Time Warner Inc., Monsanto Co. and Computer Associates Inc. The goal is to hold management liable without resorting to indictments or guilty pleas that could threaten the survival of the entire company. With the exception of Boeing, big defense suppliers haven't been a major focus of the recent federal crackdown on white-collar crime.

Write to Andy Pasztor at andy.pasztor@wsj.com1 and Anne Marie Squeo at annemarie.squeo@wsj.com2

CIA Leak Probe May Be Nearing End Game: Lawyers (BOS/REU)

The Boston Globe, September 9, 2005

WASHINGTON (Reuters) - New York Times reporter Judith Miller, locked up for refusing to reveal who told her a covert CIA operative's name in a probe that may be nearing a conclusion, works part time at the jail laundry helping clean fellow inmates' green jumpsuits and dirty linens.

Between shifts at the laundry, Miller works at the library on a card catalog of the jail's books, said attorney Floyd Abrams, offering new details about Miller's life behind bars after meeting with her on Wednesday.

Abrams, who represents The New York Times, said Miller was "safe" but that conditions in jail were "grim."

This week Miller marked two months -- 65 days as of Thursday -- at the Alexandria Detention Center just outside Washington for refusing to testify to a grand jury trying to determine who in the Bush administration leaked CIA operative Valerie Plame's identity.

Abrams said Miller remained "resolute" and would not reveal her confidential source to a grand jury in the case, which could shake up an administration already reeling from criticism over its response to Hurricane Katrina. The probe has ensnarled President George W. Bush's top political adviser, Karl Rove.

But lawyers close to the investigation say there are signs that the 20-month-long inquiry could be wrapped up within weeks in a final flurry of negotiations and legal maneuvering.

Asked if talks were under way with special counsel Patrick Fitzgerald, a Justice Department prosecutor, to secure Miller's testimony and release, Abrams said: "If there are any discussions, they would be private."

"She is there (in jail) for a reason. At this time, the reason is still there. She made a promise and, unless properly released from her promise by her source, she has no choice but to continue to take the position that she's taking," Abrams said.

He declined comment when asked if Miller, who was sent to jail on July 6 though she never wrote an article about the Plame matter, had reached out anew to her source for a clear release from confidentiality that would allow her to testify.

Attorney Theodore Boutrous, who represents Time magazine and its reporter, Matthew Cooper, said Miller's "standoff" with Fitzgerald may be coming to a head.

"Either Fitzgerald still needs Miller or he doesn't," Boutrous said. "It's who blinks first. ... You would think something needs to happen soon, one way or another."

Unlike Miller, Cooper avoided jail by agreeing to testify after saying he received the "express personal consent" of his source to reveal his identity. The first person to tell him about Plame was Rove, Cooper said.

Plame's husband, former diplomat Joseph Wilson, said the leak was meant to discredit him for criticizing Bush's Iraq policy in 2003 after a CIA-funded trip to investigate whether Niger helped supply nuclear materials to Baghdad.

FITZGERALD'S END GAME?

Several lawyers involved in the case say Fitzgerald was likely to wrap up his inquiry this fall, if not sooner, though they say they have not heard from his office in weeks.

The outcome could have political implications for Bush, whose approval ratings are already the lowest of his presidency.

After initially promising to fire anyone found to have leaked information in the case, Bush in July offered a more qualified pledge: "If someone committed a crime they will no longer work in my administration."

Prominent Democrats have called on Bush to fire Rove, the architect of his two presidential election victories and now his deputy chief of staff, or block his access to classified information.

Rove's attorneys said Rove did nothing wrong and has been repeatedly assured he is not a target of Fitzgerald's investigation.

When Miller was jailed, chief U.S. District Judge Thomas Hogan said she must stay there until she agreed to testify or for the rest of the grand jury's term, which lasts into October.

But if no deal is reached, lawyers say, Fitzgerald could step up pressure by threatening Miller with a longer sentence. Miller's attorneys, in turn, could argue she has no intention of testifying and that her continued incarceration is of little consequence to Fitzgerald's case since others have revealed their sources.

LIVING A FLOOR BELOW MOUSSAOUI

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An investigative reporter who covers national security and foreign policy issues, Miller is one of about 440 inmates at the Alexandria Detention Center, according to its spokesman, Capt. Tony Davis.

Miller has been in a U.S. jail longer than any other newspaper journalist to protect a source, according to Abrams. The previous record-holder, he said, was a journalist from The Los Angeles Times who served for 48 days.

The Alexandria facility where Miller is being held has housed some of the nation's most notorious spies and terror suspects. One floor above Miller's cell is Zacarias Moussaoui, the only person convicted in connection with the September 11, 2001, attacks.

Like other inmates, Miller has a small cell, which gets some natural light through a window and is "locked down" for the night at about 11:00 p.m. The cell is equipped with a toilet, a sink and a bed.

Davis declined to discuss Miller's daily routine. Speaking generally, he said, inmates assigned to laundry detail help wash jail linens and blankets, as well as green jumpsuits marked with the word "PRISONER."

Judge Orders Berger To Pay $50,000 Fine (WSJ/AP)

By Associated Press

The Wall Street Journal, September 9, 2005

WASHINGTON -- A judge on Thursday ordered Sandy Berger, former President Clinton's national security adviser, to pay a $50,000 fine for illegally taking classified documents from the National Archives, the main repository of U.S. government papers.

The punishment handed down by U.S. Magistrate Judge Deborah Robinson exceeded the $10,000 fine recommended by government lawyers. Under the deal, Mr. Berger avoids prison time but he must surrender access to classified government materials for three years.

"The court finds the fine is inadequate because it doesn't reflect the seriousness of the offense," Judge Robinson said, as a grim-faced Mr. Berger stood silently.

Earlier in the hearing, Mr. Berger expressed remorse for his crime, which he described as a lapse of judgment that came while he was preparing to testify before the commission investigating the Sept. 11, 2001, attacks.

"I let considerations of personal convenience override clear rules of handling classified material," Mr. Berger said. "I believe this lapse, serious as it is, does not reflect the character of myself."

The sentencing capped a bizarre sequence of events in which Mr. Berger admitted to sneaking classified documents out of the Archives in his suit, later destroying some of them in his office and then lying about it.

After initially saying it was an "honest mistake," Mr. Berger pleaded guilty in April to a misdemeanor of unauthorized removal and retention of classified material, which contained information relating to terror threats in the U.S. during the 2000 millennium celebration.

Berger Is Fined For Smuggling Classified Papers (WP)

By Carol D. Leonnig

The Washington Post, September 9, 2005

A federal judge yesterday ordered former national security adviser Samuel R. "Sandy" Berger to pay a $50,000 fine and give up his security clearance for three years as the penalty for smuggling classified terrorism documents out of the National Archives in 2003.

The sentence was much more severe than the $10,000 fine that Justice Department prosecutors and Berger's attorneys had jointly proposed after Berger pleaded guilty to a misdemeanor charge. But Magistrate Judge Deborah A. Robinson said the punishment, which also included two years of probation and 100 hours of community service, would more "sufficiently reflect the seriousness of the offense."

She said she took into account Berger's "otherwise exemplary record" and "sincere expression of remorse" in her sentence.

Berger, who had classified documents hand-delivered to his desk when he advised President Bill Clinton, pleaded guilty in April to unauthorized removal and retention of classified documents. He admitted to stuffing copies of documents in his coat jacket as he left the National Archives and then destroying some at his office and pretending he had never possessed them.

Berger had been reviewing the records about the Clinton administration's response to reports of terrorist threats in 2000 as he was preparing to respond to questions from the commission that investigated the Sept. 11, 2001, attacks.

"My actions . . . were wrong. They were foolish. I deeply regret them, and I have every day since," Berger told Robinson yesterday. "I let considerations of personal convenience override clear rules of handling classified material."

The disclosure of the government's investigation of Berger last year prompted him to step down as an adviser to the 2004 presidential campaign of Sen. John F. Kerry (D-Mass.).

Ex-Clinton Official Draws Higher-Than-Expected Fine (NYT)

By Eric Lichtblau

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 - Samuel R. Berger, an influential adviser to former President Bill Clinton who helped shape American foreign policy through the 1990's, was ordered Thursday to pay a higher-than-expected fine of $50,000 but received no jail time for removing and destroying copies of classified documents from the National Archives.

Mr. Berger, 59, stood somberly before a federal judge moments before he was sentenced, and admitted that his decision to remove material on terrorism in three visits to the archives in 2003 was "indefensible." His actions, Mr. Berger said, "were wrong, they were foolish," adding, "I deeply regret them, and I have every day since."

In a plea deal reached five months ago, lawyers for the Justice Department and Mr. Berger agreed to seek a $10,000 fine as part of his sentence. But Magistrate Judge Deborah A. Robinson of Federal District Court here decided Thursday to impose the $50,000 fine, along with 100 hours of community service and two years' probation. She also barred Mr. Berger from access to classified material for three years.

The judge said the proposed $10,000 fine failed to reflect the severity of the crime or the financial resources of Mr. Berger, who founded an international consulting firm after serving as national security adviser from 1997 through 2000.

The sentencing caps an embarrassing 14-month ordeal that Mr. Berger's lawyers acknowledge has badly hurt his reputation. His motivation in taking the documents remains a matter of fierce debate in political circles, and Mr. Berger himself did little to shed light on the mystery Thursday, except to say, without elaboration, that he had put his own "personal convenience" in reviewing the documents ahead of federal law.

But new court filings, prepared by the Justice Department and Mr. Berger's lawyers, did provide fresh details about the episode and possible explanations for his actions.

The filings suggest that prosecutors and defense lawyers believe Mr. Berger's decision to remove the documents was triggered by pressure, fatigue and confusion, rather than by any intent to hide damaging information about the Clinton administration, as Republican critics have charged.

Mr. Berger spent hundreds of hours in 2003 reviewing the Clinton administration's record on terrorism in his capacity as the administration's official liaison to the Sept. 11 commission, which investigated the terrorist attacks of 2001.

In preparing for his testimony to the commission on three visits to the archives, he came across several versions of a highly classified memorandum that he had ordered written in 2000 regarding the administration's response to the so-called millennium terror plots in December 1999, according to the court filings, and he improperly removed several sets of copies. He later destroyed some of the copies and lied to archive officials when confronted about the missing documents, the court filings said.

When the episode first became public last year - forcing Mr. Berger to step down as an adviser to the presidential campaign of Senator John Kerry - he said he had accidentally removed the documents. But he admitted as part of his guilty plea in April that he had intentionally taken the material.

Defense lawyers said in their pre-sentencing memorandum to the judge this week that Mr. Berger, in reviewing material at the archives for several days for as long as 10 hours a day, became overwhelmed.

The defense lawyers said that Mr. Berger, "weary from the document review and not thinking clearly," wanted to reconstruct events in his own office by comparing memorandums side by side and so decided to remove notes and classified copies.

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The lawyers said that "the tiring nature of the review, the burden it imposed on Mr. Berger's schedule, and the importance that Mr. Berger attached to being prepared to testify before the 9/11 commission and to prepare his colleagues" led him to a "lapse in judgment."

Prosecutors for the Justice Department, in their own memorandum to the judge, offered no evidence to suggest any ulterior motive by Mr. Berger. On the contrary, prosecutors noted that the Sept. 11 commission reviewed copies of all the documents that Mr. Berger took and that there was "no evidence that any unique document was destroyed or lost."

Instead, prosecutors said in their filing, Mr. Berger appeared to have taken the documents "for his own convenience." He "was entitled to review the documents any time he wished to, at the secure locations, but he decided that was too burdensome and so he chose to break the law," the prosecutors said.

However, Justice Department prosecutors made clear in their sentencing memorandum that no matter what may have motivated Mr. Berger, they considered his offense a serious crime.

"As a consultant to the government the defendant assumed an important task to review highly classified documents related to national security," they wrote, "and in the course of that review he breached the trust given to him by unlawfully removing, retaining and destroying classified documents."

In considering a sentence, Magistrate Judge Robinson reviewed letters of support from several admirers of Mr. Berger, including Anthony Lake, his predecessor as national security adviser, who called him "a man of extraordinary integrity," and Fred Reiner, his rabbi. But the judge also received some 15 opposing letters from members of the public and some former government employees, who urged her to sentence Mr. Berger to jail for what they viewed as a serious offense.

Ultimately, the judge said she decided that probation and community service were more appropriate.

Federal Agents Armed With Warrant Raid Melrose Park Police Station (AP)

AP, September 9, 2005

CHICAGO - Federal agents armed with a search warrant raided the police station in suburban Melrose Park on Thursday, an FBI spokesman said.

"We did have several agents there this morning," FBI spokesman Ross Rice said.

The raid, he said, was part of an ongoing investigation but he declined to give details. He also declined to say what the agents were looking for and what, if anything, they found.

"No arrests have been made and no charges have been filed," he said.

U.S. attorney spokesman Randall Samborn declined to comment.

A woman who answered the phone at the west suburban police station said that Chief Vito Scavo and his lieutenants were not immediately available to answer questions.

The suburb has figured in a number of high-profile criminal cases in recent years.

Former Melrose Park Mayor C. Augustus Taddeo pleaded guilty in 1999 to extortion and tax fraud and was sentenced to 27 months in federal prison.

In recent years, a federal investigation of illegal electronic gambling devices controlled by the mob found that many were installed in Melrose Park taverns and strip joints. And the FBI said recently that the mob has a street crew based in the suburb.

The suburb was also the site of the first raid by federal agents in October 1998 on an Illinois drivers license testing station operated by then-Secretary of State George Ryan's office. It was the beginning of the Operation Safe Road investigation of bribes exchanged for drivers licenses and political corruption in the Ryan era.

Federal Agents Raid Melrose Park Police Station (WLS-TV)

By Charles Thomas

WLS-TV, September 8, 2005

September 8, 2005 - Federal agents raided the Melrose Park police station on Thursday. They shut the building down for half a day and seized records without explaining the nature of the investigation.

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The Melrose Park police headquarters is back in business after being shut down all morning and part of the early afternoon by federal investigators. Officially the feds will not say what they were looking for and village officials will not comment on the raid, referring questions to a private public relations firm.

The federal agents arrived shortly after 9:00 a.m., They were mostly postal inspectors, but a card on the dashboard of one vehicle indicated it was operated by the U.S. Department of Labor. ABC 7 has learned the investigators were searching employment records going back several years to determine on what days and at what times certain officers worked.

The headquarters was closed to the public during the four hours that the feds worked in side as citizens with routine business were turned away.

"Normally they tell me to come in and now they say to come back in a couple of hours," said Rene Morales.

Federal agents had no comment and the Melrose Park police chief was unavailable.

There have been some complaints about the private security company owned by the Melrose Park police chief, which has contracts to supply security for many bars and saloons as well as many other businesses.

Officers cooperated with federal agents. The feds apparently got everything they were looking for.

Melrose Park Police Department Shut Down For Federal Raid (WMAQ-TV)

WMAQ-TV, September 9, 2005

CHICAGO -- The Melrose Park Police Department was shut down Thursday morning as federal agents conducted a raid.

Federal agents came calling early and by 10 a.m., they had control of the building and were turning local citizens away.

City officials insisted no police calls were affected, Rogers reported.

"Those calls would come to my desk," said the mayor's assistant, Patty Dindia.

NBC5's Phil Rogers reported. The investigators came from the FBI and the IRS, as well as the postal inspectors and the U.S. Department of Labor.

The investigation has been lengthy and there are no signs it is nearing completion, Rogers reported. Melrose Park has had political turbulence in the past -- in the last election, the mayor's aunt ran against him.

Previously, NBC5 has reported that a $42 million water project in Melrose Park was under investigation, especially questions about a $432,000 public relations budget, as well as another $2.5 million for something called "program management."

But, it is believed that the federal agents on Thursday were seeking records relating to a private security firm operated by Melrose Park Police Chief Vito Scavo. Questions have been raised about what role Scavo's firm played in the water project, Rogers reported. Rogers reported that there have also been questions about Scavo's use of Melrose Park officers in his security company.

Warrants were executed separately at a Cumberland Avenue building housing a second security firm, with which Scavo allegedly has a relationship.

Mayor Ron Serpico was unavailable to answer questions about what exactly federal agents were seeking.

FBI Searches Suburban Police Department (CBS2CHI)

By Dorothy Tucker

CBS 2 Chicago, September 9, 2005

(CBS) MELROSE PARK A west suburban police department was temporarily shut down Thursday when federal agents raided the building searching for clues in an on-going corruption probe.

An investigation is underway right now in west suburban Melrose Park.

Sources tell CBS 2 News that the Melrose Park police chief is at the center of the investigation.

Federal agents from the Chicago office took over the Melrose Park police station Thursday morning, locking the doors and turning away residents.

For four hours the FBI agents, along with investigators from the labor department and the U.S. Postal Service, collected documents and information.

While authorities declined to talk about their investigation, sources tell CBS 2 that Melrose Park Police Chief Veto Scavo was the target of the raid.

Scavo is a paid consultant for a private security firm called IFPC Worldwide Inc.

According to the source, investigators are looking at a number of allegations, but the focus seems to be the Scavo was using on-duty police to work for the private firm, and possibly taking kick backs from clients.

The source said the officers were providing security for a number of businesses, including nightclubs. A nightclub manager, who declined to be interviewed, said Scavo forced bars to use his private firm and threatened not to answer their calls for help if they didn't.

The club manager believes that explains why investigators from the Department of Labor were at the police station, possibly looking at the time sheets of the Melrose Park police officers.

Late Thursday afternoon, CBS 2 contacted the police chief. Scavo pointed out that no one was arrested, but beyond that, he would not comment.

'Safe Road' Figure Sentenced In Bid-rigging Probe (CHIT)

By Matt O'connor, Tribune Staff Reporter

Chicago Tribune, September 9, 2005

Saying she regretted ever getting involved in "the world of politics and political favors," a former trusted lieutenant to one of the state's most powerful lobbyists was spared prison Thursday for lying to investigators in the Operation Safe Road probe.

Julie Starsiak, a longtime close aide to lobbyist Al Ronan, was placed on probation for 5 years and ordered to complete 200 hours of community service by U.S. District Judge Blanche Manning.

Ronan hasn't been charged with wrongdoing, but his lobbying firm, Ronan Potts LLC, pleaded guilty to rigging a bid so a client won a contract to oversee a huge expansion at McCormick Place.

In court Thursday, though, Starsiak's lawyer, Chris Gair, implicated Ronan in the wrongdoing, saying that Ronan directed Starsiak to divulge confidential details of the sealed bids to the Ronan client.

"It's just nonsense," Ronan's lawyer, Edward Genson, responded later to the accusation.

In pleading guilty last year to making false statements, Starsiak admitted she lied to authorities on several occasions by trying to shift blame in part to Ronan, even though she had been given immunity from prosecution if she told the truth.

Gair told the judge that Starsiak had been cooperating with authorities for almost two years, revealing "what she knows about political corruption in this state."

Starsiak had been a close aide to Ronan for more than two decades, including while he was a state legislator.

Starsiak's assistance led Alexandra Coutretsis to cooperate, which in turn resulted in her fiance, Scott Fawell, cooperating, Gair said. Fawell, who once headed the Metropolitan Pier and Exposition Authority, which operates McCormick Place, is expected to be the star witness against former Gov. George Ryan at his upcoming trial. Coutretsis was a top aide to Fawell at McPier.

In addition, Starsiak revealed corruption in "another public entity," Gair said.

Assistant U.S. Atty. Scott Levine called Starsiak's cooperation valuable and confirmed her help resulted in the opening of an investigation that "is bearing fruit."

Gair said Starsiak's assistance has come at a price, ostracizing her from former colleagues in the political realm and leaving her unemployed and penniless.

"There's nothing worse you can be in Chicago than a cooperator," Gair told the judge. "She's lost everything."

Starsiak, 57, of Chicago was so choked with emotion when she read from a prepared statement that her words were barely understandable at times.

Starsiak expressed remorse for ever becoming involved in politics.

"I used to be proud that from my humble background I had become professionally and in some cases even personally acquainted with the most wealthy and powerful people in the state," she said. "Perhaps I was naïve in thinking that associating with important people... I automatically assumed legitimacy and integrity."

Starsiak said her volunteer efforts for several charitable organizations "makes all the glamor of the world of business and politics seem unimportant by comparison."

Manning could have sentenced Starsiak to up to 21 months in prison, but she imposed probation, citing the "absolute toll" the case had taken on her.

"I don't think any more punishment is going to do anything more in a positive way," the judge said.

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mo'connor@tribune.com

Lobbyist's Former Aide Gets Probation, Sorry She Got Into Politics (BVND)

By Mike Robinson

The Belleville News Democrat, September 9, 2005

CHICAGO - The former vice president of a prominent lobbying firm was put on probation for five years Thursday for lying to FBI agents about bid rigging involving the $800 million expansion of the McCormick Place convention center.

"I'm sorry that I ever became involved in the world of politics and political favors," a tearful Julie Starsiak told federal Judge Blanche M. Manning.

Starsiak, 57, pleaded guilty in February 2004 to making false statements to FBI agents who were investigating bid rigging in the competition to get the contract to manage the expansion.

She said she lied when she told them her boss, lobbyist and former state lawmaker Albert Ronan, was the one who called an engineering firm with confidential bidding information.

Starsiak now says that she made the call, although defense attorney Chris Gair told Manning that Ronan was part of the scheme.

Prominent Chicago defense attorney Edward M. Genson, who represents Ronan, immediately disputed Gair's claim.

"That's nonsense," Genson said when told about the lawyer's remark.

Ronan has been charged with no wrongdoing in the case, although his firm has pleaded guilty to mail fraud and paid a $350,000 fine.

Starsiak told Manning that with only a high school diploma she was awed that as Ronan's top aide she associated with the wealthiest and most powerful men in Illinois.

"Perhaps I was naive in thinking that associating with the most powerful and respected people automatically assumed their legitimacy and integrity," she said.

She said she wanted to devote the rest of her life to helping people and pleaded with Manning not to send her to prison - even though federal guidelines called 15 months minimum.

Manning said she thought Starsiak, who is now broke and has been jobless for two years, has learned her lesson and wouldn't commit further crimes.

"I don't think prison is the answer," said Manning, who ordered probation and 200 hours of community service.

Gair told the judge that Starsiak has done much to help federal prosecutors.

Gair said it was Starsiak's guilty plea that prompted Andrea Coutretsis to plead guilty in the bid-rigging investigation and admit that she gave the bidding information to Starsiak.

Coutretsis is the former assistant and current fiancee of former Gov. George Ryan's top aide, Scott Fawell, who is currently serving a 6 1/2-year racketeering sentence and has agreed to become the government's key witness at Ryan's upcoming trial on racketeering conspiracy charges.

Coutretsis persuaded Fawell to become a federal witness and Gair suggested that Starsiak deserved at least some credit for starting the chain of events that caused him to change sides.

Gair also said it was Starsiak who told prosecutors to investigate the Illinois Health Facilities Planning Board, which is now the focus of a major extortion and fraud investigation.

Daley Names Inspector General (CHIST/AP)

By MEGAN REICHGOTT, ASSOCIATED PRESS

Chicago Sun-Times, September 8, 2005

Mayor Richard M. Daley, struggling to clean up his administration's image amid an ongoing federal investigation of bribe-taking and political hiring, named a former federal prosecutor Thursday to be his new inspector general.

David Hoffman will take over for Alexander Vroustouris, who resigned in June amid allegations that investigations performed by his office were delayed and incomplete. Deputy Inspector General Bill Marback had been acting inspector general since Vroustouris resigned.

Vroustouris "did a good job. This is going to be a better job, simple as that," Daley said at a City Hall news conference to announce the change.

Eight members of Daley's Cabinet have either resigned or been fired since May as the mayor has worked to maintain the public's confidence. Federal investigators have been looking into City Hall for months, first examining bribes traded for jobs in a contract hauling program and most recently looking into allegations of fraud in the city's hiring practices.

Daley, who has not been accused of any wrongdoing, has acknowledged he has been questioned by federal prosecutors. Late last month, he apologized to the public and said he should have done more to prevent corruption in his administration.

Hoffman, 38, is a native of Chicago's north suburbs and has been an assistant U.S. attorney since 1998. For the past three years he has been deputy chief of the narcotics and gangs section.

"As a former federal prosecutor, David has the skills and experience necessary to root out corruption and help us maintain the highest ethical standards in city government," Daley said Thursday.

Daley "has asked only one thing of me: to take all necessary steps to find wrongdoing in city government and expose it," Hoffman said.

Hoffman has the authority to research corruption at all levels of city government, even if the inquiry leads back to City Hall, Daley said.

"Inspector General Hoffman has my full support and authority to root out and prevent misconduct, whether in hiring or contracts or wherever it occurs, so that the people of Chicago know that we are protecting them and putting their interests first," he said.

Daley said he would expand the powers and staff at the inspector general's office after Hoffman has some time on the job to make recommendations.

"The inspector general has to have sufficient staff to audit contracts, to determine compliance with the law and accountability to the taxpayers," Daley said. "And his office has to be equipped with the latest technology."

Daley Names New City Hall Watchdog (CHIT)

Tribune Staff Reports

Chicago Tribune, September 9, 2005

Mayor Richard Daley today named a Chicago-area native and federal prosecutor as his new inspector general, charged with ferreting out dishonesty and corruption in city government.

"I am confident that with our new inspector general, we will see great improvement in the ethics and integrity of city government," Daley said as he introduced David Hoffman at a City Hall news conference.

Hoffman, 38, has been an assistant U.S. attorney since 1998, deputy chief of its Narcotics and Gangs Section since 2002 and head of Project Safe Neighborhoods, a joint federal-city anti-crime initiative to keep parolees and probationers from committing gun crimes, since 2003.

He also is a former law clerk to the late U.S. Supreme Court Chief Justice William Rehnquist.

"The mayor has asked only one thing of me: To take all necessary steps to find wrongdoing in city government and to expose it," Hoffman said. Borrowing an oft-used phrase by U.S. Atty. Patrick Fitzgerald in exposing government corruption, Hoffman promised to "follow the evidence wherever it leads."

Eight members of Daley's Cabinet have either resigned or been fired since May as the mayor has worked to maintain the public's confidence. Federal investigators have been looking into City Hall for months, first examining bribes traded for jobs in a contract hauling program and most recently looking into allegations of fraud in the city's hiring practices.

Daley, who has not been accused of any wrongdoing, has acknowledged he has been questioned by federal prosecutors. Late last month, he apologized to the public and said he should have done more to prevent corruption in his administration.

Today, the mayor said that acting on Hoffman's recommendations, he would soon announce a series of changes that would expand the powers and staff of the inspector general's office.

Hoffman urged city employees to report wrongdoing.

"If you see corruption, if you see fraud, if you see dishonest practices, let us hear from you. Do not accept it silently," he said. "If your colleagues or superiors are using their positions corruptly or dishonestly, they are tarnishing you and the rest of city government."

"I can assure you as inspector general I will take nothing more seriously than going after those who would retaliate against employees courageous enough to turn in wrongdoers," Hoffman said.

A native of the northern suburbs, Hoffman has a bachelor's degree in history from Yale University and a law degree from the University of Chicago.

He replaces Inspector General Alexander Vroustouris, who had served in the post from 1989 until Ron Huberman, the mayor's chief of staff, requested Vroustouris' resignation in June. The former inspector general was accused of not acting quickly on cases of alleged corruption referred to his office.

Daley today also thanked Acting Inspector General Bill Marback for having substantially reduced a 3,000-case backlog since taking temporary charge of the office in June.

The Associated Press contributed to this story.

Mirarchi Dodges Jail (PHI)

By BOB WARNER

The Philadelphia Inquirer, September 9, 2005

A widely known defense attorney who admitted taking $7,000 in bribes in a parking-ticket scandal was spared a jail sentence yesterday by a federal judge.

Charles P. Mirarchi III, who cooperated with prosecutors and pleaded guilty to one count of mail fraud, will have to spend six months under house arrest, pay a $5,000 fine and face additional restitution payments, U.S. District Judge Bruce W. Kauffman ruled.

Federal sentencing guidelines suggested an 18- to 24-month prison sentence.

But Assistant U.S. Attorney Amy L. Kurland had urged a "significant downward departure" from the guidelines because of the critical testimony Mirarchi provided to convict a more-central participant in the ticket-fixing scam, Joseph F. Hoffman Jr.

Kauffman cited Mirarchi's "substantial and significant cooperation" with the prosecutors and wished Mirarchi "Good luck" after pronouncing the sentence.

The starting date for home detention was left to be worked out with federal marshals, who must arrange an electronic monitoring system.

Convicted in February of mail fraud, conspiracy and extortion, Hoffman drew a two-year prison sentence from Kauffman earlier this week.

Mirarchi, 54, a gregarious fixture in the city's criminal courts for the last 25 years, had functioned briefly as Hoffman's bagman, visiting the office of taxi kingpin Michael Etemad to pick up envelopes stuffed with $100 bills, a total of $7,000.

Hoffman kept $4,000 for himself and gave $3,000 to Mirarchi. In exchange, Hoffman took $47,127 worth of parking tickets issued to Etemad's cabs and reduced his fines to $3,500.

Two of Mirarchi's visits to Etemad were recorded on videotape by the FBI.

Mirarchi hovered close to tears yesterday as he addressed the judge, before the sentencing.

"I would like to apologize to this court... and to my family," Mirarchi said. "Sometimes you're asked if you had one thing to do over in your life. For some people, that's a hard question to answer. Not for me. I'm sorry for the judgment I used and the wrong I committed."

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Mirarchi was apparently relieved at his sentence, embracing many of the friends, family and fellow attorneys who had filled the courtroom to hear Kauffman's decision.

The parking-ticket scandal hung over Mirarchi's head for the past 2 ½ years, after the Daily News first reported his involvement in the Etemad payoffs.

But even after his indictment in June 2004, and his guilty plea last October, Mirarchi continued to represent criminal defendants and to draw a $37,893 city salary, as a deputy to the city's top election official, City Commissioner Margaret Tartaglione.

With the sentencing, Mirarchi is likely to lose both his city job and his license to practice law.

Lawyer Who Cooperated Is Sentenced In Ticket Fixing (PHI)

By L. Stuart Ditzen

The Philadelphia Inquirer, September 9, 2005

The moral of the story yesterday in the courtroom of U.S. District Judge Bruce W. Kauffman was this: He who admits his crime and diligently atones for it may hope for kindness at sentencing.

And so it was for Charles P. Mirarchi 3d, a popular Philadelphia defense lawyer who pleaded guilty to a fraud charge in a ticket-fixing scheme and cooperated with prosecutors in convicting his codefendant.

Although federal sentencing guidelines called for a sentence of 18 to 24 months in prison, Mirarchi ended up with three years' probation, the first six months to be served under house arrest.

Kauffman said he gave the 54-year-old Mirarchi a probationary sentence because of his "extremely significant cooperation with the government" in the investigation and prosecution of Joseph F. Hoffman Jr., the former head of the city parking-ticket appeals office.

Hoffman was sentenced on Wednesday to two years in prison for taking $5,000 in payoffs from taxicab magnate Michael Etemad to reduce $47,000 worth of parking tickets on Etemad's fleet to $3,500.

Mirarchi, the son of retired Common Pleas Court Judge Charles P. Mirarchi Jr., testified at Hoffman's trial in February that he acted as a go-between, carrying payoffs from Etemad to Hoffman in 2002. His testimony was supported by FBI audiotapes and videotapes.

Assistant U.S. Attorney Amy L. Kurland, who requested a significant sentencing break for Mirarchi, said she was pleased that he got probation.

"His information and assistance provided an inside view of Hoffman's ticket-fixing," Kurland said in a presentence memo to the judge. "And his honest and straightforward testimony at trial was essential to Hoffman's conviction."

Speaking briefly to Kauffman before the sentence, Mirarchi fought back tears as he apologized for his crime.

Martin M. Krimsky, a longtime Philadelphia lawyer who appeared as a character witness, testified: "I know of no person in the City of Philadelphia who is liked and loved more than Charles."

Krimsky said Mirarchi was generous "to a fault."

Which might be what got him in trouble.

Mirarchi testified in February that Hoffman asked him, as a favor, to pick up cash payments from Etemad and to pretend the money was a legal fee.

Mirarchi said he and Hoffman had grown up together in South Philadelphia and had been friends all their lives. So he did him the favor.

"It was wrong," he said. "I know it was wrong, and Hoffman knew it was wrong."

Mirarchi's conviction is likely to result in disbarment and the loss of his part-time city job as a deputy city commissioner. But as of yesterday, his law license was intact and he was still listed as a city employee.

FBI Removes Items From Councilman's Home (KARE-TV)

KARE-TV, September 9, 2005

FBI agents pulled up to the home of Minneapolis City Councilman Dean Zimmerman around 3 p.m. on Thursday afternoon.

Agents were executing a search warrant at the councilman's home. Zimmerman is a first-term representative for the 6th ward, which is located east of 35W between 24th Street East and Lake Street, in the Phillips neighborhood.

Neither the FBI or the Minneapolis Police, who were assisting in the removal of items from Zimmerman's home, would comment on the reason for the search warrant.

But during the three hours police and FBI officials were at the house, they were seen removing everything relating to Zimmermann's re-election campaign plus personal financial records.

The U.S. attorney's office also served Minneapolis City Hall with a subpoena for materials in Zimmerman's council office.

Zimmerman is a member of the green party. He is married with four children.

City Councilman's House Raided (WCCO-TV)

WCCO-TV, September 9, 2005

(WCCO) Federal agents searched a Minneapolis City Councilman's house Thursday afternoon, police said.

According to officials, the corruption division of the FBI searched G. Dean Zimmerman's house, in the 2200 block of Clinton Ave. S.

The FBI said they executed a "court-authorized federal search warrant as part of an ongoing federal investigation."

Federal agents left the house carrying several boxes, folders and computers containing materials related to his re-election campaign and financial records.

Zimmerman was unavailable for comment, but his campaign manager Lauren Maker said the agents spent three hours at his house.

"They took primarily, everything related to the campaign," Maker said. "The took our mailing labels, they took our voter id list."

Maker said she believed the search was politically motivated because it was so close to the election.

The search came five days before the primary elections. Zimmerman is running for a second term on the city council.

Because of redistricting, Zimmerman, first-term a Green Party member is in the same ward as council vice president Robert Lilligren, DFL.

When campaign volunteers came out to help prepare a mailing Thursday evening, an FBI agent at the door turned them away. Zimmerman was reportedly home during the search and met with his defense attorney in the evening.

He has not been charged with any crime.

Zimmerman, a retired teacher, has served as commissioner of the Minneapolis Park and Recreations Board, a board member of the Middle Mississippi River Watershed Management Organization, a board member of the St. Anthony Falls Heritage Board and a board secretary of the Green Institute.

A Top HAWS Official Pleads Not Guilty (WSJ)

By Bertrand M. Gutierrez

Winston-Salem Journal, September 9, 2005

A senior official with the Housing Authority of Winston-Salem pleaded not guilty yesterday in U.S. District Court here to three felony charges: stealing, embezzlement and money laundering.

Federal prosecutors filed the charges Aug. 30 against Kenneth Love, the assistant director of housing services for the housing authority, after a four-year investigation by the U.S. Department of Housing and Urban Development and the FBI.

The same charges were filed against a Virginia businessman, Sylvester Clay, who pleaded not guilty on Tuesday.

Trials for both men are scheduled for February.

Federal investigators say that Love and Clay worked together to bid on contracts and get paid for phantom jobs through Clay's maintenance companies.

Telephone calls to Reid Law-rence, the executive director of the housing authority, were not returned yesterday or Wednesday. James Rousseau, the chairman of the board of commissioners of the authority, also has not returned telephone calls.

Sherrod Banks, an attorney representing the authority, said Wednesday that Love was on sick leave.

At the courthouse yesterday, Love said "no comment" when asked if he was ill. Nor would he talk about the case.

A spokeswoman with HUD, which determines the amount of money that the housing authority may get for projects, would not say whether the department was taking or might take any action against the local agency.

"Usually, we don't comment on ongoing investigations," HUD spokeswoman Denise Dunckel said. Later in the day, the authority issued a press release in which it never referred to the charges against Love, but only cited the allegations against Clay.

"HAWS is disturbed by these allegations. However, this is still a continuing investigation both outside HAWS and within HAWS," the press release said.

Banks said he planned to meet today with housing officials to discuss his view of the charges and any possible action that HAWS might take.

Bribe-case Builder Has 2d Arrest (PHI)

The Philadelphia Inquirer, September 9, 2005

NEPTUNE, N.J. - A developer accused of bribing officials in Monmouth County has been charged with threatening a 22-year-old woman at gunpoint in a community-college parking lot.

Anthony Spalliero, 63, fled when an officer at the Middletown campus of Brookdale Community College heard the woman scream about 1:30 p.m. Tuesday, college spokesman Stephen Nacco said.

Spalliero had put a gun against the woman's ribs and told her to come with him, Nacco said.

"I would say that's total nonsense," Spalliero's lawyer, Michael Pappa, told the Asbury Park Press of Neptune for yesterday's editions.

Spalliero, of Marlboro, was arrested Tuesday outside his former wife's home in Holmdel. He was charged with possession of a weapon for an unlawful purpose, making terroristic threats, and aggravated assault, the Monmouth County Prosecutor's Office said.

The weapons charge carries the stiffest penalty, up to 10 years in prison. Spalliero was released Wednesday after posting $150,000 bail.

The arrest may affect Spalliero's bail status on the bribery charges, because he was required to surrender all firearms.

In May, Spalliero was arrested by the FBI and charged with passing bribes, including offering then-Mayor Matthew V. Scannapieco of Marlboro about $143,500 from 2001 to 2003.

Scannapieco, mayor from 1992 to 2003, pleaded guilty April 12 to taking $245,000 from a developer between 1997 and 2003 in return for supporting the developer's projects.

Spalliero was also charged with paying $8,500 from 2001 to 2003 to Monmouth County's top elected official. The FBI complaint did not give the official's name, but the freeholder director then was Harry Larrison Jr., who was charged in April with taking $8,500 in bribes from developers in Marlboro.

Larrison, 78, of Neptune, retired in December and died May 29. His 39 years in office made him the longest-serving freeholder in state history.

Former Kodak Executive Charged In Bribery Probe (NSDY)

Long Island Newsday, September 9, 2005

ROCHESTER, N.Y. -- A former executive at Eastman Kodak Co. on Thursday became the fourth person charged in a multimillion-dollar scheme that federal prosecutors claim defrauded the company and suburban Rochester taxpayers.

David Finnman faces two felony counts of mail fraud and one count of conspiracy to defraud. He worked at Kodak from 1970 to 1999.

The alleged fraud happened when tax assessments for Kodak's property in Greece were illegally lowered and the defendants shared the kickbacks.

The FBI said Finnman and co-defendant Charles Schwab, a former Greece assessor, created a business in the Bahamas around February 1998 to hide bribes and kickbacks paid by co-defendant John Nicolo, a regional appraiser.

Investigators claim Finnman and Schwab each admitted receiving about $200,000 and investing it in an offshore account.

The new charges said another company, Global Crossing, was the victim of fraud because Finnman worked there until 2003.

Mark Camarata, Finnman's successor, was the first person charged in the case in May. He was scheduled for a court appearance on Sept. 22.

Finnman's lawyer, Matthew Lembke, could not be reached for comment.

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Information from: Rochester Democrat and Chronicle, http://www.democratandchronicle.com

Lt. Gov. Now Says He Never Talked To Cooper About Loan (AP)

By MATT GOURAS, Associated Press Writer

AP, September 9, 2005

NASHVILLE — Tennessee's lieutenant governor has changed his position on whether he talked to a fellow lawmaker about a bank loan now involved in a federal fraud trial.

Lt. Gov. John Wilder said Wednesday that he was incorrect when he said last week that he had talked with Sen. Jerry Cooper about getting a loan at Wilder's bank.

Wilder has been the subject of heavy criticism since he showed up last week at a hearing held to discuss Cooper and the loan.

Cooper, a Democrat from Smartt, is an unindicted co-conspirator in a federal indictment alleging fraud against two men involved in the sale of property owned by Cooper.

Wilder left the meeting of the Senate Ethics Subcommittee, which was not announced to the public, when reporters showed up and pressed to be allowed entry.

But before leaving, Wilder recounted his role in the loan to reporters, saying Cooper approached him about having BankTennessee, which Wilder partly owns, underwrite the $1.77 million loan when the deal was first going down in the late 1990s.

The resulting land deal led to federal indictments charging Anthony and Teresa Auyer of Alabama, who purchased Cooper's lumber mill property in Warren County, and property appraiser James Passons.

On Wednesday, Wilder changed his story and said he "would like to set the record straight."

"While it has been over six years ago, it is my conviction that I did not talk to Sen. Jerry Cooper about this matter," Wilder said. "I was mistaken when I said I talked to Sen. Jerry Cooper. To the extent I indicated otherwise, I was in error."

The position is a big change from last week when Wilder said he was certain he had talked to Cooper.

At that time, Wilder first told The Associated Press and others that he had not talked to Cooper. But he quickly changed his mind in the next sentence, and went on to say, "Sen. Cooper asked me if my bank would be interested in making the loan. I told him I thought it would and ... (Auyer) called my bank."

Wilder was adamant he did not influence the loan and did not pressure the bank to make the loan.

Wilder was clear that Cooper had talked to him, though, further saying "he asked me if my bank may be interested in making a loan to this person that he sold his plant to. I told Sen. Cooper it might be, and he told this gentlemen that they might be and he talked to them and that's where it started."

Wilder reiterated that position two days later, on Friday telling The (Memphis) Commercial Appeal newspaper that he did nothing more than refer Cooper to BankTennessee executives.

"My offhanded remarks simply were not correct," Wilder now says.

Wilder, 83, has served longer as the presiding officer of a state legislative body than any other person in the nation. He was first elected to the state Senate in 1959 for a two-year term, but then was out of office until winning election again in 1966 to another two-year term. Wilder, a Democrat from Mason, won his first four-year Senate term in 1968 and has been speaker since 1971.

Tennessee Republican Party Chairman Bob Davis, a Wilder critic, said the Senate speaker's latest comments illustrate the problem.

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"I guess everybody can change their mind. What's different is that this fellow is lieutenant governor, a career politician who out of convenience and habit has made a career out of covering his tracks," Davis said. "This is exactly why Tennesseans have lost trust in their state government."

It's the second time this year that Wilder has backtracked from public comments.

In May, right after the Tennessee Waltz sting that nabbed five current and former lawmakers, Wilder criticized the FBI for "entrapping" the indicted legislators. A week later, he said the remarks were meant to express only his belief that "entrapment is wrong."

PAC Linked To DeLay Indicted In Funding Probe (LAT)

By Richard B. Schmitt

The Los Angeles Times, September 9, 2005

WASHINGTON — A Texas grand jury today indicted a political action committee affiliated with House Majority Leader Tom DeLay (R-Texas), alleging that it took illegal campaign contributions during the 2002 election that led to a historic realignment of the Texas Legislature.

The charges, which include indictments against one of the state's oldest and largest employer groups, arise out of a more than two-year probe by local prosecutors into the use of corporate money to bankroll Republican candidates for state office.

The indictments allege violations of a state law that bans corporate contributions to state legislative candidates.

DeLay, one of the most powerful figures in Congress, was not named in the indictment, although three individuals associated with the political action committee, known as the Texans for a Republican Majority, were indicted last year.

In a statement, the House leader said the allegations were "limited to a political organization," but also acknowledged that he had "voluntarily" spoken with investigators last month at the Travis County district attorney's office who are overseeing the probe.

"Mr. DeLay explained to officials what he has always said publicly: his role ... was limited to serving on the political action committee's advisory board along with other elected Texas officials and to appearing at fundraising events," spokesman Kevin Madden said. "Mr. DeLay assured the district attorney's office that he was not involved in the day to day operations ... and to his knowledge all activities were properly reviewed and approved by lawyers" for the political action committee.

The indictments unsealed today alleged that the Texas Assn. of Business and the Texans for a Republican Majority worked together in a complicated arrangement to circumvent the state's election code.

Ronald Earle, the Travis County district attorney, said "massive amounts of secret corporate wealth" were illegally funneled into the coffers of Republican candidates during the 2002 campaign. The business group was charged with fraudulently soliciting money from corporations, and making illegal contributions, in violation of state election law.

The political action committee was charged with illegally soliciting and accepting corporate contributions, including contributions from AT&T Corp. and a group calling itself the Alliance for Quality Nursing Home Care.

Roy Minton, an attorney for the business group, said the state was attempting to criminalize activity that is protected by federal law. According to the indictments, the group paid more than $1.1 million in corporate money for mailings to voters and television advertising.

"The indictments leave out all the federal law that there is as to the constitutional right of any business to inform the public concerning the voting record or any conduct on the part of candidates for office," Minton said. "That is not something that can be regulated by the state through its election code."

DeLay PAC Is Indicted For Illegal Donations (WP)

By R. Jeffrey Smith

The Washington Post, September 9, 2005

A grand jury in Texas indicted yesterday a state political action committee organized by House Majority Leader Tom DeLay (R-Tex.) for accepting $120,000 in allegedly illegal corporate campaign contributions shortly before and after the 2002 elections that helped Republicans cement their control of the House of Representatives.

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The indictment follows a lengthy investigation in Austin that previously had targeted the defunct political action committee's executive director, John Colyandro. He was indicted last year for accepting illegal corporate donations and for illegally laundering $190,000 in corporate funds through the Republican National State Elections Committee that later wound up in the hands of Texas Republican candidates.

The criminal charges are based on a Texas election law, akin to rules in 17 other states, that strictly bars political contributions from corporations for election purposes. But according to evidence submitted in a related civil trial, the committee, Texans for a Republican Majority (TRMPAC), raised and spent at least $523,000 in corporate funds -- most of which were not reported to state election officials.

The funds paid for surveys, mailings, receptions, candidate investigations and probes of Democratic candidates that helped Republicans gain control of the Texas House for the first time in 130 years, and enabled them to redraw the state's congressional districts in 2003 in such a way that Texas voters elected five more Republicans to Congress in 2004.

DeLay, who was a member of the committee's advisory board, signed fundraising solicitations and participated in at least one conference call to discuss the committee's plans, was not named in the indictment. He also has not been publicly identified as a target of the continuing investigation by Travis County District Attorney Ronald Earle.

DeLay spokesman Kevin Madden responded to the indictment with a written statement saying that it "is limited to a political organization and does not affect Mr. DeLay."

Madden also disclosed for the first time that DeLay had "voluntarily" talked to Earle's office about the investigation last month, and that DeLay said then that his involvement in the committee's activities was "limited to serving on the political action committee's advisory board along with other elected Texas officials and . . . appearing at fundraising events."

Madden said DeLay "assured the district attorney's office that he was not involved in the day-to-day operations of TRMPAC, and to his knowledge all activities were properly reviewed and approved by lawyers" for the committee.

When asked yesterday about DeLay, however, Earle said at a news conference that he was hampered in bringing charges by a provision of the election law that gives him direct authority only over residents of Travis County. He has separately said he does not face that limitation with respect to bringing new charges under the state money-laundering statute.

DeLay's residence is in Fort Bend County, where the prosecutor is an elected Republican, John F. Healey Jr. If Earle found evidence of criminal wrongdoing by DeLay under the election statute, he could only pass on the information to Healey with a recommendation that he pursue the matter.

Earle has not done so, several sources said yesterday, but has until the end of this month to decide the matter under a three-year statute of limitations.

The grand jury singled out two contributions that it said the committee illegally accepted -- a $20,000 contribution from AT&T Corp. on Nov. 18, 2002, and a $100,000 contribution from the Alliance for Quality Nursing Home Care Inc. on Oct. 24, 2002. The latter donation generated considerable controversy in Texas political circles after local newspapers reported that state Rep. Tom Craddick accepted it in a white envelope from the head of a large Texas nursing home chain during a meeting at a Houston restaurant.

Craddick's attorney, Roy Q. Minton, said that Craddick -- who was later elected speaker of the House and in that role oversaw the redrawing of congressional districts -- immediately passed the check along to TRMPAC. "Just because the guy happens to be speaker of the House does not mean it's against the law," Minton said.

Terry Scarborough, an attorney for TRMPAC before it formally went out of business this summer, declined to comment on the committee's indictment. Four additional indictments by the grand jury separately accused the Texas Association of Business with accepting additional illegal corporate funds and coordinating its expenditure with TRMPAC. Attorneys for the association have denied wrongdoing.

Political Committee Formed By DeLay Is Indicted (NYT/AP)

By The Associated Press

The New York Times, September 9, 2005

DOJ_NMG_0003816

AUSTIN, Tex., Sept. 8 (AP) - A grand jury has indicted a political organization formed by the House majority leader, Representative Tom DeLay, accusing it of taking illegal corporate money as he helped Republicans win control of the Texas Legislature and keep control of Congress.

Mr. DeLay, a Republican, was not indicted by a Travis County grand jury in the charges made public Thursday, although three of his political associates were charged earlier.

District Attorney Ronnie Earle, a Democrat, said he had no jurisdiction over Mr. DeLay's personal conduct. Kevin Madden, Mr. DeLay's spokesman, said the majority leader played only a limited role in the organization, Texans for a Republican Majority Political Action Committee. Mr. DeLay served on its advisory board and appeared at fund-raising events, Mr. Madden said.

A complaint filed last year with the House ethics committee said Mr. DeLay's activities with political action committees violated House rules, but the panel deferred action on the complaint.

The charge against Texans for a Republican Majority accuses it of illegally accepting a contribution of $100,000 from the Alliance for Quality Nursing Home Care and of $20,000 from AT&T. A prominent statewide business group, the Texas Association of Business, was also charged, in what Mr. Earle called an effort to funnel "massive amounts of secret corporate wealth" into Texas political campaigns.

State law prohibits use of corporate contributions to advocate election or defeat of state candidates.

No individuals in the business group were indicted.

The indictments accuse the Texas Association of Business and the political action committee of working together in a complicated scheme to circumvent state law.

Four indictments against the Texas Association of Business include charges of unlawful political advertising, unlawful contributions to a political committee and unlawful expenditures like those to a graphics company and political candidates.

The association, which is influential at the Texas Capitol, spent about $1.7 million in corporate money for mailings in 2002. The group said it was trying to educate voters on issues, which is legal, not advocate the election or defeat of any candidates.

A lawyer for the association, Roy Minton, said it acted under protections of the First Amendment, which "gives individuals and their businesses the absolute right to inform the public of the conduct of our elected officials and the conduct of candidates for public office."

Last fall, the grand jury indicted three officials of Texans for a Republican Majority: John Colyandro of Austin, and Jim Ellis and Warren Robold of Washington, D.C. All are now awaiting trial.

Texas Groups Linked To DeLay Indicted In Scandal (REU-Y2)

By Erwin Seba

Reuters, September 9, 2005

A Texas grand jury has indicted a political action committee formed by U.S. House Majority Leader Tom DeLay as well as a powerful business group on charges they violated the state's campaign finance laws, officials said on Thursday.

The indictments, five in all, accuse Texans for a Republican Majority, or TRMPAC, and the Texas Association of Business (TAB) of illegally funneling corporate donations into a 2002 campaign to win control of the Texas Legislature.

DeLay helped create the committee, but he has not been charged with any wrongdoing, and has said he was not involved in TRMPAC's daily operations.

A statement from his office on Thursday said he met with Travis County District Attorney Ronnie Earle last week and explained his limited role in the committee.

"Today's announcement is limited to a political organization and does not affect Mr. DeLay," the statement said.

Three men with close ties to DeLay were indicted last year for illegal fund-raising activities by TRMPAC.

In a civil case earlier this year, a Texas judge found that TRMPAC did not disclose nearly $600,000 it received from corporations.

Texas law forbids the use of corporate donations in political campaigns.

Earle has said DeLay is under investigation and a spokesman for him said on Thursday the investigation into illegal campaign finances continues.

In a statement, Earle said, "All five of these indictments involve the misuse of corporate money to influence Texas elections in 2002."

"They contain allegations that TAB and TRMPAC worked together in a complicated scheme to circumvent the election code by funneling massive amounts of secret corporate wealth into elections," he said.

TRMPAC's efforts helped Republicans capture the Texas Legislature for the first time since the Reconstruction era after the U.S. Civil War.

The shift led to a remapping of the state's congressional districts which ultimately increased the Republican majority in the U.S. House.

DeLay has been under fire over ethics questions involving fund raising, foreign travel and his relationship with lobbyists.

TAB's attorney Roy Minton said the organization did not violate the law and was merely exercising its free speech rights under the U.S. Constitution's First Amendment.

"At no time did the TAB endorse any candidate, seek any political contribution or campaign expenditure," Minton said.

Missouri Senators Want To Close Loophole For Sexual Predators (AP)

By Sam Hananel

AP, September 9, 2005

WASHINGTON - Missouri's senators want to close a legal loophole they say allowed a Missouri judge to throw out a conviction of a sexual predator.

Sens. Kit Bond and Jim Talent, both Republicans, introduced a bill Thursday that makes it a crime to solicit sex online from a minor even if the person solicited is an undercover agent over 18.

The move is a response to the case of Jan P. Helder, a Mission Hills, Kan., attorney accused of using an Internet chat service to solicit sex from someone he believed to be a 14-year-old girl.

A federal jury convicted Helder, 42, but U.S. District Judge Dean Whipple in Kansas City threw out the verdict last month, saying Helder could not be guilty because the person he communicated with online was actually an undercover Platte County detective.

Whipple's decision outraged children's advocates who worried it could curb the success of such Internet stings. Undercover agents typically pose as minors, waiting for sex offenders to make contact and arrange in-person meetings.

"This may in the minds of predators create a loophole and I think we should try and plug that loophole as quickly as possible by any means possible," Talent said.

Don Ledford, a spokesman for U.S. Attorney Todd Graves in Kansas City, said the government plans to appeal Whipple's decision. Ledford said the office would have no other comment on the decision or the legislation because the case is pending.

At least four federal appeals courts have rejected the type of defense used by Helder, but those decisions are not binding on Whipple. The 8th U.S. Circuit Court of Appeals, which covers Missouri, has not yet addressed the issue.

Under the change proposed by Bond and Talent, federal law would expressly provide that communicating with a law enforcement officer pretending to be a child is not a defense. Such language is already included in state law in Missouri.

"If there is a hole in the law that needs to be fixed in order to protect our children from predators, we must act now," Bond said in a statement.

Kansas Rep. Jim Ryun has written a letter urging the Justice Department to appeal Whipple's ruling, saying it is contrary to a number of other court cases.

"If permitted to stand, the practical impact of such a ruling would have devastating consequences for prosecutions of child predators who troll the Internet looking for children to entice and ultimately harm," Ryun said in the letter.

City To Request A Federal Audit (PSDS)

By Nelsy Rodriguez, The Desert Sun

Palm Springs (CA) Desert Sun, September 8, 2005

DESERT HOT SPRINGS - The Desert Hot Springs City Council voted unanimously to ask the U.S. Department of Justice to look into the city's accounts for the past five years.

DOJ_NMG_0003818

Interim City Manager Corky Larson said she was approached by city residents in the past month who suggested that the city - growing fast, but struggling with City Hall openness and budget issues - ask for a Department of Justice forensic audit.

"If there's a concern out there hopefully there won't be a problem, but if there is, then we'll find it," Larson said.

The council, meeting in closed session for about two hours, took the vote then and and reported it during a public session that ran late into the night.

Councilman Hank Hohenstein made the motion for the vote, and it was seconded by Will Pieper, interim city attorney Toni Eggebraaten said.

Asked what types of things the citizens asked for the Department of Justice to look at, Larson said one example might be building fees, but she would not elaborate.

Desert Hot Springs - exploding with residential growth - has in recent years been collecting millions in building fees, which are required by state law to be deposited in particular city accounts.

Any audit performed would check all revenue and expense flows for the city, receipts, contracts and ensure that any fees associated with planning and building the thousands of new homes going up in the scenic city at the base of the mountains were sent to the appropriate budget accounts.

During a break in the meeting Wednesday night, Larson said she would write the letter to the Department of Justice today.

Larson, an attorney and retired Riverside County Supervisor after whom the Riverside County Larson Justice Center is named, said she didn't know how long a Department of Justice investigation would take.

"Knowing the federal government, it could take a while," Larson said.

Larson said the citizens - not city staff or councilmembers - who approached her suggested the Department of Justice as opposed to another type of audit.

"That was their suggestion. We might as well take advantage of this service," she said.

The Department of Justice investigation vote was just one controversial issue on the agenda for the meeting, which was packed with citizens, some carrying signs demanding a recall of some city council members.

Also in the mix for the meeting were:

The planned presentation of recall papers to Vice Mayor Mary Stephens and Hohenstein, by a group led by citizen Patrick Gillespie;

An unusual vote that would make retired city manager Jerry Hanson's final contract null and void;

Discussion in closed session of two candidates for Hanson's job, known only as "Candidate A" and "Candidate B" in a Labor Day public forum for residents.

The city of 19,500 residents has been embroiled in controversy over the compensation for Hanson, who retired July 31.

Hanson questions In addition to Hanson's 10 employment contracts since 2003, which he wrote himself and which garnered him 1,700 hours of vacation and sick time compensation in 20 months, questions have been raised about his land holdings near the $1 billion StoneRidge development he negotiated for the city.

A Riverside County grand jury is reviewing testimony and has been sent three requests for investigations into city matters, including a request about Hanson's contracts, a request about Hanson's possible conflict of interest in land holdings and a request about Hohenstein's possible conflict of interest on his vote to approve StoneRidge.

If the final consultant's contract is not rejected and the benefits on the contract rack up, Desert Hot Springs would have to pay Hanson every month until 2008:

$7,725 for a minimum of 15 hours of work a week;

$1,128 for use-only vacation;

$1,030 for an additional eight hours of vacation a month;

$1,030 for an additional eight hours of annual leave a month;

$2,000 for a monthly deferred compensation;

$760 for health and dental insurance;

$675 for monthly expenses;

$265 for a 100-gallons gasoline stipend;

$578 for monthly payment on a $200,000 whole life insurance policy;

$27.27 for education and training; organization and membership fees to be paid without limit;

$850 for office supplies and equipment; and

a one-time $40,000 "golden handshake."

On top of that, the contract contains a clause that, as written, assures Hanson would receive approximately $16,320 a month for his retirement.

Worded as "All current or future PERS contributions required to provide the Employee/ Consultant his most recent PERS estimates for PERS retirement benefits shall be paid by the City."

The "most recent PERS estimate" was valued at approximately $20,000.

However, upon reviewing un-accounted for pay raises by as much as 87 percent in 2004, CalPERS determined Hanson would only receive $3,680.

Meaning, the difference "shall be paid by the City."

In a letter to CalPERS, Hanson requested the agency re-review his retirement allowance, saying his work of pulling the city out of bankruptcy, working in excess of 3,000 hours a year, holding five positions and being a licensed engineer and architect are deserving of a larger retirement.

"The majority of the City Council wanted me to continue on after my contract expiration in Feb. 12, 2005," Hanson wrote in the letter dated Aug. 15. "I only resigned as city manager due to vicious and deceptive politics in the local media damaging mine and my family's good name."

Hanson's attorney, Edward Kotkin, was unavailable for comment Wednesday afternoon.

The media scrutiny began in March when the city confirmed to all media outlets that he earned $322,809 in 2004 (the same year he drafted an 87 percent pay increase into his contract and passed it unanimously through the City Council) after his W-2 tax form was leaked to a local TV news channel.

The scrutiny continued as The Desert Sun then reported in April that Hanson bought property along a road that he later negotiated $600,000 worth of street improvements as a condition for recommending the City Council approve an upscale housing development.

Recall drive Angered by Hanson's generous contracts, especially his final consultant's contract, citizens in the city that just emerged from a three-year bankruptcy have obtained the initial signatures on formal recall forms for the councilmembers who voted for the contracts consistently.

A group of citizens led by Patrick Gillespie has promised to present Stephens and Hohenstein with recall papers. The two were among those voting to approve Hanson's final contract, which appears to guarantee that the city will pay $195,000 a year for life in retirement benefits the state has refused to pay in addition to $180,000 a year through Feb. 2006 even if Hanson performs no work.

The median annual income in

Desert Hot Springs is about $29,500 a year.

Once the recall papers are filed and initial signatures are verified, recall supporters must obtain about 1,800 valid signatures for the recall to take place.

Orange County Deputy Sheriff Arrested (ORS)

Pedro Ruz Gutierrez Sentinel Staff Writer

The Orlando Sentinel, September 9, 2005

An Orange County deputy sheriff indicted on federal embezzlement charges was arrested today by deputy U.S. marshals and relieved of duty without pay, authorities said.

Deputy Tawanda McNeil, a four-year veteran, was assigned to the agency's uniform patrol division in the agency's Sector 2, which covers east Orange County.

The U.S. Attorney's Office in Orlando said a federal grand jury indicted McNeil on Wednesday on 18 counts of embezzlement related to payments she erroneously received when the U.S. military called her up for duty.

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McNeil was not activated and was not entitled to the the payments, said Carolyn Adams, chief of the U.S. Attorney's Office in Orlando.

The amounts covered by the indictment total about $23,000.

Red Lake Seeks Items Seized By FBI (MINNST)

By Chuck Haga, Star Tribune

Minneapolis Star Tribune, September 9, 2005

Red Lake's school district has gone to federal court to seek recovery of documents and equipment seized by the FBI during its investigation of the March 21 shootings on the reservation, in part to protect itself against potential liability lawsuits.

In a motion filed Thursday in U.S. District Court in Minneapolis, the district said it needs the return of security video footage, education records of shooter Jeffrey Weise, witness statements of district employees and computer hard drives, among other things.

Those materials are "crucial," according to the filing, for the district to evaluate its security system and procedures in effect on March 21 "and to defend against likely lawsuits."

A spokesman for the clerk of court's office confirmed that it had received documents from the district's attorney.

It had not been determined whether the motion would be filed as part of the ongoing juvenile proceeding or as a separate matter.

After seizing the school district materials, the computers and other personal possessions of some Red Lake students, the U.S. attorney's office arrested one other student -- Louis Jourdain, son of Red Lake Tribal Chairman Floyd Jourdain Jr. -- and subpoenaed other students to appear before a federal grand jury.

A judge late last month ruled that Louis Jourdain, who was 16 at the time of the shootings, should be tried as a juvenile. Prosecutors have not said what Jourdain is accused of doing, but a source with knowledge of the case has said the boy is charged with conspiracy to commit murder.

Shamus O'Meara, a Twin Cities attorney who represents the Red Lake district, said that no suits stemming from the shootings have been filed against the district, but that two law firms "representing at least 18 families and individuals" have advised it they're considering liability suits.

"The district faces the very likely prospect of being involved in litigation with multiple plaintiffs," O'Meara said.

"We are respectful of the federal role in this [case] and its investigation," he said. "But there shouldn't be competing interests here. There should be a way to balance the interests of the federal government with the district's interest in [conducting] a complete evaluation."

He said the school district "has tried on several occasions" to obtain the return of the materials, which were seized in the days immediately after the school shootings, in which Weise, 16, killed eight people, including himself. Weise had killed two others before going to the school.

The federal investigators "basically told us to seek access to the materials through the Freedom of Information Act," O'Meara said. "We did that, and it was denied.

"From the district's perspective, this is a last resort. We hope that when the U.S. attorney's office gets a chance to read our motion, they'll give us a call and work this out."

U.S. Attorney Thomas Heffelfinger said late Thursday that he had not seen the district's motion and could not comment.

A thorough investigation into the security arrangements the district had in place on March 21 "is particularly important," according to the district's filing, "because certain individuals have criticized the district's camera system in place at the time."

The district "also has been unable to investigate Jeff Weise's psychological and educational records to determine the extent of the information in the district's possession prior to the incident."

In an affidavit with the filing, Red Lake Superintendent Stuart Desjarlait noted that the FBI has returned several of the district's computers, "but without hard drives."

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Weise's student records sought by the district include records maintained during the 2004-05 school year by his instructor in a homebound program "and, possibly, a report involving Jeff Weise authored by a psychiatrist from Indian Health Services," according to the filing.

FBI Pressed To Share Red Lake Evidence (STPPP)

By JIM RAGSDALE, Pioneer Press

The St. Paul Pioneer-Press, September 9, 2005

The Red Lake School District, facing hundreds of workers' compensation claims from employees and the possibility of multiple lawsuits, is seeking to view a complete video record of a student's killing spree at Red Lake High School as well as the killer's academic and psychological records.

Those materials, the district said in a motion filed on Thursday, were among the items seized by the FBI immediately after the March 21 shootings. Eight people died at the school, including the shooter, 16-year-old student Jeff Weise, who took his own life. Seven were injured. Weise had killed his grandfather and his grandfather's partner at home before assaulting the school.

Shamus O'Meara, a Minneapolis attorney who is representing the school district in the shootings and expected legal claims, said federal officials have declined to make the materials available, and he has failed at attempts to use freedom-of-information laws to view them.

"There is an immediate need to thoroughly review the District's security system to ensure the protection of staff and students from incidents of violence," the school district said in its motion. The district is asking a federal judge to allow the district to view the materials.

U.S. Attorney Tom Heffelfinger, whose office is leading the criminal investigation into the shootings, said he had not yet reviewed the papers and could not comment on the district's request. The criminal case against a second 16-year-old student, Louis Jourdain, suspected of helping plot the assault is still pending.

According to the district's court filings, video cameras in the school recorded what a technician described as "graphic and detailed incidents of the murder scene." The district retained a copy, but it is a shortened version without all the available camera angles, O'Meara said, and the district wants to view copies held by federal investigators.

The school district said it is also seeking access to educational records for Weise, who was at home that day on the school's homebound instruction program. Included in the district's request are records from the teacher who visited Weise at home during the school year. The district also said it believes the FBI has a psychiatrist's report on Weise.

"The district's perspective is that these are important items of information to have so that we can cogently speak to the issues of security, with the school board, with the district staff, as well as the community," O'Meara said. "Without them, we simply have not done the job we need to do to fully evaluate that system."

In the court papers, the district said "several hundred workers' compensation claims" have been filed against the district over the shootings. The papers suggested that many lawsuits are possible, and said groups of victims' families, school employees and parents of students in one classroom all are consulting attorneys.

O'Meara is also representing the Rocori school district in the aftermath of a school shooting that killed two students at Rocori High School in September 2003. He said in that case, materials were made available by the state to the school district under a judge's order, which prohibited copying or public dissemination of some documents.

The court papers filed by the school district say federal agents seized dozens of school computers and were given maps and blueprints of the school, a student directory with parents' phone numbers, attendance on the day of the shooting and locker combinations for each student.

Jim Ragsdale can be contacted at jragsdale@pioneerpress.com or 651-228-5529.

Student Jeff Weise, 16, took his life March 21 after killing 10 people in Red Lake, Minn.

Man Gets Prison Over Child Porn (TUSCCIT)

By HEIDI ROWLEY, Tucson Citizen

Tucson Citizen, September 9, 2005

DOJ_NMG_0003822

A Tucson martial arts instructor has been sentenced to 2.5 years in federal prison for possessing hundreds of child pornography images.

David Michael Lader, 41 will also be fined $30,000 followed by lifetime supervised release with sex offender conditions, a U.S. Attorney's Office news release said. He was ordered to provide a DNA sample.

Lader pleaded guilty to possessing more than 300 child pornography images on his home computer. Many were acquired over the Internet and involved children younger than 12, officials said. U.S. Immigration and Customs Enforcement agents arrested him in April 2004. Lader, who is not in custody, must surrender to U.S. marshals Oct. 12.

In delivering the sentence yesterday, U.S. District Judge Raner Collins noted that at the time of the crime, Lader was a registered sex offender yet was teaching children and adults.

He worked at the Tucson Racquet & Fitness Club and through The Dojang martial arts school, according to Tucson Citizen archives.

Lader has two misdemeanor indecent exposure convictions in Ohio from 1992, the Citizen previously reported.

Rural Vs. City Ways At Issue In A Wisconsin Murder Trial (NYT)

By Gretchen Ruethling

The New York Times, September 9, 2005

MADISON, Wis., Sept. 8 - A jury was chosen in this liberal bastion on Thursday for the trial of a Hmong immigrant charged with killing six hunters, causing consternation in the North Woods, where the shootings took place.

Some residents of Rice Lake, where all the victims lived or grew up, said they were concerned that the jurors from Dane County, which encompasses Madison, might not grasp the nuances of rural life.

"They are not as rural, and their culture and their lifestyle is quite different from ours up here in the north," said Renee Gralewicz, an ethnic studies instructor at the Rice Lake campus of the University of Wisconsin. "So we might have some people who really don't understand the culture of hunting and the etiquette and the ethics and how all of that plays out on the jury."

Judge Norman L. Yackel of Sawyer County Circuit Court ruled in June that the jury for the trial of the immigrant, Chai Soua Vang, would be chosen from Dane County after the defense argued that publicity and strong emotions in the Rice Lake area jeopardized Mr. Vang's chances for a fair trial.

The concern about the composition of the jury stems in part from the racial overtones of the case. Mr. Vang, 36, a refugee from Laos who lived in St. Paul, Minn., told police that he had been sitting in a tree stand on private hunting land about 25 miles northeast of Rice Lake one Sunday last November when the hunters, who were white, swore at him and used ethnic slurs.

Mr. Vang said he shot at the hunters after someone shot at him first.

"The rest of the group scramble for something at the ATV so I shot them at the ATV and ran toward them because I thought that they will get something a gun to shoot me," Mr. Vang wrote in a letter from jail to a reporter for The Chicago Tribune. The letter has been admitted as evidence in the case. "I feel that this incident is happen because people are not able to treated others with respect like they want to be treated and hatred toward other people or race."

One survivor told the police that Mr. Vang fired first.

Hmong hunters have complained of harassment from white hunters, some of whom point to a different hunting culture as the root of the problem. Many residents in Rice Lake, which is 230 miles northwest of Madison and has a population of 8,300, dispute the claim that racial tensions have been high in the area.

Larry Jarvela, 60, the mayor of Rice Lake, said he thought people from the city, especially non-hunters, might have a hard time understanding the context of the incidents and hunting culture.

As to residents' reaction to the jury selection, he said, "I don't think they necessarily like it, but I think on the other hand they understand why it had to be done."

Dan Rassbach, who is organizing construction of a park in Rice Lake in honor of the slain hunters, said there was concern about lifestyle differences between people in Dane and Sawyer counties. "The hope is that they will understand the situation," he said. "If all the facts are presented, it should come out to be a fair verdict."

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The 10 women and 4 men, all white, who were selected for the jury on Thursday will be sequestered during the trial, which starts on Saturday and is expected to last less than two weeks. Mr. Vang is charged with six counts of intentional first-degree homicide and three counts of attempted homicide. He has pleaded not guilty to all counts.

The Madison area is known as more liberal, diverse and Democratic than many other parts of the state, a reputation that comes in part from the students and faculty at the University of Wisconsin, who come from around the country and the world.

"It is indeed part of Wisconsin's general political culture that Madison is regarded as distinct from the rest of the state," said Dennis Dresang, a professor of political science at the university.

University students and faculty members were vocal critics of Senator Joseph R. McCarthy in the 1950's and also organized a strong antiwar movement during the Vietnam War.

Donald Downs, another political science professor at the university, said Wisconsinites tended to consider people in the Madison area elite and better educated than people from other parts of the state, and he said hunting was less prevalent there than in northern Wisconsin.

About 130 potential jurors came to court for jury selection on Thursday. Some 200 jurors had already been dismissed based on written answers to more than 60 questions in a questionnaire over the past few weeks.

During the process, Mr. Vang sat quietly in a dark green suit, white shirt and tie. Four of his family members were watching from a television monitor in another courtroom but would not talk to members of the media.

Judge Yackel said many jurors indicated in the questionnaires that they had heard about the case, and he asked them to put aside that information. "I guess what we're asking you to do is unring a bell," he said at the beginning of the selection. "That may be difficult for some and impossible for others."

Nine jurors were excused during the selection process because they said they had a conflict of interest or would not be able to separate prior knowledge of the case to make a judgment based solely on evidence.

Peg Lautenschlager, the state attorney general who is prosecuting the case at the request of Sawyer County, asked potential jurors about their experiences with weapons, confrontation, violence and hunting.

Jonathan Smith, one of Mr. Vang's lawyers, focused on his client's presumed innocence and asked whether jurors could be objective in light of intense media coverage of the incident.

"Does everyone agree that Mr. Vang as he sits here this morning is presumed innocent?" Mr. Smith asked. "Does anyone have a fear of turning in a verdict of acquittal?"

Mr. Smith also said Mr. Vang's race should not enter into the deliberations and asked potential jurors if that or the number of charges would influence their objectivity.

Mr. Vang's lawyers are expected to argue self-defense, having ruled out a mental illness defense, and they have asked the judge to provide the jury with a legal definition of the term.

Mr. Vang faces life in prison if convicted.

CIVIL LAW:

Bush Loses Appeal On Base Closings (NYT/AP)

By The Associated Press

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 (AP) - The Bush administration lost a last-minute bid on Thursday to persuade the Supreme Court to intervene and protect a federal panel's recommendations for the closing and realignment of military bases.

Judges in Connecticut and Tennessee had blocked the panel from recommending changes at local Air National Guard bases, and Justice Ruth Bader Ginsburg on Thursday rejected the administration's request for intervention. Another appeal could be filed later and handled by the full court.

Solicitor General Paul Clement said in a court filing that disorder was undermining the work of the president and the commission that recommended the closings.

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By law, the commission had until Thursday to send its final report to the president, who had pledged to send it to Congress without changes. Congress would then have 45 days to block it.

Justice Ginsburg, noting that the federal appeals court in New York was dealing with the same case, said, "This court should not short-circuit the normal review process absent a showing of irreparable harm stronger than that presented here."

Justice Ginsburg handles appeals from the New York court.

White House Gets Base-Closing Recommendations (WP/AP)

By Associated Press

The Washington Post, September 9, 2005

The base-closing commission submitted its recommendations to the White House last night after withdrawing proposed changes at an Air National Guard base in Connecticut.

What was to have been a routine paperwork delivery of those proposals to President Bush was threatened by a cross-country legal fight.

Judges in Connecticut and Tennessee blocked the panel from recommending changes at local Air National Guard bases. The Tennessee decision was overruled by an appeals court yesterday afternoon, but the Connecticut injunction stood.

Supreme Court Justice Ruth Bader Ginsburg rejected the Bush administration's request for intervention in the Connecticut case.

The Base Closure and Realignment Commission, which was bound by law to send its report to the president by yesterday, withdrew the portion of the report recommending the realignment of Connecticut's 103rd Fighter Wing. The plan would have moved jets from Connecticut's Bradley Air National Guard Base to Massachusetts.

The commission said it would restore the recommendation if the Connecticut court's injunction "is later vacated, reversed, stayed or otherwise withdrawn."

Separately, Illinois, Missouri and New Jersey lost emergency Supreme Court appeals intended to stop the commission from sending the report to the president. Facilities in those states are among hundreds targeted by the panel for closure or consolidation in the first round of base closings in a decade.

Solicitor General Paul D. Clement, the administration's Supreme Court attorney, said the court should safeguard the work of the president and a commission that has spent five months on a plan to restructure domestic military bases to save billions of dollars.

The president has said he will probably pass the commission's final report on to Congress without changes, but he still could reject it or send it back to the commission for more changes. Copies of the report will be delivered this morning to Congress and the Defense Department. After Congress receives the report from the president, lawmakers will have 45 days to block it, although they have never rejected reports in base-closing rounds.

Ginsburg said a federal appeals court in New York was dealing with the Connecticut case and "this court should not short-circuit the normal review process absent a showing of irreparable harm stronger than that presented here." Ginsburg handles appeals from the U.S. Court of Appeals for the 2nd Circuit.

The Supreme Court dealt with a flurry of paperwork yesterday, a day after the funeral for Chief Justice William H. Rehnquist. Lawyers representing Sen. Jon S. Corzine (D) and other New Jersey officials said they wanted a reprieve to appeal the decision to close Fort Monmouth.

Missouri Attorney General Jay Nixon asked the high court to protect an Air National Guard unit in St. Louis, and Illinois Gov. Rod Blagojevich (D) challenged plans to move National Guard fighter jets.

Clement had argued for the government that a Connecticut judge was out of line Wednesday in barring the commission from recommending changes at an Air National Guard base in that state.

In other base-closing lawsuits, a Massachusetts judge yesterday rejected the state's efforts to protect the Otis Air National Guard Base. Like several other states, Massachusetts argued that changes to their National Guard units or bases must be approved by governors.

Caremark Pays $137.5M To Settle Case (AP)

DOJ_NMG_0003825

The Associated Press

AP, September 8, 2005

Sep. 8, 2005 - Pharmacy benefits manager Caremark and the Justice Department agreed Thursday to a $137.5 million settlement of lawsuits originally filed by whistleblowers claiming a predecessor company received kickbacks affecting several federal health care programs.

Nashville-based Caremark Rx Inc. admitted no wrongdoing in making the settlement, which was approved by a Philadelphia federal court Thursday.

The lawsuits were filed in 2002 under the whistleblower provisions of the Federal False Claims Act by three former executives of AdvancePCS Inc., a Texas-based pharmacy benefits manager that Caremark acquired in March 2004. The Justice Department joined the lawsuits after they were filed.

The lawsuits contended AdvancePCS took kickbacks from drug manufacturers to give their products favorable treatment under contracts with the Federal Employees Health Benefit Program, the Mailhandlers Health Benefit Program, Medicare+Choice and other government programs.

The court filings also charged that AdvancePCS paid existing and potential customers kickbacks to sign pharmacy benefits management contracts. All the allegations date to before Caremark took over AdvancePCS.

"Caremark and the marketplace were aware of this situation prior to our acquisition of AdvancePCS," Caremark CEO Mac Crawford said in a statement. "We are pleased with the settlement with the Federal Government as it allows us to avoid the expense, uncertainty and distraction of potentially time-consuming litigation."

Shares of Caremark closed down 39 cents at $48.26 on the New York Stock Exchange.

The False Claims Act allows private citizens to sue individuals and companies they believe have defrauded the government.

"Each of our clients came forward because they thought it was the right thing to do to improve the PBM industry," said W. Scott Simmer, a partner with Robins, Kaplan, Miller & Ciresi and lead counsel to the three plaintiffs. "They put their careers and their families on the line and are delighted with the result in this case."

Not dismissed by the settlement are whistleblower claims on behalf of 10 states: California, Delaware, District of Columbia, Florida, Illinois, Louisiana, Massachusetts, Tennessee, Texas and Virginia.

Also pending against Caremark is a separate Justice Department and whistleblower lawsuit alleging the company did not appropriately repay Medicaid and other federal health insurance programs. Caremark has denied those claims.

U.S. Senate Panel OKs Asbestos Subpoena Power (REU-Y2)

By Susan Cornwell

Reuters, September 9, 2005

A Senate committee on Thursday gave its leaders authority to subpoena information from companies facing asbestos lawsuits as lawmakers work on legislation creating a $140 billion fund for asbestos victims.

The unanimous voice vote gave Judiciary Committee leaders authority to subpoena information about how much companies would expect to contribute to the privately financed fund.

The panel's chairman, Pennsylvania Republican Sen. Arlen Specter (news, bio, voting record), told members he did not know if subpoenas would be necessary, but he wanted "a little muscle" in case companies continued to resist producing the data.

Although the proposed bill has a formula for industry contributions, based on a company's size and prior asbestos expenditures, many companies are reluctant to discuss how it would affect them, saying the information could expose them to more lawsuits.

Specter said he hopes to bring the bill to the Senate floor the first week of October. Aides said the industry information could be used to make changes necessary to build Senate support for the bill.

Without the sought-after information, the bill is "in peril," committee Republican Texas Sen. John Cornyn (news, bio, voting record) warned as he applauded the subpoena power authorization.

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Specter and the ranking Democrat on the panel, Sen. Patrick Leahy (news, bio, voting record) of Vermont, have been seeking more data from the industry for months to answer colleagues' questions about the asbestos compensation fund legislation, which they are co-sponsoring.

Some senators in both parties say they cannot back the bill unless they know how much each company would pay into the fund. Some worry the costs will be unequally distributed or that there simply will not be enough money contributed to pay claims.

"The committee has been woefully underinformed about both the costs and funding of this bill," Cornyn said in a statement. "Without the necessary information, and without the ability to meet the funding requirements, this bill is in peril."

Asbestos, widely used for fireproofing and insulation until the 1970s, has been linked to cancer, and hundreds of thousands of injury claims have bankrupted dozens of U.S. companies.

Specter and Leahy's bill, approved by the judiciary panel in May, would halt the lawsuits and pay claims from a fund financed by asbestos defendant companies and their insurers.

U.S. Prosecutors Allege Safety Violations By American Airlines (FINDLAW/AP)

Find Law, September 9, 2005

(AP) - NEW YORK-American Airlines put its passengers at risk and violated multiple U.S. air-safety regulations in 2003 by allowing one of its jets to fly with a leaky fuel tank, according to a civil complaint filed by the U.S. attorney's office in Brooklyn.

The complaint, which was made public on Thursday, seeks more than $1 million (â,¬800,000) in penalties against the airline.

Tim Wagner, a spokesman for American's parent company AMR Corp., declined to discuss the complaint, saying lawyers for the Fort Worth, Texas-based airline had not had a chance to review it.

The complaint alleges that on Nov. 17, 2003, a Federal Aviation Administration inspector was a passenger on an American flight from Orlando, Florida, to New York's La Guardia Airport when he saw fuel leaking from a wing of the McDonnell Douglas MD-82.

The inspector warned the flight crew about the leak and demanded it be recorded in the aircraft's maintenance log. However, "no such entry was made by the pilot or maintenance personnel," the complaint said.

American allowed the "unsafe and un-airworthy" jet to take 53 commercial flights over two weeks before it was repaired during a regularly scheduled maintenance check, the complaint said.

During that period, the "aircraft was operated in a careless and reckless manner so as to endanger the life or property of another," the complaint said.

Will The Supreme Court Unleash Civil RICO? (LAW)

By Pamela A. Maclean, The National Law Journal

Law.com, September 9, 2005

Many believe that the 1970 civil racketeering law was created to apply only to traditional Mafia-style criminals as a way to force them to pay for their criminal enterprise.

Over the years, interpretation of civil RICO (Racketeer Influenced and Corrupt Organizations Act) has evolved into a tug of war between the U.S. Supreme Court, which reads the law broadly to reach beyond the mob, and appellate courts, which have repeatedly curtailed plaintiffs' use of the act.

The notion that the law should only allow recovery for harm caused by organized crime members is a myth, said G. Robert Blakey, drafter of the original statute and a law professor at Notre Dame University.

"The mob was the occasion for RICO but it does not define its scope," he said. "When it was argued on the House and Senate floors, the principal spokesman said, 'No, it is not a mafia statute,'" Blakey said.

The welter of legal standards imposed by courts over the years has created a patchwork of splits in the circuits around the country. Despite this, the Supreme Court has been "vacillating in the degree to which it is willing to intervene to clarify," Blakey said.

But the new term may change that. The justices have granted review in two RICO cases, and the U.S. solicitor general is pushing for review of a third, while a fourth appeal is on the way.

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In general, the cases raise important questions for the high court of how broadly civil RICO can be applied and what the scope of remedies is, according to Erwin Chemerinsky, a Duke University law professor who will argue on behalf of plaintiffs in one of the cases granted review.

CIVIL VS. CRIMINAL

Civil racketeering is intimately intertwined with its criminal counterpart. Criminal RICO law targets organizations that conspire to commit a pattern of crimes specified in the act, from murder and arson to mail fraud. Civil RICO allows victims of criminal racketeering to be compensated for their losses, although a criminal conviction is not necessary to make the civil claim.

Because RICO was modeled on antitrust law, successful private plaintiffs in RICO suits may recover treble damages. Civil RICO has become popular with civil attorneys because it also provides a longer statute of limitations, four years, and allows discovery going back as much as 10 years.

Blakey said that while district courts seem to find any excuse to throw out civil RICO cases, they do not do the same to criminal racketeering cases. The criminal sanctions have been used more often against political corruption than the mob, he said.

"Politicians have felt the full brunt of RICO and that doesn't bother me at all. We can live with a few Mafiosi, but a crooked politician affects everything," he said.

For the 2005 term, the high court has agreed to review the appropriateness of a national injunction prohibiting anti-abortion pickets from blockading abortion clinics, Scheidler v. National Organization for Women, No. 04-1244, and the Bank of China's effort to reinstate a $132 million RICO jury verdict against defendants accused of conspiring to cheat the bank through fraudulent loan deals, Bank of China, NY Branch v. NMB, No. 03-1559.

In addition, the solicitor general has asked the court to review a recent 2-1 decision by the U.S. Circuit Court for the District of Columbia, which eliminated the government's RICO remedy: forcing the tobacco industry to disgorge $280 billion it earned through alleged fraud by lying to the American people about the dangers of smoking.

That decision, in U.S. v. Philip Morris USA Inc., 396 F.3d 1190 (2005), conflicts with decisions in the 2nd and 5th circuits, Blakey said.

Both those decisions, U.S. v. Carson, 52 F.3d 1173 (2nd Cir. 1995) and Richard v. Hoechst Celanese Chem. Group Inc., 355 F.3d 345 (5th Cir. 2003), authorize equitable disgorgement as a RICO remedy, wrote Edwin Kneedler, acting solicitor general.

Perhaps the most unusual of the four cases is one expected to reach the high court by November. It springs from a split between the 9th Circuit and the 7th and 11th circuits.

The 9th Circuit held in August that a convicted murderer can sue the Los Angeles Police Department as a racketeering enterprise, alleging that he was framed and falsely imprisoned by officers in what became known as the Ramparts scandal, Diaz v. Gates, No. 02-56818.

Ramparts refers to the police division where officers were accused of stealing drugs and framing hundreds of suspects on phony charges in 2000.

Traditionally, the injury to property may come in the form of a burned-out building, but in the case of David Diaz, his alleged injury -- false imprisonment by police -- hindered his ability to earn a living. The 9th Circuit said a loss or injury in employment can be considered an injury to property for purposes of civil RICO. That runs counter to an 11th Circuit decision denying damages sought by the relatives of FBI agents killed in a shootout with criminal suspects, Grogan v. Platt, 835 F.2d 844 (1988), and a 7th Circuit decision in Doe v. Roe, 958 F.2d 763 (1992), which held that economic losses flowing from personal injuries cannot be recovered using RICO.

While Diaz may have standing to get in the courthouse door, that does not mean his RICO will survive, the appeals court made clear. Whether his racketeering allegations are adequate "is a matter on which we express no view," the 7-4 unsigned opinion stated.

To Stephen Yagman, Los Angeles attorney for Diaz, the Supreme Court declared 20 years ago that civil RICO is "wide as the earth and high as the sky," starting with Sedima v. Imrex Co., 473 U.S. 479 (1985).

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Judge Stephen Reinhardt, in a concurring opinion in Diaz, suggested that it is time for Congress to reconsider the breadth of the law. Starting with Sedima, racketeering law has been "stretched both in scope and meaning far beyond that which Congress originally intended," he said. "In my view, it is well past the time for our lawmakers to take another look at RICO and consider amending the statute so as to limit it to its original purpose."

Dissenting Judge Ronald M. Gould warned that the Diaz majority would confer standing to sue on any plaintiff RICO-savvy enough to allege lost employment.

Whatever happens to Diaz, Yagman points out that there are 150 to 200 civil suits by prisoners stemming from the Ramparts police scandal, many with RICO claims. Those defendants may now keep those suits alive.

Los Angeles Deputy City Attorney Janet G. Bogigian said the city will appeal the 9th Circuit decision by November. Although she declined to discuss the case, her papers filed with the appeals court state that Diaz tried to "fashion an obstruction of justice allegation from his evidence of fabrication and witness tampering." It does not save his RICO case, she argued.

Chemerinsky speculated that it is possible the high court would accept the Diaz case. Notre Dame's Blakey was more doubtful. He called the Diaz case "factually unattractive." Nonetheless, he said, "I think the 9th Circuit is right and the 7th Circuit is wrong."

Chemerinsky said, "The brilliance of Diaz is that it uses a broad statute to deal with the social issue of police abuse. If it is ultimately upheld it gives another tool to plaintiffs' lawyers to gain compensation for police abuses," he said.

Blakey tried to debunk what he considers another myth about RICO, that broad reading of the law would open the floodgates to a spate of cases.

In the first decade after its passage, criminal RICO prosecutions accounted for fewer than 30 cases a year and usually went after traditional organized crime such as extortion, gambling or labor racketeering, according to a Vanderbilt University report in 1990.

In the early 1980s, a U.S. Supreme Court ruling that the profits from racketeering were subject to forfeitures from businesses and labor helped produce a rise in the use of the criminal law for major mafia prosecutions in New York; Chicago; Kansas City, Mo.; Cleveland; Philadelphia; and Boston.

RICO was also used in a Chicago prosecution of corrupt judges, in Seattle against a neo-Nazi group and South American drug traffickers, and against former Panamanian leader General Manuel Noriega. Then it began to be applied to white-collar crime, including insider trading and bank fraud in the 1980s savings and loan scandals.

Civil RICO cases remained nearly nonexistent until the 1990s, when the Supreme Court ruled for the second time that civil RICO has broad application.

Blakey said RICO applies to a pattern of unlawful behavior, not simply multiple uses of the mail or phones. One explanation for the slow growth in its use, he said, is that civil litigation and RICO litigation could be compared to the difference between an internist and a brain surgeon. RICO is extremely complex, he said.

And that may also account for judges and appellate courts continuing to throw up barriers to the broad application of civil RICO beyond traditional mobsters.

The civil statute states that "any person injured in his business or property by reason of a violation of section 1962 [racketeering] ... may sue ...

"What part of 'any' don't they understand?" asked Blakey. "The myth [of mob only application] is like a vampire. It has to have a stake driven through its heart over and over," he said.

Attorneys Brace For Impact Of New Bankruptcy Code (LAW)

By Peter Geier, The National Law Journal

Law.com, September 9, 2005

The bankruptcy bar is bracing for the bumpy landing many practitioners expect when the new Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 touches down next month.

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Most bankruptcy lawyers agree that the new code is highly complex and technical, that it will cause significant changes in consumer and business bankruptcy practice, and that it is so poorly drafted that it will take time for the courts to sort out its ambiguities.

Observers also warn that a law purportedly aimed at financially undisciplined consumers is sure to bear unintended consequences for entrepreneurs, independent contractors and self-employed people -- particularly innovators who use bankruptcy relief when caught in a lean business cycle.

Alan N. Resnick, a co-editor-in-chief of "Collier on Bankruptcy," a comprehensive 23-volume treatise on statutory and procedural bankruptcy law and a professor of bankruptcy law at Hofstra University School of Law in Hempstead, N.Y., said lawyers will have their hands full getting used to the changes.

"First and foremost for lawyers and practitioners is the learning curve. It's a very large bill, it's voluminous -- over 500 pages. Every time you look at the bill you see something else," said Resnick, also of counsel to the bankruptcy and restructuring department at Fried, Frank, Harris, Shriver & Jacobson in New York and a member of the bankruptcy rules advisory committee of the Judicial Conference of the United States. He agrees with many other bankruptcy practitioners that the legislation, which becomes effective Oct. 17, is very poorly written and filled with ambiguities.

"I don't think there's any doubt that we will see a lot of litigation in the year to come over interpreting many ambiguities in these provisions. It needs a technical amendments bill to clean it up," Resnick said.

THE 'POSITIVES'

Among the "positives" of the new law are provisions protecting patients in nursing homes and health care facilities that file for bankruptcy, and a new Chapter 15 for cross-border cases based on the United Nations Commission on International Trade Law Model Law on Cross- Border Insolvency, which is "a step in the right direction," he said.

Bankruptcy lawyers know that the new law will necessitate learning and improvising new strategies, but one aspect that has received little attention yet is the potential effect it will have on the practices of nonbankruptcy lawyers.

For instance, new provisions on how companies in bankruptcy must handle employee incentives, severance packages and retiree benefits are bound to influence how employee-benefits lawyers draft their clients' contracts. And provisions that make it more difficult to reorganize a single-asset real estate venture will be important to real estate attorneys, Resnick said.

John D. Penn, president of the American Bankruptcy Institute and a commercial bankruptcy attorney at Haynes and Boone in Fort Worth, Texas, said that despite heavy media coverage of the effect that the new law will have on consumers, "there are some very dramatic changes on the business side."

For the first time, goods purchased in the ordinary course of business and delivered within 20 days of the filing of the bankruptcy will count as administrative expense claims; that is, they will have a status on a par with legal fees, which generally are paid by the effective date of the reorganization plan, Penn said.

"This is particularly significant because there will be a lot of companies whose available assets simply won't support the cost of a bankruptcy and items delivered within the 20 days before the bankruptcy was filed. It means that in all likelihood, those companies will be on the auction block either right before they file or right after they file," he said.

Another significant rule change involves key employee-retention plans, or KERPs, which are financial incentives paid to certain employees to stay for prescribed time periods or events in the bankruptcy proceeding. It will result in companies no longer being able "to use financial incentives to keep employees on board, because [under the new rules] the ones who can leave, will leave," Penn said.

Commercial bankruptcy lawyers also have voiced concern about strict time limits that Congress imposed on the period during which companies in bankruptcy are allowed to assume or reject nonresidential real estate leases, as well as an 18-month cap on a debtor's exclusive period to file a reorganization plan.

"For the United [Airlines] that files after Oct. 17, if they want the debtor to remain in control [of the reorganization plan] after 18 months, they are going to have to work very quickly," Resnick said.

However, concern over such things as the new exclusivity provision is overstated in the view of Professor Robert M. Lawless, who teaches bankruptcy and corporate law at the William S. Boyd School of Law at the University of Nevada, Las Vegas.

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"Tightening [the exclusivity period] and shortening it aren't going to matter too much. I don't think it matters now. If anyone had a good plan for United, I'm sure we would have heard about it by now," said Lawless, noting that the same was true of Eastern Airlines "10 to 12 years ago."

Lawyers and the public should be more concerned with "automatic dismissal triggers on the consumer side," as well as expanded grounds for dismissal of Chapter 11s "for failure to file just about any form," Lawless said.

But the central flaw of the legislation, he said, is that while the law is aimed at making corporate restructuring more efficient and irresponsible consumers more accountable, those who take the biggest hit are small businesses such as sole and family proprietorships, entrepreneurs, self-employed people and independent contractors.

In "The Myth of the Disappearing Business Bankruptcy," a study funded by the Kansas City, Mo.-based Ewing Marion Kauffman Foundation that ran in the California Law Review in May, Lawless and co-author professor Elizabeth Warren of Harvard Law School argue that the new law is based on the incorrect premise that business bankruptcies account for only 2 percent of the total, whereas the figure is actually closer to about nine times that amount.

"What we have seen is that one in 7 consumers in bankruptcy court is actually there in connection with his or her own business. These folks are being made to fit into a bankruptcy system designed to deal with consumer problems. What you've got is the proverbial square pegs in a round hole," Lawless said.

"I think [the new law is] going to be a bad thing. I have said before that it's the poster child for campaign finance reform in that it is a law bought and paid for by the credit industry," he said.

CONSUMERS HURT?

Henry J. Sommer, co-editor-in-chief of "Collier on Bankruptcy" and supervising attorney at the Consumer Bankruptcy Assistance Project, a pro bono bankruptcy legal assistance program based in Philadelphia, said that "there is no question that on the whole consumers are a good deal worse off" because the process will be "more expensive and more burdensome."

Bradford W. Botes, a partner at Bond & Botes, a multistate bankruptcy practice based in Birmingham, Ala., and a director on the board of the National Association of Consumer Bankruptcy Attorneys, said that he doubted whether the new, "much more arduous, much more rigorous procedure" will provide benefits for creditors or anyone else.

"I am certain that it will make our practice more labor intensive, and that we will charge more money filing bankruptcies, which is unfortunate because most of the people who file have a hard enough time paying as it is," said Botes. He added that he expects simply "to file less cases and be compensated more for the cases we do file.

"It's ironic to me that a Republican Congress has created a lot more bureaucracy" by inserting provisions such as consumer bankruptcy filers having to undergo credit counseling before filing and credit education before a bankruptcy court discharges their cases, Botes said.

It further intrigues Botes that Congress should pick this particular time -- when the Internal Revenue Service and possibly other federal agencies "are investigating the credit consulting industry for violations of not-for-profit tax laws and using misleading language in advertising to the public" -- to include such requirements, he said, citing the AmeriDebt Inc. case.

In March, AmeriDebt, which the Federal Trade Commission had accused of misrepresenting itself as a nonprofit credit counseling organization, shut down its debt management operation as part of a settlement of an FTC civil action, which alleged that the company deceived consumers into paying at least $170 million in hidden fees.

Another irony is how a Republican Congress that is purportedly concerned about individuals' privacy and identity theft issues would include a provision that "any creditor can request tax returns from any debtor at any time," Botes said.

Richard B. Levin, a bankruptcy attorney in the Los Angeles office of Skadden, Arps, Slate, Meagher & Flom, said he that expects that in the near future the new legislation will make courts and lawyers very busy sorting out the bill's bad drafting, and "very, very busy when the next bankruptcy boom hits -- as it will, of course."

"Some people believe that the creditor lobby wanted to make war on the debtors by making war on their lawyers. What the legislation has done is make [filing for bankruptcy] more dangerous for lawyers and more expensive for consumers."

Pope Wants Head-of-State Immunity From Texas Suit (LAW)

By Brenda Sapino Jeffreys, Texas Lawyer

DOJ_NMG_0003831

Law.com, September 9, 2005

Joseph Ratzinger, a defendant in a Texas suit filed before he was elected Pope Benedict XVI, wants to be dismissed from the litigation, arguing he has head-of-state immunity.

But lawyers for the three plaintiffs, who allege in the civil suit they were abused by a former seminary student in Houston, vow to challenge any suggestion of immunity issued by the U.S. Department of State in response to Ratzinger's request, a challenge that could put the immunity argument to a test.

"This is a case of first impression," says plaintiffs lawyer Tahira Kahn Merritt of Dallas.

"We shall see what the political arm of government does," says Daniel Shea, a solo practitioner in Houston who represents one of the plaintiffs in John Doe 1, et al. v The Archdiocese of Galveston-Houston, et al., which is pending before U.S. District Judge Lee Rosenthal in Houston.

"It's a legitimate political question," Shea says. "I would assume that they wouldn't make a decision on that without running it by the president of the United States."

According to a status report filed by Ratzinger on Aug. 23, the request remains under review before the State Department. Joanne Moore, a press officer for the State Department, says it does not comment on specific cases.

A lawyer for Ratzinger, Jeffrey S. Lena, a solo practitioner in Berkeley, Calif., says he cannot comment on the allegations in the suit or on the request for immunity. But in Ratzinger's Amended Motions to Dismiss, filed in May, the pope alleges he should be dismissed from the suit on several grounds, including his presumed immunity.

"Because Defendant is head of a recognized state, he is absolutely immune from the jurisdiction of the United States Courts," he says in the motion.

Ratzinger also says he should be dismissed from the suit on First Amendment grounds because the plaintiffs' claims would intrude on the internal working of the Roman Catholic Church and would require the court to interpret the meaning of religious documents and resolve issues of church governance.

Merritt, of Kahn Merritt & Allen, who represents two of the plaintiffs in the suit, says the judge should not grant Ratzinger's request for head-of-state immunity because the allegations against him relate to his actions while serving as head of the Congregation for the Doctrine of the Faith for the church.

"He was the policeman that set doctrinal laws, basically, "You are bad, this is your penance,' " Merritt says.

As alleged in the complaint, Ratzinger "designed and explicitly directed" a conspiracy to fraudulently conceal tortious conduct in connection with the alleged sexual abuse of the three plaintiffs. In the complaint, the plaintiffs cite a 2001 letter that then-Cardinal Ratzinger sent to all bishops, reminding them that all proceedings against clerics accused of improprieties with minors under age 18 should be sent to the tribunal of the Congregation for the Doctrine of the Faith.

"It's basically all part of the conspiracy and cover up to get these files into a secret forum," Merritt alleges.

Ratzinger denies the allegations in John Doe 1 and asks to be dismissed as a defendant. So have the other defendants in the suit -- the Archdiocese of Galveston-Houston; Joseph A. Fiorenza, the bishop in the diocese; and a priest, William Pickard, who is described in the Plaintiffs' Original Complaint as a "vocational director" for the seminarian, Juan Carlos Patino-Arango. Patino-Arango is not represented by counsel, according to the docket report in the suit.

'NO PRIOR KNOWLEDGE'

In the original complaint in John Doe 1, the plaintiffs allege they were sexually abused in separate incidents in 1996 by Patino-Arango, a native of Colombia who was then a seminarian working at St. Francis de Sales Church in Houston. They allege in the complaint that after the parents of John Doe 1 reported to the archdiocese the alleged abuse on the part of Patino-Arango, he was moved to a "retreat house for abusive priests" in Houston, and later "secretly spirited" out of the country and sent back to Colombia.

Among other things, the plaintiffs bring breach of confidential relationship and conspiracy to breach a confidential relationship causes of action against all of the defendants, along with assault by offensive physical contact and conspiracy to commit sexual assault; intentional infliction of emotional distress and conspiracy to commit intentional infliction of emotional distress; fraud and fraudulent misrepresentation and conspiracy to commit fraud and fraudulent misrepresentation; and fraudulent concealment and conspiracy to fraudulently conceal.

They also bring sexual exploitation and conspiracy to commit sexual exploitation causes of action against all defendants except Ratzinger, and negligence and negligent misrepresentation involving risk of physical harm against all defendants except Patino-Arango.

They seek unspecified actual and punitive damages in the suit, which the plaintiffs originally filed in 2004 in state court in Houston. It was removed to federal court in 2005.

In the Defendants' Answer filed by the Texas defendants, they allege Patino-Arango was dismissed as a seminarian the day after the parents of one of the plaintiffs reported the alleged abuse, the diocese informed Children's Protective Services of the allegation and the diocese advised Patino-Arango that he could not leave the country while law enforcement investigated. The defendants also allege in the answer that three weeks after the initial report, in June 1996, police advised the diocese that Patino-Arango was "free to leave the country."

The diocese defendants allege in their answer that they had "no prior knowledge of any sexual misdeed by Patino and as soon as they learned of the allegation in this case, took swift, decisive action by dismissing him from seminary and all other activities in the Diocese."

Daniel Schick, a partner in Vinson & Elkins in Houston who represents all of the defendants except Ratzinger and Patino-Arango, says there was no conspiracy.

"The archdiocese did the right thing back in 1996 by reporting the allegation [from John Doe 1] to law enforcement, barring the perpetrator from any ministry and by reaching out at that time to the victim's family, and heard nothing more until the lawsuit was filed in 2004," Schick says.

Patino-Arango "was kept in Houston until law enforcement said that it was OK to allow him to return home to Colombia," Schick says.

SEPARATE COUNTRY

Schick says head-of-state immunity should apply to Ratzinger.

"There's been a long tradition in international law prohibiting suits against heads of state, and we as a matter of comity extend that to foreign heads of state. He absolutely is recognized by international law," Schick says.

But Shea, who studied to become a priest but is not ordained, contends that Ratzinger's immunity as a head of state is not automatic.

Jordan Paust, a professor at the University of Houston Law Center who teaches international law, says head-of-state immunity is not dictated by treaty.

"It's sort of a common-law notion," says Paust.

Paust says that U.S. courts, despite the separation of powers, often do follow a suggestion of immunity from the U.S. Department of State, but don't always do so. And he notes that the State Department doesn't always act on the requests for a suggestion of immunity.

"Sometimes they remain silent. Sometimes they expressly say they don't have a dog in this fight and sometimes they will file a formal suggestion of immunity with the court," he says.

If the State Department does suggest immunity for Ratzinger on head-of-state grounds, Shea says he's prepared to challenge it on constitutional grounds. He contends that the head of the Roman Catholic Church should not receive that immunity.

"This is not a suggestion of immunity [request] filed on behalf of the prime minister of Canada or the guy down in Venezuela or Tony Blair or even Jacques Chirac because there, there are no First Amendment church-state considerations," Shea says.

A lawyer for Ratzinger, Van Gardner, a partner in Houston's Hennessy, Gardner & Barth, did not return a telephone message seeking comment before presstime, and Lena, another lawyer for Ratzinger in John Doe 1, declines comment on the immunity issue.

However, a lawyer who represents the Archdiocese of Dallas says it's his view that immunity would apply to Ratzinger. Randal Mathis, a partner in Mathis & Donheiser in Dallas, says, "The Vatican is a separate country for purposes of this and the pope is the bishop of Rome and it's a separate entity from a diocese in another part of the world and a separate entity not only in the sense of church law, but in the sense of the law of any given country."

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He says arguing otherwise ignores the reality of how the Roman Catholic Church is organized.

"It's kind of like the equivalent of suing President Bush because of something the local police department did wrong," Mathis says.

Schick says it doesn't matter that Ratzinger was sued before he became pope.

But Merritt says Ratzinger isn't being sued for his actions as pope, but instead in his former role as head of the Congregation for the Doctrine of the Faith.

CIVIL RIGHTS:

Justice Dept. Settles Charges Against DCFD (WUSA-TV)

WUSA-TV, CBS 9, Washington, DC, September 9, 2005

The Justice Department today announced a settlement agreement with the District of Columbia regarding pregnancy-related discrimination in the District's Fire and Emergency Medical Services Department (FEMSD).

The complaint alleged that individuals seeking employment as emergency medical technicians with the FEMSD were required to undergo a pre-hiring pregnancy test, with subsequent employment offers contingent on a negative test result. The complaint further alleged that, once hired, emergency medical technicians were advised by FEMSD management that any technician who became pregnant during her first year of employment would be in jeopardy of losing her job.

"Using pregnancy as a barrier to a woman's entry into the workplace and continued job security is illegal and inexcusable," said Bradley J. Schlozman, Acting Assistant Attorney General for the Civil Rights Division. "Forcing women to choose between their baby and their job clearly contravenes federal law and will not be tolerated by this Administration."

The three plaintiffs, all known as Jane Does, are emergency medical technicians employed by the D.C. Fire Department. The District required the plaintiffs, along with all other female applicants, to take a pregnancy test and obtain a negative result as a condition of employment. The plaintiffs tested negative for pregnancy and were hired. Upon reporting for duty, the plaintiffs attended a training class where a management official told the women in the class that if they became pregnant during their first year of employment, they were at risk of losing their jobs. Shortly after the training class, each plaintiff discovered she was pregnant. Because they had been threatened with losing their jobs if they became pregnant during the first year of employment, each woman terminated her pregnancy by abortion.

The United States intervened in the case and helped negotiate the three-year agreement, which was approved by the United States District Court for the District of Columbia. The settlement agreement requires the District to affirm nondiscriminatory employment policies approved by the Justice Department's Office of Justice Programs, implement training for supervisors on the rights of pregnant employees under Title VII, and regularly provide the United States with information concerning any new civil rights complaints. Additionally, the District agreed to compensate each of the Jane Does in the amount of $101,000 plus attorneys fees.

Jurors Acquit U.S. Border Officer In Civil Rights Case Filed By Tourist (AP)

By CAROLYN THOMPSON

AP, September 8, 2005

BUFFALO, N.Y. (AP) - Homeland Security officer was found not guilty Thursday of beating a female Chinese tourist.

Jurors deliberated about five hours over two days before acquitting Robert Rhodes, a Customs and Border Protection officer, of a single federal count of violating the civil rights of Zhao Yan, 38, a businesswoman from Tianjin, China, who was touring Niagara Falls.

The case provoked anger in China after pictures of Zhao, her face swollen from pepper spray and her eyes and forehead bruised, were widely published after the incident last July.

Defence lawyer Steven Cohen accused the U.S. government on Thursday of prosecuting Rhodes to protect delicate U.S.-Chinese relations. Cohen said Rhodes was an easy target because he was openly gay and had complained about discrimination on the job.

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Despite that, Cohen said, Rhodes would like to return to the job he has held for 17 years.

"Rob is a patriot and he loves this country," the lawyer said.

Rhodes was not immediately available to comment because of concerns for his safety. Cohen said he received a tip Saturday from a woman of Chinese origin that Rhodes' life would be in danger should he be cleared. It was one of numerous threats Rhodes has received, the lawyer said.

"The threat was if a not guilty (verdict) was reached, interested persons would kill him upon emergence from the courthouse," Cohen said. "I don't know if the threat had any credibility but the marshals are taking it seriously."

Jurors left U.S. District Court without commenting.

Zhao, who testified during the trial and is pursuing a $10 million US lawsuit against the U.S. government, was not in the courtroom for the verdict.

Government prosecutors claimed Rhodes used excessive force by slamming Zhao's head into pavement and striking her with his knee after pepper-spraying her at a Niagara Falls inspection station in July 2004.

Rhodes told investigators he believed Zhao and two companions might have been associated with a drug suspect who had just been caught and that the women ran when ordered inside. He said he followed proper Customs and Border Protection procedure in subduing the struggling woman.

He faced up to 10 years in prison if convicted.

"The jury did a great job for their country," Cohen said. "They reaffirmed a law enforcement officer's right to protect himself and the right to be able to do what is necessary to do their job."

Cohen said border officers throughout the country had adopted an unofficial policy against using any measure of force against a suspect.

"People who don't even know Officer Rhodes would say, 'Look what happened to Rocky,'" Cohen said, using Rhodes' nickname.

Cohen said he believed the jury was swayed by the testimony of two of Rhodes' fellow border officers - who took the stand against him. Although both were critical of the level of force Rhodes used, they indicated Zhao was resisting arrest.

Also key, Cohen said, was medical evidence that showed Zhao sustained what were considered minor injuries that included no fractures or broken bones.

NAACP Calls For Action In Police Shooting Of Teen (WEWS-TV)

WEWS-TV, September 9, 2005

CLEVELAND -- Funeral services were held Thursday for a Cleveland teen shot and killed by police last week, and now the Cleveland NAACP is joining the chorus of those calling for answers and for action.

Brandon McCloud, 15, was shot by police last Thursday in the bedroom of his home.

The National Association for the Advancement of Colored People says the police version of what happened doesn't quite make sense, NewsChannel5 reported.

"There is no justifiable reason why a 15-year-old boy, I don't care if he's black, white, blue, green, gray should be shot 10 times in his bedroom. I cannot make sense of that," said NAACP President George Forbes.

Police were carrying out a search warrant at McCloud's Jeffries Street home when they say the teen came at the officers from a closet with a knife.

The preliminary ruling was that the shooting was justifiable.

"If that's justifiable then any shooting of a black person is justifiable in this city," said Forbes.

The investigation into the shooting is following a preset protocol. Cleveland police said they have asked the FBI civil rights team to step in and monitor their process.

But the NAACP wants specific action taken, and they want it now.

"We expect these two men to be fired, fired, fired and prosecuted, and nothing short of that is acceptable," said Forbes.

And if that action is not taken, Forbes is quick to point out to the administration that this is an election year.

"It is the season for solution and you have to be mighty dumb not to understand what I'm saying," said Forbes.

Under police protocol, the officers involved will be making their formal statements by Monday.

The mayor has said the investigation process could take 90 days.

FBI Ends Beta Bridge Probe (CHARDP)

By Melanie Mayhew

Charlottesville Daily Progress, September 9, 2005

Cryptic graffiti scrawled on the University of Virginia's Beta Bridge - including "G Wizard," "G Society," "G Bug," a red eye and derogatory images of women - was not racially motivated, the FBI has concluded.

UVa President John T. Casteen III recently asked the Civil Rights Unit of the FBI in Washington to review photos of the graffiti images to determine their meaning.

James Lamb, an FBI special agent, reported the FBI's findings to university police. "A review by agents in the Civil Rights Unit found nothing to suggest racial implications," Lamb said.

A group of UVa students called police Aug. 29 after someone defaced Beta Bridge, a popular spot where students spray-paint announcements. The controversial defacement appeared during the first two weeks of classes, which were marred by a string of reported hate incidents.

Members of two historically black organizations had painted announcements for their events on both sides of the bridge. Shortly after they began advertising their events, the graffiti appeared.

During the days following the defacement, members of the university community speculated as to the meaning of the graffiti. Some students linked it to recent racial incidents and to the Ku Klux Klan. The speculation prompted Casteen to request FBI assistance.

"I am grateful to the many people who worked overtime for several days to resolve what had become a sensitive public issue in our community," Casteen said.

At the forefront of students' concerns were five reported incidents of written or shouted slurs, three reported incidents of gay bashing, a symbolic attack on a Christian undergraduate, an incident involving a group of white students harassing a group of Asian-Pacific Americans and inappropriate behavior toward women.

The information from the FBI is one more step in quelling hatred at the university, said Leonard W. Sandridge Jr., executive vice president and chief operating officer.

"Given the fact that there have been some incidents, everyone involved with the situation wanted to be very careful," Sandridge said. "We're working very hard to investigate all kinds of incidents of this nature. It reflects the fact that we're a community that's very concerned about these kinds of issues and wants to address them."

Smuggler To Serve 3 Years In Prison (SDUT)

By Onell R. Soto, Union-tribune Staff Writer

The San Diego Union-Tribune, September 9, 2005

A Carmel Valley man who headed a ring that smuggled dozens of Eastern Europeans into the United States through Tijuana was sentenced yesterday to three years in prison and forced to give up his house.

Yervand Asriyants, 42, a native of Azerbaijan, didn't speak during a hearing before Chief U.S. District Judge Irma E. Gonzalez. Asriyants had pleaded guilty June 9 to conspiracy and immigrant smuggling charges.

Asriyants was arrested after an investigation by FBI and Immigration and Customs Enforcement agents into a series of smuggling attempts at the region's border crossings involving Eastern European men, women and children.

"He was smuggling aliens across the border that were not what we consider to be typical," said FBI agent Roy Lemons, who added that the case had special urgency because of security concerns after the Sept. 11, 2001, terrorist attacks.

Lemons said no terrorist links were found.

The immigrants said they agreed to pay $5,000 to $10,000 to be brought from Lithuania, Poland, Russia and Ukraine into the United States through Mexico.

Prosecutors said the immigrants were caught while crossing the border by attempting to claim U.S. citizenship and presenting borrowed or fake passports or driver licenses.

Investigators caught 43 people in the smuggling attempts, but believe many others succeeded in the operation dating to the mid-1990s.

As part of his sentencing, Asriyants was ordered to forfeit $36,000 seized from his house, a safe-deposit box and the five-bedroom Carmel Valley home he bought for $946,000 in 2003. Prosecutors say the house was bought with illegally obtained money.

Four members of the ring have been sentenced and three await sentencing, prosecutors said.

Anti-Gay-Marriage Initiative Passes Hurdle (FINDLAW/AP)

By Theo Emery, Associated Press Writer

Find Law, September 9, 2005

(AP) - BOSTON-A proposed ballot initiative that would ban gay marriage passed a key hurdle Wednesday when the state attorney general ruled it would be permitted under a section of the state constitution allowing voters to overturn court decisions.

The action by Attorney General Tom Reilly, a Democrat who is expected to run for governor in 2006, clears the way for conservative groups to begin the long process of gathering signatures and lobbying lawmakers in hopes of putting the issue before voters in 2008.

Supporters now must go out and gather the signatures of at least 65,825 Massachusetts voters. If they are successful, the question then must by approved by 25 percent of two successive sittings of the 200-member state Legislature. The question would then be placed before voters again as a constitutional amendment in 2008.

The state's highest court ruled in 2003 that it was unconstitutional for the state to ban marriages between gays and lesbians. The following spring, the nation's first state-sanctioned same-sex marriages began taking place in Massachusetts and thousands of gay couples have since tied the knot.

In a letter last week, Gov. Mitt Romney urged Reilly to certify the ballot question, saying voters "should not be denied meaningful participation in the legal definition of marriage."

Backers of the proposed referendum cite the Massachusetts Constitution's Article 48, which permits the people to petition for a constitutional amendment "that overrules a court decision when the court has declared a statute to be in violation of our constitution."

Gay marriage supporters had urged Reilly not to accept the proposed amendment, saying that Article 48 applied to court rulings overturning a statute, while the court case involving gay marriage rights did not overturn an existing law.

Gary Buseck, legal director of Gay and Lesbian Advocates and Defenders, which sued the state over gay marriage and won, said the group would challenge Reilly's decision.

The measure defining marriage as between a man and a woman had been proposed last month by the Massachusetts Family Institute. The state legislature is considering an alternate constitutional amendment that also would overturn gay marriage but would legalize Vermont-style civil unions.

ANTITRUST:

Justice Department Files Antitrust Lawsuit (AP)

AP, September 9, 2005

WASHINGTON (AP) - The Justice Department sued the National Association of Realtors on Thursday, claiming it unfairly limits competition by allowing real estate agents to withhold home listings from Internet-based brokers.

The antitrust lawsuit, filed in U.S. District Court in Chicago, follows lengthy negotiations in which the government pressed the Realtors to drop restrictions designed to protect traditional brokers.

The association announced changes to its original plan Thursday, but the new steps were insufficient to ward off the lawsuit because the organization kept in place brokers' ability to discriminate against competitors who post listings online, said J. Bruce McDonald, deputy assistant attorney general in the Antitrust Division.

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Internet brokerages operate in the top dozen real estate markets in the country and their numbers are growing, Justice officials said at a news conference to announce the lawsuit. The online brokers often charge lower fees and allow consumers to review listings at their own pace.

The Realtors' policy prevents brokers who rely on the Internet from being able to show customers all the houses that may be for sale in the locations and price ranges they're seeking, McDonald said. It "allows a broker to target his Web-based competitors," McDonald said.

The association said its new policy took into account Justice Department concerns. Initially, listing agents were allowed to withhold available homes from specific Web sites. The revised policy says that, when an agent chooses, listings will not be displayed on any Web site.

"The policy does not discriminate against any brokerage model, including discount brokers," said Al Mansell, president of the Realtors' association.</s! pan>

U.S. Sues Realtors, Claims Web Rules Limit Discounting (WSJ)

By John R. Wilke And James R. Hagerty, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 9, 2005

WASHINGTON -- The Justice Department challenged the nation's dominant real-estate trade group in a lawsuit that could lower costs of buying and selling homes.

The federal antitrust suit, filed in U.S. District Court in Chicago against the National Association of Realtors, targets the group's bylaws, which allow members to withhold online listings from other brokers in a local market. The government charges that the rules illegally could restrict discounting and disadvantage Internet competitors.

The lawsuit is part of a broader effort by the Justice Department and the Federal Trade Commission to protect competition in the residential-real-estate market. Strong sales and rising prices have been a huge boon to brokers, who despite higher prices continue to charge commissions of 5% to 6% of a home's sale price -- reaping an estimated $60 billion in such fees last year.

The association's policy "stifles competition to the advantage of some of its members, at the expense of home buyers and sellers across the country," said J. Bruce McDonald, the acting antitrust chief, who was nominated to the post by President Bush last month. The suit went forward despite the political power of the association's more than 1.2 million members in state capitals and Congress, and is likely to win strong support among consumers.

Mr. McDonald said online commerce brought innovation and lower fees to air travel, stock sales, insurance, music and other markets. "It offers the same opportunity for consumers buying a home," while the Realtors' rules would "lock in outmoded business models," he said. Real-estate brokers, led by the trade association, are fighting Internet-based competitors and discounters to preserve their high commissions, federal officials said.

Officials of the National Association of Realtors defend their bylaws as promoting competition, and they had hoped that a revised, less-restrictive Internet rule that was offered in settlement talks with the government might head off a suit.

The policy is "fair, pro-consumer, pro-competitive and accommodates innovation," the association said. "After months of negotiations, we are at a loss to understand why the Department of Justice would bring a legal action."

The association also is locked in a multistate battle with the Justice Department and the FTC over the industry's campaign to limit discount brokers on the state level.

The rule at the center of the Justice Department lawsuit involves the Internet display of information from multiple-listing services, or MLS, which are local databases, usually owned by local Realtor organizations, of homes available for sale. Under the revised rule, brokers would have a choice: They could make listing information available to the Web sites of all of their competitors or to none of them.

Under the earlier rule, proposed two years ago by the association, brokers could have denied the data to specific rival Web sites while providing it to others -- a provision that would have allowed brokers to discriminate against discounters. The association abandoned this "selective opt out" provision yesterday in hopes of settling with the government and avoiding a lawsuit.

Write to James R. Hagerty at bob.hagerty@wsj.com1

DOJ Wants Real Estate Market Fairness (REU)

Reuters, September 9, 2005

WASHINGTON (Reuters) - The Justice Department asked a court Thursday to block a rule by the real estate industry's main trade group that authorities claim limits competition from Internet-based brokers.

The Justice Department said in a statement that the National Association of Realtors (NAR) rule "prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourage discounting." The government said it filed the civil antitrust lawsuit in U.S. District Court in Chicago.

The NAR said in May it would back away from the disputed bylaw that the department's antitrust division feared would allow real estate brokers to bar their property listings from being displayed by some discount rivals.

The Justice Department Thursday acknowledged that the NAR had revised the rule but said the modified version still discriminated against "innovative" brokers and did not resolve its concerns.

The rule has come under sharp criticism from Internet-based competitors such as RealEstate.com, an online brokerage and referral service that is a unit of IAC/InterActiveCorp (Research).

Efforts to reach an NAR representative for comment on the suit were not immediately successful.

Antitrust Lawyers Go After Realtors (WP)

By Kirstin Downey, Washington Post Staff Writer

The Washington Post, September 9, 2005

The Justice Department's antitrust division yesterday sued the National Association of Realtors, alleging that the powerful trade group is using its online multiple listing service policies to restrict competition from discount brokers offering lower prices.

"The purchase of a home is one of the most significant financial decisions a family can make, and NAR's policy stifles competition to advantage some of its members at the expense of home buyers and sellers across the country," said J. Bruce McDonald, deputy assistant attorney general in the antitrust division.

Discount brokerages are undercutting the traditional 6 percent commission rate that has continued to dominate even as home prices in some markets, including the Washington area, have doubled over the last five years.

The Realtors group announced yesterday that it was changing its online sales listing policy to make listings more widely available, but Justice Department officials said the changes do not go far enough.

At issue in the lawsuit are Internet listing rules adopted by the Realtors in 2003 that would have allowed real estate brokers to opt out of having their listings appear on the Web sites of other brokers. The rules were controversial from the beginning and association officials said they were never fully implemented, but Justice Department officials said at a news conference yesterday that of about 1,000 affiliated multiple listing services, about 200 adopted the restrictive policy.

In a written statement, association officials said they "were at a loss to understand why the Department of Justice would bring a legal action. Many of the changes incorporated in the new policy are in direct response to concerns they have raised over the course of the two-year investigation."

Association officials declined further comment yesterday. In an interview Wednesday, before the lawsuit was filed, the group's general counsel, Laurene K. Janik, said it would be a "waste of taxpayers' money" for the Justice Department to sue. The group was changing its policy, she said, and the government would be acting against the rescinded policy.

In the lawsuit, filed in the U.S. District Court in Chicago, where the Realtors have their headquarters, the government alleged that the association -- particularly its traditional broker members -- has sought to maintain a "policy that restrains competition from brokers who use the Internet to more efficiently and cost effectively serve home sellers and buyers."

According to the federal filing, when real estate industry leaders developed their policy in 2003, they talked about ways to maintain the status quo. The working group that formulated the listings policy understood that the right to opt-out would limit competition, according to the lawsuit, which alleged that two members of the group said the opt-out right would be "abused beyond belief" as traditional brokers withheld listings from competitors.

Albert A. Foer, president of the American Antitrust Institute, said the Justice Department would have deliberated thoroughly before bringing suit against the politically powerful trade group, which has 1.2 million members nationwide.

"This Justice Department is not trigger-happy," Foer said. "They don't bring a lot of antitrust cases or operate in an anti-business mode, so chances are that they've thought it out very carefully."

"It's great," said Peter Sealey, a professor of marketing at the University of California at Berkeley who has followed the issue. The policies "are a clear conspiracy and restraint of trade. This is long-overdue law enforcement."

US Files Antitrust Suit Against Biggest Real Estate Group (AFP)

Agence France-Presse, September 9, 2005

WASHINGTON (AFP) - The US Justice Department filed an antitrust suit against the National Association of Realtors, the largest group of real estate brokers, claiming that it stifled competition in the sector.

The lawsuit filed in Chicago claims the Realtors' policies for property listings effectively blocks rival real estate brokers from accessing some computerized home listings.

The policy "prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourage discounting," the Justice Department said in a statement.

"The purchase of a home is one of the most significant financial decisions a family can make, and NAR's policy stifles competition to advantage some of its members at the expense of home buyers and sellers across the country," said Bruce McDonald, deputy assistant attorney general in the Department's Antitrust Division. "Consumers benefit when real estate brokers are free to compete vigorously by offering innovative services."

Although the Realtors group announced its adoption of a revised policy, "the revised policy continues to discriminate against innovative brokers, and does not resolve the Department's concerns," the department said.

Officials said low-cost brokers may be blocked from access to the local Multiple Listing Service (MLS), which contains lists of nearly all properties for sale in the community.

The Realtor group said in a statement its new policy on listings "is fair, pro-consumer, pro-competitive and accommodates innovation." "After months of negotiations, we are at a loss to understand why the Department of Justice would bring a legal action. Many of the changes incorporated in the new policy are in direct response to concerns they have raised over the course of the two year investigation," the group added.

Justice Department Sues Chicago-Based National Association Of Realtors (CHIT)

Chicago Tribune, September 9, 2005

The U.S. Department of Justice filed an antitrust lawsuit against the National Association of Realtors Thursday, claiming that the Chicago-based trade group's new policy for online displays of home listings stifles competition from Internet-based discount brokerages.

The lawsuit, which has long been anticipated in the industry, was filed in U.S. District Court in Chicago one day after the Realtors announced revamped listing guidelines. An earlier version of the rules had been under investigation by the Justice Department for two years.

"The [new] NAR policy prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourages discounting," the department announced.

The suit is the latest chapter in a long-running industry fight over who should be able to access home listings. The earlier policy, known as Virtual Office Website, allowed brokerages that are members of multiple listing services to pick and choose which competitors' Web sites could display their listings.

Critics said VOW effectively undercut smaller, Internet-based competitors with lower overhead than traditional bricks-and-mortar brokerages. But many brokerages maintain that they spend so much money in marketing in order to obtain the listings--essentially their "inventory"--that they don't owe competitors any such access.

The new policy, called Internet Listing Display, forbids real estate agents from selecting which brokers can and can't receive their listings. However, individual real estate companies can opt out of sharing their data across the board.

"The new policy raises some of the same problems as the old one," said Deputy Assistant Atty. Gen. J. Bruce McDonald. He said the Justice Department would like to eliminate the opt-out provision entirely because consumers should have full access to online listings in order to find homes more efficiently, presumably at a lower cost.

"The way we go about obtaining goods and services on the Web is threatening to bricks-and-mortar business models," McDonald said.

Ralph Holmen, associate general counsel for the Realtors, said the group was "absolutely puzzled" by the suit.

"We came up with the new policy, which we think accommodated 90 percent of their concerns, and offered them the opportunity to comment on any other concerns," he said. "They didn't provide any comment, other than it was unacceptable."

Steve Murray, a real estate industry consultant who has been a vocal critic of the real estate group's policies, said nonetheless that he thought that the lawsuit was "over the line."

"I think [Justice] is trying to tell brokers where they can and can't market their inventory, and that is totally wrong," Murray said.

National Realtors Group Sued By U.S. Over Web Policy (Update2) (BLOOM)

Bloomberg News, September 8, 2005

Sept. 8 (Bloomberg) -- The National Association of Realtors was sued by U.S. antitrust enforcers who accused the trade group of trying to restrain competition by restricting Internet brokers' access to listings of homes for sale.

The suit, filed by the Justice Department in federal court in Chicago, challenges the group's policy of allowing traditional real estate brokers to exclude their listings from other brokers' Web sites. It may be propping up an old-fashioned business model and harming consumers looking to lower costs, the suit says.

The association's policy ``stifles competition to advantage some of its members at the expense of home buyers and sellers across the country," J. Bruce McDonald, deputy assistant attorney general in the Justice Department's antitrust division, said at a news conference in Washington today. ``Consumers benefit when real estate brokers are free to compete vigorously by offering innovative services."

The lawsuit is part of a broader effort by U.S. authorities to open the real estate business to more competition, McDonald said. Internet brokers, who seek to cut costs by letting customers do much of the work of traditional real estate agents, sprung up in the late 1990s and now operate in all major metropolitan areas.

The Chicago-based realtors group announced a revised policy earlier today that it said responded to Justice Department concerns. The association has more than 1 million members who work in residential and commercial real estate.

Defending the Policy

McDonald said at the press conference that the revised policy is just as anticompetitive as the old one.

Responding to today's lawsuit, the realtors issued another statement saying their new ``policy is fair, pro-consumer, pro-competitive and accommodates innovation" in the real estate business.

``After months of negotiations, we are at a loss to understand why the Department of Justice would bring a legal action," the statement said. ``Many of the changes incorporated in the new policy are in direct response to concerns they have raised over the course of the two year investigation."

In most markets, real estate brokers participate in what is known as a Multiple Listing Service, which allows the brokers to share information about properties that are for sale. By using the service, brokers and buyers can get listings on virtually all homes in the market.

Brokers have traditionally given their clients print-outs of the listings and haven't given them full access to the database. However, some brokerages that operate online have begun to give their customers the ability to see all the Multiple Listing Service information. The sites are password protected.

The realtors group's policy challenged by the Justice Department gave brokers the ability to withhold their clients' listings from the Web sites of the Internet competitors. The policy, which wasn't mandatory until 2006, was already followed by about 200 local Multiple Listing Services, Justice Department officials said.

To contact the reporter on this story: Robert Schmidt in Washington at rschmidt5@bloomberg.net. Last Updated: September 8, 2005 14:18 EDT

Justice Dept. Sues NAR For Antitrust (INMAN)

By Jessica Swesey, Inman News

Inman News, September 8, 2005

The U.S. Justice Department today filed an antitrust lawsuit against the National Association of Realtors challenging its new policy for online property listings display.

The Justice Department's Antitrust Division has been investigating the Realtor trade group's policies for Internet listings over whether it has been restricting competition among real estate brokers.

The complaint accuses NAR of mandating a policy that obstructs real estate brokers who use innovative Web-based systems to offer lower costs to consumers.

"We believe the new ILD (Internet Listings Display) policy is fair, pro-consumer, pro-competitive and accommodates innovation," NAR said in a statement this morning. "After months of negotiations, we are at a loss to understand why the Department of Justice would bring a legal action. Many of the changes incorporated in the new policy are in direct response to concerns they have raised over the course of the two-year investigation."

Moments before the Justice Department's announcement this morning, the Realtor trade group said it had adopted a new online listings policy to address the department's concerns stemming from the two-year probe.

The old policy, dubbed the Virtual office Web site or VOW policy, allowed real estate brokers to selectively hold their listings from competitor's Web sites, a move which DOJ officials have said threatens competition in the marketplace.

While NAR's new policy no longer allows brokers to pick and choose who among their competitors is allowed to display their listings, it still enables them to withhold listings from all brokers in the MLS. The Justice Department claims the NAR policy prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourage discounting.

"The repackaged policy narrows the opt-out a bit, but it remains effective," J. Bruce McDonald, Deputy Assistant Attorney General for Antitrust, said this morning during a press meeting in Washington, D.C.

Allowing brokers to hold listings from the Internet "makes the online business model unattractive and tends to undercut competition by the Web-based brokers," he said.

Under the revised policy, a broker opting out can withhold all listings from the Web sites of other brokers, but they would still appear on NAR's own Web site, Realtor.com, McDonald said.

The so-called "blanket opt-out" provision provided in the new policy has been in effect by "hundreds of MLSs" for three and a half years under NAR's policy for Internet Data Exchange, according to NAR. The association has said the policy has been widely accepted by the industry and very few brokers have chosen to opt out.

The policy adopted today contains an entirely new feature that allows brokers who have opted out of displaying their listings on competitors' Web sites the opportunity to make an exception at the direction of a particular seller who wants to have his or her property displayed on the Web sites of all other members of the MLS.

"The revised policy continues to discriminate against innovative brokers, and does not resolve the Department's concerns," Justice Department officials said in a statement today.

NAR President Al Mansell contested that, "The policy treats all MLS members equally yet respects the rights of property owners and their listing brokers to market a property as they see fit…The policy does not discriminate against any brokerage model, including discount brokers."

But the Justice Department in its complaint contends the NAR policy significantly alters the rules that govern MLSs by permitting traditional brokers to discriminate against other brokers based on their business model, denying them the full benefits of MLS participation. "The Department's lawsuit seeks to ensure that traditional brokers, through NAR's policy, cannot deprive consumers of the benefits that would flow from these new ways of competing," the Department said.

According to the Department's complaint, brokers who participated in the NAR work group that formulated the VOW policy in May 2003 recognized that the opt-out right would be "abused beyond belief." The chairman of the working group allegedly admitted that the opt-out right was likely to be exercised by brokers despite the fact that "it may not be in the sellers' best interest to opt out," the Department said in its filing.

"NAR's policy denies brokers using new technologies and business models the same benefits of MLS membership available to their competitor brokers, suppresses innovation, discourages competition on price and quality, and prevents new, efficient competitors from entering into the marketplace - all to the detriment of consumers," the Justice Department said.

The complaint alleges that NAR adopted the online listings policy in response to broker member concerns over rising competition from Internet brokers.

"The chairman of the board of RE/MAX, the nation's second-largest real estate franchisor, publicly expressed his concern that these Internet sites would inevitably place downward pressure on brokers' commission rates," the complaint states.

NAR discussed its revised policy with the Justice Department before adoption, McDonald said, and antitrust officials warned the trade group that it didn't comply with antitrust laws. But the association has chosen to stand by the policy.

U.S. Fights Limit On Home Sale Listings (BSUN)

By Lorraine Mirabella, Sun Staff

The Baltimore Sun, September 9, 2005

In a move that could transform the way real estate brokers work with home buyers and sellers, the Justice Department challenged yesterday a national real estate group's new policy permitting brokers to limit the display of home sale listings on the Internet.

The government filed an anti-trust lawsuit against the National Association of Realtors, saying the new rule restrains competition from Web-based, discount real estate brokers, hurting home buyers and sellers.

At the heart of the dispute over how to disseminate home sales information from Realtor-owned multiple listing services, the lawsuit charges, is resistance by traditional brokers to an onslaught of "virtual" brokers who charge less than traditional commissions.

"NAR's policy prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourage discounting," the Justice Department said in a statement.

The suit, filed in U.S. District Court in Chicago, highlights the profound transformation the Internet is bringing to the housing market, just as it has changed the way consumers shop for everything from airline tickets to stocks, cars, books and music. The NAR has reported that seven of 10 home buyers turn to the Internet when buying a home.

"The Internet has brought great competitive opportunities to a lot of other industries," said J. Bruce McDonald, deputy assistant attorney general in the antitrust division. "Real estate has been slow to come along to this."

The Realtors contend that brokers who work for their listings should be able to choose whether or not to help their competitors' business.

"A broker gets the opportunity to choose whether or not he wants to facilitate the business fortunes of another competitor, and he ought to have that right," said Ralph Holmen, associate general counsel for NAR in Chicago. "Real estate is unique in that competitors cooperate in the sale of property in a way you don't see in many other industries."

But one local Realtor, John E. Rawlings Jr., a Coldwell Banker agent in Owings Mills, said the Internet has already become a crucial tool for both traditional and Web-based brokers and agents.

"It's the wave of the present," he said. "Most people shop on the Internet for listings before they even call their Realtor. It would do a disservice to the seller if they didn't have the maximum coverage possible. ... A full-service company has to show the value clients are getting for the service we offer."

The lawsuit contends that the NAR rule discriminates against brokers who use password-protected Internet sites that enable customers to search for and get listings over the Internet, replacing the traditional practice of brokers searching for homes for their clients.

Such Web sites, first developed in the late 1990s, have become a competitive alternative to traditional brokers, who worried that the Internet sites would drive down commission rates, and prompted the NAR to draft its new rule two years ago, the suit said. The Justice Department launched an anti-trust investigation and warned this spring that it stood ready to file suit. The NAR delayed its rule, and the two sides began negotiations in May.

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The NAR, the nation's biggest trade group, said yesterday it adopted the controversial policy after modifying it to address the government's concerns, ending up with a policy that gives consumers more access to home sale listings than ever before.

"After months of negotiations, we are at a loss to understand why the Department of Justice would bring a legal action," the NAR statement said. "Many of the changes incorporated in the new policy are in direct response to concerns they have raised over the course of the two-year investigation. ...The policy treats all MLS members equally yet respects the rights of property owners and their listing brokers to market a property as they see fit."

The lawsuit does not attempt to open the MLS information to non-members, the Justice Department said. Listings are controlled by the more than 800 member-only multiple listing services across the country.

The rule allows a broker to withhold his own listings from all Web sites - other than his own - or to have listings displayed on all competitors' sites. It does not permit brokers to selectively choose to withhold listings from competitors, the NAR said.

The rule is meant to consolidate the formerly separate policies for Internet Data Exchanges, on which brokers advertise the listings of other brokers, and Virtual Office Web sites, or VOW, virtual real estate offices on the Web.

"We adopted a policy to bring some order to the market of how those listings would get used," Holmen said. "We disagree that the policy and the rules are unlawfully anti-competitive, and we intend to defend that in court."

Holmen said real estate is different from other industries that have been transformed by the Internet.

"Real estate is unique in that there is competitive cooperation in the sale of properties in a way you don't see in many other industries," Holmen said. The question, he said, is: "Must a broker cooperate with another competitor as fully as he is able or can he choose how much he wants to assist that competitor?"

Joseph T. Landers, III, executive vice president of the Greater Baltimore Board of Realtors, said that under current rules governing Internet listings, few brokers in the Baltimore area have opted out of online listings.

But, he added, "The broker needs to have the flexibility to be able to not display [on the Internet] if that's what their client wants."

In an industry where the MSL system works based on reciprocity, some brokers became concerned because "there are agencies out there that don't bring a lot of listings and are not posting them, but they're taking everyone else's listings and posting them on their sites. That defeats that whole concept of reciprocity. There were also some companies that were basically skimming all the information and posting it on their site."

The NAR, he said, has "tried to put in place rules or regulations to create a fair playing field when it comes to Internet advertising."

DOJ Sues Real Estate Group For Web Listing Policy (IDG)

By Grant Gross, IDG News Service, Washington Bureau

IDG News Service, September 9, 2005

The U.S. Department of Justice (DOJ) has filed a lawsuit against a real estate broker trade group, saying the organization's policies block competition among brokers using a Web-based property listing service.

The DOJ's civil antitrust lawsuit was filed Thursday against the National Association of Realtors (NAR) in U.S. District Court in Chicago. The DOJ accuses the NAR of allowing brokers to pull their real estate listings from the Multiple Listing Service (MLS), a joint venture among competing brokers. NAR brokers have traditionally shared listings with each other, and customers could access those listings by mail, fax or at real estate broker offices, the DOJ said.

But an NAR policy allows brokers to opt out of sharing their listings with brokers offering Web-based property search services, "effectively inhibiting the new technology," the DOJ said.

"Delivering listings over the Internet gives web-savvy consumers more control over their search for a home, allowing them to educate themselves about their options at their own pace and on their own time," the DOJ said in a press release. "This allows brokers to reduce the time that their agents spend searching the MLS database or showing homes the customer dislikes."

The NAR, in a statement, said it has adopted a new policy that addresses the DOJ concerns. "The policy will bring consumers more points of access to real estate information from multiple listing services than they have ever had before," NAR said. "For consumers, whether they are home buyers or sellers, this new policy is a win-win. Buyers will be able to find all the

listings available for public display on the Web site of the broker of their choice and sellers will be able to work with the listing broker of their choice."

But the DOJ said Thursday that the NAR's new policy continues to discriminate against "innovative" brokers and does not resolve the agency's concerns.

"The purchase of a home is one of the most significant financial decisions a family can make, and NAR's policy stifles competition," giving an advantage to some NAR members "at the expense of home buyers and sellers," said J. Bruce McDonald, deputy assistant attorney general in the DOJ's Antitrust Division, in a statement. Consumers benefit when real estate brokers are competitive, he said.

Taubmans Give Up Control Of Sotheby's (WSJ)

By Marcus Baram

The Wall Street Journal, September 9, 2005

Sotheby's Holdings Inc. announced a major recapitalization that saw the auction house's leading shareholders, the Taubman family, relinquish control and open the company to more outside investment.

As of midnight Wednesday, former chairman A. Alfred Taubman and his family and affiliates reduced their stake in Sotheby's from almost 22% of total shares outstanding and 62% of the votes to 12.4% of both. They exchanged 14 million of their special Class B shares for 7.1 million in common stock and $168 million in cash from the auction house. As a result, Sotheby's dropped its two-class voting structure involving Class B super shares and Class A shares for a single class of stock. The dual class share structure, which is rare in public companies, had been instituted at Sotheby's before the New York-based company went public in 1988.

"There are a lot more investors who will consider investing in Sotheby's when you have a single class of stock," says William Ruprecht, Sotheby's president and chief executive officer. "This will give us a degree of financial flexibility and open us up to a lot of opportunities for the future, such as equity-linked securities."

The move also represents a retreat for Mr. Taubman, a real-estate developer, who bought the company in 1983 and served as its chairman until he was convicted of price fixing in 2001. "A few months ago, the company approached Mr. Taubman and said that the two classes of stock were a problem and were perceived as a problem by investors and he thought this was a fair deal," says Christopher Tennyson, a spokesman for Mr. Taubman, who adds that the 81-year-old businessman is writing a memoir about his life in business. "He's very, very proud of what he's accomplished but things turned out to not be all positive."

Mr. Taubman will remain an investor for at least two years and his son, Robert, will remain on the board of directors but will step down as a member of the executive and nominating committees, the company said. With the Taubmans ratcheting down, the largest shareholder now is Ariel Capital Management, which currently owns 8.7 million shares. Last June, Ariel informed their investors that despite Sotheby's tough year so far, they "are confident in the long-term prospects of the business."

It has been a mixed year so far for Sotheby's -- the company took in $1.3 billion in auction sales for the first half of the year, almost the same results as their sales during the same period last year, while their competitor Christie's recorded a 32% increase in sales during that period. Last month, the company reported a slight decline in second-quarter profit although their margins on auction commissions increased during that quarter.

Sotheby's shares climbed 5%, or 87 cents, closing at $18.30 on the New York Stock Exchange. The move decreased by 11% the company's total number of shares outstanding, which now stand at 57.3 million.

"This is smart," says George Sutton, an analyst with Craig Hallum Capital Group, who has given the company an neutral rating. "It's relatively favorable versus an outright sale which would have been the most lucrative."

Taubman Family Sells Its Interest In Sotheby's (NYT)

By Andrew Ross Sorkin And Carol Vogel

The New York Times, September 9, 2005

A. Alfred Taubman, the former chairman of Sotheby's who was convicted of leading a price-fixing scheme, sold his family's controlling interest in the venerable auction house to the company yesterday for stock and $168 million in cash.

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The deal closes the chapter on the Taubman family's long role at Sotheby's and has already ignited speculation that the transaction could be a precursor to a sale or merger of the company, the largest publicly traded auction house in the nation.

Mr. Taubman, a shopping mall mogul who owns The Beverly Center in Los Angeles and The Mall at Short Hills in New Jersey through his controlling stake in Taubman Centers, had bought his interest in Sotheby's in 1983. The acquisition was widely viewed as a glamour purchase, giving him and his wife, Judy, an entree to the titled families of the world.

Sotheby's also became something of a playground for Mr. Taubman - an architect by training - who used the auction house to test his flair for retailing. Over the years, he helped transform Sotheby's from a sleepy auctioneer frequented mostly by dealers to a glass-fronted one-stop shopping center offering a mix of customers everything from financing to appraisals, repairs and sales.

Under the terms of the deal, Mr. Taubman will cede control of the company for $168 million in cash and 7.1 million shares of common stock in exchange for the family's 14 million Class B shares. The family's Class B shares had given it 62 percent of the voting shares, despite its ownership of only 22 percent of the company's true financial interest. The Taubman family will continue to hold a stake in the company, owning 12 percent of both shares and votes.

The deal removes one of the company's two classes of shares, potentially making it more attractive to investors or a merger partner. "The dual class was increasingly being seen by the investing public with less warmth," William Ruprecht, Sotheby's chief executive, said.

Still, he denied that the company would be put up for sale. "Is this an intermediate step on the way to putting the business up for sale? The answer is no," he said, but added, "Every company on the New York Stock Exchange at some price can be acquired."

Mr. Taubman had made no secret of his interest in selling Sotheby's. Two years ago, after an eight-month search for a buyer, he took it off the market. While the company has had several flirtations with buyers, including several wealthy Asian individuals, employees there say, nobody has been willing to pay the high price Mr. Taubman believed Sotheby's was worth.

The price-fixing scandal sent Mr. Taubman to prison for 10 months starting in July 2002 after he was convicted of conspiring to rig auction prices with Sotheby's archrival, Christie's. Afterward, employees say, he lost interest in the auction house. His son, Robert, who joined the board, had little interest in the art world and was just keeping an eye on the family investment.

The exorbitant expenses of the price-fixing scandal drained Sotheby's cash. The company became so cash poor that two and a half years ago it was forced to sell its York Avenue headquarters to RFR Holding for $175 million.

In February 2004, Cendant, the travel, lodging and real estate services company, agreed to buy Sotheby's International Realty's residential real estate brokerage operations for about $100 million. Cendant, whose brokerage operations include Century 21, Coldwell Banker and ERA, pays the auction house a fee for the use of Sotheby's name.

Sotheby's has also had to turn to wealthy art dealers to help finance several major fine art consignments in order to compete with Christie's, whose owner, the luxury goods magnate François Pinault, gives it considerable financial support.

Banc of America Securities advised Sotheby's, and Bear Stearns advised the company's special committee. Allen & Overy provided legal counsel to Sotheby's, and Simpson Thacher & Bartlett provided legal counsel to the special committee.

Goldman, Sachs and Wachtel, Lipton, Rosen & Katz advised the Taubman family.

Archaeologists And Dealers Spar Over U.S.-Italian Art Accord (NYT)

By Hugh Eakin

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 - Lawyers representing art dealers and Sotheby's auction house sparred with archaeologists and cultural property experts on Thursday at a State Department committee hearing on the future of a sweeping agreement banning the import of antiquities from Italy.

Known formally as a memorandum of understanding, the five-year-old agreement is intended to reduce the flow of illicitly excavated Italian antiquities to the United States in return for heightened cultural cooperation between the Italian government and American arts institutions.

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In the hearing, before the State Department's cultural property advisory committee, archaeologists argued for the effectiveness of the agreement, which is set to expire in January unless it is renewed.

"The agreement has had very significant consequences," said Malcolm Bell III, a University of Virginia archaeologist and specialist in Sicilian archaeology, citing improved policing of looting of ancient artworks in Italy and the availability of long-term archaeological loans to American institutions.

Mr. Bell's comments were echoed by Patti Gerstenblith, a law professor at DePaul University and cultural property specialist, who said the agreement helped provide a basis for a growing number of international regulations for the antiquities trade.

But William Pearlstein, a lawyer representing several dealers, asserted that Italian officials were not living up to the agreement.

"In contrast to the love fest portrayed here, there is a not-so-quiet war between Italy and American museums against which it is trying to pursue cultural patrimony claims," he said, referring to Italian action to recover some artworks.

Representatives from some museums, including one from the Metropolitan Museum, attended the hearing but remained silent. Referring to their lack of participation, Mr. Pearlstein said that antiquities curators were "intimidated" by the threat of litigation from the Italian government.

Pressed to expand on his statement, he referred to a criminal case pending in Italy against Marion True, the antiquities curator of the Getty Museum in Los Angeles. Italian officials, he said, "are discriminating against museums against which they have patrimony claims."

Stefano Stefani, deputy chief of mission for the Italian Embassy, took issue with Mr. Pearlstein's comments after the hearing.

"If curators feel constrained to avoid acquiring illegal material, then that means it is working," he said, referring to the agreement.

Ms. True has been accused of conspiring to import looted antiquities. The case is a sensitive issue for the Getty as it prepares to reopen its renovated villa in Malibu, Calif., which houses many of the museum's Greek, Roman and Etruscan antiquities. Such objects were a passion of John Paul Getty, a collector and the museum's namesake. The museum has expressed confidence that Ms. True will be vindicated.

The Italian government has recovered 185,190 looted artifacts since the agreement was signed in 2001, compared with 96,472 in the five years prior to the agreement, according to figures provided by Italian officials. Italy has also expanded the number of loan exhibitions of archaeological material to the United States under the agreement, Mr. Stefani said.

Some critics of the agreement have suggested that any renewal of it should restrict the import ban to classes of objects that are in most danger or have particular significance to Italy's cultural heritage. The United States has restrictions on the import of antiquities with a several countries, but the accord with Italy is the most comprehensive.

The 11-member committee includes art dealers, museum officials and archaeologists. The panel will deliberate and make a recommendation to Dina Powell, assistant secretary of state for education and cultural affairs, who will make the decision whether to renew the agreement or allow it to expire.

Private Investors To Buy Hertz For $15 Billion (NYT)

By Andrew Ross Sorkin

The New York Times, September 9, 2005

In one of the largest leveraged buyouts in more than a decade, the Ford Motor Company yesterday agreed to sell Hertz, the nation's largest rental car company, to a consortium of private investors for about $15 billion in cash and debt, executives involved in the negotiations said.

Ford is expected to announce the transaction as early as today, the executives said.

The sale, to a group including Clayton, Dubilier & Rice, the Carlyle Group and Merrill Lynch Global Private Equity, is the latest super-sized buyout by a team of private equity firms.

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Earlier this year, a consortium of investment firms paid $11.3 billion for SunGard Data Systems, which provides software and services to financial companies.

The largest leveraged buyout ever remains the purchase by Kohlberg Kravis Roberts & Company of RJR Nabisco in 1989 for $25 billion.

The deal ends a heated auction for Hertz, which started after Ford announced in April that it was considering putting the company up for sale or spinning it off. The winning investor group beat another team that included Bain Capital Partners, the Blackstone Group, the Texas Pacific Group and Thomas H. Lee Partners.

Ford's decision to sell Hertz, which produced about 10 percent of Ford's overall pretax profit in the second quarter of this year, underscores the company's urgent efforts to raise cash as sales continue to decline. Ford is expected to use the proceeds of the sale to pay down debt.

Hertz operates in 7,000 locations in more than 140 countries. Ford acquired the company in 1994 after supplying its fleet for decades. It was unclear last night whether Ford would continue to be the company's exclusive vehicle supplier or whether the new owners would seek deals with other manufacturers.

European Corporations Catch Merger Mania (WSJ)

By Jason SingerAnd Matthew Karnitschnig

The Wall Street Journal, September 9, 2005

A sudden surge in takeover activity in Europe, with more than $70 billion of potential deals disclosed in the first several working days of September alone, highlights a new willingness by European corporate chiefs to pursue mergers and acquisitions, executives say.

The deluge of activity is also unusual in its outright aggressiveness. Several are hostile takeovers, unsolicited advances, and bidding wars, suggesting that this region -- once known for its more genteel approach to business -- may have changed for good.

The deals, taking place across European borders and venturing into the U.S. and elsewhere, involve many industries. They are fueled by a confluence of factors, from companies finishing lengthy cost-cutting programs to sluggish economies at home forcing them to look abroad.

On Monday, Gas Natural SDG SA of Spain made a $28.5 billion unsolicited takeover attempt for fellow Spanish utility Endesa SA, which was rejected a day later, sparking a fight that is expected to drag on for months. Also on Monday, German energy giant E.On AG said it is considering making a bid for Scottish Power PLC of the United Kingdom, a company valued at $20 billion. And Deutsche Post AG, also of Germany, said it is trying to buy logistics concern Exel PLC of the U.K. for more than $7 billion.

While September is typically a busy time for deals -- Europeans have just returned from lengthy August vacations -- this year's activity is notable because the deals are bigger and there are more of them. The value of announced mergers between the beginning of August and early September is $123 billion, up from $33 billion in the year-earlier period, according to Thomson Financial.

While all these deals could fall through, executives and bankers say there are signs the spurt will continue. "You don't see an excessive concentration in any one sector. It's relatively widespread across country and industry," says Gordon Dyal, global head of M&A at Goldman Sachs.

A main driver of the new deal-making is a realization that shareholders have started rewarding ambitious tie-ups, after frowning on these actions since 2000. Chief executives noticed that shares of Pernod Ricard SA of France rose after it moved to take over larger U.K. spirits maker Allied Domecq PLC in April. The same thing happened when Italian bank UniCredito Italiano SpA made a move to take over HVB Group AG in Germany in Europe's biggest-ever cross-border banking deal. Usually, acquiring companies see their shares fall on fears of the financial strain from completing the deal.

"The market is increasingly receptive of chief executives doing deals that meet strategic needs," says Paulo Pereira, head of European M&A at Morgan Stanley.

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Gerard Kleisterlee, president and CEO of Philips Electronics NV in Amsterdam, says he is "constantly" looking at expanding key businesses through acquisitions.

Across Europe, many major companies have spent the past several years cutting costs so are now leaner and have cash to do deals. Some European sectors, such as banking and utilities, are highly fragmented so companies need heft to compete globally. Growth in several key markets, such as Germany and Italy, has slowed, prompting companies there to seek sales elsewhere. And, as the healthier firms start expanding, competitors race to acquire the best targets before they are gobbled up by rivals, starting a chain reaction that breeds the type of aggressive deals seen recently.

By contrast, for more than three years, European companies have looked inward, cutting costs and improving efficiency. Instead of using cash for deals, they paid it back as cash to shareholders in the form of stock buybacks and dividends, which reached records over the past year. Private-equity funds stepped in to fill the gap, and accounted for nearly half of all M&A deals.

While nearly every country in Western Europe has seen a big deal announced in recent weeks, the trend is particularly acute in Germany. In many cases, formerly state-owned enterprises have been driving the buying spree as they increasingly look abroad for growth. Companies also face more competition in Germany's deregulated markets along with stagnant domestic demand for their products.

At German media giant Bertelsmann AG, "for two years, we concentrated on getting the business in order," says Siegfried Luther, Bertelsmann vice chairman and chief financial officer. "As a result, we've strengthened our financial situation so it's natural that we'd shift our focus outside the company."

The closely held media company's recent agreed-upon acquisitions include: DVD retailer Columbia House in the U.S., a major German-language magazine publisher, a French bookstore chain and a U.K. broadcaster. The company has spent about €2 billion ($2.5 billion) in recent months and has an additional €500 million earmarked for the rest of the year.

Deutsche Telekom AG, which nearly collapsed under a debt load approaching €70 billion three years ago, also has returned to acquisition mode. The telecom giant, which has pared its debt to €44.5 billion, agreed last month to acquire an Austrian wireless operator for €1.3 billion.

Within Europe, German companies have focused in particular on the U.K., drawn by its large market and the absence of political barriers to foreign investment in sectors such as media and energy.

Indeed, some longstanding political obstacles to foreign acquisitions remain in some major Western European markets, notably France and Italy, prompting several recent fights for companies that attempt deals there.

EU, Spanish Antitrust Watchdogs Become Pawns In Takeover Battle (WSJ)

By Jason Singer In London, Mary Jacoby In Brussels And Keith Johnson In Madrid, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 9, 2005

Swords already are crossed in Gas Natural SDG SA's $28 billion hostile takeover bid for domestic rival Endesa SA, with the two companies clashing over who would approve any potential deal: the Spanish government or the European Commission.

Each company is arguing to have the deal vetted by the regulator it thinks will be most sympathetic to its side.

At stake is the approval Gas Natural needs to proceed with the largest takeover attempt in Spanish history. Part of Endesa's defense strategy is to push to involve the commission, which is likely to be far more critical of the potential merger of two of Europe's largest utilities, people close to the matter say.

Commission spokesman Jonathan Todd said in a briefing yesterday[THURS] that it is "still unclear" whether European Union antitrust watchdogs or Spanish regulators will judge the proposed takeover.

But Gas Natural Chief Executive Rafael Villaseca said Brussels has no authority over the proposed deal because both companies have more than two-thirds of their businesses in Spain, making it solely a domestic issue to be decided in Madrid.

According to documents given to investors by Gas Natural, the Barcelona-based company expects antitrust and other regulatory reviews to stretch until March. Only then could a tender offer begin.

The European electricity market has lately seen a flurry of deal making. Earlier this week, Germany's E.On AG said it was considering a takeover bid for ScottishPower PLC.

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Yesterday, Enel SpA of Italy said it has a war chest of as much as €14 billion ($17.4 billion) for acquisitions in Europe, as it reported a 17% drop in first-half net profit. Enel Chief Executive Fulvio Conti said he is closely monitoring the Spanish market as Enel feels the heat of increased domestic competition, but he ruled out a full counterbid for Endesa. "In Spain, we are interested in buying assets from Endesa, if Gas Natural puts them on the block," he said.

Mr. Conti said Enel still wants to buy 35% of France's Société Nationale d'Electricité et de Thermique, even if Endesa -- Snet's majority shareholder -- is bought by Gas Natural.

Past regulatory action on deals offers a hint at what Endesa is fighting for. Last year, Brussels blocked a deal among utilities in neighboring Portugal on grounds that the combination of a big gas distributor and an electricity firm would squelch competition and run afoul of antitrust safeguards. That decision is currently on appeal.

Spanish authorities, on the other hand, are expected to see Gas Natural's move in a more favorable light, people close to the situation say, because the combination of the companies would create a world-scale Spanish enterprise that, by some measures, would rank as the world's third-largest utility.

Spokesmen at the Spanish Finance Ministry, which oversees competition authorities, weren't available to comment.

Lawyers who specialize in European antitrust issues say Endesa won't be able to wrest control of the approval process from Madrid. European Commission merger rules say the regional body -- which is the executive arm of the EU -- can't review deals where the companies' operations are confined to one country, unless asked by that country to do so. It can "invite" a member nation to seek its assistance but can't force the issue, lawyers say.

"The rules are very clear," Mr. Villaseca said. The commission "doesn't have a way to disturb" the deal, he said.

Endesa Chief Executive Rafael Miranda met with EU officials Wednesday, but it was a long-planned meeting in which Mr. Miranda was acting in his role as president of Eurolectric, a trade group, an Endesa official said.

Endesa believes "in the interests of transparency that it would be a good idea for Brussels to review the operation," said Guillermo Rea, an Endesa spokesman. He said Endesa hasn't asked Spanish competition authorities to formally request an EU review, though all options are on the table.

If Spain asks for a review, "we would be happy to do so," said Mr. Todd, the European Commission spokesman.

--Vittorio Alessio in Rome contributed to this article.

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Dell To Protect E-mail, Data For AMD V. Intel (REU)

Reuters, September 9, 2005

SAN FRANCISCO (Reuters) - Dell Inc. has agreed to retain e-mail and other documents that could be used against its close partner Intel Corp. in a private antitrust suit filed by Intel rival Advanced Micro Devices Inc. , court papers show.

The agreement, filed on Wednesday in the U.S. District Court in Delaware, comes as AMD presses its case against Intel, accusing the world's largest chip maker of using its market power to lock out AMD and its microprocessors from computer makers such as Dell, Hewlett-Packard Co. and others.

Dell, the largest PC maker, buys microprocessors exclusively from Intel. The Texas-based PC maker agreed to preserve relevant information and copy hard drives of employees identified as "custodians" -- those who were involved in negotiating microprocessor purchases.

Among the 28 custodians listed were Michael Dell, the company's founder and chairman. Dell Inc. reserved its right to contest a subpoena for the documents.

AMD has sought information on pricing, contracts and other information from dozens of PC makers and distributors, and virtually all companies in the United States and Japan have agreed to take steps to protect data, AMD's lead counsel, Chuck Diamond, said in an interview.

AMD began talks with companies on legal document preservation in early July, Diamond said. A process of culling millions of pages of documents will follow before the case goes to trial. AMD has already served a subpoena on PC maker Gateway Inc. , according to court papers filed this week.

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Dell declined to comment on the agreement. "We're just not going to comment because it is an ongoing court matter," Dell spokesman Jess Blackburn said. Intel spokesman Chuck Mulloy characterized the document preservation requests as procedural.

Intel and AMD at least agree on one thing. The case is poised to become the largest-ever electronic document discovery cases ever, as dozens of computer makers, distributors and retailers in countries around the world are called on to divulge data about their business relationships with Intel.

ENVIRONMENT:

Some In Senate Seek To Change Mercury Rule (NYT)

By Michael Janofsky

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 - With a deadline for action approaching, senators from both parties rallied support on Thursday for a resolution that would kill the Bush administration's proposed rule to limit mercury emissions from coal-fired power plants.

Appearing at a midday news conference, the senators said the rule was written to satisfy the utility industry and would take too long to produce benefits, causing serious health problems for thousands of people, especially pregnant women and young children living near the plants.

The senators are trying to send the rule back to the Environmental Protection Agency for reconsideration through a rarely successful procedure known as the Congressional Review Act, which allows lawmakers to challenge agency regulations through a resolution that is guaranteed a floor vote.

The deadline for the vote is Monday, although Senator Bill Frist of Tennessee, the majority leader, said other issues might force him to extend it by several days.

Senator Patrick J. Leahy, Democrat of Vermont, said, "It is sad and it is appalling to see how the agency has been captured by polluting special interests in decisions on limiting mercury pollution."

Mr. Leahy was joined by Senator Susan Collins, Republican of Maine, and Senator James M. Jeffords of Vermont, an independent who generally votes with Democrats on environmental issues.

Ms. Collins said: "We want to give the E.P.A. a chance to fix the rule and do it right."

It is doubtful, however, that their effort will produce anything more than a symbolic protest. To force a change in the rule, the resolution would have to win majority votes in the Senate and the House as well as President Bush's approval - all of which are considered highly unlikely.

Only two Republicans, Ms. Collins and Senator Olympia J. Snowe of Maine, have expressed support for the resolution, and in the 10 years since the review act has been available, only one challenge has succeeded.

Mr. Leahy conceded that he did not know how the Senate might vote on the mercury resolution, saying, "We'll have to wait and see."

Power plants are the largest single source of mercury emissions in the country, accounting for more than 90,000 pounds of airborne mercury a year, about a third of the total output.

Until 2001, the emissions were governed by the Clean Air Act, which required plants to have the best available technology in place by 2009, improvements projected to lower emissions by 90 percent. The Bush administration changed course, removing power plants from Clean Air Act jurisdiction and proposing the first regulatory effort to cut the emissions with a plan to reduce output by 70 percent within 13 years.

Republicans, in general, favor the approach because it employs the kind of cap-and-trade system that proved effective in combating adverse effects of acid rain, and it is less expensive to power plant owners that alternatives. Under this system, a plant can exceed its permitted level of emissions by buying credits from a plant in the same region whose emissions are below what is allowed.

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Democrats and many environmental and public health groups have attacked the administration rule, saying it violates the law and has the potential to lead to unnecessarily high levels of health problems because of its delayed carrying out.

Dr. Leonardo Trasande, assistant director of the Center for Children's Health and Environment at the Mount Sinai School of Medicine in New York, who joined the news conference, said a new study by his hospital found that each year 231 children nationwide suffer mental retardation caused by their mothers' exposure to mercury emissions from coal-fired power plants.

Industry groups were quick to attack the senators' effort, arguing that the proposed rule is the most efficient and cost-effective way to reduce mercury emissions.

"The best way to address concerns about mercury emissions from U.S. power plants is to leave the existing regulations in place," said Dan Riedinger, spokesman for the Edison Electric Institute, a trade group of power companies that generate about 60 percent of the nation's electricity. "Sending E.P.A. back to the drawing board would only delay regulation of power plant emissions, not accelerate them, as Senator Leahy and others claim."

Scott Segal, director of the Electric Reliability Coordinating Council, a trade group, accused the senators of misusing the review act and taking up valuable Senate time when more pressing issues were facing the country.

"Frankly, we are quite surprised that the Senate may make time to even consider this petition," Mr. Segal said, alluding to the mounting problems caused by Hurricane Katrina. "We can hardly think of a worse time to be doing so."

3rd Circuit Rejects Substantial Continuity Test (LAW)

By Shannon P. Duffy, The Legal Intelligencer

Law.com, September 9, 2005

It's not too often that a federal judge declares that five of the judges on her own bench were wrong about a point of law in a string of decisions spanning a decade.

What's even rarer is when that lone judge learns, just days after she sticks her neck out, that she was right to do so -- due to the coincidence of an appellate court decision in an unrelated case that tackles the same legal question.

Both decisions are sure to grab the attention of environmental lawyers because they clarify the rules courts should use in deciding when a corporation may be held liable under the Superfund law on a theory of "successor liability."

On Aug. 31, U.S. District Judge of the Eastern District of Pennsylvania Anita B. Brody handed down a 37-page decision in Action Manufacturing Co. Inc. v. Simon Wrecking Co., in which she rejected the plaintiff's argument that Marcegaglia USA Inc. should share responsibility for the costs of an environmental clean-up in Malvern, Pa.

Lawyers for Action Manufacturing had argued that Marcegaglia was also liable as the successor-in-interest to Bishop Tube Co. because it had purchased the assets of Bishop Tube in a bankruptcy court sale.

To win its argument, Action Manufacturing had to persuade Brody to apply the so-called "substantial continuity" test.

Brody said she recognized that five of her Eastern District colleagues have applied the substantial continuity test in toxic clean-up cases brought under the Comprehensive Environmental Response, Compensation and Liability Act, or CERCLA, in a string of decisions spanning from 1993 to 2002.

Although the 3rd U.S. Circuit Court of Appeals has never endorsed the test, Brody found that, in light of the 1998 decision of the U.S. Supreme Court in United States v. Bestfoods, it is no longer good law, and that "the national trend is to reject the substantial continuity test."

As Brody described it, the substantial continuity test "is not part of the traditional doctrine of successor liability. ... Rather, the substantial continuity test, also known as the 'continuity of the enterprise test,' is often described as an expansion of the traditional 'mere continuation' theory of successor liability."

Under the traditional mere continuation theory, a purchasing corporation is liable as a "mere continuation" of the transferor corporation if, after the transfer of assets, there is an identity of stock, stockholders and directors between the two corporations.

But Brody found that the substantial continuity test "expands the mere continuation doctrine by making a purchaser of assets liable if it is a 'substantial continuation' of the seller corporation, even if there is no identity of stock and stockholders."

With no 3rd Circuit ruling on the point, Brody looked to other appellate courts and found that the circuits are split, with four circuits -- the 1st, 2nd, 6th and 9th -- rejecting the "substantial continuity" theory and only two -- the 4th and 8th -- endorsing it.

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Forced to choose, Brody looked to the 3rd Circuit's 1988 decision in Smith Land & Improvement Corp. v. Celotex Corp. which instructed courts to "follow federal common law" when deciding successor liability issues.

In passing CERCLA, the Smith Land court said, Congress "expected the courts to develop a federal common law to supplement the statute."

Brody also found that, in determining the content of federal common law, the 3rd Circuit "emphasized the need for national uniformity and the need to consider the general doctrine of successor liability in all states."

As a result, Brody concluded that the substantial continuity test must now be rejected. "Given Smith Land's concerns with national uniformity and given that courts in the 3rd Circuit must apply federal common law which consists of the general doctrine of successor liability applicable in most states, I follow the majority of circuit courts that have addressed this issue and conclude that the substantial continuity test should not be applied to determine successor liability in CERCLA cases," Brody wrote.

"The substantial continuity test is not part of federal common law because it is not part of the general doctrine on successor liability in operation in most states. Nor should I attempt to expand federal common law beyond traditional common law rules in order to encompass the substantial continuity test."

If Brody was wondering whether she got it right, she didn't have to wonder very long. On Tuesday, the 3rd Circuit handed down its 56-page opinion in United States v. General Battery Corp. Inc.

Writing for the court, Chief Judge Anthony J. Scirica said, "we return, once again, to the difficult area of indirect liability under CERCLA."

CERCLA, Scirica said, is a "sweeping" federal remedial statute that was passed in 1980 to ensure that "everyone who is potentially responsible for hazardous-waste contamination may be forced to contribute to the costs of cleanup."

But Scirica noted that the law "is not, however, a model of legislative draftsmanship," and that "successor liability is one of its puzzles."

Most of Scirica's opinion is devoted to a discussion of whether the two appellants -- General Battery and Exide Corp. -- were properly held liable on the government's argument that, due to a "de facto merger," they were the successors-in-interest to Price Battery Corp.

Upholding a ruling by Senior U.S. District Judge Ronald L. Buckwalter, Scirica concluded that "the de facto merger criteria are satisfied."

But in a brief, final section of the opinion, Scirica effectively upheld Brody's decision by rejecting Buckwalter's alternative holding that Exide would also be liable under CERCLA on a "substantial continuity" theory of successor liability.

Scirica noted that, prior to the U.S. Supreme Court's decision in Bestfoods, several courts had adopted the substantial continuity test as a basis for CERCLA successor liability. The substantial continuity theory, Scirica said, "eliminates certain elements of the de facto merger analysis -- including the continuity of ownership requirement —- and in effect creates a more expansive rule of liability than is accepted in most states."

But recently, Scirica found, several of the federal circuits "have rejected the doctrine as inconsistent with Bestfoods."

With just two sentences of discussion, Scirica said the 3rd Circuit was joining its sister circuits in rejecting substantial continuity.

"Bestfoods held that CERCLA does not, sub silentio, abrogate fundamental common law principles of indirect corporate liability," Scirica wrote. "Accordingly, 'substantial continuity' is untenable as a basis for successor liability under CERCLA."

In the case before Brody, Marcegaglia USA was represented by attorneys Robert W. Thomson, C. Shawn Dryer, Steven F. Baicker-McKee and Kevin K. Douglass of Babst Calland Clements & Zomnir in Pittsburgh. Action Manufacturing was represented by attorneys Larry Silver, David E. Romine and Sandra Gibbs of Langsam Stevens & Silver in Philadelphia.

In the 3rd Circuit case, Justice Department attorney John T. Stahr argued for the government; General Battery and Exide were represented by attorneys Robert L. Collings and Carl A. Solano of Schnader Harrison Segal & Lewis.

A Light In The Forests (NYT)

The New York Times, September 9, 2005

DOJ_NMG_0003853

The Bush administration has largely succeeded in its systematic effort to roll back environmental protections for America's national forests. It has weakened agreements to protect old-growth trees in the Pacific Northwest, persuaded Congress to adopt an industry-friendly plan for fire suppression and overhauled rules governing forest management in ways that erode safeguards not only for the forests but also for the endangered species that live there.

Now, however, a rebellion is brewing where the White House least expected it. Western governors are challenging the most controversial rollback of all: the decision to repeal a popular rule approved near the end of the Clinton administration to protect nearly 60 million acres of remote national forest from commercial development.

The attorneys general of California and New Mexico and the governor of Oregon have filed a suit charging that the administration failed to conduct necessary environmental reviews before imposing the new rule. They argued further that the rule would endanger "the last, most pristine portions of America's national forests," leading to excessive logging and destroying essential watersheds.

The lawsuit followed complaints from other governors, including Republicans, that the new rule would saddle them with impossible administrative burdens. The rule would requires states to survey all roadless areas within their borders and devise protection plans, then submit the plans to Washington for approval, with no guarantee of success.

The rebellion is an embarrassment for an administration that had assumed that the governors would leap at the chance to exercise states' rights. It now seems clear that the governors prefer a uniform national approach to federal roadless areas rather than piecemeal management.

The rebellion should also improve the prospects of a bill introduced by Sherwood Boehlert, Republican of New York, and Jay Inslee, Democrat of Washington, to restore the old roadless rule. Now that the governors have spoken, there seems to be no reason to further indulge the commercial interests of a few timber companies.

FBI/DEA/ATF/USMS:

Pelican Bay State Prison Gang Leaders Get Life Sentences (AP)

The Associated Press

AP, September 9, 2005

SAN FRANCISCO -- Five Pelican Bay State Prison gang leaders were sentenced Thursday to life in federal prison on various racketeering, drug and weapons violations after Gov. Arnold Schwarzenegger commuted their state terms.

The inmates were already serving life sentences at the notorious state prison in Crescent City that houses California's worst offenders. With their convictions, they will be transferred to separate federal prisons around the country.

"By incarcerating these defendants in federal maximum security prisons, this organization's operational capabilities will be seriously disrupted," U.S. Attorney Kevin Ryan said.

Defendants Cornelio Tristan, 44, James Morado, 57, Joseph Hernandez, 55, Gerald Rubalcaba, 50, and Tex Hernandez, 50, were leaders of the Nuestra Familia prison gang. They admitted that while they were behind bars, the organization murdered two former gang members and engaged in numerous drug transactions from which they profited.

The five defendants were the last of 22 Nuestra Familia members and associates sentenced in the federal case that began five years ago.

The U.S. Justice Department's key witness in the case, former Nuestra Familia leader Daniel Fred Hernandez, will soon walk free even though he admitted to selling drugs and committing other crimes while working for the government.

Hernandez, 42, cut a deal with federal prosecutors for a reduced sentence in return for providing evidence against fellow gang members. He was arrested nearly five years ago and faced life in prison on the same racketeering charges as the others.

As part of his plea deal, Hernandez agreed to wear a wire and set up drug and gun buys for fellow gang members.

Hernandez was sentenced Wednesday in San Francisco by U.S. District Court Judge Charles Breyer to 54 months in federal custody. He has already served 49 months and has received credit for good behavior.

Nuestra Familia originated about 40 years ago within prison walls among Hispanic inmates from rural Northern California as a way for members to protect themselves against rival prison gangs.

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Gang Leaders In Federal Hands (MHCA)

By Julia Reynolds And George B. Sanchez

Montery (CA) Herald, September 9, 2005

SAN FRANCISCO - The intense federal prosecution of Nuestra Familia leaders ended Thursday with a warning from the judge who has presided over the case since 2000.

"This was a very expensive prosecution, involving millions," U.S. District Court Judge Charles Breyer said after sentencing the gang's top five leaders to life in federal prison.

Federal prison officials now, he said, need to make sure they keep the gang from spreading throughout the country the way it spread though the California prison system.

The responsibility for keeping the gang under control is now in the hands of the Federal Bureau of Prisons, Breyer said.

Chained and surrounded by nine U.S. marshals in a specially modified courtroom, James "Tibbs" Morado, 57, Joseph "Pinky" Hernandez, 55, Gerald "Cuete" Rubalcaba, 50, Cornelio Tristan, 44, and Tex Marin Hernandez, 50, were all given life terms in federal prison with the condition that if they are ever released for any reason, they will be returned to California prisons.

"At the time of the pleas, I voiced concerns" about the potential for contamination of the federal system, Breyer said. "I think what I said then is true today. It is a serious concern."

California authorities also had expressed fears that federal officials might cut deals with the quintet that would enable some or all to be freed in exchange for cooperation.

U.S. Attorney Kevin V. Ryan praised 10 agencies for their roles in the investigation, including the Monterey County Sheriff's Office and District Attorney's Office and the Salinas Police Department.

Operation Black Widow began with the promise of crippling the Nuestra Familia. In 2000, federal prosecutor Robert Mueller, now head of the FBI, began the case in Salinas with 11 indictments, saying the arrests would have "a dramatic impact on criminal activities" in Monterey County and elsewhere.

This week, it all ended quietly and without fanfare. Only a few onlookers attended Thursday's hearing.

The case had been at an impasse for nearly a year since the men agreed to life sentences in federal custody after pleading guilty to a single count of conspiring to conduct a criminal enterprise through a pattern of racketeering.

Federal prosecutors had assumed the state would quickly commute the defendants' life sentences so they could enter the federal system.

Some district attorneys protested the commutation, fearing the defendants could enter federal witness protection programs or become eligible for federal parole if it is reinstated.

Last week, the state's Supreme Court advised Gov. Arnold Schwarzenegger to relinquish the gang leaders from life sentences in California as long as federal authorities provided the necessary assurances.

On Wednesday, the governor signed commutation letters for each of the five defendants.

Thursday's sentencing hearing began with a moment of tension when attorneys realized the letters from the governor's office hadn't arrived. Once the faxed letters were delivered by U.S. Attorney Edward Torpoco, the proceeding went quickly.

Through their attorneys, the defendants asked for two changes to their pre-sentencing reports, which Breyer agreed to do.

One was that they be described as "Mexican" or "Mexican/Indian" instead of "White/Hispanic."

Another was a request to strike a description of the gang's communication methods that said coded messages are delivered by the defendant's spouses and girlfriends. Defense attorneys said the defendants felt the paragraph's language might be used to keep family members from visiting them in the future.

With the federal sentences finally handed down, the five are likely to be transferred from a holding facility in Dublin to various federal prisons within a few weeks.

Many of the original defendants were serving prisons terms in California when they were indicted federally.

The "final five" leaders all had life sentences. They were locked down for 23 hours a day in the security housing unit at Pelican Bay State Prison. Despite the heaviest security of any California prison, they managed to run one of the nation's most sophisticated criminal enterprises, issuing orders for murders and other crimes on the streets via smuggled messages or through inmates being paroled.

In an attempt to "cut off the head" of the gang, federal prosecutors teamed up with state law enforcement agencies to launch Operation Black Widow.

But some gang investigators, like Al Valdez of the Orange County District Attorney's Office, say that putting the gang's hard-core leaders into the federal system may broaden the gang's reach.

"They have plans and they have connections," he said. The gang may or may not succeed in gaining a strong base in federal prisons, he said, "but they certainly will attempt it."

Attorney Ann Moorman, who represents Rubalcaba, said the sentences were the "right result for this case."

Because the case never went to trial, some questions that surfaced during the years of waiting will never be answered.

One concern is the precise role played by criminal informants, whom defense attorneys said were too active in the gang's criminal activities while working as government witnesses. One key informant, Danny Hernandez, is expected to be released from custody within weeks although he committed numerous crimes with and without the knowledge of his FBI handlers during the investigation, according to FBI reports and other documents.

Assistant United States Attorney Edward Torpoco defended the use of criminal informants during Operation Black Widow.

"Law enforcement in the past has typically used whatever means it can within the bounds of the law to combat organized crime," he said.

"The alternative was to do nothing and that was not an acceptable alternative," Torpoco explained.

Another lingering question, as some investigators suspect, is whether the five leaders played a role in the death of 20-year-old Crystal Morado of Salinas, while they awaited trial. Crystal Morado married James Morado while he was in the Dublin facility, and was found slain several months later on Hecker Pass near Gilroy.

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Gang Members Arrested In Major Crackdown (MH)

By Mark Sherman

The Miami Herald, September 9, 2005

WASHINGTON - More than 650 suspected members of MS-13 and other gangs were arrested in the United States, Mexico, El Salvador, Guatemala and Honduras in a coordinated crackdown on violent Hispanic gangs, officials said Thursday.

But even as a senior FBI official set a goal of dismantling MS-13 in the next 18 months, police officials from the other countries described vast challenges in quelling gang activity in their prisons and disrupting recruitment.

The roundup, conducted Wednesday by 6,400 law enforcement officers in the five countries, was run out of FBI headquarters in Washington, FBI assistant director Chris Swecker said.

"Our end game is to take out the leadership elements especially," Swecker said at a news conference. "These arrests are a means to that end."

Police and federal agents made 73 arrests, more than half on immigration charges, in 13 states, Swecker said. Thirty-two people were arrested in California alone.

Authorities also arrested 237 people in El Salvador, 162 in Honduras, 98 in Guatemala and 90 in Mexico. The arrests in Mexico all took place in the southern Chiapas state, near the border with Guatemala.

MS-13, also known as Mara Salvatrucha, originated in Los Angeles among Central American immigrants. An estimated 10,000 MS-13 members are in the U.S., with the highest concentrations in Los Angeles, New York, northern Virginia and Maryland, the FBI said.

MS-13 may have as many as 50,000 members in the other four countries, officials said.

The foreign police officials said they are all but powerless to stop gang activity in the prison population. "The gang leader must die," said Gen. Mirna Suazo Rivera of the Honduran National Preventive Police.

In El Salvador, poor areas are fertile recruiting grounds, where "10,000 gang members have 10,000 families, brothers, sons, nephews, cousins," said Douglas Omar Garcia-Funes, the country's assistant director of investigations.

ON THE NET

FBI: http://www.fbi.gov

Gang Crackdown Nets 650 Suspects (LAT)

By Chris Kraul, Times Staff Writer

The Los Angeles Times, September 9, 2005

MEXICO CITY — More than 650 suspected gang members were arrested in a five-nation crackdown, including scores in the southern Mexican state of Chiapas, officials said Thursday.

An FBI statement said more than 6,400 law enforcement officers in the U.S., Mexico, El Salvador, Guatemala and Honduras participated in the coordinated crackdown against gangs, particularly MS-13.

In Mexico, Chiapas suffers most from MS-13 because the state's southern border with Guatemala is a crucial transit point for Central American immigrants.

Gang members prey on largely defenseless migrants, robbing, raping and killing them, especially along a railroad line that runs from Chiapas to the U.S.-Mexico border.

About 1,500 state and local police officers participated in the Chiapas raids, said the state public security secretary, Horacio Schroeder Bejarano. No violence was reported.

Fifty-four of the 94 people arrested there were thought to be Central Americans. The others were Mexicans believed to have been recruited by the gang, also known as Mara Salvatrucha.

Bejarano said there was a warrant for each arrest. The detainees were wanted in various crimes, including homicide.

"These arrests are a consequence of meetings between the security agencies of all the countries in the region and were designed to hit the trans-border criminal gangs," Bejarano said. "They are a problem from Honduras all the way up to the United States."

FBI Assistant Director Chris Swecker said at a news conference that the operation was run from Washington.

U.S. police and federal agents made 73 arrests, more than half on immigration charges, in 13 states, Swecker said. Thirty-two of the arrests were in California.

Authorities also arrested 237 people in El Salvador, 162 in Honduras and 98 in Guatemala.

MS-13 originated in Los Angeles among Central American immigrants.

According to the FBI, an estimated 10,000 members of the gang are in the United States, with the highest concentrations in Los Angeles, New York, northern Virginia and Maryland.

MS-13 may have as many as 50,000 members in the other four countries, officials said.

Associated Press was used in compiling this report.

Massive International Sting Nets 660 (CNN)

By Terry Frieden, CNN Washington Bureau

CNN.com, September 9, 2005

WASHINGTON (CNN) -- A massive international sweep targeting violent MS-13 gang members in the United States and Central America produced about 660 arrests, law enforcement authorities announced Thursday.

The two-day operation, which ended early Thursday, involved more than 6,400 government agents in five countries: the United States, El Salvador, Honduras, Guatemala and Mexico. Top officials from each country coordinated from a joint command post at FBI headquarters in Washington.

"I haven't seen anything like this in 23 years," said veteran FBI Assistant Director Chris Swecker, who oversaw the operation.

Alejandro Diaz de Leon, of the southern Mexican state of Chiapas, said, "There is no precedent in our law enforcement effort."

An estimated 10,000 members are in the United States, and while they have been most active in Los Angeles, New York and northern Virginia, other regions are gaining members.

Officials say Central America has about 50,000 MS-13 members, and that the operation is an important step in their common goal of eradicating the MS-13 gang in the next 18 months.

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Taking the gang members off the street is only a first step in solving El Salvador's gang problem, said Douglas Omar Garcia Fumes, assistant director of investigations there.

"They continue to operate even after they're arrested. Orders to kill are coming out of our prisons. We have only one maximum security prison," he said.

The operation's scope and collaborative effort "sent a message to MS-13 and other like gangs that their criminal enterprise and the violence they perpetrate will not be tolerated," Swecker said.

The Mara Salvatrucha (MS) gang was first formed in Los Angeles by young men from El Salvador. Most of the members have family ties to that country or to Honduras.

The largest number of arrests -- 237 -- was in El Salvador, where the brutal gang is entrenched. Other arrests included 162 in Honduras, 98 in Guatemala, 90 in Mexico and 73 in the United States.

U.S. cities with the highest number of arrests were: Los Angeles, with 20; San Francisco, with 12; Atlanta, six; and Charlotte, five.

Carrying out the raids in 13 states were agents from the FBI; the Bureau of Alcohol, Tobacco, Firearms and Explosives; the Immigrations and Customs Enforcement; and local police.

Last month 19 suspected MS-13 gang members were charged in a federal racketeering indictment accusing them of killings and other violent crimes. (Full story)

In May two MS-13 members were convicted for the murder of pregnant federal witness Brenda Paz. (Full story)

FBI Makes Arrests Against Violent Gang Members (KNBC-TV)

KNBC-TV, September 9, 2005

LOS ANGELES -- The FBI Thursday conducted a "coordinated, five-nation law enforcement effort" against violent gangs, including the notorious Mara Salvatrucha-13 organization, which has a large membership in Los Angeles.

"These gangs are organizing internationally, and so are we," FBI Assistant Director Chris Swecker said in a statement.

Thursday's actions included the participation of more than 6,400 police officers, federal agents or law enforcement personnel, operating in 15 states, as well as in El Salvador, Honduras, Guatemala and Mexico. An unknown number of people were arrested.

The effort was part of a series of actions undertaken with state, local, federal and foreign agencies, coordinated by the FBI's National Gang Task Force, which was established last year to fight gang violence.

The task force's first main target was the Mara Salvatrucha-13, also known as MS-13. The gang's presence has been identified in 33 states, the District of Columbia, Mexico and a number of countries in Central America.

MS-13's estimated membership is more than 10,000 in the United States, with the largest concentration in Los Angeles, Northern Virginia, Maryland and New York.

Swecker described Thursday's operation as "historic ... unprecedented in scope."

"By bringing together resources from the local, state, federal and international law enforcement community, all levels of U.S. law enforcement and our international partners are working together and sharing information," Swecker said.

"This represents but a beginning, another step, in an ongoing national and international effort to go on offense and to strike back against gang violence," Swecker said.

FBI Arrests Suspected MS-13 Gang Members (OREG)

By Noelle Crombie, The Oregonian

The Oregonian, September 9, 2005

Federal agents arrested five self-described MS-13 gang members on Wednesday as part of a nationwide crackdown on the notoriously brutal street gang.

The individuals were arrested on administrative immigration violations and were picked up in Portland, Gresham and Cornelius, authorities said. They have not been charged with a crime and face deportation.

Immigration authorities would not release the names, citing their practice of not identifying individuals accused of administrative violations.

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Robert Jordan, the top FBI agent in Oregon, announced the arrests, saying authorities are "seeing the beginnings of a movement of members to Oregon, and we are very serious about making sure MS-13 can't establish a strong foothold in our communities."

The suspected gang members were identified through criminal investigations throughout the country, said Dan Nielsen, assistant special agent in charge of the FBI in Portland.

Portland gang detectives said Wednesday they have not seen documented MS-13 activity in the area. Gang detectives rely on residents, gang members, and police reports from Portland officers as well as those from outside agencies to identify gang members and gang-related crimes.

Portland Police Officer Russ Corno, a member of the bureau's gang unit for eight years, said competing gang members typically alert police to the presence of another gang. He said officers have encountered a few claiming to be members of MS-13, but said "as far as them getting a major foothold or doing recruiting -- I don't think that it's going on here."

He said concerns about the violent gang are valid, but said they are not having an impact on the Portland area gang scene.

Last year, the FBI set up a national task force to focus on dismantling MS-13.

Experts say MS-13 is an international criminal organization -- trafficking in drugs, arms, alien smuggling, prostitution and home robberies.

Refugees fleeing the U.S.-backed civil war against guerrillas in El Salvador created the gang in a Salvadoran neighborhood of Los Angeles. MS is short for Mara Salvatrucha: "Mara" means gang in Salvadoran; "Salvatrucha" is the word for a Salvadoran male, and was used by guerrilla fighters in El Salvador. The 13 means the gang is a "Sureno" or Southern California Latino gang.

Federal authorities characterize the gang as a soulless, tattooed army of cutthroats, audacious enough to go to war with Central American political groups and California's most infamous gangsters.

Noelle Crombie: 503-276-7184; noellecrombie@news.oregonian.com.

FBI Arrests Suspected MS-13 Gang Members (AP)

By Associated Press

AP, September 9, 2005

Five people who claim to be members of the brutal street gang called "M-S-13" face deportation after they were arrested for immigration violations.

Officials say none was charged with a crime. The immigration violations are part of the administrative procedure leading to possible deportation.

Robert Jordan, the top FBI agent in Oregon, announced the arrests Wednesday as part of a national crackdown. He said the FBI is serious about ensuring that M-S-13 can't establish a strong foothold in the communities.

Last year, the FBI set up a national task force to focus on dismantling MS-13, an international criminal organization that trafficks in drugs, weapons, alien smuggling, prostitution and home robberies.

Four Gwinnett Men Arrested In Gang Sting (GWINNDP)

By Bryan Brooks, Staff Writer

Gwinnet (GA) Daily Post, September 9, 2005

LAWRENCEVILLE — Four arrests were made Wednesday in Gwinnett County as part of an international investigation into the violent street gang “Mara Salvatrucha,” federal officials said Thursday.

Nationwide, 73 individuals were arrested in the FBI-led crackdown involving local police officers and federal agents in 15 states.

Also known as “MS-13,” the international gang has been implicated here and elsewhere in a number of violent crimes, including murder, aggravated assault, rape, firearms violations, drive by shootings and robberies, according to the FBI.

Six gang members were arrested across metro Atlanta, including four in Gwinnett, said FBI Special Agent Steve Emmett.

One arrest was made in Lawrenceville and the other three in unincorporated Norcross, Emmett said.

Although the FBI identified those arrested, Emmett declined to say where each individual was taken into custody.

"We're not going to stipulate who was where," he said. "There were searches conducted (in Gwinnett) and small amounts of marijuana were seized in some instances and various fake IDs and gang paraphernalia were noted."

Arrested were: Roman Aguilar, 24, Juan Claros, 29, Walter Hernandez, 22, Juan "Joker" Maye, 25, Pedro "Mousie" Maye, 20, and Gustavo "Conejo" Martinez, 24.

Martinez is the leader of a local "set of MS-13," according to the FBI, which said all six are in the country illegally and subject to deportation.

The Gwinnett County and Lawrenceville police departments participated in the operation that included the FBI, Immigration and Customs Enforcement, and the Bureau of Alcohol, Tobacco and Firearms.

MS-13 has its origins in Los Angeles and El Salvador and is widely dispersed, although there are "clear indications" some within the gang are trying to organize it into a regional and national crime organization with strengthened ties to better established and more violent MS-13 cliques in Central America, according to the FBI.

As part of Wednesday's effort, law enforcement authorities in El Salvador, Honduras, Guatemala and Mexico conducted separate but coordinated actions against MS-13 that netted 563 arrests, according to the FBI.

Gang membership in those four countries is estimated to be as high as 50,000. In the United States it is thought to be more than 10,000, with the largest concentration in Los Angeles, Northern Virginia, Maryland and New York, according to the FBI, which has created a task force to dismantle the gang.

Police Investigate Crime Spree (WMTV-TV)

By Natalie Swaby

WMTV-TV, September 9, 2005

"$45,000 to $55,000 on an average day," says Captain Richard Bach of Madison Police's North District.

Police claim that dollar figure is what their suspects brought in by allegedly stealing over the counter medications while having ties to MS-13, a violent gang.

"They are just one part of a larger organized group, there are many of these small groups of these people throughout the country that commit these types of crimes," explains Bach.

An FBI tip brought officers to a Northside Madison motel on August 29th.

A four hour stake out brought in the two suspects, 21-year old Leonel Avendano and 23-year old Elvis Fuentes-Lazo as well as two boxes of evidence.

Bach says, "in their possession was about $10,000 worth of stolen over the counter medication that they had stolen from about 22 Walgreens in the Madison area the day before."

Detectives interviewed the suspects who are from Houston.

According to Captain Bach, they made the trip to Madison, and allegedly mapped out area Walgreens. Police say their plan was to then steal merchandise, and send it to a company in Louisville, Kentucky.

Now the two men are being held in Dane County jail in connection with felony retail theft. Detectives are also looking into possible connections with MS-13.

"We have not had any encounters or information that the violent MS-13 gang is in Madison. We're not even saying that these were gang members. We are saying they had an affiliation with the gang as far as this criminal activity," says Bach.

MS-13 is a gang that originated in El Salvador, but has spread into the United States. Members are trained in warfare and weapons. This gang is often connected to violent crimes, homicides, and drug deals.

Baggage Handlers Jailed In Smuggling Probe (MH)

The Miami Herald, September 9, 2005

The illegal drugs were transported in suitcases on American Airlines flights departing from Port-au-Prince and arriving at MIA, sources said. The baggage handlers received tips about which luggage contained the cocaine, so they could unload it to evade authorities.

Some of the defendants arrested Thursday are expected to appear today in federal court in Fort Lauderdale, the sources said.

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The unsealed indictment names 11 defendants, including one who is still at large. The investigation, by the FBI, Drug Enforcement Administration and Immigration and Customs Enforcement, is targeting other suspects.

Officials with the FBI, which is leading the inquiry, declined to comment.

According to sources, the investigation of baggage handlers at MIA is unrelated to the DEA's three-year investigation of cocaine trafficking and money laundering in the administration of deposed Haitian President Jean-Bertrand Aristide, who is in exile in South Africa.

That investigation has led to conspiracy charges against at least 14 defendants. Most have pleaded guilty.

MIAMI-DADE

SEX-OFFENDER LAW VOTE DEFERRED

Miami-Dade County commissioners deferred voting on an ordinance Thursday that would have barred sexual offenders from living within 2,500 feet of a private or public school -- a distance more than twice the limit imposed by Florida statute.

"We just want to make sure this is constitutional," said Commissioner Jose "Pepe" Diaz, one of the sponsors of the proposed laws. Municipalities within Miami-Dade had expressed concern about a law that would supersede local rules regarding sexual offenders, and concerns about the legal ramifications of an overly broad law have surfaced in recent weeks.

MIAMI

TRIAL OF NFL'S TAYLOR DELAYED UNTIL OCT. 24

A judge has delayed the trial of Washington Redskins safety Sean Taylor on aggravated assault charges until Oct. 24.

The trial had been scheduled to begin Monday, one day after the Redskins open their season against the Chicago Bears. Taylor's attorney, Edward Carhart, said he needs more time to take witness statements and gather other evidence for his client's defense.

Prosecutors did not object to the delay, which was granted Thursday by Miami-Dade Circuit Judge Mary Barzee.

Taylor, a former University of Miami standout, allegedly was among a group of people who got into an armed confrontation over an all-terrain vehicle. Prosecutors say Taylor pointed a gun at someone during the dispute. He is charged with aggravated assault with a firearm and simple battery.

Taylor, who pleaded not guilty, faces up to 16 years in prison if convicted. Taylor signed a seven-year, $18 million contract after being drafted by the Redskins in 2004.

AVENTURA

CITY HALL TO TURN INTO A CONCERT HALL

With no dedicated space for cultural activities and the desire to have more events in the city, Aventura officials are getting creative with the space they have.

The upstairs atrium of the government center will be transformed into a piano concert hall 3 p.m. Nov. 6 when the winners of the Murray Dranoff International Twin Piano Competition come to play.

There are no museums, concert halls or theaters within Aventura's city limits. And a push to bring one there died about two years ago.

The concert will be the first of what they hope will be a series. Featured to play are 1993 winners, Elizabeth Laich and Marcel Bergmann and 2003 winners, Per Tengstrand and Shan-Shan Sun.

For the concert, the city will bring in up to 250 folding chairs. The concert will be free for residents, and tickets will be given on a first come first serve basis.

DESIGN DISTRICT

BENEFIT TO AID HAITIAN ORPHANS

South Floridians wishing to help the orphaned children of Haiti can do so today by bringing everything from bars of soaps to their checkbooks to an evening fundraiser at Gigi's Bistro, 190 NE 46th St. in Miami's Design District.

The charity happy hour between 6 and 10 p.m. will benefit Mercy House Orphanage of Haiti, which provides a home and schooling to some of Haiti's smallest and neediest citizens in Port-au-Prince.

Among the items the charity hopes to collect for an upcoming trip later this month: toothpaste and child-size toothbrushes, pencils and pens, nonelectric pencil sharpeners, erasers, durable color markers, pencil cases and composition notebooks.

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For further information,contact Julie Katrude, 305-803-4168.

Drug Cash Smuggling Booming On U.S.-Mexico Border (REU)

By Tim Gaynor

Reuters, September 8, 2005

TIJUANA, Mexico (Reuters) - When the Mexican customs light blinked red at the border crossing with the United States, the driver of the white Chrysler van panicked, put his foot on the gas pedal and made a dash south for Tijuana.

Stopped a few hundred yards down the road, agents found $1,023,000 dollars in $20, $50 and $100 bills crammed into the dash, glove box and even the cloth seat backs of the vehicle traveling from Los Angeles.

For decades, U.S. law enforcement agencies have clamped down on Mexican drug cartels hauling cocaine, marijuana, heroin and amphetamines north over an ever-more tightly watched border to the United States.

Now, with stricter controls on bank accounts and wire transfers, officials are concerned that drug gangs are increasingly running illicit profits back to Mexico in piles of hard cash in cars, trucks and even on foot.

U.S. authorities have seized almost $40 million in bank notes headed into Mexico since 2002 and say cases like that of the van, which was stopped at random crossing into Tijuana in June, are just the tip of the iceberg.

"Bulk currency smuggling is probably the most important part in the war on drugs, although it's not addressed as widely as it should be in law enforcement circles," said Dan Burke, U.S. Immigration and Customs Enforcement supervisory special agent in San Diego.

"Usually when you get a million bucks there's a lot of high-fiving going on, but every single day $1-$2 million in drug money goes across the border here undetected," he added.

STRICTLY CASH

For years, drug gangs bought up houses, cars and luxury goods with cash in the United States and banked billions in profits to send back to Mexican and Colombian suppliers through electronic transfers.

But in 2000, the U.S. Bank Secrecy Act slapped reporting requirements on all cash transactions over $10,000, curtailing the cartels' spending sprees and making cash smuggling attractive for repatriating earnings, agents say.

"Wire transfers and bank accounts can be traced and assets seized, as can investments such as condos and horses and so on," said John Fernandes, the U.S. Drug Enforcement Administration's special agent in charge in San Diego.

"The predominant method now for the cartels is to say, 'Give me the cash; I'll handle it once it's south of the border,'" he added.

Once in Mexico, where banking oversight is less strict and corruption rife, bundles of greenbacks are laundered through businesses including currency exchange houses and construction projects in cities such as Tijuana, Guadalajara and the Caribbean resort of Cancun.

Law enforcement agencies have no estimate for the amount of drug profits flowing back over the border in cash each year, although U.S. Bureau of Customs and Border Protection figures indicate that it is on the rise.

While the number of currency seizures has remained steady at around 300 in recent years along the border, the average value of each almost doubled to $38,200 in the first months of this year, up from $21,600 in 2002.

The busts are widespread at border stations from California to Texas, where agents in Laredo plucked $1.7 million in notes from the quarter panels of a southbound Honda Accord in an incident in February that set a port record.

Hard currency seizures are also vigorous within the interior of the United States, where the Federal Bureau of Investigation netted $12 million bound for the so-called Juarez cartel in just one operation last year, dubbed "Baja Kings."

THE WEAKEST LINK

Law enforcement agents working to hunt down drug proceeds say that while banking laws are adequate to crack down on money laundering in the United States, cross-border cash smuggling remains a weak link.

At present bulk currency seizures are made through intelligence tips and random outbound operations at dozens of border stations along the U.S. side of the 2,000-mile (3,200-km) border.

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In Mexico, meanwhile, searches are left to chance as cars and pedestrians are only stopped and searched if they trigger a red light, which flashes randomly, at a customs service post, either at the border or at inland checkpoints dubbed "retenes."

As the result of campaigning within the law enforcement community Burke has succeeded in getting a sign put up just north of the Mexico border near San Diego, warning drivers they must declare "currency or negotiable instruments" over $10,000, which he counts a small victory.

"The biggest problem is the lack of outbound facilities (to carry out searches) and the lack of a method to search vehicles going into Mexico for currency," Burke said.

"We get our victories here and there, we seize $100,000 or $200,000 here or there, but I know at the back of my mind that I'm not even making an impact," he added.

Drug Crackdown Nets 44 Arrests (SFC)

By Maria Alicia Gaura, Chronicle Staff Writer

San Francisco Chronicle, September 8, 2005

(09-08) 12:25 PDT East Palo Alto (SF Chronicle) -- A crackdown on organized drug gangs in East Palo Alto has resulted in 44 arrests and the seizure of $500,000 worth of crack and powdered cocaine, methamphetamine and heroin, police officials announced today.

Police are searching for another 12 fugitives connected with the case. Spurred by a rising tide of violence and homicides in East Palo Alto, which has seen 13 killings since January, local officials teamed up with an array of state and federal law enforcement agencies to crack down on drug gangs that have taken over local parks and terrified residents here.

“Our message to the community, and to the criminals not caught up in this particular operation, is that this is not the end, this is just the beginning,” East Palo Alto Mayor David E. Woods said at a morning news conference in Redwood City. “We will rid the city of this element at all costs.”

East Palo Alto Police Chief Ron Davis said the city acted on lessons learned in the early 1990s, when gang warfare and 42 homicides in one year made the town the per-capita slaying capital of the United States.

“We made promises at that time that we would never let the violence rise as high as it was in the ’90s,” Davis said. Officials sought help from state and federal agencies in March, when the city had experienced four homicides, but observers could tell that gang violence was on the rise.

The resulting collaboration with the Mobile Enforcement Team — a special group of agents within the federal Drug Enforcement Administration — brought together officers from Palo Alto police, the San Mateo County Sheriff’s Department, the San Mateo County Narcotics Task Force, the U.S. Attorney’s Office, the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives and U.S. Immigration and Customs.

In the course of serving 20 search warrants, agents seized 6.1 pounds of crack cocaine, 3.8 pounds of powdered cocaine, 2.7 pounds of methamphetamine, 3.5 pounds of heroin, five vehicles, 17 firearms and $129,113 in cash. Those arrested face anywhere from 10 years to life sentences in prison, according to DEA Special Agent Javier F. Pena.

Dozens Arrested In Drug Sting (SFE)

By Ed Carpenter

San Francisco Examiner, September 8, 2005

REDWOOD CITY — Narcotics agents Thursday announced 45 arrests in a criminal dragnet in East Palo Alto, saying the arrests were the first in an ongoing attempt to disrupt drug dealing and gang activity in the city.

More than $600,000 in drugs, weapons and cash was seized as part of a five-month undercover investigation by East Palo Alto police, the San Mateo County Narcotics Task Force, the Drug Enforcement Administration, Bureau of Alcohol, Tobacco and Firearms and Immigration and Customs Enforcement. Eleven fugitives remain at large.

"This is probably the largest drug operation in East Palo Alto since 1992," police Chief Ronald Davis said. For many local residents, 1992 marked a low point in the city's history when it was branded as a criminal hotbed and 42 murders occurred.

East Palo Alto Mayor David Woods said the sting was the beginning of a concerted effort to take back control of the city streets and make them safe for children. "I want every citizen to know that the [City] Council is fully dedicated of ridding the city of

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this element and will at all costs," Wood said. "The violence is not acceptable. The drug action is not acceptable. And it will not be tolerated."

Sheriff Don Horsley said the DEA was brought in for its Mobile Enforcement Team program, which can be deployed to a city to investigate individuals and organizations involved in drug trafficking. "We asked that the DEA come and give us a hand on this, in light of an 18-month upswing in gang violence" in East Palo Alto and other Peninsula cities." Since January, 13 people have been shot to death in East Palo Alto.

Horsley pledged to continue working with state and federal authorities to gather intelligence on the most violent gangs and those responsible for drug distribution in the county over the long term. The increased gang activity in East Palo Alto and on the Peninsula in general can be largely attributed to recruitment efforts by prison parolees looking to regain territorial control in the area, police said.

Police plan to analyze guns seized as part of the investigation to determine whether they have been used in recent shootings or other crimes. "I think this was an incredibly successful investigation," Horsley said.

San Mateo County Supervisor Rose Jacobs Gibson, who represents the area, said the arrests are the first steps in taking back street corners and park such as Jack Farrell in East Palo Alto that have been overrun by methamphetamine and cocaine dealers.

Survey Shows 9% Decline In Teen Drug Use (USAT/AP)

USA Today, September 9, 2005

WASHINGTON (AP) — The percentage of Americans using illicit drugs declined slightly last year, though the results were more pronounced for youths, according to a survey released Thursday.

For people ages 12-17, there was a 9% drop in illicit drug use between 2002 and 2004, the federal government announced.

"Today's survey confirms the welcome trend on teen drug use," said John P. Walters, director of the Office of National Drug Control Policy.

Overall, 19.1 million Americans used illicit drugs last year, or 7.9%. The numbers were basically the same for the surveys taken in the previous two years, when about 8% of Americans reported using illicit drugs within the previous month.

The National Survey on Drug Use and Health is an annual survey of close to 70,000 people. It measures drug and alcohol use through several categories, including age, ethnicity and type of drug.

The survey showed that illicit drug use dropped from 11.6% to 10.6% among youths ages 12-17 from 2002 to 2004.

However, binge drinking, which is defined as five or more drinks in one setting, increased in the same age group — from 10.6% to 11.1% from 2003 to 2004.

Officials with the Marijuana Policy Project said federal officials "consistently pay no attention to this alarming situation." The group seeks the regulation of marijuana in the same manner alcohol is regulated.

"Unlike occasional marijuana use, binge drinking can actually kill you," said Bruce Mirken, director of communications for the organization.

Federal officials said they are not ignoring binge drinking. The government is focused on getting the word out to young people that alcohol is not safe, said Leah Young, a spokeswoman for the Substance Abuse and Mental Health Services Administration.

The survey also showed that 70.3 million Americans used tobacco products, which is a slight decline from the previous two years. The percentage of tobacco users among Americans ages 12 and older dropped from 30.4% to 29.2%.

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S.A. Couple Plead Guilty To Playing Role In Drug Ring (SAEN)

By Guillermo Contreras, Express-News Staff Writer

San Antonio Express-News, September 9, 2005

A San Antonio couple pleaded guilty Thursday to charges they were involved in a drug-distribution cell linked to the Texas Mexican Mafia that used a local police officer to avoid detection.

Mike Flores, 33, and his girlfriend, Toni Lopez, 35, also admitted that federal prosecutors could show at trial that they dealt heroin and cocaine and that then-San Antonio police officer Enrique Hinojosa, 32, tipped them off to drug investigations. The conspiracy is alleged to go back to at least April 2001.

Flores pleaded guilty to conspiracy to distribute more than 100 grams of heroin, and Lopez pleaded guilty to aiding and abetting the possession of heroin. Their pleas came just days before their trial was to begin.

Hinojosa, who worked with the San Antonio Police Department from January 2001 to March 2004, is now the only one in the case scheduled for trial Monday before U.S. District Judge Orlando Garcia.

Hinojosa faces charges of conspiracy to distribute heroin, aiding and abetting the possession of heroin and two counts of aiding and abetting the possession of cocaine. He has pleaded not guilty.

The plea bargain documents said Hinojosa has known Flores since grade school and that the two were in a West Side gang as teenagers. The documents said Hinojosa would let Flores know when police units that target known drug dealers were in the area where Flores lived or operated, and that Hinojosa drove Flores to locations where Flores would make drug deals.

During the investigation, narcotics detectives raided Flores' home on Sept. 11, 2003, and found 9 ounces of black tar heroin, 1.68 ounces of cocaine, an ounce of cut heroin and $26,827 in cash. Hinojosa was in the home, the documents said, and he gave investigators inconsistent statements about his involvement.

Hinojosa was placed on indefinite suspension on March 4, 2004, a San Antonio police spokeswoman said.

The documents said investigators learned that Hinojosa also told Flores that police were after Ralph Peña, 33, who is Lopez's ex-husband and son of Heriberto "Herb" Huerta.

Law officers contend Huerta, 52, who is serving life in a federal prison in Florence, Colo., is still the president of the Texas Mexican Mafia and runs the gang via a network of relatives and associates inside and outside prison.

The documents said Lopez visited Huerta in prison during the course of the investigation. Last month, federal agents seized the $13,000 in Huerta's commissary account, alleging it is the fruits of the gang's collection of a street tax levied on drug dealers in San Antonio. A week later, Peña was arrested on a charge of being a felon with a gun.

Flores and Lopez face five to 40 years in prison when they are sentenced Dec. 8.

IMMIGRATION:

Local Police Can Enforce Laws On Immigration (DANNT)

By Chipp Reid, THE NEWS-TIMES

Danbury (CT) News-Times, September 9, 2005

DANBURY — Earlier this year, Mayor Mark Boughton wanted the federal government to deputize state police officers so they could enforce immigration laws.

As it turns out, the extra authority might not have been needed.

A recently unearthed U.S. Justice Department memo says state and local cops can make arrests after traffic stops if they find civil immigration violations, such as someone overstaying a visa.

No specific federal authority is needed for local officers to make such arrests, according to the 2002 memo, which came to light in a recent court case.

Danbury officials said the memo will have little impact on law enforcement in a city that has seen a sizable increase in South American immigrants in recent years.

At the same time, however, Danbury officials confirmed city police officers are checking the immigration status of some drivers and making some arrests on immigration charges.

They complained, however, they receive little help from the federal government in prosecuting the cases.

"The problem of enforcement is not at the local level," Boughton said. "We don't get the cooperation we need from Immigrations and Custom Enforcement."

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Boughton said he remained committed to having Danbury police enforce immigration laws as necessary. He said the arrests most often occur when a driver is stopped for speeding or other offenses and turns out to not have a license. "That immediately mean we start asking more questions," Boughton said.

The mayor emphasized police must have some reason other than the driver being Hispanic to make the stop. "These are routine traffic stops for speeding or not wearing a seat belt," Boughton said.

The Associated Press reported Thursday the 2002 memo was issued by then-Attorney Gen. John Ashcroft and his staff. It overturned a 1996 letter from Justice Department lawyers that said state and local police could enforce only criminal immigration violations, such as sneaking across a border.

The memo came to light recently when a coalition of civil rights and immigrants' rights groups sued the Justice Department to comply with a Freedom of Information Act request.

The American Civil Liberties Union, among others, has criticized the memo. The ACLU said the memo stretched the definition of the role of local police so far that it could be used to justify giving them the right to enforce the U.S. tax code, environmental rules and other federal laws.

In Danbury, there appears to be little desire to greatly expand the role of officers. Boughton dropped his proposal to deputize state police earlier this year when it found little support among law enforcement officials.

There is no support, right now, to either resurrect the plan or to use city police to conduct immigration sweeps.

"It's pointless for us to try (crack down) locally because we have nowhere to put people we may arrest on immigration violations," Boughton said.

Danbury Police Chief Alan D. Baker said it would cost too much to train the city's 150 officers in immigration law.

"We have enough to do as it is with quality-of-life issues," said Baker. "We have other areas where we need to devote our resources, which are already stretched thin."

Baker said no one knew much about the 2002 memo, and said it would likely "have absolutely no impact on what we do."

Maria-Cinta Lowe, executive director of the Danbury Hispanic Center, however, said she feared the Justice Department ruling could lead to further abuses against ethnic minorities.

"I think it's crazy," Lowe said. "In the first place, why would you put more work on the police? They already have enough to do and they are very good. But, if you give them even more power, I am afraid then that the power could corrupt some police officers."

She also took issue with city police making immigration arrests based on traffic stops. She believes that could lead to racial profiling.

"I am very concerned about this, because who are the immigrants," Lowe said. "It is the Ecuadoreans, the Brazilians, all the people like that. I think it is crazy to do this, to put even more work on the police."

Baker agreed police had to walk a fine line in enforcing the immigration laws.

"Here in Danbury we do work closely with immigration officials as needed, but we also want to keep positive relations with groups like the Hispanic Center," he said. "We don't want anyone to be afraid to work with the police."

Immigrant License Bill Is Sent To Governor (LAT)

By Robert Salladay And Nancy Vogel

The Los Angeles Times, September 9, 2005

SACRAMENTO — The fate of a bill that could extend driver's licenses to illegal immigrants remained unclear today as some Californians condemned it and others praised the measure.

The state Senate today passed the measure and sent it to Gov. Arnold Schwarzenegger, despite signals that the Republican governor would veto it. With limited debate, the Senate this afternoon approved the bill on a 21-15 vote, the bare minimum needed for passage in the upper house.

After a late-night debate on the politically sensitive issue of immigration, the California Assembly on Wednesday passed the proposal.

Schwarzenegger vetoed a similar bill last year, but his position on the current legislation was not known.

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The measure would clear the way for California to create a distinct driver's license, with a unique design and color, for people who cannot prove legal residency in the United States. The license could be used only for driving and would not be valid identification for other purposes, such as opening a bank account or boarding an airplane.

In Santa Ana, Adolfo Sierra, president of Casa Guanajuato, a nonprofit that promotes culture of that central Mexican state, said he has mixed feelings about the proposal.

"It's not fair. We should all be treated equally," he said. "I'm an immigrant and I feel this could increase prejudice against all of us."

Pablo Alvarado, coordinator of the National Day Laborer Organizing Network in Los Angeles, said he expected Schwarzenegger to block the measure.

"I think it's unfortunate that the governor seems ready to veto a bill designed to ensure the safety of the drivers in the state," said Alvarado. "If you have a driver's license, you can insure yourself."

Andy Ramirez, founder of the citizen group Friends of the Border Patrol, said the bill is "an absolute sham."

He said he lobbied the governor's staff to urge a veto.

The driver's licenses "are de facto ID cards," Ramirez said, and the Legislature "is trying to legitimize them being here. If you give them a driver's license, you are legitimizing them and approving of what they have done, which was to break the laws of our nation."

The bill, SB 60 by Sen. Gil Cedillo (D-Los Angeles), would also allow roughly 800,000 people in California who have applied to federal immigration officials for legal residency to get a California driver's license starting as soon as March.

The bill passed the Assembly 42 to 34.

Cedillo said he included several elements in the latest bill aimed at overcoming objections from Schwarzenegger, who last year vetoed a similar bill sponsored by Cedillo. But before the state Assembly took up the bill Wednesday, there were no indications that the changes would satisfy the governor.

The governor's office has consistently said Schwarzenegger does not want to take any action until the federal government finishes deciding its requirements for state licenses -- changes spawned by concern that terrorists or other criminals could get such documents.

Congress gave states the option to create distinct driver's licenses for illegal immigrants under the Real ID Act passed in May. That sweeping law will require most states to change the information they include on driver's licenses, the documents they require to issue a license and how they store driver's license data.

Before adopting their own new laws, most states are waiting to see what regulations the federal Department of Homeland Security issues to implement the Real ID Act. Those regulations are expected next year.

At least two states — Utah and Tennessee — passed laws providing the licenses.

David Lubell, coordinator of the Tennessee Immigrant and Refugee Rights Coalition, said the proposed California license would be similar to his state's "driving certificate," which gives driver's rights to undocumented immigrants.

Tennessee issued 16,000 certificates in the last year.

In March, Utah began issuing a "driver's privilege card," which looks different than driver's licenses. The card is available to applicants who lack a Social Security number.

Leo Bravo, of the Hispanic Center of Cache Valley in northern Utah, said the card is helping undocumented immigrants in his state.

"We are better off than other states in the Union. People will drive even if they don't have licenses," said Bravo. "They don't have insurance. They are not protected and we are not protected. If we are worried about national security, it's better to know who we have driving on the roads."

On the California Assembly floor, Democrats argued that the bill would improve highway safety in California by ensuring that most drivers are licensed, trained and insured.

"This is a good bill because I believe it's the right thing to do because individuals are here and they're driving and that's the reality," said Assemblyman Jerome Horton (D-Inglewood).

Republicans argued that the bill would reward people for breaking the law.

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Assemblyman Doug La Malfa (R-Richvale) asked how he could teach his children to follow rules "when the California state Legislature is making rules that cause people to not have to obey the law."

But the 90-minute debate focused less on the details of the bill than on the politically sensitive issue of immigration.

"Illegal immigration is an enormous cost to this state," said Assemblyman Mark Wyland (R-Escondido). "And what this does is propose to legitimize that."

Assemblyman Alberto Torrico (D-Newark) argued that undocumented workers, through taxes taken from their wages, "put in more than they're taking out."

"The reward is not the driver's license," he said. "People come to this country because of the jobs and the economic opportunity and to get what every one of us wants for our children ... a better life."

In an attempt to head off Schwarzenegger's concern that California should wait until the federal government details the requirements of the Real ID Act, Cedillo amended his bill last week to incorporate such a delay.

Cedillo argues that his bill will help all 22 million Californians with driver's licenses by giving the Department of Motor Vehicles the authority to begin changing its procedures, computers and staffing to meet all the requirements of the federal Real ID Act by the May 2008 deadline. If California misses that deadline, its residents cannot use their driver's licenses for official federal purposes.

With his popularity eroded and polls showing voters displeased with the initiatives he has embraced on the November ballot, Schwarzenegger risks alienating loyal voters if he signs Cedillo's bill."

It would be horribly disappointing" if the governor did not veto the bill, said Mike Spence, president of the California Republican Assembly.

Schwarzenegger has until mid-October to act on the bill.

Where's The Governator Now? (NYT)

The New York Times, September 9, 2005

Gov. Arnold Schwarzenegger was a profile in timidity this week when he vowed to veto a pioneering bill authorizing gay marriage in California. The bill, which both houses of the Legislature passed by narrow margins, would expand the definition of marriage to include a civil contract between two people, not exclusively a man and woman. This was an enlightened and fair-minded stand that made California's Legislature the first in the nation to approve same-sex marriages.

Too bad Mr. Schwarzenegger could not find the courage to sign the bill into law. Instead, even before receiving the bill, he announced a tortured rationale for vetoing it. For years, social conservatives have accused judges of deciding social issues that should be left to legislators. Now Mr. Schwarzenegger wants to ignore his Legislature and leave gay marriage to the courts or the voters at large to decide.

He relies on a fig leaf: five years ago, Californians voted overwhelmingly for a ballot measure that recognized only heterosexual marriages as valid. A statement by the governor's press office declared, "We cannot have a system where the people vote and the Legislature derails that vote."

That ignores the fact that five years is an eternity in the fast-moving arena of gay rights. Even though 61 percent of the voters approved the ballot measure, recent polls show that the electorate is now evenly split, with Democrats and independents favoring same-sex marriage and Republicans strongly opposed. The Legislature is hardly a renegade body if it roughly mirrors popular opinion.

Mr. Schwarzenegger also seems to have forgotten that this nation was founded as a republic, in which the citizens elect legislators to govern on their behalf. Such representative democracy is especially important when it comes to protecting the fundamental rights of minorities, who may face bigoted hostility from some segments of the electorate.

It's easy to guess why Mr. Schwarzenegger was in such a hurry to announce his veto. Although he was initially hailed as a centrist Republican superhero who could appeal to a broad range of voters, his popularity has plummeted, and polls show that most Californians are inclined to oppose his re-election. Only his Republican base continues to back him.

Mr. Schwarzenegger's own views of gay marriage are hidden beneath vague, elusive, sometimes contradictory comments that add up to ducking the issue. The former Mr. Universe who has derided political opponents as "girlie men" is afraid to say

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what he really thinks. He falls back on a rationale that would leave the issue to the courts or another vote of the people. Anything to get him off the hook.

Squatter At Minn. School Ordered Deported (FINDLAW/AP)

Find Law, September 9, 2005

(AP) - BLOOMINGTON, Minn.-A Mexican immigrant who was found living at a high school last winter must leave the country, an immigration judge decided Wednesday.

Francisco Serrano was ordered to depart within 120 days, though he plans to appeal the decision.

"It's not what I expected - I'm dejected," he said. "I just want to go to college, have a career and go back to my country ... for sure, I'm going to pray."

Serrano, who is in his early 20s, hid at Apple Valley High School, which he had once attended, and was arrested by immigration officials after he was discovered in the school's boiler room.

He has said he and his family moved to Connecticut after his sophomore year here. He said he returned to Minnesota on Christmas Eve with only $200 in his pocket.

Serrano's situation drew some support from parents who e-mailed the school after the man was discovered, though the school was also criticized for allowing someone to live there undetected.

Tim Counts, a spokesman for the Bureau of Immigration and Customs Enforcement, said it was a clear case of someone abusing their visa privileges.

"The circumstances of his discovery (at the school) were unusual, but the facts of the case are quite common," Counts said. "He came in on a visitor's visa and didn't leave when it expired, and therefore he was in the country illegally."

Serrano said he spent three weeks in the school of 2,300 students - though officials could only confirm he was there two weeks - sometimes sitting in on classes and sleeping wherever he could hide.

He was arrested at the school in January and charged with trespassing, then arrested again when he returned.

TAX:

'Survivor' Winner Hatch Indicted For Tax Evasion (REU)

Reuters, September 8, 2005

BOSTON (Reuters) - A federal grand jury on Thursday indicted Richard Hatch, who took home $1 million as the first winner of the CBS hit reality show "Survivor," for tax evasion, bank fraud and other charges.

The U.S. Attorney's office in Providence, Rhode Island, accused Hatch, a motivational speaker, of failing to report the $1 million winnings in 2000 and about $391,000 he earned from half a dozen other sources.

The 10-count indictment follows a grand jury investigation that began in March when Hatch backed out of a deal with prosecutors to plead guilty to two tax evasion charges that carried a maximum 10-year jail sentence and a $500,000 fine.

Hatch, who wandered around naked on the show and was once described by a fellow contestant as a "snake," said he was innocent in March. He was not immediately available for comment following the new list of charges released by prosecutors in Rhode Island.

If convicted on all counts, the 44-year-old Newport, Rhode Island, native would face a maximum fine of $1.35 million and 73 years in prison.

Eight of the charges carry a maximum sentence of five years each in prison, one has a three-year sentence and another bank fraud charge carries a maximum 30-year jail sentence, said Tom Connell, a spokesman for the U.S. Attorney in Rhode Island.

A summons was issued for Hatch to appear before a U.S. magistrate for arraignment.

The first "Survivor" became a ratings sensation for CBS and helped spark a boom in reality-based TV shows.

In television and radio interviews aired in March, Hatch's lawyer said CBS should have withheld federal taxes for the game show contestant because the network should have classified him as an employee under California law.

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CBS, a unit of Viacom Inc., has said that Hatch alone was responsible for declaring his winnings to the federal government and paying his taxes.

'Survivor' Winner Indicted On Tax Charges (AP)

By M.I. Johnson

AP, September 9, 2005

PROVIDENCE, R.I. - Richard Hatch, who won $1 million on the first season of the reality show "Survivor," was indicted Thursday for failing to pay taxes on his winnings from the CBS show.

Hatch faces 10 charges, including tax evasion, filing a false tax return, wire fraud, bank fraud and mail fraud. U.S. Attorney Robert Clark Corrente said Hatch, 44, did not pay taxes on his "Survivor" prize, income from a radio show and rental income. The Newport resident also allegedly used donations to his charity, Horizon Bound, to cover personal expenses.

Prosecutors charged Hatch with two counts of tax evasion in January. He agreed to plead guilty, but backed out of the deal in March, saying he thought CBS was responsible for paying the taxes on his prize. CBS has said Hatch was well aware of his obligations to pay taxes on the money.

On Thursday, Hatch was on a plane headed for Houston to help hurricane victims at the Astrodome and could not be reached for comment, said Rod Mitchell, a spokesman for Hatch's lawyer, Michael Minns.

The grand jury, which received the case after the plea deal fell apart, indicted Hatch for filing false 2000 and 2001 tax returns, which omitted his income from the reality show, $327,000 he was paid to co-host "The Wilde Show" on a Boston radio station and $28,000 in rent on a property he owns in Newport.

The indictment said Hatch had two accountants prepare tax returns that included his "Survivor" winnings but did not file them when he learned he would owe hundreds of thousands of dollars in taxes. In 2002, he had one of the accountants prepare a second return that did not include his TV show winnings. He filed that one, which called for a $4,500 refund, the indictment said.

Hatch was also accused of misusing $36,500 from a nonprofit camp he set up, Horizon Bound. For example, he allegedly kept for himself a $10,000 donation made in return for his appearance on the NBC game show "Weakest Link." He spent the money from the game show on a construction project at his house, the indictment said.

Hatch faces a maximum of 75 years in prison if found guilty on all charges. He also could face millions of dollars in fines.

On "Survivor," Hatch stood out for being a cunning and ruthless competitor, and spent some of his time in the nude. He won the show's first season in August 2000. He has since appeared on other TV shows, most recently the "Battle of the Network Reality Stars" on Bravo.

Since the TV show, Hatch has weathered a series of legal battles. He was arrested in April 2000 on a charge of abusing his then 9-year-old son. That charge was later dropped. In 2002, Hatch was found innocent of assaulting his ex-boyfriend.

ON THE NET

http://www.richhatch.com/

CONGRESS-ADMINISTRATION:

Partisan Rancor Accompanies Passage Of Disaster Aid Bill (WP)

By Charles Babington

The Washington Post, September 9, 2005

Democrats sharpened their criticism of the Bush administration's handling of Hurricane Katrina yesterday, refusing to participate in a Republican-controlled investigative panel and displaying a photo in the Senate of the president strumming a guitar the day New Orleans was inundated.

The day's events, which included a near-lionization of the only Democratic senator from the hard-hit states, left little doubt that political reaction to the catastrophic storm will be dramatically more partisan than was the response to the Sept. 11, 2001, terrorist attacks.

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"We are reaching a perfect political storm," Sen. Jeff Sessions (R-Ala.) told reporters as lawmakers appropriated another $51.8 billion for hurricane relief but differed bitterly on how to figure out what went wrong.

Congressional Democratic leaders said they will not name members to a House-Senate commission that Republicans announced Wednesday to investigate local, state and federal government actions before and after Katrina lashed the Gulf Coast Aug. 29. Democrats said the proposed panel is unacceptable because they were not consulted about its formation and because GOP lawmakers would outnumber Democratic members.

"As it is currently described, I will not appoint members to it," said Senate Minority Leader Harry M. Reid (D-Nev.). "The only way to ensure that all levels of our government are held accountable to the people is to take this process out of the hands of politicians with a vested interest in the outcome."

House Minority Leader Nancy Pelosi (D-Calif.) said: "If we're ever going to protect the American people, we must have an outside independent committee. Let's not have a charade about oversight."

Pelosi and Reid said Congress should appoint a panel of non-lawmakers modeled on the Sept. 11 commission that wrote an extensive report on the 2001 terrorist attacks. Congressional Republicans said they modeled the commission on House and Senate panels formed in 1986 to investigate the Iran-contra scandal during the Reagan administration. Democrats controlled both chambers then, and they outnumbered Republicans on the two committees, which were eventually merged.

"It looks like the Democrats want to play partisan political games at an important time," said Ron Bonjean, spokesman for Speaker J. Dennis Hastert (R-Ill.). He urged Pelosi and Reid to change their minds but said the panel would go forward without Democrats if necessary.

In the Senate, Democrats rallied around Sen. Mary Landrieu (D-La.), who returned to Washington after 10 days of highly visible and often emotional appeals for aid for her beleaguered constituents. Landrieu, who grew up in New Orleans, praised Republican colleagues from Louisiana and Mississippi but ripped the Bush administration for the federal response to Katrina.

The cost to rebuild "will be staggering," Landrieu said in a Senate speech attended by two dozen Democratic colleagues, a rare sight in the usually empty chamber. "But it will pale in comparison to the staggering incompetence of this national government [which] is responsible." When she finished, many colleagues hugged and kissed her, including Republican Sen. Thad Cochran of Mississippi, a state also ravaged by the storm.

At times, the debate was theatrical. Sen. Frank Lautenberg (D-N.J.) displayed a poster-size photo of Bush playing a guitar handed to him during a tour of a San Diego military base Aug. 30, after broken levees had caused New Orleans to flood.

"The president was enjoying the day, he was strumming a guitar," Lautenberg said. "I don't deny him the pleasures of office, but people were drowning."

When aides to House Majority Leader Tom DeLay (R-Tex.) attacked Pelosi's response to the investigative commission, they illustrated it with an e-mailed photo of San Francisco's Haight-Ashbury intersection, associated with the hippies of the 1960s.

Groups and strategists on the left and right, meanwhile, debated the wisdom of the two parties' actions. Some liberals cheered Pelosi and Reid for refusing to join the investigative panel. Others warned Democrats to offer solid alternatives when they criticize.

"These debates on blame alone won't get us anywhere with most people," said Laura Nichols, senior vice president of the liberal-leaning Center for American Progress. "Complaints about 9/11 investigations fell on deaf ears."

The Republican National Committee sent allies a list of "talking points," including: "It's disappointing that while President Bush has focused his administration's entire efforts towards saving lives and helping the victims of Katrina, there are those who are using this tragedy to score cheap political points."

Republicans criticized an online petition from the Democratic Senatorial Campaign Committee that combined a fundraising appeal with a call to oust the director of the Federal Emergency Management Agency. After an inquiry from the Associated Press, the DSCC removed the page and said any money it generated would go to the American Red Cross.

Bush Signs $51.8 Bln Storm Relief Bill (REU)

By Richard Cowan

Reuters, September 8, 2005

DOJ_NMG_0003871

President George W. Bush signed legislation to provide $51.8 billion in additional funding for Hurricane Katrina relief on Thursday, shortly after the measure was approved by Congress.

The Senate approved the bill by a vote of 97-0 after receiving it from the House of Representatives, which also passed it overwhelmingly.

"The people affected by this storm have immediate needs that we must continue to meet without delay," Bush said in a statement. "More resources will be needed as we work to help people get back on their feet."

It was the second time in a week that Congress has rushed through emergency funding for the victims of the hurricane that hit Louisiana, Mississippi, Alabama and Florida at the end of August.

Congress has now approved $62.3 billion sought by Bush, who has warned that further requests will come. Some lawmakers have estimated a final price tag of $150 billion to $200 billion.

"If we were to fail to act, every relief that is going on right this very moment ... will be without money when the sun rises tomorrow," Senate Majority Leader Bill Frist, a Tennessee Republican, said on the Senate floor.

Rep. Henry Waxman (news, bio, voting record) of California, the senior Democrat on the House Government Reform Committee, and three senior senators from both major political parties cautioned that a provision in the legislation could open the door to fraudulent spending of emergency aid.

The provision would allow federal workers with government-issued credit cards to buy up to $250,000 in goods or services in a single purchase, up from a $15,000 limit.

A government watchdog agency has found purchases of personal items like jewelry, stereo equipment and home supplies, charged to such credit cards in the past, the lawmakers said.

John Scofield, a spokesman for the House Appropriations Committee, said the legislation would reduce delays in delivering aid and that federal auditors will review credit card purchases.

Republican Sen. Jeff Sessions (news, bio, voting record), whose home state of Alabama suffered in the hurricane, also feared misuse of funds and called for the appointment of a hurricane czar to oversee spending. "We have got to be careful this does not become a feeding frenzy," he warned.

'FAILURES OF LEADERSHIP'

Democrats supported the emergency aid but some accused the House Republican leadership of rushing it and blocking debate on an amendment to revamp the widely criticized Federal Emergency Management Agency, in charge of relief.

House Majority Leader Tom DeLay, a Texas Republican, came to the defense of the White House. Referring to the evacuees sheltered and the food, water and equipment delivered, DeLay said: "We ought to be proud of that. But what are we doing in Washington? We're pointing our fingers."

The disaster will add to already large budget deficits this year and next. Those deficits also are being fueled by the war in Iraq that has cost about $300 billion since 2003.

FEMA will receive nearly all of the funds approved on Thursday -- $50 billion -- while the Defense Department will get $1.4 billion for its rescue efforts. The Army Corps of Engineers will get $400 million to dredge navigation channels, repair pump stations and levees in New Orleans and repair other projects in Gulf states.

Congress Approves $51.8 Billion For Victims (WP)

By Peter Baker And Amy Goldstein

The Washington Post, September 9, 2005

President Bush and Congress moved on multiple fronts yesterday to rush fresh relief to people afflicted by Hurricane Katrina, vowing to get cash directly into the hands of victims while enacting an unprecedented spending package to feed and house evacuees, rebuild schools and bridges, and begin clearing out the vast rubble.

Just a day after Bush's request, the House voted 410 to 11 to approve $51.8 billion for relief, and the Senate followed suit hours later 97 to 0, bringing the total approved in the past week to $62.3 billion, with more to come. With his poll approval ratings crumbling further amid a political backlash, Bush tried to unify the country by declaring next Friday a National Day of Prayer and Remembrance.

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"The responsibility of caring for hundreds of thousands of citizens who no longer have homes is going to place many demands on our nation," Bush said in a televised statement hours before he signed the spending legislation last night. "We have many difficult days ahead, especially as we recover those who did not survive the storm."

House Speaker J. Dennis Hastert (R-Ill.) said yesterday's prompt legislative action "illustrates one thing: This Congress is serious about doing everything we can to help local, state and federal officials respond to this crisis."

As the authorities moved through flooded New Orleans to force out the remaining residents and collect an unknown number of bodies, the bipartisan consensus on dispensing federal dollars did little to obscure the growing political rift over how to investigate what both sides consider the bungled ini-

tial response to one of the worst natural disasters in the nation's history. Congressional Democrats rejected a Republican plan for a GOP-led joint House-Senate panel to look into the response.

"Despite all the talk of bipartisanship, they have just, on their own, unilaterally, put forth a proposal that will result in a whitewash of what has gone on here," said House Minority Leader Nancy Pelosi (D-Calif.). She added that she will not appoint any Democratic members to such a "charade" panel.

The two parties likewise split over the details of the spending package they approved yesterday. Democrats said the Republican leadership wrote billions of dollars in checks without considering whether the package offers the proper help -- and proper accountability. "The unfortunate truth is, Mr. Speaker, this compliant Republican Congress has acted more like an adjunct to this administration than a co-equal, independent branch of our government," said House Minority Whip Steny H. Hoyer (D-Md.).

Beyond the spending package, the House approved a series of other measures to help people displaced by the hurricane, such as accelerating welfare money to affected states and allowing college students to keep federal financial aid even if their schools are now closed. But Democrats were blocked from adding provisions to restructure the Federal Emergency Management Agency, heavily criticized over its handling of the disaster response. Under the Democratic proposals, the agency would be detached from the Department of Homeland Security and its director would be required to have previous experience managing disasters.

On the final votes, the only dissenters were nearly a dozen House Republicans, some of whom expressed concern about accountability for the huge expenditures.

Trying to outdo the Republican rush of aid, Senate Democrats yesterday introduced a separate, more expansive package that would, among other things, extend Medicaid to survivors without health insurance, grant emergency rent vouchers to those who lost homes, and provide funds to schools that take in evacuees.

Even before the votes, Bush summoned television cameras to address hurricane victims directly, promising to provide every household $2,000 as soon as possible to tide it over and to expedite government benefits such as Medicaid, unemployment checks, food stamps, mental health services and nutritional supplements without the traditional bureaucratic requirements. The president told viewers to call 800-621-FEMA or, if they have Internet service, to go to http://www.fema.gov .

"We have much more work to do," Bush said. "But the people who have been hurt by this storm . . . need to know that the government is going to be with you for the long haul."

Bush has scrapped his schedule to focus on hurricane relief after being criticized for reacting too slowly to Katrina's devastation. A Pew Research Center survey found that 67 percent of Americans think Bush could have done more to respond to the storm. The survey placed his overall job approval rating at 40 percent, down 10 points since January. A poll by Zogby America recorded its lowest-ever approval rating for Bush, 41 percent.

In the latest effort to demonstrate commitment to improving the federal response, Bush dispatched Vice President Cheney to the region and first lady Laura Bush to other states housing evacuees. Cheney personally encountered some of the hostility directed at the administration. As he spoke with reporters on a street in Gulfport, Miss., a young man shouted at him. "Go [expletive] yourself, Mr. Cheney," the man yelled twice. Cheney smiled slightly but did not respond.

In his first tour of the damage, Cheney offered an upbeat assessment of what he called the "very impressive" current response efforts. "I think the progress we're making is significant," he said. Cheney also endorsed the Republican inquiry plan instead of the independent commission proposed by Democrats.

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The details of yesterday's spending package offer a glimpse of the impact Katrina will have on taxpayers. Nearly half of the money -- $23.2 billion -- will go directly to as many as 1.1 million households in the form of housing grants and other assistance. Such aid will be capped initially at $26,200 per household.

Already, the government has spent $3.3 billion to snap up 200,000 trailers, mobile homes and recreational vehicles from showrooms across the country for the homeless survivors. Clayton Homes Inc., a Tennessee-based manufactured-home company, is trying to get 100 homes a day from its showrooms to a FEMA staging area, said Chris Nicely, the company's vice president for marketing. "We did make a profit on it," he said of the order. "It's hard to say how much."

More business will be coming soon. Included in yesterday's legislation is an additional $1.6 billion for 100,000 housing units. The package also includes $7.65 billion to repair public schools, nonfederal roads and bridges, water facilities, government buildings, parks, and public utilities. The U.S. Army Corps of Engineers will receive $3 billion to remove mountains of debris. A total of $1.9 billion will be used to buy ice, water, food, tents and other materials for victims and relief workers.

The bill stirred concerns in both parties about possible fraud. Under one provision, procurement officers can use government credit cards to make purchases costing as much as $250,000, without competitive bidding and without considering small-business and minority-owned-business allotments.

Such authority has traditionally been limited to $2,500 under normal circumstances and to $15,000 in emergencies. Lawmakers gave $15 million to the Homeland Security inspector general, but that did not mollify critics.

Sens. Charles E. Grassley (R-Iowa), Susan Collins (R-Maine) and Joseph I. Lieberman (D-Conn.) signed a letter yesterday opposing raising the limit. "We should not allow the immediate needs of this disaster to trump the need for oversight and accountability for the spending that will occur on these purchase cards," they wrote. Rep. Henry A. Waxman (D-Calif.) agreed: "The vast majority of federal employees are honest, upstanding people, but the ability to buy up to $250,000 in any single purchase is a great temptation."

House Majority Leader Tom DeLay (R-Tex.) said that "we've got safeguards" to ensure that the money is spent appropriately. "Sure, there is going to be waste in money," he acknowledged. "You can't deal with 5 million people and not have some waste in money. But the bulk is going to go to the people and the property that deserve it."

Bush Pledges Aid For 'Long Haul' (LAT)

By Warren Vieth And Mary Curtius

The Los Angeles Times, September 9, 2005

WASHINGTON — President Bush on Thursday promised the hundreds of thousands displaced by Hurricane Katrina that the government would be with them "for the long haul," and Congress voted to provide $51.8 billion in emergency funds to finance the relief and reconstruction programs.

Despite the expanded efforts, which increase total federal spending on the emergency to $62.3 billion, partisan rancor undermined attempts to project a spirit of unity. And new polls indicated that many Americans were displeased with the government's performance.

Substantial majorities of respondents in three national surveys expressed disappointment with Bush's handling of the emergency and characterized the government's initial relief efforts as too slow. Bush's job approval ratings slipped to new lows.

The dissatisfaction suggested that the White House was having trouble diverting attention from its initial response and was instead focusing attention on signs of progress.

In New Orleans, meanwhile, police tried to root out residents who, 10 days after the hurricane, still were refusing to leave their flooded homes. And emergency workers fanned out across the city as water levels continued to drop, exposing the bodies of Katrina's victims.

"We have much more work to do," the president said, speaking of assisting the residents of New Orleans and the surrounding coastal regions of Louisiana, Mississippi and Alabama whose lives have been upended by the hurricane that laid waste to much of the Gulf Coast last week.

In his televised address, Bush urged victims to act quickly to get in touch with representatives of the Federal Emergency Management Agency, which is coordinating the government relief effort.

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The number to call is 1-800-621-FEMA, Bush said. About 3,000 operators were staffing the phone lines, he said, and more were on the way. For those storm victims with access to computers, assistance is available at http://www.govbenefits.gov and http://www.fema.gov.Bush said the government aid package included an initial cash payment of $2,000 per family to help with immediate needs, such as food and clothing. FEMA representatives will help get cash into the hands of people staying in emergency shelters and other temporary housing, he said.

He told evacuees: "By registering for the first $2,000, you will begin the process of arranging for the delivery of other, longer-term assistance" — including health, welfare, housing, food stamps, school lunches, child care, mental health, foster care and job training.

One action Bush did not trumpet publicly drew a quick protest from a leading Democrat. By executive order, Bush suspended the Davis-Bacon Act in areas of Alabama, Florida, Louisiana and Mississippi, a move that will allow federal contractors to pay less than the local "prevailing wage" on construction projects.

Rep. George Miller of Martinez, senior Democrat on the House committee that oversees labor law, said the move would allow employers to pay "poverty wages" as they rebuild from the hurricane.

"The administration is using the devastation of Hurricane Katrina to cut the wages of people desperately trying to rebuild their lives," Miller said in a statement, noting that the prevailing wage for construction in New Orleans was about $9 an hour. "At under $9 an hour, workers certainly won't be able to rebuild their livelihoods."

On Capitol Hill, Democrats said they would boycott a planned House-Senate inquiry into the administration's management of the catastrophe. House Minority Leader Nancy Pelosi (D-San Francisco) accused Republicans of trying to whitewash what she characterized as a failure of the federal government to properly respond to the ravages of the hurricane.

The decision by Pelosi and her Senate counterpart, Minority Leader Harry Reid (D-Nev.), not to appoint any Democrats to the hurricane investigation panel provoked a quick condemnation from Republicans.

"People can join in and help get the job done, or some people can stand aside and criticize," said House Speaker J. Dennis Hastert (R-Ill.). "But you know, we have work to do. We can't be distracted by partisanship, by finger-pointing, by name-calling…. The American people expect us to get this work done."

In announcing the expanded government assistance, Bush said all residents of counties that had been declared disaster areas would be granted special evacuee status, allowing authorities to waive traditional requirements to verify identity and determine eligibility.

"Many of you have been evacuated from the flooded and destroyed areas and now find yourselves far from home, without proper identification or even a change of clothes," Bush said.

He promised the outreach program would provide the help they needed and "cut through the red tape" to get them that help as quickly and easily as possible.

In a brief aside to governors, Bush promised to work with Congress to reimburse their states for the cost of providing food, shelter and other services to evacuees.

"We understand this is going to strain your budget," he said. "So the federal government … will operate under this principle: You should not be penalized for showing compassion."

The administration's outreach effort Thursday included a troubleshooting tour of the afflicted Gulf Coast region by Vice President Dick Cheney and appearances by First Lady Laura Bush to generate interest in the needs of displaced schoolchildren. The president designated next Friday as a "national day of prayer and remembrance."

On Capitol Hill, it was a day of frenetic activity, political maneuvering and raw emotions as lawmakers continued to grapple with the scope of the disaster and to grope for ways to respond.

Sen. Mary L. Landrieu (D-La.), returning to the chamber for the first time since the hurricane turned her hometown of New Orleans into a sodden ghost town, mourned the destruction and delivered a blistering assessment of the federal response.

"Thousands are dead, and only God knows how many," Landrieu said.

By late afternoon, the House had voted 410 to 11 to approve the emergency spending. All members of the California delegation voted in favor, except for Rep. Loretta Sanchez (D-Santa Ana), who did not vote. The Senate followed suit Thursday evening, voting 97 to 0.

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The federal government has committed $62.3 billion to the relief effort. Besides the $51.8 billion approved Thursday, Congress appropriated $10.5 billion last week. Yet these funds are expected to last only several weeks, and reconstruction costs could rise as high as $200 billion, officials said.

Some Republicans questioned whether FEMA could manage such a massive, long-term rebuilding effort. Several leading senators called on Bush to appoint a senior official to coordinate the federal effort.

Sen. Judd Gregg (R-N.H.), chairman of the Budget Committee, said the government should establish "some type of structured commission, where you basically have a focus point with an individual of great ability and national recognition leading the effort."

Sen. Trent Lott (R-Miss.), who lost his family home to the storm, said in an interview that he believed former Secretary of State Colin L. Powell, former New York Mayor Rudolph W. Giuliani or former Sen. John B. Breaux (D-La.) would make a good reconstruction overseer. Other lawmakers have suggested retired U.S. Army Gen. Tommy Franks, who led the invasion of Iraq.

White House Press Secretary Scott McClellan said the president welcomed all suggestions for improving the recovery effort and would give them consideration. "This is a time for people to be offering big ideas and offering ways for us to move forward on the rebuilding and recovery," McClellan said.

But McClellan would not respond to specific proposals, including calls by some lawmakers for the resignation of FEMA's director, Michael D. Brown, or the removal of FEMA from the Department of Homeland Security.

Three national polls released Thursday showed large majorities dissatisfied with government's response to Hurricane Katrina. Disapproval of Bush's overall job performance reached the highest levels of his presidency.

In contrast to initial surveys last week that found little effect on Bush's standing, the new surveys from independent pollster John Zogby, CBS News and the nonpartisan Pew Research Center for the People and the Press found the president's approval rating sagging amid widespread discontent over his handling of the crisis.

In the Zogby and CBS polls, about three-fifths of Americans said they disapproved of Bush's handling of the response to the hurricane; fewer than two-fifths approved. In the Pew survey, 28% said Bush did "all he could" to speed relief efforts, while 67% said he could have done more. Likewise, about two-thirds of those surveyed by CBS said Bush's response was too slow.

Government at all levels fared poorly in the new polls. At least 58% of those polled in all three surveys gave the federal government failing grades for its handling of the situation, with more than three-quarters in the CBS poll expressing such negative views. State and local authorities received slightly better reviews, with 51% disapproving of their performance in the Pew survey, and 70% in the CBS poll.

Bush's Leadership Skills Questioned, Polls Show (FT)

By Caroline Daniel

Financial Times, September 9, 2005

George W. Bush on Thursday faced some of the worst poll results of his presidency, with a majority of Americans questioning his leadership skills and signs of a drop in support from core Republican voters.

While natural disasters usually boost political leaders, Mr Bush's initial response to Hurricane Katrina has led to the reverse.

According to a CBS News poll on Thursday, 48 per cent said he had strong leadership skills, his lowest rating to date, and far below his 83 per cent rating after September 11.

For a president who won a second term after campaigning on his strong leadership skills with 64 per cent approval in the election run-up the slide threatens to endanger his authority to rally voters behind unpopular parts of his second-term domestic agenda, such as social security reform.

A separate poll from the Pew Research Center also offered bleak reading. Polls have consistently shown that Mr Bush is a divisive leader, with approval falling on partisan lines. However, the September poll showed that his approval rating since July has fallen by 9 percentage points among Republicans.

Support from core religious groups also declined, with a nine-point fall in approval from white evangelicals and a 12-point drop from white Roman Catholics, a group that Mr Bush has been trying to woo.

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In spite of the fall from supporters, 79 per cent of Republicans still approve of Mr Bush. Whit Ayres, president of Ayres, McHenry and Associates, a Republican polling company, said: “That is not surprising after the roughest two weeks of his presidency. What is surprising is that eight out of 10 still approve of him.”

Addressing criticism, Mr Bush this week stepped up his public efforts with a series of initiatives, including seeking $51.8bn in disaster aid, which was approved by the House on Thursday, and giving aid to states that have been bearing the burden of the evacuees. He also announced plans to grant $2,000 in emergency relief to each affected household.

The opinion polls all showed Mr Bush at approval ratings between 40 and 42 per cent, in line with previous data. Mr Ayres said: “All presidents have had approval ratings at some point below 40 per cent except George Bush. His nadir is still higher than any other president, including his father and BillClinton.”

The Pew poll also pointed to a subtler change in voters' priorities after Hurricane Katrina. It found that 56 per cent thought domestic policy which typically favours Democrats was now their chief priority, rather than the war on terror, which had previously bolstered Mr Bush.

Andrew Kohut, director of Pew, said the poll also suggested that racial issues could become a higher political priority. “Seven out of 10 blacks say the disaster shows that racial inequality remains a major problem in the country; a majority of whites, 56 per cent, say this was not a particularly important lesson.”

Bush Suffers In Polls Post-Katrina (REU)

By John Whitesides, Political Correspondent

Reuters, September 8, 2005

President George W. Bush's image suffered in public opinion polls taken after Hurricane Katrina hit the U.S. Gulf Coast, with some finding growing doubts about his leadership and the country's direction.

After a week of criticism for a slow response to the devastation caused by Katrina, polls released on Thursday registered drops in Bush's approval ratings and in confidence in his leadership.

A Pew Research Center poll found 67 percent of Americans believed Bush could have done more to speed up relief efforts, and just 28 percent believed he did all he could. His approval rating slipped to 40 percent, down four points since July to the lowest point Pew has recorded.

The Pew poll also found a shift in public priorities after Katrina caused a jump in gasoline prices last week, with a majority saying for the first time since the September 11, 2001, attacks that it was more important for Bush to focus on domestic policy than the war on terrorism.

"Americans are depressed, angry and very worried about the economic consequences of the disaster," said Andrew Kohut, director of the Pew poll.

A WEEK OF CRITICISM

The new polls indicated a week of criticism and political finger-pointing over who is to blame for the disastrous response to Katrina could have taken a toll on the White House.

A CBS poll taken September 6-7 found 38 percent approved of Bush's handling of the storm's aftermath, while 58 percent disapproved. That was a dramatic shift from immediately after the storm last week, when 54 percent approved and 12 percent disapproved.

The CBS poll also found confidence in Bush during a crisis had fallen and only 48 percent now view him as a strong leader -- the lowest number ever for Bush in the poll. A year ago 64 percent of voters saw Bush as a strong leader.

Bush's approval rating fell to 41 percent in a new Zogby poll, with only 36 percent giving him a passing grade on his handling of the response to the storm.

The Zogby poll also found broad pessimism among a majority of Americans after the storm, with 53 percent saying the country is headed in the wrong direction and 42 percent saying it is on the right track.

A CNN/USA Today/Gallup poll taken on September 5-6 found 42 percent believed Bush did a "bad" or "terrible" job handling the storm and subsequent flooding, while 35 percent thought he performed "great" or "good."

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A Washington Post/ABC News poll taken September 2 offered more mixed results, with 46 percent approving of Bush's performance and 47 percent disapproving.

There was plenty of blame to go around for the slow response to Katrina, with local and state governments also taking a hit.

The Gallup poll found 13 percent blamed Bush for the problems in New Orleans, while 18 percent blamed federal agencies, 25 percent blamed state and local officials and 38 percent said no one was to blame.

In the Pew poll, 58 percent thought the federal government had done only a fair or poor job after the storm, but 51 percent also thought state and local governments in Louisiana and Mississippi had done just a fair or poor job.

Americans Give Bush Poor Marks On Handling Katrina, Polls Show (BLOOM)

By Richard Keil And Brendan Murray

Bloomberg, September 9, 2005

Sept. 8 (Bloomberg) -- Two new polls show Americans give President George W. Bush poor marks for his handling of the federal response to Hurricane Katrina, with one survey showing that Bush is now losing support even among his Republican base.

Both polls contain additional bad news for Bush. A poll by the Pew Research Center for People and the Press gives him an overall job approval rating of 40 percent -- down 10 percent since January -- and a disapproval rating of 52 percent, among the highest of his presidency.

Bush's job approval rating was 41 percent in a Zogby America poll, the lowest in that poll's history, and 53 percent of those questioned said the nation is headed in the ``wrong direction."

The surveys were conducted in the week following the hurricane's assault on the Gulf Coast and show that support for the president, at near-record lows before the storm's arrival, fell further amid anger over the federal government's response.

``Uncharacteristically, the president's ratings have slipped most among his core constituents -- Republicans and conservatives," Pew director Andy Kohut wrote in an e-mail.

In the Pew survey, 67 percent of 1,000 adults interviewed by telephone Sept. 6-7 said Bush could have done more to speed up relief efforts; 28 percent said he did everything possible.

`Shift in Priorities'

Hurricane Katrina produced a ``major shift in public priorities," according to Pew. For the first time since the Sept. 11 terrorist attacks, a majority of Americans now believe it is more important for the president to focus on domestic issues than the war on terrorism.

When asked what should be a priority for the president, 56 percent said ``domestic policy," an increase of 16 percentage points since January. Twenty-five percent said Bush's top priority should be fighting terrorism, a 19-point decline from January.

The Pew survey shows Bush's support among Republicans is strong but slipping, and since his support among Democrats and self-described independents remains consistent, Bush's declining approval is linked directly to that slippage within his own party.

The new poll shows Bush with a job approval rating of 79 percent among Republicans, down 9 percentage points since Pew's July survey. Among Democrats, his approval was 19 percent compared with 18 percent in July, and among independents it was 33 percent versus 32 percent, changes that in both cases are within the poll's margin of error of plus or minus 3 percentage points.

Support Down Within Party

Among those who identify themselves as ``conservative Republicans," Bush's job approval declined seven percentage points from the July survey and by 11 percentage points among those who describe themselves as ``moderate Republicans."

Bush's overall job approval rating in July was 44 percent.

The Pew poll found that blacks are more inclined to believe race played a factor in the federal response to the hurricane than whites; many of those who remained in New Orleans after the flooding were blacks.

Some 66 percent of blacks surveyed said the federal response would have been faster if most of the victims in New Orleans were white, while 77 percent of whites questioned said the issue of race made no difference in the government's response.

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Hurricane Katrina ravaged Louisiana, Mississippi and parts of Alabama and knocked eight oil refineries out of commission, leading to a surge in gasoline prices. The average U.S. retail price jumped 45 cents last week to $3.057 per gallon, according to the American Automobile Association.

The Pew survey found that seven in 10 Americans are ``closely'' following news accounts on hurricane coverage, and that 71 percent are following stories on rising gasoline prices -- the highest percentage ever in the 20 years Pew has been asking respondents whether they pay attention to energy issues.

Zogby Poll

In the Zogby survey, Bush's overall job approval rating slumped to a record low as three-fifths of those questioned criticized the government's response to Hurricane Katrina.

Forty-one percent of respondents in the telephone survey Sept. 6-7 gave Bush positive marks for his job performance, down from 45 percent in a July 30 survey and 50 percent in mid- February. Bush got negative marks from 59 percent of respondents, up from 55 percent in July and 50 percent in February in the poll.

The poll showed 60 percent characterized Bush's handling of the hurricane as ``fair'' to ``poor,'' while 36 percent graded his performance ``good'' to ``excellent.'' More than half of those polled -- 53 percent -- said the country is headed in the wrong direction.

``The president has managed to do early in his second term what his father did in just one term: go from record-high approval numbers in the aftermath of 9/11 to his present numbers,'' John Zogby, chief executive of polling company Zogby International, said in a statement.

The survey of 1,157 likely voters has a margin of error of plus or minus 2.9 percentage points, Zogby said.

Bush would lose elections if he ran against the past four U.S. presidents, yet would edge Massachusetts Senator John Kerry - - his Democratic opponent in the 2004 election -- by 1 percentage point, the poll showed.

Partisan Bickering Over Katrina Escalates - To Peril Of Both Sides (CSM)

By Linda Feldmann

The Christian Science Monitor, September 9, 2005

WASHINGTON - As distasteful as it is to many Americans, the politics of hurricane Katrina have rushed in to fill the agendas of elected officials nearly as quickly as the floodwaters inundated New Orleans.

For the Bush administration, the mantra this week became "no blame-gaming, no finger-pointing" as it sought to recover from the early perception of a slow response to the disaster. The message has been that this is an administration of action, not partisan bickering, and that the task at hand is to address the situation on the ground. President Bush sent Congress a request for $51.8 billion in additional hurricane aid. Vice President Dick Cheney and his wife, Lynne, toured New Orleans and the Gulf region Thursday, talking to local officials and first-responders.

In reality, hurricane Katrina has become an anti-9/11 of sorts. Whereas four years ago people dropped their red and blue identities to rally around their leaders, Katrina seems to have exacerbated the extreme polarization of the Bush years. At his first Cabinet meeting since returning from vacation, Mr. Bush declared he would oversee an inquiry into the government response to Katrina, prompting an immediate outcry from Democrats that the government cannot investigate itself.

Republicans in Congress quickly followed by announcing an investigative commission on Katrina, with GOP members to form a majority. Democrats cried foul, arguing that the model of the 9/11 commission - made up of nonlawmakers in a balance of Republicans and Democrats, operating with a goal of consensus - would be preferable. Sen. Hillary Rodham Clinton of New York, widely seen as a leading Democratic hopeful for president in 2008, emerged as a chief critic of the Republicans' inquiry plan and of the performance of the Federal Emergency Management Agency. Before Katrina, Senator Clinton had lain low on national issues, focusing instead on reelection to the Senate.

Howard Dean, chairman of the Democratic National Committee, also came out with guns blazing this week. "We must ... come to terms with the ugly truth that skin color, age, and economics played a deadly role in who survived and who did not," he told the National Baptist Convention of America on Wednesday.

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"Politicization is very dangerous for both sides," says Marshall Wittmann, a senior fellow at the Democratic Leadership Council. "If either party is seen as obstructing results, people will blame them. Americans are pragmatic, not ideological or partisan. Clearly, the administration has bungled this, but ultimately the American people want to see a restored New Orleans and these people's lives put back together."

On Thursday, the liberal group Moveon.org organized a protest of hurricane evacuees at the White House to decry the federal response and to demand a meeting with Bush - suggesting almost a Cindy Sheehan-ization of Katrina victims. The Republican National Committee fired back in a press release, saying "Moveon.org Democrats play the blame game and politicize Katrina relief."

For Republicans, a political danger lies in the fact that they control the White House and both houses of Congress - and the public will look to them for results. "The real danger comes on the administration's side, where if New Orleans becomes a metaphor for Bush policy in general, they're in real trouble," says Cal Jillson, a political scientist at Southern Methodist University in Dallas. "If it reinforces that the comfortable are safe and do well, while the vulnerable are on their own, it could be a burden for Bush for the rest of his term."

A Texas Poll released Thursday shows Bush's approval ratings in Texas, his home state, are 9 points below where they usually are, with 52 percent approving of his performance and 43 percent disapproving. Bush's job approval in Texas is typically10 points above his national average.

Generally, the partisan polarization registered by pollsters during much of Bush's presidency - abating only in the aftermath of 9/11 - continues. The latest US polls show Bush's job approval among Republicans in the mid-80s and in the low teens among Democrats - a gap of about 70 percentage points. "He's the most polarizing president we've had in the 50-odd years we've been polling the question," says Gary Jacobson, an expert on this issue at the University of California, San Diego.

This phenomenon reflects Bush's tendency to play to his base supporters, and bring over a few Democrats to his side as needed. During a major challenge, Bush's strategy of keeping his core of support on his side serves as a political protection, Professor Jacobson says.

"He's lost the Democrats, period, and the independents are now closer to the Democrats than [to] the Republicans," Jacobson says. "What's saved Bush is that his base has stayed with him."

Congress Clears $51.8 Billion Relief Bill (BSUN/AP)

By David Espo, The Associated Press

The Baltimore Sun, September 9, 2005

WASHINGTON -- Acting with extraordinary speed, Congress approved an additional $51.8 billion for relief and recovery from Hurricane Katrina today. President Bush pledged to make it "easy and simple as possible" for uncounted, uprooted storm victims to collect food stamps and other government benefits.

"We're not asking for a handout, but we do need help," said Sen. Trent Lott -- whose home state of Mississippi suffered grievously from the storm -- as lawmakers approved the bill just a day after Bush requested more aid on top of the $10.5 billion already provided. The measure includes $2,000 debit cards for families to use on immediate needs.

Bush signed the bill tonight. In a statement issued by the White House, he praised Congress for "moving swiftly and in strong bipartisan fashion to approve these additional emergency funds" but cautioned: "More resources will be needed as we work to help people get back on their feet."

The overwhelming support for the measure across party lines -- it passed 410-11 in the House and 97-0 in the Senate -- masked murmurs of concern about a rapidly rising price tag as well as a growing atmosphere of political jockeying in Congress less than two weeks after the hurricane battered the Gulf Coast.

Congressional Democratic leaders said they would refuse to appoint members to a committee that Republican leaders intend to create to investigate the administration's readiness and response to the storm.

House Democratic leader Nancy Pelosi called the GOP plan "a sham that is just the latest example of congressional Republicans being the foxes guarding the president's hen house." Senate Democratic leader Harry Reid said it was like a

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baseball pitcher calling "his own balls and strikes." Both urged appointment of an independent panel like the Sept. 11 commission.

Republicans said they intended to go ahead despite the threatened boycott. Senate Majority Leader Bill Frist of Tennessee told reporters there had been a "systemwide failure" in the response to the storm. Citing problems at the local, state and federal levels, he said, "We will get to the bottom of that" in a congressional investigation.

Beyond that, said New York Rep. Tom Reynolds, chairman of the House GOP campaign committee, "it is reprehensible that some elected officials are looking to score political points in the wake of Hurricane Katrina's devastation."

Even before Bush spoke and Congress acted, the government provided fresh evidence of the impact of the storm.

The Labor Department reported that roughly 10,000 workers filed for unemployment benefits last week after losing their jobs as a result of the storm, and said the level would rise sharply. In a painful irony, analysts said today's number would have been higher yet except that the storm forced claims offices to close and prevented more of the newly jobless from filling out their paperwork.

Bush, his poll numbers sagging and his administration buffeted by criticism of its response to the storm, dispatched Vice President Dick Cheney to the region and met with GOP congressional leaders at the White House. At mid-afternoon, flanked by members of his Cabinet, he stepped to the microphones to pledge additional help, ask for patience and announce a national day of prayer for Friday of next week.

Referring to the debit cards in the legislation making its way quickly through Congress, he said, "The first step is providing every household with $2,000 in emergency disaster relief that can be used for immediate needs, such as food or clothing or personal essentials."

Additionally, with hundreds of thousands of storm victims now dispersed to numerous states, he said the government was working to "ensure that those of you who receive federal benefits administered by the states of Alabama, Mississippi and Louisiana will continue to get those benefits in the states where you're now staying."

He said the government would formally grant those victims evacuee status, meaning they would be able to register for their benefits without producing all of the normal documentation -- much of which may have been lost in a desperate retreat from storm-threatened homes. He urged storm victims to contact the Federal Emergency Management Agency, and asked them to be patient if they encountered delays.

Bush said the evacuee status would apply to "the full range of federal benefits administered by the states," including Medicaid, welfare, food stamps, housing, school lunch and more.

"In all the steps we take, our goal is not to simply provide benefits but to make them easy and simple as possible to collect," he said.

Later, looking ahead to the massive reconstruction effort, Bush quietly waived sections of a federal law that requires payment of prevailing wages on government contracts. Prevailing wages are based on surveys that take into account union and non-union pay. One business organization welcomed the move, while the AFL-CIO criticized it. Conservatives, in particular, said they hoped the government's billions would be spent wisely.

"We have all the hallmarks here of a rush to spend money," said Sen. Jeff Sessions, R-Ala., whose home state was damaged by the storm. "We have got to be careful that this does not become a feeding frenzy. ... This is our grandchildren's money."

Democrats, too, said they wanted the money to be well-spent. At the same time, Reid and other Senate Democrats unveiled a far more comprehensive proposal to provide health, housing, education and other benefits.

The White House said $50 billion of the $51.8 billion bill would be distributed through the Federal Emergency Management Agency, which has been the subject of widespread criticism in the past week.

The official breakdown said $23.2 billion was for housing aid and grants to individuals, of which about $640 million was for the unprecedented debit cards.

State and local governments are in line for $7.7 billion in reimbursement costs.

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White House officials said the money was needed without delay to prevent an interruption in the massive operation designed to repair the damage along the Gulf Coast and bring hope to an almost unimaginable number of evacuees forced to flee.

The bill brought the total in disaster aid to $62.3 billion -- a total that is certain to rise as the full impact of the storm becomes clear. With much of New Orleans still covered by fouled floodwaters, for example, there is as yet no estimate for the cost of pumping out the city -- or rendering it safely habitable again.

Congress Approves Katrina Package Of $51.8 Billion (WSJ)

By David Rogers

The Wall Street Journal, September 9, 2005

WASHINGTON -- A $51.8 billion Katrina relief package won quick approval from Congress even as lawmakers moved toward making billions of dollars more available for welfare and flood-insurance payments to families displaced by the storm.

The House voted to more than double the national flood-insurance program's borrowing authority to $3.5 billion from $1.5 billion to meet anticipated claims. A second measure, also approved by the House, would advance an estimated $6.2 billion to ease the welfare crunch for states as homeless families are relocated.

The Senate appears sympathetic with both initiatives, but the welfare measure could be delayed unless Republicans develop a more coordinated legislative strategy to deal with the extraordinary circumstances of the storm. Senate Finance Committee Chairman Charles Grassley (R., Iowa) is drafting a larger bill that would also ease the availability of unemployment and health-care benefits for those evacuated. And it is an open question as to whether the House welfare proposals would be wrapped into this bill or sent to President Bush quickly for his signature.

The $51.8 billion spending measure enjoyed a clearer path and was sent onto the White House last night -- a day after Mr. Bush had requested the money. Given the urgency of the relief efforts, Republicans brooked no changes that risked delaying passage, but the party's tactics also reflected the political sensitivity of the crisis.

Rarely has the House, for example, considered such a large appropriations bill under the strict procedures applied yesterday, which severely limited debate and permitted no amendments. In the aftermath of the storm last week, Democrats had agreed to expedite consideration of the first $10.5 billion emergency bill. But there is growing frustration that Congress finds itself in a situation where it is pouring tens of billions of dollars into disaster accounts administered by the same Federal Emergency Management Agency that many lawmakers have so roundly criticized.

On a party-line 221-193 vote, Democrats made a doomed attempt to permit a vote calling for a reorganization of the relief effort. "FEMA has been used as a political dumping ground by the White House," said Rep. David Obey of Wisconsin, ranking Democrat on the House Appropriations Committee. "This money is being spent by a disabled agency."

Mindful of this criticism, the House modified the administration's request to provide $15 million to beef up the inspector general's office at the Department of Homeland Security to audit FEMA's expenditures. But the agency is spending money so quickly that neither the House nor Senate has held a single hearing on the requests.

Along with appropriations, the flood-insurance and welfare measures illustrate other costs for the government in the months ahead. The flood-insurance program, for example, is intended to be self-financing, so any money borrowed now would have to be repaid to the Treasury from future premiums. But the $2 billion increase now may be only the first in a series, and the strain so great that Washington will be under pressure to step in eventually to avoid sharp increases in premiums on other policyholders.

The welfare bill also increases the federal government's exposure by advancing funds early to states and freeing up contingency accounts for the Temporary Assistance for Needy Families program. The federal government would absorb a greater share of TANF's costs for Louisiana, Mississippi and Alabama, and the bill waives rules to give all states more flexibility in enrolling displaced families.

A Compassionate Bush Was Absent Right After Katrina (USAT)

By Judy Keen And Richard Benedetto

USA Today, September 9, 2005

DOJ_NMG_0003882

WASHINGTON — President Bush has shown that he can be empathetic, sensitive and decisive. But those qualities eluded him for days after Hurricane Katrina, and the lapse could become a defining moment of his White House tenure.

The most stirring image of Bush's presidency came when he spontaneously grabbed a bullhorn at Ground Zero and vowed retribution against 9/11 terrorists. Tears filled his eyes when he took the oath of office in 2001, and he has wept publicly when talking about U.S. troops slain in battle and his respect for his father. He has hugged countless victims of fires, hurricanes and other tragedies. During his 2000 campaign, he told recovering teen addicts, "I used to drink too much. … I want you to know that your life's walk is shared by a lot of other people."

But there's another side to Bush. He can seem detached and unaware of the messages conveyed by his words and conduct. Bush decided to see Katrina's destruction for the first time from his jumbo jet and joked on his first trip to the disaster zone about youthful partying in New Orleans. He didn't cancel his vacation until two days after Katrina struck and didn't visit the region until four days after the storm. It's not the first time that side of the president has been visible. He taped a video for a 2004 black-tie dinner showing him hunting under White House furniture for Iraq's weapons of mass destruction as the death toll there mounted. His visit to Ground Zero came three days after the 9/11 attacks.

Bush's critics say his response to the hurricane proves that he's not a leader. "Oblivious, in denial, dangerous," House Democratic Leader Nancy Pelosi said Wednesday. White House spokesman Scott McClellan has dismissed criticism of the response by Bush and his administration as part of the Washington "blame game."

A USA TODAY/CNN/Gallup Poll taken Monday and Tuesday found that 42% of Americans think Bush has done a bad or terrible job responding to the hurricane. "He's starting to create some vision and some hope," says Christine Riordan, a leadership expert at Texas Christian University's M.J. Neeley School of Business. "But it's five days too late."

Others say he inherited from his parents a Yankee reserve that sometimes prevents him from quickly grasping the emotional requirements of pivotal events. In his 1992 re-election campaign, President George H.W. Bush seemed disconnected from the pain of persistent joblessness and glanced at his watch during a debate with Bill Clinton. Bush's mother, former first lady Barbara Bush, said Monday at Houston's Astrodome that some evacuees there "were underprivileged anyway, so this is working very well for them."

"Occasionally their New England roots make them a little embarrassed and awkward about showing that side of themselves," says Tom Rath, a New Hampshire political strategist and old family friend.

Others say that once Bush becomes engaged, he has the sort of compassion for which Clinton and Ronald Reagan were renowned. "He does have this unique one-on-one quality to relate to people," says Bill Minutaglio, author of a 2001 Bush biography, First Son. But so far, he says, "The right salve for the nation in this time of great tragedy is missing. People are thirsting for it. … It can't be orchestrated, it just has to happen."

Bush has cleared his schedule to focus on disaster relief. He has twice visited areas devastated by Katrina and is expected to return soon. During his first visit a week ago, he choked back tears after listening to helicopter pilots describe rescuing victims. On his second visit Monday, he said in Poplarville, Miss., "I understand the destruction. I understand how long it's going to take. And we're with you."

Roderick Hart, who teaches communications and government at the University of Texas, calls Bush's initial off-key reaction to Katrina "an odd case." Bush does have "an ability to reach out to people," he says. "But the delay was so dramatic that his response now has made it seem disingenuous in some people's eyes."

But Kathryn Dunn Tenpas, a Washington University political scientist and Brookings Institution fellow, says Bush is now "empathizing and responding in tangible ways. … He will fare well if he shows that he is addressing the needs."

Bush has spoken before about the consequences of a leader's performance at moments such as this. In a 2000 debate with Democrat Al Gore, he was asked to describe how he handled crises under fire. "It's the time to test your mettle," Bush said then, "a time to test your heart when you see people whose lives have been turned upside down."

Katrina Underscores Bush's Isolated Style (KRT)

By Steven Thomma

Knight Ridder, September 9, 2005

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WASHINGTON - As President Bush flew this week to the Gulf Coast for his second post-Katrina visit, an aide said the trip reflected Bush's usual routine of "seeing as much as possible and getting information from different places."

Not quite.

Bush did not visit with any angry evacuees in New Orleans. As Katrina approached, Bush and his top aides spent days apparently unaware that New Orleans might be flooded - despite many warnings, some from inside his own administration. Afterwards, he heaped praise on officials responsible for the slow and initially disorganized disaster-relief efforts. His aides dismiss demands that Bush hold someone accountable for failure, saying that's merely a distracting "blame game."

None of this should be a surprise. Bush has a long record of avoiding critics, rewarding loyalty even in the face of failure and shunning - even punishing - those who disagree with him. It's a management style that shapes how he governs - disdaining compromise with Democrats in Congress, for example - and one that brushes off whole sectors of the American electorate.

That could come back to haunt him, as is now evident in the two problems - Iraq and Katrina - that together have sent his approval ratings to the lowest levels of his presidency and threaten his second-term agenda.

His style of isolating himself from unwelcome voices pleases his core supporters, who don't want him to compromise, but it sacrifices the broader public appeal that helped Ronald Reagan and Bill Clinton weather second-term setbacks. One new poll, from the independent Pew Research Center, suggests he is losing support even from Republicans and conservatives.

To Rep. Christopher Shays, R-Conn., the Bush administration's response to Katrina suggested "a real sense of arrogance. Loyalty and never admitting a mistake matters more than the truth. It has a Nixon feel to me."

Bush allies insist he is engaged and pressing the government to fix all hurricane-related problems. But the public isn't much impressed, judging by his plummeting polls. One new survey by independent pollster John Zogby shows Bush would lose a hypothetical election to every modern president, including the much-maligned Jimmy Carter.

Bush's isolated management style is one factor hurting him. While his decision-making is usually cloaked in secrecy, the hurricane crisis showed some characteristic traits.

Denial of unpleasant realities, for example. On Sept. 1 Bush contended that no one could have foreseen that New Orleans might be flooded: "I don't think anyone anticipated the breach of the levees."

Actually, a lot of people saw it coming. Three years ago, The New Orleans Times-Picayune published a lengthy examination of how likely that scenario was, and it got wide attention. In fact, Bush's own administration participated in a disaster drill for almost exactly this kind of catastrophe.

Bush himself has admitted in the past that he does not reach far for information.

"I glance at the headlines," Bush told Fox News in September 2003, but "I rarely read the stories, and get briefed by people who ... probably read the news themselves ... And the most objective sources I have are people on my staff who tell me what's happening in the world."

Inside his administration, dissenting views are often stifled, and dissidents punished.

In 2002, the administration fired the head of the Army Corps Engineers after he continued to advocate spending increases for flood control after he'd been overruled. Michael Parker, a former Republican congressman from Mississippi, wanted a 40 percent spending increase, while Bush wanted a 10 percent cut.

When Bush convened an economic summit in 2002, then-Treasury Secretary Paul O'Neill later told writer Ron Suskind, the White House wanted to hear only from people who already supported Bush policies.

"A carefully vetted group of more than 240 executives, economists, and even a few labor leaders was being assembled," Suskind wrote. "They'd seem diverse and independent to the untrained eye. In fact, nearly every one would be a Bush supporter and many were major fundraisers. Attendance was, in a way, a reward for support."

While Bush likes to be surrounded by friendly faces, he avoids frowning ones. Since Katrina hit, Bush visited the Gulf Coast twice, but both times avoided angry evacuees - ostensibly so he wouldn't interfere with relief operations.

Some veteran Bush-watchers are skeptical of that White House explanation.

"They didn't want anything to be on TV showing a bunch of angry people hollering at the president," said George Edwards, a presidential scholar at Texas A&M University. "It would not have been a favorable scene unless he could handle it well, which he can't. Clinton could. He would be down there feeling their pain. But Bush can't."

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The president also has refused to speak to two major groups that represent millions of Americans, but have criticized him.

After one brief phone conversation in 2001, Bush has never met with the president of the AFL-CIO. He is the only president in the last half century who has not.

And Bush has never addressed the NAACP as president. "You've heard the rhetoric and the names they've called me," he once explained.

For more on the polls, www.people-press.org and www.zogby.com

Bush Batting Average Calls For New Coaches (USAT)

By Al Neuharth

USA Today, September 9, 2005

President Bush used to be part owner of a major league baseball team. He once coveted the Baseball Commissioner's job. So, he'll understand this baseball parlance.

He has had three really big at-bats during his four-plus years in the White House. First, 9/11. Then, the Iraq War. Now, the Katrina Hurricane tragedy. His batting performance:

• One home run (9/11).

• Two strikeouts (Iraq and Katrina).

A .333 batting average is pretty good for a baseball player. But in the Oval Office, two strikeouts in three crucial at-bats is bringing boos from more than half the crowd, as national polls show.

In baseball, hitting coaches share credit or blame for the batter's performance. Coaches in Bush's big at-bats:

At the time of the 9/11 terrorist attacks, then-mayor Rudy Giuliani of New York City quickly and wisely coached Bush on what the federal government could and should do. We were comforted and united in efforts to avoid re-occurrences.

On Iraq, Defense Secretary Donald Rumsfeld repeatedly has miscoached Bush for three years on pre-invasion and post-invasion decisions. We are confused and distressed over how and when to get out of this mess.

Local leadership was lacking in Louisiana during Katrina, by both the governor and New Orleans mayor. But Homeland Security Secretary Michael Chertoff and FEMA Director Michael Brown co-coached Bush badly. We are angry and scared of what might happen in another major hurricane or a nuclear or biological attack.

If Bush keeps his inept coaches on Iraq and Homeland Security, he may strike out again at his next big at-bat. His average will drop to .250, and the temporary boos will become irreversible jeers. From today's spectators and tomorrow's historians.

Feedback

Other views on President Bush's handling of disasters:

"In baseball, a .333 batting average is very, very good. In major political crises, it's pretty poor. In fact, I would say it's failure. President Bush's shortcomings are not the product of the advice he receives, but his deficient judgment in getting us into the Iraq war and in surrounding himself with men based not on their expertise but on rewarding political associates."

- Robert Dallek, presidential historian

"There are no footnotes from cable TV in history books. Historians will judge on the dispassionate analysis of records. Too soon to tell what they'll say."

- James Jay Carafano, historian, Heritage Foundation

The Party Of Performance (WP)

By David Ignatius

The Washington Post, September 9, 2005

In the aftermath of Katrina, there's an opening for a different kind of politics in America. The new politics isn't about values; it isn't about settling scores. It's about performance. It's about putting a wounded, shaken country back on its feet, much as Franklin Delano Roosevelt did in his famous First Hundred Days.

One politician who is clearly articulating that vision right now is the recovering right-wing firebrand, former House speaker Newt Gingrich. I've always had a soft spot for Gingrich, despite his sometimes nasty partisanship during the 1990s, because he is that rare political figure who actually does think "outside the box" about how to solve problems. And he's doing that now.

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The immediate aftermath of Hurricane Katrina has looked like politics as usual. The Democrats are in a paroxysm of righteous indignation -- much of it justified but in the long run counterproductive. When Senate Minority Leader Harry Reid proposes that the Senate investigate whether President's Bush's vacation contributed to the disaster, the public response is likely to be: Give me a break! When the Democrats focus all their criticism on the GOP-led federal government and ignore the appalling lapses of Democratic administrations in New Orleans and Louisiana, they lose credibility.

The Bush administration, meanwhile, remains in its hunkered-down defensive crouch, with White House spokesman Scott McClellan treating any demand for accountability as a partisan "blame game." It's outrageous to read that Homeland Security Secretary Michael Chertoff has been telling members of Congress that media reports are overstating the problems for storm survivors -- this from a man who was denying on National Public Radio last Thursday that there was any crisis at the New Orleans convention center at the very hour reporters were finding dead bodies and abandoned, starving people there. If the administration maintains that tone, it will self-destruct.

Now listen to what Gingrich has to say about "changing the playbook" after Katrina. His comments are drawn from two memos he has circulated to Republican leaders since the storm hit and from a conversation we had this week exploring some of his ideas.

Gingrich argues that the values debate that has divided America so sharply during the past decade is over. There's a broad consensus about most issues, and anyway people realize that the country's big problems aren't about morality but performance. "We're not in a values fight now but over whether the system is working," Gingrich told me. "The issue is delivery." And that's true at every level -- city, state and federal.

Gingrich's critique of the federal response is as devastating as that of any Democrat. "For the last week the federal government and its state and local counterparts have consistently been behind the curve," he wrote fellow Republicans this week. "The American people overwhelmingly know that the current situation is totally unacceptable," and for that reason, "it is a mistake to get trapped into defending the systems and processes which clearly failed." He observes in another memo, "While the destruction was unprecedented, it was entirely predictable."

What's needed is a creative government response as big as the disaster itself. Gingrich urges in one of his memos that Bush appoint a super-manager who can oversee the rebuilding and suggests Rudy Giuliani for the job. "The former mayor has enough management toughness to force the federal agencies to actually change their behavior," he writes.

The former speaker has some classic Gingrich zingers for how to rev up the rebuilding effort. He wants to turn the Gulf Coast into a "Zone of Recovery, Reconstruction and Prosperity," by offering a 25 percent tax credit for all job-creating investment in the region over the next three years. And he wants to create a cadre of "entrepreneurial public managers" who can replace the leaden public bureaucracy and get things done on Internet time, with the reliability of FedEx or UPS.

This is the moment for the Party of Performance to take center stage. The breakdown in public life was obvious before Katrina. We have a government that can't control its borders, can't find a viable strategy for its war in Iraq, can't organize the key agencies to address the terrorism problems it has been trumpeting. The yearning in the country for something different has been palpable this year.

America faces an "extreme disaster," says Gingrich, one that will have more lasting and complex effects than any domestic event since World War II. The politicians who rise to that challenge will surge in the 2006 and 2008 elections. The ones who remain stuck in their ruts will suffer. Who's ready to sign up for the Party of Performance?

Inescapable Accountability (WP)

By E. J. Dionne Jr.

The Washington Post, September 9, 2005

The following is brought to you by the word "accountability."

Keep that word in mind whenever you hear defenders of President Bush accusing his political opponents of playing the "blame game" by daring to pose pointed questions about why so many people in New Orleans, most of them very poor, had to wait so long for relief from their suffering.

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The Bush White House must have run the phrases "blame game" and "finger-pointing" through its focus groups. In his Wednesday briefing, White House press secretary Scott McClellan used variations on those formulations eight times each.

McClellan neatly rolled them into a single sentence when he told off a reporter who had the nerve to ask whether the president had confidence in those who oversaw the federal relief effort. "If you want to continue to engage in finger-pointing and blame-gaming, that's fine," McClellan harrumphed. Nice job, Scott.

McClellan must have been unaware that the White House had been organizing a finger-pointing, blame-gaming project of its own. "In a reflection of what has long been a hallmark of Mr. Rove's tough political style," Adam Nagourney and Anne E. Kornblut reported in Monday's New York Times, "the administration is also working to shift the blame away from the White House and toward officials of New Orleans and Louisiana who, as it happens, are Democrats."

The fruits of that project were quickly visible when White House apologists went to town against New Orleans Mayor C. Ray Nagin and Louisiana Gov. Kathleen Babineaux Blanco. Grover Norquist, one of Washington's most important conservative activists and a close Rove ally, blamed the chaos on "looting in a Democratic city run by a Democratic mayor and a Democratic governor." Surely McClellan will call Norquist to reprimand him about that awful finger-pointing.

Fox's Bill O'Reilly devoted one of his "Talking Points Memos" to denouncing Nagin and Blanco. True, he was "fair and balanced" in devoting a single sentence in his speech of roughly 500 words to Bush's role: "the Homeland Security office and President Bush were 24 hours late in taking decisive action." Thanks for that, Bill.

The White House is aghast because it is pulling levers that once worked, and nothing is happening.

To borrow one of O'Reilly's favorite phrases, New Orleans was a "No Spin Zone." Good, smart, tough and compassionate reporters gave Americans a direct view of the disaster and kept asking, with increasing urgency, why New Orleans was such a mess.

You can tell the White House knows how much trouble it is in -- that's no doubt why Bush had another news conference yesterday -- by following the Frank Theorem. "It's a rule in American politics," said Rep. Barney Frank (D-Mass.), "that whichever side denounces the other for politicizing the issue is losing the argument." Bingo.

Once, the White House could use its surrogates to intimidate critics. Especially after Sept. 11, Democrats were concerned -- for both patriotic and opportunistic reasons -- that certain criticisms of Bush might be seen as "giving aid and comfort to the enemy." You can't be accused of giving aid and comfort to a hurricane.

This crisis has been an exceptionally clear lesson in this White House's overall approach: Try to get everyone to believe that any criticism of the president will blow back on the critics because Americans just don't like that sort of thing. Attack "finger-pointing," and make sure your allies madly point fingers at your opponents.

Say no one should play politics with a disaster -- and then make sure Republican leaders in Congress set up a commission to investigate the relief effort without asking Democrats for their input on how the investigation should be carried out.

Bush's critics aren't backing off, because they've been here before. Former Senate Democratic leader Tom Daschle, who cooperated with Bush in the days after Sept. 11 but lost his South Dakota seat after a long, White House-inspired campaign accusing him of being "obstructionist," speaks from experience.

"Democrats to this day remain outraged at the blatant efforts that Republicans, especially in the administration, made to undermine the perception of our patriotism and our motivations," Daschle said in an interview.

This time around, Democrats won't be waved off by right-wing commentators or by contrived and insincere appeals to national unity. "I don't think we should pay a whit of attention to administration criticisms," Daschle said. "Democrats need to ask the hard questions and ignore the political attacks that are destined to come when we ask them."

The sounds of contention you are hearing are the sounds of accountability in a free republic. The president may not like it, but it is a refreshing sound.

Point Those Fingers (NYT)

By Paul Krugman

The New York Times, September 9, 2005

To understand the history of the Bush administration's response to disaster, just follow the catchphrases.

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First, look at 2001 Congressional testimony by Joseph Allbaugh, President Bush's first pick to head the Federal Emergency Management Agency. FEMA, he said, would emphasize "Responsibility and Accountability" (capital letters and boldface in the original statement). He repeated the phrase several times.

What Mr. Allbaugh seems to have meant was that state and local government officials shouldn't count on FEMA to bail them out if they didn't prepare adequately for disasters. They should accept responsibility for protecting their constituents, and be held accountable if they don't.

But those were rules for the little people. Now that the Bush administration has botched its own response to disaster, we're not supposed to play the "blame game." Scott McClellan used that phrase 15 times over the course of just two White House press briefings.

It might make sense to hold off on the criticism if this were the first big disaster on Mr. Bush's watch, or if the chain of mistakes in handling Hurricane Katrina were out of character. But even with the most generous possible assessment, this is the administration's second big policy disaster, after Iraq. And the chain of mistakes was perfectly in character - there are striking parallels between the errors the administration made in Iraq and the errors it made last week.

In Iraq, the administration displayed a combination of paralysis and denial after the fall of Baghdad, as uncontrolled looting destroyed much of Iraq's infrastructure.

The same deer-in-the-headlights immobility prevailed as Katrina approached and struck the Gulf Coast. The storm gave plenty of warning. By the afternoon of Monday, Aug. 29, the flooding of New Orleans was well under way - city officials publicly confirmed a breach in the 17th Street Canal at 2 p.m. Yet on Tuesday federal officials were still playing down the problem, and large-scale federal aid didn't arrive until last Friday.

In Iraq the Coalition Provisional Authority, which ran the country during the crucial first year after Saddam's fall - the period when an effective government might have forestalled the nascent insurgency - was staffed on the basis of ideological correctness and personal connections rather than qualifications. At one point Ari Fleischer's brother was in charge of private-sector development.

The administration followed the same principles in staffing FEMA. The agency had become a highly professional organization during the Clinton years, but under Mr. Bush it reverted to its former status as a "turkey farm," a source of patronage jobs.

As Bloomberg News puts it, the agency's "upper ranks are mostly staffed with people who share two traits: loyalty to President George W. Bush and little or no background in emergency management." By now everyone knows FEMA's current head went from overseeing horse shows to overseeing the nation's response to disaster, with no obvious qualifications other than the fact that he was Mr. Allbaugh's college roommate.

All that's missing from the Katrina story is an expensive reconstruction effort, with lucrative deals for politically connected companies, that fails to deliver essential services. But give it time - they're working on that, too.

Why did the administration make the same mistakes twice? Because it paid no political price the first time.

Can the administration escape accountability again? Some of the tactics it has used to obscure its failure in Iraq won't be available this time. The reality of the catastrophe was right there on our TV's, although FEMA is now trying to prevent the media from showing pictures of the dead. And people who ask hard questions can't be accused of undermining the troops.

But the other factors that allowed the administration to evade responsibility for the mess in Iraq are still in place. The media will be tempted to revert to he-said-she-said stories rather than damning factual accounts. The effort to shift blame to state and local officials is under way. Smear campaigns against critics will start soon, if they haven't already. And raw political power will be used to block any independent investigation.

Will this be enough to let the administration get away with another failure? Let's hope not: if the administration isn't held accountable for what just happened, it will keep repeating its mistakes. Michael Brown and Michael Chertoff will receive presidential medals, and the next disaster will be even worse.

Hughes Is Varnishing The Nation's Tarnish (WP)

By Dana Milbank

DOJ_NMG_0003888

The Washington Post, September 9, 2005

The image of the United States has taken a beating over the past 10 days, as foreign television and newspapers show images of death, chaos and disease in New Orleans. Even lowly Bangladesh (per capita income: $400 a year) was moved to send $1 million in foreign aid.

But Karen Hughes has another view. The Bush confidante, now undersecretary of state for public diplomacy, held a meeting with her staff in Foggy Bottom yesterday and was asked about the international ramifications of the response to the New Orleans flooding. The problem, Hughes replied, was not a failed relief effort but a foreign press that did not appreciate the federal government's good work.

"There are a lot of things being said about us around the world that aren't true," said the woman in charge of polishing the American image abroad. "We've marshaled the resources of our federal government" to help fellow Americans, she said, and if people think otherwise, "we need to aggressively challenge that idea around the world."

An hour after Hughes gave her defense, a group of liberal demonstrators assembled in Lafayette Park for the opposite purpose. MoveOn.org, which three weeks ago held a rally in the same place to protest the Iraq war, was protesting the hurricane response. This time, instead of demanding a presidential audience for anti-war activist Cindy Sheehan, the group was demanding a presidential audience for three New Orleans evacuees.

The demonstrators, carrying messages promoting women's rights, labor unions and "Hillary '08" and condemning Halliburton, Karl Rove, the Iraq war and killings in Sudan, did not deny that the hurricane protest was opportunistic. "It's almost as if people are looking for an excuse to pin something on Bush that will stick," said Jerry Stein, who also marched in the Iraq rally.

Ten days after Katrina struck, the administration and its critics faced credibility challenges. On one side, Bush and his aides continued to admit what even key Republicans in Congress have said: that the response to the hurricane was a debacle. On the other side, liberals ratcheted up their criticism of the administration, giving Bush support for his accusation that they are playing politics.

Remarks by prominent Republicans have left the party on the defensive. The president's mother suggested that life in the Astrodome is "working very well" for impoverished evacuees. Sen. Rick Santorum (Pa.) suggested fines for people who didn't heed evacuation warnings. And House Speaker Dennis Hastert (Ill.) proposed bulldozing New Orleans.

Two-thirds of Americans say the administration botched the relief effort, a new Pew poll found, and only 40 percent approve of Bush's performance overall. Vice President Cheney was cursed out yesterday in Gulfport, Miss.

Yet the Bush administration, whether discussing Iraq or Katrina, remains unfailingly upbeat. Secretary of State Condoleezza Rice, introducing Hughes, said nothing of Katrina as she repeated the Bush mantra that "freedom is on the march."

Hughes picked up the theme. "We have to offer a positive vision of hope," she began. As if preparing troops for combat, she described her plans for improving world opinion of the United States: a "rapid-response unit," a plan to "forward-deploy regional SWAT teams" and create "a dual-headed DAS for public diplomacy."

One of her underlings rose to ask how this effort squared with the administration's famously tight control over its message. "Recently, we've had tremendous amount of difficulty in some cases getting clearance for our ambassadors to speak," he said.

Hughes replied that ambassadors are free to talk -- if they use the talking points she sends them. "If they make statements based on something I sent them," she said, "they're not going to be called on the carpet."

While Hughes told employees that America's problems could be solved with message discipline, about 10 blocks away, MoveOn was struggling to maintain its message discipline at its protest outside the White House. When the MoveOn organizers arrived, there was already a demonstration underway calling for intervention in Darfur, and the Katrina and Darfur demonstrators intermingled in an eclectic line demanding "Help Hurricane Victims" and "Stop the Genocide."

Tom Matzzie, a MoveOn official, told the cameras: "This is what government looks like when it is in the hands of people who don't believe in government."

But it proved difficult to keep the focus on the hurricane. Some of the MoveOn demonstrators surrounded a conservative heckler, who shouted: "You're a bunch of loony liberals."

"Bush dug himself a hole by going to Iraq," one of the liberals shouted back.

"What does Iraq have to do with Katrina, for crying out loud?" the conservative demanded.

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"Because he doesn't care about poor people," came the reply.

Another conservative, Clarice McMillan, blurted out: "My country, right or wrong!"

Over with the protesters, Lisa Petrovich, a systems analyst from Montgomery County, was ambivalent. She is outraged about the response to the storm: Her mother and sister lost their homes and jobs in New Orleans and are living with her. But at the same time, she said of the protest, "I think there may be some opportunism."

Senators Press Bush On Hurricane Relief Czar (REU)

By Tabassum Zakaria

Reuters, September 8, 2005

Two Republican senators pressed President George W. Bush on Thursday to appoint a top official to lead the long-term recovery from the devastation of Hurricane Katrina.

Bush, still said to be dissatisfied with the relief effort, announced measures to help displaced Gulf Coast residents obtain benefits.

"We have much more work to do," he said. "But the people who have been hurt by this storm need to know that the government is going to be with you for the long haul."

Bush earlier met with Republican congressional leaders at the White House, where Sens. Kay Bailey Hutchison of Texas and Rick Santorum of Pennsylvania urged him to pick someone to lead the administration's much-criticized recovery effort in Louisiana, Mississippi and Alabama.

White House officials have not ruled out such an option, saying it is among several being discussed for confronting long-term problems in Katrina's aftermath.

Various names have been mentioned in Washington for the job, such as former New York Mayor Rudolph Giuliani, former Secretary of State Colin Powell and retired Gen. Tommy Franks, former head of the U.S. Central Command.

"I believe that we do need a person on the ground for a long period of time, the six- to nine-month range, who would be the person able to make decisions and cut through red tape, and I think the president agrees with that," Hutchison told reporters after the meeting.

Asked whether Bush agreed with creating the position, Santorum said: "That's up to him. He didn't say yes or no."

Vice President Dick Cheney, visiting the devastated region, was asked whether a czar to oversee hurricane relief was needed and responded by praising the people currently in charge.

"Well, I think we have got some very good people involved," he told reporters in Gulfport, Mississippi.

CUTTING RED TAPE

Bush, in a direct message to storm victims, announced measures to "cut through the red tape" to help them get benefits such as unemployment, Medicaid and food stamps.

He also said every household affected by the hurricane would get $2,000 in emergency disaster relief and that "evacuee status" would be granted to victims, many of whom no longer have documents to prove eligibility for benefits.

Bush also declared September 16 a national day of prayer and remembrance for the hurricane victims.

A day after Republican congressional leaders announced a joint House-Senate inquiry into government failures regarding the hurricane, Senate Democratic Leader Harry Reid of Nevada criticized the approach and said the investigation should be conducted by an independent commission like the one that looked into the September 11, 2001, attacks.

Reid said Democrats would not participate in the joint committee, which they see as set up to protect the administration.

"An independent investigation insulated from politics and conflicts of interest is the only way to ensure that the American people get the answers they deserve," he said.

House Democratic Leader Nancy Pelosi of California said the congressional plan would "result in a whitewash of what is going on there."

Amid the partisan wrangling over the federal government's slow response to Hurricane Katrina, White House spokesman Scott McClellan said, "The president continues to be not satisfied about where things are right now."

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A CBS News poll reported that 58 percent of Americans disapproved of Bush's handling of the crisis and that only 32 percent expressed a lot of confidence in his ability to handle a crisis, compared with 66 percent approval in the weeks after the September 11, 2001, attacks.

About 300 protesters organized by the liberal group MoveOn.org, marched outside the White House carrying signs saying "Help Hurricane Victims" and chanting "Shame on Bush."

(Additional reporting by Steve Holland, Patricia Wilson)

Democratic Leaders Reject G.O.P. Storm Inquiry Plan (NYT)

By Carl Hulse

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 - Congressional Democratic leaders said Thursday that they would not appoint members to a new House-Senate committee to investigate failures in the government response to Hurricane Katrina, calling instead for an independent inquiry.

Representative Nancy Pelosi of California, the House Democratic leader, and Senator Harry Reid of Nevada, her counterpart in the Senate, said they would not cooperate because the committee would be controlled by Republicans, would have uncertain authority and was created without consultation with Democrats.

"Despite all the talk of bipartisanship," Ms. Pelosi said, "they have just on their own, unilaterally, put forth a proposal that will result in a whitewash of what is going on here." She added, "If we are ever going to truly protect the American people, now it is clear to me that we must have an outside independent commission, as we finally arrived at on 9/11."

Mr. Reid said he would not place any Senate Democrats on the panel "as it is currently described," adding: "The only way to ensure that all levels of our government are held accountable to the people is to take this process out of the hands of politicians with a vested interest in the outcome."

Republicans said they would still move forward with the panel initiated Wednesday by the House speaker, J. Dennis Hastert, and Senator Bill Frist, the majority leader, and would try to persuade Democrats to drop their objections.

"We hope that in the end, the Democrats will come on board," said Ron Bonjean, the spokesman for Mr. Hastert.

The Republican leaders said they saw the joint House-Senate committee as the preferable way to conduct the inquiry because it would prevent aid officials from having to appear before multiple committees. They said the panel would be structured like other House and Senate panels, with the majority Republicans having a slightly greater number of members than minority Democrats.

But Democrats suggested the panel should be evenly divided to avoid the possibility of Republicans protecting the Bush administration from close scrutiny. They and some Republicans said that in the absence of an outside panel, existing Congressional committees are able to conduct the investigation. In the Senate, the Homeland Security and Governmental Affairs Committee has already begun its own investigation and met privately on Thursday with administration officials in advance of a hearing next week.

One senior senator, John W. Warner, Republican of Virginia, said he was awaiting more details on the organization of the joint panel but said that the public deserved a thorough accounting of the storm response.

"I think the American public deserves a very clear and forthcoming revelation of all of the facts because in the end, they are going to make the final judgment," he told reporters.

Democrats Spurn Republican-backed Katrina Probe (REU)

By Donna Smith

Reuters, September 8, 2005

Democratic leaders pushing for an independent commission to investigate the government's response to Hurricane Katrina spurned on Thursday a plan by majority Republicans for a joint congressional inquiry.

House of Representatives Democratic Leader Nancy Pelosi of California, called the House-Senate investigation announced by Republican leaders on Wednesday a "sham" and said it would not produce an objective assessment of what went wrong in the hours and days following the storm.

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Senate Democratic leader Harry Reid of Nevada also said he would not participate in the Republican-led inquiry.

The government's initial response to the catastrophic storm that left hundreds of thousands homeless and thousands feared dead along the U.S. Gulf Coast has come under intense bipartisan criticism.

While President George W. Bush declared Louisiana, Mississippi and Alabama disaster areas days before Hurricane Katrina hit on August 29 "to avert the threat of a catastrophe," residents of the region complained there was no federal help until days after the storm.

Pelosi said on CNN on Thursday that in meetings with Bush this week to discuss the response to Katrina the president asked her "'What didn't go right last week?'"

House Speaker Dennis Hastert of Illinois and Senate Majority Leader Bill Frist of Tennessee, both Republicans, announced what they said would be a bipartisan investigation at an event on Wednesday to which no Democrats were invited. With their plan, aides said Republicans would have the majority of members.

"The partisan proposal that Republican leaders outlined yesterday is completely unacceptable," Pelosi said. "House Democrats will not participate in a sham that is just the latest example of congressional Republicans being the foxes guarding the president's hen house."

Both Pelosi and Reid have called for an independent commission similar to the one that investigated intelligence failures before the September 11, 2001, attacks.

Reid also declined to name Democrats to the panel saying its current structure would not yield the truth.

"The only way to ensure that all levels of our government are held accountable to the people is to take this process out of the hands of politicians with a vested interest in the outcome," he said.

Hastert spokesman Ron Bonjean said Republicans would move ahead with the inquiry and hoped "that in the end the Democrats will come around and join us for the good of the country."

SENATE PANEL FORGING AHEAD

While the joint congressional inquiry appears to be getting off to a rocky start, a Senate panel began its investigation into the government response effort.

Sen. Susan Collins (news, bio, voting record), a Maine Republican who heads the Senate Homeland Security Committee, said she is committed to pushing the inquiry forward on a bipartisan basis. She and Sen. Joseph Lieberman (news, bio, voting record) of Connecticut, the top Democrat on the panel, spoke to reporters following a closed-door committee session with officials from the Federal Emergency Management Agency and the Coast Guard.

She said her committee will continue its investigation until the joint congressional panel gets running and takes over. She will lead the Senate side of the joint inquiry.

"We're still committed to a bipartisan inquiry," Collins said. "I think that's important for the credibility of the investigation and for it to have the confidence of the American people." (additional reporting by Vicki Allen)

Katrina Aid Package Could Push Deficit To New High (USAT)

By Richard Wolf

USA Today, September 9, 2005

WASHINGTON — First came the storm, then the flood, then the exodus. Now come the benefits, followed by the bills.

Hurricane Katrina has set the federal government on a spending spree. The total of $62 billion approved by Congress is already more than any amount spent on any previous domestic natural disaster. And it will be spent within weeks.

As the months pass, the government will face pressure to pay for health and education services usually rendered by states, cities and school districts. That will apply not just in Louisiana, Mississippi and Alabama, but in states housing and caring for Katrina's evacuees.

That's likely to push the deficit for fiscal year 2006, which begins Oct. 1, beyond last year's record $412 billion. Before Katrina, the 2006 deficit was projected to be $314 billion.

Bill Hoagland, the top budget aide to Senate Majority Leader Bill Frist, agreed that the deficit is likely to top $400 billion.

“I don't think it's out of line,” he said.

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Leon Panetta, White House chief of staff and budget director under President Clinton, said it could hit $500 billion.

"At some point, all of that borrowing comes back to haunt you," he said.

White House budget director Joshua Bolten acknowledged the rising red ink.

"We will have a larger deficit in 2006 than we would otherwise have anticipated," he said. But because Katrina costs are temporary, the deficit should decline quickly in future years, he said.

President Bush signed the $51.8 billion bill on Thursday after quick approval was given in Congress. Bush said the federal government would compensate states caring for Katrina victims. "You should not be penalized for showing compassion," he said.

Today, the nation's school administrators will ask for $12.3 billion to rebuild about 500 schools and educate 250,000 students displaced by Katrina for a year.

Other federal costs will include paying off flood insurance policies, helping industries hit hard by the hurricane and dealing with environmental cleanup and wetlands restoration.

"This is on a magnitude we've never done before," said Rep. David Obey, D-Wis.

Cost Of Recovery Surges, As Do Bids To Join In Effort (NYT)

By Edmund L. Andrews And Carl Hulse

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 - With Congress primed to spend billions of dollars on the aftermath of Hurricane Katrina, lawmakers and industry groups are lining up to bring home their share of the cascade of money for rebuilding and relief.

White House officials and Congressional budget experts now assume that federal costs for the hurricane will shoot past $100 billion, which itself is more than twice the entire annual federal budget for domestic security. Congress on Thursday approved $51.8 billion in spending, bringing the total so far to more than $62 billion.

The demand for money comes from many directions. Louisiana lawmakers plan to push for billions of dollars to upgrade the levees around New Orleans, rebuild highways, lure back business and shore up the city's sinking foundation. The devastated areas of Mississippi and Alabama will need similar infusions of cash.

Communities will want compensation for taking in evacuees. And there will be future costs of health care, debris removal, temporary housing, clothing, vehicle replacement. Farmers from the Midwest, meanwhile, are beginning to press for emergency relief as a result of their difficulties in shipping grain through the Port of New Orleans.

Other ideas circulating through Congress that could entail significant costs include these notions:

¶Turning New Orleans and other cities affected by the storm into big new tax-free zones.

¶Providing reconstruction money for tens of thousands of homeowners and small businesses that did not have federal flood insurance on their houses or buildings.

¶Making most hurricane victims eligible for health care under Medicaid and having the federal government pay the full cost rather than the current practice of splitting costs with states.

The torrent of money - more than $2 billion a day over the weekend, and expected to remain above $500 million a day for the foreseeable future - prompted several lawmakers to warn about the perils of an open checkbook.

"We are reaching a perfect political storm," said Senator Jeff Sessions, Republican of Alabama. "We have all the earmarks of a rush to spend money that is very dangerous."

Mr. Sessions called on President Bush to appoint a person with significant business experience to oversee the spending. Contained within the spending measure approved Thursday is a provision that directs an extra $15 million to the inspector general's office in the Department of Homeland Security. The agency is also ordered to provide at least weekly reports to Congress on the use of the money.

Those safeguards, along with a decision by the administration to waive the federal law requiring that prevailing wages be paid on construction projects underwritten by federal dollars, were critical to persuading Congressional conservatives to vote for the money. It passed the House on 410-to-11 vote, with the only opposition coming from Republicans. The Senate vote was 97 to 0.

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But fiscal conservatives who supported the legislation on Thursday threatened to oppose future installments of money unless Congress and the administration begin to find ways to offset the spending so it is not just piled on top of the federal deficit.

"Congress must ensure that a catastrophe of nature does not become a catastrophe of debt for our children and grandchildren," said Representative Mike Pence, Republican of Indiana and a conservative leader in the House.

"There is no sacrifice on the part of Congress," said Senator Tom Coburn, Republican of Oklahoma, who said the decision to not cut spending elsewhere was a failure of leadership.

The emergency spending plan also drew scrutiny from some lawmakers who contended that it raised the risk of fraud by increasing the spending limit on about 250,000 credit cards issued to government workers from $15,000 to $250,000. "The use of government credit cards has a track record, and it is not a good one," Representative Henry A. Waxman, Democrat of California, wrote in a letter urging Congressional leaders to delete the provision.

But Representative Tom DeLay, the House majority leader and typically an opponent of increased spending for social programs, argued that Congress had no choice but to provide the financial assistance as quickly as possible.

"I know the American people, some of them are worrying about all this money," Mr. DeLay said. "Ladies and gentlemen, five million people, five million Americans, deserve us finding a way to make them whole."

House Democrats complained that they were prevented Thursday from offering a proposal to sever the Federal Emergency Management Agency from the Department of Homeland Security and making other changes before turning over so much to the agency, which has come under withering fire for its storm response. Republicans said they did not want to impede the aid by getting caught up in a legislative fight, and they said Democrats would have opportunities later to offer the FEMA changes.

Administration officials said the government spent about $2 billion a day last weekend, and the additional $51.8 billion would merely cover costs for "the next few weeks."

Joshua B. Bolten, the White House budget director, said the spending rate last weekend stemmed in part from signing big contracts for debris removal and temporary housing. The government has already bought 100,000 trailers for temporary housing and is trying to buy 200,000 more.

Of the new money, $23.2 billion is designated for temporary housing and other financial assistance to individuals. Another $11 billion is broadly aimed at "mission assignments" by the Federal Emergency Management Agency, which will hire other agencies and companies for jobs like debris removal.

FEMA will receive about $4.65 billion to pay for logistical needs, supplies and search-and-rescue operations. The Army Corps of Engineers will get $3 billion, essentially to pay for repairing the broken levees in New Orleans.

But the relief money is not expected to cover any of the real reconstruction costs that lie ahead: repair of highways, bridges and other infrastructure and new projects that seek to prevent a repeat of the New Orleans disaster. Nor will it even help pay for expanded availability of food stamps and poverty programs to cover hurricane victims.

"I'm fearful that this will open the floodgates for money," said Chris Edwards, a budget analyst at the Cato Institute, a research group that supports reduced government spending. "If they spend $1 billion a day for relief, that's fine. But down the road, state and local governments traditionally issue bonds for infrastructure when they need to build."

Shortly before the House voted to approve Mr. Bush's request for $51.8 billion, it approved a separate bill to let hurricane victims get more access to the federal welfare assistance for low-income families.

Democratic lawmakers proposed a raft of their own proposals. Senator Max Baucus of Montana, the ranking Democrat on the Senate Finance Committee, called for giving hurricane victims immediate access to Medicaid, the federal health program for low-income people, and letting victims collect unemployment payments for as long as one year.

Lobbyists Seek Leverage From Storm (WSJ)

By Brody Mullins

The Wall Street Journal, September 9, 2005

WASHINGTON -- Bolstered by the shift in political winds from Hurricane Katrina, U.S. corporations are pressing lawmakers to approve a range of issues that have languished on Capitol Hill, some of which have little to do with hurricane relief.

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Major U.S. airlines are asking Congress to suspend federal jet-fuel taxes. Oil and gas companies want drilling rights in new parts of the Gulf Coast. Insurance companies want the ability to use tax-free funds to create a multibillion-dollar industry fund to cover future claims from natural disasters. Shipbuilders such as Northrop Grumman Corp. want billions of dollars to help rebuild shipyards in Mississippi. Even small chicken farmers are asking Congress for low-interest loans to fix or replace hundreds of damaged or destroyed chicken coops in Mississippi.

"Overall, we are going to be a lot more open to things now that would help keep our traditional industries chugging along," says Rep. Jack Kingston, a Republican from Georgia.

Delta Air Lines stands to be the first big winner of the Republicans' goodwill. Lawmakers in the House and Senate say they expect to approve legislation by mid-October to give the Atlanta-based carrier more time to make payments to its employee pension plan. Delta officials have told Congress they would be forced to file for bankruptcy protection if Congress doesn't lend them a hand by the time the new bankruptcy law takes effect next month. Atlanta-based Delta is the incumbent carrier in the storm-ravaged Gulf Coast.

Yesterday, senators working on a pension-overhaul bill agreed to language requested by Delta's lobbyists that would give the airline 14 years to catch up on payments to its employees' retirement plans. Currently, the Delta plans are underfunded by $5.3 billion. Sen. Michael Enzi of Wyoming, chairman of the Health, Education, Labor and Pensions Committee, also added a Delta-backed provision that would allow the airline to increase benefits promised to workers if the airline could offset the new costs with matching contributions to the plans.

Until Katrina battered the Gulf Coast, House Republicans were adamantly opposed to helping the airlines. But now their resistance is softening. "I'm clearly sensitive to the problem of the legacy carriers," says Rep. John Boehner, the author of the pension-overhaul legislation in the House. "We ought to do what is reasonable to keep them from dumping their pensions" on the federal government, he says.

Delta and other large airlines are also pushing Congress and the Bush administration to suspend the 4.3-cents-a-gallon tax on jet fuel, a long-sought goal. Earlier this week, Sen. Ted Stevens, the Alaska Republican who chairs the Commerce Committee, asked the airline industry what Congress could do to alleviate some of the hurricane's impact, according to airline lobbyists. The industry's trade association, the Air Transport Association, told Mr. Stevens that Congress should suspend the fuel tax for one year.

Mr. Stevens has scheduled a hearing on the matter next week. Despite his interest in providing assistance, the airlines continue to face resistance in both the House and Senate. Senate Finance Committee Chairman Charles Grassley of Iowa and House Majority Leader Tom DeLay of Texas oppose suspending fuel taxes, because the funds are used to build highways, bridges and runways. Rep. John Mica, the Florida Republican who is chairman of the House's aviation subcommittee, says the airlines "can raise their fares to adjust for fuel costs."

A price increase is one possibility. Airlines have considered imposing a "fuel surcharge" that would be tacked on to every ticket, and some would even prefer if Congress mandated it to ensure that all carriers would boost their prices. Either way, carriers have asked the Department of Transportation to let them list any surcharge separately from the regular fare, so that it wouldn't be included in the base fare that customers are initially quoted. Rather, the surcharge would appear at the end of a purchase, along with other taxes and fees. The industry would also like Congress to exempt any fuel surcharge from the existing 7.5% passenger ticket tax.

Beyond the airlines, the energy industry is pushing to permit oil and gas drilling in Alaska's Arctic National Wildlife Refuge, reduce regulatory barriers to building new oil refineries and increase federal subsidies to help low-income Americans heat their homes in the winter.

Gas companies are pressing Congress to revive legislation that would expand oil drilling in eastern portions of the Gulf of Mexico. "It's all stuff that we were talking about before Katrina, but Katrina exposed our vulnerabilities," says Darrell Henry, a lobbyist with the American Gas Association.

On a smaller scale, poultry and seafood producers along the Gulf Coast are also preparing to ask Washington for help. Laurel, Miss.-based Sanderson Farms Inc. reported that the storm killed about five million birds and destroyed nearly 10% of its coops. "Federal assistance in dealing with this type of loss would be very appropriate," said Richard Lobb, a spokesman for the

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industry's National Chicken Council. Mr. Lobb said chicken farmers are asking the federal government to provide low-interest loans to help rebuild hundreds of 400-foot-long "grow-out houses," which run about $150,000 apiece.

Louisiana's oyster farmers were so hard hit that they still haven't determined what type of help they will seek. Louisiana produces more than 40% of the oysters eaten in the U.S. each year. The National Fisheries Institute, an industry trade group, estimates that two-thirds of Louisiana's oyster industry has been wiped out.

"The boats, docks, processing plants and ice housing are likely decimated," said Stacey Felzenberg, a spokeswoman for the association. "The people who have been impacted really will need some significant aid to get back on their feet."

Louisiana Lawmakers Aim To Cope With Political Fallout (WSJ)

By John Harwood

The Wall Street Journal, September 9, 2005

LOUISIANA LAWMAKERS aim to cope with political fallout.

Sen. Landrieu, in spotlight now, could find margins squeezed if thousands of Democratic-leaning African-Americans don't return by her 2008 re-election. Louisiana political analyst John Maginnis says state could even lose one of seven House seats in next redistricting.

Two shaky House incumbents, Democrat Melancon and Republican Boustany, hope response to hurricane rallies voters behind them. House Republican campaign chief Reynolds touts chance to market conservative social-policy solutions; Rep. Baker of Baton Rouge is overheard telling lobbyists: "We finally cleaned up public housing in New Orleans. We couldn't do it, but God did."

Baker explains later he didn't intend flippancy but has long wanted to improve low-income housing.

KATRINA ROILS trade debate over shrimp tariffs.

The U.S. International Trade Commission next week considers whether shrimpers from India and Thailand, saddled with tariffs after complaints of unfair competition from domestic producers, still pose a threat. Last winter's tsunami has fueled calls for lifting the levies.

But now the hurricane has given the U.S. industry a new argument for retaining tariff protection: An estimated 40% of domestic shrimpers and processors suffered some Katrina damage. "It's going to take awhile for that to recover," says Sal Versaggi of the eight-state Southern Shrimp Alliance.

SPOTLIGHT ON POOR increases opposition to planned Medicaid cuts.

A bipartisan group of senators urges Finance Chairman Grassley to delay slicing $10 billion from Medicaid and other entitlement programs serving many of those displaced by Katrina. "We must remain focused on the relief efforts and ways to deliver both short- and long-term aid," write Republicans Smith and Snowe, joined by Democrats Bingaman and Lincoln.

Administration officials mull ways to deliver more Medicaid funds to states such as Texas where rolls will swell; House Democrats urge HHS Secretary Leavitt to assume all costs of the state-federal program in affected areas. But conservatives like Rep. Barton of Texas warn Katrina shouldn't become an excuse to block Medicaid overhaul.

"Let me repeat, so that everybody hears me -- evacuees from Hurricane Katrina would not be hurt!" he says.

OPPORTUNITY KNOCKS: Ten U.S. Army recruiters are offering volunteer help for Katrina evacuees at Houston's Astrodome. But the recruiters, struggling to keep enlistment up during Iraq war, are also available with options for the jobless. "Our intent is to approach the evacuees at the right time for them," says Army spokesman Douglas Smith.

PR BONANZA? U.S. adversaries draw wide attention by joining international effort to offer help with Katrina relief. The Bush administration rebuffs Iran's conditional offer of 20 million barrels of oil while remaining mum on Cuba's pitch to send 1,500 doctors and nurses. Venezuela's Chávez, deriding Bush as "king of vacations," mixes offers of aid workers with oil shipments.

DUELING CAUSES? Grass-roots charities sending items to troops in Iraq worry they'll lose out to Katrina relief. "It will be even harder to ask and receive donations when there are so many needing help," says Connie Riecke of the Oregon-based Marine Corps Family Foundation.

FAMILY TIES: Bush's Katrina performance draws fire, but Texas universities eagerly compete for his presidential library in bid process ending next week. Contenders include University of Texas, which has the LBJ library; Southern Methodist, Laura

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Bush's alma mater; and Baylor, near the Crawford ranch. Library executives say bidders must accommodate "an institute inspired by the principles of George W. Bush's administration," a museum, a cafe and gift shop.

NEW FEMINISM: Conservatives tout female court pick to block Gonzales.

Right rallies around antiabortion appeals-court judges, including Edith Jones and Priscilla Owen; Janice Rogers Brown, an African-American, would meet post-Katrina calls for Bush to appoint a minority. All are seen as more conservative than Attorney General Gonzales, who'd be the first Hispanic pick.

Some close to White House predict Bush won't announce O'Connor's successor until Roberts clears Senate Judiciary Committee. Meanwhile, liberals battle for seats in next week's Judiciary hearings, but find themselves outnumbered by Roberts backers.

The hearing will "look like a Republican town hall meeting," one activist grumbles.

MINOR MEMOS: Trial lawyers' association calls on Republican Rep. Pryce to "stop scaring volunteers" after she says some would-be aid workers feared lawsuits. ... Tom Gallagher of ISI Group says posthurricane congressional spending makes it "Katrina Bar the Door" on fiscal policy.

Bankrupting The Victims (LAT)

The Los Angeles Times, September 9, 2005

Government aid is finally flowing to the most helpless victims of Hurricane Katrina, but a broader category of the dispossessed will test the government over a longer period of time. They are families with the means to flee the hurricane, perhaps even with insurance to cover some losses, but without the resources to make a living immediately. In other contexts, they would be referred to simply as the middle class.

They have lost their homes but are living off their credit cards and maybe a little savings. As those savings dwindle, however, the mortgage keeps coming due and their credit card nears its limit. Soon the paycheck may stop, and with it their health insurance.

How many of these victims exist is anyone's guess; the Congressional Budget Office predicted that the hurricane will cost 400,000 jobs nationally, and some private estimates are double that. Congress will no doubt take some steps to help victims rebuild their lives, but it also should take this opportunity to revisit the new bankruptcy law, which goes into effect Oct. 17. As the Times' Peter Gosselin reported Wednesday, the new bankruptcy law treats those affected by a natural disaster the same as the deadbeat who spent it all on luxury cars, jewelry and cocaine.

As of Oct. 17, individuals filing for bankruptcy who have income at or above their state's family median (in Louisiana, it is $51,402 for a family of four) will largely be forced to repay some or all of their debts for up to five years. Normally, such debtors would have the option of declaring Chapter 7 bankruptcy, which allows people to emerge from debt relatively quickly.

What's more, the new law calculates income by taking a six-month average, so even if someone is jobless, his income statement may not reflect it. And small businesses face a tighter 10-month deadline for coming to agreement with creditors on a repayment plan, even if snack shops and shoe stores drowned by Katrina may take years to recover. And strict deadlines and demands for stacks of documentation remain, even if the documents dissolved in a toxic stew or floated into the Gulf of Mexico.

Rep. John Conyers Jr. (D-Mich.) and Sen. Russell D. Feingold (D-Wis.) are leading efforts to delay the bankruptcy law's application to Katrina victims and grant broader exceptions to survivors of all severe disasters.

Before Katrina, supporters of the new law argued it would curb abuse of the bankruptcy code. This argument was always dubious, and in the aftermath of the hurricane, the new law appears simply callous. Does Congress really want to use Katrina's victims as test cases in some sort of grand experiment in bankruptcy reform?

The irony is that Congress has already decided that the more obviously desperate deserve relief. Federal and state officials have sensibly slashed red tape to provide immediate food stamps and Medicaid to evacuees — the poor and not-yet-poor alike. The federal government is providing debit cards to evacuees in the Astrodome.

The federal government failed its most vulnerable citizens in the days after Katrina. Unless Conyers and Feingold prevail, it may do the same, albeit more slowly, to those one rung higher on the economic ladder, as middle- and working-class families lose their foothold on self-sufficiency.

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Opinionline: Katrina Exposes America's Fragility (USAT)

USA Today, September 9, 2005

What people around the world are saying about Katrina:

Mehdi Mohammadi,

in a column in Keyhan (Tehran, Iran): "Reports come from New Orleans that show that the pitiful situation of the people in affected areas cannot be entirely attributed to Katrina. A greater tragedy that has astonished the world's people is the widespread chaos, insecurity and plundering that have been caused by thieves, criminals and murderers. ... What kind of human beings are these people who have ambushed and plundered the helpless men and women? ... Americans have created a nationwide scandal. The American government that has been engaged in the overseas mission of spreading welfare and freedom among nations of the world, with its huge resources and facilities, has completely failed to control a crisis that is not so great compared to similar events."

People's Daily

(Beijing), in an editorial: "America seems (to be) fighting a city war at home — New Orleans has become Baghdad. ... People have reason to feel disgusted: when Indonesia was hit by a tsunami last year, everybody lent a helping hand and nobody looted. But now this happened in the United States, showing people another side of this 'civilized country.' In fact, it revealed a fragility of the American society, as well as despair and disorder. ... Katrina swept away not only people's homes, but their dignity."

Al-Sharq

(Qatar), in an editorial: "The global humanitarian reaction to the victims of Katrina will pave the way for a new dialogue between the world's civilizations and religions in the interest of international security and peace."

The Korea Herald

(Seoul), in an editorial: "The U.S. media are heard wondering why the outside world is still slow to come to the aid of the country while it had always been the most generous to help other nations in natural and other calamities. Some commentators even tried to attribute it to U.S. unilateralism shown in the war on terror and the Iraqi war in particular. But world nations will certainly repay the Americans what they owed to them. If their response is not very expeditious, it must be due to the still ineffective worldwide emergency aid logistics system. The United Nations should have quickly played the leading role as the United States, the usual main provider, is now in need."

National Post

(Ontario, Canada), in an editorial: "The sense that government would be there to make everything all right — to provide food, shelter, water, medicine — is not surprising given that for so many New Orleanians, a general reliance on social assistance is a normal part of daily life. With a median household income of $31,369 and some of the country's oldest and most notorious public housing projects, New Orleans is a city that is fully enmeshed in the vicious welfare cycle that leaves the poor incapable of taking care of themselves. If there was a problem, many of the residents had been conditioned to think, then surely the same people who came through every month with money for food, prescription drugs, housing and child care would be there to take care of it."

Paul Kelly,

editor at large, in a column in The Australian (Sydney): "The U.S. has betrayed its own values and its historic role as an exemplar to the world. ... It is an American tragedy and an American failure. ... The New Orleans disaster documents the failure of contemporary U.S. leadership. It goes to competent government, adequate planning, efficient agency coordination and an effective chief executive. It betrays what many suspect about the Bush administration: that it suffers from a systemic inability to organize effective public policy responses, either in the U.S. or in Iraq."

The Straits Times

(Singapore), in an editorial: "Coping with natural disasters requires systems and the machinery to execute set procedures. But crisis situations demand leadership, above all else. The Japanese government froze for days after the Kobe earthquake of 1995. When organized help finally came, Japan — and now the U.S. — performed up to expectations. But reputations are usually made or ruined in the first critical days."

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How Reliable Is Brown's Resume? (TIME)

By Daren Fonda And Rita Healy

Time, September 8, 2005

When President Bush nominated Michael Brown to head the Federal Emergency Management Agency (FEMA) in 2003, Brown's boss at the time, Joe Allbaugh, declared, "the President couldn't have chosen a better man to help...prepare and protect the nation." But how well was he prepared for the job? Since Hurricane Katrina, the FEMA director has come under heavy criticism for his performance and scrutiny of his background. Now, an investigation by TIME has found discrepancies in his online legal profile and official bio, including a description of Brown released by the White House at the time of his nomination in 2001 to the job as deputy chief of FEMA. (Brown became Director of FEMA, succeeding Allbaugh, in 2003.)

Before joining FEMA, his only previous stint in emergency management, according to his bio posted on FEMA's website, was "serving as an assistant city manager with emergency services oversight." The White House press release from 2001 stated that Brown worked for the city of Edmond, Okla., from 1975 to 1978 "overseeing the emergency services division." In fact, according to Claudia Deakins, head of public relations for the city of Edmond, Brown was an "assistant to the city manager" from 1977 to 1980, not a manager himself, and had no authority over other employees. "The assistant is more like an intern," she told TIME. "Department heads did not report to him." Brown did do a good job at his humble position, however, according to his boss. "Yes. Mike Brown worked for me. He was my administrative assistant. He was a student at Central State University," recalls former city manager Bill Dashner. "Mike used to handle a lot of details. Every now and again I'd ask him to write me a speech. He was very loyal. He was always on time. He always had on a suit and a starched white shirt."

In response, Nicol Andrews, deputy strategic director in FEMA's office of public affairs, insists that while Brown began as an intern, he became an "assistant city manager" with a distinguished record of service. "According to Mike Brown," she says, "a large portion [of the points raised by TIME] is very inaccurate."

Brown's lack of experience in emergency management isn't the only apparent bit of padding on his resume, which raises questions about how rigorously the White House vetted him before putting him in charge of FEMA. Under the "honors and awards" section of his profile at FindLaw.com — which is information on the legal website provided by lawyers or their offices— he lists "Outstanding Political Science Professor, Central State University". However, Brown "wasn't a professor here, he was only a student here," says Charles Johnson, News Bureau Director in the University Relations office at the University of Central Oklahoma (formerly named Central State University). "He may have been an adjunct instructor," says Johnson, but that title is very different from that of "professor." Carl Reherman, a former political science professor at the University through the '70s and '80s, says that Brown "was not on the faculty." As for the honor of "Outstanding Political Science Professor," Johnson says, "I spoke with the department chair yesterday and he's not aware of it." Johnson could not confirm that Brown made the Dean's list or was an "Outstanding Political Science Senior," as is stated on his online profile.

Speaking for Brown, Andrews says that Brown has never claimed to be a political science professor, in spite of what his profile in FindLaw indicates. "He was named the outstanding political science senior at Central State, and was an adjunct professor at Oklahoma City School of Law."

Under the heading of "Professional Associations and Memberships" on FindLaw, Brown states that from 1983 to the present he has been director of the Oklahoma Christian Home, a nursing home in Edmond. But an administrator with the Home, told TIME that Brown is "not a person that anyone here is familiar with." She says there was a board of directors until a couple of years ago, but she couldn't find anyone who recalled him being on it. According to FEMA's Andrews, Brown said "he's never claimed to be the director of the home. He was on the board of directors, or governors of the nursing home." However, a veteran employee at the center since 1981 says Brown "was never director here, was never on the board of directors, was never executive director. He was never here in any capacity. I never heard his name mentioned here."

The FindLaw profile for Brown was amended on Thursday to remove a reference to his tenure at the International Arabian Horse Association, which has become a contested point.

Brown's FindLaw profile lists a wide range of areas of legal practice, from estate planning to family law to sports. However, one former colleague does not remember Brown's work as sterling. Stephen Jones, a prominent Oklahoma lawyer who was lead defense attorney on the Timothy McVeigh case, was Brown's boss for two-and-a-half years in the early '80s. "He did mainly

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transactional work, not litigation," says Jones. "There was a feeling that he was not serious and somewhat shallow." Jones says when his law firm split, Brown was one of two staffers who was let go.

Democrats' Anti-Bush Petition Also Seeks Political Contributions (NYNSDY/AP)

By Devlin Barrett, Associated Press Writer

New York Newsday, September 9, 2005

WASHINGTON -- A new Democratic effort to whip up indignation about the Bush administration's handling of Hurricane Katrina also tried to raise money for Democratic candidates.

Sen. Charles Schumer, a New York Democrat and the head of the Democratic Senatorial Campaign Committee, issued an appeal Thursday urging people to sign an online petition to fire the head of the Federal Emergency Management Agency over his handling of the Katrina response.

After an inquiry from the Associated Press, the DSCC quickly pulled down the page and said they would donate to charity any money raised by the anti-FEMA petition.

When recipients clicked on a link to the petition, the top center of the screen _ above the call to "Fire the FEMA director" _ had asked for a donation to the DSCC.

Other DSCC Web pages have the same appeal for contributions, but several do not.

Since Katrina, Democrats have charged Republicans badly botched the response, and some have called for the firing of FEMA chief Michael Brown.

In recent days, Republicans hit back by accusing Democrats of trying to use the human tragedy for political gain. The letter, the GOP said Thursday, was proof.

"It's a disgrace to exploit Hurricane Katrina to raise political funds," said Brian Nick, spokesman for the National Republican Senatorial Committee.

"They should halt this activity because it's way over the line," he said.

DSCC spokesman Phil Singer said: "While the content of the letter is totally valid, it should have never been linked to a Web site that asks people to contribute to political campaigns. We regret it, have removed the letter from our site and will donate any contributions raised as a result of this petition to the Red Cross."

The letter is the latest sign that more than a week after Hurricane Katrina struck, the political fight over what went wrong in the response continues to grow.

Sen. Hillary Rodham Clinton has called for an independent commission to probe government failures before and after Katrina, while House Democratic leader Nancy Pelosi called Bush "oblivious, in denial, dangerous" in his approach to relief efforts.

Rep. Thomas Reynolds, head of the House Republicans' fund-raising efforts, described Democratic criticism as "reprehensible," saying "this is a tragedy, not an opportunity."

The administration and Republican leaders in Congress are scrambling to launch a number of initiatives to help hurricane refugees and victims, including a new $51 billion aid package.

During the 2004 presidential campaign, some Democrats attacked President Bush for using an image of Sept. 11 devastation in a re-election campaign ad, accusing him of exploiting the tragedy. At the time, Schumer did not join in the criticism.

Advance Men In Charge (NYT)

The New York Times, September 9, 2005

The Federal Emergency Management Agency announced this week that it didn't want the news media taking photographs of the dead in New Orleans. A FEMA spokeswoman talked unconvincingly about the dignity of the dead. But the bizarre demand, a creepy echo of the ban on news media coverage of the coffins returning from Iraq, is simply the latest spasm of a gutted federal agency.

It's not really all that surprising that the officials who run FEMA are stressing that all-important emergency response function: the public relations campaign. As it turns out, that's all they really have experience at doing.

Michael Brown was made the director after he was asked to resign from the International Arabian Horse Association, and the other top officials at FEMA don't exactly have impressive résumés in emergency management either. The Chicago Tribune reported on Wednesday that neither the acting deputy director, Patrick Rhode, nor the acting deputy chief of staff, Brooks Altshuler, came to FEMA with any previous experience in disaster management. Ditto for Scott Morris, the third in command until May.

Mr. Altshuler and Mr. Rhode had worked in the White House's Office of National Advance Operations. Those are the people who decide where the president will stand on stage and which loyal supporters will be permitted into the audience - and how many firefighters will be diverted from rescue duty to surround the president as he patrols the New Orleans airport trying to look busy. Mr. Morris was a press handler with the Bush presidential campaign. Previously, he worked for the company that produced Bush campaign commercials.

So when Mr. Brown finally got around to asking Homeland Security Secretary Michael Chertoff for extra people for Katrina, it wasn't much of a departure for Mr. Brown to say that one of the things he wanted them to do was to "convey a positive image of disaster operations to government officials, community organizations and the general public." We'd like them to stay focused on conveying food, water and medical help to victims.

Political patronage has always been a hallmark of Washington life. But President Bill Clinton appointed political pals at FEMA who actually knew something about disaster management. The former FEMA director James Lee Witt, whose tenure is widely considered a major success, was a friend of Mr. Clinton's when he took office in 1993, but he had run the Arkansas Office of Emergency Services. His top staff came from regional FEMA offices.

Surely there are loyal Republicans among the 50 directors of state emergency services. But President Bush chose to make FEMA a dumping ground for unqualified cronies - a sure sign that he wanted to hasten the degradation of an agency that conservative Republicans have long considered an evil of big government. Katrina has proved that federal disaster help is vital, and that Mr. Brown and his team of advance men can't do the job. What America needs are federal disaster relief people who actually know something about disaster relief.

Leaders Lacking Disaster Experience (WP)

By Spencer S. Hsu

The Washington Post, September 9, 2005

Five of eight top Federal Emergency Management Agency officials came to their posts with virtually no experience in handling disasters and now lead an agency whose ranks of seasoned crisis managers have thinned dramatically since the Sept. 11, 2001, attacks.

FEMA's top three leaders -- Director Michael D. Brown, Chief of Staff Patrick J. Rhode and Deputy Chief of Staff Brooks D. Altshuler -- arrived with ties to President Bush's 2000 campaign or to the White House advance operation, according to the agency. Two other senior operational jobs are filled by a former Republican lieutenant governor of Nebraska anda U.S. Chamber of Commerce official who was once a political operative.

Meanwhile, veterans such as U.S. hurricane specialist Eric Tolbert and World Trade Center disaster managers Laurence W. Zensinger and Bruce P. Baughman -- who led FEMA's offices of response, recovery and preparedness, respectively -- have left since 2003, taking jobs as consultants or state emergency managers, according to current and former officials.

Because of the turnover, three of the five FEMA chiefs for natural-disaster-related operations and nine of 10 regional directors are working in an acting capacity, agency officials said.

Patronage appointments to the crisis-response agency are nothing new to Washington administrations. But inexperience in FEMA's top ranks is emerging as a key concern of local, state and federal leaders as investigators begin to sift through what the government has admitted was a bungled response to Hurricane Katrina.

"FEMA requires strong leadership and experience because state and local governments rely on them," said Trina Sheets, executive director of the National Emergency Management Association. "When you don't have trained, qualified people in those positions, the program suffers as a whole."

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Last week's greatest foe was, of course, a storm of such magnitude that it "overwhelmed" all levels of government, according to Sen. Susan Collins (R-Maine). And several top FEMA officials are well-regarded by state and private counterparts in disaster preparedness and response.

They include Edward G. Buikema, acting director of response since February, and Kenneth O. Burris, acting chief of operations, a career firefighter and former Marietta, Ga., fire chief.

But scorching criticism has been aimed at FEMA, and it starts at the top with Brown, who has admitted to errors in responding to Hurricane Katrina and the flooding in New Orleans. The Oklahoma native, 50, was hired to the agency after a rocky tenure as commissioner of a horse sporting group by former FEMA director Joe M. Allbaugh, the 2000 Bush campaign manager and a college friend of Brown's.

Rhode, Brown's chief of staff, is a former television reporter who came to Washington as advance deputy director for Bush's Austin-based 2000 campaign and then the White House. He joined FEMA in April 2003 after stints at the Commerce Department and the U.S. Small Business Administration.

Altshuler is a former presidential advance man. His predecessor, Scott Morris, was a media strategist for Bush with the Austin firm Maverick Media.

David I. Maurstad, who stepped down as Nebraska lieutenant governor in 2001 to join FEMA, has served asacting director for risk reduction and federal insurance administrator since June 2004. Daniel A. Craig, a onetime political fundraiser and campaign adviser, came to FEMA in 2001 from the U.S. Chamber of Commerce, where he directed the eastern regional office, after working as a lobbyist for the National Rural Electric Cooperative Association.

Department of Homeland Security spokesman Russ Knocke said Brown has managed more than 160 natural disasters as FEMA general counsel and deputy director since 2001, "hands-on experience [that] cannot be understated. Other leadership at FEMA brings particular skill sets -- policy management leadership, for example."

The agency has a deep bench of career professionals, said FEMA spokeswoman Nicol Andrews, including two dozen senior field coordinators and Gil Jamieson, director of the National Incident Management System. "Simply because folks who have left the agency have a disagreement with how it's being run doesn't necessarily indicate that there is a lack of experience leading it," she said.

Andrews said the "acting" designation for regional officials is a designation that signifies that they are FEMA civil servants -- not political appointees.

Touring the wrecked Gulf Coast with Secretary of Homeland Security Michael Chertoff yesterday, Vice President Cheney also defended FEMA leaders, saying, "We're always trying to strike the right balance" between political appointees and "career professionals that fill the jobs underneath them."

But experts inside and out of government said a "brain drain" of experienced disaster hands throughout the agency, hastened in part by the appointment of leaders without backgrounds in emergency management, has weakened the agency's ability to respond to natural disasters. Some security experts and congressional critics say the exodus was fueled by a bureaucratic reshuffling in Washington in 2003, when FEMA was stripped of its independent Cabinet-level status and folded into the Department of Homeland Security.

Emergency preparedness has atrophied as a result, some analysts said, extending from Washington to localities.

FEMA "has gone downhill within the department, drained of resources and leadership," said I.M. "Mac" Destler, a professor at the University of Maryland School of Public Policy. "The crippling of FEMA was one important reason why it failed."

Richard A. Andrews, former emergency services director for the state of California and a member of the president's Homeland Security Advisory Council, said state and local failures were critical in the Katrina response, but competence, funding and political will in Washington were also lacking.

"I do not think fundamentally this is an organizational issue," Andrews said. "You need people in there who have both experience and the confidence of the president, who are able to fight and articulate what FEMA's mission and role is, and who understand how emergency management works."

The agency's troubles are no secret. The Partnership for Public Service, a nonprofit group that promotes careers in federal government, ranked FEMA last of 28 agencies studied in 2003.

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In its list of best places to work in the government, a 2004 survey by the American Federation of Government Employees found that of 84 career FEMA professionals who responded, only 10 people ranked agency leaders excellent or good.

An additional 28 said the leadership was fair and 33 called it poor.

More than 50 said they would move to another agency if they could remain at the same pay grade, and 67 ranked the agency as poorer since its merger into the Department of Homeland Security.

Critics Maintain Drumbeat Of FEMA Criticism (LAT)

By Ken Silverstein

The Los Angeles Times, September 9, 2005

WASHINGTON — In the days since Hurricane Katrina devastated New Orleans, Federal Emergency Management Agency director Michael Brown has come under withering attack, with critics charging that his lack of prior experience in dealing with natural disasters contributed to his agency's poor performance.

But Brown is just one of at least five current and former senior FEMA officials appointed under President Bush whose professional backgrounds showed few qualifications in the area of disaster relief when they arrived at the agency.

As the administration struggles to counter negative national perceptions about its response, Vice President Dick Cheney defended the administration's FEMA appointees in remarks to reporters on Thursday.

"You've got to have people at the top who respond to and are selected by presidents, and you pick the best people you can to do the jobs that need to be done," said Cheney while touring the stricken Gulf Coast. "We've also got some great career professionals, an absolute and vital part of the operation -- couldn't do it without them. They're the ones that continue the expertise from administration to administration, who have got the experience of having been through all of this before and provide the quality service that needs to be provided."

But Democrats in Congress have attacked Brown and other top FEMA appointees.

"FEMA is an important agency and needs to be run by professionals, not political cronies," said Rep. Henry Waxman, D-Calif., the ranking minority member of the Committee on Government Reform. "Instead of a loyalty test, we need people with experience and competence."

More than a year before the hurricane hit New Orleans, the head of a labor union representing FEMA workers sent a letter to members of Congress charging that "emergency managers at FEMA have been supplanted on the job by politically-connected contractors and by novice employees with little background or knowledge" of disaster management."

"As . . . professionalism diminishes, FEMA is gradually losing its ability to function and to help disaster victims," the letter said.

People appointed to run domestic government agencies frequently have political connections. But for many top positions some relevant background is required as well.

Paul Light, a professor of organizational studies at New York University who has testified before Congress on FEMA's role in the Department of Homeland Security, said that for many years, FEMA was a dumping ground for the politically connected.

But during the Clinton years, Light said, FEMA director James Lee Witt "built a serious hierarchy around expertise. Somewhere along the line, FEMA has returned to being a destination of last resort for political appointees."

Brown, a career attorney who was active in Republican Party politics, was hired to be FEMA's general counsel by Joseph Allbaugh, an old friend and the agency's first director under Bush.

Before coming to FEMA, Brown had worked for nearly a decade at the International Arabian Horse Association. His responsibilities included supervising horse-show judges.

Allbaugh -- a long-time aide to Bush who had managed his 2000 campaign -- resigned as FEMA director in 2003 and opened up a consulting firm that helped companies win contracts in Iraq. Brown, who had risen to become Allbaugh's top deputy, took charge.

Rep. Robert Wexler, D-Fla., a strong critic of Brown's even before Katrina, wants him removed from his position.

"When you're dealing with responding to a natural disaster, it's hard to do your job when you have no experience or background," said Lale Mamaux, Wexler's spokeswoman. "You can't just show up and hope everything goes all right."

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Brown is not the only official who came to the agency with scant disaster management background.

Brown's acting deputy director, Patrick James Rhode, began his professional career as an "anchor/reporter with network affiliated television stations in Alabama and Arkansas," according to his resume on FEMA's Website.

Rhode subsequently did public relations work for several state agencies in Texas before becoming deputy director of national advance operations for Bush's 2000 presidential campaign.

Before moving to FEMA in 2003, Rhode served as a special assistant to the president and White House liaison with the Commerce Department. He donated $2,000 to Bush's 2004 campaign.

Daniel Craig, director of FEMA's Recovery Division since October of 2003, "is responsible for planning and executing the federal government's recovery efforts following major disasters," according to the FEMA website.

Before coming to FEMA he worked for the Eastern Regional Office of the U.S. Chamber of Commerce, where he "was responsible for Chamber-related legislative, political, and media initiatives in New England and the Atlantic coast."

Craig's previous jobs included working as a lobbyist for the National Rural Electric Cooperative Association, and before that "as a campaign adviser, and political fundraiser and research analyst."

Both Allbaugh and Brown were Oklahoma natives involved in that state's Republican politics. FEMA's acting deputy chief of staff, Brooks Altshuler, also hails from Oklahoma. And like Rhode, Altshuler was an advance man for President Bush.

FEMA did not return several calls seeking comment.

In June of 2004, Local 4060 of the American Federation of Government Employees, which represents FEMA workers, wrote to members of congress to warn about alleged cronyism at the agency.

The letter said the practice initially "took place mainly at the senior levels of FEMA, but it has now entered into the mid-level and working-level" of FEMA.

"The ability of FEMA to manage emergencies and disasters is being seriously eroded," the letter said. "The American people count on FEMA to be there to pick up the pieces after a hurricane, a terrorist attack, or any type of emergency. ... (But) our capability is being drained away."

Congress Approves New Storm Aid, And Bush Pledges To Expedite It (NYT)

By David Stout

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 - President Bush said today that he would work with Congress to "cut through the red tape" and get federal aid as fast as possible to people whose lives had been disrupted by wind and flood along the Gulf Coast, and Congress responded this evening by rushing through an additional $51.8 billion in federal assistance.

But even as the president spoke, there were signs that the federal response to the crisis was hampered by confusion.

"The government is going to be with you for the long haul," Mr. Bush said in a brief speech at the White House as he and Vice President Dick Cheney tried to counter charges that their administration had reacted slowly and ineffectively to the crisis. The president said that Sept. 16, next Friday, would be designated a national day of prayer and remembrance.

Earlier, the vice president defended the work of federal agencies, including the much criticized Federal Emergency Management Agency, as he toured the Gulf region.

Mr. Bush said that $2,000 per family in federal aid would be given to each family uprooted by the flood, and that workers from FEMA and the Red Cross were working to get the money into the hands of those who needed it as fast as possible. He said some 400,000 families had already registered with FEMA for federal help, and that 3,000 people were taking calls around the clock at the agency, with the number of operators to be increased "dramatically" very soon.

But not long after he spoke, FEMA announced that it was ending, after a one-day trial, a distribution of debit cards for immediate living expenses. An agency spokesman I in Baton Rouge, La., David G. Passey, said he did not know why FEMA officials had scuttled the program, although there were problems with distribution of the cards in Houston.

Hundreds of people displaced by the storm and flooding lined up outside the Astrodome to wait for cards, but not all could get them. The Red Cross had handed out appointment slips for people to get Red Cross debit cards at certain times. But out of confusion or anxiety, people started lining up before dawn, and some were overcome by heat during the day, The Associated

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Press reported. The confusion was deepened as word spread through the Astrodome that FEMA was about to distribute debit cards for up to $2,000 each - but FEMA workers told The A.P. that their agency would not be ready to hand out cards for a couple of days.

President Bush, perhaps with the Houston confusion in mind, said people who fled the storm-affected areas and consequently might have little or no identification would be given "special evacuee status" to make them eligible for the full range of federal benefits - Medicaid, food stamps, school lunch programs and aid to needy families, to name a few - more quickly and without the usual paperwork.

The continuing confusion in the federal response to the crisis could be discerned in a comparison of the president's remarks with those of Mr. Passey, the FEMA spokesman.

Mr. Bush, in speaking to those affected by the storm, said he understood that "some of you do not have access to a savings or checking account, or ways to cash a check."

But, Mr. Passey said, "as we've looked at the logistics of expanding the debit card, we believe that our normal methods of delivery - checks and electronic funds transfer - will suffice."

The president said he and Congress would also see to it that the states that took in people fleeing the gulf region would be reimbursed for the extra burdens on their budgets. "You should not be penalized for showing compassion," Mr. Bush said.

"We have many difficult days ahead," Mr. Bush observed.

In Gulfport, Miss., the vice president was asked whether agencies like FEMA should have political appointees in leadership posts or "somebody with more qualifications." Michael D. Brown, the FEMA director, has come under particular criticism for his lack of background in emergency planning and for seeming unaware of some flood-related events.

"Well, most of government runs on the basis of the combination of civilian leadership that's elected and career professionals that fill the jobs underneath them," Mr. Cheney said. "And we're always trying to strike the right balance. But I think generally that overall principle has served us well as a government over the years."

As Mr. Bush and Mr. Cheney were making their case, Congress was moving on the $51.8 billion aid package requested by the White House. The House overwhelmingly approved it earlier , and the Senate followed suit later. As both the speed and the margins of the votes indicated, lawmakers of both parties seemed in agreement that the federal government should spend heavily to help the disaster victims. But they were far apart on related issues.

Senator Harry Reid, Democrat of Nevada, the Senate minority leader, expressed disdain for the Federal Emergency Management Agency and said that Democrats were prepared to bypass the agency entirely.

"Is there anyone - anyone - who believes that we should continue to let the money go to FEMA and be distributed by them?" Mr. Reid asked.

Mr. Reid said again that the hurricane and flood disaster, and a faulty federal response, should be investigated by an independent commission like the one that dissected the Sept. 11 terror attacks, instead of by Congressional committee, as Republicans have proposed. He said Democrats planned to boycott the Congressional committee approached pushed by Republicans.

Senator Mary Landrieu of Louisiana, a Democrat, who appeared alongside Mr. Reid, said, "There will be a lot of time for blaming in the future, and everyone will be held accountable, including us and including the president himself."

Four Years After Sept. 11, Lessons From Another Blow (USAT)

USA Today, September 9, 2005

This weekend, the fourth anniversary of the 9/11 terrorist attacks, the nation is reeling from another great tragedy, a hurricane that might have claimed more lives than the nearly 3,000 taken that day.

There is much to reflect upon in that dark coincidence.Hurricane Katrina was a blow from nature, not man. But it has amounted to the first test of the new and improved security system constructed after Sept. 11, 2001.

The storm's effects were much like an assault with weapons of mass destruction, something that has long been the worst U.S. terrorism nightmare: thousands of displaced people, many needing medical help along with food, shelter and information.

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The local, state and federal officials in charge failed the test. No reassuring operation snapped into place. Amid the confusion, some still being played out on TV screens, it's fair to ask: Have the past four years, and the vast sums spent on better protection, been squandered?

By one measure, the answer would seem to be no. Since 2001, there hasn't been a terrorist attack on U.S. soil. At least a part of that has to be because of efforts taken to prevent one. Nevertheless, as Hurricane Katrina has shown, the answers to three central questions are troubling:

Are preparations in place if an attack happens? The Department of Homeland Security gives out emergency preparedness grants to local authorities, who must submit detailed plans. At least in the case of Louisiana, those plans failed reality checks. Authorities, for example, had designated the Superdome a shelter. Unlike with a terror attack, they even had notice of the impending disaster. Even so, they still failed to stock the shelter with enough basic necessities.

The attempted evacuation of New Orleans showed that plans drawn up in advance were unworkable. They failed to recognize that the most vulnerable people lacked transportation, or in some cases comprehension of the danger. That lesson should not be lost on state and local officials elsewhere, who could face a similar crisis at any time and should be rethinking their evacuation plans based on New Orleans' experience. Also needed: better oversight of those plans by Homeland Security.

What about the aftermath of an attack? Police, firefighters and emergency medical workers struggled to cope with evacuees from Hurricane Katrina. Bad as that was, it was the barest taste of what the aftermath of a nuclear, biological or chemical attack might be like. Despite four years of preparation, health systems are under-prepared. Warnings persist about insufficient medications, vaccines and distribution systems in the event of a chemical or biological attack — despite a $20 billion government investment in bioterrorism preparedness since 9/11.

Is enough being done to prevent an attack? Nothing can stop a storm like Katrina, but what about terrorism? The list of potential targets is limitless, and absolute protection is impossible. But the devastation wrought by Katrina, despite years of warnings, lends new menace to the steady trickle of reports from many sources about security weaknesses — at nuclear and chemical plants, for instance, or in inspecting cargo entering U.S. ports. The tightened security at airports is by no means representative.

In many ways, the situation is similar to when a house has been burglarized and the owner vows to buy the best alarm system, a guard dog and take other precautions, no expense spared. But as time goes by, with no new break-in, the urgency dissipates and the protections aren't all implemented.

What's most glaringly missing is the post-9/11 sense of urgency. For most people, that kind of laser focus can't realistically be sustained; everyday life simply gets back in the way. For officials charged with protecting the United States and preventing another 9/11, however, it has to be.

Where To Point The Fingers (WP)

By Charles Krauthammer

The Washington Post, September 9, 2005

In less enlightened times there was no catastrophe independent of human agency. When the plague or some other natural disaster struck, witches were burned, Jews were massacred and all felt better (except the witches and Jews).

A few centuries later, our progressive thinkers have progressed not an inch. No fall of a sparrow on this planet is not attributed to sin and human perfidy. The three current favorites are: (1) global warming, (2) the war in Iraq and (3) tax cuts. Katrina hits and the unholy trinity is immediately invoked to damn sinner-in-chief George W. Bush.

This kind of stupidity merits no attention whatsoever, but I'll give it a paragraph. There is no relationship between global warming and the frequency and intensity of Atlantic hurricanes. Period. The problem with the evacuation of New Orleans is not that National Guardsmen in Iraq could not get to New Orleans but that National Guardsmen in Louisiana did not get to New Orleans. As for the Bush tax cuts, administration budget requests for New Orleans flood control during the five Bush years exceed those of the five preceding Clinton years. The notion that the allegedly missing revenue would have been spent wisely by Congress, targeted precisely to the levees of New Orleans, and that the reconstruction would have been completed in time, is a

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threefold fallacy. The argument ends when you realize that, as The Post noted, "the levees that failed were already completed projects."

Let's be clear. The author of this calamity was, first and foremost, Nature (or if you prefer, Nature's God). The suffering was augmented, aided and abetted in descending order of culpability by the following:

1. The mayor of New Orleans. He knows the city. He knows the danger. He knows that during Hurricane Georges in 1998, the use of the Superdome was a disaster and fully two-thirds of residents never got out of the city. Nothing was done. He declared a mandatory evacuation only 24 hours before Hurricane Katrina hit. He did not even declare a voluntary evacuation until the day before that, at 5 p.m. At that time, he explained that he needed to study his legal authority to call a mandatory evacuation and was hesitating to do so lest the city be sued by hotels and other businesses.

2. The governor. It's her job to call up the National Guard and get it to where it has to go. Where the Guard was in the first few days is a mystery. Indeed, she issued an authorization for the National Guard to commandeer school buses to evacuate people on Wednesday afternoon -- more than two days after the hurricane hit and after much of the fleet had already drowned in its parking lots.

3. The head of FEMA. Late, slow and in way over his head. On Thursday, Sept. 2, he said on national television that he didn't even know there were people in the convention center, when anybody watching television could see them there, destitute and desperate. Maybe in his vast bureaucracy he can assign three 20-year-olds to watch cable news and give him updates every hour on what in hell is going on.

4. The president. Late, slow, and simply out of tune with the urgency and magnitude of the disaster. The second he heard that the levees had been breached in New Orleans, he should have canceled his schedule and addressed the country on national television to mobilize it both emotionally and physically to assist in the disaster. His flyover on the way to Washington was the worst possible symbolism. And his Friday visit was so tone-deaf and politically disastrous that he had to fly back three days later.

5. Congress. Now as always playing holier-than-thou. Perhaps it might ask itself who created the Department of Homeland Security in the first place. The congressional response to all crises is the same -- rearrange the bureaucratic boxes, but be sure to add one extra layer. The past four years of DHS have been spent principally on bureaucratic reorganization (and real estate) instead of, say, a workable plan for as predictable a disaster as a Gulf Coast hurricane.

6. The American people. They have made it impossible for any politician to make any responsible energy policy over the past 30 years -- but that is a column for another day. Now is not the time for constructive suggestions. Now is the time for blame, recrimination and sheer astonishment. Mayor Ray Nagin has announced that, as bodies are still being found and as a public health catastrophe descends upon the city, he is sending 60 percent of his cops on city funds for a little R&R, mostly to Vegas hotels. Asked if it was appropriate to party in these circumstances, he responded: "New Orleans is a party town. Get over it."

Confusion On Debit Card Aid (NYT)

By Shaila Dewan

The New York Times, September 9, 2005

BATON ROUGE, La., Sept. 8 - After a day of confusion and complaints, officials of the Federal Emergency Management Agency said Thursday that the agency would not expand a trial program to distribute debit cards worth $2,000 to victims of Hurricane Katrina for immediate living expenses.

A FEMA official in Washington said the cards would be distributed at the Astrodome in Houston beginning on Friday.

Reports that the debit cards would be distributed on Thursday morning at the Astrodome, a temporary shelter, brought several hours of mayhem to the complex, attracting a crush of cars and pedestrians that caused the police to shut the gates, locking out thousands of residents in the 90-degree heat.

Meanwhile, in Baton Rouge,David G. Passey, a FEMA spokesman, said he did not know why the program had been discontinued.

But Mr. Passey said, "As we've looked at the logistics of expanding the debit card, we believe that our normal methods of delivery, checks and electronic funds transfer, will suffice."

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Under questioning by reporters, he said he could not explain why traditional conduits of aid, which take from 10 days to two weeks to reach victims, provided they have addresses or working bank accounts, had been deemed more appropriate than the immediate relief offered by the debit cards.

He said "program specialists" had made the decision.

Announcing the debit card program on Wednesday, Michael D. Brown, the FEMA director, said it was designed to "empower" evacuees "to make their own decisions about what they need to have to restart their lives." But he did not say when and where the cards would be distributed.

In Baton Rouge, The Associated Press reported, people went to a Red Cross office believing they could get the debit cards there.

Callers to a Baton Rouge radio station from as far away as Atlanta and Houston complained that they did not know how to get the cards. One person said she had called the FEMA office in New York, only to be told that the cards were in Atlanta.

But Mr. Passey said the cards had been intended for distribution only at the Astrodome, where the highest concentration of evacuees was housed.

After the police lockdown at the complex, the order that had characterized the temporary housing situation there so far threatened to collapse, as people fainted, pushed and shoved, and complained loudly.

"It's just a hassle to get assistance," said Sparkle Stanwood, 25, an evacuee from downtown New Orleans, as she stood outside an Astrodome gate, sweat glistening on her face. "They gave us an appointment for 10 a.m. today - now they won't let us in. Some people broke a gate open. It's a lot of people, and it's hot."

Another evacuee, Eric Robertson, said: "We're very angry. We don't really know what's going on. It's so unorganized out here. There's nobody to even answer a question about why the place is on lockdown."

The Red Cross in Houston began handing out debit cards Thursday loaded with $650 to $1,600 in purchasing power.

The relief organization issued 7,000 cards at the Reliant complex around the Astrodome and will issue more Friday at the George R. Brown Convention Center. Tennessee has distributed 1,550 "electronic benefit cards."

George R. Brown Evacuees To Get Red Cross Cards Tonight (HC)

By Salatheia Bryant And Becky Bowman

Houston Chronicle, September 9, 2005

The debit cards have arrived, and with them, perhaps, the longest lines yet.

Evacuees at Reliant Center stood in line as long as five hours today to receive debit cards from the Red Cross.

On the schedule for tomorrow: debit cards from the federal government -- and more long lines as well.

The Federal Emergency Management Agency said today that distribution of the $2,000 cards will begin Friday morning at Reliant Park, but only for those currently living there and only then if they've already registered with FEMA.

Most evacuees at Houston's largest shelters have already done the paperwork, and some have even received checks or aid directly deposited to their bank accounts, making them ineligible for the debit cards. Many who thought they were standing in line on Wednesday for the FEMA cards turned out to be in line to simply apply for the federal aid. By this afternoon, the federal agency was still signing up about 45 families an hour.

After seeing mile-long lines form today for Red Cross cards, authorities were urging those who aren't yet registered with FEMA to do so by calling 1-800-621-FEMA or going to the agency's Web site at http://www.fema.gov. On Saturday, FEMA will begin passing out cards at Reliant Center to evacuees who don't live in the Reliant complex.

Organizers and evacuees alike are hoping that Friday's inevitable lines won't match today's, which included elderly hurricane victims in wheelchairs and children who haven't yet been registered for school. Hurricane victims held newspapers and scraps of cardboard over the heads to shield themselves from the sun as volunteers passed out water and doctors arrived to watch for overheating or dehydration.

Police were called in for crowd control, and Reliant Park shut its gates for a few hours to those who aren't living there to limit the crowds and encourage evacuees from elsewhere to wait their turn.

"We have a very dynamic situation outside," Coast Guard Lt. Joseph Leonard, who is heading up the shelter operation, said this afternoon.

Many of those lined up for the Red Cross cards outside Reliant Center today had appointments and an electronic sign warned evacuees that "no walkups" would be accepted, but the line for getting appointments was as long as the line to pick up the cards.

One woman balancing a toddler on her hip said she'd advanced only 15 to 20 feet in 45 minutes.

"It's just so many people. A lot of people don't have appointments . . . I think this is ridiculous," said 22-year-old Chazz Tripp, who was hoping for funds to buy clothes or perhaps furniture for wherever she ends up. "It's maddening."

Relester Cain, 39, of New Orleans waited for five hours but emerged with a debit card. The wait was hard, she said, but "it was worth it."

The coveted Red Cross debit cards can be activated in eight to 24 hours, a powerful draw for the 7,188 still living at the Reliant Park shelters today. Only those stranded at Reliant Center, Reliant Arena or the Astrodome were eligible this morning and this afternoon for the cards, which carry balances of a $360 to $1,600, depending on a family's size and the age of its children.

Drawn on Chase Bank, the debit cards carry the words "Red Cross client" and "This cannot be used for alcohol, tobacco or weapons."

Standing in line for the card that could pay for gasoline and take him to his next construction job, evacuee Michael Gorman has no complaints.

"Who wouldn't want to stand in line for somebody to help you?" he said. "It's a blessing.

Shalon Matthews, 30, a New Orleans hotel worker, said the long lines are just part of her post-Katrina life.

"We are kind of used to all of the processing going on," she said. "It's second nature now. We know they can only do so much. We have no where else to go."

Yolonda Allen, 39, was ebullient to be among the lucky ones clutching a debit card before lunch. A sickle-cell patient and the mother of a teen-age boy, her first purchase is to be fresh, healthy vegetables.

"This will help me," she said. "It will help lift my spirits up. "

That was the aim of the Red Cross volunteers passing out the cards, but the length of lines were frustrating for harried volunteers as well as evacuees.

Red Cross spokeswoman Jana Zehner said organizers had hoped that assigning appointment times would help, but many people are lining up way too early or getting into the wrong line. Some people are also bringing their entire families along, even though one person can pick up a card for an entire family.

"We can't help them to stand in line," Zehner said.

Another Red Cross spokesman, Gregory L. Smith, promised everyone who needs a card will get a card, but that's going to take time.

"We knew there were going to be a lot of people," Leonard said. "We are refining our process now. This is the largest shelter operation in U.S. history. None of us have a playbook."

The lines would have been much longer if the giveway had happened earlier in the week. More and more evacuees are heading off to more permanent accommodations, and emergency officials have started consolidating the shelters at Reliant Park. They hope to have all the park's shelters closed by a week from Sunday.

Authorites began moving residents of Reliant Arena to Reliant Center on Wednesday afternoon, leaving behind only 200 patients receiving medical services. Reliant Park's medical clinic, which includes an isolation ward for those sick with the Norwalk virus, will continue to operate out of the arena.

With the transfer of evacuees complete today, the Reliant Astrodome had about 2,500 people; Reliant Center, 4,488 people; and downtown's George R. Brown Convention Center, about 1,400 people. Including the 200 patients still at the Reliant Arena, this morning's total census of 8,588 compares to a headcount of 8,066 on Wednesday and a rougher estimate of 25,400 as recently as Tuesday.

More than 17,000 evacuees have registered at the convention center. By Saturday, Red Cross officials said, a toll free phone number will be in place for those who registered at the center but who are staying elsewhere.

Frank Gutierrez, Harris County's coordinator for homeland security and emergency management, said the consolidation of shelters has been going well, with "no big glitches."

Cheney, Gonzales Tour Stricken Gulf Coast (AP)

By Tom Raum, Associated Press Writer

The AP, September 8, 2005

NEW ORLEANS — Vice President Dick Cheney on Thursday toured parts of the ravaged Gulf Coast, claiming significant progress but acknowledging immense obstacles to a full recovery.

"We can do it," he said, first in Gulfport, Miss., and then in New Orleans, where he stood on a bridge on a levee on the edge of a flooded section of the city.

The vice president said it was too early to estimate the total cost of reconstruction from Hurricane Katrina. He dismissed the idea of raising taxes to pay for storm recovery and the war in Iraq.

Standing by Louisiana's governor, Democrat Kathleen Blanco, Cheney spoke of how the flooding of New Orleans and the destruction of many communities in the region was "a major tragedy in modern times."

"The positive news is we appear to be making progress," said Cheney, who brought 800 pounds of bottled water aboard Air Force Two as a gesture of aid.

His visit was an attempt by President Bush to show an active role in the recovery effort after a slow and tentative start.

Cheney told reporters he planned to return to the area on Saturday. Bush, who has visited twice since the storm hit, is expected to visit again soon.

Seeking to counter attacks by Democrats, the vice president defended the political appointees who are overseeing the federal relief effort. Cheney also spoke of the need to address "mental health issues" among people in the stricken area; he offered no specifics.

Cheney's helicopter stayed low and close to the ravaged coastline on the flight from Gulfport to New Orleans. Later, Cheney stopped in Baton Rouge to meet with state officials in the capital.

At a briefing on the amphibious assault ship USS Iwo Jima, docked in New Orleans, Coast Guard Adm. Thad Allen showed Cheney maps and large aerial photographs.

"You can see right now that the water is staring to recede," Allen told Cheney. Allen said the next step is a door-to-door search of homes as the city moves ahead with its evacuation.

Cheney rode in a Hummer through parts of downtown. Army Lt. Gen. Russel Honore, the military coordinator, was at the wheel. The vice president stopped at Harrah's hotel and casino, where he shook hands with police and rescue workers.

Standing on a bridge over the 17th Street Canal levee that burst in the hurricane, Cheney could see two huge pipes pumping water out of the city and back into the canal. Flames burst into the air from a ruptured gas line nearby.

Earlier, once-stately waterfront homes, now splintered, some with off their foundations and even in neighboring yards, confronted Cheney.

"I think the progress we're making is significant," Cheney said. "I think the performance, in general, at least in terms of the information I've received from locals, is definitely very impressive."

"That's not to say there's not an awful lot of work to be done — there is," he added.

Cheney spoke to reporters along Gulfport's Second Street. Once it was two blocks from the Gulf of Mexico; now, it essentially is only one away.

Cheney walked about two blocks from the Gulf along a street littered with broken wood, downed trees and furniture. Some houses were severely damaged, some hardly at all.

One passer-by shouted the same vulgar phrase to Cheney that the vice president himself had used on the Senate floor in a celebrated and heated exchanged in June 2004 with Sen. Patrick Leahy, D-Vt.

"First time I've heard it," Cheney joked with reporters when asked if he was hearing such sentiments a lot.

Cheney visited Rebecca Dubuisson, who said she spent about 18 months adding an extension on her house, only to have the hurricane wipe it away.

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The house that once stood between her place and the ocean was gone, too. "We've got a beach view now," she said, voicing a determination to repair her house.

Dubuisson said she did not want to criticize the relief effort. "I don't know that you could have prepared for it," she said.

Most of the people Cheney met with on his Mississippi stop were friendly.

Lynne Lofton was not. Her house further down the street was destroyed.

"I think this media opportunity today is a terrible waste of time and taxpayer money," she said. "They've picked a nice neighborhood where people have insurance and most are Republicans."

Joining Cheney on the trip were Attorney General Alberto Gonzales and Homeland Security Secretary Michael Chertoff.

Cheney was asked about criticism that leading the relief efforts were political appointees with experience in disaster recovery — Chertoff and Mike Brown, director of the Federal Emergency Management Agency.

The vice president said he believes Bush "struck the right balance" between political appointees and career professionals to oversee the relief efforts.

Cheney Tours Katrina Devastation, Backs Chertoff (REU)

By Caren Bohan

Reuters, September 8, 2005

U.S. Vice President Dick Cheney on Thursday toured the devastation wrought by Hurricane Katrina and expressed confidence in Homeland Security Secretary Michael Chertoff's handling of the crisis despite widespread criticism of the initial government response.

Cheney rode through the streets of downtown New Orleans in a humvee, the highest-ranking Bush administration official to visit the shattered city center, during a day-long tour of Mississippi and Louisiana to check on relief efforts.

He was the latest in a series of Bush administration officials to visit the region amid complaints from victims that bureaucracy is slowing the recovery, and he acknowledged problems in the early days of the disaster.

"I've got enormous confidence in the secretary (Chertoff) as does the president," said Cheney at a stop in Gulfport, Mississippi, where he was accompanied by Chertoff.

Chertoff and Michael Brown, director of the Federal Emergency Management Agency, have been criticized for their handling of the worst U.S. humanitarian crisis, with some Democrats and Republicans saying one or both should be fired.

Asked about problems with bureaucratic barriers, Cheney suggested progress was being made in cutting through them.

"I think the progress we're making is significant. I think the performance in general at least in terms of the information I've received from locals is definitely very impressive," Cheney told reporters in a rare question-and-answer session.

SHOUTED INSULTS

While he was speaking, a young man shouted an obscenity at the vice-president, saying "Go fuck yourself, Mr Cheney" in an outburst that reflected frayed tempers and patience in the stricken region.

Cheney later toured an unflooded part of New Orleans near the convention center, seeing first-hand the debris of chairs, empty water bottles and trash. Thousands of storm survivors pleading for food, water and care stayed several days at the center last week before they were evacuated from the ruined and chaotic city.

Army Lt. Gen. Russell Honore, commander of the military relief effort in the hurricane-hit region, drove Cheney on a tour of several blocks around the convention center.

In the back seat was Cheney's wife, Lynne, and Louisiana's Democratic governor, Kathleen Blanco, who has had some frictions with the Bush administration over the federal response. The group stopped at a casino where hundreds of rescue workers were being served barbecued food and Cheney shook hands with many of them.

"Obviously, New Orleans has been through a great trauma," Cheney said, but added there was "significant progress" being made. "We've still got an enormous amount to do," he said.

Cheney acknowledged problems in the recovery's first few days, especially the chaos surrounding the evacuations.

"There's no question there were problems," he said.

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Cheney rejected the notion that tax increases were needed to pay for the longterm effort to rebuild the region, saying that would only choke off growth.

He said he would return to the region on Saturday.

In Gulfport, resident Lynn Lofton approached a group of reporters waiting for the vice president and said the visit was too late.

"I think the media opportunity right here is a complete waste of time and taxpayer money," she said. "They should have been here last week."

Relieft Effort 'very Impressive,' Cheney Says (AP)

The AP, September 8, 2005

GULFPORT, Miss. — Walking a hurricane-riddled street, Vice President Dick Cheney declared today that much progress is being made in a disaster relief effort he termed "very impressive."

Cheney's plane took him on a course over heavily damaged houses as he arrived to this Gulf Coast town destroyed by Hurricane Katrina. After meeting with state and local officials, Cheney and his wife, Lynne, toured a particularly damaged part of the town.

The vice president told reporters he was struck by the "very positive, can-do" attitude of Mississippians toward the help they are getting. In general, Mississippi officials have been much more complimentary of the federal hurricane response than those from Louisiana and, particularly, New Orleans.

President Bush dispatched Cheney to the region, amid persistent criticism of the sluggish pace of the federal piece of the response, to examine any bureaucratic red tape getting in the way of helping people and to focus on the long-term issues at hand.

"I think the progress we're making is significant," Cheney said. "I think the performance, in general, at least in terms of the information I've received from locals, is definitely very impressive."

He added: "That's not to say there's not an awful lot of work to be done — there is."

While Cheney spoke, a passer-by hurled an expletive at the vice president. "First time I've heard it," Cheney said, when asked if he was hearing a lot of such sentiments.

Cheney walked about two blocks from the Gulf of Mexico along a street littered with broken wood, downed trees and furniture. Some houses were severely damaged, some hardly at all.

He talked to a man whose house was knocked off its foundation and had extensive roof damage and two or three arm chairs sitting in the front yard. He visited Rebecca Dubuisson, who said she spent a year and a half adding an extension on her house only to see it wiped away by the hurricane. "We've got a beach view now," she said.

Dubuisson said she didn't want to criticize the relief effort. "I don't know that you could have prepared for it," she said.

Cheney said immediate needs for the victims include providing housing, supplies and clean up. He also said mental health issues need to be addressed, but he didn't know how that would be approached.

Cheney said another issue is determining whether insurers should pay for damages if their policy did not include coverage for floods. Most insurance policies do not include flood coverage.

Most the people Cheney met with were friendly. Lynne Lofton, whose house further down the street was completely destroyed, was an exception.

"I think this media opportunity today is a terrible waste of time and taxpayer money," she said. "They've picked a nice neighborhood where people have insurance and most are Republicans."

Cheney was also accompanied by Attorney General Alberto Gonzales and Homeland Security Secretary Michael Chertoff.

First Lady Gives Award, Talks About Katrina's Impact (DMR)

By Thomas Beaumont

Des Moines Register, September 9, 2005

First Lady Laura Bush visited Des Moines today, tying her usual focus on education to her role in encouraging a nation weary from Hurricane Katrina.

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"As other children around the children around the country are going to school, all of us are thinking about the children in Louisiana and Mississippi and Alabama who aren't in their regular schools because their schools have been hurt," the first lady said during her stop at Lovejoy Elementary School on the city's southeast side.

Mrs. Bush announced a web site where school districts around the country could post lists of available supplies. Those supplies would be for schools receiving an influx of students displaced by the storm.

The web site is www.ed.gov and the link is "Hurricane Help for Schools."

The first lady also awarded Lovejoy math teacher Judy Kinley Iowa's American Star of Teaching, an award given to one educator in every state and the District of Columbia.

Kinley was cited for her work establishing the Des Moines Public School District's math curriculum, especially for students not proficient in English.

Mrs. Bush had traveled from Washington, D.C., Thursday morning.

The first lady, traveling with U.S. Secretary of Education Margaret Spellings, toured the school before presenting Kinley with the award in a surprise ceremony.

The school stop was Mrs. Bush's only Iowa event. She left the state, headed for hurricane-ravaged Mississippi, shortly before noon.

First Lady Comforts Storm Refugees In DeSoto County (BSH)

Biloxi Sun Herald, September 9, 2005

SOUTHAVEN, Miss. - First Lady Laura Bush visited with hurricane victims in Southaven Thursday and cradled what could be the storm's youngest refugee - a three-day old infant born to a New Orleans couple seeking shelter in Mississippi.

"Our hearts have been so warmed by the response," said Bush, a former elementary school librarian, as she spoke at Greenbrook Elementary School. The school has among the highest concentration of students in the district displaced by Hurricane Katrina last week.

Bush, who had visited a school in Iowa earlier in the day, praised DeSoto County residents and Superintendent Milton Kuykendall for enrolling storm refugees in the DeSoto County School District. DeSoto County was among the first school districts in the state to welcome students whose schools in Louisiana and south Mississippi were obliterated by Katrina.

Bush, who was making her second stop in Mississippi in less than four days, said she has been encouraged by the love and support that other children have shown toward the newcomers.

Bush and her husband, President George W. Bush, made a stop in Poplarville earlier in the week.

"Children will be very welcoming," the First Lady said. "It's an opportunity for them to meet children from another part of the country and figure out what ways they can help."

Bush was joined by Margaret Spellings, U.S. Department of Education Secretary and Gayle Wicker, the wife of U.S. Rep. Roger Wicker, and other local dignitaries.

The spotlight, however, was on Bush, who comforted families and openly embraced many in the crowd.

"We're trying to get you back in your homes," Bush told nine students and about a dozen parents assembled in the school's library, many of them from New Orleans and southeast Louisiana.

For nearly ten minutes, she cradled 3-day old Irelle Carolynn Johnson in a private meeting with her parents, Irene and Quintell Johnson, at Goodman Oaks Church of Christ.

Betty Shackleford, a volunteer with relief efforts at the church, said the infant was born at Baptist Memorial Hospital-DeSoto on Tuesday when another volunteer had taken the child's mother out to shop for clothes and food, Irene Johnson soon went into labor and delivered Irelle. Shackelford said the family has since been relocated to an apartment from the shelter where more than 164 evacuees have been helped so far.

"This whole community has come together," Shackelford said. "We've never done anything like this before."

First Lady Visits Southaven, Cheers Evacuees (CA)

By Jimmie Covington

Commercial Appeal (TN), September 9, 2005

DOJ_NMG_0003913

Hurricane evacuees at a Southaven church shelter said a visit by first lady Laura Bush on Thursday raised their spirits as they try to deal with their losses.

"It is an extraordinary thing to have her here," said Hope Thonn, 44, of Chalmette, La., who has been at the Goodman Oaks Church of Christ shelter since early last week with her husband, Davey, and six children.

"It just brought our spirits up and my family was very honored to be able to just take a picture with her."

Thonn said Bush's visit was a "little bit of good" in "all of the badness" that has occurred as a result of the storm. The Thonns' home and two commercial fishing boats were destroyed by Hurricane Katrina.

Shermaine Johnson, 33, of New Orleans, who is at the shelter with several family members, said, "For people at this shelter to just be thought about is just a great opportunity."

Bush drew applause from more than 100 evacuees and church volunteers when she entered the foyer of the church's education building shortly after 2 p.m.

Earlier, about 12:45 p.m., Bush also was greeted warmly at Greenbrook Elementary School in Southaven, where she visited a second-grade music class and met with nine evacuee children at the school and 12 of their parents.

Bush and U.S. Education Secretary Margaret Spellings visited a school in Des Moines before coming to Southaven. The Des Moines visit originally had been planned as a state-of-the-school year event, but as a result of the hurricane and its aftermath, Bush broadened the visit to include Southaven.

She said she wanted to come to DeSoto County because its school district has children in it from the Mississippi Gulf Coast and New Orleans, who are now unable to attend their own schools.

DeSoto is a county where President Bush received strong support in both of his presidential races. The President visited the county in 2003 as part of his last campaign.

Spellings said that in addition to the storm-related situation, the visit here was made because "this (Greenbrook) is a great school, great school district and (you have) a great superintendent (Milton Kuykendall). ... All of the schools made their adequate yearly progress."

Adequate yearly progress is a major standard under the federal No Child Left Behind Act.

At Greenbrook, Bush, who was dressed casually in dark slacks and a blue shirt, hugged the evacuee children and parents, and praised the parents for enrolling their children in school.

She called for all parents from areas affected by Hurricane Katrina to place their youngsters in school, even though they may have to transfer the children to other schools after a short period of time as they find new places to stay.

"It is important for their children to have the structure and routine of going to school, especially since many children have seen and suffered a lot of really terrible things," Bush told reporters who had gathered at the school.

Spellings said her department is preparing a plan to submit to Congress to provide financial assistance to school districts that are serving displaced students and to districts where schools were destroyed or heavily damaged by the storm.

Meantime, some federal requirements for schools are being waived to assist districts, including the granting of flexibility in some provisions of No Child Left Behind, Spellings said.

Answering a reporter's question at the school, the first lady said she believes the federal government response to the disaster has overall been "very good."

"I think we now know that New Orleans is pretty much totally evacuated," Bush said. She said a "huge number of people" have been rescued, including many who were rescued one at a time by helicopter.

Also, shelters that have been set up all across the country are going well, she said.

"This was a huge storm, an unbelievably devastating storm, the largest probably that our country has ever seen," Bush said. "When you consider that and when you consider the number of communities, particularly in this state, that were literally washed out, I think overall you have to say it was a very good response."

Widespread criticism has been directed at the Bush administration, charging that the administration responded too slowly to the disaster.

Bush and Spellings returned to Washington after their visit to the Goodman Oaks Church shelter.

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Among politicians and other leaders who were present during Bush's visit were Southaven Mayor Greg Davis, county Supervisor Tommy Lewis. school board president Ann Jolley and Gayle Wicker, wife of U.S. Rep Roger Wicker (R-Miss.).

Davis said Bush's visit shows that the hearts of people "from the top office of the United States on down" are going out to victims of the hurricane.

Schools Supt. Kuykendall said Thursday was a "great day" for the county and the school district. He said Bush's visit shows her passion for serving children.

Wife Says Criticism Of Bush 'Disgusting' (MACT)

The Macon Telegraph, September 9, 2005

WASHINGTON - Laura Bush described as "disgusting" comments by rapper Kanye West and Democratic chairman Howard Dean blaming her husband for the disproportionate number of black hurricane victims.

"I think all of those remarks are disgusting, to be perfectly frank, because of course President Bush cares about everyone in our country," the first lady said Thursday in an interview with American Urban Radio Networks.

"And I know that. I mean, I'm the person who lives with him," she said. "I know what he's like and I know what he thinks and I know how he cares about people."

The president has faced sharp criticism over federal relief efforts for Hurricane Katrina victims, who are disproportionally black and poor.

On a nationally televised telethon Friday, broadcast live on NBC, West departed from the script to declare "George Bush doesn't care about black people."

Earlier this week, Dean, chairman of the Democratic National Committee, told the National Baptist Convention of America, a black religious group, that race played a role in the hurricane casualty numbers.

Mrs. Bush said it was clear that poor people were more vulnerable when the hurricane hit.

"They lived in poorer neighborhoods. Their neighborhoods were the ones that were more likely to flood, as we saw in New Orleans. Their housing was more vulnerable," she said.

"And that's what we saw, and that's what we want to address in our country."

Political Issues Snarled Plans For Troop Aid (NYT)

By Eric Lipton, Eric Schmitt And Thom Shanker

The New York Times, September 9, 2005

This article was reported and written by Eric Lipton, Eric Schmitt and Thom Shanker

WASHINGTON, Sept. 8 - As New Orleans descended into chaos last week and Louisiana's governor asked for 40,000 soldiers, President Bush's senior advisers debated whether the president should speed the arrival of active-duty troops by seizing control of the hurricane relief mission from the governor.

For reasons of practicality and politics, officials at the Justice Department and the Pentagon, and then at the White House, decided not to urge Mr. Bush to take command of the effort. Instead, the Washington officials decided to rely on the growing number of National Guard personnel flowing into Louisiana, who were under Gov. Kathleen Babineaux Blanco's control.

The debate began after officials realized that Hurricane Katrina had exposed a critical flaw in the national disaster response plans created after the Sept. 11 attacks. According to the administration's senior domestic security officials, the plan failed to recognize that local police, fire and medical personnel might be incapacitated.

As criticism of the response to Hurricane Katrina has mounted, one of the most pointed questions has been why more troops were not available more quickly to restore order and offer aid. Interviews with officials in Washington and Louisiana show that as the situation grew worse, they were wrangling with questions of federal/state authority, weighing the realities of military logistics and perhaps talking past each other in the crisis.

To seize control of the mission, Mr. Bush would have had to invoke the Insurrection Act, which allows the president in times of unrest to command active-duty forces into the states to perform law enforcement duties. But decision makers in Washington felt certain that Ms. Blanco would have resisted surrendering control, as Bush administration officials believe would have been required to deploy active-duty combat forces before law and order had been re-established.

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While combat troops can conduct relief missions without the legal authority of the Insurrection Act, Pentagon and military officials say that no active-duty forces could have been sent into the chaos of New Orleans on Wednesday or Thursday without confronting law-and-order challenges.

But just as important to the administration were worries about the message that would have been sent by a president ousting a Southern governor of another party from command of her National Guard, according to administration, Pentagon and Justice Department officials.

"Can you imagine how it would have been perceived if a president of the United States of one party had pre-emptively taken from the female governor of another party the command and control of her forces, unless the security situation made it completely clear that she was unable to effectively execute her command authority and that lawlessness was the inevitable result?" asked one senior administration official, who spoke anonymously because the talks were confidential.

Officials in Louisiana agree that the governor would not have given up control over National Guard troops in her state as would have been required to send large numbers of active-duty soldiers into the area. But they also say they were desperate and would have welcomed assistance by active-duty soldiers.

"I need everything you have got," Ms. Blanco said she told Mr. Bush last Monday, after the storm hit.

In an interview, she acknowledged that she did not specify what sorts of soldiers. "Nobody told me that I had to request that," Ms. Blanco said. "I thought that I had requested everything they had. We were living in a war zone by then."

By Wednesday, she had asked for 40,000 soldiers.

In the discussions in Washington, also at issue was whether active-duty troops could respond faster and in larger numbers than the Guard.

By last Wednesday, Pentagon officials said even the 82nd Airborne, which has a brigade on standby to move out within 18 hours, could not arrive any faster than 7,000 National Guard troops, which are specially trained and equipped for civilian law enforcement duties.

In the end, the flow of thousands of National Guard soldiers, especially military police, was accelerated from other states.

"I was there. I saw what needed to be done," Lt. Gen. H Steven Blum, chief of the National Guard Bureau, said in an interview. "They were the fastest, best-capable, most appropriate force to get there in the time allowed. And that's what it's all about."

But one senior Army officer expressed puzzlement that active-duty troops were not summoned sooner, saying 82nd Airborne troops were ready to move out from Fort Bragg, N.C., on Sunday, the day before the hurricane hit.

The call never came, administration officials said, in part because military officials believed Guard troops would get to the stricken region faster and because administration civilians worried that there could be political fallout if federal troops were forced to shoot looters.

Louisiana officials were furious that there was not more of a show of force, in terms of relief supplies and troops, from the federal government in the middle of last week. As the water was rising in New Orleans, the governor repeatedly questioned whether Washington had started its promised surge of federal resources.

"We needed equipment," Ms. Blanco said in an interview. "Helicopters. We got isolated."

Aides to Ms. Blanco said she was prepared to accept the deployment of active-duty military officials in her state. But she and other state officials balked at giving up control of the Guard as Justice Department officials said would have been required by the Insurrection Act if those combat troops were to be sent in before order was restored.

In a separate discussion last weekend, the governor also rejected a more modest proposal for a hybrid command structure in which both the Guard and active-duty troops would be under the command of an active-duty, three-star general - but only after he had been sworn into the Louisiana National Guard.

Lt. Gen. James T. Conway, director of operations for the military's Joint Chiefs of Staff, said that the Pentagon in August streamlined a rigid, decades-old system of deployment orders to allow the military's Northern Command to dispatch liaisons to work with local officials before an approaching hurricane.

The Pentagon is reviewing events from the time Hurricane Katrina reached full strength and bore down on New Orleans and five days later when Mr. Bush ordered 7,200 active-duty soldiers and marines to the scene.

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After the hurricane passed New Orleans and the levees broke, flooding the city, it became increasingly evident that disaster-response efforts were badly bogged down.

Justice Department lawyers, who were receiving harrowing reports from the area, considered whether active-duty military units could be brought into relief operations even if state authorities gave their consent - or even if they refused.

The issue of federalizing the response was one of several legal issues considered in a flurry of meetings at the Justice Department, the White House and other agencies, administration officials said.

Attorney General Alberto R. Gonzales urged Justice Department lawyers to interpret the federal law creatively to help local authorities, those officials said. For example, federal prosecutors prepared to expand their enforcement of some criminal statutes like anti-carjacking laws that can be prosecuted by either state or federal authorities.

On the issue of whether the military could be deployed without the invitation of state officials, the Office of Legal Counsel, the unit within the Justice Department that provides legal advice to federal agencies, concluded that the federal government had authority to move in even over the objection of local officials.

This act was last invoked in 1992 for the Los Angeles riots, but at the request of Gov. Pete Wilson of California, and has not been invoked over a governor's objections since the civil rights era - and before that, to the time of the Civil War, administration officials said. Bush administration, Pentagon and senior military officials warned that such an extreme measure would have serious legal and political implications.

Defense Secretary Donald H. Rumsfeld has said deployment of National Guard soldiers to Iraq, including a brigade from Louisiana, did not affect the relief mission, but Ms. Blanco disagreed.

"Over the last year, we have had about 5,000 out, at one time," she said. "They are on active duty, serving in Iraq and Afghanistan. That certainly is a factor."

By Friday, National Guard reinforcements had arrived, and a truck convoy of 1,000 Guard soldiers brought relief supplies - and order - to the convention center area.

Officials from the Department of Homeland Security say the experience with Hurricane Katrina has demonstrated flaws in the nation's plans to handle disaster.

"This event has exposed, perhaps ultimately to our benefit, a deficiency in terms of replacing first responders who tragically may be the first casualties," Paul McHale, the assistant secretary of defense for domestic security, said.

Michael Chertoff, the secretary of homeland security, has suggested that active-duty troops be trained and equipped to intervene if front-line emergency personnel are stricken. But the Pentagon's leadership remains unconvinced that this plan is sound, suggesting instead that the national emergency response plans be revised to draw reinforcements initially from civilian police, firefighters, medical personnel and hazardous-waste experts in other states not affected by a disaster.

The federal government rewrote its national emergency response plan after the Sept. 11 attacks, but it relied on local officials to manage any crisis in its opening days. But Hurricane Katrina overwhelmed local "first responders," including civilian police and the National Guard.

At a news conference on Saturday, Mr. Chertoff said, "The unusual set of challenges of conducting a massive evacuation in the context of a still dangerous flood requires us to basically break the traditional model and create a new model, one for what you might call kind of an ultra-catastrophe.""

State Rebuffed Security Overture (WSJ)

By John D. McKinnon

The Wall Street Journal, September 9, 2005

Parts of New Orleans became so dangerous last week that the Bush administration briefly sought to take control of local law enforcement to quell the violence and get help to victims.

The administration sent Louisiana Gov. Kathleen Babineaux Blanco a proposed memorandum of understanding last Friday, raising the possibility that the federal government would take command of the Louisiana National Guard to strengthen law-enforcement efforts in the wake of Hurricane Katrina, according to officials in the Bush administration and the governor's office. In a series of telephone conversations with the White House on Saturday morning, the governor's office refused.

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The memorandum amounted to a White House request for a federal takeover of local law enforcement, said Denise Bottcher, the governor's spokeswoman.

Gov. Blanco, in a letter to the White House on Saturday morning, said she would retain control of her state's National Guard troops, and requested the creation a federal joint task force that combined regular military and National Guard units. "Our response was 'no' to federalization, and let's have this instead," said Ms. Bottcher.

As the White House and state officials were discussing alternatives Friday -- the day President Bush first visited the storm-devastated Gulf Coast -- the violence in New Orleans began to subside amid a show of force by National Guard soldiers. That helped speed the evacuations of the Louisiana Superdome and the city's convention center, two sites where violence had erupted in the crowds of evacuees.

The Bush administration ultimately dropped the idea of a federal takeover of law enforcement.

By invoking the Insurrection Act, a president can use the military -- including federalized National Guard troops -- to quell civil disturbances. Under normal circumstances, regular military forces aren't allowed to engage in such law-enforcement activities. As the situation deteriorated in New Orleans last week, the White House weighed whether to use the military for law enforcement, an administration official said.

On Sept. 1, Gov. Blanco said that she needed 40,000 more troops, regardless of whether they were regular Army or National Guard troops. "I've actually asked for uniformed troops of any sort," she said. She added that she preferred to have more National Guard troops, according Ms. Bottcher.

In a letter to the president last Friday, she repeated the request. "Mr. President, only your personal involvement will ensure the immediate delivery of federal assets needed to save lives that are in jeopardy hour by hour," she wrote.

In a tense meeting with Mr. Bush at the New Orleans airport the same day, Gov. Blanco resisted the idea of federalizing the National Guard. When the president emerged from the meeting, Mr. Bush told New Orleans Mayor Ray Nagin that the governor "needed 24 hours to decide," Mr. Nagin said at a later news conference. Ms. Bottcher agreed that Mr. Bush and Ms. Blanco discussed the federalization of the National Guard.

Later on Friday, the White House formalized the offer in a memo to the governor's office, suggesting the possibility of a military takeover of the security effort.

The tense and ultimately fruitless negotiations last week apparently contributed to chilly relations between the White House and the governor's office. When Mr. Bush returned to Louisiana for a second visit on Monday, Gov. Blanco's staff learned of the visit from a newspaper reporter; the White House said it had trouble reaching the governor on Sunday to let her know.

When the two leaders toured an evacuee center in Baton Rouge, they worked different parts of the room. Some Republicans say privately that continuing cool relations between Mr. Bush and Gov. Blanco have contributed to discussions of setting up a public corporation to administer long-term relief and reconstruction funds for the region.

City Had Evacuation Plan But Strayed From Strategy (HC)

By Lise Olson

Houston Chronicle, September 9, 2005

Cancer patient Earl Robicheaux, his immune system depleted by radical chemotherapy, lay in a hospital bed as Hurricane Katrina bore down on New Orleans.

Trying to leave, he thought, seemed suicidal.

But after four days in the hospital's reeking darkness, he escaped via a Black Hawk helicopter that landed on the roof of the University Hospital under heavy guard because of the threat of sniper fire.

It was not the evacuation plan authorities had envisioned for its sick, its elderly and its poor. As the floodwaters recede, serious questions remain about whether New Orleans and Louisiana officials followed their own plans for evacuating people with no other way out.

The mayor's mandatory evacuation order was issued 20 hours before the storm struck the Louisiana coast, less than half the time researchers determined would be needed to get everyone out.

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City officials had 550 municipal buses and hundreds of additional school buses at their disposal but made no plans to use them to get people out of New Orleans before the storm, said Chester Wilmot, a civil engineering professor at Louisiana State University and an expert in transportation planning, who helped the city put together its evacuation plan.

Instead, local buses were used to ferry people from 12 pickup points to poorly supplied "shelters of last resort" in the city. An estimated 50,000 New Orleans households have no access to cars, Wilmot said.

State and local plans both called for extra help to be provided in advance to residents with "special needs," though no specific timetable was prepared. But phone lines for people who needed specialized shelters opened at noon Saturday — barely 30 hours before Katrina came ashore in Louisiana.

Many people from New Orleans ended up staying home or using a "last resort" special needs shelter state authorities and the city health department set up at the Superdome. Those who made it out of town initially found limited space. The state of Louisiana provided shelter in Baton Rouge and five other cities for a total of about 1,000.

In the city of New Orleans alone, more than 100,000 of the city's residents described themselves as disabled in a recent U.S. census.

Early mistakes

Hospitals were exempted from the mayor's mandatory evacuation order. But at least two public hospitals, loaded with more than 1,000 caregivers and patients, had their generators in their basements, which made them vulnerable in a flood. That violated the state's hurricane plan but had gone uncorrected for years because the hospitals did not have the money to fix the situation, a state university hospital official told the Chronicle.

The consequences came to bear in the images hours and days later: Elderly people dying outside shelters and hospitals that were losing power and, finally, their patients. Now, hurricane evacuation experts around the country are asking why New Orleans failed to prepare for the flood scenario from a Category 4 or 5 hurricane.

"Everybody knew about it. There's no excuse for not having a plan," said Jay Baker, a Florida State University associate professor who is an expert in hurricane evacuations and is familiar with New Orleans hurricane studies.

Tami Frazier, a spokeswoman for Mayor C. Ray Nagin, currently working out of Houston, refused to comment on direct questions this week or to answer several written questions sent via e-mail. She cited the need to focus on rescuing citizens and recovering bodies.

Robicheaux, the cancer patient who was trapped in a downtown New Orleans hospital, said he thought the city "decided basically to let it ride."

"When you're in a city like New York and there's a big snowstorm, you expect them to have plows. That's not the way it is here. There are no resources to stockpile supplies."

Saturday evening, Hurricane Katrina had intensified to Category 4, with the possibility that it could strike land as a killer Category 5 storm.

About 8 p.m., Mayor Nagin fielded an unusual personal call at home from Max Mayfield, director of the National Hurricane Center, who wanted to be sure Nagin knew what was coming.

Still, Nagin waited to issue a mandatory evacuation, apparently because of legal complications, said Frazier. She said the city attorney was unavailable for an interview to explain.

But Kris Wartelle, spokeswoman for the attorney general of Louisiana, said state law clearly gives the mayor the authority to "direct and compel the evacuation of all or part of the population from any stricken or threatened area."

"They're not confused about it. He had the authority to do it," Wartelle said.

The mandatory evacuation order came at 10 a.m Sunday.

Former Kemah Mayor Bill King, who has spent years trying to boost funding and organization for hurricanes planning in the Houston-Galveston area, said Nagin's decision to wait to order people out compounded the tragedy.

"To call an evacuation on Sunday morning when the storm was going to hit on Monday morning at 6 a.m. is just ... negligence," King said. "If he'd called it better than that he would have saved lives."

Special-needs evacuation

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The Chronicle reviewed Louisiana's Emergency Operations Plan, adopted in 2000. It calls for the establishment of specialized shelters for people with special medical needs. It also recommends that cities use public transportation to evacuate residents if necessary.

The city of New Orleans Comprehensive Emergency Management Plan suggested people develop their own way to get out. "The potential exists that New Orleans could be without sufficient supplies to meet the needs of persons with special considerations, and there is significant risk being taken by those individuals who decide to remain in these refuges of last resort," it says.

People who called for information on special needs shelters Saturday were directed to sites in Alexandria and in Monroe, La. — cities 218 and 326 miles away. The state scrambled to find 20 ambulances and some specialized vans to pick up fragile residents who needed rides.

"There were transportation systems in place to take people out of New Orleans, which was the preferred solution," said Kristen Meyer, a spokeswoman for the Department of Health and Hospitals. But she's not sure how many got out.

Some, including Lower 9th Ward resident Lois Rice, a paraplegic, became trapped in their homes when the floodwaters rose. She was rescued after using her air mattress to float into her attic.

Florida, by contrast, for two decades has required counties to establish and maintain permanent databases of "special needs citizens," and arrange rides for people with no transportation. The state also has shelters established for myriad medical conditions.

Florida emergency officials agree that last-minute planning simply doesn't work.

"Unless you planned in advance, it would be a catastrophe," said Guy Daines, a retired Florida emergency manager who is considered an expert in specialized evacuations.

In New Orleans, many people with special medical needs ended up at the last resort shelter in the Superdome.

New Orleans' own special needs evacuation plan, however, says that shelter is "NOT TO BE INTERPRETED AS A GUARANTEE OF SAFETY, and the City of New Orleans is not assuring anyone protection from harm within the facilities that are being offered or opened for this purpose."

"When I saw them loading special needs people into the Superdome the day before the storm, my heart was breaking," said Patti Moss, a Texas nursing professor who has developed a tracking system for such vulnerable citizens here. "They were in the path of the storm."

Two of the city's hospitals dedicated to serving the city's poor, University and Charity hospitals, quickly lost power, according to Leslie Capo, a spokesman for the Louisiana State University health sciences department.

After days in the dark, it took the National Guard, the U.S. Army and a Black Hawk to rescue Robicheaux.

"We had been kind of left on our own and I thought, 'This is a fine thank you,' " he said.

Planning for the poor

In storm-vulnerable Jefferson Parish and New Orleans, the American Red Cross worked before the storm to promote a "buddy system" to encourage everyone without cars to find rides through churches and other organizations.

But in an interview published July 18 in New Orleans City Business, Jefferson Parish hurricane planner Walter Maestri insisted New Orleans needed to do much more for those who didn't have cars.

"New Orleans has a significantly larger population without means of transportation, so it's a much bigger problem for the city. ... The answer is very simple — evacuation," he said.

As Hurricane Katrina approached Sunday morning, New Orleans officials advertised city buses would be used to pick people up at 12 sites to go to the "last resort" shelters.

It's unclear how many buses were used. Planners decided not to use any of the New Orleans school buses for early evacuation, Wilmot said.

Photographers recorded images of them lined up in neat rows and submerged — though one was commandeered by Jabbar Gibson, 20, who ferried 70 passengers to safety in the Reliant Astrodome.

Cut Off At Center Of Crisis, City Officials Faced Struggle To Keep In Touch (WSJ)

By Christopher Rhoads

The Wall Street Journal, September 9, 2005

NEW ORLEANS -- For days after Hurricane Katrina's devastating rampage through this city, a small corps of city leaders holed up at the Hyatt Hotel. They had virtually no way to communicate with the outside world.

A command center set up before the storm stopped working when the backup generator ran out of diesel fuel. Cellphone towers had been knocked out by high winds. Many land lines in the area were unusable.

When emergency power finally returned to the Hyatt, Scott Domke, a member of the city's technology team, remembered that he had recently set up an Internet phone account with Vonage Holdings Corp. He was able to find a working socket in a conference room and linked his laptop to an Internet connection.

At 12:27 a.m. on Wednesday, Aug. 31, the mayor's inner circle made its first outside call in two days. Eventually, the team was able to get eight lines running from the single Vonage account. That evening, the phone rang and it was President Bush calling from Air Force One.

During the first days of Katrina, the besieged mayor's office struggled to stay connected. It was forced to rely on ingenuity and extreme methods, including breaking in to an Office Depot -- as the chief of police stood watch and chased away unofficial looters -- to obtain necessary equipment. The Hyatt group would eventually be forced to move to a higher floor as a gang intent on breaking into its stockpile of food assaulted the hotel.

The tragedy has revealed many ways that the city was unprepared for the storm, flood and chaos that followed, and its communications system was no exception. Greg Meffert, the city's chief technology officer, says that the New Orleans emergency communication plan relied heavily on basic phone service remaining intact. Cellphone backups also failed, and the few older model satellite phones lost battery power and couldn't be recharged. But under duress, Mr. Meffert and his three-member team also found creative ways to cope with the disaster.

Hurricane conditions first hit the city on Saturday, Aug. 27. Mr. Meffert -- whose hats include deputy mayor, the mayor's right-hand man and CTO -- and several of his team and their families had decided the Hyatt, which is a couple of blocks from City Hall, was the best place to hunker down and establish communications for the storm. The hotel was better served with power and food than the city command post. With the mayor and some other officials, including the chief of police, they moved into some conference rooms on the fourth floor and figured they'd be in the hotel for a couple of nights at the most.

Over the next two days, what remained of the city government that had not evacuated before the storm -- a core group of about 15 people -- steadily descended into information darkness.

By the time the eye of Katrina made landfall that Monday morning, the group had already suffered more than 24 hours of hurricane-force winds, including a tornado that ripped off part of one side of the hotel.

"When the tornado rolled over us, you could hear a weird rumbling sound," recalled the 40-year-old Mr. Meffert this week, sitting unshaven behind his desk in City Hall in khaki shorts, a black T-shirt and white tennis sneakers. Army Rangers and other troops ran through the still submerged streets below his window. "You could hear the windows popping out like gunshots," he said.

Mr. Meffert says phone service went out at the Hyatt because of power failures and water damage to the hotel's main switch. After that, the Hyatt team's only available means of communication were police radios. But those were operating at a fraction of capacity because the generator serving the main transmission site broke down. Sometimes dozens of officers were trying to use one channel.

For the most part, city officials relied on "human chains of communication," he says. "It was like: 'Go tell so-and-so if you see them.' "

The team slept on floors and tables in the sweaty conference rooms. Then they figured the worst was over and that communications -- and normality -- would soon return.

Instead, the opposite happened.

On Tuesday, the levee at the 17th Street Canal broke, and water poured into the city, raising the water level by a foot or more every 20 minutes, Mr. Meffert estimates. Within hours, nearby streets were submerged in more than 12 feet of water. Water

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quickly engulfed the Hyatt and surrounding government buildings. Mr. Meffert and his team spent most of this day helping with rescue efforts, mostly from boats. "We were just pulling [people] from the water," he says.

Mr. Meffert evacuated his wife and two young boys to his parents' home in San Antonio. The evacuation party included the pregnant wife of the chief of police.

That evening Mr. Meffert realized things would get worse unless communications were restored, immediately.

That's when Mr. Domke had his brainstorm. For the next five days, virtually all communications out of New Orleans by the city's top officials depended on Mr. Domke's laptop and this single Internet phone account.

Mr. Meffert, a software entrepreneur before he joined the mayor's office in 2002, realized he needed more lines and more phones to cope with a rapidly deteriorating situation. Before dawn on Wednesday, Messrs. Meffert and Domke and some other aides drove a military Humvee into the darkness and devastation. They were accompanied by the chief of police, Eddie Compass.

Their destination was Office Depot, where they loaded up on phones, routers, printers and fax machines -- anything that was needed to support a government under siege by weather and crime. The store had already been looted of some supplies. While Mr. Meffert was looking for printer cartridges, several looters returned. Mr. Compass, the police chief, roared at the looters and chased them off, says Mr. Meffert.

Mr. Meffert told the chief he needed a large computer server for email. They found the one used by Office Depot in its backroom.

"Do you really need this?" Mr. Meffert says the police chief asked him.

"Yes, we do," Mr. Meffert says he replied.

The server was screwed into an equipment rack in the backroom. Without the use of tools, the chief bent parts of the metal rack and ripped the server out of its housing with his hands, Mr. Meffert says, adding: "I have never seen that before."

The team was sleeping and working out of a single conference room, called Burgundy D. There were enough cots for five people. Another half-dozen slept on the floor. In one corner, phones, routers, cables and other gear lay in a pile. Dirty blankets and clothes were scattered about.

On Wednesday evening, when Mr. Meffert was manning the phones, one rang. On the other end was President Bush in Air Force One. Mr. Meffert, now wearing the hat of secretary, scribbled down the number and sent someone to find Mayor Ray Nagin.

The mayor later recounted his conversation with the president in an interview with WWL-AM on Thursday. "I told him we had an incredible crisis here and that his flying over in Air Force One does not do it justice," the mayor said.

Later in the interview, conducted over the single Hyatt link, the mayor blasted the response to date. "I need reinforcements, I need troops, man. I need 500 buses, man," he said.

On Thursday morning, Mr. Meffert's team got word that 200 gang members were moving on the Hyatt, apparently aware that it still had food, drink and power. To signify that they were in the gang, members had made a distinguishing rip in their shirts, says Mr. Meffert. An elevated walkway from the Superdome connects to a shopping arcade, which in turn connects to the Hyatt.

Around 10 o'clock that morning, the team evacuated its fourth-floor command post for the 27th floor. The only equipment it brought along was a handful of cordless phones, which had a range of 300 feet. On the 27th floor, where the mayor was staying, the phones worked only if the user hung over the balcony toward the atrium inside the building.

"This was when the last parts of the government were about to come undone," says Mr. Meffert. "It felt like the Alamo -- we were surrounded and had only short bursts of communication."

With Police Chief Compass and other officers blocking the entrance, looters were not able to enter the Hyatt, Mr. Meffert says.

At the same time, water continued to rise around the building. Mr. Domke and Jimmy Goodson, an aide in charge of security for the team, realized that the electronics for the hotel -- upon which the single communication link depended -- were on the ground floor, perilously close to the rising water. They dispatched members of their group to throw sandbags around the electronics room. The water reached within three inches of the room but never damaged the electronics, Mr. Meffert says.

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New Orleans had an emergency communications plan, but it had serious flaws. The back-up communications of the city's Office of Emergency Preparedness consisted of a few older model satellite phones, but their batteries went dead and couldn't be recharged, Mr. Meffert says.

In the early stages of the storm, the city's emergency command office, on the ninth floor of city hall, got power from an emergency diesel generator. But by the time the hurricane passed, it had burned up about one third of its fuel. Fuel soon ran out completely and couldn't be replenished.

Meantime, the commercial phone systems that the city relied on blinked out during the storm and its immediate aftermath, according to Mr. Meffert. Land lines went dead in part because of switch and power failures, and city-issued cellphones stopped working after towers were blown down, he says. BellSouth Corp. says that its nearby telecom hub was operative throughout the crisis.

Mr. Meffert says the satellite phones were used in the early stages, but their batteries soon were drained. He tried to recharge one phone, but it wouldn't keep the charge, he says. "It kept flashing 'low bat,' " he recalls.

Mr. Meffert says that the city was unable to spend more on emergency communications because of a budget crisis and cuts in federal aid. But he doubts that additional money would have helped much. "Virtually no city could have ever prepared for something of this magnitude," he says.

When Mr. Meffert arrived at the mayor's office in 2002, budgets were calculated on cheap calculators, he says. Out of 70 major cities in the U.S., the New Orleans municipal Web site was ranked dead last that year in a quality survey.

This past year, Mr. Meffert's team constructed an innovative surveillance bubble over the city consisting of cameras, wireless Internet and software in an attempt to lower the city's record murder rate. Though controversial with civil-rights groups, the system has nearly halved crime in the 20% of the city where it operates, says Mr. Meffert. He distributed BlackBerrys among senior ranks in the government, devices that proved invaluable in this crisis once email resumed working late last week.

In the middle of the chaos several days ago, Mr. Meffert was notified that the city's Web site now ranks No. 1 of those 70 major U.S. cities. The site stayed up throughout the storm because Mr. Domke was able to shift it to a Dallas server.

Toward the end of last week, the "cavalry" began arriving, says Mr. Meffert, in the form of several thousand walkie-talkie phones provided by Sprint Nextel Corp. The phones operate directly between users within short distances, so they do not require cell towers to transmit.

At the same time, a team from computer supplier Unisys Corp. arrived, led by an ex-Army Ranger named Ed Minyard. In addition to providing equipment to begin constructing a wireless network in the Hyatt and City Hall, Mr. Minyard brought some other supplies: bottles of Wild Turkey whiskey.

"We had the necessary provisions," says Mr. Minyard. "These boys needed it."

La. Lawmaker Rebukes Federal Disaster Response (USAT)

By Andrea Stone

USA Today, September 9, 2005

WASHINGTON — A somber “daughter of the Crescent City” returned to Capitol Hill on Thursday to defend Louisiana's response to Hurricane Katrina and chastise how Washington handled the disaster.

Sen. Mary Landrieu, D-La., speaking on the Senate floor for the first time since the disaster, dismissed critics who have blamed local officials. The floodwaters destroyed a family retreat in Slidell and damaged her childhood home in New Orleans.

“It is not true that Louisiana was not prepared,” said Landrieu, who defended Democratic Gov. Kathleen Blanco and Mississippi Gov. Haley Barbour, a Republican. She said both had planned for such a disaster.

“I'm angry that some people in Washington … would blame state and local governments for something that is a federal responsibility,” she said in an interview later. “For God's sake, they were trying to make decisions under 10 feet of water.”

Other members of Congress, including House Majority Leader Tom DeLay, said that there were failures across the board and that Congress will investigate. “My impression is that the whole system broke down,” he said. “While the individual efforts of first responders and volunteers and National Guardsmen have obviously been beyond heroic, it's fair to say the overall response could've and should've been better.”

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Landrieu, 49, said she returned here to provide “an eyewitness account” and to push for quick aid. She is one of five members of Congress who lost homes.

An heir to one of Louisiana's political dynasties, Landrieu is the daughter of former New Orleans mayor Maurice “Moon” Landrieu. He called her in the Senate cloakroom minutes after her speech.

Landrieu is the oldest of nine siblings. Brother Mitch is lieutenant governor of Louisiana and was with her in a Baton Rouge command center when the storm hit. Despite the pleas of his family, he spent three days in a rescue boat where “he lifted the dead and alive out with his own hands,” she said.

But Landrieu, whose husband and two school-age children evacuated unscathed, offered few personal anecdotes Thursday. She focused instead on the Federal Emergency Management Agency and its “incompetent and insulting” response.

Landrieu said the “double tragedy” of a monster hurricane and burst levees could have been avoided, or at least alleviated, if federal officials hadn't denied or underfunded years of requests to improve flood barriers and slow coastal erosion. “Washington rolled the dice and Louisiana lost,” she said.

Senator Bears Witness And Bares Emotions (WP)

By Mark Leibovich

The Washington Post, September 9, 2005

Mary Landrieu returned to Washington yesterday, slogging through a day of official business as if through water.

"If my heart is a little heavy today, it's because I've seen more in the last two weeks than I've seen in my entire life," the Louisiana senator said in a floor speech. She stood at her desk, with colleagues rapt in their seats -- nearly all of them fellow Democrats (on orders from Minority Leader Harry Reid) and at least one Republican (Thad Cochran of Mississippi). Sniffles were audible from the gallery as Landrieu catalogued "what I've seen." Everyone knows what she saw, at least in its wide-angle contours of aerial devastation shots and death estimates.

But there was a vivid sense of otherness to Landrieu's day at the Capitol yesterday. She had the shellshocked bearing of someone who's been in a place difficult to describe. People greeted Landrieu delicately, like a mourner.

"This is all just so surreal," Landrieu said in a brief interview after her speech. She had spent the past 10 days at an Embassy Suites in Baton Rouge after evacuating her family's summer home in Slidell on Lake Pontchartrain, since obliterated. Last she heard, her childhood home in New Orleans was filled with five feet of water. Her mother and father -- the former mayor of New Orleans -- are okay, as are her eight siblings and 44 nieces and nephews. Of the seven Landrieu siblings who live in New Orleans, four had their homes destroyed.

She was reluctant to come back to Washington, Landrieu said. Don't focus on her, she pleaded -- a rare instance of a senator saying something like that and maybe even meaning it. But of course, there was fuss everywhere Landrieu went, the clop-clop-clop of her heels echoing down hallways amid camera clicks, processions of well-wishers, trailing reporters, the whole bit.

Still, she looked strangely isolated, even while Reid lavished praise on her at a late-morning news conference. He kept referring to her as "Mary," and Sen. Chuck Schumer patted her on the back. She barely mustered a smile all day. "Really, this is not about me," Landrieu said later, walking back to her office. "This is about telling the story. The full story."

Like every public official identified with Katrina, Landrieu has had her moments, good and bad. She publicly thanked federal and local officials on CNN, and received a swift and oft-replayed lecture from anchor Anderson Cooper, who derided her as "a politician." As the week wore on, though, she was spared much of the criticism endured by President Bush, FEMA head Michael Brown, Louisiana Gov. Kathleen Blanco and New Orleans Mayor Ray Nagin, among others.

Landrieu managed to avoid an attention-getting outburst at least until Sunday, when she appeared on ABC's "This Week" and said that "If one person criticizes them" -- meaning local officials -- "or says one more thing, including the president of the United States, he will hear from me. One more word about it after this show airs and I might likely have to punch him. Literally."

Landrieu revisited that interview during her 26-minute floor speech yesterday. "I want to be clear for the record in that piece that you all saw with me with George Stephanopoulos," she said. "I was not crying in anguish because the home that I walked out of with my children was gone. I knew it would be gone when I left. It was an anguished plea to the only person that I thought could hear, and that was God Himself."

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"I think the last week has definitely changed her," Landrieu's press secretary Brian Richardson said after the speech. "This is probably the most important point in her career."

He corrected himself, saying that this moment isn't about Landrieu, and, of course, it's not. "This is the most important issue of her career," he said, meaning the hurricane.

Landrieu got back to her Capitol Hill home late Wednesday night, in time to take her kids to school yesterday. At 10:45, she attended a brief meeting with Democratic senators in Reid's office. Landrieu was at once gracious and defiant, thanking the president and then -- in her floor speech -- ridiculing his statement last week that no one "anticipated the breach of the levees."

"Everybody anticipated the breach of the levee, Mr. President," Landrieu said. This included the clay figurine, Mr. Bill, from "Saturday Night Live." Landrieu is a friend of Walter Williams, a native of New Orleans and Mr. Bill's creator, and he had deployed the high-voiced and squishable icon in public service announcements about Louisiana's coastal erosion problems before the storm. "How can it be that Mr. Bill was better informed than Mr. Bush?" Landrieu asked in her one hint of a laugh line all day.

No one laughed.

Troops Escalate Urgency Of Evacuation (WP)

By Timothy Dwyer And Ann Scott Tyson

The Washington Post, September 9, 2005

NEW ORLEANS, Sept. 8 -- Outside Kajun's Pub, between the relatively dry French Quarter and the heavily flooded Ninth Ward, bar owner JoAnn Guidos loaded up her 1991 Ford Econoline van with clothing, liquor and other necessities Thursday morning. After holding out for 10 days, Guidos and her friends were finally leaving New Orleans and heading to high ground.

The beer was still cold, thanks to a working generator, and hopes for customers were strong as the flood-ravaged city fills with thirsty soldiers and emergency workers.

But on Wednesday night, Guidos said, armed federal agents identifying themselves as U.S. marshals confiscated her weapons and ordered her and six friends to leave by noon Thursday.

"When you get 15 M-16s pointed at you and they line you up against the wall, it's kind of scary," said Guidos, 55.

With floodwaters continuing to recede and cleanup efforts beginning in earnest, police and the military set out on an aggressive door-to-door campaign here Thursday, urging remaining residents to leave or be removed by force.

The former Big Easy took on the air of a military encampment, as thousands of reserve and active-duty troops began patrolling the city and assisting police in search-and-rescue missions. Houses were marked with codes indicating whether any residents -- living or dead -- were found inside. Emergency workers intensified efforts to divide the city into grids in order to methodically retrieve an unknown number of corpses still in the floodwaters or entombed in ruined homes and businesses.

Although the mayor issued a forcible evacuation order, Louisiana and federal officials said they remained hopeful that most stragglers will leave voluntarily when faced with urgent warnings about dwindling supplies and hazardous floodwaters.

"We need everybody out so we can continue with the work of restoring this city," Vice Admiral Thad W. Allen, the U.S. Coast Guard chief of staff who has taken over the federal response in New Orleans, said early in the day on CBS.

P. Edwin Compass, the superintendent of police, said there are thousands of people remaining in the city but that authorities are determined to get everyone out. He said as little force as necessary would be used but that staying is not an option. Anyone with a weapon, even one legally registered, will have it confiscated, he said.

"No one will be able to be armed," Compass said. "Guns will be taken. Only law enforcement will be allowed to have guns."

The evacuation effort, however, appeared haphazard at best. Affluent areas that were not flooded, such as parts of the Garden District and Uptown, appear to be a low priority for mandatory evacuations.

In the dry neighborhood of Marigny Triangle, residents lounged in lawn chairs while listening to music blaring from "Radio Marigny," an impromptu outdoor music station. The area remained largely untouched by floodwaters, and residents say they see little reason to leave.

Peter and Amy Bas, who have four children ages 5 to 14, noted that they had already cleaned debris from their street. As the couple relaxed in their front yard, a Louisiana state trooper cruised by and asked if they needed diapers.

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"Where are we going to go?" Peter Bas asked. "They're going to take us and put us somewhere with 5,000 other people? We're going to stay."

Amy Bas added: "It could happen, but you think you're living in America and nobody is going to make you leave your home."

Police and the National Guard were aided by hundreds of paratroopers from the 82nd Airborne Division, who canvassed the French Quarter and neighborhoods surrounding the convention center and Superdome.

Active-duty U.S. troops such as the 82nd Airborne lack law enforcement authority in a domestic city such as New Orleans, and therefore must avoid direct involvement in forcibly evicting people. Local police warned that they expected friction with residents as they moved forcefully to pull them out, 82nd Airborne commanders said.

The paratroopers, along with other U.S. soldiers, patrolled parts of the city section by section in boats, trucks and on foot, looking to persuade more stragglers to leave.

"Hey! Evacuation!" Sgt. Geriah McAvin, 27, of Detroit yelled toward a block of red brick apartments as his 82nd Airborne platoon rolled into a flooded housing project in two lumbering, five-ton trucks. "Hey! We're here to take you out of here."

One man on crutches waved to the passing trucks from his front stoop. But when the five-ton circled around to get him, he hesitated.

"You're not taking me to the Superdome?" asked Alfred Jones, 43.

"No Superdome!" Dennison said.

Eventually, Jones gave in, wincing and moaning in pain as the soldiers lifted him onto the truck. Jones, who lived alone, has severe arthritis in his legs and said he had survived with the help of a friend who brought him food. But his friend left a few days ago, and Jones had not eaten for at least a day and he ran out of water on Wednesday. Given his leg condition, waving down a helicopter was out of the question, he said.

With major levee breaks patched earlier this week, and a growing number of pumps sending water into nearby Lake Pontchartrain, the floodwaters appeared to be dropping quickly on Thursday. Drier conditions in many areas allowed crews to step up efforts clearing branches, lumber, bricks and other debris, piling the rubble along roadsides and trolley tracks on St. Charles Avenue and other once-picturesque boulevards.

The Environmental Protection Agency also continued to monitor the foul and polluted floodwater that still covers much of New Orleans, testing for more than 100 kinds of chemicals, according to EPA Administrator Steve Johnson. The fetid water, along with the toxic sediment left behind, is one of the main reasons authorities are so adamant about a full evacuation, officials said.

"The water is unsafe," Johnson said in an interview. "This is not just putting in a couple of water bottles. . . . Ultimately we will do whatever testing is needed to assure ourselves, and the public, that the land and water is safe."

EPA officials hope to begin testing the sediment left in the hurricane's wake as early as next week, but they are waiting for an independent scientific board to approve their soil-testing plan. Johnson said he and others are "not letting bureaucracy get in the way" but are intent on devising a credible scientific approach to the survey.

As of Thursday, the official death toll from Hurricane Katrina rose to 118 in Louisiana and 201 in Mississippi. But those numbers, provided by authorities in charge of processing the dead, contrast wildly with projections and the preparations that are underway.

In Louisiana, a contractor working with the Federal Emergency Management Agency has set aside 25,000 body bags, and New Orleans Mayor C. Ray Nagin has said as many as 10,000 people could be dead in the city.

Ten days after the Category 4 storm struck the Gulf Coast, many officials said they still do not know what to expect, nor are they willing to provide projections for a final death toll.

"We're not giving estimates -- we're not looking for a body count," said Melissa Walker, a spokeswoman for the Louisiana Department of Health and Hospitals, working at the state emergency operations center. "These are individual lives that are lost, and each one of them is important."

One example of the difficulty in obtaining reliable information can be seen in St. Bernard Parish, a devastated area 20 miles southeast of downtown New Orleans. Rep. Charlie Melancon (D-La.) said earlier this week that he was told that as many as 100 people died at a warehouse in Chalmette while awaiting rescue, but Melancon later said that number was incorrect.

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Police Hold Off Use Of Force (USAT)

By Kevin Johnson

USA Today, September 9, 2005

NEW ORLEANS — Rescuers and police held back Thursday from their threatened use of force as teams searched New Orleans homes for remaining flood survivors and pleaded with them to abandon the stench-filled city.

Police Superintendent Eddie Compass urged residents to leave and said that at some point police and the National Guard would begin using a "minimal amount of force" to get people to leave.

"We are not going to be tough with these people," Compass said.

Mayor Ray Nagin had said he would order people out of the city if they did not leave.

Helicopters clattered overhead and National Guard troops peered into windows of homes in search of the sick or dying, the dead, and those resisting efforts to evacuate them.

"Certain people are hiding out and are not going to leave," said Adrian Tate, a carpenter with a pit bull dog. "They've got pets, and they ain't leaving them behind."

Some 400,000 homes were without power in New Orleans. Water service was restored to some parts of the city but is not drinkable. The floodwater was falling slowly as pumping continued, with waterlines more than a foot below the high-water mark.

In Mississippi, 203,000 homes and businesses were without power, down from about 800,000 after the hurricane hit. State economists pegged losses to the timber industry at $1.2 billion.

In Texas, a convoy of Mexican army troops bearing relief supplies and medical personnel arrived in San Antonio, marking the first time Mexican troops have entered the United States in more than a century.

Juliette Saussy, New Orleans director of emergency medical services, estimated that "hundreds of bodies" have been recovered.

The official death toll remained about 300.

"We saw a lot of dead people, both in the water and in buildings," said South Carolina game warden Gregg Brown, whose team scoured flooded New Orleans neighborhoods by boat.

Some suggested the final count may not be as horrific as earlier feared.

"I am thinking we are better off than we thought we'd be," said Louisiana state Sen. Walter Boasso, who represents St. Bernard Parish near New Orleans. Parts of that parish still sit under 8 feet of water.

Vice President Cheney toured Louisiana and Mississippi on Thursday. Standing by Louisiana's governor, Democrat Kathleen Blanco, Cheney spoke of how the flooding of New Orleans and the destruction of many communities in the region was "a major tragedy in modern times."

"The positive news is we appear to be making progress," Cheney said.

The Federal Emergency Management Agency said so far 47,300 people had been rescued and that 235,200 people were housed in 750 shelters.

President Bush declared Sept. 16 as a national day of remembrance for the dead and vowed to help states rebuild.

"The government is going to be with you for the long haul," Bush said.

Katrina Holdouts Yield To Power Of Persuasion (KRT)

By Natalie Pompilio, Susannah A. Nesmith And Martin Merzer

Knight Ridder, September 9, 2005

NEW ORLEANS - Block after block, door by door, eye to eye, police officers and soldiers edged closer Thursday to extracting the last holdouts from this dying city. Authorities did not wield brute strength - yet - but they employed considerable powers of persuasion.

"The soldier talked to me, and I'm sick, and he told me it would be best if I left to get my treatment," Dale Wolfe Noel, 68, of the Algiers section of New Orleans said after rescuers brought her to a makeshift first-aid center. "They're trying to get me some place good."

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More people seemed motivated to leave, having heard the term “mandatory evacuation,” and fewer than 10,000 people remained in a metropolis that was home to 485,000 before Hurricane Katrina all but destroyed it.

But some still resisted, and their stubbornness imperiled their lives. They were surrounded by sewage-contaminated floods and sporadic fires, and they had no access to fresh food or pure drinking water.

Thousands were feared dead. Those searching for survivors often found bodies floating in the floods, lying on broken highways or decomposing in previously hidden corners of the city, adding to the health risk and horror-movie reality.

“I can tell you there have been thousands of bodies," said Dr. Juliette Saussy, director of the city’s Emergency Medical Service.

In Washington, meanwhile, lawmakers moved forward on authorizing more help for the nearly 1 million people displaced - many forever - by Katrina.

The House of Representatives approved and the Senate was moving toward passage of a $51.8 billion special appropriation for disaster relief, just a fraction of the expected ultimate cost to restore lives and rebuild bridges, highways and other vital elements of the region’s infrastructure.

President Bush pledged to help victims cut through red tape to receive governmental assistance, including $2,000 debit cards for each displaced family. He said that more than 400,000 families already have applied for federal aid.

"We have much more work to do," Bush said during a Thursday afternoon address to the nation. “But the people that have been hurt by this storm know that - need to know that - the government is going to be with you for the long haul."

His vice president, Dick Cheney, visited Gulfport, Miss., Baton Rouge and New Orleans, publicly viewing the devastation and privately meeting with managers of the relief effort.

Most of the sludge from the Aug. 29 hurricane had dried to dust by the time Cheney arrived in Gulfport, but he saw piles of debris, fallen tree limbs and concrete slabs where nice homes and immaculate lawns once stood.

Cheney said he learned during his visit that Mississippians need help with insurance issues, housing and emotional healing. Still, he said, “Everybody I've met with was upbeat" and determined to rebuild.

But he was not uniformly welcomed. During a brief press conference in the middle of a Gulfport street, a young man twice shouted obscenities at him before walking away. “Go ---- yourself, Mr. Cheney," the man yelled.

Back in New Orleans, Police Superintendent Eddie Compass said voluntary evacuations were continuing, but the department had not yet forced anyone to leave.

"Once we feel sure that all voluntary evacuations are being completed, then the forced evacuations will take place," he said.

On the streets, authorities - many on loan from distant cities - noted a change in attitude.

“Everyone we're coming across today, they've heard the mayor's announcement about the mandatory evacuation, so they're saying ‘OK’ today," said Deputy Robert Rey of the Bernalillo County, N.M. Sheriff's Department. "A lot of people are ready to go at this point."

At the same time, the urgency of official appeals intensified, often to the edge of orders to leave.

"Y’all weren’t here the day after the storm hit, don’t be rushing us now,” James Savage, 41, told National Guard troops on Chef Menteur Highway in New Orleans.

He wanted to stay and take care of his dog, Snoop, but the soldiers convinced him that they would see to the dog’s care and make sure they were reunited.

“I like the way you handle your business,” Savage told them as he agreed to leave.

In the Lower Ninth Ward, where floodwaters receded and left a foul-smelling muck, troops confronted holdouts, many of whom eventually climbed aboard military trucks, taking a few belongings. They were taken to schools and the convention center.

Many soldiers and police learned there was an art to convincing residents to depart.

As New Orleans Police Officer Anthony Pardo tried to talk an elderly woman into leaving, she bit him on the arm. The bite didn't break the skin, Pardo said, laughing, and he was able to get her in the boat and out of her flooded community.

"She was scolding me and another officer like we were little kids," Pardo said. "But we got her to safety, and that's what matters."

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In other developments:

_ Northwest Airlines flight 889 touched down Thursday morning at the Gulfport-Biloxi International Airport, sending an important message to the rest of the country. Ten days after the storm, commercial service finally was restored.

"You can now access the Mississippi Gulf Coast," airport assistant director Ken Spirito said with pride. “We are back.”

_ More than 7,000 evacuees lined up outside Houston’s Reliant Center as the American Red Cross began distributing debit cards worth up to $2,000, a program separate from the federal one. Mounted police patrolled the area.

_ More than 100 demonstrators, rallied by the political action committee MoveOn.org, picketed in front of the White House to protest what they called the inept response to the disaster.

Ann Petrobich, 61, a Katrina victim from New Orleans, walked in the midday sun, carrying a blue and yellow sign reading “Shame” and “Help Hurricane Victims Now.” “Anger doesn’t begin to describe it,” she said.

_ President Bush designated September 16 as a national day of prayer and remembrance for Katrina victims. “Throughout our history in times of testing, Americans have come together in prayer to heal and ask for strength for the tasks ahead,” he said.

Some Holdouts Leave, Others Stay As Authorities Urge Evacuation (WSJ)

By Christopher Cooper And Dionne Searcey

The Wall Street Journal, September 9, 2005

Weary holdouts trickled out of New Orleans as teams of soldiers, police and medical personnel continued going door-to-door to implore thousands of residents still in the battered city to leave. But receding floodwaters could make some of those hunkered down in their homes more than 10 days after Hurricane Katrina hit even more determined to stay.

Meanwhile, Federal Emergency Management Agency officials, who on Wednesday said the agency would distribute 600,000 debit cards valued at $2,000 each to help victims of Katrina buy food, transportation and other necessities, announced that the cards won't be distributed on a wide scale.

Yesterday, FEMA spokesman David Passey could not elaborate on what he called "confusion" about the debit-card program but said the cards would be given only to people in the Astrodome in Houston. He didn't know whether people there were still getting them yesterday and couldn't say how many total cards had been distributed.

"We've determined normal delivery methods would be more helpful," said Mr. Passey. This was the first time FEMA tried to use debit cards.

In New Orleans, while crews are struggling to close one levee breach that is allowing water to flow into the city from Lake Pontchartrain to the north, water levels are declining in many inundated neighborhoods, including some where houses had been submerged as high as their rooftops.

Some major streets in the Lower Ninth Ward and neighboring St. Bernard Parish, trapped between three cascades of water as the storm barreled past New Orleans, were passable yesterday, though a thick coating of mud remained.

As the floodwaters receded, they also revealed fresh evidence of environmental destruction, including a thick, oily sludge coating trees, houses and roads throughout Meraux, a working-class community just east of New Orleans that is located near oil refineries and storage tanks. Workers in yellow, body-length suits were using squeegees to push the smelly mess into dark piles and load it into tanker trucks.

Still flooded are several residential areas of New Orleans, including the Gentilly, Mid-City and Broadmoor neighborhoods. But key tourist and historic districts such as the French Quarter and Garden District, generally located near the Mississippi River, are dry, and soldiers said many people remain in those areas.

The latest evacuations came as the House and Senate approved an additional $51.8 billion to finance recovery efforts, mostly for FEMA, boosting the federal price tag above $62 billion. on Thursday yesterday. The number of confirmed deaths in Mississippi reached 201, the Associated Press reported. Louisiana's death toll is 118, but that is expected to rise, because many people remain unaccounted for.

Gen. Ron Mason of the National Guard estimated that less than 10,000 people still are in New Orleans. While National Guard troops aren't forcing anyone to leave, they are working with police to cajole stubborn residents to evacuate. Adrian Tate, a

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41-year-old carpenter, said he was told by a New Orleans police captain who showed up yesterday morning that city officials have established a jail that will be used to lock up those who refuse orders to leave.

"What we're finding out is most people are willing to leave, especially when they find out the gravity of the situation...and when they find out it will take 80 days to pump the water out," Gen. Mason said. "When they hear that message, they're inclined to leave."

City medical officials said no major health epidemics have yet emerged, but they warned remaining residents not to make skin contact with the stagnant water. Meanwhile, search teams continued canvassing neighborhoods by pounding on doors, looking in windows and yelling to anyone inside. Mr. Tate was persuaded to leave by an infected mosquito bite on his forearm. "I can't get sick, man," he said just before climbing aboard a military truck with five other holdouts.

New Orleans Police Chief Eddie Compass said even relatively dry districts of the city will be cleared at gunpoint if necessary by his 900-person force. "We will be very respectful," he said. He gave no firm date for the forced evacuation, adding that "verbal judo" was the harshest technique currently being used.

In the Lower Ninth Ward, the water seemed to disappear overnight, probably because road-grading equipment had scraped the storm drains the day before.

In Meraux, the smell of petroleum hung thick in the air. Across the highway from a refinery that is surrounded by a residential neighborhood, two men in hazmat suits drained the contents of a battered tanker truck into a canal, using a thick black hose. The canal smelled like gasoline. Asked what they were doing, the men declined to comment. "I got a family, I'm not talking," one man said. Some residential streets up to a half mile away ran about a foot deep with what appeared to be crude oil.

Police Begin Seizing Guns Of Civilians (NYT)

By Alex Berenson And John M. Broder

The New York Times, September 9, 2005

NEW ORLEANS, Sept. 8 - Local police officers began confiscating weapons from civilians in preparation for a forced evacuation of the last holdouts still living here, as President Bush steeled the nation for the grisly scenes of recovering the dead that will unfold in coming days.

Police officers and federal law enforcement agents scoured the city carrying assault rifles seeking residents who have holed up to avoid forcible eviction, as well as those who are still considering evacuating voluntarily to escape the city's putrid waters.

"Individuals are at risk of dying," said P. Edwin Compass III, the superintendent of the New Orleans police. "There's nothing more important than the preservation of human life."

Although it appeared Wednesday night that forced evacuations were beginning, on Thursday the authorities were still looking for those willing to leave voluntarily. The police said that the search was about 80 percent done, and that afterward they would begin enforcing Mayor C. Ray Nagin's order to remove residents by force.

Mr. Bush, in Washington, urged the nearly one million people displaced by the storm to contact federal agencies to apply for immediate aid. He praised the outpouring of private charity to the displaced, but said the costs of restoring lives would affect all Americans, as would the horror of the storm's carnage.

"The responsibility of caring for hundreds of thousands of citizens who no longer have homes is going to place many demands on our nation," the president said in the Eisenhower Executive Office Building. "We have many difficult days ahead, especially as we recover those who did not survive the storm."

As Mr. Bush spoke, Vice President Dick Cheney was touring Mississippi and Louisiana, in part as an answer to the critics who have said that the administration responded too slowly and timidly to the epic disaster. At a stop in Gulfport, Miss., a heckler shouted an obscenity at the vice president. Mr. Cheney shrugged it off, saying it was the first such abuse he had heard.

Also on Thursday, Congress approved a $51.8 billion package of storm aid, bringing the total to more than $62 billion in a week. The government is now spending $2 billion dollars a day to respond to the disaster.

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The confirmed death toll in Louisiana remained at 83 on Thursday. Efforts to recover corpses are beginning, although only a handful of bodies have been recovered so far. Official estimates of the death toll in New Orleans are still vague, but 10,000 remains a common figure.

Mississippi officials said they had confirmed 196 dead as of Thursday, including 143 in coastal areas, although Gov. Haley Barbour said he expected the toll to rise.

"It would just be a guess, but the 200 or just over 300 we think is a credible and reliable figure," the governor said on NBC's "Today" show.

He also said electricity would be restored by Sunday to most homes and businesses in the state that could receive it.

No one would venture a prediction about when the lights would come back on in New Orleans.

The water continued to recede slowly in the city 10 days after Hurricane Katrina swept ashore and levees failed at several points, inundating the basin New Orleans sits in.

The Army Corps of Engineers has restored to operation 37 of the city's 174 permanent pumps, allowing them to drain 11,000 cubic feet of water per second from the basin. When all the pumps are working, they can remove 81,000 cubic feet of water per second, said Dan Hitchings of the engineering corps.

It will be months before the breadth of the devastation from the storm is known. But a report by the Louisiana fisheries department calculated the economic loss to the state's important seafood industry at as much as $1.6 billion over the next 12 months.

Louisiana's insurance commissioner, J. Robert Wooley, said the state had barred insurance companies from canceling any homeowner's insurance policies in the days immediately before the storm hit and afterward.

"All cancellations will be voided," Mr. Wooley said.

Across New Orleans, active-duty soldiers, National Guard members and local law enforcement agencies from across the country continued door-to-door searches by patrol car, Humvee, helicopter and boat, urging remaining residents to leave.

Maj. Gen. James Ron Mason of the Kansas National Guard, who commands about 25,000 Guard troops in and around New Orleans, said his forces had rescued 687 residents by helicopter, boat and high-wheeled truck in the past 24 hours.

General Mason said Guard troops, although carrying M-16 rifles, would not use force to evict recalcitrant citizens. That, he said, was a job for the police, not members of the Guard.

"I don't believe that you will see National Guard soldiers actually physically forcing people to leave," General Mason said.

Mr. Compass, the police superintendent, said that after a week of near anarchy in the city, no civilians in New Orleans will be allowed to carry pistols, shotguns, or other firearms of any kind. "Only law enforcement are allowed to have weapons," he said.

That order apparently does not apply to the hundreds of security guards whom businesses and some wealthy individuals have hired to protect their property. The guards, who are civilians working for private security firms like Blackwater, are openly carrying M-16s and other assault rifles.

Mr. Compass said that he was aware of the private guards but that the police had no plans to make them give up their weapons.

New Orleans has turned into an armed camp, patrolled by thousands of local, state, and federal law enforcement officers, as well as National Guard troops and active-duty soldiers. While armed looters roamed unchecked last week, the city is now calm.

The city's slow recovery is continuing on other fronts as well, local officials said at a late morning news conference. Pumping stations are now operating across much of the city, and many taps and fire hydrants have water pressure. Tests have shown no evidence of cholera or other dangerous diseases in flooded areas.

With pumps running and the weather here remaining hot and dry, water has visibly receded across much of the city. Formerly flooded streets are now passable, although covered with leaves, tree branches and mud.

Still, many neighborhoods in the northern half of New Orleans remain under 10 feet of water, and Mr. Compass said Thursday that the city's plans for a forced evacuation remained in effect because of the danger of disease and fires.

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Mr. Compass said he could not disclose when residents might be forced to leave en masse. The city's police department and federal law enforcement officers from agencies like United States Marshals Service will lead the evacuation, he said. Officers will search houses in both dry and flooded neighborhoods, and no one will be allowed to stay, he said.

Many of the residents still in the city said they did not understand why the city remained intent on forcing them out.

Holes In New Orleans Flood Walls Slowly Being Patched (USAT)

By Alan Levin

USA Today, September 9, 2005

NEW ORLEANS — "We need more trucks out here."

Richard Pinner drawls softly into his cellphone, but he means business. It's already midmorning Thursday, and the thousands of tons of rock he needs to block a gaping hole in the London Avenue Canal are nowhere in sight.

The Army Corps of Engineers is leading the effort to drain the vast areas of rotting water covering this city. So far, water levels throughout the city have dropped no more than a foot or two. As the corps' project manager on the canal, Pinner is a point man in the aim to get the water off the streets.

A caravan of dump trucks had made huge progress here the day before, but now the effort isn't going as fast as he'd like. "That's why we have to push … as hard as possible," he says.

Under a relentless sun and surrounded by diseased-laden waters, Pinner paced the side of the canal for about 12 hours, cajoling contractors to speed up, begging for portable pumps and solving problems.

For Pinner, the effort is personal. His home is several miles east of here.

"I've got about 8 feet of water in my house," he says. His wife and daughters have relocated to Baton Rogue. The sooner the levees are sealed and the city is pumped out, the sooner Pinner can try to salvage what's left back home.

With the closure earlier this week of a breach in the 17th Street Canal, the Army Corps' efforts to dry out New Orleans have shifted here to London Avenue. The battle was being fought on three fronts.

A crane was driving 60-foot-long steel panels into the muddy canal bottom to block additional water from entering. About 7,000 tons of stone and gravel were being dumped into a levee breach reachable via a narrow gravel road above the waters. Helicopters were dropping hundreds of 7,000-pound sandbags into the second breach, which still cannot be reached by work crews on the ground.

Pinner and Neil Hickok, project manager for Boh Bros. construction company, predicted the first of the two London Avenue breaches will be blocked by this morning. Once that's done, their crews can build a road on the levee to the second breach and close it off, too.

Across the city, crews continued to try to get giant pumps that failed in Hurricane Katrina's wake to come back to life. The corps predicts it could take up to 80 days to drain the city.

The debris clogging pumps could contain human remains, and in some cases that was slowing the recovery effort.

"This is a very deep emotional aspect of our work down there, and we need to make sure we respect as best as possible those remains," Army Corps spokesman John Rickey said.

By early afternoon, Pinner has a problem that makes him happy. A backup of more than 50 trucks snakes away from the work site, waiting to dump their loads into the breach.

"Every day we accomplish something else and get closer," he says.

Some Areas Inch Toward Normality (USAT)

By Dennis Cauchon

USA Today, September 9, 2005

BILOXI, Miss. — Jarin Pepper, manager of a Firestone auto repair shop, went to work Monday to clean up the mess from Hurricane Katrina. Moments later, somebody stopped and asked him to patch a tire. Then somebody else stopped. Then somebody else.

Instantly, the Firestone shop was unexpectedly open for business and going full blast, mostly repairing tires damaged by storm debris. "Oh, man, has it been busy!" says Pepper, 24.

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The skeleton of normality is slowly returning to the Mississippi Gulf Coast, which was smashed by Hurricane Katrina Aug. 29. Vast stretches of the area lie in ruins. Tens of thousands remain homeless, many living in tent cities. The drinking water is unsafe. The grim search for bodies goes on.

In a few patches, however, civil society is being restored thanks to electricity, running water, cellular phones and the extraordinary efforts of business owners and workers. About one in 10 businesses in Biloxi and Gulfport, the area's most populous cities, have reopened. Fewer businesses have come back in hard-hit small towns such as Long Beach, Pass Christian and Bay St. Louis.

Nearly everywhere, each day is noticeably better than the last, and progress can be seen almost hour by hour. Gas lines are almost gone. Workers are locating paychecks. A few ATM machines are working. And the lights are coming on.

The backbone of the recovery is an exhaustive effort by Mississippi Power to restore electricity to southern Mississippi. After the hurricane, none of its 195,000 customers had electricity. The company promises that by Sunday, power will be available to every customer in a building safe enough to use it — about 165,000 in all.

Mississippi Power President Anthony Topazi, 55, made a bold pledge that every customer who could use electricity would have it by Sunday, the fourth anniversary of the 9/11 attacks. “We wanted to make that date stand for something positive,” he says.

While government struggled to get organized, Mississippi Power deployed a repair force that exceeds the National Guard's presence here. The company recruited 10,000 workers from 23 states and Canada to do the repairs, while Mississippi Power's 1,250 workers handle logistics on their home turf.

The repair workers live mostly in air-conditioned tent cities set up at fairgrounds and military bases. They get two hot meals a day and work long hours installing poles and repairing substations.

The utility's efforts have been so successful that electricity is available in many of the most devastated neighborhoods, even though the homes are uninhabitable.

Hud Garrett, a foreman for Power Line Consultants of Farmington, Mo., watched his crew restore power on Royal Oak Circle in Pass Christian. The neighborhood of expensive homes was deserted. Boats were overturned, houses trashed. “I've never seen this much destruction,” Garrett says. But the electricity works.

Dramatic improvements in cellphone service also have removed a sense of isolation and offset the loss of many land lines, making communication imperfect but possible. Cellular South, the state's biggest cellphone company, had all but one of its 54 towers on the coast knocked out during the hurricane. Forty are back up. They handled a record 7 million minutes of use Tuesday.

The company stationed technicians along the coast before the storm and began repairs almost immediately. One technician lost his home, dropped his wife and three kids off at a shelter and fixed a cell tower within hours of storm's end.

“I used the Internet, I called my sister in Georgia and told my boss I'd be in to work tomorrow — all on my cellphone,” says Rodney Sanford, 29, a pizza delivery man living in a tent outside his home here.

As power and telephones return, the businesses opening first are the ones needed most: auto repair shops, furniture stores and lumberyards.

Twin Oaks Child Development Center is the only child care center open in Gulfport. It's in a badly damaged area, but the building survived unscathed.

“We had air conditioning and power and water. I said, ‘God, there has to be a reason,' ” says owner Susan Dosher, 51. She decided to open. She had nine kids Monday, 15 Tuesday, 20 Wednesday and 34 Thursday. The children's parents include doctors, nurses and military personnel involved in the recovery effort.

Even a few non-essential businesses are open. Mississippi Music of Biloxi opened Tuesday and has had one customer: A woman picked up a trumpet she bought for a grandson, who decided he didn't want to play.

“I think we opened just to feel normal again,” says Dave Roof, 49, a band instrument repairman. “And because I'm on commission,” he adds.

The first restaurants have reopened, causing excitement akin to a celebrity sighting.

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El Rancho Mexican Bar & Grill of Biloxi may have been the first restaurant to do so when it opened its doors at 11 a.m. Tuesday. “It was so busy we had to close early because we ran out of food,” says owner Enrique Vanegas, who has worked non-stop to save the business he acquired in November when he moved here from California.

The restaurant had no insurance to fix its hurricane-damaged roof, so Vanegas borrowed money from his employees and drove eight hours to Texas to pick up 100 bundles of shingles. The shingles so burdened his 1998 Ford F150 that he drove back on interstate highways at 45 mph, praying that his truck wouldn't break down.

Neither Vanegas nor his employees had ever been on a roof, but they fixed it the best they could Sunday. When Monday came, the restaurant had no food, so Vanegas drove three hours to Jackson, Miss., to buy lettuce, tomatoes, spices and other ingredients.

“The hurricane changed our lives for the better,” he says. “We appreciate what we have — our employees, our families, our kids — more than ever.”

A few fast-food restaurants opened Wednesday, causing a stir and long lines.

Elton Gary, 43, of Gulfport lost his job at a wax factory. The hurricane blew railroad cars into the building. But he is a happy man because he was near the front of the line when the KFC drive-through reopened.

“It was hot and greasy and tasted good!” he says of his six-piece chicken order. “You don't know how much you like it until you can't eat it.” Thursday, he had a lead on some ribs.

The post-hurricane moment Gary cherishes most is coming home late Tuesday and seeing his porch light on. He sat silently in the car and admired the light.

Then he went inside and turned on the air conditioning, as cold as it could go.

A City That Made An Art Of Funerals Now Just Makes Do (WSJ)

By Steven Gray And Evan Perez

The Wall Street Journal, September 9, 2005

NEW ORLEANS -- A solemn parade of uniformed officials and horses typically marks the funeral of a New Orleans police officer.

But the funeral Wednesday of Sgt. Paul Accardo fell far short of that: No horses. No parade. Not a single uniformed member of the New Orleans police department in attendance. The flooding of New Orleans meant that Sgt. Accardo, a New Orleans police spokesman who shot himself to death Saturday, was eulogized 75 miles away, in Baton Rouge. Nor did the body then proceed to the New Orleans cemetery where Sgt. Accardo wanted to be buried. Some family members and friends wore T-shirts to the funeral because their Sunday clothes were ruined in the flood.

"This isn't his city," said Cpl. Don Kelly, police spokesman in Baton Rouge.

Few cities bury their dead in the high style of New Orleans, where funerals can last a week, feature jazz bands as well as parades and draw bigger crowds than weddings do. But those traditions are, for the time being, yet another casualty of Hurricane Katrina. The same flood that ended so many lives in New Orleans shut down most of the city's institutions of death -- its funeral homes, churches and cemeteries. It also scattered the crowds that make New Orleans funerals so extraordinary.

For thousands of survivors, this loss could complicate the effort to accept the death of a loved one. "It means the end of the world to these people if they can't bury their dead in the traditional manner," says Larry Moore, general manager of the Rabenhorst Funeral Home in Baton Rouge.

Yesterday, a woman, her daughter and son-in-law held a short funeral service for the woman's husband, a 59-year-old man who died in the aftermath of the storm. Unable to reach family members displaced in the evacuation of New Orleans, the three sat alone sobbing in a small chapel at Mothe Funeral Home in suburban Harvey, as Boyd Mothe, a funeral-home official read the 23rd Psalm. Mr. Mothe, who described the service, wouldn't identify members of the family by name.

They had held the hastily arranged service to beat the local government's order that residents leave by the end of the day.

The woman had returned to Jefferson Parish on Monday, only to find her husband dead in their home, where he had stayed behind while the others headed to Houston as the storm approached. It's likely he died of asphyxiation from the exhaust of his

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electric generator. "She started to cry as she was telling me she didn't want to have to cremate him because of the condition of the body," says Boyd Mothe, whose family-run company runs 13 funeral homes in the region, several of which are still flooded.

In the end cremation wasn't necessary, and the body was interred before noon at Westlawn Memorial Park and Mausoleum.

Among the biggest adherents of the New Orleans funeral tradition are those most affected by Hurricane Katrina: impoverished blacks whose burial processions often feature parades and jazz bands. Some scholars have traced these so-called jazz funerals back to Africa. Duke University professor Karla F.C. Holloway says slaves brought to America held burial processions involving call-and-response chants and musicians beating drums and tambourine-like instruments to help the dead on their way to heaven.

"The slaves in New Orleans would always accompany the dead to the burial site with rejoicing, because the rejoice was a release into a different kind of spiritual world, an ancestral world, which mixed with the Christian idea of being released into heaven," says Dr. Holloway.

In recent years, the tradition took a turn, when street gangs adopted the ritual to bury their murdered members. Then, the tradition gained a hip-hop quality. One of the biggest jazz funerals in recent years was for James "Soulja Slim" Tapp, an up-and-coming rapper who was fatally shot on his mother's front lawn. Soulja Slim's jazz funeral in 2003 sent thousands into the city's streets.

So deeply connected are music and death in New Orleans that the Web site of the Orleans Parish Coroner features the sound of its chief, Frank Minyard, playing the jazz trumpet.

But Katrina began wrecking that tradition even before making landfall. Death notices published in the days before the hurricane arrived struck tentative notes. "The service for Jennie is contingent on the current storm conditions," read the obituary for 63-year-old Jennie Marie Latino, who was scheduled to be buried on the morning Katrina hit New Orleans.

Now, the dead in New Orleans include some corpses that were already lying in funeral homes before the storm hit. Some funeral homes are under water, says Gene Walters, executive director of the Louisiana Funeral Directors Association.

Some funeral homes evacuated their dead. The Mothe chain moved about 10 bodies to the Jefferson Parish Forensics Center, a new facility with plenty of refrigeration capacity. The center is now storing nearly 200 bodies of people who failed to survive the aftermath of the storm.

Tradition in New Orleans calls for open caskets. But the bodies still lying in the flooded wreckage of New Orleans won't be viewable.

Once rescue workers turn their attention from the living to the dead, corpses will be brought to a refrigerated warehouse put up after the hurricane by federal officials outside New Orleans. But already, coroners' offices across Louisiana are filling up with the dead from New Orleans, most of them people who failed to survive the evacuation. "We had four buses pull into town with DOA's among the evacuees," says Sherry Basco of the Rapides Parish Coroner's Office, a nearly four-hour drive from New Orleans.

Several coroners' offices are fielding double their usual number of fatalities, says Randolph Williams, president of the Louisiana Coroners' Association.

Funeral directors around New Orleans are receiving calls from coroners' offices far and wide, reporting the deaths of evacuees who had wished to be buried in New Orleans. But Mr. Walters of the state funeral directors' association says those wishes are going unfulfilled because of the flooded condition of New Orleans cemeteries which are above ground. They were designed that way because the city is largely below sea level. "We're recommending that these people be entombed in holding crypts, until the dead can return to New Orleans, he says.

Holding crypts and refrigeration could preserve not only the dead but also the tradition of New Orleans funerals, but not now. And not with the sheer number of Katrina victims.

In an average year, Louisiana buries 44,000 bodies. Nobody knows how many now lie in the waters of flooded New Orleans.

Standing In The Way Of A Good Story (WP)

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By Howard Kurtz

The Washington Post, September 9, 2005

When NBC anchor Brian Williams and his crew were trying to take pictures of a National Guard unit securing a Brooks Brothers shop in downtown New Orleans, a sergeant blocked the footage by ordering them to the other side of Canal Street.

"I have searched my mind for some justification for why I can't be reporting in a calm and heavily defended American city and cannot find one," Williams said yesterday. "I don't like being told when I can and cannot walk on the streets and take pictures."

But he grumbled and told his crew to stop shooting Wednesday, Williams said, because "authority in New Orleans is as good as the last person to make the rule. I didn't have time to take it up the chain."

As rescue and recovery efforts continue in the wake of Hurricane Katrina, reporters and press analysts are growing increasingly critical of restrictions on media access. The Federal Emergency Management Agency, under heavy journalistic fire for its slow response to the disaster, has sparked new criticism by asking news organizations not to take pictures of bodies being recovered in Louisiana and Mississippi.

FEMA spokesman Mark Pfeifle said yesterday that the agency "has asked that those images not be shown," but that this is only a request. "Our main desire is to avoid unfortunate situations where a family member waiting for news of a loved one would find out about their passing from a newspaper or watching television," he said.

Some Louisiana officials, whether taking their cue from FEMA or not, are attempting to make the policy mandatory. Washington Post reporter Timothy Dwyer said he heard a sergeant from a state agency telling a camera crew allowed on a boat in a flooded area near downtown New Orleans: "If we catch you photographing one body, we're going to bring you back in and throw you off the boat."

The irony, Dwyer said, was that two bodies -- one in a black bag, the other covered by a blue quilt -- were visible on the off-ramp of Interstate 10 that the boats were using as a staging area.

Television networks have continued to show some bodies, as they have since the hurricane struck, but often covered or in body bags, so identification is not an issue.

There have been other moments of tension. At a fire near the French Quarter, Williams noted in a posting on NBC's Web site, a police officer from out of town "raised the muzzle of her weapon and aimed it at members of the media . . . obvious members of the media . . . armed only with notepads." He also noted that the National Guard is barring journalists from the city's convention center and Superdome, the very facilities that evacuees were barred from leaving last week.

"I saw many fingers on triggers," Williams said yesterday, producing such a sense of being in a foreign land that he repeatedly caught himself saying, "When I get back to the States."

Aly Colon, who teaches ethics at the Poynter Institute for Media Studies, said that while journalists should not interfere with rescue work, "at a time like this, the more opportunity the news media has to tell the story the better. People are hungry for information that helps them know as independently as possible what's going on."

Alex Jones, who runs the Shorenstein media center at Harvard, said that while news outlets should not show the deceased until relatives are notified, reports of limited access are "very disturbing":

"There's a reasonable belief that part of the wish to restrict access is rooted in image and public relations. The history of this administration has been very intensely to control the information and control the message. They did that in Iraq and during the Afghanistan war."

The Pentagon had barred photographs of flag-draped caskets returning from Iraq, but after releasing some under Freedom of Information Act requests, agreed last month to quickly release more in settling a lawsuit by University of Delaware professor and former CNN correspondent Ralph Begleiter.

"You cannot report on the disaster and give the public a realistic idea of how horrible it is if you don't see that there are bodies as well," Rebecca Daugherty of the Reporters Committee for Freedom of the Press told Editor & Publisher.

Pfeifle said FEMA has barred reporters and photographers from some rescue and patrol boats, but on a case-by-case basis. "We have had to make decisions that we don't take press along because it takes up room that could be occupied by disaster workers or someone being rescued," he said.

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State and local authorities have often blocked journalists from entering shelters, although interviews with evacuees often take place outside them. Pfeifle defended the approach on privacy grounds, saying, "This is their home."

Some Urge Greater Use Of Troops In Major Disasters (WP)

By Bradley Graham

The Washington Post, September 9, 2005

The breakdown of local and state agencies that tried to respond to Hurricane Katrina has spurred fresh debate about whether disasters of such magnitude ought to be turned over to the U.S. military and other federal authorities to manage at the outset.

National plans developed after the Sept. 11, 2001, terrorist attacks rest on the notion that police, fire and other emergency groups are best positioned to serve as first responders. Federal agencies are supposed to function as backup to state and local ones, and military forces are meant to play a largely supporting role to civilian authorities.

But Katrina showed what can happen when the foundation of this organizational structure is quickly overwhelmed and disintegrates, according to government officials and independent analysts.

"The would-be first responders at the state and local level were themselves victims in very large numbers," Defense Secretary Donald H. Rumsfeld said at a news conference this week. As a result, "we had a situation that was distinctly different than in past events of this type."

Rumsfeld and other senior administration officials this week have resisted entering a public discussion of alternative approaches, insisting that the focus for now stay on cleaning up after Katrina. President Bush and congressional leaders have promised investigations into what went wrong in the response to the hurricane's devastation.

But Rumsfeld said the government would likely address again the question of "lead responsibility" for the Defense Department in disaster response. He noted that the issue was critical not only in responding to a natural catastrophe but also to a terrorist attack, because reliance on local authorities has been the basis of emergency planning in both cases.

Some homeland defense specialists have argued since Katrina struck that national plans must be revised to provide for a bigger and faster federalized effort, particularly in large-scale disasters.

"Only the federal government can mobilize a national response to catastrophic disasters," said James Carafano of the Heritage Foundation, a conservative think tank. "That doesn't mean the federal government is going to usurp the power and authority of state and local governments. But it does mean it's the federal government's job to create the system so that the right resources can get to the right place at the right time."

There is no guarantee that a greater federal role would improve response. Both the Pentagon and the Federal Emergency Management Agency have been widely faulted for not grasping quickly enough the scope of Katrina's damage and not committing sufficient people, supplies and equipment early on.

Historically, practical as well as legal considerations have favored relying on leadership at the grass-roots level.

"The police and fire departments and local emergency-service people are, by definition, the first ones on the scene," said H.K. Park, a former defense official who worked on homeland security issues during the Clinton administration. "And they have the advantage of knowing their communities.

"There's also a legal dimension," he added, "involving states' rights versus federal rights."

Further, military forces remain constrained from a domestic law enforcement role by the 1878 Posse Comitatus Act. Though the Pentagon has committed more than 8,000 active-duty Army and Marine troops and about 10,000 sailors, it has made it clear that these forces will not perform police functions.

National Guard troops, now numbering more than 46,000, constitute a far larger share of the military presence in the disaster area. They bring two main advantages. First, they possess medical, engineering, communication and logistical skills required in relief work. Second, Guard units, when operating under the command of state governors, are not limited by Posse Comitatus.

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Any move to assign greater responsibility to the Pentagon for domestic emergency management is likely to face resistance, particularly since the armed forces are already strained by the conflict in Iraq. Commanders remain sensitive to the notion of U.S. troops becoming an occupying force in their own country.

When Guard forces arrived in New Orleans late last week, Lt. Gen. Russel Honore, who is overseeing military operations in the region, ordered them to point their rifles down to reinforce the message they had come to provide assistance, not occupy the city.

Politically, too, the idea of an enhanced federal role may be a hard sell to some local and state officials if it means diminishing their authority. Louisiana Gov. Kathleen Babineaux Blanco resisted a Bush administration effort last week to exert federal control over all local police and state National Guard units.

Some experts also contend that an attempt to federalize a relief effort could backfire, resulting in less flexibility rather than more.

"You don't want to federalize the Guard," Park warned. "When Guard forces are controlled by the governor, they can engage in law enforcement duties. When federalized, they are subject to Posse Comitatus."

But Carafano and others argue that major disasters require a different approach, with only the federal government able to provide the resources and coordination necessary to manage a catastrophic event.

The problem, Carafano said, is that officials at all levels of government have appeared more inclined to focus on preparing for smaller disasters. As a result, much of the increased funding for emergency-response activities in recent years has gone toward equipment useful to local agencies, such as new fire trucks or protective fencing, that are of little value when overwhelming disasters strike.

"The money should have gone towards the things that enable local and state authorities to plug into a national system -- things like communications, emergency operations centers, training," he said. "All of these would have enabled the mayor of New Orleans to better communicate his needs."

Who Should Call The Cavalry If Katrina Calls? (WSJ)

By Daniel Henninger

The Wall Street Journal, September 9, 2005

"When you fly over the Gulf, it looks like a WMD exploded," Assistant Secretary of Defense Paul McHale told me this week. "Katrina very nearly approached the operational requirements of a WMD event; this was the first test of the high-end capability envisioned by the strategy."

The "strategy" is a three-month-old document called "Strategy for Homeland Defense and Civil Support." It describes the Defense Department's plans to defend the U.S. from a WMD attack or deal with the rubble and mass casualties of such an attack. Traditionally DoD has always helped civil authorities contend with the ruin of natural disasters. That Katrina's massive scale mirrored a WMD attack, obliterating a city, is a coincidence. But it raises the question of whether the states, or relatively vulnerable states like Louisiana, are up to the job of being "first responders" to a WMD attack or its natural equivalent. If they are not, we need to change some laws.

The popular impression left the past week -- that the government was wholly unprepared for Katrina -- is not true. Significant U.S. military assistance was on alert throughout the week prior to Katrina's landfall. Why those highly trained and drilled assets did not move into New Orleans sooner is a question that should now sit at the center of a debate over who should have the authority -- the states or the federal government -- to be the "first mover."

According to accounts provided by several sources involved with preparations for Katrina, the Pentagon began tracking the storm when it was still just a number in the ocean on Aug. 23, some five days before landfall in Buras, La. As the storm approached, senior Pentagon officials told staff to conduct an inventory of resources available should it grow into a severe hurricane. Their template for these plans was the assistance DoD provided Florida last year for its four hurricanes.

And a week earlier than this, Defense Secretary Rumsfeld issued an executive order delegating hurricane decision authority to the head of the Northern Command, Adm. Timothy J. Keating. Four days later, as the tropical storm soon to be named Katrina gathered force, Adm. Keating acted on that order.

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Before the hurricane arrived in New Orleans, Adm. Keating approved the use of the bases in Meridien, Miss., and Barksdale, La., to position emergency meals and some medical equipment; eventually the number of emergency-use bases grew to six. And before landfall, Adm. Keating sent military officers to Mississippi and Louisiana to set up traditional coordination with their counterparts from FEMA. As well, Deputy Defense Secretary Gordon England ordered the movement of ships into the Gulf.

By the Pentagon's account, it carried out these preparations without any formal Katrina-related request from FEMA or other authorities. The personnel behind the massive military effort now on display in Louisiana -- airlift evacuation, medical, supply, and the National Guard -- was on alert a week before the hurricane. According to Assistant Secretary McHale, "The U.S. military has never deployed a larger, better-resourced civil support capability so rapidly in the history of our country."

So where were they on the two days of globally televised horror? Why, for instance, didn't DoD fly all this help close to New Orleans as soon as it saw Katrina coming? The answer, in military argot, is that you don't deploy troops beneath a bombing run; Katrina predictably would have wiped out any help put in her uncertain path, just as she rolled over the Big Easy's wholly unprotected "first responders."

Then there's American history, tradition and law. Once disaster arrives, several federal laws designed to protect state sovereignty from being swept aside by a Latin-American-style national police force dictate that a state's officials, specifically the governor, is supposed to phone the federal government and describe what they need. If asked by Homeland Security, DoD will send in the cavalry. But this is one audible at the line even Don Rumsfeld doesn't get to call.

Post-mortem investigations will surely recreate, minute by minute, how Louisiana Gov. Blanco and Homeland Security Chief Chertoff idled away their time last week. But it appears now that Gov. Blanco did not make that crucial, early, legally mandated call to the President. Absent that, FOX and CNN became the call to the White House. The media message was "do something!" In fact, the president does have "do-something" authority. It's called the Insurrection Act, which is what John Kennedy used in 1963 against Gov. George Wallace, ordering the governor's own National Guard to turn against him and forcibly integrate the University of Alabama. As to the looters, who were breaking no evident federal law, the Posse Comitatus Act of 1878 explicitly forbids using the military (unless a governor uses her National Guard under "state status") in a domestic police function.

The question raised by the Katrina fiasco -- and by the Pentagon's new Homeland Defense Strategy to protect against WMD attack -- is whether the threat from madmen and nature is now sufficiently huge in its potential horror and unacceptable loss that we should modify existing jurisdictional authority to give the Pentagon functional first-responder status. Should we repeal or modify the Posse Comitatus Act so homicidal thugs have more to fear than the Keystone Kops? Should a governor be able to phone the Defense Secretary direct, creating a kind of "yellow-light authority" and cutting out the Homeland Security or FEMA middleman? Should presidential initiative extend beyond the Insurrection Act?

Instinct says the answer is forever no. Survival suggests we had better talk about it.

A Native Son Takes Charge In Gulf Coast (CSM)

By Patrik Jonsson

The Christian Science Monitor, September 9, 2005

CAMP SHELBY, MISS. - He's known for his searing one-liners; a relentless schedule that allows only two hours of sleep a night; and a growly, commanding presence. He's also in charge of the military's response to hurricane Katrina. If that superstorm now rivals the 9/11 terror attacks on the scale of national disasters, then First Army Lt. Gen. Russel Honoré has emerged as the Rudy Giuliani of the Gulf Coast.

A rough-talking Louisiana native, he is credited with changing the character of the relief effort from a mad scramble to an increasingly orderly and effective rescue and restoration. But General Honoré is also having to navigate a fine line between necessary leadership and the specter of federal troops using force against American citizens. So far, he appears to have succeeded.

"This is a particularly urgent situation and it looks like the military is the only thing that's functioned in this entire mess," says Michael Greve, an expert at the American Enterprise Institute, a Washington, D.C., think tank. "Once they arrived, things turned around."

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In fact, a SurveyUSA poll of 1,200 Americans this week voted General Honoré as the most effective leader of the relief operation, ahead of Louisiana Gov. Kathleen Blanco, New Orleans Mayor Ray Nagin and, at the bottom of the list, Michael Brown, director of the Federal Emergency Management Agency (FEMA).

Running on a couple of hours' sleep a night, Honoré brings an unbridled passion to his job, challenging subordinates to keep up, his aides say. "The name fits: If he's not Honoré, he's ornery," says one volunteer.

"He's less a man than a force of nature," says his battle captain, Maj. John Rogers. "He knows the way and that's why he's leading. If you wonder whether God has a role in this relief effort, General Honoré is proof: He's the right man for the job."

The general himself talks of Katrina - which caused potentially thousands of fatalities, displaced an estimated 1 million people, and wrecked at least 140,000 homes - as an enemy. "It was a classic military attack," he says here at Camp Shelby, the US Northern Command forward headquarters in the Katrina effort. "He destroyed communications and moved barges across roads. He created shock and paralysis."

Currently, the Department of Homeland Security, through FEMA, is running the operation, and the Army gets its orders from DHS Secretary Michael Chertoff. But it's the Humvees, five-ton trucks, and the spirit of the leader that are changing attitudes on the ground, and are largely responsible for bringing a sliver of hope to the shell-shocked victims of Katrina - and bolstering weary relief workers. Willing to get into even the dirtiest task, the general has, by force of personality, changed the pace of the operation as he zips by helicopter from New Orleans to Biloxi, from Gulfport to the canteen of the USS Iwo Jima tied up to the New Orleans docks. His energy is infectious. "There's hope in his message," says Lt. Col. John Cornelio.

As head of the First Army, the job fell to him. Before heading up First Army, the 34-year infantryman had done everything from commanding troops in Korea to developing readiness plans for improvised explosive devices in Iraq. The fact that he's a black Cajun, one of 11 children from Lakeland, La., hasn't hurt his efforts in dealing with the large numbers of blacks along the Gulf Coast. His daughter, out of town during the storm, and extended family live in and around New Orleans.

The general has become the man everybody wants to talk to, from Ted Koppel to Defense Secretary Rumsfeld. On Thursday morning, Sen. Trent Lott managed to secure a piece of his time for a quick debrief. But his aides say Honoré isn't immune to exhaustion, and they spend much of their time protecting him. "He can snap in a minute," one aide explained.

A man of a thousand one-liners, Honoré has told soldiers to keep their guns down: "This isn't Iraq." Aides-de-camp says he knows how to cut through the thickets of famously murky Louisiana politics. At a recent staff meeting here at Camp Shelby, he growled, "We're not stuck on stupid." It became the saying of the day, written on a bulletin board.

Sometimes the comments sting, and more than one National Guardsman - especially the men who weathered the storm with the masses in the chaotic Superdome - has bristled at his commands and wondered about the source of his authority. But most soldiers - and, in turn, the vast numbers of volunteers and rescuers - seem invigorated by his drive.

"Soldiers like to see leaders who are more 'Do as I do' than 'Do as I say,' " says Staff Sgt. Sharon McBride, who is bivouacked at Camp Shelby. "During a time like this, everybody is looking for someone who has that authority."

Still, some experts say the potential for a backlash against troops can happen if the demands of the natural disaster recede and restlessness or lawlessness rise.

The presence of an active-duty three-star general overseeing 18,000 troops inside the United States in a pocket of scattered unrest is a test of posse comitatus, or "power of the county." Congress enacted the idea after the Civil War at the behest of Southern senators to end the occupation of the South by the US Army.

"There are things that can happen that would become a real ugly picture," says Craig Trebilcock, a York, Pa., lawyer and judge advocate general in the Army Reserve. "It's a real tightrope act."

So far, Honoré has walked it, declining this week to forcibly remove the 10,000 people still in New Orleans. "That is not something for federal troops," he says. "We're doing what we can today and tomorrow to help people and save lives."

Storm Leaves Legal System A Shambles (NYT)

By Peter Applebome And Jonathan D. Glater

The New York Times, September 9, 2005

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BATON ROUGE, La., Sept. 8 - At Rapides Parish Detention Center 3 in Alexandria, which normally holds convicted felons, there are now 200 new inmates who arrived hot, hungry and exhausted on buses this week after being evacuated from flooded jails in New Orleans.

They have no paperwork indicating whether they are charged with having too much to drink or attempted murder. There is no judge to hear their cases, no courthouse designated to hear them in and no lawyer to represent them. If lawyers can be found, there is no mechanism for paying them. The prisoners have had no contact with their families for days and do not know whether they are alive or dead, if their homes do or do not exist.

"It's like taking a jail and shaking it up in a fruit-basket turnover, so no one has any idea who these people are or why they're here," said Phyllis Mann, one of several local lawyers who were at the detention center until 11 p.m. Wednesday, trying to collect basic information on the inmates. "There is no system of any kind for taking care of these people at this point."

Along with the destruction of homes, neighborhoods and lives, Hurricane Katrina decimated the legal system of the New Orleans region.

More than a third of the state's lawyers have lost their offices, some for good. Most computer records will be saved. Many other records will be lost forever. Some local courthouses have been flooded, imperiling a vast universe of files, records and documents. Court proceedings from divorces to murder trials, to corporate litigation, to custody cases will be indefinitely halted and when proceedings resume lawyers will face prodigious - if not insurmountable - obstacles in finding witnesses and principals and in recovering evidence.

It is an implosion of the legal network not seen since disasters like the Chicago fire of 1871 or the San Francisco earthquake of 1906, events in times so much simpler as to be useless in making much sense of this one.

"There aren't too many catastrophes that have just wiped out entire cities," said Robert Gordon, a professor at Yale Law School who teaches legal history.

The effects on individual lawyers vary, from large firms that have already been able to find space, contact clients and resume working on cases, to individual lawyers who fear they may never be able to put their practices back together. But the storm has left even prominent lawyers wondering whether they will have anything to go back to.

William Rittenberg, former president of the Louisiana Association of Criminal Defense Lawyers and a lawyer for 35 years in New Orleans, said he had spent the time since the storm living like a gypsy with his wife and two dogs, moving from Columbus, Miss., to Houston to San Antonio. Mr. Rittenberg said that his firm's main client had been the teachers union for the New Orleans schools, but that there is no way to know when or if school will resume this year.

"I really don't know if I have a law practice anymore," he said.

Some logistical issues are being addressed as the courts scramble to find new places to set up shop. The Louisiana Supreme Court is moving its operations from New Orleans to a circuit court in Baton Rouge. The United States Court of Appeals for the Fifth Circuit is moving to Houston, and electronic technology has allowed lawyers and courts to save files and documents in a way that would have been impossible in the past.

But the biggest immediate problem is with criminal courts in southern Louisiana, with thousands of detainees awaiting hearings and trials who have been thrust into a legal limbo without courts, trials, or lawyers.

So in Alexandria, a city in central Louisiana, in a scene repeated at prisons and jails throughout the state, Ms. Mann said she and other lawyers had interviewed all 200 inmates, and the criminal defense lawyers' organization was painstakingly trying to compile a registry of prisoners and lawyers. The goal is to put them together, though many of the prisoners do not yet have lawyers and many of the lawyers are scattered across the country.

Ms. Mann said that some prisoners, no doubt, were accused of serious crimes, but that most had been arrested on misdemeanor charges like drunkenness that typically fill local lockups. Most were either awaiting hearings or had not been able to make bond and were awaiting trial, which, for many, had been set for the day the hurricane hit.

"I talked to one guy who was arrested for reading a tarot card without a permit," she said. "These are mostly poor people. They haven't been in contact with their family. They have no word at all. A lot of them are pretty devastated. You had a lot of grown men breaking down and boohooing when you talked to them. The warden said they hadn't had food or water for two or three

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days. So a lot of them were just grateful to be out of the sun, in an air-conditioned place where they could find food and a shower and a mattress."

In addition to the logistical problems of setting up courts, finding a place to meet, and getting judges, lawyers and evidence, a major question looms about how to pay for the defense of indigent detainees. Louisiana has been in a low-grade crisis for years over the issue, and currently two-thirds of the money to defend those too poor to afford lawyers comes from court costs for traffic and parking offenses.

But with the evacuation of New Orleans and its environs, none of that money will be available.

Legal officials say that without a quick resolution of the problem the state may be forced to apportion cases to public defenders on a level that makes adequate representation impossible or to free prisoners rather than violate their constitutional right to a speedy trial.

More than a week after the storm, not all the news is bad. Some law firms, particularly larger ones with offices outside New Orleans, have reorganized with remarkable speed, saving records electronically, finding new space and housing for lawyers in Baton Rouge Lafayette, Houston, or other areas.

Lawyers at McGlinchey Stafford, a firm of about 200 lawyers based in New Orleans and with offices in Baton Rouge and other cities, were among the lucky ones. The lawyers, support staff and their families left New Orleans in advance of the storm as partners in its Baton Rouge office worked to find them housing and office space, said Rudy Aguilar, managing partner of the firm.

After the storm, Mr. Aguilar said, the firm put two college students whose parents worked for the firm on a plane to Chicago to buy computers for the new office space. The students rented a truck and drove the computers back to Baton Rouge for the new office, which by Labor Day was up and running, he said.

Within days, Rick Stanley of Stanley, Flanagan & Reuter, an 11-lawyer litigation firm had people working in borrowed space in offices in Baton Rouge and Lafayette and at homes in Jackson, Miss., and Amarillo, Tex. On Labor Day, Mr. Stanley signed a lease for new space in Baton Rouge on the hood of his car in a Home Depot parking lot.

"The Monday of the storm," he said, "I was in a state of shock, realizing the whole way of life we knew had passed away, and Tuesday I just said we need to get back up and running, and we did."

And some say, with the perverse logic of the law, Hurricane Katrina - months from now, when people return home - will spawn an unimaginable flood of legal issues. Beth Abramson who is organizing pro bono efforts for the state bar anticipates a torrent of legal issues having to do with ruined property, insurance, environmental issues and countless other concerns.

Michelle Ghetti, a law professor at the Southern University Law Center in Baton Rouge said some courts and lawyers moved faster than she could have imagined to shift operations and resume business. On the other hand, the legal issues posed by the storm multiply almost daily.

"Someone just mentioned child molesters," Ms. Ghetti said. "There's a registry in which people are supposed to be notified where they are. But for all we know, they're in shelters or being taken into people's homes.

"New things come up every day. I think this storm is going to produce more legal issues and complications than anyone has ever imagined."

Louisiana Legal System Is Snarled (WSJ)

By Thomas M. Burton

The Wall Street Journal, September 9, 2005

Hurricane damage has cast the Louisiana legal system into disarray, with courts and cases suspended or relocated, criminal and civil evidence imperiled or destroyed, and lawyers relocated around the U.S. desperately seeking work.

The extent of the destroyed evidence and lawsuit files remains uncertain, as several courts remain inaccessible or under water. But because of the damage, Louisiana Gov. Kathleen Babineaux Blanco this week issued an order suspending all state civil-court deadlines, such as statutes of limitations dictating when cases must be filed, at least through Sept. 25.

Many civil and criminal trial courts have suspended operations in the parishes, or counties, in the New Orleans area. The federal district court in New Orleans says it is "closed until further notice" and that it hopes to reopen in three locations -- Houma,

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Baton Rouge and Lafayette, La. The Louisiana Supreme Court has moved to Baton Rouge, and the U.S. Fifth Circuit Court of Appeals has shifted temporarily to Houston.

"There could be damage to the court records or filings, but we just don't know," said Robert E. Kleinpeter, president of the Louisiana Trial Lawyers Association, referring to several New Orleans-area courts.

Michelle Ghetti, a law professor at Southern University Law Center in Baton Rouge, said that various Louisiana prosecutors met via conference call Thursday in part to discuss the extent of damage to criminal-case evidence. In an email to law colleagues, Prof. Ghetti recently wrote that courts "in as many as eight parishes/counties are under water, as well as three of our circuit courts, with evidence/files at each of them ruined."

As for criminal courts, most law-enforcement authorities have been preoccupied with maintaining the peace as much as they can, and haven't had a chance to focus on courts or evidence. The damage to records and briefs at many law firms is expected to be immense. Tom Alexander of CLC Inc., a legal-referral company, said, "There are a lot of large law firms that are not going to be able to recover their files."

Katrina Leaves Louisiana Criminal Justice System In Disarray (KRT)

By Brad Townsend And Lee Hancock, Dallas Morning News

Knight Ridder, September 9, 2005

DALLAS - (KRT) - Hurricane Katrina has turned Louisiana's legal system upside down.

The Louisiana Supreme Court building was flooded and many critical files and evidence boxes are presumably destroyed. City and district court buildings in neighboring parishes have been similarly hit.

Lawyers and judges alike are scrambling to answer previously unimaginable questions: What will happen to pending cases? What about the out-on-bail defendants, witnesses and even law-enforcement officials who are among the several hundred thousand evacuees sprinkled throughout the country, many in Texas?

Judge Patrick Higginbotham said his formerly New Orleans-based 5th Circuit Court of Appeals will be back in business in Houston by next week.

But Katrina's devastating aftermath will be "enormously disruptive" for the Gulf Coast region's state and local courts, he said.

"I don't think the tasks we face are nearly as difficult as those in the state courts in the Gulf Coast region," the Austin, Texas-based Higginbotham said.

Louisiana State University law professor John Baker said the disruption is a "lesson about what many of us take for granted, of what it takes to function every day, of what it takes to keep a society together."

Baker had just returned from a class now brimming with displaced students from New Orleans-based Tulane and Loyola universities. Everyone, he said, left the room shaking their heads.

"It's not just the evidence, it's the witnesses," he said. "Where are the witnesses? Where are the defendants? How are you going to catch them?"

The day after Katrina hit, the Louisiana Supreme Court issued an emergency order, freezing deadlines and court proceedings through at least Sept. 9. On Tuesday, Gov. Kathleen Blanco, in response to requests from the state bar and other lawyers groups, suspended all court proceedings statewide though Sept. 25.

"The destruction and disruption of services and infrastructure to our system of justice caused by Hurricane Katrina will have a profound impact on the basic rights to an untold number of persons unless action is taken," the governor's order stated.

Federal courts for the entire Southeastern region of the state issued a similar order, with no set date for reopening.

"The entire federal infrastructure has been displaced throughout the region," said one federal law enforcement supervisor, who agreed to speak on condition of anonymity. "The courts have closed down."

The FBI office in New Orleans had wind and water damage that soaked case files and other key records, federal courts were shuttered with the evacuation and all federal law enforcement operations had to move agents and operations to Baton Rouge, Shreveport and other offices across Louisiana.

Another daunting issue is trying to track people still being monitored by the criminal justice system who have been dislocated by the storm.

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"Where are the bad guys?" said the federal law enforcement supervisor. "And out of these millions of evacuees, I'm sure there are a number of them who are on parole, probation or are sex offenders who are now in the great state of Texas. What do you do about that?"

Lawyers have scrambled to recreate files, find a place to work, and help clients with problems as basic as trying to determine whether their property was still standing.

On Wednesday, New Orleans lawyer Jeff Dye brought out two pirogues, boats similar to canoes, to take three doctor clients through their flooded neighborhood in the Garden District.

Dye said he stayed in the city to deal with pending legal business. Because he has a home office and his phone worked after the storm, he was able to resume his practice.

He and others said some law firms have bought and begun shipping computers to lawyers around the country, "developing virtual offices." The state bar and other legal organizations are mobilizing volunteers to help disaster victims deal with bureaucracy and get the legal system back on track.

But Dye and others say at least one firm has had to let employees go, and another has begun downsizing its permanent staff because of income disruptions.

Still, not all of the news is dire. Higginbotham said the 5th Circuit's plan is to "reopen" next week in Houston and move to a suburb of Baton Rouge within 60-90 days.

At least one news report stated that most of 5th Circuit's files were in the New Orleans building's basement, which was flooded. But Higginbotham said it is his understanding that files were not in the basement, and that the building sustained "some seepage," but no major damage.

Outside of New Orleans, the city's dislocated lawyers began scrambling for office space wherever they had landed. Some already had offices in Baton Rouge and others quickly found space to serve as a home base for their far-flung partners.

Bob Rooth, a partner in the city's oldest firm, Chaffe McCall, said he's set up a temporary practice in a large Dallas law firm. And he's enrolled his daughter in school in Dallas and plans to stay at least through the school year.

His firm's Baton Rouge office secured space for many of the New Orleans lawyers and staff and got a caravan of cars and trucks into New Orleans earlier this week. They retrieved client files and computers from their Energy Center offices, getting through checkpoints into the city by securing passes from city officials and from clients already authorized to be in the city on emergency business.

Oil and gas litigation specialist Ralph White, who evacuated to Oxford, Miss., contacted friends in a local law firm and started working out of their law library within two days. He said he brought none of his files but was able to start reconstructing them through electronic court databases, co-counsel in other cities and opposing counsel in his civil cases.

He said other lawyers in his 55-member firm, Montgomery Barnett, are scattered across the Southeast. Though they've been unable to get back into their offices in downtown New Orleans, they've been told that their files and equipment are intact.

"I'm on top of all my files, and I'm keeping up with all my cases, but it's been challenging," he said.

Amid Barrage Of Criticism, Defending His Department (NYT)

By Jere Longman

The New York Times, September 9, 2005

NEW ORLEANS, Sept. 8 - At 4:45 on Thursday morning, P. Edwin Compass III, superintendent of the New Orleans police, awakened a slumbering reporter at City Hall and cajoled him into an early morning trip around this devastated, increasingly deserted city.

"I've been working 21 hours a day; I have a bad back, two sprained knees, two sprained ankles, 55 stitches in my hand that haven't healed from having a cyst removed, hemorrhoids and glaucoma," Mr. Compass said. "I don't want to hear any excuses."

Wearing a back brace, he walked to a military truck and grunted up the ladder with the assistance of two National Guardsmen. But a tender lumbar region - strained in a fall from a truck several days ago - did not suppress his enthusiasm.

"Just remember," Mr. Compass, 47, said to his security detail. "You're with the chief. Nobody gets hurt."

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Since Hurricane Katrina flooded the city, Mr. Compass has been widely criticized for his inability to keep the peace as New Orleans sank into mayhem, and to sustain the morale of his officers, about 500 of whom abandoned the 1,700-member force in anger or despair.

In recent days, Mr. Compass, who has been superintendent since 2002, has returned the verbal fire with a raw, impassioned defense of his department. He pointed to those officers who stayed and helped restore order despite a shortage of manpower and ammunition, and volleys of gunshot from what he said were dozens of people trying to thwart rescue efforts.

"This is the time for men of honor, not those others," Mr. Compass said, referring to the officers who left.

While other cities may prefer a more buttoned-down, businesslike presence from their police chiefs, Mr. Compass exudes the casual, loquacious style of the Big Easy. He wants to be called Eddie, not Edwin, and he is as likely to bump fists when greeting people as to shake hands. On Wednesday, he vigorously wrestled to the ground a friend whom he thought had died in Hurricane Katrina's aftermath, and chided him for ignoring instructions to evacuate.

Responding to those who criticize his handling of the chaos, Mr. Compass said he believed that his officers did the best they could, considering that their communications system was inoperable and that the city's ammunition depot was left inaccessible beneath 10 feet of water.

"We faced the greatest challenge that any city has faced in the history of mankind," said Mr. Compass, a man who seems to regard understatement as a felony.

Some police officers, speaking on the condition of anonymity, complained Wednesday that the superintendent was largely invisible immediately after the flooding began. But others said he had maintained a strong public presence, and they praised him for supporting his officers in a department whose reputation suffered severe damage from corruption scandals in the 1990's.

"That's a cop," Sgt. George Jackson said. "He stands up for his men."

The son of a postal worker and a homemaker, Mr. Compass grew up in midtown New Orleans, attended grammar school with Mayor C. Ray Nagin and high school with Charles Parent, the city's fire superintendent. Mr. Compass said that he always wanted to be a police officer, and that in the current crisis he was relying on faith for guidance and stamina.

"We couldn't have a better policeman to deal with the pressure he's had to deal with," the Rev. Charles J. Southall III, pastor of the First Emanuel Baptist Church of New Orleans, said in a telephone interview. "But I'm concerned about his health and emotional stability. There's only so much you can give without someone giving back."

Mr. Compass said that many evacuees were so angry with him as they waited days to be rescued from the convention center that a group of them tried to grab him and take him hostage, saying, "If we get the chief, we get the buses."

While he acknowledged that murders and rapes had occurred at both the convention center and the Superdome, Mr. Compass said the mayhem at the unlighted convention center would have been worse if the police had not created a plan to capture the armed thugs who were terrorizing others. Because his officers could not risk harming innocent evacuees by returning fire in the dark, he said, they watched instead for muzzle fire and moved toward it, patting people down and yelling "gun" when they felt a weapon. Then officers converged and tackled the gunman.

"That's never been done before," Mr. Compass said. "If we hadn't extracted the weapons, many more may have died."

He defended Mayor Nagin's decision this week to issue a mandatory evacuation order. If force is required, Mr. Compass said, it will be only the minimum necessary. "We are the greatest crowd-control police in the world," he said. "We deal with Mardi Gras every year."

People must leave to allow the city to be rebuilt, and to protect themselves from disease and fires, Mr. Compass said. "When your child needs a shot, you know it's going to be painful," he said. "But if you don't get the shot, they can die."

His wife, Arlene, and children have left New Orleans, and so have 600 of the city's remaining 1,200 officers, for a few days of rest and relaxation in Las Vegas and Atlanta. Another shift will leave when the first returns. Mayor Nagin has also sought a little time off, but Mr. Compass said that he was going nowhere for the moment.

"My feet were the first ones on the battlefield," he said, "and they will be the last to leave the battlefield."

Hundreds Of Police Officers Missing In New Orleans (LAT)

By Julie Cart, Edwin Chen And Scott Gold

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The Los Angeles Times, September 9, 2005

NEW ORLEANS — Hundreds of police officers are missing and many may be dead from Hurricane Katrina, according to a top police official, who in an interview today also said that the population of the city may sharply drop because of the storm.

Deputy Police Supt. Warren Riley said about 700 of the city's 1,600-officer force was told to stay home until the storm passed so that they would be available to be deployed wherever they were needed.

Between 400 and 500 officers remain unaccounted for and many are feared dead, though some are believed to have walked away from the job, he said.

Riley said that survivors would have likely called the department to say that they are alive or to explain their absence. He declined to speculate about how many officers may have perished: "One is too many."

"We don't know how many officers are dead," he said. "We don't know how many officers drowned. That's a fear of ours."

Riley spoke as the city continued its evacuation by trying to persuade the thousands of residents who refuse to leave their homes that the city is too dangerous for them to remain. If the stragglers insist on staying, they will be forcibly evacuated, officials said.

Vice President Dick Cheney landed this afternoon in New Orleans as part of his tour of the Gulf Coast, devastated when Katrina hit in the predawn hours of Aug. 29.

President Bush, whose popularity has been falling because of questions about the federal relief effort, briefly addressed the nation today and proclaimed Sept. 16 as a national day of prayer for the victims of Katrina.

Bush appeared on television flanked by four of his Cabinet officers, hours after Democrats in Washington stepped up their attacks on the quality of the federal response and again called for an independent commission to investigate.

No one had been forcibly removed from their homes as of noon today, Police Superintendent Eddie Compass said. Many have resisted calls to leave, but "some people just want to have someone explain to them face to face why they have to leave."

He said that officers will soon begin entering houses and removing people who won't leave. He recognized that there could be considerable tension once that starts, but he pledged to do what he could to ease any difficulties.

"We're going to be respectful," he said. "We understand it is a dramatic experience and we're going to handle it that way. We are very sensitive to the needs of our community. We are not going to be tough. We are going to be sensitive."

Officials have been emptying the city, which remains substantially flooded by waters that poured through three broken levees after Katrina landed upon the coast. In the more than 10 days since the storm began its march through the gulf, the floodwaters have become infected with large amounts of bacteria.

Hundreds of thousands of evacuees have been moved to shelters across the country, with an estimated 250,000 in Texas alone. New Orleans had a population of about 500,000, but that could decrease to 350,000 when people are allowed to return, Riley said.

There have already been reports of hundreds, perhaps thousands, of people leaving out-of-state shelters, such as the Houston Astrodome, in an attempt to start new lives there.

While that could have devastating consequences for a tax base that was strained before the storm, Riley sought to find some solace.

"Some people will probably go places and live better lives," he said. "New Orleans with a smaller population may be a better city. You take away the tragic loss of life here and maybe there is a silver lining."

Fire Superintendent Charles Parent said today that three multistory buildings on the flooded campus of Dillard University, an African American college founded in 1869, were destroyed in an overnight fire.

Parent said the campus is small and he feared that the damage to the school would be substantial and lasting. But he said that because of deep-standing water, firefighters were only able to fight the blaze with helicopters and have not been able to access the site.

The buildings were destroyed in one of 11 major fires the city fought overnight, with the assistance of hundreds of firefighters who have come from other states.

In a message posted to students on its website, Dillard called itself an "institution with a rich, proud and triumphant history."

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"Our beginnings are rooted in struggle and a committed determination to overcome social, political and environmental obstacles," the statement said.

"Today, we face a formidable challenge; however, we are equally resolute in our ability to recall our collective strength. We resolve to recommit to our future with full expectation that our beloved Dillard will remain one of the nation's premier institutions of higher learning."

Dillard's campus sits amid the deep flooding in the heart of the city, north of downtown and west of the Gentilly area.

Cheney visited the aircraft carrier Iwo Jima, docked in the Mississippi River. He met with Coast Guard Vice Adm. Thad Allen, just appointed as deputy to beleaguered FEMA Director Michael Brown. Cheney viewed maps and large aerial photographs of the destruction area.

"As you can see, the water is starting to recede," Allen told Cheney.

Allen said the next step is a door-to-door search of residences as evacuation of the city proceeds.

Afterward, Cheney took a ride in a Humvee to look at repairs to the levee.

Before his arrival in New Orleans, Cheney visited Gulfport, Miss. He and Atty. Gen. Alberto Gonzales were briefed by Homeland Security Director Michael Chertoff.

After meeting with local officials, Cheney and his wife, Lynne, walked through a devastated neighborhood. He praised the first responders and pledged that the federal government would do more.

"I think the progress we're making is significant," Cheney said. "I think the performance, in general, at least in terms of the information I've received from locals, is definitely very impressive.

"That's not to say there's not an awful lot of work to be done — there is."

As Cheney toured the region, the political fallout from what has turned into the nation's worst natural disaster continued.

Democrats sharply attacked Republican plans for a congressional task force to examine the federal response and called for an independent commission. The panel was proposed Wednesday by House Speaker Dennis Hastert (R-Ill.) and Senate Majority Leader Bill Frist (R-Tenn.).

House Minority Leader Nancy Pelosi (D-San Francisco) said today that she wouldn't appoint any Democrats to a panel that she called a "charade."

"I'm protesting the fact that it's not bipartisan. And we've got to work together to get this done. So let's not have a charade about what they decide is bipartisan. That's not what bipartisanship is," she said.

Pelosi and others have also said that Bush should fire Brown, but Cheney defended appointees like the FEMA director.

Cheney also backed the Republican leaders' task force, saying it was similar to the Iran-Contra committee on which he served as a congressman in the 1980s.

Criticism of the federal response has also taken a toll on Bush's poll ratings.

A survey by the Pew Research Center for the People and the Press found that 67% of those sampled thought Bush could have done more to speed up relief efforts, and 28% thought he had done all he could. His job approval rating dropped to 40%, with the greatest slippage occurring among Republicans and conservatives, the base of his support.

Bush took to the airwaves to explain how to apply for the previously announced program to give $2,000 in disaster assistance to families displaced by the storm. He also said the administration would continue federal benefits such as food stamps, Medicaid and unemployment payments.

He proclaimed Sept. 16 a national day of prayer for victims of Katrina.

"I ask that we pray, as Americans have always prayed in times of trial, with confidence in His purpose, with hope for a brighter future, and with the humility to ask God to keep us strong, so that we can better serve our brothers and sisters in need," the president said.

Earlier this week, New Orleans Mayor C. Ray Nagin authorized officials to forcibly remove the remaining residents, even if they didn't want to go, because the city is dangerous.

The order applies to the inundated eastern wards and the lightly damaged French Quarter and Garden District. It exempts Algiers and other communities south of the Mississippi River, known as the West Bank, which were largely spared from flooding. The mayor has said that standing water still covers 60% of New Orleans, down from 80% at its peak.

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According to Walter Boasso, a Republican state senator whose district includes the flooded St. Bernard Parish, sheriff deputies and other local officials began forcibly removing residents on Wednesday.

He said today that in at least one case a reluctant evacuee had to be restrained and tied to the bed of a pickup truck.

Louisiana Gov. Kathleen Blanco has not ordered forced evacuations.

National Guard Maj. Gen. Ron Mason said today in Baton Rouge that if the order is given to forcibly remove the estimated 10,000 residents who remain in New Orleans, that task would fall to the New Orleans Police Department.

"I don't believe that you will see National Guard soldiers actually forcing people to leave," Mason said. "We think that is a police effort."

Mason said 7,000 National Guard troops in New Orleans are going house to house to assist willing evacuees. Should a forced evacuation be ordered, he said, Guard troops will drive vehicles and support the police.

"In every situation where we send National Guard soldiers, we have rules for use of force," he said. "That means these soldiers are allowed to protect themselves. That's the purpose of the weapons. The purpose of the weapons is not to be used against American citizens and force them from their homes."

Complicating the situation is that the floodwaters in New Orleans are teeming with bacteria, carrying the potential for a variety of diseases.

At least four flood victims have died of bacterial infections caused by the water in New Orleans and other hard-hit towns. They appeared to have been infected with vibrio vulnificus bacteria, a water-borne pathogen related to the bacteria that cause cholera.

The Louisiana Department of Health and Hospitals announced today that 19 cases of West Nile disease had been detected.

As health authorities joined New Orleans and Louisiana officials in urging the city's estimated 10,000 holdouts to leave their homes, the House passed the Bush administration's latest request for another $51.8 billion in funding to speed help to victims of Hurricane Katrina. The Senate is expected to act soon.

Congress has already approved $10.8 billion in aid.

Ripples from the flooding, which has left as many as 1 million people homeless and untold numbers dead, continued to shake the nation's economy. The federal Labor Department said today that about 10,000 of the evacuees have filed for unemployment benefits last week.

On Wednesday, the Congressional Budget Office predicted that 400,000 jobs would be lost through the end of the year, with privately insured losses topping $30 billion.

The official death count stood at 196 bodies in the state of Mississippi and more than a dozen in other states where Katrina hit.

Juliette Saussy, director of emergency medical services in New Orleans, said today that hundreds of bodies have been removed from the city, and officials are expecting the death toll to climb.

With the increased security has come an increase in arrests. David Dugas, U.S. attorney for the middle district of Louisiana, said 223 prisoners have been processed, most coming from Jefferson Parish. They are being screened at Hunt Correctional Institute in St. Gabriel, southwest of New Orleans.

As officials struggle with how to deal with the evacuees, school officials in Orleans Parish were unsure whether any schools will open this year. Schools in Jefferson Parish are expected to open in January. In hard-hit St. Bernard Parish and Plaquemines Parish, no dates have been set for school to begin.

Gasoline tankers have become a more regular sight along the Mississippi Gulf Coast, causing lines for fuel to begin to ease. Lines that just a few days ago had stretched for several miles were cut in half. Residents outside the hardest-hit coastal towns spoke about being able to drive up to a gas station with no wait.

But as gas became easier to get and more residents who had fled the hurricane began to return, traffic on main roads throughout the Mississippi Gulf, particularly Interstate 10, has become extremely heavy.

Meanwhile, construction crews are busy repairing roads, so law enforcement officers are directing drivers through a series of detours, exacerbating the traffic snarls. There are even morning and evening rush hours — another sign of normalcy.

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Utility trucks, military vehicles and law enforcement from around the state are also clogging the roads, making commutes sometimes unbearably long.

US Watching Katrina-related Fraud (AFP)

Agence France-Presse, September 9, 2005

With billions of dollars pouring in to help victims of Hurricane Katrina, the US government has established a task force to hunt down fraud, White House spokesman Scott McClellan announced.

"Unfortunately, there are some who are intent on setting up fraudulent schemes to take advantage of the victims and the people who are trying to help those who have been affected," he told reporters.

"These are despicable acts that will not be tolerated. Those who take advantage of the situation will be pursued and will be prosecuted," said McClellan.

Attorney General Alberto Gonzales has created the Hurricane Katrina Task Force on Fraud "to deter, investigate and prosecute disaster-related federal crimes including fraudulent charities, insurance fraud, identity theft and government benefit fraud," said the spokesman.

The national task force includes officials with the Justice Department's criminal division and the Federal Bureau of Investigation, he said.

Katrina Victims At Risk For ID Theft, Experts Say (REU)

By Andy Sullivan

Reuters, September 8, 2005

WASHINGTON (Reuters) - Birth certificates and other sensitive documents left among the waterlogged debris of Hurricane Katrina could put the storm's victims at heightened risk for identity theft, experts said on Thursday.

U.S. officials and consumer advocates said they had not yet heard of any cases of identity theft related to the disaster because the crime usually takes months to unfold.

But consumers should keep a close eye on their bank statements and order a copy of their credit reports once they get their lives back together to make sure they are not being victimized, they said.

"We tell people not to be alarmed but to be cautious," said Betsy Broder, an assistant director in the Federal Trade Commission's Bureau of Consumer Protection.

Those who wish to contribute to relief efforts are at risk as well. Internet-security company Websense said on Sunday that it had found a "phishing" e-mail campaign that seeks to trick Internet users into providing their credit-card numbers to a Web site that looks like one run by the Red Cross.

In order to avoid such scams, donors should type the address of charitable Web sites directly into their browsers, rather than clicking on a link in the e-mail, experts said.

The FBI is investigating at least a dozen suspicious Web sites and e-mail messages for fraud, spokesman Paul Bresson said.

Similar scams emerged after the tsunami that devastated large portions of coastal Asia and Africa in December but "this is far worse," he said.

The Justice Department said on Thursday that it has set up a task force to investigate identity theft and other types of fraud related to the Katrina.

Identity theft costs U.S. consumers and businesses $50 billion annually, according to FTC estimates.

A string of computer breaches at businesses and universities has focused attention on the issue this year but those who have been uprooted by Hurricane Katrina also face risk from looters and "dumpster divers" -- those who sift through garbage looking for valuable personal information to steal -- as well.

Ruined homes and businesses are likely to contain mortgage records, Social Security cards and other documents that criminals can use to hijack an identity, said Linda Foley, co-executive director of the Identity Theft Resource Center.

"A crisis brings out the best of people and the worst of people. Unfortunately, in criminals it brings out their best skills," she said.

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Thieves also could intercept drivers' licenses and birth certificates when they are mailed to storm victims trying to get their lives back together, said Beth Givens, director of the Privacy Rights Clearinghouse.

"I suspect that many of the shelters are temporary facilities and do the people running them have the ability to operate a secure post office?" she said.

Mail bound for the affected areas is currently held in secure sorting facilities and will be forwarded to residents once they fill out a change-of-address form, U.S. Postal Service spokesman Bob Anderson said.

U.S. Names 5 Firms To Build Housing (WSJ)

By Yochi J. Dreazen

The Wall Street Journal, September 9, 2005

WASHINGTON -- Accelerating efforts to rebuild the storm-ravaged Gulf of Mexico region, the Bush administration hired five private contractors -- including some active in rebuilding Iraq -- and took the controversial step of suspending Depression-era wage floors throughout the area.

The Federal Emergency Management Agency announced yesterday that it was awarding contracts to Bechtel National Inc. of San Francisco and Fluor Corp. of Aliso Veijo, Calif., both of which are involved in Iraq. The other companies awarded FEMA work are Shaw Group of Baton Rouge, La., Denver-based CH2M Hill, which is providing housing in Alabama, and Dewberry Technologies of Fairfax, Va., which is providing planning and reporting tools to help guide the efforts.

Later in the day, the White House said it was suspending in the disaster area so-called Davis-Bacon rules requiring prevailing wages be paid to workers on federal contracts. Republicans praised the executive order temporarily waiving the rules, which they said would fuel job growth in the hurricane region, but Democrats and their organized-labor allies accused the White House of exploiting the tragedy to accomplish a conservative goal.

The five contracts awarded yesterday are the first in the wake of Hurricane Katrina, in what is expected to be the largest and most lucrative government-funded rebuilding effort ever launched in the U.S.

Halliburton Corp.'s Kellogg, Brown & Root unit is already doing repair work at three Navy facilities in Mississippi as part of an existing contract.

Shaw Group and Kellogg, Brown & Root are clients of former FEMA director Joe Allbaugh, who has a private consulting firm in disaster relief. He resigned from FEMA in March 2003. Shaw's deal to refurbish damaged buildings and provide emergency housing could be worth as much as $100 million, the company said.

The enormous amounts of federal money beginning to pour into hard-hit areas across the Southeastern U.S. are beginning to set off a gold rush reminiscent of corporate America's efforts to profit from the reconstruction of Iraq, and many companies winning Katrina-related contracts also have multibillion-dollar contracts there. White House and congressional officials are working to finalize a new $51.8 billion aid package that would push the total amount of federal money dedicated to relief efforts to more than $62 billion.

Patti Giglio, a spokeswoman for Mr. Allbaugh, said the former FEMA director helps companies like Shaw with strategic planning but doesn't lobby FEMA or other government agencies on their behalf. She said he is traveling the region to marshal private-sector resources to support hurricane victims, not to seek work for clients. "He's down there because he feels he can help," she said. "He doesn't lobby FEMA, and he's never called FEMA."

Shaw Group's Web site encouraged would-be employees to apply for work online. "Hurricane Recovery Projects -- Apply Here!" it said, adding, "Subcontractors and craftsmen, please click here to apply for available positions."

Executives at the companies that won FEMA contracts said they had begun working on new housing for many of the hundreds of thousands of Americans displaced by the hurricane.

Officials at Bechtel and Fluor said their contracts, like Shaw's, were valued at as much as $100 million. The other two companies couldn't be reached for comment, and a FEMA spokesman didn't return calls about the value of those deals.

Fluor spokesman Lee Tashjian said the contract calls for identifying and leasing large plots of land in Louisiana that could house settlements of temporary housing, transporting trailers and prefab homes to the sites, and connecting the homes to

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electricity, water and sewage systems. Fluor began transporting the first 20 homes of an initial consignment of 400 units from Baton Rouge to hard-hit Slidell, La., yesterday afternoon, he said.

The government also hired Fluor to handle operations for the new Housing Area Command that is charged with overseeing public- and private-sector emergency housing issues. The organization includes FEMA, the Department of Housing and Urban Development, the Army Corps of Engineers, the American Red Cross and the private contractors. Its primary goal is to quickly find temporary housing for Katrina refugees, but FEMA said the Housing Area Command will also develop plans for longer-term housing initiatives.

The White House wage order, meanwhile, added fuel to the partisan tensions already raging since the storm hit. At issue are prevailing-wage requirements put into law as part of the Davis-Bacon Act of 1931, one of organized labor's biggest legislative victories.

Republicans have long hated the bill, which they say impedes the free flow of labor and adds unnecessary expense to federal projects. Shortly before leaving office in 1992, President Bush's father issued an executive order exempting hurricane-damaged parts of Florida, Louisiana and Hawaii from the Davis-Bacon regulations, a move rescinded by President Clinton. President Bush's move yesterday marked the first time his administration has suspended the rules, and was hailed by many Republican lawmakers. In a statement, Rep. Marilyn Musgrave (R., Colo.) said it would save "vital time and money in reconstruction efforts."

Democrats and union leaders attacked the move, with AFL-CIO President John J. Sweeney saying it was "unbelievable and outrageous that the White House would lift the time-tested standard for ensuring quality work and decent living standards for taxpayer-financed reconstruction."

Bush Suspends Pay Act In Areas Hit By Storm (WP)

By Thomas B. Edsall

The Washington Post, September 9, 2005

President Bush yesterday suspended application of the federal law governing workers' pay on federal contracts in the Hurricane Katrina-damaged areas of Alabama, Florida, Louisiana, and Mississippi. The action infuriated labor leaders and their Democratic supporters in Congress, who said it will lower wages and make it harder for union contractors to win bids.

The Davis-Bacon Act, passed in 1931 during the Great Depression, sets a minimum pay scale for workers on federal contracts by requiring contractors to pay the prevailing or average pay in the region. Suspension of the act will allow contractors to pay lower wages. Many Republicans have opposed Davis-Bacon, charging that it amounts to a taxpayer subsidy to unions.

In a letter to Congress, Bush said he has the power to suspend the law because of the national emergency caused by the hurricane: "I have found that the conditions caused by Hurricane Katrina constitute a 'national emergency.' "

Bush wrote that his decision is justified because Davis-Bacon increases construction costs, and suspension "will result in greater assistance to these devastated communities and will permit the employment of thousands of additional individuals."

AFL-CIO President John J. Sweeney denounced the Bush announcement as "outrageous."

"Employers are all too eager to exploit workers," he said. "This is no time to make that easier. What a double tragedy it would be to allow the destruction of Hurricane Katrina to depress living standards even further."

Rep. George Miller (D-Calif.), the ranking Democrat on the House Committee on Education and the Workforce, accused Bush of "using the devastation of Hurricane Katrina to cut the wages of people desperately trying to rebuild their lives and their communities."

Miller said: "In New Orleans, where a quarter of the city was poor, the prevailing wage for construction labor is about $9 per hour, according to the Department of Labor. In effect, President Bush is saying that people should be paid less than $9 an hour to rebuild their communities."

A Surgeon Caught Up In The Flooding Tells Of A Week Of Chaos, Peril And Heroism (NYT)

By Donald G. Mcneil Jr.

The New York Times, September 9, 2005

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As Hurricane Katrina wailed out of the Gulf of Mexico, Dr. Norman E. McSwain Jr., chief of trauma surgery at the New Orleans hospital known as Big Charity, relished watching what he called "water blowing sideways in big slats, like Venetian blinds," from inside his office at the adjacent Tulane University School of Medicine.

"Frankly, all my life I'd wanted to be in a hurricane," Dr. McSwain recalled in an interview. "It just goes to show how you shouldn't hope to get what you wish for."

After the storm had passed, he had time to drive over to his house on Bourbon Street and was glad to find it intact. The emergency room at Charity, a huge hospital founded for the poor in 1736, was quiet. Young surgeons joked that they would soon be busy sewing up people who had bought chain saws to clear their yards.

But within days, Dr. McSwain would become one of the hurricane's reluctant celebrities. As Charity Hospital withered around him - low on electricity, water and oxygen; its food supplies down to canned fruit cocktail; surrounded by thugs firing at rescue boats - he finally despaired of official channels and cried out to the news media: "We have been trying to call the mayor's office. We have been trying to call the governor's office. We are turning to you. Please help us."

The 68-year-old surgeon's last nights at his post would be spent sleeping in a red garbage bag, of the kind normally used to hold infectious waste, on the roof of Tulane University Hospital's parking garage, his head cradled on a pile of diapers, hiding with his staff from marauders below as security guards and a lone Marine sniper stood sentry.

What Dr. McSwain described, in telephone interviews from Nashville, where he was helping set up a center for evacuees from New Orleans, was a slow descent into chaos. The more desperate the situation became, he said, the harder it was to reach anyone in authority.

Despite the historical threat of flooding in New Orleans, he said, there was never a plan to evacuate Charity, the nation's oldest continuously operated hospital.

Nor at first did he expect one.

"Medical people don't evacuate," he said. "They stay and take care of people who weren't smart enough to leave."

In addition, he said, minor flooding in New Orleans is common.

"I've waded through waist-deep water several times," he said. "It's no big deal. The pumps take it out. People who live in low-lying areas have to put new carpet down every few years, but they get used to it."

By Tuesday of last week, however, even with the floodwaters eight feet deep, the hospital's generators running out of diesel and shots ringing out in darkened streets, it became clear that no plan was being formed.

"Nobody was in charge," he said. "I guarantee you that. I'd call the governor's office, and either they didn't answer the telephone or I'd talk to lower functionaries, and they'd say: 'The governor's too busy to talk. We'll relay the message.' "

Making matters worse, he said, someone from the state health department announced that Charity had already been emptied, when in fact 250 patients and 1,000 staff members were inside.

He was finally able to appeal to HCA, the company that runs Tulane University Hospital, across the street. HCA had hired 20 medical evacuation helicopters, which were landing on the Tulane hospital's parking garage.

"They said, 'We're not going to leave you down there,' " Dr. McSwain said of company executives. "I have nothing but praise for them."

For the next three days, beginning with the 12th-floor intensive care unit, the staff carried Charity patients down the stairs to flat-bottomed boats steered by state fish and wildlife agents. The boats were met at the Tulane garage, 150 yards away, by a truck, running on gas siphoned from parked cars, that took the patients to the garage's seventh-floor roof to be picked up by the helicopters.

"One cardiac patient was on a pump that weighed 500 pounds and had two feet of tubing," Dr. McSwain said. "We had to carry him down five flights without separating them by two feet. In the dark."

But at one point Tulane University Hospital ran out of oxygen, he said, so Charity was told not to send additional patients there until more of it could be flown in. Oily water sloshed along corridors. Confused patients languished in hallways.

The danger kept increasing, he said. A fish and wildlife sergeant stopped the boat-to-truck shuttle, calling back boats with babies aboard, after one of his men had been shot by a would-be hijacker. At a hotel across the street filled with refugees, "drug

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lords took command and made people buy their way in and out," Dr. McSwain said, adding that "one of our personnel who had family there was shot at twice."

Phones stopped working. The only news from outside came from battery-powered radios. A staff member whose BlackBerry still had a signal sent out appeals for the National Guard.

On Wednesday night, two days after the hurricane swept ashore, "a helicopter came in, and this lone guy dropped out with an M-16 and said he was a Marine sniper and he'd been sent to protect Charity," Dr. McSwain recalled.

"It was really comforting to have a guy like that who was trained and had been in Iraq three times and would shoot somebody if he had to," the doctor said. "It made us feel good."

The marine stayed on Charity's roof for 12 hours, then moved to the Tulane garage parapet as the hospitals emptied and the staff retreated to the top two floors of the parking structure, barricading its stairs and ramps against looters roaming the five lower floors. Neither the marine nor the 38 hospital guards keeping watch in shifts shot anyone, "as far as I know," Dr. McSwain said.

By Thursday morning, he said, he had reached a friend with press contacts who got him in touch with reporters for The Associated Press and USA Today, to whom he made his plea for help.

The next day, with some of Charity's staff and patients remaining, he got on the last helicopter carrying out members of Tulane's staff, having decided that he could do more good by raising the alarm on the outside. By that evening, the military was rolling through the streets, and the last of the patients were out.

His house may have been looted, he said, but he is too busy to go see, recruiting paramedics for evacuee centers and trying to find new hospitals for his residents.

"I'm not interested in repeating those five days," he said. "But there were good parts and bad parts."

Even making do with his makeshift bed on the garage roof had its moments, he said, as when he saw the Milky Way above a lightless city.

"It was all awesome," Dr. McSwain said. "Awesome fantastic, awesome sad, awesome beautiful. When I was flying over Lake Pontchartrain in that helicopter, I got teary. 'My life has changed,' I thought. 'It'll never be the same.' "

HUD, VA Offer Homes For Some Katrina Victims (USAT)

By Wendy Koch

USA Today, September 9, 2005

The U.S. government is making some, but not all, of the thousands of homes it owns in Southern states available to displaced victims of Hurricane Katrina.

The Department of Housing and Urban Development has taken all its homes in stricken states off the market to consider which ones can house evacuees. It has identified 1,380 homes in seven states as livable and plans to move people into them, spokesman Lemar Wooley says.

But the Department of Veterans Affairs continues to sell its homes. In some cases, wealthier Katrina evacuees are buying them.

“If there's a need for additional housing, VA houses will be taken off the market immediately. We are ready to move,” says VA spokesman Scott Hogenson. He says the VA is coordinating its efforts with HUD and the Federal Emergency Management Agency.

The VA owns about 5,000 homes nationwide, 2,000 of which are in Southern states most affected by Katrina. It acquires them after veterans default on VA-backed loans and banks foreclose the properties. The VA then pays off the mortgages and takes ownership.

Hogenson says the VA is assessing the livability of its homes.

Real estate agents say Katrina destroyed some homes while others were in need of repair even before the storm. Still, they say, many VA properties are habitable.

In Baton Rouge, agent Toby Babich has five VA listings, all sought after by Katrina evacuees.

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"The real estate market is amazing here at this point," he says. He has at least three contracts for one four-bedroom VA home listed at $129,900. "We're selling them to people who need homes."

Agents in other areas say they've received calls, though fewer, from people displaced by Katrina. "People who have the means are buying homes," says agent Laura Lei Bodin. She has a VA listing in Bogalusa, La., which was hit hard by Katrina. She says many people want rentals, but those are not as readily available in some areas.

Hamed Rauf, a Houston agent, says he's been approached by Katrina survivors, but his two VA properties need repairs. He says the U.S. government can use the money raised from selling its homes to help less-fortunate evacuees.

"There are two sides to this," he says. "The government will be paying one way or the other."

Yet Bob Watkins, an agent in Birmingham, Ala., says the VA homes could help needy evacuees. He has two listings in great shape, one for about $140,000 and another for about $200,000.

Watkins, who also sells about 150 HUD homes each year, says most of the HUD listings he receives are not immediately livable. "You can't put a poor person in a house needing repairs."

HUD says it owns, through loan foreclosures, 2,562 homes in Alabama, Florida, Louisiana, Mississippi and Texas. Wooley, the agency's spokesman, says FEMA has yet to identify which families will move in to those considered habitable.

Airlift Of Evacuees To Northeast Is Under Way (NYT)

By Alison Leigh Cowan

The New York Times, September 9, 2005

Victims seeking refuge in the aftermath of Hurricane Katrina were airlifted to the Northeast yesterday, arriving at Cape Cod, where they will be temporarily housed in a rejuvenated barracks at the Otis Air National Guard Base.

The trickle of arrivals - 107 people moved out of homes or plucked off rooftops and off highways in recent days, and flown to Massachusetts by the Federal Emergency Management Agency - marked the first official evacuation to New England of victims of Hurricane Katrina.

But thousands of beds in shelters, barracks and apartments have been prepared by state and local governments in the region, awaiting an influx of families from the South that has been slow to come.

Connecticut has offered to make room for 1,500 evacuees, 400 of whom would probably be expected to go to New Haven. On Monday, that city's mayor offered to take in 100 families and moved quickly to transform a cavernous $25 million athletic site from an indoor track into a welcome center, complete with cots and fresh bedding. He also offered those newcomers first priority for vacant public housing apartments.

New York State has offered to accept 5,000 evacuees, a fifth of whom could end up in New York City. Nassau, Suffolk, Westchester, Onondaga, Monroe and Erie counties have each offered to accept 150 people, state and county officials said. Rhode Island promised to house 500 evacuees at a Navy base, and Massachusetts made room for 2,500 people at the National Guard base on Cape Cod.

By midafternoon yesterday, the first inbound plane containing 107 people, including at least two infants and six dogs, touched down in the region, according to Julie Teer, a spokeswoman for Gov. Mitt Romney of Massachusetts. Ms. Teer said her office understood that the passengers had arrived directly from New Orleans, where they were recently rescued or forced to evacuate homes.

Until now, the Northeast had seen only a small number of evacuees, mostly stragglers who had managed to make their way up North on their own, in most cases seeking relatives or friends.

Though state officials had announced and made extensive efforts to accommodate thousands more, Federal Emergency Management Agency officials warned state officials on Tuesday that the beds were not likely to fill up soon.

An e-mail message sent by FEMA to the office of Connecticut's governor, M. Jodi Rell, said those hurricane victims who had already taken refuge in Texas were unwilling to be relocated far from the region "as they resolve issues concerning the status of property, employment, and the safety of loved ones."

Indeed, at the Houston Astrodome, many displaced residents of Louisiana and Mississippi said they preferred to stay where they were, some merely because they dreaded the thought of moving again.

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"We've been in three shelters in eight days," said Rickey Johnson, who with his wife, Tracy, was moved to the Astrodome from New Orleans. "I can't even begin to say how I feel about moving."

By Thursday, FEMA officials appeared to have developed a system for ferrying new survivors, rescued in coming days, to states willing to take them, according to an e-mail message from agency officials in Washington. The message said that evacuees would be taken first to Michigan, Iowa and Rhode Island on Friday. Different states are listed to receive evacuees on different days through next Wednesday, according to the message.

New York, Connecticut, Maine, Vermont and New Hampshire are not listed in the message to receive evacuees, as of now.

FEMA officials did not return phone calls seeking comment or a response to criticism that agency was inefficient in evacuating people to places waiting for them. In one case it flew a group to Charleston, W.Va., instead of Charleston, S.C., which was expecting the plane.

New Haven's mayor, John DeStefano Jr., waiting on Wednesday for evacuees to fill the cavernous field house he had set up for an influx of arrivals, joked that the people meant for his city had probably wound up in the New Haven in Indiana, or any of the several other New Havens in the United States.

By Thursday, only a smattering of individuals had found their way to New Haven - mostly on their own.

Shelters Grow Empty As Apartments Open Up (NYT)

By Simon Romero

The New York Times, September 9, 2005

HOUSTON, Sept. 7 - In a stunning turnaround for some of the most besieged victims of Hurricane Katrina, the Astrodome population dwindled to about 3,000 on Wednesday from an estimated 15,000 over the weekend, with many people seizing on local job opportunities and inexpensive housing.

Because of a building boom over the last few years, there is a glut of affordable housing in Houston and its metropolitan area, which includes about 4.5 million people. Hotels are also offering a 14-day stay at no charge to storm victims, with reimbursements to come from the Federal Emergency Management Agency. Add the outpouring of offers of shelter across the country and an acknowledgment by the government that the original estimates may have been high, and it appears that the Astrodome might be empty soon.

Frank E. Gutierrez, the emergency management coordinator for Harris County, which covers Houston, said that Joe Leonard, the area commander for the Department of Homeland Security, had made it a goal to clear the shelter complex by Sept. 18. "Everyone was asking him, 'What if we don't make it?' " Mr. Gutierrez said, "And he said, 'Then I'll need to work harder.' "

Even though many of those in the Astrodome seem to be bracing for a long stay - and the dome is gaining the trappings of normal life, with its own post office, Internet cafe and medical center - it looks increasingly like a temporary society.

And many of the evacuees are opting to stay in Houston or nearby towns. Evacuees in the dome rejected an offer this week from FEMA to transfer 4,000 people to cruise ships in the harbor of Galveston.

"I'm taking my chances in Houston, where we've already been able to accomplish a few things," said Linda Jeffers, 55, who is on the Survivors Leadership Group, an organization of evacuees living in the Astrodome. The group persuaded the American Red Cross this week to create a play area for children and asked officials to lobby communications companies not to turn off evacuees' cellphones.

Mayor Bill White of Houston and Judge Robert Eckels of Harris County, who are leading the operations in Houston, announced that "over 150,000 people have come to our community seeking the basic necessities of life" and that they had established the Houston Katrina Relief Fund, with business leaders on the board to raise money. Asked if he had a goal in mind, Mayor White said: "Yes. As much as we can."

Bed counts by the Red Cross at other Houston shelters showed far fewer people than just days ago, with 1,800 at Reliant Arena, 2,000 at Reliant Center and 1,366 at the George R. Brown Convention Center. Earlier figures were estimates and perhaps overstated, some officials said.

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Including the Astrodome, about 8,000 evacuees were in Houston's largest shelters on Wednesday, down from a high of 24,000, city officials said. At least 1,300 people have moved into homes and apartments since Friday, and others have left with friends and relatives or on their own.

A city plan to provide 10,000 rental units to evacuees, a program that could last a year, drew more than 200 apartment operators. Houston intends to distribute vouchers and to be reimbursed by the Department of Housing and Urban Development and FEMA. City officials said landlords would waive credit checks and security deposits.

"I'm grateful to have a change," said Hope Joseph, 29, who moved out of the Astrodome on Tuesday night to a donated apartment in Wharton, a town south of Houston, together with her three children, ages 4, 6 and 9, and her mother, Lola.

"It's very quiet here, but I'm hoping for a fresh start in life," said Ms. Joseph, a former cake decorator at a Winn-Dixie supermarket in New Orleans, in a phone interview from Wharton.

Carmen Scarlett, the owner of a counseling service who will temporarily pay part of the $450 rent, met Ms. Joseph after traveling to Houston to assist evacuees.

At the Astrodome, small signs of comfort abound, like piles of donated clothing, land-line phones by SBC and a low-power FM radio station set to begin broadcasting on Wednesday, with as many as 10,000 radios distributed. There is also plenty of free food, including hot sandwiches from Chick-Fil-A, served by workers from Aramark, the food services company at the Astrodome.

FEMA plans to distribute $2,000 debit cards to each adult displaced by Katrina, sparking considerable discussion in the dome about where to place automatic teller machines. Members of the Survivors Leadership Group suggested a location outside the dome in well-lighted areas.

"There's still some agitation inside here, but it feels like it's calming down a bit," said Charles Adams, 47, a former cook at Dickie Brennan's Steakhouse in New Orleans. "It's still the old, 'You're not getting nothing unless you demand it.' "

The impression of normalcy at the Astrodome, however, was betrayed by reminders of how unstable life remains for many evacuees. Signs in the medical center alerted people about an onset of dysentery, apparently caused by norovirus, known for causing sicknesses on cruise ships.

Even though phones are available in the dome, Glenn Levy, a 16-year-old evacuee, described strong demand for a functioning cellphone. He said that he charges people three cigarettes for three minutes on his cell and had garnered as many as 50 Kool and Camel cigarettes a day.

"My minutes are not free," said Mr. Levy, who said he did not know the whereabouts of his father and mother, a sister and two brothers, though he had reached one sister in New Orleans. "I'm trying not to think they died."

Town Improvises To Absorb Evacuees (WP)

By T.r. Reid

The Washington Post, September 9, 2005

ORANGE, Tex. -- Anna Rose Williams had never heard of Orange, Tex., when her tired, frightened family stopped here for dinner last week on their harried journey to escape Hurricane Katrina.

"We was seven people in one car, with the babies," the 61-year-old grandmother recalled. "A gentleman come out of the Domino Pizza and said, 'Do y'all need a place to stay?' I said, 'Honey, we don't need no place to stay. We need a place to live.' "

And that's how the Williams family of Burns Street in New Orleans became residents of Orange -- for the time being, at least. Their current home is the former fourth-grade classroom at the Community Church Youth Center in Orange, a bayou town on the Texas-Louisiana border that has seen its population swell from more than 18,000 to about 20,000 in one week as evacuees have moved in. Like the Williams family, the newcomers are wearing clothes, eating meals, taking medicine, reading schoolbooks and sleeping on cots donated by the residents of Orange.

If New Orleans has been a locus of destruction, chaos and crime, the news from Orange and numerous other small-town havens is the old, familiar story of neighbor helping neighbor.

The exodus from Katrina has filled the string of hotels along Interstate 10 at the north end of town. Beyond that, Red Cross officials say five shelters have opened in Orange, plus two more in nearby hamlets.

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Local churches have set up a rotation for meal deliveries, with a different parish responsible for each meal at each shelter every day. Merchants who have sponsored 5K runs or Little League teams are digging through their back rooms to find leftover T-shirts and sweat suits for the newcomers. Local kennels are taking in displaced pets. The West Orange-Cove school district has enrolled about 200 new students, including three of Anna Rose Williams's grandchildren.

To some extent, the aid has been coordinated by government or welfare organizations. But much of it has come about spontaneously.

"We knew there were people coming here who needed help," said Jerry Brown, music minister at Community Church, an Assemblies of God affiliate with 1,200 active members. "Well, we had room at our youth center, including a big gym. It just seemed like the right thing to do.

"So we called over to Hermann Memorial [Hospital] and got a bunch of cots and blankets. Our members brought in clothes and diapers and food. The Red Cross put our address out on the interstate for people stopping here. The word got around. Last Thursday, I think it was, the school buses started coming; we've got 67 children going to school from this facility."

People here say their geographic setting -- Orange is the first town in Texas for drivers heading west on I-10 -- made it their duty to provide a welcome. "We're the gateway," said Katherine Frey, a florist in Orange. "So we just started hauling stuff out to the rest stop [officially, it's the Texas Welcome Center] on the interstate.

"These people were getting off the buses wearing garbage bags and no shoes," Frey said. "So we started calling people and saying, 'We need footwear. We need bedding. We need two dozen Porta Potties out here quick.' " Virtually overnight, the state welcome center was transformed into an outdoor warehouse, with mountains of donated clothing, diapers, sleeping bags, food and an eight-foot tower of water bottles.

With few or no job prospects in devastated New Orleans, some of Orange's newest residents have been looking for work -- and finding it. One pastor reopened a defunct carwash to provide employment. A local maker of precision tools, Cloeren Co., sent fliers to motels and shelters looking for machinists. "We're going to hire a bunch of people," said Kenneth Cormier, Cloeren's director of human resources.

A key problem facing the shelters here and elsewhere is that nobody knows how long they will be needed. "We are seeing some people leave already," Brown said. "But we think some are going to be here for weeks or months."

To meet that need, said Aaron Thompson of the Orange County Red Cross, the school board has turned over a closed middle school, which is being cleaned and equipped this week to serve as a long-term home. "We're hoping to consolidate all our current shelters into that one place," Thompson said. "We should be able to house 600 or more people there, if that many stay."

Anna Rose Williams is one of those likely to stay. "We don't know if there's anything to go back to," she said. "And I think it must have been God that steered me to this wonderful community. We might just make this place our home."

Learning From Katrina (WP)

The Washington Post, September 9, 2005

Even with the evacuation unfinished and the structural damage unassessed, it is not too early to start talking about how to rebuild New Orleans and the rest of the Gulf Coast. When residents return to their communities, many will want to rebuild everything exactly as it was. That is understandable. But lessons of the past suggest that this is exactly what should not happen.

In 1969 Hurricane Camille destroyed coastal homes in Mississippi and Louisiana, wiping out much of the area, including Biloxi. But government policy after Camille -- as with government policy after major East Coast hurricanes -- amounted, in the words of one expert, to an "urban development program." Instead of shrinking, coastal development expanded. In truth, local and federal policies, ranging from beach preservation subsidies to zoning laws, have long encouraged building homes along coasts that are unusually susceptible to flooding and wind. Even the National Flood Insurance Program, set up in 1968 to offer government-subsidized flood insurance to susceptible communities in exchange for strict zoning and construction regulations, is at fault. Over the past two decades, the regulatory force of the law has been substantially weakened. All that is left in many places is the subsidy, which thousands of homeowners collect over and over again.

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Elsewhere in the country, government programs to acquire property in flood plains have successfully persuaded people to leave them. After the Mississippi River floods of 1993, the town of Valmeyer, Ill., was moved in its entirety, away from the river and onto a surrounding bluff. After Hurricane Floyd in 1999, the city of Kinston, N.C., moved entire neighborhoods out of flood plains and revitalized the city as well. But the political power of wealthy beachfront property owners has prevented such programs from being implemented along the coasts. That must not be allowed to happen again.

The case of New Orleans is even more difficult. New Orleans is not Valmeyer, and cannot be easily moved. Nor is it Biloxi, Miss., where stronger building codes and zoning laws designed to move construction away from the shore could make the city better able to withstand hurricanes. The geography of New Orleans will leave the city forever vulnerable to catastrophic flooding. Yet the city's history and culture make it very much worth saving. As a result, the city, joined by state and federal governments, must begin to face several extraordinarily difficult and delicate issues: Should the lower, most susceptible parts of the city be rebuilt? Should other houses be constructed -- as houses in the city were a century ago -- on stilts? Should the swamps and wetlands around the city be at least partially restored? How should compensation and new housing requirements be handled? Considering the government's murky record of looking after the poor following natural disasters (as the aftermath of Hurricane Camille demonstrated), those most affected by government's decisions must be part of the discussion.

The time to start planning for a rational reconstruction of the Gulf Coast is now. Six months or more down the road, when the rebuilding has already begun, will be too late.

Insurers Are Urged To Pay Valid Claims (WP)

By Albert B. Crenshaw

The Washington Post, September 9, 2005

Putting more pressure on insurers to pay damage claims from Hurricane Katrina, Mississippi's insurance commissioner has told carriers that they will be required to prove to both regulators and homeowners that damage was caused by water and not by wind if they deny a claim.

On Wednesday, Lousiana's insurance commissioner also urged a large group of insurers and reinsurers to pay all valid claims. In many cases, the key to deciding which homeowners recover will be whether wind or water caused the damage.

Many homeowners' and business insurance policies exclude flood damage from their coverage. Flood coverage is written by the federal government through its National Flood Insurance Program, but only a small fraction of property owners in Mississippi and Alabama have bought it.

"In some situations, there is either very little or nothing left of the insured structure, and it will be a fact issue whether the loss was caused by wind or water," Mississippi Insurance Commissioner George Dale said in a bulletin to insurers dated Wednesday. " . . . I expect and believe that, where there is any doubt, that doubt will be resolved in favor of finding coverage on behalf of the insured."

Dale's position startled many insurers and reinsurers, who are concerned they are being pressured to pay claims for damage they did not insure.

Even in Florida, with its many hurricanes, regulators "haven't ever tried to do that," said Brad Kading of the Reinsurance Association of America.

Some industry officials said they did not view Dale's action as alarming.

"I think this is just a cautionary bulletin to lay out what his expectations are," said Julie Pulliam of the Atlanta office of the American Insurance Association, a trade group. "He has been very good to work with, and we expect that to continue. We are at the very beginning of this process. There's a lot to come."

Telephone calls to the Mississippi Insurance Department did not go through, apparently because of damaged phone lines and a high volume of calls to the area.

Kading and others said that at a meeting convened Wednesday by Louisiana Insurance Commissioner J. Robert Wooley to discuss dealing with the disaster regulators were largely hortatory. Kading said they made "no specific draconian statements."

Nonetheless, both insurers and reinsurers are alarmed at the idea of being forced to pay flood claims, as some have urged.

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The industry notes that flood exclusions are long established and that the language in policies is approved and understood by regulators. More important from a financial standpoint is that if insurers pay flood claims, reinsurers' contracts typically allow them to refuse to reimburse insurers for those outlays.

"The reinsurer is in the position of indemnifying the insurer," Kading said. That means that "after paying a claim, the insurer presents evidence that it was covered [by the reinsurance contract], and proof that it was paid. The reinsurer then looks at that evidence and decides if it agrees it's a covered claim."

By some estimates, reinsurers will pay about 40 percent of insured losses from Katrina and primary carriers the rest, assuming normal treatment of flood losses. If insurers pay claims that the reinsurers reject, their efforts to spread their risk will be negated, perhaps threatening their solvency.

But much remains uncertain with regard to losses, irrespective of who pays them. "We are still totally in an assessment-type mode, of how much and where," said John Marlow of the AIA's southwestern regional office in Austin.

NATO To Help U.S. Transport Aid From Abroad (LAT)

By Paul Richter

The Los Angeles Times, September 9, 2005

WASHINGTON — The Bush administration turned to NATO on Thursday for help in transporting to the United States a burgeoning international inventory of relief equipment that has been offered to aid the victims of Hurricane Katrina.

Ninety-five countries have offered about $1 billion in cash and goods, as well as technical assistance, U.S. officials said. But some of the supplies remained abroad, where foreign officials in some instances said they had not heard back from U.S. counterparts on whether their offers would be accepted.

The North Atlantic Treaty Organization told U.S. officials that its crews could transport aid to the Gulf Coast.

Eleven cargo planes landed Thursday in Little Rock, Ark., carrying aid from abroad, after 11 others Wednesday. But some countries said they still had no word on whether their offers would be accepted.

A cargo plane with supplies, including a water purification system, had been on a runway in Sweden since last week waiting for clearance to fly to the U.S.

"We've made a number of requests for clearance, and the U.S. has accepted the offer in principle," said Claes Thorson, spokesman for the Swedish Embassy in Washington. "But it remains to solve the logistical problem."

Other European countries "have the same problem," he added.

Poland, Austria and Norway are among those that have not heard back, diplomats said.

As foreign donors have expressed exasperation with the U.S. response, American officials have sought to emphasize that though they appreciate the offers of aid, not all help can be immediately put to use.

U.S. officials have been telling countries that some kinds of assistance are more helpful than others, adding that cash is the most easily put to use.

More than $400 million has been accepted, including $100 million from Kuwait, $100 million from the United Arab Emirates and $100 million from Qatar. Kuwait has also offered $400 million worth of oil.

Tons of aid has been arriving from Europe. On Thursday, relief workers and supplies arrived from Germany, which has offered a range of aid, including food rations, high-speed water pumps and forensic experts. It has also begun releasing oil from its strategic national reserve.

A French aircraft with supplies and personnel arrived Thursday, after two others that arrived Tuesday. The French have offered water treatment supplies, generators, tents, food rations and a 150-person team to help with relocation and psychological assistance.

The countries offering to help include a number of major recipients of U.S. aid, including Afghanistan, Iraq and Israel.

MoveOn.org Says It Won't Use Evacuee Images In Roberts Ad (USAT)

By Mark Memmott

USA Today, September 9, 2005

DOJ_NMG_0003959

A liberal group indicated Thursday that one of its officials was wrong when he said it would broadcast a TV ad with images of poverty-stricken hurricane victims to raise questions about the civil rights record of John Roberts, the nominee for U.S. chief justice.

The statement by MoveOn.org Political Action came a day after Ben Brandzel, the group's advocacy director, told USA TODAY that such an ad would air next week, during Roberts' confirmation hearings in the Senate. Brandzel described plans for a provocative ad that would include images of African-American evacuees and question whether the conservative judge is sensitive to issues that are important to minorities and the poor.

On Thursday, however, MoveOn Executive Director Eli Pariser said the group has "no plans, and … never had plans, to produce such an ad." Pariser did not blame USA TODAY, and he said that "we regret any misunderstanding that may have arisen because of anything that our staff member might have told USA TODAY's reporter."

Conservative groups that had criticized MoveOn over the idea of using images of hurricane victims in a political ad weren't buying MoveOn's explanation. Sean Rushton of the conservative Committee for Justice, compared the episode to the flap last month over a TV ad produced by NARAL Pro-Choice America, an abortion-rights group.

That spot — which NARAL took off the air after it drew wide criticism as unfair — accused Roberts of giving support to groups that advocate violence at abortion clinics. (The ad was based on arguments he made at the Supreme Court as a government lawyer in 1991. Roberts argued that anti-abortion protesters at clinics could not be prosecuted under a civil rights law; a majority of the court later agreed.)

"I think MoveOn sensed a 'NARAL moment' was upon them," Rushton said.

MoveOn's change underscores how quickly political messages can backfire if they trod too hard on sensitive issues, said Brooks Jackson, director of the University of Pennsylvania's Annenberg Political Fact Check program, which examines the accuracy of political ads.

Roberts' hearings begin Monday. He has appeared to be headed for confirmation. But MoveOn, other liberal groups and Senate Democrats such as Edward Kennedy of Massachusetts are pushing the White House to release more memos Roberts wrote as a lawyer in the Ronald Reagan and George H.W. Bush administrations.

In memos already released, Roberts argued for scaling back affirmative action and against a program that favored minorities seeking broadcast licenses.

What A Hispanic Justice Would Mean (USAT)

USA Today, September 9, 2005

I was still a law student when I decided that the Supreme Court needed a Hispanic justice. I was scouring cases, when I came to U.S. v. Brignoni-Ponce (1975). I read the decision twice, thinking I had misread it.

In Brignoni, the court held that "apparent Mexican ancestry" alone did not constitute legitimate grounds for the Border Patrol to conduct an immigration check. Even so, the court said, "the likelihood that any given person of Mexican ancestry is an alien is high enough to make Mexican appearance a relevant factor" in an immigration stop. In effect, the court declared a form of racial profiling constitutional.

A Hispanic justice would have provided a useful perspective to the Brignoni reasoning. So here we are, 30 years later, and the nation's first Hispanic Supreme Court justice is a possibility. No, it won't be with President Bush's first opening. That went to chief justice nominee John Roberts. But Bush now has a second chance to make history. His attorney general, Alberto Gonzales, recently said, "There will be a Hispanic on the court — it's inevitable." I hope he's right.

As with African-Americans and women, Latinos deserve representation. Hispanics are the nation's largest and fastest-growing minority group. Although ethnicity should not be a nominee's chief qualification, a Latino presence on the high court is overdue and would have monumental implications for the country.

Consider Thurgood Marshall's impact. A great-grandson of a slave, he came to the bench as a renowned civil rights attorney, bringing personal insight and expertise honed in cases such as Brown v. Board of Education in 1954. Throughout his tenure, he was sensitive to racial discrimination. "Bringing the Negro into the mainstream of American life should be a state interest of the highest order," Marshall wrote in Regents of the University of California v. Bakke in 1978.

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Similarly, a Latino justice would open the eyes of justice a bit further. He would recognize that "Mexican appearance" is a flawed basis for an immigration check. He would see that English-only laws and the Real ID Act, which prohibits driver's licenses for illegal aliens, can be adversely applied to Hispanics.

The appointment of a Hispanic would be a breathtaking milestone. It's worth noting that the Supreme Court will face issues with broad effect on Latinos: bilingual education, affirmative action, immigration and workers' and voters' rights. It is imperative that the concerns of Latinos are represented. Just as Marshall served as the voice for African-Americans, a Hispanic justice could, and should, soon be ours.

Raul A. Reyes is an attorney in New York and a member of USA TODAY's board of contributors.

Hill Veterans Light The Way For Nominee (WP)

By Christopher Lee

The Washington Post, September 9, 2005

Shortly after President George H.W. Bush nominated him for the Supreme Court in July 1991, Clarence Thomas went to a downtown Washington office to take part in strategy sessions aimed at ensuring his confirmation by the Senate.

The presiding political mind was not a top White House aide or a legal eagle from the Justice Department but lobbyist Kenneth M. Duberstein, a former Reagan administration official who was Thomas's designated "sherpa" -- his guide through the potentially treacherous process.

Duberstein, then and now, is one of a handful of Washington figures who have acquired reputations for steering top presidential nominees through a confirmation process that has grown more contentious and partisan since the unprecedented campaign that capsized Judge Robert H. Bork's Supreme Court nomination in 1987.

The role of the sherpa, named for the Tibetan guides who assist climbers in the Himalayas, is largely off camera and unpaid. It is a critical and routine part of the Washington odyssey that high-profile nominees go through on their way to the high court or top Cabinet posts.

When John G. Roberts Jr. was nominated by President Bush in July to be an associate justice, he was promptly provided with two guides: former senator Fred D. Thompson (R-Tenn.) and former Republican National Committee chairman Ed Gillespie. Both are considered savvy Washington insiders who are now comfortably on the outside. After the death of Chief Justice William H. Rehnquist last week, Bush nominated Roberts to lead the court.

Roberts has not faced anything like the opposition Bork did. Democrats say they will press him harder at his confirmation hearings beginning Monday now that he is in line to be chief.

"There are several roles you play," said Duberstein, who also served as a guide for Supreme Court Justice David H. Souter, CIA Director Robert M. Gates and Secretary of State George P. Shultz. "You are the chief strategist for the ultimate goal of getting that person confirmed. You are also the traffic cop, because everybody wants to see the prospective nominee. You are a coach and you're also a confidant of the nominee. You are the chief liaison with the Hill, but also the chief liaison within the administration. You are an enforcer, but you are also a negotiator."

Duberstein said the job of guiding Roberts should not change because he has been nominated for chief justice. "I don't recall that there would be any distinction," he said.

The sherpa is very much the media messenger -- shaping and selling a nominee's personal story and image, devising strategies for dealing with reporters, and coordinating courtesy calls with key senators.

"They'll school you on what to say and what not to say," said Paul C. Light, a professor of government at New York University. "They are kind of a sounding board for you, and whenever you have one of those anxiety attacks . . . they are counselors for you. And if you get into trouble, you get a 'hold' placed on you, then they'll help you iron it out."

Sherpas tap their sources on Capitol Hill to learn about tough questions a nominee might face, and then drill nominees in mock confirmation hearings known as "murder boards." They even coach them on such matters as how long to pause before answering a senator's question and how to ask for a bathroom break.

But this is a complex process, and even the helper needs help. Sherpas supervise teams that vet a nominee's financial statements, personal history and professional record -- trolling for red flags.

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Light likened them to personal trainers, "somebody who is going to be there while you are doing everything and keep you from hurting yourself."

Other well-known sherpas include longtime Republican lobbyist Tom Korologos, now ambassador to Belgium, who helped Donald H. Rumsfeld (secretary of defense), Antonin Scalia (Supreme Court justice) and Edwin Meese III (attorney general), and veteran Democratic strategist Michael S. Berman, Duberstein's lobbying business partner, who assisted Justices Stephen G. Breyer and Ruth Bader Ginsburg.

Although sherpas work pro bono, the job is not without compensation. The role underscores a lobbyist's political access and clout, impressing prospective corporate clients.

Duberstein and then-Sen. John C. Danforth (R-Mo.), assisted by a team of administration insiders, helped steer Thomas through a difficult confirmation marked by law professor Anita Hill's accusations that Thomas had sexually harassed her when she worked for him at the Education Department and the Equal Employment Opportunity Commission, in the 1980s. Duberstein was especially influential on matters of style, Danforth wrote in his 1994 book, "Resurrection: The Confirmation of Clarence Thomas."

"As Clarence walked past banks of cameras, Ken would say, 'Give them a thumbs up,' and Clarence would comply," Danforth wrote. "When advising Clarence not to respond to press questions, Ken suggested, 'Tell them, "I wish I could answer that." ' . . . He told Clarence that when he entered the Senate Caucus Room at the start of his first hearing, he should go up and shake hands with each member. He insisted that Clarence, against his will, conclude the first hearing by complimenting the committee for being fair."

Thomas prevailed, in part, because he was able to define himself as an African American who had risen from poverty in rural Pin Point, Ga., and whose confirmation controversy represented yet another hurdle that he had to overcome. In a tactical move, Duberstein won assurances from the Senate Judiciary Committee that Thomas would have the opportunity to respond to any allegation in the same news cycle. That enabled Thomas to reclaim the offensive on the day Hill testified and Thomas responded by memorably labeling the proceedings "a high-tech lynching for uppity blacks."

When Rumsfeld was sworn in as defense secretary in 2001, Korologos was in the Oval Office with Bush and Vice President Cheney. "He is so famous for working around outside the Senate chamber that he is known by the insiders as the 101st senator," Rumsfeld said at a March 2002 award ceremony for Korologos. "But all that experience does come in handy, and it has helped me from time to time -- not least in my confirmation hearings. His advice for courtesy calls was 'Get in, listen, get out.' It worked."

Korologos has handled hundreds of nominations over the past 40 years, most of them uncontroversial. He has even helped with three or four murder boards by telephone from Brussels, he said.

"It's an arcane art," he said in a telephone interview. "Most nominees have never done this before. . . . You are not running for sheriff; you are not running for Miss America. You are running for whatever the number is, 10 or 11 votes on the committee and 51 on the floor. That's the constituency."

Carol M. Browner, head of the Environmental Protection Agency in the Clinton administration, said her sherpa's best advice was that confirmation hearings are mostly about the senators, not the nominee.

"Mike Berman said to me, 'When they finish asking that question, wait a few seconds to reflect on the question. It makes you look respectful. It makes you look thoughtful. And it takes up time,' " she said. "He had all these little tricks."

Exactly, Korologos said. "You've got to know the system, the nuances, what buttons to push up on the Hill to make them respond. That's why there aren't many of us doing it."

As confirmation fights have become in some ways proxy battles in the country's culture wars, the need for sherpas has grown. But sherpas are guides, not guarantees, and nominees occasionally fail anyway. Korologos, for all his skill, handled the Bork nomination for the Reagan White House.

"Washington is like Salem," Korologos said. "If we ain't hanging somebody, we ain't happy."

OTHER NEWS:

Gauging Katrina's Impact (WSJ)

DOJ_NMG_0003962

By Tim Annett

The Wall Street Journal, September 9, 2005

Hurricane Katrina is likely to slow growth and boost inflation pressures in the second half of this year, economists believe. But the economy could receive a modest boost early next year amid recovery efforts on the Gulf Coast.

That's the view of economists who participated in this month's Wall Street Journal Online forecasting survey. To reflect the expected economic impact of Katrina, they marked down their annualized forecasts for growth in gross domestic product for the second half of this year by 0.4 percentage point. The survey was conducted Sept. 2-7.

These private-sector economists expect a somewhat smaller impact than what has been predicted by the Congressional Budget Office, which has said that second-half growth could be trimmed by a half to a full percentage point.

The WSJ.com survey found that economists don't expect the slowdown to be long lasting. In light of Katrina, they raised their forecasts for the first half of 2006 by 0.2 percentage point, as they see post-hurricane reconstruction giving the economy a kick in early 2006. Further, the economists say there's only an 18% probability of a recession in the U.S. over the next 12 months.

"In five years, economists with somewhat foggy memories will be asking themselves: 'Now what year was that big hurricane in New Orleans anyway?' because they will not be able to see it in the GDP or inflation data," says Donald Straszheim of Straszheim Global Advisors.

The 56 economists now expect GDP, the broadest measure of U.S. economic activity, to expand at a 3.6% seasonally adjusted annual rate in the third quarter and at a 3.2% rate in the fourth quarter. Those forecasts were down sharply from last month's survey, when the economists predicted growth of 4.2% and 3.6% in the third and fourth quarters, respectively. Forecasts for the first half of 2006 changed little, with the economists expecting growth of 3.3% on average.

These revisions reflect all factors that the economists take into account in arriving at their forecasts, not just the impact of Katrina.

Whether the economists' revised projections prove to be on the money may be another matter. Even the economists themselves aren't sure, as Katrina hasn't just made a mess of New Orleans, it has also played havoc with forecasting. On average, the economists are only 57% confident that officially reported GDP growth will fall within 0.5% of their predictions. That's down sharply from the 67% confidence level they expressed in the August survey.

Why have the economists gone wobbly?

"None of us have ever dealt with anything this large," says Susan M. Sterne of Economic Analysis Associates. She says making sense of incoming economic data will be a somewhat dicey proposition in the months ahead. "Obviously there are going to be effects in the data that may or may not be real effects."

Energy Prices Are Crucial

Ram Bhagavatula of Combinatorics Capital says retail gasoline prices, which shot up to as much as $5 a gallon in some areas last week, are the key to understanding the post-hurricane economic puzzle. "If gasoline prices go back to pre-hurricane levels, I think the economic effects [from the storm] will be minimal," he says.

Even with the big price increases seen at the pump since the storm, economists say gasoline prices haven't been high enough -- for long enough -- to harm the economy. Though the national average price for a gallon of regular unleaded stood at $3.03 a gallon Thursday, just pennies below a high reached Monday, according to AAA, economists say gasoline would need to reach $4.06 a gallon for a sustained interval in order to present a hazard to the expansion.

Ms. Sterne says she'll be keeping an eye on consumer confidence to determine whether skyrocketing gasoline prices will lead people to steer clear of the shopping mall, crimping consumer demand -- and, thus, overall economic growth. "Worrisome to me is that we were seeing some confidence weakness even prior to this. I'm not sure if it was because of gasoline prices, but it's all very much energy related. The hurricane perpetuates and possibly exaggerates the energy situation."

Impact on Inflation, Jobs

Forecasts for inflation were lifted sharply amid the dramatic increase in gasoline and other energy prices. The economists now see the Labor Department's consumer-price index increasing 3.3% year over year in November, up from an expected 2.8% annual increase that was forecast in last month's survey, and they think the CPI will increase 2.8% in May 2006, up from the 2.5% forecast increase last month. The CPI rose 3.2% in July.

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Feeding the expected increase in inflation pressures is the recent jump in a range of spot commodity prices -- from coffee to steel to crude oil -- amid concern about supply disruptions. As Katrina rampaged across the Gulf of Mexico and made landfall in Louisiana, oil rose to more than $70 a barrel, but has since retreated to around $67. The economists expect crude to slip to $61 a barrel at year's end and to fall to around $56 by the end of next June.

The economists expect Katrina to be a drag on the U.S. employment situation. They predict that over the next 12 months, nonfarm payrolls will expand by an average of 173,000 jobs a month -- the lowest forecast in more than a year and well beneath the pace of roughly 195,000 new jobs a month so far in 2005. At the same time, forecasts for the unemployment rate were nudged upward, with the economists now predicting a 5% jobless rate in November and a 4.9% rate in May 2006. Last month, the economists forecast 4.9% unemployment in November and 4.8% unemployment in May.

Katrina and the Fed

Besides stirring up trouble for economic models, Katrina has also created some uncertainty about what the Federal Reserve might do with interest rates. Since June of 2004, the Fed has brought the federal-funds rate from a 46-year low of 1% to 3.5%. After Katrina's landfall, futures-market activity revealed a growing belief that the U.S. central bank would pause its campaign of rate increases before the end of this year.

But more than two-thirds of the economists say the Fed shouldn't halt its campaign to lift rates. Indeed, this month's forecasts for the federal-funds target rate were unchanged; the economists still expect the Fed's key short-term lending rate to reach 4% by the end of this year and 4.25% by June 2006.

Paul Kasriel of Northern Trust believes that the Fed shouldn't stop raising rates as a result of Katrina, but he does think policy makers will take to the sidelines for a time. "I believe Hurricane Katrina will result in a Fed pause through the spring of 2006. By pausing in its funds rate hikes, the Fed will indirectly underwrite much of the increased borrowing by the government sector and private sector related to post-Katrina rebuilding -- borrowing and spending that will boost 2006 real GDP growth (and inflation)."

Among other findings in the survey: • Fifty-nine percent of the economists say that there is a bubble in a few of the hottest local housing markets, but only 26% say a bubble exists in a significant part of the nation. Sixteen percent say there is no bubble at all. Meanwhile, 65% say that the end of the housing boom would lead to a noticeable slowdown in economic growth. About a third say there would be little to no effect. Just two economists feel a recession would result.

• Economist raised their forecasts for long-term interest rates. They now expect the yield on the 10-year Treasury note to be 4.48% at the end of this year and 4.75% by next June. The 10-year yield closed trading Wednesday at 4.14%.

Weekly Jobless Claims Drop, But Katrina May Spur Revision (WSJ/DJN)

By Joseph Rebello And Jeff Bater, Dow Jones Newswires

The Wall Street Journal, September 9, 2005

WASHINGTON -- Hurricane Katrina caused at least 10,000 job losses in Louisiana, Mississippi and Alabama last week, although nationwide the number of U.S. workers filing first-time applications for unemployment benefits declined slightly, the government said Thursday.

Initial jobless claims declined by 1,000 to a seasonally adjusted level of 319,000 in the week that ended Saturday, the Labor Department said. That decline occurred despite the filing of 10,000 disaster-related claims in the states hardest hit by Katrina. A Labor Department statistician said the claims numbers are likely to be revised upward in coming weeks.

"We understand that these states took claims over the weekend, continue to take claims from evacuees, and we expect these claims to be reflected in the numbers released next week," the statistician said.

The volume of jobless claims nationwide was larger than Wall Street had expected: Economists surveyed by Dow Jones Newswires had predicted 310,000 claims.

Economists have begun to predict that the nation's job growth will suffer this month because of Katrina's devastation. The Congressional Budget Office, for example, has estimated that Hurricane Katrina could cause national employment to decline "significantly" in September -- by between 150,000 to 500,000 jobs. But job growth should resume after that "as workers return home and businesses reopen and reconstruction gathers steam," the CBO said in a report Tuesday.

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Some Wall Street forecasters, as a result, expect Federal Reserve policy makers to suspend their campaign of interest-rate increases when they next meet on Sept. 20. Since June 2004, the U.S. central bank has raised its key federal-funds rate 10 times, in increments of a quarter percentage point. The rate now stands at 3.5%.

In its report Thursday, the Labor Department said the total number of workers drawing unemployment benefits declined in the week that ended Aug. 27, the latest period for which data are available. That number -- known as continuing claims -- fell by 5,000 to 2,593,000. The unemployment rate for workers with unemployment insurance held steady at 2%.

The department didn't revise its estimate of initial claims for the week of Aug. 27. During that week, it said, Kentucky reported the biggest increase in initial claims, a gain of 3,268 that it attributed to layoffs in the manufacturing industry. North Carolina, citing fewer layoffs in construction and other industries, reported a decline of 1,937 claims.

Wholesale Inventories Fall 0.1%

U.S. wholesale inventories unexpectedly dropped in July as sales increased.

Inventories fell 0.1% to a seasonally adjusted $352.04 billion, after increasing a downwardly revised 0.4% in June, the Commerce Department said Thursday. June inventories were originally seen rising 0.7%. The last time inventories dwindled this much was January 2004, when inventories also slipped by 0.1%.

U.S. wholesale sales rose 0.5% to a seasonally adjusted $298.66 billion. Sales climbed a revised 0.5% in June; demand was originally seen up 0.6% for that month. Economists had expected inventories to rise by 0.6% and sales to climb 0.5%, according to Thomson First Call.

The inventory-to-sales ratio was 1.18 in July, down from 1.19 in June. The ratio measures how many months it would take for a firm to deplete its current inventory. Year over year, sales were up 7.5%, while inventories rose 8.2%.

U.S. business inventories had gotten heavy as the pace of production of goods eclipsed demand. Companies lightened things up in the spring, letting sales absorb stocks of goods and, as a result, inventories rose by a mere $2.6 billion in the second quarter after swelling by $58.2 billion the first three months of the year and $50.1 billion in the fourth quarter.

Inventories of durable goods -- items such as cars and appliances that are meant to last three or more years -- rose 0.3% during July, after increasing 0.7% in June. Durable-goods sales decreased 0.2%, following a flat reading in June. Auto stocks grew 0.2% as car makers extended employee discounts to all buyers, driving summer sales higher and helping unclog overstuffed car lots.

Inventories of nondurable goods such as food and clothing fell 0.7% even though petroleum stocks increased by 5.6%, a climb likely given a push by rising oil prices. Sales of nondurable items rose 1.2%.

Consumers Build Up Debt

Meanwhile, U.S. consumers continued to build up debt in July -- though by far less than economists had expected -- the Federal Reserve said Thursday. Debt growth for big-ticket items such as cars, trucks and boats overshadowed a decline in revolving credit such as credit-card debt.

Consumer credit outstanding rose about $4.4 billion to a record $2.157 trillion, the Fed reported, compared with a revised increase of $14.6 billion in June.

The July increase was less than half the $10 billion economists had expected as they anticipated a bigger rise in nonrevolving credit to finance a sharp rise in auto purchases. The consumer credit data, which exclude real-estate mortgages, tend to be highly volatile from month to month and are frequently revised.

Nonrevolving credit rose by $5.4 billion to $1.352 trillion. That followed a revised increase of $7.4 billion in June, previously reported as a $6.9 billion expansion.

Revolving debt fell $1 billion in July to $805 billion, the first decline in four months and the biggest drop since last November. The July decrease followed a revised $7.2 billion increase in June, first reported as a $7.6 billion expansion.

Total U.S. consumer credit rose at a 2.4% annual rate in July, compared with a 8.2% annual growth rate in June, the Fed said.

Trying To Absorb The Newly Unemployed (WP)

By Krissah Williams

DOJ_NMG_0003965

The Washington Post, September 9, 2005

DALLAS, Sept. 8 -- A staffing company recruiter greeted Eugene Francois and his wife, Claressa, as they walked into a job fair at the cavernous Dallas Convention Center on Thursday. He shook their hands and asked what sort of employment the couple sought.

"Any kind of job," answered Eugene, a 34-year-old former New Orleans firefighter. He spent the morning filling out applications for positions at the Dallas County Sheriff's Department, a local warehouse staffing company and a trucking company.

The one-day job fair here attracted about 3,000 Hurricane Katrina evacuees settling into Dallas. It also enticed a few local unemployed residents, some of whom worry that the inflow of new workers will intensify competition for work in an area where jobs -- particularly in low-skill sectors -- are already tough to come by.

The assimilation of Hurricane Katrina evacuees into Texas's big cities and into communities across the country will be far from seamless. Almost all the evacuees are now unemployed, and many are also homeless. They are scrambling to find work so they can get out of the Federal Emergency Management Administration's massive shelters, into apartments and on with their lives.

"I'm looking for something that pays in the double digits, but I'll take $9 [an hour]. I'm by myself. I don't need much," said Theron Cosey, who is living in a shelter for evacuees in the convention center. Cosey worked in the engineering room of a hotel in New Orleans but said he also knows how to drive a forklift. He filled out an application for a position at a Dallas warehouse.

The Congressional Budget Office has estimated that 400,000 jobs were lost throughout the Gulf Coast due to Katrina. So far, only an estimated 10,000 workers who lost their jobs have filed for unemployment benefits, the Labor Department said Thursday. That number would have been higher, but many claims offices in the affected region were shut down. The Labor Department predicted that the number of disaster-related claims will rise sharply in coming weeks and that hundreds of thousands of displaced workers will soon be seeking benefits.

Job fairs and training programs are being offered to newly unemployed workers arriving in Dallas, Houston, San Antonio, Atlanta and other cities. This week, in addition to the Dallas job fair, similar events were held by Goodwill Industries in Shreveport, La., and Atlanta's Workforce Development Agency.

The fair in Dallas was sponsored by the Greater Dallas Chamber of Commerce in cooperation with WorkSource, an arm of the Texas Workforce Commission. Originally planned on a smaller scale at a local community college, the Dallas job fair was expanded this week, with companies coming from as far as Florida to offer evacuees jobs.

About 250,000 of those displaced by Katrina have come to Texas. While they make up a relatively small part of the state's overall population, they will be vying for a hotly contested slice of low-skill jobs, said Daniel S. Hamermesh, an economics professor at the University of Texas at Austin.

"Skilled people will certainly find jobs, [but] in terms of unskilled jobs the labor market is pretty tough," Hamermesh said.

The job fair here Thursday reflected that divide. Most of the 225 companies that set up booths were recruiting for nurses, teachers, welders, or other trades and professions that require technical expertise or college degrees. Fewer positions for general labor were available. A recruiter for $10-an-hour meat-packing positions at Tyson Foods said that he often places people in jobs at one of the company's plants in rural Kansas but that fewer positions have been open in Texas.

Over the past few years, the state's unemployment rate has remained around 5 or 6 percent, but that figure does not reflect the increasing competition in the market for low-skill jobs, Hamermesh said. In Texas, those jobs -- mainly in hotels, restaurants, manufacturing and construction -- often are filled by the state's large population of first-generation immigrants from Mexico, he said.

"In south Texas there is a large overhang of temporary and permanent immigrants, so there will be competition there," he said. "The pay level won't be as good as what [people from New Orleans] are used to," he said.

The League of United Latin American Citizens, a national Latino advocacy group, expects the damage to the tourism and service industries in New Orleans to bring greater competition for jobs in the short term but hopes that it might produce job gains in the future.

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"Hopefully we will see a construction boom in these devastated areas, and people will come in and help with that. You do see a lot of Hispanic construction workers in those types of jobs," said Gabriela Lemus, director of policy and legislation for LULAC's Washington office.

Concern over service-sector jobs was apparent at the Dallas job fair.

Ramona Rayford, 25, lives in Dallas and has been looking for retail positions for six months. She said her last job was in a clothing warehouse without air conditioning and with low pay.

"It's like [employers] push us out [of] the way. They know the Hispanics will do it and take $7 an hour or $5 an hour," Rayford said. "I know they have it hard, too."

When Dallas residents Tiffany Garcia, 18, and her friend Ricky Alvarado, 19, walked into the job fair, she looked around at all of the former New Orleans residents and poked him. "There is going to be way more competition. We ain't going to find a job."

Gas Prices Have Eased, But Other Prices Rising (USAT)

By Sue Kirchhoff

USA Today, September 9, 2005

WASHINGTON — Hurricane Katrina, which has already pushed gasoline above $3 a gallon, is prompting higher prices for everything from building supplies to natural gas and chemicals.

Economists have increased their projections for consumer inflation, some significantly. Global Insight expects inflation to reach 5.7% at an annual rate in third-quarter 2005, compared with its earlier 3.4% estimate. Economy.com expects 3.4% inflation through the end of 2005, up from 2.7%.

Both firms expect the inflation gains to be transitory — oil is off its $70-a-barrel peak, though still running $64.49 — with more manageable inflation in 2006. There are questions regarding how much of the price increases will bleed through to core inflation, which excludes food and energy and is the inflation measure most watched by the Federal Reserve.

But some say price gains could last longer. “The pressing effects on the economy are more likely to be temporary, but the adverse effects on inflation are more likely to be permanent,” says Ward McCarthy of Stone & McCarthy Research Associates.

The Energy Department estimates natural gas prices could rise as much as 71% in the Midwest this fall, with heating oil up more than 30% in the Northeast. The price gains depend on how fast refineries and oil rigs in the gulf are repaired.

Kevin Swift, chief economist of the American Chemistry Council, says chemical manufacturers use 12% of U.S. natural gas and will have to pass along price increases.

“Ultimately, the consumer bears it in any good that contains chemicals,” from plastic bottles to auto parts, Swift says.

Ken Simonson, chief economist of the Associated General Contractors of America, estimates construction costs will jump 10% through 2006, rather than the already high 8% he had expected. Frank Nothaft, vice president at mortgage giant Freddie Mac, says reconstruction could add 2% to 3% to new home costs. But that could be balanced by lower mortgage rates.

Chicken prices have risen because of supply disruptions, and pork prices have moved higher as traders speculate the meat could be a chicken substitute. But the Grocery Manufacturers Association doesn't expect big price gains for food in the near term. Coffee prices are off recent highs, as firms say there is less damage to supplies than expected.

Janet Yellen, president of the Federal Reserve Bank of San Francisco, in a speech Thursday said the Fed's task was complicated before Katrina, as the job market tightened and the economy picked up steam. The central bank has raised its target for short-term rates 10 times since June 2004 to 3.5%.

Fed officials and other economists must now weigh the threat of inflation against the possibility that high oil prices could slow growth. Fed policymakers next meet to review interest rates on Sept. 20 in Washington.

“Our approach during this phase must be particularly dependent on information from incoming data,” Yellen said, adding that energy prices could feed into core inflation.

Also affecting the outlook is reconstruction spending. The approval by Congress of a $51.8 billion aid package Thursday brings disaster aid so far to more than $60 billion. The quick aid could stimulate the economy faster than expected and end any lingering chance that Congress will rein in deficits.

Stocks Take A Breather (WSJ)

DOJ_NMG_0003967

By Scott Patterson

The Wall Street Journal, September 9, 2005

After two days of solid gains on Wall Street, investors stepped away from the plate Thursday, and stocks drifted lower as crude oil ticked up.

Home builders took it on the chin amid concerns that the housing boom could slow. The trigger was a lackluster earnings report by Hovnanian Enterprises, which posted net income of $1.76 a share for the third quarter late Wednesday, two cents below expectations.

The Red Bank, N.J., builder also served up disappointing guidance for the rest of the year and for 2006. Its shares slumped 6.7%. Toll Brothers fell 3.4%, KB Homes shed 2% and Pulte Homes lost 1.4%.

Bill Strazzulo, chief trading strategist at State Street, said concerns about the housing market were overblown. Treasury bonds have rallied recently, he noted, sending their yields lower. Since mortgage rates are tied to bond yields, a strong bond market should give support to housing, he said.

The decline among home builders had a ricochet effect on some banks, said Sarah Hunt, senior vice president at Capital Management Associates. Since "a large percentage of banks' earnings are related to mortgages," she said, if the housing market cools, that could put a big dent in their earnings. The Philadelphia Bank Sector index fell 0.72%.

The Dow Jones Industrial Average fell 37.57 points to 10595.93. Intel gained 1.7% ahead of its midquarter earnings update after the bell. It gave much of that back after it tightened its revenue guidance for the quarter. The Standard & Poor's 500-stock index shed 4.69 to 1231.67 and the Nasdaq Composite Index fell 6 points to 2166.03.

Light, sweet crude jumped toward the end of open-outcry trading on the New York Mercantile Exchange, settling up 12 cents to $64.49 a barrel on news of a large decline in output from the Gulf of Mexico. Oil prices spent most of the day lower after the government reported that petroleum stocks fell less than expected last week.

The report was one of the first yardsticks of the damage done to the oil-and-gas supply system in the Gulf Coast since Hurricane Katrina struck last Monday. It gave investors some relief that the devastation may not have been as widespread as earlier feared.

The Minerals Management Service, a branch of the Interior Department that monitors fossil-fuel production in the U.S., said the amount of Gulf of Mexico oil production shut down by Hurricane Katrina rose to 901,726 barrels a day, or 60% of total output. That was up from the 57% reported offline Wednesday, and renewed concerns that the nation could face an energy shortage in the coming days and weeks.

Investors had little hard economic data to guide them Thursday. The Labor Department reported that initial jobless claims declined by 1,000 to a seasonally adjusted level of 319,000 in the week that ended Sept. 3, the Labor Department said. That decline occurred despite the filing of 10,000 disaster-related claims last week in Louisiana, Mississippi and Alabama, the states hardest hit by Katrina. Economists had called for a decrease of about 10,000 claims to 310,000.

In major market action:

Stocks fell7. On the Big Board, where 1.4 billion shares traded, 1,205 stocks rose and 2,060 fell on Thursday. On the Nasdaq Stock Market, where 1.6 billion shares traded, 1,182 stocks advanced and 1,806 declined.

Bonds advanced8. The benchmark 10-year Treasury gained 1/32, or 31 cents per $1,000 invested, to yield 4.139%. The 30-year bond was up 2/32 to yield 4.419%. Yields move inversely to prices.

The dollar was mixed.9 It traded at 110.34 yen, up from 110.04 yen late Wednesday, while the euro rose to $1.2427 from $1.2421.

Gulf Banks May Come Out On Top (WSJ)

By Robin Sidel, Valerie Bauerlein And James R. Hagerty

The Wall Street Journal, September 9, 2005

The bright red sign atop Hancock Holding Co.'s headquarters is illuminated again -- and that could be a good sign for investors.

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The 106-year-old bank, based in Gulfport, Miss., is one of dozens of regional and national financial institutions with large operations in the areas devastated by Hurricane Katrina last week.

The Federal Deposit Insurance Corp. estimates that some 280 locally based institutions may have been affected by Katrina, representing $270 billion in assets and $201.3 billion in deposits. Big names in the area include Regions Financial Corp., AmSouth Bancorp, Compass Bancshares Inc. and Whitney Holding Corp.

Although the stocks of some affected banks tumbled last week when the storm's devastation became apparent, investors are betting that the area's economic recovery will generate enormous revenue and loan growth next year.

"As an investor, you can take some reassurance in the fact that after an initial period of loss of business, there will be a lot of cash and insurance proceeds flowing into the area," said James Schmidt, a portfolio manager at John Hancock Funds in Boston, which is owned by Canada's Manulife Financial Corp.

Like the banks, analysts are scrambling to determine the extent of the damage and how it will affect earnings. In addition to getting stuck with bad loans, banks are also likely to incur costs associated with repairing their own facilities and reinstating services to customers.

The storm came at a delicate time in the banking industry. In recent months, bank profits have been squeezed by a flattening yield curve -- the difference between short-term and long-term rates. The profit pinch has prompted some institutions to cut costs and free up funds that have been set aside for bad loans. Now, they may have to add more to those loan-loss reserves, which could take a bite out of earnings.

"It is unclear the magnitude of an impact that the recovery will have on bank earnings, but we believe that it is likely that results could be impacted for at least a few quarters," Kenneth Usdin, an analyst at Bank of America Corp., wrote in a report issued Tuesday. The report didn't quantify a potential impact.

Richard Bove, an analyst at Punk Ziegel & Co., estimated that Regions could face a billion-dollar loan loss from the storm, resulting in a $1.35 hit to per-share earnings. Still, "we would ignore this write-down if it occurs" due to "a steady stream of new businesses that will flow into this bank as southern Louisiana and Mississippi are rebuilt," he wrote in a report released yesterday.

"There will be credit issues," said Chris Spoth, acting director of supervision and consumer protection at the FDIC. "However, the banks were in very strong condition going into this crisis." Banks can turn to the Federal Reserve and the Federal Home Loan Banks for emergency short-term loans if they experience a shortage of cash, though Mr. Spoth said "we haven't seen" much of an increase in demand for such loans.

Still, the wrath inflicted by Katrina is far different than that of Hurricane Hugo, which ravaged Charleston, S.C., in 1989 or Andrew, which swept through Florida in 1992. Although those storms inflicted billions of dollars in damages that took years to repair, there were far fewer questions about the ability of those communities to rebuild. In New Orleans, the bulk of the city remains underwater, and it isn't clear if displaced residents -- now scattered around the country -- will ever return.

"The eventual reconstruction of the marketplace is going to be bigger [than other storms], but there will be more pain felt by the banks in the wake of this hurricane versus others," said Jefferson Harralson, an analyst at Keefe, Bruyette & Woods Inc. in Atlanta.

Unlike some of its more diversified rivals, Hancock has a 43% market share in its namesake Hancock County, one of the areas hardest hit by Katrina. The bank has $4.7 billion in assets and 107 branches. A branch in Bay St. Louis, Miss., was one of three destroyed by the storm. Another branch located just east of Gulfport was obliterated. "What's left is the vault and the sign," said Richard T. Hill, executive vice president, based in Baton Rouge, La.

But after listening to a conference call with Hancock executives late Tuesday, Andrew Stapp of boutique research firm Cohen Bros. & Co. raised his rating on the bank to "buy" from "hold."

"We believe the market is overreacting with regard to the impact of Hurricane Katrina on [Hancock] and perhaps is underestimating the long-term benefits associated with recovery efforts over the next several years," Mr. Stapp wrote in a research report. Still, he lowered earnings estimates for the bank for 2005 and 2006 based on an increase in loan-loss provisions. The bank, for its part, thinks its exposure to bad loans "is relatively limited," said Michael M. Achary, the bank's treasurer, who is based in Gulfport but is working out of the Baton Rouge office.

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In any case, Katrina is expected to cause a surge in defaults on home mortgages. In Louisiana alone, officials have estimated that as many 160,000 homes were ruined. Insurers will bear the costs of replacing those houses in many instances. To the extent that destroyed homes aren't insured against flooding, lenders or other holders of mortgage debt will face possible losses.

But "most investors have very low exposure to the affected areas," said Peter DiMartino, a strategist at RBS Greenwich Capital, an investment-banking firm in Greenwich, Conn. That is because mortgage risks are widely dispersed among lenders and investors around the world. Most U.S. home loans are bundled into mortgage-backed securities and held by banks, insurance companies, pension funds and other investors -- and most have a small exposure to the region hit by the storm.

Most lenders will allow borrowers in affected areas a grace period to delay repayments without facing extra fees, the Mortgage Bankers Association said. Fannie Mae and Freddie Mac, mortgage-funding providers established by Congress but owned by investors, own or guarantee around half of the $8.3 trillion of U.S. residential mortgage debt outstanding. Spokesmen for both companies said they are still assessing the situation and can't estimate its financial effect. Based on the experience of past hurricanes, however, neither company is likely to face major losses. The credit risk on most mortgages that aren't backed by Fannie, Freddie or the Federal Housing Administration is borne by holders of so-called nonagency mortgage securities. Mortgage analysts at UBS AG in New York released a report this week estimating that less than 1% of the amounts due on loans backing such securities are in the ZIP Codes most affected by Katrina.

Four Easy Pieces (WSJ)

The Wall Street Journal, September 9, 2005

If the feds really want to help the economy post-Katrina, here are four words: lumber, cement, shrimp and steel. They all have prices higher than necessary because of U.S. anti-dumping trade law.

Start with lumber and cement, which will soon be in great demand to rebuild the tens of thousands of damaged homes. Prices are sure to rise as reconstruction begins, but thanks to U.S. tariffs as high as 27% on Canadian lumber, American home buyers already pay an extra $1,000 on average for their shelter. The same goes for U.S. duties on Mexican cement, which have averaged 55% since 1990. Now would be an ideal time for Washington to declare a truce in these trade spats and reduce the price of rebuilding.

Then there's shrimp, an increasingly popular part of the American diet whose prices may well rise sharply in Katrina's wake. Louisiana shrimpers represent the bulk of the domestic industry and were all but wiped out by the hurricane. According to the Consuming Industries Trade Action Coalition, shrimp as a share of total food consumption increased 45% among low-income families from 2000 to 2002. And while the U.S. shrimp industry employed 13,000 in 2002, shrimp-consuming industries employed 250,000.

So this is also a perfect time to review the anti-dumping duties the U.S. imposes on foreign shrimp. The U.S. International Trade Commission, which determines these things, is already scheduled to meet this month to consider relief for India and Thai shrimp after the December 2004 tsunami. But the ITC ought to do even more post-Katrina for American consumers and waive duties on all foreign shrimp.

And while we're at it, consider specialty steel, which depends on hydrogen gas produced in the Gulf. Steel Dynamics, a mini-mill in Butler, Indiana, has already said it will stop making cold-rolled, galvanized and painted sheet products until its hydrogen gas supplies are restored. Steel prices are rising fast in anticipation of tight supplies, which means higher prices for American companies making cars, appliances and many other products. So how about lifting anti-dumping tariffs on imported steel to ease any domestic shortages and help U.S. manufacturers trying to stay competitive?

The Beltway impulse is to assume that the only way to respond to a natural disaster is to spend more money. But these four easy trade pieces would help everyone without taxpayers having to spend a dime.

Crude Oil Supplies Overwhelm Refineries (FT)

By Carola Hoyos And Javier Blas

Financial Times, September 9, 2005

DOJ_NMG_0003970

The US and Europe are releasing more emergency crude oil than refineries in the Gulf of Mexico can handle, reinforcing suspicions that governments are using the crisis triggered by Hurricane Katrina to cap record oil prices.

US refineries will on Friday begin to bid for the 30m barrels of crude oil that the US government is releasing from the its emergency reserves but, with many refineries disabled, analysts say the additional supply may not be needed.

"I will not be surprised if they don't bid for all the barrels," said Katherine Spector, of JPMorgan in New York.

Data released on Thursday suggested that, while petrol is in short supply, oil companies still have plenty of crude in their inventories. The companies' stocks fell 6.45m barrels last week, significantly less than the 13.6m barrels of production capacity lost to the hurricane suggesting that the shortfall did not warrant the scale of the governments' responses.

President George W. Bush has insisted that the US Strategic Petroleum Reserve, which holds nearly 700m barrels of crude oil, will release supplies to relieve shortages, not to depress prices.

The same line has been taken by the International Energy Agency, the industrial countries' oil watchdog, which last week announced a 2m-barrels-a-day emergency release for the next 30 days. That total of 60m barrels includes the 30m barrels from the US's SPR. Société Générale, the Paris-based bank, estimates that the emergency stocks released more than cover last week's loss of crude production and the continuing losses expected over the next 40 days.

Frédéric Lasserre, the bank's chief oil analyst, said the emergency stocks of crude released covered 154 per cent of the lost production.

The excess oil comes on top of commercial crude inventories in the US that are well above 2004 levels and the average over the past five years.

But Mr Lasserre said emergency stockpiles of petrol released by Europe only covered half the loss caused by Hurricane Katrina.

Five US refineries, with a combined capacity of more than 1.1m b/d, 5 per cent of the country's total, were still closed on Thursday.

Samuel Bodman, US energy secretary, said it would take "at least three months" to get them producing. Refineries process crude oil into petrol, diesel, jet fuel and other products, so shutting down a refinery reduces the need for crude but also curtails the supply of petroleum products.

In spite of that, more than 60 per cent of the total international emergency stocks that are being released consist of oil, with petrol accounting for 18.7 per cent. The rest is heating oil and fuel oil.

The US's SPR only contains crude oil, while European countries stock both oil and petroleum products.

Mr Bush criticised the Clinton administration for using the SPR in 2000 to manipulate markets and refused to tap it as prices reached records and pressure from Democrats grew earlier this year. But shortly before the hurricane, oil prices rose to $60 a barrel and there were signs that high oil prices were affecting the economy in the US and beyond.

Wal-Mart warned that its bottom line was suffering because record petrol prices meant its customers had less money to spend in the stores. Meanwhile Asian countries, such as Indonesia or the Philippines, began to blame the decline in their growth and the value of their currency on high oil prices. US oil prices rose 12 cents on Thursday to $64.49 a barrel.

'A Significantly Slower Recovery' (USAT)

By David J. Lynch

USA Today, September 9, 2005

Now for the hard part.

In the first days after Hurricane Katrina, repair crews made good progress bringing oil and gas production in the Gulf of Mexico back to life. But restoration of energy output to pre-Katrina levels stalled late this week as industry specialists began addressing some of the worst damage to the region's sprawling energy infrastructure.

Ten days after the hurricane barreled ashore, gulf oil production Thursday was less than 40% of normal levels, down from 43% one day earlier, according to the U.S. Minerals Management Service. The lower number was because an oil company that had not previously reported finally did, says Gary Strasburg, an MMS spokesman.

Natural gas output Thursday stood at 59%, almost unchanged from the previous day.

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"This is significantly slower than the recovery from (Hurricane) Ivan," says Jamal Qureshi of PFC Energy in Washington, D.C. "The easy stuff has been brought back. … Now the tough stuff is ahead of us."

Oil prices, which had eased a bit earlier in the week, rose slightly on the discouraging gulf numbers. Light sweet crude for October delivery closed at $64.49 a barrel, up 12 cents, on the New York Mercantile Exchange. Gasoline futures settled slightly higher at $2.0222 a gallon, while heating oil fell more than 3 cents to settle at $1.9296.

Industry crews face several obstacles before they can fully restore production. As Katrina bore down on New Orleans, it scythed through waters thick with oil platforms and onto a shoreline hosting the heart of U.S. refining capacity. When the waters eventually crested, more than 95% of gulf oil production and 88% of gas output was "shut in," industry parlance for closed off. The region accounts for more than one-quarter of U.S. domestic oil and gas production.

Even industry veterans have been stunned at Katrina's power. "Massive waves mangled production equipment and piping, living quarters. … I've been doing this for 35 years, and I've never seen such damage," says Kenneth Neveaux of Houston-based Apache, an independent oil and gas company that lost eight platforms to the storm.

More than three dozen oil platforms were capsized by the powerful storm, says Rebecca Watson, assistant secretary of the Interior. Earlier this week, she told Congress it will take "weeks or even months before we are back up to 100%."

One big worry: A quartet of major deep-water platforms that produce 10% of gulf oil "suffered extensive damage which could take up to 3 to 6 months to bring back on line," Watson said.

Royal Dutch Shell's Mars platform, operating in almost 3,000 feet of water, is among those hardest hit. Lying 130 miles southeast of New Orleans, Mars normally produces about 147,000 barrels each day. On Aug. 31, Shell confirmed on its website that the unit "was significantly damaged in the storm." Thursday, Shell spokeswoman Darci Sinclair said no further information was yet available.

The destruction at sea was mirrored by the damage ashore. Katrina flooded refineries with several feet of briny soup, blew out windows and cut electricity. Ten refineries, which turn crude oil into products such as gasoline and heating oil, were closed by the storm; five others had to throttle back. Including some Midwestern facilities that closed because they ran dry of crude, 20% of U.S. refining capacity was affected, says Bob Slaughter, president of the National Petrochemical & Refiners Association.

Four refineries, the largest a 325,000 barrels-a-day Chevron facility in Pascagoula, Miss., likely will remain closed for some time. Together, the facilities account for about 5% of total capacity — more than enough to make a difference in today's skittish market.

"The ones that are not on yet are probably the ones that are going to require more time and attention. Now we are really getting into the tougher part of the job," Slaughter says. "I don't think that people really understand the magnitude of the damage that's been done."

In some places, specialists are still trying to assess Katrina's legacy. The condition of the undersea pipelines that ferry oil and gas from the offshore production sites to land-based processing facilities is a big unknown.

And some experts are beginning to worry that the near-silence from pipeline companies masks serious trouble with the 33,000 miles of plumbing that snake beneath the gulf. "It's taking a long time to get the answer. Educated guess: No news is bad news," says David Pursell of the Houston-based consultancy Pickering Energy Partners.

Gas Inventories At A 5-Year Low (NYT)

By Vikas Bajaj

The New York Times, September 9, 2005

The nation's gasoline inventories fell last week to their lowest levels in almost five years, the government said yesterday, quantifying for the first time Hurricane Katrina's effect on energy supplies and production.

Americans bought and used about as much gasoline as they did a year earlier - 9.3 million barrels a day - in the week that ended last Friday, but gasoline inventories fell 2.2 percent from the previous week because of supply and production disruptions, the Energy Department reported.

The figures did not include the Labor Day weekend, and gasoline stocks may have declined even more since then.

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The hurricane has reduced oil and gasoline production, refining and distribution in the Gulf of Mexico region, and energy companies are still trying to recover lost capacity.

For consumers, the disruptions meant high retail prices and, in some areas, spot shortages of gasoline.

A gallon of regular unleaded gasoline was selling yesterday for an average of $3.03 nationwide, down from $3.04 on Wednesday, according to AAA. Average prices peaked at $3.06 on Monday and briefly spiked up to $4 to $5 during the last week in some cities, Atlanta among them.

Crude oil prices rose 12 cents, to $64.49 a barrel yesterday on the New York Mercantile Exchange.

Up to 10 refineries in the Gulf Coast that account for 10 percent of the country's capacity were shut and two critical pipelines that bring gasoline and other fuels to the South, the Middle Atlantic States and the Northeast were not operating at full capacity for much of last week. Six refineries are still shut and about half of the gulf's oil and natural gas production remains out of service.

All told, gasoline inventories fell to 190.1 million barrels as of Friday, down 8.6 percent from the period a year earlier. Measured another way, the nation has inventories that could last 20.4 days given normal demand and no additional production.

"That's the lowest in five years," said Fadel Gheit, an energy analyst at Oppenheimer & Company.

"It doesn't matter that if I have whatever level of inventories, but I am consuming a lot more, therefore it will last me fewer days," Mr. Gheit said.

Where Do Gas Prices Go Next? (CSM)

By Mark Trumbull

The Christian Science Monitor, September 9, 2005

Gasoline prices have begun to ease, but even when all Gulf Coast refineries are running again later this year, consumers may not see a full retreat to pre-Katrina levels.

That conclusion, analysts say, stems from a simple equation involving the cost of a barrel of crude, markups by middlemen, and little margin for error in the nation's energy infrastructure. Across the country, gasoline prices soared into uncharted territory - above $3 per gallon last weekend - stunning motorists and prompting many to shorten or skip Labor Day trips.

Concerns about price gouging by gas stations are being investigated in state capitals and the halls of Congress. Prices have already begun to pull back, as some refineries and long-distance pipelines affected by hurricane Katrina return to full strength.

How far and how quickly prices fall now depend on a few critical factors: when four damaged refineries come back on line, how quickly emergency shipments of gasoline from foreign refineries arrive, and most important, where oil prices go from here.

"As long as crude is high, the gasoline price will be high, although it doesn't have to be where it was the past few days," says Ron Gold, an energy analyst at the Petroleum Industry Research Foundation.

Oil prices fell Thursday to around $64 a barrel in midday trading after Energy Department figures showed higher than expected post-Katrina inventories.

The department's Energy Information Administration said this week it expects gasoline to reach $2.60 a gallon by year end and to average $2.40 a gallon in 2006. Despite the predicted drop, that would still be above July levels, which the EIA pegged at nearly $2.32 per gallon.

Of course, as with all forecasts, actual prices - like gas mileage - may vary. But prices in the mid-to-high $2 range represent a significant shift in what is, for many Americans, the most visible gauge of energy costs.

The question for the economy is how much gas prices will affect overall consumer spending, which drives two-thirds of US growth. So far, recession is not in most forecasts, but high energy costs have been a key predictor of economic slowdowns in the past.

And gas prices are just part of the picture. Although gasoline accounts for about half of America's oil use, surging energy prices in recent months may show up most sharply in heating costs this winter. Natural gas, home heating oil, and electricity costs are all rising.

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The thought may be enough to prompt a rush for cardigan sweaters. But the price of those may edge up, too, as oil prices ripple through trucking and shipping costs.

Several factors, thankfully, could soften the shock at the gas pump and beyond.

For one thing, everything from automobiles to refrigerators to factories are more energy efficient now than they were in the 1970s. This shelters the economy somewhat from price swings.

Emergency responses to hurricane Katrina are helping as well: The Bush administration has eased regional gas-blend rules, so supplies can move freely to wherever they're needed. Strategic petroleum reserves are being tapped. Foreign supplies of gasoline are on the way. And on the Gulf Coast, which contains almost half of America's refining capacity, oil companies are racing to bring refineries and platforms back on line.

"The panic component of the gasoline prices should drop back down to something more in line with oil prices," says John Tobin of the Energy Literacy Project in Colorado.

Any price gouging that occurred in the wake of Katrina may be squelched soon, as federal and state watchdogs track down consumer allegations.

Indeed, as Katrina pushed up wholesale prices for gas by 50 cents or more overnight, America's streetscape grew surreal. In one stretch of road near Boston, retail prices for regular unleaded ranged from $3.04 to $3.69 per gallon last Friday.

"To some extent [price gouging] has happened," says Mark Routt, an analyst at Energy Security Analysis Inc. in Wakefield, Mass. "But my understanding is that it's been relatively rare and isolated."

In general, gas prices are driven by predictable economics: The price for crude oil, costs of refining and transporting, operating costs for 167,000 gas stations, and profit margins for all parties.

Prices typically drop heading into winter as driving season winds down. The gas tab also varies by state depending on tax levels and environmental regulation.

As for crude oil, it is measured in barrels that equate to 42 gallons each. "At $65 a barrel, that translates into $1.55 plus per gallon," before refining, distributing, or taxing, says Mr. Gold of the Petroleum Industry Research Foundation.

Economic forecasts vary on where that base-level price heads to next.

"World oil markets are fundamentally tight," says A.F. Alhajji, an oil economist at Ohio Northern University in Ada, Ohio. He wouldn't be surprised by oil at $75 oil a barrel in coming months.

But others say the current high price could give producers an incentive to reopen wells that weren't profitable at $35 a barrel. And it gives consumers an incentive to conserve. "Demand responds to the price signal," says Gus Foucher of Economy.com in West Chester, Pa., who predicts oil will cost $50 by the end of 2006. "Once we get through the hurricane season I think things will calm down a bit."

After Buying Surge, Demand For Gasoline Eases (LAT)

By James F. Peltz And Claire Hoffman

The Los Angeles Times, September 9, 2005

Hello, tipping point? Drivers' demand for gasoline appears to have downshifted since Hurricane Katrina sent pump prices soaring above $3 a gallon across much of the nation.

Katrina initially sparked panic buying, sporadic shortages and televised images of long lines at some service stations. Then, consumers pulled back as prices hit record highs, analysts said Thursday.

"America topped its tanks, and then the knee-jerk reaction was: `I'm not going to pay $3.19 a gallon for gas,' " said Tom Kloza, chief analyst at Oil Price Information Service, an energy research firm.

Demand was likely to taper off anyway, because the Labor Day weekend marks the unofficial end of the busy summer driving season. In addition, gas prices already were at or near record levels even before Katrina hit Aug. 29.

But in the aftermath of Katrina, at least one gasoline seller reported a 15 percent drop in sales over Labor Day weekend compared with a year earlier, Kloza said.

The Energy Department issues weekly reports on gasoline demand and supplies, and many analysts expected its report Thursday to show a surge in demand during the four days after Katrina's devastation, reflecting the panic buying.

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Yet the agency's statistics arm, the Energy Information Administration, reported Thursday that in the week ended Sept. 2, gasoline demand fell 4 percent from the prior week to 9.03 million barrels a day.

Analysts promptly labeled the data as suspect, contending that reliable numbers were hard to obtain in the days immediately after Katrina made landfall.

With about 20 percent of U.S. refining capacity either shut down or operating at reduced levels last week, compiling precise data was difficult and "we question the accuracy of these numbers," analyst Jacques Rousseau of the investment firm Friedman Billings Ramsey & Co. said in a report to clients.

Meanwhile, prices of gasoline and crude-oil futures edged higher in commodities trading after falling for several days.

The U.S. benchmark grade of light crude oil for October delivery rose 12 cents to $64.49 a barrel, and gasoline for October delivery inched up 1.33 cents to $2.036 a gallon.

The upswing came after the government reported no daily progress on the Gulf Coast's overall effort to rebuild its damaged energy facilities, a stark reminder that the recovery is expected to take months and require enormous investment.

About 60 percent of the region's oil production remained shut down, up from 57 percent on Wednesday, and the amount of natural-gas output that remained offline was unchanged at 40 percent, according to the U.S. Minerals Management Service.

The average price of self-serve regular nationwide slipped to $3.03 a gallon from $3.042 on Wednesday, according to AAA.

U.S. Gasoline Use Fell 4% Last Week (WSJ)

By Jeffrey Ball And Russell Gold

The Wall Street Journal, September 9, 2005

Americans used 4% less gasoline amid skyrocketing pump prices last week than they did the week before Hurricane Katrina hit, the federal government reported. But whether that indicates consumers have decided to conserve or merely that they couldn't find all the gasoline they wanted isn't clear.

The figures came amid signs that Katrina's effect on the nation's energy markets will continue to be felt in the weeks and months to come. The Department of Energy's Energy Information Administration said yesterday that stores of gasoline last week fell below the average range for the period, in a time when refineries are running flat-out to meet demand, after the hurricane knocked out Gulf Coast refineries. Meanwhile, the U.S. Coast Guard said yesterday that 52 energy-production platforms in the Gulf of Mexico were missing and 58 were damaged by the hurricane, nearly double the report of missing or damaged platforms Tuesday.

Following weeks in which U.S. gasoline use stood at more than 9.4 million barrels a day, it fell to about nine million barrels in the week ended last Friday, the EIA reported. Use fell by a similar amount compared with the year-earlier period. However, EIA officials cautioned that one week doesn't make a long-term trend.

The figures didn't include data from the Labor Day weekend or from this week. It's also unclear whether the weather simply reduced driving in the affected states, though government analysts doubted that explained the full drop. Tom Kloza, chief oil analyst with the Oil Price Information Service, a Wall, N.J., industry-research firm, said fuel retailers he has talked to have reported a particularly large drop-off in demand since Saturday. "It dropped off the table," he said -- a shift that, if true, wouldn't be reflected until the next government report, due out next week.

Yesterday's EIA numbers were the second indication in as many days that Americans might be tempering their consumptive ways in response to sharply higher gasoline prices. On Wednesday, the EIA slashed its prediction for U.S. oil-demand growth for the full year, "largely due to higher prices."

Meanwhile, the federal Minerals Management Service reported that 49.6% of combined oil and natural-gas production in the Gulf was still offline yesterday, slightly more than the 49.4% that was shut down on Tuesday. In the days after the hurricane, offshore operators were able to put workers back on numerous platforms and quickly restore about half of the daily output from the Gulf, which accounts for about a quarter of domestic oil and natural-gas production.

But since Tuesday, virtually no additional production has been brought back online. "We've restored the low-hanging fruit and I suspect there will be diminishing returns from here on out," said David Dismukes, associate director of the Louisiana State University Center for Energy Studies in Baton Rouge, La.

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Yesterday's bearish news on the pace of infrastructure repairs raised specific concerns about the supply of natural gas for the coming home-heating season. Crews are canvassing the Gulf to determine which pipelines, hub facilities and platforms require repairs.

October natural-gas futures yesterday rose 14.6 cents to close at $11.347 a million British thermal units. Crude-oil futures finished up 12 cents to $64.49 a barrel, up 48% year-to-date. Gasoline futures rose 1.58 cents to $2.04 a gallon.

Separately, British Airways and Singapore Airlines, two of the largest international carriers, raised fuel surcharges on most airline tickets.

Governor Criticizes Bush, Oil Industry Over Record Gas Prices (BJ)

By Mike Sunnucks

The Business Journal, September 9, 2005

Arizona Gov. Janet Napolitano criticized the Bush administration Thursday for failing to deal with the oil industry and record high gasoline prices.

Napolitano said the Bush administration has not been aggressive enough in dealing with sky high gasoline prices in recent years and in the aftermath of Hurricane Katrina.

The Democratic governor said the Republican White House has not been interested in consumers when it comes to the energy industry.

Phoenix area gasoline prices spiked after Katrina slammed New Orleans and the Gulf Coast. Valley gasoline prices are well above $3 per gallon and higher than California, which usually has higher prices.

Arizona receives more than two-thirds of its gasoline from California but prices still spiked after the hurricane. That worries state officials from both political parties.

Napolitano and state Attorney General Terry Goddard, also a Democrat, announced Wednesday they are investigating gasoline and oil companies for possible state antitrust violations and price collusion.

The governor said she met with oil industry representatives this week and did not receive satisfactory answers to why Arizona prices spiked after Katrina and why state prices are higher than California.

Napolitano said she wants the industry to show some transparency when it comes to pricing and supplies and more action out of the Bush administration.

The governor has pressed President Bush several times in recent years after gasoline price hikes, asking the federal government to investigate pricing, supply and possible antitrust issues. She said the administration has not responded aggressively to those requests.

Some Arizona Republicans favor temporarily suspending 5 percent state fuel tax to help lower gasoline prices. Napolitano said that might not have the desired impact if oil companies and gas stations opt to raise prices even more.

The Bush administration and governor have lifted Phoenix area clean air fuel regulations to allow the sale of various fuel blends in order to improve supplies.

President Bush has also released oil supplies from federal reserves in hope of bolstering national supplies and easing prices.

The governor also joined the chorus of criticism over federal handling of hurricane relief efforts, saying the Federal Emergency Management Administration is "disorganized" and that embattled agency director Michael Brown should be fired.

The Arizona Democrat also said congressional Republicans bear some responsibility for hurricane relief problems, pointing to reductions in funding for New Orleans levee systems and state emergency management programs.

Goddard and Napolitano also back a proposed state anti-price gouging law aimed at gasoline stations. That plan has failed to gain support from Republican legislators.

Democrats hope to make record high gasoline and crude oil prices and GOP ties to the energy industry a top issue in next year's elections.

Republicans, including Arizona Sen. Jon Kyl, agree that there were problems with hurricane relief efforts and are concerned about gasoline price hikes.

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The GOP argues some of the hurricane blame goes to state and local officials in Louisiana. Napolitano said Thursday that Louisiana Democratic Gov. Kathleen Blanco and GOP Govs. Haley Barbour of Mississippi and Bob Riley of Alabama have done good jobs in dealing with the storm and its aftermath.

For more: www.governor.state.az.us.

Gasoline Thefts Increasing As Fuel Prices Keep Rising (NYT)

By Jennifer Steinhauer

The New York Times, September 9, 2005

As fuel prices rise, and the tempers of American drivers with them, so, too, has the number of people who are stealing gasoline.

From Maine to Oklahoma, gas station owners are reporting a surge in the number of drivers who pull up to the pump, fill up and drive off without paying. The incidents, known as "drive offs" - which are typically concentrated at stations near big cities and Interstates - are forcing stations across the country to adopt prepay policies for cash customers.

Gasoline theft cost the industry - made up largely of convenience stores - $237 million in 2004, trade associations estimate, and the figure is on track to double this year, said Matthew Kussman, the director of business development at GasPriceWatch.com, which tracks gasoline prices and is starting a national database of theft incidents.

"There is a direct correlation between theft and prices being the highest they have ever been," Mr. Kussman said. "And Hurricane Katrina has not helped the situation."

Station owners report that they have sometimes faced frightening confrontations with gas thieves.

Last month, a station owner in Alabama was struck and killed after he tried to get in front of a sport utility vehicle whose driver was trying to leave without paying.

"This is absolutely a concern," said Holly Tuminello, the vice president of the Petroleum Marketers Association of America. "People get mad when they fill up their car and become irrational at the person selling gas at their little store."

Store owners and convenience store managers interviewed around the country said they had gone from none to a few cases a week to several a day. The thefts began to spike, the station owners say, around midsummer, when gas prices hit $2.50 a gallon. And prices have pushed higher since then. AAA reported yesterday that a gallon of regular unleaded gasoline was selling for $3.03 on average nationwide, down from $3.04 on Wednesday. Average prices peaked at $3.06 on Monday and spiked at $4 to $5 in some cities.

"We are up to two or three a day," said Kelly Porter, a clerk at the Citgo Quick Mart in Norfolk, Va. "They pump and make sure we aren't looking and just drive off."

In contrast to heavily urbanized areas on the East and West Coasts where nearly all stations require prepayment by cash or credit card, many stations elsewhere in the nation allow customers to pump first because it is both convenient for drivers and more lucrative. People who prepay tend to put less gas in their cars. But, it allows for theft.

People who pump without paying can be seen in all sorts of cars - from late-model sedans to brand new S.U.V.'s - and include college students and even the occasional retiree, station owners said. In June members of a theft ring in Florida were arrested for using trucks to siphon off gallons of gas from stations.

Wyman Tapley, the owner of Tapley's Grill and Variety in Bar Harbor, Maine, said he was so stunned by the drive-offs that the first time it happened, he thought a customer had simply been chatting with other locals, forgot to pay and would return the next day, as happens from time to time.

"I just didn't think this could happen this far north," Mr. Tapley said. "We live on an island so it is hard to believe people think they could do that and get away with it." Arrests of gas thieves is rare, gas station owners and operators said.

In response to the wave of thefts, many individual station owners and convenience store companies who previously were more trusting are requiring customers to pay cash before they pump. That represents a sea change for stations in small towns and many American cities. Some cities have passed laws to require prepay, and others, like New Jersey, require an attendant to pump gas.

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On Wednesday, Cumberland Farms, a chain of convenience stores, reversed its position and decided that it would require drivers to pay before pumping in 140 of its 900 stations in the Northeast and Florida. The stations are in "places where the other competitors are all prepay," said Christen Graham, a spokeswoman for the company. "Cumberland farms felt it actually became a target. So they have changed the policy."

Wawa, the Pennsylvania-based convenience store chain, said last week that its 540 stores in five states would begin to require prepayment. "Drive-offs may create unsafe situations on store lots, and contribute to higher prices," the company said in a statement.

Drivers who pay with credit cards at the pump - 54 percent last year - are not affected by prepay policies.

"It is not too good for people who come here every day," said Benny Nat, whose family owns a Citgo Quick Mart, in Des Moines.

Generally, store owners selling gas are loath to require drivers to prepay. Drivers often underestimate how much it will cost to fill up, and buy less, said Jeff Lenard, the spokesman for the National Association of Convenience Stores, in Alexandria Va.

Further, prepay drivers tend to pick up fewer bags of M&M's and bottles of water, and those who are required to prepay, especially in times of high prices, may opt to do so with a credit card, which raises fees and chews at the margins of the station owners.

"Most retailers don't make their money at the pump," Mr. Lenard said. "They really need customers to get in the store."

The QuikTrip Corporation, a convenience store and gas station company in Tulsa, has come up with a solution that other companies will probably ape. Cash customers provide gas station clerks with their driver's license, who in turn give the drivers a plastic card that activates the pump, but allows them to pay after pumping. If the driver does not pay the is deactivated and the license number is turned over to the police.

"Two years ago in Tulsa we were losing $4 million a year in gas rips," said Mike Thornbrugh a spokesman for QuikTrip, which operates stations in nine states. "And since we have instituted this, you would be lucky to see losses of a couple hundred dollars a month. We love it, and law enforcement loves it, too."

US Changes Position On Cuba's Weapons (CSM)

By Tom Regan

The Christian Science Monitor, September 9, 2005

In 2002, John Bolton, then US undersecretary for arms control and international security (and current US ambassador to the United Nations) said that Cuba had "biological weapons capabilities" and was sharing them with "rogue nations." Mr. Bolton and the Bush administration were adamant that Cuba was a potential threat to the United States because of this.

So it came as somewhat of a surprise last Tuesday when the US retreated from this early claim that Cuba has "an offensive biological weapons effort." The new position was made public in a State Department document released last Tuesday, when almost the entire United States was focusing on the effects of Hurricane Katrina in the Gulf of Mexico region.

Knight Ridder reported that the Bush administration acknowledged in the document that 'there is a split view' among intelligence analysts on the question.

The Knight Ridder story notes that this is the first time that the US has "publicly softened" its charge that Cuba had biological weapons, which has been "controversial from the outset."

The Economic Times of India said the new position amounts to a "volte face" by the US. The new finding on Cuba is based on a US intelligence-community-wide assessment, known as a National Intelligence Estimate, completed last year. In that estimate, which is classified, 'the Intelligence Community unanimously held that it was unclear whether Cuba has an active biological weapons effort now, or even had one in the past,' the State Department report states. A senior State Department official, briefing reporters on the document, said biological weapons programs are 'some of the most difficult activities to verify' because the facilities needed are small.

The BTC News blog points out that during the Senate confirmation hearings for Mr. Bolton (who was never approved by the Senate, instead getting his job via presidential recess appointment), one of the charges leveled against him was "a substantiated

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accusation that he tried to have two State Department intelligence analysts reassigned when they wouldn't back his position that Cuba had an active biological warfare program."

The US position on Cuba highlights a problem that has been pointed out by opponents of the Bush administration - that policymakers interpret the information in whatever way suits them at the particular moment, often ignoring the cautions of the intelligence community or pressuring them to change their views. David Adams, the New York Times Latin America correspondent, hits on this point in an opinion piece. Government intelligence experts 'unanimously held that it was unclear whether Cuba has an active offensive biological warfare effort now, or even had one in the past,', the report says. But, using the same information, the policymakers insist the 2003 finding 'remains correct.'

They base their concern on Cuba's 'technical capability' to pursue bioweapons thanks to the island's highly advanced biotech and pharmaceutical industry. Critics say such a hypothetical scenario is hardly the basis for making such a serious allegation.

Does the lead-up to the Iraq war ring a bell?

GlobalSecurity.org, a leading security think tank, reports that Cuba's biotechnology industry is "one of the most advanced in emerging countries." As a result, Bush administration officials, like Bolton, believe that Cuba is "capable of producing biological warfare agents, and Cuba's biotechnology industry could produce many types of toxins" although there is no evidence to suggest that this is the case.

The Associated Press reported that the 108-page document, while admitting to a "split in opinion" over Cuba, claimed that "Russia, Iran, North Korea, and Syria continue to maintain biological weapons programs," while China "maintains some elements" of a program. China denied the charge.

China Says North Korea Nuclear Talks Will Resume Tuesday (NYT)

By Joel Brinkley

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 - Six-nation talks over North Korea's nuclear weapons program will resume Tuesday, China said Thursday, but even as the announcement came from Beijing, a new player who seems likely to complicate the talks took the stage.

Jay Lefkowitz, an assertive, voluble former White House aide, was appointed last month to be a special envoy on human rights in North Korea, and made his first public appearance on Thursday. He said he planned to publicize whatever he learned about human rights abuses in North Korea, like allegations that the government holds political prisoners in concentration camps where they are "starved to death," as he put it.

North Korea typically reacts quickly and angrily to critical statements from Washington. In fact, just the announcement that Mr. Lefkowitz was being appointed to the new position was a factor in the North's decision to postpone resumption of the disarmament talks by two weeks.

President Bush was required to appoint an envoy by the North Korean Human Rights Act, passed last October. The White House waited more than 10 months to fill the post, with State Department officials cautioning that the envoy would complicate their work. But conservative Christian groups and other important supporters pushed the White House.

Secretary of State Condoleezza Rice embraced Mr. Lefkowitz's mission at his swearing-in ceremony on Tuesday, saying, "People all over the world have a right to live in dignity," and, "We believe the people of North Korea to be no different."

But others in the government are concerned that North Korea may use any critical statements made by Mr. Lefkowitz as a reason not to cooperate in disarmament talks. The administration acknowledged over the summer that it had made a concerted effort to tone down its comments on North Korea because, through the spring, the government there seized on each new criticism as a justification for refusing to return to the talks.

The talks resumed in August after a break of more than a year. But they recessed Aug. 7 because the parties could not agree on a statement of principles. The six nations involved are the United States, North Korea, China, Russia, Japan and South Korea.

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Mr. Lefkowitz made it clear that his work is intended to be wholly separate from that of Assistant Secretary of State Christopher R. Hill, the chief American negotiator at the disarmament talks. Mr. Lefkowitz reports directly to Ms. Rice, not Mr. Hill, and will have no role in the disarmament talks, he noted. His work and the disarmament negotiations, he said, are to proceed "in parallel tracks."

But when asked by reporters whether he was worried that his policy of publicizing North Korea's human rights problems might sabotage the talks, he said the administration supported his work, and his issues were "morally unambiguous."

Asked if he would advocate withholding food and other aid from the Korea, Mr. Lefkowitz seemed to leave the option open.

"We must be willing to look at all aspects of our relations with North Korea and our allies' relationship with North Korea," he said. Ms. Rice has repeatedly said the United States will continue supplying aid to the North Korean people no matter what the government does.

The talks are complicated in any case. On Thursday, as soon as China announced the talks would resume Tuesday, several parties restated positions that helped push the last round into a stalemate.

North Korea called it "unimaginable" that it would give up the right to pursue a peaceful nuclear power program - a chief sticking point - even if it gave up its nuclear weapons. The government also layered on a new public demand: that the United States, which has cut its troops in South Korea by a third, withdraw all its troops from the peninsula.

Japan expressed hope for the new talks but also said it would urge North Korea, again, to clear up the dispute over Japanese citizens kidnapped by North Korea decades ago.

South Korea urged the international community "to take the lead in establishing a rehabilitation program for North Korea," a senior Korean official told The Korea Times in Seoul.

Mr. Lefkowitz said he would meet with foreign governments and nongovernmental organizations to promote human rights issues - including the allegation that North Korea "holds 200,000 people in concentration camps," subject to "torture, starvation, disease and exposure."

These are not new allegations, but administration officials have seldom spoken of them in recent months.

North Korea Stands Fast On Nuclear Energy Use (WP)

By Glenn Kessler

The Washington Post, September 9, 2005

Two prominent experts on North Korea who recently made an unpublicized visit to the reclusive nation briefed Secretary of State Condoleezza Rice yesterday as U.S. negotiators prepared to return to Beijing for a renewal of six-nation disarmament talks.

China announced yesterday that the talks would resume next Tuesday, after a recess of more than five weeks after the participants were unable to reach agreement on a "statement of principles" that would guide negotiations to eliminate North Korea's nuclear programs. Japan, South Korea and Russia are also participants in the talks.

John W. Lewis, a retired Stanford University professor, and Siegfried S. Hecker, retired director of Los Alamos National Laboratory, met with Rice yesterday afternoon to provide details of their talks with key North Korean officials, including the top negotiators for the North Korean side.

The two men summarized their conversations in Pyongyang, made some suggestions for bridging gaps, and provided an assessment of the chances of reaching an agreement, according to one U.S. official.

During the talks with Lewis and Hecker, North Korean officials made it clear that they intend to insist that the statement of principles acknowledge North Korea's right to peaceful use of nuclear power, according to Charles L. "Jack" Pritchard, a former State Department Korea expert, who accompanied the two men.

To varying degrees, South Korea, China and Russia have supported the North Korean position, while Japan has backed the U.S. stance that North Korea's behavior gives it no right to even a peaceful program, except for research for medical, agricultural or industrial use.

"The North Koreans saw a chink in the armor," Pritchard said. "They have concluded this is a winning argument."

Pritchard said that as a result, any statement emerging from the talks appears less likely to be as clear and definitive as U.S. officials had hoped. This in turn might drag out future negotiations.

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To prod North Korea to return to the talks, Rice had declared that the United States recognized North Korea's sovereignty. From the North Korean perspective, a sovereign nation has a right to peaceful nuclear energy, and one way the United States can demonstrate that it respects North Korea's sovereignty is to support that right.

North Korea's position -- which also included a demand for a light-water reactor to compensate it for giving up its current nuclear facilities -- has led to sometimes heated discussions within the Bush administration over how to counter Pyongyang's gambit, U.S. officials said.

Some officials, such as Assistant Secretary Christopher R. Hill, the chief U.S. negotiator, have contended that the issue of whether North Korea has a theoretical right to peaceful nuclear energy is not as important as the main question of whether an agreement to eliminate North Korea's nuclear programs can be reached in the first place. Moreover, even if North Korea wanted to build a civilian nuclear program, none of the countries at the table now would even be willing to fund it.

"The issue for some of the partners is whether . . . North Korea could then reclaim a right to nuclear energy," Hill said last month. "If you ask me, it's not exactly a showstopper issue -- the real issue is getting rid of all their nuclear programs."

But other officials have pushed back, saying that such a concession would allow the North Koreans to chip away at an agreement, especially if they managed to hide materials or programs not discovered during the verification process.

Some of the internal debate has centered on arcane and detailed discussion over various articles of the nuclear Non-Proliferation Treaty. Some argue that the first two articles support a theoretical right, but others argue that that hinges on compliance with the fourth article, which requires a country to live up to its obligations. North Korea has violated those obligations and withdrawn from the treaty.

Some conservatives in the administration, however, believe the administration has weakened its position in the North Korean talks by agreeing to support the European negotiations with Iran on its nuclear programs, and by quickly reaching a deal this year with India to supply it with civilian nuclear energy. Iran has violated the Non-Proliferation Treaty, and India never joined it.

Yushchenko Sacks Ukraine Government (FT)

By Tom Warner

Financial Times, September 9, 2005

Ukraine's President Viktor Yushchenko yesterday sacked his cabinet and appointed a loyal and moderate ally to take over as prime minister from the populist Yulia Tymoshenko, after accusing her of engaging in divisive conflicts with other members of his political team.

Mr Yushchenko said Ms Tymoshenko and his national security chief, Petro Poroshenko, who had earlier resigned, had "lost their team spirit and trust" and had forced him to play the role of arbiter between competing institutions within his own administration.

"The president shouldn't be a nanny," Mr Yushchenko said. "I'm convinced that millions of people didn't stand on the Maidan for this," he added, referring to the central square in Kiev where his supporters gathered during last winter's Orange Revolution.

The long-simmering conflict between Ms Tymoshenko and Mr Poroshenko reached crisis point after the surprise resignation earlier this week of Olexander Zinchenko, the president's chief of staff, who on Monday accused Mr Poroshenko of corruption and interference in the media and justice system.

Mr Yushchenko appointed his old ally Yuri Yekhanurov, a veteran government official with a record of avoiding direct political confrontations, to take over as acting prime minister and form a new cabinet.

The move made clear that Mr Yushchenko would take direct personal control over government policy for the next six months until parliamentary elections due at the end of March. But his dismissal of Ms Tymoshenko is likely to lead to a damaging confrontation with her and her political team that could further bog down reforms.

Ms Tymoshenko is expected to announce that she will form a separate political bloc and run against Mr Yushchenko's Our Ukraine party, of which Mr Yekhanurov and Mr Poroshenko are senior members, in the March elections.

The elections are crucial, as they coincide with the coming into force of political reforms adopted during the Orange Revolution that transfer many executive powers to the prime minister.

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After the elections the premier would be chosen by the new parliament and would no longer answer to the president. Mr Yushchenko's allies are expected to attempt to cancel the political reforms in court.

¦US government officials are calling for a special Nato summit to assess Ukraine's readiness to join the military alliance as well as the candidacy of other countries, it emerged yesterday.

Kurt Volcker, a European affairs expert at the US State Department, said the US wanted to hold a summit on Nato enlargement in 2008, after a smaller meeting next year focusing on the effectiveness of the alliance.

Ukraine's President Fires Prime Minister (LAT)

By Kim Murphy

The Los Angeles Times, September 9, 2005

MOSCOW — The pro-Western government that swept to power in Ukraine's "Orange Revolution" collapsed today when President Viktor Yushchenko fired his popular prime minister and accepted the resignations of key political allies, struggling to quell the most serious political crisis of his 7-month-old administration.

Paralyzed with savage infighting among his supporters and stung by allegations of corruption surrounding the new democratic government, Yushchenko emptied the top ranks of his rancorous administration in an attempt to reassert his leadership of the tumultuous nation of 47 million on the eastern edge of Europe.

"The team's unity, unfortunately, has become an extremely acute problem. Interpersonal conflicts have begun to affect state affairs," Yushchenko said. "It is very difficult, but today I must remove this Gordian knot."

The president said he would appoint liberal economist Yuri Yekhanurov, a longtime ally and former economy minister, to head a new government as acting prime minister. Yekhanurov, an early architect of Ukraine's post-communist privatization program, is presently governor of the Dnipropetrovsk region in eastern Ukraine.

Yulia Tymoshenko, the sacked prime minister whose popularity had been one of Yushchenko's most valuable weapons, signaled that she will join the opposition in the March 2006 parliament elections that will determine whether the pro-reform team can hold on to power and continue Ukraine's drive toward joining the European Union.

"She's not going to work with Yushchenko," her spokesman, Vasily Chepinoga, said in a telephone interview. "Because Yushchenko and Yulia Tymoshenko see the main strategic ways of developing the country in a completely different way."

The firings followed months of increasingly uneasy relations between the president and Tymoshenko, whose populist moves to raise pensions and salaries, tax businesses, reverse shady privatization deals, and control gasoline prices have been blamed for stifling economic growth and undermining Yushchenko's free-market policies.

Soaring food and energy prices have led to widespread public disenchantment, fueled by the resignation of two top Yushchenko aides who claimed the president had allowed the new government to become tainted by the presence of several corrupt senior advisors.

A recent poll of Ukrainians by the Kiev-based Razumkov Center found that only 37% of respondents believe the new authorities are better than those tossed out when hundreds of thousands of Yushchenko supporters swept into the streets last fall and demanded the new elections that unseated former Prime Minister Viktor Yanukovich.

"This research is a confirmation that our society is gradually growing free of its illusions," Yuri Yakymenko, head of the Razumkov Center's political office in Kiev, said in a telephone interview. "After the Orange Revolution, we had very high public expectations. At first, those expectations gave huge support, both to the president and to the government. But later, the activity of the government itself, and especially the conflict right in the center of power, all of this slowly rid the public of these expectations."

Even so, he said, public support remains substantially higher than it was for Yanukovich and former President Leonid D. Kuchma.

The crisis has been long in the making, emerging not only out of the widening policy gap between Tymoshenko and Yushchenko, but also from a sharp rift between the former prime minister and Petro Poroshenko, a wealthy chocolate manufacturer who resigned today as secretary of the National Security and Defense Council.

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Analysts said Poroshenko has quietly angled to force Tymoshenko out and take her place as prime minister. Meanwhile, presidential chief of staff Oleksandr Zinchenko unleashed a firestorm this week when he resigned and accused "a small group of adventurists" outside the president's inner circle, most notably Poroshenko, of corruption.

"Corruption and bribery is again escalating. In many cases, the scale of it surpasses that of the past," Oleksandr announced at a news conference Monday.

"They have set up their own clan, they have orchestrated an information blockade of the president and pushed him into a virtual, unreal world," he said. "Step by step, they are implementing their plan to use power for their own enrichment, to privatize and to grab everything they can."

Poroshenko has denied the allegations, and Yushchenko appeared to defend him today — even as he moved to dismiss the government.

The key question now is how Yushchenko will move forward to the parliament elections next year, considered crucial because new election reform laws will transfer much of the president's power to parliament. Most analysts believe the president cannot win a legislative majority without Tymoshenko's party in alliance.

"I would like them to stay in the pro-government team," the president said, referring to both Tymoshenko and Poroshenko as "friends."

Many analysts said it was too early to predict a final split between Yushchenko and Tymoshenko, and most did not rule out an election in which the two politicians would run separate but friendly campaigns.

"Without Tymoshenko's support, clearly, Yushchenko never would have become president," Yulia Mostovaya, assistant editor of the respected liberal weekly Zerkalo Nedeli, said in a telephone interview. At the same time, she said, Yushchenko has his own wide base of support.

"He has actually created his own power, building it up on a basement of wealthy, financially strong tycoons, and that's what he's going to bring to the parliament elections," she said.

Ukraine Leader Fires Cabinet As Reform Coalition Splits (NYT)

By Steven Lee Myers

The New York Times, September 9, 2005

KIEV, Ukraine, Sept. 8 - President Viktor A. Yushchenko dismissed his prime minister and the rest of the cabinet on Thursday as internal divisions and accusations of corruption splintered the political coalition that led last year's popular uprising against his autocratic predecessor.

Facing a widening scandal, Mr. Yushchenko replaced the prime minister, Yulia V. Tymoshenko, a populist reformer whose fiery oratory drove what became known as the "Orange Revolution" but whose leadership proved divisive and debilitating in government.

In somber remarks broadcast on national television, Mr. Yushchenko said he had acted to end internal struggles for power among those who rallied tens of thousands of people in protests that ultimately overturned a fraudulent presidential election last fall.

He described his decision as a reluctant, though necessary one, saying that as president he "should not baby-sit" his squabbling aides.

"Ukraine was losing momentum, including economic pace," he said in his remarks, as transcribed and translated by the British Broadcasting Corporation. "I think members of my team listened to the president but did not hear him. And today I have cut the Gordian knot, however difficult it may be."

Barely seven months after his inauguration promised a newly transparent and democratic era, Mr. Yushchenko found himself facing a political crisis that threatened to undermine the ideals of last fall's uprising. His closest aides were not only deeply divided, but also faced accusations of the sort that dogged his predecessor, Leonid D. Kuchma.

Last Saturday, Oleksandr O. Zinchenko, Mr. Yushchenko's former campaign manager, resigned as chief of staff and later accused the administration of being "even worse" that Mr. Kuchma's. That thrust into public internal divisions that have simmered for months, hindering the government's work.

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On Thursday, almost immediately after Ms. Tymoshenko was dismissed, one of her strongest allies, the chairman of the Ukrainian Security Services, Oleksandr V. Turchinov, who was not dismissed, resigned in protest, deepening the split among Mr. Yushchenko's supporters. He warned that the president's decision "threatened the national security of Ukraine," the security services' spokeswoman said in a telephone interview, citing his resignation letter.

Another aide at the center of the accusations, Petro Poroshenko, the secretary of the newly empowered Security and Defense Council, also announced his resignation on Thursday. He denied allegations of corruption, but said he would step aside to avoid the appearance of thwarting an investigation into the charges.

At the heart of the divisions - and evidently the source of the accusations of corruption - have been the government's efforts to undo some of the dubious privatizations that took place under Mr. Kuchma. Prime Minister Tymoshenko has pressed for review of dozens of privatization deals, at times contradicting Mr. Yushchenko's more modest goal of reviewing only the most egregious.

The latest conflict involved a court ruling that overturned the 2003 privatization of a big steel factory, the Nikopol Ferroalloy Plant. The new owner, Viktor Pinchuk, Mr. Kuchma's son-in-law and one of the country's richest men, appealed, but in the meantime minority shareholders elected a new management team.

Mr. Pinchuk and the plant's workers rallied last week, calling the shareholders meeting illegal and confronting riot policemen sent to enforce the court's order. Mr. Pinchuk at the time accused Ms. Tymoshenko of trying to wrest control of the plant on behalf of her allies.

In his remarks on Thursday, Mr. Yushchenko referred to the showdown, saying that while the court's order was "deeply correct," he lamented "the intrigues behind the scenes" that nearly resulted in an armed clash.

"The finale of the story had nothing to do with attempts to hand the company from a gang over to the state," he said, "but it appeared that it was handed over from one gang to another. Therefore the people had a right to protest."

He did not elaborate.

Hryhory M. Nemyrya, an adviser of Ms. Tymoshenko's, called the dismissal of the government a sign of indecision. "The decision to punish everyone does not address the question of corruption," he said in a telephone interview. "Rooting out corruption was one of the goals of the Orange Revolution."

Since taking office, Ms. Tymoshenko and Mr. Poroshenko, the secretary of the Security and Defense Council, became powerful rivals, vying for influence and political power.

Yulia Tishchenko of the Ukrainian Center for Independent Political Research in Kiev said in a telephone interview that Mr. Yushchenko's crisis was a result of a new government structure that gave officials greater powers than their predecessors had, though overlapping ones.

"Each of the members of the new team wanted to get as much authority as they could, which was not good for the system," she said.

Mr. Yushchenko appointed a regional governor and former aide, Yury I. Yekhanurov, as acting prime minister.

It remains to be seen whether Mr. Yushchenko's action will stem a slippage of popular support among Ukrainians, whose enthusiasm for his democratic, market-oriented reforms appears to have diminished in the wake of rising inflation and an economic slowdown, as well as the government's infighting.

It is not even certain that Parliament, fractured into blocs led by many of those dismissed on Thursday, will confirm Mr. Yekhanurov or the cabinet he forms.

Ms. Tymoshenko, who leads her own faction in Parliament, did not comment on her dismissal, but Mr. Nemyrya said she would address the nation on television on Friday.

Her dismissal came as Ukraine's political parties have begun jockeying for support in advance of parliamentary elections in March. Those elections have added significance because Parliament's deputies will have the power to choose a prime minister and the government.

The expanded authority is the result of the agreement that cleared the way for a rerun of November's disputed runoff in which Mr. Yushchenko won the presidency from the originally declared winner, Viktor F. Yanukovich.

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Ms. Tishchenko said Ms. Tymoshenko's parliamentary faction showed signs of winning greater support, at the expense of the party the president once led.

Mr. Yushchenko referred poignantly and personally to the country's current state, citing the poisoning that disfigured his face on the eve of last year's election, a crime that has yet to be solved.

"A year ago, I ran for president not to see key state institutions struggling to find understanding and failing to find accord and mutual trust," he said. "That is not what I sought as I have been walking for a year with a face that is not mine."

Ukraine's President Fires Cabinet (WP)

By Peter Finn

The Washington Post, September 9, 2005

MOSCOW, Sept. 8 -- Ukrainian President Viktor Yushchenko fired his prime minister and entire cabinet Thursday after a simmering power struggle among leaders of last year's Orange Revolution erupted into very public infighting about alleged corruption in the government's top ranks.

The president appointed Yuriy Yekhanurov, a former economics minister and regional governor, as acting prime minister, replacing the firebrand Yulia Tymoshenko, and addressed the nation in an effort to calm the worst political crisis of his young term.

The mass dismissal signaled the end of the broad coalition that led a popular revolt after fraudulent presidential elections last November and brought Yushchenko to power.

Ukraine is the largest of three former Soviet republics in which a democratic opposition has taken power in this way. Western governments have been watching it closely for evidence of whether the new leadership can maintain unity and address endemic economic and social problems inherited from the communist era.

On Thursday, Yushchenko addressed the nation after a last-ditch effort to restore unity between the Tymoshenko government and his own presidential administration.

"I knew that there were definite conflicts between those people," Yushchenko said in his televised address. "I hoped that if each of them immersed himself in work, there would not be enough time for mutual intrigues." But he concluded that the government "lost the team spirit and faith."

The dismissal was triggered by a series of resignations by top officials who charged that some of the most powerful people around Yushchenko were using their positions to enrich themselves and reneging on one of the most important promises of last December's revolt, the eradication of endemic graft.

On Saturday, Oleksandr Zinchenko, Yushchenko's chief of staff, accused by name Petro Poroshenko, head of the Defense and Security Council, and Olexander Tretyakov, a senior presidential adviser, of "cynically carrying out their plan to use government posts to their own ends."

"Corruption is now even worse than before," said Zinchenko, announcing his resignation on television in a live nationwide broadcast.

As Zinchenko, a chief architect of the revolt, spoke, Poroshenko, a confectionary and media magnate who was a key financier of the Orange Revolution, stood scowling at the back of the room. Poroshenko moved to the podium when Zinchenko finished to angrily deny the accusations before reporters who were mesmerized by the verbal shootout.

"During my time in government, I did not become one penny richer or gain one share," said Poroshenko, whose candy factories have earned him the nickname Chocolate King in Ukraine. "I ask for one concrete fact that proves the accusations here today."

Zinchenko's resignation was followed Thursday morning by the departure of Deputy Prime Minister Mykola Tomenko. "I don't want to carry responsibility for people who have created a system of corruption," Tomenko said. "Today the president does not know what's going on in the country."

Poroshenko also resigned Thursday before Yushchenko dismissed the government.

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Political analysts said the crisis stemmed in large part from the political enmity between Poroshenko and the now dismissed prime minister, Tymoshenko, who is one of the country's most charismatic leaders. Last year, she galvanized huge crowds on Kiev's Independence Square, the epicenter of the mass demonstrations that brought Yushchenko to power.

Poroshenko also aspired to the prime ministership. Igor Koliushko, head of the Center of Political and Legal Reform in Kiev, said in an interview that he used the security council chaired by the president to form "an alternative government" that was in constant conflict with Tymoshenko's cabinet.

"They tried constantly to change the decisions of the constitutional government," Koliushko said. "The split reached such a pitch that they couldn't possibly be together anymore."

Whatever the truth of the allegations of corruption, the public airing of such accusations was designed to force other divisions to a climax, analysts said. Disagreement over how to investigate alleged corruption in past privatizations of state industries is a central issue.

Yuschenko's camp favors a relatively limited look, while Tymoshenko's wants a deep probe.

Svitlana Kononchuk, head of political programs at the Ukrainian Center for Independent Political Research, said Yushchenko must accept some blame for the crisis.

"The war between Tymoshenko and Poroshenko has lasted for seven months," Kononchuk said. "Yushchenko gave a lot of freedom to his partners. He assumed that these people were professionals, efficient, and they understood the importance of the situation which Ukraine found itself in. Yushchenko hasn't become a politician yet. He imagined himself a symbol, not a manager."

Yushchenko, however, said Thursday that "the president cannot be a nanny for them."

A spokesman for Tymoshenko refused to comment on the cabinet's dismissal, but a Ukranian news agency, quoting unnamed government sources, said that the prime minister felt betrayed and was likely to seek a return to office after the next election. After that vote, the prime minister and cabinet will be chosen by parliament rather than the president, as they currently are. The powers of the prime minister will also increase at the expense of the president.

The crisis is likely to deepen public disillusionment with the government's failure to deliver quickly on some of the basic promises of the Orange Revolution, particularly rapid economic improvement. An opinion poll conducted last month found that 53 percent of respondents believed Ukraine was on the wrong path, up from 30 percent in April.

Yushchenko was also tarnished by recent accusations that his 19-year-old son was leading a lifestyle far beyond his apparent means. A Ukrainian Web site reported that Andriy Yushchenko, a student, was driving a high-end BMW, had a luxury $30,000 cell phone and lavished cash on restaurants and other locations around the capital. To the fury of many people in Ukraine, he also registered as trademarks the symbols of the Orange Revolution.

Peeling Away The Revolution (WSJ)

By Robin Shepherd

The Wall Street Journal, September 9, 2005

An act of strength or sign of weakness? Actually, Viktor Yushchenko's decision to fire his entire government yesterday smacks of both: strength because it allows him to form a cabinet of allies rather than rivals; and weakness because he was all but forced to do it to answer damaging accusations that he was tolerating corruption in his own inner circle.

We may leave that debate about the position of President Yushchenko to those who believe history is the product of great men. To the rest of us, Ukraine's biggest political crisis since the Orange Revolution should be understood, to a great extent, in terms of flaws in the revolution which were apparent from the start. Yesterday's events may not have been inevitable, but a panoply of factors made some sort of crisis a distinct possibility.

The most obvious problems, of course, centered on the fractious nature of the democratic forces that took power in January. In explaining his decision yesterday, Mr. Yushchenko accused the government of losing its "team spirit," an accusation which when applied to Prime Minister Yulia Tymoshenko could pass for the country's understatement of the year. The charismatic, and immensely rich, premier has barely concealed her own ambitions to take the president's place as the key player in national politics and has been engaged in all-out warfare with other members of the government for months. Enter Petro

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Poroshenko, the National Security and Defense Council secretary, who has been at loggerheads with Ms. Tymoshenko over economic policy. Corruption allegations (unsubstantiated as yet) against Mr. Poroshenko, who is also immensely rich, brought the current crisis to a head, and there is now a real risk that the two will lead their respective power blocks into next March's crucial general elections as enemies rather than allies. Any such confrontation could prove disastrous for the reform movement, either pushing it out of power completely or, more likely, forcing reformists to make damaging concessions to supporters of the previous administration in order to form a new government.

To add to the difficulties, such bickering takes place amid a dramatic downturn in the country's economic fortunes. Growth in the first half of the year collapsed to just 3.7%. That compares to 13.5% in the same period last year. Sliding growth has been accompanied by rocketing inflation, which currently hovers just below 15%. In a country where many people earn less than $50 a month, rising prices can cause real social pain.

Not surprisingly against such a backdrop, public support is plummeting. A poll by the Razumkov institute in August suggested that 43% of Ukrainians believed the country was on the wrong path, a jump from 23% in April. The August poll found just 32% felt the country was doing well, down sharply from 54% last spring.

The key question now, therefore, is this: Can Mr. Yushchenko and his new government recreate unity among the country's democratic forces, or are they heading for collapse?

Much depends on the attitude of Ms. Tymoshenko. She is due to make a televised address later today and it is little exaggeration to say that the content of that broadcast could define the future of her country. If she accepts President Yushchenko's generous offer yesterday to keep her in the fold in some capacity or other, there is hope that the reformists can pull it off. But she could also cause real problems. Mr. Yushchenko already faces difficulties in parliament passing legislation aimed at joining the World Trade Organization. He also has to get approval for the new prime minister. If Ms. Tymoshenko opts for all-out confrontation, it is hard to see how the situation can be prevented from descending into chaos.

But ultimate success for the aims of the Orange Revolution has never been simply down to events inside Ukraine. The country's problems were always going to be too severe to cope with in the absence of outside help. That's why the attitude of the European Union has always been so important, and why its policy hitherto has been so disappointing.

What Ukraine needs, and needs fast, is a clear and unambiguous statement from Brussels that it will be invited to start accession negotiations with the European Union if the country's pro-democracy parties promise to work together to pass important reformist legislation and then go on to win the March elections. Such a statement would certainly be tantamount to blatant intervention in Ukraine's political affairs, but it would be no less welcome for that. There is also a useful precedent in Brussels's brilliant strategy of working with democratic forces in neighboring Slovakia in the 1990s to successfully promote unity among opponents of that country's former authoritarian Prime Minister Vladimir Meciar. Slovakia today is a reformist success story. Brussels must take note.

All this said, the big picture in Ukraine remains one of hope and progress. This time last year, the country was run by a group of people who it would be kind to describe as thugs. The country still may have a long way to go, but we are at least past the stage at which opposition journalists wandered around the streets of Kiev in fear for their lives. When President George W. Bush praised the millions of people who stood on the streets of the Ukrainian capital last year as modern-day heroes of the democratic ideal, he was right. But as in Iraq, what he and his administration may have underestimated is the sheer complexity of the task at hand and the time scale in which we expect success.

What we are watching in Ukraine are still the first tentative steps in a desperately difficult transition. We will get a pretty good idea of whether that task can, in the end, be accomplished in the days and weeks ahead.

Mr. Shepherd is an adjunct fellow of the Center for Strategic and International Studies. He is based in Bratislava.

Ukraine's Orange Flame, Dimmed (NYT)

The New York Times, September 9, 2005

So ends the Orange Revolution, at least Act I. After months of increasingly nasty disputes, Ukraine's president, Viktor Yushchenko, fired his charismatic prime minister and nominated a caretaker to replace her. The fired prime minister, Yulia Tymoshenko, has said nothing - yet. But she will. Her fiery speeches and powerful presence were a major factor in the popular

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uprising that brought Mr. Yushchenko to power last fall, and she is certain to turn these weapons on the president and his new government, especially with elections for Parliament scheduled for March. All that is a serious blow to the hopes and expectations that had been raised for the future of Ukraine, and for reformers in Belarus and other former Soviet republics.

Perhaps the expectations were always unrealistic. People who unite to oust one government, as the Ukrainians did with huge demonstrations, do not necessarily agree on what the next one should be, and the alliance was always shaky between Mr. Yushchenko, a former prime minister and central banker, and Ms. Tymoshenko, who made a fortune in the gas business. Mr. Yushchenko and Ms. Tymoshenko squandered the momentum generated on Kiev's streets, struggling over control of lucrative industries, over relations with Russia and over how to cope with soaring energy prices. The impression was of a government with no focus.

On dismissing the government, Mr. Yushchenko declared that his one goal was to ensure stability. But the Ukrainian protesters wanted change. If Mr. Yushchenko hopes to salvage anything of their spirit, he needs to convince his country, and a very wary West, that he not only believes in democracy, free markets and the rule of law, but is also capable of leading Ukraine in that direction.

Controversy Swirls Over Egypt Vote (WP)

By Daniel Williams And Robin Wright

The Washington Post, September 9, 2005

CAIRO, Sept. 9 -- Egyptian government officials leaked partial results Thursday of the first multi-candidate presidential election to show that President Hosni Mubarak had won at least 70 percent of the vote, but controversy still swirled about alleged irregularities and fraud in Wednesday's vote.

Senior officials put voter turnout at about 30 percent.

Ayman Nour, who ran an energetic campaign as head of the fledgling Tomorrow Party, filed complaints with the Presidential Election Commission, which rejected them early Friday. "There were violations regarding the right of the voter to cast his ballot," Nour said. Independent human rights groups said they were considering filing court cases.

Government officials worked hard to persuade the public that the vote was valid. Boutros Boutros-Ghali, the former U.N. secretary general who heads the government's National Council on Human Rights, declared the election a "positive experience." Information Ministry officials urged reporters to accentuate the positive in the election and not focus on alleged violations.

In Washington, the State Department praised the vote. Spokesman Sean McCormack called it a "historic departure for the Egyptian people in holding a multi-candidate presidential election. . . . The debate during the campaign process was something, I think, that will enrich the Egyptian political dialogue certainly for years to come."

But the Mubarak government's efforts to get similar approval from Egyptians was hampered by the continuing disputes. Unlike in past parliamentary votes and presidential referendums, results were not announced at local polling stations. Instead, counts have been funneled to a central tabulation office that has until Saturday to release official numbers. "They have all the time they need to sculpt the result they want," said Enji Haddad, a member of We Are Watching, an independent group that tried to monitor voting irregularities.

Even as complaints were voiced over the vote, the first in which Egyptians were able to mark ballots with more than one choice for president, attention was quickly turning toward the next stage in the herky-jerky battle over changing Egyptian politics -- parliamentary elections scheduled for November.

Although Mubarak might have overcome months of assault from a variety of political opponents, even his staunchest supporters say they believe the battle will go on. Opposition leaders with competing visions for change in Egypt have made vast strides during the past few months, becoming more visible than at any time during the 24 years Mubarak has held power, his supporters say.

"Things can't go back," Information Minister Anas Fiki said in an interview. "The process has moved far."

This is also the hope of Bush administration officials who insist that the presidential vote was only a first step in converting Egypt from an authoritarian state into a democracy. Along with the war in Iraq and efforts to end the Israeli-Palestinian conflict, Egypt is a key to promoting democracy in the region, in the administration's view.

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In remarks made before the vote, however, senior administration officials emphasized the importance of the legislative elections. "For the near future, the parliamentary election is more important. It's not clear who will compete and who will end up where. But it's important to get all the public political energy into the political sphere, or it will go elsewhere," said a senior administration official involved in Middle East policy.

"We're looking at parliamentary elections as a time to bring in new faces and new political parties that will change the political landscape for Egypt," another senior official said.

Wednesday's election was a step in the Mubarak government's own plans to open up politics to some extent, albeit with the levers of power still held by the National Democratic Party, currently dominated by the president's son Gamal and a group of Western-oriented technocrats. They contend that reform in Egypt must be calibrated to avoid unrest that would upset free-market economic liberalization, another project spearheaded by Gamal Mubarak.

Mohammed Kamal, a member of Gamal Mubarak's advisory team, said reform plans include changes in the constitution to transfer some presidential powers to parliament and scale back emergency laws that have inhibited free speech for a quarter-century. "Our message is that we are creating a platform for change," he said in an interview.

It is unclear when the emergency laws might be lifted. Bush administration officials have pressed for them to be amended before the parliamentary vote, but President Mubarak has resisted, senior U.S. officials said.

As Mubarak has made gains, so have his political rivals. Nour, leader of a free-market party that was legalized only last October, has quickly became a prominent opposition force. Mubarak government officials were preoccupied Thursday with the possibility that Nour might have come in second in Wednesday's balloting. Some were openly rooting for Noman Gomaa, 71, the candidate of the established Wafd Party, to be the runner-up.

Wafd spokesman Mahmoud Abaza predicted the party would make a strong showing in the parliamentary vote. "The bottom line is that, the NDP aside, there are only two other political forces: Wafd and the Muslim Brotherhood."

The Brotherhood, which is officially banned from politics but is widely regarded as Egypt's largest opposition force, benefited from the months leading up to the election, said Aly Abdel Fattah, an official of the Brotherhood. Nour and Gomaa visited Brotherhood leaders to solicit support. The Brotherhood issued an anyone-but-Mubarak order to its followers. Members were widely interviewed on Arabic-language satellite television. "We were participants. We got our membership familiar with the workings of elections," said Abdel Fattah, who added: "The Brotherhood plans to run front candidates in the parliamentary vote."

Egypt's Unfree Vote (WP)

The Washington Post, September 9, 2005

Millions of Egyptians voted in a historic multi-candidate presidential election on Wednesday -- but the results will never be known. True, 77-year-old President Hosni Mubarak is widely believed to have obtained the most votes and will be duly sworn in next week for a six-year extension of his 24 years in power. But Egyptians will never learn what part of the electorate turned out to vote, or what percentage chose one of the opposition candidates who were allowed 19 days to openly campaign against Mr. Mubarak. That's because Mr. Mubarak excluded foreign monitors from the polling stations and reversed a ban on local watchdog groups only on Election Day, making it impossible for all but a handful to participate. He allowed his National Democratic Party to commit such visible irregularities as busing voters to the polls, standing over them while they cast ballots or offering lottery tickets in exchange for votes. Finally, the president decreed that all the results be tabulated at a central location by his handpicked nominees. When the totals are finally announced in a few days' time, there will be no reason for anyone to take them seriously.

The Bush administration, which cites the democratization of the Middle East as one of its top priorities, persists in describing this exercise as "a positive first step." It has some reason to do so: The election campaign, though absurdly short, resulted in unprecedented opposition rallies and criticism of Mr. Mubarak in newspapers and on television. The incumbent promised a long list of political reforms as part of his own campaign, including more freedom for the media, independence for judges, greater power for parliament and a reform of the emergency laws that have made him a de facto dictator. Still, Mr. Mubarak's insistence on heavy-handed steps to control the election's outcome -- despite his inevitable victory -- leaves the measuring glass of this Egyptian election considerably less than half full.

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It also raises urgent priorities for Egyptian reform, and the Bush administration's handling of Mr. Mubarak, in the coming weeks. That's because Egypt has another election coming this fall, for parliament, that in many ways is more important than the presidential poll. Not only is the legislature promised more power, but a recent constitutional change provides that only parties with parliamentary representation of 5 percent or more may nominate candidates in future presidential elections. If the upcoming vote is fair, it will drastically reduce the suffocating authority of the ruling party; if it is not, the election of Mr. Mubarak's successor will probably be as lopsided and unfair as this week's vote.

President Bush need not ask Mr. Mubarak for radical change -- only for steps that liberal activists in his own party favor. These begin with allowing slates of parliamentary candidates to be elected by proportional representation; the current system of more than 400 districts makes it impossible for opposition parties to compete. Next Mr. Mubarak must allow more of the real Egyptian opposition into the process; he could do this by granting the pending registration of the Center Party, a moderate Islamic grouping that would attract many supporters of the banned Muslim Brotherhood.

Most important, Egypt's next vote should be free and fair, and certified as such by both local and international monitors. Holding such a vote won't threaten Mr. Mubarak's newly extended tenure as president, but it will make it more legitimate. It won't make Egypt a democracy, but it would make it more likely that the regime's promise to gradually lead the country in that direction would be honored. Considering the billions in American dollars that continue to prop up Mr. Mubarak's government, and the importance of translating Mr. Bush's rhetoric about democracy into reality, it shouldn't be too much too ask.

Koizumi Backers Look Poised To Win In Elections (USAT)

By Paul Wiseman And Kazuko Takahashi

USA Today, September 9, 2005

Advocates for change in Japan could emerge rejuvenated from Sunday's legislative elections, thanks to Prime Minister Junichiro Koizumi's decision last month to wage war on obstructionist lawmakers in his own ruling party.

A poll this week by the daily Asahi Shimbun showed Koizumi's ruling coalition — his Liberal Democratic Party (LDP) and its ally New Komeito — leading the top opposition party. According to Asahi, the LDP is expected to win more than 250 seats in Japan's 480-seat lower house of parliament.

Since becoming prime minister in 2001, Koizumi — known for his unruly hair and love of heavy metal music — has billed himself as a reformer. He often has butted heads with conservative, change-resistant members of the LDP, which has ruled Japan nearly continuously for a half-century.

He took his agenda further with an internal purge of the party, replacing opponents with like-minded candidates. The fireworks started in August when rebel LDP lawmakers rejected Koizumi's pet project: privatization of Japan's massive postal system. In Japan, the post office does more than deliver mail; it also acts like a government bank, collecting trillions in deposits and doling them out as loans, often to corporate borrowers with close links to LDP lawmakers.

Defeated in the parliament when members of his own party joined the opposition Democratic Party of Japan (DPJ) to avoid the privatization scheme, Koizumi dissolved the legislature and called the election.

He threw 37 rebels out of the LDP and recruited a group of attractive candidates, dubbed by the daily Mainichi the "assassins" and "female ninjas," to defeat them in the polls. Among the hired guns are a former Miss Tokyo University, a celebrity pastry chef, former Olympians and an Internet tycoon.

"His clueless opponents thought he was bluffing. They forgot his favorite movie is High Noon," says political analyst Michael Cucek with the Tokyo-based business consultancy Okamoto Associates.

Some of the LDP rebels have joined new political parties; others are running as independents.

DPJ candidate Katsuya Okada, who left the LDP in 1993, says real reform is impossible unless the ruling party is ousted.

"The people had hopes that Koizumi would change the LDP, but he was not able to do that," Okada told Reuters recently. "Rather, domestic reform has not progressed, and foreign policy is beset on all sides."

The DPJ says reform of Japan's pension system, creaking under the burden of a rapidly aging population and falling birthrate, should top the policy agenda along with cutting wasteful public works and slashing civil servant personnel costs. The government hasn't resolved the question of how a dwindling workforce will pay benefits to a swelling number of retirees.

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Okada wants to first slim down the postal service, a sprawling giant with $3 trillion in assets, before deciding whether to privatize or abolish it.

He has also been harshly critical of Koizumi for chilling ties with China and South Korea by making annual visits to the Yasukuni shrine in Tokyo, where convicted war criminals are honored along with Japan's 2.5 million war dead.

Koizumi portrayed the DPJ as opportunists for siding with an opposition that included ex-Socialists and right-wing nationalists.

Some voters acknowledge they don't understand details of Koizumi's postal plan. “I don't really know what the reforms mean,” says Yoshinobu Okuyama, 62, an electrician. “But we need the Liberal Democrats in power.”

“I support Junichiro Koizumi,” says retired executive Katsuyuki Tokura, 63. “At the moment, there is no other politician who can change the corrupt, bureaucratic administration.”

“Koizumi needed reliable partisans for carrying out future reforms,” says teacher Yuichi Mita, 45. “This is a kickoff for reforms.”

Billions For Vaccines For The Poor To Be Raised In Bond Markets (NYT)

By Celia W. Dugger

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 - Britain, France, Spain, Italy and Sweden will announce an agreement on Friday to raise almost $4 billion on the bond markets for an enormously expanded use of vaccines across the developing world. The World Health Organization estimates this undertaking will save the lives of five million children over the next decade.

Commitments from some of the participating nations have been secured only in recent days.

The new funds would roughly double the resources of the Global Alliance for Vaccines and Immunization, an umbrella group of countries, international organizations, vaccine industry representatives and the Bill and Melinda Gates Foundation. Over the past five years, the alliance has financed the immunization of 78 million children and prevented more than a million child deaths, the health organization estimates.

The alliance's board has already approved ambitious programs for 2006 to expand measles coverage in South Asia and sub-Saharan Africa, as well as to help eradicate polio worldwide and increase the use of maternal and neonatal tetanus vaccines. These plans can go forward now that the new financing has been secured.

"We hope this pilot will demonstrate the feasibility and the power of this financing mechanism, and we look to gain more support from more countries," said Paul Kissack, a spokesman for the British treasury.

The United States has declined to join the vaccine plan. Bush administration officials could not be reached for comment Thursday night, but said earlier this year that the long-term commitment to raise money through the bond market is not consistent with the annual appropriations process in Congress. The United States provides $60 million to $70 million a year to the alliance.

"We hope if this process is successful that the United States will reconsider its position," said Dr. Julian Lob-Levyt, the vaccine alliance's executive secretary.

British officials have said they hope the new resources will help the world reach the goal adopted unanimously five years ago at the United Nations to reduce child deaths by two-thirds by 2015. More than 170 government leaders will gather in New York next week to assess progress in meeting the antipoverty objectives they set in 2000.

The pact marks the first time rich nations have used pledges of increased aid to back government bonds as a means of financing a major development program. This so-called international finance facility is the brainchild of Gordon Brown, Britain's chancellor of the exchequer.

Under the plan, income from the sale of the bonds would be provided to the global vaccine alliance to pay for vaccinations over a period of 10 years. The five participating nations would pay off the bonds over 20 years. The two largest donors are Britain, which has pledged to cover 35 percent of the cost, and France, which is covering a quarter.

The money will be used to purchase vaccines and bicycles to transport them, as well as to rehabilitate health clinics and pay health workers to do the immunizing in remote areas. Leaders of the alliance hope the vaccine plan will strengthen basic health services in poor countries, not just immunization efforts.

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China Plans To Honor A Reformer (WP)

By Philip P. Pan

The Washington Post, September 9, 2005

BEIJING, Sept. 8 -- Chinese President Hu Jintao has agreed to restore the standing of the reform-minded Communist leader whose death triggered the 1989 Tiananmen Square demonstrations, a surprising reversal of party dogma that could prompt new calls for democratic change in China, according to people informed of the decision.

Hu Jintao has approved plans for a series of events honoring the late party chief Hu Yaobang on the 90th anniversary of his birth on Nov. 20, the sources said. The activities would end more than a decade of official silence about a party leader who was sacked by hard-liners in 1987 but remained a hero to the party's reformist wing.

The government has not publicly recognized Hu Yaobang since students mourning his death on April 15, 1989, occupied Tiananmen Square and staged weeks of demonstrations for democratic reforms.

Paramount leader Deng Xiaoping ordered the military to use force to clear the square, and hundreds, perhaps thousands were killed. Any tribute to Hu Yaobang was considered taboo because it could stir memories of the June 4 massacre and renew debate about the political reforms he supported.

But last month, the General Office of the party's Central Committee issued a document outlining plans to mark the anniversary of Hu Yaobang's birth with ceremonies in Beijing as well as in Hunan province, where he was born, and Jiangxi province, where he is buried, according to two sources who have seen the document. The party will also hold a symposium to discuss his legacy, and publish an official biography as well as a collection of his writings, they said.

The sources said there were no plans to change the party's position that the 1989 Tiananmen Square protests were subversive, or to admit it was wrong to use troops to crush them. But the decision to rehabilitate Hu Yaobang, whom the party condemned for being too tolerant of "bourgeois" political views when it removed him from power, suggested such reversals might be possible in the future.

"This might be a first step, a small but important one," said one informed party member, who spoke on condition of anonymity. "If the party can change its position on Hu Yaobang, it can change its position on June 4 and on political reform."

It was unclear why the Chinese president, who on Thursday was visiting Canada, decided to rehabilitate Hu Yaobang, but a key party leadership meeting is scheduled for October and he might have been trying to expand his political base by reaching out to reformers in the party. Hu Jintao took over as the party's top leader in 2002 and as president in 2003, but many allies of his predecessor, Jiang Zemin, remain in power.

The decision to rehabilitate Hu Yaobang -- no relation to Hu Jintao -- surprised many party officials because it was out of character for the president, who has developed a reputation over a long career in the party as an extremely cautious bureaucrat unwilling to take risks. "The safe thing to do would have been to continue to do nothing," said a senior editor of a party newspaper who spoke on condition of anonymity.

Over the past three years, the president has consistently rejected fundamental political reform while leading a sustained crackdown on religion, media freedom and other civil liberties. He has also been quoted telling propaganda officials that while the economic policies of Cuba and North Korea were flawed, their political policies were correct.

But some party officials continue to hold out hope that Hu was acting as a hard-liner to consolidate his position after taking over from Jiang. They noted that he modified another major party doctrine during a speech Saturday marking the 60th anniversary of Japan's surrender in World War II. In the past, the party took credit for defeating the Japanese and ignored the contributions of the ruling Nationalists under Chiang Kai-shek. But in his address, Hu acknowledged the role of the Nationalists, mentioning several military leaders and battles by name.

In another slight departure, Premier Wen Jiabao said during a news conference Monday that China would eventually allow elections, now limited to rural villages, to expand to larger townships. "If the Chinese people can manage a village, I believe in several years they can manage a township," he said.

Hu Dezi, one of Hu Yaobang's nephews in Hunan province, said local authorities received permission recently to build a memorial park that would include a statue, a spacious public square and an exhibition hall.

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People close to Hu Yaobang's family said one important, unresolved issue was the fate of a three-volume biography produced independently by a group of former aides to the late party leader over the past 15 years. Party authorities learned of the project, led by Zhang Liqun, a former newspaper editor and party official who died two years ago, and insisted on taking control of it, the sources said.

But it was unclear what deletions and changes would be made before its publication in November. Hu Yaobang served as party chief from 1981 to 1987, and is remembered by many Chinese for overturning cases against millions persecuted during Mao Zedong's political movements and launching the economic and political reforms that ended the turmoil of the Cultural Revolution.

One of the most sensitive issues may be how to explain Hu Yaobang's fall from power amid a wave of student protests demanding democratic reform. The authors have written that Deng Xiaoping forced Hu to resign because he favored reform and resisted instructions to crack down on what the party called "bourgeois liberalization." But influential party members have objected to any account that reflects badly on Deng.

Sources familiar with the discussions said the party had not provided the authors with an edited version of the biography, despite repeated requests, and the authors vowed not to let the party publish the work if it tried to rewrite history.

Chávez's 'Oil Weapon' Is A Popgun (WSJ)

By Mary Anastasia O'Grady

The Wall Street Journal, September 9, 2005

Our elected representatives are guzzling publicity with their promises to criminalize high gasoline prices, even though everyone knows that such stupidity creates shortages.

But it is worth pointing out that this is only the latest display of sheer ignorance in the area of energy -- mixing dangerously with personal ambition, of course -- that threatens a policy mess. Another is the overly deferential Washington mindset toward Venezuela's Hugo Chávez, based on the myth that we need his oil.

Word out of Washington yesterday was that an arm of Congress has begun to investigate what damage would result from a "possible cutoff" of oil supplies to the U.S. by a "politically unstable" Venezuela. The study was requested by Chairman Richard Lugar of the Senate Foreign Relations Committee. It follows years of hand-wringing about Venezuela from a Washington establishment concerned about the Chávez "oil power."

This confluence of ignorance and commercial interest has produced a U.S. policy of tip-toe diplomacy toward the aggressive and menacing Venezuelan government. Tragically, that cost the Venezuelan people dearly in 2004, with the State Department endorsing the results of the fraudulent recall referendum. That "victory" is feeding the egomania of South America's newest would-be dictator.

In the wake of Katrina and amid fears of a U.S. energy crunch, it is high time to recognize that Chávez has no such leverage, lest he read our readiness to give him a wide berth in the interest of oil as a sign of weakness. Chávez has very little influence over how much the U.S. pays for oil, unless of course he wants to take Venezuela out of its role as a producer. That's unlikely, since he's now spending like a drunken sailor on arms and politics and relies on oil income to hold onto power.

The world oil market is a huge pool that all the globe's consumers draw from. During the Arab oil embargo, the disruptions of which were greatly magnified by U.S. price controls on domestic producers, buyers and sellers simply repositioned their relationships. There was short-term difficulty but markets adjusted as best they could, given the fact that U.S. producers as well were capping wells to wait for price controls to be lifted. Fuel prices went down, not up, when Ronald Reagan removed the last controls in 1981. Today there are more places to get oil and as the price goes up, more producers are coming online because even difficult extractions are becoming profitable.

Suppose China were to take all of Venezuela's oil out of the pool instead of oil from another country, nothing about world supply changes. If China is buying more from the pool than it did before, demand goes up and prices go up but sellers into the pool of oil cannot punish one buyer over another.

This does not mean that the U.S.-Venezuela oil trade doesn't have some special value. But the relationship is symbiotic. One reason Venezuelan oil is attractive to the U.S. is because the shipping costs are low relative to the Middle East. The U.S.

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may prefer to get its oil nearby but it certainly doesn't have to. Similarly, countries on the other side of the globe also prefer to keep their shipping costs down if possible.

Washington bigwigs may have trouble with this concept but China understands it well. Venezuela's Minister of Energy and Petroleum was in Beijing last month making a big deal out of the China market. But China's ambassador in Caracas, Ju Yigie, set him straight. Beijing, he said, "doesn't see any necessity" for China to replace the U.S. as Venezuela's largest oil buyer because "the natural markets for Venezuelan oil are North and South America."

The oil magazine Petroleum Intelligence Weekly pointed out this week that "courting China" is one way to "needle the U.S." But, it asks, "What does China's new energy relationship with Latin America amount to?" Venezuela's state-owned oil company, PdVSA, "opened a Beijing marketing office last month and has a target of selling 300,000 barrels per day into China by 2012."

China's reluctance to get close to Venezuela might also reflect a recognition that Chávez is a loose cannon and an unreliable manager and that oil investments with him carry great risk. Take PdVSA's new strategic plan for 2006-2012. According to VenEconomy Weekly, based in Caracas, it proposes to invest $56 billion over seven years to raise production to 5,837,000 barrels per day by 2012. Of that, PdVSA would pump 4,109,000 itself.

The company only produces 1.7 million barrels per day now, so the plan promises a 2.3 million barrels-per-day increase in seven years. VenEconomy says that this is highly unrealistic considering that in the seven year period from 1991-1998, when PdVSA was far more technically and managerially competent, it spent $32 billion and only raised production by 915,000 barrels per day. The weekly newsletter estimates that the plan really would need "an investment on the order of $79.9 billion."

Moreover, the same $56 billion is supposed to cover other investments in gas production, refineries, tankers and infrastructure. It also has to fund "cut-rate oil sales to countries in the region." VenEconomy estimates the government's plans are underfunded by some $72 billion.

China also seems to recognize that oil development in Venezuela will depend heavily on foreign investment and that will depend on an investor-friendly environment. The latest rash of property expropriations by Chávez does not bode well for a booming oil industry.

But what about Venezuela's yearning to cut off Uncle Sam? One reason that's harder to do than the saber-rattling Chávez lets on is the fact that Venezuela owns Houston-based Citgo. It has invested more than one billion dollars in its U.S. refineries to make them capable of processing Venezuelan heavy crude and in 1999 Citgo ranked fifth in U.S. market share. As it is now, Venezuela can only send about 600,000-800,000 barrels per day to its Citgo refineries. The rest of what those refineries need -- a total well over one million barrels per day -- is bought through third parties.

Not long ago, Venezuela was the largest supplier of crude to the U.S. Today, it may only rank fifth. With an annual 20-25% depletion rate of Venezuelan oil fields, a serious lack of investment and technological expertise and new sources of crude from other countries coming online, that number could easily shrink further. But that is something that ought to worry Chávez more than the U.S.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

N.Va. Man Indicted In Plot Against Bush (WP)

By Jerry Markon

The Washington Post, September 9, 2005

An American student was charged yesterday in an al Qaeda plot to kill President Bush, with prosecutors alleging that Ahmed Omar Abu Ali and his confederates planned to use multiple snipers to shoot Bush or to blow him up in a suicide bombing.

The expanded indictment of Abu Ali, returned by a federal grand jury in Alexandria, also claimed for the first time that he proposed a plan to bring members of an al Qaeda cell into the United States through Mexico. They would then link up with Abu Ali to conduct terrorist operations in this country, the indictment said.

Abu Ali, 24, of Falls Church was first charged in February with terrorism counts that included trying to establish an al Qaeda cell in the United States. That indictment referred to the plot to kill Bush, but Abu Ali was not charged with conspiring to assassinate the president until yesterday. The case is among the highest-profile terrorism prosecutions in the United States since the Sept. 11, 2001, terrorist attacks.

The new nine-count indictment also adds charges of conspiracy to commit aircraft piracy and destroy aircraft, part of the Justice Department's allegations that Abu Ali was plotting with al Qaeda to conduct a Sept. 11-style attack in the United States that would include hijacking planes.

If convicted on the assassination count alone, Abu Ali faces up to life in prison. Earlier, his maximum penalty on all counts had been 80 years in prison.

An attorney for Abu Ali, who has pleaded not guilty, did not return telephone calls late yesterday, and a White House spokesman referred calls to the Justice Department. Prosecutors would not comment beyond the indictment.

Abu Ali was arrested by security officials in June 2003 while studying at a university in Saudi Arabia. His family mounted a highly public campaign in the United States for his release. He was held until he was flown back to the United States in February to face charges.

Defense attorneys and Abu Ali's family have contended that any statements he made in Saudi custody were obtained through torture. Two doctors who examined Abu Ali found evidence that he was tortured in Saudi Arabia, including scars on his back consistent with having been whipped, defense lawyers have said in court papers.

Prosecutors have denied that Abu Ali was tortured. But if a federal judge concludes that he was, much of the evidence against him could be thrown out because it was obtained under duress. The torture allegations are expected to play a key role in a hearing scheduled to start Sept. 19.

Law enforcement sources have said the plot against Bush, allegedly hatched while Abu Ali was studying in Saudi Arabia and after he joined an al Qaeda cell there, never advanced beyond the talking stage. The new indictment says two options were considered: multiple snipers shooting the president or a suicide operation.

The earlier indictment said nothing about snipers, only that Abu Ali would get close enough to Bush to "shoot him on the street" or would detonate a car bomb.

Several other allegations emerged yesterday about Abu Ali's alleged relationship with Osama bin Laden's organization. The indictment says he performed guard duty in 2003 for an al Qaeda cell at one of its locations in the Medina area of Saudi Arabia. It also says that in response to a request from an al Qaeda co-conspirator, Abu Ali translated from English into Arabic the audio portions of a video concerning operations by U.S. military aircraft in Afghanistan.

Abu Ali's case has generated strong interest among Muslims in Northern Virginia. The government says he confessed to the assassination plot while being detained in Saudi Arabia and admitted discussing with al Qaeda his plans to conduct attacks in the United States that included crashing hijacked planes into buildings.

Abu Ali will be arraigned on the charges in the new indictment on Wednesday.

Court Questions Guantanamo Detainee Issues (AP)

By PETE YOST, The Associated Press

AP, September 8, 2005

Sep. 8, 2005 - A federal appeals court Thursday questioned the Bush administration's handling of detainees at Guantanamo Bay, suggesting the judiciary might have authority to delve into the conduct of military tribunals which have categorized almost all of the inmates as enemy combatants.

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The two hours of arguments were in sharp contrast to those of several years ago when the appeals court suggested detainees at the Guantanamo Naval base were not entitled to have access to the U.S. courts, and then ruled against them. The U.S. Supreme Court reversed that decision a year ago.

On Thursday, a panel of three appeals court judges two appointed by Republican presidents and one by a Democratic president aggressively questioned Justice Department attorney Gregory Katsas about the possibility of court scrutiny over the detainee review process.

"There is nothing in the habeas statute that requires us to defer to a military tribunal," A. Raymond Randolph, an appointee of President Bush's father, told Katsas. The other judges on the panel are David Sentelle, an appointee of President Reagan, and Judith Rogers, an appointee of President Clinton.

The detainees are not allowed to have legal representation before the tribunals and cannot see classified information being used to classify them as enemy combatants.

Lower court judges are divided on the detainee procedures at Guantanamo Bay. U.S. District Judge Joyce Hens Green ruled that the tribunal hearings are unconstitutional. U.S. District Judge Richard Leon threw out a lawsuit by some of the detainees, saying the place for them to challenge the procedures is before the U.S. military, not in civilian courts.

Katsas said the detainees are granted many rights by the tribunals, which ruled that all but 38 of 596 detainees were enemy combatants and were not entitled to prisoner-of-war protections under the Geneva Conventions.

The government is trying to beat back challenges on behalf of dozens of the Guantanamo Bay detainees who say they are not being afforded a legally proper opportunity to challenge their status as enemy combatants.

In the nearly three years since the U.S. military started transporting detainees to the Navy prison camp in Cuba, the words Guantanamo Bay have become synonymous with the Bush administration's tactics in the war on terror: indefinite detention and no legal rights.

Evidence of detainee abuse at Guantanamo Bay has put the administration on the defensive and the government is trying to deal with the problem by downsizing the prison camp, returning many of the detainees to their home countries.

In the meantime, the government has dug in for a protracted legal battle, defending the course it set in late 2001 with Bush's declaration that all suspected terrorists are enemy combatants rather than prisoners of war entitled to protections under international treaty.

The Pentagon says it is holding 505 prisoners at the Guantanamo Bay prison compound. Many were captured in Afghanistan in the months following the U.S. invasion in October 2001, and some have been there since the detention compound was opened in January 2002.

Guantanamo Bay Prisoners Seek US Court Hearings (REU)

By James Vicini

Reuters, September 8, 2005

WASHINGTON (Reuters) - Guantanamo Bay prisoners should be given the chance to prove in court that they have been mistakenly labelled as "enemy combatants" and have been unlawfully detained, their attorney said on Thursday.

"Since day one, these people have been saying you've got the wrong guys. They want a fair hearing to show that," attorney Thomas Wilner told a U.S. appeals court during more than two hours of arguments.

But Justice Department lawyer Gregory Katsas repeated the Bush administration's position that the prisoners were not entitled to any constitutional due process rights, and he defended the military tribunals set up to review their cases.

More than 500 prisoners are now being held at the U.S. military base in Cuba after the U.S. government designated them as enemy combatants. Only four have been charged with a crime.

The suspected al Qaeda and Taliban members were captured after the U.S.-led Afghanistan war that followed the September 11, 2001, attacks. Many have been held since the Guantanamo prison camp opened in January 2002.

Under the military's review process, 38 prisoners, accounting for 7 percent of the detainees, were determined to not be enemy combatants despite their earlier designation.

The appeals court considered a pair of Guantanamo cases after two different U.S. District Court judges in Washington came to opposite conclusions in January.

One judge ruled the prisoners have the constitutional right not to be deprived of liberty without due process of law, and that the military tribunals were constitutionally flawed. The other judge said the prisoners have no constitutional rights.

Wilner argued that the prisoners do have fundamental rights under the U.S. Constitution, that they also can use the habeas law to challenge their detention and they have the right to review in court.

Under that law, the government must give a legal and factual basis for the detention, he said.

All three appellate judges sharply questioned the government's lawyer.

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Judge David Sentelle questioned the government's position that the prisoners have no rights because the base was outside the United States. "What does Cuba really have left in terms of sovereignty over Guantanamo?" he asked.

Judge A. Raymond Randolph repeatedly asked why the prisoners under the habeas law would not be entitled to some determination in court on whether they have been held under lawful authority.

Sentelle and Randolph both questioned whether the courts could defer to the judgments of the military tribunals.

Judge Judith Rogers questioned whether the military tribunals provided sufficient legal protections.

Lawyers for the prisoners have said the tribunals improperly denied detainees legal representation and provided no opportunity for them to rebut the allegations and evidence against them.

The three-judge panel is expected to rule sometime next year. Any decision most likely will be appealed to the full appeals court or to the U.S. Supreme Court.

Witness Testifies Under Grant Of Immunity (TAMPTRIB)

By ELAINE SILVESTRINI

Tampa Tribune, September 9, 2005

TAMPA - A witness in the trial of Sami al-Arian testified Thursday morning that Ramadan Shallah served briefly as the religious leader of a mosque in Chicago.

Mohammed Hasan, who testified under a grant of immunity, also placed Al-Arian codefendant Hatim Fariz at a 1991 rally in Chicago.

Now the secretary general of the Palestinian Islamic Jihad, Shallah worked at Al-Arian's think tank, World and Islam Studies Enterprise in the early 1990s and also was employed as an adjunct professor at the University of South Florida.

Fariz and fellow codefendant, Ghassan Zayed Ballut, were members of the Al Quassam mosque in Chicago, said Hassan, who lives in a Chicago suburb.

Hassan said Shallah, whom he knew as Ramadan Abdullah, served as imam of the mosque for four or five months in 1990 or 1991. He was replaced by Suleiman Odeh, brother of Abd Al Aziz Awda, the spiritual leader of the Islamic Jihad. Odeh was later replaced by Naim Nasser Bulbol.

Both Odeh and Bulbol are considered unindicted coconspirators in the case. Prosecutors have alleged in court papers that the mosque was a ``an entity we believe to be a component of the PIJ enterprise."

Muslim Anti-terrorism Ads To Coincide With 9/11 Anniversary (AP)

AP, September 8, 2005

TAMPA -- A Muslim civil liberties group plans to denounce terrorism in a paid television commercial airing in the Tampa market this weekend to coincide with the anniversary of the Sept. 11, 2001, terrorist attacks.

The 30-second spot, produced by the nonprofit Council on American-Islamic Relations, features two American Muslims, a man and a woman, denouncing violence in the name of Islam and vowing to ``not to allow our faith to be hijacked by criminals."

The spot will run 105 times Thursday through Sunday on 13 cable channels in Tampa, including CNN, Fox Sports Net and the Weather Channel, according to CAIR's Florida office.

CAIR spokesman Ahmed Bedier said the spots were produced after the London bombings in July and distributed nationwide as public-service announcements, meaning stations could choose to air them or not. Research showed they were seen by as many as 5 million people.

Members of the Tampa chapter donated the money to get the ads on as paid commercials in prime time in the local market this weekend, at a cost of more than $10,000, Bedier said. He said he didn't know of any other CAIR chapters airing the ads as paid commercials.

``We're basically piloting it to consider doing it in other markets," Bedier said. ``We'll be following up and try to gauge the perception and see if there's positive feedback."

For Tampa Muslims, adding to image problems in the aftermath of the Sept. 11 attacks is the ongoing federal trial of former college professor Sami Al-Arian, who is accused of supporting the Palestinian Islamic Jihad, an Islamic terrorist group that targeted Israelis.

Washington D.C.-based CAIR is America's largest Muslim civil liberties group with 31 offices and chapters in the United States and Canada.

US 'terror Camp' Suspect Remanded (BBC)

BBC.com, September 9, 2005

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Haroon Rashid Aswat was initially deported from Zambia to the UK A British man accused of trying to set up a terror training camp in the US has been ordered to remain in custody while an extradition case is prepared.

Suspected terrorist Haroon Rashid Aswat, 30, who denies the claim and opposes extradition, appeared by video link from Belmarsh Prison.

A lawyer for US authorities told Bow Street magistrates the extradition case would be complete within 10 days.

Aswat of Dewbury, West Yorks, is due to appear again on 6 October.

'Fight jihad'

US prosecutors allege that Aswat, who was deported from Zambia to Britain in August and arrested by UK authorities, conspired to provide material support for terrorism in the US in 1999-2000.

They said he and another man helped to set up a camp in Bly, Oregon, to train people to "fight jihad" in Afghanistan.

The camp was to provide weapons training and schooling for hand-to-hand combat and martial arts for militants, US prosecutors said.

They say he flew to New York on 26 November 1999 and then a bus to Bly, via Seattle.

Two-year term

US prosecutors say he was carrying CD-ROM information on how to make bombs and poisons and on military conduct.

A second claim was that he conspired with others so that any training would "arouse reasonable apprehension" that people were being prepared to "fight jihad" in Afghanistan.

James Ujaama, 38, a Muslim convert from Seattle who has lived in Britain, pleaded guilty to involvement in a plot in April 2003.

He faced up to 25 years in prison but received a two-year sentence after agreeing to co-operate in terrorism investigations until 2013.

Family's fears for terror suspect

PATRIOT ACT:

Patriot Act Resolution Rejected (GRPRESS)

By Shandra Martinez, The Grand Rapids Press

The Grand Rapids Press, September 8, 2005

HOLLAND -- The City Council on Tuesday rejected a resolution expressing concern with sections of the federal Patriot Act.

The resolution was proposed by the city's Human Relations Commission and on put on the agenda Wednesday by Councilman David Hoekstra.

The council rejected the resolution 5-2, with only the 6th Ward councilman Hoekstra and Councilman At-Large Jerome Kobes voting in favor. Mayor Al McGeehan and 2nd Ward Victor Orozco were absent.

Both Mayor Pro-Tem Craig Rich and 5th Ward Councilman Kurt Dykstra said they felt the Patriot Act doesn't fall under the council's jurisdiction.

"I'm one of those people who don't think its appropriate (for the City Council) to take a stand on a national issue. What's next? Are we going to be asked to vote on gay marriages next week or the war in Iraq the following week?" Rich said. "We are elected to represent our constituents on local issues...This is grandstanding if we do it. That's all it is."

While he didn't agree with the HRC's recommendation, 4th Ward Councilman Bob Vande Vusse said he appreciated the work of the HRC, which spent more than a year studying the issue.

"(But) it wouldn't be responsible on my part to give the impression that the entire city shares this position," said Vande Vusse, adding that as a librarian, he has some concerns about the federal legislation.

Hoekstra, council liaison on the HRC, said after a lot of study, he agreed with the resolution and felt the Patriot Act poses a threat to civil rights.

"My fear is in our well-intentioned effort to be safe, we forget what makes us truly strong," Hoekstra said.

While the resolution drew comment from council members, no one in the audience addressed council on the subject. Hoekstra said he was pleased with the discussion council gave to the topic.

"We talked about it, wrestled with it. That's a victory," Hoekstra said.

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HOMELAND RESPONSE:

Fallen EMT Volunteer On Sept. 11 Gets Rescuer Status (AP)

By MICHAEL GORMLEY, The Associated Press

AP, September 8, 2005

ALBANY, N.Y. (AP) — On Sept. 11, 2001, as Glenn Winuk's co-workers were ordered to run to safety from their lower Manhattan office building, he ran the other way a block toward ground zero. There he told New York City fire officials he was an emergency medical technician in his hometown volunteer fire department and wanted to help the victims.

Moments later, he died when the South Tower collapsed, the medical kit he was issued at his side.

On Thursday he was officially recognized by the state as a rescuer in the historic effort that saved thousands, rather than as a civilian casualty, a distinction his family has been seeking for nearly four years.

Advertisement

"They all ran for safety, but he ran toward the scene as he did in `93" for the first World Trade Center bombing, said Winuk's brother, Jay Winuk. "He ran toward danger because he knew he could save lives."

Gov. George Pataki called him a hero.

"His bravery, service, and dedication on that terrible day saved the lives of many, and must never be forgotten," Pataki said.

The recognition was delayed because Glenn Winuk was technically an associate member of the Jericho Volunteer Fire Department in Nassau County and was no longer an active firefighter or EMT in the department he served with for 19 years. His status changed when he moved to Manhattan and became a partner in his law firm, keeping him from being recognized by the federal government as an official rescue worker for memorials, historic records, and for a $278,658 Public Safety Officers benefit for his parents.

The federal government rejected the family's request citing, in part, the fact that Winuk hadn't even been officially recognized by the state as a rescue worker, said state Sen. Carl Marcellino, a Long Island Republican. But his bill, co-sponsored by Democratic Assemblyman Charles Lavine and recently signed by Pataki, changed that.

A federal decision is expected in 30 days.

A Justice Department spokesman didn't immediately respond to a request for comment.

"We're not talking about a fortune and money is not the point," said Jay Winuk of Mahopac, Putnam County. "It's only about doing the right thing."

He said the Justice Department first supported the request, but then denied it after he passed on the good news to his parents, Seymour and Elaine, in Jericho.

"It's been a painful road for my family to pursue," he said. But, "he's my little brother."

"He stood up when it was time to stand up," Marcellino said of Glenn Winuk. "I think we should stand up for him now."

Fallen Heroes To Get 9/11 Medals (NSL)

By RON MARSICO, Star-Ledger Staff

Newark Star-Ledger, September 8, 2005

After the terrorist planes hit the Twin Towers on 9/11, Edward Calderon, a civilian employee with the Port Authority of New York and New Jersey, told a colleague by phone he was staying inside one of the buildings to help with evacuation operations.

"I'm a Marine and we don't leave anyone behind," snapped Calderon, a former member of the corps and a resident of Union.

James Barbella, an agency property manager from Oceanside, N.Y., led would-be rescuers up the stairs desperately trying to find a way to save people trapped in the top-floor restaurant, Windows on the World.

Robert Lynch, another property manager from Cranford, ensured that a child-care facility and bookstore were clear before heading through the plaza to help with the evacuation of a tower.

Lynch, Barbella and Calderon were killed when the buildings collapsed. Tomorrow, they will be among 13 Port Authority civilian employees given a special 9/11 heroes' "Medal of Valor" posthumously by President Bush in Washington, D.C., along with the 37 Port Authority Police officers who also died that day.

"They were true first responders that day," said Alan Reiss, who on 9/11 was director of the Port Authority's World Trade Department and oversaw the 13 employees who served as civilian emergency responders. "They just didn't wear a uniform. They wore a suit."

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Port Authority officials successfully lobbied to get the employees' families the medals because the 13 individuals provided critical electrical, structural, mechanical and operations information to police and fire officials during the evacuation that saved thousands. Officials said their role has been little known by members of the general public.

"There was a great deal of unforgettable tragedy on 9/11. One positive note, however, was that approximately 25,000 people were evacuated from the World Trade Center," the agency's chairman and executive director wrote in a June letter to U.S. Attorney General Alberto Gonzales. "These fallen Port Authority civilians assisted all uniformed rescue workers in all aspects of the evacuation and collectively all groups significantly contributed to saving all those lives."

Port Authority officials also credited U.S. Rep. Joseph Crowley, a New York Democrat, for helping get the recognition for the 13 civilians.

Overall, a total of 2,749 people died at the World Trade Center on 9/11.

The role of the Port Authority Police, which lost 37 officers that day, has been well documented. Those to be similarly honored by Bush also include members of the New York City Police and Fire Department who perished that day. In total, 443 responders will be recognized on the White House lawn.

The other 10 civilian employees to be honored are Douglas Karpiloff of Mamaroneck, N.Y.; Eugene Raggio of Staten Island; Edward Strauss of Edison; Francis Riccardelli of Westwood; Carlos Da Costa of Elizabeth; Frank DeMartini of Brooklyn; David Ortiz of Nanuet, N.Y.; Joseph Amatuccio of Baldwin Harbor, N.Y.; Peter Negron of Elizabeth, and Ken Grouzalis of Lyndhurst.

They had received training for emergencies and participated in response drills. On 9/11, they helped staff the fire command center and direct rescuers to people trapped in elevators and various other parts of the buildings.

All 13 civilians were not obligated to go to the emergency posts because the building had been leased to developer Larry Silverstein the previous July, and the Port Authority had become the tenant. But the employees still felt duty-bound and stayed voluntarily.

"These people knew these buildings like the back of their hands," said Lillian Valenti, chief of the Port Authority's Office of Medical Services. "They were really the road map and the eyes and ears of people who didn't know the complex."

Ron Marsico covers the Port Authority. He may be reached at rmarsico@starledger.com or (973) 392-7860.

AP: 9/11 Loans Wind Up Far From Manhattan (FINDLAW/AP)

By Ben Dobbin, Ap Business Writer

Find Law, September 9, 2005

(AP) - CHURCHVILLE, N.Y.-Richard Parsons Jr., a veterinarian in a country suburb 280 miles from ground zero in Manhattan, felt the ripple effects of Sept. 11, 2001, about a year later. It almost put him out of business.

Called up for duty with the Army Reserves in fall 2002, Parsons spent 10 months in Afghanistan. He hired a substitute vet and barely kept his one-man practice near Rochester from going bankrupt by obtaining a low-interest, $72,800 loan from a federal program designed to help small businesses recover from 9/11.

It upsets the 43-year-old father of two that all manner of companies in upstate New York not damaged in the slightest by the terror attacks - from chiropractors to auto-repair shops to fast-food franchises - could dip into the same $5 billion disaster-relief fund administered by the Small Business Association.

"It seems like when the government has a big pot of money, there's always charlatans that are going to try to, in some way, finagle out money," he said. "I guess when you're dealing with such massive amounts of money and numbers of applications, people are going to get away with things."

His words reverberated in cafes, on street corners and around the dinner table.

"It doesn't sound right to me, it doesn't sound fair," said security guard Doug Kleinhammer, 50, as he hopped on his motorcycle outside the World Wide News store in Rochester. "It's unnecessary spending of money. The people who needed it were those directly affected."

An Associated Press review of two Small Business Administration programs that doled out Sept. 11 recovery loans, found the government provided, approved or guaranteed nearly $4.9 billion in loans, and took credit for saving 20,000 jobs. That puts the average cost of saving a job at about a quarter million dollars each.

Of the 19,000 loans, fewer than 11 percent went to companies in New York City and Washington, an AP computer analysis showed. Officials conceded the SBA allocated few resources to oversee the congressionally-approved loan programs, leaving banks on an honor system to determine who should get terror recovery loans.

SBA documents obtained by AP show the banks had a strong incentive to approve as many loans as possible from the terror program - their cost was reduced in half.

The SBA said it first learned of the problems through AP's review and was weighing whether an investigation was needed.

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Among the hardest-hit enterprises in places far removed from the devastation were travel agencies, tourist shops, food caterers, limousine fleets, hotels and bars. Americans weren't traveling far from home like they used to.

"The country as a whole was not in a jovial mood. We saw people drinking less, eating less and buying less tickets to special events," said Stephen Waite, whose three-story brew pub in downtown Albany saw a sudden 25 percent to 30 percent drop in revenues.

"It was like this kind of guilt feeling of, `There's no time for just foolhardily passing the time like we used to, we need to be serious and more into our family.'"

Waite, 51, a lawyer who recently sold The Big House Brewing Co., got a $1.1 million loan from the Small Business Administration's "supplemental terrorist activity recovery" program in 2002. Even though his nightlife venture took about 18 months to recover, he had no idea the fund was specifically intended to deal with the terrorist aftershocks.

"We just went through a banking group, that's a typical way to obtain loans," he said. "There was no discussion of the 9/11 situation. I wasn't even aware of that program.

"As long as people are filling out applications correctly, I guess I'm not as upset as I would be at the people approving them," he said. "I'm sure every governmental agency is going to get a ton of applications that don't fit within the program and their job responsibility is to reject."

Lorraine Serpe, 44, was on the brink of folding her Lorraine's Lunch Basket food-catering firm in Rochester when her $153,500 loan came through in June 2002.

"Business was just dead, it was just nothing," Serpe said. "We were catering to Xerox, Bausch & Lomb, Kodak and they just all stopped traveling. I was speaking to my accountant about the hard times I was in and, by a miracle of God, she said `Oh my God, I've heard of this disaster relief fund.' She says `Try it, try it!' I tried it. I explained my situation and they said I qualified."

Thre "affected the world," Serpe said. "It affected me, and I'm only in little Rochester."

In contrast, chiropractor Colby Shores said his business in Irondequoit, a Rochester suburb along Lake Ontario, was unaffected. While his patients "were devastated" by 9/11, "they weren't putting their health second to anything else," he said.

Nonetheless, Shores obtained a $87,000 loan with a 4 percent interest rate. He, too, said he was unaware of the type of program he was tapping into.

"I had nothing to do with the financing," he said. "I hired a contractor and they found the correct amount of funds I needed for my small business loan."

In Bath in western New York, Arvind "Andy" Patel, 50, said his $350,000 loan in fall 2002 to remodel his Dunkin' Donuts store was arranged through a bank approved by the fast-food chain's corporate office.

Patel, a native of Bombay, India, who bought another Dunkin' Donuts in Wilmington, Del., in 1998, moved into his Bath store on Sept. 6, 2001.

The catastrophe five days later had no impact on his business. "Not at all," he said.

On the Net:

An AP interactive with data on SBA loans in each state can be viewed at:

http://hosted.ap.org/dynamic/files/specials/interactives/-national/terror-lo ans/index.html

SBA: http://www.sba.gov

Key Official In Clandestine Service Of CIA To Retire (WP)

By Dana Priest And Walter Pincus

The Washington Post, September 9, 2005

Robert Richer, the second-ranking official in the CIA's clandestine service, has announced his retirement, telling colleagues that he lacked confidence in the agency's leadership, according to current and former intelligence officials.

Richer, who was one of CIA Director Porter J. Goss's key personnel choices, made his announcement last Friday at a meeting of the Directorate of Operations leaders, according to some of the officials.

Some of them said Richer's decision revolved around an ongoing debate over how to improve human intelligence and the direction of the CIA. The agency's role and influence have waned with the appointment of John D. Negroponte as the overall director of national intelligence.

Other government officials disagreed with that assertion and said Richer's departure involved disputes over "operational issues" that they would not specify, and a clash of personalities between Richer, a former Marine, and Goss and his top aides.

Last year, Richer's predecessor and his boss resigned after clashing with Goss's aides. During Friday's meeting, Richer said he and his boss, the deputy director of operations -- who cannot be named because he remains undercover -- had been

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frustrated by Goss and his staff in their efforts to implement certain measures, sources said. Richer subsequently met with national security adviser Stephen J. Hadley to explain his decision.

A CIA spokesman declined to comment on the matter. Other intelligence sources would speak only anonymously because of agency rules and traditions against speaking to the media.

Yesterday, Goss sent an unusual worldwide message to all CIA employees praising Richer for his nearly 35 years of service. That only fueled the belief among some former intelligence officials that Richer's resignation reflects ongoing problems at the agency.

Richer has served for less than a year as the number two in the spy service, having been promoted from being chief of the Near East division.

The CIA has been under pressure to make changes after a presidential commission and the Sept. 11 commission found last year that human intelligence collection had failed regarding both the al Qaeda terrorist network and whether Saddam Hussein had weapons of mass destruction.

The presidential commission recommended creation of a Human Intelligence Directorate within the CIA, which would rank above the agency's Directorate of Operations and coordinate foreign human-intelligence collection across the intelligence community, including the Pentagon and the FBI.

Some top administration officials favor a plan to make the clandestine service, as the Directorate of Operations is known, the central focus of the CIA, with all other functions -- such as analysis and technology -- subordinate to the human intelligence role.

Tight Constraints On Pentagon's Freedom Walk (WP)

By Petula Dvorak

The Washington Post, September 9, 2005

Organizers of the Pentagon's 9/11 memorial Freedom Walk on Sunday are taking extraordinary measures to control participation in the march and concert, with the route fenced off and lined with police and the event closed to anyone who does not register online by 4:30 p.m. today.

The march, sponsored by the Department of Defense, will wend its way from the Pentagon to the Mall along a route that has not been specified but will be lined with four-foot-high snow fencing to keep it closed and "sterile," said Allison Barber, deputy assistant secretary of defense.

The U.S. Park Police will have its entire Washington force of several hundred on duty and along the route, on foot, horseback and motorcycles and monitoring from above by helicopter. Officers are prepared to arrest anyone who joins the march or concert without a credential and refuses to leave, said Park Police Chief Dwight E. Pettiford.

The event, the America Supports You Freedom Walk, is billed as a memorial to victims of the 2001 terrorist attacks and a show of support for those serving in the military, topped off with a concert by country singer Clint Black, known for his pro-troops anthem, "Iraq and Roll." Organizers said they expect 3,000 to 10,000 participants.

Barber said that organizers would rather not have such stringent measures on their event but that police had requested them.

Pettiford said officers would patrol to keep interlopers out because the Pentagon restricted the event in its permit application. "That is what their permit called for, so we have those fences to keep the public out."

Once the National Park Service approves the permit, it is normal for police to do what they can to adhere to the organizers' requests. "It's a permitted event. That means [organizers] are allowed to say who is in and who's out," said Sgt. Scott Fear, a Park Police spokesman. He declined to say how many officers were in the Park Police, which had a Washington detail of about 400 two years ago.

What's unusual for an event on the Mall is the combination of fences, required preregistration and the threat of arrest.

Park Police officials said security and safety were concerns, especially because Secretary of Defense Donald H. Rumsfeld will participate in some of the day's events. They said they have approved a permit for a small group of protesters that plans to stand along Independence Avenue.

Barber at first said this week that event organizers would rather not be so strict but that they were complying with police orders. But yesterday she said Park Police offered two options: Screen participants at the Mall, as police did for the Fourth of July fireworks and concert, where bags would be searched and restricted items such as alcohol, weapons, animals or glass bottles would be seized; or screen them at the Pentagon and, by restricting access throughout the march, "make sure the same people who were screened at the Pentagon are the same people going to the concert," she said.

Barber added: "We didn't want a bottleneck at the concert. We didn't want people to miss the concert while waiting to be screened. So we decided to do the screening at the Pentagon. That means the entire route has to be kept closed."

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Some military supporters have welcomed the event as a way to counter the antiwar movement and back the troops abroad. Antiwar groups say they are convinced that the event was orchestrated to boost the war effort and link the war to the Sept. 11, 2001, terrorist attacks -- and to undercut an antiwar protest planned for Sept. 24.

One restricted group will be the media, whose members will not be allowed to walk along the march route. Reporters and cameras are restricted to three enclosed areas along the route but are not permitted to walk alongside participants walking from the Pentagon, across the Memorial Bridge to the Mall.

The Washington Post and other corporate entities initially signed on as co-sponsors. But critics from within the newspaper and from the antiwar movement said partnering with the Pentagon raised questions about objectivity, and three weeks ago The Post pulled its co-sponsorship.

Other media co-sponsors -- WTOP radio, WJLA-TV and NewsChannel 8 -- support the effort with advertising.

Opponents of the Freedom Walk took issue with the way the Pentagon is staging the event. When the walk first was publicized, participants were required to submit their names, ages, e-mail addresses and home addresses. After some groups accused the Pentagon of using the registration as a recruiting tool for the military, the requirements were changed.

Barber said the government now asks for a full name, age group, T-shirt size and e-mail address (each registered walker will get a T-shirt). Walkers have until 4:30 p.m. today to register, which must be done online (http://www.asyfreedomwalk.com).

Officials at the Pentagon, where 184 people died in the attack, decided to open the attack site and memorial chapel to the public tomorrow for the first time.

Visitors will be welcome from 10 a.m. to 2 p.m. and can see the stone that marks the crash site of American Airlines Flight 77 and the memorial chapel built there.

There is no need to register to visit the memorial chapel tomorrow.

After Four Years, First Signs Of Renewal At Ground Zero (CSM)

By Alexandra Marks

The Christian Science Monitor, September 9, 2005

NEW YORK - Dust still powders ground zero where the World Trade Center once stood, but it's construction dust that the wind now whips gently around this deep, 16-acre hole.

Called "the bathtub," it reveals the strides and the stumbling, as well as the dogged determination, that have marked the rebuilding effort in the four years since terrorists slammed two planes into the twin symbols of New York's financial prowess.

There has been progress: A grand master plan is in place, complete with a soaring 1,776-foot Freedom Tower and a sunken, sacred memorial where waterfalls cascade in the two footprints of the original towers.

But it has been slow going, due in part to the seeming incompatibility of rebuilding a vital commercial, retail, and financial hub on what many now consider to be a sacred burial ground. What's more, there's a determination to see that ground zero - an international symbol of the West's refusal to bow to terrorism - rises stronger than before. Though it's taking extra time to ensure that happens, planners hope ground zero will come to stand for America's resilience, its ability to overcome hatred, and a celebration of its values.

Chief among those values, particularly in New York, is democracy. But that, too, is adding to the slow pace of development. In this gritty city that pioneered urban planning, everybody has an opinion: Wall Street tycoons and cabbies alike aren't afraid to tell you exactly what they think.

So before a new skyline pierces the void now in lower Manhattan, this major urban project is expected to be the most publicly debated, disputed, reviewed, and revised in world history. As a top developer puts it, the master plan is very much a "living document."

Add to that the challenge of making the new structures as secure as possible to prevent future devastation, and you have an urban rebirth that could take more than a decade, if not a generation, to complete.

"I'd like to tell you we're building a city on a hill, and we may get there, but it's certainly in fits and starts," says Robert Yarrow, president of the Regional Planning Association, which has been involved with the planning process from the start. "While a lot of progress has been made, there's a lot that's still very much in the air."

From the vantage point of the bottom of the bathtub, progress is evident on the eastern wall of the hole, where sunlight glints off the new, exposed steel of the temporary train station that's already moving commuters uptown and across the Hudson River. On the west side, the massive steel bolts that reinforce a retaining wall dot the barren concrete. In the northwest corner hangs a huge American flag, marking where ground was broken this week on a new transportation hub.

The design of the transportation center is meant to evoke the rising wings of a dove. Underground, the hub will connect 11 subways, the PATH train system, and walkways to the Hudson River ferries, as well as future rail links to Kennedy International Airport and Long Island. Gov. George Pataki (R) calls it an "iconic transportation facility - an architectural marvel and a grand

terminal." When construction begins Monday, it will be the first time in four years a spade was put in this 16-acre site to begin construction on a permanent structure.

This summer the city secured a commitment for another permanent anchor in the area: Goldman Sachs, the massive investment house that last spring pulled plans to build its $2.9 billion headquarters across from the site because of security and traffic concerns. After state officials moved a planned tunnel and offered an additional $1.6 billion in 9/11 Liberty Bonds, the firm changed its mind again. Construction is slated to begin later this year.

But hovering above all the activity, the damaged and contaminated Deutsche Bank building still stands shrouded in black mesh cloth, awaiting the demolition ball. In the ground, the Freedom Tower cornerstone sits ignored. Both are testaments to the legal, insurance, security, and political obstacles that have stymied the rebuilding. The Freedom Tower is a case in point. The cornerstone was solemnly laid a year ago, only to have the police department demand that construction be halted. The NYPD's security experts said the design - already approved by other parties - would leave the new building too vulnerable to attack from a suicide truck bomber.

Plans for a new tower were finally agreed upon and presented to the public in June, but construction could be a year off. The cornerstone, meanwhile, sits there waiting to be moved.

"Anyone who thinks the agenda is done when the shovels are put in the ground here are sadly mistaken, but at least in the last few months there's been some real progress," Sen. Charles Schumer (D) of New York said before this week's groundbreaking. "Goldman Sachs and now this station are a one-two punch that say maybe this culture of gridlock and inertia is changing."

The rebuilding lessons at ground zero may prove instructive to the Gulf Coast - inspiring hope that reconstruction can be done, but also providing a reality check. These things take time. Gulf Coast planners, to their credit, are moving quickly. They've already contacted the Lower Manhattan Development Corp. (LMDC), created to oversee the rebuilding of ground zero.

"We plan to continue assisting in any way that will be useful in terms of the precedents established here, the lessons learned, and ... to offer encouragement that there is a better future ahead," says Stefan Pryor, LMDC president. "We have every confidence that Louisiana and the Gulf states will recover better than ever, just as lower Manhattan is doing."

Part of that confidence comes from the rebuilding process itself, despite the setbacks and slow pace.

"I would have loved it if it had gone faster," says Mayor Michael Bloomberg. But given the magnitude of the project, it is probably not unusual to be taking some time, he adds. "In the end, the only thing that people will remember is whether we do the right thing, not whether it took two years or four years or eight years."

WAR NEWS:

Powell Calls His U.N. Speech A Lasting Blot On His Record (NYT)

By Steven R. Weisman

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 - The former secretary of state, Colin L. Powell, says in a television interview to be broadcast Friday that his 2003 speech to the United Nations, in which he gave a detailed description of Iraqi weapons programs that turned out not to exist, was "painful" for him personally and would be a permanent "blot" on his record.

"I'm the one who presented it on behalf of the United States to the world," Mr. Powell told Barbara Walters of ABC News, adding that the presentation "will always be a part of my record."

Asked by Ms. Walters how painful this was for him, Mr. Powell replied: "It was painful. It's painful now." Asked further how he felt upon learning that he had been misled about the accuracy of intelligence on which he relied, Mr. Powell said, "Terrible." He added that it was "devastating" to learn later that some intelligence agents knew the information he had was unreliable but did not speak up.

Mr. Powell also implied in the interview that the United States did not go to war in Iraq with sufficient troops to secure the country and failed to keep sufficient Iraqi forces to help stabilize the country.

"What we didn't do in the immediate aftermath of the war was to impose our will on the whole country with enough troops of our own, with enough troops from coalition forces or by re-creating the Iraqi forces, armed forces, more quickly than we are doing now," he said.

But with Iraq still violent and plagued by sectarian conflict, the United States has "little choice but to keep investing in the Iraqi armed forces and to do everything we can to increase their size and their capability and their strength."

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Since leaving office in January, Mr. Powell has declined interview requests. But his expressions of regret about the weapons intelligence and the lack of troops were consistent with many of his statements in office, especially after it became clear that Iraq had none of the weapons that Mr. Powell had said it was stockpiling.

He acknowledged several times that intelligence failures lay behind his presentation on the eve of the Iraq war two years ago, but he has never expressed any regret about the war itself. Asked by Ms. Walters, "When the president made the decision to go to war, you were for it?" Mr. Powell said, "Yes."

Asked about editorials asserting that he had put loyalty "ahead of leadership," Mr. Powell parried the question. "Well, loyalty is a trait that I value, and yes, I am loyal," he replied. "And there are some who say, 'Well, you shouldn't have supported it, you should have resigned.' But I'm glad that Saddam Hussein is gone."

Mr. Powell said he did not blame George J. Tenet, then the director of central intelligence, for the failures and did not believe that Mr. Tenet tried to mislead him.

"No, George Tenet did not sit there for five days with me, misleading me," he said, referring to the week he spent at the Central Intelligence Agency reviewing the evidence on Iraq before making his presentation to the United Nations. "There were some people in the intelligence community who knew at that time that some of these sources were not good, and shouldn't be relied upon, and they didn't speak up. That devastated me."

U.S.-Iraqi Sweep Arrests 200 In Rebel Staging Area (NYT/AP)

By The Associated Press

The New York Times, September 9, 2005

TAL AFAR, Iraq, Sept. 8 (AP) - As a joint force of American and Iraqi troops moved into Tal Afar, a major insurgent staging ground near the Syrian border, the Iraqi Army said Thursday that it had arrested 200 people suspected of being militants in the sweep and that three-fourths of them were foreigners.

Most of the estimated civilian population of 200,000 has fled this predominantly Turkmen city, where 70 percent of that ethnic group is Sunni Muslim, the sect that dominates the Iraqi insurgency. The American military reported killing seven insurgents in the last two days, and indications were growing that the joint force would intensify the operation.

Tal Afar was swept as election officials tallied voter registration figures from three Sunni-dominated provinces, where registration had been extended a week in preparation for the Oct. 15 nationwide referendum on the new constitution.

"Turnout was unbelievable, and people were very enthusiastic, especially in Falluja and Ramadi," said Farid Ayar, an electoral commission spokesman in Baghdad. Falluja and Ramadi are Sunni insurgent bastions in Anbar Province, which stretches west from Baghdad to the Syrian, Jordanian and Saudi borders.

The heavy voter registration suggests the minority Sunnis are mobilizing to defeat the draft charter, a shift from January, when their boycott of the parliamentary vote gave control of the National Assembly to Shiites and Kurds.

The draft constitution was approved and sent to voters by a coalition of Shiites and Kurds, over the objections of Sunnis, who fear it would allow the country to split into sectarian and ethnic mini-states. That could cut Sunnis out of Iraq's oil wealth.

Sunni clerics are now urging their people to take part in the referendum and the parliamentary balloting in December.

Rejection of the draft constitution would mean elections in December for a Parliament under the rules of the interim constitution. The new Parliament would start drafting a constitution from scratch.

Demographics are a big problem for the Sunni Arabs, about 20 percent of Iraq's 27 million people. Sunnis form the majority in four of the 18 provinces, but their numbers are overwhelming in only two, Anbar and Salahuddin. Under election rules, a "no" vote by a two-thirds majority in any three provinces would defeat the referendum.

In Anbar and Salahuddin, about 75 percent of eligible voters had signed up by Wednesday, the deadline, election officials said, while cautioning the tally was not final. In Diyala, a province with a Sunni majority where the count was final, 417,000 of 750,000 eligible voters, or 56 percent, had registered, said Amir Latif, director of the provincial elections commission. He spoke from Baquba, the provincial capital, 35 miles northeast of Baghdad.

Sunnis also hold a majority in Nineveh Province, home to Mosul, Iraq's third-largest city, and Tal Afar. But much of the Sunni population in the province is Kurdish and committed to the draft charter.

In the Tal Afar sweep, Capt. Muhammad Ahmed of the Iraqi Army said that one of captives was Amr Omayer, an Iraqi who was believed to be commander of all insurgent operations stemming from Tal Afar.

Captain Ahmed said some of those arrested could not speak Arabic.

"We believe they are Afghans, but we have not checked their nationalities so far," he said. The Arab-speaking captives were from Syria, Sudan, Yemen and Jordan, he said. Captain Ahmed said eight civilians were killed Wednesday in the city by a suicide car bomber. The Iraqi police said Thursday that they had found 17 bullet-ridden bodies near Mahmudiya, a heavily Sunni

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town south of Baghdad. Two more bodies, blindfolded and handcuffed, were found on Baghdad's outskirts. The United States announced the death on Wednesday of a soldier in an accident at Camp Taqaddum near Falluja.

U.S. Forces Chase Ghost Fighters Amid Iraqis (WP)

By Jonathan Finer

The Washington Post, September 9, 2005

TALL AFAR, Iraq, Sept. 8 -- The U.S. soldiers sensed something wasn't quite right when an ambulance carrying two dead bodies arrived Thursday morning at a checkpoint for people evacuating this city under siege.

Hanging off the sides of the vehicle were three young men who said they were escorting the remains of family members killed in the previous night's bombardment to a local hospital. But when an Iraqi policeman looked them over, he pointed to a man who wore white sweatpants and a white shirt and appeared to be in his early twenties. "I know him. He must be detained," the officer said. "He murdered a policeman."

The interrogation by American soldiers initially went nowhere. The man insisted he spoke Turkish, not Arabic, and therefore could not communicate with the Americans' interpreters. Asked his name, he kept alternating between "Habib" and "Faris." At one point, he rolled on the floor making retching noises as if he were going to throw up. But everything changed when exasperated soldiers said they had no choice but to turn him over to the Iraqis, who were anxious to take him into custody.

"Yes, I am a terrorist, yes," the man said in perfect Arabic, his ailment apparently forgotten. "I would rather you shoot me in the head than give me to them."

The episode underscored what many U.S. troops have said is among the most difficult tasks they face in battling the insurgency across Iraq: identifying fighters who blend seamlessly into the local population.

American commanders have long insisted that growing numbers of Iraqi security forces will make that job much easier by providing an insider's knowledge of local communities. Privately, U.S. commanders also acknowledge that the Iraqi troops' reputation for heavy-handed treatment of prisoners cuts two ways: It can terrify prisoners into talking but undermine the rapport policemen and soldiers have with the populations they serve.

In Tall Afar, where a week ago U.S. and Iraqi troops launched their largest urban assault since the push into Fallujah last November, soldiers are simultaneously working to help people flee in anticipation of an imminent attack on the city center and to prevent insurgents among them from escaping undetected.

Heavy bombing continued Thursday evening, as U.S. jets dropped 500-pound J-DAM precision bombs and other munitions into the insurgent-controlled neighborhood of Sarai, while playing messages over loudspeakers that called on residents to evacuate. Nearly 1,000 people left the city through U.S. checkpoints Thursday, and commanders said intelligence showed that insurgent leaders were attempting to vacate the city.

Iraqi policemen and soldiers are fully integrated into nearly every aspect of the Tall Afar operation, often attached to units from the U.S. Army's 3rd Armored Cavalry Regiment, which is leading the assault, or advised by small groups of U.S. Special Forces soldiers. Among the units here are several battalions of the Iraqi army's 3rd Division, which is based in northwestern Iraq, and a battalion of Kurdish soldiers assigned to Tall Afar for this operation. Hundreds of regular Iraqi policemen and police commandos are also being brought to the city to man stations that U.S. forces have said they will establish once the fighting wanes.

The performance of Iraqi troops in this region has improved dramatically since the 3rd Armored Cavalry arrived in April, U.S. commanders said. In early June, an Iraqi platoon led by two U.S. soldiers was ambushed in Sarai. When machine-gun fire rained down on the platoon, most of its members fled. An American lieutenant colonel was killed in the engagement.

"When we started with them, whenever they would receive a little fire they would either run or do what we called the 'death blossom' -- basically spraying in all directions, which was dangerous for us and dangerous for the town," said Lt. Col. Christopher Hickey, who leads the 3rd Armored Cavalry's Sabre Squadron and works closely with Iraqi commanders. "Through leadership and experience, they have become more disciplined."

Lacking sufficient numbers of skilled interpreters for interrogations, U.S. forces operating independently of Iraqi units have sometimes struggled in their attempts to find insurgents during several days of house-to-house searches in Tall Afar.

On Sunday, soldiers from Eagle Squadron's Blue Platoon raided the home of a suspected insurgent named Suleiman Dawou. When they arrived at the house, Dawou was gone, but they found a man they believed to be his cousin. They asked in English if the cousin knew where Dawou was, and the man said no. Believing he was lying, the soldiers placed him in plastic cuffs and told him that he was being detained. They began filling out paperwork required to take him into custody when an interpreter arrived and tried questioning him one last time.

"I thought the soldiers said Salman Dawou," the man told the interpreter. "I know Suleiman, but I have not seen him for months." The soldiers let him go.

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But while Hickey and other commanders said the participation of Iraqi troops will help immeasurably with efforts to identify insurgents, there is also concern here, as in other Sunni Arab communities across Iraq, because the Iraqi units are predominantly composed of Shiite Muslims or ethnic Kurds. Hickey said that U.S. forces have met with local Sunni leaders to encourage recruitment of Sunnis into police and army units. But after a series of meetings last month in which the tribal leaders said they would provide lists of candidates, only three names were put forward.

"Part of the problem is the security situation is so bad here that no one wants to be a policeman," Hickey said. "Once that improves, we are hoping more of them will sign up. The ideal is for people to be policing their own people, their own neighborhoods, so they have a stake in doing it right."

Civilians fleeing Tall Afar, where most residents are Sunnis from the Turkmen ethnic group, were told by U.S. troops to evacuate through checkpoints in the southern part of the city. But many said they were too afraid to enter south-side neighborhoods where most police and residents are Shiites.

The Kurdish soldiers involved in the operation here are members of the pesh merga militia that battled the Sunni-led government of former president Saddam Hussein and that supports Kurdish forces fighting the government of neighboring Turkey. They will particularly relish their role invading a stronghold of the Turkmens, who have strong ethnic ties to Turkey, American commanders said.

"They are champing at the bit," said Hickey, who denied that zeal would lead to overly aggressive tactics. "They are a professional fighting force with a good reputation. They want to keep that intact."

The man who was plucked from the ambulance and interrogated Thursday appeared genuinely frightened of facing the Iraqi police. "Please no," he repeated several times. Once soldiers realized they had a lever to extract information, they called for Iraqi policemen to sit in on the questioning. The officers said the man was involved in a gruesome killing of a local policeman who was beheaded, his corpse placed on the street with a bomb lodged inside of it that exploded when a dog began sniffing at the body.

When the policemen first entered the room, the man turned to face the corner, refusing to look at them. After a series of increasingly pointed questions shouted at him, he became defiant.

"No matter what you say, I am a holy warrior. I am going to paradise," he told the interrogators, referring to the belief cited by many insurgent fighters that those who die for their cause have a special place in the afterlife. "The rest of you are infidels who will go to hell."

For A U.S. Platoon In Iraq, Merciless Missions (WP)

By Steve Fainaru

The Washington Post, September 9, 2005

BALAD, Iraq -- On an asphalt road surrounded by apple trees and date palms, a bomb went off beneath an armored Humvee leading a midnight patrol. The towering fireball, followed by an explosion, lit up the night and propelled the five-ton vehicle two feet into the air.

The Humvee fell and sputtered to a halt, its bulletproof windshield cracked, its electrical system shut down. Inside, four American soldiers and an Iraqi interpreter choked on dust and grit. The attack was witnessed by a reporter riding along on the Aug. 26 patrol and later described by soldiers involved.

"My face! My face! I can't see!" screamed Sgt. Jason Fishbein, 30, a diminutive gunner from the New York City borough of Queens. Along with the Humvee's other occupants, Fishbein was unharmed: the gray dust had momentarily blinded him and it was sweat -- not blood, as he feared -- that poured from his face.

"Man, I got a headache now," said Cpl. William Young, the 24-year-old driver of the second Humvee, which careened into a ditch as fist-sized chunks of asphalt hurtled toward it. Young reached into the back seat, where Sgt. Joseph Smith, 29 and deaf in his right ear from an earlier blast, handed him an extra-large bottle of migraine medicine.

Six hours after the attack, and with only a few hours of sleep, the soldiers of the 3rd Platoon, Charlie Company, 5th Battalion, 7th Cavalry Regiment, were back patrolling the bomb-cratered streets of Balad, an agricultural city about 50 miles north of Baghdad. The attack quickly faded, taking its place alongside myriad others that have occurred during the platoon's first eight months of a yearlong combat tour in Iraq.

The experiences of the 17-man "Blue Platoon," as the unit is called, go to the heart of the growing debate over the continued involvement of U.S. troops in Iraq. The days are infused not with the politics of war but the stark realities of it: tragedy and loss, loneliness and exhaustion, resilience and camaraderie in the face of a stubborn and deadly insurgency. The platoon's daily life has been ordered by nothing more than the merciless patrol schedule, twice-daily, four-hour combat missions that inevitably place the soldiers in the paths of attacks aimed at killing them.

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"I can tell you right now: We ready to go home," said L.B. Baker, 38, a lanky trumpet player and farmer from Belcher, La., who as platoon sergeant is responsible for holding the unit together.

"I tell my guys every day, 'Look, this is the home stretch,' " Baker said. "I don't want them to relax right now. It's not the time to start thinking this is a game."

In three days of patrols culminating in the roadside attack, the physical and emotional toll of prosecuting the war in Iraq was vividly apparent in interviews, personal diaries written by the soldiers, and even songs they recorded in makeshift barracks studios. Weighted down by 50 pounds of body armor and ammunition, the soldiers venture out every day in 120-degree heat to find the insurgents. More often than not, they never do, even after bombs explode directly on them, a source of endless frustration compounded by what the soldiers said is the unwillingness of most Iraqis to help them.

"It's always kul shee maku ," said Sgt. Rob Hammer, a 32-year-old squad leader from Sublette, Kan., reciting the Arabic phrase for "there is nothing," which the entire platoon has memorized.

In such an unforgiving environment, the Americans said they found meaning in their commitment to each other, "the friends who would take a bullet for me, friends who would kill their own selves to save my life," said Sgt. Patrick Hagood, 24, of Anderson, S.C.

In the tense moments after Friday's bombing, Blue Platoon's medic, Pfc. James Tickal, 23, of Oviedo, Fla., first checked to make sure his soldiers were okay. He then took out a brown, leather-bound diary he keeps inside his Humvee and recorded the incident in the middle of rubble.

Prefacing the entry with an obscenity, he wrote: "I'm still shaking. Boom! My humvee just got hit by an IED about two minutes ago. I am sick of getting hit w/ this crap. Aw man that was a big bomb that they blew up right underneath us. Thank God for keeping everyone OK in my humvee. Now that's a direct hit."The First Losses

Tragedy hit the platoon on Feb. 13. While patrolling the outskirts of Balad around 4:30 a.m., one of the four Humvees overshot a right turn and tumbled upside down into a freezing, seven-foot-deep canal, and three soldiers drowned, along with an Air Force firefighter who fell in during the rescue effort.

Memories of the three popular men -- Sgt. Rene Knox Jr., 22, of New Orleans; Sgt. Chad Lake, 26, of Ocala, Fla., and Sgt. Dakotah Gooding, 21, of Des Moines -- hovered over soldiers "like a mist," said Tickal,

Tickal soon began to narrate what he was seeing, first in jottings in an all-weather field book he kept behind his Humvee's sun visor, then in the thick diary that his ex-girlfriend, Spec. Jessica Williams, a reservist, sent him from the United States.

"I am currently in Iraq, my tour is half way over," he wrote in June. "When we first got to Iraq I lost three friends in the first month: Gooding, Knox and Lake. Gooding and I were pretty chill. He told me how he met his wife and mostly how much he loved her. He was also the funniest guy I have ever met. He would always say, 'foreeeal.' "

Even as the scorching summer heated up, Tickal, a bespectacled 23-year-old who studied biology at the University of Central Florida before joining the Army, frequently began his entries: "Today is a beautiful day." A self-described "dreamer" he punctuated passages with smiley faces or frowning faces; on one page he sketched a picture of Garfield, the cartoon cat, firing an M-4 assault rifle from the turret of a Humvee.

Tickal described himself as apolitical: "Truthfully, I don't care who the president is. I would have signed up to come over here anyway." But he criticized the apathy of Americans who, he wrote, failed to understand the stakes in Iraq: "I hope people back home understand what we are doing, keeping our country free. Truthfully I think our country needs a kick in the ass. Most people believe it doesn't affect them. Who cares? Well, I CARE."

Tickal worried that he "could die any day." On July 4, he described a phone conversation in which Williams "asked me what my biggest fears are. I never told her but I imagine a car bomb going off all the time. People screaming in my dreams."

"If I was a cat I would be down to maybe 2 lives left, I hope," he wrote six days later. "There is no way I am going to die in a place like this."Growing Frustration

By July, Blue Platoon was increasingly under attack.

The frequency of indirect fire -- mortars and rockets fired at Camp Paliwoda -- had diminished significantly. But the number of roadside bombs, which have accounted for about 26 percent of the nearly 1,900 deaths of U.S. military personnel in Iraq, had more than doubled, to nearly two a day, within the battalion's 20-by-15-mile area of operation.

Many of the attacks were concentrated in al-Ruashid, a Sunni tribal neighborhood northwest of Balad. The insurgents seemed to operate invisibly amid the orchards. The locus was a one-lane road known as the Isaki Highway, its asphalt surface pocked with an obstacle course of bomb craters.

Tickal's diary reflected the growing tension, the platoon's exhaustion and frustration. "The day is half way over. It's about 136 degrees out," he wrote on July 29. "This morning seemed to disappear. The heat kind of puts you to sleep."

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On Aug. 5, the platoon was hit by a roadside bomb on the way back from picking up a commander, who was returning from leave in the United States. "I told the captain, Welcome home,' " wrote Tickal. Using a racial epithet, he wrote, "I am getting tired of getting bombed and not catching" them.

On Aug. 6, Charlie Company's "Red Platoon" captured some insurgents with an artillery round. "That make me feel really great when we catch these jerkoffs," Tickal wrote. "They think they can get away w/anything. The thing is that it could be anyone. Everyone is poor in this country and I don't blame them. If I was poor I would take a few thousand dollars to place a road bomb. Man, I hate these insurgents."

On Aug. 7, the company's "White Platoon" was "hit by an IED for the 6th time in 2 days," Tickal wrote. "This time Big Will got hit. His whole right leg was hit by shrapnel."

By Aug. 10, it was "full out war," Tickal wrote. White Platoon was attacked by two roadside bombs and rocket-propelled grenades, wounding two soldiers. When Blue Platoon arrived to assist, the soldiers came under small-arms fire. "I kept on hearing, pew, pew, pew," Tickal wrote. "Taylor my gunner started unloading amo can after amo can into the wood line. We ended up being there about 2 hours. The first hour was nothing but gunfire."

Each day, the platoon would seek out information to find the men who were attacking them. The soldiers acted on tips and stopped at random houses. They questioned nervous residents through masked translators who went by nicknames like "Fly" and "Steve" and struggled with English themselves.

The platoon did not expect much. Few residents offered information; some were openly hostile. On the morning of Aug. 24, the platoon dismounted and strolled through a neighborhood of modest homes and mud huts. The soldiers came upon a young farmer, Bassam Hazim Mohammed, 19, sitting in the shade beneath an arbor.

"He says he doesn't like coalition forces," the interpreter told the platoon.

"I'm gonna tell him right now the fastest way to get rid of us: approve a constitution, stop shooting at us, and stop blowing stuff up," said 1st Lt. Lamarius Workman, 31, the platoon leader. As he spoke, a few Americans split off to search Mohammed's home.

"So, basically, the easiest way to get rid of us is to just fake like they like us, just fake it," implored Workman. "I'm serious. Just sacrifice a little pride and fake it for six months and you'll see we'll be gone in no time."Lyrics of Loneliness

As the grueling month wore on, Baker, the platoon sergeant and an accomplished trumpet player, recorded his latest song about Iraq with Anthony Blocker, 27, of Marietta, Ga., another platoon sergeant in Charlie Company.

The two men used a music software program and microphone, mixing the songs on a laptop computer in a tiny wooden studio that Blocker built in his room. Baker wrote songs about the three drowned soldiers, the platoon's desolate base, the isolation of being away from family. "If it feels like I'm gonna cry a little bit, then I know it's good," he said.

Baker called this latest song, "August." Its haunting melody was set against lyrics that spoke of loneliness and resilience during endless separation:

A year long
A year gone
Is so damn long
Baby, hold on
It won't be long
Till I come home
There's been ups
There's been downs
We stay strong
Hold on
It won't be long
Till I come homeMidnight Attack

On Aug. 26, Blue Platoon went back on patrol at 8 p.m. It was the second patrol of the day; earlier that morning, the platoon had been shot at outside a mosque.

Dusk was fading as the soldiers made their way around the city, stopping to question residents, inspecting an Iraqi police checkpoint. The brutal afternoon heat broke, giving way to a soft summer night.

At 10:30, the four Humvees raced down the dangerous Isaki Highway. The platoon reached a shuttered white store at the end of the road, stopped to fix a jammed grenade launcher, then doubled back down the highway.

The convoy slowed to about 20 miles per hour and headed east, the vehicles' headlights cutting a path through the darkness. Every hundred yards or so, the Humvees swerved to avoid bomb craters in the asphalt road.

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Baker, driving the lead vehicle, swerved right to avoid one of the three-foot-deep craters. Beside it, buried beneath the asphalt and unbeknownst to him, was another bomb. "I was just going around the hole and it blew," Baker said.

"The truck came off the ground, sir," he continued, recounting the incident the next day in his room. "It kind of lifted it up and set it back down on the ground."

"It felt like we were flying," said Fishbein, the gunner.

About 25 yards back, Young found himself driving toward an orange fireball. Rocks and huge chunks of the road smashed the windshield, spreading a web of cracks. Young jerked the Humvee to the right. "Stop! Stop!" yelled Hagood, who was seated in the passenger seat. The vehicle stopped in a ditch surrounded by tall grass.

The gunners shot illumination flares and lit up the night. Now, able to see across the orchards, the gunners opened a barrage of fire with their M-240 machine guns, hoping to kill the unseen insurgents who had detonated the bomb. The red-hot shell casings fell down into the Humvees; one landed on Smith, scorched him through his pants.

"Ow!" he screamed, swearing.

The soldiers became euphoric as they learned no one had been hurt.

Inside the lead vehicle, Baker and Sgt. Ernest Daniels, of Harlem, N.Y., patted the dashboard, thanking the Humvee for protecting them.

"Good job, baby," Baker said.

"Yeah, baby," Daniels said. "Good job, good job."

Young backed the second Humvee out of the ditch and parked in the middle of the road.

"Thank God, whoever's praying for us," he said as the shooting subsided.

Once bomb experts arrived to inspect the site, the soldiers got out of their Humvees and walked over to the crater.

It stretched about six feet wide and three feet deep. Thousands of pieces of rubble were spread across the road. Next to the new crater was the old one that had been used as a decoy. Inside it was a battery bound with masking tape and attached to a thin copper wire.

Young, Hammer, Hagood and an explosives expert followed the wire across the road, along a wide dirt path. The wire ended abruptly after about 50 yards away, at another path that led back into the orchard.

The soldiers used flashlights at the end of their M-16 assault rifles to search the darkened fields. They scanned the tall grass between the bushy, 20-foot apple trees, warily sweeping their weapons.

"Something's moving right there," Hammer said, pointing his rifle. "I got my laser on it."

The soldiers pointed in unison. Lights and three red dots danced over the grass, which seemed to move.

"It's a rabbit," someone said finally.

The soldiers hiked over gullies and through the scrub before finally turning back to the vehicles.

The Humvees slowly headed back to the base, Baker's vehicle hobbling on a flat tire. Their headlights were dark; to see, the drivers used night vision goggles.

About 20 minutes later, the platoon arrived at Camp Paliwoda. The sign outside the gate displayed the American and Iraqi flags and read: "Partners in Peace, Balad, Iraq."

Once inside, Young began to sing the Army promotional jingle: "Be all you can be"

Two days later, at the onset of a morning patrol, Tickal pulled out his diary. "The sun is starting to rise," he wrote. "Thank you God for another day on this beautiful planet. Yesterday my humvee's windshields were being replaced. Thank goodness for bullet proof glass, huh?"

The State Of Iraq: An Update (NYT)

By Nina Kamp, Michael O'hanlon And Amy Unikewicz

The New York Times, September 9, 2005

It was not a good summer in Iraq. After the midwinter bright spots - reductions in violence, greater economic vitality, the famous purple fingers of voters - the situation worsened as the weather warmed. Most worrisome, the constitutional process has failed to bring aboard Sunni Arabs, who remain the core of the insurgency. While Shiites and Kurds wisely compromised on some key points, they favor an oil-allocation scheme that Sunnis fear could deprive them of their fair share of Iraq's natural wealth.

There is, as always, some good news. The government has made progress on managing inflation, rewriting banking laws and adopting strict budgetary rules to prevent deficit spending. Telephone and Internet use continue to increase; gross domestic product is greater than during Saddam Hussein's latter years in power; school enrollment is up 20 percent since 2000. And somewhere between one-tenth and one-fifth of Iraqi security forces are now fairly capable.

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But on balance the indicators are troubling. Electricity production remains stuck at prewar levels even as demand soars, and the power is off in Baghdad more often than it is on. Unemployment is stubbornly high. Infant mortality rates are still among the Middle East's highest. And Iraq is the most violent country in the region, not only in terms of war casualties but of criminal murders as well. On one point at least, pessimists and optimists about Iraq tend to agree: the situation needs a major boost from the political process. In that light, the Oct. 15 referendum on the draft constitution looms very large.

New Orleans And Baghdad (NYT)

By Thomas L. Friedman

The New York Times, September 9, 2005

Memo to: Iraq's Kurdish, Shiite and Sunni leaders.

From: An American friend.

Dear Sirs: As someone who really wishes you well, I am writing to give you my best sense of how the aftermath of Hurricane Katrina is going to affect the U.S. mission in Iraq. Let me begin with an analogy offered by Michael Mandelbaum, author of the forthcoming book "The Case for Goliath: How America Acts as the World's Government in the 21st Century." He points out: "The U.S. military presence in Iraq today is like the dikes and levees that were protecting New Orleans from the flood. The equivalent of the flood for Iraq is a civil war between Sunnis, Shiites and Kurds. The U.S. military right now is holding that back."

Therefore, the key question in Iraq is whether your constitutional process now unfolding can produce a power-sharing accord between Shiites, Sunnis and Kurds that can be a homegrown, self-sustaining dike against civil war, replacing the Americans. In the wake of Katrina, this is now an urgent question. No, we will not be pulling out tomorrow just because of Katrina, let alone before your December parliamentary elections. But after that, when we will be in a Congressional election year, who knows what pressures may build.

Why? Because most Democrats have opposed the war from the start, and many Republicans no longer support the war per se, but only George Bush. The president has carried this war on his shoulders, and the more he's weakened politically by Katrina, the less he will be able to carry. Yes, Mr. Bush has said we'll do whatever it takes to finish the job in Iraq, but he said that before there was another huge job to do.

Can you imagine if Mr. Bush had to go to Congress this week to ask for yet another $100 billion to keep fixing Iraq, when an entire U.S. city needs rebuilding? And the Katrina TV drama is not going away. Hell hath no fury like journalists with a compelling TV story where they get to be the heroes and the government the fools.

Now, as for your draft constitution, it is at one level a remarkable document - a rare example of the elected citizens of an Arab state having a horizontal dialogue and forging their own social contract. There is already more free politics in Iraq than anywhere else in the Arab world except Lebanon. But this draft constitution will come to life only if Iraqi Sunnis of good will publicly embrace it, and up to now they have not.

Some Sunnis are intimidated, others are posturing for the elections, and some are acting in bad faith, still fantasizing that their Baath Party will come to power again. But Sunnis of good will, and Iraq has many, can be brought around if the constitution creates a politically and economically viable central government, and doesn't pave the way for Kurdish and Shiite separatism, which would leave the Sunnis isolated in central Iraq without power or oil.

As Yitzhak Nakash, the Brandeis University expert on the Shiites, put it: "We need to see a form of federalism in Iraq that is uniting Iraqis, not dividing them - a form of federalism that gives Shiites, Sunnis and Kurds a degree of cultural and religious autonomy without compromising either Iraq's political unity or Baghdad's role as the locus of national politics. The draft constitution is not quite there yet."

I know how justifiably bitter the Shiites and the Kurds of Iraq are over what they have suffered at the hands of murderous Sunni Baathists and jihadist fascists. But it is in their interest and ours to see if we can nurture more Iraqi Sunnis who understand that their best future lies in working with a new Iraq, rather than trying to subvert it. Will Iraqi Sunnis, like the Palestinians, waste a generation trying to reverse history - and destroy themselves and Iraq in the process? Or will they accept the fact that they are a minority that can no longer rule all of a fascist Iraq, but can get its fair share of power and oil in a free Iraq? I don't know.

The only way to find out is to make them an offer they can't refuse. If there is a constitution basically supported by all the key parties, a decent outcome is still possible in Iraq. Yes, Mr. Bush says he intends to stay the course there no matter what, but without a constitution embraced by all three communities, there will be no course to stay. The pressure on us to leave will only grow.

And if the dikes of stability that U.S. soldiers are holding together in Iraq give way, well, you all will envy the people of New Orleans. Most of them had somewhere to go when their floods hit. You and your neighbors will not.

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Saddam Aide Hired Camelot Attorney To Bribe U.N. Staff (NYSUN)

By Benny Avni

New York Sun, September 9, 2005

UNITED NATIONS - A Democratic Party icon of the Kennedy days, Theodore Sorensen, was hired in 1993 by an agent of Saddam Hussein, Samir Vincent, to influence top Turtle Bay officials, according to Wednesday's Volcker report on the U.N. oil-for-food program. Vincent and his Korean partner, Tongsun Park, also financed an American pro-U.N. organization known as UNA-USA with Taiwanese money.

In the spring of 1993, Vincent, who has since pleaded guilty in a federal court to charges of acting as an unregistered agent for the Iraqi government, "sought legal advice" from Mr. Sorensen, according to the Volcker report. Attempting "to obtain an agreement between the United Nations and Iraq," Mr. Vincent retained the services of Mr. Sorensen, who is described in the report as "a New York attorney and former special council and adviser to the United States President John F. Kennedy."

The famed attorney was still basking in the glow of Camelot when he was hired by the Iraqi dictator's agent to shape what ultimately became oil for food. Launched officially in 1996, the program grew into a cash cow for Saddam, fraught with bribery and corruption, according to the U.N-authorized Independent Inquiry Committee's report. Mr. Sorensen was hired in the spring of 1993 for an undisclosed sum "to provide advice on how a 'plan of compliance' could be proposed to the United Nations between the two parties," the report says.

In the spring of 1993, as Mr. Sorensen was put on Saddam's payroll by Mr. Vincent - an undeclared foreign agent - the attorney's wife, Gillian Sorensen, was hired by then-Secretary-General Boutros-Ghali as his special adviser for public policy, according to a biography of her posted on the United Nations Foundation Web site. Ms. Sorensen has been involved in U.N. affairs ever since, and today is a senior adviser and national advocate at the U.N. Foundation, a pro-Turtle Bay organization founded by Ted Turner.

Ms. Sorensen is also involved in Democratic Party foreign policy circles, and was among a small group of Democratic "Friends of Annan" who last year gathered at the Manhattan apartment of a former U.N. ambassador Richard Holbrooke, to try to reshape Secretary-General Annan's agenda and save his job as he was criticized for his possible missteps in oil for food.

"There was no connection whatsoever" between her husband's work for Mr. Vincent and hers for being hired at the same time by Mr. Boutros-Ghali, Mrs. Sorensen told The New York Sun yesterday.

Mr. Vincent, who has been cooperating with the federal prosecutor for the Southern District of New York since pleading guilty, is said by the Volcker report to have solicited millions of dollars from the Saddam regime to target officials, including Mr. Boutros-Ghali, for bribery. Mr. Volcker told the Sun at a Wednesday press conference that the investigation regarding Mr. Boutros-Ghali is "ongoing."

Another man who was recruited for the bribery scheme, according to the Volcker committee, was the North Korean-born Mr. Park, who was at the center of a Washington influence-peddling scandal in the 1970s, and who was indicted this year for his part in the attempt to bribe top U.N. officials on behalf of Saddam. Already known for his involvement in the Washington scandal known as "Koreagate," Mr. Park, according to the new Volcker report, assisted Mr. Boutros-Ghali in 1993 and 1994 in raising funds for the 50th anniversary of the United Nations.

A company controlled by Mr. Park, according to the Volcker report, arranged a $4 million contribution to a Washington-based U.N. advocacy group, the United Nations Association of the United States of America. The contribution went through a Taiwanese entity known as the Chinese National Association of Industry and Commerce. The Volcker report stresses that although Mr. Boutros-Ghali knew Mr. Park was a Taiwanese lobbyist, he said he was not aware of the donation from Taiwan.

UNA-USA yesterday issued a statement welcoming the release of the Volcker report, using many talking points used in the last 48 hours by U.N. spokesmen, including support for Mr. Annan and calls for reform at Turtle Bay. The UNA-USA statement does not address Mr. Volcker's findings about the organization itself, and the questions it raises, including whether, as a non-for-profit organization, it listed Taiwan - a nonmember of the U.N. - as one of its donors.

An organization spokeswoman, in fact, first heard of the reference to UNA-USA in the Volcker report from a reporter. "We have no comment at this time," Director of Communications Peggy Atherlay told the Sun, adding that the $4 million donation was received when the organization was under a previous administration, and that it is now seeking answers.

Oil For Food As Usual (WSJ)

The Wall Street Journal, September 9, 2005

"The scandal, quote, unquote, is, in my view, nonsense." Thus did Denis Halliday, a former United Nations Assistant Secretary General, opine in November 2004 on the U.N.'s Oil for Food program. With the release Wednesday of Paul Volcker's fourth report on Oil for Food, we have the clearest account yet of what this quote-unquote scandal is really about.

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Let's begin with what this scandal is not about, at least not fundamentally. It is not about the dubious business practices of the Swiss Inspections company Cotecna, which was improperly awarded a multimillion-dollar Oil for Food contract while employing Secretary General Kofi Annan's son Kojo, although this taught us something about the nepotism that typifies U.N. dealings. Nor is it about Kofi Annan's personal probity, which had been called into question by evidence that he was aware of, and tried to influence, the Cotecna bid. Mr. Volcker has found no conclusive proof on this score.

In other words, Oil for Food is not about some isolated incidents of perceived or actual wrongdoing during the course of a seven-year effort to maintain sanctions on Iraq, monitor its oil flows and feed its people. Oil for Food is a story about what the U.N. is. And our conclusion from reading the 847-page report is that the U.N. is Oil for Food. * * *

To better understand the scandal, it helps to distinguish its political and managerial components. Responsibility for administering the program fell primarily to the U.N. Secretariat, which established the Office of Iraq Program (OIP) under the direction of Benon Sevan.

But the program itself was designed by members of the U.N. Security Council following protracted negotiations with the government of Saddam Hussein. It was the Security Council, for example, that approved Saddam's right to choose the companies, contractors and middlemen with whom Iraq would do business, and through which the entire program was corrupted. The Security Council also ran its own supervisory "661 Committee," named after the 1990 Security Council resolution that imposed sanctions on Iraq following its invasion of Kuwait.

The result of this bifurcated structure was that real responsibility for overseeing Oil for Food fell between two stools -- and into the lap of Mr. Sevan and his staff. Mr. Volcker's previous reports tell us that Mr. Sevan was in the pay of the Iraqi government.

The current report adds to our knowledge of what the Iraqis got for their money. For example, Mr. Sevan and his staff failed to inform the Secretariat and the 661 Committee of the extent of Iraq's various kickback schemes -- involving as many as 2,500 companies -- and dismissed media reports about them as "groundless allegations, provocative suggestions and factual mistakes." Mr. Sevan also fought tooth-and-nail the Bush Administration's successful attempt to impose retroactive pricing standards on the sale of Iraqi oil, which helped curb some of Saddam's abuses.

However, part of the reason Mr. Sevan was able to get away with his malfeasance was that neither the Secretariat nor the 661 Committee showed any appetite to exercise their fiduciary obligations. Mr. Annan testified to the Committee that Mr. Sevan worked directly for the 661 Committee. Yet as the report acidly notes, "the difficulty with the Secretary-General's view is that he appointed Mr. Sevan and he created OIP in the first place." Maybe former Enron CEO Kenneth Lay should call Mr. Annan to testify as an expert witness at his trial.

Mr. Annan is also on record telling the Committee he viewed Oil for Food as "a very transparent operation." Yet as the report shows, Mr. Annan was himself complicit in covering up Iraqi violations of the sanctions regime. Specifically, Mr. Annan was aware of the kickback issue from at least February 2001, yet "the Secretary General's quarterly reports never mentioned the emerging problem." (See the report excerpt nearby.)

Why Mr. Annan chose to see no evil on Iraqi sanctions violations, much less use his bully pulpit to denounce it (as he later denounced the Iraq war as "illegal"), is an interesting question. Our sense is that the U.N. Secretariat as a whole took the view that the sanctions regime was immoral and that Saddam was within his rights to break free of it.

Whatever the case, the Secretariat had a more than willing partner in the 661 Committee, and for reasons that are more easily comprehended. Iraq regularly steered contracts to Security Council members it believed were friendly to its political interests. Russian companies, for instance, did $19 billion in oil deals with Iraq, and French companies sold Saddam $3 billion in humanitarian assistance (much of which, the report notes, was diverted for Iraqi military purposes).

It's no coincidence, comrade, that France and Russia, as well as China (which did its own thriving business with Saddam) consistently downplayed the kickback allegations and pushed to have the sanctions regime eased. Only the U.S. and Britain made any effort to monitor Oil for Food for fraud, although even these efforts were lackluster until the Bush Administration came to office. We should also note the U.S. was itself guilty of looking the other way when it came to Iraq's oil smuggling through allies Jordan and Turkey. * * *

So it was that the largest fraud ever recorded in history came about. Press reports often cite the overall size of Oil for Food at $60 billion, but Mr. Volcker's report makes clear that the real figure was in excess of $100 billion. From this, Saddam was able to derive $10.2 billion from illicit transactions. But the important point is that he was able to steer 10 times that sum toward his preferred clients in the service of his political aims.

None of this happened by accident. Mr. Volcker's report is replete with examples of incompetent U.N. oversight and tales of political wrangling among the permanent members of the Security Council. But the abiding fact is that it was the Western powers, not Saddam, who wanted Oil for Food at virtually any cost, because it offered the appearance of a meaningful policy in the absence of a real one, namely regime change. And it was the political convenience of this chimera that led the U.S. and the U.K.

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to tolerate, and the rest of the Security Council to feast on, the opportunities for corruption that were inscribed in the very nature of the program.

As for the U.N., it proved its worth to Saddam as the one hall of mirrors in which such shenanigans could take place. Yet even now we are told that "at least" Oil for Food fed the Iraqi people when they were on the edge of starvation, and this is accounted a U.N. success. That is false. Oil for Food offered a lifeline of cash and influence to a regime that was starving its people. The program did not corrupt the U.N. so much as exploit its essential nature. Now Mr. Annan wants to use this report as an endorsement of his "reform" proposals. Only at the U.N. could he dare to think he could get away with this.

The View From The 38th Floor (WSJ)

The Wall Street Journal, September 9, 2005

What follows is an excerpt from the latest report of Paul Volcker's Independent Inquiry Committee on the United Nations' Oil for Food program. Benon Sevan, the former director of the Office of Iraq Program (OIP) that oversaw Oil for Food, has been accused by the Committee of taking nearly $150,000 in bribes from Iraq. "The 38th Floor" refers to Secretary General Kofi Annan's offices at U.N. headquarters. The "661 Committee" was a U.N. Security Council body, outside of Mr. Annan's Secretariat, which helped oversee the Oil for Food program.

"When interviewed by the Committee, the Secretary General, the Deputy Secretary-General [Louise Frechette] and [Chief of Staff Iqbal] Riza each struggled to rationalize the role of the 38th Floor in overseeing OIP. Instead, they offered conflicting views of their own responsibilities as well the functions of Mr. Sevan vis-a-vis the program. These inconsistencies demonstrate a basic confusion within the highest offices of the Secretariat. . . .

"When interviewed by the Committee, the Secretary General insisted that the program was "a very transparent operation" -- "one of the most transparent programs [he has] seen" in terms of the process it required for reports to be made by the Secretariat to the Security Council. However, significant information was routinely withheld from the 661 Committee. Despite mounting evidence of a widespread kickback scheme, the Secretary General's quarterly reports never mentioned the emerging problem. . . .

"To be sure, the Secretary General and Deputy Secretary General were apparently not aware of the full scope of evidence that OIP had accumulated and, clearly, Mr. Sevan bears responsibility for withholding information. . . . But the Secretary-General and Deputy Secretary-General (and Mr. Riza) were aware of the kickback scheme at least as early as February 2001. The Secretary General discussed the kickback allegations and other sanctions violations with Mr. Sevan on numerous occasions. . . .

"In the final analysis, Mr. Sevan ran a $100 billion program with very little oversight from the supervisory authority that created his position and OIP. Through a combination of an unclear reporting structure, a lack of supervision by the 38th Floor, and a general unwillingness to recognize and address significant issues on the part of the Secretary General and Deputy Secretary General, Mr. Sevan had substantial autonomy to shape the program's direction. He failed to resist and challenge the Iraqi regime's rampant sanctions violations through which the regime diverted billions of dollars away from the humanitarian effort."

Taliban Kill 6 Afghan Police In Attack On Army Arms Depot (NYT)

By Carlotta Gall

The New York Times, September 9, 2005

KABUL, Afghanistan, Sept. 8 - Taliban insurgents attacked an Afghan National Army weapons depot south of Kabul on Thursday, killing six Afghan policemen, the state Bakhtar news agency said. Two men suspected of being Taliban insurgents were killed in the firefight that ensued, and one was captured, Bakhtar reported, quoting the press office of the Interior Ministry.

The attack took place in Muqur, a district of Ghazni Province, south of Kabul, a spokesman for the ministry said.

Gunmen also attacked a parliamentary candidate in eastern Afghanistan. The candidate, Safia Siddiqui, a well-known figure and spokeswoman at the national constitutional convention in 2004, was campaigning in her native Nangarhar Province when she came under fire. She was not injured, but three of her supporters were wounded, Agence France-Presse reported.

International and Afghan security forces have tightened security in anticipation of the Sept. 18 elections, as the Taliban have increased attacks on candidates and government targets. Six candidates and four election workers have been killed recently, and government officials have warned that there may be more violence, in particular roadside bombs in the provinces and suicide bombs in the cities.

The violence on Thursday followed a report that a car laden with explosives had blown up Wednesday in southern Afghanistan, killing its two occupants. The local police said that the two were suspected of being suicide bombers and that their explosives had detonated early. A Taliban spokesman said that the group claimed responsibility and that the car bomb had been aimed at American forces.

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"War On Terror" Saves Few Lives: Expert (REU-Y2)

By Maggie Fox, Health And Science Correspondent

Reuters, September 9, 2005

The U.S. "war on terror" is saving fewer lives than just spending the money on disease prevention and research, and has probably caused deaths by taking money away from basic services, an expert said on Thursday.

The accusation is not new, but Dr. Erica Frank of the Department of Family and Preventive Medicine at Emory University School of Medicine in Atlanta said she has calculated the cost, in terms of lives, of the Bush administration's terror policies.

"The most recent effects of these diversions of funding have been seen in the unfolding tragedy of Hurricane Katrina in New Orleans and the surrounding area," Frank wrote in a commentary published in the British Medical Journal.

"Governments must protect their citizens, and anticipating these possible future threats is appropriate and could prove essential to Americans' health."

Frank warned there is a threat that because of the U.S. government's policy, enormous numbers of Americans will die unnecessarily.

On September 11, 2001, 3,400 people died because of the four intentional plane crashes in New York, Washington and Pennsylvania. But 5,200 other Americans died that same day from common diseases, according to Frank.

To estimate how many Americans died of routine causes on September 11, Frank used national estimates of mortality from various causes.

"Predictable tragedies happen every day. We know strategies to reduce deaths from tobacco, alcohol, poor diet, unintentional injuries, and other predictable causes. And we know that millions of people will die unless we protect the population against these routine causes of death," she wrote.

Yet more money is spent to protect against deaths that are not likely to happen.

"For example, in September 2002, New York was awarded $1.3 million to reduce heart disease, the leading killer of New Yorkers, while $34 million was awarded for bioterrorism preparedness in the state," Frank added.

Proponents have argued that bioterror preparedness would build up the public health structure in general.

"If this is an improvement it sure is frightening to think what this might have looked like before," Frank said in a telephone interview.

She cited numerous reports showing the federal government cut spending to reinforce the levees built to protect New Orleans from the flood that has devastated the city.

"Since the point of investing in counterterror is to protect American lives, the question is a dollar better spent in Iraq or is it better spent here?" she asked.

Our Enemy's Face (WP)

By Richard Holbrooke

The Washington Post, September 9, 2005

Let us take a hard look at some extremely important words: "the global war on terrorism." Since Sept. 11, this phrase -- often reduced in Washingtonese to "GWOT" -- has entered the English language, popularized by journalists and administration officials. It is the way our highest national priority is described by almost everyone.

But "GWOT" is not an accurate description of America's enemy or of what we are engaged in. Unless people know whom we are fighting, it will be virtually impossible to win the war of ideas that is such a key part of this struggle. The new undersecretary of state for public diplomacy, Karen Hughes, who is charged with primary responsibility for this part of the war, has a chance to fix the problem, but only if she is willing to change some deeply ingrained rhetoric and the political reasons behind it.

Stopping terrorists, using all necessary means, is vital in protecting the nation. We cannot win without the use of force and first-rate intelligence. But suicide bombers are merely the expendable, deluded cannon fodder of ruthless ideologues. This has been true with terrorists throughout history. The long-term battle is against the underlying ideas and leaders behind these specific groups of terrorists.

Despite factionalism and fierce doctrinal disputes, our enemies, broadly speaking, constitute a movement, with goals, gurus, ideologues, myths and martyrs. They share a core set of virulently anti-Western beliefs and have common goals: to destroy the moderate (and still majority) wing of Islam, to establish Islamist theocracies that look backward toward a mythic "golden age," to seek the destruction of Israel, and to inflict maximum damage and human suffering through acts of terrorism.

Among its leaders, there is one whose face is as internationally recognized today as Adolf Hitler's was in 1941. He was responsible for Sept. 11. Yet the United States has not made it a primary goal to expose Osama bin Laden as the monster he is,

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something Roosevelt and Winston Churchill did to Hitler, and American leadership did to communism during the Cold War by demonstrating its moral and intellectual bankruptcy. Bin Laden (unlike Saddam Hussein) has been virtually ignored in public by official Washington.

Terrorism is not an end in itself; it is a tactic, just as it has been for countless other movements throughout history that sought to destroy or paralyze the established order, or attract attention to their cause. Over two years ago, Zbigniew Brzezinski, among others, pointed out that a "war on terror" was like a "war on blitzkrieg" or a "war on war." For this important insight, the former national security adviser was both attacked and ignored. During the 2004 campaign, I stumbled into a public dispute with senior administration officials, including Vice President Cheney, when, as a John Kerry surrogate, I told a New York Times Magazine writer that the phrase could be considered a metaphor and compared it to phrases such as the "war on poverty." For this both Kerry and I were assailed as naive, and I was asked, in the sneering tones of certain cable television interviewers, if I really thought we were at war with a "metaphor."

Of course not. But despite the grand rhetoric, does anyone think the United States is actually fighting "terror" or "terrorism" globally? We may detest terrorism in Sri Lanka, but we are not engaged in that civil war. Nor in Nepal, northern Uganda, Aceh or countless places around the world.

By calling both Iraq and Sept. 11 part of the war on terrorism, the administration has been partially successful in linking public support for the less popular war in Iraq to the universally supported fight against al Qaeda, even though no convincing evidence has been produced connecting the two. No other explanation has proved as valuable in keeping Americans, albeit in declining numbers, behind our increasingly controversial involvement in Iraq. "GWOT," as Dan Froomkin wrote on The Post's Web site last month, is "the metaphor that has consistently been [President Bush's] most potent weapon in the battle for public opinion."

The struggle against violent extremism will continue, of course, long after bin Laden is eliminated by death or capture. It will be a long conflict, with casualties and high costs, just like the efforts against fascism and communism. But fundamentally this is a war of ideas, and a more aggressive, direct attack on those ideas, and the men behind them, is necessary.

For starters, Osama bin Laden must be discredited, even if he remains at large. He is not, as some argue, irrelevant simply because his war will continue after he is gone (although, of course, it will). He remains a folk hero to millions of Muslims; youths wear T-shirts of him and children are named after him throughout the Muslim world. The United States should stop ignoring him and his henchmen; exposing them must become a top priority. He is a false prophet who incites mass murder, but he is clearly eloquent and charismatic. His ideas, no matter how insane they seem to us, appeal to many people. (Hitler had those qualities, too.)

Which brings us back to Karen Hughes. With her enormous bureaucratic clout, derived from her closeness with President Bush, the new undersecretary of state has a chance to make history. To do so, however, she must change some fundamental parts of our public message, and then devise better delivery systems for it -- precisely what she did so effectively for Bush during so many campaigns.

Hughes should begin by revisiting what her own boss said on Aug. 6, 2004, speaking without a text. "We actually misnamed the war on terror," the president said that day. "It ought to be the struggle against ideological extremists who do not believe in free societies, who happen to use terror as a weapon." He was, inexplicably, laughed at for this remark, and rapidly retreated to safer rhetorical terrain. More recently, when Defense Secretary Donald Rumsfeld tried to replace "GWOT" with the "global struggle against violent extremism" -- a somewhat more accurate phrase -- the president immediately overruled him and again linked GWOT closely to Iraq during a series of public appearances.

But the president got it right last year. Words matter, and we need better ones to explain to the world, and to ourselves, who the enemy is. How about making it simple and specific: something like "the war against Osama bin laden and his followers"? And then create an all-out, no-holds-barred campaign to expose, ridicule and destroy everything he and his ilk stand for -- murder, horror, intolerance, disrespect for human life and a false view of Islam.

Richard Holbrooke, an ambassador to the United Nations during the Clinton administration, writes a monthly column for The Post.

'They Are All So Wrong' (WSJ)

By Mark Helprin

The Wall Street Journal, September 9, 2005

September 11 was not so much a discrete event as part of a continuum. It was the result of broad strategic failures that, preceding it by decades, continue to this day and are likely to continue on. It is as if the country has lost, as exemplified by the Left now out of power, a great deal of the will to self-preservation, and, as exemplified by the Right now in charge, not a little of its capacity for self-defense. Our politics and policies have somehow been parceled out to opportunists like Michael Moore --

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purveyor of conspiracy theories and hatreds, whose presentation, unclean in every respect, is honored nonetheless by the controlling rump of Democrats -- and to Bushmen like "Kip" Hawley of Homeland Security, father of the proposal to allow carry-on ice-picks, bows and arrows, and knives with blades up to five-inches long. * * *

For more than 20 years prior to September 11, Islamic terrorists imprisoned and murdered our diplomats and military personnel, destroyed our civil aviation, machine-gunned our civilians, razed our embassies, attacked an American warship and, in 1993, the U.S. itself. For varying reasons, none legitimate, we hesitated to mount an offensive against the terrorists' infrastructure, hunt them down, eliminate a single rogue regime that supported them, or properly disconcert our fatted allies whose robes they infested. This was comparable in its way to Munich. Only in 2001, when it became obvious to any rational being that we must, did we retaliate, but even then in the face of domestic pressure to judicialize the response, which was exactly what we had done all along.

The underlying corollary to this reflex of appeasement is the notion that our military options are constrained financially, as if we are not a nation of stupendous wealth and it has not been the American tradition since the Civil War to spend, in support of war, with the intensity of war itself. In 1945, we devoted 38.5% of GNP to defense, the equivalent of $4.76 trillion now. The current $400 billion defense budget is a twelfth of that and only 3.2% of GDP, as opposed to the average of 5.7% of GNP in the peacetime years between 1940 and 2000. A false sense of constraint has arisen in every quarter of society. It is the ethos of the administration, the press, the civilian side of the Pentagon, and many of the prominent uniformed military brought to high rank in recent years.

They are all so wrong. In violating established tradition and throwing aside advantage and elemental common sense, they waste American lives. And for what? What moral construction would allow anyone to spend more than 2,000 dead and tens of thousands of wounded in Iraq and Afghanistan -- so far -- while insisting without major exception that cutting costs is a virtue? When is holding back from one's troops at war the reinforcements, armor and basic equipment they need a virtue rather than a sin?

Is it not the duty of the secretary of defense, his chiefs, and the wide array of generals to press energetically -- even to the point of resignation -- for whatever is necessary (not the minimum, but a safe surplus) to support the armies in the field? If they do not, who will? Had the president gone to Congress on September 12 and asked for almost anything, he would have been granted it. But he never did. This was a fundamental strategic error. If you must go to war, do not do so hesitantly, with half a heart. And in answer to the rationale that the casualties of this war are relatively light, one does not decently measure casualties against those of previous wars, but in terms of whether they can be avoided.

Apart from the paucity of armored vehicles, body armor, and other staples of battle, the chief problem of prosecuting the Iraq war has been the size and scale of the force. Despite inaccurate claims of unprecedented speed in the advance to Baghdad, the three weeks of halting action it took to get there, with lines of supply that are to this day poorly protected, were both spur and instruction for the insurgency. In what is only apparently a paradox, the military objective should have been less the conquest of territory and echelons than of morale, and, to accomplish this, territory and echelons would have to have been subdued with the blinding speed, shock and awe of the Six-Day and Gulf wars. The instant the Arab world realized that the promised shock and awe had not materialized, the insurgency was born.

We then nurtured it by deploying a fraction of the ratio (10:1) long experience indicates is necessary for suppression; by dismissing the enemy as mere "thugs," when, although they are thugs and worse, they have the thousand-year motivation of their civilization defending its heartland from Persians, Mongols, Shiites, and now Christians; and by gratuitously elevating our aims from the purely defensive to the transcendental, while steadily diluting the little power we have in the hope of forcing the entire Arab and Muslim worlds to a new politics. From a country where they have been held down in their beleaguered enclaves for two-and-a-half years, how are 140,000 soldiers to transform the highly aggressive and deeply rooted political cultures of 1.2 billion people? * * *

Ceaselessly, we court strategic error. At the end of the Cold War, assuming that history had concluded, we discarded too much military power. This continues through the present, rationalized by reference to transformation. But it is yet further error to believe that military-technical evolution can make up for the kind of deficiencies and poor strategic judgments from which no machine can save an army. Continual and remarkable innovation is both indispensable and expensive, but President Clinton required budgetary choice between innovation and everything else, and his successor has yet to disagree. The root of the error that offers transformation as a substitute for so much that is crucial is the conviction that having both would exceed reasonable military expenditures and somehow break the common weal.

Having made many wrong choices, we find ourselves at yet another strategic crossroads, where invisibly to the general public we are about to choose wrongly again. We are reshaping the military into a gendarmerie, configured for small wars, counterinsurgency, peacekeeping and nation-building, all at the expense of the type of force that could deter or defeat a rising

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China. Although we need a gendarmerie, we cannot do without heavy formations and the many additional ships required for a navy -- now less than half the size of the Reagan fleet and shrinking -- to exploit our natural advantage in the Pacific.

The U.S. will chase every terrorist mouse (which is good, unless it means also neglecting the core competencies of the armed forces), while lessening and dispersing its power, and moving from previous centers of gravity (Europe, the Western Pacific) to Africa, Central Asia and the Middle East. This will create a long and open alley through which China will run. Among other things, by placing markers in every trouble spot, we will probably be tied down and distracted, taxingly and often, to our enemies' delight.

When China completes its run up the broad alley we have afforded it, it will much sooner be the other pole in a once-again bipolar world, which will create the opportunity for terrorists in the guise of liberation movements to gather under its wing, as they did with the Soviet Bloc during the Cold War. Ironically, in reconfiguring the military to focus primarily on terrorism, we may not only give China a great opening, but create for the terrorists a new lease on life.

The war in Iraq has been poorly planned and executed from the beginning, and now, like a hurricane over warm water, the insurgency is in a position to take immense energy from the fundamental divisions in that nation. The rise of Chinese military power, although lately noted, has met with no response. America's borders are open, its cities vulnerable, its civil defense nonexistent, its armies stretched thin. We have taken only deeply inadequate steps to prepare for and forestall a viral pandemic that by the testimony of experts is a high probability and could kill scores of millions in this country alone. That we do not see relatively simple and necessary courses of action, and are not led and inspired to them, represents a catastrophic failure of leadership that bridges party lines.

Perhaps this and previous administrations have had an effective policy just too difficult to comprehend because they have ingeniously sheltered it under the pretense of their incompetence. But failing that, the legacy of this generation's presidents will be promiscuous declarations and alliances, badly defined war aims, opportunities inexplicably forgone, ill-supported troops sent into the field, a country at risk without adequate civil protections, and a military shaped to fight neither the last war nor this one nor the next.

Mr. Helprin, a Journal contributing editor, is Senior Fellow of the Claremont Institute and Distinguished Visiting Fellow of Hillsdale College. He is the author, most recently, of "Freddy and Fredericka" (Penguin, 2005).

9/11 Recruits: They Enlisted When USA Was Under Fire (USAT)

By Rick Hampson

USA Today, September 9, 2005

One year ago, Cpl. Kevin Mincio stood before his platoon at an Army base in the Iraqi desert and tried to explain why a 31-year-old Goldman Sachs vice president had upped and enlisted in the infantry.

The short answer: 9/11.

“Three years ago,” he began, reading what he'd written down, “I stood in disbelief on the corner of Liberty and Church streets and watched as just a half a block away, a Boeing 767 flew into the south tower of the World Trade Center.”

Mincio was an unusual recruit in more than age and background. Contrary to popular belief, there never was an upsurge in military enlistments as a result of the attacks that killed almost 3,000 people four years ago.

But in a time of retreat and collapse, when Americans were urged to maintain their routines and get on with their lives, a few people stepped forward and did just the opposite. Although statistically insignificant, they epitomized a raw patriotism that bolstered the nation's spirit in the bleakest days since Pearl Harbor.

They were people like Kevin Mincio, people for whom the military has no exact count — the 9/11 recruits.

Four years later, USA TODAY spoke with about two dozen 9/11 recruits or their relatives. Most are still in active service or the reserves. Some are in Iraq or Afghanistan. A few never made it into the service. A few have been discharged. A few have been killed.

Most of the 9/11 recruits say they did the right thing and would do it again. They largely defend the war in Iraq but are far more enthusiastic in their support for the troops. Because many remain in the service, however, it's hard to know how free they feel to speak.

Many see a link between the Sept. 11, 2001, attacks and the war in Iraq, although there is little evidence of ties between Saddam Hussein and al-Qaeda.

Above all, they say they're better for having served — that they grew personally through their military experiences. “You learn not to take for granted what we have in this country,” says Mincio, who spent a year in Iraq. “And you learn to handle pressure.”

The most famous 9/11 recruit was Pat Tillman, the NFL star who gave up a big contract to join the Army and was killed by friendly fire in Afghanistan.

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But there were others.

Mincio, who worked next door to the Trade Center, gave up his six-figure income, boat and beachfront house. He wound up in Iraq, where for a time he lived in his Army vehicle, showered once a week and dodged mortar fire. Why did he do it? Partly to do something different, to get out from behind a desk. Partly to do something about the crime he witnessed.

Mincio wasn't the only 9/11 recruit who was galvanized by a personal connection that Tuesday morning.

In Manheim, Pa., Patrick Troccoli, a financial-planning intern, was on the phone with his cousin in Brooklyn, who said he could hear the roar of the jetliners and the rumble of the towers collapsing.

In Hempstead, N.Y., Tom Duffy was visiting a friend at Hofstra University whose high-rise dorm room had a view of the smoke rising from lower Manhattan.

In Washington, PricewaterhouseCoopers senior associate Kyle Conley was driving to work over the Theodore Roosevelt Bridge when he saw black smoke rising from the Pentagon.

Until that day, Duffy was planning a career in law enforcement. Conley, married with a young child, had just begun training to swim the English Channel. Troccoli didn't even believe in the military. Within the month, each decided to enlist.

Some didn't even wait that long. On the day after, Sept. 12:

·Actor Sean Huze walked into the Marine recruiter's office at Sunset and La Brea in Los Angeles, expecting a line. Instead, he was the only one there. He signed up on the spot.

·Josh Hyland, who already had completed a four-year hitch in the Army as an enlisted man, signed up for ROTC at the University of Montana, where he was working on a degree in business. “He wanted to make a difference in the world,” his mother would recall. “He was excited about it.”

·Jim O'Shaughnessy, a philosophy major at John Carroll University in Cleveland, had been going summers to officer candidate school. But after 9/11, he decided not to wait and enlisted as a private in the Marines.

He told a Cleveland Plain Dealer reporter at the recruiting office he was “sick to my stomach angry. … If they need people now, this would be the time to go. I just didn't want to look back when I was 50 and everybody else did their share and I didn't.”

Over the next week and month, as Americans discussed how much life had or hadn't changed, 9/11 recruits made life-altering decisions.

Steven Gill of Round Rock, Texas, was so intent on signing up that his parents had to persuade him to finish the semester at Concordia University in Austin, where he was studying to be a youth minister before enlisting in the Marine reserve.

Bryan Hancock of Lebanon, Ohio, a former paratrooper, made two big decisions within 72 hours of the attacks: to re-enter the Army and to marry his girlfriend so she and their month-old son would be provided for. They married that Friday; the groom wore army boots.

Chris Petite of Lake Arrowhead, Calif., took the attacks personally — he was a volunteer firefighter, and his girlfriend's aunt was an American Airlines flight attendant. He enlisted a month to the day after the attacks, saying that the war on terrorism “is too big for me not to get involved in.” The first thing his father, an Air Force officer during Vietnam, knew about it was when Chris came home and told him, “I joined.”

They were brave, they were altruistic, and they were aberrations. In the weeks after 9/11 military recruiters got more calls, more visits, more website hits, but the upsurge in enlistments was an urban myth.

Many who volunteered were too old — the Kentucky National Guard got a call from a 48-year-old teacher. Others were disabled or unbalanced or unqualified. Jonathan Ridlin volunteered at the Marine recruiting station in Pasadena, Calf.; he was rejected because of a charge of driving under the influence.

For some, 9/11 was not the only motivation. Some already had been thinking about military service, often for the usual reasons — to learn a skill or earn college money. They were waiting to jump; the attacks just gave them a push.

Dan Greeley was a freshman at the State University of New York at Albany. On 9/11 he had an uncle in Rescue One, a New York Fire Department company in Manhattan. His uncle survived, but two other firefighters whom he knew did not.

Later that month, Greeley enlisted in the Marines. But it wasn't only the attacks, he admits: “I was bored in school.”

Today, the 9/11 recruits are scattered across the country and the globe. Duffy, who saw smoke that morning from the dorm room, will leave the Air Force this year and go into business with his brother back home in New Jersey. Troccoli is still in the Navy, waiting for his first overseas posting. Conley, who served seven months in Iraq in 2003, is back at PricewaterhouseCoopers.

O'Shaughnessy, the philosophy major, served seven months in Afghanistan last year. Now he's the Marine recruiter in Wheeling, W.Va. He's nostalgic about the days after 9/11: “There was just blanket ‘Go, America' patriotism. Now, there's not as strong a belief that what we're doing is right anymore.”

Hyland, the Montana Army veteran who joined ROTC, got his officer's commission and went to Afghanistan in March. He was killed last month when a bomb exploded under a bridge his convoy was crossing.

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Petite, the volunteer fireman from California, is with the Marines in Iraq.

In an e-mail, he writes that enlisting "was the best thing to do. Looking back on it now, out here in Iraq, I find a new reason every day. Mostly for my nephews, so that they don't have to grow up in a world filled with people hell bent on destroying everything that the U.S. stands for."

Hancock, the ex-paratrooper who got married as a prelude to re-enlisting, was eventually rejected because of back problems. He's a state prison guard in Ohio.

Gill, the future youth minister, was killed July 23 in Iraq when an improvised explosive went off during an operation near Zaidon. He was 24 and had been in the country since March.

Greeley, the bored college student, has completed two tours in Iraq. He says 9/11 gives meaning to those who fight there.

Mincio was discharged from the Army in May, two months after appearing with the secretary of the Army at a congressional appropriations hearing. He has a new job in Seattle, where he lives with his wife. He's not moving back to New York. He won't comment on the wisdom of the war in Iraq, other than to say: "There are a lot of soldiers over there trying to do the right thing. I'm with all those soldiers."

He stands by what he told his platoon one year ago. He's still trying to understand 9/11 and its role in where he is today:

"I am not proud of everything I have done since then, but I am proud to be amongst people who have done something, people who care about our way of life. People who haven't forgotten."

N.Y. Judge Who Abandoned His Post For Iraq Is Removed (LAW)

By John Caher, New York Law Journal

Law.com, September 9, 2005

For the first time in its history, the New York State Commission on Judicial Conduct has disciplined a judge for flat-out failing to do his job.

In a determination released Thursday, the commission called for the removal of North Hudson Town Justice Glenn T. Fiore of Essex County, who abandoned his judicial position to take a yearlong position as a truck driver in Iraq.

Justice Fiore continued to draw his $10,000 a year judicial salary, leaving North Hudson, where he was elected, without a town judge. The town had to pay a neighboring judge to handle matters within its borders while Justice Fiore worked for a private subsidiary of the Halliburton Corp.

Records show that Fiore returned from Iraq after four months, indicating that he was giving up his private position to resume his judicial duties. However, he did not resume his position and ultimately resigned under pressure last month for what he said were patriotic reasons.

"It is with great satisfaction that I am resigning my elected position of Town Justice," he wrote in a letter to the North Hudson Town Board. He said in the letter that the board, by complaining of his absence, had "revealed its true nature and color." He expressed a preference to "serve the boots on the ground" rather than his constituents.

"You people use words like honor, integrity, independence while the people I work with embody those very words," Fiore wrote. "Have any of you done anything for your country lately? I bet not. Thank GOD we don't have people like you defending this nation. ... Sleep well, the true Patriots are protecting you."

Commission Administrator Robert H. Tembeckjian said the matter has nothing to do with patriotism or the war in Iraq.

"It is simply about a judge who abandoned his post for paid private employment overseas, leaving his town without a judge, while still collecting his judicial salary," Tembeckjian said.

Tembeckjian said the commission has never before taken action against a judge for neglecting to show up for work.

The commission, in its determination, noted that the state Constitution empowers the panel to discipline a judge for "persistent failure to perform his duties." Additionally, it said §100.3(A) of the Rules Governing Judicial Conduct require that the judicial duties of a judge take precedence over other interests.

"Respondent's flagrant, voluntary abandonment of his judicial position in order to pursue other employment requires the sanction of removal," the commission said in a 10-0 determination.

The panel noted that Justice Fiore apparently planned to have his son, who was also his clerk, cover for him and to perform judicial duties when the judge was home on vacation. However, he apparently never sought an ethics opinion or court administration approval of that plan.

"It would appear that his motive was to draw two salaries, one as a judge and the other as a [civilian] employee in Iraq," the commission said. "His conduct is inexcusable and in no way justified by his professed patriotism or support of the war effort."

Under the order, Fiore is barred from holding judicial office in the future.

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Fiore was censured in 1998 for claiming on campaign literature that he was the "senior associate" at a law firm, Muller & Muller in Glens Falls. Actually, Justice Fiore was licensed to represent clients before the Workers' Compensation Board and permitted to represent individuals before the Social Security Administration. He is not licensed to practice law.

John T. Wilkins of Wilkins & Griffin in Lake Placid represented Fiore, but did not appear at oral argument before the commission. Appearing for the commission were staff attorneys Cathleen S. Cenci and Kathryn J. Blake.

Panel Says N.Y. Judge Should Be Removed (FINDLAW/AP)

By Mark Johnson, Associated Press Writer

Find Law, September 9, 2005

(AP) - ALBANY, N.Y.-A town justice who abandoned his part-time post, but not his paycheck, to take a job in Iraq should be removed from office, a judicial commission said Thursday.

The New York State Commission on Judicial Conduct said Judge Glenn Fiore's flagrant abandonment of his position requires the sanction of removal because ethical rules require a judge to put his judicial duties over all other activities.

Fiore, 54, said he would not appeal the ruling.

In March, he took a one-year job in Iraq driving a truck for Kellogg, Brown & Root Services Inc.

He didn't give the town of North Hudson, 90 miles north of Albany, any notice that he was leaving. Instead, he left his son in place as court clerk to cover for him and planned to render decisions when he returned.

Because of Fiore's absence from his $10,000 a year post, the town had to secure the services of a judge from another town at additional expense, according to the commission's ruling.

Fiore returned after four months and told the commission in an affidavit that he had resigned from his Iraq job and was ready to resume his court duties. Three weeks later he resigned his judgeship.

A resignation does not stop the commission from acting on conduct cases. Any recommendation or penalty can be used in the future should a person decide to pursue public office again.

Fiore said Thursday that he took the job in Iraq because he went out of business as an independent truck driver and needed to pay some bills. Fiore, who served in the Marines in Vietnam, said he also headed to Iraq out of a sense of patriotism.

CORPORATE SCANDALS:

Skilling, Lay Allege Case Misconduct (AP)

By KRISTEN HAYS, AP Business Writer

AP, September 8, 2005

HOUSTON (AP) - Lawyers for Enron Corp. founder Kenneth Lay and former CEO Jeffrey Skilling say "deliberate, systematic prosecutorial misconduct" has choked their efforts to prepare for trial in January.

Lay, Skilling and the third defendant in their case, former top Enron accountant Richard Causey, say obvious or veiled threats from prosecutors that dozens of witnesses may be indicted or, if they have pleaded guilty to crimes, face harsh prison sentences if they talk to the former executives has shut off critical information sources.

Daniel Petrocelli, Skilling's lead trial lawyer, said the defense teams have whittled that list to 38 particularly crucial witnesses who have consistently refused to talk to them.

Lay's lawyer, Michael Ramsey, told U.S. District Judge Sim Lake in a hearing Thursday that the defense teams have seen a "pervasive freeze-up of witnesses," though he acknowledged out of court that it was possible at least some just don't want to help his client or the others.

The trio wants to dismiss the sprawling case against them on grounds that the Justice Department's Enron Task Force "has engaged in deliberate, systematic prosecutorial misconduct that has irreparably harmed defendants' ability to prepare for trial," according to a court filing made public this week.

But while awaiting Lake's ruling on that request, the trio wants the judge to compel those witnesses to appear in court later this month so Lake can assure them that they can talk to the defendants about the case and testify on their behalf without fear of government reprisal.

Lake said Thursday that such a move could embarrass potential witnesses forced to appear in open court and therefore be counterproductive. He said instead he would send letters to attorneys for the 38 witnesses reiterating that they are free to talk to the defense teams without fear.

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Petrocelli said he didn't think the letters would help, particularly since the defense lawyers had sent witnesses a copy of Lake's May order advising witnesses that they could meet with one or more defendants and their lawyers with no worries of government repercussions.

Instead, he said Lake could order prosecutors to require those witnesses to talk to the defense teams. Lake declined.

Sean Berkowitz, head of the task force, insisted that prosecutors do not want to block anyone from talking to the defense teams.

"The government does not want any witness to not speak to the defense out of fear of retribution from the United States," he said.

At a status hearing last week, Lake told attorneys on both sides that he would do what he could to help the defendants gain access to witnesses so they could adequately prepare for trial. The judge told prosecutors last week he wasn't acknowledging that any such misconduct had taken place, but he wanted to help facilitate trial preparations to preclude any possible requests to postpone the Jan. 17 trial.

Skilling and Causey are charged with more than 30 counts of fraud, conspiracy, insider trading and other charges stemming from various alleged schemes over several years to fool investors into believing Enron was a financially solid growth machine. The government alleges in the 11 conspiracy and fraud counts against Lay that he took over the ruse after Skilling abruptly resigned in August 2001 until Enron spiraled into bankruptcy in December that year. All three pleaded innocent.

Local Lawyer Charged In Currency Trading Scheme (PALMBEACHP)

By David Sedore, Palm Beach Post Staff Writer

Palm Beach Post (FL), September 8, 2005

A federal grand jury in Cleveland has indicted a Palm Beach County securities lawyer on charges of securities fraud in connection with a $14 million currency trading scheme.

The indictment, dated Sept. 1, alleges that Delmer C. Gowing III, 61, of Ocean Ridge helped a Cleveland-based brokerage, Capital Markets Trading Group, convince 10 investors that they could earn yields as high as 20 percent a month through a currency trading deal Capital Markets claimed it had with insurance giant AIG. That arrangement didn't exist, and most of the millions invested four years ago was either lost in trades or allegedly pocketed by Capital Markets' principals, including Gowing.

Gowing, arrested Friday by U.S. marshals, was released Monday from the Palm Beach County Jail on $100,000 bond. He faces a trial in federal court in Cleveland. A call Wednesday to the U.S. attorney's office in Cleveland wasn't returned.

Gowing's attorney, Gary Eric Susser of Boynton Beach, said his client is innocent and denies that he had an active role in the scheme other than acting as the lawyer for Capital Markets.

"When a lawyer's client does bad things, sometime the lawyer gets sucked into it," Susser said.

According to the indictment, Capital Markets began soliciting money in early 2000 from investors by claiming it had an arrangement to trade foreign currencies through AIG, one of the largest insurers in the world.

But the indictment alleges that no such arrangement existed. Instead, Capital Markets wired the money to an Irish company called Magenta Forex Corp. Ltd., which did the trading and produced "substantial losses" that weren't disclosed to investors.

Capital Markets returned some money to investors, claiming it was their profits from successful trades, while soliciting more of their money.

The alleged scheme came to an end in 2001 when Capital Markets told the investors that their money had been stolen by a third party.

One investor, Carolyn Cline, a plastic surgeon from San Francisco who now lives in Long Boat Key, gave Capital Markets $10.6 million. Last year, Cline sued Gowing and others, accusing them of defrauding her. Susser, Gowing's attorney, blames that ongoing suit for Gowing's indictment.

"This case arises out of one person," Susser said. "I'm convinced that the criminal justice system is being used as a collection agency."

Gowing, well-known in the Palm Beach County legal community as a securities lawyer, moved to the county from Bloomfield Hills, Mich., in the late 1980s.

He worked for two large Michigan-based law firms here before forming a securities law firm with partner Lloyd Schwed in West Palm Beach.

That firm fell apart in 1997 when Schwed won arbitration awards totaling $1 million in back pay for four brokers who were stiffed by their former employer, D. Blech & Co. of Boca Raton, which was under investigation by the Securities and Exchange Commission. Schwed got caught trying to leverage some allegedly incriminating tape recordings into payment for his clients.

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CRIMINAL LAW:

Boeing Could Avoid Prosecution, Pay Up To $500 Million To U.S. (WSJ)

By Andy Pasztor And Anne Marie Squeo, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 9, 2005

The Justice Department and Boeing Co. are negotiating a settlement in which the company could be required to pay up to $500 million but would avoid prosecution in two federal probes, said people familiar with the details.

The settlement would resolve allegations that Boeing improperly acquired thousands of pages of Lockheed Martin Corp.'s proprietary documents dealing with rocket programs, and illegally recruited a senior Air Force official while she still had oversight of billions of dollars in other Boeing contracts.

Talks are continuing and details could change, these people said, with a final agreement expected to take at least several more weeks to emerge. But the terms currently under discussion would make the pact one of the largest and most comprehensive corporate fraud settlements in recent years.

Based on the broad outlines so far, the settlement also is likely to entail the stiffest financial penalty ever imposed on a U.S. defense contractor for alleged procurement violations, said people familiar with the situation -- far exceeding those meted out during Pentagon scandals in the 1980s and 1990s, which stayed under $200 million.

The two separate, much-publicized probes, which spanned two years, sent two former high-ranking Boeing executives to jail and set off events that helped lead to the departure of two Boeing chief executives. The company wasn't formally charged in that period, but it was stripped of some important contracts, became a frequent target of Congressional critics and ended up embroiled in the most serious military-procurement scandal of the past two decades.

With the company struggling to overcome the negative impact of its ethical lapses, Boeing's management sees a comprehensive settlement with the Justice Department as an essential step in reviving its image. The latest moves partly appear to reflect the desire of Jim McNerney, Boeing's recently installed chairman and CEO, to move past its troubles and focus on Boeing's future, said people familiar with the matter.

Justice Department spokesmen declined to comment. A Boeing spokesman said the company "continues to cooperate fully with government investigators."

Under the terms of what's known as a deferred prosecution agreement, Boeing wouldn't plead guilty to any specific charges but would admit wrongdoing in both the rocket and employment cases, according to the people familiar with the matter. Prosecutors would retain the right to charge Boeing if it runs afoul of the law during the course of the agreement, said people familiar with the matter. It isn't clear how long Boeing's deal with the government would run.

As part of the package, Boeing's outside legal team has been discussing possible payments to the U.S. government of between $300 million and $500 million, these people said. Earlier this year, government officials suggested that under some legal theories, the maximum penalty could approach $700 million.

A major theme of Boeing's legal arguments has been that regardless of what comes next, it already has suffered considerable harm and been subjected to various types of punishment. Indeed, all sides, including prosecutors in northern Virginia and Los Angeles, seem eager to wrap up the long-running cases. The California team recently agreed to forego prosecuting Boeing, according to one person close to the issue. Without commenting on any specifics, Paul McNulty, the U.S. attorney in Alexandria, Va., said, "Everyone with an interest is working together on this."

After months of apparent stalemate, the prospect of a settlement is relatively good news for Boeing, which has been buffeted in recent months by a 20-month suspension from bidding on some Pentagon work, loss of existing contracts, high-profile scrutiny of ethical lapses and turmoil in its management and worker ranks. Last week, 18,300 machinists at the company's commercial airline unit, which wasn't touched by the ethics scandals, went on strike and shut down production.

For Boeing, the economic pain of a settlement would represent fewer risks than an outright guilty plea to felony charges. The company has worried that criminal charges would further tarnish its reputation and potentially jeopardize billions of dollars more in U.S. government contracts.

No high-ranking executives are expected to be prosecuted beyond Boeing's former chief financial officer, Michael Sears, who previously admitted recruiting Air Force official Darleen Druyun for a $250,000-a-year Boeing job in violation of conflict-of-interest laws. Both Mr. Sears and Ms. Druyun were sentenced to prison after guilty pleas that ratcheted up the investigation of Boeing's business practices and ethical missteps.

In an interview last week, Mr. McNulty, the top U.S. prosecutor in Alexandria, the office that has purview over the Pentagon, said, "We've held a senior, very senior officer criminally liable, and other things typically flow from that."

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While Boeing initially tried to attribute wrongdoing to a few rogue employees, prosecutors discovered evidence that misconduct was more extensive. Court documents that accompanied Mr. Sears' guilty plea indicated other high-level officials knew of the company's efforts to hire Ms. Druyun, who failed to remove herself quickly enough from a decision-making role over Boeing's defense businesses. In the rocket case, only two former managers have been indicted, but other executives have been punished, reassigned or forced out.

In recent months, Boeing has undergone numerous internal and external reviews of its behavior. At the Air Force's insistence, it accepted an unprecedented level of government oversight of its corporate-ethics programs. For example, it agreed to provide the Air Force monthly reports on the status of sensitive, in-house investigations, as well as information about suspected misconduct anywhere in its army of subcontractors.

It also set up a hotline for employees to report ethical lapses. One tip to that hotline led to the departure earlier this year of CEO Harry C. Stonecipher when a caller reported his consensual relationship with a female executive.

So-called deferred-prosecution agreements have been used in recent years against roughly a dozen large companies, including Time Warner Inc., Monsanto Co. and Computer Associates Inc. The goal is to hold management liable without resorting to indictments or guilty pleas that could threaten the survival of the entire company. With the exception of Boeing, big defense suppliers haven't been a major focus of the recent federal crackdown on white-collar crime.

Write to Andy Pasztor at andy.pasztor@wsj.com1 and Anne Marie Squeo at annemarie.squeo@wsj.com2

CIA Leak Probe May Be Nearing End Game: Lawyers (BOS/REU)

The Boston Globe, September 9, 2005

WASHINGTON (Reuters) - New York Times reporter Judith Miller, locked up for refusing to reveal who told her a covert CIA operative's name in a probe that may be nearing a conclusion, works part time at the jail laundry helping clean fellow inmates' green jumpsuits and dirty linens.

Between shifts at the laundry, Miller works at the library on a card catalog of the jail's books, said attorney Floyd Abrams, offering new details about Miller's life behind bars after meeting with her on Wednesday.

Abrams, who represents The New York Times, said Miller was "safe" but that conditions in jail were "grim."

This week Miller marked two months -- 65 days as of Thursday -- at the Alexandria Detention Center just outside Washington for refusing to testify to a grand jury trying to determine who in the Bush administration leaked CIA operative Valerie Plame's identity.

Abrams said Miller remained "resolute" and would not reveal her confidential source to a grand jury in the case, which could shake up an administration already reeling from criticism over its response to Hurricane Katrina. The probe has ensnarled President George W. Bush's top political adviser, Karl Rove.

But lawyers close to the investigation say there are signs that the 20-month-long inquiry could be wrapped up within weeks in a final flurry of negotiations and legal maneuvering.

Asked if talks were under way with special counsel Patrick Fitzgerald, a Justice Department prosecutor, to secure Miller's testimony and release, Abrams said: "If there are any discussions, they would be private."

"She is there (in jail) for a reason. At this time, the reason is still there. She made a promise and, unless properly released from her promise by her source, she has no choice but to continue to take the position that she's taking," Abrams said.

He declined comment when asked if Miller, who was sent to jail on July 6 though she never wrote an article about the Plame matter, had reached out anew to her source for a clear release from confidentiality that would allow her to testify.

Attorney Theodore Boutrous, who represents Time magazine and its reporter, Matthew Cooper, said Miller's "standoff" with Fitzgerald may be coming to a head.

"Either Fitzgerald still needs Miller or he doesn't," Boutrous said. "It's who blinks first. ... You would think something needs to happen soon, one way or another."

Unlike Miller, Cooper avoided jail by agreeing to testify after saying he received the "express personal consent" of his source to reveal his identity. The first person to tell him about Plame was Rove, Cooper said.

Plame's husband, former diplomat Joseph Wilson, said the leak was meant to discredit him for criticizing Bush's Iraq policy in 2003 after a CIA-funded trip to investigate whether Niger helped supply nuclear materials to Baghdad.

FITZGERALD'S END GAME?

Several lawyers involved in the case say Fitzgerald was likely to wrap up his inquiry this fall, if not sooner, though they say they have not heard from his office in weeks.

The outcome could have political implications for Bush, whose approval ratings are already the lowest of his presidency.

After initially promising to fire anyone found to have leaked information in the case, Bush in July offered a more qualified pledge: "If someone committed a crime they will no longer work in my administration."

Prominent Democrats have called on Bush to fire Rove, the architect of his two presidential election victories and now his deputy chief of staff, or block his access to classified information.

Rove's attorneys said Rove did nothing wrong and has been repeatedly assured he is not a target of Fitzgerald's investigation.

When Miller was jailed, chief U.S. District Judge Thomas Hogan said she must stay there until she agreed to testify or for the rest of the grand jury's term, which lasts into October.

But if no deal is reached, lawyers say, Fitzgerald could step up pressure by threatening Miller with a longer sentence. Miller's attorneys, in turn, could argue she has no intention of testifying and that her continued incarceration is of little consequence to Fitzgerald's case since others have revealed their sources.

LIVING A FLOOR BELOW MOUSSAOUI

An investigative reporter who covers national security and foreign policy issues, Miller is one of about 440 inmates at the Alexandria Detention Center, according to its spokesman, Capt. Tony Davis.

Miller has been in a U.S. jail longer than any other newspaper journalist to protect a source, according to Abrams. The previous record-holder, he said, was a journalist from The Los Angeles Times who served for 48 days.

The Alexandria facility where Miller is being held has housed some of the nation's most notorious spies and terror suspects. One floor above Miller's cell is Zacarias Moussaoui, the only person convicted in connection with the September 11, 2001, attacks.

Like other inmates, Miller has a small cell, which gets some natural light through a window and is "locked down" for the night at about 11:00 p.m. The cell is equipped with a toilet, a sink and a bed.

Davis declined to discuss Miller's daily routine. Speaking generally, he said, inmates assigned to laundry detail help wash jail linens and blankets, as well as green jumpsuits marked with the word "PRISONER."

Judge Orders Berger To Pay $50,000 Fine (WSJ/AP)

By Associated Press

The Wall Street Journal, September 9, 2005

WASHINGTON -- A judge on Thursday ordered Sandy Berger, former President Clinton's national security adviser, to pay a $50,000 fine for illegally taking classified documents from the National Archives, the main repository of U.S. government papers.

The punishment handed down by U.S. Magistrate Judge Deborah Robinson exceeded the $10,000 fine recommended by government lawyers. Under the deal, Mr. Berger avoids prison time but he must surrender access to classified government materials for three years.

"The court finds the fine is inadequate because it doesn't reflect the seriousness of the offense," Judge Robinson said, as a grim-faced Mr. Berger stood silently.

Earlier in the hearing, Mr. Berger expressed remorse for his crime, which he described as a lapse of judgment that came while he was preparing to testify before the commission investigating the Sept. 11, 2001, attacks.

"I let considerations of personal convenience override clear rules of handling classified material," Mr. Berger said. "I believe this lapse, serious as it is, does not reflect the character of myself."

The sentencing capped a bizarre sequence of events in which Mr. Berger admitted to sneaking classified documents out of the Archives in his suit, later destroying some of them in his office and then lying about it.

After initially saying it was an "honest mistake," Mr. Berger pleaded guilty in April to a misdemeanor of unauthorized removal and retention of classified material, which contained information relating to terror threats in the U.S. during the 2000 millennium celebration.

Berger Is Fined For Smuggling Classified Papers (WP)

By Carol D. Leonnig

The Washington Post, September 9, 2005

A federal judge yesterday ordered former national security adviser Samuel R. "Sandy" Berger to pay a $50,000 fine and give up his security clearance for three years as the penalty for smuggling classified terrorism documents out of the National Archives in 2003.

The sentence was much more severe than the $10,000 fine that Justice Department prosecutors and Berger's attorneys had jointly proposed after Berger pleaded guilty to a misdemeanor charge. But Magistrate Judge Deborah A. Robinson said the punishment, which also included two years of probation and 100 hours of community service, would more "sufficiently reflect the seriousness of the offense."

She said she took into account Berger's "otherwise exemplary record" and "sincere expression of remorse" in her sentence.

Berger, who had classified documents hand-delivered to his desk when he advised President Bill Clinton, pleaded guilty in April to unauthorized removal and retention of classified documents. He admitted to stuffing copies of documents in his coat jacket as he left the National Archives and then destroying some at his office and pretending he had never possessed them. Berger had been reviewing the records about the Clinton administration's response to reports of terrorist threats in 2000 as he was preparing to respond to questions from the commission that investigated the Sept. 11, 2001, attacks.

"My actions . . . were wrong. They were foolish. I deeply regret them, and I have every day since," Berger told Robinson yesterday. "I let considerations of personal convenience override clear rules of handling classified material."

The disclosure of the government's investigation of Berger last year prompted him to step down as an adviser to the 2004 presidential campaign of Sen. John F. Kerry (D-Mass.).

Ex-Clinton Official Draws Higher-Than-Expected Fine (NYT)

By Eric Lichtblau

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 - Samuel R. Berger, an influential adviser to former President Bill Clinton who helped shape American foreign policy through the 1990's, was ordered Thursday to pay a higher-than-expected fine of $50,000 but received no jail time for removing and destroying copies of classified documents from the National Archives.

Mr. Berger, 59, stood somberly before a federal judge moments before he was sentenced, and admitted that his decision to remove material on terrorism in three visits to the archives in 2003 was "indefensible." His actions, Mr. Berger said, "were wrong, they were foolish," adding, "I deeply regret them, and I have every day since."

In a plea deal reached five months ago, lawyers for the Justice Department and Mr. Berger agreed to seek a $10,000 fine as part of his sentence. But Magistrate Judge Deborah A. Robinson of Federal District Court here decided Thursday to impose the $50,000 fine, along with 100 hours of community service and two years' probation. She also barred Mr. Berger from access to classified material for three years.

The judge said the proposed $10,000 fine failed to reflect the severity of the crime or the financial resources of Mr. Berger, who founded an international consulting firm after serving as national security adviser from 1997 through 2000.

The sentencing caps an embarrassing 14-month ordeal that Mr. Berger's lawyers acknowledge has badly hurt his reputation. His motivation in taking the documents remains a matter of fierce debate in political circles, and Mr. Berger himself did little to shed light on the mystery Thursday, except to say, without elaboration, that he had put his own "personal convenience" in reviewing the documents ahead of federal law.

But new court filings, prepared by the Justice Department and Mr. Berger's lawyers, did provide fresh details about the episode and possible explanations for his actions.

The filings suggest that prosecutors and defense lawyers believe Mr. Berger's decision to remove the documents was triggered by pressure, fatigue and confusion, rather than by any intent to hide damaging information about the Clinton administration, as Republican critics have charged.

Mr. Berger spent hundreds of hours in 2003 reviewing the Clinton administration's record on terrorism in his capacity as the administration's official liaison to the Sept. 11 commission, which investigated the terrorist attacks of 2001.

In preparing for his testimony to the commission on three visits to the archives, he came across several versions of a highly classified memorandum that he had ordered written in 2000 regarding the administration's response to the so-called millennium terror plots in December 1999, according to the court filings, and he improperly removed several sets of copies. He later destroyed some of the copies and lied to archive officials when confronted about the missing documents, the court filings said.

When the episode first became public last year - forcing Mr. Berger to step down as an adviser to the presidential campaign of Senator John Kerry - he said he had accidentally removed the documents. But he admitted as part of his guilty plea in April that he had intentionally taken the material.

Defense lawyers said in their pre-sentencing memorandum to the judge this week that Mr. Berger, in reviewing material at the archives for several days for as long as 10 hours a day, became overwhelmed.

The defense lawyers said that Mr. Berger, "weary from the document review and not thinking clearly," wanted to reconstruct events in his own office by comparing memorandums side by side and so decided to remove notes and classified copies.

The lawyers said that "the tiring nature of the review, the burden it imposed on Mr. Berger's schedule, and the importance that Mr. Berger attached to being prepared to testify before the 9/11 commission and to prepare his colleagues" led him to a "lapse in judgment."

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Prosecutors for the Justice Department, in their own memorandum to the judge, offered no evidence to suggest any ulterior motive by Mr. Berger. On the contrary, prosecutors noted that the Sept. 11 commission reviewed copies of all the documents that Mr. Berger took and that there was "no evidence that any unique document was destroyed or lost."

Instead, prosecutors said in their filing, Mr. Berger appeared to have taken the documents "for his own convenience." He "was entitled to review the documents any time he wished to, at the secure locations, but he decided that was too burdensome and so he chose to break the law," the prosecutors said.

However, Justice Department prosecutors made clear in their sentencing memorandum that no matter what may have motivated Mr. Berger, they considered his offense a serious crime.

"As a consultant to the government the defendant assumed an important task to review highly classified documents related to national security," they wrote, "and in the course of that review he breached the trust given to him by unlawfully removing, retaining and destroying classified documents."

In considering a sentence, Magistrate Judge Robinson reviewed letters of support from several admirers of Mr. Berger, including Anthony Lake, his predecessor as national security adviser, who called him "a man of extraordinary integrity," and Fred Reiner, his rabbi. But the judge also received some 15 opposing letters from members of the public and some former government employees, who urged her to sentence Mr. Berger to jail for what they viewed as a serious offense.

Ultimately, the judge said she decided that probation and community service were more appropriate.

Federal Agents Armed With Warrant Raid Melrose Park Police Station (AP)

AP, September 9, 2005

CHICAGO - Federal agents armed with a search warrant raided the police station in suburban Melrose Park on Thursday, an FBI spokesman said.

"We did have several agents there this morning," FBI spokesman Ross Rice said.

The raid, he said, was part of an ongoing investigation but he declined to give details. He also declined to say what the agents were looking for and what, if anything, they found.

"No arrests have been made and no charges have been filed," he said.

U.S. attorney spokesman Randall Samborn declined to comment.

A woman who answered the phone at the west suburban police station said that Chief Vito Scavo and his lieutenants were not immediately available to answer questions.

The suburb has figured in a number of high-profile criminal cases in recent years.

Former Melrose Park Mayor C. Augustus Taddeo pleaded guilty in 1999 to extortion and tax fraud and was sentenced to 27 months in federal prison.

In recent years, a federal investigation of illegal electronic gambling devices controlled by the mob found that many were installed in Melrose Park taverns and strip joints. And the FBI said recently that the mob has a street crew based in the suburb.

The suburb was also the site of the first raid by federal agents in October 1998 on an Illinois drivers license testing station operated by then-Secretary of State George Ryan's office. It was the beginning of the Operation Safe Road investigation of bribes exchanged for drivers licenses and political corruption in the Ryan era.

Federal Agents Raid Melrose Park Police Station (WLS-TV)

By Charles Thomas

WLS-TV, September 8, 2005

September 8, 2005 - Federal agents raided the Melrose Park police station on Thursday. They shut the building down for half a day and seized records without explaining the nature of the investigation.

The Melrose Park police headquarters is back in business after being shut down all morning and part of the early afternoon by federal investigators. Officially the feds will not say what they were looking for and village officials will not comment on the raid, referring questions to a private public relations firm.

The federal agents arrived shortly after 9:00 a.m., They were mostly postal inspectors, but a card on the dashboard of one vehicle indicated it was operated by the U.S. Department of Labor. ABC 7 has learned the investigators were searching employment records going back several years to determine on what days and at what times certain officers worked.

The headquarters was closed to the public during the four hours that the feds worked in side as citizens with routine business were turned away.

"Normally they tell me to come in and now they say to come back in a couple of hours," said Rene Morales.

Federal agents had no comment and the Melrose Park police chief was unavailable.

There have been some complaints about the private security company owned by the Melrose Park police chief, which has contracts to supply security for many bars and saloons as well as many other businesses.

Officers cooperated with federal agents. The feds apparently got everything they were looking for.

Melrose Park Police Department Shut Down For Federal Raid (WMAQ-TV)

WMAQ-TV, September 9, 2005

CHICAGO -- The Melrose Park Police Department was shut down Thursday morning as federal agents conducted a raid.

Federal agents came calling early and by 10 a.m., they had control of the building and were turning local citizens away.

City officials insisted no police calls were affected, Rogers reported.

"Those calls would come to my desk," said the mayor's assistant, Patty Dindia.

NBC5's Phil Rogers reported. The investigators came from the FBI and the IRS, as well as the postal inspectors and the U.S. Department of Labor.

The investigation has been lengthy and there are no signs it is nearing completion, Rogers reported. Melrose Park has had political turbulence in the past -- in the last election, the mayor's aunt ran against him.

Previously, NBC5 has reported that a $42 million water project in Melrose Park was under investigation, especially questions about a $432,000 public relations budget, as well as another $2.5 million for something called "program management."

But, it is believed that the federal agents on Thursday were seeking records relating to a private security firm operated by Melrose Park Police Chief Vito Scavo. Questions have been raised about what role Scavo's firm played in the water project, Rogers reported. Rogers reported that there have also been questions about Scavo's use of Melrose Park officers in his security company.

Warrants were executed separately at a Cumberland Avenue building housing a second security firm, with which Scavo allegedly has a relationship.

Mayor Ron Serpico was unavailable to answer questions about what exactly federal agents were seeking.

FBI Searches Suburban Police Department (CBS2CHI)

By Dorothy Tucker

CBS 2 Chicago, September 9, 2005

(CBS) MELROSE PARK A west suburban police department was temporarily shut down Thursday when federal agents raided the building searching for clues in an on-going corruption probe.

An investigation is underway right now in west suburban Melrose Park.

Sources tell CBS 2 News that the Melrose Park police chief is at the center of the investigation.

Federal agents from the Chicago office took over the Melrose Park police station Thursday morning, locking the doors and turning away residents.

For four hours the FBI agents, along with investigators from the labor department and the U.S. Postal Service, collected documents and information.

While authorities declined to talk about their investigation, sources tell CBS 2 that Melrose Park Police Chief Veto Scavo was the target of the raid.

Scavo is a paid consultant for a private security firm called IFPC Worldwide Inc.

According to the source, investigators are looking at a number of allegations, but the focus seems to be the Scavo was using on-duty police to work for the private firm, and possibly taking kick backs from clients.

The source said the officers were providing security for a number of businesses, including nightclubs. A nightclub manager, who declined to be interviewed, said Scavo forced bars to use his private firm and threatened not to answer their calls for help if they didn't.

The club manager believes that explains why investigators from the Department of Labor were at the police station, possibly looking at the time sheets of the Melrose Park police officers.

Late Thursday afternoon, CBS 2 contacted the police chief. Scavo pointed out that no one was arrested, but beyond that, he would not comment.

'Safe Road' Figure Sentenced In Bid-rigging Probe (CHIT)

By Matt O'connor, Tribune Staff Reporter

Chicago Tribune, September 9, 2005

Saying she regretted ever getting involved in "the world of politics and political favors," a former trusted lieutenant to one of the state's most powerful lobbyists was spared prison Thursday for lying to investigators in the Operation Safe Road probe.

Julie Starsiak, a longtime close aide to lobbyist Al Ronan, was placed on probation for 5 years and ordered to complete 200 hours of community service by U.S. District Judge Blanche Manning.

Ronan hasn't been charged with wrongdoing, but his lobbying firm, Ronan Potts LLC, pleaded guilty to rigging a bid so a client won a contract to oversee a huge expansion at McCormick Place.

In court Thursday, though, Starsiak's lawyer, Chris Gair, implicated Ronan in the wrongdoing, saying that Ronan directed Starsiak to divulge confidential details of the sealed bids to the Ronan client.

"It's just nonsense," Ronan's lawyer, Edward Genson, responded later to the accusation.

In pleading guilty last year to making false statements, Starsiak admitted she lied to authorities on several occasions by trying to shift blame in part to Ronan, even though she had been given immunity from prosecution if she told the truth.

Gair told the judge that Starsiak had been cooperating with authorities for almost two years, revealing "what she knows about political corruption in this state."

Starsiak had been a close aide to Ronan for more than two decades, including while he was a state legislator.

Starsiak's assistance led Alexandra Coutretsis to cooperate, which in turn resulted in her fiance, Scott Fawell, cooperating, Gair said. Fawell, who once headed the Metropolitan Pier and Exposition Authority, which operates McCormick Place, is expected to be the star witness against former Gov. George Ryan at his upcoming trial. Coutretsis was a top aide to Fawell at McPier.

In addition, Starsiak revealed corruption in "another public entity," Gair said.

Assistant U.S. Atty. Scott Levine called Starsiak's cooperation valuable and confirmed her help resulted in the opening of an investigation that "is bearing fruit."

Gair said Starsiak's assistance has come at a price, ostracizing her from former colleagues in the political realm and leaving her unemployed and penniless.

"There's nothing worse you can be in Chicago than a cooperator," Gair told the judge. "She's lost everything."

Starsiak, 57, of Chicago was so choked with emotion when she read from a prepared statement that her words were barely understandable at times.

Starsiak expressed remorse for ever becoming involved in politics.

"I used to be proud that from my humble background I had become professionally and in some cases even personally acquainted with the most wealthy and powerful people in the state," she said. "Perhaps I was naïve in thinking that associating with important people... I automatically assumed legitimacy and integrity."

Starsiak said her volunteer efforts for several charitable organizations "makes all the glamor of the world of business and politics seem unimportant by comparison."

Manning could have sentenced Starsiak to up to 21 months in prison, but she imposed probation, citing the "absolute toll" the case had taken on her.

"I don't think any more punishment is going to do anything more in a positive way," the judge said.

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mo'connor@tribune.com

Lobbyist's Former Aide Gets Probation, Sorry She Got Into Politics (BVND)

By Mike Robinson

The Belleville News Democrat, September 9, 2005

CHICAGO - The former vice president of a prominent lobbying firm was put on probation for five years Thursday for lying to FBI agents about bid rigging involving the $800 million expansion of the McCormick Place convention center.

"I'm sorry that I ever became involved in the world of politics and political favors," a tearful Julie Starsiak told federal Judge Blanche M. Manning.

Starsiak, 57, pleaded guilty in February 2004 to making false statements to FBI agents who were investigating bid rigging in the competition to get the contract to manage the expansion.

She said she lied when she told them her boss, lobbyist and former state lawmaker Albert Ronan, was the one who called an engineering firm with confidential bidding information.

Starsiak now says that she made the call, although defense attorney Chris Gair told Manning that Ronan was part of the scheme.

Prominent Chicago defense attorney Edward M. Genson, who represents Ronan, immediately disputed Gair's claim.

"That's nonsense," Genson said when told about the lawyer's remark.

Ronan has been charged with no wrongdoing in the case, although his firm has pleaded guilty to mail fraud and paid a $350,000 fine.

Starsiak told Manning that with only a high school diploma she was awed that as Ronan's top aide she associated with the wealthiest and most powerful men in Illinois.

"Perhaps I was naive in thinking that associating with the most powerful and respected people automatically assumed their legitimacy and integrity," she said.

She said she wanted to devote the rest of her life to helping people and pleaded with Manning not to send her to prison - even though federal guidelines called 15 months minimum.

Manning said she thought Starsiak, who is now broke and has been jobless for two years, has learned her lesson and wouldn't commit further crimes.

"I don't think prison is the answer," said Manning, who ordered probation and 200 hours of community service.

Gair told the judge that Starsiak has done much to help federal prosecutors.

Gair said it was Starsiak's guilty plea that prompted Andrea Coutretsis to plead guilty in the bid-rigging investigation and admit that she gave the bidding information to Starsiak.

Coutretsis is the former assistant and current fiancee of former Gov. George Ryan's top aide, Scott Fawell, who is currently serving a 6 1/2-year racketeering sentence and has agreed to become the government's key witness at Ryan's upcoming trial on racketeering conspiracy charges.

Coutretsis persuaded Fawell to become a federal witness and Gair suggested that Starsiak deserved at least some credit for starting the chain of events that caused him to change sides.

Gair also said it was Starsiak who told prosecutors to investigate the Illinois Health Facilities Planning Board, which is now the focus of a major extortion and fraud investigation.

Daley Names Inspector General (CHIST/AP)

By MEGAN REICHGOTT, ASSOCIATED PRESS

Chicago Sun-Times, September 8, 2005

Mayor Richard M. Daley, struggling to clean up his administration's image amid an ongoing federal investigation of bribe-taking and political hiring, named a former federal prosecutor Thursday to be his new inspector general.

David Hoffman will take over for Alexander Vroustouris, who resigned in June amid allegations that investigations performed by his office were delayed and incomplete. Deputy Inspector General Bill Marback had been acting inspector general since Vroustouris resigned.

Vroustouris "did a good job. This is going to be a better job, simple as that," Daley said at a City Hall news conference to announce the change.

Eight members of Daley's Cabinet have either resigned or been fired since May as the mayor has worked to maintain the public's confidence. Federal investigators have been looking into City Hall for months, first examining bribes traded for jobs in a contract hauling program and most recently looking into allegations of fraud in the city's hiring practices.

Daley, who has not been accused of any wrongdoing, has acknowledged he has been questioned by federal prosecutors. Late last month, he apologized to the public and said he should have done more to prevent corruption in his administration.

Hoffman, 38, is a native of Chicago's north suburbs and has been an assistant U.S. attorney since 1998. For the past three years he has been deputy chief of the narcotics and gangs section.

"As a former federal prosecutor, David has the skills and experience necessary to root out corruption and help us maintain the highest ethical standards in city government," Daley said Thursday.

Daley "has asked only one thing of me: to take all necessary steps to find wrongdoing in city government and expose it," Hoffman said.

Hoffman has the authority to research corruption at all levels of city government, even if the inquiry leads back to City Hall, Daley said.

"Inspector General Hoffman has my full support and authority to root out and prevent misconduct, whether in hiring or contracts or wherever it occurs, so that the people of Chicago know that we are protecting them and putting their interests first," he said.

Daley said he would expand the powers and staff at the inspector general's office after Hoffman has some time on the job to make recommendations.

"The inspector general has to have sufficient staff to audit contracts, to determine compliance with the law and accountability to the taxpayers," Daley said. "And his office has to be equipped with the latest technology."

Daley Names New City Hall Watchdog (CHIT)

Tribune Staff Reports

Chicago Tribune, September 9, 2005

Mayor Richard Daley today named a Chicago-area native and federal prosecutor as his new inspector general, charged with ferreting out dishonesty and corruption in city government.

"I am confident that with our new inspector general, we will see great improvement in the ethics and integrity of city government," Daley said as he introduced David Hoffman at a City Hall news conference.

Hoffman, 38, has been an assistant U.S. attorney since 1998, deputy chief of its Narcotics and Gangs Section since 2002 and head of Project Safe Neighborhoods, a joint federal-city anti-crime initiative to keep parolees and probationers from committing gun crimes, since 2003.

He also is a former law clerk to the late U.S. Supreme Court Chief Justice William Rehnquist.

"The mayor has asked only one thing of me: To take all necessary steps to find wrongdoing in city government and to expose it," Hoffman said. Borrowing an oft-used phrase by U.S. Atty. Patrick Fitzgerald in exposing government corruption, Hoffman promised to "follow the evidence wherever it leads."

Eight members of Daley's Cabinet have either resigned or been fired since May as the mayor has worked to maintain the public's confidence. Federal investigators have been looking into City Hall for months, first examining bribes traded for jobs in a contract hauling program and most recently looking into allegations of fraud in the city's hiring practices.

Daley, who has not been accused of any wrongdoing, has acknowledged he has been questioned by federal prosecutors. Late last month, he apologized to the public and said he should have done more to prevent corruption in his administration.

Today, the mayor said that acting on Hoffman's recommendations, he would soon announce a series of changes that would expand the powers and staff of the inspector general's office.

Hoffman urged city employees to report wrongdoing.

"If you see corruption, if you see fraud, if you see dishonest practices, let us hear from you. Do not accept it silently," he said. "If your colleagues or superiors are using their positions corruptly or dishonestly, they are tarnishing you and the rest of city government."

"I can assure you as inspector general I will take nothing more seriously than going after those who would retaliate against employees courageous enough to turn in wrongdoers," Hoffman said.

A native of the northern suburbs, Hoffman has a bachelor's degree in history from Yale University and a law degree from the University of Chicago.

He replaces Inspector General Alexander Vroustouris, who had served in the post from 1989 until Ron Huberman, the mayor's chief of staff, requested Vroustouris' resignation in June. The former inspector general was accused of not acting quickly on cases of alleged corruption referred to his office.

Daley today also thanked Acting Inspector General Bill Marback for having substantially reduced a 3,000-case backlog since taking temporary charge of the office in June.

The Associated Press contributed to this story.

Mirarchi Dodges Jail (PHI)

By BOB WARNER

The Philadelphia Inquirer, September 9, 2005

A widely known defense attorney who admitted taking $7,000 in bribes in a parking-ticket scandal was spared a jail sentence yesterday by a federal judge.

Charles P. Mirarchi III, who cooperated with prosecutors and pleaded guilty to one count of mail fraud, will have to spend six months under house arrest, pay a $5,000 fine and face additional restitution payments, U.S. District Judge Bruce W. Kauffman ruled.

Federal sentencing guidelines suggested an 18- to 24-month prison sentence.

But Assistant U.S. Attorney Amy L. Kurland had urged a "significant downward departure" from the guidelines because of the critical testimony Mirarchi provided to convict a more-central participant in the ticket-fixing scam, Joseph F. Hoffman Jr.

Kauffman cited Mirarchi's "substantial and significant cooperation" with the prosecutors and wished Mirarchi "Good luck" after pronouncing the sentence.

The starting date for home detention was left to be worked out with federal marshals, who must arrange an electronic monitoring system.

Convicted in February of mail fraud, conspiracy and extortion, Hoffman drew a two-year prison sentence from Kauffman earlier this week.

Mirarchi, 54, a gregarious fixture in the city's criminal courts for the last 25 years, had functioned briefly as Hoffman's bagman, visiting the office of taxi kingpin Michael Etemad to pick up envelopes stuffed with $100 bills, a total of $7,000.

Hoffman kept $4,000 for himself and gave $3,000 to Mirarchi. In exchange, Hoffman took $47,127 worth of parking tickets issued to Etemad's cabs and reduced his fines to $3,500.

Two of Mirarchi's visits to Etemad were recorded on videotape by the FBI.

Mirarchi hovered close to tears yesterday as he addressed the judge, before the sentencing.

"I would like to apologize to this court... and to my family," Mirarchi said. "Sometimes you're asked if you had one thing to do over in your life. For some people, that's a hard question to answer. Not for me. I'm sorry for the judgment I used and the wrong I committed."

Mirarchi was apparently relieved at his sentence, embracing many of the friends, family and fellow attorneys who had filled the courtroom to hear Kauffman's decision.

The parking-ticket scandal hung over Mirarchi's head for the past 2 ½ years, after the Daily News first reported his involvement in the Etemad payoffs.

But even after his indictment in June 2004, and his guilty plea last October, Mirarchi continued to represent criminal defendants and to draw a $37,893 city salary, as a deputy to the city's top election official, City Commissioner Margaret Tartaglione.

With the sentencing, Mirarchi is likely to lose both his city job and his license to practice law.

Lawyer Who Cooperated Is Sentenced In Ticket Fixing (PHI)

By L. Stuart Ditzen

The Philadelphia Inquirer, September 9, 2005

The moral of the story yesterday in the courtroom of U.S. District Judge Bruce W. Kauffman was this: He who admits his crime and diligently atones for it may hope for kindness at sentencing.

And so it was for Charles P. Mirarchi 3d, a popular Philadelphia defense lawyer who pleaded guilty to a fraud charge in a ticket-fixing scheme and cooperated with prosecutors in convicting his codefendant.

Although federal sentencing guidelines called for a sentence of 18 to 24 months in prison, Mirarchi ended up with three years' probation, the first six months to be served under house arrest.

Kauffman said he gave the 54-year-old Mirarchi a probationary sentence because of his "extremely significant cooperation with the government" in the investigation and prosecution of Joseph F. Hoffman Jr., the former head of the city parking-ticket appeals office.

Hoffman was sentenced on Wednesday to two years in prison for taking $5,000 in payoffs from taxicab magnate Michael Etemad to reduce $47,000 worth of parking tickets on Etemad's fleet to $3,500.

Mirarchi, the son of retired Common Pleas Court Judge Charles P. Mirarchi Jr., testified at Hoffman's trial in February that he acted as a go-between, carrying payoffs from Etemad to Hoffman in 2002. His testimony was supported by FBI audiotapes and videotapes.

Assistant U.S. Attorney Amy L. Kurland, who requested a significant sentencing break for Mirarchi, said she was pleased that he got probation.

"His information and assistance provided an inside view of Hoffman's ticket-fixing," Kurland said in a presentence memo to the judge. "And his honest and straightforward testimony at trial was essential to Hoffman's conviction."

Speaking briefly to Kauffman before the sentence, Mirarchi fought back tears as he apologized for his crime.

Martin M. Krimsky, a longtime Philadelphia lawyer who appeared as a character witness, testified: "I know of no person in the City of Philadelphia who is liked and loved more than Charles."

Krimsky said Mirarchi was generous "to a fault."

Which might be what got him in trouble.

Mirarchi testified in February that Hoffman asked him, as a favor, to pick up cash payments from Etemad and to pretend the money was a legal fee.

Mirarchi said he and Hoffman had grown up together in South Philadelphia and had been friends all their lives. So he did him the favor.

"It was wrong," he said. "I know it was wrong, and Hoffman knew it was wrong."

Mirarchi's conviction is likely to result in disbarment and the loss of his part-time city job as a deputy city commissioner. But as of yesterday, his law license was intact and he was still listed as a city employee.

FBI Removes Items From Councilman's Home (KARE-TV)

KARE-TV, September 9, 2005

FBI agents pulled up to the home of Minneapolis City Councilman Dean Zimmerman around 3 p.m. on Thursday afternoon.

Agents were executing a search warrant at the councilman's home. Zimmerman is a first-term representative for the 6th ward, which is located east of 35W between 24th Street East and Lake Street, in the Phillips neighborhood.

Neither the FBI or the Minneapolis Police, who were assisting in the removal of items from Zimmerman's home, would comment on the reason for the search warrant.

But during the three hours police and FBI officials were at the house, they were seen removing everything relating to Zimmermann's re-election campaign plus personal financial records.

The U.S. attorney's office also served Minneapolis City Hall with a subpoena for materials in Zimmerman's council office.

Zimmerman is a member of the green party. He is married with four children.

City Councilman's House Raided (WCCO-TV)

WCCO-TV, September 9, 2005

(WCCO) Federal agents searched a Minneapolis City Councilman's house Thursday afternoon, police said.

According to officials, the corruption division of the FBI searched G. Dean Zimmerman's house, in the 2200 block of Clinton Ave. S.

The FBI said they executed a "court-authorized federal search warrant as part of an ongoing federal investigation."

Federal agents left the house carrying several boxes, folders and computers containing materials related to his re-election campaign and financial records.

Zimmerman was unavailable for comment, but his campaign manager Lauren Maker said the agents spent three hours at his house.

"They took primarily, everything related to the campaign," Maker said. "The took our mailing labels, they took our voter id list."

Maker said she believed the search was politically motivated because it was so close to the election.

The search came five days before the primary elections. Zimmerman is running for a second term on the city council.

Because of redistricting, Zimmerman, first-term a Green Party member is in the same ward as council vice president Robert Lilligren, DFL.

When campaign volunteers came out to help prepare a mailing Thursday evening, an FBI agent at the door turned them away. Zimmerman was reportedly home during the search and met with his defense attorney in the evening.

He has not been charged with any crime.

Zimmerman, a retired teacher, has served as commissioner of the Minneapolis Park and Recreations Board, a board member of the Middle Mississippi River Watershed Management Organization, a board member of the St. Anthony Falls Heritage Board and a board secretary of the Green Institute.

A Top HAWS Official Pleads Not Guilty (WSJ)

By Bertrand M. Gutierrez

Winston-Salem Journal, September 9, 2005

A senior official with the Housing Authority of Winston-Salem pleaded not guilty yesterday in U.S. District Court here to three felony charges: stealing, embezzlement and money laundering.

Federal prosecutors filed the charges Aug. 30 against Kenneth Love, the assistant director of housing services for the housing authority, after a four-year investigation by the U.S. Department of Housing and Urban Development and the FBI.

The same charges were filed against a Virginia businessman, Sylvester Clay, who pleaded not guilty on Tuesday.

Trials for both men are scheduled for February.

Federal investigators say that Love and Clay worked together to bid on contracts and get paid for phantom jobs through Clay's maintenance companies.

Telephone calls to Reid Law-rence, the executive director of the housing authority, were not returned yesterday or Wednesday. James Rousseau, the chairman of the board of commissioners of the authority, also has not returned telephone calls.

Sherrod Banks, an attorney representing the authority, said Wednesday that Love was on sick leave.

At the courthouse yesterday, Love said "no comment" when asked if he was ill. Nor would he talk about the case.

A spokeswoman with HUD, which determines the amount of money that the housing authority may get for projects, would not say whether the department was taking or might take any action against the local agency.

"Usually, we don't comment on ongoing investigations," HUD spokeswoman Denise Dunckel said. Later in the day, the authority issued a press release in which it never referred to the charges against Love, but only cited the allegations against Clay.

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"HAWS is disturbed by these allegations. However, this is still a continuing investigation both outside HAWS and within HAWS," the press release said.

Banks said he planned to meet today with housing officials to discuss his view of the charges and any possible action that HAWS might take.

Bribe-case Builder Has 2d Arrest (PHI)

The Philadelphia Inquirer, September 9, 2005

NEPTUNE, N.J. - A developer accused of bribing officials in Monmouth County has been charged with threatening a 22-year-old woman at gunpoint in a community-college parking lot.

Anthony Spalliero, 63, fled when an officer at the Middletown campus of Brookdale Community College heard the woman scream about 1:30 p.m. Tuesday, college spokesman Stephen Nacco said.

Spalliero had put a gun against the woman's ribs and told her to come with him, Nacco said.

"I would say that's total nonsense," Spalliero's lawyer, Michael Pappa, told the Asbury Park Press of Neptune for yesterday's editions.

Spalliero, of Marlboro, was arrested Tuesday outside his former wife's home in Holmdel. He was charged with possession of a weapon for an unlawful purpose, making terroristic threats, and aggravated assault, the Monmouth County Prosecutor's Office said.

The weapons charge carries the stiffest penalty, up to 10 years in prison. Spalliero was released Wednesday after posting $150,000 bail.

The arrest may affect Spalliero's bail status on the bribery charges, because he was required to surrender all firearms.

In May, Spalliero was arrested by the FBI and charged with passing bribes, including offering then-Mayor Matthew V. Scannapieco of Marlboro about $143,500 from 2001 to 2003.

Scannapieco, mayor from 1992 to 2003, pleaded guilty April 12 to taking $245,000 from a developer between 1997 and 2003 in return for supporting the developer's projects.

Spalliero was also charged with paying $8,500 from 2001 to 2003 to Monmouth County's top elected official. The FBI complaint did not give the official's name, but the freeholder director then was Harry Larrison Jr., who was charged in April with taking $8,500 in bribes from developers in Marlboro.

Larrison, 78, of Neptune, retired in December and died May 29. His 39 years in office made him the longest-serving freeholder in state history.

Former Kodak Executive Charged In Bribery Probe (NSDY)

Long Island Newsday, September 9, 2005

ROCHESTER, N.Y. -- A former executive at Eastman Kodak Co. on Thursday became the fourth person charged in a multimillion-dollar scheme that federal prosecutors claim defrauded the company and suburban Rochester taxpayers.

David Finnman faces two felony counts of mail fraud and one count of conspiracy to defraud. He worked at Kodak from 1970 to 1999.

The alleged fraud happened when tax assessments for Kodak's property in Greece were illegally lowered and the defendants shared the kickbacks.

The FBI said Finnman and co-defendant Charles Schwab, a former Greece assessor, created a business in the Bahamas around February 1998 to hide bribes and kickbacks paid by co-defendant John Nicolo, a regional appraiser.

Investigators claim Finnman and Schwab each admitted receiving about $200,000 and investing it in an offshore account.

The new charges said another company, Global Crossing, was the victim of fraud because Finnman worked there until 2003.

Mark Camarata, Finnman's successor, was the first person charged in the case in May. He was scheduled for a court appearance on Sept. 22.

Finnman's lawyer, Matthew Lembke, could not be reached for comment.

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Information from: Rochester Democrat and Chronicle, http://www.democratandchronicle.com

Lt. Gov. Now Says He Never Talked To Cooper About Loan (AP)

By MATT GOURAS, Associated Press Writer

AP, September 9, 2005

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NASHVILLE — Tennessee's lieutenant governor has changed his position on whether he talked to a fellow lawmaker about a bank loan now involved in a federal fraud trial.

Lt. Gov. John Wilder said Wednesday that he was incorrect when he said last week that he had talked with Sen. Jerry Cooper about getting a loan at Wilder's bank.

Wilder has been the subject of heavy criticism since he showed up last week at a hearing held to discuss Cooper and the loan.

Cooper, a Democrat from Smartt, is an unindicted co-conspirator in a federal indictment alleging fraud against two men involved in the sale of property owned by Cooper.

Wilder left the meeting of the Senate Ethics Subcommittee, which was not announced to the public, when reporters showed up and pressed to be allowed entry.

But before leaving, Wilder recounted his role in the loan to reporters, saying Cooper approached him about having BankTennessee, which Wilder partly owns, underwrite the $1.77 million loan when the deal was first going down in the late 1990s.

The resulting land deal led to federal indictments charging Anthony and Teresa Auyer of Alabama, who purchased Cooper's lumber mill property in Warren County, and property appraiser James Passons.

On Wednesday, Wilder changed his story and said he "would like to set the record straight."

"While it has been over six years ago, it is my conviction that I did not talk to Sen. Jerry Cooper about this matter," Wilder said. "I was mistaken when I said I talked to Sen. Jerry Cooper. To the extent I indicated otherwise, I was in error."

The position is a big change from last week when Wilder said he was certain he had talked to Cooper.

At that time, Wilder first told The Associated Press and others that he had not talked to Cooper. But he quickly changed his mind in the next sentence, and went on to say, "Sen. Cooper asked me if my bank would be interested in making the loan. I told him I thought it would and ... (Auyer) called my bank."

Wilder was adamant he did not influence the loan and did not pressure the bank to make the loan.

Wilder was clear that Cooper had talked to him, though, further saying "he asked me if my bank may be interested in making a loan to this person that he sold his plant to. I told Sen. Cooper it might be, and he told this gentlemen that they might be and he talked to them and that's where it started."

Wilder reiterated that position two days later, on Friday telling The (Memphis) Commercial Appeal newspaper that he did nothing more than refer Cooper to BankTennessee executives.

"My offhanded remarks simply were not correct," Wilder now says.

Wilder, 83, has served longer as the presiding officer of a state legislative body than any other person in the nation. He was first elected to the state Senate in 1959 for a two-year term, but then was out of office until winning election again in 1966 to another two-year term. Wilder, a Democrat from Mason, won his first four-year Senate term in 1968 and has been speaker since 1971.

Tennessee Republican Party Chairman Bob Davis, a Wilder critic, said the Senate speaker's latest comments illustrate the problem.

"I guess everybody can change their mind. What's different is that this fellow is lieutenant governor, a career politician who out of convenience and habit has made a career out of covering his tracks," Davis said. "This is exactly why Tennesseans have lost trust in their state government."

It's the second time this year that Wilder has backtracked from public comments.

In May, right after the Tennessee Waltz sting that nabbed five current and former lawmakers, Wilder criticized the FBI for "entrapping" the indicted legislators. A week later, he said the remarks were meant to express only his belief that "entrapment is wrong."

PAC Linked To DeLay Indicted In Funding Probe (LAT)

By Richard B. Schmitt

The Los Angeles Times, September 9, 2005

WASHINGTON — A Texas grand jury today indicted a political action committee affiliated with House Majority Leader Tom DeLay (R-Texas), alleging that it took illegal campaign contributions during the 2002 election that led to a historic realignment of the Texas Legislature.

The charges, which include indictments against one of the state's oldest and largest employer groups, arise out of a more than two-year probe by local prosecutors into the use of corporate money to bankroll Republican candidates for state office.

The indictments allege violations of a state law that bans corporate contributions to state legislative candidates.

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DeLay, one of the most powerful figures in Congress, was not named in the indictment, although three individuals associated with the political action committee, known as the Texans for a Republican Majority, were indicted last year.

In a statement, the House leader said the allegations were "limited to a political organization," but also acknowledged that he had "voluntarily" spoken with investigators last month at the Travis County district attorney's office who are overseeing the probe.

"Mr. DeLay explained to officials what he has always said publicly: his role ... was limited to serving on the political action committee's advisory board along with other elected Texas officials and to appearing at fundraising events," spokesman Kevin Madden said. "Mr. DeLay assured the district attorney's office that he was not involved in the day to day operations ... and to his knowledge all activities were properly reviewed and approved by lawyers" for the political action committee.

The indictments unsealed today alleged that the Texas Assn. of Business and the Texans for a Republican Majority worked together in a complicated arrangement to circumvent the state's election code.

Ronald Earle, the Travis County district attorney, said "massive amounts of secret corporate wealth" were illegally funneled into the coffers of Republican candidates during the 2002 campaign. The business group was charged with fraudulently soliciting money from corporations, and making illegal contributions, in violation of state election law.

The political action committee was charged with illegally soliciting and accepting corporate contributions, including contributions from AT&T Corp. and a group calling itself the Alliance for Quality Nursing Home Care.

Roy Minton, an attorney for the business group, said the state was attempting to criminalize activity that is protected by federal law. According to the indictments, the group paid more than $1.1 million in corporate money for mailings to voters and television advertising.

"The indictments leave out all the federal law that there is as to the constitutional right of any business to inform the public concerning the voting record or any conduct on the part of candidates for office," Minton said. "That is not something that can be regulated by the state through its election code."

DeLay PAC Is Indicted For Illegal Donations (WP)

By R. Jeffrey Smith

The Washington Post, September 9, 2005

A grand jury in Texas indicted yesterday a state political action committee organized by House Majority Leader Tom DeLay (R-Tex.) for accepting $120,000 in allegedly illegal corporate campaign contributions shortly before and after the 2002 elections that helped Republicans cement their control of the House of Representatives.

The indictment follows a lengthy investigation in Austin that previously had targeted the defunct political action committee's executive director, John Colyandro. He was indicted last year for accepting illegal corporate donations and for illegally laundering $190,000 in corporate funds through the Republican National State Elections Committee that later wound up in the hands of Texas Republican candidates.

The criminal charges are based on a Texas election law, akin to rules in 17 other states, that strictly bars political contributions from corporations for election purposes. But according to evidence submitted in a related civil trial, the committee, Texans for a Republican Majority (TRMPAC), raised and spent at least $523,000 in corporate funds -- most of which were not reported to state election officials.

The funds paid for surveys, mailings, receptions, candidate investigations and probes of Democratic candidates that helped Republicans gain control of the Texas House for the first time in 130 years, and enabled them to redraw the state's congressional districts in 2003 in such a way that Texas voters elected five more Republicans to Congress in 2004.

DeLay, who was a member of the committee's advisory board, signed fundraising solicitations and participated in at least one conference call to discuss the committee's plans, was not named in the indictment. He also has not been publicly identified as a target of the continuing investigation by Travis County District Attorney Ronald Earle.

DeLay spokesman Kevin Madden responded to the indictment with a written statement saying that it "is limited to a political organization and does not affect Mr. DeLay."

Madden also disclosed for the first time that DeLay had "voluntarily" talked to Earle's office about the investigation last month, and that DeLay said then that his involvement in the committee's activities was "limited to serving on the political action committee's advisory board along with other elected Texas officials and . . . appearing at fundraising events."

Madden said DeLay "assured the district attorney's office that he was not involved in the day-to-day operations of TRMPAC, and to his knowledge all activities were properly reviewed and approved by lawyers" for the committee.

When asked yesterday about DeLay, however, Earle said at a news conference that he was hampered in bringing charges by a provision of the election law that gives him direct authority only over residents of Travis County. He has separately said he does not face that limitation with respect to bringing new charges under the state money-laundering statute.

DeLay's residence is in Fort Bend County, where the prosecutor is an elected Republican, John F. Healey Jr. If Earle found evidence of criminal wrongdoing by DeLay under the election statute, he could only pass on the information to Healey with a recommendation that he pursue the matter.

Earle has not done so, several sources said yesterday, but has until the end of this month to decide the matter under a three-year statute of limitations.

The grand jury singled out two contributions that it said the committee illegally accepted -- a $20,000 contribution from AT&T Corp. on Nov. 18, 2002, and a $100,000 contribution from the Alliance for Quality Nursing Home Care Inc. on Oct. 24, 2002. The latter donation generated considerable controversy in Texas political circles after local newspapers reported that state Rep. Tom Craddick accepted it in a white envelope from the head of a large Texas nursing home chain during a meeting at a Houston restaurant.

Craddick's attorney, Roy Q. Minton, said that Craddick -- who was later elected speaker of the House and in that role oversaw the redrawing of congressional districts -- immediately passed the check along to TRMPAC. "Just because the guy happens to be speaker of the House does not mean it's against the law," Minton said.

Terry Scarborough, an attorney for TRMPAC before it formally went out of business this summer, declined to comment on the committee's indictment. Four additional indictments by the grand jury separately accused the Texas Association of Business with accepting additional illegal corporate funds and coordinating its expenditure with TRMPAC. Attorneys for the association have denied wrongdoing.

Political Committee Formed By DeLay Is Indicted (NYT/AP)

By The Associated Press

The New York Times, September 9, 2005

AUSTIN, Tex., Sept. 8 (AP) - A grand jury has indicted a political organization formed by the House majority leader, Representative Tom DeLay, accusing it of taking illegal corporate money as he helped Republicans win control of the Texas Legislature and keep control of Congress.

Mr. DeLay, a Republican, was not indicted by a Travis County grand jury in the charges made public Thursday, although three of his political associates were charged earlier.

District Attorney Ronnie Earle, a Democrat, said he had no jurisdiction over Mr. DeLay's personal conduct. Kevin Madden, Mr. DeLay's spokesman, said the majority leader played only a limited role in the organization, Texans for a Republican Majority Political Action Committee. Mr. DeLay served on its advisory board and appeared at fund-raising events, Mr. Madden said.

A complaint filed last year with the House ethics committee said Mr. DeLay's activities with political action committees violated House rules, but the panel deferred action on the complaint.

The charge against Texans for a Republican Majority accuses it of illegally accepting a contribution of $100,000 from the Alliance for Quality Nursing Home Care and of $20,000 from AT&T. A prominent statewide business group, the Texas Association of Business, was also charged, in what Mr. Earle called an effort to funnel "massive amounts of secret corporate wealth" into Texas political campaigns.

State law prohibits use of corporate contributions to advocate election or defeat of state candidates.

No individuals in the business group were indicted.

The indictments accuse the Texas Association of Business and the political action committee of working together in a complicated scheme to circumvent state law.

Four indictments against the Texas Association of Business include charges of unlawful political advertising, unlawful contributions to a political committee and unlawful expenditures like those to a graphics company and political candidates.

The association, which is influential at the Texas Capitol, spent about $1.7 million in corporate money for mailings in 2002. The group said it was trying to educate voters on issues, which is legal, not advocate the election or defeat of any candidates.

A lawyer for the association, Roy Minton, said it acted under protections of the First Amendment, which "gives individuals and their businesses the absolute right to inform the public of the conduct of our elected officials and the conduct of candidates for public office."

Last fall, the grand jury indicted three officials of Texans for a Republican Majority: John Colyandro of Austin, and Jim Ellis and Warren Robold of Washington, D.C. All are now awaiting trial.

Texas Groups Linked To DeLay Indicted In Scandal (REU-Y2)

By Erwin Seba

Reuters, September 9, 2005

DOJ_NMG_0004040

A Texas grand jury has indicted a political action committee formed by U.S. House Majority Leader Tom DeLay as well as a powerful business group on charges they violated the state's campaign finance laws, officials said on Thursday.

The indictments, five in all, accuse Texans for a Republican Majority, or TRMPAC, and the Texas Association of Business (TAB) of illegally funneling corporate donations into a 2002 campaign to win control of the Texas Legislature.

DeLay helped create the committee, but he has not been charged with any wrongdoing, and has said he was not involved in TRMPAC's daily operations.

A statement from his office on Thursday said he met with Travis County District Attorney Ronnie Earle last week and explained his limited role in the committee.

"Today's announcement is limited to a political organization and does not affect Mr. DeLay," the statement said.

Three men with close ties to DeLay were indicted last year for illegal fund-raising activities by TRMPAC.

In a civil case earlier this year, a Texas judge found that TRMPAC did not disclose nearly $600,000 it received from corporations.

Texas law forbids the use of corporate donations in political campaigns.

Earle has said DeLay is under investigation and a spokesman for him said on Thursday the investigation into illegal campaign finances continues.

In a statement, Earle said, "All five of these indictments involve the misuse of corporate money to influence Texas elections in 2002."

"They contain allegations that TAB and TRMPAC worked together in a complicated scheme to circumvent the election code by funneling massive amounts of secret corporate wealth into elections," he said.

TRMPAC's efforts helped Republicans capture the Texas Legislature for the first time since the Reconstruction era after the U.S. Civil War.

The shift led to a remapping of the state's congressional districts which ultimately increased the Republican majority in the U.S. House.

DeLay has been under fire over ethics questions involving fund raising, foreign travel and his relationship with lobbyists.

TAB's attorney Roy Minton said the organization did not violate the law and was merely exercising its free speech rights under the U.S. Constitution's First Amendment.

"At no time did the TAB endorse any candidate, seek any political contribution or campaign expenditure," Minton said.

Missouri Senators Want To Close Loophole For Sexual Predators (AP)

By Sam Hananel

AP, September 9, 2005

WASHINGTON - Missouri's senators want to close a legal loophole they say allowed a Missouri judge to throw out a conviction of a sexual predator.

Sens. Kit Bond and Jim Talent, both Republicans, introduced a bill Thursday that makes it a crime to solicit sex online from a minor even if the person solicited is an undercover agent over 18.

The move is a response to the case of Jan P. Helder, a Mission Hills, Kan., attorney accused of using an Internet chat service to solicit sex from someone he believed to be a 14-year-old girl.

A federal jury convicted Helder, 42, but U.S. District Judge Dean Whipple in Kansas City threw out the verdict last month, saying Helder could not be guilty because the person he communicated with online was actually an undercover Platte County detective.

Whipple's decision outraged children's advocates who worried it could curb the success of such Internet stings. Undercover agents typically pose as minors, waiting for sex offenders to make contact and arrange in-person meetings.

"This may in the minds of predators create a loophole and I think we should try and plug that loophole as quickly as possible by any means possible," Talent said.

Don Ledford, a spokesman for U.S. Attorney Todd Graves in Kansas City, said the government plans to appeal Whipple's decision. Ledford said the office would have no other comment on the decision or the legislation because the case is pending.

At least four federal appeals courts have rejected the type of defense used by Helder, but those decisions are not binding on Whipple. The 8th U.S. Circuit Court of Appeals, which covers Missouri, has not yet addressed the issue.

Under the change proposed by Bond and Talent, federal law would expressly provide that communicating with a law enforcement officer pretending to be a child is not a defense. Such language is already included in state law in Missouri.

"If there is a hole in the law that needs to be fixed in order to protect our children from predators, we must act now," Bond said in a statement.

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Kansas Rep. Jim Ryun has written a letter urging the Justice Department to appeal Whipple's ruling, saying it is contrary to a number of other court cases.

"If permitted to stand, the practical impact of such a ruling would have devastating consequences for prosecutions of child predators who troll the Internet looking for children to entice and ultimately harm," Ryun said in the letter.

City To Request A Federal Audit (PSDS)

By Nelsy Rodriguez, The Desert Sun

Palm Springs (CA) Desert Sun, September 8, 2005

DESERT HOT SPRINGS - The Desert Hot Springs City Council voted unanimously to ask the U.S. Department of Justice to look into the city's accounts for the past five years.

Interim City Manager Corky Larson said she was approached by city residents in the past month who suggested that the city - growing fast, but struggling with City Hall openness and budget issues - ask for a Department of Justice forensic audit.

"If there's a concern out there hopefully there won't be a problem, but if there is, then we'll find it," Larson said.

The council, meeting in closed session for about two hours, took the vote then and and reported it during a public session that ran late into the night.

Councilman Hank Hohenstein made the motion for the vote, and it was seconded by Will Pieper, interim city attorney Toni Eggebraaten said.

Asked what types of things the citizens asked for the Department of Justice to look at, Larson said one example might be building fees, but she would not elaborate.

Desert Hot Springs - exploding with residential growth - has in recent years been collecting millions in building fees, which are required by state law to be deposited in particular city accounts.

Any audit performed would check all revenue and expense flows for the city, receipts, contracts and ensure that any fees associated with planning and building the thousands of new homes going up in the scenic city at the base of the mountains were sent to the appropriate budget accounts.

During a break in the meeting Wednesday night, Larson said she would write the letter to the Department of Justice today.

Larson, an attorney and retired Riverside County Supervisor after whom the Riverside County Larson Justice Center is named, said she didn't know how long a Department of Justice investigation would take.

"Knowing the federal government, it could take a while," Larson said.

Larson said the citizens - not city staff or councilmembers - who approached her suggested the Department of Justice as opposed to another type of audit.

"That was their suggestion. We might as well take advantage of this service," she said.

The Department of Justice investigation vote was just one controversial issue on the agenda for the meeting, which was packed with citizens, some carrying signs demanding a recall of some city council members.

Also in the mix for the meeting were:

The planned presentation of recall papers to Vice Mayor Mary Stephens and Hohenstein, by a group led by citizen Patrick Gillespie;

An unusual vote that would make retired city manager Jerry Hanson's final contract null and void;

Discussion in closed session of two candidates for Hanson's job, known only as "Candidate A" and "Candidate B" in a Labor Day public forum for residents.

The city of 19,500 residents has been embroiled in controversy over the compensation for Hanson, who retired July 31.

Hanson questions In addition to Hanson's 10 employment contracts since 2003, which he wrote himself and which garnered him 1,700 hours of vacation and sick time compensation in 20 months, questions have been raised about his land holdings near the $1 billion StoneRidge development he negotiated for the city.

A Riverside County grand jury is reviewing testimony and has been sent three requests for investigations into city matters, including a request about Hanson's contracts, a request about Hanson's possible conflict of interest in land holdings and a request about Hohenstein's possible conflict of interest on his vote to approve StoneRidge.

If the final consultant's contract is not rejected and the benefits on the contract rack up, Desert Hot Springs would have to pay Hanson every month until 2008:

$7,725 for a minimum of 15 hours of work a week;

$1,128 for use-only vacation;

$1,030 for an additional eight hours of vacation a month;

$1,030 for an additional eight hours of annual leave a month;

$2,000 for a monthly deferred compensation;

$760 for health and dental insurance;
$675 for monthly expenses;
$265 for a 100-gallons gasoline stipend;
$578 for monthly payment on a $200,000 whole life insurance policy;
$27.27 for education and training; organization and membership fees to be paid without limit;
$850 for office supplies and equipment; and
a one-time $40,000 "golden handshake."

On top of that, the contract contains a clause that, as written, assures Hanson would receive approximately $16,320 a month for his retirement.

Worded as "All current or future PERS contributions required to provide the Employee/ Consultant his most recent PERS estimates for PERS retirement benefits shall be paid by the City."

The "most recent PERS estimate" was valued at approximately $20,000.

However, upon reviewing un-accounted for pay raises by as much as 87 percent in 2004, CalPERS determined Hanson would only receive $3,680.

Meaning, the difference "shall be paid by the City."

In a letter to CalPERS, Hanson requested the agency re-review his retirement allowance, saying his work of pulling the city out of bankruptcy, working in excess of 3,000 hours a year, holding five positions and being a licensed engineer and architect are deserving of a larger retirement.

"The majority of the City Council wanted me to continue on after my contract expiration in Feb. 12, 2005," Hanson wrote in the letter dated Aug. 15. "I only resigned as city manager due to vicious and deceptive politics in the local media damaging mine and my family's good name."

Hanson's attorney, Edward Kotkin, was unavailable for comment Wednesday afternoon.

The media scrutiny began in March when the city confirmed to all media outlets that he earned $322,809 in 2004 (the same year he drafted an 87 percent pay increase into his contract and passed it unanimously through the City Council) after his W-2 tax form was leaked to a local TV news channel.

The scrutiny continued as The Desert Sun then reported in April that Hanson bought property along a road that he later negotiated $600,000 worth of street improvements as a condition for recommending the City Council approve an upscale housing development.

Recall drive Angered by Hanson's generous contracts, especially his final consultant's contract, citizens in the city that just emerged from a three-year bankruptcy have obtained the initial signatures on formal recall forms for the councilmembers who voted for the contracts consistently.

A group of citizens led by Patrick Gillespie has promised to present Stephens and Hohenstein with recall papers. The two were among those voting to approve Hanson's final contract, which appears to guarantee that the city will pay $195,000 a year for life in retirement benefits the state has refused to pay in addition to $180,000 a year through Feb. 2006 even if Hanson performs no work.

The median annual income in

Desert Hot Springs is about $29,500 a year.

Once the recall papers are filed and initial signatures are verified, recall supporters must obtain about 1,800 valid signatures for the recall to take place.

Orange County Deputy Sheriff Arrested (ORS)

Pedro Ruz Gutierrez Sentinel Staff Writer

The Orlando Sentinel, September 9, 2005

An Orange County deputy sheriff indicted on federal embezzlement charges was arrested today by deputy U.S. marshals and relieved of duty without pay, authorities said.

Deputy Tawanda McNeil, a four-year veteran, was assigned to the agency's uniform patrol division in the agency's Sector 2, which covers east Orange County.

The U.S. Attorney's Office in Orlando said a federal grand jury indicted McNeil on Wednesday on 18 counts of embezzlement related to payments she erroneously received when the U.S. military called her up for duty.

McNeil was not activated and was not entitled to the the payments, said Carolyn Adams, chief of the U.S. Attorney's Office in Orlando.

The amounts covered by the indictment total about $23,000.

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Red Lake Seeks Items Seized By FBI (MINNST)

By Chuck Haga, Star Tribune

Minneapolis Star Tribune, September 9, 2005

Red Lake's school district has gone to federal court to seek recovery of documents and equipment seized by the FBI during its investigation of the March 21 shootings on the reservation, in part to protect itself against potential liability lawsuits.

In a motion filed Thursday in U.S. District Court in Minneapolis, the district said it needs the return of security video footage, education records of shooter Jeffrey Weise, witness statements of district employees and computer hard drives, among other things.

Those materials are "crucial," according to the filing, for the district to evaluate its security system and procedures in effect on March 21 "and to defend against likely lawsuits."

A spokesman for the clerk of court's office confirmed that it had received documents from the district's attorney.

It had not been determined whether the motion would be filed as part of the ongoing juvenile proceeding or as a separate matter.

After seizing the school district materials, the computers and other personal possessions of some Red Lake students, the U.S. attorney's office arrested one other student -- Louis Jourdain, son of Red Lake Tribal Chairman Floyd Jourdain Jr. -- and subpoenaed other students to appear before a federal grand jury.

A judge late last month ruled that Louis Jourdain, who was 16 at the time of the shootings, should be tried as a juvenile. Prosecutors have not said what Jourdain is accused of doing, but a source with knowledge of the case has said the boy is charged with conspiracy to commit murder.

Shamus O'Meara, a Twin Cities attorney who represents the Red Lake district, said that no suits stemming from the shootings have been filed against the district, but that two law firms "representing at least 18 families and individuals" have advised it they're considering liability suits.

"The district faces the very likely prospect of being involved in litigation with multiple plaintiffs," O'Meara said.

"We are respectful of the federal role in this [case] and its investigation," he said. "But there shouldn't be competing interests here. There should be a way to balance the interests of the federal government with the district's interest in [conducting] a complete evaluation."

He said the school district "has tried on several occasions" to obtain the return of the materials, which were seized in the days immediately after the school shootings, in which Weise, 16, killed eight people, including himself. Weise had killed two others before going to the school.

The federal investigators "basically told us to seek access to the materials through the Freedom of Information Act," O'Meara said. "We did that, and it was denied.

"From the district's perspective, this is a last resort. We hope that when the U.S. attorney's office gets a chance to read our motion, they'll give us a call and work this out."

U.S. Attorney Thomas Heffelfinger said late Thursday that he had not seen the district's motion and could not comment.

A thorough investigation into the security arrangements the district had in place on March 21 "is particularly important," according to the district's filing, "because certain individuals have criticized the district's camera system in place at the time."

The district "also has been unable to investigate Jeff Weise's psychological and educational records to determine the extent of the information in the district's possession prior to the incident."

In an affidavit with the filing, Red Lake Superintendent Stuart Desjarlait noted that the FBI has returned several of the district's computers, "but without hard drives."

Weise's student records sought by the district include records maintained during the 2004-05 school year by his instructor in a homebound program "and, possibly, a report involving Jeff Weise authored by a psychiatrist from Indian Health Services," according to the filing.

FBI Pressed To Share Red Lake Evidence (STPPP)

By JIM RAGSDALE, Pioneer Press

The St. Paul Pioneer-Press, September 9, 2005

The Red Lake School District, facing hundreds of workers' compensation claims from employees and the possibility of multiple lawsuits, is seeking to view a complete video record of a student's killing spree at Red Lake High School as well as the killer's academic and psychological records.

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Those materials, the district said in a motion filed on Thursday, were among the items seized by the FBI immediately after the March 21 shootings. Eight people died at the school, including the shooter, 16-year-old student Jeff Weise, who took his own life. Seven were injured. Weise had killed his grandfather and his grandfather's partner at home before assaulting the school.

Shamus O'Meara, a Minneapolis attorney who is representing the school district in the shootings and expected legal claims, said federal officials have declined to make the materials available, and he has failed at attempts to use freedom-of-information laws to view them.

"There is an immediate need to thoroughly review the District's security system to ensure the protection of staff and students from incidents of violence," the school district said in its motion. The district is asking a federal judge to allow the district to view the materials.

U.S. Attorney Tom Heffelfinger, whose office is leading the criminal investigation into the shootings, said he had not yet reviewed the papers and could not comment on the district's request. The criminal case against a second 16-year-old student, Louis Jourdain, suspected of helping plot the assault is still pending.

According to the district's court filings, video cameras in the school recorded what a technician described as "graphic and detailed incidents of the murder scene." The district retained a copy, but it is a shortened version without all the available camera angles, O'Meara said, and the district wants to view copies held by federal investigators.

The school district said it is also seeking access to educational records for Weise, who was at home that day on the school's homebound instruction program. Included in the district's request are records from the teacher who visited Weise at home during the school year. The district also said it believes the FBI has a psychiatrist's report on Weise.

"The district's perspective is that these are important items of information to have so that we can cogently speak to the issues of security, with the school board, with the district staff, as well as the community," O'Meara said. "Without them, we simply have not done the job we need to do to fully evaluate that system."

In the court papers, the district said "several hundred workers' compensation claims" have been filed against the district over the shootings. The papers suggested that many lawsuits are possible, and said groups of victims' families, school employees and parents of students in one classroom all are consulting attorneys.

O'Meara is also representing the Rocori school district in the aftermath of a school shooting that killed two students at Rocori High School in September 2003. He said in that case, materials were made available by the state to the school district under a judge's order, which prohibited copying or public dissemination of some documents.

The court papers filed by the school district say federal agents seized dozens of school computers and were given maps and blueprints of the school, a student directory with parents' phone numbers, attendance on the day of the shooting and locker combinations for each student.

Jim Ragsdale can be contacted at jragsdale@pioneerpress.com or 651-228-5529.

Student Jeff Weise, 16, took his life March 21 after killing 10 people in Red Lake, Minn.

Man Gets Prison Over Child Porn (TUSCCIT)

By HEIDI ROWLEY, Tucson Citizen

Tucson Citizen, September 9, 2005

A Tucson martial arts instructor has been sentenced to 2.5 years in federal prison for possessing hundreds of child pornography images.

David Michael Lader, 41 will also be fined $30,000 followed by lifetime supervised release with sex offender conditions, a U.S. Attorney's Office news release said. He was ordered to provide a DNA sample.

Lader pleaded guilty to possessing more than 300 child pornography images on his home computer. Many were acquired over the Internet and involved children younger than 12, officials said. U.S. Immigration and Customs Enforcement agents arrested him in April 2004. Lader, who is not in custody, must surrender to U.S. marshals Oct. 12.

In delivering the sentence yesterday, U.S. District Judge Raner Collins noted that at the time of the crime, Lader was a registered sex offender yet was teaching children and adults.

He worked at the Tucson Racquet & Fitness Club and through The Dojang martial arts school, according to Tucson Citizen archives.

Lader has two misdemeanor indecent exposure convictions in Ohio from 1992, the Citizen previously reported.

Rural Vs. City Ways At Issue In A Wisconsin Murder Trial (NYT)

By Gretchen Ruethling

The New York Times, September 9, 2005

DOJ_NMG_0004045

MADISON, Wis., Sept. 8 - A jury was chosen in this liberal bastion on Thursday for the trial of a Hmong immigrant charged with killing six hunters, causing consternation in the North Woods, where the shootings took place.

Some residents of Rice Lake, where all the victims lived or grew up, said they were concerned that the jurors from Dane County, which encompasses Madison, might not grasp the nuances of rural life.

"They are not as rural, and their culture and their lifestyle is quite different from ours up here in the north," said Renee Gralewicz, an ethnic studies instructor at the Rice Lake campus of the University of Wisconsin. "So we might have some people who really don't understand the culture of hunting and the etiquette and the ethics and how all of that plays out on the jury."

Judge Norman L. Yackel of Sawyer County Circuit Court ruled in June that the jury for the trial of the immigrant, Chai Soua Vang, would be chosen from Dane County after the defense argued that publicity and strong emotions in the Rice Lake area jeopardized Mr. Vang's chances for a fair trial.

The concern about the composition of the jury stems in part from the racial overtones of the case. Mr. Vang, 36, a refugee from Laos who lived in St. Paul, Minn., told police that he had been sitting in a tree stand on private hunting land about 25 miles northeast of Rice Lake one Sunday last November when the hunters, who were white, swore at him and used ethnic slurs.

Mr. Vang said he shot at the hunters after someone shot at him first.

"The rest of the group scramble for something at the ATV so I shot them at the ATV and ran toward them because I thought that they will get something a gun to shoot me," Mr. Vang wrote in a letter from jail to a reporter for The Chicago Tribune. The letter has been admitted as evidence in the case. "I feel that this incident is happen because people are not able to treated others with respect like they want to be treated and hatred toward other people or race."

One survivor told the police that Mr. Vang fired first.

Hmong hunters have complained of harassment from white hunters, some of whom point to a different hunting culture as the root of the problem. Many residents in Rice Lake, which is 230 miles northwest of Madison and has a population of 8,300, dispute the claim that racial tensions have been high in the area.

Larry Jarvela, 60, the mayor of Rice Lake, said he thought people from the city, especially non-hunters, might have a hard time understanding the context of the incidents and hunting culture.

As to residents' reaction to the jury selection, he said, "I don't think they necessarily like it, but I think on the other hand they understand why it had to be done."

Dan Rassbach, who is organizing construction of a park in Rice Lake in honor of the slain hunters, said there was concern about lifestyle differences between people in Dane and Sawyer counties. "The hope is that they will understand the situation," he said. "If all the facts are presented, it should come out to be a fair verdict."

The 10 women and 4 men, all white, who were selected for the jury on Thursday will be sequestered during the trial, which starts on Saturday and is expected to last less than two weeks. Mr. Vang is charged with six counts of intentional first-degree homicide and three counts of attempted homicide. He has pleaded not guilty to all counts.

The Madison area is known as more liberal, diverse and Democratic than many other parts of the state, a reputation that comes in part from the students and faculty at the University of Wisconsin, who come from around the country and the world.

"It is indeed part of Wisconsin's general political culture that Madison is regarded as distinct from the rest of the state," said Dennis Dresang, a professor of political science at the university.

University students and faculty members were vocal critics of Senator Joseph R. McCarthy in the 1950's and also organized a strong antiwar movement during the Vietnam War.

Donald Downs, another political science professor at the university, said Wisconsinites tended to consider people in the Madison area elite and better educated than people from other parts of the state, and he said hunting was less prevalent there than in northern Wisconsin.

About 130 potential jurors came to court for jury selection on Thursday. Some 200 jurors had already been dismissed based on written answers to more than 60 questions in a questionnaire over the past few weeks.

During the process, Mr. Vang sat quietly in a dark green suit, white shirt and tie. Four of his family members were watching from a television monitor in another courtroom but would not talk to members of the media.

Judge Yackel said many jurors indicated in the questionnaires that they had heard about the case, and he asked them to put aside that information. "I guess what we're asking you to do is unring a bell," he said at the beginning of the selection. "That may be difficult for some and impossible for others."

Nine jurors were excused during the selection process because they said they had a conflict of interest or would not be able to separate prior knowledge of the case to make a judgment based solely on evidence.

Peg Lautenschlager, the state attorney general who is prosecuting the case at the request of Sawyer County, asked potential jurors about their experiences with weapons, confrontation, violence and hunting.

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Jonathan Smith, one of Mr. Vang's lawyers, focused on his client's presumed innocence and asked whether jurors could be objective in light of intense media coverage of the incident.

"Does everyone agree that Mr. Vang as he sits here this morning is presumed innocent?" Mr. Smith asked. "Does anyone have a fear of turning in a verdict of acquittal?"

Mr. Smith also said Mr. Vang's race should not enter into the deliberations and asked potential jurors if that or the number of charges would influence their objectivity.

Mr. Vang's lawyers are expected to argue self-defense, having ruled out a mental illness defense, and they have asked the judge to provide the jury with a legal definition of the term.

Mr. Vang faces life in prison if convicted.

CIVIL LAW:

Bush Loses Appeal On Base Closings (NYT/AP)

By The Associated Press

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 (AP) - The Bush administration lost a last-minute bid on Thursday to persuade the Supreme Court to intervene and protect a federal panel's recommendations for the closing and realignment of military bases.

Judges in Connecticut and Tennessee had blocked the panel from recommending changes at local Air National Guard bases, and Justice Ruth Bader Ginsburg on Thursday rejected the administration's request for intervention. Another appeal could be filed later and handled by the full court.

Solicitor General Paul Clement said in a court filing that disorder was undermining the work of the president and the commission that recommended the closings.

By law, the commission had until Thursday to send its final report to the president, who had pledged to send it to Congress without changes. Congress would then have 45 days to block it.

Justice Ginsburg, noting that the federal appeals court in New York was dealing with the same case, said, "This court should not short-circuit the normal review process absent a showing of irreparable harm stronger than that presented here."

Justice Ginsburg handles appeals from the New York court.

White House Gets Base-Closing Recommendations (WP/AP)

By Associated Press

The Washington Post, September 9, 2005

The base-closing commission submitted its recommendations to the White House last night after withdrawing proposed changes at an Air National Guard base in Connecticut.

What was to have been a routine paperwork delivery of those proposals to President Bush was threatened by a cross-country legal fight.

Judges in Connecticut and Tennessee blocked the panel from recommending changes at local Air National Guard bases. The Tennessee decision was overruled by an appeals court yesterday afternoon, but the Connecticut injunction stood.

Supreme Court Justice Ruth Bader Ginsburg rejected the Bush administration's request for intervention in the Connecticut case.

The Base Closure and Realignment Commission, which was bound by law to send its report to the president by yesterday, withdrew the portion of the report recommending the realignment of Connecticut's 103rd Fighter Wing. The plan would have moved jets from Connecticut's Bradley Air National Guard Base to Massachusetts.

The commission said it would restore the recommendation if the Connecticut court's injunction "is later vacated, reversed, stayed or otherwise withdrawn."

Separately, Illinois, Missouri and New Jersey lost emergency Supreme Court appeals intended to stop the commission from sending the report to the president. Facilities in those states are among hundreds targeted by the panel for closure or consolidation in the first round of base closings in a decade.

Solicitor General Paul D. Clement, the administration's Supreme Court attorney, said the court should safeguard the work of the president and a commission that has spent five months on a plan to restructure domestic military bases to save billions of dollars.

The president has said he will probably pass the commission's final report on to Congress without changes, but he still could reject it or send it back to the commission for more changes. Copies of the report will be delivered this morning to

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Congress and the Defense Department. After Congress receives the report from the president, lawmakers will have 45 days to block it, although they have never rejected reports in base-closing rounds.

Ginsburg said a federal appeals court in New York was dealing with the Connecticut case and "this court should not short-circuit the normal review process absent a showing of irreparable harm stronger than that presented here." Ginsburg handles appeals from the U.S. Court of Appeals for the 2nd Circuit.

The Supreme Court dealt with a flurry of paperwork yesterday, a day after the funeral for Chief Justice William H. Rehnquist. Lawyers representing Sen. Jon S. Corzine (D) and other New Jersey officials said they wanted a reprieve to appeal the decision to close Fort Monmouth.

Missouri Attorney General Jay Nixon asked the high court to protect an Air National Guard unit in St. Louis, and Illinois Gov. Rod Blagojevich (D) challenged plans to move National Guard fighter jets.

Clement had argued for the government that a Connecticut judge was out of line Wednesday in barring the commission from recommending changes at an Air National Guard base in that state.

In other base-closing lawsuits, a Massachusetts judge yesterday rejected the state's efforts to protect the Otis Air National Guard Base. Like several other states, Massachusetts argued that changes to their National Guard units or bases must be approved by governors.

Caremark Pays $137.5M To Settle Case (AP)

The Associated Press

AP, September 8, 2005

Sep. 8, 2005 - Pharmacy benefits manager Caremark and the Justice Department agreed Thursday to a $137.5 million settlement of lawsuits originally filed by whistleblowers claiming a predecessor company received kickbacks affecting several federal health care programs.

Nashville-based Caremark Rx Inc. admitted no wrongdoing in making the settlement, which was approved by a Philadelphia federal court Thursday.

The lawsuits were filed in 2002 under the whistleblower provisions of the Federal False Claims Act by three former executives of AdvancePCS Inc., a Texas-based pharmacy benefits manager that Caremark acquired in March 2004. The Justice Department joined the lawsuits after they were filed.

The lawsuits contended AdvancePCS took kickbacks from drug manufacturers to give their products favorable treatment under contracts with the Federal Employees Health Benefit Program, the Mailhandlers Health Benefit Program, Medicare+Choice and other government programs.

The court filings also charged that AdvancePCS paid existing and potential customers kickbacks to sign pharmacy benefits management contracts. All the allegations date to before Caremark took over AdvancePCS.

"Caremark and the marketplace were aware of this situation prior to our acquisition of AdvancePCS," Caremark CEO Mac Crawford said in a statement. "We are pleased with the settlement with the Federal Government as it allows us to avoid the expense, uncertainty and distraction of potentially time-consuming litigation."

Shares of Caremark closed down 39 cents at $48.26 on the New York Stock Exchange.

The False Claims Act allows private citizens to sue individuals and companies they believe have defrauded the government.

"Each of our clients came forward because they thought it was the right thing to do to improve the PBM industry," said W. Scott Simmer, a partner with Robins, Kaplan, Miller & Ciresi and lead counsel to the three plaintiffs. "They put their careers and their families on the line and are delighted with the result in this case."

Not dismissed by the settlement are whistleblower claims on behalf of 10 states: California, Delaware, District of Columbia, Florida, Illinois, Louisiana, Massachusetts, Tennessee, Texas and Virginia.

Also pending against Caremark is a separate Justice Department and whistleblower lawsuit alleging the company did not appropriately repay Medicaid and other federal health insurance programs. Caremark has denied those claims.

U.S. Senate Panel OKs Asbestos Subpoena Power (REU-Y2)

By Susan Cornwell

Reuters, September 9, 2005

A Senate committee on Thursday gave its leaders authority to subpoena information from companies facing asbestos lawsuits as lawmakers work on legislation creating a $140 billion fund for asbestos victims.

The unanimous voice vote gave Judiciary Committee leaders authority to subpoena information about how much companies would expect to contribute to the privately financed fund.

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The panel's chairman, Pennsylvania Republican Sen. Arlen Specter (news, bio, voting record), told members he did not know if subpoenas would be necessary, but he wanted "a little muscle" in case companies continued to resist producing the data.

Although the proposed bill has a formula for industry contributions, based on a company's size and prior asbestos expenditures, many companies are reluctant to discuss how it would affect them, saying the information could expose them to more lawsuits.

Specter said he hopes to bring the bill to the Senate floor the first week of October. Aides said the industry information could be used to make changes necessary to build Senate support for the bill.

Without the sought-after information, the bill is "in peril," committee Republican Texas Sen. John Cornyn (news, bio, voting record) warned as he applauded the subpoena power authorization.

Specter and the ranking Democrat on the panel, Sen. Patrick Leahy (news, bio, voting record) of Vermont, have been seeking more data from the industry for months to answer colleagues' questions about the asbestos compensation fund legislation, which they are co-sponsoring.

Some senators in both parties say they cannot back the bill unless they know how much each company would pay into the fund. Some worry the costs will be unequally distributed or that there simply will not be enough money contributed to pay claims.

"The committee has been woefully underinformed about both the costs and funding of this bill," Cornyn said in a statement. "Without the necessary information, and without the ability to meet the funding requirements, this bill is in peril."

Asbestos, widely used for fireproofing and insulation until the 1970s, has been linked to cancer, and hundreds of thousands of injury claims have bankrupted dozens of U.S. companies.

Specter and Leahy's bill, approved by the judiciary panel in May, would halt the lawsuits and pay claims from a fund financed by asbestos defendant companies and their insurers.

U.S. Prosecutors Allege Safety Violations By American Airlines (FINDLAW/AP)

Find Law, September 9, 2005

(AP) - NEW YORK-American Airlines put its passengers at risk and violated multiple U.S. air-safety regulations in 2003 by allowing one of its jets to fly with a leaky fuel tank, according to a civil complaint filed by the U.S. attorney's office in Brooklyn.

The complaint, which was made public on Thursday, seeks more than $1 million (â,¬800,000) in penalties against the airline.

Tim Wagner, a spokesman for American's parent company AMR Corp., declined to discuss the complaint, saying lawyers for the Fort Worth, Texas-based airline had not had a chance to review it.

The complaint alleges that on Nov. 17, 2003, a Federal Aviation Administration inspector was a passenger on an American flight from Orlando, Florida, to New York's La Guardia Airport when he saw fuel leaking from a wing of the McDonnell Douglas MD-82.

The inspector warned the flight crew about the leak and demanded it be recorded in the aircraft's maintenance log. However, "no such entry was made by the pilot or maintenance personnel," the complaint said.

American allowed the "unsafe and un-airworthy" jet to take 53 commercial flights over two weeks before it was repaired during a regularly scheduled maintenance check, the complaint said.

During that period, the "aircraft was operated in a careless and reckless manner so as to endanger the life or property of another," the complaint said.

Will The Supreme Court Unleash Civil RICO? (LAW)

By Pamela A. Maclean, The National Law Journal

Law.com, September 9, 2005

Many believe that the 1970 civil racketeering law was created to apply only to traditional Mafia-style criminals as a way to force them to pay for their criminal enterprise.

Over the years, interpretation of civil RICO (Racketeer Influenced and Corrupt Organizations Act) has evolved into a tug of war between the U.S. Supreme Court, which reads the law broadly to reach beyond the mob, and appellate courts, which have repeatedly curtailed plaintiffs' use of the act.

The notion that the law should only allow recovery for harm caused by organized crime members is a myth, said G. Robert Blakey, drafter of the original statute and a law professor at Notre Dame University.

"The mob was the occasion for RICO but it does not define its scope," he said. "When it was argued on the House and Senate floors, the principal spokesman said, 'No, it is not a mafia statute,'" Blakey said.

The welter of legal standards imposed by courts over the years has created a patchwork of splits in the circuits around the country. Despite this, the Supreme Court has been "vacillating in the degree to which it is willing to intervene to clarify," Blakey said.

But the new term may change that. The justices have granted review in two RICO cases, and the U.S. solicitor general is pushing for review of a third, while a fourth appeal is on the way.

In general, the cases raise important questions for the high court of how broadly civil RICO can be applied and what the scope of remedies is, according to Erwin Chemerinsky, a Duke University law professor who will argue on behalf of plaintiffs in one of the cases granted review.

CIVIL VS. CRIMINAL

Civil racketeering is intimately intertwined with its criminal counterpart. Criminal RICO law targets organizations that conspire to commit a pattern of crimes specified in the act, from murder and arson to mail fraud. Civil RICO allows victims of criminal racketeering to be compensated for their losses, although a criminal conviction is not necessary to make the civil claim.

Because RICO was modeled on antitrust law, successful private plaintiffs in RICO suits may recover treble damages. Civil RICO has become popular with civil attorneys because it also provides a longer statute of limitations, four years, and allows discovery going back as much as 10 years.

Blakey said that while district courts seem to find any excuse to throw out civil RICO cases, they do not do the same to criminal racketeering cases. The criminal sanctions have been used more often against political corruption than the mob, he said.

"Politicians have felt the full brunt of RICO and that doesn't bother me at all. We can live with a few Mafiosi, but a crooked politician affects everything," he said.

For the 2005 term, the high court has agreed to review the appropriateness of a national injunction prohibiting anti-abortion pickets from blockading abortion clinics, Scheidler v. National Organization for Women, No. 04-1244, and the Bank of China's effort to reinstate a $132 million RICO jury verdict against defendants accused of conspiring to cheat the bank through fraudulent loan deals, Bank of China, NY Branch v. NMB, No. 03-1559.

In addition, the solicitor general has asked the court to review a recent 2-1 decision by the U.S. Circuit Court for the District of Columbia, which eliminated the government's RICO remedy: forcing the tobacco industry to disgorge $280 billion it earned through alleged fraud by lying to the American people about the dangers of smoking.

That decision, in U.S. v. Philip Morris USA Inc., 396 F.3d 1190 (2005), conflicts with decisions in the 2nd and 5th circuits, Blakey said.

Both those decisions, U.S. v. Carson, 52 F.3d 1173 (2nd Cir. 1995) and Richard v. Hoechst Celanese Chem. Group Inc., 355 F.3d 345 (5th Cir. 2003), authorize equitable disgorgement as a RICO remedy, wrote Edwin Kneedler, acting solicitor general.

Perhaps the most unusual of the four cases is one expected to reach the high court by November. It springs from a split between the 9th Circuit and the 7th and 11th circuits.

The 9th Circuit held in August that a convicted murderer can sue the Los Angeles Police Department as a racketeering enterprise, alleging that he was framed and falsely imprisoned by officers in what became known as the Ramparts scandal, Diaz v. Gates, No. 02-56818.

Ramparts refers to the police division where officers were accused of stealing drugs and framing hundreds of suspects on phony charges in 2000.

Traditionally, the injury to property may come in the form of a burned-out building, but in the case of David Diaz, his alleged injury -- false imprisonment by police -- hindered his ability to earn a living. The 9th Circuit said a loss or injury in employment can be considered an injury to property for purposes of civil RICO. That runs counter to an 11th Circuit decision denying damages sought by the relatives of FBI agents killed in a shootout with criminal suspects, Grogan v. Platt, 835 F.2d 844 (1988), and a 7th Circuit decision in Doe v. Roe, 958 F.2d 763 (1992), which held that economic losses flowing from personal injuries cannot be recovered using RICO.

While Diaz may have standing to get in the courthouse door, that does not mean his RICO will survive, the appeals court made clear. Whether his racketeering allegations are adequate "is a matter on which we express no view," the 7-4 unsigned opinion stated.

To Stephen Yagman, Los Angeles attorney for Diaz, the Supreme Court declared 20 years ago that civil RICO is "wide as the earth and high as the sky," starting with Sedima v. Imrex Co., 473 U.S. 479 (1985).

Judge Stephen Reinhardt, in a concurring opinion in Diaz, suggested that it is time for Congress to reconsider the breadth of the law. Starting with Sedima, racketeering law has been "stretched both in scope and meaning far beyond that which

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Congress originally intended," he said. "In my view, it is well past the time for our lawmakers to take another look at RICO and consider amending the statute so as to limit it to its original purpose."

Dissenting Judge Ronald M. Gould warned that the Diaz majority would confer standing to sue on any plaintiff RICO-savvy enough to allege lost employment.

Whatever happens to Diaz, Yagman points out that there are 150 to 200 civil suits by prisoners stemming from the Ramparts police scandal, many with RICO claims. Those defendants may now keep those suits alive.

Los Angeles Deputy City Attorney Janet G. Bogigian said the city will appeal the 9th Circuit decision by November. Although she declined to discuss the case, her papers filed with the appeals court state that Diaz tried to "fashion an obstruction of justice allegation from his evidence of fabrication and witness tampering." It does not save his RICO case, she argued.

Chemerinsky speculated that it is possible the high court would accept the Diaz case. Notre Dame's Blakey was more doubtful. He called the Diaz case "factually unattractive." Nonetheless, he said, "I think the 9th Circuit is right and the 7th Circuit is wrong."

Chemerinsky said, "The brilliance of Diaz is that it uses a broad statute to deal with the social issue of police abuse. If it is ultimately upheld it gives another tool to plaintiffs' lawyers to gain compensation for police abuses," he said.

Blakey tried to debunk what he considers another myth about RICO, that broad reading of the law would open the floodgates to a spate of cases.

In the first decade after its passage, criminal RICO prosecutions accounted for fewer than 30 cases a year and usually went after traditional organized crime such as extortion, gambling or labor racketeering, according to a Vanderbilt University report in 1990.

In the early 1980s, a U.S. Supreme Court ruling that the profits from racketeering were subject to forfeitures from businesses and labor helped produce a rise in the use of the criminal law for major mafia prosecutions in New York; Chicago; Kansas City, Mo.; Cleveland; Philadelphia; and Boston.

RICO was also used in a Chicago prosecution of corrupt judges, in Seattle against a neo-Nazi group and South American drug traffickers, and against former Panamanian leader General Manuel Noriega. Then it began to be applied to white-collar crime, including insider trading and bank fraud in the 1980s savings and loan scandals.

Civil RICO cases remained nearly nonexistent until the 1990s, when the Supreme Court ruled for the second time that civil RICO has broad application.

Blakey said RICO applies to a pattern of unlawful behavior, not simply multiple uses of the mail or phones. One explanation for the slow growth in its use, he said, is that civil litigation and RICO litigation could be compared to the difference between an internist and a brain surgeon. RICO is extremely complex, he said.

And that may also account for judges and appellate courts continuing to throw up barriers to the broad application of civil RICO beyond traditional mobsters.

The civil statute states that "any person injured in his business or property by reason of a violation of section 1962 [racketeering] ... may sue ...

"What part of 'any' don't they understand?" asked Blakey. "The myth [of mob only application] is like a vampire. It has to have a stake driven through its heart over and over," he said.

Attorneys Brace For Impact Of New Bankruptcy Code (LAW)

By Peter Geier, The National Law Journal

Law.com, September 9, 2005

The bankruptcy bar is bracing for the bumpy landing many practitioners expect when the new Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 touches down next month.

Most bankruptcy lawyers agree that the new code is highly complex and technical, that it will cause significant changes in consumer and business bankruptcy practice, and that it is so poorly drafted that it will take time for the courts to sort out its ambiguities.

Observers also warn that a law purportedly aimed at financially undisciplined consumers is sure to bear unintended consequences for entrepreneurs, independent contractors and self-employed people -- particularly innovators who use bankruptcy relief when caught in a lean business cycle.

Alan N. Resnick, a co-editor-in-chief of "Collier on Bankruptcy," a comprehensive 23-volume treatise on statutory and procedural bankruptcy law and a professor of bankruptcy law at Hofstra University School of Law in Hempstead, N.Y., said lawyers will have their hands full getting used to the changes.

"First and foremost for lawyers and practitioners is the learning curve. It's a very large bill, it's voluminous -- over 500 pages. Every time you look at the bill you see something else," said Resnick, also of counsel to the bankruptcy and restructuring

department at Fried, Frank, Harris, Shriver & Jacobson in New York and a member of the bankruptcy rules advisory committee of the Judicial Conference of the United States. He agrees with many other bankruptcy practitioners that the legislation, which becomes effective Oct. 17, is very poorly written and filled with ambiguities.

"I don't think there's any doubt that we will see a lot of litigation in the year to come over interpreting many ambiguities in these provisions. It needs a technical amendments bill to clean it up," Resnick said.

THE 'POSITIVES'

Among the "positives" of the new law are provisions protecting patients in nursing homes and health care facilities that file for bankruptcy, and a new Chapter 15 for cross-border cases based on the United Nations Commission on International Trade Law Model Law on Cross- Border Insolvency, which is "a step in the right direction," he said.

Bankruptcy lawyers know that the new law will necessitate learning and improvising new strategies, but one aspect that has received little attention yet is the potential effect it will have on the practices of nonbankruptcy lawyers.

For instance, new provisions on how companies in bankruptcy must handle employee incentives, severance packages and retiree benefits are bound to influence how employee-benefits lawyers draft their clients' contracts. And provisions that make it more difficult to reorganize a single-asset real estate venture will be important to real estate attorneys, Resnick said.

John D. Penn, president of the American Bankruptcy Institute and a commercial bankruptcy attorney at Haynes and Boone in Fort Worth, Texas, said that despite heavy media coverage of the effect that the new law will have on consumers, "there are some very dramatic changes on the business side."

For the first time, goods purchased in the ordinary course of business and delivered within 20 days of the filing of the bankruptcy will count as administrative expense claims; that is, they will have a status on a par with legal fees, which generally are paid by the effective date of the reorganization plan, Penn said.

"This is particularly significant because there will be a lot of companies whose available assets simply won't support the cost of a bankruptcy and items delivered within the 20 days before the bankruptcy was filed. It means that in all likelihood, those companies will be on the auction block either right before they file or right after they file," he said.

Another significant rule change involves key employee-retention plans, or KERPs, which are financial incentives paid to certain employees to stay for prescribed time periods or events in the bankruptcy proceeding. It will result in companies no longer being able "to use financial incentives to keep employees on board, because [under the new rules] the ones who can leave, will leave," Penn said.

Commercial bankruptcy lawyers also have voiced concern about strict time limits that Congress imposed on the period during which companies in bankruptcy are allowed to assume or reject nonresidential real estate leases, as well as an 18-month cap on a debtor's exclusive period to file a reorganization plan.

"For the United [Airlines] that files after Oct. 17, if they want the debtor to remain in control [of the reorganization plan] after 18 months, they are going to have to work very quickly," Resnick said.

However, concern over such things as the new exclusivity provision is overstated in the view of Professor Robert M. Lawless, who teaches bankruptcy and corporate law at the William S. Boyd School of Law at the University of Nevada, Las Vegas.

"Tightening [the exclusivity period] and shortening it aren't going to matter too much. I don't think it matters now. If anyone had a good plan for United, I'm sure we would have heard about it by now," said Lawless, noting that the same was true of Eastern Airlines "10 to 12 years ago."

Lawyers and the public should be more concerned with "automatic dismissal triggers on the consumer side," as well as expanded grounds for dismissal of Chapter 11s "for failure to file just about any form," Lawless said.

But the central flaw of the legislation, he said, is that while the law is aimed at making corporate restructuring more efficient and irresponsible consumers more accountable, those who take the biggest hit are small businesses such as sole and family proprietorships, entrepreneurs, self-employed people and independent contractors.

In "The Myth of the Disappearing Business Bankruptcy," a study funded by the Kansas City, Mo.-based Ewing Marion Kauffman Foundation that ran in the California Law Review in May, Lawless and co-author professor Elizabeth Warren of Harvard Law School argue that the new law is based on the incorrect premise that business bankruptcies account for only 2 percent of the total, whereas the figure is actually closer to about nine times that amount.

"What we have seen is that one in 7 consumers in bankruptcy court is actually there in connection with his or her own business. These folks are being made to fit into a bankruptcy system designed to deal with consumer problems. What you've got is the proverbial square pegs in a round hole," Lawless said.

"I think [the new law is] going to be a bad thing. I have said before that it's the poster child for campaign finance reform in that it is a law bought and paid for by the credit industry," he said.

CONSUMERS HURT?

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Henry J. Sommer, co-editor-in-chief of "Collier on Bankruptcy" and supervising attorney at the Consumer Bankruptcy Assistance Project, a pro bono bankruptcy legal assistance program based in Philadelphia, said that "there is no question that on the whole consumers are a good deal worse off" because the process will be "more expensive and more burdensome."

Bradford W. Botes, a partner at Bond & Botes, a multistate bankruptcy practice based in Birmingham, Ala., and a director on the board of the National Association of Consumer Bankruptcy Attorneys, said that he doubted whether the new, "much more arduous, much more rigorous procedure" will provide benefits for creditors or anyone else.

"I am certain that it will make our practice more labor intensive, and that we will charge more money filing bankruptcies, which is unfortunate because most of the people who file have a hard enough time paying as it is," said Botes. He added that he expects simply "to file less cases and be compensated more for the cases we do file.

"It's ironic to me that a Republican Congress has created a lot more bureaucracy" by inserting provisions such as consumer bankruptcy filers having to undergo credit counseling before filing and credit education before a bankruptcy court discharges their cases, Botes said.

It further intrigues Botes that Congress should pick this particular time -- when the Internal Revenue Service and possibly other federal agencies "are investigating the credit consulting industry for violations of not-for-profit tax laws and using misleading language in advertising to the public" -- to include such requirements, he said, citing the AmeriDebt Inc. case.

In March, AmeriDebt, which the Federal Trade Commission had accused of misrepresenting itself as a nonprofit credit counseling organization, shut down its debt management operation as part of a settlement of an FTC civil action, which alleged that the company deceived consumers into paying at least $170 million in hidden fees.

Another irony is how a Republican Congress that is purportedly concerned about individuals' privacy and identity theft issues would include a provision that "any creditor can request tax returns from any debtor at any time," Botes said.

Richard B. Levin, a bankruptcy attorney in the Los Angeles office of Skadden, Arps, Slate, Meagher & Flom, said he that expects that in the near future the new legislation will make courts and lawyers very busy sorting out the bill's bad drafting, and "very, very busy when the next bankruptcy boom hits -- as it will, of course."

"Some people believe that the creditor lobby wanted to make war on the debtors by making war on their lawyers. What the legislation has done is make [filing for bankruptcy] more dangerous for lawyers and more expensive for consumers."

Pope Wants Head-of-State Immunity From Texas Suit (LAW)

By Brenda Sapino Jeffreys, Texas Lawyer

Law.com, September 9, 2005

Joseph Ratzinger, a defendant in a Texas suit filed before he was elected Pope Benedict XVI, wants to be dismissed from the litigation, arguing he has head-of-state immunity.

But lawyers for the three plaintiffs, who allege in the civil suit they were abused by a former seminary student in Houston, vow to challenge any suggestion of immunity issued by the U.S. Department of State in response to Ratzinger's request, a challenge that could put the immunity argument to a test.

"This is a case of first impression," says plaintiffs lawyer Tahira Kahn Merritt of Dallas.

"We shall see what the political arm of government does," says Daniel Shea, a solo practitioner in Houston who represents one of the plaintiffs in John Doe 1, et al. v The Archdiocese of Galveston-Houston, et al., which is pending before U.S. District Judge Lee Rosenthal in Houston.

"It's a legitimate political question," Shea says. "I would assume that they wouldn't make a decision on that without running it by the president of the United States."

According to a status report filed by Ratzinger on Aug. 23, the request remains under review before the State Department. Joanne Moore, a press officer for the State Department, says it does not comment on specific cases.

A lawyer for Ratzinger, Jeffrey S. Lena, a solo practitioner in Berkeley, Calif., says he cannot comment on the allegations in the suit or on the request for immunity. But in Ratzinger's Amended Motions to Dismiss, filed in May, the pope alleges he should be dismissed from the suit on several grounds, including his presumed immunity.

"Because Defendant is head of a recognized state, he is absolutely immune from the jurisdiction of the United States Courts," he says in the motion.

Ratzinger also says he should be dismissed from the suit on First Amendment grounds because the plaintiffs' claims would intrude on the internal working of the Roman Catholic Church and would require the court to interpret the meaning of religious documents and resolve issues of church governance.

Merritt, of Kahn Merritt & Allen, who represents two of the plaintiffs in the suit, says the judge should not grant Ratzinger's request for head-of-state immunity because the allegations against him relate to his actions while serving as head of the Congregation for the Doctrine of the Faith for the church.

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"He was the policeman that set doctrinal laws, basically, "You are bad, this is your penance,' " Merritt says.

As alleged in the complaint, Ratzinger "designed and explicitly directed" a conspiracy to fraudulently conceal tortious conduct in connection with the alleged sexual abuse of the three plaintiffs. In the complaint, the plaintiffs cite a 2001 letter that then-Cardinal Ratzinger sent to all bishops, reminding them that all proceedings against clerics accused of improprieties with minors under age 18 should be sent to the tribunal of the Congregation for the Doctrine of the Faith.

"It's basically all part of the conspiracy and cover up to get these files into a secret forum," Merritt alleges.

Ratzinger denies the allegations in John Doe 1 and asks to be dismissed as a defendant. So have the other defendants in the suit -- the Archdiocese of Galveston-Houston; Joseph A. Fiorenza, the bishop in the diocese; and a priest, William Pickard, who is described in the Plaintiffs' Original Complaint as a "vocational director" for the seminarian, Juan Carlos Patino-Arango. Patino-Arango is not represented by counsel, according to the docket report in the suit.

'NO PRIOR KNOWLEDGE'

In the original complaint in John Doe 1, the plaintiffs allege they were sexually abused in separate incidents in 1996 by Patino-Arango, a native of Colombia who was then a seminarian working at St. Francis de Sales Church in Houston. They allege in the complaint that after the parents of John Doe 1 reported to the archdiocese the alleged abuse on the part of Patino-Arango, he was moved to a "retreat house for abusive priests" in Houston, and later "secretly spirited" out of the country and sent back to Colombia.

Among other things, the plaintiffs bring breach of confidential relationship and conspiracy to breach a confidential relationship causes of action against all of the defendants, along with assault by offensive physical contact and conspiracy to commit sexual assault; intentional infliction of emotional distress and conspiracy to commit intentional infliction of emotional distress; fraud and fraudulent misrepresentation and conspiracy to commit fraud and fraudulent misrepresentation; and fraudulent concealment and conspiracy to fraudulently conceal.

They also bring sexual exploitation and conspiracy to commit sexual exploitation causes of action against all defendants except Ratzinger, and negligence and negligent misrepresentation involving risk of physical harm against all defendants except Patino-Arango.

They seek unspecified actual and punitive damages in the suit, which the plaintiffs originally filed in 2004 in state court in Houston. It was removed to federal court in 2005.

In the Defendants' Answer filed by the Texas defendants, they allege Patino-Arango was dismissed as a seminarian the day after the parents of one of the plaintiffs reported the alleged abuse, the diocese informed Children's Protective Services of the allegation and the diocese advised Patino-Arango that he could not leave the country while law enforcement investigated. The defendants also allege in the answer that three weeks after the initial report, in June 1996, police advised the diocese that Patino-Arango was "free to leave the country."

The diocese defendants allege in their answer that they had "no prior knowledge of any sexual misdeed by Patino and as soon as they learned of the allegation in this case, took swift, decisive action by dismissing him from seminary and all other activities in the Diocese."

Daniel Schick, a partner in Vinson & Elkins in Houston who represents all of the defendants except Ratzinger and Patino-Arango, says there was no conspiracy.

"The archdiocese did the right thing back in 1996 by reporting the allegation [from John Doe 1] to law enforcement, barring the perpetrator from any ministry and by reaching out at that time to the victim's family, and heard nothing more until the lawsuit was filed in 2004," Schick says.

Patino-Arango "was kept in Houston until law enforcement said that it was OK to allow him to return home to Colombia," Schick says.

SEPARATE COUNTRY

Schick says head-of-state immunity should apply to Ratzinger.

"There's been a long tradition in international law prohibiting suits against heads of state, and we as a matter of comity extend that to foreign heads of state. He absolutely is recognized by international law," Schick says.

But Shea, who studied to become a priest but is not ordained, contends that Ratzinger's immunity as a head of state is not automatic.

Jordan Paust, a professor at the University of Houston Law Center who teaches international law, says head-of-state immunity is not dictated by treaty.

"It's sort of a common-law notion," says Paust.

Paust says that U.S. courts, despite the separation of powers, often do follow a suggestion of immunity from the U.S. Department of State, but don't always do so. And he notes that the State Department doesn't always act on the requests for a suggestion of immunity.

"Sometimes they remain silent. Sometimes they expressly say they don't have a dog in this fight and sometimes they will file a formal suggestion of immunity with the court," he says.

If the State Department does suggest immunity for Ratzinger on head-of-state grounds, Shea says he's prepared to challenge it on constitutional grounds. He contends that the head of the Roman Catholic Church should not receive that immunity.

"This is not a suggestion of immunity [request] filed on behalf of the prime minister of Canada or the guy down in Venezuela or Tony Blair or even Jacques Chirac because there, there are no First Amendment church-state considerations," Shea says.

A lawyer for Ratzinger, Van Gardner, a partner in Houston's Hennessy, Gardner & Barth, did not return a telephone message seeking comment before presstime, and Lena, another lawyer for Ratzinger in John Doe 1, declines comment on the immunity issue.

However, a lawyer who represents the Archdiocese of Dallas says it's his view that immunity would apply to Ratzinger. Randal Mathis, a partner in Mathis & Donheiser in Dallas, says, "The Vatican is a separate country for purposes of this and the pope is the bishop of Rome and it's a separate entity from a diocese in another part of the world and a separate entity not only in the sense of church law, but in the sense of the law of any given country."

He says arguing otherwise ignores the reality of how the Roman Catholic Church is organized.

"It's kind of like the equivalent of suing President Bush because of something the local police department did wrong," Mathis says.

Schick says it doesn't matter that Ratzinger was sued before he became pope.

But Merritt says Ratzinger isn't being sued for his actions as pope, but instead in his former role as head of the Congregation for the Doctrine of the Faith.

CIVIL RIGHTS:

Justice Dept. Settles Charges Against DCFD (WUSA-TV)

WUSA-TV, CBS 9, Washington, DC, September 9, 2005

The Justice Department today announced a settlement agreement with the District of Columbia regarding pregnancy-related discrimination in the District's Fire and Emergency Medical Services Department (FEMSD).

The complaint alleged that individuals seeking employment as emergency medical technicians with the FEMSD were required to undergo a pre-hiring pregnancy test, with subsequent employment offers contingent on a negative test result. The complaint further alleged that, once hired, emergency medical technicians were advised by FEMSD management that any technician who became pregnant during her first year of employment would be in jeopardy of losing her job.

"Using pregnancy as a barrier to a woman's entry into the workplace and continued job security is illegal and inexcusable," said Bradley J. Schlozman, Acting Assistant Attorney General for the Civil Rights Division. "Forcing women to choose between their baby and their job clearly contravenes federal law and will not be tolerated by this Administration."

The three plaintiffs, all known as Jane Does, are emergency medical technicians employed by the D.C. Fire Department. The District required the plaintiffs, along with all other female applicants, to take a pregnancy test and obtain a negative result as a condition of employment. The plaintiffs tested negative for pregnancy and were hired. Upon reporting for duty, the plaintiffs attended a training class where a management official told the women in the class that if they became pregnant during their first year of employment, they were at risk of losing their jobs. Shortly after the training class, each plaintiff discovered she was pregnant. Because they had been threatened with losing their jobs if they became pregnant during the first year of employment, each woman terminated her pregnancy by abortion.

The United States intervened in the case and helped negotiate the three-year agreement, which was approved by the United States District Court for the District of Columbia. The settlement agreement requires the District to affirm nondiscriminatory employment policies approved by the Justice Department's Office of Justice Programs, implement training for supervisors on the rights of pregnant employees under Title VII, and regularly provide the United States with information concerning any new civil rights complaints. Additionally, the District agreed to compensate each of the Jane Does in the amount of $101,000 plus attorneys fees.

Jurors Acquit U.S. Border Officer In Civil Rights Case Filed By Tourist (AP)

By CAROLYN THOMPSON

AP, September 8, 2005

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BUFFALO, N.Y. (AP) - Homeland Security officer was found not guilty Thursday of beating a female Chinese tourist.

Jurors deliberated about five hours over two days before acquitting Robert Rhodes, a Customs and Border Protection officer, of a single federal count of violating the civil rights of Zhao Yan, 38, a businesswoman from Tianjin, China, who was touring Niagara Falls.

The case provoked anger in China after pictures of Zhao, her face swollen from pepper spray and her eyes and forehead bruised, were widely published after the incident last July.

Defence lawyer Steven Cohen accused the U.S. government on Thursday of prosecuting Rhodes to protect delicate U.S.-Chinese relations. Cohen said Rhodes was an easy target because he was openly gay and had complained about discrimination on the job.

Despite that, Cohen said, Rhodes would like to return to the job he has held for 17 years.

"Rob is a patriot and he loves this country," the lawyer said.

Rhodes was not immediately available to comment because of concerns for his safety. Cohen said he received a tip Saturday from a woman of Chinese origin that Rhodes' life would be in danger should he be cleared. It was one of numerous threats Rhodes has received, the lawyer said.

"The threat was if a not guilty (verdict) was reached, interested persons would kill him upon emergence from the courthouse," Cohen said. "I don't know if the threat had any credibility but the marshals are taking it seriously."

Jurors left U.S. District Court without commenting.

Zhao, who testified during the trial and is pursuing a $10 million US lawsuit against the U.S. government, was not in the courtroom for the verdict.

Government prosecutors claimed Rhodes used excessive force by slamming Zhao's head into pavement and striking her with his knee after pepper-spraying her at a Niagara Falls inspection station in July 2004.

Rhodes told investigators he believed Zhao and two companions might have been associated with a drug suspect who had just been caught and that the women ran when ordered inside. He said he followed proper Customs and Border Protection procedure in subduing the struggling woman.

He faced up to 10 years in prison if convicted.

"The jury did a great job for their country," Cohen said. "They reaffirmed a law enforcement officer's right to protect himself and the right to be able to do what is necessary to do their job."

Cohen said border officers throughout the country had adopted an unofficial policy against using any measure of force against a suspect.

"People who don't even know Officer Rhodes would say, 'Look what happened to Rocky,'" Cohen said, using Rhodes' nickname.

Cohen said he believed the jury was swayed by the testimony of two of Rhodes' fellow border officers - who took the stand against him. Although both were critical of the level of force Rhodes used, they indicated Zhao was resisting arrest.

Also key, Cohen said, was medical evidence that showed Zhao sustained what were considered minor injuries that included no fractures or broken bones.

NAACP Calls For Action In Police Shooting Of Teen (WEWS-TV)

WEWS-TV, September 9, 2005

CLEVELAND -- Funeral services were held Thursday for a Cleveland teen shot and killed by police last week, and now the Cleveland NAACP is joining the chorus of those calling for answers and for action.

Brandon McCloud, 15, was shot by police last Thursday in the bedroom of his home.

The National Association for the Advancement of Colored People says the police version of what happened doesn't quite make sense, NewsChannel5 reported.

"There is no justifiable reason why a 15-year-old boy, I don't care if he's black, white, blue, green, gray should be shot 10 times in his bedroom. I cannot make sense of that," said NAACP President George Forbes.

Police were carrying out a search warrant at McCloud's Jeffries Street home when they say the teen came at the officers from a closet with a knife.

The preliminary ruling was that the shooting was justifiable.

"If that's justifiable then any shooting of a black person is justifiable in this city," said Forbes.

The investigation into the shooting is following a preset protocol. Cleveland police said they have asked the FBI civil rights team to step in and monitor their process.

But the NAACP wants specific action taken, and they want it now.

"We expect these two men to be fired, fired, fired and prosecuted, and nothing short of that is acceptable," said Forbes.

And if that action is not taken, Forbes is quick to point out to the administration that this is an election year.

"It is the season for solution and you have to be mighty dumb not to understand what I'm saying," said Forbes.

Under police protocol, the officers involved will be making their formal statements by Monday.

The mayor has said the investigation process could take 90 days.

FBI Ends Beta Bridge Probe (CHARDP)

By Melanie Mayhew

Charlottesville Daily Progress, September 9, 2005

Cryptic graffiti scrawled on the University of Virginia's Beta Bridge - including "G Wizard," "G Society," "G Bug," a red eye and derogatory images of women - was not racially motivated, the FBI has concluded.

UVa President John T. Casteen III recently asked the Civil Rights Unit of the FBI in Washington to review photos of the graffiti images to determine their meaning.

James Lamb, an FBI special agent, reported the FBI's findings to university police. "A review by agents in the Civil Rights Unit found nothing to suggest racial implications," Lamb said.

A group of UVa students called police Aug. 29 after someone defaced Beta Bridge, a popular spot where students spray-paint announcements. The controversial defacement appeared during the first two weeks of classes, which were marred by a string of reported hate incidents.

Members of two historically black organizations had painted announcements for their events on both sides of the bridge. Shortly after they began advertising their events, the graffiti appeared.

During the days following the defacement, members of the university community speculated as to the meaning of the graffiti. Some students linked it to recent racial incidents and to the Ku Klux Klan. The speculation prompted Casteen to request FBI assistance.

"I am grateful to the many people who worked overtime for several days to resolve what had become a sensitive public issue in our community," Casteen said.

At the forefront of students' concerns were five reported incidents of written or shouted slurs, three reported incidents of gay bashing, a symbolic attack on a Christian undergraduate, an incident involving a group of white students harassing a group of Asian-Pacific Americans and inappropriate behavior toward women.

The information from the FBI is one more step in quelling hatred at the university, said Leonard W. Sandridge Jr., executive vice president and chief operating officer.

"Given the fact that there have been some incidents, everyone involved with the situation wanted to be very careful," Sandridge said. "We're working very hard to investigate all kinds of incidents of this nature. It reflects the fact that we're a community that's very concerned about these kinds of issues and wants to address them."

Smuggler To Serve 3 Years In Prison (SDUT)

By Onell R. Soto, Union-tribune Staff Writer

The San Diego Union-Tribune, September 9, 2005

A Carmel Valley man who headed a ring that smuggled dozens of Eastern Europeans into the United States through Tijuana was sentenced yesterday to three years in prison and forced to give up his house.

Yervand Asriyants, 42, a native of Azerbaijan, didn't speak during a hearing before Chief U.S. District Judge Irma E. Gonzalez. Asriyants had pleaded guilty June 9 to conspiracy and immigrant smuggling charges.

Asriyants was arrested after an investigation by FBI and Immigration and Customs Enforcement agents into a series of smuggling attempts at the region's border crossings involving Eastern European men, women and children.

"He was smuggling aliens across the border that were not what we consider to be typical," said FBI agent Roy Lemons, who added that the case had special urgency because of security concerns after the Sept. 11, 2001, terrorist attacks.

Lemons said no terrorist links were found.

The immigrants said they agreed to pay $5,000 to $10,000 to be brought from Lithuania, Poland, Russia and Ukraine into the United States through Mexico.

Prosecutors said the immigrants were caught while crossing the border by attempting to claim U.S. citizenship and presenting borrowed or fake passports or driver licenses.

Investigators caught 43 people in the smuggling attempts, but believe many others succeeded in the operation dating to the mid-1990s.

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As part of his sentencing, Asriyants was ordered to forfeit $36,000 seized from his house, a safe-deposit box and the five-bedroom Carmel Valley home he bought for $946,000 in 2003. Prosecutors say the house was bought with illegally obtained money.

Four members of the ring have been sentenced and three await sentencing, prosecutors said.

Anti-Gay-Marriage Initiative Passes Hurdle (FINDLAW/AP)

By Theo Emery, Associated Press Writer

Find Law, September 9, 2005

(AP) - BOSTON-A proposed ballot initiative that would ban gay marriage passed a key hurdle Wednesday when the state attorney general ruled it would be permitted under a section of the state constitution allowing voters to overturn court decisions.

The action by Attorney General Tom Reilly, a Democrat who is expected to run for governor in 2006, clears the way for conservative groups to begin the long process of gathering signatures and lobbying lawmakers in hopes of putting the issue before voters in 2008.

Supporters now must go out and gather the signatures of at least 65,825 Massachusetts voters. If they are successful, the question then must by approved by 25 percent of two successive sittings of the 200-member state Legislature. The question would then be placed before voters again as a constitutional amendment in 2008.

The state's highest court ruled in 2003 that it was unconstitutional for the state to ban marriages between gays and lesbians. The following spring, the nation's first state-sanctioned same-sex marriages began taking place in Massachusetts and thousands of gay couples have since tied the knot.

In a letter last week, Gov. Mitt Romney urged Reilly to certify the ballot question, saying voters "should not be denied meaningful participation in the legal definition of marriage."

Backers of the proposed referendum cite the Massachusetts Constitution's Article 48, which permits the people to petition for a constitutional amendment "that overrules a court decision when the court has declared a statute to be in violation of our constitution."

Gay marriage supporters had urged Reilly not to accept the proposed amendment, saying that Article 48 applied to court rulings overturning a statute, while the court case involving gay marriage rights did not overturn an existing law.

Gary Buseck, legal director of Gay and Lesbian Advocates and Defenders, which sued the state over gay marriage and won, said the group would challenge Reilly's decision.

The measure defining marriage as between a man and a woman had been proposed last month by the Massachusetts Family Institute. The state legislature is considering an alternate constitutional amendment that also would overturn gay marriage but would legalize Vermont-style civil unions.

ANTITRUST:

Justice Department Files Antitrust Lawsuit (AP)

AP, September 9, 2005

WASHINGTON (AP) - The Justice Department sued the National Association of Realtors on Thursday, claiming it unfairly limits competition by allowing real estate agents to withhold home listings from Internet-based brokers.

The antitrust lawsuit, filed in U.S. District Court in Chicago, follows lengthy negotiations in which the government pressed the Realtors to drop restrictions designed to protect traditional brokers.

The association announced changes to its original plan Thursday, but the new steps were insufficient to ward off the lawsuit because the organization kept in place brokers' ability to discriminate against competitors who post listings online, said J. Bruce McDonald, deputy assistant attorney general in the Antitrust Division.

Internet brokerages operate in the top dozen real estate markets in the country and their numbers are growing, Justice officials said at a news conference to announce the lawsuit. The online brokers often charge lower fees and allow consumers to review listings at their own pace.

The Realtors' policy prevents brokers who rely on the Internet from being able to show customers all the houses that may be for sale in the locations and price ranges they're seeking, McDonald said. It "allows a broker to target his Web-based competitors," McDonald said.

The association said its new policy took into account Justice Department concerns. Initially, listing agents were allowed to withhold available homes from specific Web sites. The revised policy says that, when an agent chooses, listings will not be displayed on any Web site.

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"The policy does not discriminate against any brokerage model, including discount brokers," said Al Mansell, president of the Realtors' association.</s! pan>

U.S. Sues Realtors, Claims Web Rules Limit Discounting (WSJ)

By John R. Wilke And James R. Hagerty, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 9, 2005

WASHINGTON -- The Justice Department challenged the nation's dominant real-estate trade group in a lawsuit that could lower costs of buying and selling homes.

The federal antitrust suit, filed in U.S. District Court in Chicago against the National Association of Realtors, targets the group's bylaws, which allow members to withhold online listings from other brokers in a local market. The government charges that the rules illegally could restrict discounting and disadvantage Internet competitors.

The lawsuit is part of a broader effort by the Justice Department and the Federal Trade Commission to protect competition in the residential-real-estate market. Strong sales and rising prices have been a huge boon to brokers, who despite higher prices continue to charge commissions of 5% to 6% of a home's sale price -- reaping an estimated $60 billion in such fees last year.

The association's policy "stifles competition to the advantage of some of its members, at the expense of home buyers and sellers across the country," said J. Bruce McDonald, the acting antitrust chief, who was nominated to the post by President Bush last month. The suit went forward despite the political power of the association's more than 1.2 million members in state capitals and Congress, and is likely to win strong support among consumers.

Mr. McDonald said online commerce brought innovation and lower fees to air travel, stock sales, insurance, music and other markets. "It offers the same opportunity for consumers buying a home," while the Realtors' rules would "lock in outmoded business models," he said. Real-estate brokers, led by the trade association, are fighting Internet-based competitors and discounters to preserve their high commissions, federal officials said.

Officials of the National Association of Realtors defend their bylaws as promoting competition, and they had hoped that a revised, less-restrictive Internet rule that was offered in settlement talks with the government might head off a suit.

The policy is "fair, pro-consumer, pro-competitive and accommodates innovation," the association said. "After months of negotiations, we are at a loss to understand why the Department of Justice would bring a legal action."

The association also is locked in a multistate battle with the Justice Department and the FTC over the industry's campaign to limit discount brokers on the state level.

The rule at the center of the Justice Department lawsuit involves the Internet display of information from multiple-listing services, or MLS, which are local databases, usually owned by local Realtor organizations, of homes available for sale. Under the revised rule, brokers would have a choice: They could make listing information available to the Web sites of all of their competitors or to none of them.

Under the earlier rule, proposed two years ago by the association, brokers could have denied the data to specific rival Web sites while providing it to others -- a provision that would have allowed brokers to discriminate against discounters. The association abandoned this "selective opt out" provision yesterday in hopes of settling with the government and avoiding a lawsuit.

Write to James R. Hagerty at bob.hagerty@wsj.com1

DOJ Wants Real Estate Market Fairness (REU)

Reuters, September 9, 2005

WASHINGTON (Reuters) - The Justice Department asked a court Thursday to block a rule by the real estate industry's main trade group that authorities claim limits competition from Internet-based brokers.

The Justice Department said in a statement that the National Association of Realtors (NAR) rule "prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourage discounting." The government said it filed the civil antitrust lawsuit in U.S. District Court in Chicago.

The NAR said in May it would back away from the disputed bylaw that the department's antitrust division feared would allow real estate brokers to bar their property listings from being displayed by some discount rivals.

The Justice Department Thursday acknowledged that the NAR had revised the rule but said the modified version still discriminated against "innovative" brokers and did not resolve its concerns.

The rule has come under sharp criticism from Internet-based competitors such as RealEstate.com, an online brokerage and referral service that is a unit of IAC/InterActiveCorp (Research).

Efforts to reach an NAR representative for comment on the suit were not immediately successful.

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Antitrust Lawyers Go After Realtors (WP)

By Kirstin Downey, Washington Post Staff Writer

The Washington Post, September 9, 2005

The Justice Department's antitrust division yesterday sued the National Association of Realtors, alleging that the powerful trade group is using its online multiple listing service policies to restrict competition from discount brokers offering lower prices.

"The purchase of a home is one of the most significant financial decisions a family can make, and NAR's policy stifles competition to advantage some of its members at the expense of home buyers and sellers across the country," said J. Bruce McDonald, deputy assistant attorney general in the antitrust division.

Discount brokerages are undercutting the traditional 6 percent commission rate that has continued to dominate even as home prices in some markets, including the Washington area, have doubled over the last five years.

The Realtors group announced yesterday that it was changing its online sales listing policy to make listings more widely available, but Justice Department officials said the changes do not go far enough.

At issue in the lawsuit are Internet listing rules adopted by the Realtors in 2003 that would have allowed real estate brokers to opt out of having their listings appear on the Web sites of other brokers. The rules were controversial from the beginning and association officials said they were never fully implemented, but Justice Department officials said at a news conference yesterday that of about 1,000 affiliated multiple listing services, about 200 adopted the restrictive policy.

In a written statement, association officials said they "were at a loss to understand why the Department of Justice would bring a legal action. Many of the changes incorporated in the new policy are in direct response to concerns they have raised over the course of the two-year investigation."

Association officials declined further comment yesterday. In an interview Wednesday, before the lawsuit was filed, the group's general counsel, Laurene K. Janik, said it would be a "waste of taxpayers' money" for the Justice Department to sue. The group was changing its policy, she said, and the government would be acting against the rescinded policy.

In the lawsuit, filed in the U.S. District Court in Chicago, where the Realtors have their headquarters, the government alleged that the association -- particularly its traditional broker members -- has sought to maintain a "policy that restrains competition from brokers who use the Internet to more efficiently and cost effectively serve home sellers and buyers."

According to the federal filing, when real estate industry leaders developed their policy in 2003, they talked about ways to maintain the status quo. The working group that formulated the listings policy understood that the right to opt-out would limit competition, according to the lawsuit, which alleged that two members of the group said the opt-out right would be "abused beyond belief" as traditional brokers withheld listings from competitors.

Albert A. Foer, president of the American Antitrust Institute, said the Justice Department would have deliberated thoroughly before bringing suit against the politically powerful trade group, which has 1.2 million members nationwide.

"This Justice Department is not trigger-happy," Foer said. "They don't bring a lot of antitrust cases or operate in an anti-business mode, so chances are that they've thought it out very carefully."

"It's great," said Peter Sealey, a professor of marketing at the University of California at Berkeley who has followed the issue. The policies "are a clear conspiracy and restraint of trade. This is long-overdue law enforcement."

US Files Antitrust Suit Against Biggest Real Estate Group (AFP)

Agence France-Presse, September 9, 2005

WASHINGTON (AFP) - The US Justice Department filed an antitrust suit against the National Association of Realtors, the largest group of real estate brokers, claiming that it stifled competition in the sector.

The lawsuit filed in Chicago claims the Realtors' policies for property listings effectively blocks rival real estate brokers from accessing some computerized home listings.

The policy "prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourage discounting," the Justice Department said in a statement.

"The purchase of a home is one of the most significant financial decisions a family can make, and NAR's policy stifles competition to advantage some of its members at the expense of home buyers and sellers across the country," said Bruce McDonald, deputy assistant attorney general in the Department's Antitrust Division. "Consumers benefit when real estate brokers are free to compete vigorously by offering innovative services."

Although the Realtors group announced its adoption of a revised policy, "the revised policy continues to discriminate against innovative brokers, and does not resolve the Department's concerns," the department said.

Officials said low-cost brokers may be blocked from access to the local Multiple Listing Service (MLS), which contains lists of nearly all properties for sale in the community.

The Realtor group said in a statement its new policy on listings "is fair, pro-consumer, pro-competitive and accommodates innovation." "After months of negotiations, we are at a loss to understand why the Department of Justice would bring a legal action. Many of the changes incorporated in the new policy are in direct response to concerns they have raised over the course of the two year investigation," the group added.

Justice Department Sues Chicago-Based National Association Of Realtors (CHIT)

Chicago Tribune, September 9, 2005

The U.S. Department of Justice filed an antitrust lawsuit against the National Association of Realtors Thursday, claiming that the Chicago-based trade group's new policy for online displays of home listings stifles competition from Internet-based discount brokerages.

The lawsuit, which has long been anticipated in the industry, was filed in U.S. District Court in Chicago one day after the Realtors announced revamped listing guidelines. An earlier version of the rules had been under investigation by the Justice Department for two years.

"The [new] NAR policy prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourages discounting," the department announced.

The suit is the latest chapter in a long-running industry fight over who should be able to access home listings. The earlier policy, known as Virtual Office Website, allowed brokerages that are members of multiple listing services to pick and choose which competitors' Web sites could display their listings.

Critics said VOW effectively undercut smaller, Internet-based competitors with lower overhead than traditional bricks-and-mortar brokerages. But many brokerages maintain that they spend so much money in marketing in order to obtain the listings--essentially their "inventory"--that they don't owe competitors any such access.

The new policy, called Internet Listing Display, forbids real estate agents from selecting which brokers can and can't receive their listings. However, individual real estate companies can opt out of sharing their data across the board.

"The new policy raises some of the same problems as the old one," said Deputy Assistant Atty. Gen. J. Bruce McDonald. He said the Justice Department would like to eliminate the opt-out provision entirely because consumers should have full access to online listings in order to find homes more efficiently, presumably at a lower cost.

"The way we go about obtaining goods and services on the Web is threatening to bricks-and-mortar business models," McDonald said.

Ralph Holmen, associate general counsel for the Realtors, said the group was "absolutely puzzled" by the suit.

"We came up with the new policy, which we think accommodated 90 percent of their concerns, and offered them the opportunity to comment on any other concerns," he said. "They didn't provide any comment, other than it was unacceptable."

Steve Murray, a real estate industry consultant who has been a vocal critic of the real estate group's policies, said nonetheless that he thought that the lawsuit was "over the line."

"I think [Justice] is trying to tell brokers where they can and can't market their inventory, and that is totally wrong," Murray said.

National Realtors Group Sued By U.S. Over Web Policy (Update2) (BLOOM)

Bloomberg News, September 8, 2005

Sept. 8 (Bloomberg) -- The National Association of Realtors was sued by U.S. antitrust enforcers who accused the trade group of trying to restrain competition by restricting Internet brokers' access to listings of homes for sale.

The suit, filed by the Justice Department in federal court in Chicago, challenges the group's policy of allowing traditional real estate brokers to exclude their listings from other brokers' Web sites. It may be propping up an old-fashioned business model and harming consumers looking to lower costs, the suit says.

The association's policy ``stifles competition to advantage some of its members at the expense of home buyers and sellers across the country," J. Bruce McDonald, deputy assistant attorney general in the Justice Department's antitrust division, said at a news conference in Washington today. ``Consumers benefit when real estate brokers are free to compete vigorously by offering innovative services."

The lawsuit is part of a broader effort by U.S. authorities to open the real estate business to more competition, McDonald said. Internet brokers, who seek to cut costs by letting customers do much of the work of traditional real estate agents, sprung up in the late 1990s and now operate in all major metropolitan areas.

The Chicago-based realtors group announced a revised policy earlier today that it said responded to Justice Department concerns. The association has more than 1 million members who work in residential and commercial real estate.

Defending the Policy

McDonald said at the press conference that the revised policy is just as anticompetitive as the old one.

Responding to today's lawsuit, the realtors issued another statement saying their new ``policy is fair, pro-consumer, pro-competitive and accommodates innovation'' in the real estate business.

``After months of negotiations, we are at a loss to understand why the Department of Justice would bring a legal action,'' the statement said. ``Many of the changes incorporated in the new policy are in direct response to concerns they have raised over the course of the two year investigation.''

In most markets, real estate brokers participate in what is known as a Multiple Listing Service, which allows the brokers to share information about properties that are for sale. By using the service, brokers and buyers can get listings on virtually all homes in the market.

Brokers have traditionally given their clients print-outs of the listings and haven't given them full access to the database. However, some brokerages that operate online have begun to give their customers the ability to see all the Multiple Listing Service information. The sites are password protected.

The realtors group's policy challenged by the Justice Department gave brokers the ability to withhold their clients' listings from the Web sites of the Internet competitors. The policy, which wasn't mandatory until 2006, was already followed by about 200 local Multiple Listing Services, Justice Department officials said.

To contact the reporter on this story: Robert Schmidt in Washington at rschmidt5@bloomberg.net. Last Updated: September 8, 2005 14:18 EDT

Justice Dept. Sues NAR For Antitrust (INMAN)

By Jessica Swesey, Inman News

Inman News, September 8, 2005

The U.S. Justice Department today filed an antitrust lawsuit against the National Association of Realtors challenging its new policy for online property listings display.

The Justice Department's Antitrust Division has been investigating the Realtor trade group's policies for Internet listings over whether it has been restricting competition among real estate brokers.

The complaint accuses NAR of mandating a policy that obstructs real estate brokers who use innovative Web-based systems to offer lower costs to consumers.

"We believe the new ILD (Internet Listings Display) policy is fair, pro-consumer, pro-competitive and accommodates innovation," NAR said in a statement this morning. "After months of negotiations, we are at a loss to understand why the Department of Justice would bring a legal action. Many of the changes incorporated in the new policy are in direct response to concerns they have raised over the course of the two-year investigation."

Moments before the Justice Department's announcement this morning, the Realtor trade group said it had adopted a new online listings policy to address the department's concerns stemming from the two-year probe.

The old policy, dubbed the Virtual office Web site or VOW policy, allowed real estate brokers to selectively hold their listings from competitor's Web sites, a move which DOJ officials have said threatens competition in the marketplace.

While NAR's new policy no longer allows brokers to pick and choose who among their competitors is allowed to display their listings, it still enables them to withhold listings from all brokers in the MLS. The Justice Department claims the NAR policy prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourage discounting.

"The repackaged policy narrows the opt-out a bit, but it remains effective," J. Bruce McDonald, Deputy Assistant Attorney General for Antitrust, said this morning during a press meeting in Washington, D.C.

Allowing brokers to hold listings from the Internet "makes the online business model unattractive and tends to undercut competition by the Web-based brokers," he said.

Under the revised policy, a broker opting out can withhold all listings from the Web sites of other brokers, but they would still appear on NAR's own Web site, Realtor.com, McDonald said.

The so-called "blanket opt-out" provision provided in the new policy has been in effect by "hundreds of MLSs" for three and a half years under NAR's policy for Internet Data Exchange, according to NAR. The association has said the policy has been widely accepted by the industry and very few brokers have chosen to opt out.

The policy adopted today contains an entirely new feature that allows brokers who have opted out of displaying their listings on competitors' Web sites the opportunity to make an exception at the direction of a particular seller who wants to have his or her property displayed on the Web sites of all other members of the MLS.

"The revised policy continues to discriminate against innovative brokers, and does not resolve the Department's concerns," Justice Department officials said in a statement today.

NAR President Al Mansell contested that, "The policy treats all MLS members equally yet respects the rights of property owners and their listing brokers to market a property as they see fit…The policy does not discriminate against any brokerage model, including discount brokers."

But the Justice Department in its complaint contends the NAR policy significantly alters the rules that govern MLSs by permitting traditional brokers to discriminate against other brokers based on their business model, denying them the full benefits of MLS participation. "The Department's lawsuit seeks to ensure that traditional brokers, through NAR's policy, cannot deprive consumers of the benefits that would flow from these new ways of competing," the Department said.

According to the Department's complaint, brokers who participated in the NAR work group that formulated the VOW policy in May 2003 recognized that the opt-out right would be "abused beyond belief." The chairman of the working group allegedly admitted that the opt-out right was likely to be exercised by brokers despite the fact that "it may not be in the sellers' best interest to opt out," the Department said in its filing.

"NAR's policy denies brokers using new technologies and business models the same benefits of MLS membership available to their competitor brokers, suppresses innovation, discourages competition on price and quality, and prevents new, efficient competitors from entering into the marketplace - all to the detriment of consumers," the Justice Department said.

The complaint alleges that NAR adopted the online listings policy in response to broker member concerns over rising competition from Internet brokers.

"The chairman of the board of RE/MAX, the nation's second-largest real estate franchisor, publicly expressed his concern that these Internet sites would inevitably place downward pressure on brokers' commission rates," the complaint states.

NAR discussed its revised policy with the Justice Department before adoption, McDonald said, and antitrust officials warned the trade group that it didn't comply with antitrust laws. But the association has chosen to stand by the policy.

U.S. Fights Limit On Home Sale Listings (BSUN)

By Lorraine Mirabella, Sun Staff

The Baltimore Sun, September 9, 2005

In a move that could transform the way real estate brokers work with home buyers and sellers, the Justice Department challenged yesterday a national real estate group's new policy permitting brokers to limit the display of home sale listings on the Internet.

The government filed an anti-trust lawsuit against the National Association of Realtors, saying the new rule restrains competition from Web-based, discount real estate brokers, hurting home buyers and sellers.

At the heart of the dispute over how to disseminate home sales information from Realtor-owned multiple listing services, the lawsuit charges, is resistance by traditional brokers to an onslaught of "virtual" brokers who charge less than traditional commissions.

"NAR's policy prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourage discounting," the Justice Department said in a statement.

The suit, filed in U.S. District Court in Chicago, highlights the profound transformation the Internet is bringing to the housing market, just as it has changed the way consumers shop for everything from airline tickets to stocks, cars, books and music. The NAR has reported that seven of 10 home buyers turn to the Internet when buying a home.

"The Internet has brought great competitive opportunities to a lot of other industries," said J. Bruce McDonald, deputy assistant attorney general in the antitrust division. "Real estate has been slow to come along to this."

The Realtors contend that brokers who work for their listings should be able to choose whether or not to help their competitors' business.

"A broker gets the opportunity to choose whether or not he wants to facilitate the business fortunes of another competitor, and he ought to have that right," said Ralph Holmen, associate general counsel for NAR in Chicago. "Real estate is unique in that competitors cooperate in the sale of property in a way you don't see in many other industries."

But one local Realtor, John E. Rawlings Jr., a Coldwell Banker agent in Owings Mills, said the Internet has already become a crucial tool for both traditional and Web-based brokers and agents.

"It's the wave of the present," he said. "Most people shop on the Internet for listings before they even call their Realtor. It would do a disservice to the seller if they didn't have the maximum coverage possible. ... A full-service company has to show the value clients are getting for the service we offer."

The lawsuit contends that the NAR rule discriminates against brokers who use password-protected Internet sites that enable customers to search for and get listings over the Internet, replacing the traditional practice of brokers searching for homes for their clients.

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Such Web sites, first developed in the late 1990s, have become a competitive alternative to traditional brokers, who worried that the Internet sites would drive down commission rates, and prompted the NAR to draft its new rule two years ago, the suit said. The Justice Department launched an anti-trust investigation and warned this spring that it stood ready to file suit. The NAR delayed its rule, and the two sides began negotiations in May.

The NAR, the nation's biggest trade group, said yesterday it adopted the controversial policy after modifying it to address the government's concerns, ending up with a policy that gives consumers more access to home sale listings than ever before.

"After months of negotiations, we are at a loss to understand why the Department of Justice would bring a legal action," the NAR statement said. "Many of the changes incorporated in the new policy are in direct response to concerns they have raised over the course of the two-year investigation. ...The policy treats all MLS members equally yet respects the rights of property owners and their listing brokers to market a property as they see fit."

The lawsuit does not attempt to open the MLS information to non-members, the Justice Department said. Listings are controlled by the more than 800 member-only multiple listing services across the country.

The rule allows a broker to withhold his own listings from all Web sites - other than his own - or to have listings displayed on all competitors' sites. It does not permit brokers to selectively choose to withhold listings from competitors, the NAR said.

The rule is meant to consolidate the formerly separate policies for Internet Data Exchanges, on which brokers advertise the listings of other brokers, and Virtual Office Web sites, or VOW, virtual real estate offices on the Web.

"We adopted a policy to bring some order to the market of how those listings would get used," Holmen said. "We disagree that the policy and the rules are unlawfully anti-competitive, and we intend to defend that in court."

Holmen said real estate is different from other industries that have been transformed by the Internet.

"Real estate is unique in that there is competitive cooperation in the sale of properties in a way you don't see in many other industries," Holmen said. The question, he said, is: "Must a broker cooperate with another competitor as fully as he is able or can he choose how much he wants to assist that competitor?"

Joseph T. Landers, III, executive vice president of the Greater Baltimore Board of Realtors, said that under current rules governing Internet listings, few brokers in the Baltimore area have opted out of online listings.

But, he added, "The broker needs to have the flexibility to be able to not display [on the Internet] if that's what their client wants."

In an industry where the MSL system works based on reciprocity, some brokers became concerned because "there are agencies out there that don't bring a lot of listings and are not posting them, but they're taking everyone else's listings and posting them on their sites. That defeats that whole concept of reciprocity. There were also some companies that were basically skimming all the information and posting it on their site."

The NAR, he said, has "tried to put in place rules or regulations to create a fair playing field when it comes to Internet advertising."

DOJ Sues Real Estate Group For Web Listing Policy (IDG)

By Grant Gross, IDG News Service, Washington Bureau

IDG News Service, September 9, 2005

The U.S. Department of Justice (DOJ) has filed a lawsuit against a real estate broker trade group, saying the organization's policies block competition among brokers using a Web-based property listing service.

The DOJ's civil antitrust lawsuit was filed Thursday against the National Association of Realtors (NAR) in U.S. District Court in Chicago. The DOJ accuses the NAR of allowing brokers to pull their real estate listings from the Multiple Listing Service (MLS), a joint venture among competing brokers. NAR brokers have traditionally shared listings with each other, and customers could access those listings by mail, fax or at real estate broker offices, the DOJ said.

But an NAR policy allows brokers to opt out of sharing their listings with brokers offering Web-based property search services, "effectively inhibiting the new technology," the DOJ said.

"Delivering listings over the Internet gives web-savvy consumers more control over their search for a home, allowing them to educate themselves about their options at their own pace and on their own time," the DOJ said in a press release. "This allows brokers to reduce the time that their agents spend searching the MLS database or showing homes the customer dislikes."

The NAR, in a statement, said it has adopted a new policy that addresses the DOJ concerns. "The policy will bring consumers more points of access to real estate information from multiple listing services than they have ever had before," NAR said. "For consumers, whether they are home buyers or sellers, this new policy is a win-win. Buyers will be able to find all the listings available for public display on the Web site of the broker of their choice and sellers will be able to work with the listing broker of their choice."

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But the DOJ said Thursday that the NAR's new policy continues to discriminate against "innovative" brokers and does not resolve the agency's concerns.

"The purchase of a home is one of the most significant financial decisions a family can make, and NAR's policy stifles competition," giving an advantage to some NAR members "at the expense of home buyers and sellers," said J. Bruce McDonald, deputy assistant attorney general in the DOJ's Antitrust Division, in a statement. Consumers benefit when real estate brokers are competitive, he said.

Taubmans Give Up Control Of Sotheby's (WSJ)

By Marcus Baram

The Wall Street Journal, September 9, 2005

Sotheby's Holdings Inc. announced a major recapitalization that saw the auction house's leading shareholders, the Taubman family, relinquish control and open the company to more outside investment.

As of midnight Wednesday, former chairman A. Alfred Taubman and his family and affiliates reduced their stake in Sotheby's from almost 22% of total shares outstanding and 62% of the votes to 12.4% of both. They exchanged 14 million of their special Class B shares for 7.1 million in common stock and $168 million in cash from the auction house. As a result, Sotheby's dropped its two-class voting structure involving Class B super shares and Class A shares for a single class of stock. The dual class share structure, which is rare in public companies, had been instituted at Sotheby's before the New York-based company went public in 1988.

"There are a lot more investors who will consider investing in Sotheby's when you have a single class of stock," says William Ruprecht, Sotheby's president and chief executive officer. "This will give us a degree of financial flexibility and open us up to a lot of opportunities for the future, such as equity-linked securities."

The move also represents a retreat for Mr. Taubman, a real-estate developer, who bought the company in 1983 and served as its chairman until he was convicted of price fixing in 2001. "A few months ago, the company approached Mr. Taubman and said that the two classes of stock were a problem and were perceived as a problem by investors and he thought this was a fair deal," says Christopher Tennyson, a spokesman for Mr. Taubman, who adds that the 81-year-old businessman is writing a memoir about his life in business. "He's very, very proud of what he's accomplished but things turned out to not be all positive."

Mr. Taubman will remain an investor for at least two years and his son, Robert, will remain on the board of directors but will step down as a member of the executive and nominating committees, the company said. With the Taubmans ratcheting down, the largest shareholder now is Ariel Capital Management, which currently owns 8.7 million shares. Last June, Ariel informed their investors that despite Sotheby's tough year so far, they "are confident in the long-term prospects of the business."

It has been a mixed year so far for Sotheby's -- the company took in $1.3 billion in auction sales for the first half of the year, almost the same results as their sales during the same period last year, while their competitor Christie's recorded a 32% increase in sales during that period. Last month, the company reported a slight decline in second-quarter profit although their margins on auction commissions increased during that quarter.

Sotheby's shares climbed 5%, or 87 cents, closing at $18.30 on the New York Stock Exchange. The move decreased by 11% the company's total number of shares outstanding, which now stand at 57.3 million.

"This is smart," says George Sutton, an analyst with Craig Hallum Capital Group, who has given the company an neutral rating. "It's relatively favorable versus an outright sale which would have been the most lucrative."

Taubman Family Sells Its Interest In Sotheby's (NYT)

By Andrew Ross Sorkin And Carol Vogel

The New York Times, September 9, 2005

A. Alfred Taubman, the former chairman of Sotheby's who was convicted of leading a price-fixing scheme, sold his family's controlling interest in the venerable auction house to the company yesterday for stock and $168 million in cash.

The deal closes the chapter on the Taubman family's long role at Sotheby's and has already ignited speculation that the transaction could be a precursor to a sale or merger of the company, the largest publicly traded auction house in the nation.

Mr. Taubman, a shopping mall mogul who owns The Beverly Center in Los Angeles and The Mall at Short Hills in New Jersey through his controlling stake in Taubman Centers, had bought his interest in Sotheby's in 1983. The acquisition was widely viewed as a glamour purchase, giving him and his wife, Judy, an entree to the titled families of the world.

Sotheby's also became something of a playground for Mr. Taubman - an architect by training - who used the auction house to test his flair for retailing. Over the years, he helped transform Sotheby's from a sleepy auctioneer frequented mostly by dealers to a glass-fronted one-stop shopping center offering a mix of customers everything from financing to appraisals, repairs and sales.

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Under the terms of the deal, Mr. Taubman will cede control of the company for $168 million in cash and 7.1 million shares of common stock in exchange for the family's 14 million Class B shares. The family's Class B shares had given it 62 percent of the voting shares, despite its ownership of only 22 percent of the company's true financial interest. The Taubman family will continue to hold a stake in the company, owning 12 percent of both shares and votes.

The deal removes one of the company's two classes of shares, potentially making it more attractive to investors or a merger partner. "The dual class was increasingly being seen by the investing public with less warmth," William Ruprecht, Sotheby's chief executive, said.

Still, he denied that the company would be put up for sale. "Is this an intermediate step on the way to putting the business up for sale? The answer is no," he said, but added, "Every company on the New York Stock Exchange at some price can be acquired."

Mr. Taubman had made no secret of his interest in selling Sotheby's. Two years ago, after an eight-month search for a buyer, he took it off the market. While the company has had several flirtations with buyers, including several wealthy Asian individuals, employees there say, nobody has been willing to pay the high price Mr. Taubman believed Sotheby's was worth.

The price-fixing scandal sent Mr. Taubman to prison for 10 months starting in July 2002 after he was convicted of conspiring to rig auction prices with Sotheby's archrival, Christie's. Afterward, employees say, he lost interest in the auction house. His son, Robert, who joined the board, had little interest in the art world and was just keeping an eye on the family investment.

The exorbitant expenses of the price-fixing scandal drained Sotheby's cash. The company became so cash poor that two and a half years ago it was forced to sell its York Avenue headquarters to RFR Holding for $175 million.

In February 2004, Cendant, the travel, lodging and real estate services company, agreed to buy Sotheby's International Realty's residential real estate brokerage operations for about $100 million. Cendant, whose brokerage operations include Century 21, Coldwell Banker and ERA, pays the auction house a fee for the use of Sotheby's name.

Sotheby's has also had to turn to wealthy art dealers to help finance several major fine art consignments in order to compete with Christie's, whose owner, the luxury goods magnate François Pinault, gives it considerable financial support.

Banc of America Securities advised Sotheby's, and Bear Stearns advised the company's special committee. Allen & Overy provided legal counsel to Sotheby's, and Simpson Thacher & Bartlett provided legal counsel to the special committee.

Goldman, Sachs and Wachtel, Lipton, Rosen & Katz advised the Taubman family.

Archaeologists And Dealers Spar Over U.S.-Italian Art Accord (NYT)

By Hugh Eakin

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 - Lawyers representing art dealers and Sotheby's auction house sparred with archaeologists and cultural property experts on Thursday at a State Department committee hearing on the future of a sweeping agreement banning the import of antiquities from Italy.

Known formally as a memorandum of understanding, the five-year-old agreement is intended to reduce the flow of illicitly excavated Italian antiquities to the United States in return for heightened cultural cooperation between the Italian government and American arts institutions.

In the hearing, before the State Department's cultural property advisory committee, archaeologists argued for the effectiveness of the agreement, which is set to expire in January unless it is renewed.

"The agreement has had very significant consequences," said Malcolm Bell III, a University of Virginia archaeologist and specialist in Sicilian archaeology, citing improved policing of looting of ancient artworks in Italy and the availability of long-term archaeological loans to American institutions.

Mr. Bell's comments were echoed by Patti Gerstenblith, a law professor at DePaul University and cultural property specialist, who said the agreement helped provide a basis for a growing number of international regulations for the antiquities trade.

But William Pearlstein, a lawyer representing several dealers, asserted that Italian officials were not living up to the agreement.

"In contrast to the love fest portrayed here, there is a not-so-quiet war between Italy and American museums against which it is trying to pursue cultural patrimony claims," he said, referring to Italian action to recover some artworks.

Representatives from some museums, including one from the Metropolitan Museum, attended the hearing but remained silent. Referring to their lack of participation, Mr. Pearlstein said that antiquities curators were "intimidated" by the threat of litigation from the Italian government.

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Pressed to expand on his statement, he referred to a criminal case pending in Italy against Marion True, the antiquities curator of the Getty Museum in Los Angeles. Italian officials, he said, "are discriminating against museums against which they have patrimony claims."

Stefano Stefani, deputy chief of mission for the Italian Embassy, took issue with Mr. Pearlstein's comments after the hearing.

"If curators feel constrained to avoid acquiring illegal material, then that means it is working," he said, referring to the agreement.

Ms. True has been accused of conspiring to import looted antiquities. The case is a sensitive issue for the Getty as it prepares to reopen its renovated villa in Malibu, Calif., which houses many of the museum's Greek, Roman and Etruscan antiquities. Such objects were a passion of John Paul Getty, a collector and the museum's namesake. The museum has expressed confidence that Ms. True will be vindicated.

The Italian government has recovered 185,190 looted artifacts since the agreement was signed in 2001, compared with 96,472 in the five years prior to the agreement, according to figures provided by Italian officials. Italy has also expanded the number of loan exhibitions of archaeological material to the United States under the agreement, Mr. Stefani said.

Some critics of the agreement have suggested that any renewal of it should restrict the import ban to classes of objects that are in most danger or have particular significance to Italy's cultural heritage. The United States has restrictions on the import of antiquities with a several countries, but the accord with Italy is the most comprehensive.

The 11-member committee includes art dealers, museum officials and archaeologists. The panel will deliberate and make a recommendation to Dina Powell, assistant secretary of state for education and cultural affairs, who will make the decision whether to renew the agreement or allow it to expire.

Private Investors To Buy Hertz For $15 Billion (NYT)

By Andrew Ross Sorkin

The New York Times, September 9, 2005

In one of the largest leveraged buyouts in more than a decade, the Ford Motor Company yesterday agreed to sell Hertz, the nation's largest rental car company, to a consortium of private investors for about $15 billion in cash and debt, executives involved in the negotiations said.

Ford is expected to announce the transaction as early as today, the executives said.

The sale, to a group including Clayton, Dubilier & Rice, the Carlyle Group and Merrill Lynch Global Private Equity, is the latest super-sized buyout by a team of private equity firms.

Earlier this year, a consortium of investment firms paid $11.3 billion for SunGard Data Systems, which provides software and services to financial companies.

The largest leveraged buyout ever remains the purchase by Kohlberg Kravis Roberts & Company of RJR Nabisco in 1989 for $25 billion.

The deal ends a heated auction for Hertz, which started after Ford announced in April that it was considering putting the company up for sale or spinning it off. The winning investor group beat another team that included Bain Capital Partners, the Blackstone Group, the Texas Pacific Group and Thomas H. Lee Partners.

Ford's decision to sell Hertz, which produced about 10 percent of Ford's overall pretax profit in the second quarter of this year, underscores the company's urgent efforts to raise cash as sales continue to decline. Ford is expected to use the proceeds of the sale to pay down debt.

Hertz operates in 7,000 locations in more than 140 countries. Ford acquired the company in 1994 after supplying its fleet for decades. It was unclear last night whether Ford would continue to be the company's exclusive vehicle supplier or whether the new owners would seek deals with other manufacturers.

European Corporations Catch Merger Mania (WSJ)

By Jason SingerAnd Matthew Karnitschnig

The Wall Street Journal, September 9, 2005

A sudden surge in takeover activity in Europe, with more than $70 billion of potential deals disclosed in the first several working days of September alone, highlights a new willingness by European corporate chiefs to pursue mergers and acquisitions, executives say.

The deluge of activity is also unusual in its outright aggressiveness. Several are hostile takeovers, unsolicited advances, and bidding wars, suggesting that this region -- once known for its more genteel approach to business -- may have changed for good.

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The deals, taking place across European borders and venturing into the U.S. and elsewhere, involve many industries. They are fueled by a confluence of factors, from companies finishing lengthy cost-cutting programs to sluggish economies at home forcing them to look abroad.

On Monday, Gas Natural SDG SA of Spain made a $28.5 billion unsolicited takeover attempt for fellow Spanish utility Endesa SA, which was rejected a day later, sparking a fight that is expected to drag on for months. Also on Monday, German energy giant E.On AG said it is considering making a bid for Scottish Power PLC of the United Kingdom, a company valued at $20 billion. And Deutsche Post AG, also of Germany, said it is trying to buy logistics concern Exel PLC of the U.K. for more than $7 billion.

While September is typically a busy time for deals -- Europeans have just returned from lengthy August vacations -- this year's activity is notable because the deals are bigger and there are more of them. The value of announced mergers between the beginning of August and early September is $123 billion, up from $33 billion in the year-earlier period, according to Thomson Financial.

While all these deals could fall through, executives and bankers say there are signs the spurt will continue. "You don't see an excessive concentration in any one sector. It's relatively widespread across country and industry," says Gordon Dyal, global head of M&A at Goldman Sachs.

A main driver of the new deal-making is a realization that shareholders have started rewarding ambitious tie-ups, after frowning on these actions since 2000. Chief executives noticed that shares of Pernod Ricard SA of France rose after it moved to take over larger U.K. spirits maker Allied Domecq PLC in April. The same thing happened when Italian bank UniCredito Italiano SpA made a move to take over HVB Group AG in Germany in Europe's biggest-ever cross-border banking deal. Usually, acquiring companies see their shares fall on fears of the financial strain from completing the deal.

"The market is increasingly receptive of chief executives doing deals that meet strategic needs," says Paulo Pereira, head of European M&A at Morgan Stanley.

Gerard Kleisterlee, president and CEO of Philips Electronics NV in Amsterdam, says he is "constantly" looking at expanding key businesses through acquisitions.

Across Europe, many major companies have spent the past several years cutting costs so are now leaner and have cash to do deals. Some European sectors, such as banking and utilities, are highly fragmented so companies need heft to compete globally. Growth in several key markets, such as Germany and Italy, has slowed, prompting companies there to seek sales elsewhere. And, as the healthier firms start expanding, competitors race to acquire the best targets before they are gobbled up by rivals, starting a chain reaction that breeds the type of aggressive deals seen recently.

By contrast, for more than three years, European companies have looked inward, cutting costs and improving efficiency. Instead of using cash for deals, they paid it back as cash to shareholders in the form of stock buybacks and dividends, which reached records over the past year. Private-equity funds stepped in to fill the gap, and accounted for nearly half of all M&A deals.

While nearly every country in Western Europe has seen a big deal announced in recent weeks, the trend is particularly acute in Germany. In many cases, formerly state-owned enterprises have been driving the buying spree as they increasingly look abroad for growth. Companies also face more competition in Germany's deregulated markets along with stagnant domestic demand for their products.

At German media giant Bertelsmann AG, "for two years, we concentrated on getting the business in order," says Siegfried Luther, Bertelsmann vice chairman and chief financial officer. "As a result, we've strengthened our financial situation so it's natural that we'd shift our focus outside the company."

The closely held media company's recent agreed-upon acquisitions include: DVD retailer Columbia House in the U.S., a major German-language magazine publisher, a French bookstore chain and a U.K. broadcaster. The company has spent about €2 billion ($2.5 billion) in recent months and has an additional €500 million earmarked for the rest of the year.

Deutsche Telekom AG, which nearly collapsed under a debt load approaching €70 billion three years ago, also has returned to acquisition mode. The telecom giant, which has pared its debt to €44.5 billion, agreed last month to acquire an Austrian wireless operator for €1.3 billion.

Within Europe, German companies have focused in particular on the U.K., drawn by its large market and the absence of political barriers to foreign investment in sectors such as media and energy.

Indeed, some longstanding political obstacles to foreign acquisitions remain in some major Western European markets, notably France and Italy, prompting several recent fights for companies that attempt deals there.

EU, Spanish Antitrust Watchdogs Become Pawns In Takeover Battle (WSJ)

By Jason Singer In London, Mary Jacoby In Brussels And Keith Johnson In Madrid, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 9, 2005

Swords already are crossed in Gas Natural SDG SA's $28 billion hostile takeover bid for domestic rival Endesa SA, with the two companies clashing over who would approve any potential deal: the Spanish government or the European Commission.

Each company is arguing to have the deal vetted by the regulator it thinks will be most sympathetic to its side.

At stake is the approval Gas Natural needs to proceed with the largest takeover attempt in Spanish history. Part of Endesa's defense strategy is to push to involve the commission, which is likely to be far more critical of the potential merger of two of Europe's largest utilities, people close to the matter say.

Commission spokesman Jonathan Todd said in a briefing yesterday[THURS] that it is "still unclear" whether European Union antitrust watchdogs or Spanish regulators will judge the proposed takeover.

But Gas Natural Chief Executive Rafael Villaseca said Brussels has no authority over the proposed deal because both companies have more than two-thirds of their businesses in Spain, making it solely a domestic issue to be decided in Madrid.

According to documents given to investors by Gas Natural, the Barcelona-based company expects antitrust and other regulatory reviews to stretch until March. Only then could a tender offer begin.

The European electricity market has lately seen a flurry of deal making. Earlier this week, Germany's E.On AG said it was considering a takeover bid for ScottishPower PLC.

Yesterday, Enel SpA of Italy said it has a war chest of as much as €14 billion ($17.4 billion) for acquisitions in Europe, as it reported a 17% drop in first-half net profit. Enel Chief Executive Fulvio Conti said he is closely monitoring the Spanish market as Enel feels the heat of increased domestic competition, but he ruled out a full counterbid for Endesa. "In Spain, we are interested in buying assets from Endesa, if Gas Natural puts them on the block," he said.

Mr. Conti said Enel still wants to buy 35% of France's Société Nationale d'Electricité et de Thermique, even if Endesa -- Snet's majority shareholder -- is bought by Gas Natural.

Past regulatory action on deals offers a hint at what Endesa is fighting for. Last year, Brussels blocked a deal among utilities in neighboring Portugal on grounds that the combination of a big gas distributor and an electricity firm would squelch competition and run afoul of antitrust safeguards. That decision is currently on appeal.

Spanish authorities, on the other hand, are expected to see Gas Natural's move in a more favorable light, people close to the situation say, because the combination of the companies would create a world-scale Spanish enterprise that, by some measures, would rank as the world's third-largest utility.

Spokesmen at the Spanish Finance Ministry, which oversees competition authorities, weren't available to comment.

Lawyers who specialize in European antitrust issues say Endesa won't be able to wrest control of the approval process from Madrid. European Commission merger rules say the regional body -- which is the executive arm of the EU -- can't review deals where the companies' operations are confined to one country, unless asked by that country to do so. It can "invite" a member nation to seek its assistance but can't force the issue, lawyers say.

"The rules are very clear," Mr. Villaseca said. The commission "doesn't have a way to disturb" the deal, he said.

Endesa Chief Executive Rafael Miranda met with EU officials Wednesday, but it was a long-planned meeting in which Mr. Miranda was acting in his role as president of Eurolectric, a trade group, an Endesa official said.

Endesa believes "in the interests of transparency that it would be a good idea for Brussels to review the operation," said Guillermo Rea, an Endesa spokesman. He said Endesa hasn't asked Spanish competition authorities to formally request an EU review, though all options are on the table.

If Spain asks for a review, "we would be happy to do so," said Mr. Todd, the European Commission spokesman.

--Vittorio Alessio in Rome contributed to this article.

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Dell To Protect E-mail, Data For AMD V. Intel (REU)

Reuters, September 9, 2005

SAN FRANCISCO (Reuters) - Dell Inc. has agreed to retain e-mail and other documents that could be used against its close partner Intel Corp. in a private antitrust suit filed by Intel rival Advanced Micro Devices Inc. , court papers show.

The agreement, filed on Wednesday in the U.S. District Court in Delaware, comes as AMD presses its case against Intel, accusing the world's largest chip maker of using its market power to lock out AMD and its microprocessors from computer makers such as Dell, Hewlett-Packard Co. and others.

Dell, the largest PC maker, buys microprocessors exclusively from Intel. The Texas-based PC maker agreed to preserve relevant information and copy hard drives of employees identified as "custodians" -- those who were involved in negotiating microprocessor purchases.

Among the 28 custodians listed were Michael Dell, the company's founder and chairman. Dell Inc. reserved its right to contest a subpoena for the documents.

AMD has sought information on pricing, contracts and other information from dozens of PC makers and distributors, and virtually all companies in the United States and Japan have agreed to take steps to protect data, AMD's lead counsel, Chuck Diamond, said in an interview.

AMD began talks with companies on legal document preservation in early July, Diamond said. A process of culling millions of pages of documents will follow before the case goes to trial. AMD has already served a subpoena on PC maker Gateway Inc. , according to court papers filed this week.

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Dell declined to comment on the agreement. "We're just not going to comment because it is an ongoing court matter," Dell spokesman Jess Blackburn said. Intel spokesman Chuck Mulloy characterized the document preservation requests as procedural.

Intel and AMD at least agree on one thing. The case is poised to become the largest-ever electronic document discovery cases ever, as dozens of computer makers, distributors and retailers in countries around the world are called on to divulge data about their business relationships with Intel.

ENVIRONMENT:

Some In Senate Seek To Change Mercury Rule (NYT)

By Michael Janofsky

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 - With a deadline for action approaching, senators from both parties rallied support on Thursday for a resolution that would kill the Bush administration's proposed rule to limit mercury emissions from coal-fired power plants.

Appearing at a midday news conference, the senators said the rule was written to satisfy the utility industry and would take too long to produce benefits, causing serious health problems for thousands of people, especially pregnant women and young children living near the plants.

The senators are trying to send the rule back to the Environmental Protection Agency for reconsideration through a rarely successful procedure known as the Congressional Review Act, which allows lawmakers to challenge agency regulations through a resolution that is guaranteed a floor vote.

The deadline for the vote is Monday, although Senator Bill Frist of Tennessee, the majority leader, said other issues might force him to extend it by several days.

Senator Patrick J. Leahy, Democrat of Vermont, said, "It is sad and it is appalling to see how the agency has been captured by polluting special interests in decisions on limiting mercury pollution."

Mr. Leahy was joined by Senator Susan Collins, Republican of Maine, and Senator James M. Jeffords of Vermont, an independent who generally votes with Democrats on environmental issues.

Ms. Collins said: "We want to give the E.P.A. a chance to fix the rule and do it right."

It is doubtful, however, that their effort will produce anything more than a symbolic protest. To force a change in the rule, the resolution would have to win majority votes in the Senate and the House as well as President Bush's approval - all of which are considered highly unlikely.

Only two Republicans, Ms. Collins and Senator Olympia J. Snowe of Maine, have expressed support for the resolution, and in the 10 years since the review act has been available, only one challenge has succeeded.

Mr. Leahy conceded that he did not know how the Senate might vote on the mercury resolution, saying, "We'll have to wait and see."

Power plants are the largest single source of mercury emissions in the country, accounting for more than 90,000 pounds of airborne mercury a year, about a third of the total output.

Until 2001, the emissions were governed by the Clean Air Act, which required plants to have the best available technology in place by 2009, improvements projected to lower emissions by 90 percent. The Bush administration changed course, removing power plants from Clean Air Act jurisdiction and proposing the first regulatory effort to cut the emissions with a plan to reduce output by 70 percent within 13 years.

Republicans, in general, favor the approach because it employs the kind of cap-and-trade system that proved effective in combating adverse effects of acid rain, and it is less expensive to power plant owners that alternatives. Under this system, a

plant can exceed its permitted level of emissions by buying credits from a plant in the same region whose emissions are below what is allowed.

Democrats and many environmental and public health groups have attacked the administration rule, saying it violates the law and has the potential to lead to unnecessarily high levels of health problems because of its delayed carrying out.

Dr. Leonardo Trasande, assistant director of the Center for Children's Health and Environment at the Mount Sinai School of Medicine in New York, who joined the news conference, said a new study by his hospital found that each year 231 children nationwide suffer mental retardation caused by their mothers' exposure to mercury emissions from coal-fired power plants.

Industry groups were quick to attack the senators' effort, arguing that the proposed rule is the most efficient and cost-effective way to reduce mercury emissions.

"The best way to address concerns about mercury emissions from U.S. power plants is to leave the existing regulations in place," said Dan Riedinger, spokesman for the Edison Electric Institute, a trade group of power companies that generate about 60 percent of the nation's electricity. "Sending E.P.A. back to the drawing board would only delay regulation of power plant emissions, not accelerate them, as Senator Leahy and others claim."

Scott Segal, director of the Electric Reliability Coordinating Council, a trade group, accused the senators of misusing the review act and taking up valuable Senate time when more pressing issues were facing the country.

"Frankly, we are quite surprised that the Senate may make time to even consider this petition," Mr. Segal said, alluding to the mounting problems caused by Hurricane Katrina. "We can hardly think of a worse time to be doing so."

3rd Circuit Rejects Substantial Continuity Test (LAW)

By Shannon P. Duffy, The Legal Intelligencer

Law.com, September 9, 2005

It's not too often that a federal judge declares that five of the judges on her own bench were wrong about a point of law in a string of decisions spanning a decade.

What's even rarer is when that lone judge learns, just days after she sticks her neck out, that she was right to do so -- due to the coincidence of an appellate court decision in an unrelated case that tackles the same legal question.

Both decisions are sure to grab the attention of environmental lawyers because they clarify the rules courts should use in deciding when a corporation may be held liable under the Superfund law on a theory of "successor liability."

On Aug. 31, U.S. District Judge of the Eastern District of Pennsylvania Anita B. Brody handed down a 37-page decision in Action Manufacturing Co. Inc. v. Simon Wrecking Co., in which she rejected the plaintiff's argument that Marcegaglia USA Inc. should share responsibility for the costs of an environmental clean-up in Malvern, Pa.

Lawyers for Action Manufacturing had argued that Marcegaglia was also liable as the successor-in-interest to Bishop Tube Co. because it had purchased the assets of Bishop Tube in a bankruptcy court sale.

To win its argument, Action Manufacturing had to persuade Brody to apply the so-called "substantial continuity" test.

Brody said she recognized that five of her Eastern District colleagues have applied the substantial continuity test in toxic clean-up cases brought under the Comprehensive Environmental Response, Compensation and Liability Act, or CERCLA, in a string of decisions spanning from 1993 to 2002.

Although the 3rd U.S. Circuit Court of Appeals has never endorsed the test, Brody found that, in light of the 1998 decision of the U.S. Supreme Court in United States v. Bestfoods, it is no longer good law, and that "the national trend is to reject the substantial continuity test."

As Brody described it, the substantial continuity test "is not part of the traditional doctrine of successor liability. ... Rather, the substantial continuity test, also known as the 'continuity of the enterprise test,' is often described as an expansion of the traditional 'mere continuation' theory of successor liability."

Under the traditional mere continuation theory, a purchasing corporation is liable as a "mere continuation" of the transferor corporation if, after the transfer of assets, there is an identity of stock, stockholders and directors between the two corporations.

But Brody found that the substantial continuity test "expands the mere continuation doctrine by making a purchaser of assets liable if it is a 'substantial continuation' of the seller corporation, even if there is no identity of stock and stockholders."

With no 3rd Circuit ruling on the point, Brody looked to other appellate courts and found that the circuits are split, with four circuits -- the 1st, 2nd, 6th and 9th -- rejecting the "substantial continuity" theory and only two -- the 4th and 8th -- endorsing it. Forced to choose, Brody looked to the 3rd Circuit's 1988 decision in Smith Land & Improvement Corp. v. Celotex Corp. which instructed courts to "follow federal common law" when deciding successor liability issues.

In passing CERCLA, the Smith Land court said, Congress "expected the courts to develop a federal common law to supplement the statute."

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Brody also found that, in determining the content of federal common law, the 3rd Circuit "emphasized the need for national uniformity and the need to consider the general doctrine of successor liability in all states."

As a result, Brody concluded that the substantial continuity test must now be rejected. "Given Smith Land's concerns with national uniformity and given that courts in the 3rd Circuit must apply federal common law which consists of the general doctrine of successor liability applicable in most states, I follow the majority of circuit courts that have addressed this issue and conclude that the substantial continuity test should not be applied to determine successor liability in CERCLA cases," Brody wrote.

"The substantial continuity test is not part of federal common law because it is not part of the general doctrine on successor liability in operation in most states. Nor should I attempt to expand federal common law beyond traditional common law rules in order to encompass the substantial continuity test."

If Brody was wondering whether she got it right, she didn't have to wonder very long. On Tuesday, the 3rd Circuit handed down its 56-page opinion in United States v. General Battery Corp. Inc.

Writing for the court, Chief Judge Anthony J. Scirica said, "we return, once again, to the difficult area of indirect liability under CERCLA."

CERCLA, Scirica said, is a "sweeping" federal remedial statute that was passed in 1980 to ensure that "everyone who is potentially responsible for hazardous-waste contamination may be forced to contribute to the costs of cleanup."

But Scirica noted that the law "is not, however, a model of legislative draftsmanship," and that "successor liability is one of its puzzles."

Most of Scirica's opinion is devoted to a discussion of whether the two appellants -- General Battery and Exide Corp. -- were properly held liable on the government's argument that, due to a "de facto merger," they were the successors-in-interest to Price Battery Corp.

Upholding a ruling by Senior U.S. District Judge Ronald L. Buckwalter, Scirica concluded that "the de facto merger criteria are satisfied."

But in a brief, final section of the opinion, Scirica effectively upheld Brody's decision by rejecting Buckwalter's alternative holding that Exide would also be liable under CERCLA on a "substantial continuity" theory of successor liability.

Scirica noted that, prior to the U.S. Supreme Court's decision in Bestfoods, several courts had adopted the substantial continuity test as a basis for CERCLA successor liability. The substantial continuity theory, Scirica said, "eliminates certain elements of the de facto merger analysis -- including the continuity of ownership requirement — and in effect creates a more expansive rule of liability than is accepted in most states."

But recently, Scirica found, several of the federal circuits "have rejected the doctrine as inconsistent with Bestfoods."

With just two sentences of discussion, Scirica said the 3rd Circuit was joining its sister circuits in rejecting substantial continuity.

"Bestfoods held that CERCLA does not, sub silentio, abrogate fundamental common law principles of indirect corporate liability," Scirica wrote. "Accordingly, 'substantial continuity' is untenable as a basis for successor liability under CERCLA."

In the case before Brody, Marcegaglia USA was represented by attorneys Robert W. Thomson, C. Shawn Dryer, Steven F. Baicker-McKee and Kevin K. Douglass of Babst Calland Clements & Zomnir in Pittsburgh. Action Manufacturing was represented by attorneys Larry Silver, David E. Romine and Sandra Gibbs of Langsam Stevens & Silver in Philadelphia.

In the 3rd Circuit case, Justice Department attorney John T. Stahr argued for the government; General Battery and Exide were represented by attorneys Robert L. Collings and Carl A. Solano of Schnader Harrison Segal & Lewis.

A Light In The Forests (NYT)

The New York Times, September 9, 2005

The Bush administration has largely succeeded in its systematic effort to roll back environmental protections for America's national forests. It has weakened agreements to protect old-growth trees in the Pacific Northwest, persuaded Congress to adopt an industry-friendly plan for fire suppression and overhauled rules governing forest management in ways that erode safeguards not only for the forests but also for the endangered species that live there.

Now, however, a rebellion is brewing where the White House least expected it. Western governors are challenging the most controversial rollback of all: the decision to repeal a popular rule approved near the end of the Clinton administration to protect nearly 60 million acres of remote national forest from commercial development.

The attorneys general of California and New Mexico and the governor of Oregon have filed a suit charging that the administration failed to conduct necessary environmental reviews before imposing the new rule. They argued further that the rule would endanger "the last, most pristine portions of America's national forests," leading to excessive logging and destroying essential watersheds.

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The lawsuit followed complaints from other governors, including Republicans, that the new rule would saddle them with impossible administrative burdens. The rule would requires states to survey all roadless areas within their borders and devise protection plans, then submit the plans to Washington for approval, with no guarantee of success.

The rebellion is an embarrassment for an administration that had assumed that the governors would leap at the chance to exercise states' rights. It now seems clear that the governors prefer a uniform national approach to federal roadless areas rather than piecemeal management.

The rebellion should also improve the prospects of a bill introduced by Sherwood Boehlert, Republican of New York, and Jay Inslee, Democrat of Washington, to restore the old roadless rule. Now that the governors have spoken, there seems to be no reason to further indulge the commercial interests of a few timber companies.

FBI/DEA/ATF/USMS:

Pelican Bay State Prison Gang Leaders Get Life Sentences (AP)

The Associated Press

AP, September 9, 2005

SAN FRANCISCO -- Five Pelican Bay State Prison gang leaders were sentenced Thursday to life in federal prison on various racketeering, drug and weapons violations after Gov. Arnold Schwarzenegger commuted their state terms.

The inmates were already serving life sentences at the notorious state prison in Crescent City that houses California's worst offenders. With their convictions, they will be transferred to separate federal prisons around the country.

"By incarcerating these defendants in federal maximum security prisons, this organization's operational capabilities will be seriously disrupted," U.S. Attorney Kevin Ryan said.

Defendants Cornelio Tristan, 44, James Morado, 57, Joseph Hernandez, 55, Gerald Rubalcaba, 50, and Tex Hernandez, 50, were leaders of the Nuestra Familia prison gang. They admitted that while they were behind bars, the organization murdered two former gang members and engaged in numerous drug transactions from which they profited.

The five defendants were the last of 22 Nuestra Familia members and associates sentenced in the federal case that began five years ago.

The U.S. Justice Department's key witness in the case, former Nuestra Familia leader Daniel Fred Hernandez, will soon walk free even though he admitted to selling drugs and committing other crimes while working for the government.

Hernandez, 42, cut a deal with federal prosecutors for a reduced sentence in return for providing evidence against fellow gang members. He was arrested nearly five years ago and faced life in prison on the same racketeering charges as the others.

As part of his plea deal, Hernandez agreed to wear a wire and set up drug and gun buys for fellow gang members.

Hernandez was sentenced Wednesday in San Francisco by U.S. District Court Judge Charles Breyer to 54 months in federal custody. He has already served 49 months and has received credit for good behavior.

Nuestra Familia originated about 40 years ago within prison walls among Hispanic inmates from rural Northern California as a way for members to protect themselves against rival prison gangs.

Gang Leaders In Federal Hands (MHCA)

By Julia Reynolds And George B. Sanchez

Montery (CA) Herald, September 9, 2005

SAN FRANCISCO - The intense federal prosecution of Nuestra Familia leaders ended Thursday with a warning from the judge who has presided over the case since 2000.

"This was a very expensive prosecution, involving millions," U.S. District Court Judge Charles Breyer said after sentencing the gang's top five leaders to life in federal prison.

Federal prison officials now, he said, need to make sure they keep the gang from spreading throughout the country the way it spread though the California prison system.

The responsibility for keeping the gang under control is now in the hands of the Federal Bureau of Prisons, Breyer said.

Chained and surrounded by nine U.S. marshals in a specially modified courtroom, James "Tibbs" Morado, 57, Joseph "Pinky" Hernandez, 55, Gerald "Cuete" Rubalcaba, 50, Cornelio Tristan, 44, and Tex Marin Hernandez, 50, were all given life terms in federal prison with the condition that if they are ever released for any reason, they will be returned to California prisons.

"At the time of the pleas, I voiced concerns" about the potential for contamination of the federal system, Breyer said. "I think what I said then is true today. It is a serious concern."

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California authorities also had expressed fears that federal officials might cut deals with the quintet that would enable some or all to be freed in exchange for cooperation.

U.S. Attorney Kevin V. Ryan praised 10 agencies for their roles in the investigation, including the Monterey County Sheriff's Office and District Attorney's Office and the Salinas Police Department.

Operation Black Widow began with the promise of crippling the Nuestra Familia. In 2000, federal prosecutor Robert Mueller, now head of the FBI, began the case in Salinas with 11 indictments, saying the arrests would have "a dramatic impact on criminal activities" in Monterey County and elsewhere.

This week, it all ended quietly and without fanfare. Only a few onlookers attended Thursday's hearing.

The case had been at an impasse for nearly a year since the men agreed to life sentences in federal custody after pleading guilty to a single count of conspiring to conduct a criminal enterprise through a pattern of racketeering.

Federal prosecutors had assumed the state would quickly commute the defendants' life sentences so they could enter the federal system.

Some district attorneys protested the commutation, fearing the defendants could enter federal witness protection programs or become eligible for federal parole if it is reinstated.

Last week, the state's Supreme Court advised Gov. Arnold Schwarzenegger to relinquish the gang leaders from life sentences in California as long as federal authorities provided the necessary assurances.

On Wednesday, the governor signed commutation letters for each of the five defendants.

Thursday's sentencing hearing began with a moment of tension when attorneys realized the letters from the governor's office hadn't arrived. Once the faxed letters were delivered by U.S. Attorney Edward Torpoco, the proceeding went quickly.

Through their attorneys, the defendants asked for two changes to their pre-sentencing reports, which Breyer agreed to do.

One was that they be described as "Mexican" or "Mexican/Indian" instead of "White/Hispanic."

Another was a request to strike a description of the gang's communication methods that said coded messages are delivered by the defendant's spouses and girlfriends. Defense attorneys said the defendants felt the paragraph's language might be used to keep family members from visiting them in the future.

With the federal sentences finally handed down, the five are likely to be transferred from a holding facility in Dublin to various federal prisons within a few weeks.

Many of the original defendants were serving prisons terms in California when they were indicted federally.

The "final five" leaders all had life sentences. They were locked down for 23 hours a day in the security housing unit at Pelican Bay State Prison. Despite the heaviest security of any California prison, they managed to run one of the nation's most sophisticated criminal enterprises, issuing orders for murders and other crimes on the streets via smuggled messages or through inmates being paroled.

In an attempt to "cut off the head" of the gang, federal prosecutors teamed up with state law enforcement agencies to launch Operation Black Widow.

But some gang investigators, like Al Valdez of the Orange County District Attorney's Office, say that putting the gang's hard-core leaders into the federal system may broaden the gang's reach.

"They have plans and they have connections," he said. The gang may or may not succeed in gaining a strong base in federal prisons, he said, "but they certainly will attempt it."

Attorney Ann Moorman, who represents Rubalcaba, said the sentences were the "right result for this case."

Because the case never went to trial, some questions that surfaced during the years of waiting will never be answered.

One concern is the precise role played by criminal informants, whom defense attorneys said were too active in the gang's criminal activities while working as government witnesses. One key informant, Danny Hernandez, is expected to be released from custody within weeks although he committed numerous crimes with and without the knowledge of his FBI handlers during the investigation, according to FBI reports and other documents.

Assistant United States Attorney Edward Torpoco defended the use of criminal informants during Operation Black Widow.

"Law enforcement in the past has typically used whatever means it can within the bounds of the law to combat organized crime," he said.

"The alternative was to do nothing and that was not an acceptable alternative," Torpoco explained.

Another lingering question, as some investigators suspect, is whether the five leaders played a role in the death of 20-year-old Crystal Morado of Salinas, while they awaited trial. Crystal Morado married James Morado while he was in the Dublin facility, and was found slain several months later on Hecker Pass near Gilroy.

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Gang Members Arrested In Major Crackdown (MH)

By Mark Sherman

The Miami Herald, September 9, 2005

WASHINGTON - More than 650 suspected members of MS-13 and other gangs were arrested in the United States, Mexico, El Salvador, Guatemala and Honduras in a coordinated crackdown on violent Hispanic gangs, officials said Thursday.

But even as a senior FBI official set a goal of dismantling MS-13 in the next 18 months, police officials from the other countries described vast challenges in quelling gang activity in their prisons and disrupting recruitment.

The roundup, conducted Wednesday by 6,400 law enforcement officers in the five countries, was run out of FBI headquarters in Washington, FBI assistant director Chris Swecker said.

"Our end game is to take out the leadership elements especially," Swecker said at a news conference. "These arrests are a means to that end."

Police and federal agents made 73 arrests, more than half on immigration charges, in 13 states, Swecker said. Thirty-two people were arrested in California alone.

Authorities also arrested 237 people in El Salvador, 162 in Honduras, 98 in Guatemala and 90 in Mexico. The arrests in Mexico all took place in the southern Chiapas state, near the border with Guatemala.

MS-13, also known as Mara Salvatrucha, originated in Los Angeles among Central American immigrants. An estimated 10,000 MS-13 members are in the U.S., with the highest concentrations in Los Angeles, New York, northern Virginia and Maryland, the FBI said.

MS-13 may have as many as 50,000 members in the other four countries, officials said.

The foreign police officials said they are all but powerless to stop gang activity in the prison population. "The gang leader must die," said Gen. Mirna Suazo Rivera of the Honduran National Preventive Police.

In El Salvador, poor areas are fertile recruiting grounds, where "10,000 gang members have 10,000 families, brothers, sons, nephews, cousins," said Douglas Omar Garcia-Funes, the country's assistant director of investigations.

ON THE NET

FBI: http://www.fbi.gov

Gang Crackdown Nets 650 Suspects (LAT)

By Chris Kraul, Times Staff Writer

The Los Angeles Times, September 9, 2005

MEXICO CITY — More than 650 suspected gang members were arrested in a five-nation crackdown, including scores in the southern Mexican state of Chiapas, officials said Thursday.

An FBI statement said more than 6,400 law enforcement officers in the U.S., Mexico, El Salvador, Guatemala and Honduras participated in the coordinated crackdown against gangs, particularly MS-13.

In Mexico, Chiapas suffers most from MS-13 because the state's southern border with Guatemala is a crucial transit point for Central American immigrants.

Gang members prey on largely defenseless migrants, robbing, raping and killing them, especially along a railroad line that runs from Chiapas to the U.S.-Mexico border.

About 1,500 state and local police officers participated in the Chiapas raids, said the state public security secretary, Horacio Schroeder Bejarano. No violence was reported.

Fifty-four of the 94 people arrested there were thought to be Central Americans. The others were Mexicans believed to have been recruited by the gang, also known as Mara Salvatrucha.

Bejarano said there was a warrant for each arrest. The detainees were wanted in various crimes, including homicide.

"These arrests are a consequence of meetings between the security agencies of all the countries in the region and were designed to hit the trans-border criminal gangs," Bejarano said. "They are a problem from Honduras all the way up to the United States."

FBI Assistant Director Chris Swecker said at a news conference that the operation was run from Washington.

U.S. police and federal agents made 73 arrests, more than half on immigration charges, in 13 states, Swecker said. Thirty-two of the arrests were in California.

Authorities also arrested 237 people in El Salvador, 162 in Honduras and 98 in Guatemala.

MS-13 originated in Los Angeles among Central American immigrants.

According to the FBI, an estimated 10,000 members of the gang are in the United States, with the highest concentrations in Los Angeles, New York, northern Virginia and Maryland.

DOJ_NMG_0004075

MS-13 may have as many as 50,000 members in the other four countries, officials said.

Associated Press was used in compiling this report.

Massive International Sting Nets 660 (CNN)

By Terry Frieden, CNN Washington Bureau

CNN.com, September 9, 2005

WASHINGTON (CNN) -- A massive international sweep targeting violent MS-13 gang members in the United States and Central America produced about 660 arrests, law enforcement authorities announced Thursday.

The two-day operation, which ended early Thursday, involved more than 6,400 government agents in five countries: the United States, El Salvador, Honduras, Guatemala and Mexico. Top officials from each country coordinated from a joint command post at FBI headquarters in Washington.

"I haven't seen anything like this in 23 years," said veteran FBI Assistant Director Chris Swecker, who oversaw the operation.

Alejandro Diaz de Leon, of the southern Mexican state of Chiapas, said, "There is no precedent in our law enforcement effort."

An estimated 10,000 members are in the United States, and while they have been most active in Los Angeles, New York and northern Virginia, other regions are gaining members.

Officials say Central America has about 50,000 MS-13 members, and that the operation is an important step in their common goal of eradicating the MS-13 gang in the next 18 months.

Taking the gang members off the street is only a first step in solving El Salvador's gang problem, said Douglas Omar Garcia Fumes, assistant director of investigations there.

"They continue to operate even after they're arrested. Orders to kill are coming out of our prisons. We have only one maximum security prison," he said.

The operation's scope and collaborative effort "sent a message to MS-13 and other like gangs that their criminal enterprise and the violence they perpetrate will not be tolerated," Swecker said.

The Mara Salvatrucha (MS) gang was first formed in Los Angeles by young men from El Salvador. Most of the members have family ties to that country or to Honduras.

The largest number of arrests -- 237 -- was in El Salvador, where the brutal gang is entrenched. Other arrests included 162 in Honduras, 98 in Guatemala, 90 in Mexico and 73 in the United States.

U.S. cities with the highest number of arrests were: Los Angeles, with 20; San Francisco, with 12; Atlanta, six; and Charlotte, five.

Carrying out the raids in 13 states were agents from the FBI; the Bureau of Alcohol, Tobacco, Firearms and Explosives; the Immigrations and Customs Enforcement; and local police.

Last month 19 suspected MS-13 gang members were charged in a federal racketeering indictment accusing them of killings and other violent crimes. (Full story)

In May two MS-13 members were convicted for the murder of pregnant federal witness Brenda Paz. (Full story)

FBI Makes Arrests Against Violent Gang Members (KNBC-TV)

KNBC-TV, September 9, 2005

LOS ANGELES -- The FBI Thursday conducted a "coordinated, five-nation law enforcement effort" against violent gangs, including the notorious Mara Salvatrucha-13 organization, which has a large membership in Los Angeles.

"These gangs are organizing internationally, and so are we," FBI Assistant Director Chris Swecker said in a statement.

Thursday's actions included the participation of more than 6,400 police officers, federal agents or law enforcement personnel, operating in 15 states, as well as in El Salvador, Honduras, Guatemala and Mexico. An unknown number of people were arrested.

The effort was part of a series of actions undertaken with state, local, federal and foreign agencies, coordinated by the FBI's National Gang Task Force, which was established last year to fight gang violence.

The task force's first main target was the Mara Salvatrucha-13, also known as MS-13. The gang's presence has been identified in 33 states, the District of Columbia, Mexico and a number of countries in Central America.

MS-13's estimated membership is more than 10,000 in the United States, with the largest concentration in Los Angeles, Northern Virginia, Maryland and New York.

Swecker described Thursday's operation as "historic ... unprecedented in scope."

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"By bringing together resources from the local, state, federal and international law enforcement community, all levels of U.S. law enforcement and our international partners are working together and sharing information," Swecker said.

"This represents but a beginning, another step, in an ongoing national and international effort to go on offense and to strike back against gang violence," Swecker said.

FBI Arrests Suspected MS-13 Gang Members (OREG)

By Noelle Crombie, The Oregonian

The Oregonian, September 9, 2005

Federal agents arrested five self-described MS-13 gang members on Wednesday as part of a nationwide crackdown on the notoriously brutal street gang.

The individuals were arrested on administrative immigration violations and were picked up in Portland, Gresham and Cornelius, authorities said. They have not been charged with a crime and face deportation.

Immigration authorities would not release the names, citing their practice of not identifying individuals accused of administrative violations.

Robert Jordan, the top FBI agent in Oregon, announced the arrests, saying authorities are "seeing the beginnings of a movement of members to Oregon, and we are very serious about making sure MS-13 can't establish a strong foothold in our communities."

The suspected gang members were identified through criminal investigations throughout the country, said Dan Nielsen, assistant special agent in charge of the FBI in Portland.

Portland gang detectives said Wednesday they have not seen documented MS-13 activity in the area. Gang detectives rely on residents, gang members, and police reports from Portland officers as well as those from outside agencies to identify gang members and gang-related crimes.

Portland Police Officer Russ Corno, a member of the bureau's gang unit for eight years, said competing gang members typically alert police to the presence of another gang. He said officers have encountered a few claiming to be members of MS-13, but said "as far as them getting a major foothold or doing recruiting -- I don't think that it's going on here."

He said concerns about the violent gang are valid, but said they are not having an impact on the Portland area gang scene.

Last year, the FBI set up a national task force to focus on dismantling MS-13.

Experts say MS-13 is an international criminal organization -- trafficking in drugs, arms, alien smuggling, prostitution and home robberies.

Refugees fleeing the U.S.-backed civil war against guerrillas in El Salvador created the gang in a Salvadoran neighborhood of Los Angeles. MS is short for Mara Salvatrucha: "Mara" means gang in Salvadoran; "Salvatrucha" is the word for a Salvadoran male, and was used by guerrilla fighters in El Salvador. The 13 means the gang is a "Sureno" or Southern California Latino gang.

Federal authorities characterize the gang as a soulless, tattooed army of cutthroats, audacious enough to go to war with Central American political groups and California's most infamous gangsters.

Noelle Crombie: 503-276-7184; noellecrombie@news.oregonian.com.

FBI Arrests Suspected MS-13 Gang Members (AP)

By Associated Press

AP, September 9, 2005

Five people who claim to be members of the brutal street gang called "M-S-13" face deportation after they were arrested for immigration violations.

Officials say none was charged with a crime. The immigration violations are part of the administrative procedure leading to possible deportation.

Robert Jordan, the top FBI agent in Oregon, announced the arrests Wednesday as part of a national crackdown. He said the FBI is serious about ensuring that M-S-13 can't establish a strong foothold in the communities.

Last year, the FBI set up a national task force to focus on dismantling MS-13, an international criminal organization that trafficks in drugs, weapons, alien smuggling, prostitution and home robberies.

Four Gwinnett Men Arrested In Gang Sting (GWINNDP)

By Bryan Brooks, Staff Writer

Gwinnet (GA) Daily Post, September 9, 2005

DOJ_NMG_0004077

LAWRENCEVILLE — Four arrests were made Wednesday in Gwinnett County as part of an international investigation into the violent street gang "Mara Salvatrucha," federal officials said Thursday.

Nationwide, 73 individuals were arrested in the FBI-led crackdown involving local police officers and federal agents in 15 states.

Also known as "MS-13," the international gang has been implicated here and elsewhere in a number of violent crimes, including murder, aggravated assault, rape, firearms violations, drive by shootings and robberies, according to the FBI.

Six gang members were arrested across metro Atlanta, including four in Gwinnett, said FBI Special Agent Steve Emmett.

One arrest was made in Lawrenceville and the other three in unincorporated Norcross, Emmett said.

Although the FBI identified those arrested, Emmett declined to say where each individual was taken into custody.

"We're not going to stipulate who was where," he said. "There were searches conducted (in Gwinnett) and small amounts of marijuana were seized in some instances and various fake IDs and gang paraphernalia were noted."

Arrested were: Roman Aguilar, 24, Juan Claros, 29, Walter Hernandez, 22, Juan "Joker" Maye, 25, Pedro "Mousie" Maye, 20, and Gustavo "Conejo" Martinez, 24.

Martinez is the leader of a local "set of MS-13," according to the FBI, which said all six are in the country illegally and subject to deportation.

The Gwinnett County and Lawrenceville police departments participated in the operation that included the FBI, Immigration and Customs Enforcement, and the Bureau of Alcohol, Tobacco and Firearms.

MS-13 has its origins in Los Angeles and El Salvador and is widely dispersed, although there are "clear indications" some within the gang are trying to organize it into a regional and national crime organization with strengthened ties to better established and more violent MS-13 cliques in Central America, according to the FBI.

As part of Wednesday's effort, law enforcement authorities in El Salvador, Honduras, Guatemala and Mexico conducted separate but coordinated actions against MS-13 that netted 563 arrests, according to the FBI.

Gang membership in those four countries is estimated to be as high as 50,000. In the United States it is thought to be more than 10,000, with the largest concentration in Los Angeles, Northern Virginia, Maryland and New York, according to the FBI, which has created a task force to dismantle the gang.

Police Investigate Crime Spree (WMTV-TV)

By Natalie Swaby

WMTV-TV, September 9, 2005

"$45,000 to $55,000 on an average day," says Captain Richard Bach of Madison Police's North District.

Police claim that dollar figure is what their suspects brought in by allegedly stealing over the counter medications while having ties to MS-13, a violent gang.

"They are just one part of a larger organized group, there are many of these small groups of these people throughout the country that commit these types of crimes," explains Bach.

An FBI tip brought officers to a Northside Madison motel on August 29th.

A four hour stake out brought in the two suspects, 21-year old Leonel Avendano and 23-year old Elvis Fuentes-Lazo as well as two boxes of evidence.

Bach says, "in their possession was about $10,000 worth of stolen over the counter medication that they had stolen from about 22 Walgreens in the Madison area the day before."

Detectives interviewed the suspects who are from Houston.

According to Captain Bach, they made the trip to Madison, and allegedly mapped out area Walgreens. Police say their plan was to then steal merchandise, and send it to a company in Louisville, Kentucky.

Now the two men are being held in Dane County jail in connection with felony retail theft. Detectives are also looking into possible connections with MS-13.

"We have not had any encounters or information that the violent MS-13 gang is in Madison. We're not even saying that these were gang members. We are saying they had an affiliation with the gang as far as this criminal activity," says Bach.

MS-13 is a gang that originated in El Salvador, but has spread into the United States. Members are trained in warfare and weapons. This gang is often connected to violent crimes, homicides, and drug deals.

Baggage Handlers Jailed In Smuggling Probe (MH)

The Miami Herald, September 9, 2005

DOJ_NMG_0004078

The illegal drugs were transported in suitcases on American Airlines flights departing from Port-au-Prince and arriving at MIA, sources said. The baggage handlers received tips about which luggage contained the cocaine, so they could unload it to evade authorities.

Some of the defendants arrested Thursday are expected to appear today in federal court in Fort Lauderdale, the sources said.

The unsealed indictment names 11 defendants, including one who is still at large. The investigation, by the FBI, Drug Enforcement Administration and Immigration and Customs Enforcement, is targeting other suspects.

Officials with the FBI, which is leading the inquiry, declined to comment.

According to sources, the investigation of baggage handlers at MIA is unrelated to the DEA's three-year investigation of cocaine trafficking and money laundering in the administration of deposed Haitian President Jean-Bertrand Aristide, who is in exile in South Africa.

That investigation has led to conspiracy charges against at least 14 defendants. Most have pleaded guilty.

MIAMI-DADE

SEX-OFFENDER LAW VOTE DEFERRED

Miami-Dade County commissioners deferred voting on an ordinance Thursday that would have barred sexual offenders from living within 2,500 feet of a private or public school -- a distance more than twice the limit imposed by Florida statute.

"We just want to make sure this is constitutional," said Commissioner Jose "Pepe" Diaz, one of the sponsors of the proposed laws. Municipalities within Miami-Dade had expressed concern about a law that would supersede local rules regarding sexual offenders, and concerns about the legal ramifications of an overly broad law have surfaced in recent weeks.

MIAMI

TRIAL OF NFL'S TAYLOR DELAYED UNTIL OCT. 24

A judge has delayed the trial of Washington Redskins safety Sean Taylor on aggravated assault charges until Oct. 24.

The trial had been scheduled to begin Monday, one day after the Redskins open their season against the Chicago Bears. Taylor's attorney, Edward Carhart, said he needs more time to take witness statements and gather other evidence for his client's defense.

Prosecutors did not object to the delay, which was granted Thursday by Miami-Dade Circuit Judge Mary Barzee.

Taylor, a former University of Miami standout, allegedly was among a group of people who got into an armed confrontation over an all-terrain vehicle. Prosecutors say Taylor pointed a gun at someone during the dispute. He is charged with aggravated assault with a firearm and simple battery.

Taylor, who pleaded not guilty, faces up to 16 years in prison if convicted. Taylor signed a seven-year, $18 million contract after being drafted by the Redskins in 2004.

AVENTURA

CITY HALL TO TURN INTO A CONCERT HALL

With no dedicated space for cultural activities and the desire to have more events in the city, Aventura officials are getting creative with the space they have.

The upstairs atrium of the government center will be transformed into a piano concert hall 3 p.m. Nov. 6 when the winners of the Murray Dranoff International Twin Piano Competition come to play.

There are no museums, concert halls or theaters within Aventura's city limits. And a push to bring one there died about two years ago.

The concert will be the first of what they hope will be a series. Featured to play are 1993 winners, Elizabeth Laich and Marcel Bergmann and 2003 winners, Per Tengstrand and Shan-Shan Sun.

For the concert, the city will bring in up to 250 folding chairs. The concert will be free for residents, and tickets will be given on a first come first serve basis.

DESIGN DISTRICT

BENEFIT TO AID HAITIAN ORPHANS

South Floridians wishing to help the orphaned children of Haiti can do so today by bringing everything from bars of soaps to their checkbooks to an evening fundraiser at Gigi's Bistro, 190 NE 46th St. in Miami's Design District.

The charity happy hour between 6 and 10 p.m. will benefit Mercy House Orphanage of Haiti, which provides a home and schooling to some of Haiti's smallest and neediest citizens in Port-au-Prince.

Among the items the charity hopes to collect for an upcoming trip later this month: toothpaste and child-size toothbrushes, pencils and pens, nonelectric pencil sharpeners, erasers, durable color markers, pencil cases and composition notebooks.

For further information,contact Julie Katrude, 305-803-4168.

DOJ_NMG_0004079

Drug Cash Smuggling Booming On U.S.-Mexico Border (REU)

By Tim Gaynor

Reuters, September 8, 2005

TIJUANA, Mexico (Reuters) - When the Mexican customs light blinked red at the border crossing with the United States, the driver of the white Chrysler van panicked, put his foot on the gas pedal and made a dash south for Tijuana.

Stopped a few hundred yards down the road, agents found $1,023,000 dollars in $20, $50 and $100 bills crammed into the dash, glove box and even the cloth seat backs of the vehicle traveling from Los Angeles.

For decades, U.S. law enforcement agencies have clamped down on Mexican drug cartels hauling cocaine, marijuana, heroin and amphetamines north over an ever-more tightly watched border to the United States.

Now, with stricter controls on bank accounts and wire transfers, officials are concerned that drug gangs are increasingly running illicit profits back to Mexico in piles of hard cash in cars, trucks and even on foot.

U.S. authorities have seized almost $40 million in bank notes headed into Mexico since 2002 and say cases like that of the van, which was stopped at random crossing into Tijuana in June, are just the tip of the iceberg.

"Bulk currency smuggling is probably the most important part in the war on drugs, although it's not addressed as widely as it should be in law enforcement circles," said Dan Burke, U.S. Immigration and Customs Enforcement supervisory special agent in San Diego.

"Usually when you get a million bucks there's a lot of high-fiving going on, but every single day $1-$2 million in drug money goes across the border here undetected," he added.

STRICTLY CASH

For years, drug gangs bought up houses, cars and luxury goods with cash in the United States and banked billions in profits to send back to Mexican and Colombian suppliers through electronic transfers.

But in 2000, the U.S. Bank Secrecy Act slapped reporting requirements on all cash transactions over $10,000, curtailing the cartels' spending sprees and making cash smuggling attractive for repatriating earnings, agents say.

"Wire transfers and bank accounts can be traced and assets seized, as can investments such as condos and horses and so on," said John Fernandes, the U.S. Drug Enforcement Administration's special agent in charge in San Diego.

"The predominant method now for the cartels is to say, 'Give me the cash; I'll handle it once it's south of the border,'" he added.

Once in Mexico, where banking oversight is less strict and corruption rife, bundles of greenbacks are laundered through businesses including currency exchange houses and construction projects in cities such as Tijuana, Guadalajara and the Caribbean resort of Cancun.

Law enforcement agencies have no estimate for the amount of drug profits flowing back over the border in cash each year, although U.S. Bureau of Customs and Border Protection figures indicate that it is on the rise.

While the number of currency seizures has remained steady at around 300 in recent years along the border, the average value of each almost doubled to $38,200 in the first months of this year, up from $21,600 in 2002.

The busts are widespread at border stations from California to Texas, where agents in Laredo plucked $1.7 million in notes from the quarter panels of a southbound Honda Accord in an incident in February that set a port record.

Hard currency seizures are also vigorous within the interior of the United States, where the Federal Bureau of Investigation netted $12 million bound for the so-called Juarez cartel in just one operation last year, dubbed "Baja Kings."

THE WEAKEST LINK

Law enforcement agents working to hunt down drug proceeds say that while banking laws are adequate to crack down on money laundering in the United States, cross-border cash smuggling remains a weak link.

At present bulk currency seizures are made through intelligence tips and random outbound operations at dozens of border stations along the U.S. side of the 2,000-mile (3,200-km) border.

In Mexico, meanwhile, searches are left to chance as cars and pedestrians are only stopped and searched if they trigger a red light, which flashes randomly, at a customs service post, either at the border or at inland checkpoints dubbed "retenes."

As the result of campaigning within the law enforcement community Burke has succeeded in getting a sign put up just north of the Mexico border near San Diego, warning drivers they must declare "currency or negotiable instruments" over $10,000, which he counts a small victory.

"The biggest problem is the lack of outbound facilities (to carry out searches) and the lack of a method to search vehicles going into Mexico for currency," Burke said.

"We get our victories here and there, we seize $100,000 or $200,000 here or there, but I know at the back of my mind that I'm not even making an impact," he added.

DOJ_NMG_0004080

Drug Crackdown Nets 44 Arrests (SFC)

By Maria Alicia Gaura, Chronicle Staff Writer

San Francisco Chronicle, September 8, 2005

(09-08) 12:25 PDT East Palo Alto (SF Chronicle) -- A crackdown on organized drug gangs in East Palo Alto has resulted in 44 arrests and the seizure of $500,000 worth of crack and powdered cocaine, methamphetamine and heroin, police officials announced today.

Police are searching for another 12 fugitives connected with the case. Spurred by a rising tide of violence and homicides in East Palo Alto, which has seen 13 killings since January, local officials teamed up with an array of state and federal law enforcement agencies to crack down on drug gangs that have taken over local parks and terrified residents here.

"Our message to the community, and to the criminals not caught up in this particular operation, is that this is not the end, this is just the beginning," East Palo Alto Mayor David E. Woods said at a morning news conference in Redwood City. "We will rid the city of this element at all costs."

East Palo Alto Police Chief Ron Davis said the city acted on lessons learned in the early 1990s, when gang warfare and 42 homicides in one year made the town the per-capita slaying capital of the United States.

"We made promises at that time that we would never let the violence rise as high as it was in the '90s," Davis said. Officials sought help from state and federal agencies in March, when the city had experienced four homicides, but observers could tell that gang violence was on the rise.

The resulting collaboration with the Mobile Enforcement Team — a special group of agents within the federal Drug Enforcement Administration — brought together officers from Palo Alto police, the San Mateo County Sheriff's Department, the San Mateo County Narcotics Task Force, the U.S. Attorney's Office, the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives and U.S. Immigration and Customs.

In the course of serving 20 search warrants, agents seized 6.1 pounds of crack cocaine, 3.8 pounds of powdered cocaine, 2.7 pounds of methamphetamine, 3.5 pounds of heroin, five vehicles, 17 firearms and $129,113 in cash. Those arrested face anywhere from 10 years to life sentences in prison, according to DEA Special Agent Javier F. Pena.

Dozens Arrested In Drug Sting (SFE)

By Ed Carpenter

San Francisco Examiner, September 8, 2005

REDWOOD CITY — Narcotics agents Thursday announced 45 arrests in a criminal dragnet in East Palo Alto, saying the arrests were the first in an ongoing attempt to disrupt drug dealing and gang activity in the city.

More than $600,000 in drugs, weapons and cash was seized as part of a five-month undercover investigation by East Palo Alto police, the San Mateo County Narcotics Task Force, the Drug Enforcement Administration, Bureau of Alcohol, Tobacco and Firearms and Immigration and Customs Enforcement. Eleven fugitives remain at large.

"This is probably the largest drug operation in East Palo Alto since 1992," police Chief Ronald Davis said. For many local residents, 1992 marked a low point in the city's history when it was branded as a criminal hotbed and 42 murders occurred.

East Palo Alto Mayor David Woods said the sting was the beginning of a concerted effort to take back control of the city streets and make them safe for children. "I want every citizen to know that the [City] Council is fully dedicated of ridding the city of this element and will at all costs," Wood said. "The violence is not acceptable. The drug action is not acceptable. And it will not be tolerated."

Sheriff Don Horsley said the DEA was brought in for its Mobile Enforcement Team program, which can be deployed to a city to investigate individuals and organizations involved in drug trafficking. "We asked that the DEA come and give us a hand on this, in light of an 18-month upswing in gang violence" in East Palo Alto and other Peninsula cities." Since January, 13 people have been shot to death in East Palo Alto.

Horsley pledged to continue working with state and federal authorities to gather intelligence on the most violent gangs and those responsible for drug distribution in the county over the long term. The increased gang activity in East Palo Alto and on the Peninsula in general can be largely attributed to recruitment efforts by prison parolees looking to regain territorial control in the area, police said.

Police plan to analyze guns seized as part of the investigation to determine whether they have been used in recent shootings or other crimes. "I think this was an incredibly successful investigation," Horsley said.

San Mateo County Supervisor Rose Jacobs Gibson, who represents the area, said the arrests are the first steps in taking back street corners and park such as Jack Farrell in East Palo Alto that have been overrun by methamphetamine and cocaine dealers.

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Survey Shows 9% Decline In Teen Drug Use (USAT/AP)

USA Today, September 9, 2005

WASHINGTON (AP) — The percentage of Americans using illicit drugs declined slightly last year, though the results were more pronounced for youths, according to a survey released Thursday.

For people ages 12-17, there was a 9% drop in illicit drug use between 2002 and 2004, the federal government announced.

"Today's survey confirms the welcome trend on teen drug use," said John P. Walters, director of the Office of National Drug Control Policy.

Overall, 19.1 million Americans used illicit drugs last year, or 7.9%. The numbers were basically the same for the surveys taken in the previous two years, when about 8% of Americans reported using illicit drugs within the previous month.

The National Survey on Drug Use and Health is an annual survey of close to 70,000 people. It measures drug and alcohol use through several categories, including age, ethnicity and type of drug.

The survey showed that illicit drug use dropped from 11.6% to 10.6% among youths ages 12-17 from 2002 to 2004.

However, binge drinking, which is defined as five or more drinks in one setting, increased in the same age group — from 10.6% to 11.1% from 2003 to 2004.

Officials with the Marijuana Policy Project said federal officials "consistently pay no attention to this alarming situation." The group seeks the regulation of marijuana in the same manner alcohol is regulated.

"Unlike occasional marijuana use, binge drinking can actually kill you," said Bruce Mirken, director of communications for the organization.

Federal officials said they are not ignoring binge drinking. The government is focused on getting the word out to young people that alcohol is not safe, said Leah Young, a spokeswoman for the Substance Abuse and Mental Health Services Administration.

The survey also showed that 70.3 million Americans used tobacco products, which is a slight decline from the previous two years. The percentage of tobacco users among Americans ages 12 and older dropped from 30.4% to 29.2%.

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S.A. Couple Plead Guilty To Playing Role In Drug Ring (SAEN)

By Guillermo Contreras, Express-News Staff Writer

San Antonio Express-News, September 9, 2005

A San Antonio couple pleaded guilty Thursday to charges they were involved in a drug-distribution cell linked to the Texas Mexican Mafia that used a local police officer to avoid detection.

Mike Flores, 33, and his girlfriend, Toni Lopez, 35, also admitted that federal prosecutors could show at trial that they dealt heroin and cocaine and that then-San Antonio police officer Enrique Hinojosa, 32, tipped them off to drug investigations. The conspiracy is alleged to go back to at least April 2001.

Flores pleaded guilty to conspiracy to distribute more than 100 grams of heroin, and Lopez pleaded guilty to aiding and abetting the possession of heroin. Their pleas came just days before their trial was to begin.

Hinojosa, who worked with the San Antonio Police Department from January 2001 to March 2004, is now the only one in the case scheduled for trial Monday before U.S. District Judge Orlando Garcia.

Hinojosa faces charges of conspiracy to distribute heroin, aiding and abetting the possession of heroin and two counts of aiding and abetting the possession of cocaine. He has pleaded not guilty.

The plea bargain documents said Hinojosa has known Flores since grade school and that the two were in a West Side gang as teenagers. The documents said Hinojosa would let Flores know when police units that target known drug dealers were in the area where Flores lived or operated, and that Hinojosa drove Flores to locations where Flores would make drug deals.

During the investigation, narcotics detectives raided Flores' home on Sept. 11, 2003, and found 9 ounces of black tar heroin, 1.68 ounces of cocaine, an ounce of cut heroin and $26,827 in cash. Hinojosa was in the home, the documents said, and he gave investigators inconsistent statements about his involvement.

Hinojosa was placed on indefinite suspension on March 4, 2004, a San Antonio police spokeswoman said.

The documents said investigators learned that Hinojosa also told Flores that police were after Ralph Peña, 33, who is Lopez's ex-husband and son of Heriberto "Herb" Huerta.

Law officers contend Huerta, 52, who is serving life in a federal prison in Florence, Colo., is still the president of the Texas Mexican Mafia and runs the gang via a network of relatives and associates inside and outside prison.

The documents said Lopez visited Huerta in prison during the course of the investigation. Last month, federal agents seized the $13,000 in Huerta's commissary account, alleging it is the fruits of the gang's collection of a street tax levied on drug dealers in San Antonio. A week later, Peña was arrested on a charge of being a felon with a gun.

Flores and Lopez face five to 40 years in prison when they are sentenced Dec. 8.

IMMIGRATION:

Local Police Can Enforce Laws On Immigration (DANNT)

By Chipp Reid, THE NEWS-TIMES

Danbury (CT) News-Times, September 9, 2005

DANBURY — Earlier this year, Mayor Mark Boughton wanted the federal government to deputize state police officers so they could enforce immigration laws.

As it turns out, the extra authority might not have been needed.

A recently unearthed U.S. Justice Department memo says state and local cops can make arrests after traffic stops if they find civil immigration violations, such as someone overstaying a visa.

No specific federal authority is needed for local officers to make such arrests, according to the 2002 memo, which came to light in a recent court case.

Danbury officials said the memo will have little impact on law enforcement in a city that has seen a sizable increase in South American immigrants in recent years.

At the same time, however, Danbury officials confirmed city police officers are checking the immigration status of some drivers and making some arrests on immigration charges.

They complained, however, they receive little help from the federal government in prosecuting the cases.

"The problem of enforcement is not at the local level," Boughton said. "We don't get the cooperation we need from Immigrations and Custom Enforcement."

Boughton said he remained committed to having Danbury police enforce immigration laws as necessary. He said the arrests most often occur when a driver is stopped for speeding or other offenses and turns out to not have a license. "That immediately mean we start asking more questions," Boughton said.

The mayor emphasized police must have some reason other than the driver being Hispanic to make the stop. "These are routine traffic stops for speeding or not wearing a seat belt," Boughton said.

The Associated Press reported Thursday the 2002 memo was issued by then-Attorney Gen. John Ashcroft and his staff. It overturned a 1996 letter from Justice Department lawyers that said state and local police could enforce only criminal immigration violations, such as sneaking across a border.

The memo came to light recently when a coalition of civil rights and immigrants' rights groups sued the Justice Department to comply with a Freedom of Information Act request.

The American Civil Liberties Union, among others, has criticized the memo. The ACLU said the memo stretched the definition of the role of local police so far that it could be used to justify giving them the right to enforce the U.S. tax code, environmental rules and other federal laws.

In Danbury, there appears to be little desire to greatly expand the role of officers. Boughton dropped his proposal to deputize state police earlier this year when it found little support among law enforcement officials.

There is no support, right now, to either resurrect the plan or to use city police to conduct immigration sweeps.

"It's pointless for us to try (crack down) locally because we have nowhere to put people we may arrest on immigration violations," Boughton said.

Danbury Police Chief Alan D. Baker said it would cost too much to train the city's 150 officers in immigration law.

"We have enough to do as it is with quality-of-life issues," said Baker. "We have other areas where we need to devote our resources, which are already stretched thin."

Baker said no one knew much about the 2002 memo, and said it would likely "have absolutely no impact on what we do."

Maria-Cinta Lowe, executive director of the Danbury Hispanic Center, however, said she feared the Justice Department ruling could lead to further abuses against ethnic minorities.

"I think it's crazy," Lowe said. "In the first place, why would you put more work on the police? They already have enough to do and they are very good. But, if you give them even more power, I am afraid then that the power could corrupt some police officers."

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She also took issue with city police making immigration arrests based on traffic stops. She believes that could lead to racial profiling.

"I am very concerned about this, because who are the immigrants," Lowe said. "It is the Ecuadoreans, the Brazilians, all the people like that. I think it is crazy to do this, to put even more work on the police."

Baker agreed police had to walk a fine line in enforcing the immigration laws.

"Here in Danbury we do work closely with immigration officials as needed, but we also want to keep positive relations with groups like the Hispanic Center," he said. "We don't want anyone to be afraid to work with the police."

Immigrant License Bill Is Sent To Governor (LAT)

By Robert Salladay And Nancy Vogel

The Los Angeles Times, September 9, 2005

SACRAMENTO — The fate of a bill that could extend driver's licenses to illegal immigrants remained unclear today as some Californians condemned it and others praised the measure.

The state Senate today passed the measure and sent it to Gov. Arnold Schwarzenegger, despite signals that the Republican governor would veto it. With limited debate, the Senate this afternoon approved the bill on a 21-15 vote, the bare minimum needed for passage in the upper house.

After a late-night debate on the politically sensitive issue of immigration, the California Assembly on Wednesday passed the proposal.

Schwarzenegger vetoed a similar bill last year, but his position on the current legislation was not known.

The measure would clear the way for California to create a distinct driver's license, with a unique design and color, for people who cannot prove legal residency in the United States. The license could be used only for driving and would not be valid identification for other purposes, such as opening a bank account or boarding an airplane.

In Santa Ana, Adolfo Sierra, president of Casa Guanajuato, a nonprofit that promotes culture of that central Mexican state, said he has mixed feelings about the proposal.

"It's not fair. We should all be treated equally," he said. "I'm an immigrant and I feel this could increase prejudice against all of us."

Pablo Alvarado, coordinator of the National Day Laborer Organizing Network in Los Angeles, said he expected Schwarzenegger to block the measure.

"I think it's unfortunate that the governor seems ready to veto a bill designed to ensure the safety of the drivers in the state," said Alvarado. "If you have a driver's license, you can insure yourself."

Andy Ramirez, founder of the citizen group Friends of the Border Patrol, said the bill is "an absolute sham."

He said he lobbied the governor's staff to urge a veto.

The driver's licenses "are de facto ID cards," Ramirez said, and the Legislature "is trying to legitimize them being here. If you give them a driver's license, you are legitimizing them and approving of what they have done, which was to break the laws of our nation."

The bill, SB 60 by Sen. Gil Cedillo (D-Los Angeles), would also allow roughly 800,000 people in California who have applied to federal immigration officials for legal residency to get a California driver's license starting as soon as March.

The bill passed the Assembly 42 to 34.

Cedillo said he included several elements in the latest bill aimed at overcoming objections from Schwarzenegger, who last year vetoed a similar bill sponsored by Cedillo. But before the state Assembly took up the bill Wednesday, there were no indications that the changes would satisfy the governor.

The governor's office has consistently said Schwarzenegger does not want to take any action until the federal government finishes deciding its requirements for state licenses -- changes spawned by concern that terrorists or other criminals could get such documents.

Congress gave states the option to create distinct driver's licenses for illegal immigrants under the Real ID Act passed in May. That sweeping law will require most states to change the information they include on driver's licenses, the documents they require to issue a license and how they store driver's license data.

Before adopting their own new laws, most states are waiting to see what regulations the federal Department of Homeland Security issues to implement the Real ID Act. Those regulations are expected next year.

At least two states — Utah and Tennessee — passed laws providing the licenses.

David Lubell, coordinator of the Tennessee Immigrant and Refugee Rights Coalition, said the proposed California license would be similar to his state's "driving certificate," which gives driver's rights to undocumented immigrants.

Tennessee issued 16,000 certificates in the last year.

In March, Utah began issuing a "driver's privilege card," which looks different than driver's licenses. The card is available to applicants who lack a Social Security number.

Leo Bravo, of the Hispanic Center of Cache Valley in northern Utah, said the card is helping undocumented immigrants in his state.

"We are better off than other states in the Union. People will drive even if they don't have licenses," said Bravo. "They don't have insurance. They are not protected and we are not protected. If we are worried about national security, it's better to know who we have driving on the roads."

On the California Assembly floor, Democrats argued that the bill would improve highway safety in California by ensuring that most drivers are licensed, trained and insured.

"This is a good bill because I believe it's the right thing to do because individuals are here and they're driving and that's the reality," said Assemblyman Jerome Horton (D-Inglewood).

Republicans argued that the bill would reward people for breaking the law.

Assemblyman Doug La Malfa (R-Richvale) asked how he could teach his children to follow rules "when the California state Legislature is making rules that cause people to not have to obey the law."

But the 90-minute debate focused less on the details of the bill than on the politically sensitive issue of immigration.

"Illegal immigration is an enormous cost to this state," said Assemblyman Mark Wyland (R-Escondido). "And what this does is propose to legitimize that."

Assemblyman Alberto Torrico (D-Newark) argued that undocumented workers, through taxes taken from their wages, "put in more than they're taking out."

"The reward is not the driver's license," he said. "People come to this country because of the jobs and the economic opportunity and to get what every one of us wants for our children ... a better life."

In an attempt to head off Schwarzenegger's concern that California should wait until the federal government details the requirements of the Real ID Act, Cedillo amended his bill last week to incorporate such a delay.

Cedillo argues that his bill will help all 22 million Californians with driver's licenses by giving the Department of Motor Vehicles the authority to begin changing its procedures, computers and staffing to meet all the requirements of the federal Real ID Act by the May 2008 deadline. If California misses that deadline, its residents cannot use their driver's licenses for official federal purposes.

With his popularity eroded and polls showing voters displeased with the initiatives he has embraced on the November ballot, Schwarzenegger risks alienating loyal voters if he signs Cedillo's bill."

It would be horribly disappointing" if the governor did not veto the bill, said Mike Spence, president of the California Republican Assembly.

Schwarzenegger has until mid-October to act on the bill.

Where's The Governator Now? (NYT)

The New York Times, September 9, 2005

Gov. Arnold Schwarzenegger was a profile in timidity this week when he vowed to veto a pioneering bill authorizing gay marriage in California. The bill, which both houses of the Legislature passed by narrow margins, would expand the definition of marriage to include a civil contract between two people, not exclusively a man and woman. This was an enlightened and fair-minded stand that made California's Legislature the first in the nation to approve same-sex marriages.

Too bad Mr. Schwarzenegger could not find the courage to sign the bill into law. Instead, even before receiving the bill, he announced a tortured rationale for vetoing it. For years, social conservatives have accused judges of deciding social issues that should be left to legislators. Now Mr. Schwarzenegger wants to ignore his Legislature and leave gay marriage to the courts or the voters at large to decide.

He relies on a fig leaf: five years ago, Californians voted overwhelmingly for a ballot measure that recognized only heterosexual marriages as valid. A statement by the governor's press office declared, "We cannot have a system where the people vote and the Legislature derails that vote."

That ignores the fact that five years is an eternity in the fast-moving arena of gay rights. Even though 61 percent of the voters approved the ballot measure, recent polls show that the electorate is now evenly split, with Democrats and independents favoring same-sex marriage and Republicans strongly opposed. The Legislature is hardly a renegade body if it roughly mirrors popular opinion.

Mr. Schwarzenegger also seems to have forgotten that this nation was founded as a republic, in which the citizens elect legislators to govern on their behalf. Such representative democracy is especially important when it comes to protecting the fundamental rights of minorities, who may face bigoted hostility from some segments of the electorate.

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It's easy to guess why Mr. Schwarzenegger was in such a hurry to announce his veto. Although he was initially hailed as a centrist Republican superhero who could appeal to a broad range of voters, his popularity has plummeted, and polls show that most Californians are inclined to oppose his re-election. Only his Republican base continues to back him.

Mr. Schwarzenegger's own views of gay marriage are hidden beneath vague, elusive, sometimes contradictory comments that add up to ducking the issue. The former Mr. Universe who has derided political opponents as "girlie men" is afraid to say what he really thinks. He falls back on a rationale that would leave the issue to the courts or another vote of the people. Anything to get him off the hook.

Squatter At Minn. School Ordered Deported (FINDLAW/AP)

Find Law, September 9, 2005

(AP) - BLOOMINGTON, Minn.-A Mexican immigrant who was found living at a high school last winter must leave the country, an immigration judge decided Wednesday.

Francisco Serrano was ordered to depart within 120 days, though he plans to appeal the decision.

"It's not what I expected - I'm dejected," he said. "I just want to go to college, have a career and go back to my country ... for sure, I'm going to pray."

Serrano, who is in his early 20s, hid at Apple Valley High School, which he had once attended, and was arrested by immigration officials after he was discovered in the school's boiler room.

He has said he and his family moved to Connecticut after his sophomore year here. He said he returned to Minnesota on Christmas Eve with only $200 in his pocket.

Serrano's situation drew some support from parents who e-mailed the school after the man was discovered, though the school was also criticized for allowing someone to live there undetected.

Tim Counts, a spokesman for the Bureau of Immigration and Customs Enforcement, said it was a clear case of someone abusing their visa privileges.

"The circumstances of his discovery (at the school) were unusual, but the facts of the case are quite common," Counts said. "He came in on a visitor's visa and didn't leave when it expired, and therefore he was in the country illegally."

Serrano said he spent three weeks in the school of 2,300 students - though officials could only confirm he was there two weeks - sometimes sitting in on classes and sleeping wherever he could hide.

He was arrested at the school in January and charged with trespassing, then arrested again when he returned.

TAX:

'Survivor' Winner Hatch Indicted For Tax Evasion (REU)

Reuters, September 8, 2005

BOSTON (Reuters) - A federal grand jury on Thursday indicted Richard Hatch, who took home $1 million as the first winner of the CBS hit reality show "Survivor," for tax evasion, bank fraud and other charges.

The U.S. Attorney's office in Providence, Rhode Island, accused Hatch, a motivational speaker, of failing to report the $1 million winnings in 2000 and about $391,000 he earned from half a dozen other sources.

The 10-count indictment follows a grand jury investigation that began in March when Hatch backed out of a deal with prosecutors to plead guilty to two tax evasion charges that carried a maximum 10-year jail sentence and a $500,000 fine.

Hatch, who wandered around naked on the show and was once described by a fellow contestant as a "snake," said he was innocent in March. He was not immediately available for comment following the new list of charges released by prosecutors in Rhode Island.

If convicted on all counts, the 44-year-old Newport, Rhode Island, native would face a maximum fine of $1.35 million and 73 years in prison.

Eight of the charges carry a maximum sentence of five years each in prison, one has a three-year sentence and another bank fraud charge carries a maximum 30-year jail sentence, said Tom Connell, a spokesman for the U.S. Attorney in Rhode Island.

A summons was issued for Hatch to appear before a U.S. magistrate for arraignment.

The first "Survivor" became a ratings sensation for CBS and helped spark a boom in reality-based TV shows.

In television and radio interviews aired in March, Hatch's lawyer said CBS should have withheld federal taxes for the game show contestant because the network should have classified him as an employee under California law.

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CBS, a unit of Viacom Inc., has said that Hatch alone was responsible for declaring his winnings to the federal government and paying his taxes.

'Survivor' Winner Indicted On Tax Charges (AP)

By M.I. Johnson

AP, September 9, 2005

PROVIDENCE, R.I. - Richard Hatch, who won $1 million on the first season of the reality show "Survivor," was indicted Thursday for failing to pay taxes on his winnings from the CBS show.

Hatch faces 10 charges, including tax evasion, filing a false tax return, wire fraud, bank fraud and mail fraud. U.S. Attorney Robert Clark Corrente said Hatch, 44, did not pay taxes on his "Survivor" prize, income from a radio show and rental income. The Newport resident also allegedly used donations to his charity, Horizon Bound, to cover personal expenses.

Prosecutors charged Hatch with two counts of tax evasion in January. He agreed to plead guilty, but backed out of the deal in March, saying he thought CBS was responsible for paying the taxes on his prize. CBS has said Hatch was well aware of his obligations to pay taxes on the money.

On Thursday, Hatch was on a plane headed for Houston to help hurricane victims at the Astrodome and could not be reached for comment, said Rod Mitchell, a spokesman for Hatch's lawyer, Michael Minns.

The grand jury, which received the case after the plea deal fell apart, indicted Hatch for filing false 2000 and 2001 tax returns, which omitted his income from the reality show, $327,000 he was paid to co-host "The Wilde Show" on a Boston radio station and $28,000 in rent on a property he owns in Newport.

The indictment said Hatch had two accountants prepare tax returns that included his "Survivor" winnings but did not file them when he learned he would owe hundreds of thousands of dollars in taxes. In 2002, he had one of the accountants prepare a second return that did not include his TV show winnings. He filed that one, which called for a $4,500 refund, the indictment said.

Hatch was also accused of misusing $36,500 from a nonprofit camp he set up, Horizon Bound. For example, he allegedly kept for himself a $10,000 donation made in return for his appearance on the NBC game show "Weakest Link." He spent the money from the game show on a construction project at his house, the indictment said.

Hatch faces a maximum of 75 years in prison if found guilty on all charges. He also could face millions of dollars in fines.

On "Survivor," Hatch stood out for being a cunning and ruthless competitor, and spent some of his time in the nude. He won the show's first season in August 2000. He has since appeared on other TV shows, most recently the "Battle of the Network Reality Stars" on Bravo.

Since the TV show, Hatch has weathered a series of legal battles. He was arrested in April 2000 on a charge of abusing his then 9-year-old son. That charge was later dropped. In 2002, Hatch was found innocent of assaulting his ex-boyfriend.

ON THE NET

http://www.richhatch.com/

CONGRESS-ADMINISTRATION:

Partisan Rancor Accompanies Passage Of Disaster Aid Bill (WP)

By Charles Babington

The Washington Post, September 9, 2005

Democrats sharpened their criticism of the Bush administration's handling of Hurricane Katrina yesterday, refusing to participate in a Republican-controlled investigative panel and displaying a photo in the Senate of the president strumming a guitar the day New Orleans was inundated.

The day's events, which included a near-lionization of the only Democratic senator from the hard-hit states, left little doubt that political reaction to the catastrophic storm will be dramatically more partisan than was the response to the Sept. 11, 2001, terrorist attacks.

"We are reaching a perfect political storm," Sen. Jeff Sessions (R-Ala.) told reporters as lawmakers appropriated another $51.8 billion for hurricane relief but differed bitterly on how to figure out what went wrong.

Congressional Democratic leaders said they will not name members to a House-Senate commission that Republicans announced Wednesday to investigate local, state and federal government actions before and after Katrina lashed the Gulf Coast Aug. 29. Democrats said the proposed panel is unacceptable because they were not consulted about its formation and because GOP lawmakers would outnumber Democratic members.

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"As it is currently described, I will not appoint members to it," said Senate Minority Leader Harry M. Reid (D-Nev.). "The only way to ensure that all levels of our government are held accountable to the people is to take this process out of the hands of politicians with a vested interest in the outcome."

House Minority Leader Nancy Pelosi (D-Calif.) said: "If we're ever going to protect the American people, we must have an outside independent committee. Let's not have a charade about oversight."

Pelosi and Reid said Congress should appoint a panel of non-lawmakers modeled on the Sept. 11 commission that wrote an extensive report on the 2001 terrorist attacks. Congressional Republicans said they modeled the commission on House and Senate panels formed in 1986 to investigate the Iran-contra scandal during the Reagan administration. Democrats controlled both chambers then, and they outnumbered Republicans on the two committees, which were eventually merged.

"It looks like the Democrats want to play partisan political games at an important time," said Ron Bonjean, spokesman for Speaker J. Dennis Hastert (R-Ill.). He urged Pelosi and Reid to change their minds but said the panel would go forward without Democrats if necessary.

In the Senate, Democrats rallied around Sen. Mary Landrieu (D-La.), who returned to Washington after 10 days of highly visible and often emotional appeals for aid for her beleaguered constituents. Landrieu, who grew up in New Orleans, praised Republican colleagues from Louisiana and Mississippi but ripped the Bush administration for the federal response to Katrina.

The cost to rebuild "will be staggering," Landrieu said in a Senate speech attended by two dozen Democratic colleagues, a rare sight in the usually empty chamber. "But it will pale in comparison to the staggering incompetence of this national government [which] is responsible." When she finished, many colleagues hugged and kissed her, including Republican Sen. Thad Cochran of Mississippi, a state also ravaged by the storm.

At times, the debate was theatrical. Sen. Frank Lautenberg (D-N.J.) displayed a poster-size photo of Bush playing a guitar handed to him during a tour of a San Diego military base Aug. 30, after broken levees had caused New Orleans to flood.

"The president was enjoying the day, he was strumming a guitar," Lautenberg said. "I don't deny him the pleasures of office, but people were drowning."

When aides to House Majority Leader Tom DeLay (R-Tex.) attacked Pelosi's response to the investigative commission, they illustrated it with an e-mailed photo of San Francisco's Haight-Ashbury intersection, associated with the hippies of the 1960s.

Groups and strategists on the left and right, meanwhile, debated the wisdom of the two parties' actions. Some liberals cheered Pelosi and Reid for refusing to join the investigative panel. Others warned Democrats to offer solid alternatives when they criticize.

"These debates on blame alone won't get us anywhere with most people," said Laura Nichols, senior vice president of the liberal-leaning Center for American Progress. "Complaints about 9/11 investigations fell on deaf ears."

The Republican National Committee sent allies a list of "talking points," including: "It's disappointing that while President Bush has focused his administration's entire efforts towards saving lives and helping the victims of Katrina, there are those who are using this tragedy to score cheap political points."

Republicans criticized an online petition from the Democratic Senatorial Campaign Committee that combined a fundraising appeal with a call to oust the director of the Federal Emergency Management Agency. After an inquiry from the Associated Press, the DSCC removed the page and said any money it generated would go to the American Red Cross.

Bush Signs $51.8 Bln Storm Relief Bill (REU)

By Richard Cowan

Reuters, September 8, 2005

President George W. Bush signed legislation to provide $51.8 billion in additional funding for Hurricane Katrina relief on Thursday, shortly after the measure was approved by Congress.

The Senate approved the bill by a vote of 97-0 after receiving it from the House of Representatives, which also passed it overwhelmingly.

"The people affected by this storm have immediate needs that we must continue to meet without delay," Bush said in a statement. "More resources will be needed as we work to help people get back on their feet."

It was the second time in a week that Congress has rushed through emergency funding for the victims of the hurricane that hit Louisiana, Mississippi, Alabama and Florida at the end of August.

Congress has now approved $62.3 billion sought by Bush, who has warned that further requests will come. Some lawmakers have estimated a final price tag of $150 billion to $200 billion.

"If we were to fail to act, every relief that is going on right this very moment ... will be without money when the sun rises tomorrow," Senate Majority Leader Bill Frist, a Tennessee Republican, said on the Senate floor.

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Rep. Henry Waxman (news, bio, voting record) of California, the senior Democrat on the House Government Reform Committee, and three senior senators from both major political parties cautioned that a provision in the legislation could open the door to fraudulent spending of emergency aid.

The provision would allow federal workers with government-issued credit cards to buy up to $250,000 in goods or services in a single purchase, up from a $15,000 limit.

A government watchdog agency has found purchases of personal items like jewelry, stereo equipment and home supplies, charged to such credit cards in the past, the lawmakers said.

John Scofield, a spokesman for the House Appropriations Committee, said the legislation would reduce delays in delivering aid and that federal auditors will review credit card purchases.

Republican Sen. Jeff Sessions (news, bio, voting record), whose home state of Alabama suffered in the hurricane, also feared misuse of funds and called for the appointment of a hurricane czar to oversee spending. "We have got to be careful this does not become a feeding frenzy," he warned.

'FAILURES OF LEADERSHIP'

Democrats supported the emergency aid but some accused the House Republican leadership of rushing it and blocking debate on an amendment to revamp the widely criticized Federal Emergency Management Agency, in charge of relief.

House Majority Leader Tom DeLay, a Texas Republican, came to the defense of the White House. Referring to the evacuees sheltered and the food, water and equipment delivered, DeLay said: "We ought to be proud of that. But what are we doing in Washington? We're pointing our fingers."

The disaster will add to already large budget deficits this year and next. Those deficits also are being fueled by the war in Iraq that has cost about $300 billion since 2003.

FEMA will receive nearly all of the funds approved on Thursday -- $50 billion -- while the Defense Department will get $1.4 billion for its rescue efforts. The Army Corps of Engineers will get $400 million to dredge navigation channels, repair pump stations and levees in New Orleans and repair other projects in Gulf states.

Congress Approves $51.8 Billion For Victims (WP)

By Peter Baker And Amy Goldstein

The Washington Post, September 9, 2005

President Bush and Congress moved on multiple fronts yesterday to rush fresh relief to people afflicted by Hurricane Katrina, vowing to get cash directly into the hands of victims while enacting an unprecedented spending package to feed and house evacuees, rebuild schools and bridges, and begin clearing out the vast rubble.

Just a day after Bush's request, the House voted 410 to 11 to approve $51.8 billion for relief, and the Senate followed suit hours later 97 to 0, bringing the total approved in the past week to $62.3 billion, with more to come. With his poll approval ratings crumbling further amid a political backlash, Bush tried to unify the country by declaring next Friday a National Day of Prayer and Remembrance.

"The responsibility of caring for hundreds of thousands of citizens who no longer have homes is going to place many demands on our nation," Bush said in a televised statement hours before he signed the spending legislation last night. "We have many difficult days ahead, especially as we recover those who did not survive the storm."

House Speaker J. Dennis Hastert (R-Ill.) said yesterday's prompt legislative action "illustrates one thing: This Congress is serious about doing everything we can to help local, state and federal officials respond to this crisis."

As the authorities moved through flooded New Orleans to force out the remaining residents and collect an unknown number of bodies, the bipartisan consensus on dispensing federal dollars did little to obscure the growing political rift over how to investigate what both sides consider the bungled ini-

tial response to one of the worst natural disasters in the nation's history. Congressional Democrats rejected a Republican plan for a GOP-led joint House-Senate panel to look into the response.

"Despite all the talk of bipartisanship, they have just, on their own, unilaterally, put forth a proposal that will result in a whitewash of what has gone on here," said House Minority Leader Nancy Pelosi (D-Calif.). She added that she will not appoint any Democratic members to such a "charade" panel.

The two parties likewise split over the details of the spending package they approved yesterday. Democrats said the Republican leadership wrote billions of dollars in checks without considering whether the package offers the proper help -- and proper accountability. "The unfortunate truth is, Mr. Speaker, this compliant Republican Congress has acted more like an adjunct to this administration than a co-equal, independent branch of our government," said House Minority Whip Steny H. Hoyer (D-Md.).

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Beyond the spending package, the House approved a series of other measures to help people displaced by the hurricane, such as accelerating welfare money to affected states and allowing college students to keep federal financial aid even if their schools are now closed. But Democrats were blocked from adding provisions to restructure the Federal Emergency Management Agency, heavily criticized over its handling of the disaster response. Under the Democratic proposals, the agency would be detached from the Department of Homeland Security and its director would be required to have previous experience managing disasters.

On the final votes, the only dissenters were nearly a dozen House Republicans, some of whom expressed concern about accountability for the huge expenditures.

Trying to outdo the Republican rush of aid, Senate Democrats yesterday introduced a separate, more expansive package that would, among other things, extend Medicaid to survivors without health insurance, grant emergency rent vouchers to those who lost homes, and provide funds to schools that take in evacuees.

Even before the votes, Bush summoned television cameras to address hurricane victims directly, promising to provide every household $2,000 as soon as possible to tide it over and to expedite government benefits such as Medicaid, unemployment checks, food stamps, mental health services and nutritional supplements without the traditional bureaucratic requirements. The president told viewers to call 800-621-FEMA or, if they have Internet service, to go to http://www.fema.gov .

"We have much more work to do," Bush said. "But the people who have been hurt by this storm . . . need to know that the government is going to be with you for the long haul."

Bush has scrapped his schedule to focus on hurricane relief after being criticized for reacting too slowly to Katrina's devastation. A Pew Research Center survey found that 67 percent of Americans think Bush could have done more to respond to the storm. The survey placed his overall job approval rating at 40 percent, down 10 points since January. A poll by Zogby America recorded its lowest-ever approval rating for Bush, 41 percent.

In the latest effort to demonstrate commitment to improving the federal response, Bush dispatched Vice President Cheney to the region and first lady Laura Bush to other states housing evacuees. Cheney personally encountered some of the hostility directed at the administration. As he spoke with reporters on a street in Gulfport, Miss., a young man shouted at him. "Go [expletive] yourself, Mr. Cheney," the man yelled twice. Cheney smiled slightly but did not respond.

In his first tour of the damage, Cheney offered an upbeat assessment of what he called the "very impressive" current response efforts. "I think the progress we're making is significant," he said. Cheney also endorsed the Republican inquiry plan instead of the independent commission proposed by Democrats.

The details of yesterday's spending package offer a glimpse of the impact Katrina will have on taxpayers. Nearly half of the money -- $23.2 billion -- will go directly to as many as 1.1 million households in the form of housing grants and other assistance. Such aid will be capped initially at $26,200 per household.

Already, the government has spent $3.3 billion to snap up 200,000 trailers, mobile homes and recreational vehicles from showrooms across the country for the homeless survivors. Clayton Homes Inc., a Tennessee-based manufactured-home company, is trying to get 100 homes a day from its showrooms to a FEMA staging area, said Chris Nicely, the company's vice president for marketing. "We did make a profit on it," he said of the order. "It's hard to say how much."

More business will be coming soon. Included in yesterday's legislation is an additional $1.6 billion for 100,000 housing units. The package also includes $7.65 billion to repair public schools, nonfederal roads and bridges, water facilities, government buildings, parks, and public utilities. The U.S. Army Corps of Engineers will receive $3 billion to remove mountains of debris. A total of $1.9 billion will be used to buy ice, water, food, tents and other materials for victims and relief workers.

The bill stirred concerns in both parties about possible fraud. Under one provision, procurement officers can use government credit cards to make purchases costing as much as $250,000, without competitive bidding and without considering small-business and minority-owned-business allotments.

Such authority has traditionally been limited to $2,500 under normal circumstances and to $15,000 in emergencies. Lawmakers gave $15 million to the Homeland Security inspector general, but that did not mollify critics.

Sens. Charles E. Grassley (R-Iowa), Susan Collins (R-Maine) and Joseph I. Lieberman (D-Conn.) signed a letter yesterday opposing raising the limit. "We should not allow the immediate needs of this disaster to trump the need for oversight and accountability for the spending that will occur on these purchase cards," they wrote. Rep. Henry A. Waxman (D-Calif.) agreed: "The vast majority of federal employees are honest, upstanding people, but the ability to buy up to $250,000 in any single purchase is a great temptation."

House Majority Leader Tom DeLay (R-Tex.) said that "we've got safeguards" to ensure that the money is spent appropriately. "Sure, there is going to be waste in money," he acknowledged. "You can't deal with 5 million people and not have some waste in money. But the bulk is going to go to the people and the property that deserve it."

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Bush Pledges Aid For 'Long Haul' (LAT)

By Warren Vieth And Mary Curtius

The Los Angeles Times, September 9, 2005

WASHINGTON — President Bush on Thursday promised the hundreds of thousands displaced by Hurricane Katrina that the government would be with them "for the long haul," and Congress voted to provide $51.8 billion in emergency funds to finance the relief and reconstruction programs.

Despite the expanded efforts, which increase total federal spending on the emergency to $62.3 billion, partisan rancor undermined attempts to project a spirit of unity. And new polls indicated that many Americans were displeased with the government's performance.

Substantial majorities of respondents in three national surveys expressed disappointment with Bush's handling of the emergency and characterized the government's initial relief efforts as too slow. Bush's job approval ratings slipped to new lows.

The dissatisfaction suggested that the White House was having trouble diverting attention from its initial response and was instead focusing attention on signs of progress.

In New Orleans, meanwhile, police tried to root out residents who, 10 days after the hurricane, still were refusing to leave their flooded homes. And emergency workers fanned out across the city as water levels continued to drop, exposing the bodies of Katrina's victims.

"We have much more work to do," the president said, speaking of assisting the residents of New Orleans and the surrounding coastal regions of Louisiana, Mississippi and Alabama whose lives have been upended by the hurricane that laid waste to much of the Gulf Coast last week.

In his televised address, Bush urged victims to act quickly to get in touch with representatives of the Federal Emergency Management Agency, which is coordinating the government relief effort.

The number to call is 1-800-621-FEMA, Bush said. About 3,000 operators were staffing the phone lines, he said, and more were on the way. For those storm victims with access to computers, assistance is available at http://www.govbenefits.gov and http://www.fema.gov.Bush said the government aid package included an initial cash payment of $2,000 per family to help with immediate needs, such as food and clothing. FEMA representatives will help get cash into the hands of people staying in emergency shelters and other temporary housing, he said.

He told evacuees: "By registering for the first $2,000, you will begin the process of arranging for the delivery of other, longer-term assistance" — including health, welfare, housing, food stamps, school lunches, child care, mental health, foster care and job training.

One action Bush did not trumpet publicly drew a quick protest from a leading Democrat. By executive order, Bush suspended the Davis-Bacon Act in areas of Alabama, Florida, Louisiana and Mississippi, a move that will allow federal contractors to pay less than the local "prevailing wage" on construction projects.

Rep. George Miller of Martinez, senior Democrat on the House committee that oversees labor law, said the move would allow employers to pay "poverty wages" as they rebuild from the hurricane.

"The administration is using the devastation of Hurricane Katrina to cut the wages of people desperately trying to rebuild their lives," Miller said in a statement, noting that the prevailing wage for construction in New Orleans was about $9 an hour. "At under $9 an hour, workers certainly won't be able to rebuild their livelihoods."

On Capitol Hill, Democrats said they would boycott a planned House-Senate inquiry into the administration's management of the catastrophe. House Minority Leader Nancy Pelosi (D-San Francisco) accused Republicans of trying to whitewash what she characterized as a failure of the federal government to properly respond to the ravages of the hurricane.

The decision by Pelosi and her Senate counterpart, Minority Leader Harry Reid (D-Nev.), not to appoint any Democrats to the hurricane investigation panel provoked a quick condemnation from Republicans.

"People can join in and help get the job done, or some people can stand aside and criticize," said House Speaker J. Dennis Hastert (R-Ill.). "But you know, we have work to do. We can't be distracted by partisanship, by finger-pointing, by name-calling…. The American people expect us to get this work done."

In announcing the expanded government assistance, Bush said all residents of counties that had been declared disaster areas would be granted special evacuee status, allowing authorities to waive traditional requirements to verify identity and determine eligibility.

"Many of you have been evacuated from the flooded and destroyed areas and now find yourselves far from home, without proper identification or even a change of clothes," Bush said.

He promised the outreach program would provide the help they needed and "cut through the red tape" to get them that help as quickly and easily as possible.

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In a brief aside to governors, Bush promised to work with Congress to reimburse their states for the cost of providing food, shelter and other services to evacuees.

"We understand this is going to strain your budget," he said. "So the federal government … will operate under this principle: You should not be penalized for showing compassion."

The administration's outreach effort Thursday included a troubleshooting tour of the afflicted Gulf Coast region by Vice President Dick Cheney and appearances by First Lady Laura Bush to generate interest in the needs of displaced schoolchildren. The president designated next Friday as a "national day of prayer and remembrance."

On Capitol Hill, it was a day of frenetic activity, political maneuvering and raw emotions as lawmakers continued to grapple with the scope of the disaster and to grope for ways to respond.

Sen. Mary L. Landrieu (D-La.), returning to the chamber for the first time since the hurricane turned her hometown of New Orleans into a sodden ghost town, mourned the destruction and delivered a blistering assessment of the federal response.

"Thousands are dead, and only God knows how many," Landrieu said.

By late afternoon, the House had voted 410 to 11 to approve the emergency spending. All members of the California delegation voted in favor, except for Rep. Loretta Sanchez (D-Santa Ana), who did not vote. The Senate followed suit Thursday evening, voting 97 to 0.

The federal government has committed $62.3 billion to the relief effort. Besides the $51.8 billion approved Thursday, Congress appropriated $10.5 billion last week. Yet these funds are expected to last only several weeks, and reconstruction costs could rise as high as $200 billion, officials said.

Some Republicans questioned whether FEMA could manage such a massive, long-term rebuilding effort. Several leading senators called on Bush to appoint a senior official to coordinate the federal effort.

Sen. Judd Gregg (R-N.H.), chairman of the Budget Committee, said the government should establish "some type of structured commission, where you basically have a focus point with an individual of great ability and national recognition leading the effort."

Sen. Trent Lott (R-Miss.), who lost his family home to the storm, said in an interview that he believed former Secretary of State Colin L. Powell, former New York Mayor Rudolph W. Giuliani or former Sen. John B. Breaux (D-La.) would make a good reconstruction overseer. Other lawmakers have suggested retired U.S. Army Gen. Tommy Franks, who led the invasion of Iraq.

White House Press Secretary Scott McClellan said the president welcomed all suggestions for improving the recovery effort and would give them consideration. "This is a time for people to be offering big ideas and offering ways for us to move forward on the rebuilding and recovery," McClellan said.

But McClellan would not respond to specific proposals, including calls by some lawmakers for the resignation of FEMA's director, Michael D. Brown, or the removal of FEMA from the Department of Homeland Security.

Three national polls released Thursday showed large majorities dissatisfied with government's response to Hurricane Katrina. Disapproval of Bush's overall job performance reached the highest levels of his presidency.

In contrast to initial surveys last week that found little effect on Bush's standing, the new surveys from independent pollster John Zogby, CBS News and the nonpartisan Pew Research Center for the People and the Press found the president's approval rating sagging amid widespread discontent over his handling of the crisis.

In the Zogby and CBS polls, about three-fifths of Americans said they disapproved of Bush's handling of the response to the hurricane; fewer than two-fifths approved. In the Pew survey, 28% said Bush did "all he could" to speed relief efforts, while 67% said he could have done more. Likewise, about two-thirds of those surveyed by CBS said Bush's response was too slow.

Government at all levels fared poorly in the new polls. At least 58% of those polled in all three surveys gave the federal government failing grades for its handling of the situation, with more than three-quarters in the CBS poll expressing such negative views. State and local authorities received slightly better reviews, with 51% disapproving of their performance in the Pew survey, and 70% in the CBS poll.

Bush's Leadership Skills Questioned, Polls Show (FT)

By Caroline Daniel

Financial Times, September 9, 2005

George W. Bush on Thursday faced some of the worst poll results of his presidency, with a majority of Americans questioning his leadership skills and signs of a drop in support from core Republican voters.

While natural disasters usually boost political leaders, Mr Bush's initial response to Hurricane Katrina has led to the reverse.

According to a CBS News poll on Thursday, 48 per cent said he had strong leadership skills, his lowest rating to date, and far below his 83 per cent rating after September 11.

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For a president who won a second term after campaigning on his strong leadership skills with 64 per cent approval in the election run-up the slide threatens to endanger his authority to rally voters behind unpopular parts of his second-term domestic agenda, such as social security reform.

A separate poll from the Pew Research Center also offered bleak reading. Polls have consistently shown that Mr Bush is a divisive leader, with approval falling on partisan lines. However, the September poll showed that his approval rating since July has fallen by 9 percentage points among Republicans.

Support from core religious groups also declined, with a nine-point fall in approval from white evangelicals and a 12-point drop from white Roman Catholics, a group that Mr Bush has been trying to woo.

In spite of the fall from supporters, 79 per cent of Republicans still approve of Mr Bush. Whit Ayres, president of Ayres, McHenry and Associates, a Republican polling company, said: “That is not surprising after the roughest two weeks of his presidency. What is surprising is that eight out of 10 still approve of him.”

Addressing criticism, Mr Bush this week stepped up his public efforts with a series of initiatives, including seeking $51.8bn in disaster aid, which was approved by the House on Thursday, and giving aid to states that have been bearing the burden of the evacuees. He also announced plans to grant $2,000 in emergency relief to each affected household.

The opinion polls all showed Mr Bush at approval ratings between 40 and 42 per cent, in line with previous data. Mr Ayres said: “All presidents have had approval ratings at some point below 40 per cent except George Bush. His nadir is still higher than any other president, including his father and BillClinton.”

The Pew poll also pointed to a subtler change in voters' priorities after Hurricane Katrina. It found that 56 per cent thought domestic policy which typically favours Democrats was now their chief priority, rather than the war on terror, which had previously bolstered Mr Bush.

Andrew Kohut, director of Pew, said the poll also suggested that racial issues could become a higher political priority. “Seven out of 10 blacks say the disaster shows that racial inequality remains a major problem in the country; a majority of whites, 56 per cent, say this was not a particularly important lesson.”

Bush Suffers In Polls Post-Katrina (REU)

By John Whitesides, Political Correspondent

Reuters, September 8, 2005

President George W. Bush's image suffered in public opinion polls taken after Hurricane Katrina hit the U.S. Gulf Coast, with some finding growing doubts about his leadership and the country's direction.

After a week of criticism for a slow response to the devastation caused by Katrina, polls released on Thursday registered drops in Bush's approval ratings and in confidence in his leadership.

A Pew Research Center poll found 67 percent of Americans believed Bush could have done more to speed up relief efforts, and just 28 percent believed he did all he could. His approval rating slipped to 40 percent, down four points since July to the lowest point Pew has recorded.

The Pew poll also found a shift in public priorities after Katrina caused a jump in gasoline prices last week, with a majority saying for the first time since the September 11, 2001, attacks that it was more important for Bush to focus on domestic policy than the war on terrorism.

"Americans are depressed, angry and very worried about the economic consequences of the disaster," said Andrew Kohut, director of the Pew poll.

A WEEK OF CRITICISM

The new polls indicated a week of criticism and political finger-pointing over who is to blame for the disastrous response to Katrina could have taken a toll on the White House.

A CBS poll taken September 6-7 found 38 percent approved of Bush's handling of the storm's aftermath, while 58 percent disapproved. That was a dramatic shift from immediately after the storm last week, when 54 percent approved and 12 percent disapproved.

The CBS poll also found confidence in Bush during a crisis had fallen and only 48 percent now view him as a strong leader -- the lowest number ever for Bush in the poll. A year ago 64 percent of voters saw Bush as a strong leader.

Bush's approval rating fell to 41 percent in a new Zogby poll, with only 36 percent giving him a passing grade on his handling of the response to the storm.

The Zogby poll also found broad pessimism among a majority of Americans after the storm, with 53 percent saying the country is headed in the wrong direction and 42 percent saying it is on the right track.

A CNN/USA Today/Gallup poll taken on September 5-6 found 42 percent believed Bush did a "bad" or "terrible" job handling the storm and subsequent flooding, while 35 percent thought he performed "great" or "good."

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A Washington Post/ABC News poll taken September 2 offered more mixed results, with 46 percent approving of Bush's performance and 47 percent disapproving.

There was plenty of blame to go around for the slow response to Katrina, with local and state governments also taking a hit.

The Gallup poll found 13 percent blamed Bush for the problems in New Orleans, while 18 percent blamed federal agencies, 25 percent blamed state and local officials and 38 percent said no one was to blame.

In the Pew poll, 58 percent thought the federal government had done only a fair or poor job after the storm, but 51 percent also thought state and local governments in Louisiana and Mississippi had done just a fair or poor job.

Americans Give Bush Poor Marks On Handling Katrina, Polls Show (BLOOM)

By Richard Keil And Brendan Murray

Bloomberg, September 9, 2005

Sept. 8 (Bloomberg) -- Two new polls show Americans give President George W. Bush poor marks for his handling of the federal response to Hurricane Katrina, with one survey showing that Bush is now losing support even among his Republican base.

Both polls contain additional bad news for Bush. A poll by the Pew Research Center for People and the Press gives him an overall job approval rating of 40 percent -- down 10 percent since January -- and a disapproval rating of 52 percent, among the highest of his presidency.

Bush's job approval rating was 41 percent in a Zogby America poll, the lowest in that poll's history, and 53 percent of those questioned said the nation is headed in the ``wrong direction."

The surveys were conducted in the week following the hurricane's assault on the Gulf Coast and show that support for the president, at near-record lows before the storm's arrival, fell further amid anger over the federal government's response.

``Uncharacteristically, the president's ratings have slipped most among his core constituents -- Republicans and conservatives," Pew director Andy Kohut wrote in an e-mail.

In the Pew survey, 67 percent of 1,000 adults interviewed by telephone Sept. 6-7 said Bush could have done more to speed up relief efforts; 28 percent said he did everything possible.

`Shift in Priorities'

Hurricane Katrina produced a ``major shift in public priorities," according to Pew. For the first time since the Sept. 11 terrorist attacks, a majority of Americans now believe it is more important for the president to focus on domestic issues than the war on terrorism.

When asked what should be a priority for the president, 56 percent said ``domestic policy," an increase of 16 percentage points since January. Twenty-five percent said Bush's top priority should be fighting terrorism, a 19-point decline from January.

The Pew survey shows Bush's support among Republicans is strong but slipping, and since his support among Democrats and self-described independents remains consistent, Bush's declining approval is linked directly to that slippage within his own party.

The new poll shows Bush with a job approval rating of 79 percent among Republicans, down 9 percentage points since Pew's July survey. Among Democrats, his approval was 19 percent compared with 18 percent in July, and among independents it was 33 percent versus 32 percent, changes that in both cases are within the poll's margin of error of plus or minus 3 percentage points.

Support Down Within Party

Among those who identify themselves as ``conservative Republicans," Bush's job approval declined seven percentage points from the July survey and by 11 percentage points among those who describe themselves as ``moderate Republicans."

Bush's overall job approval rating in July was 44 percent.

The Pew poll found that blacks are more inclined to believe race played a factor in the federal response to the hurricane than whites; many of those who remained in New Orleans after the flooding were blacks.

Some 66 percent of blacks surveyed said the federal response would have been faster if most of the victims in New Orleans were white, while 77 percent of whites questioned said the issue of race made no difference in the government's response.

Hurricane Katrina ravaged Louisiana, Mississippi and parts of Alabama and knocked eight oil refineries out of commission, leading to a surge in gasoline prices. The average U.S. retail price jumped 45 cents last week to $3.057 per gallon, according to the American Automobile Association.

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The Pew survey found that seven in 10 Americans are ``closely'' following news accounts on hurricane coverage, and that 71 percent are following stories on rising gasoline prices -- the highest percentage ever in the 20 years Pew has been asking respondents whether they pay attention to energy issues.

Zogby Poll

In the Zogby survey, Bush's overall job approval rating slumped to a record low as three-fifths of those questioned criticized the government's response to Hurricane Katrina.

Forty-one percent of respondents in the telephone survey Sept. 6-7 gave Bush positive marks for his job performance, down from 45 percent in a July 30 survey and 50 percent in mid- February. Bush got negative marks from 59 percent of respondents, up from 55 percent in July and 50 percent in February in the poll.

The poll showed 60 percent characterized Bush's handling of the hurricane as ``fair'' to ``poor,'' while 36 percent graded his performance ``good'' to ``excellent.'' More than half of those polled -- 53 percent -- said the country is headed in the wrong direction.

``The president has managed to do early in his second term what his father did in just one term: go from record-high approval numbers in the aftermath of 9/11 to his present numbers,'' John Zogby, chief executive of polling company Zogby International, said in a statement.

The survey of 1,157 likely voters has a margin of error of plus or minus 2.9 percentage points, Zogby said.

Bush would lose elections if he ran against the past four U.S. presidents, yet would edge Massachusetts Senator John Kerry - - his Democratic opponent in the 2004 election -- by 1 percentage point, the poll showed.

Partisan Bickering Over Katrina Escalates - To Peril Of Both Sides (CSM)

By Linda Feldmann

The Christian Science Monitor, September 9, 2005

WASHINGTON - As distasteful as it is to many Americans, the politics of hurricane Katrina have rushed in to fill the agendas of elected officials nearly as quickly as the floodwaters inundated New Orleans.

For the Bush administration, the mantra this week became "no blame-gaming, no finger-pointing" as it sought to recover from the early perception of a slow response to the disaster. The message has been that this is an administration of action, not partisan bickering, and that the task at hand is to address the situation on the ground. President Bush sent Congress a request for $51.8 billion in additional hurricane aid. Vice President Dick Cheney and his wife, Lynne, toured New Orleans and the Gulf region Thursday, talking to local officials and first-responders.

In reality, hurricane Katrina has become an anti-9/11 of sorts. Whereas four years ago people dropped their red and blue identities to rally around their leaders, Katrina seems to have exacerbated the extreme polarization of the Bush years. At his first Cabinet meeting since returning from vacation, Mr. Bush declared he would oversee an inquiry into the government response to Katrina, prompting an immediate outcry from Democrats that the government cannot investigate itself.

Republicans in Congress quickly followed by announcing an investigative commission on Katrina, with GOP members to form a majority. Democrats cried foul, arguing that the model of the 9/11 commission - made up of nonlawmakers in a balance of Republicans and Democrats, operating with a goal of consensus - would be preferable. Sen. Hillary Rodham Clinton of New York, widely seen as a leading Democratic hopeful for president in 2008, emerged as a chief critic of the Republicans' inquiry plan and of the performance of the Federal Emergency Management Agency. Before Katrina, Senator Clinton had lain low on national issues, focusing instead on reelection to the Senate.

Howard Dean, chairman of the Democratic National Committee, also came out with guns blazing this week. "We must ... come to terms with the ugly truth that skin color, age, and economics played a deadly role in who survived and who did not," he told the National Baptist Convention of America on Wednesday.

"Politicization is very dangerous for both sides," says Marshall Wittmann, a senior fellow at the Democratic Leadership Council. "If either party is seen as obstructing results, people will blame them. Americans are pragmatic, not ideological or partisan. Clearly, the administration has bungled this, but ultimately the American people want to see a restored New Orleans and these people's lives put back together."

On Thursday, the liberal group Moveon.org organized a protest of hurricane evacuees at the White House to decry the federal response and to demand a meeting with Bush - suggesting almost a Cindy Sheehan-ization of Katrina victims. The Republican National Committee fired back in a press release, saying "Moveon.org Democrats play the blame game and politicize Katrina relief."

For Republicans, a political danger lies in the fact that they control the White House and both houses of Congress - and the public will look to them for results. "The real danger comes on the administration's side, where if New Orleans becomes a metaphor for Bush policy in general, they're in real trouble," says Cal Jillson, a political scientist at Southern Methodist University

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in Dallas. "If it reinforces that the comfortable are safe and do well, while the vulnerable are on their own, it could be a burden for Bush for the rest of his term."

A Texas Poll released Thursday shows Bush's approval ratings in Texas, his home state, are 9 points below where they usually are, with 52 percent approving of his performance and 43 percent disapproving. Bush's job approval in Texas is typically10 points above his national average.

Generally, the partisan polarization registered by pollsters during much of Bush's presidency - abating only in the aftermath of 9/11 - continues. The latest US polls show Bush's job approval among Republicans in the mid-80s and in the low teens among Democrats - a gap of about 70 percentage points. "He's the most polarizing president we've had in the 50-odd years we've been polling the question," says Gary Jacobson, an expert on this issue at the University of California, San Diego.

This phenomenon reflects Bush's tendency to play to his base supporters, and bring over a few Democrats to his side as needed. During a major challenge, Bush's strategy of keeping his core of support on his side serves as a political protection, Professor Jacobson says.

"He's lost the Democrats, period, and the independents are now closer to the Democrats than [to] the Republicans," Jacobson says. "What's saved Bush is that his base has stayed with him."

Congress Clears $51.8 Billion Relief Bill (BSUN/AP)

By David Espo, The Associated Press

The Baltimore Sun, September 9, 2005

WASHINGTON -- Acting with extraordinary speed, Congress approved an additional $51.8 billion for relief and recovery from Hurricane Katrina today. President Bush pledged to make it "easy and simple as possible" for uncounted, uprooted storm victims to collect food stamps and other government benefits.

"We're not asking for a handout, but we do need help," said Sen. Trent Lott -- whose home state of Mississippi suffered grievously from the storm -- as lawmakers approved the bill just a day after Bush requested more aid on top of the $10.5 billion already provided. The measure includes $2,000 debit cards for families to use on immediate needs.

Bush signed the bill tonight. In a statement issued by the White House, he praised Congress for "moving swiftly and in strong bipartisan fashion to approve these additional emergency funds" but cautioned: "More resources will be needed as we work to help people get back on their feet."

The overwhelming support for the measure across party lines -- it passed 410-11 in the House and 97-0 in the Senate -- masked murmurs of concern about a rapidly rising price tag as well as a growing atmosphere of political jockeying in Congress less than two weeks after the hurricane battered the Gulf Coast.

Congressional Democratic leaders said they would refuse to appoint members to a committee that Republican leaders intend to create to investigate the administration's readiness and response to the storm.

House Democratic leader Nancy Pelosi called the GOP plan "a sham that is just the latest example of congressional Republicans being the foxes guarding the president's hen house." Senate Democratic leader Harry Reid said it was like a baseball pitcher calling "his own balls and strikes." Both urged appointment of an independent panel like the Sept. 11 commission.

Republicans said they intended to go ahead despite the threatened boycott. Senate Majority Leader Bill Frist of Tennessee told reporters there had been a "systemwide failure" in the response to the storm. Citing problems at the local, state and federal levels, he said, "We will get to the bottom of that" in a congressional investigation.

Beyond that, said New York Rep. Tom Reynolds, chairman of the House GOP campaign committee, "it is reprehensible that some elected officials are looking to score political points in the wake of Hurricane Katrina's devastation."

Even before Bush spoke and Congress acted, the government provided fresh evidence of the impact of the storm.

The Labor Department reported that roughly 10,000 workers filed for unemployment benefits last week after losing their jobs as a result of the storm, and said the level would rise sharply. In a painful irony, analysts said today's number would have been higher yet except that the storm forced claims offices to close and prevented more of the newly jobless from filling out their paperwork.

Bush, his poll numbers sagging and his administration buffeted by criticism of its response to the storm, dispatched Vice President Dick Cheney to the region and met with GOP congressional leaders at the White House. At mid-afternoon, flanked by members of his Cabinet, he stepped to the microphones to pledge additional help, ask for patience and announce a national day of prayer for Friday of next week.

Referring to the debit cards in the legislation making its way quickly through Congress, he said, "The first step is providing every household with $2,000 in emergency disaster relief that can be used for immediate needs, such as food or clothing or personal essentials."

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Additionally, with hundreds of thousands of storm victims now dispersed to numerous states, he said the government was working to "ensure that those of you who receive federal benefits administered by the states of Alabama, Mississippi and Louisiana will continue to get those benefits in the states where you're now staying."

He said the government would formally grant those victims evacuee status, meaning they would be able to register for their benefits without producing all of the normal documentation -- much of which may have been lost in a desperate retreat from storm-threatened homes. He urged storm victims to contact the Federal Emergency Management Agency, and asked them to be patient if they encountered delays.

Bush said the evacuee status would apply to "the full range of federal benefits administered by the states," including Medicaid, welfare, food stamps, housing, school lunch and more.

"In all the steps we take, our goal is not to simply provide benefits but to make them easy and simple as possible to collect," he said.

Later, looking ahead to the massive reconstruction effort, Bush quietly waived sections of a federal law that requires payment of prevailing wages on government contracts. Prevailing wages are based on surveys that take into account union and non-union pay. One business organization welcomed the move, while the AFL-CIO criticized it. Conservatives, in particular, said they hoped the government's billions would be spent wisely.

"We have all the hallmarks here of a rush to spend money," said Sen. Jeff Sessions, R-Ala., whose home state was damaged by the storm. "We have got to be careful that this does not become a feeding frenzy. ... This is our grandchildren's money."

Democrats, too, said they wanted the money to be well-spent. At the same time, Reid and other Senate Democrats unveiled a far more comprehensive proposal to provide health, housing, education and other benefits.

The White House said $50 billion of the $51.8 billion bill would be distributed through the Federal Emergency Management Agency, which has been the subject of widespread criticism in the past week.

The official breakdown said $23.2 billion was for housing aid and grants to individuals, of which about $640 million was for the unprecedented debit cards.

State and local governments are in line for $7.7 billion in reimbursement costs.

White House officials said the money was needed without delay to prevent an interruption in the massive operation designed to repair the damage along the Gulf Coast and bring hope to an almost unimaginable number of evacuees forced to flee.

The bill brought the total in disaster aid to $62.3 billion -- a total that is certain to rise as the full impact of the storm becomes clear. With much of New Orleans still covered by fouled floodwaters, for example, there is as yet no estimate for the cost of pumping out the city -- or rendering it safely habitable again.

Congress Approves Katrina Package Of $51.8 Billion (WSJ)

By David Rogers

The Wall Street Journal, September 9, 2005

WASHINGTON -- A $51.8 billion Katrina relief package won quick approval from Congress even as lawmakers moved toward making billions of dollars more available for welfare and flood-insurance payments to families displaced by the storm.

The House voted to more than double the national flood-insurance program's borrowing authority to $3.5 billion from $1.5 billion to meet anticipated claims. A second measure, also approved by the House, would advance an estimated $6.2 billion to ease the welfare crunch for states as homeless families are relocated.

The Senate appears sympathetic with both initiatives, but the welfare measure could be delayed unless Republicans develop a more coordinated legislative strategy to deal with the extraordinary circumstances of the storm. Senate Finance Committee Chairman Charles Grassley (R., Iowa) is drafting a larger bill that would also ease the availability of unemployment and health-care benefits for those evacuated. And it is an open question as to whether the House welfare proposals would be wrapped into this bill or sent to President Bush quickly for his signature.

The $51.8 billion spending measure enjoyed a clearer path and was sent onto the White House last night -- a day after Mr. Bush had requested the money. Given the urgency of the relief efforts, Republicans brooked no changes that risked delaying passage, but the party's tactics also reflected the political sensitivity of the crisis.

Rarely has the House, for example, considered such a large appropriations bill under the strict procedures applied yesterday, which severely limited debate and permitted no amendments. In the aftermath of the storm last week, Democrats had agreed to expedite consideration of the first $10.5 billion emergency bill. But there is growing frustration that Congress finds itself in a situation where it is pouring tens of billions of dollars into disaster accounts administered by the same Federal Emergency Management Agency that many lawmakers have so roundly criticized.

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On a party-line 221-193 vote, Democrats made a doomed attempt to permit a vote calling for a reorganization of the relief effort. "FEMA has been used as a political dumping ground by the White House," said Rep. David Obey of Wisconsin, ranking Democrat on the House Appropriations Committee. "This money is being spent by a disabled agency."

Mindful of this criticism, the House modified the administration's request to provide $15 million to beef up the inspector general's office at the Department of Homeland Security to audit FEMA's expenditures. But the agency is spending money so quickly that neither the House nor Senate has held a single hearing on the requests.

Along with appropriations, the flood-insurance and welfare measures illustrate other costs for the government in the months ahead. The flood-insurance program, for example, is intended to be self-financing, so any money borrowed now would have to be repaid to the Treasury from future premiums. But the $2 billion increase now may be only the first in a series, and the strain so great that Washington will be under pressure to step in eventually to avoid sharp increases in premiums on other policyholders.

The welfare bill also increases the federal government's exposure by advancing funds early to states and freeing up contingency accounts for the Temporary Assistance for Needy Families program. The federal government would absorb a greater share of TANF's costs for Louisiana, Mississippi and Alabama, and the bill waives rules to give all states more flexibility in enrolling displaced families.

A Compassionate Bush Was Absent Right After Katrina (USAT)

By Judy Keen And Richard Benedetto

USA Today, September 9, 2005

WASHINGTON — President Bush has shown that he can be empathetic, sensitive and decisive. But those qualities eluded him for days after Hurricane Katrina, and the lapse could become a defining moment of his White House tenure.

The most stirring image of Bush's presidency came when he spontaneously grabbed a bullhorn at Ground Zero and vowed retribution against 9/11 terrorists. Tears filled his eyes when he took the oath of office in 2001, and he has wept publicly when talking about U.S. troops slain in battle and his respect for his father. He has hugged countless victims of fires, hurricanes and other tragedies. During his 2000 campaign, he told recovering teen addicts, “I used to drink too much. … I want you to know that your life's walk is shared by a lot of other people.”

But there's another side to Bush. He can seem detached and unaware of the messages conveyed by his words and conduct. Bush decided to see Katrina's destruction for the first time from his jumbo jet and joked on his first trip to the disaster zone about youthful partying in New Orleans. He didn't cancel his vacation until two days after Katrina struck and didn't visit the region until four days after the storm. It's not the first time that side of the president has been visible. He taped a video for a 2004 black-tie dinner showing him hunting under White House furniture for Iraq's weapons of mass destruction as the death toll there mounted. His visit to Ground Zero came three days after the 9/11 attacks.

Bush's critics say his response to the hurricane proves that he's not a leader. “Oblivious, in denial, dangerous,” House Democratic Leader Nancy Pelosi said Wednesday. White House spokesman Scott McClellan has dismissed criticism of the response by Bush and his administration as part of the Washington “blame game.”

A USA TODAY/CNN/Gallup Poll taken Monday and Tuesday found that 42% of Americans think Bush has done a bad or terrible job responding to the hurricane. “He's starting to create some vision and some hope,” says Christine Riordan, a leadership expert at Texas Christian University's M.J. Neeley School of Business. “But it's five days too late.”

Others say he inherited from his parents a Yankee reserve that sometimes prevents him from quickly grasping the emotional requirements of pivotal events. In his 1992 re-election campaign, President George H.W. Bush seemed disconnected from the pain of persistent joblessness and glanced at his watch during a debate with Bill Clinton. Bush's mother, former first lady Barbara Bush, said Monday at Houston's Astrodome that some evacuees there “were underprivileged anyway, so this is working very well for them.”

“Occasionally their New England roots make them a little embarrassed and awkward about showing that side of themselves,” says Tom Rath, a New Hampshire political strategist and old family friend.

Others say that once Bush becomes engaged, he has the sort of compassion for which Clinton and Ronald Reagan were renowned. “He does have this unique one-on-one quality to relate to people,” says Bill Minutaglio, author of a 2001 Bush biography, First Son. But so far, he says, “The right salve for the nation in this time of great tragedy is missing. People are thirsting for it. … It can't be orchestrated, it just has to happen.”

Bush has cleared his schedule to focus on disaster relief. He has twice visited areas devastated by Katrina and is expected to return soon. During his first visit a week ago, he choked back tears after listening to helicopter pilots describe rescuing victims. On his second visit Monday, he said in Poplarville, Miss., “I understand the destruction. I understand how long it's going to take. And we're with you.”

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Roderick Hart, who teaches communications and government at the University of Texas, calls Bush's initial off-key reaction to Katrina “an odd case.” Bush does have “an ability to reach out to people,” he says. “But the delay was so dramatic that his response now has made it seem disingenuous in some people's eyes.”

But Kathryn Dunn Tenpas, a Washington University political scientist and Brookings Institution fellow, says Bush is now “empathizing and responding in tangible ways. … He will fare well if he shows that he is addressing the needs.”

Bush has spoken before about the consequences of a leader's performance at moments such as this. In a 2000 debate with Democrat Al Gore, he was asked to describe how he handled crises under fire. “It's the time to test your mettle,” Bush said then, “a time to test your heart when you see people whose lives have been turned upside down.”

Katrina Underscores Bush's Isolated Style (KRT)

By Steven Thomma

Knight Ridder, September 9, 2005

WASHINGTON - As President Bush flew this week to the Gulf Coast for his second post-Katrina visit, an aide said the trip reflected Bush's usual routine of "seeing as much as possible and getting information from different places."

Not quite.

Bush did not visit with any angry evacuees in New Orleans. As Katrina approached, Bush and his top aides spent days apparently unaware that New Orleans might be flooded - despite many warnings, some from inside his own administration. Afterwards, he heaped praise on officials responsible for the slow and initially disorganized disaster-relief efforts. His aides dismiss demands that Bush hold someone accountable for failure, saying that's merely a distracting "blame game."

None of this should be a surprise. Bush has a long record of avoiding critics, rewarding loyalty even in the face of failure and shunning - even punishing - those who disagree with him. It's a management style that shapes how he governs - disdaining compromise with Democrats in Congress, for example - and one that brushes off whole sectors of the American electorate.

That could come back to haunt him, as is now evident in the two problems - Iraq and Katrina - that together have sent his approval ratings to the lowest levels of his presidency and threaten his second-term agenda.

His style of isolating himself from unwelcome voices pleases his core supporters, who don't want him to compromise, but it sacrifices the broader public appeal that helped Ronald Reagan and Bill Clinton weather second-term setbacks. One new poll, from the independent Pew Research Center, suggests he is losing support even from Republicans and conservatives.

To Rep. Christopher Shays, R-Conn., the Bush administration's response to Katrina suggested "a real sense of arrogance. Loyalty and never admitting a mistake matters more than the truth. It has a Nixon feel to me."

Bush allies insist he is engaged and pressing the government to fix all hurricane-related problems. But the public isn't much impressed, judging by his plummeting polls. One new survey by independent pollster John Zogby shows Bush would lose a hypothetical election to every modern president, including the much-maligned Jimmy Carter.

Bush's isolated management style is one factor hurting him. While his decision-making is usually cloaked in secrecy, the hurricane crisis showed some characteristic traits.

Denial of unpleasant realities, for example. On Sept. 1 Bush contended that no one could have foreseen that New Orleans might be flooded: "I don't think anyone anticipated the breach of the levees."

Actually, a lot of people saw it coming. Three years ago, The New Orleans Times-Picayune published a lengthy examination of how likely that scenario was, and it got wide attention. In fact, Bush's own administration participated in a disaster drill for almost exactly this kind of catastrophe.

Bush himself has admitted in the past that he does not reach far for information.

"I glance at the headlines," Bush told Fox News in September 2003, but "I rarely read the stories, and get briefed by people who ... probably read the news themselves ... And the most objective sources I have are people on my staff who tell me what's happening in the world."

Inside his administration, dissenting views are often stifled, and dissidents punished.

In 2002, the administration fired the head of the Army Corps Engineers after he continued to advocate spending increases for flood control after he'd been overruled. Michael Parker, a former Republican congressman from Mississippi, wanted a 40 percent spending increase, while Bush wanted a 10 percent cut.

When Bush convened an economic summit in 2002, then-Treasury Secretary Paul O'Neill later told writer Ron Suskind, the White House wanted to hear only from people who already supported Bush policies.

"A carefully vetted group of more than 240 executives, economists, and even a few labor leaders was being assembled," Suskind wrote. "They'd seem diverse and independent to the untrained eye. In fact, nearly every one would be a Bush supporter and many were major fundraisers. Attendance was, in a way, a reward for support."

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While Bush likes to be surrounded by friendly faces, he avoids frowning ones. Since Katrina hit, Bush visited the Gulf Coast twice, but both times avoided angry evacuees - ostensibly so he wouldn't interfere with relief operations.

Some veteran Bush-watchers are skeptical of that White House explanation.

"They didn't want anything to be on TV showing a bunch of angry people hollering at the president," said George Edwards, a presidential scholar at Texas A&M University. "It would not have been a favorable scene unless he could handle it well, which he can't. Clinton could. He would be down there feeling their pain. But Bush can't."

The president also has refused to speak to two major groups that represent millions of Americans, but have criticized him.

After one brief phone conversation in 2001, Bush has never met with the president of the AFL-CIO. He is the only president in the last half century who has not.

And Bush has never addressed the NAACP as president. "You've heard the rhetoric and the names they've called me," he once explained.

For more on the polls, www.people-press.org and www.zogby.com

Bush Batting Average Calls For New Coaches (USAT)

By Al Neuharth

USA Today, September 9, 2005

President Bush used to be part owner of a major league baseball team. He once coveted the Baseball Commissioner's job. So, he'll understand this baseball parlance.

He has had three really big at-bats during his four-plus years in the White House. First, 9/11. Then, the Iraq War. Now, the Katrina Hurricane tragedy. His batting performance:

· One home run (9/11).

· Two strikeouts (Iraq and Katrina).

A .333 batting average is pretty good for a baseball player. But in the Oval Office, two strikeouts in three crucial at-bats is bringing boos from more than half the crowd, as national polls show.

In baseball, hitting coaches share credit or blame for the batter's performance. Coaches in Bush's big at-bats:

At the time of the 9/11 terrorist attacks, then-mayor Rudy Giuliani of New York City quickly and wisely coached Bush on what the federal government could and should do. We were comforted and united in efforts to avoid re-occurrences.

On Iraq, Defense Secretary Donald Rumsfeld repeatedly has miscoached Bush for three years on pre-invasion and post-invasion decisions. We are confused and distressed over how and when to get out of this mess.

Local leadership was lacking in Louisiana during Katrina, by both the governor and New Orleans mayor. But Homeland Security Secretary Michael Chertoff and FEMA Director Michael Brown co-coached Bush badly. We are angry and scared of what might happen in another major hurricane or a nuclear or biological attack.

If Bush keeps his inept coaches on Iraq and Homeland Security, he may strike out again at his next big at-bat. His average will drop to .250, and the temporary boos will become irreversible jeers. From today's spectators and tomorrow's historians.

Feedback

Other views on President Bush's handling of disasters:

"In baseball, a .333 batting average is very, very good. In major political crises, it's pretty poor. In fact, I would say it's failure. President Bush's shortcomings are not the product of the advice he receives, but his deficient judgment in getting us into the Iraq war and in surrounding himself with men based not on their expertise but on rewarding political associates."

- Robert Dallek, presidential historian

"There are no footnotes from cable TV in history books. Historians will judge on the dispassionate analysis of records. Too soon to tell what they'll say."

- James Jay Carafano, historian, Heritage Foundation

The Party Of Performance (WP)

By David Ignatius

The Washington Post, September 9, 2005

In the aftermath of Katrina, there's an opening for a different kind of politics in America. The new politics isn't about values; it isn't about settling scores. It's about performance. It's about putting a wounded, shaken country back on its feet, much as Franklin Delano Roosevelt did in his famous First Hundred Days.

One politician who is clearly articulating that vision right now is the recovering right-wing firebrand, former House speaker Newt Gingrich. I've always had a soft spot for Gingrich, despite his sometimes nasty partisanship during the 1990s, because he is that rare political figure who actually does think "outside the box" about how to solve problems. And he's doing that now.

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The immediate aftermath of Hurricane Katrina has looked like politics as usual. The Democrats are in a paroxysm of righteous indignation -- much of it justified but in the long run counterproductive. When Senate Minority Leader Harry Reid proposes that the Senate investigate whether President's Bush's vacation contributed to the disaster, the public response is likely to be: Give me a break! When the Democrats focus all their criticism on the GOP-led federal government and ignore the appalling lapses of Democratic administrations in New Orleans and Louisiana, they lose credibility.

The Bush administration, meanwhile, remains in its hunkered-down defensive crouch, with White House spokesman Scott McClellan treating any demand for accountability as a partisan "blame game." It's outrageous to read that Homeland Security Secretary Michael Chertoff has been telling members of Congress that media reports are overstating the problems for storm survivors -- this from a man who was denying on National Public Radio last Thursday that there was any crisis at the New Orleans convention center at the very hour reporters were finding dead bodies and abandoned, starving people there. If the administration maintains that tone, it will self-destruct.

Now listen to what Gingrich has to say about "changing the playbook" after Katrina. His comments are drawn from two memos he has circulated to Republican leaders since the storm hit and from a conversation we had this week exploring some of his ideas.

Gingrich argues that the values debate that has divided America so sharply during the past decade is over. There's a broad consensus about most issues, and anyway people realize that the country's big problems aren't about morality but performance. "We're not in a values fight now but over whether the system is working," Gingrich told me. "The issue is delivery." And that's true at every level -- city, state and federal.

Gingrich's critique of the federal response is as devastating as that of any Democrat. "For the last week the federal government and its state and local counterparts have consistently been behind the curve," he wrote fellow Republicans this week. "The American people overwhelmingly know that the current situation is totally unacceptable," and for that reason, "it is a mistake to get trapped into defending the systems and processes which clearly failed." He observes in another memo, "While the destruction was unprecedented, it was entirely predictable."

What's needed is a creative government response as big as the disaster itself. Gingrich urges in one of his memos that Bush appoint a super-manager who can oversee the rebuilding and suggests Rudy Giuliani for the job. "The former mayor has enough management toughness to force the federal agencies to actually change their behavior," he writes.

The former speaker has some classic Gingrich zingers for how to rev up the rebuilding effort. He wants to turn the Gulf Coast into a "Zone of Recovery, Reconstruction and Prosperity," by offering a 25 percent tax credit for all job-creating investment in the region over the next three years. And he wants to create a cadre of "entrepreneurial public managers" who can replace the leaden public bureaucracy and get things done on Internet time, with the reliability of FedEx or UPS.

This is the moment for the Party of Performance to take center stage. The breakdown in public life was obvious before Katrina. We have a government that can't control its borders, can't find a viable strategy for its war in Iraq, can't organize the key agencies to address the terrorism problems it has been trumpeting. The yearning in the country for something different has been palpable this year.

America faces an "extreme disaster," says Gingrich, one that will have more lasting and complex effects than any domestic event since World War II. The politicians who rise to that challenge will surge in the 2006 and 2008 elections. The ones who remain stuck in their ruts will suffer. Who's ready to sign up for the Party of Performance?

Inescapable Accountability (WP)

By E. J. Dionne Jr.

The Washington Post, September 9, 2005

The following is brought to you by the word "accountability."

Keep that word in mind whenever you hear defenders of President Bush accusing his political opponents of playing the "blame game" by daring to pose pointed questions about why so many people in New Orleans, most of them very poor, had to wait so long for relief from their suffering.

The Bush White House must have run the phrases "blame game" and "finger-pointing" through its focus groups. In his Wednesday briefing, White House press secretary Scott McClellan used variations on those formulations eight times each.

McClellan neatly rolled them into a single sentence when he told off a reporter who had the nerve to ask whether the president had confidence in those who oversaw the federal relief effort. "If you want to continue to engage in finger-pointing and blame-gaming, that's fine," McClellan harrumphed. Nice job, Scott.

McClellan must have been unaware that the White House had been organizing a finger-pointing, blame-gaming project of its own. "In a reflection of what has long been a hallmark of Mr. Rove's tough political style," Adam Nagourney and Anne E.

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Kornblut reported in Monday's New York Times, "the administration is also working to shift the blame away from the White House and toward officials of New Orleans and Louisiana who, as it happens, are Democrats."

The fruits of that project were quickly visible when White House apologists went to town against New Orleans Mayor C. Ray Nagin and Louisiana Gov. Kathleen Babineaux Blanco. Grover Norquist, one of Washington's most important conservative activists and a close Rove ally, blamed the chaos on "looting in a Democratic city run by a Democratic mayor and a Democratic governor." Surely McClellan will call Norquist to reprimand him about that awful finger-pointing.

Fox's Bill O'Reilly devoted one of his "Talking Points Memos" to denouncing Nagin and Blanco. True, he was "fair and balanced" in devoting a single sentence in his speech of roughly 500 words to Bush's role: "the Homeland Security office and President Bush were 24 hours late in taking decisive action." Thanks for that, Bill.

The White House is aghast because it is pulling levers that once worked, and nothing is happening.

To borrow one of O'Reilly's favorite phrases, New Orleans was a "No Spin Zone." Good, smart, tough and compassionate reporters gave Americans a direct view of the disaster and kept asking, with increasing urgency, why New Orleans was such a mess.

You can tell the White House knows how much trouble it is in -- that's no doubt why Bush had another news conference yesterday -- by following the Frank Theorem. "It's a rule in American politics," said Rep. Barney Frank (D-Mass.), "that whichever side denounces the other for politicizing the issue is losing the argument." Bingo.

Once, the White House could use its surrogates to intimidate critics. Especially after Sept. 11, Democrats were concerned -- for both patriotic and opportunistic reasons -- that certain criticisms of Bush might be seen as "giving aid and comfort to the enemy." You can't be accused of giving aid and comfort to a hurricane.

This crisis has been an exceptionally clear lesson in this White House's overall approach: Try to get everyone to believe that any criticism of the president will blow back on the critics because Americans just don't like that sort of thing. Attack "finger-pointing," and make sure your allies madly point fingers at your opponents.

Say no one should play politics with a disaster -- and then make sure Republican leaders in Congress set up a commission to investigate the relief effort without asking Democrats for their input on how the investigation should be carried out.

Bush's critics aren't backing off, because they've been here before. Former Senate Democratic leader Tom Daschle, who cooperated with Bush in the days after Sept. 11 but lost his South Dakota seat after a long, White House-inspired campaign accusing him of being "obstructionist," speaks from experience.

"Democrats to this day remain outraged at the blatant efforts that Republicans, especially in the administration, made to undermine the perception of our patriotism and our motivations," Daschle said in an interview.

This time around, Democrats won't be waved off by right-wing commentators or by contrived and insincere appeals to national unity. "I don't think we should pay a whit of attention to administration criticisms," Daschle said. "Democrats need to ask the hard questions and ignore the political attacks that are destined to come when we ask them."

The sounds of contention you are hearing are the sounds of accountability in a free republic. The president may not like it, but it is a refreshing sound.

Point Those Fingers (NYT)

By Paul Krugman

The New York Times, September 9, 2005

To understand the history of the Bush administration's response to disaster, just follow the catchphrases.

First, look at 2001 Congressional testimony by Joseph Allbaugh, President Bush's first pick to head the Federal Emergency Management Agency. FEMA, he said, would emphasize "Responsibility and Accountability" (capital letters and boldface in the original statement). He repeated the phrase several times.

What Mr. Allbaugh seems to have meant was that state and local government officials shouldn't count on FEMA to bail them out if they didn't prepare adequately for disasters. They should accept responsibility for protecting their constituents, and be held accountable if they don't.

But those were rules for the little people. Now that the Bush administration has botched its own response to disaster, we're not supposed to play the "blame game." Scott McClellan used that phrase 15 times over the course of just two White House press briefings.

It might make sense to hold off on the criticism if this were the first big disaster on Mr. Bush's watch, or if the chain of mistakes in handling Hurricane Katrina were out of character. But even with the most generous possible assessment, this is the administration's second big policy disaster, after Iraq. And the chain of mistakes was perfectly in character - there are striking parallels between the errors the administration made in Iraq and the errors it made last week.

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In Iraq, the administration displayed a combination of paralysis and denial after the fall of Baghdad, as uncontrolled looting destroyed much of Iraq's infrastructure.

The same deer-in-the-headlights immobility prevailed as Katrina approached and struck the Gulf Coast. The storm gave plenty of warning. By the afternoon of Monday, Aug. 29, the flooding of New Orleans was well under way - city officials publicly confirmed a breach in the 17th Street Canal at 2 p.m. Yet on Tuesday federal officials were still playing down the problem, and large-scale federal aid didn't arrive until last Friday.

In Iraq the Coalition Provisional Authority, which ran the country during the crucial first year after Saddam's fall - the period when an effective government might have forestalled the nascent insurgency - was staffed on the basis of ideological correctness and personal connections rather than qualifications. At one point Ari Fleischer's brother was in charge of private-sector development.

The administration followed the same principles in staffing FEMA. The agency had become a highly professional organization during the Clinton years, but under Mr. Bush it reverted to its former status as a "turkey farm," a source of patronage jobs.

As Bloomberg News puts it, the agency's "upper ranks are mostly staffed with people who share two traits: loyalty to President George W. Bush and little or no background in emergency management." By now everyone knows FEMA's current head went from overseeing horse shows to overseeing the nation's response to disaster, with no obvious qualifications other than the fact that he was Mr. Allbaugh's college roommate.

All that's missing from the Katrina story is an expensive reconstruction effort, with lucrative deals for politically connected companies, that fails to deliver essential services. But give it time - they're working on that, too.

Why did the administration make the same mistakes twice? Because it paid no political price the first time.

Can the administration escape accountability again? Some of the tactics it has used to obscure its failure in Iraq won't be available this time. The reality of the catastrophe was right there on our TV's, although FEMA is now trying to prevent the media from showing pictures of the dead. And people who ask hard questions can't be accused of undermining the troops.

But the other factors that allowed the administration to evade responsibility for the mess in Iraq are still in place. The media will be tempted to revert to he-said-she-said stories rather than damning factual accounts. The effort to shift blame to state and local officials is under way. Smear campaigns against critics will start soon, if they haven't already. And raw political power will be used to block any independent investigation.

Will this be enough to let the administration get away with another failure? Let's hope not: if the administration isn't held accountable for what just happened, it will keep repeating its mistakes. Michael Brown and Michael Chertoff will receive presidential medals, and the next disaster will be even worse.

Hughes Is Varnishing The Nation's Tarnish (WP)

By Dana Milbank

The Washington Post, September 9, 2005

The image of the United States has taken a beating over the past 10 days, as foreign television and newspapers show images of death, chaos and disease in New Orleans. Even lowly Bangladesh (per capita income: $400 a year) was moved to send $1 million in foreign aid.

But Karen Hughes has another view. The Bush confidante, now undersecretary of state for public diplomacy, held a meeting with her staff in Foggy Bottom yesterday and was asked about the international ramifications of the response to the New Orleans flooding. The problem, Hughes replied, was not a failed relief effort but a foreign press that did not appreciate the federal government's good work.

"There are a lot of things being said about us around the world that aren't true," said the woman in charge of polishing the American image abroad. "We've marshaled the resources of our federal government" to help fellow Americans, she said, and if people think otherwise, "we need to aggressively challenge that idea around the world."

An hour after Hughes gave her defense, a group of liberal demonstrators assembled in Lafayette Park for the opposite purpose. MoveOn.org, which three weeks ago held a rally in the same place to protest the Iraq war, was protesting the hurricane response. This time, instead of demanding a presidential audience for anti-war activist Cindy Sheehan, the group was demanding a presidential audience for three New Orleans evacuees.

The demonstrators, carrying messages promoting women's rights, labor unions and "Hillary '08" and condemning Halliburton, Karl Rove, the Iraq war and killings in Sudan, did not deny that the hurricane protest was opportunistic. "It's almost as if people are looking for an excuse to pin something on Bush that will stick," said Jerry Stein, who also marched in the Iraq rally.

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Ten days after Katrina struck, the administration and its critics faced credibility challenges. On one side, Bush and his aides continued to admit what even key Republicans in Congress have said: that the response to the hurricane was a debacle. On the other side, liberals ratcheted up their criticism of the administration, giving Bush support for his accusation that they are playing politics.

Remarks by prominent Republicans have left the party on the defensive. The president's mother suggested that life in the Astrodome is "working very well" for impoverished evacuees. Sen. Rick Santorum (Pa.) suggested fines for people who didn't heed evacuation warnings. And House Speaker Dennis Hastert (Ill.) proposed bulldozing New Orleans.

Two-thirds of Americans say the administration botched the relief effort, a new Pew poll found, and only 40 percent approve of Bush's performance overall. Vice President Cheney was cursed out yesterday in Gulfport, Miss.

Yet the Bush administration, whether discussing Iraq or Katrina, remains unfailingly upbeat. Secretary of State Condoleezza Rice, introducing Hughes, said nothing of Katrina as she repeated the Bush mantra that "freedom is on the march."

Hughes picked up the theme. "We have to offer a positive vision of hope," she began. As if preparing troops for combat, she described her plans for improving world opinion of the United States: a "rapid-response unit," a plan to "forward-deploy regional SWAT teams" and create "a dual-headed DAS for public diplomacy."

One of her underlings rose to ask how this effort squared with the administration's famously tight control over its message. "Recently, we've had tremendous amount of difficulty in some cases getting clearance for our ambassadors to speak," he said.

Hughes replied that ambassadors are free to talk -- if they use the talking points she sends them. "If they make statements based on something I sent them," she said, "they're not going to be called on the carpet."

While Hughes told employees that America's problems could be solved with message discipline, about 10 blocks away, MoveOn was struggling to maintain its message discipline at its protest outside the White House. When the MoveOn organizers arrived, there was already a demonstration underway calling for intervention in Darfur, and the Katrina and Darfur demonstrators intermingled in an eclectic line demanding "Help Hurricane Victims" and "Stop the Genocide."

Tom Matzzie, a MoveOn official, told the cameras: "This is what government looks like when it is in the hands of people who don't believe in government."

But it proved difficult to keep the focus on the hurricane. Some of the MoveOn demonstrators surrounded a conservative heckler, who shouted: "You're a bunch of loony liberals."

"Bush dug himself a hole by going to Iraq," one of the liberals shouted back.

"What does Iraq have to do with Katrina, for crying out loud?" the conservative demanded.

"Because he doesn't care about poor people," came the reply.

Another conservative, Clarice McMillan, blurted out: "My country, right or wrong!"

Over with the protesters, Lisa Petrovich, a systems analyst from Montgomery County, was ambivalent. She is outraged about the response to the storm: Her mother and sister lost their homes and jobs in New Orleans and are living with her. But at the same time, she said of the protest, "I think there may be some opportunism."

Senators Press Bush On Hurricane Relief Czar (REU)

By Tabassum Zakaria

Reuters, September 8, 2005

Two Republican senators pressed President George W. Bush on Thursday to appoint a top official to lead the long-term recovery from the devastation of Hurricane Katrina.

Bush, still said to be dissatisfied with the relief effort, announced measures to help displaced Gulf Coast residents obtain benefits.

"We have much more work to do," he said. "But the people who have been hurt by this storm need to know that the government is going to be with you for the long haul."

Bush earlier met with Republican congressional leaders at the White House, where Sens. Kay Bailey Hutchison of Texas and Rick Santorum of Pennsylvania urged him to pick someone to lead the administration's much-criticized recovery effort in Louisiana, Mississippi and Alabama.

White House officials have not ruled out such an option, saying it is among several being discussed for confronting long-term problems in Katrina's aftermath.

Various names have been mentioned in Washington for the job, such as former New York Mayor Rudolph Giuliani, former Secretary of State Colin Powell and retired Gen. Tommy Franks, former head of the U.S. Central Command.

"I believe that we do need a person on the ground for a long period of time, the six- to nine-month range, who would be the person able to make decisions and cut through red tape, and I think the president agrees with that," Hutchison told reporters after the meeting.

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Asked whether Bush agreed with creating the position, Santorum said: "That's up to him. He didn't say yes or no."

Vice President Dick Cheney, visiting the devastated region, was asked whether a czar to oversee hurricane relief was needed and responded by praising the people currently in charge.

"Well, I think we have got some very good people involved," he told reporters in Gulfport, Mississippi.

CUTTING RED TAPE

Bush, in a direct message to storm victims, announced measures to "cut through the red tape" to help them get benefits such as unemployment, Medicaid and food stamps.

He also said every household affected by the hurricane would get $2,000 in emergency disaster relief and that "evacuee status" would be granted to victims, many of whom no longer have documents to prove eligibility for benefits.

Bush also declared September 16 a national day of prayer and remembrance for the hurricane victims.

A day after Republican congressional leaders announced a joint House-Senate inquiry into government failures regarding the hurricane, Senate Democratic Leader Harry Reid of Nevada criticized the approach and said the investigation should be conducted by an independent commission like the one that looked into the September 11, 2001, attacks.

Reid said Democrats would not participate in the joint committee, which they see as set up to protect the administration.

"An independent investigation insulated from politics and conflicts of interest is the only way to ensure that the American people get the answers they deserve," he said.

House Democratic Leader Nancy Pelosi of California said the congressional plan would "result in a whitewash of what is going on there."

Amid the partisan wrangling over the federal government's slow response to Hurricane Katrina, White House spokesman Scott McClellan said, "The president continues to be not satisfied about where things are right now."

A CBS News poll reported that 58 percent of Americans disapproved of Bush's handling of the crisis and that only 32 percent expressed a lot of confidence in his ability to handle a crisis, compared with 66 percent approval in the weeks after the September 11, 2001, attacks.

About 300 protesters organized by the liberal group MoveOn.org, marched outside the White House carrying signs saying "Help Hurricane Victims" and chanting "Shame on Bush."

(Additional reporting by Steve Holland, Patricia Wilson)

Democratic Leaders Reject G.O.P. Storm Inquiry Plan (NYT)

By Carl Hulse

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 - Congressional Democratic leaders said Thursday that they would not appoint members to a new House-Senate committee to investigate failures in the government response to Hurricane Katrina, calling instead for an independent inquiry.

Representative Nancy Pelosi of California, the House Democratic leader, and Senator Harry Reid of Nevada, her counterpart in the Senate, said they would not cooperate because the committee would be controlled by Republicans, would have uncertain authority and was created without consultation with Democrats.

"Despite all the talk of bipartisanship," Ms. Pelosi said, "they have just on their own, unilaterally, put forth a proposal that will result in a whitewash of what is going on here." She added, "If we are ever going to truly protect the American people, now it is clear to me that we must have an outside independent commission, as we finally arrived at on 9/11."

Mr. Reid said he would not place any Senate Democrats on the panel "as it is currently described," adding: "The only way to ensure that all levels of our government are held accountable to the people is to take this process out of the hands of politicians with a vested interest in the outcome."

Republicans said they would still move forward with the panel initiated Wednesday by the House speaker, J. Dennis Hastert, and Senator Bill Frist, the majority leader, and would try to persuade Democrats to drop their objections.

"We hope that in the end, the Democrats will come on board," said Ron Bonjean, the spokesman for Mr. Hastert.

The Republican leaders said they saw the joint House-Senate committee as the preferable way to conduct the inquiry because it would prevent aid officials from having to appear before multiple committees. They said the panel would be structured like other House and Senate panels, with the majority Republicans having a slightly greater number of members than minority Democrats.

But Democrats suggested the panel should be evenly divided to avoid the possibility of Republicans protecting the Bush administration from close scrutiny. They and some Republicans said that in the absence of an outside panel, existing Congressional committees are able to conduct the investigation. In the Senate, the Homeland Security and Governmental Affairs

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Committee has already begun its own investigation and met privately on Thursday with administration officials in advance of a hearing next week.

One senior senator, John W. Warner, Republican of Virginia, said he was awaiting more details on the organization of the joint panel but said that the public deserved a thorough accounting of the storm response.

"I think the American public deserves a very clear and forthcoming revelation of all of the facts because in the end, they are going to make the final judgment," he told reporters.

Democrats Spurn Republican-backed Katrina Probe (REU)

By Donna Smith

Reuters, September 8, 2005

Democratic leaders pushing for an independent commission to investigate the government's response to Hurricane Katrina spurned on Thursday a plan by majority Republicans for a joint congressional inquiry.

House of Representatives Democratic Leader Nancy Pelosi of California, called the House-Senate investigation announced by Republican leaders on Wednesday a "sham" and said it would not produce an objective assessment of what went wrong in the hours and days following the storm.

Senate Democratic leader Harry Reid of Nevada also said he would not participate in the Republican-led inquiry.

The government's initial response to the catastrophic storm that left hundreds of thousands homeless and thousands feared dead along the U.S. Gulf Coast has come under intense bipartisan criticism.

While President George W. Bush declared Louisiana, Mississippi and Alabama disaster areas days before Hurricane Katrina hit on August 29 "to avert the threat of a catastrophe," residents of the region complained there was no federal help until days after the storm.

Pelosi said on CNN on Thursday that in meetings with Bush this week to discuss the response to Katrina the president asked her "'What didn't go right last week?'"

House Speaker Dennis Hastert of Illinois and Senate Majority Leader Bill Frist of Tennessee, both Republicans, announced what they said would be a bipartisan investigation at an event on Wednesday to which no Democrats were invited. With their plan, aides said Republicans would have the majority of members.

"The partisan proposal that Republican leaders outlined yesterday is completely unacceptable," Pelosi said. "House Democrats will not participate in a sham that is just the latest example of congressional Republicans being the foxes guarding the president's hen house."

Both Pelosi and Reid have called for an independent commission similar to the one that investigated intelligence failures before the September 11, 2001, attacks.

Reid also declined to name Democrats to the panel saying its current structure would not yield the truth.

"The only way to ensure that all levels of our government are held accountable to the people is to take this process out of the hands of politicians with a vested interest in the outcome," he said.

Hastert spokesman Ron Bonjean said Republicans would move ahead with the inquiry and hoped "that in the end the Democrats will come around and join us for the good of the country."

SENATE PANEL FORGING AHEAD

While the joint congressional inquiry appears to be getting off to a rocky start, a Senate panel began its investigation into the government response effort.

Sen. Susan Collins (news, bio, voting record), a Maine Republican who heads the Senate Homeland Security Committee, said she is committed to pushing the inquiry forward on a bipartisan basis. She and Sen. Joseph Lieberman (news, bio, voting record) of Connecticut, the top Democrat on the panel, spoke to reporters following a closed-door committee session with officials from the Federal Emergency Management Agency and the Coast Guard.

She said her committee will continue its investigation until the joint congressional panel gets running and takes over. She will lead the Senate side of the joint inquiry.

"We're still committed to a bipartisan inquiry," Collins said. "I think that's important for the credibility of the investigation and for it to have the confidence of the American people." (additional reporting by Vicki Allen)

Katrina Aid Package Could Push Deficit To New High (USAT)

By Richard Wolf

USA Today, September 9, 2005

WASHINGTON — First came the storm, then the flood, then the exodus. Now come the benefits, followed by the bills.

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Hurricane Katrina has set the federal government on a spending spree. The total of $62 billion approved by Congress is already more than any amount spent on any previous domestic natural disaster. And it will be spent within weeks.

As the months pass, the government will face pressure to pay for health and education services usually rendered by states, cities and school districts. That will apply not just in Louisiana, Mississippi and Alabama, but in states housing and caring for Katrina's evacuees.

That's likely to push the deficit for fiscal year 2006, which begins Oct. 1, beyond last year's record $412 billion. Before Katrina, the 2006 deficit was projected to be $314 billion.

Bill Hoagland, the top budget aide to Senate Majority Leader Bill Frist, agreed that the deficit is likely to top $400 billion.

"I don't think it's out of line," he said.

Leon Panetta, White House chief of staff and budget director under President Clinton, said it could hit $500 billion.

"At some point, all of that borrowing comes back to haunt you," he said.

White House budget director Joshua Bolten acknowledged the rising red ink.

"We will have a larger deficit in 2006 than we would otherwise have anticipated," he said. But because Katrina costs are temporary, the deficit should decline quickly in future years, he said.

President Bush signed the $51.8 billion bill on Thursday after quick approval was given in Congress. Bush said the federal government would compensate states caring for Katrina victims. "You should not be penalized for showing compassion," he said.

Today, the nation's school administrators will ask for $12.3 billion to rebuild about 500 schools and educate 250,000 students displaced by Katrina for a year.

Other federal costs will include paying off flood insurance policies, helping industries hit hard by the hurricane and dealing with environmental cleanup and wetlands restoration.

"This is on a magnitude we've never done before," said Rep. David Obey, D-Wis.

Cost Of Recovery Surges, As Do Bids To Join In Effort (NYT)

By Edmund L. Andrews And Carl Hulse

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 - With Congress primed to spend billions of dollars on the aftermath of Hurricane Katrina, lawmakers and industry groups are lining up to bring home their share of the cascade of money for rebuilding and relief.

White House officials and Congressional budget experts now assume that federal costs for the hurricane will shoot past $100 billion, which itself is more than twice the entire annual federal budget for domestic security. Congress on Thursday approved $51.8 billion in spending, bringing the total so far to more than $62 billion.

The demand for money comes from many directions. Louisiana lawmakers plan to push for billions of dollars to upgrade the levees around New Orleans, rebuild highways, lure back business and shore up the city's sinking foundation. The devastated areas of Mississippi and Alabama will need similar infusions of cash.

Communities will want compensation for taking in evacuees. And there will be future costs of health care, debris removal, temporary housing, clothing, vehicle replacement. Farmers from the Midwest, meanwhile, are beginning to press for emergency relief as a result of their difficulties in shipping grain through the Port of New Orleans.

Other ideas circulating through Congress that could entail significant costs include these notions:

¶Turning New Orleans and other cities affected by the storm into big new tax-free zones.

¶Providing reconstruction money for tens of thousands of homeowners and small businesses that did not have federal flood insurance on their houses or buildings.

¶Making most hurricane victims eligible for health care under Medicaid and having the federal government pay the full cost rather than the current practice of splitting costs with states.

The torrent of money - more than $2 billion a day over the weekend, and expected to remain above $500 million a day for the foreseeable future - prompted several lawmakers to warn about the perils of an open checkbook.

"We are reaching a perfect political storm," said Senator Jeff Sessions, Republican of Alabama. "We have all the earmarks of a rush to spend money that is very dangerous."

Mr. Sessions called on President Bush to appoint a person with significant business experience to oversee the spending. Contained within the spending measure approved Thursday is a provision that directs an extra $15 million to the inspector general's office in the Department of Homeland Security. The agency is also ordered to provide at least weekly reports to Congress on the use of the money.

Those safeguards, along with a decision by the administration to waive the federal law requiring that prevailing wages be paid on construction projects underwritten by federal dollars, were critical to persuading Congressional conservatives to vote for

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the money. It passed the House on 410-to-11 vote, with the only opposition coming from Republicans. The Senate vote was 97 to 0.

But fiscal conservatives who supported the legislation on Thursday threatened to oppose future installments of money unless Congress and the administration begin to find ways to offset the spending so it is not just piled on top of the federal deficit.

"Congress must ensure that a catastrophe of nature does not become a catastrophe of debt for our children and grandchildren," said Representative Mike Pence, Republican of Indiana and a conservative leader in the House.

"There is no sacrifice on the part of Congress," said Senator Tom Coburn, Republican of Oklahoma, who said the decision to not cut spending elsewhere was a failure of leadership.

The emergency spending plan also drew scrutiny from some lawmakers who contended that it raised the risk of fraud by increasing the spending limit on about 250,000 credit cards issued to government workers from $15,000 to $250,000. "The use of government credit cards has a track record, and it is not a good one," Representative Henry A. Waxman, Democrat of California, wrote in a letter urging Congressional leaders to delete the provision.

But Representative Tom DeLay, the House majority leader and typically an opponent of increased spending for social programs, argued that Congress had no choice but to provide the financial assistance as quickly as possible.

"I know the American people, some of them are worrying about all this money," Mr. DeLay said. "Ladies and gentlemen, five million people, five million Americans, deserve us finding a way to make them whole."

House Democrats complained that they were prevented Thursday from offering a proposal to sever the Federal Emergency Management Agency from the Department of Homeland Security and making other changes before turning over so much to the agency, which has come under withering fire for its storm response. Republicans said they did not want to impede the aid by getting caught up in a legislative fight, and they said Democrats would have opportunities later to offer the FEMA changes.

Administration officials said the government spent about $2 billion a day last weekend, and the additional $51.8 billion would merely cover costs for "the next few weeks."

Joshua B. Bolten, the White House budget director, said the spending rate last weekend stemmed in part from signing big contracts for debris removal and temporary housing. The government has already bought 100,000 trailers for temporary housing and is trying to buy 200,000 more.

Of the new money, $23.2 billion is designated for temporary housing and other financial assistance to individuals. Another $11 billion is broadly aimed at "mission assignments" by the Federal Emergency Management Agency, which will hire other agencies and companies for jobs like debris removal.

FEMA will receive about $4.65 billion to pay for logistical needs, supplies and search-and-rescue operations. The Army Corps of Engineers will get $3 billion, essentially to pay for repairing the broken levees in New Orleans.

But the relief money is not expected to cover any of the real reconstruction costs that lie ahead: repair of highways, bridges and other infrastructure and new projects that seek to prevent a repeat of the New Orleans disaster. Nor will it even help pay for expanded availability of food stamps and poverty programs to cover hurricane victims.

"I'm fearful that this will open the floodgates for money," said Chris Edwards, a budget analyst at the Cato Institute, a research group that supports reduced government spending. "If they spend $1 billion a day for relief, that's fine. But down the road, state and local governments traditionally issue bonds for infrastructure when they need to build."

Shortly before the House voted to approve Mr. Bush's request for $51.8 billion, it approved a separate bill to let hurricane victims get more access to the federal welfare assistance for low-income families.

Democratic lawmakers proposed a raft of their own proposals. Senator Max Baucus of Montana, the ranking Democrat on the Senate Finance Committee, called for giving hurricane victims immediate access to Medicaid, the federal health program for low-income people, and letting victims collect unemployment payments for as long as one year.

Lobbyists Seek Leverage From Storm (WSJ)

By Brody Mullins

The Wall Street Journal, September 9, 2005

WASHINGTON -- Bolstered by the shift in political winds from Hurricane Katrina, U.S. corporations are pressing lawmakers to approve a range of issues that have languished on Capitol Hill, some of which have little to do with hurricane relief.

Major U.S. airlines are asking Congress to suspend federal jet-fuel taxes. Oil and gas companies want drilling rights in new parts of the Gulf Coast. Insurance companies want the ability to use tax-free funds to create a multibillion-dollar industry fund to cover future claims from natural disasters. Shipbuilders such as Northrop Grumman Corp. want billions of dollars to help rebuild shipyards in Mississippi. Even small chicken farmers are asking Congress for low-interest loans to fix or replace hundreds of damaged or destroyed chicken coops in Mississippi.

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"Overall, we are going to be a lot more open to things now that would help keep our traditional industries chugging along," says Rep. Jack Kingston, a Republican from Georgia.

Delta Air Lines stands to be the first big winner of the Republicans' goodwill. Lawmakers in the House and Senate say they expect to approve legislation by mid-October to give the Atlanta-based carrier more time to make payments to its employee pension plan. Delta officials have told Congress they would be forced to file for bankruptcy protection if Congress doesn't lend them a hand by the time the new bankruptcy law takes effect next month. Atlanta-based Delta is the incumbent carrier in the storm-ravaged Gulf Coast.

Yesterday, senators working on a pension-overhaul bill agreed to language requested by Delta's lobbyists that would give the airline 14 years to catch up on payments to its employees' retirement plans. Currently, the Delta plans are underfunded by $5.3 billion. Sen. Michael Enzi of Wyoming, chairman of the Health, Education, Labor and Pensions Committee, also added a Delta-backed provision that would allow the airline to increase benefits promised to workers if the airline could offset the new costs with matching contributions to the plans.

Until Katrina battered the Gulf Coast, House Republicans were adamantly opposed to helping the airlines. But now their resistance is softening. "I'm clearly sensitive to the problem of the legacy carriers," says Rep. John Boehner, the author of the pension-overhaul legislation in the House. "We ought to do what is reasonable to keep them from dumping their pensions" on the federal government, he says.

Delta and other large airlines are also pushing Congress and the Bush administration to suspend the 4.3-cents-a-gallon tax on jet fuel, a long-sought goal. Earlier this week, Sen. Ted Stevens, the Alaska Republican who chairs the Commerce Committee, asked the airline industry what Congress could do to alleviate some of the hurricane's impact, according to airline lobbyists. The industry's trade association, the Air Transport Association, told Mr. Stevens that Congress should suspend the fuel tax for one year.

Mr. Stevens has scheduled a hearing on the matter next week. Despite his interest in providing assistance, the airlines continue to face resistance in both the House and Senate. Senate Finance Committee Chairman Charles Grassley of Iowa and House Majority Leader Tom DeLay of Texas oppose suspending fuel taxes, because the funds are used to build highways, bridges and runways. Rep. John Mica, the Florida Republican who is chairman of the House's aviation subcommittee, says the airlines "can raise their fares to adjust for fuel costs."

A price increase is one possibility. Airlines have considered imposing a "fuel surcharge" that would be tacked on to every ticket, and some would even prefer if Congress mandated it to ensure that all carriers would boost their prices. Either way, carriers have asked the Department of Transportation to let them list any surcharge separately from the regular fare, so that it wouldn't be included in the base fare that customers are initially quoted. Rather, the surcharge would appear at the end of a purchase, along with other taxes and fees. The industry would also like Congress to exempt any fuel surcharge from the existing 7.5% passenger ticket tax.

Beyond the airlines, the energy industry is pushing to permit oil and gas drilling in Alaska's Arctic National Wildlife Refuge, reduce regulatory barriers to building new oil refineries and increase federal subsidies to help low-income Americans heat their homes in the winter.

Gas companies are pressing Congress to revive legislation that would expand oil drilling in eastern portions of the Gulf of Mexico. "It's all stuff that we were talking about before Katrina, but Katrina exposed our vulnerabilities," says Darrell Henry, a lobbyist with the American Gas Association.

On a smaller scale, poultry and seafood producers along the Gulf Coast are also preparing to ask Washington for help. Laurel, Miss.-based Sanderson Farms Inc. reported that the storm killed about five million birds and destroyed nearly 10% of its coops. "Federal assistance in dealing with this type of loss would be very appropriate," said Richard Lobb, a spokesman for the industry's National Chicken Council. Mr. Lobb said chicken farmers are asking the federal government to provide low-interest loans to help rebuild hundreds of 400-foot-long "grow-out houses," which run about $150,000 apiece.

Louisiana's oyster farmers were so hard hit that they still haven't determined what type of help they will seek. Louisiana produces more than 40% of the oysters eaten in the U.S. each year. The National Fisheries Institute, an industry trade group, estimates that two-thirds of Louisiana's oyster industry has been wiped out.

"The boats, docks, processing plants and ice housing are likely decimated," said Stacey Felzenberg, a spokeswoman for the association. "The people who have been impacted really will need some significant aid to get back on their feet."

Louisiana Lawmakers Aim To Cope With Political Fallout (WSJ)

By John Harwood

The Wall Street Journal, September 9, 2005

LOUISIANA LAWMAKERS aim to cope with political fallout.

Sen. Landrieu, in spotlight now, could find margins squeezed if thousands of Democratic-leaning African-Americans don't return by her 2008 re-election. Louisiana political analyst John Maginnis says state could even lose one of seven House seats in next redistricting.

Two shaky House incumbents, Democrat Melancon and Republican Boustany, hope response to hurricane rallies voters behind them. House Republican campaign chief Reynolds touts chance to market conservative social-policy solutions; Rep. Baker of Baton Rouge is overheard telling lobbyists: "We finally cleaned up public housing in New Orleans. We couldn't do it, but God did."

Baker explains later he didn't intend flippancy but has long wanted to improve low-income housing.

KATRINA ROILS trade debate over shrimp tariffs.

The U.S. International Trade Commission next week considers whether shrimpers from India and Thailand, saddled with tariffs after complaints of unfair competition from domestic producers, still pose a threat. Last winter's tsunami has fueled calls for lifting the levies.

But now the hurricane has given the U.S. industry a new argument for retaining tariff protection: An estimated 40% of domestic shrimpers and processors suffered some Katrina damage. "It's going to take awhile for that to recover," says Sal Versaggi of the eight-state Southern Shrimp Alliance.

SPOTLIGHT ON POOR increases opposition to planned Medicaid cuts.

A bipartisan group of senators urges Finance Chairman Grassley to delay slicing $10 billion from Medicaid and other entitlement programs serving many of those displaced by Katrina. "We must remain focused on the relief efforts and ways to deliver both short- and long-term aid," write Republicans Smith and Snowe, joined by Democrats Bingaman and Lincoln.

Administration officials mull ways to deliver more Medicaid funds to states such as Texas where rolls will swell; House Democrats urge HHS Secretary Leavitt to assume all costs of the state-federal program in affected areas. But conservatives like Rep. Barton of Texas warn Katrina shouldn't become an excuse to block Medicaid overhaul.

"Let me repeat, so that everybody hears me -- evacuees from Hurricane Katrina would not be hurt!" he says.

OPPORTUNITY KNOCKS: Ten U.S. Army recruiters are offering volunteer help for Katrina evacuees at Houston's Astrodome. But the recruiters, struggling to keep enlistment up during Iraq war, are also available with options for the jobless. "Our intent is to approach the evacuees at the right time for them," says Army spokesman Douglas Smith.

PR BONANZA? U.S. adversaries draw wide attention by joining international effort to offer help with Katrina relief. The Bush administration rebuffs Iran's conditional offer of 20 million barrels of oil while remaining mum on Cuba's pitch to send 1,500 doctors and nurses. Venezuela's Chávez, deriding Bush as "king of vacations," mixes offers of aid workers with oil shipments.

DUELING CAUSES? Grass-roots charities sending items to troops in Iraq worry they'll lose out to Katrina relief. "It will be even harder to ask and receive donations when there are so many needing help," says Connie Riecke of the Oregon-based Marine Corps Family Foundation.

FAMILY TIES: Bush's Katrina performance draws fire, but Texas universities eagerly compete for his presidential library in bid process ending next week. Contenders include University of Texas, which has the LBJ library; Southern Methodist, Laura Bush's alma mater; and Baylor, near the Crawford ranch. Library executives say bidders must accommodate "an institute inspired by the principles of George W. Bush's administration," a museum, a cafe and gift shop.

NEW FEMINISM: Conservatives tout female court pick to block Gonzales.

Right rallies around antiabortion appeals-court judges, including Edith Jones and Priscilla Owen; Janice Rogers Brown, an African-American, would meet post-Katrina calls for Bush to appoint a minority. All are seen as more conservative than Attorney General Gonzales, who'd be the first Hispanic pick.

Some close to White House predict Bush won't announce O'Connor's successor until Roberts clears Senate Judiciary Committee. Meanwhile, liberals battle for seats in next week's Judiciary hearings, but find themselves outnumbered by Roberts backers.

The hearing will "look like a Republican town hall meeting," one activist grumbles.

MINOR MEMOS: Trial lawyers' association calls on Republican Rep. Pryce to "stop scaring volunteers" after she says some would-be aid workers feared lawsuits. ... Tom Gallagher of ISI Group says posthurricane congressional spending makes it "Katrina Bar the Door" on fiscal policy.

Bankrupting The Victims (LAT)

The Los Angeles Times, September 9, 2005

Government aid is finally flowing to the most helpless victims of Hurricane Katrina, but a broader category of the dispossessed will test the government over a longer period of time. They are families with the means to flee the hurricane,

perhaps even with insurance to cover some losses, but without the resources to make a living immediately. In other contexts, they would be referred to simply as the middle class.

They have lost their homes but are living off their credit cards and maybe a little savings. As those savings dwindle, however, the mortgage keeps coming due and their credit card nears its limit. Soon the paycheck may stop, and with it their health insurance.

How many of these victims exist is anyone's guess; the Congressional Budget Office predicted that the hurricane will cost 400,000 jobs nationally, and some private estimates are double that. Congress will no doubt take some steps to help victims rebuild their lives, but it also should take this opportunity to revisit the new bankruptcy law, which goes into effect Oct. 17. As the Times' Peter Gosselin reported Wednesday, the new bankruptcy law treats those affected by a natural disaster the same as the deadbeat who spent it all on luxury cars, jewelry and cocaine.

As of Oct. 17, individuals filing for bankruptcy who have income at or above their state's family median (in Louisiana, it is $51,402 for a family of four) will largely be forced to repay some or all of their debts for up to five years. Normally, such debtors would have the option of declaring Chapter 7 bankruptcy, which allows people to emerge from debt relatively quickly.

What's more, the new law calculates income by taking a six-month average, so even if someone is jobless, his income statement may not reflect it. And small businesses face a tighter 10-month deadline for coming to agreement with creditors on a repayment plan, even if snack shops and shoe stores drowned by Katrina may take years to recover. And strict deadlines and demands for stacks of documentation remain, even if the documents dissolved in a toxic stew or floated into the Gulf of Mexico.

Rep. John Conyers Jr. (D-Mich.) and Sen. Russell D. Feingold (D-Wis.) are leading efforts to delay the bankruptcy law's application to Katrina victims and grant broader exceptions to survivors of all severe disasters.

Before Katrina, supporters of the new law argued it would curb abuse of the bankruptcy code. This argument was always dubious, and in the aftermath of the hurricane, the new law appears simply callous. Does Congress really want to use Katrina's victims as test cases in some sort of grand experiment in bankruptcy reform?

The irony is that Congress has already decided that the more obviously desperate deserve relief. Federal and state officials have sensibly slashed red tape to provide immediate food stamps and Medicaid to evacuees — the poor and not-yet-poor alike. The federal government is providing debit cards to evacuees in the Astrodome.

The federal government failed its most vulnerable citizens in the days after Katrina. Unless Conyers and Feingold prevail, it may do the same, albeit more slowly, to those one rung higher on the economic ladder, as middle- and working-class families lose their foothold on self-sufficiency.

Opinionline: Katrina Exposes America's Fragility (USAT)

USA Today, September 9, 2005

What people around the world are saying about Katrina:

Mehdi Mohammadi,

in a column in Keyhan (Tehran, Iran): "Reports come from New Orleans that show that the pitiful situation of the people in affected areas cannot be entirely attributed to Katrina. A greater tragedy that has astonished the world's people is the widespread chaos, insecurity and plundering that have been caused by thieves, criminals and murderers. ... What kind of human beings are these people who have ambushed and plundered the helpless men and women? ... Americans have created a nationwide scandal. The American government that has been engaged in the overseas mission of spreading welfare and freedom among nations of the world, with its huge resources and facilities, has completely failed to control a crisis that is not so great compared to similar events."

People's Daily

(Beijing), in an editorial: "America seems (to be) fighting a city war at home — New Orleans has become Baghdad. ... People have reason to feel disgusted: when Indonesia was hit by a tsunami last year, everybody lent a helping hand and nobody looted. But now this happened in the United States, showing people another side of this 'civilized country.' In fact, it revealed a fragility of the American society, as well as despair and disorder. ... Katrina swept away not only people's homes, but their dignity."

Al-Sharq

(Qatar), in an editorial: "The global humanitarian reaction to the victims of Katrina will pave the way for a new dialogue between the world's civilizations and religions in the interest of international security and peace."

The Korea Herald

(Seoul), in an editorial: "The U.S. media are heard wondering why the outside world is still slow to come to the aid of the country while it had always been the most generous to help other nations in natural and other calamities. Some commentators even tried to attribute it to U.S. unilateralism shown in the war on terror and the Iraqi war in particular. But world nations will

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certainly repay the Americans what they owed to them. If their response is not very expeditious, it must be due to the still ineffective worldwide emergency aid logistics system. The United Nations should have quickly played the leading role as the United States, the usual main provider, is now in need."

National Post

(Ontario, Canada), in an editorial: "The sense that government would be there to make everything all right — to provide food, shelter, water, medicine — is not surprising given that for so many New Orleanians, a general reliance on social assistance is a normal part of daily life. With a median household income of $31,369 and some of the country's oldest and most notorious public housing projects, New Orleans is a city that is fully enmeshed in the vicious welfare cycle that leaves the poor incapable of taking care of themselves. If there was a problem, many of the residents had been conditioned to think, then surely the same people who came through every month with money for food, prescription drugs, housing and child care would be there to take care of it."

Paul Kelly,

editor at large, in a column in The Australian (Sydney): "The U.S. has betrayed its own values and its historic role as an exemplar to the world. ... It is an American tragedy and an American failure. ... The New Orleans disaster documents the failure of contemporary U.S. leadership. It goes to competent government, adequate planning, efficient agency coordination and an effective chief executive. It betrays what many suspect about the Bush administration: that it suffers from a systemic inability to organize effective public policy responses, either in the U.S. or in Iraq."

The Straits Times

(Singapore), in an editorial: "Coping with natural disasters requires systems and the machinery to execute set procedures. But crisis situations demand leadership, above all else. The Japanese government froze for days after the Kobe earthquake of 1995. When organized help finally came, Japan — and now the U.S. — performed up to expectations. But reputations are usually made or ruined in the first critical days."

How Reliable Is Brown's Resume? (TIME)

By Daren Fonda And Rita Healy

Time, September 8, 2005

When President Bush nominated Michael Brown to head the Federal Emergency Management Agency (FEMA) in 2003, Brown's boss at the time, Joe Allbaugh, declared, "the President couldn't have chosen a better man to help...prepare and protect the nation." But how well was he prepared for the job? Since Hurricane Katrina, the FEMA director has come under heavy criticism for his performance and scrutiny of his background. Now, an investigation by TIME has found discrepancies in his online legal profile and official bio, including a description of Brown released by the White House at the time of his nomination in 2001 to the job as deputy chief of FEMA. (Brown became Director of FEMA, succeeding Allbaugh, in 2003.)

Before joining FEMA, his only previous stint in emergency management, according to his bio posted on FEMA's website, was "serving as an assistant city manager with emergency services oversight." The White House press release from 2001 stated that Brown worked for the city of Edmond, Okla., from 1975 to 1978 "overseeing the emergency services division." In fact, according to Claudia Deakins, head of public relations for the city of Edmond, Brown was an "assistant to the city manager" from 1977 to 1980, not a manager himself, and had no authority over other employees. "The assistant is more like an intern," she told TIME. "Department heads did not report to him." Brown did do a good job at his humble position, however, according to his boss. "Yes. Mike Brown worked for me. He was my administrative assistant. He was a student at Central State University," recalls former city manager Bill Dashner. "Mike used to handle a lot of details. Every now and again I'd ask him to write me a speech. He was very loyal. He was always on time. He always had on a suit and a starched white shirt."

In response, Nicol Andrews, deputy strategic director in FEMA's office of public affairs, insists that while Brown began as an intern, he became an "assistant city manager" with a distinguished record of service. "According to Mike Brown," she says, "a large portion [of the points raised by TIME] is very inaccurate."

Brown's lack of experience in emergency management isn't the only apparent bit of padding on his resume, which raises questions about how rigorously the White House vetted him before putting him in charge of FEMA. Under the "honors and awards" section of his profile at FindLaw.com — which is information on the legal website provided by lawyers or their offices— he lists "Outstanding Political Science Professor, Central State University". However, Brown "wasn't a professor here, he was only a student here," says Charles Johnson, News Bureau Director in the University Relations office at the University of Central Oklahoma (formerly named Central State University). "He may have been an adjunct instructor," says Johnson, but that title is very different from that of "professor." Carl Reherman, a former political science professor at the University through the '70s and '80s, says that Brown "was not on the faculty." As for the honor of "Outstanding Political Science Professor," Johnson says, "I

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spoke with the department chair yesterday and he's not aware of it." Johnson could not confirm that Brown made the Dean's list or was an "Outstanding Political Science Senior," as is stated on his online profile.

Speaking for Brown, Andrews says that Brown has never claimed to be a political science professor, in spite of what his profile in FindLaw indicates. "He was named the outstanding political science senior at Central State, and was an adjunct professor at Oklahoma City School of Law."

Under the heading of "Professional Associations and Memberships" on FindLaw, Brown states that from 1983 to the present he has been director of the Oklahoma Christian Home, a nursing home in Edmond. But an administrator with the Home, told TIME that Brown is "not a person that anyone here is familiar with." She says there was a board of directors until a couple of years ago, but she couldn't find anyone who recalled him being on it. According to FEMA's Andrews, Brown said "he's never claimed to be the director of the home. He was on the board of directors, or governors of the nursing home." However, a veteran employee at the center since 1981 says Brown "was never director here, was never on the board of directors, was never executive director. He was never here in any capacity. I never heard his name mentioned here."

The FindLaw profile for Brown was amended on Thursday to remove a reference to his tenure at the International Arabian Horse Association, which has become a contested point.

Brown's FindLaw profile lists a wide range of areas of legal practice, from estate planning to family law to sports. However, one former colleague does not remember Brown's work as sterling. Stephen Jones, a prominent Oklahoma lawyer who was lead defense attorney on the Timothy McVeigh case, was Brown's boss for two-and-a-half years in the early '80s. "He did mainly transactional work, not litigation," says Jones. "There was a feeling that he was not serious and somewhat shallow." Jones says when his law firm split, Brown was one of two staffers who was let go.

Democrats' Anti-Bush Petition Also Seeks Political Contributions (NYNSDY/AP)

By Devlin Barrett, Associated Press Writer

New York Newsday, September 9, 2005

WASHINGTON -- A new Democratic effort to whip up indignation about the Bush administration's handling of Hurricane Katrina also tried to raise money for Democratic candidates.

Sen. Charles Schumer, a New York Democrat and the head of the Democratic Senatorial Campaign Committee, issued an appeal Thursday urging people to sign an online petition to fire the head of the Federal Emergency Management Agency over his handling of the Katrina response.

After an inquiry from the Associated Press, the DSCC quickly pulled down the page and said they would donate to charity any money raised by the anti-FEMA petition.

When recipients clicked on a link to the petition, the top center of the screen _ above the call to "Fire the FEMA director" _ had asked for a donation to the DSCC.

Other DSCC Web pages have the same appeal for contributions, but several do not.

Since Katrina, Democrats have charged Republicans badly botched the response, and some have called for the firing of FEMA chief Michael Brown.

In recent days, Republicans hit back by accusing Democrats of trying to use the human tragedy for political gain. The letter, the GOP said Thursday, was proof.

"It's a disgrace to exploit Hurricane Katrina to raise political funds," said Brian Nick, spokesman for the National Republican Senatorial Committee.

"They should halt this activity because it's way over the line," he said.

DSCC spokesman Phil Singer said: "While the content of the letter is totally valid, it should have never been linked to a Web site that asks people to contribute to political campaigns. We regret it, have removed the letter from our site and will donate any contributions raised as a result of this petition to the Red Cross."

The letter is the latest sign that more than a week after Hurricane Katrina struck, the political fight over what went wrong in the response continues to grow.

Sen. Hillary Rodham Clinton has called for an independent commission to probe government failures before and after Katrina, while House Democratic leader Nancy Pelosi called Bush "oblivious, in denial, dangerous" in his approach to relief efforts.

Rep. Thomas Reynolds, head of the House Republicans' fund-raising efforts, described Democratic criticism as "reprehensible," saying "this is a tragedy, not an opportunity."

The administration and Republican leaders in Congress are scrambling to launch a number of initiatives to help hurricane refugees and victims, including a new $51 billion aid package.

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During the 2004 presidential campaign, some Democrats attacked President Bush for using an image of Sept. 11 devastation in a re-election campaign ad, accusing him of exploiting the tragedy. At the time, Schumer did not join in the criticism.

Advance Men In Charge (NYT)

The New York Times, September 9, 2005

The Federal Emergency Management Agency announced this week that it didn't want the news media taking photographs of the dead in New Orleans. A FEMA spokeswoman talked unconvincingly about the dignity of the dead. But the bizarre demand, a creepy echo of the ban on news media coverage of the coffins returning from Iraq, is simply the latest spasm of a gutted federal agency.

It's not really all that surprising that the officials who run FEMA are stressing that all-important emergency response function: the public relations campaign. As it turns out, that's all they really have experience at doing.

Michael Brown was made the director after he was asked to resign from the International Arabian Horse Association, and the other top officials at FEMA don't exactly have impressive résumés in emergency management either. The Chicago Tribune reported on Wednesday that neither the acting deputy director, Patrick Rhode, nor the acting deputy chief of staff, Brooks Altshuler, came to FEMA with any previous experience in disaster management. Ditto for Scott Morris, the third in command until May.

Mr. Altshuler and Mr. Rhode had worked in the White House's Office of National Advance Operations. Those are the people who decide where the president will stand on stage and which loyal supporters will be permitted into the audience - and how many firefighters will be diverted from rescue duty to surround the president as he patrols the New Orleans airport trying to look busy. Mr. Morris was a press handler with the Bush presidential campaign. Previously, he worked for the company that produced Bush campaign commercials.

So when Mr. Brown finally got around to asking Homeland Security Secretary Michael Chertoff for extra people for Katrina, it wasn't much of a departure for Mr. Brown to say that one of the things he wanted them to do was to "convey a positive image of disaster operations to government officials, community organizations and the general public." We'd like them to stay focused on conveying food, water and medical help to victims.

Political patronage has always been a hallmark of Washington life. But President Bill Clinton appointed political pals at FEMA who actually knew something about disaster management. The former FEMA director James Lee Witt, whose tenure is widely considered a major success, was a friend of Mr. Clinton's when he took office in 1993, but he had run the Arkansas Office of Emergency Services. His top staff came from regional FEMA offices.

Surely there are loyal Republicans among the 50 directors of state emergency services. But President Bush chose to make FEMA a dumping ground for unqualified cronies - a sure sign that he wanted to hasten the degradation of an agency that conservative Republicans have long considered an evil of big government. Katrina has proved that federal disaster help is vital, and that Mr. Brown and his team of advance men can't do the job. What America needs are federal disaster relief people who actually know something about disaster relief.

Leaders Lacking Disaster Experience (WP)

By Spencer S. Hsu

The Washington Post, September 9, 2005

Five of eight top Federal Emergency Management Agency officials came to their posts with virtually no experience in handling disasters and now lead an agency whose ranks of seasoned crisis managers have thinned dramatically since the Sept. 11, 2001, attacks.

FEMA's top three leaders -- Director Michael D. Brown, Chief of Staff Patrick J. Rhode and Deputy Chief of Staff Brooks D. Altshuler -- arrived with ties to President Bush's 2000 campaign or to the White House advance operation, according to the agency. Two other senior operational jobs are filled by a former Republican lieutenant governor of Nebraska anda U.S. Chamber of Commerce official who was once a political operative.

Meanwhile, veterans such as U.S. hurricane specialist Eric Tolbert and World Trade Center disaster managers Laurence W. Zensinger and Bruce P. Baughman -- who led FEMA's offices of response, recovery and preparedness, respectively -- have left since 2003, taking jobs as consultants or state emergency managers, according to current and former officials.

Because of the turnover, three of the five FEMA chiefs for natural-disaster-related operations and nine of 10 regional directors are working in an acting capacity, agency officials said.

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Patronage appointments to the crisis-response agency are nothing new to Washington administrations. But inexperience in FEMA's top ranks is emerging as a key concern of local, state and federal leaders as investigators begin to sift through what the government has admitted was a bungled response to Hurricane Katrina.

"FEMA requires strong leadership and experience because state and local governments rely on them," said Trina Sheets, executive director of the National Emergency Management Association. "When you don't have trained, qualified people in those positions, the program suffers as a whole."

Last week's greatest foe was, of course, a storm of such magnitude that it "overwhelmed" all levels of government, according to Sen. Susan Collins (R-Maine). And several top FEMA officials are well-regarded by state and private counterparts in disaster preparedness and response.

They include Edward G. Buikema, acting director of response since February, and Kenneth O. Burris, acting chief of operations, a career firefighter and former Marietta, Ga., fire chief.

But scorching criticism has been aimed at FEMA, and it starts at the top with Brown, who has admitted to errors in responding to Hurricane Katrina and the flooding in New Orleans. The Oklahoma native, 50, was hired to the agency after a rocky tenure as commissioner of a horse sporting group by former FEMA director Joe M. Allbaugh, the 2000 Bush campaign manager and a college friend of Brown's.

Rhode, Brown's chief of staff, is a former television reporter who came to Washington as advance deputy director for Bush's Austin-based 2000 campaign and then the White House. He joined FEMA in April 2003 after stints at the Commerce Department and the U.S. Small Business Administration.

Altshuler is a former presidential advance man. His predecessor, Scott Morris, was a media strategist for Bush with the Austin firm Maverick Media.

David I. Maurstad, who stepped down as Nebraska lieutenant governor in 2001 to join FEMA, has served asacting director for risk reduction and federal insurance administrator since June 2004. Daniel A. Craig, a onetime political fundraiser and campaign adviser, came to FEMA in 2001 from the U.S. Chamber of Commerce, where he directed the eastern regional office, after working as a lobbyist for the National Rural Electric Cooperative Association.

Department of Homeland Security spokesman Russ Knocke said Brown has managed more than 160 natural disasters as FEMA general counsel and deputy director since 2001, "hands-on experience [that] cannot be understated. Other leadership at FEMA brings particular skill sets -- policy management leadership, for example."

The agency has a deep bench of career professionals, said FEMA spokeswoman Nicol Andrews, including two dozen senior field coordinators and Gil Jamieson, director of the National Incident Management System. "Simply because folks who have left the agency have a disagreement with how it's being run doesn't necessarily indicate that there is a lack of experience leading it," she said.

Andrews said the "acting" designation for regional officials is a designation that signifies that they are FEMA civil servants -- not political appointees.

Touring the wrecked Gulf Coast with Secretary of Homeland Security Michael Chertoff yesterday, Vice President Cheney also defended FEMA leaders, saying, "We're always trying to strike the right balance" between political appointees and "career professionals that fill the jobs underneath them."

But experts inside and out of government said a "brain drain" of experienced disaster hands throughout the agency, hastened in part by the appointment of leaders without backgrounds in emergency management, has weakened the agency's ability to respond to natural disasters. Some security experts and congressional critics say the exodus was fueled by a bureaucratic reshuffling in Washington in 2003, when FEMA was stripped of its independent Cabinet-level status and folded into the Department of Homeland Security.

Emergency preparedness has atrophied as a result, some analysts said, extending from Washington to localities.

FEMA "has gone downhill within the department, drained of resources and leadership," said I.M. "Mac" Destler, a professor at the University of Maryland School of Public Policy. "The crippling of FEMA was one important reason why it failed."

Richard A. Andrews, former emergency services director for the state of California and a member of the president's Homeland Security Advisory Council, said state and local failures were critical in the Katrina response, but competence, funding and political will in Washington were also lacking.

"I do not think fundamentally this is an organizational issue," Andrews said. "You need people in there who have both experience and the confidence of the president, who are able to fight and articulate what FEMA's mission and role is, and who understand how emergency management works."

The agency's troubles are no secret. The Partnership for Public Service, a nonprofit group that promotes careers in federal government, ranked FEMA last of 28 agencies studied in 2003.

In its list of best places to work in the government, a 2004 survey by the American Federation of Government Employees found that of 84 career FEMA professionals who responded, only 10 people ranked agency leaders excellent or good.

An additional 28 said the leadership was fair and 33 called it poor.

More than 50 said they would move to another agency if they could remain at the same pay grade, and 67 ranked the agency as poorer since its merger into the Department of Homeland Security.

Critics Maintain Drumbeat Of FEMA Criticism (LAT)

By Ken Silverstein

The Los Angeles Times, September 9, 2005

WASHINGTON — In the days since Hurricane Katrina devastated New Orleans, Federal Emergency Management Agency director Michael Brown has come under withering attack, with critics charging that his lack of prior experience in dealing with natural disasters contributed to his agency's poor performance.

But Brown is just one of at least five current and former senior FEMA officials appointed under President Bush whose professional backgrounds showed few qualifications in the area of disaster relief when they arrived at the agency.

As the administration struggles to counter negative national perceptions about its response, Vice President Dick Cheney defended the administration's FEMA appointees in remarks to reporters on Thursday.

"You've got to have people at the top who respond to and are selected by presidents, and you pick the best people you can to do the jobs that need to be done," said Cheney while touring the stricken Gulf Coast. "We've also got some great career professionals, an absolute and vital part of the operation -- couldn't do it without them. They're the ones that continue the expertise from administration to administration, who have got the experience of having been through all of this before and provide the quality service that needs to be provided."

But Democrats in Congress have attacked Brown and other top FEMA appointees.

"FEMA is an important agency and needs to be run by professionals, not political cronies," said Rep. Henry Waxman, D-Calif., the ranking minority member of the Committee on Government Reform. "Instead of a loyalty test, we need people with experience and competence."

More than a year before the hurricane hit New Orleans, the head of a labor union representing FEMA workers sent a letter to members of Congress charging that "emergency managers at FEMA have been supplanted on the job by politically-connected contractors and by novice employees with little background or knowledge" of disaster management."

"As . . . professionalism diminishes, FEMA is gradually losing its ability to function and to help disaster victims," the letter said.

People appointed to run domestic government agencies frequently have political connections. But for many top positions some relevant background is required as well.

Paul Light, a professor of organizational studies at New York University who has testified before Congress on FEMA's role in the Department of Homeland Security, said that for many years, FEMA was a dumping ground for the politically connected.

But during the Clinton years, Light said, FEMA director James Lee Witt "built a serious hierarchy around expertise. Somewhere along the line, FEMA has returned to being a destination of last resort for political appointees."

Brown, a career attorney who was active in Republican Party politics, was hired to be FEMA's general counsel by Joseph Allbaugh, an old friend and the agency's first director under Bush.

Before coming to FEMA, Brown had worked for nearly a decade at the International Arabian Horse Association. His responsibilities included supervising horse-show judges.

Allbaugh -- a long-time aide to Bush who had managed his 2000 campaign -- resigned as FEMA director in 2003 and opened up a consulting firm that helped companies win contracts in Iraq. Brown, who had risen to become Allbaugh's top deputy, took charge.

Rep. Robert Wexler, D-Fla., a strong critic of Brown's even before Katrina, wants him removed from his position.

"When you're dealing with responding to a natural disaster, it's hard to do your job when you have no experience or background," said Lale Mamaux, Wexler's spokeswoman. "You can't just show up and hope everything goes all right."

Brown is not the only official who came to the agency with scant disaster management background.

Brown's acting deputy director, Patrick James Rhode, began his professional career as an "anchor/reporter with network affiliated television stations in Alabama and Arkansas," according to his resume on FEMA's Website.

Rhode subsequently did public relations work for several state agencies in Texas before becoming deputy director of national advance operations for Bush's 2000 presidential campaign.

Before moving to FEMA in 2003, Rhode served as a special assistant to the president and White House liaison with the Commerce Department. He donated $2,000 to Bush's 2004 campaign.

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Daniel Craig, director of FEMA's Recovery Division since October of 2003, "is responsible for planning and executing the federal government's recovery efforts following major disasters," according to the FEMA website.

Before coming to FEMA he worked for the Eastern Regional Office of the U.S. Chamber of Commerce, where he "was responsible for Chamber-related legislative, political, and media initiatives in New England and the Atlantic coast."

Craig's previous jobs included working as a lobbyist for the National Rural Electric Cooperative Association, and before that "as a campaign adviser, and political fundraiser and research analyst."

Both Allbaugh and Brown were Oklahoma natives involved in that state's Republican politics. FEMA's acting deputy chief of staff, Brooks Altshuler, also hails from Oklahoma. And like Rhode, Altshuler was an advance man for President Bush.

FEMA did not return several calls seeking comment.

In June of 2004, Local 4060 of the American Federation of Government Employees, which represents FEMA workers, wrote to members of congress to warn about alleged cronyism at the agency.

The letter said the practice initially "took place mainly at the senior levels of FEMA, but it has now entered into the mid-level and working-level" of FEMA.

"The ability of FEMA to manage emergencies and disasters is being seriously eroded," the letter said. "The American people count on FEMA to be there to pick up the pieces after a hurricane, a terrorist attack, or any type of emergency. ... (But) our capability is being drained away."

Congress Approves New Storm Aid, And Bush Pledges To Expedite It (NYT)

By David Stout

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 - President Bush said today that he would work with Congress to "cut through the red tape" and get federal aid as fast as possible to people whose lives had been disrupted by wind and flood along the Gulf Coast, and Congress responded this evening by rushing through an additional $51.8 billion in federal assistance.

But even as the president spoke, there were signs that the federal response to the crisis was hampered by confusion.

"The government is going to be with you for the long haul," Mr. Bush said in a brief speech at the White House as he and Vice President Dick Cheney tried to counter charges that their administration had reacted slowly and ineffectively to the crisis. The president said that Sept. 16, next Friday, would be designated a national day of prayer and remembrance.

Earlier, the vice president defended the work of federal agencies, including the much criticized Federal Emergency Management Agency, as he toured the Gulf region.

Mr. Bush said that $2,000 per family in federal aid would be given to each family uprooted by the flood, and that workers from FEMA and the Red Cross were working to get the money into the hands of those who needed it as fast as possible. He said some 400,000 families had already registered with FEMA for federal help, and that 3,000 people were taking calls around the clock at the agency, with the number of operators to be increased "dramatically" very soon.

But not long after he spoke, FEMA announced that it was ending, after a one-day trial, a distribution of debit cards for immediate living expenses. An agency spokesman I in Baton Rouge, La., David G. Passey, said he did not know why FEMA officials had scuttled the program, although there were problems with distribution of the cards in Houston.

Hundreds of people displaced by the storm and flooding lined up outside the Astrodome to wait for cards, but not all could get them. The Red Cross had handed out appointment slips for people to get Red Cross debit cards at certain times. But out of confusion or anxiety, people started lining up before dawn, and some were overcome by heat during the day, The Associated Press reported. The confusion was deepened as word spread through the Astrodome that FEMA was about to distribute debit cards for up to $2,000 each - but FEMA workers told The A.P. that their agency would not be ready to hand out cards for a couple of days.

President Bush, perhaps with the Houston confusion in mind, said people who fled the storm-affected areas and consequently might have little or no identification would be given "special evacuee status" to make them eligible for the full range of federal benefits - Medicaid, food stamps, school lunch programs and aid to needy families, to name a few - more quickly and without the usual paperwork.

The continuing confusion in the federal response to the crisis could be discerned in a comparison of the president's remarks with those of Mr. Passey, the FEMA spokesman.

Mr. Bush, in speaking to those affected by the storm, said he understood that "some of you do not have access to a savings or checking account, or ways to cash a check."

But, Mr. Passey said, "as we've looked at the logistics of expanding the debit card, we believe that our normal methods of delivery - checks and electronic funds transfer - will suffice."

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The president said he and Congress would also see to it that the states that took in people fleeing the gulf region would be reimbursed for the extra burdens on their budgets. "You should not be penalized for showing compassion," Mr. Bush said.

"We have many difficult days ahead," Mr. Bush observed.

In Gulfport, Miss., the vice president was asked whether agencies like FEMA should have political appointees in leadership posts or "somebody with more qualifications." Michael D. Brown, the FEMA director, has come under particular criticism for his lack of background in emergency planning and for seeming unaware of some flood-related events.

"Well, most of government runs on the basis of the combination of civilian leadership that's elected and career professionals that fill the jobs underneath them," Mr. Cheney said. "And we're always trying to strike the right balance. But I think generally that overall principle has served us well as a government over the years."

As Mr. Bush and Mr. Cheney were making their case, Congress was moving on the $51.8 billion aid package requested by the White House. The House overwhelmingly approved it earlier , and the Senate followed suit later. As both the speed and the margins of the votes indicated, lawmakers of both parties seemed in agreement that the federal government should spend heavily to help the disaster victims. But they were far apart on related issues.

Senator Harry Reid, Democrat of Nevada, the Senate minority leader, expressed disdain for the Federal Emergency Management Agency and said that Democrats were prepared to bypass the agency entirely.

"Is there anyone - anyone - who believes that we should continue to let the money go to FEMA and be distributed by them?" Mr. Reid asked.

Mr. Reid said again that the hurricane and flood disaster, and a faulty federal response, should be investigated by an independent commission like the one that dissected the Sept. 11 terror attacks, instead of by Congressional committee, as Republicans have proposed. He said Democrats planned to boycott the Congressional committee approached pushed by Republicans.

Senator Mary Landrieu of Louisiana, a Democrat, who appeared alongside Mr. Reid, said, "There will be a lot of time for blaming in the future, and everyone will be held accountable, including us and including the president himself."

Four Years After Sept. 11, Lessons From Another Blow (USAT)

USA Today, September 9, 2005

This weekend, the fourth anniversary of the 9/11 terrorist attacks, the nation is reeling from another great tragedy, a hurricane that might have claimed more lives than the nearly 3,000 taken that day.

There is much to reflect upon in that dark coincidence.Hurricane Katrina was a blow from nature, not man. But it has amounted to the first test of the new and improved security system constructed after Sept. 11, 2001.

The storm's effects were much like an assault with weapons of mass destruction, something that has long been the worst U.S. terrorism nightmare: thousands of displaced people, many needing medical help along with food, shelter and information.

The local, state and federal officials in charge failed the test. No reassuring operation snapped into place. Amid the confusion, some still being played out on TV screens, it's fair to ask: Have the past four years, and the vast sums spent on better protection, been squandered?

By one measure, the answer would seem to be no. Since 2001, there hasn't been a terrorist attack on U.S. soil. At least a part of that has to be because of efforts taken to prevent one. Nevertheless, as Hurricane Katrina has shown, the answers to three central questions are troubling:

Are preparations in place if an attack happens? The Department of Homeland Security gives out emergency preparedness grants to local authorities, who must submit detailed plans. At least in the case of Louisiana, those plans failed reality checks. Authorities, for example, had designated the Superdome a shelter. Unlike with a terror attack, they even had notice of the impending disaster. Even so, they still failed to stock the shelter with enough basic necessities.

The attempted evacuation of New Orleans showed that plans drawn up in advance were unworkable. They failed to recognize that the most vulnerable people lacked transportation, or in some cases comprehension of the danger. That lesson should not be lost on state and local officials elsewhere, who could face a similar crisis at any time and should be rethinking their evacuation plans based on New Orleans' experience. Also needed: better oversight of those plans by Homeland Security.

What about the aftermath of an attack? Police, firefighters and emergency medical workers struggled to cope with evacuees from Hurricane Katrina. Bad as that was, it was the barest taste of what the aftermath of a nuclear, biological or chemical attack might be like. Despite four years of preparation, health systems are under-prepared. Warnings persist about insufficient medications, vaccines and distribution systems in the event of a chemical or biological attack — despite a $20 billion government investment in bioterrorism preparedness since 9/11.

Is enough being done to prevent an attack? Nothing can stop a storm like Katrina, but what about terrorism? The list of potential targets is limitless, and absolute protection is impossible. But the devastation wrought by Katrina, despite years of

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warnings, lends new menace to the steady trickle of reports from many sources about security weaknesses — at nuclear and chemical plants, for instance, or in inspecting cargo entering U.S. ports. The tightened security at airports is by no means representative.

In many ways, the situation is similar to when a house has been burglarized and the owner vows to buy the best alarm system, a guard dog and take other precautions, no expense spared. But as time goes by, with no new break-in, the urgency dissipates and the protections aren't all implemented.

What's most glaringly missing is the post-9/11 sense of urgency. For most people, that kind of laser focus can't realistically be sustained; everyday life simply gets back in the way. For officials charged with protecting the United States and preventing another 9/11, however, it has to be.

Where To Point The Fingers (WP)

By Charles Krauthammer

The Washington Post, September 9, 2005

In less enlightened times there was no catastrophe independent of human agency. When the plague or some other natural disaster struck, witches were burned, Jews were massacred and all felt better (except the witches and Jews).

A few centuries later, our progressive thinkers have progressed not an inch. No fall of a sparrow on this planet is not attributed to sin and human perfidy. The three current favorites are: (1) global warming, (2) the war in Iraq and (3) tax cuts. Katrina hits and the unholy trinity is immediately invoked to damn sinner-in-chief George W. Bush.

This kind of stupidity merits no attention whatsoever, but I'll give it a paragraph. There is no relationship between global warming and the frequency and intensity of Atlantic hurricanes. Period. The problem with the evacuation of New Orleans is not that National Guardsmen in Iraq could not get to New Orleans but that National Guardsmen in Louisiana did not get to New Orleans. As for the Bush tax cuts, administration budget requests for New Orleans flood control during the five Bush years exceed those of the five preceding Clinton years. The notion that the allegedly missing revenue would have been spent wisely by Congress, targeted precisely to the levees of New Orleans, and that the reconstruction would have been completed in time, is a threefold fallacy. The argument ends when you realize that, as The Post noted, "the levees that failed were already completed projects."

Let's be clear. The author of this calamity was, first and foremost, Nature (or if you prefer, Nature's God). The suffering was augmented, aided and abetted in descending order of culpability by the following:

1. The mayor of New Orleans. He knows the city. He knows the danger. He knows that during Hurricane Georges in 1998, the use of the Superdome was a disaster and fully two-thirds of residents never got out of the city. Nothing was done. He declared a mandatory evacuation only 24 hours before Hurricane Katrina hit. He did not even declare a voluntary evacuation until the day before that, at 5 p.m. At that time, he explained that he needed to study his legal authority to call a mandatory evacuation and was hesitating to do so lest the city be sued by hotels and other businesses.

2. The governor. It's her job to call up the National Guard and get it to where it has to go. Where the Guard was in the first few days is a mystery. Indeed, she issued an authorization for the National Guard to commandeer school buses to evacuate people on Wednesday afternoon -- more than two days after the hurricane hit and after much of the fleet had already drowned in its parking lots.

3. The head of FEMA. Late, slow and in way over his head. On Thursday, Sept. 2, he said on national television that he didn't even know there were people in the convention center, when anybody watching television could see them there, destitute and desperate. Maybe in his vast bureaucracy he can assign three 20-year-olds to watch cable news and give him updates every hour on what in hell is going on.

4. The president. Late, slow, and simply out of tune with the urgency and magnitude of the disaster. The second he heard that the levees had been breached in New Orleans, he should have canceled his schedule and addressed the country on national television to mobilize it both emotionally and physically to assist in the disaster. His flyover on the way to Washington was the worst possible symbolism. And his Friday visit was so tone-deaf and politically disastrous that he had to fly back three days later.

5. Congress. Now as always playing holier-than-thou. Perhaps it might ask itself who created the Department of Homeland Security in the first place. The congressional response to all crises is the same -- rearrange the bureaucratic boxes, but be sure to add one extra layer. The past four years of DHS have been spent principally on bureaucratic reorganization (and real estate) instead of, say, a workable plan for as predictable a disaster as a Gulf Coast hurricane.

6. The American people. They have made it impossible for any politician to make any responsible energy policy over the past 30 years -- but that is a column for another day. Now is not the time for constructive suggestions. Now is the time for blame, recrimination and sheer astonishment. Mayor Ray Nagin has announced that, as bodies are still being found and as a public

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health catastrophe descends upon the city, he is sending 60 percent of his cops on city funds for a little R&R, mostly to Vegas hotels. Asked if it was appropriate to party in these circumstances, he responded: "New Orleans is a party town. Get over it."

Confusion On Debit Card Aid (NYT)

By Shaila Dewan

The New York Times, September 9, 2005

BATON ROUGE, La., Sept. 8 - After a day of confusion and complaints, officials of the Federal Emergency Management Agency said Thursday that the agency would not expand a trial program to distribute debit cards worth $2,000 to victims of Hurricane Katrina for immediate living expenses.

A FEMA official in Washington said the cards would be distributed at the Astrodome in Houston beginning on Friday.

Reports that the debit cards would be distributed on Thursday morning at the Astrodome, a temporary shelter, brought several hours of mayhem to the complex, attracting a crush of cars and pedestrians that caused the police to shut the gates, locking out thousands of residents in the 90-degree heat.

Meanwhile, in Baton Rouge,David G. Passey, a FEMA spokesman, said he did not know why the program had been discontinued.

But Mr. Passey said, "As we've looked at the logistics of expanding the debit card, we believe that our normal methods of delivery, checks and electronic funds transfer, will suffice."

Under questioning by reporters, he said he could not explain why traditional conduits of aid, which take from 10 days to two weeks to reach victims, provided they have addresses or working bank accounts, had been deemed more appropriate than the immediate relief offered by the debit cards.

He said "program specialists" had made the decision.

Announcing the debit card program on Wednesday, Michael D. Brown, the FEMA director, said it was designed to "empower" evacuees "to make their own decisions about what they need to have to restart their lives." But he did not say when and where the cards would be distributed.

In Baton Rouge, The Associated Press reported, people went to a Red Cross office believing they could get the debit cards there.

Callers to a Baton Rouge radio station from as far away as Atlanta and Houston complained that they did not know how to get the cards. One person said she had called the FEMA office in New York, only to be told that the cards were in Atlanta.

But Mr. Passey said the cards had been intended for distribution only at the Astrodome, where the highest concentration of evacuees was housed.

After the police lockdown at the complex, the order that had characterized the temporary housing situation there so far threatened to collapse, as people fainted, pushed and shoved, and complained loudly.

"It's just a hassle to get assistance," said Sparkle Stanwood, 25, an evacuee from downtown New Orleans, as she stood outside an Astrodome gate, sweat glistening on her face. "They gave us an appointment for 10 a.m. today - now they won't let us in. Some people broke a gate open. It's a lot of people, and it's hot."

Another evacuee, Eric Robertson, said: "We're very angry. We don't really know what's going on. It's so unorganized out here. There's nobody to even answer a question about why the place is on lockdown."

The Red Cross in Houston began handing out debit cards Thursday loaded with $650 to $1,600 in purchasing power.

The relief organization issued 7,000 cards at the Reliant complex around the Astrodome and will issue more Friday at the George R. Brown Convention Center. Tennessee has distributed 1,550 "electronic benefit cards."

George R. Brown Evacuees To Get Red Cross Cards Tonight (HC)

By Salatheia Bryant And Becky Bowman

Houston Chronicle, September 9, 2005

The debit cards have arrived, and with them, perhaps, the longest lines yet.

Evacuees at Reliant Center stood in line as long as five hours today to receive debit cards from the Red Cross.

On the schedule for tomorrow: debit cards from the federal government -- and more long lines as well.

The Federal Emergency Management Agency said today that distribution of the $2,000 cards will begin Friday morning at Reliant Park, but only for those currently living there and only then if they've already registered with FEMA.

Most evacuees at Houston's largest shelters have already done the paperwork, and some have even received checks or aid directly deposited to their bank accounts, making them ineligible for the debit cards. Many who thought they were standing in line on Wednesday for the FEMA cards turned out to be in line to simply apply for the federal aid. By this afternoon, the federal agency was still signing up about 45 families an hour.

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After seeing mile-long lines form today for Red Cross cards, authorities were urging those who aren't yet registered with FEMA to do so by calling 1-800-621-FEMA or going to the agency's Web site at http://www.fema.gov. On Saturday, FEMA will begin passing out cards at Reliant Center to evacuees who don't live in the Reliant complex.

Organizers and evacuees alike are hoping that Friday's inevitable lines won't match today's, which included elderly hurricane victims in wheelchairs and children who haven't yet been registered for school. Hurricane victims held newspapers and scraps of cardboard over the heads to shield themselves from the sun as volunteers passed out water and doctors arrived to watch for overheating or dehydration.

Police were called in for crowd control, and Reliant Park shut its gates for a few hours to those who aren't living there to limit the crowds and encourage evacuees from elsewhere to wait their turn.

"We have a very dynamic situation outside," Coast Guard Lt. Joseph Leonard, who is heading up the shelter operation, said this afternoon.

Many of those lined up for the Red Cross cards outside Reliant Center today had appointments and an electronic sign warned evacuees that "no walkups" would be accepted, but the line for getting appointments was as long as the line to pick up the cards.

One woman balancing a toddler on her hip said she'd advanced only 15 to 20 feet in 45 minutes.

"It's just so many people. A lot of people don't have appointments . . . I think this is ridiculous," said 22-year-old Chazz Tripp, who was hoping for funds to buy clothes or perhaps furniture for wherever she ends up. "It's maddening."

Relester Cain, 39, of New Orleans waited for five hours but emerged with a debit card. The wait was hard, she said, but "it was worth it."

The coveted Red Cross debit cards can be activated in eight to 24 hours, a powerful draw for the 7,188 still living at the Reliant Park shelters today. Only those stranded at Reliant Center, Reliant Arena or the Astrodome were eligible this morning and this afternoon for the cards, which carry balances of a $360 to $1,600, depending on a family's size and the age of its children.

Drawn on Chase Bank, the debit cards carry the words "Red Cross client" and "This cannot be used for alcohol, tobacco or weapons."

Standing in line for the card that could pay for gasoline and take him to his next construction job, evacuee Michael Gorman has no complaints.

"Who wouldn't want to stand in line for somebody to help you?" he said. "It's a blessing.

Shalon Matthews, 30, a New Orleans hotel worker, said the long lines are just part of her post-Katrina life.

"We are kind of used to all of the processing going on," she said. "It's second nature now. We know they can only do so much. We have no where else to go."

Yolonda Allen, 39, was ebullient to be among the lucky ones clutching a debit card before lunch. A sickle-cell patient and the mother of a teen-age boy, her first purchase is to be fresh, healthy vegetables.

"This will help me," she said. "It will help lift my spirits up. "

That was the aim of the Red Cross volunteers passing out the cards, but the length of lines were frustrating for harried volunteers as well as evacuees.

Red Cross spokeswoman Jana Zehner said organizers had hoped that assigning appointment times would help, but many people are lining up way too early or getting into the wrong line. Some people are also bringing their entire families along, even though one person can pick up a card for an entire family.

"We can't help them to stand in line," Zehner said.

Another Red Cross spokesman, Gregory L. Smith, promised everyone who needs a card will get a card, but that's going to take time.

"We knew there were going to be a lot of people," Leonard said. "We are refining our process now. This is the largest shelter operation in U.S. history. None of us have a playbook."

The lines would have been much longer if the giveway had happened earlier in the week. More and more evacuees are heading off to more permanent accommodations, and emergency officials have started consolidating the shelters at Reliant Park. They hope to have all the park's shelters closed by a week from Sunday.

Authorites began moving residents of Reliant Arena to Reliant Center on Wednesday afternoon, leaving behind only 200 patients receiving medical services. Reliant Park's medical clinic, which includes an isolation ward for those sick with the Norwalk virus, will continue to operate out of the arena.

With the transfer of evacuees complete today, the Reliant Astrodome had about 2,500 people; Reliant Center, 4,488 people; and downtown's George R. Brown Convention Center, about 1,400 people. Including the 200 patients still at the Reliant

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Arena, this morning's total census of 8,588 compares to a headcount of 8,066 on Wednesday and a rougher estimate of 25,400 as recently as Tuesday.

More than 17,000 evacuees have registered at the convention center. By Saturday, Red Cross officials said, a toll free phone number will be in place for those who registered at the center but who are staying elsewhere.

Frank Gutierrez, Harris County's coordinator for homeland security and emergency management, said the consolidation of shelters has been going well, with "no big glitches."

Cheney, Gonzales Tour Stricken Gulf Coast (AP)

By Tom Raum, Associated Press Writer

The AP, September 8, 2005

NEW ORLEANS — Vice President Dick Cheney on Thursday toured parts of the ravaged Gulf Coast, claiming significant progress but acknowledging immense obstacles to a full recovery.

"We can do it," he said, first in Gulfport, Miss., and then in New Orleans, where he stood on a bridge on a levee on the edge of a flooded section of the city.

The vice president said it was too early to estimate the total cost of reconstruction from Hurricane Katrina. He dismissed the idea of raising taxes to pay for storm recovery and the war in Iraq.

Standing by Louisiana's governor, Democrat Kathleen Blanco, Cheney spoke of how the flooding of New Orleans and the destruction of many communities in the region was "a major tragedy in modern times."

"The positive news is we appear to be making progress," said Cheney, who brought 800 pounds of bottled water aboard Air Force Two as a gesture of aid.

His visit was an attempt by President Bush to show an active role in the recovery effort after a slow and tentative start.

Cheney told reporters he planned to return to the area on Saturday. Bush, who has visited twice since the storm hit, is expected to visit again soon.

Seeking to counter attacks by Democrats, the vice president defended the political appointees who are overseeing the federal relief effort. Cheney also spoke of the need to address "mental health issues" among people in the stricken area; he offered no specifics.

Cheney's helicopter stayed low and close to the ravaged coastline on the flight from Gulfport to New Orleans. Later, Cheney stopped in Baton Rouge to meet with state officials in the capital.

At a briefing on the amphibious assault ship USS Iwo Jima, docked in New Orleans, Coast Guard Adm. Thad Allen showed Cheney maps and large aerial photographs.

"You can see right now that the water is staring to recede," Allen told Cheney. Allen said the next step is a door-to-door search of homes as the city moves ahead with its evacuation.

Cheney rode in a Hummer through parts of downtown. Army Lt. Gen. Russel Honore, the military coordinator, was at the wheel. The vice president stopped at Harrah's hotel and casino, where he shook hands with police and rescue workers.

Standing on a bridge over the 17th Street Canal levee that burst in the hurricane, Cheney could see two huge pipes pumping water out of the city and back into the canal. Flames burst into the air from a ruptured gas line nearby.

Earlier, once-stately waterfront homes, now splintered, some with off their foundations and even in neighboring yards, confronted Cheney.

"I think the progress we're making is significant," Cheney said. "I think the performance, in general, at least in terms of the information I've received from locals, is definitely very impressive."

"That's not to say there's not an awful lot of work to be done — there is," he added.

Cheney spoke to reporters along Gulfport's Second Street. Once it was two blocks from the Gulf of Mexico; now, it essentially is only one away.

Cheney walked about two blocks from the Gulf along a street littered with broken wood, downed trees and furniture. Some houses were severely damaged, some hardly at all.

One passer-by shouted the same vulgar phrase to Cheney that the vice president himself had used on the Senate floor in a celebrated and heated exchanged in June 2004 with Sen. Patrick Leahy, D-Vt.

"First time I've heard it," Cheney joked with reporters when asked if he was hearing such sentiments a lot.

Cheney visited Rebecca Dubuisson, who said she spent about 18 months adding an extension on her house, only to have the hurricane wipe it away.

The house that once stood between her place and the ocean was gone, too. "We've got a beach view now," she said, voicing a determination to repair her house.

Dubuisson said she did not want to criticize the relief effort. "I don't know that you could have prepared for it," she said.

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Most of the people Cheney met with on his Mississippi stop were friendly.

Lynne Lofton was not. Her house further down the street was destroyed.

"I think this media opportunity today is a terrible waste of time and taxpayer money," she said. "They've picked a nice neighborhood where people have insurance and most are Republicans."

Joining Cheney on the trip were Attorney General Alberto Gonzales and Homeland Security Secretary Michael Chertoff.

Cheney was asked about criticism that leading the relief efforts were political appointees with experience in disaster recovery — Chertoff and Mike Brown, director of the Federal Emergency Management Agency.

The vice president said he believes Bush "struck the right balance" between political appointees and career professionals to oversee the relief efforts.

Cheney Tours Katrina Devastation, Backs Chertoff (REU)

By Caren Bohan

Reuters, September 8, 2005

U.S. Vice President Dick Cheney on Thursday toured the devastation wrought by Hurricane Katrina and expressed confidence in Homeland Security Secretary Michael Chertoff's handling of the crisis despite widespread criticism of the initial government response.

Cheney rode through the streets of downtown New Orleans in a humvee, the highest-ranking Bush administration official to visit the shattered city center, during a day-long tour of Mississippi and Louisiana to check on relief efforts.

He was the latest in a series of Bush administration officials to visit the region amid complaints from victims that bureaucracy is slowing the recovery, and he acknowledged problems in the early days of the disaster.

"I've got enormous confidence in the secretary (Chertoff) as does the president," said Cheney at a stop in Gulfport, Mississippi, where he was accompanied by Chertoff.

Chertoff and Michael Brown, director of the Federal Emergency Management Agency, have been criticized for their handling of the worst U.S. humanitarian crisis, with some Democrats and Republicans saying one or both should be fired.

Asked about problems with bureaucratic barriers, Cheney suggested progress was being made in cutting through them.

"I think the progress we're making is significant. I think the performance in general at least in terms of the information I've received from locals is definitely very impressive," Cheney told reporters in a rare question-and-answer session.

SHOUTED INSULTS

While he was speaking, a young man shouted an obscenity at the vice-president, saying "Go fuck yourself, Mr Cheney" in an outburst that reflected frayed tempers and patience in the stricken region.

Cheney later toured an unflooded part of New Orleans near the convention center, seeing first-hand the debris of chairs, empty water bottles and trash. Thousands of storm survivors pleading for food, water and care stayed several days at the center last week before they were evacuated from the ruined and chaotic city.

Army Lt. Gen. Russell Honore, commander of the military relief effort in the hurricane-hit region, drove Cheney on a tour of several blocks around the convention center.

In the back seat was Cheney's wife, Lynne, and Louisiana's Democratic governor, Kathleen Blanco, who has had some frictions with the Bush administration over the federal response. The group stopped at a casino where hundreds of rescue workers were being served barbecued food and Cheney shook hands with many of them.

"Obviously, New Orleans has been through a great trauma," Cheney said, but added there was "significant progress" being made. "We've still got an enormous amount to do," he said.

Cheney acknowledged problems in the recovery's first few days, especially the chaos surrounding the evacuations.

"There's no question there were problems," he said.

Cheney rejected the notion that tax increases were needed to pay for the longterm effort to rebuild the region, saying that would only choke off growth.

He said he would return to the region on Saturday.

In Gulfport, resident Lynn Lofton approached a group of reporters waiting for the vice president and said the visit was too late.

"I think the media opportunity right here is a complete waste of time and taxpayer money," she said. "They should have been here last week."

Relieft Effort 'very Impressive,' Cheney Says (AP)

The AP, September 8, 2005

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GULFPORT, Miss. — Walking a hurricane-riddled street, Vice President Dick Cheney declared today that much progress is being made in a disaster relief effort he termed "very impressive."

Cheney's plane took him on a course over heavily damaged houses as he arrived to this Gulf Coast town destroyed by Hurricane Katrina. After meeting with state and local officials, Cheney and his wife, Lynne, toured a particularly damaged part of the town.

The vice president told reporters he was struck by the "very positive, can-do" attitude of Mississippians toward the help they are getting. In general, Mississippi officials have been much more complimentary of the federal hurricane response than those from Louisiana and, particularly, New Orleans.

President Bush dispatched Cheney to the region, amid persistent criticism of the sluggish pace of the federal piece of the response, to examine any bureaucratic red tape getting in the way of helping people and to focus on the long-term issues at hand.

"I think the progress we're making is significant," Cheney said. "I think the performance, in general, at least in terms of the information I've received from locals, is definitely very impressive."

He added: "That's not to say there's not an awful lot of work to be done — there is."

While Cheney spoke, a passer-by hurled an expletive at the vice president. "First time I've heard it," Cheney said, when asked if he was hearing a lot of such sentiments.

Cheney walked about two blocks from the Gulf of Mexico along a street littered with broken wood, downed trees and furniture. Some houses were severely damaged, some hardly at all.

He talked to a man whose house was knocked off its foundation and had extensive roof damage and two or three arm chairs sitting in the front yard. He visited Rebecca Dubuisson, who said she spent a year and a half adding an extension on her house only to see it wiped away by the hurricane. "We've got a beach view now," she said.

Dubuisson said she didn't want to criticize the relief effort. "I don't know that you could have prepared for it," she said.

Cheney said immediate needs for the victims include providing housing, supplies and clean up. He also said mental health issues need to be addressed, but he didn't know how that would be approached.

Cheney said another issue is determining whether insurers should pay for damages if their policy did not include coverage for floods. Most insurance policies do not include flood coverage.

Most the people Cheney met with were friendly. Lynne Lofton, whose house further down the street was completely destroyed, was an exception.

"I think this media opportunity today is a terrible waste of time and taxpayer money," she said. "They've picked a nice neighborhood where people have insurance and most are Republicans."

Cheney was also accompanied by Attorney General Alberto Gonzales and Homeland Security Secretary Michael Chertoff.

First Lady Gives Award, Talks About Katrina's Impact (DMR)

By Thomas Beaumont

Des Moines Register, September 9, 2005

First Lady Laura Bush visited Des Moines today, tying her usual focus on education to her role in encouraging a nation weary from Hurricane Katrina.

"As other children around the children around the country are going to school, all of us are thinking about the children in Louisiana and Mississippi and Alabama who aren't in their regular schools because their schools have been hurt," the first lady said during her stop at Lovejoy Elementary School on the city's southeast side.

Mrs. Bush announced a web site where school districts around the country could post lists of available supplies. Those supplies would be for schools receiving an influx of students displaced by the storm.

The web site is www.ed.gov and the link is "Hurricane Help for Schools."

The first lady also awarded Lovejoy math teacher Judy Kinley Iowa's American Star of Teaching, an award given to one educator in every state and the District of Columbia.

Kinley was cited for her work establishing the Des Moines Public School District's math curriculum, especially for students not proficient in English.

Mrs. Bush had traveled from Washington, D.C., Thursday morning.

The first lady, traveling with U.S. Secretary of Education Margaret Spellings, toured the school before presenting Kinley with the award in a surprise ceremony.

The school stop was Mrs. Bush's only Iowa event. She left the state, headed for hurricane-ravaged Mississippi, shortly before noon.

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First Lady Comforts Storm Refugees In DeSoto County (BSH)

Biloxi Sun Herald, September 9, 2005

SOUTHAVEN, Miss. - First Lady Laura Bush visited with hurricane victims in Southaven Thursday and cradled what could be the storm's youngest refugee - a three-day old infant born to a New Orleans couple seeking shelter in Mississippi.

"Our hearts have been so warmed by the response," said Bush, a former elementary school librarian, as she spoke at Greenbrook Elementary School. The school has among the highest concentration of students in the district displaced by Hurricane Katrina last week.

Bush, who had visited a school in Iowa earlier in the day, praised DeSoto County residents and Superintendent Milton Kuykendall for enrolling storm refugees in the DeSoto County School District. DeSoto County was among the first school districts in the state to welcome students whose schools in Louisiana and south Mississippi were obliterated by Katrina.

Bush, who was making her second stop in Mississippi in less than four days, said she has been encouraged by the love and support that other children have shown toward the newcomers.

Bush and her husband, President George W. Bush, made a stop in Poplarville earlier in the week.

"Children will be very welcoming," the First Lady said. "It's an opportunity for them to meet children from another part of the country and figure out what ways they can help."

Bush was joined by Margaret Spellings, U.S. Department of Education Secretary and Gayle Wicker, the wife of U.S. Rep. Roger Wicker, and other local dignitaries.

The spotlight, however, was on Bush, who comforted families and openly embraced many in the crowd.

"We're trying to get you back in your homes," Bush told nine students and about a dozen parents assembled in the school's library, many of them from New Orleans and southeast Louisiana.

For nearly ten minutes, she cradled 3-day old Irelle Carolynn Johnson in a private meeting with her parents, Irene and Quintell Johnson, at Goodman Oaks Church of Christ.

Betty Shackleford, a volunteer with relief efforts at the church, said the infant was born at Baptist Memorial Hospital-DeSoto on Tuesday when another volunteer had taken the child's mother out to shop for clothes and food, Irene Johnson soon went into labor and delivered Irelle. Shackelford said the family has since been relocated to an apartment from the shelter where more than 164 evacuees have been helped so far.

"This whole community has come together," Shackelford said. "We've never done anything like this before."

First Lady Visits Southaven, Cheers Evacuees (CA)

By Jimmie Covington

Commercial Appeal (TN), September 9, 2005

Hurricane evacuees at a Southaven church shelter said a visit by first lady Laura Bush on Thursday raised their spirits as they try to deal with their losses.

"It is an extraordinary thing to have her here," said Hope Thonn, 44, of Chalmette, La., who has been at the Goodman Oaks Church of Christ shelter since early last week with her husband, Davey, and six children.

"It just brought our spirits up and my family was very honored to be able to just take a picture with her."

Thonn said Bush's visit was a "little bit of good" in "all of the badness" that has occurred as a result of the storm. The Thonns' home and two commercial fishing boats were destroyed by Hurricane Katrina.

Shermaine Johnson, 33, of New Orleans, who is at the shelter with several family members, said, "For people at this shelter to just be thought about is just a great opportunity."

Bush drew applause from more than 100 evacuees and church volunteers when she entered the foyer of the church's education building shortly after 2 p.m.

Earlier, about 12:45 p.m., Bush also was greeted warmly at Greenbrook Elementary School in Southaven, where she visited a second-grade music class and met with nine evacuee children at the school and 12 of their parents.

Bush and U.S. Education Secretary Margaret Spellings visited a school in Des Moines before coming to Southaven. The Des Moines visit originally had been planned as a state-of-the-school year event, but as a result of the hurricane and its aftermath, Bush broadened the visit to include Southaven.

She said she wanted to come to DeSoto County because its school district has children in it from the Mississippi Gulf Coast and New Orleans, who are now unable to attend their own schools.

DeSoto is a county where President Bush received strong support in both of his presidential races. The President visited the county in 2003 as part of his last campaign.

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Spellings said that in addition to the storm-related situation, the visit here was made because "this (Greenbrook) is a great school, great school district and (you have) a great superintendent (Milton Kuykendall). ... All of the schools made their adequate yearly progress."

Adequate yearly progress is a major standard under the federal No Child Left Behind Act.

At Greenbrook, Bush, who was dressed casually in dark slacks and a blue shirt, hugged the evacuee children and parents, and praised the parents for enrolling their children in school.

She called for all parents from areas affected by Hurricane Katrina to place their youngsters in school, even though they may have to transfer the children to other schools after a short period of time as they find new places to stay.

"It is important for their children to have the structure and routine of going to school, especially since many children have seen and suffered a lot of really terrible things," Bush told reporters who had gathered at the school.

Spellings said her department is preparing a plan to submit to Congress to provide financial assistance to school districts that are serving displaced students and to districts where schools were destroyed or heavily damaged by the storm.

Meantime, some federal requirements for schools are being waived to assist districts, including the granting of flexibility in some provisions of No Child Left Behind, Spellings said.

Answering a reporter's question at the school, the first lady said she believes the federal government response to the disaster has overall been "very good."

"I think we now know that New Orleans is pretty much totally evacuated," Bush said. She said a "huge number of people" have been rescued, including many who were rescued one at a time by helicopter.

Also, shelters that have been set up all across the country are going well, she said.

"This was a huge storm, an unbelievably devastating storm, the largest probably that our country has ever seen," Bush said. "When you consider that and when you consider the number of communities, particularly in this state, that were literally washed out, I think overall you have to say it was a very good response."

Widespread criticism has been directed at the Bush administration, charging that the administration responded too slowly to the disaster.

Bush and Spellings returned to Washington after their visit to the Goodman Oaks Church shelter.

Among politicians and other leaders who were present during Bush's visit were Southaven Mayor Greg Davis, county Supervisor Tommy Lewis. school board president Ann Jolley and Gayle Wicker, wife of U.S. Rep Roger Wicker (R-Miss.).

Davis said Bush's visit shows that the hearts of people "from the top office of the United States on down" are going out to victims of the hurricane.

Schools Supt. Kuykendall said Thursday was a "great day" for the county and the school district. He said Bush's visit shows her passion for serving children.

Wife Says Criticism Of Bush 'Disgusting' (MACT)

The Macon Telegraph, September 9, 2005

WASHINGTON - Laura Bush described as "disgusting" comments by rapper Kanye West and Democratic chairman Howard Dean blaming her husband for the disproportionate number of black hurricane victims.

"I think all of those remarks are disgusting, to be perfectly frank, because of course President Bush cares about everyone in our country," the first lady said Thursday in an interview with American Urban Radio Networks.

"And I know that. I mean, I'm the person who lives with him," she said. "I know what he's like and I know what he thinks and I know how he cares about people."

The president has faced sharp criticism over federal relief efforts for Hurricane Katrina victims, who are disproportionally black and poor.

On a nationally televised telethon Friday, broadcast live on NBC, West departed from the script to declare "George Bush doesn't care about black people."

Earlier this week, Dean, chairman of the Democratic National Committee, told the National Baptist Convention of America, a black religious group, that race played a role in the hurricane casualty numbers.

Mrs. Bush said it was clear that poor people were more vulnerable when the hurricane hit.

"They lived in poorer neighborhoods. Their neighborhoods were the ones that were more likely to flood, as we saw in New Orleans. Their housing was more vulnerable," she said.

"And that's what we saw, and that's what we want to address in our country."

Political Issues Snarled Plans For Troop Aid (NYT)

By Eric Lipton, Eric Schmitt And Thom Shanker

DOJ_NMG_0004126

The New York Times, September 9, 2005

This article was reported and written by Eric Lipton, Eric Schmitt and Thom Shanker

WASHINGTON, Sept. 8 - As New Orleans descended into chaos last week and Louisiana's governor asked for 40,000 soldiers, President Bush's senior advisers debated whether the president should speed the arrival of active-duty troops by seizing control of the hurricane relief mission from the governor.

For reasons of practicality and politics, officials at the Justice Department and the Pentagon, and then at the White House, decided not to urge Mr. Bush to take command of the effort. Instead, the Washington officials decided to rely on the growing number of National Guard personnel flowing into Louisiana, who were under Gov. Kathleen Babineaux Blanco's control.

The debate began after officials realized that Hurricane Katrina had exposed a critical flaw in the national disaster response plans created after the Sept. 11 attacks. According to the administration's senior domestic security officials, the plan failed to recognize that local police, fire and medical personnel might be incapacitated.

As criticism of the response to Hurricane Katrina has mounted, one of the most pointed questions has been why more troops were not available more quickly to restore order and offer aid. Interviews with officials in Washington and Louisiana show that as the situation grew worse, they were wrangling with questions of federal/state authority, weighing the realities of military logistics and perhaps talking past each other in the crisis.

To seize control of the mission, Mr. Bush would have had to invoke the Insurrection Act, which allows the president in times of unrest to command active-duty forces into the states to perform law enforcement duties. But decision makers in Washington felt certain that Ms. Blanco would have resisted surrendering control, as Bush administration officials believe would have been required to deploy active-duty combat forces before law and order had been re-established.

While combat troops can conduct relief missions without the legal authority of the Insurrection Act, Pentagon and military officials say that no active-duty forces could have been sent into the chaos of New Orleans on Wednesday or Thursday without confronting law-and-order challenges.

But just as important to the administration were worries about the message that would have been sent by a president ousting a Southern governor of another party from command of her National Guard, according to administration, Pentagon and Justice Department officials.

"Can you imagine how it would have been perceived if a president of the United States of one party had pre-emptively taken from the female governor of another party the command and control of her forces, unless the security situation made it completely clear that she was unable to effectively execute her command authority and that lawlessness was the inevitable result?" asked one senior administration official, who spoke anonymously because the talks were confidential.

Officials in Louisiana agree that the governor would not have given up control over National Guard troops in her state as would have been required to send large numbers of active-duty soldiers into the area. But they also say they were desperate and would have welcomed assistance by active-duty soldiers.

"I need everything you have got," Ms. Blanco said she told Mr. Bush last Monday, after the storm hit.

In an interview, she acknowledged that she did not specify what sorts of soldiers. "Nobody told me that I had to request that," Ms. Blanco said. "I thought that I had requested everything they had. We were living in a war zone by then."

By Wednesday, she had asked for 40,000 soldiers.

In the discussions in Washington, also at issue was whether active-duty troops could respond faster and in larger numbers than the Guard.

By last Wednesday, Pentagon officials said even the 82nd Airborne, which has a brigade on standby to move out within 18 hours, could not arrive any faster than 7,000 National Guard troops, which are specially trained and equipped for civilian law enforcement duties.

In the end, the flow of thousands of National Guard soldiers, especially military police, was accelerated from other states.

"I was there. I saw what needed to be done," Lt. Gen. H Steven Blum, chief of the National Guard Bureau, said in an interview. "They were the fastest, best-capable, most appropriate force to get there in the time allowed. And that's what it's all about."

But one senior Army officer expressed puzzlement that active-duty troops were not summoned sooner, saying 82nd Airborne troops were ready to move out from Fort Bragg, N.C., on Sunday, the day before the hurricane hit.

The call never came, administration officials said, in part because military officials believed Guard troops would get to the stricken region faster and because administration civilians worried that there could be political fallout if federal troops were forced to shoot looters.

Louisiana officials were furious that there was not more of a show of force, in terms of relief supplies and troops, from the federal government in the middle of last week. As the water was rising in New Orleans, the governor repeatedly questioned whether Washington had started its promised surge of federal resources.

"We needed equipment," Ms. Blanco said in an interview. "Helicopters. We got isolated."

Aides to Ms. Blanco said she was prepared to accept the deployment of active-duty military officials in her state. But she and other state officials balked at giving up control of the Guard as Justice Department officials said would have been required by the Insurrection Act if those combat troops were to be sent in before order was restored.

In a separate discussion last weekend, the governor also rejected a more modest proposal for a hybrid command structure in which both the Guard and active-duty troops would be under the command of an active-duty, three-star general - but only after he had been sworn into the Louisiana National Guard.

Lt. Gen. James T. Conway, director of operations for the military's Joint Chiefs of Staff, said that the Pentagon in August streamlined a rigid, decades-old system of deployment orders to allow the military's Northern Command to dispatch liaisons to work with local officials before an approaching hurricane.

The Pentagon is reviewing events from the time Hurricane Katrina reached full strength and bore down on New Orleans and five days later when Mr. Bush ordered 7,200 active-duty soldiers and marines to the scene.

After the hurricane passed New Orleans and the levees broke, flooding the city, it became increasingly evident that disaster-response efforts were badly bogged down.

Justice Department lawyers, who were receiving harrowing reports from the area, considered whether active-duty military units could be brought into relief operations even if state authorities gave their consent - or even if they refused.

The issue of federalizing the response was one of several legal issues considered in a flurry of meetings at the Justice Department, the White House and other agencies, administration officials said.

Attorney General Alberto R. Gonzales urged Justice Department lawyers to interpret the federal law creatively to help local authorities, those officials said. For example, federal prosecutors prepared to expand their enforcement of some criminal statutes like anti-carjacking laws that can be prosecuted by either state or federal authorities.

On the issue of whether the military could be deployed without the invitation of state officials, the Office of Legal Counsel, the unit within the Justice Department that provides legal advice to federal agencies, concluded that the federal government had authority to move in even over the objection of local officials.

This act was last invoked in 1992 for the Los Angeles riots, but at the request of Gov. Pete Wilson of California, and has not been invoked over a governor's objections since the civil rights era - and before that, to the time of the Civil War, administration officials said. Bush administration, Pentagon and senior military officials warned that such an extreme measure would have serious legal and political implications.

Defense Secretary Donald H. Rumsfeld has said deployment of National Guard soldiers to Iraq, including a brigade from Louisiana, did not affect the relief mission, but Ms. Blanco disagreed.

"Over the last year, we have had about 5,000 out, at one time," she said. "They are on active duty, serving in Iraq and Afghanistan. That certainly is a factor."

By Friday, National Guard reinforcements had arrived, and a truck convoy of 1,000 Guard soldiers brought relief supplies - and order - to the convention center area.

Officials from the Department of Homeland Security say the experience with Hurricane Katrina has demonstrated flaws in the nation's plans to handle disaster.

"This event has exposed, perhaps ultimately to our benefit, a deficiency in terms of replacing first responders who tragically may be the first casualties," Paul McHale, the assistant secretary of defense for domestic security, said.

Michael Chertoff, the secretary of homeland security, has suggested that active-duty troops be trained and equipped to intervene if front-line emergency personnel are stricken. But the Pentagon's leadership remains unconvinced that this plan is sound, suggesting instead that the national emergency response plans be revised to draw reinforcements initially from civilian police, firefighters, medical personnel and hazardous-waste experts in other states not affected by a disaster.

The federal government rewrote its national emergency response plan after the Sept. 11 attacks, but it relied on local officials to manage any crisis in its opening days. But Hurricane Katrina overwhelmed local "first responders," including civilian police and the National Guard.

At a news conference on Saturday, Mr. Chertoff said, "The unusual set of challenges of conducting a massive evacuation in the context of a still dangerous flood requires us to basically break the traditional model and create a new model, one for what you might call kind of an ultra-catastrophe.""

State Rebuffed Security Overture (WSJ)

By John D. McKinnon

The Wall Street Journal, September 9, 2005

DOJ_NMG_0004128

Parts of New Orleans became so dangerous last week that the Bush administration briefly sought to take control of local law enforcement to quell the violence and get help to victims.

The administration sent Louisiana Gov. Kathleen Babineaux Blanco a proposed memorandum of understanding last Friday, raising the possibility that the federal government would take command of the Louisiana National Guard to strengthen law-enforcement efforts in the wake of Hurricane Katrina, according to officials in the Bush administration and the governor's office. In a series of telephone conversations with the White House on Saturday morning, the governor's office refused.

The memorandum amounted to a White House request for a federal takeover of local law enforcement, said Denise Bottcher, the governor's spokeswoman.

Gov. Blanco, in a letter to the White House on Saturday morning, said she would retain control of her state's National Guard troops, and requested the creation a federal joint task force that combined regular military and National Guard units. "Our response was 'no' to federalization, and let's have this instead," said Ms. Bottcher.

As the White House and state officials were discussing alternatives Friday -- the day President Bush first visited the storm-devastated Gulf Coast -- the violence in New Orleans began to subside amid a show of force by National Guard soldiers. That helped speed the evacuations of the Louisiana Superdome and the city's convention center, two sites where violence had erupted in the crowds of evacuees.

The Bush administration ultimately dropped the idea of a federal takeover of law enforcement.

By invoking the Insurrection Act, a president can use the military -- including federalized National Guard troops -- to quell civil disturbances. Under normal circumstances, regular military forces aren't allowed to engage in such law-enforcement activities. As the situation deteriorated in New Orleans last week, the White House weighed whether to use the military for law enforcement, an administration official said.

On Sept. 1, Gov. Blanco said that she needed 40,000 more troops, regardless of whether they were regular Army or National Guard troops. "I've actually asked for uniformed troops of any sort," she said. She added that she preferred to have more National Guard troops, according Ms. Bottcher.

In a letter to the president last Friday, she repeated the request. "Mr. President, only your personal involvement will ensure the immediate delivery of federal assets needed to save lives that are in jeopardy hour by hour," she wrote.

In a tense meeting with Mr. Bush at the New Orleans airport the same day, Gov. Blanco resisted the idea of federalizing the National Guard. When the president emerged from the meeting, Mr. Bush told New Orleans Mayor Ray Nagin that the governor "needed 24 hours to decide," Mr. Nagin said at a later news conference. Ms. Bottcher agreed that Mr. Bush and Ms. Blanco discussed the federalization of the National Guard.

Later on Friday, the White House formalized the offer in a memo to the governor's office, suggesting the possibility of a military takeover of the security effort.

The tense and ultimately fruitless negotiations last week apparently contributed to chilly relations between the White House and the governor's office. When Mr. Bush returned to Louisiana for a second visit on Monday, Gov. Blanco's staff learned of the visit from a newspaper reporter; the White House said it had trouble reaching the governor on Sunday to let her know.

When the two leaders toured an evacuee center in Baton Rouge, they worked different parts of the room. Some Republicans say privately that continuing cool relations between Mr. Bush and Gov. Blanco have contributed to discussions of setting up a public corporation to administer long-term relief and reconstruction funds for the region.

City Had Evacuation Plan But Strayed From Strategy (HC)

By Lise Olson

Houston Chronicle, September 9, 2005

Cancer patient Earl Robicheaux, his immune system depleted by radical chemotherapy, lay in a hospital bed as Hurricane Katrina bore down on New Orleans.

Trying to leave, he thought, seemed suicidal.

But after four days in the hospital's reeking darkness, he escaped via a Black Hawk helicopter that landed on the roof of the University Hospital under heavy guard because of the threat of sniper fire.

It was not the evacuation plan authorities had envisioned for its sick, its elderly and its poor. As the floodwaters recede, serious questions remain about whether New Orleans and Louisiana officials followed their own plans for evacuating people with no other way out.

The mayor's mandatory evacuation order was issued 20 hours before the storm struck the Louisiana coast, less than half the time researchers determined would be needed to get everyone out.

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City officials had 550 municipal buses and hundreds of additional school buses at their disposal but made no plans to use them to get people out of New Orleans before the storm, said Chester Wilmot, a civil engineering professor at Louisiana State University and an expert in transportation planning, who helped the city put together its evacuation plan.

Instead, local buses were used to ferry people from 12 pickup points to poorly supplied "shelters of last resort" in the city. An estimated 50,000 New Orleans households have no access to cars, Wilmot said.

State and local plans both called for extra help to be provided in advance to residents with "special needs," though no specific timetable was prepared. But phone lines for people who needed specialized shelters opened at noon Saturday — barely 30 hours before Katrina came ashore in Louisiana.

Many people from New Orleans ended up staying home or using a "last resort" special needs shelter state authorities and the city health department set up at the Superdome. Those who made it out of town initially found limited space. The state of Louisiana provided shelter in Baton Rouge and five other cities for a total of about 1,000.

In the city of New Orleans alone, more than 100,000 of the city's residents described themselves as disabled in a recent U.S. census.

Early mistakes

Hospitals were exempted from the mayor's mandatory evacuation order. But at least two public hospitals, loaded with more than 1,000 caregivers and patients, had their generators in their basements, which made them vulnerable in a flood. That violated the state's hurricane plan but had gone uncorrected for years because the hospitals did not have the money to fix the situation, a state university hospital official told the Chronicle.

The consequences came to bear in the images hours and days later: Elderly people dying outside shelters and hospitals that were losing power and, finally, their patients. Now, hurricane evacuation experts around the country are asking why New Orleans failed to prepare for the flood scenario from a Category 4 or 5 hurricane.

"Everybody knew about it. There's no excuse for not having a plan," said Jay Baker, a Florida State University associate professor who is an expert in hurricane evacuations and is familiar with New Orleans hurricane studies.

Tami Frazier, a spokeswoman for Mayor C. Ray Nagin, currently working out of Houston, refused to comment on direct questions this week or to answer several written questions sent via e-mail. She cited the need to focus on rescuing citizens and recovering bodies.

Robicheaux, the cancer patient who was trapped in a downtown New Orleans hospital, said he thought the city "decided basically to let it ride."

"When you're in a city like New York and there's a big snowstorm, you expect them to have plows. That's not the way it is here. There are no resources to stockpile supplies."

Saturday evening, Hurricane Katrina had intensified to Category 4, with the possibility that it could strike land as a killer Category 5 storm.

About 8 p.m., Mayor Nagin fielded an unusual personal call at home from Max Mayfield, director of the National Hurricane Center, who wanted to be sure Nagin knew what was coming.

Still, Nagin waited to issue a mandatory evacuation, apparently because of legal complications, said Frazier. She said the city attorney was unavailable for an interview to explain.

But Kris Wartelle, spokeswoman for the attorney general of Louisiana, said state law clearly gives the mayor the authority to "direct and compel the evacuation of all or part of the population from any stricken or threatened area."

"They're not confused about it. He had the authority to do it," Wartelle said.

The mandatory evacuation order came at 10 a.m Sunday.

Former Kemah Mayor Bill King, who has spent years trying to boost funding and organization for hurricanes planning in the Houston-Galveston area, said Nagin's decision to wait to order people out compounded the tragedy.

"To call an evacuation on Sunday morning when the storm was going to hit on Monday morning at 6 a.m. is just ... negligence," King said. "If he'd called it better than that he would have saved lives."

Special-needs evacuation

The Chronicle reviewed Louisiana's Emergency Operations Plan, adopted in 2000. It calls for the establishment of specialized shelters for people with special medical needs. It also recommends that cities use public transportation to evacuate residents if necessary.

The city of New Orleans Comprehensive Emergency Management Plan suggested people develop their own way to get out. "The potential exists that New Orleans could be without sufficient supplies to meet the needs of persons with special considerations, and there is significant risk being taken by those individuals who decide to remain in these refuges of last resort," it says.

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People who called for information on special needs shelters Saturday were directed to sites in Alexandria and in Monroe, La. — cities 218 and 326 miles away. The state scrambled to find 20 ambulances and some specialized vans to pick up fragile residents who needed rides.

"There were transportation systems in place to take people out of New Orleans, which was the preferred solution," said Kristen Meyer, a spokeswoman for the Department of Health and Hospitals. But she's not sure how many got out.

Some, including Lower 9th Ward resident Lois Rice, a paraplegic, became trapped in their homes when the floodwaters rose. She was rescued after using her air mattress to float into her attic.

Florida, by contrast, for two decades has required counties to establish and maintain permanent databases of "special needs citizens," and arrange rides for people with no transportation. The state also has shelters established for myriad medical conditions.

Florida emergency officials agree that last-minute planning simply doesn't work.

"Unless you planned in advance, it would be a catastrophe," said Guy Daines, a retired Florida emergency manager who is considered an expert in specialized evacuations.

In New Orleans, many people with special medical needs ended up at the last resort shelter in the Superdome.

New Orleans' own special needs evacuation plan, however, says that shelter is "NOT TO BE INTERPRETED AS A GUARANTEE OF SAFETY, and the City of New Orleans is not assuring anyone protection from harm within the facilities that are being offered or opened for this purpose."

"When I saw them loading special needs people into the Superdome the day before the storm, my heart was breaking," said Patti Moss, a Texas nursing professor who has developed a tracking system for such vulnerable citizens here. "They were in the path of the storm."

Two of the city's hospitals dedicated to serving the city's poor, University and Charity hospitals, quickly lost power, according to Leslie Capo, a spokesman for the Louisiana State University health sciences department.

After days in the dark, it took the National Guard, the U.S. Army and a Black Hawk to rescue Robicheaux.

"We had been kind of left on our own and I thought, 'This is a fine thank you,' " he said.

Planning for the poor

In storm-vulnerable Jefferson Parish and New Orleans, the American Red Cross worked before the storm to promote a "buddy system" to encourage everyone without cars to find rides through churches and other organizations.

But in an interview published July 18 in New Orleans City Business, Jefferson Parish hurricane planner Walter Maestri insisted New Orleans needed to do much more for those who didn't have cars.

"New Orleans has a significantly larger population without means of transportation, so it's a much bigger problem for the city. ... The answer is very simple — evacuation," he said.

As Hurricane Katrina approached Sunday morning, New Orleans officials advertised city buses would be used to pick people up at 12 sites to go to the "last resort" shelters.

It's unclear how many buses were used. Planners decided not to use any of the New Orleans school buses for early evacuation, Wilmot said.

Photographers recorded images of them lined up in neat rows and submerged — though one was commandeered by Jabbar Gibson, 20, who ferried 70 passengers to safety in the Reliant Astrodome.

Cut Off At Center Of Crisis, City Officials Faced Struggle To Keep In Touch (WSJ)

By Christopher Rhoads

The Wall Street Journal, September 9, 2005

NEW ORLEANS -- For days after Hurricane Katrina's devastating rampage through this city, a small corps of city leaders holed up at the Hyatt Hotel. They had virtually no way to communicate with the outside world.

A command center set up before the storm stopped working when the backup generator ran out of diesel fuel. Cellphone towers had been knocked out by high winds. Many land lines in the area were unusable.

When emergency power finally returned to the Hyatt, Scott Domke, a member of the city's technology team, remembered that he had recently set up an Internet phone account with Vonage Holdings Corp. He was able to find a working socket in a conference room and linked his laptop to an Internet connection.

At 12:27 a.m. on Wednesday, Aug. 31, the mayor's inner circle made its first outside call in two days. Eventually, the team was able to get eight lines running from the single Vonage account. That evening, the phone rang and it was President Bush calling from Air Force One.

During the first days of Katrina, the besieged mayor's office struggled to stay connected. It was forced to rely on ingenuity and extreme methods, including breaking in to an Office Depot -- as the chief of police stood watch and chased away unofficial

looters -- to obtain necessary equipment. The Hyatt group would eventually be forced to move to a higher floor as a gang intent on breaking into its stockpile of food assaulted the hotel.

The tragedy has revealed many ways that the city was unprepared for the storm, flood and chaos that followed, and its communications system was no exception. Greg Meffert, the city's chief technology officer, says that the New Orleans emergency communication plan relied heavily on basic phone service remaining intact. Cellphone backups also failed, and the few older model satellite phones lost battery power and couldn't be recharged. But under duress, Mr. Meffert and his three-member team also found creative ways to cope with the disaster.

Hurricane conditions first hit the city on Saturday, Aug. 27. Mr. Meffert -- whose hats include deputy mayor, the mayor's right-hand man and CTO -- and several of his team and their families had decided the Hyatt, which is a couple of blocks from City Hall, was the best place to hunker down and establish communications for the storm. The hotel was better served with power and food than the city command post. With the mayor and some other officials, including the chief of police, they moved into some conference rooms on the fourth floor and figured they'd be in the hotel for a couple of nights at the most.

Over the next two days, what remained of the city government that had not evacuated before the storm -- a core group of about 15 people -- steadily descended into information darkness.

By the time the eye of Katrina made landfall that Monday morning, the group had already suffered more than 24 hours of hurricane-force winds, including a tornado that ripped off part of one side of the hotel.

"When the tornado rolled over us, you could hear a weird rumbling sound," recalled the 40-year-old Mr. Meffert this week, sitting unshaven behind his desk in City Hall in khaki shorts, a black T-shirt and white tennis sneakers. Army Rangers and other troops ran through the still submerged streets below his window. "You could hear the windows popping out like gunshots," he said.

Mr. Meffert says phone service went out at the Hyatt because of power failures and water damage to the hotel's main switch. After that, the Hyatt team's only available means of communication were police radios. But those were operating at a fraction of capacity because the generator serving the main transmission site broke down. Sometimes dozens of officers were trying to use one channel.

For the most part, city officials relied on "human chains of communication," he says. "It was like: 'Go tell so-and-so if you see them.' "

The team slept on floors and tables in the sweaty conference rooms. Then they figured the worst was over and that communications -- and normality -- would soon return.

Instead, the opposite happened.

On Tuesday, the levee at the 17th Street Canal broke, and water poured into the city, raising the water level by a foot or more every 20 minutes, Mr. Meffert estimates. Within hours, nearby streets were submerged in more than 12 feet of water. Water quickly engulfed the Hyatt and surrounding government buildings. Mr. Meffert and his team spent most of this day helping with rescue efforts, mostly from boats. "We were just pulling [people] from the water," he says.

Mr. Meffert evacuated his wife and two young boys to his parents' home in San Antonio. The evacuation party included the pregnant wife of the chief of police.

That evening Mr. Meffert realized things would get worse unless communications were restored, immediately.

That's when Mr. Domke had his brainstorm. For the next five days, virtually all communications out of New Orleans by the city's top officials depended on Mr. Domke's laptop and this single Internet phone account.

Mr. Meffert, a software entrepreneur before he joined the mayor's office in 2002, realized he needed more lines and more phones to cope with a rapidly deteriorating situation. Before dawn on Wednesday, Messrs. Meffert and Domke and some other aides drove a military Humvee into the darkness and devastation. They were accompanied by the chief of police, Eddie Compass.

Their destination was Office Depot, where they loaded up on phones, routers, printers and fax machines -- anything that was needed to support a government under siege by weather and crime. The store had already been looted of some supplies. While Mr. Meffert was looking for printer cartridges, several looters returned. Mr. Compass, the police chief, roared at the looters and chased them off, says Mr. Meffert.

Mr. Meffert told the chief he needed a large computer server for email. They found the one used by Office Depot in its backroom.

"Do you really need this?" Mr. Meffert says the police chief asked him.

"Yes, we do," Mr. Meffert says he replied.

The server was screwed into an equipment rack in the backroom. Without the use of tools, the chief bent parts of the metal rack and ripped the server out of its housing with his hands, Mr. Meffert says, adding: "I have never seen that before."

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The team was sleeping and working out of a single conference room, called Burgundy D. There were enough cots for five people. Another half-dozen slept on the floor. In one corner, phones, routers, cables and other gear lay in a pile. Dirty blankets and clothes were scattered about.

On Wednesday evening, when Mr. Meffert was manning the phones, one rang. On the other end was President Bush in Air Force One. Mr. Meffert, now wearing the hat of secretary, scribbled down the number and sent someone to find Mayor Ray Nagin.

The mayor later recounted his conversation with the president in an interview with WWL-AM on Thursday. "I told him we had an incredible crisis here and that his flying over in Air Force One does not do it justice," the mayor said.

Later in the interview, conducted over the single Hyatt link, the mayor blasted the response to date. "I need reinforcements, I need troops, man. I need 500 buses, man," he said.

On Thursday morning, Mr. Meffert's team got word that 200 gang members were moving on the Hyatt, apparently aware that it still had food, drink and power. To signify that they were in the gang, members had made a distinguishing rip in their shirts, says Mr. Meffert. An elevated walkway from the Superdome connects to a shopping arcade, which in turn connects to the Hyatt.

Around 10 o'clock that morning, the team evacuated its fourth-floor command post for the 27th floor. The only equipment it brought along was a handful of cordless phones, which had a range of 300 feet. On the 27th floor, where the mayor was staying, the phones worked only if the user hung over the balcony toward the atrium inside the building.

"This was when the last parts of the government were about to come undone," says Mr. Meffert. "It felt like the Alamo -- we were surrounded and had only short bursts of communication."

With Police Chief Compass and other officers blocking the entrance, looters were not able to enter the Hyatt, Mr. Meffert says.

At the same time, water continued to rise around the building. Mr. Domke and Jimmy Goodson, an aide in charge of security for the team, realized that the electronics for the hotel -- upon which the single communication link depended -- were on the ground floor, perilously close to the rising water. They dispatched members of their group to throw sandbags around the electronics room. The water reached within three inches of the room but never damaged the electronics, Mr. Meffert says.

New Orleans had an emergency communications plan, but it had serious flaws. The back-up communications of the city's Office of Emergency Preparedness consisted of a few older model satellite phones, but their batteries went dead and couldn't be recharged, Mr. Meffert says.

In the early stages of the storm, the city's emergency command office, on the ninth floor of city hall, got power from an emergency diesel generator. But by the time the hurricane passed, it had burned up about one third of its fuel. Fuel soon ran out completely and couldn't be replenished.

Meantime, the commercial phone systems that the city relied on blinked out during the storm and its immediate aftermath, according to Mr. Meffert. Land lines went dead in part because of switch and power failures, and city-issued cellphones stopped working after towers were blown down, he says. BellSouth Corp. says that its nearby telecom hub was operative throughout the crisis.

Mr. Meffert says the satellite phones were used in the early stages, but their batteries soon were drained. He tried to recharge one phone, but it wouldn't keep the charge, he says. "It kept flashing 'low bat,' " he recalls.

Mr. Meffert says that the city was unable to spend more on emergency communications because of a budget crisis and cuts in federal aid. But he doubts that additional money would have helped much. "Virtually no city could have ever prepared for something of this magnitude," he says.

When Mr. Meffert arrived at the mayor's office in 2002, budgets were calculated on cheap calculators, he says. Out of 70 major cities in the U.S., the New Orleans municipal Web site was ranked dead last that year in a quality survey.

This past year, Mr. Meffert's team constructed an innovative surveillance bubble over the city consisting of cameras, wireless Internet and software in an attempt to lower the city's record murder rate. Though controversial with civil-rights groups, the system has nearly halved crime in the 20% of the city where it operates, says Mr. Meffert. He distributed BlackBerrys among senior ranks in the government, devices that proved invaluable in this crisis once email resumed working late last week.

In the middle of the chaos several days ago, Mr. Meffert was notified that the city's Web site now ranks No. 1 of those 70 major U.S. cities. The site stayed up throughout the storm because Mr. Domke was able to shift it to a Dallas server.

Toward the end of last week, the "cavalry" began arriving, says Mr. Meffert, in the form of several thousand walkie-talkie phones provided by Sprint Nextel Corp. The phones operate directly between users within short distances, so they do not require cell towers to transmit.

At the same time, a team from computer supplier Unisys Corp. arrived, led by an ex-Army Ranger named Ed Minyard. In addition to providing equipment to begin constructing a wireless network in the Hyatt and City Hall, Mr. Minyard brought some other supplies: bottles of Wild Turkey whiskey.

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"We had the necessary provisions," says Mr. Minyard. "These boys needed it."

La. Lawmaker Rebukes Federal Disaster Response (USAT)

By Andrea Stone

USA Today, September 9, 2005

WASHINGTON — A somber "daughter of the Crescent City" returned to Capitol Hill on Thursday to defend Louisiana's response to Hurricane Katrina and chastise how Washington handled the disaster.

Sen. Mary Landrieu, D-La., speaking on the Senate floor for the first time since the disaster, dismissed critics who have blamed local officials. The floodwaters destroyed a family retreat in Slidell and damaged her childhood home in New Orleans.

"It is not true that Louisiana was not prepared," said Landrieu, who defended Democratic Gov. Kathleen Blanco and Mississippi Gov. Haley Barbour, a Republican. She said both had planned for such a disaster.

"I'm angry that some people in Washington … would blame state and local governments for something that is a federal responsibility," she said in an interview later. "For God's sake, they were trying to make decisions under 10 feet of water."

Other members of Congress, including House Majority Leader Tom DeLay, said that there were failures across the board and that Congress will investigate. "My impression is that the whole system broke down," he said. "While the individual efforts of first responders and volunteers and National Guardsmen have obviously been beyond heroic, it's fair to say the overall response could've and should've been better."

Landrieu, 49, said she returned here to provide "an eyewitness account" and to push for quick aid. She is one of five members of Congress who lost homes.

An heir to one of Louisiana's political dynasties, Landrieu is the daughter of former New Orleans mayor Maurice "Moon" Landrieu. He called her in the Senate cloakroom minutes after her speech.

Landrieu is the oldest of nine siblings. Brother Mitch is lieutenant governor of Louisiana and was with her in a Baton Rouge command center when the storm hit. Despite the pleas of his family, he spent three days in a rescue boat where "he lifted the dead and alive out with his own hands," she said.

But Landrieu, whose husband and two school-age children evacuated unscathed, offered few personal anecdotes Thursday. She focused instead on the Federal Emergency Management Agency and its "incompetent and insulting" response.

Landrieu said the "double tragedy" of a monster hurricane and burst levees could have been avoided, or at least alleviated, if federal officials hadn't denied or underfunded years of requests to improve flood barriers and slow coastal erosion. "Washington rolled the dice and Louisiana lost," she said.

Senator Bears Witness And Bares Emotions (WP)

By Mark Leibovich

The Washington Post, September 9, 2005

Mary Landrieu returned to Washington yesterday, slogging through a day of official business as if through water.

"If my heart is a little heavy today, it's because I've seen more in the last two weeks than I've seen in my entire life," the Louisiana senator said in a floor speech. She stood at her desk, with colleagues rapt in their seats -- nearly all of them fellow Democrats (on orders from Minority Leader Harry Reid) and at least one Republican (Thad Cochran of Mississippi). Sniffles were audible from the gallery as Landrieu catalogued "what I've seen." Everyone knows what she saw, at least in its wide-angle contours of aerial devastation shots and death estimates.

But there was a vivid sense of otherness to Landrieu's day at the Capitol yesterday. She had the shellshocked bearing of someone who's been in a place difficult to describe. People greeted Landrieu delicately, like a mourner.

"This is all just so surreal," Landrieu said in a brief interview after her speech. She had spent the past 10 days at an Embassy Suites in Baton Rouge after evacuating her family's summer home in Slidell on Lake Pontchartrain, since obliterated. Last she heard, her childhood home in New Orleans was filled with five feet of water. Her mother and father -- the former mayor of New Orleans -- are okay, as are her eight siblings and 44 nieces and nephews. Of the seven Landrieu siblings who live in New Orleans, four had their homes destroyed.

She was reluctant to come back to Washington, Landrieu said. Don't focus on her, she pleaded -- a rare instance of a senator saying something like that and maybe even meaning it. But of course, there was fuss everywhere Landrieu went, the clop-clop-clop of her heels echoing down hallways amid camera clicks, processions of well-wishers, trailing reporters, the whole bit.

Still, she looked strangely isolated, even while Reid lavished praise on her at a late-morning news conference. He kept referring to her as "Mary," and Sen. Chuck Schumer patted her on the back. She barely mustered a smile all day. "Really, this is not about me," Landrieu said later, walking back to her office. "This is about telling the story. The full story."

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Like every public official identified with Katrina, Landrieu has had her moments, good and bad. She publicly thanked federal and local officials on CNN, and received a swift and oft-replayed lecture from anchor Anderson Cooper, who derided her as "a politician." As the week wore on, though, she was spared much of the criticism endured by President Bush, FEMA head Michael Brown, Louisiana Gov. Kathleen Blanco and New Orleans Mayor Ray Nagin, among others.

Landrieu managed to avoid an attention-getting outburst at least until Sunday, when she appeared on ABC's "This Week" and said that "If one person criticizes them" -- meaning local officials -- "or says one more thing, including the president of the United States, he will hear from me. One more word about it after this show airs and I might likely have to punch him. Literally."

Landrieu revisited that interview during her 26-minute floor speech yesterday. "I want to be clear for the record in that piece that you all saw with me with George Stephanopoulos," she said. "I was not crying in anguish because the home that I walked out of with my children was gone. I knew it would be gone when I left. It was an anguished plea to the only person that I thought could hear, and that was God Himself."

"I think the last week has definitely changed her," Landrieu's press secretary Brian Richardson said after the speech. "This is probably the most important point in her career."

He corrected himself, saying that this moment isn't about Landrieu, and, of course, it's not. "This is the most important issue of her career," he said, meaning the hurricane.

Landrieu got back to her Capitol Hill home late Wednesday night, in time to take her kids to school yesterday. At 10:45, she attended a brief meeting with Democratic senators in Reid's office. Landrieu was at once gracious and defiant, thanking the president and then -- in her floor speech -- ridiculing his statement last week that no one "anticipated the breach of the levees."

"Everybody anticipated the breach of the levee, Mr. President," Landrieu said. This included the clay figurine, Mr. Bill, from "Saturday Night Live." Landrieu is a friend of Walter Williams, a native of New Orleans and Mr. Bill's creator, and he had deployed the high-voiced and squishable icon in public service announcements about Louisiana's coastal erosion problems before the storm. "How can it be that Mr. Bill was better informed than Mr. Bush?" Landrieu asked in her one hint of a laugh line all day.

No one laughed.

Troops Escalate Urgency Of Evacuation (WP)

By Timothy Dwyer And Ann Scott Tyson

The Washington Post, September 9, 2005

NEW ORLEANS, Sept. 8 -- Outside Kajun's Pub, between the relatively dry French Quarter and the heavily flooded Ninth Ward, bar owner JoAnn Guidos loaded up her 1991 Ford Econoline van with clothing, liquor and other necessities Thursday morning. After holding out for 10 days, Guidos and her friends were finally leaving New Orleans and heading to high ground.

The beer was still cold, thanks to a working generator, and hopes for customers were strong as the flood-ravaged city fills with thirsty soldiers and emergency workers.

But on Wednesday night, Guidos said, armed federal agents identifying themselves as U.S. marshals confiscated her weapons and ordered her and six friends to leave by noon Thursday.

"When you get 15 M-16s pointed at you and they line you up against the wall, it's kind of scary," said Guidos, 55.

With floodwaters continuing to recede and cleanup efforts beginning in earnest, police and the military set out on an aggressive door-to-door campaign here Thursday, urging remaining residents to leave or be removed by force.

The former Big Easy took on the air of a military encampment, as thousands of reserve and active-duty troops began patrolling the city and assisting police in search-and-rescue missions. Houses were marked with codes indicating whether any residents -- living or dead -- were found inside. Emergency workers intensified efforts to divide the city into grids in order to methodically retrieve an unknown number of corpses still in the floodwaters or entombed in ruined homes and businesses.

Although the mayor issued a forcible evacuation order, Louisiana and federal officials said they remained hopeful that most stragglers will leave voluntarily when faced with urgent warnings about dwindling supplies and hazardous floodwaters.

"We need everybody out so we can continue with the work of restoring this city," Vice Admiral Thad W. Allen, the U.S. Coast Guard chief of staff who has taken over the federal response in New Orleans, said early in the day on CBS.

P. Edwin Compass, the superintendent of police, said there are thousands of people remaining in the city but that authorities are determined to get everyone out. He said as little force as necessary would be used but that staying is not an option. Anyone with a weapon, even one legally registered, will have it confiscated, he said.

"No one will be able to be armed," Compass said. "Guns will be taken. Only law enforcement will be allowed to have guns."

The evacuation effort, however, appeared haphazard at best. Affluent areas that were not flooded, such as parts of the Garden District and Uptown, appear to be a low priority for mandatory evacuations.

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In the dry neighborhood of Marigny Triangle, residents lounged in lawn chairs while listening to music blaring from "Radio Marigny," an impromptu outdoor music station. The area remained largely untouched by floodwaters, and residents say they see little reason to leave.

Peter and Amy Bas, who have four children ages 5 to 14, noted that they had already cleaned debris from their street. As the couple relaxed in their front yard, a Louisiana state trooper cruised by and asked if they needed diapers.

"Where are we going to go?" Peter Bas asked. "They're going to take us and put us somewhere with 5,000 other people? We're going to stay."

Amy Bas added: "It could happen, but you think you're living in America and nobody is going to make you leave your home."

Police and the National Guard were aided by hundreds of paratroopers from the 82nd Airborne Division, who canvassed the French Quarter and neighborhoods surrounding the convention center and Superdome.

Active-duty U.S. troops such as the 82nd Airborne lack law enforcement authority in a domestic city such as New Orleans, and therefore must avoid direct involvement in forcibly evicting people. Local police warned that they expected friction with residents as they moved forcefully to pull them out, 82nd Airborne commanders said.

The paratroopers, along with other U.S. soldiers, patrolled parts of the city section by section in boats, trucks and on foot, looking to persuade more stragglers to leave.

"Hey! Evacuation!" Sgt. Geriah McAvin, 27, of Detroit yelled toward a block of red brick apartments as his 82nd Airborne platoon rolled into a flooded housing project in two lumbering, five-ton trucks. "Hey! We're here to take you out of here."

One man on crutches waved to the passing trucks from his front stoop. But when the five-ton circled around to get him, he hesitated.

"You're not taking me to the Superdome?" asked Alfred Jones, 43.

"No Superdome!" Dennison said.

Eventually, Jones gave in, wincing and moaning in pain as the soldiers lifted him onto the truck. Jones, who lived alone, has severe arthritis in his legs and said he had survived with the help of a friend who brought him food. But his friend left a few days ago, and Jones had not eaten for at least a day and he ran out of water on Wednesday. Given his leg condition, waving down a helicopter was out of the question, he said.

With major levee breaks patched earlier this week, and a growing number of pumps sending water into nearby Lake Pontchartrain, the floodwaters appeared to be dropping quickly on Thursday. Drier conditions in many areas allowed crews to step up efforts clearing branches, lumber, bricks and other debris, piling the rubble along roadsides and trolley tracks on St. Charles Avenue and other once-picturesque boulevards.

The Environmental Protection Agency also continued to monitor the foul and polluted floodwater that still covers much of New Orleans, testing for more than 100 kinds of chemicals, according to EPA Administrator Steve Johnson. The fetid water, along with the toxic sediment left behind, is one of the main reasons authorities are so adamant about a full evacuation, officials said.

"The water is unsafe," Johnson said in an interview. "This is not just putting in a couple of water bottles. . . . Ultimately we will do whatever testing is needed to assure ourselves, and the public, that the land and water is safe."

EPA officials hope to begin testing the sediment left in the hurricane's wake as early as next week, but they are waiting for an independent scientific board to approve their soil-testing plan. Johnson said he and others are "not letting bureaucracy get in the way" but are intent on devising a credible scientific approach to the survey.

As of Thursday, the official death toll from Hurricane Katrina rose to 118 in Louisiana and 201 in Mississippi. But those numbers, provided by authorities in charge of processing the dead, contrast wildly with projections and the preparations that are underway.

In Louisiana, a contractor working with the Federal Emergency Management Agency has set aside 25,000 body bags, and New Orleans Mayor C. Ray Nagin has said as many as 10,000 people could be dead in the city.

Ten days after the Category 4 storm struck the Gulf Coast, many officials said they still do not know what to expect, nor are they willing to provide projections for a final death toll.

"We're not giving estimates -- we're not looking for a body count," said Melissa Walker, a spokeswoman for the Louisiana Department of Health and Hospitals, working at the state emergency operations center. "These are individual lives that are lost, and each one of them is important."

One example of the difficulty in obtaining reliable information can be seen in St. Bernard Parish, a devastated area 20 miles southeast of downtown New Orleans. Rep. Charlie Melancon (D-La.) said earlier this week that he was told that as many as 100 people died at a warehouse in Chalmette while awaiting rescue, but Melancon later said that number was incorrect.

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Police Hold Off Use Of Force (USAT)

By Kevin Johnson

USA Today, September 9, 2005

NEW ORLEANS — Rescuers and police held back Thursday from their threatened use of force as teams searched New Orleans homes for remaining flood survivors and pleaded with them to abandon the stench-filled city.

Police Superintendent Eddie Compass urged residents to leave and said that at some point police and the National Guard would begin using a "minimal amount of force" to get people to leave.

"We are not going to be tough with these people," Compass said.

Mayor Ray Nagin had said he would order people out of the city if they did not leave.

Helicopters clattered overhead and National Guard troops peered into windows of homes in search of the sick or dying, the dead, and those resisting efforts to evacuate them.

"Certain people are hiding out and are not going to leave," said Adrian Tate, a carpenter with a pit bull dog. "They've got pets, and they ain't leaving them behind."

Some 400,000 homes were without power in New Orleans. Water service was restored to some parts of the city but is not drinkable. The floodwater was falling slowly as pumping continued, with waterlines more than a foot below the high-water mark.

In Mississippi, 203,000 homes and businesses were without power, down from about 800,000 after the hurricane hit. State economists pegged losses to the timber industry at $1.2 billion.

In Texas, a convoy of Mexican army troops bearing relief supplies and medical personnel arrived in San Antonio, marking the first time Mexican troops have entered the United States in more than a century.

Juliette Saussy, New Orleans director of emergency medical services, estimated that "hundreds of bodies" have been recovered.

The official death toll remained about 300.

"We saw a lot of dead people, both in the water and in buildings," said South Carolina game warden Gregg Brown, whose team scoured flooded New Orleans neighborhoods by boat.

Some suggested the final count may not be as horrific as earlier feared.

"I am thinking we are better off than we thought we'd be," said Louisiana state Sen. Walter Boasso, who represents St. Bernard Parish near New Orleans. Parts of that parish still sit under 8 feet of water.

Vice President Cheney toured Louisiana and Mississippi on Thursday. Standing by Louisiana's governor, Democrat Kathleen Blanco, Cheney spoke of how the flooding of New Orleans and the destruction of many communities in the region was "a major tragedy in modern times."

"The positive news is we appear to be making progress," Cheney said.

The Federal Emergency Management Agency said so far 47,300 people had been rescued and that 235,200 people were housed in 750 shelters.

President Bush declared Sept. 16 as a national day of remembrance for the dead and vowed to help states rebuild.

"The government is going to be with you for the long haul," Bush said.

Katrina Holdouts Yield To Power Of Persuasion (KRT)

By Natalie Pompilio, Susannah A. Nesmith And Martin Merzer

Knight Ridder, September 9, 2005

NEW ORLEANS - Block after block, door by door, eye to eye, police officers and soldiers edged closer Thursday to extracting the last holdouts from this dying city. Authorities did not wield brute strength - yet - but they employed considerable powers of persuasion.

"The soldier talked to me, and I'm sick, and he told me it would be best if I left to get my treatment," Dale Wolfe Noel, 68, of the Algiers section of New Orleans said after rescuers brought her to a makeshift first-aid center. "They're trying to get me some place good."

More people seemed motivated to leave, having heard the term "mandatory evacuation," and fewer than 10,000 people remained in a metropolis that was home to 485,000 before Hurricane Katrina all but destroyed it.

But some still resisted, and their stubbornness imperiled their lives. They were surrounded by sewage-contaminated floods and sporadic fires, and they had no access to fresh food or pure drinking water.

Thousands were feared dead. Those searching for survivors often found bodies floating in the floods, lying on broken highways or decomposing in previously hidden corners of the city, adding to the health risk and horror-movie reality.

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“I can tell you there have been thousands of bodies," said Dr. Juliette Saussy, director of the city’s Emergency Medical Service.

In Washington, meanwhile, lawmakers moved forward on authorizing more help for the nearly 1 million people displaced - many forever - by Katrina.

The House of Representatives approved and the Senate was moving toward passage of a $51.8 billion special appropriation for disaster relief, just a fraction of the expected ultimate cost to restore lives and rebuild bridges, highways and other vital elements of the region’s infrastructure.

President Bush pledged to help victims cut through red tape to receive governmental assistance, including $2,000 debit cards for each displaced family. He said that more than 400,000 families already have applied for federal aid.

"We have much more work to do," Bush said during a Thursday afternoon address to the nation. “But the people that have been hurt by this storm know that - need to know that - the government is going to be with you for the long haul."

His vice president, Dick Cheney, visited Gulfport, Miss., Baton Rouge and New Orleans, publicly viewing the devastation and privately meeting with managers of the relief effort.

Most of the sludge from the Aug. 29 hurricane had dried to dust by the time Cheney arrived in Gulfport, but he saw piles of debris, fallen tree limbs and concrete slabs where nice homes and immaculate lawns once stood.

Cheney said he learned during his visit that Mississippians need help with insurance issues, housing and emotional healing. Still, he said, “Everybody I've met with was upbeat" and determined to rebuild.

But he was not uniformly welcomed. During a brief press conference in the middle of a Gulfport street, a young man twice shouted obscenities at him before walking away. “Go ---- yourself, Mr. Cheney," the man yelled.

Back in New Orleans, Police Superintendent Eddie Compass said voluntary evacuations were continuing, but the department had not yet forced anyone to leave.

"Once we feel sure that all voluntary evacuations are being completed, then the forced evacuations will take place," he said.

On the streets, authorities - many on loan from distant cities - noted a change in attitude.

“Everyone we're coming across today, they've heard the mayor's announcement about the mandatory evacuation, so they're saying ‘OK’ today," said Deputy Robert Rey of the Bernalillo County, N.M. Sheriff's Department. "A lot of people are ready to go at this point."

At the same time, the urgency of official appeals intensified, often to the edge of orders to leave.

"Y’all weren’t here the day after the storm hit, don’t be rushing us now,” James Savage, 41, told National Guard troops on Chef Menteur Highway in New Orleans.

He wanted to stay and take care of his dog, Snoop, but the soldiers convinced him that they would see to the dog’s care and make sure they were reunited.

“I like the way you handle your business,” Savage told them as he agreed to leave.

In the Lower Ninth Ward, where floodwaters receded and left a foul-smelling muck, troops confronted holdouts, many of whom eventually climbed aboard military trucks, taking a few belongings. They were taken to schools and the convention center.

Many soldiers and police learned there was an art to convincing residents to depart.

As New Orleans Police Officer Anthony Pardo tried to talk an elderly woman into leaving, she bit him on the arm. The bite didn't break the skin, Pardo said, laughing, and he was able to get her in the boat and out of her flooded community.

"She was scolding me and another officer like we were little kids," Pardo said. "But we got her to safety, and that's what matters."

In other developments:

_ Northwest Airlines flight 889 touched down Thursday morning at the Gulfport-Biloxi International Airport, sending an important message to the rest of the country. Ten days after the storm, commercial service finally was restored.

"You can now access the Mississippi Gulf Coast," airport assistant director Ken Spirito said with pride. “We are back.”

_ More than 7,000 evacuees lined up outside Houston’s Reliant Center as the American Red Cross began distributing debit cards worth up to $2,000, a program separate from the federal one. Mounted police patrolled the area.

_ More than 100 demonstrators, rallied by the political action committee MoveOn.org, picketed in front of the White House to protest what they called the inept response to the disaster.

Ann Petrobich, 61, a Katrina victim from New Orleans, walked in the midday sun, carrying a blue and yellow sign reading “Shame” and “Help Hurricane Victims Now.” “Anger doesn’t begin to describe it,” she said.

_ President Bush designated September 16 as a national day of prayer and remembrance for Katrina victims. “Throughout our history in times of testing, Americans have come together in prayer to heal and ask for strength for the tasks ahead,” he said.

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Some Holdouts Leave, Others Stay As Authorities Urge Evacuation (WSJ)

By Christopher Cooper And Dionne Searcey

The Wall Street Journal, September 9, 2005

Weary holdouts trickled out of New Orleans as teams of soldiers, police and medical personnel continued going door-to-door to implore thousands of residents still in the battered city to leave. But receding floodwaters could make some of those hunkered down in their homes more than 10 days after Hurricane Katrina hit even more determined to stay.

Meanwhile, Federal Emergency Management Agency officials, who on Wednesday said the agency would distribute 600,000 debit cards valued at $2,000 each to help victims of Katrina buy food, transportation and other necessities, announced that the cards won't be distributed on a wide scale.

Yesterday, FEMA spokesman David Passey could not elaborate on what he called "confusion" about the debit-card program but said the cards would be given only to people in the Astrodome in Houston. He didn't know whether people there were still getting them yesterday and couldn't say how many total cards had been distributed.

"We've determined normal delivery methods would be more helpful," said Mr. Passey. This was the first time FEMA tried to use debit cards.

In New Orleans, while crews are struggling to close one levee breach that is allowing water to flow into the city from Lake Pontchartrain to the north, water levels are declining in many inundated neighborhoods, including some where houses had been submerged as high as their rooftops.

Some major streets in the Lower Ninth Ward and neighboring St. Bernard Parish, trapped between three cascades of water as the storm barreled past New Orleans, were passable yesterday, though a thick coating of mud remained.

As the floodwaters receded, they also revealed fresh evidence of environmental destruction, including a thick, oily sludge coating trees, houses and roads throughout Meraux, a working-class community just east of New Orleans that is located near oil refineries and storage tanks. Workers in yellow, body-length suits were using squeegees to push the smelly mess into dark piles and load it into tanker trucks.

Still flooded are several residential areas of New Orleans, including the Gentilly, Mid-City and Broadmoor neighborhoods. But key tourist and historic districts such as the French Quarter and Garden District, generally located near the Mississippi River, are dry, and soldiers said many people remain in those areas.

The latest evacuations came as the House and Senate approved an additional $51.8 billion to finance recovery efforts, mostly for FEMA, boosting the federal price tag above $62 billion. on Thursday yesterday. The number of confirmed deaths in Mississippi reached 201, the Associated Press reported. Louisiana's death toll is 118, but that is expected to rise, because many people remain unaccounted for.

Gen. Ron Mason of the National Guard estimated that less than 10,000 people still are in New Orleans. While National Guard troops aren't forcing anyone to leave, they are working with police to cajole stubborn residents to evacuate. Adrian Tate, a 41-year-old carpenter, said he was told by a New Orleans police captain who showed up yesterday morning that city officials have established a jail that will be used to lock up those who refuse orders to leave.

"What we're finding out is most people are willing to leave, especially when they find out the gravity of the situation...and when they find out it will take 80 days to pump the water out," Gen. Mason said. "When they hear that message, they're inclined to leave."

City medical officials said no major health epidemics have yet emerged, but they warned remaining residents not to make skin contact with the stagnant water. Meanwhile, search teams continued canvassing neighborhoods by pounding on doors, looking in windows and yelling to anyone inside. Mr. Tate was persuaded to leave by an infected mosquito bite on his forearm. "I can't get sick, man," he said just before climbing aboard a military truck with five other holdouts.

New Orleans Police Chief Eddie Compass said even relatively dry districts of the city will be cleared at gunpoint if necessary by his 900-person force. "We will be very respectful," he said. He gave no firm date for the forced evacuation, adding that "verbal judo" was the harshest technique currently being used.

In the Lower Ninth Ward, the water seemed to disappear overnight, probably because road-grading equipment had scraped the storm drains the day before.

In Meraux, the smell of petroleum hung thick in the air. Across the highway from a refinery that is surrounded by a residential neighborhood, two men in hazmat suits drained the contents of a battered tanker truck into a canal, using a thick black hose. The canal smelled like gasoline. Asked what they were doing, the men declined to comment. "I got a family, I'm not talking," one man said. Some residential streets up to a half mile away ran about a foot deep with what appeared to be crude oil.

Police Begin Seizing Guns Of Civilians (NYT)

DOJ_NMG_0004139

By Alex Berenson And John M. Broder

The New York Times, September 9, 2005

NEW ORLEANS, Sept. 8 - Local police officers began confiscating weapons from civilians in preparation for a forced evacuation of the last holdouts still living here, as President Bush steeled the nation for the grisly scenes of recovering the dead that will unfold in coming days.

Police officers and federal law enforcement agents scoured the city carrying assault rifles seeking residents who have holed up to avoid forcible eviction, as well as those who are still considering evacuating voluntarily to escape the city's putrid waters.

"Individuals are at risk of dying," said P. Edwin Compass III, the superintendent of the New Orleans police. "There's nothing more important than the preservation of human life."

Although it appeared Wednesday night that forced evacuations were beginning, on Thursday the authorities were still looking for those willing to leave voluntarily. The police said that the search was about 80 percent done, and that afterward they would begin enforcing Mayor C. Ray Nagin's order to remove residents by force.

Mr. Bush, in Washington, urged the nearly one million people displaced by the storm to contact federal agencies to apply for immediate aid. He praised the outpouring of private charity to the displaced, but said the costs of restoring lives would affect all Americans, as would the horror of the storm's carnage.

"The responsibility of caring for hundreds of thousands of citizens who no longer have homes is going to place many demands on our nation," the president said in the Eisenhower Executive Office Building. "We have many difficult days ahead, especially as we recover those who did not survive the storm."

As Mr. Bush spoke, Vice President Dick Cheney was touring Mississippi and Louisiana, in part as an answer to the critics who have said that the administration responded too slowly and timidly to the epic disaster. At a stop in Gulfport, Miss., a heckler shouted an obscenity at the vice president. Mr. Cheney shrugged it off, saying it was the first such abuse he had heard.

Also on Thursday, Congress approved a $51.8 billion package of storm aid, bringing the total to more than $62 billion in a week. The government is now spending $2 billion dollars a day to respond to the disaster.

The confirmed death toll in Louisiana remained at 83 on Thursday. Efforts to recover corpses are beginning, although only a handful of bodies have been recovered so far. Official estimates of the death toll in New Orleans are still vague, but 10,000 remains a common figure.

Mississippi officials said they had confirmed 196 dead as of Thursday, including 143 in coastal areas, although Gov. Haley Barbour said he expected the toll to rise.

"It would just be a guess, but the 200 or just over 300 we think is a credible and reliable figure," the governor said on NBC's "Today" show.

He also said electricity would be restored by Sunday to most homes and businesses in the state that could receive it.

No one would venture a prediction about when the lights would come back on in New Orleans.

The water continued to recede slowly in the city 10 days after Hurricane Katrina swept ashore and levees failed at several points, inundating the basin New Orleans sits in.

The Army Corps of Engineers has restored to operation 37 of the city's 174 permanent pumps, allowing them to drain 11,000 cubic feet of water per second from the basin. When all the pumps are working, they can remove 81,000 cubic feet of water per second, said Dan Hitchings of the engineering corps.

It will be months before the breadth of the devastation from the storm is known. But a report by the Louisiana fisheries department calculated the economic loss to the state's important seafood industry at as much as $1.6 billion over the next 12 months.

Louisiana's insurance commissioner, J. Robert Wooley, said the state had barred insurance companies from canceling any homeowner's insurance policies in the days immediately before the storm hit and afterward.

"All cancellations will be voided," Mr. Wooley said.

Across New Orleans, active-duty soldiers, National Guard members and local law enforcement agencies from across the country continued door-to-door searches by patrol car, Humvee, helicopter and boat, urging remaining residents to leave.

Maj. Gen. James Ron Mason of the Kansas National Guard, who commands about 25,000 Guard troops in and around New Orleans, said his forces had rescued 687 residents by helicopter, boat and high-wheeled truck in the past 24 hours.

General Mason said Guard troops, although carrying M-16 rifles, would not use force to evict recalcitrant citizens. That, he said, was a job for the police, not members of the Guard.

"I don't believe that you will see National Guard soldiers actually physically forcing people to leave," General Mason said.

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Mr. Compass, the police superintendent, said that after a week of near anarchy in the city, no civilians in New Orleans will be allowed to carry pistols, shotguns, or other firearms of any kind. "Only law enforcement are allowed to have weapons," he said.

That order apparently does not apply to the hundreds of security guards whom businesses and some wealthy individuals have hired to protect their property. The guards, who are civilians working for private security firms like Blackwater, are openly carrying M-16s and other assault rifles.

Mr. Compass said that he was aware of the private guards but that the police had no plans to make them give up their weapons.

New Orleans has turned into an armed camp, patrolled by thousands of local, state, and federal law enforcement officers, as well as National Guard troops and active-duty soldiers. While armed looters roamed unchecked last week, the city is now calm.

The city's slow recovery is continuing on other fronts as well, local officials said at a late morning news conference. Pumping stations are now operating across much of the city, and many taps and fire hydrants have water pressure. Tests have shown no evidence of cholera or other dangerous diseases in flooded areas.

With pumps running and the weather here remaining hot and dry, water has visibly receded across much of the city. Formerly flooded streets are now passable, although covered with leaves, tree branches and mud.

Still, many neighborhoods in the northern half of New Orleans remain under 10 feet of water, and Mr. Compass said Thursday that the city's plans for a forced evacuation remained in effect because of the danger of disease and fires.

Mr. Compass said he could not disclose when residents might be forced to leave en masse. The city's police department and federal law enforcement officers from agencies like United States Marshals Service will lead the evacuation, he said. Officers will search houses in both dry and flooded neighborhoods, and no one will be allowed to stay, he said.

Many of the residents still in the city said they did not understand why the city remained intent on forcing them out.

Holes In New Orleans Flood Walls Slowly Being Patched (USAT)

By Alan Levin

USA Today, September 9, 2005

NEW ORLEANS — “We need more trucks out here.”

Richard Pinner drawls softly into his cellphone, but he means business. It's already midmorning Thursday, and the thousands of tons of rock he needs to block a gaping hole in the London Avenue Canal are nowhere in sight.

The Army Corps of Engineers is leading the effort to drain the vast areas of rotting water covering this city. So far, water levels throughout the city have dropped no more than a foot or two. As the corps' project manager on the canal, Pinner is a point man in the aim to get the water off the streets.

A caravan of dump trucks had made huge progress here the day before, but now the effort isn't going as fast as he'd like. “That's why we have to push … as hard as possible,” he says.

Under a relentless sun and surrounded by diseased-laden waters, Pinner paced the side of the canal for about 12 hours, cajoling contractors to speed up, begging for portable pumps and solving problems.

For Pinner, the effort is personal. His home is several miles east of here.

“I've got about 8 feet of water in my house,” he says. His wife and daughters have relocated to Baton Rogue. The sooner the levees are sealed and the city is pumped out, the sooner Pinner can try to salvage what's left back home.

With the closure earlier this week of a breach in the 17th Street Canal, the Army Corps' efforts to dry out New Orleans have shifted here to London Avenue. The battle was being fought on three fronts.

A crane was driving 60-foot-long steel panels into the muddy canal bottom to block additional water from entering. About 7,000 tons of stone and gravel were being dumped into a levee breach reachable via a narrow gravel road above the waters. Helicopters were dropping hundreds of 7,000-pound sandbags into the second breach, which still cannot be reached by work crews on the ground.

Pinner and Neil Hickok, project manager for Boh Bros. construction company, predicted the first of the two London Avenue breaches will be blocked by this morning. Once that's done, their crews can build a road on the levee to the second breach and close it off, too.

Across the city, crews continued to try to get giant pumps that failed in Hurricane Katrina's wake to come back to life. The corps predicts it could take up to 80 days to drain the city.

The debris clogging pumps could contain human remains, and in some cases that was slowing the recovery effort.

“This is a very deep emotional aspect of our work down there, and we need to make sure we respect as best as possible those remains,” Army Corps spokesman John Rickey said.

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By early afternoon, Pinner has a problem that makes him happy. A backup of more than 50 trucks snakes away from the work site, waiting to dump their loads into the breach.

"Every day we accomplish something else and get closer," he says.

Some Areas Inch Toward Normality (USAT)

By Dennis Cauchon

USA Today, September 9, 2005

BILOXI, Miss. — Jarin Pepper, manager of a Firestone auto repair shop, went to work Monday to clean up the mess from Hurricane Katrina. Moments later, somebody stopped and asked him to patch a tire. Then somebody else stopped. Then somebody else.

Instantly, the Firestone shop was unexpectedly open for business and going full blast, mostly repairing tires damaged by storm debris. "Oh, man, has it been busy!" says Pepper, 24.

The skeleton of normality is slowly returning to the Mississippi Gulf Coast, which was smashed by Hurricane Katrina Aug. 29. Vast stretches of the area lie in ruins. Tens of thousands remain homeless, many living in tent cities. The drinking water is unsafe. The grim search for bodies goes on.

In a few patches, however, civil society is being restored thanks to electricity, running water, cellular phones and the extraordinary efforts of business owners and workers. About one in 10 businesses in Biloxi and Gulfport, the area's most populous cities, have reopened. Fewer businesses have come back in hard-hit small towns such as Long Beach, Pass Christian and Bay St. Louis.

Nearly everywhere, each day is noticeably better than the last, and progress can be seen almost hour by hour. Gas lines are almost gone. Workers are locating paychecks. A few ATM machines are working. And the lights are coming on.

The backbone of the recovery is an exhaustive effort by Mississippi Power to restore electricity to southern Mississippi. After the hurricane, none of its 195,000 customers had electricity. The company promises that by Sunday, power will be available to every customer in a building safe enough to use it — about 165,000 in all.

Mississippi Power President Anthony Topazi, 55, made a bold pledge that every customer who could use electricity would have it by Sunday, the fourth anniversary of the 9/11 attacks. "We wanted to make that date stand for something positive," he says.

While government struggled to get organized, Mississippi Power deployed a repair force that exceeds the National Guard's presence here. The company recruited 10,000 workers from 23 states and Canada to do the repairs, while Mississippi Power's 1,250 workers handle logistics on their home turf.

The repair workers live mostly in air-conditioned tent cities set up at fairgrounds and military bases. They get two hot meals a day and work long hours installing poles and repairing substations.

The utility's efforts have been so successful that electricity is available in many of the most devastated neighborhoods, even though the homes are uninhabitable.

Hud Garrett, a foreman for Power Line Consultants of Farmington, Mo., watched his crew restore power on Royal Oak Circle in Pass Christian. The neighborhood of expensive homes was deserted. Boats were overturned, houses trashed. "I've never seen this much destruction," Garrett says. But the electricity works.

Dramatic improvements in cellphone service also have removed a sense of isolation and offset the loss of many land lines, making communication imperfect but possible. Cellular South, the state's biggest cellphone company, had all but one of its 54 towers on the coast knocked out during the hurricane. Forty are back up. They handled a record 7 million minutes of use Tuesday.

The company stationed technicians along the coast before the storm and began repairs almost immediately. One technician lost his home, dropped his wife and three kids off at a shelter and fixed a cell tower within hours of storm's end.

"I used the Internet, I called my sister in Georgia and told my boss I'd be in to work tomorrow — all on my cellphone," says Rodney Sanford, 29, a pizza delivery man living in a tent outside his home here.

As power and telephones return, the businesses opening first are the ones needed most: auto repair shops, furniture stores and lumberyards.

Twin Oaks Child Development Center is the only child care center open in Gulfport. It's in a badly damaged area, but the building survived unscathed.

"We had air conditioning and power and water. I said, 'God, there has to be a reason,' " says owner Susan Dosher, 51. She decided to open. She had nine kids Monday, 15 Tuesday, 20 Wednesday and 34 Thursday. The children's parents include doctors, nurses and military personnel involved in the recovery effort.

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Even a few non-essential businesses are open. Mississippi Music of Biloxi opened Tuesday and has had one customer: A woman picked up a trumpet she bought for a grandson, who decided he didn't want to play.

“I think we opened just to feel normal again,” says Dave Roof, 49, a band instrument repairman. “And because I'm on commission,” he adds.

The first restaurants have reopened, causing excitement akin to a celebrity sighting.

El Rancho Mexican Bar & Grill of Biloxi may have been the first restaurant to do so when it opened its doors at 11 a.m. Tuesday. “It was so busy we had to close early because we ran out of food,” says owner Enrique Vanegas, who has worked non-stop to save the business he acquired in November when he moved here from California.

The restaurant had no insurance to fix its hurricane-damaged roof, so Vanegas borrowed money from his employees and drove eight hours to Texas to pick up 100 bundles of shingles. The shingles so burdened his 1998 Ford F150 that he drove back on interstate highways at 45 mph, praying that his truck wouldn't break down.

Neither Vanegas nor his employees had ever been on a roof, but they fixed it the best they could Sunday. When Monday came, the restaurant had no food, so Vanegas drove three hours to Jackson, Miss., to buy lettuce, tomatoes, spices and other ingredients.

“The hurricane changed our lives for the better,” he says. “We appreciate what we have — our employees, our families, our kids — more than ever.”

A few fast-food restaurants opened Wednesday, causing a stir and long lines.

Elton Gary, 43, of Gulfport lost his job at a wax factory. The hurricane blew railroad cars into the building. But he is a happy man because he was near the front of the line when the KFC drive-through reopened.

“It was hot and greasy and tasted good!” he says of his six-piece chicken order. “You don't know how much you like it until you can't eat it.” Thursday, he had a lead on some ribs.

The post-hurricane moment Gary cherishes most is coming home late Tuesday and seeing his porch light on. He sat silently in the car and admired the light.

Then he went inside and turned on the air conditioning, as cold as it could go.

A City That Made An Art Of Funerals Now Just Makes Do (WSJ)

By Steven Gray And Evan Perez

The Wall Street Journal, September 9, 2005

NEW ORLEANS -- A solemn parade of uniformed officials and horses typically marks the funeral of a New Orleans police officer.

But the funeral Wednesday of Sgt. Paul Accardo fell far short of that: No horses. No parade. Not a single uniformed member of the New Orleans police department in attendance. The flooding of New Orleans meant that Sgt. Accardo, a New Orleans police spokesman who shot himself to death Saturday, was eulogized 75 miles away, in Baton Rouge. Nor did the body then proceed to the New Orleans cemetery where Sgt. Accardo wanted to be buried. Some family members and friends wore T-shirts to the funeral because their Sunday clothes were ruined in the flood.

"This isn't his city," said Cpl. Don Kelly, police spokesman in Baton Rouge.

Few cities bury their dead in the high style of New Orleans, where funerals can last a week, feature jazz bands as well as parades and draw bigger crowds than weddings do. But those traditions are, for the time being, yet another casualty of Hurricane Katrina. The same flood that ended so many lives in New Orleans shut down most of the city's institutions of death -- its funeral homes, churches and cemeteries. It also scattered the crowds that make New Orleans funerals so extraordinary.

For thousands of survivors, this loss could complicate the effort to accept the death of a loved one. "It means the end of the world to these people if they can't bury their dead in the traditional manner," says Larry Moore, general manager of the Rabenhorst Funeral Home in Baton Rouge.

Yesterday, a woman, her daughter and son-in-law held a short funeral service for the woman's husband, a 59-year-old man who died in the aftermath of the storm. Unable to reach family members displaced in the evacuation of New Orleans, the three sat alone sobbing in a small chapel at Mothe Funeral Home in suburban Harvey, as Boyd Mothe, a funeral-home official read the 23rd Psalm. Mr. Mothe, who described the service, wouldn't identify members of the family by name.

They had held the hastily arranged service to beat the local government's order that residents leave by the end of the day.

The woman had returned to Jefferson Parish on Monday, only to find her husband dead in their home, where he had stayed behind while the others headed to Houston as the storm approached. It's likely he died of asphyxiation from the exhaust of his electric generator. "She started to cry as she was telling me she didn't want to have to cremate him because of the condition of the body," says Boyd Mothe, whose family-run company runs 13 funeral homes in the region, several of which are still flooded.

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In the end cremation wasn't necessary, and the body was interred before noon at Westlawn Memorial Park and Mausoleum.

Among the biggest adherents of the New Orleans funeral tradition are those most affected by Hurricane Katrina: impoverished blacks whose burial processions often feature parades and jazz bands. Some scholars have traced these so-called jazz funerals back to Africa. Duke University professor Karla F.C. Holloway says slaves brought to America held burial processions involving call-and-response chants and musicians beating drums and tambourine-like instruments to help the dead on their way to heaven.

"The slaves in New Orleans would always accompany the dead to the burial site with rejoicing, because the rejoice was a release into a different kind of spiritual world, an ancestral world, which mixed with the Christian idea of being released into heaven," says Dr. Holloway.

In recent years, the tradition took a turn, when street gangs adopted the ritual to bury their murdered members. Then, the tradition gained a hip-hop quality. One of the biggest jazz funerals in recent years was for James "Soulja Slim" Tapp, an up-and-coming rapper who was fatally shot on his mother's front lawn. Soulja Slim's jazz funeral in 2003 sent thousands into the city's streets.

So deeply connected are music and death in New Orleans that the Web site of the Orleans Parish Coroner features the sound of its chief, Frank Minyard, playing the jazz trumpet.

But Katrina began wrecking that tradition even before making landfall. Death notices published in the days before the hurricane arrived struck tentative notes. "The service for Jennie is contingent on the current storm conditions," read the obituary for 63-year-old Jennie Marie Latino, who was scheduled to be buried on the morning Katrina hit New Orleans.

Now, the dead in New Orleans include some corpses that were already lying in funeral homes before the storm hit. Some funeral homes are under water, says Gene Walters, executive director of the Louisiana Funeral Directors Association.

Some funeral homes evacuated their dead. The Mothe chain moved about 10 bodies to the Jefferson Parish Forensics Center, a new facility with plenty of refrigeration capacity. The center is now storing nearly 200 bodies of people who failed to survive the aftermath of the storm.

Tradition in New Orleans calls for open caskets. But the bodies still lying in the flooded wreckage of New Orleans won't be viewable.

Once rescue workers turn their attention from the living to the dead, corpses will be brought to a refrigerated warehouse put up after the hurricane by federal officials outside New Orleans. But already, coroners' offices across Louisiana are filling up with the dead from New Orleans, most of them people who failed to survive the evacuation. "We had four buses pull into town with DOA's among the evacuees," says Sherry Basco of the Rapides Parish Coroner's Office, a nearly four-hour drive from New Orleans.

Several coroners' offices are fielding double their usual number of fatalities, says Randolph Williams, president of the Louisiana Coroners' Association.

Funeral directors around New Orleans are receiving calls from coroners' offices far and wide, reporting the deaths of evacuees who had wished to be buried in New Orleans. But Mr. Walters of the state funeral directors' association says those wishes are going unfulfilled because of the flooded condition of New Orleans cemeteries which are above ground. They were designed that way because the city is largely below sea level. "We're recommending that these people be entombed in holding crypts, until the dead can return to New Orleans, he says.

Holding crypts and refrigeration could preserve not only the dead but also the tradition of New Orleans funerals, but not now. And not with the sheer number of Katrina victims.

In an average year, Louisiana buries 44,000 bodies. Nobody knows how many now lie in the waters of flooded New Orleans.

Standing In The Way Of A Good Story (WP)

By Howard Kurtz

The Washington Post, September 9, 2005

When NBC anchor Brian Williams and his crew were trying to take pictures of a National Guard unit securing a Brooks Brothers shop in downtown New Orleans, a sergeant blocked the footage by ordering them to the other side of Canal Street.

"I have searched my mind for some justification for why I can't be reporting in a calm and heavily defended American city and cannot find one," Williams said yesterday. "I don't like being told when I can and cannot walk on the streets and take pictures."

But he grumbled and told his crew to stop shooting Wednesday, Williams said, because "authority in New Orleans is as good as the last person to make the rule. I didn't have time to take it up the chain."

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As rescue and recovery efforts continue in the wake of Hurricane Katrina, reporters and press analysts are growing increasingly critical of restrictions on media access. The Federal Emergency Management Agency, under heavy journalistic fire for its slow response to the disaster, has sparked new criticism by asking news organizations not to take pictures of bodies being recovered in Louisiana and Mississippi.

FEMA spokesman Mark Pfeifle said yesterday that the agency "has asked that those images not be shown," but that this is only a request. "Our main desire is to avoid unfortunate situations where a family member waiting for news of a loved one would find out about their passing from a newspaper or watching television," he said.

Some Louisiana officials, whether taking their cue from FEMA or not, are attempting to make the policy mandatory. Washington Post reporter Timothy Dwyer said he heard a sergeant from a state agency telling a camera crew allowed on a boat in a flooded area near downtown New Orleans: "If we catch you photographing one body, we're going to bring you back in and throw you off the boat."

The irony, Dwyer said, was that two bodies -- one in a black bag, the other covered by a blue quilt -- were visible on the off-ramp of Interstate 10 that the boats were using as a staging area.

Television networks have continued to show some bodies, as they have since the hurricane struck, but often covered or in body bags, so identification is not an issue.

There have been other moments of tension. At a fire near the French Quarter, Williams noted in a posting on NBC's Web site, a police officer from out of town "raised the muzzle of her weapon and aimed it at members of the media . . . obvious members of the media . . . armed only with notepads." He also noted that the National Guard is barring journalists from the city's convention center and Superdome, the very facilities that evacuees were barred from leaving last week.

"I saw many fingers on triggers," Williams said yesterday, producing such a sense of being in a foreign land that he repeatedly caught himself saying, "When I get back to the States."

Aly Colon, who teaches ethics at the Poynter Institute for Media Studies, said that while journalists should not interfere with rescue work, "at a time like this, the more opportunity the news media has to tell the story the better. People are hungry for information that helps them know as independently as possible what's going on."

Alex Jones, who runs the Shorenstein media center at Harvard, said that while news outlets should not show the deceased until relatives are notified, reports of limited access are "very disturbing":

"There's a reasonable belief that part of the wish to restrict access is rooted in image and public relations. The history of this administration has been very intensely to control the information and control the message. They did that in Iraq and during the Afghanistan war."

The Pentagon had barred photographs of flag-draped caskets returning from Iraq, but after releasing some under Freedom of Information Act requests, agreed last month to quickly release more in settling a lawsuit by University of Delaware professor and former CNN correspondent Ralph Begleiter.

"You cannot report on the disaster and give the public a realistic idea of how horrible it is if you don't see that there are bodies as well," Rebecca Daugherty of the Reporters Committee for Freedom of the Press told Editor & Publisher.

Pfeifle said FEMA has barred reporters and photographers from some rescue and patrol boats, but on a case-by-case basis. "We have had to make decisions that we don't take press along because it takes up room that could be occupied by disaster workers or someone being rescued," he said.

State and local authorities have often blocked journalists from entering shelters, although interviews with evacuees often take place outside them. Pfeifle defended the approach on privacy grounds, saying, "This is their home."

Some Urge Greater Use Of Troops In Major Disasters (WP)

By Bradley Graham

The Washington Post, September 9, 2005

The breakdown of local and state agencies that tried to respond to Hurricane Katrina has spurred fresh debate about whether disasters of such magnitude ought to be turned over to the U.S. military and other federal authorities to manage at the outset.

National plans developed after the Sept. 11, 2001, terrorist attacks rest on the notion that police, fire and other emergency groups are best positioned to serve as first responders. Federal agencies are supposed to function as backup to state and local ones, and military forces are meant to play a largely supporting role to civilian authorities.

But Katrina showed what can happen when the foundation of this organizational structure is quickly overwhelmed and disintegrates, according to government officials and independent analysts.

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"The would-be first responders at the state and local level were themselves victims in very large numbers," Defense Secretary Donald H. Rumsfeld said at a news conference this week. As a result, "we had a situation that was distinctly different than in past events of this type."

Rumsfeld and other senior administration officials this week have resisted entering a public discussion of alternative approaches, insisting that the focus for now stay on cleaning up after Katrina. President Bush and congressional leaders have promised investigations into what went wrong in the response to the hurricane's devastation.

But Rumsfeld said the government would likely address again the question of "lead responsibility" for the Defense Department in disaster response. He noted that the issue was critical not only in responding to a natural catastrophe but also to a terrorist attack, because reliance on local authorities has been the basis of emergency planning in both cases.

Some homeland defense specialists have argued since Katrina struck that national plans must be revised to provide for a bigger and faster federalized effort, particularly in large-scale disasters.

"Only the federal government can mobilize a national response to catastrophic disasters," said James Carafano of the Heritage Foundation, a conservative think tank. "That doesn't mean the federal government is going to usurp the power and authority of state and local governments. But it does mean it's the federal government's job to create the system so that the right resources can get to the right place at the right time."

There is no guarantee that a greater federal role would improve response. Both the Pentagon and the Federal Emergency Management Agency have been widely faulted for not grasping quickly enough the scope of Katrina's damage and not committing sufficient people, supplies and equipment early on.

Historically, practical as well as legal considerations have favored relying on leadership at the grass-roots level.

"The police and fire departments and local emergency-service people are, by definition, the first ones on the scene," said H.K. Park, a former defense official who worked on homeland security issues during the Clinton administration. "And they have the advantage of knowing their communities.

"There's also a legal dimension," he added, "involving states' rights versus federal rights."

Further, military forces remain constrained from a domestic law enforcement role by the 1878 Posse Comitatus Act. Though the Pentagon has committed more than 8,000 active-duty Army and Marine troops and about 10,000 sailors, it has made it clear that these forces will not perform police functions.

National Guard troops, now numbering more than 46,000, constitute a far larger share of the military presence in the disaster area. They bring two main advantages. First, they possess medical, engineering, communication and logistical skills required in relief work. Second, Guard units, when operating under the command of state governors, are not limited by Posse Comitatus.

Any move to assign greater responsibility to the Pentagon for domestic emergency management is likely to face resistance, particularly since the armed forces are already strained by the conflict in Iraq. Commanders remain sensitive to the notion of U.S. troops becoming an occupying force in their own country.

When Guard forces arrived in New Orleans late last week, Lt. Gen. Russel Honore, who is overseeing military operations in the region, ordered them to point their rifles down to reinforce the message they had come to provide assistance, not occupy the city.

Politically, too, the idea of an enhanced federal role may be a hard sell to some local and state officials if it means diminishing their authority. Louisiana Gov. Kathleen Babineaux Blanco resisted a Bush administration effort last week to exert federal control over all local police and state National Guard units.

Some experts also contend that an attempt to federalize a relief effort could backfire, resulting in less flexibility rather than more.

"You don't want to federalize the Guard," Park warned. "When Guard forces are controlled by the governor, they can engage in law enforcement duties. When federalized, they are subject to Posse Comitatus."

But Carafano and others argue that major disasters require a different approach, with only the federal government able to provide the resources and coordination necessary to manage a catastrophic event.

The problem, Carafano said, is that officials at all levels of government have appeared more inclined to focus on preparing for smaller disasters. As a result, much of the increased funding for emergency-response activities in recent years has gone toward equipment useful to local agencies, such as new fire trucks or protective fencing, that are of little value when overwhelming disasters strike.

"The money should have gone towards the things that enable local and state authorities to plug into a national system -- things like communications, emergency operations centers, training," he said. "All of these would have enabled the mayor of New Orleans to better communicate his needs."

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Who Should Call The Cavalry If Katrina Calls? (WSJ)

By Daniel Henninger

The Wall Street Journal, September 9, 2005

"When you fly over the Gulf, it looks like a WMD exploded," Assistant Secretary of Defense Paul McHale told me this week. "Katrina very nearly approached the operational requirements of a WMD event; this was the first test of the high-end capability envisioned by the strategy."

The "strategy" is a three-month-old document called "Strategy for Homeland Defense and Civil Support." It describes the Defense Department's plans to defend the U.S. from a WMD attack or deal with the rubble and mass casualties of such an attack. Traditionally DoD has always helped civil authorities contend with the ruin of natural disasters. That Katrina's massive scale mirrored a WMD attack, obliterating a city, is a coincidence. But it raises the question of whether the states, or relatively vulnerable states like Louisiana, are up to the job of being "first responders" to a WMD attack or its natural equivalent. If they are not, we need to change some laws.

The popular impression left the past week -- that the government was wholly unprepared for Katrina -- is not true. Significant U.S. military assistance was on alert throughout the week prior to Katrina's landfall. Why those highly trained and drilled assets did not move into New Orleans sooner is a question that should now sit at the center of a debate over who should have the authority -- the states or the federal government -- to be the "first mover."

According to accounts provided by several sources involved with preparations for Katrina, the Pentagon began tracking the storm when it was still just a number in the ocean on Aug. 23, some five days before landfall in Buras, La. As the storm approached, senior Pentagon officials told staff to conduct an inventory of resources available should it grow into a severe hurricane. Their template for these plans was the assistance DoD provided Florida last year for its four hurricanes.

And a week earlier than this, Defense Secretary Rumsfeld issued an executive order delegating hurricane decision authority to the head of the Northern Command, Adm. Timothy J. Keating. Four days later, as the tropical storm soon to be named Katrina gathered force, Adm. Keating acted on that order.

Before the hurricane arrived in New Orleans, Adm. Keating approved the use of the bases in Meridien, Miss., and Barksdale, La., to position emergency meals and some medical equipment; eventually the number of emergency-use bases grew to six. And before landfall, Adm. Keating sent military officers to Mississippi and Louisiana to set up traditional coordination with their counterparts from FEMA. As well, Deputy Defense Secretary Gordon England ordered the movement of ships into the Gulf.

By the Pentagon's account, it carried out these preparations without any formal Katrina-related request from FEMA or other authorities. The personnel behind the massive military effort now on display in Louisiana -- airlift evacuation, medical, supply, and the National Guard -- was on alert a week before the hurricane. According to Assistant Secretary McHale, "The U.S. military has never deployed a larger, better-resourced civil support capability so rapidly in the history of our country."

So where were they on the two days of globally televised horror? Why, for instance, didn't DoD fly all this help close to New Orleans as soon as it saw Katrina coming? The answer, in military argot, is that you don't deploy troops beneath a bombing run; Katrina predictably would have wiped out any help put in her uncertain path, just as she rolled over the Big Easy's wholly unprotected "first responders."

Then there's American history, tradition and law. Once disaster arrives, several federal laws designed to protect state sovereignty from being swept aside by a Latin-American-style national police force dictate that a state's officials, specifically the governor, is supposed to phone the federal government and describe what they need. If asked by Homeland Security, DoD will send in the cavalry. But this is one audible at the line even Don Rumsfeld doesn't get to call.

Post-mortem investigations will surely recreate, minute by minute, how Louisiana Gov. Blanco and Homeland Security Chief Chertoff idled away their time last week. But it appears now that Gov. Blanco did not make that crucial, early, legally mandated call to the President. Absent that, FOX and CNN became the call to the White House. The media message was "do something!" In fact, the president does have "do-something" authority. It's called the Insurrection Act, which is what John Kennedy used in 1963 against Gov. George Wallace, ordering the governor's own National Guard to turn against him and forcibly integrate the University of Alabama. As to the looters, who were breaking no evident federal law, the Posse Comitatus Act of 1878 explicitly forbids using the military (unless a governor uses her National Guard under "state status") in a domestic police function.

The question raised by the Katrina fiasco -- and by the Pentagon's new Homeland Defense Strategy to protect against WMD attack -- is whether the threat from madmen and nature is now sufficiently huge in its potential horror and unacceptable loss that we should modify existing jurisdictional authority to give the Pentagon functional first-responder status. Should we repeal or modify the Posse Comitatus Act so homicidal thugs have more to fear than the Keystone Kops? Should a governor be

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able to phone the Defense Secretary direct, creating a kind of "yellow-light authority" and cutting out the Homeland Security or FEMA middleman? Should presidential initiative extend beyond the Insurrection Act?

Instinct says the answer is forever no. Survival suggests we had better talk about it.

A Native Son Takes Charge In Gulf Coast (CSM)

By Patrik Jonsson

The Christian Science Monitor, September 9, 2005

CAMP SHELBY, MISS. - He's known for his searing one-liners; a relentless schedule that allows only two hours of sleep a night; and a growly, commanding presence. He's also in charge of the military's response to hurricane Katrina. If that superstorm now rivals the 9/11 terror attacks on the scale of national disasters, then First Army Lt. Gen. Russel Honoré has emerged as the Rudy Giuliani of the Gulf Coast.

A rough-talking Louisiana native, he is credited with changing the character of the relief effort from a mad scramble to an increasingly orderly and effective rescue and restoration. But General Honoré is also having to navigate a fine line between necessary leadership and the specter of federal troops using force against American citizens. So far, he appears to have succeeded.

"This is a particularly urgent situation and it looks like the military is the only thing that's functioned in this entire mess," says Michael Greve, an expert at the American Enterprise Institute, a Washington, D.C., think tank. "Once they arrived, things turned around."

In fact, a SurveyUSA poll of 1,200 Americans this week voted General Honoré as the most effective leader of the relief operation, ahead of Louisiana Gov. Kathleen Blanco, New Orleans Mayor Ray Nagin and, at the bottom of the list, Michael Brown, director of the Federal Emergency Management Agency (FEMA).

Running on a couple of hours' sleep a night, Honoré brings an unbridled passion to his job, challenging subordinates to keep up, his aides say. "The name fits: If he's not Honoré, he's ornery," says one volunteer.

"He's less a man than a force of nature," says his battle captain, Maj. John Rogers. "He knows the way and that's why he's leading. If you wonder whether God has a role in this relief effort, General Honoré is proof: He's the right man for the job."

The general himself talks of Katrina - which caused potentially thousands of fatalities, displaced an estimated 1 million people, and wrecked at least 140,000 homes - as an enemy. "It was a classic military attack," he says here at Camp Shelby, the US Northern Command forward headquarters in the Katrina effort. "He destroyed communications and moved barges across roads. He created shock and paralysis."

Currently, the Department of Homeland Security, through FEMA, is running the operation, and the Army gets its orders from DHS Secretary Michael Chertoff. But it's the Humvees, five-ton trucks, and the spirit of the leader that are changing attitudes on the ground, and are largely responsible for bringing a sliver of hope to the shell-shocked victims of Katrina - and bolstering weary relief workers. Willing to get into even the dirtiest task, the general has, by force of personality, changed the pace of the operation as he zips by helicopter from New Orleans to Biloxi, from Gulfport to the canteen of the USS Iwo Jima tied up to the New Orleans docks. His energy is infectious. "There's hope in his message," says Lt. Col. John Cornelio.

As head of the First Army, the job fell to him. Before heading up First Army, the 34-year infantryman had done everything from commanding troops in Korea to developing readiness plans for improvised explosive devices in Iraq. The fact that he's a black Cajun, one of 11 children from Lakeland, La., hasn't hurt his efforts in dealing with the large numbers of blacks along the Gulf Coast. His daughter, out of town during the storm, and extended family live in and around New Orleans.

The general has become the man everybody wants to talk to, from Ted Koppel to Defense Secretary Rumsfeld. On Thursday morning, Sen. Trent Lott managed to secure a piece of his time for a quick debrief. But his aides say Honoré isn't immune to exhaustion, and they spend much of their time protecting him. "He can snap in a minute," one aide explained.

A man of a thousand one-liners, Honoré has told soldiers to keep their guns down: "This isn't Iraq." Aides-de-camp says he knows how to cut through the thickets of famously murky Louisiana politics. At a recent staff meeting here at Camp Shelby, he growled, "We're not stuck on stupid." It became the saying of the day, written on a bulletin board.

Sometimes the comments sting, and more than one National Guardsman - especially the men who weathered the storm with the masses in the chaotic Superdome - has bristled at his commands and wondered about the source of his authority. But most soldiers - and, in turn, the vast numbers of volunteers and rescuers - seem invigorated by his drive.

"Soldiers like to see leaders who are more 'Do as I do' than 'Do as I say,' " says Staff Sgt. Sharon McBride, who is bivouacked at Camp Shelby. "During a time like this, everybody is looking for someone who has that authority."

Still, some experts say the potential for a backlash against troops can happen if the demands of the natural disaster recede and restlessness or lawlessness rise.

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The presence of an active-duty three-star general overseeing 18,000 troops inside the United States in a pocket of scattered unrest is a test of posse comitatus, or "power of the county." Congress enacted the idea after the Civil War at the behest of Southern senators to end the occupation of the South by the US Army.

"There are things that can happen that would become a real ugly picture," says Craig Trebilcock, a York, Pa., lawyer and judge advocate general in the Army Reserve. "It's a real tightrope act."

So far, Honoré has walked it, declining this week to forcibly remove the 10,000 people still in New Orleans. "That is not something for federal troops," he says. "We're doing what we can today and tomorrow to help people and save lives."

Storm Leaves Legal System A Shambles (NYT)

By Peter Applebome And Jonathan D. Glater

The New York Times, September 9, 2005

BATON ROUGE, La., Sept. 8 - At Rapides Parish Detention Center 3 in Alexandria, which normally holds convicted felons, there are now 200 new inmates who arrived hot, hungry and exhausted on buses this week after being evacuated from flooded jails in New Orleans.

They have no paperwork indicating whether they are charged with having too much to drink or attempted murder. There is no judge to hear their cases, no courthouse designated to hear them in and no lawyer to represent them. If lawyers can be found, there is no mechanism for paying them. The prisoners have had no contact with their families for days and do not know whether they are alive or dead, if their homes do or do not exist.

"It's like taking a jail and shaking it up in a fruit-basket turnover, so no one has any idea who these people are or why they're here," said Phyllis Mann, one of several local lawyers who were at the detention center until 11 p.m. Wednesday, trying to collect basic information on the inmates. "There is no system of any kind for taking care of these people at this point."

Along with the destruction of homes, neighborhoods and lives, Hurricane Katrina decimated the legal system of the New Orleans region.

More than a third of the state's lawyers have lost their offices, some for good. Most computer records will be saved. Many other records will be lost forever. Some local courthouses have been flooded, imperiling a vast universe of files, records and documents. Court proceedings from divorces to murder trials, to corporate litigation, to custody cases will be indefinitely halted and when proceedings resume lawyers will face prodigious - if not insurmountable - obstacles in finding witnesses and principals and in recovering evidence.

It is an implosion of the legal network not seen since disasters like the Chicago fire of 1871 or the San Francisco earthquake of 1906, events in times so much simpler as to be useless in making much sense of this one.

"There aren't too many catastrophes that have just wiped out entire cities," said Robert Gordon, a professor at Yale Law School who teaches legal history.

The effects on individual lawyers vary, from large firms that have already been able to find space, contact clients and resume working on cases, to individual lawyers who fear they may never be able to put their practices back together. But the storm has left even prominent lawyers wondering whether they will have anything to go back to.

William Rittenberg, former president of the Louisiana Association of Criminal Defense Lawyers and a lawyer for 35 years in New Orleans, said he had spent the time since the storm living like a gypsy with his wife and two dogs, moving from Columbus, Miss., to Houston to San Antonio. Mr. Rittenberg said that his firm's main client had been the teachers union for the New Orleans schools, but that there is no way to know when or if school will resume this year.

"I really don't know if I have a law practice anymore," he said.

Some logistical issues are being addressed as the courts scramble to find new places to set up shop. The Louisiana Supreme Court is moving its operations from New Orleans to a circuit court in Baton Rouge. The United States Court of Appeals for the Fifth Circuit is moving to Houston, and electronic technology has allowed lawyers and courts to save files and documents in a way that would have been impossible in the past.

But the biggest immediate problem is with criminal courts in southern Louisiana, with thousands of detainees awaiting hearings and trials who have been thrust into a legal limbo without courts, trials, or lawyers.

So in Alexandria, a city in central Louisiana, in a scene repeated at prisons and jails throughout the state, Ms. Mann said she and other lawyers had interviewed all 200 inmates, and the criminal defense lawyers' organization was painstakingly trying to compile a registry of prisoners and lawyers. The goal is to put them together, though many of the prisoners do not yet have lawyers and many of the lawyers are scattered across the country.

Ms. Mann said that some prisoners, no doubt, were accused of serious crimes, but that most had been arrested on misdemeanor charges like drunkenness that typically fill local lockups. Most were either awaiting hearings or had not been able to make bond and were awaiting trial, which, for many, had been set for the day the hurricane hit.

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"I talked to one guy who was arrested for reading a tarot card without a permit," she said. "These are mostly poor people. They haven't been in contact with their family. They have no word at all. A lot of them are pretty devastated. You had a lot of grown men breaking down and boohooing when you talked to them. The warden said they hadn't had food or water for two or three days. So a lot of them were just grateful to be out of the sun, in an air-conditioned place where they could find food and a shower and a mattress."

In addition to the logistical problems of setting up courts, finding a place to meet, and getting judges, lawyers and evidence, a major question looms about how to pay for the defense of indigent detainees. Louisiana has been in a low-grade crisis for years over the issue, and currently two-thirds of the money to defend those too poor to afford lawyers comes from court costs for traffic and parking offenses.

But with the evacuation of New Orleans and its environs, none of that money will be available.

Legal officials say that without a quick resolution of the problem the state may be forced to apportion cases to public defenders on a level that makes adequate representation impossible or to free prisoners rather than violate their constitutional right to a speedy trial.

More than a week after the storm, not all the news is bad. Some law firms, particularly larger ones with offices outside New Orleans, have reorganized with remarkable speed, saving records electronically, finding new space and housing for lawyers in Baton Rouge Lafayette, Houston, or other areas.

Lawyers at McGlinchey Stafford, a firm of about 200 lawyers based in New Orleans and with offices in Baton Rouge and other cities, were among the lucky ones. The lawyers, support staff and their families left New Orleans in advance of the storm as partners in its Baton Rouge office worked to find them housing and office space, said Rudy Aguilar, managing partner of the firm.

After the storm, Mr. Aguilar said, the firm put two college students whose parents worked for the firm on a plane to Chicago to buy computers for the new office space. The students rented a truck and drove the computers back to Baton Rouge for the new office, which by Labor Day was up and running, he said.

Within days, Rick Stanley of Stanley, Flanagan & Reuter, an 11-lawyer litigation firm had people working in borrowed space in offices in Baton Rouge and Lafayette and at homes in Jackson, Miss., and Amarillo, Tex. On Labor Day, Mr. Stanley signed a lease for new space in Baton Rouge on the hood of his car in a Home Depot parking lot.

"The Monday of the storm," he said, "I was in a state of shock, realizing the whole way of life we knew had passed away, and Tuesday I just said we need to get back up and running, and we did."

And some say, with the perverse logic of the law, Hurricane Katrina - months from now, when people return home - will spawn an unimaginable flood of legal issues. Beth Abramson who is organizing pro bono efforts for the state bar anticipates a torrent of legal issues having to do with ruined property, insurance, environmental issues and countless other concerns.

Michelle Ghetti, a law professor at the Southern University Law Center in Baton Rouge said some courts and lawyers moved faster than she could have imagined to shift operations and resume business. On the other hand, the legal issues posed by the storm multiply almost daily.

"Someone just mentioned child molesters," Ms. Ghetti said. "There's a registry in which people are supposed to be notified where they are. But for all we know, they're in shelters or being taken into people's homes.

"New things come up every day. I think this storm is going to produce more legal issues and complications than anyone has ever imagined."

Louisiana Legal System Is Snarled (WSJ)

By Thomas M. Burton

The Wall Street Journal, September 9, 2005

Hurricane damage has cast the Louisiana legal system into disarray, with courts and cases suspended or relocated, criminal and civil evidence imperiled or destroyed, and lawyers relocated around the U.S. desperately seeking work.

The extent of the destroyed evidence and lawsuit files remains uncertain, as several courts remain inaccessible or under water. But because of the damage, Louisiana Gov. Kathleen Babineaux Blanco this week issued an order suspending all state civil-court deadlines, such as statutes of limitations dictating when cases must be filed, at least through Sept. 25.

Many civil and criminal trial courts have suspended operations in the parishes, or counties, in the New Orleans area. The federal district court in New Orleans says it is "closed until further notice" and that it hopes to reopen in three locations -- Houma, Baton Rouge and Lafayette, La. The Louisiana Supreme Court has moved to Baton Rouge, and the U.S. Fifth Circuit Court of Appeals has shifted temporarily to Houston.

"There could be damage to the court records or filings, but we just don't know," said Robert E. Kleinpeter, president of the Louisiana Trial Lawyers Association, referring to several New Orleans-area courts.

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Michelle Ghetti, a law professor at Southern University Law Center in Baton Rouge, said that various Louisiana prosecutors met via conference call Thursday in part to discuss the extent of damage to criminal-case evidence. In an email to law colleagues, Prof. Ghetti recently wrote that courts "in as many as eight parishes/counties are under water, as well as three of our circuit courts, with evidence/files at each of them ruined."

As for criminal courts, most law-enforcement authorities have been preoccupied with maintaining the peace as much as they can, and haven't had a chance to focus on courts or evidence. The damage to records and briefs at many law firms is expected to be immense. Tom Alexander of CLC Inc., a legal-referral company, said, "There are a lot of large law firms that are not going to be able to recover their files."

Katrina Leaves Louisiana Criminal Justice System In Disarray (KRT)

By Brad Townsend And Lee Hancock, Dallas Morning News

Knight Ridder, September 9, 2005

DALLAS - (KRT) - Hurricane Katrina has turned Louisiana's legal system upside down.

The Louisiana Supreme Court building was flooded and many critical files and evidence boxes are presumably destroyed. City and district court buildings in neighboring parishes have been similarly hit.

Lawyers and judges alike are scrambling to answer previously unimaginable questions: What will happen to pending cases? What about the out-on-bail defendants, witnesses and even law-enforcement officials who are among the several hundred thousand evacuees sprinkled throughout the country, many in Texas?

Judge Patrick Higginbotham said his formerly New Orleans-based 5th Circuit Court of Appeals will be back in business in Houston by next week.

But Katrina's devastating aftermath will be "enormously disruptive" for the Gulf Coast region's state and local courts, he said.

"I don't think the tasks we face are nearly as difficult as those in the state courts in the Gulf Coast region," the Austin, Texas-based Higginbotham said.

Louisiana State University law professor John Baker said the disruption is a "lesson about what many of us take for granted, of what it takes to function every day, of what it takes to keep a society together."

Baker had just returned from a class now brimming with displaced students from New Orleans-based Tulane and Loyola universities. Everyone, he said, left the room shaking their heads.

"It's not just the evidence, it's the witnesses," he said. "Where are the witnesses? Where are the defendants? How are you going to catch them?"

The day after Katrina hit, the Louisiana Supreme Court issued an emergency order, freezing deadlines and court proceedings through at least Sept. 9. On Tuesday, Gov. Kathleen Blanco, in response to requests from the state bar and other lawyers groups, suspended all court proceedings statewide though Sept. 25.

"The destruction and disruption of services and infrastructure to our system of justice caused by Hurricane Katrina will have a profound impact on the basic rights to an untold number of persons unless action is taken," the governor's order stated.

Federal courts for the entire Southeastern region of the state issued a similar order, with no set date for reopening.

"The entire federal infrastructure has been displaced throughout the region," said one federal law enforcement supervisor, who agreed to speak on condition of anonymity. "The courts have closed down."

The FBI office in New Orleans had wind and water damage that soaked case files and other key records, federal courts were shuttered with the evacuation and all federal law enforcement operations had to move agents and operations to Baton Rouge, Shreveport and other offices across Louisiana.

Another daunting issue is trying to track people still being monitored by the criminal justice system who have been dislocated by the storm.

"Where are the bad guys?" said the federal law enforcement supervisor. "And out of these millions of evacuees, I'm sure there are a number of them who are on parole, probation or are sex offenders who are now in the great state of Texas. What do you do about that?"

Lawyers have scrambled to recreate files, find a place to work, and help clients with problems as basic as trying to determine whether their property was still standing.

On Wednesday, New Orleans lawyer Jeff Dye brought out two pirogues, boats similar to canoes, to take three doctor clients through their flooded neighborhood in the Garden District.

Dye said he stayed in the city to deal with pending legal business. Because he has a home office and his phone worked after the storm, he was able to resume his practice.

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He and others said some law firms have bought and begun shipping computers to lawyers around the country, "developing virtual offices." The state bar and other legal organizations are mobilizing volunteers to help disaster victims deal with bureaucracy and get the legal system back on track.

But Dye and others say at least one firm has had to let employees go, and another has begun downsizing its permanent staff because of income disruptions.

Still, not all of the news is dire. Higginbotham said the 5th Circuit's plan is to "reopen" next week in Houston and move to a suburb of Baton Rouge within 60-90 days.

At least one news report stated that most of 5th Circuit's files were in the New Orleans building's basement, which was flooded. But Higginbotham said it is his understanding that files were not in the basement, and that the building sustained "some seepage," but no major damage.

Outside of New Orleans, the city's dislocated lawyers began scrambling for office space wherever they had landed. Some already had offices in Baton Rouge and others quickly found space to serve as a home base for their far-flung partners.

Bob Rooth, a partner in the city's oldest firm, Chaffe McCall, said he's set up a temporary practice in a large Dallas law firm. And he's enrolled his daughter in school in Dallas and plans to stay at least through the school year.

His firm's Baton Rouge office secured space for many of the New Orleans lawyers and staff and got a caravan of cars and trucks into New Orleans earlier this week. They retrieved client files and computers from their Energy Center offices, getting through checkpoints into the city by securing passes from city officials and from clients already authorized to be in the city on emergency business.

Oil and gas litigation specialist Ralph White, who evacuated to Oxford, Miss., contacted friends in a local law firm and started working out of their law library within two days. He said he brought none of his files but was able to start reconstructing them through electronic court databases, co-counsel in other cities and opposing counsel in his civil cases.

He said other lawyers in his 55-member firm, Montgomery Barnett, are scattered across the Southeast. Though they've been unable to get back into their offices in downtown New Orleans, they've been told that their files and equipment are intact.

"I'm on top of all my files, and I'm keeping up with all my cases, but it's been challenging," he said.

Amid Barrage Of Criticism, Defending His Department (NYT)

By Jere Longman

The New York Times, September 9, 2005

NEW ORLEANS, Sept. 8 - At 4:45 on Thursday morning, P. Edwin Compass III, superintendent of the New Orleans police, awakened a slumbering reporter at City Hall and cajoled him into an early morning trip around this devastated, increasingly deserted city.

"I've been working 21 hours a day; I have a bad back, two sprained knees, two sprained ankles, 55 stitches in my hand that haven't healed from having a cyst removed, hemorrhoids and glaucoma," Mr. Compass said. "I don't want to hear any excuses."

Wearing a back brace, he walked to a military truck and grunted up the ladder with the assistance of two National Guardsmen. But a tender lumbar region - strained in a fall from a truck several days ago - did not suppress his enthusiasm.

"Just remember," Mr. Compass, 47, said to his security detail. "You're with the chief. Nobody gets hurt."

Since Hurricane Katrina flooded the city, Mr. Compass has been widely criticized for his inability to keep the peace as New Orleans sank into mayhem, and to sustain the morale of his officers, about 500 of whom abandoned the 1,700-member force in anger or despair.

In recent days, Mr. Compass, who has been superintendent since 2002, has returned the verbal fire with a raw, impassioned defense of his department. He pointed to those officers who stayed and helped restore order despite a shortage of manpower and ammunition, and volleys of gunshot from what he said were dozens of people trying to thwart rescue efforts.

"This is the time for men of honor, not those others," Mr. Compass said, referring to the officers who left.

While other cities may prefer a more buttoned-down, businesslike presence from their police chiefs, Mr. Compass exudes the casual, loquacious style of the Big Easy. He wants to be called Eddie, not Edwin, and he is as likely to bump fists when greeting people as to shake hands. On Wednesday, he vigorously wrestled to the ground a friend whom he thought had died in Hurricane Katrina's aftermath, and chided him for ignoring instructions to evacuate.

Responding to those who criticize his handling of the chaos, Mr. Compass said he believed that his officers did the best they could, considering that their communications system was inoperable and that the city's ammunition depot was left inaccessible beneath 10 feet of water.

"We faced the greatest challenge that any city has faced in the history of mankind," said Mr. Compass, a man who seems to regard understatement as a felony.

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Some police officers, speaking on the condition of anonymity, complained Wednesday that the superintendent was largely invisible immediately after the flooding began. But others said he had maintained a strong public presence, and they praised him for supporting his officers in a department whose reputation suffered severe damage from corruption scandals in the 1990's.

"That's a cop," Sgt. George Jackson said. "He stands up for his men."

The son of a postal worker and a homemaker, Mr. Compass grew up in midtown New Orleans, attended grammar school with Mayor C. Ray Nagin and high school with Charles Parent, the city's fire superintendent. Mr. Compass said that he always wanted to be a police officer, and that in the current crisis he was relying on faith for guidance and stamina.

"We couldn't have a better policeman to deal with the pressure he's had to deal with," the Rev. Charles J. Southall III, pastor of the First Emanuel Baptist Church of New Orleans, said in a telephone interview. "But I'm concerned about his health and emotional stability. There's only so much you can give without someone giving back."

Mr. Compass said that many evacuees were so angry with him as they waited days to be rescued from the convention center that a group of them tried to grab him and take him hostage, saying, "If we get the chief, we get the buses."

While he acknowledged that murders and rapes had occurred at both the convention center and the Superdome, Mr. Compass said the mayhem at the unlighted convention center would have been worse if the police had not created a plan to capture the armed thugs who were terrorizing others. Because his officers could not risk harming innocent evacuees by returning fire in the dark, he said, they watched instead for muzzle fire and moved toward it, patting people down and yelling "gun" when they felt a weapon. Then officers converged and tackled the gunman.

"That's never been done before," Mr. Compass said. "If we hadn't extracted the weapons, many more may have died."

He defended Mayor Nagin's decision this week to issue a mandatory evacuation order. If force is required, Mr. Compass said, it will be only the minimum necessary. "We are the greatest crowd-control police in the world," he said. "We deal with Mardi Gras every year."

People must leave to allow the city to be rebuilt, and to protect themselves from disease and fires, Mr. Compass said. "When your child needs a shot, you know it's going to be painful," he said. "But if you don't get the shot, they can die."

His wife, Arlene, and children have left New Orleans, and so have 600 of the city's remaining 1,200 officers, for a few days of rest and relaxation in Las Vegas and Atlanta. Another shift will leave when the first returns. Mayor Nagin has also sought a little time off, but Mr. Compass said that he was going nowhere for the moment.

"My feet were the first ones on the battlefield," he said, "and they will be the last to leave the battlefield."

Hundreds Of Police Officers Missing In New Orleans (LAT)

By Julie Cart, Edwin Chen And Scott Gold

The Los Angeles Times, September 9, 2005

NEW ORLEANS — Hundreds of police officers are missing and many may be dead from Hurricane Katrina, according to a top police official, who in an interview today also said that the population of the city may sharply drop because of the storm.

Deputy Police Supt. Warren Riley said about 700 of the city's 1,600-officer force was told to stay home until the storm passed so that they would be available to be deployed wherever they were needed.

Between 400 and 500 officers remain unaccounted for and many are feared dead, though some are believed to have walked away from the job, he said.

Riley said that survivors would have likely called the department to say that they are alive or to explain their absence. He declined to speculate about how many officers may have perished: "One is too many."

"We don't know how many officers are dead," he said. "We don't know how many officers drowned. That's a fear of ours."

Riley spoke as the city continued its evacuation by trying to persuade the thousands of residents who refuse to leave their homes that the city is too dangerous for them to remain. If the stragglers insist on staying, they will be forcibly evacuated, officials said.

Vice President Dick Cheney landed this afternoon in New Orleans as part of his tour of the Gulf Coast, devastated when Katrina hit in the predawn hours of Aug. 29.

President Bush, whose popularity has been falling because of questions about the federal relief effort, briefly addressed the nation today and proclaimed Sept. 16 as a national day of prayer for the victims of Katrina.

Bush appeared on television flanked by four of his Cabinet officers, hours after Democrats in Washington stepped up their attacks on the quality of the federal response and again called for an independent commission to investigate.

No one had been forcibly removed from their homes as of noon today, Police Superintendent Eddie Compass said. Many have resisted calls to leave, but "some people just want to have someone explain to them face to face why they have to leave."

He said that officers will soon begin entering houses and removing people who won't leave. He recognized that there could be considerable tension once that starts, but he pledged to do what he could to ease any difficulties.

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"We're going to be respectful," he said. "We understand it is a dramatic experience and we're going to handle it that way. We are very sensitive to the needs of our community. We are not going to be tough. We are going to be sensitive."

Officials have been emptying the city, which remains substantially flooded by waters that poured through three broken levees after Katrina landed upon the coast. In the more than 10 days since the storm began its march through the gulf, the floodwaters have become infected with large amounts of bacteria.

Hundreds of thousands of evacuees have been moved to shelters across the country, with an estimated 250,000 in Texas alone. New Orleans had a population of about 500,000, but that could decrease to 350,000 when people are allowed to return, Riley said.

There have already been reports of hundreds, perhaps thousands, of people leaving out-of-state shelters, such as the Houston Astrodome, in an attempt to start new lives there.

While that could have devastating consequences for a tax base that was strained before the storm, Riley sought to find some solace.

"Some people will probably go places and live better lives," he said. "New Orleans with a smaller population may be a better city. You take away the tragic loss of life here and maybe there is a silver lining."

Fire Superintendent Charles Parent said today that three multistory buildings on the flooded campus of Dillard University, an African American college founded in 1869, were destroyed in an overnight fire.

Parent said the campus is small and he feared that the damage to the school would be substantial and lasting. But he said that because of deep-standing water, firefighters were only able to fight the blaze with helicopters and have not been able to access the site.

The buildings were destroyed in one of 11 major fires the city fought overnight, with the assistance of hundreds of firefighters who have come from other states.

In a message posted to students on its website, Dillard called itself an "institution with a rich, proud and triumphant history."

"Our beginnings are rooted in struggle and a committed determination to overcome social, political and environmental obstacles," the statement said.

"Today, we face a formidable challenge; however, we are equally resolute in our ability to recall our collective strength. We resolve to recommit to our future with full expectation that our beloved Dillard will remain one of the nation's premier institutions of higher learning."

Dillard's campus sits amid the deep flooding in the heart of the city, north of downtown and west of the Gentilly area.

Cheney visited the aircraft carrier Iwo Jima, docked in the Mississippi River. He met with Coast Guard Vice Adm. Thad Allen, just appointed as deputy to beleaguered FEMA Director Michael Brown. Cheney viewed maps and large aerial photographs of the destruction area.

"As you can see, the water is starting to recede," Allen told Cheney.

Allen said the next step is a door-to-door search of residences as evacuation of the city proceeds.

Afterward, Cheney took a ride in a Humvee to look at repairs to the levee.

Before his arrival in New Orleans, Cheney visited Gulfport, Miss. He and Atty. Gen. Alberto Gonzales were briefed by Homeland Security Director Michael Chertoff.

After meeting with local officials, Cheney and his wife, Lynne, walked through a devastated neighborhood. He praised the first responders and pledged that the federal government would do more.

"I think the progress we're making is significant," Cheney said. "I think the performance, in general, at least in terms of the information I've received from locals, is definitely very impressive.

"That's not to say there's not an awful lot of work to be done — there is."

As Cheney toured the region, the political fallout from what has turned into the nation's worst natural disaster continued.

Democrats sharply attacked Republican plans for a congressional task force to examine the federal response and called for an independent commission. The panel was proposed Wednesday by House Speaker Dennis Hastert (R-Ill.) and Senate Majority Leader Bill Frist (R-Tenn.).

House Minority Leader Nancy Pelosi (D-San Francisco) said today that she wouldn't appoint any Democrats to a panel that she called a "charade."

"I'm protesting the fact that it's not bipartisan. And we've got to work together to get this done. So let's not have a charade about what they decide is bipartisan. That's not what bipartisanship is," she said.

Pelosi and others have also said that Bush should fire Brown, but Cheney defended appointees like the FEMA director.

Cheney also backed the Republican leaders' task force, saying it was similar to the Iran-Contra committee on which he served as a congressman in the 1980s.

Criticism of the federal response has also taken a toll on Bush's poll ratings.

A survey by the Pew Research Center for the People and the Press found that 67% of those sampled thought Bush could have done more to speed up relief efforts, and 28% thought he had done all he could. His job approval rating dropped to 40%, with the greatest slippage occurring among Republicans and conservatives, the base of his support.

Bush took to the airwaves to explain how to apply for the previously announced program to give $2,000 in disaster assistance to families displaced by the storm. He also said the administration would continue federal benefits such as food stamps, Medicaid and unemployment payments.

He proclaimed Sept. 16 a national day of prayer for victims of Katrina.

"I ask that we pray, as Americans have always prayed in times of trial, with confidence in His purpose, with hope for a brighter future, and with the humility to ask God to keep us strong, so that we can better serve our brothers and sisters in need," the president said.

Earlier this week, New Orleans Mayor C. Ray Nagin authorized officials to forcibly remove the remaining residents, even if they didn't want to go, because the city is dangerous.

The order applies to the inundated eastern wards and the lightly damaged French Quarter and Garden District. It exempts Algiers and other communities south of the Mississippi River, known as the West Bank, which were largely spared from flooding. The mayor has said that standing water still covers 60% of New Orleans, down from 80% at its peak.

According to Walter Boasso, a Republican state senator whose district includes the flooded St. Bernard Parish, sheriff deputies and other local officials began forcibly removing residents on Wednesday.

He said today that in at least one case a reluctant evacuee had to be restrained and tied to the bed of a pickup truck.

Louisiana Gov. Kathleen Blanco has not ordered forced evacuations.

National Guard Maj. Gen. Ron Mason said today in Baton Rouge that if the order is given to forcibly remove the estimated 10,000 residents who remain in New Orleans, that task would fall to the New Orleans Police Department.

"I don't believe that you will see National Guard soldiers actually forcing people to leave," Mason said. "We think that is a police effort."

Mason said 7,000 National Guard troops in New Orleans are going house to house to assist willing evacuees. Should a forced evacuation be ordered, he said, Guard troops will drive vehicles and support the police.

"In every situation where we send National Guard soldiers, we have rules for use of force," he said. "That means these soldiers are allowed to protect themselves. That's the purpose of the weapons. The purpose of the weapons is not to be used against American citizens and force them from their homes."

Complicating the situation is that the floodwaters in New Orleans are teeming with bacteria, carrying the potential for a variety of diseases.

At least four flood victims have died of bacterial infections caused by the water in New Orleans and other hard-hit towns. They appeared to have been infected with vibrio vulnificus bacteria, a water-borne pathogen related to the bacteria that cause cholera.

The Louisiana Department of Health and Hospitals announced today that 19 cases of West Nile disease had been detected.

As health authorities joined New Orleans and Louisiana officials in urging the city's estimated 10,000 holdouts to leave their homes, the House passed the Bush administration's latest request for another $51.8 billion in funding to speed help to victims of Hurricane Katrina. The Senate is expected to act soon.

Congress has already approved $10.8 billion in aid.

Ripples from the flooding, which has left as many as 1 million people homeless and untold numbers dead, continued to shake the nation's economy. The federal Labor Department said today that about 10,000 of the evacuees have filed for unemployment benefits last week.

On Wednesday, the Congressional Budget Office predicted that 400,000 jobs would be lost through the end of the year, with privately insured losses topping $30 billion.

The official death count stood at 196 bodies in the state of Mississippi and more than a dozen in other states where Katrina hit.

Juliette Saussy, director of emergency medical services in New Orleans, said today that hundreds of bodies have been removed from the city, and officials are expecting the death toll to climb.

With the increased security has come an increase in arrests. David Dugas, U.S. attorney for the middle district of Louisiana, said 223 prisoners have been processed, most coming from Jefferson Parish. They are being screened at Hunt Correctional Institute in St. Gabriel, southwest of New Orleans.

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As officials struggle with how to deal with the evacuees, school officials in Orleans Parish were unsure whether any schools will open this year. Schools in Jefferson Parish are expected to open in January. In hard-hit St. Bernard Parish and Plaquemines Parish, no dates have been set for school to begin.

Gasoline tankers have become a more regular sight along the Mississippi Gulf Coast, causing lines for fuel to begin to ease. Lines that just a few days ago had stretched for several miles were cut in half. Residents outside the hardest-hit coastal towns spoke about being able to drive up to a gas station with no wait.

But as gas became easier to get and more residents who had fled the hurricane began to return, traffic on main roads throughout the Mississippi Gulf, particularly Interstate 10, has become extremely heavy.

Meanwhile, construction crews are busy repairing roads, so law enforcement officers are directing drivers through a series of detours, exacerbating the traffic snarls. There are even morning and evening rush hours — another sign of normalcy.

Utility trucks, military vehicles and law enforcement from around the state are also clogging the roads, making commutes sometimes unbearably long.

US Watching Katrina-related Fraud (AFP)

Agence France-Presse, September 9, 2005

With billions of dollars pouring in to help victims of Hurricane Katrina, the US government has established a task force to hunt down fraud, White House spokesman Scott McClellan announced.

"Unfortunately, there are some who are intent on setting up fraudulent schemes to take advantage of the victims and the people who are trying to help those who have been affected," he told reporters.

"These are despicable acts that will not be tolerated. Those who take advantage of the situation will be pursued and will be prosecuted," said McClellan.

Attorney General Alberto Gonzales has created the Hurricane Katrina Task Force on Fraud "to deter, investigate and prosecute disaster-related federal crimes including fraudulent charities, insurance fraud, identity theft and government benefit fraud," said the spokesman.

The national task force includes officials with the Justice Department's criminal division and the Federal Bureau of Investigation, he said.

Katrina Victims At Risk For ID Theft, Experts Say (REU)

By Andy Sullivan

Reuters, September 8, 2005

WASHINGTON (Reuters) - Birth certificates and other sensitive documents left among the waterlogged debris of Hurricane Katrina could put the storm's victims at heightened risk for identity theft, experts said on Thursday.

U.S. officials and consumer advocates said they had not yet heard of any cases of identity theft related to the disaster because the crime usually takes months to unfold.

But consumers should keep a close eye on their bank statements and order a copy of their credit reports once they get their lives back together to make sure they are not being victimized, they said.

"We tell people not to be alarmed but to be cautious," said Betsy Broder, an assistant director in the Federal Trade Commission's Bureau of Consumer Protection.

Those who wish to contribute to relief efforts are at risk as well. Internet-security company Websense said on Sunday that it had found a "phishing" e-mail campaign that seeks to trick Internet users into providing their credit-card numbers to a Web site that looks like one run by the Red Cross.

In order to avoid such scams, donors should type the address of charitable Web sites directly into their browsers, rather than clicking on a link in the e-mail, experts said.

The FBI is investigating at least a dozen suspicious Web sites and e-mail messages for fraud, spokesman Paul Bresson said.

Similar scams emerged after the tsunami that devastated large portions of coastal Asia and Africa in December but "this is far worse," he said.

The Justice Department said on Thursday that it has set up a task force to investigate identity theft and other types of fraud related to the Katrina.

Identity theft costs U.S. consumers and businesses $50 billion annually, according to FTC estimates.

A string of computer breaches at businesses and universities has focused attention on the issue this year but those who have been uprooted by Hurricane Katrina also face risk from looters and "dumpster divers" -- those who sift through garbage looking for valuable personal information to steal -- as well.

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Ruined homes and businesses are likely to contain mortgage records, Social Security cards and other documents that criminals can use to hijack an identity, said Linda Foley, co-executive director of the Identity Theft Resource Center.

"A crisis brings out the best of people and the worst of people. Unfortunately, in criminals it brings out their best skills," she said.

Thieves also could intercept drivers' licenses and birth certificates when they are mailed to storm victims trying to get their lives back together, said Beth Givens, director of the Privacy Rights Clearinghouse.

"I suspect that many of the shelters are temporary facilities and do the people running them have the ability to operate a secure post office?" she said.

Mail bound for the affected areas is currently held in secure sorting facilities and will be forwarded to residents once they fill out a change-of-address form, U.S. Postal Service spokesman Bob Anderson said.

U.S. Names 5 Firms To Build Housing (WSJ)

By Yochi J. Dreazen

The Wall Street Journal, September 9, 2005

WASHINGTON -- Accelerating efforts to rebuild the storm-ravaged Gulf of Mexico region, the Bush administration hired five private contractors -- including some active in rebuilding Iraq -- and took the controversial step of suspending Depression-era wage floors throughout the area.

The Federal Emergency Management Agency announced yesterday that it was awarding contracts to Bechtel National Inc. of San Francisco and Fluor Corp. of Aliso Veijo, Calif., both of which are involved in Iraq. The other companies awarded FEMA work are Shaw Group of Baton Rouge, La., Denver-based CH2M Hill, which is providing housing in Alabama, and Dewberry Technologies of Fairfax, Va., which is providing planning and reporting tools to help guide the efforts.

Later in the day, the White House said it was suspending in the disaster area so-called Davis-Bacon rules requiring prevailing wages be paid to workers on federal contracts. Republicans praised the executive order temporarily waiving the rules, which they said would fuel job growth in the hurricane region, but Democrats and their organized-labor allies accused the White House of exploiting the tragedy to accomplish a conservative goal.

The five contracts awarded yesterday are the first in the wake of Hurricane Katrina, in what is expected to be the largest and most lucrative government-funded rebuilding effort ever launched in the U.S.

Halliburton Corp.'s Kellogg, Brown & Root unit is already doing repair work at three Navy facilities in Mississippi as part of an existing contract.

Shaw Group and Kellogg, Brown & Root are clients of former FEMA director Joe Allbaugh, who has a private consulting firm in disaster relief. He resigned from FEMA in March 2003. Shaw's deal to refurbish damaged buildings and provide emergency housing could be worth as much as $100 million, the company said.

The enormous amounts of federal money beginning to pour into hard-hit areas across the Southeastern U.S. are beginning to set off a gold rush reminiscent of corporate America's efforts to profit from the reconstruction of Iraq, and many companies winning Katrina-related contracts also have multibillion-dollar contracts there. White House and congressional officials are working to finalize a new $51.8 billion aid package that would push the total amount of federal money dedicated to relief efforts to more than $62 billion.

Patti Giglio, a spokeswoman for Mr. Allbaugh, said the former FEMA director helps companies like Shaw with strategic planning but doesn't lobby FEMA or other government agencies on their behalf. She said he is traveling the region to marshal private-sector resources to support hurricane victims, not to seek work for clients. "He's down there because he feels he can help," she said. "He doesn't lobby FEMA, and he's never called FEMA."

Shaw Group's Web site encouraged would-be employees to apply for work online. "Hurricane Recovery Projects -- Apply Here!" it said, adding, "Subcontractors and craftsmen, please click here to apply for available positions."

Executives at the companies that won FEMA contracts said they had begun working on new housing for many of the hundreds of thousands of Americans displaced by the hurricane.

Officials at Bechtel and Fluor said their contracts, like Shaw's, were valued at as much as $100 million. The other two companies couldn't be reached for comment, and a FEMA spokesman didn't return calls about the value of those deals.

Fluor spokesman Lee Tashjian said the contract calls for identifying and leasing large plots of land in Louisiana that could house settlements of temporary housing, transporting trailers and prefab homes to the sites, and connecting the homes to electricity, water and sewage systems. Fluor began transporting the first 20 homes of an initial consignment of 400 units from Baton Rouge to hard-hit Slidell, La., yesterday afternoon, he said.

The government also hired Fluor to handle operations for the new Housing Area Command that is charged with overseeing public- and private-sector emergency housing issues. The organization includes FEMA, the Department of Housing and Urban

Development, the Army Corps of Engineers, the American Red Cross and the private contractors. Its primary goal is to quickly find temporary housing for Katrina refugees, but FEMA said the Housing Area Command will also develop plans for longer-term housing initiatives.

The White House wage order, meanwhile, added fuel to the partisan tensions already raging since the storm hit. At issue are prevailing-wage requirements put into law as part of the Davis-Bacon Act of 1931, one of organized labor's biggest legislative victories.

Republicans have long hated the bill, which they say impedes the free flow of labor and adds unnecessary expense to federal projects. Shortly before leaving office in 1992, President Bush's father issued an executive order exempting hurricane-damaged parts of Florida, Louisiana and Hawaii from the Davis-Bacon regulations, a move rescinded by President Clinton. President Bush's move yesterday marked the first time his administration has suspended the rules, and was hailed by many Republican lawmakers. In a statement, Rep. Marilyn Musgrave (R., Colo.) said it would save "vital time and money in reconstruction efforts."

Democrats and union leaders attacked the move, with AFL-CIO President John J. Sweeney saying it was "unbelievable and outrageous that the White House would lift the time-tested standard for ensuring quality work and decent living standards for taxpayer-financed reconstruction."

Bush Suspends Pay Act In Areas Hit By Storm (WP)

By Thomas B. Edsall

The Washington Post, September 9, 2005

President Bush yesterday suspended application of the federal law governing workers' pay on federal contracts in the Hurricane Katrina-damaged areas of Alabama, Florida, Louisiana, and Mississippi. The action infuriated labor leaders and their Democratic supporters in Congress, who said it will lower wages and make it harder for union contractors to win bids.

The Davis-Bacon Act, passed in 1931 during the Great Depression, sets a minimum pay scale for workers on federal contracts by requiring contractors to pay the prevailing or average pay in the region. Suspension of the act will allow contractors to pay lower wages. Many Republicans have opposed Davis-Bacon, charging that it amounts to a taxpayer subsidy to unions.

In a letter to Congress, Bush said he has the power to suspend the law because of the national emergency caused by the hurricane: "I have found that the conditions caused by Hurricane Katrina constitute a 'national emergency.' "

Bush wrote that his decision is justified because Davis-Bacon increases construction costs, and suspension "will result in greater assistance to these devastated communities and will permit the employment of thousands of additional individuals."

AFL-CIO President John J. Sweeney denounced the Bush announcement as "outrageous."

"Employers are all too eager to exploit workers," he said. "This is no time to make that easier. What a double tragedy it would be to allow the destruction of Hurricane Katrina to depress living standards even further."

Rep. George Miller (D-Calif.), the ranking Democrat on the House Committee on Education and the Workforce, accused Bush of "using the devastation of Hurricane Katrina to cut the wages of people desperately trying to rebuild their lives and their communities."

Miller said: "In New Orleans, where a quarter of the city was poor, the prevailing wage for construction labor is about $9 per hour, according to the Department of Labor. In effect, President Bush is saying that people should be paid less than $9 an hour to rebuild their communities."

A Surgeon Caught Up In The Flooding Tells Of A Week Of Chaos, Peril And Heroism (NYT)

By Donald G. Mcneil Jr.

The New York Times, September 9, 2005

As Hurricane Katrina wailed out of the Gulf of Mexico, Dr. Norman E. McSwain Jr., chief of trauma surgery at the New Orleans hospital known as Big Charity, relished watching what he called "water blowing sideways in big slats, like Venetian blinds," from inside his office at the adjacent Tulane University School of Medicine.

"Frankly, all my life I'd wanted to be in a hurricane," Dr. McSwain recalled in an interview. "It just goes to show how you shouldn't hope to get what you wish for."

After the storm had passed, he had time to drive over to his house on Bourbon Street and was glad to find it intact. The emergency room at Charity, a huge hospital founded for the poor in 1736, was quiet. Young surgeons joked that they would soon be busy sewing up people who had bought chain saws to clear their yards.

But within days, Dr. McSwain would become one of the hurricane's reluctant celebrities. As Charity Hospital withered around him - low on electricity, water and oxygen; its food supplies down to canned fruit cocktail; surrounded by thugs firing at

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rescue boats - he finally despaired of official channels and cried out to the news media: "We have been trying to call the mayor's office. We have been trying to call the governor's office. We are turning to you. Please help us."

The 68-year-old surgeon's last nights at his post would be spent sleeping in a red garbage bag, of the kind normally used to hold infectious waste, on the roof of Tulane University Hospital's parking garage, his head cradled on a pile of diapers, hiding with his staff from marauders below as security guards and a lone Marine sniper stood sentry.

What Dr. McSwain described, in telephone interviews from Nashville, where he was helping set up a center for evacuees from New Orleans, was a slow descent into chaos. The more desperate the situation became, he said, the harder it was to reach anyone in authority.

Despite the historical threat of flooding in New Orleans, he said, there was never a plan to evacuate Charity, the nation's oldest continuously operated hospital.

Nor at first did he expect one.

"Medical people don't evacuate," he said. "They stay and take care of people who weren't smart enough to leave."

In addition, he said, minor flooding in New Orleans is common.

"I've waded through waist-deep water several times," he said. "It's no big deal. The pumps take it out. People who live in low-lying areas have to put new carpet down every few years, but they get used to it."

By Tuesday of last week, however, even with the floodwaters eight feet deep, the hospital's generators running out of diesel and shots ringing out in darkened streets, it became clear that no plan was being formed.

"Nobody was in charge," he said. "I guarantee you that. I'd call the governor's office, and either they didn't answer the telephone or I'd talk to lower functionaries, and they'd say: 'The governor's too busy to talk. We'll relay the message.' "

Making matters worse, he said, someone from the state health department announced that Charity had already been emptied, when in fact 250 patients and 1,000 staff members were inside.

He was finally able to appeal to HCA, the company that runs Tulane University Hospital, across the street. HCA had hired 20 medical evacuation helicopters, which were landing on the Tulane hospital's parking garage.

"They said, 'We're not going to leave you down there,' " Dr. McSwain said of company executives. "I have nothing but praise for them."

For the next three days, beginning with the 12th-floor intensive care unit, the staff carried Charity patients down the stairs to flat-bottomed boats steered by state fish and wildlife agents. The boats were met at the Tulane garage, 150 yards away, by a truck, running on gas siphoned from parked cars, that took the patients to the garage's seventh-floor roof to be picked up by the helicopters.

"One cardiac patient was on a pump that weighed 500 pounds and had two feet of tubing," Dr. McSwain said. "We had to carry him down five flights without separating them by two feet. In the dark."

But at one point Tulane University Hospital ran out of oxygen, he said, so Charity was told not to send additional patients there until more of it could be flown in. Oily water sloshed along corridors. Confused patients languished in hallways.

The danger kept increasing, he said. A fish and wildlife sergeant stopped the boat-to-truck shuttle, calling back boats with babies aboard, after one of his men had been shot by a would-be hijacker. At a hotel across the street filled with refugees, "drug lords took command and made people buy their way in and out," Dr. McSwain said, adding that "one of our personnel who had family there was shot at twice."

Phones stopped working. The only news from outside came from battery-powered radios. A staff member whose BlackBerry still had a signal sent out appeals for the National Guard.

On Wednesday night, two days after the hurricane swept ashore, "a helicopter came in, and this lone guy dropped out with an M-16 and said he was a Marine sniper and he'd been sent to protect Charity," Dr. McSwain recalled.

"It was really comforting to have a guy like that who was trained and had been in Iraq three times and would shoot somebody if he had to," the doctor said. "It made us feel good."

The marine stayed on Charity's roof for 12 hours, then moved to the Tulane garage parapet as the hospitals emptied and the staff retreated to the top two floors of the parking structure, barricading its stairs and ramps against looters roaming the five lower floors. Neither the marine nor the 38 hospital guards keeping watch in shifts shot anyone, "as far as I know," Dr. McSwain said.

By Thursday morning, he said, he had reached a friend with press contacts who got him in touch with reporters for The Associated Press and USA Today, to whom he made his plea for help.

The next day, with some of Charity's staff and patients remaining, he got on the last helicopter carrying out members of Tulane's staff, having decided that he could do more good by raising the alarm on the outside. By that evening, the military was rolling through the streets, and the last of the patients were out.

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His house may have been looted, he said, but he is too busy to go see, recruiting paramedics for evacuee centers and trying to find new hospitals for his residents.

"I'm not interested in repeating those five days," he said. "But there were good parts and bad parts."

Even making do with his makeshift bed on the garage roof had its moments, he said, as when he saw the Milky Way above a lightless city.

"It was all awesome," Dr. McSwain said. "Awesome fantastic, awesome sad, awesome beautiful. When I was flying over Lake Pontchartrain in that helicopter, I got teary. 'My life has changed,' I thought. 'It'll never be the same.' "

HUD, VA Offer Homes For Some Katrina Victims (USAT)

By Wendy Koch

USA Today, September 9, 2005

The U.S. government is making some, but not all, of the thousands of homes it owns in Southern states available to displaced victims of Hurricane Katrina.

The Department of Housing and Urban Development has taken all its homes in stricken states off the market to consider which ones can house evacuees. It has identified 1,380 homes in seven states as livable and plans to move people into them, spokesman Lemar Wooley says.

But the Department of Veterans Affairs continues to sell its homes. In some cases, wealthier Katrina evacuees are buying them.

“If there's a need for additional housing, VA houses will be taken off the market immediately. We are ready to move,” says VA spokesman Scott Hogenson. He says the VA is coordinating its efforts with HUD and the Federal Emergency Management Agency.

The VA owns about 5,000 homes nationwide, 2,000 of which are in Southern states most affected by Katrina. It acquires them after veterans default on VA-backed loans and banks foreclose the properties. The VA then pays off the mortgages and takes ownership.

Hogenson says the VA is assessing the livability of its homes.

Real estate agents say Katrina destroyed some homes while others were in need of repair even before the storm. Still, they say, many VA properties are habitable.

In Baton Rouge, agent Toby Babich has five VA listings, all sought after by Katrina evacuees.

“The real estate market is amazing here at this point,” he says. He has at least three contracts for one four-bedroom VA home listed at $129,900. “We're selling them to people who need homes.”

Agents in other areas say they've received calls, though fewer, from people displaced by Katrina. “People who have the means are buying homes,” says agent Laura Lei Bodin. She has a VA listing in Bogalusa, La., which was hit hard by Katrina. She says many people want rentals, but those are not as readily available in some areas.

Hamed Rauf, a Houston agent, says he's been approached by Katrina survivors, but his two VA properties need repairs. He says the U.S. government can use the money raised from selling its homes to help less-fortunate evacuees.

“There are two sides to this,” he says. “The government will be paying one way or the other.”

Yet Bob Watkins, an agent in Birmingham, Ala., says the VA homes could help needy evacuees. He has two listings in great shape, one for about $140,000 and another for about $200,000.

Watkins, who also sells about 150 HUD homes each year, says most of the HUD listings he receives are not immediately livable. “You can't put a poor person in a house needing repairs.”

HUD says it owns, through loan foreclosures, 2,562 homes in Alabama, Florida, Louisiana, Mississippi and Texas. Wooley, the agency's spokesman, says FEMA has yet to identify which families will move in to those considered habitable.

Airlift Of Evacuees To Northeast Is Under Way (NYT)

By Alison Leigh Cowan

The New York Times, September 9, 2005

Victims seeking refuge in the aftermath of Hurricane Katrina were airlifted to the Northeast yesterday, arriving at Cape Cod, where they will be temporarily housed in a rejuvenated barracks at the Otis Air National Guard Base.

The trickle of arrivals - 107 people moved out of homes or plucked off rooftops and off highways in recent days, and flown to Massachusetts by the Federal Emergency Management Agency - marked the first official evacuation to New England of victims of Hurricane Katrina.

But thousands of beds in shelters, barracks and apartments have been prepared by state and local governments in the region, awaiting an influx of families from the South that has been slow to come.

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Connecticut has offered to make room for 1,500 evacuees, 400 of whom would probably be expected to go to New Haven. On Monday, that city's mayor offered to take in 100 families and moved quickly to transform a cavernous $25 million athletic site from an indoor track into a welcome center, complete with cots and fresh bedding. He also offered those newcomers first priority for vacant public housing apartments.

New York State has offered to accept 5,000 evacuees, a fifth of whom could end up in New York City. Nassau, Suffolk, Westchester, Onondaga, Monroe and Erie counties have each offered to accept 150 people, state and county officials said. Rhode Island promised to house 500 evacuees at a Navy base, and Massachusetts made room for 2,500 people at the National Guard base on Cape Cod.

By midafternoon yesterday, the first inbound plane containing 107 people, including at least two infants and six dogs, touched down in the region, according to Julie Teer, a spokeswoman for Gov. Mitt Romney of Massachusetts. Ms. Teer said her office understood that the passengers had arrived directly from New Orleans, where they were recently rescued or forced to evacuate homes.

Until now, the Northeast had seen only a small number of evacuees, mostly stragglers who had managed to make their way up North on their own, in most cases seeking relatives or friends.

Though state officials had announced and made extensive efforts to accommodate thousands more, Federal Emergency Management Agency officials warned state officials on Tuesday that the beds were not likely to fill up soon.

An e-mail message sent by FEMA to the office of Connecticut's governor, M. Jodi Rell, said those hurricane victims who had already taken refuge in Texas were unwilling to be relocated far from the region "as they resolve issues concerning the status of property, employment, and the safety of loved ones."

Indeed, at the Houston Astrodome, many displaced residents of Louisiana and Mississippi said they preferred to stay where they were, some merely because they dreaded the thought of moving again.

"We've been in three shelters in eight days," said Rickey Johnson, who with his wife, Tracy, was moved to the Astrodome from New Orleans. "I can't even begin to say how I feel about moving."

By Thursday, FEMA officials appeared to have developed a system for ferrying new survivors, rescued in coming days, to states willing to take them, according to an e-mail message from agency officials in Washington. The message said that evacuees would be taken first to Michigan, Iowa and Rhode Island on Friday. Different states are listed to receive evacuees on different days through next Wednesday, according to the message.

New York, Connecticut, Maine, Vermont and New Hampshire are not listed in the message to receive evacuees, as of now.

FEMA officials did not return phone calls seeking comment or a response to criticism that agency was inefficient in evacuating people to places waiting for them. In one case it flew a group to Charleston, W.Va., instead of Charleston, S.C., which was expecting the plane.

New Haven's mayor, John DeStefano Jr., waiting on Wednesday for evacuees to fill the cavernous field house he had set up for an influx of arrivals, joked that the people meant for his city had probably wound up in the New Haven in Indiana, or any of the several other New Havens in the United States.

By Thursday, only a smattering of individuals had found their way to New Haven - mostly on their own.

Shelters Grow Empty As Apartments Open Up (NYT)

By Simon Romero

The New York Times, September 9, 2005

HOUSTON, Sept. 7 - In a stunning turnaround for some of the most besieged victims of Hurricane Katrina, the Astrodome population dwindled to about 3,000 on Wednesday from an estimated 15,000 over the weekend, with many people seizing on local job opportunities and inexpensive housing.

Because of a building boom over the last few years, there is a glut of affordable housing in Houston and its metropolitan area, which includes about 4.5 million people. Hotels are also offering a 14-day stay at no charge to storm victims, with reimbursements to come from the Federal Emergency Management Agency. Add the outpouring of offers of shelter across the country and an acknowledgment by the government that the original estimates may have been high, and it appears that the Astrodome might be empty soon.

Frank E. Gutierrez, the emergency management coordinator for Harris County, which covers Houston, said that Joe Leonard, the area commander for the Department of Homeland Security, had made it a goal to clear the shelter complex by Sept. 18. "Everyone was asking him, 'What if we don't make it?' " Mr. Gutierrez said, "And he said, 'Then I'll need to work harder.' "

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Even though many of those in the Astrodome seem to be bracing for a long stay - and the dome is gaining the trappings of normal life, with its own post office, Internet cafe and medical center - it looks increasingly like a temporary society.

And many of the evacuees are opting to stay in Houston or nearby towns. Evacuees in the dome rejected an offer this week from FEMA to transfer 4,000 people to cruise ships in the harbor of Galveston.

"I'm taking my chances in Houston, where we've already been able to accomplish a few things," said Linda Jeffers, 55, who is on the Survivors Leadership Group, an organization of evacuees living in the Astrodome. The group persuaded the American Red Cross this week to create a play area for children and asked officials to lobby communications companies not to turn off evacuees' cellphones.

Mayor Bill White of Houston and Judge Robert Eckels of Harris County, who are leading the operations in Houston, announced that "over 150,000 people have come to our community seeking the basic necessities of life" and that they had established the Houston Katrina Relief Fund, with business leaders on the board to raise money. Asked if he had a goal in mind, Mayor White said: "Yes. As much as we can."

Bed counts by the Red Cross at other Houston shelters showed far fewer people than just days ago, with 1,800 at Reliant Arena, 2,000 at Reliant Center and 1,366 at the George R. Brown Convention Center. Earlier figures were estimates and perhaps overstated, some officials said.

Including the Astrodome, about 8,000 evacuees were in Houston's largest shelters on Wednesday, down from a high of 24,000, city officials said. At least 1,300 people have moved into homes and apartments since Friday, and others have left with friends and relatives or on their own.

A city plan to provide 10,000 rental units to evacuees, a program that could last a year, drew more than 200 apartment operators. Houston intends to distribute vouchers and to be reimbursed by the Department of Housing and Urban Development and FEMA. City officials said landlords would waive credit checks and security deposits.

"I'm grateful to have a change," said Hope Joseph, 29, who moved out of the Astrodome on Tuesday night to a donated apartment in Wharton, a town south of Houston, together with her three children, ages 4, 6 and 9, and her mother, Lola.

"It's very quiet here, but I'm hoping for a fresh start in life," said Ms. Joseph, a former cake decorator at a Winn-Dixie supermarket in New Orleans, in a phone interview from Wharton.

Carmen Scarlett, the owner of a counseling service who will temporarily pay part of the $450 rent, met Ms. Joseph after traveling to Houston to assist evacuees.

At the Astrodome, small signs of comfort abound, like piles of donated clothing, land-line phones by SBC and a low-power FM radio station set to begin broadcasting on Wednesday, with as many as 10,000 radios distributed. There is also plenty of free food, including hot sandwiches from Chick-Fil-A, served by workers from Aramark, the food services company at the Astrodome.

FEMA plans to distribute $2,000 debit cards to each adult displaced by Katrina, sparking considerable discussion in the dome about where to place automatic teller machines. Members of the Survivors Leadership Group suggested a location outside the dome in well-lighted areas.

"There's still some agitation inside here, but it feels like it's calming down a bit," said Charles Adams, 47, a former cook at Dickie Brennan's Steakhouse in New Orleans. "It's still the old, 'You're not getting nothing unless you demand it.' "

The impression of normalcy at the Astrodome, however, was betrayed by reminders of how unstable life remains for many evacuees. Signs in the medical center alerted people about an onset of dysentery, apparently caused by norovirus, known for causing sicknesses on cruise ships.

Even though phones are available in the dome, Glenn Levy, a 16-year-old evacuee, described strong demand for a functioning cellphone. He said that he charges people three cigarettes for three minutes on his cell and had garnered as many as 50 Kool and Camel cigarettes a day.

"My minutes are not free," said Mr. Levy, who said he did not know the whereabouts of his father and mother, a sister and two brothers, though he had reached one sister in New Orleans. "I'm trying not to think they died."

Town Improvises To Absorb Evacuees (WP)

By T.r. Reid

The Washington Post, September 9, 2005

ORANGE, Tex. -- Anna Rose Williams had never heard of Orange, Tex., when her tired, frightened family stopped here for dinner last week on their harried journey to escape Hurricane Katrina.

"We was seven people in one car, with the babies," the 61-year-old grandmother recalled. "A gentleman come out of the Domino Pizza and said, 'Do y'all need a place to stay?' I said, 'Honey, we don't need no place to stay. We need a place to live.' "

And that's how the Williams family of Burns Street in New Orleans became residents of Orange -- for the time being, at least. Their current home is the former fourth-grade classroom at the Community Church Youth Center in Orange, a bayou town

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on the Texas-Louisiana border that has seen its population swell from more than 18,000 to about 20,000 in one week as evacuees have moved in. Like the Williams family, the newcomers are wearing clothes, eating meals, taking medicine, reading schoolbooks and sleeping on cots donated by the residents of Orange.

If New Orleans has been a locus of destruction, chaos and crime, the news from Orange and numerous other small-town havens is the old, familiar story of neighbor helping neighbor.

The exodus from Katrina has filled the string of hotels along Interstate 10 at the north end of town. Beyond that, Red Cross officials say five shelters have opened in Orange, plus two more in nearby hamlets.

Local churches have set up a rotation for meal deliveries, with a different parish responsible for each meal at each shelter every day. Merchants who have sponsored 5K runs or Little League teams are digging through their back rooms to find leftover T-shirts and sweat suits for the newcomers. Local kennels are taking in displaced pets. The West Orange-Cove school district has enrolled about 200 new students, including three of Anna Rose Williams's grandchildren.

To some extent, the aid has been coordinated by government or welfare organizations. But much of it has come about spontaneously.

"We knew there were people coming here who needed help," said Jerry Brown, music minister at Community Church, an Assemblies of God affiliate with 1,200 active members. "Well, we had room at our youth center, including a big gym. It just seemed like the right thing to do.

"So we called over to Hermann Memorial [Hospital] and got a bunch of cots and blankets. Our members brought in clothes and diapers and food. The Red Cross put our address out on the interstate for people stopping here. The word got around. Last Thursday, I think it was, the school buses started coming; we've got 67 children going to school from this facility."

People here say their geographic setting -- Orange is the first town in Texas for drivers heading west on I-10 -- made it their duty to provide a welcome. "We're the gateway," said Katherine Frey, a florist in Orange. "So we just started hauling stuff out to the rest stop [officially, it's the Texas Welcome Center] on the interstate.

"These people were getting off the buses wearing garbage bags and no shoes," Frey said. "So we started calling people and saying, 'We need footwear. We need bedding. We need two dozen Porta Potties out here quick.' " Virtually overnight, the state welcome center was transformed into an outdoor warehouse, with mountains of donated clothing, diapers, sleeping bags, food and an eight-foot tower of water bottles.

With few or no job prospects in devastated New Orleans, some of Orange's newest residents have been looking for work -- and finding it. One pastor reopened a defunct carwash to provide employment. A local maker of precision tools, Cloeren Co., sent fliers to motels and shelters looking for machinists. "We're going to hire a bunch of people," said Kenneth Cormier, Cloeren's director of human resources.

A key problem facing the shelters here and elsewhere is that nobody knows how long they will be needed. "We are seeing some people leave already," Brown said. "But we think some are going to be here for weeks or months."

To meet that need, said Aaron Thompson of the Orange County Red Cross, the school board has turned over a closed middle school, which is being cleaned and equipped this week to serve as a long-term home. "We're hoping to consolidate all our current shelters into that one place," Thompson said. "We should be able to house 600 or more people there, if that many stay."

Anna Rose Williams is one of those likely to stay. "We don't know if there's anything to go back to," she said. "And I think it must have been God that steered me to this wonderful community. We might just make this place our home."

Learning From Katrina (WP)

The Washington Post, September 9, 2005

Even with the evacuation unfinished and the structural damage unassessed, it is not too early to start talking about how to rebuild New Orleans and the rest of the Gulf Coast. When residents return to their communities, many will want to rebuild everything exactly as it was. That is understandable. But lessons of the past suggest that this is exactly what should not happen.

In 1969 Hurricane Camille destroyed coastal homes in Mississippi and Louisiana, wiping out much of the area, including Biloxi. But government policy after Camille -- as with government policy after major East Coast hurricanes -- amounted, in the words of one expert, to an "urban development program." Instead of shrinking, coastal development expanded. In truth, local and federal policies, ranging from beach preservation subsidies to zoning laws, have long encouraged building homes along coasts that are unusually susceptible to flooding and wind. Even the National Flood Insurance Program, set up in 1968 to offer government-subsidized flood insurance to susceptible communities in exchange for strict zoning and construction regulations, is at fault. Over the past two decades, the regulatory force of the law has been substantially weakened. All that is left in many places is the subsidy, which thousands of homeowners collect over and over again.

Elsewhere in the country, government programs to acquire property in flood plains have successfully persuaded people to leave them. After the Mississippi River floods of 1993, the town of Valmeyer, Ill., was moved in its entirety, away from the river

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and onto a surrounding bluff. After Hurricane Floyd in 1999, the city of Kinston, N.C., moved entire neighborhoods out of flood plains and revitalized the city as well. But the political power of wealthy beachfront property owners has prevented such programs from being implemented along the coasts. That must not be allowed to happen again.

The case of New Orleans is even more difficult. New Orleans is not Valmeyer, and cannot be easily moved. Nor is it Biloxi, Miss., where stronger building codes and zoning laws designed to move construction away from the shore could make the city better able to withstand hurricanes. The geography of New Orleans will leave the city forever vulnerable to catastrophic flooding. Yet the city's history and culture make it very much worth saving. As a result, the city, joined by state and federal governments, must begin to face several extraordinarily difficult and delicate issues: Should the lower, most susceptible parts of the city be rebuilt? Should other houses be constructed -- as houses in the city were a century ago -- on stilts? Should the swamps and wetlands around the city be at least partially restored? How should compensation and new housing requirements be handled? Considering the government's murky record of looking after the poor following natural disasters (as the aftermath of Hurricane Camille demonstrated), those most affected by government's decisions must be part of the discussion.

The time to start planning for a rational reconstruction of the Gulf Coast is now. Six months or more down the road, when the rebuilding has already begun, will be too late.

Insurers Are Urged To Pay Valid Claims (WP)

By Albert B. Crenshaw

The Washington Post, September 9, 2005

Putting more pressure on insurers to pay damage claims from Hurricane Katrina, Mississippi's insurance commissioner has told carriers that they will be required to prove to both regulators and homeowners that damage was caused by water and not by wind if they deny a claim.

On Wednesday, Lousiana's insurance commissioner also urged a large group of insurers and reinsurers to pay all valid claims. In many cases, the key to deciding which homeowners recover will be whether wind or water caused the damage.

Many homeowners' and business insurance policies exclude flood damage from their coverage. Flood coverage is written by the federal government through its National Flood Insurance Program, but only a small fraction of property owners in Mississippi and Alabama have bought it.

"In some situations, there is either very little or nothing left of the insured structure, and it will be a fact issue whether the loss was caused by wind or water," Mississippi Insurance Commissioner George Dale said in a bulletin to insurers dated Wednesday. " . . . I expect and believe that, where there is any doubt, that doubt will be resolved in favor of finding coverage on behalf of the insured."

Dale's position startled many insurers and reinsurers, who are concerned they are being pressured to pay claims for damage they did not insure.

Even in Florida, with its many hurricanes, regulators "haven't ever tried to do that," said Brad Kading of the Reinsurance Association of America.

Some industry officials said they did not view Dale's action as alarming.

"I think this is just a cautionary bulletin to lay out what his expectations are," said Julie Pulliam of the Atlanta office of the American Insurance Association, a trade group. "He has been very good to work with, and we expect that to continue. We are at the very beginning of this process. There's a lot to come."

Telephone calls to the Mississippi Insurance Department did not go through, apparently because of damaged phone lines and a high volume of calls to the area.

Kading and others said that at a meeting convened Wednesday by Louisiana Insurance Commissioner J. Robert Wooley to discuss dealing with the disaster regulators were largely hortatory. Kading said they made "no specific draconian statements."

Nonetheless, both insurers and reinsurers are alarmed at the idea of being forced to pay flood claims, as some have urged.

The industry notes that flood exclusions are long established and that the language in policies is approved and understood by regulators. More important from a financial standpoint is that if insurers pay flood claims, reinsurers' contracts typically allow them to refuse to reimburse insurers for those outlays.

"The reinsurer is in the position of indemnifying the insurer," Kading said. That means that "after paying a claim, the insurer presents evidence that it was covered [by the reinsurance contract], and proof that it was paid. The reinsurer then looks at that evidence and decides if it agrees it's a covered claim."

By some estimates, reinsurers will pay about 40 percent of insured losses from Katrina and primary carriers the rest, assuming normal treatment of flood losses. If insurers pay claims that the reinsurers reject, their efforts to spread their risk will be negated, perhaps threatening their solvency.

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But much remains uncertain with regard to losses, irrespective of who pays them. "We are still totally in an assessment-type mode, of how much and where," said John Marlow of the AIA's southwestern regional office in Austin.

NATO To Help U.S. Transport Aid From Abroad (LAT)

By Paul Richter

The Los Angeles Times, September 9, 2005

WASHINGTON — The Bush administration turned to NATO on Thursday for help in transporting to the United States a burgeoning international inventory of relief equipment that has been offered to aid the victims of Hurricane Katrina.

Ninety-five countries have offered about $1 billion in cash and goods, as well as technical assistance, U.S. officials said. But some of the supplies remained abroad, where foreign officials in some instances said they had not heard back from U.S. counterparts on whether their offers would be accepted.

The North Atlantic Treaty Organization told U.S. officials that its crews could transport aid to the Gulf Coast.

Eleven cargo planes landed Thursday in Little Rock, Ark., carrying aid from abroad, after 11 others Wednesday. But some countries said they still had no word on whether their offers would be accepted.

A cargo plane with supplies, including a water purification system, had been on a runway in Sweden since last week waiting for clearance to fly to the U.S.

"We've made a number of requests for clearance, and the U.S. has accepted the offer in principle," said Claes Thorson, spokesman for the Swedish Embassy in Washington. "But it remains to solve the logistical problem."

Other European countries "have the same problem," he added.

Poland, Austria and Norway are among those that have not heard back, diplomats said.

As foreign donors have expressed exasperation with the U.S. response, American officials have sought to emphasize that though they appreciate the offers of aid, not all help can be immediately put to use.

U.S. officials have been telling countries that some kinds of assistance are more helpful than others, adding that cash is the most easily put to use.

More than $400 million has been accepted, including $100 million from Kuwait, $100 million from the United Arab Emirates and $100 million from Qatar. Kuwait has also offered $400 million worth of oil.

Tons of aid has been arriving from Europe. On Thursday, relief workers and supplies arrived from Germany, which has offered a range of aid, including food rations, high-speed water pumps and forensic experts. It has also begun releasing oil from its strategic national reserve.

A French aircraft with supplies and personnel arrived Thursday, after two others that arrived Tuesday. The French have offered water treatment supplies, generators, tents, food rations and a 150-person team to help with relocation and psychological assistance.

The countries offering to help include a number of major recipients of U.S. aid, including Afghanistan, Iraq and Israel.

MoveOn.org Says It Won't Use Evacuee Images In Roberts Ad (USAT)

By Mark Memmott

USA Today, September 9, 2005

A liberal group indicated Thursday that one of its officials was wrong when he said it would broadcast a TV ad with images of poverty-stricken hurricane victims to raise questions about the civil rights record of John Roberts, the nominee for U.S. chief justice.

The statement by MoveOn.org Political Action came a day after Ben Brandzel, the group's advocacy director, told USA TODAY that such an ad would air next week, during Roberts' confirmation hearings in the Senate. Brandzel described plans for a provocative ad that would include images of African-American evacuees and question whether the conservative judge is sensitive to issues that are important to minorities and the poor.

On Thursday, however, MoveOn Executive Director Eli Pariser said the group has “no plans, and … never had plans, to produce such an ad.” Pariser did not blame USA TODAY, and he said that “we regret any misunderstanding that may have arisen because of anything that our staff member might have told USA TODAY's reporter.”

Conservative groups that had criticized MoveOn over the idea of using images of hurricane victims in a political ad weren't buying MoveOn's explanation. Sean Rushton of the conservative Committee for Justice, compared the episode to the flap last month over a TV ad produced by NARAL Pro-Choice America, an abortion-rights group.

That spot — which NARAL took off the air after it drew wide criticism as unfair — accused Roberts of giving support to groups that advocate violence at abortion clinics. (The ad was based on arguments he made at the Supreme Court as a

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government lawyer in 1991. Roberts argued that anti-abortion protesters at clinics could not be prosecuted under a civil rights law; a majority of the court later agreed.)

"I think MoveOn sensed a 'NARAL moment' was upon them," Rushton said.

MoveOn's change underscores how quickly political messages can backfire if they trod too hard on sensitive issues, said Brooks Jackson, director of the University of Pennsylvania's Annenberg Political Fact Check program, which examines the accuracy of political ads.

Roberts' hearings begin Monday. He has appeared to be headed for confirmation. But MoveOn, other liberal groups and Senate Democrats such as Edward Kennedy of Massachusetts are pushing the White House to release more memos Roberts wrote as a lawyer in the Ronald Reagan and George H.W. Bush administrations.

In memos already released, Roberts argued for scaling back affirmative action and against a program that favored minorities seeking broadcast licenses.

What A Hispanic Justice Would Mean (USAT)

USA Today, September 9, 2005

I was still a law student when I decided that the Supreme Court needed a Hispanic justice. I was scouring cases, when I came to U.S. v. Brignoni-Ponce (1975). I read the decision twice, thinking I had misread it.

In Brignoni, the court held that "apparent Mexican ancestry" alone did not constitute legitimate grounds for the Border Patrol to conduct an immigration check. Even so, the court said, "the likelihood that any given person of Mexican ancestry is an alien is high enough to make Mexican appearance a relevant factor" in an immigration stop. In effect, the court declared a form of racial profiling constitutional.

A Hispanic justice would have provided a useful perspective to the Brignoni reasoning. So here we are, 30 years later, and the nation's first Hispanic Supreme Court justice is a possibility. No, it won't be with President Bush's first opening. That went to chief justice nominee John Roberts. But Bush now has a second chance to make history. His attorney general, Alberto Gonzales, recently said, "There will be a Hispanic on the court — it's inevitable." I hope he's right.

As with African-Americans and women, Latinos deserve representation. Hispanics are the nation's largest and fastest-growing minority group. Although ethnicity should not be a nominee's chief qualification, a Latino presence on the high court is overdue and would have monumental implications for the country.

Consider Thurgood Marshall's impact. A great-grandson of a slave, he came to the bench as a renowned civil rights attorney, bringing personal insight and expertise honed in cases such as Brown v. Board of Education in 1954. Throughout his tenure, he was sensitive to racial discrimination. "Bringing the Negro into the mainstream of American life should be a state interest of the highest order," Marshall wrote in Regents of the University of California v. Bakke in 1978.

Similarly, a Latino justice would open the eyes of justice a bit further. He would recognize that "Mexican appearance" is a flawed basis for an immigration check. He would see that English-only laws and the Real ID Act, which prohibits driver's licenses for illegal aliens, can be adversely applied to Hispanics.

The appointment of a Hispanic would be a breathtaking milestone. It's worth noting that the Supreme Court will face issues with broad effect on Latinos: bilingual education, affirmative action, immigration and workers' and voters' rights. It is imperative that the concerns of Latinos are represented. Just as Marshall served as the voice for African-Americans, a Hispanic justice could, and should, soon be ours.

Raul A. Reyes is an attorney in New York and a member of USA TODAY's board of contributors.

Hill Veterans Light The Way For Nominee (WP)

By Christopher Lee

The Washington Post, September 9, 2005

Shortly after President George H.W. Bush nominated him for the Supreme Court in July 1991, Clarence Thomas went to a downtown Washington office to take part in strategy sessions aimed at ensuring his confirmation by the Senate.

The presiding political mind was not a top White House aide or a legal eagle from the Justice Department but lobbyist Kenneth M. Duberstein, a former Reagan administration official who was Thomas's designated "sherpa" -- his guide through the potentially treacherous process.

Duberstein, then and now, is one of a handful of Washington figures who have acquired reputations for steering top presidential nominees through a confirmation process that has grown more contentious and partisan since the unprecedented campaign that capsized Judge Robert H. Bork's Supreme Court nomination in 1987.

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The role of the sherpa, named for the Tibetan guides who assist climbers in the Himalayas, is largely off camera and unpaid. It is a critical and routine part of the Washington odyssey that high-profile nominees go through on their way to the high court or top Cabinet posts.

When John G. Roberts Jr. was nominated by President Bush in July to be an associate justice, he was promptly provided with two guides: former senator Fred D. Thompson (R-Tenn.) and former Republican National Committee chairman Ed Gillespie. Both are considered savvy Washington insiders who are now comfortably on the outside. After the death of Chief Justice William H. Rehnquist last week, Bush nominated Roberts to lead the court.

Roberts has not faced anything like the opposition Bork did. Democrats say they will press him harder at his confirmation hearings beginning Monday now that he is in line to be chief.

"There are several roles you play," said Duberstein, who also served as a guide for Supreme Court Justice David H. Souter, CIA Director Robert M. Gates and Secretary of State George P. Shultz. "You are the chief strategist for the ultimate goal of getting that person confirmed. You are also the traffic cop, because everybody wants to see the prospective nominee. You are a coach and you're also a confidant of the nominee. You are the chief liaison with the Hill, but also the chief liaison within the administration. You are an enforcer, but you are also a negotiator."

Duberstein said the job of guiding Roberts should not change because he has been nominated for chief justice. "I don't recall that there would be any distinction," he said.

The sherpa is very much the media messenger -- shaping and selling a nominee's personal story and image, devising strategies for dealing with reporters, and coordinating courtesy calls with key senators.

"They'll school you on what to say and what not to say," said Paul C. Light, a professor of government at New York University. "They are kind of a sounding board for you, and whenever you have one of those anxiety attacks . . . they are counselors for you. And if you get into trouble, you get a 'hold' placed on you, then they'll help you iron it out."

Sherpas tap their sources on Capitol Hill to learn about tough questions a nominee might face, and then drill nominees in mock confirmation hearings known as "murder boards." They even coach them on such matters as how long to pause before answering a senator's question and how to ask for a bathroom break.

But this is a complex process, and even the helper needs help. Sherpas supervise teams that vet a nominee's financial statements, personal history and professional record -- trolling for red flags.

Light likened them to personal trainers, "somebody who is going to be there while you are doing everything and keep you from hurting yourself."

Other well-known sherpas include longtime Republican lobbyist Tom Korologos, now ambassador to Belgium, who helped Donald H. Rumsfeld (secretary of defense), Antonin Scalia (Supreme Court justice) and Edwin Meese III (attorney general), and veteran Democratic strategist Michael S. Berman, Duberstein's lobbying business partner, who assisted Justices Stephen G. Breyer and Ruth Bader Ginsburg.

Although sherpas work pro bono, the job is not without compensation. The role underscores a lobbyist's political access and clout, impressing prospective corporate clients.

Duberstein and then-Sen. John C. Danforth (R-Mo.), assisted by a team of administration insiders, helped steer Thomas through a difficult confirmation marked by law professor Anita Hill's accusations that Thomas had sexually harassed her when she worked for him at the Education Department and the Equal Employment Opportunity Commission, in the 1980s. Duberstein was especially influential on matters of style, Danforth wrote in his 1994 book, "Resurrection: The Confirmation of Clarence Thomas."

"As Clarence walked past banks of cameras, Ken would say, 'Give them a thumbs up,' and Clarence would comply," Danforth wrote. "When advising Clarence not to respond to press questions, Ken suggested, 'Tell them, "I wish I could answer that." ' . . . He told Clarence that when he entered the Senate Caucus Room at the start of his first hearing, he should go up and shake hands with each member. He insisted that Clarence, against his will, conclude the first hearing by complimenting the committee for being fair."

Thomas prevailed, in part, because he was able to define himself as an African American who had risen from poverty in rural Pin Point, Ga., and whose confirmation controversy represented yet another hurdle that he had to overcome. In a tactical move, Duberstein won assurances from the Senate Judiciary Committee that Thomas would have the opportunity to respond to any allegation in the same news cycle. That enabled Thomas to reclaim the offensive on the day Hill testified and Thomas responded by memorably labeling the proceedings "a high-tech lynching for uppity blacks."

When Rumsfeld was sworn in as defense secretary in 2001, Korologos was in the Oval Office with Bush and Vice President Cheney. "He is so famous for working around outside the Senate chamber that he is known by the insiders as the 101st senator," Rumsfeld said at a March 2002 award ceremony for Korologos. "But all that experience does come in handy, and

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it has helped me from time to time -- not least in my confirmation hearings. His advice for courtesy calls was 'Get in, listen, get out.' It worked."

Korologos has handled hundreds of nominations over the past 40 years, most of them uncontroversial. He has even helped with three or four murder boards by telephone from Brussels, he said.

"It's an arcane art," he said in a telephone interview. "Most nominees have never done this before. . . . You are not running for sheriff; you are not running for Miss America. You are running for whatever the number is, 10 or 11 votes on the committee and 51 on the floor. That's the constituency."

Carol M. Browner, head of the Environmental Protection Agency in the Clinton administration, said her sherpa's best advice was that confirmation hearings are mostly about the senators, not the nominee.

"Mike Berman said to me, 'When they finish asking that question, wait a few seconds to reflect on the question. It makes you look respectful. It makes you look thoughtful. And it takes up time,' " she said. "He had all these little tricks."

Exactly, Korologos said. "You've got to know the system, the nuances, what buttons to push up on the Hill to make them respond. That's why there aren't many of us doing it."

As confirmation fights have become in some ways proxy battles in the country's culture wars, the need for sherpas has grown. But sherpas are guides, not guarantees, and nominees occasionally fail anyway. Korologos, for all his skill, handled the Bork nomination for the Reagan White House.

"Washington is like Salem," Korologos said. "If we ain't hanging somebody, we ain't happy."

OTHER NEWS:

Gauging Katrina's Impact (WSJ)

By Tim Annett

The Wall Street Journal, September 9, 2005

Hurricane Katrina is likely to slow growth and boost inflation pressures in the second half of this year, economists believe. But the economy could receive a modest boost early next year amid recovery efforts on the Gulf Coast.

That's the view of economists who participated in this month's Wall Street Journal Online forecasting survey. To reflect the expected economic impact of Katrina, they marked down their annualized forecasts for growth in gross domestic product for the second half of this year by 0.4 percentage point. The survey was conducted Sept. 2-7.

These private-sector economists expect a somewhat smaller impact than what has been predicted by the Congressional Budget Office, which has said that second-half growth could be trimmed by a half to a full percentage point.

The WSJ.com survey found that economists don't expect the slowdown to be long lasting. In light of Katrina, they raised their forecasts for the first half of 2006 by 0.2 percentage point, as they see post-hurricane reconstruction giving the economy a kick in early 2006. Further, the economists say there's only an 18% probability of a recession in the U.S. over the next 12 months.

"In five years, economists with somewhat foggy memories will be asking themselves: 'Now what year was that big hurricane in New Orleans anyway?' because they will not be able to see it in the GDP or inflation data," says Donald Straszheim of Straszheim Global Advisors.

The 56 economists now expect GDP, the broadest measure of U.S. economic activity, to expand at a 3.6% seasonally adjusted annual rate in the third quarter and at a 3.2% rate in the fourth quarter. Those forecasts were down sharply from last month's survey, when the economists predicted growth of 4.2% and 3.6% in the third and fourth quarters, respectively. Forecasts for the first half of 2006 changed little, with the economists expecting growth of 3.3% on average.

These revisions reflect all factors that the economists take into account in arriving at their forecasts, not just the impact of Katrina.

Whether the economists' revised projections prove to be on the money may be another matter. Even the economists themselves aren't sure, as Katrina hasn't just made a mess of New Orleans, it has also played havoc with forecasting. On average, the economists are only 57% confident that officially reported GDP growth will fall within 0.5% of their predictions. That's down sharply from the 67% confidence level they expressed in the August survey.

Why have the economists gone wobbly?

"None of us have ever dealt with anything this large," says Susan M. Sterne of Economic Analysis Associates. She says making sense of incoming economic data will be a somewhat dicey proposition in the months ahead. "Obviously there are going to be effects in the data that may or may not be real effects."

Energy Prices Are Crucial

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Ram Bhagavatula of Combinatorics Capital says retail gasoline prices, which shot up to as much as $5 a gallon in some areas last week, are the key to understanding the post-hurricane economic puzzle. "If gasoline prices go back to pre-hurricane levels, I think the economic effects [from the storm] will be minimal," he says.

Even with the big price increases seen at the pump since the storm, economists say gasoline prices haven't been high enough -- for long enough -- to harm the economy. Though the national average price for a gallon of regular unleaded stood at $3.03 a gallon Thursday, just pennies below a high reached Monday, according to AAA, economists say gasoline would need to reach $4.06 a gallon for a sustained interval in order to present a hazard to the expansion.

Ms. Sterne says she'll be keeping an eye on consumer confidence to determine whether skyrocketing gasoline prices will lead people to steer clear of the shopping mall, crimping consumer demand -- and, thus, overall economic growth. "Worrisome to me is that we were seeing some confidence weakness even prior to this. I'm not sure if it was because of gasoline prices, but it's all very much energy related. The hurricane perpetuates and possibly exaggerates the energy situation."

Impact on Inflation, Jobs

Forecasts for inflation were lifted sharply amid the dramatic increase in gasoline and other energy prices. The economists now see the Labor Department's consumer-price index increasing 3.3% year over year in November, up from an expected 2.8% annual increase that was forecast in last month's survey, and they think the CPI will increase 2.8% in May 2006, up from the 2.5% forecast increase last month. The CPI rose 3.2% in July.

Feeding the expected increase in inflation pressures is the recent jump in a range of spot commodity prices -- from coffee to steel to crude oil -- amid concern about supply disruptions. As Katrina rampaged across the Gulf of Mexico and made landfall in Louisiana, oil rose to more than $70 a barrel, but has since retreated to around $67. The economists expect crude to slip to $61 a barrel at year's end and to fall to around $56 by the end of next June.

The economists expect Katrina to be a drag on the U.S. employment situation. They predict that over the next 12 months, nonfarm payrolls will expand by an average of 173,000 jobs a month -- the lowest forecast in more than a year and well beneath the pace of roughly 195,000 new jobs a month so far in 2005. At the same time, forecasts for the unemployment rate were nudged upward, with the economists now predicting a 5% jobless rate in November and a 4.9% rate in May 2006. Last month, the economists forecast 4.9% unemployment in November and 4.8% unemployment in May.

Katrina and the Fed

Besides stirring up trouble for economic models, Katrina has also created some uncertainty about what the Federal Reserve might do with interest rates. Since June of 2004, the Fed has brought the federal-funds rate from a 46-year low of 1% to 3.5%. After Katrina's landfall, futures-market activity revealed a growing belief that the U.S. central bank would pause its campaign of rate increases before the end of this year.

But more than two-thirds of the economists say the Fed shouldn't halt its campaign to lift rates. Indeed, this month's forecasts for the federal-funds target rate were unchanged; the economists still expect the Fed's key short-term lending rate to reach 4% by the end of this year and 4.25% by June 2006.

Paul Kasriel of Northern Trust believes that the Fed shouldn't stop raising rates as a result of Katrina, but he does think policy makers will take to the sidelines for a time. "I believe Hurricane Katrina will result in a Fed pause through the spring of 2006. By pausing in its funds rate hikes, the Fed will indirectly underwrite much of the increased borrowing by the government sector and private sector related to post-Katrina rebuilding -- borrowing and spending that will boost 2006 real GDP growth (and inflation)."

Among other findings in the survey: · Fifty-nine percent of the economists say that there is a bubble in a few of the hottest local housing markets, but only 26% say a bubble exists in a significant part of the nation. Sixteen percent say there is no bubble at all. Meanwhile, 65% say that the end of the housing boom would lead to a noticeable slowdown in economic growth. About a third say there would be little to no effect. Just two economists feel a recession would result.

· Economist raised their forecasts for long-term interest rates. They now expect the yield on the 10-year Treasury note to be 4.48% at the end of this year and 4.75% by next June. The 10-year yield closed trading Wednesday at 4.14%.

Weekly Jobless Claims Drop, But Katrina May Spur Revision (WSJ/DJN)

By Joseph Rebello And Jeff Bater, Dow Jones Newswires

The Wall Street Journal, September 9, 2005

WASHINGTON -- Hurricane Katrina caused at least 10,000 job losses in Louisiana, Mississippi and Alabama last week, although nationwide the number of U.S. workers filing first-time applications for unemployment benefits declined slightly, the government said Thursday.

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Initial jobless claims declined by 1,000 to a seasonally adjusted level of 319,000 in the week that ended Saturday, the Labor Department said. That decline occurred despite the filing of 10,000 disaster-related claims in the states hardest hit by Katrina. A Labor Department statistician said the claims numbers are likely to be revised upward in coming weeks.

"We understand that these states took claims over the weekend, continue to take claims from evacuees, and we expect these claims to be reflected in the numbers released next week," the statistician said.

The volume of jobless claims nationwide was larger than Wall Street had expected: Economists surveyed by Dow Jones Newswires had predicted 310,000 claims.

Economists have begun to predict that the nation's job growth will suffer this month because of Katrina's devastation. The Congressional Budget Office, for example, has estimated that Hurricane Katrina could cause national employment to decline "significantly" in September -- by between 150,000 to 500,000 jobs. But job growth should resume after that "as workers return home and businesses reopen and reconstruction gathers steam," the CBO said in a report Tuesday.

Some Wall Street forecasters, as a result, expect Federal Reserve policy makers to suspend their campaign of interest-rate increases when they next meet on Sept. 20. Since June 2004, the U.S. central bank has raised its key federal-funds rate 10 times, in increments of a quarter percentage point. The rate now stands at 3.5%.

In its report Thursday, the Labor Department said the total number of workers drawing unemployment benefits declined in the week that ended Aug. 27, the latest period for which data are available. That number -- known as continuing claims -- fell by 5,000 to 2,593,000. The unemployment rate for workers with unemployment insurance held steady at 2%.

The department didn't revise its estimate of initial claims for the week of Aug. 27. During that week, it said, Kentucky reported the biggest increase in initial claims, a gain of 3,268 that it attributed to layoffs in the manufacturing industry. North Carolina, citing fewer layoffs in construction and other industries, reported a decline of 1,937 claims.

Wholesale Inventories Fall 0.1%

U.S. wholesale inventories unexpectedly dropped in July as sales increased.

Inventories fell 0.1% to a seasonally adjusted $352.04 billion, after increasing a downwardly revised 0.4% in June, the Commerce Department said Thursday. June inventories were originally seen rising 0.7%. The last time inventories dwindled this much was January 2004, when inventories also slipped by 0.1%.

U.S. wholesale sales rose 0.5% to a seasonally adjusted $298.66 billion. Sales climbed a revised 0.5% in June; demand was originally seen up 0.6% for that month. Economists had expected inventories to rise by 0.6% and sales to climb 0.5%, according to Thomson First Call.

The inventory-to-sales ratio was 1.18 in July, down from 1.19 in June. The ratio measures how many months it would take for a firm to deplete its current inventory. Year over year, sales were up 7.5%, while inventories rose 8.2%.

U.S. business inventories had gotten heavy as the pace of production of goods eclipsed demand. Companies lightened things up in the spring, letting sales absorb stocks of goods and, as a result, inventories rose by a mere $2.6 billion in the second quarter after swelling by $58.2 billion the first three months of the year and $50.1 billion in the fourth quarter.

Inventories of durable goods -- items such as cars and appliances that are meant to last three or more years -- rose 0.3% during July, after increasing 0.7% in June. Durable-goods sales decreased 0.2%, following a flat reading in June. Auto stocks grew 0.2% as car makers extended employee discounts to all buyers, driving summer sales higher and helping unclog overstuffed car lots.

Inventories of nondurable goods such as food and clothing fell 0.7% even though petroleum stocks increased by 5.6%, a climb likely given a push by rising oil prices. Sales of nondurable items rose 1.2%.

Consumers Build Up Debt

Meanwhile, U.S. consumers continued to build up debt in July -- though by far less than economists had expected -- the Federal Reserve said Thursday. Debt growth for big-ticket items such as cars, trucks and boats overshadowed a decline in revolving credit such as credit-card debt.

Consumer credit outstanding rose about $4.4 billion to a record $2.157 trillion, the Fed reported, compared with a revised increase of $14.6 billion in June.

The July increase was less than half the $10 billion economists had expected as they anticipated a bigger rise in nonrevolving credit to finance a sharp rise in auto purchases. The consumer credit data, which exclude real-estate mortgages, tend to be highly volatile from month to month and are frequently revised.

Nonrevolving credit rose by $5.4 billion to $1.352 trillion. That followed a revised increase of $7.4 billion in June, previously reported as a $6.9 billion expansion.

Revolving debt fell $1 billion in July to $805 billion, the first decline in four months and the biggest drop since last November. The July decrease followed a revised $7.2 billion increase in June, first reported as a $7.6 billion expansion.

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Total U.S. consumer credit rose at a 2.4% annual rate in July, compared with a 8.2% annual growth rate in June, the Fed said.

Trying To Absorb The Newly Unemployed (WP)

By Krissah Williams

The Washington Post, September 9, 2005

DALLAS, Sept. 8 -- A staffing company recruiter greeted Eugene Francois and his wife, Claressa, as they walked into a job fair at the cavernous Dallas Convention Center on Thursday. He shook their hands and asked what sort of employment the couple sought.

"Any kind of job," answered Eugene, a 34-year-old former New Orleans firefighter. He spent the morning filling out applications for positions at the Dallas County Sheriff's Department, a local warehouse staffing company and a trucking company.

The one-day job fair here attracted about 3,000 Hurricane Katrina evacuees settling into Dallas. It also enticed a few local unemployed residents, some of whom worry that the inflow of new workers will intensify competition for work in an area where jobs -- particularly in low-skill sectors -- are already tough to come by.

The assimilation of Hurricane Katrina evacuees into Texas's big cities and into communities across the country will be far from seamless. Almost all the evacuees are now unemployed, and many are also homeless. They are scrambling to find work so they can get out of the Federal Emergency Management Administration's massive shelters, into apartments and on with their lives.

"I'm looking for something that pays in the double digits, but I'll take $9 [an hour]. I'm by myself. I don't need much," said Theron Cosey, who is living in a shelter for evacuees in the convention center. Cosey worked in the engineering room of a hotel in New Orleans but said he also knows how to drive a forklift. He filled out an application for a position at a Dallas warehouse.

The Congressional Budget Office has estimated that 400,000 jobs were lost throughout the Gulf Coast due to Katrina. So far, only an estimated 10,000 workers who lost their jobs have filed for unemployment benefits, the Labor Department said Thursday. That number would have been higher, but many claims offices in the affected region were shut down. The Labor Department predicted that the number of disaster-related claims will rise sharply in coming weeks and that hundreds of thousands of displaced workers will soon be seeking benefits.

Job fairs and training programs are being offered to newly unemployed workers arriving in Dallas, Houston, San Antonio, Atlanta and other cities. This week, in addition to the Dallas job fair, similar events were held by Goodwill Industries in Shreveport, La., and Atlanta's Workforce Development Agency.

The fair in Dallas was sponsored by the Greater Dallas Chamber of Commerce in cooperation with WorkSource, an arm of the Texas Workforce Commission. Originally planned on a smaller scale at a local community college, the Dallas job fair was expanded this week, with companies coming from as far as Florida to offer evacuees jobs.

About 250,000 of those displaced by Katrina have come to Texas. While they make up a relatively small part of the state's overall population, they will be vying for a hotly contested slice of low-skill jobs, said Daniel S. Hamermesh, an economics professor at the University of Texas at Austin.

"Skilled people will certainly find jobs, [but] in terms of unskilled jobs the labor market is pretty tough," Hamermesh said.

The job fair here Thursday reflected that divide. Most of the 225 companies that set up booths were recruiting for nurses, teachers, welders, or other trades and professions that require technical expertise or college degrees. Fewer positions for general labor were available. A recruiter for $10-an-hour meat-packing positions at Tyson Foods said that he often places people in jobs at one of the company's plants in rural Kansas but that fewer positions have been open in Texas.

Over the past few years, the state's unemployment rate has remained around 5 or 6 percent, but that figure does not reflect the increasing competition in the market for low-skill jobs, Hamermesh said. In Texas, those jobs -- mainly in hotels, restaurants, manufacturing and construction -- often are filled by the state's large population of first-generation immigrants from Mexico, he said.

"In south Texas there is a large overhang of temporary and permanent immigrants, so there will be competition there," he said. "The pay level won't be as good as what [people from New Orleans] are used to," he said.

The League of United Latin American Citizens, a national Latino advocacy group, expects the damage to the tourism and service industries in New Orleans to bring greater competition for jobs in the short term but hopes that it might produce job gains in the future.

"Hopefully we will see a construction boom in these devastated areas, and people will come in and help with that. You do see a lot of Hispanic construction workers in those types of jobs," said Gabriela Lemus, director of policy and legislation for LULAC's Washington office.

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Concern over service-sector jobs was apparent at the Dallas job fair.

Ramona Rayford, 25, lives in Dallas and has been looking for retail positions for six months. She said her last job was in a clothing warehouse without air conditioning and with low pay.

"It's like [employers] push us out [of] the way. They know the Hispanics will do it and take $7 an hour or $5 an hour," Rayford said. "I know they have it hard, too."

When Dallas residents Tiffany Garcia, 18, and her friend Ricky Alvarado, 19, walked into the job fair, she looked around at all of the former New Orleans residents and poked him. "There is going to be way more competition. We ain't going to find a job."

Gas Prices Have Eased, But Other Prices Rising (USAT)

By Sue Kirchhoff

USA Today, September 9, 2005

WASHINGTON — Hurricane Katrina, which has already pushed gasoline above $3 a gallon, is prompting higher prices for everything from building supplies to natural gas and chemicals.

Economists have increased their projections for consumer inflation, some significantly. Global Insight expects inflation to reach 5.7% at an annual rate in third-quarter 2005, compared with its earlier 3.4% estimate. Economy.com expects 3.4% inflation through the end of 2005, up from 2.7%.

Both firms expect the inflation gains to be transitory — oil is off its $70-a-barrel peak, though still running $64.49 — with more manageable inflation in 2006. There are questions regarding how much of the price increases will bleed through to core inflation, which excludes food and energy and is the inflation measure most watched by the Federal Reserve.

But some say price gains could last longer. “The pressing effects on the economy are more likely to be temporary, but the adverse effects on inflation are more likely to be permanent,” says Ward McCarthy of Stone & McCarthy Research Associates.

The Energy Department estimates natural gas prices could rise as much as 71% in the Midwest this fall, with heating oil up more than 30% in the Northeast. The price gains depend on how fast refineries and oil rigs in the gulf are repaired.

Kevin Swift, chief economist of the American Chemistry Council, says chemical manufacturers use 12% of U.S. natural gas and will have to pass along price increases.

“Ultimately, the consumer bears it in any good that contains chemicals,” from plastic bottles to auto parts, Swift says.

Ken Simonson, chief economist of the Associated General Contractors of America, estimates construction costs will jump 10% through 2006, rather than the already high 8% he had expected. Frank Nothaft, vice president at mortgage giant Freddie Mac, says reconstruction could add 2% to 3% to new home costs. But that could be balanced by lower mortgage rates.

Chicken prices have risen because of supply disruptions, and pork prices have moved higher as traders speculate the meat could be a chicken substitute. But the Grocery Manufacturers Association doesn't expect big price gains for food in the near term. Coffee prices are off recent highs, as firms say there is less damage to supplies than expected.

Janet Yellen, president of the Federal Reserve Bank of San Francisco, in a speech Thursday said the Fed's task was complicated before Katrina, as the job market tightened and the economy picked up steam. The central bank has raised its target for short-term rates 10 times since June 2004 to 3.5%.

Fed officials and other economists must now weigh the threat of inflation against the possibility that high oil prices could slow growth. Fed policymakers next meet to review interest rates on Sept. 20 in Washington.

“Our approach during this phase must be particularly dependent on information from incoming data,” Yellen said, adding that energy prices could feed into core inflation.

Also affecting the outlook is reconstruction spending. The approval by Congress of a $51.8 billion aid package Thursday brings disaster aid so far to more than $60 billion. The quick aid could stimulate the economy faster than expected and end any lingering chance that Congress will rein in deficits.

Stocks Take A Breather (WSJ)

By Scott Patterson

The Wall Street Journal, September 9, 2005

After two days of solid gains on Wall Street, investors stepped away from the plate Thursday, and stocks drifted lower as crude oil ticked up.

Home builders took it on the chin amid concerns that the housing boom could slow. The trigger was a lackluster earnings report by Hovnanian Enterprises, which posted net income of $1.76 a share for the third quarter late Wednesday, two cents below expectations.

The Red Bank, N.J., builder also served up disappointing guidance for the rest of the year and for 2006. Its shares slumped 6.7%. Toll Brothers fell 3.4%, KB Homes shed 2% and Pulte Homes lost 1.4%.

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Bill Strazzulo, chief trading strategist at State Street, said concerns about the housing market were overblown. Treasury bonds have rallied recently, he noted, sending their yields lower. Since mortgage rates are tied to bond yields, a strong bond market should give support to housing, he said.

The decline among home builders had a ricochet effect on some banks, said Sarah Hunt, senior vice president at Capital Management Associates. Since "a large percentage of banks' earnings are related to mortgages," she said, if the housing market cools, that could put a big dent in their earnings. The Philadelphia Bank Sector index fell 0.72%.

The Dow Jones Industrial Average fell 37.57 points to 10595.93. Intel gained 1.7% ahead of its midquarter earnings update after the bell. It gave much of that back after it tightened its revenue guidance for the quarter. The Standard & Poor's 500-stock index shed 4.69 to 1231.67 and the Nasdaq Composite Index fell 6 points to 2166.03.

Light, sweet crude jumped toward the end of open-outcry trading on the New York Mercantile Exchange, settling up 12 cents to $64.49 a barrel on news of a large decline in output from the Gulf of Mexico. Oil prices spent most of the day lower after the government reported that petroleum stocks fell less than expected last week.

The report was one of the first yardsticks of the damage done to the oil-and-gas supply system in the Gulf Coast since Hurricane Katrina struck last Monday. It gave investors some relief that the devastation may not have been as widespread as earlier feared.

The Minerals Management Service, a branch of the Interior Department that monitors fossil-fuel production in the U.S., said the amount of Gulf of Mexico oil production shut down by Hurricane Katrina rose to 901,726 barrels a day, or 60% of total output. That was up from the 57% reported offline Wednesday, and renewed concerns that the nation could face an energy shortage in the coming days and weeks.

Investors had little hard economic data to guide them Thursday. The Labor Department reported that initial jobless claims declined by 1,000 to a seasonally adjusted level of 319,000 in the week that ended Sept. 3, the Labor Department said. That decline occurred despite the filing of 10,000 disaster-related claims last week in Louisiana, Mississippi and Alabama, the states hardest hit by Katrina. Economists had called for a decrease of about 10,000 claims to 310,000.

In major market action:

Stocks fell7. On the Big Board, where 1.4 billion shares traded, 1,205 stocks rose and 2,060 fell on Thursday. On the Nasdaq Stock Market, where 1.6 billion shares traded, 1,182 stocks advanced and 1,806 declined.

Bonds advanced8. The benchmark 10-year Treasury gained 1/32, or 31 cents per $1,000 invested, to yield 4.139%. The 30-year bond was up 2/32 to yield 4.419%. Yields move inversely to prices.

The dollar was mixed.9 It traded at 110.34 yen, up from 110.04 yen late Wednesday, while the euro rose to $1.2427 from $1.2421.

Gulf Banks May Come Out On Top (WSJ)

By Robin Sidel, Valerie Bauerlein And James R. Hagerty

The Wall Street Journal, September 9, 2005

The bright red sign atop Hancock Holding Co.'s headquarters is illuminated again -- and that could be a good sign for investors.

The 106-year-old bank, based in Gulfport, Miss., is one of dozens of regional and national financial institutions with large operations in the areas devastated by Hurricane Katrina last week.

The Federal Deposit Insurance Corp. estimates that some 280 locally based institutions may have been affected by Katrina, representing $270 billion in assets and $201.3 billion in deposits. Big names in the area include Regions Financial Corp., AmSouth Bancorp, Compass Bancshares Inc. and Whitney Holding Corp.

Although the stocks of some affected banks tumbled last week when the storm's devastation became apparent, investors are betting that the area's economic recovery will generate enormous revenue and loan growth next year.

"As an investor, you can take some reassurance in the fact that after an initial period of loss of business, there will be a lot of cash and insurance proceeds flowing into the area," said James Schmidt, a portfolio manager at John Hancock Funds in Boston, which is owned by Canada's Manulife Financial Corp.

Like the banks, analysts are scrambling to determine the extent of the damage and how it will affect earnings. In addition to getting stuck with bad loans, banks are also likely to incur costs associated with repairing their own facilities and reinstating services to customers.

The storm came at a delicate time in the banking industry. In recent months, bank profits have been squeezed by a flattening yield curve -- the difference between short-term and long-term rates. The profit pinch has prompted some institutions to cut costs and free up funds that have been set aside for bad loans. Now, they may have to add more to those loan-loss reserves, which could take a bite out of earnings.

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"It is unclear the magnitude of an impact that the recovery will have on bank earnings, but we believe that it is likely that results could be impacted for at least a few quarters," Kenneth Usdin, an analyst at Bank of America Corp., wrote in a report issued Tuesday. The report didn't quantify a potential impact.

Richard Bove, an analyst at Punk Ziegel & Co., estimated that Regions could face a billion-dollar loan loss from the storm, resulting in a $1.35 hit to per-share earnings. Still, "we would ignore this write-down if it occurs" due to "a steady stream of new businesses that will flow into this bank as southern Louisiana and Mississippi are rebuilt," he wrote in a report released yesterday.

"There will be credit issues," said Chris Spoth, acting director of supervision and consumer protection at the FDIC. "However, the banks were in very strong condition going into this crisis." Banks can turn to the Federal Reserve and the Federal Home Loan Banks for emergency short-term loans if they experience a shortage of cash, though Mr. Spoth said "we haven't seen" much of an increase in demand for such loans.

Still, the wrath inflicted by Katrina is far different than that of Hurricane Hugo, which ravaged Charleston, S.C., in 1989 or Andrew, which swept through Florida in 1992. Although those storms inflicted billions of dollars in damages that took years to repair, there were far fewer questions about the ability of those communities to rebuild. In New Orleans, the bulk of the city remains underwater, and it isn't clear if displaced residents -- now scattered around the country -- will ever return.

"The eventual reconstruction of the marketplace is going to be bigger [than other storms], but there will be more pain felt by the banks in the wake of this hurricane versus others," said Jefferson Harralson, an analyst at Keefe, Bruyette & Woods Inc. in Atlanta.

Unlike some of its more diversified rivals, Hancock has a 43% market share in its namesake Hancock County, one of the areas hardest hit by Katrina. The bank has $4.7 billion in assets and 107 branches. A branch in Bay St. Louis, Miss., was one of three destroyed by the storm. Another branch located just east of Gulfport was obliterated. "What's left is the vault and the sign," said Richard T. Hill, executive vice president, based in Baton Rouge, La.

But after listening to a conference call with Hancock executives late Tuesday, Andrew Stapp of boutique research firm Cohen Bros. & Co. raised his rating on the bank to "buy" from "hold."

"We believe the market is overreacting with regard to the impact of Hurricane Katrina on [Hancock] and perhaps is underestimating the long-term benefits associated with recovery efforts over the next several years," Mr. Stapp wrote in a research report. Still, he lowered earnings estimates for the bank for 2005 and 2006 based on an increase in loan-loss provisions. The bank, for its part, thinks its exposure to bad loans "is relatively limited," said Michael M. Achary, the bank's treasurer, who is based in Gulfport but is working out of the Baton Rouge office.

In any case, Katrina is expected to cause a surge in defaults on home mortgages. In Louisiana alone, officials have estimated that as many 160,000 homes were ruined. Insurers will bear the costs of replacing those houses in many instances. To the extent that destroyed homes aren't insured against flooding, lenders or other holders of mortgage debt will face possible losses.

But "most investors have very low exposure to the affected areas," said Peter DiMartino, a strategist at RBS Greenwich Capital, an investment-banking firm in Greenwich, Conn. That is because mortgage risks are widely dispersed among lenders and investors around the world. Most U.S. home loans are bundled into mortgage-backed securities and held by banks, insurance companies, pension funds and other investors -- and most have a small exposure to the region hit by the storm.

Most lenders will allow borrowers in affected areas a grace period to delay repayments without facing extra fees, the Mortgage Bankers Association said. Fannie Mae and Freddie Mac, mortgage-funding providers established by Congress but owned by investors, own or guarantee around half of the $8.3 trillion of U.S. residential mortgage debt outstanding. Spokesmen for both companies said they are still assessing the situation and can't estimate its financial effect. Based on the experience of past hurricanes, however, neither company is likely to face major losses. The credit risk on most mortgages that aren't backed by Fannie, Freddie or the Federal Housing Administration is borne by holders of so-called nonagency mortgage securities. Mortgage analysts at UBS AG in New York released a report this week estimating that less than 1% of the amounts due on loans backing such securities are in the ZIP Codes most affected by Katrina.

Four Easy Pieces (WSJ)

The Wall Street Journal, September 9, 2005

If the feds really want to help the economy post-Katrina, here are four words: lumber, cement, shrimp and steel. They all have prices higher than necessary because of U.S. anti-dumping trade law.

Start with lumber and cement, which will soon be in great demand to rebuild the tens of thousands of damaged homes. Prices are sure to rise as reconstruction begins, but thanks to U.S. tariffs as high as 27% on Canadian lumber, American home buyers already pay an extra $1,000 on average for their shelter. The same goes for U.S. duties on Mexican cement, which have

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averaged 55% since 1990. Now would be an ideal time for Washington to declare a truce in these trade spats and reduce the price of rebuilding.

Then there's shrimp, an increasingly popular part of the American diet whose prices may well rise sharply in Katrina's wake. Louisiana shrimpers represent the bulk of the domestic industry and were all but wiped out by the hurricane. According to the Consuming Industries Trade Action Coalition, shrimp as a share of total food consumption increased 45% among low-income families from 2000 to 2002. And while the U.S. shrimp industry employed 13,000 in 2002, shrimp-consuming industries employed 250,000.

So this is also a perfect time to review the anti-dumping duties the U.S. imposes on foreign shrimp. The U.S. International Trade Commission, which determines these things, is already scheduled to meet this month to consider relief for India and Thai shrimp after the December 2004 tsunami. But the ITC ought to do even more post-Katrina for American consumers and waive duties on all foreign shrimp.

And while we're at it, consider specialty steel, which depends on hydrogen gas produced in the Gulf. Steel Dynamics, a mini-mill in Butler, Indiana, has already said it will stop making cold-rolled, galvanized and painted sheet products until its hydrogen gas supplies are restored. Steel prices are rising fast in anticipation of tight supplies, which means higher prices for American companies making cars, appliances and many other products. So how about lifting anti-dumping tariffs on imported steel to ease any domestic shortages and help U.S. manufacturers trying to stay competitive?

The Beltway impulse is to assume that the only way to respond to a natural disaster is to spend more money. But these four easy trade pieces would help everyone without taxpayers having to spend a dime.

Crude Oil Supplies Overwhelm Refineries (FT)

By Carola Hoyos And Javier Blas

Financial Times, September 9, 2005

The US and Europe are releasing more emergency crude oil than refineries in the Gulf of Mexico can handle, reinforcing suspicions that governments are using the crisis triggered by Hurricane Katrina to cap record oil prices.

US refineries will on Friday begin to bid for the 30m barrels of crude oil that the US government is releasing from the its emergency reserves but, with many refineries disabled, analysts say the additional supply may not be needed.

“I will not be surprised if they don't bid for all the barrels,” said Katherine Spector, of JPMorgan in New York.

Data released on Thursday suggested that, while petrol is in short supply, oil companies still have plenty of crude in their inventories. The companies' stocks fell 6.45m barrels last week, significantly less than the 13.6m barrels of production capacity lost to the hurricane suggesting that the shortfall did not warrant the scale of the governments' responses.

President George W. Bush has insisted that the US Strategic Petroleum Reserve, which holds nearly 700m barrels of crude oil, will release supplies to relieve shortages, not to depress prices.

The same line has been taken by the International Energy Agency, the industrial countries' oil watchdog, which last week announced a 2m-barrels-a-day emergency release for the next 30 days. That total of 60m barrels includes the 30m barrels from the US's SPR. Société Générale, the Paris-based bank, estimates that the emergency stocks released more than cover last week's loss of crude production and the continuing losses expected over the next 40 days.

Frédéric Lasserre, the bank's chief oil analyst, said the emergency stocks of crude released covered 154 per cent of the lost production.

The excess oil comes on top of commercial crude inventories in the US that are well above 2004 levels and the average over the past five years.

But Mr Lasserre said emergency stockpiles of petrol released by Europe only covered half the loss caused by Hurricane Katrina.

Five US refineries, with a combined capacity of more than 1.1m b/d, 5 per cent of the country's total, were still closed on Thursday.

Samuel Bodman, US energy secretary, said it would take “at least three months” to get them producing. Refineries process crude oil into petrol, diesel, jet fuel and other products, so shutting down a refinery reduces the need for crude but also curtails the supply of petroleum products.

In spite of that, more than 60 per cent of the total international emergency stocks that are being released consist of oil, with petrol accounting for 18.7 per cent. The rest is heating oil and fuel oil.

The US's SPR only contains crude oil, while European countries stock both oil and petroleum products.

Mr Bush criticised the Clinton administration for using the SPR in 2000 to manipulate markets and refused to tap it as prices reached records and pressure from Democrats grew earlier this year. But shortly before the hurricane, oil prices rose to $60 a barrel and there were signs that high oil prices were affecting the economy in the US and beyond.

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Wal-Mart warned that its bottom line was suffering because record petrol prices meant its customers had less money to spend in the stores. Meanwhile Asian countries, such as Indonesia or the Philippines, began to blame the decline in their growth and the value of their currency on high oil prices. US oil prices rose 12 cents on Thursday to $64.49 a barrel.

'A Significantly Slower Recovery' (USAT)

By David J. Lynch

USA Today, September 9, 2005

Now for the hard part.

In the first days after Hurricane Katrina, repair crews made good progress bringing oil and gas production in the Gulf of Mexico back to life. But restoration of energy output to pre-Katrina levels stalled late this week as industry specialists began addressing some of the worst damage to the region's sprawling energy infrastructure.

Ten days after the hurricane barreled ashore, gulf oil production Thursday was less than 40% of normal levels, down from 43% one day earlier, according to the U.S. Minerals Management Service. The lower number was because an oil company that had not previously reported finally did, says Gary Strasburg, an MMS spokesman.

Natural gas output Thursday stood at 59%, almost unchanged from the previous day.

"This is significantly slower than the recovery from (Hurricane) Ivan," says Jamal Qureshi of PFC Energy in Washington, D.C. "The easy stuff has been brought back. … Now the tough stuff is ahead of us."

Oil prices, which had eased a bit earlier in the week, rose slightly on the discouraging gulf numbers. Light sweet crude for October delivery closed at $64.49 a barrel, up 12 cents, on the New York Mercantile Exchange. Gasoline futures settled slightly higher at $2.0222 a gallon, while heating oil fell more than 3 cents to settle at $1.9296.

Industry crews face several obstacles before they can fully restore production. As Katrina bore down on New Orleans, it scythed through waters thick with oil platforms and onto a shoreline hosting the heart of U.S. refining capacity. When the waters eventually crested, more than 95% of gulf oil production and 88% of gas output was "shut in," industry parlance for closed off. The region accounts for more than one-quarter of U.S. domestic oil and gas production.

Even industry veterans have been stunned at Katrina's power. "Massive waves mangled production equipment and piping, living quarters. … I've been doing this for 35 years, and I've never seen such damage," says Kenneth Neveaux of Houston-based Apache, an independent oil and gas company that lost eight platforms to the storm.

More than three dozen oil platforms were capsized by the powerful storm, says Rebecca Watson, assistant secretary of the Interior. Earlier this week, she told Congress it will take "weeks or even months before we are back up to 100%."

One big worry: A quartet of major deep-water platforms that produce 10% of gulf oil "suffered extensive damage which could take up to 3 to 6 months to bring back on line," Watson said.

Royal Dutch Shell's Mars platform, operating in almost 3,000 feet of water, is among those hardest hit. Lying 130 miles southeast of New Orleans, Mars normally produces about 147,000 barrels each day. On Aug. 31, Shell confirmed on its website that the unit "was significantly damaged in the storm." Thursday, Shell spokeswoman Darci Sinclair said no further information was yet available.

The destruction at sea was mirrored by the damage ashore. Katrina flooded refineries with several feet of briny soup, blew out windows and cut electricity. Ten refineries, which turn crude oil into products such as gasoline and heating oil, were closed by the storm; five others had to throttle back. Including some Midwestern facilities that closed because they ran dry of crude, 20% of U.S. refining capacity was affected, says Bob Slaughter, president of the National Petrochemical & Refiners Association.

Four refineries, the largest a 325,000 barrels-a-day Chevron facility in Pascagoula, Miss., likely will remain closed for some time. Together, the facilities account for about 5% of total capacity — more than enough to make a difference in today's skittish market.

"The ones that are not on yet are probably the ones that are going to require more time and attention. Now we are really getting into the tougher part of the job," Slaughter says. "I don't think that people really understand the magnitude of the damage that's been done."

In some places, specialists are still trying to assess Katrina's legacy. The condition of the undersea pipelines that ferry oil and gas from the offshore production sites to land-based processing facilities is a big unknown.

And some experts are beginning to worry that the near-silence from pipeline companies masks serious trouble with the 33,000 miles of plumbing that snake beneath the gulf. "It's taking a long time to get the answer. Educated guess: No news is bad news," says David Pursell of the Houston-based consultancy Pickering Energy Partners.

Gas Inventories At A 5-Year Low (NYT)

By Vikas Bajaj

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The New York Times, September 9, 2005

The nation's gasoline inventories fell last week to their lowest levels in almost five years, the government said yesterday, quantifying for the first time Hurricane Katrina's effect on energy supplies and production.

Americans bought and used about as much gasoline as they did a year earlier - 9.3 million barrels a day - in the week that ended last Friday, but gasoline inventories fell 2.2 percent from the previous week because of supply and production disruptions, the Energy Department reported.

The figures did not include the Labor Day weekend, and gasoline stocks may have declined even more since then.

The hurricane has reduced oil and gasoline production, refining and distribution in the Gulf of Mexico region, and energy companies are still trying to recover lost capacity.

For consumers, the disruptions meant high retail prices and, in some areas, spot shortages of gasoline.

A gallon of regular unleaded gasoline was selling yesterday for an average of $3.03 nationwide, down from $3.04 on Wednesday, according to AAA. Average prices peaked at $3.06 on Monday and briefly spiked up to $4 to $5 during the last week in some cities, Atlanta among them.

Crude oil prices rose 12 cents, to $64.49 a barrel yesterday on the New York Mercantile Exchange.

Up to 10 refineries in the Gulf Coast that account for 10 percent of the country's capacity were shut and two critical pipelines that bring gasoline and other fuels to the South, the Middle Atlantic States and the Northeast were not operating at full capacity for much of last week. Six refineries are still shut and about half of the gulf's oil and natural gas production remains out of service.

All told, gasoline inventories fell to 190.1 million barrels as of Friday, down 8.6 percent from the period a year earlier. Measured another way, the nation has inventories that could last 20.4 days given normal demand and no additional production.

"That's the lowest in five years," said Fadel Gheit, an energy analyst at Oppenheimer & Company.

"It doesn't matter that if I have whatever level of inventories, but I am consuming a lot more, therefore it will last me fewer days," Mr. Gheit said.

Where Do Gas Prices Go Next? (CSM)

By Mark Trumbull

The Christian Science Monitor, September 9, 2005

Gasoline prices have begun to ease, but even when all Gulf Coast refineries are running again later this year, consumers may not see a full retreat to pre-Katrina levels.

That conclusion, analysts say, stems from a simple equation involving the cost of a barrel of crude, markups by middlemen, and little margin for error in the nation's energy infrastructure. Across the country, gasoline prices soared into uncharted territory - above $3 per gallon last weekend - stunning motorists and prompting many to shorten or skip Labor Day trips.

Concerns about price gouging by gas stations are being investigated in state capitals and the halls of Congress. Prices have already begun to pull back, as some refineries and long-distance pipelines affected by hurricane Katrina return to full strength.

How far and how quickly prices fall now depend on a few critical factors: when four damaged refineries come back on line, how quickly emergency shipments of gasoline from foreign refineries arrive, and most important, where oil prices go from here.

"As long as crude is high, the gasoline price will be high, although it doesn't have to be where it was the past few days," says Ron Gold, an energy analyst at the Petroleum Industry Research Foundation.

Oil prices fell Thursday to around $64 a barrel in midday trading after Energy Department figures showed higher than expected post-Katrina inventories.

The department's Energy Information Administration said this week it expects gasoline to reach $2.60 a gallon by year end and to average $2.40 a gallon in 2006. Despite the predicted drop, that would still be above July levels, which the EIA pegged at nearly $2.32 per gallon.

Of course, as with all forecasts, actual prices - like gas mileage - may vary. But prices in the mid-to-high $2 range represent a significant shift in what is, for many Americans, the most visible gauge of energy costs.

The question for the economy is how much gas prices will affect overall consumer spending, which drives two-thirds of US growth. So far, recession is not in most forecasts, but high energy costs have been a key predictor of economic slowdowns in the past.

And gas prices are just part of the picture. Although gasoline accounts for about half of America's oil use, surging energy prices in recent months may show up most sharply in heating costs this winter. Natural gas, home heating oil, and electricity costs are all rising.

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The thought may be enough to prompt a rush for cardigan sweaters. But the price of those may edge up, too, as oil prices ripple through trucking and shipping costs.

Several factors, thankfully, could soften the shock at the gas pump and beyond.

For one thing, everything from automobiles to refrigerators to factories are more energy efficient now than they were in the 1970s. This shelters the economy somewhat from price swings.

Emergency responses to hurricane Katrina are helping as well: The Bush administration has eased regional gas-blend rules, so supplies can move freely to wherever they're needed. Strategic petroleum reserves are being tapped. Foreign supplies of gasoline are on the way. And on the Gulf Coast, which contains almost half of America's refining capacity, oil companies are racing to bring refineries and platforms back on line.

"The panic component of the gasoline prices should drop back down to something more in line with oil prices," says John Tobin of the Energy Literacy Project in Colorado.

Any price gouging that occurred in the wake of Katrina may be squelched soon, as federal and state watchdogs track down consumer allegations.

Indeed, as Katrina pushed up wholesale prices for gas by 50 cents or more overnight, America's streetscape grew surreal. In one stretch of road near Boston, retail prices for regular unleaded ranged from $3.04 to $3.69 per gallon last Friday.

"To some extent [price gouging] has happened," says Mark Routt, an analyst at Energy Security Analysis Inc. in Wakefield, Mass. "But my understanding is that it's been relatively rare and isolated."

In general, gas prices are driven by predictable economics: The price for crude oil, costs of refining and transporting, operating costs for 167,000 gas stations, and profit margins for all parties.

Prices typically drop heading into winter as driving season winds down. The gas tab also varies by state depending on tax levels and environmental regulation.

As for crude oil, it is measured in barrels that equate to 42 gallons each. "At $65 a barrel, that translates into $1.55 plus per gallon," before refining, distributing, or taxing, says Mr. Gold of the Petroleum Industry Research Foundation.

Economic forecasts vary on where that base-level price heads to next.

"World oil markets are fundamentally tight," says A.F. Alhajji, an oil economist at Ohio Northern University in Ada, Ohio. He wouldn't be surprised by oil at $75 oil a barrel in coming months.

But others say the current high price could give producers an incentive to reopen wells that weren't profitable at $35 a barrel. And it gives consumers an incentive to conserve. "Demand responds to the price signal," says Gus Foucher of Economy.com in West Chester, Pa., who predicts oil will cost $50 by the end of 2006. "Once we get through the hurricane season I think things will calm down a bit."

After Buying Surge, Demand For Gasoline Eases (LAT)

By James F. Peltz And Claire Hoffman

The Los Angeles Times, September 9, 2005

Hello, tipping point? Drivers' demand for gasoline appears to have downshifted since Hurricane Katrina sent pump prices soaring above $3 a gallon across much of the nation.

Katrina initially sparked panic buying, sporadic shortages and televised images of long lines at some service stations. Then, consumers pulled back as prices hit record highs, analysts said Thursday.

"America topped its tanks, and then the knee-jerk reaction was: `I'm not going to pay $3.19 a gallon for gas,' " said Tom Kloza, chief analyst at Oil Price Information Service, an energy research firm.

Demand was likely to taper off anyway, because the Labor Day weekend marks the unofficial end of the busy summer driving season. In addition, gas prices already were at or near record levels even before Katrina hit Aug. 29.

But in the aftermath of Katrina, at least one gasoline seller reported a 15 percent drop in sales over Labor Day weekend compared with a year earlier, Kloza said.

The Energy Department issues weekly reports on gasoline demand and supplies, and many analysts expected its report Thursday to show a surge in demand during the four days after Katrina's devastation, reflecting the panic buying.

Yet the agency's statistics arm, the Energy Information Administration, reported Thursday that in the week ended Sept. 2, gasoline demand fell 4 percent from the prior week to 9.03 million barrels a day.

Analysts promptly labeled the data as suspect, contending that reliable numbers were hard to obtain in the days immediately after Katrina made landfall.

With about 20 percent of U.S. refining capacity either shut down or operating at reduced levels last week, compiling precise data was difficult and "we question the accuracy of these numbers," analyst Jacques Rousseau of the investment firm Friedman Billings Ramsey & Co. said in a report to clients.

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Meanwhile, prices of gasoline and crude-oil futures edged higher in commodities trading after falling for several days.

The U.S. benchmark grade of light crude oil for October delivery rose 12 cents to $64.49 a barrel, and gasoline for October delivery inched up 1.33 cents to $2.036 a gallon.

The upswing came after the government reported no daily progress on the Gulf Coast's overall effort to rebuild its damaged energy facilities, a stark reminder that the recovery is expected to take months and require enormous investment.

About 60 percent of the region's oil production remained shut down, up from 57 percent on Wednesday, and the amount of natural-gas output that remained offline was unchanged at 40 percent, according to the U.S. Minerals Management Service.

The average price of self-serve regular nationwide slipped to $3.03 a gallon from $3.042 on Wednesday, according to AAA.

U.S. Gasoline Use Fell 4% Last Week (WSJ)

By Jeffrey Ball And Russell Gold

The Wall Street Journal, September 9, 2005

Americans used 4% less gasoline amid skyrocketing pump prices last week than they did the week before Hurricane Katrina hit, the federal government reported. But whether that indicates consumers have decided to conserve or merely that they couldn't find all the gasoline they wanted isn't clear.

The figures came amid signs that Katrina's effect on the nation's energy markets will continue to be felt in the weeks and months to come. The Department of Energy's Energy Information Administration said yesterday that stores of gasoline last week fell below the average range for the period, in a time when refineries are running flat-out to meet demand, after the hurricane knocked out Gulf Coast refineries. Meanwhile, the U.S. Coast Guard said yesterday that 52 energy-production platforms in the Gulf of Mexico were missing and 58 were damaged by the hurricane, nearly double the report of missing or damaged platforms Tuesday.

Following weeks in which U.S. gasoline use stood at more than 9.4 million barrels a day, it fell to about nine million barrels in the week ended last Friday, the EIA reported. Use fell by a similar amount compared with the year-earlier period. However, EIA officials cautioned that one week doesn't make a long-term trend.

The figures didn't include data from the Labor Day weekend or from this week. It's also unclear whether the weather simply reduced driving in the affected states, though government analysts doubted that explained the full drop. Tom Kloza, chief oil analyst with the Oil Price Information Service, a Wall, N.J., industry-research firm, said fuel retailers he has talked to have reported a particularly large drop-off in demand since Saturday. "It dropped off the table," he said -- a shift that, if true, wouldn't be reflected until the next government report, due out next week.

Yesterday's EIA numbers were the second indication in as many days that Americans might be tempering their consumptive ways in response to sharply higher gasoline prices. On Wednesday, the EIA slashed its prediction for U.S. oil-demand growth for the full year, "largely due to higher prices."

Meanwhile, the federal Minerals Management Service reported that 49.6% of combined oil and natural-gas production in the Gulf was still offline yesterday, slightly more than the 49.4% that was shut down on Tuesday. In the days after the hurricane, offshore operators were able to put workers back on numerous platforms and quickly restore about half of the daily output from the Gulf, which accounts for about a quarter of domestic oil and natural-gas production.

But since Tuesday, virtually no additional production has been brought back online. "We've restored the low-hanging fruit and I suspect there will be diminishing returns from here on out," said David Dismukes, associate director of the Louisiana State University Center for Energy Studies in Baton Rouge, La.

Yesterday's bearish news on the pace of infrastructure repairs raised specific concerns about the supply of natural gas for the coming home-heating season. Crews are canvassing the Gulf to determine which pipelines, hub facilities and platforms require repairs.

October natural-gas futures yesterday rose 14.6 cents to close at $11.347 a million British thermal units. Crude-oil futures finished up 12 cents to $64.49 a barrel, up 48% year-to-date. Gasoline futures rose 1.58 cents to $2.04 a gallon.

Separately, British Airways and Singapore Airlines, two of the largest international carriers, raised fuel surcharges on most airline tickets.

Governor Criticizes Bush, Oil Industry Over Record Gas Prices (BJ)

By Mike Sunnucks

The Business Journal, September 9, 2005

Arizona Gov. Janet Napolitano criticized the Bush administration Thursday for failing to deal with the oil industry and record high gasoline prices.

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Napolitano said the Bush administration has not been aggressive enough in dealing with sky high gasoline prices in recent years and in the aftermath of Hurricane Katrina.

The Democratic governor said the Republican White House has not been interested in consumers when it comes to the energy industry.

Phoenix area gasoline prices spiked after Katrina slammed New Orleans and the Gulf Coast. Valley gasoline prices are well above $3 per gallon and higher than California, which usually has higher prices.

Arizona receives more than two-thirds of its gasoline from California but prices still spiked after the hurricane. That worries state officials from both political parties.

Napolitano and state Attorney General Terry Goddard, also a Democrat, announced Wednesday they are investigating gasoline and oil companies for possible state antitrust violations and price collusion.

The governor said she met with oil industry representatives this week and did not receive satisfactory answers to why Arizona prices spiked after Katrina and why state prices are higher than California.

Napolitano said she wants the industry to show some transparency when it comes to pricing and supplies and more action out of the Bush administration.

The governor has pressed President Bush several times in recent years after gasoline price hikes, asking the federal government to investigate pricing, supply and possible antitrust issues. She said the administration has not responded aggressively to those requests.

Some Arizona Republicans favor temporarily suspending 5 percent state fuel tax to help lower gasoline prices. Napolitano said that might not have the desired impact if oil companies and gas stations opt to raise prices even more.

The Bush administration and governor have lifted Phoenix area clean air fuel regulations to allow the sale of various fuel blends in order to improve supplies.

President Bush has also released oil supplies from federal reserves in hope of bolstering national supplies and easing prices.

The governor also joined the chorus of criticism over federal handling of hurricane relief efforts, saying the Federal Emergency Management Administration is "disorganized" and that embattled agency director Michael Brown should be fired.

The Arizona Democrat also said congressional Republicans bear some responsibility for hurricane relief problems, pointing to reductions in funding for New Orleans levee systems and state emergency management programs.

Goddard and Napolitano also back a proposed state anti-price gouging law aimed at gasoline stations. That plan has failed to gain support from Republican legislators.

Democrats hope to make record high gasoline and crude oil prices and GOP ties to the energy industry a top issue in next year's elections.

Republicans, including Arizona Sen. Jon Kyl, agree that there were problems with hurricane relief efforts and are concerned about gasoline price hikes.

The GOP argues some of the hurricane blame goes to state and local officials in Louisiana. Napolitano said Thursday that Louisiana Democratic Gov. Kathleen Blanco and GOP Govs. Haley Barbour of Mississippi and Bob Riley of Alabama have done good jobs in dealing with the storm and its aftermath.

For more: www.governor.state.az.us.

Gasoline Thefts Increasing As Fuel Prices Keep Rising (NYT)

By Jennifer Steinhauer

The New York Times, September 9, 2005

As fuel prices rise, and the tempers of American drivers with them, so, too, has the number of people who are stealing gasoline.

From Maine to Oklahoma, gas station owners are reporting a surge in the number of drivers who pull up to the pump, fill up and drive off without paying. The incidents, known as "drive offs" - which are typically concentrated at stations near big cities and Interstates - are forcing stations across the country to adopt prepay policies for cash customers.

Gasoline theft cost the industry - made up largely of convenience stores - $237 million in 2004, trade associations estimate, and the figure is on track to double this year, said Matthew Kussman, the director of business development at GasPriceWatch.com, which tracks gasoline prices and is starting a national database of theft incidents.

"There is a direct correlation between theft and prices being the highest they have ever been," Mr. Kussman said. "And Hurricane Katrina has not helped the situation."

Station owners report that they have sometimes faced frightening confrontations with gas thieves.

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Last month, a station owner in Alabama was struck and killed after he tried to get in front of a sport utility vehicle whose driver was trying to leave without paying.

"This is absolutely a concern," said Holly Tuminello, the vice president of the Petroleum Marketers Association of America. "People get mad when they fill up their car and become irrational at the person selling gas at their little store."

Store owners and convenience store managers interviewed around the country said they had gone from none to a few cases a week to several a day. The thefts began to spike, the station owners say, around midsummer, when gas prices hit $2.50 a gallon. And prices have pushed higher since then. AAA reported yesterday that a gallon of regular unleaded gasoline was selling for $3.03 on average nationwide, down from $3.04 on Wednesday. Average prices peaked at $3.06 on Monday and spiked at $4 to $5 in some cities.

"We are up to two or three a day," said Kelly Porter, a clerk at the Citgo Quick Mart in Norfolk, Va. "They pump and make sure we aren't looking and just drive off."

In contrast to heavily urbanized areas on the East and West Coasts where nearly all stations require prepayment by cash or credit card, many stations elsewhere in the nation allow customers to pump first because it is both convenient for drivers and more lucrative. People who prepay tend to put less gas in their cars. But, it allows for theft.

People who pump without paying can be seen in all sorts of cars - from late-model sedans to brand new S.U.V.'s - and include college students and even the occasional retiree, station owners said. In June members of a theft ring in Florida were arrested for using trucks to siphon off gallons of gas from stations.

Wyman Tapley, the owner of Tapley's Grill and Variety in Bar Harbor, Maine, said he was so stunned by the drive-offs that the first time it happened, he thought a customer had simply been chatting with other locals, forgot to pay and would return the next day, as happens from time to time.

"I just didn't think this could happen this far north," Mr. Tapley said. "We live on an island so it is hard to believe people think they could do that and get away with it." Arrests of gas thieves is rare, gas station owners and operators said.

In response to the wave of thefts, many individual station owners and convenience store companies who previously were more trusting are requiring customers to pay cash before they pump. That represents a sea change for stations in small towns and many American cities. Some cities have passed laws to require prepay, and others, like New Jersey, require an attendant to pump gas.

On Wednesday, Cumberland Farms, a chain of convenience stores, reversed its position and decided that it would require drivers to pay before pumping in 140 of its 900 stations in the Northeast and Florida. The stations are in "places where the other competitors are all prepay," said Christen Graham, a spokeswoman for the company. "Cumberland farms felt it actually became a target. So they have changed the policy."

Wawa, the Pennsylvania-based convenience store chain, said last week that its 540 stores in five states would begin to require prepayment. "Drive-offs may create unsafe situations on store lots, and contribute to higher prices," the company said in a statement.

Drivers who pay with credit cards at the pump - 54 percent last year - are not affected by prepay policies.

"It is not too good for people who come here every day," said Benny Nat, whose family owns a Citgo Quick Mart, in Des Moines.

Generally, store owners selling gas are loath to require drivers to prepay. Drivers often underestimate how much it will cost to fill up, and buy less, said Jeff Lenard, the spokesman for the National Association of Convenience Stores, in Alexandria Va.

Further, prepay drivers tend to pick up fewer bags of M&M's and bottles of water, and those who are required to prepay, especially in times of high prices, may opt to do so with a credit card, which raises fees and chews at the margins of the station owners.

"Most retailers don't make their money at the pump," Mr. Lenard said. "They really need customers to get in the store."

The QuikTrip Corporation, a convenience store and gas station company in Tulsa, has come up with a solution that other companies will probably ape. Cash customers provide gas station clerks with their driver's license, who in turn give the drivers a plastic card that activates the pump, but allows them to pay after pumping. If the driver does not pay the is deactivated and the license number is turned over to the police.

"Two years ago in Tulsa we were losing $4 million a year in gas rips," said Mike Thornbrugh a spokesman for QuikTrip, which operates stations in nine states. "And since we have instituted this, you would be lucky to see losses of a couple hundred dollars a month. We love it, and law enforcement loves it, too."

US Changes Position On Cuba's Weapons (CSM)

By Tom Regan

The Christian Science Monitor, September 9, 2005

DOJ_NMG_0004181

In 2002, John Bolton, then US undersecretary for arms control and international security (and current US ambassador to the United Nations) said that Cuba had "biological weapons capabilities" and was sharing them with "rogue nations." Mr. Bolton and the Bush administration were adamant that Cuba was a potential threat to the United States because of this.

So it came as somewhat of a surprise last Tuesday when the US retreated from this early claim that Cuba has "an offensive biological weapons effort." The new position was made public in a State Department document released last Tuesday, when almost the entire United States was focusing on the effects of Hurricane Katrina in the Gulf of Mexico region.

Knight Ridder reported that the Bush administration acknowledged in the document that 'there is a split view' among intelligence analysts on the question.

The Knight Ridder story notes that this is the first time that the US has "publicly softened" its charge that Cuba had biological weapons, which has been "controversial from the outset."

The Economic Times of India said the new position amounts to a "volte face" by the US. The new finding on Cuba is based on a US intelligence-community-wide assessment, known as a National Intelligence Estimate, completed last year. In that estimate, which is classified, 'the Intelligence Community unanimously held that it was unclear whether Cuba has an active biological weapons effort now, or even had one in the past,' the State Department report states. A senior State Department official, briefing reporters on the document, said biological weapons programs are 'some of the most difficult activities to verify' because the facilities needed are small.

The BTC News blog points out that during the Senate confirmation hearings for Mr. Bolton (who was never approved by the Senate, instead getting his job via presidential recess appointment), one of the charges leveled against him was "a substantiated accusation that he tried to have two State Department intelligence analysts reassigned when they wouldn't back his position that Cuba had an active biological warfare program."

The US position on Cuba highlights a problem that has been pointed out by opponents of the Bush administration - that policymakers interpret the information in whatever way suits them at the particular moment, often ignoring the cautions of the intelligence community or pressuring them to change their views. David Adams, the New York Times Latin America correspondent, hits on this point in an opinion piece. Government intelligence experts 'unanimously held that it was unclear whether Cuba has an active offensive biological warfare effort now, or even had one in the past,', the report says. But, using the same information, the policymakers insist the 2003 finding 'remains correct.'

They base their concern on Cuba's 'technical capability' to pursue bioweapons thanks to the island's highly advanced biotech and pharmaceutical industry. Critics say such a hypothetical scenario is hardly the basis for making such a serious allegation.

Does the lead-up to the Iraq war ring a bell?

GlobalSecurity.org, a leading security think tank, reports that Cuba's biotechnology industry is "one of the most advanced in emerging countries." As a result, Bush administration officials, like Bolton, believe that Cuba is "capable of producing biological warfare agents, and Cuba's biotechnology industry could produce many types of toxins" although there is no evidence to suggest that this is the case.

The Associated Press reported that the 108-page document, while admitting to a "split in opinion" over Cuba, claimed that "Russia, Iran, North Korea, and Syria continue to maintain biological weapons programs," while China "maintains some elements" of a program. China denied the charge.

China Says North Korea Nuclear Talks Will Resume Tuesday (NYT)

By Joel Brinkley

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 - Six-nation talks over North Korea's nuclear weapons program will resume Tuesday, China said Thursday, but even as the announcement came from Beijing, a new player who seems likely to complicate the talks took the stage.

Jay Lefkowitz, an assertive, voluble former White House aide, was appointed last month to be a special envoy on human rights in North Korea, and made his first public appearance on Thursday. He said he planned to publicize whatever he learned about human rights abuses in North Korea, like allegations that the government holds political prisoners in concentration camps where they are "starved to death," as he put it.

North Korea typically reacts quickly and angrily to critical statements from Washington. In fact, just the announcement that Mr. Lefkowitz was being appointed to the new position was a factor in the North's decision to postpone resumption of the disarmament talks by two weeks.

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President Bush was required to appoint an envoy by the North Korean Human Rights Act, passed last October. The White House waited more than 10 months to fill the post, with State Department officials cautioning that the envoy would complicate their work. But conservative Christian groups and other important supporters pushed the White House.

Secretary of State Condoleezza Rice embraced Mr. Lefkowitz's mission at his swearing-in ceremony on Tuesday, saying, "People all over the world have a right to live in dignity," and, "We believe the people of North Korea to be no different."

But others in the government are concerned that North Korea may use any critical statements made by Mr. Lefkowitz as a reason not to cooperate in disarmament talks. The administration acknowledged over the summer that it had made a concerted effort to tone down its comments on North Korea because, through the spring, the government there seized on each new criticism as a justification for refusing to return to the talks.

The talks resumed in August after a break of more than a year. But they recessed Aug. 7 because the parties could not agree on a statement of principles. The six nations involved are the United States, North Korea, China, Russia, Japan and South Korea.

Mr. Lefkowitz made it clear that his work is intended to be wholly separate from that of Assistant Secretary of State Christopher R. Hill, the chief American negotiator at the disarmament talks. Mr. Lefkowitz reports directly to Ms. Rice, not Mr. Hill, and will have no role in the disarmament talks, he noted. His work and the disarmament negotiations, he said, are to proceed "in parallel tracks."

But when asked by reporters whether he was worried that his policy of publicizing North Korea's human rights problems might sabotage the talks, he said the administration supported his work, and his issues were "morally unambiguous."

Asked if he would advocate withholding food and other aid from the Korea, Mr. Lefkowitz seemed to leave the option open.

"We must be willing to look at all aspects of our relations with North Korea and our allies' relationship with North Korea," he said. Ms. Rice has repeatedly said the United States will continue supplying aid to the North Korean people no matter what the government does.

The talks are complicated in any case. On Thursday, as soon as China announced the talks would resume Tuesday, several parties restated positions that helped push the last round into a stalemate.

North Korea called it "unimaginable" that it would give up the right to pursue a peaceful nuclear power program - a chief sticking point - even if it gave up its nuclear weapons. The government also layered on a new public demand: that the United States, which has cut its troops in South Korea by a third, withdraw all its troops from the peninsula.

Japan expressed hope for the new talks but also said it would urge North Korea, again, to clear up the dispute over Japanese citizens kidnapped by North Korea decades ago.

South Korea urged the international community "to take the lead in establishing a rehabilitation program for North Korea," a senior Korean official told The Korea Times in Seoul.

Mr. Lefkowitz said he would meet with foreign governments and nongovernmental organizations to promote human rights issues - including the allegation that North Korea "holds 200,000 people in concentration camps," subject to "torture, starvation, disease and exposure."

These are not new allegations, but administration officials have seldom spoken of them in recent months.

North Korea Stands Fast On Nuclear Energy Use (WP)

By Glenn Kessler

The Washington Post, September 9, 2005

Two prominent experts on North Korea who recently made an unpublicized visit to the reclusive nation briefed Secretary of State Condoleezza Rice yesterday as U.S. negotiators prepared to return to Beijing for a renewal of six-nation disarmament talks.

China announced yesterday that the talks would resume next Tuesday, after a recess of more than five weeks after the participants were unable to reach agreement on a "statement of principles" that would guide negotiations to eliminate North Korea's nuclear programs. Japan, South Korea and Russia are also participants in the talks.

John W. Lewis, a retired Stanford University professor, and Siegfried S. Hecker, retired director of Los Alamos National Laboratory, met with Rice yesterday afternoon to provide details of their talks with key North Korean officials, including the top negotiators for the North Korean side.

The two men summarized their conversations in Pyongyang, made some suggestions for bridging gaps, and provided an assessment of the chances of reaching an agreement, according to one U.S. official.

During the talks with Lewis and Hecker, North Korean officials made it clear that they intend to insist that the statement of principles acknowledge North Korea's right to peaceful use of nuclear power, according to Charles L. "Jack" Pritchard, a former State Department Korea expert, who accompanied the two men.

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To varying degrees, South Korea, China and Russia have supported the North Korean position, while Japan has backed the U.S. stance that North Korea's behavior gives it no right to even a peaceful program, except for research for medical, agricultural or industrial use.

"The North Koreans saw a chink in the armor," Pritchard said. "They have concluded this is a winning argument."

Pritchard said that as a result, any statement emerging from the talks appears less likely to be as clear and definitive as U.S. officials had hoped. This in turn might drag out future negotiations.

To prod North Korea to return to the talks, Rice had declared that the United States recognized North Korea's sovereignty. From the North Korean perspective, a sovereign nation has a right to peaceful nuclear energy, and one way the United States can demonstrate that it respects North Korea's sovereignty is to support that right.

North Korea's position -- which also included a demand for a light-water reactor to compensate it for giving up its current nuclear facilities -- has led to sometimes heated discussions within the Bush administration over how to counter Pyongyang's gambit, U.S. officials said.

Some officials, such as Assistant Secretary Christopher R. Hill, the chief U.S. negotiator, have contended that the issue of whether North Korea has a theoretical right to peaceful nuclear energy is not as important as the main question of whether an agreement to eliminate North Korea's nuclear programs can be reached in the first place. Moreover, even if North Korea wanted to build a civilian nuclear program, none of the countries at the table now would even be willing to fund it.

"The issue for some of the partners is whether . . . North Korea could then reclaim a right to nuclear energy," Hill said last month. "If you ask me, it's not exactly a showstopper issue -- the real issue is getting rid of all their nuclear programs."

But other officials have pushed back, saying that such a concession would allow the North Koreans to chip away at an agreement, especially if they managed to hide materials or programs not discovered during the verification process.

Some of the internal debate has centered on arcane and detailed discussion over various articles of the nuclear Non-Proliferation Treaty. Some argue that the first two articles support a theoretical right, but others argue that that hinges on compliance with the fourth article, which requires a country to live up to its obligations. North Korea has violated those obligations and withdrawn from the treaty.

Some conservatives in the administration, however, believe the administration has weakened its position in the North Korean talks by agreeing to support the European negotiations with Iran on its nuclear programs, and by quickly reaching a deal this year with India to supply it with civilian nuclear energy. Iran has violated the Non-Proliferation Treaty, and India never joined it.

Yushchenko Sacks Ukraine Government (FT)

By Tom Warner

Financial Times, September 9, 2005

Ukraine's President Viktor Yushchenko yesterday sacked his cabinet and appointed a loyal and moderate ally to take over as prime minister from the populist Yulia Tymoshenko, after accusing her of engaging in divisive conflicts with other members of his political team.

Mr Yushchenko said Ms Tymoshenko and his national security chief, Petro Poroshenko, who had earlier resigned, had "lost their team spirit and trust" and had forced him to play the role of arbiter between competing institutions within his own administration.

"The president shouldn't be a nanny," Mr Yushchenko said. "I'm convinced that millions of people didn't stand on the Maidan for this," he added, referring to the central square in Kiev where his supporters gathered during last winter's Orange Revolution.

The long-simmering conflict between Ms Tymoshenko and Mr Poroshenko reached crisis point after the surprise resignation earlier this week of Olexander Zinchenko, the president's chief of staff, who on Monday accused Mr Poroshenko of corruption and interference in the media and justice system.

Mr Yushchenko appointed his old ally Yuri Yekhanurov, a veteran government official with a record of avoiding direct political confrontations, to take over as acting prime minister and form a new cabinet.

The move made clear that Mr Yushchenko would take direct personal control over government policy for the next six months until parliamentary elections due at the end of March. But his dismissal of Ms Tymoshenko is likely to lead to a damaging confrontation with her and her political team that could further bog down reforms.

Ms Tymoshenko is expected to announce that she will form a separate political bloc and run against Mr Yushchenko's Our Ukraine party, of which Mr Yekhanurov and Mr Poroshenko are senior members, in the March elections.

The elections are crucial, as they coincide with the coming into force of political reforms adopted during the Orange Revolution that transfer many executive powers to the prime minister.

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After the elections the premier would be chosen by the new parliament and would no longer answer to the president. Mr Yushchenko's allies are expected to attempt to cancel the political reforms in court.

¦US government officials are calling for a special Nato summit to assess Ukraine's readiness to join the military alliance as well as the candidacy of other countries, it emerged yesterday.

Kurt Volcker, a European affairs expert at the US State Department, said the US wanted to hold a summit on Nato enlargement in 2008, after a smaller meeting next year focusing on the effectiveness of the alliance.

Ukraine's President Fires Prime Minister (LAT)

By Kim Murphy

The Los Angeles Times, September 9, 2005

MOSCOW — The pro-Western government that swept to power in Ukraine's "Orange Revolution" collapsed today when President Viktor Yushchenko fired his popular prime minister and accepted the resignations of key political allies, struggling to quell the most serious political crisis of his 7-month-old administration.

Paralyzed with savage infighting among his supporters and stung by allegations of corruption surrounding the new democratic government, Yushchenko emptied the top ranks of his rancorous administration in an attempt to reassert his leadership of the tumultuous nation of 47 million on the eastern edge of Europe.

"The team's unity, unfortunately, has become an extremely acute problem. Interpersonal conflicts have begun to affect state affairs," Yushchenko said. "It is very difficult, but today I must remove this Gordian knot."

The president said he would appoint liberal economist Yuri Yekhanurov, a longtime ally and former economy minister, to head a new government as acting prime minister. Yekhanurov, an early architect of Ukraine's post-communist privatization program, is presently governor of the Dnipropetrovsk region in eastern Ukraine.

Yulia Tymoshenko, the sacked prime minister whose popularity had been one of Yushchenko's most valuable weapons, signaled that she will join the opposition in the March 2006 parliament elections that will determine whether the pro-reform team can hold on to power and continue Ukraine's drive toward joining the European Union.

"She's not going to work with Yushchenko," her spokesman, Vasily Chepinoga, said in a telephone interview. "Because Yushchenko and Yulia Tymoshenko see the main strategic ways of developing the country in a completely different way."

The firings followed months of increasingly uneasy relations between the president and Tymoshenko, whose populist moves to raise pensions and salaries, tax businesses, reverse shady privatization deals, and control gasoline prices have been blamed for stifling economic growth and undermining Yushchenko's free-market policies.

Soaring food and energy prices have led to widespread public disenchantment, fueled by the resignation of two top Yushchenko aides who claimed the president had allowed the new government to become tainted by the presence of several corrupt senior advisors.

A recent poll of Ukrainians by the Kiev-based Razumkov Center found that only 37% of respondents believe the new authorities are better than those tossed out when hundreds of thousands of Yushchenko supporters swept into the streets last fall and demanded the new elections that unseated former Prime Minister Viktor Yanukovich.

"This research is a confirmation that our society is gradually growing free of its illusions," Yuri Yakymenko, head of the Razumkov Center's political office in Kiev, said in a telephone interview. "After the Orange Revolution, we had very high public expectations. At first, those expectations gave huge support, both to the president and to the government. But later, the activity of the government itself, and especially the conflict right in the center of power, all of this slowly rid the public of these expectations."

Even so, he said, public support remains substantially higher than it was for Yanukovich and former President Leonid D. Kuchma.

The crisis has been long in the making, emerging not only out of the widening policy gap between Tymoshenko and Yushchenko, but also from a sharp rift between the former prime minister and Petro Poroshenko, a wealthy chocolate manufacturer who resigned today as secretary of the National Security and Defense Council.

Analysts said Poroshenko has quietly angled to force Tymoshenko out and take her place as prime minister. Meanwhile, presidential chief of staff Oleksandr Zinchenko unleashed a firestorm this week when he resigned and accused "a small group of adventurists" outside the president's inner circle, most notably Poroshenko, of corruption.

"Corruption and bribery is again escalating. In many cases, the scale of it surpasses that of the past," Oleksandr announced at a news conference Monday.

"They have set up their own clan, they have orchestrated an information blockade of the president and pushed him into a virtual, unreal world," he said. "Step by step, they are implementing their plan to use power for their own enrichment, to privatize and to grab everything they can."

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Poroshenko has denied the allegations, and Yushchenko appeared to defend him today — even as he moved to dismiss the government.

The key question now is how Yushchenko will move forward to the parliament elections next year, considered crucial because new election reform laws will transfer much of the president's power to parliament. Most analysts believe the president cannot win a legislative majority without Tymoshenko's party in alliance.

"I would like them to stay in the pro-government team," the president said, referring to both Tymoshenko and Poroshenko as "friends."

Many analysts said it was too early to predict a final split between Yushchenko and Tymoshenko, and most did not rule out an election in which the two politicians would run separate but friendly campaigns.

"Without Tymoshenko's support, clearly, Yushchenko never would have become president," Yulia Mostovaya, assistant editor of the respected liberal weekly Zerkalo Nedeli, said in a telephone interview. At the same time, she said, Yushchenko has his own wide base of support.

"He has actually created his own power, building it up on a basement of wealthy, financially strong tycoons, and that's what he's going to bring to the parliament elections," she said.

Ukraine Leader Fires Cabinet As Reform Coalition Splits (NYT)

By Steven Lee Myers

The New York Times, September 9, 2005

KIEV, Ukraine, Sept. 8 - President Viktor A. Yushchenko dismissed his prime minister and the rest of the cabinet on Thursday as internal divisions and accusations of corruption splintered the political coalition that led last year's popular uprising against his autocratic predecessor.

Facing a widening scandal, Mr. Yushchenko replaced the prime minister, Yulia V. Tymoshenko, a populist reformer whose fiery oratory drove what became known as the "Orange Revolution" but whose leadership proved divisive and debilitating in government.

In somber remarks broadcast on national television, Mr. Yushchenko said he had acted to end internal struggles for power among those who rallied tens of thousands of people in protests that ultimately overturned a fraudulent presidential election last fall.

He described his decision as a reluctant, though necessary one, saying that as president he "should not baby-sit" his squabbling aides.

"Ukraine was losing momentum, including economic pace," he said in his remarks, as transcribed and translated by the British Broadcasting Corporation. "I think members of my team listened to the president but did not hear him. And today I have cut the Gordian knot, however difficult it may be."

Barely seven months after his inauguration promised a newly transparent and democratic era, Mr. Yushchenko found himself facing a political crisis that threatened to undermine the ideals of last fall's uprising. His closest aides were not only deeply divided, but also faced accusations of the sort that dogged his predecessor, Leonid D. Kuchma.

Last Saturday, Oleksandr O. Zinchenko, Mr. Yushchenko's former campaign manager, resigned as chief of staff and later accused the administration of being "even worse" that Mr. Kuchma's. That thrust into public internal divisions that have simmered for months, hindering the government's work.

On Thursday, almost immediately after Ms. Tymoshenko was dismissed, one of her strongest allies, the chairman of the Ukrainian Security Services, Oleksandr V. Turchinov, who was not dismissed, resigned in protest, deepening the split among Mr. Yushchenko's supporters. He warned that the president's decision "threatened the national security of Ukraine," the security services' spokeswoman said in a telephone interview, citing his resignation letter.

Another aide at the center of the accusations, Petro Poroshenko, the secretary of the newly empowered Security and Defense Council, also announced his resignation on Thursday. He denied allegations of corruption, but said he would step aside to avoid the appearance of thwarting an investigation into the charges.

At the heart of the divisions - and evidently the source of the accusations of corruption - have been the government's efforts to undo some of the dubious privatizations that took place under Mr. Kuchma. Prime Minister Tymoshenko has pressed for review of dozens of privatization deals, at times contradicting Mr. Yushchenko's more modest goal of reviewing only the most egregious.

The latest conflict involved a court ruling that overturned the 2003 privatization of a big steel factory, the Nikopol Ferroalloy Plant. The new owner, Viktor Pinchuk, Mr. Kuchma's son-in-law and one of the country's richest men, appealed, but in the meantime minority shareholders elected a new management team.

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Mr. Pinchuk and the plant's workers rallied last week, calling the shareholders meeting illegal and confronting riot policemen sent to enforce the court's order. Mr. Pinchuk at the time accused Ms. Tymoshenko of trying to wrest control of the plant on behalf of her allies.

In his remarks on Thursday, Mr. Yushchenko referred to the showdown, saying that while the court's order was "deeply correct," he lamented "the intrigues behind the scenes" that nearly resulted in an armed clash.

"The finale of the story had nothing to do with attempts to hand the company from a gang over to the state," he said, "but it appeared that it was handed over from one gang to another. Therefore the people had a right to protest."

He did not elaborate.

Hryhory M. Nemyrya, an adviser of Ms. Tymoshenko's, called the dismissal of the government a sign of indecision. "The decision to punish everyone does not address the question of corruption," he said in a telephone interview. "Rooting out corruption was one of the goals of the Orange Revolution."

Since taking office, Ms. Tymoshenko and Mr. Poroshenko, the secretary of the Security and Defense Council, became powerful rivals, vying for influence and political power.

Yulia Tishchenko of the Ukrainian Center for Independent Political Research in Kiev said in a telephone interview that Mr. Yushchenko's crisis was a result of a new government structure that gave officials greater powers than their predecessors had, though overlapping ones.

"Each of the members of the new team wanted to get as much authority as they could, which was not good for the system," she said.

Mr. Yushchenko appointed a regional governor and former aide, Yury I. Yekhanurov, as acting prime minister.

It remains to be seen whether Mr. Yushchenko's action will stem a slippage of popular support among Ukrainians, whose enthusiasm for his democratic, market-oriented reforms appears to have diminished in the wake of rising inflation and an economic slowdown, as well as the government's infighting.

It is not even certain that Parliament, fractured into blocs led by many of those dismissed on Thursday, will confirm Mr. Yekhanurov or the cabinet he forms.

Ms. Tymoshenko, who leads her own faction in Parliament, did not comment on her dismissal, but Mr. Nemyrya said she would address the nation on television on Friday.

Her dismissal came as Ukraine's political parties have begun jockeying for support in advance of parliamentary elections in March. Those elections have added significance because Parliament's deputies will have the power to choose a prime minister and the government.

The expanded authority is the result of the agreement that cleared the way for a rerun of November's disputed runoff in which Mr. Yushchenko won the presidency from the originally declared winner, Viktor F. Yanukovich.

Ms. Tishchenko said Ms. Tymoshenko's parliamentary faction showed signs of winning greater support, at the expense of the party the president once led.

Mr. Yushchenko referred poignantly and personally to the country's current state, citing the poisoning that disfigured his face on the eve of last year's election, a crime that has yet to be solved.

"A year ago, I ran for president not to see key state institutions struggling to find understanding and failing to find accord and mutual trust," he said. "That is not what I sought as I have been walking for a year with a face that is not mine."

Ukraine's President Fires Cabinet (WP)

By Peter Finn

The Washington Post, September 9, 2005

MOSCOW, Sept. 8 -- Ukrainian President Viktor Yushchenko fired his prime minister and entire cabinet Thursday after a simmering power struggle among leaders of last year's Orange Revolution erupted into very public infighting about alleged corruption in the government's top ranks.

The president appointed Yuriy Yekhanurov, a former economics minister and regional governor, as acting prime minister, replacing the firebrand Yulia Tymoshenko, and addressed the nation in an effort to calm the worst political crisis of his young term.

The mass dismissal signaled the end of the broad coalition that led a popular revolt after fraudulent presidential elections last November and brought Yushchenko to power.

Ukraine is the largest of three former Soviet republics in which a democratic opposition has taken power in this way. Western governments have been watching it closely for evidence of whether the new leadership can maintain unity and address endemic economic and social problems inherited from the communist era.

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On Thursday, Yushchenko addressed the nation after a last-ditch effort to restore unity between the Tymoshenko government and his own presidential administration.

"I knew that there were definite conflicts between those people," Yushchenko said in his televised address. "I hoped that if each of them immersed himself in work, there would not be enough time for mutual intrigues." But he concluded that the government "lost the team spirit and faith."

The dismissal was triggered by a series of resignations by top officials who charged that some of the most powerful people around Yushchenko were using their positions to enrich themselves and reneging on one of the most important promises of last December's revolt, the eradication of endemic graft.

On Saturday, Oleksandr Zinchenko, Yushchenko's chief of staff, accused by name Petro Poroshenko, head of the Defense and Security Council, and Olexander Tretyakov, a senior presidential adviser, of "cynically carrying out their plan to use government posts to their own ends."

"Corruption is now even worse than before," said Zinchenko, announcing his resignation on television in a live nationwide broadcast.

As Zinchenko, a chief architect of the revolt, spoke, Poroshenko, a confectionary and media magnate who was a key financier of the Orange Revolution, stood scowling at the back of the room. Poroshenko moved to the podium when Zinchenko finished to angrily deny the accusations before reporters who were mesmerized by the verbal shootout.

"During my time in government, I did not become one penny richer or gain one share," said Poroshenko, whose candy factories have earned him the nickname Chocolate King in Ukraine. "I ask for one concrete fact that proves the accusations here today."

Zinchenko's resignation was followed Thursday morning by the departure of Deputy Prime Minister Mykola Tomenko. "I don't want to carry responsibility for people who have created a system of corruption," Tomenko said. "Today the president does not know what's going on in the country."

Poroshenko also resigned Thursday before Yushchenko dismissed the government.

Political analysts said the crisis stemmed in large part from the political enmity between Poroshenko and the now dismissed prime minister, Tymoshenko, who is one of the country's most charismatic leaders. Last year, she galvanized huge crowds on Kiev's Independence Square, the epicenter of the mass demonstrations that brought Yushchenko to power.

Poroshenko also aspired to the prime ministership. Igor Koliushko, head of the Center of Political and Legal Reform in Kiev, said in an interview that he used the security council chaired by the president to form "an alternative government" that was in constant conflict with Tymoshenko's cabinet.

"They tried constantly to change the decisions of the constitutional government," Koliushko said. "The split reached such a pitch that they couldn't possibly be together anymore."

Whatever the truth of the allegations of corruption, the public airing of such accusations was designed to force other divisions to a climax, analysts said. Disagreement over how to investigate alleged corruption in past privatizations of state industries is a central issue.

Yuschenko's camp favors a relatively limited look, while Tymoshenko's wants a deep probe.

Svitlana Kononchuk, head of political programs at the Ukrainian Center for Independent Political Research, said Yushchenko must accept some blame for the crisis.

"The war between Tymoshenko and Poroshenko has lasted for seven months," Kononchuk said. "Yushchenko gave a lot of freedom to his partners. He assumed that these people were professionals, efficient, and they understood the importance of the situation which Ukraine found itself in. Yushchenko hasn't become a politician yet. He imagined himself a symbol, not a manager."

Yushchenko, however, said Thursday that "the president cannot be a nanny for them."

A spokesman for Tymoshenko refused to comment on the cabinet's dismissal, but a Ukranian news agency, quoting unnamed government sources, said that the prime minister felt betrayed and was likely to seek a return to office after the next election. After that vote, the prime minister and cabinet will be chosen by parliament rather than the president, as they currently are. The powers of the prime minister will also increase at the expense of the president.

The crisis is likely to deepen public disillusionment with the government's failure to deliver quickly on some of the basic promises of the Orange Revolution, particularly rapid economic improvement. An opinion poll conducted last month found that 53 percent of respondents believed Ukraine was on the wrong path, up from 30 percent in April.

Yushchenko was also tarnished by recent accusations that his 19-year-old son was leading a lifestyle far beyond his apparent means. A Ukrainian Web site reported that Andriy Yushchenko, a student, was driving a high-end BMW, had a luxury $30,000 cell phone and lavished cash on restaurants and other locations around the capital. To the fury of many people in Ukraine, he also registered as trademarks the symbols of the Orange Revolution.

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Peeling Away The Revolution (WSJ)

By Robin Shepherd

The Wall Street Journal, September 9, 2005

An act of strength or sign of weakness? Actually, Viktor Yushchenko's decision to fire his entire government yesterday smacks of both: strength because it allows him to form a cabinet of allies rather than rivals; and weakness because he was all but forced to do it to answer damaging accusations that he was tolerating corruption in his own inner circle.

We may leave that debate about the position of President Yushchenko to those who believe history is the product of great men. To the rest of us, Ukraine's biggest political crisis since the Orange Revolution should be understood, to a great extent, in terms of flaws in the revolution which were apparent from the start. Yesterday's events may not have been inevitable, but a panoply of factors made some sort of crisis a distinct possibility.

The most obvious problems, of course, centered on the fractious nature of the democratic forces that took power in January. In explaining his decision yesterday, Mr. Yushchenko accused the government of losing its "team spirit," an accusation which when applied to Prime Minister Yulia Tymoshenko could pass for the country's understatement of the year. The charismatic, and immensely rich, premier has barely concealed her own ambitions to take the president's place as the key player in national politics and has been engaged in all-out warfare with other members of the government for months. Enter Petro Poroshenko, the National Security and Defense Council secretary, who has been at loggerheads with Ms. Tymoshenko over economic policy. Corruption allegations (unsubstantiated as yet) against Mr. Poroshenko, who is also immensely rich, brought the current crisis to a head, and there is now a real risk that the two will lead their respective power blocks into next March's crucial general elections as enemies rather than allies. Any such confrontation could prove disastrous for the reform movement, either pushing it out of power completely or, more likely, forcing reformists to make damaging concessions to supporters of the previous administration in order to form a new government.

To add to the difficulties, such bickering takes place amid a dramatic downturn in the country's economic fortunes. Growth in the first half of the year collapsed to just 3.7%. That compares to 13.5% in the same period last year. Sliding growth has been accompanied by rocketing inflation, which currently hovers just below 15%. In a country where many people earn less than $50 a month, rising prices can cause real social pain.

Not surprisingly against such a backdrop, public support is plummeting. A poll by the Razumkov institute in August suggested that 43% of Ukrainians believed the country was on the wrong path, a jump from 23% in April. The August poll found just 32% felt the country was doing well, down sharply from 54% last spring.

The key question now, therefore, is this: Can Mr. Yushchenko and his new government recreate unity among the country's democratic forces, or are they heading for collapse?

Much depends on the attitude of Ms. Tymoshenko. She is due to make a televised address later today and it is little exaggeration to say that the content of that broadcast could define the future of her country. If she accepts President Yushchenko's generous offer yesterday to keep her in the fold in some capacity or other, there is hope that the reformists can pull it off. But she could also cause real problems. Mr. Yushchenko already faces difficulties in parliament passing legislation aimed at joining the World Trade Organization. He also has to get approval for the new prime minister. If Ms. Tymoshenko opts for all-out confrontation, it is hard to see how the situation can be prevented from descending into chaos.

But ultimate success for the aims of the Orange Revolution has never been simply down to events inside Ukraine. The country's problems were always going to be too severe to cope with in the absence of outside help. That's why the attitude of the European Union has always been so important, and why its policy hitherto has been so disappointing.

What Ukraine needs, and needs fast, is a clear and unambiguous statement from Brussels that it will be invited to start accession negotiations with the European Union if the country's pro-democracy parties promise to work together to pass important reformist legislation and then go on to win the March elections. Such a statement would certainly be tantamount to blatant intervention in Ukraine's political affairs, but it would be no less welcome for that. There is also a useful precedent in Brussels's brilliant strategy of working with democratic forces in neighboring Slovakia in the 1990s to successfully promote unity among opponents of that country's former authoritarian Prime Minister Vladimir Meciar. Slovakia today is a reformist success story. Brussels must take note.

All this said, the big picture in Ukraine remains one of hope and progress. This time last year, the country was run by a group of people who it would be kind to describe as thugs. The country still may have a long way to go, but we are at least past the stage at which opposition journalists wandered around the streets of Kiev in fear for their lives. When President George W. Bush praised the millions of people who stood on the streets of the Ukrainian capital last year as modern-day heroes of the democratic ideal, he was right. But as in Iraq, what he and his administration may have underestimated is the sheer complexity of the task at hand and the time scale in which we expect success.

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What we are watching in Ukraine are still the first tentative steps in a desperately difficult transition. We will get a pretty good idea of whether that task can, in the end, be accomplished in the days and weeks ahead.

Mr. Shepherd is an adjunct fellow of the Center for Strategic and International Studies. He is based in Bratislava.

Ukraine's Orange Flame, Dimmed (NYT)

The New York Times, September 9, 2005

So ends the Orange Revolution, at least Act I. After months of increasingly nasty disputes, Ukraine's president, Viktor Yushchenko, fired his charismatic prime minister and nominated a caretaker to replace her. The fired prime minister, Yulia Tymoshenko, has said nothing - yet. But she will. Her fiery speeches and powerful presence were a major factor in the popular uprising that brought Mr. Yushchenko to power last fall, and she is certain to turn these weapons on the president and his new government, especially with elections for Parliament scheduled for March. All that is a serious blow to the hopes and expectations that had been raised for the future of Ukraine, and for reformers in Belarus and other former Soviet republics.

Perhaps the expectations were always unrealistic. People who unite to oust one government, as the Ukrainians did with huge demonstrations, do not necessarily agree on what the next one should be, and the alliance was always shaky between Mr. Yushchenko, a former prime minister and central banker, and Ms. Tymoshenko, who made a fortune in the gas business. Mr. Yushchenko and Ms. Tymoshenko squandered the momentum generated on Kiev's streets, struggling over control of lucrative industries, over relations with Russia and over how to cope with soaring energy prices. The impression was of a government with no focus.

On dismissing the government, Mr. Yushchenko declared that his one goal was to ensure stability. But the Ukrainian protesters wanted change. If Mr. Yushchenko hopes to salvage anything of their spirit, he needs to convince his country, and a very wary West, that he not only believes in democracy, free markets and the rule of law, but is also capable of leading Ukraine in that direction.

Controversy Swirls Over Egypt Vote (WP)

By Daniel Williams And Robin Wright

The Washington Post, September 9, 2005

CAIRO, Sept. 9 -- Egyptian government officials leaked partial results Thursday of the first multi-candidate presidential election to show that President Hosni Mubarak had won at least 70 percent of the vote, but controversy still swirled about alleged irregularities and fraud in Wednesday's vote.

Senior officials put voter turnout at about 30 percent.

Ayman Nour, who ran an energetic campaign as head of the fledgling Tomorrow Party, filed complaints with the Presidential Election Commission, which rejected them early Friday. "There were violations regarding the right of the voter to cast his ballot," Nour said. Independent human rights groups said they were considering filing court cases.

Government officials worked hard to persuade the public that the vote was valid. Boutros Boutros-Ghali, the former U.N. secretary general who heads the government's National Council on Human Rights, declared the election a "positive experience." Information Ministry officials urged reporters to accentuate the positive in the election and not focus on alleged violations.

In Washington, the State Department praised the vote. Spokesman Sean McCormack called it a "historic departure for the Egyptian people in holding a multi-candidate presidential election. . . . The debate during the campaign process was something, I think, that will enrich the Egyptian political dialogue certainly for years to come."

But the Mubarak government's efforts to get similar approval from Egyptians was hampered by the continuing disputes. Unlike in past parliamentary votes and presidential referendums, results were not announced at local polling stations. Instead, counts have been funneled to a central tabulation office that has until Saturday to release official numbers. "They have all the time they need to sculpt the result they want," said Enji Haddad, a member of We Are Watching, an independent group that tried to monitor voting irregularities.

Even as complaints were voiced over the vote, the first in which Egyptians were able to mark ballots with more than one choice for president, attention was quickly turning toward the next stage in the herky-jerky battle over changing Egyptian politics -- parliamentary elections scheduled for November.

Although Mubarak might have overcome months of assault from a variety of political opponents, even his staunchest supporters say they believe the battle will go on. Opposition leaders with competing visions for change in Egypt have made vast strides during the past few months, becoming more visible than at any time during the 24 years Mubarak has held power, his supporters say.

"Things can't go back," Information Minister Anas Fiki said in an interview. "The process has moved far."

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This is also the hope of Bush administration officials who insist that the presidential vote was only a first step in converting Egypt from an authoritarian state into a democracy. Along with the war in Iraq and efforts to end the Israeli-Palestinian conflict, Egypt is a key to promoting democracy in the region, in the administration's view.

In remarks made before the vote, however, senior administration officials emphasized the importance of the legislative elections. "For the near future, the parliamentary election is more important. It's not clear who will compete and who will end up where. But it's important to get all the public political energy into the political sphere, or it will go elsewhere," said a senior administration official involved in Middle East policy.

"We're looking at parliamentary elections as a time to bring in new faces and new political parties that will change the political landscape for Egypt," another senior official said.

Wednesday's election was a step in the Mubarak government's own plans to open up politics to some extent, albeit with the levers of power still held by the National Democratic Party, currently dominated by the president's son Gamal and a group of Western-oriented technocrats. They contend that reform in Egypt must be calibrated to avoid unrest that would upset free-market economic liberalization, another project spearheaded by Gamal Mubarak.

Mohammed Kamal, a member of Gamal Mubarak's advisory team, said reform plans include changes in the constitution to transfer some presidential powers to parliament and scale back emergency laws that have inhibited free speech for a quarter-century. "Our message is that we are creating a platform for change," he said in an interview.

It is unclear when the emergency laws might be lifted. Bush administration officials have pressed for them to be amended before the parliamentary vote, but President Mubarak has resisted, senior U.S. officials said.

As Mubarak has made gains, so have his political rivals. Nour, leader of a free-market party that was legalized only last October, has quickly became a prominent opposition force. Mubarak government officials were preoccupied Thursday with the possibility that Nour might have come in second in Wednesday's balloting. Some were openly rooting for Noman Gomaa, 71, the candidate of the established Wafd Party, to be the runner-up.

Wafd spokesman Mahmoud Abaza predicted the party would make a strong showing in the parliamentary vote. "The bottom line is that, the NDP aside, there are only two other political forces: Wafd and the Muslim Brotherhood."

The Brotherhood, which is officially banned from politics but is widely regarded as Egypt's largest opposition force, benefited from the months leading up to the election, said Aly Abdel Fattah, an official of the Brotherhood. Nour and Gomaa visited Brotherhood leaders to solicit support. The Brotherhood issued an anyone-but-Mubarak order to its followers. Members were widely interviewed on Arabic-language satellite television. "We were participants. We got our membership familiar with the workings of elections," said Abdel Fattah, who added: "The Brotherhood plans to run front candidates in the parliamentary vote."

Egypt's Unfree Vote (WP)

The Washington Post, September 9, 2005

Millions of Egyptians voted in a historic multi-candidate presidential election on Wednesday -- but the results will never be known. True, 77-year-old President Hosni Mubarak is widely believed to have obtained the most votes and will be duly sworn in next week for a six-year extension of his 24 years in power. But Egyptians will never learn what part of the electorate turned out to vote, or what percentage chose one of the opposition candidates who were allowed 19 days to openly campaign against Mr. Mubarak. That's because Mr. Mubarak excluded foreign monitors from the polling stations and reversed a ban on local watchdog groups only on Election Day, making it impossible for all but a handful to participate. He allowed his National Democratic Party to commit such visible irregularities as busing voters to the polls, standing over them while they cast ballots or offering lottery tickets in exchange for votes. Finally, the president decreed that all the results be tabulated at a central location by his handpicked nominees. When the totals are finally announced in a few days' time, there will be no reason for anyone to take them seriously.

The Bush administration, which cites the democratization of the Middle East as one of its top priorities, persists in describing this exercise as "a positive first step." It has some reason to do so: The election campaign, though absurdly short, resulted in unprecedented opposition rallies and criticism of Mr. Mubarak in newspapers and on television. The incumbent promised a long list of political reforms as part of his own campaign, including more freedom for the media, independence for judges, greater power for parliament and a reform of the emergency laws that have made him a de facto dictator. Still, Mr. Mubarak's insistence on heavy-handed steps to control the election's outcome -- despite his inevitable victory -- leaves the measuring glass of this Egyptian election considerably less than half full.

It also raises urgent priorities for Egyptian reform, and the Bush administration's handling of Mr. Mubarak, in the coming weeks. That's because Egypt has another election coming this fall, for parliament, that in many ways is more important than the presidential poll. Not only is the legislature promised more power, but a recent constitutional change provides that only parties with parliamentary representation of 5 percent or more may nominate candidates in future presidential elections. If the upcoming

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vote is fair, it will drastically reduce the suffocating authority of the ruling party; if it is not, the election of Mr. Mubarak's successor will probably be as lopsided and unfair as this week's vote.

President Bush need not ask Mr. Mubarak for radical change -- only for steps that liberal activists in his own party favor. These begin with allowing slates of parliamentary candidates to be elected by proportional representation; the current system of more than 400 districts makes it impossible for opposition parties to compete. Next Mr. Mubarak must allow more of the real Egyptian opposition into the process; he could do this by granting the pending registration of the Center Party, a moderate Islamic grouping that would attract many supporters of the banned Muslim Brotherhood.

Most important, Egypt's next vote should be free and fair, and certified as such by both local and international monitors. Holding such a vote won't threaten Mr. Mubarak's newly extended tenure as president, but it will make it more legitimate. It won't make Egypt a democracy, but it would make it more likely that the regime's promise to gradually lead the country in that direction would be honored. Considering the billions in American dollars that continue to prop up Mr. Mubarak's government, and the importance of translating Mr. Bush's rhetoric about democracy into reality, it shouldn't be too much too ask.

Koizumi Backers Look Poised To Win In Elections (USAT)

By Paul Wiseman And Kazuko Takahashi

USA Today, September 9, 2005

Advocates for change in Japan could emerge rejuvenated from Sunday's legislative elections, thanks to Prime Minister Junichiro Koizumi's decision last month to wage war on obstructionist lawmakers in his own ruling party.

A poll this week by the daily Asahi Shimbun showed Koizumi's ruling coalition — his Liberal Democratic Party (LDP) and its ally New Komeito — leading the top opposition party. According to Asahi, the LDP is expected to win more than 250 seats in Japan's 480-seat lower house of parliament.

Since becoming prime minister in 2001, Koizumi — known for his unruly hair and love of heavy metal music — has billed himself as a reformer. He often has butted heads with conservative, change-resistant members of the LDP, which has ruled Japan nearly continuously for a half-century.

He took his agenda further with an internal purge of the party, replacing opponents with like-minded candidates. The fireworks started in August when rebel LDP lawmakers rejected Koizumi's pet project: privatization of Japan's massive postal system. In Japan, the post office does more than deliver mail; it also acts like a government bank, collecting trillions in deposits and doling them out as loans, often to corporate borrowers with close links to LDP lawmakers.

Defeated in the parliament when members of his own party joined the opposition Democratic Party of Japan (DPJ) to avoid the privatization scheme, Koizumi dissolved the legislature and called the election.

He threw 37 rebels out of the LDP and recruited a group of attractive candidates, dubbed by the daily Mainichi the “assassins” and “female ninjas,” to defeat them in the polls. Among the hired guns are a former Miss Tokyo University, a celebrity pastry chef, former Olympians and an Internet tycoon.

“His clueless opponents thought he was bluffing. They forgot his favorite movie is High Noon,” says political analyst Michael Cucek with the Tokyo-based business consultancy Okamoto Associates.

Some of the LDP rebels have joined new political parties; others are running as independents.

DPJ candidate Katsuya Okada, who left the LDP in 1993, says real reform is impossible unless the ruling party is ousted.

“The people had hopes that Koizumi would change the LDP, but he was not able to do that,” Okada told Reuters recently. “Rather, domestic reform has not progressed, and foreign policy is beset on all sides.”

The DPJ says reform of Japan's pension system, creaking under the burden of a rapidly aging population and falling birthrate, should top the policy agenda along with cutting wasteful public works and slashing civil servant personnel costs. The government hasn't resolved the question of how a dwindling workforce will pay benefits to a swelling number of retirees.

Okada wants to first slim down the postal service, a sprawling giant with $3 trillion in assets, before deciding whether to privatize or abolish it.

He has also been harshly critical of Koizumi for chilling ties with China and South Korea by making annual visits to the Yasukuni shrine in Tokyo, where convicted war criminals are honored along with Japan's 2.5 million war dead.

Koizumi portrayed the DPJ as opportunists for siding with an opposition that included ex-Socialists and right-wing nationalists.

Some voters acknowledge they don't understand details of Koizumi's postal plan. “I don't really know what the reforms mean,” says Yoshinobu Okuyama, 62, an electrician. “But we need the Liberal Democrats in power.”

“I support Junichiro Koizumi,” says retired executive Katsuyuki Tokura, 63. “At the moment, there is no other politician who can change the corrupt, bureaucratic administration.”

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"Koizumi needed reliable partisans for carrying out future reforms," says teacher Yuichi Mita, 45. "This is a kickoff for reforms."

Billions For Vaccines For The Poor To Be Raised In Bond Markets (NYT)

By Celia W. Dugger

The New York Times, September 9, 2005

WASHINGTON, Sept. 8 - Britain, France, Spain, Italy and Sweden will announce an agreement on Friday to raise almost $4 billion on the bond markets for an enormously expanded use of vaccines across the developing world. The World Health Organization estimates this undertaking will save the lives of five million children over the next decade.

Commitments from some of the participating nations have been secured only in recent days.

The new funds would roughly double the resources of the Global Alliance for Vaccines and Immunization, an umbrella group of countries, international organizations, vaccine industry representatives and the Bill and Melinda Gates Foundation. Over the past five years, the alliance has financed the immunization of 78 million children and prevented more than a million child deaths, the health organization estimates.

The alliance's board has already approved ambitious programs for 2006 to expand measles coverage in South Asia and sub-Saharan Africa, as well as to help eradicate polio worldwide and increase the use of maternal and neonatal tetanus vaccines. These plans can go forward now that the new financing has been secured.

"We hope this pilot will demonstrate the feasibility and the power of this financing mechanism, and we look to gain more support from more countries," said Paul Kissack, a spokesman for the British treasury.

The United States has declined to join the vaccine plan. Bush administration officials could not be reached for comment Thursday night, but said earlier this year that the long-term commitment to raise money through the bond market is not consistent with the annual appropriations process in Congress. The United States provides $60 million to $70 million a year to the alliance.

"We hope if this process is successful that the United States will reconsider its position," said Dr. Julian Lob-Levyt, the vaccine alliance's executive secretary.

British officials have said they hope the new resources will help the world reach the goal adopted unanimously five years ago at the United Nations to reduce child deaths by two-thirds by 2015. More than 170 government leaders will gather in New York next week to assess progress in meeting the antipoverty objectives they set in 2000.

The pact marks the first time rich nations have used pledges of increased aid to back government bonds as a means of financing a major development program. This so-called international finance facility is the brainchild of Gordon Brown, Britain's chancellor of the exchequer.

Under the plan, income from the sale of the bonds would be provided to the global vaccine alliance to pay for vaccinations over a period of 10 years. The five participating nations would pay off the bonds over 20 years. The two largest donors are Britain, which has pledged to cover 35 percent of the cost, and France, which is covering a quarter.

The money will be used to purchase vaccines and bicycles to transport them, as well as to rehabilitate health clinics and pay health workers to do the immunizing in remote areas. Leaders of the alliance hope the vaccine plan will strengthen basic health services in poor countries, not just immunization efforts.

China Plans To Honor A Reformer (WP)

By Philip P. Pan

The Washington Post, September 9, 2005

BEIJING, Sept. 8 -- Chinese President Hu Jintao has agreed to restore the standing of the reform-minded Communist leader whose death triggered the 1989 Tiananmen Square demonstrations, a surprising reversal of party dogma that could prompt new calls for democratic change in China, according to people informed of the decision.

Hu Jintao has approved plans for a series of events honoring the late party chief Hu Yaobang on the 90th anniversary of his birth on Nov. 20, the sources said. The activities would end more than a decade of official silence about a party leader who was sacked by hard-liners in 1987 but remained a hero to the party's reformist wing.

The government has not publicly recognized Hu Yaobang since students mourning his death on April 15, 1989, occupied Tiananmen Square and staged weeks of demonstrations for democratic reforms.

Paramount leader Deng Xiaoping ordered the military to use force to clear the square, and hundreds, perhaps thousands were killed. Any tribute to Hu Yaobang was considered taboo because it could stir memories of the June 4 massacre and renew debate about the political reforms he supported.

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But last month, the General Office of the party's Central Committee issued a document outlining plans to mark the anniversary of Hu Yaobang's birth with ceremonies in Beijing as well as in Hunan province, where he was born, and Jiangxi province, where he is buried, according to two sources who have seen the document. The party will also hold a symposium to discuss his legacy, and publish an official biography as well as a collection of his writings, they said.

The sources said there were no plans to change the party's position that the 1989 Tiananmen Square protests were subversive, or to admit it was wrong to use troops to crush them. But the decision to rehabilitate Hu Yaobang, whom the party condemned for being too tolerant of "bourgeois" political views when it removed him from power, suggested such reversals might be possible in the future.

"This might be a first step, a small but important one," said one informed party member, who spoke on condition of anonymity. "If the party can change its position on Hu Yaobang, it can change its position on June 4 and on political reform."

It was unclear why the Chinese president, who on Thursday was visiting Canada, decided to rehabilitate Hu Yaobang, but a key party leadership meeting is scheduled for October and he might have been trying to expand his political base by reaching out to reformers in the party. Hu Jintao took over as the party's top leader in 2002 and as president in 2003, but many allies of his predecessor, Jiang Zemin, remain in power.

The decision to rehabilitate Hu Yaobang -- no relation to Hu Jintao -- surprised many party officials because it was out of character for the president, who has developed a reputation over a long career in the party as an extremely cautious bureaucrat unwilling to take risks. "The safe thing to do would have been to continue to do nothing," said a senior editor of a party newspaper who spoke on condition of anonymity.

Over the past three years, the president has consistently rejected fundamental political reform while leading a sustained crackdown on religion, media freedom and other civil liberties. He has also been quoted telling propaganda officials that while the economic policies of Cuba and North Korea were flawed, their political policies were correct.

But some party officials continue to hold out hope that Hu was acting as a hard-liner to consolidate his position after taking over from Jiang. They noted that he modified another major party doctrine during a speech Saturday marking the 60th anniversary of Japan's surrender in World War II. In the past, the party took credit for defeating the Japanese and ignored the contributions of the ruling Nationalists under Chiang Kai-shek. But in his address, Hu acknowledged the role of the Nationalists, mentioning several military leaders and battles by name.

In another slight departure, Premier Wen Jiabao said during a news conference Monday that China would eventually allow elections, now limited to rural villages, to expand to larger townships. "If the Chinese people can manage a village, I believe in several years they can manage a township," he said.

Hu Dezi, one of Hu Yaobang's nephews in Hunan province, said local authorities received permission recently to build a memorial park that would include a statue, a spacious public square and an exhibition hall.

People close to Hu Yaobang's family said one important, unresolved issue was the fate of a three-volume biography produced independently by a group of former aides to the late party leader over the past 15 years. Party authorities learned of the project, led by Zhang Liqun, a former newspaper editor and party official who died two years ago, and insisted on taking control of it, the sources said.

But it was unclear what deletions and changes would be made before its publication in November. Hu Yaobang served as party chief from 1981 to 1987, and is remembered by many Chinese for overturning cases against millions persecuted during Mao Zedong's political movements and launching the economic and political reforms that ended the turmoil of the Cultural Revolution.

One of the most sensitive issues may be how to explain Hu Yaobang's fall from power amid a wave of student protests demanding democratic reform. The authors have written that Deng Xiaoping forced Hu to resign because he favored reform and resisted instructions to crack down on what the party called "bourgeois liberalization." But influential party members have objected to any account that reflects badly on Deng.

Sources familiar with the discussions said the party had not provided the authors with an edited version of the biography, despite repeated requests, and the authors vowed not to let the party publish the work if it tried to rewrite history.

Chávez's 'Oil Weapon' Is A Popgun (WSJ)

By Mary Anastasia O'Grady

The Wall Street Journal, September 9, 2005

Our elected representatives are guzzling publicity with their promises to criminalize high gasoline prices, even though everyone knows that such stupidity creates shortages.

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But it is worth pointing out that this is only the latest display of sheer ignorance in the area of energy -- mixing dangerously with personal ambition, of course -- that threatens a policy mess. Another is the overly deferential Washington mindset toward Venezuela's Hugo Chávez, based on the myth that we need his oil.

Word out of Washington yesterday was that an arm of Congress has begun to investigate what damage would result from a "possible cutoff" of oil supplies to the U.S. by a "politically unstable" Venezuela. The study was requested by Chairman Richard Lugar of the Senate Foreign Relations Committee. It follows years of hand-wringing about Venezuela from a Washington establishment concerned about the Chávez "oil power."

This confluence of ignorance and commercial interest has produced a U.S. policy of tip-toe diplomacy toward the aggressive and menacing Venezuelan government. Tragically, that cost the Venezuelan people dearly in 2004, with the State Department endorsing the results of the fraudulent recall referendum. That "victory" is feeding the egomania of South America's newest would-be dictator.

In the wake of Katrina and amid fears of a U.S. energy crunch, it is high time to recognize that Chávez has no such leverage, lest he read our readiness to give him a wide berth in the interest of oil as a sign of weakness. Chávez has very little influence over how much the U.S. pays for oil, unless of course he wants to take Venezuela out of its role as a producer. That's unlikely, since he's now spending like a drunken sailor on arms and politics and relies on oil income to hold onto power.

The world oil market is a huge pool that all the globe's consumers draw from. During the Arab oil embargo, the disruptions of which were greatly magnified by U.S. price controls on domestic producers, buyers and sellers simply repositioned their relationships. There was short-term difficulty but markets adjusted as best they could, given the fact that U.S. producers as well were capping wells to wait for price controls to be lifted. Fuel prices went down, not up, when Ronald Reagan removed the last controls in 1981. Today there are more places to get oil and as the price goes up, more producers are coming online because even difficult extractions are becoming profitable.

Suppose China were to take all of Venezuela's oil out of the pool instead of oil from another country, nothing about world supply changes. If China is buying more from the pool than it did before, demand goes up and prices go up but sellers into the pool of oil cannot punish one buyer over another.

This does not mean that the U.S.-Venezuela oil trade doesn't have some special value. But the relationship is symbiotic. One reason Venezuelan oil is attractive to the U.S. is because the shipping costs are low relative to the Middle East. The U.S. may prefer to get its oil nearby but it certainly doesn't have to. Similarly, countries on the other side of the globe also prefer to keep their shipping costs down if possible.

Washington bigwigs may have trouble with this concept but China understands it well. Venezuela's Minister of Energy and Petroleum was in Beijing last month making a big deal out of the China market. But China's ambassador in Caracas, Ju Yigie, set him straight. Beijing, he said, "doesn't see any necessity" for China to replace the U.S. as Venezuela's largest oil buyer because "the natural markets for Venezuelan oil are North and South America."

The oil magazine Petroleum Intelligence Weekly pointed out this week that "courting China" is one way to "needle the U.S." But, it asks, "What does China's new energy relationship with Latin America amount to?" Venezuela's state-owned oil company, PdVSA, "opened a Beijing marketing office last month and has a target of selling 300,000 barrels per day into China by 2012."

China's reluctance to get close to Venezuela might also reflect a recognition that Chávez is a loose cannon and an unreliable manager and that oil investments with him carry great risk. Take PdVSA's new strategic plan for 2006-2012. According to VenEconomy Weekly, based in Caracas, it proposes to invest $56 billion over seven years to raise production to 5,837,000 barrels per day by 2012. Of that, PdVSA would pump 4,109,000 itself.

The company only produces 1.7 million barrels per day now, so the plan promises a 2.3 million barrels-per-day increase in seven years. VenEconomy says that this is highly unrealistic considering that in the seven year period from 1991-1998, when PdVSA was far more technically and managerially competent, it spent $32 billion and only raised production by 915,000 barrels per day. The weekly newsletter estimates that the plan really would need "an investment on the order of $79.9 billion."

Moreover, the same $56 billion is supposed to cover other investments in gas production, refineries, tankers and infrastructure. It also has to fund "cut-rate oil sales to countries in the region." VenEconomy estimates the government's plans are underfunded by some $72 billion.

China also seems to recognize that oil development in Venezuela will depend heavily on foreign investment and that will depend on an investor-friendly environment. The latest rash of property expropriations by Chávez does not bode well for a booming oil industry.

But what about Venezuela's yearning to cut off Uncle Sam? One reason that's harder to do than the saber-rattling Chávez lets on is the fact that Venezuela owns Houston-based Citgo. It has invested more than one billion dollars in its U.S. refineries to make them capable of processing Venezuelan heavy crude and in 1999 Citgo ranked fifth in U.S. market share. As it is now,

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Venezuela can only send about 600,000-800,000 barrels per day to its Citgo refineries. The rest of what those refineries need -- a total well over one million barrels per day -- is bought through third parties.

Not long ago, Venezuela was the largest supplier of crude to the U.S. Today, it may only rank fifth. With an annual 20-25% depletion rate of Venezuelan oil fields, a serious lack of investment and technological expertise and new sources of crude from other countries coming online, that number could easily shrink further. But that is something that ought to worry Chávez more than the U.S.

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From: McDowell, Cynthia
Sent: Friday, September 09, 2005 4:12 PM
To: Andrea Bottner; Andrew Emrich; Brad Schlozman; Brent McIntosh; Bruce Mcdonald; Carl Nichols; Carl Peed; Cheri Nolan; Clifford White; Crystal Roberts; Cybele Daley; Dan Meron; Dana Boente; Deborah Rhodes; Deborah Spagnoli; Domingo Herraiz; Donald Gambatesa; Edward McNally; Elizabeth Kessler; Greg Harris; Gregory Katsas; James Clinger; Jeffrey Bucholtz; Jeffrey Clark; Jeffrey Taylor; John Richter; Jonathan Cohn; Joseph Bianco; Kelly Johnson; Kristi Macklin; Kyle Sampson; Laura Parsky; Lily Swenson; Luis Reyes; Matthew Friedrich; Michael Battle; Monica Goodling; Neil Gorsuch; Nicholas Tzitzon; Pat O'Brien; Patrick Hofer; Patrick Philbin; Rachel Brand; Raul Yanes; Rebecca Seidel; Richard Hertling; Richard Morrison; Robert Flores; Sean McLaughlin; Sharee Freeman; Steve Bradbury; Steven McFarland; Stuart Nash; Tasia Scolinos; Theodore Ullyot; Thomas Barnett; Tracy Henke; Uttam Dhillon; Wan Kim; Alex MacLean; Andrew Ames; Andrew Beach; Angela Williamson; Asheesh Agarwal; Ben Curtis; Beth Collins Cook; Brian Cohen; Bruce Taylor; C. Kevin Marshall; Candice Chiu; Carrie Nelson; Chris Gober; Connor Flaherty; Courtney Elwood; Cynthia Magnuson; Cynthia McKnight; Deborah Underhill; Ebony Lee; Elizabeth Apisson; Eric Akers; Eric Holland; Gordon Todd; Grant Nichols; Jaclyn Lesch; James OConnell; Jan Williams; Jana White; Janet Potter; Jason Torchinsky; Jennifer Korn; Jessica Gavora; John Irving; John Nowacki; Julie Warren; Kerri Strug; Kiahna Sellers; Kimberly Smith; Lara Reynolds; Laura Keehner; Lindsey de la Torre; Mark Metcalf; Mary Neumayr; Matt David; Matt Robinson; Matt Roper; Matthew Miranda; Michael Costigan; Miriam Moore; Molly Donlin; Natalie Voris; Neal Jungeblut; Omar Vargas; Patrick McArthur; Payson Peabody; Price Roe; Raquel Sours; Rena Comisac; Ryan Bounds; Sandra Malloy; Shane Chambers; Theodore Cooperstein; Tim Racicot; Timothy Hagle; Trent Luckinbill; Tucker McNeil; Wanda Martinson; William Otis; William Woodruff
Subject: The Appointee Friday Weekly - September 9, 2005

THE APPOINTEES FRIDAY WEEKLY

Friday, September 9, 2005

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Dear Appointees,

- ***TONIGHT's LIVE JAZZ:*** *Friday, September 9:* "Raggs and the All-Stars, Big Band Swing, National Gallery of Art's Sculpture Garden, 9th & Constitution Ave. 5:00-8:00 p.m.
- ***Hurricane Katrina Effects***: Status of U.S. Postal Service Operations in the South
- ***DOJ Event***: National Hispanic Heritage Month 2005 Celebration, September 14
- ***DOJ MAIN Gate Closure:*** 10th Street Gate from September 9-19

DOJ_NMG_0004197

- *New Restaurant:* Acadiana at 901 New York Avenue, NW
- *Area Event:* Alexandria Festival of the Arts, September 10-11
- *Museum Events*: The International Spy Museum's September events
- *Medical News*: Free Diabetic and Skin Screenings for DOJ Employees, September
- *Tidbits*: Design selected for Flight 93 Memorial in Pennsylvania

Have a great week!

Regards,

The DOJ Office of White House Liaison
Jan Williams and Cynthia McDowell

~

Hurricane Katrina Effects: Postal Disruption

STATUS OF U.S. POSTAL SERVICE OPERATIONS IN THE SOUTH

Due to significant network disruption and catastrophic damage, Express Mail sales have been suspended to certain areas of Louisiana, Mississippi and Alabama. USPS also announced that, effective immediately, it is not accepting any Standard Mail or Periodicals Mail - from any source - addressed for delivery within these three-digit ZIP Code ranges: 369, 393, 394, 395, 396, 700 and 701. This emergency action has been taken as a result of severe facility damage, evacuations and other issues associated with Hurricane Katrina. USPS is now formulating plans to address the handling of Standard and Periodicals Mail already in the mail stream and addressed for delivery to these seven ZIP Code areas.

In a related story…

The U.S. Postal Service has delivered some 15,000 Social Security checks at collection points in the area affected by the hurricane, officials said Wednesday. But the agency is still trying to locate 2,000 of its workers. In the affected region, 188 post offices have returned to full service, 189 are providing limited service and 120 are still closed or "have ceased to exist," said Thomas G. Day, the U.S. Postal Service's senior vice president.
(AP, Express, 9-8-05)

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DOJ Event:

NATIONAL HISPANIC HERITAGE MONTH 2005 CELEBRATION: September 14

"*Hispanic Americans: Strong and Colorful Threads in the American Fabric"*

September 15 - October 15 is annually designated by Presidential Proclamation as "National Hispanic Heritage Month." This commemoration was established to honor and recognize the cultural and historical contributions of Hispanic Americans to our country.

The Department of Justice will present its commemorative program in observance of National Hispanic Heritage Month 11:00 a.m. to 12:00 noon, Wednesday, September 14, 2005, in the Great Hall of the Robert F. Kennedy MAIN Building. Speakers include Alberto Gonzales, Attorney General; Robert Flores, Administrator, OJJDP, Office of Justice Programs; Jennifer Sevilla Korn, Deputy Director, Office of Intergovernmental and Public Liaison; and Michael Battle, Director, Executive Office for U.S. Attorneys. The program will feature music performances by Christina Perez and Starr Acosta, recent talent show contestants of the Greater Washington Hispanic Youth Symposium. A sign language interpreter and assistive listening devices will be available. Managers are encouraged to grant employees in the Washington Metropolitan Area reasonable official time to participate. An ethnic food sampling will follow the program. *JCON Broadcast 9-6-05*

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DOJ Main Gate Closure: September 9-19
TEMPORARY CLOSURE of the 10th Street Entrance of the RFK MAIN Justice Building

During the upcoming restoration of the exterior ornamental gates at the 10th street entrance, both the vehicular and pedestrian entrances will be closed for one week. **Beginning at 6:00 p.m., Friday, September 9 through 6:00 a.m., Monday, September 19, the entrances will be closed.**

In addition, both the north and south revolving doors along the 1200 corridor exiting into the portico from the corridor will also be closed to pedestrian traffic during this same time period. Please use the exterior doors by elevator lobbies 4 and 5 to cross the courtyard to go to the other side of the building. Foot traffic will be prohibited in the portico. **During this period, the 9th street entrance will be open for both vehicular and pedestrian traffic.**

In addition, the Attorney General's ramp on 10th street near Constitution Avenue will be open from 6:00 a.m. to 6:00 p.m. beginning Monday, September 12 through Friday, September 16 for delivery vehicles that normally access the RFK MAIN Justice Building via the 9th street vehicular entrance.

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NEW Restaurant!
ACADIANA

LOCATION: 901 New York Avenue, NW, Washington, DC (entrance on K Street, NW at 9th)
PH: 202.408.8848. Metro: Mount Vernon Sq-Convention Ctr. www.acadianarestaurant.com
Opens for Lunch, September 12. *Opens for Dinner, September 13*

This is the newest restaurant from Passion Food Hospitality, the owners of such restaurant favorites as DC Coast, TenPenh, and Ceiba restaurants.

Acadiana menu offerings include the following: Smoked Chicken and Andouille Sausage Gumbo, Classic Turtle Soup, Oyster Rockefeller Soup, Baby Spinach and Watercress Salad, Heirloom Tomato Salad, Baked Oyster and Fresh Artichoke Gratin, Fried Green Tomatoes and Spiced Boiled Gulf Shrimp Remoulade, Iced Louisiana P & J Oysters on the Half Shell, Trio of Deviled Eggs; Natchitoches Meat Pies (Black Pepper Buttermilk Dipping Sauce and Louisiana Crawfish Pies), Aunt Boo's Fish Camp Crawfish Stew, Pan Roasted Duck with Dirty Rice and Collard Greens Grilled Gulf Redfish, Jumbo Lump Crabcakes, Pan Seared Louisiana Black Fish, New Orleans Style Barbeque Shrimp, American Red Snapper with Sweet Corn Pudding, Blackened Yellowfin Tuna with Grit Soufflé; Bananas Foster Filled Crepes with Vanilla Bean Ice Cream, Praline Crème Brûlée, White Chocolate Bread Pudding with Macadamia Nut Ice Cream, Nectar Cream Soda Float, Vieux Carré Beignets, Pecan Tart with Bourbon Chocolate Ice Cream and Salted Caramel.

(Hungry yet?)

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Area Event:
2005 ALEXANDRIA FESTIVAL OF THE ARTS - September 10 and 11

Join more than 200 juried artists from around the country in historic Old Town Alexandria as they display and sell a variety of fine art. Held this Saturday (10-7) and Sunday (10-5), September 10 and 11 in the Old Town Historic District. www.ArtFestival.com <http://www.ArtFestival.com>

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Museum Events:
INTERNATIONAL SPY MUSEUM - SEPTEMBER 2005 PROGRAMS

Tuesday, September 13, 6:30 - 9:15pm
A Family Affair: The Walker Spy Ring
When a cash-strapped warrant officer volunteered U.S. Naval secrets to the Soviets in 1967, it was the start of one of the most notorious and damaging spy rings in U.S. Naval history. John Walker, a communications specialist, ultimately recruited his brother, his son, and his colleague Jerry Whitworth. The Walker spy ring supplied the Soviet Union with decoding keys to more than 1 million top secret messages and provided information on Naval detection of Soviet submarines. Family can make or break you however - the ring was ultimately foiled by information supplied by Walker's ex-wife. Join espionage author and historian H. Keith Melton and FBI counterintelligence expert Gerald B. Richards as they reveal the spy ring's tradecraft and their operations. You'll follow Walker's final dead drop sequence via satellite photography, view never-before-seen images of Walker's Norfolk residence immediately following his arrest, and probe the depth of the damage the ring inflicted-if the U.S. had gone to war during this time the results could have been catastrophic. Tickets $20; members of The Spy Ring and co-sponsoring organizations: $16. See below.

Thursday, September 22, noon - 1:00pm
Author Debriefing and Book Signing: ***What Stalin Knew: The Enigma of Barbarossa***
Why did Stalin trust Hitler? Despite the fact that Soviet intelligence knew the date, time, and location of Hitler's planned invasion, Stalin was convinced that Hitler would not attack. Former CIA chief of Soviet operations, David E. Murphy, plumbed the archival record to get to the bottom of the intelligence war between Stalin and Hitler. Using the stories of three intelligence officers caught up in Stalin's system, Murphy-the onetime chief of CIA's Berlin base-sheds new light on Stalin's colossal blunder, one of World War II's greatest mysteries. No charge; registration not required.

Thursday, September 29, noon - 1:00pm
Author Debriefing and Book Signing: ***The World Was Going Our Way: The KGB and the Battle for the Third World - Newly Revealed Secrets from the Mitrokhin Archive***
The KGB believed that the Third World was the key to winning the Cold War, and now their secret operations and plans are revealed thanks to renowned intelligence historian and International Spy Museum board member Christopher Andrew. With exclusive access to legendary Russian defector Vasili Mitrokhin and his archive of secret KGB documents - smuggled out when he escaped to the West - Andrew provides the complete story of the KGB's vast operations from the Middle East to Latin America, Africa, and India. No charge; registration not required.

TICKETS FOR PROGRAMS requiring advance registration are limited, non-refundable, and unless otherwise specified do not include admission to the International Spy Museum. Dates, times and scheduled participants are subject to change. To register, order tickets online at www.Ticketmaster.com <http://www.Ticketmaster.com> <http://www.ticketmaster.com/hich/af1/dbch/af34/loch/f1> , or call Ticketmaster at 202.397.SEAT or 800.551.SEAT (standard TicketMaster service charges apply) unless otherwise directed, or purchase tickets in person during the International Spy Museum's visiting hours at the ticket office located inside the 9th Street group arrivals entrance. To become a member of The Spy Ring, the Spy Museum's membership program, go to www.spymuseum.org <http://www.spymuseum.org> <http://www.spymuseum.org/hich/af1/dbch/af34/loch/f1> or call 866.SPYMUSEUM. LOCATION: 800 F Street, NW, Washington, DC.

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Medical News:

DOJ_NMG_0004200

FREE DIABETIC and SKIN SCREENINGS - During month of September

The following health units are offering a ***free*** diabetic and/or skin screening for Department of Justice employees during the month of September. If you are interested, contact the health unit for an appointment because screenings will not be available every day, at all locations. For the diabetic screening, the health professional will need to provide you information in advance, for you to prepare for the screening.

Patrick Henry Building
Room LL 102
Call: (202) 353-9738

Judiciary Center Building
Room 1B - 816
Call (202) 307-0014

RFK Main Health Unit
Room 1420
Call (202) 514-3107

1301 New York Avenue
Room LL 12
Call (202) 616-3296

~

Tidbits:

DESIGN SELECTED FOR FLIGHT 93 MEMORIAL IN PENNSYLVANIA

A design consisting of a chapel with 40 metallic wind chimes was chosen as a permanent memorial to the victims of Flight 93, which was hijacked on September 11, 2001, and crashed in a Pennsylvania field, officials said Wednesday. The "Crescent of Embrace" memorial, created by a team of designers led by Paul Murdoch Architects, was selected from five finalists and approved at a meeting of the Flight 93 Advisory Commission. The design consists of a chapel with 40 chimes, one for each of the passengers and crew who died on Flight 93. Pedestrian trails and a roadway run through a park leading to a visitor center and the actual crash site.

(AP, Express 09-08-05)

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Enjoy!

Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
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Image not available for this document, ID: 0.7.10316.67946-000001

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, September 13, 2005 8:24 AM
To: USDOJ- Office of Public Affairs
Subject: Attorney General's News Briefing 9/13/05
Attachments: agnb050913.pdf; agnb050913.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, SEPTEMBER 13, 2005 7:45 AM EDT

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TERRORISM NEWS:

British Businessman Sentenced For Missile Smuggling. USA Today (9/13) reports British businessman Hemant Lakhani, "convicted of trying to smuggle shoulder-launched missiles into the USA," was "sentenced Monday in Newark, N.J., to 47 years in prison. The plot involved the sale of missiles to a group that" Lakhani, 70, was "told would use them to shoot down commercial planes. The weapons' buyer and seller actually were government agents." Lakhani, "arrested in August 2003, was convicted in April of trying to provide material support to terrorists, unlawful brokering of foreign defense articles and attempting to import merchandise to the USA by means of false statements, plus two counts of money laundering."

The AP (9/13, Gold) reports, "During his trial, and again Monday, his lawyers said Lakhani was the victim of government entrapment because the supposed missile seller and buyer were actually government agents." But Assistant US Attorney Stuart Rabner recounted "evidence in which Lakhani volunteered praise for Osama bin Laden. 'We may see a man who looks like us and dresses like us, but is so morally bankrupt that he plots the death of thousands of people,' Rabner said. U.S. District Judge Katharine Hayden rejected pleas for leniency from Lakhani and his wife, referring to what she called 'overwhelming' evidence of his 'reprehensible conduct.'"

Reuters (9/13) reports, "His conviction was considered one of the more significant victories for the U.S. Justice Department since the Sept. 11, 2001 attacks and the launch of the U.S.-led war on terror. … Lakhani, his attorney, Henry Klingeman, and his wife pleaded for leniency, noting he is elderly and wants to return home to Britain. … 'Mr. Lakhani is not entitled to leniency. He's entitled to fairness,' U.S. District Court Judge Katharine Hayden said in handing down the sentence."

California Men Plead Not Guilty To Plotting Terror Attacks. The AP (9/13, Marquez) reports Californians Levar Haley Washington and Gregory Vernon Patterson "pleaded not guilty Monday to federal charges alleging they planned terrorist attacks against military facilities, the Israeli Consulate and other targets in the Los Angeles area." Washington and Patterson "were ordered held without bail after their pleas," and Assistant US Attorney Kevin Smith called them "dangers to society and flight risks, saying they had planned to carry out a 'homegrown jihad.'" The AP adds, "Also Monday, law enforcement officials briefed Jewish community leaders in Los Angeles on the case and said local police planned to step up security in and around synagogues during the holidays. Randy Parsons, acting assistant director of the FBI's Los Angeles office, said the extra security was being taken out of an abundance of caution, not because there was any specific, credible threat. 'It's important that people go about their normal activities but remain vigilant,' Parsons said."

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Al Arian Codefendant's Lawyer Challenges Allegations Of PIJ Ties. The Tampa Tribune (9/13, Fechter) reports, "An attorney for one of Sami Al-Arian's codefendants is challenging prosecution claims that his client was on the payroll of the Palestinian Islamic Jihad. Defense attorney Stephen Bernstein points to the same translations of intercepted telephone calls prosecutors are relying on, but says the figures discussed leave no room to pay Sameeh Hammoudeh. Bernstein spent the morning cross examining FBI agent Michael Wysocki, who analyzed dozens of bank accounts involving the defendants and organizations they helped run. … Bernstein asked about other records seized, which he said were never translated by the government, that might lead to a different conclusion. But, thus far, Bernstein has not shown Wysocki any additional documents that challenge the accuracy of his review."

Hunger Strike Spreads Among Guantanamo Bay Detainees. The Washington Post (9/13, A3, Leonnig) reports a "month-old hunger strike at the U.S. military prison at Guantanamo Bay, Cuba, has grown to include at least 128 detainees, 18 of whom are forcibly receiving intravenous fluids or nutrition in the prison hospital, military officials and detainee lawyers said yesterday." The captives are "protesting their indefinite imprisonment and what they describe as beatings administered by the prison's Immediate Response Force (IRF) -- squads of military personnel who are dispatched to put down disturbances in detainees' cells. Some have said they will refuse to eat until the military gives them a fair hearing or they die, according to their attorneys." Military officials "first acknowledged the hunger strike, the second of the summer, on Aug. 25. Since then, the number of people hospitalized and in serious physical danger has grown to 18, according to Maj. Jeffrey J. Weir, a Guantanamo Bay spokesman."

WSJournal Praises Ruling Upholding Bush Power To Detain Padilla. The Wall Street Journal (9/13) says in an editorial, "The timing couldn't have been better. Two days before the anniversary of the 9/11 terrorist attacks on New York and Washington, a panel for the Fourth Circuit Court of Appeals ruled unanimously last Friday that the President 'unquestionably' has the power to detain an American citizen who has taken up arms against his country." Judge Michael Luttig noted the Supreme Court said "precisely that in its Hamdi decision last year," but 'that wasn't enough for José Padilla's attorneys, who argued that Hamdi, which concerned an American picked up on a battlefield in Afghanistan, didn't apply to their client, who was arrested domestically, at O'Hare Airport." Padilla's supporters "want him to be charged in the criminal justice system or released. They include the American Civil Liberties Union, the People for the American Way Foundation, and former Clinton Justice officials Janet Reno, Eric Holder and Philip Heymann, who all want a return to the days of treating terrorism like a law-enforcement problem. In the week of the 9/11 anniversary, we're glad the Fourth Circuit didn't authorize a return to this September 10 mindset."

European Crackdown On Islamic Extremists Noted. The Christian Science Monitor (9/13, Ford) reports that since Yasir al-Sirri "sought asylum" in Britain "11 years ago the Egyptian Islamic radical has been in and out of jail, and has successfully fought off attempts to extradite him on terrorism charges to both the US and Egypt. Now, however, in the wake of July's London bombings, he faces perhaps his greatest challenge yet as the British government prepares to join a Europewide crackdown on extremist Islamic circles and deport dozens of individuals deemed 'not conducive to the public good.'" As European governments "lower their traditional levels of tolerance for radicalism, they are redrawing the lines between civil liberties and national security in the face of terrorist violence." Sirri, who "runs the 'Islamic Observation Center' in London, (he says it monitors human rights abuses in the Muslim world, but US and British police say it is a conduit for messages among Al Qaeda militants), would undoubtedly be arrested if he were sent back to Egypt."

PATRIOT ACT:

Booksellers Decry FBI Search Power Under Patriot Act. In the second of a three-part series on the Patriot Act, the San Mateo County (CA) Times (9/12, Farooq) reports, "Five years ago, an independent bookstore in Denver became the center of a drug investigation, and at the same time, inadvertently became a model for bookstore owners across the country concerned with the Patriot Act. … Police officers walked into the Tattered Cover Book Store and served a search warrant for the records of one of the store's customers, who was suspected of manufacturing methamphetamine, according to the American Bookseller Foundation for Free Expression. Even though the search took

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place more than a year before the Patriot Act was passed, the case set a precedent for booksellers and others across the country who are fighting some of the surveillance provisions of the anti-terrorism law." The Times continues, "Several businesses, city councils and other governmental institutions across the country have taken stances for and against the act for a variety of reasons. Some of those stances are driven by politics, some by security and others by fear. … 'You have to be able to do this without the government looking over your shoulder,' said Rich Van Castle, owner of three Bay Books stores in the East Bay. 'It is very important. I wouldn't want the government coming in here and saying "What did he read or did she read?"' … Van Castle is just one of many independent and corporate booksellers across the country who have been fighting one of most controversial measures of the act, Section 215, which gives federal authorities access to customers' book, medical and library records, while establishing a gag order to prevent anyone involved from commenting on the case." The Times adds, "But to the FBI, which is often painted as the abuser of Patriot Act powers, says the gag order is a matter of both national and personal security. The FBI also contends that bookstore purchases and library records were available to federal authorities long before the Sept. 11-inspired Patriot Act. … 'Some of this is just common sense,' said Special Agent LaRae Quay with the San Francisco office of the FBI. 'It's just one of these things if we are looking at an individual it's best that they not know. (It's) also to protect the individuals that are cleared."

HOMELAND RESPONSE:

Negroponte Says US Remains Al Qaeda's Top Target. USA Today (9/13, Diamond) reports that in his "first media interview since becoming the nation's first director of national intelligence in April," John Negroponte "spoke Monday to reporters and an editor from USA TODAY." Negroponte told USA, "Progress has been made in dismembering and attacking the leadership of" Osama bin Laden's "organization. A number of important operatives of his have been killed or captured. He is, we think, alive somewhere in the Afghan-Pakistan border area. … Even though he hasn't been captured, I think that he and his organization are very much on the defensive." Regarding the possibility of terrorist activity, Negroponte said, "We've seen in some of the statements and correspondence that we've laid our hands on between al-Qaeda leadership that clearly they would like to see this activity spread into such targets as Western Europe, and I think what happened in London on the 7th of July, whether or not it was directed by al-Qaeda, was certainly consistent with that desire. … They see vulnerabilities in the West, in Western Europe. And of course, the United States homeland remains, in my view, their No. 1 target."

Negroponte Praises Chertoff For Linking Domestic, Foreign Intelligence. USA Today (9/13, Diamond) reports Negroponte also "praised Homeland Security Secretary Michael Chertoff for helping the 'lash-up between domestic and foreign' intelligence, which the 9/11 Commission called a major contributor to lapses before 9/11."

Competing Technology Tested To Close "Gaping Hole In Airport Security." The Wall Street Journal (9/13, Meckler) reports that "one of the most promising" machines being tested to close the "gaping hole in airport security" concerning the ability to detect explosives on passengers or in their carry-on baggage is the backscatter, which has the ability to see through clothing. "The problem with early versions of the machine is that they show images of people as if they had no clothes on, which sparked privacy concerns. Yesterday, American Science & Engineering Inc. launched an X-ray machine that can see objects hidden beneath clothing while obscuring private parts. The other leading manufacturer of the machines also promises to cover up those parts of the image, though in a different way. An alternate technology, being tried in some airports now, shoots puffs of air at passengers to detect traces of explosive residue." The Journal adds that it's all "part of a highly competitive, rapidly unfolding race to deploy the best technology for closing the security gap at airport checkpoints."

WAR NEWS:

Talibani Says Iraqis Could Replace 50,000 US Troops By Year's End. The Washington Post (9/13, A20, VandeHei) reports Iraqi President Jalal Talabani "said in an interview yesterday that the United States could withdraw as many as 50,000 troops by the end of the year, declaring there are enough Iraqi forces trained and ready to begin assuming control in cities throughout the country. After the White House and Pentagon were contacted for comment, however, a senior adviser to Talabani called The Washington

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Post to say Talabani did not intend to suggest a specific timeline for withdrawal. … In the interview, Talabani said he planned to discuss reductions in U.S. forces during a private meeting with President Bush today, and said he believed the United States could begin pulling out some troops immediately." The Post notes, "That assessment differs dramatically from those offered by Bush and by U.S. military commanders in Iraq." Talabani "said the number of 'well-trained' Iraqi security forces stood at 60,000 and would reach 100,000 by the end of the year."

Al-Jafari Appears In Tal Afar To Tout Counterinsurgency Operation. The New York Times (9/13, Worth) reports Prime Minister Ibrahim al-Jaafari "paid a surprise visit to Tal Afar on Monday, with that city largely quiet after a major offensive by American and Iraqi troops aimed at reclaiming it from insurgents. The prime minister has repeatedly showcased the Tal Afar operation as proof of his government's willingness to deal decisively with Sunni insurgents in western Iraq."

Iraqi Forces Kill Additional Forty Insurgents In Tal Afar. USA Today (9/13) reports, "Violence flared in the northern Iraq city of Tal Afar late Monday when Iraqi forces trapped insurgents in basement hide-outs, killing 40 militants in fierce fighting, the Iraqi military said. … The new fighting Monday night raised the insurgent death toll since the offensive began to nearly 200, the government said. Baghdad said it lost seven soldiers in the course of the three-day offensive and six civilians were killed. The U.S. military said no American soldiers were hurt."

Tal Afar Insurgents Threaten To Use Chemical Weapons. The Washington Post/AP (9/13, A20) reports, "Al-Iraqiya television, which showed no pictures of Prime Minister Ibrahim Jafari's visit to the Tall Afar area, said he was there despite an insurgent threat to unleash chemical and biological weapons against Iraqi and U.S. forces. There was no known public threat from the insurgents to use unconventional weapons in the area, but they have vowed in two Web postings since Friday to use chemical weapons against U.S. and Iraqi government interests in Baghdad. The threats mentioned the fortified Green Zone that houses the U.S. Embassy, Iraq's parliament and other government offices."

US Making Extensive Use Of Informants. The Washington Post (9/13, A1, Finer) reports, "This is how the 10-day-old invasion of Tall Afar unfolded Monday. After two days of relatively uneventful patrols in the abandoned neighborhood of Sarai, where commanders had expected insurgents to be massed for a fight, U.S. and Iraqi forces turned north in the morning, to neighborhoods they had already cleared, and found hundreds of men who appeared to be of military age and troops believed to have slipped through their cordons. Eventually, 52 men were placed in the open backs of flatbed trucks bound for Camp Sykes." The Post goes on to report, "Soldiers with little training relevant to the mission have been forced into roles more traditionally assigned to police: gathering evidence, interrogating witnesses and suspects, and following up on leads. In searching almost every house in the city's most violent neighborhoods, they have detained hundreds of young men, some because they possessed weapons or insurgent literature, but others solely on the hearsay of local informants often called 'sources' by U.S. troops." U.S. soldiers "acknowledge knowing little about their backgrounds and motives -- or even their names -- and admit that their reliability varies widely."

US Ambassador To Iraq Says Syria Harboring Iraqi Insurgents. ABC World News Tonight (9/12, story 8, :25, Vargas) reported, "The US Ambassador to Iraq had some very harsh words for Syria today. He said Syria has become a hub for terrorists trying to undercut Iraq's government. He said, 'Our patience is running out. The patience of Iraqis are running out. The time for decision has arrived for Damascus.' He refused to rule out a military strike on Syria, although such an attack is seen as unlikely."

USA Today (9/13, Slavin) reports, "Syria is harboring training camps for Iraqi insurgents, U.S. ambassador to Iraq Zalmay Khalilzad said Monday. U.S. patience with Syria is running out, he said. The United States has ruled out no option, including military force, for dealing with the government of Syrian President Bashar Assad, Khalilzad said during a State Department briefing with reporters. … Administration officials have repeatedly accused Syria of allowing insurgents to travel to Iraq, but it was the first time an official has publicly named specific cities — Aleppo, Latakia and Damascus — as training sites."

The New York Times (9/13, Brinkley) reports, "While other administration officials made similar accusations early this year, the focus of American attention to Syria in recent months has been its occupation of Lebanon. Over the

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summer, Syria said that it had cracked down on insurgents operating within its territory. But Mr. Khalilzad, in remarks to reporters in Washington, made it clear that the United States believed that Syria was providing assistance to insurgents operating in Iraq and that such help might have increased. Government-controlled Syrian newspapers 'glorify the terrorists as resistance fighters,' he said. Syrian authorities 'allow youngsters misguided by Al Qaeda - from Saudi Arabia, from Yemen, from North Africa - to fly into Damascus International Airport,' attend training camps and then cross into Iraq, he contended."

Negroponte Says Baathists Present Greatest Challenge In Iraq. USA Today (9/13, Diamond) reports, "U.S. intelligence is struggling to expose elements of the insurgency in Iraq made up of former members of Saddam Hussein's regime, John Negroponte, the nation's intelligence chief, said in an interview Monday. Joint U.S.-Iraqi military efforts have damaged the network of foreign insurgents led by Abu Musab al-Zarqawi, though Zarqawi himself remains at large, Negroponte said. Indigenous Iraqi insurgents, led by former members of Saddam's ruling Baath Party, have been tougher to track down." Negroponte "said Iraqis dominate the insurgency. Despite intense focus on Iraq, where 138,000 U.S. troops are deployed, U.S. intelligence has not been able to produce anything more than a 'speculative' estimate of the insurgency's size, he said." Based on everything he has seen, Negroponte said, the insurgency is neither gaining strength nor weakening appreciably."

Sunni Elite Seen As Unlikely To Abandon Insurgency Soon. In an op-ed for the Washington Post (9/13, A27) Gary Schmitt, executive director of the Project for the New American Century, writes, "The reality is that a stable, democratic Iraq, with large-scale Sunni participation, is unlikely until the insurgency in Iraq is widely seen by the Sunnis themselves as not succeeding. … Irrespective of the fact that their demands cannot be met without losing, in turn, Iraq's critical majority -- the Shiites -- Sunni leaders still live in a world that is about past prominence and future expectations. And until a new reality is forced upon them, they are not likely to move from their current opposition to the constitution."

US Indicts Dutch Citizen For Plotting Attacks Against Americans In Fallujah. The Washington Times (9/13, Waterman) reports, "Federal prosecutors have indicted a Dutch resident for conspiring to kill members of the U.S. armed forces in Iraq -- the first criminal charges filed in connection with the insurgency against American forces in that country. The indictment, filed Friday afternoon in U.S. District Court in Washington, charges Iraqi-born Wesam Delaema, 32, who is in Dutch custody, with conspiring to bomb U.S. convoys in Fallujah, Iraq. … A Dutch official at the embassy in Washington said extradition hearings could take up to a year, but that if the courts cleared the way, the government almost certainly would accede to the U.S. request."

TV Program Featuring Police Footage Proves Popular In Kirkuk. The Washington Times/AP (9/13, Tran) reports, "Created to make government more transparent, 'The Cops Show,' featuring Kirkuk officers in action, is the first of its kind in the country and is breaking new ground in Iraqi television. A live call-in portion gives the public the chance to praise the security forces or gripe about them. Screened weekly on Kirkuk Television, which broadcasts in this northern city of nearly 1 million people, 'The Cops Show' has opened the floodgates in a community long suppressed."

Musharraf Offers To Build Security Fence Along Afghan Border. USA Today (9/13) reports, "Chafing under criticism that Pakistan is not doing enough to fight terrorism, President Pervez Musharraf offered Monday to build a security fence to deter militants and drug merchants from entering the country from Afghanistan. … Musharraf made the offer at a meeting with Secretary of State Condoleezza Rice. State Department spokesman Sean McCormack said, 'We think it is important that Pakistan and Afghanistan take up this idea.' President Bush meets with Musharraf today."

28 Candidates Barred From Participating In Afghan Elections. The Washington Post (9/13, A19, Aizenman) reports, "Twenty-one candidates running in Afghanistan's upcoming legislative election have been disqualified for maintaining links to illegal armed militias and seven more for failing to resign from government posts, the joint Afghan and international Electoral Complaints Commission announced Monday. … The latest disqualifications did not satisfy human rights advocates who have expressed concern that the field of contenders is rife

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with warlords who committed well-documented atrocities during warfare that began in 1978." Grant Kippen, chairman of the electoral commission, "said the commission relied on the recommendations of a disarmament commission that includes representatives of the Afghan government, the United Nations, the U.S. military and a NATO-led international force to determine which candidates retained associations with banned armed groups."

Army Will Miss Annual Recruiting Goal. The New York Times/Reuters (9/13) reports, "The Army posted its best recruiting month in four years in August, but will still miss its annual recruiting goal for the first time since 1999, officials said Monday. In August, the regular Army sent more recruits to boot camp than in any other month since July 2001. But the part-time Army National Guard and Army Reserve both missed their monthly goals and will fall far short of their annual goals for the 2005 fiscal year, which ends this month. The regular Army, which is aiming for 80,000 recruits this year, was behind its year-to-date goal by the end of August, with too big a deficit to make up through September's recruiting, officials said."

CORPORATE SCANDALS:

OFHEO Reaches Settlement With Freddie Mac. The Dow Jones Newswires (9/12) reports, "Freddie Mac's regulator settled its case against the company for failing to properly penalize former top executives in 2003 after Freddie discovered widespread accounting problems and evidence of earnings manipulation, the Office of Federal Housing Enterprise Oversight announced Monday." Dow Jones continues, "The company agreed Friday to turn over new documents and to help OFHEO pursue separate cases against Freddie's former Chief Executive Leland Brendsel and former Chief Financial Officer Vaughn Clarke." Dow Jones adds, "Freddie is still struggling to emerge from an accounting scandal that resulted in a clean sweep of the company's senior management team, an overhaul of internal controls, an earnings restatement of more than $5 billion, multiple shareholder lawsuits and federal regulatory probes. OFHEO is the only regulator to settle its case against Freddie, which agreed to pay OFHEO $125 million and agreed to other remedial actions in December 2003 to settle charges of safety and soundness violations. … OFHEO, however, filed separate charges against Freddie Mac, Brendsel and Clarke that month seeking cease-and-desist orders from an administrative law judge to force the company to alter its termination agreements with the two men and to impose fines against them. Freddie's board of directors allowed Brendsel to retire and Clarke to resign in June 2003 with roughly $56 million and $1.2 million in severance and other pay, respectively. … OFHEO's settlement with Freddie, which was signed Friday, only settles the regulator's administrative case against the company regarding the nature of Brendsel and Clarke's departures. Parallel investigations related to Freddie's accounting troubles by the Justice Department, Internal Revenue Service, Securities and Exchange Commission and others, are still pending."

Freddie Mac Will Help Recover Funds From Former Officers. As part of a settlement made public yesterday by the Office of Federal Housing Enterprise Oversight, Freddie Mac will assist federal regulators as they try to recover millions of dollars paid to two of its former executives. The New York Times (9/13, Glater) reports, "The agreement comes nearly two years after Freddie Mac…paid a $125 million penalty to settle charges related to its accounting, as part of a related settlement with its regulator, known as Ofheo. … The two executives in question are Leland C. Brendsel, the former chief executive at Freddie Mac, and Vaughn A. Clarke, its former chief financial officer. Both men left Freddie Mac in June 2003, several months into an expanding investigation of the company's accounting."

Former Westar Official Convicted Of Looting Millions From Utility. The Wall Street Journal (9/13) reports, "A federal jury found former Westar Energy Inc. Chief Executive Officer David Wittig and another executive guilty of looting the electric utility of millions of dollars." The Journal continues, "Prosecutors claimed the two men, who were forced out of the Topeka, Kan., company in 2002, engineered extravagant salaries and benefits for themselves at the expense of shareholders, hiding much of their actions from the company's board and federal regulators. … Mr. Wittig and former Chief Strategy Officer Douglas Lake were found guilty of conspiracy, wire fraud, circumventing internal controls and money laundering." The Journal adds, "The jury deliberated for 7½ days before convicting Mr. Wittig on 39 counts and Mr. Lake on 30 counts. Each count of wire fraud, the most serious of the charges, is punishable by up to 20 years in prison and a fine of as much as $1 million. Testimony about whether the

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government can recover money from the executives is expected to start Tuesday."

Oracle CEO Agrees To Charity Payments In Settlement Of Insider Trading Suit. The Washington Post (9/13, D5, White) reports, "Oracle Corp. chief executive Lawrence J. Ellison tentatively agreed to pay $100 million to charity over five years to settle a private lawsuit in California accusing him of insider trading in Oracle stock, a plaintiff's lawyer in the case said yesterday." The Post continues, "Plaintiffs in the suit alleged that Ellison engaged in insider trading when he sold nearly $900 million worth of Oracle shares in January 2001, a little more than a month before the company announced poor earnings. Oracle shares fell 21 percent, to $16.88, after the announcement. Ellison had sold his stock for a little less than twice that amount." The Post adds, "The proposed settlement, reported yesterday by the New York Times and the San Jose Mercury News, must be approved by Oracle's board and a California judge. If approved, the deal would end what is known as a shareholder derivative lawsuit, an increasingly common type of civil case in which shareholders file suit on behalf of a company. … Monetary settlements in derivative cases have typically been small, and most of the money usually goes to plaintiff's attorneys. Companies often agree to make changes to the way they operate in order to settle the suits. … Joseph J. Tabacco Jr., an attorney for plaintiffs in the case, said the charity payments represent a compromise between the two sides. He said Oracle shareholders would benefit because the company will implement new insider-trading rules as part of the settlement."

CRIMINAL LAW:

Facing A Grand Jury Carries Emotional, Financial Costs. The Washington Post (9/13, A25, Coates) reports, "Sympathy can be hard to come by for White House officials who are summoned to appear before a grand jury." The Post continues, "Those whose identities remain a secret suffer in silence, discouraged from reaching out to their closest friends for help. Those whose names leak into the public domain become lightning rods for rumor, suspicion and innuendo, as politicians, commentators and journalists try to divine a meaning behind each summons." The Post adds, "The latest White House staffer to face the grand jury is Susan B. Ralston, assistant to White House Deputy Chief of Staff Karl Rove, who gave testimony to the committee investigating the leak of the identity of CIA operative Valerie Plame. … But while the politics of every appearance is picked over in minute detail, there is also a human story to each summons that often goes unexplored." The Post notes, "Witnesses face stress, uncertainty and -- worst of all -- crippling lawyer's fees that can take years to pay off. And as prosecutors cast their net ever wider, inexperienced staffers with few financial assets are increasingly facing the emotional and financial burden of grand jury testimony. … But veterans of past grand jury appearances -- including the investigation into President Bill Clinton's affair with Monica S. Lewinsky -- said that keeping silent compounded an already difficult process."

US Charges FBI Intelligence Analyst With Spying For The Philippines. The AP (9/13, Gold) reports, "An FBI intelligence analyst with top secret clearance who worked at a New Jersey Army base was charged Monday with passing classified information about Filipino leaders to current and former officials of that nation." The AP continues, "The analyst, Leandro Aragoncillo, sent some of the material to Michael Ray Aquino, a former deputy director of the Philippines National Police who lives in New York City, according to an FBI complaint unsealed with the arrests." The AP adds, "Aragoncillo, 46, of Woodbury, was hired to work at Fort Monmouth in July 2004 and began sending classified information and documents in January, according to the complaint. … From May to Aug. 15, Aragoncillo printed or downloaded 101 classified documents relating to the Philippines, of which 37 were classified 'secret,' the complaint said. Details of the documents' contents were not disclosed in court papers or in court. … The investigation by immigration authorities began after Aquino, 39, was arrested in March, accused of overstaying the tourist visa he used to enter the country in July 2001."

9th Circuit Rules Warrantless Searches Must Be Based On Probable Cause. The California Recorder (9/13, Smith) reports, "Even if a defendant agrees to warrantless searches in exchange for pretrial release, police still can't search him without probable cause, the 9th U.S. Circuit Court of Appeals ruled Friday." The Recorder continues, "In a victory for the privacy rights of defendants awaiting trial while on their own recognizance, a 2-1 majority threw out evidence Nevada authorities had received by testing

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Raymond Scott for drugs without probable cause." The Recorder adds, "True, Scott had consented to random drug testing 'by any peace officer without a warrant.' But because the government did not have probable cause -- and could not show a 'special need' to lower the bar -- the drug test violated Scott's Fourth Amendment rights, 9th Circuit Judge Alex Kozinski wrote for the majority." The Recorder adds, "The panel says its opinion is one of first impression among all the federal circuit courts, and the dissenting judge predicted a widespread impact on federal and state pretrial proceedings. … By holding that probable cause is required for the warrantless search of a pretrial 'releasee' or his home, 'the majority casually adopts a rule that carries monumental implications for the pretrial procedures employed by every state in our circuit, as well as the United States,' wrote 9th Circuit Judge Jay Bybee. … Scott was facing state charges of drug possession when he was released on his own recognizance, subject to several conditions, including warrantless drug and alcohol testing."

American University's Audit Of Presidential Spending Nearly Complete. The Washington Post (9/13, B5, Strauss, Kinzie) reports, "American University trustees are nearing completion of a probe into hundreds of thousands of dollars of questionable expenses by suspended President Benjamin Ladner and his wife, according to two sources with knowledge of the audit." The Post continues, "The school's 25-member governing Board of Trustees will meet within a few weeks to discuss the results and decide how to proceed with Ladner, who became president of the private university in Northwest Washington in 1994." The Post adds, "Ladner was placed on administrative leave Aug. 24, a few months after the board began reviewing the expenses of the president and his wife, Nancy Bullard Ladner, who is described on the university's Web site as a volunteer who represents the Ladner presidency. … The audit was prompted by an anonymous letter detailing what it said were questionable travel and entertainment expenses by the Ladners, according to sources close to the investigation who spoke on condition of anonymity to protect their role."

Chicago Bankruptcy Court Clerk Charged With Extortion. The Daily Southtown (9/13, Hack) reports Chicago bankruptcy court clerk Sandra D. Butler on Monday was "charged with extortion, accused of accepting a bribe in an FBI sting." The Southtown notes, "According to an FBI affidavit, agents first began investigating Butler three years ago after a debtor complained she had paid the clerk $5,000 to stop the foreclosure proceedings against her house but later learned the bribe was unnecessary. … Earlier this month, FBI agents filed a bogus Chapter 13 in Butler's courtroom and sent a fake debtor to see her. … After looking up the man's bankruptcy petition, Butler allegedly said she could make some phone calls 'off the record' to stop the sale of his house, the FBI said." The Chicago Tribune (9/13, Higgins) also reports on the charges, noting the FBI sting.

FBI, Florida Authorities Investigating State Prison Officials. The Tallahassee Democrat (9/13, Cotterell) reports, "State and federal authorities are investigating the activities of prison officials in North Florida, where the regional director for the state Department of Corrections abruptly resigned last month. FBI and state officials said Monday that no one has been arrested or indicted in the investigation, which has been the subject of heated discussion among corrections employees on computer bulletin boards and e-mail networks. 'There is an ongoing investigation regarding the Department of Corrections,' FBI Special Agent Jeff Westcott said from Jacksonville. He declined to comment on specifics.

Judge Clears Indicted Tennessee Senator To Attend DC Lobbying Conference. The AP (9/13) reports, "An indictment on bribery and extortion charges won't keep former state Senator John Ford from attending a convention of black business and political leaders in Washington, DC." Ford "will attend the conference September 21st to 26th to look for new clients for his private consulting business. US District Court Judge Daniel Breen gave Ford permission to leave the state for the convention." The AP notes, "Ford is charged with bribery and extortion in an…investigation focused on an FBI front company that sought favorable legislation from the General Assembly. He also is charged with threatening a federal witness." The Tennessean (9/13, de la Cruz) adds that Ford, "who is under house arrest on federal bribery and intimidation charges, got a judge's permission to travel to the '35th Annual Legislature Conference for Black Leaders and Businessmen.'"

State Trooper's Testimony Provides Details About Cockfighting Raids. The Knoxville News (9/12, Stambaugh) reports, "Among the evidence compiled by the FBI before a June 11 raid on a cockfighting pit near Del Rio were aerial

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photographs and video surveillance of the facility, according to testimony heard last week. A preliminary hearing Wednesday in Cocke County General Sessions Court provided many new details about the controversial raid, which was cloaked in secrecy as part of a sweeping four-year probe by federal and state authorities into organized crime and public corruption in Cocke County." Tennessee Highway Patrol Trooper Timothy Wolfenbarger "said the operation was orchestrated by the FBI and a federal SWAT team had been assigned to conduct the 'initial sweep' on the compound. State troopers, who had been drawn from posts across the state, were ordered into the site after it was secured. 'They (the FBI) had surveillance videos aerial photographs,' Wolfenbarger said. 'They had a good plan.'" The AP (9/12, Bailey) notes, "Judge John Bell bound the cases over to the grand jury but said he didn't think the evidence presented at the hearing was enough to convict them."

Family, Police Puzzled By Virginia College Student's Disappearance. The Washington Post (9/13, B1, Stockwell) reports, "Eager to begin her freshman year at Virginia Commonwealth University, Taylor Behl created an online profile and wrote that she was looking for new friends in the Richmond area. Last week, she told her roommate she was going out for a few hours. She did not come back." The Post continues, "Behl, 17, was last seen Sept. 5, and campus officials said yesterday they still do not suspect foul play. But they are becoming increasingly concerned, and the investigation into her disappearance gains momentum and urgency with each passing day. … Nearby jurisdictions have joined the hunt, and the FBI has assigned an agent to advise campus and Richmond police. The National Center for Missing and Exploited Children, based in Alexandria, has posted a notice on its site." The Post adds, "Every year, students 'appear to disappear' from the 30,000-student university and do not call their families for days, said Pam Lepley, a campus police spokeswoman. The students usually resurface after a couple of days, she said. But in this case, Behl, a June graduate of Madison High School in Vienna, has contacted no one. … Behl was last seen about 10 p.m. on Labor Day after a late supper at a local cafe. She found her roommate in their room with a boyfriend and told her she would leave for a while to give them privacy, police said."

Judge Dismisses Case Against DeLay Fundraiser. The Hill (9/13, O'Connor) reports, "A Texas judge dismissed a civil case against a major fundraiser for House Majority Leader Tom DeLay (R-Texas) last Friday. The federal district-court judge dismissed the case brought by two Texas Democrats against John Colyandro, the former executive director of the Texans for a Republican Majority Political Action Committee (TRMPAC). The judge, Lee Yeakel, ruled that lawyers for the two Democrats failed to prove that Colyandro had knowingly broken Texas election law in using corporate contributions to fund campaign ads."

DeLay Seeks To Put Case Behind Him Ahead Of Potential Ethics Probe. Roll Call (9/13, Bresnahan) reports, "The recently disclosed meeting between House Majority Leader Tom DeLay (R-Texas) and a prosecutor investigating allegations of state campaign finance violations is a strong signal that DeLay is trying to put a longstanding Texas investigation behind him as he prepares for a potential probe by the House ethics committee. DeLay and his lawyers met with Travis County District Attorney Ronnie Earle and his aides for about 90 minutes on Aug. 17. … Sources close to both men described the meeting as cordial and said DeLay was treated more like a witness than a potential target of the probe." DeLay "was not under oath when he met with Earle, and there were no other preconditions put in place, such as transactional or prosecutorial immunity, sources close to the Majority Leader said." Roll Call adds that "while a number of legal issues remain for Texas courts to straighten out, including outstanding criminal charges against several DeLay allies, the fact that Earle privately told DeLay and his attorneys that he is not a target of investigators may now enable DeLay to focus his attention on the House ethics committee."

CIVIL LAW:

McCain, Feingold Take Aim At Campaign-Finance Rider. Roll Call (9/13, Nelson) reports, "Sens. John McCain (R-Ariz.) and Russ Feingold (D-Wis.) implored their colleagues Monday to support their efforts to remove a campaign-finance rider to the Treasury-Transportation appropriations bill, which is slated to come to the Senate floor as early as this week. The provision would allow lawmakers' leadership" PACs "to give unlimited funds to the national party committees, opening what the two Senators believe would be

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a significant loophole in the campaign finance law." Roll Call notes, "In a 'Dear Colleague' letter, Feingold and McCain noted that national parties could turn around and spend those funds on the lawmaker's own re-election, 'effectively subverting individual and PAC donor contribution limits on the amounts that can be given to a Member's campaign.'" McCain and Feingold "concluded by asserting that substantive changes to the campaign finance laws should occur only after 'adequate' debate, the antithesis of which would be '[s]lipping a rider onto an appropriations bill in a subcommittee markup.' The two plan to force a vote on the provision on the Senate floor."

CIVIL RIGHTS:

Massachusetts Anti-Gay Marriage Coalition Seen As Falling Apart. The AP (9/13, Leblanc, Emery) reports, "A fragile coalition of lawmakers cobbled together to support an anti-gay marriage amendment is falling apart, virtually assuring that same-sex marriage will for now remain legal in Massachusetts, according to an Associated Press poll." The AP continues, "The survey, conducted between Sept. 6-9, found at least 104 lawmakers who plan to vote against the proposed constitutional amendment, which would ban gay marriage but create civil unions. … The amendment, which is scheduled for a vote on Wednesday, needs the support of at least 101 of the state's 200 lawmakers to get on the 2006 ballot. … 'It's a dangerous precedent to take away rights that have been granted by the court for an identifiable group of people,' said Democrat Rep. James Brendan Leary." The AP adds, "Last year, months after the state's Supreme Judicial Court ruled that same-sex marriage was legal, the amendment passed 105-92. It must pass a second vote to get on next year's ballot. … Reasons for the faltering support are rooted in the language of the amendment, which was intended as a compromise between foes of same-sex marriage and supporters of gay rights. It ultimately had an opposite effect, however, alienating gay marriage opponents by creating civil unions and offending gay rights supporters by banning gay marriage."

California Gay Marriage Bill Could Have National Implications. The Christian Science Monitor (9/13, Wood) reports, "The latest struggle over who decides the legality of gay marriage -- citizens, lawmakers, or the courts -- played out in the nation's most populous state last week. The California legislature was the first to approve a bill legalizing same-sex marriage, although Gov. Arnold Schwarzenegger has vowed to veto it. … The legislature's attempt to broaden the definition of marriage is in direct conflict with a citizens' initiative passed in 2000 defining legal marriage as between a man and woman only. That citizen's initiative itself, Proposition 22, is also being challenged in court. But the recent move by Sacramento legislators emphasizes what some observers see as a shift in public opinion that appears to be more accepting of gay marriage. Still, others anticipate the bill could add to the backlash against the gay-marriage movement that prompted 11 states to ban same-sex marriage through ballot initiatives last year." The Monitor adds, "National pollsters report more acceptance of gays and lesbians in a variety of other contexts. What happens in California could set the tone for how other states deal with the issue legislatively."

WPost Praises California Lawmakers' Vote On Same-Sex Marriage. The Washington Post (9/13, A26) editorializes, "The California General Assembly last week became the first state legislature to allow same-sex marriages. … While the Massachusetts Supreme Judicial Court permitted same-sex marriage in that state and legislatures have created civil unions elsewhere, the vote is the first time that a state legislature has acted on its own to create marriage equality. … The California legislature's decision gives the lie to the notion that only imperial judges would foist such a social policy on a state." The Post notes that despite Gov. Arnold Schwarzenegger's vow to veto the bill, "the legislative action last week remains an important symbol -- at once a rebuke to those states that have reacted to the Massachusetts decision by writing discrimination into their fundamental laws and a gentle reminder to those who see hope for progress only in the courts that legislatures can still be engines for positive change."

New York Firefighter Arrested For Assault Of Immigrant Worker. The AP (9/13) reports, "Hours after many New York firefighters gathered to mark the fourth anniversary of the Sept. 11 terrorist attacks, one of them was arrested for attacking an immigrant worker from Bangladesh and telling him he looked 'like he's al-Qaida,' police said." The AP continues, "Firefighter Edward Dailey was arrested Sunday on charges of criminal mischief and felony second-degree assault, Police Sgt. Kevin Farrell said. … He was released without bail. Despite the alleged al-Qaida remark,

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there was not enough evidence to charge him with a hate crime, authorities said." The AP adds, "Dailey, 27, is accused of breaking a piece of Plexiglas off a curbside newsstand and throwing it at a 51-year-old man who works there, Farrell said. Dailey had said the man looked 'like he's al-Qaida,' Farrell said. … The victim, whose arm was cut in the alleged attack, was treated at a hospital and released, Farrell said."

Jury Finds Two Men Guilty Of Murdering Transgender Teen. The New York Times (9/13, Marshall) reports, "A jury convicted two men of murder on Monday but deadlocked on the fate of a third man in the retrial of three defendants charged with killing a 17-year-old transgender teenager in October 2002." The Times continues, "The two - Michael W. Magidson and Jose A. Merel, both 25 - were found guilty of second-degree murder for the death of Gwen Araujo, who was born as a male named Eddie Araujo Jr., but who frequently wore women's clothing and lived as a women. … After the verdict was read, Mr. Magidson bowed his head and Mr. Merel slowly shook his. They face sentences of 15 years to life in prison. … The jury found both men not guilty of committing a hate crime." The Times adds, "The actions of the third man, Jason Cazares, also 25, confounded a jury for the second time in two years. The panel, which heard the case for several months in a packed Alameda County Superior Court room, told Judge Harry R. Sheppard that they were hopelessly deadlocked on the fate of Mr. Cazares."

The AP (9/12, Locke) reports, "Araujo, 17, was born a boy named Edward but grew up to believe her true identity was female. The defendants, who knew her as Lida, met Araujo in the summer of 2002. Magidson and Merel had sexual encounters with Araujo, experiences that fueled suspicions about Araujo's gender." The AP continues, "The issue boiled over in the early hours of Oct. 4, 2002, in a confrontation at Merel's house in the San Francisco suburb of Newark. … Merel's lawyer, William Du Bois, said he was shocked by the verdict, especially since prosecutor Chris Lamiero said he didn't think Merel was the killer." The AP notes, "In the first trial, the three defendants stuck together, with their lawyers attacking the chief prosecution witness, Jaron Nabors, who was also at the house the night Araujo died but was allowed to plead guilty to manslaughter in exchange for testifying. … But in the second trial, the defendants' united front cracked."

California, Ohio, Florida Eyeing Redistricting Reform. Roll Call (9/13, Jacobson) reports, "With initiatives to reform redistricting expected to make the 2005 ballot in California and Ohio, and another for 2006 gaining traction in Florida, the ultimate insider issue has suddenly become hot in three of the nation's most populous states." Political strategists "say the pivotal wild card is frustration with politics as usual. If such a mood exists, and if it is channeled effectively, it can put a dry issue like redistricting over the top, said Kristina Wilfore, executive director of the liberal Ballot Initiative Strategy Center. And in these three states at least, the political conditions may be riper than normal." Roll Call notes, "In California, Gov. Arnold Schwarzenegger (R)…has staked his prestige on the redistricting measure and other reforms. In Ohio, a metastasizing political scandal involving Gov. Bob Taft (R) and the state Republican Party is producing anger and volatility in a state long dominated by the GOP. And Florida, like Ohio, has been home to a divisive presidential election in which residents aired a torrent of allegations about how partisanship may have influenced vote counting."

ANTITRUST:

Oracle To Acquire Siebel For $5.85 Billion. The New York Times (9/13, Flynn) reports, "Oracle, the giant database-software maker, announced on Monday that it would pay $5.85 billion to acquire Siebel Systems, its largest competitor in the market for sales automation programs." The Times continues, "The deal will bolster Oracle's effort to topple its German rival SAP as the leading seller of business applications software for big corporations. … It comes less than a year after Oracle managed to achieve a hostile takeover of PeopleSoft for $10.3 billion after a contentious battle that dragged on for nearly 18 months."

The San Francisco Chronicle (9/12, Fost) reports, "The Siebel acquisition not only gives Redwood City's Oracle enough ammo to take on its archrival SAP of Germany in the field of customer relationship management, or CRM, software — essentially, software used to manage a company's sales operations — but it also has the delicious twist of allowing the Oracle boss to declare victory over Tom Siebel, a former protege turned enemy."

The Financial Times (9/13, Politi, Nuttall) reports, "For Larry Ellison, Oracle's chief executive, the acquisition will

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cement his reputation as a prolific dealmaker. In December, Oracle agreed to buy PeopleSoft for about $10.5bn, after winning an 18-month takeover battle, seeing off a high-profile, antitrust suit brought by the US Department of Justice." The Times adds, "Mr Ellison on Monday suggested the company's attention would now be focused on integration. 'I don't think you'll see another major acquisition any time soon,' he said. The purchase of Siebel will give Oracle access to 3.4m users and 4,000 corporate customers of its CRM software, which helps companies track sales, marketing and customer service."

The Los Angeles Times (9/13, Sanchez) reports, "Under the deal, Oracle will purchase each Siebel share for $10.66 in cash unless the owner of the stock decides to receive Oracle stock." The Times adds, "The merger, which is subject to regulatory review, has been approved by the boards of Oracle and Siebel. Siebel shareholders must still vote on the deal, but a vote by Oracle shareholders is not required, according to the company."

The Wall Street Journal (9/13, Bank) reports, "Oracle predicted the deal will close early next year, after approval by Siebel shareholders. The acquisition is expected to face an antitrust review by the Justice Department, which unsuccessfully sought to block Oracle's purchase of PeopleSoft. … Analysts said they don't expect strong opposition this time; Oracle has lagged well behind SAP and Siebel in CRM software, and Oracle's marketing of Siebel products could potentially increase competition in the market."

The Washington Post (9/13, D5, Musgrove) reports, "A Justice Department spokeswoman, Gina Talamona, said it was too soon for the agency to comment on Oracle's planned acquisition. 'It's certainly something we'd be interested in taking a look at,' she said." The Post adds, "Analysts said Oracle's proposed acquisition may not generate the same type of controversy as the PeopleSoft deal because it's not considered a hostile takeover bid and the combined company would not dominate the CRM market."

The AP (9/13, Liedtke) reports, "In the past nine months, Oracle has either completed or announced five takeovers in the field, an expansion that has cost more than $17.6 billion. Among the acquired was PeopleSoft Inc., which like Siebel Systems was run by a former Oracle executive who had developed a frosty relationship Ellison. … The Siebel acquisition, expected to close early next year, affects about 4,000 customers. The company has about 5,000 workers, many of whom are expected to lose their jobs as Oracle cuts costs in an effort to boost its profits by about 20 percent annually."

Bloomberg News (9/12) and Dow Jones Newswires (9/12) also report on the planned acquisition.

FCC Moves Ahead On Telephone Mergers. The AP (9/13, Kerr) reports, "The head of the Federal Communications Commission has asked agency staff to draft orders approving two big phone company mergers - SBC Communications Inc. with AT&T, and Verizon Communications Inc. with MCI Inc." The AP continues, "FCC chairman Kevin Martin wants the commission to take a final vote on the deals next month, two people with firsthand knowledge of the issue said Monday. They were authorized to speak about the drafts only on the condition of anonymity." The AP adds, "The sources would not say what conditions might be placed on the mergers to ensure competition is not compromised. … SBC's deal to acquire AT&T is valued at $16 billion while Verizon is offering $8.5 billion for MCI. SBC and Verizon already are the largest regional phone companies, known informally as 'Baby Bells.' The mergers would enhance their base of business customers and expand their national and international presence." The AP notes, "The Bells have been peeling away long-distance customers from AT&T and MCI by offering unlimited national calling for a set rate. … Martin's request for drafts of approval signal his intention to press ahead with the mergers despite the 2-2 split between Republicans and Democrats on the commission. The decision also seems to indicate Martin's willingness to reach out to the Democrats to craft an agreement. … The Justice Department also will have to sign off on the mergers."

eBay To Purchase Internet Phone Leader Skype Technologies. The Washington Post (9/13, D1, Krim) reports, "Online auction giant eBay Inc. announced a deal yesterday to become one of the world's largest telecommunications companies, buying Internet phone-service leader Skype Technologies SA." The Post continues, "Although Luxembourg-based Skype is relatively unknown in the United States, it has amassed 54 million global customers in less than three years by offering free calls between those who use its software."

The Wall Street Journal (9/13, Mangalindan, Rhoads) reports, "Founded in 2002, Luxembourg's Skype allows its subscribers to talk to one another over personal computers

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free. It also allows cut-rate voice calls from PCs to regular phones or cellphones. Skype, which employs about 200 people, has signed up 54 million users, mainly in Europe and Asia so far, making it one of the fastest-growing online communities." The Journal continues, "EBay officials said the acquisition gives the company a new way to reach millions of potential customers, to help customers make complicated transactions, and to open up ways to generate revenue from services such as classified advertisements. Chief Executive Meg Whitman said Skype will also help eBay penetrate developing markets such as India, Brazil, Russia and China that offer huge growth potential but typically have lower levels of trust in Internet-based commerce."

The Financial Times (9/13, Waters, Taylor) reports, "The auction company's executives said that adding a voice calling feature to its existing online network would let it charge fees to merchants for generating sales leads the internet's fastest-growing business, currently dominated by the two biggest search engine companies. It could represent the most important in a series of recent initiatives by Ebay to extendinto new areas of online activity."

The New York Times (9/13, Belson) reports, "The total value of the deal may grow based on 'potential performance-based consideration' that could be worth an additional $1.5 billion, eBay said. Though Skype's revenue is expected to grow to about $200 million in 2006, from an estimated $60 million this year, eBay does not expect Skype - which gives its basic PC-to-PC service away free - to turn a profit until the fourth quarter next year." The Times adds, "The deal ends months of speculation about who might scoop up Skype, which since 2002 has been offering downloadable software that allows users to talk to one another over the Internet through their personal computers. The News Corporation, Google and Yahoo had been mentioned as potential suitors in recent months."

USA Today (9/13, Maney) reports, "EBay insists the deal isn't a major corporate turn. Top eBay executives became aware of Skype about a year ago, 'And we started putting some thinking against Skype,' says eBay CFO Rajiv Dutta. … Though other online services such as Google Talk offer free computer-to-computer voice conversations, Skype has caught fire globally. It's adding 150,000 users a day, the majority in countries such as China, India and Sweden. In 2005, Skype's first full year of charging for services, it will have revenue of $60 million. Skype expects revenue to jump to $200 million in 2006."

The Los Angeles Times/AP (9/13) reports, "Other big Internet names have expanded their VoIP capabilities lately, including Google Inc., which rolled out a new instant-messaging program with voice service. Last month Microsoft Corp. acquired Teleo Inc., a small startup whose software lets people make calls from computers to traditional telephones. … But some analysts have been skeptical about eBay's need to own a VoIP provider." The AP adds, "EBay buyers and sellers can communicate with each other via e-mail before a transaction is complete -- eBay says about 5 million such messages are exchanged daily. Adding Skype and its voice capabilities will speed the communication between parties and increase the level of trust, said Meg Whitman, eBay's chief executive."

DOJ, FTC To Hold Workshop On Real Estate Industry Competition. Inman News (9/13) reports, "Four days after launching a lawsuit against the National Association of Realtors for alleged anticompetitive practices, federal agencies are planning a public forum to discuss competition in the real estate industry." Inman continues, "The U.S. Justice Department's Antitrust Division and the Federal Trade Commission will jointly host a one-day workshop on competition policy and the real estate industry next month, the agencies said. … The workshop will be held on Oct. 25, at the FTC's Satellite Building Conference Center located at 601 New Jersey Ave. NW, in Washington, D.C." Inman adds, "The workshop is free and open to the public and aims to provide a forum on the competitiveness of the residential real estate industry, focusing on topics such as multiple listing services, discount and limited-service brokers, and minimum-service requirements. … In particular, discussion will center on the real estate transaction, the multiple listing service, and private and state actions that affect competition among brokers. … Parties seeking to participate as panelists in the workshop must notify both the Justice Department's Antitrust Division and the FTC in writing on or before Sept. 25. Persons submitting a request to participate as a panelist will be notified on or before Oct. 11, if they have been selected."

UK Regulators Launch Antitrust Probe Of Loan Insurers. Bloomberg News (9/13) reports, "Barclays Plc, Lloyds TSB Group Plc, HBOS Plc and Royal Bank of Scotland Group Plc are among U.K. banks facing an antitrust probe after a consumer group said loan insurance in

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Britain is expensive and inappropriately sold." Bloomberg continues, "Citizens Advice, a nonprofit organization, asked Britain's Office of Fair Trading to investigate the 5 billion-pound ($9.1 billion) a year market after uncovering numerous problems, the London-based organization said in an e-mailed statement released today. The complaint triggered an automatic review by the antitrust regulator, which has 90 days to decide on a full investigation." Bloomberg adds, "The call for an investigation of loan insurers is the second this year, after a committee of lawmakers in February asked the Financial Services Authority, the main regulator of banks and insurers, for a probe, saying some consumers have purchased policies that they won't be able to use to make claims. … The report didn't name any companies involved in the sale of loan insurance, which is provided by all of Britain's biggest banks on credit card and other unsecured debt."

Ford To Sell Hertz For $5.5 Billion. NBC Nightly News (9/12, story 9, :30, Williams) reported, "Ford said today it is selling its Hertz rental call business to a group of private equity firms for $5.5 billion. The infusion of cash is expected to help Ford's bottom line, which has been hurt lately by falling sales for SUVs and rising costs for healthcare."

The Financial Times (9/13, Politi) reports that a consortium of three private equity groups announced yesterday that they have purchased Hertz, the New Jersey-based car rental business for $15 billion. The paper notes the deal is the largest buy-out since 1989. The paper says, "The acquisition, by Clayton Dubilier & Rice, Carlyle, and the buy-out unit of Merrill Lynch, came after several weeks of negotiations with Ford, the carmaker that has owned all of Hertz since 2001 and is selling the unit as part of its revitalization plan. The three buyers will be paying $5.6 billion in cash to Ford, and have agreed to assume nearly $10 billion in debt under the agreement." The Times adds, "The buyers dismissed suggestions that the jump in petrol prices could make it an unattractive time to invest in car rentals, by saying that they were optimistic about the long-term trends in the travel industry. The acquisition is being financed with a combination of asset-backed securities linked to Hertz's fleet of rental cars, traditional corporate debt, and the equity contributions of the three buy-out groups. … There were no plans to extract cost savings through large-scale staff reductions, and the consortium would continue to support management's plans to diversify away from airport rentals."

The Washington Post (9/13, D3, Hilzenrath) says, "The deal will provide a $5.6 billion cash infusion to the automaker, whose bonds were downgraded in May to junk status. … Carlyle managing director Gregory S. Ledford said the investment firm sees growth potential in Hertz's overseas and heavy equipment rental businesses." He added the firm viewed Hertz as a "corporate orphan" -- a well-run company with a good brand and a good business that is not central to its corporate parent's business. Ledford said he didn't believe rising crude oil and gasoline prices would have a big impact on Hertz, "unless it really impacts people flying," because Hertz's business is largely driven by airport traffic.

The Wall Street Journal (9/13, Sender, Johnson) reports, "The last days of the bidding war took place against the backdrop of a hurricane that led many economists to forecast lower growth for the car-rental industry. Hertz has annual revenue of more than $7 billion. But concerns about growth didn't deter bidders, giving Ford a bigger payday than auction participants anticipated. The losing group consisted of Bain Capital, Blackstone Group, Texas Pacific Group and Thomas H. Lee & Partners." The Journal adds, "The new owners of Hertz may have a different vision for the company's future than current management. Hertz management, which analysts say had favored a public listing to a sale, had positioned the firm to demonstrate strong growth prospects and had lots of initiatives beyond its core airport car-rental business. By contrast, the buyout group may be under pressure to cut costs and raise cash by selling noncore operations, people familiar with the matter say."

Wachovia To Acquire Westcorp. The Wall Street Journal (9/13, Bauerlein) reports, "Wachovia Corp. agreed to acquire Westcorp Inc. for about $3.91 billion in a deal aimed at boosting the Charlotte, NC, company's heft in the auto-finance business while giving Wachovia its first branches in California. In addition to making Wachovia the ninth-largest auto lender in the US, the takeover quiets speculation at least for the moment that the bank is about to make an even larger acquisition of a commercial bank or consumer-finance company. The purchase price represents only about 5% of Wachovia's stock-market value, which analysts said seemed reasonable given Westcorp's size and reputation for being well-run."

The New York Times (9/13, Creswell) reports, "Moving to expand its presence in automobile financing, the Wachovia Corporation, the nation's fourth-largest bank, agreed

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yesterday to acquire the financial-services holding company Westcorp and its majority-owned auto-finance group, WFS Financial, in a stock deal valued at $3.91 billion. The deal, which had been rumored for weeks…is the latest in a string of purchases by banks in the auto-finance industry after downgrades this spring in the debt ratings of the General Motors Corporation and the Ford Motor Corporation. The downgrades raised the costs of borrowing for the car makers' finance arms, which have typically offered low-interest loans that banks were hard pressed to match." The Times adds that in yesterday's deal, Wachovia said it was acquiring Westcorp and WFS for $3.42 billion in stock. Wachovia will pay $490 million in stock for the 16 percent of the publicly traded WFS that Westcorp does not own. The deal is expected to close in early 2006.

The AP (9/13) reports, "Wachovia said its purchase of Westcorp will give it a small presence in the California retail banking market, while expanding its auto finance group into a national business. The firm will add about 8,500 automobile dealer clients, and about 920,000 individual customers."

Refiner Tupras Sold For $4.14 Billion. The Wall Street Journal (9/13, Wang) reports, "A consortium led by Koc Holding AS of Turkey and including Royal Dutch Shell PLC fended off eight other bidders in a hotly contested privatization auction for control of Tupras, Turkey's 500,000-barrel-a-day refiner. The winning bid of $4.14 billion defied even the most optimistic expectations which, ahead of the auction, had reckoned with a final price tag closer to $3 billion." The paper adds, "The Koc-Shell group faced its strongest competition from a joint venture comprising state-owned Indian Oil Corp. and Turkey's Calik Enerji Sanayii, as well as OYAK, an industrial conglomerate representing a Turkish Army officers' pension fund. The winning consortium comprised two Shell units -- Shell Co. of Turkey Ltd. and Shell Overseas Investment BV -- together holding 10%; Koc, one of Turkey's biggest industrial conglomerates, with 80%; and two smaller Turkish energy companies, Aygaz AS with 7% and Opet Petrolculuk AS with the remaining 3%." The Journal notes, "The win by the Koc-Shell consortium represents a best-case scenario for the government as it keeps majority control of Tupras in Turkish hands. Shell's minor involvement lends it credibility."

Ichan Plans Time Warner Proxy Fight. The Wall Street Journal (9/13, Angwin) reports, "A group led by New York financier Carl Icahn said it intends to mount a proxy contest to win seats on Time Warner Inc.'s board, in the latest step by the investor group to pressure the company to spin off its cable unit and buy back $20 billion in stock." The paper adds, "The group, made up of several hedge funds including one managed by Mr. Icahn, also said it thinks the 'true value' of Time Warner shares is between $26 and $28, about $10 a share above the stock's trading range over the past couple of years." The Journal notes that in a filing with the Securities and Exchange Commission, "the group laid out its most detailed argument to date as to why Time Warner shares are trading at a discount to their 'inherent value' and what 'immediate actions' the company could take to reduce the discount." The paper continues, "The filing noted that the stock is down 6% since Chairman Richard Parsons took over in May 2002 and said 'management's slow pace of change' has hurt Time Warner stock. The group chastised Time Warner for not paying dividends or buying back stock as aggressively as other media companies. It argued that Time Warner has an "inefficient capital structure" and could afford to take on more debt if it spun off Time Warner Cable."

Buyouts Booming As Stock Market Surges. USA Today (9/13, Krantz) reports, "Following a multiyear downturn in the number of mergers and acquisitions, companies are again in the shopping mood. Oracle, eBay and Wachovia all announced deals Monday worth billions to buy other companies, signaling a pickup in the deal boom. Already this year, companies have announced $707 billion in mergers and acquisitions, says Richard Peterson, senior researcher at Thomson Financial. That's 30% more than the deals during the same period last year and the highest since the M&A heyday in 2000. It's also the fourth-strongest pace of M&A in history, Peterson says." Howard Silverblatt, market analyst for Standard & Poor's, said, "Companies were shy. Now they are definitely doing more."

ENVIRONMENT:

Judge Halts Logging In Sequoia Forest. The AP (9/13, Kravets) reports, "A federal judge (in San Francisco) halted the Bush administration's bid to keep logging 2,000 acres in Giant Sequoia National Monument, saying he 'called into question' the scientific analysis used to justify cutting in a preserve that houses two-thirds of the world's largest trees." The AP continues, "U.S. District Judge Stephen Breyer, ruling in a lawsuit brought by environmentalists, also questioned

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whether fire control was the government's real motive for allowing commercial logging in the monument. The so-called 'Saddle Project' was approved years ago, but cutting only commenced this summer, when timber prices were high." The AP adds, "The government, Breyer wrote late Friday in issuing a preliminary injunction barring further logging, 'waited five years to execute this contract because of unfavorable timber prices.' … In 2000, just after the project was approved, Congress declared Sequoia National Forest a national monument, which generally prevented further logging on thousands of acres in the Central Valley area of Tulare County. The government argued the project was grandfathered in and therefore not covered by monument rules." The AP notes, "The Justice Department, which defended the logging plan in court here, declined to say whether it would challenge Breyer's injunction. If it does not, the case is over and the acreage is safe from harvesting. The government could also take the issue to trial."

Senate To Vote On Challenge To EPA Mercury Emission Rules. The New York Times/AP (9/13) reports the Senate "agreed Monday to vote on a resolution challenging new rules limiting mercury emissions from power plants." The Bush Administration said "that the rules, completed by the Environmental Protection Agency in March, would eventually cut mercury emissions from coal-fired power plants by 70 percent without driving up energy costs and that repealing the rules would delay the reduction of such emissions." But environmental and health groups "have demanded swifter and tougher measures to reduce emissions." By "repealing the rules, the Senate would compel the E.P.A. to rewrite them. The revisions would be in line with Clean Air Act standards requiring the use of the best available technology to reduce mercury emissions." The Senate vote "on Tuesday is expected to be close, but the Republican-dominated House is unlikely to act on a resolution, which President Bush has said he opposes."

US Households Face Higher Winter Energy Bills. USA Today (9/13, Kirchhoff) reports US consumers "could still face higher energy bills ahead despite declines in energy prices Monday as gulf producers continued to rebound from Hurricane Katrina's pounding." The "average nationwide retail gasoline price Monday fell to $2.967 a gallon for regular unleaded from $3.018 the day before, according to AAA. Gasoline futures prices have dropped by about a third since the end of August." Crude oil prices "dropped to $63.34 a barrel, down 9% from the record close of $69.81 in late August. Natural gas futures were down more than 23 cents in New York trading, to $11.03 per million British thermal units, compared with a record $11.76 on Sept. 1." But energy experts "say consumers will feel the impact of Katrina for months. Natural gas prices will be a big challenge this winter."

The CBS Evening News (9/12, story 9, :25, Schieffer) reported, "The price of gasoline is slowly coming down. It hit a record high $3.07 a gallon after Hurricane Katrina hit. But an Energy Department survey out tonight says gas is down now to a national average $2.96 for self-serve regular."

Carter Decries Move To Drill In ANWR. In a Washington Post op-ed (9/13, A27), former President Jimmy Carter says that Congress is "about to make one of those big decisions that marks an era. Unless wiser heads prevail, it may do it badly -- making the wrong decision in the wrong way and about the wrong place. At stake is America's greatest wildlife sanctuary, the Arctic National Wildlife Refuge. To dissuade Congress from this environmental tragedy, Americans must rally, and quickly." We "cannot drill our way to energy security or lower gasoline prices as long as our nation sits on just 3 percent of world oil reserves yet accounts for 25 percent of all oil consumption. An obvious answer is to increase the fuel efficiency of motor vehicles, at least to the level we set more than a quarter-century ago. Instead, the administration recently proposed a tiny increase in gas mileage for SUVs, minivans and pickups."

FBI/DEA/ATF/USMS:

IG Finds FBI Violates Informant Rules. The AP (9/13, Sherman) reports, "FBI agents often violate bureau's rules for handling confidential informants that were revised after FBI abuses in the 1990s, the Justice Department's internal watchdog said Monday." The AP continues, "A review of 120 confidential informant files from FBI offices around the country found violations in 104 cases, or 87 percent, Inspector General Glenn A. Fine said. His 301-page report, parts of which were blacked out, examined FBI compliance with rules that govern most criminal investigations." The AP adds, "The report said agents failed to assess informants' suitability or get permission for informants to engage in activity that otherwise would be illegal. Agents did not convey proper

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instructions or tell prosecutors when informants had committed crimes that were not authorized by their FBI handlers, Fine said. … FBI Director Robert Mueller, according to the report, said many agents find the required paperwork cumbersome. In a statement, the FBI said the violations were 'administrative' and that officials have begun simplifying procedures."

The Boston Globe (9/13, Murphy) reports that "the FBI has continued to violate informant guidelines adopted several years ago amid public condemnation over its mishandling of notorious Boston gangsters James 'Whitey' Bulger and Stephen 'The Rifleman' Flemmi." US Rep. William Delahunt called the report "damning," and said that he and Rep. Daniel Lungren "will file a bill mandating that the FBI follow the guidelines and include sanctions for agents who do not."

The New York Times (9/13, Lichtblau) notes, "Part of the problem, F.B.I. officials acknowledged, was the bureau's continued difficulty in building a modern computer system to help oversee the informant program and ensure better compliance. 'Even before the inspector general's review, we realized that we had to do some re-engineering of our whole human source program,' Kevin R. Brock, an assistant F.B.I. director who oversees the program, said in an interview. … 'Agents are failing to do certain things not because of mal-intent but just the press of administrative requirements, and overlooking them,' he said."

The Washington Times (9/13, Seper) adds, "Noting that confidential informants are critical to the bureau's ability to carry out its 'counterterrorism, national security and criminal law-enforcement missions,' the FBI said it began a project several months ago to review and revise its confidential-informant program." Cogswell "said the review seeks to develop policies and processes to simplify and standardize administrative procedures and to clarify and improve compliance requirements." USA Today (9/13, A8) also reports on Fine's review, running a truncated version of the AP story.

Report Also Urges Tighter Rules On Terrorism Surveillance. The New York Times (9/13, Lichtblau) also reports that the review "looked at the effect of a number of changes ordered by Mr. Ashcroft in his 2002 revamping of the bureau's investigative guidelines," which "allowed F.B.I. agents to visit public sites and events, attend mosques and other religious institutions, or peruse the Internet in search of leads in terrorism cases. The changes relaxed restrictions put in place in the 1970's as a result of F.B.I. abuses in the monitoring of political dissidents, and they have drawn criticism from civil rights advocates and Muslim leaders who say they open the door to investigative abuses." Director Mueller "told the inspector general's office that because agents were not required to get supervisors' approval before visiting public sites, it was 'difficult to determine to what extent these authorities have been used,' the inspector general's office said. It called on the F.B.I. to consider requiring approval from supervisors and more documentation of public visits to guard against possible abuses."

FBI Releases Additional 800 Pages Of Thurmond Files. The State (9/13) reports, "More than 800 pages of the late Strom Thurmond's FBI file were released Monday at the request of several news organizations, including The State. The first 600 came out in March. … The 800 pages just released deal mainly with threats made against Thurmond throughout his public life. According to the FBI, about 900 more pages are yet to be released. As is typical with the FBI and Monday's release, it might take several more months before these additional pages are made available to the public."

Files Reveal FBI Investigated At Least 31 Death Threats Against Thurmond. The State (9/13, Bandy, Burris, Monk, Stensland, Washington) reports, "For a half century, Strom Thurmond was a Southern icon and a national figure. His longevity…exposed him to at least 31 threats that the FBI investigated. The threats ranged from the serious…to the ravings of a 'chronic letter writer with apparent mental problems,' the FBI reported" in recently-released Thurmond files. The State goes on to detail several of the more significant plots against Thurmond investigated by the FBI.

The State (9/13, Markoe) adds that Thurmond "made plenty of political enemies over his long and controversial career — including the kind the FBI feared might try to kill him. … The documents are windows into some of the more unpleasant aspects of political fame and include copies of threatening telegrams, results of handwriting tests and summaries of interviews with suspects. … The documents do not indicate that any of the threats resulted in prosecutions."

GAO Finds Continuing Shortcomings With FBI IT Modernization. Government Executive (9/13, Pulliam) reports, "Despite past warnings from congressional

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auditors, the FBI does not have an effective framework for modernizing its information technology systems, according to a new report" by the GAO. GAO also "found that the bureau's heavy reliance on private contractors to develop the IT framework was hampered because the FBI does not use performance-based contracting techniques and has failed to effectively oversee the contractors' work." GE adds, "GAO recommended that the FBI's chief information officer and chief financial officer implement performance-based contracting wherever possible, along with stronger tracking and oversight practices." CIO Zalmai Azmi "wrote that the bureau has been successful in using fixed-price contracting, rather than the performance-based contracting, because the approach gives contractors an incentive to stay on schedule. But, he said, the FBI would take steps to encourage performance-based contracting."

Three Plead Guilty To Roles In Louisiana Cocaine Ring. The AP (9/12) reports that three Lafayette, Louisiana, men "pleaded guilty Monday to being members of a cocaine distribution ring that operated over 16 years." Nathan Campbell and Aubrey Howard "pleaded guilty to conspiracy to possess and distribute cocaine," while Tevin Bennett "pleaded guilty to possession of cocaine with intent to sell, the U.S. Attorney's Office said Monday. A sentencing date has not been set."

Fighting Between Bolivian Government, Coca Farmers Could Resume. Knight Ridder (9/12, Chang) reports that the "uneasy peace" between Bolivian coca farmers and the government could be nearing an end. A "one-year truce signed by growers and the administration of since-ousted President Carlos Mesa that allows limited cultivation of coca" will expire on October 1, and Bolivians are "scheduled to elect a new president in December. … 'If the government doesn't respect our right to determine our own livelihood, we will organize and we will fight,' said Gabina Contreras, a 54-year-old mother of 11 from the growers' collective Sindicato Esteban Arce, named for a Bolivian independence hero. 'Coca is like father and mother to us. We can't live without coca.'" The US State Department says Bolivia is the world's third-largest producer of cocaine.

"Guru Of Ganja" Appeals To Ninth Circuit Court Today. The Alameda (CA) Times-Star (9/13, Richman) reports, "More than two years after being convicted and sentenced for growing marijuana, Oakland's self-styled 'Guru of Ganja' will make his appeal Tuesday for why even a slap on the wrist was too much. Ed Rosenthal, a renowned pro-marijuana author, activist and cultivation authority, claims he never should have been convicted of three marijuana-growing felonies. The government claims he not only deserved conviction, but he also deserved at least two to five years in prison instead of his one-day, time-already-served sentence. Three judges of the 9th U.S. Circuit Court of Appeals will decide sometime in the few months after Tuesday's arguments. Rosenthal -- famed for his books and for the 'Ask Ed' column he wrote for 'High Times' magazine -- became a medical-marijuana cause celebre after his February 2002 arrest. Drug Enforcement Administration agents raided sites including his Oakland home office; an Oakland warehouse where he'd been growing marijuana; San Francisco's Harm Reduction Center medical marijuana club, which he'd supplied; and the HRC's founder's Petaluma home. After a five-day trial, a federal jury convicted Rosenthal on Jan. 31, 2003, of three marijuana-growing felonies. Upon learning afterward of the state and city protections Rosenthal had not been allowed to raise as a defense, several jurors renounced their verdict and rallied to his cause. U.S. District Judge Charles Breyer sentenced Rosenthal on June 4, 2003, to one day in prison."

UN Report Says Opium Prices Down Since Taliban's Fall In Afghanistan. The AP (9/12, Gedda) reports, "Favorable opium harvests in Afghanistan have led to a sharp drop in prices since the U.S. military forced the Taliban regime from power in 2001, according to a United Nations report. The Taliban imposed a ban on opium cultivation in 2000, triggering an eight-fold price increase to $675 per kilogram in late 2001, the U.N. report said. Since then good harvests coupled with improved yields dropped the price to $151 as of this past July, the study said. The report was outlined at a new conference by the U.N.'s anti-drug chief, Antonio Maria Costa. It will be presented to the House Committee on International Relations on Tuesday." Costa also noted that "Afghanistan accounts for 87 percent of world opium production, down 3 percent from last year," and that the "opium economy is netting traffickers $2.14 billion in 2005, about 41 percent of Afghanistan's gross national product, a 7 percent decline from last year. The death toll from Afghan opiate overdoses, mostly by

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Europeans, is estimated at 10,000 annually. About 100,000 others died from sickness related to heroin use."

Chicago Tribune Urges Realistic Action In Meth Battle. The Chicago Tribune (9/13) editorializes, "The summer began with a controversy over a new government anti-marijuana campaign that re-ignited a long-smoldering debate about the dangers of pot. It ended with a dust-up over methamphetamine, a potent and addictive drug also known as meth or crystal meth. … A Newsweek cover breathlessly called meth 'America's Most Dangerous Drug' and warned of an 'epidemic' that will soon be spreading to Your Town, if it's not already there. Meth is being called a 'plague' by some drug officials and likened to a forest fire sweeping the country. A recent survey of 500 sheriffs' departments in 45 states labeled meth the No. 1 scourge. Some in Congress are accusing the White House of largely ignoring meth to focus on battling marijuana." The Tribune continues, "All of that has prompted some critics to cry 'hype,' suspecting that the meth epidemic is a transparent ploy by law enforcement to drum up more federal money. … A dose of skepticism is warranted here. … 'Epidemic' implies that meth has swamped the country. That is not true. If you're a Drug Enforcement Administration agent in San Diego or Phoenix, the term is apt. But it's not if you're in Chicago. Cocaine and heroin are much bigger problems here, a DEA agent said. That's also true of many Northeastern cities, where meth remains a minor player. … But meth, sometimes called 'poor man's cocaine,' is popular and spreading." The Tribune concludes, "Atty. Gen. Alberto Gonzales recently declared that meth had overtaken marijuana as the most dangerous drug in America. That's certainly true in many places in this country. And where it isn't, it could be tomorrow. The focus now should be in making sure that meth doesn't become a full-fledged 'epidemic.'"

"DC Arsonist" Gets Life Plus 136 Years. The Baltimore Sun (9/13, Dolan) reports, "Thomas A. Sweatt, 50, the once-elusive 'firebug' responsible for setting more than 45 fires in Maryland, Virginia and Washington that killed two people" was sentenced yesterday in federal court "to serve the rest of his life in prison." The paper notes a law enforcement task force that "secretly labored for years from a warren of empty laboratories at the Beltsville Agricultural Research Center, chasing more than a thousand dead-end leads" finally cracked the case. The Sun adds, "In the end, it was a combination of sheer doggedness, a serendipitous meeting with military officials about DNA evidence from a pair of Marine dress-blues left behind at a fire scene, and an unusually cooperative suspect that cracked the case. "It's a relief," said Scott Fulkerson, a special agent from the Bureau of Alcohol, Tobacco Firearms and Explosives' Baltimore field office who was co-leader of the task force that operated for nearly two years. The paper said Sweatt was convicted of setting fires in the District of Columbia, Maryland and Virginia.

The Washington Post (9/13, B1, Castaneda, Wilber) reports, "Serial arsonist Thomas A. Sweatt offered an apology yesterday as he was sentenced to a life prison term for carrying out a deadly string of fires, but he provided no clue in court about why he spent nearly three years igniting homes where people were sleeping. It was the first time that Sweatt spoke publicly of the pain he caused by setting 45 houses and apartments on fire throughout the Washington region -- blazes that killed two elderly women and caused millions of dollars in damage. His words rang hollow, according to family members who said they want a motive and explanation." The paper adds, "During a news conference, Maryland US Attorney Rod J. Rosenstein praised the Serial Arson Task Force, which included members of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives and local police and fire department investigators from Maryland, the District and Virginia. He also cited the work of the Naval Criminal Investigative Service, which helped connect DNA from a single strand of hair left at a September 2003 fire scene to Sweatt." Rosenstein said that if the task force had not arrested Sweatt, "I have no doubt Mr. Sweatt would have set fire to more houses, and more people would have died."

The Washington Times/AP (9/13, Greenfield) reports, "Sweatt, 50, admitted setting 45 arson fires in the Washington area. Investigators know how he did it -- using jugs of gasoline, and clothing for a wick. But the reason why remained unanswered even as a federal judge sentenced him yesterday to life in prison plus 136 years. … The former fast-food restaurant manager admitted that between February 2003 and December 2004 he set 45 fires: 21 in the District, 17 in Prince George's County, three in Fairfax County, two in Montgomery County, and one each in Arlington County and Alexandria. Under a plea deal, local prosecutors agreed not to charge Sweatt with other arsons. Sweatt also pleaded guilty to two murder charges."

The New York Times (9/13, Gately) reports, "Federal Judge Deborah K. Chasanow sentenced Mr. Sweatt to life

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plus nearly 136 years, eliminating any chance of parole. Judge Chasanow said she would recommend to prison officials that Mr. Sweatt receive a psychiatric evaluation and, if necessary, treatment. But, she added, mental illness could not excuse killing two people and setting fire to more than 45 homes, as well as several automobiles." The Times adds, "Mr. Sweatt's arrest in April resulted from an intensive investigation by federal agencies and local law enforcement in Maryland, Virginia and the District of Columbia. Investigators broke the case when they found a pair of Marine Corps blue trousers near a fire scene. The trousers led them to Navy investigators, who had identified Mr. Sweatt as a suspect in car fires more than two years earlier near the Marine barracks in Southeast Washington. Mr. Sweatt consented to giving a DNA sample, which linked him to evidence from four of the fires, the authorities said, and he admitted to setting others next to entrances to homes using cloth wicks and one-gallon jugs of gasoline.

TAX:

Panel Concludes Treasury Tax Analysis Of Kerry Plan Was Lawful. The Wall Street Journal/Dow Jones Newswires (9/13, A4) reports, "An independent investigation concluded that the Treasury Department didn't break the law by calculating the cost of then-Democratic presidential candidate John Kerry's tax plan and posting the results on the department's Web site. 'We do not believe that Treasury employees completed the revenue estimate at issue for use by a campaign or a party, but as a defense of the [Bush] administration's policies,' according to a March 24 letter to the Treasury from Special Counsel Scott Bloch. The analysis was made with an eye toward congressional action, not to criticize Mr. Kerry, the special counsel's office said. The Hatch Act restricts political activities by government employees."

Professor Says Estate Tax Repeal Won't Doom Giving To Charity. Arthur C. Brooks, associate professor at Syracuse University's Maxwell School of Public Affairs, writes in the Wall Street Journal (9/13), "Americans bequeath $20 billion every year to nonprofits, including organizations that provide relief to disaster victims." Opponents of estate tax repeal say "that doing so removes a powerful philanthropic motive, because the portion of an estate willed to charity is tax-exempt. … When all is said and done, the Senate will most likely repeal or greatly reduce the estate tax without too much consideration of the interests of the nonprofit sector. This does not spell doom for charities, however. The key is not to focus on how the tax system can be used to get more money from the dead, but rather to look to the future and find ways to increase giving -- for humanitarian relief and other worthy causes -- among a new generation of heirs."

CONGRESS-ADMINISTRATION:

Roberts Gives Opening Statement As Hearing Get Underway. Supreme Court nominee John Roberts appeared before the Senate Judiciary Committee yesterday. With Democrats suggesting they would challenge his stands on civil rights and abortion, Roberts used his brief remarks to make the case for judicial restraint and pledge "humility" if confirmed. The consensus from the media coverage continues to be that Roberts is likely to win Senate confirmation.

Roberts' performance yesterday is receiving largely positive reviews, though many reports note a better test of how he stands under questioning will come today, when Democratic senators will begin pressing him for his views. As for yesterday, USA Today (9/13, Kiely, Biskupic) sums up the media's view when it calls Roberts "unflappable and succinct," with the Los Angeles Times (9/13, Savage, Gerstenzang) saying the nominee's statement "showed the qualities that made him a superb advocate before the Supreme Court." The Washington Post (9/13, C1, Davis), meanwhile, says that when listening to the senators, "Roberts was as still as he was silent, his face a wall. His lips were a tight line, except on the few occasions when he laughed at a joke -- mainly the recurring one about his relative youth and appearance of good health."

While the hearing received coverage on the network news and today's major newspapers, the Washington Post (9/13, A1, Babington, Becker) notes it "seemed almost anticlimactic, with public attention riveted on the aftermath of Hurricane Katrina." Moreover, "With few doubting that Roberts, 50, will ultimately win confirmation, senators of both parties used yesterday's forum to highlight their contrasting legal philosophies and views of the court's role in society."

NBC Nightly News (9/12, story 6, 2:15, P. Williams) reported Roberts "gamely listened for three hours to Judiciary Committee members, then spoke just six minutes, saying a

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Supreme Court justice should not make the law but must serve as an umpire." Committee Democrats "said they want to know if Roberts is committed to protecting civil rights, especially after Hurricane Katrina reminded us many Americans have yet to share in the nation's prosperity." Sen. Edward Kennedy (D) Massachusetts: "As one nation under God, we cannot continue to ignore the injustice, the inequality, and the gross disparities that exist in our society." Pete Williams: "The committee's only woman said a key issue for here would be Roberts's views on the constitutionally of abortion." Sen. Dianne Feinstein (D) California: "It would be very difficult, and I said this to you privately and I said it publicly, for me to vote to confirm someone whom I knew would overturn Roe v. Wade." Pete Williams: "But committee Republicans said Roberts should not have to say how he would decide any question." Roberts's supporters "predict a strong party line vote of approval in the committee, 10 to 8. And unless the next two days bring a surprise, even Democrats say he'll be confirmed."

The CBS Evening News (9/12, story 4, 1:55, Borger) reported senators are "going to start asking questions tomorrow. I think they're going to be tough because there is some confusion about where Judge Roberts stands on issue number one for Democrats, that's the question of Roe versus Wade or abortion." Democrats have "also given some other hints. They're going to ask questions about civil rights and about the separation of powers. … I don't think he's going to be off the hook. These questions could be tough."

ABC World News Tonight (9/12, story 6, 1:50, Vargas) excerpted Judge Roberts' opening statement: "Judges and justices are servants of the law. Not the other way around. Judges are like umpires. Umpires don't make the rules. They apply them. The role of an umpire and a judge is critical. They make sure everybody plays by the rules. But it is a limited role."

The Washington Times (9/13, Hurt) says "Roberts Jr. yesterday left little doubt why President Bush nominated him to be the next chief justice of the Supreme Court. … One conservative observer later remarked that Judge Roberts 'stole the show.'"

The New York Times (9/13, Greenhouse), in a story headlined "An Opening Performance Worthy Of An Experienced Lawyer," says "the White House team handling his nomination as chief justice had not seen the statement in advance, and Judge Roberts had not rehearsed it before the 'murder board' that helped prepare him for the confirmation process."

The Baltimore Sun (9/13, Shaw) says Roberts' remarks "echoed comments by Republican senators, who view Roberts as someone who will move the court to the right, in line with the wishes of their party's conservative base." But Roberts, "a White House lawyer under President Ronald Reagan, also spoke of his more recent work as an appellate attorney, representing clients against the government. He said that the rule of law enables a wronged citizen to prevail against the 'might' of the United States in court, 'a remarkable thing' that reflects that 'we are a government of laws and not of men.'"

The AP (9/13) notes "Republicans advised Roberts to follow the example set by recent nominees to the high court and avoid responding to probing questions on controversial topics."

The Washington Post (9/13, A7, Balz) says, "Judging from the opening statements, Democrats and Republicans approached the first day of the hearings with far different goals. Confident of the outcome of the Roberts confirmation battle, many Republicans came with a set of procedural talking points aimed at encouraging Roberts not to answer the Democrats' questions about his views on controversial issues before the court." That view "was summed up most succinctly by Sen. John Cornyn (R-Tex.), whose advice to the nominee was: 'Don't take the bait.'" Democrats "came with the intention of talking about their values and their view of the courts as protectors of women's rights and civil rights, and of the importance of preserving an expansive view of the federal government's powers in the face of a series of Supreme Court decisions limiting that power."

Reuters (9/13) quotes Roberts saying, "I have no agenda, but I do have a commitment. … I will be vigilant to protect the independence and integrity of the Supreme Court. I will work to ensure that it upholds the rule of law and safeguards those liberties that make this land one of endless possibilities for all Americans." Reuters adds, "While he is widely expected to win Senate confirmation, lawmakers told the 50-year-old Roberts to expect tough questions, beginning on Tuesday."

USA Today (9/13, Biskupic, Locy) reports Roberts also "played up his boyhood in Indiana, referring to the 'endless fields' on which he played and his belief in their 'endless possibilities.'" He also "vowed to protect the integrity and independence of the high court."

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The New York Times (9/13, Purdum, Toner) reports, "No one in either party promised to oppose or support Judge Roberts outright, though some came close, including Senator Joseph R. Biden Jr., Democrat of Delaware, who said that on the basis of Judge Roberts's written record alone, 'I would have to vote no.'" Biden, "who is considering a presidential bid, added, 'This is your chance, judge, to explain what you meant by what you have said and what you have written.'"

The New York Times (9/13, Liptak) reports, "In opening statements…Democratic senators continued their calls for the release of documents from Judge Roberts's years as a senior lawyer in the first Bush administration." The documents, said Senator Patrick J. Leahy, "the senior Democrat on the Judiciary Committee, could help illuminate the nominee's views in three areas: civil rights, privacy and access to justice. While the first two areas have garnered attention from interest groups and the news organizations, the third category -- access to justice -- has received relatively little scrutiny."

The Wall Street Journal (9/13, Cummings, Bravin) reports Sen. Charles Schumer "acknowledged the nominee's accomplishments," but, the senator said, "the public must be able to 'assess not only the sharpness of your mind, but also the fullness of your heart. They need to believe that an overachiever can identify with an underdog who has nothing but the Constitution on his side.'"

The Legal Times (9/13, Mauro, Goldman) reports, "Roberts, accompanied by his wife, two children, and numerous family members, smiled easily and spoke briefly about his mentor Rehnquist. Roberts said he had spoken to some of the nurses who treated Rehnquist, and he was glad to hear that Rehnquist was 'not a good patient. He chafed at the limitations they tried to impose.' Rehnquist died at 80 of thyroid cancer. 'I will miss him,' Roberts said." The Times notes, "If Monday was any indication of what is to come, Roberts will have a relatively easy path toward Senate confirmation. Senate Democrats, while warning they will have tough questions for him on Tuesday and Wednesday, praised Roberts' intellect and outward qualifications for the job. Even Nan Aron, president of the liberal Alliance for Justice, said after the hearing Monday that Roberts had given a 'masterful performance -- and short.' She also said, 'He's like an actor in a show, and he's done a first-rate job.'"

More Commentary On Roberts Performance. Sandy Grady, a member of USA Today's board of contributors, writes this morning (9/13), "You might say Judge John Roberts is history's first made-for-TV nominee for the Supreme Court. With his smooth, bland face and careful haircut, he seems to burst fresh from a barbershop or makeup room." Roberts "seems created for his star role this week as network TV cameras focus on his grilling by the Senate Judiciary Committee." He is "a conservative with the demeanor of a friendly scoutmaster. Barring edgy surprises, he will likely cool the red-state-blue-state furor and be drafted to be the youngest chief justice since 1806."

John Tierney writes in his New York Times column (9/13), "He came, he charmed, he shut up. During the opening statements, the senators blathered away their time and more; Judge John Roberts used less than half of his to utter a few graceful generalities. He has made a career out of not saying the wrong thing. Why start now? … The only hope for Democrats is to try the tactics used by interrogation pros like Israeli airport screeners and US customs agents. These experts know that a smart criminal will have rehearsed a cover story for, say, what he was doing in London and why he's going to New York." But "if he's asked something unexpected…he has to change mental gears. He's apt to exhibit telltale signs of a liar under stress, like gazing upward and to his right as he answers." Tierney adds, "I'm not suggesting that Mr. Roberts is a liar, or that anything the Democrats ask today could stop him from being confirmed. But they might at least keep TV viewers awake by trying questions like these: If Roe v. Wade were a tree, what kind of tree would it be? Is there any chance that you could speed up Justice Stevens's retirement by addressing him as 'Gramps'?"

Roberts Rulings As Federal Judge Said To "Lean Right." In a story titled "Nominee's Rulings Lean Right," the Washington Post (9/13, A7, Lane) reports, "During his two years as a federal appeals court judge, John G. Roberts Jr. has compiled a voting record that places him to the right of the average member of the U.S. circuit courts, according to the first independent statistical study of his voting record." Roberts "was most conservative on issues involving civil rights and civil liberties, the study found. At the same time, President Bush's nominee for chief justice of the United States showed a liberal streak on economic regulation and labor issues; in those matters, he was significantly to the left of the average, according to the study."

Cases Involving Abortion, Assisted Suicide Laws Expected To Reach Court. The CBS Evening News (9/12, story 6, 2:35, Andrews) reported on the controversial cases that the court is expected to hear this year. Once case

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concerns "a New Hampshire law requiring teenaged girls to tell their parents before getting an abortion. It's not parental permission, says state representative Barbara Hagan, just notification." It is "what many see as the biggest abortion case in five years. Why: Because there is no exception in the law to provide for the health of the mother. To abortion rights advocates, the women's health exception is a defining issue. To them, any justice who doesn't believe the women's health exception is a fundamental right probably doesn't believe in 'Roe v. Wade.'" Karen Pearl, Planned Parenthood Federation of America: "And with Judge Roberts joining the court, we need to know whether he will continue to say that women's health is that important that it cannot be violated." Andrews: "But abortion opponents call the health exception a sham, because in practice 'health' can mean almost anything." Judge Roberts "will also face a crucial states' rights case. Can terminally ill patients in Oregon, patients like Jack Neubold, kill themselves with a legal prescription?"

The Wall Street Journal (9/13, Cummings) says "earlier public statements suggest Judge Roberts, seen as an ally to social conservatives on abortion, could disappoint them on whether terminally ill patients may end their lives. When the Supreme Court last weighed in on the matter, in 1997, Judge Roberts discussed the cases in a television talk show." The high court "had just decided to protect prohibitions on assisted suicide in Washington and New York states. Judge Roberts, at the time a lawyer in private practice, defended the decision to maintain the restrictions -- invoking states' rights, not morality."

No Indication Seen That Roberts Was Involved In Iran-Contra. The Christian Science Monitor (9/13, Richey) reports, "As a member of the White House counsel's office in 1985 and early 1986, Roberts was in close proximity to what ultimately became the Reagan administration's Iran-contra scandal." As early as January 1985, "Roberts was asked to give a legal opinion about White House involvement in private fundraising to help the contra forces fighting Nicaragua's Sandinista government. He also wrote several memos in early 1986 concerning the private fundraising activities of individuals who were later prosecuted in the Iran-contra affair." But "Roberts's White House memos, made public at the National Archives, are unlikely to provide much grist for conspiracy theorists seeking to link the former Reagan staffer to the scandal." Instead, "Roberts's memos on contra-related issues reveal a cautious lawyer who consistently sounded alarm bells about appearances and who urged compliance with the letter and spirit of the law. His words convey no sign of a devious consigliere searching for ways to bend the law or conceal lawless activities." The Monitor adds, "More important, the memos suggest that Roberts and his colleagues in the White House counsel's office were outside the loop on the secret dealings of Lt. Col. Oliver North at the National Security Council."

Coburn Went From Crossword Puzzle To "Emotional Overdrive." The Washington Post (9/13, A7, Milbank) reports, "Yesterday's opening of the John Roberts confirmation hearings was a time for historic firsts." Schumer "made 49 first-person references in a 10-minute statement that was, ostensibly, not about himself. Sen. Tom Coburn (R-Okla.) showed exceptional emotional versatility, working a crossword puzzle during the hearing and then choking back a sob while making a prosaic statement about partisanship. … A television camera behind Coburn caught the senator working a crossword puzzle. But Coburn went from detachment to emotional overdrive when it was his turn to talk; seconds after asserting that 'a super-legislator body is not what the court was intended to be,' he paused and wept." It was "the biggest Senate choke-up since Sen. George V. Voinovich (R-Ohio) cried while opposing the nomination of the ambassador to the United Nations -- and Coburn has to get through three more days of hearings."

Conservatives Happy With Specter So Far. Roll Call (9/13, Kane) reports, "After bitterly attempting to deny Senate Judiciary Chairman Arlen Specter (R-Pa.) the gavel, conservative activists are now beginning to praise the five-term moderate as an unexpected ally in several key battles this year." Specter, who "was nearly denied the chairmanship last November after an eruption on the right regarding comments he made about Roe v. Wade," has won "some grudging respect from conservatives in recent weeks. Those activists have been particularly pleased with his handling of the run-up to this week's confirmation hearing for Judge John Roberts, who is President Bush's nominee for chief justice of the United States."

Rehnquist Remarks On Nomination Politics Noted. ABC World News Tonight (9/12, story 7, 2:00, Vargas) reported on remarks the late Chief Justice William Rehnquist made to a group of high school students in 1990. Asked about the "politics that go into the nomination" process, Rehnquist said, "The president has traditionally tried to find a nominee who was sympathetic to the president's general approach to how…judicial philosophy. Now, I don't lots of

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presidents have terribly well-defined judicial philosophies. They have a lot other things on their mind, as well."

More Commentary. In an op-ed in the Los Angeles Times (9/13), Margaret Carlson writes, "I'm as excited as anyone about the prospect of 'Advise and Consent, the Sequel,' with a budget rivaling 'War of the Worlds' and advance hype just short of Tom Cruise jumping on a couch, declaring his love for Arlen Specter. … Eighteen years after 'Borking' became part of the language, the two main protagonists in that battle are still at it. Specter, the Senate Judiciary Committee chairman, got in one more lick Sunday against the Supreme Court nominee he defeated back then, Robert Bork. 'If his "original intent" stood, we'd still be segregating the United States Senate with African Americans on one side and Caucasians on the other side,' Specter said on CNN. Bork said later in the same program: 'I know Specter, and the truth is not in him.'" Carlson continues, "Somehow Alberto Gonzales, one of the potential candidates to succeed retiring Justice Sandra Day O'Connor, seems incapable of generating that level of venom. He may prove to be a stealth candidate with rock-hard positions we don't know about, but he comes across as milder than that. The right wing jokes that 'Gonzales' is Spanish for 'David Souter.' And the left dislikes him for condoning torture at Abu Ghraib. The bipartisan dismay has lent Gonzales an air of being just right." Carlson adds, "I'm not saying Bush is going to nominate Gonzales, the old friend he huffily told folks to lay off of as he flew to the G-8 summit in Scotland. He might even nominate a real hard-liner, lure the Democrats into eliminating him and then get whomever he wants to replace O'Connor and Chief Justice William Rehnquist when he retires. … What I am saying is that although Bush looks more and more messianic, he's got enough of his father's pragmatism in him to want to overturn Roe vs. Wade about as much as he wants to read the collected works of Shakespeare. … If Roe goes down, so does his majority, his legacy and present and future politicians bearing the name Bush. Traditional Republicans who voted for Bush for his pro-corporate, pro-tax-cut views will put aside their selfish concerns and flock to pro-choice candidates, who tend to be Democrats. He doesn't want to be remembered as the guy who knocked down the late Lee Atwater's Big Tent."

Bush Visits New Orleans, Says Relief Effort Did Not Discriminate Against Blacks. President Bush yesterday visited New Orleans for the third time to oversee hurricane recovery efforts. The network coverage of the Bush's trip was pointedly skeptical, with reporters implying that it was another effort to buoy the President's sagging job approval ratings. Bush was portrayed as irritated when questioned about the speed of the relief efforts. As ABC's Lisa Stark put it, he "bristled" when asked about the timeliness of the Federal response. The networks all noted it was Bush's first trip to downtown New Orleans, and CBS, which has had the most negative view of the city's progress, went so far as to say he "didn't find much good news." Bush also firmly denied that race played a role in the Federal Government's perceived lack of effort in the early stages of Katrina's aftermath.

The CBS Evening News (9/12, story 2, 3:40, Schieffer) reported, "President Bush went back to New Orleans today, but he didn't find much good news. There was more trouble with one of the levees, and authorities confirmed a grim discovery, the bodies of 45 patients in a hospital that was thought to have been evacuated." CBS (Pitts) added, "Late this afternoon, a levy in northeast New Orleans broke, flooding some neighborhoods all over again. Hours earlier, President Bush was in town, managing his own political crisis. This marked the President's third trip to the city, his first actual on-the-ground survey of the devastation. But if he was hoping to reach out to the citizens of New Orleans, he was too late, since most of the victims are out of town, evacuated days ago. When asked if race played a role in his response, the President had a stern answer." President Bush: "My attitude is this: The storm didn't discriminate, and neither will the recovery effort."

ABC World News Tonight (9/12, story 3, 2:35, Vargas) reported, "Two weeks after Katrina, a new ABC News poll finds that 63% of Americans still believe the Federal Government lacks a clear plan to deal with the devastation. President Bush was in Louisiana and Mississippi again today, trying to counter that perception." ABC (Stark) added, "The President on his third tour of the devastated area today, bristled at continued questions about the government's slow response." President Bush: "I know there's been a lot of second guessing. I can assure you that I'm not interested in that. What I'm interested in is solving problems. There will be time to take a step back and to take a sober look of what went right, what didn't go right." Stark: "The President got his first close-up look at the flooding in New Orleans. His previous visits had been fly-overs. Today, he stood out in the open, in a military motorcade. Later, flying to St. Bernard Parish, one of

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the hardest-hit, to meet privately with state and local leaders, before going to a damaged elementary school in Gulfport, Mississippi."

NBC Nightly News (9/12, lead story, 2:20, O'Donnell) reported, "Abandoning the customary bulletproof motorcade, for a time today the President perched atop an open air military truck for a hands on look at the ruins of New Orleans he had not yet seen."

The Los Angeles Times (9/13, Chen) reports Bush said Monday that New Orleans "was 'on the way' to recovery and stated that there was now 'close coordination' among all levels of government." Bush also "alluded for the first time to the disproportionate number of African Americans stranded by the flooding in New Orleans, and he vowed to look into growing concerns among homeowners who lacked flood insurance coverage." Despite the "relief progress that he said he noted Monday — Bush cited a gas station 'up and running' in Gulfport, Miss. — the president warned: 'There's a lot of serious and hard work that's yet to be done.'" Asked "about the large numbers of blacks who were trapped in the Superdome and the convention center in New Orleans," Bush said, "My attitude is this: The storm didn't discriminate, and neither will the recovery."

The AP (9/13, Loven) reports Bush "denied that poor, black victims of Hurricane Katrina were ignored because of their race." Bush "replied testily to a reporter who asked whether he felt let down by federal officials in responding to the disaster." Bush "seized on the news of falling water levels throughout New Orleans and pronounced the city on the mend."

Reuters (9/13, Christie) reports Bush "rejected charges the government was slow to respond to Hurricane Katrina because most of the victims were black or because the nation's military was over-extended in Iraq." He also said "it was 'preposterous' to claim that the Iraq war had drained military resources, leaving too few troops to help out with the hurricane." Reuters adds that in a "new blast at the administration, civil rights leader Rev. Jesse Jackson said the government was now discriminating against local businesses by ensuring that big corporations with close ties to the establishment received all the major rebuilding contracts."

Bloomberg (9/13) reports Bush "promised to take 'a sober look' at how emergency agencies reacted after the storm" and that "every citizen of the affected areas will get aid." The President "made his remarks after touring the city's French Quarter and other neighborhoods in a caravan of military vehicles along with Mayor Ray Nagin and Louisiana Governor Kathleen Blanco."

Knight Ridder (9/13, Robbins, Dodd) reports President Bush "got his first close look Monday at flood-ravaged New Orleans, even as state health officials revealed another grim discovery: 45 people found dead at a hospital evacuated more than a week ago." The President "rebutted charges of a slow response by the federal government, but that didn't save the job of Michael Brown, the embattled Federal Emergency Management Agency chief. He resigned from his post on Monday."

The Washington Times (9/13, Curl) reports President Bush "yesterday rejected charges that the federal government's emergency response was slow because most of the victims were black." Mr. Bush "replied angrily to another reporter who asked whether he felt let down by federal officials' response to the disaster."

USA Today (9/12, 12A) editorializes, "With his poll numbers sagging, President Bush made his third trip to the hurricane-ravaged Gulf Coast on Monday. Though the trip had many purposes, one certainly was to burnish an image tattered by his administration's bungling of relief operations after Hurricane Katrina struck."

Rice Defends Bush Record On Race. The New York Times (9/13, Weisman) reports, Secretary of State Condoleezza Rice said yesterday that "the hurricane disaster that disproportionately struck poor blacks in New Orleans 'gives us an opportunity' to rectify historic injustices that she experienced as an African-American growing up in the South." Asked "what she told foreign leaders wondering about racial discrimination and poverty in the United States", Rice said, "You go to any other meeting around the world and show me the kind of diversity that you see in America's cabinet, in America's Foreign Service, in America's business community, in America's journalistic community." She added, "Show me that kind of diversity anyplace else in the world, and I'm prepared to be lectured about race." She also "rejected as 'poisonous' any suggestion that President Bush himself would discriminate racially against any victims of the hurricane and said that his record on education, including aid to historically black colleges and the setting of standards for schoolchildren, demonstrated that he believed passionately in racial equality."

In Katrina Aftermath, Polls Show Nation Divided By Race. The Washington Post (9/13, A8, Fletcher, Morin) reports, "Touring devastated portions of New Orleans

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yesterday, President Bush sought to reassure the public that the government is responding to Hurricane Katrina with equity and dispatch, even as his standing hit record lows amid broad support for an independent investigation of the federal response to the storm. A new Washington Post-ABC News poll found that clear majorities of Americans disapprove of the way officials at all levels of government are handling the recovery from Katrina. A 54 percent majority disapproved of Bush's response to Katrina, while an even larger majority -- 57 percent -- say state and local officials should bear responsibility for the problems." These attitudes "fracture along clear racial lines. Nearly three in four whites doubted the federal government would have responded more quickly to those trapped in New Orleans if they had been wealthier and white rather than poorer and black, the poll found. But an equal share of blacks disagreed, saying help would have come sooner if the victims had been more affluent whites." The poll also found that "76 percent of the public favors an investigation of federal storm response efforts by an independent commission similar to the one that probed the Sept. 11, 2001, terrorist attacks." The poll of 1,201 randomly selected adults was conducted September 8-11 and has a margin of error of +/-3 percent. The Post adds, "Bush aides privately view the latest poll numbers with gloomy realism but take heart from Bush's past ability to push the Republican Congress to follow his lead even when his popularity has flagged."

USA Today (9/13, Page, Puente) reports, "There is a lot that Americans agree about in the wake of Hurricane Katrina: that government agencies initially stumbled but are doing better now, for one, and that more money and attention should be paid to addressing the issue of poverty. But a USA TODAY/CNN/Gallup Poll taken Thursday through Sunday finds a stark racial divide on other issues, including attitudes toward the hurricane's victims, the performance of President Bush and the reasons the government's early response was so wanting. Six in 10 African-Americans say the fact that most hurricane victims were poor and black was one reason the federal government failed to come to the rescue more quickly. Whites reject that idea; nearly 9 in 10 say those weren't factors." And "the racial divide…could affect the debate over addressing poverty and rebuilding the Gulf Coast in the hurricane's wake." The survey also found that "African-Americans by 74%-16% have an unfavorable opinion of the GOP. By more than 3-to-1, they say Bush doesn't care about black people. By more than 2-to-1, whites say he does." The poll of 1,005 adults has a margin of error of +/-3 percent. Also the president's job-approval rating "is 46%, essentially the same as the 45% rating in the Gallup Poll 10 days earlier." USA Today continues, "the nation that champions equal rights around the globe has not resolved its own racial tensions." In all, "one in four of those surveyed blame the mayor of New Orleans; another one in four blame the residents themselves. One in five blame the Bush administration. But blacks are much more likely than whites to hold the federal government responsible. Whites are much more likely to hold the residents responsible."

Bush Job Approval Falls To 42% In ABC News/Washington Post Poll. ABC World News Tonight (9/12, story 5, :35, Vargas) reported, "Our latest ABC News/Washington Post poll finds that dissatisfaction, however, with the government's response to the hurricane is growing and hurting President Bush's overall approval rating. It now stands at just 42%, the lowest it's ever been. And one more finding that gets at the division in the country after the hurricane, an overwhelming number of African-Americans, more than 70%, say that the government would have responded more quickly to the disaster in New Orleans if more of the victims had been wealthy and white, rather than poor and black. Only 20% of whites agree with that."

Columnist Addresses Plight Of Blacks In New Orleans. In a USA Today (9/12) column, DeWayne Wickham writes, "It wasn't long after the tortured images of thousands of black men, women and children holed up in the Louisiana Superdome and Morial Convention Center started appearing on TV newscasts that talk of an old conundrum surfaced. Was it the color of their skin or their place in society that made the suffering among that city's blacks so great? The race or class question pits those who believe that racism is the root cause of much that ails blacks against those who say it is their economic and social condition that is the problem." Wickham concludes that while both race and class contributed to the initial suffering, the race of the victims played a part in delaying the response of the government.

Recent Discontent Said To End "Bush Era." In a Washington Post (9/13, A27) op-ed, E.J. Dionne, Jr., writes, "The Bush Era is over. The sooner politicians in both parties realize that, the better for them -- and the country. Recent months, and especially the past two weeks, have brought home to a steadily growing majority of Americans the truth that President Bush's government doesn't work. His policies are failing, his approach to leadership is detached and self-

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indulgent, his way of politics has produced a divided, angry and dysfunctional public square. We dare not go on like this." Dionne concludes that Bush's most helpful course "lies in recognizing that the Bush Era, as he and we have known it, really is gone. He can decide to help us in the transition to what comes next. Or he can cling stubbornly to his past and thereby doom himself to frustrating irrelevance."

Obama's Comments On Hurricane Response Criticized. George Will writes in the Washington Post (9/13, A27) that Sen. Mary Landrieu's speech on the Senate floor moved some senators to tears. But you "can no more embarrass a senator than you can a sofa, so the tears were not accompanied by blushing about having just passed a transportation bill whose 6,371 pork projects cost $24 billion, about 10 times more than the price of the levee New Orleans needed. Louisiana's congressional delegation larded the bill with $540,580,200 worth of earmarks, one-fifth the price of a capable levee." Will notes Sen. Barack Obama's "lament about the president's inadequate 'empathy' and an amazing criticism of the government's 'historic indifference' and its 'passive indifference' that 'is as bad as active malice.'" Obama "is just 30 months older than the 'war on poverty' that President Johnson declared in January 1964. Since then the indifference that is as bad as active malice has been expressed in more than $6.6 trillion of anti-poverty spending, strictly defined." Obama might "care to note three not-at-all recondite rules for avoiding poverty: Graduate from high school, don't have a baby until you are married, don't marry while you are a teenager. Among people who obey those rules, poverty is minimal."

Embattled FEMA Director Brown Resigns.

Days after being relieved of his duties in the hurricane zone, embattled Federal Emergency Management Director Michael Brown resigned his post. The White House named David Paulison, currently director of emergency preparedness division at FEMA, as acting director. While Paulison is receiving cautious praise, most analysts agree that Administration critics are unlikely to soften their censure of the relief effort. However, as CNN's Anderson Cooper 360 Degrees (9/12, Malveaux) said last night, Brown's resignation "clears the way for the administration to move forward on two fronts: recovery and rebuilding public perception." Another major theme in several TV and print reports, such as the one in CNN's The Situation Room (9/12, Malveaux), was that Brown's departure "is really a rarity for the White House," which "puts a premium on loyalty. But it was clear from the early days there was a serious problem here."

ABC World News Tonight (9/12, story 3, 2:35, L. Stark) reported Brown's resignation was "probably not a big surprise." Brown said he "resigned because he had become a distraction." The "embattled FEMA director" also "defended his agency's handling of Hurricane Katrina. And said the country needs a legitimate debate about FEMA's role." Brown was shown saying, "We're not a first responder agency. We're there to coordinate and help people prepare and coordinate in times of disaster. If the country wants us to be more, we should have a great public policy debate whether that's true or not."

The CBS Evening News (9/12, story 3, 2:00, Stewart) reported, "Rarely has a White House favorite fallen so far, so fast. A little more than a week ago, FEMA Director Mike Brown was lavished with praise for his job on Hurricane Katrina. The President even called him by nickname." But a "week later, Brown had been replaced. The President was facing an avalanche of personal criticism he had responded too slowly to the crisis, and today, Brown took a political bullet for the White House with a terse resignation announcement."

CNN's The Situation Room (9/12, Malveaux) reported, "Senior administration officials setting up a timeline for us, saying it was Wednesday, just two days after the hurricane hit, when Homeland Secretary Michael Chertoff told the president at the White House in a morning meeting that he was essentially going to move him to a desk job, that he would be out of the field. They were not happy with his performance then." Thursday, "Chertoff traveling with Vice President Cheney in the damaged regions. Cheney saying he heard an earful from Republicans, as well as Democrats, who were unhappy with the FEMA effort, and then it followed with Friday, of course, Chief of Staff Andy Card got word that the choice to replace him, at least on the ground, would be Thad Allen. Even on that day, the president was not willing to disparage Mike Brown in any way, in fact saying, 'Brownie, you are doing a heck of a job.'"

The Los Angeles Times (9/13, Gerstenzang, Chen) reports Brown "often" presented "an upbeat assessment of the region's recovery, even as television pictures, playing on a split screen, showed the scope of the floods in New Orleans, scenes of devastation, and the bodies of victims left unattended." The Times adds, "Political analysts said Brown's departure should surprise no one, considering that he was dismissed Friday as the Bush administration's point

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man on the Katrina relief effort and sent back to Washington, ostensibly to oversee FEMA's preparedness for other hurricanes."

Reporter David Shuster spoke about Brown on MSNBC's Hardball (9/9), "The people here [in New Orleans] cannot forget the images on that fourth day when people were at the convention center. 15,000 people who had gone four days without food and water and that night on television, Michael Brown didn't know anything about it. That is the reason why people here in New Orleans over the last week have said that Michael Brown deserves to be sacked and why people will be glad that he has."

Knight Ridder (9/13, Dodd) reports, "Brown told his senior staff that he was resigning at about 3 p.m. Monday, according to FEMA press secretary Sharon Worthy, who was among those informed by Brown. She said the group of about 12 people took his resignation 'professionally.'"

The Pittsburgh Post-Gazette (9/13, McFeatters) reports, "At the White House there was a sense that with Brown gone, President Bush could get his presidency back on track and repair the public relations damage done when millions of people in American and around the world began criticizing the administration for how the aftermath of Katrina was handled." Brown "was deeply humiliated last Friday when Chertoff publicly relieved him of command of the disaster relief operations." The Wall Street Journal (9/13) adds "that move was widely seen as a precursor to Mr. Brown's eventual departure especially given that some members of Congress said that a reassignment wasn't enough." Senate Democratic Leader Harry Reid of Nevada and three other senators "said in a letter to President Bush on Friday that Mr. Brown's 'continued presence in this critical position endangers the success of the ongoing recovery efforts.'"

The Financial Times (9/13, Daniel) also says Brown's decision "follows an embarrassing public dressing down on Friday, when he was relieved of command of events as head of the Federal Emergency Management Agency (Fema) and sent back to Washington." His departure "represents a rare resignation by an official of the Bush administration, which does not like admitting mistakes." It "comes a week after President George W. Bush praised his handling of the crisis, saying: 'Brownie, you're doing a heck of a job.'"

Bush Says He Didn't Know About Brown Resignation. The CBS Evening News (9/12, story 3, 2:00, Stewart) reported, "In New Orleans on his third visit to the disaster site, President Bush claimed not to know anything of the resignation, and bristled when asked if he felt Brown and FEMA had let him down." President Bush: "Look, there will be plenty of time to play the blame game. That's what you're trying to do. You're trying to say somebody is at fault."

NBC Nightly News (9/12, lead story, 2:20, O'Donnell) reported, "In Mississippi, the President distanced himself from the biggest political casualty of the Katrina disaster, FEMA Director Michael Brown, who submitted his resignation today." President Bush: "I have not talked to Michael Brown or Mike Chertoff, that's who I'd talk to. As you know, I've been working." O'Donnell: "Only ten days ago, Mr. Bush stood shoulder-to-shoulder with Brown."

Later in its broadcast, NBC Nightly News (9/12, lead story, 2:20, O'Donnell) said the President "tried to direct attention away from Brown and back on survivors' needs." President Bush: "There's time to, you know, try to blame somebody, but they want to get their lives back together."

The Baltimore Sun/AP (9/13, Superville) reports, "The president was told of Brown's resignation earlier today and spoke to Homeland Security Secretary Mike Chertoff, who was Brown's boss, from Air Force One in the afternoon as he flew back to Washington from an overnight visit to the region." White House spokesman Scott McClellan "said the White House did not seek Brown's resignation. 'This was Mike Brown's decision and we respect his decision,' McClellan said." USA Today (9/13, Hall) adds McClellan "praised Brown's work but did not mention Katrina. 'The president appreciates Mike Brown's service,' he said. 'Mike has done a lot of great work on a number of hurricanes.'"

Paulison, A Democrat, Named Acting FEMA Director. Bush's appointment of David Paulison as acting FEMA director received cautious praise from the media. The main theme is Paulison's coverage was his past experience in emergency response, with some print outlets noting he is a registered Democrat. ABC World News Tonight (9/12, story 3, 2:35, L. Stark) said that "unlike Michael Brown, Mr. Paulison has a background in emergency management." Reuters (9/13) reports Bush made the selection "on an apparent nod to demands that Brown be replaced by someone with experience in emergency response," adding Paulison is "a veteran firefighter who now runs FEMA's preparedness division."

CNN's Paula Zahn Now (9/12, Zahn) noted that Paulison "was the guy behind the government's suggestion that everyone buy plastic sheeting and duct tape in case of a terrorist attack." USA Today (9/13, Eisler, Hall) adds "the

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advice became a staple of late-night comics, who usually misattributed the comment to Tom Ridge, then secretary of Homeland Security." The Bush administration "hasn't put Paulison in front of reporters much since then. Now, he steps into a lead role directing federal response to one of the nation's worst natural disasters." In a statement, Chertoff said, "I appreciate his willingness to take on the vital task of leading FEMA during this challenging time." Paulison, "a Democrat, was flying back from the Gulf Coast on Monday and was unavailable for comment on his new appointment."

The New York Times (9/13, Kornblut) also says that "at least on one political score, he departs from the typical Bush administration faithful: As of four years ago, he was a registered Democrat, according to an article in The Miami Herald at the time." That "creates at least the perception that he is independent of the administration's political machine -- unlike Mr. Brown, who got his job on the recommendation of a former senior campaign adviser to Mr. Bush, Joe M. Allbaugh, an old friend from college."

The Pittsburgh Post-Gazette (9/13, McFeatters) reports Paulison "is head of the US Fire Administration and leads FEMA's emergency preparedness force. He has more than 30 years' experience working in fire prevention and containment. The former fire chief in Miami, Paulison dealt with the aftermath of Hurricane Andrew in 1992." Paulison "will be the acting director of FEMA -- if he is nominated to the directorship he must be confirmed by the Senate."

The AP (9/13, Fournier) reports, "As chief of the Miami-Dade Fire Rescue Department, Paulison led 1,900 personnel under a $200 million operating budget. He was also in charge of Dade County's emergency management office, according to his biography." Fox News' Special Report (9/12) also said Paulison's "official bio says he has fire and rescue experience."

The Washington Post (9/13, A12, Hsu, Lee) profiles Paulison in s story titled "Paulison Is Skilled At Disasters." International Association of Fire Fighters General President Harold A. Schaitberger, "whose organization Paulison formerly headed, said Paulison 'not only has the administrative experience and skills that you need at the bureaucratic level, he really understands what the troops need on the front line.'"

Brown Says He Made Decision After Sunday Talk With Card. The New York Times (9/13, Stevenson) reports, "In an interview Monday night, Mr. Brown said that he felt that his role had become an obstacle to the agency's work. 'The press was too focused on what did we do, what didn't we do, the whole blame game,' he said. 'I wanted to take that factor out of the equation, so that the people at FEMA, who are some of the most hard-working, dedicated civil servants I have ever met, could just go do their job.'" Brown "said he had felt no pressure to resign. He said he made his decision on Sunday with his family after a long conversation on Saturday night with Andrew H. Card Jr., the White House chief of staff. 'Andy was very, very supportive of me,' Mr. Brown said."

CNN's The Situation Room (9/12, Meserve) reported, "I'm told there was a phone conversation on Saturday between Michael Brown and Andy Card, the White House chief of staff. And that Brown came to the conclusion that he should leave. I'm told by a FEMA spokeswoman he was not under any pressure to do so. In his letter to the president this morning, I'm told he said that it was important to leave now to avoid further distraction from the ongoing mission of FEMA and that it has been an honor to serve the president, work with the people of FEMA and help Americans in their darkest hour."

Democrats Say Brown's Departure Long Overdue. The Washington Times (9/13, Hudson) reports, "Some Democrats said Mr. Brown was right to resign, but others continued to criticize Mr. Bush for not firing the director. 'Michael Brown's departure from FEMA is long overdue, and his resignation is the right thing for the country and for the people of the Gulf Coast states,' said House Minority Leader Nancy Pelosi, California Democrat."

The Los Angeles Times (9/13, Gerstenzang, Chen) reports Sen. John F. Kerry "issued a six-word statement: 'Long overdue. Too little, too late.'"

CNN's The Situation Room (9/12, Henry) reported that "the Republican Party believes this is good politically because it's going to take this issue off the table -- getting Mike Brown out of the way. But I think that may be wishful thinking because the Democrats are pouncing here. Democrats are basically saying, they are emboldened. They have been calling for Mike Brown's head for over a week now. They've gotten it. So they want much more. Just a few moments ago, Senator Hillary Clinton said that they basically need an independent commission. She reiterated her call for just that."

NBC Nightly News (9/12, lead story, 2:20, O'Donnell) reported "some say Brown's exit won't take the heat off the President." Stuart Rothenberg, political analyst: "I think FEMA was such a problem and Brown himself was seen as

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epitomizing that problem that getting him away really won't help the President fundamentally."

CNN's Anderson Cooper 360 Degrees (9/12, Cooper) also reported that "criticism over the federal government's response to Hurricane Katrina likely won't end with Michael Brown's resignation. Blame is being pointed in every direction, not just towards the feds, but also local and state representatives. Other figures might be brought down because of the disaster."

Vitter Says Bureaucratic Model For FEMA Should Be Discarded. Sen. David Vitter was asked on CNN's Anderson Cooper 360 Degrees if the position of FEMA director should be a "patronage job." Vitter said, "I think we need to look broader than that and look at the model for the bureaucracy of FEMA, because in my opinion this wasn't a failure of one person, although it was that also. It was a failure of the whole bureaucracy, and the solution to that isn't getting a new head bureaucrat or a new type of head bureaucrat. So I think we need to ask some truly fundamental questions about why that didn't work, and also what worked. The military response, which largely worked; the private industry, local citizen response, private initiative, which worked. We need to ask probing questions about that, to figure out a new model, because I think the whole bureaucratic FEMA model is what has to be probably discarded."

Frist Not Surprised By Brown Resignation. Senate Majority Leader Bill Frist was asked on CNN's The Situation Room (9/12) about Michael Brown's decision to resign as FEMA director. Frist said," I am not surprised by it. … I, too, have not talked to anybody about the resignation today. I've heard it through news reports. I'm not terribly surprised by that, but I am very pleased with the leadership that we have now, the command and control we have." Asked if the President should select someone 'who is a career professional as opposed to a political ally" to replace Brown, Frist said, "First of all, let me say I agree with your whole premise there," adding that "we need people in that position with authority, with good command and control, with a lot of experience, real-life experience. And then we got to go back and fix the entire system."

Managing Hurricane Relief Funds Called Major Test For FEMA. A front page story in the Washington Post (9/13, A1, Witte, Babcock) reports, "The Federal Emergency Management Agency will receive most of the $62 billion Congress has approved for Hurricane Katrina relief efforts, setting up a major test of the agency's ability to distribute the cash and monitor the private contractors who will do much of the work. FEMA's track record in managing much smaller amounts of money has raised concerns." The Post adds, "The agency has already begun awarding hundreds of millions of dollars in no-bid Katrina contracts under loosened government rules designed to get relief and rebuilding efforts underway quickly. As the money begins to flow, some fear the agency could become overwhelmed."

More Commentary. In an editorial titled "Goodbye, 'Brownie,'" the Washington Post (9/13) says, "No one will be sorry or surprised to learn that Michael D. Brown…intends to spend more time with his family. Mr. Brown will be forever remembered as the man who, at the height of the New Orleans evacuation crisis, appeared not to know that 25,000 people were crammed into the city's convention center without food, water or toilets, despite television reports broadcasting that fact for the previous 24 hours." The Post notes Brown's resignation letter, in which he said "The focus has got to be on FEMA," adding, "We agree -- although we would add that the focus should be on presidential attention to FEMA, as well as congressional oversight and funding of FEMA, and not on FEMA's position in the federal bureaucracy." Turning to Paulison, the Post adds that he "may be qualified. But before coming to that conclusion, it would help if Congress and the White House take a bit more than 42 minutes to find out."

Mike Walker, a former deputy director of FEMA and former acting secretary of the Army, writes in today's Washington Times (9/13), "Don't blame FEMA's great professional, dedicated and unselfish employees for what happened in New Orleans. FEMA did not fail in the early response because of these great Americans. They were totally focused on responding to the tragedy and saving lives. Nor did FEMA fail because of an over-emphasis on terrorism prevention." FEMA "did fail because of a lack of effective leadership and its refusal to adapt to the new realities of the post-September 11 world." He adds, "The problem at FEMA is not a structural problem. FEMA did not fail because it is now part of the Department of Homeland Security. Making FEMA an independent agency again would only further complicate the nation's ability to shape the agency into a 21st century, forward-leaning, truly all-hazard response agency." But "the next director of FEMA must understand emergency management. He must appreciate his people. He must listen to his state and local partners. And, most importantly, he must understand FEMA's role in the post-September 11 world."

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George Melloan writes in the Wall Street Journal (9/13) that "the blame game is missing the mark. George W. Bush is being accused by his natural enemies of everything from being asleep on the job to racism. But his real error came long before Katrina, when he and Congress created a Department of Homeland Security (DHS) in response to 9/11. … Creating a bigger bureaucracy to deal with the failures of two existing bureaucracies -- the FBI and the CIA -- was simply giving free rein to Beltway gluttony. The DHS has spent many billions, but when a hurricane equivalent of a weapon of mass destruction struck, the DHS was too cumbersome to respond quickly." Melloan adds, "If an agency is meant to cope with emergencies, don't put lawyers in charge. DHS Secretary Michael Chertoff is an admirable man but former federal judges aren't trained for quick executive action."

Contrary To Chertoff Claims, Officials Said To Have Known Damage Katrina Would Cause. CNN's Anderson Cooper 360 Degrees (9/12, Foreman) reported, "When Katrina slammed into the Gulf Coast, federal, state and local officials, despite claims to the contrary, knew everything that was coming. The massive storm surge, the failing levees, the stranded survivors, the collapse of roads, bridges, electricity and phones. They had planned for and trained for all of it. And now with FEMA Director Michael Brown bowing out, accusations against others at all levels are rising like flood waters." CNN added, "The head of Homeland Security, which oversees FEMA, Michael Chertoff, has insisted for two weeks he had no warning of how bad Katrina could be. … But it turns out the National Weather Service issued a detailed message a day before the strike, saying buildings would be leveled, high-rises crippled and most of the area will be uninhabitable for weeks, perhaps longer. In addition, and again contrary to Chertoff's claims, FEMA was most certainly warned that the levees could collapse, although even well after the levees failed, FEMA officials continued to downplay how bad the flooding might be."

MSNBC's Hardball (9/12, Phillips) reported, "What has not been widely known until now is that over the years, many local, state, and federal government officials have been warned over and over again about this very scenario." Officials "knew that someday, the levees mate fail. And it turns out, they were warned just last year how catastrophic a levee failure would be. In July 2004, FEMA sponsored what amounted to a hurricane war game. It anticipated what could happen if a hypothetical category three storm named Pam hit New Orleans. … Despite the dire predictions… some federal officials didn't seem to take the drill seriously."

NYTimes Decries Army Corps' Spending On Civil Works Projects. The New York Times (9/13) editorializes, "There has been much grumbling that Congress and the Bush administration denied the Army Corps of Engineers the money that was required to fortify New Orleans against a hurricane like Katrina. These complaints need to be pursued. Flood control is mainly a federal obligation, and the agency most responsible for it must have enough money to do the job right. But there is another question worth asking: has the Army Corps made wise use of the money it has? Louisiana has received about $1.9 billion over the past four years for corps civil works projects, more than any other state. Although much of this has been spent to protect New Orleans, a lot has also been spent on unrelated water projects…mainly to serve the barge industry and other commercial interests. The Louisiana delegation, second to none in bringing home the bacon, is as much to blame for these skewed priorities as the corps is. … Unfortunately, many other senators - not just those from Louisiana - are powerfully addicted to corps projects and the votes they attract, especially Christopher Bond of Missouri, who controls the corps's budget and has single-handedly kept alive a nonessential barge industry on the Missouri River at great cost to the environment and taxpayers. To discipline the corps, Congress must first discipline itself."

Debate Underway Over Whether New Orleans Should Be Rebuilt. Economists have begun to consider the rebuilding of New Orleans. The Wall Street Journal (9/13, Hilsenrath) reports, "It's not just the city's natural disadvantages (much of it is located below sea level) that worry economists. It's also its economic position -- rampant poverty and an exodus of people and businesses even before the hurricane touched down -- and the need to avoid creating incentives that could lead to development that is no less vulnerable." Gary Becker, the Nobel prize-winning University of Chicago economist, "any rebuilding of the place should come with tough love from the government, such as tight zoning restrictions in flood-prone areas and tough flood insurance rules." Becker is "not the only Nobel-winner arguing for circumspection about rebuilding New Orleans. 'The best policy is not to permit rebuilding in New Orleans in the areas that are subject to flooding,' says Edward Prescott,

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a researcher at the Federal Reserve Bank of Minneapolis." Richard Posner "proposes that the city come back something like Colonial Williamsburg -- a quaint tourist site that isn't really attached to a city."

Former California Gov. Pete Wilson writes in the Wall Street Journal (9/13) that following the Northridge Earthquake, California "completed the repairs and reopened the freeway to its normal heavy traffic in just 66 days. How? We did two things. First, I quickly exercised the extraordinary emergency powers conferred upon the governor of California by the state Government Code. … Second, we took a page from the book of private sector incentives for accelerating performance. We told contractors bidding to repair the bridges that they must submit bids that specified not only the cost but the date of completion, and that they must agree to an added condition: For every day they were late, they would incur a penalty of $200,000; and for every day they were early, they would be rewarded with a bonus of $200,000." Wilson adds that "before abandoning New Orleans and retreating to the terrestrial, if not the moral, high ground -- we must exhaust all justifiable alternatives. I suggest that the needed super-levee solution will require a sharing of its cost between taxpayers and private investors."

New Orleans Council Upset By Federal Control. The Wall Street Journal (9/13, Opdyke, Cooper) reports, "Underscoring tensions over who will control the agenda for the reconstruction of New Orleans, city leaders vented frustration that the federal government already has issued large contracts for initial cleanup and rebuilding without input from local leaders. At a meeting of the New Orleans city council yesterday, held 80 miles away in a conference room at the state capitol in Baton Rouge" council members said that "local minority contractors should be playing a bigger part." But New Orleans Mayor Ray Nagin said that "the expected aid amounted to an opportunity to completely rebuild the city, and urged the group not to squabble over the first federal money to arrive." He added, "there's going to be enough money for everybody." Meanwhile, President Bush "tried to assuage concerns that the federal government will dictate how New Orleans will be rebuilt."

Evacuees Struggle To Rebuild Their Lives. The Washington Post (9/13, C1, Duke) profiles the Caiado family, who evacuated their home in Marerro, just outside New Orleans. The Post reports, "Folks like them have been evacuated to cities and towns across the nation, but here in Baton Rouge they have nearly doubled the population. Federal, state and local agencies are swamped with applicants for various kinds of aid. Internet cafes, too, have drawn hordes of people searching for a way out of their mess, a way to reconnect with the grid of life they knew. You can see them, huddled over stacks of papers or yellow legal pads. They are, often, the ones with tears in their eyes, desperation on their faces."

Many Displaced By Katrina Seeking Employment Elsewhere. NBC Nightly News (9/12, story 8, 2:15, Allen) reported on the difficulties faced by many of those displaced by Katrina as they seek new jobs. At "this job center in an evacuee shelter, we found workers who used to be clerks, truck drivers, government employees." There are "hundreds of evacuees who in addition to everything else lost their jobs. After some two weeks dependent on the kindness of strangers, they really want to work." There are "job centers and fairs like this across the country, long lines of unemployed filling data banks with resumes from Atlanta to Los Angeles." Employers are "pitching in, offering nursing jobs in California, plumbing work in Seattle, even looking to hire a massage therapist from the Gulf Coast in North Dakota."

New Orleans Residents Starting To Return. A growing number of New Orleans residents are defying the mandatory evacuation order and returning to the city. The Christian Science Monitor (9/13, Axtman) reports, "There are signs of return to normalcy. The city's airport reopened for cargo traffic Sunday and limited passenger service is planned to begin Tuesday. Officially, the New Orleans Police Department (NOPD) is set to issue temporary weeklong badges to residents with valid reasons for returning. Unofficially, those manning checkpoints have been letting many residents through with simply a wave and a 'good luck.'"

The New York Times (9/13, Luo) says that in recent days, city officials "have increased the pressure to leave by cutting off the military-style rations that many have been living on, a National Guard spokesman said. … But Maj. Amy Hannah, a spokeswoman for the task force that represents the active-duty military side of the hurricane response, said members of the 82nd Airborne Division and other soldiers would continue to provide the meals. City police officials declined to comment."

CNN's Anderson Cooper 360 Degrees (9/12, Lavendera) reported that "plans to forcibly remove the

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thousands of hold-outs who refuse to leave have been abandoned."

Water Levels In New Orleans Dropping. Water levels dropped "precipitously" in New Orleans Monday, according to the Los Angeles Times (9/13, Zucchino). Areas "that had been under 6 to 8 feet of water less than two days earlier were dry at dawn, with ooze now smearing the streets and water collecting at low, marshy spots. For the first time in the 8th and 9th wards in East New Orleans and Mid-City neighborhoods, search and rescue crews were able to patrol on foot. By midday, National Guardsmen and Marines said they had found several corpses inside homes that had been inaccessible until today.

New Orleans Airport Set To Resume Flights. USA Today (9/13, Frank) reports, "Only Northwest Airlines plans to start round trips today with two flights to Louis Armstrong New Orleans International Airport from Memphis. The airline will add a round trip from Minneapolis and one from Detroit on Monday, spokeswoman Jennifer Bagdade says. Delta Air Lines, the second-largest carrier at New Orleans, will resume service with two round trips from Atlanta on Wednesday and on Thursday. Starting Friday, it will expand to five Atlanta round trips and one from Cincinnati. Southwest Airlines, which has been the airport's largest carrier, has not made a decision on restarting service. Continental Airlines plans to resume service Monday. Three of its four scheduled flights from New Orleans to Houston are sold out, spokesman David Messing says."

New Orleans Business Leaders Hope To Have Tourist Areas Opened By Year's End. ABC World News Tonight (9/12, story 4, 2:35, Vargas) reported there "were some dramatic signs of recovery" in New Orleans, and there are "more indications that this beleaguered city is beginning the process of rebirth." ABC (Harris) added, "Business leaders think they can get" the French Quarter "up and running by the end of the year. There's talk about scaled-back Mardi Gras for the end of February. In this city, where water is receding faster than expected, cleanup and recovery are proceeding at an equally surprising rate." Today, the "city's port sent out its first commercial shipment." The "optimism is fueled by the fact that while 80% of New Orleans was flooded, tourist areas like the French Quarter were spared."

NBC Nightly News (9/12, story 2, 2:10, Williams) reported, "Water now covers 50% of the city, give or take, that's down from 80%." NBC (Costello) added, "Two weeks after Katrina struck so much of New Orleans is still up to its gutters in water. But in the communities closest the pumps, the water is receding, leaving behind entire neighborhoods that are caked in a grimy, white dust and a layer of sludge and mud."

NBC Nightly News (9/12, story 4, 1:45, Williams) reported, "There were some signs that life, in small ways, is starting to get back to normal." NBC (Tibbles) added some small, family-owned businesses are reopening for business. It is "a grimy, greasy oasis. The St. Claude Used Tire Shop is open as long as there's daylight. And because it's vital, it's making a go of things in this all but deserted town." Joe Peterson "and his crew is busy keeping people moving, and no inflated prices here. It's still 12 bucks to fix a flat and five for labor."

Mercy Flights For Katrina Evacuees Suspended. The Chicago Tribune/KRT (9/13, Wronski, Long) reports, "After flying thousands of Hurricane Katrina evacuees to shelters across the country, federal officials on Monday suspended their mercy flights, saying they're no longer necessary. 'The need for airlifting has been met,' said Valerie Smith, spokeswoman for the Department of Homeland Security." Since Katrina struck, "More than 26 states and the District of Columbia have taken in tens of thousands of evacuees."

Air Force To Begin Spraying For Mosquitoes. CNN's Anderson Cooper 360 Degrees (9/12, Cooper) reported, "The Air Force has begun flying missions against the burgeoning mosquito population at the request of FEMA and the Centers for Disease Control. Aircraft out of Duke Field, Florida are going to make low-level flights at dusk spraying 60,000 acres a day."

Confirmed Death Toll Reaches 279 In Louisiana, 214 In Mississippi. The CBS Evening News (9/12, story 3, 2:00, Schieffer) reported, "The latest confirmed toll from Katrina includes 279 deaths in Louisiana and 214 in Mississippi."

NBC Nightly News (9/12, story 3, :30, Williams) reported, "There was another gruesome discovery reported in New Orleans today. Search teams found more than 40 bodies, many of them elderly patients, inside a flooded hospital. An administrator at the Memorial Medical Center said the patients died while waiting to be evacuated as temperatures inside hit 106 degrees. The spokesman denied the patients were abandoned in any way."

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The CBS Evening News (9/12, story 2, 3:40, Pitts) reported, "Today in New Orleans, the recovery of the dead is well under way. 45 bodies were discovered inside a local hospital Sunday. But it is the haunting voices of the living that still send shivers down the spines of the women who heard them." CBS News "was given exclusive access to the 911 calls of those first horrifying hours, and to the women who answered them." It's "still unknown how many of these callers survived."

The New York Times (9/13, Johnson) reports that officials at the Memorial Medical Center "said at least some of the victims died while waiting to be removed in the four days after the hurricane struck, with the electricity out and temperatures exceeding 100 degrees. Steven L. Campanini, a spokesman for the hospital's owner, Tenet Healthcare, said the dead included patients who died awaiting evacuation as well as people who died before the hurricane struck and whose bodies were in the hospital morgue."

A front page story in the Washington Post (9/13, A1, Struck) adds that "the discovery was certain to raise new questions about why so many city hospitals were not evacuated before the storm. Two medical professionals inside the Memorial Medical Center said conditions began to turn desperate shortly after the floodwaters cut off roads. The darkened corridors were jammed with families. Drinking water grew scarce. Medical supplies exhausted quickly; even IVs were being rationed, they said.'

The Washington Times/AP (9/13, Martel) adds, "Police Superintendent Eddie Compass declined to answer questions yesterday about the discovery, including whether police received any calls for assistance from the Memorial Medical Center after the hospital was evacuated."

Hospital Staff Describe Efforts To Comfort Dying. The Los Angeles Times (9/13, Moore) reports that staff from the hospital described "a desperate and harrowing struggle to comfort dying patients as floodwaters rose and the city descended into chaos." Dave Goodson, director of support services at the hospital, "said rescuers came and left — sometimes they helped take someone from the hospital and other times they brought new evacuees plucked from rooftops. Elderly patients had the hardest time, Goodson said. Heat and sickness conspired to kill about 16 patients from a nearby convalescent hospital." Goodson and oncology nurse Joanne Lalla "said that despite their difficult situation, the hospital staff continued to serve the sick as well as they could. For a time they carted patients to the roof of the building to wait for helicopters, but when they realized that they weren't going to be airlifted, they went back downstairs, Lalla said."

Katrina's Dead Still Unidentified, Unknown. A front page story in the Washington Post (9/13, A1, Pressley, Salmon) reports, "The people who died during Katrina and its aftermath are, two weeks later, still largely unidentified and unknown. No one can say yet how many perished, who they were, how and when they died. Communications and recovery problems -- and a heavy cloak of secrecy -- have compounded the mystery. Officials have been told not to pass on any information. For now, and for the indefinite future, the victims of Katrina remain the dead without a roster."

Marines Not Finding Bodies In St. Bernard Parish. The New York Times (9/13, Kifner) reports that Marines searching St. Bernard Parish for bodies of residents killed in the hurricane, "have yet to find any bodies, commanders said Monday. … Dire warnings, from marine planning sessions, of a devil's brew of toxic floodwater, decomposing bodies, feral swamp creatures and hostile, gun-toting locals have just not materialized."

Commander Of Military Cleanup Effort Profiled. USA Today (9/13, Leinwand) profiles Lt. Gen. Russel Honoré, commander of the 1st Army, "which is now charged with the largest humanitarian effort in U.S. history." The "nerve center of the military's response to Hurricane Katrina is at Camp Shelby near Hattiesburg, Miss. … Although Camp Shelby is a 45-minute helicopter ride north of New Orleans, Honoré prefers to spend his day in the disaster zone. He has an air-conditioned tent with computers and communications equipment set up in a garage at the Port of New Orleans. But a good deal of his time is spent riding in the back of an Army truck."

Task Force Says NEPA Hindered Hurricane Protection For New Orleans. A congressional task force says that a 35-year old federal law known as the National Environmental Policy Act (NEPA) has hampered energy production, the construction of homes and hurricane protection for New Orleans. The Washington Times (9/13, Price) reports that NEPA "requires the U.S. government to evaluate the environmental impact of any significant project undertaken by a federal agency, financed with federal money, or requiring a federal permit. It further mandates that the results of the government assessment be made public and

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that the public decide whether its benefits outweigh its drawbacks." A task force on improving the act, chaired by Rep. Cathy McMorris, "has held four hearings across the country to assess NEPA's role in accessing affordable energy, building roads and homes, and managing the nation's natural resources. NEPA, which established a national environmental policy framework, has 'resulted in thousands of lawsuits,' holding up some projects for more than 20 years and killing others, said Jennifer Zuccarelli, a task force spokeswoman."

FEMA Hopes To Open 30,000 Homes Every Two Weeks. The New York Times (9/13, Lipton) says a "building boom is under way" as the government begins "what urban planners are calling one of the biggest bursts of federal housing development in United States history. Last year in Florida, the Federal Emergency Management Agency set a record by installing 15,000 homes in the aftermath of four hurricanes there. In the wake of Hurricane Katrina, they hope to open 30,000 homes every two weeks, reaching 300,000 within months. … The numbers might drop if the demand does not meet expectations. But more than 140,000 people are now packed into emergency shelters, while hundreds of thousands of others fill hotels, homes of friends or relatives or are temporarily relocated across the United States. The building blitz is intended to bring as many people as possible back to Louisiana, Mississippi and Alabama."

CNN's Newsnight with Aaron Brown (9/12, Nissen) reported that FEMA has been "working hard in southern Mississippi since before the storm." Eric Gentry, FEMA: "I think a lot of people don't understand that a lot of the help that they saw early on came in as part of the FEMA umbrella." CNN added, "Like these 18 wheelers, sent by FEMA with tons of bottled water, ice, and emergency food to Pascagoula, Mississippi, early last week, along with thousands of FEMA recruited, FEMA trained, FEMA paid workers. … This FEMA team was as it worked it's way door to door, or rubble to rubble, in Pearlington."

FEMA Allocates $5 Billion To Purchase Trailer Homes. The Washington Times (9/13, Dinan) reports, "FEMA has allocated nearly $5 billion to buy 300,000 trailer homes as part of its emergency hurricane spending -- even though 270,000 of them are on back order and will have to be built, says a congressman who voted against last week's $51.8 billion bill. Rep. Steve King, Iowa Republican, said President Bush and members of Congress are spending quickly on Hurricane Katrina relief in part to try to counter bad publicity over the federal government's initial response."

FEMA Said To Have Refused To Pay Airfare For California Search-And-Rescue Crews. MSNBC Scarborough Country (9/12, 10:00 pm, Shuster) reported that urban search-and-rescue crews out of California have "said that they were told by FEMA not to take an airplane to get here [to New Orleans], but to take a bus…because the government would not pay for their airfare, about $30,000. In hindsight, that was a huge blunder, given that these were the teams that had that sort of search-and-rescue communications equipment." Scarborough: "Are you telling me tonight -- and you've got this exclusively -- are you telling me tonight that these people contacted FEMA and were ready to fly out the day after the storm and they were told, no thanks; we don't need your help?" Shuster: "That's right. That's exactly what we're reporting, Joe."

FEMA Organized Thousands Of Firefighters For Community Relations Work. The CBS Evening News (9/12, story 8, 3:10, Attkisson) reported, "In the crisis after Katrina, an all-call went out to fire stations around the country. Send anyone you can spare for 30 days. FEMA will cover the costs." But "not all of the firefighters have made it to New Orleans. Many got stuck in a wasteful bureaucratic limbo." Billy Whitson and Noel Saldivar "are from Richardson, Texas. On September 1, FEMA flew them from Dallas to Atlanta, where they and hundreds of other firefighters tackled paperwork. On day two, they sat through FEMA classes on diversity and sexual harassment. On day three, Whitson and Saldivar were tapped for a special ops mission to New Orleans. It wasn't what they hoped for." Whitson: "We were being sent to New Orleans to be nothing more than a backdrop for a press conference that was going to take place with President Bush and Michael Brown." Attkisson: "But they missed the news conference, and spent the next three days helplessly watching others perform rescues, with no assignment of their own. When they complained on day six, FEMA sent them home." Thousands "are thought to be in the same predicament. FEMA never intended to send them to the destruction zone. They were slated for community relations, like handing out pamphlets to survivors."

Spellings Says Hurricane Displaced 372,000 Students. Education Secretary Margaret Spellings said

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yesterday there are no clear answers about who will pay to educate the 372,000 students displaced by Katrina. The AP (9/13, Feller) reports, "In an interview with The Associated Press, Spellings gave the broadest assessment yet of how the hurricane has affected schools at the start of their year. … 'I shouldn't be talking about the details that I'm in negotiations with the White House and the (Capitol) Hill on,' Spellings said. 'As soon as I can talk about it, I want to talk about it.'" Spellings "said she will ask Congress for unprecedented authority to ease aspects of a federal law governing the education of homeless children. She already had pledged to consider using her powers to waive parts of the law known as No Child Left Behind, including requirements on yearly testing and teacher quality."

Two Mississippi Coast Schools Reopen. The CBS Evening News (9/12, story 10, 2:05, Schieffer) reported, "The fall term has begun now for most children in this country, but the government reported today that more than 372,000 school-age kids had to flee the Gulf Coast. In the Mississippi disaster zone, a fortunate few went back to school today." CBS (Whitaker) added, "Today, St. James Elementary in Gulfport welcomed students back, one of only two schools to reopen on the entire Mississippi Coast. Outside, overwhelming chaos; in here, a defiant normalcy."

Lack Of Influence On Hill Could Affect Louisiana Efforts To Get Relief. While Louisiana once had one of the most influential delegations in Congress, those powerful members have retired, and the New York Times (9/13, Rosenbaum) reports, the Louisiana delegation, "in the face of perhaps the state's worst calamity, has no one in a position of authority. … No one can say specifically what the diminished influence will mean for the state's efforts to get hurricane relief from Washington, but no one who follows Congress doubts that sooner or later the ramifications will be felt."

Louisiana Likely To Lose House Seat As Result Of Katrina. Election officials say the evacuation of coastal Louisiana "will likely cost the state one of its House seats," The Hill (9/13, Savodnik) reports. With Katrina "having emptied out New Orleans and much of the surrounding parishes, hundreds of thousands of people who once voted in Louisiana's 1st, 2nd and 3rd Districts are no longer there. And many who never heard of Reps. Jim McCrery, Rodney Alexander and Richard Baker — Louisiana Republicans who represent the 4th, 5th and 6th Districts, respectively — are now camped out in those districts."

Bush Asked To Save Gulf Coast Naval Bases. Reuters (9/13) reports, "Congressmen from Mississippi and Texas asked President George W. Bush on Monday to seek the reversal of proposed closures for two Gulf Coast naval bases, saying the closures would further delay disaster response in the region. In a letter, Mississippi Sen. Trent Lott, a Republican, and Texas Rep. Solomon Ortiz, a Democrat, asked Bush to demand that the Defense Base Realignment and Closure Commission (BRAC) reconsider its recommendation to close the Pascagoula Naval Station in Mississippi and the Ingleside Naval Station at Corpus Christi, Texas. … Bush can ask the commission once to make revisions. After that he can reject the list outright or send it on to Congress, which can accept or reject it but can make no changes."

Hurricane States Will Need Ample Federal Help To Avert Debt Crisis. State treasurers and local financial officials in Louisiana, Mississippi and Alabama say they will need federal help to pay billions of dollars of debt and finance reconstruction. The New York Times (9/13, Wayne) reports, "So far, they have no formal plan, said John Kennedy, Louisiana's treasurer, but they are considering proposals for the federal government to make payments on existing bonds and cover short-term municipal operating costs. … Last week, the National Association of Bond Lawyers wrote to the White House to propose a Hurricane Katrina Indebtedness Guarantee and Financing Act. That measure would provide cash advances to municipalities unable to pay bondholders and would offer federal guarantees on future debt. These advances would have to be paid back in 10 years. The group also called for creation of a Liberty Bond-type program."

Katrina Donations Outpace Previous Disasters. Charities are saying donations for victims of Hurricane Katrina have come in at a pace that exceeds those from other recent disasters. The New York Times (9/13, Strom) reports, "Almost all of the money is going to the American Red Cross, in large part because other international relief and development organizations simply do not have significant operations in the United States. … Americans donated more than $738 million to relief efforts

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through Sept. 11, according to The Chronicle of Philanthropy. In the 10 days after the terrorist attacks of Sept. 11, 2001, $239 million was collected, while $163 million was collected in the nine days after the tsunami last December."

Corporate Contributions Reach $547 Million. USA Today (9/13, Jones) reports, "The U.S. Chamber of Commerce says 145 companies had each pledged $1 million or more in cash and products through Monday. In all, 396 companies have given $409 million, says executive director Stephen Jordan of the chambers' Center for Corporate Citizenship. Companies have collected another $138 million in contributions from customers, for $547 million that will likely soon pass the $565 million raised for tsunami relief. Jordan predicts the total will likely be about $1 billion, surpassing the record $750 million collected after Sept. 11, 2001."

Charity Efforts Reignites Debate Over Mandatory Service. The Washington Post (9/13, A4, Strauss) reports that "in a marriage of compassion and convenience, some students moved by the victims' plight have also been able to help themselves by earning credits toward their school's service requirement." For "those who have supported or opposed mandatory service, the recent outpouring has reopened the debate on whether compassion can be taught."

Charities' Use Of Contributions Analyzed. NBC Nightly News (9/12, story 7, 2:55, Williams) reported, "This huge outpouring of charity for Katrina's victims, and sadly, of course, there's a dark side: The scammers trying to take advantage of this crisis or donations being used for purposes other than helping the victims. And now, how to be sure your money is helping the way you intended it to. And by the way, we are talking about a great deal of money here. Americans have so far contributed at least $761 million to help victims of Hurricane Katrina, with the vast majority of that going to the American Red Cross. They have so far brought in $584 million." NBC (Myers) added, "How can Americans be sure all that money actually gets to the victims? The Red Cross promises almost all its donations will go to feed and house victims and fuel emergency relief vehicles." In New Jersey, "independent analysts at the company Charity Navigator check financial statements of 4600 charities." Its Website "then rates charities for efficiency and overall performance." Trent Stamp, Charity Navigator Executive Director: "If you can find a charity that will spend 75 to 80 cents of your dollar on their charitable purposes, you can probably trust them." Myers: "But what about the list of charities recommended by FEMA? The Red Cross and a few others get high marks, but B'nai Brith, a Jewish charity, gets a low rating because analysts found only 56 cents of every dollar goes to relief activities, the rest to fundraising. B'nai Brith disputes the methodology. Many of the religious organizations listed by FEMA disclose so little, they can't even be rated." So "how can you be sure your money is well spent? Experts say beware of email, of door-to-door solicitations, and of websites with addresses that end dot-com. Most legitimate charities, they say, are dot-org."

Citing Katrina, GOP Congressional Leaders Drop Plans For Tax Cut Extensions. The Wall Street Journal (9/13, Mullins) reports that in a "major shift of priorities after Hurricane Katrina, Republican leaders in Congress have delayed plans to extend dividend and capital gains tax cuts and may shelve them for the rest of the year." The House and Senate had "planned a fall legislative agenda around a massive budget bill that extended to 2010 the 15% tax rate on dividends and capital gains signed by President Bush two years ago. The cut was one of the president's signature initiatives and is seen inside the White House as a key part of his economic legacy." The 15% rate "isn't scheduled to expire until the end of 2008 -- meaning there's still time to push an extension through. But Republicans, chastened by the costs of rebuilding the Gulf Coast and negative public assessments of Washington's initial response to the hurricane, have decided that taking any action on the bill is politically untenable at least until late October in the suddenly changed political and budgetary environment."

With Appropriations Lagging, Congress Faces Need For Continuing Resolution. Roll Call (9/13, Yachnin) reports that in what "has become an annual tradition, House and Senate lawmakers will likely need to pass at least one continuing resolution to fund government operations. As the clock winds down on fiscal 2005, the chambers have completed work on only two of 11 spending bills." Though the While House "has yet to formally seek a CR, the chamber's appropriators are nonetheless readying for the inevitable request." In the meantime, House appropriators "remain optimistic that the individual spending bills will be completed in coming months, circumventing the need for a consolidated appropriations measure."

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Grand Jury Summons Disrupt Lower Level White House Aides' Lives. The Washington Post (9/13, A25, Coates) reports, "Sympathy can be hard to come by for White House officials who are summoned to appear before a grand jury." Those whose "identities remain a secret suffer in silence, discouraged from reaching out to their closest friends for help. Those whose names leak into the public domain become lightning rods for rumor, suspicion and innuendo, as politicians, commentators and journalists try to divine a meaning behind each summons." The "latest White House staffer to face the grand jury is Susan B. Ralston, assistant to White House Deputy Chief of Staff Karl Rove, who gave testimony to the committee investigating the leak of the identity of CIA operative Valerie Plame." But while the "politics of every appearance is picked over in minute detail, there is also a human story to each summons that often goes unexplored. Witnesses face stress, uncertainty and -- worst of all -- crippling lawyer's fees that can take years to pay off. And as prosecutors cast their net ever wider, inexperienced staffers with few financial assets are increasingly facing the emotional and financial burden of grand jury testimony."

Hurricane Victims May Get Access To 401(k) Funds. USA Today (9/13, Chu) reports, "The IRS is expected to ease 401(k) restrictions this week to allow those affected by Hurricane Katrina to tap into their retirement funds. Representatives of organizations involved in retirement issues…say they expect the IRS to announce this move in the next few days."

CNN Allegedly Coaxing Guests To "Get Angry" When Discussing Katrina. The Washington Times' "Inside Politics" (9/13, Pierce) reports, "Los Angeles Times pundit Michael Kinsley, who used to work for CNN, says the network is coaching guests to 'get angry' when they go on the air to discuss Hurricane Katrina. 'The TV news networks, which only a few months ago were piously suppressing emotional fireworks by their pundits, are now piously encouraging their news anchors to break out of the emotional straitjackets and express outrage,' Mr. Kinsley said. 'A Los Angeles Times colleague of mine, appearing on CNN last week to talk about Katrina, was told by a producer to 'get angry.'" Mr. Kinsley's words were reported yesterday by the online Drudge Report."

GOP Opponents Seek To Derail King's Bid For Homeland Security Chair. Republican opponents of Rep. Peter King are questioning his loyalty to the party in what The Hill (9/13, O'Connor, Tiron) calls "a last-gasp effort to derail" his effort to become chairman of the homeland Security Committee. King's GOP opponents "have compiled a one-page collection of negative remarks that King has made over the years about members of the Republican Party. The sheet, which was obtained by The Hill, includes a King quote from 1996 criticizing then-House Speaker Newt Gingrich (R-Ga.) and then-Majority Leader Dick Armey (R-Texas) for comments the two made describing union leaders as 'big labor' and 'union bosses.'"

King's Phone Call To Bush In New Orleans Noted. Roll Call (9/13, Akers) reports Rep. Peter King "greased the wheels for some New York firefighters who were dispatched to New Orleans for rescue-and-cleanup patrol after Hurricane Katrina. The firefighters wanted to meet the president during his brief stopover in the wiped-out city, so they called their man King to see if he could put the fix in." Roll Call continues, "King called…back to see if they were successful. Battling overloaded mobile phone service, he finally got through on the fourth try and was startled — and maybe a little irked — to hear a voice saying, 'You should be down here with your men.' … Again, the voice came back: 'Pedro, how come you're not down here?' By now, the jig was up: It was W himself, who nicknamed King 'Pedro' some time ago. And by now, Pedro was shaking in his boots."

Carolinas Prepare As Ophelia Slows Offshore. Tropical Storm Ophelia remained along the Carolina coast Monday, the New York Times/AP (9/13, Press) reports. The storm, which dropped "slightly in strength from a hurricane as it barely moved toward land," was "centered more than 200 miles offshore." Nonresidents "were ordered to leave one of North Carolina's Outer Banks islands and 300 National Guard troops were sent to mustering points along the coast. School systems in five counties closed, even though the storm's eye was predicted to remain offshore until Wednesday. Many people acknowledged that they were paying closer attention to the storm because of the vast destruction caused by Hurricane Katrina along the Gulf Coast. Others insisted they would not let the milder storm disrupt their plans."

The CBS Evening News (9/12, story 7, 0:30, Roberts) said Ophelia's "intentions are not clear. Now a tropical storm,

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Ophelia is more than 150 miles off the Carolinas, and it could become a hurricane again. Some projections show it hitting the Carolinas; others show it going out to sea."

In Wake Of Katrina, House Democrats Go On Offensive. Roll Call (9/13, Billings) reports, "With Republican poll numbers falling and the nation focusing increasingly on domestic policy, House Democrats are feeling new political confidence and taking on a rare offensive posture against the GOP. Through mid-August, Democrats were feeling emboldened as public confidence dipped in the U.S. handling of the Iraqi conflict, Social Security reform and Congressional ethics. Then Hurricane Katrina brought mounting questions about the Bush administration's response to the disaster." Minority Leader Nancy Pelosi (D-Calif.) "was the first to call on Congress to return to session early to pass a relief package for the disaster area and led her party's call for" then-FEMA Director Michael Brown "to step aside." This week, "Pelosi and other leaders will reiterate their call for the creation of a nonpartisan, independent commission to investigate the hurricane response, to urge creation of an independent anti-fraud panel to ensure proper oversight of the contracts awarded for the relief effort and to decry price gouging in the wake of rising fuel costs. The party also will announce the creation of a Democratic relief package for the victims of the hurricane."

Hurricane Boosts Barbour As Potential Presidential Candidate. The Washington Times' "Inside the Beltway" (9/13, McCaslin) reports, "Hurricane Katrina…has shined the national spotlight on Mississippi Gov. Haley Barbour. So much so that Mr. Barbour, former chairman of the Republican National Committee, is now ranked third among Republicans – behind" Sen. George Allen and Gov. Mitt Romney "in the 2008 White House Power Rankings, as posted by the Jockey Wire at PoliticalDerby.com."

DOD May Be Affected By Ruling On DHS Personnel Rules. Congress Daily (9/13, Klein) reports, "Senate Homeland Security and Governmental Affairs Chairwoman Susan Collins, R-Maine, said a court ruling last month that struck down some of the Homeland Security Department's personnel regulations could require the department to 'go back to the drawing board' and might force the Pentagon to "take a harder look" at its personnel proposal scheduled to be put in place later this year." Congress Daily continues, "U.S. District Court Judge Rosemary Collyer, in throwing out the rules, said they do not provide for collective bargaining. Collins said this week she was concerned that DHS drew up regulations that did not 'reflect congressional intent.' … A spokesman for House Government Reform Chairman Tom Davis, R-Va., whose panel also oversees federal workers, would only say of the ruling's ramifications: 'It's too early in the process to predict the outcome of the litigation or how it will affect other systems.'" Congress Daily adds, "DHS announced last week that it would delay implementation of the new personnel system, scheduled to go into effect in January, for at least a year. It is not clear whether that decision was related to the court ruling, or what changes -- if any -- would be made before implementation. Ward Morrow, assistant general counsel for the American Federation of Governmental Employees, the largest of four unions that filed the suit, said DHS may ask to simply revisit the labor relations portion of the regulations, rather than rewrite the whole system. A spokesman for the Justice Department, which is handling the court case, did not return calls."

OTHER NEWS:

Los Angeles Blackout Attributed To Technical Error, Not Terrorism. The city of Los Angeles was hit by a blackout yesterday, but authorities were quick to announce that the outage was the result of a technician's error, not a terrorist act, and that the shutdown prevented a cascade effect blackout that could have affected the entire state. ABC World News Tonight (9/12, lead story, 2:20, Vargas) reported there "was a lot of tension this afternoon, when power went out to large sections of the city and surrounding area. The police department went on full tactical alert, meaning officers were not allowed to leave work when their shifts ended. The immediate concern for officials was the possibility of terrorism. But it quickly became clear that this major outage was a result of a single mistake." ABC (Rooney) added, "24 hours after a terrorist threat tape aired on ABC, which specifically targeting Los Angeles, the incident tapped people's nerves." But "after several hours Los Angeles water and power announced that a major line had been improperly connected, causing a backup in the system and circuit breakers to trip. In short, human error. The outage affected as many as 2 million people."

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ABC World News Tonight (9/12, story 2, :50, Ross) reported, "It happened at a receiving station at North Hollywood that receives the voltage coming in at 230,000 volts, coming in at the speed of light from Utah. They misconnected a new computer control room, which blew out that. And blew out two other generators in Los Angeles. That caused the big problem. Strange as it may seem, the system actually worked."

The CBS Evening News (9/12, lead story, 2:05, Schieffer) reported, "Hundreds of thousands of people were affected. There was a lot of confusion at first about what caused it but officials say it was not terrorism. It was apparently an accident." NBC Nightly News (9/12, story 5, 2:05, Williams) reported, "Throughout Los Angeles, traffic on city streets was hopelessly snarled as stop lights failed. There were numerous reports of minor accidents. 911 switchboards were jammed with calls from people stranded in office building elevators."

The Washington Times/AP (9/13) reports that "even before the utility workers explained what had happened, Homeland Security Department spokesman Russ Knocke said there was no indication of terrorism."

Among other print sources, the Los Angeles Times (9/13, Bernstein, McGreevy, Landsberg), New York Times (9/13, Archibold), Wall Street Journal (9/13, Smith), USA Today (9/13, Kasindorf, Woodyard) and Washington Post (9/13, A2, Pomfret) run similar reports this morning. The Los Angeles Times (9/13) also runs human interest story examining reaction to the blackout from Los Angeles residents.

Majority Of National Black Republican Association's Board Members Resign. The Washington Times' "Inside the Beltway" (9/13, McCaslin) reports, "We've learned of a major shake-up at the Washington-based, with six of the 10 NBRA board members resigning in recent days over various disagreements. 'The organization and its current leadership is heading down a much different direction than was envisioned by myself and the other board members,' says Christopher R. Arps." The Times adds, "Three resigning board members, we're told, frowned on signing a 'statement of commitment' sent to them by NBRA Chairman Frances Rice. … Meanwhile, there also were questions surrounding approval of the latest news release issued by the NBRA, praising President Bush's leadership after Hurricane Katrina."

Federal Oversight Of Developmentally Disabled Homes For Seen As Lacking. The Wall Street Journal (9/13, Ansberry) profiles Billy Cothran, a developmentally disabled person who died under the negligent care of the Babcock Center. This illustrates that "oversight of homes for the developmentally disabled is fragmented between the federal government, states and thousands of community-based agencies. The U.S. Department of Health and Human Services -- which pays about half of the $27 billion spent annually on community services for the developmentally disabled -- is ultimately responsible for their protection. But the federal agency assigns the creation and enforcing of rules over such homes to each state. As a result, laws and monitoring vary by state. States aren't required to report all incidents of abuse or neglect to the federal agency." So, HHS "is drafting new procedures following a 2003 report from the General Accounting Office, saying states should be required to report more information about how they protect people with developmental disabilities."

FDA Criticized For Failing To Act Quickly On Defective Heart Defibrillators. The New York Times (9/13) says in an editorial that the "deplorable story of how a medical-device company sat on information about a flawed heart defibrillator while a hapless recipient died has now engulfed the Food and Drug Administration as complicit in the silence. A report by Barry Meier in The Times yesterday revealed that the agency received a report from the manufacturer detailing the flaws months before the F.D.A. issued a safety alert on the devices. By the time the agency acted, a college student relying on the implanted defibrillator to shock any erratic heart beats back to normal had died while mountain biking. His unit had short-circuited, just as the same model did earlier in about two dozen other patients." What is "disturbing is how long it took the company, the Guidant Corporation, and the regulators to get a meaningful warning to doctors and patients." The regulators "also appeared lethargic."

Researchers Link Surgery To Cancer Relapse. The Wall Street Journal (9/13, Marcus) reports on a study by Michael Retsky, a lecturer in surgery at Children's Hospital Boston and Harvard Medical School, that found the surgical removal of a cancerous tumor in the breast "triggers the release of certain substances in the body,"

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enabling "cancer cells that had been lying dormant in other parts of the body to undergo angiogenesis -- the process by which the body forms new blood vessels -- which also feeds the tumors' growth. This can cause the women to relapse early."

Ashcroft Appearing As Commentator On CNN. Roll Call (9/13, Akers) reports former Attorney General John Ashcroft "is out of hiding and back in the public spotlight. On Monday he made his first media appearance since leaving the Justice Department in February, appearing as a color commentator on CNN." Ashcroft "is expected to be doing lots and lots of TV in the weeks and months ahead."

Palestinians Pour Into Gaza Strip. ABC World News Tonight (9/12, story 9, 1:55, Vargas) reported, "Israel's 38-year occupation of the Gaza Strip ended today touching off a chaotic celebration by the Palestinians. They poured into the evacuated Jewish settlements, after the last Israeli tanks left, overwhelming plans by the Palestinian police to keep them out. Several empty synagogues were set on fire." ABC (Dinnick) added, "Today, most Palestinians came to just look. Others to take what was left. Some unleashing 38 years of anger. Some of it directed at the synagogues Israel left standing. The Palestinian Authority was here in large numbers, in a desperate attempt to show it is in charge. But its security forces were outnumbered by Palestinian militants. The Palestinian Authority did nothing to stop groups like Islamic jihad, who were here today to show they had control of the land."

USA Today (9/13, Patience) reports Palestinian leader Mahmoud Abbas "said Palestinians still faced a 'long road' to statehood." But he added, "Today our people have the right to celebrate their freedom, their dignity." The Washington Times (9/13, Mitnick), New York Times (9/13, Erlanger) and Washington Post (9/13, A19, Wilson) run similar stories this morning.

Chinese President Creating Trade Policy Worries In US. USA Today (9/13, Lynch) writes, "What started as a bad pun has become one of the most consequential questions facing the United States: 'Who is Hu?' Is Chinese President Hu Jintao the valued customer Corporate America fancies or, as a growing segment of official Washington fears, is he the USA's most dangerous long-term enemy?" USA Today adds that with "the Chinese and American presidents preparing to meet today on the sidelines of a United Nations session in New York, long-standing Sino-U.S. trade friction is merging with mounting anxiety over Beijing's stepped-up military spending and its muscular drive to secure energy supplies. As the Bush administration struggles to balance commerce and national security, companies seeking to expand sales to China may wind up in the crossfire."

The Wall Street Journal (9/13, Hutzler) reports that as Hu and President Bush "gear up to meet in New York today, many Americans are questioning China's longer-term intentions. Zheng Bijian thinks he has the answer. The consummate Chinese Communist Party insider and confidant of Mr. Hu is promoting a message that China isn't trying to displace the U.S. but is seeking to emerge onto the global stage peacefully. His 'peaceful rise' project has gained the support of China's top leaders, with Mr. Hu originally expected to touch on the theme during a weeklong U.S. tour earlier this month." Zheng says China "'must take a different path, a path that none of the late emerging countries has taken in the contemporary world.' … Otherwise, he said recently in an interview, China could meet the fates of Germany, Japan and the Soviet Union in the past century, ambitious upstarts foiled by the dominant powers of their time."

US May File WTO Complaint Over Chinese Product Piracy. USA Today (9/13, Lynch) reports that the US "is actively considering lodging a formal complaint with the World Trade Organization over rampant Chinese counterfeiting of copyrighted American products." US Trade Representative Rob Portman said government lawyers "were collecting data needed to support a WTO filing. 'We are looking at a case. … If we have a strong case, and if we don't see the progress that we've asked for, we won't hesitate to move forward,' he added." US officials "have complained for years about widespread copying by Chinese companies of products such as compact discs, computer software and apparel. In July, Portman and Commerce Secretary Carlos Gutierrez held an annual meeting with top Chinese officials to discuss trade frictions."

China, Mexico Sign Several Trade Agreements. The New York Times (9/13) reports President Hu "wooed Mexican leaders on Monday during a state visit, trying to smooth out the often prickly relationship between the two countries as part of a larger campaign to expand China's influence in Latin America." Hu and President Vicente Fox "signed several minor agreements with great fanfare, among

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them one providing mutual tax limits on companies doing business in both countries and another that will allow Mexico to export grapes to China in return for importing Chinese pears. The countries also agreed on a framework for negotiating future accords that eventually may allow Chinese companies to mine iron and other minerals in Mexico."

Chinese Export Market Continues To Thrive. The Wall Street Journal (9/13, Browne) reports, "China's export juggernaut picked up momentum in August, dashing any expectations that a small currency revaluation on July 21 would act as a speed bump to slow it down." Exports in August "hit $67.82 billion, which was 3.4% higher than July's $65.6 billion and 32% higher than those of August 2004. Imports in August totaled $57.78 billion, up 23% from a year earlier, giving China a monthly surplus of $10.04 billion."

China Declassifies Natural Disaster Death Toll Counts. The New York Times (9/13, Kahn) reports that China said it would "no longer treat the death toll in natural disasters as a state secret, a step that could lead to greater transparency in a country that has a long history of providing partial or misleading data about diseases, accidents, and state-directed atrocities. The National Administration of State Secrets, a government agency that oversees the vast array of data deemed secret, announced the declassification of disaster-related death tolls, which the agency said had been carried out last month."

Musharraf Believes Khan Exported Nuclear Production Materials To North Korea. The New York Times (9/13, Sanger) reports Pakistani President Pervez Musharraf said he "believed that a Pakistani nuclear expert who ran the world's largest proliferation ring exported 'probably a dozen' centrifuges to North Korea to produce nuclear weapons fuel. He added, however, that after two years of interrogations there was still no evidence about whether the expert also gave North Korea a Chinese-origin design to build a nuclear weapon." Musharraf's comments about the results of the interrogations of A.Q. Khan "are significant because they tend to confirm the accusations American intelligence officials made against North Korea in 2002."

US Rejects Pakistani Request For Nuclear Technology Assistance. The Washington Times (9/13, Kralev) reports that Pakistan "asked the United States and other Western countries yesterday to help it develop civilian nuclear technology, citing Washington's July pledge for such assistance to neighboring India. The Bush administration, however, dismissed the request, saying Pakistan's energy needs are not as pressing as India's."

India, Pakistan Exchange Prisoners. Reuters (9/12, Raza) reports that Pakistan and India "swapped hundreds of prisoners at a border post on Monday to foster goodwill as South Asia's nuclear rivals seek to push forward their sluggish peace process. … Pakistan released 435 Indian prisoners while Indian freed 152 Pakistanis, some as young as 12 years."

New Poll Shows German Election Tightening. The Financial Times (9/13, Williamson, Cave) reports, "Germany's election race tightened further on Monday as Gerhard Schröder's Social Democrats pulled closer to the opposition Christian Democrats in a new opinion poll, increasing the likelihood of a "grand coalition" after Sunday's election." The SPD "scored 35 per cent in a Forsa poll, up 1 point to its highest rating since Mr Schröder called for an early election in May. The CDU was stable on 42 per cent."

The Wall Street Journal (9/13, Walker) adds, "It is looking increasingly likely that Angela Merkel will become Germany's next chancellor in Sunday's election, but whom she governs with -- and what economic policy she can carry out -- is increasingly up for grabs." Merkel's "center-right Christian Democrats are the clear favorite to snare the biggest share of votes, but in the stretch run her coalition's poll numbers have been slipping to just short of an outright majority." The New York Times (9/13, Bernstein) and USA Today (9/13, Knox) runs similar stories.

After Sweeping Re-Election, Speculation Turns To Koizumi's Use Of Mandate. The New York Times (9/13, Onishi) reports that a day after Japan's Prime Minister Junichiro Koizumi "secured the second largest landslide in a general election in the Liberal Democratic Party's history, attention turned Monday to how he would use that mandate. With his coalition holding more than two-thirds of the seats in the lower house of Parliament, Mr. Koizumi is now expected, in the next month or so, to push through his bill to privatize the country's postal services. But once that is accomplished, what next?" Koizumi "has one year before party rules force him to retire, and he repeated

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Monday that he would not seek an extension. Still, he finds himself possibly postwar Japan's most powerful prime minister, at a time when Japan is confronting problems ranging from an aging, declining population to growing economic dependence on China."

In a Wall Street Journal (9/13) op-ed, Yale University Japanese history scholar Michael Auslin writes, "Koizumi has pulled off the unthinkable: A smashing electoral victory that would be the equivalent of carrying 49 states and 525 electoral votes in an American presidential election. … Sober reflection on the election's outcome, however, raises questions about the true strength of the victory and the message voters were really sending. Far from a powerful affirmation of Mr. Koizumi's policies on the merits, the results reflect the lack of a viable opposition, as well as the citizenry's willingness to indulge bold schemes -- the details of which few really grasp, and which are so far in the future that they seem painless ways to endorse the idea of reform."

More Commentary. The Wall Street Journal (9/13) editorializes, "Fortune favors the bold, and on Sunday it smiled broadly on Junichiro Koizumi. … Koizumi's governing coalition now holds more than the two-thirds majority it needs to override further upper house intransigence. The unexpectedly large victory means that Japan's voters have endorsed Mr. Koizumi's policy mix of smaller government and an activist foreign policy. The economic paternalism and diplomatic timidity of the post-World War II era are giving way to change."

The Washington Post (9/13) editorializes, "It's not clear how much Japan's long-term project of fostering competitive, pluralistic politics will benefit. On the plus side, Mr. Koizumi has demonstrated that electoral appeal can trump the vested interests represented by his party's factions; it would be nice to believe that this boosts the political value of ideas and policies, though the main boost is clearly to the political value of image. On the negative side, Mr. Koizumi is to retire in a year, and the factions may reassert themselves."

The New York Times (9/13) editorializes, "Postal privatization was virtually the only issue discussed during the 12-day election campaign. That gave a pass to Mr. Koizumi's unwise embrace of Japan's traditions of military nationalism. … Japan needs postal service privatization, two-party democracy and a more constructive relationship with its neighbors and trading partners. Only the first was advanced by Sunday's election."

Georgia Receives $295.3 Million Millennium Challenge Grant. Reuters (9/12) reports that the US and the Republic of Georgia "signed an aid agreement on Monday worth $295.3 million via a U.S. development fund dedicated to poor nations that undertake political and economic reforms. The five-year grant, or 'compact,' comes from the Millennium Challenge Corporation and will cover road, energy and infrastructure projects in Georgia." Secretary of State Condoleezza Rice said, "Our partnership will only grow stronger as Georgia continues to establish the rule of law, a vibrant civil society, an independent media, a free economy and effective institutions of government."

Bush Unpopular In Major South American Cities. Reuters (9/12) reports that a "majority of South Americans" in the capital cities of Argentina, Brazil, Chile, and Uruguay "have a negative opinion" of President Bush, according to a poll conducted by a Santiago think tank. Of the four cities, "Buenos Aires ranked as the city where Bush is most unpopular, with six out of ten Argentines saying they disapproved of him. Residents in the Chilean capital of Santiago had the most favorable opinion of Bush, the poll showed -- 19 percent approved of Bush and 40 percent rejected him."

Governors, Poor Work To Implement Chavez "Social Revolution." The Washington Times (9/13, Behn) reports that Venezuelan governors and the "rural poor are moving quickly to implement President Hugo Chavez's vision of a social revolution, carving up and redistributing large landholdings and threatening to take over the premises of internationally owned companies. There has been none of the violence and mayhem that accompanied land seizures in Zimbabwe in recent years, but economists and angry land owners fear that -- as in Zimbabwe -- the takeovers will destroy a productive agriculture sector and undermine the economy."

G-8 Debt Relief Plan In Jeopardy As Final Vote Nears. The Washington Post (9/13, A14, Blustein) reports that while "full debt relief for the world's poorest countries" seemed to be imminent when G-8 leaders met in Scotland in July, "objections to the plan are emerging as it heads toward an official vote at the annual meetings of the World Bank and International Monetary Fund later this month. Most notable is an internal World Bank report that warns the

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plan could deplete the bank's coffers so severely as to impair its ability to provide new aid for impoverished nations." The report "uses bureaucratic language to convey a dire message about the problems that the G-8's plan could pose for the International Development Association (IDA), the World Bank agency that lends about $9 billion a year to low-income countries. By potentially forgiving as much as $42.5 billion in payments owed by many poor countries over the next several decades, the plan 'could reduce IDA's financial capacity significantly,' says the report, which was discussed at a meeting of the bank's executive board last week." Treasury Department spokesman Tony Fratto said, "The deal to provide 100 percent debt cancellation is in jeopardy." Fratto "said he was 'outraged' at the World Bank report. 'There are individuals trying to chip away at it and see that it doesn't happen.'"

Little Progress Seen As World Leaders Prepare For UN Reform Discussions. The AP (9/13, Press) reports that with "just days before leaders of more than 170 countries gather at a U.N. summit, there has been little progress on a document they are to adopt." Secretary-General Kofi Annan "wants heads of state and government to mark the 60th anniversary of the United Nations by adopting a sweeping blueprint to tackle the challenges of the 21st century at the Sept. 14-16 summit in New York. But despite intense negotiations over the weekend, some U.N. ambassadors expressed concern the text would be weak and said negotiations were slow and difficult."

The Washington Post (9/13, A15, Lynch) reports that Annan "proposed the most far-reaching changes for the organization since its founding 60 years ago" in March. The plan would reorganize the UN to "combat terrorism and poverty, expanding the Security Council beyond the victors of World War II and setting new rules for the preemptive use of military force. But six months of contentious negotiations by governments have stripped out many of the boldest initiatives, including proposals for creating 10 new Security Council seats. And delegates this week are straining to reach agreement on a far less ambitious package of steps that can be agreed on by some 170 leaders set to arrive" in New York tomorrow.

WSJournal Says Criticism Of UN Fair, Needed. The Wall Street Journal (9/13) editorializes, "The so-called Millennium Development Goals for helping the planet's poorest will be among the topics of discussion at the U.N. summit that begins tomorrow in New York. In recent weeks, the Bush Administration has come under media fire for suggesting some sensible revisions, such as requiring more accountability from countries on the receiving end of international assistance (imagine that). … If the U.N. and its supporters are serious about the Millennium Development Goals, and U.S. support in pursuing them, they should stop equating criticism of U.N. methods with criticism of its motives. U.N. reform is a better use of their energies this week. And the establishment of an auditor general or some other independent body responsible for commissioning and publishing performance reviews is a good place to start."

Scholar Says Bush Administration Should Back Security Council Expansion. In a New York Times (9/13) op-ed, American Enterprise Institute research fellow Vance Serchuk writes that when the meetings begin, "any mention of the expansion of the Security Council will be off the agenda, thanks in no small part to the diplomatic exertions of the Bush administration. The White House's foreclosure of discussion on Security Council expansion has drawn cheers from conservatives worried about any dilution of American power, and scorn from liberals convinced that the Bush administration is once again unilaterally sabotaging the international system. In fact, both sides are wrong." Brazil, Germany, India, and Japan "have joined together in the so-called Group of Four and have been furiously trawling the developing world for support. … Getting Japan, in particular, on the council should be a top priority for the United States, not just as a reward for past support on countless issues - from Iraq to North Korea - but also because of its central role in America's grand strategy for the region. Equally important is the development of a long-term alliance with India."

More Commentary On UN Reform. In his New York Times (9/13) column, Nicholas Kristof writes, "The biggest gathering of leaders in history unfolds this week at the United Nations, as they preen and boast about how much they're helping the world's poor. In short, it may be the greatest assembly in history -- of hypocrites. The fact is that with just a few exceptions, the presidents and prime ministers coming to the U.N. summit are doing a disgraceful job in helping the poor. That's one reason the world's richest 500 individuals have the same income as the world's poorest 416 million people."

In a New York Times (9/13) op-ed, University of Ottawa professor Amir Attaran writes, "According to the United

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Nations Millennium Project, only a 'handful of countries' can really prove the maternal mortality ratio is improving. … Malaria is another example where United Nations goals hinge on something immeasurable. … Probably the most useful discussion the United Nations could plan for this week's meeting would be one that asked world leaders to endorse new goals against which they could truly measure progress. This is feasible: there are alternative ways to track malaria's toll or to assess the safety of pregnancies."

Left Coalition Wins Majority In Norwegian Parliament. The AP (9/12) reports that Norway is "poised for a power shift after the left-leaning opposition won a majority of seats in Parliament with pledges to spend more of the nation's vast oil wealth on welfare." With almost all votes tallied, "a three-party coalition led by the Labor party had grabbed 88 seats in the 169-seat assembly, enough to oust the center-right government. Prime Minister Kjell Magne Bondevik, who campaigned on promises of tax cuts, said if the final tally confirmed the result, his government would resign after presenting its draft 2006 budget on Oct. 14."

Liberians In US Hope To Play Role In Homeland's Election. The Washington Post (9/13, B1, Raghavan) reports that as Liberia "prepares for a historic post-civil war election next month, a new hope is prevailing. After years of building wealth and sharing it with impoverished relatives back home," Liberians living in the US "want to influence the outcome of the campaign. Many of the Washington region's estimated 10,000 native Liberians view it as nothing less than their homeland's last chance for peace and stability."

NYTimes Lauds Brazil's Progress In Protection Of Amazon. The New York Times (9/13) editorializes, "Last month, Brazil's environmental officials announced that the burning of the Amazon has slowed. Deforestation this year is half of what it was the year before. This news shows that when Brazil's government musters the political will to protect the Amazon, it can do it. … The health of the Amazon is a global concern because the forest soaks up greenhouse gases, which lessens global warming. Deforestation means the Amazon could eventually become too small to produce the rain that it needs to survive. … The government's commitment to protecting the Amazon has also been important. Led by Marina Silva, the environment minister and once a poor Amazon rubber tapper herself, Brazil is starting to impose its authority in parts of the forest that have always been lawless. … Rule of law is still foreign to the Amazon. But it is becoming a little less so."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Meets with President Talabani of Iraq; holds joint media availability with President Talabani; departs White House for New York; meets with UN Secretary General Anan, UN headquarters, New York; meets with the President of China, Waldorf-Astoria Hotel, New York.

VICE PRESIDENT CHENEY — No public schedule.

LAURA BUSH — Speaks at the Heritage Foundation, 214 Massachusetts Ave. NE.

US Senate: 9:30 a.m. JUDICIARY _ Full Committee. Hearing on the nomination of John Roberts to be Chief Justice of the Supreme Court. John Roberts. Location: Room 216, Hart.

10 a.m. FINANCE _ Social Security and Family Policy Subcommittee. Hearing on the nonprofit's role in meeting community needs. Luke Hingson, Brother's Brother Foundation, Pittsburgh; Maj. George Hood, The Salvation Army; Bob Reccord, Southern Baptist Convention; William G. Gale, The Brookings Institution; C. Eugene Steuerle, Urban Institute. Location: Room 106, Dirksen.

10 a.m. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ Full Committee. Confirmation hearing on pending nominees. Location: Room 342, Dirksen.

US House: FLOOR SCHEDULE _ 12:30 p.m. Meets for morning business and at 2 p.m. for legislative business. Highlights: Suspensions (6 bills): 1) H.R. 3649 - Sportfishing and Recreational Boating Safety Amendments Act of 2005; 2) S.Con.Res. 26 - A concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93; 3) S. 252 - Dandini Research Park Conveyance Act; 4) S. 264 - Hawaii Water Resources Act of 2005; 5) S. 276 - Wind Cave National Park Boundary Revision Act of 2005; 6) H.R. 539 - Caribbean National Forest Act of 2005.

10 a.m. GOVERNMENT REFORM _ Federalism and the Census Subcommittee. Hearing on brownfields. Charles

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Bartsch, Northeast Midwest Institute; Kathleen McGinty, secretary, Pennsylvania Department of Environmental Protection; John Magill, Ohio Department of Development; Douglas P. Scott, director, Illinois Environmental Protection Agency; Andrew Hogarth, Michigan Department of Environmental Quality; Robert Colangelo, executive director, National Brownfield Association; Jonathan Philips, Cherokee Investment Partners LLC; Charles Houder, Preferred Real Estate Investments Inc.; Kevin Matthews, AIG Environmental. Location: Room 2203, Rayburn.

10 a.m. GOVERNMENT REFORM _ National Security, Emerging Threats and international Relations Subcommittee. Hearing on combating terrorism and visa security. Jess T. Ford, GAO; John E. Lange, deputy inspector general, Department of State; Tony Edson, acting deputy assistant secretary of State for visa services; Elaine Dezenski, acting deputy assistant secretary of Homeland Security; Clark Kent Ervin, Aspen Institute; James J. Carafano, Heritage Foundation; Susan Ginsberg, former senior counsel, 9/11 Commission; John Daniel Morris, former consul general, U.S. Mission to Beijing. Location: Room 2154, Rayburn.

2 p.m. INTERNATIONAL RELATIONS _ Subcommittee on Africa, Global Human Rights and International Operations. Oversight hearing to assess the African Growth and Opportunity Act five years after it was first enacted. Florizelle Liser, assistant U.S. trade representative for Africa, Office of the U.S. Trade Representative; Steve Hayes, president, Corporate Council on Africa, AFL-CIO. Location: Room 2172, Rayburn.

5:30 p.m. RULES _ Full Committee. Meets to set rules for floor debate. Location: Room H-313, Capitol.

Other: DOMINICAN REPUBLIC PRESIDENT LEONEL FERNANDEZ _ Highlights: 11:30 a.m. Speaks to the Organization of American States. OAS, 17th St. and Constitution Ave. NW.

JORDAN KING ABDULLAH II _ Highlights: 11 a.m. Vists Banneker High School to meet with students and teachers from the school, the Hebrew Academy, International Saudi Academy and Cardozo High for a roundtable discussion. Accompanied by Queen Raina. 800 Euclid St. NW. Note: Media must RSVP by 5 p.m. Monday to jordaninfo1aol.com. Call 202-265-1606 for further information. TV registration starts at 9:30 a.m.; print at 10:30 a.m. 12 p.m. Speaks at the Catholic University of America Columbus School of Law on ``Traditional Islam: The Path to Peace." RSVP, Tom Haederle, 202-319-5438.

PRESIDENT JALAL TALABANI OF IRAQ _ Highlights: 10:35 a.m. Meets with President Bush. 11:25 a.m. Holds media availability with President Bush.

PRESIDENT TABARE VAZQUEZ OF URUGUAY _ Highlights: 6 p.m. Speaks at the Center for Strategic and International Studies. B-1 confernce center, 1800 K St. NW.

RESTAURANTS _ Annual legislative conference of the National Restaurant Association. Highlights: 8:15 a.m. Rep. Jo Ann Emerson. 3:30 p.m. Presents the 2005 Restaurant Neighbor Award. Cannon Caucus Room.

FAITH-MEDIA _ Third annual Faith Communicators Forum. Highlights: 7:30 a.m. Rep. Sherrod Brown speaks at the UCC legislative breakfast. Location: Washington Plaza Hotel, 10 Thomas Circle.

HEALTH INSURANCE _ America's Health Insurance Plans holds its 2005 Medicare and Medicaid Conferences. Highlights: 11 a.m. CBO Director Douglas Holtz-Eakin. Location: Marriott-Crystal Gateway, 1700 Jefferson Davis Hwy., Arlington, Va.

ROBERTS-PROTEST _ A coalition of groups join in protest of the confirmation hearings for Judge John Roberts to be chief justice. Groups include: National Organization for Women, Feminist Majority, People for the American Way, Human Rights Campaign, Rainbow PUSH/Coalition, and others. Highlights: 7 a.m. Protest outside hearings, Behind Senate Hart Office Building on C Street. 12 p.m. Protest outside hearings, behind Hart Senate Office Building on C Street. Location: Capitol Hill, various locations.

SAIS-FOREIGN POLICY _ 7:45 a.m. SAIS hosts a briefing on ``Foreign Policy: A View From Congress," with Sen. Richard Lugar, R-Ind., chairman, Senate Foreign Relations Committee; Lionel Barber, U.S. managing editor of The Financial Times; and Robert Guttman, editor-in-chief of Transatlantic Magazine. Location: Room 419, Dirksen Senate Office Building.

HURRICANE-REBUILDING _ 9 a.m. The Heritage Foundation holds a panel discussion on rebuilding the Gulf Coast after Hurricane Katrina, with Edwin Meese, Kim Holmes, Stuart Butler and Michael Franc, all of Heritage. Location: Allison Auditorium, 214 Massachusetts Ave. NW.

IRAN-US _ 9 a.m. Radio Free Europe/Radio Liberty hosts a briefing by Ilan Berman, vice president for policy, American Foreign Policy Council, on ``Iran's Challenge to the United States." Location: Radio Free Europe/Radio Liberty, Conference Room A, 4th Floor, 1201 Connecicut Ave. NW.

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IRAQ CONSTITUTION _ 9 a.m. The School of Advanced International Studies hosts Paul Williams, American University; William Spencer, Washington director of the Public International Law & Policy Group; and Vanesssa Jimenez, Public International Law & Policy Group, discussing ``An Insider's Look at the Drafting of the New Iraqi Constitution." Location: Nitze Building, Kenney Auditorium, 1740 Massachusetts Ave. NW.

KATRINA-FEMA _ 9:30 a.m. Secretary of Homeland Security Michael Chertoff and Acting FEMA Director David Paulison hold a press availability to give an update on Hurricane Katrina response and recovery efforts. Location: Courtyard, FEMA Headquarters, 500 C St. SW.

CHINA-WTO _ 10 a.m. The US Chamber of Commerce releases and reviews a new report on China's WTO implementation progress during a breakfast briefing, with Myron Brilliant, U.S. Chamber; Richard Holwill, Alticor, Inc., and U.S. Chamber; and Ray Sander, New York Life and U.S. Chamber. Location: U.S. Chamber of Commerce, 1615 H St. NW.

IRAN _ 10 a.m. The Iran Policy Committee holds a news conference to release a White Paper on the Iranian government's agenda, nuclear weapons, Iraq and U.S. policy options. Location: National Press Club.

SUPREME COURT-CONSTITUTION _ 10:15 a.m. The American Enterprise Institute-Brookings Joint Center hosts a book forum, ``How Should the Supreme Court Interpret the Constitution?" with a welcome by Robert Hahn, Joint Center; a presentation by Cass Sunstein, University of Chicago; and discussants Jeffrey Rosen, George Washington University, and George Will, Washington Post. Location: AEI, Wohlstetter Conference Center, 12th Floor, 1150 17th St. NW.

NATIONAL SECURITY-ALLIANCES _ 12 p.m. The Women's Foreign Policy Group hosts a luncheon program on ``The Purpose of Alliances in American National Security," with Elizabeth Sherwood-Randall, Council on Foreign Relations. Location: Carnegie Endowment for International Peace, 1779 Massachusetts Ave. NW.

KATRINA-FIRST RESPONDERS _ 12:15 p.m. Sen. Debbie Stabenow, others, hold a news conference to press for immediate funding of $5 billion in the Commerce, Justice and State appropriations bill. Location: Room 138, Dirksen.

EU TRADE COMMISSIONER MANDELSON _ 12:30 p.m. The National Press Club holds a luncheon with EU Trade Commissioner Peter Mandelson, who discusses ``The Right Choices for International Trade and a Successful Doha Round." Location: National Press Club.

KATRINA-FISHERIES _ 12:30 p.m. Marine fisheries experts hold a telephone news conference to discuss the Gulf Coast's fisheries and marine environment. Contacts: Dave Bard, 202-778-4551. Notes: Call in number: 800-351-6808; passcode: hurricane.

UN GENERAL ASSEMBLY PREVIEW _ 12:30 p.m. The Brookings Institution holds a briefing on the upcoming UN General Assembly agenda, possible outcomes, and the importance of this meeting, with Lael Brainard, Ann Florini, and Michael O'Hanlon, all of Brookings. Location: Brookings Institution, Falk Auditorium, 1775 Massachusetts Ave. NW.

GASOLINE PRICES _ 1 p.m. USPIRG holds a telephone briefing on rising gasoline prices, with Athan Manuel of USPIRG, Dan Lashof of NRDC and Eban Goodstein of Lewis and Clark College. Contacts: Liz Hitchcock, 202-546-9707. Notes: Call in number: 800-565-5442; passcode: 5245116.

KATRINA-FARMERS _ 1 p.m. Family farmers and ranchers, Sens. Kent Conrad and Byron Dorgan and Rep. Earl Pomeroy hold a news conference to announce emergency legislation to assist agricultural producers hurt by Hurricane Katrina. Location: Senate Swamp.

IRAQI VIEWS OF CONSTITUTION _ 3 p.m. The US Institute of Peace hosts a discussion on ``Iraqi Views of the Constitution," with Laith Kubba, spokesman of the prime minister of Iraq, and Daniel Serwer, U.S. Institute of Peace. Location: U.S. Institute of Peace, 1200 17th St. NW.

ROBERTS-NAM _ 4:30 p.m. National Association of Manufacturers and the U.S. Chamber of Commerce hold a news conference in support of John Roberts' nomination as Chief Justice of the U.S. Supreme Court. Also participating will be Sens. Bill Frist and John McCain. Location: Room 534, Dirksen.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"As Lights Go Out, Power Worries Rise."
"Bush Tours Damage; 45 Bodies Found At Hospital."
"Roberts Sees Role As Judicial 'Umpire.'"
"Beauty In The Eye Of Katrina."
"Save Yourself."

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"Floodwaters Lift Poverty Debate Into Political Focus."
"Much Wider Damage To Levees Is Disclosed."

USA Today:

"'Devastating Loss': Baby Born To Brain-Dead Woman Dies."
"Views Of Whites, Blacks Differ Starkly On Disaster."
"Head Of FEMA Steps Down."
"Roberts Pledges 'Humility' As Senate Hearings Begin."

New York Times:

"Roberts Pledges He'll Hear Cases With 'Open Mind.'"
"Democrats Seek Papers To Define Whys Of Roberts."
"45 Bodies Found In A New Orleans Hospital."
"In The Ripples, 2 Men Salvage The Memories."
"Rush To Set Up U.S. Housing For Survivors."
"Gazans Revel As They Sift Through Ex-Settlements."

Washington Post:

"45 Bodies Found In La. Hospital."
"'Judges Are Not Politicians' Roberts Says.'"
"For Many Casualties, No Who, How Or When."
"A Major Test For FEMA And Its Contracting Crew."
"Informants Decide Fates Of Iraqi Detainees."
"5-Week-Old Born In N.Va. To Comatose Mother Dies."

Washington Times:

"At Least 40 Bodies Found In New Orleans Hospital."
"Roberts Comes With 'No Agenda.'"
"Chavez Land Seizures Slammed."
"Premature Baby Born To Brain-Dead Woman Dies."
"Palestinians Rejoice, Loot As Israel Wraps Up Pullout."
"Needed: Old War Spirit In A New War."

Detroit Free Press:

"'I'm Missing 16 Years Of My Life.'"
"Greektown Casino Will Stay Put."
"A Crisis Manager Takes Disaster Job."
"Roberts: Justices Are Like Umpires."

Atlanta Journal-Constitution:

"Grisly Sight At Hospital."
"Falcons Mania."
"2 Killed In Carjacking, Shooting."
"Gas Prices Recede From $3-A-Gallon Stratosphere."

Dallas Morning News:

"Getting Back To Business."
"Crews Coaxing Pets To Safety."
"Feds Trying To Put Aid In Right Pockets."
"Roberts: I'll Judge With 'Open Mind.'"

Houston Chronicle:

"Bush Promises Aid Won't 'Discriminate.'"
"For AstroWorld, The Ride Is Over."
"Roberts Vows Fairness As High Court Umpire."
"Collecting Insurance A Headache All Its Own."
"Crime Rate Stays Level, But Police OT Soaring."

Story Lineup From Last Night's Network News:

ABC: LA Blackout; Blackout Cause; FEMA-Brown Resigns; New Orleans Recovery; Bush Approval Down; Roberts Hearing; Rehnquist-Nomination Process; Syria-Iraq; Palestinians-Gaza Settlements; New Orleans Musicians.
CBS: LA Blackout; New Orleans-9/11 Tapes; FEMA-Brown Resigns; Roberts Hearing; Katrina-Missing Children; Supreme Court-Upcoming Cases; Tropical Storm Ophelia; Katrina-Government Waste; Gas Prices; MS School Reopens.
NBC: FEMA-Brown Resigns; New Orleans Recovery; New Orleans-Bodies Found; Hurricane Zone-Businesses; LA Blackout; Roberts Hearing; Katrina-Charities; Katrina Evacuees-Job Search; Ford-Hertz Sold; Katrina Evacuees-Texas.

Story Lineup From This Morning's Radio News Broadcasts:

ABC: Roberts Hearings; New Orleans-Passenger Flights Resume; New Orleans-Bodies Found In Hospital; Brown Resignation; Tropical Storm Ophelia.
CBS: Roberts Hearings; New Orleans-Passenger Flights Resume; Brown Resignation; Tropical Storm Ophelia; Los Angeles-Blackout; Wall Street.
NPR: Brown Resignation; New Orleans-Bodies Found In Hospital; Senate Panel-Tax Relief For Hurricane Victims; Tropical Storm Ophelia; Roberts Hearings; Wall Street; Los Angeles-Blackout; Mexico-Energy Package; USDA-Katrina Crop Damage.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, SEPTEMBER 13, 2005 7:45 AM EDT

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TERRORISM NEWS:

British Businessman Sentenced For Missile Smuggling. USA Today (9/13) reports British businessman Hemant Lakhani, "convicted of trying to smuggle shoulder-launched missiles into the USA," was "sentenced Monday in Newark, N.J., to 47 years in prison. The plot involved the sale of missiles to a group that" Lakhani, 70, was "told would use them to shoot down commercial planes. The weapons' buyer and seller actually were government agents." Lakhani, "arrested in August 2003, was convicted in April of trying to provide material support to terrorists, unlawful brokering of foreign defense articles and attempting to import merchandise to the USA by means of false statements, plus two counts of money laundering."

The AP (9/13, Gold) reports, "During his trial, and again Monday, his lawyers said Lakhani was the victim of government entrapment because the supposed missile seller and buyer were actually government agents." But Assistant US Attorney Stuart Rabner recounted "evidence in which Lakhani volunteered praise for Osama bin Laden. 'We may see a man who looks like us and dresses like us, but is so morally bankrupt that he plots the death of thousands of people,' Rabner said. U.S. District Judge Katharine Hayden rejected pleas for leniency from Lakhani and his wife, referring to what she called 'overwhelming' evidence of his 'reprehensible conduct.'"

Reuters (9/13) reports, "His conviction was considered one of the more significant victories for the U.S. Justice Department since the Sept. 11, 2001 attacks and the launch of the U.S.-led war on terror. … Lakhani, his attorney, Henry Klingeman, and his wife pleaded for leniency, noting he is elderly and wants to return home to Britain. … 'Mr. Lakhani is not entitled to leniency. He's entitled to fairness,' U.S. District Court Judge Katharine Hayden said in handing down the sentence."

California Men Plead Not Guilty To Plotting Terror Attacks. The AP (9/13, Marquez) reports Californians Levar Haley Washington and Gregory Vernon Patterson "pleaded not guilty Monday to federal charges alleging they planned terrorist attacks against military facilities, the Israeli Consulate and other targets in the Los Angeles area." Washington and Patterson "were ordered held without bail after their pleas," and Assistant US Attorney Kevin Smith called them "dangers to society and flight risks, saying they had planned to carry out a 'homegrown jihad.'" The AP adds, "Also Monday, law enforcement officials briefed Jewish community leaders in Los Angeles on the case and said local police planned to step up security in and around synagogues during the holidays. Randy Parsons, acting assistant director of the FBI's Los Angeles office, said the extra security was being taken out of an abundance of caution, not because there was any specific, credible threat. 'It's important that people go about their normal activities but remain vigilant,' Parsons said."

Al Arian Codefendant's Lawyer Challenges Allegations Of PIJ Ties. The Tampa Tribune (9/13, Fechter) reports, "An attorney for one of Sami Al-Arian's codefendants is challenging prosecution claims that his client was on the payroll of the Palestinian Islamic Jihad. Defense attorney Stephen Bernstein points to the same translations of intercepted telephone calls prosecutors are relying on, but says the figures discussed leave no room to pay Sameeh Hammoudeh. Bernstein spent the morning cross examining FBI agent Michael Wysocki, who analyzed dozens of bank accounts involving the defendants and organizations they helped run. … Bernstein asked about other records seized, which he said were never translated by the government, that might lead to a different conclusion. But, thus far, Bernstein has not shown Wysocki any additional documents that challenge the accuracy of his review."

Hunger Strike Spreads Among Guantanamo Bay Detainees. The Washington Post (9/13, A3, Leonnig) reports a "month-old hunger strike at the U.S. military prison at Guantanamo Bay, Cuba, has grown to include at least 128 detainees, 18 of whom are forcibly receiving intravenous fluids or nutrition in the prison hospital, military officials and detainee lawyers said yesterday." The captives are "protesting their indefinite imprisonment and what they describe as beatings administered by the prison's Immediate Response Force (IRF) -- squads of military personnel who are dispatched to put down disturbances in detainees' cells. Some have said they will refuse to eat until the military gives them a fair hearing or they die, according to their attorneys." Military officials "first acknowledged the hunger strike, the second of the summer, on Aug. 25. Since then, the number of people hospitalized and in serious physical danger has grown to 18, according to Maj. Jeffrey J. Weir, a Guantanamo Bay spokesman."

WSJournal Praises Ruling Upholding Bush Power To Detain Padilla. The Wall Street Journal (9/13) says in an editorial, "The timing couldn't have been better. Two days before the anniversary of the 9/11 terrorist attacks on New York and Washington, a panel for the Fourth Circuit Court of Appeals ruled unanimously last Friday that the President 'unquestionably' has the power to detain an American citizen who has taken up arms against his country." Judge Michael Luttig noted the Supreme Court said "precisely that in its Hamdi decision last year," but 'that wasn't enough for José Padilla's attorneys, who argued that Hamdi, which concerned an American picked up on a battlefield in Afghanistan, didn't

apply to their client, who was arrested domestically, at O'Hare Airport." Padilla's supporters "want him to be charged in the criminal justice system or released. They include the American Civil Liberties Union, the People for the American Way Foundation, and former Clinton Justice officials Janet Reno, Eric Holder and Philip Heymann, who all want a return to the days of treating terrorism like a law-enforcement problem. In the week of the 9/11 anniversary, we're glad the Fourth Circuit didn't authorize a return to this September 10 mindset."

European Crackdown On Islamic Extremists Noted. The Christian Science Monitor (9/13, Ford) reports that since Yasir al-Sirri "sought asylum" in Britain "11 years ago the Egyptian Islamic radical has been in and out of jail, and has successfully fought off attempts to extradite him on terrorism charges to both the US and Egypt. Now, however, in the wake of July's London bombings, he faces perhaps his greatest challenge yet as the British government prepares to join a Europewide crackdown on extremist Islamic circles and deport dozens of individuals deemed 'not conducive to the public good.'" As European governments "lower their traditional levels of tolerance for radicalism, they are redrawing the lines between civil liberties and national security in the face of terrorist violence." Sirri, who "runs the 'Islamic Observation Center' in London, (he says it monitors human rights abuses in the Muslim world, but US and British police say it is a conduit for messages among Al Qaeda militants), would undoubtedly be arrested if he were sent back to Egypt."

PATRIOT ACT:

Booksellers Decry FBI Search Power Under Patriot Act. In the second of a three-part series on the Patriot Act, the San Mateo County (CA) Times (9/12, Farooq) reports, "Five years ago, an independent bookstore in Denver became the center of a drug investigation, and at the same time, inadvertently became a model for bookstore owners across the country concerned with the Patriot Act. … Police officers walked into the Tattered Cover Book Store and served a search warrant for the records of one of the store's customers, who was suspected of manufacturing methamphetamine, according to the American Bookseller Foundation for Free Expression. Even though the search took place more than a year before the Patriot Act was passed, the case set a precedent for booksellers and others across the country who are fighting some of the surveillance provisions of the anti-terrorism law." The Times continues, "Several businesses, city councils and other governmental institutions across the country have taken stances for and against the act for a variety of reasons. Some of those stances are driven by politics, some by security and others by fear. … 'You have to be able to do this without the government looking over your shoulder,' said Rich Van Castle, owner of three Bay Books stores in the East Bay. 'It is very important. I wouldn't want the government coming in here and saying "What did he read or did she read?"' … Van Castle is just one of many independent and corporate booksellers across the country who have been fighting one of most controversial measures of the act, Section 215, which gives federal authorities access to customers' book, medical and library records, while establishing a gag order to prevent anyone involved from commenting on the case." The Times adds, "But to the FBI, which is often painted as the abuser of Patriot Act powers, says the gag order is a matter of both national and personal security. The FBI also contends that bookstore purchases and library records were available to federal authorities long before the Sept. 11-inspired Patriot Act. … 'Some of this is just common sense,' said Special Agent LaRae Quay with the San Francisco office of the FBI. 'It's just one of these things if we are looking at an individual it's best that they not know. (It's) also to protect the individuals that are cleared."

HOMELAND RESPONSE:

Negroponte Says US Remains Al Qaeda's Top Target. USA Today (9/13, Diamond) reports that in his "first media interview since becoming the nation's first director of national intelligence in April," John Negroponte "spoke Monday to reporters and an editor from USA TODAY." Negroponte told USA, "Progress has been made in dismembering and attacking the leadership of" Osama bin Laden's "organization. A number of important operatives of his have been killed or captured. He is, we think, alive somewhere in the Afghan-Pakistan border area. … Even though he hasn't been captured, I think that he and his organization are very much on the defensive." Regarding the possibility of terrorist activity, Negroponte said, "We've seen in some of the statements and correspondence that we've laid our hands on between al-Qaeda leadership that clearly they would like to see this activity spread into such targets as Western Europe, and I think what happened in London on the 7th of July, whether or not it was directed by al-Qaeda, was certainly consistent with that desire. … They see vulnerabilities in the West, in Western Europe. And of course, the United States homeland remains, in my view, their No. 1 target."

Negroponte Praises Chertoff For Linking Domestic, Foreign Intelligence. USA Today (9/13, Diamond) reports Negroponte also "praised Homeland Security Secretary Michael Chertoff for helping the 'lash-up between domestic

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and foreign' intelligence, which the 9/11 Commission called a major contributor to lapses before 9/11."

Competing Technology Tested To Close "Gaping Hole In Airport Security." The Wall Street Journal (9/13, Meckler) reports that "one of the most promising" machines being tested to close the "gaping hole in airport security" concerning the ability to detect explosives on passengers or in their carry-on baggage is the backscatter, which has the ability to see through clothing. "The problem with early versions of the machine is that they show images of people as if they had no clothes on, which sparked privacy concerns. Yesterday, American Science & Engineering Inc. launched an X-ray machine that can see objects hidden beneath clothing while obscuring private parts. The other leading manufacturer of the machines also promises to cover up those parts of the image, though in a different way. An alternate technology, being tried in some airports now, shoots puffs of air at passengers to detect traces of explosive residue." The Journal adds that it's all "part of a highly competitive, rapidly unfolding race to deploy the best technology for closing the security gap at airport checkpoints."

WAR NEWS:

Talibani Says Iraqis Could Replace 50,000 US Troops By Year's End. The Washington Post (9/13, A20, VandeHei) reports Iraqi President Jalal Talabani "said in an interview yesterday that the United States could withdraw as many as 50,000 troops by the end of the year, declaring there are enough Iraqi forces trained and ready to begin assuming control in cities throughout the country. After the White House and Pentagon were contacted for comment, however, a senior adviser to Talabani called The Washington Post to say Talabani did not intend to suggest a specific timeline for withdrawal. … In the interview, Talabani said he planned to discuss reductions in U.S. forces during a private meeting with President Bush today, and said he believed the United States could begin pulling out some troops immediately." The Post notes, "That assessment differs dramatically from those offered by Bush and by U.S. military commanders in Iraq." Talabani "said the number of 'well-trained' Iraqi security forces stood at 60,000 and would reach 100,000 by the end of the year."

Al-Jafari Appears In Tal Afar To Tout Counterinsurgency Operation. The New York Times (9/13, Worth) reports Prime Minister Ibrahim al-Jaafari "paid a surprise visit to Tal Afar on Monday, with that city largely quiet after a major offensive by American and Iraqi troops aimed at reclaiming it from insurgents. The prime minister has repeatedly showcased the Tal Afar operation as proof of his government's willingness to deal decisively with Sunni insurgents in western Iraq."

Iraqi Forces Kill Additional Forty Insurgents In Tal Afar. USA Today (9/13) reports, "Violence flared in the northern Iraq city of Tal Afar late Monday when Iraqi forces trapped insurgents in basement hide-outs, killing 40 militants in fierce fighting, the Iraqi military said. … The new fighting Monday night raised the insurgent death toll since the offensive began to nearly 200, the government said. Baghdad said it lost seven soldiers in the course of the three-day offensive and six civilians were killed. The U.S. military said no American soldiers were hurt."

Tal Afar Insurgents Threaten To Use Chemical Weapons. The Washington Post/AP (9/13, A20) reports, "Al-Iraqiya television, which showed no pictures of Prime Minister Ibrahim Jafari's visit to the Tall Afar area, said he was there despite an insurgent threat to unleash chemical and biological weapons against Iraqi and U.S. forces. There was no known public threat from the insurgents to use unconventional weapons in the area, but they have vowed in two Web postings since Friday to use chemical weapons against U.S. and Iraqi government interests in Baghdad. The threats mentioned the fortified Green Zone that houses the U.S. Embassy, Iraq's parliament and other government offices."

US Making Extensive Use Of Informants. The Washington Post (9/13, A1, Finer) reports, "This is how the 10-day-old invasion of Tall Afar unfolded Monday. After two days of relatively uneventful patrols in the abandoned neighborhood of Sarai, where commanders had expected insurgents to be massed for a fight, U.S. and Iraqi forces turned north in the morning, to neighborhoods they had already cleared, and found hundreds of men who appeared to be of military age and troops believed to have slipped through their cordons. Eventually, 52 men were placed in the open backs of flatbed trucks bound for Camp Sykes." The Post goes on to report, "Soldiers with little training relevant to the mission have been forced into roles more traditionally assigned to police: gathering evidence, interrogating witnesses and suspects, and following up on leads. In searching almost every house in the city's most violent neighborhoods, they have detained hundreds of young men, some because they possessed weapons or insurgent literature, but others solely on the hearsay of local informants often called 'sources' by U.S. troops." U.S. soldiers "acknowledge knowing little about their backgrounds and motives -- or even their names -- and admit that their reliability varies widely."

US Ambassador To Iraq Says Syria Harboring Iraqi Insurgents. ABC World News Tonight (9/12, story 8, :25, Vargas) reported, "The US Ambassador to Iraq had

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some very harsh words for Syria today. He said Syria has become a hub for terrorists trying to undercut Iraq's government. He said, 'Our patience is running out. The patience of Iraqis are running out. The time for decision has arrived for Damascus.' He refused to rule out a military strike on Syria, although such an attack is seen as unlikely."

USA Today (9/13, Slavin) reports, "Syria is harboring training camps for Iraqi insurgents, U.S. ambassador to Iraq Zalmay Khalilzad said Monday. U.S. patience with Syria is running out, he said. The United States has ruled out no option, including military force, for dealing with the government of Syrian President Bashar Assad, Khalilzad said during a State Department briefing with reporters. … Administration officials have repeatedly accused Syria of allowing insurgents to travel to Iraq, but it was the first time an official has publicly named specific cities — Aleppo, Latakia and Damascus — as training sites."

The New York Times (9/13, Brinkley) reports, "While other administration officials made similar accusations early this year, the focus of American attention to Syria in recent months has been its occupation of Lebanon. Over the summer, Syria said that it had cracked down on insurgents operating within its territory. But Mr. Khalilzad, in remarks to reporters in Washington, made it clear that the United States believed that Syria was providing assistance to insurgents operating in Iraq and that such help might have increased. Government-controlled Syrian newspapers 'glorify the terrorists as resistance fighters,' he said. Syrian authorities 'allow youngsters misguided by Al Qaeda - from Saudi Arabia, from Yemen, from North Africa - to fly into Damascus International Airport,' attend training camps and then cross into Iraq, he contended."

Negroponte Says Baathists Present Greatest Challenge In Iraq. USA Today (9/13, Diamond) reports, "U.S. intelligence is struggling to expose elements of the insurgency in Iraq made up of former members of Saddam Hussein's regime, John Negroponte, the nation's intelligence chief, said in an interview Monday. Joint U.S.-Iraqi military efforts have damaged the network of foreign insurgents led by Abu Musab al-Zarqawi, though Zarqawi himself remains at large, Negroponte said. Indigenous Iraqi insurgents, led by former members of Saddam's ruling Baath Party, have been tougher to track down." Negroponte "said Iraqis dominate the insurgency. Despite intense focus on Iraq, where 138,000 U.S. troops are deployed, U.S. intelligence has not been able to produce anything more than a 'speculative' estimate of the insurgency's size, he said." Based on everything he has seen, Negroponte said, the insurgency is neither gaining strength nor weakening appreciably."

Sunni Elite Seen As Unlikely To Abandon Insurgency Soon. In an op-ed for the Washington Post (9/13, A27) Gary Schmitt, executive director of the Project for the New American Century, writes, "The reality is that a stable, democratic Iraq, with large-scale Sunni participation, is unlikely until the insurgency in Iraq is widely seen by the Sunnis themselves as not succeeding. … Irrespective of the fact that their demands cannot be met without losing, in turn, Iraq's critical majority -- the Shiites -- Sunni leaders still live in a world that is about past prominence and future expectations. And until a new reality is forced upon them, they are not likely to move from their current opposition to the constitution."

US Indicts Dutch Citizen For Plotting Attacks Against Americans In Fallujah. The Washington Times (9/13, Waterman) reports, "Federal prosecutors have indicted a Dutch resident for conspiring to kill members of the U.S. armed forces in Iraq -- the first criminal charges filed in connection with the insurgency against American forces in that country. The indictment, filed Friday afternoon in U.S. District Court in Washington, charges Iraqi-born Wesam Delaema, 32, who is in Dutch custody, with conspiring to bomb U.S. convoys in Fallujah, Iraq. … A Dutch official at the embassy in Washington said extradition hearings could take up to a year, but that if the courts cleared the way, the government almost certainly would accede to the U.S. request."

TV Program Featuring Police Footage Proves Popular In Kirkuk. The Washington Times/AP (9/13, Tran) reports, "Created to make government more transparent, 'The Cops Show,' featuring Kirkuk officers in action, is the first of its kind in the country and is breaking new ground in Iraqi television. A live call-in portion gives the public the chance to praise the security forces or gripe about them. Screened weekly on Kirkuk Television, which broadcasts in this northern city of nearly 1 million people, 'The Cops Show' has opened the floodgates in a community long suppressed."

Musharraf Offers To Build Security Fence Along Afghan Border. USA Today (9/13) reports, "Chafing under criticism that Pakistan is not doing enough to fight terrorism, President Pervez Musharraf offered Monday to build a security fence to deter militants and drug merchants from entering the country from Afghanistan. … Musharraf made the offer at a meeting with Secretary of State Condoleezza Rice. State Department spokesman Sean McCormack said, 'We think it is important that Pakistan and Afghanistan take up this idea.' President Bush meets with Musharraf today."

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28 Candidates Barred From Participating In Afghan Elections. The Washington Post (9/13, A19, Aizenman) reports, "Twenty-one candidates running in Afghanistan's upcoming legislative election have been disqualified for maintaining links to illegal armed militias and seven more for failing to resign from government posts, the joint Afghan and international Electoral Complaints Commission announced Monday. … The latest disqualifications did not satisfy human rights advocates who have expressed concern that the field of contenders is rife with warlords who committed well-documented atrocities during warfare that began in 1978." Grant Kippen, chairman of the electoral commission, "said the commission relied on the recommendations of a disarmament commission that includes representatives of the Afghan government, the United Nations, the U.S. military and a NATO-led international force to determine which candidates retained associations with banned armed groups."

Army Will Miss Annual Recruiting Goal. The New York Times/Reuters (9/13) reports, "The Army posted its best recruiting month in four years in August, but will still miss its annual recruiting goal for the first time since 1999, officials said Monday. In August, the regular Army sent more recruits to boot camp than in any other month since July 2001. But the part-time Army National Guard and Army Reserve both missed their monthly goals and will fall far short of their annual goals for the 2005 fiscal year, which ends this month. The regular Army, which is aiming for 80,000 recruits this year, was behind its year-to-date goal by the end of August, with too big a deficit to make up through September's recruiting, officials said."

CORPORATE SCANDALS:

OFHEO Reaches Settlement With Freddie Mac. The Dow Jones Newswires (9/12) reports, "Freddie Mac's regulator settled its case against the company for failing to properly penalize former top executives in 2003 after Freddie discovered widespread accounting problems and evidence of earnings manipulation, the Office of Federal Housing Enterprise Oversight announced Monday." Dow Jones continues, "The company agreed Friday to turn over new documents and to help OFHEO pursue separate cases against Freddie's former Chief Executive Leland Brendsel and former Chief Financial Officer Vaughn Clarke." Dow Jones adds, "Freddie is still struggling to emerge from an accounting scandal that resulted in a clean sweep of the company's senior management team, an overhaul of internal controls, an earnings restatement of more than $5 billion, multiple shareholder lawsuits and federal regulatory probes. OFHEO is the only regulator to settle its case against Freddie, which agreed to pay OFHEO $125 million and agreed to other remedial actions in December 2003 to settle charges of safety and soundness violations. … OFHEO, however, filed separate charges against Freddie Mac, Brendsel and Clarke that month seeking cease-and-desist orders from an administrative law judge to force the company to alter its termination agreements with the two men and to impose fines against them. Freddie's board of directors allowed Brendsel to retire and Clarke to resign in June 2003 with roughly $56 million and $1.2 million in severance and other pay, respectively. … OFHEO's settlement with Freddie, which was signed Friday, only settles the regulator's administrative case against the company regarding the nature of Brendsel and Clarke's departures. Parallel investigations related to Freddie's accounting troubles by the Justice Department, Internal Revenue Service, Securities and Exchange Commission and others, are still pending."

Freddie Mac Will Help Recover Funds From Former Officers. As part of a settlement made public yesterday by the Office of Federal Housing Enterprise Oversight, Freddie Mac will assist federal regulators as they try to recover millions of dollars paid to two of its former executives. The New York Times (9/13, Glater) reports, "The agreement comes nearly two years after Freddie Mac…paid a $125 million penalty to settle charges related to its accounting, as part of a related settlement with its regulator, known as Ofheo. … The two executives in question are Leland C. Brendsel, the former chief executive at Freddie Mac, and Vaughn A. Clarke, its former chief financial officer. Both men left Freddie Mac in June 2003, several months into an expanding investigation of the company's accounting."

Former Westar Official Convicted Of Looting Millions From Utility. The Wall Street Journal (9/13) reports, "A federal jury found former Westar Energy Inc. Chief Executive Officer David Wittig and another executive guilty of looting the electric utility of millions of dollars." The Journal continues, "Prosecutors claimed the two men, who were forced out of the Topeka, Kan., company in 2002, engineered extravagant salaries and benefits for themselves at the expense of shareholders, hiding much of their actions from the company's board and federal regulators. … Mr. Wittig and former Chief Strategy Officer Douglas Lake were found guilty of conspiracy, wire fraud, circumventing internal controls and money laundering." The Journal adds, "The jury deliberated for 7½ days before convicting Mr. Wittig on 39 counts and Mr. Lake on 30 counts. Each count of wire fraud, the most serious of the charges, is punishable by up to 20 years in prison and a fine of as much as $1 million. Testimony about whether the government can recover money from the executives is expected to start Tuesday."

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Oracle CEO Agrees To Charity Payments In Settlement Of Insider Trading Suit. The Washington Post (9/13, D5, White) reports, "Oracle Corp. chief executive Lawrence J. Ellison tentatively agreed to pay $100 million to charity over five years to settle a private lawsuit in California accusing him of insider trading in Oracle stock, a plaintiff's lawyer in the case said yesterday." The Post continues, "Plaintiffs in the suit alleged that Ellison engaged in insider trading when he sold nearly $900 million worth of Oracle shares in January 2001, a little more than a month before the company announced poor earnings. Oracle shares fell 21 percent, to $16.88, after the announcement. Ellison had sold his stock for a little less than twice that amount." The Post adds, "The proposed settlement, reported yesterday by the New York Times and the San Jose Mercury News, must be approved by Oracle's board and a California judge. If approved, the deal would end what is known as a shareholder derivative lawsuit, an increasingly common type of civil case in which shareholders file suit on behalf of a company. … Monetary settlements in derivative cases have typically been small, and most of the money usually goes to plaintiff's attorneys. Companies often agree to make changes to the way they operate in order to settle the suits. … Joseph J. Tabacco Jr., an attorney for plaintiffs in the case, said the charity payments represent a compromise between the two sides. He said Oracle shareholders would benefit because the company will implement new insider-trading rules as part of the settlement."

CRIMINAL LAW:

Facing A Grand Jury Carries Emotional, Financial Costs. The Washington Post (9/13, A25, Coates) reports, "Sympathy can be hard to come by for White House officials who are summoned to appear before a grand jury." The Post continues, "Those whose identities remain a secret suffer in silence, discouraged from reaching out to their closest friends for help. Those whose names leak into the public domain become lightning rods for rumor, suspicion and innuendo, as politicians, commentators and journalists try to divine a meaning behind each summons." The Post adds, "The latest White House staffer to face the grand jury is Susan B. Ralston, assistant to White House Deputy Chief of Staff Karl Rove, who gave testimony to the committee investigating the leak of the identity of CIA operative Valerie Plame. … But while the politics of every appearance is picked over in minute detail, there is also a human story to each summons that often goes unexplored." The Post notes, "Witnesses face stress, uncertainty and -- worst of all -- crippling lawyer's fees that can take years to pay off. And as prosecutors cast their net ever wider, inexperienced staffers with few financial assets are increasingly facing the emotional and financial burden of grand jury testimony. … But veterans of past grand jury appearances -- including the investigation into President Bill Clinton's affair with Monica S. Lewinsky -- said that keeping silent compounded an already difficult process."

US Charges FBI Intelligence Analyst With Spying For The Philippines. The AP (9/13, Gold) reports, "An FBI intelligence analyst with top secret clearance who worked at a New Jersey Army base was charged Monday with passing classified information about Filipino leaders to current and former officials of that nation." The AP continues, "The analyst, Leandro Aragoncillo, sent some of the material to Michael Ray Aquino, a former deputy director of the Philippines National Police who lives in New York City, according to an FBI complaint unsealed with the arrests." The AP adds, "Aragoncillo, 46, of Woodbury, was hired to work at Fort Monmouth in July 2004 and began sending classified information and documents in January, according to the complaint. … From May to Aug. 15, Aragoncillo printed or downloaded 101 classified documents relating to the Philippines, of which 37 were classified 'secret,' the complaint said. Details of the documents' contents were not disclosed in court papers or in court. … The investigation by immigration authorities began after Aquino, 39, was arrested in March, accused of overstaying the tourist visa he used to enter the country in July 2001."

9th Circuit Rules Warrantless Searches Must Be Based On Probable Cause. The California Recorder (9/13, Smith) reports, "Even if a defendant agrees to warrantless searches in exchange for pretrial release, police still can't search him without probable cause, the 9th U.S. Circuit Court of Appeals ruled Friday." The Recorder continues, "In a victory for the privacy rights of defendants awaiting trial while on their own recognizance, a 2-1 majority threw out evidence Nevada authorities had received by testing Raymond Scott for drugs without probable cause." The Recorder adds, "True, Scott had consented to random drug testing 'by any peace officer without a warrant.' But because the government did not have probable cause -- and could not show a 'special need' to lower the bar -- the drug test violated Scott's Fourth Amendment rights, 9th Circuit Judge Alex Kozinski wrote for the majority." The Recorder adds, "The panel says its opinion is one of first impression among all the federal circuit courts, and the dissenting judge predicted a widespread impact on federal and state pretrial proceedings. … By holding that probable cause is required for the warrantless search of a pretrial 'releasee' or his home, 'the majority casually adopts a rule that carries monumental implications for the pretrial procedures employed by every

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state in our circuit, as well as the United States,' wrote 9th Circuit Judge Jay Bybee. … Scott was facing state charges of drug possession when he was released on his own recognizance, subject to several conditions, including warrantless drug and alcohol testing."

American University's Audit Of Presidential Spending Nearly Complete. The Washington Post (9/13, B5, Strauss, Kinzie) reports, "American University trustees are nearing completion of a probe into hundreds of thousands of dollars of questionable expenses by suspended President Benjamin Ladner and his wife, according to two sources with knowledge of the audit." The Post continues, "The school's 25-member governing Board of Trustees will meet within a few weeks to discuss the results and decide how to proceed with Ladner, who became president of the private university in Northwest Washington in 1994." The Post adds, "Ladner was placed on administrative leave Aug. 24, a few months after the board began reviewing the expenses of the president and his wife, Nancy Bullard Ladner, who is described on the university's Web site as a volunteer who represents the Ladner presidency. … The audit was prompted by an anonymous letter detailing what it said were questionable travel and entertainment expenses by the Ladners, according to sources close to the investigation who spoke on condition of anonymity to protect their role."

Chicago Bankruptcy Court Clerk Charged With Extortion. The Daily Southtown (9/13, Hack) reports Chicago bankruptcy court clerk Sandra D. Butler on Monday was "charged with extortion, accused of accepting a bribe in an FBI sting." The Southtown notes, "According to an FBI affidavit, agents first began investigating Butler three years ago after a debtor complained she had paid the clerk $5,000 to stop the foreclosure proceedings against her house but later learned the bribe was unnecessary. … Earlier this month, FBI agents filed a bogus Chapter 13 in Butler's courtroom and sent a fake debtor to see her. … After looking up the man's bankruptcy petition, Butler allegedly said she could make some phone calls 'off the record' to stop the sale of his house, the FBI said." The Chicago Tribune (9/13, Higgins) also reports on the charges, noting the FBI sting.

FBI, Florida Authorities Investigating State Prison Officials. The Tallahassee Democrat (9/13, Cotterell) reports, "State and federal authorities are investigating the activities of prison officials in North Florida, where the regional director for the state Department of Corrections abruptly resigned last month. FBI and state officials said Monday that no one has been arrested or indicted in the investigation, which has been the subject of heated discussion among corrections employees on computer bulletin boards and e-mail networks. 'There is an ongoing investigation regarding the Department of Corrections,' FBI Special Agent Jeff Westcott said from Jacksonville. He declined to comment on specifics.

Judge Clears Indicted Tennessee Senator To Attend DC Lobbying Conference. The AP (9/13) reports, "An indictment on bribery and extortion charges won't keep former state Senator John Ford from attending a convention of black business and political leaders in Washington, DC." Ford "will attend the conference September 21st to 26th to look for new clients for his private consulting business. US District Court Judge Daniel Breen gave Ford permission to leave the state for the convention." The AP notes, "Ford is charged with bribery and extortion in an…investigation focused on an FBI front company that sought favorable legislation from the General Assembly. He also is charged with threatening a federal witness." The Tennessean (9/13, de la Cruz) adds that Ford, "who is under house arrest on federal bribery and intimidation charges, got a judge's permission to travel to the '35th Annual Legislature Conference for Black Leaders and Businessmen.'"

State Trooper's Testimony Provides Details About Cockfighting Raids. The Knoxville News (9/12, Stambaugh) reports, "Among the evidence compiled by the FBI before a June 11 raid on a cockfighting pit near Del Rio were aerial photographs and video surveillance of the facility, according to testimony heard last week. A preliminary hearing Wednesday in Cocke County General Sessions Court provided many new details about the controversial raid, which was cloaked in secrecy as part of a sweeping four-year probe by federal and state authorities into organized crime and public corruption in Cocke County." Tennessee Highway Patrol Trooper Timothy Wolfenbarger "said the operation was orchestrated by the FBI and a federal SWAT team had been assigned to conduct the 'initial sweep' on the compound. State troopers, who had been drawn from posts across the state, were ordered into the site after it was secured. 'They (the FBI) had surveillance videos aerial photographs,' Wolfenbarger said. 'They had a good plan.'" The AP (9/12, Bailey) notes, "Judge John Bell bound the cases over to the grand jury but said he didn't think the evidence presented at the hearing was enough to convict them."

Family, Police Puzzled By Virginia College Student's Disappearance. The Washington Post (9/13, B1, Stockwell) reports, "Eager to begin her freshman year at Virginia Commonwealth University, Taylor Behl created an online profile and wrote that she was looking for new friends in the Richmond area. Last week, she told her roommate she was going out for a few hours. She did not come back." The Post continues, "Behl, 17, was last seen

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Sept. 5, and campus officials said yesterday they still do not suspect foul play. But they are becoming increasingly concerned, and the investigation into her disappearance gains momentum and urgency with each passing day. … Nearby jurisdictions have joined the hunt, and the FBI has assigned an agent to advise campus and Richmond police. The National Center for Missing and Exploited Children, based in Alexandria, has posted a notice on its site." The Post adds, "Every year, students 'appear to disappear' from the 30,000-student university and do not call their families for days, said Pam Lepley, a campus police spokeswoman. The students usually resurface after a couple of days, she said. But in this case, Behl, a June graduate of Madison High School in Vienna, has contacted no one. … Behl was last seen about 10 p.m. on Labor Day after a late supper at a local cafe. She found her roommate in their room with a boyfriend and told her she would leave for a while to give them privacy, police said."

Judge Dismisses Case Against DeLay Fundraiser. The Hill (9/13, O'Connor) reports, "A Texas judge dismissed a civil case against a major fundraiser for House Majority Leader Tom DeLay (R-Texas) last Friday. The federal district-court judge dismissed the case brought by two Texas Democrats against John Colyandro, the former executive director of the Texans for a Republican Majority Political Action Committee (TRMPAC). The judge, Lee Yeakel, ruled that lawyers for the two Democrats failed to prove that Colyandro had knowingly broken Texas election law in using corporate contributions to fund campaign ads."

DeLay Seeks To Put Case Behind Him Ahead Of Potential Ethics Probe. Roll Call (9/13, Bresnahan) reports, "The recently disclosed meeting between House Majority Leader Tom DeLay (R-Texas) and a prosecutor investigating allegations of state campaign finance violations is a strong signal that DeLay is trying to put a longstanding Texas investigation behind him as he prepares for a potential probe by the House ethics committee. DeLay and his lawyers met with Travis County District Attorney Ronnie Earle and his aides for about 90 minutes on Aug. 17. … Sources close to both men described the meeting as cordial and said DeLay was treated more like a witness than a potential target of the probe." DeLay "was not under oath when he met with Earle, and there were no other preconditions put in place, such as transactional or prosecutorial immunity, sources close to the Majority Leader said." Roll Call adds that "while a number of legal issues remain for Texas courts to straighten out, including outstanding criminal charges against several DeLay allies, the fact that Earle privately told DeLay and his attorneys that he is not a target of investigators may now enable DeLay to focus his attention on the House ethics committee."

CIVIL LAW:

McCain, Feingold Take Aim At Campaign-Finance Rider. Roll Call (9/13, Nelson) reports, "Sens. John McCain (R-Ariz.) and Russ Feingold (D-Wis.) implored their colleagues Monday to support their efforts to remove a campaign-finance rider to the Treasury-Transportation appropriations bill, which is slated to come to the Senate floor as early as this week. The provision would allow lawmakers' leadership" PACs "to give unlimited funds to the national party committees, opening what the two Senators believe would be a significant loophole in the campaign finance law." Roll Call notes, "In a 'Dear Colleague' letter, Feingold and McCain noted that national parties could turn around and spend those funds on the lawmaker's own re-election, 'effectively subverting individual and PAC donor contribution limits on the amounts that can be given to a Member's campaign.'" McCain and Feingold "concluded by asserting that substantive changes to the campaign finance laws should occur only after 'adequate' debate, the antithesis of which would be '[s]lipping a rider onto an appropriations bill in a subcommittee markup.' The two plan to force a vote on the provision on the Senate floor."

CIVIL RIGHTS:

Massachusetts Anti-Gay Marriage Coalition Seen As Falling Apart. The AP (9/13, Leblanc, Emery) reports, "A fragile coalition of lawmakers cobbled together to support an anti-gay marriage amendment is falling apart, virtually assuring that same-sex marriage will for now remain legal in Massachusetts, according to an Associated Press poll." The AP continues, "The survey, conducted between Sept. 6-9, found at least 104 lawmakers who plan to vote against the proposed constitutional amendment, which would ban gay marriage but create civil unions. … The amendment, which is scheduled for a vote on Wednesday, needs the support of at least 101 of the state's 200 lawmakers to get on the 2006 ballot. … 'It's a dangerous precedent to take away rights that have been granted by the court for an identifiable group of people,' said Democrat Rep. James Brendan Leary." The AP adds, "Last year, months after the state's Supreme Judicial Court ruled that same-sex marriage was legal, the amendment passed 105-92. It must pass a second vote to get on next year's ballot. … Reasons for the faltering support are rooted in the language of the amendment, which was intended as a compromise between foes of same-sex marriage and supporters of gay rights. It ultimately had an opposite effect, however, alienating gay

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marriage opponents by creating civil unions and offending gay rights supporters by banning gay marriage."

California Gay Marriage Bill Could Have National Implications. The Christian Science Monitor (9/13, Wood) reports, "The latest struggle over who decides the legality of gay marriage -- citizens, lawmakers, or the courts -- played out in the nation's most populous state last week. The California legislature was the first to approve a bill legalizing same-sex marriage, although Gov. Arnold Schwarzenegger has vowed to veto it. … The legislature's attempt to broaden the definition of marriage is in direct conflict with a citizens' initiative passed in 2000 defining legal marriage as between a man and woman only. That citizen's initiative itself, Proposition 22, is also being challenged in court. But the recent move by Sacramento legislators emphasizes what some observers see as a shift in public opinion that appears to be more accepting of gay marriage. Still, others anticipate the bill could add to the backlash against the gay-marriage movement that prompted 11 states to ban same-sex marriage through ballot initiatives last year." The Monitor adds, "National pollsters report more acceptance of gays and lesbians in a variety of other contexts. What happens in California could set the tone for how other states deal with the issue legislatively."

WPost Praises California Lawmakers' Vote On Same-Sex Marriage. The Washington Post (9/13, A26) editorializes, "The California General Assembly last week became the first state legislature to allow same-sex marriages. … While the Massachusetts Supreme Judicial Court permitted same-sex marriage in that state and legislatures have created civil unions elsewhere, the vote is the first time that a state legislature has acted on its own to create marriage equality. … The California legislature's decision gives the lie to the notion that only imperial judges would foist such a social policy on a state." The Post notes that despite Gov. Arnold Schwarzenegger's vow to veto the bill, "the legislative action last week remains an important symbol -- at once a rebuke to those states that have reacted to the Massachusetts decision by writing discrimination into their fundamental laws and a gentle reminder to those who see hope for progress only in the courts that legislatures can still be engines for positive change."

New York Firefighter Arrested For Assault Of Immigrant Worker. The AP (9/13) reports, "Hours after many New York firefighters gathered to mark the fourth anniversary of the Sept. 11 terrorist attacks, one of them was arrested for attacking an immigrant worker from Bangladesh and telling him he looked 'like he's al-Qaida,' police said." The AP continues, "Firefighter Edward Dailey was arrested Sunday on charges of criminal mischief and felony second-degree assault, Police Sgt. Kevin Farrell said. … He was released without bail. Despite the alleged al-Qaida remark, there was not enough evidence to charge him with a hate crime, authorities said." The AP adds, "Dailey, 27, is accused of breaking a piece of Plexiglas off a curbside newsstand and throwing it at a 51-year-old man who works there, Farrell said. Dailey had said the man looked 'like he's al-Qaida,' Farrell said. … The victim, whose arm was cut in the alleged attack, was treated at a hospital and released, Farrell said."

Jury Finds Two Men Guilty Of Murdering Transgender Teen. The New York Times (9/13, Marshall) reports, "A jury convicted two men of murder on Monday but deadlocked on the fate of a third man in the retrial of three defendants charged with killing a 17-year-old transgender teenager in October 2002." The Times continues, "The two - Michael W. Magidson and Jose A. Merel, both 25 - were found guilty of second-degree murder for the death of Gwen Araujo, who was born as a male named Eddie Araujo Jr., but who frequently wore women's clothing and lived as a women. … After the verdict was read, Mr. Magidson bowed his head and Mr. Merel slowly shook his. They face sentences of 15 years to life in prison. … The jury found both men not guilty of committing a hate crime." The Times adds, "The actions of the third man, Jason Cazares, also 25, confounded a jury for the second time in two years. The panel, which heard the case for several months in a packed Alameda County Superior Court room, told Judge Harry R. Sheppard that they were hopelessly deadlocked on the fate of Mr. Cazares."

The AP (9/12, Locke) reports, "Araujo, 17, was born a boy named Edward but grew up to believe her true identity was female. The defendants, who knew her as Lida, met Araujo in the summer of 2002. Magidson and Merel had sexual encounters with Araujo, experiences that fueled suspicions about Araujo's gender." The AP continues, "The issue boiled over in the early hours of Oct. 4, 2002, in a confrontation at Merel's house in the San Francisco suburb of Newark. … Merel's lawyer, William Du Bois, said he was shocked by the verdict, especially since prosecutor Chris Lamiero said he didn't think Merel was the killer." The AP notes, "In the first trial, the three defendants stuck together, with their lawyers attacking the chief prosecution witness, Jaron Nabors, who was also at the house the night Araujo died but was allowed to plead guilty to manslaughter in exchange for testifying. … But in the second trial, the defendants' united front cracked."

California, Ohio, Florida Eyeing Redistricting Reform. Roll Call (9/13, Jacobson) reports, "With initiatives to reform redistricting expected to make the 2005 ballot in California and Ohio, and another for 2006 gaining traction in

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Florida, the ultimate insider issue has suddenly become hot in three of the nation's most populous states." Political strategists "say the pivotal wild card is frustration with politics as usual. If such a mood exists, and if it is channeled effectively, it can put a dry issue like redistricting over the top, said Kristina Wilfore, executive director of the liberal Ballot Initiative Strategy Center. And in these three states at least, the political conditions may be riper than normal." Roll Call notes, "In California, Gov. Arnold Schwarzenegger (R)…has staked his prestige on the redistricting measure and other reforms. In Ohio, a metastasizing political scandal involving Gov. Bob Taft (R) and the state Republican Party is producing anger and volatility in a state long dominated by the GOP. And Florida, like Ohio, has been home to a divisive presidential election in which residents aired a torrent of allegations about how partisanship may have influenced vote counting."

ANTITRUST:

Oracle To Acquire Siebel For $5.85 Billion. The New York Times (9/13, Flynn) reports, "Oracle, the giant database-software maker, announced on Monday that it would pay $5.85 billion to acquire Siebel Systems, its largest competitor in the market for sales automation programs." The Times continues, "The deal will bolster Oracle's effort to topple its German rival SAP as the leading seller of business applications software for big corporations. … It comes less than a year after Oracle managed to achieve a hostile takeover of PeopleSoft for $10.3 billion after a contentious battle that dragged on for nearly 18 months."

The San Francisco Chronicle (9/12, Fost) reports, "The Siebel acquisition not only gives Redwood City's Oracle enough ammo to take on its archrival SAP of Germany in the field of customer relationship management, or CRM, software — essentially, software used to manage a company's sales operations — but it also has the delicious twist of allowing the Oracle boss to declare victory over Tom Siebel, a former protege turned enemy."

The Financial Times (9/13, Politi, Nuttall) reports, "For Larry Ellison, Oracle's chief executive, the acquisition will cement his reputation as a prolific dealmaker. In December, Oracle agreed to buy PeopleSoft for about $10.5bn, after winning an 18-month takeover battle, seeing off a high-profile, antitrust suit brought by the US Department of Justice." The Times adds, "Mr Ellison on Monday suggested the company's attention would now be focused on integration. 'I don't think you'll see another major acquisition any time soon,' he said. The purchase of Siebel will give Oracle access to 3.4m users and 4,000 corporate customers of its CRM software, which helps companies track sales, marketing and customer service."

The Los Angeles Times (9/13, Sanchez) reports, "Under the deal, Oracle will purchase each Siebel share for $10.66 in cash unless the owner of the stock decides to receive Oracle stock." The Times adds, "The merger, which is subject to regulatory review, has been approved by the boards of Oracle and Siebel. Siebel shareholders must still vote on the deal, but a vote by Oracle shareholders is not required, according to the company."

The Wall Street Journal (9/13, Bank) reports, "Oracle predicted the deal will close early next year, after approval by Siebel shareholders. The acquisition is expected to face an antitrust review by the Justice Department, which unsuccessfully sought to block Oracle's purchase of PeopleSoft. … Analysts said they don't expect strong opposition this time; Oracle has lagged well behind SAP and Siebel in CRM software, and Oracle's marketing of Siebel products could potentially increase competition in the market."

The Washington Post (9/13, D5, Musgrove) reports, "A Justice Department spokeswoman, Gina Talamona, said it was too soon for the agency to comment on Oracle's planned acquisition. 'It's certainly something we'd be interested in taking a look at,' she said." The Post adds, "Analysts said Oracle's proposed acquisition may not generate the same type of controversy as the PeopleSoft deal because it's not considered a hostile takeover bid and the combined company would not dominate the CRM market."

The AP (9/13, Liedtke) reports, "In the past nine months, Oracle has either completed or announced five takeovers in the field, an expansion that has cost more than $17.6 billion. Among the acquired was PeopleSoft Inc., which like Siebel Systems was run by a former Oracle executive who had developed a frosty relationship Ellison. … The Siebel acquisition, expected to close early next year, affects about 4,000 customers. The company has about 5,000 workers, many of whom are expected to lose their jobs as Oracle cuts costs in an effort to boost its profits by about 20 percent annually."

Bloomberg News (9/12) and Dow Jones Newswires (9/12) also report on the planned acquisition.

FCC Moves Ahead On Telephone Mergers. The AP (9/13, Kerr) reports, "The head of the Federal Communications Commission has asked agency staff to draft orders approving two big phone company mergers - SBC Communications Inc. with AT&T, and Verizon Communications Inc. with MCI Inc." The AP continues, "FCC chairman Kevin Martin wants the commission to take a final vote on the deals next month, two people with firsthand knowledge of the issue said Monday. They were authorized to speak about the drafts only on the condition of anonymity." The AP adds, "The sources would not say what conditions might be placed on the mergers to ensure competition is not

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compromised. … SBC's deal to acquire AT&T is valued at $16 billion while Verizon is offering $8.5 billion for MCI. SBC and Verizon already are the largest regional phone companies, known informally as 'Baby Bells.' The mergers would enhance their base of business customers and expand their national and international presence." The AP notes, "The Bells have been peeling away long-distance customers from AT&T and MCI by offering unlimited national calling for a set rate. … Martin's request for drafts of approval signal his intention to press ahead with the mergers despite the 2-2 split between Republicans and Democrats on the commission. The decision also seems to indicate Martin's willingness to reach out to the Democrats to craft an agreement. … The Justice Department also will have to sign off on the mergers."

eBay To Purchase Internet Phone Leader Skype Technologies. The Washington Post (9/13, D1, Krim) reports, "Online auction giant eBay Inc. announced a deal yesterday to become one of the world's largest telecommunications companies, buying Internet phone-service leader Skype Technologies SA." The Post continues, "Although Luxembourg-based Skype is relatively unknown in the United States, it has amassed 54 million global customers in less than three years by offering free calls between those who use its software."

The Wall Street Journal (9/13, Mangalindan, Rhoads) reports, "Founded in 2002, Luxembourg's Skype allows its subscribers to talk to one another over personal computers free. It also allows cut-rate voice calls from PCs to regular phones or cellphones. Skype, which employs about 200 people, has signed up 54 million users, mainly in Europe and Asia so far, making it one of the fastest-growing online communities." The Journal continues, "EBay officials said the acquisition gives the company a new way to reach millions of potential customers, to help customers make complicated transactions, and to open up ways to generate revenue from services such as classified advertisements. Chief Executive Meg Whitman said Skype will also help eBay penetrate developing markets such as India, Brazil, Russia and China that offer huge growth potential but typically have lower levels of trust in Internet-based commerce."

The Financial Times (9/13, Waters, Taylor) reports, "The auction company's executives said that adding a voice calling feature to its existing online network would let it charge fees to merchants for generating sales leads the internet's fastest-growing business, currently dominated by the two biggest search engine companies. It could represent the most important in a series of recent initiatives by Ebay to extendinto new areas of online activity."

The New York Times (9/13, Belson) reports, "The total value of the deal may grow based on 'potential performance-based consideration' that could be worth an additional $1.5 billion, eBay said. Though Skype's revenue is expected to grow to about $200 million in 2006, from an estimated $60 million this year, eBay does not expect Skype - which gives its basic PC-to-PC service away free - to turn a profit until the fourth quarter next year." The Times adds, "The deal ends months of speculation about who might scoop up Skype, which since 2002 has been offering downloadable software that allows users to talk to one another over the Internet through their personal computers. The News Corporation, Google and Yahoo had been mentioned as potential suitors in recent months."

USA Today (9/13, Maney) reports, "EBay insists the deal isn't a major corporate turn. Top eBay executives became aware of Skype about a year ago, 'And we started putting some thinking against Skype,' says eBay CFO Rajiv Dutta. … Though other online services such as Google Talk offer free computer-to-computer voice conversations, Skype has caught fire globally. It's adding 150,000 users a day, the majority in countries such as China, India and Sweden. In 2005, Skype's first full year of charging for services, it will have revenue of $60 million. Skype expects revenue to jump to $200 million in 2006."

The Los Angeles Times/AP (9/13) reports, "Other big Internet names have expanded their VoIP capabilities lately, including Google Inc., which rolled out a new instant-messaging program with voice service. Last month Microsoft Corp. acquired Teleo Inc., a small startup whose software lets people make calls from computers to traditional telephones. … But some analysts have been skeptical about eBay's need to own a VoIP provider." The AP adds, "EBay buyers and sellers can communicate with each other via e-mail before a transaction is complete -- eBay says about 5 million such messages are exchanged daily. Adding Skype and its voice capabilities will speed the communication between parties and increase the level of trust, said Meg Whitman, eBay's chief executive."

DOJ, FTC To Hold Workshop On Real Estate Industry Competition. Inman News (9/13) reports, "Four days after launching a lawsuit against the National Association of Realtors for alleged anticompetitive practices, federal agencies are planning a public forum to discuss competition in the real estate industry." Inman continues, "The U.S. Justice Department's Antitrust Division and the Federal Trade Commission will jointly host a one-day workshop on competition policy and the real estate industry next month, the agencies said. … The workshop will be held on Oct. 25, at the FTC's Satellite Building Conference Center located at 601 New Jersey Ave. NW, in Washington, D.C." Inman adds, "The workshop is free and open to the public and aims to provide a forum on the competitiveness of the residential real estate industry, focusing on topics such as

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multiple listing services, discount and limited-service brokers, and minimum-service requirements. … In particular, discussion will center on the real estate transaction, the multiple listing service, and private and state actions that affect competition among brokers. … Parties seeking to participate as panelists in the workshop must notify both the Justice Department's Antitrust Division and the FTC in writing on or before Sept. 25. Persons submitting a request to participate as a panelist will be notified on or before Oct. 11, if they have been selected."

UK Regulators Launch Antitrust Probe Of Loan Insurers. Bloomberg News (9/13) reports, "Barclays Plc, Lloyds TSB Group Plc, HBOS Plc and Royal Bank of Scotland Group Plc are among U.K. banks facing an antitrust probe after a consumer group said loan insurance in Britain is expensive and inappropriately sold." Bloomberg continues, "Citizens Advice, a nonprofit organization, asked Britain's Office of Fair Trading to investigate the 5 billion-pound ($9.1 billion) a year market after uncovering numerous problems, the London-based organization said in an e-mailed statement released today. The complaint triggered an automatic review by the antitrust regulator, which has 90 days to decide on a full investigation." Bloomberg adds, "The call for an investigation of loan insurers is the second this year, after a committee of lawmakers in February asked the Financial Services Authority, the main regulator of banks and insurers, for a probe, saying some consumers have purchased policies that they won't be able to use to make claims. … The report didn't name any companies involved in the sale of loan insurance, which is provided by all of Britain's biggest banks on credit card and other unsecured debt."

Ford To Sell Hertz For $5.5 Billion. NBC Nightly News (9/12, story 9, :30, Williams) reported, "Ford said today it is selling its Hertz rental call business to a group of private equity firms for $5.5 billion. The infusion of cash is expected to help Ford's bottom line, which has been hurt lately by falling sales for SUVs and rising costs for healthcare."

The Financial Times (9/13, Politi) reports that a consortium of three private equity groups announced yesterday that they have purchased Hertz, the New Jersey-based car rental business for $15 billion. The paper notes the deal is the largest buy-out since 1989. The paper says, "The acquisition, by Clayton Dubilier & Rice, Carlyle, and the buy-out unit of Merrill Lynch, came after several weeks of negotiations with Ford, the carmaker that has owned all of Hertz since 2001 and is selling the unit as part of its revitalization plan. The three buyers will be paying $5.6 billion in cash to Ford, and have agreed to assume nearly $10 billion in debt under the agreement." The Times adds, "The buyers dismissed suggestions that the jump in petrol prices could make it an unattractive time to invest in car rentals, by saying that they were optimistic about the long-term trends in the travel industry. The acquisition is being financed with a combination of asset-backed securities linked to Hertz's fleet of rental cars, traditional corporate debt, and the equity contributions of the three buy-out groups. … There were no plans to extract cost savings through large-scale staff reductions, and the consortium would continue to support management's plans to diversify away from airport rentals."

The Washington Post (9/13, D3, Hilzenrath) says, "The deal will provide a $5.6 billion cash infusion to the automaker, whose bonds were downgraded in May to junk status. … Carlyle managing director Gregory S. Ledford said the investment firm sees growth potential in Hertz's overseas and heavy equipment rental businesses." He added the firm viewed Hertz as a "corporate orphan" -- a well-run company with a good brand and a good business that is not central to its corporate parent's business. Ledford said he didn't believe rising crude oil and gasoline prices would have a big impact on Hertz, "unless it really impacts people flying," because Hertz's business is largely driven by airport traffic.

The Wall Street Journal (9/13, Sender, Johnson) reports, "The last days of the bidding war took place against the backdrop of a hurricane that led many economists to forecast lower growth for the car-rental industry. Hertz has annual revenue of more than $7 billion. But concerns about growth didn't deter bidders, giving Ford a bigger payday than auction participants anticipated. The losing group consisted of Bain Capital, Blackstone Group, Texas Pacific Group and Thomas H. Lee & Partners." The Journal adds, "The new owners of Hertz may have a different vision for the company's future than current management. Hertz management, which analysts say had favored a public listing to a sale, had positioned the firm to demonstrate strong growth prospects and had lots of initiatives beyond its core airport car-rental business. By contrast, the buyout group may be under pressure to cut costs and raise cash by selling noncore operations, people familiar with the matter say."

Wachovia To Acquire Westcorp. The Wall Street Journal (9/13, Bauerlein) reports, "Wachovia Corp. agreed to acquire Westcorp Inc. for about $3.91 billion in a deal aimed at boosting the Charlotte, NC, company's heft in the auto-finance business while giving Wachovia its first branches in California. In addition to making Wachovia the ninth-largest auto lender in the US, the takeover quiets speculation at least for the moment that the bank is about to make an even larger acquisition of a commercial bank or consumer-finance company. The purchase price represents only about 5% of Wachovia's stock-market value, which analysts said seemed reasonable given Westcorp's size and reputation for being well-run."

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The New York Times (9/13, Creswell) reports, "Moving to expand its presence in automobile financing, the Wachovia Corporation, the nation's fourth-largest bank, agreed yesterday to acquire the financial-services holding company Westcorp and its majority-owned auto-finance group, WFS Financial, in a stock deal valued at $3.91 billion. The deal, which had been rumored for weeks…is the latest in a string of purchases by banks in the auto-finance industry after downgrades this spring in the debt ratings of the General Motors Corporation and the Ford Motor Corporation. The downgrades raised the costs of borrowing for the car makers' finance arms, which have typically offered low-interest loans that banks were hard pressed to match." The Times adds that in yesterday's deal, Wachovia said it was acquiring Westcorp and WFS for $3.42 billion in stock. Wachovia will pay $490 million in stock for the 16 percent of the publicly traded WFS that Westcorp does not own. The deal is expected to close in early 2006.

The AP (9/13) reports, "Wachovia said its purchase of Westcorp will give it a small presence in the California retail banking market, while expanding its auto finance group into a national business. The firm will add about 8,500 automobile dealer clients, and about 920,000 individual customers."

Refiner Tupras Sold For $4.14 Billion. The Wall Street Journal (9/13, Wang) reports, "A consortium led by Koc Holding AS of Turkey and including Royal Dutch Shell PLC fended off eight other bidders in a hotly contested privatization auction for control of Tupras, Turkey's 500,000-barrel-a-day refiner. The winning bid of $4.14 billion defied even the most optimistic expectations which, ahead of the auction, had reckoned with a final price tag closer to $3 billion." The paper adds, "The Koc-Shell group faced its strongest competition from a joint venture comprising state-owned Indian Oil Corp. and Turkey's Calik Enerji Sanayii, as well as OYAK, an industrial conglomerate representing a Turkish Army officers' pension fund. The winning consortium comprised two Shell units -- Shell Co. of Turkey Ltd. and Shell Overseas Investment BV -- together holding 10%; Koc, one of Turkey's biggest industrial conglomerates, with 80%; and two smaller Turkish energy companies, Aygaz AS with 7% and Opet Petrolculuk AS with the remaining 3%." The Journal notes, "The win by the Koc-Shell consortium represents a best-case scenario for the government as it keeps majority control of Tupras in Turkish hands. Shell's minor involvement lends it credibility."

Ichan Plans Time Warner Proxy Fight. The Wall Street Journal (9/13, Angwin) reports, "A group led by New York financier Carl Icahn said it intends to mount a proxy contest to win seats on Time Warner Inc.'s board, in the latest step by the investor group to pressure the company to spin off its cable unit and buy back $20 billion in stock." The paper adds, "The group, made up of several hedge funds including one managed by Mr. Icahn, also said it thinks the 'true value' of Time Warner shares is between $26 and $28, about $10 a share above the stock's trading range over the past couple of years." The Journal notes that in a filing with the Securities and Exchange Commission, "the group laid out its most detailed argument to date as to why Time Warner shares are trading at a discount to their 'inherent value' and what 'immediate actions' the company could take to reduce the discount." The paper continues, "The filing noted that the stock is down 6% since Chairman Richard Parsons took over in May 2002 and said 'management's slow pace of change' has hurt Time Warner stock. The group chastised Time Warner for not paying dividends or buying back stock as aggressively as other media companies. It argued that Time Warner has an "inefficient capital structure" and could afford to take on more debt if it spun off Time Warner Cable."

Buyouts Booming As Stock Market Surges. USA Today (9/13, Krantz) reports, "Following a multiyear downturn in the number of mergers and acquisitions, companies are again in the shopping mood. Oracle, eBay and Wachovia all announced deals Monday worth billions to buy other companies, signaling a pickup in the deal boom. Already this year, companies have announced $707 billion in mergers and acquisitions, says Richard Peterson, senior researcher at Thomson Financial. That's 30% more than the deals during the same period last year and the highest since the M&A heyday in 2000. It's also the fourth-strongest pace of M&A in history, Peterson says." Howard Silverblatt, market analyst for Standard & Poor's, said, "Companies were shy. Now they are definitely doing more."

ENVIRONMENT:

Judge Halts Logging In Sequoia Forest. The AP (9/13, Kravets) reports, "A federal judge (in San Francisco) halted the Bush administration's bid to keep logging 2,000 acres in Giant Sequoia National Monument, saying he 'called into question' the scientific analysis used to justify cutting in a preserve that houses two-thirds of the world's largest trees." The AP continues, "U.S. District Judge Stephen Breyer, ruling in a lawsuit brought by environmentalists, also questioned whether fire control was the government's real motive for allowing commercial logging in the monument. The so-called 'Saddle Project' was approved years ago, but cutting only commenced this summer, when timber prices were high." The AP adds, "The government, Breyer wrote late Friday in issuing a preliminary injunction barring further logging, 'waited five years to execute this contract because of unfavorable timber prices.' … In 2000, just after the project was approved, Congress declared Sequoia National Forest a

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national monument, which generally prevented further logging on thousands of acres in the Central Valley area of Tulare County. The government argued the project was grandfathered in and therefore not covered by monument rules." The AP notes, "The Justice Department, which defended the logging plan in court here, declined to say whether it would challenge Breyer's injunction. If it does not, the case is over and the acreage is safe from harvesting. The government could also take the issue to trial."

Senate To Vote On Challenge To EPA Mercury Emission Rules. The New York Times/AP (9/13) reports the Senate "agreed Monday to vote on a resolution challenging new rules limiting mercury emissions from power plants." The Bush Administration said "that the rules, completed by the Environmental Protection Agency in March, would eventually cut mercury emissions from coal-fired power plants by 70 percent without driving up energy costs and that repealing the rules would delay the reduction of such emissions." But environmental and health groups "have demanded swifter and tougher measures to reduce emissions." By "repealing the rules, the Senate would compel the E.P.A. to rewrite them. The revisions would be in line with Clean Air Act standards requiring the use of the best available technology to reduce mercury emissions." The Senate vote "on Tuesday is expected to be close, but the Republican-dominated House is unlikely to act on a resolution, which President Bush has said he opposes."

US Households Face Higher Winter Energy Bills. USA Today (9/13, Kirchhoff) reports US consumers "could still face higher energy bills ahead despite declines in energy prices Monday as gulf producers continued to rebound from Hurricane Katrina's pounding." The "average nationwide retail gasoline price Monday fell to $2.967 a gallon for regular unleaded from $3.018 the day before, according to AAA. Gasoline futures prices have dropped by about a third since the end of August." Crude oil prices "dropped to $63.34 a barrel, down 9% from the record close of $69.81 in late August. Natural gas futures were down more than 23 cents in New York trading, to $11.03 per million British thermal units, compared with a record $11.76 on Sept. 1." But energy experts "say consumers will feel the impact of Katrina for months. Natural gas prices will be a big challenge this winter."

The CBS Evening News (9/12, story 9, :25, Schieffer) reported, "The price of gasoline is slowly coming down. It hit a record high $3.07 a gallon after Hurricane Katrina hit. But an Energy Department survey out tonight says gas is down now to a national average $2.96 for self-serve regular."

Carter Decries Move To Drill In ANWR. In a Washington Post op-ed (9/13, A27), former President Jimmy Carter says that Congress is "about to make one of those big decisions that marks an era. Unless wiser heads prevail, it may do it badly -- making the wrong decision in the wrong way and about the wrong place. At stake is America's greatest wildlife sanctuary, the Arctic National Wildlife Refuge. To dissuade Congress from this environmental tragedy, Americans must rally, and quickly." We "cannot drill our way to energy security or lower gasoline prices as long as our nation sits on just 3 percent of world oil reserves yet accounts for 25 percent of all oil consumption. An obvious answer is to increase the fuel efficiency of motor vehicles, at least to the level we set more than a quarter-century ago. Instead, the administration recently proposed a tiny increase in gas mileage for SUVs, minivans and pickups."

FBI/DEA/ATF/USMS:

IG Finds FBI Violates Informant Rules. The AP (9/13, Sherman) reports, "FBI agents often violate bureau's rules for handling confidential informants that were revised after FBI abuses in the 1990s, the Justice Department's internal watchdog said Monday." The AP continues, "A review of 120 confidential informant files from FBI offices around the country found violations in 104 cases, or 87 percent, Inspector General Glenn A. Fine said. His 301-page report, parts of which were blacked out, examined FBI compliance with rules that govern most criminal investigations." The AP adds, "The report said agents failed to assess informants' suitability or get permission for informants to engage in activity that otherwise would be illegal. Agents did not convey proper instructions or tell prosecutors when informants had committed crimes that were not authorized by their FBI handlers, Fine said. … FBI Director Robert Mueller, according to the report, said many agents find the required paperwork cumbersome. In a statement, the FBI said the violations were 'administrative' and that officials have begun simplifying procedures."

The Boston Globe (9/13, Murphy) reports that "the FBI has continued to violate informant guidelines adopted several years ago amid public condemnation over its mishandling of notorious Boston gangsters James 'Whitey' Bulger and Stephen 'The Rifleman' Flemmi." US Rep. William Delahunt called the report "damning," and said that he and Rep. Daniel Lungren "will file a bill mandating that the FBI follow the guidelines and include sanctions for agents who do not."

The New York Times (9/13, Lichtblau) notes, "Part of the problem, F.B.I. officials acknowledged, was the bureau's continued difficulty in building a modern computer system to help oversee the informant program and ensure better compliance. 'Even before the inspector general's review, we realized that we had to do some re-engineering of our whole human source program,' Kevin R. Brock, an assistant F.B.I.

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director who oversees the program, said in an interview. … 'Agents are failing to do certain things not because of mal-intent but just the press of administrative requirements, and overlooking them,' he said."

The Washington Times (9/13, Seper) adds, "Noting that confidential informants are critical to the bureau's ability to carry out its 'counterterrorism, national security and criminal law-enforcement missions,' the FBI said it began a project several months ago to review and revise its confidential-informant program." Cogswell "said the review seeks to develop policies and processes to simplify and standardize administrative procedures and to clarify and improve compliance requirements." USA Today (9/13, A8) also reports on Fine's review, running a truncated version of the AP story.

Report Also Urges Tighter Rules On Terrorism Surveillance. The New York Times (9/13, Lichtblau) also reports that the review "looked at the effect of a number of changes ordered by Mr. Ashcroft in his 2002 revamping of the bureau's investigative guidelines," which "allowed F.B.I. agents to visit public sites and events, attend mosques and other religious institutions, or peruse the Internet in search of leads in terrorism cases. The changes relaxed restrictions put in place in the 1970's as a result of F.B.I. abuses in the monitoring of political dissidents, and they have drawn criticism from civil rights advocates and Muslim leaders who say they open the door to investigative abuses." Director Mueller "told the inspector general's office that because agents were not required to get supervisors' approval before visiting public sites, it was 'difficult to determine to what extent these authorities have been used,' the inspector general's office said. It called on the F.B.I. to consider requiring approval from supervisors and more documentation of public visits to guard against possible abuses."

FBI Releases Additional 800 Pages Of Thurmond Files. The State (9/13) reports, "More than 800 pages of the late Strom Thurmond's FBI file were released Monday at the request of several news organizations, including The State. The first 600 came out in March. … The 800 pages just released deal mainly with threats made against Thurmond throughout his public life. According to the FBI, about 900 more pages are yet to be released. As is typical with the FBI and Monday's release, it might take several more months before these additional pages are made available to the public."

Files Reveal FBI Investigated At Least 31 Death Threats Against Thurmond. The State (9/13, Bandy, Burris, Monk, Stensland, Washington) reports, "For a half century, Strom Thurmond was a Southern icon and a national figure. His longevity…exposed him to at least 31 threats that the FBI investigated. The threats ranged from the serious…to the ravings of a 'chronic letter writer with apparent mental problems,' the FBI reported" in recently-released Thurmond files. The State goes on to detail several of the more significant plots against Thurmond investigated by the FBI.

The State (9/13, Markoe) adds that Thurmond "made plenty of political enemies over his long and controversial career — including the kind the FBI feared might try to kill him. … The documents are windows into some of the more unpleasant aspects of political fame and include copies of threatening telegrams, results of handwriting tests and summaries of interviews with suspects. … The documents do not indicate that any of the threats resulted in prosecutions."

GAO Finds Continuing Shortcomings With FBI IT Modernization. Government Executive (9/13, Pulliam) reports, "Despite past warnings from congressional auditors, the FBI does not have an effective framework for modernizing its information technology systems, according to a new report" by the GAO. GAO also "found that the bureau's heavy reliance on private contractors to develop the IT framework was hampered because the FBI does not use performance-based contracting techniques and has failed to effectively oversee the contractors' work." GE adds, "GAO recommended that the FBI's chief information officer and chief financial officer implement performance-based contracting wherever possible, along with stronger tracking and oversight practices." CIO Zalmai Azmi "wrote that the bureau has been successful in using fixed-price contracting, rather than the performance-based contracting, because the approach gives contractors an incentive to stay on schedule. But, he said, the FBI would take steps to encourage performance-based contracting."

Three Plead Guilty To Roles In Louisiana Cocaine Ring. The AP (9/12) reports that three Lafayette, Louisiana, men "pleaded guilty Monday to being members of a cocaine distribution ring that operated over 16 years." Nathan Campbell and Aubrey Howard "pleaded guilty to conspiracy to possess and distribute cocaine," while Tevin Bennett "pleaded guilty to possession of cocaine with intent to sell, the U.S. Attorney's Office said Monday. A sentencing date has not been set."

Fighting Between Bolivian Government, Coca Farmers Could Resume. Knight Ridder (9/12, Chang) reports that the "uneasy peace" between Bolivian coca farmers and the government could be nearing an end. A "one-year truce signed by growers and the administration of since-ousted President Carlos Mesa that allows limited cultivation of coca" will expire on October 1, and Bolivians are "scheduled to elect a new president in December. … 'If the government doesn't respect our right to determine our own

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livelihood, we will organize and we will fight,' said Gabina Contreras, a 54-year-old mother of 11 from the growers' collective Sindicato Esteban Arce, named for a Bolivian independence hero. 'Coca is like father and mother to us. We can't live without coca.'" The US State Department says Bolivia is the world's third-largest producer of cocaine.

"Guru Of Ganja" Appeals To Ninth Circuit Court Today. The Alameda (CA) Times-Star (9/13, Richman) reports, "More than two years after being convicted and sentenced for growing marijuana, Oakland's self-styled 'Guru of Ganja' will make his appeal Tuesday for why even a slap on the wrist was too much. Ed Rosenthal, a renowned pro-marijuana author, activist and cultivation authority, claims he never should have been convicted of three marijuana-growing felonies. The government claims he not only deserved conviction, but he also deserved at least two to five years in prison instead of his one-day, time-already-served sentence. Three judges of the 9th U.S. Circuit Court of Appeals will decide sometime in the few months after Tuesday's arguments. Rosenthal -- famed for his books and for the 'Ask Ed' column he wrote for 'High Times' magazine -- became a medical-marijuana cause celebre after his February 2002 arrest. Drug Enforcement Administration agents raided sites including his Oakland home office; an Oakland warehouse where he'd been growing marijuana; San Francisco's Harm Reduction Center medical marijuana club, which he'd supplied; and the HRC's founder's Petaluma home. After a five-day trial, a federal jury convicted Rosenthal on Jan. 31, 2003, of three marijuana-growing felonies. Upon learning afterward of the state and city protections Rosenthal had not been allowed to raise as a defense, several jurors renounced their verdict and rallied to his cause. U.S. District Judge Charles Breyer sentenced Rosenthal on June 4, 2003, to one day in prison."

UN Report Says Opium Prices Down Since Taliban's Fall In Afghanistan. The AP (9/12, Gedda) reports, "Favorable opium harvests in Afghanistan have led to a sharp drop in prices since the U.S. military forced the Taliban regime from power in 2001, according to a United Nations report. The Taliban imposed a ban on opium cultivation in 2000, triggering an eight-fold price increase to $675 per kilogram in late 2001, the U.N. report said. Since then good harvests coupled with improved yields dropped the price to $151 as of this past July, the study said. The report was outlined at a new conference by the U.N.'s anti-drug chief, Antonio Maria Costa. It will be presented to the House Committee on International Relations on Tuesday." Costa also noted that "Afghanistan accounts for 87 percent of world opium production, down 3 percent from last year," and that the "opium economy is netting traffickers $2.14 billion in 2005, about 41 percent of Afghanistan's gross national product, a 7 percent decline from last year. The death toll from Afghan opiate overdoses, mostly by Europeans, is estimated at 10,000 annually. About 100,000 others died from sickness related to heroin use."

Chicago Tribune Urges Realistic Action In Meth Battle. The Chicago Tribune (9/13) editorializes, "The summer began with a controversy over a new government anti-marijuana campaign that re-ignited a long-smoldering debate about the dangers of pot. It ended with a dust-up over methamphetamine, a potent and addictive drug also known as meth or crystal meth. … A Newsweek cover breathlessly called meth 'America's Most Dangerous Drug' and warned of an 'epidemic' that will soon be spreading to Your Town, if it's not already there. Meth is being called a 'plague' by some drug officials and likened to a forest fire sweeping the country. A recent survey of 500 sheriffs' departments in 45 states labeled meth the No. 1 scourge. Some in Congress are accusing the White House of largely ignoring meth to focus on battling marijuana." The Tribune continues, "All of that has prompted some critics to cry 'hype,' suspecting that the meth epidemic is a transparent ploy by law enforcement to drum up more federal money. … A dose of skepticism is warranted here. … 'Epidemic' implies that meth has swamped the country. That is not true. If you're a Drug Enforcement Administration agent in San Diego or Phoenix, the term is apt. But it's not if you're in Chicago. Cocaine and heroin are much bigger problems here, a DEA agent said. That's also true of many Northeastern cities, where meth remains a minor player. … But meth, sometimes called 'poor man's cocaine,' is popular and spreading." The Tribune concludes, "Atty. Gen. Alberto Gonzales recently declared that meth had overtaken marijuana as the most dangerous drug in America. That's certainly true in many places in this country. And where it isn't, it could be tomorrow. The focus now should be in making sure that meth doesn't become a full-fledged 'epidemic.'"

"DC Arsonist" Gets Life Plus 136 Years. The Baltimore Sun (9/13, Dolan) reports, "Thomas A. Sweatt, 50, the once-elusive 'firebug' responsible for setting more than 45 fires in Maryland, Virginia and Washington that killed two people" was sentenced yesterday in federal court "to serve the rest of his life in prison." The paper notes a law enforcement task force that "secretly labored for years from a warren of empty laboratories at the Beltsville Agricultural Research Center, chasing more than a thousand dead-end leads" finally cracked the case. The Sun adds, "In the end, it was a combination of sheer doggedness, a serendipitous meeting with military officials about DNA evidence from a pair of Marine dress-blues left behind at a fire scene, and an unusually cooperative suspect that cracked the case. "It's a

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relief," said Scott Fulkerson, a special agent from the Bureau of Alcohol, Tobacco Firearms and Explosives' Baltimore field office who was co-leader of the task force that operated for nearly two years. The paper said Sweatt was convicted of setting fires in the District of Columbia, Maryland and Virginia.

The Washington Post (9/13, B1, Castaneda, Wilber) reports, "Serial arsonist Thomas A. Sweatt offered an apology yesterday as he was sentenced to a life prison term for carrying out a deadly string of fires, but he provided no clue in court about why he spent nearly three years igniting homes where people were sleeping. It was the first time that Sweatt spoke publicly of the pain he caused by setting 45 houses and apartments on fire throughout the Washington region -- blazes that killed two elderly women and caused millions of dollars in damage. His words rang hollow, according to family members who said they want a motive and explanation." The paper adds, "During a news conference, Maryland US Attorney Rod J. Rosenstein praised the Serial Arson Task Force, which included members of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives and local police and fire department investigators from Maryland, the District and Virginia. He also cited the work of the Naval Criminal Investigative Service, which helped connect DNA from a single strand of hair left at a September 2003 fire scene to Sweatt." Rosenstein said that if the task force had not arrested Sweatt, "I have no doubt Mr. Sweatt would have set fire to more houses, and more people would have died."

The Washington Times/AP (9/13, Greenfield) reports, "Sweatt, 50, admitted setting 45 arson fires in the Washington area. Investigators know how he did it -- using jugs of gasoline, and clothing for a wick. But the reason why remained unanswered even as a federal judge sentenced him yesterday to life in prison plus 136 years. … The former fast-food restaurant manager admitted that between February 2003 and December 2004 he set 45 fires: 21 in the District, 17 in Prince George's County, three in Fairfax County, two in Montgomery County, and one each in Arlington County and Alexandria. Under a plea deal, local prosecutors agreed not to charge Sweatt with other arsons. Sweatt also pleaded guilty to two murder charges."

The New York Times (9/13, Gately) reports, "Federal Judge Deborah K. Chasanow sentenced Mr. Sweatt to life plus nearly 136 years, eliminating any chance of parole. Judge Chasanow said she would recommend to prison officials that Mr. Sweatt receive a psychiatric evaluation and, if necessary, treatment. But, she added, mental illness could not excuse killing two people and setting fire to more than 45 homes, as well as several automobiles." The Times adds, "Mr. Sweatt's arrest in April resulted from an intensive investigation by federal agencies and local law enforcement in Maryland, Virginia and the District of Columbia. Investigators broke the case when they found a pair of Marine Corps blue trousers near a fire scene. The trousers led them to Navy investigators, who had identified Mr. Sweatt as a suspect in car fires more than two years earlier near the Marine barracks in Southeast Washington. Mr. Sweatt consented to giving a DNA sample, which linked him to evidence from four of the fires, the authorities said, and he admitted to setting others next to entrances to homes using cloth wicks and one-gallon jugs of gasoline.

TAX:

Panel Concludes Treasury Tax Analysis Of Kerry Plan Was Lawful. The Wall Street Journal/Dow Jones Newswires (9/13, A4) reports, "An independent investigation concluded that the Treasury Department didn't break the law by calculating the cost of then-Democratic presidential candidate John Kerry's tax plan and posting the results on the department's Web site. 'We do not believe that Treasury employees completed the revenue estimate at issue for use by a campaign or a party, but as a defense of the [Bush] administration's policies,' according to a March 24 letter to the Treasury from Special Counsel Scott Bloch. The analysis was made with an eye toward congressional action, not to criticize Mr. Kerry, the special counsel's office said. The Hatch Act restricts political activities by government employees."

Professor Says Estate Tax Repeal Won't Doom Giving To Charity. Arthur C. Brooks, associate professor at Syracuse University's Maxwell School of Public Affairs, writes in the Wall Street Journal (9/13), "Americans bequeath $20 billion every year to nonprofits, including organizations that provide relief to disaster victims." Opponents of estate tax repeal say "that doing so removes a powerful philanthropic motive, because the portion of an estate willed to charity is tax-exempt. … When all is said and done, the Senate will most likely repeal or greatly reduce the estate tax without too much consideration of the interests of the nonprofit sector. This does not spell doom for charities, however. The key is not to focus on how the tax system can be used to get more money from the dead, but rather to look to the future and find ways to increase giving -- for humanitarian relief and other worthy causes -- among a new generation of heirs."

CONGRESS-ADMINISTRATION:

Roberts Gives Opening Statement As Hearing Get Underway. Supreme Court nominee John Roberts appeared before the Senate Judiciary Committee yesterday. With Democrats suggesting they would challenge his stands on civil rights and abortion, Roberts used his brief remarks to

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make the case for judicial restraint and pledge "humility" if confirmed. The consensus from the media coverage continues to be that Roberts is likely to win Senate confirmation.

Roberts' performance yesterday is receiving largely positive reviews, though many reports note a better test of how he stands under questioning will come today, when Democratic senators will begin pressing him for his views. As for yesterday, USA Today (9/13, Kiely, Biskupic) sums up the media's view when it calls Roberts "unflappable and succinct," with the Los Angeles Times (9/13, Savage, Gerstenzang) saying the nominee's statement "showed the qualities that made him a superb advocate before the Supreme Court." The Washington Post (9/13, C1, Davis), meanwhile, says that when listening to the senators, "Roberts was as still as he was silent, his face a wall. His lips were a tight line, except on the few occasions when he laughed at a joke -- mainly the recurring one about his relative youth and appearance of good health."

While the hearing received coverage on the network news and today's major newspapers, the Washington Post (9/13, A1, Babington, Becker) notes it "seemed almost anticlimactic, with public attention riveted on the aftermath of Hurricane Katrina." Moreover, "With few doubting that Roberts, 50, will ultimately win confirmation, senators of both parties used yesterday's forum to highlight their contrasting legal philosophies and views of the court's role in society."

NBC Nightly News (9/12, story 6, 2:15, P. Williams) reported Roberts "gamely listened for three hours to Judiciary Committee members, then spoke just six minutes, saying a Supreme Court justice should not make the law but must serve as an umpire." Committee Democrats "said they want to know if Roberts is committed to protecting civil rights, especially after Hurricane Katrina reminded us many Americans have yet to share in the nation's prosperity." Sen. Edward Kennedy (D) Massachusetts: "As one nation under God, we cannot continue to ignore the injustice, the inequality, and the gross disparities that exist in our society." Pete Williams: "The committee's only woman said a key issue for here would be Roberts's views on the constitutionally of abortion." Sen. Dianne Feinstein (D) California: "It would be very difficult, and I said this to you privately and I said it publicly, for me to vote to confirm someone whom I knew would overturn Roe v. Wade." Pete Williams: "But committee Republicans said Roberts should not have to say how he would decide any question." Roberts's supporters "predict a strong party line vote of approval in the committee, 10 to 8. And unless the next two days bring a surprise, even Democrats say he'll be confirmed."

The CBS Evening News (9/12, story 4, 1:55, Borger) reported senators are "going to start asking questions tomorrow. I think they're going to be tough because there is some confusion about where Judge Roberts stands on issue number one for Democrats, that's the question of Roe versus Wade or abortion." Democrats have "also given some other hints. They're going to ask questions about civil rights and about the separation of powers. … I don't think he's going to be off the hook. These questions could be tough."

ABC World News Tonight (9/12, story 6, 1:50, Vargas) excerpted Judge Roberts' opening statement: "Judges and justices are servants of the law. Not the other way around. Judges are like umpires. Umpires don't make the rules. They apply them. The role of an umpire and a judge is critical. They make sure everybody plays by the rules. But it is a limited role."

The Washington Times (9/13, Hurt) says "Roberts Jr. yesterday left little doubt why President Bush nominated him to be the next chief justice of the Supreme Court. … One conservative observer later remarked that Judge Roberts 'stole the show.'"

The New York Times (9/13, Greenhouse), in a story headlined "An Opening Performance Worthy Of An Experienced Lawyer," says "the White House team handling his nomination as chief justice had not seen the statement in advance, and Judge Roberts had not rehearsed it before the 'murder board' that helped prepare him for the confirmation process."

The Baltimore Sun (9/13, Shaw) says Roberts' remarks "echoed comments by Republican senators, who view Roberts as someone who will move the court to the right, in line with the wishes of their party's conservative base." But Roberts, "a White House lawyer under President Ronald Reagan, also spoke of his more recent work as an appellate attorney, representing clients against the government. He said that the rule of law enables a wronged citizen to prevail against the 'might' of the United States in court, 'a remarkable thing' that reflects that 'we are a government of laws and not of men.'"

The AP (9/13) notes "Republicans advised Roberts to follow the example set by recent nominees to the high court and avoid responding to probing questions on controversial topics."

The Washington Post (9/13, A7, Balz) says, "Judging from the opening statements, Democrats and Republicans approached the first day of the hearings with far different goals. Confident of the outcome of the Roberts confirmation battle, many Republicans came with a set of procedural talking points aimed at encouraging Roberts not to answer the Democrats' questions about his views on controversial issues before the court." That view "was summed up most succinctly by Sen. John Cornyn (R-Tex.), whose advice to the nominee was: 'Don't take the bait.'" Democrats "came with the intention of talking about their values and their view of the courts as protectors of women's rights and civil rights, and of the importance of preserving an expansive view of the federal

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government's powers in the face of a series of Supreme Court decisions limiting that power."

Reuters (9/13) quotes Roberts saying, "I have no agenda, but I do have a commitment. … I will be vigilant to protect the independence and integrity of the Supreme Court. I will work to ensure that it upholds the rule of law and safeguards those liberties that make this land one of endless possibilities for all Americans." Reuters adds, "While he is widely expected to win Senate confirmation, lawmakers told the 50-year-old Roberts to expect tough questions, beginning on Tuesday."

USA Today (9/13, Biskupic, Locy) reports Roberts also "played up his boyhood in Indiana, referring to the 'endless fields' on which he played and his belief in their 'endless possibilities.'" He also "vowed to protect the integrity and independence of the high court."

The New York Times (9/13, Purdum, Toner) reports, "No one in either party promised to oppose or support Judge Roberts outright, though some came close, including Senator Joseph R. Biden Jr., Democrat of Delaware, who said that on the basis of Judge Roberts's written record alone, 'I would have to vote no.'" Biden, "who is considering a presidential bid, added, 'This is your chance, judge, to explain what you meant by what you have said and what you have written.'"

The New York Times (9/13, Liptak) reports, "In opening statements…Democratic senators continued their calls for the release of documents from Judge Roberts's years as a senior lawyer in the first Bush administration." The documents, said Senator Patrick J. Leahy, "the senior Democrat on the Judiciary Committee, could help illuminate the nominee's views in three areas: civil rights, privacy and access to justice. While the first two areas have garnered attention from interest groups and the news organizations, the third category -- access to justice -- has received relatively little scrutiny."

The Wall Street Journal (9/13, Cummings, Bravin) reports Sen. Charles Schumer "acknowledged the nominee's accomplishments," but, the senator said, "the public must be able to 'assess not only the sharpness of your mind, but also the fullness of your heart. They need to believe that an overachiever can identify with an underdog who has nothing but the Constitution on his side.'"

The Legal Times (9/13, Mauro, Goldman) reports, "Roberts, accompanied by his wife, two children, and numerous family members, smiled easily and spoke briefly about his mentor Rehnquist. Roberts said he had spoken to some of the nurses who treated Rehnquist, and he was glad to hear that Rehnquist was 'not a good patient. He chafed at the limitations they tried to impose.' Rehnquist died at 80 of thyroid cancer. 'I will miss him,' Roberts said." The Times notes, "If Monday was any indication of what is to come, Roberts will have a relatively easy path toward Senate confirmation. Senate Democrats, while warning they will have tough questions for him on Tuesday and Wednesday, praised Roberts' intellect and outward qualifications for the job. Even Nan Aron, president of the liberal Alliance for Justice, said after the hearing Monday that Roberts had given a 'masterful performance -- and short.' She also said, 'He's like an actor in a show, and he's done a first-rate job.'"

More Commentary On Roberts Performance. Sandy Grady, a member of USA Today's board of contributors, writes this morning (9/13), "You might say Judge John Roberts is history's first made-for-TV nominee for the Supreme Court. With his smooth, bland face and careful haircut, he seems to burst fresh from a barbershop or makeup room." Roberts "seems created for his star role this week as network TV cameras focus on his grilling by the Senate Judiciary Committee." He is "a conservative with the demeanor of a friendly scoutmaster. Barring edgy surprises, he will likely cool the red-state-blue-state furor and be drafted to be the youngest chief justice since 1806."

John Tierney writes in his New York Times column (9/13), "He came, he charmed, he shut up. During the opening statements, the senators blathered away their time and more; Judge John Roberts used less than half of his to utter a few graceful generalities. He has made a career out of not saying the wrong thing. Why start now? … The only hope for Democrats is to try the tactics used by interrogation pros like Israeli airport screeners and US customs agents. These experts know that a smart criminal will have rehearsed a cover story for, say, what he was doing in London and why he's going to New York." But "if he's asked something unexpected…he has to change mental gears. He's apt to exhibit telltale signs of a liar under stress, like gazing upward and to his right as he answers." Tierney adds, "I'm not suggesting that Mr. Roberts is a liar, or that anything the Democrats ask today could stop him from being confirmed. But they might at least keep TV viewers awake by trying questions like these: If Roe v. Wade were a tree, what kind of tree would it be? Is there any chance that you could speed up Justice Stevens's retirement by addressing him as 'Gramps'?"

Roberts Rulings As Federal Judge Said To "Lean Right." In a story titled "Nominee's Rulings Lean Right," the Washington Post (9/13, A7, Lane) reports, "During his two years as a federal appeals court judge, John G. Roberts Jr. has compiled a voting record that places him to the right of the average member of the U.S. circuit courts, according to the first independent statistical study of his voting record." Roberts "was most conservative on issues involving civil rights and civil liberties, the study found. At the same time, President Bush's nominee for chief justice of the United States showed a liberal streak on economic regulation and labor issues; in those matters, he was significantly to the left of the average, according to the study."

Cases Involving Abortion, Assisted Suicide Laws Expected To Reach Court. The CBS Evening News (9/12,

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story 6, 2:35, Andrews) reported on the controversial cases that the court is expected to hear this year. Once case concerns "a New Hampshire law requiring teenaged girls to tell their parents before getting an abortion. It's not parental permission, says state representative Barbara Hagan, just notification." It is "what many see as the biggest abortion case in five years. Why: Because there is no exception in the law to provide for the health of the mother. To abortion rights advocates, the women's health exception is a defining issue. To them, any justice who doesn't believe the women's health exception is a fundamental right probably doesn't believe in 'Roe v. Wade.'" Karen Pearl, Planned Parenthood Federation of America: "And with Judge Roberts joining the court, we need to know whether he will continue to say that women's health is that important that it cannot be violated." Andrews: "But abortion opponents call the health exception a sham, because in practice 'health' can mean almost anything." Judge Roberts "will also face a crucial states' rights case. Can terminally ill patients in Oregon, patients like Jack Neubold, kill themselves with a legal prescription?"

The Wall Street Journal (9/13, Cummings) says "earlier public statements suggest Judge Roberts, seen as an ally to social conservatives on abortion, could disappoint them on whether terminally ill patients may end their lives. When the Supreme Court last weighed in on the matter, in 1997, Judge Roberts discussed the cases in a television talk show." The high court "had just decided to protect prohibitions on assisted suicide in Washington and New York states. Judge Roberts, at the time a lawyer in private practice, defended the decision to maintain the restrictions -- invoking states' rights, not morality."

No Indication Seen That Roberts Was Involved In Iran-Contra. The Christian Science Monitor (9/13, Richey) reports, "As a member of the White House counsel's office in 1985 and early 1986, Roberts was in close proximity to what ultimately became the Reagan administration's Iran-contra scandal." As early as January 1985, "Roberts was asked to give a legal opinion about White House involvement in private fundraising to help the contra forces fighting Nicaragua's Sandinista government. He also wrote several memos in early 1986 concerning the private fundraising activities of individuals who were later prosecuted in the Iran-contra affair." But "Roberts's White House memos, made public at the National Archives, are unlikely to provide much grist for conspiracy theorists seeking to link the former Reagan staffer to the scandal." Instead, "Roberts's memos on contra-related issues reveal a cautious lawyer who consistently sounded alarm bells about appearances and who urged compliance with the letter and spirit of the law. His words convey no sign of a devious consigliere searching for ways to bend the law or conceal lawless activities." The Monitor adds, "More important, the memos suggest that Roberts and his colleagues in the White House counsel's office were outside the loop on the secret dealings of Lt. Col. Oliver North at the National Security Council."

Coburn Went From Crossword Puzzle To "Emotional Overdrive." The Washington Post (9/13, A7, Milbank) reports, "Yesterday's opening of the John Roberts confirmation hearings was a time for historic firsts." Schumer "made 49 first-person references in a 10-minute statement that was, ostensibly, not about himself. Sen. Tom Coburn (R-Okla.) showed exceptional emotional versatility, working a crossword puzzle during the hearing and then choking back a sob while making a prosaic statement about partisanship. … A television camera behind Coburn caught the senator working a crossword puzzle. But Coburn went from detachment to emotional overdrive when it was his turn to talk; seconds after asserting that 'a super-legislator body is not what the court was intended to be,' he paused and wept." It was "the biggest Senate choke-up since Sen. George V. Voinovich (R-Ohio) cried while opposing the nomination of the ambassador to the United Nations -- and Coburn has to get through three more days of hearings."

Conservatives Happy With Specter So Far. Roll Call (9/13, Kane) reports, "After bitterly attempting to deny Senate Judiciary Chairman Arlen Specter (R-Pa.) the gavel, conservative activists are now beginning to praise the five-term moderate as an unexpected ally in several key battles this year." Specter, who "was nearly denied the chairmanship last November after an eruption on the right regarding comments he made about Roe v. Wade," has won "some grudging respect from conservatives in recent weeks. Those activists have been particularly pleased with his handling of the run-up to this week's confirmation hearing for Judge John Roberts, who is President Bush's nominee for chief justice of the United States."

Rehnquist Remarks On Nomination Politics Noted. ABC World News Tonight (9/12, story 7, 2:00, Vargas) reported on remarks the late Chief Justice William Rehnquist made to a group of high school students in 1990. Asked about the "politics that go into the nomination" process, Rehnquist said, "The president has traditionally tried to find a nominee who was sympathetic to the president's general approach to how…judicial philosophy. Now, I don't lots of presidents have terribly well-defined judicial philosophies. They have a lot other things on their mind, as well."

More Commentary. In an op-ed in the Los Angeles Times (9/13), Margaret Carlson writes, "I'm as excited as anyone about the prospect of 'Advise and Consent, the Sequel,' with a budget rivaling 'War of the Worlds' and advance hype just short of Tom Cruise jumping on a couch, declaring his love for Arlen Specter. … Eighteen years after 'Borking' became part of the language, the two main protagonists in that battle are still at it. Specter, the Senate Judiciary Committee chairman, got in one more lick Sunday against the Supreme Court nominee he defeated back then,

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Robert Bork. 'If his "original intent" stood, we'd still be segregating the United States Senate with African Americans on one side and Caucasians on the other side,' Specter said on CNN. Bork said later in the same program: 'I know Specter, and the truth is not in him.'" Carlson continues, "Somehow Alberto Gonzales, one of the potential candidates to succeed retiring Justice Sandra Day O'Connor, seems incapable of generating that level of venom. He may prove to be a stealth candidate with rock-hard positions we don't know about, but he comes across as milder than that. The right wing jokes that 'Gonzales' is Spanish for 'David Souter.' And the left dislikes him for condoning torture at Abu Ghraib. The bipartisan dismay has lent Gonzales an air of being just right." Carlson adds, "I'm not saying Bush is going to nominate Gonzales, the old friend he huffily told folks to lay off of as he flew to the G-8 summit in Scotland. He might even nominate a real hard-liner, lure the Democrats into eliminating him and then get whomever he wants to replace O'Connor and Chief Justice William Rehnquist when he retires. … What I am saying is that although Bush looks more and more messianic, he's got enough of his father's pragmatism in him to want to overturn Roe vs. Wade about as much as he wants to read the collected works of Shakespeare. … If Roe goes down, so does his majority, his legacy and present and future politicians bearing the name Bush. Traditional Republicans who voted for Bush for his pro-corporate, pro-tax-cut views will put aside their selfish concerns and flock to pro-choice candidates, who tend to be Democrats. He doesn't want to be remembered as the guy who knocked down the late Lee Atwater's Big Tent."

Bush Visits New Orleans, Says Relief Effort Did Not Discriminate Against Blacks. President Bush yesterday visited New Orleans for the third time to oversee hurricane recovery efforts. The network coverage of the Bush's trip was pointedly skeptical, with reporters implying that it was another effort to buoy the President's sagging job approval ratings. Bush was portrayed as irritated when questioned about the speed of the relief efforts. As ABC's Lisa Stark put it, he "bristled" when asked about the timeliness of the Federal response. The networks all noted it was Bush's first trip to downtown New Orleans, and CBS, which has had the most negative view of the city's progress, went so far as to say he "didn't find much good news." Bush also firmly denied that race played a role in the Federal Government's perceived lack of effort in the early stages of Katrina's aftermath.

The CBS Evening News (9/12, story 2, 3:40, Schieffer) reported, "President Bush went back to New Orleans today, but he didn't find much good news. There was more trouble with one of the levees, and authorities confirmed a grim discovery, the bodies of 45 patients in a hospital that was thought to have been evacuated." CBS (Pitts) added, "Late this afternoon, a levy in northeast New Orleans broke, flooding some neighborhoods all over again. Hours earlier, President Bush was in town, managing his own political crisis. This marked the President's third trip to the city, his first actual on-the-ground survey of the devastation. But if he was hoping to reach out to the citizens of New Orleans, he was too late, since most of the victims are out of town, evacuated days ago. When asked if race played a role in his response, the President had a stern answer." President Bush: "My attitude is this: The storm didn't discriminate, and neither will the recovery effort."

ABC World News Tonight (9/12, story 3, 2:35, Vargas) reported, "Two weeks after Katrina, a new ABC News poll finds that 63% of Americans still believe the Federal Government lacks a clear plan to deal with the devastation. President Bush was in Louisiana and Mississippi again today, trying to counter that perception." ABC (Stark) added, "The President on his third tour of the devastated area today, bristled at continued questions about the government's slow response." President Bush: "I know there's been a lot of second guessing. I can assure you that I'm not interested in that. What I'm interested in is solving problems. There will be time to take a step back and to take a sober look of what went right, what didn't go right." Stark: "The President got his first close-up look at the flooding in New Orleans. His previous visits had been fly-overs. Today, he stood out in the open, in a military motorcade. Later, flying to St. Bernard Parish, one of the hardest-hit, to meet privately with state and local leaders, before going to a damaged elementary school in Gulfport, Mississippi."

NBC Nightly News (9/12, lead story, 2:20, O'Donnell) reported, "Abandoning the customary bulletproof motorcade, for a time today the President perched atop an open air military truck for a hands on look at the ruins of New Orleans he had not yet seen."

The Los Angeles Times (9/13, Chen) reports Bush said Monday that New Orleans "was 'on the way' to recovery and stated that there was now 'close coordination' among all levels of government." Bush also "alluded for the first time to the disproportionate number of African Americans stranded by the flooding in New Orleans, and he vowed to look into growing concerns among homeowners who lacked flood insurance coverage." Despite the "relief progress that he said he noted Monday — Bush cited a gas station 'up and running' in Gulfport, Miss. — the president warned: 'There's a lot of serious and hard work that's yet to be done.'" Asked "about the large numbers of blacks who were trapped in the Superdome and the convention center in New Orleans," Bush said, "My attitude is this: The storm didn't discriminate, and neither will the recovery."

The AP (9/13, Loven) reports Bush "denied that poor, black victims of Hurricane Katrina were ignored because of

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their race." Bush "replied testily to a reporter who asked whether he felt let down by federal officials in responding to the disaster." Bush "seized on the news of falling water levels throughout New Orleans and pronounced the city on the mend."

Reuters (9/13, Christie) reports Bush "rejected charges the government was slow to respond to Hurricane Katrina because most of the victims were black or because the nation's military was over-extended in Iraq." He also said "it was 'preposterous' to claim that the Iraq war had drained military resources, leaving too few troops to help out with the hurricane." Reuters adds that in a "new blast at the administration, civil rights leader Rev. Jesse Jackson said the government was now discriminating against local businesses by ensuring that big corporations with close ties to the establishment received all the major rebuilding contracts."

Bloomberg (9/13) reports Bush "promised to take 'a sober look' at how emergency agencies reacted after the storm" and that "every citizen of the affected areas will get aid." The President "made his remarks after touring the city's French Quarter and other neighborhoods in a caravan of military vehicles along with Mayor Ray Nagin and Louisiana Governor Kathleen Blanco."

Knight Ridder (9/13, Robbins, Dodd) reports President Bush "got his first close look Monday at flood-ravaged New Orleans, even as state health officials revealed another grim discovery: 45 people found dead at a hospital evacuated more than a week ago." The President "rebutted charges of a slow response by the federal government, but that didn't save the job of Michael Brown, the embattled Federal Emergency Management Agency chief. He resigned from his post on Monday."

The Washington Times (9/13, Curl) reports President Bush "yesterday rejected charges that the federal government's emergency response was slow because most of the victims were black." Mr. Bush "replied angrily to another reporter who asked whether he felt let down by federal officials' response to the disaster."

USA Today (9/12, 12A) editorializes, "With his poll numbers sagging, President Bush made his third trip to the hurricane-ravaged Gulf Coast on Monday. Though the trip had many purposes, one certainly was to burnish an image tattered by his administration's bungling of relief operations after Hurricane Katrina struck."

Rice Defends Bush Record On Race. The New York Times (9/13, Weisman) reports, Secretary of State Condoleezza Rice said yesterday that "the hurricane disaster that disproportionately struck poor blacks in New Orleans 'gives us an opportunity' to rectify historic injustices that she experienced as an African-American growing up in the South." Asked "what she told foreign leaders wondering about racial discrimination and poverty in the United States", Rice said, "You go to any other meeting around the world and show me the kind of diversity that you see in America's cabinet, in America's Foreign Service, in America's business community, in America's journalistic community." She added, "Show me that kind of diversity anyplace else in the world, and I'm prepared to be lectured about race." She also "rejected as 'poisonous' any suggestion that President Bush himself would discriminate racially against any victims of the hurricane and said that his record on education, including aid to historically black colleges and the setting of standards for schoolchildren, demonstrated that he believed passionately in racial equality."

In Katrina Aftermath, Polls Show Nation Divided By Race. The Washington Post (9/13, A8, Fletcher, Morin) reports, "Touring devastated portions of New Orleans yesterday, President Bush sought to reassure the public that the government is responding to Hurricane Katrina with equity and dispatch, even as his standing hit record lows amid broad support for an independent investigation of the federal response to the storm. A new Washington Post-ABC News poll found that clear majorities of Americans disapprove of the way officials at all levels of government are handling the recovery from Katrina. A 54 percent majority disapproved of Bush's response to Katrina, while an even larger majority -- 57 percent -- say state and local officials should bear responsibility for the problems." These attitudes "fracture along clear racial lines. Nearly three in four whites doubted the federal government would have responded more quickly to those trapped in New Orleans if they had been wealthier and white rather than poorer and black, the poll found. But an equal share of blacks disagreed, saying help would have come sooner if the victims had been more affluent whites." The poll also found that "76 percent of the public favors an investigation of federal storm response efforts by an independent commission similar to the one that probed the Sept. 11, 2001, terrorist attacks." The poll of 1,201 randomly selected adults was conducted September 8-11 and has a margin of error of +/-3 percent. The Post adds, "Bush aides privately view the latest poll numbers with gloomy realism but take heart from Bush's past ability to push the Republican Congress to follow his lead even when his popularity has flagged."

USA Today (9/13, Page, Puente) reports, "There is a lot that Americans agree about in the wake of Hurricane Katrina: that government agencies initially stumbled but are doing better now, for one, and that more money and attention should be paid to addressing the issue of poverty. But a USA TODAY/CNN/Gallup Poll taken Thursday through Sunday finds a stark racial divide on other issues, including attitudes toward the hurricane's victims, the performance of President Bush and the reasons the government's early response was so wanting. Six in 10 African-Americans say the fact that most hurricane victims were poor and black was one reason the federal government failed to come to the rescue more

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quickly. Whites reject that idea; nearly 9 in 10 say those weren't factors." And "the racial divide…could affect the debate over addressing poverty and rebuilding the Gulf Coast in the hurricane's wake." The survey also found that "African-Americans by 74%-16% have an unfavorable opinion of the GOP. By more than 3-to-1, they say Bush doesn't care about black people. By more than 2-to-1, whites say he does." The poll of 1,005 adults has a margin of error of +/-3 percent. Also the president's job-approval rating "is 46%, essentially the same as the 45% rating in the Gallup Poll 10 days earlier." USA Today continues, "the nation that champions equal rights around the globe has not resolved its own racial tensions." In all, "one in four of those surveyed blame the mayor of New Orleans; another one in four blame the residents themselves. One in five blame the Bush administration. But blacks are much more likely than whites to hold the federal government responsible. Whites are much more likely to hold the residents responsible."

Bush Job Approval Falls To 42% In ABC News/Washington Post Poll. ABC World News Tonight (9/12, story 5, :35, Vargas) reported, "Our latest ABC News/Washington Post poll finds that dissatisfaction, however, with the government's response to the hurricane is growing and hurting President Bush's overall approval rating. It now stands at just 42%, the lowest it's ever been. And one more finding that gets at the division in the country after the hurricane, an overwhelming number of African-Americans, more than 70%, say that the government would have responded more quickly to the disaster in New Orleans if more of the victims had been wealthy and white, rather than poor and black. Only 20% of whites agree with that."

Columnist Addresses Plight Of Blacks In New Orleans. In a USA Today (9/12) column, DeWayne Wickham writes, "It wasn't long after the tortured images of thousands of black men, women and children holed up in the Louisiana Superdome and Morial Convention Center started appearing on TV newscasts that talk of an old conundrum surfaced. Was it the color of their skin or their place in society that made the suffering among that city's blacks so great? The race or class question pits those who believe that racism is the root cause of much that ails blacks against those who say it is their economic and social condition that is the problem." Wickham concludes that while both race and class contributed to the initial suffering, the race of the victims played a part in delaying the response of the government.

Recent Discontent Said To End "Bush Era." In a Washington Post (9/13, A27) op-ed, E.J. Dionne, Jr., writes, "The Bush Era is over. The sooner politicians in both parties realize that, the better for them -- and the country. Recent months, and especially the past two weeks, have brought home to a steadily growing majority of Americans the truth that President Bush's government doesn't work. His policies are failing, his approach to leadership is detached and self-indulgent, his way of politics has produced a divided, angry and dysfunctional public square. We dare not go on like this." Dionne concludes that Bush's most helpful course "lies in recognizing that the Bush Era, as he and we have known it, really is gone. He can decide to help us in the transition to what comes next. Or he can cling stubbornly to his past and thereby doom himself to frustrating irrelevance."

Obama's Comments On Hurricane Response Criticized. George Will writes in the Washington Post (9/13, A27) that Sen. Mary Landrieu's speech on the Senate floor moved some senators to tears. But you "can no more embarrass a senator than you can a sofa, so the tears were not accompanied by blushing about having just passed a transportation bill whose 6,371 pork projects cost $24 billion, about 10 times more than the price of the levee New Orleans needed. Louisiana's congressional delegation larded the bill with $540,580,200 worth of earmarks, one-fifth the price of a capable levee." Will notes Sen. Barack Obama's "lament about the president's inadequate 'empathy' and an amazing criticism of the government's 'historic indifference' and its 'passive indifference' that 'is as bad as active malice.'" Obama "is just 30 months older than the 'war on poverty' that President Johnson declared in January 1964. Since then the indifference that is as bad as active malice has been expressed in more than $6.6 trillion of anti-poverty spending, strictly defined." Obama might "care to note three not-at-all recondite rules for avoiding poverty: Graduate from high school, don't have a baby until you are married, don't marry while you are a teenager. Among people who obey those rules, poverty is minimal."

Embattled FEMA Director Brown Resigns. Days after being relieved of his duties in the hurricane zone, embattled Federal Emergency Management Director Michael Brown resigned his post. The White House named David Paulison, currently director of emergency preparedness division at FEMA, as acting director. While Paulison is receiving cautious praise, most analysts agree that Administration critics are unlikely to soften their censure of the relief effort. However, as CNN's Anderson Cooper 360 Degrees (9/12, Malveaux) said last night, Brown's resignation "clears the way for the administration to move forward on two fronts: recovery and rebuilding public perception." Another major theme in several TV and print reports, such as the one in CNN's The Situation Room (9/12, Malveaux), was that Brown's departure "is really a rarity for the White House," which "puts a premium on loyalty. But it was clear from the early days there was a serious problem here."

ABC World News Tonight (9/12, story 3, 2:35, L. Stark) reported Brown's resignation was "probably not a big surprise." Brown said he "resigned because he had become a distraction." The "embattled FEMA director" also "defended his agency's handling of Hurricane Katrina. And said the

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country needs a legitimate debate about FEMA's role." Brown was shown saying, "We're not a first responder agency. We're there to coordinate and help people prepare and coordinate in times of disaster. If the country wants us to be more, we should have a great public policy debate whether that's true or not."

The CBS Evening News (9/12, story 3, 2:00, Stewart) reported, "Rarely has a White House favorite fallen so far, so fast. A little more than a week ago, FEMA Director Mike Brown was lavished with praise for his job on Hurricane Katrina. The President even called him by nickname." But a "week later, Brown had been replaced. The President was facing an avalanche of personal criticism he had responded too slowly to the crisis, and today, Brown took a political bullet for the White House with a terse resignation announcement."

CNN's The Situation Room (9/12, Malveaux) reported, "Senior administration officials setting up a timeline for us, saying it was Wednesday, just two days after the hurricane hit, when Homeland Secretary Michael Chertoff told the president at the White House in a morning meeting that he was essentially going to move him to a desk job, that he would be out of the field. They were not happy with his performance then." Thursday, "Chertoff traveling with Vice President Cheney in the damaged regions. Cheney saying he heard an earful from Republicans, as well as Democrats, who were unhappy with the FEMA effort, and then it followed with Friday, of course, Chief of Staff Andy Card got word that the choice to replace him, at least on the ground, would be Thad Allen. Even on that day, the president was not willing to disparage Mike Brown in any way, in fact saying, 'Brownie, you are doing a heck of a job.'"

The Los Angeles Times (9/13, Gerstenzang, Chen) reports Brown "often" presented "an upbeat assessment of the region's recovery, even as television pictures, playing on a split screen, showed the scope of the floods in New Orleans, scenes of devastation, and the bodies of victims left unattended." The Times adds, "Political analysts said Brown's departure should surprise no one, considering that he was dismissed Friday as the Bush administration's point man on the Katrina relief effort and sent back to Washington, ostensibly to oversee FEMA's preparedness for other hurricanes."

Reporter David Shuster spoke about Brown on MSNBC's Hardball (9/9), "The people here [in New Orleans] cannot forget the images on that fourth day when people were at the convention center. 15,000 people who had gone four days without food and water and that night on television, Michael Brown didn't know anything about it. That is the reason why people here in New Orleans over the last week have said that Michael Brown deserves to be sacked and why people will be glad that he has."

Knight Ridder (9/13, Dodd) reports, "Brown told his senior staff that he was resigning at about 3 p.m. Monday, according to FEMA press secretary Sharon Worthy, who was among those informed by Brown. She said the group of about 12 people took his resignation 'professionally.'"

The Pittsburgh Post-Gazette (9/13, McFeatters) reports, "At the White House there was a sense that with Brown gone, President Bush could get his presidency back on track and repair the public relations damage done when millions of people in American and around the world began criticizing the administration for how the aftermath of Katrina was handled." Brown "was deeply humiliated last Friday when Chertoff publicly relieved him of command of the disaster relief operations." The Wall Street Journal (9/13) adds "that move was widely seen as a precursor to Mr. Brown's eventual departure especially given that some members of Congress said that a reassignment wasn't enough." Senate Democratic Leader Harry Reid of Nevada and three other senators "said in a letter to President Bush on Friday that Mr. Brown's 'continued presence in this critical position endangers the success of the ongoing recovery efforts.'"

The Financial Times (9/13, Daniel) also says Brown's decision "follows an embarrassing public dressing down on Friday, when he was relieved of command of events as head of the Federal Emergency Management Agency (Fema) and sent back to Washington." His departure "represents a rare resignation by an official of the Bush administration, which does not like admitting mistakes." It "comes a week after President George W. Bush praised his handling of the crisis, saying: 'Brownie, you're doing a heck of a job.'"

Bush Says He Didn't Know About Brown Resignation. The CBS Evening News (9/12, story 3, 2:00, Stewart) reported, "In New Orleans on his third visit to the disaster site, President Bush claimed not to know anything of the resignation, and bristled when asked if he felt Brown and FEMA had let him down." President Bush: "Look, there will be plenty of time to play the blame game. That's what you're trying to do. You're trying to say somebody is at fault."

NBC Nightly News (9/12, lead story, 2:20, O'Donnell) reported, "In Mississippi, the President distanced himself from the biggest political casualty of the Katrina disaster, FEMA Director Michael Brown, who submitted his resignation today." President Bush: "I have not talked to Michael Brown or Mike Chertoff, that's who I'd talk to. As you know, I've been working." O'Donnell: "Only ten days ago, Mr. Bush stood shoulder-to-shoulder with Brown."

Later in its broadcast, NBC Nightly News (9/12, lead story, 2:20, O'Donnell) said the President "tried to direct attention away from Brown and back on survivors' needs." President Bush: "There's time to, you know, try to blame somebody, but they want to get their lives back together."

The Baltimore Sun/AP (9/13, Superville) reports, "The president was told of Brown's resignation earlier today and spoke to Homeland Security Secretary Mike Chertoff, who was Brown's boss, from Air Force One in the afternoon as he

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flew back to Washington from an overnight visit to the region." White House spokesman Scott McClellan "said the White House did not seek Brown's resignation. 'This was Mike Brown's decision and we respect his decision,' McClellan said." USA Today (9/13, Hall) adds McClellan "praised Brown's work but did not mention Katrina. 'The president appreciates Mike Brown's service,' he said. 'Mike has done a lot of great work on a number of hurricanes.'"

Paulison, A Democrat, Named Acting FEMA Director. Bush's appointment of David Paulison as acting FEMA director received cautious praise from the media. The main theme is Paulison's coverage was his past experience in emergency response, with some print outlets noting he is a registered Democrat. ABC World News Tonight (9/12, story 3, 2:35, L. Stark) said that "unlike Michael Brown, Mr. Paulison has a background in emergency management." Reuters (9/13) reports Bush made the selection "on an apparent nod to demands that Brown be replaced by someone with experience in emergency response," adding Paulison is "a veteran firefighter who now runs FEMA's preparedness division."

CNN's Paula Zahn Now (9/12, Zahn) noted that Paulison "was the guy behind the government's suggestion that everyone buy plastic sheeting and duct tape in case of a terrorist attack." USA Today (9/13, Eisler, Hall) adds "the advice became a staple of late-night comics, who usually misattributed the comment to Tom Ridge, then secretary of Homeland Security." The Bush administration "hasn't put Paulison in front of reporters much since then. Now, he steps into a lead role directing federal response to one of the nation's worst natural disasters." In a statement, Chertoff said, "I appreciate his willingness to take on the vital task of leading FEMA during this challenging time." Paulison, "a Democrat, was flying back from the Gulf Coast on Monday and was unavailable for comment on his new appointment."

The New York Times (9/13, Kornblut) also says that "at least on one political score, he departs from the typical Bush administration faithful: As of four years ago, he was a registered Democrat, according to an article in The Miami Herald at the time." That "creates at least the perception that he is independent of the administration's political machine -- unlike Mr. Brown, who got his job on the recommendation of a former senior campaign adviser to Mr. Bush, Joe M. Allbaugh, an old friend from college."

The Pittsburgh Post-Gazette (9/13, McFeatters) reports Paulison "is head of the US Fire Administration and leads FEMA's emergency preparedness force. He has more than 30 years' experience working in fire prevention and containment. The former fire chief in Miami, Paulison dealt with the aftermath of Hurricane Andrew in 1992." Paulison "will be the acting director of FEMA -- if he is nominated to the directorship he must be confirmed by the Senate."

The AP (9/13, Fournier) reports, "As chief of the Miami-Dade Fire Rescue Department, Paulison led 1,900 personnel under a $200 million operating budget. He was also in charge of Dade County's emergency management office, according to his biography." Fox News' Special Report (9/12) also said Paulison's "official bio says he has fire and rescue experience."

The Washington Post (9/13, A12, Hsu, Lee) profiles Paulison in s story titled "Paulison Is Skilled At Disasters." International Association of Fire Fighters General President Harold A. Schaitberger, "whose organization Paulison formerly headed, said Paulison 'not only has the administrative experience and skills that you need at the bureaucratic level, he really understands what the troops need on the front line.'"

Brown Says He Made Decision After Sunday Talk With Card. The New York Times (9/13, Stevenson) reports, "In an interview Monday night, Mr. Brown said that he felt that his role had become an obstacle to the agency's work. 'The press was too focused on what did we do, what didn't we do, the whole blame game,' he said. 'I wanted to take that factor out of the equation, so that the people at FEMA, who are some of the most hard-working, dedicated civil servants I have ever met, could just go do their job.'" Brown "said he had felt no pressure to resign. He said he made his decision on Sunday with his family after a long conversation on Saturday night with Andrew H. Card Jr., the White House chief of staff. 'Andy was very, very supportive of me,' Mr. Brown said."

CNN's The Situation Room (9/12, Meserve) reported, "I'm told there was a phone conversation on Saturday between Michael Brown and Andy Card, the White House chief of staff. And that Brown came to the conclusion that he should leave. I'm told by a FEMA spokeswoman he was not under any pressure to do so. In his letter to the president this morning, I'm told he said that it was important to leave now to avoid further distraction from the ongoing mission of FEMA and that it has been an honor to serve the president, work with the people of FEMA and help Americans in their darkest hour."

Democrats Say Brown's Departure Long Overdue. The Washington Times (9/13, Hudson) reports, "Some Democrats said Mr. Brown was right to resign, but others continued to criticize Mr. Bush for not firing the director. 'Michael Brown's departure from FEMA is long overdue, and his resignation is the right thing for the country and for the people of the Gulf Coast states,' said House Minority Leader Nancy Pelosi, California Democrat."

The Los Angeles Times (9/13, Gerstenzang, Chen) reports Sen. John F. Kerry "issued a six-word statement: 'Long overdue. Too little, too late.'"

CNN's The Situation Room (9/12, Henry) reported that "the Republican Party believes this is good politically because

it's going to take this issue off the table -- getting Mike Brown out of the way. But I think that may be wishful thinking because the Democrats are pouncing here. Democrats are basically saying, they are emboldened. They have been calling for Mike Brown's head for over a week now. They've gotten it. So they want much more. Just a few moments ago, Senator Hillary Clinton said that they basically need an independent commission. She reiterated her call for just that."

NBC Nightly News (9/12, lead story, 2:20, O'Donnell) reported "some say Brown's exit won't take the heat off the President." Stuart Rothenberg, political analyst: "I think FEMA was such a problem and Brown himself was seen as epitomizing that problem that getting him away really won't help the President fundamentally."

CNN's Anderson Cooper 360 Degrees (9/12, Cooper) also reported that "criticism over the federal government's response to Hurricane Katrina likely won't end with Michael Brown's resignation. Blame is being pointed in every direction, not just towards the feds, but also local and state representatives. Other figures might be brought down because of the disaster."

Vitter Says Bureaucratic Model For FEMA Should Be Discarded. Sen. David Vitter was asked on CNN's Anderson Cooper 360 Degrees if the position of FEMA director should be a "patronage job." Vitter said, "I think we need to look broader than that and look at the model for the bureaucracy of FEMA, because in my opinion this wasn't a failure of one person, although it was that also. It was a failure of the whole bureaucracy, and the solution to that isn't getting a new head bureaucrat or a new type of head bureaucrat. So I think we need to ask some truly fundamental questions about why that didn't work, and also what worked. The military response, which largely worked; the private industry, local citizen response, private initiative, which worked. We need to ask probing questions about that, to figure out a new model, because I think the whole bureaucratic FEMA model is what has to be probably discarded."

Frist Not Surprised By Brown Resignation. Senate Majority Leader Bill Frist was asked on CNN's The Situation Room (9/12) about Michael Brown's decision to resign as FEMA director. Frist said," I am not surprised by it. … I, too, have not talked to anybody about the resignation today. I've heard it through news reports. I'm not terribly surprised by that, but I am very pleased with the leadership that we have now, the command and control we have." Asked if the President should select someone 'who is a career professional as opposed to a political ally" to replace Brown, Frist said, "First of all, let me say I agree with your whole premise there," adding that "we need people in that position with authority, with good command and control, with a lot of experience, real-life experience. And then we got to go back and fix the entire system."

Managing Hurricane Relief Funds Called Major Test For FEMA. A front page story in the Washington Post (9/13, A1, Witte, Babcock) reports, "The Federal Emergency Management Agency will receive most of the $62 billion Congress has approved for Hurricane Katrina relief efforts, setting up a major test of the agency's ability to distribute the cash and monitor the private contractors who will do much of the work. FEMA's track record in managing much smaller amounts of money has raised concerns." The Post adds, "The agency has already begun awarding hundreds of millions of dollars in no-bid Katrina contracts under loosened government rules designed to get relief and rebuilding efforts underway quickly. As the money begins to flow, some fear the agency could become overwhelmed."

More Commentary. In an editorial titled "Goodbye, 'Brownie,'" the Washington Post (9/13) says, "No one will be sorry or surprised to learn that Michael D. Brown…intends to spend more time with his family. Mr. Brown will be forever remembered as the man who, at the height of the New Orleans evacuation crisis, appeared not to know that 25,000 people were crammed into the city's convention center without food, water or toilets, despite television reports broadcasting that fact for the previous 24 hours." The Post notes Brown's resignation letter, in which he said "The focus has got to be on FEMA," adding, "We agree -- although we would add that the focus should be on presidential attention to FEMA, as well as congressional oversight and funding of FEMA, and not on FEMA's position in the federal bureaucracy." Turning to Paulison, the Post adds that he "may be qualified. But before coming to that conclusion, it would help if Congress and the White House take a bit more than 42 minutes to find out."

Mike Walker, a former deputy director of FEMA and former acting secretary of the Army, writes in today's Washington Times (9/13), "Don't blame FEMA's great professional, dedicated and unselfish employees for what happened in New Orleans. FEMA did not fail in the early response because of these great Americans. They were totally focused on responding to the tragedy and saving lives. Nor did FEMA fail because of an over-emphasis on terrorism prevention." FEMA "did fail because of a lack of effective leadership and its refusal to adapt to the new realities of the post-September 11 world." He adds, "The problem at FEMA is not a structural problem. FEMA did not fail because it is now part of the Department of Homeland Security. Making FEMA an independent agency again would only further complicate the nation's ability to shape the agency into a 21st century, forward-leaning, truly all-hazard response agency." But "the next director of FEMA must understand emergency management. He must appreciate his people. He must listen to his state and local partners. And, most importantly, he must understand FEMA's role in the post-September 11 world."

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George Melloan writes in the Wall Street Journal (9/13) that "the blame game is missing the mark. George W. Bush is being accused by his natural enemies of everything from being asleep on the job to racism. But his real error came long before Katrina, when he and Congress created a Department of Homeland Security (DHS) in response to 9/11. … Creating a bigger bureaucracy to deal with the failures of two existing bureaucracies -- the FBI and the CIA -- was simply giving free rein to Beltway gluttony. The DHS has spent many billions, but when a hurricane equivalent of a weapon of mass destruction struck, the DHS was too cumbersome to respond quickly." Melloan adds, "If an agency is meant to cope with emergencies, don't put lawyers in charge. DHS Secretary Michael Chertoff is an admirable man but former federal judges aren't trained for quick executive action."

Contrary To Chertoff Claims, Officials Said To Have Known Damage Katrina Would Cause. CNN's Anderson Cooper 360 Degrees (9/12, Foreman) reported, "When Katrina slammed into the Gulf Coast, federal, state and local officials, despite claims to the contrary, knew everything that was coming. The massive storm surge, the failing levees, the stranded survivors, the collapse of roads, bridges, electricity and phones. They had planned for and trained for all of it. And now with FEMA Director Michael Brown bowing out, accusations against others at all levels are rising like flood waters." CNN added, "The head of Homeland Security, which oversees FEMA, Michael Chertoff, has insisted for two weeks he had no warning of how bad Katrina could be. … But it turns out the National Weather Service issued a detailed message a day before the strike, saying buildings would be leveled, high-rises crippled and most of the area will be uninhabitable for weeks, perhaps longer. In addition, and again contrary to Chertoff's claims, FEMA was most certainly warned that the levees could collapse, although even well after the levees failed, FEMA officials continued to downplay how bad the flooding might be."

MSNBC's Hardball (9/12, Phillips) reported, "What has not been widely known until now is that over the years, many local, state, and federal government officials have been warned over and over again about this very scenario." Officials "knew that someday, the levees mate fail. And it turns out, they were warned just last year how catastrophic a levee failure would be. In July 2004, FEMA sponsored what amounted to a hurricane war game. It anticipated what could happen if a hypothetical category three storm named Pam hit New Orleans. … Despite the dire predictions… some federal officials didn't seem to take the drill seriously."

NYTimes Decries Army Corps' Spending On Civil Works Projects. The New York Times (9/13) editorializes, "There has been much grumbling that Congress and the Bush administration denied the Army Corps of Engineers the money that was required to fortify New Orleans against a hurricane like Katrina. These complaints need to be pursued. Flood control is mainly a federal obligation, and the agency most responsible for it must have enough money to do the job right. But there is another question worth asking: has the Army Corps made wise use of the money it has? Louisiana has received about $1.9 billion over the past four years for corps civil works projects, more than any other state. Although much of this has been spent to protect New Orleans, a lot has also been spent on unrelated water projects…mainly to serve the barge industry and other commercial interests. The Louisiana delegation, second to none in bringing home the bacon, is as much to blame for these skewed priorities as the corps is. … Unfortunately, many other senators - not just those from Louisiana - are powerfully addicted to corps projects and the votes they attract, especially Christopher Bond of Missouri, who controls the corps's budget and has single-handedly kept alive a nonessential barge industry on the Missouri River at great cost to the environment and taxpayers. To discipline the corps, Congress must first discipline itself."

Debate Underway Over Whether New Orleans Should Be Rebuilt. Economists have begun to consider the rebuilding of New Orleans. The Wall Street Journal (9/13, Hilsenrath) reports, "It's not just the city's natural disadvantages (much of it is located below sea level) that worry economists. It's also its economic position -- rampant poverty and an exodus of people and businesses even before the hurricane touched down -- and the need to avoid creating incentives that could lead to development that is no less vulnerable." Gary Becker, the Nobel prize-winning University of Chicago economist, "any rebuilding of the place should come with tough love from the government, such as tight zoning restrictions in flood-prone areas and tough flood insurance rules." Becker is "not the only Nobel-winner arguing for circumspection about rebuilding New Orleans. 'The best policy is not to permit rebuilding in New Orleans in the areas that are subject to flooding,' says Edward Prescott, a researcher at the Federal Reserve Bank of Minneapolis." Richard Posner "proposes that the city come back something like Colonial Williamsburg -- a quaint tourist site that isn't really attached to a city."

Former California Gov. Pete Wilson writes in the Wall Street Journal (9/13) that following the Northridge Earthquake, California "completed the repairs and reopened the freeway to its normal heavy traffic in just 66 days. How? We did two things. First, I quickly exercised the extraordinary emergency powers conferred upon the governor of California by the state Government Code. … Second, we took a page

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from the book of private sector incentives for accelerating performance. We told contractors bidding to repair the bridges that they must submit bids that specified not only the cost but the date of completion, and that they must agree to an added condition: For every day they were late, they would incur a penalty of $200,000; and for every day they were early, they would be rewarded with a bonus of $200,000." Wilson adds that "before abandoning New Orleans and retreating to the terrestrial, if not the moral, high ground -- we must exhaust all justifiable alternatives. I suggest that the needed super-levee solution will require a sharing of its cost between taxpayers and private investors."

New Orleans Council Upset By Federal Control. The Wall Street Journal (9/13, Opdyke, Cooper) reports, "Underscoring tensions over who will control the agenda for the reconstruction of New Orleans, city leaders vented frustration that the federal government already has issued large contracts for initial cleanup and rebuilding without input from local leaders. At a meeting of the New Orleans city council yesterday, held 80 miles away in a conference room at the state capitol in Baton Rouge" council members said that "local minority contractors should be playing a bigger part." But New Orleans Mayor Ray Nagin said that "the expected aid amounted to an opportunity to completely rebuild the city, and urged the group not to squabble over the first federal money to arrive." He added, "there's going to be enough money for everybody." Meanwhile, President Bush "tried to assuage concerns that the federal government will dictate how New Orleans will be rebuilt."

Evacuees Struggle To Rebuild Their Lives. The Washington Post (9/13, C1, Duke) profiles the Caiado family, who evacuated their home in Marerro, just outside New Orleans. The Post reports, "Folks like them have been evacuated to cities and towns across the nation, but here in Baton Rouge they have nearly doubled the population. Federal, state and local agencies are swamped with applicants for various kinds of aid. Internet cafes, too, have drawn hordes of people searching for a way out of their mess, a way to reconnect with the grid of life they knew. You can see them, huddled over stacks of papers or yellow legal pads. They are, often, the ones with tears in their eyes, desperation on their faces."

Many Displaced By Katrina Seeking Employment Elsewhere. NBC Nightly News (9/12, story 8, 2:15, Allen) reported on the difficulties faced by many of those displaced by Katrina as they seek new jobs. At "this job center in an evacuee shelter, we found workers who used to be clerks, truck drivers, government employees." There are "hundreds of evacuees who in addition to everything else lost their jobs. After some two weeks dependent on the kindness of strangers, they really want to work." There are "job centers and fairs like this across the country, long lines of unemployed filling data banks with resumes from Atlanta to Los Angeles." Employers are "pitching in, offering nursing jobs in California, plumbing work in Seattle, even looking to hire a massage therapist from the Gulf Coast in North Dakota."

New Orleans Residents Starting To Return. A growing number of New Orleans residents are defying the mandatory evacuation order and returning to the city. The Christian Science Monitor (9/13, Axtman) reports, "There are signs of return to normalcy. The city's airport reopened for cargo traffic Sunday and limited passenger service is planned to begin Tuesday. Officially, the New Orleans Police Department (NOPD) is set to issue temporary weeklong badges to residents with valid reasons for returning. Unofficially, those manning checkpoints have been letting many residents through with simply a wave and a 'good luck.'"

The New York Times (9/13, Luo) says that in recent days, city officials "have increased the pressure to leave by cutting off the military-style rations that many have been living on, a National Guard spokesman said. … But Maj. Amy Hannah, a spokeswoman for the task force that represents the active-duty military side of the hurricane response, said members of the 82nd Airborne Division and other soldiers would continue to provide the meals. City police officials declined to comment."

CNN's Anderson Cooper 360 Degrees (9/12, Lavendera) reported that "plans to forcibly remove the thousands of hold-outs who refuse to leave have been abandoned."

Water Levels In New Orleans Dropping. Water levels dropped "precipitously" in New Orleans Monday, according to the Los Angeles Times (9/13, Zucchino). Areas "that had been under 6 to 8 feet of water less than two days earlier were dry at dawn, with ooze now smearing the streets and water collecting at low, marshy spots. For the first time in the 8th and 9th wards in East New Orleans and Mid-City neighborhoods, search and rescue crews were able to patrol on foot. By midday, National Guardsmen and Marines said they had found several corpses inside homes that had been inaccessible until today.

New Orleans Airport Set To Resume Flights. USA Today (9/13, Frank) reports, "Only Northwest Airlines plans to start round trips today with two flights to Louis Armstrong New Orleans International Airport from Memphis. The airline will add a round trip from Minneapolis and one from Detroit on Monday, spokeswoman Jennifer Bagdade says. Delta Air Lines, the second-largest carrier at New Orleans, will resume service with two round trips from Atlanta on Wednesday and on Thursday. Starting Friday, it will expand to five Atlanta round trips and one from Cincinnati. Southwest Airlines, which has been the airport's largest carrier, has not made a decision on restarting service. Continental Airlines plans to

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resume service Monday. Three of its four scheduled flights from New Orleans to Houston are sold out, spokesman David Messing says."

New Orleans Business Leaders Hope To Have Tourist Areas Opened By Year's End. ABC World News Tonight (9/12, story 4, 2:35, Vargas) reported there "were some dramatic signs of recovery" in New Orleans, and there are "more indications that this beleaguered city is beginning the process of rebirth." ABC (Harris) added, "Business leaders think they can get" the French Quarter "up and running by the end of the year. There's talk about scaled-back Mardi Gras for the end of February. In this city, where water is receding faster than expected, cleanup and recovery are proceeding at an equally surprising rate." Today, the "city's port sent out its first commercial shipment." The "optimism is fueled by the fact that while 80% of New Orleans was flooded, tourist areas like the French Quarter were spared."

NBC Nightly News (9/12, story 2, 2:10, Williams) reported, "Water now covers 50% of the city, give or take, that's down from 80%." NBC (Costello) added, "Two weeks after Katrina struck so much of New Orleans is still up to its gutters in water. But in the communities closest the pumps, the water is receding, leaving behind entire neighborhoods that are caked in a grimy, white dust and a layer of sludge and mud."

NBC Nightly News (9/12, story 4, 1:45, Williams) reported, "There were some signs that life, in small ways, is starting to get back to normal." NBC (Tibbles) added some small, family-owned businesses are reopening for business. It is "a grimy, greasy oasis. The St. Claude Used Tire Shop is open as long as there's daylight. And because it's vital, it's making a go of things in this all but deserted town." Joe Peterson "and his crew is busy keeping people moving, and no inflated prices here. It's still 12 bucks to fix a flat and five for labor."

Mercy Flights For Katrina Evacuees Suspended. The Chicago Tribune/KRT (9/13, Wronski, Long) reports, "After flying thousands of Hurricane Katrina evacuees to shelters across the country, federal officials on Monday suspended their mercy flights, saying they're no longer necessary. 'The need for airlifting has been met,' said Valerie Smith, spokeswoman for the Department of Homeland Security." Since Katrina struck, "More than 26 states and the District of Columbia have taken in tens of thousands of evacuees."

Air Force To Begin Spraying For Mosquitoes. CNN's Anderson Cooper 360 Degrees (9/12, Cooper) reported, "The Air Force has begun flying missions against the burgeoning mosquito population at the request of FEMA and the Centers for Disease Control. Aircraft out of Duke Field, Florida are going to make low-level flights at dusk spraying 60,000 acres a day."

Confirmed Death Toll Reaches 279 In Louisiana, 214 In Mississippi. The CBS Evening News (9/12, story 3, 2:00, Schieffer) reported, "The latest confirmed toll from Katrina includes 279 deaths in Louisiana and 214 in Mississippi."

NBC Nightly News (9/12, story 3, :30, Williams) reported, "There was another gruesome discovery reported in New Orleans today. Search teams found more than 40 bodies, many of them elderly patients, inside a flooded hospital. An administrator at the Memorial Medical Center said the patients died while waiting to be evacuated as temperatures inside hit 106 degrees. The spokesman denied the patients were abandoned in any way."

The CBS Evening News (9/12, story 2, 3:40, Pitts) reported, "Today in New Orleans, the recovery of the dead is well under way. 45 bodies were discovered inside a local hospital Sunday. But it is the haunting voices of the living that still send shivers down the spines of the women who heard them." CBS News "was given exclusive access to the 911 calls of those first horrifying hours, and to the women who answered them." It's "still unknown how many of these callers survived."

The New York Times (9/13, Johnson) reports that officials at the Memorial Medical Center "said at least some of the victims died while waiting to be removed in the four days after the hurricane struck, with the electricity out and temperatures exceeding 100 degrees. Steven L. Campanini, a spokesman for the hospital's owner, Tenet Healthcare, said the dead included patients who died awaiting evacuation as well as people who died before the hurricane struck and whose bodies were in the hospital morgue."

A front page story in the Washington Post (9/13, A1, Struck) adds that "the discovery was certain to raise new questions about why so many city hospitals were not evacuated before the storm. Two medical professionals inside the Memorial Medical Center said conditions began to turn desperate shortly after the floodwaters cut off roads. The darkened corridors were jammed with families. Drinking water grew scarce. Medical supplies exhausted quickly; even IVs were being rationed, they said.'

The Washington Times/AP (9/13, Martel) adds, "Police Superintendent Eddie Compass declined to answer questions yesterday about the discovery, including whether police received any calls for assistance from the Memorial Medical Center after the hospital was evacuated."

Hospital Staff Describe Efforts To Comfort Dying. The Los Angeles Times (9/13, Moore) reports that staff from the hospital described "a desperate and harrowing struggle to comfort dying patients as floodwaters rose and the city descended into chaos." Dave Goodson, director of support services at the hospital, "said rescuers came and left — sometimes they helped take someone from the hospital and

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other times they brought new evacuees plucked from rooftops. Elderly patients had the hardest time, Goodson said. Heat and sickness conspired to kill about 16 patients from a nearby convalescent hospital." Goodson and oncology nurse Joanne Lalla "said that despite their difficult situation, the hospital staff continued to serve the sick as well as they could. For a time they carted patients to the roof of the building to wait for helicopters, but when they realized that they weren't going to be airlifted, they went back downstairs, Lalla said."

Katrina's Dead Still Unidentified, Unknown. A front page story in the Washington Post (9/13, A1, Pressley, Salmon) reports, "The people who died during Katrina and its aftermath are, two weeks later, still largely unidentified and unknown. No one can say yet how many perished, who they were, how and when they died. Communications and recovery problems -- and a heavy cloak of secrecy -- have compounded the mystery. Officials have been told not to pass on any information. For now, and for the indefinite future, the victims of Katrina remain the dead without a roster."

Marines Not Finding Bodies In St. Bernard Parish. The New York Times (9/13, Kifner) reports that Marines searching St. Bernard Parish for bodies of residents killed in the hurricane, "have yet to find any bodies, commanders said Monday. … Dire warnings, from marine planning sessions, of a devil's brew of toxic floodwater, decomposing bodies, feral swamp creatures and hostile, gun-toting locals have just not materialized."

Commander Of Military Cleanup Effort Profiled. USA Today (9/13, Leinwand) profiles Lt. Gen. Russel Honoré, commander of the 1st Army, "which is now charged with the largest humanitarian effort in U.S. history." The "nerve center of the military's response to Hurricane Katrina is at Camp Shelby near Hattiesburg, Miss. … Although Camp Shelby is a 45-minute helicopter ride north of New Orleans, Honoré prefers to spend his day in the disaster zone. He has an air-conditioned tent with computers and communications equipment set up in a garage at the Port of New Orleans. But a good deal of his time is spent riding in the back of an Army truck."

Task Force Says NEPA Hindered Hurricane Protection For New Orleans. A congressional task force says that a 35-year old federal law known as the National Environmental Policy Act (NEPA) has hampered energy production, the construction of homes and hurricane protection for New Orleans. The Washington Times (9/13, Price) reports that NEPA "requires the U.S. government to evaluate the environmental impact of any significant project undertaken by a federal agency, financed with federal money, or requiring a federal permit. It further mandates that the results of the government assessment be made public and that the public decide whether its benefits outweigh its drawbacks." A task force on improving the act, chaired by Rep. Cathy McMorris, "has held four hearings across the country to assess NEPA's role in accessing affordable energy, building roads and homes, and managing the nation's natural resources. NEPA, which established a national environmental policy framework, has 'resulted in thousands of lawsuits,' holding up some projects for more than 20 years and killing others, said Jennifer Zuccarelli, a task force spokeswoman."

FEMA Hopes To Open 30,000 Homes Every Two Weeks. The New York Times (9/13, Lipton) says a "building boom is under way" as the government begins "what urban planners are calling one of the biggest bursts of federal housing development in United States history. Last year in Florida, the Federal Emergency Management Agency set a record by installing 15,000 homes in the aftermath of four hurricanes there. In the wake of Hurricane Katrina, they hope to open 30,000 homes every two weeks, reaching 300,000 within months. … The numbers might drop if the demand does not meet expectations. But more than 140,000 people are now packed into emergency shelters, while hundreds of thousands of others fill hotels, homes of friends or relatives or are temporarily relocated across the United States. The building blitz is intended to bring as many people as possible back to Louisiana, Mississippi and Alabama."

CNN's Newsnight with Aaron Brown (9/12, Nissen) reported that FEMA has been "working hard in southern Mississippi since before the storm." Eric Gentry, FEMA: "I think a lot of people don't understand that a lot of the help that they saw early on came in as part of the FEMA umbrella." CNN added, "Like these 18 wheelers, sent by FEMA with tons of bottled water, ice, and emergency food to Pascagoula, Mississippi, early last week, along with thousands of FEMA recruited, FEMA trained, FEMA paid workers. … This FEMA team was as it worked it's way door to door, or rubble to rubble, in Pearlington."

FEMA Allocates $5 Billion To Purchase Trailer Homes. The Washington Times (9/13, Dinan) reports, "FEMA has allocated nearly $5 billion to buy 300,000 trailer homes as part of its emergency hurricane spending -- even though 270,000 of them are on back order and will have to be built, says a congressman who voted against last week's $51.8 billion bill. Rep. Steve King, Iowa Republican, said President Bush and members of Congress are spending quickly on Hurricane Katrina relief in part to try to counter bad publicity over the federal government's initial response."

FEMA Said To Have Refused To Pay Airfare For California Search-And-Rescue Crews. MSNBC

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Scarborough Country (9/12, 10:00 pm, Shuster) reported that urban search-and-rescue crews out of California have "said that they were told by FEMA not to take an airplane to get here [to New Orleans], but to take a bus…because the government would not pay for their airfare, about $30,000. In hindsight, that was a huge blunder, given that these were the teams that had that sort of search-and-rescue communications equipment." Scarborough: "Are you telling me tonight -- and you've got this exclusively -- are you telling me tonight that these people contacted FEMA and were ready to fly out the day after the storm and they were told, no thanks; we don't need your help?" Shuster: "That's right. That's exactly what we're reporting, Joe."

FEMA Organized Thousands Of Firefighters For Community Relations Work. The CBS Evening News (9/12, story 8, 3:10, Attkisson) reported, "In the crisis after Katrina, an all-call went out to fire stations around the country. Send anyone you can spare for 30 days. FEMA will cover the costs." But "not all of the firefighters have made it to New Orleans. Many got stuck in a wasteful bureaucratic limbo." Billy Whitson and Noel Saldivar "are from Richardson, Texas. On September 1, FEMA flew them from Dallas to Atlanta, where they and hundreds of other firefighters tackled paperwork. On day two, they sat through FEMA classes on diversity and sexual harassment. On day three, Whitson and Saldivar were tapped for a special ops mission to New Orleans. It wasn't what they hoped for." Whitson: "We were being sent to New Orleans to be nothing more than a backdrop for a press conference that was going to take place with President Bush and Michael Brown." Attkisson: "But they missed the news conference, and spent the next three days helplessly watching others perform rescues, with no assignment of their own. When they complained on day six, FEMA sent them home." Thousands "are thought to be in the same predicament. FEMA never intended to send them to the destruction zone. They were slated for community relations, like handing out pamphlets to survivors."

Spellings Says Hurricane Displaced 372,000 Students. Education Secretary Margaret Spellings said yesterday there are no clear answers about who will pay to educate the 372,000 students displaced by Katrina. The AP (9/13, Feller) reports, "In an interview with The Associated Press, Spellings gave the broadest assessment yet of how the hurricane has affected schools at the start of their year. … 'I shouldn't be talking about the details that I'm in negotiations with the White House and the (Capitol) Hill on,' Spellings said. 'As soon as I can talk about it, I want to talk about it.'" Spellings "said she will ask Congress for unprecedented authority to ease aspects of a federal law governing the education of homeless children. She already had pledged to consider using her powers to waive parts of the law known as No Child Left Behind, including requirements on yearly testing and teacher quality."

Two Mississippi Coast Schools Reopen. The CBS Evening News (9/12, story 10, 2:05, Schieffer) reported, "The fall term has begun now for most children in this country, but the government reported today that more than 372,000 school-age kids had to flee the Gulf Coast. In the Mississippi disaster zone, a fortunate few went back to school today." CBS (Whitaker) added, "Today, St. James Elementary in Gulfport welcomed students back, one of only two schools to reopen on the entire Mississippi Coast. Outside, overwhelming chaos; in here, a defiant normalcy."

Lack Of Influence On Hill Could Affect Louisiana Efforts To Get Relief. While Louisiana once had one of the most influential delegations in Congress, those powerful members have retired, and the New York Times (9/13, Rosenbaum) reports, the Louisiana delegation, "in the face of perhaps the state's worst calamity, has no one in a position of authority. … No one can say specifically what the diminished influence will mean for the state's efforts to get hurricane relief from Washington, but no one who follows Congress doubts that sooner or later the ramifications will be felt."

Louisiana Likely To Lose House Seat As Result Of Katrina. Election officials say the evacuation of coastal Louisiana "will likely cost the state one of its House seats," The Hill (9/13, Savodnik) reports. With Katrina "having emptied out New Orleans and much of the surrounding parishes, hundreds of thousands of people who once voted in Louisiana's 1st, 2nd and 3rd Districts are no longer there. And many who never heard of Reps. Jim McCrery, Rodney Alexander and Richard Baker — Louisiana Republicans who represent the 4th, 5th and 6th Districts, respectively — are now camped out in those districts."

Bush Asked To Save Gulf Coast Naval Bases. Reuters (9/13) reports, "Congressmen from Mississippi and Texas asked President George W. Bush on Monday to seek the reversal of proposed closures for two Gulf Coast naval bases, saying the closures would further delay disaster response in the region. In a letter, Mississippi Sen. Trent Lott, a Republican, and Texas Rep. Solomon Ortiz, a Democrat, asked Bush to demand that the Defense Base Realignment and Closure Commission (BRAC) reconsider its recommendation to close the Pascagoula Naval Station in Mississippi and the Ingleside Naval Station at Corpus Christi, Texas. … Bush can ask the commission once to make revisions. After that he can reject the list outright or send it on to Congress, which can accept or reject it but can make no changes."

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Hurricane States Will Need Ample Federal Help To Avert Debt Crisis. State treasurers and local financial officials in Louisiana, Mississippi and Alabama say they will need federal help to pay billions of dollars of debt and finance reconstruction. The New York Times (9/13, Wayne) reports, "So far, they have no formal plan, said John Kennedy, Louisiana's treasurer, but they are considering proposals for the federal government to make payments on existing bonds and cover short-term municipal operating costs. … Last week, the National Association of Bond Lawyers wrote to the White House to propose a Hurricane Katrina Indebtedness Guarantee and Financing Act. That measure would provide cash advances to municipalities unable to pay bondholders and would offer federal guarantees on future debt. These advances would have to be paid back in 10 years. The group also called for creation of a Liberty Bond-type program."

Katrina Donations Outpace Previous Disasters. Charities are saying donations for victims of Hurricane Katrina have come in at a pace that exceeds those from other recent disasters. The New York Times (9/13, Strom) reports, "Almost all of the money is going to the American Red Cross, in large part because other international relief and development organizations simply do not have significant operations in the United States. … Americans donated more than $738 million to relief efforts through Sept. 11, according to The Chronicle of Philanthropy. In the 10 days after the terrorist attacks of Sept. 11, 2001, $239 million was collected, while $163 million was collected in the nine days after the tsunami last December."

Corporate Contributions Reach $547 Million. USA Today (9/13, Jones) reports, "The U.S. Chamber of Commerce says 145 companies had each pledged $1 million or more in cash and products through Monday. In all, 396 companies have given $409 million, says executive director Stephen Jordan of the chambers' Center for Corporate Citizenship. Companies have collected another $138 million in contributions from customers, for $547 million that will likely soon pass the $565 million raised for tsunami relief. Jordan predicts the total will likely be about $1 billion, surpassing the record $750 million collected after Sept. 11, 2001."

Charity Efforts Reignites Debate Over Mandatory Service. The Washington Post (9/13, A4, Strauss) reports that "in a marriage of compassion and convenience, some students moved by the victims' plight have also been able to help themselves by earning credits toward their school's service requirement." For "those who have supported or opposed mandatory service, the recent outpouring has reopened the debate on whether compassion can be taught."

Charities' Use Of Contributions Analyzed. NBC Nightly News (9/12, story 7, 2:55, Williams) reported, "This huge outpouring of charity for Katrina's victims, and sadly, of course, there's a dark side: The scammers trying to take advantage of this crisis or donations being used for purposes other than helping the victims. And now, how to be sure your money is helping the way you intended it to. And by the way, we are talking about a great deal of money here. Americans have so far contributed at least $761 million to help victims of Hurricane Katrina, with the vast majority of that going to the American Red Cross. They have so far brought in $584 million." NBC (Myers) added, "How can Americans be sure all that money actually gets to the victims? The Red Cross promises almost all its donations will go to feed and house victims and fuel emergency relief vehicles." In New Jersey, "independent analysts at the company Charity Navigator check financial statements of 4600 charities." Its Website "then rates charities for efficiency and overall performance." Trent Stamp, Charity Navigator Executive Director: "If you can find a charity that will spend 75 to 80 cents of your dollar on their charitable purposes, you can probably trust them." Myers: "But what about the list of charities recommended by FEMA? The Red Cross and a few others get high marks, but B'nai Brith, a Jewish charity, gets a low rating because analysts found only 56 cents of every dollar goes to relief activities, the rest to fundraising. B'nai Brith disputes the methodology. Many of the religious organizations listed by FEMA disclose so little, they can't even be rated." So "how can you be sure your money is well spent? Experts say beware of email, of door-to-door solicitations, and of websites with addresses that end dot-com. Most legitimate charities, they say, are dot-org."

Citing Katrina, GOP Congressional Leaders Drop Plans For Tax Cut Extensions. The Wall Street Journal (9/13, Mullins) reports that in a "major shift of priorities after Hurricane Katrina, Republican leaders in Congress have delayed plans to extend dividend and capital gains tax cuts and may shelve them for the rest of the year." The House and Senate had "planned a fall legislative agenda around a massive budget bill that extended to 2010 the 15% tax rate on dividends and capital gains signed by President Bush two years ago. The cut was one of the president's signature initiatives and is seen inside the White House as a key part of his economic legacy." The 15% rate "isn't scheduled to expire until the end of 2008 -- meaning there's still time to push an extension through. But Republicans, chastened by the costs of rebuilding the Gulf Coast and negative public assessments of Washington's initial response to the hurricane, have decided that taking any action on the bill is politically untenable at least until late October in the suddenly changed political and budgetary environment."

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With Appropriations Lagging, Congress Faces Need For Continuing Resolution. Roll Call (9/13, Yachnin) reports that in what "has become an annual tradition, House and Senate lawmakers will likely need to pass at least one continuing resolution to fund government operations. As the clock winds down on fiscal 2005, the chambers have completed work on only two of 11 spending bills." Though the While House "has yet to formally seek a CR, the chamber's appropriators are nonetheless readying for the inevitable request." In the meantime, House appropriators "remain optimistic that the individual spending bills will be completed in coming months, circumventing the need for a consolidated appropriations measure."

Grand Jury Summons Disrupt Lower Level White House Aides' Lives. The Washington Post (9/13, A25, Coates) reports, "Sympathy can be hard to come by for White House officials who are summoned to appear before a grand jury." Those whose "identities remain a secret suffer in silence, discouraged from reaching out to their closest friends for help. Those whose names leak into the public domain become lightning rods for rumor, suspicion and innuendo, as politicians, commentators and journalists try to divine a meaning behind each summons." The "latest White House staffer to face the grand jury is Susan B. Ralston, assistant to White House Deputy Chief of Staff Karl Rove, who gave testimony to the committee investigating the leak of the identity of CIA operative Valerie Plame." But while the "politics of every appearance is picked over in minute detail, there is also a human story to each summons that often goes unexplored. Witnesses face stress, uncertainty and -- worst of all -- crippling lawyer's fees that can take years to pay off. And as prosecutors cast their net ever wider, inexperienced staffers with few financial assets are increasingly facing the emotional and financial burden of grand jury testimony."

Hurricane Victims May Get Access To 401(k) Funds. USA Today (9/13, Chu) reports, "The IRS is expected to ease 401(k) restrictions this week to allow those affected by Hurricane Katrina to tap into their retirement funds. Representatives of organizations involved in retirement issues…say they expect the IRS to announce this move in the next few days."

CNN Allegedly Coaxing Guests To "Get Angry" When Discussing Katrina. The Washington Times' "Inside Politics" (9/13, Pierce) reports, "Los Angeles Times pundit Michael Kinsley, who used to work for CNN, says the network is coaching guests to 'get angry' when they go on the air to discuss Hurricane Katrina. 'The TV news networks, which only a few months ago were piously suppressing emotional fireworks by their pundits, are now piously encouraging their news anchors to break out of the emotional straitjackets and express outrage,' Mr. Kinsley said. 'A Los Angeles Times colleague of mine, appearing on CNN last week to talk about Katrina, was told by a producer to 'get angry.'" Mr. Kinsley's words were reported yesterday by the online Drudge Report."

GOP Opponents Seek To Derail King's Bid For Homeland Security Chair. Republican opponents of Rep. Peter King are questioning his loyalty to the party in what The Hill (9/13, O'Connor, Tiron) calls "a last-gasp effort to derail" his effort to become chairman of the homeland Security Committee. King's GOP opponents "have compiled a one-page collection of negative remarks that King has made over the years about members of the Republican Party. The sheet, which was obtained by The Hill, includes a King quote from 1996 criticizing then-House Speaker Newt Gingrich (R-Ga.) and then-Majority Leader Dick Armey (R-Texas) for comments the two made describing union leaders as 'big labor' and 'union bosses.'"

King's Phone Call To Bush In New Orleans Noted. Roll Call (9/13, Akers) reports Rep. Peter King "greased the wheels for some New York firefighters who were dispatched to New Orleans for rescue-and-cleanup patrol after Hurricane Katrina. The firefighters wanted to meet the president during his brief stopover in the wiped-out city, so they called their man King to see if he could put the fix in." Roll Call continues, "King called…back to see if they were successful. Battling overloaded mobile phone service, he finally got through on the fourth try and was startled — and maybe a little irked — to hear a voice saying, 'You should be down here with your men.' … Again, the voice came back: 'Pedro, how come you're not down here?' By now, the jig was up: It was W himself, who nicknamed King 'Pedro' some time ago. And by now, Pedro was shaking in his boots."

Carolinas Prepare As Ophelia Slows Offshore. Tropical Storm Ophelia remained along the Carolina coast Monday, the New York Times/AP (9/13, Press) reports. The storm, which dropped "slightly in strength from a hurricane as it barely moved toward land," was "centered more than 200 miles offshore." Nonresidents "were ordered to leave one of North Carolina's Outer Banks islands and 300 National Guard troops were sent to mustering points along the coast. School systems in five counties closed, even though the storm's eye was predicted to remain offshore until Wednesday. Many people acknowledged that they were paying closer attention to the storm because of the vast destruction caused by Hurricane Katrina along the Gulf Coast. Others insisted they would not let the milder storm disrupt their plans."

The CBS Evening News (9/12, story 7, 0:30, Roberts) said Ophelia's "intentions are not clear. Now a tropical storm, Ophelia is more than 150 miles off the Carolinas, and it could

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become a hurricane again. Some projections show it hitting the Carolinas; others show it going out to sea."

In Wake Of Katrina, House Democrats Go On Offensive. Roll Call (9/13, Billings) reports, "With Republican poll numbers falling and the nation focusing increasingly on domestic policy, House Democrats are feeling new political confidence and taking on a rare offensive posture against the GOP. Through mid-August, Democrats were feeling emboldened as public confidence dipped in the U.S. handling of the Iraqi conflict, Social Security reform and Congressional ethics. Then Hurricane Katrina brought mounting questions about the Bush administration's response to the disaster." Minority Leader Nancy Pelosi (D-Calif.) "was the first to call on Congress to return to session early to pass a relief package for the disaster area and led her party's call for" then-FEMA Director Michael Brown "to step aside." This week, "Pelosi and other leaders will reiterate their call for the creation of a nonpartisan, independent commission to investigate the hurricane response, to urge creation of an independent anti-fraud panel to ensure proper oversight of the contracts awarded for the relief effort and to decry price gouging in the wake of rising fuel costs. The party also will announce the creation of a Democratic relief package for the victims of the hurricane."

Hurricane Boosts Barbour As Potential Presidential Candidate. The Washington Times' "Inside the Beltway" (9/13, McCaslin) reports, "Hurricane Katrina…has shined the national spotlight on Mississippi Gov. Haley Barbour. So much so that Mr. Barbour, former chairman of the Republican National Committee, is now ranked third among Republicans – behind" Sen. George Allen and Gov. Mitt Romney "in the 2008 White House Power Rankings, as posted by the Jockey Wire at PoliticalDerby.com."

DOD May Be Affected By Ruling On DHS Personnel Rules. Congress Daily (9/13, Klein) reports, "Senate Homeland Security and Governmental Affairs Chairwoman Susan Collins, R-Maine, said a court ruling last month that struck down some of the Homeland Security Department's personnel regulations could require the department to 'go back to the drawing board' and might force the Pentagon to "take a harder look" at its personnel proposal scheduled to be put in place later this year." Congress Daily continues, "U.S. District Court Judge Rosemary Collyer, in throwing out the rules, said they do not provide for collective bargaining. Collins said this week she was concerned that DHS drew up regulations that did not 'reflect congressional intent.' … A spokesman for House Government Reform Chairman Tom Davis, R-Va., whose panel also oversees federal workers, would only say of the ruling's ramifications: 'It's too early in the process to predict the outcome of the litigation or how it will affect other systems.'" Congress Daily adds, "DHS announced last week that it would delay implementation of the new personnel system, scheduled to go into effect in January, for at least a year. It is not clear whether that decision was related to the court ruling, or what changes -- if any -- would be made before implementation. Ward Morrow, assistant general counsel for the American Federation of Governmental Employees, the largest of four unions that filed the suit, said DHS may ask to simply revisit the labor relations portion of the regulations, rather than rewrite the whole system. A spokesman for the Justice Department, which is handling the court case, did not return calls."

OTHER NEWS:

Los Angeles Blackout Attributed To Technical Error, Not Terrorism. The city of Los Angeles was hit by a blackout yesterday, but authorities were quick to announce that the outage was the result of a technician's error, not a terrorist act, and that the shutdown prevented a cascade effect blackout that could have affected the entire state. ABC World News Tonight (9/12, lead story, 2:20, Vargas) reported there "was a lot of tension this afternoon, when power went out to large sections of the city and surrounding area. The police department went on full tactical alert, meaning officers were not allowed to leave work when their shifts ended. The immediate concern for officials was the possibility of terrorism. But it quickly became clear that this major outage was a result of a single mistake." ABC (Rooney) added, "24 hours after a terrorist threat tape aired on ABC, which specifically targeting Los Angeles, the incident tapped people's nerves." But "after several hours Los Angeles water and power announced that a major line had been improperly connected, causing a backup in the system and circuit breakers to trip. In short, human error. The outage affected as many as 2 million people."

ABC World News Tonight (9/12, story 2, :50, Ross) reported, "It happened at a receiving station at North Hollywood that receives the voltage coming in at 230,000 volts, coming in at the speed of light from Utah. They misconnected a new computer control room, which blew out that. And blew out two other generators in Los Angeles. That caused the big problem. Strange as it may seem, the system actually worked."

The CBS Evening News (9/12, lead story, 2:05, Schieffer) reported, "Hundreds of thousands of people were affected. There was a lot of confusion at first about what caused it but officials say it was not terrorism. It was apparently an accident." NBC Nightly News (9/12, story 5,

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2:05, Williams) reported, "Throughout Los Angeles, traffic on city streets was hopelessly snarled as stop lights failed. There were numerous reports of minor accidents. 911 switchboards were jammed with calls from people stranded in office building elevators."

The Washington Times/AP (9/13) reports that "even before the utility workers explained what had happened, Homeland Security Department spokesman Russ Knocke said there was no indication of terrorism."

Among other print sources, the Los Angeles Times (9/13, Bernstein, McGreevy, Landsberg), New York Times (9/13, Archibold), Wall Street Journal (9/13, Smith), USA Today (9/13, Kasindorf, Woodyard) and Washington Post (9/13, A2, Pomfret) run similar reports this morning. The Los Angeles Times (9/13) also runs human interest story examining reaction to the blackout from Los Angeles residents.

Majority Of National Black Republican Association's Board Members Resign. The Washington Times' "Inside the Beltway" (9/13, McCaslin) reports, "We've learned of a major shake-up at the Washington-based, with six of the 10 NBRA board members resigning in recent days over various disagreements. 'The organization and its current leadership is heading down a much different direction than was envisioned by myself and the other board members,' says Christopher R. Arps." The Times adds, "Three resigning board members, we're told, frowned on signing a 'statement of commitment' sent to them by NBRA Chairman Frances Rice. … Meanwhile, there also were questions surrounding approval of the latest news release issued by the NBRA, praising President Bush's leadership after Hurricane Katrina."

Federal Oversight Of Developmentally Disabled Homes For Seen As Lacking. The Wall Street Journal (9/13, Ansberry) profiles Billy Cothran, a developmentally disabled person who died under the negligent care of the Babcock Center. This illustrates that "oversight of homes for the developmentally disabled is fragmented between the federal government, states and thousands of community-based agencies. The U.S. Department of Health and Human Services -- which pays about half of the $27 billion spent annually on community services for the developmentally disabled -- is ultimately responsible for their protection. But the federal agency assigns the creation and enforcing of rules over such homes to each state. As a result, laws and monitoring vary by state. States aren't required to report all incidents of abuse or neglect to the federal agency." So, HHS "is drafting new procedures following a 2003 report from the General Accounting Office, saying states should be required to report more information about how they protect people with developmental disabilities."

FDA Criticized For Failing To Act Quickly On Defective Heart Defibrillators. The New York Times (9/13) says in an editorial that the "deplorable story of how a medical-device company sat on information about a flawed heart defibrillator while a hapless recipient died has now engulfed the Food and Drug Administration as complicit in the silence. A report by Barry Meier in The Times yesterday revealed that the agency received a report from the manufacturer detailing the flaws months before the F.D.A. issued a safety alert on the devices. By the time the agency acted, a college student relying on the implanted defibrillator to shock any erratic heart beats back to normal had died while mountain biking. His unit had short-circuited, just as the same model did earlier in about two dozen other patients." What is "disturbing is how long it took the company, the Guidant Corporation, and the regulators to get a meaningful warning to doctors and patients." The regulators "also appeared lethargic."

Researchers Link Surgery To Cancer Relapse. The Wall Street Journal (9/13, Marcus) reports on a study by Michael Retsky, a lecturer in surgery at Children's Hospital Boston and Harvard Medical School, that found the surgical removal of a cancerous tumor in the breast "triggers the release of certain substances in the body," enabling "cancer cells that had been lying dormant in other parts of the body to undergo angiogenesis -- the process by which the body forms new blood vessels -- which also feeds the tumors' growth. This can cause the women to relapse early."

Ashcroft Appearing As Commentator On CNN. Roll Call (9/13, Akers) reports former Attorney General John Ashcroft "is out of hiding and back in the public spotlight. On Monday he made his first media appearance since leaving the Justice Department in February, appearing as a color commentator on CNN." Ashcroft "is expected to be doing lots and lots of TV in the weeks and months ahead."

Palestinians Pour Into Gaza Strip. ABC World News Tonight (9/12, story 9, 1:55, Vargas) reported, "Israel's 38-year occupation of the Gaza Strip ended today touching off a chaotic celebration by the Palestinians. They poured into the evacuated Jewish settlements, after the last Israeli tanks left, overwhelming plans by the Palestinian police to keep them out. Several empty synagogues were set on fire." ABC (Dinnick) added, "Today, most Palestinians came to just look. Others to take what was left. Some unleashing 38 years of anger. Some of it directed at the synagogues Israel left standing. The Palestinian Authority was here in large numbers, in a desperate attempt to show it is in charge. But

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its security forces were outnumbered by Palestinian militants. The Palestinian Authority did nothing to stop groups like Islamic jihad, who were here today to show they had control of the land."

USA Today (9/13, Patience) reports Palestinian leader Mahmoud Abbas "said Palestinians still faced a 'long road' to statehood." But he added, "Today our people have the right to celebrate their freedom, their dignity." The Washington Times (9/13, Mitnick), New York Times (9/13, Erlanger) and Washington Post (9/13, A19, Wilson) run similar stories this morning.

Chinese President Creating Trade Policy Worries In US. USA Today (9/13, Lynch) writes, "What started as a bad pun has become one of the most consequential questions facing the United States: 'Who is Hu?' Is Chinese President Hu Jintao the valued customer Corporate America fancies or, as a growing segment of official Washington fears, is he the USA's most dangerous long-term enemy?" USA Today adds that with "the Chinese and American presidents preparing to meet today on the sidelines of a United Nations session in New York, long-standing Sino-U.S. trade friction is merging with mounting anxiety over Beijing's stepped-up military spending and its muscular drive to secure energy supplies. As the Bush administration struggles to balance commerce and national security, companies seeking to expand sales to China may wind up in the crossfire."

The Wall Street Journal (9/13, Hutzler) reports that as Hu and President Bush "gear up to meet in New York today, many Americans are questioning China's longer-term intentions. Zheng Bijian thinks he has the answer. The consummate Chinese Communist Party insider and confidant of Mr. Hu is promoting a message that China isn't trying to displace the U.S. but is seeking to emerge onto the global stage peacefully. His 'peaceful rise' project has gained the support of China's top leaders, with Mr. Hu originally expected to touch on the theme during a weeklong U.S. tour earlier this month." Zheng says China "'must take a different path, a path that none of the late emerging countries has taken in the contemporary world.' … Otherwise, he said recently in an interview, China could meet the fates of Germany, Japan and the Soviet Union in the past century, ambitious upstarts foiled by the dominant powers of their time."

US May File WTO Complaint Over Chinese Product Piracy. USA Today (9/13, Lynch) reports that the US "is actively considering lodging a formal complaint with the World Trade Organization over rampant Chinese counterfeiting of copyrighted American products." US Trade Representative Rob Portman said government lawyers "were collecting data needed to support a WTO filing. 'We are looking at a case. … If we have a strong case, and if we don't see the progress that we've asked for, we won't hesitate to move forward,' he added." US officials "have complained for years about widespread copying by Chinese companies of products such as compact discs, computer software and apparel. In July, Portman and Commerce Secretary Carlos Gutierrez held an annual meeting with top Chinese officials to discuss trade frictions."

China, Mexico Sign Several Trade Agreements. The New York Times (9/13) reports President Hu "wooed Mexican leaders on Monday during a state visit, trying to smooth out the often prickly relationship between the two countries as part of a larger campaign to expand China's influence in Latin America." Hu and President Vicente Fox "signed several minor agreements with great fanfare, among them one providing mutual tax limits on companies doing business in both countries and another that will allow Mexico to export grapes to China in return for importing Chinese pears. The countries also agreed on a framework for negotiating future accords that eventually may allow Chinese companies to mine iron and other minerals in Mexico."

Chinese Export Market Continues To Thrive. The Wall Street Journal (9/13, Browne) reports, "China's export juggernaut picked up momentum in August, dashing any expectations that a small currency revaluation on July 21 would act as a speed bump to slow it down." Exports in August "hit $67.82 billion, which was 3.4% higher than July's $65.6 billion and 32% higher than those of August 2004. Imports in August totaled $57.78 billion, up 23% from a year earlier, giving China a monthly surplus of $10.04 billion."

China Declassifies Natural Disaster Death Toll Counts. The New York Times (9/13, Kahn) reports that China said it would "no longer treat the death toll in natural disasters as a state secret, a step that could lead to greater transparency in a country that has a long history of providing partial or misleading data about diseases, accidents, and state-directed atrocities. The National Administration of State Secrets, a government agency that oversees the vast array of data deemed secret, announced the declassification of disaster-related death tolls, which the agency said had been carried out last month."

Musharraf Believes Khan Exported Nuclear Production Materials To North Korea. The New York Times (9/13, Sanger) reports Pakistani President Pervez Musharraf said he "believed that a Pakistani nuclear expert who ran the world's largest proliferation ring exported 'probably a dozen' centrifuges to North Korea to produce nuclear weapons fuel. He added, however, that after two years of interrogations there was still no evidence about whether the expert also gave North Korea a Chinese-origin

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design to build a nuclear weapon." Musharraf's comments about the results of the interrogations of A.Q. Khan "are significant because they tend to confirm the accusations American intelligence officials made against North Korea in 2002."

US Rejects Pakistani Request For Nuclear Technology Assistance. The Washington Times (9/13, Kralev) reports that Pakistan "asked the United States and other Western countries yesterday to help it develop civilian nuclear technology, citing Washington's July pledge for such assistance to neighboring India. The Bush administration, however, dismissed the request, saying Pakistan's energy needs are not as pressing as India's."

India, Pakistan Exchange Prisoners. Reuters (9/12, Raza) reports that Pakistan and India "swapped hundreds of prisoners at a border post on Monday to foster goodwill as South Asia's nuclear rivals seek to push forward their sluggish peace process. … Pakistan released 435 Indian prisoners while Indian freed 152 Pakistanis, some as young as 12 years."

New Poll Shows German Election Tightening. The Financial Times (9/13, Williamson, Cave) reports, "Germany's election race tightened further on Monday as Gerhard Schröder's Social Democrats pulled closer to the opposition Christian Democrats in a new opinion poll, increasing the likelihood of a "grand coalition" after Sunday's election." The SPD "scored 35 per cent in a Forsa poll, up 1 point to its highest rating since Mr Schröder called for an early election in May. The CDU was stable on 42 per cent."

The Wall Street Journal (9/13, Walker) adds, "It is looking increasingly likely that Angela Merkel will become Germany's next chancellor in Sunday's election, but whom she governs with -- and what economic policy she can carry out -- is increasingly up for grabs." Merkel's "center-right Christian Democrats are the clear favorite to snare the biggest share of votes, but in the stretch run her coalition's poll numbers have been slipping to just short of an outright majority." The New York Times (9/13, Bernstein) and USA Today (9/13, Knox) runs similar stories.

After Sweeping Re-Election, Speculation Turns To Koizumi's Use Of Mandate. The New York Times (9/13, Onishi) reports that a day after Japan's Prime Minister Junichiro Koizumi "secured the second largest landslide in a general election in the Liberal Democratic Party's history, attention turned Monday to how he would use that mandate. With his coalition holding more than two-thirds of the seats in the lower house of Parliament, Mr. Koizumi is now expected, in the next month or so, to push through his bill to privatize the country's postal services. But once that is accomplished, what next?" Koizumi "has one year before party rules force him to retire, and he repeated Monday that he would not seek an extension. Still, he finds himself possibly postwar Japan's most powerful prime minister, at a time when Japan is confronting problems ranging from an aging, declining population to growing economic dependence on China."

In a Wall Street Journal (9/13) op-ed, Yale University Japanese history scholar Michael Auslin writes, "Koizumi has pulled off the unthinkable: A smashing electoral victory that would be the equivalent of carrying 49 states and 525 electoral votes in an American presidential election. … Sober reflection on the election's outcome, however, raises questions about the true strength of the victory and the message voters were really sending. Far from a powerful affirmation of Mr. Koizumi's policies on the merits, the results reflect the lack of a viable opposition, as well as the citizenry's willingness to indulge bold schemes -- the details of which few really grasp, and which are so far in the future that they seem painless ways to endorse the idea of reform."

More Commentary. The Wall Street Journal (9/13) editorializes, "Fortune favors the bold, and on Sunday it smiled broadly on Junichiro Koizumi. … Koizumi's governing coalition now holds more than the two-thirds majority it needs to override further upper house intransigence. The unexpectedly large victory means that Japan's voters have endorsed Mr. Koizumi's policy mix of smaller government and an activist foreign policy. The economic paternalism and diplomatic timidity of the post-World War II era are giving way to change."

The Washington Post (9/13) editorializes, "It's not clear how much Japan's long-term project of fostering competitive, pluralistic politics will benefit. On the plus side, Mr. Koizumi has demonstrated that electoral appeal can trump the vested interests represented by his party's factions; it would be nice to believe that this boosts the political value of ideas and policies, though the main boost is clearly to the political value of image. On the negative side, Mr. Koizumi is to retire in a year, and the factions may reassert themselves."

The New York Times (9/13) editorializes, "Postal privatization was virtually the only issue discussed during the 12-day election campaign. That gave a pass to Mr. Koizumi's unwise embrace of Japan's traditions of military nationalism. … Japan needs postal service privatization, two-party democracy and a more constructive relationship with its neighbors and trading partners. Only the first was advanced by Sunday's election."

Georgia Receives $295.3 Million Millennium Challenge Grant. Reuters (9/12) reports that the US and the Republic of Georgia "signed an aid agreement on Monday worth $295.3 million via a U.S. development fund dedicated to poor nations that undertake political and

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economic reforms. The five-year grant, or 'compact,' comes from the Millennium Challenge Corporation and will cover road, energy and infrastructure projects in Georgia." Secretary of State Condoleezza Rice said, "Our partnership will only grow stronger as Georgia continues to establish the rule of law, a vibrant civil society, an independent media, a free economy and effective institutions of government."

Bush Unpopular In Major South American Cities. Reuters (9/12) reports that a "majority of South Americans" in the capital cities of Argentina, Brazil, Chile, and Uruguay "have a negative opinion" of President Bush, according to a poll conducted by a Santiago think tank. Of the four cities, "Buenos Aires ranked as the city where Bush is most unpopular, with six out of ten Argentines saying they disapproved of him. Residents in the Chilean capital of Santiago had the most favorable opinion of Bush, the poll showed -- 19 percent approved of Bush and 40 percent rejected him."

Governors, Poor Work To Implement Chavez "Social Revolution." The Washington Times (9/13, Behn) reports that Venezuelan governors and the "rural poor are moving quickly to implement President Hugo Chavez's vision of a social revolution, carving up and redistributing large landholdings and threatening to take over the premises of internationally owned companies. There has been none of the violence and mayhem that accompanied land seizures in Zimbabwe in recent years, but economists and angry land owners fear that -- as in Zimbabwe -- the takeovers will destroy a productive agriculture sector and undermine the economy."

G-8 Debt Relief Plan In Jeopardy As Final Vote Nears. The Washington Post (9/13, A14, Blustein) reports that while "full debt relief for the world's poorest countries" seemed to be imminent when G-8 leaders met in Scotland in July, "objections to the plan are emerging as it heads toward an official vote at the annual meetings of the World Bank and International Monetary Fund later this month. Most notable is an internal World Bank report that warns the plan could deplete the bank's coffers so severely as to impair its ability to provide new aid for impoverished nations." The report "uses bureaucratic language to convey a dire message about the problems that the G-8's plan could pose for the International Development Association (IDA), the World Bank agency that lends about $9 billion a year to low-income countries. By potentially forgiving as much as $42.5 billion in payments owed by many poor countries over the next several decades, the plan 'could reduce IDA's financial capacity significantly,' says the report, which was discussed at a meeting of the bank's executive board last week." Treasury Department spokesman Tony Fratto said, "The deal to provide 100 percent debt cancellation is in jeopardy." Fratto "said he was 'outraged' at the World Bank report. 'There are individuals trying to chip away at it and see that it doesn't happen.'"

Little Progress Seen As World Leaders Prepare For UN Reform Discussions. The AP (9/13, Press) reports that with "just days before leaders of more than 170 countries gather at a U.N. summit, there has been little progress on a document they are to adopt." Secretary-General Kofi Annan "wants heads of state and government to mark the 60th anniversary of the United Nations by adopting a sweeping blueprint to tackle the challenges of the 21st century at the Sept. 14-16 summit in New York. But despite intense negotiations over the weekend, some U.N. ambassadors expressed concern the text would be weak and said negotiations were slow and difficult."

The Washington Post (9/13, A15, Lynch) reports that Annan "proposed the most far-reaching changes for the organization since its founding 60 years ago" in March. The plan would reorganize the UN to "combat terrorism and poverty, expanding the Security Council beyond the victors of World War II and setting new rules for the preemptive use of military force. But six months of contentious negotiations by governments have stripped out many of the boldest initiatives, including proposals for creating 10 new Security Council seats. And delegates this week are straining to reach agreement on a far less ambitious package of steps that can be agreed on by some 170 leaders set to arrive" in New York tomorrow.

WSJournal Says Criticism Of UN Fair, Needed. The Wall Street Journal (9/13) editorializes, "The so-called Millennium Development Goals for helping the planet's poorest will be among the topics of discussion at the U.N. summit that begins tomorrow in New York. In recent weeks, the Bush Administration has come under media fire for suggesting some sensible revisions, such as requiring more accountability from countries on the receiving end of international assistance (imagine that). … If the U.N. and its supporters are serious about the Millennium Development Goals, and U.S. support in pursuing them, they should stop equating criticism of U.N. methods with criticism of its motives. U.N. reform is a better use of their energies this week. And the establishment of an auditor general or some other independent body responsible for commissioning and publishing performance reviews is a good place to start."

Scholar Says Bush Administration Should Back Security Council Expansion. In a New York Times (9/13) op-ed, American Enterprise Institute research fellow Vance Serchuk writes that when the meetings begin, "any mention of the expansion of the Security Council will be off the agenda, thanks in no small part to the diplomatic exertions of

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the Bush administration. The White House's foreclosure of discussion on Security Council expansion has drawn cheers from conservatives worried about any dilution of American power, and scorn from liberals convinced that the Bush administration is once again unilaterally sabotaging the international system. In fact, both sides are wrong." Brazil, Germany, India, and Japan "have joined together in the so-called Group of Four and have been furiously trawling the developing world for support. … Getting Japan, in particular, on the council should be a top priority for the United States, not just as a reward for past support on countless issues - from Iraq to North Korea - but also because of its central role in America's grand strategy for the region. Equally important is the development of a long-term alliance with India."

More Commentary On UN Reform. In his New York Times (9/13) column, Nicholas Kristof writes, "The biggest gathering of leaders in history unfolds this week at the United Nations, as they preen and boast about how much they're helping the world's poor. In short, it may be the greatest assembly in history -- of hypocrites. The fact is that with just a few exceptions, the presidents and prime ministers coming to the U.N. summit are doing a disgraceful job in helping the poor. That's one reason the world's richest 500 individuals have the same income as the world's poorest 416 million people."

In a New York Times (9/13) op-ed, University of Ottawa professor Amir Attaran writes, "According to the United Nations Millennium Project, only a 'handful of countries' can really prove the maternal mortality ratio is improving. … Malaria is another example where United Nations goals hinge on something immeasurable. … Probably the most useful discussion the United Nations could plan for this week's meeting would be one that asked world leaders to endorse new goals against which they could truly measure progress. This is feasible: there are alternative ways to track malaria's toll or to assess the safety of pregnancies."

Left Coalition Wins Majority In Norwegian Parliament. The AP (9/12) reports that Norway is "poised for a power shift after the left-leaning opposition won a majority of seats in Parliament with pledges to spend more of the nation's vast oil wealth on welfare." With almost all votes tallied, "a three-party coalition led by the Labor party had grabbed 88 seats in the 169-seat assembly, enough to oust the center-right government. Prime Minister Kjell Magne Bondevik, who campaigned on promises of tax cuts, said if the final tally confirmed the result, his government would resign after presenting its draft 2006 budget on Oct. 14."

Liberians In US Hope To Play Role In Homeland's Election. The Washington Post (9/13, B1, Raghavan) reports that as Liberia "prepares for a historic post-civil war election next month, a new hope is prevailing. After years of building wealth and sharing it with impoverished relatives back home," Liberians living in the US "want to influence the outcome of the campaign. Many of the Washington region's estimated 10,000 native Liberians view it as nothing less than their homeland's last chance for peace and stability."

NYTimes Lauds Brazil's Progress In Protection Of Amazon. The New York Times (9/13) editorializes, "Last month, Brazil's environmental officials announced that the burning of the Amazon has slowed. Deforestation this year is half of what it was the year before. This news shows that when Brazil's government musters the political will to protect the Amazon, it can do it. … The health of the Amazon is a global concern because the forest soaks up greenhouse gases, which lessens global warming. Deforestation means the Amazon could eventually become too small to produce the rain that it needs to survive. … The government's commitment to protecting the Amazon has also been important. Led by Marina Silva, the environment minister and once a poor Amazon rubber tapper herself, Brazil is starting to impose its authority in parts of the forest that have always been lawless. … Rule of law is still foreign to the Amazon. But it is becoming a little less so."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Meets with President Talabani of Iraq; holds joint media availability with President Talabani; departs White House for New York; meets with UN Secretary General Anan, UN headquarters, New York; meets with the President of China, Waldorf-Astoria Hotel, New York.

VICE PRESIDENT CHENEY — No public schedule.

LAURA BUSH — Speaks at the Heritage Foundation, 214 Massachusetts Ave. NE.

US Senate: 9:30 a.m. JUDICIARY _ Full Committee. Hearing on the nomination of John Roberts to be Chief Justice of the Supreme Court. John Roberts. Location: Room 216, Hart.

10 a.m. FINANCE _ Social Security and Family Policy Subcommittee. Hearing on the nonprofit's role in meeting community needs. Luke Hingson, Brother's Brother Foundation, Pittsburgh; Maj. George Hood, The Salvation Army; Bob Reccord, Southern Baptist Convention; William G. Gale, The Brookings Institution; C. Eugene Steuerle, Urban Institute. Location: Room 106, Dirksen.

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10 a.m. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ Full Committee. Confirmation hearing on pending nominees. Location: Room 342, Dirksen.

US House: FLOOR SCHEDULE _ 12:30 p.m. Meets for morning business and at 2 p.m. for legislative business. Highlights: Suspensions (6 bills): 1) H.R. 3649 - Sportfishing and Recreational Boating Safety Amendments Act of 2005; 2) S.Con.Res. 26 - A concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93; 3) S. 252 - Dandini Research Park Conveyance Act; 4) S. 264 - Hawaii Water Resources Act of 2005; 5) S. 276 - Wind Cave National Park Boundary Revision Act of 2005; 6) H.R. 539 - Caribbean National Forest Act of 2005.

10 a.m. GOVERNMENT REFORM _ Federalism and the Census Subcommittee. Hearing on brownfields. Charles Bartsch, Northeast Midwest Institute; Kathleen McGinty, secretary, Pennsylvania Department of Environmental Protection; John Magill, Ohio Department of Development; Douglas P. Scott, director, Illinois Environmental Protection Agency; Andrew Hogarth, Michigan Department of Environmental Quality; Robert Colangelo, executive director, National Brownfield Association; Jonathan Philips, Cherokee Investment Partners LLC; Charles Houder, Preferred Real Estate Investments Inc.; Kevin Matthews, AIG Environmental. Location: Room 2203, Rayburn.

10 a.m. GOVERNMENT REFORM _ National Security, Emerging Threats and international Relations Subcommittee. Hearing on combating terrorism and visa security. Jess T. Ford, GAO; John E. Lange, deputy inspector general, Department of State; Tony Edson, acting deputy assistant secretary of State for visa services; Elaine Dezenski, acting deputy assistant secretary of Homeland Security; Clark Kent Ervin, Aspen Institute; James J. Carafano, Heritage Foundation; Susan Ginsberg, former senior counsel, 9/11 Commission; John Daniel Morris, former consul general, U.S. Mission to Beijing. Location: Room 2154, Rayburn.

2 p.m. INTERNATIONAL RELATIONS _ Subcommittee on Africa, Global Human Rights and International Operations. Oversight hearing to assess the African Growth and Opportunity Act five years after it was first enacted. Florizelle Liser, assistant U.S. trade representative for Africa, Office of the U.S. Trade Representative; Steve Hayes, president, Corporate Council on Africa, AFL-CIO. Location: Room 2172, Rayburn.

5:30 p.m. RULES _ Full Committee. Meets to set rules for floor debate. Location: Room H-313, Capitol.

Other: DOMINICAN REPUBLIC PRESIDENT LEONEL FERNANDEZ _ Highlights: 11:30 a.m. Speaks to the Organization of American States. OAS, 17th St. and Constitution Ave. NW.

JORDAN KING ABDULLAH II _ Highlights: 11 a.m. Vists Banneker High School to meet with students and teachers from the school, the Hebrew Academy, International Saudi Academy and Cardozo High for a roundtable discussion. Accompanied by Queen Raina. 800 Euclid St. NW. Note: Media must RSVP by 5 p.m. Monday to jordaninfo1aol.com. Call 202-265-1606 for further information. TV registration starts at 9:30 a.m.; print at 10:30 a.m. 12 p.m. Speaks at the Catholic University of America Columbus School of Law on ``Traditional Islam: The Path to Peace." RSVP, Tom Haederle, 202-319-5438.

PRESIDENT JALAL TALABANI OF IRAQ _ Highlights: 10:35 a.m. Meets with President Bush. 11:25 a.m. Holds media availability with President Bush.

PRESIDENT TABARE VAZQUEZ OF URUGUAY _ Highlights: 6 p.m. Speaks at the Center for Strategic and International Studies. B-1 confernce center, 1800 K St. NW.

RESTAURANTS _ Annual legislative conference of the National Restaurant Association. Highlights: 8:15 a.m. Rep. Jo Ann Emerson. 3:30 p.m. Presents the 2005 Restaurant Neighbor Award. Cannon Caucus Room.

FAITH-MEDIA _ Third annual Faith Communicators Forum. Highlights: 7:30 a.m. Rep. Sherrod Brown speaks at the UCC legislative breakfast. Location: Washington Plaza Hotel, 10 Thomas Circle.

HEALTH INSURANCE _ America's Health Insurance Plans holds its 2005 Medicare and Medicaid Conferences. Highlights: 11 a.m. CBO Director Douglas Holtz-Eakin. Location: Marriott-Crystal Gateway, 1700 Jefferson Davis Hwy., Arlington, Va.

ROBERTS-PROTEST _ A coalition of groups join in protest of the confirmation hearings for Judge John Roberts to be chief justice. Groups include: National Organization for Women, Feminist Majority, People for the American Way, Human Rights Campaign, Rainbow PUSH/Coalition, and others. Highlights: 7 a.m. Protest outside hearings, Behind Senate Hart Office Building on C Street. 12 p.m. Protest outside hearings, behind Hart Senate Office Building on C Street. Location: Capitol Hill, various locations.

SAIS-FOREIGN POLICY _ 7:45 a.m. SAIS hosts a briefing on ``Foreign Policy: A View From Congress," with Sen. Richard Lugar, R-Ind., chairman, Senate Foreign Relations Committee; Lionel Barber, U.S. managing editor of The Financial Times; and Robert Guttman, editor-in-chief of Transatlantic Magazine. Location: Room 419, Dirksen Senate Office Building.

HURRICANE-REBUILDING _ 9 a.m. The Heritage Foundation holds a panel discussion on rebuilding the Gulf Coast after Hurricane Katrina, with Edwin Meese, Kim Holmes, Stuart Butler and Michael Franc, all of Heritage. Location: Allison Auditorium, 214 Massachusetts Ave. NW.

IRAN-US _ 9 a.m. Radio Free Europe/Radio Liberty hosts a briefing by Ilan Berman, vice president for policy, American Foreign Policy Council, on ``Iran's Challenge to the

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United States." Location: Radio Free Europe/Radio Liberty, Conference Room A, 4th Floor, 1201 Connecicut Ave. NW.

IRAQ CONSTITUTION _ 9 a.m. The School of Advanced International Studies hosts Paul Williams, American University; William Spencer, Washington director of the Public International Law & Policy Group; and Vanesssa Jimenez, Public International Law & Policy Group, discussing ``An Insider's Look at the Drafting of the New Iraqi Constitution." Location: Nitze Building, Kenney Auditorium, 1740 Massachusetts Ave. NW.

KATRINA-FEMA _ 9:30 a.m. Secretary of Homeland Security Michael Chertoff and Acting FEMA Director David Paulison hold a press availability to give an update on Hurricane Katrina response and recovery efforts. Location: Courtyard, FEMA Headquarters, 500 C St. SW.

CHINA-WTO _ 10 a.m. The US Chamber of Commerce releases and reviews a new report on China's WTO implementation progress during a breakfast briefing, with Myron Brilliant, U.S. Chamber; Richard Holwill, Alticor, Inc., and U.S. Chamber; and Ray Sander, New York Life and U.S. Chamber. Location: U.S. Chamber of Commerce, 1615 H St. NW.

IRAN _ 10 a.m. The Iran Policy Committee holds a news conference to release a White Paper on the Iranian government's agenda, nuclear weapons, Iraq and U.S. policy options. Location: National Press Club.

SUPREME COURT-CONSTITUTION _ 10:15 a.m. The American Enterprise Institute-Brookings Joint Center hosts a book forum, ``How Should the Supreme Court Interpret the Constitution?" with a welcome by Robert Hahn, Joint Center; a presentation by Cass Sunstein, University of Chicago; and discussants Jeffrey Rosen, George Washington University, and George Will, Washington Post. Location: AEI, Wohlstetter Conference Center, 12th Floor, 1150 17th St. NW.

NATIONAL SECURITY-ALLIANCES _ 12 p.m. The Women's Foreign Policy Group hosts a luncheon program on ``The Purpose of Alliances in American National Security," with Elizabeth Sherwood-Randall, Council on Foreign Relations. Location: Carnegie Endowment for International Peace, 1779 Massachusetts Ave. NW.

KATRINA-FIRST RESPONDERS _ 12:15 p.m. Sen. Debbie Stabenow, others, hold a news conference to press for immediate funding of $5 billion in the Commerce, Justice and State appropriations bill. Location: Room 138, Dirksen.

EU TRADE COMMISSIONER MANDELSON _ 12:30 p.m. The National Press Club holds a luncheon with EU Trade Commissioner Peter Mandelson, who discusses ``The Right Choices for International Trade and a Successful Doha Round." Location: National Press Club.

KATRINA-FISHERIES _ 12:30 p.m. Marine fisheries experts hold a telephone news conference to discuss the Gulf Coast's fisheries and marine environment. Contacts: Dave Bard, 202-778-4551. Notes: Call in number: 800-351-6808; passcode: hurricane.

UN GENERAL ASSEMBLY PREVIEW _ 12:30 p.m. The Brookings Institution holds a briefing on the upcoming UN General Assembly agenda, possible outcomes, and the importance of this meeting, with Lael Brainard, Ann Florini, and Michael O'Hanlon, all of Brookings. Location: Brookings Institution, Falk Auditorium, 1775 Massachusetts Ave. NW.

GASOLINE PRICES _ 1 p.m. USPIRG holds a telephone briefing on rising gasoline prices, with Athan Manuel of USPIRG, Dan Lashof of NRDC and Eban Goodstein of Lewis and Clark College. Contacts: Liz Hitchcock, 202-546-9707. Notes: Call in number: 800-565-5442; passcode: 5245116.

KATRINA-FARMERS _ 1 p.m. Family farmers and ranchers, Sens. Kent Conrad and Byron Dorgan and Rep. Earl Pomeroy hold a news conference to announce emergency legislation to assist agricultural producers hurt by Hurricane Katrina. Location: Senate Swamp.

IRAQI VIEWS OF CONSTITUTION _ 3 p.m. The US Institute of Peace hosts a discussion on ``Iraqi Views of the Constitution," with Laith Kubba, spokesman of the prime minister of Iraq, and Daniel Serwer, U.S. Institute of Peace. Location: U.S. Institute of Peace, 1200 17th St. NW.

ROBERTS-NAM _ 4:30 p.m. National Association of Manufacturers and the U.S. Chamber of Commerce hold a news conference in support of John Roberts' nomination as Chief Justice of the U.S. Supreme Court. Also participating will be Sens. Bill Frist and John McCain. Location: Room 534, Dirksen.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"As Lights Go Out, Power Worries Rise."
"Bush Tours Damage; 45 Bodies Found At Hospital."
"Roberts Sees Role As Judicial 'Umpire.'"
"Beauty In The Eye Of Katrina."
"Save Yourself."
"Floodwaters Lift Poverty Debate Into Political Focus."
"Much Wider Damage To Levees Is Disclosed."

USA Today:

"'Devastating Loss': Baby Born To Brain-Dead Woman Dies."
"Views Of Whites, Blacks Differ Starkly On Disaster."
"Head Of FEMA Steps Down."
"Roberts Pledges 'Humility' As Senate Hearings Begin."

New York Times:

"Roberts Pledges He'll Hear Cases With 'Open Mind.'"
"Democrats Seek Papers To Define Whys Of Roberts."

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"45 Bodies Found In A New Orleans Hospital."
"In The Ripples, 2 Men Salvage The Memories."
"Rush To Set Up U.S. Housing For Survivors."
"Gazans Revel As They Sift Through Ex-Settlements."

Washington Post:
"45 Bodies Found In La. Hospital."
"'Judges Are Not Politicians' Roberts Says.'"
"For Many Casualties, No Who, How Or When."
"A Major Test For FEMA And Its Contracting Crew."
"Informants Decide Fates Of Iraqi Detainees."
"5-Week-Old Born In N.Va. To Comatose Mother Dies."

Washington Times:
"At Least 40 Bodies Found In New Orleans Hospital."
"Roberts Comes With 'No Agenda.'"
"Chavez Land Seizures Slammed."
"Premature Baby Born To Brain-Dead Woman Dies."
"Palestinians Rejoice, Loot As Israel Wraps Up Pullout."
"Needed: Old War Spirit In A New War."

Detroit Free Press:
"'I'm Missing 16 Years Of My Life.'"
"Greektown Casino Will Stay Put."
"A Crisis Manager Takes Disaster Job."
"Roberts: Justices Are Like Umpires."

Atlanta Journal-Constitution:
"Grisly Sight At Hospital."
"Falcons Mania."
"2 Killed In Carjacking, Shooting."
"Gas Prices Recede From $3-A-Gallon Stratosphere."

Dallas Morning News:
"Getting Back To Business."
"Crews Coaxing Pets To Safety."
"Feds Trying To Put Aid In Right Pockets."
"Roberts: I'll Judge With 'Open Mind.'"

Houston Chronicle:
"Bush Promises Aid Won't 'Discriminate.'"
"For AstroWorld, The Ride Is Over."
"Roberts Vows Fairness As High Court Umpire."
"Collecting Insurance A Headache All Its Own."
"Crime Rate Stays Level, But Police OT Soaring."

Story Lineup From Last Night's Network News:
ABC: LA Blackout; Blackout Cause; FEMA-Brown Resigns; New Orleans Recovery; Bush Approval Down; Roberts Hearing; Rehnquist-Nomination Process; Syria-Iraq; Palestinians-Gaza Settlements; New Orleans Musicians.
CBS: LA Blackout; New Orleans-9/11 Tapes; FEMA-Brown Resigns; Roberts Hearing; Katrina-Missing Children; Supreme Court-Upcoming Cases; Tropical Storm Ophelia; Katrina-Government Waste; Gas Prices; MS School Reopens.
NBC: FEMA-Brown Resigns; New Orleans Recovery; New Orleans-Bodies Found; Hurricane Zone-Businesses; LA Blackout; Roberts Hearing; Katrina-Charities; Katrina Evacuees-Job Search; Ford-Hertz Sold; Katrina Evacuees-Texas.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Roberts Hearings; New Orleans-Passenger Flights Resume; New Orleans-Bodies Found In Hospital; Brown Resignation; Tropical Storm Ophelia.
CBS: Roberts Hearings; New Orleans-Passenger Flights Resume; Brown Resignation; Tropical Storm Ophelia; Los Angeles-Blackout; Wall Street.
NPR: Brown Resignation; New Orleans-Bodies Found In Hospital; Senate Panel-Tax Relief For Hurricane Victims; Tropical Storm Ophelia; Roberts Hearings; Wall Street; Los Angeles-Blackout; Mexico-Energy Package; USDA-Katrina Crop Damage.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, SEPTEMBER 13, 2005 7:45 AM EDT

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TERRORISM NEWS:

Briton Gets 47 Years In Missile-sale Case (USAT)

USA Today, September 13, 2005

A British businessman convicted of trying to smuggle shoulder-launched missiles into the USA was sentenced Monday in Newark, N.J., to 47 years in prison. The plot involved the sale of missiles to a group that Hemant Lakhani, 70, was told would use them to shoot down commercial planes. The weapons' buyer and seller actually were government agents. Lakhani, arrested in August 2003, was convicted in April of trying to provide material support to terrorists, unlawful brokering of foreign defense articles and attempting to import merchandise to the USA by means of false statements, plus two counts of money laundering.

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Push for gay-marriage ban falters in Mass.

An effort among some Massachusetts legislators for a constitutional amendment to ban gay marriage in the state is fading, according to an Associated Press poll. The survey, conducted last week, found at least 104 lawmakers who plan to vote against the proposed constitutional amendment, which would ban gay marriage but create civil unions. The amendment, which is scheduled for a vote Wednesday, needs the support of at least 101 of the state's 200 lawmakers to get on the 2006 ballot. Last year, months after the state's Supreme Judicial Court ruled that same-sex marriage was legal, the amendment passed 105-92. It must pass a second vote to get on the ballot.

Escaped chimps killed at zoo in Nebraska

Three chimpanzees from a small zoo in Royal, Neb., were shot and killed after they escaped their enclosure and couldn't be recaptured, zoo director Ken Schlueter said. The primates at Zoo Nebraska freed themselves Saturday when a padlock wasn't completely closed after the cage was cleaned, he said. Schlueter killed the animals with a deputy's service revolver after a tranquilizer gun didn't show any effect. No people were hurt, state patrol spokeswoman Deb Collins said.

After the chimps broke out, employees moved visitors into an office area, but the chimps tried to get into the building, Schlueter said. A fourth chimp also escaped but quickly returned to its cage.

Survivor says he never fired at hunter

A deer hunter testified that he never fired at a man accused of going on a rampage and fatally shooting six people in the woods of Wisconsin after a confrontation over trespassing. Terry Willers, one of two hunters wounded in the shootings Nov. 21, testified that he was the only one in his group who had a gun when they confronted Chai Soua Vang. “Who shot first?” Attorney General Peg Lautenschlager asked. “Mr. Vang,” said Willers, whose daughter, Jessica, 27, was killed.

Willers testified on the second day of Vang's trial on six counts of first-degree murder and three counts of attempted murder. He faces life in prison if convicted. Vang, 36, of St. Paul, an ethnic Hmong who came to the USA from a Thai refugee camp in 1980, says he acted in self-defense after someone shot at him.

Field hockey players guilty of hazing

Six women pleaded guilty in Cumberland, Md., to hazing for their roles in a college field hockey initiation that left an 18-year-old hospitalized with a blood-alcohol level more than four times what the law considers intoxicated. The six current and former Frostburg State University players were each fined $300, given suspended 60-day jail terms and placed on a year's probation. On Dec. 3, the victims were urged to drink so much beer and liquor that one was hospitalized with a 0.365% blood-alcohol level, court documents showed. The freshmen were also pelted with flour, ice and eggs and made to sit in their own vomit and urine, the court documents said.

4 Democrats vie to challenge NYC mayor

Voters in New York City today will choose a Democrat to face Mayor Michael Bloomberg in the general election Nov. 8. Gifford Miller, Anthony Weiner and C. Virginia Fields spent the final weekend before the primary attending 9/11 remembrances, but Fernando Ferrer had lunch and a photo-op with Al Sharpton, who has endorsed him.

A poll by the Quinnipiac University Polling Institute found Ferrer with 32% of likely Democratic voters, leading Anthony Weiner's 25%. Thirteen percent of likely Democratic voters in the survey were undecided. The winner needs 40% to avoid a runoff in two weeks. The poll surveyed 717 likely Democratic primary voters from Sept. 6 to Sept. 11 and has a margin of error of +/-3.7 percentage points.

Briton Gets 47 Years In Missile Plot (WP/AP)

By Jeffrey Gold, The Associated Press

The Washington Post, September 13, 2005

NEWARK, N.J. -- A British businessman convicted of trying to smuggle shoulder-launched missiles into the U.S. to aid terrorists was sentenced Monday to 47 years in prison, effectively a life sentence.

Hemant Lakhani, 70, was convicted in April of attempting to sell the missiles to a group he thought would use them to shoot down commercial airliners.

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During his trial, and again Monday, his lawyers said Lakhani was the victim of government entrapment because the supposed missile seller and buyer were actually government agents.

Lakhani was convicted on all five charges he faced: attempting to provide material support to terrorists, unlawful brokering of foreign defense articles and attempting to import merchandise into the U.S. by means of false statements, plus two counts of money laundering.

Federal prosecutors were seeking the maximum on each count, for a total of 67 years, with Assistant U.S. Attorney Stuart Rabner recounting evidence in which Lakhani volunteered praise for Osama bin Laden.

"We may see a man who looks like us and dresses like us, but is so morally bankrupt that he plots the death of thousands of people," Rabner said.

U.S. District Judge Katharine Hayden rejected pleas for leniency from Lakhani and his wife, referring to what she called "overwhelming" evidence of his "reprehensible conduct."

Lakhani was arrested in August 2003 at a hotel near Newark Liberty International Airport where he had been meeting with a government informant posing as a representative of a Somali-based militant group.

The government asserted that Lakhani planned to arrange the sale of at least 50 more missiles after the sale of the first one.

Among evidence during the trial was a video secretly made at the hotel in which Lakhani and the informant are seen with a disabled shoulder-fired missile in a box. They stand by a window overlooking the airport and discuss how missiles could be used to bring down airplanes in several locations simultaneously.

Co-defendants Yehuda Abraham and Vijay Raja are to be sentenced in coming months, while an Indian citizen caught in the sting operation was deported after cooperating in the Lakhani prosecution.

Also, Moinuddeen Ahmed Hameed, 41, pleaded guilty in 2004 to conspiracy to operate an unlicensed money transmitting business. He was sentenced in June to the 22 months he had served since his 2003 arrest.

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On the Net:

U.S. Attorney's Office in Newark: http://www.njusao.org/break.html

Indian-born British Businessman Sentenced In U.S. Weapons Case (REU)

Reuters, September 13, 2005

NEWARK, N.J. (Reuters) - A U.S. federal court judge on Monday sentenced British businessman Hemant Lakhani to 47 years in prison for providing financial support for terrorist activities against the United States.

Prosecutors say Lakhani, 70, tried to sell a shoulder-fired missile to a man posing as a terrorist group member. He was found guilty in April of attempting to support terrorism, illegal arms brokering, money laundering and other charges.

Lakhani, who had faced a maximum sentence of 67 years, has maintained he was set up in a sting operation.

"It's a total lie," he said, holding his head in his hands, at the defense table in U.S. District Court in Newark, N.J.

His conviction was considered one of the more significant victories for the U.S. Justice Department since the Sept. 11, 2001 attacks and the launch of the U.S.-led war on terror.

Lakhani, his attorney, Henry Klingeman, and his wife pleaded for leniency, noting he is elderly and wants to return home to Britain.

"Mr. Lakhani is not entitled to leniency. He's entitled to fairness," U.S. District Court Judge Katharine Hayden said in handing down the sentence.

Lakhani was arrested two years ago after U.S. Customs officers and FBI agents stormed a New Jersey hotel room and found him showing a "sample" shoulder-fired anti-aircraft missile to an informant posing as a member of a Somali militant group.

The arrest was the culmination of a 22-month sting spanning three continents.

The Indian-born clothing merchant has claimed he was a victim of entrapment because the buyer was an FBI informant and the missile sellers were undercover Russian agents.

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Prosecutors said Lakhani had agreed to sell as many as 200 missiles to the informant and that he believed they would be used to shoot down U.S. airliners.

They said evidence showed he was a willing participant in the scheme, that he associated with a reputed terrorist and tried to broker other arms deals negotiated during 200 phone calls with the informant and 12 trips to Russia and Ukraine.

Two Plead Not Guilty To Terrorism Charges (PHI)

By Jeremiah Marquez

The Philadelphia Inquirer, September 13, 2005

SANTA ANA, Calif. - Two men pleaded not guilty Monday to federal charges alleging they planned terrorist attacks against military facilities, the Israeli Consulate and other targets in the Los Angeles area.

Levar Haley Washington, 25, and Gregory Vernon Patterson, 21, were ordered held without bail after their pleas in U.S. District Court.

"In the name of Allah, I plead not guilty," Washington said before U.S. Magistrate Judge Arthur Nakazato.

Prosecutors contend the plot was orchestrated by Washington, Patterson and Hammad Riaz Samana, 21, at the behest of Kevin James, an inmate of the California State Prison, Sacramento. James, 29, founded the radical group Jamiyyat Ul-Islam Is-Saheeh, or JIS.

During Monday's hearing, Assistant U.S. Attorney Kevin Smith called Washington and Patterson dangers to society and flight risks, saying they had planned to carry out a "homegrown jihad" against the United States.

All four men face counts of conspiracy to wage war against the U.S. government through terrorism, kill armed service members and murder foreign officials, among other charges, according to an indictment.

All but Samana are American born and Muslim converts. Counterterrorism officials have said they found no evidence directly connecting the group to al-Qaida or other foreign terror networks.

Samana, a Pakistani national, pleaded not guilty to federal charges last week. He was imprisoned for attempted robbery in Los Angeles County, prosecutors said. James was expected to be arraigned later this month.

Washington, Patterson and Samana - who attended the same Inglewood mosque - allegedly conducted surveillance of military sites, synagogues, the Israeli Consulate and El Al airline facilities in the Los Angeles area.

Prosecutors suspect that Washington, Patterson and Samana robbed gas stations to finance their plans. Patterson bought a rifle, and Samana received "firearms training and physical training," according to the indictment.

Washington and Patterson previously pleaded not guilty to robbery charges in a related state case. Samana has not been charged in that case.

Outside court, Ellen Barry, who was appointed Monday as Washington's attorney, said she had not yet reviewed evidence in the case and expected the Nov. 8 trial would be postponed.

Patterson's lawyer, Winston McKesson, said his client has asked him not to comment on the case.

Also Monday, law enforcement officials briefed Jewish community leaders in Los Angeles on the case and said local police planned to step up security in and around synagogues during the holidays.

Randy Parsons, acting assistant director of the FBI's Los Angeles office, said the extra security was being taken out of an abundance of caution, not because there was any specific, credible threat.

"It's important that people go about their normal activities but remain vigilant," Parsons said.

Al-Arian Trial Focused On Finances (TAMPTRIB)

By MICHAEL FECHTER

Tampa Tribune, September 13, 2005

TAMPA - An attorney for one of Sami Al-Arian's codefendants is challenging prosecution claims that his client was on the payroll of the Palestinian Islamic Jihad.

Defense attorney Stephen Bernstein points to the same translations of intercepted telephone calls prosecutors are relying on, but says the figures discussed leave no room to pay Sameeh Hammoudeh.

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Bernstein spent the morning cross examining FBI agent Michael Wysocki, who analyzed dozens of bank accounts involving the defendants and organizations they helped run. Al-Arian, Hammoudeh, Hatim Fariz and Ghassan Ballut are charged with racketeering and conspiracy to support the Islamic Jihad.

Hammoudeh does receive nearly $20,000 to his Tampa bank account from Islamic Jihad founder Fathi Shikaki in 1994, records show. He later sends $4,000 to Ramadan Abdullah Shallah, then a director at an Islamic think tank in Tampa, and $16,000 to the think tank itself.

In other calls, Al-Arian and Islamic Jihad members discuss salary information for its members. Bernstein has repeatedly tried to show that Hammoudeh is mentioned apart from the others and that references to him are not about salary.

He also is challenging Wysocki's claim that bank records fail to substantiate that Hammoudeh and others failed to make donations to needy Palestinians in Syria, Lebanon and the Occupied Territories despite receipts and lists of orphans seized during searches in 1995.

Bernstein asked about other records seized, which he said were never translated by the government, that might lead to a different conclusion. But, thus far, Bernstein has not shown Wysocki any additional documents that challenge the accuracy of his review.

Such evidence might be presented when defense attorneys get to call witnesses. Federal prosecutor Terry Zitek has indicated the prosecution could complete its case by the end of the month.

More Join Guantanamo Hunger Strike (WP)

By Carol D. Leonnig

The Washington Post, September 13, 2005

A month-old hunger strike at the U.S. military prison at Guantanamo Bay, Cuba, has grown to include at least 128 detainees, 18 of whom are forcibly receiving intravenous fluids or nutrition in the prison hospital, military officials and detainee lawyers said yesterday.

The captives are protesting their indefinite imprisonment and what they describe as beatings administered by the prison's Immediate Response Force (IRF)-- squads of military personnel who are dispatched to put down disturbances in detainees' cells. Some have said they will refuse to eat until the military gives them a fair hearing or they die, according to their attorneys.

Military officials first acknowledged the hunger strike, the second of the summer, on Aug. 25. Since then, the number of people hospitalized and in serious physical danger has grown to 18, according to Maj. Jeffrey J. Weir, a Guantanamo Bay spokesman. He said that step was taken to prevent any of the approximately 520 prisoners at the U.S. Navy base prison from engaging in a "form of suicide."

The hunger strike began in the first week of August, and, according to newly declassified accounts of detainees provided by their lawyers, has gradually spread across several camps at the prison. Detainees allege they have been severely beaten and are deeply frustrated at their indefinite detentions. Some have been held for 3 1/2 years without facing charges.

Lawyers for the prisoners assert that more than 200 detainees are refusing food. An earlier hunger strike in June and July ended after military authorities met with a small group of detainees and promised improvements in their living conditions.

"They truly feel they have nothing left," said attorney David Remes, who represents several Yemeni detainees. "I'm not sure what the end point will be. But I do predict there will be death."

Binyam Mohammed, formerly of London, whose account was the first declassified, told his attorney on Aug. 11 of the new hunger strike. "I do not plan to stop until I die or we are respected," he said. "People will definitely die."

Another detainee, Libyan-born Omar Deghayes, told his lawyer he had not eaten in five weeks. "Many more people have fallen unconscious. . . . More are taken to hospital," he said.

Military officials have characterized the protest as a "fast" of prisoners aimed at grabbing attention, and say it involves 128 prisoners. They say its significance is exaggerated by their lawyers.

Weir said no detainees are in danger of dying and that the military's treatment is preventing them from losing critical nutrition. Of the 18 people hospitalized, 13 are being force-fed through nasal tubes and five are being given intravenous hydration.

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On Aug. 25, the military said that 89 detainees were fasting and seven were hospitalized and receiving forced fluids or nutrition.

Weir said yesterday that the military does not allow beatings of detainees, and he believes the refusal to eat is part of a campaign to press for their transfer or release.

"My understanding is that it's just because of their continued detention," Weir said. "They're trying to call attention to that."

The majority of detainees at Guantanamo Bay have long insisted that they were captured by mistake by U.S. forces in Afghanistan in the fall of 2001. In some prisoners' cases, records show, the military has little but circumstantial evidence that the men engaged in or supported terrorist acts. The military's review of 558 cases resulted in 38 detainees being declared non-enemy combatants.

The appellate court for the District of Columbia heard arguments last week on the legality of the military holding the detainees indefinitely without giving them the chance to challenge their detentions in a U.S. court -- a follow-up to a U.S. Supreme Court ruling in 2004. But that dispute is expected to drag on until next year, and is likely to be appealed to the Supreme Court again.

Hunger strikes are not new to the prison. Detainees launched one in 2002 after allegations that guards and interrogators mistreated copies of the Koran. Military officials then issued new guidelines for proper treatment of the Islamic holy book, and the strike ended.

Detainees began a new strike in late June to protest their treatment and the quality of their food and water. They complained about solitary confinement, alleged beatings by IRF teams, and the use of uniform colors to signify how detainees should be treated. Detainees given white uniforms are considered cooperative while those assigned orange uniforms are considered uncooperative and treated more harshly, detainees said.

The prisoners halted the previous strike in the first days of August after military camp leaders met with a small "council" of detainees and promised improvements in their living conditions. But the strike resumed a few days later, some detainees told their lawyers, when news spread through the camp of a Tunisian detainee beaten by an interrogator and IRF teams hitting two others, according to detainees' reports to their lawyers.

Weir declined to discuss individual detainees' cases or allegations.

An Algerian detainee told his lawyer in a newly declassified report provided by his attorney that a new interrogator beat the Tunisian with an empty beverage cooler and a metal chair after the detainee refused to talk to him. The Algerian said he saw the Tunisian's bloodied, swollen eye after the session.

Weir declined to comment on those details. Other detainees' accounts of the strike have not yet been declassified by the military, their lawyers said.

No Way, José (WSJ)

The Wall Street Journal, September 13, 2005

The timing couldn't have been better. Two days before the anniversary of the 9/11 terrorist attacks on New York and Washington, a panel for the Fourth Circuit Court of Appeals ruled unanimously last Friday that the President "unquestionably" has the power to detain an American citizen who has taken up arms against his country.

But wait. Didn't the Supreme Court say precisely that in its Hamdi decision last year? So it did, as Judge Michael Luttig notes repeatedly in his 25-page opinion penned for the court. That wasn't enough for José Padilla's attorneys, who argued that Hamdi, which concerned an American picked up on a battlefield in Afghanistan, didn't apply to their client, who was arrested domestically, at O'Hare Airport.

Padilla, for readers who may have forgotten, is the Brooklyn-born former gang leader who was recruited by al Qaeda, trained in Afghanistan, and equipped, funded and dispatched back to America. The "battlefield" in this case was to be American apartment buildings, which Padilla is accused of plotting to blow up. President Bush designated him an enemy combatant in 2002. The "locus of capture" is "irrelevant," Judge Luttig writes. Common sense says that Padilla poses the same threat of returning to the battlefield whether he was captured at home or abroad.

In previous wars, Americans who conspired to kill their fellow citizens were subject to trial by military commission, an option the President expressly ruled out in his post-9/11 order limiting military tribunals to non-citizens. Padilla's supporters want him to be charged in the criminal justice system or released. They include the American Civil Liberties Union, the People for the American Way Foundation, and former Clinton Justice officials Janet Reno, Eric Holder and Philip Heymann, who all want a return to the days of treating terrorism like a law-enforcement problem. In the week of the 9/11 anniversary, we're glad the Fourth Circuit didn't authorize a return to this September 10 mindset.

A Radical Vows To Fight Britain's Expulsion Plan (CSM)

By Peter Ford

The Christian Science Monitor, September 13, 2005

LONDON - Yasir al-Sirri is no stranger to British courtrooms. Since he sought asylum here 11 years ago the Egyptian Islamic radical has been in and out of jail, and has successfully fought off attempts to extradite him on terrorism charges to both the US and Egypt.

Now, however, in the wake of July's London bombings, he faces perhaps his greatest challenge yet as the British government prepares to join a Europewide crackdown on extremist Islamic circles and deport dozens of individuals deemed "not conducive to the public good."

As European governments lower their traditional levels of tolerance for radicalism, they are redrawing the lines between civil liberties and national security in the face of terrorist violence.

"Anything can happen," Mr. Sirri says, with a shrug of his shoulders. "I am expecting something to happen."

Last week, the Italian authorities summarily expelled a Moroccan imam and two other Middle Eastern men, giving them no chance to appeal under powers introduced since the London bombings that killed 52 people on July 7.

France announced last month that it would be deporting a dozen or so North African immigrants it deems dangerous, using administrative procedures not subject to prior judicial review. "In France we are very well organized with regard to expulsions," says Guillaume Larrivé, an adviser to Interior Minister Nicolas Sarkozy. "We don't ask ourselves major juridical questions."

European human rights activists are up in arms, complaining that those sent back to their countries of origin, mostly Middle Eastern nations such as Saudi Arabia, Egypt, and Algeria, face torture.

"It is absolutely scandalous," says Jean-Pierre Dubois, president of the French Human Rights League. "Are human rights not for all humans, or have we decided that radical imams are monsters?"

The United Nations' special rapporteur on torture, Manfred Nowak, also condemns the growing trend. "The risk is very high that these people would be subjected to torture," he warns. "Most of the Muslim fundamentalists' countries of origin unfortunately do have a clear record of torture."

Recognizing the dangers, the British interior minister, Charles Clarke, nonetheless insists that "it really is necessary to balance very important rights for individuals against the collective right for security."

Sirri, who runs the "Islamic Observation Center" in London, (he says it monitors human rights abuses in the Muslim world, but US and British police say it is a conduit for messages among Al Qaeda militants), would undoubtedly be arrested if he were sent back to Egypt.

The government there has been seeking his extradition from Britain for 10 years in connection with his alleged role in a 1993 assassination attempt by the "Islamic Group" against the Egyptian prime minister.

Britain, like other European countries, is bound by the European Convention on Human Rights, and by a UN treaty, not to send anyone to a country where he or she runs a serious risk of torture. The British government, however, is seeking to circumvent this restriction by demanding diplomatic assurances from 10 Middle Eastern and African countries that they would not mistreat any deportees.

So far only Jordan, which has been widely accused of torturing suspects, has agreed to offer an assurance. Britain says negotiations with Egypt, Algeria, Morocco and other governments are still under way.

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But no such understandings would be valid, insists Dr. Nowak, an Austrian human rights expert. "Jordan is already a party to the UN Convention against Torture," he argues. "Why should they suddenly stop torturing? They are already violating a legally binding treaty, so why should they not violate a nonbinding diplomatic agreement?"

The Egyptian government broke a similar promise it made to Sweden in 2001, when Stockholm deported Ahmed Agiza only on condition that he be well treated and given a fair trial, Nowak points out. Stockholm later complained that Mr. Agiza had been tried unfairly before a military court, and he complained that he had been tortured. Sirri trusts British judges not to rubber-stamp government deportation orders. "If the government gives any judge the political agreement between the UK and Jordan, he will throw it in his rubbish bin," he says confidently.

Mr. Clarke, on the other hand, said Friday he hoped that judges reviewing deportation cases would "recast the balance" between individual human rights and national security. "The right to be protected from torture and ill treatment must be considered side by side with the right to be protected from the death and destruction caused by indiscriminate terrorism," Mr. Clarke said in his speech last week.

British judges have long protected radical imam Abu Hamza al-Masri from extradition to Yemen, where he is wanted on terrorism charges, for example. His fiery sermons appear to have inspired one regular visitor, shoe bomber Richard Reid.

Clarke last month issued a list of "unacceptable behaviors" that would prompt deportation orders against foreigners living in Britain. It includes fomenting, justifying, or glorifying terrorist violence; seeking to provoke others to terrorist acts; and fostering hatred that might lead to intercommunity violence.

That would appear to cover websites carrying videos of British soldiers being blown up in Iraq or of hostages being beheaded, and the distribution of messages encouraging jihad from such figures as Osama bin Laden.

The move appears to enjoy strong public support. A poll carried out for the Guardian newspaper last month found that 71 per cent of respondents agreed that "foreign Muslims who incite hatred should be excluded or deported from the UK."

Announcing the list, Clarke insisted that it was "not intended to stifle free speech or legitimate debate about religions or other issues." Officials pointed out that the government had backed off a plan to deport foreigners who expressed "views the government considers to be extreme and that conflict with the UK's culture of tolerance."

That is not how Sirri sees things. "Tony Blair is changing this country from one respected for its human rights to a graveyard of human rights," he charges.

In Egypt, he says, military courts that the British government does not regard as fair have handed down three sentences against him: the death penalty, 25 years' hard labor, and 15 years' hard labor. If he were sent back, he says with a bitter laugh, "I don't know which one they would apply first." Yasir al-Sirri: 'I did nothing illegal'

Yasir al-Sirri is exactly the sort of man the British government hopes to be able to expel with its new, tougher deportation policy: He keeps very dubious company and the police are sure he is up to something, but have not been able to pin anything on him or put him on trial.

In Egypt, Mr. Sirri is thought to have been a leader of the radical "Gama'a Islamiya" group, and was sentenced him to death for his alleged role in an assassination attempt against the prime minister. But British judges have refused to extradite him to Cairo, citing weak evidence. Sirri claims he had nothing to do with the plot. He did, though, have ties in those days with Ayman al-Zawahiri, now Al Qaeda's second-in-command. And US authorities want him for carrying messages for Sheikh Omar Abdel Rahman, who is serving a life term for trying to blow up the World Trade Center in 1993.

Sirri was held in Belmarsh prison in London for eight months for providing a letter of journalistic accreditation to the two men who assassinated the Afghan warlord Ahmed Shah Massoud in 2001. But a British court finally decided he had been an unwitting accomplice in the affair, and let him go. Sirri insists that "I did nothing illegal in this country and I have not broken any law in this country." Islamic law, he adds, demands that "anyone who arrives here under asylum cannot do anything against this country. Tony Blair is just using [the London bombings on] 7/7 as an excuse to carry out his agenda."

PATRIOT ACT:

Booksellers At Fore Of Patriot Act Fights (SMCT)

DOJ_NMG_0004309

By Sajid Farooq, STAFF WRITER

San Mateo County (CA) Times, September 12, 2005

EDITOR'S NOTE: This is the second day of a three-day series looking at the impact of and the controversy over the Patriot Act and its second revision that awaits President Bush's signature. The series began Saturday and runs through Tuesday.

Five years ago, an independent bookstore in Denver became the center of a drug investigation, and at the same time, inadvertently became a model for bookstore owners across the country concerned with the Patriot Act.

Police officers walked into the Tattered Cover Book Store and served a search warrant for the records of one of the store's customers, who was suspected of manufacturing methamphetamine, according to the American Bookseller Foundation for Free Expression. Even though the search took place more than a year before the Patriot Act was passed, the case set a precedent for booksellers and others across the country who are fighting some of the surveillance provisions of the anti-terrorism law.

Several businesses, city councils and other governmental institutions across the country have taken stances for and against the act for a variety of reasons. Some of those stances are driven by politics, some by security and others by fear.

"You have to be able to do this without the government looking over your shoulder," said Rich Van Castle, owner of three Bay Books stores in the East Bay. "It is very important. I wouldn't want the government coming in here and saying 'What did he read or did she read?'"

Van Castle is just one of many independent and corporate booksellers across the country who have been fighting one of most controversial measures of the act, Section 215, which gives federal authorities access to customers' book, medical and library records, while establishing a gag order to prevent anyone involved from commenting on the case.

"That to me is a violation of free speech in of itself," Van Castle said.

Successful tool

But to the FBI, which is often painted as the abuser of Patriot Act powers, says the gag order is a matter of both national and personal security. The FBI also contends that bookstore purchases and library records were available to federal authorities long before the Sept. 11-inspired Patriot Act.

"Some of this is just common sense," said Special Agent LaRae Quay with the San Francisco office of the FBI. "It's just one of these things if we are looking at an individual it's best that they not know. (It's) also to protect the individuals that are cleared.

"First of all, if you have a librarian flapping his or her lips that Joe Blow has been looked at, if that's a terrorist, that tips them off. And secondly, if they are innocent, their reputation is smeared."

Critics of Section 215 argue that record searches violate customers' First Amendment rights. The Colorado Supreme Court backed that stance when it ruled in favor of Tattered Cover Book Store, which refused to comply with a subpoena.

The court ruled that the prosecution had not shown enough proof that it needed the customer's buying records to prove his guilt. Reasonable doubt is vital to access records, according to Quay.

"It's not just an agent (who) decides 'I want records and

Advertisement

go and seize them'," she said. "We have to be able to articulate any connection with records and an ongoing investigation."

Library records were available for criminal cases before passage of the Patriot Act, but the act gives access to records involving suspected terrorists.

Being able to access library records has been a successful tool in protecting public safety, according to Quay. The FBI was able to track the Unabomber, Ted Kaczynski, by pulling his library records.

The FBI examined Kaczynski's life and noticed that his manifesto referred to three obscure books that very few people would read. The FBI was tipped by Kaczynski's brother that the books of "interest were checked out from his local library." The FBI obtained a federal grand subpoena and went to the library near where he lived to verify the information.

Still, from small independent bookstores to huge chains — such as Borders and Barnes & Noble — to public libraries, protecting customers' privacy is a driving force behind taking a public stance against the act.

"It is very important. We believe that it is our customers' right to choose what to read, listen to and buy, and those decisions are private," said Anne Roman with Borders.

Other entities affected

There are other businesses, such as banks, that must provide access to customer records.

Because of the Patriot Act, certain transactions and identities must be reported to the government to help prevent financial crimes involving terrorism, such as identity theft and money laundering.

The act has also affected local governments across the country. Nearly 400 communities in 43 states, representing 62 million people, have taken positions of one sort or another against the Patriot Act.

Shortly after the Sept. 11 attacks, the American Civil Liberties Union hired five people to help get resolutions against the Patriot Act passed across the country, according to Dalia Hashad, an advocate in for the ACLU's campaign against racial profiling.

The ACLU organizers worked with local leaders in each community to get resolutions passed. But the ACLU did not want its name all over the campaign, so the five people hired to work on the resolutions full-time divided the country into five sections and worked with each local community to get them passed.

The success of the campaign was based on Americans' unwillingness to compromise their civil rights for national security, according to Dorothy M. Ehrlich, the executive director of ACLU Northern California.

"I think people understood giving up civil liberties didn't make them any safer," she said. "There is no evidence that it does and there is a lot to lose. There has truly been a bipartisan concern across the country."

HOMELAND RESPONSE:

USA Still Terrorists' 'No. 1 Target' (USAT)

By John Diamond

USA Today, September 13, 2005

In his first media interview since becoming the nation's first director of national intelligence in April, John Negroponte spoke Monday to reporters and an editor from USA TODAY.

Some highlights:

"We're talking about something that is a medium- and long-term proposition. We're not talking about changes that can necessarily be instituted overnight."

"Progress has been made in dismembering and attacking the leadership of his organization. A number of important operatives of his have been killed or captured. He is, we think, alive somewhere in the Afghan-Pakistan border area. … Even though he hasn't been captured, I think that he and his organization are very much on the defensive."

"We've seen in some of the statements and correspondence that we've laid our hands on between al-Qaeda leadership that clearly they would like to see this activity spread into such targets as Western Europe, and I think what happened in London on the 7th of July, whether or not it was directed by al-Qaeda, was certainly consistent with that desire. … They see vulnerabilities in the West, in Western Europe. And of course, the United States homeland remains, in my view, their No. 1 target."

"Putting numbers on the size of the insurgency is probably a bit of a speculative business because nobody knows for sure. But I guess I'd say that based on what I've read and on my own knowledge of the situation in Iraq, that over the past several months I don't think the size or nature of the insurgency has changed appreciably."

"These are both states that have got to be watched very carefully, and they are extremely high priority. … In either instance, left to their own devices they are either going to develop or further develop, as the case may be, their nuclear capabilities."

Intel Chief: Iraqis In Insurgency More Elusive (USAT)

By John Diamond, Usa Today

USA Today, September 13, 2005

WASHINGTON — U.S. intelligence is struggling to expose elements of the insurgency in Iraq made up of former members of Saddam Hussein's regime, John Negroponte, the nation's intelligence chief, said in an interview Monday.

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Joint U.S.-Iraqi military efforts have damaged the network of foreign insurgents led by Abu Musab al-Zarqawi, though Zarqawi himself remains at large, Negroponte said. Indigenous Iraqi insurgents, led by former members of Saddam's ruling Baath Party, have been tougher to track down.

The "former regime elements ... seem to have very good operational secrecy," Negroponte said in a wide-ranging interview with USA TODAY reporters. "And thus far it's not been that easy to make a dent in that part of the insurgency."

Though foreign fighters, mainly Sunni Muslim Arabs from Syria and Saudi Arabia, have grabbed headlines with suicide bombings that have killed hundreds of Iraqis, Negroponte said Iraqis dominate the insurgency. Despite intense focus on Iraq, where 138,000 U.S. troops are deployed, U.S. intelligence has not been able to produce anything more than a "speculative" estimate of the insurgency's size, he said.

Based on everything he has seen, Negroponte said, the insurgency is neither gaining strength nor weakening appreciably. The insurgency's stubborn resistance to U.S. and Iraqi military efforts has complicated the development of a democracy.

Negroponte became the nation's first director of national intelligence in April after nine months as U.S. ambassador to Iraq. Congress created the post last year in response to independent commissions that laid out major intelligence failures prior to the Sept. 11, 2001, terrorist attacks and the U.S.-led invasion of Iraq. He has spent much of his time in the job setting up special centers overseeing counterterrorism and weapons proliferation. "Mission managers" will be named soon for human intelligence, Iran and North Korea, Negroponte said.

Although the Office of the Director of National Intelligence was created in an atmosphere of urgency, "it's really a start-up organization," he said. "It's work in progress."

In his first media interview since assuming the intelligence post, Negroponte also said:

• Despite significant failures before 9/11 and the Iraq war, U.S. intelligence "is second to none compared to any other intelligence organization in the world." His task is "making it even better."

• Al-Qaeda, though weakened by the U.S.-led global war on terrorism, continues to plan and organize terrorist attacks and regards the U.S. homeland as its top-priority target. Western Europe, Negroponte said, is more vulnerable than the USA to al-Qaeda.

• A viable Iraqi government has been slow in getting organized because the war led to the "degradation ... of virtually every single government department. ... They basically had to start practically from scratch."

Negroponte, 66, spoke in a secure room of his office's headquarters a block from the White House. A career diplomat with Foreign Service commissions signed by every president back to Dwight Eisenhower, Negroponte got his first overseas experience in South Vietnam in the early 1960s. He has been ambassador to Honduras, Mexico, the Philippines, the United Nations and Iraq.

When he appointed Negroponte, President Bush emphasized that the new chief needed broad powers over spending and personnel across military and civilian intelligence agencies.

Nevertheless, Negroponte said he cannot rule the 15 intelligence agencies "by fiat" but must "foster a strong sense of community" among organizations that have not always cooperated.

Negroponte said he is close to making a major decision on whether to go forward with a highly classified imagery intelligence network. According to Steve Aftergood of the Federation of American Scientists, the program probably concerns a costly network of satellites capable of evading radar, reflecting a Defense Department concern about the possibility that an adversary might attempt to "blind" U.S. intelligence operations by attacking its satellites.

Negroponte praised Homeland Security Secretary Michael Chertoff for helping the "lash-up between domestic and foreign" intelligence, which the 9/11 Commission called a major contributor to lapses before 9/11.

Following the report of the so-called WMD Commission, which examined the incorrect prewar estimates that Iraq had chemical and biological weapons and an active nuclear weapons development program, Negroponte said he is creating new standards on rating the veracity of clandestine intelligence sources. He is also improving the description of sources behind intelligence assessments.

Smarter Airport Screening Machines (WSJ)

DOJ_NMG_0004312

By Laura Meckler

The Wall Street Journal, September 13, 2005

A gaping hole in airport security remains: how to detect explosives in carry-on bags and on passengers themselves. Now, a host of new technologies are being tested to close that gap.

One of the most promising is a machine that has the ability to see through clothing to find a hidden weapon. The problem with early versions of the machine is that they show images of people as if they had no clothes on, which sparked privacy concerns. Yesterday, American Science & Engineering Inc. launched an X-ray machine that can see objects hidden beneath clothing while obscuring private parts. The other leading manufacturer of the machines also promises to cover up those parts of the image, though in a different way.

An alternate technology, being tried in some airports now, shoots puffs of air at passengers to detect traces of explosive residue. GE Security, a subsidiary of General Electric Co., yesterday unveiled a new machine that also detects residue, but passengers put their fingers onto a pad instead of being spritzed with air.

The moves are part of a highly competitive, rapidly unfolding race to deploy the best technology for closing the security gap at airport checkpoints.

The security upgrades at American airports since 2001 have been significant, including locking cockpit doors and reinforcing them with steel, and deploying thousands of air marshals aboard flights. But, while all checked luggage is now screened for explosives, people and bags that get carried on generally aren't. Magnetometers that travelers walk through detect metal but not weapons made of other materials. Similarly, carry-on luggage is X-rayed, which will catch scissors or a knife but not necessarily a bomb.

The Transportation Security Administration is currently reviewing several post-9/11 security guidelines that air travelers have grown to loathe: removing shoes, taking off jackets, leaving behind cuticle scissors. How much the agency relaxes these rules could in part depend on how confident government officials are about the new machines' ability to guard airport checkpoints. At Baltimore/Washington International Airport, for instance, those who walk through an explosive-detection machine don't have to take their shoes off for the metal detector.

"Our vision is for passengers to not have to remove their jacket, not have to remove their shoes, not have to remove their laptop from their bag -- to go through a checkpoint rapidly," said Dennis Cooke, president of GE Security's Homeland Protection business.

The TSA has a long list of limitations it must work within. These include everything from space at the checkpoints to cost concerns. The government is focusing mostly on two types of technology, each with pluses and minuses. The "puffer" detects the tiniest bit of explosive material on a traveler but can't find a hidden weapon. The "backscatter," on the other hand, can see through clothing to detect hidden bombs or guns, but creates the obvious privacy concerns.

Puffers, officially called trace detection portals, are now being deployed at two dozen airports around the country, including those in Las Vegas, Baltimore/Washington, San Francisco, Phoenix and Tampa, Fla. They blow several puffs of air on a traveler to shake loose particles that have settled on the body and then analyze them for explosive residue.

"It's right out of 'Star Trek,' " says Natalie Koza, who walked through the machine at BWI airport late last month. The 47-year-old State Department employee, who was on her way to Egypt, was quickly cleared.

The machines, manufactured by GE and Smiths Detection, a subsidiary of London-based Smiths Group PLC, cost about $150,000 each. The TSA has said it anticipates deploying 100 more of them by January. GE's new technology, called the Itemiser FX, which detects explosives as well as narcotics, costs about $65,000 per machine and is portable.

The problem with these machines: While they are great at detecting explosives, they won't find a hidden gun or knife. Backscatter, an X-ray that sees under clothing, solves that problem. TSA is close to deploying these machines in a handful of airports, including those in Baltimore/Washington and San Francisco, to test their effectiveness. But the backscatter creates another problem: It produces intimate pictures of unsuspecting travelers.

"It really is a nude strip search," said Tim Sparapani at the American Civil Liberties Union, which opposes their use.

In response, AS&E's new machine, called SmartCheck, creates an outline of the person's body, along with an outline of hidden items. Rapiscan Systems, the other manufacturer, has come up with a sliding scale where the image starts to get fuzzier

or more precise as needed. The companies promise other protections: The people who screen the X-rays would sit in a remote room where they can't see the people moving through security. The screeners would all be of the same sex as the travelers and images won't be saved.

Clifford Wilke, chief technology officer for the federal TSA, says some airports, particularly large ones, could wind up with both puffers and backscatters. But others argue that having multiple machines would take up too much space and keep passengers waiting too long.

Either the puffer or the backscatter is likely to improve on current procedures. In most airports, travelers who are selected for further screening -- either because their name is on a watch list or the metal detector is set off when they walked through -- are subject to a physical pat-down by a screener.

A test of the backscatter technology at London's Heathrow International Airport suggested that hand pat-downs miss at least half of the prohibited items hidden on travelers.

The Homeland Security Department's inspector general said in May that the ability of TSA screeners to stop prohibited items being carried through airports was no better than it had been in late 2001 and early 2002, before the federal government took over screening. Experts say that's partly because screeners are loathe to probe private parts of the body.

Technology to screen carry-on bags for explosives is even less advanced than screening for people. One possible solution is to replace the existing X-rays with CT scans now used on checked bags. A two-month preliminary test of this technology was completed recently at Boston Logan International Airport, and TSA hopes to begin formal lab testing next summer.

In the long term, technology companies envision a day when travelers don't even have to walk through machines -- when sensors throughout the airport scan people as they walk through hallways.

Closer to reality might be one machine that could handle all screening, searching for metal and explosives alike. "Instead of walking through three pieces of machinery, you walk through one," predicted Todd Haupli, a lobbyist for airports. "We have finite resources as a country that we're willing to throw at all this."

WAR NEWS:

Talabani Says Iraqis Could Replace Many U.S. Troops (WP)

By Jim Vandehei

The Washington Post, September 13, 2005

Iraqi President Jalal Talabani said in an interview yesterday that the United States could withdraw as many as 50,000 troops by the end of the year, declaring there are enough Iraqi forces trained and ready to begin assuming control in cities throughout the country.

After the White House and Pentagon were contacted for comment, however, a senior adviser to Talabani called The Washington Post to say Talabani did not intend to suggest a specific timeline for withdrawal. "He is afraid . . . this might put the notion of a timetable on this thing," the adviser said. "The exact figure of what would be required will undeniably depend on the level of insurgency [and] the level of Iraqi capability."

In the interview, Talabani said he planned to discuss reductions in U.S. forces during a private meeting with President Bush today, and said he believed the United States could begin pulling out some troops immediately.

"We think that America has the full right to move some forces from Iraq to their country because I think we can replace them [with] our forces," Talabani said. "In my opinion, at least from 40,000 to 50,000 American troops can be [withdrawn] by the end of this year."

That assessment differs dramatically from those offered by Bush and by U.S. military commanders in Iraq.

Bush has carefully avoided setting a timetable for reducing the number of U.S. troops in Iraq, currently about 140,000, and the Pentagon plans to maintain or slightly increase the force level in anticipation of an Oct. 15 referendum on Iraq's new constitution. White House officials say that Bush's strategy for eventually withdrawing troops hinges on Iraqis' approving the constitution and holding successful elections in December.

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Dan Bartlett, a senior Bush adviser, said the president and Talabani have the same goals. "We share the same view: As Iraqis build up their capabilities to defend their country, fewer U.S. troops will be needed to complete our mission," Bartlett said. "The president will continue to work with Iraqi leaders, and base his military decisions on the advice of commanders in the field and the secretary of defense."

A senior Army official, who spoke on condition of anonymity because the military does not openly discuss withdrawal timelines, said bringing home as many as 50,000 U.S. troops -- or more than 35 percent of those now in Iraq -- by the end of the year is not under discussion. "Any talk of reduction has been for well after the election time frame," the official said. "Are there discussions about how to pull back and when? Sure. But certainly not that dramatically in such a short time."

Talabani's statement has the potential to put Bush in a difficult position if the troops are not pulled out by year's end, since critics are certain to ask why U.S. soldiers cannot come home when Iraq's own president says they can. The two leaders will hold a joint news conference today after their meeting.

In the interview, Talabani said Iraqi troops are prepared to assume control of security in several cities throughout southern, central and northern Iraq, despite continued violence, suicide bombings and killings. Many military experts predict a spike in insurgent attacks ahead of next month's vote.

Talabani said the number of "well-trained" Iraqi security forces stood at 60,000 and would reach 100,000 by the end of the year. All told, there about 190,000 Iraqis enlisted in the military or local security forces. "Some are well-trained, some are not so well-trained," he said. Iraqi troops have light arms, but he said they need 50 tanks and automatic weapons.

Talabani, who is Kurdish, could be influenced by the fact that the Kurds are fairly capable of defending their territory in northern Iraq and are less in need of U.S. military support, said Michael O'Hanlon, a fellow at the Brookings Institution who studies Iraq.

Many Sunni Arabs oppose the draft constitution, and they are organizing in record numbers to vote against it in Sunni-dominated regions. Talabani raised the possibility of an addendum to the constitution in coming days in an effort to appease Sunni factions. "Of course, we would like to have consensus on all articles of the constitution," he said.

In the interview, Talabani said he did not want to speak critically of neighboring Syria, which the top U.S. envoy to Iraq chastised for interfering there. Many of the foreign insurgents fighting in Iraq are believed to have entered the country along the porous Syrian border. "Our patience is running out, the patience of Iraqis [is] . . . running out. The time for decision . . . has arrived for Damascus," Ambassador Zalmay Khalilzad told reporters at the State Department.

Commenting on the upcoming trial of ousted president Saddam Hussein, Talabani insisted that the former leader had confessed to the killings of tens of thousands of Kurds in the late 1980s, an assertion denied by Hussein's attorney.

Hussein is scheduled to go on trial Oct. 19 on charges stemming from a massacre of Shiite Muslims following a failed assassination attempt on the Iraqi leader in the northern town of Dujail in 1982. Hussein allegedly retaliated for the plot by killing at least 143 people and razing much of the town.

Talabani, based on a conversation with the judge in the case, recounted a scene right out of the movie "A Few Good Men." Asked about the mass killings, Hussein sat silent, refusing to utter a word, Talabani said. But Hussein was taunted, asked if he was afraid to say he carried out such an act. Hussein said, "I am not afraid," and defiantly admitted he ordered the killings. Talabani said the judge has a video and recording of the confession.

Iraqi Premier Visits A City As His Forces Widen Patrols (NYT)

By Robert F. Worth

The New York Times, September 13, 2005

BAGHDAD, Iraq, Sept. 12 - Prime Minister Ibrahim al-Jaafari paid a surprise visit to Tal Afar on Monday, with that city largely quiet after a major offensive by American and Iraqi troops aimed at reclaiming it from insurgents.

The prime minister has repeatedly showcased the Tal Afar operation as proof of his government's willingness to deal decisively with Sunni insurgents in western Iraq.

State television continued to show film of Iraqi soldiers storming buildings in Tal Afar throughout the day.

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With the fighting largely over, more police commando units began moving into Tal Afar and the surrounding area, where they will remain for weeks as a new police force for the city is recruited and trained, and reconstruction efforts get under way, Iraqi military officials said.

An insurgent group, the Islamic Army in Iraq, offered up to $100,000 for the assassination of Mr. Jaafari and other high-ranking members of the government who were involved in the offensive, Reuters reported.

The same group announced in an Internet posting that it had killed a high-ranking Interior Ministry official in retaliation for the operation in Tal Afar.

Interior Ministry officials could not confirm such a death by Monday evening.

Another organization, the Victorious Army Group, threatened Sunday to attack Baghdad with chemical weapons if the Tal Afar operation did not stop.

The interior minister, Bayan Jabr, discounted that threat in a news conference on Monday, but he added that the government was consulting with chemical weapons specialists and making preparations in case the threat is carried out.

Mr. Jabr also dismissed questions from reporters about whether the Tal Afar attack was timed to shore up the government's image ahead of the national referendum in October on the constitution.

Scattered violence continued across Iraq on Monday. A car bomb exploded outside a restaurant in the upscale Baghdad neighborhood of Mansour, killing at least 2 people and wounding 20, according to the Interior Ministry.

Also in Baghdad, gunmen in cars opened fire on crowds in two neighborhoods, killing six people and wounding two, and 10 bodies were found in a southern neighborhood, Interior Ministry officials said.

In Kirkuk, in the north, gunmen opened fire on the provincial government headquarters, killing two police officers. A Kurdish militiaman was also killed in Kirkuk after a gun battle broke out in the Hurriya neighborhood, police officials said.

South of Baghdad, insurgents opened fire on a motorcade carrying a representative of Ayatollah Ali al-Sistani, Iraq's most revered Shiite cleric. One guard was killed and another wounded, Interior Ministry officials said.

40 Insurgents Killed During Day 3 Of Tal Afar Offensive (USAT)

By From wire reports

USA Today, September 13, 2005

BAGHDAD — Violence flared in the northern Iraq city of Tal Afar late Monday when Iraqi forces trapped insurgents in basement hide-outs, killing 40 militants in fierce fighting, the Iraqi military said.

Prime Minister Ibrahim al-Jaafari visited Tal Afar, where U.S. and Iraqi forces are pursuing a joint offensive against insurgents, to congratulate his forces.

"I met today with the commander of the 3rd Division in Tal Afar and his officers and soldiers and found them in high spirits," al-Jaafari said. Hundreds of Iraqis danced, sang and waved flags as al-Jaafari toured the region.

The new fighting Monday night raised the insurgent death toll since the offensive began to nearly 200, the government said. Baghdad said it lost seven soldiers in the course of the three-day offensive and six civilians were killed. The U.S. military said no American soldiers were hurt.

An estimated 350-500 insurgents were in Tal Afar when Iraqi forces, backed by U.S. troops, began the offensive Saturday. The town, 50 miles from the Syrian border, had become an insurgent stronghold.

In an ongoing propaganda battle, meanwhile, the Islamic Army in Iraq, which has previously claimed responsibility for kidnappings and killings of foreigners, placed bounties on the heads of Iraqi leaders.

The militant group called in a Web posting for its "holy fighters to strike the infidels with an iron fist." It offered $100,000 to the killer of al-Jaafari, $50,000 for Interior Minister Bayan Jabr and $30,000 for Defense Minister Sadoun al-Dulaimi.

Militants also have threatened twice in recent days on Web postings to launch chemical weapons against Baghdad.

In other developments Monday:

• A car bomb exploded in western Baghdad, killing at least two people.

• Police in eastern Baghdad reported finding the bodies of 10 unidentified men, their hands tied and shot to death.

Iraqi Premier Tours Tall Afar (WP/AP)

DOJ_NMG_0004316

By Associated Press

The Washington Post, September 13, 2005

TALL AFAR, Iraq, Sept. 12 -- Iraq's prime minister toured the northern city of Tall Afar near the Syrian border on Monday to congratulate Iraqi forces for ousting militants from their stronghold, Iraqi television reported.

In Baghdad, meanwhile, a huge car bomb exploded outside a popular restaurant in the upscale Mansour neighborhood, witnesses said. Hospital officials said at least two people were killed and 17 were wounded. A doctor at Yarmouk Hospital said most of the victims were women.

Al-Iraqiya television, which showed no pictures of Prime Minister Ibrahim Jafari's visit to the Tall Afar area, said he was there despite an insurgent threat to unleash chemical and biological weapons against Iraqi and U.S. forces.

There was no known public threat from the insurgents to use unconventional weapons in the area, but they have vowed in two Web postings since Friday to use chemical weapons against U.S. and Iraqi government interests in Baghdad. The threats mentioned the fortified Green Zone that houses the U.S. Embassy, Iraq's parliament and other government offices.

On Sunday, Abu Musab Zarqawi, leader of al Qaeda in Iraq, posted audio on the Internet accusing U.S. and Iraqi forces of using poison gas in the Tall Afar offensive. The authenticity of the statement could not be independently verified, but the voice was similar to the one used in other postings attributed to Zarqawi.

U.S. officials consistently have denied using poison gas in warfare.

In the northern city of Kirkuk, gunmen shot and killed two policemen, police Col. Adil Zain Alabideen said. And in Hujjaj, north of Tikrit, Iraqi police found the bodies of four Iraqi soldiers, said Sameer Sumaidae, a physician at a local hospital. The four had been handcuffed and shot, he said.

The U.S. Embassy annex in the southern city of Basra was hit by a "multiple rocket attack" early Monday, an American official in Baghdad said. The official said there were no injuries or deaths, and no significant damage. He declined to discuss the damage or where the rockets hit, other than to say they landed "in the vicinity" of the compounds.

U.S. Applies Capricious Justice In Iraq (WP)

By Jonathan Finer

The Washington Post, September 13, 2005

TALL AFAR, Iraq, Sept. 12 -- A masked teenager in an Iraqi army uniform walked slowly through a crowd of 400 detainees captured Monday, studying each face and rendering his verdict with a simple hand gesture, like a Roman emperor deciding the fate of gladiators.

A thumb pointed down meant the suspect was not thought to be an insurgent and would be released by U.S. soldiers. A thumb up meant a man would be removed from the concertina wire-encased pen, handcuffed with tape or plastic ties and taken by truck to a military base to be interrogated.

"Another bad guy right here," shouted an American interpreter, when the masked Iraqi singled out a man in a yellow dishdasha , or traditional gown, who shook his head and protested in Turkish. Another captive who was spared exhaled with relief and placed his hand on his heart.

This is how the 10-day-old invasion of Tall Afar unfolded Monday. After two days of relatively uneventful patrols in the abandoned neighborhood of Sarai, where commanders had expected insurgents to be massed for a fight, U.S. and Iraqi forces turned north in the morning, to neighborhoods they had already cleared, and found hundreds of men who appeared to be of military age and troops believed to have slipped through their cordons.

Eventually, 52 men were placed in the open backs of flatbed trucks bound for Camp Sykes, about seven miles south of this northwestern city. During the attack on insurgents here -- the largest urban assault in Iraq since the siege of Fallujah last November -- the only significant clashes came in the early days, when thousands of U.S. and Iraqi troops stormed the city and U.S. jets waged a relentless bombing campaign.

Since then, the fighters who controlled much of Tall Afar for nearly a year have either fled or laid down their arms to blend among the civilian population, commanders here said. Instead of a Fallujah-style assault, the invasion has largely become a citywide roundup designed to prevent insurgents from laying low to fight another day.

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Soldiers with little training relevant to the mission have been forced into roles more traditionally assigned to police: gathering evidence, interrogating witnesses and suspects, and following up on leads. In searching almost every house in the city's most violent neighborhoods, they have detained hundreds of young men, some because they possessed weapons or insurgent literature, but others solely on the hearsay of local informants often called "sources" by U.S. troops.

Many of the informants are residents of this city of more than 200,000 who now serve in the Iraqi army. Others have had family members killed by insurgents and said they wanted to help purge them from their neighborhoods. The U.S. soldiers who work with them acknowledge knowing little about their backgrounds and motives -- or even their names -- and admit that their reliability varies widely. Some of those named by sources have in turn blamed their accusers of carrying out tribal or sectarian vendettas, a charge they also level at Iraqi security forces.

"They are the first important step in the process of weeding these people out," Capt. Alan Blackburn, commander of Eagle Troop of the 3rd Armored Cavalry Regiment that has led the invasion of Tall Afar, said of the informants. "You obviously can't just go by what they say because they make plenty of mistakes, but since we don't know these places as well as they do, it helps to have them around."

U.S. forces invaded Tall Afar one year ago, before withdrawing, as insurgents returned and reestablished control over the city. On Monday, Abu Musab Zarqawi, the Jordanian-born leader of the country's main insurgent group, al Qaeda in Iraq, posted a statement on the Internet saying U.S. forces were "repeating their moves against Tall Afar after failing many times to break into it, as its lions many times forced them to taste humiliation, and the bitterness of defeat."

As in the past several days, Iraqi soldiers drawn primarily from the Kurdish pesh merga militia led the operation, joined as always by U.S. Special Operations soldiers, distinctive with their unkempt hair and facial stubble.

At just after 7 a.m., they streamed into the adjoining neighborhoods of Hassan Koy and Uruba, taking every military-age man into custody at a makeshift pen established by U.S. forces along a main road. The U.S. soldiers uncoiled enough concertina wire to hold an expected 50 or so men. But as detainees streamed out from the neighborhoods, the pens were expanded with more coils of wire until the holding area stretched an entire block.

U.S. commanders have praised the performance of the Kurdish forces during the operation, while privately expressing concern that their tactics sometimes verge on being heavy-handed. The pesh merga supports Kurdish rebels fighting the government of neighboring Turkey and for many years were targets of the Sunni Arab-dominated Iraqi government of former president Saddam Hussein. The majority of Tall Afar's residents are Sunni Turkmens, ethnic relatives of the Turks.

Iraqi troops who raided suspected hideouts in a separate sweep late Monday killed 40 insurgents, and arrested 27 in clashes with militants, according to the Associated Press.

In a briefing the night before the morning operation, Lt. Col. Christopher Hickey, commander of the 3rd ACR's 2nd Squadron, instructed the Special Operations soldiers working with the pesh merga to avoid alienating residents.

"We lose these people if we go in there and tear people's homes apart," Hickey said.

By 8 a.m., nearly 400 people were assembled, squatting or seated in the dirt beside the road. Two of the men had bloodied faces and spots of red soaking through their green dishdashas.

"They tried to grab my father, and I said, 'He is old, you don't need to take him,' " said one of the men, whose upper lip and right ear were swollen and bleeding. "They hit us with their fists and their rifles."

Many of the men's hands were bound so tightly with plastic cuffs that their circulation was cut off, so U.S. soldiers cut the bindings and instead wrapped their hands with thick green tape.

The Special Operations soldiers, who do not provide their names to journalists as a matter of policy, said the pesh merga had found a former colonel in Hussein's army inside one home. But when U.S. soldiers looked through the pen, they could not find him. One of the Kurdish fighters said he had been delivered directly to a Kurdish commander.

"Get him down here right now," a Special Forces soldier said. "He is going to be processed here, by the U.S., like everyone else."

After about two hours, the informant arrived. Wearing tan camouflage fatigues, a flak jacket, a green ski mask and green helmet, the informant said he was from the neighborhood and was under 20 years old.

"I am doing this because I want to see the fear and violence leave Tall Afar," he said, speaking on condition of anonymity.

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With a U.S. interpreter, he perused the crowd, pausing for less than two seconds to consider each man's fate. He never spoke a word aloud, only whispering occasionally to the interpreter.

After drawing out 52 suspects from the group, he spent longer assessing each of them in depth and providing more detailed information about their activities. He identified a man with a split lip, wearing a purple shirt and filthy white pants as "a beheader," saying he had killed at least 10 people.

"Cuts heads," wrote Capt. Noah Hanners, leader of Blue Platoon in the 3rd ACR's Eagle Troop, in blue magic marker on the man's forearm.

"You get treated special, buddy. Congratulations," Hanners said.

After conferring with the informant, the translator wrote on the white t-shirt of a man who had no identification papers: "His name is Nafe, but he is giving a different name."

Four others were identified as local insurgent cell leaders known as emirs, and had "emir" written on their arm. Several men had eagles tattooed on their arms, which the informant said indicated they were former members of the Fedayeen Saddam, a reputedly brutal militia run by Hussein's son, Uday. The informant slapped one man's tattoo and when the man protested, an Iraqi soldier smacked him across the face with the back of his hand.

"Don't be slapping them," Hanners warned. "That's not how we do this."

Some of the American soldiers taunted the detainees by asking them, "Can you say Abu Ghraib?" referring to the prison west of Baghdad from which photographs of prisoner abuse emerged last year.

"No, Guantanamo," one smiling captive responded, referring to the U.S. military prison in Cuba where suspected terrorists are held. "I just don't want to go to the Iraqi Army or police."

"Your source is not good, these are all innocent men," said one of the detainees, wearing a gray dishdasha, who said he was a student in the city of Mosul, 40 miles to the east. "We are all Sunnis. That is why he chose us. He is Shia," he said referring to the informant. Hanners said the quality of the informants has varied widely. "Some seem to say what they think you want to hear," he said. "Others give us information that pans out."

Another soldier, who asked not to be named because he said he would be punished by commanders for his criticism, had a more negative view of the sources' performance. "We almost never get anything good from them," he said. "I think they just pick people from another tribe or people who owe them money or something."

Before loading onto trucks and returning to their base, the Kurdish soldiers lined up behind the detainees and posed for digital pictures. They threw packages of food and bottles of water to a large group of children assembled across the road, many of whose fathers had been detained.

Some children picked up the gifts, but several grabbed them and threw them at the departing army vehicles. One truck quickly stopped and a soldier got out and pointed his pistol at the children, causing them to scatter briefly, before he drove away.

Soldiers and some neighborhood children gave the detainees food and water as they waited in the 100-degree heat for trucks to arrive to transport them to Camp Sykes. A woman in a long purple dress and white headscarf shouted at the remaining soldiers in Turkish and others began to gather behind her.

"I give this 30 minutes before it gets out of hand," said Sfc. Herbet Gadsden, surveying the scene. "We have to get these people out of here before their families go nuts."

At noon, two trucks arrived. Soldiers lined up the detainees, photographed each one with a digital camera, and loaded them aboard. The crowd of family members faded back into their homes. "Another day of making friends," Hanners said, shaking his head.

Envoy: Patience Waning On Syria (USAT)

By Barbara Slavin

USA Today, September 13, 2005

WASHINGTON — Syria is harboring training camps for Iraqi insurgents, U.S. ambassador to Iraq Zalmay Khalilzad said Monday. U.S. patience with Syria is running out, he said.

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The United States has ruled out no option, including military force, for dealing with the government of Syrian President Bashar Assad, Khalilzad said during a State Department briefing with reporters. Syria is already under U.S. economic sanctions.

Administration officials have repeatedly accused Syria of allowing insurgents to travel to Iraq, but it was the first time an official has publicly named specific cities — Aleppo, Latakia and Damascus — as training sites. Asked whether he had proof, Khalilzad said, "I wouldn't say anything that I wasn't sure about."

Khalilzad said Syria is a bigger threat to Iraq than Iran and more of a problem than Pakistan had been for Afghanistan. He called Syria "the No. 1 offender" in the region to "the success of Iraq."

Syrian officials couldn't be reached immediately for comment but have denied such charges in the past. Mourhaf Jouejati, a Syrian-American professor of political science and international affairs at George Washington University, said the Bush administration "always has these accusations but never produces any evidence."

The administration has been intensifying pressure on Syria over both Iraq and Lebanon, where a United Nations-backed panel is investigating alleged Syrian involvement in the Feb. 14 assassination of former Lebanese prime minister Rafik Hariri.

Jouejati said the United States hopes the probe will incriminate Syria and serve as a basis for U.N. sanctions.

Secretary of State Condoleezza Rice plans a meeting on Lebanon next week at the United Nations, where world leaders are congregating for a summit. She excluded Syria's foreign minister. Assad doesn't plan to attend the summit.

American Envoy Says Syria Assists Training Of Terrorists (NYT)

By Joel Brinkley

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 - The United States ambassador to Iraq lashed out at Syria on Monday, saying that its government continued to allow terrorists to operate training camps within Syria that have sent hundreds of insurgents into Iraq.

"Our patience is running out," said the ambassador, Zalmay Khalilzad.

While other administration officials made similar accusations early this year, the focus of American attention to Syria in recent months has been its occupation of Lebanon. Over the summer, Syria said that it had cracked down on insurgents operating within its territory.

But Mr. Khalilzad, in remarks to reporters in Washington, made it clear that the United States believed that Syria was providing assistance to insurgents operating in Iraq and that such help might have increased.

Government-controlled Syrian newspapers "glorify the terrorists as resistance fighters," he said. Syrian authorities "allow youngsters misguided by Al Qaeda - from Saudi Arabia, from Yemen, from North Africa - to fly into Damascus International Airport," attend training camps and then cross into Iraq, he contended.

Imad Moustapha, the Syrian ambassador to the United States, called Mr. Khalilzad's allegations "100 percent rubbish," and said Syria had repeatedly invited American and Iraqi officials to discuss the problem and find solutions. But, he added, neither country had responded.

"We have more troops on our border with Iraq than we have ever had before" as well as "sandbags, barbed wire," Mr. Moustapha said. "We understand the stakes are high."

The Americans, Ambassador Moustapha said, "just continue talking as if they're talking to a TV camera."

For all of Mr. Khalilzad's assertions and warnings, senior American officials said the government did not have any plans for new actions against Syria, except to "continue trying to isolate it, as we have been," as one senior State Department official put it.

Another government official said Bush administration policy was to "keep the heat on Syria, keep the criticism up."

He said the administration had picked up indications that the United Nations investigation of the assassination of the former Lebanese prime minister Rafik Hariri in February might implicate senior Syrian government leaders. The chief United Nations investigator, Detlev Mehlis, arrived in Damascus on Monday to question senior Syrian officials.

If those indications prove true, the official added, the administration was poised to pounce on Syria and perhaps offer a new, critical resolution to the United Nations Security Council.

Mr. Khalilzad's statements, he added, fell into the general policy of "focusing more attention on Syria's negative activities."

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Mr. Khalilzad said insurgents were traveling to Damascus as well as to Latakia, a seaport, and Aleppo, near the border with Turkey. From these and other locations, "people are coming out from Syria to Iraq to kill Iraqis," he said.

"Syria has to decide what price it's willing to pay in making Iraq's success difficult," he added.

In addition to his remarks on Syria, Mr. Khalilzad offered an unusual plea for continued American support for Iraq, even as numerous recent public opinion polls have indicated that public support was waning, particularly after Hurricane Katrina.

"The American public needs to know that what's involved here is huge, as what we did with the Soviet Union was huge," he said. "Iraq is the centerpiece of the defining challenge of our time."

Mr. Khalilzad explained that during his confirmation hearings last summer, he "got a sense" of "a crisis of confidence, perhaps, in what we're doing in Iraq." Now, following Hurricane Katrina, he added, "I can understand" that "there will be a focus, as there should be, on dealing with that crisis."

Still, he spent several minutes trying to explain why Americans should care about Iraq.

"Iraq is part of this region that we call a vital part of the world" that is "producing most of the security problems of this era," he said. "And the way to deal with it is to get Iraq right, first."

Intel Chief: Iraqis In Insurgency More Elusive (USAT)

By John Diamond

USA Today, September 13, 2005

WASHINGTON — U.S. intelligence is struggling to expose elements of the insurgency in Iraq made up of former members of Saddam Hussein's regime, John Negroponte, the nation's intelligence chief, said in an interview Monday.

Joint U.S.-Iraqi military efforts have damaged the network of foreign insurgents led by Abu Musab al-Zarqawi, though Zarqawi himself remains at large, Negroponte said. Indigenous Iraqi insurgents, led by former members of Saddam's ruling Baath Party, have been tougher to track down.

The “former regime elements … seem to have very good operational secrecy,” Negroponte said in a wide-ranging interview with USA TODAY reporters. “And thus far it's not been that easy to make a dent in that part of the insurgency.”

Though foreign fighters, mainly Sunni Muslim Arabs from Syria and Saudi Arabia, have grabbed headlines with suicide bombings that have killed hundreds of Iraqis, Negroponte said Iraqis dominate the insurgency. Despite intense focus on Iraq, where 138,000 U.S. troops are deployed, U.S. intelligence has not been able to produce anything more than a “speculative” estimate of the insurgency's size, he said.

Based on everything he has seen, Negroponte said, the insurgency is neither gaining strength nor weakening appreciably. The insurgency's stubborn resistance to U.S. and Iraqi military efforts has complicated the development of a democracy.

Negroponte became the nation's first director of national intelligence in April after nine months as U.S. ambassador to Iraq. Congress created the post last year in response to independent commissions that laid out major intelligence failures prior to the Sept. 11, 2001, terrorist attacks and the U.S.-led invasion of Iraq. He has spent much of his time in the job setting up special centers overseeing counterterrorism and weapons proliferation. “Mission managers” will be named soon for human intelligence, Iran and North Korea, Negroponte said.

Although the Office of the Director of National Intelligence was created in an atmosphere of urgency, “it's really a start-up organization,” he said. “It's work in progress.”

In his first media interview since assuming the intelligence post, Negroponte also said:

•Despite significant failures before 9/11 and the Iraq war, U.S. intelligence “is second to none compared to any other intelligence organization in the world.” His task is “making it even better.”

•Al-Qaeda, though weakened by the U.S.-led global war on terrorism, continues to plan and organize terrorist attacks and regards the U.S. homeland as its top-priority target. Western Europe, Negroponte said, is more vulnerable than the USA to al-Qaeda.

•A viable Iraqi government has been slow in getting organized because the war led to the “degradation … of virtually every single government department. … They basically had to start practically from scratch.”

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Negroponte, 66, spoke in a secure room of his office's headquarters a block from the White House. A career diplomat with Foreign Service commissions signed by every president back to Dwight Eisenhower, Negroponte got his first overseas experience in South Vietnam in the early 1960s. He has been ambassador to Honduras, Mexico, the Philippines, the United Nations and Iraq.

When he appointed Negroponte, President Bush emphasized that the new chief needed broad powers over spending and personnel across military and civilian intelligence agencies.

Nevertheless, Negroponte said he cannot rule the 15 intelligence agencies "by fiat" but must "foster a strong sense of community" among organizations that have not always cooperated.

Negroponte said he is close to making a major decision on whether to go forward with a highly classified imagery intelligence network. According to Steve Aftergood of the Federation of American Scientists, the program probably concerns a costly network of satellites capable of evading radar, reflecting a Defense Department concern about the possibility that an adversary might attempt to "blind" U.S. intelligence operations by attacking its satellites.

Negroponte praised Homeland Security Secretary Michael Chertoff for helping the "lash-up between domestic and foreign" intelligence, which the 9/11 Commission called a major contributor to lapses before 9/11.

Following the report of the so-called WMD Commission, which examined the incorrect prewar estimates that Iraq had chemical and biological weapons and an active nuclear weapons development program, Negroponte said he is creating new standards on rating the veracity of clandestine intelligence sources. He is also improving the description of sources behind intelligence assessments.

Why Iraq's Sunnis Won't Deal (WP)

By Gary Schmitt

The Washington Post, September 13, 2005

Despite efforts by Shiites, Kurds and U.S. officials to find a way for Iraq's Sunni Muslims to support the draft constitution, it seems less and less likely that a deal will be struck, which raises the question: Is there any road forward that leads to a stable, democratic Iraq?

The answer is yes. But it's not an easy path. Nor is it one that most commentators and diplomats seem to understand, let alone advocate. The reality is that a stable, democratic Iraq, with large-scale Sunni participation, is unlikely until the insurgency in Iraq is widely seen by the Sunnis themselves as not succeeding.

Of course, the Sunni Arabs of Iraq are not a monolith. Many of them want a new political order for their country, and many undoubtedly will participate in the coming referendum to vote the proposed constitution up or down. Indeed, there are even reports out of western Iraq that Sunnis are now fighting Abu Musab Zarqawi's fighters.

Nevertheless, to the mind of probably a majority of their leaders, the Sunnis face two fundamental choices, neither pleasant. They can accept the new constitution, in which, as a minority, they lose their long-held dominance over Iraq. Or they can continue to reject the constitution and hope that a prolonged insurgency will somehow bring them back to power. With jihadists willing to kill themselves in terrorist attacks and a ready supply of young, unemployed Iraqis willing to bury explosives and launch rocket attacks for a few dinar, the average member of the Sunni elite, even if not an active participant in the insurgency, could well believe that the resulting chaos and even occasional death of a neighbor or a member of his extended family is a price worth paying for a return to Sunni ascendancy.

In fact, too many Sunnis believe the insurgency and the threat of a prolonged insurgency are their hole cards to play. Irrespective of the fact that their demands cannot be met without losing, in turn, Iraq's critical majority -- the Shiites -- Sunni leaders still live in a world that is about past prominence and future expectations. And until a new reality is forced upon them, they are not likely to move from their current opposition to the constitution.

The proposed constitution ought to be reasonably attractive in many respects. The Sunni Arabs are a decided minority in Iraq, certainly no more than a quarter of the population. And the federalist features of the draft document may well be a better guardian of their rights than a unitary state in which majority rule would probably leave them routinely short of the voting strength necessary to have an effective say in their own governance. In addition, the new constitution provides for a distribution of oil

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revenue along per capita lines, preventing either the Kurdish north or Shiite south from hoarding the country's wealth. By any realistic metric for the Muslim Middle East, the constitution put forward by Iraq's constitutional drafters is about as good as it gets, and far better for the country's minorities than the Sunnis should have expected, given the ruthlessness of their own rule over the past several decades.

But whatever the constitution's merits, that is not how the majority of Sunni leaders sees things today. And only when they see that the insurgency stands no chance of succeeding and, equally important, they personally are not in danger of losing life and limb if they publicly support the new political order, will they come around to accepting a federal, democratic Iraq.

Contrary to most commentary, then, the key to succeeding in Iraq is no longer putting in place a grand political bargain in which Iraqis of all sectarian stripes live happily ever after. In fact, by suggesting that this is the goal, we probably have fueled the Sunnis' own misperception of their future status in Iraq and hardened their own position.

The goal, of course, is to create a political order by which Iraq is made relatively stable and the normal democratic politics of give-and-take are made possible. But that will be a decidedly uphill struggle until the prospect of a successful insurgency is taken off the table and the Sunni Arabs come to the understanding that the new constitution is, in practice, a pretty good deal after all.

Politics cannot solve what ails Iraq now. It can help, and certainly the constitution is an important step in that direction. But at the end of the day, it's only when the so-called dead-enders are either dead or vanquished that one can count on the political process moving decisively forward as most Iraqis desire.

The writer is executive director of the Project for the New American Century, a Washington-based think tank.

U.S. Indicts Dutchman In Iraq Insurgency (WT/UPI)

By Shaun Waterman, United Press International

The Washington Times, September 13, 2005

Federal prosecutors have indicted a Dutch resident for conspiring to kill members of the U.S. armed forces in Iraq -- the first criminal charges filed in connection with the insurgency against American forces in that country.

The indictment, filed Friday afternoon in U.S. District Court in Washington, charges Iraqi-born Wesam Delaema, 32, who is in Dutch custody, with conspiring to bomb U.S. convoys in Fallujah, Iraq.

Despite attacks every day against U.S. forces in Iraq, these are the first criminal charges to be filed against anyone involved with them. The United States government claims jurisdiction over terrorist slayings of U.S. citizens anywhere in the world.

Channing Phillips, a spokesman for federal prosecutors in Washington, said the federal courts in the capital have jurisdiction over crimes committed in "the extraterritorial jurisdiction of the United States"; that the suspect was in the custody of a friendly power; and that there was clear evidence in the form of video recordings.

"Everything just came together for this one case," Mr. Phillips said, adding that prosecutors were preparing an extradition request.

A Dutch official at the embassy in Washington said extradition hearings could take up to a year, but that if the courts cleared the way, the government almost certainly would accede to the U.S. request.

"The minister [making the decision] will want to ensure that the Netherlands continues to be a good ally in the war on terror," said Richard Gerding, the counsel for justice and home affairs at the Royal Netherlands Embassy.

The indictment and other court documents say Mr. Delaema was arrested in May in the Dutch city of Amersfoort, after a search of his apartment turned up "videotapes and other visual recordings ... of numerous attacks against American and coalition personnel in Iraq."

The documents charge that authorities recovered video recordings that Mr. Delaema had made of a trip to Iraq in October 2003, when he drove to Fallujah, where U.S. authorities say he was born, in his car, an Opel Omega.

"While in Iraq," the documents say, "Delaema traveled to an area near Fallujah, Iraq, where he met with at least six other individuals.

"Delaema and his associates, each of whom wore a hooded mask over his head, created a video of their meeting" during which "Delaema gave a speech in Arabic" proclaiming his associates and himself as "the Mujahedin of Fallujah."

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Mr. Delaema and his associates also videotaped themselves demonstrating how to bury improvised explosive devices under the road, and to detonate them by remote control.

On the video, they discussed the value of separating charges by 50 feet or more in order to strike more than one vehicle in the convoy, the documents say.

TV 'Cops' Reality Show Is Talk Of Kirkuk (WT/AP)

By Tini Tran, Associated Press

The Washington Times, September 13, 2005

KIRKUK, Iraq -- Shattered glass, body parts, a blood-splattered blue sedan -- the grainy video pans over the scene as Iraqi officers comb the site of a drive-by assassination.

It's the Iraqi version of the television program "Cops," minus the "Bad Boys" soundtrack, but otherwise roughly modeled after the American show.

Created to make government more transparent, "The Cops Show," featuring Kirkuk officers in action, is the first of its kind in the country and is breaking new ground in Iraqi television. A live call-in portion gives the public the chance to praise the security forces or gripe about them.

Screened weekly on Kirkuk Television, which broadcasts in this northern city of nearly 1 million people, "The Cops Show" has opened the floodgates in a community long suppressed.

"During Saddam Hussein's time, it was very different," station manager Nasser Hassan Mohammed said. "You were unable to ask questions. You couldn't say anything bad about police.

"Now people can call in directly. Anyone has the right to do this. This is the difference now. This is freedom."

The call-in portion, initially a novelty, has become a staple of the show, and panelists field up to 30 calls per segment, Mr. Mohammed said. And because Kirkuk is ethnically mixed, the show switches among the languages spoken by Kurds, Arabs, Turkomen or Assyrians.

It took Iraqis a while to master the art of the phone-in.

"But after more than a year, they understand very well," Mr. Mohammed said.

Col. Gordon Petrie, the show's American military adviser, said it marks a new era for community-service television.

"There has been a sea change in media," said Col. Petrie, who heads public affairs for the 116th Brigade Combat Team. "Before 2003, it was all Saddam, all the time.

"Kirkuk, which was one of the largest TV stations, basically was robotic. They'd get the Baghdad feed and send it out again. Now they are in charge here."

Until January's landmark elections, the Americans "ran the shows, booked the guests, and tried to show them what community-service programming was about. But after Jan. 30, we became the monitors. They haven't disappointed us," Col. Petrie said.

The show also aims to change a Saddam-era image of police as corrupt, inept and unapproachable.

"The first thing we wanted was to show friendship between citizens and police. They are not your enemy. They are your friend," Mr. Mohammed said.

Provincial police Chief Gen. Sherko Shakir has appeared as a guest several times. His spokesman, Abdullah Abdul-Qadir, is host and moderator. During a recent taping, the panelists included Kirkuk's police chief, Gen. Burhan Taha, and two local police station commanders.

The show opened with graphic videotape of the body of an off-duty police captain, assassinated just days after his wedding. Gen. Taha decried the shooting as a "cowardly job" and urged the public to help.

"Don't be afraid. Give tips anonymously. That way, you can stop bad activities," he said.

Callers were just as quick to demand more of their local police force.

"I was standing on the main road near bridge No. 3. I saw some criminal activity. We don't have security in our area. Sometimes, we have to secure the area by ourselves," one man said.

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The show's popularity has not gone unnoticed by its enemies, and the studios are heavily guarded. The station's employees regularly get threats, Mr. Mohammed said, adding that he himself was hit by more than two dozen bullets during an assassination attempt in May 2004.

The station remains undeterred, the station manager said.

"After liberation, many things changed. Many dreams were realized. We use freedom and democracy," he said. "Our duty is to show people that freedom."

Pakistan Offers To Build Security Fence (USAT)

USA Today, September 13, 2005

Chafing under criticism that Pakistan is not doing enough to fight terrorism, President Pervez Musharraf offered Monday to build a security fence to deter militants and drug merchants from entering the country from Afghanistan. "We are fed up with people who say Pakistan has to do more to counter terrorism," Foreign Minister Khurshid Kasuri said. Osama bin Laden is believed to be hiding in the border area.

Musharraf made the offer at a meeting with Secretary of State Condoleezza Rice. State Department spokesman Sean McCormack said, "We think it is important that Pakistan and Afghanistan take up this idea." President Bush meets with Musharraf today.

Protestants riot for third night in Belfast

Protestants blocked roads in Belfast, Northern Ireland, and rioted for the third straight night. At least 50 officers were wounded over the weekend when extremists fought riot police and British troops in the worst Protestant violence in a decade. The rampage followed British authorities' decision Saturday to reroute a parade by the Orange Order, Northern Ireland's major Protestant brotherhood, off the main road.

It's official: Japan's ruling party wins

Japan's ruling Liberal Democratic Party won 296 seats in the 480-seat lower house of parliament in last week's election, well above the 241 needed for a majority, according to official results released today. Bolstered by seats from its ally, the New Komei Party, the coalition garnered 327 seats. That gives it the two-thirds majority needed to override votes in the upper house, said Kiyoko Seki of the Ministry of Internal Affairs and Communications. Prime Minister Junichiro Koizumi called the elections last month after the upper house rejected his plan to privatize the postal service.

Father, son hijack plane, then surrender

A father in a wheelchair and his son used two grenades to hijacked a Colombian airliner but peacefully surrendered five hours later after allowing the crew and passengers to leave the plane, said Martin Gonzalez, spokesman for the Civil Aviation Authority.

The freed hostages said that the elder hijacker had said he was partially paralyzed by a police bullet during a drug raid 14 years ago and had unsuccessfully sought compensation. Sen. Carlos Moreno, who helped negotiate the standoff, said the man was given a $43,000 check but the government won't honor it.

Ukraine's former PM vows comeback

Ukraine's ousted prime minister said President Viktor Yushchenko had become afraid of her growing popularity and she predicted she would regain her job after March elections. Yulia Tymoshenko said she expected that her bloc would win a majority in March and, under constitutional changes to take effect next year, that the prime minister would be chosen by the parliamentary majority, not by the president. Yushchenko dismissed Tymoshenko and her Cabinet on Thursday amid allegations of corruption that he said had sidetracked the pro-Western "Orange Revolution" that swept them to power in December.

Zimbabwe curbs constitutional rights

Zimbabwe President Robert Mugabe has signed into law constitutional changes he said would settle any dispute over the legality of seizing white-owned farms. During a state visit to Cuba, Mugabe said he had approved the laws passed two weeks ago by the parliament. One strips landowners of their right to appeal expropriation and declares that all real estate is on a 99-year lease from the government. Another lets the government deny passports to its critics. The opposition Movement for Democratic Change denounced the changes as "a dark day for Zimbabwean democracy."

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21 Afghan Candidates Disqualified For Ties To Militias (WP)

By N.c. Aizenman

The Washington Post, September 13, 2005

KABUL, Afghanistan, Sept. 12 -- Twenty-one candidates running in Afghanistan's upcoming legislative election have been disqualified for maintaining links to illegal armed militias and seven more for failing to resign from government posts, the joint Afghan and international Electoral Complaints Commission announced Monday.

The move, six days before the Sunday vote, followed dismay among many Afghans over the commission's decision two months ago to exclude only 11 of nearly 6,000 candidates on the basis of failure to disarm. Six others were barred for retaining official positions.

The voting will be Afghanistan's first parliamentary election in more than two decades. The electorate is to choose 249 representatives for the lower house of parliament as well as members of 34 provincial councils that will help select the upper house.

The latest disqualifications did not satisfy human rights advocates who have expressed concern that the field of contenders is rife with warlords who committed well-documented atrocities during warfare that began in 1978.

"We're definitely happy to see more names excluded, and to see some mid-ranking names this time as opposed to just district-level people," said Joanna Nathan, Afghanistan director of the International Crisis Group, a Brussels-based advocacy organization. "But there's still widespread disappointment that the big names are not on there."

Nathan said officials in Kabul consider these people untouchable for "reasons of national stability. The past abusers are the ones who continue to abuse power today."

Grant Kippen, chairman of the electoral commission, countered that the body did not have the power to disqualify a candidate on grounds of war crimes unless there had been a conviction. That is a virtual impossibility because Afghanistan has no war crimes tribunals.

"We can't deal with complaints that are simply allegations," Kippen said. "Our mandate is to deal with offenses under electoral law. We're not a criminal court."

Kippen said the commission relied on the recommendations of a disarmament commission that includes representatives of the Afghan government, the United Nations, the U.S. military and a NATO-led international force to determine which candidates retained associations with banned armed groups.

Nathan and other rights advocates have complained that the commission is dominated by the government of President Hamid Karzai and that its work is largely secret. "It's all about bargaining behind closed doors," Nathan said. Although the 21 excluded candidates came from a variety of provinces and ethnic groups, none is considered close to Karzai.

One of the candidates whose disqualification was announced Monday, a 46-year-old man using the single name Deedar, said he was never shown the evidence against him. "This is not a real and fair election. It's just like a show to deceive people," said Deedar, who is running for a seat in the lower house from the central Kabul district.

During his campaign, Deedar emphasized his past as a fighter against Soviet troops, who operated in Afghanistan from 1979 to 1989, while playing down his role as a low-level commander during the rule of the Islamic Taliban movement that took power in the mid-1990s. Deedar has denied belonging to the Taliban but acknowledges commanding men from his own tribe who sometimes helped the Taliban. Several former Taliban officials said he led more than 100 men from a base in Kabul.

Several months ago, Deedar, who has spent most of his time in Pakistan since the Taliban's ouster in 2001, was able to return to Afghanistan under a government program to reintegrate former Taliban members who are willing to pledge allegiance to the government.

On Monday, Deedar said his disqualification from the parliamentary race would discourage others from taking part in the program. "People who want to reconcile will look at my case and conclude that it's hopeless," he said.

He also predicted that he and other excluded candidates could still technically win, since it is too late to take their names off ballots. "I've tried to reach my supporters to let them know I'm no longer eligible. But many of them still don't know," he said. "And I am very popular."

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Army Expects To Miss Goals For Recruiting (NYT/REU)

By Reuters

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 (Reuters) - The Army posted its best recruiting month in four years in August, but will still miss its annual recruiting goal for the first time since 1999, officials said Monday.

In August, the regular Army sent more recruits to boot camp than in any other month since July 2001. But the part-time Army National Guard and Army Reserve both missed their monthly goals and will fall far short of their annual goals for the 2005 fiscal year, which ends this month.

The regular Army, which is aiming for 80,000 recruits this year, was behind its year-to-date goal by the end of August, with too big a deficit to make up through September's recruiting, officials said.

The Marine Corps made its August goal and was 2 percent ahead of its year-to-date goal. The Air Force and Navy both achieved their targets.

Reflecting the regular Army's struggle, the situation was worse in the National Guard, which is under the command of state governors, and in the Reserve. These part-time troops can be called to active duty by the Pentagon; they now make up about 40 percent of the United States force in Iraq.

The Army National Guard has missed its recruiting targets every month this fiscal year and appeared certain to miss its third straight annual recruiting goal.

The Guard missed its recruiting goal by 18 percent in August and was 12,683, or 22 percent, behind its year-to-date goal. Its recruiting goal for this fiscal year is 63,002.

The Army Reserve, which last missed an annual goal in 1999, was short of its August target by 9 percent and was 19 percent behind its year-to-date target. It will also miss its 2005 goal of 28,485 recruits.

The Army has attributed the recruiting shortfalls to a growing wariness about military service because of the Iraq war and an economy that was creating more civilian jobs.

The Army has increased financial incentives for enlistment, added recruiters and bought advertisements appealing to patriotism.

In July, the Pentagon asked Congress to raise the maximum age for military enlistment to 42. The ceiling now is 35 for active duty and 39 for the Reserves or National Guard.

CORPORATE SCANDALS:

UPDATE: OFHEO Settles Administrative Case Against Freddie (DOWJONES)

Dow Jones Newswires, September 12, 2005

WASHINGTON -(Dow Jones)- Freddie Mac's (FRE) (FRE) regulator settled its case against the company for failing to properly penalize former top executives in 2003 after Freddie discovered widespread accounting problems and evidence of earnings manipulation, the Office of Federal Housing Enterprise Oversight announced Monday.

The company agreed Friday to turn over new documents and to help OFHEO pursue separate cases against Freddie's former Chief Executive Leland Brendsel and former Chief Financial Officer Vaughn Clarke.

Freddie is still struggling to emerge from an accounting scandal that resulted in a clean sweep of the company's senior management team, an overhaul of internal controls, an earnings restatement of more than $5 billion, multiple shareholder lawsuits and federal regulatory probes. OFHEO is the only regulator to settle its case against Freddie, which agreed to pay OFHEO $125 million and agreed to other remedial actions in December 2003 to settle charges of safety and soundness violations.

OFHEO, however, filed separate charges against Freddie Mac (FRE), Brendsel and Clarke that month seeking cease-and-desist orders from an administrative law judge to force the company to alter its termination agreements with the two men and to impose fines against them. Freddie's board of directors allowed Brendsel to retire and Clarke to resign in June 2003 with roughly $56 million and $1.2 million in severance and other pay, respectively.

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OFHEO's settlement with Freddie, which was signed Friday, only settles the regulator's administrative case against the company regarding the nature of Brendsel and Clarke's departures. Parallel investigations related to Freddie's accounting troubles by the Justice Department, Internal Revenue Service, Securities and Exchange Commission and others, are still pending.

All told, Brendsel stands to lose at least $34 million, including $24.4 million in lost severance and benefits, $5.8 million in fines and $3.8 million in past bonuses. Clarke's potential losses are substantially less - $3.9 million, two-thirds of which was a fine.

Freddie temporarily withheld some of the executives' pay at OFHEO's urging. A judge, however, ruled about a year ago that OFHEO's informal directive was illegal and required the company to release Brendsel's pay pending the outcome of OFHEO's enforcement actions against the executives.

"We have consistently made clear that we will comply with any valid and effective order from OFHEO. Under the consent order today we're simply agreeing to implement any final order that results from the pending proceedings between OFHEO and Brendsel and Clarke," Freddie Mac (FRE) spokeswoman Sharon McHale said.

Freddie agreed to turn over to OFHEO more internal documents, including the company's "earnings management" binders, materials on executive compensation, internal reports on the company's accounting and materials produced by outside consultants, among other things. OFHEO specifically requested internal documents by consulting firm McKinsey & Co. on derivatives accounting rules as well as all documents relating to McKinsey's consulting work on "MRE Accountabilities and Staffing v. Best Practices."

OFHEO also asked for a number of internal documents relating to the company's reaudit, including internal audit reports and board meeting minutes recorded after Freddie's board ousted Brendsel and Clarke and fired former Chief Operating Officer David Glenn.

Freddie agreed to convert Brendsel's and Clarke's departures to firings only if OFHEO prevails in its court cases against the men. The company said it would also try to recoup their severance pay, within legal bounds, only if OFHEO additionally orders Freddie to do so. OFHEO is pursuing separate enforcement actions against the men in legal action before an administrative law judge at the Department of Housing and Urban Development, OFHEO's parent regulator.

If OFHEO prevails, the agreement will make it easier for OFHEO to enforce penalties against Brendsel and Clarke since Freddie waived its rights to appeal or challenge the administrative court's decision.

"This settlement with the company is a significant step forward and allows us to focus our resources on the cases against former (Freddie) officers," OFHEO acting Director Stephen Blumenthal said in a statement announcing the deal Monday.

For Freddie, which didn't admit or deny any wrongdoing, the settlement brings to close all potential enforcement action or penalties OFHEO could have imposed on the company for not penalizing Brendsel and Clarke for their involvement in Freddie's accounting problems.

-By Dawn Kopecki, Dow Jones Newswires; 202-862-6637; Dawn.Kopecki@dowjones.com

Freddie Mac To Aid Effort To Recover Millions From Ex-Officers (NYT)

By Jonathan D. Glater

The New York Times, September 13, 2005

Freddie Mac, the mortgage reseller recovering from an accounting scandal, will assist federal regulators in their effort to recover millions of dollars in benefits and bonuses paid to two of its former executives, under terms of a settlement made public yesterday by the Office of Federal Housing Enterprise Oversight.

The agreement comes nearly two years after Freddie Mac, which buys mortgages from lenders and resells them to investors as securities, paid a $125 million penalty to settle charges related to its accounting, as part of a related settlement with its regulator, known as Ofheo.

"This settlement with the company is a significant step forward and allows us to focus our resources on the cases against former officers," Stephen A. Blumenthal, acting director of Ofheo, said in a statement.

The two executives in question are Leland C. Brendsel, the former chief executive at Freddie Mac, and Vaughn A. Clarke, its former chief financial officer. Both men left Freddie Mac in June 2003, several months into an expanding investigation of the company's accounting.

Regulators began proceedings in December 2003 to force Freddie Mac to treat Mr. Brendsel and Mr. Clarke as if they were fired, which would have made them ineligible for millions of dollars in benefits and bonuses they received when they left the company.

Ofheo is trying to force the executives to return that money.

According to an Ofheo spokeswoman, if Mr. Brendsel loses the case entirely, he could have to pay at least $34 million, and if Mr. Clarke loses, he could have to pay at least $4 million. Some of the money would go to the company and any civil penalties would be paid to the Treasury Department.

Lawyers for Mr. Brendsel and Mr. Clarke did not return phone calls yesterday afternoon. The case against both men is before an administrative law judge and both sides are gathering evidence, according to Ofheo and Freddie Mac.

David Palombi, a spokesman for Freddie Mac, said the consent decree merely codified the company's longstanding position on the litigation by regulators. "We have consistently made clear that we would comply with any valid order from the regulator," Mr. Palombi said. "We have simply agreed, in effect, to implement any final order" that results from the legal proceedings against Mr. Brendsel and Mr. Clarke, he said.

As part of the agreement with Ofheo, Freddie Mac will provide to the agency copies of the same documents it gave to lawyers who brought shareholder lawsuits against it.

The company will also help make employees available for interviews by the agency and will provide various internal documents, such as explanations of how executives' bonuses were calculated.

Freddie Mac's accounting woes began when its results were questioned in 2003 by PricewaterhouseCoopers, which the year before had replaced the accounting firm Arthur Andersen, which is now defunct.

In November 2003, Freddie Mac restated its earnings for 2000, 2001 and the first three quarters of 2002, revising them upward by nearly $5 billion.

In a report on the questionable accounting, Ofheo found that "Freddie Mac cast aside accounting rules, internal controls, disclosure standards and the public trust in the pursuit of steady earnings growth."

Yesterday, shares of Freddie Mac closed at $59.04, up 99 cents.

The accounting scandal at Freddie Mac and another at its larger corporate sibling, Fannie Mae, has led some to call for stronger regulation of the two companies.

Jury Convicts Westar Ex-Officials Of Looting Millions From Utility (WSJ)

By A Wall Street Journal Staff Reporter

The Wall Street Journal, September 13, 2005

KANSAS CITY, Kan. -- A federal jury found former Westar Energy Inc. Chief Executive Officer David Wittig and another executive guilty of looting the electric utility of millions of dollars.

Prosecutors claimed the two men, who were forced out of the Topeka, Kan., company in 2002, engineered extravagant salaries and benefits for themselves at the expense of shareholders, hiding much of their actions from the company's board and federal regulators.

Mr. Wittig and former Chief Strategy Officer Douglas Lake were found guilty of conspiracy, wire fraud, circumventing internal controls and money laundering.

The jury deliberated for 7½ days before convicting Mr. Wittig on 39 counts and Mr. Lake on 30 counts. Each count of wire fraud, the most serious of the charges, is punishable by up to 20 years in prison and a fine of as much as $1 million. Testimony about whether the government can recover money from the executives is expected to start Tuesday.

Attorneys on both sides declined to comment immediately after the verdicts. Messrs. Wittig and Lake have denied the charges, saying their actions were legal, approved by the company's directors, and disclosed in corporate filings.

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Mr. Wittig, who became chief executive of Westar in 1998, helped to turn the Midwest utility into a fast-paced deal machine and hired Mr. Lake, a former colleague of his at what was then Salomon Brothers, to become his deputy. Mr. Wittig earned more than $25 million in his seven years at the company.

After some success, Westar's deal frenzy began to falter. The company's stock price fell from $44 to $9 and the company came under pressure from shareholders and regulators. In September 2002, Westar hired the New York law firm Debevoise & Plimpton LLP to conduct an internal investigation, which uncovered many of the details in the grand jury indictment.

The former executives' first trial ended in mistrial last year after jurors were unable to reach a consensus on more than half of the charges.

Ellison Agrees To Pay Charity To Settle Suit (WP)

By Ben White

The Washington Post, September 13, 2005

Oracle Corp. chief executive Lawrence J. Ellison tentatively agreed to pay $100 million to charity over five years to settle a private lawsuit in California accusing him of insider trading in Oracle stock, a plaintiff's lawyer in the case said yesterday.

Plaintiffs in the suit alleged that Ellison engaged in insider trading when he sold nearly $900 million worth of Oracle shares in January 2001, a little more than a month before the company announced poor earnings. Oracle shares fell 21 percent, to $16.88, after the announcement. Ellison had sold his stock for a little less than twice that amount.

The proposed settlement, reported yesterday by the New York Times and the San Jose Mercury News, must be approved by Oracle's board and a California judge. If approved, the deal would end what is known as a shareholder derivative lawsuit, an increasingly common type of civil case in which shareholders file suit on behalf of a company.

Monetary settlements in derivative cases have typically been small, and most of the money usually goes to plaintiff's attorneys. Companies often agree to make changes to the way they operate in order to settle the suits.

Joseph J. Tabacco Jr., an attorney for plaintiffs in the case, said the charity payments represent a compromise between the two sides. He said Oracle shareholders would benefit because the company will implement new insider-trading rules as part of the settlement.

A Delaware judge last year dismissed a similar derivative case against Ellison. A class-action suit stemming in part from the stock sales is pending in federal court. A trial judge dismissed the federal case, but an appeals court reinstated it.

Tabacco said Ellison may have chosen to settle the California derivative suit because the legal bar for proving insider trading appears to be lower in California than in Delaware. California law also provides for damages of up to three times the difference between the price at which someone buys or sells a stock and what the price would have been had the inside information been public. That left Ellison open to a potential judgment of $1.2 billion.

Tabacco said that as part of the deal, Oracle would pay $22.5 million to plaintiff's lawyers. An Oracle spokeswoman declined to comment. Forbes magazine last year estimated Ellison's worth at $13.7 billion. He owns about 1.3 billion Oracle shares, or 24.5 percent of the company's stock, according to a recent filing.

CRIMINAL LAW:

The Costly Price Of Facing A Grand Jury (WP)

By Sam Coates

The Washington Post, September 13, 2005

Sympathy can be hard to come by for White House officials who are summoned to appear before a grand jury.

Those whose identities remain a secret suffer in silence, discouraged from reaching out to their closest friends for help. Those whose names leak into the public domain become lightning rods for rumor, suspicion and innuendo, as politicians, commentators and journalists try to divine a meaning behind each summons.

The latest White House staffer to face the grand jury is Susan B. Ralston, assistant to White House Deputy Chief of Staff Karl Rove, who gave testimony to the committee investigating the leak of the identity of CIA operative Valerie Plame.

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But while the politics of every appearance is picked over in minute detail, there is also a human story to each summons that often goes unexplored.

Witnesses face stress, uncertainty and -- worst of all -- crippling lawyer's fees that can take years to pay off. And as prosecutors cast their net ever wider, inexperienced staffers with few financial assets are increasingly facing the emotional and financial burden of grand jury testimony.

Ralston appeared at the end of July on the same day as former Rove aide Israel "Izzy" Hernandez, according to ABC News. The reason Ralston, 37, was asked to testify remains unclear, but it has heightened suspicions that the locus of the investigation still centers on Rove.

Ralston declined to discuss her interview with the grand jury for this article, or the burden that it has caused. Friends said she had not spoken with them about it.

Americans for Tax Reform President Grover G. Norquist, who described himself as a friend and a work contact, said he was not aware that she had even testified. "It hasn't come up, and I haven't noticed anything, in work or other contact. I think she's right as rain. On the other hand, I haven't had a conversation about it with her," he said.

But veterans of past grand jury appearances -- including the investigation into President Bill Clinton's affair with Monica S. Lewinsky -- said that keeping silent compounded an already difficult process.

"It was an incredibly callous and demoralizing experience, one in which they gave no thought to the personal or financial ramifications," said Neel Lattimore, former press secretary to first lady Hillary Rodham Clinton, who was subpoenaed about 10 times during his tenure on the job. "Nothing prepares you for what it's like."

Another former Clinton administration official who is now in the private sector and did not want to be identified agreed. "It paralyzes you from doing your job. It turns your life upside down. I sat outside one grand jury room where I could hear the prosecutors screaming -- I'm not kidding -- screaming at a colleague of mine who was a witness."

The two former Clinton aides said that the financial burden was crippling. Like many others, these White House officials had to pay their own legal bills, and these can run into the hundreds of thousands of dollars. Some may qualify for a partial reimbursement from the Justice Department, but this usually covers a fraction of the outlay and can take as many as seven years to be paid out. White House aides are even barred from receiving free legal assistance.

"We spent our time on Capitol Hill, and none of us had any assets. It's a scary thing. Lots of people rented apartments, had no assets to their name," said the former Clinton staffer. "If you have a career in public service, you're being paid well under $100,000 a year, and you have student loans, you become paralyzed financially."

Lattimore said that he had to turn to his parents, who loaned him money to cover his legal fees. Lattimore's lawyer, Adam S. Hoffinger, said that the bill for representing someone in a grand jury investigation is usually large. "A white-collar grand jury investigation in D.C. or New York could cost a witness between $10,000 and $100,000 dollars, assuming no trial and no criminal exposure," he wrote in an e-mail.

According to a White House report to Congress, Ralston's salary last year was $67,600. In an interview last September with Asian Week, she said that she took a "significant pay cut" in 2001 from her job working with a prominent lobbyist.

Both former Clinton staffers who were asked to appear in the grand jury investigation said there was one silver lining to their experience. They both discovered that there was an informal support network of former White House employees who had been through the grand jury process that transcended party politics.

"There were people from the Reagan administration who reached out to me in the Clinton administration to say it was going to be okay and to say we've been through this," said the former Clinton staffer.

Lattimore cited Margaret Tutwiler, a long-term aide of James A. Baker III, who was caught up during the 1992 campaign in an investigation into Clinton's overseas trips as a student. He said she "expressed real sympathy and said hang in there. There was very much a sense of fraternity among White House employees no matter what side of the aisle."

FBI Intel Analyst Charged With Spying (FINDLAW/AP)

By Jeffrey Gold, Associated Press Writer

Find Law, September 13, 2005

(AP) - NEWARK, N.J.-An FBI intelligence analyst with top secret clearance who worked at a New Jersey Army base was charged Monday with passing classified information about Filipino leaders to current and former officials of that nation.

The analyst, Leandro Aragoncillo, sent some of the material to Michael Ray Aquino, a former deputy director of the Philippines National Police who lives in New York City, according to an FBI complaint unsealed with the arrests.

Aragoncillo, 46, of Woodbury, was hired to work at Fort Monmouth in July 2004 and began sending classified information and documents in January, according to the complaint.

From May to Aug. 15, Aragoncillo printed or downloaded 101 classified documents relating to the Philippines, of which 37 were classified "secret," the complaint said. Details of the documents' contents were not disclosed in court papers or in court.

The investigation by immigration authorities began after Aquino, 39, was arrested in March, accused of overstaying the tourist visa he used to enter the country in July 2001.

Aragoncillo, a Marine for 21 years, and Aquino were ordered held without bail following an appearance before a federal magistrate.

The defendants face a charge of conspiracy and a charge of acting as unregistered foreign agents, the latter of which carries a sentence of up to 10 years and a $250,000 fine. Aragoncillo also was charged with unauthorized use of a government computer, which carries a sentence of up to 10 years and a $250,000 fine.

9th Circuit: Warrantless Searches Must Be Warranted (LAW)

By Pam Smith, The Recorder

Law.com, September 13, 2005

Even if a defendant agrees to warrantless searches in exchange for pretrial release, police still can't search him without probable cause, the 9th U.S. Circuit Court of Appeals ruled Friday.

In a victory for the privacy rights of defendants awaiting trial while on their own recognizance, a 2-1 majority threw out evidence Nevada authorities had received by testing Raymond Scott for drugs without probable cause.

True, Scott had consented to random drug testing "by any peace officer without a warrant." But because the government did not have probable cause -- and could not show a "special need" to lower the bar -- the drug test violated Scott's Fourth Amendment rights, 9th Circuit Judge Alex Kozinski wrote for the majority.

The panel says its opinion is one of first impression among all the federal circuit courts, and the dissenting judge predicted a widespread impact on federal and state pretrial proceedings.

By holding that probable cause is required for the warrantless search of a pretrial "releasee" or his home, "the majority casually adopts a rule that carries monumental implications for the pretrial procedures employed by every state in our circuit, as well as the United States," wrote 9th Circuit Judge Jay Bybee.

Scott was facing state charges of drug possession when he was released on his own recognizance, subject to several conditions, including warrantless drug and alcohol testing.

An informant's tip led authorities to check in on him at home, and when he tested positive for methamphetamine, they arrested him, searched his house and found a shotgun. A federal grand jury indicted him for illegal possession of the firearm, a federal district judge granted Scott's request to suppress the evidence and federal prosecutors appealed.

"Until today's decision we have not squarely addressed whether pretrial releasees have diminished Fourth Amendment rights," Bybee wrote.

Kozinski, backed by concurring 9th Circuit Judge William Fletcher, contrasted Scott's situation with that of probationers, who must submit to similar searches, writing, "Pretrial releasees are ordinary people who have been accused of a crime but are presumed innocent."

In a footnote, Kozinski added that while some of their freedoms, like the whim to travel, may still be limited, the 9th Circuit was considering "whether the accused may be made to suffer other burdens that are not designed to ensure his appearance in court."

Bybee disagreed, saying that the interests of the state should be weighed against the privacy interests of a defendant on pretrial release on a case-by-case basis.

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"Scott's reasonable expectation of privacy may be somewhat greater than that of a probationer, parolee or pre-sentence releasee, but it is less than that of an 'ordinary citizen,'" Bybee wrote. And he lowered his own expectation of privacy when he agreed to the conditions of his own-recognizance release, Bybee added.

While Bybee says the majority opinion "carries monumental implications" for states that regularly make defendants facing drug charges agree to drug testing in exchange for O.R. release, Assistant Federal Public Defender Cynthia Hahn, who argued for Scott, isn't so sure.

It's difficult to predict how many cases could be affected by the opinion, she said, because Fourth Amendment cases can depend on so many case-specific facts. "I really couldn't even guesstimate how many people it could affect or won't affect," she said.

The U.S. Attorney for the District of Nevada has not decided whether to appeal, said spokeswoman Natalie Collins, who declined to comment further on the opinion.

The case is U.S. v. Scott, 05 C.D.O.S. 8214.

AU's Audit Of Spending By President To Wrap Up (WP)

By Valerie Strauss And Susan Kinzie

The Washington Post, September 13, 2005

American University trustees are nearing completion of a probe into hundreds of thousands of dollars of questionable expenses by suspended President Benjamin Ladner and his wife, according to two sources with knowledge of the audit.

The school's 25-member governing Board of Trustees will meet within a few weeks to discuss the results and decide how to proceed with Ladner, who became president of the private university in Northwest Washington in 1994.

Ladner was placed on administrative leave Aug. 24, a few months after the board began reviewing the expenses of the president and his wife, Nancy Bullard Ladner, who is described on the university's Web site as a volunteer who represents the Ladner presidency.

Ladner's duties are being carried out by the acting president, Cornelius M. Kerwin, who had been provost.

The audit was prompted by an anonymous letter detailing what it said were questionable travel and entertainment expenses by the Ladners, according to sources close to the investigation who spoke on condition of anonymity to protect their role.

Ladner did not return repeated phone calls. His attorney, David Ogden, said that after reviewing the issues involved in the audit, "we are confident that it will result in a positive outcome for him."

Leslie E. Bains, the new chairman of the board under whom the investigation was launched, did not return numerous phone calls, and other trustees would not publicly discuss the probe.

A third source familiar with the investigation said that trustees were reviewing $300,000 to $400,000 in expenses over several years but that the total could be higher. Included was the use of a university car for personal reasons, the source said.

Reginald Green, one of Ladner's former chauffeurs, said the Ladners often used the university car for personal reasons, including requiring him to take in and pick up their laundry and the work shirts of their chef. Ladner hired the chef early in his tenure, raising eyebrows at the time about his spending.

Ladner's base salary last year was $633,000, according to Internal Revenue Service records.

Bankruptcy Clerk Accused Of Taking Bribe In FBI Sting (DAILYST)

By Chris Hack

Daily Southtown, September 13, 2005

A bankruptcy court clerk from Chicago's South Side has been charged with extortion, accused of accepting a bribe in an FBI sting.

Sandra D. Butler, 42, of the 1400 block of East 66th Place, was charged with a single count of extortion in a criminal complaint made public Monday.

Butler has been a clerk at U.S. Bankruptcy Court in Chicago since 1985. As a clerk she was assigned to a bankruptcy judge and handled paperwork from debtors filing bankruptcy petitions.

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According to an FBI affidavit, agents first began investigating Butler three years ago after a debtor complained she had paid the clerk $5,000 to stop the foreclosure proceedings against her house but later learned the bribe was unnecessary. Under federal bankruptcy law, the filing of a Chapter 13 petition automatically stops any foreclosure proceedings on the homes of debtors.

Earlier this month, FBI agents filed a bogus Chapter 13 in Butler's courtroom and sent a fake debtor to see her. The undercover witness — who was wearing an audio and visual surveillance device — said his mortgage lender in Kentucky had initiated foreclosure proceedings and that he needed help saving his home, the FBI said.

After looking up the man's bankruptcy petition, Butler allegedly said she could make some phone calls "off the record" to stop the sale of his house, the FBI said. She pretended to call the Kentucky lender — which was fictitious — and then accepted $500 in cash from the man, according to the complaint.

Butler appeared briefly before a federal magistrate Monday and was released on her own recognizance.

Chris Hack may be reached at chack@dailysouthtown.com or (708) 633-5984.

Debtor Court Aide Charged In Scam (CHIT)

By Michael Higgins, Tribune Staff Reporter

Chicago Tribune, September 13, 2005

Prosecutors charged a courtroom deputy in U.S. Bankruptcy Court with attempted extortion Monday, alleging she solicited $500 from a debtor by promising to halt the sale of the debtor's house.

Authorities said Sandra Butler, 42, of the 1400 block of East 66th Place in Chicago, did not know that the debtor was working undercover with the FBI and that the bankruptcy case was part of a sting operation.

Butler had no power to influence the bankruptcy proceeding, but she acted otherwise, even pretending to call the debtor's bank to negotiate a more favorable repayment plan, according to an affidavit filed by FBI agent Kenneth Samuel. According to the affidavit, Butler, talking into a phone earlier this month, "asserted that she knew [the debtor] very well" and that while the amount "is supposed to be 10 percent, that was all [he] had."

Butler then led the debtor to her office, where she took the money, according to the affidavit.

Butler appeared Monday before U.S. Magistrate Judge Sidney Schenkier. She was allowed to remain free on a $4,500 bail, and a court date was set for Sept. 27.

Butler was employed by Ken Gardner, clerk of the U.S. Bankruptcy Court in Chicago, and was assigned to the courtroom of Judge Jacqueline P. Cox. Gardner said he fired Butler from the $69,000-a-year job Monday morning.

"I'm shocked this would occur in the courthouse," Gardner said. "I'm shocked this would occur with someone working for me."

Butler had worked for the clerk's office since 1985 and had been assigned to Cox's courtroom for about two years, Gardner said. Bankruptcy Court officials cooperated with the sting operation, according to the affidavit.

The FBI became suspicious of Butler in August 2002, when a debtor in a bankruptcy case told them Butler had asked for $5,000 to stop the sale of her home, according to Samuel's affidavit. The debtor in that case later learned the money wasn't used for that purpose and contacted the FBI.

In the sting operation, FBI officials filed a fake bankruptcy case, giving the debtor a false name, Stanley Kozubal, and listing his home as an address in Des Plaines. The bankruptcy filing said Kozubal owed $130,000 to a bank in Kentucky.

The undercover witness was wearing an audio and video recording device when he went to Butler's office at the beginning of the month, according to the affidavit. He said he was afraid to lose his home and asked Butler for help.

"Butler responded that she could `off the record' make some phone calls to try and stop the sale of his property," Samuel said in the affidavit. "Butler asked the [debtor] if he had any `funds today.'"

Officials in U.S. Atty. Patrick Fitzgerald's office would not elaborate on Samuel's affidavit. A federal defender representing Butler could not be reached for comment.

Gardner said Monday that it was the first case of alleged corruption by a courtroom deputy in his four years as clerk.

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Gardner said he would consider reforms. But he said that court rules already make clear that only staff at the court's intake window can collect money and that "there should be no transacting of money in the courtroom."

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Prison Officials Investigated (TD)

By Bill Cotterell

Tallahassee Democrat, September 13, 2005

State and federal authorities are investigating the activities of prison officials in North Florida, where the regional director for the state Department of Corrections abruptly resigned last month.

FBI and state officials said Monday that no one has been arrested or indicted in the investigation, which has been the subject of heated discussion among corrections employees on computer bulletin boards and e-mail networks.

"There is an ongoing investigation regarding the Department of Corrections," FBI Special Agent Jeff Westcott said from Jacksonville. He declined to comment on specifics. The Florida Department of Law Enforcement, which also is involved in the investigation, declined to comment.

Allen Clark, Panhandle director of institutions, resigned without explanation Aug. 30. He supervised operations at 18 major prisons from Jefferson County to the Alabama line. Attempts to reach him and other North Florida prison officials were unsuccessful.

A corrections spokesman said Monday that he knew nothing except what was in Clark's four-sentence resignation letter. Gov. Jeb Bush, when asked about the inquiry, smiled and shrugged off the question. "How am I going to tell you that?" he asked. "That's a no-no."

The case is not related to the indictment last week of Allan Duffee, director of the now-defunct Correctional Privatization Commission, which was set up to oversee Florida's five privately run prisons. Duffee pleaded not guilty to federal accusations of skimming nearly $225,000 from a maintenance fund.

Clark's resignation letter expressed "great regret" but gave no reason for his departure.

"It has been a pleasure serving as Region I director of institutions," he wrote to Department of Corrections Secretary James Crosby. "I have made many friends over the years and wish you and the employees of the department much continued success."

Al Solomon, warden of the Apalachee Correctional Institution near Sneads, has been named interim chief for the region. Solomon, too, declined to comment on Clark.

Ford Gets Permission To Attend Conference In Washington (AP)

AP, September 13, 2005

MEMPHIS, Tenn. An indictment on bribery and extortion charges won't keep former state Senator John Ford from attending a convention of black business and political leaders in Washington, D-C.Ford, of Memphis, will attend the conference September 21st to 26th to look for new clients for his private consulting business.

U-S District Court Judge Daniel Breen gave Ford permission to leave the state for the convention.Since Ford is on bond awaiting trial, he cannot leave Tennessee without a judge's O-K.

Ford's work as a consultant for a TennCare subcontractor while still in the Senate was at the center of a debate on ethics that dominated much of the latest session of the General Assembly.

Ford is charged with bribery and extortion in an unrelated investigation focused on an F-B-I front company that sought favorable legislation from the General Assembly. He also is charged with threatening a federal witness.

Ford resigned from the Senate shortly after his indictment.

Ex-senator To Seek Consulting Work At Black Leaders' Meeting (TENN)

By BONNA de la CRUZ, Staff Writer

The Tennessean, September 13, 2005

DOJ_NMG_0004335

Former state Sen. John Ford is planning a trip to Washington, D.C., to attend a black leaders' conference to drum up business for his private consulting business, according to court papers.

The Memphis Democrat, who is under house arrest on federal bribery and intimidation charges, got a judge's permission to travel to the "35th Annual Legislature Conference for Black Leaders and Businessmen."

In his request, he said his "ability to conduct his business on a national basis is necessary to offset the difficulties which have arisen locally due to negative publicity."

No listing for the "35th Annual Legislature Conference for Black Leaders and Businessmen" could be found, but the Congressional Black Caucus Foundation Inc.'s Annual Legislative Conference is in its 35th year and is being held Sept. 21-24 in Washington.

Ford was indicted in May — along with three other sitting lawmakers, a former senator and two bagmen — in Operation Tennessee Waltz on bribery and corruption charges. Ford was further accused of threatening and intimidating potential witnesses. At the time, he was still a state senator, but stepped down from his post two days after his indictment.

He was released on bail after his arrest but was subject to certain conditions, including a curfew, a requirement that he wear an electronic monitoring device, and a prohibition from traveling outside the Memphis area.

In court papers filed earlier this month, Ford asked U.S. District Judge Daniel Breen if he could attend the conference from Sept. 21-26, saying it is an essential aspect in his ability "to foster continued and new business relationships."

Ford said he had attended the conference in past years, and his attendance had helped his consulting business.

Federal prosecutors in Memphis did not object to the motion, spokeswoman Leigh Anne Jordan from the Memphis U.S. Attorney's Office said. The judge granted the request last Thursday.

Taxpayers will not be footing the bill, however, because Ford is no longer a member of the General Assembly. His attorney, Michael Scholl of Memphis, said he was not at liberty to discuss how Ford is covering expenses associated with the conference.

Ford's private consulting work while he was an elected official came under public scrutiny during the legislative session earlier this year.

In two cases, Ford's consulting work was linked to companies doing business with TennCare, the state's health insurance program for the poor and disabled. At the same time, he was chairman of the Senate General Welfare Committee and was a member of two other committees that oversaw TennCare.

Ford also has been a licensed funeral director and insurance agent.

The Congressional Black Caucus Foundation Inc.'s Annual Legislative Conference touts itself on its Web site as the "premier African American conference on policy issues."

The conference provides a platform for the 43 African-American members of Congress to talk about legislative items. And it's a meeting place for attendees interested in the health, economic, educational and political state of black communities, the Web site says.

Conference spokeswoman Patty Rice said the group does not provide information about attendees when asked to confirm Ford's registration.

Among those scheduled to speak is U.S. Rep. Harold Ford Jr. of Memphis, who is the nephew of John Ford. The congressman is to speak on national security, according to the conference's itinerary.

Others scheduled to speak include U.S. Sens. Barack Obama and Hillary Clinton, as well as actor Jamie Foxx.

Ford said he plans to go to trial in the Tennessee Waltz case. Three other defendants, including former state House member Chris Newton, R-Cleveland, have entered guilty pleas and await sentencing in February. •

Details Of Cockfighting Raid Emerge (KNOXNS)

By J.J. STAMBAUGH

Knoxville News Sentinel (TN), September 13, 2005

NEWPORT, Tenn. - Among the evidence compiled by the FBI before a June 11 raid on a cockfighting pit near Del Rio were aerial photographs and video surveillance of the facility, according to testimony heard last week.

DOJ_NMG_0004336

A preliminary hearing Wednesday in Cocke County General Sessions Court provided many new details about the controversial raid, which was cloaked in secrecy as part of a sweeping four-year probe by federal and state authorities into organized crime and public corruption in Cocke County.

In fact, security leading up to the raid was so tight that most of the officers involved weren't told of the assignment until the day of the operation, according to state troopers.

Tennessee Highway Patrol Trooper Timothy Wolfenbarger was one of four troopers who testified at last week's hearing for nearly a dozen people accused of being spectators at a cockfight.

Wolfenbarger said the operation was orchestrated by the FBI and a federal SWAT team had been assigned to conduct the "initial sweep" on the compound. State troopers, who had been drawn from posts across the state, were ordered into the site after it was secured.

"They (the FBI) had surveillance videos aerial photographs," Wolfenbarger said. "They had a good plan."

The raid has drawn heated criticism from many cockfighters, who feel the raid was too violent and a waste of federal resources.

Scores of heavily armed federal and state agents backed up by snipers and three helicopters took part in the raid. Troopers issued misdemeanor state citations against 143 people, most of whom entered into plea agreements that kept them out of jail.

At least 11 of them, however, have opted to fight the charges.

After the Del Rio raid, federal prosecutors moved to seize both the Del Rio pit and a second alleged cockfighting operation near Newport, the 440 Cockfight Pit, arguing they were illegal gambling operations.

The FBI has said the Del Rio complex had enough bleachers to seat up to 500 people. The compound included a 5,000-square-foot, two-story metal building; a 3,000-square-foot, two-story building partitioned into rooms; a "gate shack" built along the gravel driveway leading up to the site; and "approximately 100 outbuildings, consisting of utility sheds and camping trailers," according to court records.

"I'd never seen anything like that before in my life," Trooper Wolfenbarger said. "It (the main building) was like a gymnasium. There were people sitting up in the arena area."

Wolfenbarger also said the show of force was justified because the officers and agents didn't know what they would encounter.

"Our job is dangerous enough, but anytime you go into the unknown you don't know what's going to happen," he said.

The troopers gave first-hand descriptions of the Del Rio pit and told of finding dead roosters in various places. They conceded during cross-examination, however, that they didn't actually see any of the defendants take part in or watch a cockfight.

Trooper Jim Lee said he saw "a lot of blood, feathers, dead roosters." He also said he was told by one of the suspects detained at the compound that "the blood on his shirt was from being too close."

Trooper Bob Brooks described a restaurant and gift shop on the property that sold T-shirts, caps, belt buckles and other memorabilia. The shop also sold metal gaffes, which are often placed on gamecocks when they fight, he said.

Defense attorney Joe Baker repeatedly solicited testimony from the troopers that they couldn't positively identify all the defendants in the courtroom as having been at the pit. He also stressed that none of the defendants were seen breaking the law and opined that there might have been legal reasons to be at the compound.

At one point, Baker asked Brooks if he would have arrested someone had they only been working at the restaurant and hadn't entered the building where the cockfighting allegedly took place.

"That's aiding and abetting to me," the trooper replied, comparing Baker's hypothetical scenario to someone "selling lemonade" while watching drug deals.

Baker argued unsuccessfully before Judge John Bell that the state's laws concerning cockfighting are vague when it comes to being a spectator at one of the events, which is a Class C misdemeanor punishable by a maximum fine of $50 and 30 days in jail.

He also said that only three of his clients had been positively identified by the troopers in the courtroom and stressed the lack of evidence presented. "If this is the best the state and federal governments can do then I feel like (my clients') rights aren't protected," he said.

Bell sent the cases on to a grand jury for review but noted that, had the defendants been on trial, the evidence presented wouldn't have been enough to convict them.

During a preliminary hearing, Bell explained, prosecutors only have to show "some proof that a crime was committed and some proof that you did it."

Baker said after the hearing that the state Legislature could have "been more specific and clear" when it comes to how spectators - as opposed to actual participants - are treated under the law.

"This is the only law that prohibits being a spectator," Baker said. "I could watch someone run red lights, rob banks, or kill somebody, but you can't watch a cockfight."

TN: Cockfighting Pit Raid Yeilds 143 Citations For Spectators (AP)

AP, September 13, 2005

A cockfighting pit raided by state and federal authorities this summer at Newport, Tennessee had bleachers to seat about 500 people and nearly a hundred outbuildings.

State troopers told a hearing they included a restaurant and gift shop.

Four Tennessee troopers talked about the June raid that netted 143 citations during a hearing Monday for some of the people charged with being spectators at a cockfight.

Heavily armed agents, snipers and helicopters were involved in the raid that was part of the FBI's four-year investigation into organized crime and corruption in the county.

The troopers said they found dead roosters, blood and feathers at the pit but, did not actually see any of the defendants watching or coaching roosters.

Judge John Bell bound the cases over to the grand jury but said he didn't think the evidence presented at the hearing was enough to convict them.

College Student's Disappearance Mystifies Family And Police In Va. (WP)

By Jamie Stockwell

The Washington Post, September 13, 2005

Eager to begin her freshman year at Virginia Commonwealth University, Taylor Behl created an online profile and wrote that she was looking for new friends in the Richmond area. Last week, she told her roommate she was going out for a few hours. She did not come back.

Behl, 17, was last seen Sept. 5, and campus officials said yesterday they still do not suspect foul play. But they are becoming increasingly concerned, and the investigation into her disappearance gains momentum and urgency with each passing day.

Nearby jurisdictions have joined the hunt, and the FBI has assigned an agent to advise campus and Richmond police. The National Center for Missing and Exploited Children, based in Alexandria, has posted a notice on its site.

Every year, students "appear to disappear" from the 30,000-student university and do not call their families for days, said Pam Lepley, a campus police spokeswoman. The students usually resurface after a couple of days, she said. But in this case, Behl, a June graduate of Madison High School in Vienna, has contacted no one.

"We're very concerned because of the amount of time that has passed," Lepley said.

Behl was last seen about 10 p.m. on Labor Day after a late supper at a local cafe. She found her roommate in their room with a boyfriend and told her she would leave for a while to give them privacy, police said.

She was wearing jeans and a hooded black sweatshirt and took only her keys and a credit card. Her car, a white 1997 Ford Escort with Virginia tags JPC-2848, is also missing.

Lepley said Behl continues to receive e-mails but has not logged on to read them. Her credit card has not been used, and the last call on her cell phone was made the night she disappeared.

Dozens of people have been interviewed, and more than 20 leads have been fruitlessly followed. A national alert has been issued, and a description of her vehicle has been sent to authorities across the country.

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Behl's mother, Janet Pelasara, drove to Richmond from her Vienna home Wednesday, hours after her daughter's disappearance was reported to campus police. She said in several telephone interviews that Behl is an outgoing, friendly girl, not the sort who would cease contact with her family and friends.

"She's very family-oriented," Pelasara said. "She's basically a happy kid, a good kid. She's fun; she's funny; she's smart as a whip. I'm very worried about her."

Friends have posted messages on Myspace.com, the Web site where Behl has an online profile, begging her to call someone and to come home safely.

In the profile Behl created this summer on the site, which serves as a dating and friendship network, she goes by the name "Bitter." She wrote that she was excited to move to Richmond.

"I just graduated from high school and now I'm off to Richmond for college," she wrote. "I'm looking forward to meeting people that are in Richmond because I only know a few people down there."

She had but one requirement in meeting new friends: "Someone who is kind."

Case Against DeLay Associate Dismissed (HILL)

By Patrick O'Connor

The Hill, September 13, 2005

A Texas judge dismissed a civil case against a major fundraiser for House Majority Leader Tom DeLay (R-Texas) last Friday.

The federal district-court judge dismissed the case brought by two Texas Democrats against John Colyandro, the former executive director of the Texans for a Republican Majority Political Action Committee (TRMPAC).

The judge, Lee Yeakel, ruled that lawyers for the two Democrats failed to prove that Colyandro had knowingly broken Texas election law in using corporate contributions to fund campaign ads.

Texas election law prohibits the use of corporate money in races for state office.

In his opinion, Yeakel wrote that the petition against Colyandro and his three co-defendants "fails to allege any facts that Colyandro intentionally or even knowingly violated the applicable sections of the Texas Election Code."

In May, another Texas judge ruled against Colyandro and co-defendants Jim Ellis and Warren Robold in a separate civil case, ruling that the three had violated state election law by failing to report $684,507 in corporate donations.

Colyandro and Ellis also face criminal money-laundering charges following indictments last year by Travis County District Attorney Ronnie Earle.

DeLay Seeks Closure On Texas Case (RC)

By John Bresnahan

Roll Call, September 13, 2005

The recently disclosed meeting between House Majority Leader Tom DeLay (R-Texas) and a prosecutor investigating allegations of state campaign finance violations is a strong signal that DeLay is trying to put a longstanding Texas investigation behind him as he prepares for a potential probe by the House ethics committee. DeLay and his lawyers met with Travis County District Attorney Ronnie Earle and his aides for about 90 minutes on Aug. 17 in the Public Integrity unit of the Travis County DA's office. Sources close to both men described the meeting as cordial and said DeLay was treated more like a witness than a potential target of the probe.

Accompanying DeLay to the meeting were his Austin criminal-defense lawyers, Bill White and Steve Brittan, as well Toby Vick of McGuireWoods (one of DeLay's Washington, D.C., law firms) and Elliot Berke, general counsel in the Majority Leader's office. Earle was joined by Greg Cox, director of the Public Integrity unit, and another official.

Earle has been leading a two-and-half-year investigation into the use of corporate funds in the 2002 Texas legislative races. Earle obtained indictments against three DeLay political allies last September for allegedly violating Texas' ban on the use of corporate campaign donations in state legislative races. Since then, there has been widespread speculation that DeLay also could find himself going in front of a grand jury at some point.

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On Thursday, Earle announced indictments of Texans for a Republican Majority political action committee and the Texas Association of Business for their activities in 2002 state legislative races. DeLay's office then disclosed that the Majority Leader had held a voluntary meeting with Earle and other Travis County prosecutors to discuss DeLay's involvement with TRMPAC.

Earle told the Dallas Morning News on Friday that, despite earlier comments he had made, his aim in the TRMPAC probe was not to indict DeLay. "I have never said Mr. DeLay is a target of the investigation," Earle told the newspaper.

According to sources familiar with the situation, Earle had asked for a voluntary meeting with DeLay in mid-July, and DeLay's legal team agreed to that request. For reasons that are unclear, however, no further talks were held for several weeks.

Later that month, Earle convinced a Texas judge to issue a subpoena to compel DeLay to testify. Earle then contacted DeLay's lawyers again before actually serving the Texas Republican. At that point, DeLay agreed to a voluntary sit-down, although it still took several weeks for the two men to actually get together. The existence of the DeLay subpoena, which was never formally served on the lawmaker, was first reported by the Austin American-Statesman.

DeLay was not under oath when he met with Earle, and there were no other preconditions put in place, such as transactional or prosecutorial immunity, sources close to the Majority Leader said.

Most of the gathering focused on DeLay's involvement with TRMPAC. DeLay helped create the organization in 2001 with a $50,000 donation from his federal leadership PAC, Americans for a Republican Majority PAC.

TRMPAC's goal was to help Texas Republicans win control of the state Legislature, which would then allow the adoption of a Congressional redistricting map favorable to the GOP. DeLay and other Lone Star State Republicans were angered by the fact that Texas' Congressional delegation was still majority Democratic, despite the fact that Texas voters had shifted decisively to the GOP.

Thanks in part to extensive fundraising by TRMPAC, TAB and other pro-Republican groups, GOP candidates were able to win control in the 2002 elections of the Texas House for the first time since Reconstruction. A DeLay ally, Tom Craddick, was elected Speaker, and despite repeated attempts by Texas Democrats to block it, a Congressional redistricting map much more favorable to Republicans was adopted. Six seats changed from Democratic to Republican control thanks to the DeLay-led redistricting drive, cementing his status as a GOP powerbroker and infuriating Democrats in Austin and Washington.

After an official at TAB bragged in an association newsletter about the group's role in the 2002 state elections, Earle began his investigation. The use of corporate funds is illegal in Texas legislative races.

A Texas judge ruled in May that TRMPAC should have reported more than $532,000 in corporate contributions to state officials during the 2001-02 cycle, and the judge awarded in excess of $196,000 in damages to five state Democratic candidates who have sued the group. TRMPAC, which declared those donations to federal authorities but did not notify state officials, is appealing that ruling.

A Texas grand jury indicted TRMPAC last Thursday on two counts of violating Texas' ban on the use of corporate funds. The charges center on whether TRMPAC illegally solicited and accepted $120,000 from the Alliance for Quality Nursing Home Care, an industry-funded group, and AT&T Corp. Earle's office charged that these donations represented an infringement of state law.

DeLay has denied playing any significant role in the day-to-day operations of TRMPAC, although he did serve on an advisory committee for the organization.

James Bopp, a GOP campaign expert who has testified on behalf of TRMPAC in a civil case brought by Texas Democrats, said the DeLay-Earle meeting was highly unusual.

"Yeah, I think it's extraordinary," Bopp said. "I think it's an indication that [DeLay] and his lawyers believe he is completely blameless for anything that happened [with TRMPAC], if in fact any crime was committed."

But another campaign-finance expert, speaking on the condition of anonymity, said DeLay faced a political consequence if he did not cooperate with Earle, especially once DeLay's camp knew Earle had obtained a subpoena that would compel the Texas Republican to testify.

"There's always a certain tension between litigators and politicians in any of these cases," said this expert. If DeLay were to refuse to testify unless he were subpoenaed, it could look like he was attempting to hide something — a difficult position for DeLay to be in politically with all of the ethics controversies that have surrounded him.

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But if DeLay were to meet with Earle, especially without any assurances that what he said wouldn't be held against him, then he could have exposed himself to legal jeopardy if he admits to illegal behavior. "That's a big risk to take," said one GOP lawyer familiar with the case. "I'm surprised they did it."

Craddick also met privately with Earle last month, according to the Austin American-Statesman. Craddick's lawyer told the newspaper that it was "a pleasant conversation."

Up until now, little love was lost between the Earle and DeLay camps. DeLay has claimed that Earle was seeking to redress Democratic losses at the polls by using a politically motivated investigation, while Earle has suggested that Republicans, including DeLay, repeatedly violated Texas campaign laws through the used of millions of dollars in corporate contributions.

But Earle's probe, or at least the investigatory phase of it, may finally be winding down.

The latest grand jury, the fourth in this case, is set to expire at the end of September, and sources close to the investigation say it will likely be the last one empaneled.

And while a number of legal issues remain for Texas courts to straighten out, including outstanding criminal charges against several DeLay allies, the fact that Earle privately told DeLay and his attorneys that he is not a target of investigators may now enable DeLay to focus his attention on the House ethics committee.

"It's not over yet, but there's some light at the end of the tunnel for DeLay," said a GOP source official close to the Majority Leader. "He may just slip the noose on this one."

CIVIL LAW:

McCain, Feingold Targeting Rider (RC)

By Suzanne Nelson

Roll Call, September 13, 2005

Sens. John McCain (R-Ariz.) and Russ Feingold (D-Wis.) implored their colleagues Monday to support their efforts to remove a campaign-finance rider to the Treasury-Transportation appropriations bill, which is slated to come to the Senate floor as early as this week.

The provision would allow lawmakers' leadership political action committees to give unlimited funds to the national party committees, opening what the two Senators believe would be a significant loophole in the campaign finance law.

In a "Dear Colleague" letter, Feingold and McCain noted that national parties could turn around and spend those funds on the lawmaker's own re-election, "effectively subverting individual and PAC donor contribution limits on the amounts that can be given to a Member's campaign."

But the back-door change has high-level support in the Senate. Senate Majority Leader Bill Frist (R-Tenn.), whose presidential aspirations could be aided by the provision, gave the language his endorsement before the August recess. Majority Whip Mitch McConnell (R-Ky.), a longtime foe of campaign finance restrictions, is also supporting the measure.

The principal difference between a lawmaker's personal campaign and that of his or her leadership PAC is that funds from the latter cannot be spent on direct mail, broadcast ads and other items that directly aid the candidate's campaign. The money from leadership PACs is used primarily as funding for the lawmaker's travel and as a way to gain chits with fellow lawmakers by making contributions to their campaigns.

Like all other political action committees, leadership PACs are currently subject to an annual limit of $15,000 for transfers to the national party committees. The proposed language would treat leadership PACs like candidates' personal campaign committees when it comes to transfers to the national parties.

No one during the past few years has sat on as large a pile of leadership PAC cash as Frist, who as of June 30 had almost $1.2 million left in his account. He's already given the maximum donations to every GOP Senator running for re-election, leaving him to spread his money around to House campaigns — unless this provision allows him to dump large amounts of cash into the NRSC and the RNC.

"This major change in campaign finance law would seriously undermine the effectiveness of longstanding contribution limits which serve as the foundation of the nation's campaign finance laws," McCain and Feingold wrote.

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"Let's be very clear on another point — this provision benefits no one but incumbent Members of Congress by allowing them to circumvent those same contribution limits by which their opponents will be forced to abide," the two added in boldfac e type.

A few years ago, leadership PACs were used primarily by a handful of Members with leadership aspirations, but recently the committees have become more common and are now used by rank-and-file and junior lawmakers as well.

The language in the Treasury-Transportation bill also does something seemingly technical but that could nonetheless have a significant impact on campaign-finance law: It codifies for the first time the term "leadership PAC," which heretofore has been an informal term to refer to political action committees informally linked to lawmakers used to further their aspirations for elected leadership. Many campaign reform groups already believe them to be dubiously legal, at best, as they are used in practice as an vehicle for lawmakers to raise money outside of the existing contribution limits.

McCain and Feingold concluded by asserting that substantive changes to the campaign finance laws should occur only after "adequate" debate, the antithesis of which would be "[s]lipping a rider onto an appropriations bill in a subcommittee markup."

The two plan to force a vote on the provision on the Senate floor.

CIVIL RIGHTS:

Same-Sex Marriage May Stay Legal In Mass. (FINDLAW/AP)

By Steve Leblanc And Theo Emery, Associated Press Writers

Find Law, September 13, 2005

(AP) - BOSTON-A fragile coalition of lawmakers cobbled together to support an anti-gay marriage amendment is falling apart, virtually assuring that same-sex marriage will for now remain legal in Massachusetts, according to an Associated Press poll.

The survey, conducted between Sept. 6-9, found at least 104 lawmakers who plan to vote against the proposed constitutional amendment, which would ban gay marriage but create civil unions.

The amendment, which is scheduled for a vote on Wednesday, needs the support of at least 101 of the state's 200 lawmakers to get on the 2006 ballot.

"It's a dangerous precedent to take away rights that have been granted by the court for an identifiable group of people," said Democrat Rep. James Brendan Leary.

Last year, months after the state's Supreme Judicial Court ruled that same-sex marriage was legal, the amendment passed 105-92. It must pass a second vote to get on next year's ballot.

Reasons for the faltering support are rooted in the language of the amendment, which was intended as a compromise between foes of same-sex marriage and supporters of gay rights. It ultimately had an opposite effect, however, alienating gay marriage opponents by creating civil unions and offending gay rights supporters by banning gay marriage.

For the survey, the AP attempted to reach all 200 lawmakers with at least two phone calls. Of those polled, 104 said they would vote against the proposal, 19 said they would support it and three said they were undecided.

Opposition to the measure is likely deeper than the survey indicates. Several lawmakers who voted against it last year couldn't be reached. Others who have voiced strong opposition declined to respond.

More than a dozen lawmakers who voted for the amendment the first time around said they would change their votes this week, either because they fully support gay marriage or oppose civil unions.

Others said that after more than a year of watching gay couples marry, they see no need to rescind the right. Since Massachusetts' gay marriages started taking place in May 2004, thousands of same-sex couples have tied the knot.

"I haven't talked to any married heterosexual couples that have felt threatened by same-sex marriages," said Democrat Rep. Anne M. Gobi, who said she couldn't support the compromise amendment, as she did last year.

Many foes of gay marriage said they prefer a second, much stricter amendment that would ban gay marriage without granting civil unions. The earliest that proposal could go before voters is 2008.

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"We are going back to the beginning and defining marriage as the union of one man and one woman," said Democrat Rep. Philip Travis, who voted for the compromise amendment last year, but now plans to vote against it.

Some lawmakers who have supported gay marriage in the past declined to respond to the survey, saying they believed the vote was still too narrow, and many new lawmakers planned to vote against the measure because of campaign promises.

Still, not everyone is switching their vote.

Democrat Rep. James H. Fagan does not oppose same-sex marriages, but he's sticking with his yes vote on the constitutional amendment because he wants the state's citizens to decide.

"I support their right to vote," Fagan said. "I would suggest that people do not vote to amend our constitution."

Will California's Gay Marriage Bill Spur Similar Measures Elsewhere? (CSM)

By Daniel B. Wood

The Christian Science Monitor, September 13, 2005

LOS ANGELES - The latest struggle over who decides the legality of gay marriage - citizens, lawmakers, or the courts - played out in the nation's most populous state last week. The California legislature was the first to approve a bill legalizing same-sex marriage, although Gov. Arnold Schwarzenegger has vowed to veto it.

The political stand-off raises legal issues specific to California, state and national observers say. The legislature's attempt to broaden the definition of marriage is in direct conflict with a citizens' initiative passed in 2000 defining legal marriage as between a man and woman only. That citizen's initiative itself, Proposition 22, is also being challenged in court.

But the recent move by Sacramento legislators emphasizes what some observers see as a shift in public opinion that appears to be more accepting of gay marriage. Still, others anticipate the bill could add to the backlash against the gay-marriage movement that prompted 11 states to ban same-sex marriage through ballot initiatives last year. Indeed, California conservative groups have heightened efforts to place an initiative before voters that would recognize heterosexual unions only.

National pollsters report more acceptance of gays and lesbians in a variety of other contexts. What happens in California could set the tone for how other states deal with the issue legislatively.

"There will be lurches backward and forward as some states throw up roadblocks to such arrangements and others embrace them," says Elizabeth Garrett, a law professor at University of Southern California who tracks state initiatives. "But overall the support for civil unions is getting stronger and stronger."

A recent statewide poll here shows that voters are evenly split (about 46 percent for, and 46 against) same-sex marriage. Five years ago, 61 percent of voters backed the initiative that defined marriage as between a man and woman. "Moves by the California legislature are part of the national trend toward greater equality for same-sex couples that has been growing coast to coast for the past few years," says Ms. Garrett.

San Francisco Mayor Gavin Newsom reignited the issue here last fall when he directed city officials to permit same-sex marriage licenses. Hundreds of couples who obtained the licenses in San Francisco later learned their nuptials were declared invalid by a court ruling that said a mayor could not ignore state law.

Some social conservative groups reject the analysis that public attitudes are shifting to embrace same-sex marriage. They claim that public opinion polls were roughly 50-50 before the Proposition 22 vote, but that the measure's overwhelming victory was a truer litmus test.

"The only vote that counts is at the ballot box, and the people spoke clearly on Prop. 22," says Karen England, of Capitol Resources Institute, a Sacramento group that advocates for family issues. "This legislature knows what the people feel and were afraid to put their measure to a public vote, which they could have done. Instead they are trying to make an end run around the will of the people."

Governor Schwarzenegger is being accused of political posturing with his veto to protect his conservative base in the face of declining approval ratings. But whatever ensues with the legal and political wrangling here, national gay and lesbian rights groups say they are encouraged by the legislature's move.

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"Like activities in Massachusetts and Connecticut which have kept the issue alive despite negative attacks, the California measure is a teachable moment," says Seth Kilborn, marriage project director of the Human Rights Campaign, the nation's largest gay/lesbian political organization. "It is an opportunity to talk to voters about why same-sex marriage is important."

California's Solons Lead (WP)

The Washington Post, September 13, 2005

The California General Assembly last week became the first state legislature to allow same-sex marriages. In a close vote, it sent a historic bill to Gov. Arnold Schwarzenegger (R) that would go a step beyond the state's broad domestic partnership rights. Mr. Schwarzenegger promptly declared that he would veto the bill, so it won't become law. But the legislature's action is an important milestone. While the Massachusetts Supreme Judicial Court permitted same-sex marriage in that state and legislatures have created civil unions elsewhere, the vote is the first time that a state legislature has acted on its own to create marriage equality.

The importance of the California vote in the politics of same-sex marriage is hard to overstate. After the Massachusetts court ruling, opponents of same-sex marriage decried the court's willingness to make policy on contested social issues. Such questions, they argued, were the rightful province of legislatures, not courts. President Bush even pegged his disgraceful endorsement of a federal constitutional amendment banning gay marriage to the likelihood of "activist judges" depriving the people of democratic choice on the matter. The California legislature's decision gives the lie to the notion that only imperial judges would foist such a social policy on a state.

Only five years ago, voters in California overwhelmingly passed a ballot initiative to refuse recognition to same-sex marriages performed elsewhere. The recent legislative action reflects genuinely changed public sentiment; polls on the matter show voters evenly split.

In an ironic twist, Mr. Schwarzenegger is trying to punt the matter back to the courts, where challenges to current California law are pending. In announcing his decision to veto the bill, he suggested that the new law conflicts with the old initiative -- which would be unconstitutional -- and that "the matter should be determined not by legislative action . . . but by court decision or another vote of the people of our state."

The governor could not be more wrong. Legislation is actually the best way to move forward in this area. And further ballot initiatives that will attempt to write an exclusively heterosexual definition of marriage into the California constitution and, along the way, wipe out the state's progressive domestic partnership laws, are already in the works in any event. A lot of work remains to be done before marriage equality in California becomes a reality.

But the legislative action last week remains an important symbol -- at once a rebuke to those states that have reacted to the Massachusetts decision by writing discrimination into their fundamental laws and a gentle reminder to those who see hope for progress only in the courts that legislatures can still be engines for positive change.

Firefighter Arrested In Alleged Assault Hours After Sept. 11 Anniversary (FINDLAW/AP)

Find Law, September 13, 2005

(AP) - NEW YORK-Hours after many New York firefighters gathered to mark the fourth anniversary of the Sept. 11 terrorist attacks, one of them was arrested for attacking an immigrant worker from Bangladesh and telling him he looked "like he's al-Qaida," police said.

Firefighter Edward Dailey was arrested Sunday on charges of criminal mischief and felony second-degree assault, Police Sgt. Kevin Farrell said.

He was released without bail. Despite the alleged al-Qaida remark, there was not enough evidence to charge him with a hate crime, authorities said.

Dailey, 27, is accused of breaking a piece of Plexiglas off a curbside newsstand and throwing it at a 51-year-old man who works there, Farrell said. Dailey had said the man looked "like he's al-Qaida," Farrell said.

The victim, whose arm was cut in the alleged attack, was treated at a hospital and released, Farrell said.

A woman who answered the phone at Dailey's home wouldn't comment.

Dailey was the class valedictorian at his FDNY graduation ceremony last year.

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Two Guilty Of Murder In Death Of A Transgender Teenager (NYT)

By Carolyn Marshall

The New York Times, September 13, 2005

HAYWARD, Calif., Sept. 12 - A jury convicted two men of murder on Monday but deadlocked on the fate of a third man in the retrial of three defendants charged with killing a 17-year-old transgender teenager in October 2002.

The two - Michael W. Magidson and Jose A. Merel, both 25 - were found guilty of second-degree murder for the death of Gwen Araujo, who was born as a male named Eddie Araujo Jr., but who frequently wore women's clothing and lived as a women.

After the verdict was read, Mr. Magidson bowed his head and Mr. Merel slowly shook his. They face sentences of 15 years to life in prison.

The jury found both men not guilty of committing a hate crime.

The actions of the third man, Jason Cazares, also 25, confounded a jury for the second time in two years. The panel, which heard the case for several months in a packed Alameda County Superior Court room, told Judge Harry R. Sheppard that they were hopelessly deadlocked on the fate of Mr. Cazares.

Jurors had been deliberating for seven days in the retrial of Mr. Magidson, of Fremont, and Mr. Merel and Mr. Cazares, both of Newark. The three were charged with first-degree murder and with committing a hate crime, although the jury had the option of finding the men guilty of lesser charges, including manslaughter.

The police found the victim's body in October 2002, buried in a three-foot-deep grave in El Dorado County in a remote area of the Sierra Nevada foothills about 120 miles east of San Francisco. She had been bound, bludgeoned and strangled on Oct. 4.

According to court testimony, Ms. Araujo's mother had reported her missing two weeks earlier and just a few days after the 17-year-old youth had attended a party at a house in Newark, then rented by Mr. Merel and his older brother.

The Alameda County deputy district attorney, Chris Lamiero, argued during the retrial that the men attacked and battered Ms. Araujo after they discovered from a friend that the girl with whom several had had a sexual encounter was, in fact, a biological male.

Mr. Lamiero's key witness to the crime was a fourth defendant, Jaron C. Nabors, 22, of Newark. Mr. Nabors was also charged with murder but agreed to plead guilty to voluntary manslaughter in exchange for his testimony against the other three men.

His testimony revealed that all of the men, except Mr. Cazares, had a sexual encounter with the teenager. The jury of eight men and four women began its deliberations on Aug. 30 and on Thursday alerted Judge Sheppard that decisions had been reached on two of the defendants. The verdicts and identities of the men were withheld pending a decision on the third man.

During the three-month trial, the prosecutor told jurors that Ms. Araujo had been murdered by the men in what he considered a brutal hate crime. The prosecutor argued that Mr. Magidson strangled the teenager, Mr. Cazares beat in her skull with a shovel, and Mr. Merel followed along because he said he felt intimidated.

The lawyers for the defendants in part argued that the death of Ms. Araujo was a crime of passion that did not merit a charge of first-degree murder. The lawyer for Mr. Cazares, the defendant on whom the jury deadlocked, argued that his client was not even present during the murder, because he was outside having a cigarette.

All three men testified during the retrial. But only Mr. Cazares took the stand at the first trial, in June 2004, when the jury deadlocked after 10 days of deliberation, leading to a mistrial.

Two Defendants Convicted In Newark Transgender Murder (AP)

By Michelle Locke, ASSOCIATED PRESS

AP, September 12, 2005

HAYWARD – Two men who had sex with a transgender teen and then discovered she was biologically male were convicted Monday of her murder, but cleared of hate crime charges.

Michael Magidson and Jose Merel, both 25, face mandatory sentences of 15 years-to-life in prison for second-degree murder in the killing of Gwen Araujo, who was beaten, tied up and strangled.

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The jury was deadlocked in the case of a third man, Jason Cazares, 25, marking the second time a mistrial was declared in his case.

There were sobs in the Alameda County courtroom as the verdicts were read and Merel held his head in his hands.

Araujo, 17, was born a boy named Edward but grew up to believe her true identity was female. The defendants, who knew her as Lida, met Araujo in the summer of 2002. Magidson and Merel had sexual encounters with Araujo, experiences that fueled suspicions about Araujo's gender.

The issue boiled over in the early hours of Oct. 4, 2002, in a confrontation at Merel's house in the San Francisco suburb of Newark.

Merel's lawyer, William Du Bois, said he was shocked by the verdict, especially since prosecutor Chris Lamiero said he didn't think Merel was the killer.

"I can't imagine what evidence they used to come to this decision," Du Bois said.

In the first trial, the three defendants stuck together, with their lawyers attacking the chief prosecution witness, Jaron Nabors, who was also at the house the night Araujo died but was allowed to plead guilty to manslaughter in exchange for testifying.

But in the second trial, the defendants' united front cracked.

Nabors testified at both trials that Araujo was savagely attacked after her biological identity was revealed when her underwear was pulled aside. He said he didn't see the killing but saw Magidson pull a rope toward the teen's neck.

Magidson testified that he beat and tied up Araujo but said he couldn't remember large parts of the night and was sure he had not strangled her. He said Nabors was the killer and his attorney asked for a manslaughter conviction.

But Merel, testifying for the first time, broke down and cried when Lamiero asked him directly if Magidson admitted strangling Araujo. He testified that Magidson had told him "if push came to shove" Merel should identify Magidson as the killer.

An autopsy found Araujo died of asphyxiation associated with head injuries.

Nabors testified that Merel smashed Araujo in the head with a can and also hit her with a pan. Merel acknowledged slapping Araujo and hitting her a glancing blow with the pan but said he only menaced her with the can and did not seriously injure the teen. Du Bois said if Merel was guilty of anything it was felony assault.

Cazares said he was outside the house when the killing took place and only helped bury the body in a shallow grave in the Sierra Nevada foothills.

Cazares' attorney said he thought the jury didn't believe Nabors' testimony.

"We believe from the first instant that he wasn't telling the truth and what he was doing was trying to save his own skin," attorney Tony Serra said.

Cazares, who was free on bail, hugged his girlfriend and left the courthouse.

Redistricting Reform May Be On The March In Three Big States (RC)

By Louis Jacobson

Roll Call, September 13, 2005

LOS ANGELES — With initiatives to reform redistricting expected to make the 2005 ballot in California and Ohio, and another for 2006 gaining traction in Florida, the ultimate insider issue has suddenly become hot in three of the nation's most populous states.

But those who thrive on map-drawing minutiae wonder whether such an arcane issue can resonate with ordinary voters.

"Most voters don't even know what districts they live in, much less who drew the boundaries, so they don't relate to it," said Garry South, a veteran Democratic strategist in California. His California GOP counterpart, Dan Schnur, concurred, saying, "Under normal circumstances, it's impossible to pass. It's too abstract."

Still, strategists say the pivotal wild card is frustration with politics as usual. If such a mood exists, and if it is channeled effectively, it can put a dry issue like redistricting over the top, said Kristina Wilfore, executive director of the liberal Ballot Initiative Strategy Center.

And in these three states at least, the political conditions may be riper than normal.

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In California, Gov. Arnold Schwarzenegger (R), who coasted into office amid mass disaffection with his Democratic predecessor, has staked his prestige on the redistricting measure and other reforms.

In Ohio, a metastasizing political scandal involving Gov. Bob Taft (R) and the state Republican Party is producing anger and volatility in a state long dominated by the GOP.

And Florida, like Ohio, has been home to a divisive presidential election in which residents aired a torrent of allegations about how partisanship may have influenced vote counting.

The Ohio measure, which would create a judicially appointed independent redistricting panel, has the most momentum, thanks to the rising tide of political disaffection.

The proposal's chief proponent, a predominantly Democratic group called Reform Ohio Now, secured roughly 500,000 signatures, easily exceeding the 322,000 required to place the measure on the ballot. (It is expected to share ballot space with proposals for expanded mail-in balloting, reduced donation limits to candidates and a nonpartisan state elections board.)

"There is tremendous energy, excitement and interest in all of the reform amendments," said Cleveland-based Democratic consultant Jeff Rusnack. "Ohioans are looking for real changes that will hold the politicians accountable. Changing the redistricting process is one way to do this."

Herb Asher, an adviser to Reform Ohio Now and political scientist at Ohio State University, said the group knows the issue is hard to explain in 30-second TV spots, so its goal is to skip the mechanics and focus on big themes.

"You tell voters, 'Hey, we all believe in competition for business and schools, so how about competition in our elections? How about making legislators be more attentive to their own districts?'" Asher said. "By saying something that simple, it captures people's attention."

Asher predicts that if the proponents can pick off one-third of the GOP electorate — not an unreasonable number given today's anti-Republican environment — then the measure should prevail.

Ohio First, a largely Republican group, opposes it. Beyond challenging the measure in court, Ohio First asks whether the proposal is as fair as its sponsors contend, said former Ohio Senate President Richard Finan (R), a Cincinnati lawyer affiliated with Ohio First.

"The argument is, 'Yes, we might need some reform to our method of redistricting, but this is certainly not the way to do it,'" he said. The measure, "is strictly slanted toward one side."

In Ohio, as elsewhere, partisanship is never far from the surface. Indeed, critics have noted the irony that more than two decades ago, the state's then-dominant Democratic Party successfully blocked a GOP-backed redistricting reform effort.

In Florida, a narrowly divided state with a heavily Republican Congressional delegation, signature-gatherers are working to place a redistricting measure on the 2006 ballot. While it's too soon to gauge its level of support — already, one facet of the reform package has been thrown out for exceeding the ballot-summary limit by six words — the proposal's sponsors have one key factor on their side.

"Florida has been very inclined to pass constitutional amendments in the past decade," said Aubrey Jewett, a political scientist at the University of Central Florida, citing a range of recently passed measures that span the ideological spectrum, including those protecting pregnant pigs, banning smoking, restricting net fishing, publicizing doctors' mistakes, cutting contingency fees for lawyers and raising the minimum wage. "If the petitions do get on the ballot, I think the odds of passage are good."

Ironically, California, a trailblazer on the issue since Schwarzenegger's election, now seems to offer the longest odds of passage.

Schwarzenegger's proposal, which would hand redistricting duties to a nonpartisan group of judges, received just 32 percent support in a late-August Field poll, compared to 46 percent who were opposed and 22 percent undecided.

While the challenges facing the California measure mirror those in other states, Schwarzenegger's larger-than-life persona may have shaped public perceptions more than anything — on balance, negatively.

As Schwarzenegger's tone has become more partisan, his popularity has dropped among Democrats and independents — and the redistricting measure has suffered. It now fares even worse in recent polls than Schwarzenegger himself. Field's late-August trial heats showed the governor losing to his two likeliest Democratic challengers.

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If Schwarzenegger had framed the issue properly and worked with Democrats consistently and publicly, Schnur and South agree, the effort could have won broad support. As a celebrity with cross-party appeal, the governor could have made it a compelling pox-on-both-your-houses issue.

"The thing about initiatives is that you don't have to explain the details," said Elizabeth Garrett, a University of Southern California law professor who studies ballot initiatives. "It's all about symbolic significance. And a take-back-the-government message could have worked."

Now, however, South said that "if a 35 percent governor passes a 35 percent ballot measure, I'll eat my hat."

The main beacon of hope for redistricting reformers is Arizona, which passed a statewide ballot measure to create a redistricting commission in 2000.

Two months before Election Day, the measure had just 43 percent support in the polls, recalled Bob Grossfeld, a Democratic consultant in Scottsdale, Ariz. Then, he said, proponents seized on opposition by the state's dominant GOP, enabling undecided voters to "connect the dots" about who benefited from the status quo.

"It was one of the first examples of how populism can trump conservatism," Grossfeld said. "Simply put, the campaign converted more than 25 years of government-is-the-problem rhetoric by conservatives into a double-digit win."

Phoenix-based GOP lobbyist Stuart Goodman agreed that a well-funded, well-run campaign offered "an appealing message."

"The general population is not focused on the political implications of redistricting, but they unquestionably appreciate the importance of fair and competitive elections," Goodman said.

Rep. John Tanner (D-Tenn.), who's sponsoring a redistricting reform bill in the House, agrees that the broader principle of fair play resonates among rank-and-file voters even when they know little about his legislation.

"The people back home are talking about the partisanship they see in Washington, and they're pleased to see Congressman Tanner trying to work on that," said Tanner's spokesman, Randy Ford.

ANTITRUST:

Oracle To Pay $5.85 Billion For Siebel (NYT)

By Laurie J. Flynn

The New York Times, September 13, 2005

SAN FRANCISCO, Sept. 12 - Oracle, the giant database-software maker, announced on Monday that it would pay $5.85 billion to acquire Siebel Systems, its largest competitor in the market for sales automation programs.

The deal will bolster Oracle's effort to topple its German rival SAP as the leading seller of business applications software for big corporations.

It comes less than a year after Oracle managed to achieve a hostile takeover of PeopleSoft for $10.3 billion after a contentious battle that dragged on for nearly 18 months.

Oracle says its acquisition of Siebel will make it the largest seller of sales automation software - a category also known as customer relationship management software. SAP remains a far bigger supplier of business applications over all, but the Siebel acquisition, said Lawrence J. Ellison, Oracle's chief executive, "moves us closer to our goal of being No. 1 in applications globally."

While the Justice Department tried and failed to block the Oracle-PeopleSoft deal on the basis that it was anticompetitive, industry analysts and antitrust experts do not expect the Siebel deal to encounter the same regulatory opposition.

The combined company will face considerable competition from SAP, as well as from Microsoft, I.B.M. and smaller rivals. And Oracle lawyers succeeded in the PeopleSoft case in convincing a judge that the enterprise software market was robust.

Under the terms of the Oracle-Siebel combination, which is subject to the approval of shareholders of both companies, Oracle will pay $10.66 in cash or stock for each Siebel share. Siebel now has $2.24 billion in cash on hand, reducing Oracle's net takeover cost to $3.61 billion.

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The news was announced before the opening of the stock market on Monday. In trading, shares of Oracle rose 21 cents, to $13.49. Siebel Systems advanced $1.16, or 12.7 percent, to $10.29 on volume of more than 187 million shares - roughly one in every three of its shares outstanding.

Oracle agreed to exchange stock for up to 30 percent of Siebel. If the Oracle shares fall below $10.72 before the deal is completed, Siebel shareholders who choose stock will receive 0.994 share of Oracle for each share of Siebel stock.

Oracle executives said the deal would add 2 cents to 3 cents a share to Oracle's profit in the 2007 fiscal year, ending in May 2007. The company said it expected to repurchase any shares issued in the acquisition. While Oracle expects to have $5 billion to $6 billion in cash at the time the deal is likely to close, it said it would use about $1.5 billion of its own cash and borrow the rest.

Beyond PeopleSoft, Oracle has acquired several companies in the last year, including Retek, another business software producer, which it bought in March for $643 million.

Mr. Ellison, speaking to analysts in a conference call on Monday, explained that Oracle had decided to wait for a few quarters after it integrated PeopleSoft before pursuing another large deal.

Once the Siebel acquisition is completed, most likely early in 2006, Oracle said it planned to promote Siebel's customer relationship management program over similar software developed by both Oracle and PeopleSoft. With Siebel, Oracle adds 4,000 customers, including some of the largest corporations, and roughly 3.4 million individual users.

While Oracle's interest in Siebel had been known for some time, reaction was mixed on Wall Street.

Charles Di Bona, an analyst with Sanford C. Bernstein, said he thought that the merger would be far more difficult than Oracle indicated, and that incorporating another major product line into Oracle's development process would be a great challenge.

William Wall, a spokesman for SAP, said the deal would not cause SAP to change its strategy. "We always anticipated that in order for Oracle to try to catch up with SAP, they would take this step," he said. "We have the benefit of several years, and we intend to leverage that."

But it may be Salesforce.com that has the most to gain - or lose - from the Oracle-Siebel merger. The company, whose chief executive, Marc Benioff, was a longtime associate of Mr. Ellison, has had considerable success providing customer relationship management software through an "on demand" subscription service rather than a discrete product, a strategy that many large customers have come to prefer. Siebel, in recent years, has begun moving toward a similar model, and analysts say that Oracle is trying to move in that direction with this merger.

During Oracle's battle to acquire PeopleSoft last year, Mr. Ellison told a court that Siebel had long been on his company's short list of potential targets.

Thomas M. Siebel, the chairman, had been an Oracle executive from 1984 to 1990. He founded Siebel in 1993. Since then, he and Mr. Ellison have sparred bitterly on occasion, but the relationship lacks the intense animosity that characterized Mr. Ellison's relationship with Craig A. Conway, the PeopleSoft chief executive, who unsuccessfully fought to prevent the takeover of his company.

Siebel Systems has faced considerable turmoil in recent years; its revenue dropped to $1.3 billion last year from $2.1 billion in 2001. Mr. Siebel stepped down last year as chief executive and turned the job over to J. Mike Lawrie, a former I.B.M. executive. Siebel's board fired Mr. Lawrie in April after first-quarter results fell far short of expectations. George Shaheen, formerly of Webvan, took over as chief executive, but barely met revenue goals for the second quarter, and new license revenue was disappointing.

Mr. Ellison and Mr. Siebel said Monday that the merger was driven primarily by customers' desire to do business with fewer suppliers, an idea that Mr. Ellison repeated throughout the battle for PeopleSoft.

"What really moved these companies together," Mr. Siebel said, "was a shift in market dynamics that has been occurring over the past three, four, five years."

Where in past years, customers were satisfied to pick and choose the best applications from a variety of vendors, the complexity of business today has led them to want to simplify those relationships, he said.

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Siebel has about 5,000 employees at its headquarters in San Mateo, Calif., south of San Francisco, and throughout the world. While Mr. Ellison said that Oracle, based nearby in Redwood Shores, would retain Siebel's specialized sales force, analysts said that many Siebel employees were likely to be laid off as soon as the deal was completed. Oracle laid off nearly half of PeopleSoft's 11,000 employees soon after that deal took effect.

Oracle To Acquire Siebel For $5.85 Bil (SFC)

By Dan Fost

San Francisco Chronicle, September 12, 2005

Redwood City -- Furthering Chairman Larry Ellison's efforts to consolidate the software industry, Oracle Corp. today announced an agreement to acquire one of its biggest rivals, Siebel Systems, for $5.85 billion.

The deal follows a number of previous acquisitions, most notably the $10.6 billion takeover of Peoplesoft that closed in January. The impact on jobs at either company remains unclear.

Oracle this year has also acquired retailing software firms Retek and ProfitLogic, as well as a controlling interest in banking software maker I-flex Solutions.

The Siebel acquisition not only gives Redwood City's Oracle enough ammo to take on its archrival SAP of Germany in the field of customer relationship management, or CRM, software — essentially, software used to manage a company's sales operations — but it also has the delicious twist of allowing the Oracle boss to declare victory over Tom Siebel, a former protege turned enemy.

"In a single step, Oracle becomes the number one CRM applications company in the world," Ellison said in a press release. "Siebel's 4,000 applications customers and 3,400,000 CRM users strengthen our number one position in applications in North America and move us closer to the number one position in applications globally."

In the Siebel deal, Oracle agreed to pay $10.66 for each share of Siebel stock. The San Mateo firm had been struggling this year, with sales down and the stock having dropped from a high of $10.85 in January to a range hovering between $8 and $9 for most of the summer.

Former Webvan CEO George Shaheen came aboard in April as Siebel CEO in an effort to turn the company around, and Wall Street had watched closely since then to see if the company would either make an acquisition or be swallowed up itself.

In casting his lot with his old company, Tom Siebel, who remained chairman of Siebel Systems after Shaheen was hired, said the merger created a "beneficial business combination."

"Today is a great day for Siebel Systems' customers, partners, shareholders, and employees," Siebel said in a statement.

Another rival and former Oracle employee, Salesforce.com founder and CEO Marc Benioff, had another take on the deal. "Now, the same thing that happened to Peoplesoft will happen to Siebel, it will die," Benioff wrote in an e-mail to his employees.

As of 2:16 p.m. Eastern time today, Siebel shares were up 12.8 percent, or $1.17, at $10.30. Oracle shares were up 1.2 percent, or 16 cents, at $13.44.

The deal will need to meet regulatory approval, including an antitrust review. Oracle expects the acquisition to close in January.

Oracle Snaps Up Rival Siebel For $5.8bn (FT)

By James Politi And Chris Nuttall

Financial Times, September 13, 2005

Oracle, the US technology group, on Monday agreed to buy Siebel Systems for $5.85bn in cash and stock, sealing its second large acquisition in less than a year. The purchase will establish Oracle as the world's largest provider of customer relationship management (CRM) software and reunite two of Silicon Valley's most well-known executives.

Thomas Siebel, who established Siebel in 1993 after a career at Oracle, will return to his former employer to help execute the merger.

For Larry Ellison, Oracle's chief executive, the acquisition will cement his reputation as a prolific dealmaker. In December, Oracle agreed to buy PeopleSoft for about $10.5bn, after winning an 18-month takeover battle, seeing off a high-profile, antitrust suit brought by the US Department of Justice.

Mr Ellison on Monday suggested the company's attention would now be focused on integration. “I don't think you'll see another major acquisition any time soon,” he said. The purchase of Siebel will give Oracle access to 3.4m users and 4,000 corporate customers of its CRM software, which helps companies track sales, marketing and customer service.

Both Oracle and Siebel said the tie-up was encouraged by a number of key customers, including General Electric. “There was a shift in market dynamics,” said Mr Siebel, who added that customers now preferred an “integrated family of applications that minimises their cost structure”. Although CRM is one of the fastest growing segments of the software business, Siebel had been struggling to compete, leading to lower profits and prompting a group of investors mostly hedge funds to press management into pursuing a sale.

Mr Ellison shrugged off comments from one analyst who said Siebel was suffering from poor customer satisfaction. In Oracle's due diligence, Mr Ellison said: “Siebel customers seem to be quite happy with the product.”

Siebel shareholders will receive $10.66 a share in cash for each Siebel share, unless they elect to receive Oracle stock. That price represents a 17 per cent premium to Siebel share price on Friday, which had already moved higher as investors bet that a takeover was near.

Wall Street investors appeared to offer timid approval, sending Oracle shares 1.43 per cent higher closing Monday's trading day at $13.47. The final price of the deal will be reduced by $2.2bn, the value of Siebel's cash.

Oracle said the deal would enhance earnings in 2007 and contribute to its stated goal of lifting profits by 20 per cent per year. The acquisition would be funded using a combination of Siebel's cash, Oracle's cash, and borrowing of up to $3bn.

Morgan Stanley advised Oracle, and Goldman Sachs advised Siebel.

Oracle To Buy Siebel Systems In $5.85-Billion Deal (LAT)

By Jesus Sanchez

The Los Angeles Times, September 13, 2005

Oracle Corp. today announced it had agreed to buy business software maker Siebel Systems Inc. for $5.85 billion in the most recent in a string of acquisitions orchestrated by chief executive Larry Ellison.

The Siebel deal comes after Oracle emerged victorious in a bidding battle for another software company, Retek Inc., this year, and as it digests PeopleSoft Inc., which agreed to a $10.3-billion acquisition in December after a bitter and lengthy takeover fight.

This most recent acquisition will help Redwood Shores, Calif.-based Oracle close the gap with SAP, the German company that ranks as the largest seller of software used to manage databases, sales and other corporate functions. SAP lost out to Oracle in the bidding for Retek.

San Mateo, Calif.-based Siebel will make Oracle a major player in the fast-growing segment of software that helps companies manage sales operations and customer relations. Last year, Siebel, founded by Chairman Thomas M. Siebel, a former Oracle executive, generated $110.7 million in net income on $1.34 billion in revenue.

"This is a very beneficial business combination," Siebel said in a statement.

Under the deal, Oracle will purchase each Siebel share for $10.66 in cash unless the owner of the stock decides to receive Oracle stock.

The merger, which is subject to regulatory review, has been approved by the boards of Oracle and Siebel. Siebel shareholders must still vote on the deal, but a vote by Oracle shareholders is not required, according to the company.

Shares of both companies rose on news of the deal. Siebel shares jumped nearly 13%, while Oracle stock was up about 1% in early afternoon trading on the Nasdaq.

Ellison has made it clear that he intends to bolster Oracle's main database business by acquiring more companies in the lucrative market for business software. But Oracle's shopping spree had raised concern among some industry analysts about the company's ability to mesh operations with newly acquired companies.

Oracle To Buy Siebel For $5.85 Billion (WSJ)

By David Bank

The Wall Street Journal, September 13, 2005

DOJ_NMG_0004351

Oracle Corp. Chief Executive Larry Ellison extended his software consolidation strategy, reaching a long-anticipated deal with his former lieutenant and frequent sparring partner Thomas Siebel to acquire Siebel Systems Inc. for $5.85 billion in stock and cash.

The deal, valued at about $3.61 billion after accounting for Siebel's holding of about $2.2 billion in cash, allows Oracle to absorb the 3.4 million users of Siebel's software for automating sales operations. Oracle has been using acquisitions to try to catch SAP AG of Germany, the leader in the market for business-software applications

The strategy, honed with Oracle's PeopleSoft Inc. purchase earlier this year, is intended to add the existing business of a target company while broadening the customer base for Oracle's existing products. Oracle, though No. 3 behind Microsoft Corp. and International Business Machine Corp. in total software revenue, lags only SAP in business application programs. But with the addition of Siebel, Oracle now faces the challenge of integrating another large acquisition while it is still digesting PeopleSoft, which it acquired for $10.6 billion after a grueling, 18-month takeover battle. Since then, Oracle has completed a half-dozen smaller acquisitions.

Oracle will bear the cost of maintaining three product lines of so-called customer-relationship management software, as it continues to offer its own system and PeopleSoft's while adding Siebel's. It will also have the expense of a separate sales force for Siebel's product lines. Charles Phillips, one of three Oracle co-presidents, said recent changes to Siebel's sales structure had disrupted the company's business, but added, "We can fix that."

Oracle predicted the deal will close early next year, after approval by Siebel shareholders. The acquisition is expected to face an antitrust review by the Justice Department, which unsuccessfully sought to block Oracle's purchase of PeopleSoft.

Analysts said they don't expect strong opposition this time; Oracle has lagged well behind SAP and Siebel in CRM software, and Oracle's marketing of Siebel products could potentially increase competition in the market.

Oracle executives, who are expected to aggressively cut costs at Siebel, said the deal will add two to three cents a share to Oracle's profits in fiscal year 2007, ending in May 2007, not including acquisition-related charges. Oracle plans to repurchase a number of shares equal to those issued in the acquisition, giving the effect of an all-cash deal for the company. Oracle said it will use about $1.5 billion of its own cash and will borrow the rest.

Mr. Siebel's 10.6% ownership of Siebel's shares stands to earn him a payoff of about $585 million, not including his stock options. Earlier this year, Siebel sweetened the terms of its severance-payment agreements for key employees, with top executives eligible for up to 18 months pay and health coverage.

The acquisition brings full circle the 23-year relationship between two of Silicon Valley's strongest personalities. Mr. Siebel was a top Oracle salesman before leaving the company under disputed circumstances in 1992. Since founding Siebel Systems in 1993, he has been an outspoken critic of his former boss, at times calling Mr. Ellison a "pathological" liar.

For his part, Mr. Ellison in the past sought to hasten Siebel's demise, declaring in 2003 that "Siebel will vanish," and putting pressure on the smaller company by revealing he had held takeover talks with Mr. Siebel the previous year. In recounting those discussions, Mr. Siebel said he told Mr. Ellison, "Larry, you and I worked together for nine years, and that was enough," Information Week reported in 2004.

By this year, Mr. Siebel had become a willing seller, and yesterday he called the combination "a wonderfully exciting event." Mr. Siebel, who built his company into one of technology's highest-fliers, watched its new software sales plummet in recent years as information-technology buyers grew wary of high-priced and complicated automation projects.

Where customers once bought individual "best of breed" products for specific chores, Mr. Siebel said, those companies now want a single supplier to provide programs that work well together. Oracle has pledged to deliver an integrated suite of applications, dubbed "Project Fusion," starting in 2007.

What brought Oracle and Siebel together "was a shift in market dynamics," Mr. Siebel told analysts. "The customer and partner community is communicating quite clearly and voting with their dollars that what they are looking for here is an integrated family of applications," he said.

Even so, the on-again, off-again negotiations required a go-between -- Oracle's Mr. Phillips, who largely handled the talks with Mr. Siebel on Mr. Ellison's behalf. "Sometimes you do need an intermediary between two strong-willed people," Mr. Phillips said.

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Oracle agreed to pay $10.66 a share, a premium of roughly 17% to Siebel's closing price Friday of $9.13. Shares of Siebelrose more than 8% late last week as rumors spread that the two companies had been negotiating for weeks and that an agreement was imminent. Monday, Siebel's shares rose 13% or $1.16 to $10.29 in 4 p.m. Nasdaq Stock Market composite trading. Oracle's shares rose 1.6% or 21 cents to $13.49, also on Nasdaq.

The talks had gone cold last May, and then accelerated in the past month, Mr. Phillips said, after Oracle acquired control of Indian software company i-flex Solutions Ltd. As late as Sunday afternoon, the two sides had reached an impasse over the offer price. "We were one penny away and we almost came apart over one penny," Mr. Phillips said, declining to provide further details. "Every penny was negotiated."

At Siebel's insistence, Oracle agreed to exchange stock for up to 30% of Siebel's shares. If Oracle's shares fall below $10.72 before the deal closes, Siebel shareholders that choose to receive stock will receive 0.994 shares of Oracle for each share of Siebel stock.

[by Oracle]SAP's chief executive, Henning Kagermann, played down the significance of the Oracle-Siebel combination. "We see no impact and no reason to react," he said. Mr. Kagermann predicted further industry consolidation, describing any deals SAP is likely to make as "targeted, fill-in acquisitions," with a price range in the hundreds of millions of dollars, rather than billions.

For IBM, the Siebel deal raises concerns about the computer giant's partners falling under the control of a competitor. IBM and Oracle compete fiercely in database software. Siebel has worked closely with IBM, as did PeopleSoft and J.D. Edwards -- purchased by PeopleSoft -- and retail-software maker Retek Inc., purchased by Oracle.

IBM said in a statement that its strategy is to be a "key partner" to thousands of software vendors. "We will continue to provide customers with IBM hardware, middleware and services for Siebel and other applications -- just as we continue to do so for PeopleSoft," the company said.

Separately, Mr. Ellison has tentatively agreed to pay $100 million to charity over five years to settle private insider trading charges, according to a lawyer representing shareholders who were plaintiffs in the case. The shareholder derivative suit, filed in Superior Court in San Mateo, Calif., stemmed from Mr. Ellison's sales of stock in 2001 before news that Oracle would not meet financial targets, which caused its shares to decline.

The settlement still must be approved by Oracle's board of directors and the court, said Joseph Tabacco Jr., an attorney with Berman DeValerio Pease Tabacco Burt & Pucillo representing plaintiffs in the case. In addition to the payment by Mr. Ellison to charities of his choosing, lawyers involved would receive up to $22.5 million, Mr. Tabacco said. The settlement was reported Monday by the New York Times.

An Oracle spokeswoman declined to comment. A lawyer for Mr. Ellison couldn't immediately be reached.

Oracle To Buy Siebel For $5.53 Billion (WP)

By Mike Musgrove

The Washington Post, September 13, 2005

Oracle Corp. said yesterday that it has agreed to buy Siebel Systems Inc. in a deal valued at $5.53 billion. If approved, the acquisition would give Oracle an edge on its chief competitor, German firm SAP AG, and reunite top executives who have been bitter Silicon Valley rivals.

Oracle is the world's largest database software company, and Siebel, with a customer base of 3.4 million, is the leader in customer relationship management, or CRM, software, which helps companies organize sales, client and marketing data.

Oracle, which finally won approval of its hostile takeover for rival PeopleSoft earlier this year, has been on a buying spree as a way of bolstering its position against SAP and diversifying its product portfolio. The battle for PeopleSoft, which sparked antitrust concerns from the Department of Justice and European regulators, lasted 18 months before closing in January for $10 billion.

A Justice Department spokeswoman, Gina Talamona, said it was too soon for the agency to comment on Oracle's planned acquisition. "It's certainly something we'd be interested in taking a look at," she said.

Analysts said Oracle's proposed acquisition may not generate the same type of controversy as the PeopleSoft deal because it's not considered a hostile takeover bid and the combined company would not dominate the CRM market.

The acquisition would give Oracle a business that generates $1.6 billion in annual revenue in a CRM market worth $8.8 billion, according to research firm IDC.

If approved, the deal also reunites top executives who have publicly displayed animosity toward each other. Siebel Chairman Thomas M. Siebel spent years as an Oracle executive. When he left to start his own company, the animosity between him and Oracle chief executive Lawrence J. Ellison became part of Silicon Valley lore.

The two were chummy in a conference call with Wall Street analysts yesterday as they pitched the acquisition as a boon to shareholders, employees and customers of both companies.

"In a single step, Oracle becomes the number one CRM applications company in the world," Ellison said in a statement, adding that the deal was encouraged by large customers who wanted to see products from each of the companies work together better. "GE and other mutual customers have long encouraged both companies to get together."

Oracle agreed to pay $10.66 per share, a premium of $1.53 over Siebel's closing price of $9.13 on Friday. After deducting Siebel's $2.24 billion in on-hand cash, Oracle would effectively pay $3.29 billion. In addition, Siebel shareholders could elect to exchange their shares for Oracle stock instead of cash. But if more than 30 percent of Siebel's outstanding shares are offered, Oracle said, it would prorate the exchange.

Siebel's stock reacted to the news yesterday by jumping more than 12 percent, or $1.16, to close at $10.29. Oracle's stock rose slightly, up 21 cents to close at $13.49.

The deal is expected to close early next year.

Thomas Siebel, who controlled about 55 million shares -- or more than 10 percent -- of the company as of April, characterized the deal as "wonderfully exciting" and a "natural business combination."

Tom Dwyer, and analyst at the Yankee Group, called the acquisition a "logical marriage" and another sign of the amount of consolidation in the business application market.

But others, including Janet White of Info-Tech Research Group, criticized Oracle for its slow integration of product lines it's already acquired and said the company has overcommitted itself to support the products created by competitors it has acquired.

"You have to wonder how many resources are left over for innovating any new products or services," she said .

Oracle To Buy Rival Siebel In $5.85B Deal (AP)

By Michael Liedtke, AP Business Writer

AP, September 13, 2005

SAN FRANCISCO (AP) -- Oracle Corp. is buying hobbled Siebel Systems Inc. for about $5.85 billion, eliminating another competitor in its campaign to grab market share from business applications software leader SAP AG.

Under the terms of the deal announced Monday, Redwood Shores-based Oracle will pay $10.66 per share in cash or stock for Siebel, whose products help manage companies' relations with customers.

The price represented a 17 percent premium from Siebel's market value entering Monday. Despite four years of flagging fortunes, Siebel still has $2.24 billion in cash, reducing Oracle's net takeover cost to $3.6 billion.

Shares of San Mateo-based Siebel rose $1.16, or nearly 13 percent, to close at $10.29 during late afternoon trading on the Nasdaq Stock Market, where Oracle's shares gained 21 cents to finish at $13.49.

The deal accelerates the drive by Oracle CEO Larry Ellison to overtake SAP as the world's largest maker of business applications software, which automates a wide range of administrative tasks.

In the past nine months, Oracle has either completed or announced five takeovers in the field, an expansion that has cost more than $17.6 billion. Among the acquired was PeopleSoft Inc., which like Siebel Systems was run by a former Oracle executive who had developed a frosty relationship Ellison.

For its part, SAP downplayed the significance of Oracle's latest conquest.

"Oracle is in the business to buy customers. Ours is to service customers," said SAP spokesman Tony Roddam.

The Siebel acquisition, expected to close early next year, affects about 4,000 customers. The company has about 5,000 workers, many of whom are expected to lose their jobs as Oracle cuts costs in an effort to boost its profits by about 20 percent annually.

Industry analyst Richard Williams of Garban Institutional Equities predicted Oracle will lay off more than 2,000 workers, based on the percentage of jobs the company eliminated after devouring PeopleSoft, which had about 11,000 employees. Oracle fired 5,000 workers after that deal.

Oracle executives acknowledged that layoffs are likely but didn't provide specific projections in a Monday conference call.

Oracle's intensifying focus on business applications software largely reflects the slowing growth of its database product line, which accounts for more than three-fourths of the company's sales.

Ellison also wants to deepen Oracle's stack of technology products to compete with two other longtime rivals, Microsoft Corp. and IBM Corp.

"Oracle was behind the curve so it needed to buy some big headline-making companies and feed off their technology," Williams said. "They really didn't have much choice, unless they wanted to see their stock price cut in half. They needed to keep their sales growing, and to do that, they need to cannibalize smaller companies."

The big question now is whether Oracle has bitten off more than it can chew, said Octavio Marenzi, chief executive of Celent, a technology consultancy. "Mergers are always difficult, so doing so many at once only compounds the difficult," he said. "This appears to be an unduly risky strategy."

AMR Research analyst Jim Shepherd believes Oracle can pull it off, primarily because the PeopleSoft takeover has gone more smoothly than most industry experts anticipated.

Ellison began preparing for a software industry shakeout in 2003 when he drew up a list of potential takeover targets topped by PeopleSoft and Siebel Systems, according to documents released in an antitrust trial last year.

Oracle first stalked PeopleSoft, launching an 18-month takeover battle that culminated in a $11.1 billion acquisition last December.

That deal pitted Ellison against one of his former Oracle lieutenants, Craig Conway, who spearheaded PeopleSoft's staunch resistance to the takeover bid until he was fired a few months before the two sides negotiated a truce.

The U.S. Department of Justice tried to derail Oracle's bid for PeopleSoft, arguing that the combination would stifle competition. But a federal judge brushed aside the government's objections and cleared the deal, making it unlikely regulators will oppose Oracle's takeover of Siebel Systems, which is much smaller.

European regulators also must approve the takeover.

Siebel Systems is run by Tom Siebel, who has occasionally sniped at his former boss since leaving Oracle and starting his own company in 1993.

But Tom Siebel, who is his company's chairman and largest individual shareholder, welcomed Oracle's takeover offer, calling it a "wonderful, exciting event" during Monday's conference call.

In the same call, Ellison said Siebel, 52, is expected to remain with Oracle for a few years, but didn't provide specific details. Siebel is in line to pocket nearly $600 million by selling his Siebel Systems stock to Oracle.

Siebel Systems has been shrinking since 2001 amid weakening demand for its main product -- customer relationship management, or CRM, software that helps companies analyze their sales patterns and market their products.

The niche accounts for about $3.5 billion in new software sales annually according to Gartner Inc., but Siebel Systems has been losing market share to SAP, Oracle and an Internet startup, Salesforce.com Inc.

"Siebel could see the writing on the wall and knew the time had come to make a deal," said Yankee Group analyst Tom Dwyer.

Siebel's annual revenue has plunged from a peak of $2.1 billion in 2001 to $1.3 billion last year, a slump that has dragged down the company's stock from its highs of more than $100 per share.

Hoping to turn things around last year, Tom Siebel stepped down as the company's CEO and turned over the reins to a veteran IBM executive, Mike Lawrie.

But sales continued to falter, prompting the company's board to oust Lawrie in April and replace him with George Shaheen, an executive best known in Silicon Valley for overseeing the expensive demise of online grocer Webvan Group Inc.

Oracle Agrees To Buy Siebel Systems For $5.85 Bln (BLOOM)

Bloomberg, September 12, 2005

Sept. 12 (Bloomberg) -- Oracle Corp., the world's third-largest software maker, agreed to buy Siebel Systems Inc. for $5.85 billion, leapfrogging SAP AG to become the top seller of programs that manage customer relations.

Siebel investors will receive $10.66 a share in cash or stock, Redwood City, California-based Oracle said today in a statement. That's 17 percent more than Siebel's closing price Sept. 9.

The purchase, Oracle's seventh this year, reunites Chief Executive Officer Larry Ellison and former protege Tom Siebel. The acquisition also helps Oracle tap the biggest and fastest-growing class of business applications. Siebel lost the top spot in the market to Germany's SAP in 2004 because clients wanted to buy broader packages of software that run everything from customer service to accounting to human resources.

``Siebel had a business that didn't appear fixable," said Herbert Denton, president of Providence Capital Inc. in New York, which has been among the holders calling for the company to be sold. ``The notion that they were going to get back to double digit-growth was far-fetched and reality caught up with the board."

The deal builds on a process that began with the $10.6 billion hostile takeover of PeopleSoft Inc. in January to help cut Oracle's reliance on database software, which makes up 80 percent of sales. The Siebel bid came after clients including General Electric Co. encouraged the deal, Ellison, 61, said on a conference call today.

Siebel shares gained $1.17 to $10.30 at 3:29 p.m. New York time in Nasdaq Stock Market composite trading. They had dropped 13 percent this year before today. Trading in Siebel call options, which are a bet that the share price will rise, surged Sept. 9, rising to 73,383 contracts, from 1,761 the day before. The stock rose 5.2 percent Sept. 9.

Oracle rose 16 cents to $13.44 and lost 3.2 percent before today. Shares of SAP, which still outpaces Oracle in the overall market for applications, fell 10 cents to $44.23 in New York.

Job Cuts?

The purchase, negotiated between Oracle co-President Charles Phillips and Tom Siebel in the past several months, accelerates consolidation in the software industry. Anti-virus program maker Symantec Corp. bought Veritas Software Corp. in July. International Business Machines Corp. in May bought Ascential Software Corp.

Siebel is attractive because it has a wider set of programs in this area than competitors, with some fine-tuned for industries such as financial services, communications and government, Ellison said.

The company may fire as many workers as it did after the PeopleSoft purchase, when Oracle cut 5,000 jobs, said Andrew Brosseau, an analyst at SG Cowen Securities Corp. in Boston. Siebel had 5,089 employees as of last quarter.

``Oracle is buying a more-complete product portfolio from a company that's been failing to execute," Brosseau said. The firm doesn't have ratings on either company.

PeopleSoft Done

The customer-service market will grow to $10 billion by 2009 from $8 billion in 2004, Oracle said citing researcher IDC.

Customer-service software lets businesses keep track of interactions with customers: the status of their accounts, what products they own, contact information, and call logs to keep track of all interactions with them.

``We wouldn't make any other large acquisitions until we had a few successful quarters showing that the PeopleSoft integration had worked," Ellison said on the call about the timing of today's deal. The PeopleSoft ``integration is complete. The numbers are good."

Siebel's Fall

Tom Siebel, 52, founded the company in 1993, three years after leaving his job as a marketing executive at Oracle. The Internet boom fueled sales, propelling the stock to a high of $119.31 in November 2000 and giving Siebel a market value of $63.2 billion.

Since then, his San Mateo, California-based company has had three years of declining sales because Siebel didn't sell a wide enough variety of programs.

Siebel this year has cut jobs and research spending to help shore up its results after ousting former CEO Mike Lawrie in April after less than a year on the job. New CEO George Shaheen in July blamed the second-quarter loss on a failure to clinch large orders.

Ellison first mentioned it as a takeover target in June 2004 during an antitrust trial over Oracle's PeopleSoft bid.

Tom Siebel will work with Oracle for an undisclosed number of years in an undisclosed role, Ellison said. Tom Siebel, the biggest shareholder with 6.94 percent of the stock, will receive about $386.3 million for his stake.

Hedge funds Tudor Investment Corp. and SAC Capital Advisors LLC may earn about 18 percent on their investments, made in the second quarter. Tudor, run by Paul Tudor Jones and Siebel's No. 2 holder as of June 30, may yield a potential profit of about $51.7 million. SAC in Stamford, Connecticut, founded by Steven Cohen, has a potential gain of about $13.8 million.

Cash or Stock

Ellison said the acquisition will also help Oracle, which has spent more than $18 billion on takeovers this year, bolster its on- demand software business, where customers pay a fixed monthly fee per user to use software over the Internet.

Siebel, which provides its on-demand service with IBM, said it has about 40,000 subscribers for its service. San Francisco-based Salesforce.com Inc. says it's the market leader, with 308,000 users. Microsoft Corp. CEO Steve Ballmer said last week the company is also working on a service to rival Salesforce.com.

Siebel holders will receive cash unless they prefer stock. No more than 30 percent of Siebel's shares may be exchanged for stock. If more holders want shares, the equity part will be pro-rated.

If Oracle's average share price is at or above $10.72 prior to close, holders can receive $10.66 per share of value in Oracle stock. If the average price is less than $10.72, holders receive 0.994 shares of Oracle for each share of Siebel.

The deal will add to Oracle's profit in its first full year in fiscal 2007, excluding some costs, Oracle said. The purchase needs regulatory approval and is expected to close in early 2006. Siebel has cash and short-term investments of $2.2 billion.

Morgan Stanley represented Oracle and Goldman Sachs and Perseus LLC handled the deal for Siebel, the companies said today.

To contact the reporter on this story: Connie Guglielmo in San Francisco at cguglielmo1@bloomberg.net; Rebecca Barr in New York at rbarr1@bloomberg.net. Last Updated: September 12, 2005 15:31 EDT

2nd UPDATE: Oracle To Buy Siebel For $5.85 Billion (DOWJONES)

Dow Jones Newswires, September 12, 2005

NEW YORK -(Dow Jones)- Oracle Corp. (ORCL) (ORCL) agreed to buy fellow business software maker Siebel Systems Inc. (SEBL) (SEBL) for about $5.85 billion in a deal meant to bolster Oracle's challenge to market leader SAP AG (SAP) (SAP).

If the deal closes as planned in early 2006, Oracle, which has been playing the role of industry consolidator, will have spent about $17 billion on acquisitions to shore up its applications business in a span of about 12 months.

Oracle has been expanding in applications - software that performs functions such as managing finances, monitoring supplies, and tracking customer data - to augment its larger database business, which faces robust challenges from International Business Machines Corp. (IBM) (IBM), Microsoft Corp. (MSFT) (MSFT), and the open-source community.

In the long-anticipated deal, Oracle agreed to pay $10.66 a share for Siebel - a premium of about 17% to Siebel's closing price Friday. Oracle will pay for up to 30% of the deal with its stock. The remainder will be financed with about $3 billion in debt and about $1.5 billion from cash reserves. Those cash reserves will be replenished through Siebel's $2.24 billion cash pile.

Rival SAP played down the impact of the deal. "We see no impact and no reason to react," Chief Executive Henning Kagermann told The Wall Street Journal in a telephone interview Monday. Any acquisitions SAP is likely to make would be " targeted, fill-in acquisitions" that would "help us improve our product portfolio," he said.

In a conference call Monday, Oracle Chief Executive Larry Ellison said the deal meets the company's two main acquisition criteria: it's immediately accretive to earnings and it's strategically sound.

On the same call, Chief Financial Officer Greg Maffei said Siebel would add 2 cents to 3 cents a share to Oracle's fiscal 2007 earnings. That represents a modest boost of 2% to 3% to earnings in the fiscal year ending May 2007. Analysts on average estimate Oracle's pro forma earnings per share at 92 cents a share, according to Thomson First Call.

Ellison said Siebel would contribute to Oracle's goal of 20% annual earnings growth. He said Oracle was ready for another big acquisition after integrating PeopleSoft, which the company bought for about $10.6 billion after an 18-month hostile takeover

battle. The company would now focus its energies on smaller deals. "I don't think you'll see another major acquisition anytime soon," said Ellison.

For the fiscal year ended May 31, Oracle earned $2.89 billion, or 55 cents a share, on revenue of $11.8 billion. Income before items was 68 cents a share. Siebel earned $110.7 million, or 20 cents a share, on revenue of $1.34 billion, in 2004.

Analysts were skeptical of the deal, saying it adds confusion and complexity to Oracle's applications business, which has struggled in the past and is in the midst of a major product redesign. It also brings into the fold a company with few growth prospects.

"The bottom line is Siebel can't grow," said Richard Williams, an analyst with Garban Institutional Equities, who doesn't own shares in either company and whose firm doesn't have a banking relationship with the companies.

"Oracle appears to be close to biting off more than they can chew," said Octavio Marenzi, Chief Executive of research and consulting firm Celent. "Oracle risks trying to integrate too many pieces at once. At the same time, the CRM market has lost its bloom."

Credit rating agency Fitch put Oracle's A- credit rating on negative watch. " Fitch remains concerned about integration risks associated with the...acquisitions (of Siebel and PeopleSoft)," Fitch said in a statement. "(Fitch) also believes successful integration and cost-cutting initiatives from these various acquisitions could result in Oracle having stronger operating fundamentals and a more competitive position."

Siebel, the leader in the $8 billion customer relationship management software market, has issued profit warnings for the last two consecutive quarters, with new software sales disappointing. It also ousted Chief Executive J. Michael Lawrie after the disappointing first quarter.

Siebel is getting squeezed by bigger players like Oracle and SAP, as well as by more nimble vendors such as Salesforce.com Inc. (CRM) (CRM). Tom Siebel, Siebel's founder and chairman, acknowledged that a market shift that favored vendors that sell a broader suite of products, like Oracle, was a driving force behind the decision to sell the company.

Salesforce.com (CRM), which offers its software as a Web-based service, sees Siebel's acquisition by Oracle as a chance for it to gain market share. "The opportunity to be the global leader in the CRM market has opened for salesforce.com," Chief Executive Marc Benioff said a statement. "Our dream is becoming reality."

Salesforce.com (CRM) user base is only about 10% of Siebel's 3.4 million users, but it's been growing rapidly unlike Siebel.

In recent months, Siebel had battled against the sale, rebuffing activist investors and espousing a go-it-alone growth strategy. In May, Siebel promised its nearly 5,300 employees more severance pay and health coverage if the company was acquired.

But that drive for independence appears to have given way to the certainty of cash and a clear exit. Tom Siebel alone stands to cash in nearly $400 million - a payout he would have had difficulty realizing if his company remained independent.

Siebel's board has voted in favor of the deal, and Tom Siebel, who will have an undefined role at Oracle following the deal, has agreed to vote his shares for the transaction. He controls almost 7% of the company's stock.

Oracle's Ellison said Siebel's integration would be "dramatically easier" than PeopleSoft's, because the deal for Siebel was friendly and because of the experience gained in the PeopleSoft process.

He also said Oracle would support Siebel products for "many, many years to come" and would retain Siebel's sales force.

Oracle is currently committed to support PeopleSoft products through 2013, and is in the process of melding PeopleSoft and Oracle applications into a single system, called Fusion, which is due to be rolled out in 2008.

Oracle, PeopleSoft, as well as J.D. Edwards - a company acquired along with PeopleSoft - all have products with sales support and customer service functions similar to Siebel's. Still, Siebel is the recognized industry leader.

The deal is subject to approval by Siebel's shareholders and regulatory authorities. Oracle shareholder approval isn't required, because of the relatively small number of shares involved.

Oracle isn't likely to face the same amount of regulatory resistance as it did when it sought to take over PeopleSoft, because the deal's friendly and U.S. antitrust officials are still smarting from the PeopleSoft setback, said Jeff Comport, an analyst with industry research firm Gartner.

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The conversion rate of Oracle's shares will be fixed by the average price of Oracle stock in the 10 trading days before closing. If Oracle's average share price is at or above $10.72 before closing, Siebel shareholders who choose to receive stock will get $10.66 a share in Oracle stock for each share of Siebel stock held.

If Oracle's average share price before closing is less than $10.72 a share, Siebel shareholders who choose stock will receive 0.994 Oracle shares for each share of Siebel stock held. This would result in a value of less than $10.66 a share.

Oracle plans to repurchase an amount of shares equal to the number of shares issued in the transaction to address dilution concerns.

Oracle shares were recently trading at $13.46, up 18 cents or 1.4%. Siebel shares rose 12.9% at $10.31.

-By Chris Reiter, Dow Jones Newswires; 201-938-5244; chris.reiter@dowjones.com

Regulators Move Ahead On Two Phone Mergers (AP)

By JENNIFER C. KERR, Associated Press Writer

AP, September 13, 2005

WASHINGTON (AP) -- The head of the Federal Communications Commission has asked agency staff to draft orders approving two big phone company mergers - SBC Communications Inc. with AT&T, and Verizon Communications Inc. with MCI Inc.

FCC chairman Kevin Martin wants the commission to take a final vote on the deals next month, two people with firsthand knowledge of the issue said Monday. They were authorized to speak about the drafts only on the condition of anonymity.

The sources would not say what conditions might be placed on the mergers to ensure competition is not compromised.

An FCC spokesman declined to comment.

SBC's deal to acquire AT&T is valued at $16 billion while Verizon is offering $8.5 billion for MCI. SBC and Verizon already are the largest regional phone companies, known informally as "Baby Bells." The mergers would enhance their base of business customers and expand their national and international presence.

The Bells have been peeling away long-distance customers from AT&T and MCI by offering unlimited national calling for a set rate.

Martin's request for drafts of approval signal his intention to press ahead with the mergers despite the 2-2 split between Republicans and Democrats on the commission. The decision also seems to indicate Martin's willingness to reach out to the Democrats to craft an agreement.

The White House has not given any hint as to when it might fill the FCC's open fifth seat, which will go to a Republican.

The Justice Department also will have to sign off on the mergers.

Analysts expect the mergers will come with conditions to ensure competition is retained in different service areas. For example, Jessica Zufolo, senior policy analyst with Medley Global Advisors, said regulators have expressed concerns about special access lines - the fiber optic lines that allow large businesses to hook to the Internet and the interstate network.

"Once you eliminate AT&T and MCI, the fear is that the Bells will be able to establish a bottleneck to large business users," she said.

Consumer advocates say AT&T and MCI are the only real competitors to the Bells in those markets, and that competition will disappear if the mergers gain approval.

"We're losing serious competitors for the residential consumer and the business market," said Mark Cooper, research director at the Consumer Federation of America.

SBC spokesman Michael Balmoris declined to comment on Martin's decision to move toward approval of the mergers, saying only that the company remains "optimistic the FCC recognizes the benefits the merger will bring in terms of greater choice, and access to new technologies."

Verizon spokesman David Fish said its merger with MCI would benefit consumers and should get all the necessary regulatory approvals later this year or early next year.

EBay To Acquire Internet Phone Leader (WP)

By Jonathan Krim

The Washington Post, September 13, 2005

Online auction giant eBay Inc. announced a deal yesterday to become one of the world's largest telecommunications companies, buying Internet phone-service leader Skype Technologies SA.

Although Luxembourg-based Skype is relatively unknown in the United States, it has amassed 54 million global customers in less than three years by offering free calls between those who use its software.

EBay became a commerce powerhouse by hosting everything from auctions of grandma's collectibles to retail sales of new furniture and electronics, but its growth has stagnated, and analysts said the Skype deal is an effort to inject new life. The company said it sees Skype's technology as a vital tool for letting buyers and sellers talk to each other, exchange information and close sales more rapidly.

The deal would vault eBay ahead of other technology titans such as Microsoft Corp., Google Inc. and Yahoo Inc. in developing services to make voice calling an additional feature of using personal computers, akin to e-mail or instant messaging. EBay said it would pay $2.6 billion in cash and stock for Skype, along with future payments that could total an additional $1.5 billion.

Founded by business partners who developed the Kazaa file-sharing service for online music and videos, Skype quickly dwarfed other Internet-based phone companies such as Vonage Holdings Corp., which recently celebrated its 1 millionth customer.

Large cable and telephone firms, such as AT&T Corp., Verizon Communications Inc. and Comcast Corp., also are starting to offer online phone service. They typically charge $20 to $35 per month for unlimited calling in the United States, including free add-ons such as voice mail and call forwarding, and consumers use regular telephone handsets attached to special computer modems that handle the voice calls.

Skype's service and technology differ dramatically from those offerings. Making a Skype call is more like sending an instant message from a personal computer; all that is required is an Internet connection, a microphone for talking, and speakers or a headset for listening.

Skype charges nothing for its software but makes money by charging small fees for making calls to non-Skype users and for talking to people on regular phone networks. Voice mail also is extra.

"By combining the two leading e-commerce franchises, eBay and [online payment service] PayPal, with the leader in Internet voice communications, we will create an extraordinarily powerful environment for business on the Net," eBay chief executive Margaret C. Whitman said in a statement.

In addition to boosting sales, which would earn eBay more commissions, company officials envision Skype accelerating types of electronic commerce that depend heavily on voice conversation, such as personal services, real estate and new cars.

Skype would continue to operate as a separate business, with founders Niklas Zennstrom of Sweden and Janus Friis of Denmark remaining at the helm. The deal would make rich men of the pair, who had been considered outlaws by the U.S. entertainment industry for developing Kazaa, which they sold in 2002.

Zennstrom remains a target of some U.S. litigation accusing Kazaa of facilitating piracy of copyrighted music, videos and software. Skype makes use of the same, underlying "peer-to-peer" technology as Kazaa but carries none of the legal issues.

In an interview, Whitman said Internet telephone service using downloadable software is the future. She cited statistics indicating that by 2009, an estimated 1.5 trillion minutes of voice calls will be Internet-based.

She added that Skype is well ahead of its competition for such systems and already is partnering with such companies as Motorola Inc. for handsets that will work with Skype.

"But we would not have done this if that is all we could see," she said, insisting that integrating Skype, eBay auctions and PayPal would yield significant new revenue for eBay's current businesses.

Closely held Skype had sales of about $7 million last year and is projected to bring in $200 million next year, according to the companies, causing some analysts to question the price eBay paid.

"It's a pretty big number and a pretty big gamble," said Carmi Levy, senior research analyst with Info-Tech Research Group of London, Ontario.

But Levy said that eBay's growth had become stagnant and that it needed to find a way to make its auctions more dynamic.

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Zennstrom said in a statement that his vision was always "to build the world's largest communications business and revolutionize the ease with which people can communicate through the Internet. We can't think of a better platform . . . than with eBay and PayPal."

Analysts said the deal would accelerate the evolution of two new classes of voice communication providers.

Led by Skype, one group makes voice a part of the suite of applications on the computer "desktop." These include Google, Yahoo and Microsoft.

The other is made up of telephone and cable companies that seek to make voice calling part of the suite of offerings that comes with high-speed Internet access and television services.

Left out in the cold, said Kate Griffin, consumer technologies analyst for the Yankee Group, could be unaffiliated Internet-phone providers such as Vonage or 8x8 Inc.

Whitman said she does not expect Skype to be a substitute for basic telephone service for a long time, in the same way that eBay auctions have not replaced retail stores.

EBay's new competitors reacted cautiously.

A BellSouth Corp. spokesman said that his company takes Skype seriously and that it should be expected to fulfill the same obligations as other carriers, such as providing 911 services.

Whitman acknowledged that joining the ranks of communications companies would require eBay to "get to know a whole new set of players" in Washington and elsewhere.

EBay To Buy Skype For $2.6 Billion (WSJ)

By Mylene Mangalindan And Christopher Rhoads

The Wall Street Journal, September 13, 2005

EBay Inc. said it agreed to acquire Internet-calling start-up Skype Technologies SA for about $2.6 billion in cash and stock, posing a new threat to phone companies and expanding the online-auction company's revenue sources.

Founded in 2002, Luxembourg's Skype allows its subscribers to talk to one another over personal computers free. It also allows cut-rate voice calls from PCs to regular phones or cellphones. Skype, which employs about 200 people, has signed up 54 million users, mainly in Europe and Asia so far, making it one of the fastest-growing online communities.

EBay officials said the acquisition gives the company a new way to reach millions of potential customers, to help customers make complicated transactions, and to open up ways to generate revenue from services such as classified advertisements. Chief Executive Meg Whitman said Skype will also help eBay penetrate developing markets such as India, Brazil, Russia and China that offer huge growth potential but typically have lower levels of trust in Internet-based commerce. "It allows us to create this unique e-commerce engine for buyers and sellers around the world," Ms. Whitman said.

For the telecommunications industry, the deal could raise the stakes in a market already roiled by rapid consolidation in recent months and the infusion of a host of new competitors offering Internet phoning, including cable companies and start-ups like Vonage Holdings Corp. Skype's U.S. presence remains relatively small compared with its visibility in Europe and Asia -- something the eBay deal could help change.

"We think Skype can grow with this association in helping it become the voice of the Internet," said Kelly Larabee, a Skype spokeswoman.

Consumers are increasingly using the Web for voice calls, much as they use it for emailing. Voice services are offered not just by phone companies but also by videogame concerns and Internet companies such as Google Inc. and Yahoo Inc.

EBay contemplated building its own Internet-call service, "but we didn't feel we would have a winning product," Ms. Whitman said in an interview. "Skype is pretty far ahead in many dimensions." Skype boasts a community of 1,000 developers who are building Skype-related applications.

The San Jose, Calif., company may use this acquisition to drive more transactions to traditional merchants who use eBay's comparison-shopping site, Shopping.com, Ms. Whitman said. Those merchants, who already have established telephone call centers to take customer orders, may garner more revenue from customers who have access to Internet phone calls, said Scot Wingo, chief executive of ChannelAdvisor Corp., a closely held company that helps Internet sellers.

EBay also may be able to derive revenue from free classified listings around the world by adding pay-per-call services through Skype, said an eBay spokesman. The company told some analysts that it could link accounts on its PayPal electronic-payment service to Skype accounts, which could help generate more transactions through PayPal.

The eBay-Skype transaction may spur phone companies to more quickly roll out their own voice-over-Internet-protocol services, which most have begun offering in the past year, industry executives said.

EBay was up 32 cents to $38.94 at 4 p.m. in Nasdaq composite trading.

EBay said it may pay out as much as $1.5 billion additionally if certain financial targets are met.

Ebay, Skype Deal Challenges Rivals (FT)

By Richard Waters And Paul Taylor

Financial Times, September 13, 2005

Ebay on Monday laid out plans to move beyond its core e-commerce business, potentially putting it on a collision course with Google and Yahoo, as it confirmed its acquisition of internet voice company Skype for up to $4.1bn.

The auction company's executives said that adding a voice calling feature to its existing online network would let it charge fees to merchants for generating sales leads the internet's fastest-growing business, currently dominated by the two biggest search engine companies. It could represent the most important in a series of recent initiatives by Ebay to extendinto new areas of online activity.

However, the high price for the transaction and the young nature of Skype's business prompted scepticism among some telecommunications industry executives and analysts, who questioned Ebay's ability to generate significant revenues from its new acquisition.

"Ebay has no related presence in the online personal communications market (no instant messaging, chat or e-mail services) and we do not see immediate synergies from such a move," said Mark Main, Senior Analyst with Ovum, the leading telecoms consultancy.

The online auction company said it would pay $2.6bn for Skype, half of it in cash and half in stock, with up to $1.5bn more to be paid if the company meets certain performance targets over the next three years.

Meg Whitman, Ebay's chief executive officer, said that by integrating Skype's voice calling technology into Ebay's markets, making it easier for buyers and sellers to communicate, the company would be able to lower the "friction" in online transactions and increase the overall value of its services.

She also laid out a plan for Ebay to charge fees for generating sales leads, with merchants paying every time a potential customer clicks on a link in an online listing to initiate a voice call.

Some advertisers might beprepared to pay between $2and $12 for each call, she added.

Ebay's millions of visitors could represent a valuable audience for such a service, said Youssef Squali, an analyst atJeffries, a New York investment firm, since they usually visitthe site intending to make a purchase.

Based on conventional measures of valuation, such as its current revenues, the Skype purchase looked expensive, analysts said. The company generated $7m of revenues last year, with $60m expected this year and more than $200m in 2006, eBay said.

Rajiv Dutta, Ebay's chief financial officer, said this represented a faster pick-up in revenues than either Ebay or PayPal, its online payments service, had experienced in their first years of charging for their services, suggesting that Skype would prove a valuable money-earner for the company.

EBay To Buy Skype, Internet Phone Service, For $2.6 Billion (NYT)

By Ken Belson

The New York Times, September 13, 2005

EBay said yesterday that it would buy Skype Technologies, the Internet phone provider based in Luxembourg, for $2.6 billion in cash and stock, a move that eBay hopes will bolster trading on its online auction site.

The total value of the deal may grow based on "potential performance-based consideration" that could be worth an additional $1.5 billion, eBay said. Though Skype's revenue is expected to grow to about $200 million in 2006, from an estimated

$60 million this year, eBay does not expect Skype - which gives its basic PC-to-PC service away free - to turn a profit until the fourth quarter next year.

The deal ends months of speculation about who might scoop up Skype, which since 2002 has been offering downloadable software that allows users to talk to one another over the Internet through their personal computers. The News Corporation, Google and Yahoo had been mentioned as potential suitors in recent months.

Meg Whitman, chief executive of eBay, said the acquisition did not mean that eBay intended to become a Web portal like Yahoo, Microsoft and Google, which deliver a range of services.

Instead, Skype's voice communications technology will make online trading easier for eBay's 157 million users, she said, particularly with transactions involving real estate, big-ticket purchases and services that require detailed conversations.

"I'm a big believer in focusing brands and businesses that are in very large markets," Ms. Whitman said by phone from London. EBay is "absolutely not" interested in developing a portal, she said. "You can be sure we're going to focus on e-commerce."

Noting that eBay also owns PayPal, the online payment service, Ms. Whitman said "by combining the two leading e-commerce franchises, eBay and PayPal, with the leader in Internet voice communications, we will create an extraordinarily powerful environment for business on the net."

The deal also adds a new twist to the story of Skype's co-founders, Niklas Zennstrom and Janus Friis, who developed Skype after creating and selling Kazaa, the controversial file-sharing service.

That company has been at the center of a copyright infringement lawsuit filed by the music industry. Mr. Zennstrom and Mr. Friis sold Kazaa in January 2002 to Australian investors before that suit was filed. They were named as defendants in the suit, but they have challenged the jurisdiction of the United States courts because they are citizens in Europe. (Nothing bars Mr. Zennstrom and Mr. Friis from traveling to the United States, but they have not been to this country in many years.)

Executives at eBay said that any litigation involving Kazaa or the involvement of Mr. Zennstrom and Mr. Friis in Kazaa would not affect Skype or eBay. Skype, like Kazaa, uses a peer-to-peer file-sharing technology.

While eBay will acquire Skype's 54 million users in 225 countries and territories, the company said it was not interested in becoming a telecommunications provider or challenging traditional phone providers. Still, with Skype adding 150,000 new users a day, the company represents another threat to established carriers like the Bell companies, which maintain extensive phone and data networks.

"Skype is very disruptive to the telecom business and it's one of the reasons people are adopting to it quickly," Mr. Zennstrom said.

In North America, Skype has more users and carries more voice traffic than any other Internet-based phone provider, the companies said.

In addition to the basic service, about two million Skype customers have signed up for a pay service that allows them to use their computers to make calls to regular phone numbers as well as receive calls from landlines and cellphones. To complete these calls, Skype pays phone companies small per-minute fees.

Only 13 percent of Skype's users are in North America; nearly half are in Europe and another quarter are in Asia.

While Skype is the market leader in peer-to-peer voice software, it is not alone. Last month, Google announced Google Talk, a service similar to Skype's free service, and Microsoft said it was acquiring Teleo, a San Francisco company that allows users to call conventional phones from their PC's.

Some industry specialists said eBay's purchase of Skype was a sign that voice calls would increasingly become one of many services that Internet companies would provide, rather than a stand-alone business.

"This turns the entire telecom industry picture on its head, and demonstrates that voice, presence, text messaging and other I.P.-based applications will be essential for the company of the future," said Jeff Pulver, the chairman of pulvermedia, which promotes Internet-based phone services.

Investors seemed to agree. Shares in eBay rose 32 cents, to $38.94, on Monday. The company's shares have fallen 31.7 percent this year, however, because of investor concerns about its slowing growth.

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Some industry analysts were also skeptical about the high price for a company with so little revenue that is facing increasing competition from other Internet phone providers.

"Quite frankly, you look at the numbers and you realize there has to be something more for eBay to buy into," said Carmi Levy, an analyst at the Info-Tech Research Group in London, Ontario. "In 1998, we used to see the same thing with the buying of companies that did not have a whole lot of prospects."

While the purchase will shave about 12 cents off earnings next year, the price paid for Skype is less than 5 percent of eBay's market capitalization of $53 billion.

EBay will also inherit some of the legal and regulatory challenges facing Skype. Regulators in the United States and elsewhere have yet to decide, for instance, whether Skype will have to make it possible for its customers to call 911 and have their locations recognized by emergency responders.

$2.6B Deal Gets EBay Into Internet Telephony (USAT)

By Kevin Maney

USA Today, September 13, 2005

Making one of its riskiest bets yet, eBay said Monday that it will buy Internet voice service Skype.

That could eventually pit eBay against phone companies and VoIP services such as Vonage. Buying Skype "is a lot more of a stretch than any of the other acquisitions they've done," says David Edwards, equity analyst at American Technology Research.

EBay will pay $2.6 billion for Skype, which can be used to make free, high-quality voice calls from one computer running Skype software to another, anywhere in the world. Customers need a PC with a microphone. For a fee, Skype users can call regular telephones and vice versa.

EBay insists the deal isn't a major corporate turn. Top eBay executives became aware of Skype about a year ago, "And we started putting some thinking against Skype," says eBay CFO Rajiv Dutta.

Building Skype into eBay will allow buyers and sellers to click a button on the screen to talk to each other, Dutta says. That would be valuable when a buyer has a lot of questions about an expensive product, such as a car, or when an auction is close to closing.

"We've always sought to remove friction from e-commerce," eBay CEO Meg Whitman says. Adding Skype "will lead to a better experience and increase the velocity of trades." Plus, eBay could charge sellers to add Skype to their postings, Whitman says.

Yet the deal moves eBay into unfamiliar territory against powerful competitors. Skype co-founder Niklas Zennstrom on Monday repeated his boast that he has a "vision of creating the world's largest communications company."

"That's what made Skype special to us," Dutta says. "We loved their vision."

Though other online services such as Google Talk offer free computer-to-computer voice conversations, Skype has caught fire globally. It's adding 150,000 users a day, the majority in countries such as China, India and Sweden. In 2005, Skype's first full year of charging for services, it will have revenue of $60 million. Skype expects revenue to jump to $200 million in 2006.

Before starting Skype, Zennstrom and partner Janus Friis created Kazaa, a file-sharing service that has mostly been used to trade pirated music.

EBay sees Skype as a high-growth business and strong brand name on the Net, which could help reinvigorate eBay's growth, Dutta says. In 2003, eBay's revenue jumped 78% from the year before. In 2004, growth slowed to 51%. EBay shares closed Monday at $38.94, up 32 cents.

EBay To Acquire Internet Communications Company Skype (LAT/AP)

By From Associated Press

The Los Angeles Times, September 13, 2005

STOCKHOLM, Sweden — Online auctioneer eBay Inc. agreed today to pay at least $2.6 billion in cash and stock for Internet phone provider Skype Technologies SA, confounding many analysts who questioned the lofty price tag and the companies' compatibility.

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The total value of the deal may climb to $4.1 billion based on whether Skype meets a series of performance targets over the next three years, San Jose, Calif.-based eBay said. It said the acquisition would create "an unparalleled e-commerce and communications engine" for Internet users worldwide.

Low-cost Internet phone providers like Skype are creating upheaval in the telecommunications industry. That's because Voice over Internet Protocol technology, or VoIP, breaks calls into data packets that get routed over the Internet, which is much more efficient and cheaper than the traditional circuit-switched phone system.

Skype -- founded by the creators of Kazaa, the free music-sharing program that riled the music business -- gives away software lets people talk for free over the Internet using computers and microphones. A paid version, SkypeOut, allows those calls to be connected to regular phones.

Other big Internet names have expanded their VoIP capabilities lately, including Google Inc., which rolled out a new instant-messaging program with voice service. Last month Microsoft Corp. acquired Teleo Inc., a small startup whose software lets people make calls from computers to traditional telephones.

But some analysts have been skeptical about eBay's need to own a VoIP provider.

EBay buyers and sellers can communicate with each other via e-mail before a transaction is complete -- eBay says about 5 million such messages are exchanged daily. Adding Skype and its voice capabilities will speed the communication between parties and increase the level of trust, said Meg Whitman, eBay's chief executive.

"It's instantaneous and private," she said. "You don't have the person's phone number, just a user name, so it protects the privacy of all users."

She also said Skype would help eBay open "several new lines of business."

"Communications is at the heart of e-commerce and community," said Whitman, who had won praise for avoiding deals beyond eBay's core, marketplace-based strategy, especially during the late 1990s Internet craze. "We will create an extraordinarily powerful environment for business on the Net."

EBay shares rose 23 cents, or 0.6 percent, to $38.85 in morning trading on the Nasdaq Stock Market.

Niklas Zennstrom, Skype's CEO and co-founder, will join eBay's senior executive team. He said the deal will help advance his company's goal to "revolutionize the ease with which people can communicate through the Internet."

"When we started Skype, our vision was to create a global communications company," he said, noting that the company has users in almost every country. "I think the only country we don't have on the map is North Korea."

But Ovum analyst Mark Main said he considered the deal "far-fetched" and said eBay could have found cheaper ways to improve its Internet communication abilities.

"EBay could have developed its own sophisticated messaging and communications platform, or even bought one, for far less money than it is paying for Skype," Main said. "And if eBay is mainly paying for Skype's user base and brand, that makes this a risky investment."

Whitman, however, said Skype's name carries great value with customers, noting that many Internet users have started referring to phoning via their computer as "to Skype someone."

"When people are using your brand name as a verb, that is incredibly powerful," Whitman said.

She also said Skype has great market share in places where eBay is not heavily used, such as Japan and the Nordic countries, which may help the online auction company attract more customers.

Skype has 53 million registered users, including more than 2 million who pay for its premium services. Since it was introduced in 2003, the company's free software has been downloaded more than 164 million times.

In 2004, the company generated about $7 million in revenue, which it projects will snowball to $60 million this year and more than $200 million in 2006.

EBay recently trounced analysts' expectations by reporting it earned $291.6 million, or 21 cents per share, for the three months ended in June, a 53 percent increase from last year. Revenue totaled $1.09 billion, a 40 percent increase.

Overall, eBay's community spanned 157 million registered users, up 10 million from March. The company had $3.7 billion in cash and other current assets as of June 30.

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But bringing Skype into the fold is expected to cut eBay's earnings in the short term. EBay projected that the acquisition will reduce earnings per share by 4 cents in the fourth quarter of this year and by 12 cents in 2006.

Real Estate Competition Up For Debate (INMAN)

Inman News, September 13, 2005

Four days after launching a lawsuit against the National Association of Realtors for alleged anticompetitive practices, federal agencies are planning a public forum to discuss competition in the real estate industry.

The U.S. Justice Department's Antitrust Division and the Federal Trade Commission will jointly host a one-day workshop on competition policy and the real estate industry next month, the agencies said.

The workshop will be held on Oct. 25, at the FTC's Satellite Building Conference Center located at 601 New Jersey Ave. NW, in Washington, D.C.

The workshop is free and open to the public and aims to provide a forum on the competitiveness of the residential real estate industry, focusing on topics such as multiple listing services, discount and limited-service brokers, and minimum-service requirements.

In particular, discussion will center on the real estate transaction, the multiple listing service, and private and state actions that affect competition among brokers.

Parties seeking to participate as panelists in the workshop must notify both the Justice Department's Antitrust Division and the FTC in writing on or before Sept. 25. Persons submitting a request to participate as a panelist will be notified on or before Oct. 11, if they have been selected.

The Justice Department on Thursday filed an antitrust lawsuit against the National Association of Realtors challenging the trade group's policies for Internet listings. The lawsuit charges that NAR's Web listings policy is anticompetitive because it blocks new brokerage companies from entering the market.

NAR's newest Internet listings policy was made public last Thursday. It combines and eliminates two previous policies for Web listings display.

NAR asserts that the Justice Department "mischaracterized the purpose and effect" of a part of the new policy that enables brokers to restrain their listings from being shown on other brokers' Web sites. The trade group has said that part of the policy "was intended to protect brokers' ownership rights in their property listings."

NAR officials had been in discussions with the Justice Department since May, seeking a compromise that would've relieved antitrust officials' concerns.

The Justice Department's Antitrust Division and the FTC are accepting public comments on the issue until Nov. 28. Comments may be submitted in hardcopy or electronic format. For more detailed instructions on how to submit comments, see the Federal Register Notice.

Last week's lawsuit is the latest in a multilevel attack on the industry. The Justice Department earlier this year filed a lawsuit against the Kentucky Real Estate Commission over its restrictions on real estate rebates. The suit was settled in July, when the state commission lifted the ban on rebates.

Also, Justice Department and FTC officials have been sending out warning letters to states considering adopting legislation or regulation that could inhibit some discount and limited-service brokerage models.

U.K. Loan Insurers Face Antitrust Probe After Group Complains (BLOOM)

Bloomberg News, September 13, 2005

Sept. 13 (Bloomberg) -- Barclays Plc, Lloyds TSB Group Plc, HBOS Plc and Royal Bank of Scotland Group Plc are among U.K. banks facing an antitrust probe after a consumer group said loan insurance in Britain is expensive and inappropriately sold.

Citizens Advice, a nonprofit organization, asked Britain's Office of Fair Trading to investigate the 5 billion-pound ($9.1 billion) a year market after uncovering numerous problems, the London-based organization said in an e-mailed statement released today. The complaint triggered an automatic review by the antitrust regulator, which has 90 days to decide on a full investigation.

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The call for an investigation of loan insurers is the second this year, after a committee of lawmakers in February asked the Financial Services Authority, the main regulator of banks and insurers, for a probe, saying some consumers have purchased policies that they won't be able to use to make claims.

``Borrowers are often sold completely inappropriate policies," Citizens Advice said. ``The sale of protection insurance is also often linked to irresponsible lending."

The report didn't name any companies involved in the sale of loan insurance, which is provided by all of Britain's biggest banks on credit card and other unsecured debt.

Loan insurance policies are intended to cover payments on debt if the borrower falls ill or becomes unemployed. In some instances banks have sold these policies to people who are already unemployed or ill, which would then prohibit them from claiming under the policies, Citizens Advice said.

The Treasury Select Committee, which has been investigating credit card charges by Britain's biggest banks, in February said some lenders were providing quotes for loans without making clear that these included charges for insurance. Banks also failed to explain the circumstances under which customers can't claim, the committee said.

To contact the reporter on this story: Jonathan Rosenthal in London at jrosenthal1@bloomberg.net Last Updated: September 12, 2005 19:11 EDT

Private Equity Firms Buy Hertz For $15bn (FT)

By James Politi

Financial Times, September 13, 2005

A consortium of three private equity groups on Monday announced the purchase of Hertz, the New Jersey-based car rental business, in a deal worth $15bn that ranks as the largest buy-out since 1989.

The acquisition, by Clayton Dubilier & Rice, Carlyle, and the buy-out unit of Merrill Lynch, came after several weeks of negotiations with Ford, the carmaker that has owned all of Hertz since 2001 and is selling the unit as part of its revitalisation plan.

The three buyers will be paying $5.6bn in cash to Ford, and have agreed to assume nearly $10bn in debt under the agreement.

CD&R, which specialises in acquiring units of large conglomerates, had been considering a buy-out of Hertz for three years. After Ford announced it was exploring options for its rental business in June, the discussions accelerated, and CD&R was joined by the other two members of the consortium. The $15bn price tag makes Hertz the largest buy-out since RJR Nabisco was acquired by Kohlberg Kravis Roberts 16 years ago for roughly $30bn.

In recent years, private equity groups have been raising increasingly large pools of money, from which they have been making ever greater investments. This year, there have been a number of blockbuster buy-outs, the biggest of which was SunGard Data Systems' sale to seven investment firms for $11.3bn.

David Wasserman of CD&R on Monday explained the rationale for the deal by the Fthat Hertz had a "leading franchise, a great brand, and a seasoned and strong management team".

The buyers dismissed suggestions that the jump in petrol prices could make it an unattractive time to invest in car rentals, by saying that they were optimistic about the long-term trends in the travel industry.

The acquisition is being financed with a combination of asset-backed securities linked to Hertz's fleet of rental cars, traditional corporate debt, and the equity contributions of the three buy-out groups.

Mr Wasserman appeared to indicate that there would be no significant changes in strategy at Hertz under the new owners, which outbid a rival private equity consortium including Blackstone and Texas Pacific Group.

There were no plans to extract cost savings through large-scale staff reductions, and the consortium would continue to support management's plans to diversify away from airport rentals.

Ford was advised by Goldman Sachs, Citigroup and JPMorgan Chase. The buyers were advised by Lehman Brothers, Deutsche Bank and Merrill Lynch.

Carlyle And Other Investors To Pay $15 Billion For Hertz (WP)

By David S. Hilzenrath

DOJ_NMG_0004367

The Washington Post, September 13, 2005

A group of investors that includes the District-based Carlyle Group said yesterday that it has agreed to buy Hertz Corp., the car rental company, from Ford Motor Co. for $15 billion in cash and debt.

The deal will provide a $5.6 billion cash infusion to the automaker, whose bonds were downgraded in May to junk status.

Carlyle's cash outlay of about $767 million would be its second-largest, after the $808.5 million in cash it put up in 2003 for the telephone directory business of Qwest Communications, Carlyle spokesman Christopher Ullman said.

Carlyle managing director Gregory S. Ledford said the investment firm sees growth potential in Hertz's overseas and heavy equipment rental businesses. The buyout firm viewed Hertz as a "corporate orphan" -- a well-run company with a good brand and a good business that is not central to its corporate parent's business, Ledford said. "We spend a lot of time looking for businesses like that," he said.

Ledford said he didn't believe rising crude oil and gasoline prices would have a big impact on Hertz, "unless it really impacts people flying," because Hertz's business is largely driven by airport traffic.

Ledford said Ford is selling because "they need cash," but a Ford spokeswoman put it differently.

"We've decided that it's not core to our strategic business plan," Ford's Becky Sanch said.

Ford in recent months had been preparing a public offering of Hertz stock but opted for the sale because it provided "a strong value in up-front cash proceeds," Sanch said.

Carlyle's partners in the deal are Merrill Lynch Global Private Equity and Clayton, Dubilier & Rice Inc., each of which is taking a one-third stake, Carlyle's Ullman said. Clayton, Dubilier & Rice partner George W. Tamke is to become chairman.

Buyout Group Snags Ford's Hertz For $5.6 Billion (WSJ)

By Henny Sender And Avery Johnson

The Wall Street Journal, September 13, 2005

A buyout group led by Clayton Dubilier & Rice is set to acquire Ford Motor Co.'s Hertz Corp. for $5.6 billion, in an anticlimactic end to an auction among private-equity firms.

The acquiring group, which also includes Carlyle Group and Merrill Lynch Global Private Equity, will finance the deal with a combination of $2.3 billion in equity and more than $12 billion in debt. The acquiring group will assume around $10 billion in Hertz debt.

"It was a complicated divestiture," said David Wasserman who led the CDR group efforts. "The sale delivers certainty and value to Ford and we get a great brand and franchise."

The last days of the bidding war took place against the backdrop of a hurricane that led many economists to forecast lower growth for the car-rental industry. Hertz has annual revenue of more than $7 billion. But concerns about growth didn't deter bidders, giving Ford a bigger payday than auction participants anticipated. The losing group consisted of Bain Capital, Blackstone Group, Texas Pacific Group and Thomas H. Lee & Partners.

Private-equity firms, which cater to institutional investors and wealthy individuals, acquire companies and divisions of companies, often using large amounts of debt to finance their purchases.

The dynamics of the Hertz auction suggest that there is indeed little competition for the largest buyouts. There were no strategic investors and only two private-equity consortia sparring over Hertz. But the outcome also suggested that less competition doesn't necessarily mean a bargain price, a pattern that also characterized the $11.3 billion buyout of SunGard Data Systems earlier this year.

This fall is expected to see a series of even-larger deals, possibly even exceeding the $25 billion buyout of RJR Nabisco in 1989. Both Carlyle and Blackstone are flush with money. Apollo Management recently raised almost $10 billion, Warburg Pincus raised more than $8 billion, and Texas Pacific Group may well go to its investors soon for more cash as well. Private-equity firms generally like such megadeals because they enable them to deploy vast sums swiftly and collect management and transaction fees that reflect the size of the deal.

The outcome of the auction reflects CDR's determination to acquire Hertz. CDR will have three board seats and partner George Tamke will be chairman of the board. The two other CDR partners, Carlyle and Merrill, will each have two seats on the

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Hertz board. Previously, Ford had three board seats and Hertz two. Merrill is both participating in the buyout and helping to finance it.

The new owners of Hertz may have a different vision for the company's future than current management. Hertz management, which analysts say had favored a public listing to a sale, had positioned the firm to demonstrate strong growth prospects and had lots of initiatives beyond its core airport car-rental business.

By contrast, the buyout group may be under pressure to cut costs and raise cash by selling noncore operations, people familiar with the matter say. "We have no current plans to divest anything or make acquisitions," Mr. Wasserman of CDR says. CDR will have to come up with about $800 million in cash, a large part of its $3.5 billion fund. Because there are limits to how much capital it can dedicate to any one deal, it plans to invite some of its own investors to put money into Hertz alongside it.

Wachovia Agrees To Buy Westcorp (WSJ)

By Valerie Bauerlein

The Wall Street Journal, September 13, 2005

Wachovia Corp. agreed to acquire Westcorp Inc. for about $3.91 billion in a deal aimed at boosting the Charlotte, N.C., company's heft in the auto-finance business while giving Wachovia its first branches in California.

In addition to making Wachovia the ninth-largest auto lender in the U.S., the takeover quiets speculation at least for the moment that the bank is about to make an even larger acquisition of a commercial bank or consumer-finance company. The purchase price represents only about 5% of Wachovia's stock-market value, which analysts said seemed reasonable given Westcorp's size and reputation for being well-run.

"This gets Ken [Thompson] his foothold" in California, Nancy Bush, a bank analyst with NAB Research LLC in Annandale, N.J., said, referring to the Wachovia chairman and chief executive. Westcorp's 19 bank branches in Southern California could help Wachovia decide whether to open additional branches in the state or make another acquisition. Most of Wachovia's roughly 3,100 branches are in the Southeast, though it has been opening new branches in growing markets such as Texas and New York.

Westcorp confirmed last month that it was in discussions about a possible takeover. The company originates, securitizes and services loans through 8,300 auto dealers. It also is strong in the subprime market, which is lucrative because customers pay higher interest rates but risky because those customers default more often.

Wachovia's previous auto-lending business was focused on borrowers with the most pristine credit records who typically buy pricey cars. Wachovia has used that business to build relationships with dealers, who sometimes need wealth-management services or loans to build inventory.

The combined company's auto-finance portfolio will consist of 78% prime loans and 22% subprime loans, according to Kevin Fitzsimmons, an analyst with Sandler O'Neill & Partners.

Wachovia's parent company, the former First Union, paid $2.1 billion in 1998 for the Money Store, a subprime lender that advertised heavily on television and was a financial flop. The bank ultimately sold the Money Store. "When you say 'subprime' around here, there's lots of warning flags that go off because of our past experience," Don Truslow, Wachovia's chief risk officer, said in an interview.

Terms of the deal call for Wachovia to swap 1.27 of its shares for each outstanding Westcorp share. Wachovia also agreed to acquire the 16% of WFS Financial Inc., a dealer-finance unit, that isn't already owned by Westcorp for 1.47 Wachovia shares apiece.

In 4 p.m. New York Stock Exchange composite trading, Westcorp shares rose 23 cents to $61.58, while Wachovia slipped 81 cents to $49.57. WFS surged $5.23, or 8.1%, to $70.15 in Nasdaq Stock Market composite trading.

Westcorp was advised by Credit Suisse First Boston, while Deutsche Bank advised WFS. Goldman Sachs Group advised Wachovia on the deal.

Wachovia Plans To Buy Auto Lender (NYT)

By Julie Creswell

The New York Times, September 13, 2005

Moving to expand its presence in automobile financing, the Wachovia Corporation, the nation's fourth-largest bank, agreed yesterday to acquire the financial-services holding company Westcorp and its majority-owned auto-finance group, WFS Financial, in a stock deal valued at $3.91 billion.

The deal, which had been rumored for weeks and will make Wachovia the ninth-largest auto lender in the country, is the latest in a string of purchases by banks in the auto-finance industry after downgrades this spring in the debt ratings of the General Motors Corporation and the Ford Motor Corporation.

The downgrades raised the costs of borrowing for the car makers' finance arms, which have typically offered low-interest loans that banks were hard pressed to match.

"The change in funding costs at G.M. and Ford has caused consumer-oriented banks to re-examine auto lending and to view it as potentially more attractive than they did in the past," said David Hilder, a bank analyst with Bear Stearns. While G.M. and Ford are still major lenders, Mr. Hilder said, their dominance may diminish as loan rates become more competitive.

This spring, Bank of America acquired KeyCorp's $990 million prime portfolio of indirect automobile loans and, in July, it announced plans to buy up to $55 billion of auto loans from G.M.'s finance arm, the General Motors Acceptance Corporation, over the next five years.

In yesterday's deal, Wachovia said it was acquiring Westcorp, which is based in Irvine, Calif., and WFS for $3.42 billion in stock. Wachovia, based in Charlotte, N.C., will pay $490 million in stock for the 16 percent of the publicly traded WFS that Westcorp does not own. The deal is expected to close in early 2006.

Last year, Westcorp's founder and chief executive, Ernest S. Rady, who owns about 53 percent of Westcorp, announced a restructuring in which the finance company would buy back the 16 percent of WFS that it did not own and fold the entire WFS Financial entity into its retail banking arm, Western Financial Bank. But the conversion of Western Financial Bank into a California state commercial bank was taking "longer than expected," Westcorp said in a statement last month. So it began exploring other options.

Investors have been closely watching Wachovia to see if it would make a big acquisition to keep up with its crosstown rival in Charlotte, Bank of America. Two years ago, Wachovia considered buying FleetBoston, but balked at the price; Bank of America later stepped in and bought it.

In a repeat this summer, Wachovia walked away from talks with the credit card giant MBNA only to have Bank of America swoop in and buy the firm, becoming the nation's largest issuer of credit cards.

"Westcorp is a neat little company, and Wachovia bought it for a perfectly acceptable price, but it doesn't get them anywhere," said Meredith Whitney, an analyst at CIBC World Markets. "Wachovia's problem is that it's been boxed out of so many other big deals by Bank of America that it needs to do a major deal in order to keep up. This doesn't do it."

While some analysts and investors say they think Wachovia has grown gun-shy on big deals, others give the chief executive, G. Kennedy Thompson, credit for restraint in not overpaying for acquisitions. Based on Friday's closing price for Westcorp's shares, Wachovia is paying a 5 percent premium. (It is paying about a 14 percent premium for WFS shares.)

Mr. Thompson has said repeatedly that the bank would only do deals that produced an internal rate of return of at least 15 percent and that would add to earnings on a cash basis by the end of the second year. Wachovia said the Westcorp and WFS acquisitions met both criteria.

Wachovia's stock fell 1.6 percent yesterday, to $49.57.

Wachovia To Purchase Westcorp For $3.42B (FINDLAW/AP)

Find Law, September 13, 2005

(AP) - CHARLOTTE, N.C.-The financial services company Wachovia Corp. on Monday said it agreed to acquire Westcorp, an automobile finance company based in Irvine, Calif., for $3.42 billion, creating the nation's ninth largest auto loan originator.

Wachovia also agreed to pay another $490 million for the 16 percent stake that Westcorp doesn't already own in WFS Financial Inc., boosting the combined value of the transactions of $3.9 billion.

he company said the deal for Westcorp is expected to boost earnings in the second year and produce an internal rate of return of more than 15 percent, above Wachovia's acquisition criteria.

Wachovia said its purchase of Westcorp will give it a small presence in the California retail banking market, while expanding its auto finance group into a national business. The firm will add about 8,500 automobile dealer clients, and about 920,000 individual customers.

"This transaction moves our auto finance business to a new level and gives us access to a new set of customers who can benefit from Wachovia's broad offering of financial services," said Ben Jenkins, president of Wachovia's general bank.

Wachovia, which expects the purchase to close in the first quarter, said the combined business will be run by WFS President and Chief Executive Thomas Wolfe and will be based in Irvine. Wolfe will report to Carlos Evans, head of Wachovia wholesale banking.

Tupras To Remain In Turkish Hands, As Koc Bid Wins (WSJ/DJN)

By Michael Wang, Dow Jones Newswires

The Wall Street Journal, September 13, 2005

A consortium led by Koc Holding AS of Turkey and including Royal Dutch Shell PLC fended off eight other bidders in a hotly contested privatization auction for control of Tupras, Turkey's 500,000-barrel-a-day refiner.

The winning bid of $4.14 billion (€3.34 billion) defied even the most optimistic expectations which, ahead of the auction, had reckoned with a final price tag closer to $3 billion.

The Koc-Shell group faced its strongest competition from a joint venture comprising state-owned Indian Oil Corp. and Turkey's Calik Enerji Sanayii, as well as OYAK, an industrial conglomerate representing a Turkish Army officers' pension fund.

The winning consortium comprised two Shell units -- Shell Co. of Turkey Ltd. and Shell Overseas Investment BV -- together holding 10%; Koc, one of Turkey's biggest industrial conglomerates, with 80%; and two smaller Turkish energy companies, Aygaz AS with 7% and Opet Petrolculuk AS with the remaining 3%.

The win by the Koc-Shell consortium represents a best-case scenario for the government as it keeps majority control of Tupras in Turkish hands. Shell's minor involvement lends it credibility.

Erol Memioglu, president of Koc's energy business, said he wanted to see Tupras grow further. "We aim to develop Tupras into a key player in the Mediterranean region," he said.

The 90-minute auction, broadcast on television live from Ankara, saw the elimination of several top European oil-companies, including Italy's Eni SpA, Austria's OMV AG, Poland's PKN Orlen and Hungary's MOL Rt., as well as a clutch of Turkish bidders.

Global oil demand has accelerated since early last year on the back of the fast-growing Chinese and Indian economies, soaking up virtually all excess refining capacity and increasing the value of refineries.

Shell spokeswoman Susan Shannon said the acquisition complements the company's strategy in Turkey, where it is the second-biggest gasoline retailer, with about 600 service stations and a market share of around 15%.

Icahn Group Plans Proxy Fight To Raise Heat On Time Warner (WSJ)

By Julia Angwin

The Wall Street Journal, September 13, 2005

A group led by New York financier Carl Icahn said it intends to mount a proxy contest to win seats on Time Warner Inc.'s board, in the latest step by the investor group to pressure the company to spin off its cable unit and buy back $20 billion in stock.

The group, made up of several hedge funds including one managed by Mr. Icahn, also said it thinks the "true value" of Time Warner shares is between $26 and $28, about $10 a share above the stock's trading range over the past couple of years.

Mr. Icahn's group said it planned to propose "one or more nominees" for election to the Time Warner board at the next annual meeting, which isn't due to be held until next spring. But the group didn't identify any nominees.

Rather, in a filing with the Securities and Exchange Commission, the group laid out its most detailed argument to date as to why Time Warner shares are trading at a discount to their "inherent value" and what "immediate actions" the company could take to reduce the discount. Yesterday, Time Warner shares were down 13 cents at $18.21 in 4 p.m. composite trading on the New York Stock Exchange.

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Mr. Icahn announced about a month ago that a group he was leading had acquired stock and options representing a 2.6% stake in Time Warner. His challenge to the media giant's management came as the company was emerging from problems caused by the 2001 merger with America Online, which had depressed its stock price.

The filing noted that the stock is down 6% since Chairman Richard Parsons took over in May 2002 and said "management's slow pace of change" has hurt Time Warner stock.

The group chastised Time Warner for not paying dividends or buying back stock as aggressively as other media companies. It argued that Time Warner has an "inefficient capital structure" and could afford to take on more debt if it spun off Time Warner Cable.

Time Warner has recently moved to address both issues. It initiated a dividend earlier this year and last month announced plans to buy back $5 billion in stock over two years. And it plans to offer 16% of its cable company to the public early next year when it completes the acquisition of some assets of Adelphia Communications.

In a statement yesterday, Time Warner said "we are carefully reviewing a range of options to increase the value of our company including those proposed by Mr. Icahn and his group. Investors should rest assured that this evaluation is being done in a prudent and deliberate manner with an eye toward creating sustainable value for all of our shareholders."

Mr. Icahn's group contends that Time Warner Cable would be worth more on its own than it is within the larger organization. The group estimates that the cable unit on its own could be worth $48 billion, or $3,631 per subscriber -- more than the value implied by the stock price of the nation's largest cable company, Comcast Corp.

The other members of Mr. Icahn's group are Franklin Mutual Advisers LLC, JANA Partners LLC and SAC Capital Advisors LLC.

Dealmakers Are Back In Business (USAT)

By Matt Krantz

USA Today, September 13, 2005

Following a multiyear downturn in the number of mergers and acquisitions, companies are again in the shopping mood.

Oracle, eBay and Wachovia all announced deals Monday worth billions to buy other companies, signaling a pickup in the deal boom (stories, 1B, above).

Already this year, companies have announced $707 billion in mergers and acquisitions, says Richard Peterson, senior researcher at Thomson Financial. That's 30% more than the deals during the same period last year and the highest since the M&A heyday in 2000. It's also the fourth-strongest pace of M&A in history, Peterson says.

“Companies were shy,” says Howard Silverblatt, market analyst for Standard & Poor's. Now “they are definitely doing more.”

There are several reasons for the uptick, including:

•Stock market recovering. The biggest influence on M&A activity is the health of the market, says Chris Kenney, vice president at L.E.K. Consulting. That's largely because many companies use their stock to buy other companies, so the higher the stock, the less expensive the acquisition becomes. M&A has gotten a lift from the fact the Standard & Poor's 500 index is up 2.4% this year and 37% the past three years.

•Borrowing costs still cheap. In addition to fairly strong stock prices, interest rates have also remained surprisingly low, says David Mauer, professor of finance at the Cox School of Business at SMU. That has allowed companies to borrow cash needed to finance many mergers and acquisitions, he says.

•Cash piles surging. Companies are finally getting the guts to use the cash that has been piling up over the past three years, Silverblatt says. Acquisitions are one of the biggest uses of corporate cash.

During the second quarter the amount of cash held by the industrial companies in the S&P 500 fell to $608 billion in part to spending on acquisitions, Silverblatt says. That's down from the record $634 billion in cash the first quarter, but still a giant pile that is difficult to use up just by buying back stock or paying dividends.

•Industry consolidation increasing. Maturing industries, such as discount brokerages and software companies, are looking to combine in order to compete against the bigger players, Mauer says. He points to Oracle's recent buying spree and leadership in consolidating the business-software industry.

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The M&A boom's future really depends on the market, Kenney says. “The single most important predictor of M&A is the value of the stock market,” he says.

ENVIRONMENT:

Judge Blocks Sequoia Forest Logging (AP)

By David Kravets

AP, September 13, 2005

SAN FRANCISCO - A federal judge here halted the Bush administration's bid to keep logging 2,000 acres in Giant Sequoia National Monument, saying he "called into question" the scientific analysis used to justify cutting in a preserve that houses two-thirds of the world's largest trees.

U.S. District Judge Stephen Breyer, ruling in a lawsuit brought by environmentalists, also questioned whether fire control was the government's real motive for allowing commercial logging in the monument. The so-called "Saddle Project" was approved years ago, but cutting only commenced this summer, when timber prices were high.

The government, Breyer wrote late Friday in issuing a preliminary injunction barring further logging, "waited five years to execute this contract because of unfavorable timber prices."

In 2000, just after the project was approved, Congress declared Sequoia National Forest a national monument, which generally prevented further logging on thousands of acres in the Central Valley area of Tulare County. The government argued the project was grandfathered in and therefore not covered by monument rules.

The Justice Department, which defended the logging plan in court here, declined to say whether it would challenge Breyer's injunction. If it does not, the case is over and the acreage is safe from harvesting. The government could also take the issue to trial.

Breyer ruled that he was unsure whether the project, which included harvesting 31,000 conifer trees hundreds of years old, "would still protect the forest from fire." Sequoia trees were not targeted in the harvest by logging concern Sierra Forests Products.

The Sierra Club and other groups brought the case this year to stop the logging that began July 10 and ended Aug. 5 after Breyer issued a temporary injunction barring further harvesting. A preliminary injunction is issued when a judge believes plaintiffs would prevail at trial.

"The Forest Service has argued that because the project was approved before it being named a monument, they said they could still do this years later, but the judge said they could not," said Patrick Gallagher, a Sierra Club attorney. "The monument is one of the most amazing areas on Earth."

It was not immediately clear how many acres were logged over four weeks, but environmentalists estimated hundreds.

The Sierra Club is considering filing similar lawsuits to block other logging projects that were approved before Congress declared the forest a national monument.

The case is Sierra Club v. Bosworth, 05-00397.

Senate Decides To Vote On Rejection Of Mercury-Emission Rules (NYT/AP)

By The Associated Press

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 (AP) - The Senate agreed Monday to vote on a resolution challenging new rules limiting mercury emissions from power plants.

The Bush administration said that the rules, completed by the Environmental Protection Agency in March, would eventually cut mercury emissions from coal-fired power plants by 70 percent without driving up energy costs and that repealing the rules would delay the reduction of such emissions.

Environmental and health groups have demanded swifter and tougher measures to reduce emissions.

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By repealing the rules, the Senate would compel the E.P.A. to rewrite them. The revisions would be in line with Clean Air Act standards requiring the use of the best available technology to reduce mercury emissions.

The Senate vote on Tuesday is expected to be close, but the Republican-dominated House is unlikely to act on a resolution, which President Bush has said he opposes.

Senator Susan Collins, Republican of Maine, and Senator Patrick J. Leahy, Democrat of Vermont, introduced the resolution through a little-used 1996 law that allows Congress to challenge agency rules with a guaranteed floor vote. The law has been successfully invoked only once, when Congress in 2001 repealed Clinton administration workplace ergonomics regulations.

Senator Collins said that if the rules stand "power plants will be free to continue spewing unlimited amounts of toxic mercury into our air until the year 2018."

But supporters of the E.P.A. rules said that repealing the administration approach could have a devastating impact on the economy, forcing power plants to abandon coal for natural gas and driving up natural-gas prices. They contended it would cost $358 billion to achieve the 90 percent reduction in three years, as opposed to a cost of $2 billion under the Bush administration plan.

"It just can't be justified from a cost-benefit point of view," said Senator George V. Voinovich, Republican of Ohio.

A federal appeals court last month rejected a suit brought by environmental and health groups and 14 states seeking to force the E.P.A. to stop implementing the new rules.

Heating Prices Loom As Problem Natural Gas Could Be Issue In Winter (USAT)

By Sue Kirchhoff

USA Today, September 13, 2005

WASHINGTON — U.S. consumers could still face higher energy bills ahead despite declines in energy prices Monday as gulf producers continued to rebound from Hurricane Katrina's pounding.

The average nationwide retail gasoline price Monday fell to $2.967 a gallon for regular unleaded from $3.018 the day before, according to AAA. Gasoline futures prices have dropped by about a third since the end of August.

Crude oil prices dropped to $63.34 a barrel, down 9% from the record close of $69.81 in late August. Natural gas futures were down more than 23 cents in New York trading, to $11.03 per million British thermal units, compared with a record $11.76 on Sept. 1.

Still, energy experts say consumers will feel the impact of Katrina for months. Natural gas prices will be a big challenge this winter.

The federal Energy Information Administration recently forecast that natural gas prices could rise 71% in the Midwest this winter.

Forecaster Global Insight expects natural gas prices to average $12 per million Btu through the winter, says Mary Novak, managing director for energy services. Consumers saw an average of $7.50 last winter.

“It's astronomical compared to what people were paying for the previous 20 years,” Novak says.

George Coling, executive director of the National Fuel Funds Network, says Katrina will be a “disaster” for less-affluent households. The Network represents non-profit groups that supplement assistance from the federal Low Income Home Energy Assistance Program.

Some members of Congress want to increase the annual budget for LIHEAP, which helps consumers who meet certain income requirements pay heating and cooling bills. The program serves more than 5 million households a year.

“Increasing LIHEAP is one thing, and probably the only effective thing, that Congress can do immediately to relieve the home energy situation” Coling says.

The U.S. Minerals Management Service Monday said about 38% of natural gas production in the gulf remains shuttered.

“It's too early to start relaxing but also no cause yet for panic. We're not hearing from our utility customers that they are going to have a problem meeting customer demand,” says Mark Stultz, spokesman for the National Gas Supply Association.

Arctic Folly (WP)

DOJ_NMG_0004374

By Jimmy Carter

The Washington Post, September 13, 2005

Congress is about to make one of those big decisions that marks an era. Unless wiser heads prevail, it may do it badly -- making the wrong decision in the wrong way and about the wrong place. At stake is America's greatest wildlife sanctuary, the Arctic National Wildlife Refuge. To dissuade Congress from this environmental tragedy, Americans must rally, and quickly.

Congress had its Pyrrhic energy victory this summer, with a new energy policy that ignores much-needed conservation measures and gives the oil industry large new tax breaks regardless of where it drills and pumps. Surely Congress has done more than enough to increase the profits of the oil industry.

Yet now, in a separate decision, the White House and Big Oil are pressuring Congress to allow drilling rigs to rip into the ecological heart of America's preeminent wildlife sanctuary. We must not confuse this with Prudhoe Bay, which lies west of the Arctic refuge and is already an industrial landscape resembling Houston more than Yellowstone.

With increasing gasoline prices bringing economic hardship and concern to many Americans, we must not be misled by oil lobbyists who are trying to convince us that our energy security is singularly dependent on sacrificing the Arctic refuge. They promote the false premise that development will touch just a few thousand acres when, in fact, it would introduce roads and pipelines spider-webbing across hundreds of thousands of acres on the fragile coastal plain.

We cannot drill our way to energy security or lower gasoline prices as long as our nation sits on just 3 percent of world oil reserves yet accounts for 25 percent of all oil consumption. An obvious answer is to increase the fuel efficiency of motor vehicles, at least to the level we set more than a quarter-century ago.

Instead, the administration recently proposed a tiny increase in gas mileage for SUVs, minivans and pickups. Not effective until the 2011 models, this would save about one month's current consumption of fuel over the next 20 years -- far less than will be saved in just one state by a new California law. The new ruling offers automobile makers an opportunity to avoid the reductions by modifying the size of various models as they persist in manufacturing gas guzzlers. It is not a coincidence that Moody's has just downgraded the debt of General Motors and Ford to junk status, while makers of efficient vehicles prosper.

I have been to the coastal plain of the Arctic National Wildlife Refuge to study the wilderness wildlife. Far from being the frozen "desert" some suggest, this is a rich, Serengeti-like haven of life: nursery for caribou, polar bears, walruses and millions of shorebirds and waterfowl that migrate annually to the Lower 48. To sit, as Rosalynn and I did, watching a herd of musk oxen circle-up to defend their young and then to find yourself literally in the midst of thousands of caribou streaming by is to touch in a fundamental way God's glorious ark of teeming wildlife.

We Americans use a lot of energy, and millions of us want to do so in a more efficient way that also allows us to cherish our disappearing wilderness heritage. In the Arctic refuge we cannot have it both ways. In the next few months Americans could lose this special and amazing place through a backdoor legislative maneuver.

Each fall Congress endeavors to combine budgetary directives covering the nation's $2.5 trillion dollar annual budget in a single "reconciliation" decision. In a tricky ploy to avoid full debate, drilling advocates have buried their despoil-the-Arctic goal in this mammoth measure. So, conservation-minded Americans must ask our elected representatives to vote down any final budget reconciliation bill that would allow the sacrifice of our Arctic sanctuary.

Now is the time to speak up for the ecological integrity of this unsurpassed 18-million-acre wilderness. Many Americans will be in Washington on Sept. 20 for the Arctic Refuge Action Day rally on the Mall and to contact congressional representatives personally.

If we are not wise enough to protect the Arctic refuge, future generations will condemn us for needlessly sacrificing the wilderness of their world to feed our profligate, short-term and shortsighted energy habit. The pathway to a better, more sustainable energy future does not wind through the Arctic National Wildlife Refuge.

Former President Carter is the founder of the Carter Center in Atlanta.

FBI/DEA/ATF/USMS:

Justice Dept.: FBI Ignores Informant Rules (AP-Y2)

By Mark Sherman, Associated Press Writer

AP2, September 13, 2005

FBI agents often violate bureau's rules for handling confidential informants that were revised after FBI abuses in the 1990s, the Justice Department's internal watchdog said Monday.

A review of 120 confidential informant files from FBI offices around the country found violations in 104 cases, or 87 percent, Inspector General Glenn A. Fine said. His 301-page report, parts of which were blacked out, examined FBI compliance with rules that govern most criminal investigations.

The report said agents failed to assess informants' suitability or get permission for informants to engage in activity that otherwise would be illegal. Agents did not convey proper instructions or tell prosecutors when informants had committed crimes that were not authorized by their FBI handlers, Fine said.

FBI Director Robert Mueller, according to the report, said many agents find the required paperwork cumbersome. In a statement, the FBI said the violations were "administrative" and that officials have begun simplifying procedures.

Among the material in the report that was withheld from the public is how many confidential informants the FBI uses. Some have provided information to the FBI for more than six years. Others are designated "high-level" informants because they are part of the senior leadership of a group the FBI is investigating.

A third category of informants identified in the report includes lawyers, doctors and clergy — all obligated to keep confidential their dealings with clients — or members of the news media.

FBI spokesman Ed Cogswell said the bureau would not identify whether any of its informants are clergy or members of the media.

"We can use them and if a need presents, I'm sure we do," Cogswell said. "But we do not want to identify what our sources are."

Confidential informants are critical to some prosecutions, the report said. But their use by the FBI also "presents serious risks, including the risk that informants may claim that their criminal activities were authorized or acquiesced in by the government," Fine said.

John Wesley Hall, a vice president of the National Association of Criminal Defense Lawyers, said, "It sounds like they can break their own rules when they're investigating crimes. Too bad our clients can't bend the rules."

The Attorney General's Investigative Guidelines were developed in the mid-1970s in response to FBI surveillance and infiltration of civil rights and other protest groups in the 1950s and 1960s.

The section on informants was overhauled in 2001, after celebrated cases in which FBI agents protected mobsters from prosecution or tipped them off to investigations while simultaneously using them as FBI informants.

In one case, former FBI agent John J. Connolly Jr. tipped off Boston mobster James "Whitey" Bulger to a looming racketeering indictment, causing Bulger to flee. He remains at large.

The FBI has said informants are important to counterterrorism and criminal investigations.

Two informants helped lure Yemeni Sheik Mohammed Ali Hassan al-Moayad and an aide to a meeting in which the cleric was secretly recorded promising to funnel money to Hamas and al-Qaida. Al-Moayad was sentenced to 75 years in prison. Mohammed Mohsen Yahya Zayed received a 45-year sentence.

The case, however, was nearly derailed when one informant, who was the government's star witness, set himself on fire in Washington in what he later described as an attempt to get more money from the FBI, which paid him at least $100,000.

Mohamed Alanssi recovered in time for the trial.

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On the Net:

Justice Department inspector general: http://www.usdoj.gov/oig

FBI Violating Informant Guidelines (BOS)

By Shelley Murphy, Globe Staff

The Boston Globe, September 13, 2005

The US Department of Justice announced yesterday that the FBI has continued to violate informant guidelines adopted several years ago amid public condemnation over its mishandling of notorious Boston gangsters James "Whitey" Bulger and Stephen "The Rifleman" Flemmi.

A review of 120 confidential informant files at a dozen of the nation's FBI offices, including Boston's, found that agents failed to follow the rules in 87 percent of the cases, according to a 301-page report by Glenn A. Fine, the Justice Department's inspector general. The review was conducted between June and August 2004.

'These numbers are just extraordinary, and they're damning," said US Representative William D. Delahunt, a Quincy Democrat who participated in Congressional hearings investigating the FBI's relationship with Bulger and Flemmi.

"I think what they mean is legislation is now required to ensure compliance," Delahunt said yesterday. He said that he and US Representative Daniel E. Lungren, a California Republican and a fellow member of the House Judiciary Committee, will file a bill mandating that the FBI follow the guidelines and include sanctions for agents who do not.

The report cited agents' failure to report illegal activity by informants; failure to obtain authority to let informants engage in illegal activity such as buying drugs during investigations; failure to evaluate informants for suitability to work with the FBI; and failure to document when informants were deactivated, the report said.

Fine concluded that the violations were caused by inadequate training, a lack of administrative support for agents, and a failure of management to hold supervisors accountable for lack of proper oversight to handling agents.

According to the report, FBI director Robert S. Mueller III "told us that he frequently hears agents complain about the burdensome procedures for opening and operating informants."

The report also cited "lingering differences" between the FBI and the Department of Justice over how informants should be handled.

Tougher guidelines adopted in May 2002 -- aimed at preventing the cozy relationship that developed among Bulger, Flemmi, and their FBI handlers -- required the FBI to share information on informants with other agencies, including federal prosecutors.

The FBI in Washington released a statement yesterday saying that many of the recommendations in Fine's report have already been adopted or are under review as part of a project launched several months ago between the FBI and the Justice Department to revise its Confidential Human Source Program.

The project aims to simplify and standardize administrative procedures, clarify compliance requirements, and improve compliance with the attorney general's informant guidelines, according to the statement.

Delahunt said he will push for legislation that goes even further than the current informant guidelines, to include a provision that requires the FBI to notify state and local law enforcement officials if they learn that an informant is involved in criminal activity.

Retired FBI agent John J. Connolly Jr. was convicted in US District Court in Boston in May 2002 of racketeering, obstruction of justice, and related charges for warning his longtime informants, Bulger and Flemmi, to flee just before they were indicted on federal racketeering charges in January 1995. Bulger, who has since been charged with killing 19 people, remains a fugitive.

Connolly, who was sentenced to 10 years in prison on the federal charges, was indicted earlier this year on state murder charges in Miami in allegedly plotting with Bulger and Flemmi in 1982 to kill a potential witness against them, John Callahan, a Boston financier with ties to Bulger's gang. Connolly is awaiting trial.

Flemmi, who pleaded guilty to killing 10 people and is serving a life sentence, is now cooperating with the government and is slated to testify against Connolly in Florida.

The FBI's relationship with Bulger and Flemmi was exposed during pretrial hearings in US District Court in 1998, which led to Congressional hearings and the overhaul of the informant guidelines.

Former US attorney Donald K. Stern, who helped US Attorney General Janet Reno revamp the older guidelines, said yesterday he was disappointed by the number of violations cited in the report by Fine, the Justice Department's internal watchdog. "It was clear from the efforts to get the guidelines changed that this was to some degree a significant shift in attitude and culture that would be required at the FBI," Stern said, "because for so long the handling of informants was their domain, and they didn't have to share the responsibility or get any oversight outside."

But he said it is important to give the FBI the training and oversight it needs to comply with the guidelines because the previous system did not work.

"If you just assume that everything is OK because the line agent or the immediate supervisor says it is, you're going to have problems," Stern said. "And as we've learned from the Bulger and Flemmi case, those problems could have disastrous consequences."

F.B.I. Found To Violate Its Informant Rules (NYT)

By Eric Lichtblau

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 - The Federal Bureau of Investigation has often violated internal guidelines in its handling of confidential informants, the Justice Department's inspector general concluded Monday.

In nearly 9 of every 10 cases reviewed by the inspector general, guidelines on the handling of confidential informants were violated in ways that risked compromising investigations, according to a 301-page report by the office of Glenn A. Fine, the inspector general at the Justice Department.

The guidelines sometimes permit informants like drug dealers or gang members to commit crimes to further an investigation. But F.B.I. agents sometimes allowed criminal informants to engage in criminal activities without getting needed approval from supervisors or lawyers for such operations, failed to report unauthorized illegal activity, or approved such illegal activity only retroactively, the review found.

Bureau supervisors were often unfamiliar with the rules that applied to the handling of confidential informants - a reflection, the inspector general's report said, of "inadequate training at every level." And when violations were found, bureau agents and supervisors were often not held accountable for missteps, the review found.

The F.B.I. considers the use of confidential informants, who often have criminal ties, to be critical to its ability to penetrate drug trafficking organizations, gangs, gambling operations and terrorist circles.

In 2001, Janet Reno, then the attorney general, imposed toughened requirements on the F.B.I.'s use of informants in the wake of several embarrassing episodes - most notably, its handling of the Boston gangster James Bulger, who fled in 1995 after a bureau agent tipped him off to a pending indictment against him.

In May 2002, John Ashcroft, then the attorney general, amended the informant rules as part of a broader restructuring of F.B.I. policies aimed at allowing agents to respond more quickly and flexibly to leads in terrorism and criminal investigations.

The F.B.I. said Monday in response to the inspector general's report that it was working to improve compliance with guidelines for the handling of confidential informants and had already moved to make some internal changes recommended by Mr. Fine's office. Part of the problem, F.B.I. officials acknowledged, was the bureau's continued difficulty in building a modern computer system to help oversee the informant program and ensure better compliance.

"Even before the inspector general's review, we realized that we had to do some re-engineering of our whole human source program," Kevin R. Brock, an assistant F.B.I. director who oversees the program, said in an interview. "We were handling more and more sources, we had more and more regulations that we added on over the years, and we weren't doing the follow-up quality control on our own."

The constant flux "just created a situation where it was tough for the working agent to keep track of all this stuff," Mr. Brock said.

"Agents are failing to do certain things not because of mal-intent but just the press of administrative requirements, and overlooking them," he said.

Beyond the problems in managing confidential informants, the inspector general's review looked at the effect of a number of changes ordered by Mr. Ashcroft in his 2002 revamping of the bureau's investigative guidelines. Among other changes, the new guidelines allowed F.B.I. agents to visit public sites and events, attend mosques and other religious institutions, or peruse the Internet in search of leads in terrorism cases.

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The changes relaxed restrictions put in place in the 1970's as a result of F.B.I. abuses in the monitoring of political dissidents, and they have drawn criticism from civil rights advocates and Muslim leaders who say they open the door to investigative abuses.

Critics charged last year that the F.B.I. had abused its expanded powers by monitoring, interviewing and sometimes subpoenaing antiwar protesters and political protesters in advance of the political conventions last summer. The inspector general's office disclosed in its report Monday that it was conducting a separate investigation to determine whether the F.B.I. interrogations of protesters were in fact improper.

The inspector general's review found that there was "widespread recognition" among F.B.I. agents and officials of the constitutional and privacy implications of expanding the bureau's ability to monitor public sites. But the review found that there were "gaps" in how the new policy had been put into effect, raising management concerns.

For instance, agents are "encouraged, but not required" to get the approval of a supervisor before attending a public event or site. And it was not always clear what information the F.B.I. could retain if it did not relate to an investigation.

As a result, "an absence of routine documentation" made it difficult if not impossible to assess how agents were using their new powers and whether those powers were being abused, the report said.

Robert S. Mueller III, director of the F.B.I., told the inspector general's office that because agents were not required to get supervisors' approval before visiting public sites, it was "difficult to determine to what extent these authorities have been used," the inspector general's office said. It called on the F.B.I. to consider requiring approval from supervisors and more documentation of public visits to guard against possible abuses.

FBI Hit In Handling Of Secret Informers (WT)

By Jerry Seper

The Washington Times, September 13, 2005

Guidelines governing the FBI's handling of confidential informants, which were established in the 1970s and revised in the wake of September 11, are violated frequently by supervisors and agents, according to a report released yesterday.

The Justice Department's Office of Inspector General, in a 301-page report, said it found "significant non-compliance" by the FBI in its handling of confidential informants.

"The attorney general's investigative guidelines govern some of the FBI's most important investigative powers, including its authority to operate confidential informants," said Inspector General Glenn A. Fine. "Our review found several significant shortcomings in the FBI's adherence to the guidelines which need correction, particularly the guidelines governing its use of confidential informants."

The report says the guidelines were violated in 87 percent of the confidential-informant cases examined and that errors occurred in several of the most important aspects of the FBI's management of its criminal-informant program, including reviews aimed at assessing the suitability of people who serve as informants.

It says instructions FBI agents are required to give confidential informants were not followed in 49 percent of the reviewed cases, and the agency's use of its power to authorize confidential informants to participate in "otherwise illegal activity" showed a noncompliance rate of 60 percent.

"Guidelines violations can jeopardize Justice Department prosecutions of criminals and can also lead to civil liability claims against the government," Mr. Fine said. "We are concerned the FBI has not taken the necessary steps to ensure that FBI agents and their supervisors adhere to these important requirements."

The FBI yesterday said that although the report listed several instances of administrative noncompliance, it found that the bureau was "generally compliant with the guidelines."

Noting that confidential informants are critical to the bureau's ability to carry out its "counterterrorism, national security and criminal law-enforcement missions," the FBI said it began a project several months ago to review and revise its confidential-informant program.

FBI spokesman Edwin C. Cogswell said the review seeks to develop policies and processes to simplify and standardize administrative procedures and to clarify and improve compliance requirements.

The Justice Department set the guidelines in the 1970s in response to FBI's surveillance and infiltration of civil rights groups. The guidelines address the bureau's investigations of people and groups, its use of confidential informants, undercover operations and warrantless monitoring of verbal communications. After the September 11 attacks, Attorney General John Ashcroft ordered a review of the guidelines to identify revisions necessary to enhance the department's ability to prevent terrorist attacks.

The revised guidelines gave FBI field managers greater authority to conduct preliminary inquiries, criminal intelligence investigations and undercover operations.

FBI Watchdog Report: Agents Often Break Rules For Informants (USAT)

USA Today, September 13, 2005

FBI agents often violate the bureau's rules for handling confidential informants, the Justice Department's internal watchdog said Monday.

The report by Inspector General Glenn Fine said agents failed to assess informants' suitability or get permission for informants to engage in activity that otherwise would be illegal. Agents did not convey proper instructions or tell prosecutors when informants had committed crimes that were not authorized by their FBI handlers, Fine said.

The report was based on a review of 120 confidential informant files from FBI offices. Fine found violations in 87% of the files, or 104 cases. The report quoted FBI Director Robert Mueller as saying many agents find the required paperwork cumbersome.

The FBI said in a statement that the violations were "administrative" and that officials have begun simplifying procedures.

Among the material in the report that was withheld from the public is how many confidential informants the FBI uses. Some informants are doctors, lawyers, clergy or members of the news media, the report said.

The guidelines on informants were overhauled in 2001 after cases in which FBI agents protected mobsters from prosecution or tipped them off to investigations while using them as FBI informants.

Rumsfeld touts base-closing savings

Defense Secretary Donald Rumsfeld has advised President Bush that a plan presented to the White House last week for closing 22 major military bases and realigning 33 others will still yield large savings, even though fewer bases would be closed than Rumsfeld wanted, his spokesman said. Lawrence Di Rita would not say whether Rumsfeld recommended that Bush accept the plan as presented by the Base Realignment and Closure Commission.

The commission said its recommendations will result in annual savings of $4.2 billion, compared with $5.4 billion under the plan it received last May from Rumsfeld. Rumsfeld had recommended closing 33 major bases and realigning 29 others.

Bush has until Sept. 23 to accept the report and forward it to Congress or return it to the commission for more work. If sent to Congress, lawmakers can accept or reject the plan, but can't change it.

ABOUT THIS STORY (TSSC)

The State (SC), September 13, 2005

More than 800 pages of the late Strom Thurmond's FBI file were released Monday at the request of several news organizations, including The State. The first 600 came out in March.

The State requested the file of the former U.S. senator, governor and judge in accordance with the federal Freedom of Information Act shortly after the senator's June 26, 2003, death.

The first 600 pages are called the "general administrative file" and comprise only a fraction of Thurmond's total file. The 800 pages just released deal mainly with threats made against Thurmond throughout his public life.

According to the FBI, about 900 more pages are yet to be released.

As is typical with the FBI and Monday's release, it might take several more months before these additional pages are made available to the public.

Before a subject's death, the Federal Bureau of Investigation will release a file only with the subject's permission. FBI files are made available to the public after an individual's death.

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FBI Investigated Many Death Threats Against Thurmond (TSSC)

The State (SC), September 13, 2005

For a half century, Strom Thurmond was a Southern icon and a national figure. His longevity — serving as a U.S. senator from 1956 to 2003 — exposed him to at least 31 threats that the FBI investigated. The threats ranged from the serious — a threat to assassinate Thurmond the same year that Robert Kennedy and Martin Luther King Jr. were killed — to the ravings of a "chronic letter writer with apparent mental problems," the FBI reported.

'WE AIN'T LETTIN' NOBODY TALK AGAINST MR. WALLACE'

On Sept. 7, 1968, U.S. Sen. Strom Thurmond's office received an anonymous phone call from a man, threatening to kill the senator if he came to Greenville to campaign against Alabama Gov. George Wallace, then running as a third-party presidential candidate.

"If Strom Thurmond comes to the state fair in Greenville on 9/26/68, he will get the same thing that happened to Kennedy and King," the caller said, referring to U.S. Sen. Robert Kennedy and civil rights leader Martin Luther King, both slain that year.

The senator's secretary received a call a week later from the same anonymous caller, warning "if she brought Thurmond to the state fair, she would also get it."

At the time, Thurmond was traveling the South campaigning for GOP presidential nominee Richard Nixon. He told Southerners a vote for Wallace would, in effect, be a vote for Democrat Hubert Humphrey. Don't waste your vote, he constantly admonished Dixie voters.

On the evening of Sept. 7, 1968, the senator's secretary received a call from the same perons who had phoned earlier. He asked if Thurmond was going to speak at the Anderson fair. She said he was.

"If he doesn't want the same thing to happen to him that happened to Bobby and King, he better not come 'cause we ain't lettin' nobody talk against Mr. Wallace. I'm warning ya'."

Thurmond spoke. Nothing happened. No arrests were made in connection with the threats.

THREAT TO KILL STROM, TED, TOO

On March 31, 1969, Thurmond received a postcard postmarked St. Louis, Mo. It bore a handwritten message, saying the writer planned to kill the senator.

The postcard was followed by another. This time, the name of U.S. Sen. Teddy Kennedy, D-Mass., was added to the list of those to be killed. The same card was sent to President Nixon, former President Johnson and the governor of Vermont.

A fictitious name, Janice Neavles, was signed to the cards. No arrests were made.

'CHRONIC LETTER WRITER WITH ... MENTAL PROBLEM'

In April 1973, the U.S. probation office in Panama City, Fla., forwarded to the FBI a packet of mailed and unmailed notes and cards. One postcard, addressed to Thurmond, contained this cryptic line: "Senator, we hear you are next to be processed."

The probation office had been investigating a crank letter writer in Alabama.

The FBI sent an agent to interview the man, whose name was deleted from the FBI documents. A report on that interview noted, "Subject was hostile and it was apparent from talk and facial expression he has mental problems."

The man's brother told the FBI the letter writer was a paratrooper in World War II, who parachuted into France, was captured by the Germans and developed mental problems.

The FBI took no action. "Subject is chronic letter writer with apparent mental problem," a file memo said.

'WE'LL HANG YOU BY YOUR TOES'

In February 1974, Thurmond's office received a two-page letter that hit close to home.

The letter started out by praising Thurmond for being smart enough to have made a "pile of money" but soon devolved into a profanity-laced diatribe against Thurmond.

After wishing cancer on the entire Thurmond family, the letter concludes with "long live the future revolution — we'll hang you by your toes and your kids too."

The letter was sent from Myrtle Beach and signed "a Revolutionary." The FBI investigated, but it is not clear whether the agency ever identified the sender.

SENATOR'S NAME BANDIED ABOUT IN LAWSUIT

In 1983, Thurmond was sued in U.S. District Court in Norfolk. The suit alleged the senator took a $10,000 bribe in 1978, promising to help the plaintiff in the lawsuit get a $50,000 loan.

The file, heavily redacted, indicates a citizen visited Thurmond's Columbia office in mid- 1978, seeking help. A Thurmond aide, whose name also was removed from the file, allegedly assured the inquiring citizen that Thurmond would recommend him or her for a loan through an unnamed agency. However, the 1983 suit contended the citizen was not eligible for the particular loan.

Federal investigations into the matter started in 1982. However, the FBI file noted there was no proof Thurmond knew anything about the case. Thurmond and others were sued in early 1983.

A federal grand jury in Virginia issued a six-count indictment, and an arrest in the case was made Feb. 17, 1983.

In late 1983, the civil charges against Thurmond were dismissed, according to the file.

THREAT AGAINST BURGER, MEESE AND THURMOND?

In April 1983, police in Raleigh arrested a man for possession of stolen credit cards and credit card fraud.

At the time of his arrest, police noted his personal effects: less than a $1 in cash and a handwritten journal that seemed to vaguely threaten some of the most powerful men in the U.S. government, including Thurmond.

In 1983, Thurmond was Senate president pro tempore and chairman of its Judiciary Committee, which reviewed and voted on judicial and law enforcement appointees.

The FBI file detailing the arrest of the unidentified man in Raleigh makes only a passing reference to how much he knew about Thurmond. The journal included handwritten notations claiming the arrested man had traveled extensively throughout the U.S., acquiring weapons and financial backing for an unnamed organization. According to the man's journal, the purpose of the organization was to free selected federal prisoners and "eliminate" selected snitches.

Of particular interest to federal law enforcement officials was a cryptic journal entry from April 3, 1983. "The plan will start in early May ('83)," the entry reads. "All logistics for those on the list are being put together by group in D.C. i.e. time table (sic) of movement by targets, addresses, travel patterns, etc."

The entry goes on to state: "Meese, Burger and Thurmond pose greatest problem because of positions via security. Weapons and transportation are arranged."

Warren Burger was then chief justice of the U.S. Supreme Court; Edwin Meese was counselor to President Ronald Reagan.

U.S. Secret Service agents, believing the arrested man to be a possible threat to the president, attempted to interview him April 19, 1983, but he refused.

Thurmond's security officers in South Carolina and Washington, D.C., were alerted.

In one journal entry, the arrested man noted one difficulty in pulling off whatever plan was afoot: "The handicap will be me," the journal states. "I am to (sic) well known in D.C., both by citizens and by Feds particularly."

FBI files do not say whether the man was prosecuted. But as he sat in a Wake County, N.C., jail, federal and state law enforcement officials were working to find out what he was up to and what, if anything, was to come of his plan.

— Lee Bandy, Roddie Burris, John Monk, Jeff Stensland, Wayne Washington

Some Put Thurmond In The Cross Hairs (TSSC)

By Lauren Markoe

The State (SC), September 13, 2005

WASHINGTON — The late Strom Thurmond made plenty of political enemies over his long and controversial career — including the kind the FBI feared might try to kill him.

The FBI on Monday released 836 pages of its file on Thurmond, pages that show the S.C. Democrat-turned-Republican was the target of persistent harassers, from the merely disgruntled to the potentially lethal.

The documents cover most of Thurmond's record-setting 48 years in the U.S. Senate and include information on FBI investigations into:

• An S.C. man with a history of violence who had escaped from a state mental hospital

• A Columbia man who wrote to "our dear senator" and promised to come to Washington or South Carolina and "settle it once and for all"

• A lewd letter in which the writer acknowledged an obsession with Nancy Thurmond, the senator's wife.

The documents are windows into some of the more unpleasant aspects of political fame and include copies of threatening telegrams, results of handwriting tests and summaries of interviews with suspects.

One of the threats taken most seriously by the FBI involved a man who, in 1976, wrote letters to Thurmond, postmarked from Greenville, in which he said he despised Thurmond and his politics.

"I would give my cool seat in hell to be able to pull the trigger," the man wrote.

He signed the letter, "A $65 month disable combat vet," apparently referring to the size of his monthly checks from the Veterans Administration, now known as Veterans Affairs.

In a document distributed to the FBI director at the time, an agent advises, "The Bureau has instructed that his (sic) matter must receive vigorous and continuous attention until fully resolved."

Other documents show the FBI had the Veterans Administration write a computer program to help identify a World War II veteran from the Upstate with certain characteristics the letter writer revealed about himself.

It is unclear how the investigation was resolved.

The State, which requested Thurmond's FBI file after the senator died in 2003, counted 31 threats investigated from 1958 to 1989, the years covered in the released pages. They make up the second installment of Thurmond's FBI file to be made public.

The first installment, released in February, was smaller but more wide-ranging in its subject matter. It included everything from Christmas cards FBI officials sent to Thurmond to Thurmond's requests that the FBI look into civil rights leader Martin Luther King's alleged connection with communists.

This latest release focuses only on contact with Thurmond's office deemed menacing — first by the senator's staff, usually the first to read his mail and receive his calls, and then by the FBI, which assigned agents to investigate.

The documents do not indicate that any of the threats resulted in prosecutions.

The threats came from men and women, whites and blacks, the political and seemingly apolitical. Most did not articulate a particular problem with Thurmond's politics.

Some investigations are marked "EXTORTION" by the FBI, but none refers to his biracial daughter, Essie Mae Washington-Williams, whom Thurmond never acknowledged as his child. (Washington-Williams revealed herself to be the senator's daughter after his death.)

Often the FBI identified the threat maker as mentally ill.

S.C. Law Enforcement Division chief Robert M. Stewart, who was personally involved in protecting Thurmond when he was in South Carolina, said SLED agents were with the senator whenever he was in the state.

"We had more threats against Senator Thurmond than any other official that we provided security for, and I would think that would be because of his long years of service and the many issues he dealt with," Stewart said.

Frequently, Stewart continued, SLED had to handle threats from the mentally ill. "There were at least two or three people whose names would repeatedly come up."

Stewart said behavioral scientists and psychologists working for SLED would help identify those who made truly credible threats; often the most threatening were committed or recommitted to mental hospitals.

"You have to take those threats very seriously," said Stewart, noting several mentally ill people have carried out threats against politicians, including John Hinckley, who shot President Reagan in 1981.

Stewart said he has no knowledge of any person ever getting close to hurting the senator while he was in South Carolina.

Thurmond, known for his bravado, tried to minimize threats brought to his attention, Stewart recalled. "He wasn't scared of anybody. None of these things bothered him. But he did allow us to take extra precautions."

Mark Goodin, a senior aide to Thurmond from 1982 to 1988, said the number of threats against Thurmond was about average among U.S. senators. "Most received several a year. They're all taken seriously by the FBI."

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Goodin remembered “one or two” Thurmond received that seemed scarier than most. But the senator never altered his schedule.

“Getting Strom Thurmond to cancel an appearance would have taken an act of Congress.”

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Report: FBI Lacks Blueprint For Technology Upgrade (GOVEXEC)

By Daniel Pulliam

Government Executive, September 13, 2005

Despite past warnings from congressional auditors, the FBI does not have an effective framework for modernizing its information technology systems, according to a new report.

The Government Accountability Office report (GAO-05-363) argued that the FBI needs to continue to move towards a fully enforced enterprise architecture, a blueprint used by organizations to guide IT system improvements.

The 47-page report also found that the bureau's heavy reliance on private contractors to develop the IT framework was hampered because the FBI does not use performance-based contracting techniques and has failed to effectively oversee the contractors' work.

The FBI's computer systems are based primarily on 1980s technology, and realigning the bureau's mission after the Sept. 11, 2001, terrorist attacks, have strained its IT systems, which are "deployed on an ad hoc basis," according to the report.

Currently, the FBI is undertaking a multimillion-dollar IT modernization effort. More than half of the bureau's IT budget - $390 million out of $737 million - is being spent on upgrading its 450 U.S.-based offices and 45 foreign bureaus.

The FBI has struggled to modernize its systems, a situation highlighted by the failed $170 million Virtual Case File System.

GAO investigators laid the framework for their criticism of the FBI's failure to establish an enterprise architecture in a September 2003 report (GAO-03-959).

Of the 31 elements GAO used at the time to evaluate the quality of an agency's enterprise architecture, the FBI satisfied only 15. While some best practices have been incorporated since that time, several have yet to be adopted.

"If the bureau does not begin employing the kind of effective contract management controls contained in federal regulations and related guidance, its architecture efforts will continue to be at risk," GAO auditors said.

The FBI's heavy reliance on private contractors for the development of its IT blueprint is partly to blame for the ineffective IT architecture, the report stated. GAO found that contracted work for the enterprise architecture was not defined in measurable, results-oriented terms, and specific standards and performance incentives were not tied to contracts' requirements.

FBI officials told GAO that the bureau's approach to IT contacting was based on the concept of working with the contractor until the product or service is satisfactory, a method GAO termed ineffective.

GAO recommended that the FBI's chief information officer and chief financial officer implement performance-based contracting wherever possible, along with stronger tracking and oversight practices.

In response, Zalmai Azmi, the FBI's chief information officer, wrote that the bureau has been successful in using fixed-price contracting, rather than the performance-based contracting, because the approach gives contractors an incentive to stay on schedule. But, he said, the FBI would take steps to encourage performance-based contracting.

Guilty Pleas In Two Southwest Louisiana Cocaine Rings (AP)

AP, September 13, 2005

LAFAYETTE, La. (AP) — Three men pleaded guilty Monday to being members of a cocaine distribution ring that operated over 16 years.

Nathan Campbell, 24, and Aubrey Howard, 29, pleaded guilty to conspiracy to possess and distribute cocaine, while Tevin Bennett, 18, pleaded guilty to possession of cocaine with intent to sell, the U.S. Attorney's Office said Monday. A sentencing date has not been set.

The three Lafayette men, along with six others, were arrested in December 2003 based on charges outlined in a federal indictment.

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Campbell and Howard conspired with others to sell cocaine in St. Mary Parish as part of a drug ring that operated between January 1987 and October 2003, prosecutors said. Christopher Williams, 36, of Morgan City, awaits trial in the case.

In a separate case, Derrick Alexander, of Lake Charles, pleaded guilty last week to using a cellular phone to facilitate cocaine sales at a playground.

Truce Between Bolivian Troops, Coca Growers Set To Expire (GFH/KRT)

By Jack Chang

The Grand Forks Herald, September 13, 2005

EL CHAPARE, Bolivia - (KRT) - From his quiet corner of Bolivia's Chapare region, Egberto Chipana recalled the day three years ago when government soldiers invaded the radio station he now manages because it was championing the cause of farmers who grow coca, the plant whose leaves are the raw material for cocaine.

On that Tuesday, with battles raging between growers and troops, the soldiers seized the station's transmitter, and its directors were threatened with prosecution for instigating unrest. Growers responded by blocking roads and staging protests, demanding that the station be reopened.

"The government eventually returned everything," Chipana said on a recent sweltering afternoon. Drying coca leaves covered the earth outside the station building. "The outcry was too great, and the government couldn't ignore it."

The Chapare, a tropical region of mountain and plain in central Bolivia, has been a battleground for the past decade between coca growers and government troops.

Sometimes the face-off has had deadly results, but an uneasy peace now prevails, thanks to a one-year truce signed by growers and the administration of since-ousted President Carlos Mesa that allows limited cultivation of coca.

But with the agreement officially set to end Oct. 1 and Bolivians scheduled to elect a new president in December, these could be the last days of peace, some Chapare residents fear.

"If the government doesn't respect our right to determine our own livelihood, we will organize and we will fight," said Gabina Contreras, a 54-year-old mother of 11 from the growers' collective Sindicato Esteban Arce, named for a Bolivian independence hero.

"Coca is like father and mother to us. We can't live without coca."

Despite the truce, U.S. and Bolivian officials say this Andean nation's laws forbid the cultivation of coca and allege that coca grown in the Chapare is ending up as cocaine elsewhere in the Americas.

According to the U.S. State Department, Bolivia is the world's third-largest producer of cocaine. The United States has poured more than $150 million in military and social aid into the country annually over the past four years, in part to fight coca cultivation.

Although eradication of coca in excess of that permitted by the truce continues, the days of widespread military action against coca growers is halted for now, said Luz Mendoza, a spokeswoman for the country's Ministry of Social Defense.

So far this year, the government has destroyed about 16 square miles of coca nationwide, almost all of it in the Chapare, government figures show. In comparison, it eradicated about 46 square miles during all of 2002, nearly half of the 110 square miles believed under cultivation.

"We have a temporary situation there now," she said. "People who are directly involved in the planting of coca are still disobeying laws, and we're not going to ignore that."

Kathryn Ledebur, director of the human rights group the Andean Information Network, sees the coca issue heating up as the election approaches.

Presidential candidates Evo Morales, himself a coca grower, and former President Jorge "Tuto" Quiroga, who oversaw the country's coca eradication effort in 2001 and 2002, were running neck-and-neck in a recent poll.

Morales has said in interviews that he plans to promote the growth of coca for industrial uses other than cocaine production. As one of the country's main coca-producing areas, the Chapare is also the heart of Morales' political support.

Quiroga has been a longtime champion of coca eradication and the development of programs that promote the cultivation of crops such as bananas and oranges in its place.

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"Both of the key players in this election built their platforms on the coca issue," Ledebur said.

While forced eradication has slowed in the Chapare, evidence of the drug war is still everywhere in this impoverished, 9,840 square-mile region, where about 45,000 families survive by growing the controversial crop.

Just to get into the Chapare requires going through a series of U.S.-funded checkpoints all manned with drug sniffing dogs and armed soldiers.

At least 4,000 Bolivian troops remain in the Chapare, nearly the same number as were there nearing the peak of the eradication campaign. They are stationed in six local headquarters and 15 mobile bases, according to Godofredo Reinicke, the region's former human rights ombudsman and one of those who believe that the U.S. influence in the drug war is a slap at Bolivian sovereignty.

Coca growers have countered the government presence by strengthening the federations and smaller collectives they have long lived under, allowing them to quickly mobilize in response to military actions.

Growers argue that they cultivate and use coca for traditional purposes such as tea making and chewing to stave off hunger while working.

Selling the crop in government-approved markets, a family working the maximum area of coca crop permitted by the truce can earn between $60 and $80 a month, Ledebur estimated.

Where the coca goes after the markets, however, is a question growers don't have answers for.

"We are just following the legal procedures," Chipana said. "Maybe some of the coca is going to drug production, but that's out of our control."

Jorge Azad, the country's vice-minister of alternative development, said he believes much of it is going to drug production. The amount of coca coming out of the Chapare far exceeds what's needed for traditional use, a fact that demands government action, he said.

"The eradication campaign will continue," Azad said. "I don't know if it will widen after the elections or what will happen, but it will continue."

'Ganja Guru' Appeal Set After Delay (ATS)

By Josh Richman, STAFF WRITER

Alameda (CA) Times-Star, September 13, 2005

More than two years after being convicted and sentenced for growing marijuana, Oakland's self-styled "Guru of Ganja" will make his appeal Tuesday for why even a slap on the wrist was too much.

Ed Rosenthal, a renowned pro-marijuana author, activist and cultivation authority, claims he never should have been convicted of three marijuana-growing felonies. The government claims he not only deserved conviction, but he also deserved at least two to five years in prison instead of his one-day, time-already-served sentence.

Three judges of the 9th U.S. Circuit Court of Appeals will decide sometime in the few months after Tuesday's arguments.

Rosenthal — famed for his books and for the "Ask Ed" column he wrote for "High Times" magazine — became a medical-marijuana cause celebre after his February 2002 arrest. Drug Enforcement Administration agents raided sites including his Oakland home office; an Oakland warehouse where he'd been growing marijuana; San Francisco's Harm Reduction Center medical marijuana club, which he'd supplied; and the HRC's founder's Petaluma home.

After a five-day trial, a federal jury convicted Rosenthal on Jan. 31, 2003, of three marijuana-growing felonies. Upon learning afterward of the state and city protections Rosenthal had not been allowed to raise as a defense, several jurors renounced their verdict and rallied to his cause. U.S. District Judge Charles Breyer sentenced Rosenthal on June 4, 2003, to one day in prison.

On appeal, Rosenthal basically claims Breyer erred by not letting him mount an "entrapment-by-estoppel" defense —that is, that local and federal officials had led him to believe his conduct was protected under California's 1996 compassionate-use law and by an Oakland ordinance under which he was deemed an city officer permitted to grow marijuana.

Light sentence explained

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In fact, the appeal notes that at Rosenthal's sentencing, Breyer said he believed Rosenthal reasonably — although incorrectly — thought the state and local laws immunized him; the judge used this as an explanation for the lighter-than-normal sentence.

The appeal also claims:

-Federal prosecutor George Bevan committed misconduct by falsely telling the grand jury that later indicted Rosenthal that federal agencies were not aiming to shut down medical marijuana clubs;

-Rosenthal wasn't allowed to rebut the government's claims that he grew the marijuana for profit;

-Two jurors committed misconduct by voting to convict based in part on an attorney-friend's advice not to stray from the judge's instructions;

-Breyer erred by instructing the jury it could not bring its "sense of justice" to bear on this case; and

-Breyer erred by refusing to exclude evidence from the Oakland warehouse based on Rosenthal's claim that the warrant lacked probable cause.

The government not only disputes all of these claims but is seeking a harsher sentence of at least two to five years in prison.

Advertisement

Government's brief

Even if the city of Oakland approved of and encouraged his conduct, the government's brief says, a "one-day sentence for a defendant who has been a sophisticated marijuana cultivator for more than four years is simply indefensible in light of Congress' clear intent to treat marijuana cultivation as a serious offense, regardless of the use to which the marijuana is put."

Breyer's enormous departure from sentencing guidelines "was an abuse of judicial discretion and the case should be remanded for resentencing," the brief concludes.

Rosenthal's case was on hold for many months as the appeals court awaited the U.S. Supreme Court's decision in Gonzales v. Raich, another Oakland-based case aimed at halting federal prosecution of medical marijuana patients and caregivers.

That case's plaintiffs had argued the Constitution's commerce clause lets Congress regulate only interstate commerce, and that Californians' medical marijuana use neither crosses state lines nor involves money changing hands. That would mean the Controlled Substances Act's marijuana ban oversteps Congress' authority, and so shouldn't be used to prosecute patients and caregivers.

But in a 6-3 ruling in June, the Supreme Court essentially concluded that even marijuana grown in back yards for personal, medical use can affect or contribute to the illegal interstate market for marijuana, and so is within Congress' constitutional reach. Once the federal government was cleared to arrest and prosecute patients and caregivers, Rosenthal's appeal began moving forward again.

Circuit Judges Betty Fletcher, Marsha Berzon and John Gibson will hear Rosenthal's appeal.

Varied backgrounds

Fletcher is a 1979 Carter appointee and former Seattle attorney with a liberal reputation. Berzon is a 1999 Clinton appointee who, after clerking for outspoken liberal U.S. Supreme Court Justice William Brennan, spent most of her career in private practice in San Francisco. And Gibson, "on loan" from the 8th Circuit appeals court, was a Kansas City attorney before being nominated to the federal bench in 1981 and the circuit court in 1982 by President Reagan.

"We think it's a panel that will be fair and carefully consider the claims," said Dennis Riordan, one of Rosenthal's attorneys.

Afghan Opium Prices Down Sharply Since 2001, U.N. Report Says (AP)

By GEORGE GEDDA, Associated Press

AP, September 13, 2005

WASHINGTON - Favorable opium harvests in Afghanistan have led to a sharp drop in prices since the U.S. military forced the Taliban regime from power in 2001, according to a United Nations report.

The Taliban imposed a ban on opium cultivation in 2000, triggering an eight-fold price increase to $675 per kilogram in late 2001, the U.N. report said.

Since then good harvests coupled with improved yields dropped the price to $151 as of this past July, the study said.

The report was outlined at a new conference by the U.N.'s anti-drug chief, Antonio Maria Costa. It will be presented to the House Committee on International Relations on Tuesday.

Opium is the raw material from which heroin is derived.

A crackdown on poppy farming by the Afghan government with U.S., British and other outside help led to a 21 percent decline in the area of Afghanistan under poppy cultivation, Costa said.

But production remained almost unchanged because of optimum growing conditions, he added.

He said there has been a sharp increase in opium production in the northern Afghan province of Balkh. Costa linked the increase to the appointment of Gen. Atta Mohammed as governor last year and said he has urged President Hamid Karzai to replace Atta.

A separate report listed "removal of corrupt governors" among six initiatives the Afghan government should take over the next 12 to 24 months to build on improvements in the anti-drug campaign to date.

Other points Costa made:

_Afghanistan accounts for 87 percent of world opium production, down 3 percent from last year.

_The opium economy is netting traffickers $2.14 billion in 2005, about 41 percent of Afghanistan's gross national product, a 7 percent decline from last year.

_The death toll from Afghan opiate overdoses, mostly by Europeans, is estimated at 10,000 annually. About 100,000 others died from sickness related to heroin use.

Editorial: Battling The Meth `epidemic' (CHIT)

Chicago Tribune, September 13, 2005

The summer began with a controversy over a new government anti-marijuana campaign that re-ignited a long-smoldering debate about the dangers of pot. It ended with a dust-up over methamphetamine, a potent and addictive drug also known as meth or crystal meth.

A Newsweek cover breathlessly called meth "America's Most Dangerous Drug" and warned of an "epidemic" that will soon be spreading to Your Town, if it's not already there. Meth is being called a "plague" by some drug officials and likened to a forest fire sweeping the country. A recent survey of 500 sheriffs' departments in 45 states labeled meth the No. 1 scourge. Some in Congress are accusing the White House of largely ignoring meth to focus on battling marijuana.

All of that has prompted some critics to cry "hype," suspecting that the meth epidemic is a transparent ploy by law enforcement to drum up more federal money.

A dose of skepticism is warranted here.

"Epidemic" implies that meth has swamped the country. That is not true. If you're a Drug Enforcement Administration agent in San Diego or Phoenix, the term is apt. But it's not if you're in Chicago. Cocaine and heroin are much bigger problems here, a DEA agent said. That's also true of many Northeastern cities, where meth remains a minor player.

But meth, sometimes called "poor man's cocaine," is popular and spreading.

There's no dispute about the perils of meth. Everyone agrees it's bad stuff. Like any other dangerous drug, meth can kill. It destroys lives. It's an insidious, highly addictive drug that can be smoked, snorted or injected. Users get an intense jolt of energy that often tips into paranoia and insomnia. In some, it stokes violent rages. Side effects include convulsions, stroke and cardiac arrhythmia. As we said, this is bad stuff. It doesn't need to be hyped.

The question being debated in Washington now is how much of America's drug-fighting resources should be focused on meth, as opposed to marijuana, cocaine and other, more widely used drugs. In 2003, for example, an estimated 25 million people used marijuana, 5.9 million used cocaine and crack and 1.3 million used meth.

The White House has favored targeting marijuana as Drug Enemy No. 1, because of its widespread use and because it's considered a gateway for young people toward more serious drug use.

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The targeting of marijuana as a gateway drug traces back several administrations. There is growing skepticism about the theory, however, buttressed by more recent research. The notion that youngster's marijuana use will translate into use of harder drugs later is proving to be simplistic at best. And allocating the lion's share of resources by measuring the number of drug users may not be the most effective strategy.

The nation can't focus on fighting one drug to the near-exclusion of all others. Officials must take into account the ripple effects of a drug's damage--that is, not just the health costs for addicts and users, but also costs to cities and neighborhoods in crime, violence and sundered families.

The anti-meth strategy is two-fold.

First, authorities are targeting the makeshift labs where the drug is cooked. They recently boasted of the first nationally coordinated operation, yielding more than 400 arrests in about 200 cities, shutting down 56 labs. Cracking down on meth production in the U.S. is a good idea because those makeshift labs are like toxic waste dumps in a neighborhood. They emit noxious fumes and are highly explosive.

Unfortunately, success in closing such domestic labs won't stop meth. It only means that Mexican cartels pick up the slack. An investigation by The Oregonian newspaper in Portland, Ore., reported that Mexico last year imported nearly twice as much pseudoephedrine--one of the keys to illegal meth production--than is necessary for the production of cold medicine.

The second tactic: Many states, including Illinois, are restricting sales of over-the-counter cold and allergy medicines with ingredients that can be converted into the drug. In Oregon, for instance, you now need a doctor's prescription for such common cold medications as Claritin-D or Sudafed. That's overly burdensome. It is enough to keep some of those products behind the counter, available without a prescription. That's the practice in Illinois. Asking a pharmacist for Sudafed is a small inconvenience that most people will shrug off, particularly if it helps crimp a notorious drug trade.

Atty. Gen. Alberto Gonzales recently declared that meth had overtaken marijuana as the most dangerous drug in America. That's certainly true in many places in this country. And where it isn't, it could be tomorrow. The focus now should be in making sure that meth doesn't become a full-fledged "epidemic."

Man Gets Life Plus 136 Years In D.C.-area Arsons (BSUN)

By Matthew Dolan

The Baltimore Sun, September 13, 2005

GREENBELT -- A law enforcement task force secretly labored for years from a warren of empty laboratories at the Beltsville Agricultural Research Center, chasing more than a thousand dead-end leads trying to catch a serial arsonist before he killed again.

In the end, it was a combination of sheer doggedness, a serendipitous meeting with military officials about DNA evidence from a pair of Marine dress-blues left behind at a fire scene, and an unusually cooperative suspect that cracked the case.

Monday, Thomas A. Sweatt, 50, the once-elusive "firebug" responsible for setting more than 45 fires in Maryland, Virginia and Washington that killed two people was sentenced in federal court to serve the rest of his life in prison.

"It's a relief," said Scott Fulkerson, a special agent from the Bureau of Alcohol, Tobacco Firearms and Explosives' Baltimore field office who was co-leader of the task force that operated for nearly two years.

Sweatt, a former fast-food restaurant manager in Washington who reportedly told authorities he was driven by demons, kept Fulkerson, his co-leader Tom Daley and dozens of investigators from across the state and country puzzled for years.

When he was arrested in April and pleaded guilty in June, he gave it all up. The man who had evaded authorities for months didn't balk when they asked him for a voluntary DNA sample at the KFC restaurant he managed.

He also quickly admitted to a seemingly random set of residential fires that hop-scotched across the Washington region from 2002 until earlier this year.

His attorney described Sweatt as a classic Dr. Jekyl and Mr. Hyde, calling him a good person and victim of an unspecified mental illness.

"Hopefully, he will get the attention and treatment he desperately needs," said Assistant Public Defender John C. Chamble.

But even today, Sweatt's motive remains a mystery.

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He walked into court Monday, his gait unsteady, his eyes hidden behind slightly darkened glasses.

When Sweatt stood to address the court before U.S. District Judge Deborah K. Chasanow sentenced him to life plus roughly 136 years in prison, he spoke clearly in an almost falsetto voice.

"To the victims and the victims' families, I'm very sorry for all of the harm I have caused," he said, leaning toward the microphone.

Sweatt rarely looked at the weeping families, including his own, assembled behind him.

His fires damaged and destroyed homes, displaced residents and killed 89-year-old Annie Brown and 86-year-old Lou Edna Jones, both of Northeast Washington.

"She befriended the lonely and comforted the broken hearted," Jones' daughter Carolyn said of her mother, who died in June 2003. "He is a vicious murderer who single-handedly terrorized Washington."

Like the 2002 Washington-area sniper attacks, the jarring unpredictability of the fires filled residents with fear and frustrated investigators who initially didn't link the blazes.

The fires were set in almost identical ways -- with homemade bombs of plastic one-gallon jugs filled with gasoline, topped with a piece of cloth used as a wick and wrapped in a plastic bag for easy transport.

Investigators described the arsons as diabolical, saying the incendiary devices were often left outside exits to the home.

A fire at a Silver Spring apartment building in 2004 was set in the building's only stairwell and forced some occupants to jump from second- and third-story windows. Most of the fires were set in the middle of the night as people slept.

Sweatt knew his victims were home, once waiting for 15 minutes on a porch before lighting his Molotov cocktail, investigators said.

The fires, which included several in Prince George's and Montgomery counties, spawned an arson task force that began its work in the summer of 2003.

Investigators believed they had found the arsonist's DNA on a hair recovered from the scene of one fire. They matched it to DNA found at other fires. But the team of federal agents and local detectives did not know who it belonged to.

More than 1,000 leads were logged in black binders, checked out through interviews and then, when exhausted, filed on bookshelves in the red-brick Building 308 at the agricultural center.

Evidence found at a fire in Prince George's County included a black plastic bag that had been part of the makeshift Molotov cocktail used to set the blaze. Most of the other bags had been melted down as a result of the arsons.

The lettering read, in part, "MADE IN CHINA FOR CORNELIUS SHOP."

"We only had part of the lettering at first, so we thought it was from a shop in London," Fulkerson said. "The Secret Service tracked down that lead for us before we knew we were wrong."

Instead, they discovered Cornelius Shopping Bags were used by two convenience stores in Washington -- one of the stores they later learned was a block from Sweatt's Lebaum Street home.

So they enlisted the store owners' help. They installed video cameras and taped dime-sized, numbered tags to each one of the store's bags.

That way, Fulkerson said, investigators could track a purchase made by the suspect to a fire-proof metal tag found at the arson scene. It never worked.

In March 2004, one of the most promising developments emerged.

Police arrested a Prince George's County man after he appeared at two schools pretending to be a fire investigator. He was charged with lying to a federal agent.

But hopes were dashed when his fingerprints did not match those found at fire scenes, and he was in jail when the next blaze linked to the serial arsonist was set on April 16, 2004.

As another year wound down, the leads piled up. Then, in December, authorities got the break they needed.

At the scene of a fire set in Arlington County, Va., they found a pair of Marine Corps blue trousers. DNA taken from the waistband was linked to DNA found at other fires.

Sweatt hoped to throw investigators off his trail by planting evidence suggesting a member of the armed services might be involved, according to Fulkerson.

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But at the time, investigators took the lead at face value. They asked the Navy if they could enter their DNA evidence into its database to look for a match.

"It looks great on paper, but they don't keep their data that way," Fulkerson said. At the same time, federal officials said there were plans to scale back the task force because the investigation had not produced an arrest and the fires appeared to have stopped in early 2005.

Feeling despondent, Fulkerson said, investigators heard about an incredible coincidence: 30 months earlier, there had been unsolved car fires at a Marine barracks in Washington. Sweatt had been seen acting suspiciously there, and his name was taken down.

With that, they sought out Sweatt, who provided a DNA sample.

"He gave it to us without a problem," Fulkerson said.

The sample matched DNA from a strand of human hair found at a fire in Washington in September 2003, from fabric of a pant leg found at a Silver Spring fire in February 2004, from an athletic sock found at a D.C. fire last September and from the Marine trousers.

The task force finally disbanded. When he spoke to investigators, Sweatt told them he set so many fires, he was unsure if he could remember them all.

Fulkerson pledged to leave no suspicious fire unsolved.

"The victims we haven't found yet," he said, "they deserve closure too."

Arsonist Apologizes But Does Not Explain (WP)

By Ruben Castaneda And Del Quentin Wilber

The Washington Post, September 13, 2005

Serial arsonist Thomas A. Sweatt offered an apology yesterday as he was sentenced to a life prison term for carrying out a deadly string of fires, but he provided no clue in court about why he spent nearly three years igniting homes where people were sleeping.

It was the first time that Sweatt spoke publicly of the pain he caused by setting 45 houses and apartments on fire throughout the Washington region -- blazes that killed two elderly women and caused millions of dollars in damage. His words rang hollow, according to family members who said they want a motive and explanation.

Having exchanged the orange jail jumpsuit he wore at an earlier court appearance for a dark blue suit, white shirt and dark tie, Sweatt stood and leaned toward a microphone at the federal courthouse in Greenbelt. He turned toward the side of the courtroom where more than a dozen of his victims and their relatives sat.

In a soft voice, Sweatt said: "I'm very sorry for all of the harm that I've caused you. To those who have lost loved ones, I share your hurt, and I share your pain every day."

To anyone who harbors hatred toward him, Sweatt said he would ask God "to replace that hate with understanding." He also apologized to about a dozen members of his own family, some of whom had traveled from Texas and North Carolina to attend the hearing.

Sweatt, a 50-year-old former fast-food restaurant manager from Southeast Washington, pleaded guilty to murder and arson charges in June, less than six weeks after his arrest. His plea agreement with prosecutors called for a life sentence with no chance of parole; the judge yesterday tacked on nearly 136 additional years.

"There's nothing he could say that would be acceptable," said Carolyn Jones, 54, a daughter of Lou Edna Jones, the 86-year-old woman who was killed by the fire Sweatt set at her Northeast Washington home in June 2003. Jones said she left the courtroom as Sweatt stood to speak.

Her mother, known and beloved throughout the neighborhood as "Mama Lou," had lived in the house for 50 years. Jones said she would have liked to see Sweatt receive "the same sentence he gave my mother, the same way he gave it to her."

The other fatal fire was among the first fires that Sweatt admitted setting: a February 2002 blaze that claimed the life of 89-year-old Annie Brown of Northeast Washington. Sweatt admitted to setting fire to 44 more apartments and houses, as well as several vehicles, covering a wide swath of suburban Maryland, the District and Northern Virginia.

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Investigators have quoted Sweatt as saying that he was addicted to setting fires and that he chose targets at random. They said he typically placed a plastic jug filled with gasoline just outside the front door and lighted a cloth wick. Sweatt was a thrill-seeker, authorities said, and sometimes watched from his car as the blaze spread. He knew the residences were occupied, they said, and he kept track of media accounts of the massive hunt for a suspect.

Sweatt's attorney, Assistant Public Defender John C. Chamble, told the judge that Sweatt could not stop setting the fires because he was "laboring under a psychological compulsion." Chamble compared Sweatt to a literary character, the peaceful Dr. Jekyll and murderous Mr. Hyde.

"You had the good Mr. Sweatt and the sick Mr. Sweatt," Chamble said.

In sentencing Sweatt, U.S. District Judge Deborah K. Chasanow told him that any mental health issues "can't in any way justify the actions you took, actions which terrorized a community."

Chamble asked the judge to recommend that Sweatt be placed in a facility where he could receive psychological treatment. Chasanow said she would make the recommendation. Federal prosecutors did not contest Chamble's request.

Sweatt, a former manager at a KFC/Pizza Hut on Bladensburg Road in Northeast Washington, has been jailed since his arrest April 27. Investigators said they tied him to the crimes through DNA evidence recovered at four arsons.

Within hours of his arrest, authorities said, Sweatt confessed.

During a news conference, Maryland U.S. Attorney Rod J. Rosenstein praised the Serial Arson Task Force, which included members of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives and local police and fire department investigators from Maryland, the District and Virginia. He also cited the work of the Naval Criminal Investigative Service, which helped connect DNA from a single strand of hair left at a September 2003 fire scene to Sweatt.

If the task force had not arrested him, "I have no doubt Mr. Sweatt would have set fire to more houses, and more people would have died," Rosenstein said.

Sweatt, of the 500 block of Lebaum Street SE, lived near a convenience store where he may have purchased a few of the jugs used to set fires, authorities said. The KFC/Pizza Hut was near many of the fire scenes, and Sweatt worked a shift that would have allowed him to strike in early morning.

Investigators said yesterday that they were relieved by the quick guilty plea and lengthy sentence. "Everybody had to put everything they had into this," said Tom Daley, an ATF agent and one of the lead investigators, recalling the many twists and turns of the probe.

In an interview at an ATF office in Lanham, Daley, other federal agents and local police and fire officials said the arson probe was the most taxing and complicated serial case they ever worked.

The agents and officers on the task force, which had more than 100 members during its nearly two-year existence, conducted lengthy surveillance details and, day after day, cruised neighborhoods before dawn. Authorities offered a reward of as much as $100,000 for information. Yet they never caught the arsonist in the act.

"Arsons are hard to prove," said ATF agent Scott Fulkerson, another of the lead investigators. "There is limited evidence left behind. Almost everything is consumed in fires. This covered three states and multiple jurisdictions. There was a lot of media coverage and great stress to the community. There was pressure felt by the task force to catch this guy. There was an ongoing threat to the community."

Investigators declined to discuss much of what they learned from Sweatt during a lengthy interrogation on the day of his arrest and during six subsequent debriefing sessions. They said he discussed a range of issues, pointed out places where he struck and provided a wealth of information about the mind-set of a serial arsonist.

In court yesterday, Sweatt was far less forthcoming.

"It would be better if he had sat down and kept his mouth shut. He's not sorry," declared Darlene Lloyd, the oldest of Lou Edna Jones's four daughters.

Lloyd and her sister, along with two other relatives of Sweatt's victims, addressed the judge at the sentencing. Lloyd told the judge that she learned from authorities that both of her mother's feet had been burned by the time firefighters found her in her bedroom.

"She lost both of her feet trying to get out of that big room," Lloyd said.

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Serial Arsonist To Serve Life (WT/AP)

By Heather Greenfield, Associated Press

The Washington Times, September 13, 2005

Darlene Lloyd feels some relief that Thomas A. Sweatt will spend the rest of his life in jail without the possibility of parole for setting the fire that killed her mother.

But closure is not easy when her mentally handicapped son continues to ask at dinner each night for his grandmother, Lou Edna Jones.

"Being handicapped, he doesn't understand why she is not coming back," Mrs. Lloyd said. She planned to reassure him that Sweatt was not coming back now, either.

As victims of the serial arsonist spoke at his sentencing yesterday at U.S. District Court in Greenbelt, they said they still don't understand what led Sweatt to set random fires that terrorized the Washington area for two years.

"I would love to just find out exactly why he did this," said Jean Kyler, whose 94-year-old mother is still not able to return to her fire-damaged home.

Sweatt, 50, admitted setting 45 arson fires in the Washington area. Investigators know how he did it -- using jugs of gasoline, and clothing for a wick. But the reason why remained unanswered even as a federal judge sentenced him yesterday to life in prison plus 136 years.

"To the victims and the victims' families, I'm very sorry for all the harm I've caused you. To those who have lost loved ones, I share your hurt every day," Sweatt said.

He was dressed in a dark gray suit and appeared almost timid as he leaned into the microphone to speak and turned to the families gathered in court.

The former fast-food restaurant manager admitted that between February 2003 and December 2004 he set 45 fires: 21 in the District, 17 in Prince George's County, three in Fairfax County, two in Montgomery County, and one each in Arlington County and Alexandria.

Under a plea deal, local prosecutors agreed not to charge Sweatt with other arsons.

Sweatt also pleaded guilty to two murder charges.

He took responsibility for the June 2003 death of Mrs. Jones, 86, in her Northeast home, as well as the death of Annie Brown, 91. She died of smoke inhalation a few days after Sweatt set fire to her next-door neighbor's Northeast home in February 2002.

Sweatt has been in custody since his arrest in April. Authorities have said they linked him to the fires after collecting DNA from items found at four crime scenes, including Marine Corps dress pants from a fire in Arlington.

Sweatt showed no emotion during the victims' statements or the sentencing, but earlier said he welcomed the sentence.

Kenneth L. Wainstein, U.S. attorney for the District of Columbia, called the sentence "a fitting punishment and a fitting conclusion to this case."

Judge Deborah K. Chasanow told Sweatt she realized he has mental health issues, but that they could not excuse what he did and how he "terrorized" the community.

It will be up to federal prison officials to decide whether to transfer Sweatt from a Charles County prison. There is no parole in the federal system.

D.C.-Area Arsonist Sentenced To Life In Prison (NYT)

By Gary Gately

The New York Times, September 13, 2005

GREENBELT, Md., Sept. 12 - A 50-year-old man was sentenced to life in prison on Monday for setting a series of fires that killed two elderly women and terrorized the Washington area for more than two years.

The man, Thomas A. Sweatt of Washington, apologized to the judge and to the relatives of the arson victims, while Mr. Sweatt's lawyer argued that a mental illness led his client to set the fires.

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Federal Judge Deborah K. Chasanow sentenced Mr. Sweatt to life plus nearly 136 years, eliminating any chance of parole. Judge Chasanow said she would recommend to prison officials that Mr. Sweatt receive a psychiatric evaluation and, if necessary, treatment.

But, she added, mental illness could not excuse killing two people and setting fire to more than 45 homes, as well as several automobiles. "Whatever you faced in terms of any problem cannot in any way justify the actions you took - actions that terrorized a community," Judge Chasanow said.

Mr. Sweatt, a former KFC-Pizza Hut manager, sat silently, his lips pursed, through most of the hearing. Just before Judge Chasanow pronounced his sentence, based on a plea agreement, Mr. Sweatt leaned forward and said: "To my victims and to the victims' families, I'm very sorry for all the harm that I caused you. For those of you who have lost loved ones, I share your hurt and share your pain every day."

Mr. Sweatt's arrest in April resulted from an intensive investigation by federal agencies and local law enforcement in Maryland, Virginia and the District of Columbia.

Investigators broke the case when they found a pair of Marine Corps blue trousers near a fire scene. The trousers led them to Navy investigators, who had identified Mr. Sweatt as a suspect in car fires more than two years earlier near the Marine barracks in Southeast Washington.

Mr. Sweatt consented to giving a DNA sample, which linked him to evidence from four of the fires, the authorities said, and he admitted to setting others next to entrances to homes using cloth wicks and one-gallon jugs of gasoline.

Investigators said Mr. Sweatt had no known ties to the military. John C. Chamble, a federal public defender representing Mr. Sweatt, said his client suffered a mental illness that resulted in radical and uncontrollable shifts in behavior. "He did not have a choice," Mr. Chamble said.

During the sentencing hearing and afterward, relatives of arson victims spoke of the pain and havoc Mr. Sweatt's arsons had caused.

Relatives of Lou Edna Jones, an 86-year-old woman killed in a fire on June 5, 2003, at her Northeast Washington house, wore shirts and carried placards bearing photographs of the woman fondly known as Mama Lou.

"The rest of my life, I'll still be grieving for the loss of my mother," said Darlene Lloyd, Ms. Jones's daughter. "There will always be a hole in my heart that can never be filled or closed."

Annie Brown, an 89-year-old from Northeast Washington, died of smoke inhalation days after a fire Mr. Sweatt admitted to setting at her neighbor's home in February 2002, the authorities said.

TAX:

Treasury Tax Analysis Concluded As Lawful (WSJ/DJN)

By Dow Jones Newswires

The Wall Street Journal, September 13, 2005

WASHINGTON -- An independent investigation concluded that the Treasury Department didn't break the law by calculating the cost of then-Democratic presidential candidate John Kerry's tax plan and posting the results on the department's Web site.

"We do not believe that Treasury employees completed the revenue estimate at issue for use by a campaign or a party, but as a defense of the [Bush] administration's policies," according to a March 24 letter to the Treasury from Special Counsel Scott Bloch. The analysis was made with an eye toward congressional action, not to criticize Mr. Kerry, the special counsel's office said. The Hatch Act restricts political activities by government employees.

The documents were made available to Dow Jones Newswires under a Freedom of Information Act request. The investigation was launched after The Wall Street Journal reported1 in the spring of 2004 that Treasury used civil servants to calculate the Kerry tax plan.

Mr. Bloch said his probe found that Treasury's Office of General Counsel for many years has given "problematic" guidance to employees, effectively asking Treasury tax analysts to "turn a blind eye" to potential violations.

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Treasury Deputy General Counsel James Carroll welcomed the report of no legal violations, but defended the general counsel's office, saying it has consistently advised employees that it is inappropriate to conduct analyses "for a partisan political purpose."

Heir Tonic For Charities (WSJ)

By Arthur C. Brooks

The Wall Street Journal, September 13, 2005

The estate tax seemed to be cruising toward inevitable demise. A Senate vote was expected around Labor Day, and the GOP appeared close to the 60 votes needed to permanently abolish taxes on inheritances. Katrina has set the vote back by at least a few weeks, as the Senate attends instead to legislation authorizing relief funds to the Gulf Coast. The hurricane has also provided an argument against repeal to Democratic National Committee Chairman Howard Dean. He compared beneficiaries of repeal with hurricane victims, asking, "Shall we give [the estate tax revenues] to the wealthiest people in the country, or should we rebuild New Orleans?" The argument is a progressive classic: Not taxing the rich is the same as taking from the poor.

As flawed as the logic might be, it is worth considering how much it will cost taxpayers if the tax is repealed, and what it means for the economy. Estimates place the annual federal revenues from the estate tax at $20 billion. This would certainly make a dent in hurricane recovery efforts -- if it were all used for that purpose.

A more realistic link between the tax and disaster relief is through charitable contributions. Americans bequeath $20 billion every year to nonprofits, including organizations that provide relief to disaster victims. Opponents of repeal note that doing so removes a powerful philanthropic motive, because the portion of an estate willed to charity is tax-exempt. The CBO estimates that a 10% decrease in the estate tax would stimulate a decrease in charitable bequests of 4.2%. This suggests that a repeal of the tax would, by itself, lower charitable giving by $8 billion annually. Many nonprofits have lined up against abolition of the tax for this reason.

In making their case, however, nonprofits employ a tortured logic: Our organization supports the estate tax so that your family will continue to try to avoid it by giving us money. Instead, charities should focus less on the incentives of people making bequests, and more on the incentives of people receiving them.

What can we expect heirs to do with their money, if less of it is taken by the IRS? Data show that people tend to contribute a higher proportion of inherited wealth than they do other kinds of wealth (e.g., from stocks or real estate). If the estate tax is repealed, this extra charitable giving will likely come to at least $750 million per year. In the short run, giving by private heirs will not make up entirely for the loss of charitable gifts by their parents if the estate tax is repealed, but this effect is still considerable. And the amounts given annually are not fixed -- heirs may be convinced to give more.

When all is said and done, the Senate will most likely repeal or greatly reduce the estate tax without too much consideration of the interests of the nonprofit sector. This does not spell doom for charities, however. The key is not to focus on how the tax system can be used to get more money from the dead, but rather to look to the future and find ways to increase giving -- for humanitarian relief and other worthy causes -- among a new generation of heirs.

Mr. Brooks, associate professor at Syracuse University's Maxwell School of Public Affairs, is writing a book on American charity, to be published next year by Basic Books.

CONGRESS-ADMINISTRATION:

Roberts Pledges 'humility' As Senate Hearings Begin (USAT)

By Kathy Kiely And Joan Biskupic

USA Today, September 13, 2005

WASHINGTON — Supreme Court nominee John Roberts was unflappable and succinct Monday, after sometimes blunt criticism from Democrats in the opening day of Senate hearings to confirm him as the nation's 17th chief justice.

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In his longest remarks since President Bush first nominated him in July, Roberts told the Senate Judiciary Committee that he would approach his position as the head of the nation's judiciary with “a certain humility.” Roberts, tapped to replace the late William Rehnquist, spoke without notes for less than seven minutes.

“Judges are like umpires,” said Roberts, a federal appeals judge. “Umpires don't make the rules; they apply them.”

Roberts' remarks ended a day of speeches by the 18 Judiciary Committee members. Democrats put the judge on notice that he has some persuading to do. “If I looked at only what you've said and written in the past, I'd feel compelled to vote no,” said Sen. Joseph Biden, D-Del.

Sen. Herb Kohl, D-Wis., said Roberts seemed “cavalier” about women's and minority rights in some of his writings.

As questioning begins today, Roberts, 50, will be pressed by Democrats to reveal his views on a range of legal issues.

Democrats noted the nominee could serve for more than a generation. “We are about to enter, if he is successful, the Roberts era,” said Sen. Dick Durbin, D-Ill. “We should know this man's core values and beliefs.”

Republicans are counseling caution. “You have no obligation to tell us how you will rule,” Sen. John Cornyn, R-Texas, said. “Don't take the bait.”

But Sen. Arlen Specter, the Pennsylvania Republican who chairs the panel, said he'll ask whether Roberts believes the Constitution guarantees a right to privacy — a right cited in the Supreme Court decision that made abortion legal nationwide. Rehnquist was one of two justices to vote in 1973 against Roe v. Wade.

A campaign atmosphere prevailed outside the hearing room. Critics wore “No on Roberts” lapel stickers. Supporters wore lime green “Roberts Yes!” T-shirts.

Specter is pushing for a Senate vote on Roberts this month. If approved, Roberts could take office by Oct. 3, the beginning of the high court's term.

Roberts Sees Modest Role For Court (LAT)

By David G. Savage And James Gerstenzang

The Los Angeles Times, September 13, 2005

WASHINGTON — Judge John G. Roberts Jr., President Bush's choice to be chief justice of the United States, told senators today that he seeks a modest and limited role for the nation's highest court, akin to an umpire who calls the balls and strikes rather than a star player who is the center of attention.

"Justices and judges are servants of the law, not the other way around," Roberts told the Senate Judiciary Committee, eschewing judicial activism.

"Judges are like umpires. Umpires don't make the rules. They apply them," he said. "And nobody ever went to a ballgame to see the umpire."

His statement served notice that on one of the central questions surrounding the judiciary — the extent to which judges should impose themselves on key issues of the day -he favored a restricted role.

Roberts' short and simple opening statement came on the first day of his confirmation hearings before the Senate Judiciary Committee.

And though the grand hearing room in the Russell Building was the site of earlier confrontations over Judge Robert Bork in 1987 and Justice Clarence Thomas in 1991, today's opening session had none of the tension and acrimony of those confrontations.

Roberts and his wife, Jane, introduced their two young children — Josie and Jack — and the senators smiled at them like grandparents.

Several Democrats said they intended to question Roberts sharply to discern his views on civil rights and abortion, but they stopped short of saying they would oppose him.

In his brief statement at the hearing's end, Roberts showed the qualities that made him a superb advocate before the Supreme Court. He spoke directly to the senators and without notes. And he used the simple baseball analogy to convey his view that the Supreme Court should play a more modest and limited role in American government.

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His comments echoed a theme of the 10 Republican senators who spoke before him. They complained that the Supreme Court had become a "super legislature" in recent decides, regularly deciding the most controversial political question of the day.

The senators said judges should not make the law. Rather, they said the hard political questions should be decided by elected officials, and Roberts indicated that he agreed with them on the court's limited role.

However, Roberts also stressed the court's crucial role in upholding individual rights against the power of the government, a favorite theme of Democrats and liberals.

As a lawyer in private practice, Roberts said he was awed to go before the Supreme Court representing a client who was fighting the federal government.

"Here was the United States, the most powerful entity in the world, aligned against my client. And yet, all I had to do was convince the court that I was right on the law and the government was wrong and all that power and might would recede in deference to the rule of law," he said. "That is a remarkable thing. It is what we mean when we say that we are a government of laws and not of men."

Roberts recalled President Ronald Reagan's reference to the Soviet Constitution, and its list of rights granted to the people. "Those rights were empty promises, because that system did not have an independent judiciary to uphold the rule of law and enforce those rights," he said. "We do, because of the wisdom of our founders and the sacrifices of our heroes over the generations to make their vision a reality."

Roberts, 50, was nominated a week ago to succeed his first boss in Washington, Chief Justice William H. Rehnquist, who died Sept. 3.

If confirmed, he would be the youngest chief justice since John Marshall took office in 1800. And in good health, he could serve until 2040, said Judiciary Committee Chairman Arlen Specter (R-Pa.).

In his opening statement, Roberts also stressed that he had "no agenda" for the court.

"I come before the committee with no agenda. I have no platform," he said. "Judges are not politicians who can promise to do certain things in exchange for votes."

On Tuesday morning, the senators will begin the questioning of Roberts.

Roberts delivered his opening statement roughly three and a half hours after the hearing began; he spoke only after each senator had delivered an opening statement.

Specter, the Pennsylvania Republican, banged the gavel at midday, beginning what is likely to be a weeklong inquiry into Roberts judicial temperament and — to the extent possible — his positions on some of the most sensitive judicial and political issues of the era, even as senators said he had no obligation to speak in specifics.

While there has been little doubt that the nomination will win the committee's approval — and the approval of the full Senate — one senior Democrat, Sen. Joseph Biden of Delaware, said that from what he has seen of Roberts' writings, he would vote against him.

Sen. Dianne Feinstein (D-Calif.) said in her opening statement that she would have trouble voting for a nominee whom she felt might overturn the Roe vs. Wade decision that granted a woman the right to have an abortion. She is the only woman on the committee.

Roberts, in a telegenic red tie, sat smiling and silent at the witness table in the ornate Caucus Room as the senators, one by one, reminded him, and a nationwide television and Internet audience, that the Senate was about to decide whether a 50-year-old jurist would receive a lifetime appointment as chief justice of the United States.

The hearing played out against the backdrop of the devastation brought by Hurricane Katrina two weeks ago to the Gulf Coast.

Sen. Patrick J. Leahy of Vermont, the senior Democrat on the committee, said that the storm offered "a tragic reminder of why we have a federal government," which he said was needed, foremost, for the protection and security of the population.

The statement went to the heart of questions about Roberts and where he would lead the court as the first new chief justice in 19 years. Roberts had been nominated in July to replace the retiring Associate Justice Sandra Day O'Connor, but was renominated last week to be the chief justice after the death of William H. Rehnquist.

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Leahy noted that "if anyone needed a reminder of the growing poverty and despair among too many Americans, we now have it" in Katrina's aftermath. So too, he said, a reminder of the racial divide that continues to mar the nation.

At the heart of the inquiry of Roberts, a relatively junior judge of the U.S. Court of Appeals for the District of Columbia, Leahy said, was, "Will you be the protector of the rights of all Americans?"

Specter, noting the recent run of 5-4 decisions on the high court, said that Roberts' votes would be critical on many key issues, among them those involving school prayer and defendants' rights. He added that the nomination "comes at a time of turbulent partisanship" in the nation's political life.

He said that senators "have a responsibility to ask probing questions," and that Roberts had the prerogative of answering them, or not, as he sees fit.

Sen. Edward M. Kennedy (D-Mass.), expressing chagrin at the failure of the Bush administration to make available certain documents from the time Roberts spent as a deputy solicitor general during the administration of the first President Bush, said, "We can only wonder what they don' want us to know."

Biden raised the issue of decisions the court has made in recent years to expand the rights of women and African Americans.

"I believe in the right of privacy," he said, using what has become recognized as a reference to abortion.

Biden said that based on what Roberts has written — a record that includes his work in the Reagan and first Bush administrations, on the appellate court and in response to questions from senators — he would vote against the nomination.

Feinstein said that as the panel's only woman she felt a need to ask about issues that primarily had an impact on women.

She and Sen. John Kyl (R-Ariz.) acknowledged that Roberts needed to be sensitive to answering questions in a way that might impinge on his judicial prerogatives.

As the session progressed, there was no sign of political bickering, despite the political sensitivity and the potential divisions attached to the nomination.

There was a small contingent of partisans outside the hearing, and advocates of women's rights expressed concern about rules limiting the public's access to the hearing. With about 250 seats in the room, 40 were set aside for the public.

The Unheard (WP)

By Marcia Davis

The Washington Post, September 13, 2005

It was the moment for which the nation had been waiting -- okay, well, at least those who'd managed to get a seat in the hearing room in the Russell Building on Capitol Hill yesterday.

The confirmation hearings for John G. Roberts Jr. were unfolding against the backdrop of Hurricane Katrina, and though a few senators mentioned it early on, as the day progressed in Room 325, its urgency seemed a million miles away. The caucus room with its high ceiling, huge columns and glittering chandeliers has been the site of other history-making moments. It was where in 1987 Robert Bork's nomination to the Supreme Court began its descent into defeat, and where Clarence Thomas crossed swords with Anita Hill. Yesterday, it was where Roberts finally spoke on his own behalf in his bid to become the next Supreme Court chief justice.

A sea of media, 140 or so strong, and the few members of the public who managed to get seats in the very back of the room had been waiting through one senator's speech after another to hear the 50-year-old federal judge work his rhetorical magic. Here was the man who had argued 39 cases before the Supreme Court, and won most. Here was the man touted as a lawyer's lawyer, a man his colleagues have praised as knowing the power of combining legal brilliance with a cool confidence. And here was the man, who, if President Bush has his way, will be confirmed as the nation's 17th chief justice, elevated to a position that could shape the quality of life for Americans for decades to come.

So, naturally, his words were what everyone wanted to hear.

And speak he did -- for all of eight minutes. He was introduced shortly before 3:30, and he was done with his opening statement soon after.

Talk about judicial restraint.

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As does any lawyer, John Roberts knows that anything he says can be used against him. And so yesterday he was a man of "thank yous" -- to the senators lined up before him, to Bush for the nomination, to his family and his mentors without whose help and sacrifices he would not be sitting where he was, he said.

He paid respects once again to the man whose casket he helped to carry up the Supreme Court steps last week, William H. Rehnquist. Roberts clerked for the chief justice, and in one of those odd, novel-like twists, he may soon replace him.

"I talked last week with the nurses who helped care for him over the past year, and I was glad to hear from them that he was not a particularly good patient," Roberts said. "He chafed at the limitations they tried to impose. His dedication to duty over the past year was an inspiration to me and, I know, to many others."

Roberts went on to speak of his philosophy, one that demands a limited role for judges. He compared them to umpires, adding, "Nobody ever went to a ballgame to see the umpire." Judges are more than umpires, of course, and Roberts tried to assure the panel that his thinking has evolved since his early eager days as a young lawyer working in the Republican administrations of Ronald Reagan and George H.W. Bush.

When the questioning begins, there will be those who will press him to be more revealing. But yesterday Roberts spent most of the day in silence, sitting through the 10-minute speeches of the Judiciary Committee members, which added up to hours.

Roberts was as still as he was silent, his face a wall. His lips were a tight line, except on the few occasions when he laughed at a joke -- mainly the recurring one about his relative youth and appearance of good health. There were times, too, when someone seemed to make a point that he appreciated, and he would reward that senator with the slightest of nods, as when Joseph Biden (D-Del.) talked about the issues of technology and privacy that no doubt the high court would face in the future.

There were what passed for harsh words from Democratic senators such as New York's Charles Schumer, who warned that he would be unsparing in his questioning, and California's Dianne Feinstein, who said she would be unable to vote for anyone she believed would overturn Roe v. Wade. And there were words of encouragement from Republicans such as Orrin Hatch, who warned Roberts not to be trapped into answering questions that compromised him as a judge.

Roberts took it all in, his eyes often wide and glistening under the glare of the camera lights, but revealing nothing.

It was representative democracy at work, though it was occurring in a room where if you didn't know better, you might think democracy was almost exclusively white. The Judiciary Committee itself is all white, and Feinstein is its only female member.

"Things went as I expected," said Ted Shaw of the NAACP's Legal Defense Fund. "I think Roberts's opening statement was eloquent. I've seen him in court. But the question for me is who is he."

Roberts's moments of greatest animation occurred before the hearings began, when he sat with his wife, Jane, and children, Jack and Josie. Jack wore a suit with shorts and a bow tie. Josie wore a blue dress and a bow in her hair. It was a moment reminiscent of the summer day when Bush first nominated Roberts to replace Sandra Day O'Connor. Jack didn't dance this time, though. He simply climbed into his father's lap. The cameras flashed, and Roberts didn't have to say a word.

'Judges Are Not Politicians,' Roberts Says (WP)

By Charles Babington And Jo Becker

The Washington Post, September 13, 2005

John G. Roberts Jr. opened the first Supreme Court confirmation hearing in 11 years yesterday by portraying himself as a humble, non-political judge who would interpret the law "without fear or favor" if he became the 17th chief justice of the United States.

After listening to three hours of senators' opening statements, in which Democrats expressed fears that he would move the court to the right on abortion, civil rights and other issues, Roberts sought to dispel such speculation. Though he offered no specifics on his views, Roberts said justices must have "the humility to recognize that they operate within a system of precedent."

"I have no platform," he told the Senate Judiciary Committee in a brief speech without notes in the ornate Russell Caucus Room. "Judges are not politicians who can promise to do certain things in exchange for votes." Rather, he said, "judges are like umpires. Umpires don't make the rules; they apply them."

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Although the stewardship of the Supreme Court is at stake for potentially decades to come, yesterday's hearing seemed almost anticlimactic, with public attention riveted on the aftermath of Hurricane Katrina and Democrats still pressing for 15-year-old documents that might give them better ammunition against Roberts. With few doubting that Roberts, 50, will ultimately win confirmation, senators of both parties used yesterday's forum to highlight their contrasting legal philosophies and views of the court's role in society.

Many Republicans used their allotted 10 minutes apiece to urge the nominee not to answer questions about legal issues that might come before the court. But Democrats said he must satisfy them that he will safeguard the rights of women, disabled people and minorities in the voting booth and workplace. Some also pressed him to recognize a constitutional right to privacy, which underpins the Supreme Court's legalization of abortion nationwide.

"This is a confirmation proceeding," said Sen. Russell Feingold (D-Wis.), "not a coronation. It is the Senate Judiciary Committee's job to ask tough questions."

President Bush's choice to succeed the late William H. Rehnquist will face hours of questions, starting today, from the panel's 10 Republicans and eight Democrats.

With some Republicans congratulating Roberts as though his confirmation is assured in the GOP-controlled Senate, Democrats warned that, if nothing else, he will have to earn their votes by fully explaining his criticisms of a variety of policies aimed at eliminating discrimination, including affirmative action and some aspects of the Voting Rights Act. Those criticisms were found in reams of memos that Roberts wrote as a young lawyer in the Reagan administration.

"I believe the federal government should stamp out discrimination wherever -- wherever -- it occurs," Sen. Joseph R. Biden Jr. (D-Del.) told him. "If I look only at what you've said and written . . . I would have to vote no. You dismissed the constitutional protection of privacy as, quote, 'a so-called right.' . . . You dismissed gender discrimination as . . . 'merely a perceived problem.' "

Sen. Dianne Feinstein (D-Calif.), the only woman on the committee, said, "It would be very difficult for me to vote to confirm someone to the Supreme Court whom I knew would overturn Roe v. Wade ." In the 1980s, Roberts wrote that the landmark abortion ruling was wrongly decided and should be overturned, but he since has suggested that the ruling is "settled law" that need not be revisited.

Despite the Democrats' warnings, Roberts's televised performance clearly pleased Republican senators and White House aides. His seven-minute speech "almost moved me to tears," Sen. Jeff Sessions (R-Ala.) told reporters. White House adviser Ed Gillespie, who sat just behind Roberts, assured reporters "there were no notes or anything he spoke from."

Lawmakers' preoccupation with the hurricane catastrophe pervaded the hearing on filling the first chief justice vacancy in nearly two decades. At least two Democrats tried to weave the storm's devastation into their arguments, saying the disproportionate impact on poor people and ethnic minorities underscores the need for a judiciary sympathetic to the nation's most vulnerable.

"We cannot continue to ignore the injustice, the inequality and the gross disparities that exist in our society," Sen. Edward M. Kennedy (D-Mass.), the committee's most senior member, told Roberts. He said Roberts's writings on civil rights suggest there are "real and serious reasons to be deeply concerned" about the direction he would take the court and about "his commitment to equal opportunity. . . . This hearing is John Roberts's job interview with the American people."

Roberts came for the interview well-prepared. Dressed in a dark suit, crisp white shirt and red tie, he introduced his parents; three sisters; his wife, Jane; and their two young children, whose faces alternately betrayed fear, amusement and awe at the scores of cameras and bright lights packed into the templelike hearing room. The senators, many of them grandparents, could not resist greeting the children as cameras clicked furiously. "You're not at all nervous, are you?" Sen. Patrick J. Leahy (D-Vt.) said to Jack Roberts, 4, who at one point sat in his father's lap and posed like a bodybuilder.

Just how much Roberts should say in response to today's questions was the subject of considerable partisan debate yesterday. Republicans warned Roberts against answering "litmus test" questions that could jeopardize his impartiality on cases likely to come before the Supreme Court.

"Some have said the nominees who do not spill their guts about whatever a senator wants to know are hiding something from the American people," said Sen. Orrin G. Hatch (R-Utah). "These might be catchy sound bites, but they are patently false."

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But Democrats argued that Americans have a right to know where Roberts stands on issues of profound import to their lives, disputing Republican contentions that Justice Ruth Bader Ginsburg, who was appointed by President Bill Clinton, refused to answer questions about her views on such issues as abortion, discrimination and criminal law.

"It is not enough to say that you will be fair," said Sen. Charles E. Schumer (D-N.Y.), adding that he is sure that conservative Justice Antonin Scalia and the liberal Ginsburg think they, too, are fair. "But in case after case, they rule differently," Schumer said. "They approach the Constitution differently."

Some of the most pointed questions, however, may come from Judiciary Committee Chairman Arlen Specter (Pa.), a Republican moderate and frequent maverick. While Specter said he does not expect Roberts to share his views on Roe v. Wade , he will question him on his previously expressed views on women's rights, term limits for federal judges and what he called the "extreme positions taken by the Supreme Court in denigrating the role of Congress" by striking down a number of laws it has passed.

While Republicans such as Sen. Charles E. Grassley of Iowa charged that Democrats who seek Roberts's views on specific issues are doing so because they "only want judges who will do their political bidding on the bench," others made it clear that they have priorities they would like to see the Supreme Court uphold.

Sen. Sam Brownback (R-Kan.) decried federal courts that "are redefining the meaning of marriage, deciding when a human life is worthy of protection, running prisons and schools by decree," and "removing expressions of faith in the public square." He called Roe v. Wade a judicial "exercise of raw political power" and said "nearly 40 million children have been aborted in America."

Democrats renewed their request for a limited number of documents dating from Roberts's tenure in 1989 to 1993 as principal deputy solicitor general. From that perch, Roberts helped shape and argue the George H.W. Bush administration's positions in hundreds of Supreme Court cases. The letter, sent yesterday to President Bush, was signed by three Democratic members of the pivotal "Gang of 14," a bipartisan group considered key to averting any filibuster of Roberts's nomination.

Roberts Comes With 'No Agenda' (WT)

By Charles Hurt

The Washington Times, September 13, 2005

Federal Judge John G. Roberts Jr. yesterday left little doubt why President Bush nominated him to be the next chief justice of the Supreme Court.

"I have no platform," he promised at the close of the first day of his confirmation hearing, as members of the Senate Judiciary Committee listened intently. "I have no agenda, but I do have a commitment. If I am confirmed, I will confront every case with an open mind."

Judge Roberts' 6 ½-minute speech -- delivered without notes -- came at the end of a marathon of much longer speeches carefully read by committee members.

One conservative observer later remarked that Judge Roberts "stole the show." Committee Chairman Arlen Specter, the Pennsylvania Republican who hasn't said how he'll vote on the nomination, said Judge Roberts even "nodded at all the right times" during the senators' speeches.

The first Supreme Court confirmation hearing in more than 10 years -- and the first for a chief justice since 1986 -- began shortly before noon, when Mr. Specter and Sen. Patrick J. Leahy, Vermont Democrat, ushered Judge Roberts through the giant mahogany doors of the Senate Caucus Room.

Mr. Leahy noted that Judge Roberts is "the first nominee of the 21st century" and emphasized that justices are appointed for life.

"The light of the nominations process is intense because it is the only time that light will shine, and the afterglow lasts for the rest of a justice's career," Mr. Leahy said.

Democrats promised to grill Judge Roberts about his positions on such issues as abortion and congressional authority.

"We have an obligation to find out where you will take us before we decide whether we want you to lead us there," said Herb Kohl, Wisconsin Democrat. "And, most importantly, you have an obligation to tell us."

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Sen. Dianne Feinstein, California Democrat, reiterated her position that she could not vote for Judge Roberts if she thinks he will overturn Roe v. Wade, the 1973 court case that declared abortion a constitutional right.

Sen. Charles E. Schumer, New York Democrat, who has met privately with Judge Roberts three times, said he and others still know very little about the veteran Washington lawyer.

"We have seen maybe 10 percent of you -- just the visible tip of the iceberg, not the 90 percent that is still submerged," Mr. Schumer said. "And we all know that it is the ice beneath the surface that can sink the ship."

Republicans warned their colleagues against judging Judge Roberts based on political views.

Sen. John Cornyn, Texas Republican, warned Judge Roberts not to "take the bait" by answering questions that might touch on his views of political matters or might hem him into ruling a certain way on a particular case if he's confirmed.

A pro-choice Republican, Mr. Specter told Judge Roberts: "I do not intend to ask whether you will overturn Roe v. Wade. I will ask you if the Constitution has a right of privacy, and I will ask questions about precedents as they bear on Roe v. Wade."

Mr. Specter, a veteran of nine Supreme Court confirmation hearings, said nominees typically "answer about as many questions as they think they have to in order to be confirmed."

After the committee members had their say, Judge Roberts was officially introduced by the senators from his native Indiana, Republican Sen. Richard G. Lugar and Democrat Evan Bayh.

Judge Roberts stood before the committee, raised his right hand and swore to tell the truth. He then sat down and delivered the briefest remarks of the day.

"Judges and justices are servants of the law, not the other way around," he told the lawmakers. "Judges are like umpires. Umpires don't make the rules; they apply them."

He recalled arguing cases against the government before the Supreme Court.

"Here was the United States, the most powerful entity in the world, aligned against my client," Judge Roberts said. "And, yet, all I had to do was convince the court that I was right on the law and the government was wrong and all that power and might would recede in deference to the rule of law. That is a remarkable thing."

He waxed nostalgic about the "endless fields of Indiana" of his youth.

"As I grew older, those endless fields came to represent for me the limitless possibilities of our great land. Growing up, I never imagined that I would be here, in this historic room, nominated to be the chief justice," Judge Roberts said.

"If I am confirmed," he concluded, "I will be vigilant to protect the independence and integrity of the Supreme Court, and I will work to ensure that it upholds the rule of law and safeguards those liberties that make this land one of endless possibilities for all Americans."

An Opening Performance Worthy Of An Experienced Lawyer (NYT)

By Linda Greenhouse

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 - This time, John Roberts's client was himself.

After arguing 39 cases before the Supreme Court, spending the last eight weeks in the public spotlight and listening for more than three hours on Monday as 18 senators expressed their admiration and doubts, the Supreme Court nominee took just seven minutes to paint a verbal self-portrait in the opening statement of his confirmation hearing.

Judge Roberts said he was a humble servant of the rule of law. He had "no agenda," "no platform;" he was nothing but an umpire, calling balls and strikes.

The White House team handling his nomination as chief justice had not seen the statement in advance, and Judge Roberts had not rehearsed it before the "murder board" that helped prepare him for the confirmation process. He spoke without notes.

It was a performance that lawyers arguing before the Supreme Court can only dream of. They rarely get two uninterrupted minutes, and the justices can reduce to shreds the most eloquent of prepared openings in less time than that.

Not only did the senators on the Judiciary Committee not interrupt Judge Roberts, but they also recessed until the next morning as soon as he had finished. That meant that the senators' carefully prepared opening statements, in which Democrats

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and some Republicans raised concerns on issues like abortion and the role of the chief justice, faded beneath the rhetorical high note with which Judge Roberts ended his statement. He pledged to make sure the Supreme Court "upholds the rule of law and safeguards those liberties that make this land one of endless possibilities for all Americans."

Had the committee then turned immediately to questioning him, that moment would have been lost, or at least blunted. As the hearing proceeds, senators will ask Judge Roberts to explain 25-year-old memorandums or press him on questions he does not care to answer.

But there was no such dissonance as the hearing's first day came to a leisurely midafternoon conclusion. Judge Roberts did not explicitly address any of the senators' concerns; there will be plenty of time for that. His accomplishment, rather, was to address the concerns implicitly without appearing to acknowledge them.

For example, Senator Russell D. Feingold had commented earlier in the afternoon that the memorandums the young John G. Roberts Jr. had written as a lawyer in the Reagan administration were "highly ideological" and "sometimes dismissive of the views of others." But people can change, Senator Feingold, a Wisconsin Democrat, observed, adding, "So I will be looking for a somewhat different John Roberts than the John Roberts of 1985."

Nowhere in his statement did Judge Roberts say "I have changed." But his self-description as humble, grateful and open-minded countered the cocky and caustic image that some of his early writings conveyed, without disavowing the positions that those documents embraced.

In the senators' opening statements, one of the most vivid images was provided by Senator Charles E. Schumer, Democrat of New York, who told the nominee: "We have seen maybe 10 percent of you, just the visible tip of the iceberg. And we all know that it is the ice beneath the surface that can sink the ship."

Judge Roberts did not address that statement either, but he did not have to. He simply topped it with his own imagery, taken from his youth in Indiana. "I recall those endless fields with their promise of infinite possibilities," he said, although as the suburb-raised, prep-school-educated son of a steel executive, his encounters with "an isolated silo or a barn" may have been somewhat fleeting.

His statement also included an oblique reference to whether the positions he took as an administration lawyer, like in a brief he signed asking the Supreme Court to overturn Roe v. Wade, represented his own views or those of his client.

"When I worked in the Department of Justice, in the office of the solicitor general, it was my job to argue cases for the United States," he said, going on to describe what it was like in private practice to be on the other side and argue against the United States, "the most powerful entity in the world." The suggestion was implicit that not only had he argued on both sides, but that he could also see both sides of an issue.

And he defined a judge's role as, in part, fidelity to precedent. "Judges have to have the humility to recognize that they operate within a system of precedent, shaped by other judges equally striving to live up to the judicial oath," he said.

There was no need to remind anyone listening that the most disputed precedent of all is Roe v. Wade, the 1973 abortion case, which was substantially reaffirmed by the court in 1992. Still in question, as the Judiciary Committee convenes for a second day on Tuesday, is whether Judge Roberts's views on that particular issue will be any better known by the end of his confirmation hearing.

Roberts Confirmation Hearings Begin (BSUN)

By Gwyneth K. Shaw

The Baltimore Sun, September 13, 2005

WASHINGTON -- President Bush's nominee for chief justice, Judge John G. Roberts Jr., said Monday that Supreme Court justices have a "limited role" -- to apply the law, not make it.

On the first day of Senate hearings on his nomination, Roberts pledged that, if confirmed, he would decide cases "with an open mind" and work to safeguard the liberties "of all Americans."

The 50-year-old appellate judge's remarks, delivered without notes and lasting just six minutes, addressed issues raised by Republicans and Democrats on the Judiciary Committee, which is expected to approve his nomination next week.

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"I come before the committee with no agenda. I have no platform. Judges are not politicians who can promise to do certain things in exchange for votes," said Roberts, who used a homespun comparison between Supreme Court justices and baseball umpires.

"I will decide every case based on the record, according to the rule of law, without fear or favor, to the best of my ability. And I will remember that it's my job to call balls and strikes and not to pitch or bat," he said.

Those remarks echoed comments by Republican senators, who view Roberts as someone who will move the court to the right, in line with the wishes of their party's conservative base.

But Roberts, a White House lawyer under President Ronald Reagan, also spoke of his more recent work as an appellate attorney, representing clients against the government. He said that the rule of law enables a wronged citizen to prevail against the "might" of the United States in court, "a remarkable thing" that reflects that "we are a government of laws and not of men."

Roberts said he was committed to fairly analyze every case and "be open to the considered views of my colleagues on the bench."

Responding indirectly to concerns expressed by Democrats, who Monday noted the suffering of many poor, black Americans in the aftermath of Hurricane Katrina, he said, twice, that he was committed to protecting the rights and liberties of "all Americans."

In another apparent nod to Democratic fears -- that he will be part of a new conservative majority that overturns Roe v. Wade, the 1973 Supreme Court decision on abortion rights -- Roberts said that judges need to have the "humility to recognize that they operate within a system of precedent."

Roberts, who would be the youngest chief justice in more than two centuries, said a Supreme Court justice should approach his work with "modesty." He said he was "humbled" by Bush's confidence in him and spoke of his respect and admiration for the man he would replace, Chief Justice William H. Rehnquist, who died Sept. 3 at age 80.

Robert sat alone at the witness table, with his wife, Jane, and other friends and family behind him. Also prominently seated in the front row were his White House handlers, former Republican Sen. Fred Thompson of Tennessee and former Republican National Chairman Ed Gillespie, who have helped shepherd the nomination through two months of Senate courtesy calls and intense pre-hearing rehearsals.

Monday's session -- which ran more than 3 1/2 hours in the Russell Senate Office Building's historic Caucus Room -- was a mild prelude to the tough questioning expected Tuesday morning, when committee members will get the chance to cross-examine Roberts.

Day One was about photo opportunities, establishing some of the parameters for the debate, and a display of the nominee's considerable gifts as an advocate, which earned him a reputation as one of the most effective lawyers in Washington.

Committee Chairman Arlen Specter, a Pennsylvania Republican, called the hearings "the biggest challenge of the year, perhaps the biggest challenge of the decade" and vowed to keep the proceedings cordial but substantive.

Republicans on the panel, who like the Democrats had 10 minutes each for opening statements, counseled Roberts to resist efforts to probe his thinking about specific issues and cases, such as Roe v. Wade.

Republican Sen. Orrin G. Hatch of Utah said the Senate must evaluate Roberts on a standard "based upon the fundamental principle that judges interpret and apply, but do not make, the law."

Sen. John W. Warner of Virginia joined two senators from Indiana, where Roberts grew up, in emphasizing his qualifications rather than his judicial ideology.

"I can say, without equivocation, that I have never seen a nominee with stronger qualifications than John Roberts," said Warner, a 27-year Senate veteran.

Democratic Sen. Patrick J. Leahy of Vermont, signaling a theme that Democrats used all afternoon, pointed out that the Supreme Court has frequently been the last stop for Americans looking for justice in areas such as civil rights.

He said the racial and class divides highlighted in the aftermath of the Gulf Coast hurricane make the composition of the Supreme Court more important than ever.

Democrats maintain that Roberts should provide detailed answers in the hearings because once he is confirmed, he has the job for life.

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Roberts would be the youngest chief justice in more than two centuries. The only woman on the committee, Sen. Dianne Feinstein of California, said her chief concern revolves around Roberts' views on the right to privacy, the linchpin of the Roe decision and several other major cases. Feinstein said she would find it "very difficult" to vote to confirm a nominee who would overturn Roe.

"How the court decides future cases could determine whether both the beginning-of-life and the end-of-life decisions remain private, or whether individuals could be subject to government intrusion or perhaps the risk of prison," she said.

After the hearing, Democratic Sen. Edward M. Kennedy of Massachusetts said he was "troubled" that Republicans seemed to be urging silence on Roberts.

"It's very important for the people of the United States to know who this justice is and what his views are," Kennedy said.

The packed hearing chamber, filled largely with journalists and official guests, had room for only about three dozens members of the public, who were brought in and out in shifts. Some wore stickers advertising their feelings, including "Fair Hearing, Fair Vote" and "No on Roberts."

Judges Should Play Limited Role, Like Umpires Rather Than Players, Roberts Tells Hearing (SDUT)

By Jesse J. Holland, ASSOCIATED PRESS

The San Diego Union-Tribune, September 13, 2005

Senate Judiciary Committee hearing (9 a.m.) WASHINGTON – Supreme Court nominee John Roberts said Monday that justices are servants of the law, playing a limited government role, as the Senate opened confirmation hearings on President Bush's choice to be the nation's 17th chief justice.

"A certain humility should characterize the judicial role," the 50-year-old Roberts told the Judiciary Committee. "Judges and justices are servants of the law, not the other way around."

The appellate judge likened jurists to baseball umpires, saying that "they make sure everybody plays by the rules, but it is a limited role. Nobody ever went to a ballgame to see the umpire."

The drama of Roberts' swearing-in and his short statement capped a half day in which Democrats and Republicans sparred over the legitimacy of questioning him about divisive issues. Arguments about ideology and judicial activism also marked the hours devoted to opening statements from the 18-member panel.

Speaking without notes, Roberts addressed the committee for about six minutes – barely half the time each of the senators had been allotted for opening statements before he took the oath and made his remarks. He will answer questions from senators at much greater length on Tuesday.

"Judges have to have the humility to recognize that they operate in a system of precedent, shaped by other judges equally striving to live up to the judicial oath," Roberts said. He said he appeared before the committee with "no agenda. I have no platform."

At age 50, Roberts could help shape the Supreme Court for a generation if confirmed to replace the late William H. Rehnquist. All questions, Democrats said, were fair game, and they promised to use the nearly weeklong hearings to ask Roberts about abortion, civil rights, privacy, election rights, capital punishment, judicial activism and the powers of the presidency and Congress.

Republicans advised Roberts to follow the example set by recent nominees to the high court and avoid responding to probing questions on controversial topics.

"Some have said that nominees who do not spill their guts about whatever a senator wants to know are hiding something from the American people," said Sen. Orrin Hatch, R-Utah. "Some compare a nominee's refusal to violate his judicial oath or abandon judicial ethics to taking the Fifth Amendment. These might be catchy sound bites, but they are patently false."

"Don't take the bait," said Sen. John Cornyn, R-Texas.

Democratic Sen. Russell Feingold of Wisconsin dismissed the notion that Republican calls for a dignified confirmation process barred senators from pursuing a line of questions of a lifetime appointee – especially one Feingold described as looking healthy. That last part drew a smile from Roberts.

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"If by dignified they mean that tough questions are out of bounds, I must strongly disagree," Feingold said.

Added Democratic Sen. Richard Durbin of Illinois: "Only your responses to our questions can convince us that the John Roberts of 2005 will be a truly impartial, open-minded chief justice."

Arlen Specter, R-Pa., chairman of the Judiciary Committee that conducted Monday's hearing, underscored the stakes for the Senate's vote on Roberts, an honors graduate from Harvard, a political appointee in two Republican administrations and a judge on the U.S. Court of Appeals for the District of Columbia Circuit for two years.

Roberts originally was chosen to succeed retiring Justice Sandra Day O'Connor. But Rehnquist's death prompted the president to renominate him for chief justice, replacing the man he clerked for in 1980.

"Your prospective stewardship of the court, which could last until 2040 or longer ... would present a very unique opportunity for a new chief justice to rebuild the image of the court away from what many believe it has become as a super-legislature and bring consensus to the court," Specter said.

The journey began for Roberts in the ornate Russell Senate Caucus Room. The day was devoted solely to opening statements – from the 17 men and one woman on the committee, the three senators chosen to introduce Roberts and from the nominee himself.

Roberts introduced members of his family: parents, siblings, his wife, Jane Sullivan Roberts, and his young children, Jack and Josie.

"You see she has a very tight grasp," Roberts said of his wife, who held the two children. An ebullient Jack Roberts had nearly upstaged his father when the president announced his nomination on July 19.

Democrats and Republicans saw few obstacles to Roberts' confirmation. In a Pew Research Center poll released Monday, 46 percent of those surveyed expressed support for Roberts' confirmation, up from 35 percent a week earlier.

How Roberts answers questions from the panel's 18 members about his record as a conservative lawyer in the Reagan and George H.W. Bush administrations could affect the confirmation vote by the full Senate, expected before the end of September. The Supreme Court begins a new term Oct. 3.

Republicans warned Roberts against responding to "litmus-test questions."

Abortion and the 1973 Supreme Court ruling in Roe v. Wade that legalized the procedure loomed large.

"Perhaps the Supreme Court's most notorious exercise of raw political power came in Roe v. Wade and Doe v. Bolton, two 1973 cases which invented a constitutional right to abortion," said Sen. Sam Brownback, R-Kan.

Dianne Feinstein, D-Calif., the only woman on the committee, said in her prepared statement that she planned to ask Roberts about "the constitutional right to privacy" as it deals with abortion rights.

"I am concerned by a trend on the court to limit this right and curtail women's autonomy," Feinstein said. "It would be very difficult for me to vote to confirm someone to the Supreme Court whom I knew would overturn Roe v. Wade."

The White House has released more than 70,000 documents from Roberts' time in the Reagan administration but has refused to release documents from his tenure as principal deputy solicitor general in the first Bush administration.

Seventeen Democratic senators, including potential presidential candidates Hillary Rodham Clinton of New York and John Kerry of Massachusetts, reiterated the party's call for the Bush administration to release those documents.

"The people deserve to know the complete truth about Judge Roberts, the good and the bad alike," they said in a letter to the White House.

As Battlefield Shrinks, Democrats Mute Their Attacks (WP)

By Dan Balz

The Washington Post, September 13, 2005

The first day of confirmation hearings for Judge John G. Roberts Jr. to become the 17th chief justice of the United States proved to be a tepid opening to what once was billed as a battle of monumental proportions between left and right.

There may yet be some of the fireworks that were predicted when the first of two Supreme Court vacancies opened up two months ago -- particularly this morning, when members of the Senate Judiciary Committee begin to question Roberts. But with

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Roberts's confirmation seemingly assured, some of the fight appears to have gone out of the Democrats and they have been forced to shift their strategy.

The confirmation hearings are now only partly about Roberts and what he thinks about the law. Instead, they have become a prelude to the coming battle over President Bush's as-yet-unnamed successor to Justice Sandra Day O'Connor and a forum with broader political implications for a debate about deep philosophical differences between Republicans and Democrats over the role of government and the courts in American society.

In laying out areas of potential inquiry, the Democrats were generally polite and, with few exceptions, largely devoid of passion. However, Roberts's unwillingness to answer certain questions and the White House's continuing to deny Senate Democrats documents from the nominee's days as deputy solicitor general in the administration of President George H.W. Bush are likely to raise the temperature of the opposition.

But the positive reaction to Bush's nominee to replace the late Chief Justice William H. Rehnquist and the internal head counts in the Senate have forced Democrats to adopt a different stance in approaching the hearings, one aimed as much at future elections as the question of whether Roberts will become the next chief justice. A new Washington Post-ABC News poll shows that, by 2 to 1, Americans say he should be confirmed.

Judging from the opening statements, Democrats and Republicans approached the first day of the hearings with far different goals. Confident of the outcome of the Roberts confirmation battle, many Republicans came with a set of procedural talking points aimed at encouraging Roberts not to answer the Democrats' questions about his views on controversial issues before the court.

That view was summed up most succinctly by Sen. John Cornyn (R-Tex.), whose advice to the nominee was: "Don't take the bait."

Democrats came with the intention of talking about their values and their view of the courts as protectors of women's rights and civil rights, and of the importance of preserving an expansive view of the federal government's powers in the face of a series of Supreme Court decisions limiting that power.

Sen. Joseph R. Biden Jr. (D-Del.) said that, with two vacancies, Bush and his conservative allies have a "once in a lifetime moment" to reshape the Supreme Court and to change the court's view of the Constitution. "I believe with every fiber in my being that their view of the Constitution and where the country should be taken would be disaster for our people," he said.

Richard W. Garnett, a law professor at Notre Dame University and a former Rehnquist clerk, said Republicans will have missed an important opportunity if they fail to engage.

"I would have said the Republican strategy should be not just to smooth the way to the confirmation," Garnett said, "because that's going to happen, but to remind the people that ours is a government of limited powers and that the judiciary is limited not to restrict freedom but to protect democracy."

Sen. Lindsey O. Graham (R-S.C.) suggested that he understood that advice and that Republicans could more than hold their own in such a debate. Pointing out that there will be many questions raised by memos and documents Roberts wrote while a young lawyer in the administration of President Ronald Reagan, he said to the nominee, "To some, those policies make no sense; those policies are out of the mainstream. But this hearing is about whether or not you're qualified and whether or not Reagan conservatism is in the mainstream."

Roberts was largely a bystander as the 18 members of the committee gave opening statements. When his time finally arrived, he spoke briefly and without notes, outlining a view of the judiciary as one that requires humility, an open mind and a deference to precedent.

Tougher questions await him today, and the Democrats yesterday telegraphed the areas on which they will focus. Sen. Edward M. Kennedy (D-Mass.) argued that courts must protect the rights gained by women, minorities and the disabled over the past half-century. "The central issue before us in these hearings," he said, "is whether the Supreme Court will preserve the gains of the past and protect the rights that are indispensable to a modern, more competitive, more equal America."

In one of the most arresting moments of the day, Sen. Dianne Feinstein (D-Calif.) talked about abortion rights and her days as a student at Stanford University, before abortion was legal, and when fellow students collected money for a young woman

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seeking an abortion in Mexico and when another woman committed suicide because she was pregnant. "I don't want to go back to those days," she said.

Sen. Russell Feingold (D-Wis.) raised questions about the administration's decision not to release documents from Roberts's tenure in the solicitor general's office. "The refusal gives rise to a reasonable inference that the administration has something to hide here," he said.

Those issues and others will dominate the Democrats' questioning of Roberts over the next two days, and after a quiet opening day, that is likely to increase the tension inside the Senate hearing room. That will not jeopardize Roberts's likely confirmation; whether it achieves the Democrat's political objectives is much more an open question.

Senate Opens High Court Confirmation Hearing (REU-Y2)

Reuters, September 13, 2005

U.S. Chief Justice nominee John Roberts, his record on civil rights and women's rights challenged by Democrats, vowed at the start of his Senate confirmation hearing on Monday to ensure that the Supreme Court protects all Americans.

"I have no agenda, but I do have a commitment," Roberts, President George W. Bush's conservative nominee to replace the late Chief Justice William Rehnquist, told the Senate Judiciary Committee. "If I am confirmed, I will confront every case with an open mind."

"I will be vigilant to protect the independence and integrity of the Supreme Court," Roberts said. "I will work to ensure that it upholds the rule of law and safeguards those liberties that make this land one of endless possibilities for all Americans."

Roberts made the pledge after the 18 members of the committee -- 10 Republicans and eight Democrats -- delivered opening statements in the first confirmation hearing of a Supreme Court nominee in 11 years.

Democratic and Republican lawmakers lauded Roberts' credentials. A federal appeals court judge for the past two years, he served in the Republican administrations of President Ronald Reagan and the first President George Bush.

But Democrats, citing documents stemming from Roberts' government work, challenged his commitment to civil rights and women's rights.

While he is widely expected to win Senate confirmation, lawmakers told the 50-year-old Roberts to expect tough questions, beginning on Tuesday.

"Judge, if I looked only at what you've said and written in the past, I'd feel compelled to vote no," said Sen. Joseph Biden (news, bio, voting record), a Delaware Democrat.

"You dismissed the Constitution's protection of privacy as a 'so-called right,' you derided agencies like the Securities and Exchange Commission that combat corporate misconduct as 'constitutional anomalies,' and you dismissed 'gender discrimination' as merely a, and I quote, 'perceived problem.'"

"This is your chance to explain what you meant," Biden said.

Sen. Lindsey Graham (news, bio, voting record), a South Carolina Republican, replied, telling Roberts: "The memos you wrote while you were working for President Reagan and Bush one, in my opinion, reflect a conservative lawyer advising a conservative president about conservative policies."

"Conservatives have a different view of a lot of issues versus our friends on the other side," Graham said. "The election determines how that shakes out."

Barring a bombshell, Roberts seemed headed toward confirmation by the full Republican-led Senate, perhaps by the time the high court begins its new term on October 3.

Easing his approval to lead the nation's top court was the belief Roberts would not greatly alter the conservative outlook that Rehnquist developed in his three decades on the bench.

A bigger fight was anticipated over Bush's next nominee, who would replace retiring Justice Sandra Day O'Connor, a moderate conservative who was often the swing vote on the sharply divided nine-member court.

If confirmed, Roberts would be the youngest chief justice in two centuries. And he would be positioned to lead the court for decades, helping to shape the American way of life on matters from civil rights to gay rights.

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Chairman Arlen Specter, a Pennsylvania Republican, told Roberts to expect questions on the 1973 Supreme Court decision that legalized abortion.

While he said he would not ask a nominee how they would rule on a case that could come before them, Specter said, "I consider it appropriate to question him as to his views on ... following precedents."

Specter and other lawmakers also said they planned to ask about "activist judges" who attempt to usurp the law-making power of the U.S. Congress.

"Judges are like umpires. Umpires don't make the rules. They apply them," Roberts said in his opening statement.

Without making any commitments on the abortion decision, he also said, "Judges have to have the humility to recognize that they operate within a system of precedent shaped by other judges equally striving to live up to the judicial oath."

'I Have No Platform,' Roberts Professes (USAT)

By Joan Biskupic And Toni Locy

USA Today, September 13, 2005

WASHINGTON — John Roberts' Senate confirmation hearings began Monday with Republicans and Democrats sparring over abortion rights and other legal issues, and over how detailed the nominee for chief justice should have to be in answering their questions.

But it also was clear that a subtext to the question-and-answer sessions that begin today before the Senate Judiciary Committee will be rival ideas of the Supreme Court's role in American life.

Sen. Edward Kennedy and other Democrats called for a high court that would help solve society's dilemmas by protecting the poor and the disenfranchised. Sen. Chuck Grassley and other Republicans emphasized the need for the court to take a back-seat role in such matters and give states more autonomy in solving problems.

To make their point, Kennedy and another Democrat, Sen. Patrick Leahy of Vermont, invoked the powerful images of Hurricane Katrina victims — many of them low-income minorities who were stranded in New Orleans as government officials struggled to provide aid.

"The tragedy of Katrina shows in the starkest terms why every American needs an effective national government that will step in to meet urgent needs that individual states and communities cannot meet on their own," said Kennedy, D-Mass. "The people and their Congress must have a voice in decisions that determine the safety of our country and the integrity of our individual rights." Leahy referred to "the devastation and despair facing millions of our fellow Americans in the gulf region" as he spoke of the need for "justice and equal opportunity" for all.

Grassley, R-Iowa, countered that "if we confirm (Supreme Court nominees) who are bent on assigning to themselves the power to fix society's problems as they see fit, a bare majority of these nine unelected and unaccountable men and women will usurp the power of the people, hijacking democracy to serve their own personal prejudices. We do not want to go down that road."

The mention of the hurricane victims by Kennedy and Leahy also seemed designed to highlight the past writings of Roberts, a conservative federal appeals court judge, on issues involving race and civil rights. In his previous work as a government lawyer, Roberts questioned affirmative action and other programs designed to help minorities overcome past discrimination.

The long-running debate over the court's place in society is particularly salient today because of recent rulings and the potential for significant change on a high court that soon will have two new justices after 11 years without a change in membership.

Republican Sens. Jeff Sessions of Alabama and John Cornyn of Texas, for example, each used some of their allotted 10 minutes Monday to criticize a 2003 Supreme Court decision against state laws that ban consensual homosexual relations.

On the other side, Sen. Dianne Feinstein, D-Calif., recalled the world she knew before the court voted to make abortion legal nationwide. "As a college student, I watched the passing of the plate to collect money so young women could go to Tijuana for an abortion," said Feinstein, the committee's only woman. "I knew a woman who ended her life because she was pregnant. … I don't want to go back to those days."

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Feinstein also noted that the Supreme Court soon will review an intriguing individual rights case: a dispute that tests the constitutionality of an Oregon law that permits physician-assisted suicide for the terminally ill.

Roberts has been named to succeed Chief Justice William Rehnquist, who died of cancer Sept. 3. Rehnquist was among the court's most conservative members, and was among three justices — Antonin Scalia and Clarence Thomas are the others — who consistently opposed abortion rights.

If Roberts' brand of conservatism is similar to Rehnquist's, the court's overall view might not change much.

The greater potential for change to the court is with the opening created by the retirement of Justice Sandra Day O'Connor, a more moderate conservative who has been at the ideological center of the divided court.

President Bush has suggested he will wait until the Roberts hearings are finished before nominating her successor. O'Connor has said she will remain until her replacement is confirmed.

Roberts sat alone at the witness table during the opening comments by the committee's 18 members.

When it was his turn, the former star litigator who argued 39 cases before the Supreme Court spoke without notes. He suggested that he would be the type of restrained justice that Grassley described. Roberts emphasized the "humility" and "modesty" he feels about the idea of being chief justice. "I come before the committee with no agenda," he said. "I have no platform."

Roberts played up his boyhood in Indiana, referring to the "endless fields" on which he played and his belief in their "endless possibilities." He also vowed to protect the integrity and independence of the high court.

During Monday's hearing, Democrats on the committee stressed their desire that Roberts be forthcoming in discussing his judicial philosophy.

Republicans, meanwhile, said the nominee should be able to decline to answer questions that touch on topics that he could later have to rule on as a member of the court.

Committee Chairman Arlen Specter, R-Pa., perhaps summed it up best: "It has been my experience that the hearings are a subtle minuet, with nominees answering as many questions as they think they have to in order to be confirmed."

Roberts Pledges He'll Hear Cases With 'Open Mind' (NYT)

By Todd S. Purdum And Robin Toner

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 - In an opening day of confirmation hearings in which senators drew sharp and partisan distinctions over his - and their - views on issues like abortion, civil rights and the role of the courts, Judge John G. Roberts Jr. promised on Monday that if confirmed as the 17th chief justice of the United States he would "confront every case with an open mind."

"I will be open to the considered views of my colleagues on the bench," Judge Roberts told the Senate Judiciary Committee and a packed hearing room on Capitol Hill. "And I will decide every case based on the record, according to the rule of law, without fear or favor, to the best of my ability. And I will remember that it's my job to call balls and strikes, and not to pitch or bat."

The first afternoon of at least four days of projected hearings amounted to a kind of scripted political ritual, serial speeches by senators who praised Mr. Roberts or raised concerns about him, followed by his brief remarks, in which he responded in the most general terms. [News analysis, Page A29.]

The session nevertheless starkly crystallized the debate over his nomination to fill the first Supreme Court vacancy in 11 years, and the first for chief justice in nearly 20, and how it is likely to play out in questions and answers beginning on Tuesday morning.

Again and again in the old Senate Caucus Room, the scene of contentious hearings since the days of Teapot Dome, Democrats on the panel leveled their gaze at Judge Roberts at the witness table not 20 feet away.

They said they expected him to answer detailed questions about his writings as a young lawyer in the Reagan administration 20 years ago, questioned whether he subscribed to an expansive view of a Constitution able to embrace evolving notions of civil rights and social progress and invoked the devastation of Hurricane Katrina to underscore their arguments about the gap between the American ideal and reality.

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For their part, Republicans generally hailed Judge Roberts as the kind of jurist who would exercise judicial restraint and leave law-making to Congress, though some said they wanted to explore his views about a series of recent Supreme Court rulings that curtailed Congressional power. Many said he should not have to answer detailed questions about past, present or future cases.

No one in either party promised to oppose or support Judge Roberts outright, though some came close, including Senator Joseph R. Biden Jr., Democrat of Delaware, who said that on the basis of Judge Roberts's written record alone, "I would have to vote no."

Mr. Biden, who is considering a presidential bid, added, "This is your chance, judge, to explain what you meant by what you have said and what you have written."

To potential friends and foes alike, Mr. Roberts gave the same respectful, silent, sympathetic pursed-lip look. When he spoke at last, he offered homey testimonials to his deep respect for the rule of law, declaring: "I have no platform. Judges are not politicians who can promise to do certain things in exchange for votes."

During and after the hearing, Democrats made clear they were unwilling to settle for generalities.

"It was a strong and nice statement, but didn't answer the fundamental question what kind of justice will he be," Senator Charles E. Schumer, Democrat of New York, said.

Senator Richard J. Durbin, Democrat of Illinois and one of Judge Roberts's sharpest interlocutors, seemed to speak for many colleagues when he asked: "The basic question is this: Will you restrict the personal freedoms we enjoy as Americans or will you expand them?"

By contrast, Senator Lindsey Graham, Republican of South Carolina, said the nominee's views on particular issues were less relevant than his legal philosophy and the political realities that enabled President Bush to name him.

"To me, the central issues before the Senate is whether or not the Senate will allow President Bush to fulfill his campaign promise to appoint a well-qualified, strict constructionist to the Supreme Court, and in this case, to appoint a chief justice to the Supreme Court in the mold of Justice Rehnquist," Mr. Graham said. "He's been elected president twice."

Perhaps nowhere was the partisan divide sharper than on abortion. Many Democrats said they intended to question Judge Roberts on his views of "the right to privacy," the basis for the Roe v. Wade ruling legalizing abortion, which he once seemed to dismiss as a "so called right."

It fell to Senator Dianne Feinstein, the California Democrat who is the sole woman on the committee, to open the debate on abortion.

"It would be very difficult, and I said this to you privately and I said it publicly, for me to vote to confirm someone whom I knew would overturn Roe v. Wade, because I remember - and many of the young women here don't - what it was like when abortion was illegal in America," Ms. Feinstein told Judge Roberts.

Speaking somberly and directly to him, she recalled college students' "passing the plate" to send a young pregnant woman to Tijuana for a "back alley" abortion and the suicide of another pregnant friend.

Later in the day, Senator Sam Brownback, the Kansas Republican who is a leader in the anti-abortion movement, countered with an impassioned appeal. Describing the Roe decision as "perhaps the Supreme Court's most notorious exercise of raw political power," Mr. Brownback added: "Since that time, nearly 40 million children have been aborted in America, 40 million lives that could be amongst us but are not, beautiful innocent faces that could bless our existence and our families and our nation, creating and expanding a culture of life."

Mr. Brownback noted that if Roe was overturned, it would not ban abortion, but return the issue to the states. Although many legal analysts have argued that the Supreme Court will - and should - be reluctant to overturn 32 years of precedent for Roe, Mr. Brownback argued that the court has overturned precedents many times. Among them, he said, was Plessy v. Ferguson, the 1896 decision that "separate but equal" facilities were constitutional.

If the hearing was tightly choreographed, it was just the first act of a drama that is apt to become more improvisational. The Senate is an institution that cherishes its prerogatives and is governed by rules that allow fluid and unpredictable debate.

Ralph G. Neas, the president of People for the American Way, a liberal group that opposes the confirmation, said after the hearing, "It's going to be a close vote in the committee and on the floor."

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But Ed Gillespie, the former chairman of the Republican National Committee who is coordinating the confirmation effort for the White House, said: "I don't anticipate problems. I anticipate a vigorous process."

The Republicans have a majority 55 votes in the Senate, a major asset for the nomination.

A generation of deeply partisan struggles over judicial nominees framed the hearing, a rough history that began with the Reagan administration, in the fight over Judge Robert H. Bork's nomination to the Supreme Court, stretched across the Clinton years and has persisted under Mr. Bush. A panel member, Senator Tom Coburn, Republican of Oklahoma, choked up speaking on divisions and "mindless partisanship."

Again and again on Monday, Republicans said Democrats had no right to apply an ideological litmus test to Judge Roberts's nomination, or to press for detailed answers on past cases, but merely to judge him by his indisputable qualifications.

"We must use a judicial, rather than a political, standard to evaluate Judge Roberts's fitness for the Supreme Court," said Senator Orrin G. Hatch, Republican of Utah and a senior member of the committee.

Senator Graham told Mr. Roberts: "You have been described as brilliant, talented and well qualified, and that's by Democrats. The question is, is that enough in 2005 to get confirmed? Maybe not."

He added that if Republicans had voted on one issue, the constitutional right to abortion, when President Bill Clinton nominated Ruth Bader Ginsburg to the Supreme Court, "Justice Ginsburg would not be Justice Ginsburg." Democrats said excellent legal qualifications were not enough.

"Long-established rights to privacy are under heavy siege," said Senator Edward M. Kennedy of Massachusetts, the long-serving Democrat. "We need a chief justice who believes in the promise of America and the guarantees of our Constitution, a person who will enter that majestic building near here and genuinely believe the four inspiring words inscribed in marble above the entrance, 'Equal justice under law.' "

Senator Russell D. Feingold, Democrat of Wisconsin, said many people calling for a "dignified process" really meant "an easy process."

Signaling the week to come, Mr. Feingold added, "It is not undignified to ask the nominee questions he would rather not answer, should he prefer to remain inscrutable or, worse yet, all things to all people."

Democrats Seek Papers To Define Whys Of Roberts (NYT)

By Adam Liptak

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 - In opening statements on Monday kicking off the Supreme Court confirmation hearings for Judge John G. Roberts Jr. and in a follow-up letter to President Bush, Democratic senators continued their calls for the release of documents from Judge Roberts's years as a senior lawyer in the first Bush administration.

The documents, said Senator Patrick J. Leahy, the senior Democrat on the Judiciary Committee, could help illuminate the nominee's views in three areas: civil rights, privacy and access to justice. While the first two areas have garnered attention from interest groups and the news organizations, the third category - access to justice - has received relatively little scrutiny.

Most of these cases did not concern issues of great public moment, but a theme runs through them. They involved people who claimed to have suffered serious and sometimes terrible harms, including sexual abuse and torture. In response, briefs signed by Judge Roberts often accepted, at least for argument's sake, the truth of what was alleged but opposed the lawsuits under various legal doctrines that can limit plaintiffs' access to the federal courts.

Analyzed one way, his arguments reflect a cramped view of the role of the courts, exalting technicalities over justice. Viewed another way, they represent exacting fidelity to the law and a keen awareness of the limited power of the federal courts to right every wrong.

"Federal courts are courts of limited jurisdiction," he told the Supreme Court in an oral argument in one of the 16 cases on the Democrats' list. "The presumption is that they are without jurisdiction, and the plaintiff must affirmatively prove that he has standing to invoke the power of the court."

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In 1992, he signed a brief arguing that federal courts could not consider newly discovered evidence that was put forward by a death row inmate, Leonel Herrera, because he had raised the issue too late. It added that fears that innocent inmates had or would be executed were overblown.

The only forum in which Mr. Herrera could now make his case, the brief said, was in a clemency application to the governor of Texas. The Supreme Court ruled against Mr. Herrera but left open the possibility that an inmate with "truly persuasive" evidence of innocence could get a court hearing notwithstanding court deadlines. Mr. Herrera was executed in 1993.

In 1992, Mr. Roberts signed a brief in a case brought by an American who said he had been falsely arrested and tortured while employed by a Saudi Arabian hospital. The brief argued that the hospital was immune from a suit because it was owned by the Saudi government. "Allegations of inhumane treatment," the brief said, "should not obscure the legal issue in this case."

Though there is an exception to foreign sovereign immunity for a government's commercial activities, the brief argued that the mistreatment of the plaintiff, Scott Nelson, was not based on commercial activities like his recruitment and employment but on purely governmental conduct. The Supreme Court agreed.

In 1991, another Roberts brief made a subtle distinction. The case involved a Georgia student who had sued her school district, asserting that a teacher had forced her to have sex with him. The brief conceded that the suit itself was proper under a federal antidiscrimination law. But, the brief continued, the student was not entitled to recover money damages. "The existence of a cause of action," the brief said, "by no means assures a right to an unlimited array of remedies."

The Supreme Court unanimously rejected that position.

It is unclear whether the documents sought by the Democratic senators would contain Judge Roberts's personal views on these or the other 12 cases. Administration officials have said that disclosure of the documents could chill discussions in the solicitor general's office, which represents the federal government in the Supreme Court.

From 1989 to 1993, Judge Roberts was the principal deputy solicitor general, a position sometimes referred to as the political deputy. His boss was the solicitor general, Kenneth W. Starr.

"We can only wonder," Senator Edward M. Kennedy, Democrat of Massachusetts, said at the confirmation hearing on Monday, "what they don't want us to know."

In a letter on Monday, 17 Democratic senators, including three members of the bipartisan group of 14 senators who had pledged not to filibuster judges except in "extraordinary circumstances, " called for President Bush to release the documents, saying they were needed to determine "the whole truth about the nominee. " The signers included Senators Ken Salazar of Colorado, Mark Pryor of Arkansas and Joseph I. Lieberman of Connecticut.

The White House has released tens of thousands of pages of documents from Judge Roberts's days as a young lawyer at the Justice Department, where he was special assistant to Attorney General William French Smith, and the White House, where he was associate counsel to President Ronald Reagan.

At the solicitor general's office, the briefs Judge Roberts contributed to were notable in two ways. They took consistently conservative positions on social issues, including abortion, the separation of church and state, school desegregation, environmental protection and affirmative action. They were also aggressive in proposing hurdles for plaintiffs to overcome before courts could hear their cases on the merit.

In an environmental case, for instance, a brief that Judge Roberts signed took a narrow view of both standing, meaning the requirement that plaintiffs show that they have a direct interest in a case, and of Congressional power.

He presented oral arguments in the case, Lujan v. National Wildlife Federation, saying that Congress was powerless to confer standing in some settings and that the plaintiffs there had failed to satisfy the ordinary standing requirements.

The Supreme Court, in a 5-to-4 decision in 1990, ruled in his favor. Three years later, Judge Roberts made similar points, now in his own voice, in a Duke Law Journal article.

Judge Roberts signed two briefs in school desegregation cases. He argued that the school systems in question, both of which had once been found to be segregated by race, should be freed from court supervision. The Supreme Court ruled in his favor in both cases.

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A brief signed by Judge Roberts argued in favor of allowing "ceremonial acknowledgments" of religion at high school graduations. The brief urged the Supreme Court to abandon the standards it has generally used since 1971 to decide whether a given practice violates the establishment clause of the First Amendment and to replace it with a more relaxed one. The court rejected his arguments.

The briefs contain little of the acerbic wit found in Judge Roberts's early papers. But there are flashes, though it is not known whether he wrote them.

A program to give preferences to minority broadcasters, a brief signed by Judge Roberts said, failed to overcome a "fundamental hurdle - the prerequisite of coherence." It was, the brief said, "a policy in search of a purpose."

Senate Starts Roberts Hearings, Sets Groundwork For Questions (WSJ)

By Jeanne Cummings And Jess Bravin

The Wall Street Journal, September 13, 2005

WASHINGTON -- Judge John Roberts suggested that memos he wrote while serving in the Reagan administration might not fully reflect his views today, and repeated calls for judicial "humility," as hearings began on his nomination to become the 17th chief justice of the U.S.

"Judges and justices are servants of the law, not the other way around," said Judge Roberts, President Bush's pick to succeed the late Chief Justice William H. Rehnquist. "I come before the committee with no agenda. I have no platform."

His opening remarks came after considerable positioning by conservative and liberal interest groups, with backers emphasizing Judge Roberts's résumé, while opponents scoured records from his work in past Republican administrations and two years as a federal appeals-court judge to paint him as hostile to minority and women's rights. (Read the full text of his statement1.)

In his remarks to the Senate Judiciary Committee, Judge Roberts noted how proud he felt when he went before the Supreme Court as a representative of the White House and "my country." But he said it wasn't until he was in private practice -- with the full weight of the federal government against him -- that he came to "fully appreciate the importance of the Supreme Court in our constitutional system."

"Here was the United States, the most powerful entity in the world, aligned against my client, and yet all I had to do was convince the court that I was right on the law and the government was wrong and all that power and might would recede in deference to the rule of law," he said.

The committee begins questioning Judge Roberts today. Throughout most of the day, the 50-year-old nominee sat alone at the witness table, nodding occasionally but showing little emotion.

Committee Chairman Arlen Specter (R., Pa.), warned Judge Roberts that his appointment comes at a time of "turbulent partisanship" on Capitol Hill and worry on the left and right about the high court's direction. "The next chief justice will have the potential to change the court's image, in the eyes of many, as a superlegislature and to bring consensus to the court which has made a hallmark of 5-4 decisions, many of which are inexplicable," Mr. Specter said, citing rulings on matters such as the rights of the disabled to displaying the Ten Commandments on government property.

Committee members also used the session to stake out positions for questioning. Sen. Charles Schumer (D., N.Y.) acknowledged the nominee's accomplishments: He is an honors graduate of Harvard Law School who has held prestigious posts in Washington and won dozens of appeals before the Supreme Court. But, the senator said, the public must be able to "assess not only the sharpness of your mind, but also the fullness of your heart. They need to believe that an overachiever can identify with an underdog who has nothing but the Constitution on his side."

Several Democrats referred to the images of poor, black residents of New Orleans affected by Hurricane Katrina when stating that Judge Roberts's views on racial discrimination must be explored. During the Reagan administration, Judge Roberts wrote dozens of memos urging a narrow reading -- and reach -- of civil-rights laws. Republicans and Democrats put the nominee on notice that he will be asked to explain his comment in one Reagan-era memo calling the constitutional basis for the Roe v. Wade ruling on abortion rights the "so-called right to privacy."

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Republicans on the panel focused on Judge Roberts's professional qualifications and urged him to decline to answer questions he deems inappropriate. The committee's job, said Sen. Jon Kyl (R., Ariz.), is to determine if he has the "character, legal ability and judicial philosophy" to fulfill his responsibilities.

But Sen. Herb Kohl (D., Wis.), said evasive answers could reduce support for his nomination. "We have an obligation to find out where you will take us before we decide whether we want you to lead us there. And, most importantly, you have an obligation to tell us," Sen. Kohl said.

Roberts Pledges Judicial Humility In Opening Remarks (LAW)

By Tony Mauro And T.r. Goldman, Legal Times

Law.com, September 13, 2005

Chief justice nominee John Roberts Jr. opened his Senate confirmation hearing testimony Monday with a brief but powerful pledge of judicial humility, fair-mindedness and respect for precedent.

Likening the job of justice to that of baseball umpires, Roberts said, "They make sure everybody plays by the rules, but it is a limited role. Nobody ever went to a ballgame to see the umpire."

Roberts, a veteran advocate before the Supreme Court, spoke without notes but chose every word with care. He addressed the Senate Judiciary Committee after three hours of members' opening remarks. "I come before the committee with no agenda," Roberts said. "I have no platform."

At another point, Roberts said, "Judges have to have the humility to recognize that they operate within a system of precedent, shaped by other judges equally striving to live up to the judicial oath."

Roberts, 50, was first nominated in July to replace retiring Justice Sandra Day O'Connor on the Court, but after the death on Sept. 3 of Chief Justice William Rehnquist -- for whom Roberts once clerked -- President George W. Bush selected him for the chief justice spot.

The White House hasn't made a choice for O'Connor's seat yet.

The hearing marked the first time in 11 years that a nominee for the nation's highest court had come before the Senate committee, and members said it was the highlight of their year if not their careers.

Roberts, accompanied by his wife, two children, and numerous family members, smiled easily and spoke briefly about his mentor Rehnquist. Roberts said he had spoken to some of the nurses who treated Rehnquist, and he was glad to hear that Rehnquist was "not a good patient. He chafed at the limitations they tried to impose." Rehnquist died at 80 of thyroid cancer. "I will miss him," Roberts said.

If Monday was any indication of what is to come, Roberts will have a relatively easy path toward Senate confirmation. Senate Democrats, while warning they will have tough questions for him on Tuesday and Wednesday, praised Roberts' intellect and outward qualifications for the job. Even Nan Aron, president of the liberal Alliance for Justice, said after the hearing Monday that Roberts had given a "masterful performance -- and short." She also said, "He's like an actor in a show, and he's done a first-rate job."

On Tuesday and Wednesday, Roberts will field at least two round of questions from the 18 senators on the committee. On Thursday and possibly Friday, representatives of outside groups will speak for and against his nomination.

Monday's session began what committee Chairman Arlen Specter, R-Pa., described as a "subtle minuet" between senators and the nominee.

But the friction before Roberts spoke was largely between senators themselves as they clashed over what the nominee should address. Sen. Charles Schumer, D-N.Y., said he would not vote for Roberts if he failed to answer questions forthrightly. "It is our obligation to ask -- and your obligation to answer -- questions about your judicial philosophy and legal ideology."

But Sen. Jon Kyl, R-Ariz., said that answering questions even about issues -- not simply cases -- that might come before him would violate American Bar Association ethics guidelines. "I will defend your refusal to answer," said Kyl.

Sen. John Cornyn, R-Texas, also cautioned Roberts not to answer questions in order to simply please the senators asking them. "Do not take the bait," Cornyn warned.

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Specter seemed to take a middle position, announcing he would not ask Roberts if he would overturn Roe v. Wade, the 1973 ruling declaring a woman's right to abortion, but he would ask him whether women have a constitutional right of privacy -- the right on which that ruling was based.

After the hearing, Sen. Edward Kennedy, D-Mass., said, "I am particularly troubled that every one of our Republican colleagues was urging him not to be responsive."

From the opening comments of Democrats, it appeared that the privacy issue would be a major theme in coming days. Several cited a comment Roberts made in a memo from his days as a Reagan administration lawyer in which he referred to "the so-called right of privacy."

Sen. Dianne Feinstein, D-Calif., the only woman on the committee, said the right of privacy is "one of the most important issues to be addressed" at the hearing, and she indicated she would vote against Roberts if she came away believing that he would overturn Roe.

The government's response to Hurricane Katrina even made its way into the comments of several senators. Kennedy said that the hurricane had exposed not only the "gross disparities in society" but the need for "a strong national government."

Senators said the hearing represented a rare and historic opportunity to submit the Court to the influence of the democratically elected Senate. "The Constitution provides for one democratic moment before a lifetime of judicial independence," said Sen. Joseph Biden, D-Del. "This is that moment."

Because it was such a rare chance to send a message to the Court, several senators from both parties indicated they would bring up the Court's recent trend of overturning acts of Congress -- nearly three dozen since Rehnquist became chief justice in 1986.

As he has suggested repeatedly in recent weeks, Specter said he would press Roberts on the scope of congressional power. "These hearings present an opportunity to expose the extreme positions taken by the Supreme Court in denigrating the role of Congress," Specter said.

Sen. Patrick Leahy, Vt., the ranking Democrat on the committee, agreed.

"Chief among emerging concerns are whether the Supreme Court will continue its recent efforts to restrict the authority of Congress to pass legislation to protect the people's interests in the environment, safety, and civil rights," Leahy said. "And whether the Supreme Court will effectively check the enhanced presidential power that has been amassed in the last few years."

In a rare unscripted moment, Sen. Tom Coburn, R-Okla., was suddenly overwhelmed with emotion during his opening remarks. His voice choking and halting, he said, "My heart aches for less divisiveness, less polarization, less finger-pointing, less bitterness... . America is an idea; it's not competing ideologies."

Time For Supreme Court Reality TV (USAT)

By Sandy Grady

USA Today, September 13, 2005

You might say Judge John Roberts is history's first made-for-TV nominee for the Supreme Court. With his smooth, bland face and careful haircut, he seems to burst fresh from a barbershop or makeup room. He speaks in concise sentences. He rarely loses his sincere, benign smile. If this gig doesn't work out, he could get work as a TV anchorman.

Roberts seems created for his star role this week as network TV cameras focus on his grilling by the Senate Judiciary Committee. He is a conservative with the demeanor of a friendly scoutmaster. Barring edgy surprises, he will likely cool the red-state-blue-state furor and be drafted to be the youngest chief justice since 1806.

And then — presto, shazam! — Roberts will disappear. This made-for-TV paragon with the camera-ready stylishness of a Dan Rather, Peter Jennings or Tom Brokaw will vanish from television. Roberts will sink into the cloistered maw of a Supreme Court whose black-robed deities treat TV cameras as welcome as an anthrax attack. Since the justices first met in 1790, no camera has shown their arguments to the public.

Never mind that 47 states allow cameras into trials. Never mind that we can play voyeur at the televised reality soap operas of Martha Stewart, Michael Jackson, Kobe Bryant, Scott Peterson and the latest runaway bride.

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Undeniably, there's educational benefit to those TV trials along with the celebrity pizzazz. But if you want to watch the nation's highest court interrogate lawyers and argue such crucial issues as abortion, immigration, gun control or post-9/11 prisoners, forget it. That is, unless you have time to line up outside the Supreme Court for a three-minute glimpse inside.

For the Supremes stuck in their 19th-century fustiness to ban TV cameras at their ornate doors is, I think, an undemocratic shame.

The U.S. House of Representatives since 1977, the Senate since 1986, White House news conferences and almost all Washington events are open to cameras (usually those of CSPAN). Time for the Supremes to also drop their tech-phobia and join the 21st century. Maybe Roberts, so slickly adept at the electronic stage, can change the justice's shy ways if he joins them. Sen. Arlen Specter, R-Pa., who has long pushed for TV in the court, said of Roberts, "He may have a little different view about television. He's a new generation."

Even so, Roberts would have a tough sale. Time after time, the Supremes have reacted to TV coverage as if it would transform them into a tawdry Jerry Springer Show. Justice David Souter told a House subcommittee that TV cameras would be allowed "over my dead body." The late chief justice William Rehnquist had groused that the cameras would lessen the court's "mystique and moral authority." We can guess at the opposition of Judge Antonin Scalia, who bars cameras or taping of his public appearances — a marshal grabbed a reporter's recorder at a Scalia oration on free speech.

But wait a minute. The Founding Fathers, according to the resolves of the First Continental Congress, wanted courtrooms large enough for "as many of the people as choose to attend." If you're going to invite 300 million people, that means TV. The great Oliver Wendell Holmes, long before invention of the remote control, said the judiciary should be open so that each citizen is "able to satisfy himself within his own eyes" how judges perform.

Modern camera-phobic justices, however, consider TV a nosy, vulgar threat to their dignity. They fret that cameras would change the behavior of lawyers who appear at their lectern or the justices themselves, causing grandstanding for ideological applause. They worry about bright lights. And about networks using TV snippets to slant the news.

Those seem false fears. I covered the House and Senate when C-SPAN turned on its cameras. If anything, speech and decorum improved. (No more slurred bloviating after three-martini lunches). The televised Senate impeachment trial of Bill Clinton, over which Rehnquist presided, was unaffected by cameras. C-SPAN, master of discreet camera work, has offered to televise the Supremes arguments start to finish without comment. Surveys of states report no ill effect from televised courts (let's forget the O.J. Simpson carnival.)

No, I suspect the real hang-up for the Supremes against cameras is their desperate clinging to privacy. They relish their cocoon of facelessness — to go to a mall unobserved.

I saw this personally one afternoon on a golf course when I was joined by a lean, strong-handed 70-year-old whom I recognized instantly as Justice Byron (Whizzer) White. I guessed he wanted to be incognito. Only after a quiet nine holes did I say, "Didn't you play football at Colorado?"

White looked horrified. "How did you recognize me?" he snapped. Then he mumbled, "Well, it was Monday and the court wasn't busy so … look, I've got to go!" He fled for his car.

That's the real angst of the Supremes toward cameras in their court — giving up their precious anonymity. But the high court isn't some imperious, autocratic mystery cult divorced from American life. When it makes momentous decisions — especially the 5-4 vote that stopped the Florida recount and gave George W. Bush the presidency — we all should have front-row seats via television.

If he joins the club as its new chief, maybe John G. Roberts Jr., with his salesman's flair and anchorman's ease on the tube, can persuade the justices to lose their paranoia toward TV cameras.

Mr. Chief Justice Roberts (if you're confirmed), open up those doors and let the rest of America inside.

Sandy Grady, who wrote columns in Philadelphia from 1957 to 1972, is a member of USA TODAY's board of contributors.

Making Roberts Talk (NYT)

By John Tierney

The New York Times, September 13, 2005

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He came, he charmed, he shut up. During the opening statements, the senators blathered away their time and more; Judge John Roberts used less than half of his to utter a few graceful generalities. He has made a career out of not saying the wrong thing. Why start now?

A lawyer who has been cross-examined dozens of times by the Supreme Court will not be caught off guard by senators posing as legal scholars. There has never been a nominee better prepared to dodge constitutional questions.

The only hope for Democrats is to try the tactics used by interrogation pros like Israeli airport screeners and U.S. customs agents. These experts know that a smart criminal will have rehearsed a cover story for, say, what he was doing in London and why he's going to New York.

But if he's asked something unexpected - how he liked the London weather, whether he's planning to visit Times Square - he has to change mental gears. He's apt to exhibit telltale signs of a liar under stress, like gazing upward and to his right as he answers.

I'm not suggesting that Mr. Roberts is a liar, or that anything the Democrats ask today could stop him from being confirmed. But they might at least keep TV viewers awake by trying questions like these:

If Roe v. Wade were a tree, what kind of tree would it be?

Is there any chance that you could speed up Justice Stevens's retirement by addressing him as "Gramps"?

After seeing a judge's robes in a Gilbert and Sullivan production, Chief Justice Rehnquist added gold stripes to his robe. If confirmed, will you keep the stripes, or do you have a whole new look in mind?

In your best judgment, did Brad and Jen really just grow apart, or was it Angelina's fault?

From your analysis of constitutional history, would you classify James Madison as a dog person or a cat person?

Suppose you'd been in Solomon's place when he proposed cutting the baby in two. And suppose neither woman objected. Would you have cut the baby? Flipped a coin? Or opted for foster care?

You've said you're a devotee of P. G. Wodehouse. Of the current justices, who is most like Jeeves? Who's most like Bertie Wooster?

Would you consider instituting a casual Friday dress policy on the bench?

Would it be a violation of Lois Lane's so-called right to privacy if Superman used his X-ray vision to look through her clothes?

Would you think it's cool if a professional wrestler dubbed himself Chief Justice, or would you sue him for trademark infringement?

During the announcement of your nomination at the White House, your son distracted the president with an impromptu dance. When you got home that night, what happened to him?

Would Thomas Jefferson have preferred the Beatles or the Stones?

After Justice Souter's opinion in the Kelo case endorsed the use of eminent domain to seize peoples' homes for a higher "public use," a group proposed that the town of Weare in New Hampshire increase its tax revenue by taking Justice Souter's property there so that a developer could build a resort called the Lost Liberty Hotel. Would your family ever vacation there?

What goes on four legs in the morning, two legs at noon and three legs in the evening?

When you were a clerk at the Supreme Court, Chief Justice Warren Burger was disliked for his pretentiousness. What nickname did the clerks have for him? Burger King?

Does President Bush have a nickname for you yet?

When justices have birthday parties, should they invite all the other justices, or can they invite just the ones they like?

If Vice President Dick Cheney and Justice Scalia invited you duck hunting, would you go?

If Judge Judy isn't afraid of television cameras in her courtroom, why is the Supreme Court so chicken?

Ashley or Mary-Kate?

Your passion for correct grammar and syntax is well known, but you have yet to inform the American people of your position on the serial comma. In the phrase "life, liberty and the pursuit of happiness," should there be a comma after "liberty"?

How would you edit this sentence to make it grammatically correct?: "I swear I ain't never gonna overturn Roe v. Wade."

Why did you turn to the right and look upward?

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Nominee's Rulings Lean Right (WP)

By Charles Lane

The Washington Post, September 13, 2005

During his two years as a federal appeals court judge, John G. Roberts Jr. has compiled a voting record that places him to the right of the average member of the U.S. circuit courts, according to the first independent statistical study of his voting record.

Roberts was most conservative on issues involving civil rights and civil liberties, the study found. At the same time, President Bush's nominee for chief justice of the United States showed a liberal streak on economic regulation and labor issues; in those matters, he was significantly to the left of the average, according to the study.

"An overall comparison of Judge Roberts' decision-making indicates that he is somewhat more conservative than the average appellate court judge, though not dramatically so," writes the study's author, Kenneth L. Manning, a professor of political science at the University of Massachusetts's Dartmouth campus.

Manning presented his paper Sept. 1 at the 2005 annual meeting of the American Political Science Association in the District. He has since posted it on the Web at http://www.umassd.edu/cas/polisci/roberts.pdf .

The professor studied Roberts's votes in 145 of the 190 cases he has heard at the U.S. Court of Appeals for the D.C. Circuit, excluding 45 that "did not reveal a clear liberal/conservative dimension."

He found that, where such an identifiable ideological dimension did exist, Roberts made a conservative decision 67.1 percent of the time, or about 30 percent more frequently than the average federal appeals court judge. Manning based the comparison on data on the votes of all appeals court judges that have been gathered by the Inter-University Consortium for Political and Social Research at the University of Michigan.

Employing what he said were conventional political science categories, Manning classified all 145 of Roberts's cases under three headings: There were 13 "civil rights/civil liberties" cases, 44 "criminal justice" cases, and 88 "economic activity and labor regulation" cases.

In civil rights and civil liberties cases, as in the criminal justice area, Manning counted a vote in favor of the government as "conservative."

Roberts voted for the government 86.4 percent of the time in criminal cases and 84.6 percent of the time in civil rights and civil liberties cases.

Roberts's score on criminal justice cases was in line with the federal appeals courts generally. But his civil rights and civil liberties votes make him almost four times as conservative as the average appellate judge on such issues, Manning said in an interview.

He cautioned that this score was based on a small sample, because few such cases reached the D.C. Circuit since Roberts joined it in 2003.

By contrast, Roberts's relatively liberal score on economic activity and labor regulation reflected his votes in 88 cases, a large number indicative of the D.C. Circuit's prominent role in reviewing decisions of agencies such as the National Labor Relations Board and Federal Communications Commission.

In those cases, Manning said, Roberts tended to side with government out of the same deference to agency decisions that prevails generally on the court.

"The general read I got was of a non-activist stance -- a general reluctance to go out of his way and rule against government regulators," Manning said. "If the EPA ruled against the chemical industry, the general tendency was to defer to the agency."

Court Docket May Color Roberts Hearings (WSJ)

By Jeanne Cummings

The Wall Street Journal, September 13, 2005

WASHINGTON -- If Judge John Roberts wins swift Senate confirmation to the U.S. Supreme Court, one of the first cases he hears will be Gonzales v. Oregon, the Bush administration's bid to block a state law allowing terminally ill patients to end their lives.

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It is a hot-button issue similar to abortion, but the ideological battle lines in the debate are less clearly drawn. Social conservatives argue that assisted suicide, like abortion, should be banned. But states' rights conservatives, who want the court to overturn national abortion law, now want the same court to deny states the right to set policy on death.

Which side would Judge Roberts take? Today, senators will have a chance to probe the nominee's views with questions during Judge Roberts's confirmation hearing.

Earlier public statements suggest Judge Roberts, seen as an ally to social conservatives on abortion, could disappoint them on whether terminally ill patients may end their lives. When the Supreme Court last weighed in on the matter, in 1997, Judge Roberts discussed the cases in a television talk show. The high court had just decided to protect prohibitions on assisted suicide in Washington and New York states. Judge Roberts, at the time a lawyer in private practice, defended the decision to maintain the restrictions -- invoking states' rights, not morality.

"The right that was protected in the assisted-suicide case was the right of the people through their legislatures to articulate their own views...and not to have the court interfering with those policy decisions," he said.

When senators quiz Judge Roberts on his legal philosophy, one area to be explored by Democrats and Republicans is how he views the balance of power between Washington and state capitols. Under the late Chief Justice, William H. Rehnquist, the Supreme Court leaned toward curtailing federal authority.

But at times, even conservatives on the high court have disagreed on where to draw the line. In the court's last term, a clash between state and federal rights was at the heart of the Bush administration's attempts to block California from allowing medical patients to use homegrown marijuana to ease their pain. In the 6-3 ruling, Justice Antonin Scalia voted with the majority upholding the administration while Justice Clarence Thomas and Chief Justice Rehnquist sided with the marijuana-using California patients.

Where Judge Roberts falls on that spectrum could have ramifications made more complex by shifting political terrain. Before, social and economic conservatives pressed federal courts for relief from a Congress controlled by Democrats. Judge Roberts could take the helm of the Supreme Court at a time when Republicans dominate Congress and the White House, and some states are serving as laboratories for liberal social policy.

"Federalism creates strange bedfellows sometimes," says Glenn Lammi, chief counsel of the Washington Legal Foundation, a pro-business public-interest group. "Those who might want, from their ideological perspective, issues to come out one way, sometimes find that, legally speaking, they don't always come out that way."

A state-federal clash could draw the high court into the gay-marriage debate over whether the federal government can impose a national definition of marriage on states favoring same-sex unions. Cloning could become another tug-of-war; some senators want to ban cloning, while some states are trying to advance it.

When the Supreme Court eight years ago unanimously upheld state bans on assisted suicide, the justices cited more than 700 years of evidence of "the Anglo American common law tradition" of condemning "both suicide and assisted suicide."

But Chief Justice Rehnquist, writing for the majority, took an extra step that left the door open for states to revisit the matter. Separated from the rest of the text by about an inch of white space he added a final thought in the Washington v. Glucksberg opinion: "Throughout the nation, Americans are engaged in an earnest and profound debate about the morality, legality and practicality of physician-assisted suicide. Our holding permits this debate to continue, as it should in a democratic society."

In 1994, Oregonians voted 51% to 49% for the Death with Dignity Act. The measure was full of the checks-and-balances that the Supreme Court suggested would be vital to legally balancing the state's interest in protecting life and society's wish to alleviate suffering. The law allows only terminally ill, adult patients with less than six months to live to obtain a prescription for a lethal dose of drugs. Two doctors must approve of the request, and counseling must be offered in certain cases. The patient is required to make the request for the drugs three times in 15 days, twice verbally and once in writing. The patient must be able to swallow the drugs himself, without assistance.

A torrent of legal and political challenges ensued, and an injunction was issued before the law took effect. Two federal courts upheld the law, and the Supreme Court in 1997 refused to review it. State lawmakers that year put through a second referendum, this one to repeal the law. Despite a multimillion dollar campaign funded largely by the Catholic Church and Right to Life organizations, Oregon voters rejected the initiative 60% to 40%.

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President Bush's victory in 2000 gave the opposition more powerful tools to employ against the law. On Nov. 6, 2001, Attorney General John Ashcroft invoked the federal Controlled Substances Act to revoke the licenses of Oregon doctors who prescribed the lethal cocktails, and directed investigators to identify doctors who did.

Oregon officials obtained an injunction to block the Justice Department from carrying out Mr. Ashcroft's instructions. The Ninth Circuit U.S. Court of Appeals in San Francisco upheld the Oregon law, and on his last day at the Justice Department, in November, Mr. Ashcroft appealed the ruling to the Supreme Court.

Shortly after President Bush nominated Judge Roberts to the Supreme Court, Oregon Democratic Sen. Ron Wyden -- a defender of his state's law -- met with the nominee for nearly an hour. They discussed states' rights and whether Judge Roberts thought a "state should have a wide berth in terms of regulating medical practice," Sen. Wyden says. The senator didn't ask Judge Roberts how he might rule in the Oregon case. But based on what he's heard, Sen. Wyden says: "Put me down as hopeful."

On Iran-contra, What Did Roberts Know? (CSM)

By Warren Richey

The Christian Science Monitor, September 13, 2005

WASHINGTON - What did you know, and when did you know it?

That query, dating from the Watergate probe, is perhaps the best known question ever asked during a congressional hearing (at least since the McCarthy era). But the kind of scandal that prompts such a bare-knuckled interrogation does not appear on John Roberts's golden résumé.

The US Supreme Court nominee, now appearing before the Senate Judiciary Committee, is being questioned about his conservative leanings, his past writings, and his courtroom advocacy of far-right constitutional interpretations. But no one is attacking the prospective chief justice's honesty, integrity, or ethics.

Nonetheless, at least one episode in Judge Roberts's past may prompt that famous line of interrogation. As a member of the White House counsel's office in 1985 and early 1986, Roberts was in close proximity to what ultimately became the Reagan administration's Iran-contra scandal.

As early as January 1985, Roberts was asked to give a legal opinion about White House involvement in private fundraising to help the contra forces fighting Nicaragua's Sandinista government. He also wrote several memos in early 1986 concerning the private fundraising activities of individuals who were later prosecuted in the Iran-contra affair.

But Roberts's White House memos, made public at the National Archives, are unlikely to provide much grist for conspiracy theorists seeking to link the former Reagan staffer to the scandal.

Instead, Roberts's memos on contra-related issues reveal a cautious lawyer who consistently sounded alarm bells about appearances and who urged compliance with the letter and spirit of the law. His words convey no sign of a devious consigliere searching for ways to bend the law or conceal lawless activities.

More important, the memos suggest that Roberts and his colleagues in the White House counsel's office were outside the loop on the secret dealings of Lt. Col. Oliver North at the National Security Council. There is no indication that the office was consulted about the legality of trading arms for hostages in Lebanon, or using proceeds from the Iran arms sales to support the contras at a time when Congress had barred US government assistance to them.

One odd circumstance, though, might raise a question about how much Roberts knew about Iran-contra and when he knew it.

Roberts left the Reagan White House in May 1986 - six months before public disclosure of the Iran-contra scandal threw the Reagan presidency into turmoil.

Roberts's departure alone isn't unusual. Ambitious and talented lawyers circulate in and out of government service on a regular basis. What is unusual is that between January and June 1986 the entire counsel's office departed. All seven lawyers - including presidential counsel Fred Fielding - resigned and left the White House.

The departures mark an extraordinary exodus of legal experience even as the Iran-contra deception was in full operation.

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Peter Wallison, who succeeded Mr. Fielding as White House counsel in April 1986, says the departures were routine turnover within the office, nothing more. "They would have to be very, very perspicacious ... to have sensed something that was such a tightly held secret," he says. "Nobody had the slightest inkling [the Iran-contra operation] was occurring, and if they had, it would have been stopped."

Richard Hauser, deputy White House counsel until early 1986, also says there was no connection between the departures and Iran-contra. "It may have just been because Fred [Fielding] and I were leaving that that became a natural time for others to make plans," he says.

The Roberts legal memos dealing with Iran-contra issues were the type of routine matters that came through the White House counsel's office every day, he says.

"The only thing remarkable about it," Mr. Hauser says, "is that there was a pyrotechnic aspect to it that was unknown at the time."

In January 1985 Roberts was asked to assess the legality of the president and the White House becoming involved in fundraising on behalf of a newly formed private group called the Nicaraguan Refugee Fund. A plan being pushed by Colonel North and others at the National Security Council called for the White House to give corporate leaders a briefing on the situation in Nicaragua and then the group's representatives would ask the CEOs to give money to the fund. The money would be used for humanitarian aid and to wage a publicity campaign in the US against the Sandinista regime.

Roberts objected. In a Jan. 11, 1985, memo, he wrote: "I recommend stopping any White House involvement in this effort." The White House generally does not lend its name to private fundraising, he wrote. "The corporate CEOs would doubtless view the solicitation from the 'private' organization as having official backing if they learn about it at a White House briefing," the memo said.

But that wasn't the last word. After a week of internal appeals, Roberts reversed his position. Supporters of the effort argued that White House fundraising policy would not be violated, because solicitations would occur after the briefing at a reception at the Hay-Adams Hotel, a block from the White House.

"I suppose we could permit the briefing to take place," Roberts wrote on Jan. 18, 1985. "But I think [this] 'Chinese wall' argument is a bit artificial."

The "Chinese wall" concession is important because it established the briefing-solicitation process that North later used to raise funds from private individuals to pay for contra weapons. Those soliciting the funds on North's behalf later pled guilty to violating US tax laws for claiming the donations were tax-free.

In early 1986, Roberts wrote a series of memos on private fundraising. The plan was as in 1985: provide a White House briefing for wealthy administration supporters, then take them to the Hay-Adams and ask for money.

"I see no legal bars to the contemplated briefing," Roberts wrote in January 1986.

Roberts's memos suggest he was unaware that the money was being used by North and others in the administration to arm the contras. White House officials were told the money was for a "public awareness" campaign in the US by a private group that supported Reagan's position on Central America.

The White House briefings and Reagan's drop-bys were used to boost the private fundraising effort. Those preparing Reagan's fundraising pitches to would-be donors often went too far, in Roberts's view.

One proposed draft of Reagan remarks said: "I ask you - and I ask private citizens throughout the country - to give private donations to the freedom fighter cause. Help them survive this Soviet-Cuban-supplied onslaught. Help these brave freedom fighters last out until American aid can reach them."

After reviewing the draft, Roberts fired off a memo. "The final paragraph on page 3 raises serious concerns under the Neutrality Act," he wrote March 20, 1986. Private citizens who contribute money to buy arms for use against a country with which the US is not at war would be violating federal law and be subject to a fine and prison term, he said.

"The president cannot encourage private citizens to engage in such activity," Roberts wrote. "The reference to private donations must either be deleted or revised to make clear that only donations for humanitarian aid (not covered by the Neutrality Act) are encouraged."

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The comments were toned down, but, apparently unknown to Roberts, the donations secretly continued to flow to the contras for weapons.

A Day Of Firsts, Overshadowed (WP)

By Dana Milbank

The Washington Post, September 13, 2005

Yesterday's opening of the John Roberts confirmation hearings was a time for historic firsts.

Sen. Charles E. Schumer (D-N.Y.) made 49 first-person references in a 10-minute statement that was, ostensibly, not about himself.

Sen. Tom Coburn (R-Okla.) showed exceptional emotional versatility, working a crossword puzzle during the hearing and then choking back a sob while making a prosaic statement about partisanship.

Roberts delivered what may have been the shortest opening statement by a modern Supreme Court nominee -- less than seven minutes, including the thank-yous and two baseball metaphors.

But in the end, the confirmation kickoff was anticlimactic: As word spread through the gallery midway through the session that FEMA Director Michael D. Brown had quit, reporters knew the Roberts story would, once again, be a sideshow. Roberts may well be confirmed as chief justice of the Supreme Court, but in the case before the court of public attention, in re: Katrina v. Roberts , the defendant doesn't have a chance.

With the nation distracted by the hurricane and flooding down south, neither left nor right nor middle displayed much energy. By 10:30 a.m., only 170 people had shown up for public tickets to witness the noon proceedings -- making unnecessary the plastic cordons and the queue signs leading almost all the way to Union Station. Outside the Russell Senate Office Building at 11 a.m., a grand total of 21 people demonstrated against Roberts, chanting: "Two-four-six-eight, separation of church and state!"

Even inside the storied Senate Caucus Room -- scene of the Teapot Dome, McCarthy and Watergate hearings -- some were preoccupied with Katrina.

Sen. Patrick J. Leahy (Vt.), the committee's ranking Democrat, led off with an observation that the hurricane was "a tragic reminder of why we have a federal government." Sen. Edward M. Kennedy (D-Mass.) said, in one of three references, "Katrina tore away the mask that has hidden from public view the many Americans who are left out and left behind."

Senate Judiciary Committee Chairman Arlen Specter (R-Pa.), opening the hearing, called the confirmation "perhaps the biggest challenge of the decade." But at times it appeared to be a swearing-in ceremony. Before the hearing, Kennedy shook the hand of Jane Roberts and said to the nominee's wife, "Congratulations."

Sen. Joseph R. Biden Jr. (D-Del.) seemed to be taking confirmation for granted when he listed a range of issues likely to come before the court and told Roberts, repeatedly, "You will rule on that." In the park across the street from the Russell Building, a modest but confident group of conservatives sipped from water bottles labeled "Roberts YES."

Sen. John W. Warner (R-Va.), who had the job of formally introducing Roberts to the committee, offered some advice to the nominee's playful young son, Jack: "You can wiggle a little bit. Don't worry."

As it happens, that was similar to the advice GOP members offered. In their 10-minute opening statements, they repeatedly urged him not to answer questions about his views.

"Don't take the bait," suggested Sen. John Cornyn (R-Tex.). Sen. Orrin G. Hatch (R-Utah) said it is "patently false" that Roberts must provide answers. Sen. Jon Kyl (R-Ariz.) thought it could be "unethical."

Democrats were almost as uniform in the opposite view. "It is our duty to ask questions," Kennedy replied.

"It is not undignified to ask questions," submitted Sen. Russell Feingold (D-Wis.).

"It is our obligation to ask and your obligation to answer," Schumer said.

Roberts sat still, shoulders slightly rounded, moving his head thoughtfully from side to side, and keeping a polite gaze on each speaking senator; after three hours of this, the nominee shamed the lawmakers with a brief speech blending jurisprudence and the national pastime. "I will remember that it's my job to call balls and strikes and not to pitch or bat," he said.

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Specter, determined to keep the proceedings on schedule, even cut himself off at the 10-minute mark, saying, "I'm down to 10 seconds . . . that's it."

But there were unscripted moments. Cornyn and Sen. Sam Brownback (R-Kan.) spent a chunk of the afternoon whispering and joking. A woman in a 19th-century hat and dress sat in the back of the room wearing a "Women for Roberts" sticker. After Feingold predicted longevity for the 50-year-old nominee because he looks "healthy," Coburn, a doctor, said that cannot be predicted without a "physical exam or a family history" -- neither of which is on this week's hearing schedule.

A television camera behind Coburn caught the senator working a crossword puzzle. But Coburn went from detachment to emotional overdrive when it was his turn to talk; seconds after asserting that "a super-legislator body is not what the court was intended to be," he paused and wept.

Colleagues looked alarmed. One GOP committee aide put his hand to his mouth. It was the biggest Senate choke-up since Sen. George V. Voinovich (R-Ohio) cried while opposing the nomination of the ambassador to the United Nations -- and Coburn has to get through three more days of hearings.

Right Pleased With Specter (RC)

By Paul Kane

Roll Call, September 13, 2005

After bitterly attempting to deny Senate Judiciary Chairman Arlen Specter (R-Pa.) the gavel, conservative activists are now beginning to praise the five-term moderate as an unexpected ally in several key battles this year.

Specter, who was nearly denied the chairmanship last November after an eruption on the right regarding comments he made about Roe v. Wade, has won some grudging respect from conservatives in recent weeks. Those activists have been particularly pleased with his handling of the run-up to this week's confirmation hearing for Judge John Roberts, who is President Bush's nominee for chief justice of the United States.

"In the context of this confirmation hearing, he has been spectacular," said Leonard Leo, executive vice president of the Federalist Society, a conservative group of lawyers.

Jay Sekulow, a point person among conservatives as chief counsel for the American Center for Law and Justice, said Specter's performance had exceeded the "forecasts of doom by some on the right."

Even former Attorney General Edwin Meese, who openly endorsed Specter's primary opponent in April 2004, said that he was expecting the chairman to handle the Roberts hearings "very fairly," and added that he believes Specter has been a "strong chairman."

By no means are conservatives starting a fan club for the chairman — indeed, most of their praise has been hedged with such phrases as "so far." But conservatives have had an easier legislative road this year thanks to Specter's support for a large chunk of the Bush agenda and his avid support of his judicial nominations.

And some of the younger conservative Senators on his panel say that Specter has emerged as the right person to run what has become the chamber's most partisan committee. Sen. Lindsey Graham (R-S.C.) said Specter has been "evenhanded" and "fair" to conservatives on the committee with whom the chairman disagrees with personally on issues.

Because Specter has had fights with the conservative movement for nearly two decades, he comes to the chairmanship with a perceived independence from them that ultimately yields a big benefit to the White House and Senate Republicans when he does come down on their side, Graham said.

"It helps in the sense that he's not looked at as an ideologue," he added. "It gives the committee some credibility, and he's probably the perfect guy to be chairman."

Leo said that the two-week gavel fight Specter underwent in November helped him understand what a different role it is to be chairman. "By taking the chairmanship, he was taking a different role. He's not a free agent anymore," he said.

Even as he continues to earn a level of praise from senior Democrats and some liberal activists, Specter has repeatedly been on the side of conservatives more often than not this year on the big issues before his committee.

At Monday's hearing, his opening statement ticked off a litany of issues the panel has worked on this year: the somewhat contentious confirmation of an attorney general, an overhaul of bankruptcy and class-action rules, re-authorization of the highly

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contentious USA PATRIOT Act and the confirmation of a handful of previously filibustered appellate court nominees. It read like a wish list for conservatives.

In advance of the Roberts hearings, Specter defended the White House position that writings and memos from Roberts' tenure at the Solicitor General's office about 15 years ago should remain sealed.

And on Sunday's "Meet the Press," Specter objected, somewhat unexpectedly, to the idea of elevating Attorney General Alberto Gonzales to the Supreme Court to fill the court's remaining vacancy on the court. That puts him in step with conservatives who are wary that Gonzales harbors comparatively moderate positions on social issues.

And Specter achieved all this while fighting off Hodgkin's lymphoma cancer, which was diagnosed in February and which until the end of July prompted chemotherapy every other Friday at the University of Pennsylvania's Hospital in Philadelphia.

In an interview after Monday's opening day of hearings, Specter spread credit among the membership of the entire panel. And he brushed off any suggestion that his presence in the spotlight represented any kind of redemption.

"This committee has delivered," he said. "It hasn't just been me."

Indeed, part of Specter's recent run of success has been his ability to work through procedural issues with Sen. Pat Leahy (D-Vt.), Judiciary's ranking member, as well as his good relationship with Minority Leader Harry Reid (D-Nev.).

Both GOP and Democratic aides say that Specter has smoothed over relations with Leahy in a way that had become impossible under former Chairman Orrin Hatch (R-Utah), who bitterly fought with Leahy during President Bush's first term. Hatch later stepped down due to internal GOP rules limiting chairmen's terms.

"All committees should have the working relationship that these two have," Reid said of Specter and Leahy last week.

Liberal activists have taken note of Specter's tendency to work through things privately with Leahy. "He hasn't been as confrontational as Sen. Hatch," said Ralph Neas, president of People For the American Way. "He's tried to resolve things in a bipartisan way."

But, in the same breath, Neas noted with frustration that Specter has "marched in lockstep with President Bush on judicial nominations for the past four-and-a-half years."

"He's a paradox," said Nan Aron, head of the Alliance for Justice, noting Specter's primary role in defeating Robert Bork's nomination to the Supreme Court in 1987 and his subsequent support of almost every nominee from both President Bushes.

"He's someone who, ever since Bork, has walked a very fine line, and someone who has done it effectively," Aron said.

For conservatives, the biggest question mark came in May, when the Senate faced down the fight over filibusters of judicial nominations.

Majority Leader Bill Frist (R-Tenn.) was poised to force a parliamentary vote banning them, and he needed just 50 votes to do it. According to Democratic and GOP Senators, the vote was 49 Senators on Frist's side, 50 against and Specter the lone holdout. He never publicly stated his position — although he stood at Frist's side at what would have been the start of that floor debate — and he never had to once the "Gang of 14" deal averting that vote materialized.

Still uncertain whether he was on their side in the filibuster fight, conservative activists were happy to see Specter quickly work to win confirmation for such judges as Priscilla Owen to the Fifth U.S. Circuit Court of Appeals — a confirmation victory that now has her on some lists to succeed retiring Justice Sandra Day O'Connor.

On Monday, Specter again refused to say how he will vote on the Roberts nomination, maintaining his independence and awaiting to hear the nominee answer his questions. He rejected any suggestion that these hearings were personal vindication for a 25-year roller-coaster ride in the Senate, but his smiles and jokes with the press afterward betrayed a sense of satisfaction about being in charge.

"It's one of those slight perks you get if you stay around long enough and you don't get indicted," he said.

Margaret Carlson column: For Dems, Less Might Be More (LAT)

By Margaret Carlson

The Los Angeles Times, September 13, 2005

I'm as excited as anyone about the prospect of "Advise and Consent, the Sequel," with a budget rivaling "War of the Worlds" and advance hype just short of Tom Cruise jumping on a couch, declaring his love for Arlen Specter.

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Eighteen years after "Borking" became part of the language, the two main protagonists in that battle are still at it. Specter, the Senate Judiciary Committee chairman, got in one more lick Sunday against the Supreme Court nominee he defeated back then, Robert Bork. "If his 'original intent' stood, we'd still be segregating the United States Senate with African Americans on one side and Caucasians on the other side," Specter said on CNN. Bork said later in the same program: "I know Specter, and the truth is not in him."

Somehow Alberto Gonzales, one of the potential candidates to succeed retiring Justice Sandra Day O'Connor, seems incapable of generating that level of venom. He may prove to be a stealth candidate with rock-hard positions we don't know about, but he comes across as milder than that. The right wing jokes that "Gonzales" is Spanish for "David Souter." And the left dislikes him for condoning torture at Abu Ghraib. The bipartisan dismay has lent Gonzales an air of being just right.

I'm not saying Bush is going to nominate Gonzales, the old friend he huffily told folks to lay off of as he flew to the G-8 summit in Scotland. He might even nominate a real hard-liner, lure the Democrats into eliminating him and then get whomever he wants to replace O'Connor and Chief Justice William Rehnquist when he retires.

What I am saying is that although Bush looks more and more messianic, he's got enough of his father's pragmatism in him to want to overturn Roe vs. Wade about as much as he wants to read the collected works of Shakespeare.

If Roe goes down, so does his majority, his legacy and present and future politicians bearing the name Bush. Traditional Republicans who voted for Bush for his pro-corporate, pro-tax-cut views will put aside their selfish concerns and flock to pro-choice candidates, who tend to be Democrats. He doesn't want to be remembered as the guy who knocked down the late Lee Atwater's Big Tent.

Watching Karl Rove, you know he has his right flank under better control (he got them to the polls in 2004) than Democrats have their left one. Evangelicals look into Bush's soul and see a man who would criminalize abortion as soon as possible, while moderate Republicans see a man who is only doing what's necessary to keep conservatives mollified.

Rove let those on the right vent for a few days about Gonzales and then, about the time he slipped and called Gonzales "Justice" in a meeting with the Washington Post two days ago, had his minions tell them to chill.

Bush has tossed the right enough red meat (Terri Schiavo, embryo protection in stem-cell research, Social Security reform, tax cuts, the war) so that when red meat he doesn't want to deliver is called for, he has the room to finesse it. It's quite a trick. Bush does not keep Laura from saying, as she did on the "Today" show in 2001, that she doesn't want to see Roe vs. Wade overturned, and he lets the twins take the stage at the GOP convention, speaking of sex in front of Grandma and the delegates in a fashion that says no way do they belong to a party that lets Phyllis Schlafly have her way.

This doesn't mean there won't be Kabuki theater from now until October. There are a lot of people with a stake in a big blowout, including political fundraisers and the media.

So what should Democratic senators do, some of whom are up for reelection in 2006 and most of whom secretly believe that putting your name on a benign-sounding piece of legislation with a sweet name like No Child Left Behind is a better career-builder than Borking someone? Republicans have successfully defined advice and consent downward. Whisper "extraordinary circumstances" for anyone other than a felon or flat-earther and you can kiss the Gang of 14 compromise saving the filibuster goodbye

When you combine the polls on Congress (it stinks) with the ones on the Supreme Court nomination (a quick and fair fight is all we ask for), it argues for continuing to do what's worked best for Democrats: as little as possible while letting Republicans go too far.

By abandoning the field, Democrats have unleashed Bush's most fearsome opponent: reality. On Social Security, Republicans are a victory away from annihilation. If only Democrats had done even less, they might have restored their FDR coalition and been sure of winning back the White House and Congress. If the GOP wants to be the party of James Dobson and Jerry Falwell, let them have the shovel to dig that hole. It might not bring Democratic victory tomorrow, but it will soon and for decades to come.

Bush Expresses Confidence In Recovery Efforts (LAT)

By Edwin Chen

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The Los Angeles Times, September 13, 2005

WASHINGTON — President Bush, making his third visit to areas in Louisiana and Mississippi devastated by Hurricane Katrina, said Monday that New Orleans was "on the way" to recovery and stated that there was now "close coordination" among all levels of government.

In comments after high-level briefings and a tour of some areas of New Orleans affected by the hurricane, the president alluded for the first time to the disproportionate number of African Americans stranded by the flooding in New Orleans, and he vowed to look into growing concerns among homeowners who lacked flood insurance coverage.

Some residents of the Gulf states are reporting that insurance adjusters are questioning whether their homes were damaged by flood or by wind. Flood damage is generally not covered by standard homeowners' policies; wind damage often is.

Bush said Monday that he had encountered a woman facing such a dilemma. After she told him of her situation and asked how he would feel, the president said he told her: "I wouldn't like it a bit."

He also told her that he would "find out the process that determines whether or not it's a wind or water event."

Despite the relief progress that he said he noted Monday — Bush cited a gas station "up and running" in Gulfport, Miss. — the president warned: "There's a lot of serious and hard work that's yet to be done."

During a brief question-and-answer session with reporters, Bush was asked about the large numbers of blacks who were trapped in the Superdome and the convention center in New Orleans.

"My attitude is this: The storm didn't discriminate, and neither will the recovery," Bush replied. "When those Coast Guard choppers, many of whom were first on the scene, were pulling people off roofs, they didn't check the color of a person's skin. They wanted to save lives."

He also reiterated his aversion to conduct an immediate review of the bureaucratic snafus that left tens of thousands of New Orleans' residents stranded by the floodwaters, saying that both the White House and Congress later would "take a good, close look at what went on, what didn't go on."

Such an assessment — after the crisis has eased — would be "really important" and would help "answer the question: Are we prepared for major catastrophes?" Bush said. "If there were to be a biological attack of some kind, we've got to make sure we understand the lessons learned to be able to deal with catastrophe."

The president once more dismissed a suggestion that the rescue efforts may have been hampered by a lack of military personnel because so many troops are serving in Iraq.

"It is preposterous to claim that the engagement in Iraq meant there wasn't enough troops here, just pure and simple," he said.

Bush arrived in New Orleans late Sunday afternoon and spent the night aboard the Iwo Jima, a Navy amphibious assault ship docked in the Mississippi River. He returned to Washington Monday evening after visiting Gulfport.

Bush Denies Racial Component To Response (NSDY/AP)

By Jennifer Loven, Associated Press Writer

Long Island Newsday, September 13, 2005

NEW ORLEANS -- President Bush, ducking low-hanging tree limbs and electrical wires, rode in an open truck Monday for his first close-up look at New Orleans' ravaged, trash-strewn, flooded neighborhoods. He denied that poor, black victims of Hurricane Katrina were ignored because of their race.

After a federal response criticized as slow and inadequate, Michael Brown, the embattled director of the Federal Emergency Management Agency, announced his resignation in Washington. His departure had been expected after he was stripped of his onsite command of the hurricane relief effort three days earlier.

Bush replied testily to a reporter who asked whether he felt let down by federal officials in responding to the disaster.

"Look, there will be plenty of time to play the blame game," he said. "That's what you're trying to do. You're trying to say somebody is at fault. And, look, I want to know. I want to know exactly what went on and how it went on, and we'll continually assess inside my administration."

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Bush spend the night here on the amphibious assault ship USS Iwo Jima, and toured the city for 45 minutes. The president's convoy moved slowly through just-drained neighborhoods caked with black mud and through streets where the water line reached well into the trucks' tire wells or lapped at curbs. At times, the stench was overwhelming.

Bush seized on the news of falling water levels throughout New Orleans and pronounced the city on the mend. Business owners were issues passes to retrieve records and equipment, and more than half of southeastern Louisiana's water treatment plants were back in operation.

"My impression of New Orleans is this: that there is a recovery on the way," Bush said in the shadow of a freeway overpass, destroyed cars littering the landscape behind him and rescue choppers occasionally drowning out his words.

Polls show broad dissatisfaction with Bush's handling of the hurricane and his job approval rating is at the lowest point of his presidency. This was his third and longest trip here since Katrina pulverized Gulf Coast communities and submerged most of New Orleans two weeks earlier. He is expected to return to the region on Thursday, and aides were discussing plans for him to address the nation from a site to be determined.

Bush's tour of New Orleans started by regular motorcade, taking him in his Suburban through the nearly deserted city -- past the now-infamous Superdome, through parts of the central business district and the Bywater District with the orange X's on doors signifying the visit of a search-and-rescue team, and into the French Quarter. There, he and his entourage jumped into the military vehicles.

Escorted by Humvee, Bush stood in the truck bed flanked by a grim-looking New Orleans Mayor Ray Nagin and Louisiana Gov. Kathleen Blanco -- both of whom have criticized the federal response.

Many people, particularly in the black community, have suggested that one reason for the slow response was that most of the storm victims, especially in New Orleans, were poor and black and that the administration doesn't care about them. The president said that wasn't so.

"The storm didn't discriminate and neither will the recovery effort," he said. "When those Coast Guard choppers ... were pulling people off roofs, they didn't check the color of a person's skin. They wanted to save lives."

Bush also clarified his oft-criticized remark that no one had anticipated that New Orleans' levees being breached. He said there was an initial impression that the city had escaped heavy damage "and I myself thought we had dodged a bullet." He said he got that impression from the media.

Before Monday, Bush had only seen New Orleans' deepest misery from the air -- from aboard Air Force on the way back to Washington from his Texas ranch and again from a helicopter two days after that. His only foray into the city was to one of the breached levees on its edge.

The president ended his two-day stay in the region in Gulfport, Miss., a town on the coast where Katrina's winds turned scores of homes and businesses into matchsticks.

Bush stopped at a distribution center run by Christ in Action. "Good to see you" and "Good luck," Bush murmured to people he greeted along long tables where food and supplies such as water, diapers and toilet paper were being distributed. He also cheered on a group of Mexican marines and Navy Seabees just back from Iraq who were clearing debris at the 28th St. Elementary School.

He said earlier it was "preposterous to claim" that the nation's military was stretched too thinly with the war in Iraq to deal with the Gulf Coast devastation.

WRAPUP 3-Bush Tours Ravaged New Orleans As Criticism Swirls (REU)

By Michael Christie

Reuters, September 12, 2005

NEW ORLEANS, Sept 12 (Reuters) - U.S. President George W. Bush, on a tour of devastated New Orleans on Monday, rejected charges the government was slow to respond to Hurricane Katrina because most of the victims were black or because the nation's military was over-extended in Iraq.

"My attitude is this: The storm didn't discriminate and neither will the recovery effort. When those Coast Guard choppers ... were pulling people off roofs, they didn't check the color of a person's skin. They wanted to save lives," the president said.

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He also said it was "preposterous" to claim that the Iraq war had drained military resources, leaving too few troops to help out with the hurricane.

"We've got plenty of troops to do both," Bush said during a tour of the areas of the city ravaged by the hurricane.

It was his third visit to the Gulf Coast since the hurricane struck two weeks ago. He was briefed by Coast Guard Vice Adm. Thad Allen, the man appointed to take command of recovery efforts last Friday, replacing Michael Brown, the much-criticized head of the Federal Emergency Management Agency, whom Bush had earlier praised.

The president then ventured out into the ruined city, riding in an open, flatbed military truck through flooded streets. He saw damaged houses, downed trees and fetid, black and gray floodwaters.

But in a new blast at the administration, civil rights leader Rev. Jesse Jackson said the government was now discriminating against local businesses by ensuring that big corporations with close ties to the establishment received all the major rebuilding contracts.

"It smells so much like cronyism and you've still got people sleeping on floors," Jackson told Reuters.

The official death toll has climbed past 400 and was expected to climb higher, making it one of the deadliest hurricanes in the United States in a century. One million people in the region have been displaced by the disaster.

FOCUS ON HOUSING

Allen told the president he was focusing efforts on getting thousands of evacuees out of temporary shelters as quickly as possible and into more permanent housing.

National Guard soldiers swept mud-covered thoroughfares and cleared debris in central New Orleans ahead of Bush's visit.

Critics have charged that the president seemed isolated from real-time information and slow to grasp the immensity of the disaster in the days after the storm hit.

Around 40 percent of the city remains swamped by contaminated water, although surrounding suburban areas were drying out. Most of city's 450,000 residents are scattered across the United States in shelters or with friends and family. An unknown number have ignored repeated calls to leave, choosing the brave growing health hazards in the city.

Charles Daniels, 63, finally gave up on Monday and was trying to find some fuel for his car to leave. He was hoping for information on his two daughters and seven grandchildren, evacuated during the worst of the flooding.

"I have no idea where they are. No idea. But they're not coming back, because it's all flooded down there where they lived," he said. "My baby daughter's home is bad. She can't move back there. It's gone."

About 1 million people from Louisiana, Mississippi and Alabama were displaced by the Aug. 29 storm and many families have been separated.

The National Center for Missing and Exploited Children said 1,600 children were listed as missing by their parents, or were seeking their families.

The tragedy has sparked a national outpouring of charity. The Chronicle of Philanthropy reported Americans had donated at least $739 million to help victims of the disaster at a faster pace than for any previous emergency.

POLLS SHOW DEEP UNHAPPINESS

In recent days, Bush has dispatched Vice President Dick Cheney and Cabinet officials to survey the damage and to counter continued criticism that the administration's response to the storm has been slow and inadequate.

Polls show Americans were deeply unhappy with the response from federal, state and local officials. A Newsweek survey on Saturday found Bush's approval rating at 38 percent, the lowest of his presidency.

The storm could also be the costliest natural disaster in in U.S. history. Estimates range from $100 billion to $200 billion. Congress has approved $62.3 billion so far for hurricane relief.

In devastated coastal Mississippi, where some towns were flattened, residents trying to pick up the pieces had another battle on their hands.

"The pitiful thing here is that insurance companies are trying to stiff us," said Eve Jaspers, a Mississippi deputy sheriff, who did not buy flood coverage because her house was built on high land.

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"They're telling me this was flood damage," she said. "The walls fell out. The front door is in the garage, God knows where the garage door is. It was clearly a small tornado."

Business owners were being allowed back into downtown New Orleans to visit their property, though they were told they could not stray beyond the central business district.

Health officials on Monday were spraying for flies and mosquitoes to minimize the risk of disease being carried by the insects, a step toward making the city habitable again.

Northrop Grumman Corp. <NOC.N> , the largest manufacturing employer in Louisiana and Mississippi, put out a call for thousands of ship builders to return to work if possible on Monday at New Orleans and Pascagoula, Mississippi, shipyards.

Bush Vows A `Sober Look' At Federal Katrina Response (Update2) (BLOOM)

By Brendan Murray

Bloomberg, September 13, 2005

Sept. 12 (Bloomberg) -- Federal authorities outlined plans to temporarily house Hurricane Katrina survivors in trailers as President George W. Bush promised to take ``a sober look" at how emergency agencies reacted after the storm.

The president, making his third tour of the U.S. Gulf Coast region in the two weeks since the Katrina hammered Louisiana, Mississippi and Alabama, said in New Orleans this morning that every citizen of the affected areas will get aid.

Responding to criticism that the federal government moved too slowly in the immediate aftermath of Katrina, the president vowed that Congress and the administration will ``take a sober look at the decision-making that went on."

The president made his remarks after touring the city's French Quarter and other neighborhoods in a caravan of military vehicles along with Mayor Ray Nagin and Louisiana Governor Kathleen Blanco. Before heading out, he got his first on-scene briefing by Coast Guard Vice Admiral Thad Allen, who replaced embattled Federal Emergency Management Agency Director Michael Brown Sept. 9 as the federal official in charge of relief and recovery operations in the region.

Allen said the trailers are being brought in to serve as stopgap housing. Thousands of people uprooted by the hurricane and unable to afford temporary quarters have been housed at emergency shelters, sports arenas, military bases and the homes of family and friends across the country and even cruise ships.

Permanent Homes

``The ultimate goal is to get them into homes permanently," Allen told Bush aboard the amphibious assault ship USS Iwo Jima, which is moored at a dock in downtown New Orleans to serve as a command center for military operations.

The government has ordered about 100,000 two-bedroom mobile homes and recreational vehicles from several manufacturers around the country to help fill housing needs for about 300,000 people, said James McIntyre, a spokesman for the Federal Emergency Management Agency in Baton Rouge, Louisiana.

The government has taken delivery of 12,000 units so far, he said, at a rate of about 500 a day, up from 450 yesterday. Mobile homes and RVs are being shipped by railroad or truck to staging areas in Selma, Alabama; Purvis, Mississippi, Baton Rouge, Louisiana and Texarkana, Texas.

Income and Race

Many of those most in need of shelter come from the poorest areas of New Orleans and Mississippi and Alabama. In New Orleans, thousands were stuck for days after the Aug. 29 storm in overcrowded and under-supplied shelters. Bush rejected suggestions from some New Orleans residents that income and race played a role in how quickly relief was delivered.

``The storm didn't discriminate and neither will the recovery effort," Bush said after touring the city today. ``When those Coast Guard choppers, many of whom were first on the scene, were pulling people off roofs, they didn't check the color of a person's skin."

Still, he said, the federal government's response to the storm and the complaints about a lack of coordination with local emergency officials must be examined and shortcomings fixed.

``I think it's very important for Congress to take a good close look at what went on, what didn't go on, and come up with a series of recommendations," Bush said.

Rebuilding

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He promised that New Orleans citizens will be able to create their own vision of how the city should be rebuilt.

``The best policy is one which says the federal government doesn't come down and say here is what your city should look like," he said.

He also called ``preposterous" questions about whether the government would have been able to move in troops more quickly if the military weren't stretched thin by the war in Iraq. ``We've got plenty of troops to do both," he said.

Bush heads to Gulfport, Mississippi, another area hit hard by Katrina, later today.

Political Price

The president is trying to expedite the rebuilding effort as polls show he may be paying a political price for the complaints about the federal government's initial response to the disaster.

In three national polls conducted last week -- for Time, Newsweek and the Associated Press -- the president's job approval rating fell to career lows. Thirty-eight percent of those surveyed in the Newsweek poll approved of the way Bush was handling his job as president, 42 percent approved in the Time poll and 39 percent in the AP/Ipsos poll.

`` As far as my own popularity goes, I don't make decisions based upon polls," Bush said today.

Among the actions taken last week by the administration, Bush said he would grant special ``evacuee status," to those uprooted from the region with making them eligible for cash grants of $2,000 and easier access to government services such as Medicaid, mental health services, housing assistance and unemployment insurance.

FEMA chief Brown was removed from overseeing hurricane recovery efforts and returned to Washington last week after a flood of criticism from Democrats and Republicans of how the agency handled the hurricane response and questions about whether he had the proper background to manage emergency efforts.

Bush Gets Closer Look At Devastation, Rebuts Charges Of Slow Response (KRT)

By Danny Robbins And Scott Dodd

Knight Ridder, September 13, 2005

BATON ROUGE, La. - President Bush got his first close look Monday at flood-ravaged New Orleans, even as state health officials revealed another grim discovery: 45 people found dead at a hospital evacuated more than a week ago.

A hospital administrator told a dramatic story of doctors and nurses trying to keep patients alive without power, surrounded by water, while waiting for help that never arrived. At one point, helicopter evacuations were interrupted by gunfire, he said.

While touring New Orleans, the president rebutted charges of a slow response by the federal government, but that didn't save the job of Michael Brown, the embattled Federal Emergency Management Agency chief. He resigned from his post on Monday.

Bush pledged that the federal government will help rebuild New Orleans in whatever form the people of the damaged city decide. He said he could see progress being made from his tour in a military convoy.

As floodwaters dropped Monday, they began to yield to signs of rebuilding and rebirth - as well as significant challenges ahead. Scattered businesses were trying to reopen; the Coast Guard allowed some ship traffic on the lower Mississippi River during daylight hours, and the first commercial flights are scheduled to resume Tuesday at Louis Armstrong New Orleans Airport.

In south Mississippi, most residents were able to enjoy the simple pleasure of flushing toilets once again.

Electricity is being restored more quickly than expected to some areas of Louisiana, allowing critical industries - including oil and gas refineries - to get back to work. And Michael Olivier, a top economic development official in Louisiana, said a number of major companies plan to come back to New Orleans, including Entergy and Oreck Corp., which both temporarily relocated to other states.

But major problems remain throughout the Gulf Coast region. St. Bernard Parish President Henry "Junior" Rodriguez said a massive oil spill may have permanently damaged about 1,500 homes in his community.

It could take eight months or more to clean out the hurricane-damaged areas, the Army Corps of Engineers said at a briefing in Washington, estimating that 20 million cubic yards of debris are scattered across the Mississippi coast alone - enough to cover 300 football fields in 50-foot piles.

The agency doesn't have estimates for Louisiana yet.

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It will also take months to rebuild the important Interstate 10 connection from New Orleans to Slidell across Lake Pontchartrain. Gordon Nelson with the Louisiana Department of Transportation said two eastbound lanes should be finished in 45 days, and one westbound lane will be rebuilt by January.

Pumps continue to push 6.5 billion gallons of water out of New Orleans daily, the Corps said, and FEMA is paying for emergency construction to repair the levees. They'll only be rebuilt to withstand a Category 3 storm, however, because that's the level of protection currently authorized by Congress. Katrina was a Category 4 hurricane.

About 40 percent of New Orleans remains flooded, down from 80 percent after Katrina struck and protective levees broke two weeks ago.

The bodies of 45 storm victims were found over the weekend at Memorial Medical Center in New Orleans, which had been surrounded by floodwaters, said Bob Johannesen, a spokesman for the Louisiana Department of Health and Hospitals.

They died in the four days after the storm while waiting to be evacuated, an assistant hospital administrator told The Associated Press. Temperatures inside the 317-bed hospital got as hot as 106 degrees, and the only way to get people out was by boat.

Many of the patients were elderly and seriously ill, and none expired because of lack of food or electricity, a spokesman for hospital owner TenetHealthcare Corp. told the AP. Some may even have died before the storm, he said.

Some of the recovered bodies had been in the hospital's morgue, but most of them were patients who died in the first four days after the storm hit, while the hospital waited for help, Tenet Healthcare spokesman Harry Anderson said.

It never came.

By Tuesday, he said, the floodwaters surrounding the building had washed out the hospital's generator, cutting off electricity, and temperatures in the facility reached up to 110 degrees.

Doctors and nurses worked around the clock to stabilize the sickest, using hand ventilators to keep patients alive, Anderson said. Some didn't make it.

Hospital officials frantically contacted the National Guard, Coast Guard and state emergency officials to ask for help as the waters rose, Anderson said. Eventually, the third floor was flooded.

"Everybody said, `Be patient. It's going to happen,'" he said.

But on Wednesday, Anderson said, hospital officials were told by the state that they would have to "use their own assets" to evacuate up to 260 patients. The hospital hired boats and private helicopters. The rescue effort was interrupted at one point by gunfire at the helicopters, Anderson said.

"This is a tragic byproduct of this disaster," he said. "People who are frail and vulnerable couldn't survive."

The bodies were taken to a morgue established for Katrina victims in St. Gabriel, La., Johannesen said.

The discovery helped push the Louisiana death toll to 279 on Monday, up from 197 on Sunday. More than 400 people are confirmed dead in the wake of Hurricane Katrina, which struck the Gulf Coast two weeks ago Monday.

About 250 bodies have been recovered in New Orleans and its immediate suburbs, said Frank Minyard, the Orleans Parish coroner. He expects the death toll to rise as recovery efforts move into deeper floodwaters - but not to the numbers some had feared.

"It's going to grow, but I don't think it will get to 5,000," Minyard said. "I'd be shocked if it does."

Autopsies began Monday at the temporary facility in St. Gabriel. Minyard said most of the bodies are not recognizable.

"The decomposition is bad. Every body is swollen. Every body has decomposition and deterioration," he said. "It's almost impossible to physically identify them. If you have your loved one there, you can't really see them."

Coroners are performing autopsies only on bodies that appear to have suffered trauma, such as gunshot wounds, and on the 26 recovered from a nursing home in St. Bernard Parish because of questions about negligence.

Death certificates for people who appear to have died strictly as a result of the storm will simply be labeled "Hurricane Katrina death," he said.

Brown announced his resignation Monday afternoon, saying he didn't want his ongoing struggles - being removed from command of the relief effort and recalled to Washington on Friday amid questions about his resume - to distract from the relief effort.

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David Paulison, head of FEMA's emergency preparedness force, was quickly named his temporary replacement.

In New Orleans, Bush denied that the federal government was slow to respond to the disaster because many of Hurricane Katrina's victims were poor and black. And he called it "preposterous" to claim that rescue and recovery efforts were hampered because military manpower is stretched too thin by the fighting in Iraq.

"The storm didn't discriminate, and neither will the recovery effort," Bush told reporters beneath a highway overpass after a tour in the back of a flatbed military truck. He had to duck at times to avoid hanging branches and power lines.

Coast Guard Vice Adm. Thad Allen, now heading the recovery, briefed the president on efforts to provide temporary housing, a day after Louisiana officials accused the federal government of dragging its feet on helping people move out of emergency shelters.

Bush refused to find fault with the government's performance so far, saying, "There will be plenty of time to play the blame game. ... We're moving on. We're going to solve these problems. And there will be ample time for people to look back and see the facts."

For much of his visit, the president sat or stood between two people who harshly criticized the federal government in the days after Katrina struck - New Orleans Mayor Ray Nagin and Louisiana Gov. Kathleen Babineaux Blanco.

Addressing the long-term future of the city, Bush said, "My attitude is this: The people of New Orleans can lay out what New Orleans ought to look like in the future ... and the federal government will help."

After visiting an emergency operations center in hard-hit St. Bernard's Parish, Bush flew to Gulfport, Miss., where he met with hurricane victims at a church relief center and an elementary school.

He also thanked Mexican troops helping with the cleanup, speaking to them briefly in Spanish.

This was the president's third trip to the Gulf States since the storm, but his first tour of downtown New Orleans. He spent the night aboard the USS Iwo Jima, anchored in the Mississippi River.

Bush avoided answering questions about Brown's resignation, saying he had not spoken with Washington during his trip to the Gulf.

"Here in Mississippi and Louisiana, people want to move forward," Bush said. "There'll be time later to blame somebody."

Bush Denies Race Had Role In Recovery (WT)

By Joseph Curl

The Washington Times, September 13, 2005

President Bush, making his third trip to Gulf Coast states ravaged by Hurricane Katrina, yesterday rejected charges that the federal government's emergency response was slow because most of the victims were black.

"The storm didn't discriminate, and neither will the recovery effort," the president told reporters after touring some of the hardest-hit areas in New Orleans.

"When those Coast Guard choppers, many of whom were first on the scene, were pulling people off roofs, they didn't check the color of a person's skin. They wanted to save lives," he said. "The rescue efforts were comprehensive, and the recovery will be comprehensive."

Mr. Bush replied angrily to another reporter who asked whether he felt let down by federal officials' response to the disaster.

"Look, there will be plenty of time to play the blame game," he said in New Orleans. "That's what you're trying to do. You're trying to say somebody is at fault. And, look, I want to know. I want to know exactly what went on and how it went on, and we'll continually assess inside my administration."

Asked whether the federal government needed broader authority to "come in earlier or even in advance of a storm," Mr. Bush said, "I think that's one of the interesting issues that Congress needs to take a look at."

The president began his day early yesterday after staying overnight on the amphibious assault ship USS Iwo Jima. He toured New Orleans for 45 minutes in an open truck for his first close look at the city's flooded neighborhoods, ducking low-hanging branches and electrical wires as his motorcade zigzagged around fallen trees.

Escorted by Humvees, Mr. Bush stood in the truck bed flanked by a grim-looking New Orleans Mayor C. Ray Nagin and Louisiana Gov. Kathleen Babineaux Blanco.

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The president stopped and talked with residents along the way, chatting at one point with shrimp boat worker Ricky Robin, who told the president how his crew rescued 300 people after the hurricane.

The president ended his two-day stay near Gulfport, Miss., stopping at a relief distribution center run by Christ in Action.

"Good to see you," the president said softly to volunteers and storm victims he greeted at long tables where food and supplies such as water, diapers and toilet paper were being distributed.

During a brief session with reporters in New Orleans, Mr. Bush said there was an initial impression after Katrina made landfall that the city had escaped heavy damage "and I myself thought we had dodged a bullet." It was only after the hurricane was well onto land that the levee broke and flooded New Orleans.

The president reacted testily to a question about whether the federal response to the emergency was hindered by a lack of National Guard units, some of which have been deployed in Iraq.

"Let me just talk about that again. I've answered this question before," he said. "It is preposterous to claim that the engagement in Iraq meant there wasn't enough troops here, just pure and simple. ... We've got plenty of troops to do both."

Feds Throw Money At Gulf, But Where's The Oversight? (USAT)

USA Today, September 13, 2005

With his poll numbers sagging, President Bush made his third trip to the hurricane-ravaged Gulf Coast on Monday. Though the trip had many purposes, one certainly was to burnish an image tattered by his administration's bungling of relief operations after Hurricane Katrina struck, a perception reinforced by the day's anticlimactic resignation of Michael Brown as head of the Federal Emergency Management Agency.

Such forays from the White House are an essential part of governing in a democratic society, where politics and policy go hand-in-hand and presidential leadership can provide comfort and cut through bureaucracy.

But Bush's efforts at damage control come with a potential cost. Having been accused of ineffectual leadership during the disaster, he is under enormous pressure not to be seen as parsimonious with funds for aid and recovery. About $62.3 billion has been appropriated. Contracts for rebuilding are being awarded on a “no-bid” basis. And yet the planning for successful rebuilding campaign is nowhere to be found.

Though ample amounts of federal money are needed, a spend-now, plan-later approach isn't the answer, except for urgent needs such as caring for evacuees. It can create the potential for waste and lead to bad decisions on rebuilding.

There's also the question of who will pay. The usual solution of passing the costs along to our children through borrowing would be a further exercise in irresponsibility.

The president has a fine line to walk, as do lawmakers from both parties. On the one hand, they shouldn't encumber federal money with so much red tape that they hamper the recovery. On the other, they must realize that this huge logistical task requires careful planning and competent decision-making.

The federal government's track record on spending after disasters is a disaster in itself.

The Department of Homeland Security's inspector general reported in May that $31 million poured into Miami after Hurricane Frances last year, even though that storm passed well to the north.

The Associated Press uncovered examples of companies as far afield as South Dakota receiving loans for businesses hit on 9/11.

This woeful record argues for the immediate creation of centralized oversight body headed by a reconstruction czar of national stature. This body would decide which tasks are so critical they merit no-bid contracts and which can wait for a more cost-effective and transparent process. It would also have to begin addressing some thorny issues — such as levee improvements, whether the government should help rebuild uninsured facilities, the role of private insurers, and whether parts of New Orleans should be rebuilt at all.

If Bush wants to recover from the political hit he has taken, he would do himself and the Katrina-ravaged region a favor by showing his administration more out in front of these issues than it was on the storm itself.

Rice Defends Bush's Race Record And Calls For Rebuilding Fairly (NYT)

By Steven R. Weisman

DOJ_NMG_0004434

The New York Times, September 13, 2005

Secretary of State Condoleezza Rice, defending President Bush's record on racial issues, said yesterday that the hurricane disaster that disproportionately struck poor blacks in New Orleans "gives us an opportunity" to rectify historic injustices that she experienced as an African-American growing up in the South.

"When it's rebuilt, it should be rebuilt in a different way than it was at the time that this happened," Ms. Rice said in an interview at The New York Times, adding that "maybe now on the heels of New Orleans" there could be an effort to "deal with the problem of persistent poverty."

Ms. Rice spoke about a wide range of foreign policy issues, but seemed to speak most vehemently when she was asked what she told foreign leaders wondering about racial discrimination and poverty in the United States at a time when the Bush administration was promoting democracy around the world.

"You go to any other meeting around the world and show me the kind of diversity that you see in America's cabinet, in America's Foreign Service, in America's business community, in America's journalistic community," Ms. Rice said. "Show me that kind of diversity anyplace else in the world, and I'm prepared to be lectured about race."

When talking to foreigners about the hurricane victims, Ms. Rice said, she tells them: "Yes, we have a problem when race and poverty come together. We really do. It's a vestige of our history. It's a vestige of the Old South in this case. But don't misread that there has been no progress on issues of race in America."

Ms. Rice, who was born and spent her childhood in Birmingham, Ala., and who flew to Mobile two weekends ago to visit hurricane victims, rarely ventures into domestic political matters but has spoken many times over the last 10 days of those affected as victims of generations of poverty and racial discrimination.

"This is a part of the country I'm from," Ms. Rice said. "It is a place where there are pockets - by no means all of the Old South, but pockets - where race and poverty come together in a very ugly way."

But Ms. Rice rejected as "poisonous" any suggestion that President Bush himself would discriminate racially against any victims of the hurricane and said that his record on education, including aid to historically black colleges and the setting of standards for schoolchildren, demonstrated that he believed passionately in racial equality.

"I find it very strange to think that people would think that the president of the United States would sit deciding who ought to be helped on the basis of color, most especially this president," she said. "What evidence is there that this is the case? Why would you say such a thing?"

Ms. Rice said she was first impressed by Mr. Bush in the 1990's, not because of any foreign policy issues, but because he spoke of "the soft bigotry of low expectations" and the phrase meant something to her. She recalled being told by a high school teacher "that maybe I was junior college material" and added:

"I know about the soft bigotry of low expectations. And it's not in this president. It is, however, deeply ingrained in our system, and we're going to have to do something about it."

Bush's Approval Rating Drops To New Low In Wake Of Storm (WP)

By Michael A. Fletcher And Richard Morin

The Washington Post, September 13, 2005

Touring devastated portions of New Orleans yesterday, President Bush sought to reassure the public that the government is responding to Hurricane Katrina with equity and dispatch, even as his standing hit record lows amid broad support for an independent investigation of the federal response to the storm.

A new Washington Post-ABC News poll found that clear majorities of Americans disapprove of the way officials at all levels of government are handling the recovery from Katrina. A 54 percent majority disapproved of Bush's response to Katrina, while an even larger majority -- 57 percent -- say state and local officials should bear responsibility for the problems.

Attitudes toward Bush and the government's overall response to Hurricane Katrina fracture along clear racial lines. Nearly three in four whites doubted the federal government would have responded more quickly to those trapped in New Orleans if they had been wealthier and white rather than poorer and black, the poll found. But an equal share of blacks disagreed, saying help would have come sooner if the victims had been more affluent whites.

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More than six in 10 blacks -- 63 percent -- said the problems with the hurricane relief effort are an indication of continuing racial inequity in this country, a view rejected by more than seven in 10 whites, according to the poll.

Speaking to reporters after touring New Orleans yesterday, Bush sought to dispel the view that race played a role in the government's response to the disaster. "When those Coast Guard choppers, many of who were first on the scene, were pulling people off roofs, they didn't check the color of a person's skin," Bush said. "They wanted to save lives."

Bush vowed that the massive federal response, which already has received funding of more than $62 billion and involves more than 71,000 federal personnel on the ground, would be managed fairly. "The storm didn't discriminate, and neither did the recovery effort," he said, adding: "The rescue efforts were comprehensive, and the recovery will be comprehensive."

The bungled response to the hurricane has helped drag down Bush's job-approval rating, which now stands at 42 percent -- the lowest of his presidency -- in the Post-ABC poll and down three points since the hurricane hit two weeks ago. Fifty-seven percent disapprove of Bush's performance, a double-digit increase since January.

Even some members of Bush's own party appear to have lost faith in their leader: The president's overall approval rating among Republicans has declined from 91 percent in January to 78 percent in the latest poll.

Overall, half the country now characterizes Bush as a "strong leader" -- down 12 points since May of last year. And the proportion who say he can be "trusted in a crisis" likewise has fallen from 60 percent to 49 percent now.

The survey found that 76 percent of the public favors an investigation of federal storm response efforts by an independent commission similar to the one that probed the Sept. 11, 2001, terrorist attacks. The proposal drew strong bipartisan support: 64 percent of all Republicans and 83 percent of Democrats favored creating the independent panel.

Republican leaders in Congress already have announced plans for a congressional inquiry into the federal storm response -- a probe that seven in 10 Americans fear will "get bogged down in partisan politics," according to the poll. Bush also has vowed to lead an investigation of the federal response.

"It's really important that as we take a step back and learn lessons, that we are in a position to adequately answer the question: 'Are we prepared for major catastrophes?' " Bush said in New Orleans yesterday.

In the aftermath of what likely will be the most costly natural disaster in U.S. history, six in 10 Americans want lawmakers to delay action on pending legislation that would cut federal taxes by an estimated $70 billion over the next five years. Those proposed cuts include eliminating the inheritance tax, a Bush priority that supporters now say faces an uncertain fate. Half of all Republicans joined with two-thirds of Democrat to support delaying proposed tax cuts.

Although there is a bipartisan consensus on some issues, on others Americans continue to view the federal response to the hurricane through a partisan lens. More than six in 10 Americans are critical of the federal government response to the storm , including 79 percent of all Democrats and 41 percent of Republicans.

And half the public says the bigger problem is that people failed to take the storm warnings seriously, while nearly as many said the bigger problem was the failure of government to provide transportation to those in the path of the storm.

The poll was conducted with 1,201 randomly selected adults, in an interviews between Sept. 8-11. The margin of sampling error is plus or minus three percentage points.

Amid continuing criticism of his handling of the crisis, Bush yesterday wrapped up a two-day tour of the devastated Gulf Coast -- his third visit to the region since Katrina struck. After spending the night aboard the USS Iwo Jima, which is docked in New Orleans and is serving as a command center for the relief effort, Bush began his day with a briefing on storm recovery efforts before touring New Orleans in a military convoy.

He was joined by two vocal critics of the federal government's response to the storm: New Orleans Mayor C. Ray Nagin (D) and Louisiana Gov. Kathleen Babineaux Blanco (D).

Bush, who later met with other local officials near New Orleans before surveying storm damage in Gulfport, Miss., played down any differences with the mayor and governor, saying he wanted to cultivate close cooperation across all levels of government. "We got a lot of work to do, a whole lot of work to do," Bush said. "And my pledge again to the governor and the mayor is the federal government will work closely in coordination with their authorities."

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Bush aides privately view the latest poll numbers with gloomy realism but take heart from Bush's past ability to push the Republican Congress to follow his lead even when his popularity has flagged. Despite his political problems, they note, the Senate seems almost certain to confirm John G. Roberts Jr. as the next chief justice.

"We're facing some stiff political headwinds," said one senior official who asked not to be named in order to speak candidly. "But George W. Bush has never been a president who's dominated in approval ratings. Where he's been strong has been in two areas -- getting his agenda through and helping the Republican Party in elections."

Others are not so sure the end is near. Even if Bush impresses the country with a more vigorous effort in the Gulf Coast and the story fades from the headlines, some strategists noted that the rest of the political terrain contains little encouraging for the White House.

"The most frightening thing for the White House might be that his numbers on the economy are worse than his numbers on Katrina," said Joel P. Johnson, a former senior adviser in the Clinton White House. "The only way for a president to reverse bad poll numbers is to work your way out of them . . . on economic issues, foreign policy issues, creating jobs, providing health care -- all things that don't look likely."

Views Of Whites, Blacks Differ Starkly On Disaster (USAT)

By Susan Page And Maria Puente

USA Today, September 13, 2005

WASHINGTON — There is a lot that Americans agree about in the wake of Hurricane Katrina: that government agencies initially stumbled but are doing better now, for one, and that more money and attention should be paid to addressing the issue of poverty.

But a USA TODAY/CNN/Gallup Poll taken Thursday through Sunday finds a stark racial divide on other issues, including attitudes toward the hurricane's victims, the performance of President Bush and the reasons the government's early response was so wanting.

Six in 10 African-Americans say the fact that most hurricane victims were poor and black was one reason the federal government failed to come to the rescue more quickly. Whites reject that idea; nearly 9 in 10 say those weren't factors.

In New Orleans, Bush on Monday said race played no role. “My attitude is this: The storm didn't discriminate and neither will the recovery effort,” he said. “When those Coast Guard choppers . . . were pulling people off roofs, they didn't check the color of a person's skin. They wanted to save lives.”

But Rae Clifton, 52, a Web designer in Atlanta who is black and was among those surveyed, is certain that race and class did count. “If it had been a 17-year-old white cheerleader who was caught in the water, somebody would have tried to get there faster,” she says. “But because it was poor people … caught in a situation, it was, ‘OK … we'll get there after a while.' ”

Craig Betts, 54, a white man from Amityville, N.Y., disagrees. “Fifty years ago it would have been something else, but things are better now” when it comes to equal treatment regardless of race, he says. He attributes the problems to the unpredictable nature of the storm.

The racial divide — which underscores the different perspectives whites and blacks have on some aspects of life in America — could affect the debate over addressing poverty and rebuilding the Gulf Coast in the hurricane's wake.

“Some of the concern I'm hearing (from blacks) is that New Orleans is going to be rebuilt but gentrified in such a way that they can't go back,” says Michael Fauntroy, a political scientist at George Mason University who has studied relations between blacks and the GOP. The administration needs to allay those fears or risk “long-term negative consequences,” he says.

In any case, Republican efforts this year to reach out to black voters have not been helped. In the survey, African-Americans by 74%-16% have an unfavorable opinion of the GOP. By more than 3-to-1, they say Bush doesn't care about black people. By more than 2-to-1, whites say he does.

The poll of 1,005 adults has a margin of error of +/- 3 percentage points. Additional African-Americans were interviewed to provide a more statistically reliable comparison; the survey of 262 blacks has a margin of error of +/-7 percentage points. The sample of 848 whites has a +/-4 point error margin.

Overall, the president's job-approval rating is 46%, essentially the same as the 45% rating in the Gallup Poll 10 days earlier.

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That's at odds with record-low ratings of 38% in a Newsweek poll and 39% in an AP-Ipsos poll, both released on Saturday. An ABC News-Washington Post survey released Monday put Bush's approval rating at a record low 42%.

One possible reason for the discrepancy: The USA TODAY survey was taken later than the Newsweek and AP polls, though the timing coincided with the ABC poll. In the past few days, whites and blacks agree that things on the ground have begun to improve.

Still, the surveys show that Americans' emotions are the most intense they've been since the terrorist attacks on New York and Washington four years ago.

If Katrina has affected Americans' views of themselves, it also affected views of the USA from around the world.

Even from friends, the reaction has been shock. “Anarchy in the USA,” headlined The Sun, Britain's largest newspaper. “Apocalypse Now” said Germany's Handelsblatt daily. “(Al-Qaeda leader Osama) bin Laden, nice and dry in his hideaway, must be killing himself laughing,” France's left-leaning Liberation newspaper said.

For a country that prides itself on its resourcefulness and take-charge aplomb, these are unfamiliar accusations. Americans tend to see their country as compassionate and competent.

Yet Katrina's devastation laid bare some uncomfortable facts: The nation that rescued Europe in World War II, helped Bosnians when they were under attack and repulsed Iraqi forces from Kuwait could not, at least initially, rescue New Orleans. The nation that claims many of the world's wealthiest people also is home to staggering poverty. The nation that champions equal rights around the globe has not resolved its own racial tensions.

And the nation that often leads the rush to help other countries during disasters now is receiving offers of aid from even the poorest nations, such as Bangladesh, which pledged $1 million. Mexico — usually on the receiving end of U.S. disaster relief — sent a convoy of army vehicles and troops across the border into Texas with food, water and medicine for Katrina victims.

It was the first Mexican military operation on U.S. soil since 1916, when soldiers under Gen. Francisco “Pancho” Villa staged a brief raid into New Mexico.

British-born journalist and conservative pundit Andrew Sullivan grew up admiring America as the nation that rescued Europe from Nazis and communists. “Part of the collective shame is that this didn't happen this time in America itself — at least quickly enough,” he says on his blog at andrewsullivan.com.

That, plus such scandals as the abuses in U.S. military prisons in Iraq, damages the “core” American values, Sullivan says. “It will take time to restore that kind of reputation and, yes, honor.”

Americans felt strong emotions as they watched New Orleans flood and its residents struggle.

Nearly everyone has been paying attention to Katrina; 96% of those surveyed by USA TODAY say they are following the story closely. That's a higher level of interest than for any news event of the past quarter-century except the 9/11 terrorist attacks and the start of the Iraq war.

Almost all Americans, 98%, say they felt sadness as they watched. Overwhelming majorities of whites and blacks say they felt shock, too, and anger.

“It just took my breath away,” says Gloria Weis, 75, of Burnsville, Minn. “I couldn't believe what I was seeing and hearing. All that devastation, and why?”

Why were so many trapped?

One in four of those surveyed blame the mayor of New Orleans; another one in four blame the residents themselves. One in five blame the Bush administration.

But blacks are much more likely than whites to hold the federal government responsible. Whites are much more likely to hold the residents responsible.

Images of the looters shown grabbing food, water and TV sets also split along racial lines. Whites by 50%-44% say most of those involved were criminals taking advantage of a situation. Blacks by 77%-16% say they were mostly desperate people trying to find a way to survive.

“We live in a great land, a land of opportunity,” says Gilda Hutcheson, 59, a retired railroad worker in Morrow, Ga., who responded to a request for comments on usatoday.com. “If black leaders would spend as much time encouraging people to be

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self-reliant as they spend encouraging the free handouts from the government, then the people left in New Orleans would have had the means and opportunity to have bought that $50 bus ticket and have gotten out ahead of the storm."

That sort of attitude is disturbing to the Rev. Fleming Rutledge, an Episcopal priest and author.

"Whether they were conscious of it or not, viewers were absorbing the message: 'This is the everlasting lot of black people, and maybe some of them have brought this on themselves by being poor, by being semi-literate, by being overweight,' " she wrote on PBS' Religion & Ethics NewsWeekly website. "But we should all be clear-eyed about this: Our vaunted American and Christian values will be tested more strongly in this situation than they have been in a very long time."

American politics may be tested as well. There's wide public support for an independent investigation into the government's slow initial response — 7 of 10 endorse that idea — though many are inclined to feel that congressional Democrats and Republicans are spending too much time at the moment trying to finger-point. About 4 in 10 say they don't have much confidence in the government's ability to respond to natural disasters or terrorist attacks next time.

And there are concerns about the economic effects ahead. Eight of 10 say their family finances will be hurt by the aftermath of Katrina, which comes on top of worries about high gasoline prices. Americans are more pessimistic now about the economy's future than at any time during Bush's presidency: 50% predict the economy will be poor a year from now.

And Bush?

His strongest political asset — the perception that he is a strong and decisive leader — has eroded to the lowest rating of his presidency, 52%. That's 8 points lower than in the previous poll, and 23 points lower than immediately after 9/11 — when his response reshaped Americans' views of Bush.

A majority of Americans say the president doesn't display good judgment in a crisis, doesn't inspire confidence and doesn't "care about the needs of people like you."

The rebuilding efforts ahead will take place in the White House as well as along the Gulf Coast, says Bruce Buchanan, a political scientist at the University of Texas. "This goes right to the core of his strength and right to the core of the thing that has enabled him to stay plausible despite the political partisan divide in the country," Buchanan says of Bush. "Now he's in damage control big time."

Blacks Suffering Over Race Or Class? Some Of Both. (USAT)

By Dewayne Wickham

USA Today, September 13, 2005

It wasn't long after the tortured images of thousands of black men, women and children holed up in the Louisiana Superdome and Morial Convention Center started appearing on TV newscasts that talk of an old conundrum surfaced.

Was it the color of their skin or their place in society that made the suffering among that city's blacks so great? The race or class question pits those who believe that racism is the root cause of much that ails blacks against those who say it is their economic and social condition that is the problem.

More often than not, the answer splits along predictable fault lines. Many liberals — especially blacks — see racism as the culprit. Conservatives, by and large, think it's the lifestyle choices of poor blacks that lock them into the underclass.

I think it's a combination of both. But as with most mixtures, one is more dominant than the other.

Anyone who saw the television footage of black looters hauling away appliances and TV sets is right to believe that the criminal behavior of some blacks has more to do with the hand life deals them than does the color of their skin.

But to view the mindless acts of a few thugs in the same way as the taking of food and drink by the larger body of blacks misses an important distinction. The vast majority of blacks were simply trying to survive — a struggle that was impacted more by race than by class.

Before Hurricane Katrina struck, New Orleans' population was 67% black, but a whopping 84% of the city's poor were black. Many whites lived in neighborhoods at the highest elevations. Most blacks lived in the lower-lying areas of the city. According to The New York Times, 35% of black households in New Orleans didn't own a car. In other words, blacks lived in neighborhoods that were hardest hit by the flooding — and were less likely to have an automobile to escape.

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In New Orleans, as in much of the rest of this country, race defines class. It was the poor in New Orleans who had the most difficulty evacuating. It was the poor who were forced to resort to looting to feed themselves and their families while being left stranded by the incompetence of government officials. It was the poor who made up the bulk of those who were housed for days in the Superdome and convention center without much food, water, medical help or police protection. And most of the poor in New Orleans are black.

Poverty is the new Jim Crow. It is a subtler — but no less hurtful form of racism. Last year, a quarter of all blacks in this country lived below the poverty level, compared with less than 9% of whites. The South, where the majority of blacks live, is the nation's poorest region. That's not a chance relationship.

"For a variety of well-documented reasons, poverty is disproportionately experienced among minorities," writes Michael Stoll, a UCLA professor for Public Policy, in a paper he will present this week at a "Colors of Poverty" conference sponsored by the University of Michigan.

Stoll says there is a relationship between where people live and their level of poverty. Poverty is higher in central cities than in suburbs. "Location," he says, influences the access people have to "good schools, decent housing, crime-free neighborhoods, productive contacts and other benefits that help shape, determine or constrain access to opportunity."

If that sounds as if Stoll thinks "class" is to blame for what happened to poor blacks in New Orleans, you're wrong. "If you press me, I have to say that race played more of a role in how fast" the government came to the aid of that city's blacks, he told me.

I couldn't agree more.

End Of The Bush Era (WP)

By E. J. Dionne Jr.

The Washington Post, September 13, 2005

The Bush Era is over. The sooner politicians in both parties realize that, the better for them -- and the country.

Recent months, and especially the past two weeks, have brought home to a steadily growing majority of Americans the truth that President Bush's government doesn't work. His policies are failing, his approach to leadership is detached and self-indulgent, his way of politics has produced a divided, angry and dysfunctional public square. We dare not go on like this.

The Bush Era did not begin when he took office, or even with the terrorist attacks of Sept. 11, 2001. It began on Sept. 14, 2001, when Bush declared at the World Trade Center site: "I can hear you. The rest of the world hears you. And the people who knocked these buildings down will hear all of us soon." Bush was, indeed, skilled in identifying enemies and rallying a nation already disposed to action. He failed to realize after Sept. 11 that it was not we who were lucky to have him as a leader, but he who was lucky to be president of a great country that understood the importance of standing together in the face of a grave foreign threat. Very nearly all of us rallied behind him.

If Bush had understood that his central task was to forge national unity, as he seemed to shortly after Sept. 11, the country would never have become so polarized. Instead, Bush put patriotism to the service of narrowly ideological policies and an extreme partisanship. He pushed for more tax cuts for his wealthiest supporters and shamelessly used relatively modest details in the bill creating a Department of Homeland Security as partisan cudgels in the 2002 elections.

He invoked our national anger over terrorism to win support for a war in Iraq. But he failed to pay heed to those who warned that the United States would need many more troops and careful planning to see the job through. The president assumed things would turn out fine, on the basis of wildly optimistic assumptions. Careful policymaking and thinking through potential flaws in your approach are not his administration's strong suits.

And so the Bush Era ended definitively on Sept. 2, the day Bush first toured the Gulf Coast States after Hurricane Katrina. There was no magic moment with a bullhorn. The utter failure of federal relief efforts had by then penetrated the country's consciousness. Yesterday's resignation of FEMA Director Michael Brown put an exclamation point on the failure.

The source of Bush's political success was his claim that he could protect Americans. Leadership, strength and security were Bush's calling cards. Over the past two weeks, they were lost in the surging waters of New Orleans.

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But the first intimations of the end of the Bush Era came months ago. The president's post-election fixation on privatizing part of Social Security showed how out of touch he was. The more Bush discussed this boutique idea cooked up in conservative think tanks and Wall Street imaginations, the less the public liked it. The situation in Iraq deteriorated. The glorious economy Bush kept touting turned out not to be glorious for many Americans. The Census Bureau's annual economic report, released in the midst of the Gulf disaster, found that an additional 4.1 million Americans had slipped into poverty between 2001 and 2004.

The breaking of the Bush spell opens the way for leaders of both parties to declare their independence from the recent past. It gives forces outside the White House the opportunity to shape a more appropriate national agenda -- for competence and innovation in rebuilding the Katrina region and for new approaches to the problems created over the past 4 1/2 years.

The federal budget, already a mess before Katrina, is now a laughable document. Those who call for yet more tax cuts risk sounding like robots droning automated talking points programmed inside them long ago. Katrina has forced the issue of deep poverty back onto the national agenda after a long absence. Finding a way forward in -- and eventually out of -- Iraq will require creativity from those not implicated in the administration's mistakes. And if ever the phrase "reinventing government" had relevance, it is now that we have observed the performance of a government that allows political hacks to push aside the professionals.

And what of Bush, who has more than three years left in his term? Paradoxically, his best hope lies in recognizing that the Bush Era, as he and we have known it, really is gone. He can decide to help us in the transition to what comes next. Or he can cling stubbornly to his past and thereby doom himself to frustrating irrelevance.

A Poverty Of Thought (WP)

By George F. Will

The Washington Post, September 13, 2005

It took exactly one month -- until the president's prime-time news conference of Oct. 11, 2001 -- to refute the notion that Sept. 11 "changed everything." When a reporter said, "You haven't called for any sacrifices from the American people," he replied, "Well, you know, I think the American people are sacrificing now. I think they're waiting in airport lines longer than they've ever had before." And that was before the sacrificing became really hellacious with the requirement that passengers remove their shoes at security checkpoints.

The idea that Hurricane Katrina would change the only thing that matters -- thinking -- perished even more quickly, at about the time Louisiana Sen. Mary Landrieu, a suitable symbol of congressional narcissism, dramatized the severity of the tragedy by taking a television interviewer on a helicopter flight over her destroyed beach house. "Washington rolled the dice and Louisiana lost," she said in a speech on the Senate floor that moved some senators to tears. You can no more embarrass a senator than you can a sofa, so the tears were not accompanied by blushing about having just passed a transportation bill whose 6,371 pork projects cost $24 billion, about 10 times more than the price of the levee New Orleans needed. Louisiana's congressional delegation larded the bill with $540,580,200 worth of earmarks, one-fifth the price of a capable levee.

America's always fast-flowing river of race-obsessing has overflowed its banks, and last Sunday on ABC's "This Week," Sen. Barack Obama, Illinois's freshman Democrat, applied to the expression of old banalities a fluency that would be beguiling were it without content. Unfortunately, it included the requisite lament about the president's inadequate "empathy" and an amazing criticism of the government's "historic indifference" and its "passive indifference" that "is as bad as active malice." The senator, 44, is just 30 months older than the "war on poverty" that President Johnson declared in January 1964. Since then the indifference that is as bad as active malice has been expressed in more than $6.6 trillion of anti-poverty spending, strictly defined.

The senator is called a "new kind of Democrat," which often means one with new ways of ignoring evidence discordant with old liberal orthodoxies about using cash -- much of it spent through liberalism's "caring professions" -- to cope with cultural collapse. He might, however, care to note three not-at-all recondite rules for avoiding poverty: Graduate from high school, don't have a baby until you are married, don't marry while you are a teenager. Among people who obey those rules, poverty is minimal.

In 1960 John Kennedy of Choate, Harvard and Palm Beach campaigned in West Virginia's primary and American liberalism experienced one of its regularly recurring rediscoveries of poor people, an epiphany abetted three years later by Michael Harrington's book "The Other America" receiving a 50-page review where liberals would notice it, amid the New Yorker

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magazine's advertisements for luxury goods. Between such rediscoveries, the poor are work for liberalism's constituencies among the "caregiving" professions.

Liberalism's post-Katrina fearlessness in discovering the obvious -- if an inner city is inundated, the victims will be disproportionately minorities -- stopped short of indelicately noting how many of the victims were women with children but not husbands. Because it was released during the post-Katrina debacle, scant attention was paid to the National Center for Health Statistics' report that in 2003, 34.6 percent of all American births were to unmarried women. The percentage among African American women was 68.2.

Given that most African Americans are middle class and almost half live outside central cities, and that 76 percent of all births to Louisiana African Americans were to unmarried women, it is a safe surmise that more than 80 percent of African American births in inner-city New Orleans -- as in some other inner cities -- were to women without husbands. That translates into a large and constantly renewed cohort of lightly parented adolescent males, and that translates into chaos in neighborhoods and schools, come rain or come shine.

This will become of intense interest to the "czar" or "czarina" -- this republic has a fascinating reflex for cloaking improvised offices with the dignity, such as it was, of defunct Russian royalty -- who is charged with "overseeing" the "rebuilding" of New Orleans. He or she can exchange notes with our "nation-builders" in Iraq, now learning conservatism's core truths about the limits of government's abilities to know and control things. Or he or she can glance at Ground Zero in Manhattan where, four years later, the "rebuilding" of a few square blocks is not going well.

Firefighter To Replace Brown As FEMA Chief (LAT)

By James Gerstenzang And Edwin Chen

The Los Angeles Times, September 13, 2005

WASHINGTON — Michael D. Brown, who was stripped Friday of his role directing the government's response to Hurricane Katrina, resigned today as director of the Federal Emergency Management Agency.

R. David Paulison, the director of the preparedness division at FEMA and head of the U.S. Fire Administration, was named as the acting head of the agency. He has spent 30 years in fire rescue services, and was chief of the Miami-Dade, Fla., Fire Rescue Department before joining FEMA in 2001.

Brown, whom President Bush praised during the president's first visit to the storm-stricken Gulf Coast with a verbal declaration — "Brownie, you're doing a heck of a job" — had been director of FEMA since 2003.

During the first 10 days after the storm struck, Brown was the most visible federal official, often presenting an upbeat assessment of the region's recovery, even as television pictures, playing on a split screen, showed the scope of the floods in New Orleans, scenes of devastation, and the bodies of victims left unattended.

As Brown, who joined the FEMA staff as a deputy director at the start of the Bush administration, drew attention, questions were raised about his background. Before joining the administration, Brown, a Republican lawyer, had directed an Arabian horse association. In addition, news organizations reported that he had overstated at least two earlier jobs, presenting himself as having had experience in emergency management.

In the days following the storm and the breaching of levees that flooded 80% of New Orleans, would-be rescuers said that FEMA imposed bureaucratic obstacles to their efforts to respond to the growing disaster.

Political analysts said Brown's departure should surprise no one, considering that he was dismissed Friday as the Bush administration's point man on the Katrina relief effort and sent back to Washington, ostensibly to oversee FEMA's preparedness for other hurricanes.

His departure mutes, at least for now, the crescendo of criticism directed at Brown and FEMA for being ill-prepared for Katrina and her aftermath.

"No question this Katrina/FEMA exercise has put a mark on the Bush presidency," said Scott Reed, a Republican strategist. "Brown should have resigned last Friday and spared the Bush administration an entire weekend of being bashed. He should have seen the handwriting on the wall."

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For the White House, said Reed, who managed Bob Dole's 1996 presidential campaign, "Brown's resignation brings a sad chapter to a close. Now that things are improving, thanks to the military, there's still plenty of time for an upswing for Bush and his new team. But the Brown episode clearly was a setback."

Stephen Hess, a onetime White House official during the Eisenhower administration and now government professor at George Washington University, also was not surprised by Brown's resignation.

"He has come to symbolize how unprepared this administration was for this disaster, fairly or unfairly," Hess said.

Whether Brown's performance alone would hurt the Bush administration in the long term was an open question, he said, adding that Brown would unlikely end up as the only scapegoat in the debacle.

Even without any inquiries by Congress or a blue ribbon commission, he said, "it's already clear that there's plenty of blame to go around."

Sen. John F. Kerry (D-Mass.) issued a six-word statement: "Long overdue. Too little, too late."

Bush Visits New Orleans, Pledges Federal Aid To Rebuild (KCS)

By Scott Dodd

The Kansas City Star, September 13, 2005

Embattled FEMA Director Michael Brown told his senior staff this afternoon that he was calling quits.

The director of the Federal Emergency Management Agency was under fire for his agency's slow and anemic response to Hurricane Katrina's devastation in the Gulf of Mexico. Making matters worse, reports started surfacing last week that his resume was padded.

Now the big question is, should the nation's top disaster chief be someone with emergency management experience or a political heavyweight – both qualities that Brown lacked.

Brown told his senior staff that he was resigning at about 3 p.m. Monday, according to FEMA press secretary Sharon Worthy, who was among those informed by Brown. She said the group of about 12 people took his resignation "professionally.''

Worthy said the agency could not respond with any further information on why Brown resigned, when it would be effective and who would replace him.

President Bush has appointed two FEMA directors – former campaign manager Joe Allbaugh and Brown, who was Allbaugh's friend and college roommate. Neither had emergency management experience before joining FEMA.

The pressure, given FEMA's response to Katrina, will be on Bush to appoint someone who has managed disasters in the past, such as James Lee Witt, who was FEMA's director under President Clinton. Witt, was Arkansas' emergency management chief, and got bipartisan praise.

He was aboard the USS Iwo Jima this morning as Bush was briefed on relief efforts.

Another option is to bring along a political heavyweight to show that the administration is now paying attention to disasters. Names such as former New York Mayor Rudy Giuliani and homeland security advisor Fran Townsend are among those possibilities, but the job, which carries an undersecretary of homeland security title may be too small for them.

Brown told the Associated Press he was stepping down "in the best interest of the agency and best interest of the president" three days after being recalled to Washington and relieved of command of the federal relief effort.

"The focus has got to be on FEMA, what the people are trying to do down there."

The resignation came hours after President Bush got his first close look at flood-ravaged New Orleans today, and as state health officials announced the grim discovery of 45 bodies at a hospital evacuated more than a week ago.

The victims were found Sunday at Memorial Medical Center, which had been surrounded by floodwaters, the AP reported.

Bob Johannesen, a spokesman for the Louisiana Department of Health and Hospitals, said the bodies were those of patients. The 317-bed hospital is owned by TenetHealthcare Corp.

The discovery helped push the Louisiana death toll to 279 on Monday, up from 197 on Sunday, Johannesen said. More than 400 people are confirmed dead in the wake of Hurricane Katrina, which struck the Gulf Coast two weeks ago Monday.

Touring the city, President Bush rebutted critics of the relief effort and pledged that the federal government will help rebuild – in whatever form the people of New Orleans decide.

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Progress could be seen in some sections as floodwaters dropped. Scattered businesses were trying to reopen, and the first commercial flights are scheduled to resume Tuesday at Louis Armstrong New Orleans Airport.

But significant problems remain throughout the Gulf Coast region, including vaccine shortages, health threats and a lack of running water in many cities, including Biloxi and Gulfport.

Coast Guard Vice Adm. Thad Allen, now heading the recovery, briefed the president on efforts to provide temporary housing, a day after Louisiana officials accused the federal government of dragging its feet on helping people move out of emergency shelters.

Bush denied charges that the initial rescue efforts were slow because many of Hurricane Katrina's victims were poor and black. And he called it "preposterous" to claim military manpower is stretched thin by the fighting in Iraq.

"The storm didn't discriminate, and neither will the recovery effort," Bush told reporters beneath a highway overpass after a tour in the back of a flatbed military truck. He had to duck at times to avoid hanging branches and power lines.

Bush refused to find fault with the government's performance so far, saying, "There will be plenty of time to play the blame game. … We're moving on. We're going to solve these problems. And there will be ample time for people to look back and see the facts."

For much of his visit, the president sat or stood between two people who harshly criticized the federal government in the days after Katrina struck – New Orleans Mayor Ray Nagin and Louisiana Gov. Kathleen Blanco.

Addressing the long-term future of the city, Bush said, "My attitude is this: The people of New Orleans can lay out what New Orleans ought to look like in the future … and the federal government will help."

After visiting an emergency operations center in hard-hit St. Bernard's Parish, Bush was set to make another stop in Gulfport, Miss. This is his third trip to the Gulf States since the storm, but his first tour of downtown New Orleans.

The president spent the night aboard the USS Iwo Jima, anchored in the Mississippi River.

FEMA Director Michael Brown Resigns (PPG)

By Ann McFeatters

Pittsburgh Post-Gazette, September 13, 2005

WASHINGTON -- The White House today accepted the resignation of Michael Brown, head of the Federal Emergency Management Agency, who last Friday was pulled off the job of overseeing disaster relief in the aftermath of Hurricane Katrina.

In a statement, Brown said it was in the "best interest" of his embattled agency and the "best interest of the president" that he quit. He said it was important that he no longer be a distraction in the need to recover from the hurricane and flood damage. He said it had been "the best job in the world" to help Americans "in their darkest hour."

Within hours, word leaked that the White House has chosen R. David Paulison as Brown's replacement to head FEMA.

Paulison is head of the U.S. Fire Administration and leads FEMA's emergency preparedness force. He has more than 30 years' experience working in fire prevention and containment. The former fire chief in Miami, Paulison dealt with the aftermath of Hurricane Andrew in 1992. Paulison will be the acting director of FEMA -- if he is nominated to the directorship he must be confirmed by the Senate.

At the White House there was a sense that with Brown gone, President Bush could get his presidency back on track and repair the public relations damage done when millions of people in American and around the world began criticizing the administration for how the aftermath of Katrina was handled.

Bush, touring Gulfport, Miss., refused to comment on the resignation, saying he had not had a chance to talk to Brown or Brown's immediate boss, Michael Chertoff, secretary of the Department of Homeland Security.

Brown was deeply humiliated last Friday when Chertoff publicly relieved him of command of the disaster relief operations. Chertoff said it was so that Brown could concentrate on other duties as administrator of the agency. But in replacing Brown with Vice Admiral Thad Allen of the Coast Guard, Chertoff had the approval of the White House to signal displeasure at how long it had taken to get thousands of people out of flooded New Orleans after the levees broke.

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Brown's lack of hands-on experience in disaster relief and the overstating of his credentials on his resume led a chorus of Democrats to call for his ouster last week. President Bush at first had indicated with Brown at his side that he was satisfied with Brown's performance, saying publicly, "Brownie, you're doing a heckuva job."

But as the president's job approval plummeted and pictures of dying Americans left for days without food or water or medical attention circulated around the nation, the administration began considering how to remove Brown. When Chertoff told Bush that he wanted to replace Brown and Vice President Dick Cheney agreed, the president told Chertoff to handle the situation as he thought best.

As he left Baton Rouge where he had been in charge of relief operations last week, Brown told The Associated Press, "I'm going to go home and walk my dog and hug my wife and maybe get a good Mexican meal and a stiff margarita and a full night's sleep. And then I'm going to go right back to FEMA (headquarters) and continue to do all I can to help these victims. This story's not about me. This story's about the worst disaster of the history of our country that stretched every government to its limit and now we have to help these victims."

Over the weekend, increasingly convinced he had no future in the administration, Brown, whose background is as an Oklahoma lawyer, decided to leave. As he prepared to leave his office for good, he said he wanted the media to focus on the "good things that are going on" in Mississippi and Louisiana and Alabama and not on him.

On Capitol Hill, Brown's departure was greeted with obvious relief. House Democratic Leader Nancy Pelosi called Brown's departure long overdue. Senate majority leader Bill Frist did not criticize Brown but stressed that he was impressed with the job being done by Allen, the Coast Guard vice admiral.

Bush concluded his third trip to the damaged region yesterday, telling reporters there was plenty of time for the "blame game" and deciding how FEMA should be reorganized, if at all. "It's appropriate that we step back and look" at the process, he said in New Orleans.

Answering questions from reporters, he denied that aid was delayed because so many victims in flooded New Orleans were poor and black. "The storm didn't discriminate and neither will the recovery effort. The rescue efforts were comprehensive. The recovery will be comprehensive."

He also insisted relief efforts weren't hampered by the fact that 11,000 National Guard troops are deployed in Iraq. "We've got plenty of troops to do both. It is preposterous to claim that the engagement in Iraq meant there weren't enough troops."

Asked about Brown's resignation in Gulfport, Miss., he said he had "been working" thanking people for their work in relief efforts and had not talked to either Chertoff or Brown. He said he would make calls when he was back on Air Force One.

Bush plans to go to New York tomorrow in advance of his speech Wednesday to the United Nations and will meet with a number of foreign leaders. Asked if he was ready to switch to foreign policy issues from the hurricane, he said, "I can do more than one thing at one time."

Brown Steps Down As FEMA Chief (WSJ)

By John D. McKinnon, Steve Levine, Christopher Cooper, Michael Corkery, Betsy McKay and Thaddeus Herrick

The Wall Street Journal, September 13, 2005

Michael Brown, the embattled director of the Federal Emergency Management Agency who was reassigned Friday from his post spearheading relief operations on the Gulf Coast, has resigned.

"The focus has got to be on FEMA, what the people are trying to do down there," Mr. Brown told the Associated Press. "I think it's in the best interest of the agency and the best interest of the president to do that and get the media focused on the good things that are going on, instead of me."

Mr. Brown had become a lightning rod for criticism over the government's slow and bungled response to the hurricane. On Friday, Mr. Brown's boss, Homeland Security Secretary Michael Chertoff, said he was sending Mr. Brown back to Washington "to return to administering FEMA nationally" and to oversee the government's response to other disasters. (See a timeline1 of Brown's management of Katrina relief.)

That move was widely seen as a precursor to Mr. Brown's eventual departure especially given that some members of Congress said that a reassignment wasn't enough. Senate Democratic Leader Harry Reid of Nevada and three other senators

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said in a letter to President Bush on Friday that Mr. Brown's "continued presence in this critical position endangers the success of the ongoing recovery efforts."

The White House picked a top FEMA official with three decades of firefighting experience as his replacement. R. David Paulison, head of FEMA's emergency preparedness force, is Mr. Bush's choice to replace Mr. Brown as head of the relief agency, two senior administration sources say.

The news came as New Orleans slowly and painfully stirred back to life two weeks after being slammed by Katrina.

The bodies of more than 40 mostly elderly patients were found in a flooded-out hospital in the biggest known cluster of corpses to be discovered so far in hurricane-ravaged New Orleans. The exact circumstances under which they died were unclear, with at least one hospital official saying Monday at least a few of the patients were dead before the storm, and another saying the rising temperature in the hospital afterward likely contributed to some of the deaths. The announcement raises Louisiana's official death toll to nearly 280.

Meanwhile, business owners in the central business district were issued passes into the city Monday to retrieve vital records or equipment needed to run their companies. Traffic was heavy on the only major highway into the city that was still open, and vehicles were backed up for about two miles at a National Guard checkpoint in Westwego, a suburb across the Mississippi River from New Orleans. There were also signs of life at businesses elsewhere in the city, after a weekend in which trash collection began and the airport reopened to cargo flights.

Mr. Bush got his first up-close look at the destruction in New Orleans on Monday, taking a tour that took him through several flooded neighborhoods. Occasionally, he had to duck to avoid low-hanging electrical wires and branches.

Mr. Bush denied there was any racial component to people being left behind after the storm, despite suggestions from some critics that the response would have been quicker if so many of the victims hadn't been poor and black.

"The storm didn't discriminate and neither will the recovery effort," Mr. Bush said. "The rescue efforts were comprehensive. The recovery will be comprehensive."

It was Mr. Bush's first exposure to the on-the-ground leadership of his new hurricane relief chief. The federal response to the disaster has been roundly criticized as sluggish and inept. In a sign that Mr. Bush is growing weary of the accusations, he testily replied to a reporter who asked whether he felt let down by federal officials on the ground.

"Look, there will be plenty of time to play the blame game," he said. "That's what you're trying to do. You're trying to say somebody is at fault. And, look, I want to know. I want to know exactly what went on and how it went on, and we'll continually assess inside my administration."

Mr. Bush said Congress should consider whether the federal government should have more authority to step into disaster areas without a request from the states. "All of us want to learn lessons," he said.

Mr. Bush also clarified his now-criticized remark that no one had anticipated the levees being breached. He said he was referring to that "sense of relaxation in a critical moment" when many people initially thought the storm hadn't inflicted heavy damage on the city.

Emergency Airlifts Suspended

Meanwhile, in Washington, FEMA said it's suspending its emergency airlifts of hurricane victims to distant states as it reassesses the needs of the storm victims.

"The big evacuation is over," spokeswoman Kathy Cable said. She said more than 22,000 evacuees had been relocated in less than 72 hours. People who need to get to their families in a distant location will be sent on commercial flights, Ms. Cable said.

Mr. Bush, on a two-day visit to hurricane-affected areas, started the day with a briefing on the federal response effort aboard the 844-foot USS Iwo Jima, a command center for military operations. The slideshow presentation, which covered the latest relief and recovery efforts in three states, was conducted in the ship's ward room by Coast Guard Vice Adm. Thad Allen, who replaced Mr. Brown as federal hurricane commander last Friday.

White House chief of staff Andrew Card said "I have great confidence" in the team now running the federal effort.

Mr. Bush toured the flooded city in a convoy of military trucks. Later, he will tour hard-hit surrounding parishes by helicopter, touching down to meet with local leaders, and then will travel to Gulfport, Miss.

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It was Mr. Bush's first up-close look in the two weeks since Katrina smashed into the Gulf Coast and drowned this storied city. The trip is Mr. Bush's third and longest to the disaster area, and it came as the White House is eager to show the president displaying hands-on, empathetic leadership in the storm effort. More than half of respondents in an Associated Press-Ipsos poll last week said he is at fault for the slow response.

Mr. Card said Mr. Bush's repeated visits have tangible value: "It reminds people of the mission at hand."

Signs of Improvement

Though 50% of New Orleans remains flooded and teams are still working to recover the dead, there are signs that hopelessness is beginning to lift two weeks after Hurricane Katrina plowed ashore. Law and order has been restored to New Orleans and looting curtailed; the Superdome and city convention center, the scene of so much misery while storm evacuees waited for busses for days with no food and water, are empty; the water level is going down as workers begin to drain the city; and some power is being restored.

Commerce Secretary Carlos Gutierrez urged business leaders Monday to invest in the Gulf Coast, saying the private sector must play a major role in rebuilding the hurricane-devastated area. In a speech at the U.S. Chamber of Commerce, Mr. Gutierrez said businesses should look at the region as an economic opportunity.

"I hope businesses will consider investing and locating enterprises in the rebuilding zone," he said. "Only then will the region be truly reborn."

The Bush administration said that it's considering adjusting high tariffs imposed on such items as soft-wood lumber from Canada and cement from Mexico if building needs from Katrina cause prices to spike.

Treasury Department spokesman Tony Fratto said that the administration has the executive authority to adjust tariffs to meet special needs. The tariffs have been in place for a number of years since the U.S. lumber and cement industries won cases accusing importers of selling those products at unfairly low prices, a practice known as dumping.

Separately, the Labor Department announced Monday that it was creating a Web site to help people who have lost jobs due to Katrina find new work.

Thousands of Displaced Students

Meanwhile, Education Secretary Margaret Spellings said Monday that Katrina forced at least 372,000 school children to flee the Gulf Coast, and there are no clear answers yet on where the money will come from to educate these students.

In Louisiana, more than 247,000 public and private school students have been displaced, 489 schools have been closed and at least six parishes have destroyed or damaged buildings. In Mississippi, more than 125,000 students have been forced elsewhere. A total of 226 schools in 30 districts are closed in that state, and almost 30 schools have been destroyed.

Ms. Spellings declined to estimate how much it will cost states to rebuild devastated districts or serve displaced students -- or how much the federal government will cover. President Bush has charged Ms. Spellings to come up with a plan to provide aid for the states, some of which are absorbing an influx of students just as the school year begins.

Despite some signs of progress, criticism of the relief efforts continues.

A Louisiana official on Sunday criticized FEMA's progress12 on providing temporary housing for hundreds of thousands of the state's residents displaced by Katrina. "There should be trailers rolling and things happening that are not happening fast enough," said Col. Jeff Smith, deputy director of emergency preparedness for the Louisiana Office of Homeland Security and Emergency Preparedness. "We've asked them to start thinking outside the box and it just hasn't been happening."

James McIntyre, a FEMA spokesman, acknowledged that just 10 families not involved with Katrina relief efforts have moved into temporary housing in Louisiana so far. Still, he said the agency is moving "as quickly as possible," deploying thousands of mobile homes and moving families into trailers in Mississippi and Alabama. Thousands of trailers are ready for deployment from a staging area in Baton Rouge, while more than 400 displaced families from the Slidell, La., area are moving into trailers.

An estimated million people along the Gulf Coast have been displaced by the hurricane, about half of them from the New Orleans area.

On Saturday, officials announced that FEMA has paid $669 million nationwide to families affected by Katrina. The agency has registered 573,262 households nationwide for benefits, agency spokesman Ed Conley said, explaining that the figure

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includes singles and families. The government is also ramping up a low-interest loan program through the U.S. Small Business Administration, which can provide as much as $1.5 million to a business and $40,000 to individuals.

Authorities raised Louisiana's death toll to 197 on Sunday, and the recovery of corpses continued. Teams pulled an unspecified number of bodies from Memorial Medical Center, a 317-bed hospital in uptown New Orleans that closed more than a week ago after being surrounded by floodwaters. But authorities said their first systematic sweep of New Orleans found far fewer bodies than expected.

Army Lt. Gen. Russel L. Honore, who heads the military's Joint Task Force Katrina, said Sunday that over the next three days, officials should learn how many people died in New Orleans. He said the preliminary figure of 10,000 offered last week by some officials was "a number we'd be very happy to be wrong about."

Severe Environmental Damage

With water receding from some of the most heavily damaged areas of New Orleans, it's becoming increasingly clear that Hurricane Katrina has left a major environmental mess in its wake.

Assessment teams and local emergency officials have identified at least six serious oil spills and numerous smaller incidents in southern Louisiana, but they are most concerned about a leak of an estimated 672,000 gallons of crude oil from a storage tank at a Murphy Oil Corp. refinery, some of which seeped into densely populated neighborhoods on the southeastern outskirts of New Orleans.

Federal officials told area leaders in private meetings over the weekend that they have designated the location around the Murphy refinery in Meraux in St. Bernard Parish as a "hot zone," or a potentially deadly hazard. Official access to the area has been restricted, but reporters from The Wall Street Journal who drove through city streets in the area saw block after block of homes within a mile of the refinery that had been inundated with what appears to be a mixture of oil and mud. Streets and much of the ground are covered in several inches of oozing muck.

The company believes most of the spilled oil was trapped behind a containment dike around the storage tank, and "we don't think very much oil got out of our refinery property, as far as we can tell," says Kevin Fitzgerald, a Murphy spokesman. The Coast Guard says Murphy Oil estimated 672,000 gallons of crude oil leaked out of the partially filled, 3.6 million gallon storage tank. The company says the tank may have dislodged from its foundation during the flood, floated as far as 15 feet and was punctured. Murphy Oil says the containing wall around the tank was damaged during the storm, causing an unknown amount of oil to spread into the neighborhood.

Crude oil contains several harmful substances, including benzene, says Lynn Goldman, a professor of environmental health sciences at the Bloomberg School of Public Health at Johns Hopkins University. Dr. Goldman said that the oil could seep into storm drains and sewers and spread through the city. "Literally the environment around the city would become polluted from it," she says.

The Coast Guard says it is helping clean up as many as six separate oil spills in Louisiana, including the one in Meraux. The other spills occurred along the Louisiana coast, south of New Orleans at facilities owned by Chevron Corp., Royal Dutch/Shell and others. Most of the discharged oil -- totaling more than 5.4 million gallons, according to the Coast Guard -- was contained by retaining systems around the storage tanks, although there was some reported leakage beyond the protective walls. (By comparison, the 1989 Exxon Valdez spill in Prince William Sound in Alaska was about 11 million gallons.)

Other areas of concern to environmental officials in New Orleans include a federal Superfund site near the Industrial Canal where a school and housing were built on top of a former landfill. That area was underwater for days. Before the hurricane, cleanup crews had removed soil that may have been contaminated with arsenic and lead and capped the area with a special covering.

Embattled Brown Resigns As Fema Chief (FT)

By Caroline Daniel

Financial Times, September 13, 2005

Michael Brown, the man who had become the public face of blunders made by the Bush administration in responding to Hurricane Katrina, on Monday bowed to the inevitable and resigned.

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His decision follows an embarrassing public dressing down on Friday, when he was relieved of command of events as head of the Federal Emergency Management Agency (Fema) and sent back to Washington.

His departure represents a rare resignation by an official of the Bush administration, which does not like admitting mistakes. It comes a week after President George W. Bush praised his handling of the crisis, saying: "Brownie, you're doing a heck of a job."

The president intends to designate R. David Paulison of Florida to become the acting head of Fema, the White House said in a statement. The appointment of Mr Paulison, who has more than 30 years of fire and rescue experience, marks the second promotion of an official with disaster management experience rather than political connections. On Friday Thad Allen, a coast guard vice-admiral, took over ground operations in Louisiana from Mr Brown.

Mr Brown's resignation also followed Mr Bush's efforts to hit back at criticism over the federal response to Katrina. On Monday Mr Bush firmly denied that the number of National Guard troops in Iraq had undermined relief efforts.

"We've got a lot of troops to do both. It is preposterous to claim that the engagement in Iraq meant that there weren't enough troops here, pure and simple," he said after meeting emergency workers and surveying damage in New Orleans.

Mr Bush also defended a comment made shortly after the flood, when he told a television news programme: ''I don't think anyone anticipated the breach of the levees." Multiple studies had consistently warned of the likely local impact of a severe hurricane.

"When that storm [initially] came by, a lot of people said we had dodged a bullet – there was a sense of relaxation at a critical moment," Mr Bush said on Monday. "I knew a big storm was coming on Monday. I pre-signed an emergency declaration, which by the way was extraordinary. Most presidents sign it after the storm." The images of largely poor African-Americans, who bore the brunt of the disaster, has prompted widespread criticism that race had played a role in the slow response.

"My attitude is that the storm didn't discriminate and neither will the recovery effort," he said yesterday. "They [rescuers] wanted to save lives." Amid continued criticism of the bungled co-ordination between federal and local authorities, Mr Bush acknowledged the need for Congress to "take a good close look at what went on and what didn't go on".

Head Of FEMA Steps Down (USAT)

By Mimi Hall

USA Today, September 13, 2005

WASHINGTON — Embattled Federal Emergency Management Agency chief Michael Brown resigned Monday. Hours later, President Bush announced his replacement, a career firefighter with three decades of disaster-response experience.

"This was a catastrophic disaster, and in every disaster, there are mistakes, and it's not always smooth and pretty," Brown said of Hurricane Katrina. "I'm at ease knowing I was doing everything I could."

Bush named R. David Paulison to replace Brown. Paulison has led FEMA's U.S. Fire Administration since December 2001, according to a biography posted on FEMA's website. He led FEMA's emergency preparedness force in 2003-04 and is a former Miami firefighter.

Brown had been under fire for what his critics, including Democratic Louisiana Sen. Mary Landrieu, called a failure to get federal help to victims of Katrina fast enough.

Brown's limited experience in disaster relief was an issue, too. Before joining FEMA in 2001, Brown was head of the International Arabian Horse Association.

White House spokesman Scott McClellan praised Brown's work but did not mention Katrina. "The president appreciates Mike Brown's service," he said. "Mike has done a lot of great work on a number of hurricanes."

Bush was in New Orleans, viewing the disaster area in an open truck that sloshed through flooded, stench-filled neighborhoods caked in mud.

"My impression of New Orleans is this: that there is a recovery on the way," Bush said.

The Army Corps of Engineers said the fixing of two major pumps meant the city will be drained by Oct. 8, ahead of schedule. Nearly two-thirds of Louisiana's water treatment plants had restarted, and the city's airport plans to resume passenger service today.

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Bush rebuked those criticizing the response to what he called America's worst natural disaster. “There will be plenty of time to play the blame game,” he said.

The confirmed death toll in Louisiana rose to 279 on the news that 45 bodies had been found in a flooded hospital in New Orleans. It was not known how many of those people died before Katrina hit.

FEMA Chief Brown Resigns (REU)

Reuters, September 12, 2005

The director of the U.S. Federal Emergency Management Agency Michael Brown resigned on Monday after being recalled to Washington amid criticism of the federal response to Hurricane Katrina.

In an apparent nod to demands that Brown be replaced by someone with experience in emergency response, President George W. Bush replaced Brown with David Paulison, a veteran firefighter who now runs FEMA's preparedness division.

Paulison was also the Homeland Security official who urged Americans to stock up on duct tape and plastic sheeting in 2003 to protect against a biological or chemical attack, a recommendation that was widely ridiculed in the media.

Brown, who was widely criticized for a slow federal response to the devastating Hurricane Katrina, resigned effective immediately.

"Today I resigned as director of the Federal Emergency Management Agency," said Brown, who ran the organization since 2003. "As I told the president, it is important that I leave now to avoid further distraction from the ongoing mission of FEMA."

In an ABC News interview, Brown defended the agency's response to the crisis and said the United States needed to have a debate about FEMA's role in national emergencies.

"We're not a first responder agency. We're there to coordinate and help people prepare and coordinate in times of disaster. And so if the country wants us to be more, then we should have a great public policy debate whether that's true or not," Brown said.

Brown was pulled out of Gulf Coast operations on Friday and replaced on the ground with Vice Admiral Thad Allen of the U.S. Coast Guard.

Bush had praised Brown for doing a "heck of a job" in the first days of the disaster that killed hundreds in Louisiana, Mississippi and Alabama and displaced 1 million people. He later was pressed by Democrats and others to fire Brown.

White House spokesman Scott McClellan said Bush discussed Brown's resignation with Homeland Security Secretary Michael Chertoff on the way home from visiting the Gulf Coast area.

"The president appreciates Mike Brown's service," McClellan told reporters aboard Air Force One. "This was Mike Brown's decision. This was a decision he made."

Shortly after Brown's resignation, Bush named Paulison, the former Miami fire chief with 30 years of fire rescue service experience, as acting FEMA director.

Chertoff said Brown had done "everything he possibly could" to respond to the hurricane and flood in New Orleans. He also said he would name more people to senior positions at the agency in the coming days.

Brown was a close friend of Joe Albaugh, the previous FEMA head who was Bush's chief of staff when he was Governor of Texas, and the National Campaign Manager for Bush's 2000 election campaign.

Brown served as commissioner of the International Arabian Horse Association before joining FEMA in 2001. He has been accused of exaggerating his background in disaster relief in his official biography and resume.

Democrats praised the change but said the administration needed to ensure that the country was capable of responding to another major disaster.

Republicans in Congress have initiated an investigation into what went wrong with the government's initial response to Katrina.

New FEMA Chief Takes Center Stage After Years In Wings (USAT)

By Peter Eisler And Mimi Hall

USA Today, September 13, 2005

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WASHINGTON — R. David Paulison, the new head of the Federal Emergency Management Agency, is a seasoned disaster-response expert who has spent years as a behind-the-scenes administrator. Yet he redefined the nation's emergency preparedness with just five words: duct tape and plastic sheeting.

In a small briefing with reporters in 2003, it was Paulison who urged Americans to stock up on those hardware store staples so they could seal windows and doors in a biological or chemical weapons attack. The advice became a staple of late-night comics, who usually misattributed the comment to Tom Ridge, then secretary of Homeland Security.

The Bush administration hasn't put Paulison in front of reporters much since then.

Now, he steps into a lead role directing federal response to one of the nation's worst natural disasters, taking over a Hurricane Katrina relief effort that has been condemned widely by state and local officials as sluggish and inadequate.

"I appreciate his willingness to take on the vital task of leading FEMA during this challenging time," Homeland Security Secretary Michael Chertoff said Monday in announcing the appointment. FEMA is part of the Department of Homeland Security.

Paulison, a Democrat, was flying back from the Gulf Coast on Monday and was unavailable for comment on his new appointment.

Paulison began his career as a firefighter and worked his way up to chief of South Florida's Miami-Dade County Fire Rescue Department, a 1,900-member, $200-million operation. He helped lead the emergency response to Hurricane Andrew in 1992 and the 1996 ValuJet crash in the Everglades. He's also a past president of the International Association of Fire Chiefs and a certified paramedic.

James Burns, New York State Fire Administrator and president of the National Association of State Fire Marshals, called Paulison "a great choice" for the FEMA job.

"He's been in the field, he's been operational, and he knows how to react to emergency situations," Burns said. "He knows how to organize, and he knows how to make things happen."

In 2001, President Bush appointed Paulison to head the U.S. Fire Administration, an agency that studies and promotes fire safety, trains firefighters and administers federal grants to local fire departments.

When the Department of Homeland Security was created in 2003, Paulison was tapped to head FEMA's emergency preparedness efforts.

Paulison's long background in emergency management contrasts with his predecessor, Michael Brown, who had little experience in emergency services and planning at the local level before taking over FEMA. Brown resigned as FEMA director on Monday after Chertoff relieved him of his duties overseeing federal relief efforts in the region devastated by Katrina. The move came amid criticism of Brown from Democrats and Republicans.

Brown said Monday that Paulison faces a mammoth task overseeing the highly politicized federal response to the unprecedented damage wrought by Katrina. "He's walking in at a very difficult time."

Some officials who criticized Brown's leadership of FEMA during the recovery operation were optimistic about Paulison's appointment.

"With new capable leadership, FEMA can again lead the way in saving lives and saving communities," said Sen. Barbara Mikulski, D-Md., a critic of FEMA's response to Katrina. "But Mr. Paulison must also quickly surround himself with similarly experienced professionals. … Regaining the confidence of the American people through actions, not press releases, will be job one for David Paulison."

Pick As Acting FEMA Leader Has Disaster Relief Experience (NYT)

By Anne E. Kornblut

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 - To replace Michael D. Brown at the head of the nation's emergency agency, President Bush reached out to a manager who, at least on paper, is different in some important ways.

R. David Paulison, chosen on Monday to take temporary control of the Federal Emergency Management Agency, started out in the Miami-Dade Fire Rescue Department at the age of 19, rising through the ranks over three decades to become chief.

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Unlike Mr. Brown, who was widely criticized for lacking hands-on emergency relief experience, Mr. Paulison has a history in hurricanes: He took over the Miami Fire Department two months before Hurricane Andrew hit South Florida in 1992, destroying the homes of many of his firefighters.

Mr. Paulison, who was named Florida Fire Chief of the Year in 1993, is a past president of the International Association of Fire Chiefs, putting him in the ranks of top emergency professionals.

At least on one political score, he departs from the typical Bush administration faithful: As of four years ago, he was a registered Democrat, according to an article in The Miami Herald at the time. That creates at least the perception that he is independent of the administration's political machine - unlike Mr. Brown, who got his job on the recommendation of a former senior campaign adviser to Mr. Bush, Joe M. Allbaugh, an old friend from college.

Since shortly after the Sept. 11 terrorist attacks, Mr. Paulison has been the head of the national fire administration, a division within FEMA. In taking over the entire agency - at least on a temporary basis - Mr. Paulison joins Vice Adm. Thad W. Allen of the Coast Guard, who took over the federal response to Hurricane Katrina last week after the initial effort faltered under Mr. Brown.

"FEMA needs that type of leadership, especially now," said Peter G. LaPorte, the former director of the Massachusetts and Washington, D.C., emergency management agencies.

Mr. LaPorte said Mr. Paulison, who will be acting director of FEMA as well as acting under secretary for emergency preparedness and response, "understands both disaster response and recovery."

"Katrina is not over, and there's lots to be done, and we're still in hurricane season," Mr. LaPorte said. "It's a good choice. It's a fast choice, and that's important, too. You need to understand the whole system of emergency management, and that's why having a practitioner is important."

President Bush chose Mr. Paulison at the recommendation of Michael Chertoff, the director of the Department of Homeland Security, White House officials said.

Mr. Paulison, who does not need to be confirmed by the Senate because he is becoming FEMA's temporary director, has been confirmed by the Senate once, for his post as administrator of the U.S. Fire Administration. In that job over the last four years, Mr. Paulison has testified before Congress, and also helped the administration make the transition as FEMA was enveloped into the newly created Department of Homeland Security.

"David Paulison is well-respected and someone who is a familiar face to the White House, having previously been through a Senate confirmation," Scott McClellan, the White House spokesman, said Monday.

Mr. Chertoff issued a similar statement.

"I appreciate his willingness to take on the vital task of leading FEMA during this challenging time," Mr. Chertoff said in a statement announcing the shuffled roles.

Representative Elijah E. Cummings, Democrat of Maryland, called Mr. Paulison "a leader who brings extensive emergency management experience to this position."

Brown Out, Paulison In (AP)

By RON FOURNIER

The AP, September 12, 2005

Federal Emergency Management Agency director Mike Brown resigned Monday, three days after losing his onsite command of the Hurricane Katrina relief effort. The White House picked a top FEMA official with three decades of firefighting experience as his replacement.

R. David Paulison, head of FEMA's emergency preparedness force, will lead the beleaguered agency, according to three administration sources who spoke on condition of anonymity because the announcement had not yet been made.

Paulison is a career firefighter from Miami who was among emergency workers responding to Hurricane Andrew in 1992 and the crash of ValuJet Flight 592 in the Florida Everglades in 1996, according to a biography posted on FEMA's Web site. He also has led the U.S. Fire Administration since December 2001, according to the site.

As chief of the Miami-Dade Fire Rescue Department, Paulison led 1,900 personnel under a $200 million operating budget. He was also in charge of Dade County's emergency management office, according to his biography.

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Paulison will lead an agency that has been under fire for its response to the Katrina disaster. Local officials and members of Congress have cited confusion and a lagging response to the Gulf Coast devastation.

Brown had taken much of the heat and was relieved of his onsite command on Friday. In an interview Monday with The Associated Press, Brown said he resigned "in the best interest of the agency and best interest of the president." He said he feared he had become a distraction.

"The focus has got to be on FEMA, what the people are trying to do down there," Brown said.

His decision was not a surprise. Brown was abruptly recalled to Washington on Friday, a clear vote of no confidence from his superiors at the White House and the Homeland Security Department. He also was accused of padding his resume, which Brown has denied.

The president ducked questions about Brown's resignation. "Maybe you know something I don't know. I've been working," the president said to reporters on an inspection tour of damage in Gulfport, Miss. Bush said he planned to talk with Brown's boss, Homeland Security Secretary Michael Chertoff, from Air Force One on the flight back to Washington.

"There will be plenty of time to figure out what went right and what went wrong," Bush said.

Polls show most Americans believe Bush could have done more to help Katrina's victims, though they also blame leaders of Louisiana and New Orleans. Bush's overall job approval rating is at the lowest point of his presidency.

House Democratic Leader Nancy Pelosi called Brown's departure long overdue.

"His resignation is the right thing for the country and for the people of the Gulf Coast states," Pelosi said in a statement.

Brown, who said he last talked to Bush five or six days ago, said the resignation was his idea. He spoke Saturday to White House chief of staff Andrew Card, who did not request his departure, according to Brown.

"I'm turning in my resignation today," Brown said. "I think it's in the best interest of the agency and the best interest of the president to do that and get the media focused on the good things that are going on, instead of me."

Shortly after Brown was recalled to Washington last week, officials close to the FEMA director said he would probably resign. They said that even before Katrina, Brown had been planning on leaving the administration late this fall to go into the private sector.

Paulison Is Skilled At Disasters (WP)

By Spencer S. Hsu And Christopher Lee

The Washington Post, September 13, 2005

R. David Paulison, appointed yesterday as acting director of the Federal Emergency Management Agency, has encountered disaster before: three months before Hurricane Andrew laid waste to part of South Florida in 1992, he became chief of the Miami-Dade Fire Rescue Department.

When one of the nation's worst natural disasters hit, he helped direct rescue and response efforts for the county even as 400 firefighters were made homeless by the storm.

Paulison was not available for interviews yesterday, FEMA spokeswoman Nicol Andrews said. But in testimony during his Senate confirmation hearing in 2001, Paulison said he headed Miami-Dade County's Office of Emergency Management and had handled hazardous materials spills, floods, tornadoes and deadly accidents such as a 1996 jetliner crash into the Florida Everglades.

"Whether in response to a major fire, as incident commander for Hurricane Andrew or in response to the crash of ValuJet 592, I have seen firsthand the need for communication and cooperation during the planning, response, recovery and rebuilding phases after disasters," Paulison told the Senate Commerce Committee.

International Association of Fire Fighters General President Harold A. Schaitberger, whose organization Paulison formerly headed, said Paulison "not only has the administrative experience and skills that you need at the bureaucratic level, he really understands what the troops need on the front line."

Currently U.S. fire administrator and head of FEMA's division of preparedness, Paulison has a long list of emergency management credentials and was confirmed by the Senate for his current job. Those are two key considerations for an

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administration scrambling to rebut criticism that it has stocked the agency with unseasoned political appointees and de-emphasized natural disaster preparedness.

In a brief written statement, Homeland Security Secretary Michael Chertoff said he appreciated Paulison's "willingness to take on the vital task of leading FEMA during this challenging time."

"Regaining the confidence of the American people through actions, not press releases, will be job one for David Paulison," said Sen. Barbara A. Mikulski (D-Md.), who praised Paulison's appointment as "great news" and called on him to surround himself with experienced professionals. She said he must "turn his attention to what went wrong in the federal response to this tragedy and make sure it can never happen again."

Under a pending reorganization announced by Chertoff, the FEMA division that Paulison headed would be removed from the agency and merged into a new homeland security section responsible for emergency preparedness and planning.

In 1971, Paulison became a firefighter with the North Miami Beach Fire Department, which was absorbed by the Miami-Dade Fire Rescue Department in the early 1980s. He worked as a rescue lieutenant, battalion commander, district chief of operations, division chief, assistant chief and deputy director for administration before becoming chief, according to his FEMA biography.

Chertoff said he would make additional FEMA appointments "in the days ahead," including a new, permanent deputy FEMA director.

After Days Of Criticism, Emergency Director Resigns (NYT)

By Richard W. Stevenson

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 - Three days after being stripped of his duties overseeing the post-hurricane relief effort, Michael D. Brown resigned on Monday as director of the Federal Emergency Management Agency, saying that he wanted to avoid distracting the agency at a time when it faces a major challenge.

The White House quickly named R. David Paulison to succeed Mr. Brown on an acting basis. Mr. Paulison, a former firefighter, has been director of the agency's preparedness division for the past two years.

In contrast to Mr. Brown, who had relatively little experience dealing with disasters and emergency response before joining FEMA, Mr. Paulison has spent his career in the field, having been chief of the Miami-Dade Fire Rescue Department before joining the federal government in 2001 as administrator of the United States Fire Administration.

In an interview Monday night, Mr. Brown said that he felt that his role had become an obstacle to the agency's work.

"The press was too focused on what did we do, what didn't we do, the whole blame game," he said. "I wanted to take that factor out of the equation, so that the people at FEMA, who are some of the most hard-working, dedicated civil servants I have ever met, could just go do their job."

Mr. Brown, 50, said he had felt no pressure to resign. He said he made his decision on Sunday with his family after a long conversation on Saturday night with Andrew H. Card Jr., the White House chief of staff.

"Andy was very, very supportive of me," Mr. Brown said.

He said he planned to "take some time to just rejuvenate the old battery" before considering his options.

Mr. Brown's departure was hardly surprising, given the decision, announced on Friday, to remove him from management of the federal response to Hurricane Katrina.

Mr. Brown had become a political liability to the White House, even in his constrained new role. Democrats in Congress had been questioning how the administration could retain him in such an important job as director of FEMA after his performance in responding to the hurricane.

A poll taken over the weekend by the Pew Research Center for the People and the Press, a nonpartisan research organization, found that more than 6 in 10 respondents judged the federal government's response to be fair or poor. A variety of polls in recent days have found Mr. Bush's approval ratings at or near their lows, with his support eroding even among Republicans.

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Asked about Mr. Brown's resignation after he toured a school in Mississippi on Monday afternoon, Mr. Bush declined to comment. He told reporters, "Maybe you know something we don't know."

He pointedly brushed off questions about how Mr. Brown and the administration had handled the storm, saying "don't ask me again" about the subject.

"Here in Mississippi and in Louisiana, people want to move forward," Mr. Bush said. "They understand there's time to try to blame somebody. But they want to get their lives back together."

Scott McClellan, the White House spokesman, later told reporters aboard Air Force One on the trip back to Washington that Mr. Bush was informed on Monday morning of Mr. Brown's resignation but was not sure when asked about it whether the decision had been made public.

The decision was welcomed by many Democrats in Congress. But they said it would not deter them from seeking an aggressive independent inquiry into the federal response to the storm.

"Long overdue; too little, too late," said a statement from Senator John Kerry, Mr. Bush's opponent in the 2004 presidential race.

Senator Harry Reid of Nevada, the Democratic leader, said: "I'm glad he's gone. But that doesn't end the problems with this administration and their action."

Mr. Brown is among a relative handful of officials who have left the Bush administration under pressure. In an interview with ABC News on Monday after the announcement of his resignation, he defended his performance and suggested that the nation needed to decide what role it wanted FEMA to play.

"We're not a first-responder agency," Mr. Brown told ABC. "We're there to coordinate and help people prepare and coordinate in times of disaster. And so if the country wants us to be more, then we should have a great public policy debate whether that's true or not."

Brown Quits As Head Of FEMA (WT)

By Audrey Hudson

The Washington Times, September 13, 2005

Embattled Federal Emergency Management Agency director Michael D. Brown resigned yesterday after being criticized for the federal government's response to Hurricane Katrina.

Mr. Brown said he had not spoken with President Bush since early last week, but decided to resign after a conversation Saturday with White House Chief of Staff Andrew H. Card Jr.

"I think it's in the best interest of the agency and the best interest of the president to do that and get the media focused on the good things that are going on, instead of me," Mr. Brown told the Associated Press in announcing his resignation.

Mr. Bush named R. David Paulison, administrator of the U.S. Fire Administration within FEMA, to serve as acting director of FEMA. Mr. Paulison has 30 years of fire rescue services experience and was chief of the Miami-Dade County Fire Rescue Department in Florida.

FEMA became a lightning rod for frustrated flood victims as well as state and local officials, who blamed the agency when fresh supplies failed to materialize several days after levees broke and isolated New Orleans. The Red Cross and Salvation Army have blamed the state for not allowing rescue workers and supplies into the city.

On Friday, Homeland Security Secretary Michael Chertoff replaced Mr. Brown with Coast Guard Vice Adm. Thad Allen as head of recovery operations, fueling speculation that Mr. Brown was on his way out. Agency staffers hinted that the director had planned to resign after the hurricane season ended in November.

Mr. Chertoff had said Mr. Brown had other responsibilities and needed to return to Washington from the Gulf Coast.

Mr. Bush was visiting hurricane victims in Gulfport, Miss., yesterday when reporters asked him to respond to the resignation. The president, who looked surprised at the news, declined to comment.

"I was spending time with people, so I can't comment on something that you may know more about than I do," Mr. Bush said. "There will be plenty of time to figure out what went right and what went wrong."

Some Democrats said Mr. Brown was right to resign, but others continued to criticize Mr. Bush for not firing the director.

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"Michael Brown's departure from FEMA is long overdue, and his resignation is the right thing for the country and for the people of the Gulf Coast states," said House Minority Leader Nancy Pelosi, California Democrat.

Mr. Brown's resignation mattered little to hurricane victims, who say it won't bring them needed relief any quicker.

"The guy is not very organized," said Juan Manson, who was waiting for FEMA assistance after his New Orleans home was destroyed. "But the guy in charge resigning, and then getting a new guy, how does that help me? Does it give me a check? No."

Mr. Paulison's biography said his emergency management experience includes Hurricane Andrew in 1992 and the 1996 crash of ValuJet Flight 592 in the Everglades.

A Major Test For FEMA And Its Contracting Crew (WP)

By Griff Witte And Charles R. Babcock

The Washington Post, September 13, 2005

The Federal Emergency Management Agency will receive most of the $62 billion Congress has approved for Hurricane Katrina relief efforts, setting up a major test of the agency's ability to distribute the cash and monitor the private contractors who will do much of the work.

FEMA's track record in managing much smaller amounts of money has raised concerns. It made millions in questionable payments to South Florida residents after Hurricane Frances last year, investigators found, in part because the agency's contractors had hired inspectors who lacked training or oversight. A recent audit by the Homeland Security Department's inspector general questioned whether FEMA's acquisition workforce was qualified.

The agency has already begun awarding hundreds of millions of dollars in no-bid Katrina contracts under loosened government rules designed to get relief and rebuilding efforts underway quickly. As the money begins to flow, some fear the agency could become overwhelmed. "They've never spent anything even remotely on this scale. So the real question is going to be what kind of controls are in place," said Bill Jenkins, who monitors FEMA for the Government Accountability Office. "There are going to be fraudsters coming out of the woodwork."

Sen. Susan Collins (R-Maine), chair of the Senate's Homeland Security Committee, said through an aide yesterday that she is considering creating a special inspector general to oversee and audit Katrina-related spending.

The last time the government spent a massive amount of money under emergency conditions, for the war in Iraq, it set off a frenzy among contractors jockeying for work. Investigators with the special inspector general's office set up to oversee Iraq spending later found numerous cases of questionable costs.

Contractors are already lining up for Katrina money. Yesterday, the Army Corps of Engineers said that, on FEMA's behalf, it would award $1.5 billion in contracts for debris removal this week. Also yesterday, Blackwater USA, known for its work supporting military operations in Iraq, said it would provide 164 armed guards to help provide security at FEMA sites in Louisiana.

Last week FEMA gave out hundreds of millions of dollars worth of contracts to engineering and construction firms to build an estimated 300,000 temporary housing units. Those contracts were awarded without competition under rules that allow agencies to bypass normal procedures during an emergency. Several went to companies that have been major financial supporters of the Bush administration. One firm , Shaw Group Inc., of Baton Rouge, is on the client list of lobbyist and former FEMA director Joe M. Allbaugh, though he has said he does not get involved with contracts.

Shaw also was picked last week by the Corps for a $100 million contract, with one of its first tasks to pump floodwater out of New Orleans. The agency contacted two other companies to generate competition for the work, a Corps contracting official said yesterday, but only Shaw responded.

At FEMA, outsourcing to the private sector is nothing new. The agency has long made contractors a central part of its emergency plans on the thinking that it isn't a good use of tax dollars to maintain a large staff for sporadic work. When disaster strikes, the agency, with help from the Corps of Engineers, has contracts that can be activated to bring in food, water and manpower.

But FEMA insiders and some who have worked with the agency say it has grown increasingly reliant on contractors in recent years not just for help in responding to disasters, but for planning and policymaking as well. It's a trend that's been

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augmented, they say, by the departure of FEMA's top civil servants and the arrival of political appointees with little disaster management experience.

"Some of the best and the brightest high-level technocrats are at the contracting firms," said Claire B. Rubin, a researcher at George Washington University who has studied disasters for decades. "They used to work for FEMA. And now FEMA needs them back."

Last spring, the Homeland Security Department's inspector general's office audited the FEMA staff that manages its contracts and found it "impossible to determine whether the acquisition personnel met training, education, and experience requirements." As a result, the auditors concluded, "FEMA may be at risk that its acquisition workforce is not qualified."

At the time of the audit, 51 full-time acquisition workers were managing hundreds of millions of dollars in contracts. Homeland Security Department spokesman Russ Knocke said yesterday that contracting officials are ramping up to handle the extra work, and that the department's IG office has received additional funding to closely monitor Katrina contracts.

Some of the agency's approximately 2,500 full-time employees feel the reliance on contractors is driving away the agency's best talent. Last year, Pleasant Mann, then-president of the union representing FEMA headquarters workers, wrote a letter to congressional leaders warning that the nation was becoming more vulnerable. "The ability of FEMA to manage emergencies and disasters is being seriously eroded," he wrote. "Our professional staff are being systematically replaced by politically connected novices and contractors who have now 'burrowed in' to civil service jobs."

FEMA insiders said a no-bid RAND Corp. contract to help the Homeland Security Department develop the definitive plan for how the nation would respond to an emergency illustrates just how pervasive the contractors' role has become. The National Response Plan was mandated by the White House after the Sept. 11, 2001, attacks. Rather than turn to FEMA employees to craft the new document, according to those familiar with the process, the agency tapped RAND for the work. But the contractor's first draft was rejected by state and local emergency responders who felt the contractor hadn't incorporated the lessons learned from previous disasters.

"There were a lot of things not considered. And I think that was from the fact that the contractor was not a practitioner [of emergency response]," said Dewayne West, president of the International Association of Emergency Managers, a group of local first responders. "So they kind of said, 'We're going to can this one. Let's start over.' "

Bruce Don, a RAND senior researcher who worked on the project, called the experience "frustrating" and said government officials were resistant to change.

FEMA spokespeople did not return multiple calls over several days seeking comment.

RAND's role was subsequently reduced, and government officials wrote the final document. It became the basis for the government's efforts to manage during Hurricane Katrina.

Whether the lackluster response to Katrina was because of the plan or in spite of it will undoubtedly be the subject of numerous reviews, government officials said. So, too, will the issue of contractor performance.

Thousands of people went for days without adequate food and water at the Superdome, at the New Orleans convention center and on rooftops throughout the flooded region, according to news reports, though it is unclear who was to blame .

On the Friday before Katrina hit, Lipsey Mountain Spring Water, FEMA's bottled water supplier, got a call from the Army Corps of Engineers and began shipping truckloads to the region, according to President Joe Lipsey III. The contract calls for the Norcross, Ga., company to get water to sites within 24 hours, and Lipsey said he has developed a nationwide network of 170 suppliers to help.

The first trucks headed toward Pensacola, Fla., he said. But when the storm turned west, the Corps directed Lipsey's deliveries to three federal installations in Mississippi and one in Louisiana. From those staging areas, he said, Corps officials direct where it is delivered. So far Lipsey's network has delivered the equivalent of 198 million half-liter bottles of water, compared with 140 million during the nine-week period last year when four hurricanes hit Florida, he said. Lipsey, a Louisiana native, said despite the criticism, the agency and the Corps "are doing an incredible job," especially given the flooding and breaks in the bridge and highway system.

Sen. Joseph I. Lieberman (D-Conn.), the ranking minority member on the Senate committee overseeing FEMA, said last night that he has discussed with Collins the idea of a special IG to monitor Katrina spending. "Congress has to be very aggressive

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in making sure that in our haste to help we aren't wasting an enormous amount of public money, or worse, having it used in a way that's corrupt," he said.

Goodbye, 'Brownie' (WP)

The Washington Post, September 13, 2005

No one will be sorry or surprised to learn that Michael D. Brown, formerly the director of the Federal Emergency Management Agency, intends to spend more time with his family. Mr. Brown will be forever remembered as the man who, at the height of the New Orleans evacuation crisis, appeared not to know that 25,000 people were crammed into the city's convention center without food, water or toilets, despite television reports broadcasting that fact for the previous 24 hours. Since then, his qualifications -- which mostly consist of a long stint running horse shows, as well as a useful friendship with a friend of the president -- have sparked a good deal of righteous indignation. But Mr. Brown's parting words are worth heeding. "The focus," he said yesterday, "has got to be on FEMA."

We agree -- although we would add that the focus should be on presidential attention to FEMA, as well as congressional oversight and funding of FEMA, and not on FEMA's position in the federal bureaucracy. Last week, a gaggle of mostly Democratic lawmakers proposed bills that would, among other things, move FEMA out of the Department of Homeland Security, making it once again a separate agency, and give it Cabinet-level status. Yet most of the bad decisions made about FEMA over the past several years -- budget cuts, the plan to take away its preparedness function, as well as the decision to staff it with presidential cronies instead of experts -- could have occurred even if FEMA had remained in the Cabinet: After all, presidents have been known to ignore their Cabinet members, too.

By the same token, some of those decisions could have been prevented, even with FEMA buried deep in the bowels of DHS, had anyone in the White House or Congress taken the agency's agenda more seriously. As we wrote yesterday, Mr. Brown received only a 42-minute Senate confirmation hearing when he was nominated to be deputy director of FEMA, and no hearing at all when he became its boss. The White House, preoccupied with al Qaeda, and former Homeland Security secretary Tom Ridge, preoccupied with airline security, were clearly unperturbed by the threats posed by hurricanes and floods.

Without question, there is an overlap between preparations for a terrorist attack and preparations for a natural disaster. There are also good reasons why people who know about public health, people who organize emergency logistics, people who understand the effects of radiation, and people who can coordinate first responders and the National Guard should run into one another in office corridors. What matters is not where those corridors are but the quality of the people themselves. Congress and the administration should now focus hard on R. David Paulison, head of FEMA's emergency preparedness force, who has been nominated to replace Mr. Brown. A former Miami-Dade County fire chief who helped Florida cope with Hurricane Andrew, Mr. Paulison may be qualified. But before coming to that conclusion, it would help if Congress and the White House take a bit more than 42 minutes to find out.

What Ails FEMA? (WT)

By Mike Walker

The Washington Times, September 13, 2005

Don't blame FEMA's great professional, dedicated and unselfish employees for what happened in New Orleans. FEMA did not fail in the early response because of these great Americans. They were totally focused on responding to the tragedy and saving lives. Nor did FEMA fail because of an over-emphasis on terrorism prevention. FEMA did fail because of a lack of effective leadership and its refusal to adapt to the new realities of the post-September 11 world.

Two years ago in a lecture at the Naval Postgraduate School in Monterey, California, I told students that FEMA was not capable of adequately responding to a major hurricane, let alone a catastrophic terrorist attack. My comments were based on an assessment that morale at FEMA was then the worst since the agency was created. The very people the nation depended on to help out during our time of greatest need were being demoralized by an indifferent, inexperienced leadership that neither understood emergency management nor had the skills to ensure the agency had the resources to meet its all-hazard mission.

Since my lecture, things have only gotten worse. Seasoned emergency managers began retiring in droves, frustrated by an inaccessible leadership at the top that has neither understood what FEMA is all about, nor has been able to effectively fight for

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FEMA's resource requirements inside the Department of Homeland Security and the Office of Management and Budget. When Hurricane Katrina slammed into the Gulf region, FEMA's most seasoned battlefield commanders were no longer working at the agency.

Many mistakes were made in New Orleans at every level of government. The City of New Orleans failed to fully implement its evacuation plans for those who had no automobile or had special needs. The State of Louisiana was unable to effectively support local law enforcement and quell unrest in the city. But, arguably, the biggest mistakes were made by the director of FEMA. The president and Secretary Michael Chertoff could only act on the information that was made available to them.

In the past dozen years, I have participated in several New Orleans hurricane exercises. All of those exercises utilized a slow-moving category 3 scenario because the Army Corps of Engineers said the levee system was only built to withstand a category 3 hurricane. That alone would still result in several feet of water in large portions of the city. A category 4 or 5 would most probably breach the levees and create catastrophic flooding, putting a premium on early and complete evacuation.

The director of the National Hurricane Center has stated that his office made it clear to federal, state and local emergency management that the levee system could fail when Hurricane Katrina made landfall. Knowing that, the federal government had an obligation to be more proactive than it was on the front end of Hurricane Katrina, including providing strong professional technical advice to timid state and local officials.

The administration had put the mechanisms in place for success. In January, the final National Response Plan (NRP) was approved by every department and agency of the federal government. The FEMA director failed to use the NRP from the beginning of this incident. Why the catastrophic nature of Hurricane Katrina was not recognized before landfall when the National Weather Service said it would be above a category 3 is inconceivable. The FEMA director knew the levees would most likely be breached. Or maybe he didn't. The old hands were no longer there to tell him.

Had the FEMA director recommended the federal government declare an "incident of national significance" before landfall, as is permitted in the plan, when it was clear Katrina would be a catastrophic hurricane, the NRP Catastrophic Incident Annex could have been triggered. That would have permitted FEMA to stage massive levels of aid in the region, including buses, even if the governor had not yet requested specific help. By failing to expeditiously utilize the established NRP mechanisms, FEMA was left to implement its traditional response and await state requests. The FEMA director did not embrace the DHS post-September 11 mechanisms but instead followed his own ad hoc approach that left FEMA unprepared.

The problem at FEMA is not a structural problem. FEMA did not fail because it is now part of the Department of Homeland Security. Making FEMA an independent agency again would only further complicate the nation's ability to shape the agency into a 21st century, forward-leaning, truly all-hazard response agency. But the next director of FEMA must understand emergency management. He must appreciate his people. He must listen to his state and local partners. And, most importantly, he must understand FEMA's role in the post-September 11 world.

Those who think we have overemphasized terrorism in the wake of September 11, should be concerned with a knee-jerk reaction to Katrina. What we need is balance. We must be prepared to respond to both terrorism and natural disasters. The FEMA I know is capable of rising to the occasion and accomplishing both missions.

Acts of God will never destroy our great country. But that is exactly what radical Islamic terrorists want to do. We must never forget that fact. No doubt, the terrorists have been emboldened by what they have seen on TV in the last several days.

Mike Walker is a former deputy director of FEMA and former acting secretary of the Army.

What Are The Lessons Of Katrina? (WSJ)

By George Melloan

The Wall Street Journal, September 13, 2005

In answer to the question above, there are many lessons, but because of bureaucratic realities, most will not be applied to the disasters of the future. Yet here are a few for what they might be worth:

First, the blame game is missing the mark. George W. Bush is being accused by his natural enemies of everything from being asleep on the job to racism. But his real error came long before Katrina, when he and Congress created a Department of Homeland Security (DHS) in response to 9/11.

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After a disaster, politicians want to "do something." Striking back at U.S. enemies was essential and Mr. Bush did that against al Qaeda with the enthusiastic approval of Congress, launching the war that continues today with considerably less support. The DHS also had overwhelming congressional approval, but was based on a flawed concept.

Creating a bigger bureaucracy to deal with the failures of two existing bureaucracies -- the FBI and the CIA -- was simply giving free rein to Beltway gluttony. The DHS has spent many billions, but when a hurricane equivalent of a weapon of mass destruction struck, the DHS was too cumbersome to respond quickly.

That leads to lesson No. 2: If an agency is meant to cope with emergencies, don't put lawyers in charge. DHS Secretary Michael Chertoff is an admirable man but former federal judges aren't trained for quick executive action. To his credit, he recovered from early fumbles by pulling fellow lawyer Michael Brown out of the front line in Louisiana and replacing him with a military man, Vice Adm. Thad Allen.

Sen. Trent Lott of hurricane-ravaged Mississippi was referring to Mr. Brown's missteps as head of the Federal Emergency Management Agency when he said: "Pencil pushers make lousy crisis managers. Michael Brown has been acting like a private instead of a general." In Mr. Brown's defense, lawyers are conditioned by training and experience to read all the rules first before taking decisive action, so the administration that hired him is at fault.

Which brings up lesson three: There sure are a lot of rules. Laws and regulations are mass-produced by regulatory agencies and all the various levels of government. In an emergency, the first response by government bureaucrats is to look at the rule book to find out what they are allowed to do. Time was wasted after Katrina struck.

Some of those limitations were built into the Constitution's limits on federal powers. President Bush could not nationalize the Louisiana National Guard without the consent of Gov. Kathleen Babineaux Blanco, which was not immediately forthcoming.

The Northern Command of the U.S. Army, set up specifically for homeland defense three years ago, also was prevented from acting immediately because the Posse Comitatus Act (circa 1878) bars the army from conducting police activities on U.S. soil without a waiver. The best army in the world was ready, with equipment and men in place, but was left waiting for orders.

On to lesson four: In the U.S. federal system, state and local governments are the first line of defense, simply because the first responders -- police, firemen, emergency medical services -- report to mayors and governors. When Katrina hit, New Orleans first responders were not up to the challenge. One-third of the police force deserted, leaving the streets to looters and felons, one reason householders and business owners were reluctant to flee the rising waters.

Mayor C. Ray Nagin panicked, leaving the city's fleet of buses sitting in the flood's path instead of using them for evacuation. He neglected to provide the thousands who fled to the Superdome and convention center with adequate police protection and supplies. Acting more the private than the general in Trent Lott's terms, Mayor Nagin instead raged to the TV cameras about the lack of federal help -- as if the feds were supposed to do his job. You're only as good as your first responders: New York rose to the occasion after 9/11; after Katrina, New Orleans didn't.

Lesson five is that the media play a central role. They and the national weather services did a great job of warning Gulf Coast residents that a big one was coming, enabling a million to flee. They were at their best, as usual, covering the suffering and destruction. But then they became involved in the political debate, as Republicans and Democrats tried to outdo each other in assigning blame, with often spurious charges.

Mayor Nagin's wild estimate of 10,000 deaths was broadcast world-wide. The death toll for all the Gulf Coast, when fully tallied, may be well below 1,000, judging from the numbers counted so far.

The media have a natural tendency to make a big story sound even bigger than it is. Politicians and bureaucrats know that the bigger the disaster, the more money is likely to be showered on them. They are being proved right by the $60 billion in federal aid envisioned so far.

But there is a good side. Katrina was indeed a huge tragedy for the many thousands of people who were displaced and whose homes in many cases are no longer there or uninhabitable. Global media coverage arouses global compassion. Governments around the world are offering help, reciprocating for the massive U.S. effort during the Asian tsunami. NATO commanders agreed in an emergency meeting to provide ships and planes to help deliver aid to the victims.

The private sector came up with the quickest responses. Drug companies sent medicine. Wal-Mart is pitching into the reconstruction effort. Families in cities near and far are taking refugees into their homes. Money and gifts are pouring in from

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non-governmental organizations in the U.S. and abroad. Individual acts of heroism by helicopter crews and other volunteers who helped pull people off the roofs of flooded homes are too numerous to count.

So that brings lesson number six: While America's critics cry shame about the less-than-adequate governmental response to the needs of a poor and predominantly black community, Americans acting on their own are picking up the slack. That kind of individual initiative is what has made the U.S. a great country.

Katrina's Message On The Corps (NYT)

The New York Times, September 13, 2005

There has been much grumbling that Congress and the Bush administration denied the Army Corps of Engineers the money that was required to fortify New Orleans against a hurricane like Katrina. These complaints need to be pursued. Flood control is mainly a federal obligation, and the agency most responsible for it must have enough money to do the job right.

But there is another question worth asking: has the Army Corps made wise use of the money it has? Louisiana has received about $1.9 billion over the past four years for corps civil works projects, more than any other state. Although much of this has been spent to protect New Orleans, a lot has also been spent on unrelated water projects - a new and unnecessary lock in the New Orleans Industrial Canal, for instance, and dredging little-used waterways like the Red River - mainly to serve the barge industry and other commercial interests.

The Louisiana delegation, second to none in bringing home the bacon, is as much to blame for these skewed priorities as the corps is. Yet the reports of wasted dollars in Louisiana are consistent with the corps's historical profile. Studies by the Government Accountability Office, the National Academy of Sciences and others have documented that the agency has long inflated the economic payoffs of its projects to justify ever greater budget outlays, while underestimating the environmental damage caused by turning free-flowing rivers into lifeless canals and destroying millions of acres of valuable wetlands. This satisfies the corps's appetite for money and Congress's appetite for pork.

Katrina thus raises an even broader question: has the time not come, finally, to impose some real discipline on the Army Corps and its paymasters in Congress who regard it as their own cookie jar?

Both the present commander, Lt. Gen. Carl Strock, and his predecessor have promised internal reforms. But the lead must come from Congress, where enlightened reformers like Senators John McCain and Russell Feingold are pushing independent peer review for individual projects and other changes that might truly make a difference.

Unfortunately, many other senators - not just those from Louisiana - are powerfully addicted to corps projects and the votes they attract, especially Christopher Bond of Missouri, who controls the corps's budget and has single-handedly kept alive a nonessential barge industry on the Missouri River at great cost to the environment and taxpayers. To discipline the corps, Congress must first discipline itself.

The Rationale For A Scaled-Back City (WSJ)

By Jon E. Hilsenrath

The Wall Street Journal, September 13, 2005

House Speaker Dennis Hastert learned the hard way the perils of kicking a city when it's down. He was quoted in an Illinois newspaper shortly after Hurricane Katrina hit saying much of New Orleans "could be bulldozed" after the disaster, and opponents quickly silenced him with accusations of callousness and heartlessness.

The hurricane has clearly shown that New Orleans is home to energy and transportation infrastructure vital to the nation's economy. It's a city with a rich history and a vibrant cultural scene (and party life) that the nation values. And it's home to nearly 500,000 people with ties to their community. All are arguments for a big effort to get the city back on its feet quickly. History has also shown that cities have a way of bouncing back after crisis. (Think of Chicago's great fire more than a century ago.)

But some economists are starting to wonder if Mr. Hastert might have had a point about caution when it comes to rebuilding New Orleans, as poorly articulated as it might have been. It's not just the city's natural disadvantages (much of it is located below sea level) that worry economists. It's also its economic position -- rampant poverty and an exodus of people and businesses even before the hurricane touched down -- and the need to avoid creating incentives that could lead to development that is no less vulnerable.

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"We have an obligation to people, not to places," says Edward Glaeser, a Harvard professor who specializes in urban economics. "Given just how much, on a per capita basis, it would take to rebuild New Orleans to its former glory, lots of residents would be much [better off] with $10,000 and a bus ticket to Houston."

'Good Samaritan' Paradox

Economists have wrestled for years with how to address the economic consequences of natural disasters. Gary Becker, the Nobel prize-winning University of Chicago economist, says policy makers need to consider something he calls the "Good Samaritan" paradox. Just about everybody's inclination after disaster strikes is to help the victims. "It is hard for a country to sit by and watch people in miserable circumstances as a result of a disaster," he says. "It is not desirable."

However the help, and the promise of rebuilding, also gives people an incentive to keep living in disaster-prone places. Like Mr. Glaeser, he's for helping victims. But to limit the perverse incentives, Mr. Becker says any rebuilding of the place should come with tough love from the government, such as tight zoning restrictions in flood-prone areas and tough flood insurance rules.

He's not the only Nobel-winner arguing for circumspection about rebuilding New Orleans. "The best policy is not to permit rebuilding in New Orleans in the areas that are subject to flooding," says Edward Prescott, a researcher at the Federal Reserve Bank of Minneapolis, who famously used flood-plain relief as an example of how seemingly sound short-run policies can skew incentives in the long-run. Richard Posner, the conservative jurist who shares an economics Web log with Mr. Becker, proposes that the city come back something like Colonial Williamsburg -- a quaint tourist site that isn't really attached to a city.

Of course, the city is highly likely to be rebuilt anyway. Besides the political momentum, the naysayers shouldn't underestimate the pressure on businesses to return, says Loren Scott, a Baton Rouge economist. Chemical firms, ship builders and energy firms have huge capital investments in the area that are of no value if they're not operating. "They're going to come back very quickly," he says.

But people might not. According to Census Bureau estimates, New Orleans's population declined by 4%, or 21,000, between 2000 and 2004, to 462,000. Among the cities with the largest populations in the nation, the only one with a larger decline during that stretch was Detroit. Some 24% of New Orleans families lived below the poverty line, according to the Census Bureau, compared to 9% nationally.

A Flight From the City

Many fled to the suburbs in search of better public schools. Some of those big investors have been fleeing as well. ExxonMobil, Shell and ChevronTexaco, for instance, have eliminated or moved hundreds of jobs to Houston in the past few years, continuing a two-decade exodus from the city. The result: Even though the energy sector is booming, New Orleans hasn't felt much of it. In 2004, private sector employment levels in the city were still below their levels of 1997.

Mr. Glaeser says very long-term issues were behind the city's pre-Katrina woes. Back in the 1840s, New Orleans was among the nation's three largest cities, along with New York and Philadelphia. Back then, water transportation was the dominant means of moving people and products, and the economy was largely agrarian. Its connection to the South and the Mississippi River made New Orleans an integral hub for commerce. Mr. Glaeser says the rise of rail travel, car travel, and industrialization over the next century changed all of that and helped to set off the city on a long, slow decline. Today's fastest growing cities, he notes, are ones like Las Vegas and Atlanta, situated for suburban sprawl and not bounded by water.

"It is a place that reached its economic peak relative to the U.S. economy 160 years ago," says Mr. Glaeser. "It certainly was not delivering a great economic future for a majority of its residents."

There is also a question of timing. Just two weeks after Katrina struck, cities like Baton Rouge and Houston are teeming with people and businesses trying to move on with their lives. By the time a reconstruction plan for New Orleans is developed and executed, thousands of people will likely have settled in somewhere else. As a reminder of how long -- and contentious -- the rebuilding process can be, four years after the Sept. 11 terror attacks on New York, the site that once housed the World Trade Center remains a scar of undeveloped land.

In these early crisis days, Washington seems in no mood for circumspection. The $62 billion pledged already to aid victims is just the first installment on a recovery bill that could reach $200 billion. But before committing billions to repairing the tragic city, these economists say policy makers should take a close look at where New Orleans has been, and make sure they don't send it back in the same direction.

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The Californian Way (WSJ)

By Pete Wilson

The Wall Street Journal, September 13, 2005

LOS ANGELES -- Natural disasters, like wars, test human mettle and bring out the best in many people -- courage and selflessness, acts of heroism, and great generosity to afflicted neighbors and total strangers. Sadly, but very predictably, they also generate political opportunism and partisan finger-pointing that is worse than counterproductive. Practitioners of the "blame game" typically do far more to exploit than to assuage the pain of the victims with whom they so gaudily sympathize. Katrina has certainly been no exception, providing an especially absurd and contemptible example of charging the president with racist neglect.

Rather than point fingers, I presume to offer a few practical pointers that I hope will be useful to those who are, or may in future be, challenged to lead their constituents on the hard road back to recovery from a natural disaster.

In early 1994, a major earthquake (measuring 6.7 on the Richter scale) jolted the residents of greater Los Angeles from their slumbers and knocked houses off their foundations. Within seconds, the Northridge earthquake reduced to rubble the overpass bridges of Interstate 10, Los Angeles' major east-west artery, and thereby instantly shut down the most heavily trafficked freeway in the world. I was advised that it would require some two years and two months to repair the bridges and restore the I-10 to use. For as long as it remained unavailable, it would mean not only driver inconvenience on a dramatic scale, but delays that would translate into economic dislocation conservatively estimated to cost $600,000 per day. The interruption to the life of the nation's second largest city would be of a plainly intolerable magnitude and duration.

Instead, we completed the repairs and reopened the freeway to its normal heavy traffic in just 66 days. How? We did two things. • First, I quickly exercised the extraordinary emergency powers conferred upon the governor of California by the state Government Code. I suspended the operation of statutes and regulations which would have required the protracted public hearings called for before environmental impact reports could be filed and acted upon, and suspended other normally demanded procedural hurdles. The elimination of these legal requirements drastically reduced purposeless delays that would have impeded recovery and compounded the injury inflicted by the quake.

I cannot emphasize too strongly the need for governors to be given such clear emergency powers if they are not provided them by existing state law. • Second, we took a page from the book of private sector incentives for accelerating performance. We told contractors bidding to repair the bridges that they must submit bids that specified not only the cost but the date of completion, and that they must agree to an added condition: For every day they were late, they would incur a penalty of $200,000; and for every day they were early, they would be rewarded with a bonus of $200,000. The winning bidder, C. C. Myers, Inc., put on three shifts that worked 24/7. In order to prevent any delay in the work, they hired a locomotive and crew to haul to Los Angeles steel sitting on a siding in Texas. Myers made more on the bonus than they did on the bid.

Incentives work. The reward to the contractor in this instance was well worth the reward to the public in achieving restoration of critical infrastructure two years early. * * *

In New Orleans, all levels of government -- federal, state and local -- and the city's private sector leadership face a challenging threshold decision as to how, or even whether, to rebuild.

Who can say when the next Katrina will lash the Gulf Coast? Voices from outside the city have been heard dismissing the very notion of rebuilding a place that is 12 feet below sea level. In New Orleans, the critical infrastructure -- the system of levees -- is, in fact, far more critical than even the world's busiest freeway: Where prolonged loss of the I-10 severely impacted the functioning of L.A., the loss of the levees threatens the very survival of New Orleans.

I am not an engineer but have been advised that an engineering solution exists that would assure the reliability of the levees, even in the alluvial soil of New Orleans without the bedrock found elsewhere. That assurance of reliability is key, the prerequisite to the confidence that investors must feel if they are to be induced to rebuild the city and its economy. The rub is that the engineering solution is of such cost that it will challenge its advocates to justify that cost to opponents. Many will demand to know why taxpayers living outside the region should be forced to subsidize it.

Before dismissing that solution out of hand -- before abandoning New Orleans and retreating to the terrestrial, if not the moral, high ground -- we must exhaust all justifiable alternatives. I suggest that the needed super-levee solution will require a

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sharing of its cost between taxpayers and private investors. The public should do what it has done in the past to provide for a measure of flood protection where needed elsewhere in the nation.

Participation by private investors should be enabled by whatever state and federal legislation is required to authorize tax increment bonding to finance creation of new levees. It should authorize terms that will be able to attract pension funds and other institutional investors, while permitting the city to continue providing essential services. Purchase of the bonds would provide the front money for levee construction. The tax increment legally dedicated to redeem the bonds would be built up as new properties are increasingly built in New Orleans, continually adding new assessed valuation to the city's property tax base.

Tax increment bonding to finance the redevelopment of urban areas is a proven method of attracting private investors to replace blight with privately owned improvements that translate into a growing economy and employment base. I suggest that the same mechanism be employed to finance not only the land assembly for redevelopment of the ruined sections of the city, but also for the creation of the levees that have to be built if there is to be any rebuilding on the scale required to bring New Orleans back.

A final suggestion: I respectfully suggest that New Orleans consider creating a non-profit corporation to which it can delegate authority to act as the city's agent in making the complex real-estate deals that will be essential to redevelopment. San Diego did so when I was mayor, creating a non-profit with a paid staff and a board of volunteer real-estate and land-use professionals who possessed the expertise and time that the job required -- time which the City Council, though designated by state law as the city's official redevelopment agency, simply could not devote to it. Deals negotiated by the non-profit Center City Development Corporation were made subject to ratification by mayor and City Council. The result was that the pace of redevelopment of downtown San Diego remarkably accelerated. And the quality was so enhanced that our relatively modest public effort continues 30 years later to spur far greater private redevelopment. It has transformed a decaying core with a declining tax and job base into one of America's most vibrant and thriving urban environments.

I make this suggestion confident that New Orleans is blessed with the dynamic business and civic leaders needed to supply the same kind of motivation to the rebuilding of their city. I have seen this leadership in action. I am privileged to serve as member of the board of trustees of the National D-Day Museum, which Congress has designated as America's official World War II museum. It is located in New Orleans, not Washington. It is New Orleans' gift to America, so that our children and grandchildren will never forget that freedom is not free, but must be purchased with the courage and sacrifice of those willing to fight and die for it.

I am convinced that, given time and the right tools, that kind of leadership can be expected -- and should be given every chance -- to rebuild New Orleans and to make it even better.

Mr. Wilson, a former governor of California. is a senior research fellow at the Hoover Institution.

New Orleans Officials Criticize Cleanup, Rebuilding Contracts (WSJ)

By Jeff D. Opdyke And Christopher Cooper

The Wall Street Journal, September 13, 2005

BATON ROUGE, La. -- Underscoring tensions over who will control the agenda for the reconstruction of New Orleans, city leaders vented frustration that the federal government already has issued large contracts for initial cleanup and rebuilding without input from local leaders.

At a meeting of the New Orleans city council yesterday, held 80 miles away in a conference room at the state capitol in Baton Rouge, Councilwoman Cynthia Willard-Lewis, whose district includes heavily damaged New Orleans East and the Lower Ninth Ward, said she was outraged that decisions regarding the rebuilding of the city so far haven't included local leaders.

Councilwoman Renee Gill Pratt told the packed meeting she was "disgusted" that an Austin, Texas, company "was cleaning the convention center," using workers brought from outside the city. Council members said local minority contractors should be playing a bigger part.

"We need to rebuild our own city with our own people," Ms. Pratt said. "Our people should be back in the city, building the temporary shelters and getting the jobs."

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Last week, federal agencies announced a $100 million deal with Shaw Group Inc. of Baton Rouge, for pumping of flood water out of New Orleans and other work. Other contracts have been issued for temporary housing and repairs to certain buildings. Federal contracting officials couldn't be reached yesterday.

Addressing the council, New Orleans Mayor Ray Nagin said the expected aid amounted to an opportunity to completely rebuild the city, and urged the group not to squabble over the first federal money to arrive. "We have to fight about the right stuff," Mr. Nagin said. "There's going to be enough money for everybody. We're talking about $50 billion to $100 billion over a 10-year period."

In the meantime, Mr. Nagin said New Orleans faces an acute financial crisis. "Our last payroll was the last cash we have," Mr. Nagin said. "We're trying to get a line of credit from the federal government....We have no money."

In comments yesterday, President Bush tried to assuage concerns that the federal government will dictate how New Orleans will be rebuilt. "My attitude is this: The people of New Orleans can design the vision; the people of New Orleans can lay out what New Orleans ought to look like in the future; and the federal government will help," he said as he concluded his visit to the city. "I think the best policy is one in which the federal government doesn't come down and say, 'Here's what your city will look like.'"

Yesterday's council meeting followed a gathering Saturday in Dallas during which about 40 prominent New Orleans business representatives and professionals offered support to Mr. Nagin, according to people who were present.

William Grace, who helped organize the meeting, said the businessmen made it clear they wanted Mr. Nagin, who attended, to urge the federal Centers for Disease Control to determine as soon as possible whether there was a health risk to opening lightly damaged parts of the city, such as the French Quarter and the central business district. Mr. Nagin promised to consult with the CDC quickly, Mr. Grace said. He said the group emphasized that they considered the first phase of the disaster over and wanted to return. Separately, New Orleans officials began efforts to allow business owners to cross military checkpoints into the city. "In certain areas, everybody wants to get back in there," Mr. Grace said. "Let's do it quick."

Mr. Grace said the meeting included a briefing from Entergy Corp., a New Orleans utility, reporting that the city's core is ready to be electrified, once workers check the areas for gas leaks. Mr. Grace said the group also pledged financial support to create a panel or hire an overseer to steer the rebuilding effort. He said he personally favored creating a czar position. "You can't run a rebuilding effort by committee," he said.

Out Of The Flood Zone But Floating In Limbo (WP)

By Lynne Duke

The Washington Post, September 13, 2005

BATON ROUGE -- "I'm not in control of my life." It is the mantra of this era of post-Katrina, of Catastrophe. Loss of control: It hits Mary Kay Caiado, 45, when she tries to reclaim some sense of normalcy and finds herself facing things once unknown to her, like food stamps and laundromats.

So she's here to regroup at Starbucks. It's a vestige of her old life. A change of scenery from the Salvation Army food lines, the hotel room that is her family's new home. She has come with her daughter, mother, father, brother-in-law, niece and husband, Edward, 53.

He is at a WiFi terminal, online, trying to check their banking situation and getting more agitated as he thinks about returning to their home on Long Branch Drive in Marerro, just outside New Orleans, to stand watch for fear of looters. A retired Marine and Vietnam vet, he's in "hyper-vigilance" mode, his wife says. And you know what she means when he declares, "I'd like to buy a shotgun." (And later in the day goes off to a local gun store and picks out a pump-action Winchester.)

Caitlin, their 13-year-old daughter, mourns her jazz dance classes. "Kendall's Dance Academy," her T-shirt says. And high school -- one week and two days of the eighth grade, before Katrina hit. She misses the friends now gone -- to Texas, Florida, Atlanta. And the Siberian husky her dad gave her for her 10th birthday: He could not fit with her and her mom and grandmom, Sylvia Bourgeois, 67, in their room at the Holiday Inn. They gave Cirocco away to a local family.

"I cried because I love that dog so much," Caitlin says.

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Caitlin's cousin, Mia Trupiano, laments the band, swim team and drama club she won't be participating in for her senior year of high school. She, like Caitlin, is waiting to hear which local school will take her.

"You can't adjust, because you're just kind of, like, floating."

Her dad, Frank Trupiano, a crisis counselor, says they feel like they're "on a desert island even in the middle of civilization."

That's the rub. Civilization's all around, but the crisis of Katrina left them disconnected, unplugged. Off the grid.

Where's the mail? Where's the new school? Where's life going to land them?

Folks like them have been evacuated to cities and towns across the nation, but here in Baton Rouge they have nearly doubled the population. Federal, state and local agencies are swamped with applicants for various kinds of aid. Internet cafes, too, have drawn hordes of people searching for a way out of their mess, a way to reconnect with the grid of life they knew.

You can see them, huddled over stacks of papers or yellow legal pads. They are, often, the ones with tears in their eyes, desperation on their faces.

The Caiados aren't quite there yet.

She's a native, from a long line of French and Italian New Orleanians. He's Argentinean, raised in the United States since infancy. She is a bank officer; he is retired military and law enforcement. They have some means, though not enough for food stamps to be out of the question. Through FEMA, her company and the Red Cross, she'll patch together the funds to cover the cost of the Holiday Inn that's home for the foreseeable future.

Not knowing when they'd be allowed to move back into their home, Mary Kay Caiado tried to buy a new home up here in Baton Rouge. That's how she learned the family's hefty home equity line of credit had been cut off -- probably for fear their collateral (on Long Branch Drive) had been destroyed.

It's overwhelming, this post-Katrina life.

"You have every problem you'd have in a 10-year period in one week," she says.

"I think I'm suffering from PTSD 'cause I'm like a cat on a hot tin roof."

But actually their home isn't destroyed. Not at all. Eddie Caiado returned after the hurricane to assess the damage. The lovely brick-fronted home with blue siding still stands, virtually unscathed. In the Holiday Inn, he shows pictures of the house on a CD-ROM. He's done this every time a big storm approached the Big Easy: records the before-and-after images for insurance claims adjusters.

That's what you do (or did) in New Orleans: be ready.

"This goes to his hyper-vigilance. He's prepared to lose everything," his wife explains. He seems amused as she speaks.

So they made reservations at the Holiday Inn here and fled there before the storm -- at least most of them did. The Caiados and Mary Kay's mother decamped to the Holiday Inn. Mary Kay's in-laws, the Trupianos, went to another relative's, though Sandy Trupiano, her sister, stayed behind in New Orleans with the medical technology staff she supervises at a hospital. Frank Trupiano and his father-in-law, Joseph Provenzano, 70, ended up stuck in a truck when Katrina hit. They finally made it to Baton Rouge to join the rest of the clan.

Provenzano, a rotund gentleman who owns about 60 rental properties in New Orleans, struggled in the days after the storm to understand what he'd lost. Mary Kay tried to tell her father he wouldn't be receiving the income he once had from his real estate holdings.

"He kept saying, Well, they're not going to live in my places without paying rent," says Mary Kay. She had to tell him: Dad, there's no one there. The city's emptying out.

Mary Kay's mom, who is no longer married to Provenzano, lost property, too. Her Jefferson Parish home is flooded, ruined. Good thing she'd already taken a trove of family photos when she evacuated before the storm, along with jewelry that had been packed since Hurricane Cindy in 1999.

On a post-storm return visit, Bourgeois found mold growing over her furniture and up the walls. She grabbed her mink and a few good clothes. All that's in the trunk of her long black Lincoln Continental parked near the Caiados' truck outside the Holiday Inn where the Salvation Army serves meals.

Home. For now.

They tried to play Scrabble.

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"We couldn't concentrate," says Bourgeois.

The small desk in their room now is their kitchen counter, crammed with breads and spreads and chips and fruit. Caitlin's standing there later in the afternoon fixing her dad a ham-and-cheese sandwich.

"Nothing like starvation and mental depression to get that diet," Eddie Caiados jokes.

He suffered from post-traumatic stress disorder after a year in Vietnam, Eddie explains, and recently was treated for cancer. He's a gung-ho veteran, flying the big red Marine Corps flag from his home and sporting USMC floor mats on his car.

He's been thinking of Nam more and more of late, reminded of it by the smell of diesel fumes from all the military vehicles, by the smell of decaying food and flesh, by the thwop-thwop of those search-and-rescue choppers coursing overhead.

It's good that he can be elsewhere, because "he doesn't do well around people in closed situations," says his wife of 21 years.

Plus, he's got to have his own private "potty time," he jokes, much to his wife's horror. Caitlin rolls her eyes at her dad's off-color humor.

He's been losing weight, going back to the house to sit vigil, with no protection (till the shotgun arrives) and no electricity, until it finally returned on Sunday. He's spent his days cutting up a tree that fell and clipped a small corner of the roof. He's been clearing the brush and otherwise showing his face in fear that a home left abandoned is a home to be picked clean by looters.

That's the new normal for this family: staying vigilant amid a tangled new existence. Gone, for now, are those mundane old pastimes -- playing with the dog, going to dinner.

But parts of the old normalcy survive, like Caitlin's lime-green fixation: lime-green flip flops, sneakers, backpack, luggage even lime-green curtains back in her room at the house in Marerro.

And so the girl in the lime green steps into a new normal: laundromat time.

"I'll donate a quarter," Caitlin laughs sweetly as her mom lifts the laundry basket and steps outside in the sun to put it in the big Lincoln.

"Mom, you're too old to be in all that heat," Caitlin chides.

And to her own mom, Mary Kay says, "Mama, be mindful that some of those are four-load ones," sounding as normal as can be.

A Return To The Big Easy Begins (CSM)

By Kris Axtman

The Christian Science Monitor, September 13, 2005

NEW ORLEANS - Nita Hemeter drove back to New Orleans after vacationing in Italy during the hurricane. At each checkpoint, she told officers that she needed to rescue her two dogs and four cats that were left behind. But once she got home and found them safe, she realized that the water had receded entirely in her neighborhood and she could do more good inside the city than out.

So she spends her days alternating between cleaning up her mildewing west side home and "breaking into houses" to leave food and water for pets left behind.

Although New Orleans is still under a mandatory evacuation, a growing number are defying orders and returning with nothing more than their driver's licenses and a desperate story. Most are being let back in, though they're told to get what they need and get out.

Whom to let in and whom to keep out is adding to the tension between residents left in limbo and government officials trying to clean up and restore order to a city that has essentially become a military zone.

There are signs of return to normalcy. The city's airport reopened for cargo traffic Sunday and limited passenger service is planned to begin Tuesday. Officially, the New Orleans Police Department (NOPD) is set to issue temporary weeklong badges to residents with valid reasons for returning.

Unofficially, those manning checkpoints have been letting many residents through with simply a wave and a "good luck."

Steve Barrera says he simply showed his driver's license and he was waved through - no explanation necessary.

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He is cutting up downed trees with a chain saw in front of his house and plans to stay as long as he can. His other option is sitting in a Shreveport, La., shelter. "At least this way, I can help repair some of this damage," he says. "It's going to be a long time before the city does anything."

With the vast majority of New Orleanians cleared out, there is plenty of food and water to go around, say those who are staying. While law enforcement doesn't want them there, they routinely come by to check on them and leave supplies.

Others are simply coming to get what they need and getting out. While no amount of news reporting has prepared them for what they are seeing, many believe much of the official information being disseminated - such as health risks, dangerous conditions, and flat tires - is simply a way to scare them into not coming back.

"There are no health risks in this area," says Caroline Barton, a doctor who used her work badge to get in and check on her west side home. "They should let everyone south of St. Charles Street come back in."

Privately, many residents admit that such a policy could spark even more complaints about racism, since most of what is dry is populated by whites, while much of the black east side is still underwater.

At a checkpoint on River Road, Heath Martin with the Springboro, Ohio, police is waving vehicles through. He estimates that a third of those he is letting through are residents with driver's licenses to prove it. Permission to allow them in has come from the NOPD, he says, with the stipulation that they get what they need and come right back out.

But the official word from the city is that those trying to return are to be turned back. "There is still a mandatory evacuation in the city of New Orleans," says Capt. Martin Defillo with the NOPD. "We won't physically force anyone out of their homes, but anyone who stays is in violation of that order. And those trying to return are not being allowed back in."

Resident Kevin Schoenberger understands the city's position. But "keeping people from their homes and businesses is really a hardship," he says. After talking his way in, he is spending the day cleaning out his refrigerator, gathering a few clothes, and packing up the SUV he left behind.

While law enforcement officers patrolling the neighborhood routinely warn Ms. Hemeter of the dangers of staying, she says she has never felt safer in her adopted home of New Orleans.

In fact, with her red curls poking out from under a safari hat, she has begun to make new friends with the few who are left. Fred Robertson, for example, has offered her a place to sleep so she's not alone at night. His house is several blocks away and she simply pedals her bike there, dropping dog food along the way.

"I've been telling everyone I know to come back. It's not that bad," she says, filling an overturned trash can lid with fresh water for neighborhood pets. "It's sorta like camping out."

For Holdouts, Food Rations May Disappear (NYT)

By Michael Luo

The New York Times, September 13, 2005

NEW ORLEANS, Sept. 12 - "They want to starve us out, is what it is," said David Jaurequi.

Mr. Jaurequi, 50, a guitarist, and his wife, Kay Vereen, 59, a bar owner, are among the holdouts here.

In recent days, city officials have increased the pressure to leave by cutting off the military-style rations that many have been living on, a National Guard spokesman said.

"Our commanding general put that out at the request of the New Orleans Police Department," the spokesman, Maj. Arnold Strong, said of the order not to distribute food.

But Maj. Amy Hannah, a spokeswoman for the task force that represents the active-duty military side of the hurricane response, said members of the 82nd Airborne Division and other soldiers would continue to provide the meals.

City police officials declined to comment, releasing only a statement, which read in part, "With respect to residents, we strongly encourage them to leave the city because they are in violation of the mandatory evacuation order."

But it seems clear that a shift has taken place. Guardsmen had been handing out rations near the convention center, but residents who went there over the last few days were told that food would not be available.

For some people, the rations have become a lifeline; for others, a treat amid tuna fish and other nonperishable food.

"It's like you're sitting at a Denny's and you're looking at the menu," Ms. Vereen said of the rations.

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Water Levels Down Sharply In New Orleans (LAT)

By David Zucchino

The Los Angeles Times, September 13, 2005

NEW ORLEANS — Water levels dropped precipitously Monday in the worst of the flooded neighborhoods in and around New Orleans. Areas that had been under 6 to 8 feet of water less than two days earlier were dry at dawn, with ooze now smearing the streets and water collecting at low, marshy spots.

For the first time in the 8th and 9th wards in East New Orleans and Mid-City neighborhoods, search and rescue crews were able to patrol on foot. By midday, National Guardsmen and Marines said they had found several corpses inside homes that had been inaccessible until today.

In the city's lower 9th Ward, thousands of once-flooded homes bore brown watermarks that documented the systematic dropping of water levels. Marines, who on Saturday had patrolled neighborhoods in amphibious vehicles that floated atop floodwaters up to 8 feet deep, were patrolling on foot today, the slick mud sucking at the bottoms of their rubber boots.

"The water's gone down so fast, we can't keep up with it," a Guard staff sergeant said on North Claiborne Avenue in the lower 9th Ward. "It's like the whole place dried up overnight."

National Guardsman manned checkpoints as Marines wearing long green rubber gloves went house to house, knocking on doors and shouting for survivors. No one has been found alive in three days in the ward, said Lt. Col. Kent Ralston, whose Humvee was able to negotiate streets that had required amphibious vehicles two days earlier.

Marines on foot patrols said they found two decaying corpses inside homes in the ward. In the 8th Ward, Oregon National Guardsmen said they had found two more bodies, also inside homes. Five corpses discovered by Marines on Saturday remained tethered to fences and trees, swelling in the late summer sun.

At the corner of Reynes and Marais streets in the lower 9th Ward, three National Guard soldiers said they had been waiting three hours for a private mortuary contractor working for FEMA to arrive to remove the body.

At the corner of Flood and Johnson streets, the arm and leg bones were visible on the corpse of a man whose ankle was snagged on a tree branch, his torso slung over a fence.

On St. Claude Avenue, the sodden body of a woman lay face down in the mud. Two days earlier, it had floated on top of five feet of water.

In the 8th Ward, in a home at Desire Street and North Claiborne Avenue, Guard soldiers found the body of a middle-aged man on the living room floor. Flood marks on the tiny clapboard house showed that floodwaters had at one point risen above the front porch, about 5 feet high. A small white terrier, smeared with mud, lay on the porch, panting in the heat.

In the 9th Ward, Guard soldiers went house to house, peering into doors and windows to make sure no one was inside. They moved quickly, spraying "NG" and "9/12" in bright green paint to signify that each house had been inspected by the Guard on Monday.

The receding waters made it easier for Marines to make sure that no one alive was still inside homes, Ralston said.

"The water was so high before that we couldn't get a good look inside the houses," Ralston said. "Now we can do a more thorough search."

Ralston said Marines, who have no law enforcement powers, are not permitted to break into and search homes. They were told to look through windows and doorways, and to report the addresses or GPS coordinates of any home containing a corpse.

One Marine, sloshing through slick mud, said he was tired of squinting through mud-smeared windows. "We should be kicking these doors in," he said.

Signs of cleanup and debris removal were everywhere.

National Guard soldiers stripped off their camouflage uniform tops and used chain saws to cut up huge trees that had collapsed into roadways or across roofs. Men in Bobcats and skip loaders tore into the dark sludge on roadways to clear the way for cleanup crews, then shoved debris to the roadsides.

Tangles of downed power lines snarled the streets in the 8th and 9th wards, snagging on the tops of passing National Guard trucks. Several houses that had been torn from their foundations by floodwaters had floated to the middle of streets and settled there, blocking cleanup crews. The neighborhoods stank of rotting garbage, stagnant water and decaying corpses.

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In Violet, a town in the southern region of flood-ravaged St. Bernard Parish, backhoes scraped their blades up and down Highway 39, shoving aside gooey mud left by retreating floodwaters. During President Bush's visit to the parish Monday, the parish president told him that not a single house in the parish was habitable.

Hundreds of dogs, freed at last from once-flooded homes, roamed alleys in many neighborhoods, barking wildly at passing Marines and Guard soldiers.

In the 7th Ward in Mid-City, volunteers from the Animal Rescue League of Boston rounded up dozens of dogs and cats that had wandered down from porches, where they had been marooned by floodwaters for 15 days. The volunteers had arrived with boats, expecting to navigate floodwaters, but then dismounted in heavy rubber boots and chased down animals.

"We can get a lot more done on foot, so I expect we'll be able to get to a lot more animals," Brian O'Conner of the rescue league said as volunteers provided water to dehydrated cats and dogs collected at a muddy gas station lot.

Also in the 7th Ward, New Orleans police Officer D.M. Fernandez was on a cellphone outside Mule's Bar this morning. He was calling a retired police officer who owned the flooded establishment to tell him that someone had broken in and stolen his liquor.

The receding floodwaters apparently gave foot access to the thieves in a neighborhood that was under several feet of water 24 hours earlier. Up and down 7th Ward streets, sodden homes stood deserted, with hundreds of residents' cars parked at crazy angles, watermarks staining their roofs.

Most streets were littered with tree limbs and debris, but were passable despite black mud that clung to car tires.

"The water was 3 feet high here," Fernandez said, standing outside the bar in the middle of La Harpe Street. "Everything dried out real good."

Airlines To Return To New Orleans (USAT)

By Thomas Frank

USA Today, September 13, 2005

KENNER, La. — Passenger flights return to New Orleans this morning after a 16-day hiatus but on a drastically reduced schedule.

Only Northwest Airlines plans to start round trips today with two flights to Louis Armstrong New Orleans International Airport from Memphis. The airline will add a round trip from Minneapolis and one from Detroit on Monday, spokeswoman Jennifer Bagdade says.

Delta Air Lines, the second-largest carrier at New Orleans, will resume service with two round trips from Atlanta on Wednesday and on Thursday. Starting Friday, it will expand to five Atlanta round trips and one from Cincinnati.

Southwest Airlines, which has been the airport's largest carrier, has not made a decision on restarting service.

Continental Airlines plans to resume service Monday. Three of its four scheduled flights from New Orleans to Houston are sold out, spokesman David Messing says.

Thousands of airplanes and helicopters have flown in and out of the airport in the past two weeks, bringing in relief workers and supplies and evacuating people who got medical treatment in the terminal. As many as 5,000 medical and military personnel have lived in the airport during that time.

As the relief effort at the airport scaled back in recent days, airport aviation director Roy Williams pushed to open two of the four concourses for commercial flights during the day, the only time the airport is operating. The airport has lost $180,000 a day in landing fees and rent from businesses in the terminal since Hurricane Katrina hit, Williams says.

“There's a real question of what the demand will be in the first few weeks,” Williams says. But, he says, “It's very important that the airport is up and running.”

Situated about 8 miles west of downtown New Orleans and more than a mile south of Lake Ponchartrain, the airport avoided extensive wind and water damage from the hurricane.

But it could be hard for the airport to return to its pre-hurricane level of 175 departing flights a day. About 80% of New Orleans-bound passengers came for vacation, conventions or meetings, Williams says.

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Since Katrina, some airlines have added flights to Baton Rouge Metropolitan Airport, about a 90-minute drive from downtown New Orleans.

Williams expects to have “all the major” carriers operating at the airport within a week but couldn't says when rental car companies and concessionaires will return.

Only a newsstand will be open in the terminal today, airport spokeswoman Michelle Duffourc says.

Officials at Southwest, which typically handles about 30% of New Orleans' passengers, toured the airport Monday.

Mercy Flights For Hurricane Katrina Evacuees Suspended (ChiTrib/KRT)

By Richard Wronski And Jeff Long

Chicago Tribune, September 13, 2005

CHICAGO - (KRT) - After flying thousands of Hurricane Katrina evacuees to shelters across the country, federal officials on Monday suspended their mercy flights, saying they're no longer necessary.

"The need for airlifting has been met," said Valerie Smith, spokeswoman for the Department of Homeland Security. Most remaining evacuees chose to stay in the Mississippi, Louisiana and Texas areas to be closer to family and friends, officials said.

Those who still must be relocated will be transported by bus, Smith said.

In the past week, more than 300 displaced hurricane victims have been flown to facilities in Illinois. Gov. Rod Blagojevich's office, which pledged to accommodate up to 10,000 evacuees, said another 4,000 Katrina victims came to Illinois through other means.

As evacuees settled in Monday at several facilities in Illinois, some began making preparations to rejoin family and friends in other states.

Others said they may make Illinois their new home.

"I plan on staying here for a little bit because I know the city of New Orleans won't be around," said Harry Ray, 45, who was plucked from the Crescent City's floodwaters by a U.S. Army helicopter and wound up at the Elgin Mental Health Center.

Although grateful for the help provided by Illinois residents, Julie Norwood, 49, said she was eager to get to her sister's home in Atlanta. And Floyd Rachel, 27, said he'd rather be with friends in San Francisco.

"I thank the good Lord that I made it this far," Rachel said.

They were among 31 evacuees who landed at O'Hare International Airport Sunday afternoon. Later Sunday, about 50 others arrived in Rockford, one of the last airlifts.

More than 26 states and the District of Columbia have taken in tens of thousands of evacuees. The Federal Emergency Management Agency estimated that 604 shelters across the United States were housing 134,573 people as of Sunday.

Evacuees at the Elgin Mental Health Center recounted harrowing tales of survival. Ray told of scurrying to the upper floor of his apartment in New Orleans, where he remained surrounded by water for 11 days.

Norwood said she and dozens of others lived in a mausoleum, just a few feet from crypts containing the bodies of her relatives.

But the evacuees woke up Monday in comfortable beds with clean sheets and curtains at the windows. They picked out new clothing from racks loaded with pants and shirts.

After a breakfast whipped up by culinary arts students from Elgin Community College, evacuees went shopping at Wal-Mart.

At the Singer Mental Health Center in Rockford, Ill., officials said the evacuees were trying to unwind.

Gwendolyn Jackson, 47, of New Orleans, was making arrangements to join her 24-year-old daughter, who fled to Chattanooga, Tenn., shortly before Katrina hit.

Jackson was trapped in a school in New Orleans. Like many evacuees, she said she wasn't aware of how bad things were in the city until she came to Rockford and got a chance to watch television.

"We just got quiet. The attention was there on the TV," she said. "You'd see the tears drop from people's eyes."

At the Tinley Park Mental Health Center, where 95 evacuees arrived last Wednesday, director Mike Beary hoped to find a retired executive who could serve as manager. He also needed people with clerical skills to handle the volumes of relief paperwork, as well as male volunteers who can staff the men's quarters on overnight shifts.

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FEMA teams had arrived at the Madden Mental Health Center Monday to begin assembling case management plans for the estimated 51 evacuees residing in two pavilions at the center in Maywood, said Diana Meyers, administrator at Madden.

Alfred Jones, 30, from Jefferson Parish, wants to find a warehouse job in Rockford and start his life there.

"I'm going to settle down in this area," said Jones, who was rescued from his flooded apartment building. "The opportunities around here are sounding better by the second."

45 Bodies Found In A New Orleans Hospital (NYT)

By Kirk Johnson

The New York Times, September 13, 2005

NEW ORLEANS, Sept. 12 - The bodies of 45 people have been found in a flooded uptown hospital here, officials said Monday, sharply increasing the death toll from Hurricane Katrina and raising new questions about the breakdown of the evacuation system as the disaster unfolded.

Officials at the hospital, the Memorial Medical Center, said at least some of the victims died while waiting to be removed in the four days after the hurricane struck, with the electricity out and temperatures exceeding 100 degrees.

Steven L. Campanini, a spokesman for the hospital's owner, Tenet Healthcare, said the dead included patients who died awaiting evacuation as well as people who died before the hurricane struck and whose bodies were in the hospital morgue.

Mr. Campanini said the dead might have also included evacuees from other hospitals and the surrounding neighborhood who gathered at Memorial while waiting to evacuate the city.

Repercussions from the storm continued to echo in Washington, where the director of the Federal Emergency Management Agency, Michael D. Brown, a walking symbol to many people here of government failure in the crisis, resigned. Mr. Brown was relieved of his role in the day-to-day disaster operations here on Friday. [Page A26.]

President Bush, meanwhile, toured the ghostly streets of the city standing in the back of an open-air truck flanked by the mayor of New Orleans and the governor of Louisiana, who have been sharply critical of the federal performance.

In Baton Rouge, 1,000 people from the devastated St. Bernard Parish, just east of New Orleans, crowded the State Capitol and were told that memories of their community might be all they have left.

Flights were set to resume at the Louis Armstrong New Orleans International Airport, and city officials said they were creating a new command center downtown at a closed hotel.

Mr. Bush's appearance with Mayor C. Ray Nagin of New Orleans and Gov. Kathleen Babineaux Blanco, both Democrats, suggested that at least some of the bitterness over the response to the disaster had lifted.

On Mr. Bush's most recent visit to the stricken area, on Sept. 5, Ms. Blanco learned that he was making the trip from news reports.

The president, in a brief question and answer session with reporters after his tour on Monday, said that government coordination in rebuilding the city and the region was paramount and that local vision should determine the direction of the reconstruction. "It's very important for the folks in New Orleans to understand that, at least as far as I'm concerned, this great city has got ample talent and ample genius to set the strategy and set the vision," Mr. Bush said after his 40-minute tour. "Our role at the federal government is, you know, obviously within the law, to help them realize that vision. And that's what I wanted to assure the mayor."

Mr. Bush also returned to accusations that racial discrimination was involved in government's response to the hurricane, saying "the storm didn't discriminate" and neither did the rescuers.

Mr. Nagin and Ms. Blanco have said federal delays in sending aid had compounded the damage of the storm and heightened the anarchy in the days after the storm, when tens of thousands of people were trapped for days at sites like the Convention Center and the Superdome without food or water.

Mr. Nagin said in a radio interview Monday, when asked about his meeting with the president, "If anything, he told me he kind of appreciated my frankness and my bluntness."

The news that 45 bodies had been found at Memorial was also a reminder of how much else, in the physical structure and in the human toll, might yet remain unknown.

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On Monday, the authorities elevated the statewide death toll from Hurricane Katrina to 279; of those, 242 were from the New Orleans metropolitan region. In Mississippi, Gov. Haley Barbour said the toll there was 218.

In Baton Rouge, there were more reminders of the thousands of people who may have no community to return to at all.

More than 1,000 displaced residents from St. Bernard Parish crowded the State Capitol to learn about the state of their devastated houses. No one has been permitted to re-enter the area to retrieve belongings or examine their houses. News of the meeting traveled by word of mouth and Web sites, and people lined up for blocks outside the Art Deco Capitol, where Gov. Huey P. Long was assassinated in 1935. Some drove from Houston.

Local officials did not try to hide the bad news.

"You will not recognize St. Bernard Parish," the parish president, Henry J. Rodriguez Jr., told hundreds of residents in the marble foyer of the Capitol. "All you will have left of St. Bernard Parish is your memories."

Mr. Bush also saw the devastation first-hand on his tour of New Orleans. His tour passed by smashed cars, tree branches and rubble.

For most of the ride, Ms. Blanco, Mr. Bush and Mr. Nagin stood in a military truck and had to duck under low wires and branches. At one point, Vice Adm. Thad W. Allen of the Coast Guard, who succeeded Mr. Brown last week as head of hurricane relief, removed his Coast Guard cap to shield Mr. Bush from a wire.

City officials said they had moved most of the makeshift emergency operations command center that they had set up at City Hall since the storm arrived across the street to a battered Hyatt hotel, where power has been restored and Mayor Nagin keeps a suite.

In Ballroom E on the third floor of the hotel, 100 computer stations were set up at pods of circular tables to handle 24-hour work by groups like the New Orleans police, 82nd Airborne Division of the Army, the Coast Guard, National Guard and public health officials.

Edward Minyard, a contractor with Unisys who is in charge of setting up the center, said the operation was very likely to grow to as many as 500 positions, meaning as many as 1,500 people working in shifts around the clock.

In Harrison County, Miss., in the Gulfport-Biloxi region, a list of 600 missing persons was distributed by the coroner's office, though authorities emphasized that the people on the list were not necessarily missing. The names are of people who have been sought by family members.

"We have rescued everybody that we think could possibly be rescued," said Joe Spraggins, the head of emergency management for the county.

Gulfport-Biloxi International Airport, which began running commercial flights at the end of last week, expects to return to its regular flight schedule in two weeks, Colonel Spraggins said.

Delta, Northwest and AirTran Airlines plan to begin operating limited schedules on Tuesday, he said. Northwest said it would resume scheduled commercial service to the New Orleans airport on Wednesday, with its first inbound flight in 10 days scheduled to arrive from Memphis at 10:44 a.m. Repairs began on Monday on the Twin Span Bridge on Interstate 10, connecting New Orleans and Slidell. Within 45 days, the eastbound span is to be repaired, providing one lane of traffic in each direction.

45 Bodies Found In La. Hospital (WP)

By Doug Struck

The Washington Post, September 13, 2005

NEW ORLEANS, Sept. 12 -- The bodies of 45 patients left in a hasty evacuation were recovered from a New Orleans hospital, officials said Monday, as the city braced for the scenes left by the receding waters.

The news of the grim recovery at the Memorial Medical Center, the largest such discovery since Hurricane Katrina struck, came hours after President Bush completed a tour of parts of the city and spoke to local officials. He defended his administration's record, even as the chief of the federal emergency agency, Michael D. Brown, said in Washington that he was resigning after being yanked off the hurricane relief job three days ago.

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Bush said that he will name R. David Paulison, now U.S. fire administrator and director of preparedness for FEMA, to lead the agency. A poll showed that Bush's standing reached a new low and that a majority of Americans disapprove of his response to Katrina.

Wrapping up his two-day visit, Bush saw a city trying to struggle back to life. But while the higher and drier downtown area buzzed with the sounds of generators and cleanup, vast swaths of the city remained a devastated frieze of dried mud, broken homes and foul stench.

Officials said the bodies found Sunday in the Memorial Medical Center were left there after a frantic evacuation, days after the storm passed and floodwaters began to rise. An official of the hospital owners said the patients died before the evacuation and their bodies were left in the facility.

But the discovery was certain to raise new questions about why so many city hospitals were not evacuated before the storm. Two medical professionals inside the Memorial Medical Center said conditions began to turn desperate shortly after the floodwaters cut off roads. The darkened corridors were jammed with families. Drinking water grew scarce. Medical supplies exhausted quickly; even IVs were being rationed, they said.

"Things looked like they were going downhill quickly," said Scot Sonnier, an oncologist there. He left before the evacuation, thinking other doctors were handling it, he said.

The city braced for more grim discoveries as the receding waters allowed search parties to reach isolated buildings. But the death toll -- 279 for Louisiana -- was still far below the initial prediction of the city's mayor that 10,000 perished.

"It's hot. It smells. But most of the houses we are looking at are empty," Oregon National Guard Staff Sgt. James Lindseth, 33, said as his platoon, inspecting for people dead or alive, worked its way through dank and broken homes that had been in the water a few days ago.

In New Orleans's downtown, most of it on higher and drier land, authorities allowed business owners to check their buildings Monday. Dump trucks with claws plucked the growing piles of debris from street corners and the air rumbled with the sound of generators.

"The least we can do is clean up our own streets," Wallace Kimbrough, 43, said as he pried debris out of the storm drain beside his home in the French Quarter. "Hey," he exclaimed, holding up a plastic bag he pulled from the muck. "Somebody lost their marijuana seeds."

In some of the outlying parishes, local school boards announced plans to restart classes next month. Louis Armstrong New Orleans International Airport said it will begin operating commercial flights on Tuesday, joining the traffic of helicopters, cargo planes and private charters bringing relief supplies.

Roy A. Williams, the airport's director of aviation, said the rush of evacuees has ended, and Delta, Continental and Northwest have said they want to resume flights to their hub cities.

But just outside downtown, large swaths of New Orleans remained lifeless and still. The growing concert of working pumps had brought the flood down to less than half the city by Monday, although water was seeping through a previously repaired levee. Brig. Gen. Doug Pritt of the Oregon National Guard described it as a minor leak, the Associated Press said. But areas that emerged from the muck remained images of devastation.

There, the homes were draped with trees plucked and flung by the storm. Cars lay overturned; appliances have been ripped from their moorings and thrown onto streets and bridges. The retreating water shone multicolored with oil, and when disturbed, released an overwhelming stench. The air smelled of rot and decay.

Officials of St. Bernard Parish, a poor, racially mixed area east of downtown, told residents in a meeting in Baton Rouge that the homes there would likely not be habitable for four months. Just north of that parish, near the Lakefront Airport, Gene Giroir, 65, pried open the front of his hardware store for the first time in two weeks. The contents lay in a dark, soggy ooze on the floor.

"The only thing left were things hanging on the wall above four feet. That's how high the water got," he said.

He owned the store with his brother and brother-in-law. "This was our living. I've been here since 1949. I grew up in this business, and I don't know whether I want to do it all again," he said.

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The president's visit caused little wake on the streets. Many workers and residents said they had only vaguely heard he was coming. Several shrugged. Most said they were too busy or preoccupied to care.

While Bush was traveling, Brown's resignation was announced in Washington. Brown had become the focus of anger for the slow federal mobilization after the storm savaged the Gulf Coast two weeks ago, unleashing a flood that engulfed most of New Orleans and flattening entire communities in Mississippi and Alabama.

In a written statement, Brown said he told Bush that it is "important that I leave now to avoid further distraction from the ongoing mission of FEMA." Homeland Security Secretary Michael Chertoff said he will name a permanent deputy director at FEMA, a new position for the agency.

Brown's departure was greeted with glee by Democrats. "Mike Brown's decision to resign from FEMA is the best decision he's made in three weeks," said Democratic National Committee Chairman Howard Dean.

The announcement of the grim find of bodies at Memorial Medical Center came after the president had left New Orleans.

The hospital, located in the center of the city, had fared the storm pretty well, said Sonnier, who rode out the hurricane at the hospital with his fiancee, Zoe Larner, a hematologist. But after the storm passed and news came of a broken levee, Sonnier said things became grim. Medical supplies were dwindling quickly, and the hospital's emergency power left the hallways dim. The hospital hallways were crowded with families of patients and staff, and soon came reports of looting and lawlessness, he said.

"Things looked like they were going down quickly," he said.

After two days, he waded to his nearby house, where Larner was listening to reports to evacuate the city, Sonnier said he did not know whether he could get back to the hospital, and he believed there was an emergency team of doctors to care for the patients. "I had a feeling things were going bad, and the best thing to do was get out of town," he said. Shortly after, he said, the hospital was evacuated.

Bob Johannesen, a spokesman for the state Department of Health and Hospitals, said the bodies of 45 patients were recovered from the hospital Sunday, although Dave Goodson, an assistant administrator, said the toll was 57, according to the AP.

"These patients were not abandoned," Goodson said. He said they had died before the evacuation. A spokesman for Tenent Healthcare Corp., which owns the hospital, told the AP that some of the people found Sunday had died before the storm, and the others died before the evacuation, which other officials said was done by boats. Many of the patients were in long-term acute care for people with serious ailments, he said.

Several medical care facilities became the site of chaos as the floods rose, with reports of looting and holdups for drugs inside the hospitals. One facility had to post a police sniper on the roof to keep order.

Sonnier said he assumed the emergency team of physicians left in the hospital would carry out the evacuation. But in an interview outside the eight-story brick facility, he said, "I will always have well, not regrets, but concerns over whether I did the right thing."

At Least 40 Bodies Found In New Orleans Hospital (WT/AP)

By Brett Martel, Associated Press

The Washington Times, September 13, 2005

NEW ORLEANS -- The bodies of more than 40 patients found at a flooded hospital drove up the death toll in Louisiana yesterday to 279 and pushed the tally of lives taken by Hurricane Katrina in four states past 500.

The patients, many of them elderly, had died while waiting to be evacuated in the four days after the hurricane hit as temperatures in Memorial Medical Center rose to 106 degrees, said Dave Goodson, assistant administrator of the hospital, owned by Tenet Heathcare Corp.

"These patients were not abandoned," Mr. Goodson said.

Meanwhile, more than half of southeastern Louisiana's water-treatment plants were up and running again yesterday, and business owners were issued passes into the city to retrieve vital records or equipment as New Orleans continued to stir back to life.

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President Bush, in his third trip to the ravaged region, got his first close-up look at the destruction in New Orleans yesterday, taking a tour that took him through several flooded neighborhoods.

The president said the race of hurricane victims did not factor in the response and rejected suggestions that the nation's military was stretched too thin by the war in Iraq to deal with the Gulf Coast devastation.

In Washington, Federal Emergency Management Agency (FEMA) Director Michael D. Brown announced that he is resigning "in the best interest of the agency and best interest of the president." Mr. Brown has been vilified for the government's sluggish response to the disaster. Last week, he was stripped of responsibility for overseeing the cleanup and was abruptly recalled to Washington.

To prevent looting, business owners wanting to enter the city's central business district and take what they needed to run their companies were required to obtain passes.

Traffic was heavy on the only major highway into the city that was still open, and vehicles were backed up for about two miles at a National Guard checkpoint across the Mississippi River from New Orleans.

Among the businessmen allowed back was Terry Cockerham, owner of Service Glass, which installs windows at businesses downtown. He has been working out of his house because his business was destroyed by looters and flooding.

"This is about the most work I've ever had," he said. "We'll work seven days a week until we get this job finished. I don't want to get rich. I just want to get everything back right."

State officials said yesterday that 16 of southeastern Louisiana's 25 major wastewater treatment plants were up and running again and that 41 of 174 permanent pumps were draining water from flooded areas. They expected an increase in temporary pumps within 24 hours.

Water in many parts of the metropolitan area was going down at least a foot a day, the Army Corps of Engineers said. Once the streets are dry, crews can begin removing debris, checking buildings and other structures for soundness, and restoring utilities.

Military cargo airplanes were set to begin spraying the area yesterday to kill flies and mosquitoes. The standing water from Katrina is expected to worsen Louisiana's already considerable mosquito problem. Before the storm hit, the state had logged 78 cases of mosquito-borne West Nile virus and four deaths from the disease this year.

Insurance analysts doubled to at least $40 billion their estimate of insured losses caused by Katrina -- a figure that would make it the world's costliest hurricane ever. Risk Management Solutions Inc. of Newark, Calif., put the economic damage at more than $125 billion.

The number of bodies found at the hospital was not clear. Bob Johannesen, a spokesman for the state Department of Health and Hospitals, said 45 patients had been found; Mr. Goodson said there were 44, plus three persons found dead on the hospital grounds.

Dr. Jeffrey Kochan, a Philadelphia-area radiologist volunteering in New Orleans, spoke with the recovery team late Sunday after 36 bodies were found floating on the first floor.

"They're seeing things no human being should have to see," Dr. Kochan said.

Police Superintendent Eddie Compass declined to answer questions yesterday about the discovery, including whether police received any calls for assistance from the Memorial Medical Center after the hospital was evacuated.

A spokeswoman for Mayor C. Ray Nagin, Sally Foreman, said the city knew there were people in hospitals who needed to be evacuated. The city's first priority had been to evacuate patients in critical care units.

As workers removed bodies Sunday from the hospital, in the city's Uptown section, reporters were kept at a distance. A white refrigerated truck carried away remains with federal police escort.

The death toll for Hurricane Katrina reached 509, making it the fifth deadliest hurricane to hit the continental United States since 1900. Bodies recovered in Louisiana reached 279, up from 197 on Sunday. In addition, 214 persons are confirmed dead in Mississippi, 14 in Florida and two in Alabama.

About 50 percent of New Orleans remained flooded -- down from 80 percent early last week, and search teams continued to collect hundreds, perhaps thousands, of corpses.

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Army Lt. Gen. Russel L. Honore, commander of active-duty troops engaged in hurricane relief, reiterated Sunday that the number of dead would be "a heck of a lot lower" than initial projections of up to 10,000.

Hospital Staff Tried To Comfort Dying Patients (LAT)

By Solomon Moore

The Los Angeles Times, September 13, 2005

NEW ORLEANS — Describing a desperate and harrowing struggle to comfort dying patients as floodwaters rose and the city descended into chaos, hospital staffers from Memorial Medical Center said today that 45 people died there during a six-day vigil.

Dave Goodson, director of support services at the hospital, said rescuers came and left — sometimes they helped take someone from the hospital and other times they brought new evacuees plucked from rooftops.

Elderly patients had the hardest time, Goodson said. Heat and sickness conspired to kill about 16 patients from a nearby convalescent hospital.

"I can tell you it was 106 degrees in that hospital" in the days after the storm, he said. Goodson described the heroic efforts of doctors and nurses who comforted ailing patients — even fanning some to cool them.

Goodson said that their hopes rose when they heard helicopters coming toward them, but the patients weren't airlifted — instead, supplies and evacuees who had escaped their homes in nearby neighborhoods were dropped off.

Joanne Lalla, an oncology nurse, said at least one patient was brought to the hospital with a stab wound.

Goodson said that at one point, National Guardsmen came to the hospital and evacuated some patients and promised to come back for more — but then the floodwaters rose. They didn't return until Friday, Goodson said.

Lalla said that she "couldn't understand why nobody was coming to help us."

Lalla said that many hospital staff members brought relatives to the hulking brick hospital, thinking that it would be safer to be there than in their homes. Goodson estimated that 500 hospital staff members were there along with 2,000 patients.

"A lot of hospital employees brought their children, who were like 2 and 4 and 6 years old," she said. "By Tuesday night, they were leery and worried. I knew we definitely were going to have to get out of that hospital. We were all hot and sweaty because the next thing to go was the generator.

"On Wednesday, I went to the bathroom and realized that we had no water, so we had to make sure that no patient flushed the toilet," she said. "The patients were very hot, so we kept all the doors open."

Goodson and Lalla said that despite their difficult situation, the hospital staff continued to serve the sick as well as they could. For a time they carted patients to the roof of the building to wait for helicopters, but when they realized that they weren't going to be airlifted, they went back downstairs, Lalla said.

"We had the National Guard with us for a little bit, but then they said they had to go because of rioting," she said.

Lalla said she was concerned that patients who needed ventilators and other vital electronic aids to stay alive probably didn't make it through the week. She suspected that many patients in the critical care unit died.

"We were just in survival mode," she said. "We couldn't give out medication because we couldn't regulate their medications.

"We were like MASH units," she said. "All the patients were on little cots and mattresses on the garage floor."

Lalla recalled how a dietary specialist ripped his shirt into rags, dipped them in water and stroked the head of one patient as he lay dying. Lalla said that she knew of three cancer patients who died during their wait at the hospital, including one under her direct care.

The hospital staff filled the morgue, Lalla said, and when the morgue was full, they put bodies in the hospital chapel.

Goodson and Lalla said that people in the hospital tried to evacuate as many people as possible, starting with those who could walk on their own, then those in wheelchairs, and finally, bed-ridden patients. They said that without elevators, the sickest patients were the most difficult to move.

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On Tuesday, some citizens on boats came and promised that they would bring many more the next day. But when they returned Wednesday, there were only four boats. They made ferry trips with as many people as they could carry, all day long and into Thursday, Goodson said.

Among the patients who were able to evacuate on the boats were two young bone marrow patients.

"I saw them get into these two-seat boats and saw all these women with newborn babies who were also getting on and I just burst into tears," she said.

By that time, said Lalla, the hospital staff was exhausted and she felt herself beginning to fray.

When she looked out of the hospital windows she could see that the building had become an island in a sea of broken houses and swamped cars.

"On Wednesday morning about 4 a.m. I heard someone trying to kick himself out of his house," she said. "He was screaming for help. Then I heard a plop in the water. I didn't hear anything else."

For Many Casualties, No Who, How Or When (WP)

By Sue Anne Pressley And Jacqueline L. Salmon

The Washington Post, September 13, 2005

Cynthia du Faur telephoned her twin sister in Chicago at 2:15 a.m. on Aug. 30 and told her in a small, surprised voice that water was rising fast inside their New Orleans home.

It was pitch black, she said, and the city around her was paralyzed, and she was alone with their nine dogs and cats. She could not reach the ladder in the basement, and the attic was nailed shut. Suddenly, she said, almost as an aside, "I think we're going to die."

"Her very last words, which haunt me, were 'Let me go try to find some plywood. Okay, bye.' She was looking for something to float on," said her sister, Brenda du Faur, 46. "I can't imagine the slow, rising death that was coming."

Du Faur can't be certain her sister is dead, but like many others who haven't heard from loved ones in this stricken region, she is already grieving. The people who died during Katrina and its aftermath are, two weeks later, still largely unidentified and unknown. No one can say yet how many perished, who they were, how and when they died. Communications and recovery problems -- and a heavy cloak of secrecy -- have compounded the mystery. Officials have been told not to pass on any information. For now, and for the indefinite future, the victims of Katrina remain the dead without a roster.

What is known about them comes not from official confirmation but from scattered sources -- a small-town funeral home director who knows everyone, a frantic sister who posted her last hopes on a missing-persons hotline. It is common knowledge, for example, in east Biloxi that "Miss Odessa" Hurley, 90, drowned alone in her modest house -- although officials have not yet confirmed her death.

Rosalie Guidry Daste, 100, survived five days trapped on the suffocating second-floor of a flooded New Orleans nursing home, only to die soon after she was rescued and airlifted to a hospital. The family of Grady Samuels Sr., 82, is convinced he "grieved himself to death," his daughter said.

Sgt. Paul Accardo, 36, a public affairs officer for the New Orleans Police Department, shot himself in the mouth as he sat in his patrol car, apparently anguished at what was happening to his city. Willie Williams, 25, as big and strong as a football player, apparently thought he could withstand the fury of the storm.

And in her heart, if not on paper, Brenda du Faur senses that she lost her sister in the floodwaters that engulfed their home.At the Nursing Home

As the monstrous hurricane bore down on the Gulf Coast, the nursing staff at Lafon Nursing Home of the Holy Family told family members that Rosalie Daste was too feeble to evacuate from the east New Orleans facility for the elderly poor.

Daste and other patients who stayed behind were moved to the second floor for safety, and worried family members said they were assured that a generator and plenty of supplies were on hand.

But the day after the storm, a levee on a canal to the west of the nursing home collapsed, and water began swirling into the first floor of the facility. The occupants were trapped inside.

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Daste's family is not sure what happened after that, but four days passed before rescuers reached the nursing home. By the time Daste was airlifted, first to a makeshift facility at the New Orleans airport, then to a Monroe, La., hospital, "she was dying," said Kevan Cullins, her great-grandson. She was severely dehydrated and had a bacterial infection, her kidneys were failing and her lungs were filled with fluid. Before her family could reach her, he said, she was dead.

At Daste's funeral Saturday in Baton Rouge, La., the family chose to celebrate her long life rather than to dwell on the details of her death. They painted a portrait of a sturdy woman who worked until her early nineties, and who survived financial ruin in the Depression, early widowhood and the deaths of three of her four children. They laughed as they recalled her famous penny-pinching ways, how she would always tell her children and grandchildren, "You watch your pennies and nickels, and when they turn into dollars, they'll watch themselves." She and her husband, who died in 1957, ran a small grocery and accumulated some property.

"She saved tissue paper and would cut it up and use it for napkins," Cullins recalled fondly. "Grandma didn't throw anything away."On the Beat

For Paul Accardo, watching the hurricane rip apart his home town amid chaos, looting and murder was apparently more than he could bear.

After six days of helping to evacuate hundreds from the drowning city, of trying to aid thousands at the Louisiana Superdome -- and watching some of them die -- Accardo shot himself to death on Sept. 3.

"To see people dying, no food, no water, it took a toll on him," said his boss, Capt. Marlon DeFillo.

Accardo, who had been married for about three years, was often the public face of the city police department on local television newscasts. A clean-cut man with a winning smile and a soft-spoken manner, he was in the forefront of a department trying to improve its image.

But during the hurricane, the strait-laced cop who had spent the past five years working as a public affairs officer suddenly found himself on the front lines. Like other New Orleans police officers, he lost his home to Katrina and found himself working 20-hour days, pulling people from floodwaters and battling the looters who swarmed over portions of the city. The kind of guy who carried pet food in his car to feed stray animals, Accardo was overwhelmed by the suffering he saw, DeFillo said.

After working until 2 a.m. Saturday, Accardo slept for two hours and then got up at 4 a.m. to return to work. He looked so exhausted that DeFillo told him to go back to sleep.

"That's the last we saw of him," DeFillo said.

Accardo drove west and stopped in Luling, La., about 25 miles away, where he parked his car and ended his life.At Home

Odessa Hurley, 90, was a familiar figure, walking along the streets of Biloxi during the daylight hours, passing out religious tracts and gathering treasures in the bag she always carried.

"She had sneakers on a mile too big for her, and big white socks pulled up to her knees," said Cleo Meaut, 74, a longtime church friend. "She wasn't what you called poor, but she looked poor. She gave all her money to charity. She would send money off to these missionaries to help them out, and when I say money I mean a good bit of money."

According to three townspeople, she lived all her life in Biloxi, for decades in the same small house without air conditioning, television or other creature comforts. She outlived two husbands. Her life revolved around day-long walks -- "practically all over Biloxi," Meaut said -- and daily services at St. Louis Catholic Church.

"She told me one Saturday night at church, 'I hope God gives me 10 more years because I'm not finished with my work here on Earth, and I'm trying to buy my way into heaven,' " Meaut said. "Father was standing there and he said, 'Oh, Miss Odessa, you know you can't buy your way into heaven -- you have to pray your way in.' And she just laughed."

Hurley refused to leave her home when neighbors were evacuating ahead of the storm. She had survived plenty of storms, she said. But when Meaut returned to find her own house destroyed, her younger son gave her the bad news. "He said, 'You know, they found Miss Odessa drowned.' "

Since then, Meaut has said many prayers for her old friend. But she knows Miss Odessa probably did okay on her own: "She paid her way into heaven -- you can bet your boots on that."Staying in New Orleans

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Willie Williams had wanted to be a football player -- and he still looked like one -- but things had not quite turned out the way he wanted. The father of five children under 6, he was a 10th-grade dropout and a laborer whose last job had been in roofing when he decided not to leave his native New Orleans for the hurricane.

"They was going to ride it out like a lot of people always did," said his cousin, Pam Williams, 35, who evacuated with her three children and who described his life and death from Houston, where she was relocating.

It may have been a fatal choice. Indirectly through a police officer friend in New Orleans, Williams learned that her cousin's body had been recovered after the storm, that it was seen tied to a tree by the river to keep it from floating away -- a practice searchers employed in the first chaotic days. His girlfriend, and the mother of his two youngest children, apparently is missing. There is no word on the children.

Williams said she does not know how her cousin died. "He knew how to swim pretty good," she said. "He was a survivor."

He also was the family peacemaker, she said.

"He'd see people getting into fights and he would break it up," she said. "He would tell them just to compromise with each other."In the Shelter

As Grady Samuels Sr. sat in an evacuation shelter in Baton Rouge, he could not stop watching the images of hurt and crying children on television. The elderly man, known as "Grandpa Grady" back in his River Ridge, La., neighborhood, was sickened by the suffering the disaster had brought.

"He was saying, 'Ya'll get those children,' " said Rosie Jackson, 35, one of his many grandchildren. To calm him, family members lied and reassured him that they would rescue the children he was seeing on TV.

But as the days wore on, Samuels grew quieter. He stopped eating or speaking. A nurse stopped by to look at him but did not send him to a hospital, family members said. Last Thursday, he died in a single bed in a small room at the shelter that had been set aside for him and his wife, Louise.

"I think he grieved himself to death," said daughter Julia Samuels, 56.

It was a sad end to a life marked by hard work and a huge family. He and his wife had raised 11 children in the community about six miles west of New Orleans, and he saw himself as "the neighborhood granddad," said Fabiola Jack, 28, one of his great-grandchildren.

If police officers came looking for a neighborhood kid, Jack said, Samuels was likely to try to persuade them to give the youth a second chance. " 'That's my grandson,' he would say. 'Don't put him in jail. I'm going to talk to him first, and if he don't listen, then you can put him in jail.' "On the Phone

Brenda du Faur wishes she had been more alert during her sister's last phone call, that she had had the presence of mind to suggest a way out, that she could have somehow transmitted the belief that Cynthia could survive a flood in the middle of a dark terrifying night.

"I was profoundly inadequate," Brenda du Faur said in an interview from Chicago, where she was away working as a racehorse walker. "Even though my sister was brilliant in her own person and the most creative thinker I've ever known, she had challenges and I was the one who was able to function a little better. All my life, I've saved my sister and I'm just tormented I didn't save her, and I could have."

Cynthia and Brenda du Faur shared what is called "a shotgun house" in mid-city New Orleans, each of them occupying one side of the dwelling; the dogs and cats, with such names as Petrouchka and Svetlana, ran back and forth between them.

Cynthia, a recovering alcoholic, was not working but had many deep interests, her sister said, including ballet, figure skating and old movies. Concerned about the poor, she was "a vehement critic of the establishment when they did wrong," Brenda said. She liked to dress in long, colorful sundresses and vintage shawls.

"She disdained a lot of the modern things she felt were inferior," her sister said.

Brenda said her twin often depended on her to take care of practical matters. She wishes she had cleared access to the attic, as she had long thought of doing. She wishes she had bought a small boat, assembled some kind of kit for emergencies. "All she needed was an inner tube," Brenda said, bursting into tears. "I never thought about a levee breaking."

Officials have had no news for her, as she waits in Chicago. But Brenda du Faur feels certain Cynthia would have gotten word to her if she survived.

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"I still want to think she is alive," she said, "even though I know better."

Units Search For Bodies But Some Find None (NYT)

By John Kifner

The New York Times, September 13, 2005

MICHOUD, La., Sept. 12 - Despite apocalyptic predictions, marines searching St. Bernard Parish - in the direct path of Hurricane Katrina - have yet to find any bodies, commanders said Monday.

"St. Bernard is actually doing pretty good," said Capt. Stephen Kahn, operations officer for the battalion of marines brought in from Camp Lejeune, N.C., as part of the administration's response to the storm.

"The areas worst flooded, as our guys are getting in there, they're not finding anything," said Captain Kahn, referring to the bodies that were anticipated. Fears were reinforced when previous rescue workers found swollen dead bodies last week in St. Rita's nursing home here. The home's officials have said that 32 of the 60 residents perished.

The marines are grinding through swamps and bayous in amphibious troop carriers, searching a landscape of ruined houses, some torn into scraps like matchsticks, others with stairs leading to nowhere. Houses that have been searched and found empty were marked with a spray-painted orange "X."

Some of the marines' zone, including the Arabi section of the eastern edge of the city, is still underwater and yet to be searched.

"It's an environmental nightmare," said Lt. Col. Kent Ralston, commander of the unit whose amtracks are touring the area around the industrial canal. "It's just chaos, the worst damage I've seen."

From the hamlet of Yscloskey, near Alluvial City, where the marines were trying to help fix a bridge bent out of shape so that it could be raised to let boats through a canal, Robert Labat of the St. Bernard Fire Department said the situation was not as bad as feared.

"You'll be surprised how low the death toll is," said Mr. Labat, who is also a mosquito control officer. "There are about 70,000 people here, and 70 percent of them got out early."

Officers on helicopter flyovers had originally thought a long line of cars and trucks pointed north on highway 39 had been caught by the flood and swept aside, but the vehicles were simply left parked on the highest ground, it turned out.

Dire warnings, from marine planning sessions, of a devil's brew of toxic floodwater, decomposing bodies, feral swamp creatures and hostile, gun-toting locals have just not materialized.

"Thousands are expected dead," stated a briefing for the officers and senior sergeants of the First Battalion/Eighth Marines a few days ago. "Bodies after a week in the water are not a pretty thing.

"There are biologic hazards," the briefing said. "Hepatitis is the main one. There is a very real danger if someone cuts himself and contaminates himself through the water.

"We are assessing the presence of armed civilians. We are more concerned about the looting than the flooding."

The Bravo company, with 130 of the more than 700 marines in the battalion, have been working from a NASA fuel tank assembly plant for eight days. The rest of the battalion was encamped in a huge furniture store in Slidell, to the northeast, and came by convoy on Saturday. They have been replaced by a battalion from Camp Pendleton, Calif.

More military forces, including 46,300 National Guard troops and volunteers from municipalities around the country, have been pouring in.

With the reinforcements, the ratio of rescuers to remaining victims appears to have shifted in the week since the levees broke. A patrol of a few hours on a recent day in St. Bernard Parish revealed a half-dozen outside units, including the New York Police Department, the New Jersey urban search and rescue squad and the Baltimore Fire Department, whose bright red truck got stuck nose down in a fetid canal. Fire departments from across the country have gathered at Our Lady of the Holy Cross College in New Orleans, including 350 New York firefighters, with 1,000 more on the way.

For the marines, the effort has been carried out like a battle, with the headquarters known as COC, or combat operations center.

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"We operate the same," said Lt. Col. Scott Alley, the First Battalion commander. "We grid everything and mark here's what we've been through, here's what we've cleared. A lot of the tactics and techniques are the same."

As more troops have arrived, the facilities have begun to improve. Tents are sprouting on the lawns around the NASA facility for the marines, who have been sleeping on concrete floors and eating Meals Ready to Eat. A line of portable bathrooms is set up. This afternoon, a truck from the Army-Air Force Exchange Service pulled in to set up a PX.

For Man In Charge, No Excuses Will Do During Cleanup (USAT)

By Donna Leinwand

USA Today, September 13, 2005

NEW ORLEANS — Lt. Gen. Russel Honoré is the go-to guy here.

When he bounds off his truck in downtown New Orleans and lights his third cigar of the day, he is immediately surrounded by soldiers, volunteers and city workers who shower him with praise and requests.

“I don't know what they say about you anywhere else. All I know is you get the job done,” volunteer Eddie Boy Woerner says.

That job was getting 1,000 pounds of donated beef that was stranded outside the city. Woerner, a group of his employees at his turf business, and some friends came to New Orleans from Gulf Shores, Ala., and set up a massive barbecue to feed the federal workers, soldiers and volunteers who have descended on the disaster zone.

Woerner was having trouble getting the beef into the city. Word got to the general. He sent a helicopter.

Honoré, a Louisiana native with a cigar-smoking habit that begins before noon, has become the symbol of New Orleans' emergence from chaos to reconstruction. He is commander of the 1st Army, which is now charged with the largest humanitarian effort in U.S. history.

Honoré, 57, was raised on a subsistence farm, land his father rented and worked in Lakeland, La. He graduated from Southern University in Baton Rouge, where he studied agriculture. He spent four years in ROTC and got a deferment from the draft. He said he wanted to go in as an officer, serve and then go into farming. He joined the Army in 1971 and never left.

In 1971, the military had only a handful of African-American general officers. Honoré, who calls himself a Louisiana Creole African-American, did not have it in his mind then to become a general. “I just did every job as best as I could,” Honoré says.

Honoré (AHN-ur-ay) is married and has four children — two boys and two girls. One daughter lives in New Orleans. She had gone to Florida before Hurricane Katrina struck to visit her sister, who had just had a baby — Honoré's first grandchild. His son, Sgt. Michael Honoré, 27, of the Louisiana National Guard, returns home next week after a year in Iraq.

The nerve center of the military's response to Hurricane Katrina is at Camp Shelby near Hattiesburg, Miss. Honoré pops in often, as he does at 11:30 p.m. Sunday after a day spent in New Orleans. The night briefing is underway.

Honoré has a few stock lines. He calls everyone “Tiger,” particularly before issuing a demand. His second most common line: “You're looking at the calendar. I'm looking at my watch.” That's his way of saying: “Get it done now.”

Although Camp Shelby is a 45-minute helicopter ride north of New Orleans, Honoré prefers to spend his day in the disaster zone. He has an air-conditioned tent with computers and communications equipment set up in a garage at the Port of New Orleans. But a good deal of his time is spent riding in the back of an Army truck.

“This is my office,” Honoré says. “This truck. I can see all the leaders and find out what they are struggling with.”

“It's what commanders do to get the feel and the smell of the situation,” explains Brig. Gen. Tony Cucolo of the U.S. Joint Forces Command in Norfolk, Va., who is part of Honoré's team. A few days ago, as he drove around the city's convention center, Honoré noticed the stench of the trash and rotting food. The next day, it was clean. “We're not here to talk about things. We're here to get it done,” he says.

He parked his “office” outside City Hall on Sunday. After a 45-minute chat with a city administrator, Honoré is on the phone to his engineering task force: “You need to get City Hall stood up. The water needs to be pumped out of the basement. And the generator. And get in some street sweepers. Get this glass out of the street. The police officers are getting flat tires.”

He says restoring City Hall is a priority. “The people who make things happen within the city have been evacuated. We need to bring them back.”

It seems a daunting task. “Better be someone over here before the day's out,” Honoré says.

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U.S. Law Blocked Storm Barrier (WT)

By Joyce Howard Price

The Washington Times, September 13, 2005

A congressional task force says energy production, the construction of affordable homes and hurricane protection for New Orleans have been hampered by a 35-year-old federal law known as the National Environmental Policy Act (NEPA).

"We have heard from numerous industries that expensive and time-consuming legal and procedural delays are preventing energy production and construction projects," Rep. Cathy McMorris, Washington Republican and chairwoman of the House Task Force on Improving the National Environmental Policy Act.

The 1970 law was designed to protect the environment. The 22-member task force has held four hearings across the country to assess NEPA's role in accessing affordable energy, building roads and homes, and managing the nation's natural resources.

NEPA, which established a national environmental policy framework, has "resulted in thousands of lawsuits," holding up some projects for more than 20 years and killing others, said Jennifer Zuccarelli, a task force spokeswoman.

"The NEPA process, as it has evolved from a vague, extremely short statute, has grown into a massive, unclear process that hurts communities as they wait decades for homes, buildings, roads, energy and job-creating projects," Miss Zuccarelli said.

NEPA requires the U.S. government to evaluate the environmental impact of any significant project undertaken by a federal agency, financed with federal money, or requiring a federal permit. It further mandates that the results of the government assessment be made public and that the public decide whether its benefits outweigh its drawbacks.

On Friday, the task force said NEPA lawsuits at least twice had prevented system improvements to protect New Orleans from a hurricane. It said the Sierra Club and other environmental groups in 1996 sued the U.S. Army Corps of Engineers and blocked a project to raise and fortify levees around New Orleans.

It also cited a Los Angeles Times story that said a Save the Wetlands lawsuit filed in 1977 killed plans approved by Congress to create a "massive hurricane barrier to protect New Orleans." The plan was created after Hurricane Betsy in 1965.

A federal judge stopped plans for the hurricane barrier after finding that an environmental-impact statement drafted by the Army Corps of Engineers was flawed. The corps abandoned the project by the mid-1980s.

Rep. Thelma Drake, Virginia Republican and a member of the congressional NEPA task force, says it is clear that NEPA "plays a role in hampering our ability as a nation to develop efficient supply chains capable of providing Americans with affordable energy."

"For years, construction projects that could have mitigated adverse impacts to our supply have been needlessly blocked due to endless red tape and a sluggish federal bureaucracy," the congresswoman added.

The NEPA panel, comprising 12 Republicans and 10 Democrats who are members of the House Resources Committee, was charged in April with making recommendations for improving NEPA. The task force will submit a report to the full committee by year's end.

The task force will hold its fifth hearing on Saturday at 1 p.m. at Old Dominion University in Norfolk.

Rush To Set Up U.S. Housing For Survivors (NYT)

By Eric Lipton

The New York Times, September 13, 2005

SLIDELL, La., Sept. 12 - One team of men is bent over drills, driving mobile home anchors deep into the moist earth. Others are lifting cinder blocks that will be used to hold up the next set of identical beige homes that trucks, one after another, are bringing here.

A building boom is under way in this city at the edge of Lake Pontchartrain, where one-third of the houses have been damaged or destroyed.

But this is just the start.

The government is beginning what urban planners are calling one of the biggest bursts of federal housing development in United States history. Last year in Florida, the Federal Emergency Management Agency set a record by installing 15,000 homes

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in the aftermath of four hurricanes there. In the wake of Hurricane Katrina, they hope to open 30,000 homes every two weeks, reaching 300,000 within months.

Those numbers make Levittown - the suburban community on Long Island where 17,447 houses were built after World War II - look modest. Even the rebuilding of Chicago after the great fire of 1871 or San Francisco after the 1906 earthquake do not compare, said Ruth C. Steiner, an associate professor at the Department of Urban and Regional Planning at the University of Florida.

"This is a milestone of urban planning," Ms. Steiner said "There is no precedent on this scale in this country. It is just phenomenal."

The numbers might drop if the demand does not meet expectations. But more than 140,000 people are now packed into emergency shelters, while hundreds of thousands of others fill hotels, homes of friends or relatives or are temporarily relocated across the United States. The building blitz is intended to bring as many people as possible back to Louisiana, Mississippi and Alabama.

"It is like pushing a big rock down a hill," said Brad Gair, head of FEMA's hurricane housing task force, of the project. "It takes a little time to get it moving, but once it gets moving, it moves very fast. And that is where we are getting right now."

The families moving into the first of these new trailers and mobile homes, the use of which are provided at no cost, seem almost startled to be inside a structure that is not flooded or stiflingly hot and overstuffed with people.

Elizabeth Burregi, 37; her husband Victor, 41; and their three young children arrived Sunday with trash bags filled with donated clothing and other goods. Their side of their home in Marrero, La., was ripped off during the storm. Just about the only thing they carried out with them was the three pet turtles that Christopher, 12, insisted not be left behind.

But already, Sunday, within an hour of arriving, they were feeling at home. "I got air-conditioning!" Mrs. Burregi cried out, as she stood with her hands lifted up toward the vent that was pumping out cool air in her new trailer. "This is better. This is much, much better."

Glenn Barkston, 40, of Kenner, La., said, "God has looked down on us like you would never believe." He was overjoyed, even though he does not have sheets, pots or pans, or even soap for the new trailer he is now sharing with his mother in Patterson, La. "We are very fortunate."

At four giant staging areas across the region, FEMA is assembling tens of thousands of mobile homes and trailers. In Baton Rouge alone, at a former Defense Department logistics center, thousands of them are already lined up on a field.

So many new homes are needed that small-scale developments of 50 or 100 homes will simply not suffice. FEMA is thinking like the onetime Soviet planners, mapping out new towns that in some cases will have as many as 25,000 mobile homes, spread across hundreds of acres.

More than 25 so-called strike teams are deployed across Louisiana, scouting out possible sites for these new boom towns, negotiating with local officials and attempting to draft leases or sales agreements for farmland or camp sites. The teams have been formed by giant global engineering firms including Bechtel National Inc. of San Francisco and Fluor Corporation, of Aliso Viejo, Calif., which last week won no-bid contracts worth $100 million each.

The men and women in charge are used to building things like trash incinerators, coal-fired electricity plants and oil fields in Saudi Arabia. They admit they will not be applying too much creativity to these new communities that will be created at a pace that would have made the master planner Robert Moses weep.

"We are a lot of right-brained guys, nothing too artistic," said Don Stokley, a structural engineer from Fluor, who is managing the company's strike teams.

To meet FEMA's needs, factories are churning out the trailers and mobile homes at full capacity. The agency is also buying homes from lots and warehouses across the country.

James C. Schwab, a research associate at the American Planning Association in Chicago, said the FEMA should be careful to not create communities that are so dense and sterile that no one wants to live there.

"You are in a difficult spot, where you need housing quickly," he said. "But you have got to try to humanize it as much as possible."

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FEMA officials say they realize that they cannot just drop 75,000 people into rural, one-stoplight towns. Classrooms, sewage treatment plants, stores, restaurants and medical centers will be built as well.

By the end of Wednesday, FEMA expects to have installed 3,500 homes requested by the governor in Alabama, most of them set up in long rows at state parks. By Friday, FEMA and its contractors will have installed about 1,000 homes in the New Orleans area for workers helping to rebuild the city. The big test, though, is in places like Slidell, along the rural stretches outside devastated cities in Louisiana and Mississippi.

The small compound in Slidell is one of the first new communities. It is tiny by comparison to the new towns that FEMA and its contractors are planning. Here, they are simply dropping as many new units as they can squeeze into an existing mobile home park.

The homes in Slidell - those so far are all 14 feet wide and 70 feet long and have three bedrooms - arrive furnished with beds and box springs wrapped in plastic, a full-size refrigerator, a couch and living room chair. The homes are lined up exactly 11 feet apart.

But if the experience here over the last few days is any example, the government is going to have a difficult time meeting its goal of 30,000 units every two weeks.

It will be perhaps three weeks, a Fluor official predicted, before the 125 new homes being dropped here are ready for occupancy.

Reinhard Dearing, a top city official in Slidell, had recently come up with a new nickname for FEMA, "Nonexistent Emergency Management Agency," or NEMA, he said, given the department's slow response to requests by individuals for assistance. But even with the extended schedule provided on Monday by Jim Hlavaty, the general superintendent from Fluor, the Slidell city officials said they were impressed.

"These guys here know what they need to do, and they are doing it," Mr. Dearing said. "At least they are getting something done."

As of Sunday, fewer than 10 families in Louisiana had moved into the first new homes. In Patterson, La., 120 miles southwest of Slidell, FEMA officials installed smaller, two-bedroom trailers. To their new occupants, emerging from shelters that held up to 1,000 people, the compact units were all but a palace.

It is not clear how long these new FEMA-created towns will last. Temporary housing built for shipyard workers during World War II in cities like Richmond, Calif., was occupied for decades. FEMA officials say that is not their objective; they will own the units and move people out when they are ready.

"These temporary homes will come out," Mr. Gair of FEMA said. "We want to rebuild New Orleans. We do not want to create a state of travel trailers and mobile home parks."

FEMA Allocates $5 Billion For Trailers Yet To Be Built (WT)

By Stephen Dinan

The Washington Times, September 13, 2005

FEMA has allocated nearly $5 billion to buy 300,000 trailer homes as part of its emergency hurricane spending -- even though 270,000 of them are on back order and will have to be built, says a congressman who voted against last week's $51.8 billion bill.

Rep. Steve King, Iowa Republican, said President Bush and members of Congress are spending quickly on Hurricane Katrina relief in part to try to counter bad publicity over the federal government's initial response.

"There was definitely a factor in seeking to spend enough money fast enough that they wouldn't have to face the criticism of being too tightfisted," he said. "They think that they're being measured by the amount of money they spend, and I think we ought to be measured by the kind of plan we have."

Congress has passed two emergency spending bills, with $60 billion for the Federal Emergency Management Agency, $1.9 billion for the Department of Defense and $400 million for the Army Corps of Engineers.

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The White House and Republican congressional leaders have promised to spend what it takes to aid the hurricane's victims, and both bills have passed with overwhelming support -- a $10.5 billion bill by voice vote and a follow-up $51.8 billion bill by a 97-0 vote in the Senate and 410-11 vote in the House.

"We are going to spare no effort to get them the help that they need," White House spokesman Scott McClellan said last week when asked about the spending total and the increasing deficit. "The president has made it clear, in meetings he's been having, that we are going to show the true compassion of America in all that we do."

Mr. King and others who voted against the $51.8 billion bill said the issue is not how much is being spent, but how.

Speaking by telephone from Louisiana, where he had spent the night at a Red Cross shelter in Baton Rouge, Mr. King said the trailer houses are a perfect example.

The first bill called for 200,000 trailers, at a cost of $3.3 billion. Then, even after learning that only 30,000 trailers could be delivered now, the administration requested money for 100,000 more in the second bill, for a total cost of $4.9 billion.

They will be located "some place about 100 miles north of New Orleans" in a temporary trailer-house city that eventually will be bulldozed, Mr. King said.

The White House Office of Management and Budget referred calls about trailer spending to the Department of Homeland Security, which referred calls to FEMA. The agency did not return two messages for comment yesterday.

Republicans' willingness to spend surprised Democrats, who joked that they were at risk of being outdone.

"The only language they know is money," said one House Democratic chief of staff, who asked not to be named. "They're being Democrats because they're trying to show how they care by shoveling money."

But Jim Manley, spokesman for Senate Minority Leader Harry Reid, said Democrats aren't worried about being outspent, especially with Republicans still talking about slowing growth in Medicaid spending and passing $70 billion in tax cuts later in the year.

"At some point, they're going to fall back on their usual fiscally conservative ways," the spokesman said.

Conservatives said they can only hope so, because agencies won't control themselves.

"Fifty billion dollars at the first trot that easily, that little opposition, and there's no resistance," said Rep. Jeff Flake, Arizona Republican, who voted against the bill. "FEMA will act like any federal agency -- the question isn't how much we need, it's how much we can get."

He called for passing several smaller bills so FEMA would have to return each time and justify its request.

Rep. Jeb Hensarling, Texas Republican and a leading budget hawk who voted for the $51.8 billion bill, said his worry is not the spending total.

"This is not a debate about how much we spend today. It's a debate about whose bank account it's drawn on," he said.

Mr. Hensarling and other Republicans said that instead of adding to the debt, the money should be partially offset by spending cuts.

Asked last week about cuts, House Majority Leader Tom DeLay, Texas Republican, said it was up to the Appropriations Committee to write the bill.

DeLay spokesman Kevin Madden said there have been three disasters from Katrina: the hurricane itself, the flooding and the displacement of hundreds of thousands of people. He said politics didn't enter into the decision to spend on rescue and recovery.

"The reason we've provided the resources is because that's the money needed to immediately rescue people, to begin the recovery and lastly to start the rebuilding," he said. "That has been the focus right now."

Spellings Says 372,000 Students Displaced (AJC/AP)

By Ben Feller, Associated Press

The Atlanta Journal-Constitution, September 13, 2005

WASHINGTON — Hurricane Katrina has booted at least 372,000 students from classrooms in Louisiana and Mississippi, and Education Secretary Margaret Spellings said Monday there are no clear answers about who will pay to educate them.

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In an interview with The Associated Press, Spellings gave the broadest assessment yet of how the hurricane has affected schools at the start of their year.

In Louisiana, more than 247,000 public and private school students have been displaced. The storm forced 489 schools to close. At least six parishes have destroyed or damaged buildings, she said.

In Mississippi, more than 125,000 students have been forced elsewhere. Some 226 schools in 30 districts are closed. Almost 30 schools have been destroyed.

Spellings declined to estimate how much it will cost states to rebuild school districts or serve displaced students — or how much the federal government will cover.

"I shouldn't be talking about the details that I'm in negotiations with the White House and the (Capitol) Hill on," Spellings said. "As soon as I can talk about it, I want to talk about it."

President Bush has told Spellings to develop a plan to provide aid for the states.

In the interview, Spellings said she will ask Congress for unprecedented authority to ease aspects of a federal law governing the education of homeless children. She already had pledged to consider using her powers to waive parts of the law known as No Child Left Behind, including requirements on yearly testing and teacher quality.

Still, Spellings cautioned: "I obviously don't think this is an opportunity for every state in the country to get 'No Child Left Behind is off this year.' We're just not there yet."

In a letter obtained Monday by The Associated Press, Spellings waived a requirement for Mississippi that normally forces school districts to spend some money to obtain federal aid. That means some of the states can cut or shift spending without penalty.

Spellings denied the state's request to excuse some districts from having to make yearly progress on math and reading tests. Because those tests will not be given until the spring, she said, it is too soon to waive the "linchpin" of federal accountability.

It was Spellings' first response to a state request for help dealing with Katrina. Her department has a request pending from Texas.

School districts nationwide are enrolling displaced students who have friends or family from the Gulf Coast — or children who just have nowhere else to go.

Universities are absorbing tens of thousands of college students stranded by the hurricane. In Louisiana, an estimated 73,000 such students from public and private schools have been displaced and 15 campuses have been closed, Spellings' office said.

"I think the school community has responded very well. Obviously, we're part of that," she said. "We've tried to make this as easy as possible, with all the tools that we have to bring to bear immediately. I'll be accountable for that."

Overall, more than 25 states say they have taken in displaced students.

Texas schools expect an influx of roughly 60,000 students. In a letter to the Education Department, Texas Education Commissioner Shirley Neeley said she expects to spend $7,500 per student this year. That means the price of educating evacuees could be at least $450 million.

The Federal Emergency Management Agency has told the state it is eligible to be reimbursed for expenses such as temporary schools and mental health counselors. But the hiring of teachers and buying of books are not eligible expenses for relief aid, a FEMA memo says.

The Houston school system has taken in more than 3,000 students displaced students. If the figure reaches at least 5,000 students, as expected, the district's cost would be about $30 million, said spokesman Terry Abbott.

As for college students, Spellings said the government would not try to take back federal financial aid already given students who been forced to move to other schools for at least a semester. That could amount to hundreds of millions of dollars, out of about $100 billion disbursed annually.

The department is considering what to do about aid distributed to help affected students who opt to take time off or work rather than enrolling at a new school, a spokeswoman said.

Lack Of Clout In Congress May Hurt Louisiana's Recovery (NYT)

By David E. Rosenbaum

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 - Not long ago, Louisiana had one of the most influential Congressional delegations in the Capitol.

In the last decade, Louisiana has provided the chairman of the House Appropriations Committee; the chairman of the House energy committee; the senior Democrat on the Senate energy committee and the water development subcommittee of the Senate Appropriations Committee; and the Democratic chief deputy whip in the Senate.

But these powerful senators and representatives, who could be counted on to pull strings and twist arms, have recently retired from Congress, and the Louisiana delegation today, in the face of perhaps the state's worst calamity, has no one in a position of authority.

It is one of two states (Arkansas is the other) where both senators - David Vitter, a Republican, and Mary L. Landrieu, a Democrat - are under 50. The most prominent of seven representatives, Jim McCrery, is the fifth-ranking Republican on the Ways and Means Committee.

No one can say specifically what the diminished influence will mean for the state's efforts to get hurricane relief from Washington, but no one who follows Congress doubts that sooner or later the ramifications will be felt.

"Our senators are very good, but they'd be even better if they were committee chairmen," said former Senator J. Bennett Johnston, a Democrat who retired from the Senate in 1997 after 25 years in which he became a powerhouse on the energy and appropriations committees.

Former Representative Billy Tauzin, a Republican from Louisiana who was chairman of the House Energy and Commerce Committee before he left Congress in January, offered an example of the importance of a chairmanship.

The energy bill that Congress passed and President Bush signed this summer included $2 billion over 10 years for coastal protection and erosion in Louisiana, Mr. Tauzin said. In contrast, he said, a similar bill that was passed by the House last year, when he was chairman, and was then blocked by a filibuster in the Senate, had $15 billion to $20 billion for the same purpose.

"The delegation has lost all its power," said James A. Thurber, director of the Center for Congressional and Presidential Studies at American University.

Mr. Thurber pointed to former Representative Robert L. Livingston of Louisiana, who was chairman of the Appropriations Committee when he resigned in 1999, and said: "If Livingston were there, there would be an immediate and probably more focused expenditure response. There might even have been more earlier for that area before the storm."

Noting that Thad Cochran, Republican of Mississippi, is now chairman of the Senate Appropriations Committee, Mr. Thurber said, "Mississippi is likely to fare better" in getting hurricane relief. "That's how it works."

Mr. Vitter, 44, who was elected to the Senate in November, acknowledged that the Louisiana Congressional delegation "has had a tremendous loss in terms of experience and seniority, which is very important in Congress."

But in the face of this crisis, the delegation, its members say, is counting on a bipartisan appeal to overcome the lack of seniority.

The seven House members had a conference call the week the hurricane struck to discuss the situation and agreed at a meeting in Baton Rouge on Sept. 5 to work together across party lines.

In that spirit, Mr. McCrery and William J. Jefferson, a Democrat on the Ways and Means Committee, were cosponsors of a bill that the House passed on Thursday to give states emergency resources to satisfy the demands on the welfare system that were created by the hurricane.

Nowhere was the bipartisan approach more apparent than in the coordination between Mr. Vitter and Ms. Landrieu.

There has been bad blood between the two senators. When Mr. Vitter was running for the Senate last year, Ms. Landrieu campaigned vigorously against him, telling voters, "Don't send me a puppet to work with, send me a partner."

But the storm has brought them together. They spent the days immediately after the hurricane together in the Office of Emergency Preparedness in Baton Rouge.

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Mr. Vitter stayed in Louisiana last week touring all parts of the devastated area. On Friday, he visited shelters in Lafayette and Lake Charles. Then he went to Houston, where his wife and four children were staying with relatives, and visited evacuees at the Astrodome over the weekend. His home in Metairie, a suburb west of New Orleans, was mostly spared, Mr. Vitter said.

His goal, Mr. Vitter said, was to collect data so that he could persuade the Senate to address what he called "medium - and long-term issues" like reconstruction of New Orleans's infrastructure and measures "to make sure businesses and jobs come back."

Ms. Landrieu, 49, was more in the public eye. She returned to Washington in the middle of last week - her summer home in Slidell destroyed and her childhood home in New Orleans under several feet of water - and, saying her heart was heavy, delivered a stirring speech on the Senate floor on Thursday appealing for help.

"Today, I stand before my colleagues, Democrats and Republicans," she declared, "to report to the Senate that our people are hurting."

The prevailing view here is that in the short term, the government will give Louisiana everything it needs. "Right now," former Senator Johnston said, "there is huge public sympathy for all those people down there."

"The problem," Mr. Johnston continued - and this, he said, is where the state's loss of influence in Congress could matter - "is, what is the shelf life of that sympathy?"

Hurricane May End Up Costing La. A House Seat (HILL)

By Peter Savodnik

The Hill, September 13, 2005

The mass evacuation of coastal Louisiana triggered by Hurricane Katrina will likely cost the state one of its House seats, according to election officials.

Even before the devastating storm ripped through the Gulf Coast, Louisiana officials said their representation in Congress was in doubt.

“We were concerned about that anyway because of outmigration,” said Jennifer Marusak, a spokeswoman for Louisiana’s secretary of state.

With Katrina having emptied out New Orleans and much of the surrounding parishes, hundreds of thousands of people who once voted in Louisiana’s 1st, 2nd and 3rd Districts are no longer there. And many who never heard of Reps. Jim McCrery, Rodney Alexander and Richard Baker — Louisiana Republicans who represent the 4th, 5th and 6th Districts, respectively — are now camped out in those districts.

House members, their staffers and government officials in Baton Rouge and Washington say they’re loathe to talk about politics when there are still bodies to be recovered, children to be reunited with their parents and schools and hospitals to be reopened.

But the reality is that less than 14 months before voters are scheduled to head to the polls, it’s unclear which polls they’ll be heading to — and how this will affect Louisiana’s congressional balance of power as well as that of neighboring Alabama or Texas.

“Our delegation met last week, talked about the fact that Mobile is, for the moment, the largest the city along the central Gulf Coast,” said Rep. Jo Bonner (R-Ala.), whose 1st District encompasses the thoroughly thrashed port city.

“Clearly, we’ll do redistricting in 2010,” Bonner continued, saying that he and his “band of brothers” — Reps. Gene Taylor (D-Miss.) and Bobby Jindal (R-La.) and other Gulf Coast members — had been bound together by the storm. He added: “I don’t see a groundswell of interest in making any adjustments between now and 2010.”

Tricia Lowrey, a senior legislative analyst at the Louisiana House Governmental Affairs Committee, agreed with Bonner, noting that the government does not have the data to know where to redraw district lines. But, she quickly added, “It certainly will be a redistricting issue after the 2010 census.”

The plight of displaced Louisiana residents could make it politically difficult to strip the state of a House seat. It is unclear what how many residents will return to the New Orleans area after the city is rebuilt.

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Still, there is a realization at the state Legislature in Baton Rouge that Louisiana may have to take action before the end of the decade. Marusak and Lowrey said state lawmakers have discussed holding a special session before they are scheduled to convene again in March 2006.

That recognition may stem from growing pressure in central and northern Louisiana congressional districts that have become a temporary home for thousands of newcomers renting houses, filling public schools and clogging local highways.

Baker spokesman Michael DiResto estimated that the 6th, which is northwest of New Orleans and encompasses Baton Rouge, may have twice as many people in it as most every other district in the nation.

Baker said that motels, hotels and public-housing and rental units are filled in Baton Rouge and surrounding communities. He added that some business owners had bought 20 or 30 houses to relocate their entire operations to the state capital.

The "ideal" district, Lowrey said, has 638,425 people. Officials in Baton Rouge said the 4th, 5th and 6th districts are each housing more than 1 million people. Bonner said Alabama had picked up 20,000 residents, including as many as 5,000 in his district.

For now, no one wants to speculate about what a reconfigured congressional map in Louisiana might look like for fear of sounding crass or because most simply don't know who will be living where come 2006 or 2008, let alone 2010 or 2012.

But strong emotions are swirling around the interrelated questions of future congressional districts, the fate of New Orleans and who, exactly, will represent those former city residents if and when they come back.

"The congressman's main goal right now is rebuilding and moving forward with New Orleans," said Melane Roussell, spokeswoman for Rep. William Jefferson (D-La.), whose 2nd District encompasses the ghost town that the Big Easy has become. "To assume that his district wouldn't exist when his election comes up would be to assume that New Orleans doesn't exist, and that's not a consideration — at all."

Said Baker: "New Orleans will come back. Will it be the million-person metro center it was before the storm is very difficult to predict."

For some members, any discussion of congressional boundaries or politics is too much to bear.

Aides to Rep. Charlie Melancon (D-La.), whose 3rd District south and west of New Orleans was savaged by Katrina, refused to answer questions about the future of the district, forwarding all calls to spokeswomen for House Minority Leader Nancy Pelosi (D-Calif.) and the Democratic Congressional Campaign Committee (DCCC).

"What they're focused on right now is, they're not even focused on this," Sarah Feinberg of the DCCC said. Sounding Democrats' rallying cry from the 2000 presidential recount, Feinberg said: "Congressman Melancon and the DCCC are … making sure that no one is disenfranchised."

Rep. Artur Davis (D-Ala.) is crafting a bill to ensure that evacuees, like military personnel and students, retain their voting rights, said his communications director, Corey Ealons.

Some officials and congressional aides privately acknowledged that Republicans may ultimately benefit from the hurricane, with Jindal holding onto or gaining population and Democrats Jefferson and Melancon being fused into a single seat.

Bonner was reluctant to speculate. "I think it's way too early to predict any fallout politically," he said. "It's hard to say because it's changing everyday."

Lawmakers Ask Bush To Save Gulf Coast Naval Bases (REU-Y2)

Reuters, September 13, 2005

Congressmen from Mississippi and Texas asked President George W. Bush on Monday to seek the reversal of proposed closures for two Gulf Coast naval bases, saying the closures would further delay disaster response in the region.

In a letter, Mississippi Sen. Trent Lott (news, bio, voting record), a Republican, and Texas Rep. Solomon Ortiz (news, bio, voting record), a Democrat, asked Bush to demand that the Defense Base Realignment and Closure Commission (BRAC) reconsider its recommendation to close the Pascagoula Naval Station in Mississippi and the Ingleside Naval Station at Corpus Christi, Texas.

The two bases were among hundreds that the commission recommended for closure or cutbacks in a report submitted to Bush last week for the first round of domestic base closings in a decade.

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Bush can ask the commission once to make revisions. After that he can reject the list outright or send it on to Congress, which can accept or reject it but can make no changes.

Lott, who lost a home in Pascagoula to Hurricane Katrina, and Ortiz said the closures would worsen a "strategic vulnerability" by eliminating a Navy fleet presence from the region.

"We believe the DOD/BRAC Commission recommendations contain perhaps an unintended consequence, because post-BRAC, every single surface ship will disappear in the Gulf Coast," they wrote.

They argued that the deployment of Navy ships from East Coast bases took several days to reach the area hit by Katrina. Removal of the ships from Pascagoula and Corpus Christi "would only further degrade the security of the Gulf Coast and our national energy production and distribution system."

Several other Navy facilities in the region were not on the closure list, including the New Orleans Naval Air Station and the Naval Construction Battalion Center in Gulfport, Mississippi.

Politicians in Massachusetts on Monday praised the wording of the final base closing commission report, which recommended "realignment" of the Otis Air National Guard Base on Cape Cod instead of full closure.

Although the commission still recommended the move of F-15 fighter jets elsewhere, it left units based at Otis at their full personnel strength -- a strategy it employed with other Air Guard cutbacks.

"Otis has a new lease on life," said Sen. Edward Kennedy (news, bio, voting record), a Massachusetts Democrat. "The revised report means the base will continue, but with new missions that will give it a strong future role in protecting the security of the Commonwealth and the region."

The commission had faced legal challenges to Air National Guard cutbacks from several state governors who argued that federal law required their consent for such moves. Most of these were rejected by appeals courts or the Supreme Court on the grounds that the cutback decisions are not yet final.

Tax Bases Shattered, Gulf Region Faces Debt Crisis (NYT)

By Leslie Wayne

The New York Times, September 13, 2005

By destroying houses, businesses and peoples' lives, Hurricane Katrina also destroyed the tax base of the gulf region. Without homes, New Orleans cannot collect property taxes. Without tourists, it cannot collect hotel taxes. And without restaurants and stores, it cannot collect sales taxes.

And with so much in the gulf region shattered, the taxes and other revenue streams that once stood behind its municipal bonds are no longer there.

As a result, state treasurers and local financial officials from Louisiana, Mississippi and Alabama have concluded that they will need federal aid to help pay billions of dollars in debt as well as finance the area's reconstruction.

So far, they have no formal plan, said John Kennedy, Louisiana's treasurer, but they are considering proposals for the federal government to make payments on existing bonds and cover short-term municipal operating costs. In addition, they are talking about issuing recovery bonds, similar to the $8 billion tax-exempt Liberty Bond program enacted by Congress after 9/11 - only on a far larger scale.

"We are expecting, hoping and will be asking for federal assistance," Mr. Kennedy said. "We are trying to determine what kind of federal relief we can expect. The municipalities that cannot make their bond payments are going to need help. We are hoping for substantial federal aid."

Last week, the National Association of Bond Lawyers wrote to the White House to propose a Hurricane Katrina Indebtedness Guarantee and Financing Act. That measure would provide cash advances to municipalities unable to pay bondholders and would offer federal guarantees on future debt. These advances would have to be paid back in 10 years. The group also called for creation of a Liberty Bond-type program.

"When a city such as New Orleans may be shut down for nine months," said Monty G. Humble, chairman of the association, "you know that access to capital may be an issue. These areas are so devastated."

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State economic development officials from the region are heading to Washington today with a $52 billion plan involving tax credits and other development incentives to keep businesses from leaving. They are hoping that $30 billion will be directed to Louisiana, $15 billion to Mississippi and $7 billion to Alabama.

In the annals of municipal finance - with its share of bankruptcies, defaults and financially distressed cities - nothing comes close. Previous hurricanes, floods and earthquakes have had a more limited impact, affecting mainly residential areas and not damaging the business underpinnings of a city the size of New Orleans and the coastal areas around Biloxi and Gulfport, Miss.

"We have nothing to compare this to," said Dwight Denison, associate professor of public finance at the University of Kentucky. "You've never wiped out an entire tax base. And when you wipe out a tax base, you have nothing to tax."

Municipal bond insurers say their exposure in the region is $14 billion. Standard & Poor's, one of the main bond rating agencies, has put $8 billion in municipal debt from the area on its Creditwatch list, signaling possible trouble ahead, while Moody's Investor Service put $9.4 billion in debt on its Watchlist.

Already, late last week, a $36.3 million bond deal for the Orleans Levee District was canceled because the bond insurer, MBIA Inc., backed out.

"In the past you got a shock, like 9/11 or a natural disaster, and it can impair an issuer for a while, but they recover relatively quickly," said Donald Lipkin, a managing director in the municipal finance department at Bear Stearns, a New York brokerage firm. "Here, because of the level of impairment, there is a good chance some credits may not pay on a timely basis."

Municipal issuers in the affected areas say bondholders have nothing to worry about - for the moment. Enough money has been set aside, in nearly all cases, to cover debt service payments at least through the end of the year. The looming question is what happens when the money runs out.

New Orleans has over $2 billion in municipal bonds outstanding, from $650 million in general obligation bonds backed by property taxes to bonds used to pay for work on schools, levees, sewers, and transportation. There are more bonds for hospitals, schools and other public but nongovernmental entities no longer functioning.

Even in the best of times, New Orleans had it tough. Its bonds are rated just above junk and some entities have borrowed just to keep going. The Orleans Parish School Board, for instance, recently sold $50 million in revenue anticipation notes as it ran short of cash. The school district already had $600 million in bonds outstanding.

The city also has $500 million in debt for the New Orleans Ernest N. Morial Convention Center, where many sought refuge after the hurricane. That debt is backed by a share of hotel, food and sightseeing tour taxes.

"For the city, all the long-term debt is fine for a year," said Peter Kessenich, managing director at Public Financial Management in Atlanta, the city's bond adviser. "Beyond that, you will be sending tax bills to people who don't live there or to houses that are not worth much."

After 9/11, the city of New York issued $1 billion in one-year notes to cover immediate financial needs. But these were backed by personal income and sales taxes from a New York City still standing and an economy still functioning. Investors gobbled up those bonds, in part as a show of support.

Liberty Bonds, issued a year later, allowed businesses in lower Manhattan to borrow in the municipal market, where interest rates are lower than for corporate debt.

Mr. Kennedy, the Louisiana treasurer, insisted that his state had sufficient reserves and taxing power to meet all current and future state-level debt obligations and that bankruptcy was not an option. "It's not even in the realm of possibility," he said.

Even so, Mr. Kennedy acknowledged that many local municipalities might not make their debt payments once their reserves run out. As soon as he was able to return to his office after the hurricane, Mr. Kennedy started weekly meetings of local officials, bond underwriters, lawyers and trustees from the affected areas to discuss the many issues.

More than 25 percent of the personal income taxes in the state come from the New Orleans area, and much of that income will no longer exist. As a result, the state government could be hard pressed to help cash-strapped municipalities.

Mr. Kennedy is also holding weekly conference calls with bond rating agencies and institutional investors to keep them abreast of the situation.

In Mississippi, where Gulfport and Biloxi have been hit hard, the state treasurer, Tate Reeves, has been holding similar meetings and is sending out a positive message.

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"We don't anticipate any interruption in debt-service payments," Mr. Reeves said. "For some local issuers, making debt-service payments will be a challenge, no question. But I anticipate no defaults from public issuers in Mississippi." Both Standard and Poor's and Moody's have put $3 billion of Mississippi debt on watch lists.

Mr. Reeves said he thought his state would bounce back faster than many might expect, pointing out that power was already being restored in the coastal areas.

Defaults in the municipal finance market are rare and bankruptcies even rarer. Even during the Depression, 4,770 issues defaulted on $2.85 billion in debt, but most eventually paid it back. In 1994, Orange County in California went into bankruptcy (and paid back all the debt after a two-year delay) and in the late 1970's, Cleveland filed for bankruptcy.

Bond insurers have never had to make debt-service payments because of a natural disaster, but that may change. Drawing on insurance is a last step, and municipalities must pay insurers back for any money used.

"Bond insurers will definitely have to step up to the table," said Bart Hildreth, a public finance professor at Wichita State University.

It is also almost unheard of for the federal government to be asked to pick up debt-service costs for local municipalities. In the 1975 fiscal crisis in New York City, Washington guaranteed bonds issued by the city, but never had to pay anything and actually made money on the deal.

At the moment, most attention is on the immediate crisis. But the White House is aware of the coming financial challenge.

"As we move forward, we will be taking a closer look at the broader needs," said Scott Milburn, a spokesman for the Office of Management and Budget. "Municipal bonds falls into that category."

Charitable Giving Outpaces That From Other Disasters (NYT)

By Stephanie Strom

The New York Times, September 13, 2005

Donations for the victims of Hurricane Katrina have come in at a blistering pace that exceeds that of other recent disasters, charities are saying.

Almost all of the money is going to the American Red Cross, in large part because other international relief and development organizations simply do not have significant operations in the United States. Some groups, like Oxfam and Mercy Corps, are now reassessing their long-held assumption that the federal government is equipped to handle American crises and are taking steps to help as well.

Americans donated more than $738 million to relief efforts through Sept. 11, according to The Chronicle of Philanthropy. In the 10 days after the terrorist attacks of Sept. 11, 2001, $239 million was collected, while $163 million was collected in the nine days after the tsunami last December.

Giving has been made even easier this time by the Internet and by companies. More than half of the donations have been made online.

Stacy Palmer, editor of The Chronicle of Philanthropy, described her own theory about why there was a quick deluge of money.

"I really think the biggest reason has got to be people seeing government agencies not doing the right thing," Ms. Palmer said, "and that drove them to support a private response and do it quickly by sending it online."

The American Red Cross had booked $584 million in gifts and pledges by Sept. 11, an outpouring that is helping underwrite the biggest relief effort in the organization's history. But the group's role is purely as a first responder, filling urgent needs for shelter, food and clothing.

Concerns are emerging that donors will be tapped out when the time comes for long-term rebuilding and recovery, needs that may not be easily met by the government.

"Right now, donors are responding to pictures of desperate people," said Hank Goldstein, vice chairman of the American Association of Fundraising Counsel's Trust for Philanthropy. "The hard and expensive work is the rebuilding to come."

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Companies have made it easier for consumers to make gifts. Whole Foods allows its shoppers to add an amount for hurricane victims at checkout, raising more than $1 million, and Amazon.com has raised more than $10 million for the Red Cross through its Web site.

Normally contemplative foundations have responded with alacrity. Among those making special grants for disaster relief are the Lilly Endowment, with $20 million, and the Hilton Foundation, with $6 million.

And corporations have found ways to put their assets to use in the relief effort. The Target Corporation committed $1.5 million to the Red Cross, allowed a parking lot outside a Baton Rouge store to become a command center and will soon hand over a closed store in Wichita, Kan., to the Salvation Army, which wants to use it for a warehouse and distribution.

Charities, too, are sawier, Ms. Palmer said. The American Red Cross used e-mail addresses collected during the Asian tsunami to reach out to previous donors.

It is operating 675 shelters in 23 states and Washington, with 39,000 volunteers and 270 emergency rescue vehicles. It has given help to 161,000 survivors and, together with the Southern Baptist Convention, has served six million hot meals. It also is covering hotel accommodations for many.

The organization originally said it would need $130 million to address the immediate needs, but that assessment has been thrown out, said Devorah Goldburg, a spokeswoman for the Red Cross.

"Typically, we open a shelter, the hurricane happens, people hang out there maybe a week or so and then everyone goes home," Ms. Goldburg said. "This time, there's nothing to go home to."

Oxfam and Mercy Corps, more accustomed to dealing with disasters in far-flung locales than in their backyards, have dispatched small teams to the area to offer expertise and started raising money.

"It had been our assumption that in a domestic emergency, the emergency phase would be effectively handled by the various agencies charged with handling domestic emergencies," said Stephen Greene, a spokesman for Oxfam America. "Katrina has shaken those assumptions for us, and we've responded accordingly in the absence of a prompt and effective initial response."

This is the first time that Oxfam has mounted a relief effort in the United States, though it has long worked with local organizations on projects. It cannot deploy water bladders and tanks to provide clean water because its warehouses and equipment are closer to areas of recurring need in the developing world. Oxfam is working with local churches in Biloxi, Miss., to provide housing for 150 people.

Mercy Corps has sent 12 people to Baton Rouge, several of whom worked in Indonesia after the tsunami. Among the lessons from that disaster were getting the victims involved in the rebuilding process to create income and jump-starting local businesses that provide essential products and services.

"Most of our work in the U.S. in responding to disasters has been to raise money for other organizations," said Neal Keny-Guyer, Mercy Corps' chief executive. "As the scale became obvious, and local and federal government capacity seemed to be overwhelmed, that's when we thought it might be worthwhile to get more involved."

Corporate Giving Reaches $547 Million (USAT)

By Del Jones

USA Today, September 13, 2005

Wal-Mart, Office Depot and General Electric are the largest corporate givers so far to the hurricane relief effort, all near or surpassing $20 million in cash and products, say three organizations that are tracking it.

The U.S. Chamber of Commerce says 145 companies had each pledged $1 million or more in cash and products through Monday. In all, 396 companies have given $409 million, says executive director Stephen Jordan of the chambers' Center for Corporate Citizenship. Companies have collected another $138 million in contributions from customers, for $547 million that will likely soon pass the $565 million raised for tsunami relief. Jordan predicts the total will likely be about $1 billion, surpassing the record $750 million collected after Sept. 11, 2001.

Office Depot is based in Delray Beach, Fla., so it is sensitive to hurricane disasters, CEO Steve Odland says. The company donated $1 million to the American Red Cross before Hurricane Katrina hit. Its total giving is up to $18 million, mostly in products,

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including $4 million in inventory at five New Orleans stores. Office Depot told city officials to take the merchandise, but Odland doesn't know how much looters took.

Wal-Mart has no estimate on how much was looted from its New Orleans stores, but spokeswoman Sarah Clark says those "millions" were not included in Wal-Mart's $20 million total. It has given $17 million in cash, the largest corporate cash contribution to date.

Other large contributions are coming from foundations with corporate roots. The heirs of Wal-Mart founder Sam Walton have given $15 million. Lilly Endowment, which is unaffiliated with Eli Lilly except that Lilly stock is its main asset, has donated $20 million. Lilly, the company, gave $1 million in cash, $1 million in insulin.

The Business Roundtable, an organization of about 160 CEOs of large corporations, says its companies have contributed $111 million in cash and $56 million in products as of Monday.

Compassion motivates most companies. But there are advantages to donating products instead of cash, because the IRS allows a tax deduction greater than the products' costs, says Curt Weeden, president of the Association of Corporate Contributions Professionals. He says it's possible some companies will use the disaster to unload hard-to-sell products.

Companies might be giving to the point that it's starting to hurt. Most giving after the Dec. 26 tsunami was charged to the 2005 budget, and another major disaster this year could mean large cuts to the arts and other more traditional charities as companies react to an "invasion of their pretax profit lines," Weeden says.

Corporations must make money to be viable, and "unlike the government, don't have the luxury to print money," he says.

If corporate giving reaches $1 billion, it will amount to a single day of what the government is spending on Katrina relief. Congress has already approved $62 billion.

Although small relative to government spending, corporate giving is invaluable, Weeden says, especially where it comes to volunteer efforts and intangibles such as large amounts of shelter and space. Navistar has offered a 7,800-square-foot facility with 10 loading docks.

Companies also offer efficiency. Whole Foods Market says it responded faster than any government or non-profit relief group by serving 300,000 meals of gumbo and jambalaya for evacuees and rescue workers. Merck employee Shawn Walls delivered a package of emergency medicine to evacuees in Georgia.

Anheuser-Busch has converted some capacity at four breweries from beer to water and used its own trucks to get 4 million white aluminum cans worth about $1 million to thirsty people. "You can't drink money," Anheuser-Busch spokeswoman Francine Katz says.

Total giving is higher than reported, Jordan says, because many companies give without issuing a press release. But there is an opportunity for public relations. "We hope that not too far in the future, (evacuees) will want to toast our efforts with a can of Budweiser," Katz says.

Perfume maker Creed has donated front-row seats for a concert at Carnegie Hall for auction. "Even as one enjoys luxury, such as a fine fragrance or an exceptional concert, one must also serve humanity," said Emmanuel Saujet, CEO of Creed's American division, in a press release.

Many Texas schools require uniforms, and apparel maker Lollytogs is donating 120,000 uniforms to evacuee students. Atkins Nutritionals, which filed for bankruptcy protection this year, is donating almost $2 million in nutrition bars. Ford Motor is giving used vehicles. General Motors is giving free OnStar use in the area. Hooters waitresses at one Florida restaurant donated 100% of their tips Monday, and another restaurant plans a teeter-totter fundraiser, where customers pledge money depending on how long waitresses can stay on the playground equipment.

Employee giving is not counted as corporate giving, but companies including Baxter, Chubb and Verizon are among those that try to influence their employees with a $2 match for every $1 they contribute. GE says it has collected more than $2 million from employees and retirees in addition to $16 million from the company, including $10 million in equipment such as power-generation and water-purification units.

On Friday, Starbucks Coffee pledged $5 million over five years. Weeden says that underscores a trend he is noticing. Large corporate grants have been slower in coming than after the tsunami or Sept. 11 attacks because companies see Katrina relief as a protracted effort, and they will be asked for more down the road. "It's a long haul," Weeden says.

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Hurricane Nurtures More Models Of Compassion (WP)

By Valerie Strauss

The Washington Post, September 13, 2005

Third-graders are selling pickles at a school in Kalamazoo, Mich., to raise money for Hurricane Katrina victims, and here in Bethesda, high school students are collecting thousands of backpacks for needy children. There are read-a-thons, talent shows and pizza parties being thrown across the country -- all held with the purpose of helping Americans in distress.

But in a marriage of compassion and convenience, some students moved by the victims' plight have also been able to help themselves by earning credits toward their school's service requirement.

Thousands of schools across the nation require some form of service from their students. Maryland was the first and remains the only state that has made it a requirement for a high school diploma. No one is questioning the enormous compassion and can-do attitude among young people. But for those who have supported or opposed mandatory service, the recent outpouring has reopened the debate on whether compassion can be taught.

"Is it a good idea to make it mandatory?" Bernice Lerner, director of Boston University's Center for the Advancement of Ethics and Character, asked about service. "It depends very much on the program. Sometimes they are done very well, and sometimes they are not. If you get the right person in charge, and they are doing it thoughtfully, giving students an opportunity to reflect and have an educational component involved, it can be very strong.

"You want to aim to do some soul-turning."

That may not be what often happens in these programs -- a Frost Middle School student, for example, earned credit hours for collecting trash at a Bethesda community baseball game, learning from the experience that "I never want to be a garbage man."

But supporters say that short of a national disaster, in times when society more naturally obsesses on Brad and Angelina than the underprivileged, schools seeking to turn out well-rounded citizens need to nurture a habit of helping.

Although educators debate whether compassion can actually be taught, many agree that it can be modeled and that it is as important as math and science, said Pamela Meador, coordinator for student service learning in Montgomery County. And something less than a turn of the soul as a result is worthwhile, too.

Detractors say that it is counterintuitive to force people to volunteer and that making it mandatory defeats the very notion of instilling a lifelong habit because it breeds resentment. Also, crafty students can get the requirement done without much thought. Some say it is the responsibility of home and church, not schools, to foster morality. Others worry that some students who do endless community service, well beyond the requirement, are simply trying to pad their college applications.

And then, Meador said, there are the parents who "complain that their kids are just too busy for this. He has basketball, tennis, no time."

In Montgomery, which has the state's largest public school system, students can choose from dozens of approved programs or find one themselves to complete their service.

They are encouraged to start earning their required 60 credit hours of public service early in middle school, in large part because it is easier to learn good habits at a younger age, said Teresa Salzano, the student service coordinator at Frost.

Salzano opposed the mandatory program when it began 13 years ago, but she has since changed her mind, saying she has seen children learn valuable lessons about themselves and the world by performing service. One of the important ones is that even a young child can make a difference in someone else's life.

"Some students may not see value in it until they actually do it," she said. "And some may never see the value. But enough do."

Katrina Hauprich, 12, a seventh-grader at Benjamin Banneker Middle School in Burtonsville, is one who does. Although she has until the end of her senior year to complete her requirement, she already completed it -- by working with deaf students this summer -- and wants to continue performing service.

"It's really fun, usually," she said. "I don't do it just for the hours. You get to meet a lot of kids. It's fun to work with them."

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Although some students may think that service programs are a new form of torture devised by their teachers, the push for community service has been developing since the start of the 1900s when school systems did seek to teach morality, believing such lessons would create more well-rounded individuals.

There are numerous small studies showing various academic benefits of public service projects, including a decline in absenteeism and an improvement in grades, but nobody knows how long the lessons last and whether these young people grow into adults who readily engage in projects to help others.

Still, the short-term outlook has many teachers, principals and parents across the country thrilled with the voluntary student reaction to Katrina and impressed with the efforts to raise funds.

"Students are also going out of their way to help each other, which has reinforced a positive culture in our school," Scott Murphy, principal of William H. Farquhar Middle School in Olney, wrote in an e-mail.

And, he quipped, it's "a nice alternative to bullying."

Congress Delays Plans To Extend Bush's Tax Cuts (WSJ)

By Brody Mullins

The Wall Street Journal, September 13, 2005

WASHINGTON -- In a major shift of priorities after Hurricane Katrina, Republican leaders in Congress have delayed plans to extend dividend and capital gains tax cuts and may shelve them for the rest of the year.

The House and Senate had planned a fall legislative agenda around a massive budget bill that extended to 2010 the 15% tax rate on dividends and capital gains signed by President Bush two years ago. The cut was one of the president's signature initiatives and is seen inside the White House as a key part of his economic legacy.

The 15% rate isn't scheduled to expire until the end of 2008 -- meaning there's still time to push an extension through. But Republicans, chastened by the costs of rebuilding the Gulf Coast and negative public assessments of Washington's initial response to the hurricane, have decided that taking any action on the bill is politically untenable at least until late October in the suddenly changed political and budgetary environment.

"Events have consequences," said Bill Hoagland, the top budget aide to Senate Majority Leader Bill Frist of Tennessee. "The overall environment here has been shaped by the large [Katrina] spending bills and I'm starting to sense that some people are getting a little nervous about the deficit."

In recent days, Congress has approved $62.3 billion in emergency aid for Katrina, and yesterday Senate Budget Committee Chairman Judd Gregg of New Hampshire said the Bush administration is likely to request another $50 billion within a month.

Also in question with the delay are prospects for significant new curbs on Medicaid, the joint federal-state health-care program for the poor. The budget bill would cut $10 billion from the program over the next five years, but a bipartisan group of senators is calling such cuts inappropriate at a time when tens of thousands of poor people have been displaced from their homes.

Lawmakers do appear likely to approve a temporary measure exempting millions of middle-income taxpayers from paying the so-called Alternative Minimum Tax, which has increased the tax burden for a growing portion of Americans in recent years. Without such action, which enjoys strong support among senators of both parties, those middle-income taxpayers would face a significant tax increase next year.

Tax-writing committees on Capitol Hill also are looking to act quickly on new, targeted tax relief to help residents and businesses in storm-stricken areas get back on their feet. Finance Committee Chairman Charles Grassley of Iowa and ranking Democrat Max Baucus of Montana yesterday unveiled a $5 billion to $7 billion package of tax relief for individuals that would make it easier for victims to get access to cash.

Moreover, congressional Republicans and the White House remain in favor of ultimately extending the dividend and capital gains tax cuts, which they see as a boon to economic growth.

Still, a delay in extending tax cuts, coming at a time when President Bush's popularity has dropped in polls, could introduce new doubts about whether the president's tax cut will outlast his presidency. The White House has considered the early part of the president's second term its most auspicious window for action. Next year, Congress will be enmeshed in midterm election

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pressures. After that, the president faces the prospect of seeing his influence ebb as a lame duck with the nation looking toward the election of his successor in 2008.

A separate, 17-point bill that congressional leaders hope to usher through the Senate this week would allow flood victims to withdraw funds from retirement plans without penalty, give them more time to pay their taxes and give businesses tax credits for employing workers from affected areas and enhanced deductions for donations of food and books. "We want to give the proper tools to businesses that will be hiring displaced workers to create new jobs," Sen. Baucus told reporters.

Lawmakers in both chambers also plan further measures to allow displaced students to deduct room and board from their taxable income, and to spur rebuilding efforts through the issuance of tax-exempt bonds and acceleration of capital expensing and depreciation for companies involved.

"These provisions will help revitalize business activity and employment in the affected areas, restore the states' ports and trade capacity and rebuild the energy infrastructure," said House Ways and Means Chairman Bill Thomas of California and top Democrat Rep. Charles Rangel of New York in a joint statement.

Meanwhile, the administration announced it would consider cutting tariffs on lumber from Canada and cement from Mexico to guard against price spikes that might accompany the post-Katrina rebuilding effort. The tariffs have been in effect for years amid complaints from domestic producers about dumping of low-priced goods from across the border. But a Treasury spokesman said the administration can adjust the tariffs under special circumstances.

Republicans on Capitol Hill previously had delayed a vote on permanent repeal of the estate tax. That vote had been scheduled as the Senate's first order of legislative business after its summer vacation, but Majority Leader Frist feared that it looked unseemly to approve a tax cut affecting the most affluent 2% of Americans at a time when thousands of poor New Orleans residents were displaced and suffering as a result of Katrina.

The Senate may return to the issue this fall, but under changed political dynamics that may lead to a different outcome. Prospects were already dim for attracting the 60 votes needed to overcome a Democratic filibuster against full repeal. Now there's new impetus behind compromise talks that would preserve the levy for a reduced number of the most valuable estates. Legislative aides in both parties agree that the Democrats' hand has been strengthened in those talks, which include Sen. Baucus, Sen. Grassley and Republican Sen. Jon Kyl of Arizona.

The large, so-called reconciliation budget bill containing the capital-gains and dividend-tax-cut extensions had become a prized legislative vehicle. Under Senate rules, it cannot be held up by a filibuster, which means that passage requires just 51 votes rather than 60.

That means that by delaying its consideration -- and perhaps scrapping it for the year -- the Senate has cast a cloud over numerous provisions that lawmakers had hoped to attach aside from the dividends and capital-gains tax-cut extensions.

Other tax provisions in question include a savings credit for low-income taxpayers valued at $5 billion over four years. The credit encourages low-income Americans to save money for retirement by matching as much as 50% of contributions up to $2,000 to 401(k) and IRA plans. About five million Americans use the credit each year, according to H&R Block. It is due to expire at the end of 2006.

The delay in the budget bill also threatens dozens of other issues that lawmakers hoped would hitch a ride on the legislation because the rules for approval make passage easier.

Sen. Grassley, for instance, has planned to include a measure cracking down on tax-exempt organizations. Sen. Frist wants to squeeze a few billion dollars from the guaranteed student loan program to pay for scholarships for low-income Americans earning advanced math, science and engineering degrees. House Education and Workforce Committee Chairman John Boehner of Ohio wants to add pension-reform legislation. And Senate Commerce Committee Chairman Ted Stevens of Alaska plans to use revenue from auctioning off new airwaves to create a billion-dollar fund to upgrade television sets for low-income Americans when television broadcasters switch from sending their signals over analog to digital.

If Congress fails to return to the budget reconciliation bill, those issues will face a more difficult future passing as stand-alone measures. Sen. Stevens's digital television fund, for example, would have to remain a part of a complicated digital television bill that has languished on Capitol Hill for years.

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According to the Securities Industry Association, the lower rates enacted in 2003 for capital-gains and dividend taxes saved 24 million households an average of about $950 on their 2004 taxes. The reduced rates for dividends, meanwhile, seem to have encouraged more companies to offer them. In 2004, 113 publicly traded companies decided to begin paying dividends; previously, an average of 22 companies a year added dividends, according to the industry trade group.

House Appropriators Ready To Act On CR Request (RC)

By Jennifer Yachnin

Roll Call, September 13, 2005

In what has become an annual tradition, House and Senate lawmakers will likely need to pass at least one continuing resolution to fund government operations. As the clock winds down on fiscal 2005, the chambers have completed work on only two of 11 spending bills.

While House leadership has yet to formally seek a CR, the chamber's appropriators are nonetheless readying for the inevitable request.

House Appropriations spokesman John Scofield said the measure will be crafted to hold down federal spending levels.

"We are preparing a resolution that would fund government programs at the lower of House- or Senate-passed [spending levels] or last year," Scofield said. The House passed its version of the spending bills prior to the July Fourth recess.

"We're serious when we said we're committed to sticking to the budget," he later added.

Across the Capitol, Senators resumed consideration of the Commerce, Justice and science spending bill Monday night, expected to be the sixth appropriations measure that will be completed in the chamber.

A Senate Appropriations aide said the chamber is focused on completing the remaining measures and has not yet prepared a resolution to continue funding after Sept. 30.

"If we need to continue things, then we'll do short-term CRs," the aide noted, adding that it is too early in the process to provide any details on the resolution itself.

In the meantime, House appropriators remain optimistic that the individual spending bills will be completed in coming months, circumventing the need for a consolidated appropriations measure.

"Our preference is still to do these bills one by one," Scofield said, noting that House Appropriations Chairman John Lewis (R-Calif.) has committed to not creating omnibus legislation.

Although Congress' workload has increased significantly in the wake of Hurricane Katrina, the additional efforts are not expected to halt the appropriations process.

Citing the passage of individual spending bills in the wake of the Sept. 11, 2001, terrorist attacks, which similarly required lawmakers to pass significant emergency spending legislation, Scofield noted: "There's precedent for this."

However should both chambers fail to come to agreement on legislation including the Energy and water spending bill, the House Appropriations panel is prepared to seek full-year continuing resolutions to fund the affected agencies and programs, Scofield said.

Survivors Could Get 401(k) Access (USAT)

By Kathy Chu

USA Today, September 13, 2005

The IRS is expected to ease 401(k) restrictions this week to allow those affected by Hurricane Katrina to tap into their retirement funds.

Representatives of organizations involved in retirement issues — including Profit Sharing/401(k) Council of America, T. Rowe Price, Mercer Human Resource Consulting and Spark Institute — say they expect the IRS to announce this move in the next few days.

In a statement, the IRS would say only that it is "looking for ways to provide as much help as possible to Katrina victims."

Retirement-plan providers believe the IRS is likely to say:

•Hurricane Katrina would be considered a hardship, and those affected could qualify for a hardship distribution from their 401(k) plans.

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"It's both the magnitude of the elements of the disaster and the length of time it will take to recover" that is prompting this, says Thomas Schendt, a partner at Alston & Bird law firm, which represents financial-services providers.

•Employers and plan providers could ease the rules on paperwork normally required to get a loan or hardship distribution. This would allow workers to get the funds faster, says Deborah Novotny, a T. Rowe Price vice president.

•Companies that don't currently allow 401(k) loans or hardship distributions would be able to provide these withdrawals. Currently, 95% of large employers allow loans and nearly the same percentage allow hardship withdrawals, says Hewitt Associates. Smaller companies, however, are less likely to offer these withdrawals.

Employers and retirement-plan providers wouldn't have to adopt the IRS' guidance, but they could use the eased restrictions to get funds to cash-strapped employees, according to Larry Goldbrum, general counsel for Spark.

Already, Fidelity Investments says it has seen a "significant increase" in hardship-withdrawal requests because of the hurricane.

Retirement funds make up a large chunk of many people's assets. Generally, workers should not take this money out. But "when you don't have a house and you have kids to feed, your priorities change," says Ed Ferrigno, a vice president at Profit Sharing/401(k) Council of America.

Monday, Sens. Max Baucus, D-Mont., and Charles Grassley, R-Iowa, announced a bill that would raise 401(k) loan limits and waive the 10% early-withdrawal penalty for people who have not yet reached age 591/2.

Inside Politics (WT)

By Greg Pierce

The Washington Times, September 13, 2005

Twisting the news

Los Angeles Times pundit Michael Kinsley, who used to work for CNN, says the network is coaching guests to "get angry" when they go on the air to discuss Hurricane Katrina.

"The TV news networks, which only a few months ago were piously suppressing emotional fireworks by their pundits, are now piously encouraging their news anchors to break out of the emotional straitjackets and express outrage," Mr. Kinsley said. "A Los Angeles Times colleague of mine, appearing on CNN last week to talk about Katrina, was told by a producer to 'get angry.' "

Mr. Kinsley's words were reported yesterday by the online Drudge Report. CNN's political stance was more or less confirmed by a New York Times article yesterday that suggested CNN host Anderson Cooper was heroic for scolding a Democratic senator who failed to condemn the Bush administration.

The New York Times article, written by Elizabeth Jensen, said: "Mr. Cooper's Sept. 1 interview with Sen. Mary L. Landrieu, Democrat of Louisiana, marked a turning point in the tone of hurricane coverage as he snapped when she began thanking federal officials for their recovery efforts.

" 'Excuse me, senator, I'm sorry for interrupting,' Mr. Cooper interjected. 'I haven't heard that, because, for the last four days, I've been seeing dead bodies in the streets here in Mississippi. And to listen to politicians thanking each other and complimenting each other, you know, I got to tell you, there are a lot of people here who are very upset, and very angry, and very frustrated.

" 'And when they hear politicians slap -- you know, thanking one another -- it just, you know, it kind of cuts them the wrong way right now, because literally there was a body on the streets of this town yesterday being eaten by rats because this woman had been laying in the street for 48 hours."

The article did not say how Mrs. Landrieu responded, but she hasn't had a nice word to say about President Bush or federal relief efforts since then.

Politicizing Katrina

"So, while many Americans were busy contributing money, clothing and other necessities for hurricane-devastated Gulf Coast residents, what was Sen. Chuck Schumer up to?" the New York Post asks in an editorial.

"Raising money off the backs of Katrina's victims -- for the Democratic [Senatorial] Campaign Committee," the newspaper said.

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"In one of the more cynical tricks we've seen lately, Schumer's DSCC urged visitors to its Web site to sign a petition urging the firing of Federal Emergency Management Agency Director Michael Brown, the focus of much of the criticism of the federal response to Katrina. ...

"A click on the petition opened a page requesting a donation to the DSCC, the party organization focused on recruiting and supporting Senate Democrats.

"Only after the press blew the whistle did the tasteless scheme end. The committee yanked the link and agreed to donate any funds raised to charity. ...

"Chuck Schumer should be ashamed of himself."

The weatherman

Former Vice President Al Gore has condemned the Bush administration for its response to Hurricane Katrina, and suggested that Mr. Bush was responsible for the storm, which Mr. Gore attributed to global warming.

"When the corpses of American citizens are floating in toxic floodwaters five days after a hurricane struck, it is time not only to respond directly to the victims of the catastrophe, but to hold ... the leaders of our nation accountable," Mr. Gore told environmentalists Friday at the Sierra Club's national convention in San Francisco.

Mr. Gore had been scheduled to give a speech to state insurance commissioners in New Orleans last weekend about the likelihood that global warming will spawn increasingly deadly hurricanes. He decided to take his speech to San Francisco after that conference was canceled, the Associated Press reports.

"The warnings about global warming have been extremely clear for a long time. We are facing a global climate crisis. It is deepening. We are entering a period of consequences," Mr. Gore said.

Spend, spend, spend

"With almost no debate and with precious few provisions for oversight, Congress has passed President Bush's mammoth $62 billion request for emergency Katrina relief," John Fund writes at www.OpinionJournal.com.

"House Speaker Denny Hastert says the final total will 'probably [be] under the cost of the highway bill' that Congress passed last month with a price tag of $286.4 billion," Mr. Fund said.

"Despite such sums, there are few calls for offsetting cuts in other programs, apart from anti-war opportunists who see in Katrina a chance to undermine the Iraq effort. Last week Sen. Tom Coburn of Oklahoma asked White House Budget Director Josh Bolten if he planned to continue to pursue budget reductions the administration had already proposed in its January budget. Mr. Bolten said he 'didn't have time' to worry about that.

"All this leaves Mr. Coburn and other budget hawks wondering what has happened to what might be called 'the Republican wing of the Republican Party.' 'The president could exercise leadership by insisting that we set priorities and offset the cost of Katrina relief by making changes elsewhere,' says Mr. Coburn. 'Sadly, we don't have that leadership.'"

Top priority

By a 3-to-1 margin, Americans say border control is far more important to national security and fighting crime than gun control, according to a nationwide Zogby survey.

The survey, commissioned by the Second Amendment Foundation, found that 70 percent of the respondents said border control is more important, while only 23 percent favor more gun control. Seven percent of the respondents were undecided.

The survey was conducted Sept. 6-7 by randomly contacting more than 1,150 households around the country. The margin of error was 2.9 percent, the polling firm said.

Mayoral hopefuls

The four Democrats vying for the chance to face New York Mayor Michael R. Bloomberg in November spent their final hours before today's primary shaking hands at subway stations and senior centers, hoping to make an impression that will translate into votes.

Gifford Miller, Anthony Weiner and C. Virginia Fields attended memorial remembrances, but Fernando Ferrer had lunch and a photo-op with the Rev. Al Sharpton, who has endorsed him.

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A poll by the Quinnipiac University Polling Institute released yesterday found Mr. Weiner in second place with 25 percent to Mr. Ferrer, who has 32 percent. Thirteen percent of likely Democratic voters in the survey were undecided. The winner needs 40 percent to avoid a runoff in two weeks.

GOP Arrows Being Aimed (HILL)

By Patrick O'Connor And Roxana Tiron

The Hill, September 13, 2005

With Rep. Peter King (R-N.Y.) emerging as the clear leadership favorite to become the next chairman of the Homeland Security Committee, rank-and-file Republican opponents are questioning his loyalty to the party in a last-gasp effort to derail his candidacy.

King's GOP opponents have compiled a one-page collection of negative remarks that King has made over the years about members of the Republican Party. The sheet, which was obtained by The Hill, includes a King quote from 1996 criticizing then-House Speaker Newt Gingrich (R-Ga.) and then-Majority Leader Dick Armey (R-Texas) for comments the two made describing union leaders as "big labor" and "union bosses."

"It's a Southern, anti-union attitude that appeals to the mentality of hillbillies at revival meetings," King told the Memphis Commercial Appeal in response to comments made by Gingrich and Armey.

The sheet also includes a King quote calling members of the historic Republican class of 1994, who took part in the first House GOP majority in nearly four decades, "self-righteous."

"Each of them thinks he has received tablets from God," King told Insight magazine in July 1996.

In addition, the one-pager lists a 2000 King quote asserting that Sen. John McCain (R-Ariz.) would receive the Catholic vote during his primary race against then-Texas Gov. George Bush because Bush was "willing to shake hands with bigots to get votes," in reference to Bush's controversial speech at Bob Jones University in Greenville, S.C.

The list of quotes comes as conservative Republicans fight to ensure that the new chairman of Homeland Security shares their commitment to spending restraint.

"Keeping homeland funding free of earmarks has been a recent struggle," one Republican aide wrote in an e-mail. "What happens if the committee is run by someone who thinks that buying fire ladders is a federal government responsibility?"

King and other candidates for the post have submitted their pitch letters for the chairmanship to the conservative Republican Study Committee (RSC). The committee does not plan to meet until tomorrow, the same day candidates will make their presentations to the Steering Committee, aides said.

Last year, House conservatives questioned Rep. Ralph Regula's (R-Ohio) commitment to fiscal responsibility during his race for the Appropriations Committee gavel and former Veterans Affairs Chairman Chris Smith (R-N.J.) was dismissed from his chairmanship for ignoring spending limits set by leadership.

King, however, said he does not think that the list of quotes is going to hurt his candidacy for the Homeland Security gavel.

"I am more than willing to be judged on my entire record," King told The Hill.

King is quick to point out that no one has done more for the Bush administration and that no one "has been more loyal to Denny Hastert [R-Ill.]," the House Speaker, than he has.

"I do not think anyone supported him more than I did," he said, adding that he has shown his loyalty long before he was being considered for any chairmanship.

King earned considerable praise from GOP leaders when he defended embattled Majority Leader Tom DeLay (R-Texas) this spring.

As for the quotes, he said that they were indicative of "very turbulent times" for the party in 1996, when Gingrich was in his first term as Speaker of the House. At the time, King complained that the GOP was too focused on the gains it had made with Southern voters while failing to realize the importance of union members of the North — urban Catholics and voters of Irish and Italian descent.

"It is no secret that I said this," King said. "They were very turbulent, controversial times. That all changed when Denny Hastert became Speaker."

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He also suggested that a look at his entire record would show that "it is pretty conservative."

"I do not think too many people took it personally," King added, recounting that Rep. Spencer Bachus (R-Ala.), a friend, sent him a box of old shoes, as a funny retort to King's "barefooted hillbillies" remarks.

The 28-member Republican Steering Committee is set to meet tomorrow to interview each of the candidates and likely choose a chairman.

In the meantime, the candidates — Reps. Curt Weldon (Pa.), John Linder (Ga.), Dan Lungren (Calif.) and Don Young (Alaska) — are scurrying to meet with as many members of the Steering Committee as possible before tomorrow's presentations.

Rep. Mac Thornberry's (Texas) name also has been circulated, but his office did not return calls to confirm his candidacy. Unlike the other contenders, Thornberry is not a member of the Homeland Security Committee; he sits on the House Armed Services Committee.

Over the August recess, both King and Weldon have intensified their public campaigns for the post. The other candidates preferred a member-to-member approach behind the scenes.

"There is a buzz in [leadership] circles that Peter King is the favorite," one GOP leadership aide said. "But it's been very difficult to keep a handle on it with all the Katrina activity."

"All I am hearing is good things," King said, adding that he is reluctant to believe anything until a final decision is made. "I could not have hoped to be in a better position than I am now."

Party fundraising, one of the major factors in most leadership races, has yet to become an issue for King, who readily admits he has not focused on filling the party's or his GOP colleagues' campaign coffers over the years.

"I keep waiting for the fundraising issue to come up, but nobody brought it up yet," he said. King does not have a leadership political action committee.

Instead, King bases his candidacy on an emotional appeal as a New Yorker whose life was changed dramatically by the Sept. 11 attacks.

He also highlights the work he has done as chairman of the Emergency Preparedness Subcommittee and the role he played in revising the formula that ensures homeland-security grants are based on threat analysis.

In contrast, Linder, who is also a member of the exclusive Ways and Means Committee, bases his candidacy largely on the significant contribution he has made in maintaining and expanding the House majority. Linder served as NRCC chairman during the 1998 election cycle, when Republicans unexpectedly lost a significant number of seats in the House.

In his letter to the Steering Committee obtained by The Hill, Linder stressed that, over the past five cycles, he has written more than $1 million in checks to the National Republican Congressional Committee. Linder also has given $350,000 directly to candidates in competitive races. He attached nine pages about his fundraising achievements to his letter to the Steering Committee.

Pedro And W (RC)

By Mary Ann Akers

Roll Call, September 13, 2005

Did Rep. Peter King (R-N.Y.) really chew out President Bush over the phone? The short answer is yes — but not really.

It all began when the fast- (and tough-) talking New York Republican greased the wheels for some New York firefighters who were dispatched to New Orleans for rescue-and-cleanup patrol after Hurricane Katrina. The firefighters wanted to meet the president during his brief stopover in the wiped-out city, so they called their man King to see if he could put the fix in.

New York City Fire Department Deputy Chief Bob Maynes called King on Sunday to say that he heard Bush was coming to the Big Easy, and that he and his team would like to meet the commander in chief. Any strings to be pulled, Congressman?

"I figured the odds were zero," King said. But he put a call into the White House anyway, then went on about his business, attending a 9/11 anniversary candlelight vigil Sunday. As he walked back to his car after the vigil, he retrieved an hours-old voice mail message from Maynes saying something like, "Thanks for your help. Looks like we might get to meet the president after all."

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Excited for his boys, King called Maynes back to see if they were successful. Battling overloaded mobile phone service, he finally got through on the fourth try and was startled — and maybe a little irked — to hear a voice saying, "You should be down here with your men."

What?! "Hey, I was trying to set up the meeting for you! Did it work out?" replied a slightly perturbed King. (Or at least that's what he recalls saying. HOH has a hunch that the language was a bit stronger.)

Again, the voice came back: "Pedro, how come you're not down here?" By now, the jig was up: It was W himself, who nicknamed King "Pedro" some time ago. And by now, Pedro was shaking in his boots.

"I thought I was talking to the fireman!" King said, laughing with embarrassment. He says he told Bush, "I'm sorry, I didn't know it was you, Mr. President."

"Gee, this guy doesn't even know who he's talking to!" Bush said to the New York firefighters, laughing his trademark laugh.

Bush, who had obviously grabbed the phone when Maynes saw that it was King calling, seemed to forgive Pedro. King said the president thanked him for being at the White House two days earlier for the medal ceremony honoring cops and firefighters killed in the line of duty on 9/11, and said of the firefighters, "These New York guys are great. They're the best."

Maybe a couple of photo-ops with those great, best guys in uniform could have boosted Bush's approval ratings after Katrina struck!

Partisan Politics by Wayside. It's not every day that a Democratic donor writes a $50,000 check to a Republican Member of Congress. But it happened, on Sept. 2, when House Speaker Dennis Hastert (R-Ill.) auctioned off one of his collectibles at the Kruse International Labor Day auto show in Indiana after taking heat from Democrats and journalists for initially deciding not to return to Washington, D.C., to approve Katrina relief legislation, and for saying it "doesn't make sense" to spend billions of dollars to rebuild New Orleans.

The guy who bought Hastert's 1977 Lincoln Continental is Houston attorney John O'Quinn, who also has written major checks this year to groups like the Progressive Patriots Fund, the campaign of Sen. Hillary Rodham Clinton (D-N.Y.) and the failed bid by former Texas Rep. Martin Frost to become Democratic National Committee chairman.

Hastert turned over every Democratic penny of his 50 grand to the American Red Cross hurricane relief mission. "It's nice to see people put partisanship aside and put money towards Hurricane Katrina relief charities," Hastert spokesman Ron Bonjean said.

Coburn: Can't We All Just Get Along? Sen. Tom Coburn (R-Okla.) had a Rodney King moment during confirmation hearings for Judge John Roberts on Monday.

During his opening statement on the conformation's first day of hearings, Coburn got choked up during an appeal for bipartisanship when he said, "When I ponder our country ... my heart aches for less divisiveness, less polarization, less finger-pointing, less bitterness and less mindless partisanship, which, at times, sounds almost hateful to the ears of ordinary Americans."

But not everyone was taken in by the display of emotion. Keen observers noticed that moments before, Coburn had been doing a crossword puzzle from his seat in the hearing room. One snide Democratic observer who doubted the sincerity of Coburn's speech said, "And his head hurts for easier crossword puzzles."

He's Baaack. Former Sen. John Ashcroft (R-Mo.), after doing his best Dick Cheney routine, is out of hiding and back in the public spotlight. On Monday he made his first media appearance since leaving the Justice Department in February, appearing as a color commentator on CNN alongside veteran journalist-talking-heads Jeff Greenfield and Jeffrey Toobin.

And if that's not enough for you, hang on to your seats. The former attorney general and member of the Senate Judiciary Committee, who formed the Ashcroft Group earlier this year, is expected to be doing lots and lots of TV in the weeks and months ahead.

"He's enjoyed his hiatus, but he's one of the most experienced negotiators of the Washington terrain. Folks have been asking for him and now he's happy to comment, consult and advise," boasts his former spokeswoman, Juleanna Glover Weiss, who also joined the newly up-and-running Ashcroft Group.

Republicans Win Again. Republicans retained their coveted Roll Call Cup on Monday in the annual Congressional Ryder Cup competition, which this year raised money to benefit charities helping with Hurricane Katrina relief.

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The GOP golfers, led by Rep. Mike Oxley (Ohio), won 10.5 to 9.5 to keep the title. The players raised $100,000 for the First Tee program to benefit youth. An additional $20,000 will be donated by the golfing Members to the hurricane-relief charity of their choice.

Tropical Storm Ophelia Slows, But Carolinas Stay Prepared (NYT/AP)

By The Associated Press

The New York Times, September 13, 2005

WILMINGTON, N.C., Sept. 12 (AP) - Tropical Storm Ophelia stayed along the coast of the Carolinas on Monday, dropping slightly in strength from a hurricane as it barely moved toward land.

Although the storm was centered more than 200 miles offshore, nonresidents were ordered to leave one of North Carolina's Outer Banks islands and 300 National Guard troops were sent to mustering points along the coast. School systems in five counties closed, even though the storm's eye was predicted to remain offshore until Wednesday.

Many people acknowledged that they were paying closer attention to the storm because of the vast destruction caused by Hurricane Katrina along the Gulf Coast. Others insisted they would not let the milder storm disrupt their plans.

"My family is all coming in for a family reunion, including my 84-year-old mother," said Dodie Curtis, 62, of Guilford, Me., on the shore at Wrightsville Beach. "This is our family thing and we don't plan to go anywhere unless it gets a lot worse."

Any appearances to the contrary, Gov. Michael F. Easley said the state was doing its normal storm preparation.

"We have, unfortunately, a great deal of experience with hurricanes," Mr. Easley said. "I think one of the things people in North Carolina will be able to recognize is that this is the exact same pattern we always follow."

The storm was a minimal hurricane early Monday with sustained winds of 75 miles an hour, but by midday it had weakened to about 70 m.p.h., 4 m.p.h. below the threshold, the National Hurricane Center said.

Meteorologists warned, though, that the system had the potential to regain hurricane strength over the next day or so. A hurricane warning was issued from Cape Lookout south to Edisto Beach, S.C.

At 11 p.m., the storm was centered about 140 miles east-southeast of Charleston, S.C., and 210 miles south-southwest of Cape Lookout, the hurricane center said. It was moving northwest at about 3 m.p.h., with a gradual turn to the north expected in the next 24 hours.

With the storm's path uncertain, Gov. Mark Sanford of South Carolina called for a voluntary evacuation of oceanfront and riverside areas in his state's northeastern corner on Monday. Mr. Sanford was joined by officials in North Carolina's adjacent Brunswick County.

The storm's slow movement is its primary danger, bringing the likelihood that it will hang over eastern North Carolina for days, Mr. Easley said. Floods, prolonged power failures and severe wind damage were possible as the storm moved north from Wilmington to the Pamlico Sound, he said.

Mr. Easley ordered the National Guard to eastern North Carolina on Sunday, accompanied by swift-water and urban search and rescue teams, as well as seven helicopters.

He also ordered a mandatory evacuation of visitors from fragile Ocracoke Island, which is reachable only by ferry. Highway Patrol officers helped with the Ocracoke evacuation on Monday.

The Coast Guard closed state ports in Morehead City and Wilmington on Monday.

"I don't think I would be human if I said Katrina had no impact on me," Mayor Spence Broadhurst of Wilmington said after emerging from a meeting where he helped decide to call for voluntary evacuations.

Democrats Taking Offensive Posture (RC)

By Erin P. Billings

Roll Call, September 13, 2005

With Republican poll numbers falling and the nation focusing increasingly on domestic policy, House Democrats are feeling new political confidence and taking on a rare offensive posture against the GOP.

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Through mid-August, Democrats were feeling emboldened as public confidence dipped in the U.S. handling of the Iraqi conflict, Social Security reform and Congressional ethics. Then Hurricane Katrina brought mounting questions about the Bush administration's response to the disaster.

"Hurricane Katrina has certainly changed the political landscape in the short term," said one Democratic leadership aide. "Whether it does in the long term is another question."

Minority Leader Nancy Pelosi (D-Calif.) was the first to call on Congress to return to session early to pass a relief package for the disaster area and led her party's call for Michael Brown, the then-director of the Federal Emergency Management Agency, to step aside.

Democrats were also quick to call for Congressional hearings and for a push back on the regular agenda to make room for Katrina-related legislation.

This week, Pelosi will lead the Democratic assault once again, scheduling at least three events on key issues on which Democrats charge the GOP has faltered. Democrats also will continue to raise questions about the Republican management of the federal government at a time when many Americans are looking for assistance.

Pelosi and other leaders will reiterate their call for the creation of a nonpartisan, independent commission to investigate the hurricane response, to urge creation of an independent anti-fraud panel to ensure proper oversight of the contracts awarded for the relief effort and to decry price gouging in the wake of rising fuel costs. The party also will announce the creation of a Democratic relief package for the victims of the hurricane.

One senior Democratic staffer said that Democrats feel not only that they are in a position to stake out some political ground, but that Pelosi is actually being heard.

"There are some opportunities here," said the aide. "The president's numbers are at an all-time low. We are showing that we can lead, and that we're the ones who are listening."

The latest polling by Newsweek Magazine shows President Bush's job approval rating at 38 percent, and reports that just 28 percent are satisfied with the way things are going. It also showed hopeful numbers for Congressional Democrats, with 50 percent of Americans preferring Democratic candidates versus 38 percent for Republicans.

The same survey also showed that in the wake of Hurricane Katrina, 57 percent of Americans have lost confidence in the government's ability to handle another disaster.

One top Republican House staffer said the GOP acknowledges that the mood of the country is not high given the war, Katrina and gas prices. But the staffer said that Republicans will rebound by passing legislation to help the victims, rebuild the Gulf Coast and bolster fuel supplies.

"If we can show we are working to solve the problems, we will regain our ground," the aide said. "There are some real opportunities."

A top Democratic House aide acknowledged that since the Sept. 11, 2001, terrorist attacks, Democrats have struggled to gain an upper hand against a GOP majority that bills itself as strong on security and values. But as Bush's poll numbers have dipped and confidence in the war has fallen, the aide said, Democrats have been given a rare window of opportunity.

"When he's weak, he can't beat us up and call us obstructionists," this aide said. "He's not in a position of strength."

"It all stems from Iraq," the staffer added. "The voting public just doesn't like what's happening in Iraq. ... It's created a dynamic that's problematic for them and beneficial to us."

As such, Republicans have accused Democrats of using the tragedy of Katrina for partisan gain.

"This is the classic example of the Democrats throwing as much mud against the wall to see what sticks," said Ron Bonjean, spokesman for House Speaker Dennis Hastert (R-Ill.). "Our strategy is not to take the bait and move forward to help these people. Over time, people will grow tired of their antics."

But Democratic leaders are rejecting the accusation. Rather, they insist they are simply working to protect Americans from any future catastrophe.

"It is clear that too many lessons went unlearned after September 11," Pelosi and Senate Minority Leader Harry Reid (Nev.) wrote in a letter to Roll Call to be published Thursday. "Democrats are speaking out and will continue to do so, demanding more

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from President Bush and Congress to ensure that we do everything necessary to fulfill our government's basic obligation to protect Americans from danger. We can't change the past, but we can change our future. And there is no excuse not to."

And while they appear to be making some headway, Democrats acknowledge that they can't get overly confident just yet. The party remains divided on the Iraqi conflict, among other things. But Democrats can strike hard against the GOP on core domestic issues including Social Security, federal assistance to disaster victims, the economy and ethics.

A senior Democratic aide said the test for the party and of its strength will really come in the months ahead.

"All four of those issues give Democrats a perfect opportunity to paint the 'us versus them' picture," this staffer said. "This is what Democrats are about. It's a matter of do we capitalize on it."

Inside The Beltway (WT)

By John McCaslin

The Washington Times, September 13, 2005

God before GOP

We've learned of a major shake-up at the Washington-based National Black Republican Association, with six of the 10 NBRA board members resigning in recent days over various disagreements.

"The organization and its current leadership is heading down a much different direction than was envisioned by myself and the other board members," says Christopher R. Arps.

Similarly, the Rev. Eric M. Wallace, chairman of the African American Republican Council of Illinois and a candidate for lieutenant governor, writes in a resignation letter obtained by Inside the Beltway:

"If you guys decide to formulate another organization based on actually helping our people, let me know. If you choose people with a servant's heart, then I am in. I serve because of my relationship with my Savior. I am a Christian first, a father second, a minister and scholar third, and a black man fourth, and then a Republican. Heaven help me if I ever get these out of order."

Three resigning board members, we're told, frowned on signing a "statement of commitment" sent to them by NBRA Chairman Frances Rice, concluding with: "My failure to sign this statement confirms that I am not a member in good standing of the NBRA and am not eligible to be an officer in the NBRA or a member of the NBRA Board of Directors."

Board member Bill Calhoun, in a memo to Ms. Rice also obtained by this column, wrote: "Regarding your request for me to sign a letter of commitment, is this being requested of all board members? This appears discriminatory."

Meanwhile, there also were questions surrounding approval of the latest news release issued by the NBRA, praising President Bush's leadership after Hurricane Katrina.

"President Bush is to be commended for deploying all of the resources of the federal government to help the refugees," Ms. Rice stated in the release.

Hurricane Haley

Like the resulting popularity that 9/11 handed former New York Mayor Rudolph W. Giuliani, Hurricane Katrina similarly has shined the national spotlight on Mississippi Gov. Haley Barbour.

So much so that Mr. Barbour, former chairman of the Republican National Committee, is now ranked third among Republicans -- behind Sen. George Allen, a former governor of Virginia, and Massachusetts Gov. Mitt Romney -- in the 2008 White House Power Rankings, as posted by the Jockey Wire at PoliticalDerby.com.

"There is no easy way to say it," it states. "Despite the disaster and carnage of Hurricane Katrina, she has been a political gift to the affable Mississippi governor. In contrast to his counterpart in Louisiana, Barbour has earned rave reviews for his handling of the crisis. And ... he cannot ignore the fact that he suddenly looks more presidential than ever."

As for the remaining GOP horses, Mr. Allen "holds steady at No. 1"; Mr. Romney "is practically drowning in ink these days"; the fourth-place Mr. Giuliani "is still the man to beat"; and Arizona Sen. John McCain, running fifth, is gearing up to run a "much more aggressive, front-loaded campaign" than in 2000.

Rounding out the top 10 are Colorado Rep. Tom Tancredo, Senate Majority Leader Bill Frist, South Carolina Gov. Mark Sanford, Secretary of State Condoleezza Rice, Arkansas Gov. Mike Huckabee and Pennsylvania Sen. Rick Santorum.

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As for former House Speaker Newt Gingrich?

"The ultimate wild card," says the wire.

On the Democratic side, New York Sen. Hillary Rodham Clinton "is so far ahead that she earns an extra spot" -- ranked both No. 1 and No. 2. However, if "Hillary isn't careful, she'll have to change her voter registration to Republican," the wire states.

"The insanely ambitious New York senator continues to move right while taking timely jabs at the president in order to please her peeps to the left," it notes, including her recent move to break up the Department of Homeland Security in response to Katrina.

Other Democratic front-runners: New Mexico Gov. Bill Richardson, Virginia Gov. Mark Warner, Indiana Sen. Evan Bayh, Iowa Gov. Tom Vilsack, 2004 vice-presidential candidate John Edwards, Illinois Gov. Rod R. Blagojevich, Delaware Sen. Joseph R. Biden Jr., and Democratic National Committee Chairman Howard Dean.

Massachusetts Sen. John Kerry gets a few votes, while Illinois Sen. Barack Obama is more of a "major threat in 2012."

Path to peace

In an effort to open a dialogue with youth on peace, tolerance and interfaith coexistence, Jordan's visiting King Abdullah II and his wife, Queen Rania, today will meet with a group of students and teachers from Banneker High School, the Hebrew Academy, International Saudi Academy and Cardozo Senior High School.

The Jordanian Embassy tells us the king's visit to Washington will focus on the "intra-Islamic, interfaith initiative" Jordan is leading, the aim being to build bridges of peace and understanding. His address this afternoon at Catholic University is titled "Traditional Islam: the Path to Peace."

DHS Personnel Ruling Will Affect Pentagon, Senator Says (CD)

By Alyson Klein, CongressDaily

Congress Daily, September 13, 2005

Senate Homeland Security and Governmental Affairs Chairwoman Susan Collins, R-Maine, said a court ruling last month that struck down some of the Homeland Security Department's personnel regulations could require the department to "go back to the drawing board" and might force the Pentagon to "take a harder look" at its personnel proposal scheduled to be put in place later this year.

U.S. District Court Judge Rosemary Collyer, in throwing out the rules, said they do not provide for collective bargaining. Collins said this week she was concerned that DHS drew up regulations that did not "reflect congressional intent."

A spokesman for House Government Reform Chairman Tom Davis, R-Va., whose panel also oversees federal workers, would only say of the ruling's ramifications: "It's too early in the process to predict the outcome of the litigation or how it will affect other systems."

DHS announced last week that it would delay implementation of the new personnel system, scheduled to go into effect in January, for at least a year. It is not clear whether that decision was related to the court ruling, or what changes -- if any -- would be made before implementation. Ward Morrow, assistant general counsel for the American Federation of Governmental Employees, the largest of four unions that filed the suit, said DHS may ask to simply revisit the labor relations portion of the regulations, rather than rewrite the whole system. A spokesman for the Justice Department, which is handling the court case, did not return calls.

The Pentagon plans to continue tweaking its personnel rules before releasing them this fall, according to a spokeswoman for the National Security Personnel System, which is responsible for drafting the regulations. She said NSPS has "gone through an extensive meet-and-confer process with our unions" and received thousands of public comments on its draft regulations. She said the office would be making changes but attributed those revisions to the feedback it received, not the court ruling. Still, Morrow said AFGE was likely to challenge the Pentagon's regulations after they are released because, in the union's view, NSPS did not follow Congress' guidelines for the comment process.

When introduced earlier this year, the revamped Homeland Security and Pentagon personnel regulations were heralded as models for a new, governmentwide human resources system. Although OMB circulated draft legislation this spring overhauling the federal personnel system, Collins and Davis have yet to act on it. House Government Reform ranking member Henry

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Waxman, D-Calif., who applauded the court ruling, said in a statement that it "should send a signal to both the administration and Congress to slow down on any government-wide personnel changes."

OTHER NEWS:

Worker Error Causes Los Angeles Power Outages (WT/AP)

The Washington Times, September 13, 2005

LOS ANGELES (AP) -- An error by utility workers caused a blackout across major portions of Los Angeles yesterday, trapping people in elevators and snarling traffic at intersections, authorities said.

About 2 million residents were affected by the resulting power surge and outages, which were reported from downtown west to the Pacific Coast and north into the San Fernando Valley.

Workers who were cutting wires mistakenly sliced them as a group rather than individually, causing a short and leading to the trouble, officials said.

"They cut wires that caused circuit breakers to trip," said Ed Miller, director of power system operations and maintenance for the Los Angeles Department of Water and Power.

The outage occurred at 12:37 p.m. Power was restored to nearly all customers within three hours, officials said.

Downtown high-rise buildings went dark, fire officials said they received reports of people stuck in elevators, and stoplights went out at intersections across the city. Neighboring cities, including Burbank and Glendale, also were affected.

The Los Angeles Police Department went on "full tactical alert," meaning no officers were allowed to leave work when their shifts were finished.

But calm prevailed in downtown Los Angeles around midday. Office workers took the opportunity for an extended lunch break as police and fire sirens echoed in the background.

The blackout came a day after ABC News aired a videotape of a purported al Qaeda member making terrorist threats against Los Angeles and Melbourne, Australia, on the fourth anniversary of the September 11 attacks.

But even before the utility workers explained what had happened, Homeland Security Department spokesman Russ Knocke said there was no indication of terrorism.

Los Angeles International Airport lost power, but its emergency generator kicked in promptly and no flights were affected, said Harold Johnson, an airport spokesman. UCLA Medical Center used backup generators and reported no danger to patients.

Los Angeles operates its own power utility, which serves 1.4 million electricity customers. Customers of Southern California Edison, the largest utility in Southern California, were not affected, said spokesman Gil Alexander.

As Lights Go Out, Power Worries Rise (LAT)

By Sharon Bernstein, Hector Becerra And Mitchell Landsberg, Times Staff Writers

The Los Angeles Times, September 13, 2005

A mistake on a single bundle of wires Monday cascaded into a major blackout in and around Los Angeles, inconveniencing millions of people and renewing questions about the vulnerability of the region's power system.

Coming one day after a purported Al Qaeda threat of attack on the city, the midday outage pricked nerves and caused isolated incidents of panic. Plumes of flame and smoke heightened the drama as refineries, temporarily shut by the outage, flared off excess gases.

But backup generators, many newly installed since California's 2001 energy crisis, kept many companies and most emergency services operating without major disruption, and there were no reports of deaths or serious injuries caused by the blackout.

The Los Angeles Department of Water and Power, the city-owned utility, said the outage occurred when workers cut through wires while installing a monitoring system at an electrical transmitting station in Toluca Lake.

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The mistake rippled through the electrical grid, threatening to overload another transmission station and two electrical generating plants: the Scattergood generating station south of Los Angeles International Airport and the Haynes generating station near Long Beach.

The DWP shut down the generating facilities to avoid damage, sharply reducing the amount of power available to the city. That caused blackouts in neighborhoods across the city, with heavy concentrations in parts of the San Fernando Valley, South Los Angeles and the downtown area. All of Burbank's 52,000 customers and half of Glendale's 80,000 also lost power. Both cities' electrical systems are linked to the DWP.

"This strikes me as something under the category of unbelievably bad luck, where you cut one line and have that kind of cascading effect," said Bob Finkelstein, executive director of the Utility Reform Network in San Francisco, a consumer advocacy group.

"One DWP worker is going to feel really, really bad for a long time."

The automated system workers were installing was meant to detect surges or drops in voltage, said Ed Miller, the DWP's director of power systems, operations and maintenance.

"They cut a bundle of wires," Miller said. "The supposition is that by cutting them together, they created a short that triggered the circuit breakers." Miller said cutting wires one by one might have avoided an electrical short.

Ironically, the system the work crew was trying to install would have identified the power problem much more quickly, Miller said. It would be able to "decipher just what had happened." As it happened, DWP engineers needed an hour to determine where in the system the outage began.

An official with the union that represents DWP workers charged that, regardless of whether lines were cut, the real cause of the outage was the DWP's decision to test the new relay system in the middle of the day, rather than at night when power loads would have been lower — but costs would have been higher because of overtime.

"They are too cheap to pay overtime, so they are testing on a full load at 1 in the afternoon," said Brian D'Arcy, business manager for the International Brotherhood of Electrical Workers, Local 18.

"You clearly don't test the relay at one in the afternoon. If you are cheap and stupid, this is what happens."

The DWP said such work is routinely conducted during the day.

DWP officials insisted the system had worked as it is supposed to — shutting down and causing a temporary inconvenience to avoid widespread permanent damage. Miller compared the shutdown to the way a circuit breaker turns off power to a house to prevent overheated lines from causing a deadly fire.

At the same time, however, Miller said he planned to investigate whether the ability of a single incident to black out half the power supply indicated a need for major changes in the way the city's electrical system is configured. "If I decide I need a differently configured system, that could take a couple of years," he said.

"I'm very proud of my people. There was no system damage, and nobody was hurt," said Miller.

"The system is not fragile," he added. "We have a very strong system."

Others were less sanguine.

"As an engineer, it's unnerving that one individual act can cut power to hundreds of thousands of customers," said Los Angeles City Councilman Tony Cardenas, chairman of a panel overseeing the DWP.

Cardenas, who was stuck in traffic on Van Nuys Boulevard when traffic signals went out, said he would demand to know whether the outage betrayed a broader vulnerability for the city's electrical system.

"I've been told over and over that this kind of vulnerability doesn't exist," Cardenas said.

Mary Nichols, who heads UCLA's Institute of the Environment and was appointed last month as a DWP commissioner, said she, too, had "questions and concerns" about "why the system isn't more resilient and why there isn't more redundancy built into it."

And a spokeswoman for Cal-ISO, the independent organization that oversees the statewide electrical grid, said the incident was "disconcerting." Stephanie McCorkle criticized officials of the DWP, which is independent of Cal-ISO's system, for not being more forthcoming with information about the outage, saying the DWP did not officially alert the rest of the statewide grid until 3:45 p.m., more than three hours after the outage began.

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"There was no coordination, and that concerns us," she said.

Although unseasonably cool weather makes the electrical grid less susceptible to widespread failures because of decreased energy demands, McCorkle said she was not sure whether hot weather could have caused the DWP outage to spread.

The outage occurred at 12:37 p.m., cutting power to 750,000 homes and businesses, or about 2 million people, DWP officials said. It struck about half of the DWP's service area. Other parts of the region, most of which is served by Southern California Edison, were not affected.

Power was restored to 90% of the downed customers within 90 minutes, DWP officials said.

Although there apparently were no major problems caused by the outage, there was no shortage of anxiety and discomfort.

Most of the city's 4,300 traffic signals were knocked out, either going dark or flashing red. In one instance, along Olympic Boulevard near Beverly Hills, motorist Beto Ramos said all the lights turned green.

"I had a green light, everyone had green lights," Ramos said. "No one knew what to do. We're so used to stop, go, stop, go. To see nothing but green lights was real weird, like all of society had paused."

State officials have been pushing cities to install low-power stoplights that can be equipped with backup power to prevent outages. So far, San Francisco has adopted the lights, but Los Angeles has not because of the cost, said Rob Schlichting of the state energy commission.

Some commuter trains were delayed about 15 minutes during the lunch hour after power surges were detected by the Metropolitan Transportation Authority's rail operations center. Transit buses also were delayed by traffic congestion.

Workers in high-rise office buildings in downtown Los Angeles faced twin inconveniences: Elevators stopped, forcing people to either stay in their offices or descend many flights of stairs. And air conditioning shut down, turning plush offices into carpeted saunas.

"It got hot real quick in here," said Wells Fargo employee Sean Maddox, stuck in the 60-story Aon building.

Another tool of modern life — high-speed Internet connections — was knocked out in some parts of the city because of the outage. Patti Rockenwegner, a spokesperson for Comcast, which provides cable and broadband Internet service to about 500,000 customers in Southern California, said some customers in Hollywood and South Los Angeles lost service for about 40 minutes when the outage tripped fuses.

Hours after power was restored, however, some customers in other parts of the city, including the Fairfax and Mid-Wilshire areas, were reporting that Comcast lines remained out of service.

The outage occurred one day after the fourth anniversary of the Sept. 11 terrorist attacks, and a day after a Southern California man suspected of having ties to Al Qaeda warned of an impending terror attack on Los Angeles and Melbourne, Australia.

Although Mayor Antonio Villaraigosa and Police Chief William J. Bratton insisted that they knew of no "credible threat" to the city, many Angelenos wondered, if only momentarily, whether the outage was the result of a terrorist attack.

"It is the easiest way to trip up our routine, [to] cut the power," said Matt Jarrette, who found himself in gridlock as he drove to work at the nonprofit California Assoc. of Physician Groups downtown. "The day after Sept. 11 — it is disconcerting."

The scene near harbor-area refineries was disconcerting in a different way. As of 5 p.m. Monday, regional air regulators had received more than 40 complaints about smoke and stack-top flames from residents in Wilmington, Harbor City, Long Beach and other areas in southern Los Angeles County, said Sam Atwood, spokesman for the South Coast Air Quality Management District. Six inspectors were dispatched to investigate the complaints and the mandatory shutdown reports from the refineries.

When refineries lose power, they release built-up pressure by sending oil products up their tall stacks, where it is burned off by stack-top flares, producing flames and heavy smoke. The burn-off is a safety mechanism that prevents flammable fuels from spreading, refinery officials said.

The 200-plus students at the Harbor Teacher Prep Academy in Wilmington were kept in their classrooms or moved to the cafeteria until the end of the school day as a precaution after school officials detected a noxious smell from a nearby oil refinery, said Los Angeles Unified School District spokeswoman Susan Cox. The school is on the Los Angeles Harbor Community College campus.

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Refinery officials said the shutdowns were temporary and were not expected to affect Southern California gasoline supplies or prices.

The disruptions might well have been worse but for the proliferation of backup generators in the years since 2001, when the energy crisis threatened the state with frequent outages.

There has been an increase of several hundred generators in the region since then, according to the air quality district, which issues permits for generators.

Hospitals are required by state law to maintain backup generators, and many in Los Angeles were forced to switch to backup power Monday.

Generators also allowed operations to continue uninterrupted at Van Nuys Airport and Bob Hope Airport in Burbank, both of which were affected by the outage. Van Nuys serves private aircraft, while Burbank handles commercial flights as well as private planes. Los Angeles International Airport did not lose power.

Few Los Angeles schools have backup generators, but many have backup batteries to power emergency lights and alarms. Those systems were triggered Monday at several Los Angeles campuses.

New campuses that are part of the district's ambitious building program are being equipped with backup generators, officials said.

Parents seeking word of the situation in the schools may have been taken aback by the message on the L.A. Unified emergency phone line, however. Callers who dialed Monday seeking word about the outage heard the following: "Topanga Elementary and Wonderland Elementary will be closed Tuesday Jan. 11 because of heavy rain. All other LAUSD campuses will be open as usual…."

*

Contributing to the coverage of the blackout were Times staff writers Fred Alvarez, Sandy Banks, Patricia Ward Beiderman, Andrew Blankstein, Nancy Cleeland, Frank Clifford, Marla Cone, Jean Guccione, Carla Hall, Erica Hayasaki, Duke Helfand, Daniel Hernandez, Matt Lait, Marc Lifsher, Sara Lin, Caitlin Liu, Dave McKibben, Jean Merl, John O'Dell, Jennifer Oldham, Charles Ornstein, Lance Pugmire, Sam Quinones, Joel Rubin, H.G. Reza, Lisa Richardson, Louis Sahagun, Catherine Saillant, Jesus Sanchez, Beth Shuster, Larry B. Stammer, Rebecca Trounson, Dan Weikel and Richard Winton.

Utility Error Disrupts Power In Los Angeles (NYT)

By Randal C. Archibold

The New York Times, September 13, 2005

LOS ANGELES, Sept. 12 - Large areas of Los Angeles lost power on Monday after utility workers doing maintenance work accidentally cut a line, officials said.

The blackout, which occurred just after 12:30 p.m. Pacific time and lasted for less than an hour in most areas, came a day after Sept. 11 and amid reports of threats by Al Qaeda against the city, setting off jitters citywide. During the power loss, television stations broadcast striking images of towering flames at refineries.

But the Los Angeles Department of Water and Power, which provides electricity to a 400-square-mile area, blamed workers at a power station in the San Fernando Valley, and the fiery images turned out to be the routine burn-off of gas at the refineries as a precaution after some lost power.

Officials said there was no evidence of foul play, though the Police Department went on high alert for a few hours as a precaution.

Carol Tucker, a spokeswoman for the utility, said an estimated half of the 1.5 million homes and businesses it served were affected.

The failure was spotty, with a flicker of lights in some areas while others, including parts of downtown and the San Fernando Valley, were left without electricity for longer periods. By 2 p.m., 90 percent of the affected areas had been restored after natural-gas backup generators were started, the utility said.

Most residents seemed to take the blackout in stride.

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"It gave me more time to smoke is all," said Casey Mitchell, a legal secretary taking a break outside a Wilshire Boulevard office building where his workday was interrupted for about 30 minutes.

The blackout did cause sporadic traffic delays when some signals went dark, and the Los Angeles Fire Department said it responded to several calls regarding stuck elevators. But Jim Wells, a department spokesman, said he was not aware of any "major rescues."

In most cases, Mr. Wells said, emergency power in high-rise buildings allowed elevators to return to the ground level without incident.

The failure hit neighborhoods from Wilmington, at the southern tip of the city near its port, to communities in the San Fernando Valley at the northern end.

Ron Deaton, the utility general manager, said at a news conference that the employees had cut a line and reattached it incorrectly, setting off a chain reaction that shut down a string of generating stations as does a circuit breaker in a home. The failure started at a receiving station, which brings high-voltage power into the city and spreads it to distribution centers at a lower voltage.

On Sunday, ABC News broadcast a videotape purported to have been made by a United States-born member of Al Qaeda, threatening terrorist attacks against Los Angeles and Melbourne, Australia. The man on tape, the network said, was Adam Yahiye Gadahn, a Southern Californian wanted for questioning by the F.B.I.

Mayor Antonio R. Villaraigosa of Los Angeles, appearing at a community event, said "there was no credible threat" against the city but cautioned that terrorists had previously considered Los Angeles targets. He said a blackout coming in this age of terrorism understandably "created a heightened sense of concern" but that most of the city quickly returned to normal.

"I'm here to assure you that our city is prepared to handle these situations," the mayor said, briefly addressing the failure before an event at the Simon Wiesenthal Center. "Power was restored to the vast majority of D.W.P. customers, 90 percent, within the first two hours."

In 2001, power shortages in the state caused rolling blackouts.

Human Error Blamed For Los Angeles Power Failure (WSJ)

By Rebecca Smith

The Wall Street Journal, September 13, 2005

Los Angeles was hit with an electricity blackout early yesterday afternoon that left millions of people without power across an area stretching west from downtown into coastal areas and north into the San Fernando Valley.

The outage lasted for about an hour in some places, and longer in others. It appeared to mainly cause traffic snarls and inconvenience for people stuck in elevators and in their cars. Flights at Los Angeles International airport weren't affected, but the facility was forced to switch to its backup power supply, a representative said.

The utility that serves most of the city, the Los Angeles Department of Water and Power, blamed the disruption on human error at a substation in the San Fernando Valley. Spokeswoman Kim Hughes said employees there "misdirected power" down lines that weren't designed to carry the load, tripping protective relays that isolate equipment to prevent permanent damage.

Ms. Hughes said the utility was reviewing the sequence of events to assure that it doesn't happen again. Smaller utilities owned by the nearby cities of Burbank, Glendale and Pasadena also were affected. The blackout began at 12:37 p.m. PDT on a day of modest demand due to moderate temperatures. Most customers had electricity again by 4 p.m.

The disruption was troubling to many area residents because it came on the heels of a videotape in which a suspected al Qaeda operative threatened Los Angeles and Melbourne, Australia, with terrorist attacks. After the power went out yesterday, police throughout the Los Angeles area went on "tactical alert" meaning that officers were kept on duty after their shifts ended. Fire stations were flooded with calls from people trapped in elevators.

The outage was the second large electrical disruption to hit Southern California in the past three weeks. A large blackout on Aug. 25 bypassed Los Angeles but hit surrounding communities. It was caused by problems at a substation near the end of a set of major transmission lines that bring electricity to the Los Angeles area from the Pacific Northwest. That disruption mainly affected customers of Edison International's Southern California Edison unit and Sempra Energy's San Diego Gas & Electric Co.

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Northrop Grumman Corp., whose headquarters is in the Century City commercial district of Los Angeles, lost power for 35 minutes, according to spokesman Dan McClain, But company facilities south of Los Angeles in Redondo Beach and El Segundo were unaffected. Raytheon Co. said its El Segundo facilities, where Chairman and Chief Executive William Swanson visited yesterday, never lost power.

Two big movie studios -- Time Warner Inc.'s Warner Bros. and Walt Disney Co. -- north of Los Angeles were without power shortly before 2 p.m. But at neighboring Universal Studios, located just east of the other two in Universal City, it was business as usual. On the city's west side, News Corp.'s Twentieth Century Fox studio lot lost power for just 10 minutes before the lights came back on. Sony Corp.'s Sony Pictures Entertainment, located nearby, was unaffected.

Crossed Wires Spark Blackout In L.A. (USAT)

By Martin Kasindorf And Christopher Woodyard

USA Today, September 13, 2005

Outage comes

after video threat naming area as al-Qaeda target

LOS ANGELES — Workers connected the wrong wires at a power station Monday and knocked out electricity to about half of the 3.9 million residents of the nation's second-largest city.

The afternoon outage lasted up to four hours, snarling traffic at some intersections and trapping people in elevators.

The blackout came a day after ABC aired a videotape by Adam Gadahn, a suspected al-Qaeda member, threatening terror attacks on Los Angeles and Melbourne, Australia. The Los Angeles Police Department went on full “tactical alert” during the blackout, meaning that no officers were allowed to leave duty.

But police said they had no evidence that the blackout was the work of terrorists.

No injuries or major incidents were reported.

Workers installing an automated power-transmission system wrongly connected a wire to “another line that was not expecting that much electricity,” said Ron Deaton, general manager of the Los Angeles Department of Water and Power.

The misconnection triggered power surges and fail-safe mechanisms in the energy grid controlled by the city-owned utility. Power facilities, including two major generating plants, began tripping off-line at about 12:30 p.m. PT.

Traffic signals went dead in downtown Los Angeles, Hollywood, some beach areas, the San Fernando Valley and south Los Angeles. The outage also affected the neighboring cities of Burbank and Glendale, which are part of the Los Angeles power system.

The incident was reminiscent of the rolling blackouts that hit much of California during the state's 2001 energy shortage. Los Angeles, which generally has adequate power supplies, had no blackouts in 2001.

Monday's outage was far less disruptive than the August 2003 blackout that cut power to an estimated 50 million people in the Northeast, Midwest and Canada's Ontario province. That was the largest blackout in U.S. history. Power was not restored for four days in some areas. A joint U.S.-Canada investigation blamed the incident largely on sloppy practices by two Ohio utilities.

In Los Angeles Monday, loss of the traffic lights jammed vehicles near freeway on-ramps and off-ramps. Gasoline pumps stopped. Fire engines, sirens screaming, raced to high-rise office buildings to free people from elevators.

Some buildings and stores were evacuated, but backup generators kicked in at many office towers, hospitals and Los Angeles International Airport, where no flights were affected.

Staffers at the downtown YMCA used flashlights to guide exercisers from the pool and other areas to locker rooms so they could dress before leaving.

Albert Vasquez, 27, a customer service representative, was returning from lunch when he boarded an elevator in his downtown office tower. The doors closed and the power went out. “It was bizarre,” he said. “It went completely dark.”

Vasquez pried the door open with his hands and left the building, he said.

The Noah's New York Bagels outlet in the Westwood Village district near UCLA stayed open during the busy lunch hour despite the loss of the cash register and credit-card communication lines. “We just grabbed a napkin” and figured out customers' bills on the paper, said manager Scott Nakahara, 22.

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Some Angelenos said they were initially fearful that the blackout was linked to terrorism and ignored instructions to remain in their office buildings. “When they said to stay, I thought, ‘I'm going,' ” clerical worker Erica Fernandez said.

“The fact that this happened the day after Sept. 11 (caused) a heightened sense of concern,” Los Angeles Mayor Antonio Villaraigosa said. The mayor sought to reassure residents, saying. “Our city is prepared to handle these situations.”

Power came back on in some areas within minutes when the system automatically shifted to get power from other sources. Gale Harris, spokeswoman for the L.A. Department of Water and Power, said electricity had been restored by about 5 p.m.

Traffic is notoriously bad in Los Angeles, so James Steel, 60, a retiree, was unfazed when a drive that normally takes him 45 minutes took twice that time after he was evacuated from the Central Library downtown.

“This is a little worse than a normal day,” he said.

'Whoops,' And L.A. Has A Two-Hour Blackout (WP)

By John Pomfret

The Washington Post, September 13, 2005

LOS ANGELES, Sept. 12 -- A blackout caused when maintenance workers inadvertently cut a power line rolled through large parts of Los Angeles on Monday, stranding people in elevators, tangling traffic, and prompting the evacuation of some high-rises and other structures.

Officials said about half of this far-flung city, served by the Los Angeles Department of Water and Power, the largest public utility in the nation, lost power starting at 1 p.m. Power was restored two hours later. Los Angeles International Airport lost its lights, but its generator kicked in, and a spokesman said no flights were delayed.

A spokeswoman for the utility said workers at a receiving station mistakenly cut one line and then hooked up the wrong wires, causing a power surge into a line that was not expecting that much electricity.

"Something was cut," said Gale Harris, a spokeswoman for the Department of Water and Power, which also lost power during the blackout. "Somebody said, 'Whoops.' "

Stranded on the street, some people expressed fears that the blackout was part of a terrorist attack. Monday's power loss came a day after ABC News, on the fourth anniversary of the Sept. 11, 2001, attacks, aired a videotape of a purported al Qaeda member threatening attacks against Los Angeles and Melbourne, Australia. The Los Angeles Police Department went on "full tactical alert," and officers were not allowed to leave work after their shifts ended. A police spokesman said terrorism was not suspected. The Los Angeles office of the Internal Revenue Service closed after a computer glitch occurred when power was restored.

The Los Angeles Fire Department reported no serious injuries.

"Our most significant calls related to this power outage have just been stuck elevators," said spokesman Ron Myers. "We're just urging people to stay put."

Long lunch breaks turned into a short workday, as thousands of workers headed home early, jamming roads already snarled with traffic.

At Grauman's Chinese Theatre in Hollywood, one of the city's landmarks, the power went out for about seven minutes, interrupting a comedy called "The Man."

"Imagine if the power had cut out when we were showing 'The War of the Worlds,' " quipped usher Lauren Fisher.

The Department of Water and Power, which serves 1.5 million customers, was one of the few utilities to emerge unscathed from California's electricity crisis in the summer of 2000. The department fought off attempts to open Los Angeles to competition from other power companies. When Enron Corp. and other companies gamed the system and prompted widespread power shortages, the department found itself in the enviable position of selling power to utilities across the state, according to James Bushnell, the research director at the Energy Institute at the University of California at Berkeley. It repaid billions of dollars of debt, and talk of further restructuring of the California energy market has been shelved.

Outage Throws Angelenos For A Loop (LAT)

By Kim Christensen, Nita Lelyveld, Claire Hoffman, Larry Stammer, Lance Pugmire, Gil Reza, Loeb Vernon, Carla Hall and Jesus Sanchez

DOJ_NMG_0004515

The Los Angeles Times, September 13, 2005

Diane Salazar wasn't quite sure what to make of it when the lights went out, the treadmills stopped running and everyone made for the exits at the 24 Hour Fitness club where she works in downtown Los Angeles.

"Oh, my god, I just started freaking out," said the 20-year-old fitness counselor.

"I saw that video over the weekend about terrorists targeting L.A. and I didn't know what to think. I was so scared. I thought this is not natural. This is not cool. I want to go home."

Salazar wasn't the only one whose anxiety level went up today as the lights went down.

On the 46th floor of Two California Plaza, most of Elizabeth Dombrowski's fellow accountants kept working quietly — on their laptops.

But not Dombrowski.

She called her parents in Texas to dictate her living will and phoned her sister and boyfriend to say goodbye, just in case.

She was half-joking, she said, but only half.

Dombrowski, 26, who was wearing a seersucker jacket and skirt, quickly pulled off her high heels and put on her running shoes. Soon she was heading briskly down the stairs, three friends in tow. She had more or less convinced herself and her friends that a terrorist attack was about to occur.

"I'm serious," Dombrowski said later, as some of her friends teased her about being paranoid about terrorists. "They make you scared when the power goes off. Then you feel safe when the electricity goes back on. Then they bomb you. This is what they do."

Two floors underground at the Los Angeles County Superior Court archives, everything went pitch black just after 1 p.m. In the darkness, people began to shriek and scream for help. When the lights came back on — powered by the emergency generator — people blinked at each other, embarrassed and scared.

At the hulking new Caltrans building at 1st and Main streets, the blackout triggered false fire alarms that led some state workers to leave the building more than once.

Caltrans spokeswoman Judy Gish said there was no full-scale evacuation. But just minutes after Gish's report, an automatic alarm system that had not been reset blared recorded warnings that there was "a fire emergency reported in the building." It urged people to leave by the nearest exit and not to use the elevators.

"We evacuated the building and they called us back," said Baljit Soni, a principal accountant with the Los Angeles Department of Transportation.

He said he did smell something. "Then I got scared and said, why take the risk?"

At the nearby Higgins building at 108 2nd St., perhaps the biggest inconvenience came when a tenant couldn't leave the enclosed outdoor parking lot because the electric gate wouldn't open.

"I didn't know the manual override," said building concierge John Cubano. "It was 10 minutes before he decided to walk."

Calm also prevailed at the Spot Light Room cocktail lounge in Hollywood.

"We were just standing here and the lights just flickered for a second and then went out," bartender William "Boo" McClain said.

No one flinched.

"Not at this bar," McClain. "Not when they have cocktails in front of them."

Schoolteachers taught lessons by flashlight, power lunches were thrown into the dark and high rise office dwellers were forced to climb down flights of stairs after the electrical outage hit a large swath of Los Angeles this afternoon.

Electrical service had been restored in many areas served by the Los Angeles Department of Water & Power by midafternoon, but not after interrupting the lunchtime routine for thousands of workers, commuters, students and others.

Beto Ramos was driving from downtown Los Angeles to his office in West Los Angeles when the traffic lights on Olympic Boulevard began to malfunction around Beverly Hills.

"I had a green light. Everyone had green lights," Ramos said. "No one knew what to do. We're so used to stop, go, stop, go. To see nothing but green lights was real weird, like all of society had paused."

Service at the downtown Original Pantry Restaurant was stalled for 45 minutes, as manager Hesh Scdaghat saw his grills, stoves and exhaust fans stop.

"Everything's electrical, so it was terrible," Scdaghat said. "We had some customers leave. When the power came back, they came back. I'm very busy again now."

The power outage was a scary and unwelcome disruption at Cahuenga Elementary School in the Pico-Union area near downtown. The lights went out for about an hour during lunch as first and second graders were finishing their food outdoors and heading back inside to resume class.

Principal Lloyd Houske dispatched emergency flashlights to darkened classrooms, but he said teachers tried to continue their lessons in an effort to maintain calm. He said a few children asked why the lights had gone off, but that the day went on as usual.

"Basically, we went on with our regular schedule," Houske said. "If a teacher remains calm, the children remain calm. If they see you act not scared, they don't get scared. It's when the adults get uptight that they get uptight."

At Rodeo Mexican Grill on Olympic Boulevard, George Orellana, a 35-year-old paralegal, was dishing up a little cup of relish, one of the last people to manage to get food here before the lights went out.

"We walked down seven flights. It felt like the 9/11," said Orellana, whose office is half-block away in a midrise building. "We didn't know what was going on. Once the blackout started, everyone started running out. It was weird."

Safe Place Disabled People Find Group Homes Can Be Broken, Too (WSJ)

By Clare Ansberry

The Wall Street Journal, September 13, 2005

COLUMBIA, S.C. -- Billy Cothran spent most of his 63 years in a sprawling, state-owned treatment center for the developmentally disabled. His parents were told it was the best option for their only child, whose mind would never progress beyond that of a 3-year-old.

In the late 1990s, after his parents died, Mr. Cothran was moved by his guardian out of the institution and into a smaller group home, which offered recreational therapy such as horseback riding and took residents to church on Sunday. Staffers helped Mr. Cothran, who was blind and arthritic, don a rented tuxedo for an annual dance.

His new home, the Babcock Center, was one of the thousands of private, nonprofit facilities created during the past 30 years to provide alternatives to big institutions. Babcock was founded in 1970 by a woman who discovered a mentally retarded couple living in a chicken coop. It eventually became South Carolina's largest provider of Medicaid-funded housing, caring for more than 500 people at close to 100 homes and apartments.

In recent years, though, Babcock has been the focus of state and federal investigations after reports of abuse and neglect at some of its homes. Mr. Cothran died last September. An autopsy determined that Mr. Cothran, who was on a pureed-food diet, had portions of what appeared to be a sandwich in his trachea and died of asphyxiation.

After his death and complaints by his family -- which included a former chairman of Babcock's board -- a federal investigation looked into the incident. It found that the home where Mr. Cothran lived "failed to take appropriate actions to ensure client protections" and that conditions there "pose immediate jeopardy to the health and safety of clients." It gave Babcock 23 days to submit a plan and correct the problems.

A spokeswoman for the Centers for Medicare and Medicaid Services, which provides most of Babcock's funding, says the federal agency is satisfied that the problems it found after Mr. Cothran's death have been corrected.

Mr. Cothran's cousin and guardian John Harrison has filed a wrongful death suit against Babcock Center in South Carolina's Richland County Court of Common Pleas. The case alleges Babcock didn't properly care for Mr. Cothran and failed to properly supervise and train the staff assigned to care for him. Babcock officials are fighting the suit and say it has no merit.

Over the past three decades, there has been a concerted effort to move people with developmental disabilities out of large institutions, which had been long criticized for being overcrowded and isolated. A widely lauded effort to move people into smaller group homes has succeeded in bringing the developmentally disabled into communities where they can learn new skills, get jobs or attend special schools.

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But this progress has come at a price. It has strained the systems that support people living in the smaller settings and created big gaps in oversight. Twenty-five years ago, people with developmental disabilities lived in about 16,000 publicly funded homes. Today, they are scattered in about 140,000.

"The systems of quality monitoring have really been taxed beyond what they can manage," says Charlie Lakin, who heads a University of Minnesota program that tracks services to the developmentally disabled. "By and large, a lot of it is pretty loosely organized and pretty loosely monitored."

Only a half-dozen states require that residential programs serving the developmentally disabled be accredited by an independent third-party organization. Developmental disabilities, which affect about 4.6 million people in the U.S., include a range of mental and physical impairments, such as cerebral palsy, autism and mental retardation.

Babcock offers a stark look at the flawed monitoring of group homes, which sometimes leaves family members and other advocates feeling they need to police the care themselves.

Last December, the state ordered the entire Babcock chain to reduce the number of people it houses by half within 18 months. "The growth of Babcock Center happened over a relatively short period of time," says Judy Johnson, Babcock's executive director, who was hired in 2002. "They didn't have the right system of support to manage the larger, different sites."

She says Babcock has made significant progress since she arrived, including improved staff training and procedures to provide additional oversight.

In spite of such efforts, the rate of substantiated cases of abuse, neglect or exploitation at Babcock has averaged 6.7 per 100 residents in each of the past three years, according to the South Carolina Department of Disabilities and Special Needs. The statewide average is three cases per 100 residents, the agency says. Ms. Johnson attributes that, in part, to the kind of people Babcock houses. Babcock takes individuals with complex physical and emotional problems, she says, who are aggressive and sometimes self-abusive. "Babcock Center supports people with severe disabilities that other providers would not," she says.

As for Mr. Cothran, she says, "Billy was loved by many people. I also believe there was nothing the staff could have done to prevent his death." She says Babcock hired a pulmunologist, who, based on a review of the autopsy and staff statements, concluded Mr. Cothran didn't have trouble swallowing his meal, but later regurgitated, causing asphyxiation. He concluded Mr. Cothran's death wasn't the result of any failure on the part of Babcock or its staff.

Oversight of homes for the developmentally disabled is fragmented between the federal government, states and thousands of community-based agencies. The U.S. Department of Health and Human Services -- which pays about half of the $27 billion spent annually on community services for the developmentally disabled -- is ultimately responsible for their protection. But the federal agency assigns the creation and enforcing of rules over such homes to each state. As a result, laws and monitoring vary by state.

States aren't required to report all incidents of abuse or neglect to the federal agency. The federal government typically only gets involved if families, advocates or employees of homes provide credible concern about the thoroughness of a state investigation. HHS, which oversees the Centers for Medicare and Medicaid Services, is drafting new procedures following a 2003 report from the General Accounting Office, saying states should be required to report more information about how they protect people with developmental disabilities.

Thousands of nonprofit group homes offer well-supervised programs for the developmentally disabled. But problems exist to some degree in nearly every community, says Curtis Decker, executive director of the National Disability Rights Network, a nonprofit group. Investigators may overlook flaws, he says, because of a lack of other housing options. "They don't know what to do with these folks if they closed a place down."

The number of abuse and neglect cases among the developmentally disabled isn't collected nationwide. Many states don't keep central databases on employees involved in such cases, allowing workers to move from one agency to another. "You put people in tough jobs, who are underpaid, not well-trained or supervised, and the potential for abuse is big," says Mr. Decker. "It's endemic to the country."

A 62-year-old woman in an Illinois group home died in April 2004 after receiving burns from scalding water. Another nonprofit agency in that state, which operated several homes, was decertified after an advocacy group learned the executive director asked a dentist to remove all the teeth of a man who was biting himself.

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A 53-year-old New Jersey group-home employee was found guilty earlier last month in Middlesex County Superior Court of aggravated criminal sexual contact with a 19-year-old developmentally disabled woman, with the mental capacity of a child.

Ms. Johnson, Babcock's executive director, says she has a zero-tolerance policy for abuse. Any employee involved in cases of abuse or neglect is terminated, including those who see, but fail to report incidents, she says. "I don't know that we are ever going to eliminate abuse in our society," she says. "Our job is to do the best we can to support and protect individuals with disabilities."

Family members inspect Babcock facilities and report back to her monthly.

One of those is James Carlson, whose son lives in a Babcock home. He and other parents meet with Ms. Johnson to present any findings and concerns. "Next time we meet, she gives a list of all the corrections made," he says.

Babcock has had several serious problems. In late 2002, one mentally retarded man was left overnight in the parking lot of a Wendy's restaurant where he had been taken to apply for a job. A Babcock employee forgot to pick him up. That employee has been fired, Babcock says.

In April 2003, a man received first- and second-degree burns after a 23-year-old employee at a Babcock home said she accidentally poured scalding water on him, according to police reports. That employee has been fired, Babcock says. A supervisor at another Babcock home was arrested last fall and charged with sexually assaulting a 55-year-old female resident and giving her sodas to keep her quiet. The man was fired and the case is pending.

It's often up to relatives to keep tabs on how their family members are treated. Betty Jackson was initially happy when her four developmentally disabled brothers moved into homes run by the Babcock Center more than a decade ago. The brothers, ranging in age from 58 to 81, were born with mental retardation. They were raised at home, with their six siblings, on a South Carolina tobacco farm, until their parents died.

The Babcock Center housed the brothers in different homes, according to their level of disability. "I was very thankful," says Mrs. Jackson, a 63-year-old widow. "They didn't have to be in an institution and they could be in a home setting."

Her brother Archie Jordan got a job carrying groceries at the local supermarket. A TV crew filmed him years ago proudly sweeping the driveway in front of his house to show how Babcock residents keep their homes tidy.

To Mrs. Jackson, everything seemed fine until about three years ago. Her brother James, then 78, a thin, slightly stooped man who likes to wear a baseball hat, was struck with a belt and attacked by a 16-year-old housemate. After he was found bleeding from his rectum, James told Babcock's internal investigator "that damn boy got me last night." Stephanie Marshall, of the federal Centers for Medicare and Medicaid Services, said the allegation of rape was substantiated by an investigator it sent to the home. Babcock's Ms. Johnson says other agencies, including the state ombudsman, didn't substantiate a rape.

James remained in the same home with the 16-year-old for two months because no other housing was available, Babcock said. For safety, an alarm was put over the youth's door, sounding whenever he left his room. Weeks later, James suffered a broken finger. A Babcock internal report concluded he broke it himself, while throwing his bed rails around the room and beating on the walls. Records show he was screaming, "I want out of this hell hole."

Babcock reached an out-of-court settlement with Mrs. Jackson, who is James's guardian. Babcock's Ms. Johnson said she couldn't comment on the settlement.

Mrs. Jackson grew increasingly concerned. Her brother Archie was one of several Babcock residents who collectively gave more than $4,500 to a supervisor who promised to use the money to take them on vacations in 2003 and never did. The man later pleaded guilty to defrauding residents.

Babcock says it has since hired a full-time accountant to make monthly unannounced audits of residents' funds.

In 2003, Keith, 75, Mrs. Jackson's second-eldest brother, had been losing weight and was, at times, listless, she says. In the fall, Mrs. Jackson received a call that Keith was in the hospital. When she arrived, she says he was unconscious. Doctors said he was dehydrated, had a potassium imbalance and asked if he could have gotten hold of any chemicals, according to Mrs. Jackson and Leigh Flynn who was a court-appointed guardian of the brothers. Staffers said cleaning chemicals at the home were locked up, according to Mrs. Jackson. Keith was put in intensive care.

Babcock's Ms. Johnson said she couldn't comment on an individual's medical information because of federal laws protecting the privacy of clients' medical records.

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Mrs. Jackson notified Babcock that she planned to take all of her brothers out of the organization's homes. "I felt like I had to move them while I still had them," she says.

At that point, there were no other residential options in her area. So in November 2003, while Keith remained in the hospital, Mrs. Jackson took her other three brothers to live in her brick ranch house.

Mrs. Jackson, who worked driving a delivery truck for a sheet-metal company, modified her home to accommodate her brothers. In a back room, she installed a special shower and a toilet. She cooked for them and took them to doctors' appointments. She changed diapers regularly for James, then incontinent, fed him and held on to his arm when he walked. Her daughters helped. Keith was eventually transferred from the hospital to a nursing home, where he died of heart failure in January 2004.

In April 2004, the three remaining brothers moved into a home operated by United Cerebral Palsy of South Carolina. They celebrated Archie's 70th birthday with a chocolate cake. Each brother has a private room. Arthur's smells of Old Spice. Archie has an African-print bedspread. A fisherman's hat hangs on James's bedpost and family photos are on his dresser.

Mrs. Jackson has spoken out about the treatment her brothers received, including discussions last summer with members of Congress. Joining her were relatives of other residents, a former Babcock worker, and Babcock's former chairman, Patricia Harrison, who has been a frequent critic of the organization.

Ms. Harrison had been on Babcock's board, an unpaid position, since 1995. She resigned in 2002. Her husband was the cousin of Billy Cothran, the Babcock resident who died last year. The Harrisons were the legal guardians of Mr. Cothran.

Babcock's Ms. Johnson has a suit pending in the Fifth Judicial Circuit Court in Richland County, S.C., charging that Ms. Harrison made statements that were defamatory and intended to "impeach the honesty, integrity and reputation" of Ms. Johnson. Ms. Harrison is fighting the case. "I look forward to telling my story on the witness stand," she says.

Early last year, the Harrisons decided they wanted to move Mr. Cothran out of Babcock. "We were worried that something would happen to Billy," says Mr. Harrison. They bought a house for him and filled it with family photos and his mother's dining-room table. They asked that Medicaid funding for Mr. Cothran, and two of his Babcock housemates, be transferred to another agency that would staff the house.

Mr. Cothran died four days before he was supposed to move. A worker who prepared lunches that day was arrested on a charge of involuntary manslaughter but hasn't been indicted or issued a formal plea.

Mark Plowden, a spokesman for the South Carolina Attorney General's office, said the case is still under investigation to determine what, if any, prosecutorial action is warranted. No other state or federal investigation is pending.

Babcock had been previously warned about choking hazards. Its assistant vice president of food services sent out an internal email in 2002, saying food wasn't being properly mechanically altered, which means pureed, ground or softened, for residents whose diets required that. The memo described the situation as "Red Alert." In 2003, federal Medicaid investigators found a staff member feeding a sandwich, cut in eighths, and cookies to a man whose food was to be ground into rice-size pieces. Babcock said staffers were retrained on dietary matters, satisfying the agency.

After Mr. Cothran's death, there was a federal investigation in October 2004 by the Centers for Medicare and Medicaid Services. It found there was "evidence that mechanically altered diets were not consistently prepared as ordered to meet the developmental needs of all the men" at the home where Mr. Cothran lived. The report also concluded that "direct support staff were not assigned in sufficient numbers to supervise mealtimes at the facility on weekend days."

Babcock says it has retrained its staff and Ms. Johnson says the staffing exceeded minimum requirements.

After finding conditions at the home posed "immediate jeopardy to the health and safety of clients," the agency ordered Babcock to submit a plan to correct problems found in its survey or lose Medicaid funding. Babcock did submit a plan that was approved. A subsequent visit by investigators satisfied the agency, and no penalties were levied against Babcock, says Sharon Fisher, a spokeswoman for the Centers for Medicare and Medicaid Services.

In November, the South Carolina Department of Health and Human Services commissioned a special audit of Babcock, in light of the federal findings. It found "management and staffing issues, lack of evidence of ongoing active treatment, and lack of evidence of assessments for appropriate level of care."

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Ms. Johnson, of Babcock, disagrees with those findings. She says the audit was performed by an organization that isn't familiar with specific program requirements for the developmentally disabled and investigators didn't spend enough time at Babcock homes to gauge active treatment. "I don't think they did a fair appraisal," she says.

Stan Butkus, head of the state's Department of Disabilities and Special Needs, ordered Babcock to reduce its number of residents by 50%, saying "system improvements can best be achieved … by reducing Babcock's size and scope of responsibility."

Babcock has proposed turning over facilities to the state so residents won't have to move. Other agencies will be asked to operate the homes.

Regulating A Faulty Heart Device (NYT)

The New York Times, September 13, 2005

The deplorable story of how a medical-device company sat on information about a flawed heart defibrillator while a hapless recipient died has now engulfed the Food and Drug Administration as complicit in the silence. A report by Barry Meier in The Times yesterday revealed that the agency received a report from the manufacturer detailing the flaws months before the F.D.A. issued a safety alert on the devices. By the time the agency acted, a college student relying on the implanted defibrillator to shock any erratic heart beats back to normal had died while mountain biking. His unit had short-circuited, just as the same model did earlier in about two dozen other patients.

What is disturbing is how long it took the company, the Guidant Corporation, and the regulators to get a meaningful warning to doctors and patients. The company is required to submit an annual report to the F.D.A. that includes data on how often, and why, its devices fail. As it turned out, the company waited until mid-February of this year to submit a report that covered the year from June 1, 2003, to May 31, 2004. The eight-month lag seems intolerably long for devices that can mean life or death. In previous years, Guidant had submitted reports within three months of the period covered.

The report revealed that 10 of the problematic devices suffered short circuits during the year. This was surely information of potentially great importance to doctors and patients. The student mountain biker died in March. Neither he nor his doctors were aware of the short-circuiting problem.

The regulators also appeared lethargic. The F.D.A. has a policy of reviewing the annual reports within 90 days, but it is unclear whether the regulators read Guidant's report by mid-May. There is no indication that the agency took any action in response to it. Only when The Times was about to publish an article on the flawed devices in late May did the company issue an alert to doctors, followed in June by an alert from the F.D.A.

The agency's excuse for not making the failure data public right away is too feeble to withstand scrutiny. Although F.D.A. officials have sometimes claimed that the annual reports are proprietary documents that must be kept confidential, they now acknowledge that the failure data itself is not confidential. The problem, they say, is that the failure data is included in a report that contains other proprietary information. It would be an inefficient use of time and resources, the agency says, to plow through hundreds of annual filings to determine what information could be released and what had to be kept confidential.

If that is the only problem, the solution is simple: require the companies to submit the failure data separately in a form that can be released immediately.

Probing Surgery's Link To Cancer Recurrence (WSJ)

By Amy Dockser Marcus

The Wall Street Journal, September 13, 2005

Doctors have long noted that the rate of recurrence for women with breast cancer is highest during the first two years after surgery to remove the tumor. Now a group of researchers say they have found a reason why: the surgery itself.

In a paper published today by the quarterly International Journal of Surgery on its Web site, the researchers argue that taking out the tumor triggers the release of certain substances in the body, perhaps as part of the wound-healing process or in response to the absence of the tumor. They believe that these substances, in turn, enable cancer cells that had been lying dormant in other parts of the body to undergo angiogenesis -- the process by which the body forms new blood vessels -- which also feeds the tumors' growth. This can cause the women to relapse early, the researchers concluded.

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The researchers' findings are based on their study of a database of 1,173 breast-cancer patients treated in Italy. They didn't conduct examinations or blood tests on the subjects. Rather they offer the theory of "surgery-induced angiogenesis" as the best explanation for a statistical cluster of recurrences in the group. They say the cases recurred too early to be explained by another mechanism, so the researchers concluded they were related to the women's surgeries.

There is support for this idea in animal and human studies that link surgery to remove tumors, including lung and colon cancer, with cancer recurrence. For instance, in a 2002 paper published in the journal Lancet, colon-cancer patients who had traditional surgery had a significantly higher rate of relapse than patients who had a minimally invasive laparoscopic procedure.

And the study's lead author, Michael Retsky, a lecturer in surgery at Children's Hospital Boston and Harvard Medical School, says the theory of surgery-induced angiogenesis may have implications for treatment of a variety of cancers. Cancer drugs that try to stop tumors from being able to form new blood vessels, such as Avastin, are being increasingly used as part of therapy. And other "anti-angiogenic" agents are being studied in animals and humans, focusing new attention on how to best use these drugs to improve survival.

The paper's authors don't advocate that women with breast cancer forgo surgery. Most women with breast cancer have surgery -- either mastectomy or lumpectomy -- to remove the tumor, and this has long been part of the standard treatment.

"Surgical therapy cures a large majority of women with early-stage breast cancers and I don't want patients to run away from the operating room," says Susan E. Clare, a breast-cancer surgeon at Indiana University School of Medicine in Indianapolis, who wasn't involved in this study.

Women typically undergo chemotherapy or radiation in addition to surgery to try to cut the risk of the cancer coming back. But the study suggests that this may not be enough, and that doctors might want to study the idea of giving certain women anti-angiogenic drugs in the days before and after surgery.

Dr. Retsky and his colleagues looked specifically at breast cancer because it involved a large, deep database of patients, he said. The research has led him to believe that "over half of all relapses in breast cancer are accelerated by surgery."

It isn't yet known which women might be most at risk for this sort of recurrence. But in studying the relapse patterns of the 1,173 women, who were treated at the Milan Cancer Institute in Italy only with surgery and then followed for 16-20 years, the researchers determined that younger women are the hardest hit by surgery-induced angiogenesis. According to the analysis, 20% of premenopausal women whose cancer had spread to their lymph nodes at the time of diagnosis relapsed within the first 10 months after surgery. This relapse rate was twice as high as that of women after menopause whose cancer had spread to the lymph nodes, indicating that surgery-induced angiogenesis may be regulated in some way by hormones.

The study also contended that this phenomenon might help explain the so-called mammography paradox for women ages 40-49 that has come up in some breast-cancer-screening studies. In some trials, women ages 40-49 who were invited to be screened died of breast cancer in greater numbers than women who weren't part of the group asked to be screened. Dr. Retsky, and his co-authors Romano Demicheli and William J.M. Hrushesky, theorize that if the women underwent mammography and had their cancers discovered earlier, they then would be treated by surgery and be at higher risk of being affected by surgery-induced angiogenesis.

The paradox theory itself is hotly disputed, with some scientists contending that it doesn't exist. "The number of cases in the early years of the screening trials are too small to permit accurate analysis," says Daniel B. Kopans, a professor at Harvard Medical School and the director of breast imaging at Massachusetts General Hospital in Boston.

The study comes at a time of increasing interest in finding ways to prevent recurrence. Other researchers also believe that angiogenesis plays a role in the process of recurrence. Michael S. O'Reilly, an assistant professor of radiation oncology and cancer biology at M.D. Anderson Cancer Center in Houston, says that animal data suggest that surgery-induced angiogenesis exists, and could be a factor in early relapse. But he said that it still wasn't clear whether the phenomenon worked the same way in every cancer, how to identify at-risk patients, or even whether surgery-induced angiogenesis was the only explanation. "It may explain the phenomenon in some patients but not all of them," Dr. O'Reilly says.

A national breast-cancer trial sponsored by the American College of Surgeons Oncology Group is examining whether treatment that alters hormone levels around the time of surgery will improve outcome and prevent recurrence. "We know that

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endocrine manipulations have strong effects on tumor blood vessels," says Matthew J. Ellis, director of medical oncology at Washington University School of Medicine in St. Louis, and the principal investigator of the trial.

The question of whether surgery spurs the growth of previously undetectable cancer cells has been around for decades, in part because animal data indicated a connection. Some research suggests that it is the removal of the primary tumor that acts as the trigger, with lab work in animals showing that some metastasized cancer cells don't grow on their own until a primary tumor is removed. The primary tumor may inhibit the growth of blood vessels in cancer cells elsewhere in the body, and cutting out the tumor alters that process. Researchers compared the situation in the body to a huge stew, with the removal of the tumor upsetting the balance of the different ingredients.

Another theory on how surgery jump-starts angiogenesis in a tumor involves the wound-healing process. In the 2002 Lancet study on patients with advanced colon cancer some doctors speculated that in the more-extensive surgery, a larger wound was made than with the laparoscopic surgery -- and more substances and proteins involved in healing the body were released into the blood as a result. These "growth factors" also may spur the angiogenesis process in tumors.

Harikrishna Nakshatri, a colleague of Dr. Clare in the department of surgery at Indiana University School of Medicine, developed a mouse with breast cancer that would spread to the lung only after the removal of the primary tumor. Earlier this year, blood samples from 12 mice were taken before and after the tumor was removed. Then, Dr. Clare and colleagues at the Indiana Centers for Applied Protein Sciences identified proteins that surged or decreased after surgery. Some substances dropped precipitously, suggesting that they might have played a role in stopping cancer cells from previously growing. Others that are involved in helping the body to heal wounds surged.

The next step, Dr. Clare says, is to see whether the same proteins they are seeing in mice are present also in women. "If it turns out to be true in women, we can then try to find therapies to block it," she says.

Joyful Palestinians Rush Into Empty Settlements (USAT)

By Martin Patience

USA Today, September 13, 2005

GUSH KATIF, Gaza — Jubilant Palestinians celebrated the end of 38 years of Israeli occupation Monday by marching into Jewish settlements emptied by Israel after its decision to pull out of Gaza.

Palestinian Authority plans for an orderly transfer of power were quickly brushed aside as eager Palestinians rushed to the settlements early Monday, soon after the last Israeli forces withdrew.

Israel removed 8,500 Jewish settlers from their homes in 21 Gaza settlements last month, razing most of the buildings in the communities. The last column of Israeli tanks rumbled out of Gaza just before sunrise Monday. “The mission has been completed, and an era has ended,” said Israel's Gaza commander, Brig. Gen. Aviv Kochavi, who was the last soldier to leave.

Palestinian leader Mahmoud Abbas said Palestinians still faced a “long road” to statehood. But “today our people have the right to celebrate their freedom, their dignity,” he said. “This place was a taboo for us for the past 38 years, and now we are standing here.”

Throughout the day, Palestinians stripped fixtures and roofing materials from municipal buildings and synagogues that had not been demolished by the Israeli army. They loaded trucks, carts pulled by donkeys and supermarket trolleys with bed frames, light fittings, scrap metal and toilets.

Empty synagogues in the Morag, Kfar Darom and Netzarim settlements and a Jewish seminary in Neve Dekalim were torched. Later, a Palestinian bulldozer began knocking down the walls of the Netzarim synagogue. Israeli Foreign Minister Silvan Shalom called the burning of the synagogues “a barbaric act.”

Khalid Ismail, 40, a Palestinian math teacher from Khan Younis in Gaza, agreed. “I don't think it's civilized,” he said. “We should respect the religions and beliefs of others.”

For many here, however, Monday was a day of celebration and exploration of the settlements that had been closed to most Palestinians. “I never thought Gaza was so beautiful,” journalist Azmi Mohammed, 40, said as he stood beside a grove of date trees. “For 38 years, we have been closed to this stunning place, and now it feels as if we are out driving in the country.”

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Abu Mahad, 70, was desperate to get to the beach in front of the Gush Katif settlement bloc. The shore had been closed to Palestinians since the start of the Palestinian uprising in September 2000. “I feel like I am born again,” he said.

Palestinian officials said the occupation of Gaza was not over. “By reserving itself the ability to invade the Gaza Strip and by maintaining control over Palestinian airspace, territorial waters and most importantly its borders, Israel will continue its military rule over the Palestinians and thereby continue to deny Palestinians their freedom,” Minister of Civil Affairs Mohammad Dahlan said. “Israel is deluding itself if it believes that its occupation over the Gaza Strip has now ended.”

By late evening, settlement roads were jammed with Palestinian pedestrians and cars flying flags. Iyas Salim, 40, an aid worker, said this was only the start. “The West Bank and Jerusalem must be next,” he said, referring to Palestinian hopes to build an independent state in Gaza, the West Bank and East Jerusalem — captured by Israel in the Mideast war in 1967.

Israeli Prime Minister Ariel Sharon has said he remains committed to the U.S.-backed “road map” peace plan, which calls for an independent Palestinian state, but any negotiations depend on Abbas' ability to rein in militant groups.

Palestinians Rejoice, Loot As Israel Wraps Up Pullout (WT)

By Joshua Mitnick

The Washington Times, September 13, 2005

KHAN YOUNIS, Gaza Strip -- Euphoric Palestinians celebrated the exit of the last Israeli soldiers from Gaza yesterday by swarming into former Jewish settlements, frolicking in the sea at previously restricted beaches and spilling over the border into Egypt.

Despite Palestinian Authority pledges to keep Gazans out of the abandoned Israeli settlements for a few days, the Palestinian security forces did not prevent militants from torching synagogue buildings and firing guns in celebration, while looters made off with truckloads of debris.

Television footage of militants, policemen and civilians ransacking the settlements shocked Israelis and underscored the difficulty Palestinian Authority President Mahmoud Abbas will have in establishing law and order in the Gaza Strip.

"I think this is unacceptable behavior from our people," said Khan Younis Mayor Osama Alfara, who had just walked through what used to be the neighboring settlement of Neve Dekalim. "But our people want to be sure that there is no return of the Israelis, so they are taking some things as a memory."

Palestinian and Egyptian soldiers along Gaza's border with the Sinai Peninsula were overwhelmed by hundreds of residents from Rafah -- a Palestinian city that straddles the boundary -- who made their way to the Egyptian side, according to the Web site of the Ha'aretz newspaper.

A 38-year-old Palestinian was killed in the tumult, with Egyptian border police and Palestinian police accusing each other of responsibility.

After Israel abandoned the heavily fortified Philadelphi border corridor aimed at preventing weapons smugglers, Egypt deployed border police to patrol the region for infiltrators and illegal arms traders.

Mr. Abbas pledged to do all in his power to put an end to border violations. "The penetration of the border is completely unacceptable, and we will move to stop it," he said.

Israel concluded a monthlong evacuation from Gaza early yesterday, as a convoy of armored vehicles rumbled back over the border and the Gaza division commander, Brig. Gen. Aviv Cochavi, closed a gate in Israel's security barrier that surrounds the strip to the north and east.

Many Palestinians stayed up through the night in anticipation of the first hours of freedom. In pre-dawn hours, many Gazans had crossed over into the abandoned settlements. Hours later, tens of thousands of smiling Palestinians began making their way into land that many of them had never touched.

Amid the rubble around Neve Dekalim, which had been the largest Jewish settlement in Gaza, flags from the militant group Islamic Jihad, the Palestinian Authority and the Democratic Front for the Liberation of Palestine were hoisted above synagogues and other public buildings.

A detachment of Palestinian security officers congregated outside the regional council building to ensure that Palestinians didn't destroy public structures left by the Israelis.

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"It's our mission to protect these buildings and to prevent their destruction," said Mohammed Mansour, a member of the national security force. "But as you can see, we aren't very successful. It's a shame."

On the plaza outside the Neve Dekalim synagogue, mule-drawn carts were piled with heaps of scrap metal. Inside, the Sephardic sanctuary was littered with shards of glass as men with homemade pickaxes smashed windowpanes in the third-floor rafters.

"We've been waiting 38 years, what do you expect from me," said Ahmed Ikhleya between blows at the synagogue. "We want to end the occupation, and we don't want any memory of the occupiers."

In the southern portion of the strip, just west of Neve Dekalim, thousands of adults and children enjoyed their first trip to the local beach in five years.

During the latest Palestinian uprising, the Israeli army barred the residents of Khan Younis from driving five minutes through the Jewish settlement block to the beach, and instead forced them to travel hours to Gaza City.

Yesterday, the children splashed through the surf, using foam from former settlement ceilings as flotation devices.

"We were deprived of smelling clean air," said Fayrouz Figawi, a mother of 12 sitting under a hut of corrugated metal collected at a settlement. "When they deprived us of the beach, we sat at home listening to bullets and tank shells."

Gazans Revel As They Sift Through Ex-Settlements (NYT)

By Steven Erlanger

The New York Times, September 13, 2005

NEVE DEKALIM, Gaza Strip, Sept. 12 - Throughout the abandoned Israeli settlements of Gaza, Monday was a carnival of celebration, political grandstanding and widespread scavenging for a Palestinian population whose occupiers vanished overnight, as the Israeli Army pulled its last soldier out of Gaza at 6:50 a.m.

But hours before the divisional commander, Aviv Kochavi, became the last Israeli soldier to leave, thousands of Palestinians had entered the once-forbidden settlements that, together with their military infrastructure, consumed about 30 percent of the densely populated Gaza Strip.

The celebrations were orchestrated in part by the rival factions within Palestinian society - Islamic Jihad, Hamas and Fatah, the mainspring of the Palestinian Authority. Their flags of black, green and yellow were more numerous than the Palestinian flag, and were prominent on abandoned Israeli military outposts and public buildings.

Hamas, which is running hard for votes in January's legislative elections, paraded through numerous settlements, with armed and often masked men on loudspeaker trucks. Hamas posters and graffiti proclaimed the victory of resistance. Islamic Jihad, which is not running, did the same, as did armed members of Al Aksa Martyrs Brigades, a Fatah contingent.

Some who came did so to see the land they had worked before the 1967 war, when Israel took Gaza from Egypt; others honored friends who had died in attacks on the Israeli settlers; still others came to salvage whatever could be ripped away and sold from the large piles of rubble the Israelis had left behind.

Donkey carts were piled with bathroom fixtures, pieces of metal, skeins of wire and long pieces of wood, to feed home ovens. Men, women and children worked with a seriousness of purpose, trying to take home some little personal benefit from the return of lands many feel will somehow, as usual, end up in the hands of the wealthy or well connected.

By the light of burning egg crates, Samir Abu Hattah whacked away at window glass with a metal pole, shouting, "Go to hell, Zionists!"

Then he directed a group of young men to start pulling down the electrical wiring, aluminum window frames and doors of an agricultural warehouse here in Neve Dekalim.

"I feel a great sense of victory today," said Mr. Hattah, 40, who lives across the tall concrete wall in the Khan Yunis refugee camp and who used to work in this settlement before the second Palestinian uprising began in 2000. "The Zionists built it and then they destroyed it," he said with satisfaction. "The lesson I've learned, and I will pass it on to my sons, is that no matter how long it takes, the occupiers will leave because of resistance."

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Behind him, a settlement synagogue built in the shape of a huge Star of David was smoldering, fires inside sending smoke through the edges of the star. Atop the building, in the dim smoky moment before dawn, one could see a huge green flag of Hamas, with a smaller Palestinian flag flying below it.

A few minutes later, a large black flag of Islamic Jihad was flying just under the Hamas flag, above the Palestinian one.

Five minutes later, the Palestinian flag had been taken down altogether.

Israel had leveled all the other buildings in the settlements in an agreement with the Palestinians but chose, at the last minute, not to destroy the synagogues because a number of Israeli conservatives argued that it was wrong for Jews to destroy synagogues. As a result, settlement synagogues were standing and vulnerable to vandalism.

As daylight brightened, more Palestinians poured into the former settlements, which are still surrounded by huge fortifications and electronic fences. Some went sightseeing, some went salvaging, some went to swim from beaches that had been closed to them. They were joined by hundreds of schoolchildren in uniform who were given the day off as a holiday. Three people were reported drowned.

Ahmad el-Kurd, the new Hamas mayor of Deir Al Balah, cheek by jowl with the former settlement of Kfar Darom, said his joy was mixed as he remembered how much he loved, as a boy, the unspoiled dunes that were fenced off for Kfar Darom. "If they could only give me back the land as it was 38 years ago," he said. "Now, it's only piles of rubble."

In Kfar Darom, there was an extensive march of armed fighters, but the synagogue there was protected from burning by security forces who made a kind of headquarters out of it. Palestinian officials said they expected to pull down the remaining synagogues themselves, and a bulldozer began the task in Netzarim.

He was happy today, Mr. Kurd said, but his happiness was also tempered "because of the continuing occupation of Jenin and Nablus and Jerusalem, which are also part of Palestine." And until Israel resolved the question of how to allow Palestinians and their goods to enter and exit freely from Gaza, to Egypt and to the West Bank, he said, "Israel remains an occupier," a position supported by the Palestinian Authority.

"If there is no freedom of movement, don't consider the Palestinians free," Mr. Kurd said. "We will not accept Gaza as a big prison."

The Israeli government of Prime Minister Ariel Sharon says that the life of Gaza is up to the Palestinians now, and that only security considerations are preventing a resolution of the issue of Israel's continued control over Gaza's border with Egypt. The Israelis have proposed a complicated six-month provisional procedure, which the Palestinians reject. For their part, the Israelis have so far rejected a proposal by the Western mediator, James D. Wolfensohn, to allow Palestinians to pass through Rafah to Egypt with European officials supervising the process on behalf of Israel.

Thousands of Palestinians slipped through gaps in the border wall on Monday and crossed from Gaza to Egypt at Rafah in a scene of chaos and jubilation, with tearful family reunions and one man reportedly shot dead. Witnesses said an Egyptian soldier shot and killed a Palestinian who crossed into Rafah, but the Egyptian government denied the report, insisting the victim must have died from a stray bullet fired by those celebrating the withdrawal of Israeli border guards.

"I categorically deny this report, which is completely baseless," said Suleiman Awad, official spokesman of President Hosni Mubarak. "It's inconceivable that Egyptian soldiers should have opened fire on the Palestinians after letting 3,000 cross the border for family reunions."

The leader of Hamas's military wing in the sprawling Khan Yunis camp, Abu Moath, came with his armed entourage to take a look at Neve Dekalim. He had not been here in a very long time, he said, and recognized little among the piles of rubble, atop which young men dug for metal scraps, plastic chairs and an old washing machine.

Asked about Israel's last-minute decision not to destroy the last 24 synagogues in Gaza but to ask the Palestinians to protect them, Abu Moath scoffed. "They must be destroyed as symbols of Israel and the occupation," he said. "They promised to destroy them, and we are only carrying out the ruling of their own court." As he spoke, two of his entourage showed their colleagues the car batteries they had found.

On the wall of a synagogue here was a Hamas slogan: "Push them out as they pushed you out!" And nearby, there was another: "Yes for freedom! No for Jews! - Hamas."

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Fatma Abu Reziq, whose large, poor Khan Yunis family was profiled in The New York Times in June, said she was one of the first Palestinians into Neve Dekalim, arriving at about 3 a.m., even before the last Israeli tank rumbled away. "People were afraid at first, and then they saw people like me get in, and they became brave," she said.

Even she, she said blushing, had salvaged a few items from this settlement to brighten her home, a few hundred yards across the no man's land from the towering cement wall that still cuts off Khan Yunis from Neve Dekalim. "Now that the Israelis are gone, our lives will be better and quieter," she said. "I can't describe my happiness to see the flag of Palestine flying here."

Palestinians Pour Into Settlements (WP)

By Scott Wilson

The Washington Post, September 13, 2005

GAZA CITY, Sept. 12 -- Thousands of Palestinians rushed into the former Jewish settlements of the Gaza Strip on Monday in a mood of elation and opportunism. Some scavenged for items of potential value or souvenirs of Israel's departure, while others trashed abandoned synagogues that had been left standing when settlers departed.

Israeli troops had left overnight, ending a 38-year military hold on the Gaza Strip and the 21 former Jewish communities. The Israeli government had razed many of the buildings after settlers departed.

Men and women, young and old, descended on the settlements soon after the last Israeli soldier passed through the Kissufim crossing a little before 7 a.m.

"The children want to know what happened to the trees," said Yasser Nawas, 36, an engineer from the Nusseirat refugee camp, who took his four small children Monday morning to get an early glimpse.

Nawas walked in with his small phalanx of children, under skies filled with acrid black smoke, along roads lined with uprooted pine trees. Amid piles of rubble that last month were comfortable homes, Palestinian men collected coils of cable, aluminum window frames, plastic water tanks and streetlights, loading them onto donkey-drawn carts.

"I brought them to know the place they have been deprived of," Nawas said of the children. "I'm not surprised by the destruction I've seen. But I am shocked by these uncivilized acts. I was expecting celebrations, something for the kids to see."

Although abandoning the territory, Israel will maintain control over its border with Gaza, and Palestinian officials say that means the occupation has not ended. But settlement streets were taken over by various armed militias, all claiming a share of credit for the unilateral Israeli departure from land it occupied in the 1967 Middle East war.

Egyptian troops, meanwhile, have deployed along Gaza's southern border. Palestinian officials said Egyptian border guards shot and killed a Palestinian man identified as Nafiz Ateyah, 34. Officials said the shooting occurred while Egyptian police were trying to control crowds along the Gaza side of the border in the city of Rafah, where dozens of Palestinians managed to cross Monday after months of being prevented from doing so. Egypt denied that its border guards shot the man, according to the Reuters news agency.

In some of the former settlements, Palestinians scuffled occasionally amid the rubble, prompting police to intervene with batons and warning shots. Although the day was largely free of violence, the synagogue buildings that the Israeli government decided to leave intact were vandalized, and at least four of about two dozen were set ablaze.

Palestinian authorities later bulldozed some of the synagogue buildings, symbols to many Palestinians of the Israeli occupation. Israeli officials criticized the Palestinian Authority for failing to protect the buildings, including the one in the largest former settlement, Neve Dekalim, where the interior walls bore scorch marks from fires set early in the day.

In the early afternoon, a noisy convoy carrying Mahmoud Zahar, a senior official of the Islamic Resistance Movement, or Hamas, rolled through the settlement's torched gatehouse. Zahar's pickup truck was filled with Hamas gunmen and was followed by a truck blaring martial anthems and announcing Zahar's arrival to thousands of Palestinians.

Shattered glass crunched under the feet of Zahar's entourage as he entered the synagogue building. Few Palestinians paused from prying electrical cord from the walls or smashing free an air-conditioning unit as Zahar passed. Someone handed him a hammer, which he swung vigorously against a wall. "Our resistance has succeeded in ending the . . . resistance in Gaza," Zahar said, referring to Israel. "This means that this first step will be followed by a second step." The next step, he said, was to

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rebuild Gaza and wage "an effective armed resistance in the West Bank," the heartland of what has been designated as a future Palestinian state.

Across the strip, lines of cars clogged roads blocked for years by Israeli checkpoints and barricades. Palestinians pushed aside cement blocks and coils of razor wire to open up old roads and make new ones through dunes and marshy valleys.

In the former settlement of Kfar Darom, Palestinian soldiers watched over the abandoned synagogue, the scene of a dramatic stand by Israeli settlers last month. Holes had been punched in its walls, and insulation dangled from the ceiling from the work of vandals earlier in the day.

Soldiers guarded about 4,000 greenhouses that form the backbone of the strip's agricultural industry, but the large salad factory in Kfar Darom stood unwatched. Scores of Palestinians ransacked the large building, which once employed many Kfar Darom residents and supplied salad to dozens of Israeli restaurants.

For the first time in decades, the dirt road leading from the coastal highway to the former central settlement of Netzarim filled with Palestinians, who made a raucous parade on foot and by donkey cart and SUV into the former settlement. "This is subhuman," one man grumbled as he watched scores of people sift through ashes and scrap heaps.

Mohammed Siam pinched a 7.62mm shell casing from an Israeli machine gun between his fingers. "I will make a medal of it," said Siam, 27, of Gaza City. "I'll tell everyone I took it out of Netzarim."

Mohammed Jadili, an interior designer from the Gaza City neighborhood of Zeitun, clutched a small rosebush flecked with pink buds as he watched a group of Palestinian youth scale the dome of the synagogue building. Hours later, it was demolished by Palestinian bulldozers.

"In my house, I will plant this," Jadili said. "And remember the occupation."

U.S.-Chinese Trade Relations Get Trickier (USAT)

By David J. Lynch

USA Today, September 13, 2005

WASHINGTON — What started as a bad pun has become one of the most consequential questions facing the United States: "Who is Hu?"

Is Chinese President Hu Jintao the valued customer Corporate America fancies or, as a growing segment of official Washington fears, is he the USA's most dangerous long-term enemy?

Financial links between the USA — the world's most powerful country — and China — its most populous one — have never been more crucial. Bilateral trade is running at an annual rate of more than a quarter of a trillion dollars. And Beijing's purchases of U.S. Treasuries are essential to keeping interest rates low, good news for anyone who's taken out a mortgage recently.

Yet, with the Chinese and American presidents preparing to meet today on the sidelines of a United Nations session in New York, long-standing Sino-U.S. trade friction is merging with mounting anxiety over Beijing's stepped-up military spending and its muscular drive to secure energy supplies. As the Bush administration struggles to balance commerce and national security, companies seeking to expand sales to China may wind up in the crossfire.

"A rising China has another side people should be worried about. It's not just about cheap goods," says Yu Maochun, a historian at the U.S. Naval Academy.

This fall, the Commerce Department plans to issue a new "catch-all" regulation to curb sales to China of civilian technologies that could have military applications. The new rule could dramatically expand the list of items requiring export licenses for sale to China, beyond today's narrow list of advanced technologies.

"We're very concerned about it. … It's going to cut off a lot of legitimate non-military trade," says William Reinsch, president of the National Foreign Trade Council, a Washington-based pro-trade business group.

A group of 70 to 80 companies, including General Electric, Boeing and General Dynamics, have banded together to lobby against the proposal, he says. Affected products could include everything from medical technology to heavy equipment.

Bush is scheduled to speak with Hu, making his first visit to the USA since becoming China's president in 2003, on the fringes of a U.N. General Assembly session. The get-together was hastily arranged after Bush canceled a Sept. 7 White House meeting to focus on responding to Hurricane Katrina.

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Antagonism toward China is flaring for several reasons. Chief among them: The largest single-country slice of the swollen U.S. trade deficit is with China. Earlier this month, bilateral talks aimed at capping surging Chinese textile shipments to the USA failed to reach an accord. Many U.S. manufacturers say China's refusal to allow world markets to set the value of its currency worsens the trade gap by making Chinese products artificially cheap. (Beijing took a small, but important first step in this direction in July when it stopped pegging the yuan to the dollar's value.)

China's historic emergence as an economic power is a source of both profit and peril for the USA. In a new survey, 66% of companies said their Chinese operations were as profitable or more profitable than their global operations, according to the U.S.-China Business Council, which represents about 250 corporations with operations in China. Three-quarters of those surveyed plan to boost their commitments there.

But as it prospers, China's ravenous appetite for energy is leading to conflicts with the U.S. Last month, a state-owned Chinese oil company, CNOOC, abandoned a bid to buy the U.S. oil company Unocal amid fierce congressional opposition. Other Chinese companies have defied the U.S. by signing deals with anti-American nations such as Iran and Sudan.

Flush with cash, China also is lavishing increasing resources on its military. Defense spending this year increased 12.6% to $29.9 billion — twice the figure from five years ago. And the Defense Department estimates that the actual total may be two to three times that amount, though still just a fraction of the USA's $400 billion military budget. A recent Pentagon report warned that China was amassing the weapons needed to thwart the U.S. in any future contest over Taiwan, which China regards as a renegade province.

The U.S. political climate also has shifted with President Bush's declining approval ratings, opening foreign policy to more widespread partisan attack. After the 9/11 attacks, China provided welcome backing for the U.S. war on terror, including acquiescing in the stationing of American military forces in Central Asian countries on its border. Such cooperation helped insulate China policy from sniping. No longer.

"The post 9/11 honeymoon is definitely over. … People are much more vocal about China," says Minxin Pei, a Shanghai native who directs the China program at the Carnegie Endowment for International Peace in Washington.

Worries over China's global ambitions threaten to impinge on trade policy. The U.S.-China Economic and Security Review Commission is expected within weeks to recommend to Congress legislation that would restrict access to U.S. capital markets for Chinese firms. "Bush is really in danger of losing control of policy toward China in the economic realm," says Bonnie Glaser of the Center for Strategic and International Studies. "The concern about China in this country is going to continue to climb."

Likewise, the new Commerce Department regulations, which have been in the works for months, are aimed at preventing China's military from benefiting from any U.S. technology.

Today, less than 2% of all exports to China require a government license. And 95% of all applications are approved; the total value of contracts denied last year was just $10.8 million, according to Peter Lichtenbaum, acting undersecretary of Commerce for industry and security.

In June testimony before a congressional commission, Lichtenbaum acknowledged that the U.S. should be "cautious" about broadening its export controls because other countries often can sell to China what the U.S. chooses not to.

Industry representatives, however, say the new rules will discourage trade with China, in products such as manufacturing process technology or product improvement systems, either by adding uncertainty or swaddling it in red tape. Executives worry that the proposed regulations will burden exporters with determining whether their products will aid the Peoples Liberation Army.

"It sends a message to American investors to stay the hell out of the Chinese market," says William Clements, partner at Foley & Lardner, a Washington law firm.

Hu has his own domestic problems, and they could have implications for U.S. firms. Despite rising incomes, the past several years have witnessed a stunning increase in the incidence of public protest in China. Public Security Minister Zhou Yongkang said last month that 3.8 million Chinese had participated in 74,000 public demonstrations last year over issues such as unpaid pensions, official corruption and environmental concerns.

Such demonstrations are a long way from a national anti-government movement, but China is a society whose leaders traditionally — and with good reason — have been obsessed with the dangers of luan, or chaos. Last month, the government announced it was establishing elite anti-riot brigades in 36 major cities to quell future disturbances.

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That atmosphere could cause some executives to think twice about future investments. “You could well see some companies decide with their next four plants to put three in China and one in India where three or four years ago they would have built all four in China,” says Kenneth Lieberthal, former director of Asia policy on the National Security Council.

Since assuming China's top government and party posts, Hu has cemented his power by cracking down on the media, academics and unauthorized churches. That feeds U.S. concerns about China's poor human-rights record and long-standing uneasiness with the specter of an increasingly prosperous communist dictatorship.

The ambivalence was reflected in the administration's handling of Hu's now-canceled Sept. 7 White House visit. Chinese officials, traditionally highly sensitive to matters of political symbolism and respect, unsuccessfully sought the hoopla of a full state visit for Hu.

There was ample precedent. In 1997, President Clinton held a state dinner to honor Hu's predecessor, Jiang Zemin. An ex-president, five former secretaries of state, congressional leaders and the heads of 30 corporations, including IBM, AT&T, Boeing, Time Warner and General Electric, were on hand to hear the Chinese president quote Henry Wadsworth Longfellow.

Chinese officials were miffed at the U.S. refusal to extend the same treatment to Hu, according to June Teufel Dreyer, a University of Miami China specialist who was recently in Beijing. “It does matter to the Chinese. … They are very finely tuned to nuance,” she says.

Even if that irritation wanes, the tone of the relationship isn't likely to improve anytime soon. As soon as next month, Sen. Charles Schumer, D-N.Y., and Sen. Lindsey Graham, R-S.C., could get a Senate vote on their legislation that would slap a 27.5% tariff on all Chinese imports. The measure, which drew 67 votes in an earlier test of political strength this year, is aimed at forcing the Chinese to allow the yuan to appreciate.

Schumer says China's initial 2% adjustment in the value of the yuan was insufficient to alleviate congressional concern over its trade practices. “China has to do more,” he told reporters last week.

The approach of the 2006 election year also won't make things any easier. And if the economy weakens under the spreading impact of high gas prices and the disruption of Hurricane Katrina, then Sino-U.S. trade tensions could really become inflamed.

Yet, given the trade and financial links between Beijing and Washington, neither nation can afford a rupture. “Both sides are trying to keep this thing well on the tracks,” says David Lampton, director of China studies at Johns Hopkins University.

China Promotes 'Peaceful Rise' To Quell U.S. Fears (WSJ)

By Charles Hutzler

The Wall Street Journal, September 13, 2005

BEIJING -- Even as Chinese President Hu Jintao and U.S. President George W. Bush gear up to meet in New York today, many Americans are questioning China's longer-term intentions.

Zheng Bijian thinks he has the answer. The consummate Chinese Communist Party insider and confidant of Mr. Hu is promoting a message that China isn't trying to displace the U.S. but is seeking to emerge onto the global stage peacefully. His "peaceful rise" project has gained the support of China's top leaders, with Mr. Hu originally expected to touch on the theme during a weeklong U.S. tour earlier this month.

That visit was postponed in the wake of Hurricane Katrina's devastation. During today's meeting at the United Nations, the two countries' leaders are likely to talk about the value of the yuan and denuclearization of the Korean peninsula, among other issues of bilateral concern.

In the backdrop of the meeting, however, is anxiety about China's rapid rise -- a situation Mr. Zheng is trying to change.

"China must take a different path, a path that none of the late emerging countries has taken in the contemporary world," says Mr. Zheng, a formal man known for choosing his words carefully. Otherwise, he said recently in an interview, China could meet the fates of Germany, Japan and the Soviet Union in the past century, ambitious upstarts foiled by the dominant powers of their time.

Mr. Zheng and his peaceful-rise project offer a rare window into the secretive world of Chinese foreign-policy making at a time when China's leadership is grappling to define the global role of this country of 1.3 billion people. Already, its mighty

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manufacturing engine, growing diplomatic clout and increasing assertiveness are sparking concern among some people in the U.S. and elsewhere that an emerging China could constitute a threat.

In the U.S., a Pentagon report warns of growing Chinese military might. China's ravenous appetite is contributing to rising oil prices world-wide. A flood of low-price Chinese exports is fraying China's ties with the U.S. and Europe, and its relations with Japan are at a low point.

Of course, the peaceful-rise concept has detractors. U.S. Secretary of State Donald Rumsfeld has questioned why China continues to build up its military if it faces no threat. In China, retired ambassadors have complained that the emphasis on "rise" was counterproductive, scholars close to the ambassadors say. Chinese military officers have objected to the "peaceful" component, saying it gives the impression China won't defend its national interests.

Mr. Zheng is undeterred by such criticisms, and his project is getting a boost by a change in the way Beijing views power. Since the periodic flare-ups with the U.S. over Taiwan and with Southeast Asian nations over territorial disputes that marred Beijing's image in the 1990s, Chinese leaders have been seeking more subtle ways to exercise global influence. They also believe China needs constructive relations both with major powers such as the U.S. and with neighboring countries such as Japan to maintain its fast economic growth, exceeding 9% a year currently, and to overcome daunting domestic challenges, such as a widening wealth gap.

Examples of China's new approach: Beijing's successful bid to host the 2008 Olympics; a free-trade agreement with Southeast Asia that has fueled 30% annual increases in China's import of regional goods in the past two years; and a growing leadership role in the U.S.'s efforts to get North Korea to dismantle its nuclear program.

In some ways, Mr. Zheng, 76 years old, is an unlikely pioneer of a new foreign-policy path. Son of a famous calligrapher and poet, he spent much of his career working in the party's insular propaganda department and focusing on internal matters. Known as a brilliant and visionary thinker, he helped write a critical assessment of Mao Tse-tung and his ruinous, radical policies after Mao's death in 1976, helping lay to rest an era of political struggle and opening the door to economic change.

When market overhauls stalled amid a conservative backlash that followed the crushing of the 1989 Tiananmen Square democracy movement, then-paramount leader Deng Xiaoping tapped Mr. Zheng to compile a series of documents that enshrined rapid economic growth as a goal and encouraged private business. One document Mr. Zheng worked on coined "socialist market economy" -- a somewhat-awkward phrase that nonetheless successfully gave cover to Mr. Deng to allow capitalism to take root.

Mr. Zheng began to focus more on foreign policy as vice president of the Central Party School, then headed by Mr. Hu, revamping the staid academy for midcareer party officials to include classes on modern economics and international affairs. Searching for lessons in recent history, Mr. Zheng commissioned studies on the collapse of the Soviet Union and traveled abroad frequently.

But it was during a trip to the U.S. in winter 2002, soon after Mr. Hu's elevation, that Mr. Zheng decided to spend what should have been his retirement years concentrating on foreign affairs. In a meeting with Condoleezza Rice, then the U.S. national security adviser and an acquaintance of Mr. Zheng, an air of tension crept into the discussions as she pressed him about how China planned to use its rapidly growing power, meeting participants recall. She also asked whether China would be satisfied as a status-quo power.

Mr. Zheng says he left Ms. Rice with a task: figuring out the differences between China's Communist Party and the deposed Soviet Communist Party. He also gave her two books to read, "The Analects" by Chinese philosopher Confucius and a volume of Deng Xiaoping's works.

At the time, Mr. Zheng says, he already was thinking about new foreign-policy directions. He used the phrase "peaceful rise" at a speech in Washington. Still, Ms. Rice's remarks bothered him, suggesting that the U.S. saw China as a threat, scholars close to him say. Returning to Beijing, he wrote a proposal to President Hu, suggesting a wide-ranging research project. Mr. Hu sent the proposal back, scrawling "Initiate research," the scholars say.

Mr. Zheng's team of researchers went to work. They didn't just focus on China's relations with other countries. Research prepared by his team examines pressing domestic issues, such as environmental degradation and income disparities and how, if not handled properly, they could hinder China's peaceful emergence in the world. A report on the reunification of Germany

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suggests Beijing might be more successful in wooing back Taiwan, a de facto independent island it views as part of China, if it offered a more democratic political system.

In late 2003, Mr. Zheng and China's top leaders began incorporating the term "peaceful rise" in major public addresses. Yet even as the project acquired momentum, opposition began to form at home. The foreign-policy establishment resented Mr. Zheng's sudden influence in their sphere, with some finding fault with the "peaceful" concept and others, with the "rise" aspect. In the face of the criticism, the leadership changed tack -- rhetorically.

In spring 2004, Mr. Hu and other leaders decided to replace the potentially provocative term "peaceful rise" with "peaceful development," researchers involved in the project say. Tellingly, the leadership didn't side with the hawks who opposed the use of the word "peaceful," the researchers say.

Neither Mr. Zheng nor his project appears to have been affected by the terminology shift. " 'Peaceful rise' or 'peaceful development' -- they're four words with the same meaning," Mr. Zheng says. The project has expanded at the leadership's request, he says, drawing on the expertise of nearly 100 researchers and officials.

This spring, before Mr. Hu's originally scheduled trip to the U.S., the Chinese president dispatched Mr. Zheng to deliver a special message to top U.S. officials that China isn't seeking to displace the U.S. and encouraged him to propagate theories from his peaceful-rise project, Mr. Zheng's aides say. Mr. Zheng also sought to get a read for Chinese leaders on the real feelings and views of Americans toward China, the aides say.

Before his trip, Mr. Zheng was briefed by both Mr. Hu, in an hour-long phone conversation, and Chinese Premier Wen Jiabao, in a two-hour talk in the closely guarded leadership compound of Zhongnanhai, Mr. Zheng's aides say.

In the U.S., he got red-carpet treatment, meeting with Secretary of State Rice, national security adviser Stephen Hadley and other high-ranking officials during an 11-day visit. Mr. Zheng also lunched with former President George H.W. Bush at his vacation home in Kennebunkport, Maine, and even met with Sen. Hillary Clinton.

Mr. Zheng hit on the peaceful-rise theme continually during his visit. The usually media-shy theoretician hosted a rare luncheon for a small group of U.S. reporters in the U.S. capital, where much of the talk focused on the impact of an emerging China on the existing world order.

He stayed so late at a party hosted by Brookings Institution Chairman John Thornton at his New Jersey home, just so that he could answer all the guests' questions about China and peaceful rise, that Mr. Zheng's aides, waiting up for him past midnight back at the hotel, became worried. Mr. Zheng made such an impression that Federal Reserve Bank of New York President Timothy Geithner, a guest, proposed introducing him to Treasury Secretary John Snow.

Mr. Zheng, for his part, came away from his U.S. visit with an added sense of urgency, believing that "it is a very crucial time for U.S.-China relations," says Wang Boyong, an aide who accompanied him on the trip. "There are a lot of opportunities but also a lot of challenges. If we don't manage it well, the U.S.-China relationship could retreat."

One challenge, of course, is continued skepticism overseas that China can, or wants to, orchestrate a peaceful emergence onto the world stage.

Sitting in his book-lined office decorated with the calligraphy "Pillar of the Nation" by a former Chinese leader, Mr. Zheng carefully measures out a response. China has been on an upward path for 25 years since it began economic overhauls, with few serious disruptions to the world, he says. Still, he adds, its peaceful rise will be a lengthy process, stretching until midcentury, when China becomes a developed nation.

"We don't expect you to totally believe that we can definitely realize the peaceful rise of China," he says. "But there are still decades to come to see how we do."

U.S. Considers WTO Action On China (USAT)

By David J. Lynch

USA Today, September 13, 2005

WASHINGTON — The United States is actively considering lodging a formal complaint with the World Trade Organization over rampant Chinese counterfeiting of copyrighted American products.

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U.S. Trade Representative Rob Portman said in an interview Monday with USA TODAY that government lawyers were collecting data needed to support a WTO filing.

"We are looking at a case. … If we have a strong case, and if we don't see the progress that we've asked for, we won't hesitate to move forward," he added.

U.S. officials have complained for years about widespread copying by Chinese companies of products such as compact discs, computer software and apparel. In July, Portman and Commerce Secretary Carlos Gutierrez held an annual meeting with top Chinese officials to discuss trade frictions.

Chinese officials agreed to increase criminal prosecutions of those caught violating copyrights, establish a joint working group of law enforcement personnel and guarantee that all government offices would use only licensed software by the end of this year.

But pirated products remain easily available in any major Chinese city. DVDs of new Hollywood releases — selling for less than $1 — are often available on Beijing's streets before they hit U.S. theaters.

The financial stakes are enormous. In April, William Lash, assistant Commerce secretary, said U.S. firms lose $20 billion to $24 billion annually because of phony Chinese merchandise. Half of U.S. exports depend upon some type of intellectual property protection, according to the State Department.

Since assuming the trade representative's post in April, Portman, a former Republican congressman from Ohio, said he has met with the software, recording and motion picture industries to discuss a potential WTO complaint. (The U.S. has filed 75 such grievances since the WTO's 1995 formation; only one has targeted China, which joined the body four years ago. "More than one dozen" other equally serious issues were resolved without going to the WTO, Portman's office says.)

In May, Portman requested formation of a WTO panel to resolve a U.S. complaint about European Union subsidies for Airbus, potentially the largest and most politically contentious such dispute.

But prospects for a new WTO complaint about China are clouded by U.S. industry's hesitancy to provide detailed information on the harm it's suffering

"We're encouraging those in the private sector who have been subject to piracy and theft of trademark and patents and copyright to step forward to provide us with the kind of information we would need," he said.

So far, there's little evidence that U.S. companies will do that. Many companies whose products have been illegally copied by Chinese manufacturers fear reprisals from the Chinese government if they support a WTO complaint, says Nicholas Lardy, an expert on the Chinese economy at the Institute for International Economics.

Portman's office "will not do it because they can't get the support of U.S. industry," he says.

In December, General Motors filed a lawsuit against a Chinese car company whose QQ small car looked like a Chevy sold in China. But Monday, GM said a WTO complaint might be another matter. "We would need to understand the circumstances and arguments in such a case before we could make a comment," GM spokesman Christopher Preuss says.

Meanwhile, Portman acknowledged that global trade negotiators remain far apart in the current round of multilateral trade talks. A December WTO meeting in Hong Kong, long regarded as critical for the so-called Doha Round, looms as a deadline. If agreement can't be reached at that session, the president's authority to secure a straight up-or-down vote on a new trade pact could expire before Congress could take up the issue.

"We've got some heavy lifting over the next three months," Portman said.

Mexico Builds Trade Ties With China (NYT)

By James C. McKinley Jr.

The New York Times, September 13, 2005

MEXICO CITY, Sept. 12 - President Hu Jintao of China wooed Mexican leaders on Monday during a state visit, trying to smooth out the often prickly relationship between the two countries as part of a larger campaign to expand China's influence in Latin America.

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In the afternoon, Mr. Hu and President Vicente Fox signed several minor agreements with great fanfare, among them one providing mutual tax limits on companies doing business in both countries and another that will allow Mexico to export grapes to China in return for importing Chinese pears.

The countries also agreed on a framework for negotiating future accords that eventually may allow Chinese companies to mine iron and other minerals in Mexico. In recent years, China has been scouring Latin America for iron and oil to feed its roaring economy.

But underneath these shows of cooperation lies an ugly economic street fight over the United States market, analysts say. Chinese companies have battered Mexico's manufacturers and farmers in recent years, and many here see China threatening to replace Mexico as the main supplier of light manufactured goods. Last year, China knocked Mexico out of the No. 2 spot on the list of importers to the United States.

And Mexico itself is flooded with Chinese products, both legal and contraband, from chili peppers to blue jeans to electronics. Last year, Mexico imported $31 in goods from China for every dollar's worth it sent there, according to trade experts here, and that does not include the thriving market in smuggled Chinese goods.

"The real relationship between the People's Republic of China and Mexico is very tense," said Enrique Dussel Peters, an expert on Mexican-Chinese trade at the Autonomous University of Mexico. "This ratio of 31 to 1, which is only going to grow in the short run, is not only a social problem but could become a political problem."

In a speech after a signing ceremony, Mr. Fox made it clear he had spoken with Mr. Hu about both the yawning trade deficit and the dumping of contraband Chinese goods.

"Today we heard from President Hu his enthusiasm, his help, his support in closing the commercial gap," Mr. Fox said, looking over at Mr. Hu. "We touched on the subject of contraband and President Hu offered to help with this area."

For his part, Mr. Hu kept his remarks short and diplomatic, saying only that he looked forward to seeing more Mexican products in the Chinese market. Later in the day, he visited the Mexican Supreme Court and then the Senate, where he got stuck in a broken elevator for 15 minutes.

Mr. Hu's visit seems part of a broader effort to secure future sources of oil, iron ore, aluminum, timber and other commodities throughout Latin America and Canada, despite the United States' longtime hegemony in the region. Under his watch, China has sewn up deals for Chinese companies to develop oil fields and mines and to purchase commodities in Brazil, Venezuela, Chile, Cuba, Bolivia and Argentina.

Mexico is different. The Constitution bans foreign investment in Petróleos Mexicanos, the state-owned oil monopoly, and the country lacks large reserves of iron and bauxite, analysts say.

Julian Ventura, the Mexican director general for Asian affairs, said oil exploration did not even come up Monday. And the mining agreement is only a framework for future deals, not a binding contract, he said.

Still, Mr. Ventura said the agreements signed Monday were intended to begin diminishing the trade gap. One of the most important agreements, Mr. Ventura said, will establish direct flights and allow large group tours to begin coming to Mexico from China, a potentially rich source of foreign exchange. "China is a country that has firmly arrived here in the international economy with an unprecedented impact and volume," Mr. Ventura said. "And what we are looking to do is to see this reality from the perspective of opportunities and not from the perspective of a threat."

China's Exports Show Gain Of 3.4% (WSJ)

By Andrew Browne

The Wall Street Journal, September 13, 2005

HONG KONG -- China's export juggernaut picked up momentum in August, dashing any expectations that a small currency revaluation on July 21 would act as a speed bump to slow it down.

When China allowed a 2.1% appreciation of the yuan against the dollar in July, many economists predicted that such a small move would have negligible impact on exports.

In fact, exports showed no sign of slackening in the first full month after the revaluation. Exports in August hit $67.82 billion, which was 3.4% higher than July's $65.6 billion and 32% higher than those of August 2004. Imports in August totaled $57.78

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billion, up 23% from a year earlier, giving China a monthly surplus of $10.04 billion, according to data announced yesterday by the Ministry of Commerce.

China now faces the prospect of more-intense pressure from the U.S. and other major trading partners for a steeper currency appreciation. Economists warn that support in the U.S. Congress for protectionist trade policies, muted somewhat after China's revaluation, could bubble up again.

Chinese trade negotiators are heading to the U.S. at the end of this month to try to reach a textile agreement in the face of unilateral curbs on surging Chinese exports. Their goal is to negotiate an accord similar to one agreed to with the European Union that guarantees steady expansion of China's textile exports within quota limits.

An earlier EU-China textile agreement ran aground when annual quotas were filled within weeks as European retailers rushed to fill their shelves before the winter shopping season, leaving some 80 million items of surplus clothing piling up at European ports. The top EU trade official, Peter Mandelson, negotiated a compromise deal last week to allow the excess into Europe, and the pact was quickly approved by EU member governments. The EU's executive arm, the European Commission, yesterday approved the textile accord, paving the way for the stranded bras, sweaters and trousers to be released beginning tomorrow.

Also yesterday, China's National Bureau of Statistics said the country's consumer prices in August rose 1.3% from a year earlier, down from annualized growth of 1.8% in July, largely as a result of falling food prices.

Slowing inflation also reflects a market glut of everything from steel to autos and household appliances as a result of overinvestment. For the first eight months of this year, consumer prices grew 2.1% from a year earlier, the Statistics Bureau said in a statement.

The August trade data offered some comfort to Beijing authorities as the pace of imports picked up. Imports are the key to bringing down China's trade surplus, which has ballooned this year because imports have grown far more slowly than exports.

Rising imports could indicate that Chinese companies are building up inventories again. Many companies had put off overseas purchases on expectations that the yuan could strengthen more, making imports cheaper in local currency terms. At the same time, corporate spending has been crimped by a government-orchestrated austerity program that kicked in last year to cool the economy, particularly in real estate.

In recent years huge trade surpluses with the U.S. and Europe have been largely offset by deficits with much of Asia, giving China only modest overall surpluses. Investment has been the main driver of growth.

For the first eight months of this year, China's trade surplus totaled $60.22 billion, the Commerce Ministry said, compared with a deficit of $1.1 billion during the same period last year. The surplus for all of 2004 was $32 billion. Chinese exports usually surge during the final quarter of the year as factories rush out Christmas orders. That means the surplus for the whole of this year easily could exceed $100 billion.

In the January-to-August period, exports rose 32% from a year earlier to $475.67 billion, while imports were 15% higher at $415.45 billion, the Commerce Ministry said.

China's State Secrets Agency Will Guard One Less: Death Tolls (NYT)

By Joseph Kahn

The New York Times, September 13, 2005

BEIJING, Sept. 12 - China said Monday that it would no longer treat the death toll in natural disasters as a state secret, a step that could lead to greater transparency in a country that has a long history of providing partial or misleading data about diseases, accidents, and state-directed atrocities.

The National Administration of State Secrets, a government agency that oversees the vast array of data deemed secret, announced the declassification of disaster-related death tolls, which the agency said had been carried out last month.

The rules will apparently apply mainly to purely natural disasters, like earthquakes, floods and typhoons. The change may allow Chinese officials and the state media greater leeway to report on such events as they unfold, rather than waiting for the official version to be released, usually by the state-run New China News Agency.

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"Declassification of these figures and materials is conducive to boosting our disaster prevention and relief work," Shen Yongshe, a spokesman for the secrets agency, said at a rare news conference, according to the official news agency. Foreign reporters were not invited to the news conference.

If carried out as advertised, the timely release of casualty figures after accidents would be a modest step toward what officials have called "building a transparent government," a goal they have professed for many years.

Information about casualties in storms and floods are no longer routinely suppressed in China, as it was before the country opened its doors to the outside world a quarter century ago. The new rules are unlikely to lead to the release of data that is not currently available in some form.

But the revised regulations may make it more difficult for local officials to cover up accidents on the grounds of protecting state secrets, as they have often done in the past. As recently as this summer, officials were accused of providing a false death toll for a flash flood that wiped out a school and killed scores of children in the northern province of Heilongjiang.

In a commentary accompanying the announcement, the news agency said the veil of secrecy hindered the response to disasters.

"To continue to see natural disaster death tolls as state secrets makes it difficult to adapt to practical needs of disaster relief work and is not in accordance with general international practices," the commentary said.

There was no immediate indication of whether the easing of restrictions on information about natural disasters signals a broader easing of China's draconian rules on other secrets.

Chinese authorities often cite violations of state secrets, broadly defined as anything that affects the security of the state, to punish journalists, lawyers, doctors, government officials or others who challenge the Communist Party.

Offenders have been sentenced to long jail terms for sharing political gossip, or distributing speeches by government officials or articles published in the state-controlled press.

The secrets agency also did not define what kind of disaster was considered natural as opposed to human. It is unclear, for example, if a flood that followed a dam break, or the collapse of a mine, would be considered accidents in which the government retains the prerogative to suppress data.

It is also unclear whether the rules will apply retroactively to major disasters and atrocities in China's past.

The government has never provided a clear accounting of the deaths from the largely policy-driven famine that occurred during the disastrous Great Leap Forward, from 1958 to 1960, when Mao sold China's scarce grain reserves abroad and forced peasants to make steel in backyard furnaces. Although historians say that about 30 million people may have starved to death in what is still referred to as the "three years of natural disaster," the number is a gross estimate and widely disputed.

The official death toll in the Tangshan earthquake in 1976, one of the largest in history, is still recorded as 250,000, but Chinese experts acknowledge that the real toll was three times that amount.

Pakistan Leader Confirms Nuclear Exports (NYT)

By David E. Sanger

The New York Times, September 13, 2005

President Pervez Musharraf of Pakistan said yesterday that he believed that a Pakistani nuclear expert who ran the world's largest proliferation ring exported "probably a dozen" centrifuges to North Korea to produce nuclear weapons fuel. He added, however, that after two years of interrogations there was still no evidence about whether the expert also gave North Korea a Chinese-origin design to build a nuclear weapon.

General Musharraf's comments, which echo statements he made last month to Japanese reporters, were made in an interview a day before the United States was to reopen talks with North Korea about its nuclear program in Beijing.

The Pakistani leader's comments about the results of the interrogations of the expert, A. Q. Khan, a national hero who is under a loose form of house arrest in Islamabad, are significant because they tend to confirm the accusations American intelligence officials made against North Korea in 2002.

At that time, North Korean officials appeared to confirm that they had secretly started up a second nuclear program to build atomic weapons using uranium technology obtained from Mr. Khan's network, as an alternative to a plutonium program that was

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frozen under a 1994 agreement with the United States. But ever since, North Korea has denied that a second, secret bomb program exists.

A dozen centrifuges would not be enough to produce a significant amount of bomb-grade uranium. But American officials say they would have enabled North Korea to copy the design and build their own.

The Bush administration has insisted that unless North Korea agrees to give up both programs - and agrees to a broad program of inspections - no comprehensive nuclear deal can be reached. North Korea has suggested it may be willing to give up its older plutonium program, based at a huge nuclear complex located at Yongbyon, but has reiterated its denials that it has hidden centrifuges to make bomb-grade uranium.

In a wide-ranging discussion in New York with three journalists from The New York Times, General Musharraf also discussed Pakistan's tentative diplomatic openings toward Israel and its efforts to track down Al Qaeda leaders. He said that the opening to Israel could flourish "in case there is forward movement" on negotiations between Israel and the Palestinians, but he said, "this is by no means recognition of Israel."

Despite protests in Pakistan about the new initiative, he insisted that his move had met little opposition among mainstream Muslims in Pakistan, and he is to address a Jewish group for the first time during his visit here. "What is the harm if I interacted with the Jewish Congress, knowing their influence here?" he said.

He said it was possible that Osama bin Laden, the Qaeda leader, is still moving between remote parts of Pakistan and Afghanistan four years after the Sept. 11 attacks in the United States. "I will not negate entirely, with confidence, that he is not there," he said. "But I will never accept anybody who says with confidence that he is there." He said later that he often asks, "Do you have intelligence, have you heard him?"

Mr. bin Laden's whereabouts are a particularly sensitive subject for General Musharraf because Pakistan has been accused by some intelligence officials of doing a lackluster job of pursuing Qaeda suspects, stepping up pressure on them when it suits Pakistani interests but turning down the pressure at other times. He rejected that charge, saying Mr. bin Laden's power is reduced, no matter where he is.

"I do not think he can influence, because he is on the run, hiding," General Musharraf said. If Mr. bin Laden is on the Pakistan-Afghan border, he is switching sides "wherever he sees danger," General Musharraf added.

He rejected arguments that Pakistan was halfhearted in its efforts to root out Al Qaeda and remnants of the Taliban, who ruled Afghanistan until the American-led war there in 2001. "We have almost eliminated them from our cities," he said. "We have caught about 700 of them, and we have broken their back in the mountains." The groups no longer operate in the valleys of the Afghan border area, he said, "because we have occupied them."

Secretary of State Condoleezza Rice, also speaking to reporters yesterday at The New York Times, praised General Musharraf for working in three areas, and said the United States would be supportive: helping to pursue members of Al Qaeda, creating "diplomatic space" for operating by reaching out to India and Israel, and working to improve education and the economy to discourage militancy. "There are parts of Pakistan that are extremely poor where you get breeding grounds for this kind of extremism," she said, and the United States would help him deal with those.

General Musharraf said that, in a meeting he had yesterday with Ms. Rice, he asked her to move toward a free-trade agreement with Pakistan. That is likely to meet some resistance in Congress, which derailed efforts by the Bush administration after the Sept. 11 attacks to aid Pakistan by lifting restrictions on textile imports.

But he said he made no demands for an agreement that would match the Bush administration's offer to help India develop a civilian nuclear power program. India and Pakistan have refused to sign the Nuclear Nonproliferation Treaty, and that has prevented most forms of nuclear cooperation with the United States.

In his discussion of Mr. Khan, General Musharraf said that two years of questioning of Mr. Khan - which the Pakistanis insisted they would do themselves, rather than allowing the United States to question him - a critical question had not been resolved: Did the scientist give the same bomb design to North Korea and Iran that investigators found in Libya, when it dismantled its uranium program.

"I don't know," he said. "Whether he passed these bomb designs to others - there is no such evidence."

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U.S. Asked To Aid Nuke Technology (WT)

By Nicholas Kralev

The Washington Times, September 13, 2005

NEW YORK -- Pakistan asked the United States and other Western countries yesterday to help it develop civilian nuclear technology, citing Washington's July pledge for such assistance to neighboring India.

The Bush administration, however, dismissed the request, saying Pakistan's energy needs are not as pressing as India's.

Islamabad also offered to erect a fence along its border with Afghanistan to prevent incursions of Taliban and al Qaeda fighters from either side.

Pakistani President Pervez Musharraf discussed the proposal with Secretary of State Condoleezza Rice in New York. But he did not raise the civilian nuclear issue, U.S. and Pakistani officials said, and it was not clear whether he would mention it to President Bush when they meet tomorrow.

"We would like the developed countries -- especially the Western countries and the United States -- to extend cooperation to Pakistan for the peaceful uses of nuclear energy," Pakistani Foreign Ministry spokesman Muhammad Naeem Khan said at a press conference in Islamabad.

Although Gen. Musharraf did not bring up the matter yesterday, a Pakistani official traveling with him said that the United States and Pakistan have been "interacting" on the issue through diplomatic channels.

Pakistan built its first nuclear power station in 1972 with Canadian help, but Western cooperation was later discontinued under pressure from the United States and amid suspicions of a secret nuclear weapons program.

Nuclear tests were conducted in 1998, in response to a series of similar tests by India.

China helped the South Asian country start a 300-megawatt nuclear power plant in 1999, and construction of another plant of the same capacity began in April this year.

Even though the Bush administration calls Pakistan one of its staunchest allies in the war on terrorism, it has grown wary of its nuclear capabilities, especially because scientist Abdul Qadeer Khan admitted last year that he sold nuclear technology to Iran, North Korea and Libya.

"Pakistan doesn't have the same energy requirements, of course, that India does. And also, as we have made very clear, part of our consideration is the establishment of a long, positive, non-proliferation record," Robert Joseph, undersecretary of state for arms control and international security, told Congress last week.

"And so as we look at that, and as we take that into consideration, we have made the determination that we need not move to establish the same type of cooperation with Pakistan," Mr. Joseph said at a House International Relations Committee hearing.

Gen. Musharraf, who is scheduled to meet with Mr. Bush during the United Nations 60th anniversary summit, told Miss Rice yesterday that his offer to build a fence along the Pakistani-Afghan border is a result of criticism that Islamabad is not doing enough to fight terrorism.

"Pakistan is prepared to raise a fence so that we can put an end to these allegations," Foreign Minister Khurshid Kasuri told reporters in New York. "Pakistan can do nothing more than that to prevent incursions."

He did not specify where and when the fence would be erected, but said that Miss Rice was "very appreciative" of the idea.

A State Department official said the fence issue is not new and was mentioned in a larger discussion about security in the border areas.

"Pakistan has nothing to hide," Mr. Kasuri said, "and we are fed up with people who say Pakistan has to do more to counter terrorism."

Pakistan, India Swap Prisoners To Push Peace Process (NYT/REU)

By Reuters

The New York Times, September 13, 2005

Mohsin Raza

WAGAH, India-Pakistan border (Reuters) - Pakistan and India swapped hundreds of prisoners at a border post on Monday to foster goodwill as South Asia's nuclear rivals seek to push forward their sluggish peace process.

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Amid emotional scenes, hundreds of people thronged either side of the Wagah border post, between the cities of Lahore in Pakistan and Amritsar in India, hoping that relatives would be among those being released.

``My brother is coming back after 11 years. I am very happy," said a woman carrying a black-and-white picture of her brother on the Indian side of the border, while a crowd on the Pakistani side sang nationalist songs.

Pakistan released 435 Indian prisoners while Indian freed 152 Pakistanis, some as young as 12 years. In March, Pakistan released more than 500 Indian prisoners, mostly fishermen.

The latest mass release came two days before a meeting between Pakistan's President Pervez Musharraf and Indian Prime Minister Manmohan Singh in New York.

Meeting on the sidelines of the U.N. General Assembly, the two leaders are expected to seek ways to advance a peace process begun in January, 2004, but has still to make substantive progress on a core dispute over the divided territory of Kashmir.

``My release has become possible due to the efforts of the media and my sister, who approached human rights organizations," said Mohammad Babar after spending 15 years in an Indian jail.

The South Asian neighbors, who have fought three wars since wining independence from Britain in 1947, routinely arrest each others' nationals, mostly civilians or fishermen who have either strayed across land or maritime borders or violated their visas.

``We have no other way of making a living except fishing, so we have to take risks," Vallabh, a 53-year-old from the western Indian state of Gujarat, told Reuters as he got ready to go home after six months in a Pakistani jail.

But even as one batch was being released, 24 Indian fishermen were arrested on Sunday for illegally entering into Pakistani territorial waters in the Arabian sea.

India and Pakistan also have many prisoners they accuse of working for each others' intelligence services.

The case of one Indian condemned to death after being convicted 14 years ago of spying and carrying out a series of bomb attacks has become a cause celebre in India after Pakistan's Supreme Court upheld the death penalty handed to him in 1991.

Sarabjit Singh's family says he is a poor farmer who accidentally wandered into Pakistan in 1990.

Singh's lawyer plans to ask the court to review its decision and he also has the option of appealing to Musharraf for clemency.

Germany's SPD Makes New Gains In Polls (FT)

By Hugh Williamson And Friederike Tiesenhausen Cave

Financial Times, September 13, 2005

Germany's election race tightened further on Monday as Gerhard Schröder's Social Democrats pulled closer to the opposition Christian Democrats in a new opinion poll, increasing the likelihood of a "grand coalition" after Sunday's election.

The SPD scored 35 per cent in a Forsa poll, up 1 point to its highest rating since Mr Schröder called for an early election in May. The CDU was stable on 42 per cent.

In a further boost for the SPD, the chancellor on Monday evening delivered a strong performance in his final pre-election debate with Angela Merkel, pushing his conservative contender on to the defensive over the CDU's record in government and claiming credit for initiating economic reform process in Germany. Speaking on national television, Mr Schröder said "we had the courage to start with the necessary reforms that the CDU ignored during the 1990s".

The debate, which also involved leaders of the Greens, the liberal Free Democrats and the Left party, could influence public opinion in a similar manner to the head-to-head television duel earlier this month between the chancellor and Ms Merkel.

Mr Schröder was seen as having performed more strongly in the duel, leading to a surge in support for the SPD in opinion polls. A report published on Monday by an independent group of media analysts argued that the duel had been a "turning point" in election campaign.

Pollsters predict that Ms Merkel is still likely to emerge as the next chancellor but could be forced to form a coalition with the SPD, rather than with her preferred partner, the FDP. A CDU-SPD coalition would make far-reaching economic reforms more difficult to achieve.

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Mr Schröder said in Tuesday's debate that he would continue with reforms if he was re-elected but would do so "in a way that included an element of social justice – an aspect missing from the CDU election programme".

Ms Merkel conceded that the chancellor had initiated some reforms after the CDU "was defeated in the 1998 election because we had not acted".

She accused the chancellor of breaking promises and failing to reduce near-record unemployment.

The CDU on Tuesday warned that the SPD and Greens would form a coalition with the Left party, which includes ex-communists and SPD dissidents, if such an alliance could gain a parliamentary majority.

German Voter Polls Show A Tighter Race (WSJ)

By Marcus Walker

The Wall Street Journal, September 13, 2005

FRANKFURT -- It is looking increasingly likely that Angela Merkel will become Germany's next chancellor in Sunday's election, but whom she governs with -- and what economic policy she can carry out -- is increasingly up for grabs.

Ms. Merkel's center-right Christian Democrats are the clear favorite to snare the biggest share of votes, but in the stretch run her coalition's poll numbers have been slipping to just short of an outright majority.

The upshot is that instead of being able to control the German Parliament with help only from the small pro-business Free Democratic Party, the Christian Democrats may have to form a pact with their main rivals, the incumbent Social Democrats of Chancellor Gerhard Schroeder.

Ms. Merkel and Mr. Schroeder clashed on German TV last night in a debate involving the leaders of the six main parties standing in the election. Ms. Merkel sought to focus the debate on Mr. Schroeder's economic record, while Mr. Schroeder reminded viewers of his popular stance in opposing the U.S. war in Iraq.

Analysts are divided on whether a so-called grand coalition of Germany's two major parties would help or hinder the overhaul of the world's third-biggest national economy. "Many Germans have a notion that a grand coalition is the best way to bring together all political forces in a time of crisis," says Thorsten Polleit, an economist with Barclays Capital in Frankfurt. "Personally, I think it would be a worst-case scenario."

Pessimists about a grand coalition fear it would be short-lived and unstable because the Social Democrats, after once courting the CDU's businesses constituency, have shifted back to the left on economic issues this year -- rejecting further cuts to the welfare state and decrying unfettered capitalism. At the same time, Ms. Merkel has moved the Christian Democrats to the right on taxes and labor-market deregulation. That limits the scope for agreeing on common policies, which was easier in the past when both of Germany's major parties had centrist economic policies.

Some are hopeful that a grand coalition could unblock Germany's political stalemate of recent years, by forcing the big parties to negotiate rather than compete. "I'm not such an opponent of this constellation, because we don't have presidential government," says Josef Esser, political-science professor at Frankfurt University. Mr. Schroeder has had to seek support from overwhelmingly Christian Democrat state governors who sit in the upper house of Parliament, in the German system in which regional governors also have a say in national legislation. "We've effectively had a grand coalition for three years," he says.

Eckart Tuchtfeld, an economist at Commerzbank in Frankfurt, argues in a recent research report that Ms. Merkel could get the Social Democrats to accept at least some of her policies through horse trading. For example, the Social Democrats might accept some loosening of job-protection laws and union-bargained nationwide pay rates to help the unemployed find work. In return, the Christian Democrats might agree to setting minimum wages in some industries, and to raising east Germans' unemployment benefits to the same level as west Germans'.

The effects of such trade-offs would be to stimulate the economy in the short term, Mr. Tuchtfeld argues. The full package of welfare cutbacks that Ms. Merkel would push through if she wins outright, in contrast, could damp short-term growth, but would have a better chance of solving the economy's structural problems, the report argues.

Until a week ago, polls suggested the center-right was set to win a small but workable majority. But Mr. Schroeder has succeeded in putting Ms. Merkel on the defensive, including in a televised head-to-head debate.

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Her detailed plans for tax-law changes, as well as her choice of a controversial flat-tax advocate as a key economic adviser, have given Mr. Schroeder an opening to refocus public attention despite widespread unrest about Germany's economic malaise and high unemployment.

Ms. Merkel has struggled with how to explain that she wouldn't introduce a flat tax -- which Mr. Schroeder tagged as skewed toward the rich -- at least not in her first term. "The Christian Democrats' communication wasn't ideal. They gifted the Social Democrats an additional campaign theme," says Torsten Schneider-Haase, a politcal analyst with market-research group TNS Emnid.

The center-right still could govern alone, pollsters say. "It's all about 1% or 2% this week," Mr. Schneider-Haase says. "Everything is open." Ms. Merkel and Mr. Schroeder have refused to contemplate the grand-coalition scenario publicly, with both candidates insisting their respective camps will win outright.

Race In Germany Narrows As Schröder Gains In Surveys (NYT)

By Richard Bernstein

The New York Times, September 13, 2005

BERLIN, Sept. 12 - With less than a week to go until election day, the German campaign has tightened, according to the latest polls, with Chancellor Gerhard Schröder's leftist Social Democratic Party making gains on Mr. Schröder's opponent, Angela Merkel, leader of the right-of-center Christian Democratic Union.

Some polls over the weekend indicated that the Christian Democrats' lead, once a solid 10 percentage points over the Social Democratic Party, or S.P.D., had shrunk to just 6 percentage points.

But public opinion analysts still give Mr. Schröder virtually no chance to hold on to the chancellorship in the vote scheduled for Sunday. The main question in the election, as it always has been, is whether Mrs. Merkel will get enough votes to form a government on her own or whether she will have to form a "grand coalition" with her Social Democratic rivals.

"Schröder will not be chancellor because the S.P.D. will get fewer votes than the C.D.U.," said Reinhardt Schlinkert, a leading public opinion analyst from Bonn.

Theoretically, Mr. Schröder could remain chancellor if his party went into partnership with the Left Party, led by one of his bitterest political rivals, Oskar Lafontaine, which could get upward of 10 percent of the vote. But Mr. Schröder has declared publicly more than once that he will never cooperate with Mr. Lafontaine.

"Unless he changes his mind," Mr. Schlinkert said of Mr. Schröder, "he's out of business."

The tightening of the polls seems to reflect two developments in the campaign. One is simply that Mr. Schröder is deemed to have outperformed Mrs. Merkel in a 90-minute televised debate on Sept. 4.

Second, the Social Democratic Party has capitalized on Mrs. Merkel's appointment of Paul Kirchhof, a former Constitutional Court judge from Heidelberg, as her shadow finance minister. Mr. Kirchhof is well known as an advocate of a 25 percent flat tax for Germany, a position that the left has portrayed in Germany as an indication of Mrs. Merkel's intent to impose radical tax reforms that will strip the country of its social protections.

Mrs. Merkel has all along denied any plan to impose a flat tax, saying that Mr. Kirchhof is a visionary whose presence on her team is aimed at stimulating a thoroughgoing discussion about tax reform, which is part of her program. Still, the appointment nonetheless seems to have backfired.

On Monday, the magazine Der Spiegel, reflecting the attention this matter has gotten, showed a picture of Mr. Kirchhof on its cover under the headline "Election battle over Kirchhof."

"Kirchhof is being turned from the crowd puller into the uninvited guest," the conservative-leaning Süddeutsche Zeitung wrote Monday. "This is a breathtaking piece of theater, and the maddest thing about it is that Schröder is the director. Without any restraint, he is painting a picture of the 'professor from Heidelberg' as the devil of the unjust, antisocial, reactionary state."

Perhaps more troubling to the Christian Democrats than the Social Democrats' gain in the polls are other recent poll results showing that Mrs. Merkel will fall short of controlling the absolute majority in Parliament that would enable her to govern on her own.

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But every major poll published Monday showed Mrs. Merkel and her probable coalition partner, the Free Democratic Party, winning about 48.5 to 49 percent of the total vote, short of an absolute majority. If she does not improve on those numbers on election day, she will face governing with the Social Democratic Party, a situation seen by many people here as sharply reducing her ability to push through the economic reform program she has campaigned on.

Woman Could Be Germany's Next Chancellor (USAT)

By Noelle Knox

USA Today, September 13, 2005

Even Germans are surprised their next leader could be a woman. Not to mention a business-friendly conservative who was raised in communist East Germany.

"Pretty breathtaking," says Constanze Stelzenmueller, director for the Berlin office of the German Marshall Fund, a trans-Atlantic think tank.

Angela Merkel, head of Germany's Christian Democratic Union (CDU), faces Chancellor Gerhard Schroeder in elections on Sunday, perhaps the most important since German reunification in 1990.

In opinion polls, Merkel's CDU and its sister party in Bavaria have consistently enjoyed big leads over the chancellor's Social Democratic Party and its allies. But Schroeder, a relaxed, engaging public speaker, appeared to close the gap following a Sept. 5 debate with Merkel. A poll released Monday by Germany's Forsa polling agency showed Merkel's party still has the edge — but not enough for an outright majority in parliament.

Merkel, a former physicist, is telling German voters she can fix the economy with income tax cuts and incentives that would make it easier to hire and fire workers. She also has proposed increasing the country's value-added tax to 18% from the current 16%.

Sunday's vote could be the country's most pivotal since Germans on both sides of the Berlin Wall agreed to reunite. The German economy is Europe's largest, but it has languished because of high labor costs, rigid workplace rules and a costly social-welfare system. Unemployment is more than 11% and the government benefits network is near financial collapse. At the same time, Germany's relationship with the United States has eroded amid personal animosity between Schroeder and President Bush, mainly over the Iraq war.

In a televised discussion with the other candidates on Monday, Merkel bluntly criticized Schroeder's seven-year effort to address the country's economic woes. "You have failed in this question," she said. "That's why you are in such a difficult position."

Domestically, Schroeder continues to champion his Agenda 2010 program, unveiled two years ago. It aims to make job creation easier while cutting unemployment payments and pension benefits. So far, though, the plan has failed to budge the double-digit jobless rate or stimulate the economy, which grew 1.7% in 2004 after three years of stagnation.

Schroeder also is playing up his willingness to stand up to an American president, as he did in 2002 before the Iraq war. An Associated Press-Ipsos Poll last December showed seven out of 10 Germans had an unfavorable view of Bush.

Merkel, 51, is the first woman from any of Germany's five major parties to stand for chancellor. "Women in politics, academia and the business world (in Germany) are a decade behind women in America and some other European countries," Stelzenmueller says. "The fact in itself that we have a woman candidate for chancellor is revolutionary."

Merkel's roots are in the communist East. She was raised in a family that didn't fully support the system but accommodated it.

She grew up in Templin, about 60 miles north of Berlin. Her father, a minister, ran a Protestant seminary. She was seven when the Berlin Wall went up and the communist government began a campaign of repression against religion.

As she grew up, Merkel "was very critical" of East Germany's communist system, says Gerd Langguth, author of a Merkel biography. "Her father belonged to the left wing of the Protestant church. He was not willing to accept the rules of the dictatorship, but he made more compromises than many of his other colleagues."

Their differences have endured. Merkel's father skipped a 50th birthday party thrown for his daughter last year by the CDU, Langguth says.

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Merkel has a reputation for being humorless and aloof. London's Sunday Times described her as a “scientific cold fish.” She and her second husband, Joachim Sauer, a chemistry professor, married in 1998 and have no children together. She has few interests outside politics, Langguth says.

Merkel got started in politics after the Berlin Wall fell in 1989, first working as a democracy activist, then as spokeswoman for East Germany's short-lived democratic government, which ceased to exist after reunification in 1990.

Her understated persona has caused some to underestimate her. Even former chancellor Helmut Kohl, her mentor, “would refer to her as mein maedchen — my girl,” Stelzenmueller says. “He didn't see her as a challenger.”

But Merkel was one of the first to turn on Kohl in 1999, when he became mired in a political scandal involving slush funds and secret Swiss bank accounts. Writing in the Frankfurter Allgemeine newspaper, she urged him to resign. “It established her as someone to be reckoned with,” Stelzenmueller says.

Under her leadership, the CDU has triumphed in key regional elections, capitalizing on Schroeder's inability to refire the economy.

If Merkel wins, she is likely to try to return Germany to its traditional role as a peacemaker between France and the United States, says Jan-Friedrich Kallmorgen, director of Atlantic Initiative, a think tank in Berlin. The White House normally steers clear of politics in allied countries. But in July, Bush spent 45 minutes with Wolfgang Schaeuble, who is expected to be foreign minister if Merkel wins. In Germany, it was seen as an endorsement for Merkel, Kallmorgen says.

A 'Now What?' Shadows Japan Leader's Victory (NYT)

By Norimitsu Onishi

The New York Times, September 13, 2005

TOKYO, Sept. 12 - A day after Prime Minister Junichiro Koizumi secured the second largest landslide in a general election in the Liberal Democratic Party's history, attention turned Monday to how he would use that mandate.

With his coalition holding more than two-thirds of the seats in the lower house of Parliament, Mr. Koizumi is now expected, in the next month or so, to push through his bill to privatize the country's postal services. But once that is accomplished, what next?

Mr. Koizumi has one year before party rules force him to retire, and he repeated Monday that he would not seek an extension. Still, he finds himself possibly postwar Japan's most powerful prime minister, at a time when Japan is confronting problems ranging from an aging, declining population to growing economic dependence on China.

During the 12-day campaign, Mr. Koizumi focused exclusively and extremely effectively on postal privatization. "Tell us clearly what else besides postal privatization," read a front-page editorial on Monday in Asahi Shimbun.

"Voters gave Koizumi a mandate to be bold in domestic policy, to deal with the pension system, the falling birthrate and other problems that cannot be solved by other politicians," said Ikuo Kabashima, a professor of politics at the University of Tokyo. "But I don't believe they have given him a mandate in the areas of national defense or foreign policy, because he has not been successful in these areas, especially regarding relations with Korea and China."

Although Japan's deteriorating relations with its Asian neighbors dominated the news here for most of the year, foreign policy went nearly unmentioned during the campaign. Mr. Koizumi's resounding victory on Sunday suggested that voters were either supportive of his government's tough posture toward China and South Korea or were willing to overlook its chilling effects in the region.

With little to gauge how Mr. Koizumi might use his mandate outside Japan, there was general caution in China and South Korea.

"The reaction here has been that Koizumi's big victory will cause relations between South Korea and Japan to keep going in the wrong direction," said Ho Jeon Jin, an expert on South Korea and Japan at Kwang Woon University in Seoul. "Furthermore, there is a sense that Japan will move faster toward the right and, because of his control over the Parliament, will be able to revise its pacifist Constitution."

"My personal hope," Mr. Ho added, "is that he would use his mandate to improve ties with Korea and China, and turn Japan into a country that can be trusted in the region."

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In China, the Communist Party's newspaper, People's Daily, said the election results would "increase further his say inside the party." But the paper also said the vote did not necessarily mean that voters support Mr. Koizumi on issues like his visits to the Yasukuni Shrine, the memorial to Japan's war dead where important war criminals are deified.

Mr. Koizumi said Monday that he would convene a special parliamentary session on Sept. 21 to resubmit his postal privatization bill. Because his Liberal Democratic Party and its coalition partner, New Komeito, control more than two-thirds of the seats of the lower house, Mr. Koizumi has the votes to override decisions by the upper house.

The upper house rejected Mr. Koizumi's bill last month, leading him to call an early election. But in the last week, as polls indicated that Mr. Koizumi was heading toward a big win, former opponents of the bill in the upper house declared that they would support it in a future vote.

Mr. Koizumi wants to break up and privatize Japan Post, which in addition to delivering mail is the world's largest financial institution. It holds $3 trillion in savings and life insurance deposits that politicians have dipped into for decades to finance public works and reward their backers. Mr. Koizumi has said privatization is the prerequisite for further reforms in the Japanese economy, the second largest behind the United States, though he has not specified what other reforms he would pursue.

After the special parliamentary session, Mr. Koizumi said, he will shuffle his Cabinet and the leadership of his party. In one of the few indications of how he would use his mandate during the next year, Mr. Koizumi said he would make appointments with a view to grooming a possible successor.

"There are many aspirants to be party president and prime minister," he said. "I want to give those people the opportunities to play an active role as much as possible."

The successor will find the Liberal Democratic Party, which has ruled Japan nearly continuously for 50 years, much stronger than it was when Mr. Koizumi became prime minister four years ago. Until this election, the party's share of seats had been decreasing and it had found itself increasingly dependent on its coalition partner, New Komeito, to govern.

But on Sunday, Mr. Koizumi reversed the decline by capturing 296 seats out of 480 in the lower house, the second-biggest share in the party's history. What is more, results showed that the party, whose base has been rural, had made big gains in urban areas that had been gravitating to the main opposition Democratic Party in recent years.

So complete has Mr. Koizumi's transformation of his party been that it will have to find a successor in his image, said Professor Kabashima, at the University of Tokyo. "The L.D.P. will have to keep attracting voters from urban sectors, and the only way it can do that is by choosing someone like Koizumi," he said.

The Man, Not The Plan (WSJ)

By Michael R. Auslin

The Wall Street Journal, September 13, 2005

Junichiro Koizumi has pulled off the unthinkable: A smashing electoral victory that would be the equivalent of carrying 49 states and 525 electoral votes in an American presidential election, were his. The Japanese prime minister humiliated not only the main opposition, but also the "rebels" from his own Liberal Democratic Party, whose resistance to his sweeping postal reform bill provided the impetus for the election. He gave the LDP 296 of 480 seats in the lower house, a two-thirds majority when combined with coalition partners. He is claiming a mandate to reintroduce his bold plan to privatize the postal system, along with its approximately $3 trillion in assets. He has, it seems, firmly steered the Japanese ship of state into the strong current of administrative and economic reform he's been promising since taking the premiership in 2001.

Sober reflection on the election's outcome, however, raises questions about the true strength of the victory and the message voters were really sending. Far from a powerful affirmation of Mr. Koizumi's policies on the merits, the results reflect the lack of a viable opposition, as well as the citizenry's willingness to indulge bold schemes -- the details of which few really grasp, and which are so far in the future that they seem painless ways to endorse the idea of reform. Ironically, it is Japan's domestic stability that allows Mr. Koizumi to dramatize politics without appearing to be reckless.

Despite what many observers claim, the election was always more about personality than policy. Leading up to the votes on postal reform, Mr. Koizumi cunningly portrayed himself as David versus the Goliath of old machine-style LDP politics. His oft-

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repeated claim that he would "destroy" the party if it didn't pass his reform package grabbed the attention of an electorate starved for dramatic, meaningful politics.

And theatrical it was. The lower house, in a vote covered live on TV, passed the postal reform measure by a mere three votes, making the upper house vote crucial, since it was clear Mr. Koizumi did not have the votes in the lower house necessary to override the senior chamber. He lost the (again, televised) vote in that chamber decisively, thanks to the resistance of 20 LDP holdouts. He immediately dissolved the lower house, called a snap election and sacked a minister who refused to sign the dissolution decree.

Like many successful politicians, Mr. Koizumi is blessed with weak opponents. The LDP rebels symbolized the worst of the old system, coming off as backroom dealers beholden to special interests and championing the status quo. As for the opposition, Katsuya Okada, the head of the Democratic Party of Japan (DPJ), seemed unable to convince even himself that his party would triumph. He subsequently resigned to take responsibility for the debacle on Sunday. By contrast, Mr. Koizumi played the charismatic leader, a part he's perfected over the last four years. The battle was over before it was joined.

Mr. Koizumi's masterstroke was to make the election a referendum on the future of the LDP. This not only highlighted his progressive leadership against the forces of stagnation, it sucked the oxygen out of the DPJ's campaign. No one was listening to a party that seemed sidelined by the main event. Despite recent electoral successes, this election showed that the DPJ never established legitimacy as a true opposition party, especially since its founders had all come from the LDP. The DPJ dropped to 113 seats from 175, and was crushed by the LDP in the urban areas where it supposedly drew its strength: The LDP took 23 seats in Tokyo's wards, compared to just one for the DPJ.

A closer look at the returns, however, reveals a more mixed result. Mr. Koizumi's success may have been "national," in the sense of setting an agenda for reform, but it was not overwhelmingly local. Two of the leaders of the rebel campaign, Shizuka Kamei and Seiko Noda, survived LDP challenges and were re-elected. Overall, pro-Koizumi forces failed to capture 15 of the 33 seats of postal-reform opponents who were targeted by the prime minister. Only 14 of Mr. Koizumi's "assassins," his handpicked candidates to challenge the rebels, won in head-to-head contests. While 12 LDP assassins did well enough in their districts to win seats via proportional representation (as did two rebels), the point is that local electorates did not decisively reject the forces of stagnation.

This was a victory for Mr. Koizumi the man, not for his reform plan. Indeed, one would be hard-pressed to find an ordinary voter who knows the plan's specifics. But everyone knows Mr. Koizumi is committed to his course. By luck or design, his plans are so grand that they seem far removed from daily life. What voters can safely express, therefore, is their approbation of his intentions, without having to worry about the actual results of his policies. That in itself may be the key to this election.

The urgency of immediate reform in Japan has diminished now that the economy is moving forward. Moreover, Mr. Koizumi's reform plan doesn't threaten to inflict any pain on citizens. Postal reorganization, for example, won't be completed until 2017. There is widespread skepticism that it will ever fully be carried out, and even if it is, consumers are assured that none of the changes will affect either their savings or their postal services.

Mr. Koizumi's real luck lies in having an electorate that not only wants to be entertained, but which also wants to feel that it is moving beyond the meandering of the past decade. In a nation averse to uncertainty and sudden change, however, this is a feeling that can prosper only in a relatively benign domestic and international environment. Here, Mr. Koizumi's close relationship with President Bush stands him in good stead, defusing concerns over lingering problems with China and North Korea.

Likewise, the generally good economic indicators and the visual evidence provided by bustling city centers make the gamble of distant administrative reform seem palatable. Take away such conditions and it is questionable whether the traditionally conservative Japanese electorate would be willing to put up with Mr. Koizumi's quixotic trajectory. For his political opponents, then, there is always hope -- but their victory would come at a high price for Japan.

Mr. Auslin teaches Japanese history at Yale.

Japan Bets On Reform (WSJ)

The Wall Street Journal, September 13, 2005

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Fortune favors the bold, and on Sunday it smiled broadly on Junichiro Koizumi. Japan's Prime Minister won a stunning victory in snap elections because he stood on principle and called the vote after a reform dear to him, post office privatization, was blocked by the upper house of Parliament. The electorate rewarded him for trusting them.

Mr. Koizumi's governing coalition now holds more than the two-thirds majority it needs to override further upper house intransigence. The unexpectedly large victory means that Japan's voters have endorsed Mr. Koizumi's policy mix of smaller government and an activist foreign policy. The economic paternalism and diplomatic timidity of the post-World War II era are giving way to change. The Bush Administration can also be pleased by this victory for another one of its Iraq War allies. The opposition's promise to have the troops home by Christmas carried little weight with voters.

Mr. Koizumi says he wants Japan to become a "normal country," economically, militarily, culturally and in foreign policy. For decades, academics and diplomats have lauded the "Japanese Way" of minimal political debate and even more miniature returns on bank deposits, a combination that gave politicians money to throw at "champion" industries and companies.

This policy of politically directed credit was sustainable for a time, as Japan rebuilt from World War II, and in the 1980s and early 1990s some Americans actually wanted the U.S. to adopt this "industrial policy." But the system finally imploded with the real estate and stock market crashes of the 1990s, and Japan entered its long decade of stagnation. Mr. Koizumi is the first leader to propose a way back to more dynamic growth.

There's no better place for the re-elected Prime Minister to start than where he left off, by taking up again the privatization of the unwieldy post office. This government institution has 24,700 offices, 400,000 employees and $3 trillion in assets. Apart from delivering mail, the post office is the world's largest bank, its $1.9 trillion in deposits easily surpassing Citigroup's $1.5 trillion. Its insurance arm, Japan's largest insurer, contributes its assets to those owned by the bank to make up the $3 trillion in total assets.

Passing the post office work force to the private sector alone will provide savings to the government and help clean up politics by removing this source of patronage and corruption. There's also a huge benefit to be reaped from the better allocation of $3 trillion in investment throughout the economy.

The size of Sunday's victory may even persuade the government to strengthen the post office bills, which had been watered down in the unsuccessful effort to win passage before Mr. Koizumi called the election. Under the current bill, privatization won't be completed until 2017, and we hope Mr. Koizumi will use his mandate to accelerate reforms. Next on the agenda are the pension and medical systems, both important in a society where 20% of the population will soon be over the age of 60, and the civil service. Financial-sector reforms have already led to a major expansion of residential lending by private banks.

In foreign policy, Mr. Koizumi will most likely press ahead with his plan to revise Article 9 of the Constitution, which by barring use of force abroad has hamstrung foreign policy for decades. He is expected to pass a law that will give blanket approval to international intervention, rather than having to pass separate laws for each event.

China is not expected to savor Mr. Koizumi's victory or his more assertive foreign policy. Beijing has preferred the compliant, apologetic Tokyo that played political dwarf on the international stage and threw millions of yen in aid to countries that suffered from Japanese atrocities in World War II. Two days before the vote, China sent five warships to an area disputed by Tokyo and Beijing. If that move was an attempt to influence the election, Beijing has once again misjudged how a democracy responds to intimidation.

Japan, the economic giant of the 1980s, has been talking about reform for years, and its electorate has now sent a message to the politicians to make up for lost time. For the first time in 15 years, the ruling party has an overwhelming majority. Let's hope they use it to return Japan as one of the engines of global prosperity.

Japan's New Politics (WP)

The Washington Post, September 13, 2005

As a political spectacle, Sunday's Japanese election would have been remarkable anywhere, but it was especially striking in a country where politics tends to be as thrilling as plain rice. After losing a key vote on economic reform a month ago, Prime Minister Junichiro Koizumi, who is known in Japan as "Lion Heart," called a snap election, took the unprecedented step of booting 37 anti-reform lawmakers out of his Liberal Democratic Party, and appealed directly to the people. Having gone into the election with just 212 seats out of 480 in the lower house of parliament, the Liberal Democrats emerged with 296. A country

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whose government has traditionally been controlled by faceless faction bosses seemed suddenly democratic, even populist. Mr. Koizumi swept the election thanks to his film-star looks, his skill in fielding a team of candidates that included many telegenic women and the sheer gutsiness of his political gamble.

Yet it's not clear how much Japan's long-term project of fostering competitive, pluralistic politics will benefit. On the plus side, Mr. Koizumi has demonstrated that electoral appeal can trump the vested interests represented by his party's factions; it would be nice to believe that this boosts the political value of ideas and policies, though the main boost is clearly to the political value of image. On the negative side, Mr. Koizumi is to retire in a year, and the factions may reassert themselves. Moreover, Sunday's election delivered a huge blow to the opposition Democratic Party, which had gradually been emerging as a plausible rival to the Liberal Democrats. There's a risk that Japan will now revert to de facto one-party politics.

The prospects for economic reform are similarly uncertain. Mr. Koizumi is almost certain to jam through postal-savings reform, the blocking of which was the trigger for Sunday's election. The postal system is the world's largest financial institution and a pillar of Japan's postwar economic order; its 24,700 branches have vacuumed up a quarter of the nation's household savings, much of which have traditionally been channeled into pork-barrel projects that get Liberal Democratic stalwarts elected. Abolishing this wasteful system would be a big step forward, and it's not surprising that Japan's stock market liked Mr. Koizumi's victory. But the prime minister's proposed reform would change the postal system only gradually. Whether he will tackle other economic challenges, including Japan's health and pension systems, is anybody's guess.

Finally, it's possible that Sunday's election heralds greater Japanese military assertiveness, which the United States should view with mixed feelings. Mr. Koizumi has already reinterpreted Japan's pacifist constitution to allow for the deployment of non-lethal troops in Iraq. He has effectively scrapped the long-standing ban on arms exports by taking part in the Bush administration's effort to develop missile defense and has taken a tough stance against China's military buildup. By themselves, these policies would be welcome; given the size of its economy, Japan should make a larger contribution to global and regional security. But Mr. Koizumi has simultaneously refused to back away from the symbols of Japan's aggression in the 1930s and 1940s -- a refusal that renders Japan's new assertiveness troubling in the eyes of its neighbors, especially China. It's one thing for Mr. Koizumi to gamble flamboyantly in politics. It's another to gamble with the uneasy balance in one of the world's tensest regions.

One Good Thing About Japan's Election (NYT)

The New York Times, September 13, 2005

Japanese voters rarely grant their political leaders personal triumphs as resounding as the one they handed to Prime Minister Junichiro Koizumi on Sunday. In a country long used to colorless politicians and fragile parliamentary majorities, Mr. Koizumi waged a dramatic campaign focused on privatization of a national postal service that doubles as the world's largest bank and the ruling party's principal slush fund for patronage and pork. As a result, his Liberal Democratic Party and its coalition allies will hold a whopping two-thirds majority in the new parliament.

Unfortunately, the privatization of the banking side of Japan Post is not scheduled until 2017, more than a decade after Mr. Koizumi's scheduled departure from office. And Japan's reform-minded Democratic Party, which might have helped keep the pressure on, emerges from this election with its hope of being a strong opposition party apparently crushed. Mr. Koizumi is a committed reformer, but he will have to wage war against major elements of his party, which remains Japan's principal bastion of status quo politics and resistance to competition.

Postal privatization was virtually the only issue discussed during the 12-day election campaign. That gave a pass to Mr. Koizumi's unwise embrace of Japan's traditions of military nationalism. His visits to shrines where militarists were honored and his backing for more assertive military policies have understandably alarmed public opinion in Asia. Nationalist demagogues in places like China used them to whip up violent anti-Japanese sentiment.

Japan needs postal service privatization, two-party democracy and a more constructive relationship with its neighbors and trading partners. Only the first was advanced by Sunday's election.

US And Georgia Sign $295 Million Aid Compact (REU-Y2)

Reuters, September 13, 2005

DOJ_NMG_0004547

The United States and Georgia signed an aid agreement on Monday worth $295.3 million via a U.S. development fund dedicated to poor nations that undertake political and economic reforms.

The five-year grant, or "compact," comes from the Millennium Challenge Corporation and will cover road, energy and infrastructure projects in Georgia.

The money is targeted at helping Georgia's rural poor and U.S. Secretary of State Condoleezza Rice said it indicated America's long-term commitment to Georgia, where half a million people could directly benefit from the grant.

"Our partnership will only grow stronger as Georgia continues to establish the rule of law, a vibrant civil society, an independent media, a free economy and effective institutions of government," said Rice at the signing ceremony at a ritzy New York hotel.

Georgian President Mikhail Saakashvili thanked the United States for its help and said his administration was far more accountable than previous "authoritarian, corrupt regimes."

"This compact is a partnership between our two peoples who share the same values and have the same dreams for their children and ... believe in the supreme value of liberty," said Saakashvili at the signing ceremony.

Georgia's compact is similar to others given by the Millennium Challenge Corporation to Madagascar, Cape Verde, Honduras and Nicaragua.

The corporation is an initiative of the Bush administration and has been criticized by U.S. lawmakers for the slow pace at which it has disbursed funds so far to poor countries. Congress has appropriated about $2.5 billion for the Millennium Challenge Account over the last two years.

U.S. President George W. Bush planned to seek $5 billion in fiscal 2006, which begins on October 1, but cut this to $3 billion because of congressional resistance to providing more money to a program that had spent so little of its existing funds.

Bush Unpopular In South America, Poll Shows (REU-Y2)

Reuters, September 13, 2005

A majority of South Americans in four of the region's capitals have a negative opinion of U.S. President George W. Bush, according to an opinion survey released on Monday.

Fifty-three percent of South Americans described their perception of the U.S. leader as "bad" or "very bad," according to a poll conducted by the Santiago-based think-tank Facultad Latinoamericana de Ciencias Sociales.

Many of the 2,362 people polled disagree with the Bush administration's "war on terror" and feel the U.S. government is out of touch with the region's woes like corruption, poverty and drug trafficking, said David Alvarez, a political scientist who organized the survey.

"Latin Americans feel that (terror) issues are not the biggest problems facing our region," Alvarez said. "There is a big difference in the terrorist vision and the social problems many feel are plaguing Latin America."

Bush, who speaks some Spanish, promised to put Latin America at the top of his agenda when he was first elected. But the war on terror after the September 11, 2001 attacks put America's so-called "backyard" on the White House's backburner.

The survey - conducted in the capital cities of Argentina, Brazil, Chile and Uruguay - showed that Buenos Aires ranked as the city where Bush is most unpopular, with six out of ten Argentines saying they disapproved of him.

Residents in the Chilean capital of Santiago had the most favorable opinion of Bush, the poll showed -- 19 percent approved of Bush and 40 percent rejected him.

Chile is considered the region's model economy and has had a free trade agreement with the United States since early last year.

Argentina, on the other hand, suffered its worst economic crisis on record in 2001-2002 and many Argentines feel the United States pulled the plug on a badly-needed financial aid package from the International Monetary Fund in their worst moments.

The poll had a margin of error of 4 percentage points.

Chavez Land Seizures Slammed (WT)

By Sharon Behn

DOJ_NMG_0004548

The Washington Times, September 13, 2005

SAN CARLOS, Venezuela -- State governors and the rural poor are moving quickly to implement President Hugo Chavez's vision of a social revolution, carving up and redistributing large landholdings and threatening to take over the premises of internationally owned companies.

There has been none of the violence and mayhem that accompanied land seizures in Zimbabwe in recent years, but economists and angry land owners fear that -- as in Zimbabwe -- the takeovers will destroy a productive agriculture sector and undermine the economy.

In the cowboy country state of Cojedes, however, triumphant farmworkers are hailing Mr. Chavez as a hero for pushing through legislation in 2002 that has enabled them to take over pieces of the region's sprawling family-owned ranches.

"He is the man of the poor, the only one who has fought for the poor," said Carlos Julia Roja, 48, his sunburned face peering from his pickup truck across an expanse of privately owned fields. "How many peasants would be able to eat off this land?" he asked.

Mr. Roja is one of the hundreds of rural poor who have been awarded 15-hectare (37-acre) lots from the El Charcote cattle ranch -- a British-owned, 32,000-acre tract that was recently expropriated by the government.

"I am preparing to plant sorghum, then I will sell it as cattle feed, pay off my costs, then reinvest the rest," he said.

Others like him are building rickety, wood-slat, one-room homes on their 37 acres and quickly planting food staples such as cassava and bananas while they wait for government credits to buy seeds.

At least two large landholdings have been taken over in the Cojedes, and government authorities, backed by armed and uniformed military, on Friday were moving in on four other ranches in the Barinas and Apure states. Another 317 ranches are being studied for takeover by the government National Land Institute (INTI), says the national daily El Universal.

Foreign Minister Ali Rodriguez Araque told The Washington Times that all resources would be used to help the poor of Venezuela, who make up about 80 percent of the population and are the base of Mr. Chavez's political support.

"For us, democracy is not linked [just] to political rights, it is also linked to all economic, social and cultural rights. Political rights without the guarantee of these other rights is a denial of the whole system of rights," he said.

But ranchers who have worked their land here for decades, raising and breeding cattle, and even attracting eco-tourists to their wildlife-filled hills and plains, say the claim to their land is simply government expropriation.

"On the surface it seems very legal, but there has not been a court pronouncement on this," said Jaime Branger, whose extended family owns one of the largest cattle ranches in the country -- the 185,330-acre Hato Pinero ranch and nature conservation zone.

Rancher feels exploited

"Nobody is going to go against the concept of social justice, nobody is going against feeding the people, but you have to do it properly; you cannot just tread on people," said Mr. Branger, a tall man with deep worry lines who is fighting to keep his land.

"You can't just grab people by the hair and say 'get out.' What about my social justice? Am I not people?" asked Mr. Branger, whose family obtained Hato Pinero in 1862.

Hato Pinero is one of the better-cared-for ranches in the state. There are acres of carefully planted pasture and about 9,000 sleek cattle, including a breed developed on the ranch called Pinero Red. Thousands of acres have been set aside as a nature conservation area filled with jaguar, puma, hundreds of bird species and a variety of orchids. Paying tourists stay in a Spanish-style adobe guesthouse built to cater to nature safaris.

With shouts of "Harh, harh," Luis Calderon, one of the ranch's young cowboys, or "llaneros," gallops across the fields, guiding a group of horses into a corral before slowing down to talk in the shade of some trees.

"If they take away the ranch, everything we have worked for during the past 60 years will disappear in six months," said the 24-year-old cowboy, who was born on the ranch. His is one of 120 families who have lived and worked on the ranch most of their lives.

His dirty white hat shading his dark eyes, Mr. Calderon -- who is in charge of calving cows -- described what the campesinos did when they took over one of Mr. Branger's seed and cattle farms down the road.

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"They sold all the wild horses and ate all the cattle," he said. "For every one person who would really grow stuff, there are 100 who just won't. There are some people who just hear that the land is good, there is plenty of water, and they want to take a piece."

Poor not given deed

The land expropriations, which began early this year and quickly are gathering pace, came after a new law giving the government the right to take over properties where the ownership documents are deemed unsatisfactory. The poor are given the use of the land -- but not ownership titles, which remain in the hands on the government.

The law also imposes new taxes on any land found to be idle or underproductive. Mr. Branger, who studied at the London School for Economics, said the criteria for either condition are not clear and are being abused by governors seeking to curry favor with the president.

The government is studying the takeover of 1,149 factories -- roughly 10 percent of the private manufacturing sector, according to El Universal -- which are either closed or partially functioning, all part of Mr. Chavez's push to get greater control over the country's economy and boost production.

Economic analyst Alejandro Grisanti Capriles explained that plants were standing idle or underproducing because of a sharp drop in investment due to the uncertain political environment, and because industries have tried to consolidate production in order to stay economically viable.

Government expropriations, coupled with a weak judicial system to counter them, "will have an adverse effect on the whole economy. The threat to private property is driving down investment in all the sectors," said Mr. Grisanti, of EcoAnalitica.

No 'social justice'

But Jose Pimentel, a burly, bearded man who leads the campesino (peasant) movement in Cojedes, said the poor had waited too long for a chance to work their own land.

"I am the son of a campesino, and I have seen that all the previous governments did not have any social justice in the rural areas," he said, riding in the cab of a rattle-bone pickup truck filled with workers.

Mr. Pimentel, who is charged with doling out the confiscated land parcels in his territory, is greeted everywhere by men in beat-up cowboy hats and worn clothes, all seeking pieces of land.

He argued that the huge land holdings do not legally belong to the families that work them, but were taken illegally in the 1930s -- in one case as far back as the 19th century. The land, he says, belongs to the nation, and thus to the people.

"There is a lot of poverty, and we have to fight poverty. We need to help all the people, so all can eat, buy clothes. We want to set up [cooperative] tractor factories, sausage factories, meat processing plants," he said. "This agriculture will generate industry."

Help all the people

Ideology and corporate concerns do not enter the conversation of the campesinos sitting on overturned buckets shucking fresh corn to be ground in a hand-cranked mill and made into corn pancakes called "cachapas."

For these families, ignored for generations by previous governments and pushed to the edge of survival, Mr. Chavez's revolutionary plans appear as their ticket to a new life. They reject the idea that they are squatters or that they have invaded someone else's land.

"We are Venezuelans; we have the right to the soil. This is our earth, so we are not invaders," said Lisa Gramos, 55, before cooking the pancakes on a hot griddle in the one-room hut that serves as kitchen and bedroom for four adults and a number of small children.

Much of the rancor comes from Venezuela's history of the wealthy few owning most of the land, and the failure of successive governments to bring the poor into national development.

It is a situation that Mr. Branger, speaking over a long dinner in Caracas, recognizes.

"We deserved it. We became a very complacent society, and we forgot our social responsibility, and we forgot the communities. We were not giving back to the communities. We deserved a bit of what is going on -- but unfortunately, we got a lot," he said.

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Objections Emerge To G-8 Debt Relief Plan (WP)

By Paul Blustein

The Washington Post, September 13, 2005

Full debt relief for the world's poorest countries was finally in the bag. Or so it seemed two months ago when leaders from the Group of Eight major industrial powers, at their summit in Scotland, approved a plan to cancel the debts that 18 nations, mostly in Africa, owe to international lenders such as the World Bank.

But objections to the plan are emerging as it heads toward an official vote at the annual meetings of the World Bank and International Monetary Fund later this month. Most notable is an internal World Bank report that warns the plan could deplete the bank's coffers so severely as to impair its ability to provide new aid for impoverished nations.

The report, obtained by The Washington Post, uses bureaucratic language to convey a dire message about the problems that the G-8's plan could pose for the International Development Association (IDA), the World Bank agency that lends about $9 billion a year to low-income countries. By potentially forgiving as much as $42.5 billion in payments owed by many poor countries over the next several decades, the plan "could reduce IDA's financial capacity significantly," says the report, which was discussed at a meeting of the bank's executive board last week.

Critics of the plan, which include the governments of Scandinavian countries and the Netherlands, are demanding substantial changes in the plan to guarantee that the World Bank is made whole for its losses. That, in turn, is arousing angry warnings from the Bush administration that the whole initiative could come unstuck.

"The deal to provide 100 percent debt cancellation is in jeopardy," said Tony Fratto, the Treasury Department's chief spokesman, who said he was "outraged" at the World Bank report. "There are individuals trying to chip away at it and see that it doesn't happen."

Debt cancellation was one of the key goals of the movement that mobilized behind the "Live Eight" concerts in early July aimed at prodding President Bush and other G-8 leaders to spare no expense in assisting the developing world. The movement had a powerful ally in the British government, which agreed that debt loads were keeping nations such as Tanzania, Uganda and Bolivia mired in poverty even after previous rounds of partial forgiveness. Many activists were pleasantly surprised when the Bush administration embraced that logic as well.

But the debt-relief bandwagon got hung up on the issue of who would bear the cost. The bulk of the loans in question were no-interest, 40-year loans granted by IDA, which gets its money mainly from two sources -- repayments of prior loans and periodic infusions of cash from rich donor nations. Failing to provide IDA with additional donations to replace the revenue lost to debt relief would risk diminishing the World Bank's role on the global stage -- and that, some policymakers and experts suspected, was the Bush team's true aim.

The G-8 summit communique issued in Scotland reflects a compromise on the issue that, according to the World Bank's internal report, does not go far enough in protecting IDA. Although the communique contains firm commitments to cover the $1 billion that IDA would lose over the next three years, the report projects that losses would total $8.9 billion in the first decade, $17.6 billion in the second decade, $14.1 billion in the third decade, and $1.8 billion in the last decade if all 38 countries potentially eligible received full cancellation of their debts. (Only 18 countries so far have met the criteria for full relief, though more are expected to do so.)

The report acknowledges the G-8's pledge that for the period after the first three years, "donors will commit to cover the full costs for the duration of the cancelled loans" by making additional contributions to IDA. But the pledge has no binding force, and there is no "benchmark" for gauging how much donors would have given before the supplemental contributions, notes the report, which proposes several options to more firmly ensure IDA's future financing.

The Treasury's Fratto blasted as "absurd" the fear that Washington would fail to honor its pledge to provide additional contributions to IDA, and he ridiculed the report's assumption that debt repayments by poor countries are a reliable source of income.

"The World Bank's analysis seems to give greater credence to the ability of a Niger to pay back its unsustainable debt than it does for the G-8 countries to meet their commitments," Fratto said.

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Another objection to the G-8 plan voiced by policymakers in recent days, according to IMF officials, is that it may violate a long-standing IMF rule assuring "uniformity of treatment" to all member countries. The plan would fully cancel the debts to the IMF of only nations that qualify as "heavily indebted poor countries," while leaving untouched the obligations of nations such as Kenya and Indonesia that are not heavily indebted enough to be included.

This issue reflects the criticism expressed by some activists during the G-8 summit that the debt-relief plan ought to benefit a wider range of countries.

Activists who backed the G-8 plan said that although they sympathize with the complaints, the plan ought to be approved anyway.

"Our counsel is, don't let the best be the enemy of the good," said Seth Amgott, a spokesman for DATA, the organization founded by the rock star Bono. "Let's get this thing done."

Divisions Remain On U.N. Reform Ahead Of Summit (NYT/AP)

By The Associated Press

The New York Times, September 13, 2005

UNITED NATION (AP)-- With just days before leaders of more than 170 countries gather at a U.N. summit, there has been little progress on a document they are to adopt.

U.N. Secretary-General Kofi Annan wants heads of state and government to mark the 60th anniversary of the United Nations by adopting a sweeping blueprint to tackle the challenges of the 21st century at the Sept. 14-16 summit in New York.

But despite intense negotiations over the weekend, some U.N. ambassadors expressed concern the text would be weak and said negotiations were slow and difficult.

U.N. General Assembly President Jean Ping, who has been overseeing the document's preparation, told ambassadors Sunday he wanted to see agreement on a document by Monday which is the last day of the 59th General Assembly.

Key issues expected to be addressed in the document include reform of the U.N. Security Council, a Human Rights Council to replace the discredited Human Rights Commission, a new Peacebuilding Commission to help nations emerging from conflict, and new responsibilities for governments to protect civilians from genocide and war crimes.

Chile's U.N. Ambassador Heraldo Munoz told reporters that there had been progress on some issues, but that "I think we're still far from agreement on several others."

He said the most contentious issues in the discussions were disarmament and non-proliferation, the Council of Human Rights and terrorism.

"My fear is that we may end up with something a lot less that what the U.N. deserves and that is the danger that I foresee. I have no doubt that we'll have a document, but whether it is up to the challenge that we have ahead and the changes that are needed, that I have some doubt," he said.

France's U.N. ambassador Jean-Marc de La Sabliere said the summit document negotiations were a "unique opportunity" and that it was in everybody's interests to modernize and reform the United Nations.

"We think this text should be ambitious on development, ambitious on terrorism, ambitious on the human rights, ambitious on peace-building, ambitious on responsibility to protect ... and we are negotiating day and night," he said.

U.N. Members Undercut Annan's Quest For Reform (WP)

By Colum Lynch

The Washington Post, September 13, 2005

UNITED NATIONS, Sept. 12 -- In March, Secretary General Kofi Annan proposed the most far-reaching changes for the organization since its founding 60 years ago: reorganizing to combat terrorism and poverty, expanding the Security Council beyond the victors of World War II and setting new rules for the preemptive use of military force.

But six months of contentious negotiations by governments have stripped out many of the boldest initiatives, including proposals for creating 10 new Security Council seats. And delegates this week are straining to reach agreement on a far less ambitious package of steps that can be agreed on by some 170 leaders set to arrive in New York on Wednesday for a summit on U.N. reform.

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Some key goals -- including the quest for agreement to condemn terrorists who target civilians or to establish a human-rights council that bars membership to rights abusers -- will be put off for discussion by the 191-member General Assembly after the summit ends Friday.

"When you get together with 191 countries to agree on substantive issues, it's obvious that you're going to end up with the least common denominator," Mauritius's U.N. ambassador Jagdish Koonjul said, after quarreling with U.S. negotiators over a proposed provision that would urge world leaders to support the International Criminal Court. "They said they would rather die than allow any reference to the letters ICC."

Annan's manifesto -- outlined in a document titled "In Larger Freedom" -- was designed to pump new life into multilateralism after the U.S.-led invasion in Iraq had highlighted a rift in international relations. But his effort to push through his changes have been hamstrung by corruption scandals that have weakened his authority. U.N. member governments, meanwhile, have been reluctant to make painful tradeoffs to achieve a bold reorganization of the global body.

Some officials now say that the goals were too grand for an organization whose members remain deeply divided over the nature of the world's problems. "If things collapse it will be because the traffic was too heavy for the road to bear," warned Munir Akram, Pakistan's U.N. ambassador, who played a pivotal role in blocking the enlargement of the 15-nation Security Council because its regional rival, India, aspired to a permanent seat on it.

This week's summit, which will draw the largest number of world leaders under one roof, was initially intended to review progress on commitments governments made in 2000 to fight grinding poverty and the spread of HIV/AIDS, malaria and other diseases that disproportionately strike the poor.

The summit's focus shifted following the Sept. 11, 2001, terrorist attacks and the invasion of Iraq. Abdallah Baali, Algeria's U.N. ambassador, said the summit was intended to strike a "grand bargain" between the world's poorest countries, who expected to get greater commitments of foreign aid, and the United States and other wealthy countries that wanted the United Nations to change its focus to address new security threats, primarily terrorism.

This meeting represents the first major test of U.S. diplomacy at the United Nations since President Bush bypassed the congressional confirmation process last month and installed John R. Bolton as U.S. ambassador through a 17-month recess appointment.

Since his arrival, Bolton has shaken up the negotiations on a document that can be agreed upon by leaders at the summit, introducing more than 750 amendments. The U.S. amendments called for eliminating new pledges of foreign aid to impoverished nations, scrapping provisions that call for action to halt climate change and deleting language urging nuclear powers to make greater progress in dismantling their nuclear arms.

Bolton has since struck a compromise that welcomes decisions by wealthy governments to increase foreign aid levels to 0.7 percent of their gross national products, but which does not say that governments must do so.

A small group of 15 key negotiators appointed by General Assembly President Jean Ping has also reached agreement in principle on provisions that would increase pressure on states to act to halt genocide, ethnic cleansing and other large-scale killings, and that would establish a peace-building commission to manage postwar recoveries. The negotiators have also agreed to condemn terrorism and set up a human rights council, although they would leave it to the General Assembly to later decide how to define terrorism and to work out the composition and mandate of the rights council.

But the negotiations remain deadlocked over several key issues, including provisions designed to hasten the pace of disarmament and halt the transfer of the world's deadliest weapons to terrorists. Negotiations are also stalled over measures aimed at ending trade subsidies by rich countries that hurt poor nations' ability to compete, and that would bring greater accountability and oversight to U.N. spending.

Bolton sought to dampen expectations that the agreement by world leaders would represent the kind of radical changes first envisioned by Annan. "This is a first step," he told reporters during a break in negotiations. He said the changes under negotiation "are important but I don't think even if they were adopted in full they would result in the kind of cultural revolution that we need in U.N. management and governance."

"Reform is not a one-night stand," he added. "Reform is forever."

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The Bush administration has come under fire from other nations for opposing provisions that it feels would inhibit its ability to defend U.S. interests. The United States has firmly opposed a proposal by Annan to urge the Security Council to adopt a resolution setting guidelines for the use of military force.

The United States also has blocked regulation of small arms and has worked to eliminate references in a summit document to the obligations of nuclear weapons states, under the nuclear Non-Proliferation Treaty.

"What you see here is the U.S. carving out of this document any reference to the responsibility to the nuclear weapon states to eliminate their nuclear arsenals," said Daryl Kimball of the Arms Control Association. "And that is going to make it all the more difficult to strengthen an already beleaguered nuclear nonproliferation system because other states are less likely to foreclose their nuclear options if the United States and others continue to pursue theirs."

Human rights and development advocates, meanwhile, say that a number of other countries have quietly sought to undercut the negotiations. "Less than 48 hours from the beginning of the summit there remains real risk that major agreements will be blocked by a small number of countries that seem determined to block the summit's success," said Nicola Reindorp of Oxfam International. "These include Pakistan, Egypt, Iran, Syria, Venezuela and Cuba."

Helping The World's Poor (WSJ)

The Wall Street Journal, September 13, 2005

The so-called Millennium Development Goals for helping the planet's poorest will be among the topics of discussion at the U.N. summit that begins tomorrow in New York. In recent weeks, the Bush Administration has come under media fire for suggesting some sensible revisions, such as requiring more accountability from countries on the receiving end of international assistance (imagine that).

But according to an article by Amir Attaran in the October issue of PLoS Medicine, a public health journal, the MDG program has much more fundamental problems that the U.S. might take into account before succumbing to mounting pressure to increase aid.

The MDGs -- which target poverty, hunger, infectious disease and other problems in the developing world -- were drafted in 2000 to great fanfare. Yet five years on, writes Mr. Attaran, a professor at the University of Ottawa who specializes in population health and global development policy, "many of the most important MDGs, including those to reduce malaria, maternal mortality, or tuberculosis (TB), suffer from a worrying lack of scientifically valid data."

The article goes on to say that while progress on each of these goals is portrayed in measurable terms, "often the subject matter is so immeasurable, or the measurements are so inadequate, that one cannot know the baseline condition before the MDGs, or know if the desired trend of improvement is actually occurring."

Perhaps even more disturbing, however, is Mr. Attaran's revelation that U.N. scientists "know about these troubles" and that "the necessary corrective steps are being held up by political interference, including the organization's senior leadership, who have ordered delays to amendments that could repair the MDGs." Anticipating this week's summit, a September 2004 memo from U.N. Deputy Secretary General Louise Frechette actually instructed U.N. scientists in charge of MDG statistics to downplay the measurement problems until after the summit because "any changes at this stage would only distract from the result that we would like to achieve." That "result," of course, is more money from wealthy nations with no questions asked.

Other U.N. health outfits have demonstrated a similar inability to measure progress, or the lack thereof. The World Health Organization launched its Roll Back Malaria program in 1998 with the goal of halving the number of malaria deaths by 2010. Seven years into the effort, WHO is claiming it's "too early to tell" if they're on track to meet the goal.

Defenders of the U.N., such as Columbia University's Jeffrey Sachs, accuse the organization's critics of being stingy and irresponsible. But the U.S. government's real responsibility is to make sure tax dollars are put to wise use. U.S. development aid has increased 90% since President Bush took office, and as the world's largest donor it has every right to demand that the U.N. be held accountable for making promises that aren't objectively verifiable.

Health goals that can't be measured, said Mr. Attaran in a recent interview, should be abandoned in favor of alternative approaches. "Because serial guessing isn't helping poor people. If we set quantitative goals, then we ought to be concerned enough to actually quantitate."

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If the U.N. and its supporters are serious about the Millennium Development Goals, and U.S. support in pursuing them, they should stop equating criticism of U.N. methods with criticism of its motives. U.N. reform is a better use of their energies this week. And the establishment of an auditor general or some other independent body responsible for commissioning and publishing performance reviews is a good place to start.

The Good Fight (NYT)

By Vance Serchuk

The New York Times, September 13, 2005

Washington

This week, the heads of state of more than 170 countries are meeting to consider wide-ranging reforms for the United Nations. But any mention of the expansion of the Security Council will be off the agenda, thanks in no small part to the diplomatic exertions of the Bush administration.

The White House's foreclosure of discussion on Security Council expansion has drawn cheers from conservatives worried about any dilution of American power, and scorn from liberals convinced that the Bush administration is once again unilaterally sabotaging the international system. In fact, both sides are wrong.

The American position, by prioritizing practicable goals like cleaning up the Human Rights Commission and strengthening peacekeeping capabilities, is actually good for the United Nations, which would suffer from a drawn-out fight over Security Council expansion. But while the Bush administration's stance helps United Nations reform, it does not serve America's interests. To understand why, it's necessary to recognize that the expansion debate is above all a geopolitical contest for power and influence.

Just consider the maneuvers this summer by four aspirants to the Security Council - Brazil, Germany, India and Japan - which have joined together in the so-called Group of Four and have been furiously trawling the developing world for support. Rivals of these countries, like China, Italy and Pakistan, have meanwhile been working to block them. The resulting game of chess has been almost entirely defined by realpolitik, with nations unabashedly trading favors and threats, and the council's effectiveness an afterthought at best.

Such cold-blooded competition should come as no surprise. A seat on the Security Council, after all, is a prized symbol of power and prestige, establishing a country as a regional leader. This has particular importance in Asia, where China is determined to preserve its regional monopoly on the Security Council, while Japan and India are equally determined to break it. Given the Bush administration's concerns about Beijing's rising power and Washington's avowed interest in deepening our relations with Tokyo and Delhi, it's clear which side of this debate we should be on.

Getting Japan, in particular, on the council should be a top priority for the United States, not just as a reward for past support on countless issues - from Iraq to North Korea - but also because of its central role in America's grand strategy for the region. Equally important is the development of a long-term alliance with India. Skeptics warn that New Delhi has often voted against the United States at the United Nations, but given that India has been under American sanctions for its nuclear aspirations until recently - and was aligned with the Soviet Union for decades before that - such past recalcitrance may prove a poor guide to future behavior.

Although the Bush administration rhetorically backs Japan's bid and has been supportive of India's as well, these two states alone will never muster sufficient support in the General Assembly. The best remaining option, then, is for the White House to grit its teeth and embrace the Group of Four.

It hasn't done so, partly because it fears a larger Security Council would be less effective. But the sad truth is, the council already isn't likely to help Washington on first-tier problems like Iran or North Korea. And while a bigger membership would make deliberations more unwieldy, we shouldn't worry too much about damaging an institution that is already broken.

In the end, American support may not ensure passage of the Group of 4 proposal. China will marshal votes against it and, failing that, threaten a veto. But that might not be so bad either. Instead of focusing on the Security Council as an abstract institution, Washington should treat it the same way its peers do: as a commons for bare-knuckle great-power diplomacy.

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Pushing Beijing into a confrontation with Germany, Brazil, Japan and India would be the kind of ruthless realpolitik to make Metternich proud.

Meet The Fakers (NYT)

By Nicholas D. Kristof

The New York Times, September 13, 2005

The biggest gathering of leaders in history unfolds this week at the United Nations, as they preen and boast about how much they're helping the world's poor. In short, it may be the greatest assembly in history - of hypocrites.

The fact is that with just a few exceptions, the presidents and prime ministers coming to the U.N. summit are doing a disgraceful job in helping the poor. That's one reason the world's richest 500 individuals have the same income as the world's poorest 416 million people.

We Americans set a dreadful example as hosts to the summit. President Bush has been trying to wriggle away from his 2002 endorsement of the principle that rich countries should try to provide 70 cents in official development assistance for every $100 in national income. (Mr. Bush has sharply increased foreign aid from the Clinton years, but it still stood at only 16 cents in 2004 for each $100 of national income.)

The Bush administration also tried to change summit documents to downplay references to the millennium development goals of overcoming poverty. Fortunately, the Bush administration backed off and now grudgingly joins the international consensus against infant mortality.

It's common to hear abroad scathing criticisms of U.S. stinginess, much of it deserved. But Japan is also a cheapskate, giving only a hair more than the U.S., and Italy gives even less.

The new Human Development Report 2005, recently issued by the U.N. Development Program, is blessedly undiplomatic in its willingness to point figures - at just about everybody. It notes that the U.S. and other rich countries seem unwilling to provide a total of $7 billion annually for the next decade to provide 2.6 billion people with access to clean drinking water. That investment would save 4,000 lives a day, and the cost is less than Europeans spend on perfume - or than Americans spend on cosmetic surgery.

Meanwhile, the report adds, AIDS kills three million people a year and devastates countries like nothing since the Black Death in the 14th century. Yet annual world spending to fight AIDS amounts to three days of military expenditures.

This U.N. summit is meant to review the millennium development goals, such as cutting child deaths around the world by two-thirds by 2015. All the goals, adopted with great fanfare five years ago, are feasible, and some countries - from Bangladesh to Indonesia, Brazil to Mongolia - are on track to meet them. Hats off to them. But most of the world appears likely to miss the goals.

Two countries that should be the leaders of the developing world, China and India, are both off track and should be ashamed of their records. In India, among children 1 to 5, girls are 50 percent more likely to die than boys, meaning that each year 130,000 Indian girls are discriminated to death.

Bangladesh has now overtaken India in improving child mortality, and Vietnam has overtaken China. If India had matched Bangladesh's rate of reduction in child mortality over the last decade, according to the U.N.D.P., it would have saved 732,000 children's lives this year.

Likewise, China has largely ignored its poor interior, so it still loses 730,000 children each year. China has also taken diplomatic positions that hurt the world's most vulnerable populations, by supporting Robert Mugabe in Zimbabwe and by implicitly endorsing Sudan's genocide just as it once endorsed Pol Pot's.

And African leaders? Perhaps this is naïve, but it strikes me as racist for them to have complained about brutal white rule in South Africa or Zimbabwe while excusing black rule that is even more brutal.

Readers often ask if I find it depressing to visit African slums or mud-brick villages. On the contrary, it's exhilarating to see how little it takes to make a difference. Ancient scourges like river blindness and leprosy are being controlled, and a clever initiative by Bill Gates and others to promote vaccinations (the Global Alliance for Vaccinations and Immunization) saved more than one million lives just between 2001 and 2004.

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That makes it maddening to see leaders posturing for the cameras at the U.N. while, as the U.N.D.P. report notes, "the promise to the world's poor is being broken." The report adds that the gap between the current trendline on child mortality and the one the leaders committed themselves to amounts to 41 million children dying before their fifth birthday over the next decade.

Rather than toasting themselves, these leaders should apologize for this continuing holocaust.

Necessary Measures (NYT)

By Amir Attaran

The New York Times, September 13, 2005

Ottawa

Five years ago, about 150 world leaders gathered at the United Nations in New York and tried to move the mountain of global poverty. They adopted eight Millennium Development Goals - quantifiable measures of progress on problems like malaria, tuberculosis and child and maternal mortality. The achievement of those goals by 2015 would lift more than one billion people out of extreme poverty.

The trouble is that progress toward these benchmarks often cannot be measured. And if their achievement cannot be measured, the goals are not only a letdown for the world's poor, but also a time bomb for the credibility of the United Nations. As world leaders gather in New York again this week, the United Nations will have to grapple with the question of whether progress is on track to achieve the goals by the 2015 deadline. So far, this inability to measure progress has meant that the United Nations has either guessed or remained silent.

Consider the hazard of dying in pregnancy or childbirth, a fate that befalls more than 500,000 women annually, according to the World Health Organization. The Millennium Development Goal on maternal mortality is to "reduce by three-quarters, between 1990 and 2015, the maternal mortality ratio." Measuring that ratio requires an accurate count of both safe births and maternal fatalities.

But according to the United Nations Millennium Project, only a "handful of countries" can really prove the maternal mortality ratio is improving; poor, rural countries where obstetricians are scarce, home births are common and the dead are mourned privately simply do not have the data. That is why in 2000, their most recent assessment, scientists from the United Nations warned that "it would be inappropriate to compare the 2000 estimates with those for 1990," or to "draw conclusions about trends."

Malaria is another example where United Nations goals hinge on something immeasurable. In 2000, the organization's scientists warned that "it will not, in general, be possible to measure the overall incidence rate of malaria." Yet barely two months later, the United Nations placed bets on doing exactly that and persuaded the world's leaders to endorse a new Millennium Development Goal to start lowering the incidence of malaria by 2015.

Having ignored the advice of its own scientists and fashioned its goal unwisely, the United Nations today studiously avoids having an opinion on whether the malaria crisis - the disease is the No. 1 killer of children in sub-Saharan Africa - is getting better or worse. And yet, nobody who studies malaria doubts that it is getting worse.

Probably the most useful discussion the United Nations could plan for this week's meeting would be one that asked world leaders to endorse new goals against which they could truly measure progress. This is feasible: there are alternative ways to track malaria's toll or to assess the safety of pregnancies. For instance, dozens of demographic surveillance sites could be set up in the poorest countries to document births, deaths, illnesses and social services. This has already been done in countries like Tanzania and Ghana.

How disappointing it is that the United Nations leadership went to great lengths to ensure that no such discussion could happen this week. Last September, Louise Fréchette, the United Nations deputy secretary general, instructed the organization's scientists that she didn't want the summit meeting being "distracted by arguments over the measurement of the Millennium Development Goals," and ordered that they refrain from proposing any refinements to the goals. This is lamentable political censorship.

By putting that discussion off limits, and pretending the Millennium Development Goals are meaningful as they now stand, the United Nations has lost five years on a short timeline and sabotaged its own vital mission to help the world's most unfortunate and needy people.

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Early Results Give Norway Opposition A Win (NYT/AP)

By The Associated Press

The New York Times, September 13, 2005

OSLO, Norway (AP) -- Norway was poised for a power shift after the left-leaning opposition won a majority of seats in Parliament with pledges to spend more of the nation's vast oil wealth on welfare, official election results showed early Tuesday.

With more than 96 percent of votes counted, a three-party coalition led by the Labor party had grabbed 88 seats in the 169-seat assembly, enough to oust the center-right government.

Prime Minister Kjell Magne Bondevik, who campaigned on promises of tax cuts, said if the final tally confirmed the result, his government would resign after presenting its draft 2006 budget on Oct. 14.

Labor leader Jens Stoltenberg, who campaigned on a pledge to spend more of the nation's oil money on welfare, said the opposition Red-Green alliance would start talks in the next few days on forming a coalition majority government.

"In this campaign we had two goals: a strong election for Labor and a chance to form a majority government. The one goal has been reached, the other is within reach," said Stoltenberg, a 46-year-old former prime minister.

Bondevik acknowledged his days as prime minister were likely over, saying: "I am disappointed by such a political defeat, but we had been prepared for the possibility."

Bondevik's government has presided over four years of unprecedented prosperity in the country of 4.6 million, and the nation's wealth has been boosted by a windfall from record high oil prices. But critics complained of cracks in the welfare state, including shortcomings in education, health and elderly care.

Stoltenberg said he thought Labor had made strong gains because "many agree with our main message: "That we can make Norway even better with the fantastic resources we have."

Bondevik, 58, a Christian Democrat and Lutheran minister who has led a three-party coalition government since 2001, had campaigned on promises of further reducing taxes while improving health care and education.

Debate also raged over how to use the oil income, with the far-right populist Party of Progress saying Norway should tap into the $192 billion fund where it invests surplus oil revenue. Offshore oil platforms have made Norway the world's third-largest oil exporter, after Saudi Arabia and Russia.

European Union membership, which Norwegian voters rejected in 1972 and 1994, has not been an issue.

Oslo voter Kari Murberg Martinsen, 42, said she supports the Red-Green alliance because "I am concerned about children and education, and think we owe the elderly decent treatment."

Bondevik said he believed his three-party coalition was hurt by attacks from Party of Progress leader Carl I. Hagen, who said he would not accept another government with Bondevik as prime minister.

Bondevik's minority government of Conservatives, Christian Democrats and Liberals took power four years ago with the support of Hagen's party, but refused it Cabinet posts or any other formal alliance, partly because of its anti-immigration stance.

The Party of Progress advanced in the election to become Norway's second largest party with 37 seats, according to the preliminary count. Labor gained 19 seats for a total of 62, the results showed.

After Shattering Civil War, Liberians See Hope At Polls (WP)

By Sudarsan Raghavan

The Washington Post, September 13, 2005

Her dead husband's Bible, his driver's license and their faded wedding photos are in a dusty box in the closet of her College Park home -- not to forget, but to remember. Like so many Liberians, Caroline Barnard is handcuffed to a history of heartache, bloodshed and guilt.

Gunmen killed her husband, Emmanuel Cooper, in a suburb of Monrovia, the country's capital, 15 years ago. They left his corpse on the street. The couple had been married for less than three months. And she was pregnant.

After she fled the chaos on foot, Barnard made a promise.

"Whatever is left of him, I must bury him," she recalled. "I'm going to go back."

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Now, as the West African country prepares for a historic post-civil war election next month, a new hope is prevailing. After years of building wealth and sharing it with impoverished relatives back home, Barnard and other Liberians across the United States want to influence the outcome of the campaign.

Many of the Washington region's estimated 10,000 native Liberians view it as nothing less than their homeland's last chance for peace and stability.

"They feel very passionate, because they realize the future of their country depends on this election," said Bishop Darlingston G. Johnson of Bethel World Outreach Church in Silver Spring, where a third of the 3,000 congregants are from Liberia.

Liberia was founded in 1847 by freed American slaves who named its capital after President James Monroe, and it was a reliable U.S. ally during the Cold War. But starting in the 1980s, a succession of despotic and corrupt leaders brought two decades of disorder. By the time international pressure forced warlord Charles Taylor into exile in Nigeria in 2003, Liberia's government and civil society were in shambles.

Taylor's exit spawned a peace deal and caretaker government, bolstered by 15,000 U.N. peacekeepers. The Oct. 11 election is the next step.

No provisions exist for absentee voting. A Liberian living abroad must go back to register and then return to cast a ballot. So most immigrants in the Washington area will not vote.

And yet, Liberia's main presidential candidates have held fundraisers and town hall-style events across the region. They've canvassed other parts of the United States as well and created slick campaign Web sites.

The reason is such statistics as this: $600 million wired into Liberia, much of it from the United States, between 2000 and 2003, according to the Aite Group, a Boston financial services research firm.

And this: 80 percent illiteracy in Liberia and poverty rates just as high, the United Nations estimates.

So candidates are appealing to Liberian immigrants to contribute to their campaigns and persuade relatives back home to vote for them. It's the latest example of how elections in developing countries have become transnational affairs, as technology connects immigrant to homeland as never before.

"If you supported Liberians during the war, you will have influence, you can make an impact," said Gayah Fahnbulleh, an adviser to candidate Ellen Johnson Sirleaf, a former World Bank official.

The 22-candidate field includes Liberian soccer legend George Weah and Charles W. Brumskine, a lawyer who lives in Northern Virginia.

"This is the time to start a revolution," said Barnard, a mother of three.

The accountant and gospel singer paused, then added softly, "A peaceful revolution."

One that will allow her to keep a 15-year-old promise.'Bullets Were Flying'

Barnard met Cooper at a school in Paynesville, a suburb of Monrovia. She was 14. He was 16. They dated for two years, broke up and got back together 10 years later.

"We soon found out that having each other forever was our greatest desire," Barnard later wrote in her journal.

A year later, on Christmas Eve 1989, Taylor invaded Liberia from neighboring Ivory Coast. The country soon collapsed into civil war. But Barnard and Cooper carried on with their lives as best they could. She worked for Price Waterhouse. He was a small trader. They married April 7, 1990, in a lavish ceremony at a white church with a gospel choir.

On July 2, heavy fighting broke out in Paynesville, where they lived. Cooper was riding in a car with a soldier, probably for protection, as many Liberians did then. They were ambushed by Taylor's rebels on Duport Road.

Barnard never saw his body, but someone told her a few girls had covered him with sand near the road. She tried to retrieve his body.

"As I walked, there was shooting up the road," Barnard recalled. "Bullets were flying. I couldn't reach that particular spot."

A few days later, someone found his wallet and driver's license.

"I don't know why death had to part us so early," Barnard wrote. "We had so many things to achieve."

Pregnant and widowed, Barnard fled. She filled two shopping bags and walked through the jungle until she crossed into the Ivory Coast, joining a vast exodus of refugees.

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"I wonder what the future has for me and our unborn child," Barnard wrote.

The future is what drives Eunice Barnaby of Germantown to phone the relatives who receive $6,000 a year from her and urge them to vote for Sirleaf. After watching Liberia crumble under male leaders, she wants a woman in power.

"There's nothing more I want than to go back to Liberia," said Barnaby, 46, whose brothers and sister were killed by rebels.

It's what drives Bishop Johnson to encourage Liberian immigrants like himself to fast and pray for 21 days so "God Himself will guide the elections."

It's what drives Joseph Juwle to take time off from his job as a hotel supervisor in the District and head to Liberia this month, even though he hasn't registered to vote. He will work for presidential candidate Winston Tubman.

"I'm going there to encourage Liberians to vote for the right person," said Juwle, 47, a father of five who lives in Lanham.One Way to Monrovia

And the future is what drives Barnard.

In Ivory Coast, she gave birth to her daughter, Korpo, remarried and came to Prince George's County in 1996. During the day, she works for the University of Maryland in College Park as a fiscal coordinator. At night, she composes and sings gospel songs about Jesus and her homeland to hip-shaking African rhythms.

Liberia's peace process and the election inspired her last year to write "One Way Ticket to Monrovia."

It has become an anthem for immigrants yearning to go home, played at gatherings and on Liberian community radio. In June, at a fundraiser for Brumskine, dozens of Liberians swayed to every word.

I thank my Lord the God of Peace.

O He really answer prayers.

Thank God the United Nations and Papa Kofi Annan. . . .

Thank God for President Bush, the Peace is here forever

I say one way, one way ticket to Monrovia

I'm never coming back.

At the end of the song, she asks that when she lands in Liberia, she be taken to the "Duport Grave."

Despite the optimism, most Liberians here are realists. Their country, they well know, has endured many upheavals.

"Politics is so tricky," Barnard said. "We only hope and pray we'll get divine inspiration to choose the right person."

If the right person is chosen, she knows she'll be one step closer to Cooper's grave. If she can't find it, she will go to the spot where he died, pick up some of the soil and bury it in his hometown of Kle in Bomi County, about 30 miles from Monrovia. She'll hold a simple memorial service, perhaps build a school in his name.

She know she's fortunate. Most Liberians can't do this much.

"There are a lot of people who don't even know where their relatives are, whether they are dead or just missing," Barnard said. "This war has left a lot of unfinished business for so many people."

Last week, in her comfortable living room peppered with African artifacts, she sifted through the shards of her broken past. A buttery late afternoon light floated through the lace curtains. Her husband, Johnny, sat with her as Korpo, now 15, floated in and out of the room.

The wallet. The driver's license. The Bible. Wedding photos and a video. Her blue journal with the elegant handwriting.

Then, she spotted two black-and-white passport photos. She was young and smiling, as if the future were limitless.

"Those were the days," she sighed.

Then, she smiled as wide as she could.

A Healthier Amazon Jungle (NYT)

The New York Times, September 13, 2005

Last month, Brazil's environmental officials announced that the burning of the Amazon has slowed. Deforestation this year is half of what it was the year before. This news shows that when Brazil's government musters the political will to protect the Amazon, it can do it.

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Large swaths of the jungle are still disappearing, mainly set on fire by soybean farmers and ranchers looking for land to raise cattle. Last year was the worst for Amazon deforestation in a decade.

The health of the Amazon is a global concern because the forest soaks up greenhouse gases, which lessens global warming. Deforestation means the Amazon could eventually become too small to produce the rain that it needs to survive.

Deforestation is also deadly for millions of Amazon peasants trying to eke out a living growing small plots or collecting forest products. Land grabbers snatch up valuable property near planned paved roads, burning the villages to drive the inhabitants away. Hundreds of leaders who have tried to speak up for peasants have been murdered, and virtually none of the killers ever face jail.

Unfortunately, part of the reason farmers and ranchers cleared less jungle this year is because the price of soybeans and beef have dropped, and Brazil's currency is stronger. So exports are less profitable.

But the government's commitment to protecting the Amazon has also been important. Led by Marina Silva, the environment minister and once a poor Amazon rubber tapper herself, Brazil is starting to impose its authority in parts of the forest that have always been lawless. In the state of Pará in February, gunmen killed Dorothy Stang, an American nun who had worked with the rural poor for 30 years. After the murder, the government sent 2,000 federal troops to the zone and announced a logging ban on millions of acres of Amazon land.

The government has also begun to enforce its laws. It is beginning to require real documentation of claims for land title. In June, police arrested dozens of members of an illegal clear-cutting ring. Finally, through new satellite imaging, Brazilian authorities can spot burning while it is happening and theoretically make arrests. Rule of law is still foreign to the Amazon . But it is becoming a little less so.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

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TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

Briton Gets 47 Years In Missile-sale Case (USAT)

USA Today, September 13, 2005

A British businessman convicted of trying to smuggle shoulder-launched missiles into the USA was sentenced Monday in Newark, N.J., to 47 years in prison. The plot involved the sale of missiles to a group that Hemant Lakhani, 70, was told would use them to shoot down commercial planes. The weapons' buyer and seller actually were government agents. Lakhani, arrested in August 2003, was convicted in April of trying to provide material support to terrorists, unlawful brokering of foreign defense articles and attempting to import merchandise to the USA by means of false statements, plus two counts of money laundering.

Push for gay-marriage ban falters in Mass.

An effort among some Massachusetts legislators for a constitutional amendment to ban gay marriage in the state is fading, according to an Associated Press poll. The survey, conducted last week, found at least 104 lawmakers who plan to vote against the proposed constitutional amendment, which would ban gay marriage but create civil unions. The amendment, which is scheduled for a vote Wednesday, needs the support of at least 101 of the state's 200 lawmakers to get on the 2006 ballot. Last year, months after the state's Supreme Judicial Court ruled that same-sex marriage was legal, the amendment passed 105-92. It must pass a second vote to get on the ballot.

Escaped chimps killed at zoo in Nebraska

Three chimpanzees from a small zoo in Royal, Neb., were shot and killed after they escaped their enclosure and couldn't be recaptured, zoo director Ken Schlueter said. The primates at Zoo Nebraska freed themselves Saturday when a padlock wasn't completely closed after the cage was cleaned, he said. Schlueter killed the animals with a deputy's service revolver after a tranquilizer gun didn't show any effect. No people were hurt, state patrol spokeswoman Deb Collins said.

After the chimps broke out, employees moved visitors into an office area, but the chimps tried to get into the building, Schlueter said. A fourth chimp also escaped but quickly returned to its cage.

Survivor says he never fired at hunter

A deer hunter testified that he never fired at a man accused of going on a rampage and fatally shooting six people in the woods of Wisconsin after a confrontation over trespassing. Terry Willers, one of two hunters wounded in the shootings Nov. 21, testified that he was the only one in his group who had a gun when they confronted Chai Soua Vang. “Who shot first?” Attorney General Peg Lautenschlager asked. “Mr. Vang,” said Willers, whose daughter, Jessica, 27, was killed.

Willers testified on the second day of Vang's trial on six counts of first-degree murder and three counts of attempted murder. He faces life in prison if convicted. Vang, 36, of St. Paul, an ethnic Hmong who came to the USA from a Thai refugee camp in 1980, says he acted in self-defense after someone shot at him.

Field hockey players guilty of hazing

Six women pleaded guilty in Cumberland, Md., to hazing for their roles in a college field hockey initiation that left an 18-year-old hospitalized with a blood-alcohol level more than four times what the law considers intoxicated. The six current and former Frostburg State University players were each fined $300, given suspended 60-day jail terms and placed on a year's probation. On Dec. 3, the victims were urged to drink so much beer and liquor that one was hospitalized with a 0.365% blood-alcohol level, court documents showed. The freshmen were also pelted with flour, ice and eggs and made to sit in their own vomit and urine, the court documents said.

4 Democrats vie to challenge NYC mayor

Voters in New York City today will choose a Democrat to face Mayor Michael Bloomberg in the general election Nov. 8. Gifford Miller, Anthony Weiner and C. Virginia Fields spent the final weekend before the primary attending 9/11 remembrances, but Fernando Ferrer had lunch and a photo-op with Al Sharpton, who has endorsed him.

A poll by the Quinnipiac University Polling Institute found Ferrer with 32% of likely Democratic voters, leading Anthony Weiner's 25%. Thirteen percent of likely Democratic voters in the survey were undecided. The winner needs 40% to avoid a runoff in two weeks. The poll surveyed 717 likely Democratic primary voters from Sept. 6 to Sept. 11 and has a margin of error of +/-3.7 percentage points.

Briton Gets 47 Years In Missile Plot (WP/AP)

DOJ_NMG_0004565

By Jeffrey Gold, The Associated Press

The Washington Post, September 13, 2005

NEWARK, N.J. -- A British businessman convicted of trying to smuggle shoulder-launched missiles into the U.S. to aid terrorists was sentenced Monday to 47 years in prison, effectively a life sentence.

Hemant Lakhani, 70, was convicted in April of attempting to sell the missiles to a group he thought would use them to shoot down commercial airliners.

During his trial, and again Monday, his lawyers said Lakhani was the victim of government entrapment because the supposed missile seller and buyer were actually government agents.

Lakhani was convicted on all five charges he faced: attempting to provide material support to terrorists, unlawful brokering of foreign defense articles and attempting to import merchandise into the U.S. by means of false statements, plus two counts of money laundering.

Federal prosecutors were seeking the maximum on each count, for a total of 67 years, with Assistant U.S. Attorney Stuart Rabner recounting evidence in which Lakhani volunteered praise for Osama bin Laden.

"We may see a man who looks like us and dresses like us, but is so morally bankrupt that he plots the death of thousands of people," Rabner said.

U.S. District Judge Katharine Hayden rejected pleas for leniency from Lakhani and his wife, referring to what she called "overwhelming" evidence of his "reprehensible conduct."

Lakhani was arrested in August 2003 at a hotel near Newark Liberty International Airport where he had been meeting with a government informant posing as a representative of a Somali-based militant group.

The government asserted that Lakhani planned to arrange the sale of at least 50 more missiles after the sale of the first one.

Among evidence during the trial was a video secretly made at the hotel in which Lakhani and the informant are seen with a disabled shoulder-fired missile in a box. They stand by a window overlooking the airport and discuss how missiles could be used to bring down airplanes in several locations simultaneously.

Co-defendants Yehuda Abraham and Vijay Raja are to be sentenced in coming months, while an Indian citizen caught in the sting operation was deported after cooperating in the Lakhani prosecution.

Also, Moinuddeen Ahmed Hameed, 41, pleaded guilty in 2004 to conspiracy to operate an unlicensed money transmitting business. He was sentenced in June to the 22 months he had served since his 2003 arrest.

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On the Net:

U.S. Attorney's Office in Newark: http://www.njusao.org/break.html

Indian-born British Businessman Sentenced In U.S. Weapons Case (REU)

Reuters, September 13, 2005

NEWARK, N.J. (Reuters) - A U.S. federal court judge on Monday sentenced British businessman Hemant Lakhani to 47 years in prison for providing financial support for terrorist activities against the United States.

Prosecutors say Lakhani, 70, tried to sell a shoulder-fired missile to a man posing as a terrorist group member. He was found guilty in April of attempting to support terrorism, illegal arms brokering, money laundering and other charges.

Lakhani, who had faced a maximum sentence of 67 years, has maintained he was set up in a sting operation.

"It's a total lie," he said, holding his head in his hands, at the defense table in U.S. District Court in Newark, N.J.

His conviction was considered one of the more significant victories for the U.S. Justice Department since the Sept. 11, 2001 attacks and the launch of the U.S.-led war on terror.

Lakhani, his attorney, Henry Klingeman, and his wife pleaded for leniency, noting he is elderly and wants to return home to Britain.

"Mr. Lakhani is not entitled to leniency. He's entitled to fairness," U.S. District Court Judge Katharine Hayden said in handing down the sentence.

Lakhani was arrested two years ago after U.S. Customs officers and FBI agents stormed a New Jersey hotel room and found him showing a "sample" shoulder-fired anti-aircraft missile to an informant posing as a member of a Somali militant group.

The arrest was the culmination of a 22-month sting spanning three continents.

The Indian-born clothing merchant has claimed he was a victim of entrapment because the buyer was an FBI informant and the missile sellers were undercover Russian agents.

Prosecutors said Lakhani had agreed to sell as many as 200 missiles to the informant and that he believed they would be used to shoot down U.S. airliners.

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They said evidence showed he was a willing participant in the scheme, that he associated with a reputed terrorist and tried to broker other arms deals negotiated during 200 phone calls with the informant and 12 trips to Russia and Ukraine.

Two Plead Not Guilty To Terrorism Charges (PHI)

By Jeremiah Marquez

The Philadelphia Inquirer, September 13, 2005

SANTA ANA, Calif. - Two men pleaded not guilty Monday to federal charges alleging they planned terrorist attacks against military facilities, the Israeli Consulate and other targets in the Los Angeles area.

Levar Haley Washington, 25, and Gregory Vernon Patterson, 21, were ordered held without bail after their pleas in U.S. District Court.

"In the name of Allah, I plead not guilty," Washington said before U.S. Magistrate Judge Arthur Nakazato.

Prosecutors contend the plot was orchestrated by Washington, Patterson and Hammad Riaz Samana, 21, at the behest of Kevin James, an inmate of the California State Prison, Sacramento. James, 29, founded the radical group Jamiyyat Ul-Islam Is-Saheeh, or JIS.

During Monday's hearing, Assistant U.S. Attorney Kevin Smith called Washington and Patterson dangers to society and flight risks, saying they had planned to carry out a "homegrown jihad" against the United States.

All four men face counts of conspiracy to wage war against the U.S. government through terrorism, kill armed service members and murder foreign officials, among other charges, according to an indictment.

All but Samana are American born and Muslim converts. Counterterrorism officials have said they found no evidence directly connecting the group to al-Qaida or other foreign terror networks.

Samana, a Pakistani national, pleaded not guilty to federal charges last week. He was imprisoned for attempted robbery in Los Angeles County, prosecutors said. James was expected to be arraigned later this month.

Washington, Patterson and Samana - who attended the same Inglewood mosque - allegedly conducted surveillance of military sites, synagogues, the Israeli Consulate and El Al airline facilities in the Los Angeles area.

Prosecutors suspect that Washington, Patterson and Samana robbed gas stations to finance their plans. Patterson bought a rifle, and Samana received "firearms training and physical training," according to the indictment.

Washington and Patterson previously pleaded not guilty to robbery charges in a related state case. Samana has not been charged in that case.

Outside court, Ellen Barry, who was appointed Monday as Washington's attorney, said she had not yet reviewed evidence in the case and expected the Nov. 8 trial would be postponed.

Patterson's lawyer, Winston McKesson, said his client has asked him not to comment on the case.

Also Monday, law enforcement officials briefed Jewish community leaders in Los Angeles on the case and said local police planned to step up security in and around synagogues during the holidays.

Randy Parsons, acting assistant director of the FBI's Los Angeles office, said the extra security was being taken out of an abundance of caution, not because there was any specific, credible threat.

"It's important that people go about their normal activities but remain vigilant," Parsons said.

Al-Arian Trial Focused On Finances (TAMPTRIB)

By MICHAEL FECHTER

Tampa Tribune, September 13, 2005

TAMPA - An attorney for one of Sami Al-Arian's codefendants is challenging prosecution claims that his client was on the payroll of the Palestinian Islamic Jihad.

Defense attorney Stephen Bernstein points to the same translations of intercepted telephone calls prosecutors are relying on, but says the figures discussed leave no room to pay Sameeh Hammoudeh.

Bernstein spent the morning cross examining FBI agent Michael Wysocki, who analyzed dozens of bank accounts involving the defendants and organizations they helped run. Al-Arian, Hammoudeh, Hatim Fariz and Ghassan Ballut are charged with racketeering and conspiracy to support the Islamic Jihad.

Hammoudeh does receive nearly $20,000 to his Tampa bank account from Islamic Jihad founder Fathi Shikaki in 1994, records show. He later sends $4,000 to Ramadan Abdullah Shallah, then a director at an Islamic think tank in Tampa, and $16,000 to the think tank itself.

In other calls, Al-Arian and Islamic Jihad members discuss salary information for its members. Bernstein has repeatedly tried to show that Hammoudeh is mentioned apart from the others and that references to him are not about salary.

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He also is challenging Wysocki's claim that bank records fail to substantiate that Hammoudeh and others failed to make donations to needy Palestinians in Syria, Lebanon and the Occupied Territories despite receipts and lists of orphans seized during searches in 1995.

Bernstein asked about other records seized, which he said were never translated by the government, that might lead to a different conclusion. But, thus far, Bernstein has not shown Wysocki any additional documents that challenge the accuracy of his review.

Such evidence might be presented when defense attorneys get to call witnesses. Federal prosecutor Terry Zitek has indicated the prosecution could complete its case by the end of the month.

More Join Guantanamo Hunger Strike (WP)

By Carol D. Leonnig

The Washington Post, September 13, 2005

A month-old hunger strike at the U.S. military prison at Guantanamo Bay, Cuba, has grown to include at least 128 detainees, 18 of whom are forcibly receiving intravenous fluids or nutrition in the prison hospital, military officials and detainee lawyers said yesterday.

The captives are protesting their indefinite imprisonment and what they describe as beatings administered by the prison's Immediate Response Force (IRF)-- squads of military personnel who are dispatched to put down disturbances in detainees' cells. Some have said they will refuse to eat until the military gives them a fair hearing or they die, according to their attorneys.

Military officials first acknowledged the hunger strike, the second of the summer, on Aug. 25. Since then, the number of people hospitalized and in serious physical danger has grown to 18, according to Maj. Jeffrey J. Weir, a Guantanamo Bay spokesman. He said that step was taken to prevent any of the approximately 520 prisoners at the U.S. Navy base prison from engaging in a "form of suicide."

The hunger strike began in the first week of August, and, according to newly declassified accounts of detainees provided by their lawyers, has gradually spread across several camps at the prison. Detainees allege they have been severely beaten and are deeply frustrated at their indefinite detentions. Some have been held for 3 1/2 years without facing charges.

Lawyers for the prisoners assert that more than 200 detainees are refusing food. An earlier hunger strike in June and July ended after military authorities met with a small group of detainees and promised improvements in their living conditions.

"They truly feel they have nothing left," said attorney David Remes, who represents several Yemeni detainees. "I'm not sure what the end point will be. But I do predict there will be death."

Binyam Mohammed, formerly of London, whose account was the first declassified, told his attorney on Aug. 11 of the new hunger strike. "I do not plan to stop until I die or we are respected," he said. "People will definitely die."

Another detainee, Libyan-born Omar Deghayes, told his lawyer he had not eaten in five weeks. "Many more people have fallen unconscious. . . . More are taken to hospital," he said.

Military officials have characterized the protest as a "fast" of prisoners aimed at grabbing attention, and say it involves 128 prisoners. They say its significance is exaggerated by their lawyers.

Weir said no detainees are in danger of dying and that the military's treatment is preventing them from losing critical nutrition. Of the 18 people hospitalized, 13 are being force-fed through nasal tubes and five are being given intravenous hydration.

On Aug. 25, the military said that 89 detainees were fasting and seven were hospitalized and receiving forced fluids or nutrition.

Weir said yesterday that the military does not allow beatings of detainees, and he believes the refusal to eat is part of a campaign to press for their transfer or release.

"My understanding is that it's just because of their continued detention," Weir said. "They're trying to call attention to that."

The majority of detainees at Guantanamo Bay have long insisted that they were captured by mistake by U.S. forces in Afghanistan in the fall of 2001. In some prisoners' cases, records show, the military has little but circumstantial evidence that the men engaged in or supported terrorist acts. The military's review of 558 cases resulted in 38 detainees being declared non-enemy combatants.

The appellate court for the District of Columbia heard arguments last week on the legality of the military holding the detainees indefinitely without giving them the chance to challenge their detentions in a U.S. court -- a follow-up to a U.S. Supreme Court ruling in 2004. But that dispute is expected to drag on until next year, and is likely to be appealed to the Supreme Court again.

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Hunger strikes are not new to the prison. Detainees launched one in 2002 after allegations that guards and interrogators mistreated copies of the Koran. Military officials then issued new guidelines for proper treatment of the Islamic holy book, and the strike ended.

Detainees began a new strike in late June to protest their treatment and the quality of their food and water. They complained about solitary confinement, alleged beatings by IRF teams, and the use of uniform colors to signify how detainees should be treated. Detainees given white uniforms are considered cooperative while those assigned orange uniforms are considered uncooperative and treated more harshly, detainees said.

The prisoners halted the previous strike in the first days of August after military camp leaders met with a small "council" of detainees and promised improvements in their living conditions. But the strike resumed a few days later, some detainees told their lawyers, when news spread through the camp of a Tunisian detainee beaten by an interrogator and IRF teams hitting two others, according to detainees' reports to their lawyers.

Weir declined to discuss individual detainees' cases or allegations.

An Algerian detainee told his lawyer in a newly declassified report provided by his attorney that a new interrogator beat the Tunisian with an empty beverage cooler and a metal chair after the detainee refused to talk to him. The Algerian said he saw the Tunisian's bloodied, swollen eye after the session.

Weir declined to comment on those details. Other detainees' accounts of the strike have not yet been declassified by the military, their lawyers said.

No Way, José (WSJ)

The Wall Street Journal, September 13, 2005

The timing couldn't have been better. Two days before the anniversary of the 9/11 terrorist attacks on New York and Washington, a panel for the Fourth Circuit Court of Appeals ruled unanimously last Friday that the President "unquestionably" has the power to detain an American citizen who has taken up arms against his country.

But wait. Didn't the Supreme Court say precisely that in its Hamdi decision last year? So it did, as Judge Michael Luttig notes repeatedly in his 25-page opinion penned for the court. That wasn't enough for José Padilla's attorneys, who argued that Hamdi, which concerned an American picked up on a battlefield in Afghanistan, didn't apply to their client, who was arrested domestically, at O'Hare Airport.

Padilla, for readers who may have forgotten, is the Brooklyn-born former gang leader who was recruited by al Qaeda, trained in Afghanistan, and equipped, funded and dispatched back to America. The "battlefield" in this case was to be American apartment buildings, which Padilla is accused of plotting to blow up. President Bush designated him an enemy combatant in 2002. The "locus of capture" is "irrelevant," Judge Luttig writes. Common sense says that Padilla poses the same threat of returning to the battlefield whether he was captured at home or abroad.

In previous wars, Americans who conspired to kill their fellow citizens were subject to trial by military commission, an option the President expressly ruled out in his post-9/11 order limiting military tribunals to non-citizens. Padilla's supporters want him to be charged in the criminal justice system or released. They include the American Civil Liberties Union, the People for the American Way Foundation, and former Clinton Justice officials Janet Reno, Eric Holder and Philip Heymann, who all want a return to the days of treating terrorism like a law-enforcement problem. In the week of the 9/11 anniversary, we're glad the Fourth Circuit didn't authorize a return to this September 10 mindset.

A Radical Vows To Fight Britain's Expulsion Plan (CSM)

By Peter Ford

The Christian Science Monitor, September 13, 2005

LONDON - Yasir al-Sirri is no stranger to British courtrooms. Since he sought asylum here 11 years ago the Egyptian Islamic radical has been in and out of jail, and has successfully fought off attempts to extradite him on terrorism charges to both the US and Egypt.

Now, however, in the wake of July's London bombings, he faces perhaps his greatest challenge yet as the British government prepares to join a Europewide crackdown on extremist Islamic circles and deport dozens of individuals deemed "not conducive to the public good."

As European governments lower their traditional levels of tolerance for radicalism, they are redrawing the lines between civil liberties and national security in the face of terrorist violence.

"Anything can happen," Mr. Sirri says, with a shrug of his shoulders. "I am expecting something to happen."

Last week, the Italian authorities summarily expelled a Moroccan imam and two other Middle Eastern men, giving them no chance to appeal under powers introduced since the London bombings that killed 52 people on July 7.

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France announced last month that it would be deporting a dozen or so North African immigrants it deems dangerous, using administrative procedures not subject to prior judicial review. "In France we are very well organized with regard to expulsions," says Guillaume Larrivé, an adviser to Interior Minister Nicolas Sarkozy. "We don't ask ourselves major juridical questions."

European human rights activists are up in arms, complaining that those sent back to their countries of origin, mostly Middle Eastern nations such as Saudi Arabia, Egypt, and Algeria, face torture.

"It is absolutely scandalous," says Jean-Pierre Dubois, president of the French Human Rights League. "Are human rights not for all humans, or have we decided that radical imams are monsters?"

The United Nations' special rapporteur on torture, Manfred Nowak, also condemns the growing trend. "The risk is very high that these people would be subjected to torture," he warns. "Most of the Muslim fundamentalists' countries of origin unfortunately do have a clear record of torture."

Recognizing the dangers, the British interior minister, Charles Clarke, nonetheless insists that "it really is necessary to balance very important rights for individuals against the collective right for security."

Sirri, who runs the "Islamic Observation Center" in London, (he says it monitors human rights abuses in the Muslim world, but US and British police say it is a conduit for messages among Al Qaeda militants), would undoubtedly be arrested if he were sent back to Egypt.

The government there has been seeking his extradition from Britain for 10 years in connection with his alleged role in a 1993 assassination attempt by the "Islamic Group" against the Egyptian prime minister.

Britain, like other European countries, is bound by the European Convention on Human Rights, and by a UN treaty, not to send anyone to a country where he or she runs a serious risk of torture. The British government, however, is seeking to circumvent this restriction by demanding diplomatic assurances from 10 Middle Eastern and African countries that they would not mistreat any deportees.

So far only Jordan, which has been widely accused of torturing suspects, has agreed to offer an assurance. Britain says negotiations with Egypt, Algeria, Morocco and other governments are still under way.

But no such understandings would be valid, insists Dr. Nowak, an Austrian human rights expert. "Jordan is already a party to the UN Convention against Torture," he argues. "Why should they suddenly stop torturing? They are already violating a legally binding treaty, so why should they not violate a nonbinding diplomatic agreement?"

The Egyptian government broke a similar promise it made to Sweden in 2001, when Stockholm deported Ahmed Agiza only on condition that he be well treated and given a fair trial, Nowak points out. Stockholm later complained that Mr. Agiza had been tried unfairly before a military court, and he complained that he had been tortured. Sirri trusts British judges not to rubber-stamp government deportation orders. "If the government gives any judge the political agreement between the UK and Jordan, he will throw it in his rubbish bin," he says confidently.

Mr. Clarke, on the other hand, said Friday he hoped that judges reviewing deportation cases would "recast the balance" between individual human rights and national security. "The right to be protected from torture and ill treatment must be considered side by side with the right to be protected from the death and destruction caused by indiscriminate terrorism," Mr. Clarke said in his speech last week.

British judges have long protected radical imam Abu Hamza al-Masri from extradition to Yemen, where he is wanted on terrorism charges, for example. His fiery sermons appear to have inspired one regular visitor, shoe bomber Richard Reid.

Clarke last month issued a list of "unacceptable behaviors" that would prompt deportation orders against foreigners living in Britain. It includes fomenting, justifying, or glorifying terrorist violence; seeking to provoke others to terrorist acts; and fostering hatred that might lead to intercommunity violence.

That would appear to cover websites carrying videos of British soldiers being blown up in Iraq or of hostages being beheaded, and the distribution of messages encouraging jihad from such figures as Osama bin Laden.

The move appears to enjoy strong public support. A poll carried out for the Guardian newspaper last month found that 71 per cent of respondents agreed that "foreign Muslims who incite hatred should be excluded or deported from the UK."

Announcing the list, Clarke insisted that it was "not intended to stifle free speech or legitimate debate about religions or other issues." Officials pointed out that the government had backed off a plan to deport foreigners who expressed "views the government considers to be extreme and that conflict with the UK's culture of tolerance."

That is not how Sirri sees things. "Tony Blair is changing this country from one respected for its human rights to a graveyard of human rights," he charges.

In Egypt, he says, military courts that the British government does not regard as fair have handed down three sentences against him: the death penalty, 25 years' hard labor, and 15 years' hard labor. If he were sent back, he says with a bitter laugh, "I don't know which one they would apply first." Yasir al-Sirri: 'I did nothing illegal'

DOJ_NMG_0004570

Yasir al-Sirri is exactly the sort of man the British government hopes to be able to expel with its new, tougher deportation policy: He keeps very dubious company and the police are sure he is up to something, but have not been able to pin anything on him or put him on trial.

In Egypt, Mr. Sirri is thought to have been a leader of the radical "Gama'a Islamiya" group, and was sentenced him to death for his alleged role in an assassination attempt against the prime minister. But British judges have refused to extradite him to Cairo, citing weak evidence. Sirri claims he had nothing to do with the plot. He did, though, have ties in those days with Ayman al-Zawahiri, now Al Qaeda's second-in-command. And US authorities want him for carrying messages for Sheikh Omar Abdel Rahman, who is serving a life term for trying to blow up the World Trade Center in 1993.

Sirri was held in Belmarsh prison in London for eight months for providing a letter of journalistic accreditation to the two men who assassinated the Afghan warlord Ahmed Shah Massoud in 2001. But a British court finally decided he had been an unwitting accomplice in the affair, and let him go. Sirri insists that "I did nothing illegal in this country and I have not broken any law in this country." Islamic law, he adds, demands that "anyone who arrives here under asylum cannot do anything against this country. Tony Blair is just using [the London bombings on] 7/7 as an excuse to carry out his agenda."

PATRIOT ACT:

Booksellers At Fore Of Patriot Act Fights (SMCT)

By Sajid Farooq, STAFF WRITER

San Mateo County (CA) Times, September 12, 2005

EDITOR'S NOTE: This is the second day of a three-day series looking at the impact of and the controversy over the Patriot Act and its second revision that awaits President Bush's signature. The series began Saturday and runs through Tuesday.

Five years ago, an independent bookstore in Denver became the center of a drug investigation, and at the same time, inadvertently became a model for bookstore owners across the country concerned with the Patriot Act.

Police officers walked into the Tattered Cover Book Store and served a search warrant for the records of one of the store's customers, who was suspected of manufacturing methamphetamine, according to the American Bookseller Foundation for Free Expression. Even though the search took place more than a year before the Patriot Act was passed, the case set a precedent for booksellers and others across the country who are fighting some of the surveillance provisions of the anti-terrorism law.

Several businesses, city councils and other governmental institutions across the country have taken stances for and against the act for a variety of reasons. Some of those stances are driven by politics, some by security and others by fear.

"You have to be able to do this without the government looking over your shoulder," said Rich Van Castle, owner of three Bay Books stores in the East Bay. "It is very important. I wouldn't want the government coming in here and saying 'What did he read or did she read?'"

Van Castle is just one of many independent and corporate booksellers across the country who have been fighting one of most controversial measures of the act, Section 215, which gives federal authorities access to customers' book, medical and library records, while establishing a gag order to prevent anyone involved from commenting on the case.

"That to me is a violation of free speech in of itself," Van Castle said.

Successful tool

But to the FBI, which is often painted as the abuser of Patriot Act powers, says the gag order is a matter of both national and personal security. The FBI also contends that bookstore purchases and library records were available to federal authorities long before the Sept. 11-inspired Patriot Act.

"Some of this is just common sense," said Special Agent LaRae Quay with the San Francisco office of the FBI. "It's just one of these things if we are looking at an individual it's best that they not know. (It's) also to protect the individuals that are cleared.

"First of all, if you have a librarian flapping his or her lips that Joe Blow has been looked at, if that's a terrorist, that tips them off. And secondly, if they are innocent, their reputation is smeared."

Critics of Section 215 argue that record searches violate customers' First Amendment rights. The Colorado Supreme Court backed that stance when it ruled in favor of Tattered Cover Book Store, which refused to comply with a subpoena.

The court ruled that the prosecution had not shown enough proof that it needed the customer's buying records to prove his guilt. Reasonable doubt is vital to access records, according to Quay.

"It's not just an agent (who) decides 'I want records and

Advertisement

go and seize them'," she said. "We have to be able to articulate any connection with records and an ongoing investigation."

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Library records were available for criminal cases before passage of the Patriot Act, but the act gives access to records involving suspected terrorists.

Being able to access library records has been a successful tool in protecting public safety, according to Quay. The FBI was able to track the Unabomber, Ted Kaczynski, by pulling his library records.

The FBI examined Kaczynski's life and noticed that his manifesto referred to three obscure books that very few people would read. The FBI was tipped by Kaczynski's brother that the books of "interest were checked out from his local library." The FBI obtained a federal grand subpoena and went to the library near where he lived to verify the information.

Still, from small independent bookstores to huge chains — such as Borders and Barnes & Noble — to public libraries, protecting customers' privacy is a driving force behind taking a public stance against the act.

"It is very important. We believe that it is our customers' right to choose what to read, listen to and buy, and those decisions are private," said Anne Roman with Borders.

Other entities affected

There are other businesses, such as banks, that must provide access to customer records.

Because of the Patriot Act, certain transactions and identities must be reported to the government to help prevent financial crimes involving terrorism, such as identity theft and money laundering.

The act has also affected local governments across the country. Nearly 400 communities in 43 states, representing 62 million people, have taken positions of one sort or another against the Patriot Act.

Shortly after the Sept. 11 attacks, the American Civil Liberties Union hired five people to help get resolutions against the Patriot Act passed across the country, according to Dalia Hashad, an advocate in for the ACLU's campaign against racial profiling.

The ACLU organizers worked with local leaders in each community to get resolutions passed. But the ACLU did not want its name all over the campaign, so the five people hired to work on the resolutions full-time divided the country into five sections and worked with each local community to get them passed.

The success of the campaign was based on Americans' unwillingness to compromise their civil rights for national security, according to Dorothy M. Ehrlich, the executive director of ACLU Northern California.

"I think people understood giving up civil liberties didn't make them any safer," she said. "There is no evidence that it does and there is a lot to lose. There has truly been a bipartisan concern across the country."

HOMELAND RESPONSE:

USA Still Terrorists' 'No. 1 Target' (USAT)

By John Diamond

USA Today, September 13, 2005

In his first media interview since becoming the nation's first director of national intelligence in April, John Negroponte spoke Monday to reporters and an editor from USA TODAY.

Some highlights:

"We're talking about something that is a medium- and long-term proposition. We're not talking about changes that can necessarily be instituted overnight."

"Progress has been made in dismembering and attacking the leadership of his organization. A number of important operatives of his have been killed or captured. He is, we think, alive somewhere in the Afghan-Pakistan border area. … Even though he hasn't been captured, I think that he and his organization are very much on the defensive."

"We've seen in some of the statements and correspondence that we've laid our hands on between al-Qaeda leadership that clearly they would like to see this activity spread into such targets as Western Europe, and I think what happened in London on the 7th of July, whether or not it was directed by al-Qaeda, was certainly consistent with that desire. … They see vulnerabilities in the West, in Western Europe. And of course, the United States homeland remains, in my view, their No. 1 target."

"Putting numbers on the size of the insurgency is probably a bit of a speculative business because nobody knows for sure. But I guess I'd say that based on what I've read and on my own knowledge of the situation in Iraq, that over the past several months I don't think the size or nature of the insurgency has changed appreciably."

"These are both states that have got to be watched very carefully, and they are extremely high priority. … In either instance, left to their own devices they are either going to develop or further develop, as the case may be, their nuclear capabilities."

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Intel Chief: Iraqis In Insurgency More Elusive (USAT)

By John Diamond, Usa Today

USA Today, September 13, 2005

WASHINGTON — U.S. intelligence is struggling to expose elements of the insurgency in Iraq made up of former members of Saddam Hussein's regime, John Negroponte, the nation's intelligence chief, said in an interview Monday.

Joint U.S.-Iraqi military efforts have damaged the network of foreign insurgents led by Abu Musab al-Zarqawi, though Zarqawi himself remains at large, Negroponte said. Indigenous Iraqi insurgents, led by former members of Saddam's ruling Baath Party, have been tougher to track down.

The "former regime elements ... seem to have very good operational secrecy," Negroponte said in a wide-ranging interview with USA TODAY reporters. "And thus far it's not been that easy to make a dent in that part of the insurgency."

Though foreign fighters, mainly Sunni Muslim Arabs from Syria and Saudi Arabia, have grabbed headlines with suicide bombings that have killed hundreds of Iraqis, Negroponte said Iraqis dominate the insurgency. Despite intense focus on Iraq, where 138,000 U.S. troops are deployed, U.S. intelligence has not been able to produce anything more than a "speculative" estimate of the insurgency's size, he said.

Based on everything he has seen, Negroponte said, the insurgency is neither gaining strength nor weakening appreciably. The insurgency's stubborn resistance to U.S. and Iraqi military efforts has complicated the development of a democracy.

Negroponte became the nation's first director of national intelligence in April after nine months as U.S. ambassador to Iraq. Congress created the post last year in response to independent commissions that laid out major intelligence failures prior to the Sept. 11, 2001, terrorist attacks and the U.S.-led invasion of Iraq. He has spent much of his time in the job setting up special centers overseeing counterterrorism and weapons proliferation. "Mission managers" will be named soon for human intelligence, Iran and North Korea, Negroponte said.

Although the Office of the Director of National Intelligence was created in an atmosphere of urgency, "it's really a start-up organization," he said. "It's work in progress."

In his first media interview since assuming the intelligence post, Negroponte also said:

· Despite significant failures before 9/11 and the Iraq war, U.S. intelligence "is second to none compared to any other intelligence organization in the world." His task is "making it even better."

· Al-Qaeda, though weakened by the U.S.-led global war on terrorism, continues to plan and organize terrorist attacks and regards the U.S. homeland as its top-priority target. Western Europe, Negroponte said, is more vulnerable than the USA to al-Qaeda.

· A viable Iraqi government has been slow in getting organized because the war led to the "degradation ... of virtually every single government department. ... They basically had to start practically from scratch."

Negroponte, 66, spoke in a secure room of his office's headquarters a block from the White House. A career diplomat with Foreign Service commissions signed by every president back to Dwight Eisenhower, Negroponte got his first overseas experience in South Vietnam in the early 1960s. He has been ambassador to Honduras, Mexico, the Philippines, the United Nations and Iraq.

When he appointed Negroponte, President Bush emphasized that the new chief needed broad powers over spending and personnel across military and civilian intelligence agencies.

Nevertheless, Negroponte said he cannot rule the 15 intelligence agencies "by fiat" but must "foster a strong sense of community" among organizations that have not always cooperated.

Negroponte said he is close to making a major decision on whether to go forward with a highly classified imagery intelligence network. According to Steve Aftergood of the Federation of American Scientists, the program probably concerns a costly network of satellites capable of evading radar, reflecting a Defense Department concern about the possibility that an adversary might attempt to "blind" U.S. intelligence operations by attacking its satellites.

Negroponte praised Homeland Security Secretary Michael Chertoff for helping the "lash-up between domestic and foreign" intelligence, which the 9/11 Commission called a major contributor to lapses before 9/11.

Following the report of the so-called WMD Commission, which examined the incorrect prewar estimates that Iraq had chemical and biological weapons and an active nuclear weapons development program, Negroponte said he is creating new standards on rating the veracity of clandestine intelligence sources. He is also improving the description of sources behind intelligence assessments.

Smarter Airport Screening Machines (WSJ)

By Laura Meckler

DOJ_NMG_0004573

The Wall Street Journal, September 13, 2005

A gaping hole in airport security remains: how to detect explosives in carry-on bags and on passengers themselves. Now, a host of new technologies are being tested to close that gap.

One of the most promising is a machine that has the ability to see through clothing to find a hidden weapon. The problem with early versions of the machine is that they show images of people as if they had no clothes on, which sparked privacy concerns. Yesterday, American Science & Engineering Inc. launched an X-ray machine that can see objects hidden beneath clothing while obscuring private parts. The other leading manufacturer of the machines also promises to cover up those parts of the image, though in a different way.

An alternate technology, being tried in some airports now, shoots puffs of air at passengers to detect traces of explosive residue. GE Security, a subsidiary of General Electric Co., yesterday unveiled a new machine that also detects residue, but passengers put their fingers onto a pad instead of being spritzed with air.

The moves are part of a highly competitive, rapidly unfolding race to deploy the best technology for closing the security gap at airport checkpoints.

The security upgrades at American airports since 2001 have been significant, including locking cockpit doors and reinforcing them with steel, and deploying thousands of air marshals aboard flights. But, while all checked luggage is now screened for explosives, people and bags that get carried on generally aren't. Magnetometers that travelers walk through detect metal but not weapons made of other materials. Similarly, carry-on luggage is X-rayed, which will catch scissors or a knife but not necessarily a bomb.

The Transportation Security Administration is currently reviewing several post-9/11 security guidelines that air travelers have grown to loathe: removing shoes, taking off jackets, leaving behind cuticle scissors. How much the agency relaxes these rules could in part depend on how confident government officials are about the new machines' ability to guard airport checkpoints. At Baltimore/Washington International Airport, for instance, those who walk through an explosive-detection machine don't have to take their shoes off for the metal detector.

"Our vision is for passengers to not have to remove their jacket, not have to remove their shoes, not have to remove their laptop from their bag -- to go through a checkpoint rapidly," said Dennis Cooke, president of GE Security's Homeland Protection business.

The TSA has a long list of limitations it must work within. These include everything from space at the checkpoints to cost concerns. The government is focusing mostly on two types of technology, each with pluses and minuses. The "puffer" detects the tiniest bit of explosive material on a traveler but can't find a hidden weapon. The "backscatter," on the other hand, can see through clothing to detect hidden bombs or guns, but creates the obvious privacy concerns.

Puffers, officially called trace detection portals, are now being deployed at two dozen airports around the country, including those in Las Vegas, Baltimore/Washington, San Francisco, Phoenix and Tampa, Fla. They blow several puffs of air on a traveler to shake loose particles that have settled on the body and then analyze them for explosive residue.

"It's right out of 'Star Trek,' " says Natalie Koza, who walked through the machine at BWI airport late last month. The 47-year-old State Department employee, who was on her way to Egypt, was quickly cleared.

The machines, manufactured by GE and Smiths Detection, a subsidiary of London-based Smiths Group PLC, cost about $150,000 each. The TSA has said it anticipates deploying 100 more of them by January. GE's new technology, called the Itemiser FX, which detects explosives as well as narcotics, costs about $65,000 per machine and is portable.

The problem with these machines: While they are great at detecting explosives, they won't find a hidden gun or knife. Backscatter, an X-ray that sees under clothing, solves that problem. TSA is close to deploying these machines in a handful of airports, including those in Baltimore/Washington and San Francisco, to test their effectiveness. But the backscatter creates another problem: It produces intimate pictures of unsuspecting travelers.

"It really is a nude strip search," said Tim Sparapani at the American Civil Liberties Union, which opposes their use.

In response, AS&E's new machine, called SmartCheck, creates an outline of the person's body, along with an outline of hidden items. Rapiscan Systems, the other manufacturer, has come up with a sliding scale where the image starts to get fuzzier or more precise as needed. The companies promise other protections: The people who screen the X-rays would sit in a remote room where they can't see the people moving through security. The screeners would all be of the same sex as the travelers and images won't be saved.

Clifford Wilke, chief technology officer for the federal TSA, says some airports, particularly large ones, could wind up with both puffers and backscatters. But others argue that having multiple machines would take up too much space and keep passengers waiting too long.

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Either the puffer or the backscatter is likely to improve on current procedures. In most airports, travelers who are selected for further screening -- either because their name is on a watch list or the metal detector is set off when they walked through -- are subject to a physical pat-down by a screener.

A test of the backscatter technology at London's Heathrow International Airport suggested that hand pat-downs miss at least half of the prohibited items hidden on travelers.

The Homeland Security Department's inspector general said in May that the ability of TSA screeners to stop prohibited items being carried through airports was no better than it had been in late 2001 and early 2002, before the federal government took over screening. Experts say that's partly because screeners are loathe to probe private parts of the body.

Technology to screen carry-on bags for explosives is even less advanced than screening for people. One possible solution is to replace the existing X-rays with CT scans now used on checked bags. A two-month preliminary test of this technology was completed recently at Boston Logan International Airport, and TSA hopes to begin formal lab testing next summer.

In the long term, technology companies envision a day when travelers don't even have to walk through machines -- when sensors throughout the airport scan people as they walk through hallways.

Closer to reality might be one machine that could handle all screening, searching for metal and explosives alike. "Instead of walking through three pieces of machinery, you walk through one," predicted Todd Haupli, a lobbyist for airports. "We have finite resources as a country that we're willing to throw at all this."

WAR NEWS:

Talabani Says Iraqis Could Replace Many U.S. Troops (WP)

By Jim Vandehei

The Washington Post, September 13, 2005

Iraqi President Jalal Talabani said in an interview yesterday that the United States could withdraw as many as 50,000 troops by the end of the year, declaring there are enough Iraqi forces trained and ready to begin assuming control in cities throughout the country.

After the White House and Pentagon were contacted for comment, however, a senior adviser to Talabani called The Washington Post to say Talabani did not intend to suggest a specific timeline for withdrawal. "He is afraid . . . this might put the notion of a timetable on this thing," the adviser said. "The exact figure of what would be required will undeniably depend on the level of insurgency [and] the level of Iraqi capability."

In the interview, Talabani said he planned to discuss reductions in U.S. forces during a private meeting with President Bush today, and said he believed the United States could begin pulling out some troops immediately.

"We think that America has the full right to move some forces from Iraq to their country because I think we can replace them [with] our forces," Talabani said. "In my opinion, at least from 40,000 to 50,000 American troops can be [withdrawn] by the end of this year."

That assessment differs dramatically from those offered by Bush and by U.S. military commanders in Iraq.

Bush has carefully avoided setting a timetable for reducing the number of U.S. troops in Iraq, currently about 140,000, and the Pentagon plans to maintain or slightly increase the force level in anticipation of an Oct. 15 referendum on Iraq's new constitution. White House officials say that Bush's strategy for eventually withdrawing troops hinges on Iraqis' approving the constitution and holding successful elections in December.

Dan Bartlett, a senior Bush adviser, said the president and Talabani have the same goals. "We share the same view: As Iraqis build up their capabilities to defend their country, fewer U.S. troops will be needed to complete our mission," Bartlett said. "The president will continue to work with Iraqi leaders, and base his military decisions on the advice of commanders in the field and the secretary of defense."

A senior Army official, who spoke on condition of anonymity because the military does not openly discuss withdrawal timelines, said bringing home as many as 50,000 U.S. troops -- or more than 35 percent of those now in Iraq -- by the end of the year is not under discussion. "Any talk of reduction has been for well after the election time frame," the official said. "Are there discussions about how to pull back and when? Sure. But certainly not that dramatically in such a short time."

Talabani's statement has the potential to put Bush in a difficult position if the troops are not pulled out by year's end, since critics are certain to ask why U.S. soldiers cannot come home when Iraq's own president says they can. The two leaders will hold a joint news conference today after their meeting.

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In the interview, Talabani said Iraqi troops are prepared to assume control of security in several cities throughout southern, central and northern Iraq, despite continued violence, suicide bombings and killings. Many military experts predict a spike in insurgent attacks ahead of next month's vote.

Talabani said the number of "well-trained" Iraqi security forces stood at 60,000 and would reach 100,000 by the end of the year. All told, there about 190,000 Iraqis enlisted in the military or local security forces. "Some are well-trained, some are not so well-trained," he said. Iraqi troops have light arms, but he said they need 50 tanks and automatic weapons.

Talabani, who is Kurdish, could be influenced by the fact that the Kurds are fairly capable of defending their territory in northern Iraq and are less in need of U.S. military support, said Michael O'Hanlon, a fellow at the Brookings Institution who studies Iraq.

Many Sunni Arabs oppose the draft constitution, and they are organizing in record numbers to vote against it in Sunni-dominated regions. Talabani raised the possibility of an addendum to the constitution in coming days in an effort to appease Sunni factions. "Of course, we would like to have consensus on all articles of the constitution," he said.

In the interview, Talabani said he did not want to speak critically of neighboring Syria, which the top U.S. envoy to Iraq chastised for interfering there. Many of the foreign insurgents fighting in Iraq are believed to have entered the country along the porous Syrian border. "Our patience is running out, the patience of Iraqis [is] . . . running out. The time for decision . . . has arrived for Damascus," Ambassador Zalmay Khalilzad told reporters at the State Department.

Commenting on the upcoming trial of ousted president Saddam Hussein, Talabani insisted that the former leader had confessed to the killings of tens of thousands of Kurds in the late 1980s, an assertion denied by Hussein's attorney.

Hussein is scheduled to go on trial Oct. 19 on charges stemming from a massacre of Shiite Muslims following a failed assassination attempt on the Iraqi leader in the northern town of Dujail in 1982. Hussein allegedly retaliated for the plot by killing at least 143 people and razing much of the town.

Talabani, based on a conversation with the judge in the case, recounted a scene right out of the movie "A Few Good Men." Asked about the mass killings, Hussein sat silent, refusing to utter a word, Talabani said. But Hussein was taunted, asked if he was afraid to say he carried out such an act. Hussein said, "I am not afraid," and defiantly admitted he ordered the killings. Talabani said the judge has a video and recording of the confession.

Iraqi Premier Visits A City As His Forces Widen Patrols (NYT)

By Robert F. Worth

The New York Times, September 13, 2005

BAGHDAD, Iraq, Sept. 12 - Prime Minister Ibrahim al-Jaafari paid a surprise visit to Tal Afar on Monday, with that city largely quiet after a major offensive by American and Iraqi troops aimed at reclaiming it from insurgents.

The prime minister has repeatedly showcased the Tal Afar operation as proof of his government's willingness to deal decisively with Sunni insurgents in western Iraq.

State television continued to show film of Iraqi soldiers storming buildings in Tal Afar throughout the day.

With the fighting largely over, more police commando units began moving into Tal Afar and the surrounding area, where they will remain for weeks as a new police force for the city is recruited and trained, and reconstruction efforts get under way, Iraqi military officials said.

An insurgent group, the Islamic Army in Iraq, offered up to $100,000 for the assassination of Mr. Jaafari and other high-ranking members of the government who were involved in the offensive, Reuters reported.

The same group announced in an Internet posting that it had killed a high-ranking Interior Ministry official in retaliation for the operation in Tal Afar.

Interior Ministry officials could not confirm such a death by Monday evening.

Another organization, the Victorious Army Group, threatened Sunday to attack Baghdad with chemical weapons if the Tal Afar operation did not stop.

The interior minister, Bayan Jabr, discounted that threat in a news conference on Monday, but he added that the government was consulting with chemical weapons specialists and making preparations in case the threat is carried out.

Mr. Jabr also dismissed questions from reporters about whether the Tal Afar attack was timed to shore up the government's image ahead of the national referendum in October on the constitution.

Scattered violence continued across Iraq on Monday. A car bomb exploded outside a restaurant in the upscale Baghdad neighborhood of Mansour, killing at least 2 people and wounding 20, according to the Interior Ministry.

Also in Baghdad, gunmen in cars opened fire on crowds in two neighborhoods, killing six people and wounding two, and 10 bodies were found in a southern neighborhood, Interior Ministry officials said.

DOJ_NMG_0004576

In Kirkuk, in the north, gunmen opened fire on the provincial government headquarters, killing two police officers. A Kurdish militiaman was also killed in Kirkuk after a gun battle broke out in the Hurriya neighborhood, police officials said.

South of Baghdad, insurgents opened fire on a motorcade carrying a representative of Ayatollah Ali al-Sistani, Iraq's most revered Shiite cleric. One guard was killed and another wounded, Interior Ministry officials said.

40 Insurgents Killed During Day 3 Of Tal Afar Offensive (USAT)

By From wire reports

USA Today, September 13, 2005

BAGHDAD — Violence flared in the northern Iraq city of Tal Afar late Monday when Iraqi forces trapped insurgents in basement hide-outs, killing 40 militants in fierce fighting, the Iraqi military said.

Prime Minister Ibrahim al-Jaafari visited Tal Afar, where U.S. and Iraqi forces are pursuing a joint offensive against insurgents, to congratulate his forces.

"I met today with the commander of the 3rd Division in Tal Afar and his officers and soldiers and found them in high spirits," al-Jaafari said. Hundreds of Iraqis danced, sang and waved flags as al-Jaafari toured the region.

The new fighting Monday night raised the insurgent death toll since the offensive began to nearly 200, the government said. Baghdad said it lost seven soldiers in the course of the three-day offensive and six civilians were killed. The U.S. military said no American soldiers were hurt.

An estimated 350-500 insurgents were in Tal Afar when Iraqi forces, backed by U.S. troops, began the offensive Saturday. The town, 50 miles from the Syrian border, had become an insurgent stronghold.

In an ongoing propaganda battle, meanwhile, the Islamic Army in Iraq, which has previously claimed responsibility for kidnappings and killings of foreigners, placed bounties on the heads of Iraqi leaders.

The militant group called in a Web posting for its "holy fighters to strike the infidels with an iron fist." It offered $100,000 to the killer of al-Jaafari, $50,000 for Interior Minister Bayan Jabr and $30,000 for Defense Minister Sadoun al-Dulaimi.

Militants also have threatened twice in recent days on Web postings to launch chemical weapons against Baghdad.

In other developments Monday:

· A car bomb exploded in western Baghdad, killing at least two people.

· Police in eastern Baghdad reported finding the bodies of 10 unidentified men, their hands tied and shot to death.

Iraqi Premier Tours Tall Afar (WP/AP)

By Associated Press

The Washington Post, September 13, 2005

TALL AFAR, Iraq, Sept. 12 -- Iraq's prime minister toured the northern city of Tall Afar near the Syrian border on Monday to congratulate Iraqi forces for ousting militants from their stronghold, Iraqi television reported.

In Baghdad, meanwhile, a huge car bomb exploded outside a popular restaurant in the upscale Mansour neighborhood, witnesses said. Hospital officials said at least two people were killed and 17 were wounded. A doctor at Yarmouk Hospital said most of the victims were women.

Al-Iraqiya television, which showed no pictures of Prime Minister Ibrahim Jafari's visit to the Tall Afar area, said he was there despite an insurgent threat to unleash chemical and biological weapons against Iraqi and U.S. forces.

There was no known public threat from the insurgents to use unconventional weapons in the area, but they have vowed in two Web postings since Friday to use chemical weapons against U.S. and Iraqi government interests in Baghdad. The threats mentioned the fortified Green Zone that houses the U.S. Embassy, Iraq's parliament and other government offices.

On Sunday, Abu Musab Zarqawi, leader of al Qaeda in Iraq, posted audio on the Internet accusing U.S. and Iraqi forces of using poison gas in the Tall Afar offensive. The authenticity of the statement could not be independently verified, but the voice was similar to the one used in other postings attributed to Zarqawi.

U.S. officials consistently have denied using poison gas in warfare.

In the northern city of Kirkuk, gunmen shot and killed two policemen, police Col. Adil Zain Alabideen said. And in Hujjaj, north of Tikrit, Iraqi police found the bodies of four Iraqi soldiers, said Sameer Sumaidae, a physician at a local hospital. The four had been handcuffed and shot, he said.

The U.S. Embassy annex in the southern city of Basra was hit by a "multiple rocket attack" early Monday, an American official in Baghdad said. The official said there were no injuries or deaths, and no significant damage. He declined to discuss the damage or where the rockets hit, other than to say they landed "in the vicinity" of the compounds.

U.S. Applies Capricious Justice In Iraq (WP)

DOJ_NMG_0004577

By Jonathan Finer

The Washington Post, September 13, 2005

TALL AFAR, Iraq, Sept. 12 -- A masked teenager in an Iraqi army uniform walked slowly through a crowd of 400 detainees captured Monday, studying each face and rendering his verdict with a simple hand gesture, like a Roman emperor deciding the fate of gladiators.

A thumb pointed down meant the suspect was not thought to be an insurgent and would be released by U.S. soldiers. A thumb up meant a man would be removed from the concertina wire-encased pen, handcuffed with tape or plastic ties and taken by truck to a military base to be interrogated.

"Another bad guy right here," shouted an American interpreter, when the masked Iraqi singled out a man in a yellow dishdasha , or traditional gown, who shook his head and protested in Turkish. Another captive who was spared exhaled with relief and placed his hand on his heart.

This is how the 10-day-old invasion of Tall Afar unfolded Monday. After two days of relatively uneventful patrols in the abandoned neighborhood of Sarai, where commanders had expected insurgents to be massed for a fight, U.S. and Iraqi forces turned north in the morning, to neighborhoods they had already cleared, and found hundreds of men who appeared to be of military age and troops believed to have slipped through their cordons.

Eventually, 52 men were placed in the open backs of flatbed trucks bound for Camp Sykes, about seven miles south of this northwestern city. During the attack on insurgents here -- the largest urban assault in Iraq since the siege of Fallujah last November -- the only significant clashes came in the early days, when thousands of U.S. and Iraqi troops stormed the city and U.S. jets waged a relentless bombing campaign.

Since then, the fighters who controlled much of Tall Afar for nearly a year have either fled or laid down their arms to blend among the civilian population, commanders here said. Instead of a Fallujah-style assault, the invasion has largely become a citywide roundup designed to prevent insurgents from laying low to fight another day.

Soldiers with little training relevant to the mission have been forced into roles more traditionally assigned to police: gathering evidence, interrogating witnesses and suspects, and following up on leads. In searching almost every house in the city's most violent neighborhoods, they have detained hundreds of young men, some because they possessed weapons or insurgent literature, but others solely on the hearsay of local informants often called "sources" by U.S. troops.

Many of the informants are residents of this city of more than 200,000 who now serve in the Iraqi army. Others have had family members killed by insurgents and said they wanted to help purge them from their neighborhoods. The U.S. soldiers who work with them acknowledge knowing little about their backgrounds and motives -- or even their names -- and admit that their reliability varies widely. Some of those named by sources have in turn blamed their accusers of carrying out tribal or sectarian vendettas, a charge they also level at Iraqi security forces.

"They are the first important step in the process of weeding these people out," Capt. Alan Blackburn, commander of Eagle Troop of the 3rd Armored Cavalry Regiment that has led the invasion of Tall Afar, said of the informants. "You obviously can't just go by what they say because they make plenty of mistakes, but since we don't know these places as well as they do, it helps to have them around."

U.S. forces invaded Tall Afar one year ago, before withdrawing, as insurgents returned and reestablished control over the city. On Monday, Abu Musab Zarqawi, the Jordanian-born leader of the country's main insurgent group, al Qaeda in Iraq, posted a statement on the Internet saying U.S. forces were "repeating their moves against Tall Afar after failing many times to break into it, as its lions many times forced them to taste humiliation, and the bitterness of defeat."

As in the past several days, Iraqi soldiers drawn primarily from the Kurdish pesh merga militia led the operation, joined as always by U.S. Special Operations soldiers, distinctive with their unkempt hair and facial stubble.

At just after 7 a.m., they streamed into the adjoining neighborhoods of Hassan Koy and Uruba, taking every military-age man into custody at a makeshift pen established by U.S. forces along a main road. The U.S. soldiers uncoiled enough concertina wire to hold an expected 50 or so men. But as detainees streamed out from the neighborhoods, the pens were expanded with more coils of wire until the holding area stretched an entire block.

U.S. commanders have praised the performance of the Kurdish forces during the operation, while privately expressing concern that their tactics sometimes verge on being heavy-handed. The pesh merga supports Kurdish rebels fighting the government of neighboring Turkey and for many years were targets of the Sunni Arab-dominated Iraqi government of former president Saddam Hussein. The majority of Tall Afar's residents are Sunni Turkmens, ethnic relatives of the Turks.

Iraqi troops who raided suspected hideouts in a separate sweep late Monday killed 40 insurgents, and arrested 27 in clashes with militants, according to the Associated Press.

In a briefing the night before the morning operation, Lt. Col. Christopher Hickey, commander of the 3rd ACR's 2nd Squadron, instructed the Special Operations soldiers working with the pesh merga to avoid alienating residents.

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"We lose these people if we go in there and tear people's homes apart," Hickey said.

By 8 a.m., nearly 400 people were assembled, squatting or seated in the dirt beside the road. Two of the men had bloodied faces and spots of red soaking through their green dishdashas.

"They tried to grab my father, and I said, 'He is old, you don't need to take him,' " said one of the men, whose upper lip and right ear were swollen and bleeding. "They hit us with their fists and their rifles."

Many of the men's hands were bound so tightly with plastic cuffs that their circulation was cut off, so U.S. soldiers cut the bindings and instead wrapped their hands with thick green tape.

The Special Operations soldiers, who do not provide their names to journalists as a matter of policy, said the pesh merga had found a former colonel in Hussein's army inside one home. But when U.S. soldiers looked through the pen, they could not find him. One of the Kurdish fighters said he had been delivered directly to a Kurdish commander.

"Get him down here right now," a Special Forces soldier said. "He is going to be processed here, by the U.S., like everyone else."

After about two hours, the informant arrived. Wearing tan camouflage fatigues, a flak jacket, a green ski mask and green helmet, the informant said he was from the neighborhood and was under 20 years old.

"I am doing this because I want to see the fear and violence leave Tall Afar," he said, speaking on condition of anonymity.

With a U.S. interpreter, he perused the crowd, pausing for less than two seconds to consider each man's fate. He never spoke a word aloud, only whispering occasionally to the interpreter.

After drawing out 52 suspects from the group, he spent longer assessing each of them in depth and providing more detailed information about their activities. He identified a man with a split lip, wearing a purple shirt and filthy white pants as "a beheader," saying he had killed at least 10 people.

"Cuts heads," wrote Capt. Noah Hanners, leader of Blue Platoon in the 3rd ACR's Eagle Troop, in blue magic marker on the man's forearm.

"You get treated special, buddy. Congratulations," Hanners said.

After conferring with the informant, the translator wrote on the white t-shirt of a man who had no identification papers: "His name is Nafe, but he is giving a different name."

Four others were identified as local insurgent cell leaders known as emirs, and had "emir" written on their arm. Several men had eagles tattooed on their arms, which the informant said indicated they were former members of the Fedayeen Saddam, a reputedly brutal militia run by Hussein's son, Uday. The informant slapped one man's tattoo and when the man protested, an Iraqi soldier smacked him across the face with the back of his hand.

"Don't be slapping them," Hanners warned. "That's not how we do this."

Some of the American soldiers taunted the detainees by asking them, "Can you say Abu Ghraib?" referring to the prison west of Baghdad from which photographs of prisoner abuse emerged last year.

"No, Guantanamo," one smiling captive responded, referring to the U.S. military prison in Cuba where suspected terrorists are held. "I just don't want to go to the Iraqi Army or police."

"Your source is not good, these are all innocent men," said one of the detainees, wearing a gray dishdasha, who said he was a student in the city of Mosul, 40 miles to the east. "We are all Sunnis. That is why he chose us. He is Shia," he said referring to the informant. Hanners said the quality of the informants has varied widely. "Some seem to say what they think you want to hear," he said. "Others give us information that pans out."

Another soldier, who asked not to be named because he said he would be punished by commanders for his criticism, had a more negative view of the sources' performance. "We almost never get anything good from them," he said. "I think they just pick people from another tribe or people who owe them money or something."

Before loading onto trucks and returning to their base, the Kurdish soldiers lined up behind the detainees and posed for digital pictures. They threw packages of food and bottles of water to a large group of children assembled across the road, many of whose fathers had been detained.

Some children picked up the gifts, but several grabbed them and threw them at the departing army vehicles. One truck quickly stopped and a soldier got out and pointed his pistol at the children, causing them to scatter briefly, before he drove away.

Soldiers and some neighborhood children gave the detainees food and water as they waited in the 100-degree heat for trucks to arrive to transport them to Camp Sykes. A woman in a long purple dress and white headscarf shouted at the remaining soldiers in Turkish and others began to gather behind her.

"I give this 30 minutes before it gets out of hand," said Sfc. Herbet Gadsden, surveying the scene. "We have to get these people out of here before their families go nuts."

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At noon, two trucks arrived. Soldiers lined up the detainees, photographed each one with a digital camera, and loaded them aboard. The crowd of family members faded back into their homes. "Another day of making friends," Hanners said, shaking his head.

Envoy: Patience Waning On Syria (USAT)

By Barbara Slavin

USA Today, September 13, 2005

WASHINGTON — Syria is harboring training camps for Iraqi insurgents, U.S. ambassador to Iraq Zalmay Khalilzad said Monday. U.S. patience with Syria is running out, he said.

The United States has ruled out no option, including military force, for dealing with the government of Syrian President Bashar Assad, Khalilzad said during a State Department briefing with reporters. Syria is already under U.S. economic sanctions.

Administration officials have repeatedly accused Syria of allowing insurgents to travel to Iraq, but it was the first time an official has publicly named specific cities — Aleppo, Latakia and Damascus — as training sites. Asked whether he had proof, Khalilzad said, “I wouldn't say anything that I wasn't sure about.”

Khalilzad said Syria is a bigger threat to Iraq than Iran and more of a problem than Pakistan had been for Afghanistan. He called Syria “the No. 1 offender” in the region to “the success of Iraq.”

Syrian officials couldn't be reached immediately for comment but have denied such charges in the past. Mourhaf Jouejati, a Syrian-American professor of political science and international affairs at George Washington University, said the Bush administration “always has these accusations but never produces any evidence.”

The administration has been intensifying pressure on Syria over both Iraq and Lebanon, where a United Nations-backed panel is investigating alleged Syrian involvement in the Feb. 14 assassination of former Lebanese prime minister Rafik Hariri.

Jouejati said the United States hopes the probe will incriminate Syria and serve as a basis for U.N. sanctions.

Secretary of State Condoleezza Rice plans a meeting on Lebanon next week at the United Nations, where world leaders are congregating for a summit. She excluded Syria's foreign minister. Assad doesn't plan to attend the summit.

American Envoy Says Syria Assists Training Of Terrorists (NYT)

By Joel Brinkley

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 - The United States ambassador to Iraq lashed out at Syria on Monday, saying that its government continued to allow terrorists to operate training camps within Syria that have sent hundreds of insurgents into Iraq.

"Our patience is running out," said the ambassador, Zalmay Khalilzad.

While other administration officials made similar accusations early this year, the focus of American attention to Syria in recent months has been its occupation of Lebanon. Over the summer, Syria said that it had cracked down on insurgents operating within its territory.

But Mr. Khalilzad, in remarks to reporters in Washington, made it clear that the United States believed that Syria was providing assistance to insurgents operating in Iraq and that such help might have increased.

Government-controlled Syrian newspapers "glorify the terrorists as resistance fighters," he said. Syrian authorities "allow youngsters misguided by Al Qaeda - from Saudi Arabia, from Yemen, from North Africa - to fly into Damascus International Airport," attend training camps and then cross into Iraq, he contended.

Imad Moustapha, the Syrian ambassador to the United States, called Mr. Khalilzad's allegations "100 percent rubbish," and said Syria had repeatedly invited American and Iraqi officials to discuss the problem and find solutions. But, he added, neither country had responded.

"We have more troops on our border with Iraq than we have ever had before" as well as "sandbags, barbed wire," Mr. Moustapha said. "We understand the stakes are high."

The Americans, Ambassador Moustapha said, "just continue talking as if they're talking to a TV camera."

For all of Mr. Khalilzad's assertions and warnings, senior American officials said the government did not have any plans for new actions against Syria, except to "continue trying to isolate it, as we have been," as one senior State Department official put it.

Another government official said Bush administration policy was to "keep the heat on Syria, keep the criticism up."

He said the administration had picked up indications that the United Nations investigation of the assassination of the former Lebanese prime minister Rafik Hariri in February might implicate senior Syrian government leaders. The chief United Nations investigator, Detlev Mehlis, arrived in Damascus on Monday to question senior Syrian officials.

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If those indications prove true, the official added, the administration was poised to pounce on Syria and perhaps offer a new, critical resolution to the United Nations Security Council.

Mr. Khalilzad's statements, he added, fell into the general policy of "focusing more attention on Syria's negative activities."

Mr. Khalilzad said insurgents were traveling to Damascus as well as to Latakia, a seaport, and Aleppo, near the border with Turkey. From these and other locations, "people are coming out from Syria to Iraq to kill Iraqis," he said.

"Syria has to decide what price it's willing to pay in making Iraq's success difficult," he added.

In addition to his remarks on Syria, Mr. Khalilzad offered an unusual plea for continued American support for Iraq, even as numerous recent public opinion polls have indicated that public support was waning, particularly after Hurricane Katrina.

"The American public needs to know that what's involved here is huge, as what we did with the Soviet Union was huge," he said. "Iraq is the centerpiece of the defining challenge of our time."

Mr. Khalilzad explained that during his confirmation hearings last summer, he "got a sense" of "a crisis of confidence, perhaps, in what we're doing in Iraq." Now, following Hurricane Katrina, he added, "I can understand" that "there will be a focus, as there should be, on dealing with that crisis."

Still, he spent several minutes trying to explain why Americans should care about Iraq.

"Iraq is part of this region that we call a vital part of the world" that is "producing most of the security problems of this era," he said. "And the way to deal with it is to get Iraq right, first."

Intel Chief: Iraqis In Insurgency More Elusive (USAT)

By John Diamond

USA Today, September 13, 2005

WASHINGTON — U.S. intelligence is struggling to expose elements of the insurgency in Iraq made up of former members of Saddam Hussein's regime, John Negroponte, the nation's intelligence chief, said in an interview Monday.

Joint U.S.-Iraqi military efforts have damaged the network of foreign insurgents led by Abu Musab al-Zarqawi, though Zarqawi himself remains at large, Negroponte said. Indigenous Iraqi insurgents, led by former members of Saddam's ruling Baath Party, have been tougher to track down.

The “former regime elements … seem to have very good operational secrecy,” Negroponte said in a wide-ranging interview with USA TODAY reporters. “And thus far it's not been that easy to make a dent in that part of the insurgency.”

Though foreign fighters, mainly Sunni Muslim Arabs from Syria and Saudi Arabia, have grabbed headlines with suicide bombings that have killed hundreds of Iraqis, Negroponte said Iraqis dominate the insurgency. Despite intense focus on Iraq, where 138,000 U.S. troops are deployed, U.S. intelligence has not been able to produce anything more than a “speculative” estimate of the insurgency's size, he said.

Based on everything he has seen, Negroponte said, the insurgency is neither gaining strength nor weakening appreciably. The insurgency's stubborn resistance to U.S. and Iraqi military efforts has complicated the development of a democracy.

Negroponte became the nation's first director of national intelligence in April after nine months as U.S. ambassador to Iraq. Congress created the post last year in response to independent commissions that laid out major intelligence failures prior to the Sept. 11, 2001, terrorist attacks and the U.S.-led invasion of Iraq. He has spent much of his time in the job setting up special centers overseeing counterterrorism and weapons proliferation. “Mission managers” will be named soon for human intelligence, Iran and North Korea, Negroponte said.

Although the Office of the Director of National Intelligence was created in an atmosphere of urgency, “it's really a start-up organization,” he said. “It's work in progress.”

In his first media interview since assuming the intelligence post, Negroponte also said:

·Despite significant failures before 9/11 and the Iraq war, U.S. intelligence “is second to none compared to any other intelligence organization in the world.” His task is “making it even better.”

·Al-Qaeda, though weakened by the U.S.-led global war on terrorism, continues to plan and organize terrorist attacks and regards the U.S. homeland as its top-priority target. Western Europe, Negroponte said, is more vulnerable than the USA to al-Qaeda.

·A viable Iraqi government has been slow in getting organized because the war led to the “degradation … of virtually every single government department. … They basically had to start practically from scratch.”

Negroponte, 66, spoke in a secure room of his office's headquarters a block from the White House. A career diplomat with Foreign Service commissions signed by every president back to Dwight Eisenhower, Negroponte got his first overseas experience in South Vietnam in the early 1960s. He has been ambassador to Honduras, Mexico, the Philippines, the United Nations and Iraq.

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When he appointed Negroponte, President Bush emphasized that the new chief needed broad powers over spending and personnel across military and civilian intelligence agencies.

Nevertheless, Negroponte said he cannot rule the 15 intelligence agencies "by fiat" but must "foster a strong sense of community" among organizations that have not always cooperated.

Negroponte said he is close to making a major decision on whether to go forward with a highly classified imagery intelligence network. According to Steve Aftergood of the Federation of American Scientists, the program probably concerns a costly network of satellites capable of evading radar, reflecting a Defense Department concern about the possibility that an adversary might attempt to "blind" U.S. intelligence operations by attacking its satellites.

Negroponte praised Homeland Security Secretary Michael Chertoff for helping the "lash-up between domestic and foreign" intelligence, which the 9/11 Commission called a major contributor to lapses before 9/11.

Following the report of the so-called WMD Commission, which examined the incorrect prewar estimates that Iraq had chemical and biological weapons and an active nuclear weapons development program, Negroponte said he is creating new standards on rating the veracity of clandestine intelligence sources. He is also improving the description of sources behind intelligence assessments.

Why Iraq's Sunnis Won't Deal (WP)

By Gary Schmitt

The Washington Post, September 13, 2005

Despite efforts by Shiites, Kurds and U.S. officials to find a way for Iraq's Sunni Muslims to support the draft constitution, it seems less and less likely that a deal will be struck, which raises the question: Is there any road forward that leads to a stable, democratic Iraq?

The answer is yes. But it's not an easy path. Nor is it one that most commentators and diplomats seem to understand, let alone advocate. The reality is that a stable, democratic Iraq, with large-scale Sunni participation, is unlikely until the insurgency in Iraq is widely seen by the Sunnis themselves as not succeeding.

Of course, the Sunni Arabs of Iraq are not a monolith. Many of them want a new political order for their country, and many undoubtedly will participate in the coming referendum to vote the proposed constitution up or down. Indeed, there are even reports out of western Iraq that Sunnis are now fighting Abu Musab Zarqawi's fighters.

Nevertheless, to the mind of probably a majority of their leaders, the Sunnis face two fundamental choices, neither pleasant. They can accept the new constitution, in which, as a minority, they lose their long-held dominance over Iraq. Or they can continue to reject the constitution and hope that a prolonged insurgency will somehow bring them back to power. With jihadists willing to kill themselves in terrorist attacks and a ready supply of young, unemployed Iraqis willing to bury explosives and launch rocket attacks for a few dinar, the average member of the Sunni elite, even if not an active participant in the insurgency, could well believe that the resulting chaos and even occasional death of a neighbor or a member of his extended family is a price worth paying for a return to Sunni ascendancy.

In fact, too many Sunnis believe the insurgency and the threat of a prolonged insurgency are their hole cards to play. Irrespective of the fact that their demands cannot be met without losing, in turn, Iraq's critical majority -- the Shiites -- Sunni leaders still live in a world that is about past prominence and future expectations. And until a new reality is forced upon them, they are not likely to move from their current opposition to the constitution.

The proposed constitution ought to be reasonably attractive in many respects. The Sunni Arabs are a decided minority in Iraq, certainly no more than a quarter of the population. And the federalist features of the draft document may well be a better guardian of their rights than a unitary state in which majority rule would probably leave them routinely short of the voting strength necessary to have an effective say in their own governance. In addition, the new constitution provides for a distribution of oil revenue along per capita lines, preventing either the Kurdish north or Shiite south from hoarding the country's wealth. By any realistic metric for the Muslim Middle East, the constitution put forward by Iraq's constitutional drafters is about as good as it gets, and far better for the country's minorities than the Sunnis should have expected, given the ruthlessness of their own rule over the past several decades.

But whatever the constitution's merits, that is not how the majority of Sunni leaders sees things today. And only when they see that the insurgency stands no chance of succeeding and, equally important, they personally are not in danger of losing life and limb if they publicly support the new political order, will they come around to accepting a federal, democratic Iraq.

Contrary to most commentary, then, the key to succeeding in Iraq is no longer putting in place a grand political bargain in which Iraqis of all sectarian stripes live happily ever after. In fact, by suggesting that this is the goal, we probably have fueled the Sunnis' own misperception of their future status in Iraq and hardened their own position.

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The goal, of course, is to create a political order by which Iraq is made relatively stable and the normal democratic politics of give-and-take are made possible. But that will be a decidedly uphill struggle until the prospect of a successful insurgency is taken off the table and the Sunni Arabs come to the understanding that the new constitution is, in practice, a pretty good deal after all.

Politics cannot solve what ails Iraq now. It can help, and certainly the constitution is an important step in that direction. But at the end of the day, it's only when the so-called dead-enders are either dead or vanquished that one can count on the political process moving decisively forward as most Iraqis desire.

The writer is executive director of the Project for the New American Century, a Washington-based think tank.

U.S. Indicts Dutchman In Iraq Insurgency (WT/UPI)

By Shaun Waterman, United Press International

The Washington Times, September 13, 2005

Federal prosecutors have indicted a Dutch resident for conspiring to kill members of the U.S. armed forces in Iraq -- the first criminal charges filed in connection with the insurgency against American forces in that country.

The indictment, filed Friday afternoon in U.S. District Court in Washington, charges Iraqi-born Wesam Delaema, 32, who is in Dutch custody, with conspiring to bomb U.S. convoys in Fallujah, Iraq.

Despite attacks every day against U.S. forces in Iraq, these are the first criminal charges to be filed against anyone involved with them. The United States government claims jurisdiction over terrorist slayings of U.S. citizens anywhere in the world.

Channing Phillips, a spokesman for federal prosecutors in Washington, said the federal courts in the capital have jurisdiction over crimes committed in "the extraterritorial jurisdiction of the United States"; that the suspect was in the custody of a friendly power; and that there was clear evidence in the form of video recordings.

"Everything just came together for this one case," Mr. Phillips said, adding that prosecutors were preparing an extradition request.

A Dutch official at the embassy in Washington said extradition hearings could take up to a year, but that if the courts cleared the way, the government almost certainly would accede to the U.S. request.

"The minister [making the decision] will want to ensure that the Netherlands continues to be a good ally in the war on terror," said Richard Gerding, the counsel for justice and home affairs at the Royal Netherlands Embassy.

The indictment and other court documents say Mr. Delaema was arrested in May in the Dutch city of Amersfoort, after a search of his apartment turned up "videotapes and other visual recordings ... of numerous attacks against American and coalition personnel in Iraq."

The documents charge that authorities recovered video recordings that Mr. Delaema had made of a trip to Iraq in October 2003, when he drove to Fallujah, where U.S. authorities say he was born, in his car, an Opel Omega.

"While in Iraq," the documents say, "Delaema traveled to an area near Fallujah, Iraq, where he met with at least six other individuals.

"Delaema and his associates, each of whom wore a hooded mask over his head, created a video of their meeting" during which "Delaema gave a speech in Arabic" proclaiming his associates and himself as "the Mujahedin of Fallujah."

Mr. Delaema and his associates also videotaped themselves demonstrating how to bury improvised explosive devices under the road, and to detonate them by remote control.

On the video, they discussed the value of separating charges by 50 feet or more in order to strike more than one vehicle in the convoy, the documents say.

TV 'Cops' Reality Show Is Talk Of Kirkuk (WT/AP)

By Tini Tran, Associated Press

The Washington Times, September 13, 2005

KIRKUK, Iraq -- Shattered glass, body parts, a blood-splattered blue sedan -- the grainy video pans over the scene as Iraqi officers comb the site of a drive-by assassination.

It's the Iraqi version of the television program "Cops," minus the "Bad Boys" soundtrack, but otherwise roughly modeled after the American show.

Created to make government more transparent, "The Cops Show," featuring Kirkuk officers in action, is the first of its kind in the country and is breaking new ground in Iraqi television. A live call-in portion gives the public the chance to praise the security forces or gripe about them.

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Screened weekly on Kirkuk Television, which broadcasts in this northern city of nearly 1 million people, "The Cops Show" has opened the floodgates in a community long suppressed.

"During Saddam Hussein's time, it was very different," station manager Nasser Hassan Mohammed said. "You were unable to ask questions. You couldn't say anything bad about police.

"Now people can call in directly. Anyone has the right to do this. This is the difference now. This is freedom."

The call-in portion, initially a novelty, has become a staple of the show, and panelists field up to 30 calls per segment, Mr. Mohammed said. And because Kirkuk is ethnically mixed, the show switches among the languages spoken by Kurds, Arabs, Turkomen or Assyrians.

It took Iraqis a while to master the art of the phone-in.

"But after more than a year, they understand very well," Mr. Mohammed said.

Col. Gordon Petrie, the show's American military adviser, said it marks a new era for community-service television.

"There has been a sea change in media," said Col. Petrie, who heads public affairs for the 116th Brigade Combat Team. "Before 2003, it was all Saddam, all the time.

"Kirkuk, which was one of the largest TV stations, basically was robotic. They'd get the Baghdad feed and send it out again. Now they are in charge here."

Until January's landmark elections, the Americans "ran the shows, booked the guests, and tried to show them what community-service programming was about. But after Jan. 30, we became the monitors. They haven't disappointed us," Col. Petrie said.

The show also aims to change a Saddam-era image of police as corrupt, inept and unapproachable.

"The first thing we wanted was to show friendship between citizens and police. They are not your enemy. They are your friend," Mr. Mohammed said.

Provincial police Chief Gen. Sherko Shakir has appeared as a guest several times. His spokesman, Abdullah Abdul-Qadir, is host and moderator. During a recent taping, the panelists included Kirkuk's police chief, Gen. Burhan Taha, and two local police station commanders.

The show opened with graphic videotape of the body of an off-duty police captain, assassinated just days after his wedding. Gen. Taha decried the shooting as a "cowardly job" and urged the public to help.

"Don't be afraid. Give tips anonymously. That way, you can stop bad activities," he said.

Callers were just as quick to demand more of their local police force.

"I was standing on the main road near bridge No. 3. I saw some criminal activity. We don't have security in our area. Sometimes, we have to secure the area by ourselves," one man said.

The show's popularity has not gone unnoticed by its enemies, and the studios are heavily guarded. The station's employees regularly get threats, Mr. Mohammed said, adding that he himself was hit by more than two dozen bullets during an assassination attempt in May 2004.

The station remains undeterred, the station manager said.

"After liberation, many things changed. Many dreams were realized. We use freedom and democracy," he said. "Our duty is to show people that freedom."

Pakistan Offers To Build Security Fence (USAT)

USA Today, September 13, 2005

Chafing under criticism that Pakistan is not doing enough to fight terrorism, President Pervez Musharraf offered Monday to build a security fence to deter militants and drug merchants from entering the country from Afghanistan. “We are fed up with people who say Pakistan has to do more to counter terrorism,” Foreign Minister Khurshid Kasuri said. Osama bin Laden is believed to be hiding in the border area.

Musharraf made the offer at a meeting with Secretary of State Condoleezza Rice. State Department spokesman Sean McCormack said, “We think it is important that Pakistan and Afghanistan take up this idea.” President Bush meets with Musharraf today.

Protestants riot for third night in Belfast

Protestants blocked roads in Belfast, Northern Ireland, and rioted for the third straight night. At least 50 officers were wounded over the weekend when extremists fought riot police and British troops in the worst Protestant violence in a decade. The rampage followed British authorities' decision Saturday to reroute a parade by the Orange Order, Northern Ireland's major Protestant brotherhood, off the main road.

It's official: Japan's ruling party wins

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Japan's ruling Liberal Democratic Party won 296 seats in the 480-seat lower house of parliament in last week's election, well above the 241 needed for a majority, according to official results released today. Bolstered by seats from its ally, the New Komei Party, the coalition garnered 327 seats. That gives it the two-thirds majority needed to override votes in the upper house, said Kiyoko Seki of the Ministry of Internal Affairs and Communications. Prime Minister Junichiro Koizumi called the elections last month after the upper house rejected his plan to privatize the postal service.

Father, son hijack plane, then surrender

A father in a wheelchair and his son used two grenades to hijacked a Colombian airliner but peacefully surrendered five hours later after allowing the crew and passengers to leave the plane, said Martin Gonzalez, spokesman for the Civil Aviation Authority.

The freed hostages said that the elder hijacker had said he was partially paralyzed by a police bullet during a drug raid 14 years ago and had unsuccessfully sought compensation. Sen. Carlos Moreno, who helped negotiate the standoff, said the man was given a $43,000 check but the government won't honor it.

Ukraine's former PM vows comeback

Ukraine's ousted prime minister said President Viktor Yushchenko had become afraid of her growing popularity and she predicted she would regain her job after March elections. Yulia Tymoshenko said she expected that her bloc would win a majority in March and, under constitutional changes to take effect next year, that the prime minister would be chosen by the parliamentary majority, not by the president. Yushchenko dismissed Tymoshenko and her Cabinet on Thursday amid allegations of corruption that he said had sidetracked the pro-Western “Orange Revolution” that swept them to power in December.

Zimbabwe curbs constitutional rights

Zimbabwe President Robert Mugabe has signed into law constitutional changes he said would settle any dispute over the legality of seizing white-owned farms. During a state visit to Cuba, Mugabe said he had approved the laws passed two weeks ago by the parliament. One strips landowners of their right to appeal expropriation and declares that all real estate is on a 99-year lease from the government. Another lets the government deny passports to its critics. The opposition Movement for Democratic Change denounced the changes as “a dark day for Zimbabwean democracy.”

21 Afghan Candidates Disqualified For Ties To Militias (WP)

By N.c. Aizenman

The Washington Post, September 13, 2005

KABUL, Afghanistan, Sept. 12 -- Twenty-one candidates running in Afghanistan's upcoming legislative election have been disqualified for maintaining links to illegal armed militias and seven more for failing to resign from government posts, the joint Afghan and international Electoral Complaints Commission announced Monday.

The move, six days before the Sunday vote, followed dismay among many Afghans over the commission's decision two months ago to exclude only 11 of nearly 6,000 candidates on the basis of failure to disarm. Six others were barred for retaining official positions.

The voting will be Afghanistan's first parliamentary election in more than two decades. The electorate is to choose 249 representatives for the lower house of parliament as well as members of 34 provincial councils that will help select the upper house.

The latest disqualifications did not satisfy human rights advocates who have expressed concern that the field of contenders is rife with warlords who committed well-documented atrocities during warfare that began in 1978.

"We're definitely happy to see more names excluded, and to see some mid-ranking names this time as opposed to just district-level people," said Joanna Nathan, Afghanistan director of the International Crisis Group, a Brussels-based advocacy organization. "But there's still widespread disappointment that the big names are not on there."

Nathan said officials in Kabul consider these people untouchable for "reasons of national stability. The past abusers are the ones who continue to abuse power today."

Grant Kippen, chairman of the electoral commission, countered that the body did not have the power to disqualify a candidate on grounds of war crimes unless there had been a conviction. That is a virtual impossibility because Afghanistan has no war crimes tribunals.

"We can't deal with complaints that are simply allegations," Kippen said. "Our mandate is to deal with offenses under electoral law. We're not a criminal court."

Kippen said the commission relied on the recommendations of a disarmament commission that includes representatives of the Afghan government, the United Nations, the U.S. military and a NATO-led international force to determine which candidates retained associations with banned armed groups.

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Nathan and other rights advocates have complained that the commission is dominated by the government of President Hamid Karzai and that its work is largely secret. "It's all about bargaining behind closed doors," Nathan said. Although the 21 excluded candidates came from a variety of provinces and ethnic groups, none is considered close to Karzai.

One of the candidates whose disqualification was announced Monday, a 46-year-old man using the single name Deedar, said he was never shown the evidence against him. "This is not a real and fair election. It's just like a show to deceive people," said Deedar, who is running for a seat in the lower house from the central Kabul district.

During his campaign, Deedar emphasized his past as a fighter against Soviet troops, who operated in Afghanistan from 1979 to 1989, while playing down his role as a low-level commander during the rule of the Islamic Taliban movement that took power in the mid-1990s. Deedar has denied belonging to the Taliban but acknowledges commanding men from his own tribe who sometimes helped the Taliban. Several former Taliban officials said he led more than 100 men from a base in Kabul.

Several months ago, Deedar, who has spent most of his time in Pakistan since the Taliban's ouster in 2001, was able to return to Afghanistan under a government program to reintegrate former Taliban members who are willing to pledge allegiance to the government.

On Monday, Deedar said his disqualification from the parliamentary race would discourage others from taking part in the program. "People who want to reconcile will look at my case and conclude that it's hopeless," he said.

He also predicted that he and other excluded candidates could still technically win, since it is too late to take their names off ballots. "I've tried to reach my supporters to let them know I'm no longer eligible. But many of them still don't know," he said. "And I am very popular."

Army Expects To Miss Goals For Recruiting (NYT/REU)

By Reuters

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 (Reuters) - The Army posted its best recruiting month in four years in August, but will still miss its annual recruiting goal for the first time since 1999, officials said Monday.

In August, the regular Army sent more recruits to boot camp than in any other month since July 2001. But the part-time Army National Guard and Army Reserve both missed their monthly goals and will fall far short of their annual goals for the 2005 fiscal year, which ends this month.

The regular Army, which is aiming for 80,000 recruits this year, was behind its year-to-date goal by the end of August, with too big a deficit to make up through September's recruiting, officials said.

The Marine Corps made its August goal and was 2 percent ahead of its year-to-date goal. The Air Force and Navy both achieved their targets.

Reflecting the regular Army's struggle, the situation was worse in the National Guard, which is under the command of state governors, and in the Reserve. These part-time troops can be called to active duty by the Pentagon; they now make up about 40 percent of the United States force in Iraq.

The Army National Guard has missed its recruiting targets every month this fiscal year and appeared certain to miss its third straight annual recruiting goal.

The Guard missed its recruiting goal by 18 percent in August and was 12,683, or 22 percent, behind its year-to-date goal. Its recruiting goal for this fiscal year is 63,002.

The Army Reserve, which last missed an annual goal in 1999, was short of its August target by 9 percent and was 19 percent behind its year-to-date target. It will also miss its 2005 goal of 28,485 recruits.

The Army has attributed the recruiting shortfalls to a growing wariness about military service because of the Iraq war and an economy that was creating more civilian jobs.

The Army has increased financial incentives for enlistment, added recruiters and bought advertisements appealing to patriotism.

In July, the Pentagon asked Congress to raise the maximum age for military enlistment to 42. The ceiling now is 35 for active duty and 39 for the Reserves or National Guard.

CORPORATE SCANDALS:

UPDATE: OFHEO Settles Administrative Case Against Freddie (DOWJONES)

Dow Jones Newswires, September 12, 2005

DOJ_NMG_0004586

WASHINGTON -(Dow Jones)- Freddie Mac's (FRE) (FRE) regulator settled its case against the company for failing to properly penalize former top executives in 2003 after Freddie discovered widespread accounting problems and evidence of earnings manipulation, the Office of Federal Housing Enterprise Oversight announced Monday.

The company agreed Friday to turn over new documents and to help OFHEO pursue separate cases against Freddie's former Chief Executive Leland Brendsel and former Chief Financial Officer Vaughn Clarke.

Freddie is still struggling to emerge from an accounting scandal that resulted in a clean sweep of the company's senior management team, an overhaul of internal controls, an earnings restatement of more than $5 billion, multiple shareholder lawsuits and federal regulatory probes. OFHEO is the only regulator to settle its case against Freddie, which agreed to pay OFHEO $125 million and agreed to other remedial actions in December 2003 to settle charges of safety and soundness violations.

OFHEO, however, filed separate charges against Freddie Mac (FRE), Brendsel and Clarke that month seeking cease-and-desist orders from an administrative law judge to force the company to alter its termination agreements with the two men and to impose fines against them. Freddie's board of directors allowed Brendsel to retire and Clarke to resign in June 2003 with roughly $56 million and $1.2 million in severance and other pay, respectively.

OFHEO's settlement with Freddie, which was signed Friday, only settles the regulator's administrative case against the company regarding the nature of Brendsel and Clarke's departures. Parallel investigations related to Freddie's accounting troubles by the Justice Department, Internal Revenue Service, Securities and Exchange Commission and others, are still pending.

All told, Brendsel stands to lose at least $34 million, including $24.4 million in lost severance and benefits, $5.8 million in fines and $3.8 million in past bonuses. Clarke's potential losses are substantially less - $3.9 million, two-thirds of which was a fine.

Freddie temporarily withheld some of the executives' pay at OFHEO's urging. A judge, however, ruled about a year ago that OFHEO's informal directive was illegal and required the company to release Brendsel's pay pending the outcome of OFHEO's enforcement actions against the executives.

"We have consistently made clear that we will comply with any valid and effective order from OFHEO. Under the consent order today we're simply agreeing to implement any final order that results from the pending proceedings between OFHEO and Brendsel and Clarke," Freddie Mac (FRE) spokeswoman Sharon McHale said.

Freddie agreed to turn over to OFHEO more internal documents, including the company's "earnings management" binders, materials on executive compensation, internal reports on the company's accounting and materials produced by outside consultants, among other things. OFHEO specifically requested internal documents by consulting firm McKinsey & Co. on derivatives accounting rules as well as all documents relating to McKinsey's consulting work on "MRE Accountabilities and Staffing v. Best Practices."

OFHEO also asked for a number of internal documents relating to the company's reaudit, including internal audit reports and board meeting minutes recorded after Freddie's board ousted Brendsel and Clarke and fired former Chief Operating Officer David Glenn.

Freddie agreed to convert Brendsel's and Clarke's departures to firings only if OFHEO prevails in its court cases against the men. The company said it would also try to recoup their severance pay, within legal bounds, only if OFHEO additionally orders Freddie to do so. OFHEO is pursuing separate enforcement actions against the men in legal action before an administrative law judge at the Department of Housing and Urban Development, OFHEO's parent regulator.

If OFHEO prevails, the agreement will make it easier for OFHEO to enforce penalties against Brendsel and Clarke since Freddie waived its rights to appeal or challenge the administrative court's decision.

"This settlement with the company is a significant step forward and allows us to focus our resources on the cases against former (Freddie) officers," OFHEO acting Director Stephen Blumenthal said in a statement announcing the deal Monday.

For Freddie, which didn't admit or deny any wrongdoing, the settlement brings to close all potential enforcement action or penalties OFHEO could have imposed on the company for not penalizing Brendsel and Clarke for their involvement in Freddie's accounting problems.

-By Dawn Kopecki, Dow Jones Newswires; 202-862-6637; Dawn.Kopecki@dowjones.com

Freddie Mac To Aid Effort To Recover Millions From Ex-Officers (NYT)

By Jonathan D. Glater

The New York Times, September 13, 2005

Freddie Mac, the mortgage reseller recovering from an accounting scandal, will assist federal regulators in their effort to recover millions of dollars in benefits and bonuses paid to two of its former executives, under terms of a settlement made public yesterday by the Office of Federal Housing Enterprise Oversight.

The agreement comes nearly two years after Freddie Mac, which buys mortgages from lenders and resells them to investors as securities, paid a $125 million penalty to settle charges related to its accounting, as part of a related settlement with its regulator, known as Ofheo.

"This settlement with the company is a significant step forward and allows us to focus our resources on the cases against former officers," Stephen A. Blumenthal, acting director of Ofheo, said in a statement.

The two executives in question are Leland C. Brendsel, the former chief executive at Freddie Mac, and Vaughn A. Clarke, its former chief financial officer. Both men left Freddie Mac in June 2003, several months into an expanding investigation of the company's accounting.

Regulators began proceedings in December 2003 to force Freddie Mac to treat Mr. Brendsel and Mr. Clarke as if they were fired, which would have made them ineligible for millions of dollars in benefits and bonuses they received when they left the company.

Ofheo is trying to force the executives to return that money.

According to an Ofheo spokeswoman, if Mr. Brendsel loses the case entirely, he could have to pay at least $34 million, and if Mr. Clarke loses, he could have to pay at least $4 million. Some of the money would go to the company and any civil penalties would be paid to the Treasury Department.

Lawyers for Mr. Brendsel and Mr. Clarke did not return phone calls yesterday afternoon. The case against both men is before an administrative law judge and both sides are gathering evidence, according to Ofheo and Freddie Mac.

David Palombi, a spokesman for Freddie Mac, said the consent decree merely codified the company's longstanding position on the litigation by regulators. "We have consistently made clear that we would comply with any valid order from the regulator," Mr. Palombi said. "We have simply agreed, in effect, to implement any final order" that results from the legal proceedings against Mr. Brendsel and Mr. Clarke, he said.

As part of the agreement with Ofheo, Freddie Mac will provide to the agency copies of the same documents it gave to lawyers who brought shareholder lawsuits against it.

The company will also help make employees available for interviews by the agency and will provide various internal documents, such as explanations of how executives' bonuses were calculated.

Freddie Mac's accounting woes began when its results were questioned in 2003 by PricewaterhouseCoopers, which the year before had replaced the accounting firm Arthur Andersen, which is now defunct.

In November 2003, Freddie Mac restated its earnings for 2000, 2001 and the first three quarters of 2002, revising them upward by nearly $5 billion.

In a report on the questionable accounting, Ofheo found that "Freddie Mac cast aside accounting rules, internal controls, disclosure standards and the public trust in the pursuit of steady earnings growth."

Yesterday, shares of Freddie Mac closed at $59.04, up 99 cents.

The accounting scandal at Freddie Mac and another at its larger corporate sibling, Fannie Mae, has led some to call for stronger regulation of the two companies.

Jury Convicts Westar Ex-Officials Of Looting Millions From Utility (WSJ)

By A Wall Street Journal Staff Reporter

The Wall Street Journal, September 13, 2005

KANSAS CITY, Kan. -- A federal jury found former Westar Energy Inc. Chief Executive Officer David Wittig and another executive guilty of looting the electric utility of millions of dollars.

Prosecutors claimed the two men, who were forced out of the Topeka, Kan., company in 2002, engineered extravagant salaries and benefits for themselves at the expense of shareholders, hiding much of their actions from the company's board and federal regulators.

Mr. Wittig and former Chief Strategy Officer Douglas Lake were found guilty of conspiracy, wire fraud, circumventing internal controls and money laundering.

The jury deliberated for 7½ days before convicting Mr. Wittig on 39 counts and Mr. Lake on 30 counts. Each count of wire fraud, the most serious of the charges, is punishable by up to 20 years in prison and a fine of as much as $1 million. Testimony about whether the government can recover money from the executives is expected to start Tuesday.

Attorneys on both sides declined to comment immediately after the verdicts. Messrs. Wittig and Lake have denied the charges, saying their actions were legal, approved by the company's directors, and disclosed in corporate filings.

Mr. Wittig, who became chief executive of Westar in 1998, helped to turn the Midwest utility into a fast-paced deal machine and hired Mr. Lake, a former colleague of his at what was then Salomon Brothers, to become his deputy. Mr. Wittig earned more than $25 million in his seven years at the company.

After some success, Westar's deal frenzy began to falter. The company's stock price fell from $44 to $9 and the company came under pressure from shareholders and regulators. In September 2002, Westar hired the New York law firm Debevoise & Plimpton LLP to conduct an internal investigation, which uncovered many of the details in the grand jury indictment.

The former executives' first trial ended in mistrial last year after jurors were unable to reach a consensus on more than half of the charges.

Ellison Agrees To Pay Charity To Settle Suit (WP)

By Ben White

The Washington Post, September 13, 2005

Oracle Corp. chief executive Lawrence J. Ellison tentatively agreed to pay $100 million to charity over five years to settle a private lawsuit in California accusing him of insider trading in Oracle stock, a plaintiff's lawyer in the case said yesterday.

Plaintiffs in the suit alleged that Ellison engaged in insider trading when he sold nearly $900 million worth of Oracle shares in January 2001, a little more than a month before the company announced poor earnings. Oracle shares fell 21 percent, to $16.88, after the announcement. Ellison had sold his stock for a little less than twice that amount.

The proposed settlement, reported yesterday by the New York Times and the San Jose Mercury News, must be approved by Oracle's board and a California judge. If approved, the deal would end what is known as a shareholder derivative lawsuit, an increasingly common type of civil case in which shareholders file suit on behalf of a company.

Monetary settlements in derivative cases have typically been small, and most of the money usually goes to plaintiff's attorneys. Companies often agree to make changes to the way they operate in order to settle the suits.

Joseph J. Tabacco Jr., an attorney for plaintiffs in the case, said the charity payments represent a compromise between the two sides. He said Oracle shareholders would benefit because the company will implement new insider-trading rules as part of the settlement.

A Delaware judge last year dismissed a similar derivative case against Ellison. A class-action suit stemming in part from the stock sales is pending in federal court. A trial judge dismissed the federal case, but an appeals court reinstated it.

Tabacco said Ellison may have chosen to settle the California derivative suit because the legal bar for proving insider trading appears to be lower in California than in Delaware. California law also provides for damages of up to three times the difference between the price at which someone buys or sells a stock and what the price would have been had the inside information been public. That left Ellison open to a potential judgment of $1.2 billion.

Tabacco said that as part of the deal, Oracle would pay $22.5 million to plaintiff's lawyers. An Oracle spokeswoman declined to comment. Forbes magazine last year estimated Ellison's worth at $13.7 billion. He owns about 1.3 billion Oracle shares, or 24.5 percent of the company's stock, according to a recent filing.

CRIMINAL LAW:

The Costly Price Of Facing A Grand Jury (WP)

By Sam Coates

The Washington Post, September 13, 2005

Sympathy can be hard to come by for White House officials who are summoned to appear before a grand jury.

Those whose identities remain a secret suffer in silence, discouraged from reaching out to their closest friends for help. Those whose names leak into the public domain become lightning rods for rumor, suspicion and innuendo, as politicians, commentators and journalists try to divine a meaning behind each summons.

The latest White House staffer to face the grand jury is Susan B. Ralston, assistant to White House Deputy Chief of Staff Karl Rove, who gave testimony to the committee investigating the leak of the identity of CIA operative Valerie Plame.

But while the politics of every appearance is picked over in minute detail, there is also a human story to each summons that often goes unexplored.

Witnesses face stress, uncertainty and -- worst of all -- crippling lawyer's fees that can take years to pay off. And as prosecutors cast their net ever wider, inexperienced staffers with few financial assets are increasingly facing the emotional and financial burden of grand jury testimony.

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Ralston appeared at the end of July on the same day as former Rove aide Israel "Izzy" Hernandez, according to ABC News. The reason Ralston, 37, was asked to testify remains unclear, but it has heightened suspicions that the locus of the investigation still centers on Rove.

Ralston declined to discuss her interview with the grand jury for this article, or the burden that it has caused. Friends said she had not spoken with them about it.

Americans for Tax Reform President Grover G. Norquist, who described himself as a friend and a work contact, said he was not aware that she had even testified. "It hasn't come up, and I haven't noticed anything, in work or other contact. I think she's right as rain. On the other hand, I haven't had a conversation about it with her," he said.

But veterans of past grand jury appearances -- including the investigation into President Bill Clinton's affair with Monica S. Lewinsky -- said that keeping silent compounded an already difficult process.

"It was an incredibly callous and demoralizing experience, one in which they gave no thought to the personal or financial ramifications," said Neel Lattimore, former press secretary to first lady Hillary Rodham Clinton, who was subpoenaed about 10 times during his tenure on the job. "Nothing prepares you for what it's like."

Another former Clinton administration official who is now in the private sector and did not want to be identified agreed. "It paralyzes you from doing your job. It turns your life upside down. I sat outside one grand jury room where I could hear the prosecutors screaming -- I'm not kidding -- screaming at a colleague of mine who was a witness."

The two former Clinton aides said that the financial burden was crippling. Like many others, these White House officials had to pay their own legal bills, and these can run into the hundreds of thousands of dollars. Some may qualify for a partial reimbursement from the Justice Department, but this usually covers a fraction of the outlay and can take as many as seven years to be paid out. White House aides are even barred from receiving free legal assistance.

"We spent our time on Capitol Hill, and none of us had any assets. It's a scary thing. Lots of people rented apartments, had no assets to their name," said the former Clinton staffer. "If you have a career in public service, you're being paid well under $100,000 a year, and you have student loans, you become paralyzed financially."

Lattimore said that he had to turn to his parents, who loaned him money to cover his legal fees. Lattimore's lawyer, Adam S. Hoffinger, said that the bill for representing someone in a grand jury investigation is usually large. "A white-collar grand jury investigation in D.C. or New York could cost a witness between $10,000 and $100,000 dollars, assuming no trial and no criminal exposure," he wrote in an e-mail.

According to a White House report to Congress, Ralston's salary last year was $67,600. In an interview last September with Asian Week, she said that she took a "significant pay cut" in 2001 from her job working with a prominent lobbyist.

Both former Clinton staffers who were asked to appear in the grand jury investigation said there was one silver lining to their experience. They both discovered that there was an informal support network of former White House employees who had been through the grand jury process that transcended party politics.

"There were people from the Reagan administration who reached out to me in the Clinton administration to say it was going to be okay and to say we've been through this," said the former Clinton staffer.

Lattimore cited Margaret Tutwiler, a long-term aide of James A. Baker III, who was caught up during the 1992 campaign in an investigation into Clinton's overseas trips as a student. He said she "expressed real sympathy and said hang in there. There was very much a sense of fraternity among White House employees no matter what side of the aisle."

FBI Intel Analyst Charged With Spying (FINDLAW/AP)

By Jeffrey Gold, Associated Press Writer

Find Law, September 13, 2005

(AP) - NEWARK, N.J.-An FBI intelligence analyst with top secret clearance who worked at a New Jersey Army base was charged Monday with passing classified information about Filipino leaders to current and former officials of that nation.

The analyst, Leandro Aragoncillo, sent some of the material to Michael Ray Aquino, a former deputy director of the Philippines National Police who lives in New York City, according to an FBI complaint unsealed with the arrests.

Aragoncillo, 46, of Woodbury, was hired to work at Fort Monmouth in July 2004 and began sending classified information and documents in January, according to the complaint.

From May to Aug. 15, Aragoncillo printed or downloaded 101 classified documents relating to the Philippines, of which 37 were classified "secret," the complaint said. Details of the documents' contents were not disclosed in court papers or in court.

The investigation by immigration authorities began after Aquino, 39, was arrested in March, accused of overstaying the tourist visa he used to enter the country in July 2001.

Aragoncillo, a Marine for 21 years, and Aquino were ordered held without bail following an appearance before a federal magistrate.

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The defendants face a charge of conspiracy and a charge of acting as unregistered foreign agents, the latter of which carries a sentence of up to 10 years and a $250,000 fine. Aragoncillo also was charged with unauthorized use of a government computer, which carries a sentence of up to 10 years and a $250,000 fine.

9th Circuit: Warrantless Searches Must Be Warranted (LAW)

By Pam Smith, The Recorder

Law.com, September 13, 2005

Even if a defendant agrees to warrantless searches in exchange for pretrial release, police still can't search him without probable cause, the 9th U.S. Circuit Court of Appeals ruled Friday.

In a victory for the privacy rights of defendants awaiting trial while on their own recognizance, a 2-1 majority threw out evidence Nevada authorities had received by testing Raymond Scott for drugs without probable cause.

True, Scott had consented to random drug testing "by any peace officer without a warrant." But because the government did not have probable cause -- and could not show a "special need" to lower the bar -- the drug test violated Scott's Fourth Amendment rights, 9th Circuit Judge Alex Kozinski wrote for the majority.

The panel says its opinion is one of first impression among all the federal circuit courts, and the dissenting judge predicted a widespread impact on federal and state pretrial proceedings.

By holding that probable cause is required for the warrantless search of a pretrial "releasee" or his home, "the majority casually adopts a rule that carries monumental implications for the pretrial procedures employed by every state in our circuit, as well as the United States," wrote 9th Circuit Judge Jay Bybee.

Scott was facing state charges of drug possession when he was released on his own recognizance, subject to several conditions, including warrantless drug and alcohol testing.

An informant's tip led authorities to check in on him at home, and when he tested positive for methamphetamine, they arrested him, searched his house and found a shotgun. A federal grand jury indicted him for illegal possession of the firearm, a federal district judge granted Scott's request to suppress the evidence and federal prosecutors appealed.

"Until today's decision we have not squarely addressed whether pretrial releasees have diminished Fourth Amendment rights," Bybee wrote.

Kozinski, backed by concurring 9th Circuit Judge William Fletcher, contrasted Scott's situation with that of probationers, who must submit to similar searches, writing, "Pretrial releasees are ordinary people who have been accused of a crime but are presumed innocent."

In a footnote, Kozinski added that while some of their freedoms, like the whim to travel, may still be limited, the 9th Circuit was considering "whether the accused may be made to suffer other burdens that are not designed to ensure his appearance in court."

Bybee disagreed, saying that the interests of the state should be weighed against the privacy interests of a defendant on pretrial release on a case-by-case basis.

"Scott's reasonable expectation of privacy may be somewhat greater than that of a probationer, parolee or pre-sentence releasee, but it is less than that of an 'ordinary citizen,'" Bybee wrote. And he lowered his own expectation of privacy when he agreed to the conditions of his own-recognizance release, Bybee added.

While Bybee says the majority opinion "carries monumental implications" for states that regularly make defendants facing drug charges agree to drug testing in exchange for O.R. release, Assistant Federal Public Defender Cynthia Hahn, who argued for Scott, isn't so sure.

It's difficult to predict how many cases could be affected by the opinion, she said, because Fourth Amendment cases can depend on so many case-specific facts. "I really couldn't even guesstimate how many people it could affect or won't affect," she said.

The U.S. Attorney for the District of Nevada has not decided whether to appeal, said spokeswoman Natalie Collins, who declined to comment further on the opinion.

The case is U.S. v. Scott, 05 C.D.O.S. 8214.

AU's Audit Of Spending By President To Wrap Up (WP)

By Valerie Strauss And Susan Kinzie

The Washington Post, September 13, 2005

American University trustees are nearing completion of a probe into hundreds of thousands of dollars of questionable expenses by suspended President Benjamin Ladner and his wife, according to two sources with knowledge of the audit.

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The school's 25-member governing Board of Trustees will meet within a few weeks to discuss the results and decide how to proceed with Ladner, who became president of the private university in Northwest Washington in 1994.

Ladner was placed on administrative leave Aug. 24, a few months after the board began reviewing the expenses of the president and his wife, Nancy Bullard Ladner, who is described on the university's Web site as a volunteer who represents the Ladner presidency.

Ladner's duties are being carried out by the acting president, Cornelius M. Kerwin, who had been provost.

The audit was prompted by an anonymous letter detailing what it said were questionable travel and entertainment expenses by the Ladners, according to sources close to the investigation who spoke on condition of anonymity to protect their role.

Ladner did not return repeated phone calls. His attorney, David Ogden, said that after reviewing the issues involved in the audit, "we are confident that it will result in a positive outcome for him."

Leslie E. Bains, the new chairman of the board under whom the investigation was launched, did not return numerous phone calls, and other trustees would not publicly discuss the probe.

A third source familiar with the investigation said that trustees were reviewing $300,000 to $400,000 in expenses over several years but that the total could be higher. Included was the use of a university car for personal reasons, the source said.

Reginald Green, one of Ladner's former chauffeurs, said the Ladners often used the university car for personal reasons, including requiring him to take in and pick up their laundry and the work shirts of their chef. Ladner hired the chef early in his tenure, raising eyebrows at the time about his spending.

Ladner's base salary last year was $633,000, according to Internal Revenue Service records.

Bankruptcy Clerk Accused Of Taking Bribe In FBI Sting (DAILYST)

By Chris Hack

Daily Southtown, September 13, 2005

A bankruptcy court clerk from Chicago's South Side has been charged with extortion, accused of accepting a bribe in an FBI sting.

Sandra D. Butler, 42, of the 1400 block of East 66th Place, was charged with a single count of extortion in a criminal complaint made public Monday.

Butler has been a clerk at U.S. Bankruptcy Court in Chicago since 1985. As a clerk she was assigned to a bankruptcy judge and handled paperwork from debtors filing bankruptcy petitions.

According to an FBI affidavit, agents first began investigating Butler three years ago after a debtor complained she had paid the clerk $5,000 to stop the foreclosure proceedings against her house but later learned the bribe was unnecessary. Under federal bankruptcy law, the filing of a Chapter 13 petition automatically stops any foreclosure proceedings on the homes of debtors.

Earlier this month, FBI agents filed a bogus Chapter 13 in Butler's courtroom and sent a fake debtor to see her. The undercover witness — who was wearing an audio and visual surveillance device — said his mortgage lender in Kentucky had initiated foreclosure proceedings and that he needed help saving his home, the FBI said.

After looking up the man's bankruptcy petition, Butler allegedly said she could make some phone calls "off the record" to stop the sale of his house, the FBI said. She pretended to call the Kentucky lender — which was fictitious — and then accepted $500 in cash from the man, according to the complaint.

Butler appeared briefly before a federal magistrate Monday and was released on her own recognizance.

Chris Hack may be reached at chack@dailysouthtown.com or (708) 633-5984.

Debtor Court Aide Charged In Scam (CHIT)

By Michael Higgins, Tribune Staff Reporter

Chicago Tribune, September 13, 2005

Prosecutors charged a courtroom deputy in U.S. Bankruptcy Court with attempted extortion Monday, alleging she solicited $500 from a debtor by promising to halt the sale of the debtor's house.

Authorities said Sandra Butler, 42, of the 1400 block of East 66th Place in Chicago, did not know that the debtor was working undercover with the FBI and that the bankruptcy case was part of a sting operation.

Butler had no power to influence the bankruptcy proceeding, but she acted otherwise, even pretending to call the debtor's bank to negotiate a more favorable repayment plan, according to an affidavit filed by FBI agent Kenneth Samuel. According to the affidavit, Butler, talking into a phone earlier this month, "asserted that she knew [the debtor] very well" and that while the amount "is supposed to be 10 percent, that was all [he] had."

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Butler then led the debtor to her office, where she took the money, according to the affidavit.

Butler appeared Monday before U.S. Magistrate Judge Sidney Schenkier. She was allowed to remain free on a $4,500 bail, and a court date was set for Sept. 27.

Butler was employed by Ken Gardner, clerk of the U.S. Bankruptcy Court in Chicago, and was assigned to the courtroom of Judge Jacqueline P. Cox. Gardner said he fired Butler from the $69,000-a-year job Monday morning.

"I'm shocked this would occur in the courthouse," Gardner said. "I'm shocked this would occur with someone working for me."

Butler had worked for the clerk's office since 1985 and had been assigned to Cox's courtroom for about two years, Gardner said. Bankruptcy Court officials cooperated with the sting operation, according to the affidavit.

The FBI became suspicious of Butler in August 2002, when a debtor in a bankruptcy case told them Butler had asked for $5,000 to stop the sale of her home, according to Samuel's affidavit. The debtor in that case later learned the money wasn't used for that purpose and contacted the FBI.

In the sting operation, FBI officials filed a fake bankruptcy case, giving the debtor a false name, Stanley Kozubal, and listing his home as an address in Des Plaines. The bankruptcy filing said Kozubal owed $130,000 to a bank in Kentucky.

The undercover witness was wearing an audio and video recording device when he went to Butler's office at the beginning of the month, according to the affidavit. He said he was afraid to lose his home and asked Butler for help.

"Butler responded that she could `off the record' make some phone calls to try and stop the sale of his property," Samuel said in the affidavit. "Butler asked the [debtor] if he had any `funds today.'"

Officials in U.S. Atty. Patrick Fitzgerald's office would not elaborate on Samuel's affidavit. A federal defender representing Butler could not be reached for comment.

Gardner said Monday that it was the first case of alleged corruption by a courtroom deputy in his four years as clerk.

Gardner said he would consider reforms. But he said that court rules already make clear that only staff at the court's intake window can collect money and that "there should be no transacting of money in the courtroom."

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Prison Officials Investigated (TD)

By Bill Cotterell

Tallahassee Democrat, September 13, 2005

State and federal authorities are investigating the activities of prison officials in North Florida, where the regional director for the state Department of Corrections abruptly resigned last month.

FBI and state officials said Monday that no one has been arrested or indicted in the investigation, which has been the subject of heated discussion among corrections employees on computer bulletin boards and e-mail networks.

"There is an ongoing investigation regarding the Department of Corrections," FBI Special Agent Jeff Westcott said from Jacksonville. He declined to comment on specifics. The Florida Department of Law Enforcement, which also is involved in the investigation, declined to comment.

Allen Clark, Panhandle director of institutions, resigned without explanation Aug. 30. He supervised operations at 18 major prisons from Jefferson County to the Alabama line. Attempts to reach him and other North Florida prison officials were unsuccessful.

A corrections spokesman said Monday that he knew nothing except what was in Clark's four-sentence resignation letter. Gov. Jeb Bush, when asked about the inquiry, smiled and shrugged off the question. "How am I going to tell you that?" he asked. "That's a no-no."

The case is not related to the indictment last week of Allan Duffee, director of the now-defunct Correctional Privatization Commission, which was set up to oversee Florida's five privately run prisons. Duffee pleaded not guilty to federal accusations of skimming nearly $225,000 from a maintenance fund.

Clark's resignation letter expressed "great regret" but gave no reason for his departure.

"It has been a pleasure serving as Region I director of institutions," he wrote to Department of Corrections Secretary James Crosby. "I have made many friends over the years and wish you and the employees of the department much continued success."

Al Solomon, warden of the Apalachee Correctional Institution near Sneads, has been named interim chief for the region. Solomon, too, declined to comment on Clark.

Ford Gets Permission To Attend Conference In Washington (AP)

AP, September 13, 2005

MEMPHIS, Tenn. An indictment on bribery and extortion charges won't keep former state Senator John Ford from attending a convention of black business and political leaders in Washington, D-C.Ford, of Memphis, will attend the conference September 21st to 26th to look for new clients for his private consulting business.

U-S District Court Judge Daniel Breen gave Ford permission to leave the state for the convention.Since Ford is on bond awaiting trial, he cannot leave Tennessee without a judge's O-K.

Ford's work as a consultant for a TennCare subcontractor while still in the Senate was at the center of a debate on ethics that dominated much of the latest session of the General Assembly.

Ford is charged with bribery and extortion in an unrelated investigation focused on an F-B-I front company that sought favorable legislation from the General Assembly. He also is charged with threatening a federal witness.

Ford resigned from the Senate shortly after his indictment.

Ex-senator To Seek Consulting Work At Black Leaders' Meeting (TENN)

By BONNA de la CRUZ, Staff Writer

The Tennessean, September 13, 2005

Former state Sen. John Ford is planning a trip to Washington, D.C., to attend a black leaders' conference to drum up business for his private consulting business, according to court papers.

The Memphis Democrat, who is under house arrest on federal bribery and intimidation charges, got a judge's permission to travel to the "35th Annual Legislature Conference for Black Leaders and Businessmen."

In his request, he said his "ability to conduct his business on a national basis is necessary to offset the difficulties which have arisen locally due to negative publicity."

No listing for the "35th Annual Legislature Conference for Black Leaders and Businessmen" could be found, but the Congressional Black Caucus Foundation Inc.'s Annual Legislative Conference is in its 35th year and is being held Sept. 21-24 in Washington.

Ford was indicted in May — along with three other sitting lawmakers, a former senator and two bagmen — in Operation Tennessee Waltz on bribery and corruption charges. Ford was further accused of threatening and intimidating potential witnesses. At the time, he was still a state senator, but stepped down from his post two days after his indictment.

He was released on bail after his arrest but was subject to certain conditions, including a curfew, a requirement that he wear an electronic monitoring device, and a prohibition from traveling outside the Memphis area.

In court papers filed earlier this month, Ford asked U.S. District Judge Daniel Breen if he could attend the conference from Sept. 21-26, saying it is an essential aspect in his ability "to foster continued and new business relationships."

Ford said he had attended the conference in past years, and his attendance had helped his consulting business.

Federal prosecutors in Memphis did not object to the motion, spokeswoman Leigh Anne Jordan from the Memphis U.S. Attorney's Office said. The judge granted the request last Thursday.

Taxpayers will not be footing the bill, however, because Ford is no longer a member of the General Assembly. His attorney, Michael Scholl of Memphis, said he was not at liberty to discuss how Ford is covering expenses associated with the conference.

Ford's private consulting work while he was an elected official came under public scrutiny during the legislative session earlier this year.

In two cases, Ford's consulting work was linked to companies doing business with TennCare, the state's health insurance program for the poor and disabled. At the same time, he was chairman of the Senate General Welfare Committee and was a member of two other committees that oversaw TennCare.

Ford also has been a licensed funeral director and insurance agent.

The Congressional Black Caucus Foundation Inc.'s Annual Legislative Conference touts itself on its Web site as the "premier African American conference on policy issues."

The conference provides a platform for the 43 African-American members of Congress to talk about legislative items. And it's a meeting place for attendees interested in the health, economic, educational and political state of black communities, the Web site says.

Conference spokeswoman Patty Rice said the group does not provide information about attendees when asked to confirm Ford's registration.

Among those scheduled to speak is U.S. Rep. Harold Ford Jr. of Memphis, who is the nephew of John Ford. The congressman is to speak on national security, according to the conference's itinerary.

Others scheduled to speak include U.S. Sens. Barack Obama and Hillary Clinton, as well as actor Jamie Foxx.

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Ford said he plans to go to trial in the Tennessee Waltz case. Three other defendants, including former state House member Chris Newton, R-Cleveland, have entered guilty pleas and await sentencing in February. ·

Details Of Cockfighting Raid Emerge (KNOXNS)

By J.J. STAMBAUGH

Knoxville News Sentinel (TN), September 13, 2005

NEWPORT, Tenn. - Among the evidence compiled by the FBI before a June 11 raid on a cockfighting pit near Del Rio were aerial photographs and video surveillance of the facility, according to testimony heard last week.

A preliminary hearing Wednesday in Cocke County General Sessions Court provided many new details about the controversial raid, which was cloaked in secrecy as part of a sweeping four-year probe by federal and state authorities into organized crime and public corruption in Cocke County.

In fact, security leading up to the raid was so tight that most of the officers involved weren't told of the assignment until the day of the operation, according to state troopers.

Tennessee Highway Patrol Trooper Timothy Wolfenbarger was one of four troopers who testified at last week's hearing for nearly a dozen people accused of being spectators at a cockfight.

Wolfenbarger said the operation was orchestrated by the FBI and a federal SWAT team had been assigned to conduct the "initial sweep" on the compound. State troopers, who had been drawn from posts across the state, were ordered into the site after it was secured.

"They (the FBI) had surveillance videos aerial photographs," Wolfenbarger said. "They had a good plan."

The raid has drawn heated criticism from many cockfighters, who feel the raid was too violent and a waste of federal resources.

Scores of heavily armed federal and state agents backed up by snipers and three helicopters took part in the raid. Troopers issued misdemeanor state citations against 143 people, most of whom entered into plea agreements that kept them out of jail.

At least 11 of them, however, have opted to fight the charges.

After the Del Rio raid, federal prosecutors moved to seize both the Del Rio pit and a second alleged cockfighting operation near Newport, the 440 Cockfight Pit, arguing they were illegal gambling operations.

The FBI has said the Del Rio complex had enough bleachers to seat up to 500 people. The compound included a 5,000-square-foot, two-story metal building; a 3,000-square-foot, two-story building partitioned into rooms; a "gate shack" built along the gravel driveway leading up to the site; and "approximately 100 outbuildings, consisting of utility sheds and camping trailers," according to court records.

"I'd never seen anything like that before in my life," Trooper Wolfenbarger said. "It (the main building) was like a gymnasium. There were people sitting up in the arena area."

Wolfenbarger also said the show of force was justified because the officers and agents didn't know what they would encounter.

"Our job is dangerous enough, but anytime you go into the unknown you don't know what's going to happen," he said.

The troopers gave first-hand descriptions of the Del Rio pit and told of finding dead roosters in various places. They conceded during cross-examination, however, that they didn't actually see any of the defendants take part in or watch a cockfight.

Trooper Jim Lee said he saw "a lot of blood, feathers, dead roosters." He also said he was told by one of the suspects detained at the compound that "the blood on his shirt was from being too close."

Trooper Bob Brooks described a restaurant and gift shop on the property that sold T-shirts, caps, belt buckles and other memorabilia. The shop also sold metal gaffes, which are often placed on gamecocks when they fight, he said.

Defense attorney Joe Baker repeatedly solicited testimony from the troopers that they couldn't positively identify all the defendants in the courtroom as having been at the pit. He also stressed that none of the defendants were seen breaking the law and opined that there might have been legal reasons to be at the compound.

At one point, Baker asked Brooks if he would have arrested someone had they only been working at the restaurant and hadn't entered the building where the cockfighting allegedly took place.

"That's aiding and abetting to me," the trooper replied, comparing Baker's hypothetical scenario to someone "selling lemonade" while watching drug deals.

Baker argued unsuccessfully before Judge John Bell that the state's laws concerning cockfighting are vague when it comes to being a spectator at one of the events, which is a Class C misdemeanor punishable by a maximum fine of $50 and 30 days in jail.

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He also said that only three of his clients had been positively identified by the troopers in the courtroom and stressed the lack of evidence presented. "If this is the best the state and federal governments can do then I feel like (my clients') rights aren't protected," he said.

Bell sent the cases on to a grand jury for review but noted that, had the defendants been on trial, the evidence presented wouldn't have been enough to convict them.

During a preliminary hearing, Bell explained, prosecutors only have to show "some proof that a crime was committed and some proof that you did it."

Baker said after the hearing that the state Legislature could have "been more specific and clear" when it comes to how spectators - as opposed to actual participants - are treated under the law.

"This is the only law that prohibits being a spectator," Baker said. "I could watch someone run red lights, rob banks, or kill somebody, but you can't watch a cockfight."

TN: Cockfighting Pit Raid Yeilds 143 Citations For Spectators (AP)

AP, September 13, 2005

A cockfighting pit raided by state and federal authorities this summer at Newport, Tennessee had bleachers to seat about 500 people and nearly a hundred outbuildings.

State troopers told a hearing they included a restaurant and gift shop.

Four Tennessee troopers talked about the June raid that netted 143 citations during a hearing Monday for some of the people charged with being spectators at a cockfight.

Heavily armed agents, snipers and helicopters were involved in the raid that was part of the FBI's four-year investigation into organized crime and corruption in the county.

The troopers said they found dead roosters, blood and feathers at the pit but, did not actually see any of the defendants watching or coaching roosters.

Judge John Bell bound the cases over to the grand jury but said he didn't think the evidence presented at the hearing was enough to convict them.

College Student's Disappearance Mystifies Family And Police In Va. (WP)

By Jamie Stockwell

The Washington Post, September 13, 2005

Eager to begin her freshman year at Virginia Commonwealth University, Taylor Behl created an online profile and wrote that she was looking for new friends in the Richmond area. Last week, she told her roommate she was going out for a few hours. She did not come back.

Behl, 17, was last seen Sept. 5, and campus officials said yesterday they still do not suspect foul play. But they are becoming increasingly concerned, and the investigation into her disappearance gains momentum and urgency with each passing day.

Nearby jurisdictions have joined the hunt, and the FBI has assigned an agent to advise campus and Richmond police. The National Center for Missing and Exploited Children, based in Alexandria, has posted a notice on its site.

Every year, students "appear to disappear" from the 30,000-student university and do not call their families for days, said Pam Lepley, a campus police spokeswoman. The students usually resurface after a couple of days, she said. But in this case, Behl, a June graduate of Madison High School in Vienna, has contacted no one.

"We're very concerned because of the amount of time that has passed," Lepley said.

Behl was last seen about 10 p.m. on Labor Day after a late supper at a local cafe. She found her roommate in their room with a boyfriend and told her she would leave for a while to give them privacy, police said.

She was wearing jeans and a hooded black sweatshirt and took only her keys and a credit card. Her car, a white 1997 Ford Escort with Virginia tags JPC-2848, is also missing.

Lepley said Behl continues to receive e-mails but has not logged on to read them. Her credit card has not been used, and the last call on her cell phone was made the night she disappeared.

Dozens of people have been interviewed, and more than 20 leads have been fruitlessly followed. A national alert has been issued, and a description of her vehicle has been sent to authorities across the country.

Behl's mother, Janet Pelasara, drove to Richmond from her Vienna home Wednesday, hours after her daughter's disappearance was reported to campus police. She said in several telephone interviews that Behl is an outgoing, friendly girl, not the sort who would cease contact with her family and friends.

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"She's very family-oriented," Pelasara said. "She's basically a happy kid, a good kid. She's fun; she's funny; she's smart as a whip. I'm very worried about her."

Friends have posted messages on Myspace.com, the Web site where Behl has an online profile, begging her to call someone and to come home safely.

In the profile Behl created this summer on the site, which serves as a dating and friendship network, she goes by the name "Bitter." She wrote that she was excited to move to Richmond.

"I just graduated from high school and now I'm off to Richmond for college," she wrote. "I'm looking forward to meeting people that are in Richmond because I only know a few people down there."

She had but one requirement in meeting new friends: "Someone who is kind."

Case Against DeLay Associate Dismissed (HILL)

By Patrick O'Connor

The Hill, September 13, 2005

A Texas judge dismissed a civil case against a major fundraiser for House Majority Leader Tom DeLay (R-Texas) last Friday.

The federal district-court judge dismissed the case brought by two Texas Democrats against John Colyandro, the former executive director of the Texans for a Republican Majority Political Action Committee (TRMPAC).

The judge, Lee Yeakel, ruled that lawyers for the two Democrats failed to prove that Colyandro had knowingly broken Texas election law in using corporate contributions to fund campaign ads.

Texas election law prohibits the use of corporate money in races for state office.

In his opinion, Yeakel wrote that the petition against Colyandro and his three co-defendants "fails to allege any facts that Colyandro intentionally or even knowingly violated the applicable sections of the Texas Election Code."

In May, another Texas judge ruled against Colyandro and co-defendants Jim Ellis and Warren Robold in a separate civil case, ruling that the three had violated state election law by failing to report $684,507 in corporate donations.

Colyandro and Ellis also face criminal money-laundering charges following indictments last year by Travis County District Attorney Ronnie Earle.

DeLay Seeks Closure On Texas Case (RC)

By John Bresnahan

Roll Call, September 13, 2005

The recently disclosed meeting between House Majority Leader Tom DeLay (R-Texas) and a prosecutor investigating allegations of state campaign finance violations is a strong signal that DeLay is trying to put a longstanding Texas investigation behind him as he prepares for a potential probe by the House ethics committee. DeLay and his lawyers met with Travis County District Attorney Ronnie Earle and his aides for about 90 minutes on Aug. 17 in the Public Integrity unit of the Travis County DA's office. Sources close to both men described the meeting as cordial and said DeLay was treated more like a witness than a potential target of the probe.

Accompanying DeLay to the meeting were his Austin criminal-defense lawyers, Bill White and Steve Brittan, as well Toby Vick of McGuireWoods (one of DeLay's Washington, D.C., law firms) and Elliot Berke, general counsel in the Majority Leader's office. Earle was joined by Greg Cox, director of the Public Integrity unit, and another official.

Earle has been leading a two-and-half-year investigation into the use of corporate funds in the 2002 Texas legislative races. Earle obtained indictments against three DeLay political allies last September for allegedly violating Texas' ban on the use of corporate campaign donations in state legislative races. Since then, there has been widespread speculation that DeLay also could find himself going in front of a grand jury at some point.

On Thursday, Earle announced indictments of Texans for a Republican Majority political action committee and the Texas Association of Business for their activities in 2002 state legislative races. DeLay's office then disclosed that the Majority Leader had held a voluntary meeting with Earle and other Travis County prosecutors to discuss DeLay's involvement with TRMPAC.

Earle told the Dallas Morning News on Friday that, despite earlier comments he had made, his aim in the TRMPAC probe was not to indict DeLay. "I have never said Mr. DeLay is a target of the investigation," Earle told the newspaper.

According to sources familiar with the situation, Earle had asked for a voluntary meeting with DeLay in mid-July, and DeLay's legal team agreed to that request. For reasons that are unclear, however, no further talks were held for several weeks.

Later that month, Earle convinced a Texas judge to issue a subpoena to compel DeLay to testify. Earle then contacted DeLay's lawyers again before actually serving the Texas Republican. At that point, DeLay agreed to a voluntary sit-down,

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although it still took several weeks for the two men to actually get together. The existence of the DeLay subpoena, which was never formally served on the lawmaker, was first reported by the Austin American-Statesman.

DeLay was not under oath when he met with Earle, and there were no other preconditions put in place, such as transactional or prosecutorial immunity, sources close to the Majority Leader said.

Most of the gathering focused on DeLay's involvement with TRMPAC. DeLay helped create the organization in 2001 with a $50,000 donation from his federal leadership PAC, Americans for a Republican Majority PAC.

TRMPAC's goal was to help Texas Republicans win control of the state Legislature, which would then allow the adoption of a Congressional redistricting map favorable to the GOP. DeLay and other Lone Star State Republicans were angered by the fact that Texas' Congressional delegation was still majority Democratic, despite the fact that Texas voters had shifted decisively to the GOP.

Thanks in part to extensive fundraising by TRMPAC, TAB and other pro-Republican groups, GOP candidates were able to win control in the 2002 elections of the Texas House for the first time since Reconstruction. A DeLay ally, Tom Craddick, was elected Speaker, and despite repeated attempts by Texas Democrats to block it, a Congressional redistricting map much more favorable to Republicans was adopted. Six seats changed from Democratic to Republican control thanks to the DeLay-led redistricting drive, cementing his status as a GOP powerbroker and infuriating Democrats in Austin and Washington.

After an official at TAB bragged in an association newsletter about the group's role in the 2002 state elections, Earle began his investigation. The use of corporate funds is illegal in Texas legislative races.

A Texas judge ruled in May that TRMPAC should have reported more than $532,000 in corporate contributions to state officials during the 2001-02 cycle, and the judge awarded in excess of $196,000 in damages to five state Democratic candidates who have sued the group. TRMPAC, which declared those donations to federal authorities but did not notify state officials, is appealing that ruling.

A Texas grand jury indicted TRMPAC last Thursday on two counts of violating Texas' ban on the use of corporate funds. The charges center on whether TRMPAC illegally solicited and accepted $120,000 from the Alliance for Quality Nursing Home Care, an industry-funded group, and AT&T Corp. Earle's office charged that these donations represented an infringement of state law.

DeLay has denied playing any significant role in the day-to-day operations of TRMPAC, although he did serve on an advisory committee for the organization.

James Bopp, a GOP campaign expert who has testified on behalf of TRMPAC in a civil case brought by Texas Democrats, said the DeLay-Earle meeting was highly unusual.

"Yeah, I think it's extraordinary," Bopp said. "I think it's an indication that [DeLay] and his lawyers believe he is completely blameless for anything that happened [with TRMPAC], if in fact any crime was committed."

But another campaign-finance expert, speaking on the condition of anonymity, said DeLay faced a political consequence if he did not cooperate with Earle, especially once DeLay's camp knew Earle had obtained a subpoena that would compel the Texas Republican to testify.

"There's always a certain tension between litigators and politicians in any of these cases," said this expert. If DeLay were to refuse to testify unless he were subpoenaed, it could look like he was attempting to hide something — a difficult position for DeLay to be in politically with all of the ethics controversies that have surrounded him.

But if DeLay were to meet with Earle, especially without any assurances that what he said wouldn't be held against him, then he could have exposed himself to legal jeopardy if he admits to illegal behavior. "That's a big risk to take," said one GOP lawyer familiar with the case. "I'm surprised they did it."

Craddick also met privately with Earle last month, according to the Austin American-Statesman. Craddick's lawyer told the newspaper that it was "a pleasant conversation."

Up until now, little love was lost between the Earle and DeLay camps. DeLay has claimed that Earle was seeking to redress Democratic losses at the polls by using a politically motivated investigation, while Earle has suggested that Republicans, including DeLay, repeatedly violated Texas campaign laws through the used of millions of dollars in corporate contributions.

But Earle's probe, or at least the investigatory phase of it, may finally be winding down.

The latest grand jury, the fourth in this case, is set to expire at the end of September, and sources close to the investigation say it will likely be the last one empaneled.

And while a number of legal issues remain for Texas courts to straighten out, including outstanding criminal charges against several DeLay allies, the fact that Earle privately told DeLay and his attorneys that he is not a target of investigators may now enable DeLay to focus his attention on the House ethics committee.

"It's not over yet, but there's some light at the end of the tunnel for DeLay," said a GOP source official close to the Majority Leader. "He may just slip the noose on this one."

CIVIL LAW:

McCain, Feingold Targeting Rider (RC)

By Suzanne Nelson

Roll Call, September 13, 2005

Sens. John McCain (R-Ariz.) and Russ Feingold (D-Wis.) implored their colleagues Monday to support their efforts to remove a campaign-finance rider to the Treasury-Transportation appropriations bill, which is slated to come to the Senate floor as early as this week.

The provision would allow lawmakers' leadership political action committees to give unlimited funds to the national party committees, opening what the two Senators believe would be a significant loophole in the campaign finance law.

In a "Dear Colleague" letter, Feingold and McCain noted that national parties could turn around and spend those funds on the lawmaker's own re-election, "effectively subverting individual and PAC donor contribution limits on the amounts that can be given to a Member's campaign."

But the back-door change has high-level support in the Senate. Senate Majority Leader Bill Frist (R-Tenn.), whose presidential aspirations could be aided by the provision, gave the language his endorsement before the August recess. Majority Whip Mitch McConnell (R-Ky.), a longtime foe of campaign finance restrictions, is also supporting the measure.

The principal difference between a lawmaker's personal campaign and that of his or her leadership PAC is that funds from the latter cannot be spent on direct mail, broadcast ads and other items that directly aid the candidate's campaign. The money from leadership PACs is used primarily as funding for the lawmaker's travel and as a way to gain chits with fellow lawmakers by making contributions to their campaigns.

Like all other political action committees, leadership PACs are currently subject to an annual limit of $15,000 for transfers to the national party committees. The proposed language would treat leadership PACs like candidates' personal campaign committees when it comes to transfers to the national parties.

No one during the past few years has sat on as large a pile of leadership PAC cash as Frist, who as of June 30 had almost $1.2 million left in his account. He's already given the maximum donations to every GOP Senator running for re-election, leaving him to spread his money around to House campaigns — unless this provision allows him to dump large amounts of cash into the NRSC and the RNC.

"This major change in campaign finance law would seriously undermine the effectiveness of longstanding contribution limits which serve as the foundation of the nation's campaign finance laws," McCain and Feingold wrote.

"Let's be very clear on another point — this provision benefits no one but incumbent Members of Congress by allowing them to circumvent those same contribution limits by which their opponents will be forced to abide," the two added in boldface type.

A few years ago, leadership PACs were used primarily by a handful of Members with leadership aspirations, but recently the committees have become more common and are now used by rank-and-file and junior lawmakers as well.

The language in the Treasury-Transportation bill also does something seemingly technical but that could nonetheless have a significant impact on campaign-finance law: It codifies for the first time the term "leadership PAC," which heretofore has been an informal term to refer to political action committees informally linked to lawmakers used to further their aspirations for elected leadership. Many campaign reform groups already believe them to be dubiously legal, at best, as they are used in practice as an vehicle for lawmakers to raise money outside of the existing contribution limits.

McCain and Feingold concluded by asserting that substantive changes to the campaign finance laws should occur only after "adequate" debate, the antithesis of which would be "[s]lipping a rider onto an appropriations bill in a subcommittee markup."

The two plan to force a vote on the provision on the Senate floor.

CIVIL RIGHTS:

Same-Sex Marriage May Stay Legal In Mass. (FINDLAW/AP)

By Steve Leblanc And Theo Emery, Associated Press Writers

Find Law, September 13, 2005

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(AP) - BOSTON-A fragile coalition of lawmakers cobbled together to support an anti-gay marriage amendment is falling apart, virtually assuring that same-sex marriage will for now remain legal in Massachusetts, according to an Associated Press poll.

The survey, conducted between Sept. 6-9, found at least 104 lawmakers who plan to vote against the proposed constitutional amendment, which would ban gay marriage but create civil unions.

The amendment, which is scheduled for a vote on Wednesday, needs the support of at least 101 of the state's 200 lawmakers to get on the 2006 ballot.

"It's a dangerous precedent to take away rights that have been granted by the court for an identifiable group of people," said Democrat Rep. James Brendan Leary.

Last year, months after the state's Supreme Judicial Court ruled that same-sex marriage was legal, the amendment passed 105-92. It must pass a second vote to get on next year's ballot.

Reasons for the faltering support are rooted in the language of the amendment, which was intended as a compromise between foes of same-sex marriage and supporters of gay rights. It ultimately had an opposite effect, however, alienating gay marriage opponents by creating civil unions and offending gay rights supporters by banning gay marriage.

For the survey, the AP attempted to reach all 200 lawmakers with at least two phone calls. Of those polled, 104 said they would vote against the proposal, 19 said they would support it and three said they were undecided.

Opposition to the measure is likely deeper than the survey indicates. Several lawmakers who voted against it last year couldn't be reached. Others who have voiced strong opposition declined to respond.

More than a dozen lawmakers who voted for the amendment the first time around said they would change their votes this week, either because they fully support gay marriage or oppose civil unions.

Others said that after more than a year of watching gay couples marry, they see no need to rescind the right. Since Massachusetts' gay marriages started taking place in May 2004, thousands of same-sex couples have tied the knot.

"I haven't talked to any married heterosexual couples that have felt threatened by same-sex marriages," said Democrat Rep. Anne M. Gobi, who said she couldn't support the compromise amendment, as she did last year.

Many foes of gay marriage said they prefer a second, much stricter amendment that would ban gay marriage without granting civil unions. The earliest that proposal could go before voters is 2008.

"We are going back to the beginning and defining marriage as the union of one man and one woman," said Democrat Rep. Philip Travis, who voted for the compromise amendment last year, but now plans to vote against it.

Some lawmakers who have supported gay marriage in the past declined to respond to the survey, saying they believed the vote was still too narrow, and many new lawmakers planned to vote against the measure because of campaign promises.

Still, not everyone is switching their vote.

Democrat Rep. James H. Fagan does not oppose same-sex marriages, but he's sticking with his yes vote on the constitutional amendment because he wants the state's citizens to decide.

"I support their right to vote," Fagan said. "I would suggest that people do not vote to amend our constitution."

Will California's Gay Marriage Bill Spur Similar Measures Elsewhere? (CSM)

By Daniel B. Wood

The Christian Science Monitor, September 13, 2005

LOS ANGELES - The latest struggle over who decides the legality of gay marriage - citizens, lawmakers, or the courts - played out in the nation's most populous state last week. The California legislature was the first to approve a bill legalizing same-sex marriage, although Gov. Arnold Schwarzenegger has vowed to veto it.

The political stand-off raises legal issues specific to California, state and national observers say. The legislature's attempt to broaden the definition of marriage is in direct conflict with a citizens' initiative passed in 2000 defining legal marriage as between a man and woman only. That citizen's initiative itself, Proposition 22, is also being challenged in court.

But the recent move by Sacramento legislators emphasizes what some observers see as a shift in public opinion that appears to be more accepting of gay marriage. Still, others anticipate the bill could add to the backlash against the gay-marriage movement that prompted 11 states to ban same-sex marriage through ballot initiatives last year. Indeed, California conservative groups have heightened efforts to place an initiative before voters that would recognize heterosexual unions only.

National pollsters report more acceptance of gays and lesbians in a variety of other contexts. What happens in California could set the tone for how other states deal with the issue legislatively.

"There will be lurches backward and forward as some states throw up roadblocks to such arrangements and others embrace them," says Elizabeth Garrett, a law professor at University of Southern California who tracks state initiatives. "But overall the support for civil unions is getting stronger and stronger."

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A recent statewide poll here shows that voters are evenly split (about 46 percent for, and 46 against) same-sex marriage. Five years ago, 61 percent of voters backed the initiative that defined marriage as between a man and woman. "Moves by the California legislature are part of the national trend toward greater equality for same-sex couples that has been growing coast to coast for the past few years," says Ms. Garrett.

San Francisco Mayor Gavin Newsom reignited the issue here last fall when he directed city officials to permit same-sex marriage licenses. Hundreds of couples who obtained the licenses in San Francisco later learned their nuptials were declared invalid by a court ruling that said a mayor could not ignore state law.

Some social conservative groups reject the analysis that public attitudes are shifting to embrace same-sex marriage. They claim that public opinion polls were roughly 50-50 before the Proposition 22 vote, but that the measure's overwhelming victory was a truer litmus test.

"The only vote that counts is at the ballot box, and the people spoke clearly on Prop. 22," says Karen England, of Capitol Resources Institute, a Sacramento group that advocates for family issues. "This legislature knows what the people feel and were afraid to put their measure to a public vote, which they could have done. Instead they are trying to make an end run around the will of the people."

Governor Schwarzenegger is being accused of political posturing with his veto to protect his conservative base in the face of declining approval ratings. But whatever ensues with the legal and political wrangling here, national gay and lesbian rights groups say they are encouraged by the legislature's move.

"Like activities in Massachusetts and Connecticut which have kept the issue alive despite negative attacks, the California measure is a teachable moment," says Seth Kilborn, marriage project director of the Human Rights Campaign, the nation's largest gay/lesbian political organization. "It is an opportunity to talk to voters about why same-sex marriage is important."

California's Solons Lead (WP)

The Washington Post, September 13, 2005

The California General Assembly last week became the first state legislature to allow same-sex marriages. In a close vote, it sent a historic bill to Gov. Arnold Schwarzenegger (R) that would go a step beyond the state's broad domestic partnership rights. Mr. Schwarzenegger promptly declared that he would veto the bill, so it won't become law. But the legislature's action is an important milestone. While the Massachusetts Supreme Judicial Court permitted same-sex marriage in that state and legislatures have created civil unions elsewhere, the vote is the first time that a state legislature has acted on its own to create marriage equality.

The importance of the California vote in the politics of same-sex marriage is hard to overstate. After the Massachusetts court ruling, opponents of same-sex marriage decried the court's willingness to make policy on contested social issues. Such questions, they argued, were the rightful province of legislatures, not courts. President Bush even pegged his disgraceful endorsement of a federal constitutional amendment banning gay marriage to the likelihood of "activist judges" depriving the people of democratic choice on the matter. The California legislature's decision gives the lie to the notion that only imperial judges would foist such a social policy on a state.

Only five years ago, voters in California overwhelmingly passed a ballot initiative to refuse recognition to same-sex marriages performed elsewhere. The recent legislative action reflects genuinely changed public sentiment; polls on the matter show voters evenly split.

In an ironic twist, Mr. Schwarzenegger is trying to punt the matter back to the courts, where challenges to current California law are pending. In announcing his decision to veto the bill, he suggested that the new law conflicts with the old initiative -- which would be unconstitutional -- and that "the matter should be determined not by legislative action . . . but by court decision or another vote of the people of our state."

The governor could not be more wrong. Legislation is actually the best way to move forward in this area. And further ballot initiatives that will attempt to write an exclusively heterosexual definition of marriage into the California constitution and, along the way, wipe out the state's progressive domestic partnership laws, are already in the works in any event. A lot of work remains to be done before marriage equality in California becomes a reality.

But the legislative action last week remains an important symbol -- at once a rebuke to those states that have reacted to the Massachusetts decision by writing discrimination into their fundamental laws and a gentle reminder to those who see hope for progress only in the courts that legislatures can still be engines for positive change.

Firefighter Arrested In Alleged Assault Hours After Sept. 11 Anniversary (FINDLAW/AP)

Find Law, September 13, 2005

DOJ_NMG_0004601

(AP) - NEW YORK-Hours after many New York firefighters gathered to mark the fourth anniversary of the Sept. 11 terrorist attacks, one of them was arrested for attacking an immigrant worker from Bangladesh and telling him he looked "like he's al-Qaida," police said.

Firefighter Edward Dailey was arrested Sunday on charges of criminal mischief and felony second-degree assault, Police Sgt. Kevin Farrell said.

He was released without bail. Despite the alleged al-Qaida remark, there was not enough evidence to charge him with a hate crime, authorities said.

Dailey, 27, is accused of breaking a piece of Plexiglas off a curbside newsstand and throwing it at a 51-year-old man who works there, Farrell said. Dailey had said the man looked "like he's al-Qaida," Farrell said.

The victim, whose arm was cut in the alleged attack, was treated at a hospital and released, Farrell said.

A woman who answered the phone at Dailey's home wouldn't comment.

Dailey was the class valedictorian at his FDNY graduation ceremony last year.

Two Guilty Of Murder In Death Of A Transgender Teenager (NYT)

By Carolyn Marshall

The New York Times, September 13, 2005

HAYWARD, Calif., Sept. 12 - A jury convicted two men of murder on Monday but deadlocked on the fate of a third man in the retrial of three defendants charged with killing a 17-year-old transgender teenager in October 2002.

The two - Michael W. Magidson and Jose A. Merel, both 25 - were found guilty of second-degree murder for the death of Gwen Araujo, who was born as a male named Eddie Araujo Jr., but who frequently wore women's clothing and lived as a women.

After the verdict was read, Mr. Magidson bowed his head and Mr. Merel slowly shook his. They face sentences of 15 years to life in prison.

The jury found both men not guilty of committing a hate crime.

The actions of the third man, Jason Cazares, also 25, confounded a jury for the second time in two years. The panel, which heard the case for several months in a packed Alameda County Superior Court room, told Judge Harry R. Sheppard that they were hopelessly deadlocked on the fate of Mr. Cazares.

Jurors had been deliberating for seven days in the retrial of Mr. Magidson, of Fremont, and Mr. Merel and Mr. Cazares, both of Newark. The three were charged with first-degree murder and with committing a hate crime, although the jury had the option of finding the men guilty of lesser charges, including manslaughter.

The police found the victim's body in October 2002, buried in a three-foot-deep grave in El Dorado County in a remote area of the Sierra Nevada foothills about 120 miles east of San Francisco. She had been bound, bludgeoned and strangled on Oct. 4.

According to court testimony, Ms. Araujo's mother had reported her missing two weeks earlier and just a few days after the 17-year-old youth had attended a party at a house in Newark, then rented by Mr. Merel and his older brother.

The Alameda County deputy district attorney, Chris Lamiero, argued during the retrial that the men attacked and battered Ms. Araujo after they discovered from a friend that the girl with whom several had had a sexual encounter was, in fact, a biological male.

Mr. Lamiero's key witness to the crime was a fourth defendant, Jaron C. Nabors, 22, of Newark. Mr. Nabors was also charged with murder but agreed to plead guilty to voluntary manslaughter in exchange for his testimony against the other three men.

His testimony revealed that all of the men, except Mr. Cazares, had a sexual encounter with the teenager. The jury of eight men and four women began its deliberations on Aug. 30 and on Thursday alerted Judge Sheppard that decisions had been reached on two of the defendants. The verdicts and identities of the men were withheld pending a decision on the third man.

During the three-month trial, the prosecutor told jurors that Ms. Araujo had been murdered by the men in what he considered a brutal hate crime. The prosecutor argued that Mr. Magidson strangled the teenager, Mr. Cazares beat in her skull with a shovel, and Mr. Merel followed along because he said he felt intimidated.

The lawyers for the defendants in part argued that the death of Ms. Araujo was a crime of passion that did not merit a charge of first-degree murder. The lawyer for Mr. Cazares, the defendant on whom the jury deadlocked, argued that his client was not even present during the murder, because he was outside having a cigarette.

All three men testified during the retrial. But only Mr. Cazares took the stand at the first trial, in June 2004, when the jury deadlocked after 10 days of deliberation, leading to a mistrial.

Two Defendants Convicted In Newark Transgender Murder (AP)

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By Michelle Locke, ASSOCIATED PRESS

AP, September 12, 2005

HAYWARD – Two men who had sex with a transgender teen and then discovered she was biologically male were convicted Monday of her murder, but cleared of hate crime charges.

Michael Magidson and Jose Merel, both 25, face mandatory sentences of 15 years-to-life in prison for second-degree murder in the killing of Gwen Araujo, who was beaten, tied up and strangled.

The jury was deadlocked in the case of a third man, Jason Cazares, 25, marking the second time a mistrial was declared in his case.

There were sobs in the Alameda County courtroom as the verdicts were read and Merel held his head in his hands.

Araujo, 17, was born a boy named Edward but grew up to believe her true identity was female. The defendants, who knew her as Lida, met Araujo in the summer of 2002. Magidson and Merel had sexual encounters with Araujo, experiences that fueled suspicions about Araujo's gender.

The issue boiled over in the early hours of Oct. 4, 2002, in a confrontation at Merel's house in the San Francisco suburb of Newark.

Merel's lawyer, William Du Bois, said he was shocked by the verdict, especially since prosecutor Chris Lamiero said he didn't think Merel was the killer.

"I can't imagine what evidence they used to come to this decision," Du Bois said.

In the first trial, the three defendants stuck together, with their lawyers attacking the chief prosecution witness, Jaron Nabors, who was also at the house the night Araujo died but was allowed to plead guilty to manslaughter in exchange for testifying.

But in the second trial, the defendants' united front cracked.

Nabors testified at both trials that Araujo was savagely attacked after her biological identity was revealed when her underwear was pulled aside. He said he didn't see the killing but saw Magidson pull a rope toward the teen's neck.

Magidson testified that he beat and tied up Araujo but said he couldn't remember large parts of the night and was sure he had not strangled her. He said Nabors was the killer and his attorney asked for a manslaughter conviction.

But Merel, testifying for the first time, broke down and cried when Lamiero asked him directly if Magidson admitted strangling Araujo. He testified that Magidson had told him "if push came to shove" Merel should identify Magidson as the killer.

An autopsy found Araujo died of asphyxiation associated with head injuries.

Nabors testified that Merel smashed Araujo in the head with a can and also hit her with a pan. Merel acknowledged slapping Araujo and hitting her a glancing blow with the pan but said he only menaced her with the can and did not seriously injure the teen. Du Bois said if Merel was guilty of anything it was felony assault.

Cazares said he was outside the house when the killing took place and only helped bury the body in a shallow grave in the Sierra Nevada foothills.

Cazares' attorney said he thought the jury didn't believe Nabors' testimony.

"We believe from the first instant that he wasn't telling the truth and what he was doing was trying to save his own skin," attorney Tony Serra said.

Cazares, who was free on bail, hugged his girlfriend and left the courthouse.

Redistricting Reform May Be On The March In Three Big States (RC)

By Louis Jacobson

Roll Call, September 13, 2005

LOS ANGELES — With initiatives to reform redistricting expected to make the 2005 ballot in California and Ohio, and another for 2006 gaining traction in Florida, the ultimate insider issue has suddenly become hot in three of the nation's most populous states.

But those who thrive on map-drawing minutiae wonder whether such an arcane issue can resonate with ordinary voters.

"Most voters don't even know what districts they live in, much less who drew the boundaries, so they don't relate to it," said Garry South, a veteran Democratic strategist in California. His California GOP counterpart, Dan Schnur, concurred, saying, "Under normal circumstances, it's impossible to pass. It's too abstract."

Still, strategists say the pivotal wild card is frustration with politics as usual. If such a mood exists, and if it is channeled effectively, it can put a dry issue like redistricting over the top, said Kristina Wilfore, executive director of the liberal Ballot Initiative Strategy Center.

And in these three states at least, the political conditions may be riper than normal.

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In California, Gov. Arnold Schwarzenegger (R), who coasted into office amid mass disaffection with his Democratic predecessor, has staked his prestige on the redistricting measure and other reforms.

In Ohio, a metastasizing political scandal involving Gov. Bob Taft (R) and the state Republican Party is producing anger and volatility in a state long dominated by the GOP.

And Florida, like Ohio, has been home to a divisive presidential election in which residents aired a torrent of allegations about how partisanship may have influenced vote counting.

The Ohio measure, which would create a judicially appointed independent redistricting panel, has the most momentum, thanks to the rising tide of political disaffection.

The proposal's chief proponent, a predominantly Democratic group called Reform Ohio Now, secured roughly 500,000 signatures, easily exceeding the 322,000 required to place the measure on the ballot. (It is expected to share ballot space with proposals for expanded mail-in balloting, reduced donation limits to candidates and a nonpartisan state elections board.)

"There is tremendous energy, excitement and interest in all of the reform amendments," said Cleveland-based Democratic consultant Jeff Rusnack. "Ohioans are looking for real changes that will hold the politicians accountable. Changing the redistricting process is one way to do this."

Herb Asher, an adviser to Reform Ohio Now and political scientist at Ohio State University, said the group knows the issue is hard to explain in 30-second TV spots, so its goal is to skip the mechanics and focus on big themes.

"You tell voters, 'Hey, we all believe in competition for business and schools, so how about competition in our elections? How about making legislators be more attentive to their own districts?'" Asher said. "By saying something that simple, it captures people's attention."

Asher predicts that if the proponents can pick off one-third of the GOP electorate — not an unreasonable number given today's anti-Republican environment — then the measure should prevail.

Ohio First, a largely Republican group, opposes it. Beyond challenging the measure in court, Ohio First asks whether the proposal is as fair as its sponsors contend, said former Ohio Senate President Richard Finan (R), a Cincinnati lawyer affiliated with Ohio First.

"The argument is, 'Yes, we might need some reform to our method of redistricting, but this is certainly not the way to do it,'" he said. The measure, "is strictly slanted toward one side."

In Ohio, as elsewhere, partisanship is never far from the surface. Indeed, critics have noted the irony that more than two decades ago, the state's then-dominant Democratic Party successfully blocked a GOP-backed redistricting reform effort.

In Florida, a narrowly divided state with a heavily Republican Congressional delegation, signature-gatherers are working to place a redistricting measure on the 2006 ballot. While it's too soon to gauge its level of support — already, one facet of the reform package has been thrown out for exceeding the ballot-summary limit by six words — the proposal's sponsors have one key factor on their side.

"Florida has been very inclined to pass constitutional amendments in the past decade," said Aubrey Jewett, a political scientist at the University of Central Florida, citing a range of recently passed measures that span the ideological spectrum, including those protecting pregnant pigs, banning smoking, restricting net fishing, publicizing doctors' mistakes, cutting contingency fees for lawyers and raising the minimum wage. "If the petitions do get on the ballot, I think the odds of passage are good."

Ironically, California, a trailblazer on the issue since Schwarzenegger's election, now seems to offer the longest odds of passage.

Schwarzenegger's proposal, which would hand redistricting duties to a nonpartisan group of judges, received just 32 percent support in a late-August Field poll, compared to 46 percent who were opposed and 22 percent undecided.

While the challenges facing the California measure mirror those in other states, Schwarzenegger's larger-than-life persona may have shaped public perceptions more than anything — on balance, negatively.

As Schwarzenegger's tone has become more partisan, his popularity has dropped among Democrats and independents — and the redistricting measure has suffered. It now fares even worse in recent polls than Schwarzenegger himself. Field's late-August trial heats showed the governor losing to his two likeliest Democratic challengers.

If Schwarzenegger had framed the issue properly and worked with Democrats consistently and publicly, Schnur and South agree, the effort could have won broad support. As a celebrity with cross-party appeal, the governor could have made it a compelling pox-on-both-your-houses issue.

"The thing about initiatives is that you don't have to explain the details," said Elizabeth Garrett, a University of Southern California law professor who studies ballot initiatives. "It's all about symbolic significance. And a take-back-the-government message could have worked."

Now, however, South said that "if a 35 percent governor passes a 35 percent ballot measure, I'll eat my hat."

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The main beacon of hope for redistricting reformers is Arizona, which passed a statewide ballot measure to create a redistricting commission in 2000.

Two months before Election Day, the measure had just 43 percent support in the polls, recalled Bob Grossfeld, a Democratic consultant in Scottsdale, Ariz. Then, he said, proponents seized on opposition by the state's dominant GOP, enabling undecided voters to "connect the dots" about who benefited from the status quo.

"It was one of the first examples of how populism can trump conservatism," Grossfeld said. "Simply put, the campaign converted more than 25 years of government-is-the-problem rhetoric by conservatives into a double-digit win."

Phoenix-based GOP lobbyist Stuart Goodman agreed that a well-funded, well-run campaign offered "an appealing message."

"The general population is not focused on the political implications of redistricting, but they unquestionably appreciate the importance of fair and competitive elections," Goodman said.

Rep. John Tanner (D-Tenn.), who's sponsoring a redistricting reform bill in the House, agrees that the broader principle of fair play resonates among rank-and-file voters even when they know little about his legislation.

"The people back home are talking about the partisanship they see in Washington, and they're pleased to see Congressman Tanner trying to work on that," said Tanner's spokesman, Randy Ford.

ANTITRUST:

Oracle To Pay $5.85 Billion For Siebel (NYT)

By Laurie J. Flynn

The New York Times, September 13, 2005

SAN FRANCISCO, Sept. 12 - Oracle, the giant database-software maker, announced on Monday that it would pay $5.85 billion to acquire Siebel Systems, its largest competitor in the market for sales automation programs.

The deal will bolster Oracle's effort to topple its German rival SAP as the leading seller of business applications software for big corporations.

It comes less than a year after Oracle managed to achieve a hostile takeover of PeopleSoft for $10.3 billion after a contentious battle that dragged on for nearly 18 months.

Oracle says its acquisition of Siebel will make it the largest seller of sales automation software - a category also known as customer relationship management software. SAP remains a far bigger supplier of business applications over all, but the Siebel acquisition, said Lawrence J. Ellison, Oracle's chief executive, "moves us closer to our goal of being No. 1 in applications globally."

While the Justice Department tried and failed to block the Oracle-PeopleSoft deal on the basis that it was anticompetitive, industry analysts and antitrust experts do not expect the Siebel deal to encounter the same regulatory opposition.

The combined company will face considerable competition from SAP, as well as from Microsoft, I.B.M. and smaller rivals. And Oracle lawyers succeeded in the PeopleSoft case in convincing a judge that the enterprise software market was robust.

Under the terms of the Oracle-Siebel combination, which is subject to the approval of shareholders of both companies, Oracle will pay $10.66 in cash or stock for each Siebel share. Siebel now has $2.24 billion in cash on hand, reducing Oracle's net takeover cost to $3.61 billion.

The news was announced before the opening of the stock market on Monday. In trading, shares of Oracle rose 21 cents, to $13.49. Siebel Systems advanced $1.16, or 12.7 percent, to $10.29 on volume of more than 187 million shares - roughly one in every three of its shares outstanding.

Oracle agreed to exchange stock for up to 30 percent of Siebel. If the Oracle shares fall below $10.72 before the deal is completed, Siebel shareholders who choose stock will receive 0.994 share of Oracle for each share of Siebel stock.

Oracle executives said the deal would add 2 cents to 3 cents a share to Oracle's profit in the 2007 fiscal year, ending in May 2007. The company said it expected to repurchase any shares issued in the acquisition. While Oracle expects to have $5 billion to $6 billion in cash at the time the deal is likely to close, it said it would use about $1.5 billion of its own cash and borrow the rest.

Beyond PeopleSoft, Oracle has acquired several companies in the last year, including Retek, another business software producer, which it bought in March for $643 million.

Mr. Ellison, speaking to analysts in a conference call on Monday, explained that Oracle had decided to wait for a few quarters after it integrated PeopleSoft before pursuing another large deal.

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Once the Siebel acquisition is completed, most likely early in 2006, Oracle said it planned to promote Siebel's customer relationship management program over similar software developed by both Oracle and PeopleSoft. With Siebel, Oracle adds 4,000 customers, including some of the largest corporations, and roughly 3.4 million individual users.

While Oracle's interest in Siebel had been known for some time, reaction was mixed on Wall Street.

Charles Di Bona, an analyst with Sanford C. Bernstein, said he thought that the merger would be far more difficult than Oracle indicated, and that incorporating another major product line into Oracle's development process would be a great challenge.

William Wall, a spokesman for SAP, said the deal would not cause SAP to change its strategy. "We always anticipated that in order for Oracle to try to catch up with SAP, they would take this step," he said. "We have the benefit of several years, and we intend to leverage that."

But it may be Salesforce.com that has the most to gain - or lose - from the Oracle-Siebel merger. The company, whose chief executive, Marc Benioff, was a longtime associate of Mr. Ellison, has had considerable success providing customer relationship management software through an "on demand" subscription service rather than a discrete product, a strategy that many large customers have come to prefer. Siebel, in recent years, has begun moving toward a similar model, and analysts say that Oracle is trying to move in that direction with this merger.

During Oracle's battle to acquire PeopleSoft last year, Mr. Ellison told a court that Siebel had long been on his company's short list of potential targets.

Thomas M. Siebel, the chairman, had been an Oracle executive from 1984 to 1990. He founded Siebel in 1993. Since then, he and Mr. Ellison have sparred bitterly on occasion, but the relationship lacks the intense animosity that characterized Mr. Ellison's relationship with Craig A. Conway, the PeopleSoft chief executive, who unsuccessfully fought to prevent the takeover of his company.

Siebel Systems has faced considerable turmoil in recent years; its revenue dropped to $1.3 billion last year from $2.1 billion in 2001. Mr. Siebel stepped down last year as chief executive and turned the job over to J. Mike Lawrie, a former I.B.M. executive. Siebel's board fired Mr. Lawrie in April after first-quarter results fell far short of expectations. George Shaheen, formerly of Webvan, took over as chief executive, but barely met revenue goals for the second quarter, and new license revenue was disappointing.

Mr. Ellison and Mr. Siebel said Monday that the merger was driven primarily by customers' desire to do business with fewer suppliers, an idea that Mr. Ellison repeated throughout the battle for PeopleSoft.

"What really moved these companies together," Mr. Siebel said, "was a shift in market dynamics that has been occurring over the past three, four, five years."

Where in past years, customers were satisfied to pick and choose the best applications from a variety of vendors, the complexity of business today has led them to want to simplify those relationships, he said.

Siebel has about 5,000 employees at its headquarters in San Mateo, Calif., south of San Francisco, and throughout the world. While Mr. Ellison said that Oracle, based nearby in Redwood Shores, would retain Siebel's specialized sales force, analysts said that many Siebel employees were likely to be laid off as soon as the deal was completed. Oracle laid off nearly half of PeopleSoft's 11,000 employees soon after that deal took effect.

Oracle To Acquire Siebel For $5.85 Bil (SFC)

By Dan Fost

San Francisco Chronicle, September 12, 2005

Redwood City -- Furthering Chairman Larry Ellison's efforts to consolidate the software industry, Oracle Corp. today announced an agreement to acquire one of its biggest rivals, Siebel Systems, for $5.85 billion.

The deal follows a number of previous acquisitions, most notably the $10.6 billion takeover of Peoplesoft that closed in January. The impact on jobs at either company remains unclear.

Oracle this year has also acquired retailing software firms Retek and ProfitLogic, as well as a controlling interest in banking software maker I-flex Solutions.

The Siebel acquisition not only gives Redwood City's Oracle enough ammo to take on its archrival SAP of Germany in the field of customer relationship management, or CRM, software — essentially, software used to manage a company's sales operations — but it also has the delicious twist of allowing the Oracle boss to declare victory over Tom Siebel, a former protege turned enemy.

"In a single step, Oracle becomes the number one CRM applications company in the world," Ellison said in a press release. "Siebel's 4,000 applications customers and 3,400,000 CRM users strengthen our number one position in applications in North America and move us closer to the number one position in applications globally."

In the Siebel deal, Oracle agreed to pay $10.66 for each share of Siebel stock. The San Mateo firm had been struggling this year, with sales down and the stock having dropped from a high of $10.85 in January to a range hovering between $8 and $9 for most of the summer.

Former Webvan CEO George Shaheen came aboard in April as Siebel CEO in an effort to turn the company around, and Wall Street had watched closely since then to see if the company would either make an acquisition or be swallowed up itself.

In casting his lot with his old company, Tom Siebel, who remained chairman of Siebel Systems after Shaheen was hired, said the merger created a "beneficial business combination."

"Today is a great day for Siebel Systems' customers, partners, shareholders, and employees," Siebel said in a statement.

Another rival and former Oracle employee, Salesforce.com founder and CEO Marc Benioff, had another take on the deal. "Now, the same thing that happened to Peoplesoft will happen to Siebel, it will die," Benioff wrote in an e-mail to his employees.

As of 2:16 p.m. Eastern time today, Siebel shares were up 12.8 percent, or $1.17, at $10.30. Oracle shares were up 1.2 percent, or 16 cents, at $13.44.

The deal will need to meet regulatory approval, including an antitrust review. Oracle expects the acquisition to close in January.

Oracle Snaps Up Rival Siebel For $5.8bn (FT)

By James Politi And Chris Nuttall

Financial Times, September 13, 2005

Oracle, the US technology group, on Monday agreed to buy Siebel Systems for $5.85bn in cash and stock, sealing its second large acquisition in less than a year. The purchase will establish Oracle as the world's largest provider of customer relationship management (CRM) software and reunite two of Silicon Valley's most well-known executives.

Thomas Siebel, who established Siebel in 1993 after a career at Oracle, will return to his former employer to help execute the merger.

For Larry Ellison, Oracle's chief executive, the acquisition will cement his reputation as a prolific dealmaker. In December, Oracle agreed to buy PeopleSoft for about $10.5bn, after winning an 18-month takeover battle, seeing off a high-profile, antitrust suit brought by the US Department of Justice.

Mr Ellison on Monday suggested the company's attention would now be focused on integration. "I don't think you'll see another major acquisition any time soon," he said. The purchase of Siebel will give Oracle access to 3.4m users and 4,000 corporate customers of its CRM software, which helps companies track sales, marketing and customer service.

Both Oracle and Siebel said the tie-up was encouraged by a number of key customers, including General Electric. "There was a shift in market dynamics," said Mr Siebel, who added that customers now preferred an "integrated family of applications that minimises their cost structure". Although CRM is one of the fastest growing segments of the software business, Siebel had been struggling to compete, leading to lower profits and prompting a group of investors mostly hedge funds to press management into pursuing a sale.

Mr Ellison shrugged off comments from one analyst who said Siebel was suffering from poor customer satisfaction. In Oracle's due diligence, Mr Ellison said: "Siebel customers seem to be quite happy with the product."

Siebel shareholders will receive $10.66 a share in cash for each Siebel share, unless they elect to receive Oracle stock. That price represents a 17 per cent premium to Siebel share price on Friday, which had already moved higher as investors bet that a takeover was near.

Wall Street investors appeared to offer timid approval, sending Oracle shares 1.43 per cent higher closing Monday's trading day at $13.47. The final price of the deal will be reduced by $2.2bn, the value of Siebel's cash.

Oracle said the deal would enhance earnings in 2007 and contribute to its stated goal of lifting profits by 20 per cent per year. The acquisition would be funded using a combination of Siebel's cash, Oracle's cash, and borrowing of up to $3bn.

Morgan Stanley advised Oracle, and Goldman Sachs advised Siebel.

Oracle To Buy Siebel Systems In $5.85-Billion Deal (LAT)

By Jesus Sanchez

The Los Angeles Times, September 13, 2005

Oracle Corp. today announced it had agreed to buy business software maker Siebel Systems Inc. for $5.85 billion in the most recent in a string of acquisitions orchestrated by chief executive Larry Ellison.

The Siebel deal comes after Oracle emerged victorious in a bidding battle for another software company, Retek Inc., this year, and as it digests PeopleSoft Inc., which agreed to a $10.3-billion acquisition in December after a bitter and lengthy takeover fight.

This most recent acquisition will help Redwood Shores, Calif.-based Oracle close the gap with SAP, the German company that ranks as the largest seller of software used to manage databases, sales and other corporate functions. SAP lost out to Oracle in the bidding for Retek.

San Mateo, Calif.-based Siebel will make Oracle a major player in the fast-growing segment of software that helps companies manage sales operations and customer relations. Last year, Siebel, founded by Chairman Thomas M. Siebel, a former Oracle executive, generated $110.7 million in net income on $1.34 billion in revenue.

"This is a very beneficial business combination," Siebel said in a statement.

Under the deal, Oracle will purchase each Siebel share for $10.66 in cash unless the owner of the stock decides to receive Oracle stock.

The merger, which is subject to regulatory review, has been approved by the boards of Oracle and Siebel. Siebel shareholders must still vote on the deal, but a vote by Oracle shareholders is not required, according to the company.

Shares of both companies rose on news of the deal. Siebel shares jumped nearly 13%, while Oracle stock was up about 1% in early afternoon trading on the Nasdaq.

Ellison has made it clear that he intends to bolster Oracle's main database business by acquiring more companies in the lucrative market for business software. But Oracle's shopping spree had raised concern among some industry analysts about the company's ability to mesh operations with newly acquired companies.

Oracle To Buy Siebel For $5.85 Billion (WSJ)

By David Bank

The Wall Street Journal, September 13, 2005

Oracle Corp. Chief Executive Larry Ellison extended his software consolidation strategy, reaching a long-anticipated deal with his former lieutenant and frequent sparring partner Thomas Siebel to acquire Siebel Systems Inc. for $5.85 billion in stock and cash.

The deal, valued at about $3.61 billion after accounting for Siebel's holding of about $2.2 billion in cash, allows Oracle to absorb the 3.4 million users of Siebel's software for automating sales operations. Oracle has been using acquisitions to try to catch SAP AG of Germany, the leader in the market for business-software applications

The strategy, honed with Oracle's PeopleSoft Inc. purchase earlier this year, is intended to add the existing business of a target company while broadening the customer base for Oracle's existing products. Oracle, though No. 3 behind Microsoft Corp. and International Business Machine Corp. in total software revenue, lags only SAP in business application programs. But with the addition of Siebel, Oracle now faces the challenge of integrating another large acquisition while it is still digesting PeopleSoft, which it acquired for $10.6 billion after a grueling, 18-month takeover battle. Since then, Oracle has completed a half-dozen smaller acquisitions.

Oracle will bear the cost of maintaining three product lines of so-called customer-relationship management software, as it continues to offer its own system and PeopleSoft's while adding Siebel's. It will also have the expense of a separate sales force for Siebel's product lines. Charles Phillips, one of three Oracle co-presidents, said recent changes to Siebel's sales structure had disrupted the company's business, but added, "We can fix that."

Oracle predicted the deal will close early next year, after approval by Siebel shareholders. The acquisition is expected to face an antitrust review by the Justice Department, which unsuccessfully sought to block Oracle's purchase of PeopleSoft.

Analysts said they don't expect strong opposition this time; Oracle has lagged well behind SAP and Siebel in CRM software, and Oracle's marketing of Siebel products could potentially increase competition in the market.

Oracle executives, who are expected to aggressively cut costs at Siebel, said the deal will add two to three cents a share to Oracle's profits in fiscal year 2007, ending in May 2007, not including acquisition-related charges. Oracle plans to repurchase a number of shares equal to those issued in the acquisition, giving the effect of an all-cash deal for the company. Oracle said it will use about $1.5 billion of its own cash and will borrow the rest.

Mr. Siebel's 10.6% ownership of Siebel's shares stands to earn him a payoff of about $585 million, not including his stock options. Earlier this year, Siebel sweetened the terms of its severance-payment agreements for key employees, with top executives eligible for up to 18 months pay and health coverage.

The acquisition brings full circle the 23-year relationship between two of Silicon Valley's strongest personalities. Mr. Siebel was a top Oracle salesman before leaving the company under disputed circumstances in 1992. Since founding Siebel Systems in 1993, he has been an outspoken critic of his former boss, at times calling Mr. Ellison a "pathological" liar.

For his part, Mr. Ellison in the past sought to hasten Siebel's demise, declaring in 2003 that "Siebel will vanish," and putting pressure on the smaller company by revealing he had held takeover talks with Mr. Siebel the previous year. In recounting those

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discussions, Mr. Siebel said he told Mr. Ellison, "Larry, you and I worked together for nine years, and that was enough," Information Week reported in 2004.

By this year, Mr. Siebel had become a willing seller, and yesterday he called the combination "a wonderfully exciting event." Mr. Siebel, who built his company into one of technology's highest-fliers, watched its new software sales plummet in recent years as information-technology buyers grew wary of high-priced and complicated automation projects.

Where customers once bought individual "best of breed" products for specific chores, Mr. Siebel said, those companies now want a single supplier to provide programs that work well together. Oracle has pledged to deliver an integrated suite of applications, dubbed "Project Fusion," starting in 2007.

What brought Oracle and Siebel together "was a shift in market dynamics," Mr. Siebel told analysts. "The customer and partner community is communicating quite clearly and voting with their dollars that what they are looking for here is an integrated family of applications," he said.

Even so, the on-again, off-again negotiations required a go-between -- Oracle's Mr. Phillips, who largely handled the talks with Mr. Siebel on Mr. Ellison's behalf. "Sometimes you do need an intermediary between two strong-willed people," Mr. Phillips said.

Oracle agreed to pay $10.66 a share, a premium of roughly 17% to Siebel's closing price Friday of $9.13. Shares of Siebelrose more than 8% late last week as rumors spread that the two companies had been negotiating for weeks and that an agreement was imminent. Monday, Siebel's shares rose 13% or $1.16 to $10.29 in 4 p.m. Nasdaq Stock Market composite trading. Oracle's shares rose 1.6% or 21 cents to $13.49, also on Nasdaq.

The talks had gone cold last May, and then accelerated in the past month, Mr. Phillips said, after Oracle acquired control of Indian software company i-flex Solutions Ltd. As late as Sunday afternoon, the two sides had reached an impasse over the offer price. "We were one penny away and we almost came apart over one penny," Mr. Phillips said, declining to provide further details. "Every penny was negotiated."

At Siebel's insistence, Oracle agreed to exchange stock for up to 30% of Siebel's shares. If Oracle's shares fall below $10.72 before the deal closes, Siebel shareholders that choose to receive stock will receive 0.994 shares of Oracle for each share of Siebel stock.

[by Oracle]SAP's chief executive, Henning Kagermann, played down the significance of the Oracle-Siebel combination. "We see no impact and no reason to react," he said. Mr. Kagermann predicted further industry consolidation, describing any deals SAP is likely to make as "targeted, fill-in acquisitions," with a price range in the hundreds of millions of dollars, rather than billions.

For IBM, the Siebel deal raises concerns about the computer giant's partners falling under the control of a competitor. IBM and Oracle compete fiercely in database software. Siebel has worked closely with IBM, as did PeopleSoft and J.D. Edwards -- purchased by PeopleSoft -- and retail-software maker Retek Inc., purchased by Oracle.

IBM said in a statement that its strategy is to be a "key partner" to thousands of software vendors. "We will continue to provide customers with IBM hardware, middleware and services for Siebel and other applications -- just as we continue to do so for PeopleSoft," the company said.

Separately, Mr. Ellison has tentatively agreed to pay $100 million to charity over five years to settle private insider trading charges, according to a lawyer representing shareholders who were plaintiffs in the case. The shareholder derivative suit, filed in Superior Court in San Mateo, Calif., stemmed from Mr. Ellison's sales of stock in 2001 before news that Oracle would not meet financial targets, which caused its shares to decline.

The settlement still must be approved by Oracle's board of directors and the court, said Joseph Tabacco Jr., an attorney with Berman DeValerio Pease Tabacco Burt & Pucillo representing plaintiffs in the case. In addition to the payment by Mr. Ellison to charities of his choosing, lawyers involved would receive up to $22.5 million, Mr. Tabacco said. The settlement was reported Monday by the New York Times.

An Oracle spokeswoman declined to comment. A lawyer for Mr. Ellison couldn't immediately be reached.

Oracle To Buy Siebel For $5.53 Billion (WP)

By Mike Musgrove

The Washington Post, September 13, 2005

Oracle Corp. said yesterday that it has agreed to buy Siebel Systems Inc. in a deal valued at $5.53 billion. If approved, the acquisition would give Oracle an edge on its chief competitor, German firm SAP AG, and reunite top executives who have been bitter Silicon Valley rivals.

Oracle is the world's largest database software company, and Siebel, with a customer base of 3.4 million, is the leader in customer relationship management, or CRM, software, which helps companies organize sales, client and marketing data.

Oracle, which finally won approval of its hostile takeover for rival PeopleSoft earlier this year, has been on a buying spree as a way of bolstering its position against SAP and diversifying its product portfolio. The battle for PeopleSoft, which sparked antitrust concerns from the Department of Justice and European regulators, lasted 18 months before closing in January for $10 billion.

A Justice Department spokeswoman, Gina Talamona, said it was too soon for the agency to comment on Oracle's planned acquisition. "It's certainly something we'd be interested in taking a look at," she said.

Analysts said Oracle's proposed acquisition may not generate the same type of controversy as the PeopleSoft deal because it's not considered a hostile takeover bid and the combined company would not dominate the CRM market.

The acquisition would give Oracle a business that generates $1.6 billion in annual revenue in a CRM market worth $8.8 billion, according to research firm IDC.

If approved, the deal also reunites top executives who have publicly displayed animosity toward each other. Siebel Chairman Thomas M. Siebel spent years as an Oracle executive. When he left to start his own company, the animosity between him and Oracle chief executive Lawrence J. Ellison became part of Silicon Valley lore.

The two were chummy in a conference call with Wall Street analysts yesterday as they pitched the acquisition as a boon to shareholders, employees and customers of both companies.

"In a single step, Oracle becomes the number one CRM applications company in the world," Ellison said in a statement, adding that the deal was encouraged by large customers who wanted to see products from each of the companies work together better. "GE and other mutual customers have long encouraged both companies to get together."

Oracle agreed to pay $10.66 per share, a premium of $1.53 over Siebel's closing price of $9.13 on Friday. After deducting Siebel's $2.24 billion in on-hand cash, Oracle would effectively pay $3.29 billion. In addition, Siebel shareholders could elect to exchange their shares for Oracle stock instead of cash. But if more than 30 percent of Siebel's outstanding shares are offered, Oracle said, it would prorate the exchange.

Siebel's stock reacted to the news yesterday by jumping more than 12 percent, or $1.16, to close at $10.29. Oracle's stock rose slightly, up 21 cents to close at $13.49.

The deal is expected to close early next year.

Thomas Siebel, who controlled about 55 million shares -- or more than 10 percent -- of the company as of April, characterized the deal as "wonderfully exciting" and a "natural business combination."

Tom Dwyer, and analyst at the Yankee Group, called the acquisition a "logical marriage" and another sign of the amount of consolidation in the business application market.

But others, including Janet White of Info-Tech Research Group, criticized Oracle for its slow integration of product lines it's already acquired and said the company has overcommitted itself to support the products created by competitors it has acquired.

"You have to wonder how many resources are left over for innovating any new products or services," she said .

Oracle To Buy Rival Siebel In $5.85B Deal (AP)

By Michael Liedtke, AP Business Writer

AP, September 13, 2005

SAN FRANCISCO (AP) -- Oracle Corp. is buying hobbled Siebel Systems Inc. for about $5.85 billion, eliminating another competitor in its campaign to grab market share from business applications software leader SAP AG.

Under the terms of the deal announced Monday, Redwood Shores-based Oracle will pay $10.66 per share in cash or stock for Siebel, whose products help manage companies' relations with customers.

The price represented a 17 percent premium from Siebel's market value entering Monday. Despite four years of flagging fortunes, Siebel still has $2.24 billion in cash, reducing Oracle's net takeover cost to $3.6 billion.

Shares of San Mateo-based Siebel rose $1.16, or nearly 13 percent, to close at $10.29 during late afternoon trading on the Nasdaq Stock Market, where Oracle's shares gained 21 cents to finish at $13.49.

The deal accelerates the drive by Oracle CEO Larry Ellison to overtake SAP as the world's largest maker of business applications software, which automates a wide range of administrative tasks.

In the past nine months, Oracle has either completed or announced five takeovers in the field, an expansion that has cost more than $17.6 billion. Among the acquired was PeopleSoft Inc., which like Siebel Systems was run by a former Oracle executive who had developed a frosty relationship Ellison.

For its part, SAP downplayed the significance of Oracle's latest conquest.

"Oracle is in the business to buy customers. Ours is to service customers," said SAP spokesman Tony Roddam.

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The Siebel acquisition, expected to close early next year, affects about 4,000 customers. The company has about 5,000 workers, many of whom are expected to lose their jobs as Oracle cuts costs in an effort to boost its profits by about 20 percent annually.

Industry analyst Richard Williams of Garban Institutional Equities predicted Oracle will lay off more than 2,000 workers, based on the percentage of jobs the company eliminated after devouring PeopleSoft, which had about 11,000 employees. Oracle fired 5,000 workers after that deal.

Oracle executives acknowledged that layoffs are likely but didn't provide specific projections in a Monday conference call.

Oracle's intensifying focus on business applications software largely reflects the slowing growth of its database product line, which accounts for more than three-fourths of the company's sales.

Ellison also wants to deepen Oracle's stack of technology products to compete with two other longtime rivals, Microsoft Corp. and IBM Corp.

"Oracle was behind the curve so it needed to buy some big headline-making companies and feed off their technology," Williams said. "They really didn't have much choice, unless they wanted to see their stock price cut in half. They needed to keep their sales growing, and to do that, they need to cannibalize smaller companies."

The big question now is whether Oracle has bitten off more than it can chew, said Octavio Marenzi, chief executive of Celent, a technology consultancy. "Mergers are always difficult, so doing so many at once only compounds the difficult," he said. "This appears to be an unduly risky strategy."

AMR Research analyst Jim Shepherd believes Oracle can pull it off, primarily because the PeopleSoft takeover has gone more smoothly than most industry experts anticipated.

Ellison began preparing for a software industry shakeout in 2003 when he drew up a list of potential takeover targets topped by PeopleSoft and Siebel Systems, according to documents released in an antitrust trial last year.

Oracle first stalked PeopleSoft, launching an 18-month takeover battle that culminated in a $11.1 billion acquisition last December.

That deal pitted Ellison against one of his former Oracle lieutenants, Craig Conway, who spearheaded PeopleSoft's staunch resistance to the takeover bid until he was fired a few months before the two sides negotiated a truce.

The U.S. Department of Justice tried to derail Oracle's bid for PeopleSoft, arguing that the combination would stifle competition. But a federal judge brushed aside the government's objections and cleared the deal, making it unlikely regulators will oppose Oracle's takeover of Siebel Systems, which is much smaller.

European regulators also must approve the takeover.

Siebel Systems is run by Tom Siebel, who has occasionally sniped at his former boss since leaving Oracle and starting his own company in 1993.

But Tom Siebel, who is his company's chairman and largest individual shareholder, welcomed Oracle's takeover offer, calling it a "wonderful, exciting event" during Monday's conference call.

In the same call, Ellison said Siebel, 52, is expected to remain with Oracle for a few years, but didn't provide specific details. Siebel is in line to pocket nearly $600 million by selling his Siebel Systems stock to Oracle.

Siebel Systems has been shrinking since 2001 amid weakening demand for its main product -- customer relationship management, or CRM, software that helps companies analyze their sales patterns and market their products.

The niche accounts for about $3.5 billion in new software sales annually according to Gartner Inc., but Siebel Systems has been losing market share to SAP, Oracle and an Internet startup, Salesforce.com Inc.

"Siebel could see the writing on the wall and knew the time had come to make a deal," said Yankee Group analyst Tom Dwyer.

Siebel's annual revenue has plunged from a peak of $2.1 billion in 2001 to $1.3 billion last year, a slump that has dragged down the company's stock from its highs of more than $100 per share.

Hoping to turn things around last year, Tom Siebel stepped down as the company's CEO and turned over the reins to a veteran IBM executive, Mike Lawrie.

But sales continued to falter, prompting the company's board to oust Lawrie in April and replace him with George Shaheen, an executive best known in Silicon Valley for overseeing the expensive demise of online grocer Webvan Group Inc.

Oracle Agrees To Buy Siebel Systems For $5.85 Bln (BLOOM)

Bloomberg, September 12, 2005

Sept. 12 (Bloomberg) -- Oracle Corp., the world's third-largest software maker, agreed to buy Siebel Systems Inc. for $5.85 billion, leapfrogging SAP AG to become the top seller of programs that manage customer relations.

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Siebel investors will receive $10.66 a share in cash or stock, Redwood City, California-based Oracle said today in a statement. That's 17 percent more than Siebel's closing price Sept. 9.

The purchase, Oracle's seventh this year, reunites Chief Executive Officer Larry Ellison and former protege Tom Siebel. The acquisition also helps Oracle tap the biggest and fastest-growing class of business applications. Siebel lost the top spot in the market to Germany's SAP in 2004 because clients wanted to buy broader packages of software that run everything from customer service to accounting to human resources.

``Siebel had a business that didn't appear fixable,'' said Herbert Denton, president of Providence Capital Inc. in New York, which has been among the holders calling for the company to be sold. ``The notion that they were going to get back to double digit-growth was far-fetched and reality caught up with the board.''

The deal builds on a process that began with the $10.6 billion hostile takeover of PeopleSoft Inc. in January to help cut Oracle's reliance on database software, which makes up 80 percent of sales. The Siebel bid came after clients including General Electric Co. encouraged the deal, Ellison, 61, said on a conference call today.

Siebel shares gained $1.17 to $10.30 at 3:29 p.m. New York time in Nasdaq Stock Market composite trading. They had dropped 13 percent this year before today. Trading in Siebel call options, which are a bet that the share price will rise, surged Sept. 9, rising to 73,383 contracts, from 1,761 the day before. The stock rose 5.2 percent Sept. 9.

Oracle rose 16 cents to $13.44 and lost 3.2 percent before today. Shares of SAP, which still outpaces Oracle in the overall market for applications, fell 10 cents to $44.23 in New York.

Job Cuts?

The purchase, negotiated between Oracle co-President Charles Phillips and Tom Siebel in the past several months, accelerates consolidation in the software industry. Anti-virus program maker Symantec Corp. bought Veritas Software Corp. in July. International Business Machines Corp. in May bought Ascential Software Corp.

Siebel is attractive because it has a wider set of programs in this area than competitors, with some fine-tuned for industries such as financial services, communications and government, Ellison said.

The company may fire as many workers as it did after the PeopleSoft purchase, when Oracle cut 5,000 jobs, said Andrew Brosseau, an analyst at SG Cowen Securities Corp. in Boston. Siebel had 5,089 employees as of last quarter.

``Oracle is buying a more-complete product portfolio from a company that's been failing to execute,'' Brosseau said. The firm doesn't have ratings on either company.

PeopleSoft Done

The customer-service market will grow to $10 billion by 2009 from $8 billion in 2004, Oracle said citing researcher IDC.

Customer-service software lets businesses keep track of interactions with customers: the status of their accounts, what products they own, contact information, and call logs to keep track of all interactions with them.

``We wouldn't make any other large acquisitions until we had a few successful quarters showing that the PeopleSoft integration had worked,'' Ellison said on the call about the timing of today's deal. The PeopleSoft ``integration is complete. The numbers are good.''

Siebel's Fall

Tom Siebel, 52, founded the company in 1993, three years after leaving his job as a marketing executive at Oracle. The Internet boom fueled sales, propelling the stock to a high of $119.31 in November 2000 and giving Siebel a market value of $63.2 billion.

Since then, his San Mateo, California-based company has had three years of declining sales because Siebel didn't sell a wide enough variety of programs.

Siebel this year has cut jobs and research spending to help shore up its results after ousting former CEO Mike Lawrie in April after less than a year on the job. New CEO George Shaheen in July blamed the second-quarter loss on a failure to clinch large orders.

Ellison first mentioned it as a takeover target in June 2004 during an antitrust trial over Oracle's PeopleSoft bid.

Tom Siebel will work with Oracle for an undisclosed number of years in an undisclosed role, Ellison said. Tom Siebel, the biggest shareholder with 6.94 percent of the stock, will receive about $386.3 million for his stake.

Hedge funds Tudor Investment Corp. and SAC Capital Advisors LLC may earn about 18 percent on their investments, made in the second quarter. Tudor, run by Paul Tudor Jones and Siebel's No. 2 holder as of June 30, may yield a potential profit of about $51.7 million. SAC in Stamford, Connecticut, founded by Steven Cohen, has a potential gain of about $13.8 million.

Cash or Stock

Ellison said the acquisition will also help Oracle, which has spent more than $18 billion on takeovers this year, bolster its on- demand software business, where customers pay a fixed monthly fee per user to use software over the Internet.

Siebel, which provides its on-demand service with IBM, said it has about 40,000 subscribers for its service. San Francisco-based Salesforce.com Inc. says it's the market leader, with 308,000 users. Microsoft Corp. CEO Steve Ballmer said last week the company is also working on a service to rival Salesforce.com.

Siebel holders will receive cash unless they prefer stock. No more than 30 percent of Siebel's shares may be exchanged for stock. If more holders want shares, the equity part will be pro-rated.

If Oracle's average share price is at or above $10.72 prior to close, holders can receive $10.66 per share of value in Oracle stock. If the average price is less than $10.72, holders receive 0.994 shares of Oracle for each share of Siebel.

The deal will add to Oracle's profit in its first full year in fiscal 2007, excluding some costs, Oracle said. The purchase needs regulatory approval and is expected to close in early 2006. Siebel has cash and short-term investments of $2.2 billion.

Morgan Stanley represented Oracle and Goldman Sachs and Perseus LLC handled the deal for Siebel, the companies said today.

To contact the reporter on this story: Connie Guglielmo in San Francisco at cguglielmo1@bloomberg.net; Rebecca Barr in New York at rbarr1@bloomberg.net. Last Updated: September 12, 2005 15:31 EDT

2nd UPDATE: Oracle To Buy Siebel For $5.85 Billion (DOWJONES)

Dow Jones Newswires, September 12, 2005

NEW YORK -(Dow Jones)- Oracle Corp. (ORCL) (ORCL) agreed to buy fellow business software maker Siebel Systems Inc. (SEBL) (SEBL) for about $5.85 billion in a deal meant to bolster Oracle's challenge to market leader SAP AG (SAP) (SAP).

If the deal closes as planned in early 2006, Oracle, which has been playing the role of industry consolidator, will have spent about $17 billion on acquisitions to shore up its applications business in a span of about 12 months.

Oracle has been expanding in applications - software that performs functions such as managing finances, monitoring supplies, and tracking customer data - to augment its larger database business, which faces robust challenges from International Business Machines Corp. (IBM) (IBM), Microsoft Corp. (MSFT) (MSFT), and the open-source community.

In the long-anticipated deal, Oracle agreed to pay $10.66 a share for Siebel - a premium of about 17% to Siebel's closing price Friday. Oracle will pay for up to 30% of the deal with its stock. The remainder will be financed with about $3 billion in debt and about $1.5 billion from cash reserves. Those cash reserves will be replenished through Siebel's $2.24 billion cash pile.

Rival SAP played down the impact of the deal. "We see no impact and no reason to react," Chief Executive Henning Kagermann told The Wall Street Journal in a telephone interview Monday. Any acquisitions SAP is likely to make would be " targeted, fill-in acquisitions" that would "help us improve our product portfolio," he said.

In a conference call Monday, Oracle Chief Executive Larry Ellison said the deal meets the company's two main acquisition criteria: it's immediately accretive to earnings and it's strategically sound.

On the same call, Chief Financial Officer Greg Maffei said Siebel would add 2 cents to 3 cents a share to Oracle's fiscal 2007 earnings. That represents a modest boost of 2% to 3% to earnings in the fiscal year ending May 2007. Analysts on average estimate Oracle's pro forma earnings per share at 92 cents a share, according to Thomson First Call.

Ellison said Siebel would contribute to Oracle's goal of 20% annual earnings growth. He said Oracle was ready for another big acquisition after integrating PeopleSoft, which the company bought for about $10.6 billion after an 18-month hostile takeover battle. The company would now focus its energies on smaller deals. "I don't think you'll see another major acquisition anytime soon," said Ellison.

For the fiscal year ended May 31, Oracle earned $2.89 billion, or 55 cents a share, on revenue of $11.8 billion. Income before items was 68 cents a share. Siebel earned $110.7 million, or 20 cents a share, on revenue of $1.34 billion, in 2004.

Analysts were skeptical of the deal, saying it adds confusion and complexity to Oracle's applications business, which has struggled in the past and is in the midst of a major product redesign. It also brings into the fold a company with few growth prospects.

"The bottom line is Siebel can't grow," said Richard Williams, an analyst with Garban Institutional Equities, who doesn't own shares in either company and whose firm doesn't have a banking relationship with the companies.

"Oracle appears to be close to biting off more than they can chew," said Octavio Marenzi, Chief Executive of research and consulting firm Celent. "Oracle risks trying to integrate too many pieces at once. At the same time, the CRM market has lost its bloom."

Credit rating agency Fitch put Oracle's A- credit rating on negative watch. " Fitch remains concerned about integration risks associated with the...acquisitions (of Siebel and PeopleSoft)," Fitch said in a statement. "(Fitch) also believes successful integration and cost-cutting initiatives from these various acquisitions could result in Oracle having stronger operating fundamentals and a more competitive position."

Siebel, the leader in the $8 billion customer relationship management software market, has issued profit warnings for the last two consecutive quarters, with new software sales disappointing. It also ousted Chief Executive J. Michael Lawrie after the disappointing first quarter.

Siebel is getting squeezed by bigger players like Oracle and SAP, as well as by more nimble vendors such as Salesforce.com Inc. (CRM) (CRM). Tom Siebel, Siebel's founder and chairman, acknowledged that a market shift that favored vendors that sell a broader suite of products, like Oracle, was a driving force behind the decision to sell the company.

Salesforce.com (CRM), which offers its software as a Web-based service, sees Siebel's acquisition by Oracle as a chance for it to gain market share. "The opportunity to be the global leader in the CRM market has opened for salesforce.com," Chief Executive Marc Benioff said a statement. "Our dream is becoming reality."

Salesforce.com (CRM) user base is only about 10% of Siebel's 3.4 million users, but it's been growing rapidly unlike Siebel.

In recent months, Siebel had battled against the sale, rebuffing activist investors and espousing a go-it-alone growth strategy. In May, Siebel promised its nearly 5,300 employees more severance pay and health coverage if the company was acquired.

But that drive for independence appears to have given way to the certainty of cash and a clear exit. Tom Siebel alone stands to cash in nearly $400 million - a payout he would have had difficulty realizing if his company remained independent.

Siebel's board has voted in favor of the deal, and Tom Siebel, who will have an undefined role at Oracle following the deal, has agreed to vote his shares for the transaction. He controls almost 7% of the company's stock.

Oracle's Ellison said Siebel's integration would be "dramatically easier" than PeopleSoft's, because the deal for Siebel was friendly and because of the experience gained in the PeopleSoft process.

He also said Oracle would support Siebel products for "many, many years to come" and would retain Siebel's sales force.

Oracle is currently committed to support PeopleSoft products through 2013, and is in the process of melding PeopleSoft and Oracle applications into a single system, called Fusion, which is due to be rolled out in 2008.

Oracle, PeopleSoft, as well as J.D. Edwards - a company acquired along with PeopleSoft - all have products with sales support and customer service functions similar to Siebel's. Still, Siebel is the recognized industry leader.

The deal is subject to approval by Siebel's shareholders and regulatory authorities. Oracle shareholder approval isn't required, because of the relatively small number of shares involved.

Oracle isn't likely to face the same amount of regulatory resistance as it did when it sought to take over PeopleSoft, because the deal's friendly and U.S. antitrust officials are still smarting from the PeopleSoft setback, said Jeff Comport, an analyst with industry research firm Gartner.

The conversion rate of Oracle's shares will be fixed by the average price of Oracle stock in the 10 trading days before closing. If Oracle's average share price is at or above $10.72 before closing, Siebel shareholders who choose to receive stock will get $10.66 a share in Oracle stock for each share of Siebel stock held.

If Oracle's average share price before closing is less than $10.72 a share, Siebel shareholders who choose stock will receive 0.994 Oracle shares for each share of Siebel stock held. This would result in a value of less than $10.66 a share.

Oracle plans to repurchase an amount of shares equal to the number of shares issued in the transaction to address dilution concerns.

Oracle shares were recently trading at $13.46, up 18 cents or 1.4%. Siebel shares rose 12.9% at $10.31.

-By Chris Reiter, Dow Jones Newswires; 201-938-5244; chris.reiter@dowjones.com

Regulators Move Ahead On Two Phone Mergers (AP)

By JENNIFER C. KERR, Associated Press Writer

AP, September 13, 2005

WASHINGTON (AP) -- The head of the Federal Communications Commission has asked agency staff to draft orders approving two big phone company mergers - SBC Communications Inc. with AT&T, and Verizon Communications Inc. with MCI Inc.

FCC chairman Kevin Martin wants the commission to take a final vote on the deals next month, two people with firsthand knowledge of the issue said Monday. They were authorized to speak about the drafts only on the condition of anonymity.

The sources would not say what conditions might be placed on the mergers to ensure competition is not compromised.

An FCC spokesman declined to comment.

SBC's deal to acquire AT&T is valued at $16 billion while Verizon is offering $8.5 billion for MCI. SBC and Verizon already are the largest regional phone companies, known informally as "Baby Bells." The mergers would enhance their base of business customers and expand their national and international presence.

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The Bells have been peeling away long-distance customers from AT&T and MCI by offering unlimited national calling for a set rate.

Martin's request for drafts of approval signal his intention to press ahead with the mergers despite the 2-2 split between Republicans and Democrats on the commission. The decision also seems to indicate Martin's willingness to reach out to the Democrats to craft an agreement.

The White House has not given any hint as to when it might fill the FCC's open fifth seat, which will go to a Republican.

The Justice Department also will have to sign off on the mergers.

Analysts expect the mergers will come with conditions to ensure competition is retained in different service areas. For example, Jessica Zufolo, senior policy analyst with Medley Global Advisors, said regulators have expressed concerns about special access lines - the fiber optic lines that allow large businesses to hook to the Internet and the interstate network.

"Once you eliminate AT&T and MCI, the fear is that the Bells will be able to establish a bottleneck to large business users," she said.

Consumer advocates say AT&T and MCI are the only real competitors to the Bells in those markets, and that competition will disappear if the mergers gain approval.

"We're losing serious competitors for the residential consumer and the business market," said Mark Cooper, research director at the Consumer Federation of America.

SBC spokesman Michael Balmoris declined to comment on Martin's decision to move toward approval of the mergers, saying only that the company remains "optimistic the FCC recognizes the benefits the merger will bring in terms of greater choice, and access to new technologies."

Verizon spokesman David Fish said its merger with MCI would benefit consumers and should get all the necessary regulatory approvals later this year or early next year.

EBay To Acquire Internet Phone Leader (WP)

By Jonathan Krim

The Washington Post, September 13, 2005

Online auction giant eBay Inc. announced a deal yesterday to become one of the world's largest telecommunications companies, buying Internet phone-service leader Skype Technologies SA.

Although Luxembourg-based Skype is relatively unknown in the United States, it has amassed 54 million global customers in less than three years by offering free calls between those who use its software.

EBay became a commerce powerhouse by hosting everything from auctions of grandma's collectibles to retail sales of new furniture and electronics, but its growth has stagnated, and analysts said the Skype deal is an effort to inject new life. The company said it sees Skype's technology as a vital tool for letting buyers and sellers talk to each other, exchange information and close sales more rapidly.

The deal would vault eBay ahead of other technology titans such as Microsoft Corp., Google Inc. and Yahoo Inc. in developing services to make voice calling an additional feature of using personal computers, akin to e-mail or instant messaging. EBay said it would pay $2.6 billion in cash and stock for Skype, along with future payments that could total an additional $1.5 billion.

Founded by business partners who developed the Kazaa file-sharing service for online music and videos, Skype quickly dwarfed other Internet-based phone companies such as Vonage Holdings Corp., which recently celebrated its 1 millionth customer.

Large cable and telephone firms, such as AT&T Corp., Verizon Communications Inc. and Comcast Corp., also are starting to offer online phone service. They typically charge $20 to $35 per month for unlimited calling in the United States, including free add-ons such as voice mail and call forwarding, and consumers use regular telephone handsets attached to special computer modems that handle the voice calls.

Skype's service and technology differ dramatically from those offerings. Making a Skype call is more like sending an instant message from a personal computer; all that is required is an Internet connection, a microphone for talking, and speakers or a headset for listening.

Skype charges nothing for its software but makes money by charging small fees for making calls to non-Skype users and for talking to people on regular phone networks. Voice mail also is extra.

"By combining the two leading e-commerce franchises, eBay and [online payment service] PayPal, with the leader in Internet voice communications, we will create an extraordinarily powerful environment for business on the Net," eBay chief executive Margaret C. Whitman said in a statement.

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In addition to boosting sales, which would earn eBay more commissions, company officials envision Skype accelerating types of electronic commerce that depend heavily on voice conversation, such as personal services, real estate and new cars.

Skype would continue to operate as a separate business, with founders Niklas Zennstrom of Sweden and Janus Friis of Denmark remaining at the helm. The deal would make rich men of the pair, who had been considered outlaws by the U.S. entertainment industry for developing Kazaa, which they sold in 2002.

Zennstrom remains a target of some U.S. litigation accusing Kazaa of facilitating piracy of copyrighted music, videos and software. Skype makes use of the same, underlying "peer-to-peer" technology as Kazaa but carries none of the legal issues.

In an interview, Whitman said Internet telephone service using downloadable software is the future. She cited statistics indicating that by 2009, an estimated 1.5 trillion minutes of voice calls will be Internet-based.

She added that Skype is well ahead of its competition for such systems and already is partnering with such companies as Motorola Inc. for handsets that will work with Skype.

"But we would not have done this if that is all we could see," she said, insisting that integrating Skype, eBay auctions and PayPal would yield significant new revenue for eBay's current businesses.

Closely held Skype had sales of about $7 million last year and is projected to bring in $200 million next year, according to the companies, causing some analysts to question the price eBay paid.

"It's a pretty big number and a pretty big gamble," said Carmi Levy, senior research analyst with Info-Tech Research Group of London, Ontario.

But Levy said that eBay's growth had become stagnant and that it needed to find a way to make its auctions more dynamic.

Zennstrom said in a statement that his vision was always "to build the world's largest communications business and revolutionize the ease with which people can communicate through the Internet. We can't think of a better platform . . . than with eBay and PayPal."

Analysts said the deal would accelerate the evolution of two new classes of voice communication providers.

Led by Skype, one group makes voice a part of the suite of applications on the computer "desktop." These include Google, Yahoo and Microsoft.

The other is made up of telephone and cable companies that seek to make voice calling part of the suite of offerings that comes with high-speed Internet access and television services.

Left out in the cold, said Kate Griffin, consumer technologies analyst for the Yankee Group, could be unaffiliated Internet-phone providers such as Vonage or 8x8 Inc.

Whitman said she does not expect Skype to be a substitute for basic telephone service for a long time, in the same way that eBay auctions have not replaced retail stores.

EBay's new competitors reacted cautiously.

A BellSouth Corp. spokesman said that his company takes Skype seriously and that it should be expected to fulfill the same obligations as other carriers, such as providing 911 services.

Whitman acknowledged that joining the ranks of communications companies would require eBay to "get to know a whole new set of players" in Washington and elsewhere.

EBay To Buy Skype For $2.6 Billion (WSJ)

By Mylene Mangalindan And Christopher Rhoads

The Wall Street Journal, September 13, 2005

EBay Inc. said it agreed to acquire Internet-calling start-up Skype Technologies SA for about $2.6 billion in cash and stock, posing a new threat to phone companies and expanding the online-auction company's revenue sources.

Founded in 2002, Luxembourg's Skype allows its subscribers to talk to one another over personal computers free. It also allows cut-rate voice calls from PCs to regular phones or cellphones. Skype, which employs about 200 people, has signed up 54 million users, mainly in Europe and Asia so far, making it one of the fastest-growing online communities.

EBay officials said the acquisition gives the company a new way to reach millions of potential customers, to help customers make complicated transactions, and to open up ways to generate revenue from services such as classified advertisements. Chief Executive Meg Whitman said Skype will also help eBay penetrate developing markets such as India, Brazil, Russia and China that offer huge growth potential but typically have lower levels of trust in Internet-based commerce. "It allows us to create this unique e-commerce engine for buyers and sellers around the world," Ms. Whitman said.

For the telecommunications industry, the deal could raise the stakes in a market already roiled by rapid consolidation in recent months and the infusion of a host of new competitors offering Internet phoning, including cable companies and start-ups

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like Vonage Holdings Corp. Skype's U.S. presence remains relatively small compared with its visibility in Europe and Asia -- something the eBay deal could help change.

"We think Skype can grow with this association in helping it become the voice of the Internet," said Kelly Larabee, a Skype spokeswoman.

Consumers are increasingly using the Web for voice calls, much as they use it for emailing. Voice services are offered not just by phone companies but also by videogame concerns and Internet companies such as Google Inc. and Yahoo Inc.

EBay contemplated building its own Internet-call service, "but we didn't feel we would have a winning product," Ms. Whitman said in an interview. "Skype is pretty far ahead in many dimensions." Skype boasts a community of 1,000 developers who are building Skype-related applications.

The San Jose, Calif., company may use this acquisition to drive more transactions to traditional merchants who use eBay's comparison-shopping site, Shopping.com, Ms. Whitman said. Those merchants, who already have established telephone call centers to take customer orders, may garner more revenue from customers who have access to Internet phone calls, said Scot Wingo, chief executive of ChannelAdvisor Corp., a closely held company that helps Internet sellers.

EBay also may be able to derive revenue from free classified listings around the world by adding pay-per-call services through Skype, said an eBay spokesman. The company told some analysts that it could link accounts on its PayPal electronic-payment service to Skype accounts, which could help generate more transactions through PayPal.

The eBay-Skype transaction may spur phone companies to more quickly roll out their own voice-over-Internet-protocol services, which most have begun offering in the past year, industry executives said.

EBay was up 32 cents to $38.94 at 4 p.m. in Nasdaq composite trading.

EBay said it may pay out as much as $1.5 billion additionally if certain financial targets are met.

Ebay, Skype Deal Challenges Rivals (FT)

By Richard Waters And Paul Taylor

Financial Times, September 13, 2005

Ebay on Monday laid out plans to move beyond its core e-commerce business, potentially putting it on a collision course with Google and Yahoo, as it confirmed its acquisition of internet voice company Skype for up to $4.1bn.

The auction company's executives said that adding a voice calling feature to its existing online network would let it charge fees to merchants for generating sales leads the internet's fastest-growing business, currently dominated by the two biggest search engine companies. It could represent the most important in a series of recent initiatives by Ebay to extendinto new areas of online activity.

However, the high price for the transaction and the young nature of Skype's business prompted scepticism among some telecommunications industry executives and analysts, who questioned Ebay's ability to generate significant revenues from its new acquisition.

“Ebay has no related presence in the online personal communications market (no instant messaging, chat or e-mail services) and we do not see immediate synergies from such a move,” said Mark Main, Senior Analyst with Ovum, the leading telecoms consultancy.

The online auction company said it would pay $2.6bn for Skype, half of it in cash and half in stock, with up to $1.5bn more to be paid if the company meets certain performance targets over the next three years.

Meg Whitman, Ebay's chief executive officer, said that by integrating Skype's voice calling technology into Ebay's markets, making it easier for buyers and sellers to communicate, the company would be able to lower the “friction” in online transactions and increase the overall value of its services.

She also laid out a plan for Ebay to charge fees for generating sales leads, with merchants paying every time a potential customer clicks on a link in an online listing to initiate a voice call.

Some advertisers might beprepared to pay between $2and $12 for each call, she added.

Ebay's millions of visitors could represent a valuable audience for such a service, said Youssef Squali, an analyst atJeffries, a New York investment firm, since they usually visitthe site intending to make a purchase.

Based on conventional measures of valuation, such as its current revenues, the Skype purchase looked expensive, analysts said. The company generated $7m of revenues last year, with $60m expected this year and more than $200m in 2006, eBay said.

Rajiv Dutta, Ebay's chief financial officer, said this represented a faster pick-up in revenues than either Ebay or PayPal, its online payments service, had experienced in their first years of charging for their services, suggesting that Skype would prove a valuable money-earner for the company.

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EBay To Buy Skype, Internet Phone Service, For $2.6 Billion (NYT)

By Ken Belson

The New York Times, September 13, 2005

EBay said yesterday that it would buy Skype Technologies, the Internet phone provider based in Luxembourg, for $2.6 billion in cash and stock, a move that eBay hopes will bolster trading on its online auction site.

The total value of the deal may grow based on "potential performance-based consideration" that could be worth an additional $1.5 billion, eBay said. Though Skype's revenue is expected to grow to about $200 million in 2006, from an estimated $60 million this year, eBay does not expect Skype - which gives its basic PC-to-PC service away free - to turn a profit until the fourth quarter next year.

The deal ends months of speculation about who might scoop up Skype, which since 2002 has been offering downloadable software that allows users to talk to one another over the Internet through their personal computers. The News Corporation, Google and Yahoo had been mentioned as potential suitors in recent months.

Meg Whitman, chief executive of eBay, said the acquisition did not mean that eBay intended to become a Web portal like Yahoo, Microsoft and Google, which deliver a range of services.

Instead, Skype's voice communications technology will make online trading easier for eBay's 157 million users, she said, particularly with transactions involving real estate, big-ticket purchases and services that require detailed conversations.

"I'm a big believer in focusing brands and businesses that are in very large markets," Ms. Whitman said by phone from London. EBay is "absolutely not" interested in developing a portal, she said. "You can be sure we're going to focus on e-commerce."

Noting that eBay also owns PayPal, the online payment service, Ms. Whitman said "by combining the two leading e-commerce franchises, eBay and PayPal, with the leader in Internet voice communications, we will create an extraordinarily powerful environment for business on the net."

The deal also adds a new twist to the story of Skype's co-founders, Niklas Zennstrom and Janus Friis, who developed Skype after creating and selling Kazaa, the controversial file-sharing service.

That company has been at the center of a copyright infringement lawsuit filed by the music industry. Mr. Zennstrom and Mr. Friis sold Kazaa in January 2002 to Australian investors before that suit was filed. They were named as defendants in the suit, but they have challenged the jurisdiction of the United States courts because they are citizens in Europe. (Nothing bars Mr. Zennstrom and Mr. Friis from traveling to the United States, but they have not been to this country in many years.)

Executives at eBay said that any litigation involving Kazaa or the involvement of Mr. Zennstrom and Mr. Friis in Kazaa would not affect Skype or eBay. Skype, like Kazaa, uses a peer-to-peer file-sharing technology.

While eBay will acquire Skype's 54 million users in 225 countries and territories, the company said it was not interested in becoming a telecommunications provider or challenging traditional phone providers. Still, with Skype adding 150,000 new users a day, the company represents another threat to established carriers like the Bell companies, which maintain extensive phone and data networks.

"Skype is very disruptive to the telecom business and it's one of the reasons people are adopting to it quickly," Mr. Zennstrom said.

In North America, Skype has more users and carries more voice traffic than any other Internet-based phone provider, the companies said.

In addition to the basic service, about two million Skype customers have signed up for a pay service that allows them to use their computers to make calls to regular phone numbers as well as receive calls from landlines and cellphones. To complete these calls, Skype pays phone companies small per-minute fees.

Only 13 percent of Skype's users are in North America; nearly half are in Europe and another quarter are in Asia.

While Skype is the market leader in peer-to-peer voice software, it is not alone. Last month, Google announced Google Talk, a service similar to Skype's free service, and Microsoft said it was acquiring Teleo, a San Francisco company that allows users to call conventional phones from their PC's.

Some industry specialists said eBay's purchase of Skype was a sign that voice calls would increasingly become one of many services that Internet companies would provide, rather than a stand-alone business.

"This turns the entire telecom industry picture on its head, and demonstrates that voice, presence, text messaging and other I.P.-based applications will be essential for the company of the future," said Jeff Pulver, the chairman of pulvermedia, which promotes Internet-based phone services.

Investors seemed to agree. Shares in eBay rose 32 cents, to $38.94, on Monday. The company's shares have fallen 31.7 percent this year, however, because of investor concerns about its slowing growth.

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Some industry analysts were also skeptical about the high price for a company with so little revenue that is facing increasing competition from other Internet phone providers.

"Quite frankly, you look at the numbers and you realize there has to be something more for eBay to buy into," said Carmi Levy, an analyst at the Info-Tech Research Group in London, Ontario. "In 1998, we used to see the same thing with the buying of companies that did not have a whole lot of prospects."

While the purchase will shave about 12 cents off earnings next year, the price paid for Skype is less than 5 percent of eBay's market capitalization of $53 billion.

EBay will also inherit some of the legal and regulatory challenges facing Skype. Regulators in the United States and elsewhere have yet to decide, for instance, whether Skype will have to make it possible for its customers to call 911 and have their locations recognized by emergency responders.

$2.6B Deal Gets EBay Into Internet Telephony (USAT)

By Kevin Maney

USA Today, September 13, 2005

Making one of its riskiest bets yet, eBay said Monday that it will buy Internet voice service Skype.

That could eventually pit eBay against phone companies and VoIP services such as Vonage. Buying Skype "is a lot more of a stretch than any of the other acquisitions they've done," says David Edwards, equity analyst at American Technology Research.

EBay will pay $2.6 billion for Skype, which can be used to make free, high-quality voice calls from one computer running Skype software to another, anywhere in the world. Customers need a PC with a microphone. For a fee, Skype users can call regular telephones and vice versa.

EBay insists the deal isn't a major corporate turn. Top eBay executives became aware of Skype about a year ago, "And we started putting some thinking against Skype," says eBay CFO Rajiv Dutta.

Building Skype into eBay will allow buyers and sellers to click a button on the screen to talk to each other, Dutta says. That would be valuable when a buyer has a lot of questions about an expensive product, such as a car, or when an auction is close to closing.

"We've always sought to remove friction from e-commerce," eBay CEO Meg Whitman says. Adding Skype "will lead to a better experience and increase the velocity of trades." Plus, eBay could charge sellers to add Skype to their postings, Whitman says.

Yet the deal moves eBay into unfamiliar territory against powerful competitors. Skype co-founder Niklas Zennstrom on Monday repeated his boast that he has a "vision of creating the world's largest communications company."

"That's what made Skype special to us," Dutta says. "We loved their vision."

Though other online services such as Google Talk offer free computer-to-computer voice conversations, Skype has caught fire globally. It's adding 150,000 users a day, the majority in countries such as China, India and Sweden. In 2005, Skype's first full year of charging for services, it will have revenue of $60 million. Skype expects revenue to jump to $200 million in 2006.

Before starting Skype, Zennstrom and partner Janus Friis created Kazaa, a file-sharing service that has mostly been used to trade pirated music.

EBay sees Skype as a high-growth business and strong brand name on the Net, which could help reinvigorate eBay's growth, Dutta says. In 2003, eBay's revenue jumped 78% from the year before. In 2004, growth slowed to 51%. EBay shares closed Monday at $38.94, up 32 cents.

EBay To Acquire Internet Communications Company Skype (LAT/AP)

By From Associated Press

The Los Angeles Times, September 13, 2005

STOCKHOLM, Sweden — Online auctioneer eBay Inc. agreed today to pay at least $2.6 billion in cash and stock for Internet phone provider Skype Technologies SA, confounding many analysts who questioned the lofty price tag and the companies' compatibility.

The total value of the deal may climb to $4.1 billion based on whether Skype meets a series of performance targets over the next three years, San Jose, Calif.-based eBay said. It said the acquisition would create "an unparalleled e-commerce and communications engine" for Internet users worldwide.

Low-cost Internet phone providers like Skype are creating upheaval in the telecommunications industry. That's because Voice over Internet Protocol technology, or VoIP, breaks calls into data packets that get routed over the Internet, which is much more efficient and cheaper than the traditional circuit-switched phone system.

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Skype -- founded by the creators of Kazaa, the free music-sharing program that riled the music business -- gives away software lets people talk for free over the Internet using computers and microphones. A paid version, SkypeOut, allows those calls to be connected to regular phones.

Other big Internet names have expanded their VoIP capabilities lately, including Google Inc., which rolled out a new instant-messaging program with voice service. Last month Microsoft Corp. acquired Teleo Inc., a small startup whose software lets people make calls from computers to traditional telephones.

But some analysts have been skeptical about eBay's need to own a VoIP provider.

EBay buyers and sellers can communicate with each other via e-mail before a transaction is complete -- eBay says about 5 million such messages are exchanged daily. Adding Skype and its voice capabilities will speed the communication between parties and increase the level of trust, said Meg Whitman, eBay's chief executive.

"It's instantaneous and private," she said. "You don't have the person's phone number, just a user name, so it protects the privacy of all users."

She also said Skype would help eBay open "several new lines of business."

"Communications is at the heart of e-commerce and community," said Whitman, who had won praise for avoiding deals beyond eBay's core, marketplace-based strategy, especially during the late 1990s Internet craze. "We will create an extraordinarily powerful environment for business on the Net."

EBay shares rose 23 cents, or 0.6 percent, to $38.85 in morning trading on the Nasdaq Stock Market.

Niklas Zennstrom, Skype's CEO and co-founder, will join eBay's senior executive team. He said the deal will help advance his company's goal to "revolutionize the ease with which people can communicate through the Internet."

"When we started Skype, our vision was to create a global communications company," he said, noting that the company has users in almost every country. "I think the only country we don't have on the map is North Korea."

But Ovum analyst Mark Main said he considered the deal "far-fetched" and said eBay could have found cheaper ways to improve its Internet communication abilities.

"EBay could have developed its own sophisticated messaging and communications platform, or even bought one, for far less money than it is paying for Skype," Main said. "And if eBay is mainly paying for Skype's user base and brand, that makes this a risky investment."

Whitman, however, said Skype's name carries great value with customers, noting that many Internet users have started referring to phoning via their computer as "to Skype someone."

"When people are using your brand name as a verb, that is incredibly powerful," Whitman said.

She also said Skype has great market share in places where eBay is not heavily used, such as Japan and the Nordic countries, which may help the online auction company attract more customers.

Skype has 53 million registered users, including more than 2 million who pay for its premium services. Since it was introduced in 2003, the company's free software has been downloaded more than 164 million times.

In 2004, the company generated about $7 million in revenue, which it projects will snowball to $60 million this year and more than $200 million in 2006.

EBay recently trounced analysts' expectations by reporting it earned $291.6 million, or 21 cents per share, for the three months ended in June, a 53 percent increase from last year. Revenue totaled $1.09 billion, a 40 percent increase.

Overall, eBay's community spanned 157 million registered users, up 10 million from March. The company had $3.7 billion in cash and other current assets as of June 30.

But bringing Skype into the fold is expected to cut eBay's earnings in the short term. EBay projected that the acquisition will reduce earnings per share by 4 cents in the fourth quarter of this year and by 12 cents in 2006.

Real Estate Competition Up For Debate (INMAN)

Inman News, September 13, 2005

Four days after launching a lawsuit against the National Association of Realtors for alleged anticompetitive practices, federal agencies are planning a public forum to discuss competition in the real estate industry.

The U.S. Justice Department's Antitrust Division and the Federal Trade Commission will jointly host a one-day workshop on competition policy and the real estate industry next month, the agencies said.

The workshop will be held on Oct. 25, at the FTC's Satellite Building Conference Center located at 601 New Jersey Ave. NW, in Washington, D.C.

The workshop is free and open to the public and aims to provide a forum on the competitiveness of the residential real estate industry, focusing on topics such as multiple listing services, discount and limited-service brokers, and minimum-service requirements.

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In particular, discussion will center on the real estate transaction, the multiple listing service, and private and state actions that affect competition among brokers.

Parties seeking to participate as panelists in the workshop must notify both the Justice Department's Antitrust Division and the FTC in writing on or before Sept. 25. Persons submitting a request to participate as a panelist will be notified on or before Oct. 11, if they have been selected.

The Justice Department on Thursday filed an antitrust lawsuit against the National Association of Realtors challenging the trade group's policies for Internet listings. The lawsuit charges that NAR's Web listings policy is anticompetitive because it blocks new brokerage companies from entering the market.

NAR's newest Internet listings policy was made public last Thursday. It combines and eliminates two previous policies for Web listings display.

NAR asserts that the Justice Department "mischaracterized the purpose and effect" of a part of the new policy that enables brokers to restrain their listings from being shown on other brokers' Web sites. The trade group has said that part of the policy "was intended to protect brokers' ownership rights in their property listings."

NAR officials had been in discussions with the Justice Department since May, seeking a compromise that would've relieved antitrust officials' concerns.

The Justice Department's Antitrust Division and the FTC are accepting public comments on the issue until Nov. 28. Comments may be submitted in hardcopy or electronic format. For more detailed instructions on how to submit comments, see the Federal Register Notice.

Last week's lawsuit is the latest in a multilevel attack on the industry. The Justice Department earlier this year filed a lawsuit against the Kentucky Real Estate Commission over its restrictions on real estate rebates. The suit was settled in July, when the state commission lifted the ban on rebates.

Also, Justice Department and FTC officials have been sending out warning letters to states considering adopting legislation or regulation that could inhibit some discount and limited-service brokerage models.

U.K. Loan Insurers Face Antitrust Probe After Group Complains (BLOOM)

Bloomberg News, September 13, 2005

Sept. 13 (Bloomberg) -- Barclays Plc, Lloyds TSB Group Plc, HBOS Plc and Royal Bank of Scotland Group Plc are among U.K. banks facing an antitrust probe after a consumer group said loan insurance in Britain is expensive and inappropriately sold.

Citizens Advice, a nonprofit organization, asked Britain's Office of Fair Trading to investigate the 5 billion-pound ($9.1 billion) a year market after uncovering numerous problems, the London-based organization said in an e-mailed statement released today. The complaint triggered an automatic review by the antitrust regulator, which has 90 days to decide on a full investigation.

The call for an investigation of loan insurers is the second this year, after a committee of lawmakers in February asked the Financial Services Authority, the main regulator of banks and insurers, for a probe, saying some consumers have purchased policies that they won't be able to use to make claims.

``Borrowers are often sold completely inappropriate policies," Citizens Advice said. ``The sale of protection insurance is also often linked to irresponsible lending."

The report didn't name any companies involved in the sale of loan insurance, which is provided by all of Britain's biggest banks on credit card and other unsecured debt.

Loan insurance policies are intended to cover payments on debt if the borrower falls ill or becomes unemployed. In some instances banks have sold these policies to people who are already unemployed or ill, which would then prohibit them from claiming under the policies, Citizens Advice said.

The Treasury Select Committee, which has been investigating credit card charges by Britain's biggest banks, in February said some lenders were providing quotes for loans without making clear that these included charges for insurance. Banks also failed to explain the circumstances under which customers can't claim, the committee said.

To contact the reporter on this story: Jonathan Rosenthal in London at jrosenthal1@bloomberg.net Last Updated: September 12, 2005 19:11 EDT

Private Equity Firms Buy Hertz For $15bn (FT)

By James Politi

Financial Times, September 13, 2005

A consortium of three private equity groups on Monday announced the purchase of Hertz, the New Jersey-based car rental business, in a deal worth $15bn that ranks as the largest buy-out since 1989.

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The acquisition, by Clayton Dubilier & Rice, Carlyle, and the buy-out unit of Merrill Lynch, came after several weeks of negotiations with Ford, the carmaker that has owned all of Hertz since 2001 and is selling the unit as part of its revitalisation plan.

The three buyers will be paying $5.6bn in cash to Ford, and have agreed to assume nearly $10bn in debt under the agreement.

CD&R, which specialises in acquiring units of large conglomerates, had been considering a buy-out of Hertz for three years. After Ford announced it was exploring options for its rental business in June, the discussions accelerated, and CD&R was joined by the other two members of the consortium. The $15bn price tag makes Hertz the largest buy-out since RJR Nabisco was acquired by Kohlberg Kravis Roberts 16 years ago for roughly $30bn.

In recent years, private equity groups have been raising increasingly large pools of money, from which they have been making ever greater investments. This year, there have been a number of blockbuster buy-outs, the biggest of which was SunGard Data Systems' sale to seven investment firms for $11.3bn.

David Wasserman of CD&R on Monday explained the rationale for the deal by the Fthat Hertz had a "leading franchise, a great brand, and a seasoned and strong management team".

The buyers dismissed suggestions that the jump in petrol prices could make it an unattractive time to invest in car rentals, by saying that they were optimistic about the long-term trends in the travel industry.

The acquisition is being financed with a combination of asset-backed securities linked to Hertz's fleet of rental cars, traditional corporate debt, and the equity contributions of the three buy-out groups.

Mr Wasserman appeared to indicate that there would be no significant changes in strategy at Hertz under the new owners, which outbid a rival private equity consortium including Blackstone and Texas Pacific Group.

There were no plans to extract cost savings through large-scale staff reductions, and the consortium would continue to support management's plans to diversify away from airport rentals.

Ford was advised by Goldman Sachs, Citigroup and JPMorgan Chase. The buyers were advised by Lehman Brothers, Deutsche Bank and Merrill Lynch.

Carlyle And Other Investors To Pay $15 Billion For Hertz (WP)

By David S. Hilzenrath

The Washington Post, September 13, 2005

A group of investors that includes the District-based Carlyle Group said yesterday that it has agreed to buy Hertz Corp., the car rental company, from Ford Motor Co. for $15 billion in cash and debt.

The deal will provide a $5.6 billion cash infusion to the automaker, whose bonds were downgraded in May to junk status.

Carlyle's cash outlay of about $767 million would be its second-largest, after the $808.5 million in cash it put up in 2003 for the telephone directory business of Qwest Communications, Carlyle spokesman Christopher Ullman said.

Carlyle managing director Gregory S. Ledford said the investment firm sees growth potential in Hertz's overseas and heavy equipment rental businesses. The buyout firm viewed Hertz as a "corporate orphan" -- a well-run company with a good brand and a good business that is not central to its corporate parent's business, Ledford said. "We spend a lot of time looking for businesses like that," he said.

Ledford said he didn't believe rising crude oil and gasoline prices would have a big impact on Hertz, "unless it really impacts people flying," because Hertz's business is largely driven by airport traffic.

Ledford said Ford is selling because "they need cash," but a Ford spokeswoman put it differently.

"We've decided that it's not core to our strategic business plan," Ford's Becky Sanch said.

Ford in recent months had been preparing a public offering of Hertz stock but opted for the sale because it provided "a strong value in up-front cash proceeds," Sanch said.

Carlyle's partners in the deal are Merrill Lynch Global Private Equity and Clayton, Dubilier & Rice Inc., each of which is taking a one-third stake, Carlyle's Ullman said. Clayton, Dubilier & Rice partner George W. Tamke is to become chairman.

Buyout Group Snags Ford's Hertz For $5.6 Billion (WSJ)

By Henny Sender And Avery Johnson

The Wall Street Journal, September 13, 2005

A buyout group led by Clayton Dubilier & Rice is set to acquire Ford Motor Co.'s Hertz Corp. for $5.6 billion, in an anticlimactic end to an auction among private-equity firms.

The acquiring group, which also includes Carlyle Group and Merrill Lynch Global Private Equity, will finance the deal with a combination of $2.3 billion in equity and more than $12 billion in debt. The acquiring group will assume around $10 billion in Hertz debt.

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"It was a complicated divestiture," said David Wasserman who led the CDR group efforts. "The sale delivers certainty and value to Ford and we get a great brand and franchise."

The last days of the bidding war took place against the backdrop of a hurricane that led many economists to forecast lower growth for the car-rental industry. Hertz has annual revenue of more than $7 billion. But concerns about growth didn't deter bidders, giving Ford a bigger payday than auction participants anticipated. The losing group consisted of Bain Capital, Blackstone Group, Texas Pacific Group and Thomas H. Lee & Partners.

Private-equity firms, which cater to institutional investors and wealthy individuals, acquire companies and divisions of companies, often using large amounts of debt to finance their purchases.

The dynamics of the Hertz auction suggest that there is indeed little competition for the largest buyouts. There were no strategic investors and only two private-equity consortia sparring over Hertz. But the outcome also suggested that less competition doesn't necessarily mean a bargain price, a pattern that also characterized the $11.3 billion buyout of SunGard Data Systems earlier this year.

This fall is expected to see a series of even-larger deals, possibly even exceeding the $25 billion buyout of RJR Nabisco in 1989. Both Carlyle and Blackstone are flush with money. Apollo Management recently raised almost $10 billion, Warburg Pincus raised more than $8 billion, and Texas Pacific Group may well go to its investors soon for more cash as well. Private-equity firms generally like such megadeals because they enable them to deploy vast sums swiftly and collect management and transaction fees that reflect the size of the deal.

The outcome of the auction reflects CDR's determination to acquire Hertz. CDR will have three board seats and partner George Tamke will be chairman of the board. The two other CDR partners, Carlyle and Merrill, will each have two seats on the Hertz board. Previously, Ford had three board seats and Hertz two. Merrill is both participating in the buyout and helping to finance it.

The new owners of Hertz may have a different vision for the company's future than current management. Hertz management, which analysts say had favored a public listing to a sale, had positioned the firm to demonstrate strong growth prospects and had lots of initiatives beyond its core airport car-rental business.

By contrast, the buyout group may be under pressure to cut costs and raise cash by selling noncore operations, people familiar with the matter say. "We have no current plans to divest anything or make acquisitions," Mr. Wasserman of CDR says. CDR will have to come up with about $800 million in cash, a large part of its $3.5 billion fund. Because there are limits to how much capital it can dedicate to any one deal, it plans to invite some of its own investors to put money into Hertz alongside it.

Wachovia Agrees To Buy Westcorp (WSJ)

By Valerie Bauerlein

The Wall Street Journal, September 13, 2005

Wachovia Corp. agreed to acquire Westcorp Inc. for about $3.91 billion in a deal aimed at boosting the Charlotte, N.C., company's heft in the auto-finance business while giving Wachovia its first branches in California.

In addition to making Wachovia the ninth-largest auto lender in the U.S., the takeover quiets speculation at least for the moment that the bank is about to make an even larger acquisition of a commercial bank or consumer-finance company. The purchase price represents only about 5% of Wachovia's stock-market value, which analysts said seemed reasonable given Westcorp's size and reputation for being well-run.

"This gets Ken [Thompson] his foothold" in California, Nancy Bush, a bank analyst with NAB Research LLC in Annandale, N.J., said, referring to the Wachovia chairman and chief executive. Westcorp's 19 bank branches in Southern California could help Wachovia decide whether to open additional branches in the state or make another acquisition. Most of Wachovia's roughly 3,100 branches are in the Southeast, though it has been opening new branches in growing markets such as Texas and New York.

Westcorp confirmed last month that it was in discussions about a possible takeover. The company originates, securitizes and services loans through 8,300 auto dealers. It also is strong in the subprime market, which is lucrative because customers pay higher interest rates but risky because those customers default more often.

Wachovia's previous auto-lending business was focused on borrowers with the most pristine credit records who typically buy pricey cars. Wachovia has used that business to build relationships with dealers, who sometimes need wealth-management services or loans to build inventory.

The combined company's auto-finance portfolio will consist of 78% prime loans and 22% subprime loans, according to Kevin Fitzsimmons, an analyst with Sandler O'Neill & Partners.

Wachovia's parent company, the former First Union, paid $2.1 billion in 1998 for the Money Store, a subprime lender that advertised heavily on television and was a financial flop. The bank ultimately sold the Money Store. "When you say 'subprime'

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around here, there's lots of warning flags that go off because of our past experience," Don Truslow, Wachovia's chief risk officer, said in an interview.

Terms of the deal call for Wachovia to swap 1.27 of its shares for each outstanding Westcorp share. Wachovia also agreed to acquire the 16% of WFS Financial Inc., a dealer-finance unit, that isn't already owned by Westcorp for 1.47 Wachovia shares apiece.

In 4 p.m. New York Stock Exchange composite trading, Westcorp shares rose 23 cents to $61.58, while Wachovia slipped 81 cents to $49.57. WFS surged $5.23, or 8.1%, to $70.15 in Nasdaq Stock Market composite trading.

Westcorp was advised by Credit Suisse First Boston, while Deutsche Bank advised WFS. Goldman Sachs Group advised Wachovia on the deal.

Wachovia Plans To Buy Auto Lender (NYT)

By Julie Creswell

The New York Times, September 13, 2005

Moving to expand its presence in automobile financing, the Wachovia Corporation, the nation's fourth-largest bank, agreed yesterday to acquire the financial-services holding company Westcorp and its majority-owned auto-finance group, WFS Financial, in a stock deal valued at $3.91 billion.

The deal, which had been rumored for weeks and will make Wachovia the ninth-largest auto lender in the country, is the latest in a string of purchases by banks in the auto-finance industry after downgrades this spring in the debt ratings of the General Motors Corporation and the Ford Motor Corporation.

The downgrades raised the costs of borrowing for the car makers' finance arms, which have typically offered low-interest loans that banks were hard pressed to match.

"The change in funding costs at G.M. and Ford has caused consumer-oriented banks to re-examine auto lending and to view it as potentially more attractive than they did in the past," said David Hilder, a bank analyst with Bear Stearns. While G.M. and Ford are still major lenders, Mr. Hilder said, their dominance may diminish as loan rates become more competitive.

This spring, Bank of America acquired KeyCorp's $990 million prime portfolio of indirect automobile loans and, in July, it announced plans to buy up to $55 billion of auto loans from G.M.'s finance arm, the General Motors Acceptance Corporation, over the next five years.

In yesterday's deal, Wachovia said it was acquiring Westcorp, which is based in Irvine, Calif., and WFS for $3.42 billion in stock. Wachovia, based in Charlotte, N.C., will pay $490 million in stock for the 16 percent of the publicly traded WFS that Westcorp does not own. The deal is expected to close in early 2006.

Last year, Westcorp's founder and chief executive, Ernest S. Rady, who owns about 53 percent of Westcorp, announced a restructuring in which the finance company would buy back the 16 percent of WFS that it did not own and fold the entire WFS Financial entity into its retail banking arm, Western Financial Bank. But the conversion of Western Financial Bank into a California state commercial bank was taking "longer than expected," Westcorp said in a statement last month. So it began exploring other options.

Investors have been closely watching Wachovia to see if it would make a big acquisition to keep up with its crosstown rival in Charlotte, Bank of America. Two years ago, Wachovia considered buying FleetBoston, but balked at the price; Bank of America later stepped in and bought it.

In a repeat this summer, Wachovia walked away from talks with the credit card giant MBNA only to have Bank of America swoop in and buy the firm, becoming the nation's largest issuer of credit cards.

"Westcorp is a neat little company, and Wachovia bought it for a perfectly acceptable price, but it doesn't get them anywhere," said Meredith Whitney, an analyst at CIBC World Markets. "Wachovia's problem is that it's been boxed out of so many other big deals by Bank of America that it needs to do a major deal in order to keep up. This doesn't do it."

While some analysts and investors say they think Wachovia has grown gun-shy on big deals, others give the chief executive, G. Kennedy Thompson, credit for restraint in not overpaying for acquisitions. Based on Friday's closing price for Westcorp's shares, Wachovia is paying a 5 percent premium. (It is paying about a 14 percent premium for WFS shares.)

Mr. Thompson has said repeatedly that the bank would only do deals that produced an internal rate of return of at least 15 percent and that would add to earnings on a cash basis by the end of the second year. Wachovia said the Westcorp and WFS acquisitions met both criteria.

Wachovia's stock fell 1.6 percent yesterday, to $49.57.

Wachovia To Purchase Westcorp For $3.42B (FINDLAW/AP)

Find Law, September 13, 2005

DOJ_NMG_0004624

(AP) - CHARLOTTE, N.C.-The financial services company Wachovia Corp. on Monday said it agreed to acquire Westcorp, an automobile finance company based in Irvine, Calif., for $3.42 billion, creating the nation's ninth largest auto loan originator.

Wachovia also agreed to pay another $490 million for the 16 percent stake that Westcorp doesn't already own in WFS Financial Inc., boosting the combined value of the transactions of $3.9 billion.

he company said the deal for Westcorp is expected to boost earnings in the second year and produce an internal rate of return of more than 15 percent, above Wachovia's acquisition criteria.

Wachovia said its purchase of Westcorp will give it a small presence in the California retail banking market, while expanding its auto finance group into a national business. The firm will add about 8,500 automobile dealer clients, and about 920,000 individual customers.

"This transaction moves our auto finance business to a new level and gives us access to a new set of customers who can benefit from Wachovia's broad offering of financial services," said Ben Jenkins, president of Wachovia's general bank.

Wachovia, which expects the purchase to close in the first quarter, said the combined business will be run by WFS President and Chief Executive Thomas Wolfe and will be based in Irvine. Wolfe will report to Carlos Evans, head of Wachovia wholesale banking.

Tupras To Remain In Turkish Hands, As Koc Bid Wins (WSJ/DJN)

By Michael Wang, Dow Jones Newswires

The Wall Street Journal, September 13, 2005

A consortium led by Koc Holding AS of Turkey and including Royal Dutch Shell PLC fended off eight other bidders in a hotly contested privatization auction for control of Tupras, Turkey's 500,000-barrel-a-day refiner.

The winning bid of $4.14 billion (€3.34 billion) defied even the most optimistic expectations which, ahead of the auction, had reckoned with a final price tag closer to $3 billion.

The Koc-Shell group faced its strongest competition from a joint venture comprising state-owned Indian Oil Corp. and Turkey's Calik Enerji Sanayii, as well as OYAK, an industrial conglomerate representing a Turkish Army officers' pension fund.

The winning consortium comprised two Shell units -- Shell Co. of Turkey Ltd. and Shell Overseas Investment BV -- together holding 10%; Koc, one of Turkey's biggest industrial conglomerates, with 80%; and two smaller Turkish energy companies, Aygaz AS with 7% and Opet Petrolculuk AS with the remaining 3%.

The win by the Koc-Shell consortium represents a best-case scenario for the government as it keeps majority control of Tupras in Turkish hands. Shell's minor involvement lends it credibility.

Erol Memioglu, president of Koc's energy business, said he wanted to see Tupras grow further. "We aim to develop Tupras into a key player in the Mediterranean region," he said.

The 90-minute auction, broadcast on television live from Ankara, saw the elimination of several top European oil-companies, including Italy's Eni SpA, Austria's OMV AG, Poland's PKN Orlen and Hungary's MOL Rt., as well as a clutch of Turkish bidders.

Global oil demand has accelerated since early last year on the back of the fast-growing Chinese and Indian economies, soaking up virtually all excess refining capacity and increasing the value of refineries.

Shell spokeswoman Susan Shannon said the acquisition complements the company's strategy in Turkey, where it is the second-biggest gasoline retailer, with about 600 service stations and a market share of around 15%.

Icahn Group Plans Proxy Fight To Raise Heat On Time Warner (WSJ)

By Julia Angwin

The Wall Street Journal, September 13, 2005

A group led by New York financier Carl Icahn said it intends to mount a proxy contest to win seats on Time Warner Inc.'s board, in the latest step by the investor group to pressure the company to spin off its cable unit and buy back $20 billion in stock.

The group, made up of several hedge funds including one managed by Mr. Icahn, also said it thinks the "true value" of Time Warner shares is between $26 and $28, about $10 a share above the stock's trading range over the past couple of years.

Mr. Icahn's group said it planned to propose "one or more nominees" for election to the Time Warner board at the next annual meeting, which isn't due to be held until next spring. But the group didn't identify any nominees.

Rather, in a filing with the Securities and Exchange Commission, the group laid out its most detailed argument to date as to why Time Warner shares are trading at a discount to their "inherent value" and what "immediate actions" the company could take to reduce the discount. Yesterday, Time Warner shares were down 13 cents at $18.21 in 4 p.m. composite trading on the New York Stock Exchange.

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Mr. Icahn announced about a month ago that a group he was leading had acquired stock and options representing a 2.6% stake in Time Warner. His challenge to the media giant's management came as the company was emerging from problems caused by the 2001 merger with America Online, which had depressed its stock price.

The filing noted that the stock is down 6% since Chairman Richard Parsons took over in May 2002 and said "management's slow pace of change" has hurt Time Warner stock.

The group chastised Time Warner for not paying dividends or buying back stock as aggressively as other media companies. It argued that Time Warner has an "inefficient capital structure" and could afford to take on more debt if it spun off Time Warner Cable.

Time Warner has recently moved to address both issues. It initiated a dividend earlier this year and last month announced plans to buy back $5 billion in stock over two years. And it plans to offer 16% of its cable company to the public early next year when it completes the acquisition of some assets of Adelphia Communications.

In a statement yesterday, Time Warner said "we are carefully reviewing a range of options to increase the value of our company including those proposed by Mr. Icahn and his group. Investors should rest assured that this evaluation is being done in a prudent and deliberate manner with an eye toward creating sustainable value for all of our shareholders."

Mr. Icahn's group contends that Time Warner Cable would be worth more on its own than it is within the larger organization. The group estimates that the cable unit on its own could be worth $48 billion, or $3,631 per subscriber -- more than the value implied by the stock price of the nation's largest cable company, Comcast Corp.

The other members of Mr. Icahn's group are Franklin Mutual Advisers LLC, JANA Partners LLC and SAC Capital Advisors LLC.

Dealmakers Are Back In Business (USAT)

By Matt Krantz

USA Today, September 13, 2005

Following a multiyear downturn in the number of mergers and acquisitions, companies are again in the shopping mood.

Oracle, eBay and Wachovia all announced deals Monday worth billions to buy other companies, signaling a pickup in the deal boom (stories, 1B, above).

Already this year, companies have announced $707 billion in mergers and acquisitions, says Richard Peterson, senior researcher at Thomson Financial. That's 30% more than the deals during the same period last year and the highest since the M&A heyday in 2000. It's also the fourth-strongest pace of M&A in history, Peterson says.

“Companies were shy,” says Howard Silverblatt, market analyst for Standard & Poor's. Now “they are definitely doing more.”

There are several reasons for the uptick, including:

·Stock market recovering. The biggest influence on M&A activity is the health of the market, says Chris Kenney, vice president at L.E.K. Consulting. That's largely because many companies use their stock to buy other companies, so the higher the stock, the less expensive the acquisition becomes. M&A has gotten a lift from the fact the Standard & Poor's 500 index is up 2.4% this year and 37% the past three years.

·Borrowing costs still cheap. In addition to fairly strong stock prices, interest rates have also remained surprisingly low, says David Mauer, professor of finance at the Cox School of Business at SMU. That has allowed companies to borrow cash needed to finance many mergers and acquisitions, he says.

·Cash piles surging. Companies are finally getting the guts to use the cash that has been piling up over the past three years, Silverblatt says. Acquisitions are one of the biggest uses of corporate cash.

During the second quarter the amount of cash held by the industrial companies in the S&P 500 fell to $608 billion in part to spending on acquisitions, Silverblatt says. That's down from the record $634 billion in cash the first quarter, but still a giant pile that is difficult to use up just by buying back stock or paying dividends.

·Industry consolidation increasing. Maturing industries, such as discount brokerages and software companies, are looking to combine in order to compete against the bigger players, Mauer says. He points to Oracle's recent buying spree and leadership in consolidating the business-software industry.

The M&A boom's future really depends on the market, Kenney says. “The single most important predictor of M&A is the value of the stock market,” he says.

DOJ_NMG_0004626

ENVIRONMENT:

Judge Blocks Sequoia Forest Logging (AP)

By David Kravets

AP, September 13, 2005

SAN FRANCISCO - A federal judge here halted the Bush administration's bid to keep logging 2,000 acres in Giant Sequoia National Monument, saying he "called into question" the scientific analysis used to justify cutting in a preserve that houses two-thirds of the world's largest trees.

U.S. District Judge Stephen Breyer, ruling in a lawsuit brought by environmentalists, also questioned whether fire control was the government's real motive for allowing commercial logging in the monument. The so-called "Saddle Project" was approved years ago, but cutting only commenced this summer, when timber prices were high.

The government, Breyer wrote late Friday in issuing a preliminary injunction barring further logging, "waited five years to execute this contract because of unfavorable timber prices."

In 2000, just after the project was approved, Congress declared Sequoia National Forest a national monument, which generally prevented further logging on thousands of acres in the Central Valley area of Tulare County. The government argued the project was grandfathered in and therefore not covered by monument rules.

The Justice Department, which defended the logging plan in court here, declined to say whether it would challenge Breyer's injunction. If it does not, the case is over and the acreage is safe from harvesting. The government could also take the issue to trial.

Breyer ruled that he was unsure whether the project, which included harvesting 31,000 conifer trees hundreds of years old, "would still protect the forest from fire." Sequoia trees were not targeted in the harvest by logging concern Sierra Forests Products.

The Sierra Club and other groups brought the case this year to stop the logging that began July 10 and ended Aug. 5 after Breyer issued a temporary injunction barring further harvesting. A preliminary injunction is issued when a judge believes plaintiffs would prevail at trial.

"The Forest Service has argued that because the project was approved before it being named a monument, they said they could still do this years later, but the judge said they could not," said Patrick Gallagher, a Sierra Club attorney. "The monument is one of the most amazing areas on Earth."

It was not immediately clear how many acres were logged over four weeks, but environmentalists estimated hundreds.

The Sierra Club is considering filing similar lawsuits to block other logging projects that were approved before Congress declared the forest a national monument.

The case is Sierra Club v. Bosworth, 05-00397.

Senate Decides To Vote On Rejection Of Mercury-Emission Rules (NYT/AP)

By The Associated Press

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 (AP) - The Senate agreed Monday to vote on a resolution challenging new rules limiting mercury emissions from power plants.

The Bush administration said that the rules, completed by the Environmental Protection Agency in March, would eventually cut mercury emissions from coal-fired power plants by 70 percent without driving up energy costs and that repealing the rules would delay the reduction of such emissions.

Environmental and health groups have demanded swifter and tougher measures to reduce emissions.

By repealing the rules, the Senate would compel the E.P.A. to rewrite them. The revisions would be in line with Clean Air Act standards requiring the use of the best available technology to reduce mercury emissions.

The Senate vote on Tuesday is expected to be close, but the Republican-dominated House is unlikely to act on a resolution, which President Bush has said he opposes.

Senator Susan Collins, Republican of Maine, and Senator Patrick J. Leahy, Democrat of Vermont, introduced the resolution through a little-used 1996 law that allows Congress to challenge agency rules with a guaranteed floor vote. The law has been successfully invoked only once, when Congress in 2001 repealed Clinton administration workplace ergonomics regulations.

Senator Collins said that if the rules stand "power plants will be free to continue spewing unlimited amounts of toxic mercury into our air until the year 2018."

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But supporters of the E.P.A. rules said that repealing the administration approach could have a devastating impact on the economy, forcing power plants to abandon coal for natural gas and driving up natural-gas prices. They contended it would cost $358 billion to achieve the 90 percent reduction in three years, as opposed to a cost of $2 billion under the Bush administration plan.

"It just can't be justified from a cost-benefit point of view," said Senator George V. Voinovich, Republican of Ohio.

A federal appeals court last month rejected a suit brought by environmental and health groups and 14 states seeking to force the E.P.A. to stop implementing the new rules.

Heating Prices Loom As Problem Natural Gas Could Be Issue In Winter (USAT)

By Sue Kirchhoff

USA Today, September 13, 2005

WASHINGTON — U.S. consumers could still face higher energy bills ahead despite declines in energy prices Monday as gulf producers continued to rebound from Hurricane Katrina's pounding.

The average nationwide retail gasoline price Monday fell to $2.967 a gallon for regular unleaded from $3.018 the day before, according to AAA. Gasoline futures prices have dropped by about a third since the end of August.

Crude oil prices dropped to $63.34 a barrel, down 9% from the record close of $69.81 in late August. Natural gas futures were down more than 23 cents in New York trading, to $11.03 per million British thermal units, compared with a record $11.76 on Sept. 1.

Still, energy experts say consumers will feel the impact of Katrina for months. Natural gas prices will be a big challenge this winter.

The federal Energy Information Administration recently forecast that natural gas prices could rise 71% in the Midwest this winter.

Forecaster Global Insight expects natural gas prices to average $12 per million Btu through the winter, says Mary Novak, managing director for energy services. Consumers saw an average of $7.50 last winter.

“It's astronomical compared to what people were paying for the previous 20 years,” Novak says.

George Coling, executive director of the National Fuel Funds Network, says Katrina will be a “disaster” for less-affluent households. The Network represents non-profit groups that supplement assistance from the federal Low Income Home Energy Assistance Program.

Some members of Congress want to increase the annual budget for LIHEAP, which helps consumers who meet certain income requirements pay heating and cooling bills. The program serves more than 5 million households a year.

“Increasing LIHEAP is one thing, and probably the only effective thing, that Congress can do immediately to relieve the home energy situation” Coling says.

The U.S. Minerals Management Service Monday said about 38% of natural gas production in the gulf remains shuttered.

“It's too early to start relaxing but also no cause yet for panic. We're not hearing from our utility customers that they are going to have a problem meeting customer demand,” says Mark Stultz, spokesman for the National Gas Supply Association.

Arctic Folly (WP)

By Jimmy Carter

The Washington Post, September 13, 2005

Congress is about to make one of those big decisions that marks an era. Unless wiser heads prevail, it may do it badly -- making the wrong decision in the wrong way and about the wrong place. At stake is America's greatest wildlife sanctuary, the Arctic National Wildlife Refuge. To dissuade Congress from this environmental tragedy, Americans must rally, and quickly.

Congress had its Pyrrhic energy victory this summer, with a new energy policy that ignores much-needed conservation measures and gives the oil industry large new tax breaks regardless of where it drills and pumps. Surely Congress has done more than enough to increase the profits of the oil industry.

Yet now, in a separate decision, the White House and Big Oil are pressuring Congress to allow drilling rigs to rip into the ecological heart of America's preeminent wildlife sanctuary. We must not confuse this with Prudhoe Bay, which lies west of the Arctic refuge and is already an industrial landscape resembling Houston more than Yellowstone.

With increasing gasoline prices bringing economic hardship and concern to many Americans, we must not be misled by oil lobbyists who are trying to convince us that our energy security is singularly dependent on sacrificing the Arctic refuge. They promote the false premise that development will touch just a few thousand acres when, in fact, it would introduce roads and pipelines spider-webbing across hundreds of thousands of acres on the fragile coastal plain.

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We cannot drill our way to energy security or lower gasoline prices as long as our nation sits on just 3 percent of world oil reserves yet accounts for 25 percent of all oil consumption. An obvious answer is to increase the fuel efficiency of motor vehicles, at least to the level we set more than a quarter-century ago.

Instead, the administration recently proposed a tiny increase in gas mileage for SUVs, minivans and pickups. Not effective until the 2011 models, this would save about one month's current consumption of fuel over the next 20 years -- far less than will be saved in just one state by a new California law. The new ruling offers automobile makers an opportunity to avoid the reductions by modifying the size of various models as they persist in manufacturing gas guzzlers. It is not a coincidence that Moody's has just downgraded the debt of General Motors and Ford to junk status, while makers of efficient vehicles prosper.

I have been to the coastal plain of the Arctic National Wildlife Refuge to study the wilderness wildlife. Far from being the frozen "desert" some suggest, this is a rich, Serengeti-like haven of life: nursery for caribou, polar bears, walruses and millions of shorebirds and waterfowl that migrate annually to the Lower 48. To sit, as Rosalynn and I did, watching a herd of musk oxen circle-up to defend their young and then to find yourself literally in the midst of thousands of caribou streaming by is to touch in a fundamental way God's glorious ark of teeming wildlife.

We Americans use a lot of energy, and millions of us want to do so in a more efficient way that also allows us to cherish our disappearing wilderness heritage. In the Arctic refuge we cannot have it both ways. In the next few months Americans could lose this special and amazing place through a backdoor legislative maneuver.

Each fall Congress endeavors to combine budgetary directives covering the nation's $2.5 trillion dollar annual budget in a single "reconciliation" decision. In a tricky ploy to avoid full debate, drilling advocates have buried their despoil-the-Arctic goal in this mammoth measure. So, conservation-minded Americans must ask our elected representatives to vote down any final budget reconciliation bill that would allow the sacrifice of our Arctic sanctuary.

Now is the time to speak up for the ecological integrity of this unsurpassed 18-million-acre wilderness. Many Americans will be in Washington on Sept. 20 for the Arctic Refuge Action Day rally on the Mall and to contact congressional representatives personally.

If we are not wise enough to protect the Arctic refuge, future generations will condemn us for needlessly sacrificing the wilderness of their world to feed our profligate, short-term and shortsighted energy habit. The pathway to a better, more sustainable energy future does not wind through the Arctic National Wildlife Refuge.

Former President Carter is the founder of the Carter Center in Atlanta.

FBI/DEA/ATF/USMS:

Justice Dept.: FBI Ignores Informant Rules (AP-Y2)

By Mark Sherman, Associated Press Writer

AP2, September 13, 2005

FBI agents often violate bureau's rules for handling confidential informants that were revised after FBI abuses in the 1990s, the Justice Department's internal watchdog said Monday.

A review of 120 confidential informant files from FBI offices around the country found violations in 104 cases, or 87 percent, Inspector General Glenn A. Fine said. His 301-page report, parts of which were blacked out, examined FBI compliance with rules that govern most criminal investigations.

The report said agents failed to assess informants' suitability or get permission for informants to engage in activity that otherwise would be illegal. Agents did not convey proper instructions or tell prosecutors when informants had committed crimes that were not authorized by their FBI handlers, Fine said.

FBI Director Robert Mueller, according to the report, said many agents find the required paperwork cumbersome. In a statement, the FBI said the violations were "administrative" and that officials have begun simplifying procedures.

Among the material in the report that was withheld from the public is how many confidential informants the FBI uses. Some have provided information to the FBI for more than six years. Others are designated "high-level" informants because they are part of the senior leadership of a group the FBI is investigating.

A third category of informants identified in the report includes lawyers, doctors and clergy — all obligated to keep confidential their dealings with clients — or members of the news media.

FBI spokesman Ed Cogswell said the bureau would not identify whether any of its informants are clergy or members of the media.

"We can use them and if a need presents, I'm sure we do," Cogswell said. "But we do not want to identify what our sources are."

Confidential informants are critical to some prosecutions, the report said. But their use by the FBI also "presents serious risks, including the risk that informants may claim that their criminal activities were authorized or acquiesced in by the government," Fine said.

John Wesley Hall, a vice president of the National Association of Criminal Defense Lawyers, said, "It sounds like they can break their own rules when they're investigating crimes. Too bad our clients can't bend the rules."

The Attorney General's Investigative Guidelines were developed in the mid-1970s in response to FBI surveillance and infiltration of civil rights and other protest groups in the 1950s and 1960s.

The section on informants was overhauled in 2001, after celebrated cases in which FBI agents protected mobsters from prosecution or tipped them off to investigations while simultaneously using them as FBI informants.

In one case, former FBI agent John J. Connolly Jr. tipped off Boston mobster James "Whitey" Bulger to a looming racketeering indictment, causing Bulger to flee. He remains at large.

The FBI has said informants are important to counterterrorism and criminal investigations.

Two informants helped lure Yemeni Sheik Mohammed Ali Hassan al-Moayad and an aide to a meeting in which the cleric was secretly recorded promising to funnel money to Hamas and al-Qaida. Al-Moayad was sentenced to 75 years in prison. Mohammed Mohsen Yahya Zayed received a 45-year sentence.

The case, however, was nearly derailed when one informant, who was the government's star witness, set himself on fire in Washington in what he later described as an attempt to get more money from the FBI, which paid him at least $100,000.

Mohamed Alanssi recovered in time for the trial.

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On the Net:

Justice Department inspector general: http://www.usdoj.gov/oig

FBI Violating Informant Guidelines (BOS)

By Shelley Murphy, Globe Staff

The Boston Globe, September 13, 2005

The US Department of Justice announced yesterday that the FBI has continued to violate informant guidelines adopted several years ago amid public condemnation over its mishandling of notorious Boston gangsters James "Whitey" Bulger and Stephen "The Rifleman" Flemmi.

A review of 120 confidential informant files at a dozen of the nation's FBI offices, including Boston's, found that agents failed to follow the rules in 87 percent of the cases, according to a 301-page report by Glenn A. Fine, the Justice Department's inspector general. The review was conducted between June and August 2004.

'These numbers are just extraordinary, and they're damning," said US Representative William D. Delahunt, a Quincy Democrat who participated in Congressional hearings investigating the FBI's relationship with Bulger and Flemmi.

"I think what they mean is legislation is now required to ensure compliance," Delahunt said yesterday. He said that he and US Representative Daniel E. Lungren, a California Republican and a fellow member of the House Judiciary Committee, will file a bill mandating that the FBI follow the guidelines and include sanctions for agents who do not.

The report cited agents' failure to report illegal activity by informants; failure to obtain authority to let informants engage in illegal activity such as buying drugs during investigations; failure to evaluate informants for suitability to work with the FBI; and failure to document when informants were deactivated, the report said.

Fine concluded that the violations were caused by inadequate training, a lack of administrative support for agents, and a failure of management to hold supervisors accountable for lack of proper oversight to handling agents.

According to the report, FBI director Robert S. Mueller III "told us that he frequently hears agents complain about the burdensome procedures for opening and operating informants."

The report also cited "lingering differences" between the FBI and the Department of Justice over how informants should be handled.

Tougher guidelines adopted in May 2002 -- aimed at preventing the cozy relationship that developed among Bulger, Flemmi, and their FBI handlers -- required the FBI to share information on informants with other agencies, including federal prosecutors.

The FBI in Washington released a statement yesterday saying that many of the recommendations in Fine's report have already been adopted or are under review as part of a project launched several months ago between the FBI and the Justice Department to revise its Confidential Human Source Program.

The project aims to simplify and standardize administrative procedures, clarify compliance requirements, and improve compliance with the attorney general's informant guidelines, according to the statement.

Delahunt said he will push for legislation that goes even further than the current informant guidelines, to include a provision that requires the FBI to notify state and local law enforcement officials if they learn that an informant is involved in criminal activity.

Retired FBI agent John J. Connolly Jr. was convicted in US District Court in Boston in May 2002 of racketeering, obstruction of justice, and related charges for warning his longtime informants, Bulger and Flemmi, to flee just before they were indicted on federal racketeering charges in January 1995. Bulger, who has since been charged with killing 19 people, remains a fugitive.

Connolly, who was sentenced to 10 years in prison on the federal charges, was indicted earlier this year on state murder charges in Miami in allegedly plotting with Bulger and Flemmi in 1982 to kill a potential witness against them, John Callahan, a Boston financier with ties to Bulger's gang. Connolly is awaiting trial.

Flemmi, who pleaded guilty to killing 10 people and is serving a life sentence, is now cooperating with the government and is slated to testify against Connolly in Florida.

The FBI's relationship with Bulger and Flemmi was exposed during pretrial hearings in US District Court in 1998, which led to Congressional hearings and the overhaul of the informant guidelines.

Former US attorney Donald K. Stern, who helped US Attorney General Janet Reno revamp the older guidelines, said yesterday he was disappointed by the number of violations cited in the report by Fine, the Justice Department's internal watchdog. "It was clear from the efforts to get the guidelines changed that this was to some degree a significant shift in attitude and culture that would be required at the FBI," Stern said, "because for so long the handling of informants was their domain, and they didn't have to share the responsibility or get any oversight outside."

But he said it is important to give the FBI the training and oversight it needs to comply with the guidelines because the previous system did not work.

"If you just assume that everything is OK because the line agent or the immediate supervisor says it is, you're going to have problems," Stern said. "And as we've learned from the Bulger and Flemmi case, those problems could have disastrous consequences."

F.B.I. Found To Violate Its Informant Rules (NYT)

By Eric Lichtblau

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 - The Federal Bureau of Investigation has often violated internal guidelines in its handling of confidential informants, the Justice Department's inspector general concluded Monday.

In nearly 9 of every 10 cases reviewed by the inspector general, guidelines on the handling of confidential informants were violated in ways that risked compromising investigations, according to a 301-page report by the office of Glenn A. Fine, the inspector general at the Justice Department.

The guidelines sometimes permit informants like drug dealers or gang members to commit crimes to further an investigation. But F.B.I. agents sometimes allowed criminal informants to engage in criminal activities without getting needed approval from supervisors or lawyers for such operations, failed to report unauthorized illegal activity, or approved such illegal activity only retroactively, the review found.

Bureau supervisors were often unfamiliar with the rules that applied to the handling of confidential informants - a reflection, the inspector general's report said, of "inadequate training at every level." And when violations were found, bureau agents and supervisors were often not held accountable for missteps, the review found.

The F.B.I. considers the use of confidential informants, who often have criminal ties, to be critical to its ability to penetrate drug trafficking organizations, gangs, gambling operations and terrorist circles.

In 2001, Janet Reno, then the attorney general, imposed toughened requirements on the F.B.I.'s use of informants in the wake of several embarrassing episodes - most notably, its handling of the Boston gangster James Bulger, who fled in 1995 after a bureau agent tipped him off to a pending indictment against him.

In May 2002, John Ashcroft, then the attorney general, amended the informant rules as part of a broader restructuring of F.B.I. policies aimed at allowing agents to respond more quickly and flexibly to leads in terrorism and criminal investigations.

The F.B.I. said Monday in response to the inspector general's report that it was working to improve compliance with guidelines for the handling of confidential informants and had already moved to make some internal changes recommended by Mr. Fine's office. Part of the problem, F.B.I. officials acknowledged, was the bureau's continued difficulty in building a modern computer system to help oversee the informant program and ensure better compliance.

"Even before the inspector general's review, we realized that we had to do some re-engineering of our whole human source program," Kevin R. Brock, an assistant F.B.I. director who oversees the program, said in an interview. "We were handling

more and more sources, we had more and more regulations that we added on over the years, and we weren't doing the follow-up quality control on our own."

The constant flux "just created a situation where it was tough for the working agent to keep track of all this stuff," Mr. Brock said.

"Agents are failing to do certain things not because of mal-intent but just the press of administrative requirements, and overlooking them," he said.

Beyond the problems in managing confidential informants, the inspector general's review looked at the effect of a number of changes ordered by Mr. Ashcroft in his 2002 revamping of the bureau's investigative guidelines. Among other changes, the new guidelines allowed F.B.I. agents to visit public sites and events, attend mosques and other religious institutions, or peruse the Internet in search of leads in terrorism cases.

The changes relaxed restrictions put in place in the 1970's as a result of F.B.I. abuses in the monitoring of political dissidents, and they have drawn criticism from civil rights advocates and Muslim leaders who say they open the door to investigative abuses.

Critics charged last year that the F.B.I. had abused its expanded powers by monitoring, interviewing and sometimes subpoenaing antiwar protesters and political protesters in advance of the political conventions last summer. The inspector general's office disclosed in its report Monday that it was conducting a separate investigation to determine whether the F.B.I. interrogations of protesters were in fact improper.

The inspector general's review found that there was "widespread recognition" among F.B.I. agents and officials of the constitutional and privacy implications of expanding the bureau's ability to monitor public sites. But the review found that there were "gaps" in how the new policy had been put into effect, raising management concerns.

For instance, agents are "encouraged, but not required" to get the approval of a supervisor before attending a public event or site. And it was not always clear what information the F.B.I. could retain if it did not relate to an investigation.

As a result, "an absence of routine documentation" made it difficult if not impossible to assess how agents were using their new powers and whether those powers were being abused, the report said.

Robert S. Mueller III, director of the F.B.I., told the inspector general's office that because agents were not required to get supervisors' approval before visiting public sites, it was "difficult to determine to what extent these authorities have been used," the inspector general's office said. It called on the F.B.I. to consider requiring approval from supervisors and more documentation of public visits to guard against possible abuses.

FBI Hit In Handling Of Secret Informers (WT)

By Jerry Seper

The Washington Times, September 13, 2005

Guidelines governing the FBI's handling of confidential informants, which were established in the 1970s and revised in the wake of September 11, are violated frequently by supervisors and agents, according to a report released yesterday.

The Justice Department's Office of Inspector General, in a 301-page report, said it found "significant non-compliance" by the FBI in its handling of confidential informants.

"The attorney general's investigative guidelines govern some of the FBI's most important investigative powers, including its authority to operate confidential informants," said Inspector General Glenn A. Fine. "Our review found several significant shortcomings in the FBI's adherence to the guidelines which need correction, particularly the guidelines governing its use of confidential informants."

The report says the guidelines were violated in 87 percent of the confidential-informant cases examined and that errors occurred in several of the most important aspects of the FBI's management of its criminal-informant program, including reviews aimed at assessing the suitability of people who serve as informants.

It says instructions FBI agents are required to give confidential informants were not followed in 49 percent of the reviewed cases, and the agency's use of its power to authorize confidential informants to participate in "otherwise illegal activity" showed a noncompliance rate of 60 percent.

"Guidelines violations can jeopardize Justice Department prosecutions of criminals and can also lead to civil liability claims against the government," Mr. Fine said. "We are concerned the FBI has not taken the necessary steps to ensure that FBI agents and their supervisors adhere to these important requirements."

The FBI yesterday said that although the report listed several instances of administrative noncompliance, it found that the bureau was "generally compliant with the guidelines."

Noting that confidential informants are critical to the bureau's ability to carry out its "counterterrorism, national security and criminal law-enforcement missions," the FBI said it began a project several months ago to review and revise its confidential-informant program.

FBI spokesman Edwin C. Cogswell said the review seeks to develop policies and processes to simplify and standardize administrative procedures and to clarify and improve compliance requirements.

The Justice Department set the guidelines in the 1970s in response to FBI's surveillance and infiltration of civil rights groups. The guidelines address the bureau's investigations of people and groups, its use of confidential informants, undercover operations and warrantless monitoring of verbal communications. After the September 11 attacks, Attorney General John Ashcroft ordered a review of the guidelines to identify revisions necessary to enhance the department's ability to prevent terrorist attacks.

The revised guidelines gave FBI field managers greater authority to conduct preliminary inquiries, criminal intelligence investigations and undercover operations.

FBI Watchdog Report: Agents Often Break Rules For Informants (USAT)

USA Today, September 13, 2005

FBI agents often violate the bureau's rules for handling confidential informants, the Justice Department's internal watchdog said Monday.

The report by Inspector General Glenn Fine said agents failed to assess informants' suitability or get permission for informants to engage in activity that otherwise would be illegal. Agents did not convey proper instructions or tell prosecutors when informants had committed crimes that were not authorized by their FBI handlers, Fine said.

The report was based on a review of 120 confidential informant files from FBI offices. Fine found violations in 87% of the files, or 104 cases. The report quoted FBI Director Robert Mueller as saying many agents find the required paperwork cumbersome.

The FBI said in a statement that the violations were “administrative” and that officials have begun simplifying procedures.

Among the material in the report that was withheld from the public is how many confidential informants the FBI uses. Some informants are doctors, lawyers, clergy or members of the news media, the report said.

The guidelines on informants were overhauled in 2001 after cases in which FBI agents protected mobsters from prosecution or tipped them off to investigations while using them as FBI informants.

Rumsfeld touts base-closing savings

Defense Secretary Donald Rumsfeld has advised President Bush that a plan presented to the White House last week for closing 22 major military bases and realigning 33 others will still yield large savings, even though fewer bases would be closed than Rumsfeld wanted, his spokesman said. Lawrence Di Rita would not say whether Rumsfeld recommended that Bush accept the plan as presented by the Base Realignment and Closure Commission.

The commission said its recommendations will result in annual savings of $4.2 billion, compared with $5.4 billion under the plan it received last May from Rumsfeld. Rumsfeld had recommended closing 33 major bases and realigning 29 others.

Bush has until Sept. 23 to accept the report and forward it to Congress or return it to the commission for more work. If sent to Congress, lawmakers can accept or reject the plan, but can't change it.

ABOUT THIS STORY (TSSC)

The State (SC), September 13, 2005

More than 800 pages of the late Strom Thurmond’s FBI file were released Monday at the request of several news organizations, including The State. The first 600 came out in March.

The State requested the file of the former U.S. senator, governor and judge in accordance with the federal Freedom of Information Act shortly after the senator’s June 26, 2003, death.

The first 600 pages are called the “general administrative file” and comprise only a fraction of Thurmond’s total file. The 800 pages just released deal mainly with threats made against Thurmond throughout his public life.

According to the FBI, about 900 more pages are yet to be released.

As is typical with the FBI and Monday’s release, it might take several more months before these additional pages are made available to the public.

Before a subject’s death, the Federal Bureau of Investigation will release a file only with the subject’s permission. FBI files are made available to the public after an individual’s death.

FBI Investigated Many Death Threats Against Thurmond (TSSC)

The State (SC), September 13, 2005

For a half century, Strom Thurmond was a Southern icon and a national figure. His longevity — serving as a U.S. senator from 1956 to 2003 — exposed him to at least 31 threats that the FBI investigated. The threats ranged from the serious — a threat to assassinate Thurmond the same year that Robert Kennedy and Martin Luther King Jr. were killed — to the ravings of a "chronic letter writer with apparent mental problems," the FBI reported.

'WE AIN'T LETTIN' NOBODY TALK AGAINST MR. WALLACE'

On Sept. 7, 1968, U.S. Sen. Strom Thurmond's office received an anonymous phone call from a man, threatening to kill the senator if he came to Greenville to campaign against Alabama Gov. George Wallace, then running as a third-party presidential candidate.

"If Strom Thurmond comes to the state fair in Greenville on 9/26/68, he will get the same thing that happened to Kennedy and King," the caller said, referring to U.S. Sen. Robert Kennedy and civil rights leader Martin Luther King, both slain that year.

The senator's secretary received a call a week later from the same anonymous caller, warning "if she brought Thurmond to the state fair, she would also get it."

At the time, Thurmond was traveling the South campaigning for GOP presidential nominee Richard Nixon. He told Southerners a vote for Wallace would, in effect, be a vote for Democrat Hubert Humphrey. Don't waste your vote, he constantly admonished Dixie voters.

On the evening of Sept. 7, 1968, the senator's secretary received a call from the same perons who had phoned earlier. He asked if Thurmond was going to speak at the Anderson fair. She said he was.

"If he doesn't want the same thing to happen to him that happened to Bobby and King, he better not come 'cause we ain't lettin' nobody talk against Mr. Wallace. I'm warning ya'."

Thurmond spoke. Nothing happened. No arrests were made in connection with the threats.

THREAT TO KILL STROM, TED, TOO

On March 31, 1969, Thurmond received a postcard postmarked St. Louis, Mo. It bore a handwritten message, saying the writer planned to kill the senator.

The postcard was followed by another. This time, the name of U.S. Sen. Teddy Kennedy, D-Mass., was added to the list of those to be killed. The same card was sent to President Nixon, former President Johnson and the governor of Vermont.

A fictitious name, Janice Neavles, was signed to the cards. No arrests were made.

'CHRONIC LETTER WRITER WITH ... MENTAL PROBLEM'

In April 1973, the U.S. probation office in Panama City, Fla., forwarded to the FBI a packet of mailed and unmailed notes and cards. One postcard, addressed to Thurmond, contained this cryptic line: "Senator, we hear you are next to be processed."

The probation office had been investigating a crank letter writer in Alabama.

The FBI sent an agent to interview the man, whose name was deleted from the FBI documents. A report on that interview noted, "Subject was hostile and it was apparent from talk and facial expression he has mental problems."

The man's brother told the FBI the letter writer was a paratrooper in World War II, who parachuted into France, was captured by the Germans and developed mental problems.

The FBI took no action. "Subject is chronic letter writer with apparent mental problem," a file memo said.

'WE'LL HANG YOU BY YOUR TOES'

In February 1974, Thurmond's office received a two-page letter that hit close to home.

The letter started out by praising Thurmond for being smart enough to have made a "pile of money" but soon devolved into a profanity-laced diatribe against Thurmond.

After wishing cancer on the entire Thurmond family, the letter concludes with "long live the future revolution — we'll hang you by your toes and your kids too."

The letter was sent from Myrtle Beach and signed "a Revolutionary." The FBI investigated, but it is not clear whether the agency ever identified the sender.

SENATOR'S NAME BANDIED ABOUT IN LAWSUIT

In 1983, Thurmond was sued in U.S. District Court in Norfolk. The suit alleged the senator took a $10,000 bribe in 1978, promising to help the plaintiff in the lawsuit get a $50,000 loan.

The file, heavily redacted, indicates a citizen visited Thurmond's Columbia office in mid- 1978, seeking help. A Thurmond aide, whose name also was removed from the file, allegedly assured the inquiring citizen that Thurmond would recommend him or her for a loan through an unnamed agency. However, the 1983 suit contended the citizen was not eligible for the particular loan.

Federal investigations into the matter started in 1982. However, the FBI file noted there was no proof Thurmond knew anything about the case. Thurmond and others were sued in early 1983.

A federal grand jury in Virginia issued a six-count indictment, and an arrest in the case was made Feb. 17, 1983.

In late 1983, the civil charges against Thurmond were dismissed, according to the file.

THREAT AGAINST BURGER, MEESE AND THURMOND?

In April 1983, police in Raleigh arrested a man for possession of stolen credit cards and credit card fraud.

At the time of his arrest, police noted his personal effects: less than a $1 in cash and a handwritten journal that seemed to vaguely threaten some of the most powerful men in the U.S. government, including Thurmond.

In 1983, Thurmond was Senate president pro tempore and chairman of its Judiciary Committee, which reviewed and voted on judicial and law enforcement appointees.

The FBI file detailing the arrest of the unidentified man in Raleigh makes only a passing reference to how much he knew about Thurmond. The journal included handwritten notations claiming the arrested man had traveled extensively throughout the U.S., acquiring weapons and financial backing for an unnamed organization. According to the man's journal, the purpose of the organization was to free selected federal prisoners and "eliminate" selected snitches.

Of particular interest to federal law enforcement officials was a cryptic journal entry from April 3, 1983. "The plan will start in early May ('83)," the entry reads. "All logistics for those on the list are being put together by group in D.C. i.e. time table (sic) of movement by targets, addresses, travel patterns, etc."

The entry goes on to state: "Meese, Burger and Thurmond pose greatest problem because of positions via security. Weapons and transportation are arranged."

Warren Burger was then chief justice of the U.S. Supreme Court; Edwin Meese was counselor to President Ronald Reagan.

U.S. Secret Service agents, believing the arrested man to be a possible threat to the president, attempted to interview him April 19, 1983, but he refused.

Thurmond's security officers in South Carolina and Washington, D.C., were alerted.

In one journal entry, the arrested man noted one difficulty in pulling off whatever plan was afoot: "The handicap will be me," the journal states. "I am to (sic) well known in D.C., both by citizens and by Feds particularly."

FBI files do not say whether the man was prosecuted. But as he sat in a Wake County, N.C., jail, federal and state law enforcement officials were working to find out what he was up to and what, if anything, was to come of his plan.

— Lee Bandy, Roddie Burris, John Monk, Jeff Stensland, Wayne Washington

Some Put Thurmond In The Cross Hairs (TSSC)

By Lauren Markoe

The State (SC), September 13, 2005

WASHINGTON — The late Strom Thurmond made plenty of political enemies over his long and controversial career — including the kind the FBI feared might try to kill him.

The FBI on Monday released 836 pages of its file on Thurmond, pages that show the S.C. Democrat-turned-Republican was the target of persistent harassers, from the merely disgruntled to the potentially lethal.

The documents cover most of Thurmond's record-setting 48 years in the U.S. Senate and include information on FBI investigations into:

· An S.C. man with a history of violence who had escaped from a state mental hospital

· A Columbia man who wrote to "our dear senator" and promised to come to Washington or South Carolina and "settle it once and for all"

· A lewd letter in which the writer acknowledged an obsession with Nancy Thurmond, the senator's wife.

The documents are windows into some of the more unpleasant aspects of political fame and include copies of threatening telegrams, results of handwriting tests and summaries of interviews with suspects.

One of the threats taken most seriously by the FBI involved a man who, in 1976, wrote letters to Thurmond, postmarked from Greenville, in which he said he despised Thurmond and his politics.

"I would give my cool seat in hell to be able to pull the trigger," the man wrote.

He signed the letter, "A $65 month disable combat vet," apparently referring to the size of his monthly checks from the Veterans Administration, now known as Veterans Affairs.

In a document distributed to the FBI director at the time, an agent advises, "The Bureau has instructed that his (sic) matter must receive vigorous and continuous attention until fully resolved."

Other documents show the FBI had the Veterans Administration write a computer program to help identify a World War II veteran from the Upstate with certain characteristics the letter writer revealed about himself.

It is unclear how the investigation was resolved.

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The State, which requested Thurmond's FBI file after the senator died in 2003, counted 31 threats investigated from 1958 to 1989, the years covered in the released pages. They make up the second installment of Thurmond's FBI file to be made public.

The first installment, released in February, was smaller but more wide-ranging in its subject matter. It included everything from Christmas cards FBI officials sent to Thurmond to Thurmond's requests that the FBI look into civil rights leader Martin Luther King's alleged connection with communists.

This latest release focuses only on contact with Thurmond's office deemed menacing — first by the senator's staff, usually the first to read his mail and receive his calls, and then by the FBI, which assigned agents to investigate.

The documents do not indicate that any of the threats resulted in prosecutions.

The threats came from men and women, whites and blacks, the political and seemingly apolitical. Most did not articulate a particular problem with Thurmond's politics.

Some investigations are marked "EXTORTION" by the FBI, but none refers to his biracial daughter, Essie Mae Washington-Williams, whom Thurmond never acknowledged as his child. (Washington-Williams revealed herself to be the senator's daughter after his death.)

Often the FBI identified the threat maker as mentally ill.

S.C. Law Enforcement Division chief Robert M. Stewart, who was personally involved in protecting Thurmond when he was in South Carolina, said SLED agents were with the senator whenever he was in the state.

"We had more threats against Senator Thurmond than any other official that we provided security for, and I would think that would be because of his long years of service and the many issues he dealt with," Stewart said.

Frequently, Stewart continued, SLED had to handle threats from the mentally ill. "There were at least two or three people whose names would repeatedly come up."

Stewart said behavioral scientists and psychologists working for SLED would help identify those who made truly credible threats; often the most threatening were committed or recommitted to mental hospitals.

"You have to take those threats very seriously," said Stewart, noting several mentally ill people have carried out threats against politicians, including John Hinckley, who shot President Reagan in 1981.

Stewart said he has no knowledge of any person ever getting close to hurting the senator while he was in South Carolina.

Thurmond, known for his bravado, tried to minimize threats brought to his attention, Stewart recalled. "He wasn't scared of anybody. None of these things bothered him. But he did allow us to take extra precautions."

Mark Goodin, a senior aide to Thurmond from 1982 to 1988, said the number of threats against Thurmond was about average among U.S. senators. "Most received several a year. They're all taken seriously by the FBI."

Goodin remembered "one or two" Thurmond received that seemed scarier than most. But the senator never altered his schedule.

"Getting Strom Thurmond to cancel an appearance would have taken an act of Congress."

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Report: FBI Lacks Blueprint For Technology Upgrade (GOVEXEC)

By Daniel Pulliam

Government Executive, September 13, 2005

Despite past warnings from congressional auditors, the FBI does not have an effective framework for modernizing its information technology systems, according to a new report.

The Government Accountability Office report (GAO-05-363) argued that the FBI needs to continue to move towards a fully enforced enterprise architecture, a blueprint used by organizations to guide IT system improvements.

The 47-page report also found that the bureau's heavy reliance on private contractors to develop the IT framework was hampered because the FBI does not use performance-based contracting techniques and has failed to effectively oversee the contractors' work.

The FBI's computer systems are based primarily on 1980s technology, and realigning the bureau's mission after the Sept. 11, 2001, terrorist attacks, have strained its IT systems, which are "deployed on an ad hoc basis," according to the report.

Currently, the FBI is undertaking a multimillion-dollar IT modernization effort. More than half of the bureau's IT budget - $390 million out of $737 million - is being spent on upgrading its 450 U.S.-based offices and 45 foreign bureaus.

The FBI has struggled to modernize its systems, a situation highlighted by the failed $170 million Virtual Case File System.

GAO investigators laid the framework for their criticism of the FBI's failure to establish an enterprise architecture in a September 2003 report (GAO-03-959).

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Of the 31 elements GAO used at the time to evaluate the quality of an agency's enterprise architecture, the FBI satisfied only 15. While some best practices have been incorporated since that time, several have yet to be adopted.

"If the bureau does not begin employing the kind of effective contract management controls contained in federal regulations and related guidance, its architecture efforts will continue to be at risk," GAO auditors said.

The FBI's heavy reliance on private contractors for the development of its IT blueprint is partly to blame for the ineffective IT architecture, the report stated. GAO found that contracted work for the enterprise architecture was not defined in measurable, results-oriented terms, and specific standards and performance incentives were not tied to contracts' requirements.

FBI officials told GAO that the bureau's approach to IT contacting was based on the concept of working with the contractor until the product or service is satisfactory, a method GAO termed ineffective.

GAO recommended that the FBI's chief information officer and chief financial officer implement performance-based contracting wherever possible, along with stronger tracking and oversight practices.

In response, Zalmai Azmi, the FBI's chief information officer, wrote that the bureau has been successful in using fixed-price contracting, rather than the performance-based contracting, because the approach gives contractors an incentive to stay on schedule. But, he said, the FBI would take steps to encourage performance-based contracting.

Guilty Pleas In Two Southwest Louisiana Cocaine Rings (AP)

AP, September 13, 2005

LAFAYETTE, La. (AP) — Three men pleaded guilty Monday to being members of a cocaine distribution ring that operated over 16 years.

Nathan Campbell, 24, and Aubrey Howard, 29, pleaded guilty to conspiracy to possess and distribute cocaine, while Tevin Bennett, 18, pleaded guilty to possession of cocaine with intent to sell, the U.S. Attorney's Office said Monday. A sentencing date has not been set.

The three Lafayette men, along with six others, were arrested in December 2003 based on charges outlined in a federal indictment.

Campbell and Howard conspired with others to sell cocaine in St. Mary Parish as part of a drug ring that operated between January 1987 and October 2003, prosecutors said. Christopher Williams, 36, of Morgan City, awaits trial in the case.

In a separate case, Derrick Alexander, of Lake Charles, pleaded guilty last week to using a cellular phone to facilitate cocaine sales at a playground.

Truce Between Bolivian Troops, Coca Growers Set To Expire (GFH/KRT)

By Jack Chang

The Grand Forks Herald, September 13, 2005

EL CHAPARE, Bolivia - (KRT) - From his quiet corner of Bolivia's Chapare region, Egberto Chipana recalled the day three years ago when government soldiers invaded the radio station he now manages because it was championing the cause of farmers who grow coca, the plant whose leaves are the raw material for cocaine.

On that Tuesday, with battles raging between growers and troops, the soldiers seized the station's transmitter, and its directors were threatened with prosecution for instigating unrest. Growers responded by blocking roads and staging protests, demanding that the station be reopened.

"The government eventually returned everything," Chipana said on a recent sweltering afternoon. Drying coca leaves covered the earth outside the station building. "The outcry was too great, and the government couldn't ignore it."

The Chapare, a tropical region of mountain and plain in central Bolivia, has been a battleground for the past decade between coca growers and government troops.

Sometimes the face-off has had deadly results, but an uneasy peace now prevails, thanks to a one-year truce signed by growers and the administration of since-ousted President Carlos Mesa that allows limited cultivation of coca.

But with the agreement officially set to end Oct. 1 and Bolivians scheduled to elect a new president in December, these could be the last days of peace, some Chapare residents fear.

"If the government doesn't respect our right to determine our own livelihood, we will organize and we will fight," said Gabina Contreras, a 54-year-old mother of 11 from the growers' collective Sindicato Esteban Arce, named for a Bolivian independence hero.

"Coca is like father and mother to us. We can't live without coca."

Despite the truce, U.S. and Bolivian officials say this Andean nation's laws forbid the cultivation of coca and allege that coca grown in the Chapare is ending up as cocaine elsewhere in the Americas.

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According to the U.S. State Department, Bolivia is the world's third-largest producer of cocaine. The United States has poured more than $150 million in military and social aid into the country annually over the past four years, in part to fight coca cultivation.

Although eradication of coca in excess of that permitted by the truce continues, the days of widespread military action against coca growers is halted for now, said Luz Mendoza, a spokeswoman for the country's Ministry of Social Defense.

So far this year, the government has destroyed about 16 square miles of coca nationwide, almost all of it in the Chapare, government figures show. In comparison, it eradicated about 46 square miles during all of 2002, nearly half of the 110 square miles believed under cultivation.

"We have a temporary situation there now," she said. "People who are directly involved in the planting of coca are still disobeying laws, and we're not going to ignore that."

Kathryn Ledebur, director of the human rights group the Andean Information Network, sees the coca issue heating up as the election approaches.

Presidential candidates Evo Morales, himself a coca grower, and former President Jorge "Tuto" Quiroga, who oversaw the country's coca eradication effort in 2001 and 2002, were running neck-and-neck in a recent poll.

Morales has said in interviews that he plans to promote the growth of coca for industrial uses other than cocaine production. As one of the country's main coca-producing areas, the Chapare is also the heart of Morales' political support.

Quiroga has been a longtime champion of coca eradication and the development of programs that promote the cultivation of crops such as bananas and oranges in its place.

"Both of the key players in this election built their platforms on the coca issue," Ledebur said.

While forced eradication has slowed in the Chapare, evidence of the drug war is still everywhere in this impoverished, 9,840 square-mile region, where about 45,000 families survive by growing the controversial crop.

Just to get into the Chapare requires going through a series of U.S.-funded checkpoints all manned with drug sniffing dogs and armed soldiers.

At least 4,000 Bolivian troops remain in the Chapare, nearly the same number as were there nearing the peak of the eradication campaign. They are stationed in six local headquarters and 15 mobile bases, according to Godofredo Reinicke, the region's former human rights ombudsman and one of those who believe that the U.S. influence in the drug war is a slap at Bolivian sovereignty.

Coca growers have countered the government presence by strengthening the federations and smaller collectives they have long lived under, allowing them to quickly mobilize in response to military actions.

Growers argue that they cultivate and use coca for traditional purposes such as tea making and chewing to stave off hunger while working.

Selling the crop in government-approved markets, a family working the maximum area of coca crop permitted by the truce can earn between $60 and $80 a month, Ledebur estimated.

Where the coca goes after the markets, however, is a question growers don't have answers for.

"We are just following the legal procedures," Chipana said. "Maybe some of the coca is going to drug production, but that's out of our control."

Jorge Azad, the country's vice-minister of alternative development, said he believes much of it is going to drug production. The amount of coca coming out of the Chapare far exceeds what's needed for traditional use, a fact that demands government action, he said.

"The eradication campaign will continue," Azad said. "I don't know if it will widen after the elections or what will happen, but it will continue."

'Ganja Guru' Appeal Set After Delay (ATS)

By Josh Richman, STAFF WRITER

Alameda (CA) Times-Star, September 13, 2005

More than two years after being convicted and sentenced for growing marijuana, Oakland's self-styled "Guru of Ganja" will make his appeal Tuesday for why even a slap on the wrist was too much.

Ed Rosenthal, a renowned pro-marijuana author, activist and cultivation authority, claims he never should have been convicted of three marijuana-growing felonies. The government claims he not only deserved conviction, but he also deserved at least two to five years in prison instead of his one-day, time-already-served sentence.

Three judges of the 9th U.S. Circuit Court of Appeals will decide sometime in the few months after Tuesday's arguments.

Rosenthal — famed for his books and for the "Ask Ed" column he wrote for "High Times" magazine — became a medical-marijuana cause celebre after his February 2002 arrest. Drug Enforcement Administration agents raided sites including his

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Oakland home office; an Oakland warehouse where he'd been growing marijuana; San Francisco's Harm Reduction Center medical marijuana club, which he'd supplied; and the HRC's founder's Petaluma home.

After a five-day trial, a federal jury convicted Rosenthal on Jan. 31, 2003, of three marijuana-growing felonies. Upon learning afterward of the state and city protections Rosenthal had not been allowed to raise as a defense, several jurors renounced their verdict and rallied to his cause. U.S. District Judge Charles Breyer sentenced Rosenthal on June 4, 2003, to one day in prison.

On appeal, Rosenthal basically claims Breyer erred by not letting him mount an "entrapment-by-estoppel" defense —that is, that local and federal officials had led him to believe his conduct was protected under California's 1996 compassionate-use law and by an Oakland ordinance under which he was deemed an city officer permitted to grow marijuana.

Light sentence explained

In fact, the appeal notes that at Rosenthal's sentencing, Breyer said he believed Rosenthal reasonably — although incorrectly — thought the state and local laws immunized him; the judge used this as an explanation for the lighter-than-normal sentence.

The appeal also claims:

-Federal prosecutor George Bevan committed misconduct by falsely telling the grand jury that later indicted Rosenthal that federal agencies were not aiming to shut down medical marijuana clubs;

-Rosenthal wasn't allowed to rebut the government's claims that he grew the marijuana for profit;

-Two jurors committed misconduct by voting to convict based in part on an attorney-friend's advice not to stray from the judge's instructions;

-Breyer erred by instructing the jury it could not bring its "sense of justice" to bear on this case; and

-Breyer erred by refusing to exclude evidence from the Oakland warehouse based on Rosenthal's claim that the warrant lacked probable cause.

The government not only disputes all of these claims but is seeking a harsher sentence of at least two to five years in prison.

Advertisement

Government's brief

Even if the city of Oakland approved of and encouraged his conduct, the government's brief says, a "one-day sentence for a defendant who has been a sophisticated marijuana cultivator for more than four years is simply indefensible in light of Congress' clear intent to treat marijuana cultivation as a serious offense, regardless of the use to which the marijuana is put."

Breyer's enormous departure from sentencing guidelines "was an abuse of judicial discretion and the case should be remanded for resentencing," the brief concludes.

Rosenthal's case was on hold for many months as the appeals court awaited the U.S. Supreme Court's decision in Gonzales v. Raich, another Oakland-based case aimed at halting federal prosecution of medical marijuana patients and caregivers.

That case's plaintiffs had argued the Constitution's commerce clause lets Congress regulate only interstate commerce, and that Californians' medical marijuana use neither crosses state lines nor involves money changing hands. That would mean the Controlled Substances Act's marijuana ban oversteps Congress' authority, and so shouldn't be used to prosecute patients and caregivers.

But in a 6-3 ruling in June, the Supreme Court essentially concluded that even marijuana grown in back yards for personal, medical use can affect or contribute to the illegal interstate market for marijuana, and so is within Congress' constitutional reach. Once the federal government was cleared to arrest and prosecute patients and caregivers, Rosenthal's appeal began moving forward again.

Circuit Judges Betty Fletcher, Marsha Berzon and John Gibson will hear Rosenthal's appeal.

Varied backgrounds

Fletcher is a 1979 Carter appointee and former Seattle attorney with a liberal reputation. Berzon is a 1999 Clinton appointee who, after clerking for outspoken liberal U.S. Supreme Court Justice William Brennan, spent most of her career in private practice in San Francisco. And Gibson, "on loan" from the 8th Circuit appeals court, was a Kansas City attorney before being nominated to the federal bench in 1981 and the circuit court in 1982 by President Reagan.

"We think it's a panel that will be fair and carefully consider the claims," said Dennis Riordan, one of Rosenthal's attorneys.

Afghan Opium Prices Down Sharply Since 2001, U.N. Report Says (AP)

By GEORGE GEDDA, Associated Press

AP, September 13, 2005

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WASHINGTON - Favorable opium harvests in Afghanistan have led to a sharp drop in prices since the U.S. military forced the Taliban regime from power in 2001, according to a United Nations report.

The Taliban imposed a ban on opium cultivation in 2000, triggering an eight-fold price increase to $675 per kilogram in late 2001, the U.N. report said.

Since then good harvests coupled with improved yields dropped the price to $151 as of this past July, the study said.

The report was outlined at a new conference by the U.N.'s anti-drug chief, Antonio Maria Costa. It will be presented to the House Committee on International Relations on Tuesday.

Opium is the raw material from which heroin is derived.

A crackdown on poppy farming by the Afghan government with U.S., British and other outside help led to a 21 percent decline in the area of Afghanistan under poppy cultivation, Costa said.

But production remained almost unchanged because of optimum growing conditions, he added.

He said there has been a sharp increase in opium production in the northern Afghan province of Balkh. Costa linked the increase to the appointment of Gen. Atta Mohammed as governor last year and said he has urged President Hamid Karzai to replace Atta.

A separate report listed "removal of corrupt governors" among six initiatives the Afghan government should take over the next 12 to 24 months to build on improvements in the anti-drug campaign to date.

Other points Costa made:

_Afghanistan accounts for 87 percent of world opium production, down 3 percent from last year.

_The opium economy is netting traffickers $2.14 billion in 2005, about 41 percent of Afghanistan's gross national product, a 7 percent decline from last year.

_The death toll from Afghan opiate overdoses, mostly by Europeans, is estimated at 10,000 annually. About 100,000 others died from sickness related to heroin use.

Editorial: Battling The Meth `epidemic' (CHIT)

Chicago Tribune, September 13, 2005

The summer began with a controversy over a new government anti-marijuana campaign that re-ignited a long-smoldering debate about the dangers of pot. It ended with a dust-up over methamphetamine, a potent and addictive drug also known as meth or crystal meth.

A Newsweek cover breathlessly called meth "America's Most Dangerous Drug" and warned of an "epidemic" that will soon be spreading to Your Town, if it's not already there. Meth is being called a "plague" by some drug officials and likened to a forest fire sweeping the country. A recent survey of 500 sheriffs' departments in 45 states labeled meth the No. 1 scourge. Some in Congress are accusing the White House of largely ignoring meth to focus on battling marijuana.

All of that has prompted some critics to cry "hype," suspecting that the meth epidemic is a transparent ploy by law enforcement to drum up more federal money.

A dose of skepticism is warranted here.

"Epidemic" implies that meth has swamped the country. That is not true. If you're a Drug Enforcement Administration agent in San Diego or Phoenix, the term is apt. But it's not if you're in Chicago. Cocaine and heroin are much bigger problems here, a DEA agent said. That's also true of many Northeastern cities, where meth remains a minor player.

But meth, sometimes called "poor man's cocaine," is popular and spreading.

There's no dispute about the perils of meth. Everyone agrees it's bad stuff. Like any other dangerous drug, meth can kill. It destroys lives. It's an insidious, highly addictive drug that can be smoked, snorted or injected. Users get an intense jolt of energy that often tips into paranoia and insomnia. In some, it stokes violent rages. Side effects include convulsions, stroke and cardiac arrhythmia. As we said, this is bad stuff. It doesn't need to be hyped.

The question being debated in Washington now is how much of America's drug-fighting resources should be focused on meth, as opposed to marijuana, cocaine and other, more widely used drugs. In 2003, for example, an estimated 25 million people used marijuana, 5.9 million used cocaine and crack and 1.3 million used meth.

The White House has favored targeting marijuana as Drug Enemy No. 1, because of its widespread use and because it's considered a gateway for young people toward more serious drug use.

The targeting of marijuana as a gateway drug traces back several administrations. There is growing skepticism about the theory, however, buttressed by more recent research. The notion that youngster's marijuana use will translate into use of harder drugs later is proving to be simplistic at best. And allocating the lion's share of resources by measuring the number of drug users may not be the most effective strategy.

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The nation can't focus on fighting one drug to the near-exclusion of all others. Officials must take into account the ripple effects of a drug's damage--that is, not just the health costs for addicts and users, but also costs to cities and neighborhoods in crime, violence and sundered families.

The anti-meth strategy is two-fold.

First, authorities are targeting the makeshift labs where the drug is cooked. They recently boasted of the first nationally coordinated operation, yielding more than 400 arrests in about 200 cities, shutting down 56 labs. Cracking down on meth production in the U.S. is a good idea because those makeshift labs are like toxic waste dumps in a neighborhood. They emit noxious fumes and are highly explosive.

Unfortunately, success in closing such domestic labs won't stop meth. It only means that Mexican cartels pick up the slack. An investigation by The Oregonian newspaper in Portland, Ore., reported that Mexico last year imported nearly twice as much pseudoephedrine--one of the keys to illegal meth production--than is necessary for the production of cold medicine.

The second tactic: Many states, including Illinois, are restricting sales of over-the-counter cold and allergy medicines with ingredients that can be converted into the drug. In Oregon, for instance, you now need a doctor's prescription for such common cold medications as Claritin-D or Sudafed. That's overly burdensome. It is enough to keep some of those products behind the counter, available without a prescription. That's the practice in Illinois. Asking a pharmacist for Sudafed is a small inconvenience that most people will shrug off, particularly if it helps crimp a notorious drug trade.

Atty. Gen. Alberto Gonzales recently declared that meth had overtaken marijuana as the most dangerous drug in America. That's certainly true in many places in this country. And where it isn't, it could be tomorrow. The focus now should be in making sure that meth doesn't become a full-fledged "epidemic."

Man Gets Life Plus 136 Years In D.C.-area Arsons (BSUN)

By Matthew Dolan

The Baltimore Sun, September 13, 2005

GREENBELT -- A law enforcement task force secretly labored for years from a warren of empty laboratories at the Beltsville Agricultural Research Center, chasing more than a thousand dead-end leads trying to catch a serial arsonist before he killed again.

In the end, it was a combination of sheer doggedness, a serendipitous meeting with military officials about DNA evidence from a pair of Marine dress-blues left behind at a fire scene, and an unusually cooperative suspect that cracked the case.

Monday, Thomas A. Sweatt, 50, the once-elusive "firebug" responsible for setting more than 45 fires in Maryland, Virginia and Washington that killed two people was sentenced in federal court to serve the rest of his life in prison.

"It's a relief," said Scott Fulkerson, a special agent from the Bureau of Alcohol, Tobacco Firearms and Explosives' Baltimore field office who was co-leader of the task force that operated for nearly two years.

Sweatt, a former fast-food restaurant manager in Washington who reportedly told authorities he was driven by demons, kept Fulkerson, his co-leader Tom Daley and dozens of investigators from across the state and country puzzled for years.

When he was arrested in April and pleaded guilty in June, he gave it all up. The man who had evaded authorities for months didn't balk when they asked him for a voluntary DNA sample at the KFC restaurant he managed.

He also quickly admitted to a seemingly random set of residential fires that hop-scotched across the Washington region from 2002 until earlier this year.

His attorney described Sweatt as a classic Dr. Jekyl and Mr. Hyde, calling him a good person and victim of an unspecified mental illness.

"Hopefully, he will get the attention and treatment he desperately needs," said Assistant Public Defender John C. Chamble.

But even today, Sweatt's motive remains a mystery.

He walked into court Monday, his gait unsteady, his eyes hidden behind slightly darkened glasses.

When Sweatt stood to address the court before U.S. District Judge Deborah K. Chasanow sentenced him to life plus roughly 136 years in prison, he spoke clearly in an almost falsetto voice.

"To the victims and the victims' families, I'm very sorry for all of the harm I have caused," he said, leaning toward the microphone.

Sweatt rarely looked at the weeping families, including his own, assembled behind him.

His fires damaged and destroyed homes, displaced residents and killed 89-year-old Annie Brown and 86-year-old Lou Edna Jones, both of Northeast Washington.

"She befriended the lonely and comforted the broken hearted," Jones' daughter Carolyn said of her mother, who died in June 2003. "He is a vicious murderer who single-handedly terrorized Washington."

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Like the 2002 Washington-area sniper attacks, the jarring unpredictability of the fires filled residents with fear and frustrated investigators who initially didn't link the blazes.

The fires were set in almost identical ways -- with homemade bombs of plastic one-gallon jugs filled with gasoline, topped with a piece of cloth used as a wick and wrapped in a plastic bag for easy transport.

Investigators described the arsons as diabolical, saying the incendiary devices were often left outside exits to the home.

A fire at a Silver Spring apartment building in 2004 was set in the building's only stairwell and forced some occupants to jump from second- and third-story windows. Most of the fires were set in the middle of the night as people slept.

Sweatt knew his victims were home, once waiting for 15 minutes on a porch before lighting his Molotov cocktail, investigators said.

The fires, which included several in Prince George's and Montgomery counties, spawned an arson task force that began its work in the summer of 2003.

Investigators believed they had found the arsonist's DNA on a hair recovered from the scene of one fire. They matched it to DNA found at other fires. But the team of federal agents and local detectives did not know who it belonged to.

More than 1,000 leads were logged in black binders, checked out through interviews and then, when exhausted, filed on bookshelves in the red-brick Building 308 at the agricultural center.

Evidence found at a fire in Prince George's County included a black plastic bag that had been part of the makeshift Molotov cocktail used to set the blaze. Most of the other bags had been melted down as a result of the arsons.

The lettering read, in part, "MADE IN CHINA FOR CORNELIUS SHOP."

"We only had part of the lettering at first, so we thought it was from a shop in London," Fulkerson said. "The Secret Service tracked down that lead for us before we knew we were wrong."

Instead, they discovered Cornelius Shopping Bags were used by two convenience stores in Washington -- one of the stores they later learned was a block from Sweatt's Lebaum Street home.

So they enlisted the store owners' help. They installed video cameras and taped dime-sized, numbered tags to each one of the store's bags.

That way, Fulkerson said, investigators could track a purchase made by the suspect to a fire-proof metal tag found at the arson scene. It never worked.

In March 2004, one of the most promising developments emerged.

Police arrested a Prince George's County man after he appeared at two schools pretending to be a fire investigator. He was charged with lying to a federal agent.

But hopes were dashed when his fingerprints did not match those found at fire scenes, and he was in jail when the next blaze linked to the serial arsonist was set on April 16, 2004.

As another year wound down, the leads piled up. Then, in December, authorities got the break they needed.

At the scene of a fire set in Arlington County, Va., they found a pair of Marine Corps blue trousers. DNA taken from the waistband was linked to DNA found at other fires.

Sweatt hoped to throw investigators off his trail by planting evidence suggesting a member of the armed services might be involved, according to Fulkerson.

But at the time, investigators took the lead at face value. They asked the Navy if they could enter their DNA evidence into its database to look for a match.

"It looks great on paper, but they don't keep their data that way," Fulkerson said. At the same time, federal officials said there were plans to scale back the task force because the investigation had not produced an arrest and the fires appeared to have stopped in early 2005.

Feeling despondent, Fulkerson said, investigators heard about an incredible coincidence: 30 months earlier, there had been unsolved car fires at a Marine barracks in Washington. Sweatt had been seen acting suspiciously there, and his name was taken down.

With that, they sought out Sweatt, who provided a DNA sample.

"He gave it to us without a problem," Fulkerson said.

The sample matched DNA from a strand of human hair found at a fire in Washington in September 2003, from fabric of a pant leg found at a Silver Spring fire in February 2004, from an athletic sock found at a D.C. fire last September and from the Marine trousers.

The task force finally disbanded. When he spoke to investigators, Sweatt told them he set so many fires, he was unsure if he could remember them all.

Fulkerson pledged to leave no suspicious fire unsolved.

"The victims we haven't found yet," he said, "they deserve closure too."

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Arsonist Apologizes But Does Not Explain (WP)

By Ruben Castaneda And Del Quentin Wilber

The Washington Post, September 13, 2005

Serial arsonist Thomas A. Sweatt offered an apology yesterday as he was sentenced to a life prison term for carrying out a deadly string of fires, but he provided no clue in court about why he spent nearly three years igniting homes where people were sleeping.

It was the first time that Sweatt spoke publicly of the pain he caused by setting 45 houses and apartments on fire throughout the Washington region -- blazes that killed two elderly women and caused millions of dollars in damage. His words rang hollow, according to family members who said they want a motive and explanation.

Having exchanged the orange jail jumpsuit he wore at an earlier court appearance for a dark blue suit, white shirt and dark tie, Sweatt stood and leaned toward a microphone at the federal courthouse in Greenbelt. He turned toward the side of the courtroom where more than a dozen of his victims and their relatives sat.

In a soft voice, Sweatt said: "I'm very sorry for all of the harm that I've caused you. To those who have lost loved ones, I share your hurt, and I share your pain every day."

To anyone who harbors hatred toward him, Sweatt said he would ask God "to replace that hate with understanding." He also apologized to about a dozen members of his own family, some of whom had traveled from Texas and North Carolina to attend the hearing.

Sweatt, a 50-year-old former fast-food restaurant manager from Southeast Washington, pleaded guilty to murder and arson charges in June, less than six weeks after his arrest. His plea agreement with prosecutors called for a life sentence with no chance of parole; the judge yesterday tacked on nearly 136 additional years.

"There's nothing he could say that would be acceptable," said Carolyn Jones, 54, a daughter of Lou Edna Jones, the 86-year-old woman who was killed by the fire Sweatt set at her Northeast Washington home in June 2003. Jones said she left the courtroom as Sweatt stood to speak.

Her mother, known and beloved throughout the neighborhood as "Mama Lou," had lived in the house for 50 years. Jones said she would have liked to see Sweatt receive "the same sentence he gave my mother, the same way he gave it to her."

The other fatal fire was among the first fires that Sweatt admitted setting: a February 2002 blaze that claimed the life of 89-year-old Annie Brown of Northeast Washington. Sweatt admitted to setting fire to 44 more apartments and houses, as well as several vehicles, covering a wide swath of suburban Maryland, the District and Northern Virginia.

Investigators have quoted Sweatt as saying that he was addicted to setting fires and that he chose targets at random. They said he typically placed a plastic jug filled with gasoline just outside the front door and lighted a cloth wick. Sweatt was a thrill-seeker, authorities said, and sometimes watched from his car as the blaze spread. He knew the residences were occupied, they said, and he kept track of media accounts of the massive hunt for a suspect.

Sweatt's attorney, Assistant Public Defender John C. Chamble, told the judge that Sweatt could not stop setting the fires because he was "laboring under a psychological compulsion." Chamble compared Sweatt to a literary character, the peaceful Dr. Jekyll and murderous Mr. Hyde.

"You had the good Mr. Sweatt and the sick Mr. Sweatt," Chamble said.

In sentencing Sweatt, U.S. District Judge Deborah K. Chasanow told him that any mental health issues "can't in any way justify the actions you took, actions which terrorized a community."

Chamble asked the judge to recommend that Sweatt be placed in a facility where he could receive psychological treatment. Chasanow said she would make the recommendation. Federal prosecutors did not contest Chamble's request.

Sweatt, a former manager at a KFC/Pizza Hut on Bladensburg Road in Northeast Washington, has been jailed since his arrest April 27. Investigators said they tied him to the crimes through DNA evidence recovered at four arsons.

Within hours of his arrest, authorities said, Sweatt confessed.

During a news conference, Maryland U.S. Attorney Rod J. Rosenstein praised the Serial Arson Task Force, which included members of the federal Bureau of Alcohol, Tobacco, Firearms and Explosives and local police and fire department investigators from Maryland, the District and Virginia. He also cited the work of the Naval Criminal Investigative Service, which helped connect DNA from a single strand of hair left at a September 2003 fire scene to Sweatt.

If the task force had not arrested him, "I have no doubt Mr. Sweatt would have set fire to more houses, and more people would have died," Rosenstein said.

Sweatt, of the 500 block of Lebaum Street SE, lived near a convenience store where he may have purchased a few of the jugs used to set fires, authorities said. The KFC/Pizza Hut was near many of the fire scenes, and Sweatt worked a shift that would have allowed him to strike in early morning.

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Investigators said yesterday that they were relieved by the quick guilty plea and lengthy sentence. "Everybody had to put everything they had into this," said Tom Daley, an ATF agent and one of the lead investigators, recalling the many twists and turns of the probe.

In an interview at an ATF office in Lanham, Daley, other federal agents and local police and fire officials said the arson probe was the most taxing and complicated serial case they ever worked.

The agents and officers on the task force, which had more than 100 members during its nearly two-year existence, conducted lengthy surveillance details and, day after day, cruised neighborhoods before dawn. Authorities offered a reward of as much as $100,000 for information. Yet they never caught the arsonist in the act.

"Arsons are hard to prove," said ATF agent Scott Fulkerson, another of the lead investigators. "There is limited evidence left behind. Almost everything is consumed in fires. This covered three states and multiple jurisdictions. There was a lot of media coverage and great stress to the community. There was pressure felt by the task force to catch this guy. There was an ongoing threat to the community."

Investigators declined to discuss much of what they learned from Sweatt during a lengthy interrogation on the day of his arrest and during six subsequent debriefing sessions. They said he discussed a range of issues, pointed out places where he struck and provided a wealth of information about the mind-set of a serial arsonist.

In court yesterday, Sweatt was far less forthcoming.

"It would be better if he had sat down and kept his mouth shut. He's not sorry," declared Darlene Lloyd, the oldest of Lou Edna Jones's four daughters.

Lloyd and her sister, along with two other relatives of Sweatt's victims, addressed the judge at the sentencing. Lloyd told the judge that she learned from authorities that both of her mother's feet had been burned by the time firefighters found her in her bedroom.

"She lost both of her feet trying to get out of that big room," Lloyd said.

Serial Arsonist To Serve Life (WT/AP)

By Heather Greenfield, Associated Press

The Washington Times, September 13, 2005

Darlene Lloyd feels some relief that Thomas A. Sweatt will spend the rest of his life in jail without the possibility of parole for setting the fire that killed her mother.

But closure is not easy when her mentally handicapped son continues to ask at dinner each night for his grandmother, Lou Edna Jones.

"Being handicapped, he doesn't understand why she is not coming back," Mrs. Lloyd said. She planned to reassure him that Sweatt was not coming back now, either.

As victims of the serial arsonist spoke at his sentencing yesterday at U.S. District Court in Greenbelt, they said they still don't understand what led Sweatt to set random fires that terrorized the Washington area for two years.

"I would love to just find out exactly why he did this," said Jean Kyler, whose 94-year-old mother is still not able to return to her fire-damaged home.

Sweatt, 50, admitted setting 45 arson fires in the Washington area. Investigators know how he did it -- using jugs of gasoline, and clothing for a wick. But the reason why remained unanswered even as a federal judge sentenced him yesterday to life in prison plus 136 years.

"To the victims and the victims' families, I'm very sorry for all the harm I've caused you. To those who have lost loved ones, I share your hurt every day," Sweatt said.

He was dressed in a dark gray suit and appeared almost timid as he leaned into the microphone to speak and turned to the families gathered in court.

The former fast-food restaurant manager admitted that between February 2003 and December 2004 he set 45 fires: 21 in the District, 17 in Prince George's County, three in Fairfax County, two in Montgomery County, and one each in Arlington County and Alexandria.

Under a plea deal, local prosecutors agreed not to charge Sweatt with other arsons.

Sweatt also pleaded guilty to two murder charges.

He took responsibility for the June 2003 death of Mrs. Jones, 86, in her Northeast home, as well as the death of Annie Brown, 91. She died of smoke inhalation a few days after Sweatt set fire to her next-door neighbor's Northeast home in February 2002.

Sweatt has been in custody since his arrest in April. Authorities have said they linked him to the fires after collecting DNA from items found at four crime scenes, including Marine Corps dress pants from a fire in Arlington.

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Sweatt showed no emotion during the victims' statements or the sentencing, but earlier said he welcomed the sentence.

Kenneth L. Wainstein, U.S. attorney for the District of Columbia, called the sentence "a fitting punishment and a fitting conclusion to this case."

Judge Deborah K. Chasanow told Sweatt she realized he has mental health issues, but that they could not excuse what he did and how he "terrorized" the community.

It will be up to federal prison officials to decide whether to transfer Sweatt from a Charles County prison. There is no parole in the federal system.

D.C.-Area Arsonist Sentenced To Life In Prison (NYT)

By Gary Gately

The New York Times, September 13, 2005

GREENBELT, Md., Sept. 12 - A 50-year-old man was sentenced to life in prison on Monday for setting a series of fires that killed two elderly women and terrorized the Washington area for more than two years.

The man, Thomas A. Sweatt of Washington, apologized to the judge and to the relatives of the arson victims, while Mr. Sweatt's lawyer argued that a mental illness led his client to set the fires.

Federal Judge Deborah K. Chasanow sentenced Mr. Sweatt to life plus nearly 136 years, eliminating any chance of parole. Judge Chasanow said she would recommend to prison officials that Mr. Sweatt receive a psychiatric evaluation and, if necessary, treatment.

But, she added, mental illness could not excuse killing two people and setting fire to more than 45 homes, as well as several automobiles. "Whatever you faced in terms of any problem cannot in any way justify the actions you took - actions that terrorized a community," Judge Chasanow said.

Mr. Sweatt, a former KFC-Pizza Hut manager, sat silently, his lips pursed, through most of the hearing. Just before Judge Chasanow pronounced his sentence, based on a plea agreement, Mr. Sweatt leaned forward and said: "To my victims and to the victims' families, I'm very sorry for all the harm that I caused you. For those of you who have lost loved ones, I share your hurt and share your pain every day."

Mr. Sweatt's arrest in April resulted from an intensive investigation by federal agencies and local law enforcement in Maryland, Virginia and the District of Columbia.

Investigators broke the case when they found a pair of Marine Corps blue trousers near a fire scene. The trousers led them to Navy investigators, who had identified Mr. Sweatt as a suspect in car fires more than two years earlier near the Marine barracks in Southeast Washington.

Mr. Sweatt consented to giving a DNA sample, which linked him to evidence from four of the fires, the authorities said, and he admitted to setting others next to entrances to homes using cloth wicks and one-gallon jugs of gasoline.

Investigators said Mr. Sweatt had no known ties to the military. John C. Chamble, a federal public defender representing Mr. Sweatt, said his client suffered a mental illness that resulted in radical and uncontrollable shifts in behavior. "He did not have a choice," Mr. Chamble said.

During the sentencing hearing and afterward, relatives of arson victims spoke of the pain and havoc Mr. Sweatt's arsons had caused.

Relatives of Lou Edna Jones, an 86-year-old woman killed in a fire on June 5, 2003, at her Northeast Washington house, wore shirts and carried placards bearing photographs of the woman fondly known as Mama Lou.

"The rest of my life, I'll still be grieving for the loss of my mother," said Darlene Lloyd, Ms. Jones's daughter. "There will always be a hole in my heart that can never be filled or closed."

Annie Brown, an 89-year-old from Northeast Washington, died of smoke inhalation days after a fire Mr. Sweatt admitted to setting at her neighbor's home in February 2002, the authorities said.

TAX:

Treasury Tax Analysis Concluded As Lawful (WSJ/DJN)

By Dow Jones Newswires

The Wall Street Journal, September 13, 2005

WASHINGTON -- An independent investigation concluded that the Treasury Department didn't break the law by calculating the cost of then-Democratic presidential candidate John Kerry's tax plan and posting the results on the department's Web site.

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"We do not believe that Treasury employees completed the revenue estimate at issue for use by a campaign or a party, but as a defense of the [Bush] administration's policies," according to a March 24 letter to the Treasury from Special Counsel Scott Bloch. The analysis was made with an eye toward congressional action, not to criticize Mr. Kerry, the special counsel's office said. The Hatch Act restricts political activities by government employees.

The documents were made available to Dow Jones Newswires under a Freedom of Information Act request. The investigation was launched after The Wall Street Journal reported1 in the spring of 2004 that Treasury used civil servants to calculate the Kerry tax plan.

Mr. Bloch said his probe found that Treasury's Office of General Counsel for many years has given "problematic" guidance to employees, effectively asking Treasury tax analysts to "turn a blind eye" to potential violations.

Treasury Deputy General Counsel James Carroll welcomed the report of no legal violations, but defended the general counsel's office, saying it has consistently advised employees that it is inappropriate to conduct analyses "for a partisan political purpose."

Heir Tonic For Charities (WSJ)

By Arthur C. Brooks

The Wall Street Journal, September 13, 2005

The estate tax seemed to be cruising toward inevitable demise. A Senate vote was expected around Labor Day, and the GOP appeared close to the 60 votes needed to permanently abolish taxes on inheritances. Katrina has set the vote back by at least a few weeks, as the Senate attends instead to legislation authorizing relief funds to the Gulf Coast. The hurricane has also provided an argument against repeal to Democratic National Committee Chairman Howard Dean. He compared beneficiaries of repeal with hurricane victims, asking, "Shall we give [the estate tax revenues] to the wealthiest people in the country, or should we rebuild New Orleans?" The argument is a progressive classic: Not taxing the rich is the same as taking from the poor.

As flawed as the logic might be, it is worth considering how much it will cost taxpayers if the tax is repealed, and what it means for the economy. Estimates place the annual federal revenues from the estate tax at $20 billion. This would certainly make a dent in hurricane recovery efforts -- if it were all used for that purpose.

A more realistic link between the tax and disaster relief is through charitable contributions. Americans bequeath $20 billion every year to nonprofits, including organizations that provide relief to disaster victims. Opponents of repeal note that doing so removes a powerful philanthropic motive, because the portion of an estate willed to charity is tax-exempt. The CBO estimates that a 10% decrease in the estate tax would stimulate a decrease in charitable bequests of 4.2%. This suggests that a repeal of the tax would, by itself, lower charitable giving by $8 billion annually. Many nonprofits have lined up against abolition of the tax for this reason.

In making their case, however, nonprofits employ a tortured logic: Our organization supports the estate tax so that your family will continue to try to avoid it by giving us money. Instead, charities should focus less on the incentives of people making bequests, and more on the incentives of people receiving them.

What can we expect heirs to do with their money, if less of it is taken by the IRS? Data show that people tend to contribute a higher proportion of inherited wealth than they do other kinds of wealth (e.g., from stocks or real estate). If the estate tax is repealed, this extra charitable giving will likely come to at least $750 million per year. In the short run, giving by private heirs will not make up entirely for the loss of charitable gifts by their parents if the estate tax is repealed, but this effect is still considerable. And the amounts given annually are not fixed -- heirs may be convinced to give more.

When all is said and done, the Senate will most likely repeal or greatly reduce the estate tax without too much consideration of the interests of the nonprofit sector. This does not spell doom for charities, however. The key is not to focus on how the tax system can be used to get more money from the dead, but rather to look to the future and find ways to increase giving -- for humanitarian relief and other worthy causes -- among a new generation of heirs.

Mr. Brooks, associate professor at Syracuse University's Maxwell School of Public Affairs, is writing a book on American charity, to be published next year by Basic Books.

CONGRESS-ADMINISTRATION:

Roberts Pledges 'humility' As Senate Hearings Begin (USAT)

By Kathy Kiely And Joan Biskupic

USA Today, September 13, 2005

DOJ_NMG_0004646

WASHINGTON — Supreme Court nominee John Roberts was unflappable and succinct Monday, after sometimes blunt criticism from Democrats in the opening day of Senate hearings to confirm him as the nation's 17th chief justice.

In his longest remarks since President Bush first nominated him in July, Roberts told the Senate Judiciary Committee that he would approach his position as the head of the nation's judiciary with “a certain humility.” Roberts, tapped to replace the late William Rehnquist, spoke without notes for less than seven minutes.

“Judges are like umpires,” said Roberts, a federal appeals judge. “Umpires don't make the rules; they apply them.”

Roberts' remarks ended a day of speeches by the 18 Judiciary Committee members. Democrats put the judge on notice that he has some persuading to do. “If I looked at only what you've said and written in the past, I'd feel compelled to vote no,” said Sen. Joseph Biden, D-Del.

Sen. Herb Kohl, D-Wis., said Roberts seemed “cavalier” about women's and minority rights in some of his writings.

As questioning begins today, Roberts, 50, will be pressed by Democrats to reveal his views on a range of legal issues.

Democrats noted the nominee could serve for more than a generation. “We are about to enter, if he is successful, the Roberts era,” said Sen. Dick Durbin, D-Ill. “We should know this man's core values and beliefs.”

Republicans are counseling caution. “You have no obligation to tell us how you will rule,” Sen. John Cornyn, R-Texas, said. “Don't take the bait.”

But Sen. Arlen Specter, the Pennsylvania Republican who chairs the panel, said he'll ask whether Roberts believes the Constitution guarantees a right to privacy — a right cited in the Supreme Court decision that made abortion legal nationwide. Rehnquist was one of two justices to vote in 1973 against Roe v. Wade.

A campaign atmosphere prevailed outside the hearing room. Critics wore “No on Roberts” lapel stickers. Supporters wore lime green “Roberts Yes!” T-shirts.

Specter is pushing for a Senate vote on Roberts this month. If approved, Roberts could take office by Oct. 3, the beginning of the high court's term.

Roberts Sees Modest Role For Court (LAT)

By David G. Savage And James Gerstenzang

The Los Angeles Times, September 13, 2005

WASHINGTON — Judge John G. Roberts Jr., President Bush's choice to be chief justice of the United States, told senators today that he seeks a modest and limited role for the nation's highest court, akin to an umpire who calls the balls and strikes rather than a star player who is the center of attention.

"Justices and judges are servants of the law, not the other way around," Roberts told the Senate Judiciary Committee, eschewing judicial activism.

"Judges are like umpires. Umpires don't make the rules. They apply them," he said. "And nobody ever went to a ballgame to see the umpire."

His statement served notice that on one of the central questions surrounding the judiciary — the extent to which judges should impose themselves on key issues of the day -he favored a restricted role.

Roberts' short and simple opening statement came on the first day of his confirmation hearings before the Senate Judiciary Committee.

And though the grand hearing room in the Russell Building was the site of earlier confrontations over Judge Robert Bork in 1987 and Justice Clarence Thomas in 1991, today's opening session had none of the tension and acrimony of those confrontations.

Roberts and his wife, Jane, introduced their two young children — Josie and Jack — and the senators smiled at them like grandparents.

Several Democrats said they intended to question Roberts sharply to discern his views on civil rights and abortion, but they stopped short of saying they would oppose him.

In his brief statement at the hearing's end, Roberts showed the qualities that made him a superb advocate before the Supreme Court. He spoke directly to the senators and without notes. And he used the simple baseball analogy to convey his view that the Supreme Court should play a more modest and limited role in American government.

His comments echoed a theme of the 10 Republican senators who spoke before him. They complained that the Supreme Court had become a "super legislature" in recent decides, regularly deciding the most controversial political question of the day.

The senators said judges should not make the law. Rather, they said the hard political questions should be decided by elected officials, and Roberts indicated that he agreed with them on the court's limited role.

However, Roberts also stressed the court's crucial role in upholding individual rights against the power of the government, a favorite theme of Democrats and liberals.

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As a lawyer in private practice, Roberts said he was awed to go before the Supreme Court representing a client who was fighting the federal government.

"Here was the United States, the most powerful entity in the world, aligned against my client. And yet, all I had to do was convince the court that I was right on the law and the government was wrong and all that power and might would recede in deference to the rule of law," he said. "That is a remarkable thing. It is what we mean when we say that we are a government of laws and not of men."

Roberts recalled President Ronald Reagan's reference to the Soviet Constitution, and its list of rights granted to the people. "Those rights were empty promises, because that system did not have an independent judiciary to uphold the rule of law and enforce those rights," he said. "We do, because of the wisdom of our founders and the sacrifices of our heroes over the generations to make their vision a reality."

Roberts, 50, was nominated a week ago to succeed his first boss in Washington, Chief Justice William H. Rehnquist, who died Sept. 3.

If confirmed, he would be the youngest chief justice since John Marshall took office in 1800. And in good health, he could serve until 2040, said Judiciary Committee Chairman Arlen Specter (R-Pa.).

In his opening statement, Roberts also stressed that he had "no agenda" for the court.

"I come before the committee with no agenda. I have no platform," he said. "Judges are not politicians who can promise to do certain things in exchange for votes."

On Tuesday morning, the senators will begin the questioning of Roberts.

Roberts delivered his opening statement roughly three and a half hours after the hearing began; he spoke only after each senator had delivered an opening statement.

Specter, the Pennsylvania Republican, banged the gavel at midday, beginning what is likely to be a weeklong inquiry into Roberts judicial temperament and — to the extent possible — his positions on some of the most sensitive judicial and political issues of the era, even as senators said he had no obligation to speak in specifics.

While there has been little doubt that the nomination will win the committee's approval — and the approval of the full Senate — one senior Democrat, Sen. Joseph Biden of Delaware, said that from what he has seen of Roberts' writings, he would vote against him.

Sen. Dianne Feinstein (D-Calif.) said in her opening statement that she would have trouble voting for a nominee whom she felt might overturn the Roe vs. Wade decision that granted a woman the right to have an abortion. She is the only woman on the committee.

Roberts, in a telegenic red tie, sat smiling and silent at the witness table in the ornate Caucus Room as the senators, one by one, reminded him, and a nationwide television and Internet audience, that the Senate was about to decide whether a 50-year-old jurist would receive a lifetime appointment as chief justice of the United States.

The hearing played out against the backdrop of the devastation brought by Hurricane Katrina two weeks ago to the Gulf Coast.

Sen. Patrick J. Leahy of Vermont, the senior Democrat on the committee, said that the storm offered "a tragic reminder of why we have a federal government," which he said was needed, foremost, for the protection and security of the population.

The statement went to the heart of questions about Roberts and where he would lead the court as the first new chief justice in 19 years. Roberts had been nominated in July to replace the retiring Associate Justice Sandra Day O'Connor, but was renominated last week to be the chief justice after the death of William H. Rehnquist.

Leahy noted that "if anyone needed a reminder of the growing poverty and despair among too many Americans, we now have it" in Katrina's aftermath. So too, he said, a reminder of the racial divide that continues to mar the nation.

At the heart of the inquiry of Roberts, a relatively junior judge of the U.S. Court of Appeals for the District of Columbia, Leahy said, was, "Will you be the protector of the rights of all Americans?"

Specter, noting the recent run of 5-4 decisions on the high court, said that Roberts' votes would be critical on many key issues, among them those involving school prayer and defendants' rights. He added that the nomination "comes at a time of turbulent partisanship" in the nation's political life.

He said that senators "have a responsibility to ask probing questions," and that Roberts had the prerogative of answering them, or not, as he sees fit.

Sen. Edward M. Kennedy (D-Mass.), expressing chagrin at the failure of the Bush administration to make available certain documents from the time Roberts spent as a deputy solicitor general during the administration of the first President Bush, said, "We can only wonder what they don' want us to know."

Biden raised the issue of decisions the court has made in recent years to expand the rights of women and African Americans.

"I believe in the right of privacy," he said, using what has become recognized as a reference to abortion.

Biden said that based on what Roberts has written — a record that includes his work in the Reagan and first Bush administrations, on the appellate court and in response to questions from senators — he would vote against the nomination.

Feinstein said that as the panel's only woman she felt a need to ask about issues that primarily had an impact on women.

She and Sen. John Kyl (R-Ariz.) acknowledged that Roberts needed to be sensitive to answering questions in a way that might impinge on his judicial prerogatives.

As the session progressed, there was no sign of political bickering, despite the political sensitivity and the potential divisions attached to the nomination.

There was a small contingent of partisans outside the hearing, and advocates of women's rights expressed concern about rules limiting the public's access to the hearing. With about 250 seats in the room, 40 were set aside for the public.

The Unheard (WP)

By Marcia Davis

The Washington Post, September 13, 2005

It was the moment for which the nation had been waiting -- okay, well, at least those who'd managed to get a seat in the hearing room in the Russell Building on Capitol Hill yesterday.

The confirmation hearings for John G. Roberts Jr. were unfolding against the backdrop of Hurricane Katrina, and though a few senators mentioned it early on, as the day progressed in Room 325, its urgency seemed a million miles away. The caucus room with its high ceiling, huge columns and glittering chandeliers has been the site of other history-making moments. It was where in 1987 Robert Bork's nomination to the Supreme Court began its descent into defeat, and where Clarence Thomas crossed swords with Anita Hill. Yesterday, it was where Roberts finally spoke on his own behalf in his bid to become the next Supreme Court chief justice.

A sea of media, 140 or so strong, and the few members of the public who managed to get seats in the very back of the room had been waiting through one senator's speech after another to hear the 50-year-old federal judge work his rhetorical magic. Here was the man who had argued 39 cases before the Supreme Court, and won most. Here was the man touted as a lawyer's lawyer, a man his colleagues have praised as knowing the power of combining legal brilliance with a cool confidence. And here was the man, who, if President Bush has his way, will be confirmed as the nation's 17th chief justice, elevated to a position that could shape the quality of life for Americans for decades to come.

So, naturally, his words were what everyone wanted to hear.

And speak he did -- for all of eight minutes. He was introduced shortly before 3:30, and he was done with his opening statement soon after.

Talk about judicial restraint.

As does any lawyer, John Roberts knows that anything he says can be used against him. And so yesterday he was a man of "thank yous" -- to the senators lined up before him, to Bush for the nomination, to his family and his mentors without whose help and sacrifices he would not be sitting where he was, he said.

He paid respects once again to the man whose casket he helped to carry up the Supreme Court steps last week, William H. Rehnquist. Roberts clerked for the chief justice, and in one of those odd, novel-like twists, he may soon replace him.

"I talked last week with the nurses who helped care for him over the past year, and I was glad to hear from them that he was not a particularly good patient," Roberts said. "He chafed at the limitations they tried to impose. His dedication to duty over the past year was an inspiration to me and, I know, to many others."

Roberts went on to speak of his philosophy, one that demands a limited role for judges. He compared them to umpires, adding, "Nobody ever went to a ballgame to see the umpire." Judges are more than umpires, of course, and Roberts tried to assure the panel that his thinking has evolved since his early eager days as a young lawyer working in the Republican administrations of Ronald Reagan and George H.W. Bush.

When the questioning begins, there will be those who will press him to be more revealing. But yesterday Roberts spent most of the day in silence, sitting through the 10-minute speeches of the Judiciary Committee members, which added up to hours.

Roberts was as still as he was silent, his face a wall. His lips were a tight line, except on the few occasions when he laughed at a joke -- mainly the recurring one about his relative youth and appearance of good health. There were times, too, when someone seemed to make a point that he appreciated, and he would reward that senator with the slightest of nods, as when Joseph Biden (D-Del.) talked about the issues of technology and privacy that no doubt the high court would face in the future.

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There were what passed for harsh words from Democratic senators such as New York's Charles Schumer, who warned that he would be unsparing in his questioning, and California's Dianne Feinstein, who said she would be unable to vote for anyone she believed would overturn Roe v. Wade. And there were words of encouragement from Republicans such as Orrin Hatch, who warned Roberts not to be trapped into answering questions that compromised him as a judge.

Roberts took it all in, his eyes often wide and glistening under the glare of the camera lights, but revealing nothing.

It was representative democracy at work, though it was occurring in a room where if you didn't know better, you might think democracy was almost exclusively white. The Judiciary Committee itself is all white, and Feinstein is its only female member.

"Things went as I expected," said Ted Shaw of the NAACP's Legal Defense Fund. "I think Roberts's opening statement was eloquent. I've seen him in court. But the question for me is who is he."

Roberts's moments of greatest animation occurred before the hearings began, when he sat with his wife, Jane, and children, Jack and Josie. Jack wore a suit with shorts and a bow tie. Josie wore a blue dress and a bow in her hair. It was a moment reminiscent of the summer day when Bush first nominated Roberts to replace Sandra Day O'Connor. Jack didn't dance this time, though. He simply climbed into his father's lap. The cameras flashed, and Roberts didn't have to say a word.

'Judges Are Not Politicians,' Roberts Says (WP)

By Charles Babington And Jo Becker

The Washington Post, September 13, 2005

John G. Roberts Jr. opened the first Supreme Court confirmation hearing in 11 years yesterday by portraying himself as a humble, non-political judge who would interpret the law "without fear or favor" if he became the 17th chief justice of the United States.

After listening to three hours of senators' opening statements, in which Democrats expressed fears that he would move the court to the right on abortion, civil rights and other issues, Roberts sought to dispel such speculation. Though he offered no specifics on his views, Roberts said justices must have "the humility to recognize that they operate within a system of precedent."

"I have no platform," he told the Senate Judiciary Committee in a brief speech without notes in the ornate Russell Caucus Room. "Judges are not politicians who can promise to do certain things in exchange for votes." Rather, he said, "judges are like umpires. Umpires don't make the rules; they apply them."

Although the stewardship of the Supreme Court is at stake for potentially decades to come, yesterday's hearing seemed almost anticlimactic, with public attention riveted on the aftermath of Hurricane Katrina and Democrats still pressing for 15-year-old documents that might give them better ammunition against Roberts. With few doubting that Roberts, 50, will ultimately win confirmation, senators of both parties used yesterday's forum to highlight their contrasting legal philosophies and views of the court's role in society.

Many Republicans used their allotted 10 minutes apiece to urge the nominee not to answer questions about legal issues that might come before the court. But Democrats said he must satisfy them that he will safeguard the rights of women, disabled people and minorities in the voting booth and workplace. Some also pressed him to recognize a constitutional right to privacy, which underpins the Supreme Court's legalization of abortion nationwide.

"This is a confirmation proceeding," said Sen. Russell Feingold (D-Wis.), "not a coronation. It is the Senate Judiciary Committee's job to ask tough questions."

President Bush's choice to succeed the late William H. Rehnquist will face hours of questions, starting today, from the panel's 10 Republicans and eight Democrats.

With some Republicans congratulating Roberts as though his confirmation is assured in the GOP-controlled Senate, Democrats warned that, if nothing else, he will have to earn their votes by fully explaining his criticisms of a variety of policies aimed at eliminating discrimination, including affirmative action and some aspects of the Voting Rights Act. Those criticisms were found in reams of memos that Roberts wrote as a young lawyer in the Reagan administration.

"I believe the federal government should stamp out discrimination wherever -- wherever -- it occurs," Sen. Joseph R. Biden Jr. (D-Del.) told him. "If I look only at what you've said and written . . . I would have to vote no. You dismissed the constitutional protection of privacy as, quote, 'a so-called right.' . . . You dismissed gender discrimination as . . . 'merely a perceived problem.' "

Sen. Dianne Feinstein (D-Calif.), the only woman on the committee, said, "It would be very difficult for me to vote to confirm someone to the Supreme Court whom I knew would overturn Roe v. Wade ." In the 1980s, Roberts wrote that the landmark abortion ruling was wrongly decided and should be overturned, but he since has suggested that the ruling is "settled law" that need not be revisited.

Despite the Democrats' warnings, Roberts's televised performance clearly pleased Republican senators and White House aides. His seven-minute speech "almost moved me to tears," Sen. Jeff Sessions (R-Ala.) told reporters. White House adviser Ed Gillespie, who sat just behind Roberts, assured reporters "there were no notes or anything he spoke from."

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Lawmakers' preoccupation with the hurricane catastrophe pervaded the hearing on filling the first chief justice vacancy in nearly two decades. At least two Democrats tried to weave the storm's devastation into their arguments, saying the disproportionate impact on poor people and ethnic minorities underscores the need for a judiciary sympathetic to the nation's most vulnerable.

"We cannot continue to ignore the injustice, the inequality and the gross disparities that exist in our society," Sen. Edward M. Kennedy (D-Mass.), the committee's most senior member, told Roberts. He said Roberts's writings on civil rights suggest there are "real and serious reasons to be deeply concerned" about the direction he would take the court and about "his commitment to equal opportunity. . . . This hearing is John Roberts's job interview with the American people."

Roberts came for the interview well-prepared. Dressed in a dark suit, crisp white shirt and red tie, he introduced his parents; three sisters; his wife, Jane; and their two young children, whose faces alternately betrayed fear, amusement and awe at the scores of cameras and bright lights packed into the templelike hearing room. The senators, many of them grandparents, could not resist greeting the children as cameras clicked furiously. "You're not at all nervous, are you?" Sen. Patrick J. Leahy (D-Vt.) said to Jack Roberts, 4, who at one point sat in his father's lap and posed like a bodybuilder.

Just how much Roberts should say in response to today's questions was the subject of considerable partisan debate yesterday. Republicans warned Roberts against answering "litmus test" questions that could jeopardize his impartiality on cases likely to come before the Supreme Court.

"Some have said the nominees who do not spill their guts about whatever a senator wants to know are hiding something from the American people," said Sen. Orrin G. Hatch (R-Utah). "These might be catchy sound bites, but they are patently false."

But Democrats argued that Americans have a right to know where Roberts stands on issues of profound import to their lives, disputing Republican contentions that Justice Ruth Bader Ginsburg, who was appointed by President Bill Clinton, refused to answer questions about her views on such issues as abortion, discrimination and criminal law.

"It is not enough to say that you will be fair," said Sen. Charles E. Schumer (D-N.Y.), adding that he is sure that conservative Justice Antonin Scalia and the liberal Ginsburg think they, too, are fair. "But in case after case, they rule differently," Schumer said. "They approach the Constitution differently."

Some of the most pointed questions, however, may come from Judiciary Committee Chairman Arlen Specter (Pa.), a Republican moderate and frequent maverick. While Specter said he does not expect Roberts to share his views on Roe v. Wade , he will question him on his previously expressed views on women's rights, term limits for federal judges and what he called the "extreme positions taken by the Supreme Court in denigrating the role of Congress" by striking down a number of laws it has passed.

While Republicans such as Sen. Charles E. Grassley of Iowa charged that Democrats who seek Roberts's views on specific issues are doing so because they "only want judges who will do their political bidding on the bench," others made it clear that they have priorities they would like to see the Supreme Court uphold.

Sen. Sam Brownback (R-Kan.) decried federal courts that "are redefining the meaning of marriage, deciding when a human life is worthy of protection, running prisons and schools by decree," and "removing expressions of faith in the public square." He called Roe v. Wade a judicial "exercise of raw political power" and said "nearly 40 million children have been aborted in America."

Democrats renewed their request for a limited number of documents dating from Roberts's tenure in 1989 to 1993 as principal deputy solicitor general. From that perch, Roberts helped shape and argue the George H.W. Bush administration's positions in hundreds of Supreme Court cases. The letter, sent yesterday to President Bush, was signed by three Democratic members of the pivotal "Gang of 14," a bipartisan group considered key to averting any filibuster of Roberts's nomination.

Roberts Comes With 'No Agenda' (WT)

By Charles Hurt

The Washington Times, September 13, 2005

Federal Judge John G. Roberts Jr. yesterday left little doubt why President Bush nominated him to be the next chief justice of the Supreme Court.

"I have no platform," he promised at the close of the first day of his confirmation hearing, as members of the Senate Judiciary Committee listened intently. "I have no agenda, but I do have a commitment. If I am confirmed, I will confront every case with an open mind."

Judge Roberts' 6 ½-minute speech -- delivered without notes -- came at the end of a marathon of much longer speeches carefully read by committee members.

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One conservative observer later remarked that Judge Roberts "stole the show." Committee Chairman Arlen Specter, the Pennsylvania Republican who hasn't said how he'll vote on the nomination, said Judge Roberts even "nodded at all the right times" during the senators' speeches.

The first Supreme Court confirmation hearing in more than 10 years -- and the first for a chief justice since 1986 -- began shortly before noon, when Mr. Specter and Sen. Patrick J. Leahy, Vermont Democrat, ushered Judge Roberts through the giant mahogany doors of the Senate Caucus Room.

Mr. Leahy noted that Judge Roberts is "the first nominee of the 21st century" and emphasized that justices are appointed for life.

"The light of the nominations process is intense because it is the only time that light will shine, and the afterglow lasts for the rest of a justice's career," Mr. Leahy said.

Democrats promised to grill Judge Roberts about his positions on such issues as abortion and congressional authority.

"We have an obligation to find out where you will take us before we decide whether we want you to lead us there," said Herb Kohl, Wisconsin Democrat. "And, most importantly, you have an obligation to tell us."

Sen. Dianne Feinstein, California Democrat, reiterated her position that she could not vote for Judge Roberts if she thinks he will overturn Roe v. Wade, the 1973 court case that declared abortion a constitutional right.

Sen. Charles E. Schumer, New York Democrat, who has met privately with Judge Roberts three times, said he and others still know very little about the veteran Washington lawyer.

"We have seen maybe 10 percent of you -- just the visible tip of the iceberg, not the 90 percent that is still submerged," Mr. Schumer said. "And we all know that it is the ice beneath the surface that can sink the ship."

Republicans warned their colleagues against judging Judge Roberts based on political views.

Sen. John Cornyn, Texas Republican, warned Judge Roberts not to "take the bait" by answering questions that might touch on his views of political matters or might hem him into ruling a certain way on a particular case if he's confirmed.

A pro-choice Republican, Mr. Specter told Judge Roberts: "I do not intend to ask whether you will overturn Roe v. Wade. I will ask you if the Constitution has a right of privacy, and I will ask questions about precedents as they bear on Roe v. Wade."

Mr. Specter, a veteran of nine Supreme Court confirmation hearings, said nominees typically "answer about as many questions as they think they have to in order to be confirmed."

After the committee members had their say, Judge Roberts was officially introduced by the senators from his native Indiana, Republican Sen. Richard G. Lugar and Democrat Evan Bayh.

Judge Roberts stood before the committee, raised his right hand and swore to tell the truth. He then sat down and delivered the briefest remarks of the day.

"Judges and justices are servants of the law, not the other way around," he told the lawmakers. "Judges are like umpires. Umpires don't make the rules; they apply them."

He recalled arguing cases against the government before the Supreme Court.

"Here was the United States, the most powerful entity in the world, aligned against my client," Judge Roberts said. "And, yet, all I had to do was convince the court that I was right on the law and the government was wrong and all that power and might would recede in deference to the rule of law. That is a remarkable thing."

He waxed nostalgic about the "endless fields of Indiana" of his youth.

"As I grew older, those endless fields came to represent for me the limitless possibilities of our great land. Growing up, I never imagined that I would be here, in this historic room, nominated to be the chief justice," Judge Roberts said.

"If I am confirmed," he concluded, "I will be vigilant to protect the independence and integrity of the Supreme Court, and I will work to ensure that it upholds the rule of law and safeguards those liberties that make this land one of endless possibilities for all Americans."

An Opening Performance Worthy Of An Experienced Lawyer (NYT)

By Linda Greenhouse

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 - This time, John Roberts's client was himself.

After arguing 39 cases before the Supreme Court, spending the last eight weeks in the public spotlight and listening for more than three hours on Monday as 18 senators expressed their admiration and doubts, the Supreme Court nominee took just seven minutes to paint a verbal self-portrait in the opening statement of his confirmation hearing.

Judge Roberts said he was a humble servant of the rule of law. He had "no agenda," "no platform;" he was nothing but an umpire, calling balls and strikes.

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The White House team handling his nomination as chief justice had not seen the statement in advance, and Judge Roberts had not rehearsed it before the "murder board" that helped prepare him for the confirmation process. He spoke without notes.

It was a performance that lawyers arguing before the Supreme Court can only dream of. They rarely get two uninterrupted minutes, and the justices can reduce to shreds the most eloquent of prepared openings in less time than that.

Not only did the senators on the Judiciary Committee not interrupt Judge Roberts, but they also recessed until the next morning as soon as he had finished. That meant that the senators' carefully prepared opening statements, in which Democrats and some Republicans raised concerns on issues like abortion and the role of the chief justice, faded beneath the rhetorical high note with which Judge Roberts ended his statement. He pledged to make sure the Supreme Court "upholds the rule of law and safeguards those liberties that make this land one of endless possibilities for all Americans."

Had the committee then turned immediately to questioning him, that moment would have been lost, or at least blunted. As the hearing proceeds, senators will ask Judge Roberts to explain 25-year-old memorandums or press him on questions he does not care to answer.

But there was no such dissonance as the hearing's first day came to a leisurely midafternoon conclusion. Judge Roberts did not explicitly address any of the senators' concerns; there will be plenty of time for that. His accomplishment, rather, was to address the concerns implicitly without appearing to acknowledge them.

For example, Senator Russell D. Feingold had commented earlier in the afternoon that the memorandums the young John G. Roberts Jr. had written as a lawyer in the Reagan administration were "highly ideological" and "sometimes dismissive of the views of others." But people can change, Senator Feingold, a Wisconsin Democrat, observed, adding, "So I will be looking for a somewhat different John Roberts than the John Roberts of 1985."

Nowhere in his statement did Judge Roberts say "I have changed." But his self-description as humble, grateful and open-minded countered the cocky and caustic image that some of his early writings conveyed, without disavowing the positions that those documents embraced.

In the senators' opening statements, one of the most vivid images was provided by Senator Charles E. Schumer, Democrat of New York, who told the nominee: "We have seen maybe 10 percent of you, just the visible tip of the iceberg. And we all know that it is the ice beneath the surface that can sink the ship."

Judge Roberts did not address that statement either, but he did not have to. He simply topped it with his own imagery, taken from his youth in Indiana. "I recall those endless fields with their promise of infinite possibilities," he said, although as the suburb-raised, prep-school-educated son of a steel executive, his encounters with "an isolated silo or a barn" may have been somewhat fleeting.

His statement also included an oblique reference to whether the positions he took as an administration lawyer, like in a brief he signed asking the Supreme Court to overturn Roe v. Wade, represented his own views or those of his client.

"When I worked in the Department of Justice, in the office of the solicitor general, it was my job to argue cases for the United States," he said, going on to describe what it was like in private practice to be on the other side and argue against the United States, "the most powerful entity in the world." The suggestion was implicit that not only had he argued on both sides, but that he could also see both sides of an issue.

And he defined a judge's role as, in part, fidelity to precedent. "Judges have to have the humility to recognize that they operate within a system of precedent, shaped by other judges equally striving to live up to the judicial oath," he said.

There was no need to remind anyone listening that the most disputed precedent of all is Roe v. Wade, the 1973 abortion case, which was substantially reaffirmed by the court in 1992. Still in question, as the Judiciary Committee convenes for a second day on Tuesday, is whether Judge Roberts's views on that particular issue will be any better known by the end of his confirmation hearing.

Roberts Confirmation Hearings Begin (BSUN)

By Gwyneth K. Shaw

The Baltimore Sun, September 13, 2005

WASHINGTON -- President Bush's nominee for chief justice, Judge John G. Roberts Jr., said Monday that Supreme Court justices have a "limited role" -- to apply the law, not make it.

On the first day of Senate hearings on his nomination, Roberts pledged that, if confirmed, he would decide cases "with an open mind" and work to safeguard the liberties "of all Americans."

The 50-year-old appellate judge's remarks, delivered without notes and lasting just six minutes, addressed issues raised by Republicans and Democrats on the Judiciary Committee, which is expected to approve his nomination next week.

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"I come before the committee with no agenda. I have no platform. Judges are not politicians who can promise to do certain things in exchange for votes," said Roberts, who used a homespun comparison between Supreme Court justices and baseball umpires.

"I will decide every case based on the record, according to the rule of law, without fear or favor, to the best of my ability. And I will remember that it's my job to call balls and strikes and not to pitch or bat," he said.

Those remarks echoed comments by Republican senators, who view Roberts as someone who will move the court to the right, in line with the wishes of their party's conservative base.

But Roberts, a White House lawyer under President Ronald Reagan, also spoke of his more recent work as an appellate attorney, representing clients against the government. He said that the rule of law enables a wronged citizen to prevail against the "might" of the United States in court, "a remarkable thing" that reflects that "we are a government of laws and not of men."

Roberts said he was committed to fairly analyze every case and "be open to the considered views of my colleagues on the bench."

Responding indirectly to concerns expressed by Democrats, who Monday noted the suffering of many poor, black Americans in the aftermath of Hurricane Katrina, he said, twice, that he was committed to pro tecting the rights and liberties of "all Americans."

In another apparent nod to Democratic fears -- that he will be part of a new conservative majority that overturns Roe v. Wade, the 1973 Supreme Court decision on abortion rights -- Roberts said that judges need to have the "humility to recognize that they operate within a system of precedent."

Roberts, who would be the youngest chief justice in more than two centuries, said a Supreme Court justice should approach his work with "modesty." He said he was "humbled" by Bush's confidence in him and spoke of his respect and admiration for the man he would replace, Chief Justice William H. Rehnquist, who died Sept. 3 at age 80.

Robert sat alone at the witness table, with his wife, Jane, and other friends and family behind him. Also prominently seated in the front row were his White House handlers, former Republican Sen. Fred Thompson of Tennessee and former Republican National Chairman Ed Gillespie, who have helped shepherd the nomination through two months of Senate courtesy calls and intense pre-hearing rehearsals.

Monday's session -- which ran more than 3 1/2 hours in the Russell Senate Office Building's historic Caucus Room -- was a mild prelude to the tough questioning expected Tuesday morning, when committee members will get the chance to cross-examine Roberts.

Day One was about photo opportunities, establishing some of the parameters for the debate, and a display of the nominee's considerable gifts as an advocate, which earned him a reputation as one of the most effective lawyers in Washington.

Committee Chairman Arlen Specter, a Pennsylvania Republican, called the hearings "the biggest challenge of the year, perhaps the biggest challenge of the decade" and vowed to keep the proceedings cordial but substantive.

Republicans on the panel, who like the Democrats had 10 minutes each for opening statements, counseled Roberts to resist efforts to probe his thinking about specific issues and cases, such as Roe v. Wade.

Republican Sen. Orrin G. Hatch of Utah said the Senate must evaluate Roberts on a standard "based upon the fundamental principle that judges interpret and apply, but do not make, the law."

Sen. John W. Warner of Virginia joined two senators from Indiana, where Roberts grew up, in emphasizing his qualifications rather than his judicial ideology.

"I can say, without equivocation, that I have never seen a nominee with stronger qualifications than John Roberts," said Warner, a 27-year Senate veteran.

Democratic Sen. Patrick J. Leahy of Vermont, signaling a theme that Democrats used all afternoon, pointed out that the Supreme Court has frequently been the last stop for Americans looking for justice in areas such as civil rights.

He said the racial and class divides highlighted in the aftermath of the Gulf Coast hurricane make the composition of the Supreme Court more important than ever.

Democrats maintain that Roberts should provide detailed answers in the hearings because once he is confirmed, he has the job for life.

Roberts would be the youngest chief justice in more than two centuries. The only woman on the committee, Sen. Dianne Feinstein of California, said her chief concern revolves around Roberts' views on the right to privacy, the linchpin of the Roe decision and several other major cases. Feinstein said she would find it "very difficult" to vote to confirm a nominee who would overturn Roe.

"How the court decides future cases could determine whether both the beginning-of-life and the end-of-life decisions remain private, or whether individuals could be subject to government intrusion or perhaps the risk of prison," she said.

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After the hearing, Democratic Sen. Edward M. Kennedy of Massachusetts said he was "troubled" that Republicans seemed to be urging silence on Roberts.

"It's very important for the people of the United States to know who this justice is and what his views are," Kennedy said.

The packed hearing chamber, filled largely with journalists and official guests, had room for only about three dozens members of the public, who were brought in and out in shifts. Some wore stickers advertising their feelings, including "Fair Hearing, Fair Vote" and "No on Roberts."

Judges Should Play Limited Role, Like Umpires Rather Than Players, Roberts Tells Hearing (SDUT)

By Jesse J. Holland, ASSOCIATED PRESS

The San Diego Union-Tribune, September 13, 2005

Senate Judiciary Committee hearing (9 a.m.) WASHINGTON – Supreme Court nominee John Roberts said Monday that justices are servants of the law, playing a limited government role, as the Senate opened confirmation hearings on President Bush's choice to be the nation's 17th chief justice.

"A certain humility should characterize the judicial role," the 50-year-old Roberts told the Judiciary Committee. "Judges and justices are servants of the law, not the other way around."

The appellate judge likened jurists to baseball umpires, saying that "they make sure everybody plays by the rules, but it is a limited role. Nobody ever went to a ballgame to see the umpire."

The drama of Roberts' swearing-in and his short statement capped a half day in which Democrats and Republicans sparred over the legitimacy of questioning him about divisive issues. Arguments about ideology and judicial activism also marked the hours devoted to opening statements from the 18-member panel.

Speaking without notes, Roberts addressed the committee for about six minutes – barely half the time each of the senators had been allotted for opening statements before he took the oath and made his remarks. He will answer questions from senators at much greater length on Tuesday.

"Judges have to have the humility to recognize that they operate in a system of precedent, shaped by other judges equally striving to live up to the judicial oath," Roberts said. He said he appeared before the committee with "no agenda. I have no platform."

At age 50, Roberts could help shape the Supreme Court for a generation if confirmed to replace the late William H. Rehnquist. All questions, Democrats said, were fair game, and they promised to use the nearly weeklong hearings to ask Roberts about abortion, civil rights, privacy, election rights, capital punishment, judicial activism and the powers of the presidency and Congress.

Republicans advised Roberts to follow the example set by recent nominees to the high court and avoid responding to probing questions on controversial topics.

"Some have said that nominees who do not spill their guts about whatever a senator wants to know are hiding something from the American people," said Sen. Orrin Hatch, R-Utah. "Some compare a nominee's refusal to violate his judicial oath or abandon judicial ethics to taking the Fifth Amendment. These might be catchy sound bites, but they are patently false."

"Don't take the bait," said Sen. John Cornyn, R-Texas.

Democratic Sen. Russell Feingold of Wisconsin dismissed the notion that Republican calls for a dignified confirmation process barred senators from pursuing a line of questions of a lifetime appointee – especially one Feingold described as looking healthy. That last part drew a smile from Roberts.

"If by dignified they mean that tough questions are out of bounds, I must strongly disagree," Feingold said.

Added Democratic Sen. Richard Durbin of Illinois: "Only your responses to our questions can convince us that the John Roberts of 2005 will be a truly impartial, open-minded chief justice."

Arlen Specter, R-Pa., chairman of the Judiciary Committee that conducted Monday's hearing, underscored the stakes for the Senate's vote on Roberts, an honors graduate from Harvard, a political appointee in two Republican administrations and a judge on the U.S. Court of Appeals for the District of Columbia Circuit for two years.

Roberts originally was chosen to succeed retiring Justice Sandra Day O'Connor. But Rehnquist's death prompted the president to renominate him for chief justice, replacing the man he clerked for in 1980.

"Your prospective stewardship of the court, which could last until 2040 or longer ... would present a very unique opportunity for a new chief justice to rebuild the image of the court away from what many believe it has become as a super-legislature and bring consensus to the court," Specter said.

The journey began for Roberts in the ornate Russell Senate Caucus Room. The day was devoted solely to opening statements – from the 17 men and one woman on the committee, the three senators chosen to introduce Roberts and from the nominee himself.

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Roberts introduced members of his family: parents, siblings, his wife, Jane Sullivan Roberts, and his young children, Jack and Josie.

"You see she has a very tight grasp," Roberts said of his wife, who held the two children. An ebullient Jack Roberts had nearly upstaged his father when the president announced his nomination on July 19.

Democrats and Republicans saw few obstacles to Roberts' confirmation. In a Pew Research Center poll released Monday, 46 percent of those surveyed expressed support for Roberts' confirmation, up from 35 percent a week earlier.

How Roberts answers questions from the panel's 18 members about his record as a conservative lawyer in the Reagan and George H.W. Bush administrations could affect the confirmation vote by the full Senate, expected before the end of September. The Supreme Court begins a new term Oct. 3.

Republicans warned Roberts against responding to "litmus-test questions."

Abortion and the 1973 Supreme Court ruling in Roe v. Wade that legalized the procedure loomed large.

"Perhaps the Supreme Court's most notorious exercise of raw political power came in Roe v. Wade and Doe v. Bolton, two 1973 cases which invented a constitutional right to abortion," said Sen. Sam Brownback, R-Kan.

Dianne Feinstein, D-Calif., the only woman on the committee, said in her prepared statement that she planned to ask Roberts about "the constitutional right to privacy" as it deals with abortion rights.

"I am concerned by a trend on the court to limit this right and curtail women's autonomy," Feinstein said. "It would be very difficult for me to vote to confirm someone to the Supreme Court whom I knew would overturn Roe v. Wade."

The White House has released more than 70,000 documents from Roberts' time in the Reagan administration but has refused to release documents from his tenure as principal deputy solicitor general in the first Bush administration.

Seventeen Democratic senators, including potential presidential candidates Hillary Rodham Clinton of New York and John Kerry of Massachusetts, reiterated the party's call for the Bush administration to release those documents.

"The people deserve to know the complete truth about Judge Roberts, the good and the bad alike," they said in a letter to the White House.

As Battlefield Shrinks, Democrats Mute Their Attacks (WP)

By Dan Balz

The Washington Post, September 13, 2005

The first day of confirmation hearings for Judge John G. Roberts Jr. to become the 17th chief justice of the United States proved to be a tepid opening to what once was billed as a battle of monumental proportions between left and right.

There may yet be some of the fireworks that were predicted when the first of two Supreme Court vacancies opened up two months ago -- particularly this morning, when members of the Senate Judiciary Committee begin to question Roberts. But with Roberts's confirmation seemingly assured, some of the fight appears to have gone out of the Democrats and they have been forced to shift their strategy.

The confirmation hearings are now only partly about Roberts and what he thinks about the law. Instead, they have become a prelude to the coming battle over President Bush's as-yet-unnamed successor to Justice Sandra Day O'Connor and a forum with broader political implications for a debate about deep philosophical differences between Republicans and Democrats over the role of government and the courts in American society.

In laying out areas of potential inquiry, the Democrats were generally polite and, with few exceptions, largely devoid of passion. However, Roberts's unwillingness to answer certain questions and the White House's continuing to deny Senate Democrats documents from the nominee's days as deputy solicitor general in the administration of President George H.W. Bush are likely to raise the temperature of the opposition.

But the positive reaction to Bush's nominee to replace the late Chief Justice William H. Rehnquist and the internal head counts in the Senate have forced Democrats to adopt a different stance in approaching the hearings, one aimed as much at future elections as the question of whether Roberts will become the next chief justice. A new Washington Post-ABC News poll shows that, by 2 to 1, Americans say he should be confirmed.

Judging from the opening statements, Democrats and Republicans approached the first day of the hearings with far different goals. Confident of the outcome of the Roberts confirmation battle, many Republicans came with a set of procedural talking points aimed at encouraging Roberts not to answer the Democrats' questions about his views on controversial issues before the court.

That view was summed up most succinctly by Sen. John Cornyn (R-Tex.), whose advice to the nominee was: "Don't take the bait."

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Democrats came with the intention of talking about their values and their view of the courts as protectors of women's rights and civil rights, and of the importance of preserving an expansive view of the federal government's powers in the face of a series of Supreme Court decisions limiting that power.

Sen. Joseph R. Biden Jr. (D-Del.) said that, with two vacancies, Bush and his conservative allies have a "once in a lifetime moment" to reshape the Supreme Court and to change the court's view of the Constitution. "I believe with every fiber in my being that their view of the Constitution and where the country should be taken would be disaster for our people," he said.

Richard W. Garnett, a law professor at Notre Dame University and a former Rehnquist clerk, said Republicans will have missed an important opportunity if they fail to engage.

"I would have said the Republican strategy should be not just to smooth the way to the confirmation," Garnett said, "because that's going to happen, but to remind the people that ours is a government of limited powers and that the judiciary is limited not to restrict freedom but to protect democracy."

Sen. Lindsey O. Graham (R-S.C.) suggested that he understood that advice and that Republicans could more than hold their own in such a debate. Pointing out that there will be many questions raised by memos and documents Roberts wrote while a young lawyer in the administration of President Ronald Reagan, he said to the nominee, "To some, those policies make no sense; those policies are out of the mainstream. But this hearing is about whether or not you're qualified and whether or not Reagan conservatism is in the mainstream."

Roberts was largely a bystander as the 18 members of the committee gave opening statements. When his time finally arrived, he spoke briefly and without notes, outlining a view of the judiciary as one that requires humility, an open mind and a deference to precedent.

Tougher questions await him today, and the Democrats yesterday telegraphed the areas on which they will focus. Sen. Edward M. Kennedy (D-Mass.) argued that courts must protect the rights gained by women, minorities and the disabled over the past half-century. "The central issue before us in these hearings," he said, "is whether the Supreme Court will preserve the gains of the past and protect the rights that are indispensable to a modern, more competitive, more equal America."

In one of the most arresting moments of the day, Sen. Dianne Feinstein (D-Calif.) talked about abortion rights and her days as a student at Stanford University, before abortion was legal, and when fellow students collected money for a young woman seeking an abortion in Mexico and when another woman committed suicide because she was pregnant. "I don't want to go back to those days," she said.

Sen. Russell Feingold (D-Wis.) raised questions about the administration's decision not to release documents from Roberts's tenure in the solicitor general's office. "The refusal gives rise to a reasonable inference that the administration has something to hide here," he said.

Those issues and others will dominate the Democrats' questioning of Roberts over the next two days, and after a quiet opening day, that is likely to increase the tension inside the Senate hearing room. That will not jeopardize Roberts's likely confirmation; whether it achieves the Democrat's political objectives is much more an open question.

Senate Opens High Court Confirmation Hearing (REU-Y2)

Reuters, September 13, 2005

U.S. Chief Justice nominee John Roberts, his record on civil rights and women's rights challenged by Democrats, vowed at the start of his Senate confirmation hearing on Monday to ensure that the Supreme Court protects all Americans.

"I have no agenda, but I do have a commitment," Roberts, President George W. Bush's conservative nominee to replace the late Chief Justice William Rehnquist, told the Senate Judiciary Committee. "If I am confirmed, I will confront every case with an open mind."

"I will be vigilant to protect the independence and integrity of the Supreme Court," Roberts said. "I will work to ensure that it upholds the rule of law and safeguards those liberties that make this land one of endless possibilities for all Americans."

Roberts made the pledge after the 18 members of the committee -- 10 Republicans and eight Democrats -- delivered opening statements in the first confirmation hearing of a Supreme Court nominee in 11 years.

Democratic and Republican lawmakers lauded Roberts' credentials. A federal appeals court judge for the past two years, he served in the Republican administrations of President Ronald Reagan and the first President George Bush.

But Democrats, citing documents stemming from Roberts' government work, challenged his commitment to civil rights and women's rights.

While he is widely expected to win Senate confirmation, lawmakers told the 50-year-old Roberts to expect tough questions, beginning on Tuesday.

"Judge, if I looked only at what you've said and written in the past, I'd feel compelled to vote no," said Sen. Joseph Biden (news, bio, voting record), a Delaware Democrat.

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"You dismissed the Constitution's protection of privacy as a 'so-called right,' you derided agencies like the Securities and Exchange Commission that combat corporate misconduct as 'constitutional anomalies,' and you dismissed 'gender discrimination' as merely a, and I quote, 'perceived problem.'"

"This is your chance to explain what you meant," Biden said.

Sen. Lindsey Graham (news, bio, voting record), a South Carolina Republican, replied, telling Roberts: "The memos you wrote while you were working for President Reagan and Bush one, in my opinion, reflect a conservative lawyer advising a conservative president about conservative policies."

"Conservatives have a different view of a lot of issues versus our friends on the other side," Graham said. "The election determines how that shakes out."

Barring a bombshell, Roberts seemed headed toward confirmation by the full Republican-led Senate, perhaps by the time the high court begins its new term on October 3.

Easing his approval to lead the nation's top court was the belief Roberts would not greatly alter the conservative outlook that Rehnquist developed in his three decades on the bench.

A bigger fight was anticipated over Bush's next nominee, who would replace retiring Justice Sandra Day O'Connor, a moderate conservative who was often the swing vote on the sharply divided nine-member court.

If confirmed, Roberts would be the youngest chief justice in two centuries. And he would be positioned to lead the court for decades, helping to shape the American way of life on matters from civil rights to gay rights.

Chairman Arlen Specter, a Pennsylvania Republican, told Roberts to expect questions on the 1973 Supreme Court decision that legalized abortion.

While he said he would not ask a nominee how they would rule on a case that could come before them, Specter said, "I consider it appropriate to question him as to his views on ... following precedents."

Specter and other lawmakers also said they planned to ask about "activist judges" who attempt to usurp the law-making power of the U.S. Congress.

"Judges are like umpires. Umpires don't make the rules. They apply them," Roberts said in his opening statement.

Without making any commitments on the abortion decision, he also said, "Judges have to have the humility to recognize that they operate within a system of precedent shaped by other judges equally striving to live up to the judicial oath."

'I Have No Platform,' Roberts Professes (USAT)

By Joan Biskupic And Toni Locy

USA Today, September 13, 2005

WASHINGTON — John Roberts' Senate confirmation hearings began Monday with Republicans and Democrats sparring over abortion rights and other legal issues, and over how detailed the nominee for chief justice should have to be in answering their questions.

But it also was clear that a subtext to the question-and-answer sessions that begin today before the Senate Judiciary Committee will be rival ideas of the Supreme Court's role in American life.

Sen. Edward Kennedy and other Democrats called for a high court that would help solve society's dilemmas by protecting the poor and the disenfranchised. Sen. Chuck Grassley and other Republicans emphasized the need for the court to take a back-seat role in such matters and give states more autonomy in solving problems.

To make their point, Kennedy and another Democrat, Sen. Patrick Leahy of Vermont, invoked the powerful images of Hurricane Katrina victims — many of them low-income minorities who were stranded in New Orleans as government officials struggled to provide aid.

“The tragedy of Katrina shows in the starkest terms why every American needs an effective national government that will step in to meet urgent needs that individual states and communities cannot meet on their own,” said Kennedy, D-Mass. “The people and their Congress must have a voice in decisions that determine the safety of our country and the integrity of our individual rights.” Leahy referred to “the devastation and despair facing millions of our fellow Americans in the gulf region” as he spoke of the need for “justice and equal opportunity” for all.

Grassley, R-Iowa, countered that “if we confirm (Supreme Court nominees) who are bent on assigning to themselves the power to fix society's problems as they see fit, a bare majority of these nine unelected and unaccountable men and women will usurp the power of the people, hijacking democracy to serve their own personal prejudices. We do not want to go down that road.”

The mention of the hurricane victims by Kennedy and Leahy also seemed designed to highlight the past writings of Roberts, a conservative federal appeals court judge, on issues involving race and civil rights. In his previous work as a

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government lawyer, Roberts questioned affirmative action and other programs designed to help minorities overcome past discrimination.

The long-running debate over the court's place in society is particularly salient today because of recent rulings and the potential for significant change on a high court that soon will have two new justices after 11 years without a change in membership.

Republican Sens. Jeff Sessions of Alabama and John Cornyn of Texas, for example, each used some of their allotted 10 minutes Monday to criticize a 2003 Supreme Court decision against state laws that ban consensual homosexual relations.

On the other side, Sen. Dianne Feinstein, D-Calif., recalled the world she knew before the court voted to make abortion legal nationwide. “As a college student, I watched the passing of the plate to collect money so young women could go to Tijuana for an abortion,” said Feinstein, the committee's only woman. “I knew a woman who ended her life because she was pregnant. … I don't want to go back to those days.”

Feinstein also noted that the Supreme Court soon will review an intriguing individual rights case: a dispute that tests the constitutionality of an Oregon law that permits physician-assisted suicide for the terminally ill.

Roberts has been named to succeed Chief Justice William Rehnquist, who died of cancer Sept. 3. Rehnquist was among the court's most conservative members, and was among three justices — Antonin Scalia and Clarence Thomas are the others — who consistently opposed abortion rights.

If Roberts' brand of conservatism is similar to Rehnquist's, the court's overall view might not change much.

The greater potential for change to the court is with the opening created by the retirement of Justice Sandra Day O'Connor, a more moderate conservative who has been at the ideological center of the divided court.

President Bush has suggested he will wait until the Roberts hearings are finished before nominating her successor. O'Connor has said she will remain until her replacement is confirmed.

Roberts sat alone at the witness table during the opening comments by the committee's 18 members.

When it was his turn, the former star litigator who argued 39 cases before the Supreme Court spoke without notes. He suggested that he would be the type of restrained justice that Grassley described. Roberts emphasized the “humility” and “modesty” he feels about the idea of being chief justice. “I come before the committee with no agenda,” he said. “I have no platform.”

Roberts played up his boyhood in Indiana, referring to the “endless fields” on which he played and his belief in their “endless possibilities.” He also vowed to protect the integrity and independence of the high court.

During Monday's hearing, Democrats on the committee stressed their desire that Roberts be forthcoming in discussing his judicial philosophy.

Republicans, meanwhile, said the nominee should be able to decline to answer questions that touch on topics that he could later have to rule on as a member of the court.

Committee Chairman Arlen Specter, R-Pa., perhaps summed it up best: “It has been my experience that the hearings are a subtle minuet, with nominees answering as many questions as they think they have to in order to be confirmed.”

Roberts Pledges He'll Hear Cases With 'Open Mind' (NYT)

By Todd S. Purdum And Robin Toner

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 - In an opening day of confirmation hearings in which senators drew sharp and partisan distinctions over his - and their - views on issues like abortion, civil rights and the role of the courts, Judge John G. Roberts Jr. promised on Monday that if confirmed as the 17th chief justice of the United States he would "confront every case with an open mind."

"I will be open to the considered views of my colleagues on the bench," Judge Roberts told the Senate Judiciary Committee and a packed hearing room on Capitol Hill. "And I will decide every case based on the record, according to the rule of law, without fear or favor, to the best of my ability. And I will remember that it's my job to call balls and strikes, and not to pitch or bat."

The first afternoon of at least four days of projected hearings amounted to a kind of scripted political ritual, serial speeches by senators who praised Mr. Roberts or raised concerns about him, followed by his brief remarks, in which he responded in the most general terms. [News analysis, Page A29.]

The session nevertheless starkly crystallized the debate over his nomination to fill the first Supreme Court vacancy in 11 years, and the first for chief justice in nearly 20, and how it is likely to play out in questions and answers beginning on Tuesday morning.

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Again and again in the old Senate Caucus Room, the scene of contentious hearings since the days of Teapot Dome, Democrats on the panel leveled their gaze at Judge Roberts at the witness table not 20 feet away.

They said they expected him to answer detailed questions about his writings as a young lawyer in the Reagan administration 20 years ago, questioned whether he subscribed to an expansive view of a Constitution able to embrace evolving notions of civil rights and social progress and invoked the devastation of Hurricane Katrina to underscore their arguments about the gap between the American ideal and reality.

For their part, Republicans generally hailed Judge Roberts as the kind of jurist who would exercise judicial restraint and leave law-making to Congress, though some said they wanted to explore his views about a series of recent Supreme Court rulings that curtailed Congressional power. Many said he should not have to answer detailed questions about past, present or future cases.

No one in either party promised to oppose or support Judge Roberts outright, though some came close, including Senator Joseph R. Biden Jr., Democrat of Delaware, who said that on the basis of Judge Roberts's written record alone, "I would have to vote no."

Mr. Biden, who is considering a presidential bid, added, "This is your chance, judge, to explain what you meant by what you have said and what you have written."

To potential friends and foes alike, Mr. Roberts gave the same respectful, silent, sympathetic pursed-lip look. When he spoke at last, he offered homey testimonials to his deep respect for the rule of law, declaring: "I have no platform. Judges are not politicians who can promise to do certain things in exchange for votes."

During and after the hearing, Democrats made clear they were unwilling to settle for generalities.

"It was a strong and nice statement, but didn't answer the fundamental question what kind of justice will he be," Senator Charles E. Schumer, Democrat of New York, said.

Senator Richard J. Durbin, Democrat of Illinois and one of Judge Roberts's sharpest interlocutors, seemed to speak for many colleagues when he asked: "The basic question is this: Will you restrict the personal freedoms we enjoy as Americans or will you expand them?"

By contrast, Senator Lindsey Graham, Republican of South Carolina, said the nominee's views on particular issues were less relevant than his legal philosophy and the political realities that enabled President Bush to name him.

"To me, the central issues before the Senate is whether or not the Senate will allow President Bush to fulfill his campaign promise to appoint a well-qualified, strict constructionist to the Supreme Court, and in this case, to appoint a chief justice to the Supreme Court in the mold of Justice Rehnquist," Mr. Graham said. "He's been elected president twice."

Perhaps nowhere was the partisan divide sharper than on abortion. Many Democrats said they intended to question Judge Roberts on his views of "the right to privacy," the basis for the Roe v. Wade ruling legalizing abortion, which he once seemed to dismiss as a "so called right."

It fell to Senator Dianne Feinstein, the California Democrat who is the sole woman on the committee, to open the debate on abortion.

"It would be very difficult, and I said this to you privately and I said it publicly, for me to vote to confirm someone whom I knew would overturn Roe v. Wade, because I remember - and many of the young women here don't - what it was like when abortion was illegal in America," Ms. Feinstein told Judge Roberts.

Speaking somberly and directly to him, she recalled college students' "passing the plate" to send a young pregnant woman to Tijuana for a "back alley" abortion and the suicide of another pregnant friend.

Later in the day, Senator Sam Brownback, the Kansas Republican who is a leader in the anti-abortion movement, countered with an impassioned appeal. Describing the Roe decision as "perhaps the Supreme Court's most notorious exercise of raw political power," Mr. Brownback added: "Since that time, nearly 40 million children have been aborted in America, 40 million lives that could be amongst us but are not, beautiful innocent faces that could bless our existence and our families and our nation, creating and expanding a culture of life."

Mr. Brownback noted that if Roe was overturned, it would not ban abortion, but return the issue to the states. Although many legal analysts have argued that the Supreme Court will - and should - be reluctant to overturn 32 years of precedent for Roe, Mr. Brownback argued that the court has overturned precedents many times. Among them, he said, was Plessy v. Ferguson, the 1896 decision that "separate but equal" facilities were constitutional.

If the hearing was tightly choreographed, it was just the first act of a drama that is apt to become more improvisational. The Senate is an institution that cherishes its prerogatives and is governed by rules that allow fluid and unpredictable debate.

Ralph G. Neas, the president of People for the American Way, a liberal group that opposes the confirmation, said after the hearing, "It's going to be a close vote in the committee and on the floor."

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But Ed Gillespie, the former chairman of the Republican National Committee who is coordinating the confirmation effort for the White House, said: "I don't anticipate problems. I anticipate a vigorous process."

The Republicans have a majority 55 votes in the Senate, a major asset for the nomination.

A generation of deeply partisan struggles over judicial nominees framed the hearing, a rough history that began with the Reagan administration, in the fight over Judge Robert H. Bork's nomination to the Supreme Court, stretched across the Clinton years and has persisted under Mr. Bush. A panel member, Senator Tom Coburn, Republican of Oklahoma, choked up speaking on divisions and "mindless partisanship."

Again and again on Monday, Republicans said Democrats had no right to apply an ideological litmus test to Judge Roberts's nomination, or to press for detailed answers on past cases, but merely to judge him by his indisputable qualifications.

"We must use a judicial, rather than a political, standard to evaluate Judge Roberts's fitness for the Supreme Court," said Senator Orrin G. Hatch, Republican of Utah and a senior member of the committee.

Senator Graham told Mr. Roberts: "You have been described as brilliant, talented and well qualified, and that's by Democrats. The question is, is that enough in 2005 to get confirmed? Maybe not."

He added that if Republicans had voted on one issue, the constitutional right to abortion, when President Bill Clinton nominated Ruth Bader Ginsburg to the Supreme Court, "Justice Ginsburg would not be Justice Ginsburg." Democrats said excellent legal qualifications were not enough.

"Long-established rights to privacy are under heavy siege," said Senator Edward M. Kennedy of Massachusetts, the long-serving Democrat. "We need a chief justice who believes in the promise of America and the guarantees of our Constitution, a person who will enter that majestic building near here and genuinely believe the four inspiring words inscribed in marble above the entrance, 'Equal justice under law.' "

Senator Russell D. Feingold, Democrat of Wisconsin, said many people calling for a "dignified process" really meant "an easy process."

Signaling the week to come, Mr. Feingold added, "It is not undignified to ask the nominee questions he would rather not answer, should he prefer to remain inscrutable or, worse yet, all things to all people."

Democrats Seek Papers To Define Whys Of Roberts (NYT)

By Adam Liptak

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 - In opening statements on Monday kicking off the Supreme Court confirmation hearings for Judge John G. Roberts Jr. and in a follow-up letter to President Bush, Democratic senators continued their calls for the release of documents from Judge Roberts's years as a senior lawyer in the first Bush administration.

The documents, said Senator Patrick J. Leahy, the senior Democrat on the Judiciary Committee, could help illuminate the nominee's views in three areas: civil rights, privacy and access to justice. While the first two areas have garnered attention from interest groups and the news organizations, the third category - access to justice - has received relatively little scrutiny.

Most of these cases did not concern issues of great public moment, but a theme runs through them. They involved people who claimed to have suffered serious and sometimes terrible harms, including sexual abuse and torture. In response, briefs signed by Judge Roberts often accepted, at least for argument's sake, the truth of what was alleged but opposed the lawsuits under various legal doctrines that can limit plaintiffs' access to the federal courts.

Analyzed one way, his arguments reflect a cramped view of the role of the courts, exalting technicalities over justice. Viewed another way, they represent exacting fidelity to the law and a keen awareness of the limited power of the federal courts to right every wrong.

"Federal courts are courts of limited jurisdiction," he told the Supreme Court in an oral argument in one of the 16 cases on the Democrats' list. "The presumption is that they are without jurisdiction, and the plaintiff must affirmatively prove that he has standing to invoke the power of the court."

In 1992, he signed a brief arguing that federal courts could not consider newly discovered evidence that was put forward by a death row inmate, Leonel Herrera, because he had raised the issue too late. It added that fears that innocent inmates had or would be executed were overblown.

The only forum in which Mr. Herrera could now make his case, the brief said, was in a clemency application to the governor of Texas. The Supreme Court ruled against Mr. Herrera but left open the possibility that an inmate with "truly persuasive" evidence of innocence could get a court hearing notwithstanding court deadlines. Mr. Herrera was executed in 1993.

In 1992, Mr. Roberts signed a brief in a case brought by an American who said he had been falsely arrested and tortured while employed by a Saudi Arabian hospital. The brief argued that the hospital was immune from a suit because it was owned by the Saudi government. "Allegations of inhumane treatment," the brief said, "should not obscure the legal issue in this case."

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Though there is an exception to foreign sovereign immunity for a government's commercial activities, the brief argued that the mistreatment of the plaintiff, Scott Nelson, was not based on commercial activities like his recruitment and employment but on purely governmental conduct. The Supreme Court agreed.

In 1991, another Roberts brief made a subtle distinction. The case involved a Georgia student who had sued her school district, asserting that a teacher had forced her to have sex with him. The brief conceded that the suit itself was proper under a federal antidiscrimination law. But, the brief continued, the student was not entitled to recover money damages. "The existence of a cause of action," the brief said, "by no means assures a right to an unlimited array of remedies."

The Supreme Court unanimously rejected that position.

It is unclear whether the documents sought by the Democratic senators would contain Judge Roberts's personal views on these or the other 12 cases. Administration officials have said that disclosure of the documents could chill discussions in the solicitor general's office, which represents the federal government in the Supreme Court.

From 1989 to 1993, Judge Roberts was the principal deputy solicitor general, a position sometimes referred to as the political deputy. His boss was the solicitor general, Kenneth W. Starr.

"We can only wonder," Senator Edward M. Kennedy, Democrat of Massachusetts, said at the confirmation hearing on Monday, "what they don't want us to know."

In a letter on Monday, 17 Democratic senators, including three members of the bipartisan group of 14 senators who had pledged not to filibuster judges except in "extraordinary circumstances, " called for President Bush to release the documents, saying they were needed to determine "the whole truth about the nominee. " The signers included Senators Ken Salazar of Colorado, Mark Pryor of Arkansas and Joseph I. Lieberman of Connecticut.

The White House has released tens of thousands of pages of documents from Judge Roberts's days as a young lawyer at the Justice Department, where he was special assistant to Attorney General William French Smith, and the White House, where he was associate counsel to President Ronald Reagan.

At the solicitor general's office, the briefs Judge Roberts contributed to were notable in two ways. They took consistently conservative positions on social issues, including abortion, the separation of church and state, school desegregation, environmental protection and affirmative action. They were also aggressive in proposing hurdles for plaintiffs to overcome before courts could hear their cases on the merit.

In an environmental case, for instance, a brief that Judge Roberts signed took a narrow view of both standing, meaning the requirement that plaintiffs show that they have a direct interest in a case, and of Congressional power.

He presented oral arguments in the case, Lujan v. National Wildlife Federation, saying that Congress was powerless to confer standing in some settings and that the plaintiffs there had failed to satisfy the ordinary standing requirements.

The Supreme Court, in a 5-to-4 decision in 1990, ruled in his favor. Three years later, Judge Roberts made similar points, now in his own voice, in a Duke Law Journal article.

Judge Roberts signed two briefs in school desegregation cases. He argued that the school systems in question, both of which had once been found to be segregated by race, should be freed from court supervision. The Supreme Court ruled in his favor in both cases.

A brief signed by Judge Roberts argued in favor of allowing "ceremonial acknowledgments" of religion at high school graduations. The brief urged the Supreme Court to abandon the standards it has generally used since 1971 to decide whether a given practice violates the establishment clause of the First Amendment and to replace it with a more relaxed one. The court rejected his arguments.

The briefs contain little of the acerbic wit found in Judge Roberts's early papers. But there are flashes, though it is not known whether he wrote them.

A program to give preferences to minority broadcasters, a brief signed by Judge Roberts said, failed to overcome a "fundamental hurdle - the prerequisite of coherence." It was, the brief said, "a policy in search of a purpose."

Senate Starts Roberts Hearings, Sets Groundwork For Questions (WSJ)

By Jeanne Cummings And Jess Bravin

The Wall Street Journal, September 13, 2005

WASHINGTON -- Judge John Roberts suggested that memos he wrote while serving in the Reagan administration might not fully reflect his views today, and repeated calls for judicial "humility," as hearings began on his nomination to become the 17th chief justice of the U.S.

"Judges and justices are servants of the law, not the other way around," said Judge Roberts, President Bush's pick to succeed the late Chief Justice William H. Rehnquist. "I come before the committee with no agenda. I have no platform."

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His opening remarks came after considerable positioning by conservative and liberal interest groups, with backers emphasizing Judge Roberts's résumé, while opponents scoured records from his work in past Republican administrations and two years as a federal appeals-court judge to paint him as hostile to minority and women's rights. (Read the full text of his statement1.)

In his remarks to the Senate Judiciary Committee, Judge Roberts noted how proud he felt when he went before the Supreme Court as a representative of the White House and "my country." But he said it wasn't until he was in private practice -- with the full weight of the federal government against him -- that he came to "fully appreciate the importance of the Supreme Court in our constitutional system."

"Here was the United States, the most powerful entity in the world, aligned against my client, and yet all I had to do was convince the court that I was right on the law and the government was wrong and all that power and might would recede in deference to the rule of law," he said.

The committee begins questioning Judge Roberts today. Throughout most of the day, the 50-year-old nominee sat alone at the witness table, nodding occasionally but showing little emotion.

Committee Chairman Arlen Specter (R., Pa.), warned Judge Roberts that his appointment comes at a time of "turbulent partisanship" on Capitol Hill and worry on the left and right about the high court's direction. "The next chief justice will have the potential to change the court's image, in the eyes of many, as a superlegislature and to bring consensus to the court which has made a hallmark of 5-4 decisions, many of which are inexplicable," Mr. Specter said, citing rulings on matters such as the rights of the disabled to displaying the Ten Commandments on government property.

Committee members also used the session to stake out positions for questioning. Sen. Charles Schumer (D., N.Y.) acknowledged the nominee's accomplishments: He is an honors graduate of Harvard Law School who has held prestigious posts in Washington and won dozens of appeals before the Supreme Court. But, the senator said, the public must be able to "assess not only the sharpness of your mind, but also the fullness of your heart. They need to believe that an overachiever can identify with an underdog who has nothing but the Constitution on his side."

Several Democrats referred to the images of poor, black residents of New Orleans affected by Hurricane Katrina when stating that Judge Roberts's views on racial discrimination must be explored. During the Reagan administration, Judge Roberts wrote dozens of memos urging a narrow reading -- and reach -- of civil-rights laws. Republicans and Democrats put the nominee on notice that he will be asked to explain his comment in one Reagan-era memo calling the constitutional basis for the Roe v. Wade ruling on abortion rights the "so-called right to privacy."

Republicans on the panel focused on Judge Roberts's professional qualifications and urged him to decline to answer questions he deems inappropriate. The committee's job, said Sen. Jon Kyl (R., Ariz.), is to determine if he has the "character, legal ability and judicial philosophy" to fulfill his responsibilities.

But Sen. Herb Kohl (D., Wis.), said evasive answers could reduce support for his nomination. "We have an obligation to find out where you will take us before we decide whether we want you to lead us there. And, most importantly, you have an obligation to tell us," Sen. Kohl said.

Roberts Pledges Judicial Humility In Opening Remarks (LAW)

By Tony Mauro And T.r. Goldman, Legal Times

Law.com, September 13, 2005

Chief justice nominee John Roberts Jr. opened his Senate confirmation hearing testimony Monday with a brief but powerful pledge of judicial humility, fair-mindedness and respect for precedent.

Likening the job of justice to that of baseball umpires, Roberts said, "They make sure everybody plays by the rules, but it is a limited role. Nobody ever went to a ballgame to see the umpire."

Roberts, a veteran advocate before the Supreme Court, spoke without notes but chose every word with care. He addressed the Senate Judiciary Committee after three hours of members' opening remarks. "I come before the committee with no agenda," Roberts said. "I have no platform."

At another point, Roberts said, "Judges have to have the humility to recognize that they operate within a system of precedent, shaped by other judges equally striving to live up to the judicial oath."

Roberts, 50, was first nominated in July to replace retiring Justice Sandra Day O'Connor on the Court, but after the death on Sept. 3 of Chief Justice William Rehnquist -- for whom Roberts once clerked -- President George W. Bush selected him for the chief justice spot.

The White House hasn't made a choice for O'Connor's seat yet.

The hearing marked the first time in 11 years that a nominee for the nation's highest court had come before the Senate committee, and members said it was the highlight of their year if not their careers.

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Roberts, accompanied by his wife, two children, and numerous family members, smiled easily and spoke briefly about his mentor Rehnquist. Roberts said he had spoken to some of the nurses who treated Rehnquist, and he was glad to hear that Rehnquist was "not a good patient. He chafed at the limitations they tried to impose." Rehnquist died at 80 of thyroid cancer. "I will miss him," Roberts said.

If Monday was any indication of what is to come, Roberts will have a relatively easy path toward Senate confirmation. Senate Democrats, while warning they will have tough questions for him on Tuesday and Wednesday, praised Roberts' intellect and outward qualifications for the job. Even Nan Aron, president of the liberal Alliance for Justice, said after the hearing Monday that Roberts had given a "masterful performance -- and short." She also said, "He's like an actor in a show, and he's done a first-rate job."

On Tuesday and Wednesday, Roberts will field at least two round of questions from the 18 senators on the committee. On Thursday and possibly Friday, representatives of outside groups will speak for and against his nomination.

Monday's session began what committee Chairman Arlen Specter, R-Pa., described as a "subtle minuet" between senators and the nominee.

But the friction before Roberts spoke was largely between senators themselves as they clashed over what the nominee should address. Sen. Charles Schumer, D-N.Y., said he would not vote for Roberts if he failed to answer questions forthrightly. "It is our obligation to ask -- and your obligation to answer -- questions about your judicial philosophy and legal ideology."

But Sen. Jon Kyl, R-Ariz., said that answering questions even about issues -- not simply cases -- that might come before him would violate American Bar Association ethics guidelines. "I will defend your refusal to answer," said Kyl.

Sen. John Cornyn, R-Texas, also cautioned Roberts not to answer questions in order to simply please the senators asking them. "Do not take the bait," Cornyn warned.

Specter seemed to take a middle position, announcing he would not ask Roberts if he would overturn Roe v. Wade, the 1973 ruling declaring a woman's right to abortion, but he would ask him whether women have a constitutional right of privacy -- the right on which that ruling was based.

After the hearing, Sen. Edward Kennedy, D-Mass., said, "I am particularly troubled that every one of our Republican colleagues was urging him not to be responsive."

From the opening comments of Democrats, it appeared that the privacy issue would be a major theme in coming days. Several cited a comment Roberts made in a memo from his days as a Reagan administration lawyer in which he referred to "the so-called right of privacy."

Sen. Dianne Feinstein, D-Calif., the only woman on the committee, said the right of privacy is "one of the most important issues to be addressed" at the hearing, and she indicated she would vote against Roberts if she came away believing that he would overturn Roe.

The government's response to Hurricane Katrina even made its way into the comments of several senators. Kennedy said that the hurricane had exposed not only the "gross disparities in society" but the need for "a strong national government."

Senators said the hearing represented a rare and historic opportunity to submit the Court to the influence of the democratically elected Senate. "The Constitution provides for one democratic moment before a lifetime of judicial independence," said Sen. Joseph Biden, D-Del. "This is that moment."

Because it was such a rare chance to send a message to the Court, several senators from both parties indicated they would bring up the Court's recent trend of overturning acts of Congress -- nearly three dozen since Rehnquist became chief justice in 1986.

As he has suggested repeatedly in recent weeks, Specter said he would press Roberts on the scope of congressional power. "These hearings present an opportunity to expose the extreme positions taken by the Supreme Court in denigrating the role of Congress," Specter said.

Sen. Patrick Leahy, Vt., the ranking Democrat on the committee, agreed.

"Chief among emerging concerns are whether the Supreme Court will continue its recent efforts to restrict the authority of Congress to pass legislation to protect the people's interests in the environment, safety, and civil rights," Leahy said. "And whether the Supreme Court will effectively check the enhanced presidential power that has been amassed in the last few years."

In a rare unscripted moment, Sen. Tom Coburn, R-Okla., was suddenly overwhelmed with emotion during his opening remarks. His voice choking and halting, he said, "My heart aches for less divisiveness, less polarization, less finger-pointing, less bitterness... . America is an idea; it's not competing ideologies."

Time For Supreme Court Reality TV (USAT)

By Sandy Grady

USA Today, September 13, 2005

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You might say Judge John Roberts is history's first made-for-TV nominee for the Supreme Court. With his smooth, bland face and careful haircut, he seems to burst fresh from a barbershop or makeup room. He speaks in concise sentences. He rarely loses his sincere, benign smile. If this gig doesn't work out, he could get work as a TV anchorman.

Roberts seems created for his star role this week as network TV cameras focus on his grilling by the Senate Judiciary Committee. He is a conservative with the demeanor of a friendly scoutmaster. Barring edgy surprises, he will likely cool the red-state-blue-state furor and be drafted to be the youngest chief justice since 1806.

And then — presto, shazam! — Roberts will disappear. This made-for-TV paragon with the camera-ready stylishness of a Dan Rather, Peter Jennings or Tom Brokaw will vanish from television. Roberts will sink into the cloistered maw of a Supreme Court whose black-robed deities treat TV cameras as welcome as an anthrax attack. Since the justices first met in 1790, no camera has shown their arguments to the public.

Never mind that 47 states allow cameras into trials. Never mind that we can play voyeur at the televised reality soap operas of Martha Stewart, Michael Jackson, Kobe Bryant, Scott Peterson and the latest runaway bride.

Undeniably, there's educational benefit to those TV trials along with the celebrity pizzazz. But if you want to watch the nation's highest court interrogate lawyers and argue such crucial issues as abortion, immigration, gun control or post-9/11 prisoners, forget it. That is, unless you have time to line up outside the Supreme Court for a three-minute glimpse inside.

For the Supremes stuck in their 19th-century fustiness to ban TV cameras at their ornate doors is, I think, an undemocratic shame.

The U.S. House of Representatives since 1977, the Senate since 1986, White House news conferences and almost all Washington events are open to cameras (usually those of CSPAN). Time for the Supremes to also drop their tech-phobia and join the 21st century. Maybe Roberts, so slickly adept at the electronic stage, can change the justice's shy ways if he joins them. Sen. Arlen Specter, R-Pa., who has long pushed for TV in the court, said of Roberts, “He may have a little different view about television. He's a new generation.”

Even so, Roberts would have a tough sale. Time after time, the Supremes have reacted to TV coverage as if it would transform them into a tawdry Jerry Springer Show. Justice David Souter told a House subcommittee that TV cameras would be allowed “over my dead body.” The late chief justice William Rehnquist had groused that the cameras would lessen the court's “mystique and moral authority.” We can guess at the opposition of Judge Antonin Scalia, who bars cameras or taping of his public appearances — a marshal grabbed a reporter's recorder at a Scalia oration on free speech.

But wait a minute. The Founding Fathers, according to the resolves of the First Continental Congress, wanted courtrooms large enough for “as many of the people as choose to attend.” If you're going to invite 300 million people, that means TV. The great Oliver Wendell Holmes, long before invention of the remote control, said the judiciary should be open so that each citizen is “able to satisfy himself within his own eyes” how judges perform.

Modern camera-phobic justices, however, consider TV a nosy, vulgar threat to their dignity. They fret that cameras would change the behavior of lawyers who appear at their lectern or the justices themselves, causing grandstanding for ideological applause. They worry about bright lights. And about networks using TV snippets to slant the news.

Those seem false fears. I covered the House and Senate when C-SPAN turned on its cameras. If anything, speech and decorum improved. (No more slurred bloviating after three-martini lunches). The televised Senate impeachment trial of Bill Clinton, over which Rehnquist presided, was unaffected by cameras. C-SPAN, master of discreet camera work, has offered to televise the Supremes arguments start to finish without comment. Surveys of states report no ill effect from televised courts (let's forget the O.J. Simpson carnival.)

No, I suspect the real hang-up for the Supremes against cameras is their desperate clinging to privacy. They relish their cocoon of facelessness — to go to a mall unobserved.

I saw this personally one afternoon on a golf course when I was joined by a lean, strong-handed 70-year-old whom I recognized instantly as Justice Byron (Whizzer) White. I guessed he wanted to be incognito. Only after a quiet nine holes did I say, “Didn't you play football at Colorado?”

White looked horrified. “How did you recognize me?” he snapped. Then he mumbled, “Well, it was Monday and the court wasn't busy so … look, I've got to go!” He fled for his car.

That's the real angst of the Supremes toward cameras in their court — giving up their precious anonymity. But the high court isn't some imperious, autocratic mystery cult divorced from American life. When it makes momentous decisions — especially the 5-4 vote that stopped the Florida recount and gave George W. Bush the presidency — we all should have front-row seats via television.

If he joins the club as its new chief, maybe John G. Roberts Jr., with his salesman's flair and anchorman's ease on the tube, can persuade the justices to lose their paranoia toward TV cameras.

Mr. Chief Justice Roberts (if you're confirmed), open up those doors and let the rest of America inside.

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Sandy Grady, who wrote columns in Philadelphia from 1957 to 1972, is a member of USA TODAY's board of contributors.

Making Roberts Talk (NYT)

By John Tierney

The New York Times, September 13, 2005

He came, he charmed, he shut up. During the opening statements, the senators blathered away their time and more; Judge John Roberts used less than half of his to utter a few graceful generalities. He has made a career out of not saying the wrong thing. Why start now?

A lawyer who has been cross-examined dozens of times by the Supreme Court will not be caught off guard by senators posing as legal scholars. There has never been a nominee better prepared to dodge constitutional questions.

The only hope for Democrats is to try the tactics used by interrogation pros like Israeli airport screeners and U.S. customs agents. These experts know that a smart criminal will have rehearsed a cover story for, say, what he was doing in London and why he's going to New York.

But if he's asked something unexpected - how he liked the London weather, whether he's planning to visit Times Square - he has to change mental gears. He's apt to exhibit telltale signs of a liar under stress, like gazing upward and to his right as he answers.

I'm not suggesting that Mr. Roberts is a liar, or that anything the Democrats ask today could stop him from being confirmed. But they might at least keep TV viewers awake by trying questions like these:

If Roe v. Wade were a tree, what kind of tree would it be?

Is there any chance that you could speed up Justice Stevens's retirement by addressing him as "Gramps"?

After seeing a judge's robes in a Gilbert and Sullivan production, Chief Justice Rehnquist added gold stripes to his robe. If confirmed, will you keep the stripes, or do you have a whole new look in mind?

In your best judgment, did Brad and Jen really just grow apart, or was it Angelina's fault?

From your analysis of constitutional history, would you classify James Madison as a dog person or a cat person?

Suppose you'd been in Solomon's place when he proposed cutting the baby in two. And suppose neither woman objected. Would you have cut the baby? Flipped a coin? Or opted for foster care?

You've said you're a devotee of P. G. Wodehouse. Of the current justices, who is most like Jeeves? Who's most like Bertie Wooster?

Would you consider instituting a casual Friday dress policy on the bench?

Would it be a violation of Lois Lane's so-called right to privacy if Superman used his X-ray vision to look through her clothes?

Would you think it's cool if a professional wrestler dubbed himself Chief Justice, or would you sue him for trademark infringement?

During the announcement of your nomination at the White House, your son distracted the president with an impromptu dance. When you got home that night, what happened to him?

Would Thomas Jefferson have preferred the Beatles or the Stones?

After Justice Souter's opinion in the Kelo case endorsed the use of eminent domain to seize peoples' homes for a higher "public use," a group proposed that the town of Weare in New Hampshire increase its tax revenue by taking Justice Souter's property there so that a developer could build a resort called the Lost Liberty Hotel. Would your family ever vacation there?

What goes on four legs in the morning, two legs at noon and three legs in the evening?

When you were a clerk at the Supreme Court, Chief Justice Warren Burger was disliked for his pretentiousness. What nickname did the clerks have for him? Burger King?

Does President Bush have a nickname for you yet?

When justices have birthday parties, should they invite all the other justices, or can they invite just the ones they like?

If Vice President Dick Cheney and Justice Scalia invited you duck hunting, would you go?

If Judge Judy isn't afraid of television cameras in her courtroom, why is the Supreme Court so chicken?

Ashley or Mary-Kate?

Your passion for correct grammar and syntax is well known, but you have yet to inform the American people of your position on the serial comma. In the phrase "life, liberty and the pursuit of happiness," should there be a comma after "liberty"?

How would you edit this sentence to make it grammatically correct?: "I swear I ain't never gonna overturn Roe v. Wade."

Why did you turn to the right and look upward?

Nominee's Rulings Lean Right (WP)

DOJ_NMG_0004666

By Charles Lane

The Washington Post, September 13, 2005

During his two years as a federal appeals court judge, John G. Roberts Jr. has compiled a voting record that places him to the right of the average member of the U.S. circuit courts, according to the first independent statistical study of his voting record.

Roberts was most conservative on issues involving civil rights and civil liberties, the study found. At the same time, President Bush's nominee for chief justice of the United States showed a liberal streak on economic regulation and labor issues; in those matters, he was significantly to the left of the average, according to the study.

"An overall comparison of Judge Roberts' decision-making indicates that he is somewhat more conservative than the average appellate court judge, though not dramatically so," writes the study's author, Kenneth L. Manning, a professor of political science at the University of Massachusetts's Dartmouth campus.

Manning presented his paper Sept. 1 at the 2005 annual meeting of the American Political Science Association in the District. He has since posted it on the Web at http://www.umassd.edu/cas/polisci/roberts.pdf .

The professor studied Roberts's votes in 145 of the 190 cases he has heard at the U.S. Court of Appeals for the D.C. Circuit, excluding 45 that "did not reveal a clear liberal/conservative dimension."

He found that, where such an identifiable ideological dimension did exist, Roberts made a conservative decision 67.1 percent of the time, or about 30 percent more frequently than the average federal appeals court judge. Manning based the comparison on data on the votes of all appeals court judges that have been gathered by the Inter-University Consortium for Political and Social Research at the University of Michigan.

Employing what he said were conventional political science categories, Manning classified all 145 of Roberts's cases under three headings: There were 13 "civil rights/civil liberties" cases, 44 "criminal justice" cases, and 88 "economic activity and labor regulation" cases.

In civil rights and civil liberties cases, as in the criminal justice area, Manning counted a vote in favor of the government as "conservative."

Roberts voted for the government 86.4 percent of the time in criminal cases and 84.6 percent of the time in civil rights and civil liberties cases.

Roberts's score on criminal justice cases was in line with the federal appeals courts generally. But his civil rights and civil liberties votes make him almost four times as conservative as the average appellate judge on such issues, Manning said in an interview.

He cautioned that this score was based on a small sample, because few such cases reached the D.C. Circuit since Roberts joined it in 2003.

By contrast, Roberts's relatively liberal score on economic activity and labor regulation reflected his votes in 88 cases, a large number indicative of the D.C. Circuit's prominent role in reviewing decisions of agencies such as the National Labor Relations Board and Federal Communications Commission.

In those cases, Manning said, Roberts tended to side with government out of the same deference to agency decisions that prevails generally on the court.

"The general read I got was of a non-activist stance -- a general reluctance to go out of his way and rule against government regulators," Manning said. "If the EPA ruled against the chemical industry, the general tendency was to defer to the agency."

Court Docket May Color Roberts Hearings (WSJ)

By Jeanne Cummings

The Wall Street Journal, September 13, 2005

WASHINGTON -- If Judge John Roberts wins swift Senate confirmation to the U.S. Supreme Court, one of the first cases he hears will be Gonzales v. Oregon, the Bush administration's bid to block a state law allowing terminally ill patients to end their lives.

It is a hot-button issue similar to abortion, but the ideological battle lines in the debate are less clearly drawn. Social conservatives argue that assisted suicide, like abortion, should be banned. But states' rights conservatives, who want the court to overturn national abortion law, now want the same court to deny states the right to set policy on death.

Which side would Judge Roberts take? Today, senators will have a chance to probe the nominee's views with questions during Judge Roberts's confirmation hearing.

Earlier public statements suggest Judge Roberts, seen as an ally to social conservatives on abortion, could disappoint them on whether terminally ill patients may end their lives. When the Supreme Court last weighed in on the matter, in 1997, Judge Roberts discussed the cases in a television talk show. The high court had just decided to protect prohibitions on assisted

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suicide in Washington and New York states. Judge Roberts, at the time a lawyer in private practice, defended the decision to maintain the restrictions -- invoking states' rights, not morality.

"The right that was protected in the assisted-suicide case was the right of the people through their legislatures to articulate their own views...and not to have the court interfering with those policy decisions," he said.

When senators quiz Judge Roberts on his legal philosophy, one area to be explored by Democrats and Republicans is how he views the balance of power between Washington and state capitols. Under the late Chief Justice, William H. Rehnquist, the Supreme Court leaned toward curtailing federal authority.

But at times, even conservatives on the high court have disagreed on where to draw the line. In the court's last term, a clash between state and federal rights was at the heart of the Bush administration's attempts to block California from allowing medical patients to use homegrown marijuana to ease their pain. In the 6-3 ruling, Justice Antonin Scalia voted with the majority upholding the administration while Justice Clarence Thomas and Chief Justice Rehnquist sided with the marijuana-using California patients.

Where Judge Roberts falls on that spectrum could have ramifications made more complex by shifting political terrain. Before, social and economic conservatives pressed federal courts for relief from a Congress controlled by Democrats. Judge Roberts could take the helm of the Supreme Court at a time when Republicans dominate Congress and the White House, and some states are serving as laboratories for liberal social policy.

"Federalism creates strange bedfellows sometimes," says Glenn Lammi, chief counsel of the Washington Legal Foundation, a pro-business public-interest group. "Those who might want, from their ideological perspective, issues to come out one way, sometimes find that, legally speaking, they don't always come out that way."

A state-federal clash could draw the high court into the gay-marriage debate over whether the federal government can impose a national definition of marriage on states favoring same-sex unions. Cloning could become another tug-of-war; some senators want to ban cloning, while some states are trying to advance it.

When the Supreme Court eight years ago unanimously upheld state bans on assisted suicide, the justices cited more than 700 years of evidence of "the Anglo American common law tradition" of condemning "both suicide and assisted suicide."

But Chief Justice Rehnquist, writing for the majority, took an extra step that left the door open for states to revisit the matter. Separated from the rest of the text by about an inch of white space he added a final thought in the Washington v. Glucksberg opinion: "Throughout the nation, Americans are engaged in an earnest and profound debate about the morality, legality and practicality of physician-assisted suicide. Our holding permits this debate to continue, as it should in a democratic society."

In 1994, Oregonians voted 51% to 49% for the Death with Dignity Act. The measure was full of the checks-and-balances that the Supreme Court suggested would be vital to legally balancing the state's interest in protecting life and society's wish to alleviate suffering. The law allows only terminally ill, adult patients with less than six months to live to obtain a prescription for a lethal dose of drugs. Two doctors must approve of the request, and counseling must be offered in certain cases. The patient is required to make the request for the drugs three times in 15 days, twice verbally and once in writing. The patient must be able to swallow the drugs himself, without assistance.

A torrent of legal and political challenges ensued, and an injunction was issued before the law took effect. Two federal courts upheld the law, and the Supreme Court in 1997 refused to review it. State lawmakers that year put through a second referendum, this one to repeal the law. Despite a multimillion dollar campaign funded largely by the Catholic Church and Right to Life organizations, Oregon voters rejected the initiative 60% to 40%.

President Bush's victory in 2000 gave the opposition more powerful tools to employ against the law. On Nov. 6, 2001, Attorney General John Ashcroft invoked the federal Controlled Substances Act to revoke the licenses of Oregon doctors who prescribed the lethal cocktails, and directed investigators to identify doctors who did.

Oregon officials obtained an injunction to block the Justice Department from carrying out Mr. Ashcroft's instructions. The Ninth Circuit U.S. Court of Appeals in San Francisco upheld the Oregon law, and on his last day at the Justice Department, in November, Mr. Ashcroft appealed the ruling to the Supreme Court.

Shortly after President Bush nominated Judge Roberts to the Supreme Court, Oregon Democratic Sen. Ron Wyden -- a defender of his state's law -- met with the nominee for nearly an hour. They discussed states' rights and whether Judge Roberts thought a "state should have a wide berth in terms of regulating medical practice," Sen. Wyden says. The senator didn't ask Judge Roberts how he might rule in the Oregon case. But based on what he's heard, Sen. Wyden says: "Put me down as hopeful."

On Iran-contra, What Did Roberts Know? (CSM)

By Warren Richey

DOJ_NMG_0004668

The Christian Science Monitor, September 13, 2005

WASHINGTON - What did you know, and when did you know it?

That query, dating from the Watergate probe, is perhaps the best known question ever asked during a congressional hearing (at least since the McCarthy era). But the kind of scandal that prompts such a bare-knuckled interrogation does not appear on John Roberts's golden résumé.

The US Supreme Court nominee, now appearing before the Senate Judiciary Committee, is being questioned about his conservative leanings, his past writings, and his courtroom advocacy of far-right constitutional interpretations. But no one is attacking the prospective chief justice's honesty, integrity, or ethics.

Nonetheless, at least one episode in Judge Roberts's past may prompt that famous line of interrogation. As a member of the White House counsel's office in 1985 and early 1986, Roberts was in close proximity to what ultimately became the Reagan administration's Iran-contra scandal.

As early as January 1985, Roberts was asked to give a legal opinion about White House involvement in private fundraising to help the contra forces fighting Nicaragua's Sandinista government. He also wrote several memos in early 1986 concerning the private fundraising activities of individuals who were later prosecuted in the Iran-contra affair.

But Roberts's White House memos, made public at the National Archives, are unlikely to provide much grist for conspiracy theorists seeking to link the former Reagan staffer to the scandal.

Instead, Roberts's memos on contra-related issues reveal a cautious lawyer who consistently sounded alarm bells about appearances and who urged compliance with the letter and spirit of the law. His words convey no sign of a devious consigliere searching for ways to bend the law or conceal lawless activities.

More important, the memos suggest that Roberts and his colleagues in the White House counsel's office were outside the loop on the secret dealings of Lt. Col. Oliver North at the National Security Council. There is no indication that the office was consulted about the legality of trading arms for hostages in Lebanon, or using proceeds from the Iran arms sales to support the contras at a time when Congress had barred US government assistance to them.

One odd circumstance, though, might raise a question about how much Roberts knew about Iran-contra and when he knew it.

Roberts left the Reagan White House in May 1986 - six months before public disclosure of the Iran-contra scandal threw the Reagan presidency into turmoil.

Roberts's departure alone isn't unusual. Ambitious and talented lawyers circulate in and out of government service on a regular basis. What is unusual is that between January and June 1986 the entire counsel's office departed. All seven lawyers - including presidential counsel Fred Fielding - resigned and left the White House.

The departures mark an extraordinary exodus of legal experience even as the Iran-contra deception was in full operation.

Peter Wallison, who succeeded Mr. Fielding as White House counsel in April 1986, says the departures were routine turnover within the office, nothing more. "They would have to be very, very perspicacious ... to have sensed something that was such a tightly held secret," he says. "Nobody had the slightest inkling [the Iran-contra operation] was occurring, and if they had, it would have been stopped."

Richard Hauser, deputy White House counsel until early 1986, also says there was no connection between the departures and Iran-contra. "It may have just been because Fred [Fielding] and I were leaving that that became a natural time for others to make plans," he says.

The Roberts legal memos dealing with Iran-contra issues were the type of routine matters that came through the White House counsel's office every day, he says.

"The only thing remarkable about it," Mr. Hauser says, "is that there was a pyrotechnic aspect to it that was unknown at the time."

In January 1985 Roberts was asked to assess the legality of the president and the White House becoming involved in fundraising on behalf of a newly formed private group called the Nicaraguan Refugee Fund. A plan being pushed by Colonel North and others at the National Security Council called for the White House to give corporate leaders a briefing on the situation in Nicaragua and then the group's representatives would ask the CEOs to give money to the fund. The money would be used for humanitarian aid and to wage a publicity campaign in the US against the Sandinista regime.

Roberts objected. In a Jan. 11, 1985, memo, he wrote: "I recommend stopping any White House involvement in this effort." The White House generally does not lend its name to private fundraising, he wrote. "The corporate CEOs would doubtless view the solicitation from the 'private' organization as having official backing if they learn about it at a White House briefing," the memo said.

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But that wasn't the last word. After a week of internal appeals, Roberts reversed his position. Supporters of the effort argued that White House fundraising policy would not be violated, because solicitations would occur after the briefing at a reception at the Hay-Adams Hotel, a block from the White House.

"I suppose we could permit the briefing to take place," Roberts wrote on Jan. 18, 1985. "But I think [this] 'Chinese wall' argument is a bit artificial."

The "Chinese wall" concession is important because it established the briefing-solicitation process that North later used to raise funds from private individuals to pay for contra weapons. Those soliciting the funds on North's behalf later pled guilty to violating US tax laws for claiming the donations were tax-free.

In early 1986, Roberts wrote a series of memos on private fundraising. The plan was as in 1985: provide a White House briefing for wealthy administration supporters, then take them to the Hay-Adams and ask for money.

"I see no legal bars to the contemplated briefing," Roberts wrote in January 1986.

Roberts's memos suggest he was unaware that the money was being used by North and others in the administration to arm the contras. White House officials were told the money was for a "public awareness" campaign in the US by a private group that supported Reagan's position on Central America.

The White House briefings and Reagan's drop-bys were used to boost the private fundraising effort. Those preparing Reagan's fundraising pitches to would-be donors often went too far, in Roberts's view.

One proposed draft of Reagan remarks said: "I ask you - and I ask private citizens throughout the country - to give private donations to the freedom fighter cause. Help them survive this Soviet-Cuban-supplied onslaught. Help these brave freedom fighters last out until American aid can reach them."

After reviewing the draft, Roberts fired off a memo. "The final paragraph on page 3 raises serious concerns under the Neutrality Act," he wrote March 20, 1986. Private citizens who contribute money to buy arms for use against a country with which the US is not at war would be violating federal law and be subject to a fine and prison term, he said.

"The president cannot encourage private citizens to engage in such activity," Roberts wrote. "The reference to private donations must either be deleted or revised to make clear that only donations for humanitarian aid (not covered by the Neutrality Act) are encouraged."

The comments were toned down, but, apparently unknown to Roberts, the donations secretly continued to flow to the contras for weapons.

A Day Of Firsts, Overshadowed (WP)

By Dana Milbank

The Washington Post, September 13, 2005

Yesterday's opening of the John Roberts confirmation hearings was a time for historic firsts.

Sen. Charles E. Schumer (D-N.Y.) made 49 first-person references in a 10-minute statement that was, ostensibly, not about himself.

Sen. Tom Coburn (R-Okla.) showed exceptional emotional versatility, working a crossword puzzle during the hearing and then choking back a sob while making a prosaic statement about partisanship.

Roberts delivered what may have been the shortest opening statement by a modern Supreme Court nominee -- less than seven minutes, including the thank-yous and two baseball metaphors.

But in the end, the confirmation kickoff was anticlimactic: As word spread through the gallery midway through the session that FEMA Director Michael D. Brown had quit, reporters knew the Roberts story would, once again, be a sideshow. Roberts may well be confirmed as chief justice of the Supreme Court, but in the case before the court of public attention, in re: Katrina v. Roberts , the defendant doesn't have a chance.

With the nation distracted by the hurricane and flooding down south, neither left nor right nor middle displayed much energy. By 10:30 a.m., only 170 people had shown up for public tickets to witness the noon proceedings -- making unnecessary the plastic cordons and the queue signs leading almost all the way to Union Station. Outside the Russell Senate Office Building at 11 a.m., a grand total of 21 people demonstrated against Roberts, chanting: "Two-four-six-eight, separation of church and state!"

Even inside the storied Senate Caucus Room -- scene of the Teapot Dome, McCarthy and Watergate hearings -- some were preoccupied with Katrina.

Sen. Patrick J. Leahy (Vt.), the committee's ranking Democrat, led off with an observation that the hurricane was "a tragic reminder of why we have a federal government." Sen. Edward M. Kennedy (D-Mass.) said, in one of three references, "Katrina tore away the mask that has hidden from public view the many Americans who are left out and left behind."

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Senate Judiciary Committee Chairman Arlen Specter (R-Pa.), opening the hearing, called the confirmation "perhaps the biggest challenge of the decade." But at times it appeared to be a swearing-in ceremony. Before the hearing, Kennedy shook the hand of Jane Roberts and said to the nominee's wife, "Congratulations."

Sen. Joseph R. Biden Jr. (D-Del.) seemed to be taking confirmation for granted when he listed a range of issues likely to come before the court and told Roberts, repeatedly, "You will rule on that." In the park across the street from the Russell Building, a modest but confident group of conservatives sipped from water bottles labeled "Roberts YES."

Sen. John W. Warner (R-Va.), who had the job of formally introducing Roberts to the committee, offered some advice to the nominee's playful young son, Jack: "You can wiggle a little bit. Don't worry."

As it happens, that was similar to the advice GOP members offered. In their 10-minute opening statements, they repeatedly urged him not to answer questions about his views.

"Don't take the bait," suggested Sen. John Cornyn (R-Tex.). Sen. Orrin G. Hatch (R-Utah) said it is "patently false" that Roberts must provide answers. Sen. Jon Kyl (R-Ariz.) thought it could be "unethical."

Democrats were almost as uniform in the opposite view. "It is our duty to ask questions," Kennedy replied.

"It is not undignified to ask questions," submitted Sen. Russell Feingold (D-Wis.).

"It is our obligation to ask and your obligation to answer," Schumer said.

Roberts sat still, shoulders slightly rounded, moving his head thoughtfully from side to side, and keeping a polite gaze on each speaking senator; after three hours of this, the nominee shamed the lawmakers with a brief speech blending jurisprudence and the national pastime. "I will remember that it's my job to call balls and strikes and not to pitch or bat," he said.

Specter, determined to keep the proceedings on schedule, even cut himself off at the 10-minute mark, saying, "I'm down to 10 seconds . . . that's it."

But there were unscripted moments. Cornyn and Sen. Sam Brownback (R-Kan.) spent a chunk of the afternoon whispering and joking. A woman in a 19th-century hat and dress sat in the back of the room wearing a "Women for Roberts" sticker. After Feingold predicted longevity for the 50-year-old nominee because he looks "healthy," Coburn, a doctor, said that cannot be predicted without a "physical exam or a family history" -- neither of which is on this week's hearing schedule.

A television camera behind Coburn caught the senator working a crossword puzzle. But Coburn went from detachment to emotional overdrive when it was his turn to talk; seconds after asserting that "a super-legislator body is not what the court was intended to be," he paused and wept.

Colleagues looked alarmed. One GOP committee aide put his hand to his mouth. It was the biggest Senate choke-up since Sen. George V. Voinovich (R-Ohio) cried while opposing the nomination of the ambassador to the United Nations -- and Coburn has to get through three more days of hearings.

Right Pleased With Specter (RC)

By Paul Kane

Roll Call, September 13, 2005

After bitterly attempting to deny Senate Judiciary Chairman Arlen Specter (R-Pa.) the gavel, conservative activists are now beginning to praise the five-term moderate as an unexpected ally in several key battles this year.

Specter, who was nearly denied the chairmanship last November after an eruption on the right regarding comments he made about Roe v. Wade, has won some grudging respect from conservatives in recent weeks. Those activists have been particularly pleased with his handling of the run-up to this week's confirmation hearing for Judge John Roberts, who is President Bush's nominee for chief justice of the United States.

"In the context of this confirmation hearing, he has been spectacular," said Leonard Leo, executive vice president of the Federalist Society, a conservative group of lawyers.

Jay Sekulow, a point person among conservatives as chief counsel for the American Center for Law and Justice, said Specter's performance had exceeded the "forecasts of doom by some on the right."

Even former Attorney General Edwin Meese, who openly endorsed Specter's primary opponent in April 2004, said that he was expecting the chairman to handle the Roberts hearings "very fairly," and added that he believes Specter has been a "strong chairman."

By no means are conservatives starting a fan club for the chairman — indeed, most of their praise has been hedged with such phrases as "so far." But conservatives have had an easier legislative road this year thanks to Specter's support for a large chunk of the Bush agenda and his avid support of his judicial nominations.

And some of the younger conservative Senators on his panel say that Specter has emerged as the right person to run what has become the chamber's most partisan committee. Sen. Lindsey Graham (R-S.C.) said Specter has been "evenhanded" and "fair" to conservatives on the committee with whom the chairman disagrees with personally on issues.

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Because Specter has had fights with the conservative movement for nearly two decades, he comes to the chairmanship with a perceived independence from them that ultimately yields a big benefit to the White House and Senate Republicans when he does come down on their side, Graham said.

"It helps in the sense that he's not looked at as an ideologue," he added. "It gives the committee some credibility, and he's probably the perfect guy to be chairman."

Leo said that the two-week gavel fight Specter underwent in November helped him understand what a different role it is to be chairman. "By taking the chairmanship, he was taking a different role. He's not a free agent anymore," he said.

Even as he continues to earn a level of praise from senior Democrats and some liberal activists, Specter has repeatedly been on the side of conservatives more often than not this year on the big issues before his committee.

At Monday's hearing, his opening statement ticked off a litany of issues the panel has worked on this year: the somewhat contentious confirmation of an attorney general, an overhaul of bankruptcy and class-action rules, re-authorization of the highly contentious USA PATRIOT Act and the confirmation of a handful of previously filibustered appellate court nominees. It read like a wish list for conservatives.

In advance of the Roberts hearings, Specter defended the White House position that writings and memos from Roberts' tenure at the Solicitor General's office about 15 years ago should remain sealed.

And on Sunday's "Meet the Press," Specter objected, somewhat unexpectedly, to the idea of elevating Attorney General Alberto Gonzales to the Supreme Court to fill the court's remaining vacancy on the court. That puts him in step with conservatives who are wary that Gonzales harbors comparatively moderate positions on social issues.

And Specter achieved all this while fighting off Hodgkin's lymphoma cancer, which was diagnosed in February and which until the end of July prompted chemotherapy every other Friday at the University of Pennsylvania's Hospital in Philadelphia.

In an interview after Monday's opening day of hearings, Specter spread credit among the membership of the entire panel. And he brushed off any suggestion that his presence in the spotlight represented any kind of redemption.

"This committee has delivered," he said. "It hasn't just been me."

Indeed, part of Specter's recent run of success has been his ability to work through procedural issues with Sen. Pat Leahy (D-Vt.), Judiciary's ranking member, as well as his good relationship with Minority Leader Harry Reid (D-Nev.).

Both GOP and Democratic aides say that Specter has smoothed over relations with Leahy in a way that had become impossible under former Chairman Orrin Hatch (R-Utah), who bitterly fought with Leahy during President Bush's first term. Hatch later stepped down due to internal GOP rules limiting chairmen's terms.

"All committees should have the working relationship that these two have," Reid said of Specter and Leahy last week.

Liberal activists have taken note of Specter's tendency to work through things privately with Leahy. "He hasn't been as confrontational as Sen. Hatch," said Ralph Neas, president of People For the American Way. "He's tried to resolve things in a bipartisan way."

But, in the same breath, Neas noted with frustration that Specter has "marched in lockstep with President Bush on judicial nominations for the past four-and-a-half years."

"He's a paradox," said Nan Aron, head of the Alliance for Justice, noting Specter's primary role in defeating Robert Bork's nomination to the Supreme Court in 1987 and his subsequent support of almost every nominee from both President Bushes.

"He's someone who, ever since Bork, has walked a very fine line, and someone who has done it effectively," Aron said.

For conservatives, the biggest question mark came in May, when the Senate faced down the fight over filibusters of judicial nominations.

Majority Leader Bill Frist (R-Tenn.) was poised to force a parliamentary vote banning them, and he needed just 50 votes to do it. According to Democratic and GOP Senators, the vote was 49 Senators on Frist's side, 50 against and Specter the lone holdout. He never publicly stated his position — although he stood at Frist's side at what would have been the start of that floor debate — and he never had to once the "Gang of 14" deal averting that vote materialized.

Still uncertain whether he was on their side in the filibuster fight, conservative activists were happy to see Specter quickly work to win confirmation for such judges as Priscilla Owen to the Fifth U.S. Circuit Court of Appeals — a confirmation victory that now has her on some lists to succeed retiring Justice Sandra Day O'Connor.

On Monday, Specter again refused to say how he will vote on the Roberts nomination, maintaining his independence and awaiting to hear the nominee answer his questions. He rejected any suggestion that these hearings were personal vindication for a 25-year roller-coaster ride in the Senate, but his smiles and jokes with the press afterward betrayed a sense of satisfaction about being in charge.

"It's one of those slight perks you get if you stay around long enough and you don't get indicted," he said.

Margaret Carlson column: For Dems, Less Might Be More (LAT)

By Margaret Carlson
The Los Angeles Times, September 13, 2005

I'm as excited as anyone about the prospect of "Advise and Consent, the Sequel," with a budget rivaling "War of the Worlds" and advance hype just short of Tom Cruise jumping on a couch, declaring his love for Arlen Specter.

Eighteen years after "Borking" became part of the language, the two main protagonists in that battle are still at it. Specter, the Senate Judiciary Committee chairman, got in one more lick Sunday against the Supreme Court nominee he defeated back then, Robert Bork. "If his 'original intent' stood, we'd still be segregating the United States Senate with African Americans on one side and Caucasians on the other side," Specter said on CNN. Bork said later in the same program: "I know Specter, and the truth is not in him."

Somehow Alberto Gonzales, one of the potential candidates to succeed retiring Justice Sandra Day O'Connor, seems incapable of generating that level of venom. He may prove to be a stealth candidate with rock-hard positions we don't know about, but he comes across as milder than that. The right wing jokes that "Gonzales" is Spanish for "David Souter." And the left dislikes him for condoning torture at Abu Ghraib. The bipartisan dismay has lent Gonzales an air of being just right.

I'm not saying Bush is going to nominate Gonzales, the old friend he huffily told folks to lay off of as he flew to the G-8 summit in Scotland. He might even nominate a real hard-liner, lure the Democrats into eliminating him and then get whomever he wants to replace O'Connor and Chief Justice William Rehnquist when he retires.

What I am saying is that although Bush looks more and more messianic, he's got enough of his father's pragmatism in him to want to overturn Roe vs. Wade about as much as he wants to read the collected works of Shakespeare.

If Roe goes down, so does his majority, his legacy and present and future politicians bearing the name Bush. Traditional Republicans who voted for Bush for his pro-corporate, pro-tax-cut views will put aside their selfish concerns and flock to pro-choice candidates, who tend to be Democrats. He doesn't want to be remembered as the guy who knocked down the late Lee Atwater's Big Tent.

Watching Karl Rove, you know he has his right flank under better control (he got them to the polls in 2004) than Democrats have their left one. Evangelicals look into Bush's soul and see a man who would criminalize abortion as soon as possible, while moderate Republicans see a man who is only doing what's necessary to keep conservatives mollified.

Rove let those on the right vent for a few days about Gonzales and then, about the time he slipped and called Gonzales "Justice" in a meeting with the Washington Post two days ago, had his minions tell them to chill.

Bush has tossed the right enough red meat (Terri Schiavo, embryo protection in stem-cell research, Social Security reform, tax cuts, the war) so that when red meat he doesn't want to deliver is called for, he has the room to finesse it. It's quite a trick. Bush does not keep Laura from saying, as she did on the "Today" show in 2001, that she doesn't want to see Roe vs. Wade overturned, and he lets the twins take the stage at the GOP convention, speaking of sex in front of Grandma and the delegates in a fashion that says no way do they belong to a party that lets Phyllis Schlafly have her way.

This doesn't mean there won't be Kabuki theater from now until October. There are a lot of people with a stake in a big blowout, including political fundraisers and the media.

So what should Democratic senators do, some of whom are up for reelection in 2006 and most of whom secretly believe that putting your name on a benign-sounding piece of legislation with a sweet name like No Child Left Behind is a better career-builder than Borking someone? Republicans have successfully defined advice and consent downward. Whisper "extraordinary circumstances" for anyone other than a felon or flat-earther and you can kiss the Gang of 14 compromise saving the filibuster goodbye

When you combine the polls on Congress (it stinks) with the ones on the Supreme Court nomination (a quick and fair fight is all we ask for), it argues for continuing to do what's worked best for Democrats: as little as possible while letting Republicans go too far.

By abandoning the field, Democrats have unleashed Bush's most fearsome opponent: reality. On Social Security, Republicans are a victory away from annihilation. If only Democrats had done even less, they might have restored their FDR coalition and been sure of winning back the White House and Congress. If the GOP wants to be the party of James Dobson and Jerry Falwell, let them have the shovel to dig that hole. It might not bring Democratic victory tomorrow, but it will soon and for decades to come.

Bush Expresses Confidence In Recovery Efforts (LAT)

By Edwin Chen
The Los Angeles Times, September 13, 2005

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WASHINGTON — President Bush, making his third visit to areas in Louisiana and Mississippi devastated by Hurricane Katrina, said Monday that New Orleans was "on the way" to recovery and stated that there was now "close coordination" among all levels of government.

In comments after high-level briefings and a tour of some areas of New Orleans affected by the hurricane, the president alluded for the first time to the disproportionate number of African Americans stranded by the flooding in New Orleans, and he vowed to look into growing concerns among homeowners who lacked flood insurance coverage.

Some residents of the Gulf states are reporting that insurance adjusters are questioning whether their homes were damaged by flood or by wind. Flood damage is generally not covered by standard homeowners' policies; wind damage often is.

Bush said Monday that he had encountered a woman facing such a dilemma. After she told him of her situation and asked how he would feel, the president said he told her: "I wouldn't like it a bit."

He also told her that he would "find out the process that determines whether or not it's a wind or water event."

Despite the relief progress that he said he noted Monday — Bush cited a gas station "up and running" in Gulfport, Miss. — the president warned: "There's a lot of serious and hard work that's yet to be done."

During a brief question-and-answer session with reporters, Bush was asked about the large numbers of blacks who were trapped in the Superdome and the convention center in New Orleans.

"My attitude is this: The storm didn't discriminate, and neither will the recovery," Bush replied. "When those Coast Guard choppers, many of whom were first on the scene, were pulling people off roofs, they didn't check the color of a person's skin. They wanted to save lives."

He also reiterated his aversion to conduct an immediate review of the bureaucratic snafus that left tens of thousands of New Orleans' residents stranded by the floodwaters, saying that both the White House and Congress later would "take a good, close look at what went on, what didn't go on."

Such an assessment — after the crisis has eased — would be "really important" and would help "answer the question: Are we prepared for major catastrophes?" Bush said. "If there were to be a biological attack of some kind, we've got to make sure we understand the lessons learned to be able to deal with catastrophe."

The president once more dismissed a suggestion that the rescue efforts may have been hampered by a lack of military personnel because so many troops are serving in Iraq.

"It is preposterous to claim that the engagement in Iraq meant there wasn't enough troops here, just pure and simple," he said.

Bush arrived in New Orleans late Sunday afternoon and spent the night aboard the Iwo Jima, a Navy amphibious assault ship docked in the Mississippi River. He returned to Washington Monday evening after visiting Gulfport.

Bush Denies Racial Component To Response (NSDY/AP)

By Jennifer Loven, Associated Press Writer

Long Island Newsday, September 13, 2005

NEW ORLEANS -- President Bush, ducking low-hanging tree limbs and electrical wires, rode in an open truck Monday for his first close-up look at New Orleans' ravaged, trash-strewn, flooded neighborhoods. He denied that poor, black victims of Hurricane Katrina were ignored because of their race.

After a federal response criticized as slow and inadequate, Michael Brown, the embattled director of the Federal Emergency Management Agency, announced his resignation in Washington. His departure had been expected after he was stripped of his onsite command of the hurricane relief effort three days earlier.

Bush replied testily to a reporter who asked whether he felt let down by federal officials in responding to the disaster.

"Look, there will be plenty of time to play the blame game," he said. "That's what you're trying to do. You're trying to say somebody is at fault. And, look, I want to know. I want to know exactly what went on and how it went on, and we'll continually assess inside my administration."

Bush spend the night here on the amphibious assault ship USS Iwo Jima, and toured the city for 45 minutes. The president's convoy moved slowly through just-drained neighborhoods caked with black mud and through streets where the water line reached well into the trucks' tire wells or lapped at curbs. At times, the stench was overwhelming.

Bush seized on the news of falling water levels throughout New Orleans and pronounced the city on the mend. Business owners were issues passes to retrieve records and equipment, and more than half of southeastern Louisiana's water treatment plants were back in operation.

"My impression of New Orleans is this: that there is a recovery on the way," Bush said in the shadow of a freeway overpass, destroyed cars littering the landscape behind him and rescue choppers occasionally drowning out his words.

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Polls show broad dissatisfaction with Bush's handling of the hurricane and his job approval rating is at the lowest point of his presidency. This was his third and longest trip here since Katrina pulverized Gulf Coast communities and submerged most of New Orleans two weeks earlier. He is expected to return to the region on Thursday, and aides were discussing plans for him to address the nation from a site to be determined.

Bush's tour of New Orleans started by regular motorcade, taking him in his Suburban through the nearly deserted city -- past the now-infamous Superdome, through parts of the central business district and the Bywater District with the orange X's on doors signifying the visit of a search-and-rescue team, and into the French Quarter. There, he and his entourage jumped into the military vehicles.

Escorted by Humvee, Bush stood in the truck bed flanked by a grim-looking New Orleans Mayor Ray Nagin and Louisiana Gov. Kathleen Blanco -- both of whom have criticized the federal response.

Many people, particularly in the black community, have suggested that one reason for the slow response was that most of the storm victims, especially in New Orleans, were poor and black and that the administration doesn't care about them. The president said that wasn't so.

"The storm didn't discriminate and neither will the recovery effort," he said. "When those Coast Guard choppers ... were pulling people off roofs, they didn't check the color of a person's skin. They wanted to save lives."

Bush also clarified his oft-criticized remark that no one had anticipated that New Orleans' levees being breached. He said there was an initial impression that the city had escaped heavy damage "and I myself thought we had dodged a bullet." He said he got that impression from the media.

Before Monday, Bush had only seen New Orleans' deepest misery from the air -- from aboard Air Force on the way back to Washington from his Texas ranch and again from a helicopter two days after that. His only foray into the city was to one of the breached levees on its edge.

The president ended his two-day stay in the region in Gulfport, Miss., a town on the coast where Katrina's winds turned scores of homes and businesses into matchsticks.

Bush stopped at a distribution center run by Christ in Action. "Good to see you" and "Good luck," Bush murmured to people he greeted along long tables where food and supplies such as water, diapers and toilet paper were being distributed. He also cheered on a group of Mexican marines and Navy Seabees just back from Iraq who were clearing debris at the 28th St. Elementary School.

He said earlier it was "preposterous to claim" that the nation's military was stretched too thinly with the war in Iraq to deal with the Gulf Coast devastation.

WRAPUP 3-Bush Tours Ravaged New Orleans As Criticism Swirls (REU)

By Michael Christie

Reuters, September 12, 2005

NEW ORLEANS, Sept 12 (Reuters) - U.S. President George W. Bush, on a tour of devastated New Orleans on Monday, rejected charges the government was slow to respond to Hurricane Katrina because most of the victims were black or because the nation's military was over-extended in Iraq.

"My attitude is this: The storm didn't discriminate and neither will the recovery effort. When those Coast Guard choppers ... were pulling people off roofs, they didn't check the color of a person's skin. They wanted to save lives," the president said.

He also said it was "preposterous" to claim that the Iraq war had drained military resources, leaving too few troops to help out with the hurricane.

"We've got plenty of troops to do both," Bush said during a tour of the areas of the city ravaged by the hurricane.

It was his third visit to the Gulf Coast since the hurricane struck two weeks ago. He was briefed by Coast Guard Vice Adm. Thad Allen, the man appointed to take command of recovery efforts last Friday, replacing Michael Brown, the much-criticized head of the Federal Emergency Management Agency, whom Bush had earlier praised.

The president then ventured out into the ruined city, riding in an open, flatbed military truck through flooded streets. He saw damaged houses, downed trees and fetid, black and gray floodwaters.

But in a new blast at the administration, civil rights leader Rev. Jesse Jackson said the government was now discriminating against local businesses by ensuring that big corporations with close ties to the establishment received all the major rebuilding contracts.

"It smells so much like cronyism and you've still got people sleeping on floors," Jackson told Reuters.

The official death toll has climbed past 400 and was expected to climb higher, making it one of the deadliest hurricanes in the United States in a century. One million people in the region have been displaced by the disaster.

FOCUS ON HOUSING

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Allen told the president he was focusing efforts on getting thousands of evacuees out of temporary shelters as quickly as possible and into more permanent housing.

National Guard soldiers swept mud-covered thoroughfares and cleared debris in central New Orleans ahead of Bush's visit.

Critics have charged that the president seemed isolated from real-time information and slow to grasp the immensity of the disaster in the days after the storm hit.

Around 40 percent of the city remains swamped by contaminated water, although surrounding suburban areas were drying out. Most of city's 450,000 residents are scattered across the United States in shelters or with friends and family. An unknown number have ignored repeated calls to leave, choosing the brave growing health hazards in the city.

Charles Daniels, 63, finally gave up on Monday and was trying to find some fuel for his car to leave. He was hoping for information on his two daughters and seven grandchildren, evacuated during the worst of the flooding.

"I have no idea where they are. No idea. But they're not coming back, because it's all flooded down there where they lived," he said. "My baby daughter's home is bad. She can't move back there. It's gone."

About 1 million people from Louisiana, Mississippi and Alabama were displaced by the Aug. 29 storm and many families have been separated.

The National Center for Missing and Exploited Children said 1,600 children were listed as missing by their parents, or were seeking their families.

The tragedy has sparked a national outpouring of charity. The Chronicle of Philanthropy reported Americans had donated at least $739 million to help victims of the disaster at a faster pace than for any previous emergency.

POLLS SHOW DEEP UNHAPPINESS

In recent days, Bush has dispatched Vice President Dick Cheney and Cabinet officials to survey the damage and to counter continued criticism that the administration's response to the storm has been slow and inadequate.

Polls show Americans were deeply unhappy with the response from federal, state and local officials. A Newsweek survey on Saturday found Bush's approval rating at 38 percent, the lowest of his presidency.

The storm could also be the costliest natural disaster in in U.S. history. Estimates range from $100 billion to $200 billion. Congress has approved $62.3 billion so far for hurricane relief.

In devastated coastal Mississippi, where some towns were flattened, residents trying to pick up the pieces had another battle on their hands.

"The pitiful thing here is that insurance companies are trying to stiff us," said Eve Jaspers, a Mississippi deputy sheriff, who did not buy flood coverage because her house was built on high land.

"They're telling me this was flood damage," she said. "The walls fell out. The front door is in the garage, God knows where the garage door is. It was clearly a small tornado."

Business owners were being allowed back into downtown New Orleans to visit their property, though they were told they could not stray beyond the central business district.

Health officials on Monday were spraying for flies and mosquitoes to minimize the risk of disease being carried by the insects, a step toward making the city habitable again.

Northrop Grumman Corp. <NOC.N> , the largest manufacturing employer in Louisiana and Mississippi, put out a call for thousands of ship builders to return to work if possible on Monday at New Orleans and Pascagoula, Mississippi, shipyards.

Bush Vows A `Sober Look' At Federal Katrina Response (Update2) (BLOOM)

By Brendan Murray

Bloomberg, September 13, 2005

Sept. 12 (Bloomberg) -- Federal authorities outlined plans to temporarily house Hurricane Katrina survivors in trailers as President George W. Bush promised to take ``a sober look" at how emergency agencies reacted after the storm.

The president, making his third tour of the U.S. Gulf Coast region in the two weeks since the Katrina hammered Louisiana, Mississippi and Alabama, said in New Orleans this morning that every citizen of the affected areas will get aid.

Responding to criticism that the federal government moved too slowly in the immediate aftermath of Katrina, the president vowed that Congress and the administration will ``take a sober look at the decision-making that went on."

The president made his remarks after touring the city's French Quarter and other neighborhoods in a caravan of military vehicles along with Mayor Ray Nagin and Louisiana Governor Kathleen Blanco. Before heading out, he got his first on-scene briefing by Coast Guard Vice Admiral Thad Allen, who replaced embattled Federal Emergency Management Agency Director Michael Brown Sept. 9 as the federal official in charge of relief and recovery operations in the region.

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Allen said the trailers are being brought in to serve as stopgap housing. Thousands of people uprooted by the hurricane and unable to afford temporary quarters have been housed at emergency shelters, sports arenas, military bases and the homes of family and friends across the country and even cruise ships.

Permanent Homes

``The ultimate goal is to get them into homes permanently," Allen told Bush aboard the amphibious assault ship USS Iwo Jima, which is moored at a dock in downtown New Orleans to serve as a command center for military operations.

The government has ordered about 100,000 two-bedroom mobile homes and recreational vehicles from several manufacturers around the country to help fill housing needs for about 300,000 people, said James McIntyre, a spokesman for the Federal Emergency Management Agency in Baton Rouge, Louisiana.

The government has taken delivery of 12,000 units so far, he said, at a rate of about 500 a day, up from 450 yesterday. Mobile homes and RVs are being shipped by railroad or truck to staging areas in Selma, Alabama; Purvis, Mississippi, Baton Rouge, Louisiana and Texarkana, Texas.

Income and Race

Many of those most in need of shelter come from the poorest areas of New Orleans and Mississippi and Alabama. In New Orleans, thousands were stuck for days after the Aug. 29 storm in overcrowded and under-supplied shelters. Bush rejected suggestions from some New Orleans residents that income and race played a role in how quickly relief was delivered.

``The storm didn't discriminate and neither will the recovery effort," Bush said after touring the city today. ``When those Coast Guard choppers, many of whom were first on the scene, were pulling people off roofs, they didn't check the color of a person's skin."

Still, he said, the federal government's response to the storm and the complaints about a lack of coordination with local emergency officials must be examined and shortcomings fixed.

``I think it's very important for Congress to take a good close look at what went on, what didn't go on, and come up with a series of recommendations," Bush said.

Rebuilding

He promised that New Orleans citizens will be able to create their own vision of how the city should be rebuilt.

``The best policy is one which says the federal government doesn't come down and say here is what your city should look like," he said.

He also called ``preposterous" questions about whether the government would have been able to move in troops more quickly if the military weren't stretched thin by the war in Iraq. ``We've got plenty of troops to do both," he said.

Bush heads to Gulfport, Mississippi, another area hit hard by Katrina, later today.

Political Price

The president is trying to expedite the rebuilding effort as polls show he may be paying a political price for the complaints about the federal government's initial response to the disaster.

In three national polls conducted last week -- for Time, Newsweek and the Associated Press -- the president's job approval rating fell to career lows. Thirty-eight percent of those surveyed in the Newsweek poll approved of the way Bush was handling his job as president, 42 percent approved in the Time poll and 39 percent in the AP/Ipsos poll.

`` As far as my own popularity goes, I don't make decisions based upon polls," Bush said today.

Among the actions taken last week by the administration, Bush said he would grant special ``evacuee status," to those uprooted from the region with making them eligible for cash grants of $2,000 and easier access to government services such as Medicaid, mental health services, housing assistance and unemployment insurance.

FEMA chief Brown was removed from overseeing hurricane recovery efforts and returned to Washington last week after a flood of criticism from Democrats and Republicans of how the agency handled the hurricane response and questions about whether he had the proper background to manage emergency efforts.

Bush Gets Closer Look At Devastation, Rebuts Charges Of Slow Response (KRT)

By Danny Robbins And Scott Dodd

Knight Ridder, September 13, 2005

BATON ROUGE, La. - President Bush got his first close look Monday at flood-ravaged New Orleans, even as state health officials revealed another grim discovery: 45 people found dead at a hospital evacuated more than a week ago.

A hospital administrator told a dramatic story of doctors and nurses trying to keep patients alive without power, surrounded by water, while waiting for help that never arrived. At one point, helicopter evacuations were interrupted by gunfire, he said.

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While touring New Orleans, the president rebutted charges of a slow response by the federal government, but that didn't save the job of Michael Brown, the embattled Federal Emergency Management Agency chief. He resigned from his post on Monday.

Bush pledged that the federal government will help rebuild New Orleans in whatever form the people of the damaged city decide. He said he could see progress being made from his tour in a military convoy.

As floodwaters dropped Monday, they began to yield to signs of rebuilding and rebirth - as well as significant challenges ahead. Scattered businesses were trying to reopen; the Coast Guard allowed some ship traffic on the lower Mississippi River during daylight hours, and the first commercial flights are scheduled to resume Tuesday at Louis Armstrong New Orleans Airport.

In south Mississippi, most residents were able to enjoy the simple pleasure of flushing toilets once again.

Electricity is being restored more quickly than expected to some areas of Louisiana, allowing critical industries - including oil and gas refineries - to get back to work. And Michael Olivier, a top economic development official in Louisiana, said a number of major companies plan to come back to New Orleans, including Entergy and Oreck Corp., which both temporarily relocated to other states.

But major problems remain throughout the Gulf Coast region. St. Bernard Parish President Henry "Junior" Rodriguez said a massive oil spill may have permanently damaged about 1,500 homes in his community.

It could take eight months or more to clean out the hurricane-damaged areas, the Army Corps of Engineers said at a briefing in Washington, estimating that 20 million cubic yards of debris are scattered across the Mississippi coast alone - enough to cover 300 football fields in 50-foot piles.

The agency doesn't have estimates for Louisiana yet.

It will also take months to rebuild the important Interstate 10 connection from New Orleans to Slidell across Lake Pontchartrain. Gordon Nelson with the Louisiana Department of Transportation said two eastbound lanes should be finished in 45 days, and one westbound lane will be rebuilt by January.

Pumps continue to push 6.5 billion gallons of water out of New Orleans daily, the Corps said, and FEMA is paying for emergency construction to repair the levees. They'll only be rebuilt to withstand a Category 3 storm, however, because that's the level of protection currently authorized by Congress. Katrina was a Category 4 hurricane.

About 40 percent of New Orleans remains flooded, down from 80 percent after Katrina struck and protective levees broke two weeks ago.

The bodies of 45 storm victims were found over the weekend at Memorial Medical Center in New Orleans, which had been surrounded by floodwaters, said Bob Johannesen, a spokesman for the Louisiana Department of Health and Hospitals.

They died in the four days after the storm while waiting to be evacuated, an assistant hospital administrator told The Associated Press. Temperatures inside the 317-bed hospital got as hot as 106 degrees, and the only way to get people out was by boat.

Many of the patients were elderly and seriously ill, and none expired because of lack of food or electricity, a spokesman for hospital owner TenetHealthcare Corp. told the AP. Some may even have died before the storm, he said.

Some of the recovered bodies had been in the hospital's morgue, but most of them were patients who died in the first four days after the storm hit, while the hospital waited for help, Tenet Healthcare spokesman Harry Anderson said.

It never came.

By Tuesday, he said, the floodwaters surrounding the building had washed out the hospital's generator, cutting off electricity, and temperatures in the facility reached up to 110 degrees.

Doctors and nurses worked around the clock to stabilize the sickest, using hand ventilators to keep patients alive, Anderson said. Some didn't make it.

Hospital officials frantically contacted the National Guard, Coast Guard and state emergency officials to ask for help as the waters rose, Anderson said. Eventually, the third floor was flooded.

"Everybody said, `Be patient. It's going to happen,'" he said.

But on Wednesday, Anderson said, hospital officials were told by the state that they would have to "use their own assets" to evacuate up to 260 patients. The hospital hired boats and private helicopters. The rescue effort was interrupted at one point by gunfire at the helicopters, Anderson said.

"This is a tragic byproduct of this disaster," he said. "People who are frail and vulnerable couldn't survive."

The bodies were taken to a morgue established for Katrina victims in St. Gabriel, La., Johannesen said.

The discovery helped push the Louisiana death toll to 279 on Monday, up from 197 on Sunday. More than 400 people are confirmed dead in the wake of Hurricane Katrina, which struck the Gulf Coast two weeks ago Monday.

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About 250 bodies have been recovered in New Orleans and its immediate suburbs, said Frank Minyard, the Orleans Parish coroner. He expects the death toll to rise as recovery efforts move into deeper floodwaters - but not to the numbers some had feared.

"It's going to grow, but I don't think it will get to 5,000," Minyard said. "I'd be shocked if it does."

Autopsies began Monday at the temporary facility in St. Gabriel. Minyard said most of the bodies are not recognizable.

"The decomposition is bad. Every body is swollen. Every body has decomposition and deterioration," he said. "It's almost impossible to physically identify them. If you have your loved one there, you can't really see them."

Coroners are performing autopsies only on bodies that appear to have suffered trauma, such as gunshot wounds, and on the 26 recovered from a nursing home in St. Bernard Parish because of questions about negligence.

Death certificates for people who appear to have died strictly as a result of the storm will simply be labeled "Hurricane Katrina death," he said.

Brown announced his resignation Monday afternoon, saying he didn't want his ongoing struggles - being removed from command of the relief effort and recalled to Washington on Friday amid questions about his resume - to distract from the relief effort.

David Paulison, head of FEMA's emergency preparedness force, was quickly named his temporary replacement.

In New Orleans, Bush denied that the federal government was slow to respond to the disaster because many of Hurricane Katrina's victims were poor and black. And he called it "preposterous" to claim that rescue and recovery efforts were hampered because military manpower is stretched too thin by the fighting in Iraq.

"The storm didn't discriminate, and neither will the recovery effort," Bush told reporters beneath a highway overpass after a tour in the back of a flatbed military truck. He had to duck at times to avoid hanging branches and power lines.

Coast Guard Vice Adm. Thad Allen, now heading the recovery, briefed the president on efforts to provide temporary housing, a day after Louisiana officials accused the federal government of dragging its feet on helping people move out of emergency shelters.

Bush refused to find fault with the government's performance so far, saying, "There will be plenty of time to play the blame game. ... We're moving on. We're going to solve these problems. And there will be ample time for people to look back and see the facts."

For much of his visit, the president sat or stood between two people who harshly criticized the federal government in the days after Katrina struck - New Orleans Mayor Ray Nagin and Louisiana Gov. Kathleen Babineaux Blanco.

Addressing the long-term future of the city, Bush said, "My attitude is this: The people of New Orleans can lay out what New Orleans ought to look like in the future ... and the federal government will help."

After visiting an emergency operations center in hard-hit St. Bernard's Parish, Bush flew to Gulfport, Miss., where he met with hurricane victims at a church relief center and an elementary school.

He also thanked Mexican troops helping with the cleanup, speaking to them briefly in Spanish.

This was the president's third trip to the Gulf States since the storm, but his first tour of downtown New Orleans. He spent the night aboard the USS Iwo Jima, anchored in the Mississippi River.

Bush avoided answering questions about Brown's resignation, saying he had not spoken with Washington during his trip to the Gulf.

"Here in Mississippi and Louisiana, people want to move forward," Bush said. "There'll be time later to blame somebody."

Bush Denies Race Had Role In Recovery (WT)

By Joseph Curl

The Washington Times, September 13, 2005

President Bush, making his third trip to Gulf Coast states ravaged by Hurricane Katrina, yesterday rejected charges that the federal government's emergency response was slow because most of the victims were black.

"The storm didn't discriminate, and neither will the recovery effort," the president told reporters after touring some of the hardest-hit areas in New Orleans.

"When those Coast Guard choppers, many of whom were first on the scene, were pulling people off roofs, they didn't check the color of a person's skin. They wanted to save lives," he said. "The rescue efforts were comprehensive, and the recovery will be comprehensive."

Mr. Bush replied angrily to another reporter who asked whether he felt let down by federal officials' response to the disaster.

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"Look, there will be plenty of time to play the blame game," he said in New Orleans. "That's what you're trying to do. You're trying to say somebody is at fault. And, look, I want to know. I want to know exactly what went on and how it went on, and we'll continually assess inside my administration."

Asked whether the federal government needed broader authority to "come in earlier or even in advance of a storm," Mr. Bush said, "I think that's one of the interesting issues that Congress needs to take a look at."

The president began his day early yesterday after staying overnight on the amphibious assault ship USS Iwo Jima. He toured New Orleans for 45 minutes in an open truck for his first close look at the city's flooded neighborhoods, ducking low-hanging branches and electrical wires as his motorcade zigzagged around fallen trees.

Escorted by Humvees, Mr. Bush stood in the truck bed flanked by a grim-looking New Orleans Mayor C. Ray Nagin and Louisiana Gov. Kathleen Babineaux Blanco.

The president stopped and talked with residents along the way, chatting at one point with shrimp boat worker Ricky Robin, who told the president how his crew rescued 300 people after the hurricane.

The president ended his two-day stay near Gulfport, Miss., stopping at a relief distribution center run by Christ in Action.

"Good to see you," the president said softly to volunteers and storm victims he greeted at long tables where food and supplies such as water, diapers and toilet paper were being distributed.

During a brief session with reporters in New Orleans, Mr. Bush said there was an initial impression after Katrina made landfall that the city had escaped heavy damage "and I myself thought we had dodged a bullet." It was only after the hurricane was well onto land that the levee broke and flooded New Orleans.

The president reacted testily to a question about whether the federal response to the emergency was hindered by a lack of National Guard units, some of which have been deployed in Iraq.

"Let me just talk about that again. I've answered this question before," he said. "It is preposterous to claim that the engagement in Iraq meant there wasn't enough troops here, just pure and simple. ... We've got plenty of troops to do both."

Feds Throw Money At Gulf, But Where's The Oversight? (USAT)

USA Today, September 13, 2005

With his poll numbers sagging, President Bush made his third trip to the hurricane-ravaged Gulf Coast on Monday. Though the trip had many purposes, one certainly was to burnish an image tattered by his administration's bungling of relief operations after Hurricane Katrina struck, a perception reinforced by the day's anticlimactic resignation of Michael Brown as head of the Federal Emergency Management Agency.

Such forays from the White House are an essential part of governing in a democratic society, where politics and policy go hand-in-hand and presidential leadership can provide comfort and cut through bureaucracy.

But Bush's efforts at damage control come with a potential cost. Having been accused of ineffectual leadership during the disaster, he is under enormous pressure not to be seen as parsimonious with funds for aid and recovery. About $62.3 billion has been appropriated. Contracts for rebuilding are being awarded on a “no-bid” basis. And yet the planning for successful rebuilding campaign is nowhere to be found.

Though ample amounts of federal money are needed, a spend-now, plan-later approach isn't the answer, except for urgent needs such as caring for evacuees. It can create the potential for waste and lead to bad decisions on rebuilding.

There's also the question of who will pay. The usual solution of passing the costs along to our children through borrowing would be a further exercise in irresponsibility.

The president has a fine line to walk, as do lawmakers from both parties. On the one hand, they shouldn't encumber federal money with so much red tape that they hamper the recovery. On the other, they must realize that this huge logistical task requires careful planning and competent decision-making.

The federal government's track record on spending after disasters is a disaster in itself.

The Department of Homeland Security's inspector general reported in May that $31 million poured into Miami after Hurricane Frances last year, even though that storm passed well to the north.

The Associated Press uncovered examples of companies as far afield as South Dakota receiving loans for businesses hit on 9/11.

This woeful record argues for the immediate creation of centralized oversight body headed by a reconstruction czar of national stature. This body would decide which tasks are so critical they merit no-bid contracts and which can wait for a more cost-effective and transparent process. It would also have to begin addressing some thorny issues — such as levee improvements, whether the government should help rebuild uninsured facilities, the role of private insurers, and whether parts of New Orleans should be rebuilt at all.

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If Bush wants to recover from the political hit he has taken, he would do himself and the Katrina-ravaged region a favor by showing his administration more out in front of these issues than it was on the storm itself.

Rice Defends Bush's Race Record And Calls For Rebuilding Fairly (NYT)

By Steven R. Weisman

The New York Times, September 13, 2005

Secretary of State Condoleezza Rice, defending President Bush's record on racial issues, said yesterday that the hurricane disaster that disproportionately struck poor blacks in New Orleans "gives us an opportunity" to rectify historic injustices that she experienced as an African-American growing up in the South.

"When it's rebuilt, it should be rebuilt in a different way than it was at the time that this happened," Ms. Rice said in an interview at The New York Times, adding that "maybe now on the heels of New Orleans" there could be an effort to "deal with the problem of persistent poverty."

Ms. Rice spoke about a wide range of foreign policy issues, but seemed to speak most vehemently when she was asked what she told foreign leaders wondering about racial discrimination and poverty in the United States at a time when the Bush administration was promoting democracy around the world.

"You go to any other meeting around the world and show me the kind of diversity that you see in America's cabinet, in America's Foreign Service, in America's business community, in America's journalistic community," Ms. Rice said. "Show me that kind of diversity anyplace else in the world, and I'm prepared to be lectured about race."

When talking to foreigners about the hurricane victims, Ms. Rice said, she tells them: "Yes, we have a problem when race and poverty come together. We really do. It's a vestige of our history. It's a vestige of the Old South in this case. But don't misread that there has been no progress on issues of race in America."

Ms. Rice, who was born and spent her childhood in Birmingham, Ala., and who flew to Mobile two weekends ago to visit hurricane victims, rarely ventures into domestic political matters but has spoken many times over the last 10 days of those affected as victims of generations of poverty and racial discrimination.

"This is a part of the country I'm from," Ms. Rice said. "It is a place where there are pockets - by no means all of the Old South, but pockets - where race and poverty come together in a very ugly way."

But Ms. Rice rejected as "poisonous" any suggestion that President Bush himself would discriminate racially against any victims of the hurricane and said that his record on education, including aid to historically black colleges and the setting of standards for schoolchildren, demonstrated that he believed passionately in racial equality.

"I find it very strange to think that people would think that the president of the United States would sit deciding who ought to be helped on the basis of color, most especially this president," she said. "What evidence is there that this is the case? Why would you say such a thing?"

Ms. Rice said she was first impressed by Mr. Bush in the 1990's, not because of any foreign policy issues, but because he spoke of "the soft bigotry of low expectations" and the phrase meant something to her. She recalled being told by a high school teacher "that maybe I was junior college material" and added:

"I know about the soft bigotry of low expectations. And it's not in this president. It is, however, deeply ingrained in our system, and we're going to have to do something about it."

Bush's Approval Rating Drops To New Low In Wake Of Storm (WP)

By Michael A. Fletcher And Richard Morin

The Washington Post, September 13, 2005

Touring devastated portions of New Orleans yesterday, President Bush sought to reassure the public that the government is responding to Hurricane Katrina with equity and dispatch, even as his standing hit record lows amid broad support for an independent investigation of the federal response to the storm.

A new Washington Post-ABC News poll found that clear majorities of Americans disapprove of the way officials at all levels of government are handling the recovery from Katrina. A 54 percent majority disapproved of Bush's response to Katrina, while an even larger majority -- 57 percent -- say state and local officials should bear responsibility for the problems.

Attitudes toward Bush and the government's overall response to Hurricane Katrina fracture along clear racial lines. Nearly three in four whites doubted the federal government would have responded more quickly to those trapped in New Orleans if they had been wealthier and white rather than poorer and black, the poll found. But an equal share of blacks disagreed, saying help would have come sooner if the victims had been more affluent whites.

More than six in 10 blacks -- 63 percent -- said the problems with the hurricane relief effort are an indication of continuing racial inequity in this country, a view rejected by more than seven in 10 whites, according to the poll.

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Speaking to reporters after touring New Orleans yesterday, Bush sought to dispel the view that race played a role in the government's response to the disaster. "When those Coast Guard choppers, many of who were first on the scene, were pulling people off roofs, they didn't check the color of a person's skin," Bush said. "They wanted to save lives."

Bush vowed that the massive federal response, which already has received funding of more than $62 billion and involves more than 71,000 federal personnel on the ground, would be managed fairly. "The storm didn't discriminate, and neither did the recovery effort," he said, adding: "The rescue efforts were comprehensive, and the recovery will be comprehensive."

The bungled response to the hurricane has helped drag down Bush's job-approval rating, which now stands at 42 percent -- the lowest of his presidency -- in the Post-ABC poll and down three points since the hurricane hit two weeks ago. Fifty-seven percent disapprove of Bush's performance, a double-digit increase since January.

Even some members of Bush's own party appear to have lost faith in their leader: The president's overall approval rating among Republicans has declined from 91 percent in January to 78 percent in the latest poll.

Overall, half the country now characterizes Bush as a "strong leader" -- down 12 points since May of last year. And the proportion who say he can be "trusted in a crisis" likewise has fallen from 60 percent to 49 percent now.

The survey found that 76 percent of the public favors an investigation of federal storm response efforts by an independent commission similar to the one that probed the Sept. 11, 2001, terrorist attacks. The proposal drew strong bipartisan support: 64 percent of all Republicans and 83 percent of Democrats favored creating the independent panel.

Republican leaders in Congress already have announced plans for a congressional inquiry into the federal storm response -- a probe that seven in 10 Americans fear will "get bogged down in partisan politics," according to the poll. Bush also has vowed to lead an investigation of the federal response.

"It's really important that as we take a step back and learn lessons, that we are in a position to adequately answer the question: 'Are we prepared for major catastrophes?' " Bush said in New Orleans yesterday.

In the aftermath of what likely will be the most costly natural disaster in U.S. history, six in 10 Americans want lawmakers to delay action on pending legislation that would cut federal taxes by an estimated $70 billion over the next five years. Those proposed cuts include eliminating the inheritance tax, a Bush priority that supporters now say faces an uncertain fate. Half of all Republicans joined with two-thirds of Democrat to support delaying proposed tax cuts.

Although there is a bipartisan consensus on some issues, on others Americans continue to view the federal response to the hurricane through a partisan lens. More than six in 10 Americans are critical of the federal government response to the storm, including 79 percent of all Democrats and 41 percent of Republicans.

And half the public says the bigger problem is that people failed to take the storm warnings seriously, while nearly as many said the bigger problem was the failure of government to provide transportation to those in the path of the storm.

The poll was conducted with 1,201 randomly selected adults, in an interviews between Sept. 8-11. The margin of sampling error is plus or minus three percentage points.

Amid continuing criticism of his handling of the crisis, Bush yesterday wrapped up a two-day tour of the devastated Gulf Coast -- his third visit to the region since Katrina struck. After spending the night aboard the USS Iwo Jima, which is docked in New Orleans and is serving as a command center for the relief effort, Bush began his day with a briefing on storm recovery efforts before touring New Orleans in a military convoy.

He was joined by two vocal critics of the federal government's response to the storm: New Orleans Mayor C. Ray Nagin (D) and Louisiana Gov. Kathleen Babineaux Blanco (D).

Bush, who later met with other local officials near New Orleans before surveying storm damage in Gulfport, Miss., played down any differences with the mayor and governor, saying he wanted to cultivate close cooperation across all levels of government. "We got a lot of work to do, a whole lot of work to do," Bush said. "And my pledge again to the governor and the mayor is the federal government will work closely in coordination with their authorities."

Bush aides privately view the latest poll numbers with gloomy realism but take heart from Bush's past ability to push the Republican Congress to follow his lead even when his popularity has flagged. Despite his political problems, they note, the Senate seems almost certain to confirm John G. Roberts Jr. as the next chief justice.

"We're facing some stiff political headwinds," said one senior official who asked not to be named in order to speak candidly. "But George W. Bush has never been a president who's dominated in approval ratings. Where he's been strong has been in two areas -- getting his agenda through and helping the Republican Party in elections."

Others are not so sure the end is near. Even if Bush impresses the country with a more vigorous effort in the Gulf Coast and the story fades from the headlines, some strategists noted that the rest of the political terrain contains little encouraging for the White House.

"The most frightening thing for the White House might be that his numbers on the economy are worse than his numbers on Katrina," said Joel P. Johnson, a former senior adviser in the Clinton White House. "The only way for a president to reverse bad

poll numbers is to work your way out of them . . . on economic issues, foreign policy issues, creating jobs, providing health care -- all things that don't look likely."

Views Of Whites, Blacks Differ Starkly On Disaster (USAT)

By Susan Page And Maria Puente

USA Today, September 13, 2005

WASHINGTON — There is a lot that Americans agree about in the wake of Hurricane Katrina: that government agencies initially stumbled but are doing better now, for one, and that more money and attention should be paid to addressing the issue of poverty.

But a USA TODAY/CNN/Gallup Poll taken Thursday through Sunday finds a stark racial divide on other issues, including attitudes toward the hurricane's victims, the performance of President Bush and the reasons the government's early response was so wanting.

Six in 10 African-Americans say the fact that most hurricane victims were poor and black was one reason the federal government failed to come to the rescue more quickly. Whites reject that idea; nearly 9 in 10 say those weren't factors.

In New Orleans, Bush on Monday said race played no role. “My attitude is this: The storm didn't discriminate and neither will the recovery effort,” he said. “When those Coast Guard choppers . . . were pulling people off roofs, they didn't check the color of a person's skin. They wanted to save lives.”

But Rae Clifton, 52, a Web designer in Atlanta who is black and was among those surveyed, is certain that race and class did count. “If it had been a 17-year-old white cheerleader who was caught in the water, somebody would have tried to get there faster,” she says. “But because it was poor people … caught in a situation, it was, ‘OK … we'll get there after a while.' ”

Craig Betts, 54, a white man from Amityville, N.Y., disagrees. “Fifty years ago it would have been something else, but things are better now” when it comes to equal treatment regardless of race, he says. He attributes the problems to the unpredictable nature of the storm.

The racial divide — which underscores the different perspectives whites and blacks have on some aspects of life in America — could affect the debate over addressing poverty and rebuilding the Gulf Coast in the hurricane's wake.

“Some of the concern I'm hearing (from blacks) is that New Orleans is going to be rebuilt but gentrified in such a way that they can't go back,” says Michael Fauntroy, a political scientist at George Mason University who has studied relations between blacks and the GOP. The administration needs to allay those fears or risk “long-term negative consequences,” he says.

In any case, Republican efforts this year to reach out to black voters have not been helped. In the survey, African-Americans by 74%-16% have an unfavorable opinion of the GOP. By more than 3-to-1, they say Bush doesn't care about black people. By more than 2-to-1, whites say he does.

The poll of 1,005 adults has a margin of error of +/- 3 percentage points. Additional African-Americans were interviewed to provide a more statistically reliable comparison; the survey of 262 blacks has a margin of error of +/-7 percentage points. The sample of 848 whites has a +/-4 point error margin.

Overall, the president's job-approval rating is 46%, essentially the same as the 45% rating in the Gallup Poll 10 days earlier.

That's at odds with record-low ratings of 38% in a Newsweek poll and 39% in an AP-Ipsos poll, both released on Saturday. An ABC News-Washington Post survey released Monday put Bush's approval rating at a record low 42%.

One possible reason for the discrepancy: The USA TODAY survey was taken later than the Newsweek and AP polls, though the timing coincided with the ABC poll. In the past few days, whites and blacks agree that things on the ground have begun to improve.

Still, the surveys show that Americans' emotions are the most intense they've been since the terrorist attacks on New York and Washington four years ago.

If Katrina has affected Americans' views of themselves, it also affected views of the USA from around the world.

Even from friends, the reaction has been shock. “Anarchy in the USA,” headlined The Sun, Britain's largest newspaper. “Apocalypse Now” said Germany's Handelsblatt daily. “(Al-Qaeda leader Osama) bin Laden, nice and dry in his hideaway, must be killing himself laughing,” France's left-leaning Liberation newspaper said.

For a country that prides itself on its resourcefulness and take-charge aplomb, these are unfamiliar accusations. Americans tend to see their country as compassionate and competent.

Yet Katrina's devastation laid bare some uncomfortable facts: The nation that rescued Europe in World War II, helped Bosnians when they were under attack and repulsed Iraqi forces from Kuwait could not, at least initially, rescue New Orleans. The nation that claims many of the world's wealthiest people also is home to staggering poverty. The nation that champions equal rights around the globe has not resolved its own racial tensions.

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And the nation that often leads the rush to help other countries during disasters now is receiving offers of aid from even the poorest nations, such as Bangladesh, which pledged $1 million. Mexico — usually on the receiving end of U.S. disaster relief — sent a convoy of army vehicles and troops across the border into Texas with food, water and medicine for Katrina victims.

It was the first Mexican military operation on U.S. soil since 1916, when soldiers under Gen. Francisco "Pancho" Villa staged a brief raid into New Mexico.

British-born journalist and conservative pundit Andrew Sullivan grew up admiring America as the nation that rescued Europe from Nazis and communists. "Part of the collective shame is that this didn't happen this time in America itself — at least quickly enough," he says on his blog at andrewsullivan.com.

That, plus such scandals as the abuses in U.S. military prisons in Iraq, damages the "core" American values, Sullivan says. "It will take time to restore that kind of reputation and, yes, honor."

Americans felt strong emotions as they watched New Orleans flood and its residents struggle.

Nearly everyone has been paying attention to Katrina; 96% of those surveyed by USA TODAY say they are following the story closely. That's a higher level of interest than for any news event of the past quarter-century except the 9/11 terrorist attacks and the start of the Iraq war.

Almost all Americans, 98%, say they felt sadness as they watched. Overwhelming majorities of whites and blacks say they felt shock, too, and anger.

"It just took my breath away," says Gloria Weis, 75, of Burnsville, Minn. "I couldn't believe what I was seeing and hearing. All that devastation, and why?"

Why were so many trapped?

One in four of those surveyed blame the mayor of New Orleans; another one in four blame the residents themselves. One in five blame the Bush administration.

But blacks are much more likely than whites to hold the federal government responsible. Whites are much more likely to hold the residents responsible.

Images of the looters shown grabbing food, water and TV sets also split along racial lines. Whites by 50%-44% say most of those involved were criminals taking advantage of a situation. Blacks by 77%-16% say they were mostly desperate people trying to find a way to survive.

"We live in a great land, a land of opportunity," says Gilda Hutcheson, 59, a retired railroad worker in Morrow, Ga., who responded to a request for comments on usatoday.com. "If black leaders would spend as much time encouraging people to be self-reliant as they spend encouraging the free handouts from the government, then the people left in New Orleans would have had the means and opportunity to have bought that $50 bus ticket and have gotten out ahead of the storm."

That sort of attitude is disturbing to the Rev. Fleming Rutledge, an Episcopal priest and author.

"Whether they were conscious of it or not, viewers were absorbing the message: 'This is the everlasting lot of black people, and maybe some of them have brought this on themselves by being poor, by being semi-literate, by being overweight,' " she wrote on PBS' Religion & Ethics NewsWeekly website. "But we should all be clear-eyed about this: Our vaunted American and Christian values will be tested more strongly in this situation than they have been in a very long time."

American politics may be tested as well. There's wide public support for an independent investigation into the government's slow initial response — 7 of 10 endorse that idea — though many are inclined to feel that congressional Democrats and Republicans are spending too much time at the moment trying to finger-point. About 4 in 10 say they don't have much confidence in the government's ability to respond to natural disasters or terrorist attacks next time.

And there are concerns about the economic effects ahead. Eight of 10 say their family finances will be hurt by the aftermath of Katrina, which comes on top of worries about high gasoline prices. Americans are more pessimistic now about the economy's future than at any time during Bush's presidency: 50% predict the economy will be poor a year from now.

And Bush?

His strongest political asset — the perception that he is a strong and decisive leader — has eroded to the lowest rating of his presidency, 52%. That's 8 points lower than in the previous poll, and 23 points lower than immediately after 9/11 — when his response reshaped Americans' views of Bush.

A majority of Americans say the president doesn't display good judgment in a crisis, doesn't inspire confidence and doesn't "care about the needs of people like you."

The rebuilding efforts ahead will take place in the White House as well as along the Gulf Coast, says Bruce Buchanan, a political scientist at the University of Texas. "This goes right to the core of his strength and right to the core of the thing that has enabled him to stay plausible despite the political partisan divide in the country," Buchanan says of Bush. "Now he's in damage control big time."

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Blacks Suffering Over Race Or Class? Some Of Both. (USAT)

By Dewayne Wickham

USA Today, September 13, 2005

It wasn't long after the tortured images of thousands of black men, women and children holed up in the Louisiana Superdome and Morial Convention Center started appearing on TV newscasts that talk of an old conundrum surfaced.

Was it the color of their skin or their place in society that made the suffering among that city's blacks so great? The race or class question pits those who believe that racism is the root cause of much that ails blacks against those who say it is their economic and social condition that is the problem.

More often than not, the answer splits along predictable fault lines. Many liberals — especially blacks — see racism as the culprit. Conservatives, by and large, think it's the lifestyle choices of poor blacks that lock them into the underclass.

I think it's a combination of both. But as with most mixtures, one is more dominant than the other.

Anyone who saw the television footage of black looters hauling away appliances and TV sets is right to believe that the criminal behavior of some blacks has more to do with the hand life deals them than does the color of their skin.

But to view the mindless acts of a few thugs in the same way as the taking of food and drink by the larger body of blacks misses an important distinction. The vast majority of blacks were simply trying to survive — a struggle that was impacted more by race than by class.

Before Hurricane Katrina struck, New Orleans' population was 67% black, but a whopping 84% of the city's poor were black. Many whites lived in neighborhoods at the highest elevations. Most blacks lived in the lower-lying areas of the city. According to The New York Times, 35% of black households in New Orleans didn't own a car. In other words, blacks lived in neighborhoods that were hardest hit by the flooding — and were less likely to have an automobile to escape.

In New Orleans, as in much of the rest of this country, race defines class. It was the poor in New Orleans who had the most difficulty evacuating. It was the poor who were forced to resort to looting to feed themselves and their families while being left stranded by the incompetence of government officials. It was the poor who made up the bulk of those who were housed for days in the Superdome and convention center without much food, water, medical help or police protection. And most of the poor in New Orleans are black.

Poverty is the new Jim Crow. It is a subtler — but no less hurtful form of racism. Last year, a quarter of all blacks in this country lived below the poverty level, compared with less than 9% of whites. The South, where the majority of blacks live, is the nation's poorest region. That's not a chance relationship.

“For a variety of well-documented reasons, poverty is disproportionately experienced among minorities,” writes Michael Stoll, a UCLA professor for Public Policy, in a paper he will present this week at a “Colors of Poverty” conference sponsored by the University of Michigan.

Stoll says there is a relationship between where people live and their level of poverty. Poverty is higher in central cities than in suburbs. “Location,” he says, influences the access people have to “good schools, decent housing, crime-free neighborhoods, productive contacts and other benefits that help shape, determine or constrain access to opportunity.”

If that sounds as if Stoll thinks “class” is to blame for what happened to poor blacks in New Orleans, you're wrong. “If you press me, I have to say that race played more of a role in how fast” the government came to the aid of that city's blacks, he told me.

I couldn't agree more.

End Of The Bush Era (WP)

By E. J. Dionne Jr.

The Washington Post, September 13, 2005

The Bush Era is over. The sooner politicians in both parties realize that, the better for them -- and the country.

Recent months, and especially the past two weeks, have brought home to a steadily growing majority of Americans the truth that President Bush's government doesn't work. His policies are failing, his approach to leadership is detached and self-indulgent, his way of politics has produced a divided, angry and dysfunctional public square. We dare not go on like this.

The Bush Era did not begin when he took office, or even with the terrorist attacks of Sept. 11, 2001. It began on Sept. 14, 2001, when Bush declared at the World Trade Center site: "I can hear you. The rest of the world hears you. And the people who knocked these buildings down will hear all of us soon." Bush was, indeed, skilled in identifying enemies and rallying a nation already disposed to action. He failed to realize after Sept. 11 that it was not we who were lucky to have him as a leader, but he who was lucky to be president of a great country that understood the importance of standing together in the face of a grave foreign threat. Very nearly all of us rallied behind him.

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If Bush had understood that his central task was to forge national unity, as he seemed to shortly after Sept. 11, the country would never have become so polarized. Instead, Bush put patriotism to the service of narrowly ideological policies and an extreme partisanship. He pushed for more tax cuts for his wealthiest supporters and shamelessly used relatively modest details in the bill creating a Department of Homeland Security as partisan cudgels in the 2002 elections.

He invoked our national anger over terrorism to win support for a war in Iraq. But he failed to pay heed to those who warned that the United States would need many more troops and careful planning to see the job through. The president assumed things would turn out fine, on the basis of wildly optimistic assumptions. Careful policymaking and thinking through potential flaws in your approach are not his administration's strong suits.

And so the Bush Era ended definitively on Sept. 2, the day Bush first toured the Gulf Coast States after Hurricane Katrina. There was no magic moment with a bullhorn. The utter failure of federal relief efforts had by then penetrated the country's consciousness. Yesterday's resignation of FEMA Director Michael Brown put an exclamation point on the failure.

The source of Bush's political success was his claim that he could protect Americans. Leadership, strength and security were Bush's calling cards. Over the past two weeks, they were lost in the surging waters of New Orleans.

But the first intimations of the end of the Bush Era came months ago. The president's post-election fixation on privatizing part of Social Security showed how out of touch he was. The more Bush discussed this boutique idea cooked up in conservative think tanks and Wall Street imaginations, the less the public liked it. The situation in Iraq deteriorated. The glorious economy Bush kept touting turned out not to be glorious for many Americans. The Census Bureau's annual economic report, released in the midst of the Gulf disaster, found that an additional 4.1 million Americans had slipped into poverty between 2001 and 2004.

The breaking of the Bush spell opens the way for leaders of both parties to declare their independence from the recent past. It gives forces outside the White House the opportunity to shape a more appropriate national agenda -- for competence and innovation in rebuilding the Katrina region and for new approaches to the problems created over the past 4 1/2 years.

The federal budget, already a mess before Katrina, is now a laughable document. Those who call for yet more tax cuts risk sounding like robots droning automated talking points programmed inside them long ago. Katrina has forced the issue of deep poverty back onto the national agenda after a long absence. Finding a way forward in -- and eventually out of -- Iraq will require creativity from those not implicated in the administration's mistakes. And if ever the phrase "reinventing government" had relevance, it is now that we have observed the performance of a government that allows political hacks to push aside the professionals.

And what of Bush, who has more than three years left in his term? Paradoxically, his best hope lies in recognizing that the Bush Era, as he and we have known it, really is gone. He can decide to help us in the transition to what comes next. Or he can cling stubbornly to his past and thereby doom himself to frustrating irrelevance.

A Poverty Of Thought (WP)

By George F. Will

The Washington Post, September 13, 2005

It took exactly one month -- until the president's prime-time news conference of Oct. 11, 2001 -- to refute the notion that Sept. 11 "changed everything." When a reporter said, "You haven't called for any sacrifices from the American people," he replied, "Well, you know, I think the American people are sacrificing now. I think they're waiting in airport lines longer than they've ever had before." And that was before the sacrificing became really hellacious with the requirement that passengers remove their shoes at security checkpoints.

The idea that Hurricane Katrina would change the only thing that matters -- thinking -- perished even more quickly, at about the time Louisiana Sen. Mary Landrieu, a suitable symbol of congressional narcissism, dramatized the severity of the tragedy by taking a television interviewer on a helicopter flight over her destroyed beach house. "Washington rolled the dice and Louisiana lost," she said in a speech on the Senate floor that moved some senators to tears. You can no more embarrass a senator than you can a sofa, so the tears were not accompanied by blushing about having just passed a transportation bill whose 6,371 pork projects cost $24 billion, about 10 times more than the price of the levee New Orleans needed. Louisiana's congressional delegation larded the bill with $540,580,200 worth of earmarks, one-fifth the price of a capable levee.

America's always fast-flowing river of race-obsessing has overflowed its banks, and last Sunday on ABC's "This Week," Sen. Barack Obama, Illinois's freshman Democrat, applied to the expression of old banalities a fluency that would be beguiling were it without content. Unfortunately, it included the requisite lament about the president's inadequate "empathy" and an amazing criticism of the government's "historic indifference" and its "passive indifference" that "is as bad as active malice." The senator, 44, is just 30 months older than the "war on poverty" that President Johnson declared in January 1964. Since then the indifference that is as bad as active malice has been expressed in more than $6.6 trillion of anti-poverty spending, strictly defined.

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The senator is called a "new kind of Democrat," which often means one with new ways of ignoring evidence discordant with old liberal orthodoxies about using cash -- much of it spent through liberalism's "caring professions" -- to cope with cultural collapse. He might, however, care to note three not-at-all recondite rules for avoiding poverty: Graduate from high school, don't have a baby until you are married, don't marry while you are a teenager. Among people who obey those rules, poverty is minimal.

In 1960 John Kennedy of Choate, Harvard and Palm Beach campaigned in West Virginia's primary and American liberalism experienced one of its regularly recurring rediscoveries of poor people, an epiphany abetted three years later by Michael Harrington's book "The Other America" receiving a 50-page review where liberals would notice it, amid the New Yorker magazine's advertisements for luxury goods. Between such rediscoveries, the poor are work for liberalism's constituencies among the "caregiving" professions.

Liberalism's post-Katrina fearlessness in discovering the obvious -- if an inner city is inundated, the victims will be disproportionately minorities -- stopped short of indelicately noting how many of the victims were women with children but not husbands. Because it was released during the post-Katrina debacle, scant attention was paid to the National Center for Health Statistics' report that in 2003, 34.6 percent of all American births were to unmarried women. The percentage among African American women was 68.2.

Given that most African Americans are middle class and almost half live outside central cities, and that 76 percent of all births to Louisiana African Americans were to unmarried women, it is a safe surmise that more than 80 percent of African American births in inner-city New Orleans -- as in some other inner cities -- were to women without husbands. That translates into a large and constantly renewed cohort of lightly parented adolescent males, and that translates into chaos in neighborhoods and schools, come rain or come shine.

This will become of intense interest to the "czar" or "czarina" -- this republic has a fascinating reflex for cloaking improvised offices with the dignity, such as it was, of defunct Russian royalty -- who is charged with "overseeing" the "rebuilding" of New Orleans. He or she can exchange notes with our "nation-builders" in Iraq, now learning conservatism's core truths about the limits of government's abilities to know and control things. Or he or she can glance at Ground Zero in Manhattan where, four years later, the "rebuilding" of a few square blocks is not going well.

Firefighter To Replace Brown As FEMA Chief (LAT)

By James Gerstenzang And Edwin Chen

The Los Angeles Times, September 13, 2005

WASHINGTON — Michael D. Brown, who was stripped Friday of his role directing the government's response to Hurricane Katrina, resigned today as director of the Federal Emergency Management Agency.

R. David Paulison, the director of the preparedness division at FEMA and head of the U.S. Fire Administration, was named as the acting head of the agency. He has spent 30 years in fire rescue services, and was chief of the Miami-Dade, Fla., Fire Rescue Department before joining FEMA in 2001.

Brown, whom President Bush praised during the president's first visit to the storm-stricken Gulf Coast with a verbal declaration — "Brownie, you're doing a heck of a job" — had been director of FEMA since 2003.

During the first 10 days after the storm struck, Brown was the most visible federal official, often presenting an upbeat assessment of the region's recovery, even as television pictures, playing on a split screen, showed the scope of the floods in New Orleans, scenes of devastation, and the bodies of victims left unattended.

As Brown, who joined the FEMA staff as a deputy director at the start of the Bush administration, drew attention, questions were raised about his background. Before joining the administration, Brown, a Republican lawyer, had directed an Arabian horse association. In addition, news organizations reported that he had overstated at least two earlier jobs, presenting himself as having had experience in emergency management.

In the days following the storm and the breaching of levees that flooded 80% of New Orleans, would-be rescuers said that FEMA imposed bureaucratic obstacles to their efforts to respond to the growing disaster.

Political analysts said Brown's departure should surprise no one, considering that he was dismissed Friday as the Bush administration's point man on the Katrina relief effort and sent back to Washington, ostensibly to oversee FEMA's preparedness for other hurricanes.

His departure mutes, at least for now, the crescendo of criticism directed at Brown and FEMA for being ill-prepared for Katrina and her aftermath.

"No question this Katrina/FEMA exercise has put a mark on the Bush presidency," said Scott Reed, a Republican strategist. "Brown should have resigned last Friday and spared the Bush administration an entire weekend of being bashed. He should have seen the handwriting on the wall."

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For the White House, said Reed, who managed Bob Dole's 1996 presidential campaign, "Brown's resignation brings a sad chapter to a close. Now that things are improving, thanks to the military, there's still plenty of time for an upswing for Bush and his new team. But the Brown episode clearly was a setback."

Stephen Hess, a onetime White House official during the Eisenhower administration and now government professor at George Washington University, also was not surprised by Brown's resignation.

"He has come to symbolize how unprepared this administration was for this disaster, fairly or unfairly," Hess said.

Whether Brown's performance alone would hurt the Bush administration in the long term was an open question, he said, adding that Brown would unlikely end up as the only scapegoat in the debacle.

Even without any inquiries by Congress or a blue ribbon commission, he said, "it's already clear that there's plenty of blame to go around."

Sen. John F. Kerry (D-Mass.) issued a six-word statement: "Long overdue. Too little, too late."

Bush Visits New Orleans, Pledges Federal Aid To Rebuild (KCS)

By Scott Dodd

The Kansas City Star, September 13, 2005

Embattled FEMA Director Michael Brown told his senior staff this afternoon that he was calling quits.

The director of the Federal Emergency Management Agency was under fire for his agency's slow and anemic response to Hurricane Katrina's devastation in the Gulf of Mexico. Making matters worse, reports started surfacing last week that his resume was padded.

Now the big question is, should the nation's top disaster chief be someone with emergency management experience or a political heavyweight – both qualities that Brown lacked.

Brown told his senior staff that he was resigning at about 3 p.m. Monday, according to FEMA press secretary Sharon Worthy, who was among those informed by Brown. She said the group of about 12 people took his resignation "professionally."

Worthy said the agency could not respond with any further information on why Brown resigned, when it would be effective and who would replace him.

President Bush has appointed two FEMA directors – former campaign manager Joe Allbaugh and Brown, who was Allbaugh's friend and college roommate. Neither had emergency management experience before joining FEMA.

The pressure, given FEMA's response to Katrina, will be on Bush to appoint someone who has managed disasters in the past, such as James Lee Witt, who was FEMA's director under President Clinton. Witt, was Arkansas' emergency management chief, and got bipartisan praise.

He was aboard the USS Iwo Jima this morning as Bush was briefed on relief efforts.

Another option is to bring along a political heavyweight to show that the administration is now paying attention to disasters. Names such as former New York Mayor Rudy Giuliani and homeland security advisor Fran Townsend are among those possibilities, but the job, which carries an undersecretary of homeland security title may be too small for them.

Brown told the Associated Press he was stepping down "in the best interest of the agency and best interest of the president" three days after being recalled to Washington and relieved of command of the federal relief effort.

"The focus has got to be on FEMA, what the people are trying to do down there."

The resignation came hours after President Bush got his first close look at flood-ravaged New Orleans today, and as state health officials announced the grim discovery of 45 bodies at a hospital evacuated more than a week ago.

The victims were found Sunday at Memorial Medical Center, which had been surrounded by floodwaters, the AP reported.

Bob Johannesen, a spokesman for the Louisiana Department of Health and Hospitals, said the bodies were those of patients. The 317-bed hospital is owned by TenetHealthcare Corp.

The discovery helped push the Louisiana death toll to 279 on Monday, up from 197 on Sunday, Johannesen said. More than 400 people are confirmed dead in the wake of Hurricane Katrina, which struck the Gulf Coast two weeks ago Monday.

Touring the city, President Bush rebutted critics of the relief effort and pledged that the federal government will help rebuild – in whatever form the people of New Orleans decide.

Progress could be seen in some sections as floodwaters dropped. Scattered businesses were trying to reopen, and the first commercial flights are scheduled to resume Tuesday at Louis Armstrong New Orleans Airport.

But significant problems remain throughout the Gulf Coast region, including vaccine shortages, health threats and a lack of running water in many cities, including Biloxi and Gulfport.

Coast Guard Vice Adm. Thad Allen, now heading the recovery, briefed the president on efforts to provide temporary housing, a day after Louisiana officials accused the federal government of dragging its feet on helping people move out of emergency shelters.

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Bush denied charges that the initial rescue efforts were slow because many of Hurricane Katrina's victims were poor and black. And he called it "preposterous" to claim military manpower is stretched thin by the fighting in Iraq.

"The storm didn't discriminate, and neither will the recovery effort," Bush told reporters beneath a highway overpass after a tour in the back of a flatbed military truck. He had to duck at times to avoid hanging branches and power lines.

Bush refused to find fault with the government's performance so far, saying, "There will be plenty of time to play the blame game. … We're moving on. We're going to solve these problems. And there will be ample time for people to look back and see the facts."

For much of his visit, the president sat or stood between two people who harshly criticized the federal government in the days after Katrina struck – New Orleans Mayor Ray Nagin and Louisiana Gov. Kathleen Blanco.

Addressing the long-term future of the city, Bush said, "My attitude is this: The people of New Orleans can lay out what New Orleans ought to look like in the future … and the federal government will help."

After visiting an emergency operations center in hard-hit St. Bernard's Parish, Bush was set to make another stop in Gulfport, Miss. This is his third trip to the Gulf States since the storm, but his first tour of downtown New Orleans.

The president spent the night aboard the USS Iwo Jima, anchored in the Mississippi River.

FEMA Director Michael Brown Resigns (PPG)

By Ann McFeatters

Pittsburgh Post-Gazette, September 13, 2005

WASHINGTON -- The White House today accepted the resignation of Michael Brown, head of the Federal Emergency Management Agency, who last Friday was pulled off the job of overseeing disaster relief in the aftermath of Hurricane Katrina.

In a statement, Brown said it was in the "best interest" of his embattled agency and the "best interest of the president" that he quit. He said it was important that he no longer be a distraction in the need to recover from the hurricane and flood damage. He said it had been "the best job in the world" to help Americans "in their darkest hour."

Within hours, word leaked that the White House has chosen R. David Paulison as Brown's replacement to head FEMA.

Paulison is head of the U.S. Fire Administration and leads FEMA's emergency preparedness force. He has more than 30 years' experience working in fire prevention and containment. The former fire chief in Miami, Paulison dealt with the aftermath of Hurricane Andrew in 1992. Paulison will be the acting director of FEMA -- if he is nominated to the directorship he must be confirmed by the Senate.

At the White House there was a sense that with Brown gone, President Bush could get his presidency back on track and repair the public relations damage done when millions of people in American and around the world began criticizing the administration for how the aftermath of Katrina was handled.

Bush, touring Gulfport, Miss., refused to comment on the resignation, saying he had not had a chance to talk to Brown or Brown's immediate boss, Michael Chertoff, secretary of the Department of Homeland Security.

Brown was deeply humiliated last Friday when Chertoff publicly relieved him of command of the disaster relief operations. Chertoff said it was so that Brown could concentrate on other duties as administrator of the agency. But in replacing Brown with Vice Admiral Thad Allen of the Coast Guard, Chertoff had the approval of the White House to signal displeasure at how long it had taken to get thousands of people out of flooded New Orleans after the levees broke.

Brown's lack of hands-on experience in disaster relief and the overstating of his credentials on his resume led a chorus of Democrats to call for his ouster last week. President Bush at first had indicated with Brown at his side that he was satisfied with Brown's performance, saying publicly, "Brownie, you're doing a heckuva job."

But as the president's job approval plummeted and pictures of dying Americans left for days without food or water or medical attention circulated around the nation, the administration began considering how to remove Brown. When Chertoff told Bush that he wanted to replace Brown and Vice President Dick Cheney agreed, the president told Chertoff to handle the situation as he thought best.

As he left Baton Rouge where he had been in charge of relief operations last week, Brown told The Associated Press, "I'm going to go home and walk my dog and hug my wife and maybe get a good Mexican meal and a stiff margarita and a full night's sleep. And then I'm going to go right back to FEMA (headquarters) and continue to do all I can to help these victims. This story's not about me. This story's about the worst disaster of the history of our country that stretched every government to its limit and now we have to help these victims."

Over the weekend, increasingly convinced he had no future in the administration, Brown, whose background is as an Oklahoma lawyer, decided to leave. As he prepared to leave his office for good, he said he wanted the media to focus on the "good things that are going on" in Mississippi and Louisiana and Alabama and not on him.

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On Capitol Hill, Brown's departure was greeted with obvious relief. House Democratic Leader Nancy Pelosi called Brown's departure long overdue. Senate majority leader Bill Frist did not criticize Brown but stressed that he was impressed with the job being done by Allen, the Coast Guard vice admiral.

Bush concluded his third trip to the damaged region yesterday, telling reporters there was plenty of time for the "blame game" and deciding how FEMA should be reorganized, if at all. "It's appropriate that we step back and look" at the process, he said in New Orleans.

Answering questions from reporters, he denied that aid was delayed because so many victims in flooded New Orleans were poor and black. "The storm didn't discriminate and neither will the recovery effort. The rescue efforts were comprehensive. The recovery will be comprehensive."

He also insisted relief efforts weren't hampered by the fact that 11,000 National Guard troops are deployed in Iraq. "We've got plenty of troops to do both. It is preposterous to claim that the engagement in Iraq meant there weren't enough troops."

Asked about Brown's resignation in Gulfport, Miss., he said he had "been working" thanking people for their work in relief efforts and had not talked to either Chertoff or Brown. He said he would make calls when he was back on Air Force One.

Bush plans to go to New York tomorrow in advance of his speech Wednesday to the United Nations and will meet with a number of foreign leaders. Asked if he was ready to switch to foreign policy issues from the hurricane, he said, "I can do more than one thing at one time."

Brown Steps Down As FEMA Chief (WSJ)

By John D. McKinnon, Steve Levine, Christopher Cooper, Michael Corkery, Betsy McKay and Thaddeus Herrick

The Wall Street Journal, September 13, 2005

Michael Brown, the embattled director of the Federal Emergency Management Agency who was reassigned Friday from his post spearheading relief operations on the Gulf Coast, has resigned.

"The focus has got to be on FEMA, what the people are trying to do down there," Mr. Brown told the Associated Press. "I think it's in the best interest of the agency and the best interest of the president to do that and get the media focused on the good things that are going on, instead of me."

Mr. Brown had become a lightning rod for criticism over the government's slow and bungled response to the hurricane. On Friday, Mr. Brown's boss, Homeland Security Secretary Michael Chertoff, said he was sending Mr. Brown back to Washington "to return to administering FEMA nationally" and to oversee the government's response to other disasters. (See a timeline1 of Brown's management of Katrina relief.)

That move was widely seen as a precursor to Mr. Brown's eventual departure especially given that some members of Congress said that a reassignment wasn't enough. Senate Democratic Leader Harry Reid of Nevada and three other senators said in a letter to President Bush on Friday that Mr. Brown's "continued presence in this critical position endangers the success of the ongoing recovery efforts."

The White House picked a top FEMA official with three decades of firefighting experience as his replacement. R. David Paulison, head of FEMA's emergency preparedness force, is Mr. Bush's choice to replace Mr. Brown as head of the relief agency, two senior administration sources say.

The news came as New Orleans slowly and painfully stirred back to life two weeks after being slammed by Katrina.

The bodies of more than 40 mostly elderly patients were found in a flooded-out hospital in the biggest known cluster of corpses to be discovered so far in hurricane-ravaged New Orleans. The exact circumstances under which they died were unclear, with at least one hospital official saying Monday at least a few of the patients were dead before the storm, and another saying the rising temperature in the hospital afterward likely contributed to some of the deaths. The announcement raises Louisiana's official death toll to nearly 280.

Meanwhile, business owners in the central business district were issued passes into the city Monday to retrieve vital records or equipment needed to run their companies. Traffic was heavy on the only major highway into the city that was still open, and vehicles were backed up for about two miles at a National Guard checkpoint in Westwego, a suburb across the Mississippi River from New Orleans. There were also signs of life at businesses elsewhere in the city, after a weekend in which trash collection began and the airport reopened to cargo flights.

Mr. Bush got his first up-close look at the destruction in New Orleans on Monday, taking a tour that took him through several flooded neighborhoods. Occasionally, he had to duck to avoid low-hanging electrical wires and branches.

Mr. Bush denied there was any racial component to people being left behind after the storm, despite suggestions from some critics that the response would have been quicker if so many of the victims hadn't been poor and black.

"The storm didn't discriminate and neither will the recovery effort," Mr. Bush said. "The rescue efforts were comprehensive. The recovery will be comprehensive."

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It was Mr. Bush's first exposure to the on-the-ground leadership of his new hurricane relief chief. The federal response to the disaster has been roundly criticized as sluggish and inept. In a sign that Mr. Bush is growing weary of the accusations, he testily replied to a reporter who asked whether he felt let down by federal officials on the ground.

"Look, there will be plenty of time to play the blame game," he said. "That's what you're trying to do. You're trying to say somebody is at fault. And, look, I want to know. I want to know exactly what went on and how it went on, and we'll continually assess inside my administration."

Mr. Bush said Congress should consider whether the federal government should have more authority to step into disaster areas without a request from the states. "All of us want to learn lessons," he said.

Mr. Bush also clarified his now-criticized remark that no one had anticipated the levees being breached. He said he was referring to that "sense of relaxation in a critical moment" when many people initially thought the storm hadn't inflicted heavy damage on the city.

Emergency Airlifts Suspended

Meanwhile, in Washington, FEMA said it's suspending its emergency airlifts of hurricane victims to distant states as it reassesses the needs of the storm victims.

"The big evacuation is over," spokeswoman Kathy Cable said. She said more than 22,000 evacuees had been relocated in less than 72 hours. People who need to get to their families in a distant location will be sent on commercial flights, Ms. Cable said.

Mr. Bush, on a two-day visit to hurricane-affected areas, started the day with a briefing on the federal response effort aboard the 844-foot USS Iwo Jima, a command center for military operations. The slideshow presentation, which covered the latest relief and recovery efforts in three states, was conducted in the ship's ward room by Coast Guard Vice Adm. Thad Allen, who replaced Mr. Brown as federal hurricane commander last Friday.

White House chief of staff Andrew Card said "I have great confidence" in the team now running the federal effort.

Mr. Bush toured the flooded city in a convoy of military trucks. Later, he will tour hard-hit surrounding parishes by helicopter, touching down to meet with local leaders, and then will travel to Gulfport, Miss.

It was Mr. Bush's first up-close look in the two weeks since Katrina smashed into the Gulf Coast and drowned this storied city. The trip is Mr. Bush's third and longest to the disaster area, and it came as the White House is eager to show the president displaying hands-on, empathetic leadership in the storm effort. More than half of respondents in an Associated Press-Ipsos poll last week said he is at fault for the slow response.

Mr. Card said Mr. Bush's repeated visits have tangible value: "It reminds people of the mission at hand."

Signs of Improvement

Though 50% of New Orleans remains flooded and teams are still working to recover the dead, there are signs that hopelessness is beginning to lift two weeks after Hurricane Katrina plowed ashore. Law and order has been restored to New Orleans and looting curtailed; the Superdome and city convention center, the scene of so much misery while storm evacuees waited for busses for days with no food and water, are empty; the water level is going down as workers begin to drain the city; and some power is being restored.

Commerce Secretary Carlos Gutierrez urged business leaders Monday to invest in the Gulf Coast, saying the private sector must play a major role in rebuilding the hurricane-devastated area. In a speech at the U.S. Chamber of Commerce, Mr. Gutierrez said businesses should look at the region as an economic opportunity.

"I hope businesses will consider investing and locating enterprises in the rebuilding zone," he said. "Only then will the region be truly reborn."

The Bush administration said that it's considering adjusting high tariffs imposed on such items as soft-wood lumber from Canada and cement from Mexico if building needs from Katrina cause prices to spike.

Treasury Department spokesman Tony Fratto said that the administration has the executive authority to adjust tariffs to meet special needs. The tariffs have been in place for a number of years since the U.S. lumber and cement industries won cases accusing importers of selling those products at unfairly low prices, a practice known as dumping.

Separately, the Labor Department announced Monday that it was creating a Web site to help people who have lost jobs due to Katrina find new work.

Thousands of Displaced Students

Meanwhile, Education Secretary Margaret Spellings said Monday that Katrina forced at least 372,000 school children to flee the Gulf Coast, and there are no clear answers yet on where the money will come from to educate these students.

In Louisiana, more than 247,000 public and private school students have been displaced, 489 schools have been closed and at least six parishes have destroyed or damaged buildings. In Mississippi, more than 125,000 students have been forced elsewhere. A total of 226 schools in 30 districts are closed in that state, and almost 30 schools have been destroyed.

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Ms. Spellings declined to estimate how much it will cost states to rebuild devastated districts or serve displaced students -- or how much the federal government will cover. President Bush has charged Ms. Spellings to come up with a plan to provide aid for the states, some of which are absorbing an influx of students just as the school year begins.

Despite some signs of progress, criticism of the relief efforts continues.

A Louisiana official on Sunday criticized FEMA's progress12 on providing temporary housing for hundreds of thousands of the state's residents displaced by Katrina. "There should be trailers rolling and things happening that are not happening fast enough," said Col. Jeff Smith, deputy director of emergency preparedness for the Louisiana Office of Homeland Security and Emergency Preparedness. "We've asked them to start thinking outside the box and it just hasn't been happening."

James McIntyre, a FEMA spokesman, acknowledged that just 10 families not involved with Katrina relief efforts have moved into temporary housing in Louisiana so far. Still, he said the agency is moving "as quickly as possible," deploying thousands of mobile homes and moving families into trailers in Mississippi and Alabama. Thousands of trailers are ready for deployment from a staging area in Baton Rouge, while more than 400 displaced families from the Slidell, La., area are moving into trailers.

An estimated million people along the Gulf Coast have been displaced by the hurricane, about half of them from the New Orleans area.

On Saturday, officials announced that FEMA has paid $669 million nationwide to families affected by Katrina. The agency has registered 573,262 households nationwide for benefits, agency spokesman Ed Conley said, explaining that the figure includes singles and families. The government is also ramping up a low-interest loan program through the U.S. Small Business Administration, which can provide as much as $1.5 million to a business and $40,000 to individuals.

Authorities raised Louisiana's death toll to 197 on Sunday, and the recovery of corpses continued. Teams pulled an unspecified number of bodies from Memorial Medical Center, a 317-bed hospital in uptown New Orleans that closed more than a week ago after being surrounded by floodwaters. But authorities said their first systematic sweep of New Orleans found far fewer bodies than expected.

Army Lt. Gen. Russel L. Honore, who heads the military's Joint Task Force Katrina, said Sunday that over the next three days, officials should learn how many people died in New Orleans. He said the preliminary figure of 10,000 offered last week by some officials was "a number we'd be very happy to be wrong about."

Severe Environmental Damage

With water receding from some of the most heavily damaged areas of New Orleans, it's becoming increasingly clear that Hurricane Katrina has left a major environmental mess in its wake.

Assessment teams and local emergency officials have identified at least six serious oil spills and numerous smaller incidents in southern Louisiana, but they are most concerned about a leak of an estimated 672,000 gallons of crude oil from a storage tank at a Murphy Oil Corp. refinery, some of which seeped into densely populated neighborhoods on the southeastern outskirts of New Orleans.

Federal officials told area leaders in private meetings over the weekend that they have designated the location around the Murphy refinery in Meraux in St. Bernard Parish as a "hot zone," or a potentially deadly hazard. Official access to the area has been restricted, but reporters from The Wall Street Journal who drove through city streets in the area saw block after block of homes within a mile of the refinery that had been inundated with what appears to be a mixture of oil and mud. Streets and much of the ground are covered in several inches of oozing muck.

The company believes most of the spilled oil was trapped behind a containment dike around the storage tank, and "we don't think very much oil got out of our refinery property, as far as we can tell," says Kevin Fitzgerald, a Murphy spokesman. The Coast Guard says Murphy Oil estimated 672,000 gallons of crude oil leaked out of the partially filled, 3.6 million gallon storage tank. The company says the tank may have dislodged from its foundation during the flood, floated as far as 15 feet and was punctured. Murphy Oil says the containing wall around the tank was damaged during the storm, causing an unknown amount of oil to spread into the neighborhood.

Crude oil contains several harmful substances, including benzene, says Lynn Goldman, a professor of environmental health sciences at the Bloomberg School of Public Health at Johns Hopkins University. Dr. Goldman said that the oil could seep into storm drains and sewers and spread through the city. "Literally the environment around the city would become polluted from it," she says.

The Coast Guard says it is helping clean up as many as six separate oil spills in Louisiana, including the one in Meraux. The other spills occurred along the Louisiana coast, south of New Orleans at facilities owned by Chevron Corp., Royal Dutch/Shell and others. Most of the discharged oil -- totaling more than 5.4 million gallons, according to the Coast Guard -- was contained by retaining systems around the storage tanks, although there was some reported leakage beyond the protective walls. (By comparison, the 1989 Exxon Valdez spill in Prince William Sound in Alaska was about 11 million gallons.)

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Other areas of concern to environmental officials in New Orleans include a federal Superfund site near the Industrial Canal where a school and housing were built on top of a former landfill. That area was underwater for days. Before the hurricane, cleanup crews had removed soil that may have been contaminated with arsenic and lead and capped the area with a special covering.

Embattled Brown Resigns As Fema Chief (FT)

By Caroline Daniel

Financial Times, September 13, 2005

Michael Brown, the man who had become the public face of blunders made by the Bush administration in responding to Hurricane Katrina, on Monday bowed to the inevitable and resigned.

His decision follows an embarrassing public dressing down on Friday, when he was relieved of command of events as head of the Federal Emergency Management Agency (Fema) and sent back to Washington.

His departure represents a rare resignation by an official of the Bush administration, which does not like admitting mistakes. It comes a week after President George W. Bush praised his handling of the crisis, saying: "Brownie, you're doing a heck of a job."

The president intends to designate R. David Paulison of Florida to become the acting head of Fema, the White House said in a statement. The appointment of Mr Paulison, who has more than 30 years of fire and rescue experience, marks the second promotion of an official with disaster management experience rather than political connections. On Friday Thad Allen, a coast guard vice-admiral, took over ground operations in Louisiana from Mr Brown.

Mr Brown's resignation also followed Mr Bush's efforts to hit back at criticism over the federal response to Katrina. On Monday Mr Bush firmly denied that the number of National Guard troops in Iraq had undermined relief efforts.

"We've got a lot of troops to do both. It is preposterous to claim that the engagement in Iraq meant that there weren't enough troops here, pure and simple," he said after meeting emergency workers and surveying damage in New Orleans.

Mr Bush also defended a comment made shortly after the flood, when he told a television news programme: ''I don't think anyone anticipated the breach of the levees." Multiple studies had consistently warned of the likely local impact of a severe hurricane.

"When that storm [initially] came by, a lot of people said we had dodged a bullet – there was a sense of relaxation at a critical moment," Mr Bush said on Monday. "I knew a big storm was coming on Monday. I pre-signed an emergency declaration, which by the way was extraordinary. Most presidents sign it after the storm." The images of largely poor African-Americans, who bore the brunt of the disaster, has prompted widespread criticism that race had played a role in the slow response.

"My attitude is that the storm didn't discriminate and neither will the recovery effort," he said yesterday. "They [rescuers] wanted to save lives." Amid continued criticism of the bungled co-ordination between federal and local authorities, Mr Bush acknowledged the need for Congress to "take a good close look at what went on and what didn't go on".

Head Of FEMA Steps Down (USAT)

By Mimi Hall

USA Today, September 13, 2005

WASHINGTON — Embattled Federal Emergency Management Agency chief Michael Brown resigned Monday. Hours later, President Bush announced his replacement, a career firefighter with three decades of disaster-response experience.

"This was a catastrophic disaster, and in every disaster, there are mistakes, and it's not always smooth and pretty," Brown said of Hurricane Katrina. "I'm at ease knowing I was doing everything I could."

Bush named R. David Paulison to replace Brown. Paulison has led FEMA's U.S. Fire Administration since December 2001, according to a biography posted on FEMA's website. He led FEMA's emergency preparedness force in 2003-04 and is a former Miami firefighter.

Brown had been under fire for what his critics, including Democratic Louisiana Sen. Mary Landrieu, called a failure to get federal help to victims of Katrina fast enough.

Brown's limited experience in disaster relief was an issue, too. Before joining FEMA in 2001, Brown was head of the International Arabian Horse Association.

White House spokesman Scott McClellan praised Brown's work but did not mention Katrina. "The president appreciates Mike Brown's service," he said. "Mike has done a lot of great work on a number of hurricanes."

Bush was in New Orleans, viewing the disaster area in an open truck that sloshed through flooded, stench-filled neighborhoods caked in mud.

"My impression of New Orleans is this: that there is a recovery on the way," Bush said.

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The Army Corps of Engineers said the fixing of two major pumps meant the city will be drained by Oct. 8, ahead of schedule. Nearly two-thirds of Louisiana's water treatment plants had restarted, and the city's airport plans to resume passenger service today.

Bush rebuked those criticizing the response to what he called America's worst natural disaster. “There will be plenty of time to play the blame game,” he said.

The confirmed death toll in Louisiana rose to 279 on the news that 45 bodies had been found in a flooded hospital in New Orleans. It was not known how many of those people died before Katrina hit.

FEMA Chief Brown Resigns (REU)

Reuters, September 12, 2005

The director of the U.S. Federal Emergency Management Agency Michael Brown resigned on Monday after being recalled to Washington amid criticism of the federal response to Hurricane Katrina.

In an apparent nod to demands that Brown be replaced by someone with experience in emergency response, President George W. Bush replaced Brown with David Paulison, a veteran firefighter who now runs FEMA's preparedness division.

Paulison was also the Homeland Security official who urged Americans to stock up on duct tape and plastic sheeting in 2003 to protect against a biological or chemical attack, a recommendation that was widely ridiculed in the media.

Brown, who was widely criticized for a slow federal response to the devastating Hurricane Katrina, resigned effective immediately.

"Today I resigned as director of the Federal Emergency Management Agency," said Brown, who ran the organization since 2003. "As I told the president, it is important that I leave now to avoid further distraction from the ongoing mission of FEMA."

In an ABC News interview, Brown defended the agency's response to the crisis and said the United States needed to have a debate about FEMA's role in national emergencies.

"We're not a first responder agency. We're there to coordinate and help people prepare and coordinate in times of disaster. And so if the country wants us to be more, then we should have a great public policy debate whether that's true or not," Brown said.

Brown was pulled out of Gulf Coast operations on Friday and replaced on the ground with Vice Admiral Thad Allen of the U.S. Coast Guard.

Bush had praised Brown for doing a "heck of a job" in the first days of the disaster that killed hundreds in Louisiana, Mississippi and Alabama and displaced 1 million people. He later was pressed by Democrats and others to fire Brown.

White House spokesman Scott McClellan said Bush discussed Brown's resignation with Homeland Security Secretary Michael Chertoff on the way home from visiting the Gulf Coast area.

"The president appreciates Mike Brown's service," McClellan told reporters aboard Air Force One. "This was Mike Brown's decision. This was a decision he made."

Shortly after Brown's resignation, Bush named Paulison, the former Miami fire chief with 30 years of fire rescue service experience, as acting FEMA director.

Chertoff said Brown had done "everything he possibly could" to respond to the hurricane and flood in New Orleans. He also said he would name more people to senior positions at the agency in the coming days.

Brown was a close friend of Joe Allbaugh, the previous FEMA head who was Bush's chief of staff when he was Governor of Texas, and the National Campaign Manager for Bush's 2000 election campaign.

Brown served as commissioner of the International Arabian Horse Association before joining FEMA in 2001. He has been accused of exaggerating his background in disaster relief in his official biography and resume.

Democrats praised the change but said the administration needed to ensure that the country was capable of responding to another major disaster.

Republicans in Congress have initiated an investigation into what went wrong with the government's initial response to Katrina.

New FEMA Chief Takes Center Stage After Years In Wings (USAT)

By Peter Eisler And Mimi Hall

USA Today, September 13, 2005

WASHINGTON — R. David Paulison, the new head of the Federal Emergency Management Agency, is a seasoned disaster-response expert who has spent years as a behind-the-scenes administrator. Yet he redefined the nation's emergency preparedness with just five words: duct tape and plastic sheeting.

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In a small briefing with reporters in 2003, it was Paulison who urged Americans to stock up on those hardware store staples so they could seal windows and doors in a biological or chemical weapons attack. The advice became a staple of late-night comics, who usually misattributed the comment to Tom Ridge, then secretary of Homeland Security.

The Bush administration hasn't put Paulison in front of reporters much since then.

Now, he steps into a lead role directing federal response to one of the nation's worst natural disasters, taking over a Hurricane Katrina relief effort that has been condemned widely by state and local officials as sluggish and inadequate.

"I appreciate his willingness to take on the vital task of leading FEMA during this challenging time," Homeland Security Secretary Michael Chertoff said Monday in announcing the appointment. FEMA is part of the Department of Homeland Security.

Paulison, a Democrat, was flying back from the Gulf Coast on Monday and was unavailable for comment on his new appointment.

Paulison began his career as a firefighter and worked his way up to chief of South Florida's Miami-Dade County Fire Rescue Department, a 1,900-member, $200-million operation. He helped lead the emergency response to Hurricane Andrew in 1992 and the 1996 ValuJet crash in the Everglades. He's also a past president of the International Association of Fire Chiefs and a certified paramedic.

James Burns, New York State Fire Administrator and president of the National Association of State Fire Marshals, called Paulison "a great choice" for the FEMA job.

"He's been in the field, he's been operational, and he knows how to react to emergency situations," Burns said. "He knows how to organize, and he knows how to make things happen."

In 2001, President Bush appointed Paulison to head the U.S. Fire Administration, an agency that studies and promotes fire safety, trains firefighters and administers federal grants to local fire departments.

When the Department of Homeland Security was created in 2003, Paulison was tapped to head FEMA's emergency preparedness efforts.

Paulison's long background in emergency management contrasts with his predecessor, Michael Brown, who had little experience in emergency services and planning at the local level before taking over FEMA. Brown resigned as FEMA director on Monday after Chertoff relieved him of his duties overseeing federal relief efforts in the region devastated by Katrina. The move came amid criticism of Brown from Democrats and Republicans.

Brown said Monday that Paulison faces a mammoth task overseeing the highly politicized federal response to the unprecedented damage wrought by Katrina. "He's walking in at a very difficult time."

Some officials who criticized Brown's leadership of FEMA during the recovery operation were optimistic about Paulison's appointment.

"With new capable leadership, FEMA can again lead the way in saving lives and saving communities," said Sen. Barbara Mikulski, D-Md., a critic of FEMA's response to Katrina. "But Mr. Paulison must also quickly surround himself with similarly experienced professionals. … Regaining the confidence of the American people through actions, not press releases, will be job one for David Paulison."

Pick As Acting FEMA Leader Has Disaster Relief Experience (NYT)

By Anne E. Kornblut

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 - To replace Michael D. Brown at the head of the nation's emergency agency, President Bush reached out to a manager who, at least on paper, is different in some important ways.

R. David Paulison, chosen on Monday to take temporary control of the Federal Emergency Management Agency, started out in the Miami-Dade Fire Rescue Department at the age of 19, rising through the ranks over three decades to become chief.

Unlike Mr. Brown, who was widely criticized for lacking hands-on emergency relief experience, Mr. Paulison has a history in hurricanes: He took over the Miami Fire Department two months before Hurricane Andrew hit South Florida in 1992, destroying the homes of many of his firefighters.

Mr. Paulison, who was named Florida Fire Chief of the Year in 1993, is a past president of the International Association of Fire Chiefs, putting him in the ranks of top emergency professionals.

At least on one political score, he departs from the typical Bush administration faithful: As of four years ago, he was a registered Democrat, according to an article in The Miami Herald at the time. That creates at least the perception that he is independent of the administration's political machine - unlike Mr. Brown, who got his job on the recommendation of a former senior campaign adviser to Mr. Bush, Joe M. Allbaugh, an old friend from college.

Since shortly after the Sept. 11 terrorist attacks, Mr. Paulison has been the head of the national fire administration, a division within FEMA. In taking over the entire agency - at least on a temporary basis - Mr. Paulison joins Vice Adm. Thad W.

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Allen of the Coast Guard, who took over the federal response to Hurricane Katrina last week after the initial effort faltered under Mr. Brown.

"FEMA needs that type of leadership, especially now," said Peter G. LaPorte, the former director of the Massachusetts and Washington, D.C., emergency management agencies.

Mr. LaPorte said Mr. Paulison, who will be acting director of FEMA as well as acting under secretary for emergency preparedness and response, "understands both disaster response and recovery."

"Katrina is not over, and there's lots to be done, and we're still in hurricane season," Mr. LaPorte said. "It's a good choice. It's a fast choice, and that's important, too. You need to understand the whole system of emergency management, and that's why having a practitioner is important."

President Bush chose Mr. Paulison at the recommendation of Michael Chertoff, the director of the Department of Homeland Security, White House officials said.

Mr. Paulison, who does not need to be confirmed by the Senate because he is becoming FEMA's temporary director, has been confirmed by the Senate once, for his post as administrator of the U.S. Fire Administration. In that job over the last four years, Mr. Paulison has testified before Congress, and also helped the administration make the transition as FEMA was enveloped into the newly created Department of Homeland Security.

"David Paulison is well-respected and someone who is a familiar face to the White House, having previously been through a Senate confirmation," Scott McClellan, the White House spokesman, said Monday.

Mr. Chertoff issued a similar statement.

"I appreciate his willingness to take on the vital task of leading FEMA during this challenging time," Mr. Chertoff said in a statement announcing the shuffled roles.

Representative Elijah E. Cummings, Democrat of Maryland, called Mr. Paulison "a leader who brings extensive emergency management experience to this position."

Brown Out, Paulison In (AP)

By RON FOURNIER

The AP, September 12, 2005

Federal Emergency Management Agency director Mike Brown resigned Monday, three days after losing his onsite command of the Hurricane Katrina relief effort. The White House picked a top FEMA official with three decades of firefighting experience as his replacement.

R. David Paulison, head of FEMA's emergency preparedness force, will lead the beleaguered agency, according to three administration sources who spoke on condition of anonymity because the announcement had not yet been made.

Paulison is a career firefighter from Miami who was among emergency workers responding to Hurricane Andrew in 1992 and the crash of ValuJet Flight 592 in the Florida Everglades in 1996, according to a biography posted on FEMA's Web site. He also has led the U.S. Fire Administration since December 2001, according to the site.

As chief of the Miami-Dade Fire Rescue Department, Paulison led 1,900 personnel under a $200 million operating budget. He was also in charge of Dade County's emergency management office, according to his biography.

Paulison will lead an agency that has been under fire for its response to the Katrina disaster. Local officials and members of Congress have cited confusion and a lagging response to the Gulf Coast devastation.

Brown had taken much of the heat and was relieved of his onsite command on Friday. In an interview Monday with The Associated Press, Brown said he resigned "in the best interest of the agency and best interest of the president." He said he feared he had become a distraction.

"The focus has got to be on FEMA, what the people are trying to do down there," Brown said.

His decision was not a surprise. Brown was abruptly recalled to Washington on Friday, a clear vote of no confidence from his superiors at the White House and the Homeland Security Department. He also was accused of padding his resume, which Brown has denied.

The president ducked questions about Brown's resignation. "Maybe you know something I don't know. I've been working," the president said to reporters on an inspection tour of damage in Gulfport, Miss. Bush said he planned to talk with Brown's boss, Homeland Security Secretary Michael Chertoff, from Air Force One on the flight back to Washington.

"There will be plenty of time to figure out what went right and what went wrong," Bush said.

Polls show most Americans believe Bush could have done more to help Katrina's victims, though they also blame leaders of Louisiana and New Orleans. Bush's overall job approval rating is at the lowest point of his presidency.

House Democratic Leader Nancy Pelosi called Brown's departure long overdue.

"His resignation is the right thing for the country and for the people of the Gulf Coast states," Pelosi said in a statement.

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Brown, who said he last talked to Bush five or six days ago, said the resignation was his idea. He spoke Saturday to White House chief of staff Andrew Card, who did not request his departure, according to Brown.

"I'm turning in my resignation today," Brown said. "I think it's in the best interest of the agency and the best interest of the president to do that and get the media focused on the good things that are going on, instead of me."

Shortly after Brown was recalled to Washington last week, officials close to the FEMA director said he would probably resign. They said that even before Katrina, Brown had been planning on leaving the administration late this fall to go into the private sector.

Paulison Is Skilled At Disasters (WP)

By Spencer S. Hsu And Christopher Lee

The Washington Post, September 13, 2005

R. David Paulison, appointed yesterday as acting director of the Federal Emergency Management Agency, has encountered disaster before: three months before Hurricane Andrew laid waste to part of South Florida in 1992, he became chief of the Miami-Dade Fire Rescue Department.

When one of the nation's worst natural disasters hit, he helped direct rescue and response efforts for the county even as 400 firefighters were made homeless by the storm.

Paulison was not available for interviews yesterday, FEMA spokeswoman Nicol Andrews said. But in testimony during his Senate confirmation hearing in 2001, Paulison said he headed Miami-Dade County's Office of Emergency Management and had handled hazardous materials spills, floods, tornadoes and deadly accidents such as a 1996 jetliner crash into the Florida Everglades.

"Whether in response to a major fire, as incident commander for Hurricane Andrew or in response to the crash of ValuJet 592, I have seen firsthand the need for communication and cooperation during the planning, response, recovery and rebuilding phases after disasters," Paulison told the Senate Commerce Committee.

International Association of Fire Fighters General President Harold A. Schaitberger, whose organization Paulison formerly headed, said Paulison "not only has the administrative experience and skills that you need at the bureaucratic level, he really understands what the troops need on the front line."

Currently U.S. fire administrator and head of FEMA's division of preparedness, Paulison has a long list of emergency management credentials and was confirmed by the Senate for his current job. Those are two key considerations for an administration scrambling to rebut criticism that it has stocked the agency with unseasoned political appointees and de-emphasized natural disaster preparedness.

In a brief written statement, Homeland Security Secretary Michael Chertoff said he appreciated Paulison's "willingness to take on the vital task of leading FEMA during this challenging time."

"Regaining the confidence of the American people through actions, not press releases, will be job one for David Paulison," said Sen. Barbara A. Mikulski (D-Md.), who praised Paulison's appointment as "great news" and called on him to surround himself with experienced professionals. She said he must "turn his attention to what went wrong in the federal response to this tragedy and make sure it can never happen again."

Under a pending reorganization announced by Chertoff, the FEMA division that Paulison headed would be removed from the agency and merged into a new homeland security section responsible for emergency preparedness and planning.

In 1971, Paulison became a firefighter with the North Miami Beach Fire Department, which was absorbed by the Miami-Dade Fire Rescue Department in the early 1980s. He worked as a rescue lieutenant, battalion commander, district chief of operations, division chief, assistant chief and deputy director for administration before becoming chief, according to his FEMA biography.

Chertoff said he would make additional FEMA appointments "in the days ahead," including a new, permanent deputy FEMA director.

After Days Of Criticism, Emergency Director Resigns (NYT)

By Richard W. Stevenson

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 - Three days after being stripped of his duties overseeing the post-hurricane relief effort, Michael D. Brown resigned on Monday as director of the Federal Emergency Management Agency, saying that he wanted to avoid distracting the agency at a time when it faces a major challenge.

The White House quickly named R. David Paulison to succeed Mr. Brown on an acting basis. Mr. Paulison, a former firefighter, has been director of the agency's preparedness division for the past two years.

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In contrast to Mr. Brown, who had relatively little experience dealing with disasters and emergency response before joining FEMA, Mr. Paulison has spent his career in the field, having been chief of the Miami-Dade Fire Rescue Department before joining the federal government in 2001 as administrator of the United States Fire Administration.

In an interview Monday night, Mr. Brown said that he felt that his role had become an obstacle to the agency's work.

"The press was too focused on what did we do, what didn't we do, the whole blame game," he said. "I wanted to take that factor out of the equation, so that the people at FEMA, who are some of the most hard-working, dedicated civil servants I have ever met, could just go do their job."

Mr. Brown, 50, said he had felt no pressure to resign. He said he made his decision on Sunday with his family after a long conversation on Saturday night with Andrew H. Card Jr., the White House chief of staff.

"Andy was very, very supportive of me," Mr. Brown said.

He said he planned to "take some time to just rejuvenate the old battery" before considering his options.

Mr. Brown's departure was hardly surprising, given the decision, announced on Friday, to remove him from management of the federal response to Hurricane Katrina.

Mr. Brown had become a political liability to the White House, even in his constrained new role. Democrats in Congress had been questioning how the administration could retain him in such an important job as director of FEMA after his performance in responding to the hurricane.

A poll taken over the weekend by the Pew Research Center for the People and the Press, a nonpartisan research organization, found that more than 6 in 10 respondents judged the federal government's response to be fair or poor. A variety of polls in recent days have found Mr. Bush's approval ratings at or near their lows, with his support eroding even among Republicans.

Asked about Mr. Brown's resignation after he toured a school in Mississippi on Monday afternoon, Mr. Bush declined to comment. He told reporters, "Maybe you know something we don't know."

He pointedly brushed off questions about how Mr. Brown and the administration had handled the storm, saying "don't ask me again" about the subject.

"Here in Mississippi and in Louisiana, people want to move forward," Mr. Bush said. "They understand there's time to try to blame somebody. But they want to get their lives back together."

Scott McClellan, the White House spokesman, later told reporters aboard Air Force One on the trip back to Washington that Mr. Bush was informed on Monday morning of Mr. Brown's resignation but was not sure when asked about it whether the decision had been made public.

The decision was welcomed by many Democrats in Congress. But they said it would not deter them from seeking an aggressive independent inquiry into the federal response to the storm.

"Long overdue; too little, too late," said a statement from Senator John Kerry, Mr. Bush's opponent in the 2004 presidential race.

Senator Harry Reid of Nevada, the Democratic leader, said: "I'm glad he's gone. But that doesn't end the problems with this administration and their action."

Mr. Brown is among a relative handful of officials who have left the Bush administration under pressure. In an interview with ABC News on Monday after the announcement of his resignation, he defended his performance and suggested that the nation needed to decide what role it wanted FEMA to play.

"We're not a first-responder agency," Mr. Brown told ABC. "We're there to coordinate and help people prepare and coordinate in times of disaster. And so if the country wants us to be more, then we should have a great public policy debate whether that's true or not."

Brown Quits As Head Of FEMA (WT)

By Audrey Hudson

The Washington Times, September 13, 2005

Embattled Federal Emergency Management Agency director Michael D. Brown resigned yesterday after being criticized for the federal government's response to Hurricane Katrina.

Mr. Brown said he had not spoken with President Bush since early last week, but decided to resign after a conversation Saturday with White House Chief of Staff Andrew H. Card Jr.

"I think it's in the best interest of the agency and the best interest of the president to do that and get the media focused on the good things that are going on, instead of me," Mr. Brown told the Associated Press in announcing his resignation.

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Mr. Bush named R. David Paulison, administrator of the U.S. Fire Administration within FEMA, to serve as acting director of FEMA. Mr. Paulison has 30 years of fire rescue services experience and was chief of the Miami-Dade County Fire Rescue Department in Florida.

FEMA became a lightning rod for frustrated flood victims as well as state and local officials, who blamed the agency when fresh supplies failed to materialize several days after levees broke and isolated New Orleans. The Red Cross and Salvation Army have blamed the state for not allowing rescue workers and supplies into the city.

On Friday, Homeland Security Secretary Michael Chertoff replaced Mr. Brown with Coast Guard Vice Adm. Thad Allen as head of recovery operations, fueling speculation that Mr. Brown was on his way out. Agency staffers hinted that the director had planned to resign after the hurricane season ended in November.

Mr. Chertoff had said Mr. Brown had other responsibilities and needed to return to Washington from the Gulf Coast.

Mr. Bush was visiting hurricane victims in Gulfport, Miss., yesterday when reporters asked him to respond to the resignation. The president, who looked surprised at the news, declined to comment.

"I was spending time with people, so I can't comment on something that you may know more about than I do," Mr. Bush said. "There will be plenty of time to figure out what went right and what went wrong."

Some Democrats said Mr. Brown was right to resign, but others continued to criticize Mr. Bush for not firing the director.

"Michael Brown's departure from FEMA is long overdue, and his resignation is the right thing for the country and for the people of the Gulf Coast states," said House Minority Leader Nancy Pelosi, California Democrat.

Mr. Brown's resignation mattered little to hurricane victims, who say it won't bring them needed relief any quicker.

"The guy is not very organized," said Juan Manson, who was waiting for FEMA assistance after his New Orleans home was destroyed. "But the guy in charge resigning, and then getting a new guy, how does that help me? Does it give me a check? No."

Mr. Paulison's biography said his emergency management experience includes Hurricane Andrew in 1992 and the 1996 crash of ValuJet Flight 592 in the Everglades.

A Major Test For FEMA And Its Contracting Crew (WP)

By Griff Witte And Charles R. Babcock

The Washington Post, September 13, 2005

The Federal Emergency Management Agency will receive most of the $62 billion Congress has approved for Hurricane Katrina relief efforts, setting up a major test of the agency's ability to distribute the cash and monitor the private contractors who will do much of the work.

FEMA's track record in managing much smaller amounts of money has raised concerns. It made millions in questionable payments to South Florida residents after Hurricane Frances last year, investigators found, in part because the agency's contractors had hired inspectors who lacked training or oversight. A recent audit by the Homeland Security Department's inspector general questioned whether FEMA's acquisition workforce was qualified.

The agency has already begun awarding hundreds of millions of dollars in no-bid Katrina contracts under loosened government rules designed to get relief and rebuilding efforts underway quickly. As the money begins to flow, some fear the agency could become overwhelmed. "They've never spent anything even remotely on this scale. So the real question is going to be what kind of controls are in place," said Bill Jenkins, who monitors FEMA for the Government Accountability Office. "There are going to be fraudsters coming out of the woodwork."

Sen. Susan Collins (R-Maine), chair of the Senate's Homeland Security Committee, said through an aide yesterday that she is considering creating a special inspector general to oversee and audit Katrina-related spending.

The last time the government spent a massive amount of money under emergency conditions, for the war in Iraq, it set off a frenzy among contractors jockeying for work. Investigators with the special inspector general's office set up to oversee Iraq spending later found numerous cases of questionable costs.

Contractors are already lining up for Katrina money. Yesterday, the Army Corps of Engineers said that, on FEMA's behalf, it would award $1.5 billion in contracts for debris removal this week. Also yesterday, Blackwater USA, known for its work supporting military operations in Iraq, said it would provide 164 armed guards to help provide security at FEMA sites in Louisiana.

Last week FEMA gave out hundreds of millions of dollars worth of contracts to engineering and construction firms to build an estimated 300,000 temporary housing units. Those contracts were awarded without competition under rules that allow agencies to bypass normal procedures during an emergency. Several went to companies that have been major financial supporters of the Bush administration. One firm , Shaw Group Inc., of Baton Rouge, is on the client list of lobbyist and former FEMA director Joe M. Allbaugh, though he has said he does not get involved with contracts.

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Shaw also was picked last week by the Corps for a $100 million contract, with one of its first tasks to pump floodwater out of New Orleans. The agency contacted two other companies to generate competition for the work, a Corps contracting official said yesterday, but only Shaw responded.

At FEMA, outsourcing to the private sector is nothing new. The agency has long made contractors a central part of its emergency plans on the thinking that it isn't a good use of tax dollars to maintain a large staff for sporadic work. When disaster strikes, the agency, with help from the Corps of Engineers, has contracts that can be activated to bring in food, water and manpower.

But FEMA insiders and some who have worked with the agency say it has grown increasingly reliant on contractors in recent years not just for help in responding to disasters, but for planning and policymaking as well. It's a trend that's been augmented, they say, by the departure of FEMA's top civil servants and the arrival of political appointees with little disaster management experience.

"Some of the best and the brightest high-level technocrats are at the contracting firms," said Claire B. Rubin, a researcher at George Washington University who has studied disasters for decades. "They used to work for FEMA. And now FEMA needs them back."

Last spring, the Homeland Security Department's inspector general's office audited the FEMA staff that manages its contracts and found it "impossible to determine whether the acquisition personnel met training, education, and experience requirements." As a result, the auditors concluded, "FEMA may be at risk that its acquisition workforce is not qualified."

At the time of the audit, 51 full-time acquisition workers were managing hundreds of millions of dollars in contracts. Homeland Security Department spokesman Russ Knocke said yesterday that contracting officials are ramping up to handle the extra work, and that the department's IG office has received additional funding to closely monitor Katrina contracts.

Some of the agency's approximately 2,500 full-time employees feel the reliance on contractors is driving away the agency's best talent. Last year, Pleasant Mann, then-president of the union representing FEMA headquarters workers, wrote a letter to congressional leaders warning that the nation was becoming more vulnerable. "The ability of FEMA to manage emergencies and disasters is being seriously eroded," he wrote. "Our professional staff are being systematically replaced by politically connected novices and contractors who have now 'burrowed in' to civil service jobs."

FEMA insiders said a no-bid RAND Corp. contract to help the Homeland Security Department develop the definitive plan for how the nation would respond to an emergency illustrates just how pervasive the contractors' role has become. The National Response Plan was mandated by the White House after the Sept. 11, 2001, attacks. Rather than turn to FEMA employees to craft the new document, according to those familiar with the process, the agency tapped RAND for the work. But the contractor's first draft was rejected by state and local emergency responders who felt the contractor hadn't incorporated the lessons learned from previous disasters.

"There were a lot of things not considered. And I think that was from the fact that the contractor was not a practitioner [of emergency response]," said Dewayne West, president of the International Association of Emergency Managers, a group of local first responders. "So they kind of said, 'We're going to can this one. Let's start over.' "

Bruce Don, a RAND senior researcher who worked on the project, called the experience "frustrating" and said government officials were resistant to change.

FEMA spokespeople did not return multiple calls over several days seeking comment.

RAND's role was subsequently reduced, and government officials wrote the final document. It became the basis for the government's efforts to manage during Hurricane Katrina.

Whether the lackluster response to Katrina was because of the plan or in spite of it will undoubtedly be the subject of numerous reviews, government officials said. So, too, will the issue of contractor performance.

Thousands of people went for days without adequate food and water at the Superdome, at the New Orleans convention center and on rooftops throughout the flooded region, according to news reports, though it is unclear who was to blame .

On the Friday before Katrina hit, Lipsey Mountain Spring Water, FEMA's bottled water supplier, got a call from the Army Corps of Engineers and began shipping truckloads to the region, according to President Joe Lipsey III. The contract calls for the Norcross, Ga., company to get water to sites within 24 hours, and Lipsey said he has developed a nationwide network of 170 suppliers to help.

The first trucks headed toward Pensacola, Fla., he said. But when the storm turned west, the Corps directed Lipsey's deliveries to three federal installations in Mississippi and one in Louisiana. From those staging areas, he said, Corps officials direct where it is delivered. So far Lipsey's network has delivered the equivalent of 198 million half-liter bottles of water, compared with 140 million during the nine-week period last year when four hurricanes hit Florida, he said. Lipsey, a Louisiana native, said despite the criticism, the agency and the Corps "are doing an incredible job," especially given the flooding and breaks in the bridge and highway system.

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Sen. Joseph I. Lieberman (D-Conn.), the ranking minority member on the Senate committee overseeing FEMA, said last night that he has discussed with Collins the idea of a special IG to monitor Katrina spending. "Congress has to be very aggressive in making sure that in our haste to help we aren't wasting an enormous amount of public money, or worse, having it used in a way that's corrupt," he said.

Goodbye, 'Brownie' (WP)

The Washington Post, September 13, 2005

No one will be sorry or surprised to learn that Michael D. Brown, formerly the director of the Federal Emergency Management Agency, intends to spend more time with his family. Mr. Brown will be forever remembered as the man who, at the height of the New Orleans evacuation crisis, appeared not to know that 25,000 people were crammed into the city's convention center without food, water or toilets, despite television reports broadcasting that fact for the previous 24 hours. Since then, his qualifications -- which mostly consist of a long stint running horse shows, as well as a useful friendship with a friend of the president -- have sparked a good deal of righteous indignation. But Mr. Brown's parting words are worth heeding. "The focus," he said yesterday, "has got to be on FEMA."

We agree -- although we would add that the focus should be on presidential attention to FEMA, as well as congressional oversight and funding of FEMA, and not on FEMA's position in the federal bureaucracy. Last week, a gaggle of mostly Democratic lawmakers proposed bills that would, among other things, move FEMA out of the Department of Homeland Security, making it once again a separate agency, and give it Cabinet-level status. Yet most of the bad decisions made about FEMA over the past several years -- budget cuts, the plan to take away its preparedness function, as well as the decision to staff it with presidential cronies instead of experts -- could have occurred even if FEMA had remained in the Cabinet: After all, presidents have been known to ignore their Cabinet members, too.

By the same token, some of those decisions could have been prevented, even with FEMA buried deep in the bowels of DHS, had anyone in the White House or Congress taken the agency's agenda more seriously. As we wrote yesterday, Mr. Brown received only a 42-minute Senate confirmation hearing when he was nominated to be deputy director of FEMA, and no hearing at all when he became its boss. The White House, preoccupied with al Qaeda, and former Homeland Security secretary Tom Ridge, preoccupied with airline security, were clearly unperturbed by the threats posed by hurricanes and floods.

Without question, there is an overlap between preparations for a terrorist attack and preparations for a natural disaster. There are also good reasons why people who know about public health, people who organize emergency logistics, people who understand the effects of radiation, and people who can coordinate first responders and the National Guard should run into one another in office corridors. What matters is not where those corridors are but the quality of the people themselves. Congress and the administration should now focus hard on R. David Paulison, head of FEMA's emergency preparedness force, who has been nominated to replace Mr. Brown. A former Miami-Dade County fire chief who helped Florida cope with Hurricane Andrew, Mr. Paulison may be qualified. But before coming to that conclusion, it would help if Congress and the White House take a bit more than 42 minutes to find out.

What Ails FEMA? (WT)

By Mike Walker

The Washington Times, September 13, 2005

Don't blame FEMA's great professional, dedicated and unselfish employees for what happened in New Orleans. FEMA did not fail in the early response because of these great Americans. They were totally focused on responding to the tragedy and saving lives. Nor did FEMA fail because of an over-emphasis on terrorism prevention. FEMA did fail because of a lack of effective leadership and its refusal to adapt to the new realities of the post-September 11 world.

Two years ago in a lecture at the Naval Postgraduate School in Monterey, California, I told students that FEMA was not capable of adequately responding to a major hurricane, let alone a catastrophic terrorist attack. My comments were based on an assessment that morale at FEMA was then the worst since the agency was created. The very people the nation depended on to help out during our time of greatest need were being demoralized by an indifferent, inexperienced leadership that neither understood emergency management nor had the skills to ensure the agency had the resources to meet its all-hazard mission.

Since my lecture, things have only gotten worse. Seasoned emergency managers began retiring in droves, frustrated by an inaccessible leadership at the top that has neither understood what FEMA is all about, nor has been able to effectively fight for FEMA's resource requirements inside the Department of Homeland Security and the Office of Management and Budget. When Hurricane Katrina slammed into the Gulf region, FEMA's most seasoned battlefield commanders were no longer working at the agency.

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Many mistakes were made in New Orleans at every level of government. The City of New Orleans failed to fully implement its evacuation plans for those who had no automobile or had special needs. The State of Louisiana was unable to effectively support local law enforcement and quell unrest in the city. But, arguably, the biggest mistakes were made by the director of FEMA. The president and Secretary Michael Chertoff could only act on the information that was made available to them.

In the past dozen years, I have participated in several New Orleans hurricane exercises. All of those exercises utilized a slow-moving category 3 scenario because the Army Corps of Engineers said the levee system was only built to withstand a category 3 hurricane. That alone would still result in several feet of water in large portions of the city. A category 4 or 5 would most probably breach the levees and create catastrophic flooding, putting a premium on early and complete evacuation.

The director of the National Hurricane Center has stated that his office made it clear to federal, state and local emergency management that the levee system could fail when Hurricane Katrina made landfall. Knowing that, the federal government had an obligation to be more proactive than it was on the front end of Hurricane Katrina, including providing strong professional technical advice to timid state and local officials.

The administration had put the mechanisms in place for success. In January, the final National Response Plan (NRP) was approved by every department and agency of the federal government. The FEMA director failed to use the NRP from the beginning of this incident. Why the catastrophic nature of Hurricane Katrina was not recognized before landfall when the National Weather Service said it would be above a category 3 is inconceivable. The FEMA director knew the levees would most likely be breached. Or maybe he didn't. The old hands were no longer there to tell him.

Had the FEMA director recommended the federal government declare an "incident of national significance" before landfall, as is permitted in the plan, when it was clear Katrina would be a catastrophic hurricane, the NRP Catastrophic Incident Annex could have been triggered. That would have permitted FEMA to stage massive levels of aid in the region, including buses, even if the governor had not yet requested specific help. By failing to expeditiously utilize the established NRP mechanisms, FEMA was left to implement its traditional response and await state requests. The FEMA director did not embrace the DHS post-September 11 mechanisms but instead followed his own ad hoc approach that left FEMA unprepared.

The problem at FEMA is not a structural problem. FEMA did not fail because it is now part of the Department of Homeland Security. Making FEMA an independent agency again would only further complicate the nation's ability to shape the agency into a 21st century, forward-leaning, truly all-hazard response agency. But the next director of FEMA must understand emergency management. He must appreciate his people. He must listen to his state and local partners. And, most importantly, he must understand FEMA's role in the post-September 11 world.

Those who think we have overemphasized terrorism in the wake of September 11, should be concerned with a knee-jerk reaction to Katrina. What we need is balance. We must be prepared to respond to both terrorism and natural disasters. The FEMA I know is capable of rising to the occasion and accomplishing both missions.

Acts of God will never destroy our great country. But that is exactly what radical Islamic terrorists want to do. We must never forget that fact. No doubt, the terrorists have been emboldened by what they have seen on TV in the last several days.

Mike Walker is a former deputy director of FEMA and former acting secretary of the Army.

What Are The Lessons Of Katrina? (WSJ)

By George Melloan

The Wall Street Journal, September 13, 2005

In answer to the question above, there are many lessons, but because of bureaucratic realities, most will not be applied to the disasters of the future. Yet here are a few for what they might be worth:

First, the blame game is missing the mark. George W. Bush is being accused by his natural enemies of everything from being asleep on the job to racism. But his real error came long before Katrina, when he and Congress created a Department of Homeland Security (DHS) in response to 9/11.

After a disaster, politicians want to "do something." Striking back at U.S. enemies was essential and Mr. Bush did that against al Qaeda with the enthusiastic approval of Congress, launching the war that continues today with considerably less support. The DHS also had overwhelming congressional approval, but was based on a flawed concept.

Creating a bigger bureaucracy to deal with the failures of two existing bureaucracies -- the FBI and the CIA -- was simply giving free rein to Beltway gluttony. The DHS has spent many billions, but when a hurricane equivalent of a weapon of mass destruction struck, the DHS was too cumbersome to respond quickly.

That leads to lesson No. 2: If an agency is meant to cope with emergencies, don't put lawyers in charge. DHS Secretary Michael Chertoff is an admirable man but former federal judges aren't trained for quick executive action. To his credit, he recovered from early fumbles by pulling fellow lawyer Michael Brown out of the front line in Louisiana and replacing him with a military man, Vice Adm. Thad Allen.

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Sen. Trent Lott of hurricane-ravaged Mississippi was referring to Mr. Brown's missteps as head of the Federal Emergency Management Agency when he said: "Pencil pushers make lousy crisis managers. Michael Brown has been acting like a private instead of a general." In Mr. Brown's defense, lawyers are conditioned by training and experience to read all the rules first before taking decisive action, so the administration that hired him is at fault.

Which brings up lesson three: There sure are a lot of rules. Laws and regulations are mass-produced by regulatory agencies and all the various levels of government. In an emergency, the first response by government bureaucrats is to look at the rule book to find out what they are allowed to do. Time was wasted after Katrina struck.

Some of those limitations were built into the Constitution's limits on federal powers. President Bush could not nationalize the Louisiana National Guard without the consent of Gov. Kathleen Babineaux Blanco, which was not immediately forthcoming.

The Northern Command of the U.S. Army, set up specifically for homeland defense three years ago, also was prevented from acting immediately because the Posse Comitatus Act (circa 1878) bars the army from conducting police activities on U.S. soil without a waiver. The best army in the world was ready, with equipment and men in place, but was left waiting for orders.

On to lesson four: In the U.S. federal system, state and local governments are the first line of defense, simply because the first responders -- police, firemen, emergency medical services -- report to mayors and governors. When Katrina hit, New Orleans first responders were not up to the challenge. One-third of the police force deserted, leaving the streets to looters and felons, one reason householders and business owners were reluctant to flee the rising waters.

Mayor C. Ray Nagin panicked, leaving the city's fleet of buses sitting in the flood's path instead of using them for evacuation. He neglected to provide the thousands who fled to the Superdome and convention center with adequate police protection and supplies. Acting more the private than the general in Trent Lott's terms, Mayor Nagin instead raged to the TV cameras about the lack of federal help -- as if the feds were supposed to do his job. You're only as good as your first responders: New York rose to the occasion after 9/11; after Katrina, New Orleans didn't.

Lesson five is that the media play a central role. They and the national weather services did a great job of warning Gulf Coast residents that a big one was coming, enabling a million to flee. They were at their best, as usual, covering the suffering and destruction. But then they became involved in the political debate, as Republicans and Democrats tried to outdo each other in assigning blame, with often spurious charges.

Mayor Nagin's wild estimate of 10,000 deaths was broadcast world-wide. The death toll for all the Gulf Coast, when fully tallied, may be well below 1,000, judging from the numbers counted so far.

The media have a natural tendency to make a big story sound even bigger than it is. Politicians and bureaucrats know that the bigger the disaster, the more money is likely to be showered on them. They are being proved right by the $60 billion in federal aid envisioned so far.

But there is a good side. Katrina was indeed a huge tragedy for the many thousands of people who were displaced and whose homes in many cases are no longer there or uninhabitable. Global media coverage arouses global compassion. Governments around the world are offering help, reciprocating for the massive U.S. effort during the Asian tsunami. NATO commanders agreed in an emergency meeting to provide ships and planes to help deliver aid to the victims.

The private sector came up with the quickest responses. Drug companies sent medicine. Wal-Mart is pitching into the reconstruction effort. Families in cities near and far are taking refugees into their homes. Money and gifts are pouring in from non-governmental organizations in the U.S. and abroad. Individual acts of heroism by helicopter crews and other volunteers who helped pull people off the roofs of flooded homes are too numerous to count.

So that brings lesson number six: While America's critics cry shame about the less-than-adequate governmental response to the needs of a poor and predominantly black community, Americans acting on their own are picking up the slack. That kind of individual initiative is what has made the U.S. a great country.

Katrina's Message On The Corps (NYT)

The New York Times, September 13, 2005

There has been much grumbling that Congress and the Bush administration denied the Army Corps of Engineers the money that was required to fortify New Orleans against a hurricane like Katrina. These complaints need to be pursued. Flood control is mainly a federal obligation, and the agency most responsible for it must have enough money to do the job right.

But there is another question worth asking: has the Army Corps made wise use of the money it has? Louisiana has received about $1.9 billion over the past four years for corps civil works projects, more than any other state. Although much of this has been spent to protect New Orleans, a lot has also been spent on unrelated water projects - a new and unnecessary lock in the New Orleans Industrial Canal, for instance, and dredging little-used waterways like the Red River - mainly to serve the barge industry and other commercial interests.

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The Louisiana delegation, second to none in bringing home the bacon, is as much to blame for these skewed priorities as the corps is. Yet the reports of wasted dollars in Louisiana are consistent with the corps's historical profile. Studies by the Government Accountability Office, the National Academy of Sciences and others have documented that the agency has long inflated the economic payoffs of its projects to justify ever greater budget outlays, while underestimating the environmental damage caused by turning free-flowing rivers into lifeless canals and destroying millions of acres of valuable wetlands. This satisfies the corps's appetite for money and Congress's appetite for pork.

Katrina thus raises an even broader question: has the time not come, finally, to impose some real discipline on the Army Corps and its paymasters in Congress who regard it as their own cookie jar?

Both the present commander, Lt. Gen. Carl Strock, and his predecessor have promised internal reforms. But the lead must come from Congress, where enlightened reformers like Senators John McCain and Russell Feingold are pushing independent peer review for individual projects and other changes that might truly make a difference.

Unfortunately, many other senators - not just those from Louisiana - are powerfully addicted to corps projects and the votes they attract, especially Christopher Bond of Missouri, who controls the corps's budget and has single-handedly kept alive a nonessential barge industry on the Missouri River at great cost to the environment and taxpayers. To discipline the corps, Congress must first discipline itself.

The Rationale For A Scaled-Back City (WSJ)

By Jon E. Hilsenrath

The Wall Street Journal, September 13, 2005

House Speaker Dennis Hastert learned the hard way the perils of kicking a city when it's down. He was quoted in an Illinois newspaper shortly after Hurricane Katrina hit saying much of New Orleans "could be bulldozed" after the disaster, and opponents quickly silenced him with accusations of callousness and heartlessness.

The hurricane has clearly shown that New Orleans is home to energy and transportation infrastructure vital to the nation's economy. It's a city with a rich history and a vibrant cultural scene (and party life) that the nation values. And it's home to nearly 500,000 people with ties to their community. All are arguments for a big effort to get the city back on its feet quickly. History has also shown that cities have a way of bouncing back after crisis. (Think of Chicago's great fire more than a century ago.)

But some economists are starting to wonder if Mr. Hastert might have had a point about caution when it comes to rebuilding New Orleans, as poorly articulated as it might have been. It's not just the city's natural disadvantages (much of it is located below sea level) that worry economists. It's also its economic position -- rampant poverty and an exodus of people and businesses even before the hurricane touched down -- and the need to avoid creating incentives that could lead to development that is no less vulnerable.

"We have an obligation to people, not to places," says Edward Glaeser, a Harvard professor who specializes in urban economics. "Given just how much, on a per capita basis, it would take to rebuild New Orleans to its former glory, lots of residents would be much [better off] with $10,000 and a bus ticket to Houston."

'Good Samaritan' Paradox

Economists have wrestled for years with how to address the economic consequences of natural disasters. Gary Becker, the Nobel prize-winning University of Chicago economist, says policy makers need to consider something he calls the "Good Samaritan" paradox. Just about everybody's inclination after disaster strikes is to help the victims. "It is hard for a country to sit by and watch people in miserable circumstances as a result of a disaster," he says. "It is not desirable."

However the help, and the promise of rebuilding, also gives people an incentive to keep living in disaster-prone places. Like Mr. Glaeser, he's for helping victims. But to limit the perverse incentives, Mr. Becker says any rebuilding of the place should come with tough love from the government, such as tight zoning restrictions in flood-prone areas and tough flood insurance rules.

He's not the only Nobel-winner arguing for circumspection about rebuilding New Orleans. "The best policy is not to permit rebuilding in New Orleans in the areas that are subject to flooding," says Edward Prescott, a researcher at the Federal Reserve Bank of Minneapolis, who famously used flood-plain relief as an example of how seemingly sound short-run policies can skew incentives in the long-run. Richard Posner, the conservative jurist who shares an economics Web log with Mr. Becker, proposes that the city come back something like Colonial Williamsburg -- a quaint tourist site that isn't really attached to a city.

Of course, the city is highly likely to be rebuilt anyway. Besides the political momentum, the naysayers shouldn't under estimate the pressure on businesses to return, says Loren Scott, a Baton Rouge economist. Chemical firms, ship builders and energy firms have huge capital investments in the area that are of no value if they're not operating. "They're going to come back very quickly," he says.

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But people might not. According to Census Bureau estimates, New Orleans's population declined by 4%, or 21,000, between 2000 and 2004, to 462,000. Among the cities with the largest populations in the nation, the only one with a larger decline during that stretch was Detroit. Some 24% of New Orleans families lived below the poverty line, according to the Census Bureau, compared to 9% nationally.

A Flight From the City

Many fled to the suburbs in search of better public schools. Some of those big investors have been fleeing as well. ExxonMobil, Shell and ChevronTexaco, for instance, have eliminated or moved hundreds of jobs to Houston in the past few years, continuing a two-decade exodus from the city. The result: Even though the energy sector is booming, New Orleans hasn't felt much of it. In 2004, private sector employment levels in the city were still below their levels of 1997.

Mr. Glaeser says very long-term issues were behind the city's pre-Katrina woes. Back in the 1840s, New Orleans was among the nation's three largest cities, along with New York and Philadelphia. Back then, water transportation was the dominant means of moving people and products, and the economy was largely agrarian. Its connection to the South and the Mississippi River made New Orleans an integral hub for commerce. Mr. Glaeser says the rise of rail travel, car travel, and industrialization over the next century changed all of that and helped to set off the city on a long, slow decline. Today's fastest growing cities, he notes, are ones like Las Vegas and Atlanta, situated for suburban sprawl and not bounded by water.

"It is a place that reached its economic peak relative to the U.S. economy 160 years ago," says Mr. Glaeser. "It certainly was not delivering a great economic future for a majority of its residents."

There is also a question of timing. Just two weeks after Katrina struck, cities like Baton Rouge and Houston are teeming with people and businesses trying to move on with their lives. By the time a reconstruction plan for New Orleans is developed and executed, thousands of people will likely have settled in somewhere else. As a reminder of how long -- and contentious -- the rebuilding process can be, four years after the Sept. 11 terror attacks on New York, the site that once housed the World Trade Center remains a scar of undeveloped land.

In these early crisis days, Washington seems in no mood for circumspection. The $62 billion pledged already to aid victims is just the first installment on a recovery bill that could reach $200 billion. But before committing billions to repairing the tragic city, these economists say policy makers should take a close look at where New Orleans has been, and make sure they don't send it back in the same direction.

The Californian Way (WSJ)

By Pete Wilson

The Wall Street Journal, September 13, 2005

LOS ANGELES -- Natural disasters, like wars, test human mettle and bring out the best in many people -- courage and selflessness, acts of heroism, and great generosity to afflicted neighbors and total strangers. Sadly, but very predictably, they also generate political opportunism and partisan finger-pointing that is worse than counterproductive. Practitioners of the "blame game" typically do far more to exploit than to assuage the pain of the victims with whom they so gaudily sympathize. Katrina has certainly been no exception, providing an especially absurd and contemptible example of charging the president with racist neglect.

Rather than point fingers, I presume to offer a few practical pointers that I hope will be useful to those who are, or may in future be, challenged to lead their constituents on the hard road back to recovery from a natural disaster.

In early 1994, a major earthquake (measuring 6.7 on the Richter scale) jolted the residents of greater Los Angeles from their slumbers and knocked houses off their foundations. Within seconds, the Northridge earthquake reduced to rubble the overpass bridges of Interstate 10, Los Angeles' major east-west artery, and thereby instantly shut down the most heavily trafficked freeway in the world. I was advised that it would require some two years and two months to repair the bridges and restore the I-10 to use. For as long as it remained unavailable, it would mean not only driver inconvenience on a dramatic scale, but delays that would translate into economic dislocation conservatively estimated to cost $600,000 per day. The interruption to the life of the nation's second largest city would be of a plainly intolerable magnitude and duration.

Instead, we completed the repairs and reopened the freeway to its normal heavy traffic in just 66 days. How? We did two things. · First, I quickly exercised the extraordinary emergency powers conferred upon the governor of California by the state Government Code. I suspended the operation of statutes and regulations which would have required the protracted public hearings called for before environmental impact reports could be filed and acted upon, and suspended other normally demanded procedural hurdles. The elimination of these legal requirements drastically reduced purposeless delays that would have impeded recovery and compounded the injury inflicted by the quake.

I cannot emphasize too strongly the need for governors to be given such clear emergency powers if they are not provided them by existing state law. · Second, we took a page from the book of private sector incentives for accelerating performance. We

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told contractors bidding to repair the bridges that they must submit bids that specified not only the cost but the date of completion, and that they must agree to an added condition: For every day they were late, they would incur a penalty of $200,000; and for every day they were early, they would be rewarded with a bonus of $200,000. The winning bidder, C. C. Myers, Inc., put on three shifts that worked 24/7. In order to prevent any delay in the work, they hired a locomotive and crew to haul to Los Angeles steel sitting on a siding in Texas. Myers made more on the bonus than they did on the bid.

Incentives work. The reward to the contractor in this instance was well worth the reward to the public in achieving restoration of critical infrastructure two years early. * * *

In New Orleans, all levels of government -- federal, state and local -- and the city's private sector leadership face a challenging threshold decision as to how, or even whether, to rebuild.

Who can say when the next Katrina will lash the Gulf Coast? Voices from outside the city have been heard dismissing the very notion of rebuilding a place that is 12 feet below sea level. In New Orleans, the critical infrastructure -- the system of levees -- is, in fact, far more critical than even the world's busiest freeway: Where prolonged loss of the I-10 severely impacted the functioning of L.A., the loss of the levees threatens the very survival of New Orleans.

I am not an engineer but have been advised that an engineering solution exists that would assure the reliability of the levees, even in the alluvial soil of New Orleans without the bedrock found elsewhere. That assurance of reliability is key, the prerequisite to the confidence that investors must feel if they are to be induced to rebuild the city and its economy. The rub is that the engineering solution is of such cost that it will challenge its advocates to justify that cost to opponents. Many will demand to know why taxpayers living outside the region should be forced to subsidize it.

Before dismissing that solution out of hand -- before abandoning New Orleans and retreating to the terrestrial, if not the moral, high ground -- we must exhaust all justifiable alternatives. I suggest that the needed super-levee solution will require a sharing of its cost between taxpayers and private investors. The public should do what it has done in the past to provide for a measure of flood protection where needed elsewhere in the nation.

Participation by private investors should be enabled by whatever state and federal legislation is required to authorize tax increment bonding to finance creation of new levees. It should authorize terms that will be able to attract pension funds and other institutional investors, while permitting the city to continue providing essential services. Purchase of the bonds would provide the front money for levee construction. The tax increment legally dedicated to redeem the bonds would be built up as new properties are increasingly built in New Orleans, continually adding new assessed valuation to the city's property tax base.

Tax increment bonding to finance the redevelopment of urban areas is a proven method of attracting private investors to replace blight with privately owned improvements that translate into a growing economy and employment base. I suggest that the same mechanism be employed to finance not only the land assembly for redevelopment of the ruined sections of the city, but also for the creation of the levees that have to be built if there is to be any rebuilding on the scale required to bring New Orleans back.

A final suggestion: I respectfully suggest that New Orleans consider creating a non-profit corporation to which it can delegate authority to act as the city's agent in making the complex real-estate deals that will be essential to redevelopment. San Diego did so when I was mayor, creating a non-profit with a paid staff and a board of volunteer real-estate and land-use professionals who possessed the expertise and time that the job required -- time which the City Council, though designated by state law as the city's official redevelopment agency, simply could not devote to it. Deals negotiated by the non-profit Center City Development Corporation were made subject to ratification by mayor and City Council. The result was that the pace of redevelopment of downtown San Diego remarkably accelerated. And the quality was so enhanced that our relatively modest public effort continues 30 years later to spur far greater private redevelopment. It has transformed a decaying core with a declining tax and job base into one of America's most vibrant and thriving urban environments.

I make this suggestion confident that New Orleans is blessed with the dynamic business and civic leaders needed to supply the same kind of motivation to the rebuilding of their city. I have seen this leadership in action. I am privileged to serve as member of the board of trustees of the National D-Day Museum, which Congress has designated as America's official World War II museum. It is located in New Orleans, not Washington. It is New Orleans' gift to America, so that our children and grandchildren will never forget that freedom is not free, but must be purchased with the courage and sacrifice of those willing to fight and die for it.

I am convinced that, given time and the right tools, that kind of leadership can be expected -- and should be given every chance -- to rebuild New Orleans and to make it even better.

Mr. Wilson, a former governor of California. is a senior research fellow at the Hoover Institution.

New Orleans Officials Criticize Cleanup, Rebuilding Contracts (WSJ)

By Jeff D. Opdyke And Christopher Cooper

The Wall Street Journal, September 13, 2005

BATON ROUGE, La. -- Underscoring tensions over who will control the agenda for the reconstruction of New Orleans, city leaders vented frustration that the federal government already has issued large contracts for initial cleanup and rebuilding without input from local leaders.

At a meeting of the New Orleans city council yesterday, held 80 miles away in a conference room at the state capitol in Baton Rouge, Councilwoman Cynthia Willard-Lewis, whose district includes heavily damaged New Orleans East and the Lower Ninth Ward, said she was outraged that decisions regarding the rebuilding of the city so far haven't included local leaders.

Councilwoman Renee Gill Pratt told the packed meeting she was "disgusted" that an Austin, Texas, company "was cleaning the convention center," using workers brought from outside the city. Council members said local minority contractors should be playing a bigger part.

"We need to rebuild our own city with our own people," Ms. Pratt said. "Our people should be back in the city, building the temporary shelters and getting the jobs."

Last week, federal agencies announced a $100 million deal with Shaw Group Inc. of Baton Rouge, for pumping of flood water out of New Orleans and other work. Other contracts have been issued for temporary housing and repairs to certain buildings. Federal contracting officials couldn't be reached yesterday.

Addressing the council, New Orleans Mayor Ray Nagin said the expected aid amounted to an opportunity to completely rebuild the city, and urged the group not to squabble over the first federal money to arrive. "We have to fight about the right stuff," Mr. Nagin said. "There's going to be enough money for everybody. We're talking about $50 billion to $100 billion over a 10-year period."

In the meantime, Mr. Nagin said New Orleans faces an acute financial crisis. "Our last payroll was the last cash we have," Mr. Nagin said. "We're trying to get a line of credit from the federal government....We have no money."

In comments yesterday, President Bush tried to assuage concerns that the federal government will dictate how New Orleans will be rebuilt. "My attitude is this: The people of New Orleans can design the vision; the people of New Orleans can lay out what New Orleans ought to look like in the future; and the federal government will help," he said as he concluded his visit to the city. "I think the best policy is one in which the federal government doesn't come down and say, 'Here's what your city will look like.'"

Yesterday's council meeting followed a gathering Saturday in Dallas during which about 40 prominent New Orleans business representatives and professionals offered support to Mr. Nagin, according to people who were present.

William Grace, who helped organize the meeting, said the businessmen made it clear they wanted Mr. Nagin, who attended, to urge the federal Centers for Disease Control to determine as soon as possible whether there was a health risk to opening lightly damaged parts of the city, such as the French Quarter and the central business district. Mr. Nagin promised to consult with the CDC quickly, Mr. Grace said. He said the group emphasized that they considered the first phase of the disaster over and wanted to return. Separately, New Orleans officials began efforts to allow business owners to cross military checkpoints into the city. "In certain areas, everybody wants to get back in there," Mr. Grace said. "Let's do it quick."

Mr. Grace said the meeting included a briefing from Entergy Corp., a New Orleans utility, reporting that the city's core is ready to be electrified, once workers check the areas for gas leaks. Mr. Grace said the group also pledged financial support to create a panel or hire an overseer to steer the rebuilding effort. He said he personally favored creating a czar position. "You can't run a rebuilding effort by committee," he said.

Out Of The Flood Zone But Floating In Limbo (WP)

By Lynne Duke

The Washington Post, September 13, 2005

BATON ROUGE -- "I'm not in control of my life." It is the mantra of this era of post-Katrina, of Catastrophe. Loss of control: It hits Mary Kay Caiado, 45, when she tries to reclaim some sense of normalcy and finds herself facing things once unknown to her, like food stamps and laundromats.

So she's here to regroup at Starbucks. It's a vestige of her old life. A change of scenery from the Salvation Army food lines, the hotel room that is her family's new home. She has come with her daughter, mother, father, brother-in-law, niece and husband, Edward, 53.

He is at a WiFi terminal, online, trying to check their banking situation and getting more agitated as he thinks about returning to their home on Long Branch Drive in Marerro, just outside New Orleans, to stand watch for fear of looters. A retired Marine and Vietnam vet, he's in "hyper-vigilance" mode, his wife says. And you know what she means when he declares, "I'd like to buy a shotgun." (And later in the day goes off to a local gun store and picks out a pump-action Winchester.)

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Caitlin, their 13-year-old daughter, mourns her jazz dance classes. "Kendall's Dance Academy," her T-shirt says. And high school -- one week and two days of the eighth grade, before Katrina hit. She misses the friends now gone -- to Texas, Florida, Atlanta. And the Siberian husky her dad gave her for her 10th birthday: He could not fit with her and her mom and grandmom, Sylvia Bourgeois, 67, in their room at the Holiday Inn. They gave Cirocco away to a local family.

"I cried because I love that dog so much," Caitlin says.

Caitlin's cousin, Mia Trupiano, laments the band, swim team and drama club she won't be participating in for her senior year of high school. She, like Caitlin, is waiting to hear which local school will take her.

"You can't adjust, because you're just kind of, like, floating."

Her dad, Frank Trupiano, a crisis counselor, says they feel like they're "on a desert island even in the middle of civilization."

That's the rub. Civilization's all around, but the crisis of Katrina left them disconnected, unplugged. Off the grid.

Where's the mail? Where's the new school? Where's life going to land them?

Folks like them have been evacuated to cities and towns across the nation, but here in Baton Rouge they have nearly doubled the population. Federal, state and local agencies are swamped with applicants for various kinds of aid. Internet cafes, too, have drawn hordes of people searching for a way out of their mess, a way to reconnect with the grid of life they knew.

You can see them, huddled over stacks of papers or yellow legal pads. They are, often, the ones with tears in their eyes, desperation on their faces.

The Caiados aren't quite there yet.

She's a native, from a long line of French and Italian New Orleanians. He's Argentinean, raised in the United States since infancy. She is a bank officer; he is retired military and law enforcement. They have some means, though not enough for food stamps to be out of the question. Through FEMA, her company and the Red Cross, she'll patch together the funds to cover the cost of the Holiday Inn that's home for the foreseeable future.

Not knowing when they'd be allowed to move back into their home, Mary Kay Caiado tried to buy a new home up here in Baton Rouge. That's how she learned the family's hefty home equity line of credit had been cut off -- probably for fear their collateral (on Long Branch Drive) had been destroyed.

It's overwhelming, this post-Katrina life.

"You have every problem you'd have in a 10-year period in one week," she says.

"I think I'm suffering from PTSD 'cause I'm like a cat on a hot tin roof."

But actually their home isn't destroyed. Not at all. Eddie Caiado returned after the hurricane to assess the damage. The lovely brick-fronted home with blue siding still stands, virtually unscathed. In the Holiday Inn, he shows pictures of the house on a CD-ROM. He's done this every time a big storm approached the Big Easy: records the before-and-after images for insurance claims adjuste rs.

That's what you do (or did) in New Orleans: be ready.

"This goes to his hyper-vigilance. He's prepared to lose everything," his wife explains. He seems amused as she speaks.

So they made reservations at the Holiday Inn here and fled there before the storm -- at least most of them did. The Caiados and Mary Kay's mother decamped to the Holiday Inn. Mary Kay's in-laws, the Trupianos, went to another relative's, though Sandy Trupiano, her sister, stayed behind in New Orleans with the medical technology staff she supervises at a hospital. Frank Trupiano and his father-in-law, Joseph Provenzano, 70, ended up stuck in a truck when Katrina hit. They finally made it to Baton Rouge to join the rest of the clan.

Provenzano, a rotund gentleman who owns about 60 rental properties in New Orleans, struggled in the days after the storm to understand what he'd lost. Mary Kay tried to tell her father he wouldn't be receiving the income he once had from his real estate holdings.

"He kept saying, Well, they're not going to live in my places without paying rent," says Mary Kay. She had to tell him: Dad, there's no one there. The city's emptying out.

Mary Kay's mom, who is no longer married to Provenzano, lost property, too. Her Jefferson Parish home is flooded, ruined. Good thing she'd already taken a trove of family photos when she evacuated before the storm, along with jewelry that had been packed since Hurricane Cindy in 1999.

On a post-storm return visit, Bourgeois found mold growing over her furniture and up the walls. She grabbed her mink and a few good clothes. All that's in the trunk of her long black Lincoln Continental parked near the Caiados' truck outside the Holiday Inn where the Salvation Army serves meals.

Home. For now.

They tried to play Scrabble.

"We couldn't concentrate," says Bourgeois.

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The small desk in their room now is their kitchen counter, crammed with breads and spreads and chips and fruit. Caitlin's standing there later in the afternoon fixing her dad a ham-and-cheese sandwich.

"Nothing like starvation and mental depression to get that diet," Eddie Caiados jokes.

He suffered from post-traumatic stress disorder after a year in Vietnam, Eddie explains, and recently was treated for cancer. He's a gung-ho veteran, flying the big red Marine Corps flag from his home and sporting USMC floor mats on his car.

He's been thinking of Nam more and more of late, reminded of it by the smell of diesel fumes from all the military vehicles, by the smell of decaying food and flesh, by the thwop-thwop of those search-and-rescue choppers coursing overhead.

It's good that he can be elsewhere, because "he doesn't do well around people in closed situations," says his wife of 21 years.

Plus, he's got to have his own private "potty time," he jokes, much to his wife's horror. Caitlin rolls her eyes at her dad's off-color humor.

He's been losing weight, going back to the house to sit vigil, with no protection (till the shotgun arrives) and no electricity, until it finally returned on Sunday. He's spent his days cutting up a tree that fell and clipped a small corner of the roof. He's been clearing the brush and otherwise showing his face in fear that a home left abandoned is a home to be picked clean by looters.

That's the new normal for this family: staying vigilant amid a tangled new existence. Gone, for now, are those mundane old pastimes -- playing with the dog, going to dinner.

But parts of the old normalcy survive, like Caitlin's lime-green fixation: lime-green flip flops, sneakers, backpack, luggage even lime-green curtains back in her room at the house in Marerro.

And so the girl in the lime green steps into a new normal: laundromat time.

"I'll donate a quarter," Caitlin laughs sweetly as her mom lifts the laundry basket and steps outside in the sun to put it in the big Lincoln.

"Mom, you're too old to be in all that heat," Caitlin chides.

And to her own mom, Mary Kay says, "Mama, be mindful that some of those are four-load ones," sounding as normal as can be.

A Return To The Big Easy Begins (CSM)

By Kris Axtman

The Christian Science Monitor, September 13, 2005

NEW ORLEANS - Nita Hemeter drove back to New Orleans after vacationing in Italy during the hurricane. At each checkpoint, she told officers that she needed to rescue her two dogs and four cats that were left behind. But once she got home and found them safe, she realized that the water had receded entirely in her neighborhood and she could do more good inside the city than out.

So she spends her days alternating between cleaning up her mildewing west side home and "breaking into houses" to leave food and water for pets left behind.

Although New Orleans is still under a mandatory evacuation, a growing number are defying orders and returning with nothing more than their driver's licenses and a desperate story. Most are being let back in, though they're told to get what they need and get out.

Whom to let in and whom to keep out is adding to the tension between residents left in limbo and government officials trying to clean up and restore order to a city that has essentially become a military zone.

There are signs of return to normalcy. The city's airport reopened for cargo traffic Sunday and limited passenger service is planned to begin Tuesday. Officially, the New Orleans Police Department (NOPD) is set to issue temporary weeklong badges to residents with valid reasons for returning.

Unofficially, those manning checkpoints have been letting many residents through with simply a wave and a "good luck."

Steve Barrera says he simply showed his driver's license and he was waved through - no explanation necessary.

He is cutting up downed trees with a chain saw in front of his house and plans to stay as long as he can. His other option is sitting in a Shreveport, La., shelter. "At least this way, I can help repair some of this damage," he says. "It's going to be a long time before the city does anything."

With the vast majority of New Orleanians cleared out, there is plenty of food and water to go around, say those who are staying. While law enforcement doesn't want them there, they routinely come by to check on them and leave supplies.

Others are simply coming to get what they need and getting out. While no amount of news reporting has prepared them for what they are seeing, many believe much of the official information being disseminated - such as health risks, dangerous conditions, and flat tires - is simply a way to scare them into not coming back.

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"There are no health risks in this area," says Caroline Barton, a doctor who used her work badge to get in and check on her west side home. "They should let everyone south of St. Charles Street come back in."

Privately, many residents admit that such a policy could spark even more complaints about racism, since most of what is dry is populated by whites, while much of the black east side is still underwater.

At a checkpoint on River Road, Heath Martin with the Springboro, Ohio, police is waving vehicles through. He estimates that a third of those he is letting through are residents with driver's licenses to prove it. Permission to allow them in has come from the NOPD, he says, with the stipulation that they get what they need and come right back out.

But the official word from the city is that those trying to return are to be turned back. "There is still a mandatory evacuation in the city of New Orleans," says Capt. Martin Defillo with the NOPD. "We won't physically force anyone out of their homes, but anyone who stays is in violation of that order. And those trying to return are not being allowed back in."

Resident Kevin Schoenberger understands the city's position. But "keeping people from their homes and businesses is really a hardship," he says. After talking his way in, he is spending the day cleaning out his refrigerator, gathering a few clothes, and packing up the SUV he left behind.

While law enforcement officers patrolling the neighborhood routinely warn Ms. Hemeter of the dangers of staying, she says she has never felt safer in her adopted home of New Orleans.

In fact, with her red curls poking out from under a safari hat, she has begun to make new friends with the few who are left. Fred Robertson, for example, has offered her a place to sleep so she's not alone at night. His house is several blocks away and she simply pedals her bike there, dropping dog food along the way.

"I've been telling everyone I know to come back. It's not that bad," she says, filling an overturned trash can lid with fresh water for neighborhood pets. "It's sorta like camping out."

For Holdouts, Food Rations May Disappear (NYT)

By Michael Luo

The New York Times, September 13, 2005

NEW ORLEANS, Sept. 12 - "They want to starve us out, is what it is," said David Jaurequi.

Mr. Jaurequi, 50, a guitarist, and his wife, Kay Vereen, 59, a bar owner, are among the holdouts here.

In recent days, city officials have increased the pressure to leave by cutting off the military-style rations that many have been living on, a National Guard spokesman said.

"Our commanding general put that out at the request of the New Orleans Police Department," the spokesman, Maj. Arnold Strong, said of the order not to distribute food.

But Maj. Amy Hannah, a spokeswoman for the task force that represents the active-duty military side of the hurricane response, said members of the 82nd Airborne Division and other soldiers would continue to provide the meals.

City police officials declined to comment, releasing only a statement, which read in part, "With respect to residents, we strongly encourage them to leave the city because they are in violation of the mandatory evacuation order."

But it seems clear that a shift has taken place. Guardsmen had been handing out rations near the convention center, but residents who went there over the last few days were told that food would not be available.

For some people, the rations have become a lifeline; for others, a treat amid tuna fish and other nonperishable food.

"It's like you're sitting at a Denny's and you're looking at the menu," Ms. Vereen said of the rations.

Water Levels Down Sharply In New Orleans (LAT)

By David Zucchino

The Los Angeles Times, September 13, 2005

NEW ORLEANS — Water levels dropped precipitously Monday in the worst of the flooded neighborhoods in and around New Orleans. Areas that had been under 6 to 8 feet of water less than two days earlier were dry at dawn, with ooze now smearing the streets and water collecting at low, marshy spots.

For the first time in the 8th and 9th wards in East New Orleans and Mid-City neighborhoods, search and rescue crews were able to patrol on foot. By midday, National Guardsmen and Marines said they had found several corpses inside homes that had been inaccessible until today.

In the city's lower 9th Ward, thousands of once-flooded homes bore brown watermarks that documented the systematic dropping of water levels. Marines, who on Saturday had patrolled neighborhoods in amphibious vehicles that floated atop floodwaters up to 8 feet deep, were patrolling on foot today, the slick mud sucking at the bottoms of their rubber boots.

"The water's gone down so fast, we can't keep up with it," a Guard staff sergeant said on North Claiborne Avenue in the lower 9th Ward. "It's like the whole place dried up overnight."

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National Guardsman manned checkpoints as Marines wearing long green rubber gloves went house to house, knocking on doors and shouting for survivors. No one has been found alive in three days in the ward, said Lt. Col. Kent Ralston, whose Humvee was able to negotiate streets that had required amphibious vehicles two days earlier.

Marines on foot patrols said they found two decaying corpses inside homes in the ward. In the 8th Ward, Oregon National Guardsmen said they had found two more bodies, also inside homes. Five corpses discovered by Marines on Saturday remained tethered to fences and trees, swelling in the late summer sun.

At the corner of Reynes and Marais streets in the lower 9th Ward, three National Guard soldiers said they had been waiting three hours for a private mortuary contractor working for FEMA to arrive to remove the body.

At the corner of Flood and Johnson streets, the arm and leg bones were visible on the corpse of a man whose ankle was snagged on a tree branch, his torso slung over a fence.

On St. Claude Avenue, the sodden body of a woman lay face down in the mud. Two days earlier, it had floated on top of five feet of water.

In the 8th Ward, in a home at Desire Street and North Claiborne Avenue, Guard soldiers found the body of a middle-aged man on the living room floor. Flood marks on the tiny clapboard house showed that floodwaters had at one point risen above the front porch, about 5 feet high. A small white terrier, smeared with mud, lay on the porch, panting in the heat.

In the 9th Ward, Guard soldiers went house to house, peering into doors and windows to make sure no one was inside. They moved quickly, spraying "NG" and "9/12" in bright green paint to signify that each house had been inspected by the Guard on Monday.

The receding waters made it easier for Marines to make sure that no one alive was still inside homes, Ralston said.

"The water was so high before that we couldn't get a good look inside the houses," Ralston said. "Now we can do a more thorough search."

Ralston said Marines, who have no law enforcement powers, are not permitted to break into and search homes. They were told to look through windows and doorways, and to report the addresses or GPS coordinates of any home containing a corpse.

One Marine, sloshing through slick mud, said he was tired of squinting through mud-smeared windows. "We should be kicking these doors in," he said.

Signs of cleanup and debris removal were everywhere.

National Guard soldiers stripped off their camouflage uniform tops and used chain saws to cut up huge trees that had collapsed into roadways or across roofs. Men in Bobcats and skip loaders tore into the dark sludge on roadways to clear the way for cleanup crews, then shoved debris to the roadsides.

Tangles of downed power lines snarled the streets in the 8th and 9th wards, snagging on the tops of passing National Guard trucks. Several houses that had been torn from their foundations by floodwaters had floated to the middle of streets and settled there, blocking cleanup crews. The neighborhoods stank of rotting garbage, stagnant water and decaying corpses.

In Violet, a town in the southern region of flood-ravaged St. Bernard Parish, backhoes scraped their blades up and down Highway 39, shoving aside gooey mud left by retreating floodwaters. During President Bush's visit to the parish Monday, the parish president told him that not a single house in the parish was habitable.

Hundreds of dogs, freed at last from once-flooded homes, roamed alleys in many neighborhoods, barking wildly at passing Marines and Guard soldiers.

In the 7th Ward in Mid-City, volunteers from the Animal Rescue League of Boston rounded up dozens of dogs and cats that had wandered down from porches, where they had been marooned by floodwaters for 15 days. The volunteers had arrived with boats, expecting to navigate floodwaters, but then dismounted in heavy rubber boots and chased down animals.

"We can get a lot more done on foot, so I expect we'll be able to get to a lot more animals," Brian O'Conner of the rescue league said as volunteers provided water to dehydrated cats and dogs collected at a muddy gas station lot.

Also in the 7th Ward, New Orleans police Officer D.M. Fernandez was on a cellphone outside Mule's Bar this morning. He was calling a retired police officer who owned the flooded establishment to tell him that someone had broken in and stolen his liquor.

The receding floodwaters apparently gave foot access to the thieves in a neighborhood that was under several feet of water 24 hours earlier. Up and down 7th Ward streets, sodden homes stood deserted, with hundreds of residents' cars parked at crazy angles, watermarks staining their roofs.

Most streets were littered with tree limbs and debris, but were passable despite black mud that clung to car tires.

"The water was 3 feet high here," Fernandez said, standing outside the bar in the middle of La Harpe Street. "Everything dried out real good."

Airlines To Return To New Orleans (USAT)

By Thomas Frank

USA Today, September 13, 2005

KENNER, La. — Passenger flights return to New Orleans this morning after a 16-day hiatus but on a drastically reduced schedule.

Only Northwest Airlines plans to start round trips today with two flights to Louis Armstrong New Orleans International Airport from Memphis. The airline will add a round trip from Minneapolis and one from Detroit on Monday, spokeswoman Jennifer Bagdade says.

Delta Air Lines, the second-largest carrier at New Orleans, will resume service with two round trips from Atlanta on Wednesday and on Thursday. Starting Friday, it will expand to five Atlanta round trips and one from Cincinnati.

Southwest Airlines, which has been the airport's largest carrier, has not made a decision on restarting service.

Continental Airlines plans to resume service Monday. Three of its four scheduled flights from New Orleans to Houston are sold out, spokesman David Messing says.

Thousands of airplanes and helicopters have flown in and out of the airport in the past two weeks, bringing in relief workers and supplies and evacuating people who got medical treatment in the terminal. As many as 5,000 medical and military personnel have lived in the airport during that time.

As the relief effort at the airport scaled back in recent days, airport aviation director Roy Williams pushed to open two of the four concourses for commercial flights during the day, the only time the airport is operating. The airport has lost $180,000 a day in landing fees and rent from businesses in the terminal since Hurricane Katrina hit, Williams says.

“There's a real question of what the demand will be in the first few weeks,” Williams says. But, he says, “It's very important that the airport is up and running.”

Situated about 8 miles west of downtown New Orleans and more than a mile south of Lake Ponchartrain, the airport avoided extensive wind and water damage from the hurricane.

But it could be hard for the airport to return to its pre-hurricane level of 175 departing flights a day. About 80% of New Orleans-bound passengers came for vacation, conventions or meetings, Williams says.

Since Katrina, some airlines have added flights to Baton Rouge Metropolitan Airport, about a 90-minute drive from downtown New Orleans.

Williams expects to have “all the major” carriers operating at the airport within a week but couldn't says when rental car companies and concessionaires will return.

Only a newsstand will be open in the terminal today, airport spokeswoman Michelle Duffourc says.

Officials at Southwest, which typically handles about 30% of New Orleans' passengers, toured the airport Monday.

Mercy Flights For Hurricane Katrina Evacuees Suspended (ChiTrib/KRT)

By Richard Wronski And Jeff Long

Chicago Tribune, September 13, 2005

CHICAGO - (KRT) - After flying thousands of Hurricane Katrina evacuees to shelters across the country, federal officials on Monday suspended their mercy flights, saying they're no longer necessary.

"The need for airlifting has been met," said Valerie Smith, spokeswoman for the Department of Homeland Security. Most remaining evacuees chose to stay in the Mississippi, Louisiana and Texas areas to be closer to family and friends, officials said.

Those who still must be relocated will be transported by bus, Smith said.

In the past week, more than 300 displaced hurricane victims have been flown to facilities in Illinois. Gov. Rod Blagojevich's office, which pledged to accommodate up to 10,000 evacuees, said another 4,000 Katrina victims came to Illinois through other means.

As evacuees settled in Monday at several facilities in Illinois, some began making preparations to rejoin family and friends in other states.

Others said they may make Illinois their new home.

"I plan on staying here for a little bit because I know the city of New Orleans won't be around," said Harry Ray, 45, who was plucked from the Crescent City's floodwaters by a U.S. Army helicopter and wound up at the Elgin Mental Health Center.

Although grateful for the help provided by Illinois residents, Julie Norwood, 49, said she was eager to get to her sister's home in Atlanta. And Floyd Rachel, 27, said he'd rather be with friends in San Francisco.

"I thank the good Lord that I made it this far," Rachel said.

They were among 31 evacuees who landed at O'Hare International Airport Sunday afternoon. Later Sunday, about 50 others arrived in Rockford, one of the last airlifts.

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More than 26 states and the District of Columbia have taken in tens of thousands of evacuees. The Federal Emergency Management Agency estimated that 604 shelters across the United States were housing 134,573 people as of Sunday.

Evacuees at the Elgin Mental Health Center recounted harrowing tales of survival. Ray told of scurrying to the upper floor of his apartment in New Orleans, where he remained surrounded by water for 11 days.

Norwood said she and dozens of others lived in a mausoleum, just a few feet from crypts containing the bodies of her relatives.

But the evacuees woke up Monday in comfortable beds with clean sheets and curtains at the windows. They picked out new clothing from racks loaded with pants and shirts.

After a breakfast whipped up by culinary arts students from Elgin Community College, evacuees went shopping at Wal-Mart.

At the Singer Mental Health Center in Rockford, Ill., officials said the evacuees were trying to unwind.

Gwendolyn Jackson, 47, of New Orleans, was making arrangements to join her 24-year-old daughter, who fled to Chattanooga, Tenn., shortly before Katrina hit.

Jackson was trapped in a school in New Orleans. Like many evacuees, she said she wasn't aware of how bad things were in the city until she came to Rockford and got a chance to watch television.

"We just got quiet. The attention was there on the TV," she said. "You'd see the tears drop from people's eyes."

At the Tinley Park Mental Health Center, where 95 evacuees arrived last Wednesday, director Mike Beary hoped to find a retired executive who could serve as manager. He also needed people with clerical skills to handle the volumes of relief paperwork, as well as male volunteers who can staff the men's quarters on overnight shifts.

FEMA teams had arrived at the Madden Mental Health Center Monday to begin assembling case management plans for the estimated 51 evacuees residing in two pavilions at the center in Maywood, said Diana Meyers, administrator at Madden.

Alfred Jones, 30, from Jefferson Parish, wants to find a warehouse job in Rockford and start his life there.

"I'm going to settle down in this area," said Jones, who was rescued from his flooded apartment building. "The opportunities around here are sounding better by the second."

45 Bodies Found In A New Orleans Hospital (NYT)

By Kirk Johnson

The New York Times, September 13, 2005

NEW ORLEANS, Sept. 12 - The bodies of 45 people have been found in a flooded uptown hospital here, officials said Monday, sharply increasing the death toll from Hurricane Katrina and raising new questions about the breakdown of the evacuation system as the disaster unfolded.

Officials at the hospital, the Memorial Medical Center, said at least some of the victims died while waiting to be removed in the four days after the hurricane struck, with the electricity out and temperatures exceeding 100 degrees.

Steven L. Campanini, a spokesman for the hospital's owner, Tenet Healthcare, said the dead included patients who died awaiting evacuation as well as people who died before the hurricane struck and whose bodies were in the hospital morgue.

Mr. Campanini said the dead might have also included evacuees from other hospitals and the surrounding neighborhood who gathered at Memorial while waiting to evacuate the city.

Repercussions from the storm continued to echo in Washington, where the director of the Federal Emergency Management Agency, Michael D. Brown, a walking symbol to many people here of government failure in the crisis, resigned. Mr. Brown was relieved of his role in the day-to-day disaster operations here on Friday. [Page A26.]

President Bush, meanwhile, toured the ghostly streets of the city standing in the back of an open-air truck flanked by the mayor of New Orleans and the governor of Louisiana, who have been sharply critical of the federal performance.

In Baton Rouge, 1,000 people from the devastated St. Bernard Parish, just east of New Orleans, crowded the State Capitol and were told that memories of their community might be all they have left.

Flights were set to resume at the Louis Armstrong New Orleans International Airport, and city officials said they were creating a new command center downtown at a closed hotel.

Mr. Bush's appearance with Mayor C. Ray Nagin of New Orleans and Gov. Kathleen Babineaux Blanco, both Democrats, suggested that at least some of the bitterness over the response to the disaster had lifted.

On Mr. Bush's most recent visit to the stricken area, on Sept. 5, Ms. Blanco learned that he was making the trip from news reports.

The president, in a brief question and answer session with reporters after his tour on Monday, said that government coordination in rebuilding the city and the region was paramount and that local vision should determine the direction of the reconstruction. "It's very important for the folks in New Orleans to understand that, at least as far as I'm concerned, this great city

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has got ample talent and ample genius to set the strategy and set the vision," Mr. Bush said after his 40-minute tour. "Our role at the federal government is, you know, obviously within the law, to help them realize that vision. And that's what I wanted to assure the mayor."

Mr. Bush also returned to accusations that racial discrimination was involved in government's response to the hurricane, saying "the storm didn't discriminate" and neither did the rescuers.

Mr. Nagin and Ms. Blanco have said federal delays in sending aid had compounded the damage of the storm and heightened the anarchy in the days after the storm, when tens of thousands of people were trapped for days at sites like the Convention Center and the Superdome without food or water.

Mr. Nagin said in a radio interview Monday, when asked about his meeting with the president, "If anything, he told me he kind of appreciated my frankness and my bluntness."

The news that 45 bodies had been found at Memorial was also a reminder of how much else, in the physical structure and in the human toll, might yet remain unknown.

On Monday, the authorities elevated the statewide death toll from Hurricane Katrina to 279; of those, 242 were from the New Orleans metropolitan region. In Mississippi, Gov. Haley Barbour said the toll there was 218.

In Baton Rouge, there were more reminders of the thousands of people who may have no community to return to at all.

More than 1,000 displaced residents from St. Bernard Parish crowded the State Capitol to learn about the state of their devastated houses. No one has been permitted to re-enter the area to retrieve belongings or examine their houses. News of the meeting traveled by word of mouth and Web sites, and people lined up for blocks outside the Art Deco Capitol, where Gov. Huey P. Long was assassinated in 1935. Some drove from Houston.

Local officials did not try to hide the bad news.

"You will not recognize St. Bernard Parish," the parish president, Henry J. Rodriguez Jr., told hundreds of residents in the marble foyer of the Capitol. "All you will have left of St. Bernard Parish is your memories."

Mr. Bush also saw the devastation first-hand on his tour of New Orleans. His tour passed by smashed cars, tree branches and rubble.

For most of the ride, Ms. Blanco, Mr. Bush and Mr. Nagin stood in a military truck and had to duck under low wires and branches. At one point, Vice Adm. Thad W. Allen of the Coast Guard, who succeeded Mr. Brown last week as head of hurricane relief, removed his Coast Guard cap to shield Mr. Bush from a wire.

City officials said they had moved most of the makeshift emergency operations command center that they had set up at City Hall since the storm arrived across the street to a battered Hyatt hotel, where power has been restored and Mayor Nagin keeps a suite.

In Ballroom E on the third floor of the hotel, 100 computer stations were set up at pods of circular tables to handle 24-hour work by groups like the New Orleans police, 82nd Airborne Division of the Army, the Coast Guard, National Guard and public health officials.

Edward Minyard, a contractor with Unisys who is in charge of setting up the center, said the operation was very likely to grow to as many as 500 positions, meaning as many as 1,500 people working in shifts around the clock.

In Harrison County, Miss., in the Gulfport-Biloxi region, a list of 600 missing persons was distributed by the coroner's office, though authorities emphasized that the people on the list were not necessarily missing. The names are of people who have been sought by family members.

"We have rescued everybody that we think could possibly be rescued," said Joe Spraggins, the head of emergency management for the county.

Gulfport-Biloxi International Airport, which began running commercial flights at the end of last week, expects to return to its regular flight schedule in two weeks, Colonel Spraggins said.

Delta, Northwest and AirTran Airlines plan to begin operating limited schedules on Tuesday, he said. Northwest said it would resume scheduled commercial service to the New Orleans airport on Wednesday, with its first inbound flight in 10 days scheduled to arrive from Memphis at 10:44 a.m. Repairs began on Monday on the Twin Span Bridge on Interstate 10, connecting New Orleans and Slidell. Within 45 days, the eastbound span is to be repaired, providing one lane of traffic in each direction.

45 Bodies Found In La. Hospital (WP)

By Doug Struck

The Washington Post, September 13, 2005

NEW ORLEANS, Sept. 12 -- The bodies of 45 patients left in a hasty evacuation were recovered from a New Orleans hospital, officials said Monday, as the city braced for the scenes left by the receding waters.

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The news of the grim recovery at the Memorial Medical Center, the largest such discovery since Hurricane Katrina struck, came hours after President Bush completed a tour of parts of the city and spoke to local officials. He defended his administration's record, even as the chief of the federal emergency agency, Michael D. Brown, said in Washington that he was resigning after being yanked off the hurricane relief job three days ago.

Bush said that he will name R. David Paulison, now U.S. fire administrator and director of preparedness for FEMA, to lead the agency. A poll showed that Bush's standing reached a new low and that a majority of Americans disapprove of his response to Katrina.

Wrapping up his two-day visit, Bush saw a city trying to struggle back to life. But while the higher and drier downtown area buzzed with the sounds of generators and cleanup, vast swaths of the city remained a devastated frieze of dried mud, broken homes and foul stench.

Officials said the bodies found Sunday in the Memorial Medical Center were left there after a frantic evacuation, days after the storm passed and floodwaters began to rise. An official of the hospital owners said the patients died before the evacuation and their bodies were left in the facility.

But the discovery was certain to raise new questions about why so many city hospitals were not evacuated before the storm. Two medical professionals inside the Memorial Medical Center said conditions began to turn desperate shortly after the floodwaters cut off roads. The darkened corridors were jammed with families. Drinking water grew scarce. Medical supplies exhausted quickly; even IVs were being rationed, they said.

"Things looked like they were going downhill quickly," said Scot Sonnier, an oncologist there. He left before the evacuation, thinking other doctors were handling it, he said.

The city braced for more grim discoveries as the receding waters allowed search parties to reach isolated buildings. But the death toll -- 279 for Louisiana -- was still far below the initial prediction of the city's mayor that 10,000 perished.

"It's hot. It smells. But most of the houses we are looking at are empty," Oregon National Guard Staff Sgt. James Lindseth, 33, said as his platoon, inspecting for people dead or alive, worked its way through dank and broken homes that had been in the water a few days ago.

In New Orleans's downtown, most of it on higher and drier land, authorities allowed business owners to check their buildings Monday. Dump trucks with claws plucked the growing piles of debris from street corners and the air rumbled with the sound of generators.

"The least we can do is clean up our own streets," Wallace Kimbrough, 43, said as he pried debris out of the storm drain beside his home in the French Quarter. "Hey," he exclaimed, holding up a plastic bag he pulled from the muck. "Somebody lost their marijuana seeds."

In some of the outlying parishes, local school boards announced plans to restart classes next month. Louis Armstrong New Orleans International Airport said it will begin operating commercial flights on Tuesday, joining the traffic of helicopters, cargo planes and private charters bringing relief supplies.

Roy A. Williams, the airport's director of aviation, said the rush of evacuees has ended, and Delta, Continental and Northwest have said they want to resume flights to their hub cities.

But just outside downtown, large swaths of New Orleans remained lifeless and still. The growing concert of working pumps had brought the flood down to less than half the city by Monday, although water was seeping through a previously repaired levee. Brig. Gen. Doug Pritt of the Oregon National Guard described it as a minor leak, the Associated Press said. But areas that emerged from the muck remained images of devastation.

There, the homes were draped with trees plucked and flung by the storm. Cars lay overturned; appliances have been ripped from their moorings and thrown onto streets and bridges. The retreating water shone multicolored with oil, and when disturbed, released an overwhelming stench. The air smelled of rot and decay.

Officials of St. Bernard Parish, a poor, racially mixed area east of downtown, told residents in a meeting in Baton Rouge that the homes there would likely not be habitable for four months. Just north of that parish, near the Lakefront Airport, Gene Giroir, 65, pried open the front of his hardware store for the first time in two weeks. The contents lay in a dark, soggy ooze on the floor.

"The only thing left were things hanging on the wall above four feet. That's how high the water got," he said.

He owned the store with his brother and brother-in-law. "This was our living. I've been here since 1949. I grew up in this business, and I don't know whether I want to do it all again," he said.

The president's visit caused little wake on the streets. Many workers and residents said they had only vaguely heard he was coming. Several shrugged. Most said they were too busy or preoccupied to care.

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While Bush was traveling, Brown's resignation was announced in Washington. Brown had become the focus of anger for the slow federal mobilization after the storm savaged the Gulf Coast two weeks ago, unleashing a flood that engulfed most of New Orleans and flattening entire communities in Mississippi and Alabama.

In a written statement, Brown said he told Bush that it is "important that I leave now to avoid further distraction from the ongoing mission of FEMA." Homeland Security Secretary Michael Chertoff said he will name a permanent deputy director at FEMA, a new position for the agency.

Brown's departure was greeted with glee by Democrats. "Mike Brown's decision to resign from FEMA is the best decision he's made in three weeks," said Democratic National Committee Chairman Howard Dean.

The announcement of the grim find of bodies at Memorial Medical Center came after the president had left New Orleans.

The hospital, located in the center of the city, had fared the storm pretty well, said Sonnier, who rode out the hurricane at the hospital with his fiancee, Zoe Larner, a hematologist. But after the storm passed and news came of a broken levee, Sonnier said things became grim. Medical supplies were dwindling quickly, and the hospital's emergency power left the hallways dim. The hospital hallways were crowded with families of patients and staff, and soon came reports of looting and lawlessness, he said.

"Things looked like they were going down quickly," he said.

After two days, he waded to his nearby house, where Larner was listening to reports to evacuate the city, Sonnier said he did not know whether he could get back to the hospital, and he believed there was an emergency team of doctors to care for the patients. "I had a feeling things were going bad, and the best thing to do was get out of town," he said. Shortly after, he said, the hospital was evacuated.

Bob Johannesen, a spokesman for the state Department of Health and Hospitals, said the bodies of 45 patients were recovered from the hospital Sunday, although Dave Goodson, an assistant administrator, said the toll was 57, according to the AP.

"These patients were not abandoned," Goodson said. He said they had died before the evacuation. A spokesman for Tenent Healthcare Corp., which owns the hospital, told the AP that some of the people found Sunday had died before the storm, and the others died before the evacuation, which other officials said was done by boats. Many of the patients were in long-term acute care for people with serious ailments, he said.

Several medical care facilities became the site of chaos as the floods rose, with reports of looting and holdups for drugs inside the hospitals. One facility had to post a police sniper on the roof to keep order.

Sonnier said he assumed the emergency team of physicians left in the hospital would carry out the evacuation. But in an interview outside the eight-story brick facility, he said, "I will always have well, not regrets, but concerns over whether I did the right thing."

At Least 40 Bodies Found In New Orleans Hospital (WT/AP)

By Brett Martel, Associated Press

The Washington Times, September 13, 2005

NEW ORLEANS -- The bodies of more than 40 patients found at a flooded hospital drove up the death toll in Louisiana yesterday to 279 and pushed the tally of lives taken by Hurricane Katrina in four states past 500.

The patients, many of them elderly, had died while waiting to be evacuated in the four days after the hurricane hit as temperatures in Memorial Medical Center rose to 106 degrees, said Dave Goodson, assistant administrator of the hospital, owned by Tenet Heathcare Corp.

"These patients were not abandoned," Mr. Goodson said.

Meanwhile, more than half of southeastern Louisiana's water-treatment plants were up and running again yesterday, and business owners were issued passes into the city to retrieve vital records or equipment as New Orleans continued to stir back to life.

President Bush, in his third trip to the ravaged region, got his first close-up look at the destruction in New Orleans yesterday, taking a tour that took him through several flooded neighborhoods.

The president said the race of hurricane victims did not factor in the response and rejected suggestions that the nation's military was stretched too thin by the war in Iraq to deal with the Gulf Coast devastation.

In Washington, Federal Emergency Management Agency (FEMA) Director Michael D. Brown announced that he is resigning "in the best interest of the agency and best interest of the president." Mr. Brown has been vilified for the government's sluggish response to the disaster. Last week, he was stripped of responsibility for overseeing the cleanup and was abruptly recalled to Washington.

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To prevent looting, business owners wanting to enter the city's central business district and take what they needed to run their companies were required to obtain passes.

Traffic was heavy on the only major highway into the city that was still open, and vehicles were backed up for about two miles at a National Guard checkpoint across the Mississippi River from New Orleans.

Among the businessmen allowed back was Terry Cockerham, owner of Service Glass, which installs windows at businesses downtown. He has been working out of his house because his business was destroyed by looters and flooding.

"This is about the most work I've ever had," he said. "We'll work seven days a week until we get this job finished. I don't want to get rich. I just want to get everything back right."

State officials said yesterday that 16 of southeastern Louisiana's 25 major wastewater treatment plants were up and running again and that 41 of 174 permanent pumps were draining water from flooded areas. They expected an increase in temporary pumps within 24 hours.

Water in many parts of the metropolitan area was going down at least a foot a day, the Army Corps of Engineers said. Once the streets are dry, crews can begin removing debris, checking buildings and other structures for soundness, and restoring utilities.

Military cargo airplanes were set to begin spraying the area yesterday to kill flies and mosquitoes. The standing water from Katrina is expected to worsen Louisiana's already considerable mosquito problem. Before the storm hit, the state had logged 78 cases of mosquito-borne West Nile virus and four deaths from the disease this year.

Insurance analysts doubled to at least $40 billion their estimate of insured losses caused by Katrina -- a figure that would make it the world's costliest hurricane ever. Risk Management Solutions Inc. of Newark, Calif., put the economic damage at more than $125 billion.

The number of bodies found at the hospital was not clear. Bob Johannesen, a spokesman for the state Department of Health and Hospitals, said 45 patients had been found; Mr. Goodson said there were 44, plus three persons found dead on the hospital grounds.

Dr. Jeffrey Kochan, a Philadelphia-area radiologist volunteering in New Orleans, spoke with the recovery team late Sunday after 36 bodies were found floating on the first floor.

"They're seeing things no human being should have to see," Dr. Kochan said.

Police Superintendent Eddie Compass declined to answer questions yesterday about the discovery, including whether police received any calls for assistance from the Memorial Medical Center after the hospital was evacuated.

A spokeswoman for Mayor C. Ray Nagin, Sally Foreman, said the city knew there were people in hospitals who needed to be evacuated. The city's first priority had been to evacuate patients in critical care units.

As workers removed bodies Sunday from the hospital, in the city's Uptown section, reporters were kept at a distance. A white refrigerated truck carried away remains with federal police escort.

The death toll for Hurricane Katrina reached 509, making it the fifth deadliest hurricane to hit the continental United States since 1900. Bodies recovered in Louisiana reached 279, up from 197 on Sunday. In addition, 214 persons are confirmed dead in Mississippi, 14 in Florida and two in Alabama.

About 50 percent of New Orleans remained flooded -- down from 80 percent early last week, and search teams continued to collect hundreds, perhaps thousands, of corpses.

Army Lt. Gen. Russel L. Honore, commander of active-duty troops engaged in hurricane relief, reiterated Sunday that the number of dead would be "a heck of a lot lower" than initial projections of up to 10,000.

Hospital Staff Tried To Comfort Dying Patients (LAT)

By Solomon Moore

The Los Angeles Times, September 13, 2005

NEW ORLEANS — Describing a desperate and harrowing struggle to comfort dying patients as floodwaters rose and the city descended into chaos, hospital staffers from Memorial Medical Center said today that 45 people died there during a six-day vigil.

Dave Goodson, director of support services at the hospital, said rescuers came and left — sometimes they helped take someone from the hospital and other times they brought new evacuees plucked from rooftops.

Elderly patients had the hardest time, Goodson said. Heat and sickness conspired to kill about 16 patients from a nearby convalescent hospital.

"I can tell you it was 106 degrees in that hospital" in the days after the storm, he said. Goodson described the heroic efforts of doctors and nurses who comforted ailing patients — even fanning some to cool them.

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Goodson said that their hopes rose when they heard helicopters coming toward them, but the patients weren't airlifted — instead, supplies and evacuees who had escaped their homes in nearby neighborhoods were dropped off.

Joanne Lalla, an oncology nurse, said at least one patient was brought to the hospital with a stab wound.

Goodson said that at one point, National Guardsmen came to the hospital and evacuated some patients and promised to come back for more — but then the floodwaters rose. They didn't return until Friday, Goodson said.

Lalla said that she "couldn't understand why nobody was coming to help us."

Lalla said that many hospital staff members brought relatives to the hulking brick hospital, thinking that it would be safer to be there than in their homes. Goodson estimated that 500 hospital staff members were there along with 2,000 patients.

"A lot of hospital employees brought their children, who were like 2 and 4 and 6 years old," she said. "By Tuesday night, they were leery and worried. I knew we definitely were going to have to get out of that hospital. We were all hot and sweaty because the next thing to go was the generator.

"On Wednesday, I went to the bathroom and realized that we had no water, so we had to make sure that no patient flushed the toilet," she said. "The patients were very hot, so we kept all the doors open."

Goodson and Lalla said that despite their difficult situation, the hospital staff continued to serve the sick as well as they could. For a time they carted patients to the roof of the building to wait for helicopters, but when they realized that they weren't going to be airlifted, they went back downstairs, Lalla said.

"We had the National Guard with us for a little bit, but then they said they had to go because of rioting," she said.

Lalla said she was concerned that patients who needed ventilators and other vital electronic aids to stay alive probably didn't make it through the week. She suspected that many patients in the critical care unit died.

"We were just in survival mode," she said. "We couldn't give out medication because we couldn't regulate their medications.

"We were like MASH units," she said. "All the patients were on little cots and mattresses on the garage floor."

Lalla recalled how a dietary specialist ripped his shirt into rags, dipped them in water and stroked the head of one patient as he lay dying. Lalla said that she knew of three cancer patients who died during their wait at the hospital, including one under her direct care.

The hospital staff filled the morgue, Lalla said, and when the morgue was full, they put bodies in the hospital chapel.

Goodson and Lalla said that people in the hospital tried to evacuate as many people as possible, starting with those who could walk on their own, then those in wheelchairs, and finally, bed-ridden patients. They said that without elevators, the sickest patients were the most difficult to move.

On Tuesday, some citizens on boats came and promised that they would bring many more the next day. But when they returned Wednesday, there were only four boats. They made ferry trips with as many people as they could carry, all day long and into Thursday, Goodson said.

Among the patients who were able to evacuate on the boats were two young bone marrow patients.

"I saw them get into these two-seat boats and saw all these women with newborn babies who were also getting on and I just burst into tears," she said.

By that time, said Lalla, the hospital staff was exhausted and she felt herself beginning to fray.

When she looked out of the hospital windows she could see that the building had become an island in a sea of broken houses and swamped cars.

"On Wednesday morning about 4 a.m. I heard someone trying to kick himself out of his house," she said. "He was screaming for help. Then I heard a plop in the water. I didn't hear anything else."

For Many Casualties, No Who, How Or When (WP)

By Sue Anne Pressley And Jacqueline L. Salmon

The Washington Post, September 13, 2005

Cynthia du Faur telephoned her twin sister in Chicago at 2:15 a.m. on Aug. 30 and told her in a small, surprised voice that water was rising fast inside their New Orleans home.

It was pitch black, she said, and the city around her was paralyzed, and she was alone with their nine dogs and cats. She could not reach the ladder in the basement, and the attic was nailed shut. Suddenly, she said, almost as an aside, "I think we're going to die."

"Her very last words, which haunt me, were 'Let me go try to find some plywood. Okay, bye.' She was looking for something to float on," said her sister, Brenda du Faur, 46. "I can't imagine the slow, rising death that was coming."

Du Faur can't be certain her sister is dead, but like many others who haven't heard from loved ones in this stricken region, she is already grieving. The people who died during Katrina and its aftermath are, two weeks later, still largely unidentified and

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unknown. No one can say yet how many perished, who they were, how and when they died. Communications and recovery problems -- and a heavy cloak of secrecy -- have compounded the mystery. Officials have been told not to pass on any information. For now, and for the indefinite future, the victims of Katrina remain the dead without a roster.

What is known about them comes not from official confirmation but from scattered sources -- a small-town funeral home director who knows everyone, a frantic sister who posted her last hopes on a missing-persons hotline. It is common knowledge, for example, in east Biloxi that "Miss Odessa" Hurley, 90, drowned alone in her modest house -- although officials have not yet confirmed her death.

Rosalie Guidry Daste, 100, survived five days trapped on the suffocating second-floor of a flooded New Orleans nursing home, only to die soon after she was rescued and airlifted to a hospital. The family of Grady Samuels Sr., 82, is convinced he "grieved himself to death," his daughter said.

Sgt. Paul Accardo, 36, a public affairs officer for the New Orleans Police Department, shot himself in the mouth as he sat in his patrol car, apparently anguished at what was happening to his city. Willie Williams, 25, as big and strong as a football player, apparently thought he could withstand the fury of the storm.

And in her heart, if not on paper, Brenda du Faur senses that she lost her sister in the floodwaters that engulfed their home.At the Nursing Home

As the monstrous hurricane bore down on the Gulf Coast, the nursing staff at Lafon Nursing Home of the Holy Family told family members that Rosalie Daste was too feeble to evacuate from the east New Orleans facility for the elderly poor.

Daste and other patients who stayed behind were moved to the second floor for safety, and worried family members said they were assured that a generator and plenty of supplies were on hand.

But the day after the storm, a levee on a canal to the west of the nursing home collapsed, and water began swirling into the first floor of the facility. The occupants were trapped inside.

Daste's family is not sure what happened after that, but four days passed before rescuers reached the nursing home. By the time Daste was airlifted, first to a makeshift facility at the New Orleans airport, then to a Monroe, La., hospital, "she was dying," said Kevan Cullins, her great-grandson. She was severely dehydrated and had a bacterial infection, her kidneys were failing and her lungs were filled with fluid. Before her family could reach her, he said, she was dead.

At Daste's funeral Saturday in Baton Rouge, La., the family chose to celebrate her long life rather than to dwell on the details of her death. They painted a portrait of a sturdy woman who worked until her early nineties, and who survived financial ruin in the Depression, early widowhood and the deaths of three of her four children. They laughed as they recalled her famous penny-pinching ways, how she would always tell her children and grandchildren, "You watch your pennies and nickels, and when they turn into dollars, they'll watch themselves." She and her husband, who died in 1957, ran a small grocery and accumulated some property.

"She saved tissue paper and would cut it up and use it for napkins," Cullins recalled fondly. "Grandma didn't throw anything away."On the Beat

For Paul Accardo, watching the hurricane rip apart his home town amid chaos, looting and murder was apparently more than he could bear.

After six days of helping to evacuate hundreds from the drowning city, of trying to aid thousands at the Louisiana Superdome -- and watching some of them die -- Accardo shot himself to death on Sept. 3.

"To see people dying, no food, no water, it took a toll on him," said his boss, Capt. Marlon DeFillo.

Accardo, who had been married for about three years, was often the public face of the city police department on local television newscasts. A clean-cut man with a winning smile and a soft-spoken manner, he was in the forefront of a department trying to improve its image.

But during the hurricane, the strait-laced cop who had spent the past five years working as a public affairs officer suddenly found himself on the front lines. Like other New Orleans police officers, he lost his home to Katrina and found himself working 20-hour days, pulling people from floodwaters and battling the looters who swarmed over portions of the city. The kind of guy who carried pet food in his car to feed stray animals, Accardo was overwhelmed by the suffering he saw, DeFillo said.

After working until 2 a.m. Saturday, Accardo slept for two hours and then got up at 4 a.m. to return to work. He looked so exhausted that DeFillo told him to go back to sleep.

"That's the last we saw of him," DeFillo said.

Accardo drove west and stopped in Luling, La., about 25 miles away, where he parked his car and ended his life.At Home

Odessa Hurley, 90, was a familiar figure, walking along the streets of Biloxi during the daylight hours, passing out religious tracts and gathering treasures in the bag she always carried.

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"She had sneakers on a mile too big for her, and big white socks pulled up to her knees," said Cleo Meaut, 74, a longtime church friend. "She wasn't what you called poor, but she looked poor. She gave all her money to charity. She would send money off to these missionaries to help them out, and when I say money I mean a good bit of money."

According to three townspeople, she lived all her life in Biloxi, for decades in the same small house without air conditioning, television or other creature comforts. She outlived two husbands. Her life revolved around day-long walks -- "practically all over Biloxi," Meaut said -- and daily services at St. Louis Catholic Church.

"She told me one Saturday night at church, 'I hope God gives me 10 more years because I'm not finished with my work here on Earth, and I'm trying to buy my way into heaven,' " Meaut said. "Father was standing there and he said, 'Oh, Miss Odessa, you know you can't buy your way into heaven -- you have to pray your way in.' And she just laughed."

Hurley refused to leave her home when neighbors were evacuating ahead of the storm. She had survived plenty of storms, she said. But when Meaut returned to find her own house destroyed, her younger son gave her the bad news. "He said, 'You know, they found Miss Odessa drowned.' "

Since then, Meaut has said many prayers for her old friend. But she knows Miss Odessa probably did okay on her own: "She paid her way into heaven -- you can bet your boots on that."Staying in New Orleans

Willie Williams had wanted to be a football player -- and he still looked like one -- but things had not quite turned out the way he wanted. The father of five children under 6, he was a 10th-grade dropout and a laborer whose last job had been in roofing when he decided not to leave his native New Orleans for the hurricane.

"They was going to ride it out like a lot of people always did," said his cousin, Pam Williams, 35, who evacuated with her three children and who described his life and death from Houston, where she was relocating.

It may have been a fatal choice. Indirectly through a police officer friend in New Orleans, Williams learned that her cousin's body had been recovered after the storm, that it was seen tied to a tree by the river to keep it from floating away -- a practice searchers employed in the first chaotic days. His girlfriend, and the mother of his two youngest children, apparently is missing. There is no word on the children.

Williams said she does not know how her cousin died. "He knew how to swim pretty good," she said. "He was a survivor."

He also was the family peacemaker, she said.

"He'd see people getting into fights and he would break it up," she said. "He would tell them just to compromise with each other."In the Shelter

As Grady Samuels Sr. sat in an evacuation shelter in Baton Rouge, he could not stop watching the images of hurt and crying children on television. The elderly man, known as "Grandpa Grady" back in his River Ridge, La., neighborhood, was sickened by the suffering the disaster had brought.

"He was saying, 'Ya'll get those children,' " said Rosie Jackson, 35, one of his many grandchildren. To calm him, family members lied and reassured him that they would rescue the children he was seeing on TV.

But as the days wore on, Samuels grew quieter. He stopped eating or speaking. A nurse stopped by to look at him but did not send him to a hospital, family members said. Last Thursday, he died in a single bed in a small room at the shelter that had been set aside for him and his wife, Louise.

"I think he grieved himself to death," said daughter Julia Samuels, 56.

It was a sad end to a life marked by hard work and a huge family. He and his wife had raised 11 children in the community about six miles west of New Orleans, and he saw himself as "the neighborhood granddad," said Fabiola Jack, 28, one of his great-grandchildren.

If police officers came looking for a neighborhood kid, Jack said, Samuels was likely to try to persuade them to give the youth a second chance. " 'That's my grandson,' he would say. 'Don't put him in jail. I'm going to talk to him first, and if he don't listen, then you can put him in jail.' "On the Phone

Brenda du Faur wishes she had been more alert during her sister's last phone call, that she had had the presence of mind to suggest a way out, that she could have somehow transmitted the belief that Cynthia could survive a flood in the middle of a dark terrifying night.

"I was profoundly inadequate," Brenda du Faur said in an interview from Chicago, where she was away working as a racehorse walker. "Even though my sister was brilliant in her own person and the most creative thinker I've ever known, she had challenges and I was the one who was able to function a little better. All my life, I've saved my sister and I'm just tormented I didn't save her, and I could have."

Cynthia and Brenda du Faur shared what is called "a shotgun house" in mid-city New Orleans, each of them occupying one side of the dwelling; the dogs and cats, with such names as Petrouchka and Svetlana, ran back and forth between them.

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Cynthia, a recovering alcoholic, was not working but had many deep interests, her sister said, including ballet, figure skating and old movies. Concerned about the poor, she was "a vehement critic of the establishment when they did wrong," Brenda said. She liked to dress in long, colorful sundresses and vintage shawls.

"She disdained a lot of the modern things she felt were inferior," her sister said.

Brenda said her twin often depended on her to take care of practical matters. She wishes she had cleared access to the attic, as she had long thought of doing. She wishes she had bought a small boat, assembled some kind of kit for emergencies. "All she needed was an inner tube," Brenda said, bursting into tears. "I never thought about a levee breaking."

Officials have had no news for her, as she waits in Chicago. But Brenda du Faur feels certain Cynthia would have gotten word to her if she survived.

"I still want to think she is alive," she said, "even though I know better."

Units Search For Bodies But Some Find None (NYT)

By John Kifner

The New York Times, September 13, 2005

MICHOUD, La., Sept. 12 - Despite apocalyptic predictions, marines searching St. Bernard Parish - in the direct path of Hurricane Katrina - have yet to find any bodies, commanders said Monday.

"St. Bernard is actually doing pretty good," said Capt. Stephen Kahn, operations officer for the battalion of marines brought in from Camp Lejeune, N.C., as part of the administration's response to the storm.

"The areas worst flooded, as our guys are getting in there, they're not finding anything," said Captain Kahn, referring to the bodies that were anticipated. Fears were reinforced when previous rescue workers found swollen dead bodies last week in St. Rita's nursing home here. The home's officials have said that 32 of the 60 residents perished.

The marines are grinding through swamps and bayous in amphibious troop carriers, searching a landscape of ruined houses, some torn into scraps like matchsticks, others with stairs leading to nowhere. Houses that have been searched and found empty were marked with a spray-painted orange "X."

Some of the marines' zone, including the Arabi section of the eastern edge of the city, is still underwater and yet to be searched.

"It's an environmental nightmare," said Lt. Col. Kent Ralston, commander of the unit whose amtracks are touring the area around the industrial canal. "It's just chaos, the worst damage I've seen."

From the hamlet of Yscloskey, near Alluvial City, where the marines were trying to help fix a bridge bent out of shape so that it could be raised to let boats through a canal, Robert Labat of the St. Bernard Fire Department said the situation was not as bad as feared.

"You'll be surprised how low the death toll is," said Mr. Labat, who is also a mosquito control officer. "There are about 70,000 people here, and 70 percent of them got out early."

Officers on helicopter flyovers had originally thought a long line of cars and trucks pointed north on highway 39 had been caught by the flood and swept aside, but the vehicles were simply left parked on the highest ground, it turned out.

Dire warnings, from marine planning sessions, of a devil's brew of toxic floodwater, decomposing bodies, feral swamp creatures and hostile, gun-toting locals have just not materialized.

"Thousands are expected dead," stated a briefing for the officers and senior sergeants of the First Battalion/Eighth Marines a few days ago. "Bodies after a week in the water are not a pretty thing.

"There are biologic hazards," the briefing said. "Hepatitis is the main one. There is a very real danger if someone cuts himself and contaminates himself through the water.

"We are assessing the presence of armed civilians. We are more concerned about the looting than the flooding."

The Bravo company, with 130 of the more than 700 marines in the battalion, have been working from a NASA fuel tank assembly plant for eight days. The rest of the battalion was encamped in a huge furniture store in Slidell, to the northeast, and came by convoy on Saturday. They have been replaced by a battalion from Camp Pendleton, Calif.

More military forces, including 46,300 National Guard troops and volunteers from municipalities around the country, have been pouring in.

With the reinforcements, the ratio of rescuers to remaining victims appears to have shifted in the week since the levees broke. A patrol of a few hours on a recent day in St. Bernard Parish revealed a half-dozen outside units, including the New York Police Department, the New Jersey urban search and rescue squad and the Baltimore Fire Department, whose bright red truck got stuck nose down in a fetid canal. Fire departments from across the country have gathered at Our Lady of the Holy Cross College in New Orleans, including 350 New York firefighters, with 1,000 more on the way.

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For the marines, the effort has been carried out like a battle, with the headquarters known as COC, or combat operations center.

"We operate the same," said Lt. Col. Scott Alley, the First Battalion commander. "We grid everything and mark here's what we've been through, here's what we've cleared. A lot of the tactics and techniques are the same."

As more troops have arrived, the facilities have begun to improve. Tents are sprouting on the lawns around the NASA facility for the marines, who have been sleeping on concrete floors and eating Meals Ready to Eat. A line of portable bathrooms is set up. This afternoon, a truck from the Army-Air Force Exchange Service pulled in to set up a PX.

For Man In Charge, No Excuses Will Do During Cleanup (USAT)

By Donna Leinwand

USA Today, September 13, 2005

NEW ORLEANS — Lt. Gen. Russel Honoré is the go-to guy here.

When he bounds off his truck in downtown New Orleans and lights his third cigar of the day, he is immediately surrounded by soldiers, volunteers and city workers who shower him with praise and requests.

“I don't know what they say about you anywhere else. All I know is you get the job done,” volunteer Eddie Boy Woerner says.

That job was getting 1,000 pounds of donated beef that was stranded outside the city. Woerner, a group of his employees at his turf business, and some friends came to New Orleans from Gulf Shores, Ala., and set up a massive barbecue to feed the federal workers, soldiers and volunteers who have descended on the disaster zone.

Woerner was having trouble getting the beef into the city. Word got to the general. He sent a helicopter.

Honoré, a Louisiana native with a cigar-smoking habit that begins before noon, has become the symbol of New Orleans' emergence from chaos to reconstruction. He is commander of the 1st Army, which is now charged with the largest humanitarian effort in U.S. history.

Honoré, 57, was raised on a subsistence farm, land his father rented and worked in Lakeland, La. He graduated from Southern University in Baton Rouge, where he studied agriculture. He spent four years in ROTC and got a deferment from the draft. He said he wanted to go in as an officer, serve and then go into farming. He joined the Army in 1971 and never left.

In 1971, the military had only a handful of African-American general officers. Honoré, who calls himself a Louisiana Creole African-American, did not have it in his mind then to become a general. “I just did every job as best as I could,” Honoré says.

Honoré (AHN-ur-ay) is married and has four children — two boys and two girls. One daughter lives in New Orleans. She had gone to Florida before Hurricane Katrina struck to visit her sister, who had just had a baby — Honoré's first grandchild. His son, Sgt. Michael Honoré, 27, of the Louisiana National Guard, returns home next week after a year in Iraq.

The nerve center of the military's response to Hurricane Katrina is at Camp Shelby near Hattiesburg, Miss. Honoré pops in often, as he does at 11:30 p.m. Sunday after a day spent in New Orleans. The night briefing is underway.

Honoré has a few stock lines. He calls everyone “Tiger,” particularly before issuing a demand. His second most common line: “You're looking at the calendar. I'm looking at my watch.” That's his way of saying: “Get it done now.”

Although Camp Shelby is a 45-minute helicopter ride north of New Orleans, Honoré prefers to spend his day in the disaster zone. He has an air-conditioned tent with computers and communications equipment set up in a garage at the Port of New Orleans. But a good deal of his time is spent riding in the back of an Army truck.

“This is my office,” Honoré says. “This truck. I can see all the leaders and find out what they are struggling with.”

“It's what commanders do to get the feel and the smell of the situation,” explains Brig. Gen. Tony Cucolo of the U.S. Joint Forces Command in Norfolk, Va., who is part of Honoré's team. A few days ago, as he drove around the city's convention center, Honoré noticed the stench of the trash and rotting food. The next day, it was clean. “We're not here to talk about things. We're here to get it done,” he says.

He parked his “office” outside City Hall on Sunday. After a 45-minute chat with a city administrator, Honoré is on the phone to his engineering task force: “You need to get City Hall stood up. The water needs to be pumped out of the basement. And the generator. And get in some street sweepers. Get this glass out of the street. The police officers are getting flat tires.”

He says restoring City Hall is a priority. “The people who make things happen within the city have been evacuated. We need to bring them back.”

It seems a daunting task. “Better be someone over here before the day's out,” Honoré says.

U.S. Law Blocked Storm Barrier (WT)

By Joyce Howard Price

The Washington Times, September 13, 2005

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A congressional task force says energy production, the construction of affordable homes and hurricane protection for New Orleans have been hampered by a 35-year-old federal law known as the National Environmental Policy Act (NEPA).

"We have heard from numerous industries that expensive and time-consuming legal and procedural delays are preventing energy production and construction projects," Rep. Cathy McMorris, Washington Republican and chairwoman of the House Task Force on Improving the National Environmental Policy Act.

The 1970 law was designed to protect the environment. The 22-member task force has held four hearings across the country to assess NEPA's role in accessing affordable energy, building roads and homes, and managing the nation's natural resources.

NEPA, which established a national environmental policy framework, has "resulted in thousands of lawsuits," holding up some projects for more than 20 years and killing others, said Jennifer Zuccarelli, a task force spokeswoman.

"The NEPA process, as it has evolved from a vague, extremely short statute, has grown into a massive, unclear process that hurts communities as they wait decades for homes, buildings, roads, energy and job-creating projects," Miss Zuccarelli said.

NEPA requires the U.S. government to evaluate the environmental impact of any significant project undertaken by a federal agency, financed with federal money, or requiring a federal permit. It further mandates that the results of the government assessment be made public and that the public decide whether its benefits outweigh its drawbacks.

On Friday, the task force said NEPA lawsuits at least twice had prevented system improvements to protect New Orleans from a hurricane. It said the Sierra Club and other environmental groups in 1996 sued the U.S. Army Corps of Engineers and blocked a project to raise and fortify levees around New Orleans.

It also cited a Los Angeles Times story that said a Save the Wetlands lawsuit filed in 1977 killed plans approved by Congress to create a "massive hurricane barrier to protect New Orleans." The plan was created after Hurricane Betsy in 1965.

A federal judge stopped plans for the hurricane barrier after finding that an environmental-impact statement drafted by the Army Corps of Engineers was flawed. The corps abandoned the project by the mid-1980s.

Rep. Thelma Drake, Virginia Republican and a member of the congressional NEPA task force, says it is clear that NEPA "plays a role in hampering our ability as a nation to develop efficient supply chains capable of providing Americans with affordable energy."

"For years, construction projects that could have mitigated adverse impacts to our supply have been needlessly blocked due to endless red tape and a sluggish federal bureaucracy," the congresswoman added.

The NEPA panel, comprising 12 Republicans and 10 Democrats who are members of the House Resources Committee, was charged in April with making recommendations for improving NEPA. The task force will submit a report to the full committee by year's end.

The task force will hold its fifth hearing on Saturday at 1 p.m. at Old Dominion University in Norfolk.

Rush To Set Up U.S. Housing For Survivors (NYT)

By Eric Lipton

The New York Times, September 13, 2005

SLIDELL, La., Sept. 12 - One team of men is bent over drills, driving mobile home anchors deep into the moist earth. Others are lifting cinder blocks that will be used to hold up the next set of identical beige homes that trucks, one after another, are bringing here.

A building boom is under way in this city at the edge of Lake Pontchartrain, where one-third of the houses have been damaged or destroyed.

But this is just the start.

The government is beginning what urban planners are calling one of the biggest bursts of federal housing development in United States history. Last year in Florida, the Federal Emergency Management Agency set a record by installing 15,000 homes in the aftermath of four hurricanes there. In the wake of Hurricane Katrina, they hope to open 30,000 homes every two weeks, reaching 300,000 within months.

Those numbers make Levittown - the suburban community on Long Island where 17,447 houses were built after World War II - look modest. Even the rebuilding of Chicago after the great fire of 1871 or San Francisco after the 1906 earthquake do not compare, said Ruth C. Steiner, an associate professor at the Department of Urban and Regional Planning at the University of Florida.

"This is a milestone of urban planning," Ms. Steiner said "There is no precedent on this scale in this country. It is just phenomenal."

The numbers might drop if the demand does not meet expectations. But more than 140,000 people are now packed into emergency shelters, while hundreds of thousands of others fill hotels, homes of friends or relatives or are temporarily relocated

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across the United States. The building blitz is intended to bring as many people as possible back to Louisiana, Mississippi and Alabama.

"It is like pushing a big rock down a hill," said Brad Gair, head of FEMA's hurricane housing task force, of the project. "It takes a little time to get it moving, but once it gets moving, it moves very fast. And that is where we are getting right now."

The families moving into the first of these new trailers and mobile homes, the use of which are provided at no cost, seem almost startled to be inside a structure that is not flooded or stiflingly hot and overstuffed with people.

Elizabeth Burregi, 37; her husband Victor, 41; and their three young children arrived Sunday with trash bags filled with donated clothing and other goods. Their side of their home in Marrero, La., was ripped off during the storm. Just about the only thing they carried out with them was the three pet turtles that Christopher, 12, insisted not be left behind.

But already, Sunday, within an hour of arriving, they were feeling at home. "I got air-conditioning!" Mrs. Burregi cried out, as she stood with her hands lifted up toward the vent that was pumping out cool air in her new trailer. "This is better. This is much, much better."

Glenn Barkston, 40, of Kenner, La., said, "God has looked down on us like you would never believe." He was overjoyed, even though he does not have sheets, pots or pans, or even soap for the new trailer he is now sharing with his mother in Patterson, La. "We are very fortunate."

At four giant staging areas across the region, FEMA is assembling tens of thousands of mobile homes and trailers. In Baton Rouge alone, at a former Defense Department logistics center, thousands of them are already lined up on a field.

So many new homes are needed that small-scale developments of 50 or 100 homes will simply not suffice. FEMA is thinking like the onetime Soviet planners, mapping out new towns that in some cases will have as many as 25,000 mobile homes, spread across hundreds of acres.

More than 25 so-called strike teams are deployed across Louisiana, scouting out possible sites for these new boom towns, negotiating with local officials and attempting to draft leases or sales agreements for farmland or camp sites. The teams have been formed by giant global engineering firms including Bechtel National Inc. of San Francisco and Fluor Corporation, of Aliso Viejo, Calif., which last week won no-bid contracts worth $100 million each.

The men and women in charge are used to building things like trash incinerators, coal-fired electricity plants and oil fields in Saudi Arabia. They admit they will not be applying too much creativity to these new communities that will be created at a pace that would have made the master planner Robert Moses weep.

"We are a lot of right-brained guys, nothing too artistic," said Don Stokley, a structural engineer from Fluor, who is managing the company's strike teams.

To meet FEMA's needs, factories are churning out the trailers and mobile homes at full capacity. The agency is also buying homes from lots and warehouses across the country.

James C. Schwab, a research associate at the American Planning Association in Chicago, said the FEMA should be careful to not create communities that are so dense and sterile that no one wants to live there.

"You are in a difficult spot, where you need housing quickly," he said. "But you have got to try to humanize it as much as possible."

FEMA officials say they realize that they cannot just drop 75,000 people into rural, one-stoplight towns. Classrooms, sewage treatment plants, stores, restaurants and medical centers will be built as well.

By the end of Wednesday, FEMA expects to have installed 3,500 homes requested by the governor in Alabama, most of them set up in long rows at state parks. By Friday, FEMA and its contractors will have installed about 1,000 homes in the New Orleans area for workers helping to rebuild the city. The big test, though, is in places like Slidell, along the rural stretches outside devastated cities in Louisiana and Mississippi.

The small compound in Slidell is one of the first new communities. It is tiny by comparison to the new towns that FEMA and its contractors are planning. Here, they are simply dropping as many new units as they can squeeze into an existing mobile home park.

The homes in Slidell - those so far are all 14 feet wide and 70 feet long and have three bedrooms - arrive furnished with beds and box springs wrapped in plastic, a full-size refrigerator, a couch and living room chair. The homes are lined up exactly 11 feet apart.

But if the experience here over the last few days is any example, the government is going to have a difficult time meeting its goal of 30,000 units every two weeks.

It will be perhaps three weeks, a Fluor official predicted, before the 125 new homes being dropped here are ready for occupancy.

Reinhard Dearing, a top city official in Slidell, had recently come up with a new nickname for FEMA, "Nonexistent Emergency Management Agency," or NEMA, he said, given the department's slow response to requests by individuals for

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assistance. But even with the extended schedule provided on Monday by Jim Hlavaty, the general superintendent from Fluor, the Slidell city officials said they were impressed.

"These guys here know what they need to do, and they are doing it," Mr. Dearing said. "At least they are getting something done."

As of Sunday, fewer than 10 families in Louisiana had moved into the first new homes. In Patterson, La., 120 miles southwest of Slidell, FEMA officials installed smaller, two-bedroom trailers. To their new occupants, emerging from shelters that held up to 1,000 people, the compact units were all but a palace.

It is not clear how long these new FEMA-created towns will last. Temporary housing built for shipyard workers during World War II in cities like Richmond, Calif., was occupied for decades. FEMA officials say that is not their objective; they will own the units and move people out when they are ready.

"These temporary homes will come out," Mr. Gair of FEMA said. "We want to rebuild New Orleans. We do not want to create a state of travel trailers and mobile home parks."

FEMA Allocates $5 Billion For Trailers Yet To Be Built (WT)

By Stephen Dinan

The Washington Times, September 13, 2005

FEMA has allocated nearly $5 billion to buy 300,000 trailer homes as part of its emergency hurricane spending -- even though 270,000 of them are on back order and will have to be built, says a congressman who voted against last week's $51.8 billion bill.

Rep. Steve King, Iowa Republican, said President Bush and members of Congress are spending quickly on Hurricane Katrina relief in part to try to counter bad publicity over the federal government's initial response.

"There was definitely a factor in seeking to spend enough money fast enough that they wouldn't have to face the criticism of being too tightfisted," he said. "They think that they're being measured by the amount of money they spend, and I think we ought to be measured by the kind of plan we have."

Congress has passed two emergency spending bills, with $60 billion for the Federal Emergency Management Agency, $1.9 billion for the Department of Defense and $400 million for the Army Corps of Engineers.

The White House and Republican congressional leaders have promised to spend what it takes to aid the hurricane's victims, and both bills have passed with overwhelming support -- a $10.5 billion bill by voice vote and a follow-up $51.8 billion bill by a 97-0 vote in the Senate and 410-11 vote in the House.

"We are going to spare no effort to get them the help that they need," White House spokesman Scott McClellan said last week when asked about the spending total and the increasing deficit. "The president has made it clear, in meetings he's been having, that we are going to show the true compassion of America in all that we do."

Mr. King and others who voted against the $51.8 billion bill said the issue is not how much is being spent, but how.

Speaking by telephone from Louisiana, where he had spent the night at a Red Cross shelter in Baton Rouge, Mr. King said the trailer houses are a perfect example.

The first bill called for 200,000 trailers, at a cost of $3.3 billion. Then, even after learning that only 30,000 trailers could be delivered now, the administration requested money for 100,000 more in the second bill, for a total cost of $4.9 billion.

They will be located "some place about 100 miles north of New Orleans" in a temporary trailer-house city that eventually will be bulldozed, Mr. King said.

The White House Office of Management and Budget referred calls about trailer spending to the Department of Homeland Security, which referred calls to FEMA. The agency did not return two messages for comment yesterday.

Republicans' willingness to spend surprised Democrats, who joked that they were at risk of being outdone.

"The only language they know is money," said one House Democratic chief of staff, who asked not to be named. "They're being Democrats because they're trying to show how they care by shoveling money."

But Jim Manley, spokesman for Senate Minority Leader Harry Reid, said Democrats aren't worried about being outspent, especially with Republicans still talking about slowing growth in Medicaid spending and passing $70 billion in tax cuts later in the year.

"At some point, they're going to fall back on their usual fiscally conservative ways," the spokesman said.

Conservatives said they can only hope so, because agencies won't control themselves.

"Fifty billion dollars at the first trot that easily, that little opposition, and there's no resistance," said Rep. Jeff Flake, Arizona Republican, who voted against the bill. "FEMA will act like any federal agency -- the question isn't how much we need, it's how much we can get."

He called for passing several smaller bills so FEMA would have to return each time and justify its request.

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Rep. Jeb Hensarling, Texas Republican and a leading budget hawk who voted for the $51.8 billion bill, said his worry is not the spending total.

"This is not a debate about how much we spend today. It's a debate about whose bank account it's drawn on," he said.

Mr. Hensarling and other Republicans said that instead of adding to the debt, the money should be partially offset by spending cuts.

Asked last week about cuts, House Majority Leader Tom DeLay, Texas Republican, said it was up to the Appropriations Committee to write the bill.

DeLay spokesman Kevin Madden said there have been three disasters from Katrina: the hurricane itself, the flooding and the displacement of hundreds of thousands of people. He said politics didn't enter into the decision to spend on rescue and recovery.

"The reason we've provided the resources is because that's the money needed to immediately rescue people, to begin the recovery and lastly to start the rebuilding," he said. "That has been the focus right now."

Spellings Says 372,000 Students Displaced (AJC/AP)

By Ben Feller, Associated Press

The Atlanta Journal-Constitution, September 13, 2005

WASHINGTON — Hurricane Katrina has booted at least 372,000 students from classrooms in Louisiana and Mississippi, and Education Secretary Margaret Spellings said Monday there are no clear answers about who will pay to educate them.

In an interview with The Associated Press, Spellings gave the broadest assessment yet of how the hurricane has affected schools at the start of their year.

In Louisiana, more than 247,000 public and private school students have been displaced. The storm forced 489 schools to close. At least six parishes have destroyed or damaged buildings, she said.

In Mississippi, more than 125,000 students have been forced elsewhere. Some 226 schools in 30 districts are closed. Almost 30 schools have been destroyed.

Spellings declined to estimate how much it will cost states to rebuild school districts or serve displaced students — or how much the federal government will cover.

"I shouldn't be talking about the details that I'm in negotiations with the White House and the (Capitol) Hill on," Spellings said. "As soon as I can talk about it, I want to talk about it."

President Bush has told Spellings to develop a plan to provide aid for the states.

In the interview, Spellings said she will ask Congress for unprecedented authority to ease aspects of a federal law governing the education of homeless children. She already had pledged to consider using her powers to waive parts of the law known as No Child Left Behind, including requirements on yearly testing and teacher quality.

Still, Spellings cautioned: "I obviously don't think this is an opportunity for every state in the country to get 'No Child Left Behind is off this year.' We're just not there yet."

In a letter obtained Monday by The Associated Press, Spellings waived a requirement for Mississippi that normally forces school districts to spend some money to obtain federal aid. That means some of the states can cut or shift spending without penalty.

Spellings denied the state's request to excuse some districts from having to make yearly progress on math and reading tests. Because those tests will not be given until the spring, she said, it is too soon to waive the "linchpin" of federal accountability.

It was Spellings' first response to a state request for help dealing with Katrina. Her department has a request pending from Texas.

School districts nationwide are enrolling displaced students who have friends or family from the Gulf Coast — or children who just have nowhere else to go.

Universities are absorbing tens of thousands of college students stranded by the hurricane. In Louisiana, an estimated 73,000 such students from public and private schools have been displaced and 15 campuses have been closed, Spellings' office said.

"I think the school community has responded very well. Obviously, we're part of that," she said. "We've tried to make this as easy as possible, with all the tools that we have to bring to bear immediately. I'll be accountable for that."

Overall, more than 25 states say they have taken in displaced students.

Texas schools expect an influx of roughly 60,000 students. In a letter to the Education Department, Texas Education Commissioner Shirley Neeley said she expects to spend $7,500 per student this year. That means the price of educating evacuees could be at least $450 million.

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The Federal Emergency Management Agency has told the state it is eligible to be reimbursed for expenses such as temporary schools and mental health counselors. But the hiring of teachers and buying of books are not eligible expenses for relief aid, a FEMA memo says.

The Houston school system has taken in more than 3,000 students displaced students. If the figure reaches at least 5,000 students, as expected, the district's cost would be about $30 million, said spokesman Terry Abbott.

As for college students, Spellings said the government would not try to take back federal financial aid already given students who been forced to move to other schools for at least a semester. That could amount to hundreds of millions of dollars, out of about $100 billion disbursed annually.

The department is considering what to do about aid distributed to help affected students who opt to take time off or work rather than enrolling at a new school, a spokeswoman said.

Lack Of Clout In Congress May Hurt Louisiana's Recovery (NYT)

By David E. Rosenbaum

The New York Times, September 13, 2005

WASHINGTON, Sept. 12 - Not long ago, Louisiana had one of the most influential Congressional delegations in the Capitol.

In the last decade, Louisiana has provided the chairman of the House Appropriations Committee; the chairman of the House energy committee; the senior Democrat on the Senate energy committee and the water development subcommittee of the Senate Appropriations Committee; and the Democratic chief deputy whip in the Senate.

But these powerful senators and representatives, who could be counted on to pull strings and twist arms, have recently retired from Congress, and the Louisiana delegation today, in the face of perhaps the state's worst calamity, has no one in a position of authority.

It is one of two states (Arkansas is the other) where both senators - David Vitter, a Republican, and Mary L. Landrieu, a Democrat - are under 50. The most prominent of seven representatives, Jim McCrery, is the fifth-ranking Republican on the Ways and Means Committee.

No one can say specifically what the diminished influence will mean for the state's efforts to get hurricane relief from Washington, but no one who follows Congress doubts that sooner or later the ramifications will be felt.

"Our senators are very good, but they'd be even better if they were committee chairmen," said former Senator J. Bennett Johnston, a Democrat who retired from the Senate in 1997 after 25 years in which he became a powerhouse on the energy and appropriations committees.

Former Representative Billy Tauzin, a Republican from Louisiana who was chairman of the House Energy and Commerce Committee before he left Congress in January, offered an example of the importance of a chairmanship.

The energy bill that Congress passed and President Bush signed this summer included $2 billion over 10 years for coastal protection and erosion in Louisiana, Mr. Tauzin said. In contrast, he said, a similar bill that was passed by the House last year, when he was chairman, and was then blocked by a filibuster in the Senate, had $15 billion to $20 billion for the same purpose.

"The delegation has lost all its power," said James A. Thurber, director of the Center for Congressional and Presidential Studies at American University.

Mr. Thurber pointed to former Representative Robert L. Livingston of Louisiana, who was chairman of the Appropriations Committee when he resigned in 1999, and said: "If Livingston were there, there would be an immediate and probably more focused expenditure response. There might even have been more earlier for that area before the storm."

Noting that Thad Cochran, Republican of Mississippi, is now chairman of the Senate Appropriations Committee, Mr. Thurber said, "Mississippi is likely to fare better" in getting hurricane relief. "That's how it works."

Mr. Vitter, 44, who was elected to the Senate in November, acknowledged that the Louisiana Congressional delegation "has had a tremendous loss in terms of experience and seniority, which is very important in Congress."

But in the face of this crisis, the delegation, its members say, is counting on a bipartisan appeal to overcome the lack of seniority.

The seven House members had a conference call the week the hurricane struck to discuss the situation and agreed at a meeting in Baton Rouge on Sept. 5 to work together across party lines.

In that spirit, Mr. McCrery and William J. Jefferson, a Democrat on the Ways and Means Committee, were cosponsors of a bill that the House passed on Thursday to give states emergency resources to satisfy the demands on the welfare system that were created by the hurricane.

Nowhere was the bipartisan approach more apparent than in the coordination between Mr. Vitter and Ms. Landrieu.

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There has been bad blood between the two senators. When Mr. Vitter was running for the Senate last year, Ms. Landrieu campaigned vigorously against him, telling voters, "Don't send me a puppet to work with, send me a partner."

But the storm has brought them together. They spent the days immediately after the hurricane together in the Office of Emergency Preparedness in Baton Rouge.

Mr. Vitter stayed in Louisiana last week touring all parts of the devastated area. On Friday, he visited shelters in Lafayette and Lake Charles. Then he went to Houston, where his wife and four children were staying with relatives, and visited evacuees at the Astrodome over the weekend. His home in Metairie, a suburb west of New Orleans, was mostly spared, Mr. Vitter said.

His goal, Mr. Vitter said, was to collect data so that he could persuade the Senate to address what he called "medium- and long-term issues" like reconstruction of New Orleans's infrastructure and measures "to make sure businesses and jobs come back."

Ms. Landrieu, 49, was more in the public eye. She returned to Washington in the middle of last week - her summer home in Slidell destroyed and her childhood home in New Orleans under several feet of water - and, saying her heart was heavy, delivered a stirring speech on the Senate floor on Thursday appealing for help.

"Today, I stand before my colleagues, Democrats and Republicans," she declared, "to report to the Senate that our people are hurting."

The prevailing view here is that in the short term, the government will give Louisiana everything it needs. "Right now," former Senator Johnston said, "there is huge public sympathy for all those people down there."

"The problem," Mr. Johnston continued - and this, he said, is where the state's loss of influence in Congress could matter - "is, what is the shelf life of that sympathy?"

Hurricane May End Up Costing La. A House Seat (HILL)

By Peter Savodnik

The Hill, September 13, 2005

The mass evacuation of coastal Louisiana triggered by Hurricane Katrina will likely cost the state one of its House seats, according to election officials.

Even before the devastating storm ripped through the Gulf Coast, Louisiana officials said their representation in Congress was in doubt.

“We were concerned about that anyway because of outmigration,” said Jennifer Marusak, a spokeswoman for Louisiana’s secretary of state.

With Katrina having emptied out New Orleans and much of the surrounding parishes, hundreds of thousands of people who once voted in Louisiana’s 1st, 2nd and 3rd Districts are no longer there. And many who never heard of Reps. Jim McCrery, Rodney Alexander and Richard Baker — Louisiana Republicans who represent the 4th, 5th and 6th Districts, respectively — are now camped out in those districts.

House members, their staffers and government officials in Baton Rouge and Washington say they’re loathe to talk about politics when there are still bodies to be recovered, children to be reunited with their parents and schools and hospitals to be reopened.

But the reality is that less than 14 months before voters are scheduled to head to the polls, it’s unclear which polls they’ll be heading to — and how this will affect Louisiana’s congressional balance of power as well as that of neighboring Alabama or Texas.

“Our delegation met last week, talked about the fact that Mobile is, for the moment, the largest the city along the central Gulf Coast,” said Rep. Jo Bonner (R-Ala.), whose 1st District encompasses the thoroughly thrashed port city.

“Clearly, we’ll do redistricting in 2010,” Bonner continued, saying that he and his “band of brothers” — Reps. Gene Taylor (D-Miss.) and Bobby Jindal (R-La.) and other Gulf Coast members — had been bound together by the storm. He added: “I don’t see a groundswell of interest in making any adjustments between now and 2010.”

Tricia Lowrey, a senior legislative analyst at the Louisiana House Governmental Affairs Committee, agreed with Bonner, noting that the government does not have the data to know where to redraw district lines. But, she quickly added, “It certainly will be a redistricting issue after the 2010 census.”

The plight of displaced Louisiana residents could make it politically difficult to strip the state of a House seat. It is unclear what how many residents will return to the New Orleans area after the city is rebuilt.

Still, there is a realization at the state Legislature in Baton Rouge that Louisiana may have to take action before the end of the decade. Marusak and Lowrey said state lawmakers have discussed holding a special session before they are scheduled to convene again in March 2006.

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That recognition may stem from growing pressure in central and northern Louisiana congressional districts that have become a temporary home for thousands of newcomers renting houses, filling public schools and clogging local highways.

Baker spokesman Michael DiResto estimated that the 6th, which is northwest of New Orleans and encompasses Baton Rouge, may have twice as many people in it as most every other district in the nation.

Baker said that motels, hotels and public-housing and rental units are filled in Baton Rouge and surrounding communities. He added that some business owners had bought 20 or 30 houses to relocate their entire operations to the state capital.

The "ideal" district, Lowrey said, has 638,425 people. Officials in Baton Rouge said the 4th, 5th and 6th districts are each housing more than 1 million people. Bonner said Alabama had picked up 20,000 residents, including as many as 5,000 in his district.

For now, no one wants to speculate about what a reconfigured congressional map in Louisiana might look like for fear of sounding crass or because most simply don't know who will be living where come 2006 or 2008, let alone 2010 or 2012.

But strong emotions are swirling around the interrelated questions of future congressional districts, the fate of New Orleans and who, exactly, will represent those former city residents if and when they come back.

"The congressman's main goal right now is rebuilding and moving forward with New Orleans," said Melane Roussell, spokeswoman for Rep. William Jefferson (D-La.), whose 2nd District encompasses the ghost town that the Big Easy has become. "To assume that his district wouldn't exist when his election comes up would be to assume that New Orleans doesn't exist, and that's not a consideration — at all."

Said Baker: "New Orleans will come back. Will it be the million-person metro center it was before the storm is very difficult to predict."

For some members, any discussion of congressional boundaries or politics is too much to bear.

Aides to Rep. Charlie Melancon (D-La.), whose 3rd District south and west of New Orleans was savaged by Katrina, refused to answer questions about the future of the district, forwarding all calls to spokeswomen for House Minority Leader Nancy Pelosi (D-Calif.) and the Democratic Congressional Campaign Committee (DCCC).

"What they're focused on right now is, they're not even focused on this," Sarah Feinberg of the DCCC said. Sounding Democrats' rallying cry from the 2000 presidential recount, Feinberg said: "Congressman Melancon and the DCCC are … making sure that no one is disenfranchised."

Rep. Artur Davis (D-Ala.) is crafting a bill to ensure that evacuees, like military personnel and students, retain their voting rights, said his communications director, Corey Ealons.

Some officials and congressional aides privately acknowledged that Republicans may ultimately benefit from the hurricane, with Jindal holding onto or gaining population and Democrats Jefferson and Melancon being fused into a single seat.

Bonner was reluctant to speculate. "I think it's way too early to predict any fallout politically," he said. "It's hard to say because it's changing everyday."

Lawmakers Ask Bush To Save Gulf Coast Naval Bases (REU-Y2)

Reuters, September 13, 2005

Congressmen from Mississippi and Texas asked President George W. Bush on Monday to seek the reversal of proposed closures for two Gulf Coast naval bases, saying the closures would further delay disaster response in the region.

In a letter, Mississippi Sen. Trent Lott (news, bio, voting record), a Republican, and Texas Rep. Solomon Ortiz (news, bio, voting record), a Democrat, asked Bush to demand that the Defense Base Realignment and Closure Commission (BRAC) reconsider its recommendation to close the Pascagoula Naval Station in Mississippi and the Ingleside Naval Station at Corpus Christi, Texas.

The two bases were among hundreds that the commission recommended for closure or cutbacks in a report submitted to Bush last week for the first round of domestic base closings in a decade.

Bush can ask the commission once to make revisions. After that he can reject the list outright or send it on to Congress, which can accept or reject it but can make no changes.

Lott, who lost a home in Pascagoula to Hurricane Katrina, and Ortiz said the closures would worsen a "strategic vulnerability" by eliminating a Navy fleet presence from the region.

"We believe the DOD/BRAC Commission recommendations contain perhaps an unintended consequence, because post-BRAC, every single surface ship will disappear in the Gulf Coast," they wrote.

They argued that the deployment of Navy ships from East Coast bases took several days to reach the area hit by Katrina. Removal of the ships from Pascagoula and Corpus Christi "would only further degrade the security of the Gulf Coast and our national energy production and distribution system."

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Several other Navy facilities in the region were not on the closure list, including the New Orleans Naval Air Station and the Naval Construction Battalion Center in Gulfport, Mississippi.

Politicians in Massachusetts on Monday praised the wording of the final base closing commission report, which recommended "realignment" of the Otis Air National Guard Base on Cape Cod instead of full closure.

Although the commission still recommended the move of F-15 fighter jets elsewhere, it left units based at Otis at their full personnel strength -- a strategy it employed with other Air Guard cutbacks.

"Otis has a new lease on life," said Sen. Edward Kennedy (news, bio, voting record), a Massachusetts Democrat. "The revised report means the base will continue, but with new missions that will give it a strong future role in protecting the security of the Commonwealth and the region."

The commission had faced legal challenges to Air National Guard cutbacks from several state governors who argued that federal law required their consent for such moves. Most of these were rejected by appeals courts or the Supreme Court on the grounds that the cutback decisions are not yet final.

Tax Bases Shattered, Gulf Region Faces Debt Crisis (NYT)

By Leslie Wayne

The New York Times, September 13, 2005

By destroying houses, businesses and peoples' lives, Hurricane Katrina also destroyed the tax base of the gulf region. Without homes, New Orleans cannot collect property taxes. Without tourists, it cannot collect hotel taxes. And without restaurants and stores, it cannot collect sales taxes.

And with so much in the gulf region shattered, the taxes and other revenue streams that once stood behind its municipal bonds are no longer there.

As a result, state treasurers and local financial officials from Louisiana, Mississippi and Alabama have concluded that they will need federal aid to help pay billions of dollars in debt as well as finance the area's reconstruction.

So far, they have no formal plan, said John Kennedy, Louisiana's treasurer, but they are considering proposals for the federal government to make payments on existing bonds and cover short-term municipal operating costs. In addition, they are talking about issuing recovery bonds, similar to the $8 billion tax-exempt Liberty Bond program enacted by Congress after 9/11 - only on a far larger scale.

"We are expecting, hoping and will be asking for federal assistance," Mr. Kennedy said. "We are trying to determine what kind of federal relief we can expect. The municipalities that cannot make their bond payments are going to need help. We are hoping for substantial federal aid."

Last week, the National Association of Bond Lawyers wrote to the White House to propose a Hurricane Katrina Indebtedness Guarantee and Financing Act. That measure would provide cash advances to municipalities unable to pay bondholders and would offer federal guarantees on future debt. These advances would have to be paid back in 10 years. The group also called for creation of a Liberty Bond-type program.

"When a city such as New Orleans may be shut down for nine months," said Monty G. Humble, chairman of the association, "you know that access to capital may be an issue. These areas are so devastated."

State economic development officials from the region are heading to Washington today with a $52 billion plan involving tax credits and other development incentives to keep businesses from leaving. They are hoping that $30 billion will be directed to Louisiana, $15 billion to Mississippi and $7 billion to Alabama.

In the annals of municipal finance - with its share of bankruptcies, defaults and financially distressed cities - nothing comes close. Previous hurricanes, floods and earthquakes have had a more limited impact, affecting mainly residential areas and not damaging the business underpinnings of a city the size of New Orleans and the coastal areas around Biloxi and Gulfport, Miss.

"We have nothing to compare this to," said Dwight Denison, associate professor of public finance at the University of Kentucky. "You've never wiped out an entire tax base. And when you wipe out a tax base, you have nothing to tax."

Municipal bond insurers say their exposure in the region is $14 billion. Standard & Poor's, one of the main bond rating agencies, has put $8 billion in municipal debt from the area on its Creditwatch list, signaling possible trouble ahead, while Moody's Investor Service put $9.4 billion in debt on its Watchlist.

Already, late last week, a $36.3 million bond deal for the Orleans Levee District was canceled because the bond insurer, MBIA Inc., backed out.

"In the past you got a shock, like 9/11 or a natural disaster, and it can impair an issuer for a while, but they recover relatively quickly," said Donald Lipkin, a managing director in the municipal finance department at Bear Stearns, a New York brokerage firm. "Here, because of the level of impairment, there is a good chance some credits may not pay on a timely basis."

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Municipal issuers in the affected areas say bondholders have nothing to worry about - for the moment. Enough money has been set aside, in nearly all cases, to cover debt service payments at least through the end of the year. The looming question is what happens when the money runs out.

New Orleans has over $2 billion in municipal bonds outstanding, from $650 million in general obligation bonds backed by property taxes to bonds used to pay for work on schools, levees, sewers, and transportation. There are more bonds for hospitals, schools and other public but nongovernmental entities no longer functioning.

Even in the best of times, New Orleans had it tough. Its bonds are rated just above junk and some entities have borrowed just to keep going. The Orleans Parish School Board, for instance, recently sold $50 million in revenue anticipation notes as it ran short of cash. The school district already had $600 million in bonds outstanding.

The city also has $500 million in debt for the New Orleans Ernest N. Morial Convention Center, where many sought refuge after the hurricane. That debt is backed by a share of hotel, food and sightseeing tour taxes.

"For the city, all the long-term debt is fine for a year," said Peter Kessenich, managing director at Public Financial Management in Atlanta, the city's bond adviser. "Beyond that, you will be sending tax bills to people who don't live there or to houses that are not worth much."

After 9/11, the city of New York issued $1 billion in one-year notes to cover immediate financial needs. But these were backed by personal income and sales taxes from a New York City still standing and an economy still functioning. Investors gobbled up those bonds, in part as a show of support.

Liberty Bonds, issued a year later, allowed businesses in lower Manhattan to borrow in the municipal market, where interest rates are lower than for corporate debt.

Mr. Kennedy, the Louisiana treasurer, insisted that his state had sufficient reserves and taxing power to meet all current and future state-level debt obligations and that bankruptcy was not an option. "It's not even in the realm of possibility," he said.

Even so, Mr. Kennedy acknowledged that many local municipalities might not make their debt payments once their reserves run out. As soon as he was able to return to his office after the hurricane, Mr. Kennedy started weekly meetings of local officials, bond underwriters, lawyers and trustees from the affected areas to discuss the many issues.

More than 25 percent of the personal income taxes in the state come from the New Orleans area, and much of that income will no longer exist. As a result, the state government could be hard pressed to help cash-strapped municipalities.

Mr. Kennedy is also holding weekly conference calls with bond rating agencies and institutional investors to keep them abreast of the situation.

In Mississippi, where Gulfport and Biloxi have been hit hard, the state treasurer, Tate Reeves, has been holding similar meetings and is sending out a positive message.

"We don't anticipate any interruption in debt-service payments," Mr. Reeves said. "For some local issuers, making debt-service payments will be a challenge, no question. But I anticipate no defaults from public issuers in Mississippi." Both Standard and Poor's and Moody's have put $3 billion of Mississippi debt on watch lists.

Mr. Reeves said he thought his state would bounce back faster than many might expect, pointing out that power was already being restored in the coastal areas.

Defaults in the municipal finance market are rare and bankruptcies even rarer. Even during the Depression, 4,770 issues defaulted on $2.85 billion in debt, but most eventually paid it back. In 1994, Orange County in California went into bankruptcy (and paid back all the debt after a two-year delay) and in the late 1970's, Cleveland filed for bankruptcy.

Bond insurers have never had to make debt-service payments because of a natural disaster, but that may change. Drawing on insurance is a last step, and municipalities must pay insurers back for any money used.

"Bond insurers will definitely have to step up to the table," said Bart Hildreth, a public finance professor at Wichita State University.

It is also almost unheard of for the federal government to be asked to pick up debt-service costs for local municipalities. In the 1975 fiscal crisis in New York City, Washington guaranteed bonds issued by the city, but never had to pay anything and actually made money on the deal.

At the moment, most attention is on the immediate crisis. But the White House is aware of the coming financial challenge.

"As we move forward, we will be taking a closer look at the broader needs," said Scott Milburn, a spokesman for the Office of Management and Budget. "Municipal bonds falls into that category."

Charitable Giving Outpaces That From Other Disasters (NYT)

By Stephanie Strom

The New York Times, September 13, 2005

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Donations for the victims of Hurricane Katrina have come in at a blistering pace that exceeds that of other recent disasters, charities are saying.

Almost all of the money is going to the American Red Cross, in large part because other international relief and development organizations simply do not have significant operations in the United States. Some groups, like Oxfam and Mercy Corps, are now reassessing their long-held assumption that the federal government is equipped to handle American crises and are taking steps to help as well.

Americans donated more than $738 million to relief efforts through Sept. 11, according to The Chronicle of Philanthropy. In the 10 days after the terrorist attacks of Sept. 11, 2001, $239 million was collected, while $163 million was collected in the nine days after the tsunami last December.

Giving has been made even easier this time by the Internet and by companies. More than half of the donations have been made online.

Stacy Palmer, editor of The Chronicle of Philanthropy, described her own theory about why there was a quick deluge of money.

"I really think the biggest reason has got to be people seeing government agencies not doing the right thing," Ms. Palmer said, "and that drove them to support a private response and do it quickly by sending it online."

The American Red Cross had booked $584 million in gifts and pledges by Sept. 11, an outpouring that is helping underwrite the biggest relief effort in the organization's history. But the group's role is purely as a first responder, filling urgent needs for shelter, food and clothing.

Concerns are emerging that donors will be tapped out when the time comes for long-term rebuilding and recovery, needs that may not be easily met by the government.

"Right now, donors are responding to pictures of desperate people," said Hank Goldstein, vice chairman of the American Association of Fundraising Counsel's Trust for Philanthropy. "The hard and expensive work is the rebuilding to come."

Companies have made it easier for consumers to make gifts. Whole Foods allows its shoppers to add an amount for hurricane victims at checkout, raising more than $1 million, and Amazon.com has raised more than $10 million for the Red Cross through its Web site.

Normally contemplative foundations have responded with alacrity. Among those making special grants for disaster relief are the Lilly Endowment, with $20 million, and the Hilton Foundation, with $6 million.

And corporations have found ways to put their assets to use in the relief effort. The Target Corporation committed $1.5 million to the Red Cross, allowed a parking lot outside a Baton Rouge store to become a command center and will soon hand over a closed store in Wichita, Kan., to the Salvation Army, which wants to use it for a warehouse and distribution.

Charities, too, are savvier, Ms. Palmer said. The American Red Cross used e-mail addresses collected during the Asian tsunami to reach out to previous donors.

It is operating 675 shelters in 23 states and Washington, with 39,000 volunteers and 270 emergency rescue vehicles. It has given help to 161,000 survivors and, together with the Southern Baptist Convention, has served six million hot meals. It also is covering hotel accommodations for many.

The organization originally said it would need $130 million to address the immediate needs, but that assessment has been thrown out, said Devorah Goldburg, a spokeswoman for the Red Cross.

"Typically, we open a shelter, the hurricane happens, people hang out there maybe a week or so and then everyone goes home," Ms. Goldburg said. "This time, there's nothing to go home to."

Oxfam and Mercy Corps, more accustomed to dealing with disasters in far-flung locales than in their backyards, have dispatched small teams to the area to offer expertise and started raising money.

"It had been our assumption that in a domestic emergency, the emergency phase would be effectively handled by the various agencies charged with handling domestic emergencies," said Stephen Greene, a spokesman for Oxfam America. "Katrina has shaken those assumptions for us, and we've responded accordingly in the absence of a prompt and effective initial response."

This is the first time that Oxfam has mounted a relief effort in the United States, though it has long worked with local organizations on projects. It cannot deploy water bladders and tanks to provide clean water because its warehouses and equipment are closer to areas of recurring need in the developing world. Oxfam is working with local churches in Biloxi, Miss., to provide housing for 150 people.

Mercy Corps has sent 12 people to Baton Rouge, several of whom worked in Indonesia after the tsunami. Among the lessons from that disaster were getting the victims involved in the rebuilding process to create income and jump-starting local businesses that provide essential products and services.

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"Most of our work in the U.S. in responding to disasters has been to raise money for other organizations," said Neal Keny-Guyer, Mercy Corps' chief executive. "As the scale became obvious, and local and federal government capacity seemed to be overwhelmed, that's when we thought it might be worthwhile to get more involved."

Corporate Giving Reaches $547 Million (USAT)

By Del Jones

USA Today, September 13, 2005

Wal-Mart, Office Depot and General Electric are the largest corporate givers so far to the hurricane relief effort, all near or surpassing $20 million in cash and products, say three organizations that are tracking it.

The U.S. Chamber of Commerce says 145 companies had each pledged $1 million or more in cash and products through Monday. In all, 396 companies have given $409 million, says executive director Stephen Jordan of the chambers' Center for Corporate Citizenship. Companies have collected another $138 million in contributions from customers, for $547 million that will likely soon pass the $565 million raised for tsunami relief. Jordan predicts the total will likely be about $1 billion, surpassing the record $750 million collected after Sept. 11, 2001.

Office Depot is based in Delray Beach, Fla., so it is sensitive to hurricane disasters, CEO Steve Odland says. The company donated $1 million to the American Red Cross before Hurricane Katrina hit. Its total giving is up to $18 million, mostly in products, including $4 million in inventory at five New Orleans stores. Office Depot told city officials to take the merchandise, but Odland doesn't know how much looters took.

Wal-Mart has no estimate on how much was looted from its New Orleans stores, but spokeswoman Sarah Clark says those “millions” were not included in Wal-Mart's $20 million total. It has given $17 million in cash, the largest corporate cash contribution to date.

Other large contributions are coming from foundations with corporate roots. The heirs of Wal-Mart founder Sam Walton have given $15 million. Lilly Endowment, which is unaffiliated with Eli Lilly except that Lilly stock is its main asset, has donated $20 million. Lilly, the company, gave $1 million in cash, $1 million in insulin.

The Business Roundtable, an organization of about 160 CEOs of large corporations, says its companies have contributed $111 million in cash and $56 million in products as of Monday.

Compassion motivates most companies. But there are advantages to donating products instead of cash, because the IRS allows a tax deduction greater than the products' costs, says Curt Weeden, president of the Association of Corporate Contributions Professionals. He says it's possible some companies will use the disaster to unload hard-to-sell products.

Companies might be giving to the point that it's starting to hurt. Most giving after the Dec. 26 tsunami was charged to the 2005 budget, and another major disaster this year could mean large cuts to the arts and other more traditional charities as companies react to an “invasion of their pretax profit lines,” Weeden says.

Corporations must make money to be viable, and “unlike the government, don't have the luxury to print money,” he says.

If corporate giving reaches $1 billion, it will amount to a single day of what the government is spending on Katrina relief. Congress has already approved $62 billion.

Although small relative to government spending, corporate giving is invaluable, Weeden says, especially where it comes to volunteer efforts and intangibles such as large amounts of shelter and space. Navistar has offered a 7,800-square-foot facility with 10 loading docks.

Companies also offer efficiency. Whole Foods Market says it responded faster than any government or non-profit relief group by serving 300,000 meals of gumbo and jambalaya for evacuees and rescue workers. Merck employee Shawn Walls delivered a package of emergency medicine to evacuees in Georgia.

Anheuser-Busch has converted some capacity at four breweries from beer to water and used its own trucks to get 4 million white aluminum cans worth about $1 million to thirsty people. “You can't drink money,” Anheuser-Busch spokeswoman Francine Katz says.

Total giving is higher than reported, Jordan says, because many companies give without issuing a press release. But there is an opportunity for public relations. “We hope that not too far in the future, (evacuees) will want to toast our efforts with a can of Budweiser,” Katz says.

Perfume maker Creed has donated front-row seats for a concert at Carnegie Hall for auction. “Even as one enjoys luxury, such as a fine fragrance or an exceptional concert, one must also serve humanity,” said Emmanuel Saujet, CEO of Creed's American division, in a press release.

Many Texas schools require uniforms, and apparel maker Lollytogs is donating 120,000 uniforms to evacuee students. Atkins Nutritionals, which filed for bankruptcy protection this year, is donating almost $2 million in nutrition bars. Ford Motor is giving used vehicles. General Motors is giving free OnStar use in the area. Hooters waitresses at one Florida restaurant donated

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100% of their tips Monday, and another restaurant plans a teeter-totter fundraiser, where customers pledge money depending on how long waitresses can stay on the playground equipment.

Employee giving is not counted as corporate giving, but companies including Baxter, Chubb and Verizon are among those that try to influence their employees with a $2 match for every $1 they contribute. GE says it has collected more than $2 million from employees and retirees in addition to $16 million from the company, including $10 million in equipment such as power-generation and water-purification units.

On Friday, Starbucks Coffee pledged $5 million over five years. Weeden says that underscores a trend he is noticing. Large corporate grants have been slower in coming than after the tsunami or Sept. 11 attacks because companies see Katrina relief as a protracted effort, and they will be asked for more down the road. “It's a long haul,” Weeden says.

Hurricane Nurtures More Models Of Compassion (WP)

By Valerie Strauss

The Washington Post, September 13, 2005

Third-graders are selling pickles at a school in Kalamazoo, Mich., to raise money for Hurricane Katrina victims, and here in Bethesda, high school students are collecting thousands of backpacks for needy children. There are read-a-thons, talent shows and pizza parties being thrown across the country -- all held with the purpose of helping Americans in distress.

But in a marriage of compassion and convenience, some students moved by the victims' plight have also been able to help themselves by earning credits toward their school's service requirement.

Thousands of schools across the nation require some form of service from their students. Maryland was the first and remains the only state that has made it a requirement for a high school diploma. No one is questioning the enormous compassion and can-do attitude among young people. But for those who have supported or opposed mandatory service, the recent outpouring has reopened the debate on whether compassion can be taught.

"Is it a good idea to make it mandatory?" Bernice Lerner, director of Boston University's Center for the Advancement of Ethics and Character, asked about service. "It depends very much on the program. Sometimes they are done very well, and sometimes they are not. If you get the right person in charge, and they are doing it thoughtfully, giving students an opportunity to reflect and have an educational component involved, it can be very strong.

"You want to aim to do some soul-turning."

That may not be what often happens in these programs -- a Frost Middle School student, for example, earned credit hours for collecting trash at a Bethesda community baseball game, learning from the experience that "I never want to be a garbage man."

But supporters say that short of a national disaster, in times when society more naturally obsesses on Brad and Angelina than the underprivileged, schools seeking to turn out well-rounded citizens need to nurture a habit of helping.

Although educators debate whether compassion can actually be taught, many agree that it can be modeled and that it is as important as math and science, said Pamela Meador, coordinator for student service learning in Montgomery County. And something less than a turn of the soul as a result is worthwhile, too.

Detractors say that it is counterintuitive to force people to volunteer and that making it mandatory defeats the very notion of instilling a lifelong habit because it breeds resentment. Also, crafty students can get the requirement done without much thought. Some say it is the responsibility of home and church, not schools, to foster morality. Others worry that some students who do endless community service, well beyond the requirement, are simply trying to pad their college applications.

And then, Meador said, there are the parents who "complain that their kids are just too busy for this. He has basketball, tennis, no time."

In Montgomery, which has the state's largest public school system, students can choose from dozens of approved programs or find one themselves to complete their service.

They are encouraged to start earning their required 60 credit hours of public service early in middle school, in large part because it is easier to learn good habits at a younger age, said Teresa Salzano, the student service coordinator at Frost.

Salzano opposed the mandatory program when it began 13 years ago, but she has since changed her mind, saying she has seen children learn valuable lessons about themselves and the world by performing service. One of the important ones is that even a young child can make a difference in someone else's life.

"Some students may not see value in it until they actually do it," she said. "And some may never see the value. But enough do."

Katrina Hauprich, 12, a seventh-grader at Benjamin Banneker Middle School in Burtonsville, is one who does. Although she has until the end of her senior year to complete her requirement, she already completed it -- by working with deaf students this summer -- and wants to continue performing service.

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"It's really fun, usually," she said. "I don't do it just for the hours. You get to meet a lot of kids. It's fun to work with them."

Although some students may think that service programs are a new form of torture devised by their teachers, the push for community service has been developing since the start of the 1900s when school systems did seek to teach morality, believing such lessons would create more well-rounded individuals.

There are numerous small studies showing various academic benefits of public service projects, including a decline in absenteeism and an improvement in grades, but nobody knows how long the lessons last and whether these young people grow into adults who readily engage in projects to help others.

Still, the short-term outlook has many teachers, principals and parents across the country thrilled with the voluntary student reaction to Katrina and impressed with the efforts to raise funds.

"Students are also going out of their way to help each other, which has reinforced a positive culture in our school," Scott Murphy, principal of William H. Farquhar Middle School in Olney, wrote in an e-mail.

And, he quipped, it's "a nice alternative to bullying."

Congress Delays Plans To Extend Bush's Tax Cuts (WSJ)

By Brody Mullins

The Wall Street Journal, September 13, 2005

WASHINGTON -- In a major shift of priorities after Hurricane Katrina, Republican leaders in Congress have delayed plans to extend dividend and capital gains tax cuts and may shelve them for the rest of the year.

The House and Senate had planned a fall legislative agenda around a massive budget bill that extended to 2010 the 15% tax rate on dividends and capital gains signed by President Bush two years ago. The cut was one of the president's signature initiatives and is seen inside the White House as a key part of his economic legacy.

The 15% rate isn't scheduled to expire until the end of 2008 -- meaning there's still time to push an extension through. But Republicans, chastened by the costs of rebuilding the Gulf Coast and negative public assessments of Washington's initial response to the hurricane, have decided that taking any action on the bill is politically untenable at least until late October in the suddenly changed political and budgetary environment.

"Events have consequences," said Bill Hoagland, the top budget aide to Senate Majority Leader Bill Frist of Tennessee. "The overall environment here has been shaped by the large [Katrina] spending bills and I'm starting to sense that some people are getting a little nervous about the deficit."

In recent days, Congress has approved $62.3 billion in emergency aid for Katrina, and yesterday Senate Budget Committee Chairman Judd Gregg of New Hampshire said the Bush administration is likely to request another $50 billion within a month.

Also in question with the delay are prospects for significant new curbs on Medicaid, the joint federal-state health-care program for the poor. The budget bill would cut $10 billion from the program over the next five years, but a bipartisan group of senators is calling such cuts inappropriate at a time when tens of thousands of poor people have been displaced from their homes.

Lawmakers do appear likely to approve a temporary measure exempting millions of middle-income taxpayers from paying the so-called Alternative Minimum Tax, which has increased the tax burden for a growing portion of Americans in recent years. Without such action, which enjoys strong support among senators of both parties, those middle-income taxpayers would face a significant tax increase next year.

Tax-writing committees on Capitol Hill also are looking to act quickly on new, targeted tax relief to help residents and businesses in storm-stricken areas get back on their feet. Finance Committee Chairman Charles Grassley of Iowa and ranking Democrat Max Baucus of Montana yesterday unveiled a $5 billion to $7 billion package of tax relief for individuals that would make it easier for victims to get access to cash.

Moreover, congressional Republicans and the White House remain in favor of ultimately extending the dividend and capital gains tax cuts, which they see as a boon to economic growth.

Still, a delay in extending tax cuts, coming at a time when President Bush's popularity has dropped in polls, could introduce new doubts about whether the president's tax cut will outlast his presidency. The White House has considered the early part of the president's second term its most auspicious window for action. Next year, Congress will be enmeshed in midterm election pressures. After that, the president faces the prospect of seeing his influence ebb as a lame duck with the nation looking toward the election of his successor in 2008.

A separate, 17-point bill that congressional leaders hope to usher through the Senate this week would allow flood victims to withdraw funds from retirement plans without penalty, give them more time to pay their taxes and give businesses tax credits for

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employing workers from affected areas and enhanced deductions for donations of food and books. "We want to give the proper tools to businesses that will be hiring displaced workers to create new jobs," Sen. Baucus told reporters.

Lawmakers in both chambers also plan further measures to allow displaced students to deduct room and board from their taxable income, and to spur rebuilding efforts through the issuance of tax-exempt bonds and acceleration of capital expensing and depreciation for companies involved.

"These provisions will help revitalize business activity and employment in the affected areas, restore the states' ports and trade capacity and rebuild the energy infrastructure," said House Ways and Means Chairman Bill Thomas of California and top Democrat Rep. Charles Rangel of New York in a joint statement.

Meanwhile, the administration announced it would consider cutting tariffs on lumber from Canada and cement from Mexico to guard against price spikes that might accompany the post-Katrina rebuilding effort. The tariffs have been in effect for years amid complaints from domestic producers about dumping of low-priced goods from across the border. But a Treasury spokesman said the administration can adjust the tariffs under special circumstances.

Republicans on Capitol Hill previously had delayed a vote on permanent repeal of the estate tax. That vote had been scheduled as the Senate's first order of legislative business after its summer vacation, but Majority Leader Frist feared that it looked unseemly to approve a tax cut affecting the most affluent 2% of Americans at a time when thousands of poor New Orleans residents were displaced and suffering as a result of Katrina.

The Senate may return to the issue this fall, but under changed political dynamics that may lead to a different outcome. Prospects were already dim for attracting the 60 votes needed to overcome a Democratic filibuster against full repeal. Now there's new impetus behind compromise talks that would preserve the levy for a reduced number of the most valuable estates. Legislative aides in both parties agree that the Democrats' hand has been strengthened in those talks, which include Sen. Baucus, Sen. Grassley and Republican Sen. Jon Kyl of Arizona.

The large, so-called reconciliation budget bill containing the capital-gains and dividend-tax-cut extensions had become a prized legislative vehicle. Under Senate rules, it cannot be held up by a filibuster, which means that passage requires just 51 votes rather than 60.

That means that by delaying its consideration -- and perhaps scrapping it for the year -- the Senate has cast a cloud over numerous provisions that lawmakers had hoped to attach aside from the dividends and capital-gains tax-cut extensions.

Other tax provisions in question include a savings credit for low-income taxpayers valued at $5 billion over four years. The credit encourages low-income Americans to save money for retirement by matching as much as 50% of contributions up to $2,000 to 401(k) and IRA plans. About five million Americans use the credit each year, according to H&R Block. It is due to expire at the end of 2006.

The delay in the budget bill also threatens dozens of other issues that lawmakers hoped would hitch a ride on the legislation because the rules for approval make passage easier.

Sen. Grassley, for instance, has planned to include a measure cracking down on tax-exempt organizations. Sen. Frist wants to squeeze a few billion dollars from the guaranteed student loan program to pay for scholarships for low-income Americans earning advanced math, science and engineering degrees. House Education and Workforce Committee Chairman John Boehner of Ohio wants to add pension-reform legislation. And Senate Commerce Committee Chairman Ted Stevens of Alaska plans to use revenue from auctioning off new airwaves to create a billion-dollar fund to upgrade television sets for low-income Americans when television broadcasters switch from sending their signals over analog to digital.

If Congress fails to return to the budget reconciliation bill, those issues will face a more difficult future passing as stand-alone measures. Sen. Stevens's digital television fund, for example, would have to remain a part of a complicated digital television bill that has languished on Capitol Hill for years.

According to the Securities Industry Association, the lower rates enacted in 2003 for capital-gains and dividend taxes saved 24 million households an average of about $950 on their 2004 taxes. The reduced rates for dividends, meanwhile, seem to have encouraged more companies to offer them. In 2004, 113 publicly traded companies decided to begin paying dividends; previously, an average of 22 companies a year added dividends, according to the industry trade group.

House Appropriators Ready To Act On CR Request (RC)

By Jennifer Yachnin

Roll Call, September 13, 2005

In what has become an annual tradition, House and Senate lawmakers will likely need to pass at least one continuing resolution to fund government operations. As the clock winds down on fiscal 2005, the chambers have completed work on only two of 11 spending bills.

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While House leadership has yet to formally seek a CR, the chamber's appropriators are nonetheless readying for the inevitable request.

House Appropriations spokesman John Scofield said the measure will be crafted to hold down federal spending levels.

"We are preparing a resolution that would fund government programs at the lower of House- or Senate-passed [spending levels] or last year," Scofield said. The House passed its version of the spending bills prior to the July Fourth recess.

"We're serious when we said we're committed to sticking to the budget," he later added.

Across the Capitol, Senators resumed consideration of the Commerce, Justice and science spending bill Monday night, expected to be the sixth appropriations measure that will be completed in the chamber.

A Senate Appropriations aide said the chamber is focused on completing the remaining measures and has not yet prepared a resolution to continue funding after Sept. 30.

"If we need to continue things, then we'll do short-term CRs," the aide noted, adding that it is too early in the process to provide any details on the resolution itself.

In the meantime, House appropriators remain optimistic that the individual spending bills will be completed in coming months, circumventing the need for a consolidated appropriations measure.

"Our preference is still to do these bills one by one," Scofield said, noting that House Appropriations Chairman John Lewis (R-Calif.) has committed to not creating omnibus legislation.

Although Congress' workload has increased significantly in the wake of Hurricane Katrina, the additional efforts are not expected to halt the appropriations process.

Citing the passage of individual spending bills in the wake of the Sept. 11, 2001, terrorist attacks, which similarly required lawmakers to pass significant emergency spending legislation, Scofield noted: "There's precedent for this."

However should both chambers fail to come to agreement on legislation including the Energy and water spending bill, the House Appropriations panel is prepared to seek full-year continuing resolutions to fund the affected agencies and programs, Scofield said.

Survivors Could Get 401(k) Access (USAT)

By Kathy Chu

USA Today, September 13, 2005

The IRS is expected to ease 401(k) restrictions this week to allow those affected by Hurricane Katrina to tap into their retirement funds.

Representatives of organizations involved in retirement issues — including Profit Sharing/401(k) Council of America, T. Rowe Price, Mercer Human Resource Consulting and Spark Institute — say they expect the IRS to announce this move in the next few days.

In a statement, the IRS would say only that it is "looking for ways to provide as much help as possible to Katrina victims."

Retirement-plan providers believe the IRS is likely to say:

·Hurricane Katrina would be considered a hardship, and those affected could qualify for a hardship distribution from their 401(k) plans.

"It's both the magnitude of the elements of the disaster and the length of time it will take to recover" that is prompting this, says Thomas Schendt, a partner at Alston & Bird law firm, which represents financial-services providers.

·Employers and plan providers could ease the rules on paperwork normally required to get a loan or hardship distribution. This would allow workers to get the funds faster, says Deborah Novotny, a T. Rowe Price vice president.

·Companies that don't currently allow 401(k) loans or hardship distributions would be able to provide these withdrawals. Currently, 95% of large employers allow loans and nearly the same percentage allow hardship withdrawals, says Hewitt Associates. Smaller companies, however, are less likely to offer these withdrawals.

Employers and retirement-plan providers wouldn't have to adopt the IRS' guidance, but they could use the eased restrictions to get funds to cash-strapped employees, according to Larry Goldbrum, general counsel for Spark.

Already, Fidelity Investments says it has seen a "significant increase" in hardship-withdrawal requests because of the hurricane.

Retirement funds make up a large chunk of many people's assets. Generally, workers should not take this money out. But "when you don't have a house and you have kids to feed, your priorities change," says Ed Ferrigno, a vice president at Profit Sharing/401(k) Council of America.

Monday, Sens. Max Baucus, D-Mont., and Charles Grassley, R-Iowa, announced a bill that would raise 401(k) loan limits and waive the 10% early-withdrawal penalty for people who have not yet reached age 591/2.

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Inside Politics (WT)

By Greg Pierce

The Washington Times, September 13, 2005

Twisting the news

Los Angeles Times pundit Michael Kinsley, who used to work for CNN, says the network is coaching guests to "get angry" when they go on the air to discuss Hurricane Katrina.

"The TV news networks, which only a few months ago were piously suppressing emotional fireworks by their pundits, are now piously encouraging their news anchors to break out of the emotional straitjackets and express outrage," Mr. Kinsley said. "A Los Angeles Times colleague of mine, appearing on CNN last week to talk about Katrina, was told by a producer to 'get angry.' "

Mr. Kinsley's words were reported yesterday by the online Drudge Report. CNN's political stance was more or less confirmed by a New York Times article yesterday that suggested CNN host Anderson Cooper was heroic for scolding a Democratic senator who failed to condemn the Bush administration.

The New York Times article, written by Elizabeth Jensen, said: "Mr. Cooper's Sept. 1 interview with Sen. Mary L. Landrieu, Democrat of Louisiana, marked a turning point in the tone of hurricane coverage as he snapped when she began thanking federal officials for their recovery efforts.

" 'Excuse me, senator, I'm sorry for interrupting,' Mr. Cooper interjected. 'I haven't heard that, because, for the last four days, I've been seeing dead bodies in the streets here in Mississippi. And to listen to politicians thanking each other and complimenting each other, you know, I got to tell you, there are a lot of people here who are very upset, and very angry, and very frustrated.

" 'And when they hear politicians slap -- you know, thanking one another -- it just, you know, it kind of cuts them the wrong way right now, because literally there was a body on the streets of this town yesterday being eaten by rats because this woman had been laying in the street for 48 hours."

The article did not say how Mrs. Landrieu responded, but she hasn't had a nice word to say about President Bush or federal relief efforts since then.

Politicizing Katrina

"So, while many Americans were busy contributing money, clothing and other necessities for hurricane-devastated Gulf Coast residents, what was Sen. Chuck Schumer up to?" the New York Post asks in an editorial.

"Raising money off the backs of Katrina's victims -- for the Democratic [Senatorial] Campaign Committee," the newspaper said.

"In one of the more cynical tricks we've seen lately, Schumer's DSCC urged visitors to its Web site to sign a petition urging the firing of Federal Emergency Management Agency Director Michael Brown, the focus of much of the criticism of the federal response to Katrina. ...

"A click on the petition opened a page requesting a donation to the DSCC, the party organization focused on recruiting and supporting Senate Democrats.

"Only after the press blew the whistle did the tasteless scheme end. The committee yanked the link and agreed to donate any funds raised to charity. ...

"Chuck Schumer should be ashamed of himself."

The weatherman

Former Vice President Al Gore has condemned the Bush administration for its response to Hurricane Katrina, and suggested that Mr. Bush was responsible for the storm, which Mr. Gore attributed to global warming.

"When the corpses of American citizens are floating in toxic floodwaters five days after a hurricane struck, it is time not only to respond directly to the victims of the catastrophe, but to hold ... the leaders of our nation accountable," Mr. Gore told environmentalists Friday at the Sierra Club's national convention in San Francisco.

Mr. Gore had been scheduled to give a speech to state insurance commissioners in New Orleans last weekend about the likelihood that global warming will spawn increasingly deadly hurricanes. He decided to take his speech to San Francisco after that conference was canceled, the Associated Press reports.

"The warnings about global warming have been extremely clear for a long time. We are facing a global climate crisis. It is deepening. We are entering a period of consequences," Mr. Gore said.

Spend, spend, spend

"With almost no debate and with precious few provisions for oversight, Congress has passed President Bush's mammoth $62 billion request for emergency Katrina relief," John Fund writes at www.OpinionJournal.com.

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"House Speaker Denny Hastert says the final total will 'probably [be] under the cost of the highway bill' that Congress passed last month with a price tag of $286.4 billion," Mr. Fund said.

"Despite such sums, there are few calls for offsetting cuts in other programs, apart from anti-war opportunists who see in Katrina a chance to undermine the Iraq effort. Last week Sen. Tom Coburn of Oklahoma asked White House Budget Director Josh Bolten if he planned to continue to pursue budget reductions the administration had already proposed in its January budget. Mr. Bolten said he 'didn't have time' to worry about that.

"All this leaves Mr. Coburn and other budget hawks wondering what has happened to what might be called 'the Republican wing of the Republican Party.' 'The president could exercise leadership by insisting that we set priorities and offset the cost of Katrina relief by making changes elsewhere,' says Mr. Coburn. 'Sadly, we don't have that leadership.'"

Top priority

By a 3-to-1 margin, Americans say border control is far more important to national security and fighting crime than gun control, according to a nationwide Zogby survey.

The survey, commissioned by the Second Amendment Foundation, found that 70 percent of the respondents said border control is more important, while only 23 percent favor more gun control. Seven percent of the respondents were undecided.

The survey was conducted Sept. 6-7 by randomly contacting more than 1,150 households around the country. The margin of error was 2.9 percent, the polling firm said.

Mayoral hopefuls

The four Democrats vying for the chance to face New York Mayor Michael R. Bloomberg in November spent their final hours before today's primary shaking hands at subway stations and senior centers, hoping to make an impression that will translate into votes.

Gifford Miller, Anthony Weiner and C. Virginia Fields attended memorial remembrances, but Fernando Ferrer had lunch and a photo-op with the Rev. Al Sharpton, who has endorsed him.

A poll by the Quinnipiac University Polling Institute released yesterday found Mr. Weiner in second place with 25 percent to Mr. Ferrer, who has 32 percent. Thirteen percent of likely Democratic voters in the survey were undecided. The winner needs 40 percent to avoid a runoff in two weeks.

GOP Arrows Being Aimed (HILL)

By Patrick O'Connor And Roxana Tiron

The Hill, September 13, 2005

With Rep. Peter King (R-N.Y.) emerging as the clear leadership favorite to become the next chairman of the Homeland Security Committee, rank-and-file Republican opponents are questioning his loyalty to the party in a last-gasp effort to derail his candidacy.

King's GOP opponents have compiled a one-page collection of negative remarks that King has made over the years about members of the Republican Party. The sheet, which was obtained by The Hill, includes a King quote from 1996 criticizing then-House Speaker Newt Gingrich (R-Ga.) and then-Majority Leader Dick Armey (R-Texas) for comments the two made describing union leaders as "big labor" and "union bosses."

"It's a Southern, anti-union attitude that appeals to the mentality of hillbillies at revival meetings," King told the Memphis Commercial Appeal in response to comments made by Gingrich and Armey.

The sheet also includes a King quote calling members of the historic Republican class of 1994, who took part in the first House GOP majority in nearly four decades, "self-righteous."

"Each of them thinks he has received tablets from God," King told Insight magazine in July 1996.

In addition, the one-pager lists a 2000 King quote asserting that Sen. John McCain (R-Ariz.) would receive the Catholic vote during his primary race against then-Texas Gov. George Bush because Bush was "willing to shake hands with bigots to get votes," in reference to Bush's controversial speech at Bob Jones University in Greenville, S.C.

The list of quotes comes as conservative Republicans fight to ensure that the new chairman of Homeland Security shares their commitment to spending restraint.

"Keeping homeland funding free of earmarks has been a recent struggle," one Republican aide wrote in an e-mail. "What happens if the committee is run by someone who thinks that buying fire ladders is a federal government responsibility?"

King and other candidates for the post have submitted their pitch letters for the chairmanship to the conservative Republican Study Committee (RSC). The committee does not plan to meet until tomorrow, the same day candidates will make their presentations to the Steering Committee, aides said.

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Last year, House conservatives questioned Rep. Ralph Regula's (R-Ohio) commitment to fiscal responsibility during his race for the Appropriations Committee gavel and former Veterans Affairs Chairman Chris Smith (R-N.J.) was dismissed from his chairmanship for ignoring spending limits set by leadership.

King, however, said he does not think that the list of quotes is going to hurt his candidacy for the Homeland Security gavel.

"I am more than willing to be judged on my entire record," King told The Hill.

King is quick to point out that no one has done more for the Bush administration and that no one "has been more loyal to Denny Hastert [R-Ill.]," the House Speaker, than he has.

"I do not think anyone supported him more than I did," he said, adding that he has shown his loyalty long before he was being considered for any chairmanship.

King earned considerable praise from GOP leaders when he defended embattled Majority Leader Tom DeLay (R-Texas) this spring.

As for the quotes, he said that they were indicative of "very turbulent times" for the party in 1996, when Gingrich was in his first term as Speaker of the House. At the time, King complained that the GOP was too focused on the gains it had made with Southern voters while failing to realize the importance of union members of the North — urban Catholics and voters of Irish and Italian descent.

"It is no secret that I said this," King said. "They were very turbulent, controversial times. That all changed when Denny Hastert became Speaker."

He also suggested that a look at his entire record would show that "it is pretty conservative."

"I do not think too many people took it personally," King added, recounting that Rep. Spencer Bachus (R-Ala.), a friend, sent him a box of old shoes, as a funny retort to King's "barefooted hillbillies" remarks.

The 28-member Republican Steering Committee is set to meet tomorrow to interview each of the candidates and likely choose a chairman.

In the meantime, the candidates — Reps. Curt Weldon (Pa.), John Linder (Ga.), Dan Lungren (Calif.) and Don Young (Alaska) — are scurrying to meet with as many members of the Steering Committee as possible before tomorrow's presentations.

Rep. Mac Thornberry's (Texas) name also has been circulated, but his office did not return calls to confirm his candidacy. Unlike the other contenders, Thornberry is not a member of the Homeland Security Committee; he sits on the House Armed Services Committee.

Over the August recess, both King and Weldon have intensified their public campaigns for the post. The other candidates preferred a member-to-member approach behind the scenes.

"There is a buzz in [leadership] circles that Peter King is the favorite," one GOP leadership aide said. "But it's been very difficult to keep a handle on it with all the Katrina activity."

"All I am hearing is good things," King said, adding that he is reluctant to believe anything until a final decision is made. "I could not have hoped to be in a better position than I am now."

Party fundraising, one of the major factors in most leadership races, has yet to become an issue for King, who readily admits he has not focused on filling the party's or his GOP colleagues' campaign coffers over the years.

"I keep waiting for the fundraising issue to come up, but nobody brought it up yet," he said. King does not have a leadership political action committee.

Instead, King bases his candidacy on an emotional appeal as a New Yorker whose life was changed dramatically by the Sept. 11 attacks.

He also highlights the work he has done as chairman of the Emergency Preparedness Subcommittee and the role he played in revising the formula that ensures homeland-security grants are based on threat analysis.

In contrast, Linder, who is also a member of the exclusive Ways and Means Committee, bases his candidacy largely on the significant contribution he has made in maintaining and expanding the House majority. Linder served as NRCC chairman during the 1998 election cycle, when Republicans unexpectedly lost a significant number of seats in the House.

In his letter to the Steering Committee obtained by The Hill, Linder stressed that, over the past five cycles, he has written more than $1 million in checks to the National Republican Congressional Committee. Linder also has given $350,000 directly to candidates in competitive races. He attached nine pages about his fundraising achievements to his letter to the Steering Committee.

Pedro And W (RC)

By Mary Ann Akers

Roll Call, September 13, 2005

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Did Rep. Peter King (R-N.Y.) really chew out President Bush over the phone? The short answer is yes — but not really.

It all began when the fast- (and tough-) talking New York Republican greased the wheels for some New York firefighters who were dispatched to New Orleans for rescue-and-cleanup patrol after Hurricane Katrina. The firefighters wanted to meet the president during his brief stopover in the wiped-out city, so they called their man King to see if he could put the fix in.

New York City Fire Department Deputy Chief Bob Maynes called King on Sunday to say that he heard Bush was coming to the Big Easy, and that he and his team would like to meet the commander in chief. Any strings to be pulled, Congressman?

"I figured the odds were zero," King said. But he put a call into the White House anyway, then went on about his business, attending a 9/11 anniversary candlelight vigil Sunday. As he walked back to his car after the vigil, he retrieved an hours-old voice mail message from Maynes saying something like, "Thanks for your help. Looks like we might get to meet the president after all."

Excited for his boys, King called Maynes back to see if they were successful. Battling overloaded mobile phone service, he finally got through on the fourth try and was startled — and maybe a little irked — to hear a voice saying, "You should be down here with your men."

What?! "Hey, I was trying to set up the meeting for you! Did it work out?" replied a slightly perturbed King. (Or at least that's what he recalls saying. HOH has a hunch that the language was a bit stronger.)

Again, the voice came back: "Pedro, how come you're not down here?" By now, the jig was up: It was W himself, who nicknamed King "Pedro" some time ago. And by now, Pedro was shaking in his boots.

"I thought I was talking to the fireman!" King said, laughing with embarrassment. He says he told Bush, "I'm sorry, I didn't know it was you, Mr. President."

"Gee, this guy doesn't even know who he's talking to!" Bush said to the New York firefighters, laughing his trademark laugh.

Bush, who had obviously grabbed the phone when Maynes saw that it was King calling, seemed to forgive Pedro. King said the president thanked him for being at the White House two days earlier for the medal ceremony honoring cops and firefighters killed in the line of duty on 9/11, and said of the firefighters, "These New York guys are great. They're the best."

Maybe a couple of photo-ops with those great, best guys in uniform could have boosted Bush's approval ratings after Katrina struck!

Partisan Politics by Wayside. It's not every day that a Democratic donor writes a $50,000 check to a Republican Member of Congress. But it happened, on Sept. 2, when House Speaker Dennis Hastert (R-Ill.) auctioned off one of his collectibles at the Kruse International Labor Day auto show in Indiana after taking heat from Democrats and journalists for initially deciding not to return to Washington, D.C., to approve Katrina relief legislation, and for saying it "doesn't make sense" to spend billions of dollars to rebuild New Orleans.

The guy who bought Hastert's 1977 Lincoln Continental is Houston attorney John O'Quinn, who also has written major checks this year to groups like the Progressive Patriots Fund, the campaign of Sen. Hillary Rodham Clinton (D-N.Y.) and the failed bid by former Texas Rep. Martin Frost to become Democratic National Committee chairman.

Hastert turned over every Democratic penny of his 50 grand to the American Red Cross hurricane relief mission. "It's nice to see people put partisanship aside and put money towards Hurricane Katrina relief charities," Hastert spokesman Ron Bonjean said.

Coburn: Can't We All Just Get Along? Sen. Tom Coburn (R-Okla.) had a Rodney King moment during confirmation hearings for Judge John Roberts on Monday.

During his opening statement on the conformation's first day of hearings, Coburn got choked up during an appeal for bipartisanship when he said, "When I ponder our country ... my heart aches for less divisiveness, less polarization, less finger-pointing, less bitterness and less mindless partisanship, which, at times, sounds almost hateful to the ears of ordinary Americans."

But not everyone was taken in by the display of emotion. Keen observers noticed that moments before, Coburn had been doing a crossword puzzle from his seat in the hearing room. One snide Democratic observer who doubted the sincerity of Coburn's speech said, "And his head hurts for easier crossword puzzles."

He's Baaack. Former Sen. John Ashcroft (R-Mo.), after doing his best Dick Cheney routine, is out of hiding and back in the public spotlight. On Monday he made his first media appearance since leaving the Justice Department in February, appearing as a color commentator on CNN alongside veteran journalist-talking-heads Jeff Greenfield and Jeffrey Toobin.

And if that's not enough for you, hang on to your seats. The former attorney general and member of the Senate Judiciary Committee, who formed the Ashcroft Group earlier this year, is expected to be doing lots and lots of TV in the weeks and months ahead.

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"He's enjoyed his hiatus, but he's one of the most experienced negotiators of the Washington terrain. Folks have been asking for him and now he's happy to comment, consult and advise," boasts his former spokeswoman, Juleanna Glover Weiss, who also joined the newly up-and-running Ashcroft Group.

Republicans Win Again. Republicans retained their coveted Roll Call Cup on Monday in the annual Congressional Ryder Cup competition, which this year raised money to benefit charities helping with Hurricane Katrina relief.

The GOP golfers, led by Rep. Mike Oxley (Ohio), won 10.5 to 9.5 to keep the title. The players raised $100,000 for the First Tee program to benefit youth. An additional $20,000 will be donated by the golfing Members to the hurricane-relief charity of their choice.

Tropical Storm Ophelia Slows, But Carolinas Stay Prepared (NYT/AP)

By The Associated Press

The New York Times, September 13, 2005

WILMINGTON, N.C., Sept. 12 (AP) - Tropical Storm Ophelia stayed along the coast of the Carolinas on Monday, dropping slightly in strength from a hurricane as it barely moved toward land.

Although the storm was centered more than 200 miles offshore, nonresidents were ordered to leave one of North Carolina's Outer Banks islands and 300 National Guard troops were sent to mustering points along the coast. School systems in five counties closed, even though the storm's eye was predicted to remain offshore until Wednesday.

Many people acknowledged that they were paying closer attention to the storm because of the vast destruction caused by Hurricane Katrina along the Gulf Coast. Others insisted they would not let the milder storm disrupt their plans.

"My family is all coming in for a family reunion, including my 84-year-old mother," said Dodie Curtis, 62, of Guilford, Me., on the shore at Wrightsville Beach. "This is our family thing and we don't plan to go anywhere unless it gets a lot worse."

Any appearances to the contrary, Gov. Michael F. Easley said the state was doing its normal storm preparation.

"We have, unfortunately, a great deal of experience with hurricanes," Mr. Easley said. "I think one of the things people in North Carolina will be able to recognize is that this is the exact same pattern we always follow."

The storm was a minimal hurricane early Monday with sustained winds of 75 miles an hour, but by midday it had weakened to about 70 m.p.h., 4 m.p.h. below the threshold, the National Hurricane Center said.

Meteorologists warned, though, that the system had the potential to regain hurricane strength over the next day or so. A hurricane warning was issued from Cape Lookout south to Edisto Beach, S.C.

At 11 p.m., the storm was centered about 140 miles east-southeast of Charleston, S.C., and 210 miles south-southwest of Cape Lookout, the hurricane center said. It was moving northwest at about 3 m.p.h., with a gradual turn to the north expected in the next 24 hours.

With the storm's path uncertain, Gov. Mark Sanford of South Carolina called for a voluntary evacuation of oceanfront and riverside areas in his state's northeastern corner on Monday. Mr. Sanford was joined by officials in North Carolina's adjacent Brunswick County.

The storm's slow movement is its primary danger, bringing the likelihood that it will hang over eastern North Carolina for days, Mr. Easley said. Floods, prolonged power failures and severe wind damage were possible as the storm moved north from Wilmington to the Pamlico Sound, he said.

Mr. Easley ordered the National Guard to eastern North Carolina on Sunday, accompanied by swift-water and urban search and rescue teams, as well as seven helicopters.

He also ordered a mandatory evacuation of visitors from fragile Ocracoke Island, which is reachable only by ferry. Highway Patrol officers helped with the Ocracoke evacuation on Monday.

The Coast Guard closed state ports in Morehead City and Wilmington on Monday.

"I don't think I would be human if I said Katrina had no impact on me," Mayor Spence Broadhurst of Wilmington said after emerging from a meeting where he helped decide to call for voluntary evacuations.

Democrats Taking Offensive Posture (RC)

By Erin P. Billings

Roll Call, September 13, 2005

With Republican poll numbers falling and the nation focusing increasingly on domestic policy, House Democrats are feeling new political confidence and taking on a rare offensive posture against the GOP.

Through mid-August, Democrats were feeling emboldened as public confidence dipped in the U.S. handling of the Iraqi conflict, Social Security reform and Congressional ethics. Then Hurricane Katrina brought mounting questions about the Bush administration's response to the disaster.

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"Hurricane Katrina has certainly changed the political landscape in the short term," said one Democratic leadership aide. "Whether it does in the long term is another question."

Minority Leader Nancy Pelosi (D-Calif.) was the first to call on Congress to return to session early to pass a relief package for the disaster area and led her party's call for Michael Brown, the then-director of the Federal Emergency Management Agency, to step aside.

Democrats were also quick to call for Congressional hearings and for a push back on the regular agenda to make room for Katrina-related legislation.

This week, Pelosi will lead the Democratic assault once again, scheduling at least three events on key issues on which Democrats charge the GOP has faltered. Democrats also will continue to raise questions about the Republican management of the federal government at a time when many Americans are looking for assistance.

Pelosi and other leaders will reiterate their call for the creation of a nonpartisan, independent commission to investigate the hurricane response, to urge creation of an independent anti-fraud panel to ensure proper oversight of the contracts awarded for the relief effort and to decry price gouging in the wake of rising fuel costs. The party also will announce the creation of a Democratic relief package for the victims of the hurricane.

One senior Democratic staffer said that Democrats feel not only that they are in a position to stake out some political ground, but that Pelosi is actually being heard.

"There are some opportunities here," said the aide. "The president's numbers are at an all-time low. We are showing that we can lead, and that we're the ones who are listening."

The latest polling by Newsweek Magazine shows President Bush's job approval rating at 38 percent, and reports that just 28 percent are satisfied with the way things are going. It also showed hopeful numbers for Congressional Democrats, with 50 percent of Americans preferring Democratic candidates versus 38 percent for Republicans.

The same survey also showed that in the wake of Hurricane Katrina, 57 percent of Americans have lost confidence in the government's ability to handle another disaster.

One top Republican House staffer said the GOP acknowledges that the mood of the country is not high given the war, Katrina and gas prices. But the staffer said that Republicans will rebound by passing legislation to help the victims, rebuild the Gulf Coast and bolster fuel supplies.

"If we can show we are working to solve the problems, we will regain our ground," the aide said. "There are some real opportunities."

A top Democratic House aide acknowledged that since the Sept. 11, 2001, terrorist attacks, Democrats have struggled to gain an upper hand against a GOP majority that bills itself as strong on security and values. But as Bush's poll numbers have dipped and confidence in the war has fallen, the aide said, Democrats have been given a rare window of opportunity.

"When he's weak, he can't beat us up and call us obstructionists," this aide said. "He's not in a position of strength."

"It all stems from Iraq," the staffer added. "The voting public just doesn't like what's happening in Iraq. ... It's created a dynamic that's problematic for them and beneficial to us."

As such, Republicans have accused Democrats of using the tragedy of Katrina for partisan gain.

"This is the classic example of the Democrats throwing as much mud against the wall to see what sticks," said Ron Bonjean, spokesman for House Speaker Dennis Hastert (R-Ill.). "Our strategy is not to take the bait and move forward to help these people. Over time, people will grow tired of their antics."

But Democratic leaders are rejecting the accusation. Rather, they insist they are simply working to protect Americans from any future catastrophe.

"It is clear that too many lessons went unlearned after September 11," Pelosi and Senate Minority Leader Harry Reid (Nev.) wrote in a letter to Roll Call to be published Thursday. "Democrats are speaking out and will continue to do so, demanding more from President Bush and Congress to ensure that we do everything necessary to fulfill our government's basic obligation to protect Americans from danger. We can't change the past, but we can change our future. And there is no excuse not to."

And while they appear to be making some headway, Democrats acknowledge that they can't get overly confident just yet. The party remains divided on the Iraqi conflict, among other things. But Democrats can strike hard against the GOP on core domestic issues including Social Security, federal assistance to disaster victims, the economy and ethics.

A senior Democratic aide said the test for the party and of its strength will really come in the months ahead.

"All four of those issues give Democrats a perfect opportunity to paint the 'us versus them' picture," this staffer said. "This is what Democrats are about. It's a matter of do we capitalize on it."

Inside The Beltway (WT)

By John McCaslin

DOJ_NMG_0004743

The Washington Times, September 13, 2005

God before GOP

We've learned of a major shake-up at the Washington-based National Black Republican Association, with six of the 10 NBRA board members resigning in recent days over various disagreements.

"The organization and its current leadership is heading down a much different direction than was envisioned by myself and the other board members," says Christopher R. Arps.

Similarly, the Rev. Eric M. Wallace, chairman of the African American Republican Council of Illinois and a candidate for lieutenant governor, writes in a resignation letter obtained by Inside the Beltway:

"If you guys decide to formulate another organization based on actually helping our people, let me know. If you choose people with a servant's heart, then I am in. I serve because of my relationship with my Savior. I am a Christian first, a father second, a minister and scholar third, and a black man fourth, and then a Republican. Heaven help me if I ever get these out of order."

Three resigning board members, we're told, frowned on signing a "statement of commitment" sent to them by NBRA Chairman Frances Rice, concluding with: "My failure to sign this statement confirms that I am not a member in good standing of the NBRA and am not eligible to be an officer in the NBRA or a member of the NBRA Board of Directors."

Board member Bill Calhoun, in a memo to Ms. Rice also obtained by this column, wrote: "Regarding your request for me to sign a letter of commitment, is this being requested of all board members? This appears discriminatory."

Meanwhile, there also were questions surrounding approval of the latest news release issued by the NBRA, praising President Bush's leadership after Hurricane Katrina.

"President Bush is to be commended for deploying all of the resources of the federal government to help the refugees," Ms. Rice stated in the release.

Hurricane Haley

Like the resulting popularity that 9/11 handed former New York Mayor Rudolph W. Giuliani, Hurricane Katrina similarly has shined the national spotlight on Mississippi Gov. Haley Barbour.

So much so that Mr. Barbour, former chairman of the Republican National Committee, is now ranked third among Republicans -- behind Sen. George Allen, a former governor of Virginia, and Massachusetts Gov. Mitt Romney -- in the 2008 White House Power Rankings, as posted by the Jockey Wire at PoliticalDerby.com.

"There is no easy way to say it," it states. "Despite the disaster and carnage of Hurricane Katrina, she has been a political gift to the affable Mississippi governor. In contrast to his counterpart in Louisiana, Barbour has earned rave reviews for his handling of the crisis. And ... he cannot ignore the fact that he suddenly looks more presidential than ever."

As for the remaining GOP horses, Mr. Allen "holds steady at No. 1"; Mr. Romney "is practically drowning in ink these days"; the fourth-place Mr. Giuliani "is still the man to beat"; and Arizona Sen. John McCain, running fifth, is gearing up to run a "much more aggressive, front-loaded campaign" than in 2000.

Rounding out the top 10 are Colorado Rep. Tom Tancredo, Senate Majority Leader Bill Frist, South Carolina Gov. Mark Sanford, Secretary of State Condoleezza Rice, Arkansas Gov. Mike Huckabee and Pennsylvania Sen. Rick Santorum.

As for former House Speaker Newt Gingrich?

"The ultimate wild card," says the wire.

On the Democratic side, New York Sen. Hillary Rodham Clinton "is so far ahead that she earns an extra spot" -- ranked both No. 1 and No. 2. However, if "Hillary isn't careful, she'll have to change her voter registration to Republican," the wire states.

"The insanely ambitious New York senator continues to move right while taking timely jabs at the president in order to please her peeps to the left," it notes, including her recent move to break up the Department of Homeland Security in response to Katrina.

Other Democratic front-runners: New Mexico Gov. Bill Richardson, Virginia Gov. Mark Warner, Indiana Sen. Evan Bayh, Iowa Gov. Tom Vilsack, 2004 vice-presidential candidate John Edwards, Illinois Gov. Rod R. Blagojevich, Delaware Sen. Joseph R. Biden Jr., and Democratic National Committee Chairman Howard Dean.

Massachusetts Sen. John Kerry gets a few votes, while Illinois Sen. Barack Obama is more of a "major threat in 2012."

Path to peace

In an effort to open a dialogue with youth on peace, tolerance and interfaith coexistence, Jordan's visiting King Abdullah II and his wife, Queen Rania, today will meet with a group of students and teachers from Banneker High School, the Hebrew Academy, International Saudi Academy and Cardozo Senior High School.

The Jordanian Embassy tells us the king's visit to Washington will focus on the "intra-Islamic, interfaith initiative" Jordan is leading, the aim being to build bridges of peace and understanding. His address this afternoon at Catholic University is titled "Traditional Islam: the Path to Peace."

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DHS Personnel Ruling Will Affect Pentagon, Senator Says (CD)

By Alyson Klein, CongressDaily

Congress Daily, September 13, 2005

Senate Homeland Security and Governmental Affairs Chairwoman Susan Collins, R-Maine, said a court ruling last month that struck down some of the Homeland Security Department's personnel regulations could require the department to "go back to the drawing board" and might force the Pentagon to "take a harder look" at its personnel proposal scheduled to be put in place later this year.

U.S. District Court Judge Rosemary Collyer, in throwing out the rules, said they do not provide for collective bargaining. Collins said this week she was concerned that DHS drew up regulations that did not "reflect congressional intent."

A spokesman for House Government Reform Chairman Tom Davis, R-Va., whose panel also oversees federal workers, would only say of the ruling's ramifications: "It's too early in the process to predict the outcome of the litigation or how it will affect other systems."

DHS announced last week that it would delay implementation of the new personnel system, scheduled to go into effect in January, for at least a year. It is not clear whether that decision was related to the court ruling, or what changes -- if any -- would be made before implementation. Ward Morrow, assistant general counsel for the American Federation of Governmental Employees, the largest of four unions that filed the suit, said DHS may ask to simply revisit the labor relations portion of the regulations, rather than rewrite the whole system. A spokesman for the Justice Department, which is handling the court case, did not return calls.

The Pentagon plans to continue tweaking its personnel rules before releasing them this fall, according to a spokeswoman for the National Security Personnel System, which is responsible for drafting the regulations. She said NSPS has "gone through an extensive meet-and-confer process with our unions" and received thousands of public comments on its draft regulations. She said the office would be making changes but attributed those revisions to the feedback it received, not the court ruling. Still, Morrow said AFGE was likely to challenge the Pentagon's regulations after they are released because, in the union's view, NSPS did not follow Congress' guidelines for the comment process.

When introduced earlier this year, the revamped Homeland Security and Pentagon personnel regulations were heralded as models for a new, governmentwide human resources system. Although OMB circulated draft legislation this spring overhauling the federal personnel system, Collins and Davis have yet to act on it. House Government Reform ranking member Henry Waxman, D-Calif., who applauded the court ruling, said in a statement that it "should send a signal to both the administration and Congress to slow down on any government-wide personnel changes."

OTHER NEWS:

Worker Error Causes Los Angeles Power Outages (WT/AP)

The Washington Times, September 13, 2005

LOS ANGELES (AP) -- An error by utility workers caused a blackout across major portions of Los Angeles yesterday, trapping people in elevators and snarling traffic at intersections, authorities said.

About 2 million residents were affected by the resulting power surge and outages, which were reported from downtown west to the Pacific Coast and north into the San Fernando Valley.

Workers who were cutting wires mistakenly sliced them as a group rather than individually, causing a short and leading to the trouble, officials said.

"They cut wires that caused circuit breakers to trip," said Ed Miller, director of power system operations and maintenance for the Los Angeles Department of Water and Power.

The outage occurred at 12:37 p.m. Power was restored to nearly all customers within three hours, officials said.

Downtown high-rise buildings went dark, fire officials said they received reports of people stuck in elevators, and stoplights went out at intersections across the city. Neighboring cities, including Burbank and Glendale, also were affected.

The Los Angeles Police Department went on "full tactical alert," meaning no officers were allowed to leave work when their shifts were finished.

But calm prevailed in downtown Los Angeles around midday. Office workers took the opportunity for an extended lunch break as police and fire sirens echoed in the background.

The blackout came a day after ABC News aired a videotape of a purported al Qaeda member making terrorist threats against Los Angeles and Melbourne, Australia, on the fourth anniversary of the September 11 attacks.

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But even before the utility workers explained what had happened, Homeland Security Department spokesman Russ Knocke said there was no indication of terrorism.

Los Angeles International Airport lost power, but its emergency generator kicked in promptly and no flights were affected, said Harold Johnson, an airport spokesman. UCLA Medical Center used backup generators and reported no danger to patients.

Los Angeles operates its own power utility, which serves 1.4 million electricity customers. Customers of Southern California Edison, the largest utility in Southern California, were not affected, said spokesman Gil Alexander.

As Lights Go Out, Power Worries Rise (LAT)

By Sharon Bernstein, Hector Becerra And Mitchell Landsberg, Times Staff Writers

The Los Angeles Times, September 13, 2005

A mistake on a single bundle of wires Monday cascaded into a major blackout in and around Los Angeles, inconveniencing millions of people and renewing questions about the vulnerability of the region's power system.

Coming one day after a purported Al Qaeda threat of attack on the city, the midday outage pricked nerves and caused isolated incidents of panic. Plumes of flame and smoke heightened the drama as refineries, temporarily shut by the outage, flared off excess gases.

But backup generators, many newly installed since California's 2001 energy crisis, kept many companies and most emergency services operating without major disruption, and there were no reports of deaths or serious injuries caused by the blackout.

The Los Angeles Department of Water and Power, the city-owned utility, said the outage occurred when workers cut through wires while installing a monitoring system at an electrical transmitting station in Toluca Lake.

The mistake rippled through the electrical grid, threatening to overload another transmission station and two electrical generating plants: the Scattergood generating station south of Los Angeles International Airport and the Haynes generating station near Long Beach.

The DWP shut down the generating facilities to avoid damage, sharply reducing the amount of power available to the city. That caused blackouts in neighborhoods across the city, with heavy concentrations in parts of the San Fernando Valley, South Los Angeles and the downtown area. All of Burbank's 52,000 customers and half of Glendale's 80,000 also lost power. Both cities' electrical systems are linked to the DWP.

"This strikes me as something under the category of unbelievably bad luck, where you cut one line and have that kind of cascading effect," said Bob Finkelstein, executive director of the Utility Reform Network in San Francisco, a consumer advocacy group.

"One DWP worker is going to feel really, really bad for a long time."

The automated system workers were installing was meant to detect surges or drops in voltage, said Ed Miller, the DWP's director of power systems, operations and maintenance.

"They cut a bundle of wires," Miller said. "The supposition is that by cutting them together, they created a short that triggered the circuit breakers." Miller said cutting wires one by one might have avoided an electrical short.

Ironically, the system the work crew was trying to install would have identified the power problem much more quickly, Miller said. It would be able to "decipher just what had happened." As it happened, DWP engineers needed an hour to determine where in the system the outage began.

An official with the union that represents DWP workers charged that, regardless of whether lines were cut, the real cause of the outage was the DWP's decision to test the new relay system in the middle of the day, rather than at night when power loads would have been lower — but costs would have been higher because of overtime.

"They are too cheap to pay overtime, so they are testing on a full load at 1 in the afternoon," said Brian D'Arcy, business manager for the International Brotherhood of Electrical Workers, Local 18.

"You clearly don't test the relay at one in the afternoon. If you are cheap and stupid, this is what happens."

The DWP said such work is routinely conducted during the day.

DWP officials insisted the system had worked as it is supposed to — shutting down and causing a temporary inconvenience to avoid widespread permanent damage. Miller compared the shutdown to the way a circuit breaker turns off power to a house to prevent overheated lines from causing a deadly fire.

At the same time, however, Miller said he planned to investigate whether the ability of a single incident to black out half the power supply indicated a need for major changes in the way the city's electrical system is configured. "If I decide I need a differently configured system, that could take a couple of years," he said.

"I'm very proud of my people. There was no system damage, and nobody was hurt," said Miller.

"The system is not fragile," he added. "We have a very strong system."

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Others were less sanguine.

"As an engineer, it's unnerving that one individual act can cut power to hundreds of thousands of customers," said Los Angeles City Councilman Tony Cardenas, chairman of a panel overseeing the DWP.

Cardenas, who was stuck in traffic on Van Nuys Boulevard when traffic signals went out, said he would demand to know whether the outage betrayed a broader vulnerability for the city's electrical system.

"I've been told over and over that this kind of vulnerability doesn't exist," Cardenas said.

Mary Nichols, who heads UCLA's Institute of the Environment and was appointed last month as a DWP commissioner, said she, too, had "questions and concerns" about "why the system isn't more resilient and why there isn't more redundancy built into it."

And a spokeswoman for Cal-ISO, the independent organization that oversees the statewide electrical grid, said the incident was "disconcerting." Stephanie McCorkle criticized officials of the DWP, which is independent of Cal-ISO's system, for not being more forthcoming with information about the outage, saying the DWP did not officially alert the rest of the statewide grid until 3:45 p.m., more than three hours after the outage began.

"There was no coordination, and that concerns us," she said.

Although unseasonably cool weather makes the electrical grid less susceptible to widespread failures because of decreased energy demands, McCorkle said she was not sure whether hot weather could have caused the DWP outage to spread.

The outage occurred at 12:37 p.m., cutting power to 750,000 homes and businesses, or about 2 million people, DWP officials said. It struck about half of the DWP's service area. Other parts of the region, most of which is served by Southern California Edison, were not affected.

Power was restored to 90% of the downed customers within 90 minutes, DWP officials said.

Although there apparently were no major problems caused by the outage, there was no shortage of anxiety and discomfort.

Most of the city's 4,300 traffic signals were knocked out, either going dark or flashing red. In one instance, along Olympic Boulevard near Beverly Hills, motorist Beto Ramos said all the lights turned green.

"I had a green light, everyone had green lights," Ramos said. "No one knew what to do. We're so used to stop, go, stop, go. To see nothing but green lights was real weird, like all of society had paused."

State officials have been pushing cities to install low-power stoplights that can be equipped with backup power to prevent outages. So far, San Francisco has adopted the lights, but Los Angeles has not because of the cost, said Rob Schlichting of the state energy commission.

Some commuter trains were delayed about 15 minutes during the lunch hour after power surges were detected by the Metropolitan Transportation Authority's rail operations center. Transit buses also were delayed by traffic congestion.

Workers in high-rise office buildings in downtown Los Angeles faced twin inconveniences: Elevators stopped, forcing people to either stay in their offices or descend many flights of stairs. And air conditioning shut down, turning plush offices into carpeted saunas.

"It got hot real quick in here," said Wells Fargo employee Sean Maddox, stuck in the 60-story Aon building.

Another tool of modern life — high-speed Internet connections — was knocked out in some parts of the city because of the outage. Patti Rockenwegner, a spokesperson for Comcast, which provides cable and broadband Internet service to about 500,000 customers in Southern California, said some customers in Hollywood and South Los Angeles lost service for about 40 minutes when the outage tripped fuses.

Hours after power was restored, however, some customers in other parts of the city, including the Fairfax and Mid-Wilshire areas, were reporting that Comcast lines remained out of service.

The outage occurred one day after the fourth anniversary of the Sept. 11 terrorist attacks, and a day after a Southern California man suspected of having ties to Al Qaeda warned of an impending terror attack on Los Angeles and Melbourne, Australia.

Although Mayor Antonio Villaraigosa and Police Chief William J. Bratton insisted that they knew of no "credible threat" to the city, many Angelenos wondered, if only momentarily, whether the outage was the result of a terrorist attack.

"It is the easiest way to trip up our routine, [to] cut the power," said Matt Jarrette, who found himself in gridlock as he drove to work at the nonprofit California Assoc. of Physician Groups downtown. "The day after Sept. 11 — it is disconcerting."

The scene near harbor-area refineries was disconcerting in a different way. As of 5 p.m. Monday, regional air regulators had received more than 40 complaints about smoke and stack-top flames from residents in Wilmington, Harbor City, Long Beach and other areas in southern Los Angeles County, said Sam Atwood, spokesman for the South Coast Air Quality Management District. Six inspectors were dispatched to investigate the complaints and the mandatory shutdown reports from the refineries.

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When refineries lose power, they release built-up pressure by sending oil products up their tall stacks, where it is burned off by stack-top flares, producing flames and heavy smoke. The burn-off is a safety mechanism that prevents flammable fuels from spreading, refinery officials said.

The 200-plus students at the Harbor Teacher Prep Academy in Wilmington were kept in their classrooms or moved to the cafeteria until the end of the school day as a precaution after school officials detected a noxious smell from a nearby oil refinery, said Los Angeles Unified School District spokeswoman Susan Cox. The school is on the Los Angeles Harbor Community College campus.

Refinery officials said the shutdowns were temporary and were not expected to affect Southern California gasoline supplies or prices.

The disruptions might well have been worse but for the proliferation of backup generators in the years since 2001, when the energy crisis threatened the state with frequent outages.

There has been an increase of several hundred generators in the region since then, according to the air quality district, which issues permits for generators.

Hospitals are required by state law to maintain backup generators, and many in Los Angeles were forced to switch to backup power Monday.

Generators also allowed operations to continue uninterrupted at Van Nuys Airport and Bob Hope Airport in Burbank, both of which were affected by the outage. Van Nuys serves private aircraft, while Burbank handles commercial flights as well as private planes. Los Angeles International Airport did not lose power.

Few Los Angeles schools have backup generators, but many have backup batteries to power emergency lights and alarms. Those systems were triggered Monday at several Los Angeles campuses.

New campuses that are part of the district's ambitious building program are being equipped with backup generators, officials said.

Parents seeking word of the situation in the schools may have been taken aback by the message on the L.A. Unified emergency phone line, however. Callers who dialed Monday seeking word about the outage heard the following: "Topanga Elementary and Wonderland Elementary will be closed Tuesday Jan. 11 because of heavy rain. All other LAUSD campuses will be open as usual…. "

*

Contributing to the coverage of the blackout were Times staff writers Fred Alvarez, Sandy Banks, Patricia Ward Beiderman, Andrew Blankstein, Nancy Cleeland, Frank Clifford, Marla Cone, Jean Guccione, Carla Hall, Erica Hayasaki, Duke Helfand, Daniel Hernandez, Matt Lait, Marc Lifsher, Sara Lin, Caitlin Liu, Dave McKibben, Jean Merl, John O'Dell, Jennifer Oldham, Charles Ornstein, Lance Pugmire, Sam Quinones, Joel Rubin, H.G. Reza, Lisa Richardson, Louis Sahagun, Catherine Saillant, Jesus Sanchez, Beth Shuster, Larry B. Stammer, Rebecca Trounson, Dan Weikel and Richard Winton.

Utility Error Disrupts Power In Los Angeles (NYT)

By Randal C. Archibold

The New York Times, September 13, 2005

LOS ANGELES, Sept. 12 - Large areas of Los Angeles lost power on Monday after utility workers doing maintenance work accidentally cut a line, officials said.

The blackout, which occurred just after 12:30 p.m. Pacific time and lasted for less than an hour in most areas, came a day after Sept. 11 and amid reports of threats by Al Qaeda against the city, setting off jitters citywide. During the power loss, television stations broadcast striking images of towering flames at refineries.

But the Los Angeles Department of Water and Power, which provides electricity to a 400-square-mile area, blamed workers at a power station in the San Fernando Valley, and the fiery images turned out to be the routine burn-off of gas at the refineries as a precaution after some lost power.

Officials said there was no evidence of foul play, though the Police Department went on high alert for a few hours as a precaution.

Carol Tucker, a spokeswoman for the utility, said an estimated half of the 1.5 million homes and businesses it served were affected.

The failure was spotty, with a flicker of lights in some areas while others, including parts of downtown and the San Fernando Valley, were left without electricity for longer periods. By 2 p.m., 90 percent of the affected areas had been restored after natural-gas backup generators were started, the utility said.

Most residents seemed to take the blackout in stride.

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"It gave me more time to smoke is all," said Casey Mitchell, a legal secretary taking a break outside a Wilshire Boulevard office building where his workday was interrupted for about 30 minutes.

The blackout did cause sporadic traffic delays when some signals went dark, and the Los Angeles Fire Department said it responded to several calls regarding stuck elevators. But Jim Wells, a department spokesman, said he was not aware of any "major rescues."

In most cases, Mr. Wells said, emergency power in high-rise buildings allowed elevators to return to the ground level without incident.

The failure hit neighborhoods from Wilmington, at the southern tip of the city near its port, to communities in the San Fernando Valley at the northern end.

Ron Deaton, the utility general manager, said at a news conference that the employees had cut a line and reattached it incorrectly, setting off a chain reaction that shut down a string of generating stations as does a circuit breaker in a home. The failure started at a receiving station, which brings high-voltage power into the city and spreads it to distribution centers at a lower voltage.

On Sunday, ABC News broadcast a videotape purported to have been made by a United States-born member of Al Qaeda, threatening terrorist attacks against Los Angeles and Melbourne, Australia. The man on tape, the network said, was Adam Yahiye Gadahn, a Southern Californian wanted for questioning by the F.B.I.

Mayor Antonio R. Villaraigosa of Los Angeles, appearing at a community event, said "there was no credible threat" against the city but cautioned that terrorists had previously considered Los Angeles targets. He said a blackout coming in this age of terrorism understandably "created a heightened sense of concern" but that most of the city quickly returned to normal.

"I'm here to assure you that our city is prepared to handle these situations," the mayor said, briefly addressing the failure before an event at the Simon Wiesenthal Center. "Power was restored to the vast majority of D.W.P. customers, 90 percent, within the first two hours."

In 2001, power shortages in the state caused rolling blackouts.

Human Error Blamed For Los Angeles Power Failure (WSJ)

By Rebecca Smith

The Wall Street Journal, September 13, 2005

Los Angeles was hit with an electricity blackout early yesterday afternoon that left millions of people without power across an area stretching west from downtown into coastal areas and north into the San Fernando Valley.

The outage lasted for about an hour in some places, and longer in others. It appeared to mainly cause traffic snarls and inconvenience for people stuck in elevators and in their cars. Flights at Los Angeles International airport weren't affected, but the facility was forced to switch to its backup power supply, a representative said.

The utility that serves most of the city, the Los Angeles Department of Water and Power, blamed the disruption on human error at a substation in the San Fernando Valley. Spokeswoman Kim Hughes said employees there "misdirected power" down lines that weren't designed to carry the load, tripping protective relays that isolate equipment to prevent permanent damage.

Ms. Hughes said the utility was reviewing the sequence of events to assure that it doesn't happen again. Smaller utilities owned by the nearby cities of Burbank, Glendale and Pasadena also were affected. The blackout began at 12:37 p.m. PDT on a day of modest demand due to moderate temperatures. Most customers had electricity again by 4 p.m.

The disruption was troubling to many area residents because it came on the heels of a videotape in which a suspected al Qaeda operative threatened Los Angeles and Melbourne, Australia, with terrorist attacks. After the power went out yesterday, police throughout the Los Angeles area went on "tactical alert" meaning that officers were kept on duty after their shifts ended. Fire stations were flooded with calls from people trapped in elevators.

The outage was the second large electrical disruption to hit Southern California in the past three weeks. A large blackout on Aug. 25 bypassed Los Angeles but hit surrounding communities. It was caused by problems at a substation near the end of a set of major transmission lines that bring electricity to the Los Angeles area from the Pacific Northwest. That disruption mainly affected customers of Edison International's Southern California Edison unit and Sempra Energy's San Diego Gas & Electric Co.

Northrop Grumman Corp., whose headquarters is in the Century City commercial district of Los Angeles, lost power for 35 minutes, according to spokesman Dan McClain, But company facilities south of Los Angeles in Redondo Beach and El Segundo were unaffected. Raytheon Co. said its El Segundo facilities, where Chairman and Chief Executive William Swanson visited yesterday, never lost power.

Two big movie studios -- Time Warner Inc.'s Warner Bros. and Walt Disney Co. -- north of Los Angeles were without power shortly before 2 p.m. But at neighboring Universal Studios, located just east of the other two in Universal City, it was business as

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usual. On the city's west side, News Corp.'s Twentieth Century Fox studio lot lost power for just 10 minutes before the lights came back on. Sony Corp.'s Sony Pictures Entertainment, located nearby, was unaffected.

Crossed Wires Spark Blackout In L.A. (USAT)

By Martin Kasindorf And Christopher Woodyard

USA Today, September 13, 2005

Outage comes

after video threat naming area as al-Qaeda target

LOS ANGELES — Workers connected the wrong wires at a power station Monday and knocked out electricity to about half of the 3.9 million residents of the nation's second-largest city.

The afternoon outage lasted up to four hours, snarling traffic at some intersections and trapping people in elevators.

The blackout came a day after ABC aired a videotape by Adam Gadahn, a suspected al-Qaeda member, threatening terror attacks on Los Angeles and Melbourne, Australia. The Los Angeles Police Department went on full "tactical alert" during the blackout, meaning that no officers were allowed to leave duty.

But police said they had no evidence that the blackout was the work of terrorists.

No injuries or major incidents were reported.

Workers installing an automated power-transmission system wrongly connected a wire to "another line that was not expecting that much electricity," said Ron Deaton, general manager of the Los Angeles Department of Water and Power.

The misconnection triggered power surges and fail-safe mechanisms in the energy grid controlled by the city-owned utility. Power facilities, including two major generating plants, began tripping off-line at about 12:30 p.m. PT.

Traffic signals went dead in downtown Los Angeles, Hollywood, some beach areas, the San Fernando Valley and south Los Angeles. The outage also affected the neighboring cities of Burbank and Glendale, which are part of the Los Angeles power system.

The incident was reminiscent of the rolling blackouts that hit much of California during the state's 2001 energy shortage. Los Angeles, which generally has adequate power supplies, had no blackouts in 2001.

Monday's outage was far less disruptive than the August 2003 blackout that cut power to an estimated 50 million people in the Northeast, Midwest and Canada's Ontario province. That was the largest blackout in U.S. history. Power was not restored for four days in some areas. A joint U.S.-Canada investigation blamed the incident largely on sloppy practices by two Ohio utilities.

In Los Angeles Monday, loss of the traffic lights jammed vehicles near freeway on-ramps and off-ramps. Gasoline pumps stopped. Fire engines, sirens screaming, raced to high-rise office buildings to free people from elevators.

Some buildings and stores were evacuated, but backup generators kicked in at many office towers, hospitals and Los Angeles International Airport, where no flights were affected.

Staffers at the downtown YMCA used flashlights to guide exercisers from the pool and other areas to locker rooms so they could dress before leaving.

Albert Vasquez, 27, a customer service representative, was returning from lunch when he boarded an elevator in his downtown office tower. The doors closed and the power went out. "It was bizarre," he said. "It went completely dark."

Vasquez pried the door open with his hands and left the building, he said.

The Noah's New York Bagels outlet in the Westwood Village district near UCLA stayed open during the busy lunch hour despite the loss of the cash register and credit-card communication lines. "We just grabbed a napkin" and figured out customers' bills on the paper, said manager Scott Nakahara, 22.

Some Angelenos said they were initially fearful that the blackout was linked to terrorism and ignored instructions to remain in their office buildings. "When they said to stay, I thought, 'I'm going,' " clerical worker Erica Fernandez said.

"The fact that this happened the day after Sept. 11 (caused) a heightened sense of concern," Los Angeles Mayor Antonio Villaraigosa said. The mayor sought to reassure residents, saying. "Our city is prepared to handle these situations."

Power came back on in some areas within minutes when the system automatically shifted to get power from other sources. Gale Harris, spokeswoman for the L.A. Department of Water and Power, said electricity had been restored by about 5 p.m.

Traffic is notoriously bad in Los Angeles, so James Steel, 60, a retiree, was unfazed when a drive that normally takes him 45 minutes took twice that time after he was evacuated from the Central Library downtown.

"This is a little worse than a normal day," he said.

'Whoops,' And L.A. Has A Two-Hour Blackout (WP)

By John Pomfret

The Washington Post, September 13, 2005

DOJ_NMG_0004750

LOS ANGELES, Sept. 12 -- A blackout caused when maintenance workers inadvertently cut a power line rolled through large parts of Los Angeles on Monday, stranding people in elevators, tangling traffic, and prompting the evacuation of some high-rises and other structures.

Officials said about half of this far-flung city, served by the Los Angeles Department of Water and Power, the largest public utility in the nation, lost power starting at 1 p.m. Power was restored two hours later. Los Angeles International Airport lost its lights, but its generator kicked in, and a spokesman said no flights were delayed.

A spokeswoman for the utility said workers at a receiving station mistakenly cut one line and then hooked up the wrong wires, causing a power surge into a line that was not expecting that much electricity.

"Something was cut," said Gale Harris, a spokeswoman for the Department of Water and Power, which also lost power during the blackout. "Somebody said, 'Whoops.' "

Stranded on the street, some people expressed fears that the blackout was part of a terrorist attack. Monday's power loss came a day after ABC News, on the fourth anniversary of the Sept. 11, 2001, attacks, aired a videotape of a purported al Qaeda member threatening attacks against Los Angeles and Melbourne, Australia. The Los Angeles Police Department went on "full tactical alert," and officers were not allowed to leave work after their shifts ended. A police spokesman said terrorism was not suspected. The Los Angeles office of the Internal Revenue Service closed after a computer glitch occurred when power was restored.

The Los Angeles Fire Department reported no serious injuries.

"Our most significant calls related to this power outage have just been stuck elevators," said spokesman Ron Myers. "We're just urging people to stay put."

Long lunch breaks turned into a short workday, as thousands of workers headed home early, jamming roads already snarled with traffic.

At Grauman's Chinese Theatre in Hollywood, one of the city's landmarks, the power went out for about seven minutes, interrupting a comedy called "The Man."

"Imagine if the power had cut out when we were showing 'The War of the Worlds,' " quipped usher Lauren Fisher.

The Department of Water and Power, which serves 1.5 million customers, was one of the few utilities to emerge unscathed from California's electricity crisis in the summer of 2000. The department fought off attempts to open Los Angeles to competition from other power companies. When Enron Corp. and other companies gamed the system and prompted widespread power shortages, the department found itself in the enviable position of selling power to utilities across the state, according to James Bushnell, the research director at the Energy Institute at the University of California at Berkeley. It repaid billions of dollars of debt, and talk of further restructuring of the California energy market has been shelved.

Outage Throws Angelenos For A Loop (LAT)

By Kim Christensen, Nita Lelyveld, Claire Hoffman, Larry Stammer, Lance Pugmire, Gil Reza, Loeb Vernon, Carla Hall and Jesus Sanchez

The Los Angeles Times, September 13, 2005

Diane Salazar wasn't quite sure what to make of it when the lights went out, the treadmills stopped running and everyone made for the exits at the 24 Hour Fitness club where she works in downtown Los Angeles.

"Oh, my god, I just started freaking out," said the 20-year-old fitness counselor.

"I saw that video over the weekend about terrorists targeting L.A. and I didn't know what to think. I was so scared. I thought this is not natural. This is not cool. I want to go home."

Salazar wasn't the only one whose anxiety level went up today as the lights went down.

On the 46th floor of Two California Plaza, most of Elizabeth Dombrowski's fellow accountants kept working quietly — on their laptops.

But not Dombrowski.

She called her parents in Texas to dictate her living will and phoned her sister and boyfriend to say goodbye, just in case.

She was half-joking, she said, but only half.

Dombrowski, 26, who was wearing a seersucker jacket and skirt, quickly pulled off her high heels and put on her running shoes. Soon she was heading briskly down the stairs, three friends in tow. She had more or less convinced herself and her friends that a terrorist attack was about to occur.

"I'm serious," Dombrowski said later, as some of her friends teased her about being paranoid about terrorists. "They make you scared when the power goes off. Then you feel safe when the electricity goes back on. Then they bomb you. This is what they do."

DOJ_NMG_0004751

Two floors underground at the Los Angeles County Superior Court archives, everything went pitch black just after 1 p.m. In the darkness, people began to shriek and scream for help. When the lights came back on — powered by the emergency generator — people blinked at each other, embarrassed and scared.

At the hulking new Caltrans building at 1st and Main streets, the blackout triggered false fire alarms that led some state workers to leave the building more than once.

Caltrans spokeswoman Judy Gish said there was no full-scale evacuation. But just minutes after Gish's report, an automatic alarm system that had not been reset blared recorded warnings that there was "a fire emergency reported in the building." It urged people to leave by the nearest exit and not to use the elevators.

"We evacuated the building and they called us back," said Baljit Soni, a principal accountant with the Los Angeles Department of Transportation.

He said he did smell something. "Then I got scared and said, why take the risk?"

At the nearby Higgins building at 108 2nd St., perhaps the biggest inconvenience came when a tenant couldn't leave the enclosed outdoor parking lot because the electric gate wouldn't open.

"I didn't know the manual override," said building concierge John Cubano. "It was 10 minutes before he decided to walk."

Calm also prevailed at the Spot Light Room cocktail lounge in Hollywood.

"We were just standing here and the lights just flickered for a second and then went out," bartender William "Boo" McClain said.

No one flinched.

"Not at this bar," McClain. "Not when they have cocktails in front of them."

Schoolteachers taught lessons by flashlight, power lunches were thrown into the dark and high rise office dwellers were forced to climb down flights of stairs after the electrical outage hit a large swath of Los Angeles this afternoon.

Electrical service had been restored in many areas served by the Los Angeles Department of Water & Power by midafternoon, but not after interrupting the lunchtime routine for thousands of workers, commuters, students and others.

Beto Ramos was driving from downtown Los Angeles to his office in West Los Angeles when the traffic lights on Olympic Boulevard began to malfunction around Beverly Hills.

"I had a green light. Everyone had green lights," Ramos said. "No one knew what to do. We're so used to stop, go, stop, go. To see nothing but green lights was real weird, like all of society had paused."

Service at the downtown Original Pantry Restaurant was stalled for 45 minutes, as manager Hesh Scdaghat saw his grills, stoves and exhaust fans stop.

"Everything's electrical, so it was terrible," Scdaghat said. "We had some customers leave. When the power came back, they came back. I'm very busy again now."

The power outage was a scary and unwelcome disruption at Cahuenga Elementary School in the Pico-Union area near downtown. The lights went out for about an hour during lunch as first and second graders were finishing their food outdoors and heading back inside to resume class.

Principal Lloyd Houske dispatched emergency flashlights to darkened classrooms, but he said teachers tried to continue their lessons in an effort to maintain calm. He said a few children asked why the lights had gone off, but that the day went on as usual.

"Basically, we went on with our regular schedule," Houske said. "If a teacher remains calm, the children remain calm. If they see you act not scared, they don't get scared. It's when the adults get uptight that they get uptight."

At Rodeo Mexican Grill on Olympic Boulevard, George Orellana, a 35-year-old paralegal, was dishing up a little cup of relish, one of the last people to manage to get food here before the lights went out.

"We walked down seven flights. It felt like the 9/11," said Orellana, whose office is half-block away in a midrise building. "We didn't know what was going on. Once the blackout started, everyone started running out. It was weird."

Safe Place Disabled People Find Group Homes Can Be Broken, Too (WSJ)

By Clare Ansberry

The Wall Street Journal, September 13, 2005

COLUMBIA, S.C. -- Billy Cothran spent most of his 63 years in a sprawling, state-owned treatment center for the developmentally disabled. His parents were told it was the best option for their only child, whose mind would never progress beyond that of a 3-year-old.

In the late 1990s, after his parents died, Mr. Cothran was moved by his guardian out of the institution and into a smaller group home, which offered recreational therapy such as horseback riding and took residents to church on Sunday. Staffers helped Mr. Cothran, who was blind and arthritic, don a rented tuxedo for an annual dance.

His new home, the Babcock Center, was one of the thousands of private, nonprofit facilities created during the past 30 years to provide alternatives to big institutions. Babcock was founded in 1970 by a woman who discovered a mentally retarded couple living in a chicken coop. It eventually became South Carolina's largest provider of Medicaid-funded housing, caring for more than 500 people at close to 100 homes and apartments.

In recent years, though, Babcock has been the focus of state and federal investigations after reports of abuse and neglect at some of its homes. Mr. Cothran died last September. An autopsy determined that Mr. Cothran, who was on a pureed-food diet, had portions of what appeared to be a sandwich in his trachea and died of asphyxiation.

After his death and complaints by his family -- which included a former chairman of Babcock's board -- a federal investigation looked into the incident. It found that the home where Mr. Cothran lived "failed to take appropriate actions to ensure client protections" and that conditions there "pose immediate jeopardy to the health and safety of clients." It gave Babcock 23 days to submit a plan and correct the problems.

A spokeswoman for the Centers for Medicare and Medicaid Services, which provides most of Babcock's funding, says the federal agency is satisfied that the problems it found after Mr. Cothran's death have been corrected.

Mr. Cothran's cousin and guardian John Harrison has filed a wrongful death suit against Babcock Center in South Carolina's Richland County Court of Common Pleas. The case alleges Babcock didn't properly care for Mr. Cothran and failed to properly supervise and train the staff assigned to care for him. Babcock officials are fighting the suit and say it has no merit.

Over the past three decades, there has been a concerted effort to move people with developmental disabilities out of large institutions, which had been long criticized for being overcrowded and isolated. A widely lauded effort to move people into smaller group homes has succeeded in bringing the developmentally disabled into communities where they can learn new skills, get jobs or attend special schools.

But this progress has come at a price. It has strained the systems that support people living in the smaller settings and created big gaps in oversight. Twenty-five years ago, people with developmental disabilities lived in about 16,000 publicly funded homes. Today, they are scattered in about 140,000.

"The systems of quality monitoring have really been taxed beyond what they can manage," says Charlie Lakin, who heads a University of Minnesota program that tracks services to the developmentally disabled. "By and large, a lot of it is pretty loosely organized and pretty loosely monitored."

Only a half-dozen states require that residential programs serving the developmentally disabled be accredited by an independent third-party organization. Developmental disabilities, which affect about 4.6 million people in the U.S., include a range of mental and physical impairments, such as cerebral palsy, autism and mental retardation.

Babcock offers a stark look at the flawed monitoring of group homes, which sometimes leaves family members and other advocates feeling they need to police the care themselves.

Last December, the state ordered the entire Babcock chain to reduce the number of people it houses by half within 18 months. "The growth of Babcock Center happened over a relatively short period of time," says Judy Johnson, Babcock's executive director, who was hired in 2002. "They didn't have the right system of support to manage the larger, different sites."

She says Babcock has made significant progress since she arrived, including improved staff training and procedures to provide additional oversight.

In spite of such efforts, the rate of substantiated cases of abuse, neglect or exploitation at Babcock has averaged 6.7 per 100 residents in each of the past three years, according to the South Carolina Department of Disabilities and Special Needs. The statewide average is three cases per 100 residents, the agency says. Ms. Johnson attributes that, in part, to the kind of people Babcock houses. Babcock takes individuals with complex physical and emotional problems, she says, who are aggressive and sometimes self-abusive. "Babcock Center supports people with severe disabilities that other providers would not," she says.

As for Mr. Cothran, she says, "Billy was loved by many people. I also believe there was nothing the staff could have done to prevent his death." She says Babcock hired a pulmunologist, who, based on a review of the autopsy and staff statements, concluded Mr. Cothran didn't have trouble swallowing his meal, but later regurgitated, causing asphyxiation. He concluded Mr. Cothran's death wasn't the result of any failure on the part of Babcock or its staff.

Oversight of homes for the developmentally disabled is fragmented between the federal government, states and thousands of community-based agencies. The U.S. Department of Health and Human Services -- which pays about half of the $27 billion spent annually on community services for the developmentally disabled -- is ultimately responsible for their protection. But the federal agency assigns the creation and enforcing of rules over such homes to each state. As a result, laws and monitoring vary by state.

States aren't required to report all incidents of abuse or neglect to the federal agency. The federal government typically only gets involved if families, advocates or employees of homes provide credible concern about the thoroughness of a state investigation. HHS, which oversees the Centers for Medicare and Medicaid Services, is drafting new procedures following a

2003 report from the General Accounting Office, saying states should be required to report more information about how they protect people with developmental disabilities.

Thousands of nonprofit group homes offer well-supervised programs for the developmentally disabled. But problems exist to some degree in nearly every community, says Curtis Decker, executive director of the National Disability Rights Network, a nonprofit group. Investigators may overlook flaws, he says, because of a lack of other housing options. "They don't know what to do with these folks if they closed a place down."

The number of abuse and neglect cases among the developmentally disabled isn't collected nationwide. Many states don't keep central databases on employees involved in such cases, allowing workers to move from one agency to another. "You put people in tough jobs, who are underpaid, not well-trained or supervised, and the potential for abuse is big," says Mr. Decker. "It's endemic to the country."

A 62-year-old woman in an Illinois group home died in April 2004 after receiving burns from scalding water. Another nonprofit agency in that state, which operated several homes, was decertified after an advocacy group learned the executive director asked a dentist to remove all the teeth of a man who was biting himself.

A 53-year-old New Jersey group-home employee was found guilty earlier last month in Middlesex County Superior Court of aggravated criminal sexual contact with a 19-year-old developmentally disabled woman, with the mental capacity of a child.

Ms. Johnson, Babcock's executive director, says she has a zero-tolerance policy for abuse. Any employee involved in cases of abuse or neglect is terminated, including those who see, but fail to report incidents, she says. "I don't know that we are ever going to eliminate abuse in our society," she says. "Our job is to do the best we can to support and protect individuals with disabilities."

Family members inspect Babcock facilities and report back to her monthly.

One of those is James Carlson, whose son lives in a Babcock home. He and other parents meet with Ms. Johnson to present any findings and concerns. "Next time we meet, she gives a list of all the corrections made," he says.

Babcock has had several serious problems. In late 2002, one mentally retarded man was left overnight in the parking lot of a Wendy's restaurant where he had been taken to apply for a job. A Babcock employee forgot to pick him up. That employee has been fired, Babcock says.

In April 2003, a man received first- and second-degree burns after a 23-year-old employee at a Babcock home said she accidentally poured scalding water on him, according to police reports. That employee has been fired, Babcock says. A supervisor at another Babcock home was arrested last fall and charged with sexually assaulting a 55-year-old female resident and giving her sodas to keep her quiet. The man was fired and the case is pending.

It's often up to relatives to keep tabs on how their family members are treated. Betty Jackson was initially happy when her four developmentally disabled brothers moved into homes run by the Babcock Center more than a decade ago. The brothers, ranging in age from 58 to 81, were born with mental retardation. They were raised at home, with their six siblings, on a South Carolina tobacco farm, until their parents died.

The Babcock Center housed the brothers in different homes, according to their level of disability. "I was very thankful," says Mrs. Jackson, a 63-year-old widow. "They didn't have to be in an institution and they could be in a home setting."

Her brother Archie Jordan got a job carrying groceries at the local supermarket. A TV crew filmed him years ago proudly sweeping the driveway in front of his house to show how Babcock residents keep their homes tidy.

To Mrs. Jackson, everything seemed fine until about three years ago. Her brother James, then 78, a thin, slightly stooped man who likes to wear a baseball hat, was struck with a belt and attacked by a 16-year-old housemate. After he was found bleeding from his rectum, James told Babcock's internal investigator "that damn boy got me last night." Stephanie Marshall, of the federal Centers for Medicare and Medicaid Services, said the allegation of rape was substantiated by an investigator it sent to the home. Babcock's Ms. Johnson says other agencies, including the state ombudsman, didn't substantiate a rape.

James remained in the same home with the 16-year-old for two months because no other housing was available, Babcock said. For safety, an alarm was put over the youth's door, sounding whenever he left his room. Weeks later, James suffered a broken finger. A Babcock internal report concluded he broke it himself, while throwing his bed rails around the room and beating on the walls. Records show he was screaming, "I want out of this hell hole."

Babcock reached an out-of-court settlement with Mrs. Jackson, who is James's guardian. Babcock's Ms. Johnson said she couldn't comment on the settlement.

Mrs. Jackson grew increasingly concerned. Her brother Archie was one of several Babcock residents who collectively gave more than $4,500 to a supervisor who promised to use the money to take them on vacations in 2003 and never did. The man later pleaded guilty to defrauding residents.

Babcock says it has since hired a full-time accountant to make monthly unannounced audits of residents' funds.

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In 2003, Keith, 75, Mrs. Jackson's second-eldest brother, had been losing weight and was, at times, listless, she says. In the fall, Mrs. Jackson received a call that Keith was in the hospital. When she arrived, she says he was unconscious. Doctors said he was dehydrated, had a potassium imbalance and asked if he could have gotten hold of any chemicals, according to Mrs. Jackson and Leigh Flynn who was a court-appointed guardian of the brothers. Staffers said cleaning chemicals at the home were locked up, according to Mrs. Jackson. Keith was put in intensive care.

Babcock's Ms. Johnson said she couldn't comment on an individual's medical information because of federal laws protecting the privacy of clients' medical records.

Mrs. Jackson notified Babcock that she planned to take all of her brothers out of the organization's homes. "I felt like I had to move them while I still had them," she says.

At that point, there were no other residential options in her area. So in November 2003, while Keith remained in the hospital, Mrs. Jackson took her other three brothers to live in her brick ranch house.

Mrs. Jackson, who worked driving a delivery truck for a sheet-metal company, modified her home to accommodate her brothers. In a back room, she installed a special shower and a toilet. She cooked for them and took them to doctors' appointments. She changed diapers regularly for James, then incontinent, fed him and held on to his arm when he walked. Her daughters helped. Keith was eventually transferred from the hospital to a nursing home, where he died of heart failure in January 2004.

In April 2004, the three remaining brothers moved into a home operated by United Cerebral Palsy of South Carolina. They celebrated Archie's 70th birthday with a chocolate cake. Each brother has a private room. Arthur's smells of Old Spice. Archie has an African-print bedspread. A fisherman's hat hangs on James's bedpost and family photos are on his dresser.

Mrs. Jackson has spoken out about the treatment her brothers received, including discussions last summer with members of Congress. Joining her were relatives of other residents, a former Babcock worker, and Babcock's former chairman, Patricia Harrison, who has been a frequent critic of the organization.

Ms. Harrison had been on Babcock's board, an unpaid position, since 1995. She resigned in 2002. Her husband was the cousin of Billy Cothran, the Babcock resident who died last year. The Harrisons were the legal guardians of Mr. Cothran.

Babcock's Ms. Johnson has a suit pending in the Fifth Judicial Circuit Court in Richland County, S.C., charging that Ms. Harrison made statements that were defamatory and intended to "impeach the honesty, integrity and reputation" of Ms. Johnson. Ms. Harrison is fighting the case. "I look forward to telling my story on the witness stand," she says.

Early last year, the Harrisons decided they wanted to move Mr. Cothran out of Babcock. "We were worried that something would happen to Billy," says Mr. Harrison. They bought a house for him and filled it with family photos and his mother's dining-room table. They asked that Medicaid funding for Mr. Cothran, and two of his Babcock housemates, be transferred to another agency that would staff the house.

Mr. Cothran died four days before he was supposed to move. A worker who prepared lunches that day was arrested on a charge of involuntary manslaughter but hasn't been indicted or issued a formal plea.

Mark Plowden, a spokesman for the South Carolina Attorney General's office, said the case is still under investigation to determine what, if any, prosecutorial action is warranted. No other state or federal investigation is pending.

Babcock had been previously warned about choking hazards. Its assistant vice president of food services sent out an internal email in 2002, saying food wasn't being properly mechanically altered, which means pureed, ground or softened, for residents whose diets required that. The memo described the situation as "Red Alert." In 2003, federal Medicaid investigators found a staff member feeding a sandwich, cut in eighths, and cookies to a man whose food was to be ground into rice-size pieces. Babcock said staffers were retrained on dietary matters, satisfying the agency.

After Mr. Cothran's death, there was a federal investigation in October 2004 by the Centers for Medicare and Medicaid Services. It found there was "evidence that mechanically altered diets were not consistently prepared as ordered to meet the developmental needs of all the men" at the home where Mr. Cothran lived. The report also concluded that "direct support staff were not assigned in sufficient numbers to supervise mealtimes at the facility on weekend days."

Babcock says it has retrained its staff and Ms. Johnson says the staffing exceeded minimum requirements.

After finding conditions at the home posed "immediate jeopardy to the health and safety of clients," the agency ordered Babcock to submit a plan to correct problems found in its survey or lose Medicaid funding. Babcock did submit a plan that was approved. A subsequent visit by investigators satisfied the agency, and no penalties were levied against Babcock, says Sharon Fisher, a spokeswoman for the Centers for Medicare and Medicaid Services.

In November, the South Carolina Department of Health and Human Services commissioned a special audit of Babcock, in light of the federal findings. It found "management and staffing issues, lack of evidence of ongoing active treatment, and lack of evidence of assessments for appropriate level of care."

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Ms. Johnson, of Babcock, disagrees with those findings. She says the audit was performed by an organization that isn't familiar with specific program requirements for the developmentally disabled and investigators didn't spend enough time at Babcock homes to gauge active treatment. "I don't think they did a fair appraisal," she says.

Stan Butkus, head of the state's Department of Disabilities and Special Needs, ordered Babcock to reduce its number of residents by 50%, saying "system improvements can best be achieved … by reducing Babcock's size and scope of responsibility."

Babcock has proposed turning over facilities to the state so residents won't have to move. Other agencies will be asked to operate the homes.

Regulating A Faulty Heart Device (NYT)

The New York Times, September 13, 2005

The deplorable story of how a medical-device company sat on information about a flawed heart defibrillator while a hapless recipient died has now engulfed the Food and Drug Administration as complicit in the silence. A report by Barry Meier in The Times yesterday revealed that the agency received a report from the manufacturer detailing the flaws months before the F.D.A. issued a safety alert on the devices. By the time the agency acted, a college student relying on the implanted defibrillator to shock any erratic heart beats back to normal had died while mountain biking. His unit had short-circuited, just as the same model did earlier in about two dozen other patients.

What is disturbing is how long it took the company, the Guidant Corporation, and the regulators to get a meaningful warning to doctors and patients. The company is required to submit an annual report to the F.D.A. that includes data on how often, and why, its devices fail. As it turned out, the company waited until mid-February of this year to submit a report that covered the year from June 1, 2003, to May 31, 2004. The eight-month lag seems intolerably long for devices that can mean life or death. In previous years, Guidant had submitted reports within three months of the period covered.

The report revealed that 10 of the problematic devices suffered short circuits during the year. This was surely information of potentially great importance to doctors and patients. The student mountain biker died in March. Neither he nor his doctors were aware of the short-circuiting problem.

The regulators also appeared lethargic. The F.D.A. has a policy of reviewing the annual reports within 90 days, but it is unclear whether the regulators read Guidant's report by mid-May. There is no indication that the agency took any action in response to it. Only when The Times was about to publish an article on the flawed devices in late May did the company issue an alert to doctors, followed in June by an alert from the F.D.A.

The agency's excuse for not making the failure data public right away is too feeble to withstand scrutiny. Although F.D.A. officials have sometimes claimed that the annual reports are proprietary documents that must be kept confidential, they now acknowledge that the failure data itself is not confidential. The problem, they say, is that the failure data is included in a report that contains other proprietary information. It would be an inefficient use of time and resources, the agency says, to plow through hundreds of annual filings to determine what information could be released and what had to be kept confidential.

If that is the only problem, the solution is simple: require the companies to submit the failure data separately in a form that can be released immediately.

Probing Surgery's Link To Cancer Recurrence (WSJ)

By Amy Dockser Marcus

The Wall Street Journal, September 13, 2005

Doctors have long noted that the rate of recurrence for women with breast cancer is highest during the first two years after surgery to remove the tumor. Now a group of researchers say they have found a reason why: the surgery itself.

In a paper published today by the quarterly International Journal of Surgery on its Web site, the researchers argue that taking out the tumor triggers the release of certain substances in the body, perhaps as part of the wound-healing process or in response to the absence of the tumor. They believe that these substances, in turn, enable cancer cells that had been lying dormant in other parts of the body to undergo angiogenesis -- the process by which the body forms new blood vessels -- which also feeds the tumors' growth. This can cause the women to relapse early, the researchers concluded.

The researchers' findings are based on their study of a database of 1,173 breast-cancer patients treated in Italy. They didn't conduct examinations or blood tests on the subjects. Rather they offer the theory of "surgery-induced angiogenesis" as the best explanation for a statistical cluster of recurrences in the group. They say the cases recurred too early to be explained by another mechanism, so the researchers concluded they were related to the women's surgeries.

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There is support for this idea in animal and human studies that link surgery to remove tumors, including lung and colon cancer, with cancer recurrence. For instance, in a 2002 paper published in the journal Lancet, colon-cancer patients who had traditional surgery had a significantly higher rate of relapse than patients who had a minimally invasive laparoscopic procedure.

And the study's lead author, Michael Retsky, a lecturer in surgery at Children's Hospital Boston and Harvard Medical School, says the theory of surgery-induced angiogenesis may have implications for treatment of a variety of cancers. Cancer drugs that try to stop tumors from being able to form new blood vessels, such as Avastin, are being increasingly used as part of therapy. And other "anti-angiogenic" agents are being studied in animals and humans, focusing new attention on how to best use these drugs to improve survival.

The paper's authors don't advocate that women with breast cancer forgo surgery. Most women with breast cancer have surgery -- either mastectomy or lumpectomy -- to remove the tumor, and this has long been part of the standard treatment.

"Surgical therapy cures a large majority of women with early-stage breast cancers and I don't want patients to run away from the operating room," says Susan E. Clare, a breast-cancer surgeon at Indiana University School of Medicine in Indianapolis, who wasn't involved in this study.

Women typically undergo chemotherapy or radiation in addition to surgery to try to cut the risk of the cancer coming back. But the study suggests that this may not be enough, and that doctors might want to study the idea of giving certain women anti-angiogenic drugs in the days before and after surgery.

Dr. Retsky and his colleagues looked specifically at breast cancer because it involved a large, deep database of patients, he said. The research has led him to believe that "over half of all relapses in breast cancer are accelerated by surgery."

It isn't yet known which women might be most at risk for this sort of recurrence. But in studying the relapse patterns of the 1,173 women, who were treated at the Milan Cancer Institute in Italy only with surgery and then followed for 16-20 years, the researchers determined that younger women are the hardest hit by surgery-induced angiogenesis. According to the analysis, 20% of premenopausal women whose cancer had spread to their lymph nodes at the time of diagnosis relapsed within the first 10 months after surgery. This relapse rate was twice as high as that of women after menopause whose cancer had spread to the lymph nodes, indicating that surgery-induced angiogenesis may be regulated in some way by hormones.

The study also contended that this phenomenon might help explain the so-called mammography paradox for women ages 40-49 that has come up in some breast-cancer-screening studies. In some trials, women ages 40-49 who were invited to be screened died of breast cancer in greater numbers than women who weren't part of the group asked to be screened. Dr. Retsky, and his co-authors Romano Demicheli and William J.M. Hrushesky, theorize that if the women underwent mammography and had their cancers discovered earlier, they then would be treated by surgery and be at higher risk of being affected by surgery-induced angiogenesis.

The paradox theory itself is hotly disputed, with some scientists contending that it doesn't exist. "The number of cases in the early years of the screening trials are too small to permit accurate analysis," says Daniel B. Kopans, a professor at Harvard Medical School and the director of breast imaging at Massachusetts General Hospital in Boston.

The study comes at a time of increasing interest in finding ways to prevent recurrence. Other researchers also believe that angiogenesis plays a role in the process of recurrence. Michael S. O'Reilly, an assistant professor of radiation oncology and cancer biology at M.D. Anderson Cancer Center in Houston, says that animal data suggest that surgery-induced angiogenesis exists, and could be a factor in early relapse. But he said that it still wasn't clear whether the phenomenon worked the same way in every cancer, how to identify at-risk patients, or even whether surgery-induced angiogenesis was the only explanation. "It may explain the phenomenon in some patients but not all of them," Dr. O'Reilly says.

A national breast-cancer trial sponsored by the American College of Surgeons Oncology Group is examining whether treatment that alters hormone levels around the time of surgery will improve outcome and prevent recurrence. "We know that endocrine manipulations have strong effects on tumor blood vessels," says Matthew J. Ellis, director of medical oncology at Washington University School of Medicine in St. Louis, and the principal investigator of the trial.

The question of whether surgery spurs the growth of previously undetectable cancer cells has been around for decades, in part because animal data indicated a connection. Some research suggests that it is the removal of the primary tumor that acts as the trigger, with lab work in animals showing that some metastasized cancer cells don't grow on their own until a primary tumor is removed. The primary tumor may inhibit the growth of blood vessels in cancer cells elsewhere in the body, and cutting out the tumor alters that process. Researchers compared the situation in the body to a huge stew, with the removal of the tumor upsetting the balance of the different ingredients.

Another theory on how surgery jump-starts angiogenesis in a tumor involves the wound-healing process. In the 2002 Lancet study on patients with advanced colon cancer some doctors speculated that in the more-extensive surgery, a larger wound was made than with the laparoscopic surgery -- and more substances and proteins involved in healing the body were released into the blood as a result. These "growth factors" also may spur the angiogenesis process in tumors.

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Harikrishna Nakshatri, a colleague of Dr. Clare in the department of surgery at Indiana University School of Medicine, developed a mouse with breast cancer that would spread to the lung only after the removal of the primary tumor. Earlier this year, blood samples from 12 mice were taken before and after the tumor was removed. Then, Dr. Clare and colleagues at the Indiana Centers for Applied Protein Sciences identified proteins that surged or decreased after surgery. Some substances dropped precipitously, suggesting that they might have played a role in stopping cancer cells from previously growing. Others that are involved in helping the body to heal wounds surged.

The next step, Dr. Clare says, is to see whether the same proteins they are seeing in mice are present also in women. "If it turns out to be true in women, we can then try to find therapies to block it," she says.

Joyful Palestinians Rush Into Empty Settlements (USAT)

By Martin Patience

USA Today, September 13, 2005

GUSH KATIF, Gaza — Jubilant Palestinians celebrated the end of 38 years of Israeli occupation Monday by marching into Jewish settlements emptied by Israel after its decision to pull out of Gaza.

Palestinian Authority plans for an orderly transfer of power were quickly brushed aside as eager Palestinians rushed to the settlements early Monday, soon after the last Israeli forces withdrew.

Israel removed 8,500 Jewish settlers from their homes in 21 Gaza settlements last month, razing most of the buildings in the communities. The last column of Israeli tanks rumbled out of Gaza just before sunrise Monday. “The mission has been completed, and an era has ended,” said Israel's Gaza commander, Brig. Gen. Aviv Kochavi, who was the last soldier to leave.

Palestinian leader Mahmoud Abbas said Palestinians still faced a “long road” to statehood. But “today our people have the right to celebrate their freedom, their dignity,” he said. “This place was a taboo for us for the past 38 years, and now we are standing here.”

Throughout the day, Palestinians stripped fixtures and roofing materials from municipal buildings and synagogues that had not been demolished by the Israeli army. They loaded trucks, carts pulled by donkeys and supermarket trolleys with bed frames, light fittings, scrap metal and toilets.

Empty synagogues in the Morag, Kfar Darom and Netzarim settlements and a Jewish seminary in Neve Dekalim were torched. Later, a Palestinian bulldozer began knocking down the walls of the Netzarim synagogue. Israeli Foreign Minister Silvan Shalom called the burning of the synagogues “a barbaric act.”

Khalid Ismail, 40, a Palestinian math teacher from Khan Younis in Gaza, agreed. “I don't think it's civilized,” he said. “We should respect the religions and beliefs of others.”

For many here, however, Monday was a day of celebration and exploration of the settlements that had been closed to most Palestinians. “I never thought Gaza was so beautiful,” journalist Azmi Mohammed, 40, said as he stood beside a grove of date trees. “For 38 years, we have been closed to this stunning place, and now it feels as if we are out driving in the country.”

Abu Mahad, 70, was desperate to get to the beach in front of the Gush Katif settlement bloc. The shore had been closed to Palestinians since the start of the Palestinian uprising in September 2000. “I feel like I am born again,” he said.

Palestinian officials said the occupation of Gaza was not over. “By reserving itself the ability to invade the Gaza Strip and by maintaining control over Palestinian airspace, territorial waters and most importantly its borders, Israel will continue its military rule over the Palestinians and thereby continue to deny Palestinians their freedom,” Minister of Civil Affairs Mohammad Dahlan said. “Israel is deluding itself if it believes that its occupation over the Gaza Strip has now ended.”

By late evening, settlement roads were jammed with Palestinian pedestrians and cars flying flags. Iyas Salim, 40, an aid worker, said this was only the start. “The West Bank and Jerusalem must be next,” he said, referring to Palestinian hopes to build an independent state in Gaza, the West Bank and East Jerusalem — captured by Israel in the Mideast war in 1967.

Israeli Prime Minister Ariel Sharon has said he remains committed to the U.S.-backed “road map” peace plan, which calls for an independent Palestinian state, but any negotiations depend on Abbas' ability to rein in militant groups.

Palestinians Rejoice, Loot As Israel Wraps Up Pullout (WT)

By Joshua Mitnick

The Washington Times, September 13, 2005

KHAN YOUNIS, Gaza Strip -- Euphoric Palestinians celebrated the exit of the last Israeli soldiers from Gaza yesterday by swarming into former Jewish settlements, frolicking in the sea at previously restricted beaches and spilling over the border into Egypt.

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Despite Palestinian Authority pledges to keep Gazans out of the abandoned Israeli settlements for a few days, the Palestinian security forces did not prevent militants from torching synagogue buildings and firing guns in celebration, while looters made off with truckloads of debris.

Television footage of militants, policemen and civilians ransacking the settlements shocked Israelis and underscored the difficulty Palestinian Authority President Mahmoud Abbas will have in establishing law and order in the Gaza Strip.

"I think this is unacceptable behavior from our people," said Khan Younis Mayor Osama Alfara, who had just walked through what used to be the neighboring settlement of Neve Dekalim. "But our people want to be sure that there is no return of the Israelis, so they are taking some things as a memory."

Palestinian and Egyptian soldiers along Gaza's border with the Sinai Peninsula were overwhelmed by hundreds of residents from Rafah -- a Palestinian city that straddles the boundary -- who made their way to the Egyptian side, according to the Web site of the Ha'aretz newspaper.

A 38-year-old Palestinian was killed in the tumult, with Egyptian border police and Palestinian police accusing each other of responsibility.

After Israel abandoned the heavily fortified Philadelphi border corridor aimed at preventing weapons smugglers, Egypt deployed border police to patrol the region for infiltrators and illegal arms traders.

Mr. Abbas pledged to do all in his power to put an end to border violations. "The penetration of the border is completely unacceptable, and we will move to stop it," he said.

Israel concluded a monthlong evacuation from Gaza early yesterday, as a convoy of armored vehicles rumbled back over the border and the Gaza division commander, Brig. Gen. Aviv Cochavi, closed a gate in Israel's security barrier that surrounds the strip to the north and east.

Many Palestinians stayed up through the night in anticipation of the first hours of freedom. In pre-dawn hours, many Gazans had crossed over into the abandoned settlements. Hours later, tens of thousands of smiling Palestinians began making their way into land that many of them had never touched.

Amid the rubble around Neve Dekalim, which had been the largest Jewish settlement in Gaza, flags from the militant group Islamic Jihad, the Palestinian Authority and the Democratic Front for the Liberation of Palestine were hoisted above synagogues and other public buildings.

A detachment of Palestinian security officers congregated outside the regional council building to ensure that Palestinians didn't destroy public structures left by the Israelis.

"It's our mission to protect these buildings and to prevent their destruction," said Mohammed Mansour, a member of the national security force. "But as you can see, we aren't very successful. It's a shame."

On the plaza outside the Neve Dekalim synagogue, mule-drawn carts were piled with heaps of scrap metal. Inside, the Sephardic sanctuary was littered with shards of glass as men with homemade pickaxes smashed windowpanes in the third-floor rafters.

"We've been waiting 38 years, what do you expect from me," said Ahmed Ikhleya between blows at the synagogue. "We want to end the occupation, and we don't want any memory of the occupiers."

In the southern portion of the strip, just west of Neve Dekalim, thousands of adults and children enjoyed their first trip to the local beach in five years.

During the latest Palestinian uprising, the Israeli army barred the residents of Khan Younis from driving five minutes through the Jewish settlement block to the beach, and instead forced them to travel hours to Gaza City.

Yesterday, the children splashed through the surf, using foam from former settlement ceilings as flotation devices.

"We were deprived of smelling clean air," said Fayrouz Figawi, a mother of 12 sitting under a hut of corrugated metal collected at a settlement. "When they deprived us of the beach, we sat at home listening to bullets and tank shells."

Gazans Revel As They Sift Through Ex-Settlements (NYT)

By Steven Erlanger

The New York Times, September 13, 2005

NEVE DEKALIM, Gaza Strip, Sept. 12 - Throughout the abandoned Israeli settlements of Gaza, Monday was a carnival of celebration, political grandstanding and widespread scavenging for a Palestinian population whose occupiers vanished overnight, as the Israeli Army pulled its last soldier out of Gaza at 6:50 a.m.

But hours before the divisional commander, Aviv Kochavi, became the last Israeli soldier to leave, thousands of Palestinians had entered the once-forbidden settlements that, together with their military infrastructure, consumed about 30 percent of the densely populated Gaza Strip.

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The celebrations were orchestrated in part by the rival factions within Palestinian society - Islamic Jihad, Hamas and Fatah, the mainspring of the Palestinian Authority. Their flags of black, green and yellow were more numerous than the Palestinian flag, and were prominent on abandoned Israeli military outposts and public buildings.

Hamas, which is running hard for votes in January's legislative elections, paraded through numerous settlements, with armed and often masked men on loudspeaker trucks. Hamas posters and graffiti proclaimed the victory of resistance. Islamic Jihad, which is not running, did the same, as did armed members of Al Aksa Martyrs Brigades, a Fatah contingent.

Some who came did so to see the land they had worked before the 1967 war, when Israel took Gaza from Egypt; others honored friends who had died in attacks on the Israeli settlers; still others came to salvage whatever could be ripped away and sold from the large piles of rubble the Israelis had left behind.

Donkey carts were piled with bathroom fixtures, pieces of metal, skeins of wire and long pieces of wood, to feed home ovens. Men, women and children worked with a seriousness of purpose, trying to take home some little personal benefit from the return of lands many feel will somehow, as usual, end up in the hands of the wealthy or well connected.

By the light of burning egg crates, Samir Abu Hattah whacked away at window glass with a metal pole, shouting, "Go to hell, Zionists!"

Then he directed a group of young men to start pulling down the electrical wiring, aluminum window frames and doors of an agricultural warehouse here in Neve Dekalim.

"I feel a great sense of victory today," said Mr. Hattah, 40, who lives across the tall concrete wall in the Khan Yunis refugee camp and who used to work in this settlement before the second Palestinian uprising began in 2000. "The Zionists built it and then they destroyed it," he said with satisfaction. "The lesson I've learned, and I will pass it on to my sons, is that no matter how long it takes, the occupiers will leave because of resistance."

Behind him, a settlement synagogue built in the shape of a huge Star of David was smoldering, fires inside sending smoke through the edges of the star. Atop the building, in the dim smoky moment before dawn, one could see a huge green flag of Hamas, with a smaller Palestinian flag flying below it.

A few minutes later, a large black flag of Islamic Jihad was flying just under the Hamas flag, above the Palestinian one.

Five minutes later, the Palestinian flag had been taken down altogether.

Israel had leveled all the other buildings in the settlements in an agreement with the Palestinians but chose, at the last minute, not to destroy the synagogues because a number of Israeli conservatives argued that it was wrong for Jews to destroy synagogues. As a result, settlement synagogues were standing and vulnerable to vandalism.

As daylight brightened, more Palestinians poured into the former settlements, which are still surrounded by huge fortifications and electronic fences. Some went sightseeing, some went salvaging, some went to swim from beaches that had been closed to them. They were joined by hundreds of schoolchildren in uniform who were given the day off as a holiday. Three people were reported drowned.

Ahmad el-Kurd, the new Hamas mayor of Deir Al Balah, cheek by jowl with the former settlement of Kfar Darom, said his joy was mixed as he remembered how much he loved, as a boy, the unspoiled dunes that were fenced off for Kfar Darom. "If they could only give me back the land as it was 38 years ago," he said. "Now, it's only piles of rubble."

In Kfar Darom, there was an extensive march of armed fighters, but the synagogue there was protected from burning by security forces who made a kind of headquarters out of it. Palestinian officials said they expected to pull down the remaining synagogues themselves, and a bulldozer began the task in Netzarim.

He was happy today, Mr. Kurd said, but his happiness was also tempered "because of the continuing occupation of Jenin and Nablus and Jerusalem, which are also part of Palestine." And until Israel resolved the question of how to allow Palestinians and their goods to enter and exit freely from Gaza, to Egypt and to the West Bank, he said, "Israel remains an occupier," a position supported by the Palestinian Authority.

"If there is no freedom of movement, don't consider the Palestinians free," Mr. Kurd said. "We will not accept Gaza as a big prison."

The Israeli government of Prime Minister Ariel Sharon says that the life of Gaza is up to the Palestinians now, and that only security considerations are preventing a resolution of the issue of Israel's continued control over Gaza's border with Egypt. The Israelis have proposed a complicated six-month provisional procedure, which the Palestinians reject. For their part, the Israelis have so far rejected a proposal by the Western mediator, James D. Wolfensohn, to allow Palestinians to pass through Rafah to Egypt with European officials supervising the process on behalf of Israel.

Thousands of Palestinians slipped through gaps in the border wall on Monday and crossed from Gaza to Egypt at Rafah in a scene of chaos and jubilation, with tearful family reunions and one man reportedly shot dead. Witnesses said an Egyptian soldier shot and killed a Palestinian who crossed into Rafah, but the Egyptian government denied the report, insisting the victim must have died from a stray bullet fired by those celebrating the withdrawal of Israeli border guards.

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"I categorically deny this report, which is completely baseless," said Suleiman Awad, official spokesman of President Hosni Mubarak. "It's inconceivable that Egyptian soldiers should have opened fire on the Palestinians after letting 3,000 cross the border for family reunions."

The leader of Hamas's military wing in the sprawling Khan Yunis camp, Abu Moath, came with his armed entourage to take a look at Neve Dekalim. He had not been here in a very long time, he said, and recognized little among the piles of rubble, atop which young men dug for metal scraps, plastic chairs and an old washing machine.

Asked about Israel's last-minute decision not to destroy the last 24 synagogues in Gaza but to ask the Palestinians to protect them, Abu Moath scoffed. "They must be destroyed as symbols of Israel and the occupation," he said. "They promised to destroy them, and we are only carrying out the ruling of their own court." As he spoke, two of his entourage showed their colleagues the car batteries they had found.

On the wall of a synagogue here was a Hamas slogan: "Push them out as they pushed you out!" And nearby, there was another: "Yes for freedom! No for Jews! - Hamas."

Fatma Abu Reziq, whose large, poor Khan Yunis family was profiled in The New York Times in June, said she was one of the first Palestinians into Neve Dekalim, arriving at about 3 a.m., even before the last Israeli tank rumbled away. "People were afraid at first, and then they saw people like me get in, and they became brave," she said.

Even she, she said blushing, had salvaged a few items from this settlement to brighten her home, a few hundred yards across the no man's land from the towering cement wall that still cuts off Khan Yunis from Neve Dekalim. "Now that the Israelis are gone, our lives will be better and quieter," she said. "I can't describe my happiness to see the flag of Palestine flying here."

Palestinians Pour Into Settlements (WP)

By Scott Wilson

The Washington Post, September 13, 2005

GAZA CITY, Sept. 12 -- Thousands of Palestinians rushed into the former Jewish settlements of the Gaza Strip on Monday in a mood of elation and opportunism. Some scavenged for items of potential value or souvenirs of Israel's departure, while others trashed abandoned synagogues that had been left standing when settlers departed.

Israeli troops had left overnight, ending a 38-year military hold on the Gaza Strip and the 21 former Jewish communities. The Israeli government had razed many of the buildings after settlers departed.

Men and women, young and old, descended on the settlements soon after the last Israeli soldier passed through the Kissufim crossing a little before 7 a.m.

"The children want to know what happened to the trees," said Yasser Nawas, 36, an engineer from the Nusseirat refugee camp, who took his four small children Monday morning to get an early glimpse.

Nawas walked in with his small phalanx of children, under skies filled with acrid black smoke, along roads lined with uprooted pine trees. Amid piles of rubble that last month were comfortable homes, Palestinian men collected coils of cable, aluminum window frames, plastic water tanks and streetlights, loading them onto donkey-drawn carts.

"I brought them to know the place they have been deprived of," Nawas said of the children. "I'm not surprised by the destruction I've seen. But I am shocked by these uncivilized acts. I was expecting celebrations, something for the kids to see."

Although abandoning the territory, Israel will maintain control over its border with Gaza, and Palestinian officials say that means the occupation has not ended. But settlement streets were taken over by various armed militias, all claiming a share of credit for the unilateral Israeli departure from land it occupied in the 1967 Middle East war.

Egyptian troops, meanwhile, have deployed along Gaza's southern border. Palestinian officials said Egyptian border guards shot and killed a Palestinian man identified as Nafiz Ateyah, 34. Officials said the shooting occurred while Egyptian police were trying to control crowds along the Gaza side of the border in the city of Rafah, where dozens of Palestinians managed to cross Monday after months of being prevented from doing so. Egypt denied that its border guards shot the man, according to the Reuters news agency.

In some of the former settlements, Palestinians scuffled occasionally amid the rubble, prompting police to intervene with batons and warning shots. Although the day was largely free of violence, the synagogue buildings that the Israeli government decided to leave intact were vandalized, and at least four of about two dozen were set ablaze.

Palestinian authorities later bulldozed some of the synagogue buildings, symbols to many Palestinians of the Israeli occupation. Israeli officials criticized the Palestinian Authority for failing to protect the buildings, including the one in the largest former settlement, Neve Dekalim, where the interior walls bore scorch marks from fires set early in the day.

In the early afternoon, a noisy convoy carrying Mahmoud Zahar, a senior official of the Islamic Resistance Movement, or Hamas, rolled through the settlement's torched gatehouse. Zahar's pickup truck was filled with Hamas gunmen and was followed by a truck blaring martial anthems and announcing Zahar's arrival to thousands of Palestinians.

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Shattered glass crunched under the feet of Zahar's entourage as he entered the synagogue building. Few Palestinians paused from prying electrical cord from the walls or smashing free an air-conditioning unit as Zahar passed. Someone handed him a hammer, which he swung vigorously against a wall. "Our resistance has succeeded in ending the . . . resistance in Gaza," Zahar said, referring to Israel. "This means that this first step will be followed by a second step." The next step, he said, was to rebuild Gaza and wage "an effective armed resistance in the West Bank," the heartland of what has been designated as a future Palestinian state.

Across the strip, lines of cars clogged roads blocked for years by Israeli checkpoints and barricades. Palestinians pushed aside cement blocks and coils of razor wire to open up old roads and make new ones through dunes and marshy valleys.

In the former settlement of Kfar Darom, Palestinian soldiers watched over the abandoned synagogue, the scene of a dramatic stand by Israeli settlers last month. Holes had been punched in its walls, and insulation dangled from the ceiling from the work of vandals earlier in the day.

Soldiers guarded about 4,000 greenhouses that form the backbone of the strip's agricultural industry, but the large salad factory in Kfar Darom stood unwatched. Scores of Palestinians ransacked the large building, which once employed many Kfar Darom residents and supplied salad to dozens of Israeli restaurants.

For the first time in decades, the dirt road leading from the coastal highway to the former central settlement of Netzarim filled with Palestinians, who made a raucous parade on foot and by donkey cart and SUV into the former settlement. "This is subhuman," one man grumbled as he watched scores of people sift through ashes and scrap heaps.

Mohammed Siam pinched a 7.62mm shell casing from an Israeli machine gun between his fingers. "I will make a medal of it," said Siam, 27, of Gaza City. "I'll tell everyone I took it out of Netzarim."

Mohammed Jadili, an interior designer from the Gaza City neighborhood of Zeitun, clutched a small rosebush flecked with pink buds as he watched a group of Palestinian youth scale the dome of the synagogue building. Hours later, it was demolished by Palestinian bulldozers.

"In my house, I will plant this," Jadili said. "And remember the occupation."

U.S.-Chinese Trade Relations Get Trickier (USAT)

By David J. Lynch

USA Today, September 13, 2005

WASHINGTON — What started as a bad pun has become one of the most consequential questions facing the United States: “Who is Hu?”

Is Chinese President Hu Jintao the valued customer Corporate America fancies or, as a growing segment of official Washington fears, is he the USA's most dangerous long-term enemy?

Financial links between the USA — the world's most powerful country — and China — its most populous one — have never been more crucial. Bilateral trade is running at an annual rate of more than a quarter of a trillion dollars. And Beijing's purchases of U.S. Treasuries are essential to keeping interest rates low, good news for anyone who's taken out a mortgage recently.

Yet, with the Chinese and American presidents preparing to meet today on the sidelines of a United Nations session in New York, long-standing Sino-U.S. trade friction is merging with mounting anxiety over Beijing's stepped-up military spending and its muscular drive to secure energy supplies. As the Bush administration struggles to balance commerce and national security, companies seeking to expand sales to China may wind up in the crossfire.

“A rising China has another side people should be worried about. It's not just about cheap goods,” says Yu Maochun, a historian at the U.S. Naval Academy.

This fall, the Commerce Department plans to issue a new “catch-all” regulation to curb sales to China of civilian technologies that could have military applications. The new rule could dramatically expand the list of items requiring export licenses for sale to China, beyond today's narrow list of advanced technologies.

“We're very concerned about it. … It's going to cut off a lot of legitimate non-military trade,” says William Reinsch, president of the National Foreign Trade Council, a Washington-based pro-trade business group.

A group of 70 to 80 companies, including General Electric, Boeing and General Dynamics, have banded together to lobby against the proposal, he says. Affected products could include everything from medical technology to heavy equipment.

Bush is scheduled to speak with Hu, making his first visit to the USA since becoming China's president in 2003, on the fringes of a U.N. General Assembly session. The get-together was hastily arranged after Bush canceled a Sept. 7 White House meeting to focus on responding to Hurricane Katrina.

Antagonism toward China is flaring for several reasons. Chief among them: The largest single-country slice of the swollen U.S. trade deficit is with China. Earlier this month, bilateral talks aimed at capping surging Chinese textile shipments to the USA

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failed to reach an accord. Many U.S. manufacturers say China's refusal to allow world markets to set the value of its currency worsens the trade gap by making Chinese products artificially cheap. (Beijing took a small, but important first step in this direction in July when it stopped pegging the yuan to the dollar's value.)

China's historic emergence as an economic power is a source of both profit and peril for the USA. In a new survey, 66% of companies said their Chinese operations were as profitable or more profitable than their global operations, according to the U.S.-China Business Council, which represents about 250 corporations with operations in China. Three-quarters of those surveyed plan to boost their commitments there.

But as it prospers, China's ravenous appetite for energy is leading to conflicts with the U.S. Last month, a state-owned Chinese oil company, CNOOC, abandoned a bid to buy the U.S. oil company Unocal amid fierce congressional opposition. Other Chinese companies have defied the U.S. by signing deals with anti-American nations such as Iran and Sudan.

Flush with cash, China also is lavishing increasing resources on its military. Defense spending this year increased 12.6% to $29.9 billion — twice the figure from five years ago. And the Defense Department estimates that the actual total may be two to three times that amount, though still just a fraction of the USA's $400 billion military budget. A recent Pentagon report warned that China was amassing the weapons needed to thwart the U.S. in any future contest over Taiwan, which China regards as a renegade province.

The U.S. political climate also has shifted with President Bush's declining approval ratings, opening foreign policy to more widespread partisan attack. After the 9/11 attacks, China provided welcome backing for the U.S. war on terror, including acquiescing in the stationing of American military forces in Central Asian countries on its border. Such cooperation helped insulate China policy from sniping. No longer.

“The post 9/11 honeymoon is definitely over. … People are much more vocal about China,” says Minxin Pei, a Shanghai native who directs the China program at the Carnegie Endowment for International Peace in Washington.

Worries over China's global ambitions threaten to impinge on trade policy. The U.S.-China Economic and Security Review Commission is expected within weeks to recommend to Congress legislation that would restrict access to U.S. capital markets for Chinese firms. “Bush is really in danger of losing control of policy toward China in the economic realm,” says Bonnie Glaser of the Center for Strategic and International Studies. “The concern about China in this country is going to continue to climb.”

Likewise, the new Commerce Department regulations, which have been in the works for months, are aimed at preventing China's military from benefiting from any U.S. technology.

Today, less than 2% of all exports to China require a government license. And 95% of all applications are approved; the total value of contracts denied last year was just $10.8 million, according to Peter Lichtenbaum, acting undersecretary of Commerce for industry and security.

In June testimony before a congressional commission, Lichtenbaum acknowledged that the U.S. should be “cautious” about broadening its export controls because other countries often can sell to China what the U.S. chooses not to.

Industry representatives, however, say the new rules will discourage trade with China, in products such as manufacturing process technology or product improvement systems, either by adding uncertainty or swaddling it in red tape. Executives worry that the proposed regulations will burden exporters with determining whether their products will aid the Peoples Liberation Army.

“It sends a message to American investors to stay the hell out of the Chinese market,” says William Clements, partner at Foley & Lardner, a Washington law firm.

Hu has his own domestic problems, and they could have implications for U.S. firms. Despite rising incomes, the past several years have witnessed a stunning increase in the incidence of public protest in China. Public Security Minister Zhou Yongkang said last month that 3.8 million Chinese had participated in 74,000 public demonstrations last year over issues such as unpaid pensions, official corruption and environmental concerns.

Such demonstrations are a long way from a national anti-government movement, but China is a society whose leaders traditionally — and with good reason — have been obsessed with the dangers of luan, or chaos. Last month, the government announced it was establishing elite anti-riot brigades in 36 major cities to quell future disturbances.

That atmosphere could cause some executives to think twice about future investments. “You could well see some companies decide with their next four plants to put three in China and one in India where three or four years ago they would have built all four in China,” says Kenneth Lieberthal, former director of Asia policy on the National Security Council.

Since assuming China's top government and party posts, Hu has cemented his power by cracking down on the media, academics and unauthorized churches. That feeds U.S. concerns about China's poor human-rights record and long-standing uneasiness with the specter of an increasingly prosperous communist dictatorship.

The ambivalence was reflected in the administration's handling of Hu's now-canceled Sept. 7 White House visit. Chinese officials, traditionally highly sensitive to matters of political symbolism and respect, unsuccessfully sought the hoopla of a full state visit for Hu.

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There was ample precedent. In 1997, President Clinton held a state dinner to honor Hu's predecessor, Jiang Zemin. An ex-president, five former secretaries of state, congressional leaders and the heads of 30 corporations, including IBM, AT&T, Boeing, Time Warner and General Electric, were on hand to hear the Chinese president quote Henry Wadsworth Longfellow.

Chinese officials were miffed at the U.S. refusal to extend the same treatment to Hu, according to June Teufel Dreyer, a University of Miami China specialist who was recently in Beijing. “It does matter to the Chinese. … They are very finely tuned to nuance,” she says.

Even if that irritation wanes, the tone of the relationship isn't likely to improve anytime soon. As soon as next month, Sen. Charles Schumer, D-N.Y., and Sen. Lindsey Graham, R-S.C., could get a Senate vote on their legislation that would slap a 27.5% tariff on all Chinese imports. The measure, which drew 67 votes in an earlier test of political strength this year, is aimed at forcing the Chinese to allow the yuan to appreciate.

Schumer says China's initial 2% adjustment in the value of the yuan was insufficient to alleviate congressional concern over its trade practices. “China has to do more,” he told reporters last week.

The approach of the 2006 election year also won't make things any easier. And if the economy weakens under the spreading impact of high gas prices and the disruption of Hurricane Katrina, then Sino-U.S. trade tensions could really become inflamed.

Yet, given the trade and financial links between Beijing and Washington, neither nation can afford a rupture. “Both sides are trying to keep this thing well on the tracks,” says David Lampton, director of China studies at Johns Hopkins University.

China Promotes 'Peaceful Rise' To Quell U.S. Fears (WSJ)

By Charles Hutzler

The Wall Street Journal, September 13, 2005

BEIJING -- Even as Chinese President Hu Jintao and U.S. President George W. Bush gear up to meet in New York today, many Americans are questioning China's longer-term intentions.

Zheng Bijian thinks he has the answer. The consummate Chinese Communist Party insider and confidant of Mr. Hu is promoting a message that China isn't trying to displace the U.S. but is seeking to emerge onto the global stage peacefully. His "peaceful rise" project has gained the support of China's top leaders, with Mr. Hu originally expected to touch on the theme during a weeklong U.S. tour earlier this month.

That visit was postponed in the wake of Hurricane Katrina's devastation. During today's meeting at the United Nations, the two countries' leaders are likely to talk about the value of the yuan and denuclearization of the Korean peninsula, among other issues of bilateral concern.

In the backdrop of the meeting, however, is anxiety about China's rapid rise -- a situation Mr. Zheng is trying to change.

"China must take a different path, a path that none of the late emerging countries has taken in the contemporary world," says Mr. Zheng, a formal man known for choosing his words carefully. Otherwise, he said recently in an interview, China could meet the fates of Germany, Japan and the Soviet Union in the past century, ambitious upstarts foiled by the dominant powers of their time.

Mr. Zheng and his peaceful-rise project offer a rare window into the secretive world of Chinese foreign-policy making at a time when China's leadership is grappling to define the global role of this country of 1.3 billion people. Already, its mighty manufacturing engine, growing diplomatic clout and increasing assertiveness are sparking concern among some people in the U.S. and elsewhere that an emerging China could constitute a threat.

In the U.S., a Pentagon report warns of growing Chinese military might. China's ravenous appetite is contributing to rising oil prices world-wide. A flood of low-price Chinese exports is fraying China's ties with the U.S. and Europe, and its relations with Japan are at a low point.

Of course, the peaceful-rise concept has detractors. U.S. Secretary of State Donald Rumsfeld has questioned why China continues to build up its military if it faces no threat. In China, retired ambassadors have complained that the emphasis on "rise" was counterproductive, scholars close to the ambassadors say. Chinese military officers have objected to the "peaceful" component, saying it gives the impression China won't defend its national interests.

Mr. Zheng is undeterred by such criticisms, and his project is getting a boost by a change in the way Beijing views power. Since the periodic flare-ups with the U.S. over Taiwan and with Southeast Asian nations over territorial disputes that marred Beijing's image in the 1990s, Chinese leaders have been seeking more subtle ways to exercise global influence. They also believe China needs constructive relations both with major powers such as the U.S. and with neighboring countries such as Japan to maintain its fast economic growth, exceeding 9% a year currently, and to overcome daunting domestic challenges, such as a widening wealth gap.

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Examples of China's new approach: Beijing's successful bid to host the 2008 Olympics; a free-trade agreement with Southeast Asia that has fueled 30% annual increases in China's import of regional goods in the past two years; and a growing leadership role in the U.S.'s efforts to get North Korea to dismantle its nuclear program.

In some ways, Mr. Zheng, 76 years old, is an unlikely pioneer of a new foreign-policy path. Son of a famous calligrapher and poet, he spent much of his career working in the party's insular propaganda department and focusing on internal matters. Known as a brilliant and visionary thinker, he helped write a critical assessment of Mao Tse-tung and his ruinous, radical policies after Mao's death in 1976, helping lay to rest an era of political struggle and opening the door to economic change.

When market overhauls stalled amid a conservative backlash that followed the crushing of the 1989 Tiananmen Square democracy movement, then-paramount leader Deng Xiaoping tapped Mr. Zheng to compile a series of documents that enshrined rapid economic growth as a goal and encouraged private business. One document Mr. Zheng worked on coined "socialist market economy" -- a somewhat-awkward phrase that nonetheless successfully gave cover to Mr. Deng to allow capitalism to take root.

Mr. Zheng began to focus more on foreign policy as vice president of the Central Party School, then headed by Mr. Hu, revamping the staid academy for midcareer party officials to include classes on modern economics and international affairs. Searching for lessons in recent history, Mr. Zheng commissioned studies on the collapse of the Soviet Union and traveled abroad frequently.

But it was during a trip to the U.S. in winter 2002, soon after Mr. Hu's elevation, that Mr. Zheng decided to spend what should have been his retirement years concentrating on foreign affairs. In a meeting with Condoleezza Rice, then the U.S. national security adviser and an acquaintance of Mr. Zheng, an air of tension crept into the discussions as she pressed him about how China planned to use its rapidly growing power, meeting participants recall. She also asked whether China would be satisfied as a status-quo power.

Mr. Zheng says he left Ms. Rice with a task: figuring out the differences between China's Communist Party and the deposed Soviet Communist Party. He also gave her two books to read, "The Analects" by Chinese philosopher Confucius and a volume of Deng Xiaoping's works.

At the time, Mr. Zheng says, he already was thinking about new foreign-policy directions. He used the phrase "peaceful rise" at a speech in Washington. Still, Ms. Rice's remarks bothered him, suggesting that the U.S. saw China as a threat, scholars close to him say. Returning to Beijing, he wrote a proposal to President Hu, suggesting a wide-ranging research project. Mr. Hu sent the proposal back, scrawling "Initiate research," the scholars say.

Mr. Zheng's team of researchers went to work. They didn't just focus on China's relations with other countries. Research prepared by his team examines pressing domestic issues, such as environmental degradation and income disparities and how, if not handled properly, they could hinder China's peaceful emergence in the world. A report on the reunification of Germany suggests Beijing might be more successful in wooing back Taiwan, a de facto independent island it views as part of China, if it offered a more democratic political system.

In late 2003, Mr. Zheng and China's top leaders began incorporating the term "peaceful rise" in major public addresses. Yet even as the project acquired momentum, opposition began to form at home. The foreign-policy establishment resented Mr. Zheng's sudden influence in their sphere, with some finding fault with the "peaceful" concept and others, with the "rise" aspect. In the face of the criticism, the leadership changed tack -- rhetorically.

In spring 2004, Mr. Hu and other leaders decided to replace the potentially provocative term "peaceful rise" with "peaceful development," researchers involved in the project say. Tellingly, the leadership didn't side with the hawks who opposed the use of the word "peaceful," the researchers say.

Neither Mr. Zheng nor his project appears to have been affected by the terminology shift. " 'Peaceful rise' or 'peaceful development' -- they're four words with the same meaning," Mr. Zheng says. The project has expanded at the leadership's request, he says, drawing on the expertise of nearly 100 researchers and officials.

This spring, before Mr. Hu's originally scheduled trip to the U.S., the Chinese president dispatched Mr. Zheng to deliver a special message to top U.S. officials that China isn't seeking to displace the U.S. and encouraged him to propagate theories from his peaceful-rise project, Mr. Zheng's aides say. Mr. Zheng also sought to get a read for Chinese leaders on the real feelings and views of Americans toward China, the aides say.

Before his trip, Mr. Zheng was briefed by both Mr. Hu, in an hour-long phone conversation, and Chinese Premier Wen Jiabao, in a two-hour talk in the closely guarded leadership compound of Zhongnanhai, Mr. Zheng's aides say.

In the U.S., he got red-carpet treatment, meeting with Secretary of State Rice, national security adviser Stephen Hadley and other high-ranking officials during an 11-day visit. Mr. Zheng also lunched with former President George H.W. Bush at his vacation home in Kennebunkport, Maine, and even met with Sen. Hillary Clinton.

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Mr. Zheng hit on the peaceful-rise theme continually during his visit. The usually media-shy theoretician hosted a rare luncheon for a small group of U.S. reporters in the U.S. capital, where much of the talk focused on the impact of an emerging China on the existing world order.

He stayed so late at a party hosted by Brookings Institution Chairman John Thornton at his New Jersey home, just so that he could answer all the guests' questions about China and peaceful rise, that Mr. Zheng's aides, waiting up for him past midnight back at the hotel, became worried. Mr. Zheng made such an impression that Federal Reserve Bank of New York President Timothy Geithner, a guest, proposed introducing him to Treasury Secretary John Snow.

Mr. Zheng, for his part, came away from his U.S. visit with an added sense of urgency, believing that "it is a very crucial time for U.S.-China relations," says Wang Boyong, an aide who accompanied him on the trip. "There are a lot of opportunities but also a lot of challenges. If we don't manage it well, the U.S.-China relationship could retreat."

One challenge, of course, is continued skepticism overseas that China can, or wants to, orchestrate a peaceful emergence onto the world stage.

Sitting in his book-lined office decorated with the calligraphy "Pillar of the Nation" by a former Chinese leader, Mr. Zheng carefully measures out a response. China has been on an upward path for 25 years since it began economic overhauls, with few serious disruptions to the world, he says. Still, he adds, its peaceful rise will be a lengthy process, stretching until midcentury, when China becomes a developed nation.

"We don't expect you to totally believe that we can definitely realize the peaceful rise of China," he says. "But there are still decades to come to see how we do."

U.S. Considers WTO Action On China (USAT)

By David J. Lynch

USA Today, September 13, 2005

WASHINGTON — The United States is actively considering lodging a formal complaint with the World Trade Organization over rampant Chinese counterfeiting of copyrighted American products.

U.S. Trade Representative Rob Portman said in an interview Monday with USA TODAY that government lawyers were collecting data needed to support a WTO filing.

“We are looking at a case. … If we have a strong case, and if we don't see the progress that we've asked for, we won't hesitate to move forward,” he added.

U.S. officials have complained for years about widespread copying by Chinese companies of products such as compact discs, computer software and apparel. In July, Portman and Commerce Secretary Carlos Gutierrez held an annual meeting with top Chinese officials to discuss trade frictions.

Chinese officials agreed to increase criminal prosecutions of those caught violating copyrights, establish a joint working group of law enforcement personnel and guarantee that all government offices would use only licensed software by the end of this year.

But pirated products remain easily available in any major Chinese city. DVDs of new Hollywood releases — selling for less than $1 — are often available on Beijing's streets before they hit U.S. theaters.

The financial stakes are enormous. In April, William Lash, assistant Commerce secretary, said U.S. firms lose $20 billion to $24 billion annually because of phony Chinese merchandise. Half of U.S. exports depend upon some type of intellectual property protection, according to the State Department.

Since assuming the trade representative's post in April, Portman, a former Republican congressman from Ohio, said he has met with the software, recording and motion picture industries to discuss a potential WTO complaint. (The U.S. has filed 75 such grievances since the WTO's 1995 formation; only one has targeted China, which joined the body four years ago. “More than one dozen” other equally serious issues were resolved without going to the WTO, Portman's office says.)

In May, Portman requested formation of a WTO panel to resolve a U.S. complaint about European Union subsidies for Airbus, potentially the largest and most politically contentious such dispute.

But prospects for a new WTO complaint about China are clouded by U.S. industry's hesitancy to provide detailed information on the harm it's suffering

“We're encouraging those in the private sector who have been subject to piracy and theft of trademark and patents and copyright to step forward to provide us with the kind of information we would need,” he said.

So far, there's little evidence that U.S. companies will do that. Many companies whose products have been illegally copied by Chinese manufacturers fear reprisals from the Chinese government if they support a WTO complaint, says Nicholas Lardy, an expert on the Chinese economy at the Institute for International Economics.

Portman's office “will not do it because they can't get the support of U.S. industry,” he says.

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In December, General Motors filed a lawsuit against a Chinese car company whose QQ small car looked like a Chevy sold in China. But Monday, GM said a WTO complaint might be another matter. “We would need to understand the circumstances and arguments in such a case before we could make a comment,” GM spokesman Christopher Preuss says.

Meanwhile, Portman acknowledged that global trade negotiators remain far apart in the current round of multilateral trade talks. A December WTO meeting in Hong Kong, long regarded as critical for the so-called Doha Round, looms as a deadline. If agreement can't be reached at that session, the president's authority to secure a straight up-or-down vote on a new trade pact could expire before Congress could take up the issue.

“We've got some heavy lifting over the next three months,” Portman said.

Mexico Builds Trade Ties With China (NYT)

By James C. McKinley Jr.

The New York Times, September 13, 2005

MEXICO CITY, Sept. 12 - President Hu Jintao of China wooed Mexican leaders on Monday during a state visit, trying to smooth out the often prickly relationship between the two countries as part of a larger campaign to expand China's influence in Latin America.

In the afternoon, Mr. Hu and President Vicente Fox signed several minor agreements with great fanfare, among them one providing mutual tax limits on companies doing business in both countries and another that will allow Mexico to export grapes to China in return for importing Chinese pears.

The countries also agreed on a framework for negotiating future accords that eventually may allow Chinese companies to mine iron and other minerals in Mexico. In recent years, China has been scouring Latin America for iron and oil to feed its roaring economy.

But underneath these shows of cooperation lies an ugly economic street fight over the United States market, analysts say. Chinese companies have battered Mexico's manufacturers and farmers in recent years, and many here see China threatening to replace Mexico as the main supplier of light manufactured goods. Last year, China knocked Mexico out of the No. 2 spot on the list of importers to the United States.

And Mexico itself is flooded with Chinese products, both legal and contraband, from chili peppers to blue jeans to electronics. Last year, Mexico imported $31 in goods from China for every dollar's worth it sent there, according to trade experts here, and that does not include the thriving market in smuggled Chinese goods.

"The real relationship between the People's Republic of China and Mexico is very tense," said Enrique Dussel Peters, an expert on Mexican-Chinese trade at the Autonomous University of Mexico. "This ratio of 31 to 1, which is only going to grow in the short run, is not only a social problem but could become a political problem."

In a speech after a signing ceremony, Mr. Fox made it clear he had spoken with Mr. Hu about both the yawning trade deficit and the dumping of contraband Chinese goods.

"Today we heard from President Hu his enthusiasm, his help, his support in closing the commercial gap," Mr. Fox said, looking over at Mr. Hu. "We touched on the subject of contraband and President Hu offered to help with this area."

For his part, Mr. Hu kept his remarks short and diplomatic, saying only that he looked forward to seeing more Mexican products in the Chinese market. Later in the day, he visited the Mexican Supreme Court and then the Senate, where he got stuck in a broken elevator for 15 minutes.

Mr. Hu's visit seems part of a broader effort to secure future sources of oil, iron ore, aluminum, timber and other commodities throughout Latin America and Canada, despite the United States' longtime hegemony in the region. Under his watch, China has sewn up deals for Chinese companies to develop oil fields and mines and to purchase commodities in Brazil, Venezuela, Chile, Cuba, Bolivia and Argentina.

Mexico is different. The Constitution bans foreign investment in Petróleos Mexicanos, the state-owned oil monopoly, and the country lacks large reserves of iron and bauxite, analysts say.

Julian Ventura, the Mexican director general for Asian affairs, said oil exploration did not even come up Monday. And the mining agreement is only a framework for future deals, not a binding contract, he said.

Still, Mr. Ventura said the agreements signed Monday were intended to begin diminishing the trade gap. One of the most important agreements, Mr. Ventura said, will establish direct flights and allow large group tours to begin coming to Mexico from China, a potentially rich source of foreign exchange. "China is a country that has firmly arrived here in the international economy with an unprecedented impact and volume," Mr. Ventura said. "And what we are looking to do is to see this reality from the perspective of opportunities and not from the perspective of a threat."

China's Exports Show Gain Of 3.4% (WSJ)

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By Andrew Browne

The Wall Street Journal, September 13, 2005

HONG KONG -- China's export juggernaut picked up momentum in August, dashing any expectations that a small currency revaluation on July 21 would act as a speed bump to slow it down.

When China allowed a 2.1% appreciation of the yuan against the dollar in July, many economists predicted that such a small move would have negligible impact on exports.

In fact, exports showed no sign of slackening in the first full month after the revaluation. Exports in August hit $67.82 billion, which was 3.4% higher than July's $65.6 billion and 32% higher than those of August 2004. Imports in August totaled $57.78 billion, up 23% from a year earlier, giving China a monthly surplus of $10.04 billion, according to data announced yesterday by the Ministry of Commerce.

China now faces the prospect of more-intense pressure from the U.S. and other major trading partners for a steeper currency appreciation. Economists warn that support in the U.S. Congress for protectionist trade policies, muted somewhat after China's revaluation, could bubble up again.

Chinese trade negotiators are heading to the U.S. at the end of this month to try to reach a textile agreement in the face of unilateral curbs on surging Chinese exports. Their goal is to negotiate an accord similar to one agreed to with the European Union that guarantees steady expansion of China's textile exports within quota limits.

An earlier EU-China textile agreement ran aground when annual quotas were filled within weeks as European retailers rushed to fill their shelves before the winter shopping season, leaving some 80 million items of surplus clothing piling up at European ports. The top EU trade official, Peter Mandelson, negotiated a compromise deal last week to allow the excess into Europe, and the pact was quickly approved by EU member governments. The EU's executive arm, the European Commission, yesterday approved the textile accord, paving the way for the stranded bras, sweaters and trousers to be released beginning tomorrow.

Also yesterday, China's National Bureau of Statistics said the country's consumer prices in August rose 1.3% from a year earlier, down from annualized growth of 1.8% in July, largely as a result of falling food prices.

Slowing inflation also reflects a market glut of everything from steel to autos and household appliances as a result of overinvestment. For the first eight months of this year, consumer prices grew 2.1% from a year earlier, the Statistics Bureau said in a statement.

The August trade data offered some comfort to Beijing authorities as the pace of imports picked up. Imports are the key to bringing down China's trade surplus, which has ballooned this year because imports have grown far more slowly than exports.

Rising imports could indicate that Chinese companies are building up inventories again. Many companies had put off overseas purchases on expectations that the yuan could strengthen more, making imports cheaper in local currency terms. At the same time, corporate spending has been crimped by a government-orchestrated austerity program that kicked in last year to cool the economy, particularly in real estate.

In recent years huge trade surpluses with the U.S. and Europe have been largely offset by deficits with much of Asia, giving China only modest overall surpluses. Investment has been the main driver of growth.

For the first eight months of this year, China's trade surplus totaled $60.22 billion, the Commerce Ministry said, compared with a deficit of $1.1 billion during the same period last year. The surplus for all of 2004 was $32 billion. Chinese exports usually surge during the final quarter of the year as factories rush out Christmas orders. That means the surplus for the whole of this year easily could exceed $100 billion.

In the January-to-August period, exports rose 32% from a year earlier to $475.67 billion, while imports were 15% higher at $415.45 billion, the Commerce Ministry said.

China's State Secrets Agency Will Guard One Less: Death Tolls (NYT)

By Joseph Kahn

The New York Times, September 13, 2005

BEIJING, Sept. 12 - China said Monday that it would no longer treat the death toll in natural disasters as a state secret, a step that could lead to greater transparency in a country that has a long history of providing partial or misleading data about diseases, accidents, and state-directed atrocities.

The National Administration of State Secrets, a government agency that oversees the vast array of data deemed secret, announced the declassification of disaster-related death tolls, which the agency said had been carried out last month.

The rules will apparently apply mainly to purely natural disasters, like earthquakes, floods and typhoons. The change may allow Chinese officials and the state media greater leeway to report on such events as they unfold, rather than waiting for the official version to be released, usually by the state-run New China News Agency.

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"Declassification of these figures and materials is conducive to boosting our disaster prevention and relief work," Shen Yongshe, a spokesman for the secrets agency, said at a rare news conference, according to the official news agency. Foreign reporters were not invited to the news conference.

If carried out as advertised, the timely release of casualty figures after accidents would be a modest step toward what officials have called "building a transparent government," a goal they have professed for many years.

Information about casualties in storms and floods are no longer routinely suppressed in China, as it was before the country opened its doors to the outside world a quarter century ago. The new rules are unlikely to lead to the release of data that is not currently available in some form.

But the revised regulations may make it more difficult for local officials to cover up accidents on the grounds of protecting state secrets, as they have often done in the past. As recently as this summer, officials were accused of providing a false death toll for a flash flood that wiped out a school and killed scores of children in the northern province of Heilongjiang.

In a commentary accompanying the announcement, the news agency said the veil of secrecy hindered the response to disasters.

"To continue to see natural disaster death tolls as state secrets makes it difficult to adapt to practical needs of disaster relief work and is not in accordance with general international practices," the commentary said.

There was no immediate indication of whether the easing of restrictions on information about natural disasters signals a broader easing of China's draconian rules on other secrets.

Chinese authorities often cite violations of state secrets, broadly defined as anything that affects the security of the state, to punish journalists, lawyers, doctors, government officials or others who challenge the Communist Party.

Offenders have been sentenced to long jail terms for sharing political gossip, or distributing speeches by government officials or articles published in the state-controlled press.

The secrets agency also did not define what kind of disaster was considered natural as opposed to human. It is unclear, for example, if a flood that followed a dam break, or the collapse of a mine, would be considered accidents in which the government retains the prerogative to suppress data.

It is also unclear whether the rules will apply retroactively to major disasters and atrocities in China's past.

The government has never provided a clear accounting of the deaths from the largely policy-driven famine that occurred during the disastrous Great Leap Forward, from 1958 to 1960, when Mao sold China's scarce grain reserves abroad and forced peasants to make steel in backyard furnaces. Although historians say that about 30 million people may have starved to death in what is still referred to as the "three years of natural disaster," the number is a gross estimate and widely disputed.

The official death toll in the Tangshan earthquake in 1976, one of the largest in history, is still recorded as 250,000, but Chinese experts acknowledge that the real toll was three times that amount.

Pakistan Leader Confirms Nuclear Exports (NYT)

By David E. Sanger

The New York Times, September 13, 2005

President Pervez Musharraf of Pakistan said yesterday that he believed that a Pakistani nuclear expert who ran the world's largest proliferation ring exported "probably a dozen" centrifuges to North Korea to produce nuclear weapons fuel. He added, however, that after two years of interrogations there was still no evidence about whether the expert also gave North Korea a Chinese-origin design to build a nuclear weapon.

General Musharraf's comments, which echo statements he made last month to Japanese reporters, were made in an interview a day before the United States was to reopen talks with North Korea about its nuclear program in Beijing.

The Pakistani leader's comments about the results of the interrogations of the expert, A. Q. Khan, a national hero who is under a loose form of house arrest in Islamabad, are significant because they tend to confirm the accusations American intelligence officials made against North Korea in 2002.

At that time, North Korean officials appeared to confirm that they had secretly started up a second nuclear program to build atomic weapons using uranium technology obtained from Mr. Khan's network, as an alternative to a plutonium program that was frozen under a 1994 agreement with the United States. But ever since, North Korea has denied that a second, secret bomb program exists.

A dozen centrifuges would not be enough to produce a significant amount of bomb-grade uranium. But American officials say they would have enabled North Korea to copy the design and build their own.

The Bush administration has insisted that unless North Korea agrees to give up both programs - and agrees to a broad program of inspections - no comprehensive nuclear deal can be reached. North Korea has suggested it may be willing to give up

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its older plutonium program, based at a huge nuclear complex located at Yongbyon, but has reiterated its denials that it has hidden centrifuges to make bomb-grade uranium.

In a wide-ranging discussion in New York with three journalists from The New York Times, General Musharraf also discussed Pakistan's tentative diplomatic openings toward Israel and its efforts to track down Al Qaeda leaders. He said that the opening to Israel could flourish "in case there is forward movement" on negotiations between Israel and the Palestinians, but he said, "this is by no means recognition of Israel."

Despite protests in Pakistan about the new initiative, he insisted that his move had met little opposition among mainstream Muslims in Pakistan, and he is to address a Jewish group for the first time during his visit here. "What is the harm if I interacted with the Jewish Congress, knowing their influence here?" he said.

He said it was possible that Osama bin Laden, the Qaeda leader, is still moving between remote parts of Pakistan and Afghanistan four years after the Sept. 11 attacks in the United States. "I will not negate entirely, with confidence, that he is not there," he said. "But I will never accept anybody who says with confidence that he is there." He said later that he often asks, "Do you have intelligence, have you heard him?"

Mr. bin Laden's whereabouts are a particularly sensitive subject for General Musharraf because Pakistan has been accused by some intelligence officials of doing a lackluster job of pursuing Qaeda suspects, stepping up pressure on them when it suits Pakistani interests but turning down the pressure at other times. He rejected that charge, saying Mr. bin Laden's power is reduced, no matter where he is.

"I do not think he can influence, because he is on the run, hiding," General Musharraf said. If Mr. bin Laden is on the Pakistan-Afghan border, he is switching sides "wherever he sees danger," General Musharraf added.

He rejected arguments that Pakistan was halfhearted in its efforts to root out Al Qaeda and remnants of the Taliban, who ruled Afghanistan until the American-led war there in 2001. "We have almost eliminated them from our cities," he said. "We have caught about 700 of them, and we have broken their back in the mountains." The groups no longer operate in the valleys of the Afghan border area, he said, "because we have occupied them."

Secretary of State Condoleezza Rice, also speaking to reporters yesterday at The New York Times, praised General Musharraf for working in three areas, and said the United States would be supportive: helping to pursue members of Al Qaeda, creating "diplomatic space" for operating by reaching out to India and Israel, and working to improve education and the economy to discourage militancy. "There are parts of Pakistan that are extremely poor where you get breeding grounds for this kind of extremism," she said, and the United States would help him deal with those.

General Musharraf said that, in a meeting he had yesterday with Ms. Rice, he asked her to move toward a free-trade agreement with Pakistan. That is likely to meet some resistance in Congress, which derailed efforts by the Bush administration after the Sept. 11 attacks to aid Pakistan by lifting restrictions on textile imports.

But he said he made no demands for an agreement that would match the Bush administration's offer to help India develop a civilian nuclear power program. India and Pakistan have refused to sign the Nuclear Nonproliferation Treaty, and that has prevented most forms of nuclear cooperation with the United States.

In his discussion of Mr. Khan, General Musharraf said that two years of questioning of Mr. Khan - which the Pakistanis insisted they would do themselves, rather than allowing the United States to question him - a critical question had not been resolved: Did the scientist give the same bomb design to North Korea and Iran that investigators found in Libya, when it dismantled its uranium program.

"I don't know," he said. "Whether he passed these bomb designs to others - there is no such evidence."

U.S. Asked To Aid Nuke Technology (WT)

By Nicholas Kralev

The Washington Times, September 13, 2005

NEW YORK -- Pakistan asked the United States and other Western countries yesterday to help it develop civilian nuclear technology, citing Washington's July pledge for such assistance to neighboring India.

The Bush administration, however, dismissed the request, saying Pakistan's energy needs are not as pressing as India's.

Islamabad also offered to erect a fence along its border with Afghanistan to prevent incursions of Taliban and al Qaeda fighters from either side.

Pakistani President Pervez Musharraf discussed the proposal with Secretary of State Condoleezza Rice in New York. But he did not raise the civilian nuclear issue, U.S. and Pakistani officials said, and it was not clear whether he would mention it to President Bush when they meet tomorrow.

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"We would like the developed countries -- especially the Western countries and the United States -- to extend cooperation to Pakistan for the peaceful uses of nuclear energy," Pakistani Foreign Ministry spokesman Muhammad Naeem Khan said at a press conference in Islamabad.

Although Gen. Musharraf did not bring up the matter yesterday, a Pakistani official traveling with him said that the United States and Pakistan have been "interacting" on the issue through diplomatic channels.

Pakistan built its first nuclear power station in 1972 with Canadian help, but Western cooperation was later discontinued under pressure from the United States and amid suspicions of a secret nuclear weapons program.

Nuclear tests were conducted in 1998, in response to a series of similar tests by India.

China helped the South Asian country start a 300-megawatt nuclear power plant in 1999, and construction of another plant of the same capacity began in April this year.

Even though the Bush administration calls Pakistan one of its staunchest allies in the war on terrorism, it has grown wary of its nuclear capabilities, especially because scientist Abdul Qadeer Khan admitted last year that he sold nuclear technology to Iran, North Korea and Libya.

"Pakistan doesn't have the same energy requirements, of course, that India does. And also, as we have made very clear, part of our consideration is the establishment of a long, positive, non-proliferation record," Robert Joseph, undersecretary of state for arms control and international security, told Congress last week.

"And so as we look at that, and as we take that into consideration, we have made the determination that we need not move to establish the same type of cooperation with Pakistan," Mr. Joseph said at a House International Relations Committee hearing.

Gen. Musharraf, who is scheduled to meet with Mr. Bush during the United Nations 60th anniversary summit, told Miss Rice yesterday that his offer to build a fence along the Pakistani-Afghan border is a result of criticism that Islamabad is not doing enough to fight terrorism.

"Pakistan is prepared to raise a fence so that we can put an end to these allegations," Foreign Minister Khurshid Kasuri told reporters in New York. "Pakistan can do nothing more than that to prevent incursions."

He did not specify where and when the fence would be erected, but said that Miss Rice was "very appreciative" of the idea.

A State Department official said the fence issue is not new and was mentioned in a larger discussion about security in the border areas.

"Pakistan has nothing to hide," Mr. Kasuri said, "and we are fed up with people who say Pakistan has to do more to counter terrorism."

Pakistan, India Swap Prisoners To Push Peace Process (NYT/REU)

By Reuters

The New York Times, September 13, 2005

Mohsin Raza

WAGAH, India-Pakistan border (Reuters) - Pakistan and India swapped hundreds of prisoners at a border post on Monday to foster goodwill as South Asia's nuclear rivals seek to push forward their sluggish peace process.

Amid emotional scenes, hundreds of people thronged either side of the Wagah border post, between the cities of Lahore in Pakistan and Amritsar in India, hoping that relatives would be among those being released.

``My brother is coming back after 11 years. I am very happy," said a woman carrying a black-and-white picture of her brother on the Indian side of the border, while a crowd on the Pakistani side sang nationalist songs.

Pakistan released 435 Indian prisoners while Indian freed 152 Pakistanis, some as young as 12 years. In March, Pakistan released more than 500 Indian prisoners, mostly fishermen.

The latest mass release came two days before a meeting between Pakistan's President Pervez Musharraf and Indian Prime Minister Manmohan Singh in New York.

Meeting on the sidelines of the U.N. General Assembly, the two leaders are expected to seek ways to advance a peace process begun in January, 2004, but has still to make substantive progress on a core dispute over the divided territory of Kashmir.

``My release has become possible due to the efforts of the media and my sister, who approached human rights organizations," said Mohammad Babar after spending 15 years in an Indian jail.

The South Asian neighbors, who have fought three wars since wining independence from Britain in 1947, routinely arrest each others' nationals, mostly civilians or fishermen who have either strayed across land or maritime borders or violated their visas.

``We have no other way of making a living except fishing, so we have to take risks," Vallabh, a 53-year-old from the western Indian state of Gujarat, told Reuters as he got ready to go home after six months in a Pakistani jail.

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But even as one batch was being released, 24 Indian fishermen were arrested on Sunday for illegally entering into Pakistani territorial waters in the Arabian sea.

India and Pakistan also have many prisoners they accuse of working for each others' intelligence services.

The case of one Indian condemned to death after being convicted 14 years ago of spying and carrying out a series of bomb attacks has become a cause celebre in India after Pakistan's Supreme Court upheld the death penalty handed to him in 1991.

Sarabjit Singh's family says he is a poor farmer who accidentally wandered into Pakistan in 1990.

Singh's lawyer plans to ask the court to review its decision and he also has the option of appealing to Musharraf for clemency.

Germany's SPD Makes New Gains In Polls (FT)

By Hugh Williamson And Friederike Tiesenhausen Cave

Financial Times, September 13, 2005

Germany's election race tightened further on Monday as Gerhard Schröder's Social Democrats pulled closer to the opposition Christian Democrats in a new opinion poll, increasing the likelihood of a "grand coalition" after Sunday's election.

The SPD scored 35 per cent in a Forsa poll, up 1 point to its highest rating since Mr Schröder called for an early election in May. The CDU was stable on 42 per cent.

In a further boost for the SPD, the chancellor on Monday evening delivered a strong performance in his final pre-election debate with Angela Merkel, pushing his conservative contender on to the defensive over the CDU's record in government and claiming credit for initiating economic reform process in Germany. Speaking on national television, Mr Schröder said "we had the courage to start with the necessary reforms that the CDU ignored during the 1990s".

The debate, which also involved leaders of the Greens, the liberal Free Democrats and the Left party, could influence public opinion in a similar manner to the head-to-head television duel earlier this month between the chancellor and Ms Merkel.

Mr Schröder was seen as having performed more strongly in the duel, leading to a surge in support for the SPD in opinion polls. A report published on Monday by an independent group of media analysts argued that the duel had been a "turning point" in election campaign.

Pollsters predict that Ms Merkel is still likely to emerge as the next chancellor but could be forced to form a coalition with the SPD, rather than with her preferred partner, the FDP. A CDU-SPD coalition would make far-reaching economic reforms more difficult to achieve.

Mr Schröder said in Tuesday's debate that he would continue with reforms if he was re-elected but would do so "in a way that included an element of social justice – an aspect missing from the CDU election programme".

Ms Merkel conceded that the chancellor had initiated some reforms after the CDU "was defeated in the 1998 election because we had not acted".

She accused the chancellor of breaking promises and failing to reduce near-record unemployment.

The CDU on Tuesday warned that the SPD and Greens would form a coalition with the Left party, which includes ex-communists and SPD dissidents, if such an alliance could gain a parliamentary majority.

German Voter Polls Show A Tighter Race (WSJ)

By Marcus Walker

The Wall Street Journal, September 13, 2005

FRANKFURT -- It is looking increasingly likely that Angela Merkel will become Germany's next chancellor in Sunday's election, but whom she governs with -- and what economic policy she can carry out -- is increasingly up for grabs.

Ms. Merkel's center-right Christian Democrats are the clear favorite to snare the biggest share of votes, but in the stretch run her coalition's poll numbers have been slipping to just short of an outright majority.

The upshot is that instead of being able to control the German Parliament with help only from the small pro-business Free Democratic Party, the Christian Democrats may have to form a pact with their main rivals, the incumbent Social Democrats of Chancellor Gerhard Schroeder.

Ms. Merkel and Mr. Schroeder clashed on German TV last night in a debate involving the leaders of the six main parties standing in the election. Ms. Merkel sought to focus the debate on Mr. Schroeder's economic record, while Mr. Schroeder reminded viewers of his popular stance in opposing the U.S. war in Iraq.

Analysts are divided on whether a so-called grand coalition of Germany's two major parties would help or hinder the overhaul of the world's third-biggest national economy. "Many Germans have a notion that a grand coalition is the best way to

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bring together all political forces in a time of crisis," says Thorsten Polleit, an economist with Barclays Capital in Frankfurt. "Personally, I think it would be a worst-case scenario."

Pessimists about a grand coalition fear it would be short-lived and unstable because the Social Democrats, after once courting the CDU's businesses constituency, have shifted back to the left on economic issues this year -- rejecting further cuts to the welfare state and decrying unfettered capitalism. At the same time, Ms. Merkel has moved the Christian Democrats to the right on taxes and labor-market deregulation. That limits the scope for agreeing on common policies, which was easier in the past when both of Germany's major parties had centrist economic policies.

Some are hopeful that a grand coalition could unblock Germany's political stalemate of recent years, by forcing the big parties to negotiate rather than compete. "I'm not such an opponent of this constellation, because we don't have presidential government," says Josef Esser, political-science professor at Frankfurt University. Mr. Schroeder has had to seek support from overwhelmingly Christian Democrat state governors who sit in the upper house of Parliament, in the German system in which regional governors also have a say in national legislation. "We've effectively had a grand coalition for three years," he says.

Eckart Tuchtfeld, an economist at Commerzbank in Frankfurt, argues in a recent research report that Ms. Merkel could get the Social Democrats to accept at least some of her policies through horse trading. For example, the Social Democrats might accept some loosening of job-protection laws and union-bargained nationwide pay rates to help the unemployed find work. In return, the Christian Democrats might agree to setting minimum wages in some industries, and to raising east Germans' unemployment benefits to the same level as west Germans'.

The effects of such trade-offs would be to stimulate the economy in the short term, Mr. Tuchtfeld argues. The full package of welfare cutbacks that Ms. Merkel would push through if she wins outright, in contrast, could damp short-term growth, but would have a better chance of solving the economy's structural problems, the report argues.

Until a week ago, polls suggested the center-right was set to win a small but workable majority. But Mr. Schroeder has succeeded in putting Ms. Merkel on the defensive, including in a televised head-to-head debate.

Her detailed plans for tax-law changes, as well as her choice of a controversial flat-tax advocate as a key economic adviser, have given Mr. Schroeder an opening to refocus public attention despite widespread unrest about Germany's economic malaise and high unemployment.

Ms. Merkel has struggled with how to explain that she wouldn't introduce a flat tax -- which Mr. Schroeder tagged as skewed toward the rich -- at least not in her first term. "The Christian Democrats' communication wasn't ideal. They gifted the Social Democrats an additional campaign theme," says Torsten Schneider-Haase, a politcal analyst with market-research group TNS Emnid.

The center-right still could govern alone, pollsters say. "It's all about 1% or 2% this week," Mr. Schneider-Haase says. "Everything is open." Ms. Merkel and Mr. Schroeder have refused to contemplate the grand-coalition scenario publicly, with both candidates insisting their respective camps will win outright.

Race In Germany Narrows As Schröder Gains In Surveys (NYT)

By Richard Bernstein

The New York Times, September 13, 2005

BERLIN, Sept. 12 - With less than a week to go until election day, the German campaign has tightened, according to the latest polls, with Chancellor Gerhard Schröder's leftist Social Democratic Party making gains on Mr. Schröder's opponent, Angela Merkel, leader of the right-of-center Christian Democratic Union.

Some polls over the weekend indicated that the Christian Democrats' lead, once a solid 10 percentage points over the Social Democratic Party, or S.P.D., had shrunk to just 6 percentage points.

But public opinion analysts still give Mr. Schröder virtually no chance to hold on to the chancellorship in the vote scheduled for Sunday. The main question in the election, as it always has been, is whether Mrs. Merkel will get enough votes to form a government on her own or whether she will have to form a "grand coalition" with her Social Democratic rivals.

"Schröder will not be chancellor because the S.P.D. will get fewer votes than the C.D.U.," said Reinhardt Schlinkert, a leading public opinion analyst from Bonn.

Theoretically, Mr. Schröder could remain chancellor if his party went into partnership with the Left Party, led by one of his bitterest political rivals, Oskar Lafontaine, which could get upward of 10 percent of the vote. But Mr. Schröder has declared publicly more than once that he will never cooperate with Mr. Lafontaine.

"Unless he changes his mind," Mr. Schlinkert said of Mr. Schröder, "he's out of business."

The tightening of the polls seems to reflect two developments in the campaign. One is simply that Mr. Schröder is deemed to have outperformed Mrs. Merkel in a 90-minute televised debate on Sept. 4.

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Second, the Social Democratic Party has capitalized on Mrs. Merkel's appointment of Paul Kirchhof, a former Constitutional Court judge from Heidelberg, as her shadow finance minister. Mr. Kirchhof is well known as an advocate of a 25 percent flat tax for Germany, a position that the left has portrayed in Germany as an indication of Mrs. Merkel's intent to impose radical tax reforms that will strip the country of its social protections.

Mrs. Merkel has all along denied any plan to impose a flat tax, saying that Mr. Kirchhof is a visionary whose presence on her team is aimed at stimulating a thoroughgoing discussion about tax reform, which is part of her program. Still, the appointment nonetheless seems to have backfired.

On Monday, the magazine Der Spiegel, reflecting the attention this matter has gotten, showed a picture of Mr. Kirchhof on its cover under the headline "Election battle over Kirchhof."

"Kirchhof is being turned from the crowd puller into the uninvited guest," the conservative-leaning Süddeutsche Zeitung wrote Monday. "This is a breathtaking piece of theater, and the maddest thing about it is that Schröder is the director. Without any restraint, he is painting a picture of the 'professor from Heidelberg' as the devil of the unjust, antisocial, reactionary state."

Perhaps more troubling to the Christian Democrats than the Social Democrats' gain in the polls are other recent poll results showing that Mrs. Merkel will fall short of controlling the absolute majority in Parliament that would enable her to govern on her own.

But every major poll published Monday showed Mrs. Merkel and her probable coalition partner, the Free Democratic Party, winning about 48.5 to 49 percent of the total vote, short of an absolute majority. If she does not improve on those numbers on election day, she will face governing with the Social Democratic Party, a situation seen by many people here as sharply reducing her ability to push through the economic reform program she has campaigned on.

Woman Could Be Germany's Next Chancellor (USAT)

By Noelle Knox

USA Today, September 13, 2005

Even Germans are surprised their next leader could be a woman. Not to mention a business-friendly conservative who was raised in communist East Germany.

“Pretty breathtaking,” says Constanze Stelzenmueller, director for the Berlin office of the German Marshall Fund, a trans-Atlantic think tank.

Angela Merkel, head of Germany's Christian Democratic Union (CDU), faces Chancellor Gerhard Schroeder in elections on Sunday, perhaps the most important since German reunification in 1990.

In opinion polls, Merkel's CDU and its sister party in Bavaria have consistently enjoyed big leads over the chancellor's Social Democratic Party and its allies. But Schroeder, a relaxed, engaging public speaker, appeared to close the gap following a Sept. 5 debate with Merkel. A poll released Monday by Germany's Forsa polling agency showed Merkel's party still has the edge — but not enough for an outright majority in parliament.

Merkel, a former physicist, is telling German voters she can fix the economy with income tax cuts and incentives that would make it easier to hire and fire workers. She also has proposed increasing the country's value-added tax to 18% from the current 16%.

Sunday's vote could be the country's most pivotal since Germans on both sides of the Berlin Wall agreed to reunite. The German economy is Europe's largest, but it has languished because of high labor costs, rigid workplace rules and a costly social-welfare system. Unemployment is more than 11% and the government benefits network is near financial collapse. At the same time, Germany's relationship with the United States has eroded amid personal animosity between Schroeder and President Bush, mainly over the Iraq war.

In a televised discussion with the other candidates on Monday, Merkel bluntly criticized Schroeder's seven-year effort to address the country's economic woes. “You have failed in this question,” she said. “That's why you are in such a difficult position.”

Domestically, Schroeder continues to champion his Agenda 2010 program, unveiled two years ago. It aims to make job creation easier while cutting unemployment payments and pension benefits. So far, though, the plan has failed to budge the double-digit jobless rate or stimulate the economy, which grew 1.7% in 2004 after three years of stagnation.

Schroeder also is playing up his willingness to stand up to an American president, as he did in 2002 before the Iraq war. An Associated Press-Ipsos Poll last December showed seven out of 10 Germans had an unfavorable view of Bush.

Merkel, 51, is the first woman from any of Germany's five major parties to stand for chancellor. “Women in politics, academia and the business world (in Germany) are a decade behind women in America and some other European countries,” Stelzenmueller says. “The fact in itself that we have a woman candidate for chancellor is revolutionary.”

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Merkel's roots are in the communist East. She was raised in a family that didn't fully support the system but accommodated it.

She grew up in Templin, about 60 miles north of Berlin. Her father, a minister, ran a Protestant seminary. She was seven when the Berlin Wall went up and the communist government began a campaign of repression against religion.

As she grew up, Merkel "was very critical" of East Germany's communist system, says Gerd Langguth, author of a Merkel biography. "Her father belonged to the left wing of the Protestant church. He was not willing to accept the rules of the dictatorship, but he made more compromises than many of his other colleagues."

Their differences have endured. Merkel's father skipped a 50th birthday party thrown for his daughter last year by the CDU, Langguth says.

Merkel has a reputation for being humorless and aloof. London's Sunday Times described her as a "scientific cold fish." She and her second husband, Joachim Sauer, a chemistry professor, married in 1998 and have no children together. She has few interests outside politics, Langguth says.

Merkel got started in politics after the Berlin Wall fell in 1989, first working as a democracy activist, then as spokeswoman for East Germany's short-lived democratic government, which ceased to exist after reunification in 1990.

Her understated persona has caused some to underestimate her. Even former chancellor Helmut Kohl, her mentor, "would refer to her as mein maedchen — my girl," Stelzenmueller says. "He didn't see her as a challenger."

But Merkel was one of the first to turn on Kohl in 1999, when he became mired in a political scandal involving slush funds and secret Swiss bank accounts. Writing in the Frankfurter Allgemeine newspaper, she urged him to resign. "It established her as someone to be reckoned with," Stelzenmueller says.

Under her leadership, the CDU has triumphed in key regional elections, capitalizing on Schroeder's inability to refire the economy.

If Merkel wins, she is likely to try to return Germany to its traditional role as a peacemaker between France and the United States, says Jan-Friedrich Kallmorgen, director of Atlantic Initiative, a think tank in Berlin. The White House normally steers clear of politics in allied countries. But in July, Bush spent 45 minutes with Wolfgang Schaeuble, who is expected to be foreign minister if Merkel wins. In Germany, it was seen as an endorsement for Merkel, Kallmorgen says.

A 'Now What?' Shadows Japan Leader's Victory (NYT)

By Norimitsu Onishi

The New York Times, September 13, 2005

TOKYO, Sept. 12 - A day after Prime Minister Junichiro Koizumi secured the second largest landslide in a general election in the Liberal Democratic Party's history, attention turned Monday to how he would use that mandate.

With his coalition holding more than two-thirds of the seats in the lower house of Parliament, Mr. Koizumi is now expected, in the next month or so, to push through his bill to privatize the country's postal services. But once that is accomplished, what next?

Mr. Koizumi has one year before party rules force him to retire, and he repeated Monday that he would not seek an extension. Still, he finds himself possibly postwar Japan's most powerful prime minister, at a time when Japan is confronting problems ranging from an aging, declining population to growing economic dependence on China.

During the 12-day campaign, Mr. Koizumi focused exclusively and extremely effectively on postal privatization. "Tell us clearly what else besides postal privatization," read a front-page editorial on Monday in Asahi Shimbun.

"Voters gave Koizumi a mandate to be bold in domestic policy, to deal with the pension system, the falling birthrate and other problems that cannot be solved by other politicians," said Ikuo Kabashima, a professor of politics at the University of Tokyo. "But I don't believe they have given him a mandate in the areas of national defense or foreign policy, because he has not been successful in these areas, especially regarding relations with Korea and China."

Although Japan's deteriorating relations with its Asian neighbors dominated the news here for most of the year, foreign policy went nearly unmentioned during the campaign. Mr. Koizumi's resounding victory on Sunday suggested that voters were either supportive of his government's tough posture toward China and South Korea or were willing to overlook its chilling effects in the region.

With little to gauge how Mr. Koizumi might use his mandate outside Japan, there was general caution in China and South Korea.

"The reaction here has been that Koizumi's big victory will cause relations between South Korea and Japan to keep going in the wrong direction," said Ho Jeon Jin, an expert on South Korea and Japan at Kwang Woon University in Seoul. "Furthermore, there is a sense that Japan will move faster toward the right and, because of his control over the Parliament, will be able to revise its pacifist Constitution."

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"My personal hope," Mr. Ho added, "is that he would use his mandate to improve ties with Korea and China, and turn Japan into a country that can be trusted in the region."

In China, the Communist Party's newspaper, People's Daily, said the election results would "increase further his say inside the party." But the paper also said the vote did not necessarily mean that voters support Mr. Koizumi on issues like his visits to the Yasukuni Shrine, the memorial to Japan's war dead where important war criminals are deified.

Mr. Koizumi said Monday that he would convene a special parliamentary session on Sept. 21 to resubmit his postal privatization bill. Because his Liberal Democratic Party and its coalition partner, New Komeito, control more than two-thirds of the seats of the lower house, Mr. Koizumi has the votes to override decisions by the upper house.

The upper house rejected Mr. Koizumi's bill last month, leading him to call an early election. But in the last week, as polls indicated that Mr. Koizumi was heading toward a big win, former opponents of the bill in the upper house declared that they would support it in a future vote.

Mr. Koizumi wants to break up and privatize Japan Post, which in addition to delivering mail is the world's largest financial institution. It holds $3 trillion in savings and life insurance deposits that politicians have dipped into for decades to finance public works and reward their backers. Mr. Koizumi has said privatization is the prerequisite for further reforms in the Japanese economy, the second largest behind the United States, though he has not specified what other reforms he would pursue.

After the special parliamentary session, Mr. Koizumi said, he will shuffle his Cabinet and the leadership of his party. In one of the few indications of how he would use his mandate during the next year, Mr. Koizumi said he would make appointments with a view to grooming a possible successor.

"There are many aspirants to be party president and prime minister," he said. "I want to give those people the opportunities to play an active role as much as possible."

The successor will find the Liberal Democratic Party, which has ruled Japan nearly continuously for 50 years, much stronger than it was when Mr. Koizumi became prime minister four years ago. Until this election, the party's share of seats had been decreasing and it had found itself increasingly dependent on its coalition partner, New Komeito, to govern.

But on Sunday, Mr. Koizumi reversed the decline by capturing 296 seats out of 480 in the lower house, the second-biggest share in the party's history. What is more, results showed that the party, whose base has been rural, had made big gains in urban areas that had been gravitating to the main opposition Democratic Party in recent years.

So complete has Mr. Koizumi's transformation of his party been that it will have to find a successor in his image, said Professor Kabashima, at the University of Tokyo. "The L.D.P. will have to keep attracting voters from urban sectors, and the only way it can do that is by choosing someone like Koizumi," he said.

The Man, Not The Plan (WSJ)

By Michael R. Auslin

The Wall Street Journal, September 13, 2005

Junichiro Koizumi has pulled off the unthinkable: A smashing electoral victory that would be the equivalent of carrying 49 states and 525 electoral votes in an American presidential election, were his. The Japanese prime minister humiliated not only the main opposition, but also the "rebels" from his own Liberal Democratic Party, whose resistance to his sweeping postal reform bill provided the impetus for the election. He gave the LDP 296 of 480 seats in the lower house, a two-thirds majority when combined with coalition partners. He is claiming a mandate to reintroduce his bold plan to privatize the postal system, along with its approximately $3 trillion in assets. He has, it seems, firmly steered the Japanese ship of state into the strong current of administrative and economic reform he's been promising since taking the premiership in 2001.

Sober reflection on the election's outcome, however, raises questions about the true strength of the victory and the message voters were really sending. Far from a powerful affirmation of Mr. Koizumi's policies on the merits, the results reflect the lack of a viable opposition, as well as the citizenry's willingness to indulge bold schemes -- the details of which few really grasp, and which are so far in the future that they seem painless ways to endorse the idea of reform. Ironically, it is Japan's domestic stability that allows Mr. Koizumi to dramatize politics without appearing to be reckless.

Despite what many observers claim, the election was always more about personality than policy. Leading up to the votes on postal reform, Mr. Koizumi cunningly portrayed himself as David versus the Goliath of old machine-style LDP politics. His oft-repeated claim that he would "destroy" the party if it didn't pass his reform package grabbed the attention of an electorate starved for dramatic, meaningful politics.

And theatrical it was. The lower house, in a vote covered live on TV, passed the postal reform measure by a mere three votes, making the upper house vote crucial, since it was clear Mr. Koizumi did not have the votes in the lower house necessary to override the senior chamber. He lost the (again, televised) vote in that chamber decisively, thanks to the resistance of 20 LDP

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holdouts. He immediately dissolved the lower house, called a snap election and sacked a minister who refused to sign the dissolution decree.

Like many successful politicians, Mr. Koizumi is blessed with weak opponents. The LDP rebels symbolized the worst of the old system, coming off as backroom dealers beholden to special interests and championing the status quo. As for the opposition, Katsuya Okada, the head of the Democratic Party of Japan (DPJ), seemed unable to convince even himself that his party would triumph. He subsequently resigned to take responsibility for the debacle on Sunday. By contrast, Mr. Koizumi played the charismatic leader, a part he's perfected over the last four years. The battle was over before it was joined.

Mr. Koizumi's masterstroke was to make the election a referendum on the future of the LDP. This not only highlighted his progressive leadership against the forces of stagnation, it sucked the oxygen out of the DPJ's campaign. No one was listening to a party that seemed sidelined by the main event. Despite recent electoral successes, this election showed that the DPJ never established legitimacy as a true opposition party, especially since its founders had all come from the LDP. The DPJ dropped to 113 seats from 175, and was crushed by the LDP in the urban areas where it supposedly drew its strength: The LDP took 23 seats in Tokyo's wards, compared to just one for the DPJ.

A closer look at the returns, however, reveals a more mixed result. Mr. Koizumi's success may have been "national," in the sense of setting an agenda for reform, but it was not overwhelmingly local. Two of the leaders of the rebel campaign, Shizuka Kamei and Seiko Noda, survived LDP challenges and were re-elected. Overall, pro-Koizumi forces failed to capture 15 of the 33 seats of postal-reform opponents who were targeted by the prime minister. Only 14 of Mr. Koizumi's "assassins," his handpicked candidates to challenge the rebels, won in head-to-head contests. While 12 LDP assassins did well enough in their districts to win seats via proportional representation (as did two rebels), the point is that local electorates did not decisively reject the forces of stagnation.

This was a victory for Mr. Koizumi the man, not for his reform plan. Indeed, one would be hard-pressed to find an ordinary voter who knows the plan's specifics. But everyone knows Mr. Koizumi is committed to his course. By luck or design, his plans are so grand that they seem far removed from daily life. What voters can safely express, therefore, is their approbation of his intentions, without having to worry about the actual results of his policies. That in itself may be the key to this election.

The urgency of immediate reform in Japan has diminished now that the economy is moving forward. Moreover, Mr. Koizumi's reform plan doesn't threaten to inflict any pain on citizens. Postal reorganization, for example, won't be completed until 2017. There is widespread skepticism that it will ever fully be carried out, and even if it is, consumers are assured that none of the changes will affect either their savings or their postal services.

Mr. Koizumi's real luck lies in having an electorate that not only wants to be entertained, but which also wants to feel that it is moving beyond the meandering of the past decade. In a nation averse to uncertainty and sudden change, however, this is a feeling that can prosper only in a relatively benign domestic and international environment. Here, Mr. Koizumi's close relationship with President Bush stands him in good stead, defusing concerns over lingering problems with China and North Korea.

Likewise, the generally good economic indicators and the visual evidence provided by bustling city centers make the gamble of distant administrative reform seem palatable. Take away such conditions and it is questionable whether the traditionally conservative Japanese electorate would be willing to put up with Mr. Koizumi's quixotic trajectory. For his political opponents, then, there is always hope -- but their victory would come at a high price for Japan.

Mr. Auslin teaches Japanese history at Yale.

Japan Bets On Reform (WSJ)

The Wall Street Journal, September 13, 2005

Fortune favors the bold, and on Sunday it smiled broadly on Junichiro Koizumi. Japan's Prime Minister won a stunning victory in snap elections because he stood on principle and called the vote after a reform dear to him, post office privatization, was blocked by the upper house of Parliament. The electorate rewarded him for trusting them.

Mr. Koizumi's governing coalition now holds more than the two-thirds majority it needs to override further upper house intransigence. The unexpectedly large victory means that Japan's voters have endorsed Mr. Koizumi's policy mix of smaller government and an activist foreign policy. The economic paternalism and diplomatic timidity of the post-World War II era are giving way to change. The Bush Administration can also be pleased by this victory for another one of its Iraq War allies. The opposition's promise to have the troops home by Christmas carried little weight with voters.

Mr. Koizumi says he wants Japan to become a "normal country," economically, militarily, culturally and in foreign policy. For decades, academics and diplomats have lauded the "Japanese Way" of minimal political debate and even more miniature returns on bank deposits, a combination that gave politicians money to throw at "champion" industries and companies.

This policy of politically directed credit was sustainable for a time, as Japan rebuilt from World War II, and in the 1980s and early 1990s some Americans actually wanted the U.S. to adopt this "industrial policy." But the system finally imploded with the

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real estate and stock market crashes of the 1990s, and Japan entered its long decade of stagnation. Mr. Koizumi is the first leader to propose a way back to more dynamic growth.

There's no better place for the re-elected Prime Minister to start than where he left off, by taking up again the privatization of the unwieldy post office. This government institution has 24,700 offices, 400,000 employees and $3 trillion in assets. Apart from delivering mail, the post office is the world's largest bank, its $1.9 trillion in deposits easily surpassing Citigroup's $1.5 trillion. Its insurance arm, Japan's largest insurer, contributes its assets to those owned by the bank to make up the $3 trillion in total assets.

Passing the post office work force to the private sector alone will provide savings to the government and help clean up politics by removing this source of patronage and corruption. There's also a huge benefit to be reaped from the better allocation of $3 trillion in investment throughout the economy.

The size of Sunday's victory may even persuade the government to strengthen the post office bills, which had been watered down in the unsuccessful effort to win passage before Mr. Koizumi called the election. Under the current bill, privatization won't be completed until 2017, and we hope Mr. Koizumi will use his mandate to accelerate reforms. Next on the agenda are the pension and medical systems, both important in a society where 20% of the population will soon be over the age of 60, and the civil service. Financial-sector reforms have already led to a major expansion of residential lending by private banks.

In foreign policy, Mr. Koizumi will most likely press ahead with his plan to revise Article 9 of the Constitution, which by barring use of force abroad has hamstrung foreign policy for decades. He is expected to pass a law that will give blanket approval to international intervention, rather than having to pass separate laws for each event.

China is not expected to savor Mr. Koizumi's victory or his more assertive foreign policy. Beijing has preferred the compliant, apologetic Tokyo that played political dwarf on the international stage and threw millions of yen in aid to countries that suffered from Japanese atrocities in World War II. Two days before the vote, China sent five warships to an area disputed by Tokyo and Beijing. If that move was an attempt to influence the election, Beijing has once again misjudged how a democracy responds to intimidation.

Japan, the economic giant of the 1980s, has been talking about reform for years, and its electorate has now sent a message to the politicians to make up for lost time. For the first time in 15 years, the ruling party has an overwhelming majority. Let's hope they use it to return Japan as one of the engines of global prosperity.

Japan's New Politics (WP)

The Washington Post, September 13, 2005

As a political spectacle, Sunday's Japanese election would have been remarkable anywhere, but it was especially striking in a country where politics tends to be as thrilling as plain rice. After losing a key vote on economic reform a month ago, Prime Minister Junichiro Koizumi, who is known in Japan as "Lion Heart," called a snap election, took the unprecedented step of booting 37 anti-reform lawmakers out of his Liberal Democratic Party, and appealed directly to the people. Having gone into the election with just 212 seats out of 480 in the lower house of parliament, the Liberal Democrats emerged with 296. A country whose government has traditionally been controlled by faceless faction bosses seemed suddenly democratic, even populist. Mr. Koizumi swept the election thanks to his film-star looks, his skill in fielding a team of candidates that included many telegenic women and the sheer gutsiness of his political gamble.

Yet it's not clear how much Japan's long-term project of fostering competitive, pluralistic politics will benefit. On the plus side, Mr. Koizumi has demonstrated that electoral appeal can trump the vested interests represented by his party's factions; it would be nice to believe that this boosts the political value of ideas and policies, though the main boost is clearly to the political value of image. On the negative side, Mr. Koizumi is to retire in a year, and the factions may reassert themselves. Moreover, Sunday's election delivered a huge blow to the opposition Democratic Party, which had gradually been emerging as a plausible rival to the Liberal Democrats. There's a risk that Japan will now revert to de facto one-party politics.

The prospects for economic reform are similarly uncertain. Mr. Koizumi is almost certain to jam through postal-savings reform, the blocking of which was the trigger for Sunday's election. The postal system is the world's largest financial institution and a pillar of Japan's postwar economic order; its 24,700 branches have vacuumed up a quarter of the nation's household savings, much of which have traditionally been channeled into pork-barrel projects that get Liberal Democratic stalwarts elected. Abolishing this wasteful system would be a big step forward, and it's not surprising that Japan's stock market liked Mr. Koizumi's victory. But the prime minister's proposed reform would change the postal system only gradually. Whether he will tackle other economic challenges, including Japan's health and pension systems, is anybody's guess.

Finally, it's possible that Sunday's election heralds greater Japanese military assertiveness, which the United States should view with mixed feelings. Mr. Koizumi has already reinterpreted Japan's pacifist constitution to allow for the deployment of non-

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lethal troops in Iraq. He has effectively scrapped the long-standing ban on arms exports by taking part in the Bush administration's effort to develop missile defense and has taken a tough stance against China's military buildup. By themselves, these policies would be welcome; given the size of its economy, Japan should make a larger contribution to global and regional security. But Mr. Koizumi has simultaneously refused to back away from the symbols of Japan's aggression in the 1930s and 1940s -- a refusal that renders Japan's new assertiveness troubling in the eyes of its neighbors, especially China. It's one thing for Mr. Koizumi to gamble flamboyantly in politics. It's another to gamble with the uneasy balance in one of the world's tensest regions.

One Good Thing About Japan's Election (NYT)

The New York Times, September 13, 2005

Japanese voters rarely grant their political leaders personal triumphs as resounding as the one they handed to Prime Minister Junichiro Koizumi on Sunday. In a country long used to colorless politicians and fragile parliamentary majorities, Mr. Koizumi waged a dramatic campaign focused on privatization of a national postal service that doubles as the world's largest bank and the ruling party's principal slush fund for patronage and pork. As a result, his Liberal Democratic Party and its coalition allies will hold a whopping two-thirds majority in the new parliament.

Unfortunately, the privatization of the banking side of Japan Post is not scheduled until 2017, more than a decade after Mr. Koizumi's scheduled departure from office. And Japan's reform-minded Democratic Party, which might have helped keep the pressure on, emerges from this election with its hope of being a strong opposition party apparently crushed. Mr. Koizumi is a committed reformer, but he will have to wage war against major elements of his party, which remains Japan's principal bastion of status quo politics and resistance to competition.

Postal privatization was virtually the only issue discussed during the 12-day election campaign. That gave a pass to Mr. Koizumi's unwise embrace of Japan's traditions of military nationalism. His visits to shrines where militarists were honored and his backing for more assertive military policies have understandably alarmed public opinion in Asia. Nationalist demagogues in places like China used them to whip up violent anti-Japanese sentiment.

Japan needs postal service privatization, two-party democracy and a more constructive relationship with its neighbors and trading partners. Only the first was advanced by Sunday's election.

US And Georgia Sign $295 Million Aid Compact (REU-Y2)

Reuters, September 13, 2005

The United States and Georgia signed an aid agreement on Monday worth $295.3 million via a U.S. development fund dedicated to poor nations that undertake political and economic reforms.

The five-year grant, or "compact," comes from the Millennium Challenge Corporation and will cover road, energy and infrastructure projects in Georgia.

The money is targeted at helping Georgia's rural poor and U.S. Secretary of State Condoleezza Rice said it indicated America's long-term commitment to Georgia, where half a million people could directly benefit from the grant.

"Our partnership will only grow stronger as Georgia continues to establish the rule of law, a vibrant civil society, an independent media, a free economy and effective institutions of government," said Rice at the signing ceremony at a ritzy New York hotel.

Georgian President Mikhail Saakashvili thanked the United States for its help and said his administration was far more accountable than previous "authoritarian, corrupt regimes."

"This compact is a partnership between our two peoples who share the same values and have the same dreams for their children and ... believe in the supreme value of liberty," said Saakashvili at the signing ceremony.

Georgia's compact is similar to others given by the Millennium Challenge Corporation to Madagascar, Cape Verde, Honduras and Nicaragua.

The corporation is an initiative of the Bush administration and has been criticized by U.S. lawmakers for the slow pace at which it has disbursed funds so far to poor countries. Congress has appropriated about $2.5 billion for the Millennium Challenge Account over the last two years.

U.S. President George W. Bush planned to seek $5 billion in fiscal 2006, which begins on October 1, but cut this to $3 billion because of congressional resistance to providing more money to a program that had spent so little of its existing funds.

Bush Unpopular In South America, Poll Shows (REU-Y2)

Reuters, September 13, 2005

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A majority of South Americans in four of the region's capitals have a negative opinion of U.S. President George W. Bush, according to an opinion survey released on Monday.

Fifty-three percent of South Americans described their perception of the U.S. leader as "bad" or "very bad," according to a poll conducted by the Santiago-based think-tank Facultad Latinoamericana de Ciencias Sociales.

Many of the 2,362 people polled disagree with the Bush administration's "war on terror" and feel the U.S. government is out of touch with the region's woes like corruption, poverty and drug trafficking, said David Alvarez, a political scientist who organized the survey.

"Latin Americans feel that (terror) issues are not the biggest problems facing our region," Alvarez said. "There is a big difference in the terrorist vision and the social problems many feel are plaguing Latin America."

Bush, who speaks some Spanish, promised to put Latin America at the top of his agenda when he was first elected. But the war on terror after the September 11, 2001 attacks put America's so-called "backyard" on the White House's backburner.

The survey - conducted in the capital cities of Argentina, Brazil, Chile and Uruguay - showed that Buenos Aires ranked as the city where Bush is most unpopular, with six out of ten Argentines saying they disapproved of him.

Residents in the Chilean capital of Santiago had the most favorable opinion of Bush, the poll showed -- 19 percent approved of Bush and 40 percent rejected him.

Chile is considered the region's model economy and has had a free trade agreement with the United States since early last year.

Argentina, on the other hand, suffered its worst economic crisis on record in 2001-2002 and many Argentines feel the United States pulled the plug on a badly-needed financial aid package from the International Monetary Fund in their worst moments.

The poll had a margin of error of 4 percentage points.

Chavez Land Seizures Slammed (WT)

By Sharon Behn

The Washington Times, September 13, 2005

SAN CARLOS, Venezuela -- State governors and the rural poor are moving quickly to implement President Hugo Chavez's vision of a social revolution, carving up and redistributing large landholdings and threatening to take over the premises of internationally owned companies.

There has been none of the violence and mayhem that accompanied land seizures in Zimbabwe in recent years, but economists and angry land owners fear that -- as in Zimbabwe -- the takeovers will destroy a productive agriculture sector and undermine the economy.

In the cowboy country state of Cojedes, however, triumphant farmworkers are hailing Mr. Chavez as a hero for pushing through legislation in 2002 that has enabled them to take over pieces of the region's sprawling family-owned ranches.

"He is the man of the poor, the only one who has fought for the poor," said Carlos Julia Roja, 48, his sunburned face peering from his pickup truck across an expanse of privately owned fields. "How many peasants would be able to eat off this land?" he asked.

Mr. Roja is one of the hundreds of rural poor who have been awarded 15-hectare (37-acre) lots from the El Charcote cattle ranch -- a British-owned, 32,000-acre tract that was recently expropriated by the government.

"I am preparing to plant sorghum, then I will sell it as cattle feed, pay off my costs, then reinvest the rest," he said.

Others like him are building rickety, wood-slat, one-room homes on their 37 acres and quickly planting food staples such as cassava and bananas while they wait for government credits to buy seeds.

At least two large landholdings have been taken over in the Cojedes, and government authorities, backed by armed and uniformed military, on Friday were moving in on four other ranches in the Barinas and Apure states. Another 317 ranches are being studied for takeover by the government National Land Institute (INTI), says the national daily El Universal.

Foreign Minister Ali Rodriguez Araque told The Washington Times that all resources would be used to help the poor of Venezuela, who make up about 80 percent of the population and are the base of Mr. Chavez's political support.

"For us, democracy is not linked [just] to political rights, it is also linked to all economic, social and cultural rights. Political rights without the guarantee of these other rights is a denial of the whole system of rights," he said.

But ranchers who have worked their land here for decades, raising and breeding cattle, and even attracting eco-tourists to their wildlife-filled hills and plains, say the claim to their land is simply government expropriation.

"On the surface it seems very legal, but there has not been a court pronouncement on this," said Jaime Branger, whose extended family owns one of the largest cattle ranches in the country -- the 185,330-acre Hato Pinero ranch and nature conservation zone.

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Rancher feels exploited

"Nobody is going to go against the concept of social justice, nobody is going against feeding the people, but you have to do it properly; you cannot just tread on people," said Mr. Branger, a tall man with deep worry lines who is fighting to keep his land.

"You can't just grab people by the hair and say 'get out.' What about my social justice? Am I not people?" asked Mr. Branger, whose family obtained Hato Pinero in 1862.

Hato Pinero is one of the better-cared-for ranches in the state. There are acres of carefully planted pasture and about 9,000 sleek cattle, including a breed developed on the ranch called Pinero Red. Thousands of acres have been set aside as a nature conservation area filled with jaguar, puma, hundreds of bird species and a variety of orchids. Paying tourists stay in a Spanish-style adobe guesthouse built to cater to nature safaris.

With shouts of "Harh, harh," Luis Calderon, one of the ranch's young cowboys, or "llaneros," gallops across the fields, guiding a group of horses into a corral before slowing down to talk in the shade of some trees.

"If they take away the ranch, everything we have worked for during the past 60 years will disappear in six months," said the 24-year-old cowboy, who was born on the ranch. His is one of 120 families who have lived and worked on the ranch most of their lives.

His dirty white hat shading his dark eyes, Mr. Calderon -- who is in charge of calving cows -- described what the campesinos did when they took over one of Mr. Branger's seed and cattle farms down the road.

"They sold all the wild horses and ate all the cattle," he said. "For every one person who would really grow stuff, there are 100 who just won't. There are some people who just hear that the land is good, there is plenty of water, and they want to take a piece."

Poor not given deed

The land expropriations, which began early this year and quickly are gathering pace, came after a new law giving the government the right to take over properties where the ownership documents are deemed unsatisfactory. The poor are given the use of the land -- but not ownership titles, which remain in the hands on the government.

The law also imposes new taxes on any land found to be idle or underproductive. Mr. Branger, who studied at the London School for Economics, said the criteria for either condition are not clear and are being abused by governors seeking to curry favor with the president.

The government is studying the takeover of 1,149 factories -- roughly 10 percent of the private manufacturing sector, according to El Universal -- which are either closed or partially functioning, all part of Mr. Chavez's push to get greater control over the country's economy and boost production.

Economic analyst Alejandro Grisanti Capriles explained that plants were standing idle or underproducing because of a sharp drop in investment due to the uncertain political environment, and because industries have tried to consolidate production in order to stay economically viable.

Government expropriations, coupled with a weak judicial system to counter them, "will have an adverse effect on the whole economy. The threat to private property is driving down investment in all the sectors," said Mr. Grisanti, of EcoAnalitica.

No 'social justice'

But Jose Pimentel, a burly, bearded man who leads the campesino (peasant) movement in Cojedes, said the poor had waited too long for a chance to work their own land.

"I am the son of a campesino, and I have seen that all the previous governments did not have any social justice in the rural areas," he said, riding in the cab of a rattle-bone pickup truck filled with workers.

Mr. Pimentel, who is charged with doling out the confiscated land parcels in his territory, is greeted everywhere by men in beat-up cowboy hats and worn clothes, all seeking pieces of land.

He argued that the huge land holdings do not legally belong to the families that work them, but were taken illegally in the 1930s -- in one case as far back as the 19th century. The land, he says, belongs to the nation, and thus to the people.

"There is a lot of poverty, and we have to fight poverty. We need to help all the people, so all can eat, buy clothes. We want to set up [cooperative] tractor factories, sausage factories, meat processing plants," he said. "This agriculture will generate industry."

Help all the people

Ideology and corporate concerns do not enter the conversation of the campesinos sitting on overturned buckets shucking fresh corn to be ground in a hand-cranked mill and made into corn pancakes called "cachapas."

For these families, ignored for generations by previous governments and pushed to the edge of survival, Mr. Chavez's revolutionary plans appear as their ticket to a new life. They reject the idea that they are squatters or that they have invaded someone else's land.

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"We are Venezuelans; we have the right to the soil. This is our earth, so we are not invaders," said Lisa Gramos, 55, before cooking the pancakes on a hot griddle in the one-room hut that serves as kitchen and bedroom for four adults and a number of small children.

Much of the rancor comes from Venezuela's history of the wealthy few owning most of the land, and the failure of successive governments to bring the poor into national development.

It is a situation that Mr. Branger, speaking over a long dinner in Caracas, recognizes.

"We deserved it. We became a very complacent society, and we forgot our social responsibility, and we forgot the communities. We were not giving back to the communities. We deserved a bit of what is going on -- but unfortunately, we got a lot," he said.

Objections Emerge To G-8 Debt Relief Plan (WP)

By Paul Blustein

The Washington Post, September 13, 2005

Full debt relief for the world's poorest countries was finally in the bag. Or so it seemed two months ago when leaders from the Group of Eight major industrial powers, at their summit in Scotland, approved a plan to cancel the debts that 18 nations, mostly in Africa, owe to international lenders such as the World Bank.

But objections to the plan are emerging as it heads toward an official vote at the annual meetings of the World Bank and International Monetary Fund later this month. Most notable is an internal World Bank report that warns the plan could deplete the bank's coffers so severely as to impair its ability to provide new aid for impoverished nations.

The report, obtained by The Washington Post, uses bureaucratic language to convey a dire message about the problems that the G-8's plan could pose for the International Development Association (IDA), the World Bank agency that lends about $9 billion a year to low-income countries. By potentially forgiving as much as $42.5 billion in payments owed by many poor countries over the next several decades, the plan "could reduce IDA's financial capacity significantly," says the report, which was discussed at a meeting of the bank's executive board last week.

Critics of the plan, which include the governments of Scandinavian countries and the Netherlands, are demanding substantial changes in the plan to guarantee that the World Bank is made whole for its losses. That, in turn, is arousing angry warnings from the Bush administration that the whole initiative could come unstuck.

"The deal to provide 100 percent debt cancellation is in jeopardy," said Tony Fratto, the Treasury Department's chief spokesman, who said he was "outraged" at the World Bank report. "There are individuals trying to chip away at it and see that it doesn't happen."

Debt cancellation was one of the key goals of the movement that mobilized behind the "Live Eight" concerts in early July aimed at prodding President Bush and other G-8 leaders to spare no expense in assisting the developing world. The movement had a powerful ally in the British government, which agreed that debt loads were keeping nations such as Tanzania, Uganda and Bolivia mired in poverty even after previous rounds of partial forgiveness. Many activists were pleasantly surprised when the Bush administration embraced that logic as well.

But the debt-relief bandwagon got hung up on the issue of who would bear the cost. The bulk of the loans in question were no-interest, 40-year loans granted by IDA, which gets its money mainly from two sources -- repayments of prior loans and periodic infusions of cash from rich donor nations. Failing to provide IDA with additional donations to replace the revenue lost to debt relief would risk diminishing the World Bank's role on the global stage -- and that, some policymakers and experts suspected, was the Bush team's true aim.

The G-8 summit communique issued in Scotland reflects a compromise on the issue that, according to the World Bank's internal report, does not go far enough in protecting IDA. Although the communique contains firm commitments to cover the $1 billion that IDA would lose over the next three years, the report projects that losses would total $8.9 billion in the first decade, $17.6 billion in the second decade, $14.1 billion in the third decade, and $1.8 billion in the last decade if all 38 countries potentially eligible received full cancellation of their debts. (Only 18 countries so far have met the criteria for full relief, though more are expected to do so.)

The report acknowledges the G-8's pledge that for the period after the first three years, "donors will commit to cover the full costs for the duration of the cancelled loans" by making additional contributions to IDA. But the pledge has no binding force, and there is no "benchmark" for gauging how much donors would have given before the supplemental contributions, notes the report, which proposes several options to more firmly ensure IDA's future financing.

The Treasury's Fratto blasted as "absurd" the fear that Washington would fail to honor its pledge to provide additional contributions to IDA, and he ridiculed the report's assumption that debt repayments by poor countries are a reliable source of income.

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"The World Bank's analysis seems to give greater credence to the ability of a Niger to pay back its unsustainable debt than it does for the G-8 countries to meet their commitments," Fratto said.

Another objection to the G-8 plan voiced by policymakers in recent days, according to IMF officials, is that it may violate a long-standing IMF rule assuring "uniformity of treatment" to all member countries. The plan would fully cancel the debts to the IMF of only nations that qualify as "heavily indebted poor countries," while leaving untouched the obligations of nations such as Kenya and Indonesia that are not heavily indebted enough to be included.

This issue reflects the criticism expressed by some activists during the G-8 summit that the debt-relief plan ought to benefit a wider range of countries.

Activists who backed the G-8 plan said that although they sympathize with the complaints, the plan ought to be approved anyway.

"Our counsel is, don't let the best be the enemy of the good," said Seth Amgott, a spokesman for DATA, the organization founded by the rock star Bono. "Let's get this thing done."

Divisions Remain On U.N. Reform Ahead Of Summit (NYT/AP)

By The Associated Press

The New York Times, September 13, 2005

UNITED NATION (AP)-- With just days before leaders of more than 170 countries gather at a U.N. summit, there has been little progress on a document they are to adopt.

U.N. Secretary-General Kofi Annan wants heads of state and government to mark the 60th anniversary of the United Nations by adopting a sweeping blueprint to tackle the challenges of the 21st century at the Sept. 14-16 summit in New York.

But despite intense negotiations over the weekend, some U.N. ambassadors expressed concern the text would be weak and said negotiations were slow and difficult.

U.N. General Assembly President Jean Ping, who has been overseeing the document's preparation, told ambassadors Sunday he wanted to see agreement on a document by Monday which is the last day of the 59th General Assembly.

Key issues expected to be addressed in the document include reform of the U.N. Security Council, a Human Rights Council to replace the discredited Human Rights Commission, a new Peacebuilding Commission to help nations emerging from conflict, and new responsibilities for governments to protect civilians from genocide and war crimes.

Chile's U.N. Ambassador Heraldo Munoz told reporters that there had been progress on some issues, but that "I think we're still far from agreement on several others."

He said the most contentious issues in the discussions were disarmament and non-proliferation, the Council of Human Rights and terrorism.

"My fear is that we may end up with something a lot less that what the U.N. deserves and that is the danger that I foresee. I have no doubt that we'll have a document, but whether it is up to the challenge that we have ahead and the changes that are needed, that I have some doubt," he said.

France's U.N. ambassador Jean-Marc de La Sabliere said the summit document negotiations were a "unique opportunity" and that it was in everybody's interests to modernize and reform the United Nations.

"We think this text should be ambitious on development, ambitious on terrorism, ambitious on the human rights, ambitious on peace-building, ambitious on responsibility to protect ... and we are negotiating day and night," he said.

U.N. Members Undercut Annan's Quest For Reform (WP)

By Colum Lynch

The Washington Post, September 13, 2005

UNITED NATIONS, Sept. 12 -- In March, Secretary General Kofi Annan proposed the most far-reaching changes for the organization since its founding 60 years ago: reorganizing to combat terrorism and poverty, expanding the Security Council beyond the victors of World War II and setting new rules for the preemptive use of military force.

But six months of contentious negotiations by governments have stripped out many of the boldest initiatives, including proposals for creating 10 new Security Council seats. And delegates this week are straining to reach agreement on a far less ambitious package of steps that can be agreed on by some 170 leaders set to arrive in New York on Wednesday for a summit on U.N. reform.

Some key goals -- including the quest for agreement to condemn terrorists who target civilians or to establish a human-rights council that bars membership to rights abusers -- will be put off for discussion by the 191-member General Assembly after the summit ends Friday.

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"When you get together with 191 countries to agree on substantive issues, it's obvious that you're going to end up with the least common denominator," Mauritius's U.N. ambassador Jagdish Koonjul said, after quarreling with U.S. negotiators over a proposed provision that would urge world leaders to support the International Criminal Court. "They said they would rather die than allow any reference to the letters ICC."

Annan's manifesto -- outlined in a document titled "In Larger Freedom" -- was designed to pump new life into multilateralism after the U.S.-led invasion in Iraq had highlighted a rift in international relations. But his effort to push through his changes have been hamstrung by corruption scandals that have weakened his authority. U.N. member governments, meanwhile, have been reluctant to make painful tradeoffs to achieve a bold reorganization of the global body.

Some officials now say that the goals were too grand for an organization whose members remain deeply divided over the nature of the world's problems. "If things collapse it will be because the traffic was too heavy for the road to bear," warned Munir Akram, Pakistan's U.N. ambassador, who played a pivotal role in blocking the enlargement of the 15-nation Security Council because its regional rival, India, aspired to a permanent seat on it.

This week's summit, which will draw the largest number of world leaders under one roof, was initially intended to review progress on commitments governments made in 2000 to fight grinding poverty and the spread of HIV/AIDS, malaria and other diseases that disproportionately strike the poor.

The summit's focus shifted following the Sept. 11, 2001, terrorist attacks and the invasion of Iraq. Abdallah Baali, Algeria's U.N. ambassador, said the summit was intended to strike a "grand bargain" between the world's poorest countries, who expected to get greater commitments of foreign aid, and the United States and other wealthy countries that wanted the United Nations to change its focus to address new security threats, primarily terrorism.

This meeting represents the first major test of U.S. diplomacy at the United Nations since President Bush bypassed the congressional confirmation process last month and installed John R. Bolton as U.S. ambassador through a 17-month recess appointment.

Since his arrival, Bolton has shaken up the negotiations on a document that can be agreed upon by leaders at the summit, introducing more than 750 amendments. The U.S. amendments called for eliminating new pledges of foreign aid to impoverished nations, scrapping provisions that call for action to halt climate change and deleting language urging nuclear powers to make greater progress in dismantling their nuclear arms.

Bolton has since struck a compromise that welcomes decisions by wealthy governments to increase foreign aid levels to 0.7 percent of their gross national products, but which does not say that governments must do so.

A small group of 15 key negotiators appointed by General Assembly President Jean Ping has also reached agreement in principle on provisions that would increase pressure on states to act to halt genocide, ethnic cleansing and other large-scale killings, and that would establish a peace-building commission to manage postwar recoveries. The negotiators have also agreed to condemn terrorism and set up a human rights council, although they would leave it to the General Assembly to later decide how to define terrorism and to work out the composition and mandate of the rights council.

But the negotiations remain deadlocked over several key issues, including provisions designed to hasten the pace of disarmament and halt the transfer of the world's deadliest weapons to terrorists. Negotiations are also stalled over measures aimed at ending trade subsidies by rich countries that hurt poor nations' ability to compete, and that would bring greater accountability and oversight to U.N. spending.

Bolton sought to dampen expectations that the agreement by world leaders would represent the kind of radical changes first envisioned by Annan. "This is a first step," he told reporters during a break in negotiations. He said the changes under negotiation "are important but I don't think even if they were adopted in full they would result in the kind of cultural revolution that we need in U.N. management and governance."

"Reform is not a one-night stand," he added. "Reform is forever."

The Bush administration has come under fire from other nations for opposing provisions that it feels would inhibit its ability to defend U.S. interests. The United States has firmly opposed a proposal by Annan to urge the Security Council to adopt a resolution setting guidelines for the use of military force.

The United States also has blocked regulation of small arms and has worked to eliminate references in a summit document to the obligations of nuclear weapons states, under the nuclear Non-Proliferation Treaty.

"What you see here is the U.S. carving out of this document any reference to the responsibility to the nuclear weapon states to eliminate their nuclear arsenals," said Daryl Kimball of the Arms Control Association. "And that is going to make it all the more difficult to strengthen an already beleaguered nuclear nonproliferation system because other states are less likely to foreclose their nuclear options if the United States and others continue to pursue theirs."

Human rights and development advocates, meanwhile, say that a number of other countries have quietly sought to undercut the negotiations. "Less than 48 hours from the beginning of the summit there remains real risk that major agreements

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will be blocked by a small number of countries that seem determined to block the summit's success," said Nicola Reindorp of Oxfam International. "These include Pakistan, Egypt, Iran, Syria, Venezuela and Cuba."

Helping The World's Poor (WSJ)

The Wall Street Journal, September 13, 2005

The so-called Millennium Development Goals for helping the planet's poorest will be among the topics of discussion at the U.N. summit that begins tomorrow in New York. In recent weeks, the Bush Administration has come under media fire for suggesting some sensible revisions, such as requiring more accountability from countries on the receiving end of international assistance (imagine that).

But according to an article by Amir Attaran in the October issue of PLoS Medicine, a public health journal, the MDG program has much more fundamental problems that the U.S. might take into account before succumbing to mounting pressure to increase aid.

The MDGs -- which target poverty, hunger, infectious disease and other problems in the developing world -- were drafted in 2000 to great fanfare. Yet five years on, writes Mr. Attaran, a professor at the University of Ottawa who specializes in population health and global development policy, "many of the most important MDGs, including those to reduce malaria, maternal mortality, or tuberculosis (TB), suffer from a worrying lack of scientifically valid data."

The article goes on to say that while progress on each of these goals is portrayed in measurable terms, "often the subject matter is so immeasurable, or the measurements are so inadequate, that one cannot know the baseline condition before the MDGs, or know if the desired trend of improvement is actually occurring."

Perhaps even more disturbing, however, is Mr. Attaran's revelation that U.N. scientists "know about these troubles" and that "the necessary corrective steps are being held up by political interference, including the organization's senior leadership, who have ordered delays to amendments that could repair the MDGs." Anticipating this week's summit, a September 2004 memo from U.N. Deputy Secretary General Louise Frechette actually instructed U.N. scientists in charge of MDG statistics to downplay the measurement problems until after the summit because "any changes at this stage would only distract from the result that we would like to achieve." That "result," of course, is more money from wealthy nations with no questions asked.

Other U.N. health outfits have demonstrated a similar inability to measure progress, or the lack thereof. The World Health Organization launched its Roll Back Malaria program in 1998 with the goal of halving the number of malaria deaths by 2010. Seven years into the effort, WHO is claiming it's "too early to tell" if they're on track to meet the goal.

Defenders of the U.N., such as Columbia University's Jeffrey Sachs, accuse the organization's critics of being stingy and irresponsible. But the U.S. government's real responsibility is to make sure tax dollars are put to wise use. U.S. development aid has increased 90% since President Bush took office, and as the world's largest donor it has every right to demand that the U.N. be held accountable for making promises that aren't objectively verifiable.

Health goals that can't be measured, said Mr. Attaran in a recent interview, should be abandoned in favor of alternative approaches. "Because serial guessing isn't helping poor people. If we set quantitative goals, then we ought to be concerned enough to actually quantitate."

If the U.N. and its supporters are serious about the Millennium Development Goals, and U.S. support in pursuing them, they should stop equating criticism of U.N. methods with criticism of its motives. U.N. reform is a better use of their energies this week. And the establishment of an auditor general or some other independent body responsible for commissioning and publishing performance reviews is a good place to start.

The Good Fight (NYT)

By Vance Serchuk

The New York Times, September 13, 2005

Washington

This week, the heads of state of more than 170 countries are meeting to consider wide-ranging reforms for the United Nations. But any mention of the expansion of the Security Council will be off the agenda, thanks in no small part to the diplomatic exertions of the Bush administration.

The White House's foreclosure of discussion on Security Council expansion has drawn cheers from conservatives worried about any dilution of American power, and scorn from liberals convinced that the Bush administration is once again unilaterally sabotaging the international system. In fact, both sides are wrong.

The American position, by prioritizing practicable goals like cleaning up the Human Rights Commission and strengthening peacekeeping capabilities, is actually good for the United Nations, which would suffer from a drawn-out fight over Security Council expansion. But while the Bush administration's stance helps United Nations reform, it does not serve America's interests.

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To understand why, it's necessary to recognize that the expansion debate is above all a geopolitical contest for power and influence.

Just consider the maneuvers this summer by four aspirants to the Security Council - Brazil, Germany, India and Japan - which have joined together in the so-called Group of Four and have been furiously trawling the developing world for support. Rivals of these countries, like China, Italy and Pakistan, have meanwhile been working to block them. The resulting game of chess has been almost entirely defined by realpolitik, with nations unabashedly trading favors and threats, and the council's effectiveness an afterthought at best.

Such cold-blooded competition should come as no surprise. A seat on the Security Council, after all, is a prized symbol of power and prestige, establishing a country as a regional leader. This has particular importance in Asia, where China is determined to preserve its regional monopoly on the Security Council, while Japan and India are equally determined to break it. Given the Bush administration's concerns about Beijing's rising power and Washington's avowed interest in deepening our relations with Tokyo and Delhi, it's clear which side of this debate we should be on.

Getting Japan, in particular, on the council should be a top priority for the United States, not just as a reward for past support on countless issues - from Iraq to North Korea - but also because of its central role in America's grand strategy for the region. Equally important is the development of a long-term alliance with India. Skeptics warn that New Delhi has often voted against the United States at the United Nations, but given that India has been under American sanctions for its nuclear aspirations until recently - and was aligned with the Soviet Union for decades before that - such past recalcitrance may prove a poor guide to future behavior.

Although the Bush administration rhetorically backs Japan's bid and has been supportive of India's as well, these two states alone will never muster sufficient support in the General Assembly. The best remaining option, then, is for the White House to grit its teeth and embrace the Group of Four.

It hasn't done so, partly because it fears a larger Security Council would be less effective. But the sad truth is, the council already isn't likely to help Washington on first-tier problems like Iran or North Korea. And while a bigger membership would make deliberations more unwieldy, we shouldn't worry too much about damaging an institution that is already broken.

In the end, American support may not ensure passage of the Group of 4 proposal. China will marshal votes against it and, failing that, threaten a veto. But that might not be so bad either. Instead of focusing on the Security Council as an abstract institution, Washington should treat it the same way its peers do: as a commons for bare-knuckle great-power diplomacy. Pushing Beijing into a confrontation with Germany, Brazil, Japan and India would be the kind of ruthless realpolitik to make Metternich proud.

Meet The Fakers (NYT)

By Nicholas D. Kristof

The New York Times, September 13, 2005

The biggest gathering of leaders in history unfolds this week at the United Nations, as they preen and boast about how much they're helping the world's poor. In short, it may be the greatest assembly in history - of hypocrites.

The fact is that with just a few exceptions, the presidents and prime ministers coming to the U.N. summit are doing a disgraceful job in helping the poor. That's one reason the world's richest 500 individuals have the same income as the world's poorest 416 million people.

We Americans set a dreadful example as hosts to the summit. President Bush has been trying to wriggle away from his 2002 endorsement of the principle that rich countries should try to provide 70 cents in official development assistance for every $100 in national income. (Mr. Bush has sharply increased foreign aid from the Clinton years, but it still stood at only 16 cents in 2004 for each $100 of national income.)

The Bush administration also tried to change summit documents to downplay references to the millennium development goals of overcoming poverty. Fortunately, the Bush administration backed off and now grudgingly joins the international consensus against infant mortality.

It's common to hear abroad scathing criticisms of U.S. stinginess, much of it deserved. But Japan is also a cheapskate, giving only a hair more than the U.S., and Italy gives even less.

The new Human Development Report 2005, recently issued by the U.N. Development Program, is blessedly undiplomatic in its willingness to point figures - at just about everybody. It notes that the U.S. and other rich countries seem unwilling to provide a total of $7 billion annually for the next decade to provide 2.6 billion people with access to clean drinking water. That investment would save 4,000 lives a day, and the cost is less than Europeans spend on perfume - or than Americans spend on cosmetic surgery.

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Meanwhile, the report adds, AIDS kills three million people a year and devastates countries like nothing since the Black Death in the 14th century. Yet annual world spending to fight AIDS amounts to three days of military expenditures.

This U.N. summit is meant to review the millennium development goals, such as cutting child deaths around the world by two-thirds by 2015. All the goals, adopted with great fanfare five years ago, are feasible, and some countries - from Bangladesh to Indonesia, Brazil to Mongolia - are on track to meet them. Hats off to them. But most of the world appears likely to miss the goals.

Two countries that should be the leaders of the developing world, China and India, are both off track and should be ashamed of their records. In India, among children 1 to 5, girls are 50 percent more likely to die than boys, meaning that each year 130,000 Indian girls are discriminated to death.

Bangladesh has now overtaken India in improving child mortality, and Vietnam has overtaken China. If India had matched Bangladesh's rate of reduction in child mortality over the last decade, according to the U.N.D.P., it would have saved 732,000 children's lives this year.

Likewise, China has largely ignored its poor interior, so it still loses 730,000 children each year. China has also taken diplomatic positions that hurt the world's most vulnerable populations, by supporting Robert Mugabe in Zimbabwe and by implicitly endorsing Sudan's genocide just as it once endorsed Pol Pot's.

And African leaders? Perhaps this is naïve, but it strikes me as racist for them to have complained about brutal white rule in South Africa or Zimbabwe while excusing black rule that is even more brutal.

Readers often ask if I find it depressing to visit African slums or mud-brick villages. On the contrary, it's exhilarating to see how little it takes to make a difference. Ancient scourges like river blindness and leprosy are being controlled, and a clever initiative by Bill Gates and others to promote vaccinations (the Global Alliance for Vaccinations and Immunization) saved more than one million lives just between 2001 and 2004.

That makes it maddening to see leaders posturing for the cameras at the U.N. while, as the U.N.D.P. report notes, "the promise to the world's poor is being broken." The report adds that the gap between the current trendline on child mortality and the one the leaders committed themselves to amounts to 41 million children dying before their fifth birthday over the next decade.

Rather than toasting themselves, these leaders should apologize for this continuing holocaust.

Necessary Measures (NYT)

By Amir Attaran

The New York Times, September 13, 2005

Ottawa

Five years ago, about 150 world leaders gathered at the United Nations in New York and tried to move the mountain of global poverty. They adopted eight Millennium Development Goals - quantifiable measures of progress on problems like malaria, tuberculosis and child and maternal mortality. The achievement of those goals by 2015 would lift more than one billion people out of extreme poverty.

The trouble is that progress toward these benchmarks often cannot be measured. And if their achievement cannot be measured, the goals are not only a letdown for the world's poor, but also a time bomb for the credibility of the United Nations. As world leaders gather in New York again this week, the United Nations will have to grapple with the question of whether progress is on track to achieve the goals by the 2015 deadline. So far, this inability to measure progress has meant that the United Nations has either guessed or remained silent.

Consider the hazard of dying in pregnancy or childbirth, a fate that befalls more than 500,000 women annually, according to the World Health Organization. The Millennium Development Goal on maternal mortality is to "reduce by three-quarters, between 1990 and 2015, the maternal mortality ratio." Measuring that ratio requires an accurate count of both safe births and maternal fatalities.

But according to the United Nations Millennium Project, only a "handful of countries" can really prove the maternal mortality ratio is improving; poor, rural countries where obstetricians are scarce, home births are common and the dead are mourned privately simply do not have the data. That is why in 2000, their most recent assessment, scientists from the United Nations warned that "it would be inappropriate to compare the 2000 estimates with those for 1990," or to "draw conclusions about trends."

Malaria is another example where United Nations goals hinge on something immeasurable. In 2000, the organization's scientists warned that "it will not, in general, be possible to measure the overall incidence rate of malaria." Yet barely two months later, the United Nations placed bets on doing exactly that and persuaded the world's leaders to endorse a new Millennium Development Goal to start lowering the incidence of malaria by 2015.

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Having ignored the advice of its own scientists and fashioned its goal unwisely, the United Nations today studiously avoids having an opinion on whether the malaria crisis - the disease is the No. 1 killer of children in sub-Saharan Africa - is getting better or worse. And yet, nobody who studies malaria doubts that it is getting worse.

Probably the most useful discussion the United Nations could plan for this week's meeting would be one that asked world leaders to endorse new goals against which they could truly measure progress. This is feasible: there are alternative ways to track malaria's toll or to assess the safety of pregnancies. For instance, dozens of demographic surveillance sites could be set up in the poorest countries to document births, deaths, illnesses and social services. This has already been done in countries like Tanzania and Ghana.

How disappointing it is that the United Nations leadership went to great lengths to ensure that no such discussion could happen this week. Last September, Louise Fréchette, the United Nations deputy secretary general, instructed the organization's scientists that she didn't want the summit meeting being "distracted by arguments over the measurement of the Millennium Development Goals," and ordered that they refrain from proposing any refinements to the goals. This is lamentable political censorship.

By putting that discussion off limits, and pretending the Millennium Development Goals are meaningful as they now stand, the United Nations has lost five years on a short timeline and sabotaged its own vital mission to help the world's most unfortunate and needy people.

Early Results Give Norway Opposition A Win (NYT/AP)

By The Associated Press

The New York Times, September 13, 2005

OSLO, Norway (AP) -- Norway was poised for a power shift after the left-leaning opposition won a majority of seats in Parliament with pledges to spend more of the nation's vast oil wealth on welfare, official election results showed early Tuesday.

With more than 96 percent of votes counted, a three-party coalition led by the Labor party had grabbed 88 seats in the 169-seat assembly, enough to oust the center-right government.

Prime Minister Kjell Magne Bondevik, who campaigned on promises of tax cuts, said if the final tally confirmed the result, his government would resign after presenting its draft 2006 budget on Oct. 14.

Labor leader Jens Stoltenberg, who campaigned on a pledge to spend more of the nation's oil money on welfare, said the opposition Red-Green alliance would start talks in the next few days on forming a coalition majority government.

"In this campaign we had two goals: a strong election for Labor and a chance to form a majority government. The one goal has been reached, the other is within reach," said Stoltenberg, a 46-year-old former prime minister.

Bondevik acknowledged his days as prime minister were likely over, saying: "I am disappointed by such a political defeat, but we had been prepared for the possibility."

Bondevik's government has presided over four years of unprecedented prosperity in the country of 4.6 million, and the nation's wealth has been boosted by a windfall from record high oil prices. But critics complained of cracks in the welfare state, including shortcomings in education, health and elderly care.

Stoltenberg said he thought Labor had made strong gains because "many agree with our main message: "That we can make Norway even better with the fantastic resources we have."

Bondevik, 58, a Christian Democrat and Lutheran minister who has led a three-party coalition government since 2001, had campaigned on promises of further reducing taxes while improving health care and education.

Debate also raged over how to use the oil income, with the far-right populist Party of Progress saying Norway should tap into the $192 billion fund where it invests surplus oil revenue. Offshore oil platforms have made Norway the world's third-largest oil exporter, after Saudi Arabia and Russia.

European Union membership, which Norwegian voters rejected in 1972 and 1994, has not been an issue.

Oslo voter Kari Murberg Martinsen, 42, said she supports the Red-Green alliance because "I am concerned about children and education, and think we owe the elderly decent treatment."

Bondevik said he believed his three-party coalition was hurt by attacks from Party of Progress leader Carl I. Hagen, who said he would not accept another government with Bondevik as prime minister.

Bondevik's minority government of Conservatives, Christian Democrats and Liberals took power four years ago with the support of Hagen's party, but refused it Cabinet posts or any other formal alliance, partly because of its anti-immigration stance.

The Party of Progress advanced in the election to become Norway's second largest party with 37 seats, according to the preliminary count. Labor gained 19 seats for a total of 62, the results showed.

After Shattering Civil War, Liberians See Hope At Polls (WP)

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By Sudarsan Raghavan

The Washington Post, September 13, 2005

Her dead husband's Bible, his driver's license and their faded wedding photos are in a dusty box in the closet of her College Park home -- not to forget, but to remember. Like so many Liberians, Caroline Barnard is handcuffed to a history of heartache, bloodshed and guilt.

Gunmen killed her husband, Emmanuel Cooper, in a suburb of Monrovia, the country's capital, 15 years ago. They left his corpse on the street. The couple had been married for less than three months. And she was pregnant.

After she fled the chaos on foot, Barnard made a promise.

"Whatever is left of him, I must bury him," she recalled. "I'm going to go back."

Now, as the West African country prepares for a historic post-civil war election next month, a new hope is prevailing. After years of building wealth and sharing it with impoverished relatives back home, Barnard and other Liberians across the United States want to influence the outcome of the campaign.

Many of the Washington region's estimated 10,000 native Liberians view it as nothing less than their homeland's last chance for peace and stability.

"They feel very passionate, because they realize the future of their country depends on this election," said Bishop Darlingston G. Johnson of Bethel World Outreach Church in Silver Spring, where a third of the 3,000 congregants are from Liberia.

Liberia was founded in 1847 by freed American slaves who named its capital after President James Monroe, and it was a reliable U.S. ally during the Cold War. But starting in the 1980s, a succession of despotic and corrupt leaders brought two decades of disorder. By the time international pressure forced warlord Charles Taylor into exile in Nigeria in 2003, Liberia's government and civil society were in shambles.

Taylor's exit spawned a peace deal and caretaker government, bolstered by 15,000 U.N. peacekeepers. The Oct. 11 election is the next step.

No provisions exist for absentee voting. A Liberian living abroad must go back to register and then return to cast a ballot. So most immigrants in the Washington area will not vote.

And yet, Liberia's main presidential candidates have held fundraisers and town hall-style events across the region. They've canvassed other parts of the United States as well and created slick campaign Web sites.

The reason is such statistics as this: $600 million wired into Liberia, much of it from the United States, between 2000 and 2003, according to the Aite Group, a Boston financial services research firm.

And this: 80 percent illiteracy in Liberia and poverty rates just as high, the United Nations estimates.

So candidates are appealing to Liberian immigrants to contribute to their campaigns and persuade relatives back home to vote for them. It's the latest example of how elections in developing countries have become transnational affairs, as technology connects immigrant to homeland as never before.

"If you supported Liberians during the war, you will have influence, you can make an impact," said Gayah Fahnbulleh, an adviser to candidate Ellen Johnson Sirleaf, a former World Bank official.

The 22-candidate field includes Liberian soccer legend George Weah and Charles W. Brumskine, a lawyer who lives in Northern Virginia.

"This is the time to start a revolution," said Barnard, a mother of three.

The accountant and gospel singer paused, then added softly, "A peaceful revolution."

One that will allow her to keep a 15-year-old promise.'Bullets Were Flying'

Barnard met Cooper at a school in Paynesville, a suburb of Monrovia. She was 14. He was 16. They dated for two years, broke up and got back together 10 years later.

"We soon found out that having each other forever was our greatest desire," Barnard later wrote in her journal.

A year later, on Christmas Eve 1989, Taylor invaded Liberia from neighboring Ivory Coast. The country soon collapsed into civil war. But Barnard and Cooper carried on with their lives as best they could. She worked for Price Waterhouse. He was a small trader. They married April 7, 1990, in a lavish ceremony at a white church with a gospel choir.

On July 2, heavy fighting broke out in Paynesville, where they lived. Cooper was riding in a car with a soldier, probably for protection, as many Liberians did then. They were ambushed by Taylor's rebels on Duport Road.

Barnard never saw his body, but someone told her a few girls had covered him with sand near the road. She tried to retrieve his body.

"As I walked, there was shooting up the road," Barnard recalled. "Bullets were flying. I couldn't reach that particular spot."

A few days later, someone found his wallet and driver's license.

"I don't know why death had to part us so early," Barnard wrote. "We had so many things to achieve."

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Pregnant and widowed, Barnard fled. She filled two shopping bags and walked through the jungle until she crossed into the Ivory Coast, joining a vast exodus of refugees.

"I wonder what the future has for me and our unborn child," Barnard wrote.

The future is what drives Eunice Barnaby of Germantown to phone the relatives who receive $6,000 a year from her and urge them to vote for Sirleaf. After watching Liberia crumble under male leaders, she wants a woman in power.

"There's nothing more I want than to go back to Liberia," said Barnaby, 46, whose brothers and sister were killed by rebels.

It's what drives Bishop Johnson to encourage Liberian immigrants like himself to fast and pray for 21 days so "God Himself will guide the elections."

It's what drives Joseph Juwle to take time off from his job as a hotel supervisor in the District and head to Liberia this month, even though he hasn't registered to vote. He will work for presidential candidate Winston Tubman.

"I'm going there to encourage Liberians to vote for the right person," said Juwle, 47, a father of five who lives in Lanham.One Way to Monrovia

And the future is what drives Barnard.

In Ivory Coast, she gave birth to her daughter, Korpo, remarried and came to Prince George's County in 1996. During the day, she works for the University of Maryland in College Park as a fiscal coordinator. At night, she composes and sings gospel songs about Jesus and her homeland to hip-shaking African rhythms.

Liberia's peace process and the election inspired her last year to write "One Way Ticket to Monrovia."

It has become an anthem for immigrants yearning to go home, played at gatherings and on Liberian community radio. In June, at a fundraiser for Brumskine, dozens of Liberians swayed to every word.

I thank my Lord the God of Peace.

O He really answer prayers.

Thank God the United Nations and Papa Kofi Annan. . . .

Thank God for President Bush, the Peace is here forever

I say one way, one way ticket to Monrovia

I'm never coming back.

At the end of the song, she asks that when she lands in Liberia, she be taken to the "Duport Grave."

Despite the optimism, most Liberians here are realists. Their country, they well know, has endured many upheavals.

"Politics is so tricky," Barnard said. "We only hope and pray we'll get divine inspiration to choose the right person."

If the right person is chosen, she knows she'll be one step closer to Cooper's grave. If she can't find it, she will go to the spot where he died, pick up some of the soil and bury it in his hometown of Kle in Bomi County, about 30 miles from Monrovia. She'll hold a simple memorial service, perhaps build a school in his name.

She know she's fortunate. Most Liberians can't do this much.

"There are a lot of people who don't even know where their relatives are, whether they are dead or just missing," Barnard said. "This war has left a lot of unfinished business for so many people."

Last week, in her comfortable living room peppered with African artifacts, she sifted through the shards of her broken past. A buttery late afternoon light floated through the lace curtains. Her husband, Johnny, sat with her as Korpo, now 15, floated in and out of the room.

The wallet. The driver's license. The Bible. Wedding photos and a video. Her blue journal with the elegant handwriting.

Then, she spotted two black-and-white passport photos. She was young and smiling, as if the future were limitless.

"Those were the days," she sighed.

Then, she smiled as wide as she could.

A Healthier Amazon Jungle (NYT)

The New York Times, September 13, 2005

Last month, Brazil's environmental officials announced that the burning of the Amazon has slowed. Deforestation this year is half of what it was the year before. This news shows that when Brazil's government musters the political will to protect the Amazon, it can do it.

Large swaths of the jungle are still disappearing, mainly set on fire by soybean farmers and ranchers looking for land to raise cattle. Last year was the worst for Amazon deforestation in a decade.

The health of the Amazon is a global concern because the forest soaks up greenhouse gases, which lessens global warming. Deforestation means the Amazon could eventually become too small to produce the rain that it needs to survive.

Deforestation is also deadly for millions of Amazon peasants trying to eke out a living growing small plots or collecting forest products. Land grabbers snatch up valuable property near planned paved roads, burning the villages to drive the

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inhabitants away. Hundreds of leaders who have tried to speak up for peasants have been murdered, and virtually none of the killers ever face jail.

Unfortunately, part of the reason farmers and ranchers cleared less jungle this year is because the price of soybeans and beef have dropped, and Brazil's currency is stronger. So exports are less profitable.

But the government's commitment to protecting the Amazon has also been important. Led by Marina Silva, the environment minister and once a poor Amazon rubber tapper herself, Brazil is starting to impose its authority in parts of the forest that have always been lawless. In the state of Pará in February, gunmen killed Dorothy Stang, an American nun who had worked with the rural poor for 30 years. After the murder, the government sent 2,000 federal troops to the zone and announced a logging ban on millions of acres of Amazon land.

The government has also begun to enforce its laws. It is beginning to require real documentation of claims for land title. In June, police arrested dozens of members of an illegal clear-cutting ring. Finally, through new satellite imaging, Brazilian authorities can spot burning while it is happening and theoretically make arrests. Rule of law is still foreign to the Amazon. But it is becoming a little less so.

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Calvert, Chris (CIV)

From: Calvert, Chris (CIV)
Sent: Tuesday, September 13, 2005 11:37 AM
To: Agarwal, Asheesh; Bahr, Dorothy (CIV); Baxter, Felix (CIV); Bordeaux, JoAnn (CIV); Bucholtz, Jeffrey (CIV); Calvert, Chris (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davis, Deborah J; Eubanks, Sharon (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Fishback, David (CIV); Fisher, Barbara (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Goldberg, Arthur (CIV); Gorsuch, Neil M; Gray, Towanda (CIV); Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jennings, Geraldine (CIV); Katsas, Gregory (CIV); Keener, Donald (CIV); Kent, Alexander (CIV); Kohl, Christine (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Liner, Linda (CIV); Lloyd, Shirley (CIV); Lucas, Regina (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Schiffer, Stuart (CIV); Shaw, Aloma A; Swenson, Lily F; Thirolf, Eugene; Williams, Angela (CIV); Williams, Toni (CIV); Willis, Kerry (CIV); Zwick, Ken (CIV); Fadely, Kathlynn (CIV)
Subject: 9/13 Civil Weekly Report to the Attorney General
Attachments: CivDivWkly0913.wpd

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U.S. Department of Justice

Civil Division

Assistant Attorney General *Washington, D.C. 20530*

September 13, 2005

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE ACTING DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Peter D. Keisler
Assistant Attorney General
Civil Division

SUBJECT: Civil Division Weekly Report to the Attorney General

A. NEXT WEEK

- No items to report

B. THIS WEEK

- ***Seventh Circuit Holds ATF Firearms Databases Not Subject to Disclosure under FOIA***
  City of Chicago v. ATF [7th Cir.; N.D. Ill.]. On September 12, 2005, the Seventh Circuit (Rovner, Bauer, Williams), after twice before finding to the contrary, finally held on panel rehearing that ATF need not provide access under the FOIA to its electronic databases regarding the sale of firearms and the tracing of firearms recovered in criminal investigations. Previously, the court had held that the databases were not exempt from disclosure under FOIA Exemptions 7(A) and (C), nor under an Appropriations Rider providing that "no funds * * * shall be available" to release the records in question. Subsequent to that latter decision, Congress passed another rider making the data "immune from legal process," and the court granted panel rehearing to consider the new legislation. In a sweeping opinion that should prove helpful on a wide range of issues, the court vacated its prior opinions

and held that the unambiguous language of the new appropriations law barred the court's previous proposal for a court-appointed Special Master, paid for by the City of Chicago, to retrieve the requested data. The court also rejected the city's arguments that the new rider violated separation of powers principles and the First Amendment.

- ***D.C. Circuit to Hear Argument on September 16, 2005, on Government's Challenge to Structural Injunction Issued in Indian Trust Funds Class Action Litigation***
  Cobell v. Norton [District of Columbia Circuit; District Court for the District of Columbia]. On September 16, the D.C. Circuit (Silberman, Williams, Garland) will hear argument on the government's appeal from a structural injunction entered by the district court in the class action litigation seeking accountings of funds held in trust for individual Indians. The structural injunction purports to assume responsibility for all of the government's accounting-related activities and would require the government to spend billions of dollars to account for funds totaling $400 million. The government has asked the court of appeals to vacate the structural injunction and to reassign the case on remand to a different district judge.

- ***Seventh Circuit to Hold Oral Argument in Case Challenging Speeches and Other Activities of Director of White House Office of Faith-Based and Community Initiatives***
  Freedom From Religion Foundation v. Chao [7th Cir.; Western District of Wisconsin]. On September 13, the Seventh Circuit will hold oral argument in this case, in which plaintiffs allege that the Director of the White House Office of Faith-Based and Community Initiatives and the directors of several Agency Faith-Based Centers have violated the Establishment Clause by making speeches or sponsoring conferences that endorse religion. The district court dismissed the action because it held that plaintiffs lack taxpayer standing under *Flast v. Cohen*. The Department of Justice will argue that the dismissal was proper because the complaint, at its heart, challenges executive action unrelated to the administration of a congressional program authorized by the taxing and spending clause of the Constitution.

- ***Conference Set in Guantanamo Detainee Cases to Discuss Appointment of***

Coordinating Judge
A conference has tentatively been set for September 15, to discuss with Chief Judge Thomas Hogan the possible appointment of a judge to coordinate the approximately 150 Guantanamo Bay detainee *habeas* cases pending in the District of Columbia. *Habeas* counsel requested the conference. At the outset of the Guantanamo *habeas* litigation, the government sought and obtained appointment of a coordinating judge (Senior Judge Joyce Hens Green), but such coordination ended after Judge Green issued a decision on the government's motions to dismiss (an appeal of which is pending) despite government requests that such coordination continue.

- ***Civil Division to Intervene in Constitutional Challenge to Pledge of Allegiance***
Habecker v. Town of Estes Park [District of Colorado]. On September 12, the Civil Division will file a motion to intervene and a brief in support of the constitutionality of the Pledge of Allegiance statute. In this case, a town trustee refused to say the Pledge at trustee meetings on the grounds that it violated his agnostic beliefs. The town's voters recalled him in a special election. Habecker, joined by the Freedom from Religion Foundation, challenges the Pledge statute, and the trustees' practice of reciting it, as an "endorsement" of religion.

C. LAST WEEK

- ***Courts Reject Challenges to Base Closure Recommendations***
During the week of September 5, courts rejected attempts by six different states to enjoin the Base Closure and Realignment Commission from sending its final report to the President, as required by statute, on September 8. The suits brought by Connecticut, Illinois, Massachusetts, Missouri, and Tennessee all involved challenges to recommendations by the Base Closure and Realignment Commission to relocate federally-owned military aircraft currently assigned to National Guard units in those states. Those five states all sought temporary restraining orders or preliminary injunctions barring the delivery of the report, arguing that such transfers could not occur without the consent of the governors and that the proposed realignments violated the Militia Clauses and Second Amendment of the Constitution. The sixth state, New Jersey, sought to prevent the Base Closure and Realignment Commission from delivering its recommendation to close Fort Monmouth, a U.S. Army base. On behalf of the Base Closure and Realignment Commission and Secretary of Defense, the United States argued, *inter alia*, that the states' challenges were not ripe, were barred by *Dalton v. Specter*, 511 U.S. 462 (1994), and failed on the merits.

Each state was ultimately denied the emergency relief it sought. On September 6, Judge Jeanne E. Scott dismissed Illinois' complaint in *Blagojevich v. Rumsfeld, et al.* [Central District of Illinois] for lack of subject matter jurisdiction, holding that the governor lacked standing to challenge non-final recommendations. (On September 7, the Seventh Circuit denied Illinois' request for an injunction pending appeal, and Justice Stevens rejected a similar request on September 8.) On September 6, Judge Mary L. Cooper rejected New Jersey's request for a preliminary injunction in

Corzine v. 2005 Defense Base Closure & Realignment Commission [District of New Jersey], and dismissed the case for lack for subject matter jurisdiction on the grounds that the Base Closure and Realignment Commission Act precludes judicial review. (On September 7, the Third Circuit affirmed the dismissal, and the Supreme Court rejected New Jersey's request for an injunction on September 8.). On September 7, Judge Jean C. Hamilton dismissed Missouri's complaint in *Nixon v. Rumsfeld* [Eastern District of Missouri] for lack of final agency action and subject matter jurisdiction. (On September 8, both the Eighth Circuit and Supreme Court rejected Missouri's request for relief pending appeal). On September 7, Judge Robert L. Echols granted Tennessee's request for a temporary restraining order in *Bredesen v. Rumsfeld* [Middle District of Tennessee], but less than 24 hours later the Sixth Circuit granted our motion for a stay pending appeal, ruling that the Base Closure and Realignment Commission's report was not a reviewable, final agency action and that the governor's consent was not required for the issuing of recommendations affecting National Guard units. On September 8, Judge George A. O'Toole, Jr., denied Massachusetts' request for a temporary restraining order in *Romney v. Rumsfeld* [District of Massachusetts] for lack of final agency action. Finally, on September 7, Judge Alfred V. Covello granted Connecticut's motion for a preliminary injunction in *Rell v. Rumsfeld* [District of Connecticut], but on September 9, the Second Circuit granted our motion for a stay pending appeal due to the lack of final agency action. Because the Second Circuit did not schedule a hearing until September 9 (the day after the Base Closure and Realignment Commission's report was due to the President), we sought relief in the Supreme Court on September 8, but Justice Ginsburg declined to act before the Second Circuit ruled. As a result, the Commission's report was delivered on September 8, with a note indicating that the recommendation as to the Connecticut Air National Guard 103rd Fighter Wing was withdrawn due to the district court's injunction, but that it was the intention of the Commission that the recommendation be restored should the injunction later be lifted.

- ***Agency Approves Conversion of Credit Unions to Mutual Savings Banks***
  Community Credit Union v. National Credit Union Administration et al. [Eastern District of Texas]. On September 1, the parties filed a stipulation of voluntary dismissal in this case, pursuant to a settlement agreement in which the National Credit Union Administration agreed to approve the member votes of the Community Credit Union and the OmniAmerican Credit Union to convert to mutual savings banks.

- ***Federal Circuit Upholds the Government's Invocation of the State Secrets Privilege***
  Crater Corp. v. Lucent Technologies, Inc. [Fed. Cir.; Eastern District of Missouri]. On September 7, 2005, a divided panel of the Federal Circuit [Newman, Schall, Dyk] sustained the government's invocation of the state secrets privilege in this private litigation, rejecting the contention that the Secretary of the Navy was required to review personally each of the 26,000 documents potentially responsive to the plaintiff's discovery requests. The panel further ruled (on an issue that the government had not addressed) that the district court's decision to dismiss the case on state secrets grounds was premature in light of undeveloped facts in the record.

Dissenting in part, Judge Newman argued that the assertion of privilege was overbroad and suggested that even with regard to matters covered by privilege, the commercial dispute could be litigated in an *in camera* trial.

- ***Court Invalidates Consolidation of Railway Labor Arbitration Panels***
CSX Transportation, Inc. v. National Mediation Board [District of Columbia]. On August 29, Judge Richard Roberts denied the National Mediation Board's motion to dismiss or for summary judgment, and granted plaintiff CSX Transportation, Inc.'s motion for summary judgment. Plaintiff, a railroad carrier, challenged the National Mediation Board's mandatory order consolidating 30 arbitration boards created under the Railway Labor Act, known as public law boards, into a single board. The public law boards had been considering the Brotherhood of Maintenance and Way Employees' grievances over alleged subcontracting violations committed by plaintiff, but the proceedings had been exceedingly slow and costly. Relying upon its budget authority under the in the Railway Labor, the National Mediation Board consolidated all then-existing cases in an effort to promote economy and efficiency. Plaintiff sought an injunction claiming that this was an ultra vires act that exceeded the National Mediation Board's authority. Notwithstanding arguments (i) that the court lacked jurisdiction under either the Administrative Procedure Act or the narrower standard of review usually applicable to the National Mediation Board, and (ii) that the National Mediation Board's broad grant of budget authority allowed it to condition the expenditure of arbitration funds on consolidation, Judge Roberts concluded that the forcible consolidation of *existing* public law boards as contrary to the express terms of the Railway Labor Act because the Act gives the parties, not the Board, the power to create public law boards.

- ***Government Files for Summary Judgment in Debtors' Challenge to Payments Owed to United States Department of Agriculture***
Davies v. Johanns [Western District of Missouri]. On September 1, the United States Department of Agriculture moved for summary judgment in this case, an action brought by two farmers challenging the amount they owed to the United States Department of Agriculture under the Shared Appreciation Agreement that they signed in 1992 as a condition of receiving a substantial write-off of the debt they owed to the agency.

- ***Third Circuit Holds That Reinstatement Provisions Are Impermissibly Retroactive as Applied to Aliens Who Re-Enter the United States Prior to Effective Date of the 1996 Amendments***
Dinnall v. Gonzales [3d Cir.]. On September 1, the Third Circuit vacated the government's order reinstating the alien's final order of removal. The court ruled that the reinstatement provisions are impermissibly retroactive because (1) they do not permit aliens to apply for discretionary relief; (2) the alien could have applied for such relief in the form of voluntary departure had he been placed in deportation proceedings when he re-entered the United States prior to the enactment of the 1996 amendments; and (3) although a grant of voluntary departure would still require that the alien leave the United States, he would not be forever precluded from applying for all discretionary relief as provided under a reinstated order.

- ***Court of International Trade Sustains Commerce Department's Imposition of Countervailing Duties for Unused Benefits***
  Essar Steel, Ltd. v. United States [United States Court of International Trade]. On August 30, 2005, Judge Barzilay issued an opinion that sustained the Department of Commerce's imposition of countervailing duties upon Essar's shipment of certain steel products from India. Commerce's determination was based upon its finding that Essar's exports of the goods to the United States had earned it import duty credits from the Government of India pursuant to an export promotion credit program. The court sustained Commerce's conclusion that the duty credits constituted a government-conferred benefit notwithstanding the fact that Essar had not yet "spent" the credits, and had attempted to effectuate a repayment of the benefits by making a request that the Indian government convert Essar's accrued import duty credits to a different, possibly non-countervailable, export program. The court held that an exporter could not repay a recurring subsidy after the period of Commerce's review had ended.

- ***Federal Circuit Denies Government's Petition for Rehearing En Banc, Concluding That Imported Uranium Is Outside Scope of the Antidumping Duty Law***
  Eurodif S.A. v. United States [United States Court of Appeals for the Federal Circuit]. On September 9, 2005, the court (Judges Bryson, Plager, Prost) reaffirmed its previous decision that enriched uranium imported into the United States does not involve the "sale of goods" and therefore is not subject to the antidumping duty statute. This case will have a significant effect upon USEC, Inc., a former arm of the Department of Energy that was privatized in 1998. As a result of this decision, USEC must now compete against dumped and subsidized imports without recourse to the antidumping duty statute and certain aspects of the countervailing duty statute.

- ***Government Moves to Dismiss Case Seeking to Reopen Medicare Payment Determinations***
  Fairview Hospital, et al. v. Leavitt [District of Columbia]. On September 8, the government filed a motion to dismiss or for summary judgment in this case that seeks to force the Secretary of Health and Human Services to reopen Medicare payment determinations on, among other things, the ground that the plaintiff hospitals were the victims of fraud or similar fault.

- ***Magistrate Recommends Invalidation of Rule Barring Adult-Rated Movies in Prisons***
  Jewell v. Gonzales [Western District of Pennsylvania]. On August 31, Magistrate Judge Baxter recommended that defendant's motion for summary judgment be denied and that plaintiff's cross-motion for summary judgment be granted. This class action lawsuit was brought by prisoners challenging the constitutionality of a Bureau of Prisons regulation that implemented a statute prohibiting Bureau of Prisons from expending money to show R, NC-17, and X-rated movies. The magistrate judge found that reliance on the Motion Picture Association of America ratings system is an inappropriate and illogical standard to use to determine a film's suitability to be shown in prison, and, moreover, that the regulation, which bans all R-rated movies, was an exaggerated response to any asserted penological interests. Defendant has 10 days to file objections to the magistrate judge's recommendation.

- ***First Circuit Affirms Board's Denial of Reopening to Moderate Muslims from Indonesia***
  Maryam v. Gonzales [1st Cir.]. On August 31, the First Circuit affirmed the Board of Immigration Appeals' denial of the alien's motion to reopen. The court upheld the board's conclusion that evidence of increasing Islamic fundamentalism and violence against Christians in Indonesia did not establish a material change in circumstances giving rise to asylum eligibility for the aliens in this case, who are moderate Muslims.

- ***Eleventh Circuit Holds Allegation of Violation of the Anti-Kickback Statute States a Claim under the False Claims Act***
  United States of America ex rel. McNutt v. Haleyville Medical Supplies, Inc. [11th Cir.; Northern District of Alabama]. On September 9, the Eleventh Circuit (Carnes, Pryor, Forrester) in an interlocutory appeal on a question of first impression in the circuit courts held that a violation of the Anti-Kickback Statute can form the basis for a qui tam action under the False Claims Act. Relator and the government, which intervened in this qui tam action, alleged that defendants violated the False Claims Act by submitting claims for Medicare patients who were referred pursuant to an illegal kickback scheme even though the defendant Medicare providers had signed provider agreements certifying that they would comply with all laws concerning proper practices for providers including the Anti-Kickback Statute which prohibits the payment or receipt of anything of value in exchange for the referral of goods or services paid for by Medicare. The court of appeals granted defendants' petition for interlocutory appeal on the question whether an allegation of a violation of the Anti-Kickback Statute can form the basis for a claim under the False Claims Act and, ultimately, accepted our argument that, since compliance with the Anti-Kickback statue is a condition of payment under Medicare, a knowing, false certification of compliance with that statute states a claim under the False Claims Act.

- ***Class Action Filed Challenging Tobacco Buyout Program***
  Neese v. Johanns [Western District of Virginia]. On August 16, plaintiffs William J. Neese and Daniel M. Johnson filed a putative class action suit against the United States Department of Agriculture challenging the agency's regulations implementing the Tobacco Reform provisions of the American Jobs Creation Act of 2004. The statute provides for the United States Department of Agriculture to make transition payments to tobacco growers, based on their prior tobacco quotas, in exchange for the termination of federal tobacco quota and price support programs. According to plaintiffs, the regulations are contrary to the statute because they set out a formula for calculating the payments that is inconsistent with the formula set out in the statute. The response to the complaint is due on October 20, 2005.

- ***Consent Decree Monitor Denies Request for Reexamination of Claim in Pigford***
  Pigford v. Johanns [District of Columbia]. In a decision issued on September 2, the consent decree monitor denied the requests of three brothers for a reexamination of their consolidated claim for damages under the consent decree. Claimants' primary claim of discrimination related to the refusal of the United States Department of

Agriculture to extend to them additional credit when a third party foreclosed on a pre-existing mortgage on farm property owned by one of the brothers. The monitor determined initially that the arbitrator had erred in failing to consider the impact and probative value of all of the direct evidence of racial animus toward the claimants. Nevertheless, the claimants had established neither that the Farmers Home Administration had deviated from its policies regarding foreclosures by a third party nor that they, either as individuals or as a partnership, were qualified to assume additional financial obligations at the time of the third party foreclosure. Therefore, the monitor concluded the claimants could not prove they were entitled to damages.

- ***Brief Filed Opposing Challenge by Hunger-Striking Guantanamo Detainees to Conditions of Confinement***
  Sliti, et al. v. Bush [District of Columbia]. On September 9, we filed an opposition to the motion of petitioners in nine Guantanamo Bay detainee *habeas* cases seeking court intervention with respect to conditions of confinement at Guantanamo Bay. Some petitioners are also participating in a hunger strike at Guantanamo in support of their complaints. Our brief argues that conditions of confinement claims should not be considered while appeals are pending in *In re Guantanamo Detainee Cases* (District of Columbia Circuit), which likely will determine the legal framework for addressing detainee claims, and that counsel's attempt to use the hunger strike to urge court intervention is improper where the military has practices in place to preserve the lives and health of hunger-striking detainees, and where no relief with respect to such care is sought in petitioners' motion.

- ***Federal Circuit Affirms Merit Systems Protection Board's Decisions Dismissing Appeals by United States Trustees for Lack of Jurisdiction***
  Stanley v. Department of Justice [United States Court of Appeals for the Federal Circuit]. On September 9, 2005, the court (Judges Mayer, Rader, Linn) affirmed the Merit System Protection Board's dismissals of appeals filed by two former United States Trustees who were removed prior to the expiration of their five-year terms of office because of the change in presidential administrations. The Merit System Protection Board dismissed both appeals for lack of jurisdiction. The Federal Circuit affirmed, concluding that, because the position of United States Trustee had been designated as confidential, policy-making and policy-advocating, the Trustees did not meet the statutory requirements of an "employee" entitled to appeal an adverse action to the Merit System Protection Board. The court also held that the existence of a statutory five-year term did not preclude removal prior to the expiration of that term.

- ***Court Denies Claim for Social Security Survivor Benefits by Plaintiff Conceived Post-Mortem***
  Stephen v. Comm'r of Social Security [Middle District of Florida]. On September 7, Judge Anne C. Conway affirmed the Commissioner of Social Security's denial of survivor's benefits to a claimant who was conceived from sperm extracted from a wage earner after he died. The court determined that the claimant was not dependent on the wage earner at the time of his death, as required by 42 U.S.C. § 402(d), nor could the claimant be considered the "child" of the wage earner under the statute since the claimant could not inherit property from the wage earner under Florida state

law. The court declined to rely on the Ninth Circuit's recent unfavorable decision in this area, *Gillett-Netting v. Barnhart*, 371 F.3d 593 (9th Cir. 2004).

- ***First Circuit Upholds Asylum Denial to Chinese Alien Claiming Compulsory Abortion Where the Alien Failed to Mention Such Allegations in His Initial Interview***
  Tai v. Gonzales [1st Cir.]. On August 31, the First Circuit affirmed the Board's denial of asylum and refusal to consider the alien's ineffective assistance claim. The court ruled that (1) the alien's failure to state the central basis of the asylum claim in his initial interview adequately supported the Board's adverse credibility determination, and (2) the Board appropriately refused to consider an ineffective assistance claim, rejecting the alien's contention that he should have been "invited" to file a claim in compliance with *Lozada* requirements.

- ***Expert Depositions to Begin in Baltimore Public Housing Discrimination Case***
  Thompson v. United States Department of Housing and Urban Development [District of Maryland]. Beginning September 9, the government will take the depositions of plaintiffs' expert witnesses. This case is a class action brought on behalf of African-American public housing residents in Baltimore who originally sued to challenge much of the decision-making engaged in by the Department of Housing and Urban Development and its predecessors in connection with the placement and operation of public housing in Baltimore City over the past seven decades. In January, Judge Marvin Garbis, the presiding judge, issued a ruling on liability issues in which he rejected most of the claims in the case, but held that the government is liable on one, and possibly two, bases. Judge Garbis has scheduled a trial on remedy issues to be held no earlier than March 2006. Plaintiffs' experts intend to testify with regard to remedy.

- ***Fourth Circuit Reverses and Remands District Court Decision Dismissing United Kingdom's Third-Party Breach of Contract Action for Lack of Jurisdiction under the Contract Disputes Act***
  United Kingdom Ministry of Defence v. Trimble Navigation Ltd. [4th Cir.; Eastern District of Virginia.]. On September 6, the Fourth Circuit (Judges Widener, Traxler, Gregory) reversed and remanded the district court's dismissal of the United Kingdom's suit against Trimble Navigation, arising out of its purchase of microchips for British cruise missiles. Under the Foreign Military Sales program, the U.K. purchased the microchips directly from the U.S., which in turn contracted to purchase the chips from the manufacturer, Trimble. When the U.K. concluded the chips were defective, and the U.S. declined to take action, the U.K. filed a contract action in district court against Trimble asserting rights as third-party beneficiary of the U.S.-Trimble contract, which was covered by the Contract Disputes Act. At the invitation of the Fourth Circuit, the Civil Division filed an *amicus* brief, arguing that the U.K.'s remedies on the contract are limited to the Contract Disputes Act, which does not provide for suit by foreign governments, and that the U.K.'s proper remedy is through government-to-government consultations with the U.S. Executive Branch. The panel rejected these arguments, holding that the plain language of the CDA does

not cover a claim by a third-party beneficiary to a procurement contract that is otherwise covered by the CDA.

- ***Court Remands Social Security Survivor Benefits Claim of Plaintiff Conceived Post-Mortem for a Determination of Legitimacy Under State Law***
Vernoff v. Barnhart [Central District of California]. On August 31, Judge Cormac J. Carney granted the Commissioner of Social Security's motion to remand, an appeal of the Commissioner's denial of survivor's benefits under 42 U.S.C. § 402(d) to a claimant who was conceived from sperm extracted from a wage earner after he died. The court remanded the case under Sentence Six of 42 U.S.C. § 405(g) for a determination of whether the claimant is "legitimate" under California state law, consistent with the legal standard articulated in *Gillett-Netting v. Barnhart*, 371 F.3d 593 (9th Circuit 2004).

- ***Third Circuit Rejects Challenge to FDA Inspection Warrant***
Wedgewood Village Pharmacy, Inc. v. United States (McKee and Buckwalter [Eastern District of Pennsylvania]; Chertoff, not participating) [3d Cir.; District of.New Jersey]. On September 1, the Third Circuit affirmed the district court's denial of a motion to quash an administrative warrant obtained from a magistrate judge by the Food and Drug Administration to inspect a pharmacy suspected of engaging in the unlawful manufacture of prescription drugs, such as Valium. Although Wedgewood Village Pharmacy claimed that it was lawfully "compounding" medications tailored to the needs of individual customers, the Food and Drug Administration sought to confirm, through physical inspection of Wedgewood's premises and records, information the agency had obtained from the Drug Enforcement Administration and state pharmacy regulators suggesting that Wedgewood had large-scale drug manufacturing equipment and bulk quantities of drug ingredients onsite. After first concluding that the denial of Wedgewood's motion to quash the administrative warrant was an appealable final order, the Third Circuit held that, under the unambiguous terms of the Federal Food, Drug and Cosmetic Act, Wedgewood was not exempt from Food and Drug Administration's general inspection authority, and that the pharmacy's due process rights were not violated by Food and Drug Administration's *ex parte* application for a warrant that the statute does not even require.

- ***Aviation Case Settled for Much Less than Demand***
Wright v. United States [District of Idaho] (Honorable E. Lynn Winmill). The United States reached a settlement in this action before mediating Judge David Carter [Central District of California]. Plaintiffs, seeking $33,005,000, had alleged a tower controller provided inaccurate wind information when clearing an aircraft to land at Twin Falls Airport, causing the aircraft to drift off course on final approach and crash into a fuel truck parked near the runway. At mediation, counsel for the United States demonstrated that the weather data upon which plaintiffs relied to show controller error was not correlated to the time or location of the accident, resulting in a settlement of $15,000.

- ***Third Circuit Remands for Determination on Well-Founded Fear Based on China's One-Child Policy***

Zheng v. Gonzales [3d Cir.]. On August 31, the Third Circuit rejected the immigration judge's denial of asylum based on an adverse credibility determination without considering whether the alien had a well-founded fear of persecution based on China's one-child policy. The court ruled that, notwithstanding the immigration judge's holding that the alien had not proved past persecution, the alien's contention that he faced forcible sterilization in China warranted independent consideration, and remanded the case for further consideration.

D. LONG-RANGE EVENTS

- ***Parties to Cross-Move for Summary Judgment in Suit to Compel Use of Alternative Fueled Vehicles***
  Center for Biological Diversity v. Department of Energy, et al. [Northern District of California]. On October 28, the parties will file cross motions for summary judgment. The suit challenges the failure of federal agencies to comply with various requirements of the Energy Policy Act of 1992, which provides various mechanisms to encourage the use of Alternative Fueled Vehicles. The suit alleges that the 14 agency defendants and the Executive Office of the President have failed to meet the statute's requirement that 75 percent of new light-duty vehicle acquisitions be Alternative Fueled Vehicles, and further that defendants have failed to timely publish annual compliance reports. (Shortly after the suit was filed, all but one agency published the required reports and only four of the defendants are seriously out of compliance with the Alternative Fueled Vehicles purchase requirement.) The suit also challenges Department of Energy's decision in 2004 not to issue a rule imposing a similar 75 percent Alternative Fueled Vehicles purchase requirement on municipalities and the private sector.

- Contact: Asheesh Agarwal, Counsel, 353-7957

Newmark, Andrea (CIV)

From:	Newmark, Andrea (CIV)
Sent:	Tuesday, September 13, 2005 2:07 PM
To:	Gorsuch, Neil M; Meron, Daniel (CIV); Nichols, Carl (CIV); Hunt, Jody (CIV); Shapiro, Elizabeth (CIV); Bhattacharyya, Rupa (CIV); Smith, Jeffrey (CIV); Goulka, Jeremiah (CIV); Lin, Elbert (CIV); Haas, Alexander (CIV); Tannenbaum, Andrew (CIV)
Cc:	Lane, Sean; Wiggins, Mike
Subject:	ACLU FOIA docs - This Week's Summary
Attachments:	091205.WPD

Neil: Attached is the summary of this week's release, except for a small batch that you will receive as a post script tomorrow. Please advise Sean or Peter directly, as well as me, when these have been approved to go. Thanks. Andrea

This week's review consisted of 1) Army historian interviews with various officers regarding detainee transport and treatment in Afghanistan (containing nothing politically sensitive), 2) reports of CID investigations into allegations of abuse, 3) reports of interviews with US soldiers at detention facilities, and 4) medical records.

Investigative Reports

--Bates 14753- 14879

Report of CID investigation into allegations of detainee abuse published in Norwegian newspaper. Investigation found that Captain had instructed an enlisted man to direct Iraqi looters to disrobe and write "Ali Baba Haram" (Arabic for "sinful thief") on their bodies. This was deemed sufficient evidence to prove the charge of Cruelty and Maltreatment. No evidence of conspiracy. Action amounting to less than a court proceeding was taken against offending Captain (appears that it was a General Officer Letter of Reprimand). According to Iraqi victim, the actual writing on the prisoners was done by a "Muslim" U.S. soldier (possibly a translator). This latter soldier had left the Army by the time of the investigation and, despite significant efforts, apparently could not be located.

--Bates 14879-15008

Report of CID investigation into allegations of abuse at Abu Ghraib. The investigation found "sufficient evidence" to prove that the allegations were false and that the prisoner who made the allegations was not abused or mistreated. The prisoner alleged that he was put in stress positions, punched in the face and stomach, choked with an unidentified tool, and later punched in the stomach until he lost consciousness. He alleged that he fell on barbed wire and was dragged by his feet until he received cuts to his body. He also alleged that individuals pulled his arms and legs backward, causing his shoulder to dislocate. The investigation concluded that these allegations were false and the prisoner had been in good health throughout his detainment.

--Bates 15187-15240

15188: Detainee Abuse Investigation materials, US Army Detainee Abuse Task Force, Baghdad. The investigation established insufficient evidence to prove or disprove the allegations, which included that "he was hooded, punched in the eyes, kidneys, and chest and was also kicked in the chest for approximately 12 hours ... he was struck in the genitals with what he believed to be a stick or antenna." [Repeated 015192]

15198 Agents Investigative Report: Detainee "provided a sworn statement wherein he detailed being placed in positions which caused him pain; someone sat on his chest and struck him against the neck repeatedly with empty water bottles causing his neck to swell; he was punched in the eyes, kidneys and chest; he was struck in the genitals with a chem-light and a stick." He also stated that "when he was initially detained U.S. Soldiers threw his 6 year old son into a wall and that his wife and daughter were both hit in the back with the butt of rifles." The detainee also "stated he witnessed a black, male U.S. soldier 'start to rape the other detainee.' ... he witnessed the soldier stand the naked detainee up and bend the

detainee forward at the waist, at which time [the detainee] turned his head away in shame ... he could hear the other detainee screaming curse words at the guard."

15201-2: Detainee's sworn statement: "The medic left and the bag was placed over his [the other detainee in the room?] head again. Water was then dripped onto the bag over my face, making it difficult to breathe. My ears were also filled with water. An unknown person then straddled my chest and sat on me. This person then began striking me in the neck with what felt like empty water bottles. This caused my neck to swell. This abuse continued for twelve hours, after which another group of people came in and punched me in the eyes, kidneys, and chest. I was also kicked in the chest. ... struck me in the genitals with a chemical light. She then poured the contents of the chemical light on his [the other detainee's] genitals. While I was hooded, two unknown people held my legs apart while an unkown person struck my genitals with a stick, similar to an antenna. ... A black soldier entered the room and started to rape the other detainee."

15203-4: Detainee's sworn statement: Soldiers picked his six year old son "and threw him into the wall. Because of this, my son cannot control when he urinates.... My wife and daughter ... were hit in the back with the butts of the soldier's rifles. They broke everything in the house. They cut open the mattress and pulled out the [illegible]. They broke all the doors. They stole the money and gold and jewelry. They took all our identification documents."

--Bates 15495-15545

15495-96: Detainee Abuse Investigation materials, US Army Detainee Abuse Task Force, Baghdad. The investigation established insufficient evidence to prove or disprove the allegations, which included that "he was hooded, kicked several times in the body, and thrown into a barbwire fence... he was forced to walk bare-foot across hot pavement, which caused burns to the sole of his left foot. ... during his interrogation..., he was punched several times in the head, chest, abdomen, legs, and lower back ... he believed he suffered a fracture to his ribs." [repeated 015499-500, 015508, 015522, 015526]

15544: Detainee Abuse Investigation materials, US Army Detainee Abuse Task Force, Baghdad. An investigation executive summary reads: "[A]n Iraqi national drowned after being pushed off a bridge by Soldiers. A cousin of the victim was also forced off the bridge, but survived and reported the incident. Continued investigation has established credibility of the allegations. Soldiers of the 1st Platoon, A Co, 1/8th Inf Bn, 3d Bde, 4ID, who were on the scene at the time of the incident have changed their initial statements of denial and now admit to having forced the Iraqis off the bridge. Further, they, to include the platoon leader, conspired to lie about the incident when questions by CID. The pact directly involved the company commander, who staged mock interviews with the Soldiers in an attempt to ensure all involved told CID the same story. Prior to reporting to CID for interviews, the Soldiers involved, the platoon leader, company commander, and the battalion XO traveled to the scene. The platoon leader then jumped off of the bridge into the river in order to demonstrate what had happened to the Iraqis."

15545: Detainee Abuse Investigation materials, US Army Detainee Abuse Task Force, Baghdad.

> An investigation executive summary notes that a an unconscious Iraqi male was delivered at the 549th Area Spt Med Co, Al Asad, Iraq, "by an unknown and unidentified white American male believed to be associated with the U.S. Force. The unidentified male said that the detainee had been interrogated, had become unresponsive and he was unsure what was wrong with the detainee. . . . The [CT] scan disclosed a dated blunt force trauma injury to the head [approximately one to two weeks old]. The detainee did not survive his injuries and died. . . ."

--Bates 15241-15494

Investigation 0011-04-CID469-79630 relates to the incident where a group of US soldiers detained two individuals for being out past curfew and then forcing them to jump off a bridge into a river. This caused the death of one of the Iraqis. This incident was previously reported in prior document productions in at least May 2005. The file also has further details about the charges of obstruction of justice and the claim that some portions of the chain of command, which mostly appear unsubstantiated with the exception of a Lt. Colonel who appears to have told the subordinates to get their story straight. There are transcripts of interviews of the Lt Col., a Major, and a Colonel. Ultimately, the underlying story about the soldiers pushing the Iraqis into the river has already been reported and we saw no new major revelations in these documents -- they are the investigative file supporting the memorandum that was previously released. While the story is not new, it remains disturbing and may get additional press play for that reason.

Interviews of US soldiers at detention facilities

DAIG 2235-2558 consist of series of interview questions of service members at detention facilities. Most responded that they were unaware of detainee abuse. Those that had allegations of abuse to report stated as follows:

-- 2452 "detainee is a layman. he wrote a lease, house had weapons inside. he was arrested [by Navy seals] because his name was on the lease. it was determined he has nothing to do with the weapons. he is not the owner of this house. seals come here one day prior to his release signed him out and took him off somewhere overnight and returned him the next morning. only hear about this type incident is w/DS seals detent." "my understanding detainee reported that at the time of capture he was held in one location outside. At random times the guards would come out pour cold water on him and beat him on the side of his leg and in his sides. don't know if he was tied up."

-- 2348 "1. video tape sexual assault using objects or ____ in Abu prior to ___ 372nd ___, 2. MP's excessive force at Bucca, 3. Res__ arrest in this area."

-- 2446 "Pouring cold water on D, happen before ___ got here."

--Other responses of note:

-- disciplinary measures: "hands on head, squatting; segregation, sleep deprivation, stand in place; minimum standard - comfort items" [2237], "take blankets & mats for two hours, stand near wall for 1 hour & that's all" [2271], "put on knees for 15 minutes" [2366], "Discipline

talking across cages 1st time 15 min, 2d time 30 min, 3d time bound and gagged" [2413].

-- concerns that "most detainees held too long" [2257]; "Ds have been here for months. TAC info no longer good, not all Ds will ever be talk with by MI. Instruct Div Cdr they need [to] start releasing authority. Enforce doctrine. I would release 600 today if I could out of MI hold. This is not GPW OPS." [2461]

-- concerns regarding procedures for reporting alleged abuse: one soldier referred to the reporting form as the "Beat me form" [2372]; another said he was "would care what they'd say" [2448]; another stated ambiguously "SPC ___ wrote a letter to Gen Franks Art 15 about denial access to IG" "CPT ___ 670th threatened AR 15 for IG. No EO representation. Coercion into taking ... deny right..." [2258]

-- concerns about living conditions: "Everybody has diabetes or some type of heat disease..." [2530]; working environment "sucked ass... have us living like animals." [2557]; "get cold, heaters don't work, they do have blankets" [2424]; "some soldiers don't have sufficient showers" [2248]

Note that all references to the detainee-guard ratio, e.g., DAIG 2272-73, have been redacted to excludee the actual numbers.

Medical Records

Finally, this week's review contained 1600 pages of medical documents., including the medical files of an Iraqi shot by US forces who were returning fire, an Iraqi who was burned by a fire while lying in a bunker, a male with burns to 23% of his body, a male with a head laceration who was injured while attacking U.S. soldiers with a bayonet and was brought in in restraints, EPWs with gun shot wounds, and a 28 y/o shot while attempting to steal car. The only items of interst are the numerous references to "restraints per EPW protocol" for which medical personnel "check restraints, skin integrity [under the restraints] & circulation frequently" and the following statements in the medical notes:

12909 "Tried to rush the gov't @ BIAP prison 4 day ago. arrived here at Abu Graib yesterday Multiple bruises R face R ribs & L shoulder area with obvious clavicle deformity"
13023 "Pt. reminded of 1400 Apt [with] CIA.... Pt. left [with] CIA dressed appropriate for weather."

13059 "Rambling on and on in Arabic when translated pt. would like to harm all of staff."

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, September 13, 2005 5:02 PM
To: Clement, Paul D
Subject: RE: Oregon moots

Thanks, Paul. I will mark the calendar and look forward to it. But no promises for insights; for that, you may have to buy the book from Princeton press next year! (I plan to include an epilogue discussing the Court's ruling and, hopefully, remarking on the brilliant and winning performance of the SG!)

-----Original Message-----
From: Clement, Paul D
Sent: Tuesday, September 13, 2005 4:58 PM
To: Gorsuch, Neil M
Subject: Oregon moots

Neil,
As I mentioned at Greg's Hamdan moot, I am having my moots on the 27th and 30th at 2 pm both days. It would be great if you could atttend both. I am hoping you can give me some of the same keen insights you imparted to Greg.

USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Wednesday, September 14, 2005 8:18 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing 9/14/05
Attachments:	agnb050914.pdf; agnb050914.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, SEPTEMBER 14, 2005 7:45 AM EDT

TODAY'S EDITION

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TERRORISM NEWS:

McCain Threatens To Attach Detainee Rules Amendment To Defense Bill. The Hill (9/14, Tiron, Allen) reports, "Sen. John McCain (R-Ariz.) is threatening to attach an amendment to the defense appropriations bill defining acceptable treatment of military detainees if the defense authorization bill, to which it is currently attached, is not voted on this fall. 'I hate to do this,' said McCain, chairman of the Senate Armed Services Committee's Airland Subcommittee." The Hill notes, "The dispute between the White House and McCain is their first high-profile disagreement since the November election. Meanwhile, Sen. John Warner (R-Va.), chairman of the Senate Armed Services Committee, remains 'very supportive' of McCain's amendment, according to a committee spokesperson. And Warner also is committed to bringing the authorization bill to the floor this fall."

128 Gitmo Prisoners Are On Hunger Strike. The Los Angeles Times (9/14, Serrano) reports, "A hunger strike at the U.S. naval base at Guantanamo Bay, Cuba, has grown to 128 prisoners who are demanding that they be immediately released or granted access to a legal process to defend themselves against blanket allegations that they are terrorists. The strike, begun more than five weeks ago, has forced military authorities to hospitalize 18 of the prisoners and to take extraordinary measures to force-feed them. Some detainees have vowed to die if necessary, but the Pentagon insists that it will not let anyone starve to death. … Along with demanding that they be freed or put on trial, some detainees also are complaining of assaults by guards and continuing to allege that there has been desecration of Muslim religious items."

Investigation Finds Gitmo MPs Distrusted Interrogators. The AP (9/14, Fox) reports, "A U.S. inquiry into alleged abuse at Guantanamo uncovered a climate of deep distrust between military police and interrogators, who were accused during the probe of giving terror suspects personal information about their guards. The MPs suspected interrogators gave their names and Social Security numbers to prisoners in exchange for intelligence, according to the investigation, which recommended that a senior interrogator be relieved of duty for 'failure to know his enemy.' The interrogator 'sees himself as a hero for the detainees, and against the MPs, on a crusade in the battle of the MPs against the detainees,' one investigator wrote in the report on the inquiry that The Associated Press obtained under a Freedom of Information lawsuit." The AP adds, "The investigation began in March 2004, when the same interrogator claimed military police had abused detainees. … The interrogator claimed that guards mistreated a suspected al-Qaida member by not allowing him to use the bathroom

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immediately after a five-hour interrogation and that at other times withheld food and turned the temperature down on a cell to 52 degrees as punishment."

In Courtroom Outburst, Al Arian Lawyer Bumps Prosecutor, Challenges FBI Agent. The Tampa Tribune (9/14, Fechter) reports Sami al Arian attorney William Moffitt "bumped a federal prosecutor and challenged an FBI agent during a break Tuesday morning, saying the government was cheating in prosecuting the terror-support case that could send the defendants to prison for life." Moffitt said that "prosecutors should have provided translations" for Israeli documents about al Arian's alleged support for suicide bombers, "throwing the documents onto the defense table. He then bumped" Assistant US Attorney Cherie Krigsman "and hollered 'This is business. You're trying to put a guy in jail for life. You cheat all the time.'" FBI Agent Kerry Myers "got in between Moffitt and Krigsman, telling Moffitt to leave Krigsman alone because 'she's a female.' Moffitt challenged the agent. 'Get in my face one more time,' he said."

Hayat Attorneys Secure $1.2 Million In Property For New Bail Request. The Lodi News Sentinel (9/14, Bohm) reports Umer and Hamid Hayat "have secured more than $1.2 million worth of property and hope it's enough to be released from jail while they await trial." The News Sentinel adds that the Hayats "have been held in the Sacramento County Jail for three months, charged with lying to FBI agents about their knowledge of terror training camps. … Both have pleaded not guilty to the charges and through their attorneys have denied the allegations. Additionally, defense attorneys wrote in the motions, the charges have not been corroborated by others and are based on statements made 'during stressful, protracted and confusing interview sessions with FBI agents.'"

The Stockton Record (9/13, Hood) notes, "According to Monday's filing, the homes are: The Hayats' home at 302 E. Acacia St., which FBI agents searched June 6. … A home belonging to Umer Hayat's brother," and two homes owned by "distant relatives." Defense attorney Wazhma Mojaddidi said, "We feel good about it because they're not a danger to the community. The judge told us if we came up with more property, he would consider that a new fact to reopen."

Brooklyn Illegal Money Transfer Trial Begins. The AP (9/14, Weissenstein) reports, "A Yemeni immigrant ice cream shop owner accused of illegally funneling $21.9 million overseas successfully fought to keep prosecutors from introducing evidence allegedly linking him to terrorist groups as his trial began Tuesday." Abad Elfgeeh "stands accused of transmitting money around the world without a license from a dozen bank accounts linked to his tiny storefront in Park Slope, Brooklyn. … But prosecutors cannot raise the topic of terrorism at Elfgeeh's trial unless the defense does first because they did not have enough evidence to charge Elfgeeh with a terrorism-related crime." The AP notes, "Elfgeeh first came to the attention of FBI anti-terrorist agents as they investigated Sheik Mohammed Ali Hassan Al-Moayad, whom they eventually accused of funneling money…to al-Qaida and Hamas."

British Intelligence Monitoring Hundreds Of Potential Terrorists. The New York Times (9/14, Lyall) reports, "Hundreds of potential terrorists in Britain are being 'closely surveyed' by the security services, part of a battle with no obvious end in sight," said home secretary Charles Clarke. Clarke "was testifying before a special parliamentary committee investigating the government's handling of the July 7 suicide bombings " The Washington Times (9/14, Martin) reports Clarke said, "There are certainly hundreds of individuals we continue to watch very closely, who we believe need to be very closely surveilled because of the threat they offer." Clarke "explained that, although these suspects posed a 'threat,' they were not necessarily actively plotting more terrorist attacks."

PATRIOT ACT:

Not All FBI Powers Covered Under Patriot Act. In the third of a three-part series on the Patriot Act, the Hayward (CA) Daily Review (9/14, Farooq) reports, "Poet Amir Sulaiman was on a professional high after his taped performance aired across the country on HBO's 'Def Poetry Jam' in February 2004. He had performed a piece titled 'Dangerous,' a poem he describes as passionate and intense. … But just six days after his performance first aired, the 26-year-old African-American father of three had FBI agents waiting to question him at his mother-in-law's house in San Francisco. … 'I'm not sure,' he said about the FBI

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knocking on his in-law's door soon after his HBO performance. 'The reason the two (events) are connected is six days after the show aired, they knocked on my mother-in-law's door. ... It was a bizarre, almost surreal, phone call that the FBI was waiting for me.'" The Review continues, "While they waited, FBI agents asked Sulaiman's brother-in-law why his poetry was 'anti-American.' That's a charge he denies, saying his ancestors help build America and he never once mentions America on his album, but instead tackles issues such as poverty, oppression and tyranny. … The day after the FBI visited Sulaiman, he also found out, while trying to board an airplane, that his name had been added to the 'no-fly list,' subjecting him to extra security before he could board. He was never charged with a crime or given a reason why his name was added to the list or why he was visited by the FBI." The Review adds, "Contrary to popular belief, both of Sulaiman's experiences had nothing to do with the controversial USA PATRIOT Act, passed by Congress days after the Sept. 11 attacks to give law enforcement more power to investigate potential terrorists. … Since its passage, there have been a lot of myths attached with the Patriot Act's supposed power, from immigrant roundups post 9/11 to the creation of the 'no-fly' list. Some of the powers associated with the act are more of a general sense of heightened security by law enforcement agencies than any single bill. … The 'no-fly' list, for example, was initiated before the Patriot Act was passed in 2001 —created by a Federal Aviation Administration-issued security directive in 1996. But, still the origin of the no-fly list is mired in secrecy and some confusion. Some security experts have been left scratching their heads when asked when or where exactly the list originated, who is on it and what rights innocent passengers have if their names are similar to those on the list. … Another issue thought by some to be associated with the Patriot Act are FBI interviews and roundups. Both again are not tied to any legislation but instead to a heightened sense of security, according to Dorothy Ehrlich, the executive director of the American Civil Liberties Union of Northern California."

HOMELAND RESPONSE:

FAA Was Told In '98 That Al Qaeda Might Hijack Planes, Destroy Landmarks. The New York Times (9/14, Lichtblau) reports, "American aviation officials were warned as early as 1998 that Al Qaeda could 'seek to hijack a commercial jet and slam it into a U.S. landmark,' according to previously secret portions of a report prepared last year by the Sept. 11 commission. … The White House and many members of the commission, which has completed its official work, have been battling for more than a year over the release of the commission's report on aviation failures, which was completed in August 2004." The Times notes, "While the new version still blacks out numerous references to particular shortcomings in aviation security, it restores dozens of other portions of the report that the administration had been considered too sensitive for public release. The newly disclosed material follows the basic outline of what was already known about aviation failings, namely that the F.A.A. had ample reason to suspect that Al Qaeda might try to hijack a plane yet did little to deter it. But it also adds significant details about the nature and specificity of aviation warnings over the years, security lapses by the government and the airlines, and turf battles between federal agencies." USA Today (9/14) reports, "The new version provides fresh details on repeated warnings about al-Qaeda and its desire to attack airlines in the months before Sept. 11."

The AP (9/14, Miller) reports, "A new version of the Sept. 11 commission's report…was released Tuesday with recently declassified information about terrorist threats and holes in airport security before the attacks." The AP notes, "The new version provides fresh details on the repeated warnings about al-Qaida and its desire to attack airlines in the months before" 9/11. "For example…the Federal Aviation Administration's intelligence unit received 'nearly 200 pieces of threat-related information daily from U.S. intelligence agencies, particularly the FBI, CIA, and State Department.' Also unclassified was the conclusion that the domestic aviation system had, since 1996, 'operated at a security level that was, in effect, a permanent code orange.'"

King And Weldon Look To Secure Votes For Homeland Committee Chair. The Hill (9/14, Kaplan) reports Rep. Peter King, "the leading candidate to take the helm of the Homeland Security Committee, expressed confidence late yesterday that his candidacy will prevail when the GOP Steering Committee meets today to decide the race." Rep. Curt Weldon "who is the current vice chairman of the panel, has campaigned hard for the gavel and continued to search for votes yesterday. He argued that he is the better choice because he has developed expertise and credibility on homeland-security issues. … Other candidates for the post include Reps. John Linder (Ga.), Dan

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Lungren (Calif.) and Don Young (Alaska). Rep. Mac Thornberry (Texas) has been mentioned as a candidate, but he has not returned calls to confirm his candidacy."

DHS Begins Review Of Nuclear Plant Safety. The New York Times (9/14, Foderaro) reports, "The United States Department of Homeland Security on Tuesday began a top-to-bottom review of emergency preparedness and security at the Indian Point nuclear plant in Westchester County. The review is part of a sweeping initiative by the federal government to assess the vulnerability of the nation's infrastructure. A dozen experts from several federal agencies, including the Federal Emergency Management Agency, the F.B.I. and the Nuclear Regulatory Commission, converged on Indian Point's two reactors, in Buchanan, N.Y., to conduct a three-day inspection."

Diplomatic Bags Bypass Airport Screeners. The Christian Science Monitor (9/14, Marks) reports, "Despite the intense scrutiny of airline passengers and their bags since 9/11, potentially explosive gaps still exist. Top among them, for some analysts, are diplomatic bags - the privileged cargo that is given special immunity. Security experts worry that terrorists could exploit the status of diplomatic pouches, which are protected from being opened or detained in any way by the Vienna Convention of 1961. In the past, rogue countries and individuals have used such bags to transport drugs, arms, and cash - and even to smuggle people. That's because a diplomatic pouch can be a crate big enough to carry a large desk."

Capitol's Improved Security Measures Noted. The Hill (9/14, Kucinich) reports, "For the second time this week, outside mail was halted yesterday because of a power outage at the House off-site mail facility, but recent improvements to mail security allowed interoffice mail and newspapers to continue to circulate. This is just one small example of the numerous security upgrades that have occurred on Capitol Hill since the Sept. 11 attacks. … The Alternate Computing Facility, designed to handle some of the House and Senate data and communications in the event of a catastrophe, is just one of the security centers built after Sept. 11."

Congress And The Administration Accused Of Ignoring Threat To DC. The Washington Post (9/14) editorializes, "The Bush administration, pertinent congressional committees and the D.C. government are all aware of a study showing that an attack on a single railroad tank car of chlorine traveling through a crowded nation's capital could: Kill or seriously harm 100,000 people within an hour. Set off a toxic plume that could extend over 40 miles.· Leave deadly a core area of about 4 miles by 14 1/2 miles. It is also true that while the D.C. government has enacted a law to deal with the issue, the federal government has taken no serious steps to prevent chemicals that are toxic if inhaled from being shipped through the District. What's more, the Justice Department and CSX Transportation Inc., rather than supporting D.C. legislation that sought to regulate the transport of ultra-hazardous materials through the city, instead obtained a court order to stop the District from enforcing its law."

WAR NEWS:

Bush Calls On Assad To Stop Flow Of Insurgents Into Iraq. USA Today/AP (9/14) reports President Bush "warned Syria to stop foreign fighters who train there and then cross the border into Iraq." The Washington Times (9/14, Sammon) reports President Bush 'threatened to further isolate Syria if it does not stanch the flow of killers streaming into Iraq and vowed to press his case at the United Nations today. 'The Syrian leader must understand we take his lack of action seriously,' Mr. Bush said of Syrian President Bashar Assad. 'The government is going to become more and more isolated.' … 'The Syrian government can do a lot more to prevent the flow of foreign fighters into Iraq,' Mr. Bush said. 'These people are coming from Syria into Iraq and killing a lot of innocent people. They're trying to kill our folks, as well.'"

The CBS Evening News (9/13, story 11, 0:30, Schieffer) reported President Bush yesterday "met with the visiting prime minister of Iraq. Both men said this is not the time to set a deadline for pulling American troops out of Iraq. The President also accused Syria of failing to stop the flow of Islamic militants across the border into Iraq."

NBC Nightly News (9/13, lead story, 3:25, Gregory) reported, "At the White House today, Mr. Bush welcomed Iraqi president Jalal Talibani. But the war has, for now, been overshadowed by crisis at home."

Bush Pledges To Keep US Forces Fighting In Iraq. The Los Angeles Times (9/14, Richter) reports President Bush "promised his Iraqi counterpart Tuesday that the United

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States would persevere in the joint fight against insurgents." Bush "pledged that U.S. forces would 'stay on the offensive alongside Iraqi security forces.'"

Talabani Says Timetable For US Withdrawal Would Be Counter-Productive. USA Today/AP (9/14) reports Iraqi President Jalal Talabani "said Tuesday in Washington that Iraq will not set a timetable for the withdrawal of U.S. troops. He said that to do so would send a signal to insurgents that they can weaken the alliance between Iraq and America. Speaking at a White House news conference with President Bush, Talabani held out the option of significant U.S. troop withdrawals by the end of 2006 if Iraqi forces are ready to assume more responsibility for the nation's security. However, he said that would take place only if the United States agreed." Talabani said, "We don't want to do anything without the agreement with the Americans because we don't want to give any signal to the terrorists that our will to defeat them is weakened."

Iraqi Assembly Urges US "Occupation Forces" To Withdraw. Knight Ridder (9/14, Youssef) reports, "In an attempt to lay the legal groundwork for asking the United States to withdraw its troops, an Iraqi National Assembly committee released a report Tuesday that said the presence of the American military prevents Iraq from becoming fully sovereign. The 18-member National Sovereignty Committee, made up of legislators chosen in national elections in January, said the only way Iraq could achieve sovereignty was for multinational forces to leave. The report called for setting a timetable for the troops to go home and referred to them as 'occupation forces,' a first." According to Knight Ridder, "The report also asks the United Nations to issue a resolution declaring Iraq a sovereign country and the government to repeal an order enacted by the U.S. Coalition Provisional Authority that gives foreign nationals here immunity from prosecution in Iraqi courts. It also called for the government to have control over its intelligence operations, palaces and prisons. American forces so far have refused to grant Iraqis access to many intelligence operations, to allow them to occupy several palaces that Saddam built and to let them operate several prisons."

Final Draft Of Iraqi Constitution Unlikely To Satisfy Sunnis. The New York Times (9/14, Worth) reports, "On Tuesday, the leaders in the Shiite-dominated National Assembly said they approved a final, modified version of the proposed new constitution. But the charter still does not come close to mollifying Sunni leaders who had hoped to win far broader changes in the document before the Oct. 15 national referendum. The approval came more than two weeks after the draft was formally presented to Parliament over the objections of some lawmakers." The Times goes on to report, "The leaders of the constitutional drafting committee said they had signed off on a final version, as did Hussein al-Shahristani, the acting speaker of the National Assembly and a leader of its Shiite majority. Mr. Shahristani said that he would announce the document's completion at a news conference on Wednesday, and that it would then be given to United Nations officials, who are responsible for printing and distributing it."

Biden Says Bush Should Postpone Constitutional Referendum. In an op-ed for the Washington Post (9/14) Sen. Joseph Biden writes, "The Bush administration's mishandling of Iraq has brought us to the brink of a national security debacle. To salvage the situation, the administration must fundamentally change course inside Iraq, in the region and at the international level. … The administration is taking a huge gamble by going forward with a referendum for a constitution that is more likely to divide Iraq than to unite it." Biden continues, "The Bush administration's hope seems to be that Sunnis and Iraqi women will 'get over it.' But hope and stubbornness do not constitute a strategy. … If negotiators don't reach reasonable compromises that bring moderate Sunnis on board, the Bush administration should support postponing the constitutional referendum until after elections for a new National Assembly are held in December, which would allow a new committee with elected Sunni members to reconsider the draft."

Baghdad Bomber Kills At Least 82 Seeking Jobs. Reuters (9/14) reports, "A suicide bomber blew up his minibus after luring a crowd of men to the vehicle with promises of work in Baghdad on Wednesday, killing at least 82 people and wounding 163, police and officials said. … Bodies lay in the street beside burned-out cars, witnesses said. Some used wooden carts to haul away the dead." USA Today/AP (9/14) reports, "At least 73 people were killed early today when a terrorist drove an explosives-filled vehicle into a crowd of laborers waiting for construction work. … Lt. Col. Moayad Zubair said 73 people died and 162 were injured. He said the death toll would probably go up because some of the wounded were unlikely to survive."

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The New York Times (9/14, Worth) reports, "The attack appeared to be the latest sectarian strike directed against Shiites in Baghdad, who have been repeatedly targeted by Sunni Arab insurgents and terrorists bent on exploiting Sunni-Shiite divisions across Iraq." The Los Angeles Times (9/14, Sanders) reports, "t was the deadliest bombing in Iraq since a suicide attacker ignited a fuel tanker July 16 near a Shiite mosque in the central town of Musayyib, killing almost 100 people."

US And Iraqi Forces Cut Down Frequency Of Attacks On Airport Road. USA Today (9/14, For) reports, "Attacks on and around the 7-mile highway linking Baghdad to its international airport have dropped 41% since May, the result of increased U.S. and Iraqi troop presence and new tactics to battle insurgents along one of the world's most dangerous roads. There hasn't been a suicide car bombing on the road since April, according to U.S. military statistics through August. U.S. officers attribute the decline to an influx of Iraqi troops who have been stationed at key points. … In May, insurgents staged 49 attacks on the road and in surrounding neighborhoods, including assaults with deadly roadside bombs and rocket-propelled grenades. … The number of attacks fell to 29 in August, mostly small-arms fire."

US Warplanes Bomb Haditha In Northern Iraq. The AP (9/14, El-Tablawy) reports, "U.S. forces widened their operations against insurgents in northern Iraq on Tuesday, launching an attack on the Euphrates River stronghold of Haditha only days after evicting militants from Tal Afar. Residents also reported American air strikes in the same region near Qaim. The Americans called in bombing raids in Haditha, 140 miles northwest of the capital. They captured one militant with ties to al-Qaida in Iraq and killed four others. In the volatile city of Qaim, about 80 miles northwest of Haditha, residents said clashes broke out between insurgents and coalition forces. The U.S. military did not confirm the air strike. … After the raid Tuesday on Haditha, Associated Press Television News videotape showed at least three houses that residents said were demolished in the U.S. air strike."

Army Colonel Alleges Insurgents In Tal Afar Have Committed Atrocities. The Atlanta Journal-Constitution/AP (9/14, Burns) reports Col. H.R. McMaster, commander of the 3rd Armored Cavalry Regiment, "asserted Tuesday that extremist fighters in northern Iraq committed atrocities against civilians, including beheadings, torture and the booby-trapping of a murdered child's body. The accusations…included some of the most graphic and specific charges by an American military officer during the ongoing battle for control of Tal Afar, a city about 50 miles from the Syrian border that has been an insurgent stronghold." McMaster "said Tal Afar is not yet under the control of the 5,000 Iraqi government forces and 3,500 to 3,800 U.S. troops that have been fighting together there for the past two weeks. He predicted eventual victory but said it was impossible to know how long it would take before the Iraqis can control Tal Afar by themselves." The Washington Post (9/14, A27, Finer) reports, "During the incursion into Tall Afar…more than 550 suspected insurgents have been killed or captured this month, commanders said. Much of the fighting was carried out with airstrikes or by the Iraqi army, which led the assault."

Jaafari Receives Warm Welcome From Iraqi Expatriates In Michigan. The New York Times (9/14, Hakim, Peters) reports Dearborn, Michigan's Iraqi-American population "embraced" Iraqi prime Minister Ibrahim al-Jaafari. But "they also had plenty of questions in a town hall meeting that was at times contentious. Attendees asked Mr. Jaafari about the future of Kirkuk, whether the rights of Chaldeans would be respected, whether there were still Iraqi prisoners of war in Iran and whether Iraqi embassies throughout the world and government agencies in the country were still stocked with former Baathists. And they wanted to know when justice and the rule of law would return to their native land." The Times notes, "Nisrin Kadum, 49, a banking specialist at Comerica Bank who fled Iraq in 1979, was almost shouted down when she asked about the role of women in the country."

Iraqi Legislature Considers Expanding Application Of Capital Punishment. The Los Angeles Times (9/14, Levey) reports, "Struggling to fight back against insurgents roiling the country, Iraqi lawmakers have begun to debate sweeping anti-terrorism legislation that could significantly expand use of the death penalty." Iraq's leaders "are contemplating expanding the list of crimes punishable by death to include offenses such as attacking government buildings, using explosives to kill people and advocating sectarian violence. … Although many Iraqis have been calling for more executions since the insurgency began, some Sunni Arabs fear that they will be unfairly

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targeted by the death penalty because the rebellion is centered in Sunni regions of the country. And human rights groups are expressing concern that an expanded use of the death penalty may push Iraq back toward a time when the government wantonly executed its opponents."

Iraqi Economy And Currency Said To Be Performing Above Expectations. In an op-ed for the Wall Street Journal (9/14) Amir Taheri, author of "L'Irak: Le Dessous Des Cartes," writes, "In the Tehran moneychangers' bazaar" there is an increasing demand for the Iraqi dinar. Taheri adds, "With the world media depicting Iraq as a ship sinking in a sea of blood, and self-styled experts predicting civil war or disintegration, it is hard to imagine why anyone would want to abandon such all-time favorites as the U.S. dollar and the euro, not to mention the oil currencies of the region, in favor of the world's newest money. One reason, of course, is the sharp rise in the supply of dollars, a result of the dramatic increase in the price of oil. (Iran is earning something like $200 million each day from its oil exports.) … Some Americans might think that Iraq owes its robust economic performance to a flood of dollars provided by the U.S. taxpayers. The IMF report shows that this is not the case. Iraq is paying 90% of its own expenditures, including the cost of economic reconstruction."

US Considers Pulling 20 Percent Of Troops From Afghanistan Next Year. The Washington Post (9/14, A26, Graham) reports, "U.S. military commanders have drafted plans to lower the number of American troops in Afghanistan by roughly 20 percent next year if NATO-led troops from Europe continue to widen their role in securing the country, according to senior officers here. A reduction of as many as 4,000 of the nearly 20,000 American troops in Afghanistan would be the largest drop in a force that generally has grown since the U.S.-led invasion in late 2001. … 'It makes sense that as NATO forces go in, and they're more in number, that we could drop some of the U.S. requirement somewhat,' Army Gen. John P. Abizaid, the senior U.S. commander in the region, said in an interview here. He stressed that no decision had been made to shrink the U.S. military presence." The Post notes, "The planning comes as intensified fighting in Afghanistan this year has killed more than 50 Americans, the highest death toll in any year since the troops arrived."

Rumsfeld Seeks More NATO Forces For Afghanistan. The Wall Street Journal (9/14. A19, Jaffe) reports, "Defense Secretary Donald Rumsfeld urged NATO nations to continue efforts to expand their presence in Afghanistan -- a move that eventually could enable the U.S. to draw down its own troops in the country. … U.S. officials say they believe NATO troops will take over security in the country's once-restive south. The increased NATO presence and the development of Afghan security forces eventually should allow the U.S. to begin reducing its presence, Mr. Rumsfeld said." The New York Times (9/14, Schmitt, Cloud) reports, "Germany, supported by Britain, France and other European allies, said Tuesday at a meeting of defense ministers in Berlin that it strongly opposed any American-backed restructuring of the NATO command structure that could lead to having alliance troops become involved in counterinsurgency. Because those operations represent a large part of American troop activity in the south, it is not clear whether the reductions can go forward. In the past few months, violence has surged in the south, with Taliban forces conducting a campaign of assassinations and intimidation ahead of elections on Sunday."

The AP (9/14, Baldor) reports that at the two-day NATO meeting, Rumsfeld "aid NATO's move to take on a larger role in Afghanistan, including drug interdiction, will be a key topic of discussion throughout the meeting. 'Over time it would be nice if NATO would develop counterterrorist capabilities which don't exist at the current time,' he said. … Rumsfeld said he is also urging his defense counterparts to find ways to increase the military flexibility of NATO's forces and the financing for the alliance. Several countries put limits on the military activity their forces can engage in as part of NATO, such as limiting where they can go or what type of combat force they can use."

Three US Soldiers Face Charges Relating To Afghans' Deaths. The New York Times/AP (9/14, Press) reports, "An Army officer and two more of his soldiers from a Reserve unit have been charged in a prisoner abuse investigation in Afghanistan, the Army announced Tuesday. The officer, Capt. Christopher M. Beiring, who led the 377th Military Police Company based in Cincinnati, was charged with dereliction of duty and making a false official statement. He is the first officer to be charged in the investigation. The abuse case primarily involves two detainees who died at the Bagram Air Base detention center, where Captain Beiring's

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unit worked. The first, Mullah Habibullah, was found dead in his cell at the detention center just days after being taken into American custody in December 2002. A second detainee, Dilawar, arrived at Bagram the day after Mr. Habibullah died. Mr. Dilawar died about a week later."

US To Fund Military Prison In Afghanistan To House Gitmo Detainees. The Washington Times (9/14, Scarborough) reports, "The Pentagon will help finance construction of a locally run military prison in Afghanistan as part of a plan to send to their home countries scores of terror detainees at the prison at U.S. Naval Base Guantanamo Bay" Matthew C. Waxman, deputy assistant secretary of defense for detainee affairs, "said the United States will help Afghanistan build a military prison to detain enemy combatants and to accept transfers from Guantanamo. A defense official could not supply details on the new prison, saying talks were in the early stages."

Pakistan Captures Afghan Insurgents Running Recruitment Center. The New York Times (9/14, Khan, Sengupta) reports Lt. Gen. Safdar Hussain, "A top Pakistani military commander…said Tuesday that his forces had arrested 21 militants along the border, found a remotely piloted spy plane and seized a cache of arms and communications equipment believed to be used in insurgent operations in Afghanistan." Hussain "also said his forces had detected a recruitment office that was bringing in new fighters for the war against the Afghan government and the American-led forces there."

DOJ:

Eastern Kentucky US Attorney Tapped For Federal Bench. The AP (9/14) reports, "Greg Van Tatenhove, the chief federal prosecutor for the eastern half of Kentucky, is in line to become a federal judge after being tapped by President Bush." The AP continues, "Van Tatenhove, the U.S. attorney for the Eastern District of Kentucky, was nominated to fill a vacancy created on the federal bench when Judge Karl Forester took senior status in May. … In a statement Tuesday, Van Tatenhove thanked Bush for nominating him and expressed gratitude to Republican U.S. Sens. Mitch McConnell and Jim Bunning for their support. … The nomination requires confirmation by the U.S. Senate." The AP adds, "Van Tatenhove is well connected politically, having served as an assistant to McConnell before attending law school and later as a top aide to U.S. Rep. Ron Lewis, R-Ky. … Van Tatenhove, 45, has been U.S. attorney for the 67-county Eastern District since 2001. The district runs from Shelbyville to Pikeville and from Covington to the Tennessee line."

DC's Top Lawyer Is Candidate For Judgeship. The Washington Post (9/14, Cauvin) reports, "D.C. Attorney General Robert J. Spagnoletti, the city government's chief lawyer, is one of three candidates for an opening on the bench of D.C. Superior Court." The Post continues, "Spagnoletti, 42, has had his eye on a judgeship for at least a few years, but when he took on his current job in May 2003, he indicated to Mayor Anthony A. Williams (D) that he was committed to staying through the mayor's current term. The new opportunity comes more than a year before the mayor's race, and Williams has yet to declare whether he will seek reelection." The Post adds, "A prosecutor for 13 years before joining the mayor's Cabinet, Spagnoletti was on the short list for the Superior Court bench once before, in 2000, while he was working at the U.S. attorney's office. His current job has given him a much higher public profile. … In addition to Spagnoletti, the D.C. Judicial Nomination Commission chose Andrew Fois, a former assistant attorney general at the Justice Department, and Carol A. Dalton, a D.C. Superior Court magistrate judge, for consideration by President Bush. The opening was created by the appointment of Judge Noel A. Kramer to the D.C. Court of Appeals."

CORPORATE SCANDALS:

Judge Splits Enron Broadband Case Into Three Separate Retrials. The AP (9/14, Hays) reports, "Five former executives from Enron Corp.'s defunct broadband unit whose trial ended with jurors unable to reach verdicts on most charges will be retried in three separate cases next year." The AP continues, "Nearly two months ago a jury returned acquittals on some charges after a three-month trial but was deadlocked on dozens more. U.S. District Judge Vanessa Gilmore declared a mistrial on those charges and set retrial dates Monday." The AP adds, "At least one of the trials, involving conspiracy and fraud counts against the broadband unit's former finance chief and a former in-house accountant, was scheduled for May 1. It is likely to overlap

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with the conspiracy and fraud trial of Enron founder Kenneth Lay and former CEO Jeffrey Skilling, set to begin in January in a courtroom next door to Gilmore's. The other two cases were scheduled for June 5 and Sept. 5. … All five broadband defendants, as well as Lay and Skilling, have pleaded innocent. … Barry Pollack, who represents former in-house Enron broadband accountant Michael Krautz, questioned whether a a fair jury could be found in the middle of the publicity of the ongoing Lay and Skilling trial."

CRIMINAL LAW:

Court Discloses Rudolph Defense Cost Taxpayers More Than $4 Million. The AP (9/13, Reeves) reports, "Legal fees to defend Eric Rudolph in a deadly Alabama abortion clinic blast and the Atlanta Olympics bombing cost taxpayers more than $4 million before he agreed to plead guilty in a deal that spared his life, court documents show." The AP continues, "One of Rudolph's attorneys said Tuesday the bill would have been far higher had the case gone to trial. … 'That would have probably tripled the cost,' said Bill Bowen, part of a team of at least nine lawyers who defended Rudolph." The AP adds, "Rudolph is serving four life terms after pleading guilty in the Birmingham clinic bombing, which killed a police officer in 1998, and the Olympics bombing, in which a woman died in 1996. He also pleaded guilty in two other bombings that occurred in Atlanta in 1997. … U.S. Attorney Alice Martin said the government had not computed the total cost of prosecuting Rudolph, who was the subject of an intense manhunt following the Birmingham bombing in 1998 until May 2003, when he was captured in Murphy, N.C." The AP notes, "The cost of defending Rudolph was disclosed in an order filed last week by U.S. District Judge Lynwood Smith. Attorneys in the Alabama case were paid $2.02 million for representing Rudolph, who declared himself broke and received court-appointed legal representation following his arrest in 2003."

Massachusetts Teen Pleads Guilty To Hacking Paris Hilton's Cell Phone. The Washington Post (9/14, Krebs) reports, "A Massachusetts teenager has pleaded guilty to hacking into the cell-phone account of hotel heiress and Hollywood celebrity Paris Hilton, a high-profile stunt by the youngest member of the same hacking group federal investigators say was responsible for a series of electronic break-ins at data giant LexisNexis." The Post continues, "The 17-year-old boy was sentenced to 11 months' detention at a juvenile facility for a string of crimes that include the online posting of revealing photos and celebrity contact numbers from Hilton's phone. As an adult, he will then undergo two years of supervised release in which he will be barred from possessing or using any computer, cell phone or other electronic equipment capable of accessing the Internet." The Post adds, "The U.S. Attorney's Office for Massachusetts and the state district court declined to identify the teen, noting that federal juvenile proceedings and the identity of juvenile defendants are under seal. But a law enforcement official close to the case confirmed that the crimes admitted to by the teen included the hacking of Hilton's account. … The teen also pleaded guilty to making bomb threats at two high schools and for breaking into a telephone company's computer system to set up free wireless-phone accounts for friends. He also participated in an attack on data-collection firm LexisNexis Group that exposed personal records of more than 300,000 consumers. Prosecutors said victims of the teen's actions have suffered about $1 million in damages."

Indiana Dentist Sentenced To 57 Months For Medicaid Fraud. The South Bend (IN) Tribune (9/13, Heline) reports, "A former Warsaw (IN) dentist who operated a mobile dental lab in the South Bend area has been sentenced to 57 months in prison for Medicaid fraud." The Tribune continues, "U.S. District Judge Allen Sharp imposed the sentence specified in the plea agreement Dr. Bryan Spilmon accepted earlier this year." The Tribune adds, "Spilmon, 44, pleaded guilty to 12 counts of health care fraud and one count of money laundering. … The remaining charges in the 52-count indictment were dismissed, as were charges filed against Spilmon's wife, Diane." The Tribune notes, "At the time of his guilty plea, Spilmon admitted to submitting billings and claims for reimbursement to Medicaid for treatments and diagnostic procedures that were never done or were not necessary. … Spilmon was accused of falsely billing the heath care benefits program for the needy for more than $2.4 million from 2001 to 2003. … He took his mobile dental units to areas where he could serve needy youths between 12 and 18, purporting to provide adequate dental care for them, when he was just engaging in a massive billing fraud, according to Assistant U.S. Attorney Donald Schmid. … The U.S. Marshals Service may take the two

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mobile dental units to the Gulf Coast to assist in Hurricane Katrina relief efforts, Schmid said."

Four Chinese-Americans Plead Guilty To Illegal Technology Transfers. In a widely-distributed story, the AP (9/14, Gold) reports four naturalized US citizens "who operated an electronics firm in southern New Jersey pleaded guilty Tuesday to violating export regulations by shipping nearly $400,000 of electronics that could be used for military purposes to entities controlled by the Chinese government. The case involving Manten Electronics Inc. is the latest, but far from the largest, to deal with illegal technology and arms exports to China." The AP adds, "The four people at Manten, as well as four people at Universal Technologies Inc. …were arrested in July 2004 following an 18-month investigation by ICE, the FBI and the U.S. Commerce Department." Manten president Xu Weibo "and his three co-defendants each pleaded guilty to a single charge of conspiring to violate export laws" and admitting "they lied to U.S. distributors and on shipping documents to conceal the nature of the shipments."

US Asks Philippines To Help Trace Documents In Spying Probe. Reuters (9/14) reports, "The United States has asked the Philippines to help it trace recipients of classified documents suspected to have been stolen by a former Filipino police officer and an FBI employee, a senior official said on Tuesday. Michael Ray Aquino, a former top police official in the Philippines, and Leandro Aragoncillo, a Philippine-born U.S. citizen, were arrested in the United States on espionage charges on Saturday. … 'The FBI is now asking for our help to find out who received those documents here in the Philippines and who provided the money for the transaction,' Reynaldo Wycoco, head of the National Bureau of Investigation…told reporters. Wycoco said the information was a 'classified assessment of the Philippine political situation and political leaders.'"

FBI Subpoenas Florida Sheriff's Campaign Finance Records. The Sarasota Herald Tribune (9/14, Ruger) reports, "The FBI has subpoenaed Sarasota County Sheriff William Balkwill's campaign financial reports for the 2000 and 2004 elections. … Balkwill does not know why the records were subpoenaed, Sheriff's Office spokesman Lt. Chuck Lesaltato said Tuesday. … The FBI has not served a subpoena to Balkwill or anyone else in the Sheriff's Office, Lesaltato said. … The FBI special agent listed on the subpoena declined to comment Tuesday, referring questions" to Tampa FBI spokeswoman Sara Oates, who "said the FBI does not confirm or deny the existence of any investigations."

Tennessee Attorney Charged With Fraud Is Extradited From Brazil. The AP (9/14) reports, "The U-S Attorney for Middle Tennessee says a former lawyer wanted on fraud and money-laundering charges has been brought back to Nashville from Brazil." The AP continues, "George Nason is one of eleven people named in a 2002 federal indictment in connection with the former Loan Ranger company." The AP adds, "U-S Attorney Jim Vines says Nason is charged with conspiracy to defraud mortgage loan companies and financial institutions, mail fraud, bank fraud, money laundering and false statements to financial institutions. … Prosecutors say Nason and the others bought properties, then sold them to 'straw buyers' at inflated prices. The government says the 'straw buyers' borrowed from the banks and mortgage lenders and the alleged conspirators paid them ten-thousand dollars per sale for helping in the scam."

Massachusetts Attorney, GOP Official Charged With Money Laundering. The AP (9/14, Lavoie) reports, "The vice chairman of the Massachusetts Republican Party was charged Tuesday with money laundering after he allegedly offered to 'cleanse' drug proceeds for a legal client." The AP continues, "Lawrence Novak, 54, an attorney from Brockton, Ma., was arrested at his home Tuesday after investigators said he allegedly offered to launder drug profits for Scott Holyoke, who is awaiting trial on federal drug trafficking charges and agreed to be a cooperating witness against Novak for the FBI. … Novak was taken into custody after he allegedly deposited money in a Brockton bank, federal authorities said." The AP adds, "Gov. Mitt Romney called for Novak to step down while the investigation continues. … 'The charges against Larry Novak are very troubling and Gov. Romney believes that it's appropriate while these charges are pending for Mr. Novak to step aside as vice chairman of the state party,' said Romney's spokesman, Eric Fehrnstrom." The AP notes, "Republican Party Executive Director Tim O'Brien said the charges are unrelated to Novak's GOP role. Novak served as the party's

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treasurer in the late 1990s. … Novak made an initial appearance in U.S. District Court late Tuesday and was released on $25,000 non-surety bond. Neither he nor his attorney would comment on the charges. … Novak allegedly offered to have Holyoke sign false affidavits in an attempt to invalidate some of his prior state court convictions in order to reduce the sentence he would face in his federal case."

Woman Faces Death Penalty In Texas Killing. The Washington Times (9/14, Aynesworth) reports, "Texas stands ready today to execute the first black woman, and only the third female, to be put to death since the state resumed capital punishment in 1982. Frances Newton, 40, was convicted of murdering her husband and two children in 1987. She always has maintained her innocence, though prosecutors convinced a Harris County jury that she killed her family for $100,000 in insurance money." The paper adds, "Only a last minute stay of execution by Gov. Rick Perry or intervention by the Supreme Court can halt the execution. Newton's lawyers wrote a letter to Mr. Perry Monday, asking for a 30-day stay in their efforts to show that prosecutors erred in linking her to a presumed murder weapon. Unlike the days preceding the executions of Karla Faye Tucker in 1998 and Betty Lou Beets in 2002, Newton's plight has not elicited much interest from outside the state, although the president of the American Bar Association has asked the governor to intercede, citing 'compelling new evidence' that 'has not been evaluated by Texas courts.'"

Ohio Parents Charged With Caging 11 Adopted Children. The CBS Evening News (9/13, story 12, 2:00, Schieffer) reported, "The sheriff's department in a small Ohio town is investigating a possible case child abuse tonight that is simply incredible. No charges have been filed yet, but the case involves several children whose adoptive parents made them sleep in cages." CBS (Alfonsi) added, "Investigators say it looked like a cell block here. 11 children were living inside this home, and some of them were sleeping in cages." The children, "who range in age from one to 14, are all adopted and all severely disabled. They were locked up, their parents say, for their own good."

DeLay Associates To Face Additional Felony Charges. The Dallas Morning News (9/14, Slater) reports, "Two political associates of U.S. House Majority Leader Tom DeLay were indicted Tuesday on additional felony charges of illegally using corporate money to elect Republicans in 2002. John Colyandro and Jim Ellis were charged with using $190,000 in corporate money to make campaign contributions to GOP candidates for the Texas House in what prosecutors say was an illegal money-laundering scheme." Colyandro, "former executive director of the Texans for a Republican Majority Political Action Committee, and Mr. Ellis, who heads Mr. DeLay's Washington-based Americans for a Republican Majority, were indicted earlier on money-laundering charges. Tuesday's charges focus on the campaign contributions. Both defendants deny wrongdoing." DeLay, "who created both political action committees, is not charged in the three-year grand jury investigation into allegations of illegal corporate cash in Texas political races."

CIVIL LAW:

2nd Circuit Approves Allocation Formula For Holocaust Settlement. The New York Law Journal (9/14, Hamblett) reports, "An Eastern District of New York judge's allocation of settlement funds to the most needy, elderly victims in the Holocaust Victims Assets litigation has been upheld by a federal appeals court." The Journal continues, "In a decision issued Friday written by Judge Jose Cabranes, the 2nd U.S. Circuit Court of Appeals upheld the formula used by Judge Edward Korman that placed special emphasis on compensating Holocaust victims who live in the former Soviet Union." The Journal adds, "The principal issues in the appeals were settled by the circuit in In Re Holocaust Victim Assets Litigation cases 04-1898-cv and 04-1899-cv. The appeals challenged Korman's geography-based allocation of a $1.25 billion settlement with Swiss banks and other organizations designed to aid victims of the Holocaust. … The proceeds of the settlement are to be divided among five classes -- the Deposited Assets Class (those whose assets were stolen from Swiss banks); the Looted Assets Class (those whose possessions were stolen by the Nazis and then disposed of through Swiss banks), two classes of those forced into slave labor by the Nazis, and a fifth Refugee Class."

USA Today Says Bush Should "Pick A Fight" Over Base Closures. An editorial in USA Today (9/14) says President Bush must decide by the end of next week "what to do with a list of military base closings and

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realignments he received Thursday from a special commission. The president has two choices: approve the list, or kick it back to the commission for further review. Because the panel gave the Pentagon most of what it sought, and because Bush is occupied with Hurricane Katrina and other issues, he's not expected to pick a fight. But this is a fight worth picking. … The president has a full plate right now, but he shouldn't pass up a chance to save money and improve defense — even if it means putting the commission back to work."

With Ellsworth Open, Thune Can Expand Nationally. Roll Call (9/14, Preston) reports, "A few days before a federal commission was scheduled to decide the fate of Ellsworth Air Force Base, South Dakota's two Senators," John Thune (R) and Tim Johnson (D), "preemptively released a lengthy statement pledging to work together on issues of importance to the state." Soon afterwards, the commission voted to keep it open. "The Ellsworth victory now allows Thune to spend part of his time helping the national Republican Party." Ellsworth's closing "would have been so damaging" because "it would have forced Thune to shore up support in his home state rather than advancing his national ambitions."

CIVIL RIGHTS:

DOJ Probing Florida Prisons. The St. Petersburg (FL) Times (9/14) reports, "The FBI confirmed Tuesday it is investigating the Florida Department of Corrections, though the nature of the probe is unclear." The Times continues, "FBI agents are working with the Florida Department of Law Enforcement, said FBI spokesman Jeff Westcott in Jacksonville. He declined to provide details. … 'I can confirm that the FBI, along with FDLE, are involved in an investigation that concerns the Department of Corrections,' Westcott said." The Times adds, "A high-ranking state prison official, Region I director Allen "A.C." Clark, quit last week without explanation. Clark rose through the ranks under Corrections Secretary James Crosby, who also has declined to discuss why he quit, other than citing 'personal reasons.' … Gov. Jeb Bush suggested Monday that he knew details but could discuss them. … Four current or former Corrections Department employees were charged in February with illegal distribution of steroids. The case involved the Justice Department, FDLE, Clay County Sheriff's Office and federal postal inspectors."

Report Finds Blacks, Hispanics, Pay Higher Mortgage Interest Rates. Knight Ridder (9/14, Appelbaum) reports, "In a national report issued Tuesday, the Federal Reserve Board said blacks and Hispanics disproportionately receive high interest rates on mortgage loans, that it does not know why and it intends to find out." Knight Ridder continues, "Regulators will examine lending by about 200 selected companies to see if discrimination affected pricing decisions, the report said. The Fed declined to name the firms. … The Fed also said it will examine whether blacks and Hispanics are sometimes steered to high-rate lenders when they could qualify for a market-rate loan." Knight Ridder adds, "The report is the federal government's opening statement in an accelerating public debate about the role of race in loan pricing. … For the first time, lenders must disclose which of their loans carry a high rate. … The Charlotte Observer reported in August that blacks were four times as likely as whites last year to receive high rates on home purchase loans, based on the newspaper's analysis of about half of all loans. Hispanics were twice as likely."

NYTimes Opposes Pennsylvania Bill Limiting Parolee Voting Rights. The New York Times (9/14) opposes a bill passed by the House that "could potentially deprive tens of thousands of parolees and probationers of the right to vote." The bill "represents an odious attempt by lawmakers to undo a state court ruling overturning a law that required newly released prisoners to wait five years before getting the right to vote. … Legislators are also trying to direct public attention away from a hugely unpopular pay raise that they voted for themselves earlier this year. That makes the attack on voting rights all the more reprehensible."

ANTITRUST:

Microsoft, Google Claim Victory In Hiring Lawsuit. The Washington Post (9/14, D5, Vise) reports that a Washington state judge yesterday ruled "that a former Microsoft executive hired by Google can begin doing some, but not all, work for the search engine company in China, the latest twist in a battle that will play out into next year." The paper says, "In a written opinion, King County Superior Court Judge Steven C. Gonzalez ruled that Kai-Fu Lee can start

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recruiting employees for Google, meeting with government and university officials, and establishing a headquarters for Google's new research center. But, pending a trial in January, the judge barred Lee from hiring anyone away from Microsoft, using confidential information he learned during his employment there, or working in computer search and other specified fields for Google." The Post adds, "Tom Burt, Microsoft's deputy general counsel for litigation, said the Redmond, Wash.-based software giant had succeeded in severely restricting Lee's activities and use of corporate secrets. He said Google was paying Lee $10 million to head its China operations even though he could actually do very little of substance in light of the ruling. … Nicole Wong, associate general counsel for Google, said Lee would immediately get rolling, hiring employees in China and establishing a new research center there."

The AP (9/14, Johnson) reports, "Lee cannot set budget or compensation levels or define the research that Google will do in China, but he can hire people to work there, the judge said. … Lee, who has worked at Microsoft since 2000 and oversaw development of its MSN Internet search technology, including desktop search software rivaling Google's, left in July to lead Google's expansion into China. … Microsoft sued Lee and Google, contending that Lee's job at Google would violate the terms of a noncompete agreement, which prohibits him from doing similar work for a rival for a year. Microsoft also accused Lee of using insider information to get his job at Mountain View, Calif.-based Google. … Google has responded with its own lawsuit against Microsoft in U.S. District Court in San Jose, Calif."

Gates Discusses Microsoft's Competition With Google, Others. The Seattle Post-Intelligencer (9/14, Bishop) reports, "Microsoft Corp. is grappling with 'a lot of smart competitors,' including Google and Apple, who are ahead of the Redmond company in some key markets, Bill Gates acknowledges. … But the Microsoft chairman on Tuesday said his company remains the overall industry leader, and he compared the current rivalries to legendary ones with Lotus, Novell and WordPerfect -- situations in which the Redmond company ultimately overcame steep odds to prevail. … 'At any point in our history, we've had competitors who were better at doing something,' Gates said in an interview with the Seattle Post-Intelligencer, underscoring the fact that it wouldn't be unprecedented to come from behind now." The P-I continues, "That was one of the subjects addressed by Gates during the interview at the company's Professional Developers Conference, where Microsoft is seeking to rally support for Windows Vista and Office 12, the next versions of its dominant PC software programs. Among other things, the company showed plans to shift away from traditional drop-down menus to a new "ribbon" of commands across the top of the widely used Office programs. … Gates answered questions on a wide range of topics, including Microsoft's growth prospects in the Seattle region, its ambitions in China, and efforts to shore up the security of its software."

Whirlpool Makes Intent To Acquire Maytag Official. The AP (9/13, Prichard) reports, "Whirlpool Corp. has officially notified the Federal Trade Commission and the U.S. Department of Justice of its intent to purchase rival appliance maker Maytag Corp. in a cash-and-stock deal valued at more than $1.7 billion." The AP continues, "Whirlpool sent notification letters last week to both agencies because it is unclear at this point whether it will be the FTC or the Justice Department that will investigate possible antitrust concerns, Whirlpool spokesman Steve Duthie said Tuesday. … 'Neither Justice nor the FTC has considered or ruled on a merger in the U.S. appliance industry for a long time – 15 to 20 years, I think,' Duthie said." The AP adds, "Once the regulators figure out which of them has jurisdiction, Benton Harbor-based Whirlpool will provide the investigating agency with more details about its planned acquisition of Maytag, he said. … Probably by the end of this month, Whirlpool will notify the Securities and Exchange Commission that it plans to issue new shares of stock to be given to Maytag shareholders as part of the proposed transaction." The AP notes, "Shareholders of Newton, Iowa-based Maytag must approve the acquisition and will vote on the proposal before the end of the year, the company said last month. The agreement does not need the approval of Whirlpool's shareholders."

US Cellular To Acquire Alltel's Kansas, Nebraska Operations. The AP (9/13) reports, "Wireless carrier U.S. Cellular Corp. said Tuesday it is acquiring Cellular One's operations in Nebraska and Kansas in a move to expand its presence in the Midwest. … In exchange, U.S. Cellular will transfer its Idaho networks to an Alltel Corp. unit and pay $50 million." The AP continues, "U.S. Cellular said the deal will give it about 125,000 retail customers, 193 cell sites, 15 company-owned stores and 89

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agent locations in an area containing about 1.4 million people. The company currently operates in 25 counties in southeastern Nebraska and 80 counties in northeastern and southeastern Kansas." The AP adds, "Little Rock, Ark.-based Alltel will receive about 91,000 customers, 84 cell sites, six company stores and 32 agent locations in a region containing about 500,000 people. … The companies predicted that the deal will close in the fourth quarter, pending approval by communications regulators and the Justice Department. After the agreement is complete, both companies will continue operating their stores under the old brand names until they are remodeled."

PECO Submits Proposed Settlement To Resolve Exelon-PSEG Merger Concerns. Dow Jones Newswires (9/13) reports, "Exelon Corp.'s Peco Energy unit filed with Pennsylvania utility regulators a settlement that the company expects will resolve state regulatory concerns related to Exelon's planned merger with New Jersey utility Public Service Enterprise Group Inc." Dow Jones continues, "Exelon and PSEG agreed in December to merge. The deal has received regulatory approval from New York, Connecticut and the Federal Energy Regulatory Commission, but still requires the go-ahead from Pennsylvania, New Jersey and the Justice Department." Dow Jones adds, "In a press release Tuesday, PECO said its settlement offer to the Pennsylvania Public Utility Commission would cap rates for five years and give rate discounts of $120 million over the next four years. … Peco said a judge with the Pennsylvania regulator will review the proposed settlement, which also includes funding for investment in 'alternative' energy and environmental projects. … The judge is expected to make a recommendation before the settlement goes before the regulator for a full vote, which Peco said may happen before the end of the year."

America West Shareholders OK Merger With US Airways. The Wall Street Journal (9/14, Urbanowicz) reports that America West Holdings Corp. said Tuesday its shareholders have voted in favor of the company's merger with US Airways Group Inc., "clearing the way for the deal to close this month." The Journal adds, "The parent company of low-fare carrier America West Airlines said 95.5% of total voting shares were voted in favor of the deal. Class A shareholders voted 100% in favor of the deal, while class B shareholders voted 85.2% in favor. Out of the class B shareholders, 4.4% opposed the deal and 10.4% abstained from voting." America West President and Chief Executive Doug Parker said in a prepared statement, "With US Airways final bankruptcy court hearing scheduled for later this week, we anticipate closing our merger with US Airways at the end of September as previously scheduled." The Journal notes that US Airways' bankruptcy turnaround plan relies on the merger with America West. The US Bankruptcy Court of Alexandria, Va., has a hearing scheduled for Thursday to consider final court approval of the air carrier's Chapter 11 turnaround plan. Under the deal, America West will become a wholly owned unit of US Airways, and existing America West shareholders will receive about 37% of the merged airline's shares.

The Washington Times (9/14, Glanz) reports, "US Airways Group Inc. yesterday took a big step toward emerging from bankruptcy when shareholders at America West approved combining the two airlines." The paper adds, "The combination of US Airways and America West would create the nation's sixth-largest airline and a low-cost carrier with a broad geographic reach. Perhaps more important for US Airways, yesterday's vote made it more likely that US Bankruptcy Court Judge Stephen Mitchell would approve its reorganization plan, analysts said. … Judge Mitchell's hearing on US Airways' reorganization plan, scheduled for tomorrow, is the last hurdle the company must clear before a merger can take effect and its second trip into bankruptcy can end." Ray Neidl, an airline industry analyst for Calyon Securities Inc., in New York, said, "I expect [the court's] approval."

Lawsuit Charges Wal-Mart Ignores Overseas Labor Abuses. The New York Times (9/14, Greenhouse) reports, "A labor rights group filed a class-action lawsuit yesterday against Wal-Mart Stores in which apparel workers in Bangladesh, China and other countries assert that Wal-Mart violated its contractual obligations by not enforcing its code of conduct for overseas contractors. The lawsuit, filed in state court in Los Angeles, makes the novel argument that Wal-Mart's code of conduct created contractual obligations between it and thousands of workers employed by contractors who were supposed to comply with the code." The Times adds, "In the lawsuit brought by the International Labor Rights Fund, workers from Bangladesh, China, Indonesia, Nicaragua and Swaziland assert that the codes of conduct were violated in dozens of ways. They said they were often paid less than the minimum wage and did not receive

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time-and-a-half for overtime, and some said they were beaten by managers and were locked in their factories." The suit says, "Based on its vast economic power, Wal-Mart, based on its code of conduct, can and does control the working conditions of its supplier factories. It could use its power and position to prevent its producers from profiting from the inhumane treatment of plaintiffs." The paper notes "Wal-Mart executives say that they have the world's largest overseas monitoring program, with more than 5,000 factories inspected by 200 full-time inspectors who visit 30 factories a day."

The Washington Post (9/14, D6, Barbaro) reports, "An American labor rights group filed a class-action lawsuit yesterday against Wal-Mart Stores Inc., alleging that suppliers in five countries violated workers' rights, including denying a minimum wage, requiring overtime and punishing union activity." The Post adds, "The suit, which must be certified by a judge before achieving class-action status, is the latest legal salvo against the discount retailer, which faces class-action suits claiming that it discriminated against black truck drivers and female store employees. If certified, the suit could represent 200,000 to 400,000 people, said lawyer Terry Collingsworth of the International Labor Rights Fund." The paper notes The International Labor Rights Fund, a District-based advocacy group, filed the suit on behalf of 15 foreign workers who claimed they were subjected to illegal working conditions, and four California grocery employees who claimed that Wal-Mart's cost-cutting measures resulted in lower wages and benefits.

Patent Litigation Threatens Corporations. The Wall Street Journal (9/14, Bulkeley, A1) reports, "In one of Douglas Fougnies's early business ventures, he provided phony new-vehicle titles for stolen cars. His partner, Larry Day, is a onetime blackjack dealer in Las Vegas. Together, the two men have found a more lucrative line of work: suing cellphone companies for patent infringement. Earlier this year their company -- which consists of four employees and six patents -- won $128 million in damages from Boston Communications Group Inc. and four other companies over alleged misuse of a 1998 patent." The paper adds that Fougnies and Day "are successful practitioners of a growing trade." The Journal notes, "Lured by the potential returns, hedge funds and other institutional investors now are bankrolling businesses that buy up patent portfolios. More law firms, including some branching out from product-liability and malpractice work, are taking patent cases on a contingency basis. That means the law firms are paid a percentage of any damages awarded but little or nothing if the patent-holder loses. Critics call the small litigants 'patent trolls' and say they are parasites on successful businesses."

Oracle's Purchase Of Siebel Raises Creativity Concerns. United Press International (9/14, Goto) reports, "Software group Oracle's bid for Siebel Systems for a cool $5.85 billion Monday was greeted by many Wall Street analysts as a signal of the return of mega-mergers and better still -- renewed confidence in the information technology sector. … After all, earlier in the day online auction house eBay announced it will be acquiring Internet telecommunications group Skype for $2.6 billion." UPI continues, "As the world's biggest database-software company, the Silicon Valley-based Oracle would be acquiring a group that is one of the biggest players in customer relation management software, tracking marketing data, client information and other data that helps companies be more efficient in their sales strategies. The deal is still subject to U.S. government regulations under the auspices of the Department of Justice, but while some industry analysts have high hopes for Oracle making the most of the acquisition, others are not so certain." UPI adds, "One thing, however, is certain. For Thomas Siebel himself, founder and chief executive of the company and once himself an Oracle executive, the deal is a very good one as Siebel Systems was faced with a growing number of rivals, while not many companies expressed interest in taking it over. Meanwhile, for Lawrence Ellison, Oracle's chief executive, it could well be that he finally would feel vanquished after years of bitter and public animosity with Siebel following his departure from Oracle. … 'The combination of Siebel applications with the development capacity of Oracle to enhance our (client relation management) product set ... is a very beneficial business combination that will allow us to be even more effective in delivering high quality, leading edge solutions,' Thomas Siebel said in a news release. … Ellison too was equally ebullient about the deal, stating that 'in a single step, Oracle becomes the number one CRM applications company in the world. Siebel's 4,000 applications customers and 3,400,000 CRM users strengthen our number one position in applications in North America and move us closer to the number one position in applications globally.' … Analysts, however, were less effusive about the planned

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buyout, even when they agreed it could be a mutually beneficial deal."

Realtors Under Renewed Fire From DOJ Suit. CNN/Money (9/14) reports, "Are home buyers any closer to actually saving money on commissions? … The Department of Justice last week sued the National Association of Realtors over its "opt-out" policy -- the latest shot in an ongoing war to force competition in the real-estate industry, and one that could just maybe lead to a lowering of the standard 6 percent commission." CNN/Money continues, "The opt-out policy allows NAR members to keep their real-estate listings from being broadly disseminated over the Internet. … Real-estate brokers regularly share information about listings. That enables them to put together buyers and sellers more efficiently. But if an agent opts out, it means that none of his listings can be displayed on other agents' Web sites. And he cannot list other agents' properties on his. … If a buyer begins his home search on the Web, he may never see some of the properties available. That, to the Justice Department, does a disservice to consumers. Buyers would have fewer homes to choose from. Sellers would have fewer buyers bidding for their properties." CNN/Money adds, "Why would a broker want to opt out? After all, it's in the agent's best interest to have as many buyers as possible see (and bid on) a property, and the agent has a fiduciary responsibility to get the seller as high a price as the home can command. … NAR spokesman Peter Cook said that the opt-out policy is simply a way to provide good service -- many clients don't want their properties widely displayed on the Internet. Some of the wealthy and the famous wish to avoid publicity and some sellers have safety or security issues. … But critics, such as Bruce MacDonald, deputy attorney general in the antitrust division of the Justice Department, said this opt-out system is designed to 'elbow out' Web-based competitors. … This is not the first effort by the Justice Department to shake up the real-estate industry. … Previous victories for the government agency came in Kentucky, on July 13, when the state real-estate commission agreed to allow real-estate brokers to offer rebates, discounts and other inducements to consumers to win their business. … A similar agreement was reached in South Dakota this August. The Kentucky and South Dakota cases established the policy that brokers are allowed to lower their fees to drum up business."

WSJ Calls DOJ Suit Against Realtors "Right Target, Wrong Weapon." The Wall Street Journal (9/14) editorializes, "We've been pounding the National Association of Realtors over its anti-competitive behavior, and last week the U.S. Justice Department filed its own antitrust suit charging the Realtors with illegally squeezing low-cost Internet companies out of the market. So why aren't we thrilled? Because this is a case of right target, wrong weapon." The Journal continues, "At issue is the Realtor practice of preventing Internet competitors from having access to the properties for sale on the local 'Multiple Listing Service,' or MLS. The antitrust suit maintains that Realtor 'policy prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourage discounting.'" The Journal adds, "The Realtors have acknowledged in internal memos that many of their practices are meant to limit competition and preserve their lofty commissions -- typically 5% to 6% on the sale price. As such, the Realtor response to Justice that denying Internet firms access to MLS listings is 'pro-consumer, pro-competitive, and pro-innovation' fails to pass the laugh test. … At the very least, these practices violate the ethical and fiduciary duty of real-estate agents to help find the best home at the best price for their clients. … And yet we have to admit the Realtors have a legitimate claim that they created and own the local MLS database of homes for sale. They are thus within their rights to use their private property as they wish, even if that includes denying access to competitors. As an economic matter, there are no natural barriers to entry here; anyone can start a competing listing service if he desires. The Justice Department's lawsuit would require that all homes be listed on the MLS even if home sellers don't want them to be. … A federal lawsuit seems to be an inferior way to crack the real-estate cartel, especially since it may well lose on the legal merits. Far preferable would be for the states to repeal their laws that sustain the Realtor racket to the detriment of their own citizens and the cause of homeownership."

ENVIRONMENT/INDIAN AFFAIRS:

Senate Rejects Challenge To EPA Mercury Rules. The AP (9/14) reports that in a 51-47 vote, the Senate has "turned back a challenge to the Bush administration's strategy on mercury pollution, leaving intact federal rules that give power plants flexibility in how they reduce emissions of the dangerous toxin." Senators "defeated a resolution to void Environmental Protection

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Agency rules finalized last March. The Democrats and nine Republicans who supported the repeal contended the EPA approach was too slow and too weak in dealing with a pollutant that can cause serious neurological damage to newborn and young children. The White House insisted that its market-based approach to curtailing mercury pollution is effective and founded on sound science, and warned that the president would veto any legislation that overturned the EPA rules."

USA Today (9/14) reports, "Sen. Jim Jeffords, I-Vt., said the rules violate the Clean Air Act and are unwise. 'It is definitely unhealthy for Americans living downwind of coal-fired power plants, especially mothers and their soon-to-be-born children,' he said."

The New York Times (9/14, Janofsky) adds, "The resolution was brought up for a vote through a rarely used and rarely successful procedure, the Congressional Review Act. It allows lawmakers to challenge regulatory decisions. Even if the Senate had passed the resolution, it had little chance to go further. Such challenges require approval of the House, which was unlikely to act, as well as the president's signature. On Monday, the Office of Management and Budget said President Bush's senior advisers would recommend that he veto the effort."

Northeast Nuke Plants Could Impact Greenhouse Gas Pact. The New York Times (9/14, Wald) reports, "A proposed agreement among nine Northeast states to cap greenhouse gas emissions from power plants casts a new light on arguments in New Jersey and Vermont about whether the licenses of two aging nuclear plants should be extended. Community groups in both states are opposing the extensions of the licenses beyond their 40-year terms, but environmentalists are generally supportive of the proposed agreement among the governors to reduce these greenhouse gases, which contribute to global climate change. Shutting down the two reactors would mean immediate, substantial increases in the emissions, because it would increase reliance on fossil fuel plants, probably tripling emissions in Vermont and doubling them in New Jersey."

Senator Shows Concern Over Rising Heating Costs. The Hill (9/14) reports, "Sen. Pete Domenici (R-N.M.), chairman of the Senate Appropriations Committee's Energy Subcommittee, yesterday asked the administration to estimate home heating prices this winter in light of the damage done by Hurricane Katrina" and "asked Energy Secretary Samuel Bodman yesterday to estimate how much Congress should provide in so-called weatherization assistance to help low-income families deal with higher prices." Energy experts told the Energy and Natural Resources Committee "that home-heating prices could be 31 percent higher than they were a year ago because of damage done to the Gulf Coast by Katrina."

European Court Rules EU Can Prosecute Polluters. The AP (9/14, Wielaard) reports, "European governments can bring criminal prosecutions against any company that violates the European Union's environmental legislation, the bloc's high court ruled on Tuesday." The AP continues, "The ruling boosts the powers of the European Commission, the executive body that drafts EU legislation which the bloc's 25 member states must incorporate into domestic law." The AP adds, "The Commission filed a lawsuit against all EU governments in 2001 for failing to include a reference to criminal prosecution of industrial violators in an anti-pollution bill it had drafted. … The governments, keen not to be seen to be yielding more powers to the EU, argued that criminal prosecutions shouuld be left to national authorities. … But the court said the Commission was entitled to ensure the laws it drafts are as effective as possible. … It said the fight against pollution was a cross-border issue and 'one of the essential objectives' of the EU."

WSJournal Says CAFE Standards Pose Safety Risk. The Wall Street Journal (9/14) opposes Corporate Average Fuel Economy (CAFE) standards imposed on automakers that would raise the standard to 40 mpg by 2010 from 27.5 mpg today. While this measure would save gas, it also trades "blood for oil" because the primary way automakers meet the standards is to reduce the weight of their cars, and "research has consistently confirmed that the lighter the vehicle the more dangerous it is in a crash because there is less survival space and less physical structure to absorb impact."

LATimes Argues Against Power Grid Overhaul. In an editorial, the Los Angeles Times (9/14) says that Monday afternoon's blackout in Los Angeles "reminded Angelenos that their seemingly sturdy, self-contained municipal power system can still be brought to its knees in seconds by a single human error. That's not a

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comforting thought in the post-9/11 era, when we have to worry about misdeeds as well as mishaps." The Times notes that by Tuesday, Ron Deaton, the California Department of Water and Power chief, "was already promising the City Council that he would hire independent engineers to design a new system that would do a better job of isolating problems, rather than triggering broad shutdowns," but "such an overhaul won't be cheap. What's more, it would be prohibitively expensive to build an electrical grid with so many backups and safeguards that it would resist any and all human errors."

FBI Probes SC Firms' Ties To Tribe. The (SC) State (9/14, LeBlanc) reports, "The Justice Department is investigating allegations of election fraud involving federal campaign contributions raised through organizations tied to the Catawba Indian Nation." The State continues, "The FBI last month searched the offices of three Columbia companies, one of which is owned primarily by the York County tribe, according to investigative documents obtained by The State newspaper. … The inquiry is being run out of Washington and the Justice Department's Public Integrity section, court records show." The State adds, "The Aug. 31 raid of New River Management & Development, SPM (formerly South Property Management) and Kapp Investment Management yielded 24 boxes of financial records, evidence of political contributions, computers, and business and tax documents, according to an inventory of the seized items. … In seeking the search warrant, FBI agent Amylynn Miller told a federal magistrate judge the government believes evidence was being concealed in the offices. … Jay Bender, a longtime attorney for the Catawbas, said Tuesday the tribe is not a target of the probe."

FBI/DEA/ATF/USMS:

DEA Says Cheaper Heroin Coming To Boston Via Cocaine Trafficking Routes. The Boston Herald (9/14, Crimaldi, Johnson) reports that a "cheaper, purer heroin," once "shuttled into New England from Burma," is now coming to the Boston area "via established cocaine trafficking routes, drug enforcement agents say. 'They had routes they used for cocaine and just like any other organization, if it was successful, why not use it for another drug,' said Tony Pettigrew, a spokesman for the Drug Enforcement Administration's New England Field Division. While drug enforcement agents say there is no single heroin trafficking route, smack typically makes its way to Massachusetts through Florida and then New York City." According to state police Lt. Dennis Brooks, the "number of Massachusetts residents being treated for heroin addiction has climbed from 44,000 to 56,000 in recent years, he said, attributing the spike to the OxyContin craze, which is addicting people to opiates at a younger age. Heroin hits the street in a rock form that is broken down into a powder and sold for as little as $4 to $6 per bag. The DEA classifies heroin into four categories depending on where it comes from: South American, Mexican, Southeast Asian and Southwest Asian."

Ninth Circuit Court Of Appeals Cancels Oral Arguments In Medical Marijuana Case. Oregon Public Broadcasting (9/13, Fogarty) reports, "The Ninth U.S. Circuit Court of Appeals cancelled oral arguments Tuesday in an Oregon medical marijuana case. The lawsuit was filed by LeRoy Stubblefield of Sweet Home. In 2002, federal drug agents seized marijuana plants that he was growing under Oregon's 1998 medical marijuana law. In a separate case, the US Supreme Court in June sided with the federal government's efforts to crack down on medical marijuana in California." Paul Stanford of theHemp and Cannabis Foundation "says the California decision may be why the appeals court cancelled oral arguments in the Oregon case." In the California case, the "U.S. Supreme Court said the Drug Enforcement Agency has the authority to prosecute marijuana users under federal law, even if states allow the use of pot to treat medical ailments."

The California Recorder (9/14, Scheck) reports, "It was unclear why there was no drum circle on the third floor of the 9th U.S. Circuit Court of Appeals on Tuesday morning. … The dozen or so people assembled outside Courtroom One were certainly loud enough -- despite repeated exhortations by security guards to keep the noise level down -- and the top thing on their minds was smoking pot. … And these are people who take their weed seriously: pot lawyers, pot lobbyists, pot activists, pot smokers, a pot reporter and the requisite pot publicists -- a middle-aged assembly that ranged from besuited to bedraggled." The Recorder continues, "As the group waited for a 9th Circuit panel to finish hearing more conventional arguments -- a qui tam case, for example -- they had lots to say about marijuana. … 'If you smoke pot, you have less of a chance of getting cancer than if you don't,'

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explained Ed Rosenthal, the focal point of the group." The Recorder adds, "Rosenthal is a pot celebrity, as well as an author and publisher of pot books. ('"The Big Book of Buds," volume one and volume two, are probably our best-sellers,' said the primly suited Jane Klein, Rosenthal's business partner and wife. 'They treat marijuana like you would roses,' she said, referring to pictures and descriptions of growing conditions.)" The Recorder notes, "In 2003, Rosenthal's celebrity moved beyond the pot community when he was convicted in San Francisco federal court of growing marijuana, despite the fact that the city of Oakland had licensed him to do so. … Rosenthal appealed that verdict -- even though U.S. District Judge Charles Breyer sentenced him to just one day in jail -- because Breyer refused to let the jury hear that the pot was grown for locally sanctioned medicinal use. … After the arguments, which ran nearly a half-hour longer than scheduled, the judges didn't seem swayed by either side. The same could not be said for the pro-pot contingent, which stood outside the courtroom expounding on the need to legalize marijuana -- though that was not the issue before the 9th Circuit."

FBI Nabs Eight In New York, New Jersey On Drug Conspiracy Charges. Long Island Newsday (9/14) reports, "FBI agents arrested eight men in New York and New Jersey on Tuesday on racketeering, money laundering and other charges stemming from an alleged conspiracy to distribute large quantities of marijuana and cocaine. The eight were named in an indictment returned by a grand jury in Florida that also seeks forfeiture of $75 million in profits from the alleged illegal drug sales, some of which involved truckloads of marijuana shipped from the U.S.-Mexican border to New York, New Jersey, Florida, Pennsylvania, Ohio, Kansas and other states." Among those charged was John Leto, "also known as 'Johnny Balls' and allegedly a member of an organized crime family in New Jersey. Leto, 39, allegedly used his connections as a 'La Cosa Nostra associate' and his construction business to protect the marijuana business and help distribute the drugs, according to the indictment."

Alleged Gang Members May Face Death Penalty For Murder, Drug Charges. The Valencia County (CA) News-Bulletin (9/14, Sandlin) reports that a California grand jury "is scheduled to take up potential death penalty charges against three alleged members of a Valencia County drug gang this month. The target notice sent to the three men shifts the focus away from a pending drug prosecution in U.S. District Court." Ben Gallegos, Frankie Gallegos, and Juan Calles, "alleged members of the East Side Locos, are being investigated for seven slayings, including shootings and strangulations. Investigators believe the shootings are either gang- or drug-related. … The three men, along with eight others, were indicted by a federal grand jury in March for methamphetamine distribution. The indictment also seeks forfeiture of $63,900 in cash seized during a series of raids March 10. A superseding indictment was handed up in July charging Ben Gallegos with operating a continuing criminal enterprise, conspiracy and distribution of methamphetamine. Attorneys for the three in the federal case want to postpone pretrial matters because of the potential death penalty charges in state court."

Mississippi Teen Goes On Trial For Trying To Sell Bomb. The Jackson (MS) Clarion-Ledger (9/14, Gates) reports, "A Brandon (MS) teenager built a bomb designed to kill and injure, a prosecutor told a federal jury Monday." The Clarion-Ledger continues, "James Rankin, 19, of 3175 U.S. 80 East is charged with possession of an unregistered firearm, transfer of an unregistered firearm and the manufacture of an unregistered firearm. … If convicted, Rankin faces up to 30 years in prison. The case continues today in U.S. District Court in Jackson. … 'The defendant made a bomb, not a firework,' U.S. Assistant Attorney David Fulcher said in his opening statement. 'It's simple. The defendant made a bomb that was designed to kill and with the intent for it to kill.'" The Clarion-Ledger adds, "Rankin's attorney, U.S. Public Defender Dennis Joiner, told the jury he would delay his opening statement until after the prosecution concludes its case. … Rankin was arrested Nov. 9, 2004, after he allegedly tried to sell a bomb to an undercover agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives. … 'He asked if I wanted a large pipe bomb, a small pipe bomb or a hand-held grenade,' ATF special agent Connie Wilson testified. … Wilson said she posed as someone wanting to harm an ex-husband in Texas after a confidential informant told her Rankin could make a bomb."

Former Deputy US Marshal Sentenced To 15 Years For Maryland Killing. The Washington Post (9/14, B3, Kunkle) reports, "A former deputy U.S. marshal who killed a young Navy seaman in a road rage incident last year

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at a Rockville shopping plaza was sentenced yesterday to 15 years in prison." The Post continues, "Arthur L. Lloyd, 54, who was convicted in June of voluntary manslaughter in the Oct. 29 shooting of Ryan T. Stowers, probably will serve about 11 years before he is eligible for parole, prosecutors said." The Post adds, "Calling the shooting 'an enormous tragedy' for both families, Montgomery County Circuit Court Judge Ann S. Harrington tailored a sentence that satisfied neither side completely. She went beyond state guidelines calling for a five- to 10-year sentence, but she declined to impose the maximum 35-year term requested by prosecutors."

The AP (9/13, Adelman) reports, "During their testimony, members of Lloyd's family portrayed the 54-year-old as a peaceful man distraught over his actions in the Oct. 28 shooting and asked the judge to be lenient. … Lloyd's family members were followed by those of (Stowers, who) offered teary testimony and asked for the judge to issue the harshest punishment she could. … When Lloyd was offered the chance to speak on his own behalf, he sought to explain his actions in the Rockville shopping center parking lot. He said law enforcement officers like him are skittish since the Sept. 11, 2001, terrorist attacks, and that he was incensed by a barrage of profanities and racial epithets that Stowers subjected him to. He also said he feared that Stowers might be someone he helped put in jail as a marshal, who was now seeking revenge."

USMS Gives $10,000 To Kentucky Cabbie Who Turned In Fugitives. The AP (9/14) reports from Covington, KY, "Cab driver Mike Wagers, credited with the tip that led to the capture of two Tennessee fugitives wanted in the killing of a corrections officer, was rewarded Tuesday with $10,000." The AP continues, "John Clark, acting director of the U.S. Marshals Service, presented the check for information leading to the arrest of George and Jennifer Hyatte, charging in the fatal shooting of a guard during George Hyatte's escape outside a courthouse in Kingston, Tenn. … 'I'm just overwhelmed,' said Wagers, 33, who said he plans to split the money with a friend whose wife recently died, and will take a vacation."

The Cincinnati Enquirer (9/14, Hannah) reports, "Wagers gave authorities a tip that helped lead to the Aug. 10 capture of George 'Shorty' Hyatte and his wife Jennifer Hyatte. … The couple went on the run after George Hyatte made a daring Aug. 9 jail escape from Tennessee. He was being taken back to jail after a court hearing when his wife allegedly shot and killed corrections officer Wayne Morgan. During the shootout, Jennifer Hyatte received a bullet wound in the leg but was able to escape with her husband. The couple made their way north to Erlanger, where they stayed overnight at an EconoLodge and then hailed Wagers' cab to Columbus the following morning." The Enquirer adds, "Wagers called authorities after realizing the fugitives' description matched his two passengers. His tip led police to the hotel room in Columbus where the couple was staying. … The couple had told Wagers that they were Amway salespeople who needed to get to Columbus for a convention. Wagers said he never suspected the two were fugitives, but he became suspicious of their Amway claim when they didn't try to sell him anything."

IMMIGRATION:

Lawmakers Seek To Avoid "Amnesty" Label On Immigration Plans. The Washington Times (9/14, Dinan) reports, "As the immigration debate warms up over the next few months, President Bush and congressional lawmakers will try to prevent their legislation from being tagged with the 'amnesty' label. … The president demonstrated the power of the word during last year's campaign when he leveled the charge against his Democratic challenger, Sen. John Kerry of Massachusetts: 'Here is where my opponent and I differ. In September 2003, he supported amnesty for illegal aliens.' Some Republicans, however, say the president's guest-worker plan is an amnesty that he doesn't want to call an amnesty."

TAX:

Jury Selection Delayed In Nevada Trial Of Anti-Tax Advocate. The Las Vegas Sun (9/14, Kihara) reports, "Jury selection in the tax fraud case of anti-tax advocate Irwin Schiff was stalled Monday after potential jurors who were waiting outside the courtroom said a man tried to talk to them about the case." The Sun continues, "A potential juror told U.S. District Judge Kent Dawson that John Anthony Malan told prospective jurors outside an elevator on the sixth floor of the George Federal Building to 'just remember to listen to the facts' and not to listen to opinions. At least seven more potential jurors also heard comments from Malan and were called into a private sidebar individually with the attorneys from both sides and Dawson." The Sun adds, "The

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interruption came during jury selection in the criminal case against Schiff, a local author and businessman, and two other defendants, Cynthia Neun and Lawrence Cohen. … All three were indicted in federal court in March of attempting to evade paying taxes, aiding and assisting in filing false tax returns and conspiring to defraud the government, among other charges. … The outspoken Schiff is defending himself while Neun and Cohen have attorneys." The Sun notes, "Malan was brought before the judge and initially denied speaking to the jurors. … After Dawson further inquired as to whether Malan attempted to communicate with prospective jurors about the case and asked if he was attempting to influence the potential jurors, Malan replied, 'I object to this entire proceeding.' … Dawson, after calling for a hearing for Malan on Wednesday, ordered U.S. marshals to eject Malan from the federal courthouse."

CONGRESS-ADMINISTRATION:

Roberts Remains Unruffled By Tough Questions During Questioning By Senate Panel. Judge John Roberts faced questions from the Senate Judiciary Committee yesterday in a performance lauded by most observers as polished and temperate. While he was quizzed on a number of issues, abortion and the precedential value of Roe Vs. Wade were the topics that drew most media attention. Most observers agreed Roberts acquitted himself favorably in the hearing.

ABC World News Tonight (9/13, story 6, 3:50, Douglass) reported Roberts "was cool and polished." Roberts "paid tribute to the principle of stare decisis, not overturning previous Supreme Court decisions. And he agreed there is a right to privacy." But he "would not say if Roe versus Wade is protected by the right to privacy. And he refused to answer questions about his views on abortion and on most subjects, insisting they might come before the court someday." Democrats "hammered him about things he wrote as a young government lawyer 25 years ago, when the Reagan Administration fought against expanding civil rights laws."

The CBS Evening News (9/13, story 6, 2:35, Borger) reported, "The first flash point, abortion rights -- the key question: Is the precedent of 'Roe v. Wade' so strong that Roberts would not vote to overturn it?" Judge Roberts: "I do think that it is a jolt to the legal system when you overrule a precedent." The "only woman on the panel grilled Roberts on his old legal memos which appeared to disparage women, and their complaints about unequal pay." Judge Roberts: "I have always supported and support today equal rights for women."

NBC Nightly News (9/13, story 5, 2:20, P. Williams) reported, "Democrats asked if the war on terror allows the government to cut back on freedoms at home." Sen. Patrick Leahy (D) Vermont: "Do you feel that you'd be able to interpret the Bill of Rights the same, whether we're at wartime or not?" Judge Roberts: "I do, Senator. And the obligation of the court to protect those basic liberties, in times of peace and in times of war, in times of stress and in times of calm, that doesn't change." Williams: "As for controversial memos that Roberts wrote as a lawyer in the Reagan Administration, including one referring to what he called the 'purported 'gender gap', Roberts said he never meant to suggest that women deserve less legal protection."

The New York Times (9/14, Stolberg, Liptak) reports that in "a day punctuated by flashes of hostility and humor, Judge John G. Roberts Jr. on Tuesday acknowledged a constitutional right to privacy and said overturning precedent was a 'jolt to the legal system.'" But he "artfully sidestepped the contentious question that has dogged him as a Supreme Court nominee, whether he opposes Roe v. Wade, the 1973 decision that established a constitutional right to abortion." Democrats "kept a tally of the number of questions they said Judge Roberts refused to answer, putting the number at 60." Judge Roberts "told the senators that he did not have a specific legal philosophy, and he resisted comparisons to William H. Rehnquist, the late chief justice for whom he once clerked, telling senators that he would be 'my own man.'" He also "flatly rejected the idea that his Roman Catholic religion played a role in his court decisions, saying: 'I look to the law books and always have. I don't look to the Bible or any other religious source.'"

The Washington Post (9/14, A1, Goldstein, Babington) reports in a front page story that "testified yesterday that he believes that the Constitution protects the right to privacy, the legal underpinning of the nation's landmark abortion law, but he refused to say whether he would vote to uphold Roe v. Wade if he is confirmed as chief justice of the United States." In a "day of sometimes testy exchanges with senators, Roberts distanced himself repeatedly from his conservative writings as a young legal adviser to President Ronald Reagan, including a memo in which he had disparaged privacy as 'amorphous' and a 'so-called right' not spelled out

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in the Constitution." Democrats "pressed him aggressively, seeking to elicit his views on abortion and a range of other volatile civil rights issues by reminding him of stances he had advocated in the past. But time and again throughout the first full day of questioning at his Senate confirmation hearing, Roberts refused to divulge the way he would rule on matters of voting rights, gender equity, fair housing and the role of religion in public life." Democrats "suggested that Roberts might be a stealth nominee who would shift the court more sharply rightward than his careful testimony suggests."

The Los Angeles Times (9/14, Reynolds, Schmitt) reports Roberts "indicated Tuesday that it would be hard for the Supreme Court to overturn the Roe v. Wade decision legalizing abortion, but he refused to say whether he would support efforts to do so." Roe and "the legal arguments behind it -- especially privacy rights and the rule of precedent -- came to the fore repeatedly during more than 10 hours of questioning." Democrats "used the opportunity to inquire into the nominee's views on issues central to their party's legacy over the last half-century -- abortion rights, civil rights and environmental regulation, among others." Roberts "kept his voice measured, his face placid and his manner deferential. A more deeply furrowed brow was his only sign of discomfort." As the "day wore on, Democrats at times seemed disarmed by the nominee's genial and sometimes self-effacing testimony," but they "also expressed frustration at what they viewed as his lack of responsiveness. Aides to committee Democrats said they counted 21 occasions in which Roberts declined to answer questions, including his views of cases that already had been decided."

USA Today (9/14, Kiely, Biskupic) reports the hearing was "sometimes testy" and was "marked by tart exchanges with Democrats," and that Roberts "would not say Tuesday if he'd vote to overturn the 1973 ruling that legalized abortion nationwide." But Roberts "did say he believes there is a constitutional right to privacy, and he said the Roe v. Wade ruling is 'settled as precedent' that must be viewed with respect by judges." Sen. Lindsey Graham "said the nomination may mark the end of an era in which most Supreme Court nominees won strong bipartisan approval. He noted that liberal Justice Ruth Bader Ginsburg was confirmed in 1993 with 96 of the 100 votes in the Senate. Graham said Republicans, who hold 55 Senate seats, will retaliate 'if the Democratic Party votes against him (Roberts) en masse because of his (conservative) philosophy.'"

The AP (9/14, Benac) reports that from "the first question of the day — on abortion — right through the alphabet to the Zimmer case on voting rights, Roberts held his own as senators tried to goad him into revealing more of his thoughts than he wanted on the controversial issues of the day. The artful dodger employed a mix of humor, history and humility as he found 50 ways to defend his views and politely demur when he didn't want to discuss them." When Sen. Joseph Biden, D-Del., "complained that Roberts was filibustering, the judge lightly scolded, 'That's a bad word, senator.'"

The Washington Times (9/14, Dinan) reports Republicans and conservatives "said John G. Roberts Jr. acquitted himself perfectly," but "Democrats and liberal activists said he ducked questions and probably lost support for his nomination to be chief justice of the United States." Conservatives "from Leonard Leo, the executive vice president on leave from the Federalist Society, to the Family Research Council and Concerned Women for America said Judge Roberts expertly handled questions on abortion, in particular. But Democratic senators said he was being evasive." Ralph G. Neas, president of People for the American Way, said, "Yesterday he spoke about baseball and today he played dodgeball all day. He gave the illusion of candor and the appearance of openness, but he spent the entire day responding to direct questions with evasive answers."

The Hill (9/14, Allen) reports, "Despite a few testy early exchanges with Democratic Sens. Edward Kennedy (Mass.) and Joseph Biden (Del.) over his views on voting rights and sex discrimination, Roberts demonstrated a level of composure rare among high-profile nominees facing adversarial senators." In contrast to "some past nomination proceedings, senators limited themselves mostly to questions about jurisprudence, rather than Roberts's character or personal qualifications — perhaps yet another indication that Democrats do not intend to use all means necessary to defeat his nomination."

The Legal Times (9/14, Goldman, Mauro) reports, "Again and again, Roberts returned to familiar themes throughout the full day of hearings: that courts should judge, not legislate; that the right to be left alone is a fundamental American right, even though it is not specifically mentioned in the Constitution; that he would not answer specifics about any particular cases; and that his religious beliefs would not play any role in his decision-making. … 'I do know this, that my

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faith and religious beliefs don't play a role in my judging,' Roberts said in response to questions from Sen. Dianne Feinstein, D-Calif., about his impartiality. 'When it comes to judging, I look to the law ... I don't look to the Bible.' … Roberts also sidestepped a question from Feinstein about whether the federal courts should become involved in end-of-life decisions. His response: 'An abstract opinion [on that subject] that would pre-judge that case is inappropriate.'"

CNN's The Situation Room (9/13, Johns) reported that the hearings have gone "just about the way you would expect. John Roberts in the hot seat taking questions from Democrats and Republicans. Quite predictably he has said that he supports the notion of stare decisions, or that is settled precedence in the law. He's also said, importantly, to some folks that he does believe there is a constitutionally protected right to privacy. Of course, that's come up again and again here on Capitol Hill, in part, because, back in 1981, he wrote a memo while working over at the White House, questioning the right to privacy, some said. He's, clearly, in his view there is. … And one of the key questions, of course, has been whether the right to privacy means there's a right necessarily to an abortion. Of course, people taking different views."

Fox News' Special Report (9/13, Hume) reported that Roberts "remained calm and cordial throughout a day of tough questions as members of the Senate Judiciary Committee tried to pin him down on matters that could come before the court that he could lead." Fox (Angle) added, "Roberts managed to get out of political quick sand of abortion without committing one way or the other. On that and other issues, he may not have won over senator Kennedy and other critics, but he wasn't likely to get their votes anyway."

Jeff Greenfield said on CNN's The Situation Room (9/13), "There's been some concern from folks on the conservative side of things that some of Roberts' critics or questioners might probe too deeply into this question of Catholic faith, and I think Roberts -- not only did Roberts answer that quickly and effectively, but he raised that where Dianne Feinstein didn't."

Abortion A Constant Subtext Of Hearing. A number of print stories focused specifically on Judge Roberts' responses to questions about Roe Vs. Wade and abortion. But there was no consensus on where, at the end of the day, Judge Roberts' ultimately stood on the question, with different outlets emphasizing different interpretations of his remarks, which raised concerns among conservatives as well as pro-choice advocates.

The New York Times (9/14, Toner) reports that on no issue were Roberts' "words framed more carefully - or listened to more closely - than on the subject of abortion." Roberts "paid full tribute to the weight of 32 years of precedent behind Roe v. Wade, the 1973 Supreme Court decision establishing abortion rights." But he "stopped short, again and again, of endorsing Roe itself." Abortion rights advocates, "who were overwhelmingly opposed to the Roberts nomination before the hearing began, said his testimony Tuesday affirmed their fears." Abortion opponents "and social conservatives were praising Judge Roberts's testimony as appropriate and - by implication - politically acceptable." The AP (9/14, Espo) reports Roberts "repeatedly refused to answer questions about abortion and other contentious issues at his confirmation hearing Tuesday, telling frustrated Democrats he would not discuss matters that could come before the Supreme Court."

The San Jose Mercury News (9/14) ran a Chicago Tribune story by Jill Zuckman, who reports, "More than civil rights, more than property rights, more than environmental rights, the issue of abortion has insinuated itself into every aspect of the Supreme Court confirmation process. And Tuesday, it seemed to be frustrating nearly everyone." Not surprisingly, Roberts' answers "did not entirely satisfy advocates on either side." His "answers to questions about Roe v. Wade gave no comfort to liberals, who wanted - though they could hardly have expected - an explicit promise of support for high court ruling that legalized abortion nationwide. But neither did it give comfort to social conservatives who hoped Roberts would vote to overturn the decision."

The Washington Post (9/14, Becker) reports that "nearly a quarter of a century ago," Judge Roberts "wrote skeptically about the legal concept that underpins a woman's right to an abortion, calling it 'the so-called right to privacy.' Yesterday, when pressed by a Republican senator about his writing, the Supreme Court nominee said he believes that the Constitution contains such a right, but he refused to say whether it covers the termination of a pregnancy." Kate Michelman, former president of NARAL Pro-Choice America, said, "We still do not have clarity on his views."

But the Washington Times (9/14, Hurt) reported the story under the headline, "Roberts Defends Roe As 'A Precedent.'" Knight Ridder (9/14, Henderson, Kuhnhenn) headlined its story, "Abortion A `settled Precedent,' Roberts Says." Knight Ridder reports Roberts "gave strong indications

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Tuesday that he'd be reluctant to overturn court precedents such as Roe v. Wade, and he voiced support for a right to privacy - which underpins court rulings on gay rights and other individual liberties - that's much broader than his previously known stance."

The Wall Street Journal (9/14, Cummings, Bravin) reports Roberts "raised concerns among conservatives by telling senators that he recognized a constitutional right to privacy, and backed the 1965 Supreme Court opinion that was later invoked to justify abortion rights -- a central battleground in the current ideological debate over the direction of the judiciary." But Roberts "left open the fate of the 1973 Roe v. Wade decision on abortion rights -- often linked to the privacy case -- which he suggested rested on different reasoning." Judge Roberts's "embrace of the privacy right underlying Roe rejected the arguments of some prominent conservative legal scholars, and unsettled some religious activists who have made overturning the landmark abortion ruling a centerpiece of their political agenda."

The AP (9/14, Werner) reports Sen. Dianne Feinstein "said she was disappointed John Roberts wasn't more forthcoming in discussing abortion, women's rights and other issues during the first day of questioning Tuesday in his Supreme Court nomination hearings." Sen. Feinstein said, "I actually felt he made up his mind not to answer my questions, knowing what I might ask. What I was trying to do today is to get a sense of who Judge Roberts is. I'm disappointed that Judge Roberts was not more forthcoming."

The Los Angeles Times (9/14, Savage) reports that since Judge Robert Bork, "Republican nominees have responded to the senators' questions without directly answering whether they would uphold or reverse Roe vs. Wade. On Tuesday, Judge John G. Roberts Jr. followed that script, assuring pro-choice senators that the court's precedents were the building blocks of the law and should not be knocked down without good reason. It is a jolt to the legal system to overturn a precedent, he said."

Roberts Remains Enigmatic. The Washington Post (9/14, A1, Milbank) reports in a front page story that Judge Roberts, "star litigator, adviser to presidents and top-flight jurist, showed that he could be something else: the very model of an enigmatic nominee. The Roberts who answered questions for eight hours yesterday was very much the Roberts who emerged in his writings released over the summer. He maddened the committee's Democrats, delighted its Republicans and charmed most of both." Roberts was "sharp-tongued," was "quick on his feet," and "showed flashes of wit. Asked about an old memo he wrote supporting judicial term limits, he admitted: 'You know, that would be one of those memos that I no longer agree with, senator. I didn't fully appreciate what was involved in the confirmation process when I wrote that.'" What Roberts "did best -- or, at least, most -- was deflect questions on charged issues." The "most inflammatory subject -- abortion -- was essentially off-limits."

The New York Times (9/14, Purdum) reports Roberts' "face never scowled. His level tone seldom varied. He answered questions he found useful to his cause and avoided those he did not. Above all, Judge John G. Roberts Jr. explained his views and defended his honor with the force and fluidity of an advocate who has argued often before tougher judges than those he faced on the Senate Judiciary Committee on Tuesday." In short, Roberts "was Delphic, and his supporters and critics each ended the day saying his performance had hardened their enthusiasm or their doubts."

The New York Times (9/14, Greenhouse) reports Judge Roberts "invoked the memory of a man who more than 60 years ago made a similar journey between two branches of government and who shed some of his earlier views in the process." Robert H. Jackson was attorney general "when President Franklin D. Roosevelt named him to the Supreme Court in 1941. As Judge Roberts pointed out in a colloquy with Senator Patrick J. Leahy of Vermont, the committee's senior Democrat, Justice Jackson then changed from 'someone whose job it was to promote and defend an expansive view of executive powers' to someone who 'took an entirely different view of a lot of issues,' including the scope of presidential power." The nominee's "message was oblique, but clear: Do not judge me by the hundreds of memorandums I wrote as a young lawyer in the Reagan administration."

Roberts Willing To Discuss Some Past Supreme Court Rulings. The New York Times (9/14, Liptak) reports that during the first day of questioning in his confirmation hearings yesterday, Judge John G. Roberts Jr. "was generally careful not to comment on the correctness of specific Supreme Court cases," but "not always. Judge Roberts was willing to discuss decisions concerning school desegregation, the privacy of the marital relationship, the internment of Japanese-Americans and the limits of presidential power. His willingness to comment on cases seemed to increase in direct proportion to his assessment of

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the extent to which they have become fundamental to an understanding of American constitutional law."

The Washington Times (9/14, Lakely) says Roberts "rebuked a recent high-court decision that relied on foreign law, calling it a 'misuse of precedent' that substitutes a judge's 'personal preferences' for the Constitution. Sen. Jon Kyl, Arizona Republican, asked Judge Roberts what, 'if anything, is the proper role of foreign law in U.S. Supreme Court decisions?' The question was a reference to the Roper v. Simmons decision by the Supreme Court in March, in which the majority cited foreign law to overturn a death-penalty sentence for a 17-year-old murderer. That 5-4 decision is cited by conservative legal scholars as one reason it is important for President Bush to appoint a reliable conservative to the Supreme Court. … Judge Roberts maintained that he didn't want to comment on any particular case decided by the court. 'I would say, as a general matter, that there are a couple of things that cause concern on my part about the use of foreign law as precedent,' said Judge Roberts, beginning his critique by noting that while U.S. judges are not held directly accountable by the people, the politicians who appoint them are."

Specter Probes Roberts On Stare Decisis. The Washington Times (9/14, Taylor) reports that Senate Judiciary Committee Chairman Arlen Specter was quick to probe Roberts' view on ''stare decisis,' the Latin phrase meaning to let stand what has already been decided." Specifically, "Specter asked how stare decisis applies to Roe v. Wade, which legalized abortion in 1973, and a subsequent case which upheld it in 1992. Judge Roberts said he wished not to discuss abortion since it is likely to come before the Supreme Court again, but asserted that past rulings may indeed warrant reconsideration under special circumstances."

Roberts Downplays Pro-Bono Work For Gay Rights Group. The Washington Times (9/14, Hurt) says Roberts "downplayed his pro-bono legal work to help a homosexual rights group win one of the most significant Supreme Court cases regarding such rights. 'I was asked frequently by other partners to help out, particularly in my area of expertise,' he told Senate Judiciary Committee Chairman Arlen Specter, Pennsylvania Republican. 'And I never turned down a request.'" The Times adds, "While Judge Roberts did not write briefs or become deeply involved in preparing the case, he did review files and help prepare oral arguments for Lambda Legal without charge. He also played the role of conservative Supreme Court Justice Antonin Scalia in the mock trial."

Liberal Groups Seeking To Flip Liberal Republicans. The Hill (9/14, Bolton) reports liberal interest groups "are focusing on flipping three centrist Republican senators from the Northeast as the key to their strategy at least to tarnish the confirmation of Supreme Court nominee John Roberts." Many Democratic Senate aides, strategists and journalists "believe that Roberts's confirmation is a foregone conclusion. But liberal activists such as Ralph Neas, president of People for the American Way, insist the battle is not over and the committee and floor votes will be close." Liberal leaders "are frustrated that the press has in some cases already called the fight a win for Republicans." Liberal strategists say "that if they can turn a Republican against Roberts it would embolden Democrats to follow suit. Accordingly, they are focusing their lobbying efforts on Sens. Olympia Snowe and Susan Collins of Maine and Lincoln Chafee of Rhode Island."

Blackmun Had Intended Roe To Be Narrow Reform Of Abortion Laws. The Los Angeles Times (9/14, Savage) reports that on "the fifth anniversary of" Justice Blackmun's "death, the Library of Congress opened his papers to the public. His thick files on the abortion cases tell the little-known story of how Roe vs. Wade came to be. It is the story of a rookie justice, unsure of himself and his abilities, who set out to write a narrow ruling that would reform abortion laws, not repeal them."

Specter's Independence Noted. NBC Nightly News (9/13, story 6, 4:00, Williams) profiled Sen. Arlen Specter, who "has been unafraid to act independently. It is a virtue he believes will serve him well throughout these hearings." That independence "got him into deep trouble in his own party when he said publicly that he doubted the Senate would confirm a nominee who would overturn Roe v. Wade."

Other Commentary. In a Washington Post news analysis (9/14, A9), Charles Lane says Roberts "appeared to sound a less conservative note on abortion-related issues than he had in the memos and briefs he wrote as a lawyer in the Reagan and George H.W. Bush administrations. He offered a surprisingly emphatic endorsement of a constitutional right to privacy -- the basis of the Roe v. Wade decision recognizing a right to abortion, which he seemed to disparage as a young lawyer in the Reagan administration. And, as if repeating a carefully formulated phrase, he referred time and again to a 1992 Supreme Court ruling upholding

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Roe as "a precedent entitled to respect.'" Yet, "ever the careful lawyer, Roberts committed himself to nothing more tangible than a promise to think hard before voting either to uphold or overturn the abortion precedents about which so much controversy revolves." The "overall impression was of a talented nominee who used his skills to avoid twin perils: revealing nothing of his views or revealing too much."

On the CBS Evening News (9/13, story 7, 1:30, Schieffer), Chicago Tribune reporter Jan Crawford Greenburg said Roberts said Roe "was settled law, subject to the legal principle that allows courts to rethink their decisions if there are compelling reasons to do so. He did not say he would not overturn Roe, despite question after question from senator after senator, trying to pin him down on those views." Today, "very much what we saw was the John Roberts that we've seen much of the summer, the John Roberts that the justices have seen when he argued before them before the Supreme Court. He's a man who is prepared, we saw his humor, we didn't really see him go off his points that he's made before."

On the CBS Evening News (9/13, story 7, 1:30, Schieffer), Gloria Borger said, "Privately, the Democrats I speak with are telling me we understand that John Roberts is going to get confirmed, and lots of them are starting now to focus on just who the second nominee for the Supreme Court is going to be. There's lots of thought that that nominee could be more conservative and more controversial and they ought to start thinking about that one."

In a USA Today news analysis (9/14), Joan Biskupic and Toni Locy say, "Roberts was a deft witness Tuesday, showing himself to be a smart, articulate, by-the-book jurist while offering only minimal answers to senators' questions." When Democrats "tried to put him on the defensive about his past positions as a Reagan administration lawyer or his current reluctance to explain his views, the conservative federal judge countered their assertions without losing his cool. It was senators such as Edward Kennedy, D-Mass., and Joseph Biden, D-Del., who became visibly frustrated."

In his Los Angeles Times column, (9/14), Ron Brownstein says Roberts "exuded the quiet confidence of a man who knew that he was ahead in the game during a lengthy but mostly sedate confirmation hearing Tuesday. He left the long first day of questioning before the Senate Judiciary Committee the same way he entered it: a clear favorite for confirmation as the youngest Supreme Court Chief Justice in two centuries. By firmly refusing to answer questions on specific cases he might face on the bench — including the 1973 Supreme Court decision guaranteeing the right to abortion — Roberts may have provided Democrats already inclined to reject him more grounds to do so. But most analysts agree that he said little likely to enlarge the circle of senators opposed to him."

The AP (9/14, Fournier) reports Roberts "cast himself Tuesday as a humble, fair-minded jurist with views just nimble enough to please anybody - from the abortion-rights 'soccer Mom' to the staunchest red-state conservative. But there should be no mistake about his ideology. Roberts is deeply conservative. Period."

USA Today (9/14) sys in an editorial, "John Roberts more than lived up to his billing Tuesday as a knowledgeable, superbly prepared, genial and highly articulate legal mind — and as a nominee determined not to answer any question that could cause him trouble. But all-day testimony before the Senate Judiciary Committee nevertheless offered some new impressions of the prospective chief justice." The first is "that he is more likely to be a cautious, establishment jurist than a firebrand in the mold of Antonin Scalia or Clarence Thomas — or at least that is the impression he sought to convey. Most notably, Roberts distanced himself from some of his most troubling past writings, attributing them to youth (many were written when he was in his 20s), the need to reflect the views of his employer (the Reagan administration) or to misinterpretation (a comment about not wanting homemakers to become attorneys was just a lawyer joke)."

In an editorial, the Los Angeles Times (9/14) discusses the first day of John Roberts' judicial confirmation hearings. The Times says that Roberts' reaffirmation of "his commitment to the principle of stare decisis, which Sen. Arlen Specter (R-Pa.) helpfully defined for viewers who didn't go to law school as the importance of adhering to judicial precedents," surely "made opponents of a woman's right to choose an abortion a bit anxious (although its genius was that it was sufficiently opaque to worry supporters of abortion rights, too)."

Bush Accepts Responsibility For Slow Federal Response To Katrina. At a news conference yesterday, President Bush said he, ultimately, was responsible for the Federal government's slow response to the Hurricane Katrina disaster. The move was seen as a significant concession by the White House, which has in the past been reluctant to admit error. The networks featured the

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President's news conference prominently in their lead stories, but largely neglected the President's meeting with Iraqi President Jalal Talibani.

ABC World News Tonight (9/13, lead story, 2:45, Vargas) reported Bush "for the first time" took "ultimate responsibility for the Federal Government's failures in the wake of Katrina. Mr. Bush also admitted what people all over the country have been saying for the last two weeks -- namely that there are serious problems with the way the government responds to disasters." ABC (Moran) added it was "an extraordinary moment in this Presidency. George W. Bush has never said anything like this before. He's a man who does not like to look back or admit mistakes. He did both today." In "what seemed to be a difficult moment for him," Bush "acknowledged his Administration's failures and accepted a share of the blame." President Bush: "Katrina exposed serious problems in our response capability at all levels of government. And to the extent that the Federal Government didn't fully do its job right, I take responsibility." Moran: "And then, when asked directly if given the failures during Katrina, the US government is prepared to respond today to a major terrorist attack or disaster, Mr. Bush could not say yes." The President's "rare expression of contrition comes as his public support is hemorrhaging badly, even among his base. 57% of Americans now disapprove of his performance as President, according to the latest ABC News poll."

NBC Nightly News (9/13, lead story, 3:25, Williams) reported, "Today the President said Federal responsibility is his, and he'll say it again to the nation later this week." NBC (Gregory) added Bush "took the rare step of admitting a mistake, saying the storm exposed serious problems in the government's response capability." Aides said Bush "wanted to clear the air, remind the public he knows the buck stops with him. Mr. Bush also conceded the Katrina response raises grave questions about how the government would respond to another terror strike." White House officials "say the President will once again accept responsibility when he addresses the nation from Louisiana. We are told during that address the President will also update the country on what will be done for all of these victims left homeless by Katrina and over the long term." It was "a huge shift, for an Administration and particularly for a President who is loath to admit mistakes."

The CBS Evening News (9/13, lead story , 1:10, Schieffer) reported, "The death toll in New Orleans rose sharply today, and for the first time President Bush took responsibility for what the Federal Government did wrong." Bush "went on to say it is now in the national interest to find out if we are, quote, capable of dealing with a severe attack or another severe storm."

CNN's Lou Dobbs Tonight (9/13, Dobbs) reported Bush, "facing escalating criticism over the hurricane disaster, today declared he takes full responsibility for the federal government's slow response. President Bush acknowledged the disaster exposed serious problems in the government's response to catastrophes. President Bush's declaration comes one day after he insisted it is too early to assign blame in the disaster." CNN (Bash) added that Bush's comments are "a dramatic change in tone, a contrite president uncharacteristically admitting a major failure. … The new admission is striking for a president who prides himself on no regrets leadership and even more stunning because of his combative tone when asked a similar question just a day earlier. … What worries Bush aides is the steady decline of an asset they thought was sealed after 9/11, leadership."

On MSNBC's Hardball (9/13), Chris Matthews called Bush's comments "a dramatic display of accountability so rare in public life."

The Los Angeles Times (9/14, Riccardi, Powers, Meyer) says "Bush spoke plainly when asked whether the government was prepared for another natural disaster or a terrorist attack." He "appeared to try to shift the debate away from finger-pointing to the reconstruction of New Orleans, a formidable task that could repair his frayed image as a leader if it succeeded. Widespread public dismay with federal efforts has translated to Bush's lowest polling numbers in his five years as president."

In a second article the Los Angeles Times (9/14, Gerstenzang, Muskal) says "It was the strongest statement of responsibility from the White House since the hurricane crisis began and initial relief efforts were sharply criticized." And in an article on the latest progress in the region USA Today (9/14) adds, "President Bush shouldered blame for mistakes in the federal government's response to Hurricane Katrina."

Nationally, the aftermath of Katrina was once again the subject of widespread local TV coverage. A significant number of stations decided instead to concentrate on President Bush's acceptance of some blame on behalf of the Federal government for its part in what went wrong with Katrina. WBBM-TV Chicago (9/13, 10:01 p.m.) offered up the best example of this when it reported that Bush

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acknowledged "his Administration and local officials bundled the response to Hurricane Katrina."

Meanwhile, the majority of local TV stations nationwide seemed to focus on the number of lives taken by the hurricane. For example, KCAL-TV Los Angeles (9/13, 9:57 p.m.) reported, "Hurricane Katrina's death toll climbing quickly." KXAS-TV Dallas (9/13, 10:02 p.m.) added that "659 people died in the storms. That's up nearly 150 from yesterday, as recovery workers focus on gathering and counting corpses. Most of those killed were in New Orleans."

Local TV along the Gulf Coast was mixed in its coverage of the recovery from Hurricane Katrina yesterday. Though many stations focused on positive developments in the area, an equal number focused on President Bush's acceptance of responsibility for any failures in the Federal response, or on the rising number of storm-related deaths. For example, WCFT-TV Birmingham (9/13, 5:58 pm) reported, "Signs of recovery are showing up today in New Orleans. The port is open, and for the first time since Katrina, a commercial flight has touched down at the city's airport." WCFT added that "in the wake of Hurricane Katrina, New Orleans shows signs of returning to normal, but there's still plenty to be done in the Crescent City."

Meanwhile, WBRC-TV Birmingham (9/13, 9:30 pm) reported, "President Bush is taking some of the blame for what some are calling a slow government response, as the number of dead in Louisiana continues to climb." WBRC noted that "state health officials say the number of people who lost their lives in Katrina is now up to 423. That is up from 279 just yesterday." Likewise, WVTM-TV Birmingham (9/13, 5:00 pm) reported, "Facing continued criticism and the lowest approval ratings of his administration, President Bush acknowledged for the first time serious problems in the government's response to Hurricane Katrina. The admission comes one day after the head of the Federal Emergency Management Agency called it quits and the Bush administration tapped David Paulison, head of the US Fire Administration, to serve as interim director. Paulison has three decades of firefighting and emergency management experience.

A number of stations separated their reports, noting both the recovery in the area and the continued political fallout. WTTO-TV Birmingham (9/13, 9:12 pm) reported that "the water is finally subsiding, but what isn't subsiding are the serious political questions that surround the government's obvious slow response to Hurricane Katrina."

Bush To Outline Comprehensive Strategy That Dovetails With Governing Philosophy. Fox News' Special Report (9/13, Goler) reported that Bush "said of the response to Hurricane Katrina at least part of the buck stops here. … Mr. Bush said there were problems at all levels of government, but not with the rescuers." Aides say "privately by accepting part of the responsibility today, the president will be able to focus Thursday on the way forward instead of what he calls the blame game." CNN's Paula Zahn Now (9/13, Bash) reported that the Bush team is "still searching for the right strategy to erase intense criticism the president did not help Katrina victims fast enough."

The Washington Post (9/14, A1, Vandehei, Weisman) in a front page story reports that with the White House concerned "the federal government's stumbling response…will shadow the balance of Bush's second term" Bush has "dispatched his top strategist, Deputy Chief of Staff Karl Rove, and other aides to assemble ideas from agencies, conservative think tanks, GOP lawmakers and state officials to guide the rebuilding of New Orleans and relocation of flood victims. The idea, aides said, is twofold: provide a quick federal response that comports with Bush's governing philosophy, and prevent Katrina from swamping his second-term ambitions on Social Security, taxes and Middle East democracy-building." In his speech Thursday night Bush "is to outline his vision more comprehensively than he has to date. A top aide said he will stress that New Orleans officials will dictate how the city will be rebuilt, but will also make plain the reconstruction should reflect his vision of government -- including reducing regulatory obstacles and emphasizing entrepreneurship over big government, the aide said. He will discuss plans to provide health care, education, jobs and housing assistance to flood victims, another aide said."

The Los Angeles Times (9/14, Chen) adds Bush's "comments signaled a new White House strategy as Bush and his top aides continued to work to stem the political damage to his leadership after Hurricane Katrina." His "statement contrasted with recent White House comments. For days, he and top aides have denigrated most questions about accountability for the hurricane response as part of a partisan 'blame game.'"

Poll Numbers Suggest Public Trust In Government Rebounding. In contrast to most coverage describing how the Federal government response to Katrina has resulted in low poll ratings for President Bush, the Christian Science Monitor (9/14, Feldmann) reports that "there are inklings that

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negative reviews of the government response to Katrina have bottomed out and may be on the upswing." For example, the latest Gallup poll "shows that a majority of Americans are feeling better about the role of government in dealing with the hurricane than they did initially. And despite the sense that the president has suffered grave damage to his public image over Katrina, Gallup and other polls show the effect has been minimal." Gallup poll managing editor David Moore in a Sept 13 report said, "Despite initial criticism of the federal government's slow response to Katrina, Bush's overall job approval rating remains essentially where it was at the end of August."

Most Of Bush Agenda Delayed Until 2006. The New York Times (9/14, Bumiller, Stevenson) reports, "A Republican ally of Mr. Bush who has been briefed on the administration's thinking said the White House's hope for the rest of this year was to deal with the hurricane and to win confirmation for Judge John G. Roberts Jr. as chief justice of the United States and for a second nominee, not yet selected, to the Supreme Court seat being vacated by Justice Sandra Day O'Connor. Next year, the ally said, Mr. Bush would return to issues like overhauling the tax code and the immigration laws that he had hoped to get a start on this year."

Administration To Continue To Make Changes At FEMA. The Kansas City Star/Knight Ridder (9/14, Borenstein, Bailey, Dodd) reports that as Bush took responsibility "Homeland security officials pledged a house cleaning of political appointees in top jobs who have little experience in disaster management." Knight Ridder adds, "As part of the administration's effort to rebound from the growing criticism, changes at FEMA won't stop with Monday's resignation of beleaguered director Michael Brown." DHS Secretary Michael Chertoff said "that he's going to put more emphasis on disaster and management experience in the agency, and will be bringing in a new deputy with more appropriate expertise."

Katrina Response Impact On US Budget Examined. The Christian Science Monitor (9/14, Trumbull) reports, "Think of it as the financial equivalent of another Iraq war. Relief efforts for the storm-ravaged Gulf Coast throw a huge fiscal burden onto a US Treasury that is already deep in the red." Comparing the fiscal cost of Katrina with spending for the war in Iraq, the Monitor notes, "Spending tied to hurricane Katrina has hit as much as $2 billion per day, or about 10 times the amount the United States is spending on military operations in Iraq. The pace will slow, but the recovery effort could easily cost the federal government $150 billion, experts say. Spread over a couple of years, that would roughly match the $6 billion a month being spent in Iraq." Now "the question is not whether America can absorb this shock but whether it will alter the mind-sets of policymakers and financiers on other budget matters."

Cochran Holds Key For Securing Relief Funding. The Wall Street Journal (9/14, Rogers) reports, "Bigger names in Mississippi politics have long obscured Thad Cochran's steady rise in Congress. But in Hurricane Katrina's wake, no lawmaker is more important to the Gulf Coast, or a more calming force amid the chaos engendered by the storm." He "has been instrumental in securing $62 billion for the disaster recovery. A greater test will come in the months ahead as questions mount about paying for and managing the federal reconstruction effort." He "must protect the credibility of the process by controlling his committee's appetite -- and his own -- for pork-barrel spending. Katrina's costs will complicate his task of completing the regular spending bills for the fiscal year beginning Oct. 1. The Senate has borrowed heavily from defense funds to fill gaps in the president's domestic budget, and as chairman, Mr. Cochran is vulnerable to conservative criticism for being a big spender.

Use Of Medicaid For Relief Becomes Contentious Issue. The Wall Street Journal (9/14, Lueck, Rogers) reports that Medicaid "has emerged as the main way to provide medical coverage for many evacuees. But as the relief effort continues and costs mount, federal and state officials are in a tug of war over how much the federal government will reimburse states for their Medicaid spending and whether benefits should be extended to those not ordinarily eligible for the program." The White House "has signaled that it wants to help states taking on Katrina evacuees, both financially and by easing red tape. In Congress, some relief for states seems certain. 'I think it is likely that the federal government is going to have to step up more,' said Senate Majority Leader Bill Frist (R., Tenn.)." The key issue "is a proposed expansion of Medicaid for Katrina survivors. Democrats have proposed that all displaced families from the storm be made eligible for the next six months, simply to ensure coverage. Even conservative lawmakers from the affected states are sympathetic." Yet "the White House appears cool to any expansion, and Mr. Frist said he was 'not convinced' it was needed."

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NYTimes Warns GOP Spending Cuts Will Hurt Evacuees. The New York Times (9/14) editorializes, "President Bush's vow to speed welfare assistance to the victims of Hurricane Katrina overlooks the gruesome determination of many Republican Congressional leaders to make $13 billion in cuts to Medicaid and food stamps. They quietly plan this even as they throw short-term emergency money at the crisis." Mississippi Gov. Haley Barbour "personifies his party leaders' contradiction in begging for emergency aid now after having championed painful cuts in the social safety net. Earlier this year, Mr. Barbour was in the spotlight as his state's unapologetic Medicaid antagonist. Rejecting the alternative of a tax increase, he severely cut drug benefits and sought to drop 65,000 poor, elderly and disabled people from the program before the courts intervened." Barbour "can spare his president and party a shameful episode by urging that the pending cuts for some of the storm's neediest be deep-sixed."

House GOP Gives White House Mixed Response On Katrina Cooperation. Roll Call (9/14, Pershing) reports, "As Congress and the Bush administration work aggressively to tackle the recovery from Hurricane Katrina, House Republicans are giving the White House mixed reviews on its communication effort with the Hill, on both the political and the policy fronts." Some "Congressional sources said that the flow of information from the administration has improved since the first week of the Katrina crisis. But with legislative proposals moving quickly through the system and a steady drumbeat of negative media coverage weakening the GOP's standing with the public, House Republicans are pushing for the White House to provide more substantive policy details as well as a more cohesive message."

Landrieu Praises Bush, Other Democrats Unsatisfied. The AP (9/14, Jordan) reports, "Sen. Mary Landrieu, D-La., welcomed Bush's conciliatory remarks. 'Accountability at every level is critical, and leadership begins at the top,' she said." But Sen. Robert Byrd and other Democrats "were less charitable." Byrd said, "The season has come for Americans to look homeward...instead of continuing to spend billions of dollars in Iraq."

And the Washington Times (9/14, Curl) notes that "Democrats continued to blame Mr. Bush for inadequate recovery efforts in the immediate aftermath of the hurricane, which left thousands of New Orleans' residents stranded and thousands more without food and water." Sen. John Kerry said, "This administration still hasn't figured out the difference between spin and leadership." Reuters (9/14) and Bloomberg (9/14) also reported on the details of Bush's acceptance of responsibility.

Laura Bush Takes Lead In Defending President. The AP (9/14, Pickler) reports, "Laura Bush is reprising her role as her husband's first defender, making several trips to the hurricane-ravaged Gulf Coast as President Bush's approval ratings sink to their lowest level yet." She "is highlighting the positive that has come out of the storm, telling the stories of strangers helping one another in a time of tragedy." She "said Tuesday that much more human good than bad has come from the disaster, despite what people see on TV. She said the evacuees she has met in her three trips to the Gulf Coast are hopeful and thankful that they don't have to start from rock bottom because of the donations and the kindness of strangers."

Bush Witnesses Generosity Among New Orleans, NYC Rescue Workers. John McCaslin writes in his Inside the Beltway column in the Washington Times (9/14) about President Bush's visit to New Orleans, where he greeted rescue workers including some New York City firefighters "who were standing before a not-so-ordinary New York City firetruck. White House spokesman Scott McClellan revealed that this same fire engine was donated by the city of New Orleans to New York City in the days after the 9/11 terrorist attacks. And now New York has returned the gift, the report said."

Columnist Questions Need For "Big Government" Response. Anne Applebaum in her column in the Washington Post (9/14, A31) cites the US public's generous charitable response to Katrina and writes, "it is important not to draw hasty conclusions about the ultimate political impact of this tragedy. More specifically, it's important to ignore the hasty conclusions that have already been drawn, both here and abroad, about the victory of 'big government' and the death of a certain kind of American individualism." Applebaum "certainly" believes "there's a role for government in disaster and evacuation planning. But it is true that the worst failures of the past two weeks have been big government failures. The biggest successes, by contrast, have come out of this country's incredibly vibrant, amazingly diverse and fantastically generous civil society. Sooner or later, it will be impossible not to draw political lessons from that paradox."

Columnist Blames Bush For Delayed Response. Maureen Dowd in her column in the New York Times (9/14)

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writes, "President Bush continued to try to spin his own inaction yesterday, but he may finally have reached a patch of reality beyond spin. Now he's the one drowning, unable to rescue himself by patting small black children on the head during photo-ops and making scripted attempts to appear engaged. He can keep going back down there, as he will again on Thursday when he gives a televised speech to the nation, but he can never compensate for his tragic inattention during days when so many lives could have been saved."

WSJ Applauds Montana Community For Returning Pork. The Wall Street Journal (9/14, A20), in an editorial, notes a bipartisan movement in Bozeman, Montana "to give the feds back a $4 million earmark to pay for a parking garage in the just-passed $286 billion highway bill" in order to use the money for Katrina relief. The Journal adds that there are already ideas to, "Cancel the Bush tax cuts, raise the gasoline tax by $1 a gallon, increase deficit spending, and sharply cut spending on national defense and the war in Iraq. In Washington, it seems, everything is expendable except for the slabs of bacon that are carved out of the federal fisc to ensure re-election. The glory of what is happening in Bozeman is that taxpayers are proving to be wiser about priorities than their politicians."

US Pledges Crackdown On Katrina-Related Scams. NBC News (9/14, Myers) reports, "As weather forecasters tracked the approach of Hurricane Katrina, Alan Paller, a computer security expert with the Sans Institute, tracked another gathering storm — the rush to register Internet sites containing the name 'Katrina.' … 'Most of them,' says Paller, 'appear to be just plain thieves.'" NBC continues, "Tuesday, the U.S. Justice Department warned that many of some 4,000 Katrina Web sites could be fake. Sixty percent come from overseas, officials said, a warning sign the sites may be bogus. … U.S. Attorney General Alberto Gonzales promised swift punishment for those who victimize generous Americans. … 'Federal, state and local law enforcement officials are watching carefully,' Gonzales warned at a news conference Tuesday. '[We] will have zero tolerance for these kinds of crimes.'" NBC notes, "Missouri Attorney General Jay Nixon already has moved against 10 Web sites, tied to a group of white supremacists. … 'It's totally outrageous,' Nixon said, 'for someone to take these domain names and then solicit funds, run them through what looks like a legitimate charity using pictures and other hurricane victims, when in reality that money was running to his hate sites.'"

Reuters (9/14) reports, "Senior FBI and Justice Department officials warned Americans who want to donate money to the relief effort to be cautious to avoid fraudulent charities, including those that pretend to be major organizations like the Red Cross. … 'Just like these natural disasters bring out the best in people, they also bring out some of the worst elements of the criminal element out there who are willing to take advantage of those who are willing to give and those who so desperately need the relief,' said Chris Swecker, chief of the FBI's criminal investigative division." Reuters adds, "Swecker said the FBI is investigating sites of fraudulent charities. He said there are about 4,000 sites advertising Katrina relief services, and about 60 percent of them are coming from overseas. … 'That is not a reason unto itself to conclude that that's a scam Web site, but it is a reason to be cautious,' he said." Reuters notes, "U.S. Attorney General Alberto Gonzales said some of the bogus sites had been shut down but would not give details on the number or how many investigations had been launched. … 'We must ensure that those offering a helping hand do not become victims themselves and that those found preying on the compassion of our citizens are punished,' he said."

The AP (9/14) reports, "The number of Katrina-related sites has more than quadrupled in the past week, according to FBI officials. … 'A devious few have sought to take advantage of our collective generosity,' Attorney General Alberto Gonzales said at a news conference to highlight the government's efforts to combat fraud." The AP adds, "Swecker said the number of probes has grown a lot in recent days, but he declined to be specific. The Justice Department has a Hurricane Katrina Fraud Task Force looking especially at phony charities, identity theft, insurance scams and government benefit fraud. … The American Red Cross, the relief group most frequently copied in Internet scams, also is working with authorities." The AP notes, "Officials again urged donors not to respond to unsolicited e-mails and to give only to well-known charities. … 'If it doesn't look right, chances are it's not,' assistant Attorney General Alice Fisher said."

CNN.com (9/14, Frieden) reports, "Swecker said investigators have reviewed 2,100 sites and about 60 percent of them originate outside the United States. 'That's not a reason unto itself to conclude that that's a scam Web site, but it is a reason to be cautious,' Swecker said." CNN continues, "Swecker said no arrests have been made. But the number of

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criminal cyber probes has increased substantially since last Thursday, when the FBI acknowledged it was investigating eight instances of potential Web site fraud. … 'I can't give you the exact number, but it's a lot more than eight,' he said." CNN adds, "Red Cross General Counsel Mary Elcano told reporters the organization is prepared to file civil lawsuits against operators of Web sites who do not promptly shut down when ordered to do so by the FBI. … Some of the suspect activities are sophisticated endeavors that are created to look like authentic Red Cross sites. … Many of the apparently fraudulent Web sites trying to tap into Katrina relief donations feature pop-ups, spam through provided links and other unsolicited e-mails."

Local Television. WRLH-TV Richmond (9/13, 10:23 p.m.) reported, "US attorney, general, Alberto Gonzales has a warning for people who may try to take advantage of the public's generosity in the wake of this storm. Gonzales says criminals have attempted to profit from this disaster by setting up fraudulent internet websites. Speaking today at a press conference in Washington, Gonzales said those offenders can expect to be prosecuted."

WEYI-TV Flint (9/13, 5:59 p.m.) reported, "US attorney general Alberto Gonzales says the federal government is keeping an eye on these fraudulent internet websites."

WPXI-TV Pittsburgh (9/13, 5:25 p.m.) also covered this story.

Chertoff Said To Have Been Confused About Position In Federal Response. Knight Ridder (9/14, Landay, Young, McCaffrey) reports, "The federal official with the power to mobilize a massive federal response to Hurricane Katrina was Homeland Security Secretary Michael Chertoff, not the former FEMA chief who was relieved of his duties and resigned earlier this week, federal documents reviewed by Knight Ridder show. Even before the storm struck the Gulf Coast, Chertoff could have ordered federal agencies into action without any request from state or local officials. Federal Emergency Management Agency chief Michael Brown had only limited authority to do so until about 36 hours after the storm hit, when Chertoff designated him as the 'principal federal official' in charge of the storm." Though Chertoff "was in charge of managing the national response to a catastrophic disaster, according to the National Response Plan," a memo obtained by Knight Ridder "suggests that Chertoff may have been confused about his lead role in disaster response and that of his department." DHS spokesman Russ Knocke, meanwhile, "disputed that the bureaucracy got in the way of launching the federal response. 'There was a tremendous sense of urgency,' Knocke said. 'We were mobilizing the greatest response to a disaster in the nation's history.'"

Paulison Says He Will Focus On Victims, Not Failures. Interim FEMA Director David Paulison held a press conference yesterday with Homeland Security Secretary Michael Chertoff, where he said that FEMA is "going to deal with" the devastation Katrina has caused. NBC Nightly News (9/13, lead story, 3:25, Gregory) noted, "Across the board today, the Administration wanted to look forward. Assuming the helm at FEMA today, David Paulison, who brings years of emergency response experience."

Fox News' Special Report (9/13, Hume) reported Paulison "said today the first priority of his organization will be to get Hurricane Katrina evacuees out of temporary shelters and into more permanent housing.:

The Washington Times (9/14, Hudson) reports, "Paulison yesterday began work as acting director of the Federal Emergency Management Agency with a clean slate and the full backing of President Bush to help rebuild the hurricane-ravaged Gulf Coast." In a press briefing with Chertoff, Paulison said, "I can't deal with what happened in the last two weeks, but I can tell you from this point forward, we are going to be focusing on the victims of this hurricane." Chertoff said at the press conference that when naming FEMA directors in the future, disaster emergency management experience will be "a significant consideration."

Most local TV stations along the Gulf Coast noted interim FEMA Director David Paulison's news conference with Homeland Security Secretary Michael Chertoff. Typical of coverage was a report from WBRC-TV Birmingham (9/13, 5:30 pm), that Paulison "says he will work hard to get Katrina evacuees out of shelters as soon as possible." Paulison, who "was formally introduced this morning in Washington" by Chertoff, "says he will focus on helping storm victims, not on what went wrong."

The CBS Evening News (9/13, story 5, 2:15, Schieffer) noted, "The unprecedented task of housing the thousands of New Orleans residents displaced by Hurricane Katrina" is the "task new FEMA Director David Paulison called his top priority." Director Paulison: "I know it's a focus of mine, it's a focus of the President, that we get these people out of the

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shelters into some type of either semi-permanent or permanent housing."

Meanwhile, CNN's Anderson Cooper 360 Degrees (9/13, Meserve) reported that "some wonder if Paulison, a firefighter, can mesh with other disciplines like police and public health and if he is equipped to run FEMA programs like housing and financial aid, the bulk of its work." CNN added, "Administration officials won't speculate on whether Paulison will be asked to take the FEMA position permanently. They do say no changes in leadership are likely until the hurricane season is over and done."

Ridicule Of Brown Continues After Resignation. Mark Leibovich, in a special report for the Washington Post (9/14, C1) writes that former FEMA Director Michael Brown "had come to personify the rule that once you become a joke in Washington, there is no rehab. He had became the subject of hundreds of punch lines amid the tragically unfunny spectacle of Katrina -- too many to recover from."

After an especially lengthy barrage of jokes directed at Michael Brown Monday night by Jay Leno on NBC, last night it was David Letterman, on CBS, who focused his attention on the former FEMA director. "Well, former FEMA director Michael Brown resigned. He says that he wants to spend more time not responding to his family," said Letterman. "Yeah, he resigned. And he now plans to be ineffective in the private sector." Following his opening monologue, Letterman's Top Ten List featured questions for the FEMA director application. They were: "10. Are you able to convey a false sense of security? 9. What percentage of your resume is fabricated? 8. In a crisis, which state or local officials would you blame? 7. What are your plans after you resign? 6. Do you mind if the last guy left the office smelling like Arabian horses? 5. Which is most serious: A disaster, a catastrophe, or a dis-astrophe? 4. Does Robert Blake dating again count as an emergency? 3. Can the president easily add '—ie' to your last name to form a nickname? 2. Can you screw up bad enough to take the heat off the President's mistakes? 1. Michael Brown...idiot or moron?"

Jack Welch Says Katrina Disaster Follows Classic Pattern. Jack Welch, former chairman and CEO of General Electric, in an op-ed in the Wall Street Journal (9/14, A20) compares Katrina to a crises at a company, which "follows a well-worn pattern." Welch describes the journey from denial to containment to shame-mongering, followed by "blood on the floor, in which someone pays with their job, and finally, a solution to the problem." Welch writes, "We are a way off from the fifth stage in New Orleans, but the first four played out like an old movie."

Collins, Gregg Say Katrina Will Play Into Consideration Of DHS Reorganization. CQ Homeland Security (9/13, Starks) reported that Sen. Judd Gregg, who chairs the Senate Appropriations Homeland Security Subcommittee, and Sen. Susan Collins, chairwoman of the Senate Homeland Security and Governmental Affairs Committee, said Tuesday that "they were willing to take a fresh look following the Hurricane Katrina catastrophe at a proposal made by the Homeland Security secretary this summer to restructure his department." Gregg said "the hurricane gives Chertoff a chance to review his restructuring plan as it pertains to the department as a whole and FEMA specifically." Meanwhile, Collins said Tuesday that "she intends to explore the proper structure for the department in light of Hurricane Katrina, including suggestions from some that the restructuring should be postponed. But if FEMA remains a part of the department, Collins said it appears that it should at least have a 'direct report' to the secretary, as Chertoff has proposed."

The New York Times (9/14, Hulse, Shenon) reports, "As Congress prepares to take its first tentative steps toward evaluating the government response to Hurricane Katrina, Democrats and others are pressing for an independent inquiry, saying lawmakers cannot be trusted to assess their own complicity in the failures." Sen. Hillary Clinton said, "I don't think the Congress can investigate ourselves." And Sept. 11 commissioners "will echo that call on Wednesday when they release a new privately financed study that will cite failures in the federal response to the storm to argue that the government remains unprepared to deal with a catastrophic terrorist strike on American soil."

Senate To Hear Testimony From Disaster Experts. USA Today (9/14) reports, "Veterans of floods, earthquakes and tsunamis will offer advice today to a Senate committee looking into how to help victims of Hurricane Katrina in the first of an expected multitude of congressional inquiries into the disaster." USA Today notes, "Pete Wilson, who dealt with 22 natural disasters when he was governor of California, and Marc Morial, a former mayor of New Orleans who now heads the National Urban League, will testify. So will Patricia Owens, the former mayor of Grand Forks, N.D., who successfully evacuated 50,000 people when the Red River flooded in 1997."

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Congress Faces Hurdles In Tackling Katrina Response. The Los Angeles Times (9/14, Hook) reports, "When a Senate committee opens hearings today on what the government did wrong in response to Hurricane Katrina, there will be a conspicuous absence at the witness table: No one who actually handled the disaster will be there." The Times continues, "Hesitant to interfere with relief operations in the storm-ravaged South, lawmakers in Washington will be left to grill veterans of past disasters. That is emblematic of how hard it is for Congress to grapple with the calamity that has washed away much of the rest of its legislative agenda." The response to Katrina "is testing Congress' ability to do something that the lumbering institution is ill-equipped to do: move quickly and decisively on a huge, bipartisan project."

And Roll Call (9/14, Preston) reports, "Congressional Republicans vowed Tuesday to move forward with their plan to form a bicameral committee to examine the response to Hurricane Katrina, even as Democrats were making it clear that launching such a joint investigation would be impossible without their blessing." Senate Minority Leader Harry Reid said "that such a committee can be created only by legislation and GOP leaders would need his party's support for it to be approved in the Senate."

Meanwhile, The Hill (9/14, Hearn) reports, "The House is moving closer to a vote on a GOP plan that would create a joint committee to investigate the government's response to Hurricane Katrina, presenting Republicans with a potentially difficult vote to support a plan Democrats have derided as a political sham." It "is shaping up to be an intense test of party loyalty." The Hill adds, "House Majority Leader Tom DeLay (R-Texas) said yesterday that Democrats' refusal to participate in the joint committee did not worry him." DeLay said, "No one is rejecting Democrats. … We will go forward. I think they will be incredibly embarrassed if they don't participate because you will find that the committee will be an objective committee, doing its responsibility and really looking at everything."

Lieberman Defends Decision To Place FEMA In DHS. ABC World News Tonight (9/13, lead story, 2:45, Moran) reported, "Many in Washington are now saying the problem" at the root of the Federal Government's belated response to the Hurricane Katrina disaster "was with the decision to fold FEMA into the new Department of Homeland Security after 9/11." Leo Bosner, president, FEMA employees union: "Within Homeland Security, the FEMA mission, I think, has really been sort of ignored. We were pushed off to the side." Moran: "But a Democratic architect of the Homeland Security Department says the plan is sound. The execution flawed." Sen. Joseph Lieberman: "It could be that FEMA belongs right where it is but it needed better leadership. And in the years before, more financial support."

Shays Raises Concerns About US Preparedness For Disaster. At his press conference yesterday, President Bush expressed doubt about the Federal Government's ability to respond to a major terrorist attack or another massive natural disaster. ABC World News Tonight (9/13, story 2, 2:35, Ross) reported, "What the President said today echoes what leading figures in field have been saying for some time. Despite the billions spent since 9/11, the country is unprepared for most major disaster scenarios. Most of the attention has been on another terror attack on a major city, biological or nuclear. There have been frequent emergency drills. But the Congressman overseeing domestic preparedness says the government's plans ignore urban realities." Rep. Christopher Shays: "I think if there was a dirty bomb attack in any of our major cities, we would be very unprepared." Ross: "If there were a smallpox attack, the government says it now has enough vaccine for everyone in the country. But a study by the New York Academy of Medicine says the government's preparedness plans ignore human nature." There are "even more questions about readiness for a natural disasters, such as earthquakes. California is considered prepared, but not the Midwest and cities along the little-known New Madrid faultline." And "many officials say the federal government has been slow to recognize a new and potentially greater threat -- a rare and deadly strain of flu, now in Asia, but threatening to become a global epidemic and hit the US."

Homeland Security Vulnerabilities Highlighted By Response To Katrina. The Washington Post (9/14, A3, Eggen) reports, "Four years after the Sept. 11, 2001, attacks, the federal government has failed to enact crucial homeland security reforms that could have saved lives and improved the sluggish response to Hurricane Katrina, according to a report to be issued today by former members of the Sept. 11 commission. Local emergency officials are still unable to reliably communicate with one another during disasters, the federal government has no clear system of command and control for responding to a crisis, and authorities have faltered in enacting basic border controls designed to keep out terrorists, according to the report's findings, which commission members outlined in interviews." Former new

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Jersey Gov. Thomas Kean "said the bungled response to Katrina laid bare how unprepared the nation remains for a catastrophic event, whether it is another terrorist strike or a natural disaster."

Columnist Proposes BRAC As Model. Norman Ornstein in his column in Roll Call (9/14, Ornstein) suggests that "it is time to consider the Base Realignment and Closure Commission model for this important need. We all owe former Rep. Dick Armey (R-Texas) a vote of thanks for establishing the framework for dealing with base closings. It is imperfect, to be sure, but Armey found a good way to get bases closed while retaining a real role for Congress and protecting it against its worst parochial instincts. A parallel approach could work for allocating first-responder funds, hopefully channeling the money more efficiently to where it is most needed."

400 New York Court Officials Volunteer To Help Aid Katrina Victims. The New York Law Journal (9/14, Adcock) reports, "New York's Unified Court System has organized a stand-by contingent of up to 400 volunteer court officials to help the devastated legal communities of Louisiana and Mississippi, the two states hardest hit last month by Hurricane Katrina." The Journal continues, "In light of the Sept. 11, 2001, terrorist attacks, Chief Judge Judith S. Kaye said Monday, 'We have very special expertise, sad to say. We know what it's like to have courtrooms brought to a standstill. We lived it -- those unforgettable days and weeks when we had to figure out so many things for the first time.'" The Journal adds, "The volunteers, most veterans of 9/11, are set to offer emergency help in such areas as court security, records recovery, voice and data communications, computer networks and the creation of temporary court sites. … The New York volunteers -- as well as commitments of equipment and money through a specially created relief fund -- have been registered with the State Emergency Management Office in Albany. Registration enables disaster-impacted states to quickly request specific assistance from other states, in accordance with the Interstate Emergency Management Assistance Compact, a federal program begun in 1996 when then-Florida Governor Lawton Chiles was unhappy with government response to Hurricane Andrew. … Ronald Younkins, chief of operations for the Office of Court Administration, said that Gulf Coast court officials are currently assessing damage to their facilities and conducting a census of their scattered personnel."

Blanco Criticizes FEMA On Body Recovery Efforts. Knight Ridder (9/14, Fitzgerald, Tsai) reports, "Blasting federal officials for a 'lack of urgency and lack of respect,' Louisiana Gov. Kathleen Babineaux Blanco said Tuesday that the state would seize control of the task of recovering the bodies of Hurricane Katrina victims." Blanco "accused the Federal Emergency Management Agency of causing delays because the agency had failed to sign a contract with the firm hired to collect corpses and was not providing enough support for the firm's crews. FEMA spokesman David Passey responded that body recovery has always been the state's job, and federal authorities were in charge of body identification."

CNN's The Situation Room (9/13, Blitzer) reported, "There's some new tension developing apparently between state officials in Louisiana and FEMA, the Federal Emergency Management Agency, over the recovery of bodies in the wake of the disaster." CNN (Snow) added, "That tension was turned up today by the Louisiana Governor, Kathleen Blanco. She was at a photo opportunity, so she did not field questions, but she lashed out at FEMA over recovery efforts, saying that they were not moving quickly enough. At issue is a contract with a private company hired by FEMA. Its contract expires at midnight tonight. She says that she pleaded for contract resolution, that she spoke with the Homeland Security Secretary Michael Chertoff, about this last week. And she says at this point, nothing has happened. And in her words, she is angry and outraged."

Meanwhile, the Los Angeles Times (9/14, Meyer, Moore) reports, "Until now, Blanco, a Democrat, has shied away from criticizing Washington's response to the hurricane since it hit shore more than two weeks ago. The governor said she decided to go public with her criticism after promises from Washington failed to come through, including a pledge from Michael Chertoff, the secretary of Homeland Security, 'that plans would be put in place for a system of 'recovery with respect.'"

DHS IG To Investigate No-Bid Contracts. The New York Times (9/14, Shenon) reports, "The inspector general of the Department of Homeland Security said Tuesday that his office had received accusations of fraud and waste in the multibillion-dollar relief programs linked to

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Hurricane Katrina and would investigate how no-bid contracts were awarded to several large, politically well-connected companies. The inspector general, Richard L. Skinner, who serves as the department's internal watchdog, said in an interview that he intended to be 'extremely aggressive' in monitoring the Federal Emergency Management Agency, which will receive most of the $62 billion in disaster-response financing approved by Congress last week." Skinner "said that his investigators would focus on several no-bid contracts awarded over the last two weeks to large, politically influential companies, including the Fluor Corporation of California, a major donor to the Republican Party, and the Shaw Group of Baton Rouge, La."

The Wall Street Journal (9/14, A4, Block, Dreazen) notes, "DHS Secretary Michael Chertoff said that as the effort to save lives winds down, his department will focus on recovery challenges, including ensuring that the contracting process is conducted properly. 'We want to get aid to people who need it quickly, but we also don't want to lose sight of the importance of preserving the integrity of the process and our responsibility as stewards of the public money,' he said."

Evacuees' Medical Records Put Online. The Washington Post (9/14, A24, Krim) reports, "The federal government is making medical information on Hurricane Katrina evacuees available online to doctors, the first time private records from various pharmacies and other health care providers have been compiled into centralized databases." The move is "one step in reconstructing medical files on more than 1 million people disconnected from their regular doctors and drug stores. Officials fear that many medical records in the region, especially those that were not computerized, were lost to the storm and its aftermath."

IRS Promotes Leave-Based Donation Program. The Wall Street Journal (9/14) reports, "Officials recently disclosed a plan designed to attract more charitable donations to storm victims. The IRS plan encourages employees and employers to participate in so-called leave-based donation programs." The Journal notes, "Under such programs, an employee generally gives up unused vacation, sick or personal leave, in exchange for the employer donating the value of that time to charities helping hurricane victims. Tax lawyers say numerous companies are considering offering this leave-donation program soon."

States Seek Waivers To Give Evacuees Separate Schooling. The Wall Street Journal (9/14, Page B1, Golden) reports some states are seeking exemptions from the McKinney-Vento act requiring school districts to integrate homeless students into regular public schools, "a stance supported by the Bush administration and some private education providers." Both Utah and Texas requested exemptions in order to educate evacuees on site at Utah's Camp Williams and in Texas "at a closed Air Force base in San Antonio." But opponents "fear that nearly two decades of gains in public-school enrollment for homeless children will be wiped out" if the exemptions are granted.

USED Official To Visit Dallas Area To See Needs Of Schools In Helping Evacuees. The Dallas Morning News (9/14, Dodge) reports, Assistant U.S. Secretary of Education Tom Luce "will meet with North Texas school superintendents today to learn firsthand about the problems local schools face in educating students displaced by Hurricane Katrina." Luce "will be accompanied by Texas Education Commissioner Shirley Neeley. They also will visit some of the 90 students and families displaced by the hurricane at Madison High School in South Dallas." The superintendents "are also likely to request that the department relax its enforcement of academic requirements under the No Child Left Behind Act." Luce said that Secretary of Education Margaret "Spellings is leading a relief task force that meets twice daily to assess the immediate needs facing schools."

Stocks Markets Finish Down On Concerns Of Katrina Impact. NBC Nightly News (9/13, story 9, 0:10, Williams) reported, "A quick look at Wall Street today: Stocks finished lower. The Dow lost 85-and-a-half points on the day [to close at 10,597.44]. NASDAQ was down 11 points [to close at 2,171.75]."

The Wall Street Journal (9/14, McDonald) says stocks declined "as investors focused more on post-Katrina worries than positive economic data collected prior to the devastating hurricane and its aftermath." The market "started the day up about 3% since the hurricane slammed the Gulf Coast at the end of last month. But rising damage estimates are stoking fears that the economy and corporate profits will be dinged by higher gas prices and lower consumer spending resulting from Katrina."

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Experts Say Reconstruction From Katrina Could Hurt Economy. Knight Ridder (9/14, Hall) reports, "Oddly enough, Katrina's biggest economic impact may not be the damage it left but the rapid growth it may spark next year when rebuilding begins in earnest along the Gulf Coast. That could fuel a pace of growth that adds to inflationary risks in an already strong economy. Higher interest rates are the medicine for inflation, and that could lead to higher mortgage rates, which could threaten the nation's housing boom."

Inflation Rise Fueled By Energy Cost Increases. The Washington Times/AP (9/14, Crutsinger) reports, "Surging costs for gasoline and other energy products fueled inflation at the wholesale level in August, pressure that is expected to become even more intense when the full effect of Hurricane Katrina is felt." The Labor Department Producer Price Index "jumped a sharp 0.6 percent in August following an even bigger 1 percent increase in July." And "the Commerce Department reported that oil imports reached an all-time high in July and the trade gap with China also set a record. However, the overall trade deficit improved slightly to $57.9 billion as exports rose and imports outside of energy fell."

The Wall Street Journal (9/14, Gerena-Morales) reports, "While energy prices soared during the summer, underlying inflation showed signs of stability in the weeks leading up to Hurricane Katrina. Moreover, the U.S.'s trade performance showed signs of improving." The Producer Price Index "for finished goods rose 0.6% in August from July and were 5.1% higher than a year earlier, the Labor Department said. The increase was driven largely by a burst in energy prices, much of which occurred even before the hurricane struck the Gulf Coast, disrupting energy production. Gasoline prices jumped 48% from a year earlier, the Labor Department said."

Fed Unconcerned About Economic Impact Of Katrina. The Financial Times (9/14, Balls) reports, "The US Federal Reserve is set to press ahead with its campaign of raising interest rates at its meeting next week, in spite of the economic impact of Hurricane Katrina. But there is expected to be intense discussion of whether substantial changes to the wording of the accompanying policy statement are needed." Inside the Fed "there is considerable scepticism about the need for the "compassionate" pause in the tightening campaign that some politicians have called for following the devastation in New Orleans and the surrounding region caused by Katrina. An important subject of discussion will be whether the Fed should drop its characterisation of monetary policy as 'accommodation' and whether it should maintain its guidance that it is likely to continue raising the federal funds rate at a 'measured' pace."

US Trade Deficit Narrowed In July. The Financial Times (9/14, Hughes) reports, "Record levels of exports helped shrink the US trade deficit in July, but analysts warned new peaks in energy prices are likely to widen the gap in the months ahead as the cost of imports rises." A Commerce Department report "showed a deficit of $57.9bn, down from an upwardly revised $59.5bn in June -- itself the second highest monthly gap on record."

Katrina Leads To Real Estate Boom In Surrounding Areas. The CBS Evening News (9/13, story 9, 2:05, Attkisson) reported, "In destroying miles of real estate in New Orleans, Katrina gave birth to a real estate boom nearby. Hundreds of thousands of people need new homes." Even "for those who can pay, there aren't enough to go around." It's "too soon for exact figures, but realtors say market values are rising as fast as Katrina's floodwaters, rentals are being snapped up, and oil companies are buying houses for their workers, sight unseen." Judy Burkett, President, Baton Rouge Association of Realtors: "Is it a happy market for realtors? No, it is not. There's no joy in seeing victims and people without homes."

Louisiana Landowner Profits In Katrina's Wake. The Wall Street Journal (9/14, Cooper) says Katrina "has changed practically everything in southeast Louisiana, including the commercial real-estate market. Baton Rouge has been overwhelmed by evacuees and now hosts companies that were flooded out in New Orleans and Jefferson parishes, some 80 miles away. But for those businesses integral to the cleanup, such as power, insurance and engineering companies, towns closer to the devastation are the hottest properties around. In the early days of Katrina's aftermath, there was nowhere nearer to the action than Luling, which got raked by the western edge of the storm but is largely intact. Even before the streets were clear, logistics teams were combing over the place, snapping up every vacant hotel room and office they could find." The Journal adds that few "have benefited more from this than [Jay] Roberts, who has lived in Luling all of his life and assembled a modest real-estate empire even as the town itself struggled."

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New Orleans Recovery Slowly Beginning. The CBS Evening News (9/13, story 5, 2:15, Schieffer) reported, "There are signs that New Orleans is beginning to come back to life." CBS (Pitts) added, "It was the first encouraging sign to come down from the sky over New Orleans in two weeks, the first commercial flights in or out of New Orleans International Airport since the storm hit. But like the city itself, the planes were virtually empty." Engineers are "pumping out 6.5 billion gallons of floodwater every day. Estimates are the city should dry out by mid-October." Mayor C. Ray Nagin (D) New Orleans Mayor: "We're out of nuclear crisis mode, and we're in normal day-to-day crisis mode." Pitts: "Trains are running, power's back on in nearly half the city, and the first cargo ship will be unloaded Wednesday. The port of New Orleans is the gateway to a river system serving 33 states along the Mississippi River. But there are also signs of the grim and difficult tasks ahead."

NBC Nightly News (9/13, story 3, 1:45, Williams) reported, "At the same time, there was progress reported today in the effort to pump out of the streets of New Orleans." NBC (Costello) added, "Two weeks in the fight to reclaim New Orleans from the lake and canals that drowned it, there is progress. The uptown, business district and French Quarter hope to have drinkable water by the end of the week. Repair crews still struggle to clear the debris away from sunken pumps, but 40 are running." But with "no sign of disease so far, the Mayor is anxious to reopen parts of the city to business. The city is out of money and can't make its payroll." Mayor Ray Nagin, New Orleans: "We are working very feverishly with banking institutions, with financial folk, as well as Federal officials to secure a line of credit that will sustain us at least until the end of the year." Costello: "But there was good news today: Louis Armstrong Airport reopened for passenger business, and the first cargo ship is expected to dock tonight in a city devastated by water, but desperate for the economic lifeline it provides."

ABC World News Tonight (9/13, story 3, :25, Vargas) reported, "In the hurricane zone, a milestone today. The New Orleans airport reopened for limited commercial service."

Public Figures Weigh In Rebuilding Plans. USA Today (9/14, Willing) reports that public figures "from local performers to President Bush are beginning to speak of reviving the 287-year-old city as if such a thing is inevitable. They are contemplating what urban planner Robert Lang of Virginia Tech says has 'never been done before in America': Using what could be hundreds of billions of public and private dollars to rebuild a modern city on a scale far beyond what happened in San Francisco after its 1906 earthquake, or in Chicago after its 1871 fire. … Politicians, urban planners, business leaders and local residents with different views of a "new" New Orleans already are campaigning for their competing visions. U.S. Rep. William Jefferson, D-La., whose New Orleans home was flooded, would focus on creating a city where tax credits, housing subsidies and jobs programs would be used to encourage the return of its working class. U.S. Rep. Bobby Jindal, R-La., whose home in nearby Kenner also was damaged, would appoint a rebuilding czar and dust off plans to diversify the city's industrial base and modernize its hospitals and public housing.'

Nagin Hopes To Reopen Four Neighborhoods Soon. The New York Times (9/14, Luo) reports that New Orleans Mayor Ray Nagin said yesterday he hopes to reopen four neighborhoods including the city's central business district and the French Quarter in the next few days. At the same time, "he conceded that the city's financial problems were enormous. … Mr. Nagin said that city officials were trying hard to secure a line of credit. Many contractors who are helping the city clean up are working under the assumption that the city will get money to pay them."

Efforts To Drain Water From City Are Paying Off. Work by the Army Corps of Engineers to pump the water out of New Orleans is paying off, USA Today (9/14, Levin) reports. As of today, "perhaps half of the flooded areas have re-emerged. Temporary pumps and the giant permanent pumping stations are throwing as much as 9 billion gallons per day over the levees and out of the city."

Polluted Waters Being Pumped Into Lake Pontchartrain. The Los Angeles Times (9/14, Vartabedian, Cone) reports that the effort "is sending plumes of contaminated, brown, stinking water into Lake Pontchartrain, setting back years of effort to restore the environmentally sensitive home of Gulf Coast marine life. After festering for two weeks in neighborhoods, commercial districts and industrial zones, the water is laden with bacteria, silt, petroleum products and possibly toxic substances. City officials confirmed Tuesday that they were also releasing untreated sewage into the Mississippi River from one of two treatment plants operated by the New Orleans Sewerage and Water Board." The floodwaters "are overrun with fecal material, silt and other substances that could damage the marine environment."

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New Orleans' Water Purification Plant Revived After Katrina. The Washington Post (9/14, A21, Brown) reports on efforts to resuscitate the Carrollton Water Purification Plant, a "70-acre complex of pumps and generators and pipes to draw water from the Mississippi River, treat it with purifying chemicals, filter it and send it out to the city's half-million residents." The Post adds, "The death and reanimation of the water plant is a story of ingenuity, self-reliance, loyalty and luck. It required doing something that had never been done -- the first cold start of Carrollton since it opened in 1906." The plant "normally pumps 120 million gallons a day. When a big water main breaks, moment-to-moment consumption may go up the equivalent of 10 million to 15 million gallons a day as water gushes out of the system. The plant kicks in to compensate and increases its output to maintain pressure and flow in the distribution system. Soon after the height of the storm, however, demand rose the equivalent of 40 million to 50 million gallons a day, a step-up never seen before."

New Orleans Airport Resumes Commercial Flights. The New Orleans airport has reopened to commercial flights, the AP (9/14, Nossiter) reports. While the airport was operating at only a fraction of its capacity, "the symbolic importance was not lost on a city that only days before had all but collapsed into looting and desperation." Airport officials "hope to be up to 60 flights a day within the week and back to full operation of 350 flights a day in six months."

Port Of New Orleans Reopens Sooner Than Expected. The Washington Post (9/14, D1, Alexander, Irwin) adds that the Port of New Orleans "began unloading its first cargo ship since Hurricane Katrina on Tuesday night, months sooner than was predicted, a sign that disruption to the nation's shipping capacity may be less severe than originally forecast. … Gary P. LaGrange, chief executive of the port, said he expects it to be at 80 percent of capacity within three months. The Port of South Louisiana and Port Fourchon, on the Gulf Coast, have also partially restored service, and the Port of Pascagoula, Miss., expects to resume service by early October, according to the American Association of Port Authorities. That has made economists more optimistic about the hurricane's impact on the nation," it "doesn't mean the economy is in the clear."

Pollution In Nearby Parish May Prevent Rehabitation For Months. ABC World News Tonight (9/13, story 4, 2:30, Vargas) reported, "Next door to New Orleans, in St. Bernard Parish, the situation is very dire. It was located right next to an oil refinery and a levee, both of which breached. 70,000 people live there. And last night, they learned they may not be able to go home until next summer, if ever." ABC (Kofman) added, "The streets of St. Bernard Parish, that only weeks ago overflowed with life, are now deserted." The receding waters "have left behind a thick sludge, a noxious mixture of sea water and crude oil that spilled into the streets from a nearby refinery." Officials here say "that between the oil spill, the flood waters, and the wind damage, almost every one of the 27,000 homes in this community will have to be bulldozed."

Gulf Coast Slowly Recovering. A front page story in the Washington Post (9/14, A1, Nieves) reports that "life has noticeably improved in the five coastal counties where Katrina unleashed the brunt of her fury -- Stone, Hancock, Harrison, Jackson and Pearl River, where about 435,000 people lived and the death toll has reached 218, with 600 people reported missing. More businesses open every day, power is back to 80 percent of the buildings that could receive power and lines for gasoline are back to normal. The Gulf Coast has a future; on that, most agree. But whether it can re-create a culture that took more than 200 years to build, return with its blend of residents, black and white, rich and poor, old money and new immigrant, or will become an entirely new and unfamiliar version of itself -- that is another story."

Levees Said To Have Sustained Extensive Damage. The Los Angeles Times (9/14, Vartabedian) reports that New Orleans' levee system "has sustained heavy damage well beyond the five breaches that are widely known to have caused flooding after Hurricane Katrina, the Army Corps of Engineers said Monday." Sections of the city are now left "with little or no protection midway through the hurricane season, senior Army officials said. And rebuilding the levees will be a massive undertaking that could take years, meaning the city could be vulnerable for a long time." The New York Times (9/14, Wald) adds, "Hurricane Katrina washed away a 17-foot-tall earthen levee that had protected St. Bernard Parish, east of New Orleans, from the waters of a shipping canal, and the Army Corps of Engineers said Tuesday that the ravaged parish would be left defenseless against even small storms at least until early next year because replacing the structure would take months. In a conference call with reporters, Col. Duane P. Gapinski of the

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corps acknowledged that the levee might not be rebuilt even by the start of next year's hurricane season."

Canal May Have Added To New Orleans Flooding. The Washington Post (9/14, A21, Grunwald) reports that on May 19, Hassan Mashriqui, a computer modeler at Louisiana State University's Hurricane Center, had used hydrodynamic modeling to offer proof "that a 'funnel' created by the [Mississippi River] Gulf Outlet and a nearby waterway would amplify storm surges by 20 to 40 percent. He described the funnel as 'Crescent City's Trojan Horse,' carrying the Gulf of Mexico's waters into the city." In determining the cause of New Orleans' flooding, attention thus far has focused on two breached floodwalls near Lake Pontchartrain, "But now experts believe that the initial flooding that overwhelmed St. Bernard Parish and the Lower Ninth Ward of New Orleans came from the Gulf Outlet, a channel that was an ecological and economic disappointment long before Hurricane Katrina."

Confirmed Death Toll Tops 600 In Hurricane Zone. The CBS Evening News (9/13, story 4, 0:20, Schieffer) reported, "The waters in New Orleans continued to recede today and as searchers moved into new areas the death toll went up dramatically. The known dead in Louisiana rose from 279 yesterday to 423 today. In Mississippi, the toll stands now at 218 dead."

Louisiana Death Toll Rises To 423. The AP (9/14, Nossiter) reports, "Hurricane Katrina's death toll in Louisiana jumped by more than half Tuesday to 423 as recovery workers turned more of their attention to gathering up and counting the corpses in a city all but emptied out of the living." The new count was up from 279 the day before, and "how high it might go is unclear." Though authorities said last week that "the toll could be well below the dire projections," there have been "no specific estimates."

Some Troops Set To Return To Regular Duties. Pentagon officials said yesterday that about 4,000 active duty troops, two large Navy vessels and three dozen helicopters which had been working on the hurricane relief effort, will return to their regular duties. The New York Times (9/14,) calls the move "a sign that initial rescue efforts after Hurricane Katrina are coming to an end."

The AP (9/14, Burns) adds, "Maj. Gen. Bill Caldwell, commander of the 82nd Airborne, said on Monday in New Orleans that it appeared the search for city residents who still want assistance could be completed within 10 days. He said it remained to be determined by state and federal civilian authorities what tasks his soldiers would be assigned after that."

Jefferson Under Fire For Using National Guard To Retrieve Personal Items. ABC World News Tonight (9/13, story 7, Tapper) reported, "On the night of September 2nd, military sources tell ABC News, the National Guard took Congressman William Jefferson, a Democrat, on a tour of his congressional district. A Louisiana National Guard truck and at least six soldiers were dispatched. On that tour, Jefferson decided to check on his property and recover his personal belongings. Three suitcases, a box and a laptop computer, while New Orleans residents were trying to get rescued from rooftops." Rep. Jefferson: "This wasn't about me going to my house. It's about me going to my district." Tapper: "The truck had pulled up on to Jefferson's front lawn so he wouldn't have to walk in the rising water. Jefferson went into the house alone, a source says, while the soldiers waited on the porch for about an hour. According to the Louisiana National Guard, after the long wait, the truck was stuck and could not drive off."

Texas Officials Fear State Will Get Stuck With Bill For Katrina. The Dallas Morning News (9/14, Gillman) reports that as the bills for Hurricane Katrina, including rent, police overtime, meals, transportation and hospital beds, Texas officials "are becoming increasingly worried that despite a federal disaster declaration, Washington will leave Texas taxpayers stuck with huge bills. The biggest items not yet covered by Congress: up to $450 million for schools and as much as $400 million for health coverage for the 205,000 evacuees thought to be in Texas." Robert Black, spokesman for Gov. Rick Perry "noted that Texas still hasn't received $2 million it sought from the Federal Emergency Management Agency after Tropical Storm Allison four years ago."

California To Join Emergency Management Assistance Compact. The Los Angeles Times (9/14) reports that California Gov. Arnold Schwarzenegger signed legislation yesterday "allowing California to join 47 states in a pact to provide rescue responders and other resources to disaster locations. California's firefighters had balked at the Emergency Management Assistance Compact out of fear that

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they would have less legal protection and reduced death and disability benefits if they were hurt while assisting in another state. After a prolonged standoff, Schwarzenegger and Democratic legislators, in the aftermath of Hurricane Katrina, fashioned a compromise that protects the firefighters."

Owners Of Flooded Nursing Home Charged With Negligent Homicide. The CBS Evening News (9/13, story 2, 0:25, Schieffer) reported, "Of all the hurricane stories, perhaps none has been more shocking than the deaths of 34 elderly residents of a flooded nursing home, and then yesterday the news that 44 people died in a flooded hospital that was supposed to have been evacuated. Well, today the Louisiana attorney general announced that the operators of that nursing home, Mable and Salvador Mangano, have been charged with 34 counts of negligent homicide."

NBC Nightly News (9/13, story 2, 0:40, Williams) reported, "State officials said the owners of St. Rita's Nursing Home in St. Bernard's Parish were asked if they wanted to move the patients and did not, despite repeated storm warnings, and their inaction led to the patients' deaths in the post-Katrina flooding. Two of the facility's owners surrendered and were jailed today."

ABC World News Tonight (9/13, story 3, :25, Vargas) reported, "There was very disturbing news from the Louisiana attorney general's office. It says the owners of a nursing home, where 34 people were found dead, have been arrested and charged with 34 counts of negligent homicide."

CNN's Anderson Cooper 360 Degrees (9/13, Cooper) reported, "Louisiana's attorney general announced that the home's two owners have been arrested and were charged with 34 counts of involuntary homicide. … The state department of health and hospitals officials say they were under the assumption that St. Rita's had filed its required evacuation plan. But as with all facilities, it was up to St. Rita's to decide when to evacuate."

The charges against the nursing home operators was widely reported in the print media with the Washington Post (9/14, A1, Whoriskey, Tyson), the New York Times (9/14, Dewan, Baker), the AP (9/14, Simpson), Knight Ridder (9/14, Gray, Bailey, Dodd), the Los Angeles Times (9/14, Powers, Riccardi) and USA Today (9/14, Parker) all reporting on it.

Authorities Investigating Deaths At Hospital. The CBS Evening News (9/13, story 3, 2:05, Schieffer) reported authorities "are trying to sort out exactly what did happen" at Memorial Hospital, where 44 patients died. CBS (Cowan) added, "Water had flooded the generators, leaving the hospital without air conditioning for four days. At least 44 of its 260 patients never made it out alive, despite doctor's best efforts." But the "nightmare was no different at other hospitals. At this medical center, the spray paint on the wall says at least 11 bodies were recovered here: Inside, an almost unimaginable wasteland of gurneys, bedpans and other biohazards too horrific to describe."

911 Calls For Aid Frequently Made In Vain. NBC Nightly News (9/13, story 4, 1:45, Williams) reported, "15 days after the hurricane and bodies are still in issue in Louisiana where the governor called for continued efforts to recover the bodies quickly and with dignity. Only now are we hearing the 911 calls to emergency dispatchers from the days the levees broke in New Orleans. The people needed help and many didn't get it."

Louisiana Prisoners Helping With Hurricane Cleanup. A front page story in the Wall Street Journal (9/14, Fields) reports, "As Louisiana digs out from Hurricane Katrina, convicts have been opening roads with axes and chainsaws and doing other useful work. At Angola State Penitentiary, near Baton Rouge, inmates produced mattresses for shelters. Some prisoners have even donated money from what little they are paid so evacuees can buy postage stamps. … All of the prisoners who have been helping are 'trusties,' men who are given special privileges -- like getting to leave the prison grounds under supervision -- because of their exemplary disciplinary records." The Journal notes that Katrina "has resulted in neither riots nor escapes. Because the prison is surrounded by dense, forbidding woods, running away isn't much of an option. Indeed, since Katrina hit, the Louisiana state prison system has been relatively peaceful despite moving 8,000 inmates from prisons damaged by the hurricane to 13 different facilities."

DeLay Declares "Ongoing Victory" In Battle Against Spending. House Majority Leader Tom DeLay yesterday declared an "ongoing victory," in his effort to cut spending "and said there is simply no fat left to cut in the federal budget," reports the Washington Times (9/14, Fagan, Dinan) reports. DeLay "was defending Republicans' choice to borrow money and add to this year's expected $331 billion deficit to pay for Hurricane Katrina relief. Some Republicans

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have said Congress should make cuts in other areas, but Mr. DeLay said that doesn't seem possible." Asked if the government is running at "peak efficiency," DeLay said, "Yes, after 11 years of Republican majority we've pared it down pretty good."

Katrina, Roberts Take Much Of Congress's Attention. The Hill (9/14, Schor) reports that Congress is "consumed…by just two issues at the moment," Hurricane Katrine and Judge Roberts' confirmation hearings. "For many on the Hill, the priority most in danger of slipping through the cracks is entitlement cuts mandated by the congressional budget resolution but put off to accommodate the response to Katrina."

First Responder's Frequency Windfall Delayed With TV Bill Due To Katrina. Roll Call (9/14, Ackley) reports that once television transitions from analog to digital, "first responders such as fire, rescue and police officers stand to benefit from a windfall of new frequencies that they can use to communicate with each other when handling emergencies." While Hurricane Katrina made "their case stronger than ever," it "also has set their cause back, at least temporarily, as Congress' legislative course has been thrown into disarray" and the bill the provision is in sits on hold for, as one GOP lobbyist put it, "somewhere between a few weeks and never."

Republicans Move To Deny Democrats "Traction" On Ethics Issues. Roll Call (9/14, Duran) reports, "Cognizant of how their effective portrayal of a Democratic Party drunk with power led to their historic takeover of the House in 1994, Republicans are moving quickly to ensure that Democrats do not get traction on the ethics issue for the 2006 elections." The "Republicans, in addition to counterpunching, maintain that Democrats are talking about ethics so much because they have nothing else to say… Democratic pollster Celinda Lake said Republicans have to move aggressively to counter ethics charges because the issue hits home." Still, Brad Coker, president of the independent Mason-Dixon polling firm, said that while "individual Republican Members may be in exceptionally hot water, Democrats have a long way to go before they can truly nationalize the issue."

OTHER NEWS:

Ophelia Upgraded To Hurricane As It Nears North Carolina. ABC World News Tonight (9/13, story 5, :25, Vargas) reported, "Tropical Storm Ophelia was upgraded to a hurricane this afternoon, with winds up to 75 miles per hour. After Katrina, people are nervous. In the Carolinas, a mandatory evacuation has been ordered for parts of the Outer Banks. Schools have already been closed in several counties along the coast, as a precaution." The CBS Evening News (9/13, story 10, 0:20, Schieffer) reported Ophelia "could drop more than a foot of rain." NBC Nightly News (9/13, story 7, 0:30, Williams) reported Ophelia was "strong enough to create high anxiety along the barrier islands on the coast of North Carolina where it is expected to make landfall as early as tomorrow evening."

Meanwhile, the Washington Post/AP (9/14, Nowell) notes, "Unlike Hurricane Katrina's devastating charge at the Gulf Coast, the week-old Ophelia had been following a meandering path, making predictions of its landfall difficult. The hurricane center's forecasts showed it running along the coast, then veering through Pamlico Sound, crossing the Outer Banks and heading back out to sea." USA Today (9/14, O'Driscoll) adds that Ophelia "may take an entire day to cross land before spinning back out to sea." The New York Times/REU (9/14) ran a similar report.

Delta, Northwest Consider Bankruptcy Protection. The Wall Street Journal (9/14, Perez, Carey) reports that the boards of Delta Air Lines and Northwest Airlines are meeting today to decide whether to file for bankruptcy protection, which comes after the hopes of an airline industry recovery "have been crushed by the surge in oil prices and the effects of Hurricane Katrina." The anticipated filings "could make competition in the industry much tougher. Both would want to sharply reduce costs while under bankruptcy protection, which gives them greater ability to abrogate union contracts and make other radical moves."

The AP (9/14, Weber) reports, "Delta Air Lines Inc., the nation's third-largest carrier, plans to file for bankruptcy protection in New York as early as Wednesday, according to an industry consultant who has been informed of the company's plans." The AP continues, "The consultant, who was not authorized to disclose the information and thus spoke on condition of anonymity, said Delta is working with GE

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Commercial Finance and other creditors to arrange roughly $2 billion in debtor-in-possession financing. The money would allow the airline to operate in bankruptcy." The AP adds, "Delta, which has lost nearly $10 billion since January 2001, likely will pledge the few remaining assets not already pledged as collateral for loans as part of the bankruptcy financing agreement, the consultant said. 'There is nothing unencumbered after this,' according to this consultant. ….. The consultant said the filing was expected to come Wednesday afternoon but could be pushed to Thursday depending on when the bankruptcy financing is completed."

Competition, Fuel Prices Spur "Likely" Filing. The New York Times (9/14, Maynard) says its "likely" that two of the nation's biggest and most troubled airlines will file for bankruptcy protection. The filing "would not eliminate the challenge posed by low-fare carriers, like Southwest and JetBlue, which now carry one-third of passengers on flights within the United States. … The low-fare airlines' growing presence, up from just 6 percent of passengers in 1990, has kept the big airlines from passing along the punishing rise in the price of jet fuel."

The Financial Times (9/14, Daniel) reports that Delta "was seen as weaker because of its larger exposure to domestic routes, more onerous pension obligations and the cash drain of renegotiating a deal with its credit card vendors." But, credit analysts "noted that Northwest had on Monday defaulted on an $18.7m payment to Mesaba, a regional feeder airline, and saw this as a signal that it was also close to filing."

Bush Returns Focus To Foreign Affairs, Meets With China's Hu. The Washington Post (9/14, A4, Baker) reports that "after nearly two weeks consumed by Hurricane Katrina, President Bush turned his attention back to the rest of the world Tuesday and confronted again the vexing challenges of an intractable war in Iraq, disputes with Iran and North Korea, and fitful relations with the United Nations. Bush played host to Iraq's first democratically selected president at the White House in the morning and persuaded him to abandon talk of imminent U.S. troop pullouts. Bush then flew to New York in the afternoon to attend a division-plagued U.N. summit and to solicit Chinese help in pressuring Pyongyang and Tehran to abandon nuclear weapons ambitions." The "full day of diplomacy marked the first time that Bush has resumed a normal schedule since clearing his calendar after the devastation wrought by Katrina along the Gulf Coast." Bush "canceled a pomp-filled visit by Chinese President Hu Jintao last week to concentrate on getting relief to storm-ravaged areas," but "began to make it up to Hu by meeting with him here Tuesday evening, one of the first sit-down sessions with another world leader since the crisis. The rest of the week is jammed with other foreign policy events, including meetings Wednesday with the prime ministers of Britain and Israel, a U.N. gathering of 170 world leaders and a White House summit Friday with Russian President Vladimir Putin."

The New York Times (9/14, Sanger) also reports that "for the first time since the Hurricane Katrina crisis, President Bush returned yesterday to dealing with festering global problems." Bush's "meeting with Mr. Hu was delayed a week by the hurricane, and was the first in a series planned for coming months, including a trip by Mr. Bush to China in November. When the session finally took place yesterday at the Waldorf-Astoria, Mr. Bush was lobbying hard to persuade Mr. Hu -- who has nurtured a close relationship with Iran -- not to block action by the International Atomic Energy Agency next week to refer Iran's work on uranium enrichment to the Security Council."

The Atlanta Journal-Constitution/AP (9/14, Hunt) reports that Bush "won a pledge" from Hu to "step up pressure on North Korea to abandon its nuclear weapons, but the two leaders remained apart Tuesday over whether to seek international sanctions against Iran." Bush said his discussions with Hu "ranged from how to prevent an avian flu pandemic to economic matters and feared nuclear proliferation in North Korea and Iran. He seemed pleased when Hu said, 'We stand ready to step up our communication and cooperation' to gain fresh progress in negotiations with North Korea."

The Wall Street Journal (9/14, A8, King) reports that Hu told Bush that China "was prepared to take 'effective measures' to ease the soaring U.S. trade deficit with China while also moving to crack down on rampant piracy problems at home. The U.S. last year imported $162 billion more from China than it exported to China. U.S. officials said that Mr. Hu's remarks on intellectual-property protection were particularly important, and among the strongest assurances on that front that any Chinese leader has ever offered. Mr. Hu said that on the whole, relations between the two countries were 'developing quite well,' although he conceded that the rapid growth in bilateral trade had created 'some frictions' between the two economic powers."

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Diplomats Concerned Katrina Response Will Distract US International Focus. Knight Ridder (9/14, Strobel) reports, "Katrina's main impact on foreign policy could be to simply divert the Bush administration's focus more toward domestic concerns." His "visit to the United Nations is sandwiched between two trips to the Gulf Coast." The President and Secretary of State Condoleezza Rice "have been bombarded with questions about Katrina and race issues. And diplomats from the Middle East and elsewhere say they are beginning to worry about sustained U.S. attention to their region."

Bush To Address UN General Assembly. The CBS Evening News (9/13, story 11, 0:30, Schieffer) was the only network to report that President Bush is "in New York tonight preparing to address the UN General Assembly tomorrow morning."

US Intelligence Experts Briefed China, India On Iran Missile Plans. The Wall Street Journal (9/14, A3, Robbins) reports, "As the U.S. and Europe prepare to face off with Iran at the United Nations, the Bush administration dispatched intelligence experts to China and India last week to brief them on Tehran's alleged efforts to develop a missile capable of delivering a nuclear warhead. The decision to share the highly classified intelligence is a measure of the resistance the U.S. is meeting as it pushes, along with the Europeans, for Iran's nuclear activities to be referred to the U.N. Security Council. Even after Tehran resumed some sensitive nuclear activities last month and ended negotiations with the Europeans, the U.S. and its allies face a challenge persuading China, Russia and other key nations that the situation is grave enough -- or Iran's weapons program advanced enough -- for international reprisals."

Administration Using PowerPoint Presentation To Make Case Against Iran. The Washington Post (9/14, A7, Linzer) reports, "With an hour-long slide show that blends satellite imagery with disquieting assumptions about Iran's nuclear energy program, Bush administration officials have been trying to convince allies that Tehran is on a fast track toward nuclear weapons. The PowerPoint briefing, titled 'A History of Concealment and Deception,' has been presented to diplomats from more than a dozen countries. Several diplomats said the presentation, intended to win allies for increasing pressure on the Iranian government, dismisses ambiguities in the evidence about Iran's intentions and omits alternative explanations under debate among intelligence analysts."

Ex-IAEA Official Says Security Council Should Authorize Action. In a New York Times (9/14) op-ed, former IAEA Deputy Director General Pierre Goldschmidt writes that under IAEA statute, "there is no deadline or expiration date after which noncompliance becomes moot. Thus, Iran is still accountable for its past breaches. And Iran's resumption of work related to uranium conversion eliminates the only reason for" France, Germany, and the UK "not to report Iran to the Security Council. A failure by the board to make such a report would considerably weaken the agency and the global nonproliferation regime. It would reveal that the world is unwilling to hold rule-breakers to account, inviting proliferation by other countries. … It is time for the International Atomic Energy Agency to get the authority it needs from the Security Council to complete the verification that Iran's nuclear program is and has been, as claimed, exclusively for peaceful purposes."

As Talks Resume, North Korea Insists On Right To Nuclear Power. The Wall Street Journal (9/14, A18, Fairclough) reports that "talks aimed at persuading North Korea to give up its nuclear ambitions resumed with no public sign of progress toward a compromise between Washington and Pyongyang on a central issue: whether the North should be allowed to develop atomic energy. North Korea's chief delegate to the talks, Kim Kye Gwan, insisted that his country won't give up its right to nuclear power, despite American demands that Pyongyang dismantle all of its atomic programs, military and civilian." Still, the AP (9/14, Herman) adds that Kim said North Korea "would attend the talks with a sincere and flexible attitude."

The Washington Post (9/14, A28, Cody) reports that Kim's remarks "suggested continued difficulties in the talks despite renewed pledges from all participants to show flexibility and goodwill. The talks among China, North and South Korea, Japan, Russia and the United States are aimed at the stated goal of achieving a nuclear-free Korean Peninsula. The issue of peaceful nuclear energy was a major reason the last round was suspended Aug. 7, after 13 days of intense bargaining." The Bush Administration "remains adamant that North Korea must abandon its nuclear weapons programs and forgo nuclear energy production." But as the Washington Times (9/14, Salmon) reports, the "US position is complicated by Chinese and South Korean

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support for civil atomic energy use by North Korea on the condition that it abandon nuclear weapons."

The Christian Science Monitor (9/14, Regan) reports that the US "rejected North Korea's stance. US chief negotiator Christopher Hill said Monday in Beijing that North Korea's position 'does seem to be wrong.' Still, US negotiators said they will renew efforts to convince North Korea to give up its civilian reactors at the talks."

US, South Korea Hold Preliminary Talks On Bilateral Trade Accord. The Financial Times (9/14, de Jonquières, Fifield) reports that "US and South Korean officials are holding preparatory talks on a bilateral trade agreement, potentially paving the way" for President Bush to "launch formal negotiations when he visits the country in November. A deal with Asia's third biggest economy would give the US an important economic bridgehead into the region."

"Widespread Disappointment" With "Gutted" UN Statement Of Goals. The New York Times (9/14, Hoge) reports, "The General Assembly unanimously approved a scaled-down statement of goals on Tuesday," amidst "widespread disappointment at the weakening of the 35-page document."

The Los Angeles Times (9/14, Farley) adds that because "the secretary-general is treated more like an employee of the member nations than their leader" and "a culture of consensus allowed a handful of nations with entrenched interests to shape the outcome," after "weeks of bitter negotiations," many of Annan's boldest reform proposals were "eviscerated."

The Washington Post (9/14, A6, Lynch, Kessler) adds that delegates "voiced relief that the entire process had not collapsed, which would have left the summit with no tangible result, and they highlighted relatively modest achievements in the document" which includes "provisions that call for an increase in foreign aid, condemn terrorism and underscore the obligation of states to halt genocide and ethnic cleansing." However, it does not address "proposals to expand the U.N. Security Council, to create an independent auditing board to scrutinize U.N. spending, and to impose basic membership standards for a new Human Rights Council."

The Atlanta Journal-Constitution/AP (9/14, Wadhams) adds, "To reach a consensus, most of the text's details were gutted in favor of abstract language … Several nations were angry with the way the document was pushed through the General Assembly before it was translated from English into the five other official U.N. languages, a violation of U.N. protocol. That gave ambassadors little time to review it."

The Kansas City Star (9/14, Lederer) adds, "Many countries blame the United States for proposing hundreds of amendments just a few weeks ago to a document they believed was nearing agreement. The major organizations of developing countries, including the Group of 77 and the Nonaligned Movement, then responded with dozens of their own."

Some, Like Bolton, Content; Others, Like Annan, Say Missing Parts Are A "Disgrace.". The Washington Times (9/14, Pisik) adds, "Development specialists praised the outcome of the final declaration, noting that the passages were mostly strong and encouraging … Jan Eliasson, Sweden's former ambassador to Washington and the president of the General Assembly for the upcoming year, praised the declaration and said it should be assessed compared with historic reform measures, not to recent reform proposals."

The Los Angeles Times (9/14, Farley) adds that diplomats said "there were many more disappointments than successes."

The Atlanta Journal-Constitution/AP (9/14, Wadhams) adds, "The outgoing president of the General Assembly, Gabon's Jean Ping, presented the compromise Tuesday afternoon in hopes of bridging the deepest divides and moving away from bitter line-by-line negotiations that had bogged down the debate … Though Annan said he was pleased, the document was a significant step backward for him."

The Washington Post (9/14, A6, Lynch, Kessler) adds that Annan said that "members' inability to adopt…measures on disarmament and nonproliferation constituted 'a real disgrace.'"

The New York Times (9/14, Hoge) reports that Secretary General Kofi Annan "complained pointedly…about the elimination in the final version of language covering nuclear nonproliferation and disarmament." John R. Bolton, the American ambassador, said "the United States was satisfied with the outcome, which he said matched the limited hopes he had had for the document."

The Kansas City Star (9/14, Lederer) adds that Germany's U.N. Ambassador Gunter Pleuger said "in

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hindsight, member states underestimated the amount of preparatory work needed to reach consensus."

America Enters UN Summit With New Internal, External Views. Knight Ridder (9/14, Strobel) reports that as the President heads to the UN summit, the "botched response to Hurricane Katrina has changed views of America both at home and abroad." In other nations there is "incredulity that the world's wealthiest country could fail to take care of its own," while "Americans want more attention on domestic concerns and less on the war on terrorism." Katrina "threw a light on America's class and racial divides," and "public opinion at home and abroad will pose challenges for" the Administration agenda of the "promotion of democracy around the world and the war in Iraq."

Author Says Summit Is On "Brink Of Failure." In an op-ed in the Financial Times (9/14), Nancy Soderberg, vice president for multi-lateral affairs of the International Crisis Group and author of The Superpower Myth: The Use and Misuse of American Might (John Wiley), "The depressing truth is" that the world "failed to take up the secretary-general's challenge. His proposals offer the right way forward for the 21st century but they will have to wait for the world to catch up with his vision. Until then, the world will remain the worse for it." Because of "the ideological clash between the US and much of the developing world," the meeting is on "the brink of failure."

NYTimes Says US Bears "Disproportionate Share" Of Blame For "Squandered" Opportunity. The New York Times (9/14) editorializes, "A once-in-a-generation opportunity to reform and revive the United Nations has been squandered," and "every one of the more than 170 national leaders attending, starting with President Bush, should be embarrassed." However, "the United States, as the host nation and the U.N.'s most indispensable and influential member, bears a disproportionate share" of the blame. President Bush "contended that contrary to all appearances and to common sense, Mr. Bolton was just the man to achieve the reforms the United Nations needed. Almost immediately, Mr. Bolton began proving Mr. Bush wrong," transforming "what had been a painful and difficult search for workable diplomatic compromises into a competitive exercise in political posturing … By the time Washington retreated to a more realistic position, it was too late to retrieve much of the bold original agenda."

IMF Director Says Fund Needs To Be Redefined. In an op-ed in the Financial Times (9/14) Rodrigo De Rato, managing director of the International Monetary Fund, argues that globalisation "has brought cross-border financial crises and heightened the imperative to bring into the mainstream those who are being left behind … As we address the challenges of our rapidly globalising world, change is essential if the fund is to remain relevant," and "redefining the fund's mission is inseparable from reassessing IMF governance … The fund's legitimacy as a global organisation rests on fair representation for all members. The current allocation of quotas…puts this legitimacy at risk in many regions." The fund has collected new mandates "as old mandates remained unchanged" and became "diffuse, resource-intensive operations." Also, "the IMF's work in low income countries is overloaded with procedures that absorb substantial resources yet yield questionable gains. This work must be streamlined to ensure the needs of poverty reduction are met."

Bush May Have "Missed" Taking The Lead On Global Poverty. The New York Times (9/14, Dugger) reports, "Some say" President Bush "has missed an opportunity to take the lead on poverty." The quest to relieve crushing poverty "has been overshadowed by Katrina, the oil-for-food scandal and squabbling over reform of the United Nations itself," while "the administration's opening foray in the negotiations left some African leaders dismayed … Whatever the verdict on Mr. Bush's role, others are seizing the initiative. Former president Bill Clinton will sponsor a three-day conference in New York beginning tomorrow that will focus on poverty and governing, climate change and conflict."

Clinton's Fight Against Poverty Could Yield "Spectacular" Results. The Financial Times (9/14, Sachs) reports, "The Clinton Global Initiative is surely the most visible of" the efforts against extreme poverty that flank the 2005 World Summit, "drawing upon former President Bill Clinton's ability to mobilize friends from in and out of government and industry. Clinton seems intent on achieving practical actions, following the path set by America's great former President, Jimmy Carter … If President Clinton takes a page from President Carter's playbook, the results could be spectacular."

Abbas Will Disarm Small Militias Now, Hamas After Elections. USA Today (9/14, Patience) reports,

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"Mahmoud Abbas said Tuesday that he would impose law and order in Gaza in response to the chaos that followed the pullout of Israeli troops from the territory a day earlier," and "the Palestinian Authority president's chief of staff, Rafiq Husseini, said Abbas would begin disarming small militant groups soon. After parliamentary elections in January, he said, Abbas would insist that big militant groups such as Hamas and Islamic Jihad disarm in accordance with steps in the U.S.-mediated 'road map' to establish a Palestinian state."

Looting, Illegal Board Crossings Continue In Gaza. The New York Times (9/14, Erlanger) reports that thousands "continued their active salvaging of saleable or usable materials from the 21 former Israeli settlements. In some places, Palestinians looted the greenhouses that were bought for their use by American philanthropists, taking nylon tarpaulins, irrigation hoses and electrical equipment," despite the "Palestinian security forces deployed around the greenhouses." Meanwhile, Egyptian "border guards looked the other way as Palestinians crossed the fences into Egypt through the Philadelphi route … Some Israeli officials criticized the Egyptians and said the lax border controls boded badly for Israel's future security."

Palestine, Israel Disagree Whether Gaza Is Still Occupied. The Washington Times (9/14, Mitnick) reports, "Although Gazans are celebrating a liberation of sorts, the territory isn't a sovereign state, and many Palestinians don't consider Israel's occupation over. Israel, for its part, wants international recognition of the end of its military rule and the beginning of full Palestinian 'jurisdiction' over the Gaza Strip," even though "Israel will retain control of Gaza's airspace, its territorial waters and, for the near future, the border crossing to Egypt." The issue "at stake is whether Israel will be able to fully absolve itself of responsibility for Gaza's anarchy and economic blight, as well as the degree of force that the Jewish state would be able to use in retaliation for cross-border attacks."

While Not Considered Politically Adept, Merkel On Track For Chancellorship. The Washington Post (9/14, A1, Whitlock) reports, "Unsmiling, unstylish and uncharismatic," Angela Merkel "is bidding to become Germany's first female chancellor, as well as the first to have grown up behind the Iron Curtain, in the former East Germany. Polls show that her party, the Christian Democratic Union, holds a lead, albeit a narrowing one." However, "for many Germans she remains a remote figure" and "Merkel's rivals, inside and outside her party, show little regard for her political skills." Still, "in Germany's political system, national leaders are chosen by party, and the Christian Democrats lead the polls."

WPost Says US, Allies Must Continue Pushing Against Darfur Genocide. The Washington Post (9/14) editorializes, "Little by little, American diplomacy has made headway" in stopping the genocide in Darfur. "The progress over the past year demonstrates that the United States and its allies do have the power to save lives by the tens of thousands. It also suggests that, if the Bush administration had pushed harder and earlier, it could have saved many more people." This progress "is incomplete and reversible," and if the United States and its allies "lose interest in Darfur, violence may resume and humanitarian access may dry up."

Protestant Leaders In Northern Ireland Criticized. In an editorial, the Los Angeles Times (9/14) notes that violence recently "erupted in Northern Ireland…as authorities prevented the Orange Order, the largest Protestant organization in the province, from parading past a Catholic neighborhood." Although "blame for the…violence rests mainly with the leadership of the Orange Order, the silence of at least two key Protestant political leaders who could have helped head off the clashes gives them a share of the responsibility. The Rev. Ian Paisley, head of the Democratic Unionist Party, and Reg Empey, the leader of the Ulster Unionist Party, should immediately denounce sectarian violence as unacceptable." And since forbidding these parades seems to be an unenforceable option, the "only viable solution is to get political leaders to recognize equal rights for both communities, and to get Orange Order leaders to the table, negotiating directly with representatives of the communities through which it intends to march."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Attends signing of the Convention for the Suppression of Acts of Nuclear Terrorism, UN headquarters, NY; speaks at the UN High-Level Plenary

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Meeting, UN headquaters; meets with the Prime Minister of Israel, UN headquarters; meets with the Prime Minister of the United Kingdom, UN headquarters; attends Security Council Summit, UN headquarters; attends international launch of the UN Democracy Fund, UN headquarters; attends luncheon hosted by UN Secretary General Annan, UN headquarters; travels to Washington; makes remarks at the National Dinner Celebrating 350 Years of Jewish Life in America, National Building Museum.

VICE PRESIDENT CHENEY — No public schedule.

LAURA BUSH — Attends the President's remarks at the UN High-Level Plenary meeting, New York; speaks at an USAID Fighting Malaria in Africa event, Waldorf-Astoria Hotel, New York.

US Senate: 9:30 a.m. JUDICIARY _ Full Committee. Hearing on the nomination of John Roberts to be Chief Justice of the Supreme Court. John Roberts. Location: Room 216, Hart.

10 a.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Subcommittee on Aviation. Hearing to review the impact of Hurricane Katrina on the aviation industry. Air Transport Association CEO James May; Pensacola Regional Airport Director Frank Miller; Regional Airline Association President Deborah McElroy; Energy Information Administration Deputy Administrator Howard Gruenspecht. Location: Room 562, Dirksen.

10 a.m. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ Full Committee. Oversight hearing on disaster relief and response efforts by all levels of government following Hurricane Katrina. Former California Gov. Pete Wilson, former Mayor Patricia Owens of Grand Forks, N.D., National Urban League President and former New Orleans Mayor Marc Morial, and Iain Logan of the International Federation of Red Cross and Red Crescent Societies. Location: Room 342, Dirksen.

10:30 a.m. SELECT INTELLIGENCE _ full Committee. Closed, members only briefing on pending matters. Location: Room 219, Hart.

US House: FLOOR SCHEDULE _ 10 a.m. Meets for legislative business. Highlights: Suspensions (3 bills): 1) H.R. 3408 - To reauthorize the Livestock Mandatory Reporting Act of 1999 and to amend the swine reporting provisions of that Act; 2) H.R. 3421 - To reauthorize the United States Grain Standards Act; 3) H.Con.Res. 208 - Recognizing the 50th anniversary of Rosa Louise Parks' refusal to give up her seat on the bus and the subsequent desegregation of American society. H.R. 3132 - Children's Safety Act of 2005.

10 a.m. ARMED SERVICES _ Full Committee. Hearing on the Quadrennial Defense Review. Dov Zakheim, Booz Allen Hamilton; Daniel Goure, Lexington Institute; Michele Flournoy, CSIS; Andrew Krepinevich Jr., Center for Strategic and Budgetary Assessments. Location: Room 2118, Rayburn.

10 a.m. FINANCIAL SERVICES _ Financial Institutions and Consumer Credit Subcommittee. Hearing on the response of financial institutions to Hurricane Katrina. McKinley W. Deaver, Mississippi Bankers Association; Ken Bordelon, E Federal Credit Union (LA); C. R. Cloutier, MidSouth Bank, N.A. (LA); Charles Elliott, Mississippi Credit Union Association; Diane Casey-Landry, Americas Community Bankers; David Gibbons, HSBC North America (IL); Hilary Shelton, NAACP. Location: Room 2128, Rayburn.

10 a.m. GOVERNMENT REFORM _ Full Committee. Meets on pending business. Location: Room 2154, Rayburn.

10 a.m. JUDICIARY _ Full Committee. Markup of H. Res. 420 - directing the Attorney General to turn over requested documents in the Valerie Plame case. Location: Room 2141, Rayburn.

10 a.m. VETERANS AFFAIRS _ Full Committee. Oversight hearing on the VA's proposed information technology infrastructure reorganization. Location: Room 334, Cannon.

10:30 a.m. APPROPRIATIONS _ Science, State, Justice, Commerce Subcommittee. Hearing on the transformation of the FBI following the 9/11 terrorist attacks. FBI Director Robert Mueller, former Governor and U.S. Attorney General Richard Thornburgh, Justice Department Inspector General Glenn Fine, Al Cumming and Todd Masse of the Congressional Research Service, Randy Hite of the Government Accountability Office. Location: Room 2359, Rayburn.

10:30 a.m. INTERNATIONAL RELATIONS _ Full Committee. Markup of H. Res. 375 - Requesting the President and directing the Secretary of State to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution all information in the possession of the President and the Secretary of State relating to communication with officials of the United Kingdom between January 1, 2002, and October 16, 2002, relating to the policy of the United States with respect to Iraq; H. Res. 408 - Requesting the President and directing the

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Secretary of Defense to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution all documents in the possession of the President and Secretary of Defense relating to communications with officials of the United Kingdom relating to the policy of the United States with respect to Iraq; H. Res. 419 - Directing the Secretary of State to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the possession of the Secretary of State relating to the disclosure of the identity and employment of Ms. Valerie Plame. Location: Room 2172, Rayburn.

1:30 p.m. INTERNATIONAL RELATIONS _ Europe and Emerging Threats Subcommittee. Hearing on U.S. aide to Europe. Thomas C. Adams, Coordinator, U.S. Assistance to Europe and Eurasia, Bureau of European and Eurasian Affairs, Department of State; Drew W. Luten III, Senior Deputy Assistant Administrator, Bureau for Europe and Eurasia, USAID. Location: Room 2172, Rayburn.

2 p.m. GOVERNMENT REFORM _ Energy and Resources Subcommittee.Hearing on natural gas demand. Rebecca Watson, Assistant Secretary of Interior for Land and Minerals Management; Guy Caruso, Administrator, Energy Information Administration, Department of Energy; Michael Zenker, Senior Director, North American Natural Gas, Cambridge Energy Research Associates; Logan Magruder, President, Independent Petroleum Association of Mountain States; Tyson Slocum, Research Director, Energy Program, Public Citizen. Location: Room 2154, Rayburn.

7 p.m. RULES _ Full Committee. Meets to consider H.R. 889 Coast Guard and Maritime Transportation Act. Location: Room H-313, Capitol.

Other: AIR AND SPACE CONFERENCE _ The Air Force Association hosts the Air & Space Conference and Technology Exposition 2005 geared to the professional requirements of Air Force enlisted and officers, Guardsmen and Reservists, civilians, retirees and industry representatives. It will focus on the future of air and space power during workshops and forums featuring academians and professionals. Highlights: 9:05 a.m. Ambassador Edward Walker, Jr., president and CEO, Middle East Institute. 10 a.m. Michael Scheuer, former chief of bin Laden Unit at CIA, author. 11 a.m. USAF Chief of Staff remarks. Location: Marriott Wardman Park Hotel, 2660 Woodley Road, NW.

FDA-PDA JOINT CONFERENCE _ The Food and Drug Administration (FDA) and the Parenteral Drug Association (PDA) hold the 2005 Joint Regulatory Conference and Exhibits. Highlights: 7 a.m. Breakfast Sessions, Rick Friedman, FDA; Timothy Ramjit, Global Technical Services; Vince Matthews, Eli Lilly and Co. Location: Omni Shoreham Hotel, 2500 Calvert St. NW.

HEALTH INSURANCE _ America's Health Insurance Plans holds its 2005 Medicare and Medcaid Conferences. Highlights: 8:30 a.m. Deputy Administrator CMMS Leslie Norwalk. 9:45 a.m. Maura Bluestone, CEO, Affinity Health Plan; Darnell Dent, CEO, Community Health Plan of Washington; Michael Dudley, CEO, Sentara Health Plans; Howard Kahn, CEO. LA Care. 11:15 a.m. National Governors Association Executive Director Raymond Scheppach. 12:15 p.m. Assistant HHS Secretary Michael O'Grady. 3 p.m. Virginia Medical Assistance Services Director Patrick Finnerty, Billy Millwee, Texas Health and Human Services Commission. Location: Marriott-Crystal Gateway, 1700 Jefferson Davis Hwy., Arlington, Va.

ROBERTS-PROTEST _ A coalition of groups join in protest of the confirmation hearings for Judge John Roberts to be chief justice. Groups include: National Organization for Women, Feminist Majority, People for the American Way, Human Rights Campaign, Rainbow PUSH/Coalition, and others. Highlights: 7 a.m. Protest behind Hart Senate Office Building on C Street. 12 p.m. Protest behind Hart Senate Office Building on C Street. Location: Capitol Hill, various locations.

USTR PORTMAN _ Schedule for USTR Rob Portman. Highlights: 9:30 a.m. Meets with EU External Trade Commissioner Peter Mandelson. Photo opportunity. Pre-clearance required. USTR offices, 600 17th St. NW. At about noon, they will have a media availability. RSVP required. 10 a.m. Attends public hearing on China's WTO compliance. USTR Annex, 1724 F St. NW. 5:15 p.m. Meets with Kenyan Trade Minister Mukhisa Kituyi. Photographers must be pre-cleared. USTR offices, 600 17th St. NW.

HOUSE DEMOCRATS _ 9 a.m. Closed meeting of the House Democratic Caucus. Location: Cannon Caucus Room.

HOUSE REPUBLICANS _ 9 a.m. Closed meeting of the House GOP Conference. Location: Room HC-6, Capitol. Notes: Stakeout in the Center Steps Hallway at 10 a.m., with Speaker Hastert and Reps. Roy Blunt and Deborah Pryce discussing the Children's Safety Act, Coast Guard reauthorization and the legislative agenda.

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FUEL PRICES _ 9:30 a.m. House members, including Sherwood Boehlert and Edward Markey, hold a news conference to announce a bill to help provide consumer gasoline price relief by requiring automakers to increase the fuel efficiency of vehicles. Location: Room 2318, Rayburn.

CRITICAL TRIANGLE _ 10 a.m. The US Institute of Peace holds a panel discussion on ``A Critical Triangle: Iraq, Iran and the U.S." with Daniel Brumberg of the institute, Geoffrey Kemp of the Nixon Center, and Kenneth Pollack of the Saban Center for Middle East Policy. Location: 1200 17th St. NW.

DEMOCRATS-GASOLINE PRICES _ 10 a.m. Press stakeout for discussion with Democratic Leader Nancy Pelosi, Democratic Whip Steny Hoyer; Democratic Caucus Chairman Robert Menendez, and Democratic Caucus Vice Chairman Jim Clyburn following Democratic Caucus Meeting to Discuss Hurricane Katrina and the record gas prices Americans are paying at the pump. Location: Stake-out position outside of 345 Cannon (Cannon Caucus Room).

FLU VACCINATIONS _ 10 a.m. The National Foundation for Infectious Diseases holds a news conference with leading health authorities to warn Americans to get their flu shots. Participants include CDC Director Julie Gerberding, CMMS Administrator Mark McClellan, others. Location: National Press Club.

REPUBLICANS _ 10 a.m. House Speaker Dennis Hastert joins Majority Whip Roy Blunt, Conference Chairman Deborah Pryce, and Budget Chairman Jim Nussle immediately following GOP Conference meeting to discuss Children's Safety Act, United States Coast Guard reauthorization, and legislative agenda. Location: Room HC-6, Capitol.

9/11 COMMISSIONERS-EMERGENCY RESPONSE REPORT _ 10:30 a.m. The former 9/11 Commissioners release a report assessing implementation of the Commission's recommendations on homeland security and emergency response. Location: Ronald Reagan Building and International Trade Center, International Gateway Room, 1300 Pennsylvania Ave. NW.

SANTORUM-ROBERTS _ 10:30 a.m. Sen., Rick Santorum, R-Pa., others, hold a press conference to discuss issues surrounding ``Civil Rights/Civil Liberties regarding the Supreme Court Hearings for Judge John Roberts. Location: Russell Senate Park.

ANTI-BOLTON _ 11 a.m. Global Exchange hosts a teleconference during which anti-poverty, environmental and women's groups will denounce Bolton/Bush positions as World Summit opens. Notes: Media call-in number is 800-351-4872. Passcode: 143219.

PENTAGON-IRAQ BRIEFING _ 11 a.m. Army Col. Robert Brown, commander of the 1st Brigade (Stryker), 25th Infantry Division, Multi-National Force - Northwest, will brief live from Iraq to provide an operational update in his area of responsibility. Location: DOD Briefing Studio, Pentagon 2E579.

KATRINA-JOBS _ 11:15 a.m. The Travel Industry Association of America holds a news conference to announce an online job bank to help workers displaced by Hurricane Katrina. Location: National Press Club.

ISRAELI-PALESTINIAN SECURITY _ 12 p.m. Americans for Peace Now hosts a discussion by Middle East experts regarding Israeli-Palestinian security issues in the post-disengagement period, with Israeli security expert Yossi Alpher and Palestinian security expert Ahmad Samih Khalidi. Location: Room 2203, Rayburn House Office Building.

ROBERTS _ 12 p.m. Reps. Deborah Pryce, Trent Franks, John Carter, Dan Burton, others, hold a news conference on the nomination of John Roberts to be Chief Justice of the Supreme Court. Location: Cannon Terrace.

RUSSIA-LOOSE NUKES _ 12 p.m. The Henry L. Stimson Center and the Center for American Progress release report, ``Securing Russia's Loose Nukes: Progress Since 9/1." Location: Center for American Progress, 1333 H Street NW., 10th Floor.

SUNUNU-FINANCIAL SERVICES _ 12 p.m. Sen. John Sununu, R-N.H., a member of the Senate Banking Committee, will deliver the keynote luncheon address to members of the Financial Services Institute. Location: Presidential Ballroom. Capital Hilton, 16th and K Sts. NW.

EPA-KATRINA _ 1 p.m. EPA Administrator Stephen L. Johnson will discuss the agency's work including rescues and testing for various pollutants or toxics following Hurricane Katrina. Location: EPA Headquarters, Ariel Rios North Building, 200 Pennsylvania Ave. NW.

KATRINA RELIEF _ 1 p.m. Rep. Carolyn Maloney holds a news conference on Hurricane Katrina and 9/11 recovery. Location: Cannon Terrace.

HOYER _ 1:30 p.m. House Democratic Whip Rep. Steny Hoyer holds a pen and pad only briefing. Location: Room H-306, Capitol.

KATRINA-MINISTERS _ 2 p.m. The Ministers for Racial, Social and Economic Justice organization holds a

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news conference to call on Congress to reprimand and/or censure President Bush for the administration's handling of the Hurricane Katrina relief efforts. Location: National Press Club.

ABU ALI _ 3 p.m. Arraignment of Ahmed Omar Abu Ali on a superceding indictment which includes charges of conspiracy to assassinate President Bush. Judge Gerald Bruce Lee will preside. Location: U.s. District Court, Alexandria.

INTERNET-INTERNATIONAL RELATIONS _ 6 p.m. The Council on Foreign Relations holds a special event celebrating the launch of the newly redesigned cfr.org, ``A Wired World: The Internet and International Relations," with Craig Calhoun, New York University; Andrew McLaughlin, Google Inc.; Daniel Burton, Jr., Entrust, Inc. Location: Council on Foreign Relations, 1779 Massachusetts Ave. NW.

NATIONAL PTA-TARGET _ 6 p.m. National PTA honors Target at a national gala dinner as the recipient of the 2005 National PTA Commitment to America's Children Award. Location: Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Ave. NW.

USO-GEN. MYERS _ 6 p.m. The USO honors Gen. Richard Myers, chairman of the Joint Chiefs of Staff, for distinguished service to his country and an enlisted member from each branch of the armed forces. Deborah Norville is emcee. Guests include members of Congress, military leadership and government officials, Miss USA 2005 Chelsea Cooley, John Elway, Kathy Kinney, Wayne Newton, Shaquille O'Neal, Tito Puente, Jr., Henry Rollins, Leeann Tweeden, Neal McCoy and soprano Harolyn Blackwell. Location: Hilton Washington, 1919 Connecticut Ave. NW.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"Roberts Is Confronted On Abortion."
"Roe Ruling: More Than Its Author Intended."
"Roping In A Legacy."
"Haven Turned To Horror."
"Bush Accepts Blame For Slow Hurricane Response."
"Extent Of L.A. Blackout Gave DWP Chief A Jolt."
"Baghdad Blast Kills Scores Of Iraqis."

USA Today:

"Dreams Are Emerging Of A 'New' New Orleans — But Which One?"
"Roberts Avoids Specifics On Abortion."
"Pair Charged In 34 Deaths."

New York Times:

"President Says He's Responsible In Storm Lapses."
"Roberts Fields Questions On Privacy And Precedents."
"Two Major Airlines Seen Near Filing For Bankruptcy."
"Ferrer Is First; Runoff Possible Against Weiner."
"F.A.A. Alerted On Qaeda In '98, 9/11 Panel Said."
"Owners Of Nursing Home Charged In Deaths Of 34."

Washington Post:

"Roberts Avoids Specifics On Abortion Issue."
"Owners Of Nursing Home Charged."
"Bush Takes Responsibility For Failures Of Response."
"As Questioning Begins, Euphemisms Abound."
"The Region Starts To Stagger Back."
"No-Frills Candidate Aims For Germany's Top Spot."

Washington Times:

"Roberts Defends Roe As 'A Precedent.'"
"Nominee's Answers Get Mixed Reviews."
"DeLay Declares 'Victory' In War On Budget Fat."
"Europe Leaders Pump Up Volume."
"At War With An Enemy Of An Unspoken Name."
"New Orleans' Port, Airport Now Reopened."
"Toyota Commits To 'Future' Of All Gas-Electric Motors."

Detroit Free Press:

"NWA Near Bankruptcy."
"Barden: My 1% In Casino Is Too Little."
"Race Still Divisive In Mayoral Campaign."
"Iraqi Leader Welcomed In Dearborn."

Atlanta Journal-Constitution:

"Inflation+Growth=Spending."
"Storm Deaths Lead To Arrests."
"Roberts Deflects Pointed Queries."
"New Hope, New Home."
"Fake Evacuee Leaves Donor Feeling Burned."

Dallas Morning News:

"Bush Takes Blame For Response."
"At Least 73 Die In Iraq Blast."
"'We're Not Used To Just Listening To People Die.'"
"Democrats Press, But Judge Avoids Specifics."
"Words Getting In The Way Of U.N. Defining 'Terrorism.'"

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Houston Chronicle:
"White's Handling Of Crisis Earning Political Capital."
"'I Take Responsibility' For Response, Bush Says."
"Death Toll In Louisiana Rises By 100."
"For Those Who Can't Find Kids, Misery Is Compounded."
"Roberts Stays Cool As Exchanges Sizzle."

Story Lineup From Last Night's Network News:
ABC: Bush-Katrina Blame; US Disaster Preparedness; New Orleans Airport; St. Bernard Parish; Hurricane Ophelia; Senate-Roberts Hearing; Jefferson-National Guard; Family Dinners.
CBS: Bush-Katrina Blame; New Orleans-Homicide Charges; New Orleans-Hospital Deaths; Katrina-Death Toll; New Orleans Recovery; Senate-Roberts Hearing; Roberts Hearing-Analysis; Katrina-Missing Children; Hurricane Zone-Housing; Hurricane Ophelia; Bush-Iraqi Prime Minister; Ohio-Caged Children; California-Duck Rescuing.
NBC: Bush-Katrina Blame; New Orleans-Homicide Charges; New Orleans Recovery; New Orleans-911 Calls; Senate-Roberts Hearing; Specter-Roberts Hearing; Hurricane Ophelia; Katrina-Donation Scams; Stock Market; Katrina-Separated Families.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Bush-Hurricane Response Failures; New Orleans Nursing Home-Homicide Charges Hurricane Ophelia; Roberts Hearings; Baghdad-Car Bomb.
CBS: New Orleans Nursing Home-Homicide Charges; New Orleans-Passenger Flights Resume; New Orleans Clean-Up; Hurricane Ophelia; Baghdad-Car Bomb; Roberts Hearings; Wall Street.
NPR: Baghdad-Car Bomb; Al Jafari-US visit; New Orleans Nursing Home-Homicide Charges; Bush-Hurricane Response Failure; Hurricane Ophelia; Roberts Hearings; India, Pakistan-Prisoner Exchange; Foreign Stock Markets.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, SEPTEMBER 14, 2005 7:45 AM EDT

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TERRORISM NEWS:

McCain Threatens To Attach Detainee Rules Amendment To Defense Bill. The Hill (9/14, Tiron, Allen) reports, "Sen. John McCain (R-Ariz.) is threatening to attach an amendment to the defense appropriations bill defining acceptable treatment of military detainees if the defense authorization bill, to which it is currently attached, is not voted on this fall. 'I hate to do this,' said McCain, chairman of the Senate Armed Services Committee's Airland Subcommittee." The Hill notes, "The dispute between the White House and McCain is their first high-profile disagreement since the November election. Meanwhile, Sen. John Warner (R-Va.), chairman of the Senate Armed Services Committee, remains 'very supportive' of McCain's amendment, according to a committee spokesperson. And Warner also is committed to bringing the authorization bill to the floor this fall."

128 Gitmo Prisoners Are On Hunger Strike. The Los Angeles Times (9/14, Serrano) reports, "A hunger strike at the U.S. naval base at Guantanamo Bay, Cuba, has grown to 128 prisoners who are demanding that they be immediately released or granted access to a legal process to defend themselves against blanket allegations that they are terrorists. The strike, begun more than five weeks ago, has forced military authorities to hospitalize 18 of the prisoners and to take extraordinary measures to force-feed them. Some detainees have vowed to die if necessary, but the Pentagon insists that it will not let anyone starve to death. … Along with demanding that they be freed or put on trial, some detainees also are complaining of assaults by guards and continuing to allege that there has been desecration of Muslim religious items."

Investigation Finds Gitmo MPs Distrusted Interrogators. The AP (9/14, Fox) reports, "A U.S. inquiry into alleged abuse at Guantanamo uncovered a climate of deep distrust between military police and interrogators, who were accused during the probe of giving terror suspects personal information about their guards. The MPs suspected interrogators gave their names and Social Security numbers to prisoners in exchange for intelligence, according to the investigation, which recommended that a senior interrogator be relieved of duty for 'failure to know his enemy.' The interrogator 'sees himself as a hero for the detainees, and against the MPs, on a crusade in the battle of the MPs against the detainees,' one investigator wrote in the report on the inquiry that The Associated Press obtained under a Freedom of Information lawsuit." The AP adds, "The investigation began in March 2004, when the same interrogator claimed military police had abused detainees. … The interrogator claimed that guards mistreated a suspected al-Qaida member by not allowing him to use the bathroom immediately after a five-hour interrogation and that at other times withheld food and turned the temperature down on a cell to 52 degrees as punishment."

In Courtroom Outburst, Al Arian Lawyer Bumps Prosecutor, Challenges FBI Agent. The Tampa Tribune (9/14, Fechter) reports Sami al Arian attorney William Moffitt "bumped a federal prosecutor and challenged an FBI agent during a break Tuesday morning, saying the government was cheating in prosecuting the terror- support case that could send the defendants to prison for life." Moffitt said that "prosecutors should have provided translations" for Israeli documents about al Arian's alleged support for suicide bombers, "throwing the documents onto the defense table. He then bumped" Assistant US Attorney Cherie Krigsman "and hollered 'This is business. You're trying to put a guy in jail for life. You cheat all the time.'" FBI Agent Kerry Myers "got in between Moffitt and Krigsman, telling Moffitt to leave Krigsman alone because 'she's a female.' Moffitt challenged the agent. 'Get in my face one more time,' he said."

Hayat Attorneys Secure $1.2 Million In Property For New Bail Request. The Lodi News Sentinel (9/14, Bohm) reports Umer and Hamid Hayat "have secured more than $1.2 million worth of property and hope it's enough to be released from jail while they await trial." The News Sentinel adds that the Hayats "have been held in the Sacramento County Jail for three months, charged with lying to FBI agents about their knowledge of terror training camps. … Both have pleaded not guilty to the charges and through their attorneys have denied the allegations. Additionally, defense attorneys wrote in the motions, the charges have not been corroborated by others and are based on statements made 'during stressful, protracted and confusing interview sessions with FBI agents.'"

The Stockton Record (9/13, Hood) notes, "According to Monday's filing, the homes are: The Hayats' home at 302 E. Acacia St., which FBI agents searched June 6. … A home belonging to Umer Hayat's brother," and two homes owned by "distant relatives." Defense attorney Wazhma Mojaddidi said, "We feel good about it because they're not a danger to the community. The judge told us if we came up with more property, he would consider that a new fact to reopen."

Brooklyn Illegal Money Transfer Trial Begins. The AP (9/14, Weissenstein) reports, "A Yemeni immigrant ice cream shop owner accused of illegally funneling $21.9 million overseas successfully fought to keep prosecutors from introducing evidence allegedly linking him to terrorist groups as his trial began Tuesday." Abad Elfgeeh "stands accused of transmitting money around the world without a license from a dozen bank accounts linked to his tiny storefront in Park Slope, Brooklyn. … But prosecutors cannot raise the topic of

terrorism at Elfgeeh's trial unless the defense does first because they did not have enough evidence to charge Elfgeeh with a terrorism-related crime." The AP notes, "Elfgeeh first came to the attention of FBI anti-terrorist agents as they investigated Sheik Mohammed Ali Hassan Al-Moayad, whom they eventually accused of funneling money…to al-Qaida and Hamas."

British Intelligence Monitoring Hundreds Of Potential Terrorists. The New York Times (9/14, Lyall) reports, "Hundreds of potential terrorists in Britain are being 'closely surveyed' by the security services, part of a battle with no obvious end in sight," said home secretary Charles Clarke. Clarke "was testifying before a special parliamentary committee investigating the government's handling of the July 7 suicide bombings " The Washington Times (9/14, Martin) reports Clarke said, "There are certainly hundreds of individuals we continue to watch very closely, who we believe need to be very closely surveilled because of the threat they offer." Clarke "explained that, although these suspects posed a 'threat,' they were not necessarily actively plotting more terrorist attacks."

PATRIOT ACT:

Not All FBI Powers Covered Under Patriot Act. In the third of a three-part series on the Patriot Act, the Hayward (CA) Daily Review (9/14, Farooq) reports, "Poet Amir Sulaiman was on a professional high after his taped performance aired across the country on HBO's 'Def Poetry Jam' in February 2004. He had performed a piece titled 'Dangerous,' a poem he describes as passionate and intense. … But just six days after his performance first aired, the 26-year-old African-American father of three had FBI agents waiting to question him at his mother-in-law's house in San Francisco. … 'I'm not sure,' he said about the FBI knocking on his in-law's door soon after his HBO performance. 'The reason the two (events) are connected is six days after the show aired, they knocked on my mother-in-law's door. ... It was a bizarre, almost surreal, phone call that the FBI was waiting for me.'" The Review continues, "While they waited, FBI agents asked Sulaiman's brother-in-law why his poetry was 'anti-American.' That's a charge he denies, saying his ancestors help build America and he never once mentions America on his album, but instead tackles issues such as poverty, oppression and tyranny. … The day after the FBI visited Sulaiman, he also found out, while trying to board an airplane, that his name had been added to the 'no-fly list,' subjecting him to extra security before he could board. He was never charged with a crime or given a reason why his name was added to the list or why he was visited by the FBI." The Review adds, "Contrary to popular belief, both of Sulaiman's experiences had nothing to do with the controversial USA PATRIOT Act, passed by Congress days after the Sept. 11 attacks to give law enforcement more power to investigate potential terrorists. … Since its passage, there have been a lot of myths attached with the Patriot Act's supposed power, from immigrant roundups post 9/11 to the creation of the 'no-fly' list. Some of the powers associated with the act are more of a general sense of heightened security by law enforcement agencies than any single bill. … The 'no-fly' list, for example, was initiated before the Patriot Act was passed in 2001 —created by a Federal Aviation Administration-issued security directive in 1996. But, still the origin of the no-fly list is mired in secrecy and some confusion. Some security experts have been left scratching their heads when asked when or where exactly the list originated, who is on it and what rights innocent passengers have if their names are similar to those on the list. … Another issue thought by some to be associated with the Patriot Act are FBI interviews and roundups. Both again are not tied to any legislation but instead to a heightened sense of security, according to Dorothy Ehrlich, the executive director of the American Civil Liberties Union of Northern California."

HOMELAND RESPONSE:

FAA Was Told In '98 That Al Qaeda Might Hijack Planes, Destroy Landmarks. The New York Times (9/14, Lichtblau) reports, "American aviation officials were warned as early as 1998 that Al Qaeda could 'seek to hijack a commercial jet and slam it into a U.S. landmark,' according to previously secret portions of a report prepared last year by the Sept. 11 commission. … The White House and many members of the commission, which has completed its official work, have been battling for more than a year over the release of the commission's report on aviation failures, which was completed in August 2004." The Times notes, "While the new version still blacks out numerous references to particular shortcomings in aviation security, it restores dozens of other portions of the report that the administration had been considered too sensitive for public release. The newly disclosed material follows the basic outline of what was already known about aviation failings, namely that the F.A.A. had ample reason to suspect that Al Qaeda might try to hijack a plane yet did little to deter it. But it also adds significant details about the nature and specificity of aviation warnings over the years, security lapses by the government and the airlines, and turf battles between federal agencies." USA Today (9/14) reports, "The new version provides fresh details on repeated warnings about al-Qaeda and its desire to attack airlines in the months before Sept. 11."

The AP (9/14, Miller) reports, "A new version of the Sept. 11 commission's report…was released Tuesday with

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recently declassified information about terrorist threats and holes in airport security before the attacks." The AP notes, "The new version provides fresh details on the repeated warnings about al-Qaida and its desire to attack airlines in the months before" 9/11. "For example…the Federal Aviation Administration's intelligence unit received 'nearly 200 pieces of threat-related information daily from U.S. intelligence agencies, particularly the FBI, CIA, and State Department.' Also unclassified was the conclusion that the domestic aviation system had, since 1996, 'operated at a security level that was, in effect, a permanent code orange.'"

King And Weldon Look To Secure Votes For Homeland Committee Chair. The Hill (9/14, Kaplan) reports Rep. Peter King, "the leading candidate to take the helm of the Homeland Security Committee, expressed confidence late yesterday that his candidacy will prevail when the GOP Steering Committee meets today to decide the race." Rep. Curt Weldon "who is the current vice chairman of the panel, has campaigned hard for the gavel and continued to search for votes yesterday. He argued that he is the better choice because he has developed expertise and credibility on homeland-security issues. … Other candidates for the post include Reps. John Linder (Ga.), Dan Lungren (Calif.) and Don Young (Alaska). Rep. Mac Thornberry (Texas) has been mentioned as a candidate, but he has not returned calls to confirm his candidacy."

DHS Begins Review Of Nuclear Plant Safety. The New York Times (9/14, Foderaro) reports, "The United States Department of Homeland Security on Tuesday began a top-to-bottom review of emergency preparedness and security at the Indian Point nuclear plant in Westchester County. The review is part of a sweeping initiative by the federal government to assess the vulnerability of the nation's infrastructure. A dozen experts from several federal agencies, including the Federal Emergency Management Agency, the F.B.I. and the Nuclear Regulatory Commission, converged on Indian Point's two reactors, in Buchanan, N.Y., to conduct a three-day inspection."

Diplomatic Bags Bypass Airport Screeners. The Christian Science Monitor (9/14, Marks) reports, "Despite the intense scrutiny of airline passengers and their bags since 9/11, potentially explosive gaps still exist. Top among them, for some analysts, are diplomatic bags - the privileged cargo that is given special immunity. Security experts worry that terrorists could exploit the status of diplomatic pouches, which are protected from being opened or detained in any way by the Vienna Convention of 1961. In the past, rogue countries and individuals have used such bags to transport drugs, arms, and cash - and even to smuggle people. That's because a diplomatic pouch can be a crate big enough to carry a large desk."

Capitol's Improved Security Measures Noted. The Hill (9/14, Kucinich) reports, "For the second time this week, outside mail was halted yesterday because of a power outage at the House off-site mail facility, but recent improvements to mail security allowed interoffice mail and newspapers to continue to circulate. This is just one small example of the numerous security upgrades that have occurred on Capitol Hill since the Sept. 11 attacks. … The Alternate Computing Facility, designed to handle some of the House and Senate data and communications in the event of a catastrophe, is just one of the security centers built after Sept. 11."

Congress And The Administration Accused Of Ignoring Threat To DC. The Washington Post (9/14) editorializes, "The Bush administration, pertinent congressional committees and the D.C. government are all aware of a study showing that an attack on a single railroad tank car of chlorine traveling through a crowded nation's capital could: Kill or seriously harm 100,000 people within an hour. Set off a toxic plume that could extend over 40 miles.· Leave deadly a core area of about 4 miles by 14 1/2 miles. It is also true that while the D.C. government has enacted a law to deal with the issue, the federal government has taken no serious steps to prevent chemicals that are toxic if inhaled from being shipped through the District. What's more, the Justice Department and CSX Transportation Inc., rather than supporting D.C. legislation that sought to regulate the transport of ultra-hazardous materials through the city, instead obtained a court order to stop the District from enforcing its law."

WAR NEWS:

Bush Calls On Assad To Stop Flow Of Insurgents Into Iraq. USA Today/AP (9/14) reports President Bush "warned Syria to stop foreign fighters who train there and then cross the border into Iraq." The Washington Times (9/14, Sammon) reports President Bush 'threatened to further isolate Syria if it does not stanch the flow of killers streaming into Iraq and vowed to press his case at the United Nations today. 'The Syrian leader must understand we take his lack of action seriously,' Mr. Bush said of Syrian President Bashar Assad. 'The government is going to become more and more isolated.' … 'The Syrian government can do a lot more to prevent the flow of foreign fighters into Iraq,' Mr. Bush said. 'These people are coming from Syria into Iraq and killing a lot of innocent people. They're trying to kill our folks, as well.'"

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The CBS Evening News (9/13, story 11, 0:30, Schieffer) reported President Bush yesterday "met with the visiting prime minister of Iraq. Both men said this is not the time to set a deadline for pulling American troops out of Iraq. The President also accused Syria of failing to stop the flow of Islamic militants across the border into Iraq."

NBC Nightly News (9/13, lead story, 3:25, Gregory) reported, "At the White House today, Mr. Bush welcomed Iraqi president Jalal Talibani. But the war has, for now, been overshadowed by crisis at home."

Bush Pledges To Keep US Forces Fighting In Iraq. The Los Angeles Times (9/14, Richter) reports President Bush "promised his Iraqi counterpart Tuesday that the United States would persevere in the joint fight against insurgents." Bush "pledged that U.S. forces would 'stay on the offensive alongside Iraqi security forces.'"

Talabani Says Timetable For US Withdrawal Would Be Counter-Productive. USA Today/AP (9/14) reports Iraqi President Jalal Talabani "said Tuesday in Washington that Iraq will not set a timetable for the withdrawal of U.S. troops. He said that to do so would send a signal to insurgents that they can weaken the alliance between Iraq and America. Speaking at a White House news conference with President Bush, Talabani held out the option of significant U.S. troop withdrawals by the end of 2006 if Iraqi forces are ready to assume more responsibility for the nation's security. However, he said that would take place only if the United States agreed." Talabani said, "We don't want to do anything without the agreement with the Americans because we don't want to give any signal to the terrorists that our will to defeat them is weakened."

Iraqi Assembly Urges US "Occupation Forces" To Withdraw. Knight Ridder (9/14, Youssef) reports, "In an attempt to lay the legal groundwork for asking the United States to withdraw its troops, an Iraqi National Assembly committee released a report Tuesday that said the presence of the American military prevents Iraq from becoming fully sovereign. The 18-member National Sovereignty Committee, made up of legislators chosen in national elections in January, said the only way Iraq could achieve sovereignty was for multinational forces to leave. The report called for setting a timetable for the troops to go home and referred to them as 'occupation forces,' a first." According to Knight Ridder, "The report also asks the United Nations to issue a resolution declaring Iraq a sovereign country and the government to repeal an order enacted by the U.S. Coalition Provisional Authority that gives foreign nationals here immunity from prosecution in Iraqi courts. It also called for the government to have control over its intelligence operations, palaces and prisons. American forces so far have refused to grant Iraqis access to many intelligence operations, to allow them to occupy several palaces that Saddam built and to let them operate several prisons."

Final Draft Of Iraqi Constitution Unlikely To Satisfy Sunnis. The New York Times (9/14, Worth) reports, "On Tuesday, the leaders in the Shiite-dominated National Assembly said they approved a final, modified version of the proposed new constitution. But the charter still does not come close to mollifying Sunni leaders who had hoped to win far broader changes in the document before the Oct. 15 national referendum. The approval came more than two weeks after the draft was formally presented to Parliament over the objections of some lawmakers." The Times goes on to report, "The leaders of the constitutional drafting committee said they had signed off on a final version, as did Hussein al-Shahristani, the acting speaker of the National Assembly and a leader of its Shiite majority. Mr. Shahristani said that he would announce the document's completion at a news conference on Wednesday, and that it would then be given to United Nations officials, who are responsible for printing and distributing it."

Biden Says Bush Should Postpone Constitutional Referendum. In an op-ed for the Washington Post (9/14) Sen. Joseph Biden writes, "The Bush administration's mishandling of Iraq has brought us to the brink of a national security debacle. To salvage the situation, the administration must fundamentally change course inside Iraq, in the region and at the international level. … The administration is taking a huge gamble by going forward with a referendum for a constitution that is more likely to divide Iraq than to unite it." Biden continues, "The Bush administration's hope seems to be that Sunnis and Iraqi women will 'get over it.' But hope and stubbornness do not constitute a strategy. … If negotiators don't reach reasonable compromises that bring moderate Sunnis on board, the Bush administration should support postponing the constitutional referendum until after elections for a new National Assembly are held in December, which would allow a new committee with elected Sunni members to reconsider the draft."

Baghdad Bomber Kills At Least 82 Seeking Jobs. Reuters (9/14) reports, "A suicide bomber blew up his minibus after luring a crowd of men to the vehicle with promises of work in Baghdad on Wednesday, killing at least 82 people and wounding 163, police and officials said. … Bodies lay in the street beside burned-out cars, witnesses said. Some used wooden carts to haul away the dead." USA Today/AP (9/14) reports, "At least 73 people were killed early today when a terrorist drove an explosives-filled vehicle into a crowd of laborers waiting for construction work. … Lt. Col. Moayad Zubair said 73 people died and 162 were injured.

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He said the death toll would probably go up because some of the wounded were unlikely to survive."

The New York Times (9/14, Worth) reports, "The attack appeared to be the latest sectarian strike directed against Shiites in Baghdad, who have been repeatedly targeted by Sunni Arab insurgents and terrorists bent on exploiting Sunni-Shiite divisions across Iraq." The Los Angeles Times (9/14, Sanders) reports, "t was the deadliest bombing in Iraq since a suicide attacker ignited a fuel tanker July 16 near a Shiite mosque in the central town of Musayyib, killing almost 100 people."

US And Iraqi Forces Cut Down Frequency Of Attacks On Airport Road. USA Today (9/14, For) reports, "Attacks on and around the 7-mile highway linking Baghdad to its international airport have dropped 41% since May, the result of increased U.S. and Iraqi troop presence and new tactics to battle insurgents along one of the world's most dangerous roads. There hasn't been a suicide car bombing on the road since April, according to U.S. military statistics through August. U.S. officers attribute the decline to an influx of Iraqi troops who have been stationed at key points. … In May, insurgents staged 49 attacks on the road and in surrounding neighborhoods, including assaults with deadly roadside bombs and rocket-propelled grenades. … The number of attacks fell to 29 in August, mostly small-arms fire."

US Warplanes Bomb Haditha In Northern Iraq. The AP (9/14, El-Tablawy) reports, "U.S. forces widened their operations against insurgents in northern Iraq on Tuesday, launching an attack on the Euphrates River stronghold of Haditha only days after evicting militants from Tal Afar. Residents also reported American air strikes in the same region near Qaim. The Americans called in bombing raids in Haditha, 140 miles northwest of the capital. They captured one militant with ties to al-Qaida in Iraq and killed four others. In the volatile city of Qaim, about 80 miles northwest of Haditha, residents said clashes broke out between insurgents and coalition forces. The U.S. military did not confirm the air strike. … After the raid Tuesday on Haditha, Associated Press Television News videotape showed at least three houses that residents said were demolished in the U.S. air strike."

Army Colonel Alleges Insurgents In Tal Afar Have Committed Atrocities. The Atlanta Journal-Constitution/AP (9/14, Burns) reports Col. H.R. McMaster, commander of the 3rd Armored Cavalry Regiment, "asserted Tuesday that extremist fighters in northern Iraq committed atrocities against civilians, including beheadings, torture and the booby-trapping of a murdered child's body. The accusations…included some of the most graphic and specific charges by an American military officer during the ongoing battle for control of Tal Afar, a city about 50 miles from the Syrian border that has been an insurgent stronghold." McMaster "said Tal Afar is not yet under the control of the 5,000 Iraqi government forces and 3,500 to 3,800 U.S. troops that have been fighting together there for the past two weeks. He predicted eventual victory but said it was impossible to know how long it would take before the Iraqis can control Tal Afar by themselves." The Washington Post (9/14, A27, Finer) reports, "During the incursion into Tall Afar…more than 550 suspected insurgents have been killed or captured this month, commanders said. Much of the fighting was carried out with airstrikes or by the Iraqi army, which led the assault."

Jaafari Receives Warm Welcome From Iraqi Expatriates In Michigan. The New York Times (9/14, Hakim, Peters) reports Dearborn, Michigan's Iraqi-American population "embraced" Iraqi prime Minister Ibrahim al-Jaafari. But "they also had plenty of questions in a town hall meeting that was at times contentious. Attendees asked Mr. Jaafari about the future of Kirkuk, whether the rights of Chaldeans would be respected, whether there were still Iraqi prisoners of war in Iran and whether Iraqi embassies throughout the world and government agencies in the country were still stocked with former Baathists. And they wanted to know when justice and the rule of law would return to their native land." The Times notes, "Nisrin Kadum, 49, a banking specialist at Comerica Bank who fled Iraq in 1979, was almost shouted down when she asked about the role of women in the country."

Iraqi Legislature Considers Expanding Application Of Capital Punishment. The Los Angeles Times (9/14, Levey) reports, "Struggling to fight back against insurgents roiling the country, Iraqi lawmakers have begun to debate sweeping anti-terrorism legislation that could significantly expand use of the death penalty." Iraq's leaders "are contemplating expanding the list of crimes punishable by death to include offenses such as attacking government buildings, using explosives to kill people and advocating sectarian violence. … Although many Iraqis have been calling for more executions since the insurgency began, some Sunni Arabs fear that they will be unfairly targeted by the death penalty because the rebellion is centered in Sunni regions of the country. And human rights groups are expressing concern that an expanded use of the death penalty may push Iraq back toward a time when the government wantonly executed its opponents."

Iraqi Economy And Currency Said To Be Performing Above Expectations. In an op-ed for the Wall Street Journal (9/14) Amir Taheri, author of "L'Irak: Le Dessous Des Cartes," writes, "In the Tehran moneychangers' bazaar" there is an increasing demand for the Iraqi dinar. Taheri adds, "With the world media depicting

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Iraq as a ship sinking in a sea of blood, and self-styled experts predicting civil war or disintegration, it is hard to imagine why anyone would want to abandon such all-time favorites as the U.S. dollar and the euro, not to mention the oil currencies of the region, in favor of the world's newest money. One reason, of course, is the sharp rise in the supply of dollars, a result of the dramatic increase in the price of oil. (Iran is earning something like $200 million each day from its oil exports.) … Some Americans might think that Iraq owes its robust economic performance to a flood of dollars provided by the U.S. taxpayers. The IMF report shows that this is not the case. Iraq is paying 90% of its own expenditures, including the cost of economic reconstruction."

US Considers Pulling 20 Percent Of Troops From Afghanistan Next Year. The Washington Post (9/14, A26, Graham) reports, "U.S. military commanders have drafted plans to lower the number of American troops in Afghanistan by roughly 20 percent next year if NATO-led troops from Europe continue to widen their role in securing the country, according to senior officers here. A reduction of as many as 4,000 of the nearly 20,000 American troops in Afghanistan would be the largest drop in a force that generally has grown since the U.S.-led invasion in late 2001. … 'It makes sense that as NATO forces go in, and they're more in number, that we could drop some of the U.S. requirement somewhat,' Army Gen. John P. Abizaid, the senior U.S. commander in the region, said in an interview here. He stressed that no decision had been made to shrink the U.S. military presence." The Post notes, "The planning comes as intensified fighting in Afghanistan this year has killed more than 50 Americans, the highest death toll in any year since the troops arrived."

Rumsfeld Seeks More NATO Forces For Afghanistan. The Wall Street Journal (9/14. A19, Jaffe) reports, "Defense Secretary Donald Rumsfeld urged NATO nations to continue efforts to expand their presence in Afghanistan -- a move that eventually could enable the U.S. to draw down its own troops in the country. … U.S. officials say they believe NATO troops will take over security in the country's once-restive south. The increased NATO presence and the development of Afghan security forces eventually should allow the U.S. to begin reducing its presence, Mr. Rumsfeld said." The New York Times (9/14, Schmitt, Cloud) reports, "Germany, supported by Britain, France and other European allies, said Tuesday at a meeting of defense ministers in Berlin that it strongly opposed any American-backed restructuring of the NATO command structure that could lead to having alliance troops become involved in counterinsurgency. Because those operations represent a large part of American troop activity in the south, it is not clear whether the reductions can go forward. In the past few months, violence has surged in the south, with Taliban forces conducting a campaign of assassinations and intimidation ahead of elections on Sunday."

The AP (9/14, Baldor) reports that at the two-day NATO meeting, Rumsfeld "aid NATO's move to take on a larger role in Afghanistan, including drug interdiction, will be a key topic of discussion throughout the meeting. 'Over time it would be nice if NATO would develop counterterrorist capabilities which don't exist at the current time,' he said. … Rumsfeld said he is also urging his defense counterparts to find ways to increase the military flexibility of NATO's forces and the financing for the alliance. Several countries put limits on the military activity their forces can engage in as part of NATO, such as limiting where they can go or what type of combat force they can use."

Three US Soldiers Face Charges Relating To Afghans' Deaths. The New York Times/AP (9/14, Press) reports, "An Army officer and two more of his soldiers from a Reserve unit have been charged in a prisoner abuse investigation in Afghanistan, the Army announced Tuesday. The officer, Capt. Christopher M. Beiring, who led the 377th Military Police Company based in Cincinnati, was charged with dereliction of duty and making a false official statement. He is the first officer to be charged in the investigation. The abuse case primarily involves two detainees who died at the Bagram Air Base detention center, where Captain Beiring's unit worked. The first, Mullah Habibullah, was found dead in his cell at the detention center just days after being taken into American custody in December 2002. A second detainee, Dilawar, arrived at Bagram the day after Mr. Habibullah died. Mr. Dilawar died about a week later."

US To Fund Military Prison In Afghanistan To House Gitmo Detainees. The Washington Times (9/14, Scarborough) reports, "The Pentagon will help finance construction of a locally run military prison in Afghanistan as part of a plan to send to their home countries scores of terror detainees at the prison at U.S. Naval Base Guantanamo Bay" Matthew C. Waxman, deputy assistant secretary of defense for detainee affairs, "said the United States will help Afghanistan build a military prison to detain enemy combatants and to accept transfers from Guantanamo. A defense official could not supply details on the new prison, saying talks were in the early stages."

Pakistan Captures Afghan Insurgents Running Recruitment Center. The New York Times (9/14, Khan, Sengupta) reports Lt. Gen. Safdar Hussain, "A top Pakistani military commander…said Tuesday that his forces had arrested 21 militants along the border, found a remotely piloted spy plane and seized a cache of arms and

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communications equipment believed to be used in insurgent operations in Afghanistan." Hussain "also said his forces had detected a recruitment office that was bringing in new fighters for the war against the Afghan government and the American-led forces there."

DOJ:

Eastern Kentucky US Attorney Tapped For Federal Bench. The AP (9/14) reports, "Greg Van Tatenhove, the chief federal prosecutor for the eastern half of Kentucky, is in line to become a federal judge after being tapped by President Bush." The AP continues, "Van Tatenhove, the U.S. attorney for the Eastern District of Kentucky, was nominated to fill a vacancy created on the federal bench when Judge Karl Forester took senior status in May. … In a statement Tuesday, Van Tatenhove thanked Bush for nominating him and expressed gratitude to Republican U.S. Sens. Mitch McConnell and Jim Bunning for their support. … The nomination requires confirmation by the U.S. Senate." The AP adds, "Van Tatenhove is well connected politically, having served as an assistant to McConnell before attending law school and later as a top aide to U.S. Rep. Ron Lewis, R-Ky. … Van Tatenhove, 45, has been U.S. attorney for the 67-county Eastern District since 2001. The district runs from Shelbyville to Pikeville and from Covington to the Tennessee line."

DC's Top Lawyer Is Candidate For Judgeship. The Washington Post (9/14, Cauvin) reports, "D.C. Attorney General Robert J. Spagnoletti, the city government's chief lawyer, is one of three candidates for an opening on the bench of D.C. Superior Court." The Post continues, "Spagnoletti, 42, has had his eye on a judgeship for at least a few years, but when he took on his current job in May 2003, he indicated to Mayor Anthony A. Williams (D) that he was committed to staying through the mayor's current term. The new opportunity comes more than a year before the mayor's race, and Williams has yet to declare whether he will seek reelection." The Post adds, "A prosecutor for 13 years before joining the mayor's Cabinet, Spagnoletti was on the short list for the Superior Court bench once before, in 2000, while he was working at the U.S. attorney's office. His current job has given him a much higher public profile. … In addition to Spagnoletti, the D.C. Judicial Nomination Commission chose Andrew Fois, a former assistant attorney general at the Justice Department, and Carol A. Dalton, a D.C. Superior Court magistrate judge, for consideration by President Bush. The opening was created by the appointment of Judge Noel A. Kramer to the D.C. Court of Appeals."

CORPORATE SCANDALS:

Judge Splits Enron Broadband Case Into Three Separate Retrials. The AP (9/14, Hays) reports, "Five former executives from Enron Corp.'s defunct broadband unit whose trial ended with jurors unable to reach verdicts on most charges will be retried in three separate cases next year." The AP continues, "Nearly two months ago a jury returned acquittals on some charges after a three-month trial but was deadlocked on dozens more. U.S. District Judge Vanessa Gilmore declared a mistrial on those charges and set retrial dates Monday." The AP adds, "At least one of the trials, involving conspiracy and fraud counts against the broadband unit's former finance chief and a former in-house accountant, was scheduled for May 1. It is likely to overlap with the conspiracy and fraud trial of Enron founder Kenneth Lay and former CEO Jeffrey Skilling, set to begin in January in a courtroom next door to Gilmore's. The other two cases were scheduled for June 5 and Sept. 5. … All five broadband defendants, as well as Lay and Skilling, have pleaded innocent. … Barry Pollack, who represents former in-house Enron broadband accountant Michael Krautz, questioned whether a a fair jury could be found in the middle of the publicity of the ongoing Lay and Skilling trial."

CRIMINAL LAW:

Court Discloses Rudolph Defense Cost Taxpayers More Than $4 Million. The AP (9/13, Reeves) reports, "Legal fees to defend Eric Rudolph in a deadly Alabama abortion clinic blast and the Atlanta Olympics bombing cost taxpayers more than $4 million before he agreed to plead guilty in a deal that spared his life, court documents show." The AP continues, "One of Rudolph's attorneys said Tuesday the bill would have been far higher had the case gone to trial. … 'That would have probably tripled the cost,' said Bill Bowen, part of a team of at least nine lawyers who defended Rudolph." The AP adds, "Rudolph is serving four life terms after pleading guilty in the Birmingham clinic bombing, which killed a police officer in 1998, and the Olympics bombing, in which a woman died in 1996. He also pleaded guilty in two other bombings that occurred in Atlanta in 1997. … U.S. Attorney Alice Martin said the government had not computed the total cost of prosecuting Rudolph, who was the subject of an intense manhunt following the Birmingham bombing in 1998 until May 2003, when he was captured in Murphy, N.C." The AP notes, "The cost of defending Rudolph was disclosed in an order filed last week by U.S. District Judge Lynwood Smith. Attorneys in the Alabama case were paid $2.02 million for

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representing Rudolph, who declared himself broke and received court-appointed legal representation following his arrest in 2003."

Massachusetts Teen Pleads Guilty To Hacking Paris Hilton's Cell Phone. The Washington Post (9/14, Krebs) reports, "A Massachusetts teenager has pleaded guilty to hacking into the cell-phone account of hotel heiress and Hollywood celebrity Paris Hilton, a high-profile stunt by the youngest member of the same hacking group federal investigators say was responsible for a series of electronic break-ins at data giant LexisNexis." The Post continues, "The 17-year-old boy was sentenced to 11 months' detention at a juvenile facility for a string of crimes that include the online posting of revealing photos and celebrity contact numbers from Hilton's phone. As an adult, he will then undergo two years of supervised release in which he will be barred from possessing or using any computer, cell phone or other electronic equipment capable of accessing the Internet." The Post adds, "The U.S. Attorney's Office for Massachusetts and the state district court declined to identify the teen, noting that federal juvenile proceedings and the identity of juvenile defendants are under seal. But a law enforcement official close to the case confirmed that the crimes admitted to by the teen included the hacking of Hilton's account. … The teen also pleaded guilty to making bomb threats at two high schools and for breaking into a telephone company's computer system to set up free wireless-phone accounts for friends. He also participated in an attack on data-collection firm LexisNexis Group that exposed personal records of more than 300,000 consumers. Prosecutors said victims of the teen's actions have suffered about $1 million in damages."

Indiana Dentist Sentenced To 57 Months For Medicaid Fraud. The South Bend (IN) Tribune (9/13, Heline) reports, "A former Warsaw (IN) dentist who operated a mobile dental lab in the South Bend area has been sentenced to 57 months in prison for Medicaid fraud." The Tribune continues, "U.S. District Judge Allen Sharp imposed the sentence specified in the plea agreement Dr. Bryan Spilmon accepted earlier this year." The Tribune adds, "Spilmon, 44, pleaded guilty to 12 counts of health care fraud and one count of money laundering. … The remaining charges in the 52-count indictment were dismissed, as were charges filed against Spilmon's wife, Diane." The Tribune notes, "At the time of his guilty plea, Spilmon admitted to submitting billings and claims for reimbursement to Medicaid for treatments and diagnostic procedures that were never done or were not necessary. … Spilmon was accused of falsely billing the heath care benefits program for the needy for more than $2.4 million from 2001 to 2003. … He took his mobile dental units to areas where he could serve needy youths between 12 and 18, purporting to provide adequate dental care for them, when he was just engaging in a massive billing fraud, according to Assistant U.S. Attorney Donald Schmid. … The U.S. Marshals Service may take the two mobile dental units to the Gulf Coast to assist in Hurricane Katrina relief efforts, Schmid said."

Four Chinese-Americans Plead Guilty To Illegal Technology Transfers. In a widely-distributed story, the AP (9/14, Gold) reports four naturalized US citizens "who operated an electronics firm in southern New Jersey pleaded guilty Tuesday to violating export regulations by shipping nearly $400,000 of electronics that could be used for military purposes to entities controlled by the Chinese government. The case involving Manten Electronics Inc. is the latest, but far from the largest, to deal with illegal technology and arms exports to China." The AP adds, "The four people at Manten, as well as four people at Universal Technologies Inc. …were arrested in July 2004 following an 18-month investigation by ICE, the FBI and the U.S. Commerce Department." Manten president Xu Weibo "and his three co-defendants each pleaded guilty to a single charge of conspiring to violate export laws" and admitting "they lied to U.S. distributors and on shipping documents to conceal the nature of the shipments."

US Asks Philippines To Help Trace Documents In Spying Probe. Reuters (9/14) reports, "The United States has asked the Philippines to help it trace recipients of classified documents suspected to have been stolen by a former Filipino police officer and an FBI employee, a senior official said on Tuesday. Michael Ray Aquino, a former top police official in the Philippines, and Leandro Aragoncillo, a Philippine-born U.S. citizen, were arrested in the United States on espionage charges on Saturday. … 'The FBI is now asking for our help to find out who received those documents here in the Philippines and who provided the money for the transaction,' Reynaldo Wycoco, head of the National Bureau of Investigation…told reporters. Wycoco said the information was a 'classified assessment of the Philippine political situation and political leaders.'"

FBI Subpoenas Florida Sheriff's Campaign Finance Records. The Sarasota Herald Tribune (9/14, Ruger) reports, "The FBI has subpoenaed Sarasota County Sheriff William Balkwill's campaign financial reports for the 2000 and 2004 elections. … Balkwill does not know why the records were subpoenaed, Sheriff's Office spokesman Lt. Chuck Lesaltato said Tuesday. … The FBI has not served a subpoena to Balkwill or anyone else in the Sheriff's Office, Lesaltato said. … The FBI special agent listed on the

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subpoena declined to comment Tuesday, referring questions" to Tampa FBI spokeswoman Sara Oates, who "said the FBI does not confirm or deny the existence of any investigations."

Tennessee Attorney Charged With Fraud Is Extradited From Brazil. The AP (9/14) reports, "The U-S Attorney for Middle Tennessee says a former lawyer wanted on fraud and money-laundering charges has been brought back to Nashville from Brazil." The AP continues, "George Nason is one of eleven people named in a 2002 federal indictment in connection with the former Loan Ranger company." The AP adds, "U-S Attorney Jim Vines says Nason is charged with conspiracy to defraud mortgage loan companies and financial institutions, mail fraud, bank fraud, money laundering and false statements to financial institutions. … Prosecutors say Nason and the others bought properties, then sold them to 'straw buyers' at inflated prices. The government says the 'straw buyers' borrowed from the banks and mortgage lenders and the alleged conspirators paid them ten-thousand dollars per sale for helping in the scam."

Massachusetts Attorney, GOP Official Charged With Money Laundering. The AP (9/14, Lavoie) reports, "The vice chairman of the Massachusetts Republican Party was charged Tuesday with money laundering after he allegedly offered to 'cleanse' drug proceeds for a legal client." The AP continues, "Lawrence Novak, 54, an attorney from Brockton, Ma., was arrested at his home Tuesday after investigators said he allegedly offered to launder drug profits for Scott Holyoke, who is awaiting trial on federal drug trafficking charges and agreed to be a cooperating witness against Novak for the FBI. … Novak was taken into custody after he allegedly deposited money in a Brockton bank, federal authorities said." The AP adds, "Gov. Mitt Romney called for Novak to step down while the investigation continues. … 'The charges against Larry Novak are very troubling and Gov. Romney believes that it's appropriate while these charges are pending for Mr. Novak to step aside as vice chairman of the state party,' said Romney's spokesman, Eric Fehrnstrom." The AP notes, "Republican Party Executive Director Tim O'Brien said the charges are unrelated to Novak's GOP role. Novak served as the party's treasurer in the late 1990s. … Novak made an initial appearance in U.S. District Court late Tuesday and was released on $25,000 non-surety bond. Neither he nor his attorney would comment on the charges. … Novak allegedly offered to have Holyoke sign false affidavits in an attempt to invalidate some of his prior state court convictions in order to reduce the sentence he would face in his federal case."

Woman Faces Death Penalty In Texas Killing. The Washington Times (9/14, Aynesworth) reports, "Texas stands ready today to execute the first black woman, and only the third female, to be put to death since the state resumed capital punishment in 1982. Frances Newton, 40, was convicted of murdering her husband and two children in 1987. She always has maintained her innocence, though prosecutors convinced a Harris County jury that she killed her family for $100,000 in insurance money." The paper adds, "Only a last minute stay of execution by Gov. Rick Perry or intervention by the Supreme Court can halt the execution. Newton's lawyers wrote a letter to Mr. Perry Monday, asking for a 30-day stay in their efforts to show that prosecutors erred in linking her to a presumed murder weapon. Unlike the days preceding the executions of Karla Faye Tucker in 1998 and Betty Lou Beets in 2002, Newton's plight has not elicited much interest from outside the state, although the president of the American Bar Association has asked the governor to intercede, citing 'compelling new evidence' that 'has not been evaluated by Texas courts.'"

Ohio Parents Charged With Caging 11 Adopted Children. The CBS Evening News (9/13, story 12, 2:00, Schieffer) reported, "The sheriff's department in a small Ohio town is investigating a possible case child abuse tonight that is simply incredible. No charges have been filed yet, but the case involves several children whose adoptive parents made them sleep in cages." CBS (Alfonsi) added, "Investigators say it looked like a cell block here. 11 children were living inside this home, and some of them were sleeping in cages." The children, "who range in age from one to 14, are all adopted and all severely disabled. They were locked up, their parents say, for their own good."

DeLay Associates To Face Additional Felony Charges. The Dallas Morning News (9/14, Slater) reports, "Two political associates of U.S. House Majority Leader Tom DeLay were indicted Tuesday on additional felony charges of illegally using corporate money to elect Republicans in 2002. John Colyandro and Jim Ellis were charged with using $190,000 in corporate money to make campaign contributions to GOP candidates for the Texas House in what prosecutors say was an illegal money-laundering scheme." Colyandro, "former executive director of the Texans for a Republican Majority Political Action Committee, and Mr. Ellis, who heads Mr. DeLay's Washington-based Americans for a Republican Majority, were indicted earlier on money-laundering charges. Tuesday's charges focus on the campaign contributions. Both defendants deny wrongdoing." DeLay, "who created both political action committees, is not charged in the three-year grand jury investigation into allegations of illegal corporate cash in Texas political races."

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CIVIL LAW:

2nd Circuit Approves Allocation Formula For Holocaust Settlement. The New York Law Journal (9/14, Hamblett) reports, "An Eastern District of New York judge's allocation of settlement funds to the most needy, elderly victims in the Holocaust Victims Assets litigation has been upheld by a federal appeals court." The Journal continues, "In a decision issued Friday written by Judge Jose Cabranes, the 2nd U.S. Circuit Court of Appeals upheld the formula used by Judge Edward Korman that placed special emphasis on compensating Holocaust victims who live in the former Soviet Union." The Journal adds, "The principal issues in the appeals were settled by the circuit in In Re Holocaust Victim Assets Litigation cases 04-1898-cv and 04-1899-cv. The appeals challenged Korman's geography-based allocation of a $1.25 billion settlement with Swiss banks and other organizations designed to aid victims of the Holocaust. … The proceeds of the settlement are to be divided among five classes -- the Deposited Assets Class (those whose assets were stolen from Swiss banks); the Looted Assets Class (those whose possessions were stolen by the Nazis and then disposed of through Swiss banks), two classes of those forced into slave labor by the Nazis, and a fifth Refugee Class."

USA Today Says Bush Should "Pick A Fight" Over Base Closures. An editorial in USA Today (9/14) says President Bush must decide by the end of next week "what to do with a list of military base closings and realignments he received Thursday from a special commission. The president has two choices: approve the list, or kick it back to the commission for further review. Because the panel gave the Pentagon most of what it sought, and because Bush is occupied with Hurricane Katrina and other issues, he's not expected to pick a fight. But this is a fight worth picking. … The president has a full plate right now, but he shouldn't pass up a chance to save money and improve defense — even if it means putting the commission back to work."

With Ellsworth Open, Thune Can Expand Nationally. Roll Call (9/14, Preston) reports, "A few days before a federal commission was scheduled to decide the fate of Ellsworth Air Force Base, South Dakota's two Senators," John Thune (R) and Tim Johnson (D), "preemptively released a lengthy statement pledging to work together on issues of importance to the state." Soon afterwards, the commission voted to keep it open. "The Ellsworth victory now allows Thune to spend part of his time helping the national Republican Party." Ellsworth's closing "would have been so damaging" because "it would have forced Thune to shore up support in his home state rather than advancing his national ambitions."

CIVIL RIGHTS:

DOJ Probing Florida Prisons. The St. Petersburg (FL) Times (9/14) reports, "The FBI confirmed Tuesday it is investigating the Florida Department of Corrections, though the nature of the probe is unclear." The Times continues, "FBI agents are working with the Florida Department of Law Enforcement, said FBI spokesman Jeff Westcott in Jacksonville. He declined to provide details. … 'I can confirm that the FBI, along with FDLE, are involved in an investigation that concerns the Department of Corrections,' Westcott said." The Times adds, "A high-ranking state prison official, Region I director Allen "A.C." Clark, quit last week without explanation. Clark rose through the ranks under Corrections Secretary James Crosby, who also has declined to discuss why he quit, other than citing 'personal reasons.' … Gov. Jeb Bush suggested Monday that he knew details but could discuss them. … Four current or former Corrections Department employees were charged in February with illegal distribution of steroids. The case involved the Justice Department, FDLE, Clay County Sheriff's Office and federal postal inspectors."

Report Finds Blacks, Hispanics, Pay Higher Mortgage Interest Rates. Knight Ridder (9/14, Appelbaum) reports, "In a national report issued Tuesday, the Federal Reserve Board said blacks and Hispanics disproportionately receive high interest rates on mortgage loans, that it does not know why and it intends to find out." Knight Ridder continues, "Regulators will examine lending by about 200 selected companies to see if discrimination affected pricing decisions, the report said. The Fed declined to name the firms. … The Fed also said it will examine whether blacks and Hispanics are sometimes steered to high-rate lenders when they could qualify for a market-rate loan." Knight Ridder adds, "The report is the federal government's opening statement in an accelerating public debate about the role of race in loan pricing. … For the first time, lenders must disclose which of their loans carry a high rate. … The Charlotte Observer reported in August that blacks were four times as likely as whites last year to receive high rates on home purchase loans, based on the newspaper's analysis of about half of all loans. Hispanics were twice as likely."

NYTimes Opposes Pennsylvania Bill Limiting Parolee Voting Rights. The New York Times (9/14) opposes a bill passed by the House that "could potentially deprive tens of thousands of parolees and probationers of the right to vote." The bill "represents an odious attempt by lawmakers to undo a state court ruling overturning a law that

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required newly released prisoners to wait five years before getting the right to vote. … Legislators are also trying to direct public attention away from a hugely unpopular pay raise that they voted for themselves earlier this year. That makes the attack on voting rights all the more reprehensible."

ANTITRUST:

Microsoft, Google Claim Victory In Hiring Lawsuit. The Washington Post (9/14, D5, Vise) reports that a Washington state judge yesterday ruled "that a former Microsoft executive hired by Google can begin doing some, but not all, work for the search engine company in China, the latest twist in a battle that will play out into next year." The paper says, "In a written opinion, King County Superior Court Judge Steven C. Gonzalez ruled that Kai-Fu Lee can start recruiting employees for Google, meeting with government and university officials, and establishing a headquarters for Google's new research center. But, pending a trial in January, the judge barred Lee from hiring anyone away from Microsoft, using confidential information he learned during his employment there, or working in computer search and other specified fields for Google." The Post adds, "Tom Burt, Microsoft's deputy general counsel for litigation, said the Redmond, Wash.-based software giant had succeeded in severely restricting Lee's activities and use of corporate secrets. He said Google was paying Lee $10 million to head its China operations even though he could actually do very little of substance in light of the ruling. … Nicole Wong, associate general counsel for Google, said Lee would immediately get rolling, hiring employees in China and establishing a new research center there."

The AP (9/14, Johnson) reports, "Lee cannot set budget or compensation levels or define the research that Google will do in China, but he can hire people to work there, the judge said. … Lee, who has worked at Microsoft since 2000 and oversaw development of its MSN Internet search technology, including desktop search software rivaling Google's, left in July to lead Google's expansion into China. … Microsoft sued Lee and Google, contending that Lee's job at Google would violate the terms of a noncompete agreement, which prohibits him from doing similar work for a rival for a year. Microsoft also accused Lee of using insider information to get his job at Mountain View, Calif.-based Google. … Google has responded with its own lawsuit against Microsoft in U.S. District Court in San Jose, Calif."

Gates Discusses Microsoft's Competition With Google, Others. The Seattle Post-Intelligencer (9/14, Bishop) reports, "Microsoft Corp. is grappling with 'a lot of smart competitors,' including Google and Apple, who are ahead of the Redmond company in some key markets, Bill Gates acknowledges. … But the Microsoft chairman on Tuesday said his company remains the overall industry leader, and he compared the current rivalries to legendary ones with Lotus, Novell and WordPerfect -- situations in which the Redmond company ultimately overcame steep odds to prevail. … 'At any point in our history, we've had competitors who were better at doing something,' Gates said in an interview with the Seattle Post-Intelligencer, underscoring the fact that it wouldn't be unprecedented to come from behind now." The P-I continues, "That was one of the subjects addressed by Gates during the interview at the company's Professional Developers Conference, where Microsoft is seeking to rally support for Windows Vista and Office 12, the next versions of its dominant PC software programs. Among other things, the company showed plans to shift away from traditional drop-down menus to a new "ribbon" of commands across the top of the widely used Office programs. … Gates answered questions on a wide range of topics, including Microsoft's growth prospects in the Seattle region, its ambitions in China, and efforts to shore up the security of its software."

Whirlpool Makes Intent To Acquire Maytag Official. The AP (9/13, Prichard) reports, "Whirlpool Corp. has officially notified the Federal Trade Commission and the U.S. Department of Justice of its intent to purchase rival appliance maker Maytag Corp. in a cash-and-stock deal valued at more than $1.7 billion." The AP continues, "Whirlpool sent notification letters last week to both agencies because it is unclear at this point whether it will be the FTC or the Justice Department that will investigate possible antitrust concerns, Whirlpool spokesman Steve Duthie said Tuesday. … 'Neither Justice nor the FTC has considered or ruled on a merger in the U.S. appliance industry for a long time – 15 to 20 years, I think,' Duthie said." The AP adds, "Once the regulators figure out which of them has jurisdiction, Benton Harbor-based Whirlpool will provide the investigating agency with more details about its planned acquisition of Maytag, he said. … Probably by the end of this month, Whirlpool will notify the Securities and Exchange Commission that it plans to issue new shares of stock to be given to Maytag shareholders as part of the proposed transaction." The AP notes, "Shareholders of Newton, Iowa-based Maytag must approve the acquisition and will vote on the proposal before the end of the year, the company said last month. The agreement does not need the approval of Whirlpool's shareholders."

US Cellular To Acquire Alltel's Kansas, Nebraska Operations. The AP (9/13) reports, "Wireless carrier U.S. Cellular Corp. said Tuesday it is acquiring Cellular One's operations in Nebraska and Kansas in a move to expand its presence in the Midwest. … In

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exchange, U.S. Cellular will transfer its Idaho networks to an Alltel Corp. unit and pay $50 million." The AP continues, "U.S. Cellular said the deal will give it about 125,000 retail customers, 193 cell sites, 15 company-owned stores and 89 agent locations in an area containing about 1.4 million people. The company currently operates in 25 counties in southeastern Nebraska and 80 counties in northeastern and southeastern Kansas." The AP adds, "Little Rock, Ark.-based Alltel will receive about 91,000 customers, 84 cell sites, six company stores and 32 agent locations in a region containing about 500,000 people. … The companies predicted that the deal will close in the fourth quarter, pending approval by communications regulators and the Justice Department. After the agreement is complete, both companies will continue operating their stores under the old brand names until they are remodeled."

PECO Submits Proposed Settlement To Resolve Exelon-PSEG Merger Concerns. Dow Jones Newswires (9/13) reports, "Exelon Corp.'s Peco Energy unit filed with Pennsylvania utility regulators a settlement that the company expects will resolve state regulatory concerns related to Exelon's planned merger with New Jersey utility Public Service Enterprise Group Inc." Dow Jones continues, "Exelon and PSEG agreed in December to merge. The deal has received regulatory approval from New York, Connecticut and the Federal Energy Regulatory Commission, but still requires the go-ahead from Pennsylvania, New Jersey and the Justice Department." Dow Jones adds, "In a press release Tuesday, PECO said its settlement offer to the Pennsylvania Public Utility Commission would cap rates for five years and give rate discounts of $120 million over the next four years. … Peco said a judge with the Pennsylvania regulator will review the proposed settlement, which also includes funding for investment in 'alternative' energy and environmental projects. … The judge is expected to make a recommendation before the settlement goes before the regulator for a full vote, which Peco said may happen before the end of the year."

America West Shareholders OK Merger With US Airways. The Wall Street Journal (9/14, Urbanowicz) reports that America West Holdings Corp. said Tuesday its shareholders have voted in favor of the company's merger with US Airways Group Inc., "clearing the way for the deal to close this month." The Journal adds, "The parent company of low-fare carrier America West Airlines said 95.5% of total voting shares were voted in favor of the deal. Class A shareholders voted 100% in favor of the deal, while class B shareholders voted 85.2% in favor. Out of the class B shareholders, 4.4% opposed the deal and 10.4% abstained from voting." America West President and Chief Executive Doug Parker said in a prepared statement, "With US Airways final bankruptcy court hearing scheduled for later this week, we anticipate closing our merger with US Airways at the end of September as previously scheduled." The Journal notes that US Airways' bankruptcy turnaround plan relies on the merger with America West. The US Bankruptcy Court of Alexandria, Va., has a hearing scheduled for Thursday to consider final court approval of the air carrier's Chapter 11 turnaround plan. Under the deal, America West will become a wholly owned unit of US Airways, and existing America West shareholders will receive about 37% of the merged airline's shares.

The Washington Times (9/14, Glanz) reports, "US Airways Group Inc. yesterday took a big step toward emerging from bankruptcy when shareholders at America West approved combining the two airlines." The paper adds, "The combination of US Airways and America West would create the nation's sixth-largest airline and a low-cost carrier with a broad geographic reach. Perhaps more important for US Airways, yesterday's vote made it more likely that US Bankruptcy Court Judge Stephen Mitchell would approve its reorganization plan, analysts said. … Judge Mitchell's hearing on US Airways' reorganization plan, scheduled for tomorrow, is the last hurdle the company must clear before a merger can take effect and its second trip into bankruptcy can end." Ray Neidl, an airline industry analyst for Calyon Securities Inc., in New York, said, "I expect [the court's] approval."

Lawsuit Charges Wal-Mart Ignores Overseas Labor Abuses. The New York Times (9/14, Greenhouse) reports, "A labor rights group filed a class-action lawsuit yesterday against Wal-Mart Stores in which apparel workers in Bangladesh, China and other countries assert that Wal-Mart violated its contractual obligations by not enforcing its code of conduct for overseas contractors. The lawsuit, filed in state court in Los Angeles, makes the novel argument that Wal-Mart's code of conduct created contractual obligations between it and thousands of workers employed by contractors who were supposed to comply with the code." The Times adds, "In the lawsuit brought by the International Labor Rights Fund, workers from Bangladesh, China, Indonesia, Nicaragua and Swaziland assert that the codes of conduct were violated in dozens of ways. They said they were often paid less than the minimum wage and did not receive time-and-a-half for overtime, and some said they were beaten by managers and were locked in their factories." The suit says, "Based on its vast economic power, Wal-Mart, based on its code of conduct, can and does control the working conditions of its supplier factories. It could use its power and position to prevent its producers from profiting from the inhumane treatment of plaintiffs." The paper notes

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"Wal-Mart executives say that they have the world's largest overseas monitoring program, with more than 5,000 factories inspected by 200 full-time inspectors who visit 30 factories a day."

The Washington Post (9/14, D6, Barbaro) reports, "An American labor rights group filed a class-action lawsuit yesterday against Wal-Mart Stores Inc., alleging that suppliers in five countries violated workers' rights, including denying a minimum wage, requiring overtime and punishing union activity." The Post adds, "The suit, which must be certified by a judge before achieving class-action status, is the latest legal salvo against the discount retailer, which faces class-action suits claiming that it discriminated against black truck drivers and female store employees. If certified, the suit could represent 200,000 to 400,000 people, said lawyer Terry Collingsworth of the International Labor Rights Fund." The paper notes The International Labor Rights Fund, a District-based advocacy group, filed the suit on behalf of 15 foreign workers who claimed they were subjected to illegal working conditions, and four California grocery employees who claimed that Wal-Mart's cost-cutting measures resulted in lower wages and benefits.

Patent Litigation Threatens Corporations. The Wall Street Journal (9/14, Bulkeley, A1) reports, "In one of Douglas Fougnies's early business ventures, he provided phony new-vehicle titles for stolen cars. His partner, Larry Day, is a onetime blackjack dealer in Las Vegas. Together, the two men have found a more lucrative line of work: suing cellphone companies for patent infringement. Earlier this year their company -- which consists of four employees and six patents -- won $128 million in damages from Boston Communications Group Inc. and four other companies over alleged misuse of a 1998 patent." The paper adds that Fougnies and Day "are successful practitioners of a growing trade." The Journal notes, "Lured by the potential returns, hedge funds and other institutional investors now are bankrolling businesses that buy up patent portfolios. More law firms, including some branching out from product-liability and malpractice work, are taking patent cases on a contingency basis. That means the law firms are paid a percentage of any damages awarded but little or nothing if the patent-holder loses. Critics call the small litigants 'patent trolls' and say they are parasites on successful businesses."

Oracle's Purchase Of Siebel Raises Creativity Concerns. United Press International (9/14, Goto) reports, "Software group Oracle's bid for Siebel Systems for a cool $5.85 billion Monday was greeted by many Wall Street analysts as a signal of the return of mega-mergers and better still -- renewed confidence in the information technology sector. … After all, earlier in the day online auction house eBay announced it will be acquiring Internet telecommunications group Skype for $2.6 billion." UPI continues, "As the world's biggest database-software company, the Silicon Valley-based Oracle would be acquiring a group that is one of the biggest players in customer relation management software, tracking marketing data, client information and other data that helps companies be more efficient in their sales strategies. The deal is still subject to U.S. government regulations under the auspices of the Department of Justice, but while some industry analysts have high hopes for Oracle making the most of the acquisition, others are not so certain." UPI adds, "One thing, however, is certain. For Thomas Siebel himself, founder and chief executive of the company and once himself an Oracle executive, the deal is a very good one as Siebel Systems was faced with a growing number of rivals, while not many companies expressed interest in taking it over. Meanwhile, for Lawrence Ellison, Oracle's chief executive, it could well be that he finally would feel vanquished after years of bitter and public animosity with Siebel following his departure from Oracle. … 'The combination of Siebel applications with the development capacity of Oracle to enhance our (client relation management) product set ... is a very beneficial business combination that will allow us to be even more effective in delivering high quality, leading edge solutions,' Thomas Siebel said in a news release. … Ellison too was equally ebullient about the deal, stating that 'in a single step, Oracle becomes the number one CRM applications company in the world. Siebel's 4,000 applications customers and 3,400,000 CRM users strengthen our number one position in applications in North America and move us closer to the number one position in applications globally.' … Analysts, however, were less effusive about the planned buyout, even when they agreed it could be a mutually beneficial deal."

Realtors Under Renewed Fire From DOJ Suit. CNN/Money (9/14) reports, "Are home buyers any closer to actually saving money on commissions? … The Department of Justice last week sued the National Association of Realtors over its "opt-out" policy -- the latest shot in an ongoing war to force competition in the real-estate industry, and one that could just maybe lead to a lowering of the standard 6 percent commission." CNN/Money continues, "The opt-out policy allows NAR members to keep their real-estate listings from being broadly disseminated over the Internet. … Real-estate brokers regularly share information about listings. That enables them to put together buyers and sellers more efficiently. But if an agent opts out, it means that none of his listings can be displayed on other agents' Web sites. And he cannot list other agents' properties on his. … If a buyer begins his home search on the Web, he may never see some of the properties available. That, to the Justice Department, does a disservice to consumers. Buyers would have fewer homes to choose from. Sellers would have fewer buyers

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bidding for their properties." CNN/Money adds, "Why would a broker want to opt out? After all, it's in the agent's best interest to have as many buyers as possible see (and bid on) a property, and the agent has a fiduciary responsibility to get the seller as high a price as the home can command. … NAR spokesman Peter Cook said that the opt-out policy is simply a way to provide good service -- many clients don't want their properties widely displayed on the Internet. Some of the wealthy and the famous wish to avoid publicity and some sellers have safety or security issues. … But critics, such as Bruce MacDonald, deputy attorney general in the antitrust division of the Justice Department, said this opt-out system is designed to 'elbow out' Web-based competitors. … This is not the first effort by the Justice Department to shake up the real-estate industry. … Previous victories for the government agency came in Kentucky, on July 13, when the state real-estate commission agreed to allow real-estate brokers to offer rebates, discounts and other inducements to consumers to win their business. … A similar agreement was reached in South Dakota this August. The Kentucky and South Dakota cases established the policy that brokers are allowed to lower their fees to drum up business."

WSJ Calls DOJ Suit Against Realtors "Right Target, Wrong Weapon." The Wall Street Journal (9/14) editorializes, "We've been pounding the National Association of Realtors over its anti-competitive behavior, and last week the U.S. Justice Department filed its own antitrust suit charging the Realtors with illegally squeezing low-cost Internet companies out of the market. So why aren't we thrilled? Because this is a case of right target, wrong weapon." The Journal continues, "At issue is the Realtor practice of preventing Internet competitors from having access to the properties for sale on the local 'Multiple Listing Service,' or MLS. The antitrust suit maintains that Realtor 'policy prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourage discounting.'" The Journal adds, "The Realtors have acknowledged in internal memos that many of their practices are meant to limit competition and preserve their lofty commissions -- typically 5% to 6% on the sale price. As such, the Realtor response to Justice that denying Internet firms access to MLS listings is 'pro-consumer, pro-competitive, and pro-innovation' fails to pass the laugh test. … At the very least, these practices violate the ethical and fiduciary duty of real-estate agents to help find the best home at the best price for their clients. … And yet we have to admit the Realtors have a legitimate claim that they created and own the local MLS database of homes for sale. They are thus within their rights to use their private property as they wish, even if that includes denying access to competitors. As an economic matter, there are no natural barriers to entry here; anyone can start a competing listing service if he desires. The Justice Department's lawsuit would require that all homes be listed on the MLS even if home sellers don't want them to be. … A federal lawsuit seems to be an inferior way to crack the real-estate cartel, especially since it may well lose on the legal merits. Far preferable would be for the states to repeal their laws that sustain the Realtor racket to the detriment of their own citizens and the cause of homeownership."

ENVIRONMENT/INDIAN AFFAIRS:

Senate Rejects Challenge To EPA Mercury Rules. The AP (9/14) reports that in a 51-47 vote, the Senate has "turned back a challenge to the Bush administration's strategy on mercury pollution, leaving intact federal rules that give power plants flexibility in how they reduce emissions of the dangerous toxin." Senators "defeated a resolution to void Environmental Protection Agency rules finalized last March. The Democrats and nine Republicans who supported the repeal contended the EPA approach was too slow and too weak in dealing with a pollutant that can cause serious neurological damage to newborn and young children. The White House insisted that its market-based approach to curtailing mercury pollution is effective and founded on sound science, and warned that the president would veto any legislation that overturned the EPA rules."

USA Today (9/14) reports, "Sen. Jim Jeffords, I-Vt., said the rules violate the Clean Air Act and are unwise. 'It is definitely unhealthy for Americans living downwind of coal-fired power plants, especially mothers and their soon-to-be-born children,' he said."

The New York Times (9/14, Janofsky) adds, "The resolution was brought up for a vote through a rarely used and rarely successful procedure, the Congressional Review Act. It allows lawmakers to challenge regulatory decisions. Even if the Senate had passed the resolution, it had little chance to go further. Such challenges require approval of the House, which was unlikely to act, as well as the president's signature. On Monday, the Office of Management and Budget said President Bush's senior advisers would recommend that he veto the effort."

Northeast Nuke Plants Could Impact Greenhouse Gas Pact. The New York Times (9/14, Wald) reports, "A proposed agreement among nine Northeast states to cap greenhouse gas emissions from power plants casts a new light on arguments in New Jersey and Vermont about whether the licenses of two aging nuclear plants should be extended. Community groups in both states are opposing the extensions of the licenses beyond their 40-year terms, but environmentalists are generally supportive of the proposed agreement among the governors to reduce these greenhouse gases, which contribute to global climate change. Shutting

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down the two reactors would mean immediate, substantial increases in the emissions, because it would increase reliance on fossil fuel plants, probably tripling emissions in Vermont and doubling them in New Jersey."

Senator Shows Concern Over Rising Heating Costs. The Hill (9/14) reports, "Sen. Pete Domenici (R-N.M.), chairman of the Senate Appropriations Committee's Energy Subcommittee, yesterday asked the administration to estimate home heating prices this winter in light of the damage done by Hurricane Katrina" and "asked Energy Secretary Samuel Bodman yesterday to estimate how much Congress should provide in so-called weatherization assistance to help low-income families deal with higher prices." Energy experts told the Energy and Natural Resources Committee "that home-heating prices could be 31 percent higher than they were a year ago because of damage done to the Gulf Coast by Katrina."

European Court Rules EU Can Prosecute Polluters. The AP (9/14, Wielaard) reports, "European governments can bring criminal prosecutions against any company that violates the European Union's environmental legislation, the bloc's high court ruled on Tuesday." The AP continues, "The ruling boosts the powers of the European Commission, the executive body that drafts EU legislation which the bloc's 25 member states must incorporate into domestic law." The AP adds, "The Commission filed a lawsuit against all EU governments in 2001 for failing to include a reference to criminal prosecution of industrial violators in an anti-pollution bill it had drafted. … The governments, keen not to be seen to be yielding more powers to the EU, argued that criminal prosecutions shouuld be left to national authorities. … But the court said the Commission was entitled to ensure the laws it drafts are as effective as possible. … It said the fight against pollution was a cross-border issue and 'one of the essential objectives' of the EU."

WSJournal Says CAFE Standards Pose Safety Risk. The Wall Street Journal (9/14) opposes Corporate Average Fuel Economy (CAFE) standards imposed on automakers that would raise the standard to 40 mpg by 2010 from 27.5 mpg today. While this measure would save gas, it also trades "blood for oil" because the primary way automakers meet the standards is to reduce the weight of their cars, and "research has consistently confirmed that the lighter the vehicle the more dangerous it is in a crash because there is less survival space and less physical structure to absorb impact."

LATimes Argues Against Power Grid Overhaul. In an editorial, the Los Angeles Times (9/14) says that Monday afternoon's blackout in Los Angeles "reminded Angelenos that their seemingly sturdy, self-contained municipal power system can still be brought to its knees in seconds by a single human error. That's not a comforting thought in the post-9/11 era, when we have to worry about misdeeds as well as mishaps." The Times notes that by Tuesday, Ron Deaton, the California Department of Water and Power chief, "was already promising the City Council that he would hire independent engineers to design a new system that would do a better job of isolating problems, rather than triggering broad shutdowns," but "such an overhaul won't be cheap. What's more, it would be prohibitively expensive to build an electrical grid with so many backups and safeguards that it would resist any and all human errors."

FBI Probes SC Firms' Ties To Tribe. The (SC) State (9/14, LeBlanc) reports, "The Justice Department is investigating allegations of election fraud involving federal campaign contributions raised through organizations tied to the Catawba Indian Nation." The State continues, "The FBI last month searched the offices of three Columbia companies, one of which is owned primarily by the York County tribe, according to investigative documents obtained by The State newspaper. … The inquiry is being run out of Washington and the Justice Department's Public Integrity section, court records show." The State adds, "The Aug. 31 raid of New River Management & Development, SPM (formerly South Property Management) and Kapp Investment Management yielded 24 boxes of financial records, evidence of political contributions, computers, and business and tax documents, according to an inventory of the seized items. … In seeking the search warrant, FBI agent Amylynn Miller told a federal magistrate judge the government believes evidence was being concealed in the offices. … Jay Bender, a longtime attorney for the Catawbas, said Tuesday the tribe is not a target of the probe."

FBI/DEA/ATF/USMS:

DEA Says Cheaper Heroin Coming To Boston Via Cocaine Trafficking Routes. The Boston Herald (9/14, Crimaldi, Johnson) reports that a "cheaper, purer heroin," once "shuttled into New England from Burma," is now coming to the Boston area "via established cocaine trafficking routes, drug enforcement agents say. 'They had routes they used for cocaine and just like any other organization, if it was successful, why not use it for another drug,' said Tony Pettigrew, a spokesman for the Drug Enforcement Administration's New England Field Division. While drug enforcement agents say there is no single heroin trafficking route, smack typically makes its way to Massachusetts through Florida and then New York City." According to state police Lt. Dennis Brooks, the "number of Massachusetts

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residents being treated for heroin addiction has climbed from 44,000 to 56,000 in recent years, he said, attributing the spike to the OxyContin craze, which is addicting people to opiates at a younger age. Heroin hits the street in a rock form that is broken down into a powder and sold for as little as $4 to $6 per bag. The DEA classifies heroin into four categories depending on where it comes from: South American, Mexican, Southeast Asian and Southwest Asian."

Ninth Circuit Court Of Appeals Cancels Oral Arguments In Medical Marijuana Case. Oregon Public Broadcasting (9/13, Fogarty) reports, "The Ninth U.S. Circuit Court of Appeals cancelled oral arguments Tuesday in an Oregon medical marijuana case. The lawsuit was filed by LeRoy Stubblefield of Sweet Home. In 2002, federal drug agents seized marijuana plants that he was growing under Oregon's 1998 medical marijuana law. In a separate case, the US Supreme Court in June sided with the federal government's efforts to crack down on medical marijuana in California." Paul Stanford of theHemp and Cannabis Foundation "says the California decision may be why the appeals court cancelled oral arguments in the Oregon case." In the California case, the "U.S. Supreme Court said the Drug Enforcement Agency has the authority to prosecute marijuana users under federal law, even if states allow the use of pot to treat medical ailments."

The California Recorder (9/14, Scheck) reports, "It was unclear why there was no drum circle on the third floor of the 9th U.S. Circuit Court of Appeals on Tuesday morning. … The dozen or so people assembled outside Courtroom One were certainly loud enough -- despite repeated exhortations by security guards to keep the noise level down -- and the top thing on their minds was smoking pot. … And these are people who take their weed seriously: pot lawyers, pot lobbyists, pot activists, pot smokers, a pot reporter and the requisite pot publicists -- a middle-aged assembly that ranged from besuited to bedraggled." The Recorder continues, "As the group waited for a 9th Circuit panel to finish hearing more conventional arguments -- a qui tam case, for example -- they had lots to say about marijuana. … 'If you smoke pot, you have less of a chance of getting cancer than if you don't,' explained Ed Rosenthal, the focal point of the group." The Recorder adds, "Rosenthal is a pot celebrity, as well as an author and publisher of pot books. ('"The Big Book of Buds," volume one and volume two, are probably our best-sellers,' said the primly suited Jane Klein, Rosenthal's business partner and wife. 'They treat marijuana like you would roses,' she said, referring to pictures and descriptions of growing conditions.)" The Recorder notes, "In 2003, Rosenthal's celebrity moved beyond the pot community when he was convicted in San Francisco federal court of growing marijuana, despite the fact that the city of Oakland had licensed him to do so. … Rosenthal appealed that verdict -- even though U.S. District Judge Charles Breyer sentenced him to just one day in jail -- because Breyer refused to let the jury hear that the pot was grown for locally sanctioned medicinal use. … After the arguments, which ran nearly a half-hour longer than scheduled, the judges didn't seem swayed by either side. The same could not be said for the pro-pot contingent, which stood outside the courtroom expounding on the need to legalize marijuana -- though that was not the issue before the 9th Circuit."

FBI Nabs Eight In New York, New Jersey On Drug Conspiracy Charges. Long Island Newsday (9/14) reports, "FBI agents arrested eight men in New York and New Jersey on Tuesday on racketeering, money laundering and other charges stemming from an alleged conspiracy to distribute large quantities of marijuana and cocaine. The eight were named in an indictment returned by a grand jury in Florida that also seeks forfeiture of $75 million in profits from the alleged illegal drug sales, some of which involved truckloads of marijuana shipped from the U.S.-Mexican border to New York, New Jersey, Florida, Pennsylvania, Ohio, Kansas and other states." Among those charged was John Leto, "also known as 'Johnny Balls' and allegedly a member of an organized crime family in New Jersey. Leto, 39, allegedly used his connections as a 'La Cosa Nostra associate' and his construction business to protect the marijuana business and help distribute the drugs, according to the indictment."

Alleged Gang Members May Face Death Penalty For Murder, Drug Charges. The Valencia County (CA) News-Bulletin (9/14, Sandlin) reports that a California grand jury "is scheduled to take up potential death penalty charges against three alleged members of a Valencia County drug gang this month. The target notice sent to the three men shifts the focus away from a pending drug prosecution in U.S. District Court." Ben Gallegos, Frankie Gallegos, and Juan Calles, "alleged members of the East Side Locos, are being investigated for seven slayings, including shootings and strangulations. Investigators believe the shootings are either gang- or drug-related. … The three men, along with eight others, were indicted by a federal grand jury in March for methamphetamine distribution. The indictment also seeks forfeiture of $63,900 in cash seized during a series of raids March 10. A superseding indictment was handed up in July charging Ben Gallegos with operating a continuing criminal enterprise, conspiracy and distribution of methamphetamine. Attorneys for the three in the federal case want to postpone pretrial matters because of the potential death penalty charges in state court."

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Mississippi Teen Goes On Trial For Trying To Sell Bomb. The Jackson (MS) Clarion-Ledger (9/14, Gates) reports, "A Brandon (MS) teenager built a bomb designed to kill and injure, a prosecutor told a federal jury Monday." The Clarion-Ledger continues, "James Rankin, 19, of 3175 U.S. 80 East is charged with possession of an unregistered firearm, transfer of an unregistered firearm and the manufacture of an unregistered firearm. … If convicted, Rankin faces up to 30 years in prison. The case continues today in U.S. District Court in Jackson. … 'The defendant made a bomb, not a firework,' U.S. Assistant Attorney David Fulcher said in his opening statement. 'It's simple. The defendant made a bomb that was designed to kill and with the intent for it to kill.'" The Clarion-Ledger adds, "Rankin's attorney, U.S. Public Defender Dennis Joiner, told the jury he would delay his opening statement until after the prosecution concludes its case. … Rankin was arrested Nov. 9, 2004, after he allegedly tried to sell a bomb to an undercover agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives. … 'He asked if I wanted a large pipe bomb, a small pipe bomb or a hand-held grenade,' ATF special agent Connie Wilson testified. … Wilson said she posed as someone wanting to harm an ex-husband in Texas after a confidential informant told her Rankin could make a bomb."

Former Deputy US Marshal Sentenced To 15 Years For Maryland Killing. The Washington Post (9/14, B3, Kunkle) reports, "A former deputy U.S. marshal who killed a young Navy seaman in a road rage incident last year at a Rockville shopping plaza was sentenced yesterday to 15 years in prison." The Post continues, "Arthur L. Lloyd, 54, who was convicted in June of voluntary manslaughter in the Oct. 29 shooting of Ryan T. Stowers, probably will serve about 11 years before he is eligible for parole, prosecutors said." The Post adds, "Calling the shooting 'an enormous tragedy' for both families, Montgomery County Circuit Court Judge Ann S. Harrington tailored a sentence that satisfied neither side completely. She went beyond state guidelines calling for a five- to 10-year sentence, but she declined to impose the maximum 35-year term requested by prosecutors."

The AP (9/13, Adelman) reports, "During their testimony, members of Lloyd's family portrayed the 54-year-old as a peaceful man distraught over his actions in the Oct. 28 shooting and asked the judge to be lenient. … Lloyd's family members were followed by those of (Stowers, who) offered teary testimony and asked for the judge to issue the harshest punishment she could. … When Lloyd was offered the chance to speak on his own behalf, he sought to explain his actions in the Rockville shopping center parking lot. He said law enforcement officers like him are skittish since the Sept. 11, 2001, terrorist attacks, and that he was incensed by a barrage of profanities and racial epithets that Stowers subjected him to. He also said he feared that Stowers might be someone he helped put in jail as a marshal, who was now seeking revenge."

USMS Gives $10,000 To Kentucky Cabbie Who Turned In Fugitives. The AP (9/14) reports from Covington, KY, "Cab driver Mike Wagers, credited with the tip that led to the capture of two Tennessee fugitives wanted in the killing of a corrections officer, was rewarded Tuesday with $10,000." The AP continues, "John Clark, acting director of the U.S. Marshals Service, presented the check for information leading to the arrest of George and Jennifer Hyatte, charging in the fatal shooting of a guard during George Hyatte's escape outside a courthouse in Kingston, Tenn. … 'I'm just overwhelmed,' said Wagers, 33, who said he plans to split the money with a friend whose wife recently died, and will take a vacation."

The Cincinnati Enquirer (9/14, Hannah) reports, "Wagers gave authorities a tip that helped lead to the Aug. 10 capture of George 'Shorty' Hyatte and his wife Jennifer Hyatte. … The couple went on the run after George Hyatte made a daring Aug. 9 jail escape from Tennessee. He was being taken back to jail after a court hearing when his wife allegedly shot and killed corrections officer Wayne Morgan. During the shootout, Jennifer Hyatte received a bullet wound in the leg but was able to escape with her husband. The couple made their way north to Erlanger, where they stayed overnight at an EconoLodge and then hailed Wagers' cab to Columbus the following morning." The Enquirer adds, "Wagers called authorities after realizing the fugitives' description matched his two passengers. His tip led police to the hotel room in Columbus where the couple was staying. … The couple had told Wagers that they were Amway salespeople who needed to get to Columbus for a convention. Wagers said he never suspected the two were fugitives, but he became suspicious of their Amway claim when they didn't try to sell him anything."

IMMIGRATION:

Lawmakers Seek To Avoid "Amnesty" Label On Immigration Plans. The Washington Times (9/14, Dinan) reports, "As the immigration debate warms up over the next few months, President Bush and congressional lawmakers will try to prevent their legislation from being tagged with the 'amnesty' label. … The president demonstrated the power of the word during last year's campaign when he leveled the charge against his Democratic challenger, Sen. John Kerry of Massachusetts: 'Here is where my opponent and I differ. In September 2003, he supported amnesty for illegal aliens.' Some Republicans, however, say

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the president's guest-worker plan is an amnesty that he doesn't want to call an amnesty."

TAX:

Jury Selection Delayed In Nevada Trial Of Anti-Tax Advocate. The Las Vegas Sun (9/14, Kihara) reports, "Jury selection in the tax fraud case of anti-tax advocate Irwin Schiff was stalled Monday after potential jurors who were waiting outside the courtroom said a man tried to talk to them about the case." The Sun continues, "A potential juror told U.S. District Judge Kent Dawson that John Anthony Malan told prospective jurors outside an elevator on the sixth floor of the George Federal Building to 'just remember to listen to the facts' and not to listen to opinions. At least seven more potential jurors also heard comments from Malan and were called into a private sidebar individually with the attorneys from both sides and Dawson." The Sun adds, "The interruption came during jury selection in the criminal case against Schiff, a local author and businessman, and two other defendants, Cynthia Neun and Lawrence Cohen. … All three were indicted in federal court in March of attempting to evade paying taxes, aiding and assisting in filing false tax returns and conspiring to defraud the government, among other charges. … The outspoken Schiff is defending himself while Neun and Cohen have attorneys." The Sun notes, "Malan was brought before the judge and initially denied speaking to the jurors. … After Dawson further inquired as to whether Malan attempted to communicate with prospective jurors about the case and asked if he was attempting to influence the potential jurors, Malan replied, 'I object to this entire proceeding.' … Dawson, after calling for a hearing for Malan on Wednesday, ordered U.S. marshals to eject Malan from the federal courthouse."

CONGRESS-ADMINISTRATION:

Roberts Remains Unruffled By Tough Questions During Questioning By Senate Panel. Judge John Roberts faced questions from the Senate Judiciary Committee yesterday in a performance lauded by most observers as polished and temperate. While he was quizzed on a number of issues, abortion and the precedential value of Roe Vs. Wade were the topics that drew most media attention. Most observers agreed Roberts acquitted himself favorably in the hearing.

ABC World News Tonight (9/13, story 6, 3:50, Douglass) reported Roberts "was cool and polished." Roberts "paid tribute to the principle of stare decisis, not overturning previous Supreme Court decisions. And he agreed there is a right to privacy." But he "would not say if Roe versus Wade is protected by the right to privacy. And he refused to answer questions about his views on abortion and on most subjects, insisting they might come before the court someday." Democrats "hammered him about things he wrote as a young government lawyer 25 years ago, when the Reagan Administration fought against expanding civil rights laws."

The CBS Evening News (9/13, story 6, 2:35, Borger) reported, "The first flash point, abortion rights -- the key question: Is the precedent of 'Roe v. Wade' so strong that Roberts would not vote to overturn it?" Judge Roberts: "I do think that it is a jolt to the legal system when you overrule a precedent." The "only woman on the panel grilled Roberts on his old legal memos which appeared to disparage women, and their complaints about unequal pay." Judge Roberts: "I have always supported and support today equal rights for women."

NBC Nightly News (9/13, story 5, 2:20, P. Williams) reported, "Democrats asked if the war on terror allows the government to cut back on freedoms at home." Sen. Patrick Leahy (D) Vermont: "Do you feel that you'd be able to interpret the Bill of Rights the same, whether we're at wartime or not?" Judge Roberts: "I do, Senator. And the obligation of the court to protect those basic liberties, in times of peace and in times of war, in times of stress and in times of calm, that doesn't change." Williams: "As for controversial memos that Roberts wrote as a lawyer in the Reagan Administration, including one referring to what he called the 'purported 'gender gap', Roberts said he never meant to suggest that women deserve less legal protection."

The New York Times (9/14, Stolberg, Liptak) reports that in "a day punctuated by flashes of hostility and humor, Judge John G. Roberts Jr. on Tuesday acknowledged a constitutional right to privacy and said overturning precedent was a 'jolt to the legal system.'" But he "artfully sidestepped the contentious question that has dogged him as a Supreme Court nominee, whether he opposes Roe v. Wade, the 1973 decision that established a constitutional right to abortion." Democrats "kept a tally of the number of questions they said Judge Roberts refused to answer, putting the number at 60." Judge Roberts "told the senators that he did not have a specific legal philosophy, and he resisted comparisons to William H. Rehnquist, the late chief justice for whom he once clerked, telling senators that he would be 'my own man.'" He also "flatly rejected the idea that his Roman Catholic religion played a role in his court decisions, saying: 'I look to the law books and always have. I don't look to the Bible or any other religious source.'"

The Washington Post (9/14, A1, Goldstein, Babington) reports in a front page story that "testified yesterday that he believes that the Constitution protects the right to privacy, the legal underpinning of the nation's landmark abortion law, but

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he refused to say whether he would vote to uphold Roe v. Wade if he is confirmed as chief justice of the United States." In a "day of sometimes testy exchanges with senators, Roberts distanced himself repeatedly from his conservative writings as a young legal adviser to President Ronald Reagan, including a memo in which he had disparaged privacy as 'amorphous' and a 'so-called right' not spelled out in the Constitution." Democrats "pressed him aggressively, seeking to elicit his views on abortion and a range of other volatile civil rights issues by reminding him of stances he had advocated in the past. But time and again throughout the first full day of questioning at his Senate confirmation hearing, Roberts refused to divulge the way he would rule on matters of voting rights, gender equity, fair housing and the role of religion in public life." Democrats "suggested that Roberts might be a stealth nominee who would shift the court more sharply rightward than his careful testimony suggests."

The Los Angeles Times (9/14, Reynolds, Schmitt) reports Roberts "indicated Tuesday that it would be hard for the Supreme Court to overturn the Roe v. Wade decision legalizing abortion, but he refused to say whether he would support efforts to do so." Roe and "the legal arguments behind it -- especially privacy rights and the rule of precedent -- came to the fore repeatedly during more than 10 hours of questioning." Democrats "used the opportunity to inquire into the nominee's views on issues central to their party's legacy over the last half-century -- abortion rights, civil rights and environmental regulation, among others." Roberts "kept his voice measured, his face placid and his manner deferential. A more deeply furrowed brow was his only sign of discomfort." As the "day wore on, Democrats at times seemed disarmed by the nominee's genial and sometimes self-effacing testimony," but they "also expressed frustration at what they viewed as his lack of responsiveness. Aides to committee Democrats said they counted 21 occasions in which Roberts declined to answer questions, including his views of cases that already had been decided."

USA Today (9/14, Kiely, Biskupic) reports the hearing was "sometimes testy" and was "marked by tart exchanges with Democrats," and that Roberts "would not say Tuesday if he'd vote to overturn the 1973 ruling that legalized abortion nationwide." But Roberts "did say he believes there is a constitutional right to privacy, and he said the Roe v. Wade ruling is 'settled as precedent' that must be viewed with respect by judges." Sen. Lindsey Graham "said the nomination may mark the end of an era in which most Supreme Court nominees won strong bipartisan approval. He noted that liberal Justice Ruth Bader Ginsburg was confirmed in 1993 with 96 of the 100 votes in the Senate. Graham said Republicans, who hold 55 Senate seats, will retaliate 'if the Democratic Party votes against him (Roberts) en masse because of his (conservative) philosophy.'"

The AP (9/14, Benac) reports that from "the first question of the day — on abortion — right through the alphabet to the Zimmer case on voting rights, Roberts held his own as senators tried to goad him into revealing more of his thoughts than he wanted on the controversial issues of the day. The artful dodger employed a mix of humor, history and humility as he found 50 ways to defend his views and politely demur when he didn't want to discuss them." When Sen. Joseph Biden, D-Del., "complained that Roberts was filibustering, the judge lightly scolded, 'That's a bad word, senator.'"

The Washington Times (9/14, Dinan) reports Republicans and conservatives "said John G. Roberts Jr. acquitted himself perfectly," but "Democrats and liberal activists said he ducked questions and probably lost support for his nomination to be chief justice of the United States." Conservatives "from Leonard Leo, the executive vice president on leave from the Federalist Society, to the Family Research Council and Concerned Women for America said Judge Roberts expertly handled questions on abortion, in particular. But Democratic senators said he was being evasive." Ralph G. Neas, president of People for the American Way, said, "Yesterday he spoke about baseball and today he played dodgeball all day. He gave the illusion of candor and the appearance of openness, but he spent the entire day responding to direct questions with evasive answers."

The Hill (9/14, Allen) reports, "Despite a few testy early exchanges with Democratic Sens. Edward Kennedy (Mass.) and Joseph Biden (Del.) over his views on voting rights and sex discrimination, Roberts demonstrated a level of composure rare among high-profile nominees facing adversarial senators." In contrast to "some past nomination proceedings, senators limited themselves mostly to questions about jurisprudence, rather than Roberts's character or personal qualifications — perhaps yet another indication that Democrats do not intend to use all means necessary to defeat his nomination."

The Legal Times (9/14, Goldman, Mauro) reports, "Again and again, Roberts returned to familiar themes throughout the full day of hearings: that courts should judge, not legislate; that the right to be left alone is a fundamental American right, even though it is not specifically mentioned in the Constitution; that he would not answer specifics about any particular cases; and that his religious beliefs would not play any role in his decision-making. … 'I do know this, that my faith and religious beliefs don't play a role in my judging,' Roberts said in response to questions from Sen. Dianne Feinstein, D-Calif., about his impartiality. 'When it comes to judging, I look to the law ... I don't look to the Bible.' … Roberts also sidestepped a question from Feinstein about whether the federal courts should become involved in end-of-

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life decisions. His response: 'An abstract opinion [on that subject] that would pre-judge that case is inappropriate.'"

CNN's The Situation Room (9/13, Johns) reported that the hearings have gone "just about the way you would expect. John Roberts in the hot seat taking questions from Democrats and Republicans. Quite predictably he has said that he supports the notion of stare decisions, or that is settled precedence in the law. He's also said, importantly, to some folks that he does believe there is a constitutionally protected right to privacy. Of course, that's come up again and again here on Capitol Hill, in part, because, back in 1981, he wrote a memo while working over at the White House, questioning the right to privacy, some said. He's, clearly, in his view there is. … And one of the key questions, of course, has been whether the right to privacy means there's a right necessarily to an abortion. Of course, people taking different views."

Fox News' Special Report (9/13, Hume) reported that Roberts "remained calm and cordial throughout a day of tough questions as members of the Senate Judiciary Committee tried to pin him down on matters that could come before the court that he could lead." Fox (Angle) added, "Roberts managed to get out of political quick sand of abortion without committing one way or the other. On that and other issues, he may not have won over senator Kennedy and other critics, but he wasn't likely to get their votes anyway."

Jeff Greenfield said on CNN's The Situation Room (9/13), "There's been some concern from folks on the conservative side of things that some of Roberts' critics or questioners might probe too deeply into this question of Catholic faith, and I think Roberts -- not only did Roberts answer that quickly and effectively, but he raised that where Dianne Feinstein didn't."

Abortion A Constant Subtext Of Hearing. A number of print stories focused specifically on Judge Roberts' responses to questions about Roe Vs. Wade and abortion. But there was no consensus on where, at the end of the day, Judge Roberts' ultimately stood on the question, with different outlets emphasizing different interpretations of his remarks, which raised concerns among conservatives as well as pro-choice advocates.

The New York Times (9/14, Toner) reports that on no issue were Roberts' "words framed more carefully - or listened to more closely - than on the subject of abortion." Roberts "paid full tribute to the weight of 32 years of precedent behind Roe v. Wade, the 1973 Supreme Court decision establishing abortion rights." But he "stopped short, again and again, of endorsing Roe itself." Abortion rights advocates, "who were overwhelmingly opposed to the Roberts nomination before the hearing began, said his testimony Tuesday affirmed their fears." Abortion opponents "and social conservatives were praising Judge Roberts's testimony as appropriate and - by implication - politically acceptable." The AP (9/14, Espo) reports Roberts "repeatedly refused to answer questions about abortion and other contentious issues at his confirmation hearing Tuesday, telling frustrated Democrats he would not discuss matters that could come before the Supreme Court."

The San Jose Mercury News (9/14) ran a Chicago Tribune story by Jill Zuckman, who reports, "More than civil rights, more than property rights, more than environmental rights, the issue of abortion has insinuated itself into every aspect of the Supreme Court confirmation process. And Tuesday, it seemed to be frustrating nearly everyone." Not surprisingly, Roberts' answers "did not entirely satisfy advocates on either side." His "answers to questions about Roe v. Wade gave no comfort to liberals, who wanted - though they could hardly have expected - an explicit promise of support for high court ruling that legalized abortion nationwide. But neither did it give comfort to social conservatives who hoped Roberts would vote to overturn the decision."

The Washington Post (9/14, Becker) reports that "nearly a quarter of a century ago," Judge Roberts "wrote skeptically about the legal concept that underpins a woman's right to an abortion, calling it 'the so-called right to privacy.' Yesterday, when pressed by a Republican senator about his writing, the Supreme Court nominee said he believes that the Constitution contains such a right, but he refused to say whether it covers the termination of a pregnancy." Kate Michelman, former president of NARAL Pro-Choice America, said, "We still do not have clarity on his views."

But the Washington Times (9/14, Hurt) reported the story under the headline, "Roberts Defends Roe As 'A Precedent.'" Knight Ridder (9/14, Henderson, Kuhnhenn) headlined its story, "Abortion A `settled Precedent,' Roberts Says." Knight Ridder reports Roberts "gave strong indications Tuesday that he'd be reluctant to overturn court precedents such as Roe v. Wade, and he voiced support for a right to privacy - which underpins court rulings on gay rights and other individual liberties - that's much broader than his previously known stance."

The Wall Street Journal (9/14, Cummings, Bravin) reports Roberts "raised concerns among conservatives by telling senators that he recognized a constitutional right to privacy, and backed the 1965 Supreme Court opinion that was later invoked to justify abortion rights -- a central battleground in the current ideological debate over the direction of the judiciary." But Roberts "left open the fate of the 1973 Roe v. Wade decision on abortion rights -- often linked to the privacy case -- which he suggested rested on different reasoning." Judge Roberts's "embrace of the privacy right underlying Roe rejected the arguments of some prominent conservative legal scholars, and unsettled some

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religious activists who have made overturning the landmark abortion ruling a centerpiece of their political agenda."

The AP (9/14, Werner) reports Sen. Dianne Feinstein "said she was disappointed John Roberts wasn't more forthcoming in discussing abortion, women's rights and other issues during the first day of questioning Tuesday in his Supreme Court nomination hearings." Sen. Feinstein said, "I actually felt he made up his mind not to answer my questions, knowing what I might ask. What I was trying to do today is to get a sense of who Judge Roberts is. I'm disappointed that Judge Roberts was not more forthcoming."

The Los Angeles Times (9/14, Savage) reports that since Judge Robert Bork, "Republican nominees have responded to the senators' questions without directly answering whether they would uphold or reverse Roe vs. Wade. On Tuesday, Judge John G. Roberts Jr. followed that script, assuring pro-choice senators that the court's precedents were the building blocks of the law and should not be knocked down without good reason. It is a jolt to the legal system to overturn a precedent, he said."

Roberts Remains Enigmatic. The Washington Post (9/14, A1, Milbank) reports in a front page story that Judge Roberts, "star litigator, adviser to presidents and top-flight jurist, showed that he could be something else: the very model of an enigmatic nominee. The Roberts who answered questions for eight hours yesterday was very much the Roberts who emerged in his writings released over the summer. He maddened the committee's Democrats, delighted its Republicans and charmed most of both." Roberts was "sharp-tongued," was "quick on his feet," and "showed flashes of wit. Asked about an old memo he wrote supporting judicial term limits, he admitted: 'You know, that would be one of those memos that I no longer agree with, senator. I didn't fully appreciate what was involved in the confirmation process when I wrote that.'" What Roberts "did best -- or, at least, most -- was deflect questions on charged issues." The "most inflammatory subject -- abortion -- was essentially off-limits."

The New York Times (9/14, Purdum) reports Roberts' "face never scowled. His level tone seldom varied. He answered questions he found useful to his cause and avoided those he did not. Above all, Judge John G. Roberts Jr. explained his views and defended his honor with the force and fluidity of an advocate who has argued often before tougher judges than those he faced on the Senate Judiciary Committee on Tuesday." In short, Roberts "was Delphic, and his supporters and critics each ended the day saying his performance had hardened their enthusiasm or their doubts."

The New York Times (9/14, Greenhouse) reports Judge Roberts "invoked the memory of a man who more than 60 years ago made a similar journey between two branches of government and who shed some of his earlier views in the process." Robert H. Jackson was attorney general "when President Franklin D. Roosevelt named him to the Supreme Court in 1941. As Judge Roberts pointed out in a colloquy with Senator Patrick J. Leahy of Vermont, the committee's senior Democrat, Justice Jackson then changed from 'someone whose job it was to promote and defend an expansive view of executive powers' to someone who 'took an entirely different view of a lot of issues,' including the scope of presidential power." The nominee's "message was oblique, but clear: Do not judge me by the hundreds of memorandums I wrote as a young lawyer in the Reagan administration."

Roberts Willing To Discuss Some Past Supreme Court Rulings. The New York Times (9/14, Liptak) reports that during the first day of questioning in his confirmation hearings yesterday, Judge John G. Roberts Jr. "was generally careful not to comment on the correctness of specific Supreme Court cases," but "not always. Judge Roberts was willing to discuss decisions concerning school desegregation, the privacy of the marital relationship, the internment of Japanese-Americans and the limits of presidential power. His willingness to comment on cases seemed to increase in direct proportion to his assessment of the extent to which they have become fundamental to an understanding of American constitutional law."

The Washington Times (9/14, Lakely) says Roberts "rebuked a recent high-court decision that relied on foreign law, calling it a 'misuse of precedent' that substitutes a judge's 'personal preferences' for the Constitution. Sen. Jon Kyl, Arizona Republican, asked Judge Roberts what, 'if anything, is the proper role of foreign law in U.S. Supreme Court decisions?' The question was a reference to the Roper v. Simmons decision by the Supreme Court in March, in which the majority cited foreign law to overturn a death-penalty sentence for a 17-year-old murderer. That 5-4 decision is cited by conservative legal scholars as one reason it is important for President Bush to appoint a reliable conservative to the Supreme Court. … Judge Roberts maintained that he didn't want to comment on any particular case decided by the court. 'I would say, as a general matter, that there are a couple of things that cause concern on my part about the use of foreign law as precedent,' said Judge Roberts, beginning his critique by noting that while U.S. judges are not held directly accountable by the people, the politicians who appoint them are."

Specter Probes Roberts On Stare Decisis. The Washington Times (9/14, Taylor) reports that Senate Judiciary Committee Chairman Arlen Specter was quick to probe Roberts' view on ''stare decisis,' the Latin phrase meaning to let stand what has already been decided." Specifically, "Specter asked how stare decisis applies to Roe v. Wade, which legalized abortion in 1973, and a subsequent case which upheld it in 1992. Judge Roberts said he wished not to discuss abortion since it is likely to come before the

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Supreme Court again, but asserted that past rulings may indeed warrant reconsideration under special circumstances."

Roberts Downplays Pro-Bono Work For Gay Rights Group. The Washington Times (9/14, Hurt) says Roberts "downplayed his pro-bono legal work to help a homosexual rights group win one of the most significant Supreme Court cases regarding such rights. 'I was asked frequently by other partners to help out, particularly in my area of expertise,' he told Senate Judiciary Committee Chairman Arlen Specter, Pennsylvania Republican. 'And I never turned down a request.'" The Times adds, "While Judge Roberts did not write briefs or become deeply involved in preparing the case, he did review files and help prepare oral arguments for Lambda Legal without charge. He also played the role of conservative Supreme Court Justice Antonin Scalia in the mock trial."

Liberal Groups Seeking To Flip Liberal Republicans. The Hill (9/14, Bolton) reports liberal interest groups "are focusing on flipping three centrist Republican senators from the Northeast as the key to their strategy at least to tarnish the confirmation of Supreme Court nominee John Roberts." Many Democratic Senate aides, strategists and journalists "believe that Roberts's confirmation is a foregone conclusion. But liberal activists such as Ralph Neas, president of People for the American Way, insist the battle is not over and the committee and floor votes will be close." Liberal leaders "are frustrated that the press has in some cases already called the fight a win for Republicans." Liberal strategists say "that if they can turn a Republican against Roberts it would embolden Democrats to follow suit. Accordingly, they are focusing their lobbying efforts on Sens. Olympia Snowe and Susan Collins of Maine and Lincoln Chafee of Rhode Island."

Blackmun Had Intended Roe To Be Narrow Reform Of Abortion Laws. The Los Angeles Times (9/14, Savage) reports that on "the fifth anniversary of" Justice Blackmun's "death, the Library of Congress opened his papers to the public. His thick files on the abortion cases tell the little-known story of how Roe vs. Wade came to be. It is the story of a rookie justice, unsure of himself and his abilities, who set out to write a narrow ruling that would reform abortion laws, not repeal them."

Specter's Independence Noted. NBC Nightly News (9/13, story 6, 4:00, Williams) profiled Sen. Arlen Specter, who "has been unafraid to act independently. It is a virtue he believes will serve him well throughout these hearings." That independence "got him into deep trouble in his own party when he said publicly that he doubted the Senate would confirm a nominee who would overturn Roe v. Wade."

Other Commentary. In a Washington Post news analysis (9/14, A9), Charles Lane says Roberts "appeared to sound a less conservative note on abortion-related issues than he had in the memos and briefs he wrote as a lawyer in the Reagan and George H.W. Bush administrations. He offered a surprisingly emphatic endorsement of a constitutional right to privacy -- the basis of the Roe v. Wade decision recognizing a right to abortion, which he seemed to disparage as a young lawyer in the Reagan administration. And, as if repeating a carefully formulated phrase, he referred time and again to a 1992 Supreme Court ruling upholding Roe as "a precedent entitled to respect.'" Yet, "ever the careful lawyer, Roberts committed himself to nothing more tangible than a promise to think hard before voting either to uphold or overturn the abortion precedents about which so much controversy revolves." The "overall impression was of a talented nominee who used his skills to avoid twin perils: revealing nothing of his views or revealing too much."

On the CBS Evening News (9/13, story 7, 1:30, Schieffer), Chicago Tribune reporter Jan Crawford Greenburg said Roberts said Roe "was settled law, subject to the legal principle that allows courts to rethink their decisions if there are compelling reasons to do so. He did not say he would not overturn Roe, despite question after question from senator after senator, trying to pin him down on those views." Today, "very much what we saw was the John Roberts that we've seen much of the summer, the John Roberts that the justices have seen when he argued before them before the Supreme Court. He's a man who is prepared, we saw his humor, we didn't really see him go off his points that he's made before."

On the CBS Evening News (9/13, story 7, 1:30, Schieffer), Gloria Borger said, "Privately, the Democrats I speak with are telling me we understand that John Roberts is going to get confirmed, and lots of them are starting now to focus on just who the second nominee for the Supreme Court is going to be. There's lots of thought that that nominee could be more conservative and more controversial and they ought to start thinking about that one."

In a USA Today news analysis (9/14), Joan Biskupic and Toni Locy say, "Roberts was a deft witness Tuesday, showing himself to be a smart, articulate, by-the-book jurist while offering only minimal answers to senators' questions." When Democrats "tried to put him on the defensive about his past positions as a Reagan administration lawyer or his current reluctance to explain his views, the conservative federal judge countered their assertions without losing his cool. It was senators such as Edward Kennedy, D-Mass., and Joseph Biden, D-Del., who became visibly frustrated."

In his Los Angeles Times column, (9/14), Ron Brownstein says Roberts "exuded the quiet confidence of a man who knew that he was ahead in the game during a lengthy but mostly sedate confirmation hearing Tuesday. He left the long first day of questioning before the Senate Judiciary Committee the same way he entered it: a clear favorite for confirmation as the youngest Supreme Court Chief Justice in two centuries. By firmly refusing to answer

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questions on specific cases he might face on the bench — including the 1973 Supreme Court decision guaranteeing the right to abortion — Roberts may have provided Democrats already inclined to reject him more grounds to do so. But most analysts agree that he said little likely to enlarge the circle of senators opposed to him."

The AP (9/14, Fournier) reports Roberts "cast himself Tuesday as a humble, fair-minded jurist with views just nimble enough to please anybody - from the abortion-rights 'soccer Mom' to the staunchest red-state conservative. But there should be no mistake about his ideology. Roberts is deeply conservative. Period."

USA Today (9/14) sys in an editorial, "John Roberts more than lived up to his billing Tuesday as a knowledgeable, superbly prepared, genial and highly articulate legal mind — and as a nominee determined not to answer any question that could cause him trouble. But all-day testimony before the Senate Judiciary Committee nevertheless offered some new impressions of the prospective chief justice." The first is "that he is more likely to be a cautious, establishment jurist than a firebrand in the mold of Antonin Scalia or Clarence Thomas — or at least that is the impression he sought to convey. Most notably, Roberts distanced himself from some of his most troubling past writings, attributing them to youth (many were written when he was in his 20s), the need to reflect the views of his employer (the Reagan administration) or to misinterpretation (a comment about not wanting homemakers to become attorneys was just a lawyer joke)."

In an editorial, the Los Angeles Times (9/14) discusses the first day of John Roberts' judicial confirmation hearings. The Times says that Roberts' reaffirmation of "his commitment to the principle of stare decisis, which Sen. Arlen Specter (R-Pa.) helpfully defined for viewers who didn't go to law school as the importance of adhering to judicial precedents," surely "made opponents of a woman's right to choose an abortion a bit anxious (although its genius was that it was sufficiently opaque to worry supporters of abortion rights, too)."

Bush Accepts Responsibility For Slow Federal Response To Katrina. At a news conference yesterday, President Bush said he, ultimately, was responsible for the Federal government's slow response to the Hurricane Katrina disaster. The move was seen as a significant concession by the White House, which has in the past been reluctant to admit error. The networks featured the President's news conference prominently in their lead stories, but largely neglected the President's meeting with Iraqi President Jalal Talibani.

ABC World News Tonight (9/13, lead story, 2:45, Vargas) reported Bush "for the first time" took "ultimate responsibility for the Federal Government's failures in the wake of Katrina. Mr. Bush also admitted what people all over the country have been saying for the last two weeks -- namely that there are serious problems with the way the government responds to disasters." ABC (Moran) added it was "an extraordinary moment in this Presidency. George W. Bush has never said anything like this before. He's a man who does not like to look back or admit mistakes. He did both today." In "what seemed to be a difficult moment for him," Bush "acknowledged his Administration's failures and accepted a share of the blame." President Bush: "Katrina exposed serious problems in our response capability at all levels of government. And to the extent that the Federal Government didn't fully do its job right, I take responsibility." Moran: "And then, when asked directly if given the failures during Katrina, the US government is prepared to respond today to a major terrorist attack or disaster, Mr. Bush could not say yes." The President's "rare expression of contrition comes as his public support is hemorrhaging badly, even among his base. 57% of Americans now disapprove of his performance as President, according to the latest ABC News poll."

NBC Nightly News (9/13, lead story, 3:25, Williams) reported, "Today the President said Federal responsibility is his, and he'll say it again to the nation later this week." NBC (Gregory) added Bush "took the rare step of admitting a mistake, saying the storm exposed serious problems in the government's response capability." Aides said Bush "wanted to clear the air, remind the public he knows the buck stops with him. Mr. Bush also conceded the Katrina response raises grave questions about how the government would respond to another terror strike." White House officials "say the President will once again accept responsibility when he addresses the nation from Louisiana. We are told during that address the President will also update the country on what will be done for all of these victims left homeless by Katrina and over the long term." It was "a huge shift, for an Administration and particularly for a President who is loath to admit mistakes."

The CBS Evening News (9/13, lead story , 1:10, Schieffer) reported, "The death toll in New Orleans rose sharply today, and for the first time President Bush took responsibility for what the Federal Government did wrong." Bush "went on to say it is now in the national interest to find out if we are, quote, capable of dealing with a severe attack or another severe storm."

CNN's Lou Dobbs Tonight (9/13, Dobbs) reported Bush, "facing escalating criticism over the hurricane disaster, today declared he takes full responsibility for the federal government's slow response. President Bush acknowledged the disaster exposed serious problems in the government's response to catastrophes. President Bush's declaration comes one day after he insisted it is too early to assign blame in the disaster." CNN (Bash) added that Bush's comments

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are "a dramatic change in tone, a contrite president uncharacteristically admitting a major failure. … The new admission is striking for a president who prides himself on no regrets leadership and even more stunning because of his combative tone when asked a similar question just a day earlier. … What worries Bush aides is the steady decline of an asset they thought was sealed after 9/11, leadership."

On MSNBC's Hardball (9/13), Chris Matthews called Bush's comments "a dramatic display of accountability so rare in public life."

The Los Angeles Times (9/14, Riccardi, Powers, Meyer) says "Bush spoke plainly when asked whether the government was prepared for another natural disaster or a terrorist attack." He "appeared to try to shift the debate away from finger-pointing to the reconstruction of New Orleans, a formidable task that could repair his frayed image as a leader if it succeeded. Widespread public dismay with federal efforts has translated to Bush's lowest polling numbers in his five years as president."

In a second article the Los Angeles Times (9/14, Gerstenzang, Muskal) says "It was the strongest statement of responsibility from the White House since the hurricane crisis began and initial relief efforts were sharply criticized." And in an article on the latest progress in the region USA Today (9/14) adds, "President Bush shouldered blame for mistakes in the federal government's response to Hurricane Katrina."

Nationally, the aftermath of Katrina was once again the subject of widespread local TV coverage. A significant number of stations decided instead to concentrate on President Bush's acceptance of some blame on behalf of the Federal government for its part in what went wrong with Katrina. WBBM-TV Chicago (9/13, 10:01 p.m.) offered up the best example of this when it reported that Bush acknowledged "his Administration and local officials bundled the response to Hurricane Katrina."

Meanwhile, the majority of local TV stations nationwide seemed to focus on the number of lives taken by the hurricane. For example, KCAL-TV Los Angeles (9/13, 9:57 p.m.) reported, "Hurricane Katrina's death toll climbing quickly." KXAS-TV Dallas (9/13, 10:02 p.m.) added that "659 people died in the storms. That's up nearly 150 from yesterday, as recovery workers focus on gathering and counting corpses. Most of those killed were in New Orleans."

Local TV along the Gulf Coast was mixed in its coverage of the recovery from Hurricane Katrina yesterday. Though many stations focused on positive developments in the area, an equal number focused on President Bush's acceptance of responsibility for any failures in the Federal response, or on the rising number of storm-related deaths. For example, WCFT-TV Birmingham (9/13, 5:58 pm) reported, "Signs of recovery are showing up today in New Orleans. The port is open, and for the first time since Katrina, a commercial flight has touched down at the city's airport." WCFT added that "in the wake of Hurricane Katrina, New Orleans shows signs of returning to normal, but there's still plenty to be done in the Crescent City."

Meanwhile, WBRC-TV Birmingham (9/13, 9:30 pm) reported, "President Bush is taking some of the blame for what some are calling a slow government response, as the number of dead in Louisiana continues to climb." WBRC noted that "state health officials say the number of people who lost their lives in Katrina is now up to 423. That is up from 279 just yesterday." Likewise, WVTM-TV Birmingham (9/13, 5:00 pm) reported, "Facing continued criticism and the lowest approval ratings of his administration, President Bush acknowledged for the first time serious problems in the government's response to Hurricane Katrina. The admission comes one day after the head of the Federal Emergency Management Agency called it quits and the Bush administration tapped David Paulison, head of the US Fire Administration, to serve as interim director. Paulison has three decades of firefighting and emergency management experience.

A number of stations separated their reports, noting both the recovery in the area and the continued political fallout. WTTO-TV Birmingham (9/13, 9:12 pm) reported that "the water is finally subsiding, but what isn't subsiding are the serious political questions that surround the government's obvious slow response to Hurricane Katrina."

Bush To Outline Comprehensive Strategy That Dovetails With Governing Philosophy. Fox News' Special Report (9/13, Goler) reported that Bush "said of the response to Hurricane Katrina at least part of the buck stops here. … Mr. Bush said there were problems at all levels of government, but not with the rescuers." Aides say "privately by accepting part of the responsibility today, the president will be able to focus Thursday on the way forward instead of what he calls the blame game." CNN's Paula Zahn Now (9/13, Bash) reported that the Bush team is "still searching for the right strategy to erase intense criticism the president did not help Katrina victims fast enough."

The Washington Post (9/14, A1, Vandehei, Weisman) in a front page story reports that with the White House concerned "the federal government's stumbling response…will shadow the balance of Bush's second term" Bush has "dispatched his top strategist, Deputy Chief of Staff Karl Rove, and other aides to assemble ideas from agencies, conservative think tanks, GOP lawmakers and state officials to guide the rebuilding of New Orleans and relocation of flood victims. The idea, aides said, is twofold: provide a quick federal response that comports with Bush's governing philosophy, and prevent Katrina from swamping his second-term ambitions on Social Security, taxes and Middle East democracy-building." In his speech Thursday night Bush "is to outline his vision more comprehensively than he has to date. A top aide said he will stress that New Orleans officials

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will dictate how the city will be rebuilt, but will also make plain the reconstruction should reflect his vision of government -- including reducing regulatory obstacles and emphasizing entrepreneurship over big government, the aide said. He will discuss plans to provide health care, education, jobs and housing assistance to flood victims, another aide said."

The Los Angeles Times (9/14, Chen) adds Bush's "comments signaled a new White House strategy as Bush and his top aides continued to work to stem the political damage to his leadership after Hurricane Katrina." His "statement contrasted with recent White House comments. For days, he and top aides have denigrated most questions about accountability for the hurricane response as part of a partisan 'blame game.'"

Poll Numbers Suggest Public Trust In Government Rebounding. In contrast to most coverage describing how the Federal government response to Katrina has resulted in low poll ratings for President Bush, the Christian Science Monitor (9/14, Feldmann) reports that "there are inklings that negative reviews of the government response to Katrina have bottomed out and may be on the upswing." For example, the latest Gallup poll "shows that a majority of Americans are feeling better about the role of government in dealing with the hurricane than they did initially. And despite the sense that the president has suffered grave damage to his public image over Katrina, Gallup and other polls show the effect has been minimal." Gallup poll managing editor David Moore in a Sept 13 report said, "Despite initial criticism of the federal government's slow response to Katrina, Bush's overall job approval rating remains essentially where it was at the end of August."

Most Of Bush Agenda Delayed Until 2006. The New York Times (9/14, Bumiller, Stevenson) reports, "A Republican ally of Mr. Bush who has been briefed on the administration's thinking said the White House's hope for the rest of this year was to deal with the hurricane and to win confirmation for Judge John G. Roberts Jr. as chief justice of the United States and for a second nominee, not yet selected, to the Supreme Court seat being vacated by Justice Sandra Day O'Connor. Next year, the ally said, Mr. Bush would return to issues like overhauling the tax code and the immigration laws that he had hoped to get a start on this year."

Administration To Continue To Make Changes At FEMA. The Kansas City Star/Knight Ridder (9/14, Borenstein, Bailey, Dodd) reports that as Bush took responsibility "Homeland security officials pledged a house cleaning of political appointees in top jobs who have little experience in disaster management." Knight Ridder adds, "As part of the administration's effort to rebound from the growing criticism, changes at FEMA won't stop with Monday's resignation of beleaguered director Michael Brown." DHS Secretary Michael Chertoff said "that he's going to put more emphasis on disaster and management experience in the agency, and will be bringing in a new deputy with more appropriate expertise."

Katrina Response Impact On US Budget Examined. The Christian Science Monitor (9/14, Trumbull) reports, "Think of it as the financial equivalent of another Iraq war. Relief efforts for the storm-ravaged Gulf Coast throw a huge fiscal burden onto a US Treasury that is already deep in the red." Comparing the fiscal cost of Katrina with spending for the war in Iraq, the Monitor notes, "Spending tied to hurricane Katrina has hit as much as $2 billion per day, or about 10 times the amount the United States is spending on military operations in Iraq. The pace will slow, but the recovery effort could easily cost the federal government $150 billion, experts say. Spread over a couple of years, that would roughly match the $6 billion a month being spent in Iraq." Now "the question is not whether America can absorb this shock but whether it will alter the mind-sets of policymakers and financiers on other budget matters."

Cochran Holds Key For Securing Relief Funding. The Wall Street Journal (9/14, Rogers) reports, "Bigger names in Mississippi politics have long obscured Thad Cochran's steady rise in Congress. But in Hurricane Katrina's wake, no lawmaker is more important to the Gulf Coast, or a more calming force amid the chaos engendered by the storm." He "has been instrumental in securing $62 billion for the disaster recovery. A greater test will come in the months ahead as questions mount about paying for and managing the federal reconstruction effort." He "must protect the credibility of the process by controlling his committee's appetite -- and his own -- for pork-barrel spending. Katrina's costs will complicate his task of completing the regular spending bills for the fiscal year beginning Oct. 1. The Senate has borrowed heavily from defense funds to fill gaps in the president's domestic budget, and as chairman, Mr. Cochran is vulnerable to conservative criticism for being a big spender.

Use Of Medicaid For Relief Becomes Contentious Issue. The Wall Street Journal (9/14, Lueck, Rogers) reports that Medicaid "has emerged as the main way to provide medical coverage for many evacuees. But as the relief effort continues and costs mount, federal and state officials are in a tug of war over how much the federal government will reimburse states for their Medicaid spending and whether benefits should be extended to those not ordinarily eligible for the program." The White House "has signaled that it wants to help states taking on Katrina evacuees, both financially and by easing red tape. In Congress, some relief for states seems certain. 'I think it is likely that the federal government is going to have to step up more,' said Senate Majority Leader Bill Frist (R., Tenn.)." The key issue "is a proposed expansion of Medicaid for Katrina survivors. Democrats have proposed that all displaced families from the storm be made

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eligible for the next six months, simply to ensure coverage. Even conservative lawmakers from the affected states are sympathetic." Yet "the White House appears cool to any expansion, and Mr. Frist said he was 'not convinced' it was needed."

NYTimes Warns GOP Spending Cuts Will Hurt Evacuees. The New York Times (9/14) editorializes, "President Bush's vow to speed welfare assistance to the victims of Hurricane Katrina overlooks the gruesome determination of many Republican Congressional leaders to make $13 billion in cuts to Medicaid and food stamps. They quietly plan this even as they throw short-term emergency money at the crisis." Mississippi Gov. Haley Barbour "personifies his party leaders' contradiction in begging for emergency aid now after having championed painful cuts in the social safety net. Earlier this year, Mr. Barbour was in the spotlight as his state's unapologetic Medicaid antagonist. Rejecting the alternative of a tax increase, he severely cut drug benefits and sought to drop 65,000 poor, elderly and disabled people from the program before the courts intervened." Barbour "can spare his president and party a shameful episode by urging that the pending cuts for some of the storm's neediest be deep-sixed."

House GOP Gives White House Mixed Response On Katrina Cooperation. Roll Call (9/14, Pershing) reports, "As Congress and the Bush administration work aggressively to tackle the recovery from Hurricane Katrina, House Republicans are giving the White House mixed reviews on its communication effort with the Hill, on both the political and the policy fronts." Some "Congressional sources said that the flow of information from the administration has improved since the first week of the Katrina crisis. But with legislative proposals moving quickly through the system and a steady drumbeat of negative media coverage weakening the GOP's standing with the public, House Republicans are pushing for the White House to provide more substantive policy details as well as a more cohesive message."

Landrieu Praises Bush, Other Democrats Unsatisfied. The AP (9/14, Jordan) reports, "Sen. Mary Landrieu, D-La., welcomed Bush's conciliatory remarks. 'Accountability at every level is critical, and leadership begins at the top,' she said." But Sen. Robert Byrd and other Democrats "were less charitable." Byrd said, "The season has come for Americans to look homeward...instead of continuing to spend billions of dollars in Iraq."

And the Washington Times (9/14, Curl) notes that "Democrats continued to blame Mr. Bush for inadequate recovery efforts in the immediate aftermath of the hurricane, which left thousands of New Orleans' residents stranded and thousands more without food and water." Sen. John Kerry said, "This administration still hasn't figured out the difference between spin and leadership." Reuters (9/14) and Bloomberg (9/14) also reported on the details of Bush's acceptance of responsibility.

Laura Bush Takes Lead In Defending President. The AP (9/14, Pickler) reports, "Laura Bush is reprising her role as her husband's first defender, making several trips to the hurricane-ravaged Gulf Coast as President Bush's approval ratings sink to their lowest level yet." She "is highlighting the positive that has come out of the storm, telling the stories of strangers helping one another in a time of tragedy." She "said Tuesday that much more human good than bad has come from the disaster, despite what people see on TV. She said the evacuees she has met in her three trips to the Gulf Coast are hopeful and thankful that they don't have to start from rock bottom because of the donations and the kindness of strangers."

Bush Witnesses Generosity Among New Orleans, NYC Rescue Workers. John McCaslin writes in his Inside the Beltway column in the Washington Times (9/14) about President Bush's visit to New Orleans, where he greeted rescue workers including some New York City firefighters "who were standing before a not-so-ordinary New York City firetruck. White House spokesman Scott McClellan revealed that this same fire engine was donated by the city of New Orleans to New York City in the days after the 9/11 terrorist attacks. And now New York has returned the gift, the report said."

Columnist Questions Need For "Big Government" Response. Anne Applebaum in her column in the Washington Post (9/14, A31) cites the US public's generous charitable response to Katrina and writes, "it is important not to draw hasty conclusions about the ultimate political impact of this tragedy. More specifically, it's important to ignore the hasty conclusions that have already been drawn, both here and abroad, about the victory of 'big government' and the death of a certain kind of American individualism." Applebaum "certainly" believes "there's a role for government in disaster and evacuation planning. But it is true that the worst failures of the past two weeks have been big government failures. The biggest successes, by contrast, have come out of this country's incredibly vibrant, amazingly diverse and fantastically generous civil society. Sooner or later, it will be impossible not to draw political lessons from that paradox."

Columnist Blames Bush For Delayed Response. Maureen Dowd in her column in the New York Times (9/14) writes, "President Bush continued to try to spin his own inaction yesterday, but he may finally have reached a patch of reality beyond spin. Now he's the one drowning, unable to rescue himself by patting small black children on the head during photo-ops and making scripted attempts to appear engaged. He can keep going back down there, as he will again on Thursday when he gives a televised speech to the

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nation, but he can never compensate for his tragic inattention during days when so many lives could have been saved."

WSJ Applauds Montana Community For Returning Pork. The Wall Street Journal (9/14, A20), in an editorial, notes a bipartisan movement in Bozeman, Montana "to give the feds back a $4 million earmark to pay for a parking garage in the just-passed $286 billion highway bill" in order to use the money for Katrina relief. The Journal adds that there are already ideas to, "Cancel the Bush tax cuts, raise the gasoline tax by $1 a gallon, increase deficit spending, and sharply cut spending on national defense and the war in Iraq. In Washington, it seems, everything is expendable except for the slabs of bacon that are carved out of the federal fisc to ensure re-election. The glory of what is happening in Bozeman is that taxpayers are proving to be wiser about priorities than their politicians."

US Pledges Crackdown On Katrina-Related Scams. NBC News (9/14, Myers) reports, "As weather forecasters tracked the approach of Hurricane Katrina, Alan Paller, a computer security expert with the Sans Institute, tracked another gathering storm — the rush to register Internet sites containing the name 'Katrina.' … 'Most of them,' says Paller, 'appear to be just plain thieves.'" NBC continues, "Tuesday, the U.S. Justice Department warned that many of some 4,000 Katrina Web sites could be fake. Sixty percent come from overseas, officials said, a warning sign the sites may be bogus. … U.S. Attorney General Alberto Gonzales promised swift punishment for those who victimize generous Americans. … 'Federal, state and local law enforcement officials are watching carefully,' Gonzales warned at a news conference Tuesday. '[We] will have zero tolerance for these kinds of crimes.'" NBC notes, "Missouri Attorney General Jay Nixon already has moved against 10 Web sites, tied to a group of white supremacists. … 'It's totally outrageous,' Nixon said, 'for someone to take these domain names and then solicit funds, run them through what looks like a legitimate charity using pictures and other hurricane victims, when in reality that money was running to his hate sites.'"

Reuters (9/14) reports, "Senior FBI and Justice Department officials warned Americans who want to donate money to the relief effort to be cautious to avoid fraudulent charities, including those that pretend to be major organizations like the Red Cross. … 'Just like these natural disasters bring out the best in people, they also bring out some of the worst elements of the criminal element out there who are willing to take advantage of those who are willing to give and those who so desperately need the relief,' said Chris Swecker, chief of the FBI's criminal investigative division." Reuters adds, "Swecker said the FBI is investigating sites of fraudulent charities. He said there are about 4,000 sites advertising Katrina relief services, and about 60 percent of them are coming from overseas. … 'That is not a reason unto itself to conclude that that's a scam Web site, but it is a reason to be cautious,' he said." Reuters notes, "U.S. Attorney General Alberto Gonzales said some of the bogus sites had been shut down but would not give details on the number or how many investigations had been launched. … 'We must ensure that those offering a helping hand do not become victims themselves and that those found preying on the compassion of our citizens are punished,' he said."

The AP (9/14) reports, "The number of Katrina-related sites has more than quadrupled in the past week, according to FBI officials. … 'A devious few have sought to take advantage of our collective generosity,' Attorney General Alberto Gonzales said at a news conference to highlight the government's efforts to combat fraud." The AP adds, "Swecker said the number of probes has grown a lot in recent days, but he declined to be specific. The Justice Department has a Hurricane Katrina Fraud Task Force looking especially at phony charities, identity theft, insurance scams and government benefit fraud. … The American Red Cross, the relief group most frequently copied in Internet scams, also is working with authorities." The AP notes, "Officials again urged donors not to respond to unsolicited e-mails and to give only to well-known charities. … 'If it doesn't look right, chances are it's not,' assistant Attorney General Alice Fisher said."

CNN.com (9/14, Frieden) reports, "Swecker said investigators have reviewed 2,100 sites and about 60 percent of them originate outside the United States. 'That's not a reason unto itself to conclude that that's a scam Web site, but it is a reason to be cautious,' Swecker said." CNN continues, "Swecker said no arrests have been made. But the number of criminal cyber probes has increased substantially since last Thursday, when the FBI acknowledged it was investigating eight instances of potential Web site fraud. … 'I can't give you the exact number, but it's a lot more than eight,' he said." CNN adds, "Red Cross General Counsel Mary Elcano told reporters the organization is prepared to file civil lawsuits against operators of Web sites who do not promptly shut down when ordered to do so by the FBI. … Some of the suspect activities are sophisticated endeavors that are created to look like authentic Red Cross sites. … Many of the apparently fraudulent Web sites trying to tap into Katrina relief donations feature pop-ups, spam through provided links and other unsolicited e-mails."

Local Television. WRLH-TV Richmond (9/13, 10:23 p.m.) reported, "US attorney, general, Alberto Gonzales has a warning for people who may try to take advantage of the public's generosity in the wake of this storm. Gonzales says criminals have attempted to profit from this disaster by setting up fraudulent internet websites. Speaking today at a press conference in Washington, Gonzales said those offenders can expect to be prosecuted."

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WEYI-TV Flint (9/13, 5:59 p.m.) reported, "US attorney general Alberto Gonzales says the federal government is keeping an eye on these fraudulent internet websites."

WPXI-TV Pittsburgh (9/13, 5:25 p.m.) also covered this story.

Chertoff Said To Have Been Confused About Position In Federal Response. Knight Ridder (9/14, Landay, Young, McCaffrey) reports, "The federal official with the power to mobilize a massive federal response to Hurricane Katrina was Homeland Security Secretary Michael Chertoff, not the former FEMA chief who was relieved of his duties and resigned earlier this week, federal documents reviewed by Knight Ridder show. Even before the storm struck the Gulf Coast, Chertoff could have ordered federal agencies into action without any request from state or local officials. Federal Emergency Management Agency chief Michael Brown had only limited authority to do so until about 36 hours after the storm hit, when Chertoff designated him as the 'principal federal official' in charge of the storm." Though Chertoff "was in charge of managing the national response to a catastrophic disaster, according to the National Response Plan," a memo obtained by Knight Ridder "suggests that Chertoff may have been confused about his lead role in disaster response and that of his department." DHS spokesman Russ Knocke, meanwhile, "disputed that the bureaucracy got in the way of launching the federal response. 'There was a tremendous sense of urgency,' Knocke said. 'We were mobilizing the greatest response to a disaster in the nation's history.'"

Paulison Says He Will Focus On Victims, Not Failures. Interim FEMA Director David Paulison held a press conference yesterday with Homeland Security Secretary Michael Chertoff, where he said that FEMA is "going to deal with" the devastation Katrina has caused. NBC Nightly News (9/13, lead story, 3:25, Gregory) noted, "Across the board today, the Administration wanted to look forward. Assuming the helm at FEMA today, David Paulison, who brings years of emergency response experience."

Fox News' Special Report (9/13, Hume) reported Paulison "said today the first priority of his organization will be to get Hurricane Katrina evacuees out of temporary shelters and into more permanent housing.:

The Washington Times (9/14, Hudson) reports, "Paulison yesterday began work as acting director of the Federal Emergency Management Agency with a clean slate and the full backing of President Bush to help rebuild the hurricane-ravaged Gulf Coast." In a press briefing with Chertoff, Paulison said, "I can't deal with what happened in the last two weeks, but I can tell you from this point forward, we are going to be focusing on the victims of this hurricane." Chertoff said at the press conference that when naming FEMA directors in the future, disaster emergency management experience will be "a significant consideration."

Most local TV stations along the Gulf Coast noted interim FEMA Director David Paulison's news conference with Homeland Security Secretary Michael Chertoff. Typical of coverage was a report from WBRC-TV Birmingham (9/13, 5:30 pm), that Paulison "says he will work hard to get Katrina evacuees out of shelters as soon as possible." Paulison, who "was formally introduced this morning in Washington" by Chertoff, "says he will focus on helping storm victims, not on what went wrong."

The CBS Evening News (9/13, story 5, 2:15, Schieffer) noted, "The unprecedented task of housing the thousands of New Orleans residents displaced by Hurricane Katrina" is the "task new FEMA Director David Paulison called his top priority." Director Paulison: "I know it's a focus of mine, it's a focus of the President, that we get these people out of the shelters into some type of either semi-permanent or permanent housing."

Meanwhile, CNN's Anderson Cooper 360 Degrees (9/13, Meserve) reported that "some wonder if Paulison, a firefighter, can mesh with other disciplines like police and public health and if he is equipped to run FEMA programs like housing and financial aid, the bulk of its work." CNN added, "Administration officials won't speculate on whether Paulison will be asked to take the FEMA position permanently. They do say no changes in leadership are likely until the hurricane season is over and done."

Ridicule Of Brown Continues After Resignation. Mark Leibovich, in a special report for the Washington Post (9/14, C1) writes that former FEMA Director Michael Brown "had come to personify the rule that once you become a joke in Washington, there is no rehab. He had became the subject of hundreds of punch lines amid the tragically unfunny spectacle of Katrina -- too many to recover from."

After an especially lengthy barrage of jokes directed at Michael Brown Monday night by Jay Leno on NBC, last night it was David Letterman, on CBS, who focused his attention on the former FEMA director. "Well, former FEMA director Michael Brown resigned. He says that he wants to spend more time not responding to his family," said Letterman. "Yeah, he resigned. And he now plans to be ineffective in the private sector." Following his opening monologue, Letterman's Top Ten List featured questions for the FEMA director application. They were: "10. Are you able to convey a false sense of security? 9. What percentage of your resume is fabricated? 8. In a crisis, which state or local officials would you blame? 7. What are your plans after you resign? 6. Do you mind if the last guy left the office smelling like Arabian horses? 5. Which is most serious: A disaster, a catastrophe, or a dis-astrophe? 4. Does Robert Blake dating again count as an emergency? 3. Can the president easily

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add '—ie' to your last name to form a nickname? 2. Can you screw up bad enough to take the heat off the President's mistakes? 1. Michael Brown...idiot or moron?"

Jack Welch Says Katrina Disaster Follows Classic Pattern. Jack Welch, former chairman and CEO of General Electric, in an op-ed in the Wall Street Journal (9/14, A20) compares Katrina to a crises at a company, which "follows a well-worn pattern." Welch describes the journey from denial to containment to shame-mongering, followed by "blood on the floor, in which someone pays with their job, and finally, a solution to the problem." Welch writes, "We are a way off from the fifth stage in New Orleans, but the first four played out like an old movie."

Collins, Gregg Say Katrina Will Play Into Consideration Of DHS Reorganization. CQ Homeland Security (9/13, Starks) reported that Sen. Judd Gregg, who chairs the Senate Appropriations Homeland Security Subcommittee, and Sen. Susan Collins, chairwoman of the Senate Homeland Security and Governmental Affairs Committee, said Tuesday that "they were willing to take a fresh look following the Hurricane Katrina catastrophe at a proposal made by the Homeland Security secretary this summer to restructure his department." Gregg said "the hurricane gives Chertoff a chance to review his restructuring plan as it pertains to the department as a whole and FEMA specifically." Meanwhile, Collins said Tuesday that "she intends to explore the proper structure for the department in light of Hurricane Katrina, including suggestions from some that the restructuring should be postponed. But if FEMA remains a part of the department, Collins said it appears that it should at least have a 'direct report' to the secretary, as Chertoff has proposed."

The New York Times (9/14, Hulse, Shenon) reports, "As Congress prepares to take its first tentative steps toward evaluating the government response to Hurricane Katrina, Democrats and others are pressing for an independent inquiry, saying lawmakers cannot be trusted to assess their own complicity in the failures." Sen. Hillary Clinton said, "I don't think the Congress can investigate ourselves." And Sept. 11 commissioners "will echo that call on Wednesday when they release a new privately financed study that will cite failures in the federal response to the storm to argue that the government remains unprepared to deal with a catastrophic terrorist strike on American soil."

Senate To Hear Testimony From Disaster Experts. USA Today (9/14) reports, "Veterans of floods, earthquakes and tsunamis will offer advice today to a Senate committee looking into how to help victims of Hurricane Katrina in the first of an expected multitude of congressional inquiries into the disaster." USA Today notes, "Pete Wilson, who dealt with 22 natural disasters when he was governor of California, and Marc Morial, a former mayor of New Orleans who now heads the National Urban League, will testify. So will Patricia Owens, the former mayor of Grand Forks, N.D., who successfully evacuated 50,000 people when the Red River flooded in 1997."

Congress Faces Hurdles In Tackling Katrina Response. The Los Angeles Times (9/14, Hook) reports, "When a Senate committee opens hearings today on what the government did wrong in response to Hurricane Katrina, there will be a conspicuous absence at the witness table: No one who actually handled the disaster will be there." The Times continues, "Hesitant to interfere with relief operations in the storm-ravaged South, lawmakers in Washington will be left to grill veterans of past disasters. That is emblematic of how hard it is for Congress to grapple with the calamity that has washed away much of the rest of its legislative agenda." The response to Katrina "is testing Congress' ability to do something that the lumbering institution is ill-equipped to do: move quickly and decisively on a huge, bipartisan project."

And Roll Call (9/14, Preston) reports, "Congressional Republicans vowed Tuesday to move forward with their plan to form a bicameral committee to examine the response to Hurricane Katrina, even as Democrats were making it clear that launching such a joint investigation would be impossible without their blessing." Senate Minority Leader Harry Reid said "that such a committee can be created only by legislation and GOP leaders would need his party's support for it to be approved in the Senate."

Meanwhile, The Hill (9/14, Hearn) reports, "The House is moving closer to a vote on a GOP plan that would create a joint committee to investigate the government's response to Hurricane Katrina, presenting Republicans with a potentially difficult vote to support a plan Democrats have derided as a political sham." It "is shaping up to be an intense test of party loyalty." The Hill adds, "House Majority Leader Tom DeLay (R-Texas) said yesterday that Democrats' refusal to participate in the joint committee did not worry him." DeLay said, "No one is rejecting Democrats. … We will go forward. I think they will be incredibly embarrassed if they don't participate because you will find that the committee will be an objective committee, doing its responsibility and really looking at everything."

Lieberman Defends Decision To Place FEMA In DHS. ABC World News Tonight (9/13, lead story, 2:45, Moran) reported, "Many in Washington are now saying the problem" at the root of the Federal Government's belated response to the Hurricane Katrina disaster "was with the decision to fold FEMA into the new Department of Homeland Security after 9/11." Leo Bosner, president, FEMA employees union: "Within Homeland Security, the FEMA mission, I think, has really been sort of ignored. We were pushed off to the side." Moran: "But a Democratic architect of the Homeland Security Department says the plan is sound. The execution flawed." Sen. Joseph Lieberman: "It could be

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that FEMA belongs right where it is but it needed better leadership. And in the years before, more financial support."

Shays Raises Concerns About US Preparedness For Disaster. At his press conference yesterday, President Bush expressed doubt about the Federal Government's ability to respond to a major terrorist attack or another massive natural disaster. ABC World News Tonight (9/13, story 2, 2:35, Ross) reported, "What the President said today echoes what leading figures in field have been saying for some time. Despite the billions spent since 9/11, the country is unprepared for most major disaster scenarios. Most of the attention has been on another terror attack on a major city, biological or nuclear. There have been frequent emergency drills. But the Congressman overseeing domestic preparedness says the government's plans ignore urban realities." Rep. Christopher Shays: "I think if there was a dirty bomb attack in any of our major cities, we would be very unprepared." Ross: "If there were a smallpox attack, the government says it now has enough vaccine for everyone in the country. But a study by the New York Academy of Medicine says the government's preparedness plans ignore human nature." There are "even more questions about readiness for a natural disasters, such as earthquakes. California is considered prepared, but not the Midwest and cities along the little-known New Madrid faultline." And "many officials say the federal government has been slow to recognize a new and potentially greater threat -- a rare and deadly strain of flu, now in Asia, but threatening to become a global epidemic and hit the US."

Homeland Security Vulnerabilities Highlighted By Response To Katrina. The Washington Post (9/14, A3, Eggen) reports, "Four years after the Sept. 11, 2001, attacks, the federal government has failed to enact crucial homeland security reforms that could have saved lives and improved the sluggish response to Hurricane Katrina, according to a report to be issued today by former members of the Sept. 11 commission. Local emergency officials are still unable to reliably communicate with one another during disasters, the federal government has no clear system of command and control for responding to a crisis, and authorities have faltered in enacting basic border controls designed to keep out terrorists, according to the report's findings, which commission members outlined in interviews." Former new Jersey Gov. Thomas Kean "said the bungled response to Katrina laid bare how unprepared the nation remains for a catastrophic event, whether it is another terrorist strike or a natural disaster."

Columnist Proposes BRAC As Model. Norman Ornstein in his column in Roll Call (9/14, Ornstein) suggests that "it is time to consider the Base Realignment and Closure Commission model for this important need. We all owe former Rep. Dick Armey (R-Texas) a vote of thanks for establishing the framework for dealing with base closings. It is imperfect, to be sure, but Armey found a good way to get bases closed while retaining a real role for Congress and protecting it against its worst parochial instincts. A parallel approach could work for allocating first-responder funds, hopefully channeling the money more efficiently to where it is most needed."

400 New York Court Officials Volunteer To Help Aid Katrina Victims. The New York Law Journal (9/14, Adcock) reports, "New York's Unified Court System has organized a stand-by contingent of up to 400 volunteer court officials to help the devastated legal communities of Louisiana and Mississippi, the two states hardest hit last month by Hurricane Katrina." The Journal continues, "In light of the Sept. 11, 2001, terrorist attacks, Chief Judge Judith S. Kaye said Monday, 'We have very special expertise, sad to say. We know what it's like to have courtrooms brought to a standstill. We lived it -- those unforgettable days and weeks when we had to figure out so many things for the first time.'" The Journal adds, "The volunteers, most veterans of 9/11, are set to offer emergency help in such areas as court security, records recovery, voice and data communications, computer networks and the creation of temporary court sites. … The New York volunteers -- as well as commitments of equipment and money through a specially created relief fund -- have been registered with the State Emergency Management Office in Albany. Registration enables disaster-impacted states to quickly request specific assistance from other states, in accordance with the Interstate Emergency Management Assistance Compact, a federal program begun in 1996 when then-Florida Governor Lawton Chiles was unhappy with government response to Hurricane Andrew. … Ronald Younkins, chief of operations for the Office of Court Administration, said that Gulf Coast court officials are currently assessing damage to their facilities and conducting a census of their scattered personnel."

Blanco Criticizes FEMA On Body Recovery Efforts. Knight Ridder (9/14, Fitzgerald, Tsai) reports, "Blasting federal officials for a 'lack of urgency and lack of respect,' Louisiana Gov. Kathleen Babineaux Blanco said Tuesday that the state would seize control of the task of recovering the bodies of Hurricane Katrina victims." Blanco "accused the Federal Emergency Management Agency of causing delays because the agency had failed to sign a contract with the firm hired to collect corpses and was not providing enough support for the firm's crews. FEMA spokesman David Passey responded that body recovery has always been the state's job, and federal authorities were in charge of body identification."

CNN's The Situation Room (9/13, Blitzer) reported, "There's some new tension developing apparently between

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state officials in Louisiana and FEMA, the Federal Emergency Management Agency, over the recovery of bodies in the wake of the disaster." CNN (Snow) added, "That tension was turned up today by the Louisiana Governor, Kathleen Blanco. She was at a photo opportunity, so she did not field questions, but she lashed out at FEMA over recovery efforts, saying that they were not moving quickly enough. At issue is a contract with a private company hired by FEMA. Its contract expires at midnight tonight. She says that she pleaded for contract resolution, that she spoke with the Homeland Security Secretary Michael Chertoff, about this last week. And she says at this point, nothing has happened. And in her words, she is angry and outraged."

Meanwhile, the Los Angeles Times (9/14, Meyer, Moore) reports, "Until now, Blanco, a Democrat, has shied away from criticizing Washington's response to the hurricane since it hit shore more than two weeks ago. The governor said she decided to go public with her criticism after promises from Washington failed to come through, including a pledge from Michael Chertoff, the secretary of Homeland Security, 'that plans would be put in place for a system of 'recovery with respect.'"

DHS IG To Investigate No-Bid Contracts. The New York Times (9/14, Shenon) reports, "The inspector general of the Department of Homeland Security said Tuesday that his office had received accusations of fraud and waste in the multibillion-dollar relief programs linked to Hurricane Katrina and would investigate how no-bid contracts were awarded to several large, politically well-connected companies. The inspector general, Richard L. Skinner, who serves as the department's internal watchdog, said in an interview that he intended to be 'extremely aggressive' in monitoring the Federal Emergency Management Agency, which will receive most of the $62 billion in disaster-response financing approved by Congress last week." Skinner "said that his investigators would focus on several no-bid contracts awarded over the last two weeks to large, politically influential companies, including the Fluor Corporation of California, a major donor to the Republican Party, and the Shaw Group of Baton Rouge, La."

The Wall Street Journal (9/14, A4, Block, Dreazen) notes, "DHS Secretary Michael Chertoff said that as the effort to save lives winds down, his department will focus on recovery challenges, including ensuring that the contracting process is conducted properly. 'We want to get aid to people who need it quickly, but we also don't want to lose sight of the importance of preserving the integrity of the process and our responsibility as stewards of the public money,' he said."

Evacuees' Medical Records Put Online. The Washington Post (9/14, A24, Krim) reports, "The federal government is making medical information on Hurricane Katrina evacuees available online to doctors, the first time private records from various pharmacies and other health care providers have been compiled into centralized databases." The move is "one step in reconstructing medical files on more than 1 million people disconnected from their regular doctors and drug stores. Officials fear that many medical records in the region, especially those that were not computerized, were lost to the storm and its aftermath."

IRS Promotes Leave-Based Donation Program. The Wall Street Journal (9/14) reports, "Officials recently disclosed a plan designed to attract more charitable donations to storm victims. The IRS plan encourages employees and employers to participate in so-called leave-based donation programs." The Journal notes, "Under such programs, an employee generally gives up unused vacation, sick or personal leave, in exchange for the employer donating the value of that time to charities helping hurricane victims. Tax lawyers say numerous companies are considering offering this leave-donation program soon."

States Seek Waivers To Give Evacuees Separate Schooling. The Wall Street Journal (9/14, Page B1, Golden) reports some states are seeking exemptions from the McKinney-Vento act requiring school districts to integrate homeless students into regular public schools, "a stance supported by the Bush administration and some private education providers." Both Utah and Texas requested exemptions in order to educate evacuees on site at Utah's Camp Williams and in Texas "at a closed Air Force base in San Antonio." But opponents "fear that nearly two decades of gains in public-school enrollment for homeless children will be wiped out" if the exemptions are granted.

USED Official To Visit Dallas Area To See Needs Of Schools In Helping Evacuees. The Dallas Morning News (9/14, Dodge) reports, Assistant U.S. Secretary of Education Tom Luce "will meet with North Texas school superintendents today to learn firsthand about the problems local schools face in educating students displaced by Hurricane Katrina." Luce "will be accompanied by Texas Education Commissioner Shirley Neeley. They also will visit some of the 90 students and families displaced by the hurricane at Madison High School in South Dallas." The superintendents "are also likely to request that the department relax its enforcement of academic requirements under the No Child Left Behind Act." Luce said that Secretary of Education Margaret "Spellings is leading a relief task force that meets twice daily to assess the immediate needs facing schools."

Stocks Markets Finish Down On Concerns Of Katrina Impact. NBC Nightly News (9/13, story 9, 0:10,

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Williams) reported, "A quick look at Wall Street today: Stocks finished lower. The Dow lost 85-and-a-half points on the day [to close at 10,597.44]. NASDAQ was down 11 points [to close at 2,171.75]."

The Wall Street Journal (9/14, McDonald) says stocks declined "as investors focused more on post-Katrina worries than positive economic data collected prior to the devastating hurricane and its aftermath." The market "started the day up about 3% since the hurricane slammed the Gulf Coast at the end of last month. But rising damage estimates are stoking fears that the economy and corporate profits will be dinged by higher gas prices and lower consumer spending resulting from Katrina."

Experts Say Reconstruction From Katrina Could Hurt Economy. Knight Ridder (9/14, Hall) reports, "Oddly enough, Katrina's biggest economic impact may not be the damage it left but the rapid growth it may spark next year when rebuilding begins in earnest along the Gulf Coast. That could fuel a pace of growth that adds to inflationary risks in an already strong economy. Higher interest rates are the medicine for inflation, and that could lead to higher mortgage rates, which could threaten the nation's housing boom."

Inflation Rise Fueled By Energy Cost Increases. The Washington Times/AP (9/14, Crutsinger) reports, "Surging costs for gasoline and other energy products fueled inflation at the wholesale level in August, pressure that is expected to become even more intense when the full effect of Hurricane Katrina is felt." The Labor Department Producer Price Index "jumped a sharp 0.6 percent in August following an even bigger 1 percent increase in July." And "the Commerce Department reported that oil imports reached an all-time high in July and the trade gap with China also set a record. However, the overall trade deficit improved slightly to $57.9 billion as exports rose and imports outside of energy fell."

The Wall Street Journal (9/14, Gerena-Morales) reports, "While energy prices soared during the summer, underlying inflation showed signs of stability in the weeks leading up to Hurricane Katrina. Moreover, the U.S.'s trade performance showed signs of improving." The Producer Price Index "for finished goods rose 0.6% in August from July and were 5.1% higher than a year earlier, the Labor Department said. The increase was driven largely by a burst in energy prices, much of which occurred even before the hurricane struck the Gulf Coast, disrupting energy production. Gasoline prices jumped 48% from a year earlier, the Labor Department said."

Fed Unconcerned About Economic Impact Of Katrina. The Financial Times (9/14, Balls) reports, "The US Federal Reserve is set to press ahead with its campaign of raising interest rates at its meeting next week, in spite of the economic impact of Hurricane Katrina. But there is expected to be intense discussion of whether substantial changes to the wording of the accompanying policy statement are needed." Inside the Fed "there is considerable scepticism about the need for the "compassionate" pause in the tightening campaign that some politicians have called for following the devastation in New Orleans and the surrounding region caused by Katrina. An important subject of discussion will be whether the Fed should drop its characterisation of monetary policy as 'accommodation' and whether it should maintain its guidance that it is likely to continue raising the federal funds rate at a 'measured' pace."

US Trade Deficit Narrowed In July. The Financial Times (9/14, Hughes) reports, "Record levels of exports helped shrink the US trade deficit in July, but analysts warned new peaks in energy prices are likely to widen the gap in the months ahead as the cost of imports rises." A Commerce Department report "showed a deficit of $57.9bn, down from an upwardly revised $59.5bn in June -- itself the second highest monthly gap on record."

Katrina Leads To Real Estate Boom In Surrounding Areas. The CBS Evening News (9/13, story 9, 2:05, Attkisson) reported, "In destroying miles of real estate in New Orleans, Katrina gave birth to a real estate boom nearby. Hundreds of thousands of people need new homes." Even "for those who can pay, there aren't enough to go around." It's "too soon for exact figures, but realtors say market values are rising as fast as Katrina's floodwaters, rentals are being snapped up, and oil companies are buying houses for their workers, sight unseen." Judy Burkett, President, Baton Rouge Association of Realtors: "Is it a happy market for realtors? No, it is not. There's no joy in seeing victims and people without homes."

Louisiana Landowner Profits In Katrina's Wake. The Wall Street Journal (9/14, Cooper) says Katrina "has changed practically everything in southeast Louisiana, including the commercial real-estate market. Baton Rouge has been overwhelmed by evacuees and now hosts companies that were flooded out in New Orleans and Jefferson parishes, some 80 miles away. But for those businesses integral to the cleanup, such as power, insurance and engineering companies, towns closer to the devastation are the hottest properties around. In the early days of Katrina's aftermath, there was nowhere nearer to the action than Luling, which got raked by the western edge of the storm but is largely intact. Even before the streets were clear, logistics teams were combing over the place, snapping up every vacant hotel room and office they could find." The Journal adds that few "have benefited more from this than [Jay] Roberts, who has lived in Luling all of his life and assembled a modest real-estate empire even as the town itself struggled."

New Orleans Recovery Slowly Beginning. The CBS Evening News (9/13, story 5, 2:15, Schieffer) reported, "There are signs that New Orleans is beginning to come back

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to life." CBS (Pitts) added, "It was the first encouraging sign to come down from the sky over New Orleans in two weeks, the first commercial flights in or out of New Orleans International Airport since the storm hit. But like the city itself, the planes were virtually empty." Engineers are "pumping out 6.5 billion gallons of floodwater every day. Estimates are the city should dry out by mid-October." Mayor C. Ray Nagin (D) New Orleans Mayor: "We're out of nuclear crisis mode, and we're in normal day-to-day crisis mode." Pitts: "Trains are running, power's back on in nearly half the city, and the first cargo ship will be unloaded Wednesday. The port of New Orleans is the gateway to a river system serving 33 states along the Mississippi River. But there are also signs of the grim and difficult tasks ahead."

NBC Nightly News (9/13, story 3, 1:45, Williams) reported, "At the same time, there was progress reported today in the effort to pump out of the streets of New Orleans." NBC (Costello) added, "Two weeks in the fight to reclaim New Orleans from the lake and canals that drowned it, there is progress. The uptown, business district and French Quarter hope to have drinkable water by the end of the week. Repair crews still struggle to clear the debris away from sunken pumps, but 40 are running." But with "no sign of disease so far, the Mayor is anxious to reopen parts of the city to business. The city is out of money and can't make its payroll." Mayor Ray Nagin, New Orleans: "We are working very feverishly with banking institutions, with financial folk, as well as Federal officials to secure a line of credit that will sustain us at least until the end of the year." Costello: "But there was good news today: Louis Armstrong Airport reopened for passenger business, and the first cargo ship is expected to dock tonight in a city devastated by water, but desperate for the economic lifeline it provides."

ABC World News Tonight (9/13, story 3, :25, Vargas) reported, "In the hurricane zone, a milestone today. The New Orleans airport reopened for limited commercial service."

Public Figures Weigh In Rebuilding Plans. USA Today (9/14, Willing) reports that public figures "from local performers to President Bush are beginning to speak of reviving the 287-year-old city as if such a thing is inevitable. They are contemplating what urban planner Robert Lang of Virginia Tech says has 'never been done before in America': Using what could be hundreds of billions of public and private dollars to rebuild a modern city on a scale far beyond what happened in San Francisco after its 1906 earthquake, or in Chicago after its 1871 fire. … Politicians, urban planners, business leaders and local residents with different views of a "new" New Orleans already are campaigning for their competing visions. U.S. Rep. William Jefferson, D-La., whose New Orleans home was flooded, would focus on creating a city where tax credits, housing subsidies and jobs programs would be used to encourage the return of its working class. U.S. Rep. Bobby Jindal, R-La., whose home in nearby Kenner also was damaged, would appoint a rebuilding czar and dust off plans to diversify the city's industrial base and modernize its hospitals and public housing.'

Nagin Hopes To Reopen Four Neighborhoods Soon. The New York Times (9/14, Luo) reports that New Orleans Mayor Ray Nagin said yesterday he hopes to reopen four neighborhoods including the city's central business district and the French Quarter in the next few days. At the same time, "he conceded that the city's financial problems were enormous. … Mr. Nagin said that city officials were trying hard to secure a line of credit. Many contractors who are helping the city clean up are working under the assumption that the city will get money to pay them."

Efforts To Drain Water From City Are Paying Off. Work by the Army Corps of Engineers to pump the water out of New Orleans is paying off, USA Today (9/14, Levin) reports. As of today, "perhaps half of the flooded areas have re-emerged. Temporary pumps and the giant permanent pumping stations are throwing as much as 9 billion gallons per day over the levees and out of the city."

Polluted Waters Being Pumped Into Lake Pontchartrain. The Los Angeles Times (9/14, Vartabedian, Cone) reports that the effort "is sending plumes of contaminated, brown, stinking water into Lake Pontchartrain, setting back years of effort to restore the environmentally sensitive home of Gulf Coast marine life. After festering for two weeks in neighborhoods, commercial districts and industrial zones, the water is laden with bacteria, silt, petroleum products and possibly toxic substances. City officials confirmed Tuesday that they were also releasing untreated sewage into the Mississippi River from one of two treatment plants operated by the New Orleans Sewerage and Water Board." The floodwaters "are overrun with fecal material, silt and other substances that could damage the marine environment."

New Orleans' Water Purification Plant Revived After Katrina. The Washington Post (9/14, A21, Brown) reports on efforts to resuscitate the Carrollton Water Purification Plant, a "70-acre complex of pumps and generators and pipes to draw water from the Mississippi River, treat it with purifying chemicals, filter it and send it out to the city's half-million residents." The Post adds, "The death and reanimation of the water plant is a story of ingenuity, self-reliance, loyalty and luck. It required doing something that had never been done -- the first cold start of Carrollton since it opened in 1906." The plant "normally pumps 120 million gallons a day. When a big water main breaks, moment-to-moment consumption may go up the equivalent of 10 million to 15 million gallons a day as water gushes out of the system. The plant kicks in to compensate and increases its output to maintain pressure and flow in the distribution system. Soon after the height of

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the storm, however, demand rose the equivalent of 40 million to 50 million gallons a day, a step-up never seen before."

New Orleans Airport Resumes Commercial Flights. The New Orleans airport has reopened to commercial flights, the AP (9/14, Nossiter) reports. While the airport was operating at only a fraction of its capacity, "the symbolic importance was not lost on a city that only days before had all but collapsed into looting and desperation." Airport officials "hope to be up to 60 flights a day within the week and back to full operation of 350 flights a day in six months."

Port Of New Orleans Reopens Sooner Than Expected. The Washington Post (9/14, D1, Alexander, Irwin) adds that the Port of New Orleans "began unloading its first cargo ship since Hurricane Katrina on Tuesday night, months sooner than was predicted, a sign that disruption to the nation's shipping capacity may be less severe than originally forecast. … Gary P. LaGrange, chief executive of the port, said he expects it to be at 80 percent of capacity within three months. The Port of South Louisiana and Port Fourchon, on the Gulf Coast, have also partially restored service, and the Port of Pascagoula, Miss., expects to resume service by early October, according to the American Association of Port Authorities. That has made economists more optimistic about the hurricane's impact on the nation," it "doesn't mean the economy is in the clear."

Pollution In Nearby Parish May Prevent Rehabitation For Months. ABC World News Tonight (9/13, story 4, 2:30, Vargas) reported, "Next door to New Orleans, in St. Bernard Parish, the situation is very dire. It was located right next to an oil refinery and a levee, both of which breached. 70,000 people live there. And last night, they learned they may not be able to go home until next summer, if ever." ABC (Kofman) added, "The streets of St. Bernard Parish, that only weeks ago overflowed with life, are now deserted." The receding waters "have left behind a thick sludge, a noxious mixture of sea water and crude oil that spilled into the streets from a nearby refinery." Officials here say "that between the oil spill, the flood waters, and the wind damage, almost every one of the 27,000 homes in this community will have to be bulldozed."

Gulf Coast Slowly Recovering. A front page story in the Washington Post (9/14, A1, Nieves) reports that "life has noticeably improved in the five coastal counties where Katrina unleashed the brunt of her fury -- Stone, Hancock, Harrison, Jackson and Pearl River, where about 435,000 people lived and the death toll has reached 218, with 600 people reported missing. More businesses open every day, power is back to 80 percent of the buildings that could receive power and lines for gasoline are back to normal. The Gulf Coast has a future; on that, most agree. But whether it can re-create a culture that took more than 200 years to build, return with its blend of residents, black and white, rich and poor, old money and new immigrant, or will become an entirely new and unfamiliar version of itself -- that is another story."

Levees Said To Have Sustained Extensive Damage. The Los Angeles Times (9/14, Vartabedian) reports that New Orleans' levee system "has sustained heavy damage well beyond the five breaches that are widely known to have caused flooding after Hurricane Katrina, the Army Corps of Engineers said Monday." Sections of the city are now left "with little or no protection midway through the hurricane season, senior Army officials said. And rebuilding the levees will be a massive undertaking that could take years, meaning the city could be vulnerable for a long time." The New York Times (9/14, Wald) adds, "Hurricane Katrina washed away a 17-foot-tall earthen levee that had protected St. Bernard Parish, east of New Orleans, from the waters of a shipping canal, and the Army Corps of Engineers said Tuesday that the ravaged parish would be left defenseless against even small storms at least until early next year because replacing the structure would take months. In a conference call with reporters, Col. Duane P. Gapinski of the corps acknowledged that the levee might not be rebuilt even by the start of next year's hurricane season."

Canal May Have Added To New Orleans Flooding. The Washington Post (9/14, A21, Grunwald) reports that on May 19, Hassan Mashriqui, a computer modeler at Louisiana State University's Hurricane Center, had used hydrodynamic modeling to offer proof "that a 'funnel' created by the [Mississippi River] Gulf Outlet and a nearby waterway would amplify storm surges by 20 to 40 percent. He described the funnel as 'Crescent City's Trojan Horse,' carrying the Gulf of Mexico's waters into the city." In determining the cause of New Orleans' flooding, attention thus far has focused on two breached floodwalls near Lake Pontchartrain, "But now experts believe that the initial flooding that overwhelmed St. Bernard Parish and the Lower Ninth Ward of New Orleans came from the Gulf Outlet, a channel that was an ecological and economic disappointment long before Hurricane Katrina."

Confirmed Death Toll Tops 600 In Hurricane Zone. The CBS Evening News (9/13, story 4, 0:20, Schieffer) reported, "The waters in New Orleans continued to recede today and as searchers moved into new areas the death toll went up dramatically. The known dead in Louisiana rose from 279 yesterday to 423 today. In Mississippi, the toll stands now at 218 dead."

Louisiana Death Toll Rises To 423. The AP (9/14, Nossiter) reports, "Hurricane Katrina's death toll in Louisiana jumped by more than half Tuesday to 423 as recovery workers turned more of their attention to gathering up and counting the corpses in a city all but emptied out of the living." The new count was up from 279 the day before, and "how

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high it might go is unclear." Though authorities said last week that "the toll could be well below the dire projections," there have been "no specific estimates."

Some Troops Set To Return To Regular Duties. Pentagon officials said yesterday that about 4,000 active duty troops, two large Navy vessels and three dozen helicopters which had been working on the hurricane relief effort, will return to their regular duties. The New York Times (9/14,) calls the move "a sign that initial rescue efforts after Hurricane Katrina are coming to an end."

The AP (9/14, Burns) adds, "Maj. Gen. Bill Caldwell, commander of the 82nd Airborne, said on Monday in New Orleans that it appeared the search for city residents who still want assistance could be completed within 10 days. He said it remained to be determined by state and federal civilian authorities what tasks his soldiers would be assigned after that."

Jefferson Under Fire For Using National Guard To Retrieve Personal Items. ABC World News Tonight (9/13, story 7, Tapper) reported, "On the night of September 2nd, military sources tell ABC News, the National Guard took Congressman William Jefferson, a Democrat, on a tour of his congressional district. A Louisiana National Guard truck and at least six soldiers were dispatched. On that tour, Jefferson decided to check on his property and recover his personal belongings. Three suitcases, a box and a laptop computer, while New Orleans residents were trying to get rescued from rooftops." Rep. Jefferson: "This wasn't about me going to my house. It's about me going to my district." Tapper: "The truck had pulled up on to Jefferson's front lawn so he wouldn't have to walk in the rising water. Jefferson went into the house alone, a source says, while the soldiers waited on the porch for about an hour. According to the Louisiana National Guard, after the long wait, the truck was stuck and could not drive off."

Texas Officials Fear State Will Get Stuck With Bill For Katrina. The Dallas Morning News (9/14, Gillman) reports that as the bills for Hurricane Katrina, including rent, police overtime, meals, transportation and hospital beds, Texas officials "are becoming increasingly worried that despite a federal disaster declaration, Washington will leave Texas taxpayers stuck with huge bills. The biggest items not yet covered by Congress: up to $450 million for schools and as much as $400 million for health coverage for the 205,000 evacuees thought to be in Texas." Robert Black, spokesman for Gov. Rick Perry "noted that Texas still hasn't received $2 million it sought from the Federal Emergency Management Agency after Tropical Storm Allison four years ago."

California To Join Emergency Management Assistance Compact. The Los Angeles Times (9/14) reports that California Gov. Arnold Schwarzenegger signed legislation yesterday "allowing California to join 47 states in a pact to provide rescue responders and other resources to disaster locations. California's firefighters had balked at the Emergency Management Assistance Compact out of fear that they would have less legal protection and reduced death and disability benefits if they were hurt while assisting in another state. After a prolonged standoff, Schwarzenegger and Democratic legislators, in the aftermath of Hurricane Katrina, fashioned a compromise that protects the firefighters."

Owners Of Flooded Nursing Home Charged With Negligent Homicide. The CBS Evening News (9/13, story 2, 0:25, Schieffer) reported, "Of all the hurricane stories, perhaps none has been more shocking than the deaths of 34 elderly residents of a flooded nursing home, and then yesterday the news that 44 people died in a flooded hospital that was supposed to have been evacuated. Well, today the Louisiana attorney general announced that the operators of that nursing home, Mable and Salvador Mangano, have been charged with 34 counts of negligent homicide."

NBC Nightly News (9/13, story 2, 0:40, Williams) reported, "State officials said the owners of St. Rita's Nursing Home in St. Bernard's Parish were asked if they wanted to move the patients and did not, despite repeated storm warnings, and their inaction led to the patients' deaths in the post-Katrina flooding. Two of the facility's owners surrendered and were jailed today."

ABC World News Tonight (9/13, story 3, :25, Vargas) reported, "There was very disturbing news from the Louisiana attorney general's office. It says the owners of a nursing home, where 34 people were found dead, have been arrested and charged with 34 counts of negligent homicide."

CNN's Anderson Cooper 360 Degrees (9/13, Cooper) reported, "Louisiana's attorney general announced that the home's two owners have been arrested and were charged with 34 counts of involuntary homicide. … The state department of health and hospitals officials say they were under the assumption that St. Rita's had filed its required evacuation plan. But as with all facilities, it was up to St. Rita's to decide when to evacuate."

The charges against the nursing home operators was widely reported in the print media with the Washington Post (9/14, A1, Whoriskey, Tyson), the New York Times (9/14, Dewan, Baker), the AP (9/14, Simpson), Knight Ridder (9/14, Gray, Bailey, Dodd), the Los Angeles Times (9/14, Powers, Riccardi) and USA Today (9/14, Parker) all reporting on it.

Authorities Investigating Deaths At Hospital. The CBS Evening News (9/13, story 3, 2:05, Schieffer) reported

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authorities "are trying to sort out exactly what did happen" at Memorial Hospital, where 44 patients died. CBS (Cowan) added, "Water had flooded the generators, leaving the hospital without air conditioning for four days. At least 44 of its 260 patients never made it out alive, despite doctor's best efforts." But the "nightmare was no different at other hospitals. At this medical center, the spray paint on the wall says at least 11 bodies were recovered here: Inside, an almost unimaginable wasteland of gurneys, bedpans and other biohazards too horrific to describe."

911 Calls For Aid Frequently Made In Vain. NBC Nightly News (9/13, story 4, 1:45, Williams) reported, "15 days after the hurricane and bodies are still in issue in Louisiana where the governor called for continued efforts to recover the bodies quickly and with dignity. Only now are we hearing the 911 calls to emergency dispatchers from the days the levees broke in New Orleans. The people needed help and many didn't get it."

Louisiana Prisoners Helping With Hurricane Cleanup. A front page story in the Wall Street Journal (9/14, Fields) reports, "As Louisiana digs out from Hurricane Katrina, convicts have been opening roads with axes and chainsaws and doing other useful work. At Angola State Penitentiary, near Baton Rouge, inmates produced mattresses for shelters. Some prisoners have even donated money from what little they are paid so evacuees can buy postage stamps. … All of the prisoners who have been helping are 'trusties,' men who are given special privileges -- like getting to leave the prison grounds under supervision -- because of their exemplary disciplinary records." The Journal notes that Katrina "has resulted in neither riots nor escapes. Because the prison is surrounded by dense, forbidding woods, running away isn't much of an option. Indeed, since Katrina hit, the Louisiana state prison system has been relatively peaceful despite moving 8,000 inmates from prisons damaged by the hurricane to 13 different facilities."

DeLay Declares "Ongoing Victory" In Battle Against Spending. House Majority Leader Tom DeLay yesterday declared an "ongoing victory," in his effort to cut spending "and said there is simply no fat left to cut in the federal budget," reports the Washington Times (9/14, Fagan, Dinan) reports. DeLay "was defending Republicans' choice to borrow money and add to this year's expected $331 billion deficit to pay for Hurricane Katrina relief. Some Republicans have said Congress should make cuts in other areas, but Mr. DeLay said that doesn't seem possible." Asked if the government is running at "peak efficiency," DeLay said, "Yes, after 11 years of Republican majority we've pared it down pretty good."

Katrina, Roberts Take Much Of Congress's Attention. The Hill (9/14, Schor) reports that Congress is "consumed…by just two issues at the moment," Hurricane Katrine and Judge Roberts' confirmation hearings. "For many on the Hill, the priority most in danger of slipping through the cracks is entitlement cuts mandated by the congressional budget resolution but put off to accommodate the response to Katrina."

First Responder's Frequency Windfall Delayed With TV Bill Due To Katrina. Roll Call (9/14, Ackley) reports that once television transitions from analog to digital, "first responders such as fire, rescue and police officers stand to benefit from a windfall of new frequencies that they can use to communicate with each other when handling emergencies." While Hurricane Katrina made "their case stronger than ever," it "also has set their cause back, at least temporarily, as Congress' legislative course has been thrown into disarray" and the bill the provision is in sits on hold for, as one GOP lobbyist put it, "somewhere between a few weeks and never."

Republicans Move To Deny Democrats "Traction" On Ethics Issues. Roll Call (9/14, Duran) reports, "Cognizant of how their effective portrayal of a Democratic Party drunk with power led to their historic takeover of the House in 1994, Republicans are moving quickly to ensure that Democrats do not get traction on the ethics issue for the 2006 elections." The "Republicans, in addition to counterpunching, maintain that Democrats are talking about ethics so much because they have nothing else to say … Democratic pollster Celinda Lake said Republicans have to move aggressively to counter ethics charges because the issue hits home." Still, Brad Coker, president of the independent Mason-Dixon polling firm, said that while "individual Republican Members may be in exceptionally hot water, Democrats have a long way to go before they can truly nationalize the issue."

OTHER NEWS:

Ophelia Upgraded To Hurricane As It Nears North Carolina. ABC World News Tonight (9/13, story 5, :25, Vargas) reported, "Tropical Storm Ophelia was upgraded to a hurricane this afternoon, with winds up to 75 miles per hour. After Katrina, people are nervous. In the Carolinas, a mandatory evacuation has been ordered for parts of the Outer Banks. Schools have already been closed in several counties along the coast, as a precaution." The CBS Evening News (9/13, story 10, 0:20, Schieffer) reported Ophelia "could drop more than a foot of rain." NBC Nightly News (9/13, story 7, 0:30, Williams) reported Ophelia was "strong enough to

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create high anxiety along the barrier islands on the coast of North Carolina where it is expected to make landfall as early as tomorrow evening."

Meanwhile, the Washington Post/AP (9/14, Nowell) notes, "Unlike Hurricane Katrina's devastating charge at the Gulf Coast, the week-old Ophelia had been following a meandering path, making predictions of its landfall difficult. The hurricane center's forecasts showed it running along the coast, then veering through Pamlico Sound, crossing the Outer Banks and heading back out to sea." USA Today (9/14, O'Driscoll) adds that Ophelia "may take an entire day to cross land before spinning back out to sea." The New York Times/REU (9/14) ran a similar report.

Delta, Northwest Consider Bankruptcy Protection. The Wall Street Journal (9/14, Perez, Carey) reports that the boards of Delta Air Lines and Northwest Airlines are meeting today to decide whether to file for bankruptcy protection, which comes after the hopes of an airline industry recovery "have been crushed by the surge in oil prices and the effects of Hurricane Katrina." The anticipated filings "could make competition in the industry much tougher. Both would want to sharply reduce costs while under bankruptcy protection, which gives them greater ability to abrogate union contracts and make other radical moves."

The AP (9/14, Weber) reports, "Delta Air Lines Inc., the nation's third-largest carrier, plans to file for bankruptcy protection in New York as early as Wednesday, according to an industry consultant who has been informed of the company's plans." The AP continues, "The consultant, who was not authorized to disclose the information and thus spoke on condition of anonymity, said Delta is working with GE Commercial Finance and other creditors to arrange roughly $2 billion in debtor-in-possession financing. The money would allow the airline to operate in bankruptcy." The AP adds, "Delta, which has lost nearly $10 billion since January 2001, likely will pledge the few remaining assets not already pledged as collateral for loans as part of the bankruptcy financing agreement, the consultant said. 'There is nothing unencumbered after this,' according to this consultant. ….. The consultant said the filing was expected to come Wednesday afternoon but could be pushed to Thursday depending on when the bankruptcy financing is completed."

Competition, Fuel Prices Spur "Likely" Filing. The New York Times (9/14, Maynard) says its "likely" that two of the nation's biggest and most troubled airlines will file for bankruptcy protection. The filing "would not eliminate the challenge posed by low-fare carriers, like Southwest and JetBlue, which now carry one-third of passengers on flights within the United States. … The low-fare airlines' growing presence, up from just 6 percent of passengers in 1990, has kept the big airlines from passing along the punishing rise in the price of jet fuel."

The Financial Times (9/14, Daniel) reports that Delta "was seen as weaker because of its larger exposure to domestic routes, more onerous pension obligations and the cash drain of renegotiating a deal with its credit card vendors." But, credit analysts "noted that Northwest had on Monday defaulted on an $18.7m payment to Mesaba, a regional feeder airline, and saw this as a signal that it was also close to filing."

Bush Returns Focus To Foreign Affairs, Meets With China's Hu. The Washington Post (9/14, A4, Baker) reports that "after nearly two weeks consumed by Hurricane Katrina, President Bush turned his attention back to the rest of the world Tuesday and confronted again the vexing challenges of an intractable war in Iraq, disputes with Iran and North Korea, and fitful relations with the United Nations. Bush played host to Iraq's first democratically selected president at the White House in the morning and persuaded him to abandon talk of imminent U.S. troop pullouts. Bush then flew to New York in the afternoon to attend a division-plagued U.N. summit and to solicit Chinese help in pressuring Pyongyang and Tehran to abandon nuclear weapons ambitions." The "full day of diplomacy marked the first time that Bush has resumed a normal schedule since clearing his calendar after the devastation wrought by Katrina along the Gulf Coast." Bush "canceled a pomp-filled visit by Chinese President Hu Jintao last week to concentrate on getting relief to storm-ravaged areas," but "began to make it up to Hu by meeting with him here Tuesday evening, one of the first sit-down sessions with another world leader since the crisis. The rest of the week is jammed with other foreign policy events, including meetings Wednesday with the prime ministers of Britain and Israel, a U.N. gathering of 170 world leaders and a White House summit Friday with Russian President Vladimir Putin."

The New York Times (9/14, Sanger) also reports that "for the first time since the Hurricane Katrina crisis, President Bush returned yesterday to dealing with festering global problems." Bush's "meeting with Mr. Hu was delayed a week by the hurricane, and was the first in a series planned for coming months, including a trip by Mr. Bush to China in November. When the session finally took place yesterday at the Waldorf-Astoria, Mr. Bush was lobbying hard to persuade Mr. Hu -- who has nurtured a close relationship with Iran -- not to block action by the International Atomic Energy Agency next week to refer Iran's work on uranium enrichment to the Security Council."

The Atlanta Journal-Constitution/AP (9/14, Hunt) reports that Bush "won a pledge" from Hu to "step up pressure on North Korea to abandon its nuclear weapons, but

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the two leaders remained apart Tuesday over whether to seek international sanctions against Iran." Bush said his discussions with Hu "ranged from how to prevent an avian flu pandemic to economic matters and feared nuclear proliferation in North Korea and Iran. He seemed pleased when Hu said, 'We stand ready to step up our communication and cooperation' to gain fresh progress in negotiations with North Korea."

The Wall Street Journal (9/14, A8, King) reports that Hu told Bush that China "was prepared to take 'effective measures' to ease the soaring U.S. trade deficit with China while also moving to crack down on rampant piracy problems at home. The U.S. last year imported $162 billion more from China than it exported to China. U.S. officials said that Mr. Hu's remarks on intellectual-property protection were particularly important, and among the strongest assurances on that front that any Chinese leader has ever offered. Mr. Hu said that on the whole, relations between the two countries were 'developing quite well,' although he conceded that the rapid growth in bilateral trade had created 'some frictions' between the two economic powers."

Diplomats Concerned Katrina Response Will Distract US International Focus. Knight Ridder (9/14, Strobel) reports, "Katrina's main impact on foreign policy could be to simply divert the Bush administration's focus more toward domestic concerns." His "visit to the United Nations is sandwiched between two trips to the Gulf Coast." The President and Secretary of State Condoleezza Rice "have been bombarded with questions about Katrina and race issues. And diplomats from the Middle East and elsewhere say they are beginning to worry about sustained U.S. attention to their region."

Bush To Address UN General Assembly. The CBS Evening News (9/13, story 11, 0:30, Schieffer) was the only network to report that President Bush is "in New York tonight preparing to address the UN General Assembly tomorrow morning."

US Intelligence Experts Briefed China, India On Iran Missile Plans. The Wall Street Journal (9/14, A3, Robbins) reports, "As the U.S. and Europe prepare to face off with Iran at the United Nations, the Bush administration dispatched intelligence experts to China and India last week to brief them on Tehran's alleged efforts to develop a missile capable of delivering a nuclear warhead. The decision to share the highly classified intelligence is a measure of the resistance the U.S. is meeting as it pushes, along with the Europeans, for Iran's nuclear activities to be referred to the U.N. Security Council. Even after Tehran resumed some sensitive nuclear activities last month and ended negotiations with the Europeans, the U.S. and its allies face a challenge persuading China, Russia and other key nations that the situation is grave enough -- or Iran's weapons program advanced enough -- for international reprisals."

Administration Using PowerPoint Presentation To Make Case Against Iran. The Washington Post (9/14, A7, Linzer) reports, "With an hour-long slide show that blends satellite imagery with disquieting assumptions about Iran's nuclear energy program, Bush administration officials have been trying to convince allies that Tehran is on a fast track toward nuclear weapons. The PowerPoint briefing, titled 'A History of Concealment and Deception,' has been presented to diplomats from more than a dozen countries. Several diplomats said the presentation, intended to win allies for increasing pressure on the Iranian government, dismisses ambiguities in the evidence about Iran's intentions and omits alternative explanations under debate among intelligence analysts."

Ex-IAEA Official Says Security Council Should Authorize Action. In a New York Times (9/14) op-ed, former IAEA Deputy Director General Pierre Goldschmidt writes that under IAEA statute, "there is no deadline or expiration date after which noncompliance becomes moot. Thus, Iran is still accountable for its past breaches. And Iran's resumption of work related to uranium conversion eliminates the only reason for" France, Germany, and the UK "not to report Iran to the Security Council. A failure by the board to make such a report would considerably weaken the agency and the global nonproliferation regime. It would reveal that the world is unwilling to hold rule-breakers to account, inviting proliferation by other countries. … It is time for the International Atomic Energy Agency to get the authority it needs from the Security Council to complete the verification that Iran's nuclear program is and has been, as claimed, exclusively for peaceful purposes."

As Talks Resume, North Korea Insists On Right To Nuclear Power. The Wall Street Journal (9/14, A18, Fairclough) reports that "talks aimed at persuading North Korea to give up its nuclear ambitions resumed with no public sign of progress toward a compromise between Washington and Pyongyang on a central issue: whether the North should be allowed to develop atomic energy. North Korea's chief delegate to the talks, Kim Kye Gwan, insisted that his country won't give up its right to nuclear power, despite American demands that Pyongyang dismantle all of its atomic programs, military and civilian." Still, the AP (9/14, Herman) adds that Kim said North Korea "would attend the talks with a sincere and flexible attitude."

The Washington Post (9/14, A28, Cody) reports that Kim's remarks "suggested continued difficulties in the talks despite renewed pledges from all participants to show flexibility and goodwill. The talks among China, North and South Korea, Japan, Russia and the United States are aimed at the stated goal of achieving a nuclear-free Korean

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Peninsula. The issue of peaceful nuclear energy was a major reason the last round was suspended Aug. 7, after 13 days of intense bargaining." The Bush Administration "remains adamant that North Korea must abandon its nuclear weapons programs and forgo nuclear energy production." But as the Washington Times (9/14, Salmon) reports, the "US position is complicated by Chinese and South Korean support for civil atomic energy use by North Korea on the condition that it abandon nuclear weapons."

The Christian Science Monitor (9/14, Regan) reports that the US "rejected North Korea's stance. US chief negotiator Christopher Hill said Monday in Beijing that North Korea's position 'does seem to be wrong.' Still, US negotiators said they will renew efforts to convince North Korea to give up its civilian reactors at the talks."

US, South Korea Hold Preliminary Talks On Bilateral Trade Accord. The Financial Times (9/14, de Jonquières, Fifield) reports that "US and South Korean officials are holding preparatory talks on a bilateral trade agreement, potentially paving the way" for President Bush to "launch formal negotiations when he visits the country in November. A deal with Asia's third biggest economy would give the US an important economic bridgehead into the region."

"Widespread Disappointment" With "Gutted" UN Statement Of Goals. The New York Times (9/14, Hoge) reports, "The General Assembly unanimously approved a scaled-down statement of goals on Tuesday," amidst "widespread disappointment at the weakening of the 35-page document."

The Los Angeles Times (9/14, Farley) adds that because "the secretary-general is treated more like an employee of the member nations than their leader" and "a culture of consensus allowed a handful of nations with entrenched interests to shape the outcome," after "weeks of bitter negotiations," many of Annan's boldest reform proposals were "eviscerated."

The Washington Post (9/14, A6, Lynch, Kessler) adds that delegates "voiced relief that the entire process had not collapsed, which would have left the summit with no tangible result, and they highlighted relatively modest achievements in the document" which includes "provisions that call for an increase in foreign aid, condemn terrorism and underscore the obligation of states to halt genocide and ethnic cleansing." However, it does not address "proposals to expand the U.N. Security Council, to create an independent auditing board to scrutinize U.N. spending, and to impose basic membership standards for a new Human Rights Council."

The Atlanta Journal-Constitution/AP (9/14, Wadhams) adds, "To reach a consensus, most of the text's details were gutted in favor of abstract language … Several nations were angry with the way the document was pushed through the General Assembly before it was translated from English into the five other official U.N. languages, a violation of U.N. protocol. That gave ambassadors little time to review it."

The Kansas City Star (9/14, Lederer) adds, "Many countries blame the United States for proposing hundreds of amendments just a few weeks ago to a document they believed was nearing agreement. The major organizations of developing countries, including the Group of 77 and the Nonaligned Movement, then responded with dozens of their own."

Some, Like Bolton, Content; Others, Like Annan, Say Missing Parts Are A "Disgrace.". The Washington Times (9/14, Pisik) adds, "Development specialists praised the outcome of the final declaration, noting that the passages were mostly strong and encouraging … Jan Eliasson, Sweden's former ambassador to Washington and the president of the General Assembly for the upcoming year, praised the declaration and said it should be assessed compared with historic reform measures, not to recent reform proposals."

The Los Angeles Times (9/14, Farley) adds that diplomats said "there were many more disappointments than successes."

The Atlanta Journal-Constitution/AP (9/14, Wadhams) adds, "The outgoing president of the General Assembly, Gabon's Jean Ping, presented the compromise Tuesday afternoon in hopes of bridging the deepest divides and moving away from bitter line-by-line negotiations that had bogged down the debate … Though Annan said he was pleased, the document was a significant step backward for him."

The Washington Post (9/14, A6, Lynch, Kessler) adds that Annan said that "members' inability to adopt…measures on disarmament and nonproliferation constituted 'a real disgrace.'"

The New York Times (9/14, Hoge) reports that Secretary General Kofi Annan "complained pointedly…about the elimination in the final version of language covering nuclear nonproliferation and disarmament." John R. Bolton, the American ambassador, said "the United States was satisfied with the outcome, which he said matched the limited hopes he had had for the document."

The Kansas City Star (9/14, Lederer) adds that Germany's U.N. Ambassador Gunter Pleuger said "in hindsight, member states underestimated the amount of preparatory work needed to reach consensus."

America Enters UN Summit With New Internal, External Views. Knight Ridder (9/14, Strobel) reports that as the President heads to the UN summit, the "botched response to Hurricane Katrina has changed views of America both at home and abroad." In other nations there is

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"incredulity that the world's wealthiest country could fail to take care of its own," while "Americans want more attention on domestic concerns and less on the war on terrorism." Katrina "threw a light on America's class and racial divides," and "public opinion at home and abroad will pose challenges for" the Administration agenda of the "promotion of democracy around the world and the war in Iraq."

Author Says Summit Is On "Brink Of Failure." In an op-ed in the Financial Times (9/14), Nancy Soderberg, vice president for multi-lateral affairs of the International Crisis Group and author of The Superpower Myth: The Use and Misuse of American Might (John Wiley), "The depressing truth is" that the world "failed to take up the secretary-general's challenge. His proposals offer the right way forward for the 21st century but they will have to wait for the world to catch up with his vision. Until then, the world will remain the worse for it." Because of "the ideological clash between the US and much of the developing world," the meeting is on "the brink of failure."

NYTimes Says US Bears "Disproportionate Share" Of Blame For "Squandered" Opportunity. The New York Times (9/14) editorializes, "A once-in-a-generation opportunity to reform and revive the United Nations has been squandered," and "every one of the more than 170 national leaders attending, starting with President Bush, should be embarrassed." However, "the United States, as the host nation and the U.N.'s most indispensable and influential member, bears a disproportionate share" of the blame. President Bush "contended that contrary to all appearances and to common sense, Mr. Bolton was just the man to achieve the reforms the United Nations needed. Almost immediately, Mr. Bolton began proving Mr. Bush wrong," transforming "what had been a painful and difficult search for workable diplomatic compromises into a competitive exercise in political posturing … By the time Washington retreated to a more realistic position, it was too late to retrieve much of the bold original agenda."

IMF Director Says Fund Needs To Be Redefined. In an op-ed in the Financial Times (9/14) Rodrigo De Rato, managing director of the International Monetary Fund, argues that globalisation "has brought cross-border financial crises and heightened the imperative to bring into the mainstream those who are being left behind … As we address the challenges of our rapidly globalising world, change is essential if the fund is to remain relevant," and "redefining the fund's mission is inseparable from reassessing IMF governance … The fund's legitimacy as a global organisation rests on fair representation for all members. The current allocation of quotas…puts this legitimacy at risk in many regions." The fund has collected new mandates "as old mandates remained unchanged" and became "diffuse, resource-intensive operations." Also, "the IMF's work in low income countries is overloaded with procedures that absorb substantial resources yet yield questionable gains. This work must be streamlined to ensure the needs of poverty reduction are met."

Bush May Have "Missed" Taking The Lead On Global Poverty. The New York Times (9/14, Dugger) reports, "Some say" President Bush "has missed an opportunity to take the lead on poverty." The quest to relieve crushing poverty "has been overshadowed by Katrina, the oil-for-food scandal and squabbling over reform of the United Nations itself," while "the administration's opening foray in the negotiations left some African leaders dismayed … Whatever the verdict on Mr. Bush's role, others are seizing the initiative. Former president Bill Clinton will sponsor a three-day conference in New York beginning tomorrow that will focus on poverty and governing, climate change and conflict."

Clinton's Fight Against Poverty Could Yield "Spectacular" Results. The Financial Times (9/14, Sachs) reports, "The Clinton Global Initiative is surely the most visible of" the efforts against extreme poverty that flank the 2005 World Summit, "drawing upon former President Bill Clinton's ability to mobilize friends from in and out of government and industry. Clinton seems intent on achieving practical actions, following the path set by America's great former President, Jimmy Carter … If President Clinton takes a page from President Carter's playbook, the results could be spectacular."

Abbas Will Disarm Small Militias Now, Hamas After Elections. USA Today (9/14, Patience) reports, "Mahmoud Abbas said Tuesday that he would impose law and order in Gaza in response to the chaos that followed the pullout of Israeli troops from the territory a day earlier," and "the Palestinian Authority president's chief of staff, Rafiq Husseini, said Abbas would begin disarming small militant groups soon. After parliamentary elections in January, he said, Abbas would insist that big militant groups such as Hamas and Islamic Jihad disarm in accordance with steps in the U.S.-mediated 'road map' to establish a Palestinian state."

Looting, Illegal Board Crossings Continue In Gaza. The New York Times (9/14, Erlanger) reports that thousands "continued their active salvaging of saleable or usable materials from the 21 former Israeli settlements. In some places, Palestinians looted the greenhouses that were bought for their use by American philanthropists, taking nylon tarpaulins, irrigation hoses and electrical equipment," despite the "Palestinian security forces deployed around the greenhouses." Meanwhile, Egyptian "border guards looked

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the other way as Palestinians crossed the fences into Egypt through the Philadelphi route … Some Israeli officials criticized the Egyptians and said the lax border controls boded badly for Israel's future security."

Palestine, Israel Disagree Whether Gaza Is Still Occupied. The Washington Times (9/14, Mitnick) reports, "Although Gazans are celebrating a liberation of sorts, the territory isn't a sovereign state, and many Palestinians don't consider Israel's occupation over. Israel, for its part, wants international recognition of the end of its military rule and the beginning of full Palestinian 'jurisdiction' over the Gaza Strip," even though "Israel will retain control of Gaza's airspace, its territorial waters and, for the near future, the border crossing to Egypt." The issue "at stake is whether Israel will be able to fully absolve itself of responsibility for Gaza's anarchy and economic blight, as well as the degree of force that the Jewish state would be able to use in retaliation for cross-border attacks."

While Not Considered Politically Adept, Merkel On Track For Chancellorship. The Washington Post (9/14, A1, Whitlock) reports, "Unsmiling, unstylish and uncharismatic," Angela Merkel "is bidding to become Germany's first female chancellor, as well as the first to have grown up behind the Iron Curtain, in the former East Germany. Polls show that her party, the Christian Democratic Union, holds a lead, albeit a narrowing one." However, "for many Germans she remains a remote figure" and "Merkel's rivals, inside and outside her party, show little regard for her political skills." Still, "in Germany's political system, national leaders are chosen by party, and the Christian Democrats lead the polls."

WPost Says US, Allies Must Continue Pushing Against Darfur Genocide. The Washington Post (9/14) editorializes, "Little by little, American diplomacy has made headway" in stopping the genocide in Darfur. "The progress over the past year demonstrates that the United States and its allies do have the power to save lives by the tens of thousands. It also suggests that, if the Bush administration had pushed harder and earlier, it could have saved many more people." This progress "is incomplete and reversible," and if the United States and its allies "lose interest in Darfur, violence may resume and humanitarian access may dry up."

Protestant Leaders In Northern Ireland Criticized. In an editorial, the Los Angeles Times (9/14) notes that violence recently "erupted in Northern Ireland…as authorities prevented the Orange Order, the largest Protestant organization in the province, from parading past a Catholic neighborhood." Although "blame for the…violence rests mainly with the leadership of the Orange Order, the silence of at least two key Protestant political leaders who could have helped head off the clashes gives them a share of the responsibility. The Rev. Ian Paisley, head of the Democratic Unionist Party, and Reg Empey, the leader of the Ulster Unionist Party, should immediately denounce sectarian violence as unacceptable." And since forbidding these parades seems to be an unenforceable option, the "only viable solution is to get political leaders to recognize equal rights for both communities, and to get Orange Order leaders to the table, negotiating directly with representatives of the communities through which it intends to march."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Attends signing of the Convention for the Suppression of Acts of Nuclear Terrorism, UN headquarters, NY; speaks at the UN High-Level Plenary Meeting, UN headquaters; meets with the Prime Minister of Israel, UN headquarters; meets with the Prime Minister of the United Kingdom, UN headquarters; attends Security Council Summit, UN headquarters; attends international launch of the UN Democracy Fund, UN headquarters; attends luncheon hosted by UN Secretary General Annan, UN headquarters; travels to Washington; makes remarks at the National Dinner Celebrating 350 Years of Jewish Life in America, National Building Museum.

VICE PRESIDENT CHENEY — No public schedule.

LAURA BUSH — Attends the President's remarks at the UN High-Level Plenary meeting, New York; speaks at an USAID Fighting Malaria in Africa event, Waldorf-Astoria Hotel, New York.

US Senate: 9:30 a.m. JUDICIARY _ Full Committee. Hearing on the nomination of John Roberts to be Chief Justice of the Supreme Court. John Roberts. Location: Room 216, Hart.

10 a.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Subcommittee on Aviation. Hearing to review the impact of Hurricane Katrina on the aviation industry. Air Transport Association CEO James May; Pensacola Regional Airport Director Frank Miller; Regional Airline Association President Deborah McElroy; Energy Information Administration Deputy Administrator Howard Gruenspecht. Location: Room 562, Dirksen.

10 a.m. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ Full Committee. Oversight hearing on disaster relief and response efforts by all levels of

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government following Hurricane Katrina. Former California Gov. Pete Wilson, former Mayor Patricia Owens of Grand Forks, N.D., National Urban League President and former New Orleans Mayor Marc Morial, and Iain Logan of the International Federation of Red Cross and Red Crescent Societies. Location: Room 342, Dirksen.

10:30 a.m. SELECT INTELLIGENCE _ full Committee. Closed, members only briefing on pending matters. Location: Room 219, Hart.

US House: FLOOR SCHEDULE _ 10 a.m. Meets for legislative business. Highlights: Suspensions (3 bills): 1) H.R. 3408 - To reauthorize the Livestock Mandatory Reporting Act of 1999 and to amend the swine reporting provisions of that Act; 2) H.R. 3421 - To reauthorize the United States Grain Standards Act; 3) H.Con.Res. 208 - Recognizing the 50th anniversary of Rosa Louise Parks' refusal to give up her seat on the bus and the subsequent desegregation of American society. H.R. 3132 - Children's Safety Act of 2005.

10 a.m. ARMED SERVICES _ Full Committee. Hearing on the Quadrennial Defense Review. Dov Zakheim, Booz Allen Hamilton; Daniel Goure, Lexington Institute; Michele Flournoy, CSIS; Andrew Krepinevich Jr., Center for Strategic and Budgetary Assessments. Location: Room 2118, Rayburn.

10 a.m. FINANCIAL SERVICES _ Financial Institutions and Consumer Credit Subcommittee. Hearing on the response of financial institutions to Hurricane Katrina. McKinley W. Deaver, Mississippi Bankers Association; Ken Bordelon, E Federal Credit Union (LA); C. R. Cloutier, MidSouth Bank, N.A. (LA); Charles Elliott, Mississippi Credit Union Association; Diane Casey-Landry, Americas Community Bankers; David Gibbons, HSBC North America (IL); Hilary Shelton, NAACP. Location: Room 2128, Rayburn.

10 a.m. GOVERNMENT REFORM _ Full Committee. Meets on pending business. Location: Room 2154, Rayburn.

10 a.m. JUDICIARY _ Full Committee. Markup of H. Res. 420 - directing the Attorney General to turn over requested documents in the Valerie Plame case. Location: Room 2141, Rayburn.

10 a.m. VETERANS AFFAIRS _ Full Committee. Oversight hearing on the VA's proposed information technology infrastructure reorganization. Location: Room 334, Cannon.

10:30 a.m. APPROPRIATIONS _ Science, State, Justice, Commerce Subcommittee. Hearing on the transformation of the FBI following the 9/11 terrorist attacks. FBI Director Robert Mueller, former Governor and U.S. Attorney General Richard Thornburgh, Justice Department Inspector General Glenn Fine, Al Cumming and Todd Masse of the Congressional Research Service, Randy Hite of the Government Accountability Office. Location: Room 2359, Rayburn.

10:30 a.m. INTERNATIONAL RELATIONS _ Full Committee. Markup of H. Res. 375 - Requesting the President and directing the Secretary of State to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution all information in the possession of the President and the Secretary of State relating to communication with officials of the United Kingdom between January 1, 2002, and October 16, 2002, relating to the policy of the United States with respect to Iraq; H. Res. 408 - Requesting the President and directing the Secretary of Defense to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution all documents in the possession of the President and Secretary of Defense relating to communications with officials of the United Kingdom relating to the policy of the United States with respect to Iraq; H. Res. 419 - Directing the Secretary of State to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the possession of the Secretary of State relating to the disclosure of the identity and employment of Ms. Valerie Plame. Location: Room 2172, Rayburn.

1:30 p.m. INTERNATIONAL RELATIONS _ Europe and Emerging Threats Subcommittee. Hearing on U.S. aide to Europe. Thomas C. Adams, Coordinator, U.S. Assistance to Europe and Eurasia, Bureau of European and Eurasian Affairs, Department of State; Drew W. Luten III, Senior Deputy Assistant Administrator, Bureau for Europe and Eurasia, USAID. Location: Room 2172, Rayburn.

2 p.m. GOVERNMENT REFORM _ Energy and Resources Subcommittee.Hearing on natural gas demand. Rebecca Watson, Assistant Secretary of Interior for Land and Minerals Management; Guy Caruso, Administrator, Energy Information Administration, Department of Energy; Michael Zenker, Senior Director, North American Natural Gas, Cambridge Energy Research Associates; Logan Magruder, President, Independent Petroleum Association of Mountain States; Tyson Slocum, Research Director, Energy Program, Public Citizen. Location: Room 2154, Rayburn.

7 p.m. RULES _ Full Committee. Meets to consider H.R. 889 Coast Guard and Maritime Transportation Act. Location: Room H-313, Capitol.

Other: AIR AND SPACE CONFERENCE _ The Air Force Association hosts the Air & Space Conference and Technology Exposition 2005 geared to the professional requirements of Air Force enlisted and officers, Guardsmen and Reservists, civilians, retirees and industry representatives. It will focus on the future of air and space power during workshops and forums featuring academians and professionals. Highlights: 9:05 a.m. Ambassador

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Edward Walker, Jr., president and CEO, Middle East Institute. 10 a.m. Michael Scheuer, former chief of bin Laden Unit at CIA, author. 11 a.m. USAF Chief of Staff remarks. Location: Marriott Wardman Park Hotel, 2660 Woodley Road, NW.

FDA-PDA JOINT CONFERENCE _ The Food and Drug Administration (FDA) and the Parenteral Drug Association (PDA) hold the 2005 Joint Regulatory Conference and Exhibits. Highlights: 7 a.m. Breakfast Sessions, Rick Friedman, FDA; Timothy Ramjit, Global Technical Services; Vince Matthews, Eli Lilly and Co. Location: Omni Shoreham Hotel, 2500 Calvert St. NW.

HEALTH INSURANCE _ America's Health Insurance Plans holds its 2005 Medicare and Medcaid Conferences. Highlights: 8:30 a.m. Deputy Administrator CMMS Leslie Norwalk. 9:45 a.m. Maura Bluestone, CEO, Affinity Health Plan; Darnell Dent, CEO, Community Health Plan of Washington; Michael Dudley, CEO, Sentara Health Plans; Howard Kahn, CEO. LA Care. 11:15 a.m. National Governors Association Executive Director Raymond Scheppach. 12:15 p.m. Assistant HHS Secretary Michael O'Grady. 3 p.m. Virginia Medical Assistance Services Director Patrick Finnerty, Billy Millwee, Texas Health and Human Services Commission. Location: Marriott-Crystal Gateway, 1700 Jefferson Davis Hwy., Arlington, Va.

ROBERTS-PROTEST _ A coalition of groups join in protest of the confirmation hearings for Judge John Roberts to be chief justice. Groups include: National Organization for Women, Feminist Majority, People for the American Way, Human Rights Campaign, Rainbow PUSH/Coalition, and others. Highlights: 7 a.m. Protest behind Hart Senate Office Building on C Street. 12 p.m. Protest behind Hart Senate Office Building on C Street. Location: Capitol Hill, various locations.

USTR PORTMAN _ Schedule for USTR Rob Portman. Highlights: 9:30 a.m. Meets with EU External Trade Commissioner Peter Mandelson. Photo opportunity. Pre-clearance required. USTR offices, 600 17th St. NW. At about noon, they will have a media availability. RSVP required. 10 a.m. Attends public hearing on China's WTO compliance. USTR Annex, 1724 F St. NW. 5:15 p.m. Meets with Kenyan Trade Minister Mukhisa Kituyi. Photographers must be pre-cleared. USTR offices, 600 17th St. NW.

HOUSE DEMOCRATS _ 9 a.m. Closed meeting of the House Democratic Caucus. Location: Cannon Caucus Room.

HOUSE REPUBLICANS _ 9 a.m. Closed meeting of the House GOP Conference. Location: Room HC-6, Capitol. Notes: Stakeout in the Center Steps Hallway at 10 a.m., with Speaker Hastert and Reps. Roy Blunt and Deborah Pryce discussing the Children's Safety Act, Coast Guard reauthorization and the legislative agenda.

FUEL PRICES _ 9:30 a.m. House members, including Sherwood Boehlert and Edward Markey, hold a news conference to announce a bill to help provide consumer gasoline price relief by requiring automakers to increase the fuel efficiency of vehicles. Location: Room 2318, Rayburn.

CRITICAL TRIANGLE _ 10 a.m. The US Institute of Peace holds a panel discussion on ``A Critical Triangle: Iraq, Iran and the U.S." with Daniel Brumberg of the institute, Geoffrey Kemp of the Nixon Center, and Kenneth Pollack of the Saban Center for Middle East Policy. Location: 1200 17th St. NW.

DEMOCRATS-GASOLINE PRICES _ 10 a.m. Press stakeout for discussion with Democratic Leader Nancy Pelosi, Democratic Whip Steny Hoyer; Democratic Caucus Chairman Robert Menendez, and Democratic Caucus Vice Chairman Jim Clyburn following Democratic Caucus Meeting to Discuss Hurricane Katrina and the record gas prices Americans are paying at the pump. Location: Stake-out position outside of 345 Cannon (Cannon Caucus Room).

FLU VACCINATIONS _ 10 a.m. The National Foundation for Infectious Diseases holds a news conference with leading health authorities to warn Americans to get their flu shots. Participants include CDC Director Julie Gerberding, CMMS Administrator Mark McClellan, others. Location: National Press Club.

REPUBLICANS _ 10 a.m. House Speaker Dennis Hastert joins Majority Whip Roy Blunt, Conference Chairman Deborah Pryce, and Budget Chairman Jim Nussle immediately following GOP Conference meeting to discuss Children's Safety Act, United States Coast Guard reauthorization, and legislative agenda. Location: Room HC-6, Capitol.

9/11 COMMISSIONERS-EMERGENCY RESPONSE REPORT _ 10:30 a.m. The former 9/11 Commissioners release a report assessing implementation of the Commission's recommendations on homeland security and emergency response. Location: Ronald Reagan Building and International Trade Center, International Gateway Room, 1300 Pennsylvania Ave. NW.

SANTORUM-ROBERTS _ 10:30 a.m. Sen., Rick Santorum, R-Pa., others, hold a press conference to discuss issues surrounding ``Civil Rights/Civil Liberties regarding the Supreme Court Hearings for Judge John Roberts. Location: Russell Senate Park.

ANTI-BOLTON _ 11 a.m. Global Exchange hosts a teleconference during which anti-poverty, environmental and women's groups will denounce Bolton/Bush positions as World Summit opens. Notes: Media call-in number is 800-351-4872. Passcode: 143219.

PENTAGON-IRAQ BRIEFING _ 11 a.m. Army Col. Robert Brown, commander of the 1st Brigade (Stryker), 25th Infantry Division, Multi-National Force - Northwest, will brief live from Iraq to provide an operational update in his area of responsibility. Location: DOD Briefing Studio, Pentagon 2E579.

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KATRINA-JOBS _ 11:15 a.m. The Travel Industry Association of America holds a news conference to announce an online job bank to help workers displaced by Hurricane Katrina. Location: National Press Club.

ISRAELI-PALESTINIAN SECURITY _ 12 p.m. Americans for Peace Now hosts a discussion by Middle East experts regarding Israeli-Palestinian security issues in the post-disengagement period, with Israeli security expert Yossi Alpher and Palestinian security expert Ahmad Samih Khalidi. Location: Room 2203, Rayburn House Office Building.

ROBERTS _ 12 p.m. Reps. Deborah Pryce, Trent Franks, John Carter, Dan Burton, others, hold a news conference on the nomination of John Roberts to be Chief Justice of the Supreme Court. Location: Cannon Terrace.

RUSSIA-LOOSE NUKES _ 12 p.m. The Henry L. Stimson Center and the Center for American Progress release report, ``Securing Russia's Loose Nukes: Progress Since 9/1." Location: Center for American Progress, 1333 H Street NW., 10th Floor.

SUNUNU-FINANCIAL SERVICES _ 12 p.m. Sen. John Sununu, R-N.H., a member of the Senate Banking Committee, will deliver the keynote luncheon address to members of the Financial Services Institute. Location: Presidential Ballroom. Capital Hilton, 16th and K Sts. NW.

EPA-KATRINA _ 1 p.m. EPA Administrator Stephen L. Johnson will discuss the agency's work including rescues and testing for various pollutants or toxics following Hurricane Katrina. Location: EPA Headquarters, Ariel Rios North Building, 200 Pennsylvania Ave. NW.

KATRINA RELIEF _ 1 p.m. Rep. Carolyn Maloney holds a news conference on Hurricane Katrina and 9/11 recovery. Location: Cannon Terrace.

HOYER _ 1:30 p.m. House Democratic Whip Rep. Steny Hoyer holds a pen and pad only briefing. Location: Room H-306, Capitol.

KATRINA-MINISTERS _ 2 p.m. The Ministers for Racial, Social and Economic Justice organization holds a news conference to call on Congress to reprimand and/or censure President Bush for the administration's handling of the Hurricane Katrina relief efforts. Location: National Press Club.

ABU ALI _ 3 p.m. Arraignment of Ahmed Omar Abu Ali on a superceding indictment which includes charges of conspiracy to assassinate President Bush. Judge Gerald Bruce Lee will preside. Location: U.s. District Court, Alexandria.

INTERNET-INTERNATIONAL RELATIONS _ 6 p.m. The Council on Foreign Relations holds a special event celebrating the launch of the newly redesigned cfr.org, ``A Wired World: The Internet and International Relations," with Craig Calhoun, New York University; Andrew McLaughlin, Google Inc.; Daniel Burton, Jr., Entrust, Inc. Location: Council on Foreign Relations, 1779 Massachusetts Ave. NW.

NATIONAL PTA-TARGET _ 6 p.m. National PTA honors Target at a national gala dinner as the recipient of the 2005 National PTA Commitment to America's Children Award. Location: Ronald Reagan Building and International Trade Center, 1300 Pennsylvania Ave. NW.

USO-GEN. MYERS _ 6 p.m. The USO honors Gen. Richard Myers, chairman of the Joint Chiefs of Staff, for distinguished service to his country and an enlisted member from each branch of the armed forces. Deborah Norville is emcee. Guests include members of Congress, military leadership and government officials, Miss USA 2005 Chelsea Cooley, John Elway, Kathy Kinney, Wayne Newton, Shaquille O'Neal, Tito Puente, Jr., Henry Rollins, Leeann Tweeden, Neal McCoy and soprano Harolyn Blackwell. Location: Hilton Washington, 1919 Connecticut Ave. NW.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Roberts Is Confronted On Abortion."
"Roe Ruling: More Than Its Author Intended."
"Roping In A Legacy."
"Haven Turned To Horror."
"Bush Accepts Blame For Slow Hurricane Response."
"Extent Of L.A. Blackout Gave DWP Chief A Jolt."
"Baghdad Blast Kills Scores Of Iraqis."

USA Today:
"Dreams Are Emerging Of A 'New' New Orleans — But Which One?"
"Roberts Avoids Specifics On Abortion."
"Pair Charged In 34 Deaths."

New York Times:
"President Says He's Responsible In Storm Lapses."
"Roberts Fields Questions On Privacy And Precedents."
"Two Major Airlines Seen Near Filing For Bankruptcy."
"Ferrer Is First; Runoff Possible Against Weiner."
"F.A.A. Alerted On Qaeda In '98, 9/11 Panel Said."
"Owners Of Nursing Home Charged In Deaths Of 34."

Washington Post:
"Roberts Avoids Specifics On Abortion Issue."
"Owners Of Nursing Home Charged."
"Bush Takes Responsibility For Failures Of Response."
"As Questioning Begins, Euphemisms Abound."
"The Region Starts To Stagger Back."
"No-Frills Candidate Aims For Germany's Top Spot."

Washington Times:
"Roberts Defends Roe As 'A Precedent.'"
"Nominee's Answers Get Mixed Reviews."
"DeLay Declares 'Victory' In War On Budget Fat."

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"Europe Leaders Pump Up Volume."
"At War With An Enemy Of An Unspoken Name."
"New Orleans' Port, Airport Now Reopened."
"Toyota Commits To 'Future' Of All Gas-Electric Motors."

Detroit Free Press:
"NWA Near Bankruptcy."
"Barden: My 1% In Casino Is Too Little."
"Race Still Divisive In Mayoral Campaign."
"Iraqi Leader Welcomed In Dearborn."

Atlanta Journal-Constitution:
"Inflation+Growth=Spending."
"Storm Deaths Lead To Arrests."
"Roberts Deflects Pointed Queries."
"New Hope, New Home."
"Fake Evacuee Leaves Donor Feeling Burned."

Dallas Morning News:
"Bush Takes Blame For Response."
"At Least 73 Die In Iraq Blast."
"'We're Not Used To Just Listening To People Die.'"
"Democrats Press, But Judge Avoids Specifics."
"Words Getting In The Way Of U.N. Defining 'Terrorism.'"

Houston Chronicle:
"White's Handling Of Crisis Earning Political Capital."
"'I Take Responsibility' For Response, Bush Says."
"Death Toll In Louisiana Rises By 100."
"For Those Who Can't Find Kids, Misery Is Compounded."
"Roberts Stays Cool As Exchanges Sizzle."

Story Lineup From Last Night's Network News:
ABC: Bush-Katrina Blame; US Disaster Preparedness; New Orleans Airport; St. Bernard Parish; Hurricane Ophelia; Senate-Roberts Hearing; Jefferson-National Guard; Family Dinners.
CBS: Bush-Katrina Blame; New Orleans-Homicide Charges; New Orleans-Hospital Deaths; Katrina-Death Toll; New Orleans Recovery; Senate-Roberts Hearing; Roberts Hearing-Analysis; Katrina-Missing Children; Hurricane Zone-Housing; Hurricane Ophelia; Bush-Iraqi Prime Minister; Ohio-Caged Children; California-Duck Rescuing.
NBC: Bush-Katrina Blame; New Orleans-Homicide Charges; New Orleans Recovery; New Orleans-911 Calls; Senate-Roberts Hearing; Specter-Roberts Hearing; Hurricane Ophelia; Katrina-Donation Scams; Stock Market; Katrina-Separated Families.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Bush-Hurricane Response Failures; New Orleans Nursing Home-Homicide Charges Hurricane Ophelia; Roberts Hearings; Baghdad-Car Bomb.
CBS: New Orleans Nursing Home-Homicide Charges; New Orleans-Passenger Flights Resume; New Orleans Clean-Up; Hurricane Ophelia; Baghdad-Car Bomb; Roberts Hearings; Wall Street.
NPR: Baghdad-Car Bomb; Al Jafari-US visit; New Orleans Nursing Home-Homicide Charges; Bush-Hurricane Response Failure; Hurricane Ophelia; Roberts Hearings; India, Pakistan-Prisoner Exchange; Foreign Stock Markets.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, SEPTEMBER 14, 2005 7:45 AM EDT

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TERRORISM NEWS:

McCain Pushes For Detainee Amendment (HILL)

By Roxana Tiron and Jonathan Allen

DOJ_NMG_0004916

The Hill, September 14, 2005

Sen. John McCain (R-Ariz.) is threatening to attach an amendment to the defense appropriations bill defining acceptable treatment of military detainees if the defense authorization bill, to which it is currently attached, is not voted on this fall.

"I hate to do this," said McCain, chairman of the Senate Armed Services Committee's Airland Subcommittee.

When Senate Majority Leader Bill Frist (R-Tenn.) shelved the defense authorization bill before the August recess, the treatment of detainees was one of two contentious issues. The other was a delay of the base realignment and closure (BRAC) process.

The president opposed amendments on both issues and said he would veto the bill unless they were stripped from it.

The dispute between the White House and McCain is their first high-profile disagreement since the November election.

Meanwhile, Sen. John Warner (R-Va.), chairman of the Senate Armed Services Committee, remains "very supportive" of McCain's amendment, according to a committee spokesperson. And Warner also is committed to bringing the authorization bill to the floor this fall.

Warner told reporters yesterday that he and Frist are discussing bringing the bill back up after the president makes his recommendations on the BRAC list. The Base Closure and Realignment Commission submitted its recommendations to Bush last week. He has until Sept. 23 to decide whether to approve the list or change it.

Senate Defense Appropriations Subcommittee Chairman Ted Stevens (R-Alaska) has said that the defense appropriations bill will be considered after the defense authorization is voted on.

Sen. Thad Cochran(R-Miss.), chairman of the Appropriations Committee, said yesterday that appropriators are going to try to get the defense bill done the first week of October. The fiscal year 2006 starts Oct. 1.

18 Detainees Force-Fed At Guantanamo (LAT)

By Richard A. Serrano

The Los Angeles Times, September 14, 2005

WASHINGTON — A hunger strike at the U.S. naval base at Guantanamo Bay, Cuba, has grown to 128 prisoners who are demanding that they be immediately released or granted access to a legal process to defend themselves against blanket allegations that they are terrorists.

The strike, begun more than five weeks ago, has forced military authorities to hospitalize 18 of the prisoners and to take extraordinary measures to force-feed them.

Some detainees have vowed to die if necessary, but the Pentagon insists that it will not let anyone starve to death.

"Everyone is stable," Sgt. Justin Behrens, a prison spokesman, said of those hospitalized. "We're going to take care of everyone."

More than a quarter of the 502 detainees have refused food and liquids at various times as the protest has gained momentum since it began Aug. 8.

Along with demanding that they be freed or put on trial, some detainees also are complaining of assaults by guards and continuing to allege that there has been desecration of Muslim religious items. Behrens denied that detainees were being abused.

"The guards here are professional and are using standard operating procedures," he said. "Officers are on the cellblocks all the time to make sure this never happens."

Nevertheless, some of the complaints from prisoners, natives of 40 different countries sent to the prison after it opened in 2002, are being disclosed by attorneys.

All 502 have been designated "enemy combatants." Four have been charged with specific crimes and are awaiting trial before military commissions.

Maj. Jane Boomer, a Pentagon spokeswoman assigned to the Office of Military Commissions, said that the military commissions were on hold, awaiting a decision on whether the Supreme Court would grant a challenge to the legality of the process.

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"We are very, very patient here in Guantanamo," prisoner Binyam Mohammed wrote in an Aug. 11 letter to his lawyer, explaining why the hunger strike was begun. "But finally enough was enough."

He joined the hunger strike, vowing that "I do not plan to stop until I either die or we are respected."

Mohammed, a 27-year-old native of Ethiopia who was raised in England, is suspected of training in an Afghan paramilitary camp and of engaging in terrorist plots. After Sept. 11, he fled to Pakistan, where he was captured.

Another hunger striker, Hisham Sliti of Tunisia, told his lawyers that soldiers threw a chair and a mini-refrigerator at him in an effort to get him to talk.

The Center for Constitutional Rights, a New York legal advocacy group that has helped some of the prisoners, found in a new report that the protest followed several smaller hunger strikes, as well as a mass suicide attempt in which nearly two dozen prisoners tried to hang themselves in their cells two years ago.

The group said that frustration among prisoners was growing. The prisoners "need fair trials with proper legal representation," the center said in a report on the hunger strike.

The group quoted prisoner Shaker Aamer, a Saudi who later moved to London and was captured by allied forces in Afghanistan, as saying that the hunger strike was triggered when authorities placed some detainees who belonged to a "prisoners council" in isolation cells.

"The government's effort to detain hundreds of Muslim men outside the rule of law has greatly undermined our nation's moral standing in the international community," the Center for Constitutional Rights said in the report. It "threatens the values of justice and fairness for which our country stands."

The Pentagon defines a hunger striker as anyone who passes up nine meals over 72 hours.

The Supreme Court is expected to decide by the end of this month whether to hear the challenge about the legality of military commissions.

If it does decide to hear the challenge, the high court probably would not decide the case until sometime next year.

AP: Gitmo Interrogators Face Accusations (AJC/AP)

By Ben Fox, Associated Press Writer

The Atlanta Journal-Constitution, September 14, 2005

SAN JUAN, Puerto Rico — A U.S. inquiry into alleged abuse at Guantanamo uncovered a climate of deep distrust between military police and interrogators, who were accused during the probe of giving terror suspects personal information about their guards.

The MPs suspected interrogators gave their names and Social Security numbers to prisoners in exchange for intelligence, according to the investigation, which recommended that a senior interrogator be relieved of duty for "failure to know his enemy."

The interrogator "sees himself as a hero for the detainees, and against the MPs, on a crusade in the battle of the MPs against the detainees," one investigator wrote in the report on the inquiry that The Associated Press obtained under a Freedom of Information lawsuit.

The report recommended military authorities look further into the disclosure of MP information to detainees. Guantanamo officials didn't respond to repeated questions about the investigation, including whether the interrogator — a military officer — was relieved of duty or whether the prison camp instituted any reforms in response to the findings.

The investigation began in March 2004, when the same interrogator claimed military police had abused detainees at the high-security camp in eastern Cuba, where the United States holds about 500 men captured in its war on terror.

The interrogator claimed that guards mistreated a suspected al-Qaida member by not allowing him to use the bathroom immediately after a five-hour interrogation and that at other times withheld food and turned the temperature down on a cell to 52 degrees as punishment.

An investigating officer, however, found no evidence of abuse by the guards.

The investigator faulted the interrogator instead — recommending he be relieved of his duties for reasons that included a "failure to know his enemy," the "unfounded" allegations against the guards and "the noted possibility that he suffers from Reverse Stockholm Syndrome."

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Stockholm Syndrome is a psychological phenomenon in which hostages develop a bond with their captors. The most often-cited example is the heiress Patty Hearst who helped rob banks with the radicals who kidnapped her in 1974.

The MPs said in sworn statements that they suspected interrogators may have been trading the names and Social Security numbers of guards to get intelligence in return.

"I believe that some of the interrogators would do whatever it takes to gather that, including giving out some MP's personal information," said a guard from the 258th Military Police company who said he was concerned because some detainees had a "deep hatred" for him.

The investigator, after talking to guards, said: "All expressed concerns for the secrecy of their personal information and the safety of their families."

The situation was so bad that an investigator said two guards were "petrified" of disclosing their name, rank and Social Security numbers on Privacy Act statements during the probe.

"They both pushed away from the table with a look of horror on their faces and told the investigating officers that this information was provided to the detainees by the interrogators," the military investigator wrote.

The MPs said personal property of detainees that had been confiscated was sometimes returned to prisoners with the Privacy Act statements of guards who handled the belongings. The detainees told the guards that it was interrogators who gave them the documents.

Nearly 100 detainees have been released since the investigation, but it's unknown if any of those who have been freed had received information about the guards.

At Guantanamo, allegations of inappropriate ties between the largely Muslim detainees and their military and civilian handlers have surfaced before.

Troops had alleged that Ahmad I. al-Halabi, an Arabic translator for the Air Force who was convicted last year of mishandling documents at the base, and Army Capt. James Yee, a Muslim chaplain who was cleared of espionage charges, had also sympathized with detainees.

Suspicion of Muslim personnel by non-Muslims wasn't uncommon, said Donald Rehkopf Jr., the lawyer for al-Halabi, who had more serious espionage charges dropped in a plea deal.

"There was a lot of conflict between the Muslim linguists and the cadre of MPs down there," he told the AP. "It was a total lack of cultural awareness."

It isn't known whether the March 2004 probe involved a Muslim interrogator. Military censors blacked out names and other identifying details in the report. He was described as a regional team chief in charge of interrogators handling detainees from an undisclosed part of the world.

In his sworn statement, the interrogator alleged that it was the guards who allowed detainees to overhear sensitive information. He also said he was told MPs had conducted an "unauthorized cell search" at midnight and "openly talk" about harassing detainees.

"The majority of the ... personnel, especially the reservists, are consummate professionals," the interrogator said. "Those few that dispense information (even inadvertently), who harass detainees, and act in an altogether unprofessional manner, undermine the mission ... and do a disservice to those who work hard to do a good job."

The investigator, though, sided with the MPs and developed a harsh opinion of the interrogator, calling him immature and "driven by ego," according to the report.

Al-Arian Attorney Bumps Prosecutor During Break (TAMPTRIB)

By MICHAEL FECHTER

Tampa Tribune, September 14, 2005

TAMPA A defense attorney for Sami Al-Arian bumped a federal prosecutor and challenged an FBI agent during a break Tuesday morning, saying the government was cheating in prosecuting the terror-support case that could send the defendants to prison for life.

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It happened during a morning break with both the judge and jury already out of the courtroom. An Israeli interior ministry official was testifying about birth and other family records involving four men who carried out a 1992 attack against Israeli soldiers. Al-Arian later sent the families of the four men nearly $2,000 each.

But the official only had Hebrew documents and no translations were provided. Defense attorney William Moffitt wanted to spend the break going over the documents with the witness. Federal prosecutor Cherie Krigsman told Moffitt she wanted someone else in the room to observe the questioning.

That set Moffitt off. Prosecutors should have provided translations he said, throwing the documents onto the defense table. He then bumped Krigsman and hollered ``This is business. You're trying to put a guy in jail for life."

``You cheat all the time," he continued.

The confrontation seemed to catch the other lawyers and U.S. Marshals in the courtroom off guard. FBI case agent Kerry Myers got in between Moffitt and Krigsman, telling Moffitt to leave Krigsman alone because ``she's a female."

Moffitt challenged the agent. ``Get in my face one more time," he said.

In the end, Moffitt did meet with the witness. Then he chose not to cross examine him.

Later, he said the issue was part of a pattern of unfair behavior by prosecutors.

``They hand me a Hebrew document. I have no translation," Moffitt said. ``I'm expected to make a decision about cross examination. This is typical of the way things have happened and I finally got fed up with it."

Hayats Seek Bail With $1.2 Million Worth Of Property (LODINS)

By Layla Bohm, News-Sentinel Staff Writer

Lodi News Sentinel, September 14, 2005

A Lodi father and son arrested in a terror investigation have secured more than $1.2 million worth of property and hope it's enough to be released from jail while they await trial.

In federal court documents filed Monday night, attorneys for Umer and Hamid Hayat said four homes belonging to the Hayats and their relatives are available to secure bond.

The father and son are currently jailed without bail, and the latest matter will be addressed in court Monday in Sacramento. Prosecutors did not return calls seeking comment today.

Defense attorneys Johnny Griffin III and Wazhma Mojaddidi have been working to secure the property for three weeks, since a U.S. Eastern District Court judge declined to reopen the issue of bail. However, at that same Aug. 23 hearing, Magistrate Judge Dale A. Drozd ruled that the Hayats cannot be held as dangers to the community, and said bail could still be an option.

Umer Hayat, 47, and Hamid Hayat, who turned 23 Saturday, have been held in the Sacramento County Jail for three months, charged with lying to FBI agents about their knowledge of terror training camps.

The younger Hayat is accused of attending such a camp in Pakistan, and his father allegedly knew about it and sent him money. Both have pleaded not guilty to the charges and through their attorneys have denied the allegations.

Additionally, defense attorneys wrote in the motions, the charges have not been corroborated by others and are based on statements made "during stressful, protracted and confusing interview sessions with FBI agents."

Homes Put Up For Hayat's Bail (STOCKREC)

By Jeff Hood, Lodi Bureau Chief

Stockton Record, September 14, 2005

Four homes worth a total of $1.2 million are being pledged to secure the release of a Lodi father and son held since June on federal charges they lied about their ties to terrorists.

Attorneys for Hamid Hayat, 22, and Umer Hayat, 47, filed papers late Monday requesting a new bail hearing. The hearing is tentatively scheduled for Monday in federal court in Sacramento.

The attorneys, Johnny Griffin III and Wazhma Mojaddidi, state in their filings that circumstances have changed since the Hayats were initially denied bail, a condition required for a new bail hearing. They cite a judge's finding on Aug. 23 that the suspects do not pose a danger to the community and the value of property pledged for their release.

The value of the properties, all in Lodi, was established by real-estate appraisers Marcia Wallace-Spaletta of Stockton and Roula Adalat of Fremont. Each appraised two homes, completing reports of 15 to 21 pages, that were attached to the court papers.

According to Monday's filing, the homes are:

n• The Hayats' home at 302 E. Acacia St., which FBI agents searched June 6. Monday's filing claims it is owned by both Hayats and Umer Hayat's brother. Two houses are on the lot. Appraised value: $390,000 with no outstanding debt.

A home belonging to Umer Hayat's brother at 333 E. Acacia St., owned outright with an appraised value of $243,000.

A home at 118 E. Oak St., belonging to a distant relative of the Hayats and worth $370,000 with a $40,000 loan outstanding.

A home at 1011 Priebe Way owned by a distant relative, worth $250,000 free of debt.

Mojaddidi said the Hayats' relatives met to decide who would pledge their homes as collateral.

"This is an extraordinarily high amount," Mojaddidi said of the $1,213,000 worth of property pledged. "We feel good about it because they're not a danger to the community. The judge told us if we came up with more property, he would consider that a new fact to reopen. Considering that, and if you come up with other conditions, there's no way they're going anywhere."

Federal prosecutors Robert Tice-Raskin and Stephen Lapham could not be reached for comment Monday evening.

Magistrate Judge Dale Drozd previously stated he considered the Hayats to be extreme flight risks in denying a previous request for a new bail hearing.

Hamid Hayat, charged with two counts of lying to federal agents for denying his alleged participation in terrorist training camps in 2003 and 2004 in Pakistan, faces up to 16 years in federal prison. His father faces up to eight years in prison for allegedly lying to agents when he denied knowing about his son's activities.

Monday's filings states that the government has no evidence against the Hayats other than their "unreliable statements," that they have strong ties to the community and that the law entitles them to bail.

Magistrate Judge Gregory G. Hollows is scheduled to hear the motion for bail. Mojaddidi said if the judge is willing to allow only one man free on the property bond, the attorneys would request Umer Hayat's release.

Prosecution, Defense Wrangle Over Terrorism Talk At Money-transmitting Trial (NSDY/AP)

By Michael Weissenstein, Associated Press Writer

Long Island Newsday, September 14, 2005

NEW YORK -- A Yemeni immigrant ice cream shop owner accused of illegally funneling $21.9 million overseas successfully fought to keep prosecutors from introducing evidence allegedly linking him to terrorist groups as his trial began Tuesday.

Abad Elfgeeh, 50, stands accused of transmitting money around the world without a license from a dozen bank accounts linked to his tiny storefront in Park Slope, Brooklyn. Prosecutors have said his business was used by a Yemeni cleric convicted earlier this year of a scheme to fund al-Qaida and the Palestinian militant group Hamas.

But prosecutors cannot raise the topic of terrorism at Elfgeeh's trial unless the defense does first because they did not have enough evidence to charge Elfgeeh with a terrorism-related crime.

Assistant U.S. Attorney Pamela Chen made her first attempt to bring up terrorism after an opening statement by defense attorney Frank Hancock, who called Elfgeeh a law-abiding citizen who sent money overseas for Yemeni immigrants innocently seeking to support their families and invest in their native country.

After the jury left the courtroom, Chen asked U.S. District Judge Sterling Johnson Jr. to let her refute Hancock's claims by introducing what she called suspicious checks confiscated from Elfgeeh, some bearing the words "jihad" and "mujahidin." Others were made out to the Yemen-based Charitable Society for Social Welfare, which the FBI has described as a terrorist front group.

Johnson rejected her request but is expected to revisit the issue as the trial moves forward.

Elfgeeh first came to the attention of FBI anti-terrorist agents as they investigated Sheik Mohammed Ali Hassan Al-Moayad, whom they eventually accused of funneling money from the United States to al-Qaida and Hamas. Al-Moayad was convicted of supporting and conspiring to support terrorism and sentenced to 75 years in prison in July.

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Witnesses at al-Moayad's trial said he kept Elfgeeh's number in his phone book and called Elfgeeh someone he trusted to transfer money from the United States to Yemen.

Both sides dealt strictly with the unlicensed money-transferring charge in their opening statements Tuesday morning in federal court in Brooklyn. Prosecutors portrayed Elfgeeh as the mastermind of a complicated arrangement of "feeder accounts" and international transfers designed to hide the massive outflow of cash from his Carnival French Ice Cream store.

"You will see evidence about the great lengths to which Abad Elfgeeh went to conceal his business," Chen said. "By all appearances Carnival seemed like any other convenience store."

Defense attorneys called Elfgeeh a pillar of Brooklyn's Yemeni immigrant community who broke no law because he ran a nonprofit community service rather than a moneymaking business that required a license.

The money that went overseas came from hardworking immigrants looking to buy homes, purchase business equipment and support their families, Hancock told the jury.

"What Mr. Elfgeeh did here is what every other immigrant community in the United States does," he said.

Hundreds Closely Watched In Terror Threat, Britain Told (NYT)

By Sarah Lyall

The New York Times, September 14, 2005

LONDON, Sept. 13 - Hundreds of potential terrorists in Britain are being "closely surveyed" by the security services, part of a battle with no obvious end in sight, the home secretary said Tuesday.

"I would not like to put a time period on it," the secretary, Charles Clarke, said of how long Britain might remain a possible target of terrorist attacks. "The fact is that we have what I would call a nihilist terrorist threat, something that will only be beaten by demonstrating it cannot succeed."

Mr. Clarke was testifying before a special parliamentary committee investigating the government's handling of the July 7 suicide bombings on three subways and a bus in London, which killed 56 people, including the four bombers. But in broad remarks on a wide range of topics, neither he nor Sir Ian Blair, commissioner of the Metropolitan Police, offered much in the way of specifics about the actual government response, or about the threats that the country still faces.

Mr. Clarke said he was examining ways that the authorities could do better in the event of another attack. But he praised the response of the emergency services to the July 7 bombings as "absolutely outstanding."

Asked about reports that the official terrorism threat level had been lowered from "severe general" to "substantial" about two months before the bombings, Mr. Clarke said intelligence was an effort to understand generally a situation, rather than knowing "what was out there." In contrast to the United States, Britain does not make public its conclusions about the relative threat levels from terrorism. A spokeswoman for the Home Office said she would not reveal what the current level was or comment on whether it had recently changed.

Mr. Clarke said the police had stepped up security considerably since July 7, spending some $110 million extra in overtime and diversion of existing resources into the antiterrorism effort.

In his testimony, Sir Ian reiterated that the police were "extremely sorry" about the death of Jean Charles de Menezes, a Brazilian electrician who on July 22 was shot repeatedly in the head in the London Underground by police officers who had mistaken him for a terror suspect. The shooting took place the day after four more bombs were set but failed to go off in London.

Sir Ian said the police had reviewed their so-called shoot-to-kill policy since the death of Mr. de Menezes, but had not changed it substantially. The incident is still being investigated by an independent panel; leaks of its early findings seem to indicate that the police and the security services made a series of errors that day that led to the death.

"We made a small number of administrative changes," Sir Ian told the committee, "but the essential thrust of the tactics remains the same." He added that "we now have to find a process for debating these issues without necessarily revealing the absolute details of the tactics, which would be extremely unhelpful."

Sir Ian said it was important that police tactics reflect the new reality of Britain since July 7, the first time suicide attacks have been carried out here. "There is no question that a suicide bomber, deadly and determined, who is intent on murder, is perhaps the highest level of threat that we face, and we must have an option to deal with it," he said.

Hundreds Of Suspects Are Being Watched (WT)

By Paul Martin

The Washington Times, September 14, 2005

LONDON -- British officials said yesterday they have put hundreds of suspects under surveillance since the two bombing attacks in July.

"There are certainly hundreds of individuals we continue to watch very closely, who we believe need to be very closely surveilled because of the threat they offer," British Home Secretary Charles Clarke said on the opening day of a parliamentary investigation.

Mr. Clarke explained that, although these suspects posed a "threat," they were not necessarily actively plotting more terrorist attacks.

The July 7 bombings of London's transport system killed 52 persons, plus the four suicide bombers. Bombs failed to detonate in a similar attack two weeks later.

Mr. Clarke also said he had imposed a "control order" on a Briton for the first time.

The special security measure effectively places a person under house arrest, but until now, it has only been used against foreign suspects.

Listening to the evidence at the parliamentary committee were relatives of Brazilian electrician Jean Charles de Menezes, who was fatally shot by British police who thought he was a suicide bomber.

London police Commissioner Ian Blair again apologized for the mistaken shooting, but reaffirmed his determination to continue a policy of "shoot to kill" when police think a terrorist suspect could be about to detonate an explosive.

Three of Mr. de Menezes' cousins attended the session, and Mr. Blair offered to speak to them afterward to apologize personally.

Britain has announced that it will ban foreign supporters of terrorism from entering Britain and will expel "preachers of hate" and others who glorify or excuse terrorists.

Under European human rights legislation, incorporated into British law, terrorist suspects cannot be extradited or expelled to countries where there is a danger they will be tortured or abused or subjected to a death penalty.

Britain has signed a number of bilateral agreements with some Muslim nations in an attempt to prevent extradited suspects from being tortured or executed.

Human rights groups, including Amnesty International, say these agreements -- the first of which was with Jordan -- are not worth the paper they are written on .

In a related development, Italy's highest court yesterday upheld the extradition to Britain of Hamdi Issac, a suspect in the failed July 21 London bombings.

PATRIOT ACT:

Agencies Had Way Before Legislation Was Born (HDR)

By Sajid Farooq, STAFF WRITER

Hayward (CA) Daily Review, September 14, 2005

EDITOR'S NOTE: This is the last day of a three-day series looking at the impact and controversy over the Patriot Act and its second revision that awaits President Bush's signature. The series began Sunday.

Poet Amir Sulaiman was on a professional high after his taped performance aired across the country on HBO's "Def Poetry Jam" in February 2004. He had performed a piece titled "Dangerous," a poem he describes as passionate and intense.

But just six days after his performance first aired, the 26-year-old African-American father of three had FBI agents waiting to question him at his mother-in-law's house in SanFrancisco.

"I'm not sure," he said about the FBI knocking on his in-law's door soon after his HBO performance. "The reason the two (events) are connected is six days after the show aired, they knocked on my mother-in-law's door. ... It was a bizarre, almost surreal, phone call that the FBI was waiting for me."

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While they waited, FBI agents asked Sulaiman's brother-in-law why his poetry was "anti-American." That's a charge he denies, saying his ancestors help build America and he never once mentions America on his album, but instead tac kles issues such as poverty, oppression and tyranny.

The day after the FBI visited Sulaiman, he also found out, while trying to board an airplane, that his name had been added to the "no-fly list," subjecting him to extra security before he could board. He was never charged with a crime or given a reason why his name was added to the list or why he was visited by the FBI.

Contrary to popular belief, both of Sulaiman's experiences had nothing to do with the controversial USA PATRIOT Act, passed by Congress days after the Sept. 11 attacks to give law enforcement more power to investigate potential terrorists.

Since its passage, there have been a lot of myths attached with the Patriot Act's supposed power, from immigrant roundups post 9/11 to the creation of the "no-fly" list. Some of the powers associated with the act are more of a general sense of heightened security by law enforcement agencies than any single bill.

The "no-fly" list, for example, was initiated before the Patriot Act was passed in 2001 —created by a Federal Aviation Administration-issued security directive in 1996. But, still the origin of the no-fly list is mired in secrecy and some confusion. Some security experts have been left scratching their heads when asked when or where exactly the list originated, who is on it and what rights innocent passengers have if their names are similar to those on the list.

"The truth is you cannot really do a lot in the situation because you're not going to get on the plane if you don't comply," said Shirin Sinnar, an Equal Justice Works Fellow for the Lawyers' Committee for Civil Rights.

Sinnar has worked on immigrant rights post 9/11, including the no-fly list and other lists such as U.S. Treasury Department's Specially Designated Nationals and Blocked Persons list, which is used by banks and car dealerships, for example, to screen people and organizations before issuing a loan. That list is available for the public on the Treasury Department's Web site.

Another issue thought by some to be associated with the Patriot Act are FBI interviews and roundups. Both again are not tied to any legislation but instead to a heightened sense of security, according to Dorothy Ehrlich, the executive director o f the American Civil Liberties Union of Northern

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California.

"The government has taken action since 9/11 (and) the heaviest hand has fallen on people from Muslim background and people from 24 other countries targeted," she said.

She said the FBI was also interested in people involved with the Tablighi Jamat, an Islamic movement founded in India, which encourages members to participate in evangelical efforts across the world. All of the initial interviews are voluntary, according to Sinnar, though some questioned are not aware of this.

"They don't even need legislation to do this because they are asking people to do this," she said. "There are definitely some patterns from the questioning. ... Some stuff has been 'what do you think of Iraq? Do you think we should go in there?'"

After following a lead, the FBI conducts an interview and then creates a web connecting people for more potential interviews.

Even within the powers granted under the Patriot Act, the FBI says there is misinformation.

"I think people need to understand what we can't do," said Special Agent LaRae Quay of the FBI's San Francisco bureau.

One of the more talked about measures of the act is Section 215, which gives agents the ability to access library, medical and financial records.

Civil libertarians have argued the act does not require the proper checks and balances for federal authorities to access records.

Quay, however, said a federal judge still has to approve an FBI agent's request to obtain records or set up a roving wire tap just like before the Patriot Act was passed. And judges still have the authority to deny a request, though, Quay admitted it is rare.

"They (judges) absolutely can say no," Quay said. "Let me tell you the reality. Rarely does a judge say no. You want to know why? Because of all the checks and balances that exist."

For instance, the ability to search library records was available to law enforcement before passage of the Patriot Act.

Jackie Griffin, the director of library services for the Berkeley Public Library, said her library has been served with court orders for book records not involving terrorism cases. She said the library has been served with subpoenas involving two parents getting divorced and one trying to prove the other is an unfit parent based on what books they checked out for their children.

Still, some of the controversy over powers under the act is more of different opinions than myths. There is the sneak-and-peek provision, which gives FBI agents the ability to secretly search through a suspect's house without giving notice. The ACLU says the measure is unfair while the FBI says it is necessary for national security.

"The idea that you have no chance to say you're innocent and they had the wrong address," Ehrlich said.

"Again very controversial," Quay said. "We've been doing this for decades for criminal investigations. You delay the notice of your presence to the person. If you have left a note behind saying 'good afternoon Mr. bin Laden. We were here,' that might hurt the investigation because they might leave or destroy evidence."

HOMELAND RESPONSE:

F.A.A. Alerted On Qaeda In '98, 9/11 Panel Said (NYT)

By Eric Lichtblau

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - American aviation officials were warned as early as 1998 that Al Qaeda could "seek to hijack a commercial jet and slam it into a U.S. landmark," according to previously secret portions of a report prepared last year by the Sept. 11 commission. The officials also realized months before the Sept. 11 attacks that two of the three airports used in the hijackings had suffered repeated security lapses.

Federal Aviation Administration officials were also warned in 2001 in a report prepared for the agency that airport screeners' ability to detect possible weapons had "declined significantly" in recent years, but little was done to remedy the problem, the Sept. 11 commission found.

The White House and many members of the commission, which has completed its official work, have been battling for more than a year over the release of the commission's report on aviation failures, which was completed in August 2004.

A heavily redacted version was released by the Bush administration in January, but commission members complained that the deleted material contained information critical to the public's understanding of what went wrong on Sept. 11. In response, the administration prepared a new public version of the report, which was posted Tuesday on the National Archives Web site.

While the new version still blacks out numerous references to particular shortcomings in aviation security, it restores dozens of other portions of the report that the administration had been considered too sensitive for public release.

The newly disclosed material follows the basic outline of what was already known about aviation failings, namely that the F.A.A. had ample reason to suspect that Al Qaeda might try to hijack a plane yet did little to deter it. But it also adds significant details about the nature and specificity of aviation warnings over the years, security lapses by the government and the airlines, and turf battles between federal agencies.

Some of the details were in confidential bulletins circulated by the agency to airports and airlines, and some were in its internal reports.

"While we still believe that the entire document could be made available to the public without damaging national security, we welcome this step forward," the former leaders of the commission, Thomas H. Kean and Lee H. Hamilton, said in a joint statement. "The additional detail provided in this version of the monograph will make a further contribution to the public record of the facts and circumstances of the 9/11 attacks established by the final report of the 9/11 commission."

Bush administration officials said they had worked at the commission's request to restore much of the material that had been blacked out in the original report. "Out of an abundance of caution, there are a variety of reasons why the U.S. government would not want to disclose certain security measures and not make them available in the public domain for terrorists to exploit," said Russ Knocke, spokesman for the Department of Homeland Security.

Commission officials said they were perplexed by the administration's original attempts to black out material they said struck them as trivial or mundane.

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One previously deleted section showed, for instance, that flights carrying the author Salman Rushdie were subjected to heightened security in the summer of 2001 because of a fatwa of violence against him, while a previously deleted footnote showed that "sewing scissors" would be allowed in the hands of a woman with sewing equipment, but prohibited "in the possession of a man who possessed no other sewing equipment."

Other deletions, however, highlighted more serious security concerns. A footnote that was originally deleted from the report showed that a quarter of the security screeners used in 2001 by Argenbright Security for United Airlines flights at Dulles Airport had not completed required criminal background checks, the commission report said. Another previously deleted footnote, related to the lack of security for cockpit doors, criticized American Airlines for security lapses.

Much of the material now restored in the public version of the commission's report centered on the warnings the F.A.A. received about the threat of hijackings, including 52 intelligence documents in the months before the Sept. 11 attacks that mentioned Al Qaeda or Osama bin Laden.

A 1995 National Intelligence Estimate, a report prepared by intelligence officials, "highlighted the growing domestic threat of terrorist attack, including a risk to civil aviation," the commission found in a blacked-out portion of the report.

And in 1998 and 1999, the commission report said, the F.A.A.'s intelligence unit produced reports about the hijacking threat posed by Al Qaeda, "including the possibility that the terrorist group might try to hijack a commercial jet and slam it into a U.S. landmark."

The unit considered this prospect "unlikely" and a "last resort," with a greater threat of a hijacking overseas, the commission found.

Still, in 2000, the commission said, the F.A.A. warned carriers and airports that while political conditions in the 1990's had made a terrorist seizure of an airliner less likely, "we believe that the situation has changed."

"We assess that the prospect for terrorist hijacking has increased and that U.S. airliners could be targeted in an attempt to obtain the release of indicted or convicted terrorists imprisoned in the United States."

It concluded, however, that such a hijacking was more likely outside the United States.

By September 2001 the F.A.A. was receiving some 200 pieces a day of intelligence from other agencies about possible threats, and it had opened more than 1,200 files to track possible threats, the commission found.

The commission found that F.A.A. officials were repeatedly warned about security lapses before Sept. 11 and, despite their increased concerns about a hijacking, allowed screening performance to decline significantly.

While box cutters like those used by the hijackers were not necessarily a banned item before Sept. 11, some security experts have said that tougher screening and security could have detected the threat the hijackers posed. But screening measures at two of the three airports used by the hijackers - Logan in Boston and Dulles near Washington - were known to be inadequate, the commission found. Reviews at Newark airport also found some security violations, but it was the only one of the three airports used on Sept. 11 that met or exceeded national norms.

Richard Ben-Veniste, a former member of the Sept. 11 commission, said the release of the material more than a year after it was completed underscored the over-classification of federal material. "It's outrageous that it has taken the administration a year since this monograph was submitted for it to be released," he said. "There's no reason it could not have been released earlier."

Updated Version Of 9/11 Report Released (USAT)

USA Today, September 14, 2005

A new version of the 9/11 Commission's report on the four hijacked flights was released Tuesday with recently declassified information about terrorist threats and holes in airport security before the attacks.

At the request of the 9/11 commissioners, the Bush administration declassified much, but not all, of the material it had blacked out before turning the report over to the National Archives in January.

The new version provides fresh details on repeated warnings about al-Qaeda and its desire to attack airlines in the months before Sept. 11. To see the report: www.archives.gov/research/9-11-commission

Ferrer leading in NYC Democratic primary

Fernando Ferrer teetered on the edge of victory over three other Democrats in a primary Tuesday for the chance to run against Republican Mayor Michael Bloomberg. With all precincts reporting, Ferrer was just a few votes shy of 40%, the percentage he needs to avoid a runoff with Rep. Anthony Weiner, who had 29%. Manhattan Borough President C. Virginia Fields got 16%, City Council Speaker Gifford Miller 10%.

Ferrer, a former Bronx borough president, would be the city's first Latino mayor if elected. The primary's outcome may not be known for several days, until every vote is counted, including about 25,000 absentees.

The winner goes to the general election Nov. 8.

128 Gitmo detainees join hunger strike

Almost 25% of detainees at the military's Guantanamo base in Cuba are on a hunger strike to protest their indefinite detention, and 18 are being force-fed in a hospital, a military spokesman said Tuesday. The hunger strike began Aug. 8, and 128 prisoners have since joined, said Sgt. Justin Behrens, a spokesman for the task force running the prison. “They want to be tried or set free,” Behrens said. He said the number refusing food and water has fluctuated. “Most of the people that started it are off now,” he said.

The prison holds more than 500 terrorism suspects, many captured in Afghanistan. The Bush administration has said the detainees aren't entitled to due process rights.

Woman faces execution today in Texas

Lawyers continued efforts to halt today's execution of a Texas woman condemned to die for the slayings of her husband and two children 18 years ago.

Frances Newton, 40, would become the first black woman executed in Texas since the state resumed executions in 1982. Newton says a drug dealer may have been responsible for the killings. Prosecutors told the Associated Press that Newton killed her family for insurance money. In December, Newton came within hours of execution before receiving a reprieve to allow for more ballistics testing.

Authorities: 8 Ohio children kept in cages

Sheriff's deputies in Wakeman, Ohio, have removed 11 disabled children from a home where eight of them slept in cages less than 3 feet high, authorities said.

The children's adoptive and foster parents, Mike and Sharen Gravelle, denied that they'd abused or neglected the children. No charges had been filed.

“The impression that we got was that they felt it was OK,” said sheriff's Lt. Randy Sommers. The Gravelles said a psychiatrist recommended that they make the children sleep in the cages, County Prosecutor Russell Leffler said. Neighbor Jim Power said the kids were well-dressed and well-behaved.

The children, ages 1 to 14, were described as having conditions that included autism and fetal alcohol syndrome. A state investigator found them Friday. They have been put in foster homes.

Remains of Korean War veteran identified

The remains of a Korean War veteran from Pennsylvania who was listed as missing in action nearly 55 years ago have been identified and will be buried Friday. Heintzelman Funeral Home said Army Cpl. Edwin Steigerwalt of Lehighton will be buried with full military honors. Steigerwalt, 22, was last seen Nov. 30, 1950, as his unit fought Chinese forces near Chosin Reservoir in North Korea. His remains were turned over in 1993 and sent to a military lab in Hawaii for DNA analysis. Steigerwalt's remains were identified March 16, said Erika Ruthman of the U.S. Joint POW/MIA Accounting Command. Identification of the war's victims has been difficult because North Korea commingled many of the remains it returned in the 1990s.

Revised Sept. 11 Panel Report Released (AP)

By LESLIE MILLER

AP, September 14, 2005

WASHINGTON - A new version of the Sept. 11 commission's report on the four hijacked flights was released Tuesday with recently declassified information about terrorist threats and holes in airport security before the attacks.

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At the request of the Sept. 11 commissioners, the Bush administration declassified much, but not all, of the material it had blacked out before turning the report over to the National Archives in January.

The new version provides fresh details on the repeated warnings about al-Qaida and its desire to attack airlines in the months before Sept. 11, 2001.

For example, on page 61 a previously classified section shows that the Federal Aviation Administration's intelligence unit received "nearly 200 pieces of threat-related information daily from U.S. intelligence agencies, particularly the FBI, CIA, and State Department."

Also unclassified was the conclusion that the domestic aviation system had, since 1996, "operated at a security level that was, in effect, a permanent code orange."

The new report revealed that the civil aviation system was under under "Aviation Security Alert Level III" on Sept. 11, which meant that screeners were supposed to hand wand or pat down suspicious passengers - but only those who had checked their baggage.

Other details about security gaps before the attacks were also disclosed in the revised report. It described, for example, a report for the FAA in 2001 that showed "both carry-on and metal detection screening performance has declined significantly from 1999-2000."

Airport security has been tightened since then.

Many details were revealed in the original report about what happened on the four airplanes, but at least one detail was classified and then declassified: a knife concealed in a cigarette lighter was found at the crash site of United Flight 93, the one that crashed in Pennsylvania.

Former commission chairman Thomas Kean and former vice chairman Lee Hamilton said in a statement that they appreciated the Bush administration's making the information public.

"While we still believe that the entire document could be made available to the public without damaging national security, we welcome this step forward," they said.

The Bush administration has been criticized for its secrecy. Government watchdog groups this month said that federal agencies spent a record $148 last year creating and storing new secrets for each $1 spent declassifying old secrets.

King, Weldon Make Last-minute Push (HILL)

By Jonathan E. Kaplan

The Hill, September 14, 2005

Rep. Peter King (R-N.Y.), the leading candidate to take the helm of the Homeland Security Committee, expressed confidence late yesterday that his candidacy will prevail when the GOP Steering Committee meets today to decide the race.

“If I were a betting man, I’d bet on me,” he said. “But I’ve been in politics long enough to know that I could be calling you Thursday morning having to explain what went wrong,” King told The Hill.

Rep. Curt Weldon (R-Pa.), who is the current vice chairman of the panel, has campaigned hard for the gavel and continued to search for votes yesterday. He argued that he is the better choice because he has developed expertise and credibility on homeland-security issues.

“The leadership has to make a choice,” he said. “If the choice is based on what state you’re from, I can’t help that, or if it’s [based on] the credibility of issues, that is who I am and what I’m about.”

Weldon told The Hill that he promised Speaker Dennis Hastert (R-Ill.) that he “would not go out and run a race. I’m not running a geographical race.” He added that some of his colleagues, as well as Joe Allbaugh and James Lee Witt, former directors of the Federal Emergency Management Agency (FEMA) for Presidents Bush and Clinton, encouraged him to run.

As a New Yorker who personally knew many victims of the Sept. 11 attacks, basic geography may be King’s biggest asset. Republican Reps. John McHugh and Tom Reynolds, both powerful upstate New Yorkers, are King’s biggest supporters on the Steering Committee, he said, and that can only boost his candidacy.

Other candidates for the post include Reps. John Linder (Ga.), Dan Lungren (Calif.) and Don Young (Alaska). Rep. Mac Thornberry (Texas) has been mentioned as a candidate, but he has not returned calls to confirm his candidacy.

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The 33-member steering panel will meet this afternoon in the Capitol's basement to listen to the candidates' 30-minute presentations. A vote is expected afterward.

Weldon holds a seat on the Steering Committee, representing the mid-Atlantic region. Another lawmaker of his choosing will vote in his place.

A senior House Republican aide said that a memorandum — first reported by The Hill and circulated yesterday — that highlighted King's past criticism of the Republican Party would not hurt him. But any opposition within the GOP conference to his candidacy could hurt his ability to pass tough legislation on the committee and on the floor if he is chosen chairman.

"He has been much more supportive than most lately," a GOP aide said of King.

Despite Weldon's insistence that he's running a low-key race, he spent yesterday continuing to explain to Steering Committee members how he would run the homeland-security panel. He also said he would circulate a classified memorandum at today's meeting that Defense Secretary Donald Rumsfeld wrote for his top aides citing Weldon's work on the threat of an electromagnetic-pulse bomb, which threatens computer networks.

Hurricane Katrina is also set to play a role in the decision. King said the first thing he would do as chairman is put together a field trip to the hurricane-ravaged Gulf Coast region; Weldon traveled to Louisiana on Sept. 2 to deliver relief supplies donated from private defense and medical companies.

Linder, chairman of the Prevention of Nuclear and Biological Attacks Subcommittee, has met twice with the now-embattled Department of Homeland Security Secretary Michael Chertoff since he was appointed earlier this year, expressing support for the secretary, who since has lost face in the wake of the department's widely panned response to Katrina.

"He is smart, he is tough and he is a great choice," Linder said in the letter. "He is facing bureaucratic foot-dragging."

"Katrina placed an exclamation point on that!" Linder wrote. "He needs our help."

The Steering Committee's decision could hinge on the lawmakers' reputations from their work on foreign-policy issues in which both lawmakers bucked conventional wisdom and the establishment's position.

But Weldon also has taken on the CIA and Pentagon. He wrote Countdown to Terror: The Top-Secret Information that Could Prevent the Next Terrorist Attack on America and How the CIA has Ignored It, which was published this year and ridiculed in some foreign-policy circles.

Weldon also has alleged that analysts working for a Pentagon program called "Able Danger" had identified Mohammed Atta and three other hijackers in 1999 but that Pentagon lawyers did not share the information with the FBI. The Pentagon has disputed the allegations.

Whatever the outcome in the contest for the Homeland Security chairmanship, Weldon is scheduled to testify at a Senate Judiciary Committee hearing next week in which he said a witness will testify that he was ordered to destroy thousands of pages of computer data relating to Atta and that the person will state who gave him the order to destroy that information.

For his part, King, an Irish-American, has been intimately involved in the Northern Ireland peace process and was closely associated with the cause of Irish nationalism and the Irish Republican Army's (IRA) political arm, Sinn Fein. In 1986, he welcomed home a convicted IRA gunrunner who had been released from federal prison. King was an early and aggressive advocate of trying to persuade former President Bill Clinton to grant Gerry Adams, a Sinn Fein leader, entry into the United States. Clinton granted him a visa in 1994.

King said his involvement with the IRA is "something that could be easily taken out of context" and that his friends in Congress thought it is something he should think about as he ran for chairman. But King said nobody on the Steering Committee has raised it as an issue.

"I've been very instrumental to bringing about a peaceful resolution. …" he said "Whenever the IRA deviated, I was the first one to criticize them."

"There are some people who are not happy with me," he added, referring to his call in March for the former terrorist group to disband.

Federal Experts To Assess Security At Indian Point (NYT)

By Lisa W. Foderaro

DOJ_NMG_0004929

The New York Times, September 14, 2005

WHITE PLAINS, Sept. 13 - The United States Department of Homeland Security on Tuesday began a top-to-bottom review of emergency preparedness and security at the Indian Point nuclear plant in Westchester County. The review is part of a sweeping initiative by the federal government to assess the vulnerability of the nation's infrastructure.

A dozen experts from several federal agencies, including the Federal Emergency Management Agency, the F.B.I. and the Nuclear Regulatory Commission, converged on Indian Point's two reactors, in Buchanan, N.Y., to conduct a three-day inspection. The team started its review of security and emergency plans for Indian Point last week in Washington, according to Kirk Whitworth, a spokesman for Homeland Security.

The officials will identify gaps in those areas and suggest improvements in a report to be issued next week, Mr. Whitworth said. The report will not be made public, but it will be shared with local law enforcement officials and the plant's owner, Entergy Nuclear Northeast.

As the agencies were working in private on the plant's grounds, across the Hudson River in Rockland County an environmental group that has called for Indian Point's closing was staging a flashy protest.

The environmental group, Riverkeeper, like other critics of the plant, argues that it would be impossible to evacuate the more than 300,000 people who live within 10 miles of the plant, which is 35 miles north of Midtown Manhattan. Opponents also criticize what they call a lack of security at the plant. They are concerned, for example, that planes are allowed within 1,000 feet of the reactors and boats within 500 feet of the shore.

To illustrate those points, a Riverkeeper boat bearing a large banner of a yellow "sitting duck" motored back and forth while a plane flew overhead dragging a sign that read, "FEMA: Late to Katrina, Lying to New York." The crafts were well outside the boundaries, but a law enforcement boat and helicopter tailed them for a time nonetheless.

Alex Matthiessen, Riverkeeper's president, called the response "a farcical show of force to give the impression that they are actually protecting the plant." He said that the group's own boat passed by the plant about 100 times a year, and the group had concluded that the security is "very, very minimal."

But Mr. Whitworth countered Riverkeeper's challenge, saying that the point of the review was to improve communication between the federal, state and local agencies that would be responsible for dealing with an accident at the plant. "We believe that this coordination is going to enhance security and emergency response at Indian Point," he said.

In the next 18 months, federal agencies will conduct similar reviews of all the nuclear power plants in the country. The reviews started in May, with Indian Point the eighth of more than 70 to be assessed. The Department of Homeland Security, which was created after the Sept. 11 terror attacks, will also investigate the security at chemical plants, liquid-natural-gas facilities and transportation networks, Mr. Whitworth said.

Mr. Matthiessen said that the federal government's handling of the Hurricane Katrina disaster did not augur well for a nuclear accident or a terrorist attack at Indian Point. "FEMA's gross incompetence has been on full display during the tragic events down in New Orleans," he said. "And that was a natural disaster for which we had several days' warning."

He urged the federal government to withdraw its approval of the emergency plan for Indian Point, and for the Nuclear Regulatory Commission to revoke Indian Point's license. The emergency plan was approved two years ago despite the protests of local officials and after a highly critical study commissioned by Gov. George E. Pataki by James Lee Witt, a consultant and former FEMA director.

Guess What Doesn't Get Screened By Airlines? Diplomatic Pouches. (CSM)

By Alexandra Marks

The Christian Science Monitor, September 14, 2005

WASHINGTON - Despite the intense scrutiny of airline passengers and their bags since 9/11, potentially explosive gaps still exist.

Top among them, for some analysts, are diplomatic bags - the privileged cargo that is given special immunity.

Security experts worry that terrorists could exploit the status of diplomatic pouches, which are protected from being opened or detained in any way by the Vienna Convention of 1961. In the past, rogue countries and individuals have used such bags to

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transport drugs, arms, and cash - and even to smuggle people. That's because a diplomatic pouch can be a crate big enough to carry a large desk.

Some security experts say it's "only a matter of time" before terrorists aligned with a rogue nation - or a dissatisfied diplomatic employee in a friendly one - find a way to abuse the privilege. To prevent that, a growing number of security experts, along with some diplomatic scholars, are calling for the United States and the international community to revisit the sanctity of diplomatic pouches.

The issue is gaining ground as the International Civil Aviation Organization, which sets global aviation standards and best practices, prepares to review its security guidelines later this month.

"The US needs to take the lead in saying this is a vulnerability that needs to at least be explored," says aviation security analyst Andrew Thomas of the University of Akron in Ohio. "Putting our heads in the sand and acting like it's still 1961 in a post-9/11 environment is just not the way to go."

But advocates of more tabs on diplomatic pouches have found an unlikely opponent - the US government itself. The State Department has consistently opposed screening diplomatic bags. "We support [the Vienna Convention] as it stands," says spokesman Noel Clay. That's because it doesn't want American diplomatic pouches screened when they are used overseas. The department worries such a move could compromise the nation's international intelligence operations, Mr. Clay says.

That view is shared by many in the intelligence and foreign affairs communities. The logic is based on preserving the integrity of the Vienna Convention, says Alfred Rubin, professor emeritus of international law at Tufts University's Fletcher School in Medford, Mass. So, if the US insists on screening another country's diplomatic bags, then the US would be vulnerable to the same treatment.

"Then American diplomatic pouches can presumably be examined and X-rayed or opened by our Latin American and African neighbors, and America doesn't want that," says Professor Rubin. "But I do think we have to explore the options."

Advocates of diplomatic bag screening contend there are ways to protect diplomatic protocol and at the same time increase aviation security. For instance, countries could ferry sensitive documents and technology on their own military aircraft.

"Because of the historical record of state sponsorship of and complicity with terrorism, it's certainly something that should be discussed, especially when it comes to nonintrusive means of checking," says Prof. Robert Lieber of Georgetown University in Washington.

Since 9/11, the Canadian government has implemented a policy that allows it to request examination of a diplomatic pouch if it has reason to believe the contents are suspect. "If the process is unsuccessful, [they can] deny transportation of the bag," e-mailed Vanessa Vermette of Transport Canada in response to a question.

Asked if the US has a similar policy in place, Clay of the State Department did not answer directly with a yes or no. "Diplomatic pouches are inviolable under international accords," he says. "We expect that host countries will obey the uses of the diplomatic pouch and institute reasonable precautions to ensure they're used only as intended."

But there is a long history of diplomatic pouches not being used as intended. For instance, in 1984, British authorities found a former Nigerian government minister who'd been abducted and drugged in a large diplomatic crate bound for Nigeria from the Stansted Airport. Also in the crate was a man who was conscious and equipped with drugs and syringes, according to the the July 1985 issue of The American Journal of International Law. Three people were arrested and charged, one of whom claimed diplomatic immunity.

When asked recently if the issue of diplomatic bag screening should be revisited, Homeland Security Secretary Michael Chertoff demurred. "There's a lot of law and custom and treaty obligations with respect to this matter," he said at a Monitor breakfast. "We do want to be mindful of all kinds of threats, but we want to operate within the treaty obligations we have."

Technology, Barriers Have Made The Capitol Safer, Officials Say (HILL)

By Jackie Kucinich

The Hill, September 14, 2005

DOJ_NMG_0004931

For the second time this week, outside mail was halted yesterday because of a power outage at the House off-site mail facility, but recent improvements to mail security allowed interoffice mail and newspapers to continue to circulate. This is just one small example of the numerous security upgrades that have occurred on Capitol Hill since the Sept. 11 attacks.

During the past four years, Congress has taken several steps to make the institution and its business less vulnerable to a terrorist attack. The steps include passing legislation providing for continued congressional operations should a significant number of members be killed or incapacitated in an attack. Congress also has established several off-site data centers that store important information should offices be destroyed and has implemented technology that immediately informs members of an emergency situation. Barriers such as bollards and concrete blocks also have been erected to enhance the security of the Capitol campus.

"Before 9-11, we were prepared for some type of bomb or a shooting," said House Administration Committee Chairman Robert Ney (R-Ohio). "After airplanes were used as bombs and anthrax was introduced into the building, literally the next day we started to think outside the box."

Ney credited Speaker Dennis Hastert (R-Ill.) for supporting and facilitating many of the dramatic changes in security but stressed that ensuring the safety of the campus has been a bipartisan effort.

The Alternate Computing Facility, designed to handle some of the House and Senate data and communications in the event of a catastrophe, is just one of the security centers built after Sept. 11.

In a House Administration Committee hearing June 9, James Eagan, Congress's chief administration officer, described the facility as a "warm failover site for the House's Ford Data Center" that handles a number of Congress's administrative functions and provides redundant systems for e-mail and websites. The facility also backs up capabilities to support "member, committee and institutional-support offices."

Senate Sergeant at Arms Bill Pickle told The Hill in June that the facility is a backup for some of the House and Senate entities.

"It protects against the loss of data and is similar to the alternative computing facilities of major corporations," he said.

Eagen also provided an inventory of emergency-related steps. The House, he said, had e-mail, pagers and 6,000 BlackBerry communication devices in circulation with the capacity to receive notifications through the House Alert Capability system. Emergency notification devices have been placed in each congressional office to warn the staff and visitors about potential dangers when they occur.

A digital mail system, which allows first-class mail to be delivered in electronic form, was piloted in 2002 to reduce the House's vulnerability through the mail in response to the anthrax attacks in 2001. The program began with 30 House offices and is expected to expand to 75 offices by the end of November, according to Ney.

Ney touted the Capitol Visitor Center, or CVC, which is estimated to be completed in the fall of 2006, as a "tremendous addition and enhancement to security." The CVC received $38.5 million in additional funding to improve security inside the facility after Sept. 11.

The passage of the Continuity in Representation Act has been one of the most publicized security changes in the past few months. The provision, which was attached to the 2006 legislative-branch appropriations bill at the request of leadership, provides the House with a plan should 100 members die or be incapacitated during a catastrophic event. The bill stipulates that special elections for new members must occur within 49 days after the Speaker announces the vacancies.

Hurricane Katrina tested the operations of the House Recovery Operations Center (H-ROC), a 24-hour emergency communication center that aides in continuity of government. The system, which was created to ensure that congressional offices can remain running in the event of a disaster, helped Rep. Gene Taylor (D-Miss.) set up operations despite the destruction of his district office in the storm.

The Senate has implemented a similar program through the its sergeant at arms and the U.S. General Services Administration to replace temporarily offices lost by senators in Mississippi and Louisiana, according to Susan Irby, a spokeswoman for the Senate Rules and Administration Committee.

The Senate has also implemented a host of new procedures since Sept. 11.

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In conjunction with the Senate sergeant at arms and the Rules and Administration Committee, the Office of Security and Emergency Preparedness was established, evacuation drills of all buildings have been conducted quarterly, quick masks (lightweight protective masks designed for people to don while they are evacuating buildings) have been distributed to all offices and continuity-of-operations plans have been established within each office.

"Disaster-assistance plans are constantly being discussed and improved," Irby said. "This is always an ongoing operation."

The Senate sergeant at arms declined to comment for this report.

The Capitol Police also have played a major role in testing the security procedures since Sept. 11. In addition to providing a more physical presence of safety on campus, the Capitol police have undergone additional training in order to effectively and safely evacuate staff and visitors in the event of an emergency.

"The Capitol Police Department is continually working with the Senate and House sergeant at arms on improving security for the Capitol complex," said a Capitol Police spokesman. "Truck interdiction, mail screening, prohibited items, and other security measures are all integrated to maximize overall effectiveness. These security improvements are necessary so that Congress can continue to operate in an open and safe environment."

Ney said technology is playing a vital part in improving security on the Hill.

"It is a constantly evolving process," he said.

A Clear Risk To The City (WP)

The Washington Post, September 14, 2005

The Bush administration, pertinent congressional committees and the D.C. government are all aware of a study showing that an attack on a single railroad tank car of chlorine traveling through a crowded nation's capital could:

· Kill or seriously harm 100,000 people within an hour.

· Set off a toxic plume that could extend over 40 miles.

· Leave deadly a core area of about 4 miles by 14 1/2 miles.

It is also true that while the D.C. government has enacted a law to deal with the issue, the federal government has taken no serious steps to prevent chemicals that are toxic if inhaled from being shipped through the District. What's more, the Justice Department and CSX Transportation Inc., rather than supporting D.C. legislation that sought to regulate the transport of ultra-hazardous materials through the city, instead obtained a court order to stop the District from enforcing its law.

As a result of federal opposition to local efforts, an undisputed risk to life and safety in the Washington region is unabated. Credit D.C. Council member Kathy Patterson (D-Ward 3) with bringing this danger to the public's attention and for marshaling legislative support on the council for a solution -- "to reduce the risk of an attack by removing the target from our midst," as she told the Department of Homeland Security in a letter yesterday. Again, Mrs. Patterson was putting her finger on the problem.

Mrs. Patterson was responding to a proposed Department of Homeland Security rail security plan that aims to protect city residents by installing surveillance cameras along seven miles of CSX Transportation tracks. She noted that the cameras "would, surely, provide historical documentation of what vehicle or what individuals gained sufficient proximity to the CSX tracks to blow up a 90-ton tanker full of chlorine -- after the fact of thousands of deaths." She rightly notes that the Homeland Security plan would not prevent a suicide bomber from accessing the tracks. It would only record the bomber doing the dastardly deed. Hooray.

Residents, visitors, members of Congress and the Supreme Court deserve better. They need a federal plan that prevents, rather than simply detects, an attack on the city. On that score, nothing less than rerouting ultra-hazardous materials -- dangerous, toxic-by-inhalation cargo -- around densely populated communities at high risk of attack, such as the nation's capital, will do. Alternative routes for such chemicals are needed here in the District and for other high-risk communities around the nation. The difficulty of the challenge is no reason for the federal government to avert its gaze from this potential nightmare. It must either step up to the problem now or try to explain away the poor federal planning for a catastrophe in yet another national disaster's after-action report.

WAR NEWS:

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Bomber Hits Baghdad Crowd; At Least 73 Die (USAT/AP)

By The Associated Press

USA Today, September 14, 2005

BAGHDAD — At least 73 people were killed early today when a terrorist drove an explosives-filled vehicle into a crowd of laborers waiting for construction work.

The attack came after Iraqi President Jalal Talabani said Tuesday in Washington that Iraq will not set a timetable for the withdrawal of U.S. troops. He said that to do so would send a signal to insurgents that they can weaken the alliance between Iraq and America.

Baghdad police Maj. Musa Abdel Kerim said the suicide bomber drove his vehicle into a crowd of day laborers waiting at Oruba square in the Kazimiyah district. The men had gathered about 6:30 a.m. to wait for work.

Lt. Col. Moayad Zubair said 73 people died and 162 were injured. He said the death toll would probably go up because some of the wounded were unlikely to survive.

Speaking at a White House news conference with President Bush, Talabani held out the option of significant U.S. troop withdrawals by the end of 2006 if Iraqi forces are ready to assume more responsibility for the nation's security. However, he said that would take place only if the United States agreed.

“A timetable will help the terrorists, will encourage them that they could defeat a superpower of the world and Iraqi people,” Talabani said. “We don't want to do anything without the agreement with the Americans because we don't want to give any signal to the terrorists that our will to defeat them is weakened.”

Bush, with Talabani at his side, promised that the United States would continue to stand behind Iraq's government despite “acts of staggering brutality” by insurgents.

“I pledge we will not waver, and I appreciate your same pledge,” he said. “Iraq will take its place among the world's democracies.”

Talabani thanked “the glorious American people” for liberating his country from “the worst kind of dictatorship” and called Bush a “great statesman.”

“We are proud to say openly and to repeat it that we are partners of the United States of America in fighting against tyranny, terrorism, and for democracy,” Talabani said.

Bush also warned Syria to stop foreign fighters who train there and then cross the border into Iraq. “The Syrian leader must understand that we take his lack of action seriously,” Bush said.

Talabani has sent mixed signals on troop withdrawals. At a news conference with Defense Secretary Donald Rumsfeld on Friday, he said Iraq will need some U.S. troops for the long term but that Iraqi security forces can take on the prime responsibility in two years. About 140,000 U.S. troops are in Iraq.

In Iraq on Tuesday, U.S. forces called in airstrikes during a raid on Hadithah in the north. Troops captured a militant with ties to al-Qaeda in Iraq and killed four others, the U.S. Central Command said.

The assault on Hadithah followed a recent offensive to retake Tal Afar, another northern town, which netted more than 400 suspects. The Iraqi military said its troops had detained 36 others, including a Yemeni citizen, just south of Tal Afar.

Bush Threatens Syrian Isolation For Lack Of Action (WT)

By Bill Sammon

The Washington Times, September 14, 2005

NEW YORK -- President Bush yesterday threatened to further isolate Syria if it does not stanch the flow of killers streaming into Iraq and vowed to press his case at the United Nations today.

"The Syrian leader must understand we take his lack of action seriously," Mr. Bush said of Syrian President Bashar Assad. "The government is going to become more and more isolated."

The warning came one day after America's ambassador to Iraq, Zalmay Khalilzad, said "our patience is running out" and refused to rule out military action against Syria.

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"The Syrian government can do a lot more to prevent the flow of foreign fighters into Iraq," Mr. Bush said. "These people are coming from Syria into Iraq and killing a lot of innocent people. They're trying to kill our folks, as well."

Mr. Bush made his comments at the White House before leaving for two days of meetings at the United Nations. He was joined in the East Room by Iraqi President Jalal Talabani, who was also on his way to the United Nations.

"President Talabani and I will take our seats at the United Nations in New York," Mr. Bush said. "The session will mark the first time in a half-century that Iraq is represented by a freely elected government."

U.S. and European diplomats said the United States is planning a diplomatic attack on Syria at the United Nations 60th anniversary summit, which begins today. Syrian officials have not been invited to a foreign ministers meeting on Lebanon hosted by Secretary of State Condoleezza Rice.

Participants in the Monday ministerial meeting will include Britain, France, the European Union, the World Bank and Lebanon, with the potential addition of Egypt, Saudi Arabia and Russia, diplomats said.

"It's an important meeting to reaffirm support for Lebanon's political and economic reforms," a senior European diplomat said.

Washington's renewed effort to isolate Syria follows repeated U.S. calls for Damascus to stop what the Bush administration says is continued meddling in Lebanon's internal affairs, including a potential role in political assassinations.

Although Syrian troops pulled out of Lebanon in the spring after three decades of de facto occupation, the United States says the Syrian intelligence service is still active in Lebanon.

U.S. and foreign diplomats said Mr. Assad decided against attending the summit, because he wanted to avoid the pressure he expected to encounter in New York.

"I suspect it has more to do with the fact that Syria feels under some pressure from U.N. investigations about its behavior in Lebanon," Deputy Secretary of State Robert B. Zoellick told the Al Arabiya TV network on Monday.

He referred to a probe into the February assassination of former Lebanese Prime Minister Rafik Hariri led by U.N. investigator Detlev Mehlis.

In Washington, Mr. Talabani thanked Mr. Bush effusively for toppling Iraqi dictator Saddam Hussein.

"In the name of the Iraqi people, I say to you, Mr. President, and to the glorious American people, thank you, thank you," he said. "Thank you because you have liberated us from the worst kind of dictatorship. Our people suffered too much from this worst kind of dictatorship."

Mr. Bush also said he would discuss his "grave concern" over Iran's nuclear ambitions during meetings with world leaders, including a bilateral session yesterday afternoon with Chinese President Hu Jintao.

The Bush administration is making a concerted effort to increase pressure on Iranian officials, who are in New York this week for U.N. meetings.

Mr. Hu acknowledged "frictions" over the U.S. trade imbalance with China, but promised to buy more imports from America. However, he hinted that cooperation would be forthcoming only if the Bush administration refrained from meddling in Taiwan.

"The proper handling of the Taiwan question holds the key to the sound and steady growth of the China-U.S. relationship," Mr. Hu said.

Mr. Bush, for his part, made good on his promise to "bring up human rights" in his meeting with Mr. Hu, said Michael Green, senior director for Asia on the National Security Council. Mr. Green added that the president accepted an invitation from Mr. Hu to visit China for two days in November.

The president's call for Syria to stop the flow of killers across its border came as U.S. forces continued to hunt such foreign fighters in the northern Iraqi city of Tal Afar. The offensive, known as Operation Restore Rights, began two weeks ago and has resulted in the killing or capture of hundreds of terrorists.

Mr. Khalilzad, the U.S. ambassador to Iraq, on Monday accused Syria of having training camps for insurgents on its territory.

"A lot of these people are coming in through the airport in Damascus," Mr. Zoellick said about the foreign fighters. "It's not hard to stop people coming through the airport, and that's where they ought to start."

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U.S. Will Stick With Iraq Mission, Bush Pledges (LAT)

By Paul Richter

The Los Angeles Times, September 14, 2005

WASHINGTON — President Bush promised his Iraqi counterpart Tuesday that the United States would persevere in the joint fight against insurgents.

Appearing with President Jalal Talabani during a day of meetings with foreign leaders, Bush pledged that U.S. forces would "stay on the offensive alongside Iraqi security forces." He said they would return home when their mission was over.

Bush also intensified American pressure on Syria, saying that he was working to isolate Damascus because it allowed insurgents to cross its eastern border into Iraq and continued to meddle in the affairs of neighboring Lebanon.

Bush said that during this week's meetings of the United Nations General Assembly, he would be talking to foreign leaders about Syria's actions.

The Syrian government "can do a lot more to prevent the flow of foreign fighters into Iraq," Bush said, adding that Syrian President Bashar Assad "must understand we take his lack of action seriously." Syrian officials say they have made a major effort to police their border.

U.S. officials have been complaining for months but recently stepped up the pressure. On Monday, Zalmay Khalilzad, the U.S. ambassador to Iraq, told reporters that U.S. officials were considering all options in dealing with the problem.

Haim Malka, a fellow in the Middle East Program of the Center for Strategic and International Studies in Washington, noted that Assad had canceled his trip to the U.N. gathering after the Americans made clear that he would not be welcome in joint meetings that U.S. officials were planning.

Ethnic and religious factions in Iraq clashed last month over development of a draft constitution that will face an October referendum. Bush on Tuesday praised the draft constitution as a milestone document that protects fundamental freedoms and helps ensure the unity of a diverse nation. Talabani offered a more balanced assessment, acknowledging that the document is not perfect.

Talabani said in a speech in Washington last week that he believed most coalition forces could be out of Iraq by 2007. On Monday, in an interview with the Washington Post, he said the United States might be able to withdraw as many as 50,000 troops by the end of this year.

Bush has refused to talk about timetables, saying it only encourages the insurgents to wait out the U.S. forces. Timetables could also be embarrassing for the president if the troops are not withdrawn by the designated date.

Talabani omitted any reference to dates for troop pullouts in his latest remarks.

"We will set no timetable for withdrawal, Mr. President," he said. "We hope that by the end of 2006, our security forces are up to the level of taking responsibility from many American troops, with complete agreement from America."

Bush's view of the U.S. military mission in Iraq continues to differ slightly from that of Pentagon officials, who consider it unlikely that U.S. forces will be able to defeat the insurgency. Bush says the U.S. objective is to defeat the insurgents, but American commanders have stressed that Iraqi forces would need to continue the battle after U.S. forces have departed.

The U.S. commander in charge of a campaign underway against insurgents near the Syrian border said that area might continue to serve as a refuge for fighters until Iraqi forces are able to defend it on their own. About 5,000 Iraqi troops are fighting alongside about 3,500 U.S. troops around the insurgent stronghold of Tall Afar.

"Is there enough force here right now to secure this area permanently? No," said Army Col. H.R. McMaster, speaking to Pentagon reporters in a videoconference. "We'll continue to conduct operations in those outlying areas to disrupt [the insurgents'] ability, until we can establish a permanent security capability with police and army."

McMaster said he couldn't predict how long that might take, in part because he expected insurgents to continue their attacks against Iraqi troops and police officers.

"We've got to really make sure that they can withstand the enemy's intimidation," he said.

Calling U.S. Troops `occupation Forces,' Iraqis Seek Timetable For Exit (KRT)

By Nancy A. Youssef

DOJ_NMG_0004936

Knight Ridder, September 14, 2005

BAGHDAD, Iraq - In an attempt to lay the legal groundwork for asking the United States to withdraw its troops, an Iraqi National Assembly committee released a report Tuesday that said the presence of the American military prevents Iraq from becoming fully sovereign.

The 18-member National Sovereignty Committee, made up of legislators chosen in national elections in January, said the only way Iraq could achieve sovereignty was for multinational forces to leave. The report called for setting a timetable for the troops to go home and referred to them as "occupation forces," a first.

The report is the second time in four months that National Assembly members have expressed frustration with the continued American military presence. In June, one-third of the 275 assembly members signed a petition asking the United States to set a timetable for withdrawal.

It wasn't clear what impact the new report would have. Iraqi government officials have said they oppose a U.S. withdrawal or setting a timetable, a position that President Jalal Talabani repeated Tuesday in Washington.

"We will set no timetable for withdrawal. A timetable will help the terrorists," said Talabani, who's a Kurd.

Most of the committee members are members of the Shiite Muslim political coalition that dominated January's parliamentary elections, though it was impossible to know how widespread their view is among government supporters.

Assembly members were silent after Jawad al-Malikit, the committee's chairman and a member of the powerful Shiite United Iraqi Alliance, completed reading the four-page report.

Later, members of the committee said they'd compiled the report to create a legal channel that would make their country independent. "It's normal to ask for our full sovereignty. It should have happened right after the elections because the government is legal," al-Malikit said.

Hassan al-Rubai, another committee member, said he was grateful to the United States for removing Saddam Hussein from power. But he added: "We want the United States to make us feel they came here to liberate us, not occupy us."

The report also asks the United Nations to issue a resolution declaring Iraq a sovereign country and the government to repeal an order enacted by the U.S. Coalition Provisional Authority that gives foreign nationals here immunity from prosecution in Iraqi courts.

It also called for the government to have control over its intelligence operations, palaces and prisons. American forces so far have refused to grant Iraqis access to many intelligence operations, to allow them to occupy several palaces that Saddam built and to let them operate several prisons.

The real measure of the report is how leaders of the Iraqi government, other National Assembly members and the people react to it in the next few days, said Anthony Cordesman, an Iraq analyst at the Center for Strategic and International Studies, a national-security research center.

"It's posturing," Cordesman said. "The question is: What kind of clout does the political posture have?"

Indeed, some wondered whether the committee released its findings as a way to reach out to Sunni Muslim Arab leaders. The assembly is seeking to win a national vote next month on a proposed permanent constitution. Many Sunni Arabs, some of whom have said they'll vote down the proposed constitution, have called for a timetable for withdrawing foreign troops.

Still, many were surprised that a committee made up of Shiites and Kurds would call for a timetable.

The United States returned sovereignty to Iraqis in June 2004, when L. Paul Bremer, then the head of the Coalition Provisional Authority, signed a resolution and dissolved the CPA.

But many National Assembly members and average Iraqis have said it's impossible to feel sovereign when troops are running through their streets and foreigners direct the actions of the Defense and Interior ministries.

"This country hasn't had sovereignty since the beginning of the occupation," said Saleh Mutlaq, who was one of the four principal Sunni negotiators in the drafting of Iraq's constitution. "People already know they are not sovereign because the Americans are everywhere. They are in the streets. They are on top of our houses. How can we feel sovereign?"

Committee members said they planned to asked officials of the Defense and Interior ministries when they thought Iraq would be able to defend itself.

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75 Killed In Baghdad Blast; Amended Charter Approved (NYT)

By Robert F. Worth

The New York Times, September 14, 2005

BAGHDAD, Iraq, Wednesday, Sept. 14 -A suicide car bomber killed at least 75 people when it ripped through a gathering of day laborers waiting for work on Wednesday morning in one of Baghdad's largest Shiite districts.

The bomb detonated at 6:50 a.m. at Aruba Square in the Khadamiya district of northern Baghdad, where large numbers of laborers typically gather in the morning in hopes of being hired for the day. Another 162 were wounded by the blast, according to an official with the Interior Ministry.

The attack appeared to be the latest sectarian strike directed against Shiites in Baghdad, who have been repeatedly targeted by Sunni Arab insurgents and terrorists bent on exploiting Sunni-Shiite divisions across Iraq.

On Tuesday, the leaders in the Shiite-dominated National Assembly said they approved a final, modified version of the proposed new constitution. But the charter still does not come close to mollifying Sunni leaders who had hoped to win far broader changes in the document before the Oct. 15 national referendum.

The approval came more than two weeks after the draft was formally presented to Parliament over the objections of some lawmakers.

The revisions are relatively minor, and are not likely to win the support of Sunni Arab leaders who oppose the charter and had hoped to see broader changes on regional autonomy and other issues. The four approved changes touch on water rights, adherence to international treaties, cabinet staffing, and Iraq's Arab identity, a more controversial subject on which the new draft offers a compromise position.

The leaders of the constitutional drafting committee said they had signed off on a final version, as did Hussein al-Shahristani, the acting speaker of the National Assembly and a leader of its Shiite majority. Mr. Shahristani said that he would announce the document's completion at a news conference on Wednesday, and that it would then be given to United Nations officials, who are responsible for printing and distributing it.

But in a measure of the chaos that has surrounded the constitutional process, some committee members said Tuesday afternoon that they were not aware a draft had been agreed on and suggested that more delays could be in store.

Nicholas Haysom, the head of the United Nations constitutional advisory team, said the United Nations would insist that any draft it received have the approval of the full assembly, not just the speaker or the committee that drafted the document.

For weeks, the constitution has been in a perplexing state of uncertainty. Several different versions were circulated after negotiations were said to have ended. Some Iraqi leaders held meetings on amending the charter in hopes of winning over the Sunni Arab opposition, while others insisted that the document was already final and that it would not be changed.

The delays have reduced the time Iraqis will have to study a final draft before they vote on the constitution on Oct. 15. It will take about 10 days to print the five million copies of the 39-page document, a little more than one for every household in Iraq, Mr. Haysom said. That will leave just over three weeks to distribute them, far less than originally envisioned. Nongovernmental groups and schools will assist in the effort, and newspapers and radio and television will help publicize it, he said.

One of the approved changes addresses an objection by the panel's Sunni minority. They were angered by an article describing Iraq as part of the Islamic world without saying it is part of the Arab world. The amended version compromises by stating that Iraq "is a founding member of the Arab League and is committed to its charter."

Mahmoud al-Mashadani, a Sunni member of the constitutional panel, said that was not enough to convince the constitution's opponents, who have sworn to lead a campaign against the document.

"The defense and the prosecution have rested," he said. "The case is now in the hands of the jury."

Under transitional law, the constitution will be defeated if two-thirds of the voters in any 3 of Iraq's 18 provinces vote against it. That would lead to fresh elections for a new temporary national assembly, which would be charged with writing a new constitution.

The revisions do not touch on the most controversial part of the draft constitution, a provision that allows for the creation of largely autonomous regions within Iraq. That section, written at the insistence of Shiite leaders, has ignited fierce opposition from

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Sunnis and some others, notably the rebellious Shiite cleric Moktada al-Sadr, who has hinted that he may lead a campaign against the document, too.

Many Sunnis were also angered by language that banned the symbols and remnants of Saddam Hussein's Baath Party, another provision that is not being changed.

The changes that were made include the addition of language making it clear that the central government is responsible for the distribution of water. Some Kurdish lawmakers, seeking control of water rights on rivers that flow through Iraqi Kurdistan, had resisted the change, but ultimately gave in, several committee members said.

Another change, specifying that the prime minister will have two deputies in the next elected government, was made in response to requests from the Kurds, who believe it will ensure some Kurdish influence over the prime minister's office.

The last change was the deletion of an article stating that Iraq would adhere to any treaties it had signed on international human rights "unless they conflict with the rules and principles of the constitution." The clause was widely seen as an effort to escape the treaties, so the lawmakers chose to drop the article altogether.

The constitutional agreement came as violence continued across the country, with American and Iraqi forces battling insurgents in central and northern Iraq.

In the northern city of Tal Afar on Tuesday, Iraqi forces said they had killed 14 insurgents and captured 35 on the third day of a major offensive aimed at clearing the area of guerrilla fighters, Reuters reported. In western Iraq, American forces struck at insurgents in Haditha, killing four and capturing a militant with ties to Al Qaeda, military officials said.

In Baghdad, gunmen killed a high-ranking Interior Ministry official, Muhammad Kadhum al-Musawi. Elsewhere, an Iraqi police officer was shot to death as he worked on his car, Interior Ministry officials said. Six handcuffed bodies were found in a northern neighborhood.

For Success In Iraq, Change Course (WP)

By Joseph R. Biden Jr.

The Washington Post, September 14, 2005

The Bush administration's mishandling of Iraq has brought us to the brink of a national security debacle. To salvage the situation, the administration must fundamentally change course inside Iraq, in the region and at the international level.

Stabilizing Iraq is a political as well as a military challenge. The administration is taking a huge gamble by going forward with a referendum for a constitution that is more likely to divide Iraq than to unite it.

A majority of Sunni Arabs are likely to vote against the constitution, but not the two-thirds needed to defeat it. That will further embitter them.

The consequences for U.S. interests could be devastating. Sectarian violence might escalate into a full-blown civil war, drawing in Syria, Iran and Turkey and turning Iraq into a new Lebanon. Even worse, Iraqi Sunnis could forge stronger alliances with foreign jihadists, turning a swath of Iraq into a pre-Sept. 11 Afghanistan for a new generation of terrorists.

Stranded in the middle of this mayhem would be brave American soldiers, their lives on the line for a failing policy set by others.

The Bush administration's hope seems to be that Sunnis and Iraqi women will "get over it." But hope and stubbornness do not constitute a strategy. As our ambassador to Iraq, Zalmay Khalilzad, has said, the constitution should "be a national compact that brings Iraqis together and undermines the insurgency."

Sunni Arabs have themselves to blame for sitting out January's elections and supporting the insurgency. But unless they are offered a reasonable stake in the new order, they will continue to resist it. It would be a mistake to force-feed them a constitution they cannot stomach. There is a better way.

First, if negotiators don't reach reasonable compromises that bring moderate Sunnis on board, the Bush administration should support postponing the constitutional referendum until after elections for a new National Assembly are held in December, which would allow a new committee with elected Sunni members to reconsider the draft.

This would encourage the growing desire among Sunnis to participate in the political process. It would empower legitimate Sunni leaders who can sell the constitution to their community. And it could split the Sunni population from the

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insurgents and foreign jihadists. Moderate Kurds and Shiites, many of whom privately admit that some of their leaders overreached, will welcome the balance legitimate Sunni representation would bring to the process.

For this policy to work, the administration must do what it has failed to do thus far: involve the major international powers and Iraq's neighbors in a stabilization strategy. The administration should create a contact group with countries such as France, Japan, Britain and Russia, along with organizations such as the European Union, NATO and the United Nations. As constitutional negotiations resumed, the Iraqis would see a united international front and be more likely to make difficult compromises.

The administration must also develop a regional strategy that either forces or induces Iraq's neighbors to act responsibly. In some instances, that would require the administration to engage regimes that the United States would rather not work with. But that's exactly what we did in the Balkans to get to the Dayton peace agreement and with Afghanistan's neighbors in the "six plus two" group and the Bonn conference. Iran, Saudi Arabia and Egypt could help temper the demands of the communities with which they have influence. Tehran and Damascus would be more likely to end their dangerous meddling if they saw the rest of the international community lining up with us. The president should immediately name a senior envoy to the region and organize a regional conference.

The president can build international support for this new policy at the United Nations this month. He should challenge those countries that have as much to lose as we do from chaos in Iraq to join this effort.

At home, President Bush must close the credibility chasm that is threatening the most important weapon our overstretched troops have: the support of the American people. He must convince Americans that he is leveling with them about the situation in Iraq and that he has a coherent strategy for securing our fundamental national interests and bringing our troops home.

To that end, the administration should develop concrete goals for training Iraqi security forces so that they can operate independently, building a political system that enjoys legitimacy and rebuilding basic services -- and establish a reasonable timetable for meeting these goals.

It is no longer acceptable to say that our troops will stay in Iraq "as long as necessary -- and not one day longer." The American people need -- and our troops deserve -- a much clearer picture of the way forward.

Congress must step up to its responsibilities by holding monthly oversight hearings with senior administration witnesses to assess Iraq's progress.

Some will argue that this policy would prolong our presence in Iraq. The opposite is true. Proceeding with an ill-advised referendum, and without a strategy to involve the region and the major powers, could lead to chaos that would take even more time, treasure and casualties to tame -- if it does not prove irreversible and leave Iraq what it was not before the war: a permanent base for radical fundamentalist terrorism.

Successfully involving moderate Sunnis, sharing the burden with the key international players, getting support from the region, setting concrete goals with timelines and insisting on regular accountability from the administration would bring our troops home sooner and safer. It's also the best way to leave Iraq with our most fundamental security interests intact.

The writer is a senator from Delaware and the ranking Democrat on the Senate Foreign Relations Committee.

Suicide Car Bomb Kills At Least 82 In Baghdad (NYT/REU)

By Reuters

The New York Times, September 14, 2005

BAGHDAD (Reuters) - A suicide bomber blew up his minibus after luring a crowd of men to the vehicle with promises of work in Baghdad on Wednesday, killing at least 82 people and wounding 163, police and officials said.

Witnesses said the blast in the mostly Shi'ite district of Kadhimiya tore through a group of laborers waiting at the roadside in the hope of finding jobs for the day.

``We gathered and suddenly a car blew up and turned the area into fire and dust and darkness," said Hadi, one of the workers who survived the attack.

An Interior Ministry source said the bomber had pulled up in the minibus and called to a group of men to gather round, saying he was looking for workers. He then detonated his explosives.

One source said up to 500 lbs of explosives might have been used in the bomb.

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Bodies lay in the street beside burned-out cars, witnesses said. Some used wooden carts to haul away the dead. Iraqi government officials have accused Sunni Arab militants of attacking majority Shi'ites, who were swept to power in January elections, in a bid to spark a civil war.

The carnage followed late-night killings in the town of Taji, just north of the capital, where gunmen dragged 17 people out of their homes and shot them, police said.

Baghdad Blast Kills Scores Of Iraqis (LAT)

By Edmund Sanders

The Los Angeles Times, September 14, 2005

BAGHDAD — In one of the deadliest vehicle bombs to strike the capital, as many as 80 unemployed construction workers were killed early today as they lined up for day jobs in a largely Shiite neighborhood, Iraqi officials said.

One hundred sixty-three were injured, quickly overwhelming the city's hospitals.

Along with the slaying of 17 Shiite Muslims early today in the city of Taji, the attack broke a relative lull in large-scale assaults and threatened to fuel already high sectarian tensions between Iraq's majority Shiite population and the once-ruling Sunni Arabs.

It was the deadliest bombing in Iraq since a suicide attacker ignited a fuel tanker July 16 near a Shiite mosque in the central town of Musayyib, killing almost 100 people.

Today's bomb exploded about 6:45 a.m. in the Kadhimiya district of the capital, where as many as 3,000 construction workers gather each morning to seek work for the day. Construction supervisors and engineers drive to the area throughout the day to pick up workers, who swarm around the vehicles in hope of being selected.

A suicide driver approached in a truck, pretending to be interested in hiring workers, witnesses said.

"Everyone gathered around the car, and when they got close it exploded," said Hassan Qasim, one of the laborers. "I can't believe I'm alive. It's a miracle."

Hazam Araji, a representative of Shiite cleric Muqtada Sadr in Kadhimiya, said, "This is a terrorist act targeting civilians and ordinary people in one of the safest areas of Iraq."

One witness reported seeing a U.S. convoy passing the area shortly before the explosion. But several victims said they believed that the attack was motivated by sectarian tensions.

"The explosion was targeting Shiites, because there are no Sunnis there," said Majid Hamid, 18, who was taken to a nearby hospital with injuries to his eyes and hands. "We were all Shiites."

"We are fed up with the government," said Ahmed Qusay, another job seeker. "They are doing nothing. They should exterminate those terrorists. If the government can't do it, we will do it ourselves."

About two hours before the blast, men armed with machine guns dragged 17 Shiite men from their homes and killed them in Taji, a Sunni Muslim-dominated city north of Baghdad, the Interior Ministry said.

Gunmen wearing Iraqi national guard uniforms and driving government-issued vehicles surrounded a residential neighborhood and entered several houses, seemingly at random, saying they were "arresting" the 17 men.

About 30 minutes later, residents heard gunshots on the edge of the neighborhood and discovered the men's bodies.

On Tuesday, U.S. and Iraqi forces continued their crackdown on insurgents in Tall Afar in northern Iraq and bombed a safe house in Haditha in the western province of Al Anbar.

U.S. officials said they killed four suspected insurgents in Haditha and captured one accused of having ties to Al Qaeda.

In Basra, four employees of a private U.S. company working at the airport were killed by a roadside bomb Tuesday, said Col. Kareem Zaidi, spokesman for the Basra police. Five others were injured. Nationalities of the victims were not released.

Number Of Attacks Decreases On Baghdad Highway To Airport (USAT)

By Kimberly Johnson Special For

USA Today, September 14, 2005

DOJ_NMG_0004941

BAGHDAD — Attacks on and around the 7-mile highway linking Baghdad to its international airport have dropped 41% since May, the result of increased U.S. and Iraqi troop presence and new tactics to battle insurgents along one of the world's most dangerous roads.

There hasn't been a suicide car bombing on the road since April, according to U.S. military statistics through August.

U.S. officers attribute the decline to an influx of Iraqi troops who have been stationed at key points along Airport Road, which goes by the military designation Route Irish.

"Route Irish is definitely not the most dangerous road in Iraq any longer, and everyone who uses it knows it," says Lt. Col. Geoffrey Slack, commander of the New York National Guard's 1st Battalion, 69th Infantry Regiment.

In May, insurgents staged 49 attacks on the road and in surrounding neighborhoods, including assaults with deadly roadside bombs and rocket-propelled grenades, according to statistics from Slack's battalion, which was responsible for the area until a recent hand-over.

Violence in the road's area peaked in November 2004. That month, insurgents launched 52 attacks, including 13 car bombs, according to the military statistics. The number of attacks fell to 29 in August, mostly small-arms fire.

Airport worker Hana Abdul Aziz, 28, was on her way to work in a bus with other airport employees one morning last November when the bus came under attack.

Aziz remembers glass and blood flying through the air. A woman sitting next to her was killed in the attack. "She got a bullet in her head and died immediately," she says.

For most of the past year, the New York battalion has been responsible for securing the road and surrounding neighborhoods. U.S. military officials declined to discuss numbers, but American battalions generally number about 800 troops.

In June, an Iraqi police commando unit was assigned to work alongside the American troops. Iraqi battalions typically have about 750 troops, says Lt. Col. Fred Wellman, spokesman for the command responsible for training Iraqi troops.

The additional Iraqi troops, along with U.S. counterparts, were deployed at seven armed checkpoints at the entries to the road. The checkpoints are staffed around the clock and can carefully watch vehicles entering the highway.

The airport highway has been hotly contested. It is heavily used by American and coalition forces, contractors, diplomats and Iraqis working with them. Surrounding the airport is a large U.S. military facility that serves as headquarters for coalition forces.

There are few entrances or exits on the road. Most of the traffic is going to or from the airport or the U.S. base, presenting prime targets for insurgents.

"They knew you'd have diplomats traveling on that road," says Maj. Alayne Conway, spokeswoman for the 3rd Infantry Division.

The highway also has symbolic importance as one of the main links between Iraq and the outside world.

During March and April, attacks on the road were so common that U.S. Embassy personnel were banned from using the road.

Dense neighborhoods along the road make ideal hiding places for insurgents who can attack and take cover in the narrow streets.

Coalition forces have struggled to make it safe, highlighting the difficulty of fighting an insurgency in a big city.

Soldiers have cut down date palms that lined the road, cleared trash, moved guardrails and cut weeds to make it difficult to hide roadside bombs, Conway says.

Getting the additional Iraqi troops assigned to the area allowed commanders to set up strong points along the highway and "turned the tables," Slack says.

U.S. officers stop short of saying the problem is fixed. "I don't want to speculate that things are going to stay the same, but obviously with the things that have been done, the road is safer," Conway says.

U.S. Raids Militant Stronghold In Iraq (AJC/AP)

By Tarek El-tablawy, Associated Press Writer

The Atlanta Journal-Constitution, September 14, 2005

DOJ_NMG_0004942

BAGHDAD, Iraq — U.S. forces widened their operations against insurgents in northern Iraq on Tuesday, launching an attack on the Euphrates River stronghold of Haditha only days after evicting militants from Tal Afar. Residents also reported American air strikes in the same region near Qaim.

The Americans called in bombing raids in Haditha, 140 miles northwest of the capital. They captured one militant with ties to al-Qaida in Iraq and killed four others.

In the volatile city of Qaim, about 80 miles northwest of Haditha, residents said clashes broke out between insurgents and coalition forces. The U.S. military did not confirm the air strike.

In the south, a roadside bomb killed four people near Basra — an attack that was a twin to a deadly bombing in the area last week. Iraqi police said the dead were four American contract workers, but U.S. officials were unable to confirm the nationalities of the victims. Last Wednesday, a roadside bomb near Basra hit a passing convoy of U.S. diplomatic security guards, killing four Americans.

President Jalal Talabani, meanwhile, said in Washington that Iraq would not set a timetable for the withdrawal of U.S. troops, declaring at a news conference with President Bush that the American force still was needed. The Bush administration is under increasing pressure at home to set a date to begin pulling out the 140,000 U.S. troops.

"We will set no timetable for withdrawal. A timetable will help the terrorists," Talabani said. He said he hoped Iraqi security forces could take responsibility for the country by the end of 2006.

Bush pledged to stand by Iraq despite "acts of staggering brutality" aimed at destabilizing the country.

A U.S. Army commander said Tuesday that extremist fighters battling for control of Tal Afar in northern Iraq had committed atrocities against civilians, including beheadings, torture and the booby-trapping of a murdered child's body.

"The enemy here did just the most horrible things you can imagine — in one case murdering a child, placing a booby trap within the child's body and waiting for the parent to come recover the body of their child and exploding it to kill the parents; beheadings and so forth," Col. H.R. McMaster, commander of the 3rd Armored Cavalry Regiment, said in an interview from Tal Afar with reporters at the Pentagon.

McMaster said Tal Afar is not yet under the control of the 5,000 Iraqi government forces and 3,500 to 3,800 U.S. troops that have been fighting together there for the past two weeks. Tal Afar lies about 50 miles from the Syrian border.

Iraqi Foreign Minister Hoshyar Zebari, speaking in Washington, said Syria was playing a "dangerous game" in allowing insurgents to penetrate Iraq from Syrian territory.

"Don't think you can benefit from our difficulties. It may be for the short term, but for the long term it might backfire on you," he warned Iraq's neighbor to the West.

Bush also renewed criticism of Syria, accusing it of doing too little to control the flow of fighters across the border.

"The Syrian leader must understand we take his lack of action seriously," he said. "The government is going to be more and more isolated."

Syrian officials say they are doing all they can and deny they offer sanctuary to insurgents.

During Sunday's operation in Tal Afar, Iraqi Prime Minister Ibrahim al-Jaafari closed the closest Syrian border crossing. Iraqi officials say most of the insurgents they flushed out of the city were foreigners who entered the country from Syria.

After the raid Tuesday on Haditha, Associated Press Television News videotape showed at least three houses that residents said were demolished in the U.S. air strike. The U.S. military said American jets destroyed a vehicle used by one of the insurgents. Haditha is one of a series of towns in the Euphrates River valley controlled by militants.

U.S. forces have been conducting random raids and air strikes in the region that target insurgent safe houses and weapons caches.

In Baghdad, insurgents shelled the heavily fortified Green Zone, firing two mortar rounds that exploded near a military hospital inside the protected area that houses the U.S. Embassy, the Iraqi government and parliament and other foreign missions. There were no casualties.

In the Shiite holy city of Karbala, 50 miles south of Baghdad, police banned trucks from entering the city as of Tuesday and said they would prohibit cars from entering beginning Thursday. The move was a precaution against bomb attacks on 3 million pilgrims expected for a key religious festival early next week.

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The stringent security measures in Karbala reflect fears that birthday celebrations for Imam al-Mahdi al-Muntadhar, a 9th-century religious leader, could be marred by attacks by Sunni Arab insurgents, many of whom view Shiites as heretics.

Insurgent attacks on similar celebrations throughout the country have left hundreds dead in the past two years, prompting authorities to impose increasingly restrictive measures.

The security plan involves roughly 5,400 provincial policemen, including police commandos and about 750 Iraqi soldiers, Karbala police chief Brig. Karim Al-Hasnawi told The Associated Press.

"The main duty for the army battalion and the 1,400 police special forces will be to set up check points on a 25-mile radius around the city to secure the main highways leading to the city and the surrounding farming areas," said Al-Hasnawi.

U.S. Commander: Iraq Fighters Use Torture (AJC/AP)

By Robert Burns, Ap Military Writer

The Atlanta Journal-Constitution, September 14, 2005

WASHINGTON — A U.S. Army commander asserted Tuesday that extremist fighters in northern Iraq committed atrocities against civilians, including beheadings, torture and the booby-trapping of a murdered child's body.

The accusations by Col. H.R. McMaster, commander of the 3rd Armored Cavalry Regiment, included some of the most graphic and specific charges by an American military officer during the ongoing

battle for control of Tal Afar, a city about 50 miles from the Syrian border that has been an insurgent stronghold.

"The enemy here did just the most horrible things you can imagine — in one case murdering a child, placing a booby trap within the child's body and waiting for the parent to come recover the body of their child and exploding it to kill the parents; beheadings and so forth," McMaster said in an interview from Tal Afar with reporters at the Pentagon.

McMaster said Tal Afar is not yet under the control of the 5,000 Iraqi government forces and 3,500 to 3,800 U.S. troops that have been fighting together there for the past two weeks. He predicted eventual victory but said it was impossible to know how long it would take before the Iraqis can control Tal Afar by themselves.

"Is Tal Afar secure? No, it's not secure," he said. "Is the enemy on the run in Tal Afar? Yes, the enemy's on the run. And we're going to conduct some follow-on operations in the next week or so to relentlessly pursue the enemy across the city."

McMaster repeatedly condemned the tactics of the insurgents, whom he called terrorists and extremists.

"Not only were they targeting civilians, brutally murdering them, torturing them, but they were also kidnapping the youth of the city and brainwashing them and trying to turn them into hate-filled murderers," he said.

His comments came two days after the al-Qaida leader in Iraq, Abu-Musab al-Zarqawi, purportedly accused American forces of using poison gas in the Tal Afar fighting, a charge that U.S. officials have denied. The accusation was made in an audiotape posted on the Internet on Sunday and attributed to al-Zarqawi.

McMaster alluded to that accusation and said he believed the insurgents had planned to detonate chemicals in a building in a residential area and then claim that U.S. forces had employed poison gas against civilians.

"In one of these buildings the enemy had big barrels of chemicals that had explosives implanted in the chemicals, wires running around them. The whole house was rigged for demolition," he said.

When U.S. troops went into the house, "immediately their eyes began burning, their throats began burning. So they withdrew out of the house immediately and then we conducted reconnaissance with some chemical protective gear, with a remote reconnaissance capability, into the house. And we could tell that the thing was rigged with chemicals."

McMaster also said U.S. troops found manuals that described how to make "these kind of chemical dirty bombs and so forth."

In Tall Afar, A Brawl To Blow Off Some Steam (WP)

By Jonathan Finer

The Washington Post, September 14, 2005

TALL AFAR, Iraq, Sept. 13 -- After months of preparing for a battle with insurgents that never fully materialized and 12 days of running around this city from dawn to dusk, the soldiers of Eagle Troop did what soldiers often do with unspent aggression.

They fought each other.

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Squaring off Tuesday evening in the front yard of a home they had commandeered to be their command post for the final stage of the assault on Tall Afar, they grappled one-on-one on the grass for hours. Good-natured taunts flew. T-shirts and uniform pants were torn. And as the sun began to fall behind the stone buildings of this restive city, an audience of hecklers grew.

At the end of a particularly one-sided bout between soldiers mismatched by at least 100 pounds, Pfc. Hector Rodriguez, 21, an accomplished trash-talker from Buffalo, pointed at the preening victor and said to the vanquished: "What's he got in his hand? That's your manhood, son."

During the incursion into Tall Afar, a city of more than 200,000 located about 40 miles from the Syrian border in northwestern Iraq, more than 550 suspected insurgents have been killed or captured this month, commanders said. Much of the fighting was carried out with airstrikes or by the Iraqi army, which led the assault.

Though the operation is to continue through the end of the month, "the 24-hour curfew on the people moving in the street is lifted today, and the ban on driving cars in the street ends in the coming days," Najim Abdullah Jabouri, the newly appointed mayor, said at a news conference Tuesday.

Jabouri, a former general in ousted president Saddam Hussein's army who was installed as the city's police chief four months ago by U.S. and Iraqi forces, said thousands of people who fled the city in recent months would soon be encouraged to return.

With the current phase of the operation over, the soldiers of Eagle Troop, part of the U.S. Army's 3rd Armored Cavalry Regiment, planned to spend at least the next few nights at their base outside the city.

"We planned for this for months, and whenever you plan for an operation for that long, you always hope you have a bit more contact with the enemy than we did. But you also look back and say we didn't get anybody hurt, and that is definitely a good thing," said Capt. Noah Hanners, 26, of Chillicothe, Ohio, the leader of the troop's Blue Platoon.

He had told his charged-up troops from the start of the attack to show restraint, to avoid destroying property in the dozens of homes they raided across the city. But as the wrestling matches escalated Tuesday, each ending with a handshake and applause, Hanners took a seat on the grass and cheered with the others.

"Blue Four versus Blue One," came a shout from a rooftop, using radio call signs to request a match between Hanners and Sgt. 1st Class Herbert Gadsden, the platoon's two senior soldiers.

"No, man, that's like watching your parents fight," said another soldier to peals of laughter that signaled the showdown was canceled before it started.

Despite the lack of extensive fighting during the offensive, soldiers had slept an average of less than five hours a night over nearly two weeks and were exhausted. They were constantly on foot and constantly on the move from the moment they woke on a rooftop or living room floor or back yard of a commandeered home.

Working 18-hour days, they covered almost a quarter of the city, dashing from house to house or leaping between rooftops, kicking down doors or smashing them with sledgehammers -- while carrying 40 pounds of equipment. They were routinely shot at but could rarely tell where the bullets came from.

Without interpreters who spoke Turkish, the predominant language in this city where most people are ethnic Turkmens, interrogations often involved hand gestures or pidgin English or Arabic. American soldiers said they were lied to constantly.

Last week, a man in the eastern neighborhood of Hassan Koy communicated to them during a stilted, gesture-filled conversation that he was a teacher and that there were no weapons in his home. They found an Iraqi police armband and uniform in a closet. He said he did not know where the items had come from. Then they found a police academy graduation certificate made out in his name and a 9mm pistol sewn into a pillow.

"This is ridiculous. I don't even get whether he was lying because he was a policeman and didn't want us to know or because he was faking it," one soldier said.

At least some of the soldiers' frustration appeared to dissipate during Tuesday night's fights. Shouts and jeers came from troops assembled on rooftops and lining the yard to prevent combatants from slamming into head-high stone walls. The noise drew curious soldiers from an Iraqi army unit stationed across an arid field. Soon they wanted in.

Spec. Bernard Penegor, 19, of Rockland. Mich., fought to a draw with a feisty Iraqi corporal, who afterward presented him a small medal inscribed with Arabic writing.

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At 7 p.m., Eagle Troop took a brief break for a group photograph to commemorate the operation. Then it was back to the bouts.

"We'll probably do this all night until someone gets killed," joked Spec. Jason North, 19, of Santaquin, Utah. "Not that we'd stop just 'cause someone gets hurt. I mean, this is Iraq. It happens."

Praise And Questions For Iraqi Prime Minister In Michigan (NYT)

By Danny Hakim And Jeremy W. Peters

The New York Times, September 14, 2005

DEARBORN, Mich., Sept. 13 - This city's Iraqi-American population, who form one of the world's largest Iraqi expatriate communities, loathed Saddam Hussein. Tuesday evening, they embraced Ibrahim al-Jaafari, Iraq's first democratically elected prime minister, at times shouting poetry and prayer in his praise.

But they also had plenty of questions in a town hall meeting that was at times contentious. Attendees asked Mr. Jaafari about the future of Kirkuk, whether the rights of Chaldeans would be respected, whether there were still Iraqi prisoners of war in Iran and whether Iraqi embassies throughout the world and government agencies in the country were still stocked with former Baathists. And they wanted to know when justice and the rule of law would return to their native land.

"What moves me is my desire to work for my country and for you," Mr. Jaafari told the crowd of several hundred at a Ritz-Carlton hotel. "Just as we were once upon a time imposed on by this tyrant, we are now imposed upon by this group of terrorists," he said, adding that it was his top priority to combat terrorism. He said the country was making progress in lowering the number of daily car bombings, but added that there were very likely still hostile elements even inside the different institutions within the government.

"Don't think the time between May 3 and now is enough to diminish 35 years of Saddam's rule," he said, referring to the day he took office. "Don't think that anything is going to happen overnight. We need time."

Mr. Jaafari is a medical doctor who fled Iraq in 1980 when Mr. Hussein began rounding up members of the Dawa Party, which Mr. Jaafari now leads. He returned to Iraq shortly after the war began. On Monday, an insurgent group put a $100,000 bounty on him, coinciding with his visit to Tal Afar in northern Iraq, the site of a major coalition operation against insurgents.

Mr. Jaafari seemed somewhat wearied from his trip; he arrived in town shortly before his speech. He addressed a small group of local community leaders and then the crowd of several hundred for about an hour before sitting to listen to a stream of questioners.

He said he had personally asked Iranian officials about P.O.W.'s and had been told there were none. He assured a Chaldean in the crowd that his ethnic group would not be overlooked, adding that he had personally mentioned them in his acceptance speech after his selection. And he repeatedly asked for patience.

Nisrin Kadum, 49, a banking specialist at Comerica Bank who fled Iraq in 1979, was almost shouted down when she asked about the role of women in the country. "What kind of rights do women have in this Constitution?" Ms. Kadum said in a later interview, expressing anger at the Islamic bent of the constitution. "There is something missing in this Constitution. We want something more for this government."

Mr. Jaafari quoted parts of the new Constitution, saying, "It does provide several points to protect women's rights in all aspects."

Most of Dearborn's Iraqi-Americans are Shiite, as is Mr. Jaafari, and there is a visible Chaldean Christian community as well. Most have a story to tell about what Mr. Hussein did to their family. Many said they were distressed by the country's lack of stability and came seeking a progress report.

Abir Aldhalimi, a 20-year-old college student, said she no longer watched television for news on Iraq because she could not bear to see all the death. "It's not getting better," she said, "it's getting worse."

Her mother, Samira Alzayadi, 42, interrupted. "Saddam was a criminal; to have anything else is better," she said.

Mr. Jaafari, speaking of his visit to Tal Afar, said the Iraqi army had "succeeded in their honorable work in preventing the terrorists and removing them from the city." His comments, made in Arabic, were translated for a reporter by Dr. Basim M. Al-Khafaji, the director of the pathology residency program at a local hospital.

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Imam Husham Al-Husainy, one of the organizers of the event, said of the crowd: "They see a prime minister among them. They see hope and they see the democratic process is working. It used to be dreams. Now it is a reality."

Iraq May Expand Death Penalty (LAT)

By Noam N. Levey

The Los Angeles Times, September 14, 2005

BAGHDAD — Struggling to fight back against insurgents roiling the country, Iraqi lawmakers have begun to debate sweeping anti-terrorism legislation that could significantly expand use of the death penalty.

Iraq's leaders, who have been widely criticized at home for not doing enough to protect their citizens, are contemplating expanding the list of crimes punishable by death to include offenses such as attacking government buildings, using explosives to kill people and advocating sectarian violence.

But like many issues in Iraq, the debate is being shadowed by the bloody legacy of Saddam Hussein and the religious and ethnic divisions that many fear are feeding the current violence.

Although many Iraqis have been calling for more executions since the insurgency began, some Sunni Arabs fear that they will be unfairly targeted by the death penalty because the rebellion is centered in Sunni regions of the country.

And human rights groups are expressing concern that an expanded use of the death penalty may push Iraq back toward a time when the government wantonly executed its opponents.

"We have to be careful," acknowledged Thamer Ghadban, a Sunni legislator with the secular Iraqi List slate, who nonetheless said he was confident that lawmakers would pass a cautiously worded bill that would be implemented fairly.

"We need some kind of a response to these terrorists, to make them think two or three times before they decide to carry out terrorist acts," said Ala Noori Talabani, a member of the transitional National Assembly with the Kurdish alliance. "Otherwise, what will make people afraid to commit these crimes?"

U.S. authorities initially banned the death penalty after American-led forces deposed Hussein in 2003.

When Iraq's first transitional government took control last year, it immediately reinstated the death penalty, which is common throughout the Middle East. But delays in reforming the country's justice system slowed its use, to the growing frustration of many Iraqis who saw the delays as evidence of their government's impotence.

Iraqi President Jalal Talabani has been on the defensive recently for saying he personally opposes the death penalty, even for Hussein, who is set to go on trial next month on charges stemming from a 1982 massacre of 143 Shiite Muslims.

This month, Iraqi officials carried out the nation's first executions since the fall of Hussein, hanging three men convicted of murder, rape and kidnapping in the southeastern city of Kut.

Executions are a significant demonstration of the democratic government's credibility, said Laith Kubba, a spokesman for Prime Minister Ibrahim Jafari.

"If Iraqis do not get an effective government that will enforce law and order, then the outcry, the pressure for a strongman, may be dangerously strong," Kubba warned recently.

Iraq's current law makes numerous crimes punishable by death, including murder, sedition and some drug offenses, said Tariq Harb, a prominent Baghdad attorney.

According to a draft of the anti-terrorism legislation, people convicted of attacking police officers, army personnel and diplomatic missions could be subject to the death penalty. So too could those who arm, mobilize or finance citizens to carry out attacks against other sectarian groups. Lending assistance in any of the crimes also could be punishable by death.

The sweeping language of the legislation has prompted the National Assembly to try to clarify the proposal, lawmakers said. Ghadban said the original language could have made a taxi driver who drove a terrorist to a target subject to the death penalty. Those ambiguities will be cleared up, he and others said.

But talk of expanding the death penalty is already making some Sunni leaders and citizens uneasy.

At Baghdad's large Umm Qura Mosque, cleric Mahmoud Sumaidaie warned Friday against unjust uses of force by authorities. And several Sunnis who came to pray expressed misgivings about expanding the death penalty.

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"I support the principle of execution," said Mohammed Dhiaa, a Baghdad shop owner. "But I fear that if the law is implemented, it will be imposed on one part of society more than another…. I fear that many will be executed."

Lawmakers said they expected the final anti-terrorism bill to pass within the next several weeks.

Guess Who's Coming To Dinar (WSJ)

By Amir Taheri

The Wall Street Journal, September 14, 2005

In the Tehran moneychangers' bazaar on Manuchehri Street, traders are always on the lookout for the new sogoli. The word, which means "top flower," is used to describe anyone or anything that is popular at any given time -- a thoroughbred steed, a beauty in the harem and, on "Foreign Exchange Street," the dozens of currencies traded each day. These days the moneychangers' sogoli is a surprise newcomer: the Iraqi dinar.

Iraq's currency of change.

With the world media depicting Iraq as a ship sinking in a sea of blood, and self-styled experts predicting civil war or disintegration, it is hard to imagine why anyone would want to abandon such all-time favorites as the U.S. dollar and the euro, not to mention the oil currencies of the region, in favor of the world's newest money.

One reason, of course, is the sharp rise in the supply of dollars, a result of the dramatic increase in the price of oil. (Iran is earning something like $200 million each day from its oil exports.) Another reason is that hundreds of thousands of Iranians have registered to travel to Iraq to visit Shiite sites in Najaf, Karbala, Samarra and Kazemiah. Under a recent agreement, an average of 1,000 Iranians are allowed to perform the pilgrimage each day. (The number is to rise to 5,000 a day in two years.) To these must be added several hundred non-Iranian Shiites, mostly from the Indian subcontinent and the Persian Gulf, who travel to Iraq via Iran after visiting the Iranian holy city of Mash'had.

Yet another reason for the increased interest in the Iraqi dinar is the dramatic increase in the volume and value of unofficial exports from Iraq to Iran. Ironically, a good part of this trade consists of petroleum products, which are shipped from Iraq to four Iranian border provinces. Thanks to Iraqi government subsidies, petrol is 30 times cheaper in Iraq than in Iran. (There is also much smuggling of petroleum from Iraq to Turkey, where petrol costs 160 times more). Adventurous Iranian businessmen, often working on behalf of well-connected mullahs, are also making a killing by importing foodstuffs, medical supplies and consumer goods from Iraq, especially the Kurdish areas, at prices that defy competition inside Iran.

Iraq is also benefiting from a slow but steady transfer of Shiite religious funds from many foreign countries, notably Iran. The reverse was the case under Saddam Hussein, when the Shiite foundations were anxious to keep as little of their assets in Iraq as possible. In the past year or so, several foundations have started to withdraw their assets from Iran. The trend was accelerated last spring after the Iranian government seized assets worth some $200 million from the Khoi Foundation, named after the late Grand Ayatollah Abol-Qassem Mussavi Khoi. It is suddenly Iraq, and not Iran, that looks like the safe haven for Shiite foundations.

Angered by increasing state intervention in religious affairs, a small but growing number of Shiite mullahs are leaving Iran to settle in Iraq. There is further concern that President Mahmoud Ahmadinejad's new administration -- dominated by the Islamic Revolutionary Guard -- may order a crackdown against the clergy.

Iraq's economic attraction, however, is not solely due to the arcane calculations of mullahs and pilgrims. It is also reflected in the latest report by the International Monetary Fund, published last month. It offers a mixed picture. For example, the report estimates Iraq's annual economic growth rate at just over 4% for 2005, a sharp drop compared to last year, when the economy grew by 52%.

But a closer look shows that the Iraqi economy still performed surprisingly well. The 52% growth rate represented exceptional circumstances in the aftermath of liberation and was unsustainable. Furthermore, the current 4% growth rate is higher than the average rates for the members of the Arab League. It is also a full percentage point higher than the annual average Iran achieved during the eight years of President Muhammad Khatami's administration.

If oil prices hold, Iraq's gross domestic product per head is projected to reach $3,000 next year, making it number 12 in the Arab League; in 2003, it was number 18. The IMF report shows that Iraq absorbed only $4.2 billion in investments in the non-oil sector of the economy compared to the $5.2 billion forecast last year. That figure, however, ignores investments made by small

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and mid-sized businesses, as well as farmers and individuals. Anecdotal evidence shows that such schemes are acting as the engine of growth in many parts of the country.

The key reason for the strong performance of the Iraqi dinar, however, may be the sevenfold increase in the nation's foreign currency reserves -- from less than a billion dollars to $7.3 billion. And the real figure may be higher because the report, finalized last July, does not reflect the latest rise in oil prices.

* * *

Some Americans might think that Iraq owes its robust economic performance to a flood of dollars provided by the U.S. taxpayers. The IMF report shows that this is not the case. Iraq is paying 90% of its own expenditures, including the cost of economic reconstruction. Of the remaining 10%, the U.S. accounts for four-fifths, with the rest coming from other donors. The bulk of the money the U.S. spends in Iraq is allocated to military and security operations, consultancy contracts and administrative costs.

The IMF speculates that within a decade Iraq could emerge as an engine of growth in the Middle East. Theoretically, this looks plausible. Iraq owns the world's second-largest deposits of crude oil and, once it produces its full OPEC quota, could take in up to $250 million a day from exports. It is also the only country in the Middle East that could easily double its agricultural production by introducing new farming techniques and equipment.

Nevertheless, Iraq's economic model suffers from two basic weaknesses. First, it is a rentier economy designed to distribute the oil income via state subsidies. Subsidies now account for 51% of the gross domestic product; the comparable figure in Iran is 22%, and 13% in Turkey. This limits the state's ability to invest in infrastructural projects, economic development programs and social services. It is clear that the current government under Prime Minister Ibrahim al-Jaafari lacks the political courage to reduce -- let alone abolish -- the subsidies that prevent the Iraqi economy from fully taking off.

The second weakness is the foreign debt inherited from Saddam Hussein, which amounts to $190 billion, including reparations distributed through the United Nations. (It excludes Iran's claim of over $1 trillion in damages.) Even under the best case scenario, servicing that debt could consume almost half of Iraq's GDP for the next decade. The best way to help Iraq would be for its creditors to write off the debts accumulated by an unrepresentative despot.

Iraq is in the process of crafting a more durable government. Economic reform should be a major part of that important effort.

Mr. Taheri is the author of "L'Irak: Le Dessous Des Cartes" (Editions Complexe, 2002)..

U.S. Considering Troop Reduction In Afghanistan (WP)

By Bradley Graham

The Washington Post, September 14, 2005

KABUL, Afghanistan, Sept. 13 -- U.S. military commanders have drafted plans to lower the number of American troops in Afghanistan by roughly 20 percent next year if NATO-led troops from Europe continue to widen their role in securing the country, according to senior officers here.

A reduction of as many as 4,000 of the nearly 20,000 American troops in Afghanistan would be the largest drop in a force that generally has grown since the U.S.-led invasion in late 2001 drove the Taliban from power and routed al Qaeda fighters.

The U.S. plan is contingent on an improving political and security situation in Afghanistan and on decisions still to be made by NATO about what types of forces it would commit and its willingness for them to engage in combat against insurgents, the officers said.

"It makes sense that as NATO forces go in, and they're more in number, that we could drop some of the U.S. requirement somewhat," Army Gen. John P. Abizaid, the senior U.S. commander in the region, said in an interview here. He stressed that no decision had been made to shrink the U.S. military presence.

The planning comes as intensified fighting in Afghanistan this year has killed more than 50 Americans, the highest death toll in any year since the troops arrived. U.S. officials say the increase is due in large part to aggressive moves by U.S. forces to root out guerrillas.

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Although U.S. commanders expect the fighting to subside when harsh winter weather sets in, they anticipate another round of battles starting in the spring. "I think you have to get used to the cycle of fighting in Afghanistan," Abizaid said.

Even so, he and other commanders expressed confidence that the threat posed by the Taliban movement will dwindle as the Afghan government's authority spreads and Afghan forces become more capable.

NATO already leads a peacekeeping contingent of more than 9,000 troops known as the International Security Assistance Force, whose mandate was renewed for another year on Tuesday by the U.N. Security Council. In the past two years, the force has broadened its reach from its original base in Kabul, the capital, and now commands operations in the country's northern and western regions.

The alliance is moving toward assuming command in the southern region by May, which would leave the U.S. military responsible only for the eastern region.

But the expansion remains a sensitive issue in the alliance, particularly among member countries that have been reluctant to put their troops into combat as opposed to the less risky job of peacekeeping in relatively secure areas.

U.S. troops have so far borne the brunt of the fight with Taliban insurgents, whose strongholds are in remote parts of the south and the rugged hills of eastern provinces bordering Pakistan.

Defense Secretary Donald H. Rumsfeld, arriving in Berlin on Tuesday for a meeting of NATO defense ministers, urged the alliance to shoulder more of the work in Afghanistan and to better develop its counterinsurgency and counter-narcotics capabilities. The NATO ministers plan to discuss Afghanistan on Wednesday.

The NATO force being readied for the south will consist of troops from Britain as well as the Netherlands and Canada, countries with records of combat operations since 2001.

British Defense Secretary John Reid appeared to back Rumsfeld's message after talks with the Pentagon leader, telling reporters Tuesday that the alliance must "have forces which are not paper forces."

However, speaking to reporters in London before heading for Berlin, Reid had said that the expansion of NATO's forces in Afghanistan next year was not intended primarily to deal with insurgents. "Their primary mission will not be to go chasing Taliban all over the country," Reid said, according to news service reports.

Handing more responsibility to NATO would appear to lighten the load on the U.S. military much faster than waiting for Afghanistan's fledgling security forces to become ready to conduct counterinsurgency operations on their own.

The Afghan army has grown to about 25,000 troops, and the Afghan police force has about 50,000 members. But U.S. commanders acknowledged in interviews here in the past two days that the development of both security branches has run into problems.

Concern about continuing shortfalls in logistical and other support for Afghan army units in the field recently prompted Army Lt. Gen. Karl W. Eikenberry, the senior commander in Afghanistan, to slow the formation of new battalions, from about two a month to one.

And a move to set up what officers call "partnering relationships" between Afghan and U.S. units to foster on-the-job training is only now beginning. The first joint operation between an Afghan battalion and an American one occurred last week in the northeastern province of Konar.

"This question of partnering is something we've now aggressively adopted," Eikenberry said, "but perhaps we could have moved on that piece a little bit earlier."

The police suffer serious shortages of weapons, vehicles and communications gear and a reputation for corruption. "It's more or less a hollow force," said Air Force Maj. Gen. John Brennan, who oversees the development effort.

Germany has had the lead in training the police under an international division of responsibility set up after the 2001 invasion. But the Pentagon recently stepped in, broadening the effort by adding a mentoring program using foreign civilian law enforcement veterans and developing Afghan trainers. The United States also has allotted $860 million for police equipment, with the goal of establishing what Brennan called "a credible, well-equipped" force by the end of 2009.

Even if U.S. force levels in Afghanistan drop significantly next year, a sizable U.S. military presence in this country is likely for some years, according to U.S. and military diplomatic officials here.

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The United States would continue to have what Eikenberry called "enduring missions" in Afghanistan, including the development of Afghan's security forces and the struggle against the country's vast poppy crop and opium trade.

U.S. forces also will be needed to provide airlift, intelligence and other logistical assistance to NATO allies. "We have to keep a force that's agile enough to back up NATO," said Ronald E. Neumann, the U.S. ambassador here. "NATO is not a question of providing some excuse for us to quit the mission early."

Under a longer-term alliance plan that envisions NATO taking command of Afghanistan's eastern sector, U.S. ground forces would continue to play the lead role there.

With elections due Sunday for a national assembly and provincial councils, the U.S. military command here is bracing for a possible surge in violence, although the level of insurgent activity in recent days has been lower than officers expected.

The potential for danger will not pass with the election and might intensify in the aftermath, U.S. officers here warned. They noted that millions of ballots must be transported from distant villages to central counting centers and that victorious candidates would likely end up waiting several months to be sworn into office.

Rumsfeld Urges NATO To Expand Afghan Role (WSJ)

By Greg Jaffe

The Wall Street Journal, September 14, 2005

BERLIN -- Defense Secretary Donald Rumsfeld urged NATO nations to continue efforts to expand their presence in Afghanistan -- a move that eventually could enable the U.S. to draw down its own troops in the country.

The North Atlantic Treaty Organization's 11,000 troops have taken over security missions in northern and western Afghanistan, and by mid-2006, U.S. officials say they believe NATO troops will take over security in the country's once-restive south. The increased NATO presence and the development of Afghan security forces eventually should allow the U.S. to begin reducing its presence, Mr. Rumsfeld said.

He didn't give a time frame, saying any reduction would depend on conditions on the ground. With U.S. troops stretched by missions in Iraq, Afghanistan and now disaster relief on its own Gulf Coast, where about 71,000 U.S. troops are helping, any cuts would be welcome. Mr. Rumsfeld said the flow of troops into Louisiana, Mississippi and Alabama has stopped.

In recent months, the U.S. boosted its presence in Afghanistan to about 20,000 troops to help secure the elections scheduled for this weekend. U.S. troops also are the main counterinsurgency force, performing raids along the border with Pakistan. Mr. Rumsfeld suggested the U.S. would like NATO personnel eventually to take a larger role in counternarcotics operations and take over -- at least in part -- the counterinsurgency mission.

There has been debate within NATO nations over whether the alliance's troops should be involved in counterinsurgency operations. In Germany, which holds an election Sunday, the subject of how German troops might be used has become a polarizing issue.

British Defense Secretary John Reid, appearing with Mr. Rumsfeld in Berlin, told reporters he supports the U.S. push for a bigger NATO role. NATO "has to have forces which are not paper forces," he said after meeting with Mr. Rumsfeld, adding that there must be a balanced approach to Afghanistan combining economic development, counternarcotics and offensive raids on insurgents and terrorists.

U.S. May Start Pulling Out Of Afghanistan Next Spring (NYT)

By Eric Schmitt And David S. Cloud

The New York Times, September 14, 2005

KABUL, Afghanistan, Sept. 13 - Senior Pentagon and military officials are discussing a proposal to cut American troop levels in Afghanistan next spring, perhaps by as much as 20 percent, the largest withdrawal since the Taliban were ousted in late 2001.

The troops would be replaced by NATO soldiers, who now oversee security and reconstruction missions in northern and western Afghanistan and are to take over an American command in the south next spring. American troops have been taxed by lengthy deployments in Iraq and Afghanistan, and Pentagon officials have sought to replace them with indigenous or allied troops.

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But Germany, supported by Britain, France and other European allies, said Tuesday at a meeting of defense ministers in Berlin that it strongly opposed any American-backed restructuring of the NATO command structure that could lead to having alliance troops become involved in counterinsurgency.

Because those operations represent a large part of American troop activity in the south, it is not clear whether the reductions can go forward. In the past few months, violence has surged in the south, with Taliban forces conducting a campaign of assassinations and intimidation ahead of elections on Sunday.

Military officials emphasize that any reductions in the nearly American 20,000 troops in Afghanistan hinge on resolution of the details with NATO, successful parliamentary and provincial elections and stable security.

"It makes sense that as NATO forces go in, and they're more in numbers, that we could drop some of the U.S. requirements somewhat," Gen. John P. Abizaid, the head the United States Central Command, said in an interview here on Tuesday.

General Abizaid declined to give an exact number of potential troop cuts. But another senior officer, who spoke anonymously because the decision is not final, said the Pentagon could reduce force levels by as much as 20 percent, or about 4,000 troops.

American officials were quick to note that the United States would still have the largest number of foreign soldiers in Afghanistan, and would remain committed to ensuring political, economic and security gains in the country.

At the meeting in Berlin, Defense Secretary Donald H. Rumsfeld said he would urge the alliance to expand its role in Afghanistan beyond its security and peacekeeping duties.

Although Mr. Rumsfeld emphasized that American troops would continue to handle the counterinsurgency mission "for a time," he said NATO should consider deploying troops to the eastern border region, which the United States oversees and where much of the fighting is occurring. He added that "over time, it would be nice if NATO developed counterterrorism capabilities, which don't exist at the present time."

But the German defense minister, Peter Struck, said merging NATO's peacekeeping mission with the American combat operation under a single commander would fundamentally change NATO's role in Afghanistan and "would make the situation for our soldiers doubly dangerous and worsen the current climate in Afghanistan." Officials in Britain and France also voiced opposition to the idea.

Some American officials played down the dispute, saying that while they were seeking to combine the operations of American and NATO forces, they were not committed to any particular approach, and that a consensus would be worked out.

To overcome European opposition, the Pentagon is proposing, among other ideas, a joint NATO command structure in which countries willing to contribute troops to counterinsurgency would be under one officer, while allies that want to continue to conduct peacekeeping and other noncombat roles would fall under another. The two contingents would fall under one overall commander.

Both France and Germany have small special forces involved in combat alongside American troops, but most of the European contribution is to the 11,000 officers in the International Security Assistance Force, which conducts peacekeeping and security duties in Kabul and in the north and west.

Britain, Canada and the Netherlands have already agreed to take over the NATO command in the south, where American troops have clashed with Taliban, in particular north of Kandahar. But it is unclear if the force in the south will be intended for counterinsurgency.

American commanders say they are bracing for factional violence to extend through the ballot-counting process and until the new legislators are seated in December or January. “We have to be prepared for uncertainty after the announcement of the candidates,” Lt. Gen. Karl W. Eikenberry, the senior American commander in Afghanistan, said in an interview.

Throughout Afghanistan on Tuesday, the American military continued gearing up for an anticipated spike in insurgent attacks just before the voting. Virtually all American troops will stand by, out of sight, to safeguard some 6,200 polling stations, which will be ringed with Afghan soldiers and police officers. American commanders say they are bracing for factional violence to extend through the ballot-counting process and until the new legislators are seated in December or January. "We have to be prepared for uncertainty after the announcement of the candidates," Lt. Gen. Karl W. Eikenberry, the senior American commander in Afghanistan, said in an interview.

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Attacks against American forces are down slightly from a year ago, commanders said, but this year's violence has been deadlier, with assassinations and roadside bombings killing 2 candidates for Parliament and at least 16 others.

Sixty-nine American service members have been killed in Afghanistan this year, the deadliest for United States troops since the war in 2001. Some deaths resulted from stepped-up American offensives in areas sympathetic to the Taliban. Lt. Col. Gerald J. O'Hara, a military spokesman, said coalition troops had killed about 600 insurgents since March.

Maj. Gen. Jason K. Kamiya, the American commander of daily tactical operations in Afghanistan, gave details on a new plan to outfit Afghan soldiers to fight through the winter, when both insurgent and allied troops usually curtail operations because heavy snows make travel through mountainous regions extremely difficult.

General Kamiya said in an interview that he wanted to keep the pressure on Taliban fighters as they leave their summer fighting positions for sanctuary in Pakistan or deep in the Afghan interior.

He said he was also planning to spend $68 million in reconstruction projects by next spring in an effort to show the Afghan people that combat operations were pushing ahead along with improvements to their villages and towns.

In a similar effort to impress villagers in the Taliban heartland, Army engineers and the Agency for International Development recently completed a $35 million, 74-mile road connecting Kandahar to Tarin Kwot, cutting a bone-jarring 11-hour drive to 3 hours.

Pakistanis Seize 21 Militants

By The New York Times

PESHAWAR, Pakistan, Sept. 13 - A top Pakistani military commander here said Tuesday that his forces had arrested 21 militants in its mountainous northwest region, found a remotely piloted spy plane and seized a cache of arms and communications equipment believed to be used in insurgent operations in Afghanistan.

The commander, Lt. Gen. Safdar Hussain, in charge of military forces and tribal agencies in the North West Frontier Province, also said his forces had detected an office for recruiting men to fight the government and Americans in Afghanistan.

Rumsfeld Seeks NATO Role In Afghanistan (AJC/AP)

By Lolita C. Baldor, Associated Press Writer

The Atlanta Journal-Constitution, September 14, 2005

BERLIN — NATO should ultimately take over anti-terrorism operations in Afghanistan handled by the U.S.-led coalition, Defense Secretary Donald H. Rumsfeld said Tuesday, but he refused to set a timetable for drawing down American troops.

Speaking to reporters at the beginning of a two-day NATO meeting, Rumsfeld also rejected suggestions that the United States might begin pulling troops out of Iraq by the end of the year, saying the departure would be determined by what is occurring in that country.

"It's all condition-based," Rumsfeld said.

Affirming that position was the British defense minister, John Reid.

"We are in Iraq for as long as it takes to solve the problems in Iraq," Reid said, "until the job is done."

More detailed talk was stifled by fears about increased violence accompanying parliamentary elections in Afghanistan scheduled for this coming weekend, as well as the upcoming elections in Germany, where some have openly opposed any increased combat missions for NATO.

Afghanistan's elections come four years after the U.S. invaded the country to overthrow the Taliban. Insurgents have vowed to disrupt the balloting.

Rumsfeld said NATO's move to take on a larger role in Afghanistan, including drug interdiction, will be a key topic of discussion throughout the meeting.

"Over time it would be nice if NATO would develop counterterrorist capabilities which don't exist at the current time," he said.

NATO has 11,000 mostly European troops providing security in northern and western Afghanistan. Around 19,000 U.S.-led troops cover the south and east.

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NATO plans to expand slowly its peacekeeping role and eventually take primary responsibility for security in the country. Thirty-five countries have troops in Afghanistan, including a number of non-NATO nations.

Under the NATO plan, German troops will take the lead role in the north, Italians in the west, British in the south and Americans under NATO command in the east. French and Turkish troops will lead in Kabul — working alongside Afghanistan's fledgling army and police.

Rumsfeld said he is also urging his defense counterparts to find ways to increase the military flexibility of NATO's forces and the financing for the alliance. Several countries put limits on the military activity their forces can engage in as part of NATO, such as limiting where they can go or what type of combat force they can use.

Rumsfeld declined to single out which countries he felt posed problems. He said there are 17 pages of edicts limiting where troops can go and what they can do.

"Different restrictions on national forces makes it enormously difficult for commanders to have the flexibility to function," said Rumsfeld.

In addition, he said a funding increase is needed because some smaller countries have lower defense budgets or must plan their spending so far in advance that it makes it difficult for them to respond quickly to changing military needs.

Rumsfeld said he hopes that changes in the structure of NATO will eventually allow the alliance to reduce some of its forces in Kosovo as well.

Rumsfeld plans to meet privately with several of his colleagues Wednesday, including Russian Defense Minister Sergei Ivanov.

Meanwhile, Afghan President Hamid Karzai said the U.S.-led coalition needs to reconsider the way it is fighting Taliban-led rebels. His comments came after six months of fierce battles that have left more than 1,200 dead.

"We and the international community, the coalition, must sit down and reconsider and rethink whether the approach to the threat of terrorism that has (been) taken is the absolutely right one," he told British Broadcasting Corp. in an interview broadcast Tuesday.

He suggested combating the problem where "terrorists are trained" but declined to elaborate.

Afghan officials say many insurgents train in secret bases in neighboring Pakistan, despite denials from Islamabad.

3 Charged In Prisoner Abuse Case (NYT/AP)

By The Associated Press

The New York Times, September 14, 2005

FORT BLISS, Tex., Sept. 13 (AP) - An Army officer and two more of his soldiers from a Reserve unit have been charged in a prisoner abuse investigation in Afghanistan, the Army announced Tuesday.

The officer, Capt. Christopher M. Beiring, who led the 377th Military Police Company based in Cincinnati, was charged with dereliction of duty and making a false official statement. He is the first officer to be charged in the investigation.

The abuse case primarily involves two detainees who died at the Bagram Air Base detention center, where Captain Beiring's unit worked. The first, Mullah Habibullah, was found dead in his cell at the detention center just days after being taken into American custody in December 2002. A second detainee, Dilawar, arrived at Bagram the day after Mr. Habibullah died. Mr. Dilawar died about a week later.

Investigators say Captain Beiring did not properly train or supervise soldiers under his command in legal uses of force, according to documents released by the Army. He is also accused of failing to take steps to correct the soldiers' actions - as directed by his superior and a legal adviser - after Mr. Habibullah died. In addition, Captain Beiring is accused of lying about training his soldiers received.

Staff Sgt. Brian L. Doyle and Sgt. Duane M. Grubb, both from the unit Captain Beiring commanded, were also charged Tuesday. Sergeant Doyle faces charges of dereliction of duty and maltreatment. Sergeant Grubb is accused of assault, maltreatment and making a false official statement.

U.S. To Fund Prison In Afghanistan (WT)

By Rowan Scarborough

The Washington Times, September 14, 2005

The Pentagon will help finance construction of a locally run military prison in Afghanistan as part of a plan to send to their home countries scores of terror detainees at the prison at U.S. Naval Base Guantanamo Bay, Cuba.

The releases in the next year or so could reduce the prisoner population at the base to less than 400, from a one-time high of 800. There has not been a new detainee sent to Guantanamo since last September.

"We hope that in the future there will be less need for us to detain large numbers there," Matthew C. Waxman, deputy assistant secretary of defense for detainee affairs, told The Washington Times. If any new detainees come to Guantanamo, he said, "it would be at a much slower, small rate of inflow than anything that we saw at the beginning" in 2002.

Instead, the Bush administration is embarking on a new strategy.

Mr. Waxman said the United States will help Afghanistan build a military prison to detain enemy combatants and to accept transfers from Guantanamo. A defense official could not supply details on the new prison, saying talks were in the early stages. The Pentagon also has made Guantanamo more selective, looking only for detainees thought to hold valuable intelligence information about terror networks.

Of the 500 detainees at Guantanamo, more than 100 are Saudi Arabians and 110 are Afghans. The United States has signed a deal with Afghanistan to gradually repatriate detainees on assurances that they will not be released to fight again. The Pentagon and State Department are "far along" in inking a similar agreement with Saudi Arabia, Mr. Waxman said.

The deals could result in the prisoner population at Guantanamo shrinking significantly in the next several years. It also would present fewer opportunities for attorneys of the detainees to pursue cases in U.S. courts. Two federal appeals courts have sided with President Bush on his asserted right to hold enemy combatants.

Mr. Waxman is part of a movement to reform the Pentagon's prisons in Afghanistan, Iraq and Guantanamo. The changes come in response to the abuse of some detainees by U.S. military personnel and to criticism from human rights groups.

The Pentagon started 12 senior-level investigations, resulting in nearly 500 recommendations for improvement. Congress convened 31 hearings, and the military conducted more than 500 criminal probes.

Mr. Waxman's post was created to advise Defense Secretary Donald H. Rumsfeld on detainee policy. Mr. Waxman also coordinates operations with the Army, which runs the system, and reaches out to the International Committee of the Red Cross in Geneva.

In 2002, the prison network lacked adequately trained guards, field guidance on how to interrogate terror suspects and a good system of vetting complaints from Red Cross inspectors. Today, the Army is issuing new guidelines and has started modernized training programs. And prisoners have set up administrative review panels similar to parole boards that judge when inmates should be released.

"Over the past year, we've been quietly making significant changes across all aspects of detainee policy and operations," said Mr. Waxman, a Yale Law School graduate and former staffer on the White House National Security Council. "Detention operations today are more effective and humane than they were a year ago. ... We want to show that aggressive waging of the war on terrorism and humane treatment of detainees are not incompatible."

Pakistanis Seize Afghan Militants (NYT)

By Mohammed Khan And Somini Sengupta

The New York Times, September 14, 2005

PESHAWAR, Pakistan, Sept. 13 - With less than a week to go before the crucial elections in Afghanistan, a top Pakistani military commander here said Tuesday that his forces had arrested 21 militants along the border, found a remotely piloted spy plane and seized a cache of arms and communications equipment believed to be used in insurgent operations in Afghanistan.

The commander, Lt. Gen. Safdar Hussain, in charge of military forces and tribal agencies in the North West Frontier Province along the border, also said his forces had detected a recruitment office that was bringing in new fighters for the war against the Afghan government and the American-led forces there.

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Afghanistan has blamed infiltrators from Pakistan for a rise in militant activity. As the government has prepared for national and provincial elections on Sunday, a new surge of violence from Taliban forces and their allies has been aimed at election workers, candidates and government installations along the border.

This week, Pakistan said it was willing to erect a fence to block the infiltration of militants into Afghanistan. General Hussain said he favored the idea but pointedly put the burden of fence-building on Afghanistan.

The general said his forces had found a Chinese-made drone aircraft that he said had been used by militants to spy on Pakistani Army activity, and displayed sophisticated radio equipment used to transmit instructions to fighters inside Afghanistan.

Pre-election violence showed no signs of letting up in Afghanistan. A candidate's convoy was hit Tuesday by a roadside bomb in eastern Nangahar Province, bordering Pakistan, wounding two members of his campaign team and two police officers.

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U.S. Attorney Nominated For Federal Judgeship In Eastern Kentucky (AP)

AP, September 14, 2005

LOUISVILLE, Ky. -- Greg Van Tatenhove, the chief federal prosecutor for the eastern half of Kentucky, is in line to become a federal judge after being tapped by President Bush.

Van Tatenhove, the U.S. attorney for the Eastern District of Kentucky, was nominated to fill a vacancy created on the federal bench when Judge Karl Forester took senior status in May.

In a statement Tuesday, Van Tatenhove thanked Bush for nominating him and expressed gratitude to Republican U.S. Sens. Mitch McConnell and Jim Bunning for their support.

The nomination requires confirmation by the U.S. Senate.

"I look forward now to the confirmation process and will withhold further comment until that process is completed," Van Tatenhove said.

Van Tatenhove is well connected politically, having served as an assistant to McConnell before attending law school and later as a top aide to U.S. Rep. Ron Lewis, R-Ky.

McConnell praised the nomination and said his one-time aide would serve with distinction.

"Greg is an intelligent and thoughtful individual who has a temperament that will serve him and the bench well," McConnell said in a statement.

A McConnell spokesman said the Senate hopes to take up the nomination as soon as possible.

Van Tatenhove, 45, has been U.S. attorney for the 67-county Eastern District since 2001. The district runs from Shelbyville to Pikeville and from Covington to the Tennessee line.

He is a 1989 graduate of the University of Kentucky College of Law. His professors included John Rogers, now a member of the 6th U.S. Circuit Court of Appeals. Rogers on Tuesday remembered Van Tatenhove as a "diligent, energetic" student.

Van Tatenhove spent four years as a trial attorney for the U.S. Justice Department. He then served as Lewis' chief of staff and legal counsel from 1994 to 2001.

If confirmed as a U.S. District Court judge, Van Tatenhove would mainly be responsible for cases in Pikeville, but could handle cases elsewhere in the district, said Leslie Whitmer, clerk of the U.S. District Court for the Eastern District. His yearly salary would be $162,100.

The nomination of someone not from the eastern Kentucky mountains drew some criticism.

Pikeville attorney Larry Webster said the nomination was "an affront to the Big Sandy Valley." Van Tatenhove is a native of Wilmore in central Kentucky.

"Mr. Van Tatenhove's done much to cleanse the political environment in eastern Kentucky," Webster said, referring to a series of election fraud cases from Pike and Knott counties that resulted in convictions of some prominent people, including former state Sen. John Doug Hays. "But the federal judicial selection process has been carefully crafted to avoid danger to the establishment," Webster said in a phone interview.

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Webster said cases often are switched from Pikeville to other federal courthouses in the Eastern District. "Any excuses that the judges can come up with to have hearings or trials in other places than here are employed routinely," he said.

Early this year, Forester said that his successor should consider living in Pikeville.

John David Preston, an eastern Kentucky Family Court judge and another candidate for the federal judgeship, said lawyers handling cases in the Pikeville division would prefer a judge from the area. "But for whatever reason, that has not been the case," he said.

Preston said there have been instances when cases in Pikeville were switched to other courthouses in the district, creating "something of an inconvenience and a cost to clients."

Preston said the outcome of the judgeship search left him disappointed but added "the geographical situation was not a factor in the thinking on the appointment."

"I'm sure that he will do a good job as judge," Preston said of Van Tatenhove.

Webster said that having roots in the area can be advantageous for a judge.

"Your knowledge of such things as environmental degradation that comes from mining would be actual knowledge based on reality," he said.

Still, Webster added, "We'll treat the new judge with respect."

Top D.C. Lawyer Is A Candidate For Judgeship (WP)

By Henri E. Cauvin, Washington Post Staff Writer

The Washington Post, September 14, 2005

D.C. Attorney General Robert J. Spagnoletti, the city government's chief lawyer, is one of three candidates for an opening on the bench of D.C. Superior Court.

Spagnoletti, 42, has had his eye on a judgeship for at least a few years, but when he took on his current job in May 2003, he indicated to Mayor Anthony A. Williams (D) that he was committed to staying through the mayor's current term. The new opportunity comes more than a year before the mayor's race, and Williams has yet to declare whether he will seek reelection.

A prosecutor for 13 years before joining the mayor's Cabinet, Spagnoletti was on the short list for the Superior Court bench once before, in 2000, while he was working at the U.S. attorney's office. His current job has given him a much higher public profile.

In addition to Spagnoletti, the D.C. Judicial Nomination Commission chose Andrew Fois, a former assistant attorney general at the Justice Department, and Carol A. Dalton, a D.C. Superior Court magistrate judge, for consideration by President Bush. The opening was created by the appointment of Judge Noel A. Kramer to the D.C. Court of Appeals.

The president can pick one of the candidates offered by the commission or reject the slate. The president's choice is subject to Senate confirmation. The selection process can be lengthy -- lately, it has taken as long as a year.

Dalton, 55, has been a magistrate judge in the family court division of Superior Court since 2002. Before that, she was director of the court office that coordinates the work of attorneys who represent parents, caretakers and children in abuse and neglect cases.

Fois, 47, was the Justice Department's assistant attorney general for legislative affairs from 1995 to 1998. Before that, he held other positions at the Justice Department and on the House Judiciary Committee. Since 2000, he has served as a senior fellow at GlobalSecurity.org, an organization that tracks military and other security issues.

Spagnoletti took over what was then known as the corporation counsel's office when the city's legal arm was suffering from a heavy caseload, a staffing shortage and slumping morale. He made organizational and personnel changes and succeeded in having the office renamed the attorney general's office, a title he said was more fitting of its responsibilities.

CORPORATE SCANDALS:

Judge Splits Enron Broadband Case Into Three Retrials (FINDLAW/AP)

By Kristen Hays, Ap Business Writer

DOJ_NMG_0004957

Find Law, September 14, 2005

(AP) - HOUSTON-Five former executives from Enron Corp.'s defunct broadband unit whose trial ended with jurors unable to reach verdicts on most charges will be retried in three separate cases next year.

Nearly two months ago a jury returned acquittals on some charges after a three-month trial but was deadlocked on dozens more. U.S. District Judge Vanessa Gilmore declared a mistrial on those charges and set retrial dates Monday.

At least one of the trials, involving conspiracy and fraud counts against the broadband unit's former finance chief and a former in-house accountant, was scheduled for May 1. It is likely to overlap with the conspiracy and fraud trial of Enron founder Kenneth Lay and former CEO Jeffrey Skilling, set to begin in January in a courtroom next door to Gilmore's. The other two cases were scheduled for June 5 and Sept. 5.

All five broadband defendants, as well as Lay and Skilling, have pleaded innocent.

Barry Pollack, who represents former in-house Enron broadband accountant Michael Krautz, questioned whether a a fair jury could be found in the middle of the publicity of the ongoing Lay and Skilling trial.

"I have concerns about selecting a jury for this case while that trial is going on," he told Gilmore.

The judge advised him to argue the point later.

The five men, indicted in 2003, went to trial in April in a case often bogged down with tedious, jargon-filled testimony about whether Enron's broadband network actually worked as touted to investors and analysts in 1999 and 2000. The unit went bankrupt along with its parent in December 2001.

A conspiracy charge linked all five defendants in two alleged schemes involving technology and finance.

On the finance side, jurors were deadlocked on all 15 counts of conspiracy and fraud pending against Krautz and Kevin Howard, former finance chief of the broadband unit. The two men are accused of using accounting tricks to manufacture income for the broadband unit so its losses would match those announced to Wall Street in 2000.

On the technology side, former broadband unit CEO Joseph Hirko, software head Rex Shelby and broadband strategist F. Scott Yeager were charged with conspiracy, fraud, insider trading and money laundering. The government alleged they touted capabilities of the network and its operating software to pump up Enron stock and get rich from selling inflated shares. All three testified that the network and software worked but was being implemented in phases.

Jurors acquitted Hirko of 14 of the 27 charges - two for insider trading, the other dozen for money laundering. They acquitted Shelby of four insider trading counts. Shelby's lawyer, Ed Tomko, said that left 16 charges unresolved, including six for insider trading. Both men remain charged with conspiracy and fraud. Gilmore scheduled their trial for Sept. 5.

Yeager faces the most charges. The jury acquitted him of the conspiracy charge linking him to the other defendants and five fraud counts, leaving 109 counts of insider trading and money laundering pending. Prosecutors intend to retry him June 5.

Prosecutor Lisa Monaco told Gilmore on Monday the government aims to file three separate indictments within a month. She said it expects to drop the remaining money laundering charges against Shelby, but otherwise all defendants would be tried on the other pending charges.

Gilmore said Monday she was considering requests from the defendants that she acquit them of all remaining charges.

CRIMINAL LAW:

Court: Eric Rudolph Defense Cost $4M (AP)

By JAY REEVES, Associated Press Writer

AP, September 13, 2005

BIRMINGHAM, Ala. (AP) - Legal fees to defend Eric Rudolph in a deadly Alabama abortion clinic blast and the Atlanta Olympics bombing cost taxpayers more than $4 million before he agreed to plead guilty in a deal that spared his life, court documents show.

One of Rudolph's attorneys said Tuesday the bill would have been far higher had the case gone to trial.

"That would have probably tripled the cost," said Bill Bowen, part of a team of at least nine lawyers who defended Rudolph.

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Rudolph is serving four life terms after pleading guilty in the Birmingham clinic bombing, which killed a police officer in 1998, and the Olympics bombing, in which a woman died in 1996. He also pleaded guilty in two other bombings that occurred in Atlanta in 1997.

U.S. Attorney Alice Martin said the government had not computed the total cost of prosecuting Rudolph, who was the subject of an intense manhunt following the Birmingham bombing in 1998 until May 2003, when he was captured in Murphy, N.C.

The cost of defending Rudolph was disclosed in an order filed last week by U.S. District Judge Lynwood Smith. Attorneys in the Alabama case were paid $2.02 million for representing Rudolph, who declared himself broke and received court-appointed legal representation following his arrest in 2003.

Experts, investigators and others who assisted in the defense were paid another $2.02 million, according to Smith's order.

Karen Redmond, a spokeswoman with the Administrative Office of U.S. Courts, said the cost of defending Rudolph was far less than the $18 million taxpayers spent on lawyers for Timothy McVeigh, who was convicted in a trial and executed in 2001 for the Oklahoma City bombing, which killed 168 people.

Redmond said the Justice Department spent $80 million prosecuting McVeigh in the Oklahoma City case.

Teen Pleads Guilty To Hacking Paris Hilton's Phone (WP)

By Brian Krebs, Washingtonpost.com Staff Writer

The Washington Post, September 14, 2005

A Massachusetts teenager has pleaded guilty to hacking into the cell-phone account of hotel heiress and Hollywood celebrity Paris Hilton, a high-profile stunt by the youngest member of the same hacking group federal investigators say was responsible for a series of electronic break-ins at data giant LexisNexis.

The 17-year-old boy was sentenced to 11 months' detention at a juvenile facility for a string of crimes that include the online posting of revealing photos and celebrity contact numbers from Hilton's phone. As an adult, he will then undergo two years of supervised release in which he will be barred from possessing or using any computer, cell phone or other electronic equipment capable of accessing the Internet.

The U.S. Attorney's Office for Massachusetts and the state district court declined to identify the teen, noting that federal juvenile proceedings and the identity of juvenile defendants are under seal. But a law enforcement official close to the case confirmed that the crimes admitted to by the teen included the hacking of Hilton's account.

The teen also pleaded guilty to making bomb threats at two high schools and for breaking into a telephone company's computer system to set up free wireless-phone accounts for friends. He also participated in an attack on data-collection firm LexisNexis Group that exposed personal records of more than 300,000 consumers. Prosecutors said victims of the teen's actions have suffered about $1 million in damages.

In a series of telephone and online communications between March and June with a washingtonpost.com reporter, the teen acknowledged responsibility for all of the crimes for which he was sentenced.

Washingtonpost.com is not revealing his name because he communicated with the reporter on the condition that he not be identified either directly or through his online alias.

Investigators began focusing on the teen in March 2004 when he sent an expletive-laced e-mail to a high school in Florida threatening to blow it up, according to a statement from prosecutors. The school was closed for two days while a bomb squad, a canine team, the fire department and and other emergency officials examined the building.

In August 2004, the teen broke into the internal computer systems of "a major internet service provider" by tricking an employee into opening a virus-infected file he sent as an e-mail attachment. The virus -- known as a "Trojan horse" program -- allowed the juvenile to use the employee's computer remotely to access other computers on the ISP's internal network and gain access to portions of the company's operational information, prosecutors said.

The teen told washingtonpost.com earlier this year that around that time he broke into the network of Dulles, Va.-based America Online. AOL did not return calls seeking comment.

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In January, the teen hacked into the telephone records system of T-Mobile International. He used a security flaw in the company's Web site that allowed him to reset the password of anyone using a Sidekick, a pricey phone-organizer-camera device that stores videos, photos and other data on T-Mobile's central computer servers. A month later, the teen would use that flaw to gain access to Hilton's Sidekick files, according to corroborating information and screen shots he shared with washingtonpost.com.

Later that month, according to prosecutors, an associate of the teen "set up accounts for the juvenile at a company which stores identity information concerning millions of individuals."

Again, prosecutors declined to name the company targeted in that attack. But according to screen shots provided by the teen -- supported by other information from the teen that was verified by a senior federal law enforcement official investigating the case who spoke on condition on anonymity -- the company was LexisNexis, which reported in March that hackers had gained access to the personal records of more than 310,000 Americans.

An adult member of the hacker group acknowledged in phone conversations with a washingtonpost.com reporter that he collaborated with the teen in sending hundreds of e-mails with an explicit image and a message urging recipients to open an attached file to view additional pornographic images of children. According to both hackers, a police officer in Florida was among those who opened the e-mail attachment, which harbored a virus-like program that allowed the hackers to record anything a victim typed on his or her computer keyboard. Not long after his computer was infected with the keystroke-capturing program, the officer logged on to his police department's account at Accurint, a LexisNexis service provided by Florida-based subsidiary Seisint Inc., which sells access to consumer data.

The teen said the group members then created a series of sub-accounts using the police department's name and billing information. Over the period of several days, the group looked up thousands of names in the database, including those of friends and celebrities.

Then in June, according to prosecutors, he called "a major telephone service provider because a phone that a friend had fraudulently activated had been shut off." (A washingtonpost.com reporter was invited to listen in on the call, which was made to Little Rock-based Alltel Corp.) When the company refused to provide the requested access, the teen threatened to cripple its Web site with a "distributed denial of service" attack, in which attackers use the Internet bandwidth of hundreds or thousands of remote-controlled computers to overwhelm a site with so much traffic that it can no longer accommodate legitimate visitors.

Roughly 10 minutes later the teen and others "initiated a denial of service attack that succeeded in shutting down a significant portion of the telephone service provider's web operations," according to the prosecutors.

The Justice Department said the investigation of the teen's associates is continuing, but it remains unclear how many of those individuals will be prosecuted. In May, Secret Service and FBI officials served search warrants on at least nine people thought to be connected to the hacking ring of which the teen was a member, known as the "Defonic Team Screen Name Club" or "DFNCTSC" for short.

The teen is likely to be required as a condition of his plea agreement to cooperate with the government in their ongoing investigation and provide information not only about how the attacks were carried out, but who else was involved and what their roles were, said Mark D. Rasch, senior vice president at McLean, Va.-based online security firm Solutionary Inc. and a former federal prosecutor for computer crimes.

According to interviews with at least two other former members of the group, investigators now are focusing on the individual who helped the teen gain access to LexisNexis.

"They came and took my laptop and asked a whole bunch of questions about him," a former group member known online as "DJint" said. "They told me they're looking to go after him for access-device fraud and possession of child pornography."

Still, Rasch said, it could be some time before the government wraps up its investigation into these attacks.

"Investigations of computer crimes are particularly difficult because they always involve many different types of evidence from numerous locations, and they require cooperation from many different organizations," Rasch said. "It's hard work."

Dentist Gets 57-month Term For Fraud (SBT)

By MARTI GOODLAD HELINE, Tribune Staff Writer

South Bend (IN) Tribune, September 13, 2005

SOUTH BEND -- A former Warsaw dentist who operated a mobile dental lab in the South Bend area has been sentenced to 57 months in prison for Medicaid fraud.

U.S. District Judge Allen Sharp imposed the sentence specified in the plea agreement Dr. Bryan Spilmon accepted earlier this year.

Spilmon, 44, pleaded guilty to 12 counts of health care fraud and one count of money laundering.

The remaining charges in the 52-count indictment were dismissed, as were charges filed against Spilmon's wife, Diane.

At the time of his guilty plea, Spilmon admitted to submitting billings and claims for reimbursement to Medicaid for treatments and diagnostic procedures that were never done or were not necessary.

Spilmon was accused of falsely billing the heath care benefits program for the needy for more than $2.4 million from 2001 to 2003.

He took his mobile dental units to areas where he could serve needy youths between 12 and 18, purporting to provide adequate dental care for them, when he was just engaging in a massive billing fraud, according to Assistant U.S. Attorney Donald Schmid.

Sharp ordered Spilmon to make restitution of $2.4 million. Spilmon also was ordered to reimburse the Indiana attorney general's Medicaid Fraud Unit more than $70,000 for the costs of investigating the case.

In addition, Spilmon agreed to forfeit several vehicles, including two Lexus cars, a Subaru, a camper, a pickup truck and the mobile dental units. He and his wife also forfeited the contents of about 40 accounts at financial institutions, according to court documents.

The forfeitures have already netted some $2.3 million for the government, and that amount could reach $2.5 million by the time all the forfeited items are sold.

The U.S. Marshals Service may take the two mobile dental units to the Gulf Coast to assist in Hurricane Katrina relief efforts, Schmid said.

Sharp agreed to a term of the plea agreement in which Spilmon could be credited up to 50 percent of the value of the forfeited items toward the restitution obligation. That amount could reduce his restitution debt to $1.2 million.

The case was a very significant one for the government, according to Schmid. "The scope of the fraud is quite large and the investigative work by the Medicaid Fraud Unit and the FBI was outstanding."

Spilmon later tried to withdraw the guilty plea, asserting his innocence, but Sharp would not permit him to take it back.

Spilmon was ordered to report Oct. 11 to begin his term.

Four Admit Illegal Sale Of Electronics Gear To China (NSDY/AP)

By Jeffrey Gold, Associated Press Writer

Long Island Newsday, September 14, 2005

NEWARK, N.J. -- Four people who operated an electronics firm in southern New Jersey pleaded guilty Tuesday to violating export regulations by shipping nearly $400,000 of electronics that could be used for military purposes to entities controlled by the Chinese government.

The case involving Manten Electronics Inc. is the latest, but far from the largest, to deal with illegal technology and arms exports to China.

U.S. Immigration and Customs Enforcement said it has seen a dramatic increase in the shipment of sensitive technology and weapons components to China. Since January 2000, the agency has launched more than 400 investigations into illegal technology and arms exports to China.

The four people at Manten, as well as four people at Universal Technologies Inc. in Mount Laurel, were arrested in July 2004 following an 18-month investigation by ICE, the FBI and the U.S. Commerce Department.

Prosecutors have reached plea deals with the Universal defendants but the agreements have not yet been formalized, Assistant U.S. Attorney Judith H. Germano said.

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Among the restricted items Manten obtained were monolithic microwave integrated circuits, an electronics component used in a variety of weapons systems and found on U.S. bombers, fighter aircraft, military helicopters, missiles and satellites, according to court papers.

In court Tuesday, Manten president Xu Weibo and his three co-defendants each pleaded guilty to a single charge of conspiring to violate export laws, admitting that they sent restricted items at the request at least two Chinese agencies, the 20th and 41st Research Institutes. They admitted they lied to U.S. distributors and on shipping documents to conceal the nature of the shipments. The conspiracy charge carries up to five years in prison and a fine of up to $250,000 or twice any profit.

The two Chinese agencies are part of the Ministry of Information Industry and develop military and civilian communications technology, according to court papers. Specialties of the 20th include aircraft landing systems and military radio-navigation technology. Work at the 41st includes military amplifiers and testing devices for military instruments.

The Commerce Department in May 2001 said the 20th Research Institute "poses an unacceptable risk in the development of weapons of mass destruction or the missiles used to deliver weapons of mass destruction," according to court papers.

Weibo, 38, also pleaded guilty to violating the Export Administration Act, which carries up to 10 years in prison and a fine of up to $250,000 or five times the value of the export or twice any profit; and a count of violating the Arms Export Control Act, which carries up to 10 years in prison and a fine of up to $1 million or five times the value of the export or twice any profit.

Also pleading guilty was his wife, purchasing agent Xiu Ling Chen, also known as Linda, 33, of Mount Laurel; her brother, vice president Hao Li Chen, known as Ali, 29, of Mount Laurel; and his wife, controller Kwan Chun Chan, known as Jenny, 29, of Mount Laurel.

The four agreed to forfeit $391,337, which Germano said represented the revenue from illegal sales made from June 2002 until Manten was closed with the arrests in July 2004.

All four are naturalized U.S. citizens from China. The women used a translator to follow court proceedings, but answered in English when questioned by U.S. District Judge Joseph A. Greenaway Jr. They remain free on bail pending sentencing, scheduled for Feb. 6.

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On the Net: U.S. Attorney's Office in Newark:

http://www.njusao.org/break.html

U.S. Asks Manila To Uncover Suspected Spy Links (NYT/REU)

By Reuters

The New York Times, September 14, 2005

Filed at 7:18 a.m. ET

MANILA (Reuters) - The United States has asked the Philippines to help it trace recipients of classified documents suspected to have been stolen by a former Filipino police officer and an FBI employee, a senior official said on Tuesday.

Michael Ray Aquino, a former top police official in the Philippines, and Leandro Aragoncillo, a Philippine-born U.S. citizen, were arrested in the United States on espionage charges on Saturday.

The Philippine foreign affairs department said in a statement that the charge sheet accused Aquino, a known ally of senior opposition politicians, of passing classified papers from the Federal Bureau of Investigation to two ``national level" officials and one ``former national level" official in Manila.

``The FBI is now asking for our help to find out who received those documents here in the Philippines and who provided the money for the transaction," Reynaldo Wycoco, head of the National Bureau of Investigation (NBI), told reporters.

Wycoco said the information was a ``classified assessment of the Philippine political situation and political leaders."

According to affidavits from FBI agents, Aragoncillo passed classified documents about the Philippines to Aquino between February and August this year using cellphone text and e-mail messages.

The Philippines has been through months of political turmoil sparked by allegations of electoral fraud and graft against President Gloria Macapagal Arroyo, who last week survived an impeachment attempt by the opposition.

Wycoco added that recipients of the classified documents could be indicted by U.S. or Philippine courts.

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``Large amounts of money changed hands," Wycoco said, without giving specific details on the amount.

Aquino moved to the United States in 2001 after the ouster of former President Joseph Estrada in a military-backed popular uprising.

The Philippine foreign ministry said Aquino was arrested at his Queens residence in New York on Saturday and is being held at Passaic County Correctional while awaiting court hearings.

FBI Takes Sheriff's Elections Records (HTRIB)

By TODD RUGER

The Herald Tribune (Southwest Florida), September 14, 2005

SARASOTA — The FBI has subpoenaed Sarasota County Sheriff William Balkwill's campaign financial reports for the 2000 and 2004 elections.

The subpoena asks for the records to be provided for a grand jury convening Sept. 22 in U.S. District Court in Tampa.

Balkwill does not know why the records were subpoenaed, Sheriff's Office spokesman Lt. Chuck Lesaltato said Tuesday.

"He has no idea," Lesaltato said.

The FBI has not served a subpoena to Balkwill or anyone else in the Sheriff's Office, Lesaltato said.

The FBI special agent listed on the subpoena declined to comment Tuesday, referring questions to the FBI spokeswoman in Tampa.

That spokeswoman, Sara Oates, said the FBI does not confirm or deny the existence of any investigations.

A spokesman for the U.S. attorney's office in Tampa also declined to comment on the subpoena.

The records are hundreds of pages detailing the finances of Balkwill's campaigns, including lists of who donated to his elections and how he spent that money.

The donations generally range from $10 to $200 and were made by area residents, businesses and law enforcement officers.

The paperwork is filed periodically, as required by state law, and is open to public inspection.

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Nashville Attorney Charged In Fraud Extradited From Brazil (AP)

AP, September 14, 2005

NASHVILLE, Tenn. The U-S Attorney for Middle Tennessee says a former lawyer wanted on fraud and money-laundering charges has been brought back to Nashville from Brazil.

George Nason is one of eleven people named in a 2002 federal indictment in connection with the former Loan Ranger company.

U-S Attorney Jim Vines says Nason is charged with conspiracy to defraud mortgage loan companies and financial institutions, mail fraud, bank fraud, money laundering and false statements to financial institutions.

Prosecutors say Nason and the others bought properties, then sold them to "straw buyers" at inflated prices. The government says the "straw buyers" borrowed from the banks and mortgage lenders and the alleged conspirators paid them ten-thousand dollars per sale for helping in the scam.

Thirteen loans were taken out, for a total of more than three (m) million dollars.Nason fought extradition all the way to the Brazilian Supreme Court, which turned him down.Federal marshals returned him to Nashville over the weekend.

Mass. Attorney, GOP Official Charged With Money Laundering (LAW/AP)

By Denise Lavoie, The Associated Press

Law.com, September 14, 2005

The vice chairman of the Massachusetts Republican Party was charged Tuesday with money laundering after he allegedly offered to "cleanse" drug proceeds for a legal client.

Lawrence Novak, 54, an attorney from Brockton, Ma., was arrested at his home Tuesday after investigators said he allegedly offered to launder drug profits for Scott Holyoke, who is awaiting trial on federal drug trafficking charges and agreed to be a cooperating witness against Novak for the FBI.

Novak was taken into custody after he allegedly deposited money in a Brockton bank, federal authorities said.

Gov. Mitt Romney called for Novak to step down while the investigation continues.

"The charges against Larry Novak are very troubling and Gov. Romney believes that it's appropriate while these charges are pending for Mr. Novak to step aside as vice chairman of the state party," said Romney's spokesman, Eric Fehrnstrom.

Republican Party Executive Director Tim O'Brien said the charges are unrelated to Novak's GOP role. Novak served as the party's treasurer in the late 1990s.

"We're shocked to hear about the developments. These are very serious allegations that we are going to be following very closely," O'Brien said.

Novak made an initial appearance in U.S. District Court late Tuesday and was released on $25,000 non-surety bond. Neither he nor his attorney would comment on the charges.

Novak allegedly offered to have Holyoke sign false affidavits in an attempt to invalidate some of his prior state court convictions in order to reduce the sentence he would face in his federal case.

Holyoke told Novak that he had over $100,000 in cash in a safe deposit box, repeatedly telling Novak that the money was drug proceeds, according to an affidavit filed by Lauren Youngquist, a special agent with the criminal investigation unit of the Internal Revenue Service.

Novak allegedly told Holyoke that he would take approximately $60,000 of the money as a legal fee and offered to "clean" or "cleanse" the remainder of the cash, the affidavit said.

According to the arrest affidavit, after Novak made the offer to launder Holyoke's drug proceeds, the IRS and FBI introduced an undercover IRS special agent who posed as Holyoke's aunt.

On Tuesday, the agent gave Novak approximately $107,000 in cash and told Novak it was drug proceeds. Novak then took the money to Eastern Bank in Brockton, where he purchased three bank checks in the amount of $9,000 and three $1,000 money orders.

He deposited $77,000 into an existing account at the bank, according to the arrest affidavit.

Novak then returned to his home and office, where he was arrested.

A bank employee told the IRS special agent that when Novak deposited the cash and purchased the bank checks, he said he had found the money.

Novak is due back in court on Oct. 3. He faces a maximum sentence of 20 years in prison and a $250,000 fine if convicted.

AP writer Steve LeBlanc contributed to this report.

Female Killer Set For Death Penalty (WT)

By Hugh Aynesworth

The Washington Times, September 14, 2005

DALLAS -- Texas stands ready today to execute the first black woman, and only the third female, to be put to death since the state resumed capital punishment in 1982.

Frances Newton, 40, was convicted of murdering her husband and two children in 1987. She always has maintained her innocence, though prosecutors convinced a Harris County jury that she killed her family for $100,000 in insurance money.

Only a last minute stay of execution by Gov. Rick Perry or intervention by the Supreme Court can halt the execution. Newton's lawyers wrote a letter to Mr. Perry Monday, asking for a 30-day stay in their efforts to show that prosecutors erred in linking her to a presumed murder weapon.

Unlike the days preceding the executions of Karla Faye Tucker in 1998 and Betty Lou Beets in 2002, Newton's plight has not elicited much interest from outside the state, although the president of the American Bar Association has asked the governor to intercede, citing "compelling new evidence" that "has not been evaluated by Texas courts."

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Michael S. Greco, the ABA president, said Newton was not properly represented by her court-appointed lawyer, Ron Mock of Houston -- a lawyer who often has been reprimanded by the state bar and is now prohibited from representing clients in death penalty cases because of his inadequacy. Mr. Mock told the judge the day her trial began that he had not interviewed a single witness on behalf of Newton.

David Dow, a Houston lawyer who now represents Newton, wrote the governor saying courts had been "influenced by a lie" in the state's assertion that a gun placed in an abandoned house was the one used to kill her family.

"Newton," he wrote, "has always admitted she placed a gun in an abandoned house. We know, however, that the State recovered at least two guns and perhaps as many as three, and we have reason to believe that at least two guns, and possibly all three, were handguns manufactured by Raven Arms. What that means is that we have absolutely no reason to believe the gun Newton admits to having placed [made by a different manufacturer] was the murder weapon."

One assistant district attorney testified that only one gun was found. A top police officer said he thought two had been recovered. Another assistant district attorney told a Dutch television newsman there had been two.

Few believe Mr. Perry will intercede and halt the execution. Last December he granted a 120-day stay.

In the past week, the 5th U.S. Circuit Court of Appeals voted not to stop the scheduled execution and the Texas Board of Pardons and Paroles voted 7-0 not to recommend that the governor commute the sentence to life in prison. Mr. Dow has filed a final appeal to the U.S. Supreme Court.

The Austin American Statesman editorialized strongly Monday that Newton should not be executed. "Race, ethnicity, income and geography all are factors in the imposition of death sentences. As long as Texas has a death penalty, capital defendants should have access to competent legal counsel. Newton didn't get that. For that reason she should be spared."

Two DeLay Associates Indicted (DMN)

By Wayne Slater

The Dallas Morning News, September 14, 2005

AUSTIN – Two political associates of U.S. House Majority Leader Tom DeLay were indicted Tuesday on additional felony charges of illegally using corporate money to elect Republicans in 2002.

John Colyandro and Jim Ellis were charged with using $190,000 in corporate money to make campaign contributions to GOP candidates for the Texas House in what prosecutors say was an illegal money-laundering scheme.

Mr. Colyandro, former executive director of the Texans for a Republican Majority Political Action Committee, and Mr. Ellis, who heads Mr. DeLay's Washington-based Americans for a Republican Majority, were indicted earlier on money-laundering charges. Tuesday's charges focus on the campaign contributions. Both defendants deny wrongdoing.

Mr. DeLay, the Sugar Land Republican who created both political action committees, is not charged in the three-year grand jury investigation into allegations of illegal corporate cash in Texas political races.

An attorney for Mr. Ellis complained Tuesday that it was the second time the Travis County district attorney has revised the indictment to add charges.

"There is nothing new in the facts alleged in the latest version of the indictment," J.D. Pauerstein said. "Indicting these men three different times for the same alleged acts is unconscionable."

It is illegal in Texas to use corporate money to elect candidates. Texas law also prohibits corporate donations to political parties during the final 60 days of an election.

Mr. Colyandro and Mr. Ellis are accused of sending $190,000 in corporate money to the national Republican Party, which then issued the same amount in political party funds to seven Texas legislative candidates. Prosecutors say the transaction was designed to hide the source of the money.

After the Republicans won a Texas House majority in 2002, Rep. Tom Craddick of Midland was elected speaker. He helped Mr. DeLay achieve the goal of redrawing the Texas congressional map, and in 2004, the party won five more U.S. House seats.

The original $190,000 check was dated Sept. 13, 2002. A three-year statute of limitations would have expired Tuesday on additional charges.

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The Travis County grand jury has also indicted TRMPAC and the state's largest business group, the Texas Association of Business, on charges of violating state campaign finance laws.

Meanwhile, a federal judge has dismissed a separate civil case brought against Mr. Colyandro by two Texas Democrats.

Judge Lee Yeakel ruled that lawyers for the Democrats had failed to prove that Mr. Colyandro had knowingly broken Texas law by using corporate money to fund campaign advertisements.

CIVIL LAW:

2nd Circuit Approves Holocaust Settlement Allocation Formula (LAW)

By Mark Hamblett, New York Law Journal

Law.com, September 14, 2005

An Eastern District of New York judge's allocation of settlement funds to the most needy, elderly victims in the Holocaust Victims Assets litigation has been upheld by a federal appeals court.

In a decision issued Friday written by Judge Jose Cabranes, the 2nd U.S. Circuit Court of Appeals upheld the formula used by Judge Edward Korman that placed special emphasis on compensating Holocaust victims who live in the former Soviet Union.

The principal issues in the appeals were settled by the circuit in In Re Holocaust Victim Assets Litigation cases 04-1898-cv and 04-1899-cv. The appeals challenged Korman's geography-based allocation of a $1.25 billion settlement with Swiss banks and other organizations designed to aid victims of the Holocaust.

The proceeds of the settlement are to be divided among five classes -- the Deposited Assets Class (those whose assets were stolen from Swiss banks); the Looted Assets Class (those whose possessions were stolen by the Nazis and then disposed of through Swiss banks), two classes of those forced into slave labor by the Nazis, and a fifth Refugee Class.

Special Master Judah Gribetz, of counsel at Bingham McCutchen, concluded that the Settlement Agreement gave priority to members of the Deposited Assets Class -- which should receive roughly $800 million based on evidence that as many as 54,000 Swiss bank accounts are "probably" or "possibly" related to Holocaust victims.

The remainder, he suggested, should be allocated to the other classes, including the Looted Assets Class. Gribetz recommended that, at least during the first stages, distributions should be focused on surviving Holocaust victims among the Looted Class members "who are in greatest financial need."

Of the $90 million to go to programs for the neediest survivors, Gribetz proposed earmarking 75 percent for destitute Jewish victims of Nazi persecution in the former Soviet Union.

While the total amount of funds was later increased for the Looted Assets Class, the proportions of the allocation remained the same when Korman adopted Gribetz's supplemental recommendations in 2002 and 2003.

In 2004, Korman turned aside an objection to the allocation formula by The Holocaust Survivors Foundation-U.S.A. Inc. and others who argued that survivors in the United States had received a disproportionately small allocation.

Korman endorsed the formula partly because of the wildly disproportionate distribution of restitution funds to survivors since the end of World War II. But he also favored the formula given the harsh conditions survivors endured both during Communism and after its collapse.

Korman noted that "the financial situation of individual survivors in the Former Soviet Union ... is woeful in comparison to that of survivors in the United States."

Judges Thomas Meskill and Jon Newman joined in the appeal.

JUDGE WITHIN HIS DISCRETION

Cabranes said appellants were not challenging the District Court's discretion to distribute settlement proceeds to the neediest members, only "whether the District Court exceeded the bounds of that general principle in this case by allocating funds partly on the basis of geographic disparities in the provision of basic needs."

The conclusion, Cabranes said, was that Korman was "well within his discretion."

"We recognize that, in a traditional class action brought to remedy an injury that had occurred shortly before the initiation of suit, the amounts allocated among claimants would normally vary primarily by the effect of the injury upon different claimants,

rather than by the current financial needs of the claimants," Cabranes said. "But in the circumstances presented by this case, we think the equitable principles of the cy pres doctrine permit the geographic variation that the District Court adopted."

The circuit gave considerable weight to Korman's focus on prior restitution.

"As that Court pointed out, survivors residing in the Former Soviet Union had been cut off by the prior Soviet regime from the ten prior major efforts at Holocaust reparations, and of the $53 billion that has been provided to Holocaust victims through these prior efforts, $14.8 billion or 28 percent has gone to survivors in the United States and only $444 million or 0.8 percent has gone to survivors in the Former Soviet Union," Cabranes said.

In the end, Korman's decision to allocate 75 percent of Looted Assets Class funds to needy Jewish survivors in the former Soviet Union "was rendered after the District Court carefully weighed all relevant considerations and made numerous factual findings," he said.

Korman "acted well within his discretion, and we find no support in the record of this case for appellants' suggestion that the Court acted in a 'totally subjective' manner," he said.

Despite a series of challenges to his rulings in this and other appeals, Cabranes said, Korman has approached every step of the litigation with "thoughtful analysis and scrupulous fairness."

Edward Labaton of Goodkind Labaton Rudoff & Sucharow was lead attorney for appellants in cases 04-1898-cv and 04-1899-cv. Burt Neuborne was the lead settlement counsel.

The circuit also upheld Korman's refusal to allocate funds to a trust that would have provided grants to "disability oriented, non-profit, non-governmental organizations," and his rejection of a second proposal to make allocations in support of "scholarly, educational and outreach programs" related to the Nazi persecution of homosexuals.

The circuit's accompanying decisions upholding Korman's discretion of those issues came in cases 04-2466-cv and 04-2511-cv, respectively.

Cold War Drags On — Forever (USAT)

USA Today, September 14, 2005

By the end of next week, President Bush has to decide what to do with a list of military base closings and realignments he received Thursday from a special commission. The president has two choices: approve the list, or kick it back to the commission for further review.

Because the panel gave the Pentagon most of what it sought, and because Bush is occupied with Hurricane Katrina and other issues, he's not expected to pick a fight.

But this is a fight worth picking.

This is the final round of a 17-year process aimed at trimming forces that were needed to fight the Cold War. A succession of commissions were created to overcome political opposition. Yet this commission still spared costly Air Force and Navy bases that the Pentagon doesn't want.

As absurd as this is, it's not as absurd as the reaction of several governors, who are suing to reverse the panel's modest changes to National Guard bases. Connecticut's governor, for instance, says A-10 planes need to be based there for homeland security. A-10s are used for strafing ground forces. Perhaps Gov. M. Jodi Rell fears invasion from Canada.

Rejecting the commission's report would signal the governors that the Pentagon needs to focus on the terror threat from abroad, not domestic jobs at Guard bases. And a rejection would force the commission to reconsider other questionable decisions born of the same misplaced motivations:

Tolerating excess submarine capacity. Submarines play a minor role in the terror war, and the country doesn't need three East Coast submarine bases. Nor does it need to retain its excess submarine repair capacity. And yet the commission elected to keep open the submarine base in New London, Conn., as well as the Portsmouth sub repair yard in Kittery, Maine.

Delaying base closings. Though the panel agreed that New Mexico's Cannon Air Force Base should lose its four F-16 fighter squadrons, it delayed closing the station — just in case the military could find a new use. Commissioners feared the impact that losing 5,000 jobs would have on the tiny city outside Cannon. But generosity was not the commission's mission.

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Just as ill-advised was the decision to keep open South Dakota's Ellsworth Air Force Base. Many suspect politics played a role there because killing Ellsworth could have been fatal to the career of freshman Sen. John Thune, R-S.D., who won his seat by promising to keep the base open. There's no proof, argued the commission, that consolidating the entire B-1 fleet at a single base in Texas would save money.

Common sense suggests otherwise.

The president has a full plate right now, but he shouldn't pass up a chance to save money and improve defense — even if it means putting the commission back to work.

Thune: Ready To Roll (RC)

By Mark Preston

Roll Call, September 14, 2005

A few days before a federal commission was scheduled to decide the fate of Ellsworth Air Force Base, South Dakota's two Senators preemptively released a lengthy statement pledging to work together on issues of importance to the state.

"We both strongly believe that the time for emphasizing partisan differences and partisan attacks is long over and that South Dakotans are eager that both of us work as closely together as possible, which we are committed to doing," Sens. John Thune (R) and Tim Johnson (D) wrote in the Aug. 23 letter.

It was a striking public statement from two political enemies who had spent the better part of the past four years trying to end the other's career. But the declaration came at a time when both Senators were bracing for the worst: the loss of a military base that is their state's second largest employer.

Within 72 hours, they were saved from their greatest fear, as the Base Realignment and Closure Commission shunned the Pentagon's recommendation to shutter Ellsworth and voted instead to keep the base open.

Now, the question is how long will the Thune-Johnson alliance remain intact, given that these two political rivals may be headed for yet another showdown in 2008.

Thune is the early frontrunner to lead the National Republican Senatorial Committee in the 2008 election cycle — the same year that Johnson will be seeking a third term. Johnson said he "anticipates" that Thune will be the chairman of the NRSC, and acknowledged "maybe this will come apart, but I hope not."

"I think we have ... come to terms with an understanding we will work together where we can," Johnson said.

For Thune, the decision to keep Ellsworth open allows him to expand his political portfolio beyond South Dakota's borders. The Republican Senator had campaigned in 2004 on the idea that, as a Republican in a GOP-controlled capital, he would be best positioned to keep the base open. That's why the closing of Ellsworth, had it happened, would have been so damaging: It would have forced Thune to shore up support in his home state rather than advancing his national ambitions.

But by helping convince BRAC to keep the base open, Thune has instead added to his reputation of overcoming long odds to win. Less than a year earlier, Thune defeated Senate Minority Leader Tom Daschle (D-S.D.) in the most closely watched Senate race of 2004. His campaign victory earned him the title of "giant killer" for being the first challenger to defeat a Senate leader in more than half a century.

The Pentagon, which recommended that Ellsworth be closed, is Thune's latest adversary to go down in defeat.

"He was extraordinarily effective in making the case about the impact of [closing Ellsworth] on his state," said Senate Majority Whip Mitch McConnell (R-Ky.). "Typically, these BRAC recommendations are not adjusted in any major way, but I would call that a major adjustment. That was a great victory for him."

Much to the chagrin of GOP officials, Thune suspended all campaign activity once it was announced in the spring that Ellsworth was being targeted for closure. He declined invitations to appear at Republican fundraisers across the country and even postponed a $100,000 event in New York City for his own political action committee.

The Ellsworth victory now allows Thune to spend part of his time helping the national Republican Party. He recently appeared at two fundraisers that raised about $200,000 for Sen. James Inhofe (R-Okla.). And the South Dakota Republican acknowledged that he is interested in chairing the NRSC in the 2008 election cycle.

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"Some folks have talked to me about it, and I am at least entertaining the thought of possibly running for that," Thune said in an interview last week. "It is early on right now, but I think the key is recruiting good candidates and then raising money, and those are two things I think I can do well."

Democrats seized on Thune's renewed willingness to spend part of his time criss-crossing the country to raise money for GOP candidates.

"It is clear his priority is not South Dakota," charged Phil Singer, spokesman for the Democratic Senatorial Campaign Committee. "BRAC was not a big victory for him, but rather a big sigh of relief for him."

But Republicans were quick to point out that whether Democrats like it or not, Thune has a national profile. Inhofe said many of the contributors that attended his fundraisers told him they had donated to Thune's 2004 campaign.

"Almost everyone who came in, of course they were real heavy hitters for me, almost everyone of them had given to him," Inhofe said. "So that gives you an idea of the national significance of his race and the national impression that is out there."

Further evidence of Thune's national appeal is the fact that his PAC raked in more than $500,000 in the first six months of this year.

McConnell, who is expected to succeed Senate Majority Leader Bill Frist (R-Tenn.) in the 110th Congress, said Thune has the qualities to be an effective leader of the NRSC.

"I think anyone who has won a tough race, you develop the kind of campaign skills that are very useful in a job like that," said McConnell, himself a former two-term NRSC chairman. "He certainly demonstrated, I think, great political skill."

Even though Thune is generally considered a loyal soldier for the GOP, Thune confidants said he is not afraid to use his political skills against his own party if it aids his own state. His allies note that when the White House refused to help Thune in his bid to keep Ellsworth open, the freshman Senator openly opposed President Bush's nominee for U.N. ambassador, John Bolton, though Thune himself never made the linkage.

Thune said he holds no animosity toward the Bush administration, but added in an interview that he would not support the administration in the future on issues where their "mutual interests are not aligned."

For now, Thune said he is evaluating each campaign fundraising request "on a case-by-case basis" to determine where he can be of the most assistance.

"I want to be helpful to the team and keep the majority in the Senate," Thune said. "There are a number of colleagues running this time who are friends, and I will do as much heavy lifting as I can."

CIVIL RIGHTS:

Corrections Department Under FBI Investigation (SPT)

By Join Us Internships Scholarships Times Jobs Contact us Briefs By wire services Published September 14, 2005

St. Petersburg (FL) Times, September 14, 2005

TALLAHASSEE - The FBI confirmed Tuesday it is investigating the Florida Department of Corrections, though the nature of the probe is unclear.

FBI agents are working with the Florida Department of Law Enforcement, said FBI spokesman Jeff Westcott in Jacksonville. He declined to provide details.

"I can confirm that the FBI, along with FDLE, are involved in an investigation that concerns the Department of Corrections," Westcott said.

A high-ranking state prison official, Region I director Allen "A.C." Clark, quit last week without explanation. Clark rose through the ranks under Corrections Secretary James Crosby, who also has declined to discuss why he quit, other than citing "personal reasons."

Gov. Jeb Bush suggested Monday that he knew details but could discuss them.

Clark, 40, is a former warden at New River Correctional Institution.

Four current or former Corrections Department employees were charged in February with illegal distribution of steroids. The case involved the Justice Department, FDLE, Clay County Sheriff's Office and federal postal inspectors.

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Rates On Minority Mortgages Face Probe (TSSC)

By Binyamin Appelbaum

The State (SC), September 14, 2005

CHARLOTTE — In a national report issued Tuesday, the Federal Reserve Board said blacks and Hispanics disproportionately receive high interest rates on mortgage loans, that it does not know why and it intends to find out.

Regulators will examine lending by about 200 selected companies to see if discrimination affected pricing decisions, the report said. The Fed declined to name the firms.

The Fed also said it will examine whether blacks and Hispanics are sometimes steered to high-rate lenders when they could qualify for a market-rate loan.

The report is the federal government's opening statement in an accelerating public debate about the role of race in loan pricing.

For the first time, lenders must disclose which of their loans carry a high rate.

The Charlotte Observer reported in August that blacks were four times as likely as whites last year to receive high rates on home purchase loans, based on the newspaper's analysis of about half of all loans. Hispanics were twice as likely.

The government released complete national lending data Tuesday showing similar disparities among all lenders.

Charlotte's big banks, Bank of America Corp. and Wachovia Corp., made few high-rate loans last year. They also made relatively few loans to blacks.

The gaps do not prove discrimination. Lenders say pricing is based on risk and that race is not considered. They emphasize that the data do not include credit scores, down payment amounts or other factors lenders use to determine interest rates.

But the Fed report said discrimination might be a part of the explanation. The report found that many of the disparities resulted from the fact that minorities are far more likely than whites to borrow from companies that specialize in loans with high rates. In 2004, interest rates of about 8 percent and higher were considered high, while market rates averaged around 6 percent.

In addition to the possibility that borrowers are steered to high-rate lenders, the Fed said it will explore whether some market-rate lenders fail to make their loans equally available in minority communities.

"This industry is certainly under a spotlight," said Paul Hancock, a lawyer who once led the Justice Department's enforcement of fair housing laws and now works with lenders on compliance issues. "To the extent that differences in loan prices are correlated with race and national origins, the burden will be on the lender to explain the reason for the differences."

Playing Games With Voting Rights (NYT)

The New York Times, September 14, 2005

The State of Pennsylvania took a shameful step backward when the State House passed a bill that could potentially deprive tens of thousands of parolees and probationers of the right to vote. Even if the bill fails to be passed by the State Senate - as many people predict - it will inevitably suppress the vote in the poor and mainly minority communities where ex-felons tend to live. People in those communities are already confused about their rights under the law, and many who are actually eligible to vote don't do so out of fear that they may penalized or turned away at the polls.

The Pennsylvania bill comes at a time when the rest of the country is moving in the opposite direction. Over the last decade, a dozen states have softened or revoked disenfranchisement laws, understanding that voting rights are integral to the mission of reintegrating ex-offenders into the community. Indeed, the American Correctional Association, which represents prison officials, recently called on states everywhere to stop barring ex-offenders from the polls because that practice was inconsistent with the goal of rehabilitation.

The Pennsylvania bill represents an odious attempt by lawmakers to undo a state court ruling overturning a law that required newly released prisoners to wait five years before getting the right to vote. Republican lawmakers who disliked the court ruling liked it even less when community activists in Democratic parts of the state began to inform ex-felons that they now had the right to return to the polls. Legislators are also trying to direct public attention away from a hugely unpopular pay raise that they voted for themselves earlier this year. That makes the attack on voting rights all the more reprehensible.

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ANTITRUST:

Microsoft, Google Both Claim Victory (WP)

By David A. Vise

The Washington Post, September 14, 2005

A ferocious battle for the loyalty of computer users, pitting mighty Microsoft Corp. against search engine juggernaut Google Inc., is playing out in a court case that feels more like a barroom brawl than a staid conflict over one company hiring an executive away from the other.

The feud between the companies reaches the highest levels of the corporate suites and has burst into public view amid court proceedings laced with bitterness and foul language. As the heavyweight and incumbent, Microsoft is trying to defend itself against attacks involving recruiting, products and innovation from a scrappy rival that poses a threat to its preeminent position in personal computing.

Yesterday, a judge in Washington state ruled that a former Microsoft executive hired by Google can begin doing some, but not all, work for the search engine company in China, the latest twist in a battle that will play out into next year.

In a written opinion, King County Superior Court Judge Steven C. Gonzalez ruled that Kai-Fu Lee can start recruiting employees for Google, meeting with government and university officials, and establishing a headquarters for Google's new research center. But, pending a trial in January, the judge barred Lee from hiring anyone away from Microsoft, using confidential information he learned during his employment there, or working in computer search and other specified fields for Google.

Not surprisingly -- given the ongoing war of words prompted by anger over Google's hirings of dozens of Microsoft employees around the world -- both sides immediately declared victory.

Tom Burt, Microsoft's deputy general counsel for litigation, said the Redmond, Wash.-based software giant had succeeded in severely restricting Lee's activities and use of corporate secrets. He said Google was paying Lee $10 million to head its China operations even though he could actually do very little of substance in light of the ruling.

"Dr. Lee has been reduced to the highest-paid HR [human resources] manager in history," Burt said. "Even calling him an HR manager is overstating it because an HR manger has an idea what new jobs will be, and how employees will be managed. . . . I'm sure Google and Dr. Lee will portray this as a split decision. It is like a boxer who lost on a third-round knockout saying, 'Yeah, but I got a good jab in there, didn't I?' "

Nicole Wong, associate general counsel for Google, said Lee would immediately get rolling, hiring employees in China and establishing a new research center there. "We're thrilled, and he's excited to get right to work on several big things," Wang said in a written statement. "The bottom line is Dr. Lee is going to get busy."

Depositions filed in the case revealed that top Microsoft officials, including CEO Steven A. Ballmer, increasingly saw Google as a serious competitive threat, and alleged, that angry outbursts have occurred. Mark Lucovsky, a former Microsoft executive, alleged in an affidavit that he had a stormy meeting with Ballmer as he left the company in November last year.

"At some point in the conversation, Mr. Ballmer said, 'Just tell me it's not Google,' " Lucovsky stated. "I told him it was Google. At that point, Mr. Ballmer picked up a chair and threw it across the room, hitting a table in his office." After cursing about how he was going "to bury" Google chief executive Eric Schmidt, Lucovsky stated, Ballmer said: "I have done it before, and I will do it again. I'm going to [expletive] kill Google."

Ballmer also allegedly sought to persuade Lucovsky to stay at Microsoft during the meeting and in phone calls. Microsoft said Lucovsky's description exaggerated what occurred in his exit meeting and conversations with Ballmer.

In a separate affidavit, Lee said that before leaving Microsoft for Google last summer, he had a series of tense meetings with top Microsoft officials, including Chairman Bill Gates, Ballmer and others. They told the Chinese computer scientist, the highest-ranking employee snared by Google, that a lawsuit would be filed if he left for Google, Lee stated.

"You should not go. Things will be very unpleasant for you if you go," Microsoft senior vice president Rick Rashid allegedly told Lee.

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"Kai-Fu, Steve is definitely going to sue you and Google over this," Gates allegedly warned Lee. "He has been looking for something just like this."

Lee said Ballmer told him: "When we do something, please don't take it personally. We like you. Your contributions to Microsoft have been immense. It's not you we are after, it is Google."

In his ruling yesterday, the judge found that Lee misled Microsoft about his plans to return to the company after a sabbatical and continued to have access to proprietary information. "Dr. Lee began assisting Google while he was still employed at Microsoft," Gonzalez wrote.

Judge Rules On Ex-Microsoft Exec's New Work (FINDLAW/AP)

By Gene Johnson, Associated Press Writer

Find Law, September 14, 2005

(AP) - SEATTLE-A state judge, ruling in a case that exposed the behind-the-scenes animosity between two high-tech titans, cleared the way Tuesday for a former Microsoft Corp. executive to perform most of the tasks rival Google Inc. had hired him to do.

King County Superior Court Judge Steven Gonzalez's decision supersedes a temporary restraining order he imposed this summer and remains in effect until Microsoft's lawsuit against Google goes to trial in January.

Kai-Fu Lee remains barred from working on products, services or projects he worked on at Microsoft, including computer search technology. But while the judge said that a noncompete agreement Lee signed with Microsoft is valid, he said recruiting and staffing a Google center in China would not violate that agreement.

Lee cannot set budget or compensation levels or define the research that Google will do in China, but he can hire people to work there, the judge said.

Lee, who has worked at Microsoft since 2000 and oversaw development of its MSN Internet search technology, including desktop search software rivaling Google's, left in July to lead Google's expansion into China.

Microsoft sued Lee and Google, contending that Lee's job at Google would violate the terms of a noncompete agreement, which prohibits him from doing similar work for a rival for a year. Microsoft also accused Lee of using insider information to get his job at Mountain View, Calif.-based Google.

Google has responded with its own lawsuit against Microsoft in U.S. District Court in San Jose, Calif.

Google, which is emerging as a formidable competitor to the Redmond, Wash.-based software behemoth, said it hired Lee to have him create an engineering office in China. But Lee is also an expert in computer recognition of language - an important field for search engines such as Google.

In a hearing last week, Microsoft asked Gonzalez to restrict the work Lee could do for Google until its lawsuit goes to trial. Gonzalez said in his ruling that the trial would more fully define the rights of both companies under the noncompete agreement.

Google wants Lee to help pick a site for the China facility and begin using his connections there to recruit students and software engineers. In China, companies recruit students in the fall to begin work the following summer. Had Lee been barred from recruiting this fall, he would have missed the recruiting season and would have had to wait until next fall, Google said.

Gates On Apple, Google -- And Microsoft's Future (SEAPI)

By TODD BISHOP, SEATTLE POST-INTELLIGENCER REPORTER

Seattle Post-Intelligencer, September 14, 2005

LOS ANGELES -- Microsoft Corp. is grappling with "a lot of smart competitors," including Google and Apple, who are ahead of the Redmond company in some key markets, Bill Gates acknowledges.

But the Microsoft chairman on Tuesday said his company remains the overall industry leader, and he compared the current rivalries to legendary ones with Lotus, Novell and WordPerfect -- situations in which the Redmond company ultimately overcame steep odds to prevail.

"At any point in our history, we've had competitors who were better at doing something," Gates said in an interview with the Seattle Post-Intelligencer, underscoring the fact that it wouldn't be unprecedented to come from behind now.

That was one of the subjects addressed by Gates during the interview at the company's Professional Developers Conference, where Microsoft is seeking to rally support for Windows Vista and Office 12, the next versions of its dominant PC software programs. Among other things, the company showed plans to shift away from traditional drop-down menus to a new "ribbon" of commands across the top of the widely used Office programs.

Gates answered questions on a wide range of topics, including Microsoft's growth prospects in the Seattle region, its ambitions in China, and efforts to shore up the security of its software. Edited excerpts from the interview:

Q: You showed Office 12 here for the first time today. How do you think users are going to react when they see such a different look?

Gates: Well, this is the world's most popular application, and people sit and use it hours and hours a day, and so any advance we make in Office can actually drive up global productivity in a significant way. For years we've had the user interface confined to just these 2-D menus.

As Office has gotten richer, we knew that was a very limiting thing. It just wasn't very visual and so now, what we've done, it is a big deal. If you're a Word user, it should only take you 10 or 15 minutes to see how those things are laid out, so it's not like you're starting over. All the same concepts are there. The capabilities are there, and you will find yourself using more of the product.

You'll hear some people say, "Yikes, this is a change," but pretty quickly you'll hear from people about what a timely and important change it is.

Q: Companies such as Google and Apple have taken the lead in some key areas. Are Windows Vista and Office 12 a chance for you to recapture some of that buzz, and show that Microsoft plans to remain a central figure in the software industry?

Gates: Well, if you look at software very broadly -- productivity software, software tools -- Microsoft is the leader in way more respects than anyone else. Driving the research that will give us speech recognition and vision, and all of those big hard things that you've got to take a long-term approach in.

At any point in our history, we've had competitors who were better at doing something. Novell was the best at file servers. Lotus was the best at spreadsheets. WordPerfect was the best at word processing.

Right now, because of the breadth of what we do, we have that in many areas. Nokia is way ahead of us in phones; we're closing the gap. Sony is ahead of us in video games. We're just on the verge of something (the Xbox 360) that will help us close the gap there. In Web search, Google is the far-away leader. Big honeymoon for them. Even if they do "me, too" type stuff, people think, "wow." And Apple in music has done a fantastic job.

We've got all these areas -- like tablet computing, this Internet connectivity, or taking presentation to a new level, office productivity -- where we're just out there in front and we just need to keep pushing the frontiers.

In those areas where somebody else has done well, that's great. We'll match what they do, we'll bring new things to it, do it better and integrate it in with other things. And so it's very healthy for the consumer. We see that in search, we see it in music. It's not new at all that that's out there.

Q: Are there any features of Windows Vista that the U.S. antitrust settlement is keeping you from including, that you would otherwise want to include?

Gates: We're not being prevented from including features, and that's the strength of the settlement that we reached with the Justice Department and others. There's quite a bit of process we go through to make sure that the way we're putting them in and exposing them to third parties, that we're meeting all the requirements of that. But it's not preventing us from being very, very innovative and making it as rich as we want to.

Q: I wondered, for example, if you might want to build in antivirus protections into Windows if not for the antitrust situation.

Gates: Well, there's a ton of security capability that we are building in to Windows Vista. The whole thing about spyware, malware, phishing, a lot of things that support antivirus. The actual capability of getting updated signatures, that's something you need on an ongoing basis, so you need to ship that separately from the operating system itself and so we will have a way that people sign up from that separate from the operating system.

Q: What will Windows Vista do for computer security, and for Microsoft's security reputation in general?

Gates: Ever since I put out the big security memo talking about that as our top priority, we've been gaining a lot of respect for how seriously we're taking it, and the steps we've taken. People have seen visible progress in terms of the ease of securing their systems, some reduction in the spam that's out there.

Now that doesn't mean that the bad guys aren't always trying to find something new. Phishing is the big thing they're doing right now. And so there will be constant innovation in these areas, invention, the need to educate customers how they set their systems up in the right way.

But in terms of making it something that doesn't really hold the industry back and Microsoft is viewed as a leader in terms of our investments, and our predictability and showing the framework for how we're doing this, we have made immense progress. We can see that when we go out and survey customers. They want more, and we're not done in any way, but they appreciate the progress and the attitude we're showing.

Q: Some people hold Microsoft most accountable for security problems, even though software flaws are exploited by "bad guys," as you said. Is that a fair criticism?

Gates: Software in general, whether it was from Microsoft or somebody else, was not set up for an environment where all the computers were connected together. So it's not like there was some software that had this security capability and our software did not. As we use the Internet to connect everyone up, then the need to essentially have suspicion and only listen to certain other systems, and if flaws come up to have those updated very quickly, that became a new requirement.

Because Microsoft is the biggest software company and so successful, we should be held responsible for coming up with those things. We've got to push the state of the art, we've got to be the one to solve those problems.

Q: You've said that this will be the most significant release of Windows since 95. Do you have any hope or expectation of recapturing the consumer excitement that accompanied that particular launch?

Gates: I'm sure we'll have some of that. The PC is so broad now compared to back in 1995, it's not quite as radical. Everybody has got a PC. I don't know if we'll use the same kind of midnight madness type things. We're seeing a lot of that in our Xbox world, where when we do a new version of 'Halo,' we do this Xbox 360, because it's very consumer oriented, we see just such mass enthusiasm.

Q: The economy has been rebounding, and Microsoft's hiring has remained steady, but at pretty much the same pace over the past few years. Do you envision that hiring rebounding in the coming years in the Seattle area?

Gates: We have been hiring people in Seattle. We see that continuing, I'm not sure I'd say at any different level than it's been at. The constraints on how many great engineers are there out there to hire will always put a ceiling on that. We're glad that we're adding people, but I wouldn't say we're entering some significantly new phase.

Q: Is outsourcing playing a role there, in lessening the amount of growth in the Seattle area?

Gates: Well, the economy is a very complex thing. We sell way more of our software overseas than we sell internally. That is, the U.S. disproportionately gets our R&D activity relative to the amount of software we sell in the U.S. And so, why has Microsoft ever been able to hire people? Because of world trade. So if people don't believe in letting other countries get rich and buy more U.S. products, if trade liberalization freezes up or goes backwards, that's a very bad thing for an export-oriented company like Microsoft.

We like the idea that China is developing their economy. They've taken more people out of poverty than any country in history over just even the last 10 years. We view those as a good thing. It does mean the world is getting a lot more competitive. We will have competitors arising out of these Asian countries. That's fine.

So I think the advances in the world economy largely have been positive, and we see that in the increasing sales in Asia, and without those our hiring growth couldn't be maintained.

Q: Last week you were scheduled to meet with Chinese President Hu Jintao before his U.S. trip was canceled. How much will China figure into Microsoft's future, and how will you overcome challenges there, such as open source software and piracy?

Gates: China is an amazing country, and I was very disappointed that it didn't work out for the President to come last week. I fully understand why the leaders decided that made sense. I'm very hopeful he'll come back to Seattle. It's going to be great to sit down and talk with him. I got to know his predecessor, Jiang Zemin, and now he's leading China in this new era.

We've been investing there, it's our long-term approach. I think China will set the standard in some ways in terms of efficiency, driving a new wave of companies into the world economy.

Q: One of the big pieces of news this week was Oracle's plan to acquire Siebel Systems. How would that deal affect the competitive landscape for Microsoft?

Gates: We've always had a good relationship with Siebel, and we'll do our best to keep that strong as they become part of Oracle. Oracle we do some things with and obviously compete in the database area. I don't think that acquisition overnight is a dramatic thing. It is part of a trend toward some consolidation that people want to simplify the software they run in their companies.

Whirlpool Officially Notifies Regulators Of Intent To Acquire Maytag (AP)

By James Prichard, ASSOCIATED PRESS

AP, September 13, 2005

GRAND RAPIDS, Mich. – Whirlpool Corp. has officially notified the Federal Trade Commission and the U.S. Department of Justice of its intent to purchase rival appliance maker Maytag Corp. in a cash-and-stock deal valued at more than $1.7 billion.

Whirlpool sent notification letters last week to both agencies because it is unclear at this point whether it will be the FTC or the Justice Department that will investigate possible antitrust concerns, Whirlpool spokesman Steve Duthie said Tuesday.

"Neither Justice nor the FTC has considered or ruled on a merger in the U.S. appliance industry for a long time – 15 to 20 years, I think," Duthie said.

Once the regulators figure out which of them has jurisdiction, Benton Harbor-based Whirlpool will provide the investigating agency with more details about its planned acquisition of Maytag, he said.

Probably by the end of this month, Whirlpool will notify the Securities and Exchange Commission that it plans to issue new shares of stock to be given to Maytag shareholders as part of the proposed transaction.

Shareholders of Newton, Iowa-based Maytag must approve the acquisition and will vote on the proposal before the end of the year, the company said last month. The agreement does not need the approval of Whirlpool's shareholders.

The companies announced Aug. 22 that they had formally agreed for Whirlpool to acquire Maytag for $21 per share and assume $977 million of Maytag debt.

A combined Whirlpool-Maytag company would capture about 48 percent of the U.S. major-appliances market, analysts have estimated. General Electric Co. would have about 26 percent of the market and Sweden's Electrolux AB would have about 20 percent.

Whirlpool-Maytag would control as much as 70 percent of the U.S. laundry market, a figure that analysts said would likely generate close government scrutiny.

Both companies have said they expect to close the deal during the first quarter of 2006, although some industry observers have said it may take longer to receive regulatory approval.

Shares of Whirpool fell $1.19, or 1.5 percent, to close at $77.91 on the New York Stock Exchange while Maytag shares dropped 19 cents, or 1 percent to $18.65.

U.S. Cellular To Acquire Alltel's Kansas, Nebraska Operations For Idaho Network And $50M (AP)

AP, September 13, 2005

CHICAGO (AP) -- Wireless carrier U.S. Cellular Corp. said Tuesday it is acquiring Cellular One's operations in Nebraska and Kansas in a move to expand its presence in the Midwest.

In exchange, U.S. Cellular will transfer its Idaho networks to an Alltel Corp. unit and pay $50 million.

U.S. Cellular said the deal will give it about 125,000 retail customers, 193 cell sites, 15 company-owned stores and 89 agent locations in an area containing about 1.4 million people. The company currently operates in 25 counties in southeastern Nebraska and 80 counties in northeastern and southeastern Kansas.

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Little Rock, Ark.-based Alltel will receive about 91,000 customers, 84 cell sites, six company stores and 32 agent locations in a region containing about 500,000 people.

The companies predicted that the deal will close in the fourth quarter, pending approval by communications regulators and the Justice Department. After the agreement is complete, both companies will continue operating their stores under the old brand names until they are remodeled.

All the Alltel assets involved in this transaction belonged to Western Wireless before Alltel acquired that company earlier this year.

Shares of United States Cellular Corp. opened up 10 cents at $55.41 on the American Stock Exchange. Alltel shares were up 54 cents at $63.69 on the New York Stock Exchange.

PECO Files Settlement To Facilitate Exelon-PSEG Merger (DOWJONES)

Dow Jones Newswires, September 13, 2005

PHILADELPHIA -(Dow Jones)- Exelon Corp. (EXC)'s (EXC) Peco Energy (EXC) unit filed with Pennsylvania utility regulators a settlement that the company expects will resolve state regulatory concerns related to Exelon's planned merger with New Jersey utility Public Service Enterprise Group Inc. (PEG) (PEG).

Exelon and PSEG agreed in December to merge. The deal has received regulatory approval from New York, Connecticut and the Federal Energy Regulatory Commission, but still requires the go-ahead from Pennsylvania, New Jersey and the Justice Department.

In a press release Tuesday, PECO said its settlement offer to the Pennsylvania Public Utility Commission would cap rates for five years and give rate discounts of $120 million over the next four years.

Peco said a judge with the Pennsylvania regulator will review the proposed settlement, which also includes funding for investment in "alternative" energy and environmental projects.

The judge is expected to make a recommendation before the settlement goes before the regulator for a full vote, which Peco said may happen before the end of the year.

Exelon and PSEG expect to complete all regulatory reviews and close the merger in the first half of 2006.

In a separate email statement, an Exelon spokeswoman said the company plans a conference call at 11:30 a.m. EDT. The call can be accessed at 1-800-683-1525.

Exelon shares recently listed at $55.91, down 11 cents, or 0.2%.

Company Web sites: http://www.pseg.com; http://www.exeloncorp.com

-Jeremy Herron; Dow Jones Newswires; 201-938-5400; AskNewswires@DowJones.com

America West Shareholders Back US Airways Merger (WSJ/DJN)

By Nicole Urbanowicz, Dow Jones Newswires

The Wall Street Journal, September 14, 2005

PHOENIX -- America West Holdings Corp. said Tuesday its shareholders have voted in favor of the company's merger with US Airways Group Inc., clearing the way for the deal to close this month.

The parent company of low-fare carrier America West Airlines said 95.5% of total voting shares were voted in favor of the deal.

Class A shareholders voted 100% in favor of the deal, while class B shareholders voted 85.2% in favor. Out of the class B shareholders, 4.4% opposed the deal and 10.4% abstained from voting.

"With US Airways final bankruptcy court hearing scheduled for later this week, we anticipate closing our merger with US Airways at the end of September as previously scheduled," America West President and Chief Executive Doug Parker said in prepared statements.

US Airways' bankruptcy turnaround plan relies on the merger with America West. The U.S. Bankruptcy Court of Alexandria, Va., has a hearing scheduled for Thursday to consider final court approval of the air carrier's Chapter 11 turnaround plan.

Under the deal, America West will become a wholly owned unit of US Airways, and existing America West shareholders will receive about 37% of the merged airline's shares.

Investors in the merger, who have pledged a total of $565 million, are slated to receive about 52% of the reorganized US Airways. The remaining shares will fund distributions to the Pension Benefit Guaranty Corp. and US Airways' general unsecured creditors.

Once the merger is complete, the new company will operate as a low-cost airline based in Tempe, Ariz. The merged airline will trade under the stock symbol "LCC."

Shares of America West recently changed hands Tuesday at $7.21, down 11 cents, or 1.5%, in New York Stock Exchange composite trading.

US Airways-America West Deal Approved (WT)

By William Glanz

The Washington Times, September 14, 2005

US Airways Group Inc. yesterday took a big step toward emerging from bankruptcy when shareholders at America West approved combining the two airlines.

Shareholders at America West overwhelmingly approved the merger, with more than 95 percent agreeing to the deal during voting at the company's headquarters in Tempe, Ariz.

The vote is a "ringing endorsement" of the proposed company's business plan, said Douglas Parker, who is chief executive of America West and would serve as chief executive of the combined company.

The combination of US Airways and America West would create the nation's sixth-largest airline and a low-cost carrier with a broad geographic reach.

Perhaps more important for US Airways, yesterday's vote made it more likely that U.S. Bankruptcy Court Judge Stephen Mitchell would approve its reorganization plan, analysts said.

"I expect court approval," said Ray Neidl, an airline industry analyst for Calyon Securities Inc., in New York.

Judge Mitchell's hearing on US Airways' reorganization plan, scheduled for tomorrow, is the last hurdle the company must clear before a merger can take effect and its second trip into bankruptcy can end.

The merger is the linchpin of the reorganization. It also may make the difference between US Airways' failure or success.

"I think most of us expected US Airways to disappear," said Michael Roach, an airline analyst and co-founder of America West, which began flying in 1983.

But then America West came along, he said. US Airways and America West began merger discussions in January, then announced their plan to combine operations May 19.

The new company will be funded with $1.5 billion in new equity from companies including Airbus SAS, Air Canada parent ACE Aviation Holdings Inc. and a group led by Air Wisconsin Airlines Corp.

US Airways' unsecured creditors and the Air Transportation Stabilization Board, which has backed more than $1 billion in loans for the two airlines, have approved the merger.

If Judge Mitchell approves US Airways' plan tomorrow, the first official day of the merged company would be Sept. 27, America West spokesman Philip Gee said.

The airlines are promoting Sept. 27 as "Day One."

The combined company will operate with the US Airways name, but it will move to America West's corporate headquarters in Arizona.

Immediate changes will be modest. US Airways and America West operate jointly in 38 cities, and it will take months before the airlines complete work to change logos and rebrand themselves in each market.

While work is done to present the airline as a single company, flight operations must remain separate until the Federal Aviation Administration issues the combined company a single operating certificate. That could take up to three years, Mr. Gee said.

Even if Judge Mitchell approves the reorganization plan tomorrow, the airlines still face significant obstacles, industry analyst Darryl Jenkins said.

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Rising jet-fuel costs will impose a heavy financial burden, and determining seniority among pilots, flight attendants and mechanics will take years, he said.

"There are going to be problems," Mr. Jenkins said.

America West flight attendants demonstrated outside the airline's headquarters yesterday to voice their dissatisfaction with the slow progress of contract talks. The union this week asked a federal mediator to oversee negotiations with the airline.

Suit Says Wal-Mart Is Lax On Labor Abuses Overseas (NYT)

By Steven Greenhouse

The New York Times, September 14, 2005

A labor rights group filed a class-action lawsuit yesterday against Wal-Mart Stores in which apparel workers in Bangladesh, China and other countries assert that Wal-Mart violated its contractual obligations by not enforcing its code of conduct for overseas contractors.

The lawsuit, filed in state court in Los Angeles, makes the novel argument that Wal-Mart's code of conduct created contractual obligations between it and thousands of workers employed by contractors who were supposed to comply with the code.

In the lawsuit brought by the International Labor Rights Fund, workers from Bangladesh, China, Indonesia, Nicaragua and Swaziland assert that the codes of conduct were violated in dozens of ways. They said they were often paid less than the minimum wage and did not receive time-and-a-half for overtime, and some said they were beaten by managers and were locked in their factories.

"Based on its vast economic power, Wal-Mart, based on its code of conduct, can and does control the working conditions of its supplier factories," the lawsuit states. "It could use its power and position to prevent its producers from profiting from the inhumane treatment of plaintiffs."

Beth Keck, a Wal-Mart spokeswoman, said the company was studying the lawsuit. "It's really too early for us to go into any kind of detail about this complaint," Ms. Keck said. "It involves a number of countries, suppliers and factories. We will be looking into this and taking it very seriously."

Wal-Mart executives say that they have the world's largest overseas monitoring program, with more than 5,000 factories inspected by 200 full-time inspectors who visit 30 factories a day. The executives say that when inspectors find violations, they give factories several months to fix any problems before another inspection.

Last year, according to the company's ethical standards report, Wal-Mart cut off 1,200 factories for at least 90 days because serious violations were found in the second visit. Another 108 factories were permanently banned, primarily because of child-labor violations.

In the lawsuit, two male workers for Wal-Mart contractors in Shenzhen, China, asserted that they were not paid the minimum wage, not permitted to take holidays off and were forced to work overtime. They said the contractors withheld the first three months of all workers' pay, almost making them indentured servants because the company refused to pay the money if they quit.

An apparel worker in Dhaka, Bangladesh, said that she was locked into the factory and did not have a day off in her first six months. She said that she was told if she refused to work the required overtime, she would be fired. Another worker said her supervisor attacked her "by slapping her face so hard that her nose began bleeding simply because she was unable to meet" her "high quota."

The complaint tells the stories of 16 plaintiffs, but lists them as John and Jane Does, saying they need to be protected against reprisal. Several said they were fired or suspended for backing unions.

The lawsuit accuses Wal-Mart of breach of contract for wage violations, forced labor and denying workers the right to associate freely. It also accuses the company of negligence, unjust enrichment and fraudulent and deceptive practices in violating California's business code.

Terry Collingsworth, executive director of the International Labor Rights Fund, a Washington-based advocacy group, asserted that filing the lawsuit in California was appropriate because Wal-Mart had violated that state's laws. He said that if the

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plaintiffs had filed the lawsuit in their home countries, they would have faced arrest, physical attacks and hostile judicial systems that favored corporations.

He faulted Wal-Mart's monitoring system, contending that fewer than 10 percent of its inspections were unannounced. He said company managers often coach workers on what to tell the inspectors.

Wal-Mart executives say that they are working to improve the monitoring and that more inspections will be unannounced.

"With our growth, the challenge of ethical sourcing has become increasingly complex," H. Lee Scott Jr., Wal-Mart's chief executive, wrote in the company's 2004 Report on Standards for Suppliers. "But we have a qualified ethical standards team dedicated to verifying that factories are in compliance with local labor laws and/or Wal-Mart standards, whichever are more stringent."

An Indonesian plaintiff who said she made jackets for Wal-Mart's private-label George line complained of unpaid work hours and unpaid overtime, saying that she often worked from 7 a.m. until 8 or 10 p.m. Mondays through Fridays. She said she also had to work on Saturdays from 7:30 a.m. until 3 or 4 p.m.

Another Indonesian worker said, "Wal-Mart production quotas were far higher than quotas from previous buyers, and her supervisor regularly yelled at her and her colleagues if the work was not performed quickly enough."

An apparel worker in Matsapha, Swaziland, said he sometimes had to work from 7 a.m. to 11 p.m. and once worked all night. "He was threatened with immediate dismissal if he did not work overtime, and the factory doors were locked to ensure he did not leave," the lawsuit asserted.

Mr. Scott wrote in the ethical standards report, "It is important to recognize the reality that however strong the programs we develop, violations of our standards will occur." He added that it was a point of pride with Wal-Mart when violations were discovered, action was taken.

The plaintiffs include four unionized California supermarket workers who say that they suffered cuts in pay and benefits because of competition from Wal-Mart's low prices. They argue that those prices are attributable in part to violations of the chain's suppliers' code of conduct.

Wal-Mart Accused Of Denying Workers' Rights (WP)

By Michael Barbaro

The Washington Post, September 14, 2005

An American labor rights group filed a class-action lawsuit yesterday against Wal-Mart Stores Inc., alleging that suppliers in five countries violated workers' rights, including denying a minimum wage, requiring overtime and punishing union activity.

The suit, filed in California Superior Court in Los Angeles, accuses Wal-Mart of failing to enforce its standards for suppliers and, in some cases, observe local labor laws in China, Bangladesh, Swaziland, Nicaragua and Indonesia.

The International Labor Rights Fund, a District-based advocacy group, filed the suit on behalf of 15 foreign workers who claimed they were subjected to illegal working conditions, and four California grocery employees who claimed that Wal-Mart's cost-cutting measures resulted in lower wages and benefits.

The suit, which must be certified by a judge before achieving class-action status, is the latest legal salvo against the discount retailer, which faces class-action suits claiming that it discriminated against black truck drivers and female store employees. If certified, the suit could represent 200,000 to 400,000 people, said lawyer Terry Collingsworth of the International Labor Rights Fund.

Beth Keck, a spokeswoman for Wal-Mart's international division, called the case "complex" and said "it's too early for us to talk about this in detail."

Collingsworth said the suit would test whether corporate codes of conduct, which retailers such as Wal-Mart require their foreign suppliers to sign, "are simply public relations devices or whether they mean what they say."

The suit could take years to move through the courts, but in the meantime, the case is expected to add to the growing debate about Wal-Mart's business model, which has shifted the manufacturing of products including clothing and toys to foreign countries to cut labor costs. Wal-Mart is based in Bentonville, Ark.

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According to one assertion in the suit, a woman at a Wal-Mart clothing manufacturer in Bangladesh worked seven days a week, from 7:45 a.m. to 10 p.m., making chalk marks on pants and did not have a day off for six months.

The four California plaintiffs are employees of unionized grocery chains, such as Ralphs and Safeway Inc., that have cut wages and benefits to better compete with Wal-Mart. All four are members of the United Food and Commercial Workers Union, which is trying to organize Wal-Mart's 1.2 million U.S. employees.

Aggressive Patent Litigants Pose Growing Threat To Big Business (WSJ)

By William M. Bulkeley

The Wall Street Journal, September 14, 2005

In one of Douglas Fougnies's early business ventures, he provided phony new-vehicle titles for stolen cars. His partner, Larry Day, is a onetime blackjack dealer in Las Vegas.

Together, the two men have found a more lucrative line of work: suing cellphone companies for patent infringement. Earlier this year their company -- which consists of four employees and six patents -- won $128 million in damages from Boston Communications Group Inc. and four other companies over alleged misuse of a 1998 patent.

Messrs. Fougnies (pronounced FOON-yay) and Day are successful practitioners of a growing trade. Several large companies, including Microsoft Corp., are struggling to beat back tiny outfits armed with little more than a broad patent or two and a team of lawyers.

Lured by the potential returns, hedge funds and other institutional investors now are bankrolling businesses that buy up patent portfolios. More law firms, including some branching out from product-liability and malpractice work, are taking patent cases on a contingency basis. That means the law firms are paid a percentage of any damages awarded but little or nothing if the patent-holder loses.

Critics call the small litigants "patent trolls" and say they are parasites on successful businesses. "We finally built it up to where we started to make money at it, and the patent troll industry came along and said, 'We want a piece of that,' " says Paul Tobin, the 62-year-old founder and chairman of Boston Communications. "No one comes after you until it all works. They don't go after the failures."

Boston Communications has 400 employees and had 2004 revenue of $108 million. Its stock, which is listed on the Nasdaq Stock Market, hit $30 a share in 2001 but plummeted after the recent judgment, and traded late yesterday at $1.17.

Messrs. Fougnies and Day make no apologies. "The cause of the lawsuit is not that we are patent trolls. The cause of the lawsuit is that these defendants used our patented technology to make over $1.5 billion in revenue," says Mr. Day.

In 2003 Eolas Technologies Inc. and the University of California won a $560 million judgment against Microsoft over a patent covering features of Web browsers. (An appeals court this year ordered the case to be retried.) In March, BlackBerry maker Research In Motion Ltd. agreed to pay $450 million to NTP Inc. over wireless-email patents.

Acacia Technologies, of Newport Beach, Calif., has acquired 120 patents in areas ranging from credit-card fraud protection to hearing aids. It has filed patent-infringement lawsuits against Intel Corp., Cablevision Corp. and others. Nathan Myhrvold, Microsoft's former chief technology officer, has formed a company called Thinkfire, backed by high-tech firms and venture-capital investors, that acquires patents and manages patent licensing for others.

In response, some technology companies are supporting a House bill introduced in June by Texas Republican Rep. Lamar Smith. It would limit remedies for successful plaintiffs that don't make products. The bill faces opposition from inventors and pharmaceutical companies, and its fate is unclear.

The 48-year-old Mr. Fougnies says he worked in real-estate development and recreational-vehicle sales before getting into the cellphone business in 1990. Using $2,000 borrowed on his wife's credit card, he says, he opened a retail store in Phoenix selling cellphones and calling plans. Soon he had five outlets and became partners with Mr. Day. The former blackjack dealer and pit boss in Las Vegas had became a prosperous Phoenix insurance agent and was looking for an investment opportunity.

In 1994 Mr. Fougnies and Jack Harned, a Phoenix software engineer, filed for a patent covering a prepaid cellphone system. The patent describes in general terms a method for setting up such a system so that it can keep track of how many

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minutes users have left on their phones without requiring them to punch in a special access code. The system would be able to shut down cellphones that had run out of minutes.

At the time, prepaid phones were cumbersome to use because users typically had to dial a special number first and then type in a personal identification number before going on to complete their call. Companies were eager to offer prepaid calling because many people with poor credit couldn't qualify for regular cellphone plans.

Mr. Fougnies started showing the system to prospective customers, including GTE Wireless Corp. When GTE announced a prepaid plan based on a different system, his company filed a $500 million suit accusing GTE of stealing its trade secrets.

The suit went badly for Mr. Fougnies. In a deposition, he denied that he had ever stolen anything, only to be confronted later in the deposition by the record of a 1980s conviction for car theft. Mr. Fougnies says he never stole cars but in 1986 provided a ring of thieves with phony new-vehicle titles. The ring, he says, was renting cars in California and Las Vegas, reporting them stolen and driving them to Phoenix. Mr. Fougnies, who cooperated with the authorities, was convicted of a misdemeanor, which he says he thought had been expunged from the record at the time he was deposed.

The case against GTE dissolved after GTE presented testimony that another vendor was offering a similar prepaid technology. That suggested Messrs. Fougnies and Day didn't have any trade secrets that could be stolen. They eventually agreed to a settlement in which their company paid more than $90,000 to GTE for legal expenses, said GTE hadn't stolen any trade secrets, and agreed never to sue it again.

Despite the setback, the pair signed up licensees or partners in a dozen cities from Boston to San Francisco and had revenue in 1996 of $11 million. They expanded to Washington, D.C., installing a prepaid system and buying minutes from Bell Atlantic that they could resell to retail customers. But Bell Atlantic soon informed them that it would terminate the agreement. Later Mr. Fougnies discovered that Bell Atlantic was starting to sell a prepaid plan using technology from Boston Communications, whose service was more lucrative for carriers because the carriers got more of the prepaid revenue.

With the prepaid-cellphone business bringing in little profit and hopes for expansion receding, Messrs. Day and Fougnies shut it down in 1999. Having recently received the patent they had sought, they decided to start a new company called Freedom Wireless Inc. focusing solely on patent litigation. They raised several million dollars by selling their retail stores and the subscribers, and several million dollars more by selling shares in Freedom to private investors.

Freedom bought a "patent-enforcement" insurance policy through Lloyd's of London, which covered up to $5 million of any litigation costs in exchange for a premium payment that Mr. Day says was less than 12% of that sum, or less than $600,000. The policy resembled an investment: If Freedom won its lawsuit or settled, the insurer would get back its original outlay plus a 25% bonus. A Los Angeles law firm, Quinn Emanuel Urquhart Oliver & Hedges, agreed to represent Freedom Wireless in part on a contingency basis.

In 2000, Freedom filed suit against Boston Communications and many of its customers, alleging patent infringement. After mergers and out-of-court settlements, the main defendants that remain today are Boston Communications; Cingular Wireless, which is owned by SBC Communications Inc. and BellSouth Corp; and Western Wireless Corp., which is being acquired by Alltel Corp. Boston Communications is on the hook for the entire sum of any damages because it agreed to indemnify its customers against patent-infringement suits when it installed its technology.

Boston Communications had been formed in 1988 by Mr. Tobin and three other cellphone veterans. Their company started out selling technology to let a customer of one cellphone provider make calls in another provider's region -- now a common feature called roaming but then an innovation.

In 1994, according to later trial testimony, a Boston Communications executive conceived of a prepaid system that would handle calls from cellphones without requiring PIN-codes or special chips in the phones. Cellphone carriers could keep using standard telephone switches in their existing facilities. All they needed to do was load the switches with Boston Communications software that could identify prepaid callers and check them against a database so their accounts could be debited.

No patent was sought for the system. "We didn't even focus on" obtaining one, says Mr. Tobin. "The hardware was off the shelf and we were just writing software."

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By the time the case went to court, Boston Communications was a leader in the field of prepaid calling with a 35% market share. It had installed switches nationwide for Bell Atlantic, now part of Verizon Communications Inc. Today, Boston Communications's service is used by about four million of the 18 million prepaid cellphone customers in the U.S.

During the patent suit, Freedom's lawyers showed to the jury evidence uncovered in an earlier Freedom case that that Bell Atlantic engineers had been in regular communication with Boston Communications engineers about Mr. Fougnies's technology. The evidence included internal Bell Atlantic memos. Mr. Day says the phone company would call Mr. Fougnies "and then call BCGI and say, 'Here's how to solve your problems with incoming calls.' "

Boston Communications says the discussions were innocent. "We certainly didn't need to steal anyone's idea," Mr. Tobin says.

Boston Communications's defense, led by Michael Keating of the big Foley Hoag law firm, centered on a central plank of patent law: No one can patent something that is already public knowledge.

Following in the footsteps of GTE's successful defense, Mr. Keating showed that before Mr. Fougnies developed his system -- and before he filed for his patents -- he had visited a Phoenix company called Banana Cellular, which already had a working prepaid system. The defense also pointed to a 1993 article in a trade publication describing technology that could be used to make a prepaid system using switches with special software.

Freedom's lawyer, William Price of Quinn Emanuel, contended that the prepaid systems discussed before 1994 didn't invalidate Mr. Fougnies's patent because they had technical differences and weren't operational.

Separately, Boston Communications maintained that even if the patent was valid, its technology was different from Freedom's and therefore didn't infringe.

After a seven-week trial, the jury backed Freedom. Moreover, the jury found the infringement willful -- apparently relying on the evidence about the conversations between Bell Atlantic and Boston Communications -- although the judge didn't triple the damage award, as he could have done.

Boston Communications says its total profits since 1998 from prepaid plans were only $24 million. But Mr. Price, Freedom's lawyer, persuaded the jurors to award damages based not on Boston Communications's prices but on the higher prices that Messrs. Fougnies and Day had charged in the days when they sold their own prepaid system.

In order to post bond for a planned appeal, Boston Communications reached an agreement with Cingular to raise whatever sums are needed. Boston Communications says it can't afford to pay the damages and might have to file for bankruptcy.

Its chairman, Mr. Tobin, says, "I'm afraid it was beyond the jury. They didn't understand the technology." He adds that he fears the case will embolden other companies with patent portfolios. The decision is "helping to foster this other emerging industry," he says.

Mr. Fougnies says the jury verdict will help make up for what he regards as the theft of his idea. He says he always dreamed of building a company that would do big business selling its products. "We never envisioned," he says, "that our whole life would be in a courtroom."

Oracle's Siebel Buyout Might Stifle Creativity (UPI)

By SHIHOKO GOTO

United Press International, September 14, 2005

WASHINGTON, Sept. 13 (UPI) -- Software group Oracle's bid for Siebel Systems for a cool $5.85 billion Monday was greeted by many Wall Street analysts as a signal of the return of mega-mergers and better still -- renewed confidence in the information technology sector.

After all, earlier in the day online auction house eBay announced it will be acquiring Internet telecommunications group Skype for $2.6 billion.

As the world's biggest database-software company, the Silicon Valley-based Oracle would be acquiring a group that is one of the biggest players in customer relation management software, tracking marketing data, client information and other data that helps companies be more efficient in their sales strategies. The deal is still subject to U.S. government regulations under the

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auspices of the Department of Justice, but while some industry analysts have high hopes for Oracle making the most of the acquisition, others are not so certain.

One thing, however, is certain. For Thomas Siebel himself, founder and chief executive of the company and once himself an Oracle executive, the deal is a very good one as Siebel Systems was faced with a growing number of rivals, while not many companies expressed interest in taking it over. Meanwhile, for Lawrence Ellison, Oracle's chief executive, it could well be that he finally would feel vanquished after years of bitter and public animosity with Siebel following his departure from Oracle.

"The combination of Siebel applications with the development capacity of Oracle to enhance our (client relation management) product set ... is a very beneficial business combination that will allow us to be even more effective in delivering high quality, leading edge solutions," Thomas Siebel said in a news release.

Ellison too was equally ebullient about the deal, stating that "in a single step, Oracle becomes the number one CRM applications company in the world. Siebel's 4,000 applications customers and 3,400,000 CRM users strengthen our number one position in applications in North America and move us closer to the number one position in applications globally."

Analysts, however, were less effusive about the planned buyout, even when they agreed it could be a mutually beneficial deal.

Credit raters Standard & Poor's, for instance, said the deal would have "no impact" on Oracle's rating or outlook, even as it pointed out that the acquisition "is expected to significantly strengthen Oracle's global market position, especially for customer relationship management software applications."

This is, of course, not Oracle's first major acquisition. The company finally got approval to buy out PeopleSoft in a hostile takeover bid earlier this year for $10 billion, after a long transatlantic dispute between the U.S. government and the European authorities on antitrust concerns.

While the bid for Siebel will certainly not be as controversial, some analysts including Janet White at Info-Tech Research Group of London, Ontario, argued that the purchase could actually stifle Oracle's longer-term prospects.

"By purchasing Siebel, Oracle has acquired an additional 3.4 million CRM users and the maintenance fees that go with that kind of installed base. However, where Oracle may be able to compete with (German rival) SAP on numbers in the short term, they may have trouble competing longer term on product innovation," White said.

She also argued that "Oracle is an applications company and it only makes sense that they will want to eventually move acquired customers over to their technology stack. But how much time will Oracle really have to integrate its existing portfolio, or create innovative new products, when it has to spend most of its time maintaining disparate, monolithic systems acquired through its recent acquisitions of PeopleSoft, JD Edwards and now Siebel," White said.

Oracle will be paying $10.66 per share for Siebel's stock, considerably above Siebel's Friday closing price of $9.13. Thomas Siebel owns about 55 million shares, or just over 10 percent of total shares. The deal is expected to go through by early next year.

Real Estate Agents Under Fire...again (CNN)

CNN/Money, September 14, 2005

New York (CNN/Money) - Are home buyers any closer to actually saving money on commissions?

The Department of Justice last week sued the National Association of Realtors over its "opt-out" policy -- the latest shot in an ongoing war to force competition in the real-estate industry, and one that could just maybe lead to a lowering of the standard 6 percent commission.

The opt-out policy allows NAR members to keep their real-estate listings from being broadly disseminated over the Internet.

Real-estate brokers regularly share information about listings. That enables them to put together buyers and sellers more efficiently. But if an agent opts out, it means that none of his listings can be displayed on other agents' Web sites. And he cannot list other agents' properties on his.

If a buyer begins his home search on the Web, he may never see some of the properties available. That, to the Justice Department, does a disservice to consumers. Buyers would have fewer homes to choose from. Sellers would have fewer buyers bidding for their properties.

Why would a broker want to opt out? After all, it's in the agent's best interest to have as many buyers as possible see (and bid on) a property, and the agent has a fiduciary responsibility to get the seller as high a price as the home can command.

NAR spokesman Peter Cook said that the opt-out policy is simply a way to provide good service -- many clients don't want their properties widely displayed on the Internet. Some of the wealthy and the famous wish to avoid publicity and some sellers have safety or security issues.

But critics, such as Bruce MacDonald, deputy attorney general in the antitrust division of the Justice Department, said this opt-out system is designed to "elbow out" Web-based competitors.

The issue is simple, according to one of these competitors, Manuel Iraola, who founded HomeKeys, a Florida-based Internet real estate marketer: "[Realtors] are thinking, 'How do we protect the 6 percent commission?'" Past victories

This is not the first effort by the Justice Department to shake up the real-estate industry.

Previous victories for the government agency came in Kentucky, on July 13, when the state real-estate commission agreed to allow real-estate brokers to offer rebates, discounts and other inducements to consumers to win their business.

A similar agreement was reached in South Dakota this August. The Kentucky and South Dakota cases established the policy that brokers are allowed to lower their fees to drum up business.

It all threatens to chip away at the industry's longstanding way of doing business. If the Justice Department prevails, it could mean full-commission real-estate brokers would have to operate in a more competitive world in which low-cost innovators such as Internet-based marketers would claim greater share. In a more competitive marketplace, fees for the full-service brokers would almost certainly fall.

The savings could be substantial. The standard 6 percent commission on a $300,000 home works out to $18,000. If working with a discount broker becomes a more viable option, buyers and sellers could save half of that, if not more. Clients choice

Colby Sambrotto, chief operating officer of ForSaleByOwner, said that full-service brokers shouldn't fight the future. Real-estate brokers may be wary of real-estate following the trend in some other industries, such as stock trading and travel booking where Internet business models creamed the old way of doing things.

But Sambrotto said the examples aren't exactly parallel. "You can't get around the fact that with real estate, you have a physical property," he said. "That keeps it rooted in local markets."

In other words, there should always be a need for local real-estate agents in place, on the ground, to take customers down that final road to new homeownership.

It's whether they'll still receive a 6 percent commission for doing it that may be in doubt.

Justice v Realtors (WSJ)

The Wall Street Journal, September 14, 2005

We've been pounding the National Association of Realtors over its anti-competitive behavior, and last week the U.S. Justice Department filed its own antitrust suit charging the Realtors with illegally squeezing low-cost Internet companies out of the market. So why aren't we thrilled? Because this is a case of right target, wrong weapon.

Justice is certainly correct that the Realtors have used their political clout to suppress competition in local real-estate markets. One charming legal barrier in about a dozen states -- called "minimum service requirements" -- prohibits such discount realty firms as realestate.com from offering home sellers a flat fee of typically $500 to post their houses on local sale listings. In today's booming market, with the median-priced home now selling at $220,000, the Internet-based firms can save "do-it-yourself" consumers about $10,000 on average in exorbitant Realtor fees. Another Realtor favorite are state laws that prohibit discount agents from providing rebates to home buyers of typically $1,000 or more on their fees.

Justice is targeting something different, however. At issue is the Realtor practice of preventing Internet competitors from having access to the properties for sale on the local "Multiple Listing Service," or MLS. The antitrust suit maintains that Realtor "policy prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourage discounting."

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There is little question that traditional high-fee Realtors are as receptive to Internet discounters as horse and buggy sellers were to Henry Ford's Model T. And it's true that Web-based services in other consumer industries -- from airlines to travel agents to booksellers to stockbrokers -- have all slashed costs to the great benefit of the public.

The Realtors have acknowledged in internal memos that many of their practices are meant to limit competition and preserve their lofty commissions -- typically 5% to 6% on the sale price. As such, the Realtor response to Justice that denying Internet firms access to MLS listings is "pro-consumer, pro-competitive, and pro-innovation" fails to pass the laugh test.

At the very least, these practices violate the ethical and fiduciary duty of real-estate agents to help find the best home at the best price for their clients. Instead, Realtors use their de facto price-fixing schemes to find the best home at the best price -- so long as that home offers the highest commission fee to the agents. A study by the American Enterprise Institute and Brookings Institution estimates that the economic rents that flow from consumers to Realtors as a result of this anti-competitive behavior exceed $10 billion a year.

And yet we have to admit the Realtors have a legitimate claim that they created and own the local MLS database of homes for sale. They are thus within their rights to use their private property as they wish, even if that includes denying access to competitors. As an economic matter, there are no natural barriers to entry here; anyone can start a competing listing service if he desires. The Justice Department's lawsuit would require that all homes be listed on the MLS even if home sellers don't want them to be.

Another problem with the lawsuit is federalism. Real-estate markets are inherently local, so it's not clear there is any legitimate "interstate commerce" rationale for federal intervention. For years liberals have tried to regulate the marketplace by defining virtually every business transaction as "interstate commerce" -- a clear perversion of the Constitution's intent. The Bush Justice Department shouldn't go down this same hyper-regulatory path.

A federal lawsuit seems to be an inferior way to crack the real-estate cartel, especially since it may well lose on the legal merits. Far preferable would be for the states to repeal their laws that sustain the Realtor racket to the detriment of their own citizens and the cause of homeownership.

ENVIRONMENT/INDIAN AFFAIRS:

Senate Rejects Challenge To Mercury Emissions Rule (WSJ/AP)

By The Associated Press

The Wall Street Journal, September 14, 2005

WASHINGTON -- The Senate on Tuesday narrowly turned back a challenge to the Bush administration's strategy on mercury pollution, leaving intact federal rules that give power plants flexibility in how they reduce emissions of the dangerous toxin.

With a 51-47 vote, the Senate defeated a resolution to void Environmental Protection Agency rules finalized last March. The Democrats and nine Republicans who supported the repeal contended the EPA approach was too slow and too weak in dealing with a pollutant that can cause serious neurological damage to newborn and young children.

The White House insisted that its market-based approach to curtailing mercury pollution is effective and founded on sound science, and warned that the president would veto any legislation that overturned the EPA rules.

"In reality this is a political exercise in futility," said Environment and Public Works Committee Chairman James Inhofe (R., Okla.). "Who in this chamber would truly believe that the president would sign legislation to repeal his own administration's rule?"

The debate highlighted two very different approaches to environmental protection. The administration rules, backed by the utility industry, would set a nationwide cap on mercury emissions and put a ceiling on allowable pollution for each state. But individual plants, through a cap-and-trade system, can avoid cleanups by buying pollution credits from plants that are under allowable levels.

The utility industry says this method was successful in reducing acid rain in the 1990s. But opponents say the rules are too weak and would prolong a health risk that leaves newborns vulnerable to birth defects and mental retardation.

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Sen. James Jeffords (I., Vt.) said the EPA rules violate the Clean Air Act. "The rule is plainly illegal. It is unwise. And it is definitely unhealthy for Americans living downwind of coal-fired power plants, especially mothers and their soon-to-be-born children."

Mercury pollutants work their way up the food chain after being absorbed by fish.

The sponsors of the resolution, Sens. Patrick Leahy (D., Vt.) and Susan Collins (R., Maine), turned to a little-used 1996 law that allows Congress to challenge agency rules with a guaranteed floor vote. The law has been successfully invoked only once, when Congress in 2001 repealed Clinton administration workplace ergonomics regulations.

By repealing the EPA rules, the Senate would compel the agency to rewrite the rules. The revisions would be in line with Clean Air Act standards requiring the use of the best available technology to reduce mercury emissions.

Sen. Leahy said the Clean Air Act would start reductions in 2008. They would achieve up to 90% reductions far sooner than the EPA rules that, according to Sen. Leahy, don't begin to cut emissions until 2018 and will not reach the goal of 70% reductions until 2030.

But supporters of the EPA rules said repealing the administration approach could have a devastating impact on the economy, forcing power plants to abandon coal for natural gas and driving up natural-gas prices. They contended it would cost $358 billion to achieve the 90% reduction in three years, as opposed to a cost of $2 billion under the administration plan.

"It just can't be justified from a cost-benefit point of view," said Sen. George Voinovich (R., Ohio).

The EPA approach "combines significant reductions in emissions with protection for energy security and consumers," said Scott Segal, director of the Electric Reliability Coordinating Council. "But these senators now seek to disrupt the program."

Senate Affirms EPA's Flexible Mercury Rules (USAT)

USA Today, September 14, 2005

The Senate rejected on Tuesday a challenge to Environmental Protection Agency rules that give power plants flexibility in how they reduce emissions of mercury. The vote was 51-47 against overturning the rules that the EPA finalized in March. Mercury is a toxic metal that gets into fish, endangering the food chain.

Sen. Jim Jeffords, I-Vt., said the rules violate the Clean Air Act and are unwise. “It is definitely unhealthy for Americans living downwind of coal-fired power plants, especially mothers and their soon-to-be-born children,” he said.

When the EPA adopted the rules, it said they went as far as possible without imposing excessive costs to companies and their customers. The rules “will virtually eliminate elevated levels of mercury American women and children may face solely because of U.S. power plants,” Jeffrey Holmstead, the EPA's air director, said at the time.

Gadhafi disappointed in nuclear deal

Libyan leader Moammar Gadhafi complained to Sen. Richard Lugar, R-Ind., that Libya hasn't gotten enough in return for giving up its weapons of mass destruction and halting its nuclear development program. The decision in 2003 was made to help end Libya's international isolation. Since then, the United States has freed Libyan assets that were frozen, renewed airline service and ended many sanctions. The United States has not restored formal diplomatic relations with Libya.

Lugar said Gadhafi told him in a private meeting that officials in North Korea and Iran have asked him what he got for giving up Libya's nuclear program. Gadhafi said he told them he has received nothing.

— Maureen Groppe, Gannett News Service

Congressman questions memorial design

Rep. Tom Tancredo, R-Colo., is asking the Interior Department to reconsider the crescent-shaped design of red and sugar maples for the Sept. 11 memorial for those aboard Flight 93. The crescent is a symbol of Islam, and the plane's hijackers were radical Islamists. The memorial honors the passengers and crew of the United Airlines flight that crashed into a field in southwestern Pennsylvania near Shanksville as its passengers tried to take control of the plane.

The park service and family members of crash victims said that the memorial's shape — a circle broken by the flight pattern of the plane — simply follows the topography of the crash site. The design still needs approval from Congress and the secretary of the Interior.

King warns of ‘clash of civilizations'

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Jordan's King Abdullah II, speaking at Catholic University of America, urged interfaith cooperation to confront those trying to bring about a “clash of civilizations” among Muslims, Jews and Christians. He said responsible leaders of all religions have denounced hatred and violence, “but there are those who think otherwise; who believe that there is, or will be, a clash of civilizations. Abdullah, 43, was a soldier by profession. He was educated in Britain and the USA.

Senate Rejects Call On E.P.A. To Toughen Emission Rule (NYT)

By Michael Janofsky

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - The Senate narrowly defeated a resolution on Tuesday that would have called on the Environmental Protection Agency to rewrite rules for mercury emissions from power plants. Health and environmental groups say the present rules are too weak.

The vote was 51 to 47, largely along party lines. The resolution was brought up for a vote through a rarely used and rarely successful procedure, the Congressional Review Act. It allows lawmakers to challenge regulatory decisions.

Even if the Senate had passed the resolution, it had little chance to go further. Such challenges require approval of the House, which was unlikely to act, as well as the president's signature.

On Monday, the Office of Management and Budget said President Bush's senior advisers would recommend that he veto the effort.

"I am extremely encouraged by the Senate's resolve to support a market-based approach to reducing mercury pollution and not to impede clean air progress by rolling back the existing regulation," said Senator James M. Inhofe, the Oklahoma Republican who is chairman of the Environment and Public Works Committee and a leading opponent of the resolution.

The vote, in which 6 Democrats joined 45 Republicans for a majority, was widely viewed as a victory for power plant operators and other industry groups.

They generally prefer the current rule, the first to regulate mercury emissions from power plants. It is supposed to reduce emissions 70 percent by 2018.

The rule is based on system called cap and trade that allows a plant to exceed its permitted level of emissions by buying credits from a plant in the same region whose emissions are below what is allowed.

Supporters of the rule also argue that it will lower fuel costs.

Sponsors of the resolution to strengthen the rule argued that it would require all plants to upgrade with the best available pollution-control technologies and would achieve a greater reduction of emissions, up to 90 percent, in fewer years, creating substantial health benefits for people most vulnerable to mercury poisoning, including pregnant women and children.

"The public health community is very disappointed that members of the United States Senate voted today to protect the energy industry's financial interest over the health of our children and communities," said Robert K. Musil, chief executive of Physicians for Social Responsibility, a coalition of health organizations.

Opponents of the current rule say it fundamentally violates the Clean Air Act, which requires the best available technology to drive down all polluting emissions.

Aging Nuclear Power Plants May Affect Emissions Pact (NYT)

By Matthew L. Wald

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - A proposed agreement among nine Northeast states to cap greenhouse gas emissions from power plants casts a new light on arguments in New Jersey and Vermont about whether the licenses of two aging nuclear plants should be extended.

Community groups in both states are opposing the extensions of the licenses beyond their 40-year terms, but environmentalists are generally supportive of the proposed agreement among the governors to reduce these greenhouse gases, which contribute to global climate change. Shutting down the two reactors would mean immediate, substantial increases in the emissions, because it would increase reliance on fossil fuel plants, probably tripling emissions in Vermont and doubling them in New Jersey.

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"I think the environmental community is confused right now in terms of where they want to go," said Richard A. Valentinetti, director of Vermont's air quality program, who has been deeply involved in drafting the nine-state agreement. "Obviously there's some real polarization."

Some environmentalists say the goals can be met even without the two nuclear plants, Vermont Yankee and Oyster Creek, and without other nuclear plants whose licenses will expire in the next few years.

"We just have to bust the myth that we need to be using more energy," said Rob Sargent, senior energy policy analyst for the State Public Interest Research Groups, a nonprofit consumer organization. The New Jersey affiliate of his group is a leading voice against Oyster Creek, the nation's oldest commercial nuclear plant. Mr. Sargent said that rising electricity prices would make many new energy-saving technologies practical, but he acknowledged that simply saving money would not be enough to reduce power consumption by the required amount.

Engineers and environmental experts have long predicted that planners would eventually have to choose between greater greenhouse gas emissions and heavier reliance on nuclear power. The debate has been mostly hypothetical, since nobody in the United States has ordered a new nuclear plant since the 1970's, long before global climate change was widely perceived as an issue. It was also hypothetical because there were no limits on carbon dioxide emissions in the United States.

Suddenly, both parts of the question are changing. The governors are proposing a cap on emissions, and renewal of power plant licenses has become imminent.

Oyster Creek opened near Egg Harbor, N.J., in 1969 and its license expires in 2009. A little over half the electricity produced in New Jersey comes from nuclear power, and Oyster Creek alone produces about 9 percent; in 2004 it generated 27.1 million megawatt hours.

In December 2004, the New Jersey Public Interest Research Group came out against a license extension. It said that the plant was designed to last 40 years, and that the decision by Exelon, Oyster Creek's owner, to seek a license extension was "ignoring public safety."

The plant is in a rapidly growing part of the state, the group noted, and it argued that in an emergency evacuation would be impractical.

The Nuclear Regulatory Commission announced on Monday that it had evaluated the application by Exelon for a license extension, and had decided that it merited review.

Vermont Yankee, in Vernon, near the border with Massachusetts and New Hampshire, began commercial operation in November 1972, and its license expires in March 2012. Its capacity is 535 megawatts. In 2004 the reactor produced 3.9 million megawatt hours, which was about 71 percent of the electricity produced in the state. (That production was only about one-third of the electricity consumed in the state, because Vermont is a chronic importer of power.)

Just how much carbon dioxide the two reactors are saving depends on what the replacement power source would be. A megawatt-hour from a coal plant produces about one ton of carbon dioxide. In the long run, power companies could build natural gas plants, which produce only about half a ton per megawatt hour.

The governors' draft agreement gives Vermont a limit of 1.35 million tons of carbon dioxide, approximately equal to its current emissions. But if the Vermont Yankee nuclear plant's output were replaced with coal, Vermont's emissions would increase by nearly four million tons. If natural gas were used, the increase would still be nearly two million tons.

The agreement gives New Jersey a cap of 23 million tons, but if Oyster Creek's output was replaced with coal, the state's output of carbon dioxide would more than double.

Some environmentalists say that greenhouse emissions should be cut by switching to "renewable" fuels, including wind, solar and hydroelectric. Wind-produced power, in fact, is growing rapidly, but over all, electricity from renewable sources in 2004 was about 1 percent lower than in 2003, mostly because of less hydroelectric production. Environmentalists propose reducing carbon dioxide output by building wind turbines. But utility experts say that the amount of wind that a utility grid can tolerate is limited, because wind is intermittent and often unpredictable. In fact, the "capacity factor" of a wind turbine, defined as the amount of power actually produced in a year, compared with the amount that would result from around-the-clock generation, is about 33 percent.

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In addition to Vermont and New Jersey, the seven other states in the accord are New York, Connecticut, Delaware, Maine, Massachusetts, New Hampshire and Rhode Island.

Rising Concern Over Heating Costs (HILL)

By Jim Snyder

The Hill, September 14, 2005

Sen. Pete Domenici (R-N.M.), chairman of the Senate Appropriations Committee's Energy Subcommittee, yesterday asked the administration to estimate home heating prices this winter in light of the damage done by Hurricane Katrina.

"It is becoming clear that heating homes this winter will cost quite a bit more than last year," Domenici said.

Energy experts last week told the Energy and Natural Resources Committee, which Domenici also chairs, that home-heating prices could be 31 percent higher than they were a year ago because of damage done to the Gulf Coast by Katrina.

The region produces as much as one-third of the oil and one-fifth of the natural gas produced domestically.

Domenici asked Energy Secretary Samuel Bodman yesterday to estimate how much Congress should provide in so-called weatherization assistance to help low-income families deal with higher prices.

The program helps families install more efficient heating and cooling systems, such as new windows or better equipment.

Court Rules EU Can Demand Criminal Prosecution Of Polluters (FINDLAW/AP)

By Robert Wielaard, Associated Press Writer

Find Law, September 14, 2005

(AP) - BRUSSELS, Belgium-European governments can bring criminal prosecutions against any company that violates the European Union's environmental legislation, the bloc's high court ruled on Tuesday.

The ruling boosts the powers of the European Commission, the executive body that drafts EU legislation which the bloc's 25 member states must incorporate into domestic law.

The Commission filed a lawsuit against all EU governments in 2001 for failing to include a reference to criminal prosecution of industrial violators in an anti-pollution bill it had drafted.

The governments, keen not to be seen to be yielding more powers to the EU, argued that criminal prosecutions shouuld be left to national authorities.

But the court said the Commission was entitled to ensure the laws it drafts are as effective as possible.

It said the fight against pollution was a cross-border issue and "one of the essential objectives" of the EU.

"The ruling strengthens the effectiveness of EU legislation in the case of environmental protection," Michel Petit, the European Commission's chief legal counsel, told a news conference.

The Commission's anti-pollution law forced any EU government "to establish as criminal offences under its domestic law" the discharge of hazardous wastes and dangerous radiation. It did not set minimum penalties or jail terms, leaving that to national courts.

Officials said Tuesday's court ruling may encourage the Commission to include the possibility of criminal prosecution in other areas, such as internal trade issues.

The Commission is currently at odds with some EU governments over a bill that would force phone network operators and internet access providers to retain traffic data for up to a year or more as part of the EU's fight against terrorism.

Petit said there was no immediate desire to refer to criminal prosecutions in that legislation - which has been the source of years of difficult debate due to privacy and cost concerns.

European Commission President Jose Manuel Barroso said the high court ruling on the environmental law "breaks new ground. It strengthens democracy and efficiency in the European Union."

He said the Commission would draft criminal penalties "only for particularly serious offenses," and insisted the ruling would not lead to a power-grab in a sensitive battle over sovereignty between nationalists and those advocating greater centralized power in the EU.

A similar dispute arose during the drafting of the EU's proposed constitution over whether governments should cede veto rights or control of sensitive areas such as foreign or cultural policy to the EU.

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No Blood For Oil (WSJ)

The Wall Street Journal, September 14, 2005

With $3 and $4 gas in some markets, all sorts of bad ideas are making a comeback. Price controls are the worst, but not far behind are Corporate Average Fuel Economy standards, known in the Beltway argot as CAFE. What proponents of this idea won't tell you is that they're in favor of trading blood for oil.

This notion goes back to the 1970s, and requires automakers to produce cars that get more miles per gallon across their entire fleet. The leading current proposal, promoted by environmental groups and Congressional Democrats, would raise the standard to 40 mpg by 2010 from 27.5 mpg today.

This might save gas, but we know for sure it will cost lives. That's because a primary way auto companies meet CAFE standards is to reduce the weight of their cars. Auto weight fell by about 500 pounds per vehicle after CAFE rules were introduced in 1975. Research has consistently confirmed that the lighter the vehicle the more dangerous it is in a crash because there is less survival space and less physical structure to absorb impact. A 2001 National Research Council study concluded that CAFE contributed to 2,000 additional deaths on the highways each year. Raising the standards to 40 mpg could raise to 5,000 the number of annual CAFE-related fatalities, according to a study by the Competitive Enterprise Institute.

Ralph Nader also knows lighter cars are more dangerous, though he too is a CAFE advocate. His 1972 book, "Small on Safety," described the lightweight Volkswagen Beetle as a death trap. One of the Beetle's primary attractions was its ultra-fuel efficiency. One cause of the Ford-Firestone defective tire episode of some years back was that Ford attempted to increase the fuel economy of the Explorer by making the tires lower in weight, thus contributing to the rollover effect, according to an analysis by none other than Joan Claybrook's Naderite offshoot, Public Citizen.

Under political pressure to do something, the Bush Administration proposed its own overhaul of fuel standards last month. The plan creates six categories of "light truck" vehicles and sets standards ranging from 21 mpg to 28 mpg according to size. This would increase fuel efficiency of SUVs, minivans and pickup trucks by about 6% starting in 2008. At least these rules were designed to balance fuel conservation against the dangers to passenger safety and the additional costs to struggling U.S. automakers. But it's a sign of the political times that the plan was ridiculed by the environmental lobby for not going far enough.

In fact, CAFE won't do much more to reduce gasoline use than higher prices are already doing. As oil prices have soared, cost-conscious drivers haven't needed politicians to tell them to look for more fuel-efficient cars. Sales of hybrids and high-gas-mileage cars are rising, and SUV sales have fallen off the cliff. Economist Robert Crandall of the Brookings Institution, a long-time student of CAFE, has concluded that during the 1970s high gas prices had a far greater impact on reducing fuel consumption in the U.S. than did fuel regulations.

Transportation Secretary Norman Mineta says CAFE standards are "preferable to raising taxes on consumers." It's more accurate to say that CAFE is a hidden tax on consumers, with even the new modest standards eventually raising the costs of an SUV or minivan by another $250.

Imagine the media and Sierra Club uproar if a private manufacturer put a new product on the market that knowingly killed 2,000 people every year. Yet CAFE supporters ignore the scientific evidence and pretend that no trade-off between safety and fuel efficiency even exists. If Congress really wanted to help American drivers, it would repeal CAFE.

A Splice Of Life (LAT)

The Los Angeles Times, September 14, 2005

Los Angeles squirmed with uncertainty Monday afternoon while its Department of Water and Power tried to pinpoint the source of a burgeoning outage, which spread from neighborhood to neighborhood like a fire tearing through a dry forest. The cause, once found, generated guffaws of relief. It wasn't a well-placed bomb, it was just a Three Stooges moment — some guy with cable cutters who got too enthusiastic.

That's the way it used to be with power outages. We would sit in the dark and wait to hear what dimwit in which power station hit the wrong switch. But after California's 2000-2001 energy crisis and its seemingly endless rolling blackouts, and then the terror attacks of 9/11, our assumptions turned darker.

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When the power suddenly cut off Monday, minds leaped to the extremes. Was it the handiwork of Osama bin Laden's minions, as a former Riverside County farm boy turned Al Qaeda mouthpiece had threatened on Sunday? Was it Armageddon for an overloaded and aged transmission system?

In fact, it was neither. Instead, it was a comeuppance for a city that smugly evaded not only the rolling blackouts of the state energy crisis but also the outages caused last month by a glitch at the DWP's own power transfer station in Sylmar.

The incident reminded Angelenos that their seemingly sturdy, self-contained municipal power system can still be brought to its knees in seconds by a single human error.

That's not a comforting thought in the post-9/11 era, when we have to worry about misdeeds as well as mishaps.

The outage leaves plenty of reliability issues to ponder for DWP chief Ron Deaton, the city's former chief legislative analyst who's had the post for less than a year. By Tuesday, Deaton was already promising the City Council that he would hire independent engineers to design a new system that would do a better job of isolating problems, rather than triggering broad shutdowns. Ironically, the worker who triggered Monday's outage was installing equipment that would help the DWP trace and respond more quickly to problems.

Still, such an overhaul won't be cheap. What's more, it would be prohibitively expensive to build an electrical grid with so many backups and safeguards that it would resist any and all human errors.

The real tragedy is how reassuring human error can be when the nation is reeling from a natural disaster and unnerved by the specter of terrorism. Monday's blackout harkened back to a more innocent time: Curly holds the cable, Moe makes the cut and Larry smacks his forehead.

FBI Probes Three Firms Tied To Catawbas (TSSC)

By Clif Leblanc

The State (SC), September 14, 2005

The Justice Department is investigating allegations of election fraud involving federal campaign contributions raised through organizations tied to the Catawba Indian Nation.

The FBI last month searched the offices of three Columbia companies, one of which is owned primarily by the York County tribe, according to investigative documents obtained by The State newspaper.

The inquiry is being run out of Washington and the Justice Department's Public Integrity section, court records show.

The Aug. 31 raid of New River Management & Development, SPM (formerly South Property Management) and Kapp Investment Management yielded 24 boxes of financial records, evidence of political contributions, computers, and business and tax documents, according to an inventory of the seized items.

All three companies share office space at 2711 Middleburg Drive off Forest Drive near Richland Mall.

In seeking the search warrant, FBI agent Amylynn Miller told a federal magistrate judge the government believes evidence was being concealed in the offices.

Jay Bender, a longtime attorney for the Catawbas, said Tuesday the tribe is not a target of the probe.

"Nobody has communicated in any way that the tribe is involved in an investigation," he said.

Bender is a Columbia attorney who specializes in media law and First Amendment issues. Among his clients are The State newspaper and the South Carolina Press Association; The State is a member of the press association.

He was contacted for this article in his capacity as a lawyer for the tribe.

Attempts to reach SPM chairman Terry Collier on Tuesday were unsuccessful.

An attorney for Kapp Investment, Jan Strifling, confirmed the investigation but would not comment.

Strifling said Lloyd Kapp no longer shares office space with SPM or New River.

New River manages the Catawbas' bingo and real estate development activities, Bender said.

SPM is owned by Collier but partners with the tribe through New River, Bender said.

He was unsure of Kapp's ties to the Catawbas.

In Miller's application for a search warrant, she says the government is looking into possible violations of the federal campaign contribution law.

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A list of items agents sought includes “contributions of anything of value to political candidates or organizations” since January 2000.

Agents also sought bank account records, canceled checks, deposit slips or wire transfers involving the tribe’s dealings with New River, SPM and Kapp Investments.

In addition, agents were looking for payments or reimbursements that funded political contributions.

The records, released by Magistrate Judge Bristow Marchant after the newspaper petitioned for access, do not indicate which races are in question.

Miller’s search warrant application cites federal law that sets contribution limits for individuals and political action committees.

Generally, individuals can’t contribute more than $2,000 per election to any federal candidate, $5,000 per calendar year to any PAC, $10,000 per calendar year to each state or local party committee, and $25,000 per calendar year to any national party committee.

The application also cites the federal law prohibiting a person from making a campaign contribution in the name of another person.

A conviction under that section carries a maximum sentence of five years in federal prison if the total contribution amount is at least $25,000 during a calendar year, and two years in prison if the total amount is less than $25,000 but more than $10,000 in a calendar year.

Staff writer Rick Brundrett contributed to this report. Reach LeBlanc at (803) 771-8664 or cleblanc@thestate.com.

FBI/DEA/ATF/USMS:

Heroin's Journey Traces Coke Trail: Colombia Joins Trade (BOSH)

By Laura Crimaldi and O'Ryan Johnson

Boston Herald, September 14, 2005

Once shuttled into New England from Burma, Thailand or Afghanistan, a cheaper, purer heroin is now being sent to the Hub from Colombia via established cocaine trafficking routes, drug enforcement agents say.

``They had routes they used for cocaine and just like any other organization, if it was successful, why not use it for another drug," said Tony Pettigrew, a spokesman for the Drug Enforcement Administration's New England Field Division.

While drug enforcement agents say there is no single heroin trafficking route, smack typically makes its way to Massachusetts through Florida and then New York City.

Smugglers stash heroin in cargo shipments, send it in the mail or fill condoms with it and swallow them. Once the heroin is within U.S. borders, it arrives at its final destination by motor vehicle, said state police Lt. Dennis Brooks, who is assigned to the Middlesex District Attorney's Office.

``What we're seeing is more heroin at a cheaper price and the purity is some of the highest because it's not being cut," said Brooks.

The number of Massachusetts residents being treated for heroin addiction has climbed from 44,000 to 56,000 in recent years, he said, attributing the spike to the OxyContin craze, which is addicting people to opiates at a younger age.

Heroin hits the street in a rock form that is broken down into a powder and sold for as little as $4 to $6 per bag. The DEA classifies heroin into four categories depending on where it comes from: South American, Mexican, Southeast Asian and Southwest Asian.

The presence of South American heroin manufactured in Colombia has been on the rise since 1993, and is most prevalent in New England and along the East Coast, according to the DEA's Web site.

The South American heroin is brought in onboard commercial flights by couriers who carry about a pound to 2 pounds at a time. That region's heroin sellers broke into an already saturated Northeastern drug market by offering higher purity at lower prices than the competition, the DEA states. [continue]

Appeals Court Cancels Medical Marijuana Case (OPB)

By Colin Fogarty, OPB News

Oregon Public Broadcasting, September 14, 2005

PORTLAND, OR 2005-09-13 - The Ninth U.S. Circuit Court of Appeals cancelled oral arguments Tuesday in an Oregon medical marijuana case.

The lawsuit was filed by LeRoy Stubblefield of Sweet Home. In 2002, federal drug agents seized marijuana plants that he was growing under Oregon's 1998 medical marijuana law. In a separate case, the U-S Supreme Court in June sided with the federal government's efforts to crack down on medical marijuana in California.

Paul Stanford, with the Portland-based Hemp and Cannabis Foundation, says the California decision may be why the appeals court cancelled oral arguments in the Oregon case.

Paul Stanford: Well, generally, it does not bode well for the litigant, that being us in this case. So I don't know if they're going to write a ruling unanimously in our favor or unanimously in the governments favor. But I think the odds are definitely in the government's court at this point.

In the California case, the U.S. Supreme Court said the Drug Enforcement Agency has the authority to prosecute marijuana users under federal law, even if states allow the use of pot to treat medical ailments.

9th Circuit Mulls Pot-Smoking Celeb's Appeal (LAW)

By Justin Scheck, The Recorder

Law.com, September 14, 2005

It was unclear why there was no drum circle on the third floor of the 9th U.S. Circuit Court of Appeals on Tuesday morning.

The dozen or so people assembled outside Courtroom One were certainly loud enough -- despite repeated exhortations by security guards to keep the noise level down -- and the top thing on their minds was smoking pot.

And these are people who take their weed seriously: pot lawyers, pot lobbyists, pot activists, pot smokers, a pot reporter and the requisite pot publicists -- a middle-aged assembly that ranged from besuited to bedraggled.

As the group waited for a 9th Circuit panel to finish hearing more conventional arguments -- a qui tam case, for example -- they had lots to say about marijuana.

"If you smoke pot, you have less of a chance of getting cancer than if you don't," explained Ed Rosenthal, the focal point of the group.

Rosenthal is a pot celebrity, as well as an author and publisher of pot books. ("'The Big Book of Buds,' volume one and volume two, are probably our best-sellers," said the primly suited Jane Klein, Rosenthal's business partner and wife. "They treat marijuana like you would roses," she said, referring to pictures and descriptions of growing conditions.)

In 2003, Rosenthal's celebrity moved beyond the pot community when he was convicted in San Francisco federal court of growing marijuana, despite the fact that the city of Oakland had licensed him to do so.

Rosenthal appealed that verdict -- even though U.S. District Judge Charles Breyer sentenced him to just one day in jail -- because Breyer refused to let the jury hear that the pot was grown for locally sanctioned medicinal use.

"The trial was grossly unfair," Rosenthal said Tuesday in the middle of the passionate group outside the courtroom.

His lawyer, Dennis Riordan, stood a good distance away as the group waited. In court, Riordan used softer language than his client's in his oral argument before a 9th Circuit panel of Judge Marsha Berzon, Senior Judge Betty Fletcher, and, sitting by designation, 8th Circuit Senior Judge John Gibson.

Riordan said that since his client was a city officer -- by virtue of his medical-marijuana license -- he was immune from prosecution.

He likened the prosecution to the federal government arresting local law enforcement officials for possessing drugs while they are working on an undercover investigation, and pointed out that federal law gives immunity to officials "lawfully engaged" in law enforcement.

While the judges -- especially Berzon -- seemed somewhat skeptical of that argument (she wrestled several times with the meaning of "lawfully engaged"), they had few questions about a narrower defense by Riordan: that Rosenthal, because he could

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have reasonably thought his pot growing was legal, should have been acquitted. Or, at the very least, the jury should have been allowed to hear the medical marijuana argument, Riordan said.

"Due process requires simply that a jury hear that defense," he told the panel. Amber Rosen, an assistant U.S. attorney, argued the case for the government. She said that a city may not deputize someone to act in violation of federal law, challenging the assertion that Rosenthal was lawfully engaged. Rosen also spent time challenging Rosenthal's one-day sentence, which deviated from optional sentencing guidelines. That argument didn't go over well with the judges.

"If it's not mandatory, [Breyer] doesn't have to justify a departure from the guidelines," Berzon said. "So why are we looking at a departure from the guidelines?"

After the hearing, Riordan -- an appellate specialist with Riordan & Horgan -- said that while he hopes to win on the immunity issue, he's more confident that the judges will order a new trial based on the entrapment argument.

"We could go down like a rock on the immunity issue and win hands down on the entrapment-by-estoppel issue," he said.

In addition to Riordan, Joseph Elford, a lawyer with Americans for Safe Access, argued that prosecutors misled the grand jury that indicted Rosenthal.

After the arguments, which ran nearly a half-hour longer than scheduled, the judges didn't seem swayed by either side. The same could not be said for the pro-pot contingent, which stood outside the courtroom expounding on the need to legalize marijuana -- though that was not the issue before the 9th Circuit.

"If there's any justice in the universe," insisted Bruce Mirken of the Marijuana Policy Project, "Ed Rosenthal will win his appeal."

The case is U.S. v. Rosenthal, 03-10307.

FBI Arrests Eight On Charges Of Racketeering In Pot, Cocaine Ring (NSDY)

Long Island Newsday, September 14, 2005

MIAMI -- FBI agents arrested eight men in New York and New Jersey on Tuesday on racketeering, money laundering and other charges stemming from an alleged conspiracy to distribute large quantities of marijuana and cocaine.

The eight were named in an indictment returned by a grand jury in Florida that also seeks forfeiture of $75 million in profits from the alleged illegal drug sales, some of which involved truckloads of marijuana shipped from the U.S.-Mexican border to New York, New Jersey, Florida, Pennsylvania, Ohio, Kansas and other states.

One of those charged was identified as John Leto, also known as "Johnny Balls" and allegedly a member of an organized crime family in New Jersey. Leto, 39, allegedly used his connections as a "La Cosa Nostra associate" and his construction business to protect the marijuana business and help distribute the drugs, according to the indictment.

Leto and the seven other defendants had their initial appearances before a judge Tuesday in U.S. District Court in Newark, N.J. It could not immediately be learned if any of the defendants had hired a lawyer or whether any would fight extradition to face the charges in Florida.

County Men Target Of Grand Jury Probe (VCNB)

By Scott Sandlin

Valencia County News-Bulletin, September 14, 2005

A state court grand jury is scheduled to take up potential death penalty charges against three alleged members of a Valencia County drug gang this month.

The target notice sent to the three men shifts the focus away from a pending drug prosecution in U.S. District Court.

Ben Gallegos, 33, Frankie Gallegos, 28, and Juan Calles, 31, alleged members of the East Side Locos, are being investigated for seven slayings, including shootings and strangulations. Investigators believe the shootings are either gang- or drug-related.

The three received target notices last week, telling them they have a right to testify at a Sept. 23 grand jury.

The grand jury is looking at a string of charges that include kidnapping, racketeering, witness intimidation, tampering with evidence and murder related to the following:

Dec. 20, 2000, death of Philip Silva, whose body was found with a rope around his neck and a bag on his head on a South Valley ditchbank.

April 18, 2004, shooting deaths of Eddie Verdugo and his girlfriend, Joyleen Chavez, in their Los Chavez home.

Dec. 12, 2004, shooting death of Elizabeth Gonzales, 26, of Belen.

Nov. 26, 2004, strangulation deaths of Cruse Rael, 31; his girlfriend Deanna Sais, 43, and her son Jason Slade, 22, on Isleta SW.

The three men, along with eight others, were indicted by a federal grand jury in March for methamphetamine distribution. The indictment also seeks forfeiture of $63,900 in cash seized during a series of raids March 10. A superseding indictment was handed up in July charging Ben Gallegos with operating a continuing criminal enterprise, conspiracy and distribution of methamphetamine.

Attorneys for the three in the federal case want to postpone pretrial matters because of the potential death penalty charges in state court.

The attorneys, Bob Cooper, Jacquelyn Robins and Assistant Federal Defender John Butcher, said they have asked the New Mexico Public Defender Office to make immediate arrangements to appoint death-qualified counsel in state court.

The East Side Locos is believed to have been active in the Belen and Los Lunas area since the early 1990s.

Agent Details Bomb Charges (JCL)

By Jimmie E. Gates

Jackson (MS) Clarion-Ledger, September 14, 2005

BRANDON — A Brandon teenager built a bomb designed to kill and injure, a prosecutor told a federal jury Monday.

James Rankin, 19, of 3175 U.S. 80 East is charged with possession of an unregistered firearm, transfer of an unregistered firearm and the manufacture of an unregistered firearm.

If convicted, Rankin faces up to 30 years in prison. The case continues today in U.S. District Court in Jackson.

"The defendant made a bomb, not a firework," U.S. Assistant Attorney David Fulcher said in his opening statement. "It's simple. The defendant made a bomb that was designed to kill and with the intent for it to kill."

Rankin's attorney, U.S. Public Defender Dennis Joiner, told the jury he would delay his opening statement until after the prosecution concludes its case.

Rankin was arrested Nov. 9, 2004, after he allegedly tried to sell a bomb to an undercover agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives.

"He asked if I wanted a large pipe bomb, a small pipe bomb or a hand-held grenade," ATF special agent Connie Wilson testified.

Wilson said she posed as someone wanting to harm an ex-husband in Texas after a confidential informant told her Rankin could make a bomb.

The informant set up a meeting for her with Rankin.

In the Oct. 28, 2004, meeting, Wilson said Rankin described a wide range of explosive devices, including pipe bombs, briefcase bombs like the one he allegedly delivered to Wilson, one that could be detonated with a mercury switch or one that could be attached to the bottom of a car.

Wilson said she called Rankin on Nov. 8 and arranged to purchase a bomb from Rankin for $130. Wilson met Rankin at about 3:30 p.m. Nov. 9 in The Home Depot parking lot.

A circuit judge revoked Rankin's probation in a car-theft case and sentenced him to five years in a state prison after his arrest on the federal weapon charges.

Ex-Marshal Gets 15 Years For Rockville Killing (WP)

By Fredrick Kunkle

The Washington Post, September 14, 2005

A former deputy U.S. marshal who killed a young Navy seaman in a road rage incident last year at a Rockville shopping plaza was sentenced yesterday to 15 years in prison.

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Arthur L. Lloyd, 54, who was convicted in June of voluntary manslaughter in the Oct. 29 shooting of Ryan T. Stowers, probably will serve about 11 years before he is eligible for parole, prosecutors said.

Calling the shooting "an enormous tragedy" for both families, Montgomery County Circuit Court Judge Ann S. Harrington tailored a sentence that satisfied neither side completely. She went beyond state guidelines calling for a five- to 10-year sentence, but she declined to impose the maximum 35-year term requested by prosecutors.

Holding a collection of family photographs, Tricia Stowers told the court she believes Lloyd should serve the same amount of time she had been allowed with her son before his life was cut short.

"Your honor, this whole time I've had to listen to the defense's version of what happened, I never hear, 'I'm sorry.' I never hear, 'I was wrong,' " Stowers said. "That's not going to bring Ryan back, and putting Mr. Lloyd in jail will never bring Ryan back. But he needs to realize that he was wrong. He needs to sit there and think about it every day, every day for at least 20 years. Twenty years -- that's what I had with my son."

When it was his turn to speak, Lloyd asked the family to forgive him. Then, in remarks that drifted over several subjects, he placed some blame for the deadly encounter on Stowers's intoxication. He said that all law enforcement officers have been on edge in the post-Sept. 11 world and that he became fearful for himself and his family when Stowers followed him into the shopping plaza.

He claimed that he had no choice but to take action against a driver who made "racially profane" remarks and menaced him and his family. Lloyd is black; Stowers was white.

"Just between me and God, and to the family, especially the mother, and all the brothers and sisters, I have to ask forgiveness. And I have to ask forgiveness because a young man lost his life," Lloyd told the court.

The shooting occurred at the Mid-Pike Plaza in front of dozens of horrified witnesses, many of whom were shopping with children for Halloween costumes. That was why Lloyd, off duty and accompanied by his wife and five young children, headed to the shopping plaza in his black SUV. Then he encountered Stowers. A state toxicology report determined later that Stowers had a blood alcohol concentration nearly three times Maryland's legal driving limit.

Their traffic dispute became a fistfight. Dozens of shoppers dialed 911 on cell phones. Witnesses testified that, as Lloyd's wife tried to hold him back, Lloyd went to his vehicle for his .40-caliber Glock service weapon, vowing: "I'm going to show him."

Lloyd shot Stowers in the leg, saying he feared for his life and wanted only to disable a crazed adversary. Lloyd said he felt that his life was in danger when Stowers attempted to drive away in his red Camaro. Lloyd fired three shots into Stowers's car, one of which clipped Stowers's aorta.

Witnesses -- some of whom returned to court yesterday to address the judge -- said Lloyd looked more like an enraged motorist waving a gun around than a trained law enforcement officer. They said they, too, had been afraid.

Eugenia Hull, a Silver Spring woman who was buying Halloween costumes with her two boys, recalled holding her arms out to shield them, later realizing how absurd the gesture was.

"I had no way to protect my children from this man with a gun," said Hull, 44.

Marshal Gets 15 Years In Killing Of Calif. Navy Seaman (AP)

By JACOB ADELMAN, Associated Press Writer

AP, September 13, 2005

ROCKVILLE, Md. (AP) - Family members watching from both sides of the courtroom remained still and silent Tuesday as a Montgomery County judge handed the former U.S. Marshal convicted in the shooting death of a Navy seaman from California a 15-year sentence.

Arthur L. Lloyd, who sat beside his lawyers in a green prison jumpsuit, showed little emotion as Circuit Court Judge Ann Harrington sentenced him to 25 years, then suspended 10.

"I have to process it so I can deal with it," Lloyd's sister Beryl Stanley said of the decision as she stood outside the courtroom looking dazed.

During their testimony, members of Lloyd's family portrayed the 54-year-old as a peaceful man distraught over his actions in the Oct. 28 shooting and asked the judge to be lenient.

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"There was no intent to purposefully do harm," said his brother Glenn Lloyd. "He is very sorry it happened."

"Just trying to deal with the whole situation is punishment enough," Stanley said.

Lloyd's family members were followed by those of his victim, Ryan T. Stowers, 20, of Redding, Calif. They offered teary testimony and asked for the judge to issue the harshest punishment she could.

"If he didn't shoot my grandson in the back, he would still be here," said Stowers' grandmother Sharon Barnes. "(Lloyd's) family would not be suffering. Our family would not be suffering."

Barnes said she wanted to see Lloyd in jail for life, but Stowers' mother, Tricia Stowers, said Lloyd should spend 20 years in prison - one for each year that her son had lived.

"He needs to realize he was wrong," Tricia Stowers said. "He needs to sit and he needs to think about it every day for at least 20 years. That's what I had with my son."

"God will forgive him. I don't think we can," she said.

When Lloyd was offered the chance to speak on his own behalf, he sought to explain his actions in the Rockville shopping center parking lot. He said law enforcement officers like him are skittish since the Sept. 11, 2001, terrorist attacks, and that he was incensed by a barrage of profanities and racial epithets that Stowers subjected him to. He also said he feared that Stowers might be someone he helped put in jail as a marshal, who was now seeking revenge.

"I'm sorry if my reaction was an overreaction," said Lloyd, who shot Stowers in the leg during their altercation before killing him with a bullet to his back as he drove away.

Harrington delivered her sentence, which she explained had to be consistent with the verdicts jurors issued in June. Lloyd received 10 years for involuntary manslaughter, which would run concurrently with a 20-year sentence for committing a felony with a handgun. Harrington also sentenced Lloyd to five years for reckless endangerment, then reduced the 25 years of total jail time to 15 years.

Defense lawyers said they plan to appeal because it hadn't been argued during his trial that he was acting on his responsibilities as a marshal during the altercation. Harrington had denied a defense request for a retrial on that basis at the start of the sentencing hearing. Lloyd has since retired from the Marshals Service.

Marshals Give $10,000 To Cabbie Who Turned In Fugitives (AP)

AP, September 14, 2005

COVINGTON, Ky. — Cab driver Mike Wagers, credited with the tip that led to the capture of two Tennessee fugitives wanted in the killing of a corrections officer, was rewarded Tuesday with $10,000.

John Clark, acting director of the U.S. Marshals Service, presented the check for information leading to the arrest of George and Jennifer Hyatte, charging in the fatal shooting of a guard during George Hyatte's escape outside a courthouse in Kingston, Tenn.

"I'm just overwhelmed," said Wagers, 33, who said he plans to split the money with a friend whose wife recently died, and will take a vacation.

Wagers picked up the couple Aug. 10 at a hotel in nearby Erlanger, Ky. Wagers drove them about 115 miles to a motel in Columbus, Ohio, registered for the couple, then headed home. They paid cash.

Alerted by another cab driver about the Tennessee fugitives, Wagers made the connection to the shootings and called authorities, who arrested the Hyattes in Columbus without a struggle. They were returned to Tennessee last month.

The arrest came about 36 hours after authorities say Jennifer Hyatte ambushed two corrections officers while they were escorting her husband from the courthouse to a van to take him back to prison.

Veteran officer Wayne "Cotton" Morgan was killed, while Larry "Porky" Harris was able to return fire, wounding Mrs. Hyatte in the leg.

Taxi Driver Collects Reward For Fugitive Tip (CINE)

By Jim Hannah, Enquirer staff writer

The Cincinnati Enquirer, September 14, 2005

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COVINGTON – A Northern Kentucky taxi cab driver today received a $10,000 reward for turning in two Tennessee fugitives last month.

Mike Wagers, 33, of Taylor Mill, received the check from John Clark, the acting director of the U.S. Marshals Service, at 11 a.m. at the U.S. District Courthouse in Covington.

Wagers said he will give half the money to his best friend, whose wife recently died. He will use the other half to take a two-week vacation from Community Yellow Cab of Newport.

"I really don't have any comments other than I'm just overwhelmed," Wagers said.

Wagers gave authorities a tip that helped lead to the Aug. 10 capture of George "Shorty" Hyatte and his wife Jennifer Hyatte.

The couple went on the run after George Hyatte made a daring Aug. 9 jail escape from Tennessee. He was being taken back to jail after a court hearing when his wife allegedly shot and killed corrections officer Wayne Morgan. During the shootout, Jennifer Hyatte received a bullet wound in the leg but was able to escape with her husband. The couple made their way north to Erlanger, where they stayed overnight at an EconoLodge and then hailed Wagers' cab to Columbus the following morning.

Wagers called authorities after realizing the fugitives' description matched his two passengers. His tip led police to the hotel room in Columbus where the couple was staying.

The couple had told Wagers that they were Amway salespeople who needed to get to Columbus for a convention. Wagers said he never suspected the two were fugitives, but he became suspicious of their Amway claim when they didn't try to sell him anything.

Clark, who traveled from Washington, D.C., to present the check, said Wagers' tip helped lead to the capture without anyone else getting hurt.

"My motivation was to do the right thing," said Wagers. "These are bad people that need to be held accountable."

IMMIGRATION:

Politicians Duck 'Amnesty' Label (WT)

By Stephen Dinan

The Washington Times, September 14, 2005

It's "the A-Word," and it can damn any immigration bill to oblivion.

The word is "amnesty," or as one immigration-control advocate calls it, "the death word." It's a charge that a lot of people want to make and nobody wants to hear.

As the immigration debate warms up over the next few months, President Bush and congressional lawmakers will try to prevent their legislation from being tagged with the "amnesty" label.

"For some, you would think amnesty is in the eye of the beholder because there are some critics who have nothing constructive to offer who criticize every proposal as amnesty or amnesty light," says Sen. John Cornyn, Texas Republican.

He finds himself defending against those who say his plan, which would enable illegal aliens to come forward and remain in the country for up to five years in a work program before they are required to return home, is an amnesty.

Craig Nelson, founder of Project USA, an immigration control advocacy group, has placed billboards in some congressional districts announcing that the local officeholder "supports amnesty." He takes some credit for giving a sting to the word.

"I very, very consciously set out to do that," he says. "Everything we put out was always using that word in an accusatory way."

The president says his own guest-worker proposal doesn't qualify.

"Now I've heard all kinds of talk about amnesty," Mr. Bush said last month. "I'm against amnesty. I think amnesty would be a mistake."

The president demonstrated the power of the word during last year's campaign when he leveled the charge against his Democratic challenger, Sen. John Kerry of Massachusetts: "Here is where my opponent and I differ. In September 2003, he supported amnesty for illegal aliens."

Some Republicans, however, say the president's guest-worker plan is an amnesty that he doesn't want to call an amnesty.

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"I've seen no guest-worker program that didn't include amnesty -- amnesty defined by Webster's," says Rep. Steve King. He debated the issue with White House political adviser Karl Rove in early January 2004, just before Mr. Bush announced his plan.

"Karl Rove argued it wasn't amnesty if you simply fined them $1,000, or $1,500," he says. "That way there'd be a punishment."

That makes no difference to the Iowa Republican. "The penalty for illegal entry into the United States is, in part, deportation. In all cases, if the law's applied, they have to return to their home country. Anything short of that is amnesty."

Mr. Cornyn says his immigration reform bill is not amnesty because amnesty would be "forgiving illegal conduct and putting people on a pathway to legal permanent residency or citizenship."

Another major proposal -- from Sen. John McCain, Arizona Republican, and Sen. Edward M. Kennedy, Massachusetts Democrat -- does put illegal aliens on a path to citizenship.

Mr. Kennedy calls it not amnesty, but "earned legalization," because the aliens would pay a fine and have to pass a security check.

Tamar Jacoby, a research fellow at Manhattan Institute, says the only workable solution has to include legalization. She says the McCain-Kennedy bill is more akin to "probation" than amnesty.

"The point is what it is. Not what kind of euphemistic term is used," she says. "Sure, we can all play with the terms -- both sides play with the terms. But the point of the American people is, is it unfairly rewarding people or is it a transition that is in our national interest?"

Mr. Nelson of Project USA has challenged Mr. McCain to submit his bill to an arbitration panel. "If they said yeah, this bill is not an amnesty, it really is a step-by-step path to whatever euphemism, then we would apologize publicly to Senator McCain and put up billboards saying, 'Senator McCain does not support amnesty for illegal aliens,' " he says.

If the panel says it's amnesty, "then he would put up 10 billboards around Phoenix saying, 'I, John McCain, support amnesty for illegal aliens.' " So far, he says, he has not heard from Mr. McCain.

TAX:

Jury Selection Delays Schiff Trial (LVS)

By David Kihara, LAS VEGAS SUN

Las Vegas Sun, September 14, 2005

Jury selection in the tax fraud case of anti-tax advocate Irwin Schiff was stalled Monday after potential jurors who were waiting outside the courtroom said a man tried to talk to them about the case.

A potential juror told U.S. District Judge Kent Dawson that John Anthony Malan told prospective jurors outside an elevator on the sixth floor of the George Federal Building to "just remember to listen to the facts" and not to listen to opinions. At least seven more potential jurors also heard comments from Malan and were called into a private sidebar individually with the attorneys from both sides and Dawson.

The interruption came during jury selection in the criminal case against Schiff, a local author and businessman, and two other defendants, Cynthia Neun and Lawrence Cohen.

All three were indicted in federal court in March of attempting to evade paying taxes, aiding and assisting in filing false tax returns and conspiring to defraud the government, among other charges.

The outspoken Schiff is defending himself while Neun and Cohen have attorneys.

Opening arguments in the trial were expected to begin this morning.

Malan was brought before the judge and initially denied speaking to the jurors.

"I'm a little bit confused as to what's going on," Malan said. "I didn't say nothing to the group -- I was speaking to someone else."

After Dawson further inquired as to whether Malan attempted to communicate with prospective jurors about the case and asked if he was attempting to influence the potential jurors, Malan replied, "I object to this entire proceeding."

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Dawson, after calling for a hearing for Malan on Wednesday, ordered U.S. marshals to eject Malan from the federal courthouse.

Attorney Michael Cristalli, who is representing Schiff's former girlfriend Neun, denied that his client had anything to do with Malan. Attorney Chad Bowers, who is representing Cohen, also distanced his client from Malan.

Schiff said that while he knew Malan, he was not a close acquaintance with him and attempted to disassociate himself from him.

"This is not a buddy of mine or a friend of mine," Schiff said. "I had nothing to do with this."

The defendants are accused of filing false tax returns and preparing false returns on behalf of other clients of Freedom Books, which Schiff has owned and operated since 1995, according to the indictment.

The indictment alleges that the defendants and others filed almost 5,000 false tax returns from 2000 to 2002.

Cristalli said that Neun essentially believed that she was rejecting the tax law.

"We're not here to argue the legality of her beliefs -- we're going to prove that she holds the beliefs in good faith," Cristalli said.

Bowers is mounting a similar defense for Cohen, saying outside the courtroom that "the basis of the (government's) case is that our clients willfully violated the law. They didn't," he said.

Schiff said outside the courtroom that "there is no law that makes you liable for tax," that there is essentially no law that makes an individual responsible for paying income tax. He added that no court has jurisdiction over these matters.

CONGRESS-ADMINISTRATION:

Roberts Fields Questions On Privacy And Precedents (NYT)

By Sheryl Gay Stolberg And Adam Liptak

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - In a day punctuated by flashes of hostility and humor, Judge John G. Roberts Jr. on Tuesday acknowledged a constitutional right to privacy and said overturning precedent was a "jolt to the legal system."

But he artfully sidestepped the contentious question that has dogged him as a Supreme Court nominee, whether he opposes Roe v. Wade, the 1973 decision that established a constitutional right to abortion. [Excerpts, Page A26.]

Roe became an issue minutes after the start of the second day of the first Supreme Court confirmation hearing in 11 years and one in which Judge Roberts, President Bush's nominee to be the nation's 17th chief justice, was also questioned on his views on civil rights, gender discrimination, presidential authority and the proper role of judges.

Senator Arlen Specter, the Pennsylvania Republican who is chairman of the Senate Judiciary Committee, asked Judge Roberts a series of questions intended to draw him out on whether he believes the right to abortion is so embedded in the fabric of American life that it must not be overturned.

The nominee wasted little time in drawing the line against answering questions that, he said, could come before the court. Four minutes into the hearing, he told Mr. Specter, "I feel the need to stay away from a discussion of particular cases."

He reiterated that phrase in one form or another throughout the day on subjects as varied as the right to die and the treatment of foreign detainees.

Democrats kept a tally of the number of questions they said Judge Roberts refused to answer, putting the number at 60.

Judge Roberts told the senators that he did not have a specific legal philosophy, and he resisted comparisons to William H. Rehnquist, the late chief justice for whom he once clerked, telling senators that he would be "my own man."

He also flatly rejected the idea that his Roman Catholic religion played a role in his court decisions, saying: "I look to the law books and always have. I don't look to the Bible or any other religious source."

The session, which began at 9:30 a.m. and continued until nearly 8 p.m., was the panel's first unscripted public exchange with Judge Roberts.

It offered Senate Democrats, who have complained bitterly that they know too little about the nominee's personal views, their first chance to question Judge Roberts on his judicial philosophy and legal record.

Drawing on thousands of documents from the nominee's days as a young lawyer with the Reagan administration, the Democrats peppered Judge Roberts with questions on presidential authority, civil rights and gender discrimination.

Perhaps the sharpest clash involved memorandums that Judge Roberts wrote in the early 1980's that argued that the Reagan administration was correct in opposing new provisions in a law that extended the Voting Rights Act of 1965. The bill, which passed the House with an overwhelming majority, made it easier to prove voting rights violations.

"I'm deeply troubled by a narrow and cramped and, perhaps, even a mean-spirited view of the law that appears in some of your writings," Senator Edward M. Kennedy, the Massachusetts Democrat who was a chief architect of the extension, said.

In a terse back and forth, Judge Roberts said he supported the Voting Rights Act, noting that the Supreme Court had previously agreed with the Reagan administration,

Later, when Senator Russell D. Feingold, Democrat of Wisconsin, pressed the issue again, the nominee could barely contain his exasperation. "Senator," Judge Roberts, 50 years old, said, "you keep referring to what I supported and what I wanted to do. I was a 26-year-old staff lawyer. It was my first job as a lawyer, after my clerkships. I was not shaping administration policy."

There were similar exchanges throughout the day. In one, Senator Dianne Feinstein, Democrat of California, pressed Judge Roberts about his writings on women's rights, saying, "You speak about modesty and humility, and yet none of these comments are modest or humble."

At another point, Senator Joseph R. Biden Jr., Democrat of Delaware, accused Judge Roberts of being misleading in answering a question about equal treatment for female prisoners, an accusation the judge firmly denied. Mr. Biden repeatedly cut off Judge Roberts, prompting Mr. Specter to interject and instruct his Democratic colleague to let the nominee speak.

"He's filibustering, Senator," Mr. Biden said. Then, to Judge Roberts, he said: "Go ahead. Go ahead and continue not to answer."

There were light moments, as well, as when Senator Charles E. Grassley, Republican of Iowa, read Judge Roberts a lengthy quotation from Benjamin N. Cardozo, the Supreme Court justice in the 1930's, in which the justice said, "A judge, even when he is free, is still not wholly free."

Mr. Grassley asked what the passage meant and whether he agreed with it.

"I know I agree with it," Judge Roberts responded. "Now let me figure out what he meant by it."

Another humorous moment occurred when Judge Roberts was asked about a 1983 memorandum in which he advocated term limits for judges.

"You know," he said, "that would be one of those memos that I no longer agree with."

Despite his often-stated reluctance to discuss particular Supreme Court cases, Judge Roberts did not avoid them entirely. He said he agreed with the ruling in Brown v. Board of Education, the 1954 case that declared racial segregation in public schools unconstitutional.

He allowed himself an answer, albeit a careful one, when Senator Patrick J. Leahy of Vermont, the senior Democrat on the panel, asked about the 1944 case, Korematsu v. United States, in which the Supreme Court upheld the right of the federal government to place people of Japanese ancestry in internment camps.

Mr. Leahy, saying he wanted to assure himself that Judge Roberts would not "be a Korematsu justice," asked the nominee whether he would consider such internment unconstitutional.

"I suppose a case like that could come before the court," Judge Roberts replied. "I would be surprised to see it. And I would be surprised if there were any arguments that could support it."

The day began with a bang, when Mr. Specter, whose support for abortion rights is well known, delved straight into that topic, pressing Judge Roberts on questions of precedent and the legal principle of stare decisis, a Latin term that means "to stand by things decided."

Mr. Specter quickly introduced the only prop of the day, a large chart that, he said, demonstrated that the Supreme Court had the opportunity to overrule Roe v. Wade on 38 occasions and had not done so.

He reminded the nominee of a remark that Judge Roberts made in 2003, when the Senate was considering him for the seat he has on the United States Court of Appeals for the District of Columbia Circuit, in which he said Roe was "settled law."

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"Do you mean settled for you?" Mr. Specter asked. "Settled only for your capacity as a circuit judge? Or settled beyond that?"

"Well, beyond that," Judge Roberts replied. "It's settled as a precedent of the court, entitled to respect under principles of stare decisis."

Conservatives and liberals said the line of questioning was smart strategy on Mr. Specter's part.

"I think it takes some of the wind out of the Democrats' sails later," said Leonard Leo, who is on leave from a position at the Federalist Society, a conservative legal group, to coordinate support for Judge Roberts.

Some of the most freewheeling exchanges involved Mr. Biden, a potential presidential candidate, who elicited from the nominee that there is a right to privacy to be found in the liberty clause of the 14th Amendment and that the right extends to women.

The comment was important, because the right to privacy provided a part of the philosophical underpinning for Roe v. Wade.

But Judge Roberts was careful as he made the remark, telling the senators that all the current Supreme Court justices would agree that there was a right to privacy "to some extent or another."

Judge Roberts parted company with some of the justices he will join, if he is confirmed, by expressing reservations about the Supreme Court's recent use of foreign judicial decisions in cases that involved constitutional questions.

In cases in the last few years involving the death penalty and gay rights, several justices have looked to decisions from courts abroad to help justify the rulings.

"The trend," Senator Jon Kyl, Republican of Arizona, said, "if it is to become one, is greatly troubling to me and to many of my colleagues."

Judge Roberts seemed to agree, citing two concerns. "The first," he said, "has to do with democratic theory."

Because foreign judges are not chosen by the elected representatives of the American people, he said, those judges are not accountable to them.

Moreover, he added, foreign decisions do not confine or constrain American judges.

"Looking at foreign law for support," Judge Roberts said, "is like looking out over a crowd and picking out your friends. You can find them. They're there. And that actually expands the discretion of the judge."

Judge Roberts's position on that point aligns him with Justice Antonin Scalia, who has been harshly dismissive of taking account of international precedents, and against Justices Anthony M. Kennedy and Stephen G. Breyer.

In the afternoon, Senator Lindsey Graham, Republican of South Carolina, asked Judge Roberts how he hoped historians would remember him.

"I'd like them to start by saying," Judge Roberts said, " 'He was confirmed.' "

Roberts Avoids Specifics On Abortion Issue (WP)

By Amy Goldstein And Charles Babington

The Washington Post, September 14, 2005

John G. Roberts Jr. testified yesterday that he believes that the Constitution protects the right to privacy, the legal underpinning of the nation's landmark abortion law, but he refused to say whether he would vote to uphold Roe v. Wade if he is confirmed as chief justice of the United States.

In a day of sometimes testy exchanges with senators, Roberts distanced himself repeatedly from his conservative writings as a young legal adviser to President Ronald Reagan, including a memo in which he had disparaged privacy as "amorphous" and a "so-called right" not spelled out in the Constitution.

Democrats pressed him aggressively, seeking to elicit his views on abortion and a range of other volatile civil rights issues by reminding him of stances he had advocated in the past. But time and again throughout the first full day of questioning at his Senate confirmation hearing, Roberts refused to divulge the way he would rule on matters of voting rights, gender equity, fair housing and the role of religion in public life.

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He deflected some questions by asserting it would be improper to foreshadow his views on cases that might come before the Supreme Court. At other times, he shielded his personal views by saying his early writings simply mirrored the policies of two Republican presidents for whom he worked.

"Senator, I was a staff lawyer; I didn't have a position," Roberts said in a typical exchange, when asked about a memo from the early 1980s advocating a policy that would have allowed colleges to receive federal funds even if some of their programs discriminated against women.

The eight-hour hearing before the Senate Judiciary Committee gave senators their first chance to publicly grill Roberts, 50, nominated by President Bush to succeed the late Chief Justice William H. Rehnquist. Republicans, who control the committee and the full Senate, praised Roberts and defended his refusal to answer questions because the issues they involve could someday come before the high court.

With the political fallout of Hurricane Katrina hovering over the proceedings, amid evidence that poor people and minorities have suffered the most in the disaster, Republicans also sought to portray Bush's nominee as a former lawyer who had at times displayed compassion for the dispossessed.

But Democrats suggested that Roberts might be a stealth nominee who would shift the court more sharply rightward than his careful testimony suggests. They repeatedly read to him his own words from government memos he had written in the 1980s -- excerpts from tens of thousands of documents released in recent weeks from his time as a federal lawyer -- and demanded to know whether they reflected his personal views, then and now.

"His answers are misleading," an exasperated Sen. Joseph R. Biden Jr. (D-Del.) told committee Chairman Arlen Specter (R-Pa.).

"They may be misleading," Specter shot back, "but they are his answers." When the laughter in the marble hearing room died down, Roberts said: "With respect, they are my answers. And, with respect, they're not misleading, they're accurate."

Sen. Lindsey O. Graham (R-S.C.) sought to persuade a reluctant Roberts to say that he would be the ideological heir to Rehnquist, for whom the nominee once worked as a law clerk. Finally, Roberts agreed that his nomination would not lead to "a dramatic departure" from the Rehnquist court.

Specter, who supports abortion rights, and several Democrats challenged Roberts especially hard on his views of Roe , the 1973 decision establishing that women have a constitutional right to privacy that includes the right to an abortion. Because Roe has stood for 32 years, much of the discussion centered on when and why a settled ruling should be overturned.

Roberts told Specter that he respected the doctrine of stare decisis -- letting decided issues stand -- adding, "I do think it is a jolt to the legal system when you overrule a precedent." But some long-standing cases deserve to be overturned, he said, such as those that legalized slavery in the 19th century and racial segregation in the 20th century.

Roberts set forth criteria that he said judges and justices should use to determine whether to "revisit" a precedent, saying they include "settled expectations," the court's legitimacy and whether a precedent is workable or has been "eroded by subsequent developments."

"It is not enough that you may think the prior decision was wrongly decided," said Roberts, who during the 1980s signed a memo saying that Roe was "wrongly decided" and should be overturned.

When Specter asked whether the decision's legal legs have been eroded, Roberts replied: "I feel the need to stay away from a discussion of particular cases."

Later, Biden asked whether "there is a right of privacy to be found in the liberty clause of the 14th Amendment?" Roberts replied, "I do, Senator. I think that the court's expressions, and I think if my reading of the precedent is correct, I think every justice on the court believes that, to some extent or another." The answer appeared ambiguous because some of the current justices have made it clear they would support overturning Roe .

With each senator allotted 30 minutes yesterday to question the nominee, Democrats divided up issues on which they believed Roberts is vulnerable.

Sen. Dianne Feinstein (D-Calif.), the only woman on the panel, cited portions of half a dozen 1980s-era memos by Roberts that she said reflected a lack of support for women's rights. In one of the memos, regarding the nomination for a prize by the Clairol company of a female government lawyer who had been a homemaker before entering law school, he wrote: "Some might

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question whether encouraging homemakers to become lawyers contributes to the common good, but I suppose that's for the judges to decide."

"I mention these examples to highlight what appears to be either a very acerbic pen or else you really thought that way," Feinstein said. Roberts replied that he has consistently supported "equal rights for women, particularly in the workplace" and said that he had merely been joking with his boss, former White House counsel Fred F. Fielding, "that there are too many lawyers today. . . . It has nothing to do with homemakers."

Roberts, however, did not say whether he currently favors an equal rights amendment or an expansive interpretation of Title IX, a federal law to promote equality for women in higher education -- both of which the Reagan administration opposed.

Feinstein also questioned Roberts, a Roman Catholic who has argued in past writings for an expanded role of religion in public life, about his views on the separation of church and state. "I don't know what that means when you say absolute separation," Roberts replied. "I do know this: that my faith and my religious beliefs do not play a role in judging. When it comes to judging, I look to the law books and always have. I don't look to the Bible or any other religious source."

The panel's senior Democrat, Sen. Edward M. Kennedy (Mass.) challenged Roberts on civil rights, including his memos on voting rights, which reflected Reagan's opposition to broadened federal protections that ultimately were approved by Congress. Roberts responded that the current Voting Rights Act has been found constitutional, saying, "I don't have any issue with that." But he declined to comment on any extension of the law, saying questions about that could come before the court.

Later, Sen. Russell Feingold (D-Wis.) pressed Roberts on why he backed a policy that would have made it harder to prove that states were limiting minorities' voting rights. "I was a 26-year-old staff lawyer," Roberts replied. "I was not shaping administration policy." When Feingold asked whether the policy looked wise in hindsight, the nominee said, "I haven't followed the issue of the particular litigation."

One of the few issues on which Roberts dissented yesterday from Reagan-era policy involved the case of Bob Jones University, in which that administration unsuccessfully argued that the fundamentalist school qualified for federal tax breaks under a law passed by Congress despite its ban on interracial dating. In a 1983 memo, Roberts wrote that the administration "did not feel Congress had given the IRS the authority" to remove the school's tax-exempt status. Yesterday, he told senators he did not believe the Reagan administration had taken "the correct position" on Bob Jones.

Biden accused Roberts of misleading the committee in part by suggesting that his Reagan-era memos simply parroted his superiors' views even though the vigor and detail of the writings suggested the author heartily endorsed them. The senator cited a Feb. 12, 1982, memo in which Roberts defended a Kentucky prison system that provided more services for male inmates than for women. If the system were challenged, the 1982 memo said, Kentucky might end the programs for men, Biden said.

"Explain to me your thinking there," Biden said. Roberts said he did not recall the memo, and when given a copy, he said he was reflecting his boss's views, an example of "good staff work."

"I would regard it as very poor staff work, with all due respect, Judge, because it seems to me you insert your views very strongly in here," Biden said.

Outside the hearing room, Roberts's handling of the abortion issue appeared to frustrate abortion rights proponents, while pleasing antiabortion groups. In front of the Capitol, about a dozen Planned Parenthood Protesters wore shirts emblazoned with the words "Answer the Question." Kate Michelman, the former president of NARAL Pro-Choice America, said, "I don't think we have any clarity yet on his views about Roe and privacy as it relates to reproductive freedom as a fundamental right."

Jay Sekulow of the conservative American Center for Law and Justice said Roberts's description of when courts should be willing to rethink precedents "left the door open" to the possibility he might vote to overturn Roe. "As someone who takes a pro-life position, I was extremely pleased with the answers he gave," he said.

Roberts Focuses On Precedent, Avoids Personal Views (LAT)

By Maura Reynolds And Richard B. Schmitt

The Los Angeles Times, September 14, 2005

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WASHINGTON -- Chief justice nominee John G. Roberts Jr., addressing one of the nation's most contentious issues, indicated Tuesday that it would be hard for the Supreme Court to overturn the Roe v. Wade decision legalizing abortion, but he refused to say whether he would support efforts to do so.

Roe and the legal arguments behind it -- especially privacy rights and the rule of precedent -- came to the fore repeatedly during more than 10 hours of questioning by the Senate Judiciary Committee on its first day of grilling Roberts, whom President Bush nominated to lead the nation's highest court.

The hearing provided Democrats their first chance to publicly confront Roberts, a lawyer who currently is an appellate court judge, after weeks of poring through tens of thousands of pages of memos, opinions and other documents he wrote. They used the opportunity to inquire into the nominee's views on issues central to their party's legacy over the last half-century -- abortion rights, civil rights and environmental regulation, among others.

It was Roberts' first time in the full glare of public scrutiny. The 50-year-old former appellate lawyer kept his voice measured, his face placid and his manner deferential. A more deeply furrowed brow was his only sign of discomfort.

Roberts repeatedly reaffirmed his commitment to follow legal precedents. He said more than once that he considered Roe v. Wade, the controversial 1973 decision legalizing abortion nationwide, "settled" under the law.

He also discussed factors that could lead the court to overturn precedents -- and he was careful not to say whether any of those arguments might one day be applied to Roe.

"I do think that it is a jolt to the legal system when you overrule a precedent," Roberts said under questioning by the committee chairman, Sen. Arlen Specter, R-Pa., a moderate Republican who favors abortion rights.

But Roberts added: "There are situations when that's a price that has to be paid."

Roberts was equally guarded on other issues, but he managed to inject a note or two of humor. Asked by Sen. Herb Kohl, D-Wis., whether he would support the nomination of an equally qualified woman to his same position -- a question hinting at the rationale for affirmative action -- Roberts demurred.

"I don't think it's appropriate for me to comment in any way about the president's future selections, other than to say that I am happy with his past ones," Roberts said to laughter from the audience of senators, aides, reporters and members of the public.

Senate Democrats have expressed reservations about Roberts, but they have indicated they would not block his confirmation, which would require a filibuster in the Republican-controlled Senate. Still, the committee's questioning is likely to be crucial to the way many Democrats ultimately will vote for a nominee who is politically conservative but who has pledged repeatedly to keep an open mind in deciding cases.

"The ideal in the American justice system is epitomized by the fact that judges ... wear the black robes," Roberts said. "That is meant to symbolize the fact that they are not individuals promoting their own particular views, but they are supposed to be doing their best to interpret the law, to interpret the Constitution, according to the rule of law, not their own preferences, not their own personal beliefs."

Roberts will spend Wednesday answering more questions from senators. Thursday, friends and experts are scheduled to testify about Roberts' character and qualifications.

The Judiciary Committee is expected to vote by the end of next week on Roberts' nomination, and the full Senate is scheduled to vote by the end of the month. With his expected confirmation, he would take over leadership of the court when its session begins Oct. 3.

Each committee member was allotted 30 minutes to question the nominee. Sen. Edward M. Kennedy, D-Mass., used his time to ask Roberts about his writings on civil rights.

"I am deeply troubled by a narrow and cramped and perhaps even a mean-spirited view of the law that appears in some of your writings," Kennedy said. "In the only documents that have been made available to us, it appears that you did not fully appreciate the problem of discrimination in our society."

Kennedy grew exasperated when Roberts defended the views of the Reagan administration on the Voting Rights Act, for which Kennedy was a central supporter. Specter intervened, asking Kennedy to "let him finish his answer."

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The memo "represented my effort to articulate the views of the administration and the position of the administration for whom I worked ... 23 years ago," Roberts said. It was a line of defense he used repeatedly when questioned about his writings from that era.

Sen. Dianne Feinstein, D-Calif., asked Roberts to explain several instances in which he appeared to write disparagingly of women or women's rights, including one instance in which he asked -- apparently tongue-in-cheek -- "whether encouraging homemakers to become lawyers contributes to the common good."

Roberts replied that the joke was intended to disparage lawyers, not homemakers.

He said the suggestion that he believed women should remain homemakers "is totally inconsistent and rebutted by my life."

"I married a lawyer," he said. "I was raised with three sisters who work outside the home. I have a daughter for whom I will insist at every turn she has equal citizenship rights with her brother."

During one testy exchange, Specter asked Sen. Joseph R. Biden Jr., D-Del., to let Roberts finish, prompting Biden to retort, "His answers are misleading, with all due respect."

"Wait a minute. They may be misleading, but they are his answers," Specter responded. "You may finish, Judge Roberts."

As the day wore on, Democrats at times seemed disarmed by the nominee's genial and sometimes self-effacing testimony.

"I have to say I have been pleasantly surprised by some of your answers today," said Sen Charles E. Schumer, D.-N.Y. He cited Roberts' statement that he agreed there was a right to privacy under the law.

But Democrats also expressed frustration at what they viewed as his lack of responsiveness. Aides to committee Democrats said they counted 21 occasions in which Roberts declined to answer questions, including his views of cases that already had been decided.

"I think you have answered some questions, but not answered a whole lot of others," Schumer said later. "I hope you will be thinking about that overnight."

Roberts defended his reticence, saying he had decided to draw a distinction between discussing legal precedents long established in the law and those that remained the subject of debate. He said he felt free to talk about the former but ethically constrained from discussing the latter.

As he adjourned the hearing shortly before 8 p.m, Specter declared first day "dignified generally, contentious at times, but productive."

Roberts Avoids Specifics On Abortion (USAT)

By Kathy Kiely And Joan Biskupic

USA Today, September 14, 2005

WASHINGTON — In a sometimes testy hearing marked by tart exchanges with Democrats, chief justice nominee John Roberts would not say Tuesday if he'd vote to overturn the 1973 ruling that legalized abortion nationwide.

But Roberts did say he believes there is a constitutional right to privacy, and he said the Roe v. Wade ruling is “settled as precedent” that must be viewed with respect by judges.

Appearing before the Senate Judiciary Committee, Roberts repeatedly declined to answer specific questions about his views on several issues, including civil rights and limits on presidential power. He said he was following the precedent of prior nominees.

At one point, Sen. Joseph Biden, D-Del., accused Roberts of “filibustering.” Roberts, cool under fire, argued that he should not answer specific questions on issues that he might have to rule on if he is confirmed to the Supreme Court.

Doing so would be a “total distortion and a perversion” of the judicial process, Roberts said during the second day of Senate hearings on his nomination to succeed the late William Rehnquist.

Biden, whose exchange with Roberts was one of the most spirited of the hearing, told the nominee at one point: “Go ahead and continue not to answer.” Biden also complained that Roberts' answers were “misleading.”

Snapped panel Chairman Arlen Specter, R-Pa.: “They may be misleading, but they are his answers.” Roberts' retort: “With respect, they are my answers, and … they are not misleading.”

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The combative tone of the hearing led two of the committee's Republicans — Lindsey Graham of South Carolina and Jeff Sessions of Alabama — to question whether any of the panel's eight Democrats would vote for Roberts.

Graham said the nomination may mark the end of an era in which most Supreme Court nominees won strong bipartisan approval. He noted that liberal Justice Ruth Bader Ginsburg was confirmed in 1993 with 96 of the 100 votes in the Senate. Graham said Republicans, who hold 55 Senate seats, will retaliate "if the Democratic Party votes against him (Roberts) en masse because of his (conservative) philosophy."

On abortion, Roberts said he regards Roe v. Wade and a 1992 ruling that upheld a woman's right to end a pregnancy as settled precedent. He endorsed stare decisis, the concept that long-established precedents should settle an issue except in special circumstances. "I do think it is a jolt to the legal system" when the high court reverses a precedent, Roberts said.

But Roberts left the door open to overturning Roe v. Wade or Planned Parenthood v. Casey, the 1992 ruling. Specter, a Republican who supports abortion rights, tried to get Roberts to affirm Roe as a "super-duper precedent" in light of Casey and other cases that reinforced Roe. Roberts declined.

Roberts drew complaints from Biden and other Democrats, but Sen. Dick Durbin, D-Ill., an abortion rights supporter, said he was encouraged that Roberts said there is a constitutional right to privacy, a pillar of the Roe decision. Durbin said Roberts left open the possibility that he, unlike Rehnquist, might back abortion rights.

Roberts opponent Nan Aron of the Alliance for Justice, however, said the nominee said nothing that "would give any woman who believes in reproductive rights and freedom any comfort."

Of the eight remaining justices, six have backed abortion rights. One of those — Sandra Day O'Connor — is retiring. President Bush is likely to nominate a replacement for her after the Senate votes on Roberts. Specter wants a Senate vote this month. If approved, Roberts could take office by Oct. 3, the start of the high court's annual term.

Roberts Fields Hours Of Questions (AJC/AP)

By Nancy Benac, Associated Press Writer

The Atlanta Journal-Constitution, September 14, 2005

WASHINGTON — For a man who likens the job he wants to calling balls and strikes, John Roberts surely could have used a catcher's mask as he fielded hours of questions Tuesday from the Senate Judiciary Committee.

From the first question of the day — on abortion — right through the alphabet to the Zimmer case on voting rights, Roberts held his own as senators tried to goad him into revealing more of his thoughts than he wanted on the controversial issues of the day.

The artful dodger employed a mix of humor, history and humility as he found 50 ways to defend his views and politely demur when he didn't want to discuss them.

When Sen. Joseph Biden, D-Del., complained that Roberts was filibustering, the judge lightly scolded, "That's a bad word, senator."

But when Biden later complained, "His answers are misleading, with all respect," Roberts' response was more pointed.

"With respect, they are my answers," he said. "And, with respect, they're not misleading, they're accurate."

On Day Two of the hearings on Roberts' nomination to be chief justice of the United States, there was a lot of "respect" getting flung around.

Sen. Patrick Leahy, D-Vt., differing with Roberts' take on a war powers case, began, "Judge, with all due respect, the cases in Vietnam were not based on a specific law passed by Congress to get out ..."

A few minutes later, Roberts, differing with Leahy's interpretation of a memorandum he once wrote, began, "With respect, senator, you're vastly over-reading the memorandum."

There also were a lot of baseball metaphors, playing off Roberts' declaration a day earlier that a justice should be like an umpire, making sure everyone plays by the rules.

Biden complained that questioning Roberts was "like pitching to Ken Griffey Jr.," adding that the judge had hit a home run in his opening statement Monday.

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Nodding toward actor-turned-senator-turned-actor Fred Thompson, who is helping guide Roberts through the nomination process, Biden added, "I'd much rather be pitching to Arthur Branch, sitting behind you there, on 'Law and Order,' than you."

But Sen. Herb Kohl, D-Wis., questioned whether Roberts' umpire analogy worked at all.

"No two umpires, or no two referees, have the same strike zone or call the same kind of a basketball game," said Kohl, who knows a thing or two about basketball as owner of the NBA's Milwaukee Bucks. "And ballplayers and basketball players understand that, depending upon who the umpire is and who the referee is, the game can be called entirely differently."

Tuesday's televised hearing gave many Americans perhaps their first and last best chance to see Roberts describe his views on the law, given that the Supreme Court itself operates largely as a closed shop.

"If you are confirmed, you will essentially disappear from public view," said Sen. Russell Feingold, D-Wis., a Harvard Law classmate of Roberts. "This hearing will, in some ways, be the last time that the nation will see you at work." He urged Roberts to support televising the court's public proceedings.

Roberts tried to display humility, making several references to the possibility that he still could wind up back on the federal appeals court if his nomination were not approved.

When Sen. Charles Grassley, R-Iowa, questioned Roberts about a comment that Justice David Souter had made during his confirmation hearing, Roberts nimbly sidestepped, saying: "Well, I don't want to directly comment on what Justice Souter said. He is either going to be a colleague or continue to be one of my bosses. So I want to maintain good relations in either case."

But at other times, it was as if Roberts couldn't help but come across as the smartest kid in the class.

Biden cut Roberts off mid-sentence as he launched into an explanation of the Supreme Court's three-tiered analysis of the equal protection clause, saying, "I know what that is."

At another point, though, Roberts, holding one lifetime appointment and in line for another, was smart enough to disavow his own words from two decades ago in which he questioned life tenures.

"You know, that would be one of those memos I no longer agree with," he said, with a sly grin.

Nominee's Answers Get Mixed Reviews (WT)

By Stephen Dinan

The Washington Times, September 14, 2005

Republicans and conservatives said John G. Roberts Jr. acquitted himself perfectly before the Senate Judiciary Committee yesterday, but Democrats and liberal activists said he ducked questions and probably lost support for his nomination to be chief justice of the United States.

Conservatives from Leonard Leo, the executive vice president on leave from the Federalist Society, to the Family Research Council and Concerned Women for America said Judge Roberts expertly handled questions on abortion, in particular.

But Democratic senators said he was being evasive.

"I think you've answered some questions but not answered a whole lot of others," Sen. Charles E. Schumer, New York Democrat, told the judge in the afternoon session.

"I think it's a game so far," said Sen. Joseph R. Biden Jr., Delaware Democrat, who noted Democrats were not treating the hearings as "a game of gotcha."

"The American people are entitled to know what this guy thinks and he will affect your life more than anything Senator Biden will ever do," he said.

Liberal advocates were even harsher.

"Yesterday he spoke about baseball and today he played dodgeball all day," said Ralph G. Neas, president of People for the American Way. "He gave the illusion of candor and the appearance of openness, but he spent the entire day responding to direct questions with evasive answers."

Mr. Neas said Judge Roberts has lost support among Senate Democrats.

"I think he did not do himself any favors with a lot of key votes on that committee," he said. "I do think on the basis, especially of the last several days, there's been momentum, over the last several weeks, as senators reviewed documents and found the portrait the White House painted over the first few days was not accurate."

Judge Roberts, who now sits on the U.S. Circuit Court of Appeals for the District of Columbia, faced his first day of questions yesterday.

As of 6 p.m. he had faced 35 questions on civil rights, 10 on following precedent, 40 questions on the role of a judge and 25 on abortion and privacy, according to Sen. John Cornyn, Texas Republican, who said Judge Roberts handled them correctly by declining to answer some.

"I understand the line you're walking and I think it's really a constitutional standard you're trying to observe, and I applaud you for it," Mr. Cornyn said.

"I have never seen a better nominee for the court," said Sen. Orrin G. Hatch, Utah Republican. "I just don't see why the Democrats don't fold up their tents."

Conservative groups also praised him.

"We firmly believe that Judge Roberts' statements and opinions demonstrate his unequivocal belief in and deference to the text of the Constitution and the intent of the Founders," said Jan LaRue, Concerned Women for America's chief counsel.

Some Democrats have said publicly they do not think Judge Roberts' nomination can be defeated on an up-or-down vote, and as of now there is little talk of a filibuster.

That leaves them trying to figure out what strategy to pursue once the hearings are over.

"Is the goal to lay down a marker for next time or is it to try to maximize the number of no votes, or some combination of the two? That decision has not been made yet," said one Democratic aide who has been following the hearings.

Sen. Barack Obama, Illinois Democrat, said Judge Roberts was articulate but not very informative.

"Anybody who's argued 39 cases before the Supreme Court is going to do very well in front of a panel of senators," he said. "I don't think it's any surprise he's been articulate and quick and has developed what most lawyers and politicians share, which is the ability to say not much in an elegant and lengthy way."

Liberal activists fear that Democrats may have already hindered their efforts in the early days after Judge Roberts' nomination to the court was announced.

"I think the Democrats shot themselves in the foot by basically saying this guy's going to pass anyway so what can we really do. That hurt their ability to just have an honest inquiry," said Democratic strategist David Sirota.

He said Democrats must show they are interested in a serious inquiry of the nominee, and use that as a way to show what they as a party stand for.

'Go Ahead ... Continue Not To Answer' (HILL)

By Jonathan Allen

The Hill, September 14, 2005

John Roberts ceded precious little ground yesterday to a series of senators intent on prodding him into revealing how he might rule in the future, as the Judiciary Committee began its inquisition of the president's nominee to become chief justice of the United States.

Roberts repeatedly, pointedly — and, to critics, selectively — refused to answer whether he supported specific rulings of the Supreme Court.

"I feel a need to stay away from decisions on particular cases," Roberts told Chairman Arlen Specter (R-Pa.) when the senator questioned him about abortion, considered by many to be the central issue in judicial nominations.

Roberts offered slight variations on that phrase repeatedly through the day. Quoting current Justice Ruth Bader Ginsburg, Roberts said he intended to give "no hints, no forecasts, no previews" on future rulings if he is confirmed.

Democrats argued that nothing should prevent Roberts from giving his opinions on past cases and provided examples of previous nominees' having done so for the Judiciary Committee. Several committee Republicans, however, encouraged Roberts to keep his positions on specific cases to himself.

Despite a few testy early exchanges with Democratic Sens. Edward Kennedy (Mass.) and Joseph Biden (Del.) over his views on voting rights and sex discrimination, Roberts demonstrated a level of composure rare among high-profile nominees facing adversarial senators.

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"He's extraordinarily talented at dealing with questions," said Sen. Dick Durbin (D-Ill.).

The 50-year-old nominee seemed so at home before the panel that Biden complained to Specter at one point that Roberts was filibustering. "Go ahead and continue not to answer," a frustrated Biden told Roberts after Specter had interjected in an exchange to give Roberts more time to speak.

In contrast to some past nomination proceedings, senators limited themselves mostly to questions about jurisprudence, rather than Roberts's character or personal qualifications — perhaps yet another indication that Democrats do not intend to use all means necessary to defeat his nomination.

"I'm glad to see that the questions are on substantive subjects and the intellectual level of the discourse has been high," said former Solicitor General Ted Olson, who attended yesterday's hearing. He said that was refreshing.

Some said Roberts's ability to tiptoe carefully around the abortion issue left them unsatisfied. "That he is essentially not sharing his current views about Roe v. Wade continues to be extremely problematic," said Nan Aron, head of the liberal Alliance for Justice.

Though those on either side of the political divide said they could not parse specifically how he would rule from his comments at the hearing, some conservatives expressed optimism that a Roberts-led court would revisit abortion rights.

Gary Bauer, a former Republican presidential candidate who attended the hearing, said there was "a decent chance of him being part of a new majority."

Inside the Hart Building hearing room — a larger and more modern version of the ornate caucus room that housed Monday's opening hearing — the abortion debate was cloaked in case names and legal principles, such as "stare decisis," which means to stand by previous decisions. Roberts acknowledged precedents in both Roe v. Wade and the 1992 case Planned Parenthood of Southeastern Pennsylvania v. Casey, in which the court reaffirmed the central holding of Roe but rejected portions of its framework.

Roberts, who prides himself on offering "stability," said, "It is a jolt to the legal system when you overrule a precedent."

He laid out several standards, including whether public expectations rely upon the stability of the law, for considering whether to upend precedents.

"It's not enough that you might think the precedent is flawed," Roberts said.

Sen. Dianne Feinstein (D-Calif.), the lone woman on the panel, asked the nominee about his intentions in a memo suggesting that encouraging homemakers to become lawyers would not serve the common good.

Roberts dismissed his writing as playing on a "common joke" that had more to do with limiting the number of lawyers than maintaining the number of homemakers. During the day, he repeatedly embraced a commitment to equality for his three sisters, his wife — who is also a lawyer — and his young daughter.

The early questioning of Roberts was particularly tame when compared to the often-explosive Supreme Court confirmation hearings of the past two decades. Democrats appear to be holding their fire for President Bush's pick to replace retiring Justice Sandra Day O'Connor, who is seen as a swing vote on the court.

"It depends on who he nominates," Durbin said.

Roberts Challenged By Democratic Senators (LAW)

By T.r. Goldman And Tony Mauro, Legal Times

Law.com, September 14, 2005

The Senate Judiciary Committee's second day of hearings into the nomination of John Roberts Jr. for chief justice was marked by withering criticism by some Democrats upset over Roberts' refusal to disavow comments he made while a Justice Department lawyer and as an assistant White House counsel.

Roberts also very carefully -- and repeatedly -- refused to answer questions Tuesday about any specific cases, pointing to what he said was the "precedent of prior nominees."

Said Roberts to Senate Judiciary Chairman Arlen Specter, R-Pa., "That is something where I will have to draw the line."

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In the course of his testimony, Roberts insisted that language in several memos concerning civil rights and discrimination issues that he wrote during the 1980s, when he was a special assistant in the Justice Department and an assistant White House counsel, was simply the work of a diligent staffer.

"I was a staff lawyer; I didn't have a position," he told Sen. Joseph Biden, D-Del., whose exchange with Roberts was the most spirited in the morning round of questioning.

"His answers are misleading," Biden said at one point to Specter, who had pointedly asked Biden to let Roberts answer his questions.

"With all due respect, they are my answers, and they are not misleading," Roberts shot back, shedding, if only briefly, his characteristic coolness.

Specter, who led off the questioning, dived straight into the abortion debate, with what he called "the central issue of Roe v. Wade and a woman's right to choose."

But rather than ask Roberts directly whether he would vote to overturn Roe, Specter pressed Roberts on his views of precedent and how he would apply them.

"I do think it is a jolt to the legal system when you overrule a precedent," said Roberts, seated alone before the 18 Judiciary Committee members, at a table draped with a red cloth.

Roberts added that overturning precedent was something that would never take place in a vacuum. "It's not enough if you may think the prior decision is a wrong decision," he told the committee. "That doesn't answer the question, that poses the question."

Specter did probe Roberts' views on privacy -- one of the few ways senators have of getting a sense of a position on Roe, without an explicit answer on the case itself.

"Personal privacy," said Roberts, "is a component of liberty protected by the due process clause, going back 80 years."

Roberts' comments on Roe did not appear to shake the support of at least some conservatives who oppose the decision. Gary Bauer, president of the conservative American Values, said that based on Roberts' comments Tuesday, "I don't believe either side can come to any conclusion" about whether he would vote to overturn Roe. He added, "I'm willing to take a chance."

In one of his more definitive answers Tuesday, Roberts took sides in an ongoing debate within the Court over the use of foreign laws and precedents in deciding cases. Sen. Jon Kyl, R-Ariz., raised the issue, citing last spring's decision Roper v. Simmons, in which Justice Anthony Kennedy invoked worldwide trends in support of his vote to strike down the death penalty for those who were under 18 when they committed their crimes.

Roberts said the use of foreign precedent troubled him because "with foreign law, you can find anything you want." Given the wide range of global laws and norms, Roberts likened the use of foreign law to "looking out on a crowd and picking out your friends." He also said it violates democratic principles, because it makes use of material that was written and decided by authorities who are not accountable to U.S. voters.

Roberts' position would place him strongly alongside Justices Antonin Scalia and Clarence Thomas, and at odds with justices such as Kennedy, Sandra Day O'Connor, and Stephen Breyer, who have said foreign materials are useful, though not dispositive.

Roberts was less decisive on an issue that media organizations were hoping he would be asked about: cameras in the Supreme Court. The Court has repeatedly resisted efforts to allow broadcast coverage of its proceedings.

"It's not something I have a settled view on," Roberts said in answer to a question from Sen. Russ Feingold, D-Wis.. "I certainly understand the interest." He said that in the past the issue has been referred to the whole Court, not just the chief justice, and he indicated he wanted to hear from other justices before taking a position.

Again and again, Roberts returned to familiar themes throughout the full day of hearings: that courts should judge, not legislate; that the right to be left alone is a fundamental American right, even though it is not specifically mentioned in the Constitution; that he would not answer specifics about any particular cases; and that his religious beliefs would not play any role in his decision-making.

"I do know this, that my faith and religious beliefs don't play a role in my judging," Roberts said in response to questions from Sen. Dianne Feinstein, D-Calif., about his impartiality. "When it comes to judging, I look to the law ... I don't look to the Bible."

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Roberts also sidestepped a question from Feinstein about whether the federal courts should become involved in end-of-life decisions. His response: "An abstract opinion [on that subject] that would pre-judge that case is inappropriate."

Feinstein quizzed Roberts on another memo, this one from July 31, 1985, in which Roberts noted that "Some might question whether encouraging homemakers to become lawyers contributes to the common good ... "

Roberts insisted that the point of the memo was a humorous attempt to point out that there were too many lawyers, an idea, he noted at the hearing, "that goes back to Shakespeare... . It had nothing to do with homemakers."

Much of Roberts' discussion with Sen. Patrick Leahy, D-Vt., focused on the nominee's views on the balance between the president and Congress concerning war powers. Leahy cited a Reagan-era memo in which Roberts raised a red flag over a provision in a proposed law that would have given Congress the power to declare when a war was over‹for the purposes of allocating veterans' benefits.

Leahy, his voice rising, asked Roberts if his memo meant that he felt Congress did not have the power to stop a war.

"Senator, you are vastly overreading the memo," Roberts said, adding that the memo concerned a technical matter and that Congress retained the "power of the purse" in funding wars.

By late afternoon some conservative blogs were expressing dismay that Roberts had not been critical of Roe. "If there is a sense of disappointment in the conservative community, it's more of a dissatisfaction with the state of the law than the nominee," said Leonard Leo, the executive director of the Federalist Society and a leading conservative voice on judicial nominations, in an interview.

In fact, Leo said, "the testimony proffered by Clarence Thomas [on Roe] is not that different."

Advocates on the other side were far more critical.

"How many questions can he avoid answering?" wondered Elliot Mincberg, the legal director at People For the American Way.

And Sen. Edward Kennedy, D-Mass., interviewed outside the hearing room, had his own explanation for Roberts' insistence on keeping far away from even the remotest comment on a specific case or issue that is likely to come before the Court.

"I've seen it among candidates before," said Kennedy, a member of the Senate since 1963. "When they begin to feel they have the votes, they begin to get more and more vague -- and we're seeing it on the Judiciary Committee."

With a 10-8 split on the committee, Roberts does not need any Democratic votes if, as is widely expected, he maintains the support of all 10 committee Republicans.

In Complex Dance, Roberts Pays Tribute To Years Of Precedent Behind Roe V. Wade (NYT)

By Robin Toner

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - Nowhere were Judge John G. Roberts Jr.'s words framed more carefully - or listened to more closely - than on the subject of abortion.

In what advocates on both sides of the issue described as a complex dance, on the first day of questioning by the Senate Judiciary Committee, Judge Roberts paid full tribute to the weight of 32 years of precedent behind Roe v. Wade, the 1973 Supreme Court decision establishing abortion rights. "It's settled as a precedent of the court, entitled to respect under principles of stare decisis," he said, referring to the idea that decisions of prior courts are entitled to substantial deference.

In a long colloquy with Senator Arlen Specter, the chairman of the committee, Judge Roberts said, in general, that it was a "jolt to the legal system" when a precedent was overturned. Moreover, he noted, Roe had been explicitly reaffirmed by the court in 1992, in Planned Parenthood v. Casey, and thus had additional protection as precedent. And, at several points during the day, the nominee expressed his support for a constitutional right to privacy, which was the basis for Roe.

But Judge Roberts stopped short, again and again, of endorsing Roe itself. "I think I should stay away from discussions of particular issues that are likely to come before the court again," he said, in a typical exchange. "And in the area of abortion, there are cases on the court's docket, of course."

At another point, when Mr. Specter, a supporter of abortion rights, asked Judge Roberts whether "a woman's right to choose is so embedded that it's become a part of our national culture?" Mr. Roberts again demurred.

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"Well, I think that gets to the application of the principles in a particular case," he said. "And based on my review of the prior transcripts of every nominee sitting on the court today, that's where they've generally declined to answer: when it gets to the application of legal principles to particular cases."

Abortion rights advocates, who were overwhelmingly opposed to the Roberts nomination before the hearing began, said his testimony Tuesday affirmed their fears.

"He's clearly embraced the right to privacy, which is the underpinning of the right to choose," said Nan Aron, president of the Alliance for Justice, a liberal advocacy group. "But he refuses to say it encompasses the right to choose."

Nancy Keenan, president of Naral Pro-Choice America, said, "He continues to avoid the fundamental question." She asserted that Judge Roberts's position on privacy was "privacy for some but maybe not for all."

Abortion opponents and social conservatives were praising Judge Roberts's testimony as appropriate and - by implication - politically acceptable. "We were pleased with Judge Roberts's answers about Roe v. Wade," said Cathy Cleaver Ruse, senior legal fellow to the conservative Family Research Council. "Judge Roberts refused to give hints or projections about how he might evaluate a future abortion case before the court, but carefully stated what the law is on the matter of stare decisis and repeatedly pledged to follow "the rule of law."

Gary Bauer, president of American Values, said Judge Roberts's answers were carefully scripted by the White House and thus "less than satisfying." But Mr. Bauer added, "A careful reading of the transcript shows he committed to nothing once he is on the court. We are left with what we always had - a hope and an expectation, based on the totality of his record, that if confirmed he will be part of a new conservative majority."

In fact, that expectation on the right is what alarms the left. "What do they know that we don't know?" asked Ms. Keenan of Naral.

Mr. Specter turned his questioning into a tutorial on stare decisis, all in the context of Roe. He produced a huge chart showing the number of times the court had dealt with Roe-related cases over the years - 38 by his count - and suggested that by now "Roe might be a super-duper precedent."

He noted that the late Chief Justice William H. Rehnquist, who did not agree with the Miranda decision requiring criminal defendants to be informed of their rights, nevertheless ultimately voted to uphold it years later because it had become so "embedded" in the culture. Mr. Roberts agreed that the Rehnquist decision to uphold reflected the values of "stare decisis," but again, added a caveat, noting that sometimes courts make a decision that they could reverse a precedent.

Senator Dianne Feinstein, Democrat of California, revisited the issue in her questioning, noting that, "there are now entire generations of women who know a world only where their reproductive rights are protected." Was that not, she argued, the kind of "settled expectations" about the law that make "stare decisis" so important?

But again Judge Roberts confined himself to the generalities. Mrs. Feinstein pressed on the Casey decision, and whether he agreed with its ruling that a state could not require a pregnant woman to notify her husband before obtaining an abortion.

"That is what Casey held, yes," he said, carefully. "And that's, as I said before, a precedent of the court, like any other precedent of the court, entitled to respect under principles of stare decisis."

Roberts Rebuffs Democrats' Questions (AJC/AP)

By David Espo, Ap Special Correspondent

The Atlanta Journal-Constitution, September 14, 2005

WASHINGTON — Chief Justice-nominee John Roberts repeatedly refused to answer questions about abortion and other contentious issues at his confirmation hearing Tuesday, telling frustrated Democrats he would not discuss matters that could come before the Supreme Court.

"I think nominees have to draw the line where they are most comfortable," said Roberts, who also sidestepped questions about civil rights, voting rights and the limits of presidential power in a long, occasionally antagonistic day in the witness chair.

Appearing before the Senate Judiciary Committee, he said past Supreme Court rulings carry weight, including the Roe v. Wade decision that legalized abortion in 1973. But he quickly balanced that by adding that the same principle allows for overturning rulings, as well.

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Over and over, he assured lawmakers he would be guided by his understanding of the facts of cases, the law and the Constitution, not by his personal views.

"My faith and my religious beliefs do not play a role," added Roberts, who is Catholic.

"I will be my own man," he said later in a daylong session that Republicans said had firmly established his prospects for swift confirmation.

The 50-year-old appeals court judge and former Reagan administration lawyer fielded questions about dozens of legal precedents without benefit of notes. His wife, Jane Roberts, also an attorney, sat behind him, flanked by a delegation of aides the White Houses assembled to assist him.

Roberts flashed his wit occasionally, announcing with a smile that he had reconsidered his long-ago support for term limits for judges. If confirmed, his appointment will be for life.

In a more serious vein, he disavowed the Reagan administration's support for a tax exemption for a university that banned racial dating — but also said he hadn't been involved in discussions on the issue.

He twice rebuffed Democratic attempts to draw him into a discussion of his views on lawsuits under the Voting Rights Act — whether a showing of discrimination should be sufficient to prevail as opposed to a more difficult-to-establish intent to discriminate.

Sen. Arlen Specter, R-Pa., and the committee chairman, raised the question of abortion moments after the hearing began, and the issue reverberated again and again.

"The right to privacy is protected under the Constitution in various ways," Roberts said at one point. Hours later, he said he agreed with a 38-year-old high court ruling in a case involving contraceptives for married couples, a decision often cited as the underpinning for abortion rights.

He said that if confronted with an abortion case — as seems likely in the high court's upcoming term — he would give full weight to the precedent of the landmark ruling that established a woman's right to end her pregnancy.

The legal principle of "stare decisis" requires that, he said — but he also said the same principle allows past rulings to be overturned.

Roberts struck sparks when he indicated his refusal to answer certain questions was based in part on a precedent of "no hints, no forecasts, no previews" that Justice Ruth Bader Ginsburg set at her hearings a dozen years ago.

"That is not true, judge," interrupted Sen. Joseph Biden, D-Del., telling Roberts that Ginsburg had been far more forthcoming, particularly about abortion.

Specter broke in at that point — one of several times he did so during the day — telling Biden to let Roberts finish his answer.

Biden said Roberts wasn't answering at all, then said to the witness seated a few feet away: "Go ahead and continue not to answer."

Despite the Democratic unhappiness, it appeared Roberts' had done nothing to diminish his strong chances for confirmation to replace the late William H. Rehnquist before the high court convenes on Oct. 3.

"We're reliving the '80s," Sen. Lindsey Graham, R,-S.C., muttered during one break, a reference to numerous questions from Democrats about conservative views Roberts expressed in memos he wrote as a young lawyer in the Reagan administration. Sen. Jeff Sessions, R-Ala., said he was glad Bush had picked Roberts for the job — and happy, too, that the nominee had rebuffed Biden's questions.

If approved, Roberts would become the nation's 17th chief justice and the youngest in more than 200 years.

President Bush originally named him to replace Sandra Day O'Connor when she announced her retirement earlier this summer. She has been a pivotal vote in recent years on cases that upheld abortion rights and affirmative action, and Roberts is seen by supporters and critics alike as a young, conservative successor with the potential to move the court rightward.

That changed with Rehnquist's death. Unlike O'Connor, the late chief justice dissented in rulings that upheld a woman's right to abortion, for example. As a result, some of the intensity seems to have been drained from Roberts' confirmation proceedings but is likely to resurface when Bush names a new successor to O'Connor.

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Confronted by Democrats with memos he wrote as a Reagan lawyer, Roberts stepped carefully: "In some instances they were consistent with personal views, in other instances they may not be."

Roberts sparred briefly with Sen. Edward M. Kennedy, D-Mass., who referred to some of the memos in asking about the views expressed in some that have been made public.

"If your position prevailed, it would have been legal in many cases to discriminate in athletics for girls, women. It would have been legal to discriminate in the hiring of teachers," Kennedy said.

"You have not accurately represented my opinion," Roberts replied.

"Those are your words," Kennedy retorted, but Roberts was unrelenting. "Senator, you did not accurately represent my opinion," he said.

Sen. Patrick Leahy of Vermont, the senior Democrat on the panel, asked about the limits of presidential power, specifically if the chief executive would be obligated to heed a law calling for the withdrawal of U.S. troops from foreign soil by a fixed date.

"I don't want to answer a particular hypothetical that could come before the court," Roberts replied.

Abortion Is The `600-pound Elephant' At Confirmation Hearing (MERCN/KRT)

By Jill Zuckman, Chicago Tribune

The San Jose Mercury News, September 14, 2005

WASHINGTON - (KRT) - More than civil rights, more than property rights, more than environmental rights, the issue of abortion has insinuated itself into every aspect of the Supreme Court confirmation process. And Tuesday, it seemed to be frustrating nearly everyone.

Perhaps because abortion touches on such core issues as life and death, women's autonomy, personal health and morality, it seems to have a power unmatched by any other subject in American political life.

That helps explain why Sen. Arlen Specter, R-Pa., chairman of the Senate Judiciary Committee, asked chief justice nominee John G. Roberts Jr. about the landmark abortion case Roe v. Wade in the very first set of questions. And why senators on both sides kept coming back to abortion, notably Sen. Dianne Feinstein, D-Calif., the only woman on the 18-member committee.

"That is the central issue," Specter, who favors abortion rights, said later. "If you have to pick one important issue that America is hanging on, it's a woman's right to choose."

Sen. Sam Brownback, R-Kan., a socially conservative abortion opponent, added, "It's the 600-pound elephant in the room. It's what everyone is looking at."

Not surprisingly, Roberts' answers did not entirely satisfy advocates on either side. This, after all, is a battle of absolutes: One camp considers abortion murder and says it should be forbidden, while the other sees it as a basic human right that should be guaranteed. On top of that, abortion has become perhaps the biggest proxy for the nation's bitter political divisions.

Roberts' answers to questions about Roe v. Wade gave no comfort to liberals, who wanted - though they could hardly have expected - an explicit promise of support for high court ruling that legalized abortion nationwide. But neither did it give comfort to social conservatives who hoped Roberts would vote to overturn the decision.

Still, the politicians who must continually confront the abortion issue in Congress and on the campaign trail used the hearing to push Roberts, and push him hard, for an answer.

The pressure was particularly great on the Democratic side because of fears that Roberts could vote to overturn Roe v. Wade and undo a 32-year-old victory by the abortion-rights movement.

"Even though everyone knows Roberts is going to be confirmed, they have to engage in a good-faith effort to satisfy the groups on the left," said Linda Fowler, a Dartmouth College government professor.

But Roberts, driven by both political and legal considerations, responded in a noncommittal way, paying homage to the importance of precedent and offering a tribute to "settled expectations" among the public.

"It is a jolt to the legal system when you overrule a precedent," Roberts said.

While that might seem to be reassuring to those who want Roe v. Wade to stand, Brownback said, "It seemed to me he left open that issue, how he would rule on it."

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Gary Bauer, the prominent conservative activist, said he was left with little more than a feeling that Roberts might be on the side of those trying to derail abortion rights.

"Decent chance," said Bauer, noting that neither side can know for sure where Roberts will come down.

By many measures, American society has utterly failed to resolve the abortion issue. Courts have tried to settle it, with Roe v. Wade in 1973 and the Casey decision in 1992 - both essentially guaranteeing the right to abortion within certain limits - but few consider the matter closed.

Many legal scholars question the reasoning in Roe, which is based on the finding of an implied right of privacy in the Constitution. And a significant portion of the population will no doubt be angry and unhappy no matter the legal outcome.

In political campaigns and judicial nominations, the question of abortion is a litmus test of sorts for many candidates and nominees. That, said advocates, is because abortion is not an abstract matter.

"It is such a fundamental issue because it is concrete, it is specific and people understand how it affects their lives every day," said Marcia Greenberger, co-president of the National Women's Law Center.

In her opening statement at the hearing and in a private conversation with Roberts, Feinstein said she was worried about women losing to politicians the ability to control their reproductive systems.

"I remember - and many of the young women here don't - what it was like when abortion was illegal in America," Feinstein said. She could not vote for Roberts, she said, if she thought his vote would send women back to the time of back-alley abortions and trips to Mexico.

But with the Supreme Court poised to address the abortion issue in its upcoming term, and with the justices split 5-4 in past cases, Roberts stayed away from specifics, prompting an angry Sen. Joseph Biden, D-Del., to accuse him of "filibustering."

Ralph Neas, president of People for the American Way, accused Roberts of playing "dodge ball." And Debra Ness, president of the National Partnership for Women and Families, said he used "carefully calibrated words" that "shed no light" on whether he would protect a woman's right to privacy or allow government to intrude in family decisions.

Many senators have said they would vote against Roberts - not because of his position on an issue, but because he refuses to explain what his position is.

But judicial nominees have a tradition of declining to answer questions on issues that may come before them on the court. And during a break in the proceedings, Specter said it is not surprising or unreasonable for Roberts to avoid answering his questions.

"I thought he went about as far as he could go," Specter said.

Asked if that means he and other senators will be voting on Roberts' nomination without knowing Roberts' views of Roe v. Wade, Specter said that was correct: "He cannot be required to answer how he's going to decide a case that is going to come before the court."

Unclear On Abortion, Critics Say (WP)

By Jo Becker

The Washington Post, September 14, 2005

Nearly a quarter of a century ago, John G. Roberts Jr. wrote skeptically about the legal concept that underpins a woman's right to an abortion, calling it "the so-called right to privacy." Yesterday, when pressed by a Republican senator about his writing, the Supreme Court nominee said he believes that the Constitution contains such a right, but he refused to say whether it covers the termination of a pregnancy.

At issue was a Dec. 11, 1981, memo that Roberts wrote to then-Attorney General William French Smith, in which he referred to "the so-called right to privacy" and said that a speech by former solicitor general Erwin N. Griswold showed that he believed, "as we do," that such an amorphous right does not exist in the Constitution.

"Do you believe today that the right to privacy does exist in the Constitution?" asked Sen. Arlen Specter (R-Pa.), chairman of the Senate Judiciary Committee. Roberts replied: "Senator, I do." Asked to square that statement with what he had written more than two decades ago, Roberts replied that he had merely summarized the views of the former solicitor general.

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Roberts did not mention, however, that Griswold's speech did not refer, as he did, to the "so-called right to privacy." And Roberts did not say yesterday whether he believes that the right to privacy applies to abortion.

Instead, he repeatedly parried such questions by saying that it would be inappropriate for him to discuss issues that could come before the court.

"We still do not have clarity on his views," said Kate Michelman, former president of NARAL Pro-Choice America, which opposes Roberts's nomination.

Roberts Defends Roe As 'A Precedent' (WT)

By Charles Hurt

The Washington Times, September 14, 2005

Federal Judge John G. Roberts Jr. said yesterday that he respects the legal precedence of Roe v. Wade -- the landmark case that established federal abortion rights -- and said that overturning it would "jolt" the stability of the judiciary.

Throughout more than nine hours of testimony yesterday, President Bush's nominee to be chief justice of the United States repeatedly declined to answer questions about specific cases such as Roe, but said Supreme Court precedents in general should not be overturned just because a case has been wrongly decided.

"It is a jolt to the legal system when you overrule a precedent," Judge Roberts told senators. "Precedent plays an important role in promoting stability and evenhandedness. It is not enough -- and the court has emphasized this on several occasions -- it is not enough that you may think the prior decision was wrongly decided."

Senate Judiciary Committee Chairman Arlen Specter, a pro-choice Pennsylvania Republican, wasted no time getting right to the heart of the Supreme Court nomination fight with an opening salvo of tough questions about abortion. Mr. Specter inquired whether the Constitution contains a "right to privacy," an unwritten phrase that is the basis of abortion rights.

"The right to privacy is protected under the Constitution in various ways," Judge Roberts said. "It's protected by the Fourth Amendment, which provides that the right of people to be secure in their persons, houses, effects and papers is protected.

"It's protected under the First Amendment dealing with the prohibition on establishment of a religion and guarantee of free exercise," he added. "It protects privacy in matters of conscience."

Judge Roberts' answers threw several members of the committee slightly off their partisan game.

Sen. Jeff Sessions, an Alabama Republican who thinks Roe is "a lawless decision that should be overturned," said he has no confidence that Judge Roberts will overturn Roe if given the opportunity.

"I don't know how to read it," he said of Judge Roberts' testimony. "It made me realize that I don't know what he'll do."

Sen. Charles E. Schumer, New York Democrat and leading Roberts inquisitor, told the judge that he was "pleasantly surprised by some of your answers today."

Several Democrats took issue with Judge Roberts' analogy during an opening statement Monday comparing judges to umpires who call the game but don't make the rules.

"As much as I respect your metaphor," said Sen. Joseph R. Biden Jr., Delaware Democrat, "it's not very apt because you get to determine the strike zone."

Sen. Herb Kohl, Wisconsin Democrat, advised the nominee that judges are not "automatons."

Judge Roberts agreed, but said judges should not "look to your own values and beliefs," but rather to the Constitution.

"Judges wear black robes because it doesn't matter who they are as individuals," he said. "That's not going to shape their decisions. It's their understanding of the law that will shape their decisions."

Judge Roberts' trademark modesty -- a term he often uses to describe his judicial philosophy -- was evident yesterday when he reminded the committee several times that he might not be confirmed, in which case he would continue in his present position on the U.S. Court of Appeals for the D.C. Circuit.

Asked about a statement made by Supreme Court Justice David H. Souter during his confirmation hearings, Judge Roberts demurred.

"Well, I don't want to directly comment on what Justice Souter said," he explained. "He's either going to be a colleague or continue to be one of my bosses. So, I want to maintain good relations in either case."

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Judge Roberts' quick wit surfaced several times during the long day, such as when he was asked what he'd like history to say about him.

"I'd like them to start by saying he was confirmed," he shot back.

When asked whether he thought Mr. Bush should nominate a woman to the high court, Judge Roberts replied: "I don't think it's appropriate for me to comment in any way about the president's future selections other than to say that I am happy with his past ones."

Mr. Kohl, who had asked the question, smiled and said amid the laughter, "You're not an automaton."

But that's not to say that yesterday's proceedings didn't have sharp moments.

At one point, Judge Roberts emphatically told Sen. Edward M. Kennedy, Massachusetts Democrat, that the senator did "not accurately represent my position."

In another exchange, Judge Roberts took deep exception to the suggestion by Sen. Dianne Feinstein, California Democrat, that he doesn't believe in equality for women. She quoted from a memo in which he wrote, "Some might question whether encouraging homemakers to become lawyers contributes to the common good."

Judge Roberts dismissed the line as an insult to lawyers -- of which he said there are too many.

"That's a common joke that goes back to Shakespeare," he said. "It had nothing to do with homemakers."

Any hostility to women's rights "is totally inconsistent and rebutted by my life," he added. "I married a lawyer. I was raised with three sisters who work outside the home. I have a daughter for whom I will insist at every turn she has equal citizenship rights with her brother."

Mrs. Feinstein said she didn't "want to belabor it" -- and moved on to other questions.

Abortion A `settled Precedent,' Roberts Says (KRT)

By Stephen Henderson And James Kuhnhenn

Knight Ridder, September 14, 2005

WASHINGTON - Supreme Court nominee John G. Roberts gave strong indications Tuesday that he'd be reluctant to overturn court precedents such as Roe v. Wade, and he voiced support for a right to privacy - which underpins court rulings on gay rights and other individual liberties - that's much broader than his previously known stance.

On the first day of questioning during his confirmation hearings for chief justice, Roberts bluntly described the landmark 1973 ruling that legalized abortion as "settled precedent." He said he would apply a complicated set of criteria to any effort to overturn such a precedent. A judge's personal disagreement with precedent, he said, isn't enough to justify a vote to reverse it.

"I do think that it is a jolt to the legal system when you overrule a precedent. Precedent plays an important role in promoting stability and evenhandedness," Roberts said.

That view dovetails with Roberts' insistence that judges play a limited role, and that restraint, rather than activism, is his preferred approach to cases.

Roberts was even more effusive about the right to privacy, saying it's supported in several different clauses of the Constitution and tied to fundamental notions of liberty. That idea puts him at odds with many conservatives - including Justice Antonin Scalia, one of President Bush's favorites - who argue that no such right to privacy exists.

"The court has ... recognized that personal privacy is a component of the liberty protected by the due process clause," Roberts said in answer to a question from Judiciary Committee Chairman Arlen Specter, R-Pa. "The court has explained that the liberty protected is not limited to freedom from physical restraint, and that it's protected not simply procedurally, but as a substantive matter as well."

Specter, a moderate conservative and the committee's first questioner, pushed Roberts on abortion and privacy issues. He tried several times to get Roberts to commit to upholding Roe and Casey v. Planned Parenthood of Pennsylvania, the 1992 case that upheld it.

But Roberts said he didn't feel comfortable commenting on specific issues that might come before the court.

Specter said he was satisfied with Roberts' answers.

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"He did not give a definitive answer because obviously that question is going to be before the court again; it's going to be on the next term," Specter said. "But I think he - as they said in the old song, `Kansas City,' he went about as far as he could go."

Both liberal and conservative interest groups said Roberts' comments gave no definitive sense of what he might do on the court. Liberals said his statements weren't committed enough to the right to privacy or the right to abortion. Conservatives said he hadn't ruled out any action, particularly concerning abortion.

"He gave no assurance that he believes there is a right to privacy," said Nancy Northup, president of the Center for Reproductive Rights, which supports abortion rights.

"He didn't give any answers," said Sen. Tom Coburn, R-Okla. "What else can you want out of a judge? He's not going to answer where he is. It's wrong to make him answer where he is."

Sen. Jeff Sessions, R-Ala., a staunch opponent of Roe, said Roberts' answers left him in the dark. "I don't know how to read him. I don't know what he's going to do. It just made me know that we don't know what he's going to do. I don't think the president knows what he's going to do.

Asked whether Roberts' answers could raise questions among religious conservatives about his stance on abortion, Sessions said: "They could misinterpret ... and believe that he was making some sort of commitment that I don't think he made. I'm not sure that I could disagree with much of what he said."

Roberts' comments came on a long day of interrogation by senators. It was mostly cordial, but at times got testy. Roberts gave lengthy answers to many questions and mostly maintained the calm, cool demeanor that's his mark in Washington, where, as a private attorney, he's argued 39 cases at the Supreme Court, winning 25.

His refusal to address some queries caused several senators to complain that he was being evasive. Specter cautioned Sen. Edward Kennedy, D-Mass., and Sen. Joe Biden, D-Del., to let Roberts answer their questions before jumping in with commentary or new queries.

"His answers are misleading, with all due respect," Biden replied at one point after Specter tried to silence him.

"They may be misleading," Specter replied, "but they are his answers."

Roberts interrupted quickly. "With respect, they are my answers. And, with respect, they are not misleading. They're accurate."

Roberts also addressed dozens of other issues during the questioning - some with substantive answers, some with deft evasion and others with polite demurral.

Several times, he suggested that many of the memos he wrote as a young lawyer in Republican administrations were reflective more of presidential policies than his views. But Democratic senators were skeptical.

Sen. Patrick Leahy, D-Vt., zeroed in on a memo that Roberts wrote suggesting that a teenager whose teacher abused her couldn't sue school district officials who did nothing to help her.

Leahy noted that the court unanimously rejected the administration's position, and he asked Roberts whether the memo's intent was to suggest sexual harassment was OK.

"There was no issue about condoning the behavior," Roberts said. "I found it abhorrent then, and I find it abhorrent now." The issue was whether Congress has intended for victims to be able to sue, and the administration believed it hadn't, Roberts said.

Kennedy asked him about his writings on the Voting Rights Act in the early 1980s, which Democrats have said showed hostility to voter participation. As a lawyer in the Reagan White House, Roberts wrote a memo advising the administration to support the act, but not expand it to make it easier to prove voter discrimination in some states.

Ultimately, a congressional compromise accepted the expansion.

Roberts insisted that he believed voting rights were the Constitution's single most important liberty, calling them "preservative of all the other rights."

Then he said the memo was reflective of a different view from Kennedy's - not an indication of a lack of support for voting rights.

"I agreed that the Voting Rights Act should be extended," Roberts said. "There was never a dispute about the basic proposition."

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Roberts addressed the question of support for civil rights more directly in response to Sen. Charles Schumer, D-N.Y.

"Opposition to quotas is not opposition to civil rights," Roberts said.

Sen. Herbert Kohl, D-Wis., asked Roberts whether some of the memos he wrote - some of which carried dismissive or acerbic tones - reflected a youthful arrogance that he's since outgrown.

"There are many areas where it appears I knew a lot more when I was 25 than I know now, when I'm 50," Roberts said. "I certainly wouldn't write everything today as I wrote it back then, but I don't think any of us would do things or write things today as we did when we were 25 and had all the answers."

Democrats tried to turn the tide of public opinion by tying Roberts' confirmation to the hurricane victims in New Orleans, saying his view of civil rights and the limited role of Congress and the courts in that area helps explain the plight of the people left behind.

"The question is whether judicial restraint is used as a stalking horse for a kind of quiet activism that seeks to restrict the application of laws designed by the legislature to address particular problems," said Wade Henderson, executive director of the Leadership Conference on Civil Rights, the nation's largest group of civil rights organizations.

Still, no one's predicting that Roberts won't be confirmed. The only question is by what margin. Rehnquist was confirmed 65-33, the smallest margin for any chief justice. Republicans seemed to be lowering expectations on what Roberts' margin would be.

"If this guy with his qualifications and legal experience cannot get one Democrat to vote for him, we've lost our way," said Sen. Lindsey Graham, R-S.C.

Roberts Leaves Fate Of Roe Open (WSJ)

By Jeanne Cummings and Jess Bravin

The Wall Street Journal, September 14, 2005

WASHINGTON -- Chief justice nominee John Roberts raised concerns among conservatives by telling senators that he recognized a constitutional right to privacy, and backed the 1965 Supreme Court opinion that was later invoked to justify abortion rights -- a central battleground in the current ideological debate over the direction of the judiciary.

But in his first day of questioning by the Senate Judiciary Committee, President Bush's choice to lead the high court left open the fate of the 1973 Roe v. Wade decision on abortion rights -- often linked to the privacy case -- which he suggested rested on different reasoning.

Judge Roberts's embrace of the privacy right underlying Roe rejected the arguments of some prominent conservative legal scholars, and unsettled some religious activists who have made overturning the landmark abortion ruling a centerpiece of their political agenda. He seemed to repudiate a 1981 memo he wrote as a lawyer in the Reagan Justice Department in which he referred to a "so-called 'right-of-privacy.' "

Phyllis Schlafly, president of the conservative Eagle Forum lobbying group, said Judge Roberts's comments yesterday were "a source of concern," but not enough to damp enthusiasm for the nominee. "Bush led us to believe he would appoint a Scalia or Thomas, and he's not a Scalia or Thomas," she said, referring to Justices Antonin Scalia and Clarence Thomas, the two most conservative on the bench. "But he'll probably be a Rehnquist and a pretty good judge," she added, referring to the late Chief Justice William Rehnquist, whom Mr. Bush chose Judge Roberts to succeed.

On the other side of the spectrum, Sen. Charles Schumer (D., N.Y.) -- a leader of the liberal fights against President Bush's judicial nominations -- told Judge Roberts that he was "pleasantly surprised" by the privacy comments. Mr. Schumer added that he was disappointed by the nominee's refusal to elaborate on other issues, notably civil rights, which are expected to become a major focus of the second round of questioning today.

The confirmation hearings are scheduled to end by the weekend, and the committee is planning to vote Sept. 22. Barring any bombshells -- which the hearings have yet to produce -- Judge Roberts is expected to win confirmation from the Senate, though a large number of Democrats are likely to vote against him.

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During a day of questioning that began at 9:30 a.m. and nearly stretched to 8 p.m. Judge Roberts, who sits on the federal appeals court here, largely stuck to the script most judicial nominees follow, affirming commitments to fairness and respect for precedent, but steering clear of views on specific issues that could trigger opposition.

He sought to distance himself from the memorandums he wrote as a lawyer in the Reagan administration, suggesting that he functioned mainly as a staff lawyer rather than policy maker, and that his views had broadened since he was "25 and had all the answers."

Such replies didn't satisfy Sen. Edward Kennedy (D., Mass.), who confronted Judge Roberts about his early-1980s memorandums suggesting ways to narrow the scope of civil-rights laws the liberal senator has backed for decades. Mr. Kennedy said that Judge Roberts didn't grasp "that if his views from that time were actually enacted... there would be less opportunity and more discrimination."

In addition to his comments on privacy, Judge Roberts may have stirred some unease on the right when he talked about helping gay-rights advocates prepare for arguments before the Supreme Court, as a favor to a law partner who was working on the case. When pressed, Judge Roberts said that he wouldn't have done so had he considered it "morally objectionable."

While many cases and issues were covered in the 10-hour-long session, the one that got significant attention was Griswold v. Connecticut, the 1965 case that struck down a state ban on contraceptives. Both conservatives and liberals see that case as the precursor to Roe, and in the 1980s the Reagan administration identified the case as wrongly decided.

But responding to Sen. Herb Kohl (D., Wis.), Judge Roberts said he agreed with the Griswold opinion, where Justice William O. Douglas wrote that the "specific guarantees in the Bill of Rights have penumbras" encompassing unenumerated rights, including "marital privacy."

Moreover, Judge Roberts acknowledged that the court has affirmed Roe's central holding and that precedents shouldn't lightly be disturbed, as sometimes it can be damaging to reverse a questionable precedent if society has come to rely on it.

Judge Roberts's position on what the privacy right entailed, beyond access to contraceptives, remained unclear. He told Sen. Dianne Feinstein (D., Calif.) that privacy "is part of the liberty that is protected under the due-process clause" of the 14th Amendment. He took pains to separate the "penumbras" reasoning on which Griswold relied from the basis of Roe, which found that privacy was protected under the 14th Amendment's Due Process Clause. That distinction could allow Judge Roberts to reverse Roe on those grounds, while leaving Griswold undisturbed.

In his comments on Griswold and privacy, Judge Roberts differed from the arguments made by Robert Bork, a Reagan nominee, rejected by the Senate in 1987 in part for denying a constitutional-privacy right. Judge Roberts's remarks were similar to support for Griswold offered by Justice Thomas in his 1991 hearings.

Feinstein: Disappointed Roberts Not More Forthcoming (MERCN)

By Erica Werner

The San Jose Mercury News, September 14, 2005

WASHINGTON - Sen. Dianne Feinstein said she was disappointed John Roberts wasn't more forthcoming in discussing abortion, women's rights and other issues during the first day of questioning Tuesday in his Supreme Court nomination hearings.

"I actually felt he made up his mind not to answer my questions, knowing what I might ask," Feinstein, D-Calif., the only woman on the Senate Judiciary Committee, said in a statement after questioning the nominee for her allotted 30 minutes.

"What I was trying to do today is to get a sense of who Judge Roberts is. I'm disappointed that Judge Roberts was not more forthcoming," she said.

Feinstein and the other 17 members of the Judiciary Committee will get another chance Wednesday for more rounds of questioning. During Tuesday's session the nominee to replace Chief Justice William Rehnquist avoided specifics on cases including Roe v. Wade, the case that established the right to abortion.

He said he believed the Constitution contains a right to privacy - the legal concept underpinning the Roe v. Wade decision. But he declined to say whether he thought it extended to abortion, which many abortion opponents believe it does not.

"The exact scope of it, with respect to the beginning of life and the end of life, those are issues that are coming before the court in both respects, and I don't think that I should go further," Roberts told Feinstein in one typical response.

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Feinstein is a moderate, but a strong abortion-rights supporter who has repeatedly said it would be difficult for her to support someone she believes would overturn Roe v. Wade. Tuesday's questioning may not have settled the issue for her.

She asked Roberts what weight he would give to the reliance of generations of women on the right to legal abortion.

"Well, again, I think that's asking me whether I think the decision was correct or not on that point," Roberts said, declining to respond.

Feinstein opened her questioning by reading back to Roberts a series of arguably unflattering comments he'd written about women.

Why did he write as an associate White House counsel that, "'Some might question whether encouraging homemakers to become lawyers contributes to the common good?'" Feinstein asked.

Why write in response to female lawmakers concerned about the pay gap, "'Their slogan may as well be, from each according to his ability, to each according to her gender?'"

"I mention these examples to highlight what appears to be either a very acerbic pen, or else you really thought that way. Did you really think that way, and do you think that way today?" Feinstein asked.

"Sen., I have always supported, and support today, equal rights for women, particularly in the workplace," Roberts responded.

He said the first comment was a joke about whether it was good to have more lawyers. The second, he said, was written in the context of a memo making clear the administration's support for equal pay for equal work.

Roberts Sticks To Script On Abortion Questions (LAT)

By David G. Savage

The Los Angeles Times, September 14, 2005

WASHINGTON — Since Ronald Reagan's election as president in 1980, Republicans have run on a platform that calls for overturning the right to abortion established in Roe vs. Wade.

And whenever a Republican president's Supreme Court nominees come before the Senate for confirmation, defenders of the right to choose abortion want to know whether the justice-to-be supports the GOP's view on Roe vs. Wade.

Candor in answering that question can be dangerous.

Judge Robert H. Bork, Reagan's third nominee to the high court, had written that Roe vs. Wade was an illegitimate decision and that its right to privacy appeared nowhere in the Constitution.

When asked about that opinion during his 1987 confirmation hearings, he restated his view. And the Senate defeated his nomination.

Since then, Republican nominees have responded to the senators' questions without directly answering whether they would uphold or reverse Roe vs. Wade.

On Tuesday, Judge John G. Roberts Jr. followed that script, assuring pro-choice senators that the court's precedents were the building blocks of the law and should not be knocked down without good reason. It is a jolt to the legal system to overturn a precedent, he said.

Moreover, the 1973 Roe decision was affirmed by the Supreme Court in 1992, he said: It is now a "settled precedent."

And when asked, he readily agreed that the Constitution included a right of personal privacy, the doctrine that formed the foundation for Roe vs. Wade.

But in the end, Roberts did not say that as chief justice he would uphold abortion rights. He simply assured the senators that he would not casually overturn Roe vs. Wade.

When pressed, Roberts refused to go further.

He would not agree with Sen. Arlen Specter (R-Pa.), the Senate Judiciary Committee chairman, that the right to abortion was "embedded" in American law and culture.

Chief Justice William H. Rehnquist had used that word to describe the Miranda ruling and its famous right to remain silent. Though Rehnquist had long opposed the Miranda decision, he wrote an opinion upholding it because it was now embedded in American life.

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When Sen. Dianne Feinstein (D-Calif.) asked during Tuesday's hearings whether Roe vs. Wade had proven unworkable, Roberts refused to state his view. Earlier, he had said the court should reverse rulings that proved to be unworkable in practice, but he would not say whether the abortion right fit that category.

His careful comments on privacy and precedent sounded similar to the words used by other Republican nominees to the high court.

After Bork's defeat in 1987, Reagan nominated Judge Anthony M. Kennedy of California. He assured senators that he believed the Constitution protected a marital right to privacy, and he was confirmed unanimously.

Judge David H. Souter of New Hampshire said the same in 1990, and he too won easy confirmation.

Neither stated their views on Roe vs. Wade, but both voted subsequently to uphold the abortion right.

Judge Clarence Thomas had to overcome a hurdle when he was nominated in 1991. In speeches and articles, he had derided the right to privacy as an invented right, and he had praised authors who spoke of abortion as a holocaust.

During his confirmation hearings, Thomas disavowed many of his earlier writings, and he said he was not committed to following the strict original history of the Constitution.

The liberty protected by the Constitution was "not frozen in time. Our notion of what liberty means evolves with the country. It moves with our history and our traditions," Thomas said.

Nine months later, after he was narrowly confirmed to the high court, Thomas voted to overturn Roe vs. Wade.

As Questioning Begins, Euphemisms Abound (WP)

By Dana Milbank

The Washington Post, September 14, 2005

Early in yesterday's hearing into his nomination to be chief justice, John G. Roberts Jr. took the Senate Judiciary Committee in an unexpected direction, praising Justice Robert H. Jackson, who served as Franklin D. Roosevelt's attorney general before joining the high court.

"As he went on the court," Roberts told the senators, "he took an entirely different view of a lot of issues, in one famous case even disagreeing with one of his own prior opinions. He wrote a long opinion about how he can't believe he once held those views."

The committee's ranking Democrat, Sen. Patrick J. Leahy (Vt.), was puzzled. "Are you sending us a message?" the senator asked. Laughter bubbled from the gallery.

Roberts added that Jackson "recognized, when he became a member of the Supreme Court, that his job had changed And he took a different perspective. And that's, again, one reason many admire him, including myself." A couple of the conservatives on the committee looked up anxiously.

The exchange was emblematic of Roberts's performance on the first day fielding questions. Roberts, star litigator, adviser to presidents and top-flight jurist, showed that he could be something else: the very model of an enigmatic nominee. The Roberts who answered questions for eight hours yesterday was very much the Roberts who emerged in his writings released over the summer. He maddened the committee's Democrats, delighted its Republicans and charmed most of both.

He was sharp-tongued. When Leahy made a skeptical query about one of Roberts's Reagan administration memos, the nominee retorted: "Senator, you're vastly over-reading the memorandum."

He was quick on his feet. When Sen. Joseph R. Biden Jr. (D-Del.) fired off a series of questions without allowing Roberts to answer, the nominee finally replied: "Well, I was about to lay it out. You said you didn't want to hear about it." The room filled with laughter. Biden did not smile.

And he showed flashes of wit. Asked about an old memo he wrote supporting judicial term limits, he admitted: "You know, that would be one of those memos that I no longer agree with, senator. I didn't fully appreciate what was involved in the confirmation process when I wrote that."

Asked about the views of Justice David H. Souter, Roberts replied: "Well, I don't want to directly comment on what Justice Souter said. He is either going to be a colleague or continue to be one of my bosses."

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In constitutional matters, the nominee proved deft at saying much and giving away little. The only time Roberts seemed flustered was when Sen. Lindsey O. Graham (R-S.C.) dropped the legalese. "I think it stinks that somebody can burn the flag, and that's called speech. What do you think about that?"

"Well," Roberts began, then paused, searching for words.

What Roberts did best -- or, at least, most -- was deflect questions on charged issues.

Roe v. Wade ? "I think I should stay away from discussions of particular issues that are likely to come before the court again."

War powers? "I don't want to answer a particular hypothetical."

Voting rights? "Those cases come up all the time, and I do need to avoid expressing an opinion."

Sitting at a folding table dressed up with red felt, Roberts, his bald spot exposed under the studio lights, offered a stream of such evasions: "I don't think I should express a determinative view. . . . I should not respond. . . . I can't answer that. . . . I do not feel it appropriate for me to comment."

The most inflammatory subject -- abortion -- was essentially off-limits. Both sides claim they have no "litmus test" and therefore cannot ask Roberts his views on abortion. "It's the 600-pound elephant in the room," Sen. Sam Brownback (R-Kan.) told reporters during a break. Instead, they got at the subject elliptically, asking Roberts about his view of stare decisis , the Latin term for letting precedent -- in this case, Roe v. Wade -- stand. The word abortion was uttered only six times in the first four hours of the hearing; stare decisis was cited 34 times.

Sen. Arlen Specter (R-Pa.), chairman of the Senate Judiciary Committee, started things off with a query about "the issue of stare decisis and the issue of precedents."

Roberts knew where this was going. "While I'm happy to talk about stare decisis and the importance of precedent, I don't think I should get into the application of those principles in a particular area," he said.

Specter, shifting from the Latin, wondered whether " Roe might be a super-duper precedent."

Roberts finally showed some leg on stare decisis . Roe "is settled as a precedent of the court," he said, "entitled to respect under principles of stare decisis ."

That was about the most the senators could get out of Roberts.

Roberts told Biden that the 14th Amendment protected a right to privacy -- an apparent nod to abortion rights -- but immediately qualified that by saying: "I think every justice on the court believes that, to some extent or another."

He seemed to take pleasure in the ambiguity. Recalling his clerkship for Judge J. Henry Friendly, he mentioned, approvingly: "He liked the fact that the editorialists of the day couldn't decide whether he was a liberal or a conservative."

Even Sen. Edward M. Kennedy (D-Mass.), conqueror of Robert H. Bork, drew little blood. Roberts brushed off Kennedy's complaints about his 1980s memos questioning voting rights laws. "This was 23 years ago," the judge replied. "It was the position of the Reagan administration."

When Kennedy accused him of opposing a civil rights act, Roberts gave no ground. "No, Senator," he said. "You have not accurately represented my position."

The confrontation over, Roberts stood up and exhaled deeply. Kennedy gritted his teeth.

With Goal Clear, Nominee Is Profile In Caution (NYT)

By Todd S. Purdum

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - His face never scowled. His level tone seldom varied. He answered questions he found useful to his cause and avoided those he did not. Above all, Judge John G. Roberts Jr. explained his views and defended his honor with the force and fluidity of an advocate who has argued often before tougher judges than those he faced on the Senate Judiciary Committee on Tuesday.

But as he parried a sympathetic Republican's question about how careful the Supreme Court should be in overturning an act of Congress, Judge Roberts also acknowledged a political reality that hung over his confirmation hearings: "All judges are acutely aware of the fact that millions and millions of people have voted for you and not one has voted for any of us."

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His job this week is to persuade a filibuster-proof majority of at least 60 senators to vote for him, and under hours of relentless and sometimes hostile questioning, Judge Roberts never lost sight of that goal. He listened. He smiled. He nodded. He spoke of the power of precedent and the importance of humility, using plain language with senators who sometimes got tangled in legal shorthand, jargon and precedents.

At one point, Senator Joseph R. Biden Jr., Democrat of Delaware, repeatedly interrupted Judge Roberts's explanation of a 20-year-old civil rights case, complaining, "His answers are misleading."

The committee chairman, Senator Arlen Specter of Pennsylvania, drew laughter when he declared: "Now, wait a minute, wait a minute. They may be misleading, but they are his answers."

Judge Roberts calmly replied: "With respect, they are my answers. And, with respect, they're not misleading; they're accurate."

That was about as agitated as Judge Roberts ever got. On Monday, Mr. Specter, a veteran of such hearings, said it was his experience that nominees generally answered just enough questions to be confirmed, and Judge Roberts proved no exception.

He assured senators that he believed the Constitution embraced a right to privacy that has produced Supreme Court precedents protecting the right to contraceptives and abortion. But he declined to specify how such a right might apply to future cases on abortion or the right to die.

He agreed that the Supreme Court was right to outlaw public school segregation in Brown v. Board of Education and said there was new historical evidence to suggest that the framers of the 14th Amendment had envisioned just such a result. But he declined to say just what he thought of some more recent - and more controversial - civil rights rulings, on the ground that similar cases might come before him.

He said he had learned much since the days when he was "25 and had all the answers" as a young lawyer in the Reagan administration. But he declined to specify whether he still agreed with some of the most forceful critiques of pending civil rights legislation he wrote then, or even to confirm whether they represented his own views.

Asked by Senator Herb Kohl, Democrat of Wisconsin, whether he still supported the notion of term limits for federal judges, as he once had in 1983, he answered: "You know, that would be one of those memos that I no longer agree with, Senator. I didn't fully appreciate what was involved in the confirmation process when I wrote that."

In short, he was Delphic, and his supporters and critics each ended the day saying his performance had hardened their enthusiasm or their doubts. Judge Roberts himself said that one of the qualities he most admired in his first judicial mentor, Judge Henry J. Friendly of the Federal Appeals Court in New York, was that his "devotion to the rule of law" made him hard to pin down.

"He liked the fact that the editorialists of the day couldn't decide whether he was a liberal or a conservative," Judge Roberts told Senator Jon Kyl, Republican of Arizona. "And he would be chastised for the same opinion, depending on which paper had read it, as either 'that conservative judge' or 'that liberal judge.' And because he wasn't adhering to a political ideology; he was adhering to the rule of law."

At times, Judge Roberts's responses were so bland as to tremble on the precipice of platitude, as when he answered a question from Senator Lindsey Graham, Republican of South Carolina, about the meaning of the phrase "Reagan revolution," by saying it meant "a change in attitude" and renewed national optimism.

At other moments, he seemed pained to have to rebut charges that he was insensitive to women. He assured Senator Dianne Feinstein, Democrat of California, that his long-ago question about "whether encouraging homemakers to become lawyers contributes to the common good" was a joke about lawyers, not wives.

"That's a common joke that goes back to Shakespeare," Judge Roberts said, his face lightly flushed. "It has nothing to do with homemakers. The notion that that was my view is totally inconsistent and rebutted by my life. I married a lawyer. I was raised with three sisters who work outside the home. I have a daughter for whom I will insist at every turn that she has equal citizenship rights with her brother."

Ms. Feinstein frowned but said, "I don't want to belabor it."

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Senator Charles E. Schumer, Democrat of New York, has been among the committee's most vocal skeptics about Judge Roberts in recent weeks, but even he allowed: "I have to say, I've been pleasantly surprised by some of your answers today," and at one point, consciously or not, declared: "You will be chief justice."

That was a luxury that Judge Roberts never allowed himself, invariably employing the conditional voice. When Senator Charles E. Grassley, Republican of Iowa, asked him if he agreed with Justice David H. Souter's contention in his own confirmation hearings that the courts sometime fill vacuums in the law left by Congress, Judge Roberts, who now sits on an appeals court, replied: "Well, I don't want to directly comment on what Justice Souter said. He is either going to be a colleague, or continue to be one of my bosses."

By Invoking A Former Justice, The Nominee Says Much But Gives Away Little (NYT)

By Linda Greenhouse

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - For those senators who were busy excavating his past for hints of his future, Judge John G. Roberts Jr. had a history lesson of his own to offer on his first day under questioning by the Senate Judiciary Committee.

Judge Roberts, who formerly worked in the Justice Department and has now been nominated to be chief justice, invoked the memory of a man who more than 60 years ago made a similar journey between two branches of government and who shed some of his earlier views in the process.

Robert H. Jackson was attorney general when President Franklin D. Roosevelt named him to the Supreme Court in 1941. As Judge Roberts pointed out in a colloquy with Senator Patrick J. Leahy of Vermont, the committee's senior Democrat, Justice Jackson then changed from "someone whose job it was to promote and defend an expansive view of executive powers" to someone who "took an entirely different view of a lot of issues," including the scope of presidential power.

The nominee's message was oblique, but clear: Do not judge me by the hundreds of memorandums I wrote as a young lawyer in the Reagan administration. Or, as Justice Jackson once said in an opinion to which Judge Roberts alluded, repudiating as a Supreme Court justice a position he had advocated as attorney general: "The matter does not appear to me now as it appears to have appeared to me then."

Justice Jackson himself borrowed that line, which appeared in a 1950 opinion, McGrath v. Kristensen, from a famous judicial recantation by a 19th-century English jurist, Baron Bramwell. And Judge Roberts, speaking to Senator Herb Kohl, Democrat of Wisconsin, offered his own nonspecific variant: "I certainly wouldn't write everything today as I wrote it back then, but I don't think any of us would do things or write things today as we did when we were 25 and had all the answers."

Late in the afternoon, Judge Roberts returned to Justice Jackson in a discussion with Senator Russell D. Feingold, Democrat of Wisconsin. To resolve one of the recurrent clashes over presidential authority, he said, he would turn first to the framework set out in Justice Jackson's concurring opinion in Youngstown Sheet & Tube Co. v. Sawyer, the 1952 case that overturned President Harry S. Truman's seizure of the nation's steel mills during the Korean War.

The Jackson theme appeared both heartfelt and strategic, even more so given that Chief Justice William H. Rehnquist, Judge Roberts's mentor, who died 10 days ago, had been Justice Jackson's law clerk.

"He's in a sense a descendant of Jackson's court family tree," John Q. Barrett, a professor at St. John's University School of Law who is writing a biography of Justice Jackson, said of Judge Roberts. "It's obviously something he's been thinking about for a long time."

Indeed, in his Senate Judiciary Committee questionnaire for his confirmation to the federal appeals court here in 2003, Judge Roberts answered a question about the justices he most admired. "I admire the judicial restraint of Holmes and Brandeis, the intellectual rigor of Frankfurter, the common sense and pragmatism of Jackson, the vision of John Marshall," he said then.

Robert Jackson was a major figure in his time, at one point considered a potential presidential contender. His evolving view of presidential authority was due to more than his change of venue from the Justice Department to the court. The year he spent, while a Supreme Court justice, as the chief United States prosecutor at the Nuremberg war crimes trials had a formative effect, said Prof. Dennis J. Hutchinson of the University of Chicago, who wrote an article on the subject 10 years ago for The Journal of Supreme Court History.

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From his close-up view of the Nazi regime, "Jackson became worried about pervasive national power," Professor Hutchinson said in an interview. "He told his law clerks when he came back that the first step to tyranny was to centralize control of the police and the courts."

In invoking Justice Jackson, Judge Roberts was sufficiently opaque as to leave his performance open to a variety of interpretations. He gave away little of substance. Nor did he quote from a book with which he is undoubtedly familiar, "The Struggle for Judicial Supremacy," an account of Roosevelt's failed court-packing plan. In the introduction, the author asked, as a liberal, a question that many conservatives have asked more recently as they pondered their seeming inability to gain firm control of the Supreme Court. "Why is it," Robert Jackson wondered, "that the court influences appointees more consistently than appointees influence the court?"

Explicit Endorsements Of Some Decisions (NYT)

By Adam Liptak

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - Judge John G. Roberts Jr. was generally careful not to comment on the correctness of specific Supreme Court cases on the first day of questioning at his confirmation hearings on Tuesday. But not always.

Judge Roberts was willing to discuss decisions concerning school desegregation, the privacy of the marital relationship, the internment of Japanese-Americans and the limits of presidential power. His willingness to comment on cases seemed to increase in direct proportion to his assessment of the extent to which they have become fundamental to an understanding of American constitutional law.

He was unequivocal in accepting the reasoning in Brown v. Board of Education, the landmark 1954 school desegregation case, and the result in Griswold v. Connecticut, a 1965 decision that struck down a law that made the use of contraceptives a crime and served as a basis for later cases protecting abortion and gay rights.

He explained how he had drawn the line between cases he was willing to discuss and those that were off limits in the context of Griswold.

"I feel comfortable commenting on Griswold and the result in Griswold," he said, "because that does not appear to me to be an area that is going to come before the court again."

He was slightly less categorical in discussing Korematsu v. United States, the 1944 decision that upheld an executive order under which 120,000 Americans of Japanese ancestry were removed from their homes and confined in detention camps. It is widely viewed as a low point in the Supreme Court's history.

"Can I assume," Senator Patrick J. Leahy of Vermont asked, "that you will hold the internment of all residents of this country who are interned just because they have a particular nationality or ethnic or religious group - you would hold that to be unconstitutional?"

Judge Roberts seemed to be of mixed minds about answering, and he gave a carefully modulated answer.

"I suppose a case like that could come before the court," he said. "I would be surprised to see it. And I would be surprised if there were any arguments that could support it."

Later in the day, he noted that while Korematsu had not been formally overruled it was widely considered discredited.

Fred T. Korematsu, the plaintiff in the case, who died this year, filed a supporting brief in the Supreme Court arguing that the detention of prisoners in Guantánamo Bay, Cuba, resembled his case.

Mr. Leahy, the senior Democrat on the Judiciary Committee, also asked Judge Roberts about a 1952 decision known as Youngstown. It rejected the argument that President Harry S. Truman had authority to seize private steel mills.

"Would you consider Youngstown settled law?" Mr. Leahy asked.

Judge Roberts chose his words carefully. "I think," he said, "the approach in the case is one that has guided the court in this area since 1954, '52, whatever it was."

Roberts Criticizes Foreign Law Used As Precedent (WT)

By James G. Lakely

The Washington Times, September 14, 2005

DOJ_NMG_0005027

Supreme Court chief justice nominee Judge John G. Roberts Jr. yesterday rebuked a recent high-court decision that relied on foreign law, calling it a "misuse of precedent" that substitutes a judge's "personal preferences" for the Constitution.

Sen. Jon Kyl, Arizona Republican, asked Judge Roberts what, "if anything, is the proper role of foreign law in U.S. Supreme Court decisions?"

The question was a reference to the Roper v. Simmons decision by the Supreme Court in March, in which the majority cited foreign law to overturn a death-penalty sentence for a 17-year-old murderer.

That 5-4 decision is cited by conservative legal scholars as one reason it is important for President Bush to appoint a reliable conservative to the Supreme Court.

One justice Mr. Bush has cited as a model for his appointments, Antonin Scalia, wrote a scathing dissent of Roper, declaring that when it comes to the court, "the views of our own citizens are essentially irrelevant," while "the views of other countries and the so-called international community take center stage."

Judge Roberts maintained that he didn't want to comment on any particular case decided by the court.

"I would say, as a general matter, that there are a couple of things that cause concern on my part about the use of foreign law as precedent," said Judge Roberts, beginning his critique by noting that while U.S. judges are not held directly accountable by the people, the politicians who appoint them are.

"In that way, the role of a judge is consistent with democratic theory," Judge Roberts said.

But a Supreme Court ruling that cites foreign statutes, as the majority decision did, he said, circumvents that accountability.

"If we're relying on a decision from a German judge about what our Constitution means, no president accountable to the people appointed that judge and no Senate accountable to the people confirmed that judge," he said. "And yet he's playing a role in shaping the law that binds the people in this country. I think that's a concern that has to be addressed."

Mark R. Levin, president of the conservative Landmark Legal Foundation and author of "Men in Black: How the Supreme Court Is Destroying America," said Judge Roberts was "right on."

At yesterday's hearing, Judge Roberts called the "little debate" this year at American University between Justice Scalia -- who disagreed with the Roper decision -- and Justice Stephen G. Breyer -- who supported it -- "very illuminating."

It was clear, however, that Judge Roberts sided with Justice Scalia.

He said "domestic precedent" has the ability to "confine and shape the discretion of judges," while noting that the precedent of foreign countries wrongly "expands the discretion of the judge."

Ed Whelan, president of the Ethics and Public Policy Center, said it is unusual for a prospective justice to criticize directly a recent court decision. And while noting that Judge Roberts was careful not to cite Roper specifically, he said the nominee's critique of its justification was correct.

"There is no legitimate basis for the Supreme Court to rely on contemporary foreign laws or decisions in determining the meaning of provisions of the Constitution," Mr. Whelan said.

Roberts Probed On Overturning Past Rulings (WT)

By Guy Taylor

The Washington Times, September 14, 2005

How much weight should a Supreme Court justice give to "stare decisis," the Latin phrase meaning to let stand what has already been decided?

The Senate Judiciary Committee's Chairman, Sen. Arlen Specter, Pennsylvania Republican, wasted no time yesterday probing Judge John G. Roberts Jr.'s view on the doctrine.

Specifically, Mr. Specter asked how stare decisis applies to Roe v. Wade, which legalized abortion in 1973, and a subsequent case which upheld it in 1992.

Judge Roberts said he wished not to discuss abortion since it is likely to come before the Supreme Court again, but asserted that past rulings may indeed warrant reconsideration under special circumstances.

"It is a jolt to the legal system when you overrule a precedent," he said, adding that "the principles of stare decisis recognize that there are situations when that's a price that has to be paid."

Judge Roberts cited the historic 1954 ruling in Brown v. Board of Education, which revisited and overturned the "separate but equal" Plessy v. Ferguson ruling of 1896, paving the way for racially integrated public schools.

Legal scholars say stare decisis carries more weight than any other single judicial philosophy adhered to by the Supreme Court, but that it is by no means carved in stone.

Edward P. Lazarus, an appellate lawyer in Los Angeles, noted the high court's revisiting of issues related to sexuality in recent years.

In 1986, the court upheld a Georgia law criminalizing privately conducted oral and anal sex between consenting adults. The court revisited and overturned the ruling in 2003, finding such laws are unconstitutional.

"The notion that this is a court that will not revisit past precedent, that's not true," Mr. Lazarus said.

He added, however, that "there is a relationship between how long a case has been around and the court's willingness to revisit it."

"The degree to which society has organized itself around a decision is a well-acknowledged factor in the stare decisis calculus," Mr. Lazarus said.

Disagreements over the extent to which society has organized itself around legalized abortion are at the core of the debate over whether stare decisis should apply to Roe v. Wade.

After nearly two decades on the books, the Supreme Court revisited the ruling in 1992 and upheld it with Planned Parenthood v. Casey. Moments into yesterday's hearing, Mr. Specter, the lone pro-choice Republican on the committee, asked Judge Roberts whether stare decisis shall apply to Roe and Casey.

"For two decades of economic and social developments, people have organized intimate relationships in reliance on the availability of abortion in the event contraception should fail," said Mr. Specter, directly quoting the Casey ruling.

"Would you agree with that?" he asked.

"The importance of settled expectations in the application of stare decisis is a very important consideration," Judge Roberts said.

"Whether the doctrinal bases of a decision have been eroded by subsequent developments," he said, "may be a basis for reconsidering the prior precedent."

Probed further, Judge Roberts said: "I do feel compelled to point out that I should not, based on the precedent of prior nominees, agree or disagree with particular decisions."

Roberts Minimizes His Role (WT)

By Charles Hurt

The Washington Times, September 14, 2005

Federal Judge John G. Roberts Jr. downplayed his pro-bono legal work to help a homosexual rights group win one of the most significant Supreme Court cases regarding such rights.

"I was asked frequently by other partners to help out, particularly in my area of expertise," he told Senate Judiciary Committee Chairman Arlen Specter, Pennsylvania Republican. "And I never turned down a request."

The 1996 decision in Romer v. Evans ruled unconstitutional a voter-approved constitutional amendment that barred municipalities from granting homosexuals a protected class under civil rights laws.

Mr. Specter read a quote from a former colleague of Mr. Roberts' who said the nominee played a significant role in preparing the case.

"Every good lawyer knows that if there is something in his client's cause that so personally offends you, morally, religiously, or if it so offends you that you think it would undermine your ability to do your duty as a lawyer, then you shouldn't take it on," said Mr. Specter, quoting former Hogan & Hartson lawyer Walter A. Smith. "And John -- referring to you -- wouldn't have. So at a minimum, he had no concerns that would rise to that level."

"I think it's right that if there had been something morally objectionable, I suppose I would have" avoided involvement, Judge Roberts said. "But it was my view that lawyers don't stand in the shoes of their clients and that good lawyers can give advice and argue any side of a case."

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While Judge Roberts did not write briefs or become deeply involved in preparing the case, he did review files and help prepare oral arguments for Lambda Legal without charge. He also played the role of conservative Supreme Court Justice Antonin Scalia in the mock trial.

Liberal Groups Focus On 'Flipping' Centrists (HILL)

By Alexander Bolton

The Hill, September 14, 2005

Liberal interest groups are focusing on flipping three centrist Republican senators from the Northeast as the key to their strategy at least to tarnish the confirmation of Supreme Court nominee John Roberts.

Many Democratic Senate aides, strategists and journalists believe that Roberts's confirmation is a foregone conclusion. But liberal activists such as Ralph Neas, president of People for the American Way, insist the battle is not over and the committee and floor votes will be close.

The outlook is not encouraging for liberals. No Democratic senator has stated that he or she would oppose Roberts, though Sen. Joseph Biden (D-Del.) a senior member of the Judiciary Committee, said he would vote no based on the nominee's writings.

Democratic lobbyists who advise Senate Minority Leader Harry Reid (D-Nev.) have said that as many as 25 centrist and mainstream Democrats may vote for Roberts.

Liberal leaders are frustrated that the press has in some cases already called the fight a win for Republicans.

"You've said we've given up," Neas said with a tone of exasperation to a reporter at yesterday's hearing. "You've written your stories too soon."

Liberal strategists say that if they can turn a Republican against Roberts it would embolden Democrats to follow suit. Accordingly, they are focusing their lobbying efforts on Sens. Olympia Snowe and Susan Collins of Maine and Lincoln Chafee of Rhode Island.

"They're critical," said Llenda Jackson-Leslie, president of the National Women's Political Caucus, a self-described bipartisan grassroots organization with 22 state chapters dedicated to supporting female candidates. "Conservative Democrats will look to them."

Jackson-Leslie said her organization's staff has met aides to Collins and Snowe. Though the National Women's Political Caucus has yet to take a position on Roberts, Jackson-Leslie said she is becoming impatient because she believes he is being evasive. That echoes a theme sounded by committee Democrats yesterday.

Snowe, Collins and Chafee are considered ripe targets for several reasons.

In the 2004 election, Sen. John Kerry (D-Mass.) defeated President Bush in Maine and Rhode Island. Chafee and Snowe face reelection next year. All three lawmakers voted this year against the confirmation of Judge Bill Pryor to the 11th U.S. Circuit Court of Appeals.

Chafee also voted against former Texas Supreme Court Justice Priscilla Owen's nomination to the 5th U.S. Circuit Court of Appeals. He is considered one of the most vulnerable Senate Republicans and has already picked up the endorsement of NARAL Pro-Choice America, an abortion-rights pressure group strongly opposed to Roberts.

"We certainly want to reach Senators Chafee, Collins and Snowe," said Nan Aron, president of the Alliance for Justice, who with Neas is leading a coalition of liberal groups opposing Roberts. "Those are the three I can think of off the top of my head. We certainly begin with them, and we've provided our report to them."

Hilary Shelton, director of the Washington bureau of the NAACP, said his group would target Republicans who support the group's position on civil rights. He named Collins, Snowe and Chafee, as well as Sens. John McCain (R-Ariz.) and Mike DeWine (R-Ohio).

But Chafee and Collins, in particular, may be difficult to persuade.

Collins said on a Maine radio station yesterday that she was leaning strongly in favor of voting for Roberts but was waiting until the end of the hearing to decide.

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And the Providence Journal reported yesterday that Chafee was also leaning toward supporting Roberts, pending the outcome of the hearing.

That is despite heavy pressure in Maine and Rhode Island from liberal groups.

Liberal leaders in Washington began coordinating with local activists in Maine last year, when the effort to flip Snowe and Collins started, said Sarah Standiford, head of Maine Women's Lobby. They contacted activists in Rhode Island in June, said Marti Rosenberg, executive director of Ocean State Action, which is coordinating Rhode Islanders for a Fair Judiciary.

Standiford's group is part of a coalition of some 40 local groups in Maine concerned about Roberts's nomination. She said a substantial number of those groups have already decided to oppose Roberts. Members of the groups have participated in media events and have scheduled meetings with Collins and Snowe during the next two weeks, she added

The Maine coalition has received materials and other assistance from the Washington-based national coalition of liberal groups opposing Roberts, Standiford said.

Rosenberg said more than 20 local groups are affiliated with Rhode Islanders for a Fair Judiciary. The activists are encouraging Rhode Islanders to contact Chafee and Sen. Jack Reid (D-R.I.) and urge them to oppose Roberts. Rosenberg said she and liberal leaders in Washington have discussed strategies for lobbying Chafee on Roberts since June.

The Judicial Confirmation Network, a pro-Roberts conservative organization, is countering the efforts of liberal groups in Maine. The group is working with local activists, running phone campaigns and sending letters to editors in order to put pressure on Snowe and Collins. The group is not active in Rhode Island.

Roe Ruling: More Than Its Author Intended (LAT)

By David G. Savage

The Los Angeles Times, September 14, 2005

WASHINGTON — In mid-1971, the Supreme Court agreed for the first time to hear a constitutional challenge to the long-standing state laws limiting abortion. Its decision to do so reverberates today.

At that time, Texas and 30 other states had laws, dating from the 19th century, that made an abortion a crime unless it was performed to save the mother's life.

Georgia, like California, had revised its laws in the late 1960s to permit abortion in specific circumstances: if the mother's health was endangered, if the pregnancy was caused by rape or if the fetus had a severe defect.

The newest member of the Supreme Court, Justice Harry A. Blackmun, saw much to like in the revised abortion laws. A lawyer who greatly admired doctors, he had been general counsel for the Mayo Clinic in his home state of Minnesota before becoming a federal appellate judge.

He believed that doctors needed to have leeway to do medically necessary abortions. In the court's first private conference on the issue, he described Georgia's law as "a fine statute [that] strikes a balance that is fair."

Yet, a year later, Blackmun wrote an opinion for the court that struck down all of the nation's abortion laws. Equally important, his opinion made virtually all abortions legal as a matter of a constitutional right.

That opinion, in the case of Roe vs. Wade, remains the court's most disputed decision of recent decades. By abruptly voiding all laws against abortion, it galvanized a powerful antiabortion movement that has transformed American politics.

It also dominates public debate over the court and its future. The Senate confirmation hearing for Judge John G. Roberts Jr., like those of all recent nominees, is focusing on one question: Will he vote to uphold or to reverse Roe vs. Wade?

Blackmun's Story

Last year, on the fifth anniversary of Blackmun's death, the Library of Congress opened his papers to the public. His thick files on the abortion cases tell the little-known story of how Roe vs. Wade came to be. It is the story of a rookie justice, unsure of himself and his abilities, who set out to write a narrow ruling that would reform abortion laws, not repeal them.

It is also the story of a sometimes rudderless court led by Chief Justice Warren Burger. On the day the ruling was announced, Burger said, "Plainly, the court today rejects any claim that the Constitution requires abortion on demand."

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Blackmun proposed to issue a news release to accompany the decision, issued Jan. 22, 1973. "I fear what the headlines may be," he wrote in a memo. His statement, never issued, emphasized that the court was not giving women "an absolute right to abortion," nor was it saying that the "Constitution compels abortion on demand."

In reality, the court did just that.

Blackmun had said that abortion "must be left to the medical judgment of the pregnant woman's attending physician." So long as doctors were willing to perform abortions — and clinics soon opened solely to do so — the court's ruling said they could not be restricted from doing so, at least through the first six months of pregnancy.

But the most important sentence appears not in the Texas case of Roe vs. Wade, but in the Georgia case of Doe vs. Bolton, decided the same day. In deciding whether an abortion is necessary, Blackmun wrote, doctors may consider "all factors — physical, emotional, psychological, familial and the woman's age — relevant to the well-being of the patient."

It soon became clear that if a patient's "emotional well-being" was reason enough to justify an abortion, then any abortion could be justified.

Legal scholars have long pointed to the shaky constitutional basis for a right to abortion. Blackmun referred to the 14th Amendment, which says that a state may not "deprive any person of life, liberty or property, without due process of law."

In earlier opinions, the court had said that liberty included the concept of personal privacy. "This right to privacy … is broad enough to encompass a woman's decision whether or not to terminate her pregnancy," Blackmun declared.

Earlier this year, 11 legal scholars, led by Yale's Jack Balkin, tried to write a better opinion. Their book of essays, "What Roe v. Wade Should Have Said," proposed several alternatives, such as saying sexual equality for women required a right to abortion.

Far less attention has focused on the all-or-nothing nature of the Roe vs. Wade ruling.

Today, as in the early 1970s, the American public appears to have decidedly mixed views on abortion. In a Gallup poll in May, for instance, only 23% of those surveyed said abortion should be "legal under any circumstances," the rule set by Roe vs. Wade.

Only 22% said abortion should be "illegal in all circumstances," the rule that could take effect in many states if the Supreme Court were to overturn Roe vs. Wade.

The largest group — 53% — said abortion should be "legal only under certain circumstances."

But Roe vs. Wade foreclosed this middle course — for the states as well as for the court. It does not give states the room to adopt what might be a popular compromise: permitting abortions during the first three months of a pregnancy, but not afterward. Nor does it permit states to authorize only "medically necessary" abortions, a reform idea of the late 1960s.

How did Blackmun and the Supreme Court produce such a broad ruling on abortion, while professing to do no such thing?

Court scholars and law clerks from the Roe era say there is no single explanation. Some say Blackmun naively thought that doctors would perform abortions only for medical reasons.

"He was thinking of this in the medical framework of Rochester, Minn. He imagined abortions would be performed by a family physician or in a hospital," said historian David J. Garrow, the author of a scholarly history of the abortion-rights movement.

The justices did not foresee the full impact of the ruling or the backlash it would set off, said Georgetown University law professor Mark V. Tushnet, who was a clerk for Justice Thurgood Marshall when Roe was decided. They focused on striking down the Texas-type laws that outlawed all abortions, he said.

"All they wanted was to get those laws off the books," Tushnet said. "They were not thinking long-term with an overall vision."

In Burger's Footsteps

Blackmun made it to the Supreme Court because of his boyhood friend, Burger.

In 1969, President Richard Nixon chose Burger to be chief justice of the United States. A year later, after Nixon tried and failed to get two Southern judges confirmed, Burger suggested his old friend. Burger and Blackmun were soon dubbed the "Minnesota Twins."

In June 1971, five justices (but neither Burger nor Blackmun) voted to hear abortion cases from Texas and Georgia.

When those cases came before the court in December 1971, only seven justices were seated. Justices Hugo Black and John Marshall Harlan, both ailing and near death, had suddenly retired. Their Nixon-appointed successors — Lewis F. Powell Jr.

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and William H. Rehnquist — would not join the court until January and thus would not participate in abortion deliberations that term.

At the court's private conference, the seven justices agreed that the Texas law was extreme and unconstitutional, according to the notes of several justices. Even Byron R. White, a critic of abortion, said doctors must be permitted to act when there were "health problems."

Blackmun voiced disdain for feminists who said women deserved control over their bodies. "There is no absolute right to do with one's body what you like," he said. But he agreed that the Texas law was extreme and said it did "not go far enough to protect doctors."

The Georgia law was much better, the justices said, except for a requirement that three doctors approve an abortion.

Days later, the liberal justices were irked to receive a memo from Burger saying he had chosen Blackmun to write both opinions. With little guidance from colleagues, Blackmun and his clerks began research.

Meanwhile, the court turned its attention to the death penalty. Capital punishment had been under attack, and in January 1972 the full court voted 5 to 4 to strike it down.

The ruling, handed down in June, described the states' death penalty laws as arbitrary; they sometimes treated rapists the same way they treated mass murderers. But it left room for states to try again. Most states rewrote laws to focus on those thought most deserving of execution. By 1976, the high court had upheld the revised laws and restored capital punishment.

Had abortion cases followed a similar course, the court would have required states to reform their laws to give more leeway to doctors and to pregnant women. But it would have also left states the power to prohibit abortions in some circumstances.

Blackmun's final opinion left no room for prohibitions on abortion. That was not apparent in the spring of 1972, however.

In mid-May, Blackmun wrote "a first and tentative draft" for Roe vs. Wade that stopped well short of declaring a constitutional right to abortion. Instead, it said the Texas law did not give doctors enough guidance.

Criminal laws must be clear, the court had emphasized, so people don't unwittingly commit a crime. Blackmun said Texas physicians could not be sure whether they were committing a crime by performing an abortion on a patient whose troubled pregnancy might risk her life.

"I come out on the theory that the Texas statute … is unconstitutionally vague," he said in a memo to his colleagues on May 18, 1972. "I think that this [finding] would be all that is necessary for the disposition of the case, and that we need not get into the more complex" issues.

In retrospect, this proved to be a crucial time in the court's handling of the abortion issue. Blackmun had proposed issuing a short opinion that would have struck down the Texas law and the 30 others like it. However, it would have also left the states ample room to revise their laws.

His proposal set off a flurry of memos on what to do next.

Justices William O. Douglas and William J. Brennan, mindful that Nixon's new appointees would join the deliberations if the cases were reargued in the fall, wanted quick action and a stronger opinion.

Burger, however, wanted to go slowly. He knew the Brennan-led majority was about to announce the striking down of the death penalty on a 5-4 vote. Burger and Blackmun had dissented, as had the new Nixon appointees, Powell and Rehnquist. Burger expected the votes on abortion to line up the same way.

If the abortion cases were carried over until the fall, Powell and Rehnquist would cast their votes, and the chief justice — with Blackmun and White also on board — could envision a new 5-4 majority that would uphold most of the state abortion laws.

"This is as sensitive and difficult an issue as any in this court in my time," Burger wrote. "Hence, I vote to reargue early in the next term."

A Miscalculation

But Burger miscalculated by seeking a delay. Had Blackmun's draft opinion been adopted, it would have left states free to prohibit abortions for nonmedical reasons. However, Blackmun reluctantly joined Burger in seeking a delay, and the majority voted to put off a decision on the abortion cases until the fall.

Blackmun spent the summer working in the Mayo Clinic's library in Minnesota. He researched the history of abortion in Persian, Greek and Roman times. He also studied abortion laws adopted in 19th century America and concluded that the bans

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were driven not by moral imperatives but by the reality that, before antibiotics, abortion — like other medical procedures — was dangerous.

When Blackmun returned to Washington, he had a long draft. It was a thorough work of medical history, but short on constitutional law. It also was hazy on just when abortion would be permitted or prohibited.

In October, the nine justices sat through the arguments again. When they met to discuss the cases, there was a surprise. Powell, the soft-spoken Virginian who was new to the court, firmly supported a woman's right to abortion. He urged Blackmun to say it directly rather than attack the laws as vague.

For Powell, the issue was personal: When he was a lawyer in Richmond, Va., a young man came to him in despair. His pregnant girlfriend had tried to abort her fetus with his help, and she had bled to death. Powell went to the authorities to explain what happened. Thereafter, he was determined to see abortion made safe and legal.

Suddenly, there were six solid votes to strike down the Texas and Georgia laws, and Blackmun had the backing to write a broader opinion in favor of a right to abortion. The liberals, who had worried about the delay, found they had a stronger hand, and Burger found himself with no room to maneuver.

On Nov. 21, two weeks after Nixon's reelection, Blackmun sent around revised drafts of the majority opinions. The Roe opinion said that for the first three months of a pregnancy, states must "leave the abortion decision to the best medical judgment of the pregnant woman's attending physician."

In a memo to his colleagues, however, he voiced uncertainty.

"This has proved for me to be both difficult and elusive…. You will observe that I have concluded that the end of the first trimester is critical," he wrote, referring to a cutoff date for permitting abortions. "This is arbitrary, but perhaps any other selected point, such as quickening or viability, is equally arbitrary." The first trimester is the first three months of a pregnancy.

Brennan, Marshall and Powell wrote back to say that allowing abortions until "viability" — when a fetus has developed enough to live outside the womb — at six months made more sense.

Douglas disagreed. "I favor the first trimester, rather than viability," he said. He was outvoted, however, and Blackmun said he would revise the opinion over the Christmas holidays. In his final draft, states were told they could not restrict abortions through the second trimester.

That change would become the focus of today's legal and political battles. Opponents have especially condemned a procedure they call partial-birth abortion, which usually takes place in the fifth or sixth month of a pregnancy.

Blackmun's opinion ends by saying: "The decision vindicates the right of the physician to administer medical treatment according to his professional judgment…. The abortion decision in all its aspects is inherently, and primarily, a medical decision…. If an individual practitioner abuses the privilege of exercising proper medical judgment, the usual remedies, judicial and intra-professional, are available."

As some scholars later said, his opinion treated the pregnant woman as a bit player in a doctor's drama.

White and Rehnquist filed dissents, but Burger delayed casting his vote. His colleagues suspected that he did not want the opinion released before Nixon's second inauguration, set for Jan. 20.

As that day approached, Burger filed a short concurrence and predicted the ruling would not have "sweeping consequences."

Blackmun's proposed press release also downplayed the potential effects of the ruling, stressing that it would not mean "abortion on demand." His court colleagues convinced him that it would be inappropriate to issue a statement that commented on a ruling.

So, on Jan. 22, 1973, Roe vs. Wade and Doe vs. Bolton were handed down as 7-2 rulings in favor of a new right to abortion. That afternoon, former President Lyndon B. Johnson died, pushing aside the abortion decisions as the biggest news story of the day.

Sounding Less Conservative But Still Noncommittal (WP)

By Charles Lane

The Washington Post, September 14, 2005

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Under detailed public questioning for the first time since President Bush tapped him for a seat on the Supreme Court, John G. Roberts Jr. appeared to sound a less conservative note on abortion-related issues than he had in the memos and briefs he wrote as a lawyer in the Reagan and George H.W. Bush administrations.

He offered a surprisingly emphatic endorsement of a constitutional right to privacy -- the basis of the Roe v. Wade decision recognizing a right to abortion, which he seemed to disparage as a young lawyer in the Reagan administration.

And, as if repeating a carefully formulated phrase, he referred time and again to a 1992 Supreme Court ruling upholding Roe as "a precedent entitled to respect."

Yet, ever the careful lawyer, Roberts committed himself to nothing more tangible than a promise to think hard before voting either to uphold or overturn the abortion precedents about which so much controversy revolves. Each time a senator pressed him for a clear statement, up or down, on abortion rights, Roberts refused, saying that to do so would be to declare his views on an issue that the court may face in the future.

The overall impression was of a talented nominee who used his skills to avoid twin perils: revealing nothing of his views or revealing too much.

Tacitly acknowledging that he would have far more latitude to make changes in the law as chief justice than he has now as an appeals court judge, Roberts offered a list of factors he would weigh in deciding whether to overturn a precedent of the court.

Stare decisis is the legal term for the principle that courts should let existing decisions stand for the sake of stability in the law -- and discussion of stare decisis took up much of the hearing, basically as a proxy for the larger issue of abortion.

Roberts told Sen. Arlen Specter (R-Pa.), the Senate Judiciary Committee chairman, that established precedents, including both Roe and the court's 1992 affirmance of Roe in Planned Parenthood v. Casey , should be overturned only when they have proved "unworkable," or when they have been "eroded" by intervening decisions of the court.

As examples of cases in which he thought the court was right to overturn precedent, Roberts cited the court's New Deal-era abandonment of its past cases invalidating economic regulations, and Brown v. Board of Education , the school desegregation case that overturned the court's 1896 validation of racial separation in public facilities.

But those reversals by the court, much debated in their day, are no longer controversial. Roberts's criteria, "while superficially specific, are in fact highly elastic and could be used to overturn Roe and Casey , or to uphold them, depending upon his proclivities," said Michael J. Glennon, a professor of constitutional and international law at Tufts University's Fletcher School of Law and Diplomacy.

No sooner had Specter, a strong supporter of Roe , gaveled the proceedings to order at 9:30 a.m. than he began boring in on Roberts about the abortion precedents, asking whether he agreed with the Supreme Court's view, expressed in Casey , that so many women had come to rely on the abortion right that Roe had to be upheld.

Roberts did not answer directly, but did concede that Casey is a valid precedent "entitled to respect" and that "it is a jolt to the legal system when you overrule a precedent."

Yet he repeatedly brushed aside invitations to say whether overturning Roe -- after being upheld in Casey -- would be too big a jolt.

Specter invoked a change of heart by Roberts's mentor, the late Chief Justice William H. Rehnquist, for whom Roberts clerked in the court's 1980-1981 term. He noted that Rehnquist, a life-long critic of the 1966 Miranda decision that recognized a suspect's "right to remain silent" when questioned by police, ultimately voted to uphold it in 2000.

Rehnquist had concluded that Miranda was "embedded" in the "national culture," and Specter asked whether the same could be said for "a woman's right to choose."

Roberts demurred.

"I think that gets to the application of the principles in a particular case," he said. Like previous nominees to the court, Roberts said, he would refuse to say how he would rule.

In the coming term, the high court will hear a challenge to a New Hampshire law that requires teenagers to notify their parents before they can get an abortion. The question for the court is whether Roe and Casey require the state to permit an exception to the law in cases in which a girl's health may be in danger.

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Sen. Herb Kohl (D-Wis.) seemed pleasantly surprised when Roberts told him that he agrees with a 1965 Supreme Court decision declaring "that there is a fundamental right to privacy as it relates to contraception."

Kohl said he was "delighted" to learn that Roberts had just endorsed an opinion which, Kohl said, leads logically to "a woman's right to choose to terminate her pregnancy," the right recognized in Roe v. Wade .

But, once again, Roberts slipped the punch. "That's an area that I do not feel it appropriate for me to comment on," he said.

Roberts Proves To Be A Cool, Savvy Witness (USAT)

By Joan Biskupic And Toni Locy

USA Today, September 14, 2005

WASHINGTON — Supreme Court nominee John Roberts was a deft witness Tuesday, showing himself to be a smart, articulate, by-the-book jurist while offering only minimal answers to senators' questions.

When Democrats tried to put him on the defensive about his past positions as a Reagan administration lawyer or his current reluctance to explain his views, the conservative federal judge countered their assertions without losing his cool. It was senators such as Edward Kennedy, D-Mass., and Joseph Biden, D-Del., who became visibly frustrated.

On the substance of the law, Roberts gave them little to chew on. He said he believed in a constitutional right of privacy and that he regarded Supreme Court rulings that upheld a woman's right to end a pregnancy as settled precedent. But he declined to tip his hand on how he, as U.S. chief justice, would vote on cases involving abortion rights.

Again and again, Roberts' answers were to the point and dispassionate. When Sen. Herb Kohl, D-Wis., asked what Roberts could do for the victims of Hurricane Katrina if he were on the high court, Roberts said the most important task would be “to uphold the rule of law.” Roberts said he expected some lawsuits related to the hurricane's aftermath to end up in federal court, and did not comment further on the tragedy.

The confident, Harvard-trained lawyer who became wealthy arguing cases before the Supreme Court also declined to express regret for certain memos he wrote as a young, wise-cracking counsel to the Reagan administration. At one point, Kennedy told Roberts that his writings on voting rights lacked an appreciation for problems related to racial discrimination. “I'm deeply troubled by a narrow and cramped and perhaps even a mean-spirited view of the law that appears in some of your writings,” Kennedy said, citing memos in which Roberts had argued for narrow interpretations of laws that protect racial minorities from discrimination. Roberts later told Kennedy that “you have not accurately represented my position.”

At another point during Tuesday's hearing, Biden accused Roberts of “filibustering” and called his answers “misleading.” Roberts' response: “With respect, they are my answers. And, with respect, they're not misleading, they're accurate.”

Biden later told reporters that questioning Roberts was “a little like pitching to Ken Griffey Jr.,” the Cincinnati Reds slugger.

Sen. Dianne Feinstein, D-Calif., pressed Roberts for his views on the separation of church and state. Roberts eluded the question. But the nominee, a Roman Catholic, emphasized that his faith is not a factor in how he decides cases. He said he looks to “law books … not the Bible” in resolving disputes.

Roberts' remarks about privacy partially opened a window on his thinking, but they did not reveal how he would vote on questions of abortion rights.

During an exchange with Senate Judiciary Committee Chairman Arlen Specter, R-Pa., Roberts expressed respect for past decisions. He acknowledged the significance of Roe v. Wade, the 1973 ruling that made abortion legal nationwide, and a 1992 ruling in which the high court upheld Roe. Roberts did not, however, say whether he would support those decisions.

“I do think that it is a jolt to the legal system when you overrule a precedent,” he said. “It is not enough that you may think the prior decision was wrongly decided.” He said he would weigh many factors when considering whether to overturn a case, including stability in the law, public expectations and whether a prior court ruling had worked. Roberts declined to apply his view of precedent to abortion.

His remarks on privacy separate him from Robert Bork, the failed 1987 court nominee who rejected constitutional privacy. Bork said that a 1965 ruling that first found a right to sexual privacy was wrong.

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But Roberts' comments also are distinct from those of David Souter, the 1990 nominee of the first President Bush. During his confirmation hearings, Souter vigorously embraced a broad right of privacy. Once on the court, he wound up casting a crucial vote to uphold Roe in the 1992 ruling.

Roberts Stays Solid Favorite Without Firm Answers (LAT)

By Ronald Brownstein

The Los Angeles Times, September 14, 2005

WASHINGTON — John G. Roberts Jr. exuded the quiet confidence of a man who knew that he was ahead in the game during a lengthy but mostly sedate confirmation hearing Tuesday.

He left the long first day of questioning before the Senate Judiciary Committee the same way he entered it: a clear favorite for confirmation as the youngest chief justice of the United States in two centuries.

By firmly refusing to answer questions on specific cases he might face on the bench — including the 1973 Supreme Court decision guaranteeing the right to abortion — Roberts may have provided Democrats already inclined to reject him more grounds to do so. But most analysts agree that he said little that was likely to enlarge the circle of senators opposed to him.

Indeed, with his conciliatory comments on the right to privacy and the importance of precedent, Roberts appeared to provide centrist Democrats with greater "cover to vote for him," said Marshall Wittmann, a senior fellow at the centrist Democratic Leadership Council.

"Just on grounds of being evasive, he will probably get a core of Democrats who will vote against him," Wittmann said. "But his nomination is not imperiled by any means."

Roberts' performance marked a bright spot for a White House battered by criticism of its response to Hurricane Katrina, and demonstrated the inherent vitality of presidential power.

Amid dissatisfaction not only with the hurricane response, but also with high gas prices and the war in Iraq, President Bush faces approval ratings for his job performance that are lower than the lowest points for such controversial predecessors as Ronald Reagan and Bill Clinton.

Yet Bush is on the brink of installing a chief justice who could shape American life for more than the next quarter century. And in a few weeks, Bush is to nominate a justice to fill a second vacancy.

With two national polls released this week showing that at least 55% of Americans supported Roberts' confirmation as the hearings began, GOP strategists expressed confidence that committee Democrats had not meaningfully dented Roberts' likelihood of approval.

"I don't think they landed a punch on him — and they have to get a knockout," said one GOP strategist who requested anonymity when discussing White House thinking. "They are not touching him."

One supporting piece of evidence for that view was the reaction of Sen. Ben Nelson (D-Neb.) to Tuesday's hearing. Nelson, the leader of seven mostly centrist Democrats who reached a bipartisan deal in May over judicial filibusters, had said he was inclined to back Roberts absent unexpected revelations at the hearings.

As Tuesday's questioning wound down, David DiMartino, Nelson's spokesperson, said the senator "had not seen or heard anything problematic."

On the other hand, one senior Senate Democratic aide said Roberts' refusal to answer questions about his views on specific cases, following the White House's refusal to release documents related to his service in the George H.W. Bush administration, could give opponents new ammunition to rally resistance. "There is no better way to [unify] our caucus than to stonewall," said the aide, who requested anonymity when discussing Roberts' nomination.

Roberts, in his testimony, was composed and rigidly disciplined. He did not make a reference to his family or personal life until after about three hours on the stand, when he cited his wife, young daughter and three sisters in rebutting charges from Sen. Joseph R. Biden Jr. (D-Del.) that memos he had written as a government attorney displayed a lack of concern about discrimination against women.

When Roberts flashed the dry wit that friends have touted, Sen. Herb Kohl (D-Wis.) looked at him sympathetically and said, "You're not an automaton."

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Only a few Democrats generated much momentum against him with their questions. Roberts seemed flustered when Sen. Edward M. Kennedy (D-Mass.) pressed him about memos he had written on civil rights issues as a Justice Department attorney in the Reagan administration. There were fewer sparks between the Democrats and Roberts than between the Democrats and Judiciary Committee Chairman Arlen Specter (R-Pa.), who repeatedly admonished Kennedy and Biden for interrupting Roberts' answers with new questions.

The most tension revolved around how extensively Roberts would discuss his views on previous court rulings. Opponents such as Ralph Neas, president of People for the American Way, accused Roberts of evading "legitimate direct questions."

Roberts' supporters, in a torrent of e-mails released during the day, said he had properly demurred. "What he is doing is exactly what you would want a judge to do, which is to say, 'I am not going to discuss matters that will come before me because I don't want to prejudge them,' " said Ronald A. Cass, a former Boston University Law School dean working with a coalition supporting Roberts.

Roberts seemed most comfortable when he could discuss, in the tone of a law professor, rulings from the distant past, such as the 1857 Dred Scott decision, which helped spark the Civil War.

More relevantly, Roberts expressed support for the landmark 1965 Griswold vs. Connecticut ruling, which assured married couples access to birth control based on a constitutional right to privacy. Roberts' comments on the Griswold ruling may have been reassuring for supporters of legalized abortion, because the right to privacy was also a foundation of the Roe vs. Wade decision. Roberts also may have heartened them when he emphasized his reluctance to overturn settled law.

Yet when discussing Griswold with Kohl, Roberts would not say whether he believed the right to privacy extended to abortion. Roberts quickly recoiled when Specter, a supporter of legalized abortion, nudged him to imply that his respect for precedent would lead him to uphold Roe.

"I feel the need to stay away from a discussion of particular cases," Roberts told Specter a few minutes into the hearing. That was the first of many times Roberts would use such a formulation during his testimony.

Cass and David Yalof, a political scientist at the University of Connecticut who studies judicial appointments, said those answers, taken together, provided little guidance on whether Roberts would uphold the legal right to abortion.

But with his language on precedent and privacy, Roberts "gave a lot of ground to Democrats," Yalof added.

Throughout the day, Roberts followed a consistent — and often brilliantly effective — strategy of citing historical examples dear to liberals to defend his views. For instance, to make his case against overly activist courts, Roberts did not assail any of the Earl Warren-era decisions denounced by conservatives. Instead, he said the court had overreached in Lochner vs. New York, the 1905 decision that overturned a Progressive-era law to set a 10-hour workday.

Roberts cited later decisions overturning Lochner and mentioned the 1954 Brown vs. Board of Education decision banning school segregation to make his case that judges cannot always uphold precedents.

He used this tactic perhaps most effectively when Sen. Patrick J. Leahy (D-Vt.) pressed him on memos he had written during the Reagan administration that aggressively asserted presidential authority to act without congressional oversight.

Roberts quickly noted that Justice Robert H. Jackson, a mid-20th century hero to Democrats, had expressed similar views as Franklin D. Roosevelt's attorney general, but "took an entirely different view" and voted to limit presidential power on the court.

"Are you sending us a message?" Leahy asked when Roberts finished.

Characteristically, Roberts avoided an unequivocal answer. Like many of his remarks Tuesday, his response to Leahy offered hints, but no promises, of conciliation in an era of intense partisan confrontation.

Newsview: Roberts Smooths Rough Edges (AP)

By RON FOURNIER, AP Political Writer

AP, September 14, 2005

WASHINGTON (AP) - Perhaps the smoothest politician in the Senate hearing room, John Roberts cast himself Tuesday as a humble, fair-minded jurist with views just nimble enough to please anybody - from the abortion-rights ``soccer Mom'' to the staunchest red-state conservative.

But there should be no mistake about his ideology. Roberts is deeply conservative. Period.

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His performance before the Senate Judiciary Committee suggests that Democrats - with only 44 of the Senate's 100 votes - stand little chance of keeping Roberts out of the chief justice's seat, where he could help shape the nation's course for a generation or more.

``It's like pitching to Ken Griffey," said Sen. Joe Biden, D-Del., using a baseball metaphor to praise Roberts' political skills.

Right out of the batter's box Tuesday, Roberts faced fast balls.

Judiciary Committee Chairman Arlen Specter, a Pennsylvania Republican, tried to elicit Roberts' position on the 1973 Roe v. Wade ruling that legalized abortion. Would he abide by ``stare decisis," the doctrine that says justices should honor previous court rulings?

``Yes, Mr. Chairman, I would," Roberts replied. ``To avoid an arbitrary discretion in the judges, they need to be bound down by rules and precedent." He declared Roe v Wade ``settled as a precedent," and said overturning high court rulings creates ``a jolt to the legal system."

A casual viewer might think he had ruled out overturning the 1973 abortion ruling. Not so.

In sentences thick with legalese, Roberts said precedents must be overturned when they are proven ``unworkable" or ``eroded by subsequent developments." He refused at least three times to give his views on Roe v. Wade, citing a long tradition of judges not commenting on cases they might consider in the future.

Like a good politician, Roberts left his fingerprints on both sides of the issue.

``He did his best, and cleverly, to imply that he's sympathetic to Roe and its value as precedent," said Democratic consultant Jim Jordan. ``But we'd be foolish to take his testimony as an assurance that he's supportive of the right to choice or even the more fundamental right to privacy."

``We're concerned about these statements," said anti-abortion activist Troy Newman, president of Operation Rescue. ``But the proof will come when it's time for him to rule on these cases as a justice."

Most other conservatives had no doubts about Roberts' view.

``He certainly left the door open to overturning any case that is incorrect under the Constitution," including Roe, said Wendy Long of the Judicial Confirmation Network.

On the Internet, conservatives gleefully praised Roberts for his wink-and-nod approach. ``Roberts' answer was brilliant. He made a statement that will satisfy most Americans about privacy while leaving himself enough wiggle room to move the court on that issue in the future," said a blogger on Confirmthem.com.

It was the same story when Roberts was asked whether he believed in a person's right to privacy, a cornerstone of Roe v. Wade. ``Senator, I do. The right to privacy is protected under the Constitution in various ways," Roberts replied. He said it extends to searches of people and homes as well as ``matters of conscience."

But that's hardly a broad definition of the right to privacy. Roberts did not say whether he would apply the right to a woman's body for the purposes of abortion.

``He still must answer this vital question directly," said Nancy Keenan, president of NARAL Pro-Choice America, an abortion-rights group.

On another social issue, Roberts was asked about the legal assistance he gave a gay rights group in a Colorado case about discrimination. Rather than staking out his position on either side of the contentious issue, Roberts told senators he was just doing what attorneys do.

``Good lawyers can give advice and argue any side of a case," he said.

That was often Roberts first line of defense when Democratic senators pressed him about memos he wrote a quarter century ago as a loyal foot soldier in the Reagan Revolution. He worked for the White House and the Justice Department, writing provocatively about conservative views.

``I was a staff lawyer," Roberts told senators. ``I didn't have a position."

If he has positions now, he insisted they wouldn't affect his rulings. ``You don't look to your own values and beliefs. You look outside yourself to other sources," he told the senators.

Does he have a judicial ideology? Roberts says no: ``I resist labels."

Well, his friends and foes alike have one for him: Conservative.

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Roberts Eases Concerns, But Leaves Plenty Of Wiggle Room (USAT)

USA Today, September 14, 2005

John Roberts more than lived up to his billing Tuesday as a knowledgeable, superbly prepared, genial and highly articulate legal mind — and as a nominee determined not to answer any question that could cause him trouble. But all-day testimony before the Senate Judiciary Committee nevertheless offered some new impressions of the prospective chief justice.

The first is that he is more likely to be a cautious, establishment jurist than a firebrand in the mold of Antonin Scalia or Clarence Thomas — or at least that is the impression he sought to convey. Most notably, Roberts distanced himself from some of his most troubling past writings, attributing them to youth (many were written when he was in his 20s), the need to reflect the views of his employer (the Reagan administration) or to misinterpretation (a comment about not wanting homemakers to become attorneys was just a lawyer joke).

If that is self-serving, it is nevertheless enlightening.

On privacy, which Roberts once referred to as a "so-called right," he reversed field, asserting flatly that such a right exists even though it is not explicit in the Constitution. Scalia and Thomas both have questioned that premise, the cornerstone of landmark decisions asserting a woman's right to use birth control or seek an abortion. Roberts also expressed healthy respect for the importance of the court's precedents generally.

On discrimination against women, which he had once mocked, he expressed deep personal concern. On civil rights and voting rights, he similarly dismissed past statements.

All are encouraging reversals, though Roberts, as nominees generally do, left himself plenty of wiggle room.

Most notably, the nominee resolutely refused to discuss his views on abortion, and in doing so he gave both sides in the debate something to worry about. He seemed to signal that the barrier to reversing Roe v. Wade would be high but not impossible.

Similarly, on civil rights and women's rights, the most critical question was left unanswered: What remedies would he allow the government to apply?

That is a matter of concern, and it was reinforced by his refusal to discuss the reach of Congress' power to regulate issues affecting health, safety, the environment, the workplace and other matters. His previous record has been raising questions.

Though no one expects Roberts to discuss pending cases, he could have been more forthcoming on key issues of settled law.

Still, the dominant impression left by his testimony was of a man who would likely be a dynamic chief justice with an independent — though surely conservative — mind. He went some distance toward easing concerns that he's outside the judicial mainstream.

A Judicious Script (LAT)

The Los Angeles Times, September 14, 2005

Judicial confirmation hearings almost always reveal more about the interrogators than the nominee. So it was with the first day of questioning Tuesday for John G. Roberts Jr., the president's choice for chief justice. But beyond the grand piece of political theater, there were moments of candor and revealing insights into the nominee's philosophy.

Most important, Roberts reaffirmed his commitment to the principle of stare decisis, which Sen. Arlen Specter (R-Pa.) helpfully defined for viewers who didn't go to law school as the importance of adhering to judicial precedents. Of course, at one level, for Roberts to say he believes in stare decisis is a bit like a college fraternity kid saying he believes in free beer.

But Roberts' answer went beyond token lip service. "I do think it is a jolt to the legal system when you overrule a precedent," he said, adding that "it is not enough that you may think a prior decision was wrongly decided." Stability, he added, is another factor in determining whether a decision should be overruled. The subtext here was clearly Roe vs. Wade, and Roberts' answer surely made opponents of a woman's right to choose an abortion a bit anxious (although its genius was that it was sufficiently opaque to worry supporters of abortion rights, too).

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Throughout, Roberts remained as inscrutable and affable as ever. By the third question of the day, Roberts gave an answer that he would repeat in various formulations countless times over the next eight hours: "I feel the need to stay away from a discussion of particular cases." .

Specter, the committee chairman, played the role of earnest professor, trying to coax the answer he wanted from his student. Other senators tried different tactics but met with similar results. Sen. Charles E. Grassley (R-Iowa), a self-described non-lawyer, played the naif, asking about the role of judges and prompting an erudite (and purely theoretical) discourse on former Justice Benjamin Cardozo. Sen. Russell D. Feingold (D-Wis.) made a noble effort to learn Roberts' views about civil liberties and executive powers after 9/11. Sen. Edward M. Kennedy (D-Mass.) asked about the civil rights movement.

The two senators with the most colorful parts were Joseph R. Biden Jr. (D-Del.) and Lindsey O. Graham (R-S.C.). Biden bullied Roberts, while Graham flattered him. Roberts proved immune to both approaches.

None of this is unexpected, of course, and none of it is likely to affect Roberts' chances for confirmation. At one point, Feingold referred to Roberts as "the principal decision-maker" on the court, as if he had already been confirmed. But even if these hearings are mostly theater, they can still be useful — as theater itself can be — by offering the public a new perspective on something we thought we knew.

In the case of the Senate, we may not be favorably impressed. But at least this cast will be back for a second run of the show in a few months, after the president nominates a replacement for retiring Justice Sandra Day O'Connor. Here's hoping they'll have better lines.

Bush Accepts Blame For Slow Hurricane Response (LAT)

By Nicholas Riccardi, Ashley Powers And Josh Meyer

The Los Angeles Times, September 14, 2005

NEW ORLEANS — President Bush took responsibility Tuesday for breakdowns in the federal government's response to Hurricane Katrina, saying the massive storm had "exposed serious problems in our response capability."

Although personally shouldering blame for the first time, Bush also insisted that flaws occurred "at all levels of government," and said he wanted more cooperative relations with state and local officials to aid dispossessed Gulf Coast residents. He plans a fourth post-hurricane trip to Louisiana on Thursday to deliver a national address on the crisis.

As Hurricane Katrina's death toll in Louisiana rose to 423, bureaucratic infighting raged as the governor traded charges with federal emergency officials over bogged-down efforts to retrieve the bodies of flood victims.

Gov. Kathleen Babineaux Blanco said Federal Emergency Management Agency officials had jeopardized the massive body recovery effort by failing to renew a temporary contract with a Houston mortuary firm. Blanco said the state would try to rehire the company on its own, and accused FEMA of shirking its financial oversight for the retrieval process. FEMA officials insisted that they had no decision-making role, but later tried to reassure Blanco.

"No one, even those at the highest level, seems to be able to break through the bureaucracy to get this important mission done," she said. "I am angry and outraged."

National Guard and Army troops have joined in the retrieval of bodies in recent days, but the grim ordeal in New Orleans has moved slowly, hampered by the deteriorating condition of corpses left in floodwaters and exposed to the sun over the last two weeks. Military units have had to tether dozens of bodies to trees and poles so they can be found by overworked mortuary teams.

In the first major criminal case arising from the hurricane, the state's chief prosecutor charged a husband and wife who owned a nursing home in St. Bernard Parish with negligent homicide, accusing them of abandoning dozens of elderly residents to die in the raging flood.

"They were warned repeatedly that this storm was coming," said Louisiana Atty. Gen. Charles C. Foti Jr. Their inaction "resulted in the deaths of these people."

Pathology experts and even a disaster mortuary official working for FEMA in the Gulf Coast expressed alarm at the risk of unattended bodies lying in the open for weeks. "What I've seen is not encouraging," said Cotton Howell, a South Carolina emergency management official who is leading FEMA's Disaster Mortuary Operations Response Team in Mississippi. "It seems like there are all sorts of problems over there."

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With water now covering less than 40% of New Orleans, there were more heartening signs of revival. The Army Corps of Engineers said it was pumping out about 9 billion gallons per day, and that the city should be drained of floodwaters in about a month.

The first passenger flights returned to Louis Armstrong New Orleans International Airport. Port officials said they expected the first cargo ship to arrive next week. And Mayor C. Ray Nagin said he hoped to reopen the historic French Quarter and the city's central business district next week, along with the Algiers and Uptown neighborhoods, which mostly escaped storm damage.

"We are bringing New Orleans back. We are bringing its culture back, we are bringing its music back," Nagin said. Glancing up at military helicopters thudding overhead, he added: "I'm tired of hearing these helicopters. I want to hear some jazz."

Nagin also acknowledged that Katrina's knockout blow had exhausted the city's cash reserves. "I don't think we will have to" declare bankruptcy, Nagin said. "There are so many people who want to help us." He added that he was "working furiously" to obtain lines of credit from banks and the federal government.

After a tour of the flood-ravaged city Monday, Bush had pledged that the federal government would help in New Orleans' recovery. He deflected questions about federal mismanagement of Katrina relief, though, saying he would not "play the blame game" — a phrase that White House officials used repeatedly after the storm.

But Tuesday, appearing at a Washington news conference with Iraqi President Jalal Talabani, Bush spoke plainly when asked whether the government was prepared for another natural disaster or a terrorist attack.

"Katrina exposed serious problems in our response capability at all levels of government," he said. "And to the extent that the federal government didn't fully do its job right, I take responsibility."

Bush added that he wanted to "know how to better cooperate with state and local government, to be able to answer that very question: Are we capable of dealing with a severe attack or another severe storm? And that's a very important question, and it's in our national interest that we find out exactly what went on so we can better respond."

By accepting personal responsibility, Bush appeared to try to shift the debate away from finger-pointing to the reconstruction of New Orleans, a formidable task that could repair his frayed image as a leader if it succeeded. Widespread public dismay with federal efforts has translated to Bush's lowest polling numbers in his five years as president.

Bush's admission drew immediate praise from one of his harshest critics.

"The president's comments today will do more to move the country forward from this tragedy than anything that has been said by any leader in the past two weeks," said Sen. Mary L. Landrieu (D-La.). "Accountability at every level is critical, and leadership begins at the top."

In Landrieu's home state, debate simmered between Blanco and FEMA officials over who was responsible for a floundering corpse-recovery operation. Last week, FEMA announced that Kenyon International, a Houston company that retrieved bodies after the Sept. 11 World Trade Center attacks, had been hired to recover and transport the corpses of flood victims.

But Tuesday, Kenyon officials said they were unable to come to terms with FEMA to extend their contract. Blanco quickly lashed out, accusing FEMA of yet another failure. "In death, as in life, our people deserve more respect than they have received," she said.

David Passey, a FEMA spokesman, responded that the agency had only a supporting role in the operation and that the state was in charge. When state officials asked for assistance last week, Passey said, FEMA entered into a verbal agreement with Kenyon. Passey added that he did not know why Kenyon had rejected a written contract.

State officials responded that in order to be reimbursed for the massive operation, they needed FEMA's financial approval. Irritated by the delay, Blanco said she "could not wait any longer" and authorized state officials to start their own negotiations with Kenyon. On Tuesday night, Blanco said she had been reassured by Coast Guard Vice Adm. Thad W. Allen, who is heading FEMA's relief operation.

"He expressed his confidence that our federal partners are working hard to quickly recover all bodies," Blanco said.

Kenyon spokesman Bill Berry said the firm's more than 100 workers would remain on the job while the contract was being worked out.

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"It's not a case of FEMA not trying," Berry said. "It's not being able to — whenever we were talking to the federal government, we were not getting what we needed." He did not detail those needs.

Berry said the body retrieval operation was gaining speed — but only after chaotic early days, when his teams were hamstrung by poor information on the location of bodies.

"There was a lot of duplication," he said. "We'd get one report from an agency of an address, and then we'd get another from another agency with a slightly different address, and they would be talking about the same body."

The search for corpses was in full swing Tuesday as Louisiana's death toll jumped from 279 to 423. Although authorities have scaled back predictions of thousands of deaths, high water still exists in some neighborhoods, and officials are preparing for hundreds more bodies.

"Let me caution everyone: We have not done the secondary searches in the areas where the water was the highest. So we still have a lot of work to do, and those numbers probably will go up," said Nagin, who once warned of 10,000 deaths.

The mystery of how 34 people drowned under floodwaters inside a St. Bernard Parish nursing home unfolded as authorities arrested a married couple and charged them with negligent homicide.

Mable B. Mangano, 62, and Salvador A. Mangano Sr., 65, were each charged with 34 counts. Each count carries a maximum penalty of five years in prison. The Manganos were booked into East Baton Rouge Parish prison, then released on their own recognizance.

"Thirty-four people drowned in a nursing home that should have been evacuated," said Foti, the state attorney general, his voice rising.

He alleged that as the hurricane approached, the Manganos turned down a parish offer of two buses to evacuate the residents. The couple also failed to call an ambulance company, Foti said.

The Manganos' lawyer said his clients were faced with the prospect that the residents might die on an extended bus trip.

"What people have to understand is, you're presented with a horrible choice," James Cobb said. "You take people who are on feeder tubes, who are on oxygen, who are on medications, and you put them on a bus to go 70 miles in 12 hours? People are going to die."

Foti said his office would also investigate the circumstances of multiple bodies found at other nursing homes, hospitals and care facilities, including Memorial Medical Center in New Orleans, where 45 bodies were found over the weekend. The hospital's officials said their patients were not abandoned to the flood but died of natural causes during a chaotic evacuation.

Bush Takes Responsibility For Slow Hurricane Response (LAT)

By James Gerstenzang And Michael Muskal

The Los Angeles Times, September 14, 2005

NEW ORLEANS — President Bush today accepted responsibility for the weak federal response to the Hurricane Katrina disaster.

At a news conference with Iraqi President Jalal Talabani, Bush acknowledged that the federal government has been blamed for a slow and inadequate response to the killer hurricane that hit the Gulf Coast on Aug. 29.

"Katrina exposed serious problems in our response capability at all levels of government. And to the extent that the federal government didn't fully do its job right, I take responsibility," the president said.

It was the strongest statement of responsibility from the White House since the hurricane crisis began and initial relief efforts were sharply criticized by officials in hard-hit New Orleans and Louisiana. Michael Brown stepped down as director of the Federal Emergency Management Agency.

The public's dissatisfaction with the federal storm response dragged Bush's job approval rating to the lowest level of his presidency at 42%, a Washington Post/ABC News poll reported. Some 57% disapproved of Bush's performance in office, a double-digit increase since January, the survey found.

Today, Bush was asked whether the federal response to Katrina should worry Americans that their government isn't prepared to respond to another disaster or a terrorist attack.

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"That's a very important question, and it's in our national interest that we find out exactly what went on so that we can better respond," Bush said.

As he has before, Bush said he wanted to know what went wrong and what went right. "I'm not going to defend the process going in," Bush said. "I am going to defend the people saving lives."

He again praised relief workers at all levels. "I want people in America to understand how hard people worked to save lives down there," he said.

Bush will address the nation from Louisiana on Thursday evening, the White House announced today. It will be the fourth presidential trip to the hurricane-damaged Gulf Coast.

Bush spoke after R. David Paulison, the new acting director of the FEMA, pledged to increase efforts to house the tens of thousands of evacuees who fled the storm.

"We're going to get people out of the shelters. We're going to move on and get them the help they need," Paulison told reporters in his first public comments since he was appointed.

Hundreds of thousands of people have fled to shelters in states across the country. Texas has about 250,000 in shelters and private housing.

Katrina's Death Toll Rises To 659 (USAT)

By From staff and wire reports

USA Today, September 14, 2005

NEW ORLEANS — Ships began moving through the Port of New Orleans, the airport resumed passenger flights, and officials made plans to reopen the French Quarter as the still-draining city began lifting itself out of the muck Tuesday.

At the same time, the human cost of Hurricane Katrina continued to climb. The official death toll from the storm and ensuing floods rose to 659, including 423 in Louisiana.

In Washington, President Bush shouldered blame for mistakes in the federal government's response to Hurricane Katrina, which delivered one of the nation's worst natural disasters to the Gulf Coast 2½ weeks ago.

“Katrina exposed serious problems in our response capability at all levels of government,” Bush said. “To the extent that the federal government didn't fully do its job right, I take responsibility.”

The new head of the Federal Emergency Management Agency, David Paulison, said the agency is going to be focusing on the victims of this hurricane.

“We're going to get those people out of shelters, and we're going to … get them the help that they need," Paulison said.

Louisiana Gov. Kathleen Blanco complained of “absolute frustration” with delays by FEMA that she said had slowed the process of recovering bodies, some of which were left uncollected and in public view for more than a week. Later in the day, however, Blanco said she had been “reassured” of federal efforts to collect bodies quickly.

In the latest sign of progress, New Orleans Mayor Ray Nagin said key areas could be opened from dawn to dusk as soon as Monday. That includes the French Quarter and the Uptown section of homes and businesses.

“We're out of nuclear-crisis mode and into normal, day-to-day crisis mode,” Nagin said.

The Army Corps of Engineers estimated that half of the flooded area or less was still under water, and at the rate of 8 billion to 9 billion gallons a day, the city was on target to be almost completely drained by Oct. 8.

Meanwhile, the first passenger flight since Aug. 28 arrived at Louis Armstrong New Orleans International Airport, a Northwest Airlines flight from Memphis. Other flights were resuming on a limited basis.

“Welcome home,” airport director Roy Williams said as he greeted the passengers. “We're glad to see you.”

The city's port on the Mississippi River sent out its first shipment since the hurricane: a barge of auto parts bound for Alabama. The first ship to arrive held coffee and wood from Argentina, Brazil and Mexico.

“Two weeks ago, the prognosis was six months," said Gary LaGrange, port president. “This shows the people of New Orleans their city is back in business.”

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During a tour of devastated portions of Mississippi, Transportation Secretary Norman Mineta said Hurricane Katrina was the worst disaster for transportation in U.S. history — knocking out ports, highways and rivers. He estimated the damage to highways and bridges in Mississippi and Louisiana at $3 billion.

"Add that all up, and it's a larger magnitude than anything we've ever experienced," Mineta said.

Bush Takes Responsibility For Failures Of Response (WP)

By Jim Vandehei And Jonathan Weisman

The Washington Post, September 14, 2005

President Bush yesterday said he takes personal responsibility for the federal government's stumbling response to Hurricane Katrina, as his White House worked on several fronts to move beyond the improvisation of the first days of the crisis and set a long-term course on a problem that aides now believe will shadow the balance of Bush's second term.

"Katrina exposed serious problems in our response capability at all levels of government," Bush said at a White House news conference with Iraqi President Jalal Talabani. "And to the extent that the federal government didn't fully do its job right, I take responsibility. I want to know what went right and what went wrong."

The first major public event in the White House effort to take control of the post-Katrina political and policy agenda will occur tomorrow night in a prime-time speech to the nation. The president will deliver it from the flood region on his fourth trip there since the hurricane struck.

Bush already has dispatched his top strategist, Deputy Chief of Staff Karl Rove, and other aides to assemble ideas from agencies, conservative think tanks, GOP lawmakers and state officials to guide the rebuilding of New Orleans and relocation of flood victims. The idea, aides said, is twofold: provide a quick federal response that comports with Bush's governing philosophy, and prevent Katrina from swamping his second-term ambitions on Social Security, taxes and Middle East democracy-building.

Sen. Jon Kyl (R-Ariz.), a Bush ally, said the recovery effort provides conservatives with an unusual opportunity to test ideas that have been hard to sell on a national scope, including vouchers to cover education for dislocated students and tax incentives for business investment. "There are a whole host of ideas being looked at," Kyl said.

In what may become the next major post-Katrina policy, the White House was working yesterday to suspend wage supports for service workers in the hurricane zone as it did for construction workers on federal contracts last week, administration and congressional officials said. This possible move, described by administration officials as being under debate, already provoked preemptive Democratic protests.

At tomorrow's speech, the president is to outline his vision more comprehensively than he has to date. A top aide said he will stress that New Orleans officials will dictate how the city will be rebuilt, but will also make plain the reconstruction should reflect his vision of government -- including reducing regulatory obstacles and emphasizing entrepreneurship over big government, the aide said. He will discuss plans to provide health care, education, jobs and housing assistance to flood victims, another aide said.

With some Republicans frustrated that the federal government essentially cut a $62 billion blank check for phase one of the recovery effort, the Bush administration and congressional GOP leaders are working on proposals to encourage business investment in the devastated areas and to test conservative ideas such as portable benefits for evacuees who want to reestablish in new locales, low-tax business zones and waived environmental regulations.

GOP officials involved in the effort said more than $200 billion could be spent on Katrina-related projects, most of it over the next two years. They project that hurricane-related spending will trail off in the final two years of the Bush presidency, allowing him to say he met his stated goal of cutting the deficit in half by 2009. "You're a fiscal conservative until you get hit with a natural disaster," said Sen. Trent Lott (R-Miss.).

Behind the scenes, the president's inner circle is working with more than a dozen new task forces, run through the domestic policy counsel, to solicit ideas from federal agencies and outside groups such as the Heritage Foundation and American Enterprise Institute. Several aides said agency officials are under pressure to provide estimates of what money their agencies need, as well as ideas for solving the myriad problems the relief effort presents. Advisers have studied housing issues,

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for instance, trying to determine the best way to build temporary accommodations for relief workers and construction workers and avoid unintentionally encouraging people to never return.

Office of Management and Budget Director Joshua B. Bolten is overseeing the largest-ever federal expenditure on a natural disaster, but officials said he is relying on a beefed-up inspector general's office at the Department of Homeland Security to monitor how the money is spent. At a private House Republican leadership meeting yesterday, several lawmakers expressed concern about a repeat of the waste and fraud that many believe took place with the budget for rebuilding Iraq, according to a participant.

Republicans are lining up behind plans to use vouchers to help displaced students find new schools, including private ones, and a mix of vouchers and tax breaks to help flood victims pay for health care expenses, from insurance to immunization. A draft Senate GOP plan for post-Katrina policy includes both ideas, according to Republicans who have read the document.

Grover Norquist, a Rove ally who runs Americans for Tax Reform, is among those lobbying the White House to suspend wage supports for service workers in the hurricane zone.

Last week, Bush issued an executive order lifting the Davis-Bacon rules mandating that construction workers on federal contracts be paid the average wage in a region. The White House argued the regulations were slowing reconstruction and raising federal costs.

Now Labor Department and White House officials are examining a similar move for service workers covered by the McNamara-O'Hara Service Contract Act, which extended prevailing wage rules to service workers. Administration officials are concerned that workers on demolition and debris-removal jobs could protest that even with construction wage supports lifted, they should be paid prevailing wages because their work is more service-related than construction-related.

Any move to lift service wage supports would elicit protests by labor unions and their Democratic allies. The Depression-era Davis-Bacon Act includes a provision allowing its suspension for natural disasters. The Service Contract Act does not, and its suspension may be unprecedented, labor experts say.

Admission Signals A New Strategy (LAT)

By Edwin Chen

The Los Angeles Times, September 14, 2005

WASHINGTON — President Bush regularly passes up invitations to indulge in self-evaluation, happy to leave historians to assess his performance. But having majored in history at Yale (class of '68), he also knows that some impressions do not require the passage of time before crystallizing.

On Tuesday, Bush decided it was time to talk about his role in the federal response to Hurricane Katrina.

"Katrina exposed serious problems in our response capability at all levels of government, and to the extent that the federal government didn't fully do its job right, I take responsibility," Bush said during a brief news conference.

The president's comments signaled a new White House strategy as Bush and his top aides continued to work to stem the political damage to his leadership after Hurricane Katrina.

As a part of that effort, the president has scheduled a prime-time address to the nation Thursday from New Orleans.

Bush's statement contrasted with recent White House comments. For days, he and top aides have denigrated most questions about accountability for the hurricane response as part of a partisan "blame game."

By moving toward shouldering some of the blame, Bush appeared to be trying to shift the debate away from finger-pointing to focus on the reconstruction of New Orleans, a Herculean task that, if it goes smoothly, could help rehabilitate his image.

Throughout his nearly five years in office, Bush and his advisors have showed a determination to never admit a mistake for fear that he would appear weak. That determination held even amid the intense criticism that the administration had severely miscalculated in its assertions that Iraq was developing weapons of mass destruction.

Bush drew a blank when asked at an April 13, 2004, news conference to name his biggest mistake as president.

"You know, I just — I'm sure something will pop into my head here in the midst of this press conference, with all the pressure of trying to come up with an answer," he said.

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Eventually, he concluded: "I don't want to sound like I've made no mistakes. I'm confident I have. I just haven't — you just put me under the spot here, and maybe I'm not as quick on my feet as I should be in coming up with one."

On Tuesday, Bush did not hesitate when a reporter asked: "Given what happened with Katrina, shouldn't Americans be concerned that their government isn't prepared to respond to another disaster or even a terrorist attack?"

Bush said: "I want to know how to better cooperate with state and local government, to be able to answer that very question that you asked: 'Are we capable of dealing with a severe attack or another severe storm?' And that's a very important question. And it's in our national interest that we find out exactly what went on … so that we can better respond."

Bush's comments drew praise from some who had criticized the federal response.

"The president's comments today will do more to move the country forward from this tragedy than anything that has been said by any leader in the past two weeks," Sen. Mary L. Landrieu (D-La.) said. "Accountability at every level is critical, and leadership begins at the top."

Shaken By Katrina, Public Trust In Government Begins To Rebound (CSM)

By Linda Feldmann

The Christian Science Monitor, September 14, 2005

WASHINGTON - Government at all levels - not just President Bush and the Federal Emergency Management Agency (FEMA) - has taken a beating in the public arena following hurricane Katrina. Dark predictions of a deepening loss of faith toward public institutions have followed.

Now, there are inklings that negative reviews of the government response to Katrina have bottomed out and may be on the upswing.

The latest Gallup survey, comparing people's initial responses to the government handling of the crisis with how they feel now, shows that a majority of Americans are feeling better about the role of government in dealing with the hurricane than they did initially. And despite the sense that the president has suffered grave damage to his public image over Katrina, Gallup and other polls show the effect has been minimal.

"Despite initial criticism of the federal government's slow response to Katrina, Bush's overall job approval rating remains essentially where it was at the end of August," notes David Moore, managing editor of the Gallup poll, in a Sept. 13 report.

Currently, Gallup shows Bush's approval rating at 46 percent, up from 45 percent at the end of August and 40 percent in mid-August. Of course, all polls show variations in result. Some show Bush's public approval has dipped below the 40 percent threshold.

Others, such as the Rasmussen Report, favored by conservatives, show Bush with a slight uptick at 47 percent approval. And some leading pollsters are not at all sure that the president has bottomed out.

Independent pollster John Zogby says the president's latest numbers show him with 11 percent support among Democrats, 23 percent among independents, and 77 percent among Republicans - a significant decline even among GOP voters, who gave him 91 percent support on Election Day last November. Turning a corner?

"I don't know yet whether he's turning a corner," says Mr. Zogby. "He's a pretty resilient fellow, so now I think he gets it. But I think a lot of damage has been done to people's view of government and that's not the greatest thing to have presided over."

In the final analysis of Bush's tenure, Zogby believes Iraq will still be the central factor. "I can see, sometime in 2008, the president cutting the ribbon on the all-new 21st century New Orleans, and that would be a big deal, and it could erase some of the bad of the last two weeks, but I think Iraq returns to center stage very quickly."

Ever since 9/11, Bush's strength in public opinion has been in overall leadership and in his handling of terrorism. Now, even if polling shows he still has a reliable core of Republican support, the president is also clearly working to reestablish himself in those two areas.

Bush has replaced the head of FEMA, Michael Brown, who was found to have inadequate prior experience in emergency management and whose performance pre- and post-Katrina damaged the federal government's credibility. The president is also expected to name a "reconstruction czar" to lead the rebuilding of the Gulf Coast region. Using the bully pulpit

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On Thursday, Bush will make a major speech addressing hurricane Katrina and its aftermath, the White House has announced. Like no other official in American public life, the president has the bully pulpit - and the megaphone of the media that will publicize his words - to present himself to the people in a way that seeks to win back the confidence at least of his voters.

To get himself back to 50-plus approval ratings, "he needs help from events - events on the ground in New Orleans, in Iraq, in gasoline prices," says Whit Ayres, a GOP pollster.

All presidents have faced moments of intense criticism. Some have bounced back. Others, like President Carter and the first President Bush, never recover. But the model the current President Bush may consider is Ronald Reagan.

"At the depths of the '82 recession, Reagan looked like a goner, but the economy came back and so did Reagan's fortunes," says Jack Pitney, a political scientist at Claremont-McKenna College in California. Reagan's secret? "He stayed the course. Had he faltered in his policies in '82, we might not have seen as much progress in '83 and '84."

Another historical lesson Bush may be heeding comes from Carter's "crisis of confidence" speech, commonly remembered for conveying a sense of malaise in the country. Republican analysts agree that Bush is correct in not admitting mistakes, such as the placing of Mr. Brown at the head of FEMA.

"The danger is that one admission would lead to calls for more admissions," says Professor Pitney, who was at one time active in Republican politics. "He can address an issue without falling into the trap of perpetual apology."

The easing out of Brown is the latest example. Bush did not fire Brown outright; Brown was first sent back to Washington, and replaced on the ground in the Gulf region, then tendered his resignation three days later. That approach allows Bush to maintain his image of loyalty to his appointees.

Perhaps one of the toughest image problems Bush faces going forward is in his dealings with the African-American community. Of all the polling out of Katrina, perhaps the most arresting is the perceptions of African-Americans: While white Americans don't believe race played a role in the initial delays in hurricane relief, a strong majority of blacks do believe that is the case.

President Says He's Responsible In Storm Lapses (NYT)

By By Elisabeth Bumiller And Richard W. Stevenson

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - President Bush said on Tuesday that he bore responsibility for any failures of the federal government in its response to Hurricane Katrina and suggested that he was unsure whether the country was adequately prepared for another catastrophic storm or terrorist attack.

"Katrina exposed serious problems in our response capability at all levels of government, and to the extent that the federal government didn't fully do its job right, I take responsibility," Mr. Bush said in an appearance in the East Room with President Jalal Talabani of Iraq. "I want to know what went right and what went wrong."

In response to a reporter who asked if Americans, in the wake of the hurricane, should be concerned about the government's ability to respond to another disaster or a terrorist attack, Mr. Bush said: "I want to know how to better cooperate with state and local government, to be able to answer that very question that you asked: Are we capable of dealing with a severe attack or another severe storm? And that's a very important question."

Throughout his nearly five years in office, Mr. Bush has resisted publicly acknowledging mistakes or shortcomings, and his willingness in this case to edge up to a buck-stops-here statement, however conditional, was evidence of how shaken his presidency has been by the political fallout from the government's handling of the storm.

It also set the stage for a White House effort to pivot from dealing with urgent rescue and relief efforts to setting out a vision of how the federal government could help rebuild devastated communities and re-establish Mr. Bush's image as a leader.

The White House said Mr. Bush would address the nation from Louisiana on Thursday night, during the president's fourth trip to the region since the hurricane and his first major speech on the disaster. On Friday, which he has designated a national day of prayer and remembrance, he is planning to speak at the Washington National Cathedral in the morning, and T. D. Jakes, a conservative African-American television evangelist, is scheduled to deliver the sermon with some evacuees from New Orleans in attendance.

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Even as Mr. Bush traveled to New York on Tuesday afternoon to begin a round of meetings with world leaders gathering at the United Nations, White House officials were weighing policy proposals and working on drafts of the speech that Mr. Bush will give Thursday. Administration officials, speaking on the condition of anonymity to discuss proposals that have yet to be decided on, said Mr. Bush was likely to set out a broad commitment to rebuilding New Orleans and the Gulf Coast, with a particular focus on housing.

The storm has so commanded the attention of the White House and of Washington that Mr. Bush's remarks on the hurricane overshadowed his news conference with Mr. Talabani, which on a normal day would have been a major event about a conflict that has come to define his presidency. In the news conference, Mr. Bush warned Syria that it would become "more and more isolated" if it did not stop the flow of foreign fighters into Iraq and reveal whether it has an intelligence presence or some other one in Lebanon.

As he prepares a blueprint to respond to the storm damage and to spend the billions of dollars that doing so will cost, Mr. Bush is confronting the likelihood that the rest of his agenda will have to be put on hold until next year.

A Republican ally of Mr. Bush who has been briefed on the administration's thinking said the White House's hope for the rest of this year was to deal with the hurricane and to win confirmation for Judge John G. Roberts Jr. as chief justice of the United States and for a second nominee, not yet selected, to the Supreme Court seat being vacated by Justice Sandra Day O'Connor. Next year, the ally said, Mr. Bush would return to issues like overhauling the tax code and the immigration laws that he had hoped to get a start on this year.

After the outcry over scenes of poor, black victims of the hurricane suffering and dying in New Orleans, White House officials continued on Tuesday to try to shore up support among the president's conservative African-American supporters, who have not all rallied to his side. Bishop Charles E. Blake of the West Angeles Church of God in Christ in Los Angeles, a major African-American supporter of Mr. Bush, said this week that he had declined an invitation to meet on Sept. 6 at the White House with Mr. Bush, black leaders and charitable organizations because he was too busy.

"It's a four-hour flight, it's a $2,000 ticket, I do have heavy responsibilities here," Bishop Blake said in a telephone interview.

Asked if the government's response to the hurricane had changed the way he felt about Mr. Bush, Bishop Blake responded: "I cannot say at this time. I'm holding the issue open until I can understand the dynamics involved and the delays that have been experienced."

In saying he took responsibility for any failures of the federal response to the storm, Mr. Bush stopped short of acknowledging that he or anyone else had made mistakes. The president has in the past resisted efforts to draw him out about errors in judgment and regrets.

At a news conference in April 2004, he was asked what his biggest mistake had been, and he responded that he was sure he had made some but that he was unable, on the spot, to say what they were. Asked again about mistakes during one of his debates last year with Senator John Kerry, Mr. Bush admitted to having made some bad personnel choices.

In his remarks in the East Room on Tuesday, Mr. Bush distinguished between criticizing the way the government responded to the hurricane and the way individuals responded.

The president said that having been down to the Gulf Coast three times, "I'm not going to defend the process going in, but I am going to defend the people who are on the front line of saving lives."

"Those Coast Guard kids pulling people out of the floods did heroic work," he said. "The first responders on the ground, whether they be state folks or local folks, did everything they could."

Bush Takes Responsibility (KCS)

By Seth Borenstein, Brandon Bailey And Scott Dodd

The Kansas City Star, September 14, 2005

WASHINGTON - President Bush accepted responsibility Tuesday for the federal government's failures in the aftermath of Hurricane Katrina.

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After more than a week of White House refusals to play "the blame game," Bush acknowledged that mistakes were made, and that the government's halting, disorganized response raised questions about the country's ability to cope with a terrorist attack.

"Katrina exposed serious problems in our response capability at all levels of government," Bush said in a midday White House news conference. "To the extent that the federal government didn't fully do its job right, I take responsibility."

Homeland security officials pledged a house cleaning of political appointees in top jobs who have little experience in disaster management, and more fingers were pointed in New Orleans over the snail's pace of retrieving bodies that litter the flood-ravaged city.

Louisiana Gov. Kathleen Blanco said she signed a contract Tuesday with the Houston recovery company that had originally been hired by the federal government, after the firm threatened to pull out because it hadn't yet signed a formal deal with the Federal Emergency Management Agency.

"I cannot stand by while this vital operation is not being handled appropriately," Blanco said, calling it "a matter that involves life, death and dignity."

Meanwhile, the hard work of finding a place for hundreds of thousands of now-homeless evacuees across the Gulf States to live promised to provide another serious challenge to the government's capabilities. The American Red Cross said thousands of people could be living in shelters for months.

Facing the lowest approval ratings of his presidency, Bush planned a prime-time speech from Louisiana Thursday night to try to restore the nation's confidence in his administration's ability to manage the relief effort.

"I want to know what went right and what went wrong," Bush said at a joint appearance with the Iraqi president in Washington, "to answer that very question that you asked: Are we capable of dealing with a severe attack or another severe storm."

The acceptance of responsibility came a day after Bush deflected criticism of the government's efforts while touring New Orleans. The president rebutted charges that FEMA was slow to respond because many of Katrina's victims were poor and black, or that military capabilities were stretched too thin by the fighting in Iraq.

As part of the administration's effort to rebound from the growing criticism, changes at FEMA won't stop with Monday's resignation of beleaguered director Michael Brown.

Homeland Security Secretary Michael Chertoff said Tuesday that he's going to put more emphasis on disaster and management experience in the agency, and will be bringing in a new deputy with more appropriate expertise.

Chertoff said new acting FEMA chief R. David Paulison's experience as head of the U.S. Fire Administration and former Miami-Dade fire chief was key to his appointment. Brown had no disaster experience before coming to FEMA in 2001.

Brown's chief-of-staff Patrick Rhode, a former TV anchor and Bush campaign official who also lacked disaster experience, had been acting as FEMA's deputy director. He raised eyebrows by defending FEMA's response to Katrina as "probably one of the most efficient … in the country's history."

When asked about whether FEMA will hire senior staff with disaster qualifications, Chertoff volunteered that he is looking for a permanent deputy director, adding: "We want to make sure we have a very talented and experienced team that is running this very, very important agency." Chertoff's spokesman later emphasized that the secretary did not mention Rhode by name, but Rhode is the only acting deputy director of FEMA.

In his first public statements, Paulison said his focus as FEMA's new chief will be on the hundreds of thousands of Gulf Coast evacuees living in shelters, tents or their cars after the storm. He pledged to "get these people out of the shelters into some type of either semi-permanent or permanent housing.''

Anita Gaddis of Gulfport and her teen-age daughter have been living at an emergency shelter in an elementary school since Katrina blew ashore. They smashed a window to escape their flooding apartment and waded more than a mile through waist-high water.

"They're helping us as best they can here, but I get more worried every day about when they're going to put us out," Gaddis said, fighting back tears. "I don't have any place to go."

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The American Red Cross said nearly 7,000 people are still housed at shelters in Mississippi, with 75,000 around the country. Most emergency shelters were never meant to serve as homes from more than a night or two.

"The scale of this is just massive," said Red Cross spokesman Kevin Titus. "We expect we'll be sheltering people for several months."

State and federal officials say they are scouring the Southeast for up to 300,000 trailers and mobile homes to serve as free or subsidized housing for as long as two years.

The government is also looking for spots to establish miniature "communities" of several thousand mobile homes, but locations with enough space and the needed utilities are hard to come by.

"You've got to have a place to put 'em," Mississippi Gov. Haley Barbour said.

The looming demand has already prompted scattered complaints from local residents about companies buying out contracts and RV parks and trying to evict current tenants. The suspicion is that some property owners are hoping to collect higher rents from FEMA.

Officials in Harrison County, which includes Gulfport, Biloxi and other hard-hit communities, publicly warned landlords Tuesday that they cannot evict tenants without just cause and a court order.

Touring Mississippi on Tuesday, U.S. Transportation Secretary Norman Mineta called Katrina's damage along U.S. 90 "unbelievable."

The highway, which serves as the main route along the beach in south Mississippi, has been ripped apart and buried by sand along much of its length, and several major bridges were stripped down to pylons by Katrina's surging waves.

"We don't want transportation to be the choke point of the redevelopment of economic activity," Mineta said, adding that federal money will be made available to restore the region's highways. "That's very important to get the economy revitalized."

Cost Of Katrina To Hit Budget Hard (CSM)

By Mark Trumbull

The Christian Science Monitor, September 14, 2005

Think of it as the financial equivalent of another Iraq war.

Relief efforts for the storm-ravaged Gulf Coast throw a huge fiscal burden onto a US Treasury that is already deep in the red.

Spending tied to hurricane Katrina has hit as much as $2 billion per day, or about 10 times the amount the United States is spending on military operations in Iraq. The pace will slow, but the recovery effort could easily cost the federal government $150 billion, experts say. Spread over a couple of years, that would roughly match the $6 billion a month being spent in Iraq.

As staggering as these numbers are, the question is not whether America can absorb this shock but whether it will alter the mind-sets of policymakers and financiers on other budget matters.

Already, for example, some US law- makers cite the storm as a reason to reconsider plans to cut entitlement programs, which would shrink government assistance to the poor by $35 billion over five years. At the least, the looming tab for everything from road repairs to business loans is a reminder that America's current budgetary path is not sustainable.

"It just compounds the problems we're already in," says Linda Bilmes, a Harvard University economist. "Any money that we spend on Katrina is more money that we have to borrow and pay interest on. There's less money ... for doing all the other things we want to do."

The magnitude of Katrina's devastation and the government's slow initial response argue in favor of generous spending to help the Gulf region recover. The danger is if investors who finance America's debts begin to worry about a profligate Congress.

"If foreigners took this as a leading indicator that we were going to become irresponsible in the budget in a great variety of ways ... you could have a negative psychological effect," says Rudolph Penner, a former director of the Congressional Budget Office.

Interest rates could tick upward if demand for US Treasury bonds ebbs. That danger is, for now, hypothetical. Readiness of investors to buy US debt is one reason long-term interest rates remain low today.

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But the storm-surge of spending does weaken Washington's balance sheet. Even as spending rises, tax revenues from Gulf workers and businesses will fall. The fiscal 2006 budget deficit could shoot from $314 billion to $400 billion or more.

"It really depends crucially on how many people you want to compensate," says Mr. Penner, now with the Urban Institute in Washington. "If you include farmers in Iowa [whose grain shipments have been disrupted], then it could expand mightily."

The tally could include costs such as:

• Strengthening New Orleans' defenses against future floods.

• Promoting the return of businesses to the almost-vacant city. Making the Big Easy a big tax-free zone is one idea on the table.

• Making low-interest loans to small businesses along the Gulf Coast.

• Providing aid to evacuees, which could include costs for education, healthcare, and unemployment insurance that would be paid by states under normal circumstances. States could also be reimbursed for providing temporary shelter.

• Covering rebuilding and cleanup costs. These could range from highway and bridge repair to removal of environmental hazards.

• Giving financial assistance to homeowners who lacked flood insurance. Of perhaps 150,000 flooded homes in New Orleans, about 40 percent don't have coverage. The level of such aid could become a source of controversy, with critics arguing that it's a bailout that simply encourages future irresponsibility.

• Compensating storm-affected industries such as farming.

With these and other provisions under consideration, this relief effort promises to set a record for disaster spending. Congress has already approved $62.3 billion in emergency spending on the storm.

"While some people are talking about $200 billion, a number like $100 [billion] to perhaps $150 billion might be a better guess as to what's really needed," says Richard Kogan, an economist at the Center for Budget and Policy Priorities.

Recovery costs will represent only about 1 percent of America's $12 trillion annual economic output. By that standard, and because these are one-time costs, the impact on the budget is manageable, economists say.

Still, because every dollar of new spending expands the federal deficit, Katrina will add $5 billion or more in annual interest costs long after relief efforts are complete.

A potentially positive outcome, Mr. Kogan says, would be "if Katrina encourages people to think more about the long term" budget outlook.

Current trends, with entitlement costs poised to rise and with proposed tax cuts outstripping spending cuts, are not sustainable, many economists say.

Now, given the temporary post-storm political climate, President Bush's tax-reduction agenda may be in jeopardy. GOP leaders plan to delay a vote on extending tax breaks on dividends and capital gains, The Wall Street Journal reported Tuesday.

Meanwhile, some lawmakers question a pre-Katrina budget plan to scale back entitlements for the poor. "It makes no sense to consider such a bill at a time when the massive needs of those affected by hurricane Katrina are still being assessed," Sen. Harry Reid (D) of Nevada and Rep. Nancy Pelosi (D) of California wrote last week to Republican leaders in Congress.

Katrina Puts Spotlight On Mr. Cochran (WSJ)

By David Rogers

The Wall Street Journal, September 14, 2005

WASHINGTON -- Bigger names in Mississippi politics have long obscured Thad Cochran's steady rise in Congress. But in Hurricane Katrina's wake, no lawmaker is more important to the Gulf Coast, or a more calming force amid the chaos engendered by the storm.

As chairman of the Senate Appropriations Committee, Mr. Cochran has been instrumental in securing $62 billion for the disaster recovery. A greater test will come in the months ahead as questions mount about paying for and managing the federal reconstruction effort.

"An enormous amount of money is going to be made available to rebuild," says Mr. Cochran, a veteran of more than three decades on Capitol Hill. "It's a challenge, but an opportunity for improvements that could have lasting consequences."

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Mr. Cochran must protect the credibility of the process by controlling his committee's appetite -- and his own -- for pork-barrel spending. Katrina's costs will complicate his task of completing the regular spending bills for the fiscal year beginning Oct. 1. The Senate has borrowed heavily from defense funds to fill gaps in the president's domestic budget, and as chairman, Mr. Cochran is vulnerable to conservative criticism for being a big spender.

Mr. Cochran also must navigate between independent-minded governors in the Gulf -- including Mississippi's Haley Barbour -- and colleagues demanding a voice for Washington with the federal dollars. Prominent Democrats want a domestic Marshall Plan or new Gulf Coast development corporation to oversee the effort. In Mr. Cochran's committee, Republicans are urging President Bush to name a disaster czar from outside the government or to replicate the strong-man command under Herbert Hoover of the federal response to the Mississippi River floods in the 1920s.

Mr. Cochran, who has just begun what could be a six-year run as Appropriations chairman, holds immense leverage. Few senators enjoy the reservoir of personal support he has on both sides of the aisle. The role he has assumed is in some ways a modern Mississippi tradition; in recent decades, the late Jamie Whitten and John Stennis, both Democrats, were chairmen of the full House and Senate appropriations panels when their party held the majority.

But Mr. Cochran also will be challenged to shed his unassuming style and deference to the executive branch to make his voice heard.

"The country would be well served if Thad Cochran would take a high-profile role," says former Nebraska Sen. Bob Kerrey. "He could make clear it isn't going to be business as usual. He's up to a national role, and I'd love to see him have a legacy beyond just being chairman."

The white-haired Mr. Cochran, 67 years old, resembles a small-town attorney of Southern novels, more given to observing than interceding, but a moderating influence when he acts. Deeply conservative in manners, he's a gifted story-teller steeped in the land and literature of his region. From William Faulkner's "The Hamlet," he says, he learned "the importance of justice and the inadequacies of people to deal fairly with one another and the challenges that that presents."

His mother taught public-school math; his father was the principal; a younger brother played minor-league baseball. At the University of Mississippi, Mr. Cochran fell in love with the study of law amid the turmoil of desegregation on the campus in the 1960s and the obstructionist tactics of state officials. "I felt embarrassed by it all. ... It made me focus more on doing well in law school," he recalls of the period.

His style is to avoid confrontation and hear out complaints, while taking notes. "Somebody told me I was an eloquent listener," he says.

"He will not be pushed into a decision, he doesn't make snappy decisions," says his friend Grady Jolly, now a federal judge on the U.S. Court of Appeals for the Fifth Circuit. "He is a very much of a gentleman, but he has a backbone of blue steel."

Elected to the House in 1972, Mr. Cochran moved to the Senate six years later, the first Republican from Mississippi to win that post since Reconstruction. Charles Pickering, whose judicial nomination provoked a controversy in the last Congress, was his Republican primary opponent, backed by a young Mr. Barbour. In the general election, his victory owed much to the fact that an independent African-American candidate split the black vote.

But he reached across racial lines, and has had clear sailing ever since. In 1984, former Democratic Gov. William Winter tried to challenge him and drew just 39% of the vote. "I would not make that mistake again," Mr. Winter laughs now. That strength at home helped Mr. Cochran advance in Congress, even while his Republican colleague Trent Lott eclipsed him nationally by becoming Senate majority leader before losing that post more than two years ago.

On the Senate floor last week, Mr. Lott addressed his colleague as the "senior senator" from Mississippi. "I am quite pleased the chairman of the appropriations committee hails from my state," he said. In an interview later, Mr. Lott likened their relationship to that of siblings who "as they get older, they grow sometimes closer and they just mature."

Mr. Lott lost his 154-year-old house in Pascagoula; Mr. Cochran was luckier, but says he felt lost going home to see the damage. "Some of those towns are just not there anymore," he says. "You lose your frame of reference. ... You can't believe what you're seeing, but it's real."

Katrina Lays Bare Medicaid Dispute (WSJ)

By Sarah Lueck and David Rogers

The Wall Street Journal, September 14, 2005

WASHINGTON -- In the two weeks since Hurricane Katrina devastated the Gulf Coast, the federal-state health program for the poor has emerged as the main way to provide medical coverage for many evacuees. But as the relief effort continues and costs mount, federal and state officials are in a tug of war over how much the federal government will reimburse states for their Medicaid spending and whether benefits should be extended to those not ordinarily eligible for the program.

Eligibility rules vary widely among states, and so do benefits. So far, state officials say the uncertainty surrounding Medicaid reimbursement hasn't prevented patients from getting needed care. But they add that the program's complex rules are causing confusion for both health-care providers and hurricane survivors about how medical needs will be met in coming months.

Several solutions are under discussion at the federal level. The federal Medicaid agency is working on ways to simplify enrollment and other issues without legislation. The Senate Finance Committee is writing a bipartisan bill to increase funding for states. House Energy and Commerce Committee Chairman Joe Barton (R., Texas) said he would have a package in coming weeks to shield states from harm "for a reasonable period of time."

"To me, each day that passes without us knowing ... exactly what the Medicaid relief package is going to include is adversely affecting not only our state ... but other states who are getting our evacuees," said J. Ruth Kennedy, deputy director of Louisiana's Medicaid program, which provided health care to one-quarter of the state's population before the hurricane.

The Bush administration has signaled that it wants to help states taking on Katrina evacuees, both financially and by easing red tape. In Congress, some relief for states seems certain. "I think it is likely that the federal government is going to have to step up more," said Senate Majority Leader Bill Frist (R., Tenn.).

The most contentious issue is a proposed expansion of Medicaid for Katrina survivors. Democrats have proposed that all displaced families from the storm be made eligible for the next six months, simply to ensure coverage. Even conservative lawmakers from the affected states are sympathetic. Asked if a family earning $30,000 to $40,000 in Biloxi, for example, might be allowed to qualify, Sen. Trent Lott (R., Miss.) answered bluntly: "If you're living in Biloxi, you've lost your house, you've lost your home, you've lost everything."

But the White House appears cool to any expansion, and Mr. Frist said he was "not convinced" it was needed.

"You're torn between 'Take care of the people that need taking care of, period' and doing it in a way that doesn't break the bank," Rep. Barton said.

Meanwhile, federal Medicaid officials said they still are working out details of an expedited program for states to get federal permission to simplify enrollment and make other changes in Medicaid. Instead of expanding Medicaid eligibility, they may try to use existing uncompensated-care programs to repay hospitals and other providers.

"We are going to get this resolved as quickly as we can, and we want to do it in the most effective way possible," said Mark McClellan, head of the federal Centers for Medicare and Medicaid Services. Democrats, such as Sen. Blanche Lincoln (D., Ark.), say the current state-by-state approach would increase, not alleviate, red tape. "That tug of war will continue," she said.

CMS also is in talks with Texas, which is housing the largest number of Katrina evacuees, on a state proposal to simplify the enrollment process and make other changes. Jennifer Harris, a spokeswoman for the Texas agency in charge of Medicaid, said there has been "good progress," but as of yesterday, nothing was finalized. Louisiana Medicaid recipients there are getting coverage, but only if providers also are enrolled in Louisiana's program. Bills are being sent to Louisiana, which is unlikely to be able to afford the costs.

In Louisiana, even very-low-income people don't always qualify for Medicaid. A family of three, for example, can't make more than $174 a month, about 14% of the poverty level. After the hurricane, "we know these people have needs," said Ms. Kennedy, the deputy director of Louisiana's Medicaid program. Since Katrina hit, her agency has denied or screened out 752 Medicaid applicants.

Congress Finesses The Storm (NYT)

The New York Times, September 14, 2005

DOJ_NMG_0005054

President Bush's vow to speed welfare assistance to the victims of Hurricane Katrina overlooks the gruesome determination of many Republican Congressional leaders to make $13 billion in cuts to Medicaid and food stamps. They quietly plan this even as they throw short-term emergency money at the crisis.

Sustaining their health and income is vital to the storm's impoverished survivors now and well into the future. But the most basic cuts in antipoverty programs are planned for enactment later this month by the same Republican majorities that approved the president's upper-bracket tax cuts and created deficits for a generation to come.

Congress's budget hawks are clearly hoping that the cacophony of sympathetic speechifying about the storm victims will distract the public from these cuts and from the fact that they will land heavily on the three states most devastated by the hurricane, where roughly one out of three children were already dependent on Medicaid.

Gov. Haley Barbour of Mississippi, the former Republican national chairman, personifies his party leaders' contradiction in begging for emergency aid now after having championed painful cuts in the social safety net. Earlier this year, Mr. Barbour was in the spotlight as his state's unapologetic Medicaid antagonist. Rejecting the alternative of a tax increase, he severely cut drug benefits and sought to drop 65,000 poor, elderly and disabled people from the program before the courts intervened.

Mr. Barbour remains one of Washington's most powerful emeritus lobbyists. He can spare his president and party a shameful episode by urging that the pending cuts for some of the storm's neediest be deep-sixed.

Hill Wants Details From Bush (RC)

By Ben Pershing

Roll Call, September 14, 2005

As Congress and the Bush administration work aggressively to tackle the recovery from Hurricane Katrina, House Republicans are giving the White House mixed reviews on its communication effort with the Hill, on both the political and the policy fronts.

Several Congressional sources said that the flow of information from the administration has improved since the first week of the Katrina crisis. But with legislative proposals moving quickly through the system and a steady drumbeat of negative media coverage weakening the GOP's standing with the public, House Republicans are pushing for the White House to provide more substantive policy details as well as a more cohesive message.

"I think the administration severely flubbed the first three or four days of this," said a senior House Republican leadership aide. "From that point on, I think they've been very good."

At the request of the leadership, the administration has instituted regular conference calls with House and Senate leadership aides and key committee personnel to discuss developments and message strategy related to Katrina. The White House has also been more forthcoming of late with details about how it plans to spend the billions of dollars Congress has appropriated so far, Hill aides say.

As a result, the frustrations felt by many Republican Members and aides in the initial days of the crisis have somewhat subsided .

"Whenever we coordinate with the White House, it's a better way for all of us to stay on message so we know what the left and right hand are doing, and we appreciate them reaching out to us," said Ron Bonjean, spokesman for Speaker Dennis Hastert (R-Ill.).

Yet some Republicans still complain privately about what they consider to be a glaring contrast between the two big stories right now on Capitol Hill: Katrina and the Supreme Court confirmation hearings of John Roberts. While the White House has set up a formal communications "war room" to serve as a clearinghouse for the Roberts nomination, as it did with other crucial efforts during the Bush presidency, the White House has not done so with Katrina.

"They do a fantastic job on coordinating on Judge Roberts and other issues," said a Republican Congressional aide. "One would think it would be to their benefit to have an effort like that" on Katrina.

But White House spokesman Trent Duffy dismissed the idea that establishing a Katrina war room would help matters.

"We're all in this together," Duffy said. "War rooms are designed to fight partisan battles. We're not fighting a partisan battle on this."

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As recent poll numbers have shown Bush dropping in the public's esteem, House and Senate Republicans have looked anxiously for opportunities to turn the tide and make the case that they are taking swift action to deal with Katrina.

"Obviously we as Republicans have to deal with the reality that there is a perception out there that this Republican administration dropped the ball," said a senior House GOP leadership aide. But the White House has "a different set of communications challenges. We don't control FEMA. We don't control federal agencies. We have to get out there and show that we are leading and we have to communicate that."

When Katrina first hit, many Members found it difficult to demonstrate that kind of leadership because they lacked the necessary facts at their fingertips. Republicans lawmakers spoke openly of their frustrations with the pace of the response and their dealings with the federal bureaucracy.

This week, the senior leadership aide said, "the communications flow from the agencies has been good. It wasn't initially, but it's gotten better. It had to."

Overall, the White House has at times been unable to provide the level of detail Congress usually desires, particularly on appropriations bills. Hill aides said they recognized the fluidity of the situation and the difficulty of providing line-by-line accountings at this stage in the process.

At the same time, Members and staff are wary of providing the administration with a "blank check," especially since Congress has already provided more than $60 billion and will likely appropriate tens or hundreds of billions more.

Many lawmakers were taken aback last week when the administration asked for a $51 billion supplemental just a few days after receiving the first $10 billion infusion. Republican leaders were told of the second request during a visit to the White House last Tuesday and felt blindsided, according to several leadership sources.

"There was very little communication on the [second] supplemental," said another senior Republican leadership aide. "This number seemed to come out of thin air, and then there was a justification for it later."

Frustrations among Members came to a head at last Wednesday's Republican Conference meeting, as lawmakers peppered Office of Management and Budget Director Josh Bolten with questions. While most lawmakers gave Bolten credit just for showing up, some grew impatient with his inability to answer their specific queries about how all the money would be spent.

But Duffy pointed out that in addition to Bolten's visit, House Members received a detailed briefing last week on the House floor from nearly every member of the Bush cabinet. In addition, legislative affairs staffers strive to maintain regular contact with lawmakers to keep them abreast of the Katrina situation.

"To the extent that this is the top Congressional and White House priority, we are working hand-in-glove with our friends in Congress," Duffy said.

Bush Takes Responsibility For Blunders (AP)

By Lara Jakes Jordan

The AP, September 13, 2005

WASHINGTON — President Bush for the first time took responsibility Tuesday for federal government mistakes in dealing with Hurricane Katrina and suggested the calamity raised broader questions about the government's ability to handle both natural disasters and terror attacks.

"Katrina exposed serious problems in our response capability at all levels of government," Bush said at a joint White House news conference with Iraqi President Jalal Talabani.

"And to the extent that the federal government didn't fully do its job right, I take responsibility. I want to know what went right and what went wrong," said Bush.

Facing sharp criticism and the lowest approval ratings of his presidency, Bush scheduled a speech to the nation from Louisiana for Thursday evening. It will be his fourth trip to the devastated Gulf Coast since the storm struck two weeks ago.

It was the closest Bush has come to publicly faulting any federal officials involved in the hurricane response, which has been widely criticized as disjointed and slow. Some federal officials have sought to blame state and local officials for being unprepared to cope with the disaster.

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Sen. Mary Landrieu, D-La., welcomed Bush's conciliatory remarks. "Accountability at every level is critical, and leadership begins at the top," she said.

Other Democrats were less charitable.

"The season has come for Americans to look homeward ... instead of continuing to spend billions of dollars in Iraq," said Sen. Robert C. Byrd, D-W.Va.

And Louisiana's Democratic governor, Kathleen Blanco, accused the Federal Emergency Management Agency of moving too slowly in recovering the bodies. The dead "deserve more respect than they have received," she said at state police headquarters in Baton Rouge.

Meanwhile, R. David Paulison, in his first full day on the job as acting FEMA director, told reporters in Washington the government would step up its efforts to find more permanent housing for the tens of thousands of Hurricane Katrina survivors now in shelters.

"We're going to get those people out of the shelters, and we're going to move and get them the help they need," Paulison said.

Bush selected him to replace Michael Brown, who resigned on Monday after being recalled as the top onsite disaster-relief coordinator. Brown, a Republican lawyer with little previous disaster-management experience, drew fierce criticism for his handling of the crisis.

Paulison, a career firefighter with 30 years of rescue experience, said he was busy "getting brought up to speed." Bush promised him in a Monday night phone call that he would have "the full support of the federal government," Paulison said.

The storm displaced a million people, destroyed large areas of cities and communities and heavily damaged roads, bridges, canals and oil and natural gas facilities.

Bush's acceptance of responsibility came in response to a reporter's question on whether the United States was capable of handling another terrorist attack, given its halting and widely criticized response to Katrina.

"That's a very important question," Bush said. "And it's in our national interest that we find out exactly what went on — so that we can better respond."

"I'm not going to defend the process going in, but I am going to defend the people who are on the front line of saving lives," he added. "I also want people in America to understand how hard people are working to save lives down there in not only New Orleans, but surrounding parishes and along the Gulf Coast."

Also on Tuesday:

_Homeland Security Secretary Michael Chertoff said teams of federal auditors would scrutinize billions of dollars worth of government contracts. "We're going to cut through red tape, but we're not going to cut through laws and rules that govern ethics," he said. Congress has appropriated more than $60 billion for reconstruction. The Democratic National Committee accused the administration on Tuesday of "giving no-bid contracts to Bush's political cronies."

_Farm-state Democrats said they would ask for emergency money for farmers pummeled by Katrina as well as those struggling under high energy prices, drought and other natural disasters. Energy costs alone will shave farm incomes for North Dakota farmers by one-third to one-half, said Sen. Kent Conrad, D-N.D.

_Defense Secretary Donald H. Rumsfeld said some military aircraft and other equipment may be able to move out of the Gulf Coast soon. "We've got to the point where most if not all of the search and rescue is completed," said Rumsfeld, who is attending a NATO meeting in Berlin. He said nothing will be moved out of the area without the authorization of governors, the military leaders there and the president.

_A group of Democratic senators pressed Congress for a $5 billion upgrade of communications equipment that would make it easier for police, firefighters and other law enforcement authorities to talk to each other during emergencies. A similar measure was rejected in July as part of a homeland security bill. "They must be able to communicate with each other. This is a life and death issue," said Sen. Carl Levin, D-Mich.

Bush Shoulders Blame In Response (WT)

By Joseph Curl

DOJ_NMG_0005057

The Washington Times, September 14, 2005

President Bush yesterday took full responsibility for federal government failures in the response to Hurricane Katrina and acknowledged that the storm exposed deficiencies at all levels of government.

"To the extent that the federal government didn't fully do its job right, I take responsibility," he said. "I want to know what went right and what went wrong."

Mr. Bush, who plans to hold a prime-time television address tomorrow from the hurricane-affected region, said the federal response to the catastrophic storm prompts serious questions about America's ability to respond not only to natural disasters, but also to terrorist attacks.

"Are we capable of dealing with a severe attack or another severe storm?" he said. "That's a very important question. And it's in our national interest that we find out exactly what went on ... so that we can better respond."

The White House said Mr. Bush would deliver the address to the nation from Louisiana on his fourth visit to the region in two weeks.

"The president will update the American people about the latest developments on the recovery, and discuss the way forward as we begin the process of helping people in the region rebuild their lives and their communities," spokesman Scott McClellan told The Washington Times.

In the 9 p.m. speech, Mr. Bush plans to lay out his administration's role in the recovery operation as well as the longer-term efforts to rebuild after the hurricane left New Orleans flooded and flattened other parts of Louisiana, as well as areas of Alabama and Mississippi, the spokesman said.

Mr. Bush, who days after the floods swept into New Orleans acknowledged that the federal response was "unacceptable," said yesterday that although he is unhappy with the initial federal efforts, he will not criticize first responders who worked to help residents in the path of the Category 4 hurricane.

"One thing for certain -- having been down there three times and having seen how hard people are working -- I'm not going to defend the process going in, but I am going to defend the people who are on the front line of saving lives," he said in a public appearance at the White House with Iraqi President Jalal Talabani.

Democrats continued to blame Mr. Bush for inadequate recovery efforts in the immediate aftermath of the hurricane, which left thousands of New Orleans' residents stranded and thousands more without food and water.

"This administration still hasn't figured out the difference between spin and leadership," said Sen. John Kerry, Massachusetts Democrat.

"Instead of continuing to spend billions in Iraq, let us husband ... our hard-earned tax dollars and spend them here at home," Sen. Robert C. Byrd, West Virginia Democrat, said in an address on the Senate floor.

Bush Takes Responsibility (REU)

Reuters, September 13, 2005

WASHINGTON (Reuters) - President George W. Bush took responsibility on Tuesday for any failures in the federal response to Hurricane Katrina and acknowledged the storm exposed serious deficiencies at all levels of government four years after the September 11 attacks.

"To the extent that the federal government didn't fully do its job right, I take responsibility," Bush told a White House news conference at which he openly questioned U.S. preparedness for another storm or a "severe attack."

Bush's rare admission of "serious problems in our response capability" came as the White House stepped up efforts to repair his public standing. Bush will address the nation at 9 p.m. EDT (0100 GMT) on Thursday from hard-hit Louisiana, his fourth visit to the disaster zone since Katrina struck.

White House spokesman Scott McClellan said Bush would use Thursday's address to "talk to the American people about the recovery and the way forward on the longer-term rebuilding."

The president's approval ratings have hit new lows, partly due to fierce criticism of the slow response to the August 29 hurricane, which killed hundreds and displaced 1 million people in the worst natural disaster in U.S. history.

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Fifty-four percent of Americans disapprove of Bush's handling of the response, but 57 percent say state and local officials should bear responsibility for the problems, according to the latest Washington Post-ABC poll.

Asked if Americans should worry that the government remains unprepared to respond to another major disaster or a terrorist attack, Bush said: "Katrina exposed serious problems in our response capability at all levels of government."

Bush himself raised questions about preparedness, after four years of record spending on domestic security since September 11, 2001.

"Are we capable of dealing with a severe attack or another severe storm? That's a very important question and it's in our national interest that we find out exactly what went on so we can better respond," he said at a news conference with Iraqi President Jalal Talabani.

Michael Brown resigned as head of the Federal Emergency Management Agency on Monday.

Republican senators with close ties to Bush have urged him to appoint a top official to lead the long-term recovery. White House officials say that is among options being discussed.

Former New York Mayor Rudolph Giuliani, former Secretary of State Colin Powell and retired Gen. Tommy Franks, former head of the U.S. Central Command have been mentioned for the job.

Giuliani said on CNBC that a commission like the one that investigated the September 11 attacks could assess the response. "Whether there were failures here on the state, city and federal level, I think a commission can decide that six months from now," he said. "No one person is responsible for this."

Bush Says Katrina Exposed `Serious Flaws' In U.S. Capabilities (BLOOM)

By Holly Rosenrantz And Nicholas Johnston

Bloomberg, September 14, 2005

Sept. 13 (Bloomberg) -- President George W. Bush said Hurricane Katrina exposed ``serious problems" in the government's ability to handle another national emergency such as a severe storm or a terrorist attack.

The number of people trapped in their homes or ill-equipped shelters and the inadequacy of the immediate relief effort showed flaws ``at all levels of government," Bush said in response to a question during a news conference today with Iraqi President Jalal Talabani in Washington. ``To the extent that the federal government didn't fully do its job right, I take responsibility."

His comments were his most critical yet of the government's response to Katrina. Until now, he has said the response has been unacceptable, and today is the first time he said he personally takes responsibility for the problems.

Bush is seeking to restore public confidence in his ability to handle a crisis following the government's slow initial reaction to the hurricane that ravaged the Gulf Coast two weeks ago. He is planning a national address on Sept. 15 about U.S. efforts to help the Gulf Coast recover, and he may appoint a high- profile ``czar" to oversee that effort.

The hurricane raised the question of whether the U.S. is ``capable of dealing with a severe attack or another severe storm," Bush said. ``It's in our national interests that we find out exactly what went on so that we can better respond."

Investigations

Congressional Republicans have announced plans to conduct a joint House-Senate investigation into the federal response to Katrina. Some Democrats, such as New York Senator Hillary Clinton, have called for an independent panel to conduct the inquiry.

In response to widespread criticism, Federal Emergency Management Agency Director Michael Brown resigned yesterday after being relieved of his role overseeing recovery operations in the region last week. Bush appointed U.S. Fire Administration Director R. David Paulison, a career emergency service official, as FEMA's acting director.

Earlier today, U.S. Secretary of Homeland Security Michael Chertoff, whose department includes FEMA, said Brown ``did everything within his capability" to manage the crisis and praised Paulison's long experience.

Paulison, 57, started as a fireman in Miami 30 years ago and rose to become chief of the department before taking his current job, which is part of FEMA. At a news conference with Chertoff at FEMA headquarters in Washington, Paulison said his focus would be helping those affected by Katrina, not analyzing the government's initial response.

`Focus on Victims'

``I can't deal with what happened in the last two weeks, but I can tell you, from this point forward, we are going to be focusing on the victims of this hurricane," Paulison said. ``We're going to look at what happened in the past just like we did with hurricane Andrew," which devastated Miami in 1992.

Chertoff said local governments would take the lead in the recovery and rebuilding operation.

``We have elected officials," Chertoff said. ``We have to respect their responsibility. We have to respect their authority. And so we're going to work with them to figure out the best solution."

Bush has labeled Hurricane Katrina as the worst natural disaster in U.S. history. The storm caused hundreds of deaths and an estimated $100 billion in damage across 90,000 square miles of Louisiana, Mississippi and Alabama when it hit on Aug. 29.

Bush's job-approval rating is at record lows in several polls in the wake of the storm. A Washington Post/ABC News poll taken Sept. 8-11 among 1,200 adults found 54 percent disapproved of the way Bush is handling the recovery from the hurricane. The poll found that Bush's overall job-approval rating was 42 percent, the lowest of his presidency, in that survey.

First Lady Becomes President's Defender (AP)

By Nedra Pickler

The AP, September 13, 2005

WASHINGTON — Laura Bush is reprising her role as her husband's first defender, making several trips to the hurricane-ravaged Gulf Coast as President Bush's approval ratings sink to their lowest level yet.

Mrs. Bush is highlighting the positive that has come out of the storm, telling the stories of strangers helping one another in a time of tragedy.

Mrs. Bush said Tuesday that much more human good than bad has come from the disaster, despite what people see on TV. She said the evacuees she has met in her three trips to the Gulf Coast are hopeful and thankful that they don't have to start from rock bottom because of the donations and the kindness of strangers.

"That's what I've seen at each of the shelters I've visited," she said. "I've never heard a single word of complaint."

Mrs. Bush has performed this job before. With approval ratings much higher than her husband's, she was sent out across the country to help him win re-election. She also made a goodwill trip this year to the Middle East, where her husband is especially unpopular.

This time Mrs. Bush is focusing on stories of human compassion while the president is under a barrage of criticism about the government's slow response to the disaster. Some have suggested that he would have acted faster if so many of the victims weren't mostly poor and black, remarks that Mrs. Bush condemned as "disgusting."

She also blamed the media for focusing on the negative in the recovery efforts.

"We've seen terrible, terrible things and we've seen unbelievably unselfish acts of giving as well by communities all across the United States and, of course, many more unselfish acts of giving than bad things," she said in a speech Tuesday to the conservative Heritage Foundation. "Maybe the media hasn't shown us that much, but we've read about it and we do know about it."

Mrs. Bush has traveled to the hurricane region with her husband and in solo trips where she has visited with evacuees. On the same day that her husband was in Mobile, Ala., offering his notorious compliments of now-resigned FEMA Director Mike Brown, Mrs. Bush was serving food to the sick, the elderly and families who fled with young children to the Cajundome arena in Lafayette, La.

"Some things are working very, very well in Louisiana, and certainly this center is one of them," she said.

Three days later, Mrs. Bush stayed mostly behind the scenes when she visited the storm zone at her husband's side. At the Bethany World Prayer Center in Baton Rouge, La., she worked the room of storm evacuees on her own — chatting with women and children who were being sheltered in a huge room at the nondenominational church.

Later that day in Poplarville, Miss., the Bushes visited a meeting of state and local officials from throughout the hurricane region. The officials sat subdued while the president talked about how the region will recover, but they leapt to their feet in a huge standing ovation when he pointed out his wife at the side of the room.

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"I'm traveling with good company," he said.

Inside The Beltway (WT)

By John McCaslin

The Washington Times, September 14, 2005

The king speaks

One day after visiting the Vatican and being assured by Pope Benedict XVI of the Catholic Church's respect for Muslim people, Jordan's King Abdullah II came to Washington yesterday and delivered words at Catholic University that Washington Archbishop Theodore E. McCarrick predicted "will go down in history."

In his speech praising Jesus' teachings in the Bible and Koran alike, Abdullah, who assumed power the day his father, the late King Hussein, died in 1999, ripped Muslim terrorists Osama bin Laden and Abu Musab Zarqawi by name as "ignorant extremists" who do not speak for Islam.

He told the audience that included foreign ambassadors, State Department officials, church leaders and other invited guests that Jordan this summer hosted a major international conference representing 45 nations and all eight traditional schools of Islamic thought.

"They issued a joint statement of accord to help end abuses of our faith," the king noted, chiefly that "religious edicts cannot be issued by people lacking the proper qualifications and religious knowledge -- like bin Laden and Zarqawi. And they agreed that no one can call another Muslim an apostate, as the extremists do to those who disagree with them."

Last November, he also pointed out, Jordan started what's come to be known as the "Amman Message," articulating Islam's essential social values of compassion, respect for others, tolerance and acceptance, freedom of religion and rejecting Muslim isolation from the global movement of human society.

"In this effort, I know I am joined by President Bush and many other Western and Islamic leaders," said the king, who was accompanied yesterday by his wife, Queen Rania. "In the Middle East, in Europe and here in the United States, senior Muslim clerics have spoken out, authoritatively, against terror."

The ultimate goal, he concluded, "is to take back our religion from the vocal, violent and ignorant extremists who have tried to hijack Islam over the last 100 years. They do not speak for Islam any more than a Christian terrorist speaks for Christianity."

Not forgotten

It was only fitting that President Bush, in a visit to New Orleans that coincided with the fourth anniversary of the September 11 terror attacks, paid a visit to a parking lot that has become a staging ground for rescue workers.

"This is where all the firefighters from New Orleans and many from other towns around the country, judging from their shirts, are living," according to the official White House pool report.

While there, it continued, Mr. Bush posed for a picture with New York City firefighters who were standing before a not-so-ordinary New York City firetruck.

White House spokesman Scott McClellan revealed that this same fire engine was donated by the city of New Orleans to New York City in the days after the 9/11 terrorist attacks. And now New York has returned the gift, the report said.

A banner hanging on a memorial poster erected next to the truck stated: "God Bless America. Never Forget."

Army Eggs Benedict

We have to laugh at Mark Silva, White House correspondent for the Chicago Tribune, who accompanied President Bush to flood-ravaged New Orleans this week and revealed that he and fellow scribes "handed off our surplus boxes of breakfasts ready-to-eat -- sausage and egg on toast and bagel -- to a unit of the 82nd Airborne on the dock who, by the appearance of their reaction, hadn't eaten since the invasion of Afghanistan."

Quote of the week

"The comedian Eddie Cantor used to say in all seriousness that every time he saw the 10 Most Wanted list, he thought maybe if we'd made them feel more wanted earlier, they wouldn't be wanted now."

-- First lady Laura Bush, speaking yesterday at the Heritage Foundation in Washington on the No Child Left Behind Act and its emphasis on eliminating the achievement gap between white and minority students.

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Whose Victory, Exactly? (WP)

By Anne Applebaum

The Washington Post, September 14, 2005

Last week my son's elementary school raised several thousand dollars for hurricane victims by washing cars. My other son's preschool announced without fuss that a boy from New Orleans would be joining the class. My employer is organizing help for the company's Gulf Coast employees, my local bookstore is collecting money for the Red Cross and my favorite radio station raised $54,000 last weekend. Every church or synagogue attended by anyone I know is, of course, raising money, housing evacuees or delivering clothes to victims.

To put it differently, nearly every institution with which I come into daily contact -- my library, my grocery store, my search engine -- has already donated time or money to the victims of Hurricane Katrina, and I don't think this makes me or my community unique. A Zogby poll conducted last week found that 68 percent of Americans had donated money to hurricane relief. An ABC News/Washington Post poll published yesterday found that 60 percent had already donated, and a further 28 percent intend to. Those percentages mean that donors must represent a huge range of political views, economic classes, even aesthetic preferences. Indeed, among the fundraisers listed in last weekend's Post were a jazz concert, a tea dance, a "Christian music" concert and a rehearsal of Verdi's "The Sicilian Vespers." No wonder the Red Cross has already collected more than half a billion dollars; no wonder it was impossible to get on to the Salvation Army's Web site at peak times last week.

But those percentages also mean that it is important not to draw hasty conclusions about the ultimate political impact of this tragedy. More specifically, it's important to ignore the hasty conclusions that have already been drawn, both here and abroad, about the victory of "big government" and the death of a certain kind of American individualism. The German chancellor -- once again using American politics in his election campaign -- has already called the disaster an argument for "strong government." Polly Toynbee, a columnist for Britain's Guardian, declared that Katrina revealed "a hollowed superpower . . . a country that is not a country at all, but atomised, segmented individuals living parallel lives as far apart as possible." A Los Angeles Times article, headlined "A Comeback for Big Government," more objectively quoted lots of experts agreeing that in the wake of the hurricane, the administration will "put aside its interest in small government."

But while it is true that the government's relief effort looks set to dwarf anything it has tried before, consider what the actual experience of the disaster has already been -- not theoretically, not on paper, but in practice. Listen, for example, to volunteers who prepared 92 boats to help evacuate people from the rooftops of New Orleans. They were ultimately kept out by Federal Emergency Management Agency bureaucrats because, among other things, they didn't have life preservers. Or listen to the volunteers who organized 100 doctors to treat 400 sick people at a converted Baton Rouge warehouse -- until they, too, were told by the government to shut down, reopen and then shut down again. Or to the hundreds of firefighters who, according to the New York Times, responded to a nationwide call for help and were then "held by the federal agency in Atlanta for days of training on community relations and sexual harassment," while women were raped and lives were lost in New Orleans. Compare their frustration to the joy experienced by 8-year-olds across the country, washing cars for the Red Cross.

By the same token, consider the effectiveness of the relief strategies so far. With great fanfare, the federal government announced it would distribute debit cards to Katrina victims. The result was chaos, anger and expectations of fraud. Quietly, the Red Cross has been paying evacuees' hotel bills. The result is that 57,000 people have time to plan what to do next. Massive government efforts to get people into massive shelters have led to dissatisfaction, delays, long lines and frustration. But private initiatives -- ranging across the political spectrum from MoveOn.org's Hurricanehousing.org, which is advertising space in thousands of private homes, to First Baptist Church in Athens, Tex., which has just installed six new showers -- are helping people find better housing faster. Over the longer term, it's also pretty safe to bet that people who relocate thanks to a church, find a job thanks to a charitable Web site, and get by thanks to their extended families are going to do a lot better, economically and psychologically, than the people who hang around waiting to be helped by a government jobs program and a government trauma counselor.

I'm not saying anything radical here: I'm not calling for the abolition of FEMA, and I certainly think there's a role for government in disaster and evacuation planning. But it is true that the worst failures of the past two weeks have been big

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government failures. The biggest successes, by contrast, have come out of this country's incredibly vibrant, amazingly diverse and fantastically generous civil society. Sooner or later, it will be impossible not to draw political lessons from that paradox.

A Fatal Incuriosity (NYT)

By Maureen Dowd

The New York Times, September 14, 2005

I hate spending time in hospitals and nursing homes. I find them to be some of the most depressing places on earth.

Maybe that's why the stories of the sick and elderly who died, 45 in a New Orleans hospital and 34 in St. Rita's nursing home in the devastated St. Bernard Parish outside New Orleans, haunt me so.

You're already vulnerable and alone when suddenly you're beset by nature and betrayed by your government.

At St. Rita's, 34 seniors fought to live with what little strength they had as the lights went out and the water rose over their legs, over their shoulders, over their mouths. As Gardiner Harris wrote in The Times, the failed defenses included a table nailed against a window and a couch pushed against a door.

Several electric wheelchairs were gathered near the front entrance, maybe by patients who dreamed of evacuating. Their drowned bodies were found swollen and unrecognizable a week later, as Mr. Harris reported, "draped over a wheelchair, wrapped in a shower curtain, lying on a floor in several inches of muck."

At Memorial Medical Center, victims also suffered in 100-degree heat and died, some while waiting to be rescued in the four days after Katrina hit.

As Louisiana's death toll spiked to 423 yesterday, the state charged St. Rita's owners with multiple counts of negligent homicide, accusing them of not responding to warnings about the hurricane. "In effect," State Attorney General Charles Foti Jr. said, "I think that their inactions resulted in the death of these people."

President Bush continued to try to spin his own inaction yesterday, but he may finally have reached a patch of reality beyond spin. Now he's the one drowning, unable to rescue himself by patting small black children on the head during photo-ops and making scripted attempts to appear engaged. He can keep going back down there, as he will again on Thursday when he gives a televised speech to the nation, but he can never compensate for his tragic inattention during days when so many lives could have been saved.

He made the ultimate sacrifice and admitted his administration had messed up, something he'd refused to do through all of the other screw-ups, from phantom W.M.D. and the torture at Abu Ghraib and Guantánamo to the miscalculations on the Iraq occupation and the insurgency, which will soon claim 2,000 young Americans.

How many places will be in shambles by the time the Bush crew leaves office?

Given that the Bush team has dealt with both gulf crises, Iraq and Katrina, with the same deadly mixture of arrogance and incompetence, and a refusal to face reality, it's frightening to think how it will handle the most demanding act of government domestic investment since the New Deal.

Even though we know W. likes to be in his bubble with his feather pillow, the stories this week are breathtaking about the lengths the White House staff had to go to in order to capture Incurious George's attention.

Newsweek reported that the reality of Katrina did not sink in for the president until days after the levees broke, turning New Orleans into a watery grave. It took a virtual intervention of his top aides to make W. watch the news about the worst natural disaster in a century. Dan Bartlett made a DVD of newscasts on the hurricane to show the president on Friday morning as he flew down to the Gulf Coast.

The aides were scared to tell the isolated president that he should cut short his vacation by a couple of days, Newsweek said, because he can be "cold and snappish in private." Mike Allen wrote in Time about one "youngish aide" who was so terrified about telling Mr. Bush he was wrong about something during the first term, he "had dry heaves" afterward.

The president had to be truly zoned out not to jump at the word "hurricane," given that he has always used his father's term as a reverse playbook and his father almost lost Florida in 1992 because of his slow-footed response to Hurricane Andrew. And W.'s chief of staff, Andy Card, was the White House transportation secretary the senior President Bush sent to the rescue after FEMA bungled that one.

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W. has said he prefers to get his information straight up from aides, rather than filtered through newspapers or newscasts. But he surrounds himself with weak sisters who don't have the nerve to break bad news to him, or ideologues with agendas that require warping reality or chuckleheaded cronies like Brownie.

The president should stop haunting New Orleans, looking for that bullhorn moment. It's too late.

A 'Moronic' Proposal (WSJ)

The Wall Street Journal, September 14, 2005

Some public-spirited folks in Bozeman, Montana, have come up with a wonderful idea to help Uncle Sam offset some of the $62 billion federal cost of Hurricane Katrina relief. The Bozeman Daily Chronicle reports that Montanans from both sides of the political aisle have petitioned the city council to give the feds back a $4 million earmark to pay for a parking garage in the just-passed $286 billion highway bill. As one of these citizens, Jane Shaw, told us: "We figure New Orleans needs the money right now a lot more than we need extra downtown parking space."

Which got us thinking: Why not cancel all of the special-project pork in the highway bill and dedicate the $25 billion in savings to emergency relief on the Gulf Coast? Is it asking too much for Richmond, Indiana, to give up $3 million for its hiking trail, or Newark, New Jersey, to put a hold on its $2 million bike path?

And in the face of the worst natural disaster in U.S. history, couldn't Alaskans put a hold on the infamous $454 million earmark for the two "bridges to nowhere" that will serve a town of 50 people? That same half a billion dollars could rebuild thousands of homes for suffering New Orleans evacuees. One obstacle to this idea apparently will be Don Young, the House Transportation Committee Chairman who captured the funds for Alaska in the first place. A spokesman in his office told the Anchorage Daily News that the pork-for-relief swap was "moronic." Sounds like someone who wants Mr. Young to become "ranking Member" next Congress.

In all there are more than 6,000 of these parochial projects -- or about 14 for every Congressional district -- funded in the highway bill. The pork reduction plan is particularly appropriate as a response to Katrina, because we have learned in recent days that one reason that money was not spent on fortifying the levees in New Orleans was that hundreds of millions of dollars were rerouted to glitzier earmarked projects throughout the state of Louisiana.

We're hearing all sorts of bad ideas about how to offset the $62 billion of spending already authorized for Hurricane Katrina relief. Cancel the Bush tax cuts, raise the gasoline tax by $1 a gallon, increase deficit spending, and sharply cut spending on national defense and the war in Iraq. In Washington, it seems, everything is expendable except for the slabs of bacon that are carved out of the federal fisc to ensure re-election.

The glory of what is happening in Bozeman is that taxpayers are proving to be wiser about priorities than their politicians. We like the suggestion by Ronald Utt of the Foundation Heritage that, when the new levee is built to protect the Big Easy from future storms, it should bear a bronze plaque stamped: "Proudly Brought to You by the Citizens of Alaska."

Feds Promise Crackdown On Katrina Scams (NBC)

By Lisa Myers, Senior investigative correspondent

NBC News, September 14, 2005

WASHINGTON — As weather forecasters tracked the approach of Hurricane Katrina, Alan Paller, a computer security expert with the Sans Institute, tracked another gathering storm — the rush to register Internet sites containing the name "Katrina."

"Most of them," says Paller, "appear to be just plain thieves."

Story continues below ? advertisement

Tuesday, the U.S. Justice Department warned that many of some 4,000 Katrina Web sites could be fake. Sixty percent come from overseas, officials said, a warning sign the sites may be bogus.

U.S. Attorney General Alberto Gonzales promised swift punishment for those who victimize generous Americans.

"Federal, state and local law enforcement officials are watching carefully," Gonzales warned at a news conference Tuesday. "[We] will have zero tolerance for these kinds of crimes."

Missouri Attorney General Jay Nixon already has moved against 10 Web sites, tied to a group of white supremacists.

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"It's totally outrageous," Nixon said, "for someone to take these domain names and then solicit funds, run them through what looks like a legitimate charity using pictures and other hurricane victims, when in reality that money was running to his hate sites."

Related story

How can you make sure your donation is well spent?

In Florida, state officials are suing a man who claimed all money donated to his sites would go to hurricane relief. In fact, it would have gone to his personal PayPal account.

Federal agents are also investigating an explosion in e-mails. Some look like pleas directly from victims. Others appear to be from the Red Cross, but in fact, the Red Cross does not send out e-mails.

Strong emotions make people especially vulnerable during a disaster, said Art Taylor of the Better Business Bureau. "Scamsters know this and prey upon that generosity, that immediate urge to give."

No one knows yet how many have been ripped off, or for how much. Those fooled may not know for weeks — until their credit cards bills reveal where the money really went.

FBI Warns About Fake Katrina Charity Web Sites (REU)

Reuters, September 14, 2005

Many of the 4,000 Web sites advertising relief services for Hurricane Katrina could be fake and about 60 percent of them come from overseas--a sign they may be bogus, the FBI said Tuesday.

Senior FBI and Justice Department officials warned Americans who want to donate money to the relief effort to be cautious to avoid fraudulent charities, including those that pretend to be major organizations like the Red Cross.

"Just like these natural disasters bring out the best in people, they also bring out some of the worst elements of the criminal element out there who are willing to take advantage of those who are willing to give and those who so desperately need the relief," said Chris Swecker, chief of the FBI's criminal investigative division.

Swecker said the FBI is investigating sites of fraudulent charities. He said there are about 4,000 sites advertising Katrina relief services, and about 60 percent of them are coming from overseas.

"That is not a reason unto itself to conclude that that's a scam Web site, but it is a reason to be cautious," he said.

U.S. Attorney General Alberto Gonzales said some of the bogus sites had been shut down but would not give details on the number or how many investigations had been launched.

Previous Next

"We must ensure that those offering a helping hand do not become victims themselves and that those found preying on the compassion of our citizens are punished," he said.

The Red Cross' general counsel, Mary Elcano, said the organization had hired a security company to scan the Internet for fake e-mails that try to trick people into providing credit card numbers and personal information on a Web site that looks like the one run by the Red Cross.

"If the companies don't go away...the Department of Justice will prosecute and, if necessary, the Red Cross will file a civil action to seek restitution," she said.

Officials urged people who want to donate money not to click on links but to directly type in the Web address of the charity in order to donate.

Feds: Thousands Of Fraudulent Hurricane Aid Websites? (AP)

AP, September 14, 2005

WASHINGTON — At least 4,000 Web sites claiming to be Hurricane Katrina relief funds have popped up on the Internet and top U.S. law enforcement officials warned Tuesday that many could be fraudulent.

The number of Katrina-related sites has more than quadrupled in the past week, according to FBI officials.

“A devious few have sought to take advantage of our collective generosity,” Attorney General Alberto Gonzales said at a news conference to highlight the government’s efforts to combat fraud.

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The FBI has so far reviewed 2,100 sites, of which 60 percent are foreign and thus more likely to be bogus, said FBI assistant director Chris Swecker. There have so far been no arrests. As of last week, the FBI had opened eight criminal investigations of suspect domestic sites.

Swecker said the number of probes has grown a lot in recent days, but he declined to be specific. The Justice Department has a Hurricane Katrina Fraud Task Force looking especially at phony charities, identity theft, insurance scams and government benefit fraud.

The American Red Cross, the relief group most frequently copied in Internet scams, also is working with authorities.

Officials again urged donors not to respond to unsolicited e-mails and to give only to well-known charities.

“If it doesn’t look right, chances are it’s not,” assistant Attorney General Alice Fisher said.

Dubious Katrina Web Sites Increasing (CNN)

By Terry Frieden

CNN.com, September 14, 2005

WASHINGTON (CNN) -- Many of the 4,000 Web sites claiming to offer help to victims of Hurricane Katrina are suspicious, the Justice Department said Tuesday.

FBI Assistant Director Chris Swecker said investigators have reviewed 2,100 sites and about 60 percent of them originate outside the United States. "That's not a reason unto itself to conclude that that's a scam Web site, but it is a reason to be cautious," Swecker said.

Swecker said no arrests have been made. But the number of criminal cyber probes has increased substantially since last Thursday, when the FBI acknowledged it was investigating eight instances of potential Web site fraud.

"I can't give you the exact number, but it's a lot more than eight," he said.

Last week the FBI said there were 2,300 sites that appeared to solicit money or offer Katrina aid.

Red Cross General Counsel Mary Elcano told reporters the organization is prepared to file civil lawsuits against operators of Web sites who do not promptly shut down when ordered to do so by the FBI.

Some of the suspect activities are sophisticated endeavors that are created to look like authentic Red Cross sites.

Many of the apparently fraudulent Web sites trying to tap into Katrina relief donations feature pop-ups, spam through provided links and other unsolicited e-mails.

"The emphasis here is on 'unsolicited,' things that come in that you didn't -- you have never made contact with this particular charitable organization," Swecker said. "There's a link. There's a pop-up. There's something that you need to do. Do not click on it.

"The best thing to do is to know the Internet address of the company or the NGO, the non-government organization, that you're dealing with and type that in yourself rather than clicking on a link."

Others traps are variations of the "Nigerian scam letter." The scammer will appear to offer money or relief help but will ask for money first from the e-mail recipient. Still other e-mails misdirect the user to bogus sites intended to lure people into divulging personal financial information.

"There is no place for crime of this nature," Attorney General Alberto Gonzales said. He promised aggressive prosecution of the "devious few who have sought to take advantage of our collective generosity."

Gonzales said the federal prosecutors' offices and the federal courts in Louisiana and Mississippi are functioning and will be able to handle the fraud prosecutions.

But he acknowledged that getting the full caseload handled in the Gulf Coast could require congressional action.

"[We are] looking at legislation to perhaps extend venue, the jurisdiction of the courts, so that in a case of emergency the court in New Orleans, for example, could hear the case somewhere else within the state of Louisiana," he said.

Current law requires cases to be heard in the judicial district where the charges are brought. Louisiana has three federal judicial districts.

Chertoff Delayed Federal Response, Memo Shows (KRT)

By Jonathan S. Landay, Alison Young And Shannon McCaffrey

Knight Ridder, September 14, 2005

WASHINGTON - The federal official with the power to mobilize a massive federal response to Hurricane Katrina was Homeland Security Secretary Michael Chertoff, not the former FEMA chief who was relieved of his duties and resigned earlier this week, federal documents reviewed by Knight Ridder show.

Even before the storm struck the Gulf Coast, Chertoff could have ordered federal agencies into action without any request from state or local officials. Federal Emergency Management Agency chief Michael Brown had only limited authority to do so until about 36 hours after the storm hit, when Chertoff designated him as the "principal federal official" in charge of the storm.

As thousands of hurricane victims went without food, water and shelter in the days after Katrina's early morning Aug. 29 landfall, critics assailed Brown for being responsible for delays that might have cost hundreds of lives.

But Chertoff - not Brown - was in charge of managing the national response to a catastrophic disaster, according to the National Response Plan, the federal government's blueprint for how agencies will handle major natural disasters or terrorist incidents. An order issued by President Bush in 2003 also assigned that responsibility to the homeland security director.

But according to a memo obtained by Knight Ridder, Chertoff didn't shift that power to Brown until late afternoon or evening on Aug. 30, about 36 hours after Katrina hit Louisiana and Mississippi. That same memo suggests that Chertoff may have been confused about his lead role in disaster response and that of his department.

"As you know, the President has established the `White House Task Force on Hurricane Katrina Response.' He will meet with us tomorrow to launch this effort. The Department of Homeland Security, along with other Departments, will be part of the task force and will assist the Administration with its response to Hurricane Katrina," Chertoff said in the memo to the secretaries of defense, health and human services and other key federal agencies.

On the day that Chertoff wrote the memo, Bush was in San Diego presiding over a ceremony marking the 60th anniversary of the end of World War II.

Chertoff's Aug. 30 memo for the first time declared Katrina an "Incident of National Significance," a key designation that triggers swift federal coordination. The following afternoon, Bush met with his Cabinet, then appeared before TV cameras in the White House Rose Garden to announce the government's planned action.

That same day, Aug. 31, the Department of Defense, whose troops and equipment are crucial in such large disasters, activated its Task Force Katrina. But active-duty troops didn't begin to arrive in large numbers along the Gulf Coast until Saturday.

White House and homeland security officials wouldn't explain why Chertoff waited some 36 hours to declare Katrina an incident of national significance and why he didn't immediately begin to direct the federal response from the moment on Aug. 27 when the National Hurricane Center predicted that Katrina would strike the Gulf Coast with catastrophic force in 48 hours. Nor would they explain why Bush felt the need to appoint a separate task force.

Chertoff's hesitation and Bush's creation of a task force both appear to contradict the National Response Plan and previous presidential directives that specify what the secretary of homeland security is assigned to do without further presidential orders. The goal of the National Response Plan is to provide a streamlined framework for swiftly delivering federal assistance when a disaster - caused by terrorists or Mother Nature - is too big for local officials to handle.

Dana Perino, a White House spokeswoman, referred most inquiries about the memo and Chertoff's actions to the Department of Homeland Security.

"There will be an after-action report" on the government's response to Hurricane Katrina, Perino said. She added that "Chertoff had the authority to invoke the Incident of National Significance, and he did it on Tuesday."

Perino said the creation of the White House task force didn't add another bureaucratic layer or delay the response to the devastating hurricane. "Absolutely not," she said. "I think it helped move things along." When asked whether the delay in issuing the Incident of National Significance was to allow Bush time to return to Washington, Perino replied: "Not that I'm aware of."

Russ Knocke, a spokesman for the Department of Homeland Security, didn't dispute that the National Response Plan put Chertoff in charge in federal response to a catastrophe. But he disputed that the bureaucracy got in the way of launching the federal response.

"There was a tremendous sense of urgency," Knocke said. "We were mobilizing the greatest response to a disaster in the nation's history."

Knocke noted that members of the Coast Guard were already in New Orleans performing rescues and FEMA personnel and supplies had been deployed to the region.

The Department of Homeland Security has refused repeated requests to provide details about Chertoff's schedule and said it couldn't say specifically when the department requested assistance from the military. Knocke said a military liaison was working with FEMA, but said he didn't know his or her name or rank. FEMA officials said they wouldn't provide information about the liaison.

Knocke said members of almost every federal agency had already been meeting as part of the department's Interagency Incident Management Group, which convened for the first time on the Friday before the hurricane struck. So it would be a mistake, he said, to interpret the memo as meaning that Tuesday, Aug. 30 was the first time that members of the federal government coordinated.

The Chertoff memo indicates that the response to Katrina wasn't left to disaster professionals, but was run out of the White House, said George Haddow, a former deputy chief of staff at FEMA during the Clinton administration and the co-author of an emergency management textbook.

"It shows that the president is running the disaster, the White House is running it as opposed to Brown or Chertoff," Haddow said. Brown "is a convenient fall guy. He's not the problem really. The problem is a system that was marginalized."

A former FEMA director under President Reagan expressed shock by the inaction that Chertoff's memo suggested. It showed that Chertoff "does not have a full appreciation for what the country is faced with - nor does anyone who waits that long," said Gen. Julius Becton Jr., who was FEMA director from 1985-1989.

"Anytime you have a delay in taking action, there's a potential for losing lives," Becton told Knight Ridder. "I have no idea how many lives we're talking about. ... I don't understand why, except that they were inefficient."

Chertoff's Aug. 30 memo came on the heels of a memo from Brown, written several hours after Katrina made landfall, showing that the FEMA director was waiting for Chertoff's permission to get help from others within the massive department. In that memo, first obtained by the Associated Press last week, Brown requested Chertoff's "assistance to make available DHS employees willing to deploy as soon as possible." It asked for another 1,000 homeland security workers within two days and 2,000 within a week.

The four-paragraph memo ended with Brown thanking Chertoff "for your consideration in helping us meet our responsibilities in this near catastrophic event."

According to the National Response Plan, which was unveiled in January by Chertoff's predecessor, Tom Ridge, the secretary of homeland security is supposed to declare an Incident of National Significance when a catastrophic event occurs.

"Standard procedures regarding requests for assistance may be expedited or, under extreme circumstances, suspended in the immediate aftermath of an event of catastrophic magnitude," according to the plan, which evolved from earlier plans and lessons learned after the Sept. 11, 2001, terrorist attacks. "Notification and full coordination with the States will occur, but the coordination process must not delay or impede the rapid deployment and use of critical resources."

Should Chertoff have declared Katrina an Incident of National Significance sooner - even before the storm struck? Did his delay slow the quick delivery of the massive federal response that was needed? Would it have made a difference?

"You raise good questions," said Frank J. Cilluffo, the director of George Washington University's Homeland Security Planning Institute. It's too early to tell, he said, whether unfamiliarity with or glitches in the new National Response Plan were factors in the poor early response to Katrina.

"Clearly this is the first test. It certainly did not pass with flying colors," Cilluffo said of the National Response Plan.

Mike Byrne, a former senior homeland security official under Ridge who worked on the plan, said he doesn't think the new National Response Plan caused the confusion that plagued the early response to Katrina.

Something else went wrong, he suspects. The new National Response Plan isn't all that different from the previous plan, called the Federal Response Plan.

"Our history of responding to major disasters has been one where we've done it well," Byrne said. "We need to figure out why this one didn't go as well as the others did. It's shocking to me."

Chertoff's Aug. 30 memo is posted at www.krwashington.com

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To read the National Response Plan, go to: http://www.dhs.gov/interweb/assetlibrary/NRP(underscore)FullText.pdf

Acting FEMA Director Vows To Focus On Katrina Victims (WT)

By Audrey Hudson

The Washington Times, September 14, 2005

R. David Paulison yesterday began work as acting director of the Federal Emergency Management Agency with a clean slate and the full backing of President Bush to help rebuild the hurricane-ravaged Gulf Coast.

"I can't deal with what happened in the last two weeks, but I can tell you from this point forward, we are going to be focusing on the victims of this hurricane," Mr. Paulison said.

Getting victims off cots and out of the Astrodome and church basements into homes is the focus, Mr. Paulison said in a press briefing with Homeland Security Secretary Michael Chertoff.

"We've had a hurricane of unimaginable proportions, and we're going to deal with it. We're going to get those people out of shelters, and we're going to move and get them the help that they need," said Mr. Paulison, who was chief of the Miami-Dade County Fire Rescue Department from 1992 to 2001.

Mr. Paulison, whose experience in hurricane recovery began just two weeks on the job as Miami's fire chief when Hurricane Andrew slammed the city, takes the helm of the federal agency two weeks after Hurricane Katrina devastated Louisiana, Mississippi and Alabama.

He replaces Michael D. Brown, who resigned Monday after state and local officials said FEMA failed in responding to the storm and critics questioned his limited background in overseeing disaster relief.

"If ever a government agency needed rescuing, it's FEMA, and Mr. Paulison has the right credentials for this crucial job," declared a Miami Herald editorial yesterday.

Capt. Faye Davis, president of the predominantly black Miami-Dade chapter of the Progressive Firefighters Association, told the Fort Lauderdale Sun-Sentinel that Mr. Paulison "did a good job being sensitive to our concerns."

"I think Chief Paulison is going to bring to FEMA a sense of urgency. He understands you have to have things, supplies and people in place. If you wait until after the fact it could be too late," she said.

Asked yesterday whether future FEMA directors, who are political appointments, will be selected based on disaster emergency management experience, Mr. Chertoff said it will be "a significant consideration."

"Certainly my recommendation of Chief Paulison was his wide experience in dealing with the issue of fire and emergency," Mr. Chertoff said.

FEMA fulfills many roles after an emergency, including coordinating federal financial assistance to states, communities, businesses and individuals, and the responses of the Red Cross and other charities.

Less than two weeks after the September 11 attacks, Mr. Paulison, who became a fireman at age 19, was nominated by Mr. Bush to lead the nation's firefighters as chief of the U.S. Fire Administration.

Mr. Paulison said he did not hesitate when Mr. Bush asked him to take charge of FEMA.

"The president called last night, and I was, obviously, humbled that he would take the time to do that," Mr. Paulison said.

Take My Job. Please. (WP)

By Mark Leibovich

The Washington Post, September 14, 2005

Brownie is no longer doing a heckuva job. Or any job.

Talk about an inevitable sacrifice: It was just a matter of time before FEMA head Michael D. Brown resigned, as he did yesterday. He had come to personify the rule that once you become a joke in Washington, there is no rehab. He had became the subject of hundreds of punch lines amid the tragically unfunny spectacle of Katrina -- too many to recover from.

Last Thursday, the day before Brown was summarily posted back to Washington, Sen. Ken Salazar offered a lesson in the caricature Brown had become. Salazar, a Colorado Democrat who like many others had demanded that the Federal Emergency Management Agency chief be fired, was asked his assessment of Brown, a longtime resident of the senator's home state. After a

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few sentences about Brown's lack of experience in emergency management, Salazar shrugged and said simply, "Arabian horses."

This of course referred to Brown's stint as commissioner of the International Arabian Horse Association. It became the functional shorthand for a background short of emergency management experience. More to the point, it became a punch line.

"Prior to heading FEMA, Brown spent the '90s as a commissioner -- this is true -- of the International Arabian Horse Association," Jon Stewart said on "The Daily Show" last week. "I guess he stands out because most Bush appointees are beholden to the Arabian people."

The equine satire went well beyond professional comics. "I'm not aware of any Arabian horses being killed in this storm," Kate Hale, a former Miami emergency management chief, told the New York Daily News last week.

And the rout was on.

"Any public figure short of the president doesn't want to become fodder for late-night television shows," says Ed Kutler, a Republican lobbyist. "When you make it past a certain point of satire, there is no return. And, unfortunately for Brown, he passed that point last week or earlier, whether deserved or not."

"This horse business" -- Andy Lester, a longtime friend of Brown's, said in an interview -- was only the start.

Brown's saga incorporated a series of perceived fumbles and unfortunate sound bites that made for a caricature.

Some of it was not his fault. When Bush, during his first visit to the Gulf Coast after Katrina, said, "Brownie, you're doing a heckuva job," it embodied what many critics viewed as the administration's slow response to the disaster.

But Brown provided some ammunition himself. He was bludgeoned in a procession of TV interviews with the likes of Soledad O'Brien, Paula Zahn and, most glaringly, Ted Koppel, in which Brown said he had learned only that day of deteriorating conditions at the New Orleans Convention Center.

At which point Brown essentially disappeared from public view.

"I have no problem talking to you about my husband," Tamara Brown said when reached at her home last week. "But I need to talk to our press office first." She was, predictably, not heard from again, and Mike Brown's caricature was left to calcify in a flurry of resignation demands, accusations (in a Time magazine report that he exaggerated his disaster relief experience) and ridicule (Jay Leno: "Big news -- President Bush announced a plan to put a man on Mars. It's the head of FEMA").

"I'm worried for him personally," Lester said of his friend last week. He said Brown was not even the subject of criticism anymore. "It's not criticism, it's piling on."

Lester, who attended Georgetown Law School, added that the ordeal that has befallen Brown "is one of the reasons I don't live in Washington anymore."

The countdown to Brown's departure intensified Friday when Homeland Security chief Michael Chertoff "reassigned" him back to Washington. White House press secretary Scott McClellan said Brown had not resigned and the president had not asked for his resignation. When asked by a reporter whether the president had full confidence in Brown, McClellan said, "We appreciate all those who are working round the clock."

But it should generally not be taken as a good sign when the head of FEMA is taken off one of the worst catastrophes in American history. To wit:

"Some good news today," Leno said Friday night. "The most important evacuation was made today in New Orleans. They got the head of FEMA, Mike Brown, out of there."

Conan O'Brien: "Michael Brown, the controversial head of FEMA, was relieved of his duties in New Orleans. . . . Yeah, he's been told to report to Washington immediately, which means he should get there in about a week."

Before leaving the Gulf Coast, Brown announced that he planned to "go home and walk my dog and hug my wife and maybe get a good Mexican meal and a stiff margarita."

This violated another cardinal rule of image rehab, says Marshall Wittmann, Sen. John McCain's former press secretary, now with the Democratic Leadership Council: "In the aftermath of a disaster, you don't refer to a party drink you want to indulge in."

In the spirit of piling on, Wittmann says that Brown "had clearly become a bur in Bush's saddle."

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The Five Stages Of Crisis-Management (WSJ)

By Jack Welch

The Wall Street Journal, September 14, 2005

Our last day in Nantucket this summer, we bumped into a crusty old islander we know, a sea-hand who has seen his share of hurricanes. We asked him about the storm bearing down on New Orleans. "Probably just another overhyped Weather Channel event," he mused. We saw him again the next day, a few hours after the storm's landfall, and he repeated his take, this time with relief. We agreed -- the pictures on TV weren't that bad.

Then, of course, the levees broke and all hell broke loose with them.

* * *

In the terrible days since then, there has been a hurricane of debate about what went wrong in New Orleans and who is to blame. Mother Nature, perhaps for the first time in the case of a bona fide natural disaster, has been given a pass. Instead, the shouting has been about crisis-management -- or the lack thereof. Everyone from President Bush to the police chief in a small parish on the outskirts of the city has been accused of making shockingly bad mistakes and misjudgments. The Katrina crisis, you would think, is unlike any before it.

Unfortunately, that's not completely true.

Yes, there has never been a natural disaster of Katrina's magnitude in our history. An entire city has been devastated, hundreds of lives lost, and hundreds of thousands of people displaced. In terms of impact, only an extended catastrophe like the Great Depression can compare in scope.

And yet, Hurricane Katrina is practically a case study of the five stages people seem to have to go through during severe crises. Over the past 40 years, I've seen these stages unfold in companies large and small, of every type, in every part of the world, and I went through them myself at my own company more than a few times.

New Orleans, of course, is not a company, but like any city, it is an organization. And there can be no denying that New Orleans' crisis is tragic in a way that company crises are not. But contrary to the sound and fury out there right now, the Katrina crisis follows a well-worn pattern.

The first stage of that pattern is denial. The problem isn't that bad, the thinking usually goes, it can't be, because bad things don't happen here, to us. The second is containment. This is the stage where people, including perfectly capable leaders, try to make the problem disappear by giving it to someone else to solve. The third stage is shame-mongering, in which all parties with a stake in the problem enter into a frantic dance of self-defense, assigning blame and claiming credit. Fourth comes blood on the floor. In just about every crisis, a high profile person pays with his job, and sometimes he takes a crowd with him. In the fifth and final stage, the crisis gets fixed and, despite prophesies of permanent doom, life goes on, usually for the better.

We are a way off from the fifth stage in New Orleans, but the first four played out like an old movie.

* * *

Denial: In the days and even hours before the hurricane struck, officials at every level of the government demonstrated a lack of urgency about the storm that seems crazy now. No one operated out of malice -- that can be said for certain. But the facts reveal the kind of paralysis so often brought on by panic and its ironically common side-effect, inertia. The federal government received hourly updates on the storm, but the head of FEMA, the ill-fated Michael Brown, waited 24 hours, by the most generous estimations, before ordering personnel into the area. The state's governor, in her early communications with the president, mainly asked for financial aid for the city's clean-up efforts. On the local level, the mayor let a critical 12 hours elapse before ordering an evacuation of the city.

Denial in the face of disaster is human. It is the main and immediate emotion people feel at the receiving end of any really bad news. That doesn't excuse what happened in New Orleans. In fact, one of the marks of good leadership is the ability to dispense with denial quickly and face into hard stuff with eyes open and fists raised. With particularly bad crises facing them, good leaders also define reality, set direction and inspire people to move forward. Just think of Giuliani after 9/11 or Churchill during World War II. Denial doesn't exactly come to mind -- a forthright, calm, fierce boldness does.

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All that was in short supply during the disaster in New Orleans. But it might be argued that denial in and about New Orleans started long ago. New Orleans was a city with more than 20% living below the poverty line, a homicide rate almost 10 times higher than New York, and an intractable tradition of political corruption.

Why did it take a hurricane to reveal these unacceptable conditions?

New Orleans was also well aware that its levee system was inadequate for a major storm and that the economic plight of its citizenry, with their lack of cars and cash, rendered evacuation plans meaningless.

Why did it take a hurricane to prove those points?

In both cases, the only answer is denial, that predictable first phase of crisis, which in Katrina's case, happened before, during, and after the actual storm.

Containment: For this second predictable phase in crises, Katrina was no exception. In companies, containment usually plays out with leaders trying to keep the "matter" quiet -- a total waste of energy, as all problems, and especially messy ones, eventually get out and explode. In Katrina's case, containment came in a related form, buck-passing -- pushing responsibility for the disaster from one part of government to another in hopes of making it go away. The city and state screamed for federal help, the feds said they couldn't send in the troops (literally) until the state asked for them, the state said it wouldn't approve the federal relief plan, and round and round went the baton.

No layer is a good layer. Bureaucracy, with its pettiness and formalities, slows action and initiative in any situation, business or otherwise. In a crisis like Katrina, it can be deadly. The terrible part is that Katrina might have avoided some of its bureaucratic bumbling if FEMA had not been buried in the Department of Homeland Security. As an independent entity for decades prior, FEMA fared better. But inside Homeland Security, FEMA was a layer down, twisted in and hobbled by government hierarchy. And to make matters worse, its head, Michael Brown, appears to have been an inexperienced political operative -- making his appointment an example of bureaucratic inefficiency at its worst.

Shame-mongering: This is a period in which all stakeholders fight to get their side of the story told, with themselves as the heroes at the center. Katrina's shame-mongering had blasted into overdrive by Tuesday, about 48 hours after landfall. I would wager that never before has a storm become so politicized. Very quickly, Katrina wasn't a hurricane -- it was a test of George Bush's leadership, it was a reflection of race and poverty in America, it was a metaphor for Iraq. The Democrats used the event to define George Bush for their own purposes; the Republicans -- after a delay and with markedly less gusto -- used it to define them back. The key word here is delay. Because in any crisis, effective leaders get their message out strongly, clearly -- and early. George Bush and his team in Washington didn't do that, and they are paying for it.

Blood on the floor: From the moment it became obvious that Katrina was a crisis-management disaster, you knew someone's head was going to roll. That's what usually happens in the fourth stage of crises. People need to feel that someone has paid, and paid dearly, for what went wrong. Michael Brown was the obvious choice -- a guy who had few hard credentials in his bag of defenses. And if Katrina is like most crises, his blood won't be the last spilled. In a few weeks, more personnel changes in FEMA and Homeland Security are sure to come, and politicians in New Orleans and Louisiana will be both made and ruined by what they did during the storm.

* * *

Eventually, all crises go away, and New Orleans' will too. The waters will recede; people will return and rebuild. In a year, the media will report that progress toward normalcy has been made. In three years, the best levees ever constructed will be completed with great fanfare; the Superdome or its replacement will have been outfitted to keep thousands of people housed and fed for a month. In five years, the before-and-after photos of New Orleans will boggle the mind.

History shows us that crises almost always seem to give way to something better. Maybe that's because crises reveal how and where the system is broken in ways that make denial no longer feasible. They have a way of forcing real solutions to happen.

Hurricane Katrina has the potential to do that in New Orleans -- to compel leaders in government and business to find ways to break the city's cycle of poverty and corruption. The opportunities are huge because the losses were. There is a blank slate for change to begin, and it most likely will. Just watch the entrepreneurs rush in with ideas and energy, revitalizing old and creating new businesses with the help of the money politicians will be outbidding one another to throw at the problem. Just watch the

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residents of New Orleans flock to the jobs that are created with a new spirit of optimism. Crises like Katrina have a way of galvanizing people toward a better future. That's the fifth and final part of the pattern -- the best part.

Now, you may be wondering that if most every crisis follows a pattern, why can't we manage them better, or even prevent them?

In business, we very often do. Over time, organizations may go through several crises, but very rarely do they go through the same type twice. The reason? Companies typically go to extremes after a crisis. They throw up fortresses of rules, controls and procedures to fix what went wrong in the first place. In that way, they build a kind of immunity to the sickness that felled them. It is very unlikely, for instance, that Johnson & Johnson will ever have another product-tampering disaster like Tylenol.

Immunity to crises comes from learning. Crises teach us where the system is broken and how to repair it so it won't break again. Ultimately, learning is why disasters, in business and in nature, have the potential to make the organizations that survive them so much stronger in the long run. And learning will reveal the crisis management of Katrina for what it was -- an age-old pattern meant to be broken.

Mr. Welch, former chairman and CEO of General Electric, is the author, with Suzy Welch, of "Winning" (Collins, 2005).

Homeland Security Reorganization Plan Faces New, Post-Hurricane Scrutiny (CQ)

By Tim Starks

Congressional Quarterly Today, September 14, 2005

Two key Senate committee chairmen said Tuesday they were willing to take a fresh look following the Hurricane Katrina catastrophe at a proposal made by the Homeland Security secretary this summer to restructure his department.

A pair of top Democratic appropriators are urging Secretary Michael Chertoff to postpone his plan, released in July, to reorganize his department, arguing that it could hinder the response to future major natural disasters.

The request came on the eve of President Bush's concession Tuesday that "Katrina exposed serious problems in our response capability at all levels of government, and to the extent that the federal government didn't fully do its job right, I take responsibility."

Chertoff has proposed abolishing the division of his department that deals with emergency preparedness and response, a division that encompasses the Federal Emergency Management Agency (FEMA).

The two functions now performed by FEMA — preparing for disasters in advance and responding to them when they occur — would be separated, with FEMA restructured as a stand-alone agency focused on response that would report directly to the Homeland Security secretary. The reorganization would place responsibility for pre-disaster planning under a new Directorate for Preparedness.

On Sept. 12, David R. Obey, D-Wis., and Martin Olav Sabo, D-Minn., asked Chertoff in a letter to reconsider.

"You justify creating a Directorate for Preparedness with the following statement: 'While operational response and recovery programs have an 'all-hazards' approach, federal preparedness efforts need to be targeted toward addressing gaps in our terrorism and homeland security capabilities,' " the Democrats wrote. "We have long believed that federal preparedness efforts also need to address gaps in our natural disaster preparedness capabilities."

Evaluating Proposals

Authorizing and appropriations committees had been evaluating Chertoff's proposals, some of which require congressional approval, for inclusion in the fiscal 2006 Homeland Security appropriations bill (HR 2360) currently in conference and a separate departmentwide authorization bill.

The House passed an authorizing bill (HR 1817) in May, before Chertoff unveiled his reorganization plan, and Susan Collins, R-Maine, chairwoman of the Senate Homeland Security and Governmental Affairs Committee, had been considering her own version of an authorization bill.

On Tuesday, Judd Gregg, the New Hampshire Republican who chairs the Senate Appropriations Homeland Security Subcommittee, said he had not given any thought to Obey's and Sabo's suggestion to Chertoff.

However, the hurricane gives Chertoff a chance to review his restructuring plan as it pertains to the department as a whole and FEMA specifically, Gregg said, which the senator called an appropriate step. He did not anticipate that restructuring

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concerns would create difficulties clearing the spending bill, because new authorizing language would be relatively easy to insert before final passage.

Gregg said he and his House counterpart, Rep. Harold Rogers, R-Ky., were no longer far apart on reconciling their versions of the $31.9 billion bill, including funding for the Coast Guard fleet modernization program, where negotiators were more than $400 million apart to start.

Collins said she is looking at a fall time frame for consideration of a Homeland Security authorization bill. She also is tentatively scheduled to head the Senate side of a bipartisan, bicameral Hurricane Katrina review panel. That proposed panel is mired in a dispute between Democrats and Republicans, but in the meantime she has begun an investigation in her committee. (Story, p. 3)

She said Tuesday she intends to explore the proper structure for the department in light of Hurricane Katrina, including suggestions from some that the restructuring should be postponed. But if FEMA remains a part of the department, Collins said it appears that it should at least have a "direct report" to the secretary, as Chertoff has proposed.

At a news conference Sept. 12, Chertoff defended the restructuring proposals, which came as a result of a department-wide review and were scheduled to become effective by Oct. 1. He said he would meet with congressional leaders to discuss options for improving preparedness.

A spokeswoman for the department said it "will continue to pursue the agenda outlined under [the review] because hurricane response efforts underscore the need for an undersecretary for preparedness that pulls all these responsibilities into one accountable authority."

Democrats And Others Press For An Independent Inquiry (NYT)

By Carl Hulse And Philip Shenon

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - As Congress prepares to take its first tentative steps toward evaluating the government response to Hurricane Katrina, Democrats and others are pressing for an independent inquiry, saying lawmakers cannot be trusted to assess their own complicity in the failures.

"I don't think the Congress can investigate ourselves," Senator Hillary Rodham Clinton, Democrat of New York, said Monday.

Mrs. Clinton, a chief proponent of forming an outside commission similar to the one that investigated the Sept. 11 attacks, is seeking a vote Wednesday on creating such a panel.

Members of the Sept. 11 commission will echo that call on Wednesday when they release a new privately financed study that will cite failures in the federal response to the storm to argue that the government remains unprepared to deal with a catastrophic terrorist strike on American soil.

Commission members said in recent interviews that the report would criticize the Bush administration and Congress as not following up on many of the commission's recommendations for improving federal disaster-response programs. That lack of action, commissioners said, cost lives in areas of the Gulf Coast struck by the hurricane.

"In Congress, this issue has already become a political football," Slade Gorton, a Republican member of the Sept. 11 commission and a former United States senator from Washington, said this week. "If we're really going to learn anything from this new catastrophe, that's much more likely to happen through an objective look. An independent commission is something that ought to be seriously considered."

The Congressional actions that are coming under new scrutiny include the decision to place the Federal Emergency Management Agency under the larger umbrella of the Department of Homeland Security and the use of flood-control programs as a reliable source of home-state spending projects.

"The Corps of Engineers and Congress are partners in crime," said Steve Ellis, vice president for programs at the group Taxpayers for Common Sense. "We have this process where the pork barrel dictates that we spread the money over the 535 mouths to feed that are Congress rather than putting our resources where it makes the most sense."

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Several members of the Sept. 11 commission said they had been startled by what they described as the federal government's inept performance after the hurricane, suggesting that little had changed in federal disaster-relief planning since the terrorist attacks on New York and the Pentagon four years ago this week.

"It's really the same confusion that you had on 9/11 - worse, really, because at least in New York City you had Rudy Giuliani," Thomas H. Kean, the chairman of the commission and a former Republican governor of New Jersey, said Monday.

After the hurricane, Mr. Kean said, "you had no command and control. Who was in charge? Really, nobody was in charge."

Mr. Kean said the shortcomings in the response to the hurricane suggested that the government's response to a large-scale terrorist attack would be no better. "Whether it's a chemical attack or a nuclear attack or an earthquake in San Francisco, it's largely the same response," he said. "And this is proof that we still haven't got it right."

Republican leaders who are resisting an independent inquiry into the response to the hurricane say a joint House-Senate panel proposed by Republicans can conduct an objective investigation. They say that creating a separate group would amount to an abdication of Congress's proper role.

"People are too quick to give up their responsibility and duty as congressmen to other people," said Representative Tom DeLay, Republican of Texas and the House majority leader. "We are more than capable of looking at it."

Senate Republican leaders moved Tuesday to resolve the dispute over the joint panel, preparing a proposal that would delegate members of the Senate Homeland Security and Governmental Affairs Committee to represent the Senate in the investigation, with the possibility of other panel members.

Lawmakers would be empowered to examine the "development, coordination and execution by local, state and federal authorities of emergency response plans and other activities in preparation for Hurricane Katrina; and the local, state and federal government response to Hurricane Katrina." House Republicans were preparing their own plan for consideration later this week.

Republicans said the joint panel was based on 11 special Congressional investigations since 1973 and would allow issuance of subpoenas either by agreement of the two committee leaders or by a panel vote.

Senator Harry Reid of Nevada, the Democratic leader, said Tuesday that he would consider the offer but was interested in equal representation and subpoena power and was also worried about Congress investigating itself.

"Congress is not blameless," Mr. Reid said.

While the wrangling continued over the independent panel, the Senate Homeland Security and Governmental Affairs Committee was scheduled to meet Wednesday to hear disaster-response experts.

Senator Susan Collins, Republican of Maine and chairman of the security committee, said the first hearing would focus on how response to hurricanes could be improved, to be followed by "an in-depth, extensive review" of the government performance surrounding the hurricane.

"We would be remiss if we did not have an aggressive, vigorous Congressional review," Ms. Collins said, saying she expected that Democrats and Republicans would resolve their differences over the investigation.

Disaster Veterans Will Give Advice To Senators Today (USAT)

By Andrea Stone

USA Today, September 14, 2005

Veterans of floods, earthquakes and tsunamis will offer advice today to a Senate committee looking into how to help victims of Hurricane Katrina in the first of an expected multitude of congressional inquiries into the disaster.

“We're going to hear from experts so we can assess what steps we should be taking right now to assist,” said Sen. Susan Collins, R-Maine, chairwoman of the Senate Homeland Security and Governmental Affairs Committee.

Pete Wilson, who dealt with 22 natural disasters when he was governor of California, and Marc Morial, a former mayor of New Orleans who now heads the National Urban League, will testify. So will Patricia Owens, the former mayor of Grand Forks, N.D., who successfully evacuated 50,000 people when the Red River flooded in 1997.

The House Government Reform Committee will hold a hearing Thursday to look at other cities' emergency plans to make sure they're prepared for the worst and to learn lessons that can be applied to Katrina recovery.

— Andrea Stone

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Victims getting housing, medical help in Alabama

State health and welfare officials in Alabama say they are preparing to meet the long-term Medicaid and housing needs stemming from Hurricane Katrina.

The Federal Emergency Management Agency said more than 41,000 Alabamians registered for some type of assistance after their homes were damaged or destroyed, and up to 5,000 people from Mississippi and Louisiana have come to Alabama.

State Medicaid Commissioner Carol Herrmann said a temporary eligibility has been set up for hurricane evacuees, who will receive benefits for up to four months. Technically, Mississippi and Louisiana would be responsible for their residents' Medicaid costs in Alabama. But Herrmann said it's unlikely she would bill the states. She said she will ask federal officials to reimburse some of the costs.

Jacqueline Buck, head of the Central Alabama American Red Cross, said the agency is giving $760 to $1,100 to families, depending on the size. Her district has given out about $3.5 million in assistance and sees 300 to 400 families daily.

Oil production better, but problems persist in Gulf

Oil production in the Gulf of Mexico is increasing, but 56.5% of the normal daily flow remains off line because of offshore platform evacuations, a federal agency reported. After a survey of 54 production companies, the Minerals Management Service said that 87 platforms remained evacuated, down from 105 on Monday. But oil production has increased only a bit since 57.4% had been shut off Monday, the MMS said. Normally, the Gulf of Mexico produces about 1.5 million barrels of oil per day.

Since Katrina first threatened the Gulf on Aug. 26, the production of 19.7 million barrels of oil and 95.5 billion cubic feet of gas have been delayed, the MMS said.

Dallas shutting down one of its two major shelters

The city of Dallas will close its shelter at the convention center over the next couple of days and move everyone who has not found a place to live to Reunion Arena, Red Cross spokesman Paul Studebaker said. He said many evacuees were beginning to run errands, often by taking buses around the city, and were setting out in search of areas they would like to live.

Railroad freight service restored to New Orleans

Norfolk Southern railroad said it has repaired its Lake Pontchartrain Bridge and restored rail freight service into New Orleans. The railroad said reopening the bridge makes it possible to transport supplies and materials in and out of the city to aid recovery operations.

The storm washed nearly 5 miles of track from the top of the 5.8-mile-long rail bridge and into the lake. It took nine cranes on barges to lift the track out of the water and back onto the bridge, Norfolk Southern said.

Nine miles of track running through New Orleans required major repairs from washouts and other water-related problems, Norfolk Southern said.

Temporary jail loses ‘Camp Greyhound' moniker

Greyhound Lines asked Louisiana's prisons department to stop referring to a temporary New Orleans jail as “Camp Greyhound.”

The Greyhound bus station in New Orleans was converted into a makeshift jail by police trying to restore law and order in the days after Hurricane Katrina hit.

“Greyhound called us on Friday and asked us not to refer to it as Camp Greyhound anymore,” said Pam Laborde, communications director of Louisiana's department of corrections.

Laborde said the jail would now be known as Angola South. Those in the temporary jail include criminals that took part in the crime spree after the hurricane and some prisoners from the state's maximum-security Angola prison.

As Congress Reviews What Went Wrong, It Finds Itself In Disarray (LAT)

By Janet Hook

The Los Angeles Times, September 14, 2005

WASHINGTON — When a Senate committee opens hearings today on what the government did wrong in response to Hurricane Katrina, there will be a conspicuous absence at the witness table: No one who actually handled the disaster will be there.

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Hesitant to interfere with relief operations in the storm-ravaged South, lawmakers in Washington will be left to grill veterans of past disasters. That is emblematic of how hard it is for Congress to grapple with the calamity that has washed away much of the rest of its legislative agenda.

The hurricane is testing Congress' ability to do something that the lumbering institution is ill-equipped to do: move quickly and decisively on a huge, bipartisan project.

In their early response, members of Congress instead have been doing what seems to come more naturally: spending lots of money, hurling partisan insults and holding hearings — even if the most pertinent witnesses cannot attend.

Senate Budget Committee Chairman Judd Gregg (R-N.H.) has decried the lack of focus in Congress' response so far and called on GOP leaders and the White House to do more to set priorities among the ideas, bills and hearings flowing through the Capitol.

"I have been extremely concerned about this because I think we are going to wake up six months from now or three months from now and realize that a haphazard approach has not been effective either in resolving the problems in the Gulf Coast or in managing the taxpayers' money effectively," Gregg said Monday on the Senate floor.

Sharing those concerns, Sen. Pete V. Domenici (R-N.M.) has prepared a letter to President Bush urging him to put a coordinator in charge of overseeing spending on the recovery effort. "Who's going to manage and help Congress decide what to fund?" he asked in an interview. "Conventional approaches are going to cause total chaos. If we leave it up to committees, if we leave it up to individual claimants telling us what they need, we're in for a real mess."

Republican leaders have tried to coordinate plans for investigating what went wrong in the hurricane response by proposing a joint House-Senate committee. But even that has not gotten off the ground, because Democrats have objected that it would be stacked in favor of Republicans and prone to cover up rather than investigate the Bush administration's mistakes.

Senior GOP aides and administration staffers began meeting last week to plan longer-term policy for rebuilding the damaged region. But that has not stopped lawmakers from offering their own ideas in the meantime.

"It's hard to be patient when you are flat on your back," said Sen. Trent Lott (R-Miss.). "But we've also got to make sure our leadership pulls us together to coordinate our efforts."

The situation underscores how thoroughly the Katrina aftermath has challenged and changed Congress' rhythms. Republicans who run Congress, not usually inclined to draft grand government designs, are being asked to consider new aid to thousands of displaced people. Two political parties so polarized that they can hardly agree on the time of day are being asked to come together to rebuild a city.

The short- and long-term policy questions that now dominate are a far cry from Congress' more routine ideological issues, such as abortion and Social Security, where lawmakers tend to hew to party lines.

"They are not used to serious oversight or real deliberation," said Thomas Mann, an expert on Congress at the Brookings Institution. "It's all, 'Are you with the president or against him?' "

For members of Congress representing the devastated area, the debate is immediate and personal. Lott waxed literary when he spoke Tuesday about the cleanup of his home state. "These are times that try men's souls," he said on the Senate floor.

Sen. David Vitter (R-La.) also bore witness, bitterly denouncing the Federal Emergency Management Agency — as well as the bickering and partisanship he hears in Congress' debate over the hurricane's fallout. "I saw horrific scenes in the days after the storm. I smelled sweltering stench. But what I sometimes hear coming out of Washington was far more sickening."

At the same time, House members and senators from the region are being treated to acts of kindness on Capitol Hill. Dozens of senators directed their staffs to help Sen. Mary L. Landrieu (D-La.), whose office installed six extra phone lines to handle the deluge of calls seeking help. Other Senate offices sent meals to her staff, which was working around the clock. Sen. Edward M. Kennedy (D-Mass.) personally delivered lobster rolls; Sen. Ted Stevens (R-Alaska) sent salmon.

Delegations from the gulf region will be asking soon for far more from their colleagues. In a bipartisan House-Senate enterprise, lawmakers from the area are compiling a wish list of what aid their states need.

At least nine committees and subcommittees have planned hearings this week on Katrina-related subjects, including the effectiveness of hurricane forecasting, housing programs for hurricane victims and the role of private charities. The broadest inquiries into the government response are being held today by the Senate Homeland Security and Governmental Affairs

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Committee and Thursday by the companion House panel. But those committees' chairmen said they would not call any of the frontline officials of FEMA or state and local agencies to testify, at least for now, because that would detract from relief efforts.

Instead, the Senate panel will hear from officials with experience handling major disasters, including former California Gov. Pete Wilson, who was in office during the 1994 Northridge earthquake. Lawmakers will ask for advice about what initial aid the government should provide in the wake of the hurricane.

A bipartisan delegation of about 20 senators will be touring the region at the end of this week. In the House, however, Speaker J. Dennis Hastert (R-Ill.) has been discouraging lawmakers from taking trips for fear they will get in the way of rescue efforts.

Lawmakers are also finding ways to recast their own legislative priorities in terms of hurricane response. Republicans say, for example, that the damage caused to the nation's energy supply strengthens their argument for opening more of Alaska's wilderness to oil and gas exploration. House Majority Leader Tom DeLay (R-Texas), a longtime foe of trial lawyers, is pushing a bill that would limit lawsuits against people who volunteer to help hurricane victims.

The intensity of Congress' focus on hurricane relief was plain as the Senate tried Tuesday to finish work on a routine appropriations bill. It was slowed by a flurry of amendments to provide additional funding for the battered region, including a $1-billion plan to aid law enforcement agencies through a program that Republicans want to abolish.

That proposal did not pass. Republican leaders urged restraint until a broader package could be developed, a view supported even by lawmakers whose constituents stood to benefit.

"We need to approach hurricane funding needs in a coordinated manner, not in an ad hoc" way, said Sen. Richard Shelby (R-Ala.).

Parties Remain Split On Panel (RC)

By Mark Preston

Roll Call, September 14, 2005

Congressional Republicans vowed Tuesday to move forward with their plan to form a bicameral committee to examine the response to Hurricane Katrina, even as Democrats were making it clear that launching such a joint investigation would be impossible without their blessing.

Senate Minority Leader Harry Reid (D-Nev.) noted in an interview that such a committee can be created only by legislation and GOP leaders would need his party's support for it to be approved in the Senate.

Reid and House Minority Leader Nancy Pelosi (D-Calif.) continued their call for an independent commission to investigate the matter. But the two Democratic leaders added that if Republicans insist on forming a bicameral committee, there needs to be equal representation between the two parties on the committee and that Democrats should have the authority to issue subpoenas. GOP leaders first proposed creating the panel last week.

But Republicans said they planned to follow historical precedent, which dictates the ruling party maintain a majority and full control on such panels.

Further complicating matters is Democrats admitted unease with entrusting House Republican leaders with the responsibility for leading a comprehensive investigation of the Bush administration on this matter, yet another sign of the bitter relations that exist between the two political parties.

"We are going to do the oversight hearing, that is our responsibility," said Senate Republican Conference Chairman Rick Santorum (Pa.), who chastised "some" Democrats for "trying to exploit everything for a political advantage."

House Majority Leader Tom DeLay (R-Texas) was equally harsh in characterizing Congressional Democrats' alleged motivations and said he hoped rank-and-file Democrats would "reject the blind partisanship of their leaders."

"They have decided not to participate [in the joint committee] for partisan political reasons," he said at his weekly meeting with members of the media. DeLay echoed Santorum's suggestion that the GOP was moving forward with the plan, even if the Democrats chose not to participate.

Reid said he would not yield on the issue of giving Republicans the sole power to issue subpoenas.

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"Why don't we just have the [House and Senate] Homeland Security committees hold joint hearings?" Reid said. "Other than that, the only thing I will agree to is an equal number of Democrats and Republicans [serving on the committee] and they both having the power of subpoena."

While not using the word filibuster, Reid did allude to the minority party's power in the Senate to block legislation when told of Republicans' plans to move forward with the bicameral committee.

"They can't do that," he said flatly. "It takes legislation. We still have a democracy around here. The American public is not going to accept this."

But Sen. Trent Lott (R-Miss.) suggested that Democrats should fully consider the consequences before outright refusing to participate in the panel.

"I think if an effort is made to accommodate them and they still continue to refuse to participate, I think that could backfire on them," Lott said.

In place of the bicameral committee, Democrats are advocating for the creation of an independent commission — similar to the 9/ll commission — to investigate the poor emergency response of local, state and federal officials to Hurricane Katrina.

"If we don't get an outside commission to do this, I think the American public will believe it was flawed," said Sen. Ben Nelson (D-Neb.). "They will see on television, in the hearings, cheerleading and attack-dogging. The American people, at the end of the day, want to know what went wrong and what went right. I don't think in this partisan environment you can get that done."

Senate Majority Leader Bill Frist (R-Tenn.) was expected to present Reid with a new proposal on the makeup of the bicameral committee Tuesday night, sources said. It is not clear what Frist was offering, but sources said it would not be a 50-50 split on the panel. And Hastert told reporters Tuesday afternoon, he planned to speak again with Pelosi about the issue.

There is hope among at least some key Republicans and Democrats that the issue will eventually be resolved.

"I am confident in the end we are going to be able to reach an agreement that would allow the joint committee to go forth," said Sen. Susan Collins (R-Maine), the chairwoman of the Homeland Security and Governmental Affairs Committee. Sen. Joe Lieberman (D-Conn.), too, said he "had confidence that Sen. Frist and Sen. Reid are going to work out the bipartisan investigation."

House Republicans could name their co-chairman for the bicameral committee as early as this week, setting in motion the task of selecting Members to serve on the panel. Senate Republicans have already chosen Collins to serve as their senior representative on the bicameral committee.

Panel Vote Will Test Loyalty (HILL)

By Josephine Hearn

The Hill, September 14, 2005

The House is moving closer to a vote on a GOP plan that would create a joint committee to investigate the government's response to Hurricane Katrina, presenting Republicans with a potentially difficult vote to support a plan Democrats have derided as a political sham.

The vote is shaping up to be an intense test of party loyalty.

Democrats have called instead for an independent commission to examine government failures in the aftermath of Katrina.

House Majority Leader Tom DeLay (R-Texas) said yesterday that Democrats' refusal to participate in the joint committee did not worry him.

"No one is rejecting Democrats," DeLay said. "We will go forward. I think they will be incredibly embarrassed if they don't participate because you will find that the committee will be an objective committee, doing its responsibility and really looking at everything."

The floor vote could come as early as tomorrow. The debate on the measure is expected to be fierce, continuing the partisan fireworks that have intensified in the wake of Katrina.

Democrats, meanwhile, were confident that their members would vote against the joint committee. A spokeswoman for House Democratic Whip Steny Hoyer (Md.) said that Democrats would not need to whip the vote to ensure unity in the caucus.

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"There is already unified opposition to the committee as proposed by Republicans and support for an independent commission similar to the 9-11 commission," the spokeswoman said.

In the upper chamber, Sen. David Vitter (R-La.), who represents a state heavily damaged by the hurricane, appeared to criticize both the Democrats' refusal to take part in the joint committee and the Republicans' decision not to back an independent commission.

"I saw horrific scenes in the days after the storm. I smelled sweltering stench," Vitter recalled in a floor speech. "But what I sometimes heard coming out of Washington was more sickening: ridiculous arguments tying the suffering to the war in Iraq and the … deficit, talk of boycotting bipartisan hearings and stonewalling independent commissions."

Both Vitter and Sen. Mary Landrieu (D-La.) have called for an end to the partisan infighting that rapidly spread across the Hill regarding how to investigate the lapses in the federal, state and local responses to the storm.

Vitter yesterday called for an independent commission to oversee the tens of billions of dollars Congress has approved for the reconstruction effort along the Gulf Coast following Katrina.

"The very same agencies that failed us will lead to more failure. We need a Katrina reconstruction commission headed by a no-nonsense, nonpolitical businessman manager so that we will all have something lasting to show for this enormous spending," he said.

On the House side, the parties continued to trade barbs over the planned joint committee.

DeLay said in his weekly briefing with reporters that Senate Majority Leader Bill Frist (R-Tenn.), House Speaker Dennis Hastert (R-Ill.) and their respective staffs initially reached out to congressional Democrats when they were formulating plans for the joint committee.

House Minority Leader Nancy Pelosi (D-Calif.) characterized the contact differently, saying Monday that her office had been informed several hours before Republicans publicly announced it but that House Democrats had not been consulted.

The Senate has no immediate plans to vote on the joint committee. Although few details of the panel's proposed structure have been released, it is expected to include the chairmen and vice chairmen of several standing committees in Congress. Sen. Susan Collins (R-Maine) has been named as the Senate co-chair. No corresponding House co-chair has yet been named. As with other congressional committees, it would be controlled by Republicans.

As Republicans pressed forward with the joint committee, Democrats were readying a relief package for the immediate needs of the Gulf Coast residents, including proposals aimed at providing food, housing and income. They expect to unveil the package today or tomorrow.

Many of the elements of the package will be familiar legislative initiatives backed by Democrats. It is also likely to include actions that can be taken independently by the administration.

Democratic strategists spoke approvingly of Democrats' handling of the fallout from the administration's poor response to the disaster, although they said it was too soon to say whether the situation would benefit Democrats in the long term.

"The real test is whether or not in 10 months the public is really willing to make a judgment on who's in control" on the response to Katrina, Democratic consultant Matt Angle said.

Pelosi was the first to call for Congress to return early from the August recess to authorize money for Katrina relief, which it eventually did. She demanded that former Federal Emergency Management Agency Director Michael Brown be fired; he resigned Monday after having been removed from Katrina relief efforts. She and other Democrats have forcefully called for greater oversight of the disaster-relief funds.

A spokesman for House Speaker Dennis Hastert (R-Ill.) could not be reached for comment.

9/11 Panel Says U.S. Hasn't Enacted Crucial Reforms (WP)

By Dan Eggen

The Washington Post, September 14, 2005

Four years after the Sept. 11, 2001, attacks, the federal government has failed to enact crucial homeland security reforms that could have saved lives and improved the sluggish response to Hurricane Katrina, according to a report to be issued today by former members of the Sept. 11 commission.

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Local emergency officials are still unable to reliably communicate with one another during disasters, the federal government has no clear system of command and control for responding to a crisis, and authorities have faltered in enacting basic border controls designed to keep out terrorists, according to the report's findings, which commission members outlined in interviews.

A separate commission report released yesterday provided chilling details about the Federal Aviation Administration's assessment as early as 1998 that al Qaeda might try to fly a jet into a U.S. landmark.

"In 1998 and 1999, the FAA intelligence unit produced reports about the hijacking threat posed by [Osama] Bin Ladin and al Qaeda, including the possibility that the terrorist group might try to hijack a commercial jet and slam it into a U.S. landmark," according to the report, which was a new version of a more heavily edited document released earlier this year.

But, the report added, the FAA viewed the possibility as "unlikely" and a "last resort."

Thomas H. Kean (R), the former New Jersey governor who headed the panel that investigated the terrorist attacks, said the bungled response to Katrina laid bare how unprepared the nation remains for a catastrophic event, whether it is another terrorist strike or a natural disaster.

"This is not a terrorist incident, but it brings into play all of the same issues and shortcomings," Kean said. "What makes you mad is that it's the same things we saw on 9/11. Whoever is responsible for acting in these places hasn't acted. Are they going to do it now? What else has to happen for people to act?"

Lawmakers and the Bush administration are in the midst of a partisan debate over whether an independent panel akin to the Sept. 11 commission should be formed to study missteps that left tens of thousands in New Orleans and along the Gulf Coast stranded without assistance after Katrina. More than 640 deaths have been confirmed from the Aug. 29 storm and its aftermath.

Congressional Republicans have proposed a special committee to investigate the Katrina response, but many Democrats support the idea of an independent commission. The Bush administration, which also resisted formation of the Sept. 11 panel, has signaled that it does not support a separate Katrina commission.

The Sept. 11 commission is technically disbanded and is now operating as the nonprofit 9/11 Public Discourse Project. It has held a series of hearings in recent months to examine the government's progress in enacting recommended reforms.

Congress and the Bush administration have embraced many of the major changes recommended by the Sept. 11 panel in its best-selling 2004 report, such as creation of an intelligence director to coordinate anti-terrorism and anti-espionage efforts.

But Kean and other commission officials fault Congress and the administration for proceeding too slowly on some changes and ignoring others altogether, including a recommendation that Congress restructure the way it handles oversight of homeland security issues. Today's findings will be the first of three reports to be issued in coming months, followed by an overall "report card" that will rank the government's progress at the end of the year.

Kean and other commission officials said the most serious oversights are those that might have helped in the response to Hurricane Katrina.

The commission's report will note that lawmakers, facing opposition from the broadcast industry, have not established a unified emergency communications system by dedicating a portion of the broadcast spectrum to medical and disaster responders.

As on Sept. 11, when malfunctioning radios contributed to deaths in the World Trade Center, public safety officials in New Orleans have reported widespread communications problems.

"The fact that Congress has chosen not to do something about this is a national scandal that has cost lives," Kean said.

Other shortcomings that will be highlighted by today's report include delays by the Department of Homeland Security in ranking potential transportation and infrastructure vulnerabilities, continuing confusion over the line of command to be followed in national emergencies, and sluggish efforts to track visitors entering and leaving the United States.

The panel's follow-up investigation also has found that only a few of the nation's 441 commercial airports have deployed equipment to check passengers for explosives, despite the continued threat of attack by suicide bombers.

"The White House and the Congress took off with the baton . . . but they haven't finished running the race," said commission member Timothy J. Roemer, a former Democratic congressman from Indiana. "The fundamental job of the government is to protect and defend its citizens, and at this point the United States is still very vulnerable."

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Some Steps Congress Can Take To Prevent Another Katrina (RC)

By Norman Ornstein

Roll Call, September 14, 2005

Last week, I took Congress to task for its four-year-long failure to deal with lapses in the communications system that became evident on Sept. 11, 2001, as well as for Congress' failure to provide any effective oversight in homeland security and disaster response, especially its failure to provide adequate scrutiny at the time the Department of Homeland Security was created. In this column, I want to provide some suggestions for what to do now.

But before I get there, I have to address another area of embarrassing failure on the part of Congress (once again): the continuity issue.

For years after 9/11, Congress dithered on the question of how to make sure the legislative branch could be quickly reconstituted after a devastating attack. It finally responded with a bill to mandate quick elections if 100 House Members were killed. Before the August recess, the House bludgeoned the Senate into accepting its accelerated elections bill, without a hearing or any feedback or scrutiny, by attaching this substantive piece of legislation — one imposing an unfunded mandate on states and localities with no federal spending involved — to an appropriations bill.

Procedurally, this was offensive. Substantively, the bill is woefully inadequate. To illustrate, let us use the Hurricane Katrina situation as a template.

Imagine that what happened in Louisiana and Mississippi had happened more widely — say, a series of terrorist attacks causing mass havoc in 10 states, not two or three, with all or most of their lawmakers killed in one of the attacks on the Capitol. What would happen under this law? Louisiana and Mississippi would have had to have chosen the candidates for all their seats days ago — even as rescue operations continued, with all officials mobilized every minute of every day to provide basic services, and with the states coping with hundreds of thousands of evacuees.

Election officials would have then had basically until the end of this month to get all the polling places ready to go, print ballots or prepare their electronic machines (all assuming there is electricity to run them) and the candidates would have to have begun to run their campaigns. Oh, one other "technicality": voters would have to be home to cast their ballots. Or found, very quickly, to cast absentee ballots (which would have to be printed in the days after the candidates were selected. Maybe at the local Kinko's — oops, it's under water). And voter registration records, in some cases also under water, would have to be uncovered to make sure that the voters were voting in the right districts — including voters without any ID.

This is the core of Congress' response to the terrorist threat to governing institutions, and it is farcical.

Now on to a road map for dealing with some of the broader problems. First, communications. It should be an urgent priority for Congress to carve out an adequate spectrum for public safety and first responders. In other words, no more dithering, no more puppets on the string of broadcasters. It does not take a lot of spectrum space to make this happen — a mere 24 Mhz out of the 700 Mhz band now used by broadcasters for their analog signals, which should be coming to a swift conclusion anyhow. We need a date certain, and a rapidly expedited date.

In the meantime, Congress should provide backing for the Federal Communications Commission's desire to free up some of the unused spectrum that now provides "white space" between broadcast channels — space which, given new technology, can be used without interference and can supplement the airwaves now used by emergency responders. This white space also can provide unlicensed opportunities for low power local transmissions to enable citizens and emergency responders to communicate after a catastrophe and to get up and running quickly if their equipment takes a hit. The commercial broadcasters have tried to beat the drums against this use, but virtually every major independent expert, including those at the FCC, has challenged them. This set of issues should no longer be in the usual realm of power politics, where the National Association of Broadcasters has long reigned supreme, but rather in the realm of urgent public priority.

In addition, Congress also needs to step in to mandate that all first responders have interoperable radio equipment, and equipment that can be easily replaced and recharged.

Two other issues need to be addressed. One is the structure of Congress itself as it deals with homeland security and the response to attacks or catastrophes.

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Congress did implement many of the recommendations of the 9/11 commission. But one area where it fell short, to no big surprise, was its own capacity. The House changed its homeland security panel into a permanent standing committee, but did not give it adequate jurisdiction. Not much can or will be done about this problem immediately. But as Speaker Dennis Hastert (R-Ill.) and the majority Republican leadership move now to name a chairman for the committee to replace the excellent Rep. Christopher Cox (R-Calif.), it should put a premium on choosing a strong chairman who will not hesitate to take on other chairmen in turf battles, and most importantly will see oversight of the DHS as a noble and critical function. There are several good choices, but one to keep in mind is Rep. Dan Lungren (R-Calif.), a strong conservative who understands the need for an independent Congress and Congressional role.

As for the Senate, it is ridiculous not to give its homeland security committee jurisdiction over the Coast Guard, which Katrina is showing to be a critical piece of the homeland security puzzle.

The other issue is the distribution of homeland security funds to states and localities. There is not enough money available for first responders — period. But the money that is available is misallocated, with the usual desire to give every district a piece of the pie reigning supreme.

There are some commendable formulas being debated out there. But in the end, if Congress is left to its own devices, and if the small states that dominate the Senate and its homeland security panel exert themselves, we will fritter away a lot of money and leave the most vulnerable areas inadequately protected. That includes areas most vulnerable to natural disasters as well as terrorist attacks.

I think it is time to consider the Base Realignment and Closure Commission model for this important need. We all owe former Rep. Dick Armey (R-Texas) a vote of thanks for establishing the framework for dealing with base closings. It is imperfect, to be sure, but Armey found a good way to get bases closed while retaining a real role for Congress and protecting it against its worst parochial instincts. A parallel approach could work for allocating first-responder funds, hopefully channeling the money more efficiently to where it is most needed.

Of course, that alone is not enough. States and localities also waste a lot of the money they get, sending it within states to all counties when some are far more vulnerable than others, and using some of the money for comparatively frivolous items. Congress should tie the grant of these monies to states with state plans that use models similar to BRAC to allocate their funds fairly, judiciously and efficiently.

Norman Ornstein is a resident scholar at the American Enterprise Institute.

400 N.Y. Court Volunteers Set To Aid Hurricane Victims (LAW)

By Thomas Adcock, New York Law Journal

Law.com, September 14, 2005

New York's Unified Court System has organized a stand-by contingent of up to 400 volunteer court officials to help the devastated legal communities of Louisiana and Mississippi, the two states hardest hit last month by Hurricane Katrina.

In light of the Sept. 11, 2001, terrorist attacks, Chief Judge Judith S. Kaye said Monday, "We have very special expertise, sad to say. We know what it's like to have courtrooms brought to a standstill. We lived it -- those unforgettable days and weeks when we had to figure out so many things for the first time."

The volunteers, most veterans of 9/11, are set to offer emergency help in such areas as court security, records recovery, voice and data communications, computer networks and the creation of temporary court sites.

"I'm amazed. Everybody wants to do something," Kaye said Monday in a phone interview from Albany. "The e-mails just keep coming to me."

The New York volunteers -- as well as commitments of equipment and money through a specially created relief fund -- have been registered with the State Emergency Management Office in Albany. Registration enables disaster-impacted states to quickly request specific assistance from other states, in accordance with the Interstate Emergency Management Assistance Compact, a federal program begun in 1996 when then-Florida Governor Lawton Chiles was unhappy with government response to Hurricane Andrew.

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Ronald Younkins, chief of operations for the Office of Court Administration, said that Gulf Coast court officials are currently assessing damage to their facilities and conducting a census of their scattered personnel.

"As soon as they're ready to have us, we'll deploy people and materials," he said. "Right now, we have team leaders in place just waiting to hear the word."

In addition to volunteers, the following New York assets were registered as available to the courts of Louisiana and Mississippi:

• 50 law enforcement personnel to help with courthouse and courtroom security and handling prisoners.

• 100 personal computers.

• Assorted technical equipment, including 10 magnetometers, 20 hand-scanners, 10 rechargeable search lanterns, 72 heavy-duty flashlights and 1,500 light sticks.

Kaye said sending the personnel and resources to the Gulf Coast will not have any negative repercussions at home.

"We may not have a large cadre of people actually go down, so I don't think it's going to be a drain on us or negatively impact our resources," she said. "At the first level, what I hope is that it's going to be a solace to people there that we have so many eager to help."

When Katrina struck the Gulf Coast on Aug. 29, Kaye called on three top deputies -- Younkins from OCA; Lawrence K. Marks, OCA's administrative director; and Chief Administrative Judge Jonathan Lippman -- to begin assessing which people and what assets could be available for dispatch to the region.

In addition, the trio informed their Southern counterparts of cash grants available through the "UCS Katrina Courts and Families Recovery Fund," modeled on a fund created after 9/11 that raised about $350,000 to aid New York court personnel and their families. (Contributions to the UCS Katrina Fund may be sent to OCA at 25 Beaver Street, 11th floor, New York, N.Y., 10004.)

On Friday, Kaye was advised that the legal systems of Louisiana and Mississippi were in shambles. In an internal report, Lippman wrote of those states: "Countless judges and court employees and their families have been dislocated from their homes. ... [S]ome court personnel are reported missing, and many courthouses have been destroyed, damaged or flooded."

While Alabama officials said courts there had "escaped relatively unscathed," according to Lippman's report, the destruction elsewhere along the Gulf Coast is incalculable.

"[T]he Mississippi court system was not prepared for the severity of the hurricane and has been brought to its knees," Lippman wrote. "Communications have been virtually nonexistent. As a result, they are unaware at this time whether any court personnel are among the dead and missing."

In Louisiana, court officials in the capital of Baton Rouge are "still very much in the dark as to the condition of the courthouses located in the affected regions," Lippman wrote, "since they have been unable to gain access ... to assess the damage, including, for example, to the Supreme Court, which is located in downtown New Orleans."

Lippman said Louisiana officials do not yet know the number of displaced or deceased court employees, but that they do know that 10 of the 12 judges who sit on the 5th U.S. Circuit Court of Appeals are without homes.

Since recovery of legal systems in Louisiana and Mississippi hinge on retrieving or recreating vital documents, the New York court official most likely to head south is Rick Hogan, OCA's chief records manager.

"We've done this kind of work before," he said, referring to 9/11, "but nothing on this scale."

Last Tuesday, Hogan began researching court rules and regulations in Louisiana and Mississippi with respect to record-keeping in order to prepare for the massive restoration task.

"Louisiana actually has a pretty robust system of records preservation," he said, citing procedures for backing up paper records via microfilm and digital archives. "You don't necessarily find that in every state, and it will help in our efforts if we're called."

As for paper records still underwater, he added, "If they're not mush, to some degree they're in a better situation than 9/11 when things were blown up."

Hogan said water-damaged paper would first be preserved by freezing, then put through any of several chemical processes to restore ink images.

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"It's actually pretty fascinating," said Younkins, who expects to travel south with two to three assistants and a supply of latex gloves, masks and tweezers for peeling apart stuck pages. "Talk about hands on. We really are."

Louisiana Governor Blasts FEMA Over Recovery Of Bodies (KRT)

By Thomas Fitzgerald And Joyce Tsai

Knight Ridder, September 14, 2005

BATON ROUGE, La. - Blasting federal officials for a "lack of urgency and lack of respect," Louisiana Gov. Kathleen Babineaux Blanco said Tuesday that the state would seize control of the task of recovering the bodies of Hurricane Katrina victims.

"In death, as in life, our people deserve more respect than they have received," Blanco told reporters before convening a cabinet meeting.

She accused the Federal Emergency Management Agency of causing delays because the agency had failed to sign a contract with the firm hired to collect corpses and was not providing enough support for the firm's crews.

FEMA spokesman David Passey responded that body recovery has always been the state's job, and federal authorities were in charge of body identification. "I can't explain the disconnect," he said.

The latest round of finger-pointing came over a particularly sensitive issue, as floodwaters continued to recede in New Orleans, opening access to some of the areas hardest-hit by the storm.

As recently as Monday afternoon, in the Lower 9th Ward of New Orleans, a woman's corpse was hung up on a cyclone fence, her arms outstretched as if she had been caught running from something. Another body lay face down in the muck in a yard a couple of blocks away.

Blanco said she signed a state contract with Kenyon International Services, an expert body-recovery firm, after it threatened to pull out of the state because it did not have a formal contract with FEMA.

Kenyon crews have been on the ground since last week, when FEMA brought the firm in under a verbal agreement to assist in recovery efforts, Passey said. The agency, he added, offered the company a contract.

"Kenyon chose for their own reasons not to sign a contract," Passey said. He said the federal government's disaster-mortuary teams specialize in identifying bodies through fingerprinting, photography, personal effects, digital dental X-rays and DNA.

Kenyon officials did not return phone calls seeking comment.

Kenyon technicians come in after search-and-rescue teams and military personnel identify locations of bodies. Kenyon workers then transport the bodies to FEMA's mortuary teams in the town of St. Gabriel, where the agency has established a makeshift morgue.

Further complicating the body recovery, Passey said, is the desire of some parishes to recover bodies in their own jurisdictions.

"That's their prerogative," he said. "We're here to support the state and the local government."

New Orleans Mayor Ray Nagin said that door-to-door searches for bodies should be complete by the end of the week.

Pace Of Corpse Recovery Draws Rebuke (LAT)

By Josh Meyer And Solomon Moore

The Los Angeles Times, September 14, 2005

BATON ROUGE, La. — As Hurricane Katrina's victims continued to decompose on streets and inside homes, Louisiana's governor lashed out Tuesday at the Federal Emergency Management Agency, saying its failure to recover the dead has forced the state to hire its own contractors to do the job.

"In death as in life, our people deserve more respect than they have received," Gov. Kathleen Babineaux Blanco said at a news conference here, flanked by state elected officials.

"No one, even those at the highest level, seems to be able to break through the bureaucracy to get this important mission done," Blanco said. "I am angry and outraged."

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Representatives of Kenyon International Emergency Services Inc. of Houston confirmed that they were entering into a long-term contract to provide the state with 100 to 200 contract workers who specialize in recovering bodies from disaster zones. They said the firm rejected a similar request for a contract from FEMA, citing the federal agency's failure to provide adequate support for its operations and other shortcomings.

State and federal officials also said Tuesday that they now believed that a significant number of homicide victims were among the dead, including those killed in post-hurricane violence or in alleged acts of criminal negligence, such as the case of the nursing home owners charged with leaving dozens of elderly patients in Katrina's path.

That will complicate the body recovery effort because local authorities would need to be brought in to gather evidence for possible arrests and prosecutions, the officials said.

But because so many bodies have been left unclaimed and lying out in Louisiana's heat, humidity and fetid waters, it will be virtually impossible to determine how some died, whether they were killed or by whom, said Blanco spokeswoman Denise Bottcher.

"We'll probably never know," she said.

Until now, Blanco, a Democrat, has shied away from criticizing Washington's response to the hurricane since it hit shore more than two weeks ago. The governor said she decided to go public with her criticism after promises from Washington failed to come through, including a pledge from Michael Chertoff, the secretary of Homeland Security, "that plans would be put in place for a system of 'recovery with respect.' "

Blanco accused FEMA and the Department of Homeland Security of botching the recovery effort by hiring Kenyon and then failing to provide it with the resources needed to do the job.

"Yesterday, Kenyon officials told me that if things don't change, they would leave as soon as they could professionally pull out," Blanco said. "While recovery of bodies is a FEMA responsibility, I cannot stand by while this vital operation is not being handled appropriately."

Teams of Kenyon workers have been working alongside FEMA officials since Sept. 7, after playing a similar role after the tsunami in Asia and the Sept. 11, 2001, attacks.

But Kenyon's temporary contract with FEMA was set to expire Tuesday.

Bill Berry, a Kenyon spokesman, was also critical of the FEMA effort but said the company was trying to stay neutral.

Berry said the situation improved in recent days as Louisiana state officials played a greater role in the recovery effort.

And he said Kenyon workers would continue unabated the grisly task of finding the bloated and often unrecognizable corpses.

From there, the bodies are delivered to refrigerated FEMA trucks set up around the region, and then taken to a makeshift morgue near Baton Rouge so FEMA's Disaster Mortuary Operational Response Teams can try to identify them.

Those identified and claimed by next of kin are then sent back to local mortuaries for burial.

FEMA officials said they were stung by Blanco's comments, and that under mutually arranged disaster plans, the state of Louisiana was responsible for initial recovery of bodies with assistance from the disaster teams.

"The collection of bodies is not normally a FEMA responsibility. Last week, that plan was modified at the state's request," said David Passey, a lead FEMA spokesman for the recovery effort.

According to Passey, state officials said that they were too overwhelmed by the scope of the disaster and that they needed FEMA's help in finding the many bodies hidden in the nooks and crannies of still-flooded homes and other locations.

FEMA agreed, and last week it called in Kenyon on an emergency basis while long-term arrangements could be made, Passey said.

In a statement Tuesday evening, Blanco extended an olive branch of sorts to those involved in the federal rescue effort after receiving a phone call from Coast Guard Vice Adm. Thad W. Allen, Washington's newly appointed hurricane recovery czar.

She said Allen called to say the federal government was working hard to quickly recover all bodies and to do so with dignity and respect.

"I deeply appreciate Adm. Allen's sensitivity and understanding and his call to me this afternoon," Blanco said.

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Meanwhile, bodies continued to surface in New Orleans, and the official death toll rose to 423. Many of the corpses that had been out on the streets for a week or more continued to decompose in plain sight.

In one of New Orleans' poorest sections, one man was still facedown in the mud on Reynes Street. Another's foot remained tangled in a tree, his torso over a fence at Flood and Johnson streets. And a woman was still tethered to a tree at Claiborne and Lizardi streets in the Lower 9th Ward days after a Times article Saturday described their condition.

Cotton Howell, the York County, S.C., emergency management director who is helping the body recovery operation, said the New Orleans effort appeared to be plagued by problems.

Howell said that according to federal guidelines, the bodies of the dead should not be left outside in the sun or in warm water because they decompose so quickly that it is much harder and more expensive to identify them. Also, he said, they can create health problems.

"They would certainly be brought" inside, Howell said. "That is the No. 1 thing."

Howell said he knew that "FEMA is down there pouring resources every day."

But he said he was troubled by the fact that so many bodies had been left out.

"Even though it is a body, they are still a person," Howell said. "We get them into a morgue facility so we can take care of preserving their dignity. Away from prying eyes, so they can be afforded some respect in death."

Official Vows Investigation Of No-Bid Relief Contracts (NYT)

By Philip Shenon

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - The inspector general of the Department of Homeland Security said Tuesday that his office had received accusations of fraud and waste in the multibillion-dollar relief programs linked to Hurricane Katrina and would investigate how no-bid contracts were awarded to several large, politically well-connected companies.

The inspector general, Richard L. Skinner, who serves as the department's internal watchdog, said in an interview that he intended to be "extremely aggressive" in monitoring the Federal Emergency Management Agency, which will receive most of the $62 billion in disaster-response financing approved by Congress last week.

FEMA, which is part of Homeland Security, was harshly criticized in recent months as mismanaging millions of dollars in relief funds after a 2004 hurricane in Florida.

Mr. Skinner's remarks came as the secretary of homeland security, Michael Chertoff; Attorney General Alberto R. Gonzales; and Republican Congressional leaders said Tuesday that they also were concerned about the potential for abuse, given the amount of federal money and private charity committed to the hurricane-relief effort.

Their comments appeared to be a response, in part, to charges from Democratic lawmakers that such a large, hurriedly organized federal relief program could produce the sort of contract abuses, cronyism and waste that numerous investigations have identified in the Bush administration's reconstruction programs in postwar Iraq.

"We are very mindful of this," said Mr. Chertoff, a former federal prosecutor who directed the Justice Department's criminal division earlier in the current administration. "We haven't suspended the laws that govern the way in which people have to behave ethically and legally."

Spokesmen at FEMA have been unwilling to provide details of the decision-making process that is being used to award contracts for the hurricane-relief program, nor have they identified the agency officials who are making the procurement decisions. During the Bush administration, the agency's senior management has included several officials without significant experience in disaster relief, including its former director, Michael D. Brown, who resigned on Monday.

Mr. Skinner, a former acting inspector general of FEMA, would not discuss details of the accusations his office had received in recent days involving hurricane relief projects. But he said he was dispatching about 30 investigators and auditors to Louisiana, Mississippi and Alabama next week to "focus on prevention, to prevent things from going wrong" in the way the disaster money is spent.

He said that his investigators would focus on several no-bid contracts awarded over the last two weeks to large, politically influential companies, including the Fluor Corporation of California, a major donor to the Republican Party, and the Shaw Group

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of Baton Rouge, La. Shaw is a client of Joe M. Allbaugh, a consultant who is the former head of FEMA and was President Bush's campaign manager in 2000.

Another of Mr. Allbaugh's clients - Kellogg Brown & Root, a subsidiary of Halliburton, the giant defense contractor once led by Vice President Dick Cheney - is doing major repairs at Navy facilities along the Gulf Coast that were damaged by the hurricane. That work is being done under a $500 million contract with the Defense Department.

Mr. Skinner said he had no reason to believe there was anything wrong with the no-bid contracts, "but we're going to be looking at all of the contracting, the decision-making that was used to determine a sole-source contract."

"We want validation and we want documentation to show that it was rational to go one way or the other" in offering a no-bid contract, he said.

He said his investigators would also closely monitor expenditures on the government-issued credit cards of Department of Homeland Security contracting officials involved in the hurricane relief program. As a result of Hurricane Katrina, Congress last week raised the limit that could be charged on the cards to $250,000 from $25,000, a move that Democratic lawmakers have warned will invite fraud.

Mr. Skinner said his office had acquired computer software that would allow his investigators to monitor the credit card charges on a daily basis and "flag anything that looks peculiar or extraordinary."

He added, "If we see a credit card purchase of $250,000, we would immediately find out whether it was appropriate."

Under the $51.8 billion hurricane relief bill passed by Congress last week, Mr. Skinner's office was provided with $15 million for investigations related to Hurricane Katrina. That money, when added to the office's regular annual budget of about $82 million, would allow his staff to have a "good start" in preventing abuse resulting from the hurricane relief effort, Mr. Skinner said.

"I'm not saying that's all we're going to need, but it's a good start," he said.

U.S. To Monitor Spending Of Katrina Relief Funds (WSJ)

By Robert Block and Yochi J. Dreazen

The Wall Street Journal, September 14, 2005

WASHINGTON -- Amid growing concern in Congress over billions of dollars in federal relief flowing to the Gulf Coast with few controls, the Homeland Security Department will send a team of investigators to the disaster zone to follow the money.

The investigators and auditors from DHS's Office of the Inspector General, the agency's internal watchdog, are part of a growing effort to ensure federal funds are properly distributed in a rescue, relief and rebuilding process. The funds are expected to exceed $100 billion.

DHS Secretary Michael Chertoff said that as the effort to save lives winds down, his department will focus on recovery challenges, including ensuring that the contracting process is conducted properly. "We want to get aid to people who need it quickly, but we also don't want to lose sight of the importance of preserving the integrity of the process and our responsibility as stewards of the public money," he said.

Meanwhile, President Bush spoke out again about the federal response to Hurricane Katrina and its aftermath, and in an unexpected concession told reporters at the White House that as president, he bears responsibility for the breakdown, as well.

"Katrina exposed serious problems in our response capability at all levels of government," Mr. Bush said. "And to the extent the federal government didn't fully do its job right, I take responsibility."

Under fire for the delayed federal relief effort in the Gulf Coast and facing the lowest approval ratings of his presidency, Mr. Bush has scheduled a speech to the nation from Louisiana tomorrow night. It will be his fourth trip to the region since the storm struck two weeks ago.

Appearing with Mr. Chertoff, R. David Paulison, the newly appointed head of the Federal Emergency Management Agency, said he would study what went wrong with the response effort with an eye to fixing the problems. But, he added, his top priority was finishing rescue operations and finding housing for tens of thousands of storm victims.

"We're going to get people out of the shelters, we're going to move on and get them the help they need," he said in his first public comments since taking the job.

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The huge amounts of money at stake in housing and reconstruction contracts are prompting calls for special supervisory efforts. Critics call the spending deluge a disaster-in-waiting if not properly controlled. So far, Congress has approved spending $62 billion in Katrina-related relief efforts. Of $50 billion directed to FEMA, part of Homeland Security, just over $9 billion has so far been spent, FEMA spokeswoman Natalie Rule said.

Many of the normal safeguards to prevent federal contracting fraud have been suspended following Katrina to ensure emergency federal aid gets to victims as soon as possible. Some contracts, including five with emergency housing and construction companies, were awarded hurriedly without undergoing normal competitive bidding processes.

House Foreign Operations Appropriations Chairman Jim Kolbe (R., Ariz.) last night introduced legislation to create a special inspector general charged with monitoring the way the Katrina funds are spent to stave off waste and abuse. The bill has 14 co-sponsors, including 11 Republicans. The new post is designed to replicate the special inspector general for Iraq reconstruction, Stuart Bowen, who is widely credited with sharply reducing the waste and fraud there.

Health Records Of Evacuees Go Online (WP)

By Jonathan Krim

The Washington Post, September 14, 2005

The federal government is making medical information on Hurricane Katrina evacuees available online to doctors, the first time private records from various pharmacies and other health care providers have been compiled into centralized databases.

The data contain records from 150 Zip codes in areas hit by Katrina. Starting yesterday, doctors in eight shelters for evacuees could go to the Internet to search prescription drug records on more than 800,000 people from the storm-racked region.

Officials hope to soon add computerized records from Medicaid in Mississippi and Louisiana, Department of Veterans Affairs health facilities, laboratories and benefits managers.

The records are one step in reconstructing medical files on more than 1 million people disconnected from their regular doctors and drug stores. Officials fear that many medical records in the region, especially those that were not computerized, were lost to the storm and its aftermath.

Although the immediate focus is on urgent care for hurricane victims, participants in the effort say the disaster demonstrates a broader need to computerize individual health records nationwide and make them available throughout the medical system. Such a step could, for example, give emergency room doctors a way to quickly view medical histories for late-night accident victims.

Electronic health records are controversial among many privacy advocates, who fear the data could be exploited by hackers, companies or the government.

Ray Fowler, head of medical relief operations in Dallas, said "it was extremely scary" for doctors to have no records to rely on as thousands of evacuees poured off buses with serious injuries or infections.

Some patients had been on various medications before the hurricane, for conditions such as high blood pressure, but did not know what prescriptions they took, Fowler said.

Currently, roughly 8,000 people are in critical care shelters, while other seriously ill patients are being treated in hospitals outside the Gulf Coast region. But many of the 250,000 evacuees in various shelters also need medical attention.

"We think this could help save some lives," said Dr. David J. Brailer, coordinator of health information technology for the Department of Health and Human Services, who is spearheading the effort.

The system took about 10 days to organize, with daily conference calls involving as many as 60 state and federal officials; emergency medical providers; insurance, pharmacy and medical-software company representatives; and government lawyers.

Participating pharmacies so far include CVS, Rite Aid, Albertsons, Walgreens and Wal-Mart. Expected to be added soon are Winn-Dixie, Kmart and Target.

Brailer said he was concerned throughout the process with privacy issues. Only medical personnel at the various shelters and hospitals treating evacuees will have access to the information.

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Federal regulations do not require patient consent for their records to be shared for medical purposes. Companies or organizations that have such data must have formal agreements with each other before data can be exchanged, but the government said it would not enforce those rules while Katrina victims were in need, as long at the entities had verbal agreements to use the data for the relief effort.

States with more stringent regulations suspended their rules as well.

"We've been extremely cautious," Brailer said. "There were a lot of things we could have done that we didn't do."

Brailer said in his original vision, the database program would end once evacuees are permanently resettled, either back in their home communities or elsewhere.

Others involved in the effort, however, already are discussing ways to enhance the system and create personal health records for those who might need to move frequently over the next several months. As constructed, the databases do not allow doctors to update the records with information on treatment provided in the shelters.

"We're already preparing for a second wave of victims who have been in hotels but the money is running out," Fowler said.

The Bush administration and the pharmaceutical and technology industries have long argued that standardized, individual electronic health records that can be shared and quickly viewed would improve care and cut costs.

Electronic records also would speed the way for patients seeing different specialists, switching doctors or moving frequently in an increasingly mobile society. And they could be used to identify medical inefficiencies in the public-health system, proponents argue.

Even before the hurricane hit, Brailer's office was preparing to award contracts to create a "national architecture" for electronic records that every player in the medical system could use. The government is not mandating such a system nor will it operate it, Brailer said, but it wants to enable the private sector to do so.

On Monday, Health and Human Services Secretary Michael Leavitt named 16 people to a task force to advance the administration's goal of bringing electronic health records to most Americans within 10 years.

None is from a recognized privacy organization, and privacy advocates worry that even beneficial efforts during an emergency can expand beyond the scope of the original crisis.

Sue A. Blevins, founder of the Institute for Health Freedom, a medical-policy think tank, said she supports emergency programs such as the Katrina databases. But she said that "many things are done during a crisis that society normally would not accept."

Blevins opposes national electronic health records for individuals because the Bush Administration eliminated the right of patients to give consent before their health information could be shared under many circumstances.

"When you don't give people the freedom to decide how much information they want to share . . . the only choice they have is to either lie or withhold the information when they want their privacy," she said.

IRS Offers Leave-Donation Plan, Other Steps To Aid Storm Victims (WSJ)

By Tom Herman

The Wall Street Journal, September 14, 2005

The Internal Revenue Service is stepping up efforts to bring relief to Hurricane Katrina victims.

Officials recently disclosed a plan designed to attract more charitable donations to storm victims. The IRS plan encourages employees and employers to participate in so-called leave-based donation programs.

Under such programs, an employee generally gives up unused vacation, sick or personal leave, in exchange for the employer donating the value of that time to charities helping hurricane victims. Tax lawyers say numerous companies are considering offering this leave-donation program soon.

IRS officials say employees don't have to include the value of the donated leave in their taxable income, while employers can claim a tax deduction. The program applies to payments made before the end of 2006 to charities aiding Katrina victims.

"It's likely to lead to millions of dollars of employee donations that might not otherwise have been made," says Mary B. Hevener, a tax lawyer at Baker & McKenzie in Washington.

The IRS announced a similar move late in 2001, after the Sept. 11 terrorist attacks. Officials say they don't have any statistics on how many people signed up to donate time then.

One business that says it's planning to offer such a program is Health Net Inc., a Woodland Hills, Calif., managed-care company. Health Net also is planning to match -- in dollar donations -- whatever employees contribute, a spokesman says. In addition, the company is making direct contributions on its own to charities helping in the recovery effort.

Separately, the IRS extended several key tax deadlines again. For example, shortly after the hurricane struck, the IRS extended the Sept. 15 deadline for estimated-tax payments until Oct. 17. Now, the IRS says the deadline has been extended to Jan. 3, 2006.

The IRS also says it will team up with the American Institute of Certified Public Accountants to offer help to taxpayers at local disaster-recovery centers set up by the Federal Emergency Management Agency. With so many lives disrupted by Hurricane Katrina, "the ability to expand service by using CPA volunteers should help reduce some of the tax issues victims will face," said IRS Commissioner Mark W. Everson.

• See complete coverage.

Meanwhile, Congress this week is considering a wide-ranging package of tax proposals aimed at helping the storm-ravaged areas. For example, Sen. Chuck Grassley, an Iowa Republican and chairman of the Senate Finance Committee, joined with Montana Sen. Max Baucus, the committee's ranking Democrat, to offer a 17-point plan.

One proposal would waive the 10% penalty for taxable premature distributions from individual retirement accounts and qualified retirement plans for someone whose principal residence is in a federally declared disaster area, according to a Grassley statement. Individuals eligible for this special waiver because of Hurricane Katrina would be allowed to pay income tax on the distributions over a three-year period. Amounts distributed could be recontributed to a qualified retirement plan over the three-year period following the distribution date and receive rollover treatment.

Another proposal generally would allow taxpayers who house Katrina evacuees for at least 60 days in their principal residence to claim an additional personal exemption of $500 per refugee, with a maximum $2,000 deduction. The senators also propose changing the rules on deducting personal casualty losses from Hurricane Katrina. Under current law, taxpayers who itemize can deduct casualty losses only to the extent they exceed 10% of adjusted gross income and a $100 floor. Sens. Grassley and Baucus propose eliminating the 10% floor for casualty losses incurred in the Katrina disaster area.

* * *

INTEREST RATES will rise on overdue taxes.

The interest rate on federal tax underpayments by individuals will increase to 7% during the October-December quarter, according to the IRS. That's up from 6% in the July-September quarter.

The new 7% rate will be the highest since the fourth quarter of 2001.

* * *

USING YOUR CAR to help out a charity may produce a bigger deduction.

Under current law, taxpayers who itemize may deduct certain unreimbursed expenses, such as the cost of gas and oil, that are directly related to using their cars in helping charities. Drivers have the choice of deducting certain actual expenses or using the standard mileage rate of 14 cents a mile to figure the contribution. That 14-cent rate is set by statute.

This week, Sens. Grassley and Baucus proposed raising that rate to 50% of the optional standard business mileage rate set periodically by the IRS. "Making the rate flexible by linking it to the business rate takes fluctuations in gas prices into account and will encourage charitable activity," a Grassley statement says.

The IRS recently raised the optional standard mileage rate for taxpayers using their cars for business, but that new rate is effective only for the final four months of this year. The rate will rise to 48.5 cents a mile for all business miles driven between Sept. 1 and Dec. 31 this year, up from 40.5 cents a mile for the first eight months of this year.

The IRS also boosted the rate to calculate deductible medical or moving expenses to 22 cents a mile for the September through December period from 15 cents for the first eight months.

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BRIEFS: Amid Washington's focus on hurricane recovery efforts, President Bush's advisory panel on federal tax reform won't issue its report by Sept. 30, as had been planned. "We are having ongoing discussions to determine when the panel's final report will be delivered" to Treasury Secretary Snow, says Tara Bradshaw, a panel spokeswoman. "Given that we have to reschedule our public meetings and we are working to accommodate all our panel members' calendars, a delay of at least 30 days is a fair assessment." ... The IRS Art Advisory Panel, which reviews appraisals of artworks in connection with federal income, estate and gift-tax returns, is scheduled to meet Sept. 21 in Washington.

Separate But Equal? Schooling Of Evacuees Provokes Debate (WSJ)

By Daniel Golden

The Wall Street Journal, September 14, 2005

The 372,000 schoolchildren displaced by Hurricane Katrina are stirring an old debate about whether separate education can really be equal.

A number of states, including Utah and Texas, want to teach some of the dispersed Gulf Coast students in shelters instead of in local public schools, a stance supported by the Bush administration and some private education providers. But advocates for homeless families and civil rights oppose that approach.

At the center of the dispute is whether the McKinney-Vento Act, a landmark federal law banning educational segregation of homeless children, should apply to the evacuees. In addition, because many of the stranded students are black, holding classes for them at military bases, convention centers or other emergency housing sites could run afoul of racial desegregation plans still operating in some school districts.

Separate education for the evacuees is "unconscionable," says Barbara Duffield, policy director for the National Association for the Education of Homeless Children and Youth. "Many states have worked extremely hard to comply with the law and give these kids a regular school experience. The federal Department of Education is seeking to undermine the law at a time when it is most needed."

Students from New Orleans board a school bus at Houston's Reliant Center.

But officials of some states contend that separate classes would be less disruptive to both school districts and displaced families. U.S. Secretary of Education Margaret Spellings is expected to ask Congress soon for authority to waive McKinney-Vento and other key education legislation, such as the 2001 No Child Left Behind law, which holds districts and schools accountable for test scores of students in each racial group. Without a waiver, the penalty for violating McKinney-Vento is to deny states the funding they receive under the act for homeless education. Although the act was enacted in 1987, the desegregation requirement was adopted in 1994 and strengthened in 2001.

Susan Aspey, an Education Department spokeswoman, said that "we still don't know" how broad a waiver the secretary will seek and that the secretary plans to be "prudent" in exercising the waiver authority. She also said the department doesn't know how many children have re-enrolled in public schools, how many are being educated separately and how many are awaiting placement. Since it's unclear how long the children will be displaced, she added, the secretary won't be granting waivers "in perpetuity."

Businesses from charter schools to distance-education providers are already pressing for permission to teach the homeless in shelters and other makeshift housing, hoping to gain broader acceptance for their approaches to education. Mark Thimmig, chief executive of White Hat Ventures LLC, which educates nearly 5,000 students in Pennsylvania and Ohio via the Internet, said last week that his company would be eager to educate displaced students in the Astrodome.

After nearly 600 evacuees landed at Camp Williams, a National Guard training center in Utah, officials at the neighboring Jordan school district were ready to bus the children to school. The district, which is 1% black, has more than 75,000 students, including 1,800 homeless pupils.

But Pamela Atkinson, a special consultant to Utah Gov. Jon Huntsman Jr., had other ideas. The displaced families had experienced "so much trauma, anxiety and separation" that the parents "wanted their children close by," said Ms. Atkinson. "Since we had classrooms at Camp Williams, it made more sense to keep them there."

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She contacted Sen. Orrin Hatch, a Utah Republican, who then asked Secretary Spellings to seek to waive McKinney-Vento. "These displaced and homeless children are not the typical homeless children," Sen. Hatch wrote. "Nearly all of them are with their families. It is important to keep families together as the Katrina victims receive aid and support." The secretary had already made a verbal commitment to Sen. Hatch that she would not enforce McKinney-Vento, according to the letter.

Now, while many families have moved off Camp Williams, about 20 displaced children in kindergarten through 12th grade are studying art, reading and other subjects in classrooms on the base. The state brought in two black educators to advise district teachers on "cultural sensitivity," Ms. Atkinson said. "As long as there's one child at Camp Williams, we will continue to hold that school."

Texas Education Commissioner Shirley Neeley, noting that 25,000 evacuees are housed at a closed Air Force base in San Antonio, asked the federal Education Department last week for "flexibility" to serve students "at facilities where they are housed, or otherwise separate from Texas residents during the 2005-2006 school year." U.S. Senator Kay Bailey Hutchison, a Texas Republican, introduced legislation Monday that would grant Secretary Spellings authority to waive McKinney-Vento.

Such proposals are arousing consternation among advocates for the homeless, who fear that nearly two decades of gains in public-school enrollment for homeless children will be wiped out. They note that the act, which also requires school systems to enroll homeless children even without documentation such as health and residency records and to employ liaisons to the homeless, was vital to the swift, open-armed response of school districts to the student influx in the hurricane's aftermath. Also, they say, thousands of storm-battered children have already enrolled in public schools across the country without ill effects.

Gary Orfield, director of a Harvard University project that monitors school integration, said that segregating a predominantly black group of evacuees could raise "constitutional questions of racial discrimination." He also said that because many of them may be traumatized, have learning deficits, or come from failing schools, it would be "terrifically difficult" to teach a separate class of the displaced students, and that placing them in middle-class schools and communities would benefit them educationally.

William L. Taylor, chairman of the Citizen's Commission on Civil Rights, said the administration's plans to ease McKinney-Vento and No Child Left Behind could leave the displaced students warehoused and forgotten. "We need some focus on the needs of the children, and not go around waiving a lot of regulations without deciding whether there's a need," Mr. Taylor said.

Not all states are seeking waivers. Mississippi officials turned down a proposal from a Navy base to hold classes there. Nikisha Ware, a Mississippi Department of Education official, said the law had helped evacuees to enroll in schools without red tape. "If there were no McKinney-Vento," she said, the hurricane "would have created it."

Education Official To Visit North Texas (DMN)

By Robert Dodge, The Dallas Morning News

The Dallas Morning News, September 14, 2005

WASHINGTON – Assistant Education Secretary Tom Luce will meet with North Texas school superintendents today to learn firsthand about the problems local schools face in educating students displaced by Hurricane Katrina.

Mr. Luce, a former Dallas lawyer and longtime education advocate, will be accompanied by Texas Education Commissioner Shirley Neeley. They also will visit some of the 90 students and families displaced by the hurricane at Madison High School in South Dallas.

"My No. 1 concern is to try and pick the brains of people on site about how they are dealing with taking students in," said Mr. Luce, who is working with U.S. Education Secretary Margaret Spellings on budget and policy issues related to the department's hurricane relief efforts.

Mr. Luce plans to return to Washington immediately after his meetings but is planning other visits possibly later this week to Houston and Austin. Other education officials visited San Antonio and cities in Louisiana and Mississippi this week.

Mr. Luce said their findings will eventually be part of the department's request to Congress for money to pay for the costs Texas faces for educating students displaced by the hurricane, a number that could reach 60,000. State officials say about 33,000 evacuated students have enrolled in Texas schools so far.

"We are trying to get as much info as possible so we can put together a response package on how the Department of Education can best meet these needs," he said.

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Federal Emergency Management Agency officials notified Texas earlier this week that it will reimburse the state for much of its expense. Some of those expenses include portable classroom buildings, mental health counselors and new computers.

Mr. Luce is likely to hear from the superintendents that they need more help to pay for textbooks and additional teachers. He said there probably will be other expenses for opening previously closed school facilities and buying desks and other supplies.

School superintendents are also likely to request that the department relax its enforcement of academic requirements under the No Child Left Behind Act.

Ms. Spellings, who toured schools affected by Katrina last week, has promised to be flexible in enforcing certain provisions of the law but will do so on a case-by-case basis. And Mr. Luce said it was much too early to make those assessments.

"That is not where any of us are right now, not even the school superintendents," he said. "The situation is much too fluid."

Mr. Luce said the department has no timetable for assembling its request to Congress. But he said Ms. Spellings is leading a relief task force that meets twice daily to assess the immediate needs facing schools.

He said he will share success stories from his Dallas trip with districts elsewhere that are struggling to work with hurricane evacuees. Mr. Luce, who was confirmed by the Senate in July, said he already knows many of the superintendents and is expecting to get a candid briefing.

"We will not need much time to get to know each other," he said.

More than 247,000 public and private school students have been displaced and 489 schools have been closed in Louisiana.

And in Mississippi, more than 125,000 students have been forced out of their schools. Officials have closed 226 schools in 30 districts, and almost 30 campuses were destroyed.

Ms. Neeley estimated educating students from the affected states could cost up to $450 million, based on the current average annual cost of $7,500 per public school pupil.

While Congress had already approved some funds for relief, Sen. Kay Bailey Hutchison, R-Texas, introduced legislation Monday that she hopes will give schools more flexibility in using federal funds.

Her proposal would give the education secretary greater authority to determine what costs should be reimbursed. It also would give the secretary power to relax federal standards for school systems that have taken on substantial numbers of students from other districts and states.

Katrina's Costs Weigh Down Stock Indexes (WSJ)

By Ian McDonald

The Wall Street Journal, September 14, 2005

Stocks sloshed around in the red as investors focused more on post-Katrina worries than positive economic data collected prior to the devastating hurricane and its aftermath.

Stock indexes started the day up about 3% since the hurricane slammed the Gulf Coast at the end of last month. But rising damage estimates are stoking fears that the economy and corporate profits will be dinged by higher gas prices and lower consumer spending resulting from Katrina.

The Dow Jones Industrial Average fell 85.50 points, or 0.8%, to 10597.44. The tech-stock-heavy Nasdaq Composite Index slipped 0.5%, or 11.08 points, to 2171.75. The Standard & Poor's 500-stock index dropped 0.8%, or 9.36 points, to 1231.20. Bond prices rose as investors were cheered by lower-than-expected inflation in August, pushing down yields.

"The market has been pretty strong since the storm, so it makes sense that we'd give some gains back," said Andy Brooks, head of stock trading for T. Rowe Price Group Inc. "All this economic data is open to revision post-Katrina."

Indeed, investors shrugged off heartening readings on the economy gathered prior to the hurricane. Despite record oil imports, the U.S. trade deficit unexpectedly narrowed in July, the Commerce Department said[TUE]. Meantime, the Labor Department released data showing that the prices of wholesale goods in the U.S. rose at a slower rate last month[AUG].

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Traders' skepticism is likely reinforced with each trip to the pump. Crude futures fell 23 cents, or 0.4%, to $63.11 a barrel on the New York Mercantile Exchange, but gasoline futures rose 2.13 cents, or 1.1%, to $1.895 a gallon. The average retail price for regular gas was $2.956 a gallon, said driving club AAA.

Shares of electronics retailer Best Buy Co. were a barometer for investor fears about steep gas prices' effects on consumer spending. Its third-period projections were lower than expected, and shares fell 11% to $44.79 on the New York Stock Exchange.

In major U.S. market action:

Stocks fell and bonds rose. The 10-year Treasury note rose 12/32, or $3.75 for each $1,000 invested, pushing the yield down to 4.132%. The 30-year bond rose 17/32 to yield 4.418%.

The dollar rose. Late in New York, the currency traded at 110.64 yen, up from 110.27 yen, while the euro fell against the dollar to $1.2270 from $1.2285.

Growth From Katrina Could Hurt Economy Most, Experts Say (KRT)

By Kevin G. Hall

Knight Ridder, September 14, 2005

WASHINGTON - A major hurricane devastates the Gulf Coast, dismembers the nation's energy center, sends national gasoline prices to all-time highs and leaves a storied city a toxic tidal pool. Yet there's little impact on the broader economy.

Economists call it a testament to the strength of the U.S. and global economy, which buffered the nation against Hurricane Katrina's damage and should offset any long-term economic ills from the storm.

Oddly enough, Katrina's biggest economic impact may not be the damage it left but the rapid growth it may spark next year when rebuilding begins in earnest along the Gulf Coast. That could fuel a pace of growth that adds to inflationary risks in an already strong economy.

Higher interest rates are the medicine for inflation, and that could lead to higher mortgage rates, which could threaten the nation's housing boom.

"To me, that could well prove a more important issue than the impact of Katrina," said Ken Matheny, a senior economist with Macroeconomic Advisers LLC, an economic forecasting company in St. Louis.

The nation's four-year housing boom has been fueled in large measure by low interest rates and consumer spending that has reduced household savings to nearly zero. The Federal Reserve has been notching up short-term interest rates - now at 3.5 percent. The number of mortgages and levels of consumer credit remain at all-time highs, and some liken the robust U.S. economy to a house of cards that is built on low interest rates. A sharp rise in rates could bring it all crashing down.

"The floodwaters unleashed by Katrina may be receding. But the economic aftershock of the disaster may still lie ahead," said Niall Ferguson, a Harvard University history professor who warns that Katrina may provoke interest-rate hikes down the road that shock the U.S. economy.

For the moment, however, economists are most worried about Katrina's damage to the energy infrastructure. Decreased oil production and damage to refineries has sent gasoline prices soaring to record highs. The cost of heating a home this winter is projected to rise 71 percent in some parts of the nation.

"It undermines growth at the same time that it fans inflation," said Mark Zandi, chief economist for Economy.com, an economic consultancy in West Chester, Pa.

If the price of energy climbs much further, it could set off an inflationary spiral throughout the economy, Zandi said. In such a scenario, rising prices create pressure to raise wages. Consumers spend less, and with declining sales, businesses fire workers or reduce hiring. Higher unemployment leads to even less consumer spending. It's a downward economic spiral.

Energy prices have climbed steadily since late 2004. That has pushed inflation - the rise in prices across the economy - above 3 percent, the top of the comfort zone for most economists.

But core inflation - the rise in prices excluding food and energy - has been surprisingly unaffected. On Tuesday, the Labor Department reported in its Producer Price Index that core inflation in the production of finished goods was unchanged in August. It grew by 0.4 percent in July. Core inflation for both consumer and production prices remains under a 3 percent annual rate.

That suggests that the economy's absorbing higher energy prices.

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"It's not leaking into the core inflation rate as it did back in the 1970s," said David Wyss, chief economist for New York-based Standard & Poor's, a credit-rating and research company.

Energy price spikes in the 1970s created stagflation - a stagnating economy with high inflation. But before Katrina struck, the U.S. economy was on pace to grow at about 4 percent this year. Unemployment hovers around 4.9 percent, historically very low. Consumer and business spending are strong and inflation is nowhere near the galloping double digits of the 1970s.

Katrina "rekindles some concerns about inflation," said Wyss, but the U.S. economy depends less on cheap oil than it did during the 1970s. The strong government and private-sector spending expected to finance rebuilding on the Gulf Coast makes "the stagflation part a long shot," he said.

International trade has also softened the blow of higher energy prices. Although global trade has cost Americans jobs in some sectors, cheap imports from China and elsewhere have a deflationary effect. Imported clothing and consumer goods have stayed cheap and offset the higher energy prices.

"For two years, we've seen this tremendous increase in prices, yet the core inflation rate has stayed at 2.3 percent or less and the only explanation for that is globalization means inflation is contained," said Ed Yardeni, an investment strategist with Oak Associates Ltd. in Akron, Ohio. Yardeni also believes higher productivity - more worker output per hour - has resulted in higher savings for companies, which also serves to offset the higher energy prices.

Katrina will clearly have some short-term impact on the broader economy. The U.S. Congressional Budget Office said Katrina might knock U.S. economic growth back by as much as a full percentage point in the second half of this year.

However, economists point to past hurricanes and say reconstruction will bring job-intensive infrastructure projects like levee reconstruction, homebuilding and repairs to damaged highways and bridges.

The good news is that wholesale prices for gasoline and oil on the New York Mercantile Exchange have both returned to pre-Katrina levels - but that's still high. And crude oil, gasoline and home-heating fuel prices are expected to remain high through next year.

The world's supply of oil is nearly matched by global demand, and U.S. refineries couldn't handle any additional oil supplies if they had them, because they are running at full throttle. Another hurricane, a natural disaster elsewhere in the world or a terrorist attack could easily send today's already-high energy prices to punishing levels, sending consumer confidence plunging.

"The combination of three bucks a gallon for gas and what the rest of the country is looking at on TV and hearing about and reading about certainly are not positives," said Ken Goldstein, an economist with The Conference Board, a New York-based organization that publishes a monthly Consumer Confidence Index.

But even before Katrina, gasoline prices were climbing, sparking fears that consumer confidence would fall sharply. Yet the latest confidence index, published Aug. 30, showed it had not.

"We discovered for the umpteenth time that what matters most for most Americans is the labor market," said Goldstein.

As long as employment remains strong, consumers seem likely to continue to spend despite high energy prices.

For more on the Congressional Budget Office analysis of the economic impact likely from Katrina, go to www.cbo.gov and find the report listed on the left of the home page.

For the Producer Price Index, go to www.bls.gov/news.release/ppi.nr0.htm.

Energy Costs Fuel Wholesale Inflation (WT/AP)

By Martin Crutsinger

The Washington Times, September 14, 2005

Surging costs for gasoline and other energy products fueled inflation at the wholesale level in August, pressure that is expected to become even more intense when the full effect of Hurricane Katrina is felt.

The Labor Department said its Producer Price Index, which measures inflation before it reaches the consumer, jumped a sharp 0.6 percent in August following an even bigger 1 percent increase in July.

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In other economic news, the Commerce Department reported that oil imports reached an all-time high in July and the trade gap with China also set a record. However, the overall trade deficit improved slightly to $57.9 billion as exports rose and imports outside of energy fell.

The PPI report showed that energy prices jumped 3.7 percent in August, led by a 9.5 percent rise in gasoline costs. Natural gas for home use was up 2.5 percent. The energy increases captured in the PPI report occurred before Katrina battered the Gulf Coast, sharply reducing production.

Energy Secretary Samuel W. Bodman and other administration officials touring Gulf Coast energy facilities yesterday expressed concern about potential shortages of natural gas in coming months because the region's production may not recover for months.

Last week, the Energy Information Administration predicted that natural gas prices could soar this winter, including increases of as much as 71 percent in the Midwest, because of the hurricane.

The PPI report showed that aside from energy and food, the so-called "core" rate of inflation showed no increase at all in August, after a 0.4 percent rise in July and a 0.1 percent drop in June.

While rising energy have not yet spilled over into more widespread inflation problems, economists said Katrina is likely to disrupt the benign overall inflation performance.

"Pressure to bump prices up, or levy temporary freight surcharges, will become more intense in September," said Brian Bethune, U.S. economist at Global Insight, a private forecasting firm in Lexington, Mass.

The pre-Katrina inflation reading contained in the PPI showed price pressures were absent outside of energy. Food costs fell by 0.3 percent in July, the fifth consecutive monthly decline, as the price of fruit, eggs and beef all declined. About half of the downward pressure on prices outside of energy in August reflected a 1.3 percent drop in the cost of new passenger cars, the second decline in the past three months.

Analysts are split on whether the Federal Reserve will again raise interest rates at its meeting next week. Some suggest that the Fed may pause to give policy-makers time to assess how much of a jolt the economy will receive from Katrina. Other economists believe the Fed will deliver an 11th quarter-point rate increase out of concern that the higher interest rates are needed to combat rising inflation pressures.

The trade report showed a 2.6 percent improvement over a revised June imbalance of $59.5 billion, which was the second-highest deficit in history. The deficit this year is running at an annual rate of $693.1 billion, 12 percent higher than last year's record of $617.6 billion.

The deficit with China increased by 0.3 percent to a new high of $17.7 billion and is running at an annual rate 29 percent above the same period last year, when the deficit reached a record $162 billion. This year's widening deficit reflects a 55.2 percent surge thus far this year in Chinese imports of clothing and textiles since global quotas were lifted Jan. 1.

With oil prices soaring briefly above $69 per barrel after Katrina struck, analysts believe that America's foreign oil bill will surpass the July record, adding further pressure on the overall deficit.

Producer Prices Increase 0.6% Amid Higher Energy Costs (WSJ)

By Rafael Gerena-Morales

The Wall Street Journal, September 14, 2005

While energy prices soared during the summer, underlying inflation showed signs of stability in the weeks leading up to Hurricane Katrina. Moreover, the U.S.'s trade performance showed signs of improving.

Producer prices for finished goods rose 0.6% in August from July and were 5.1% higher than a year earlier, the Labor Department said. The increase was driven largely by a burst in energy prices, much of which occurred even before the hurricane struck the Gulf Coast, disrupting energy production. Gasoline prices jumped 48% from a year earlier, the Labor Department said.

Producer prices are the prices charged by makers of goods like cars, gasoline and manufacturing equipment.

A separate report showed that the U.S. trade deficit narrowed in July to $57.9 billion. That put it down $1.6 billion from the preceding month, and left it below levels seen at the beginning of the year, a sign that the pace of widening for the deficit might be moderating.

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Soaring oil prices were an important subplot in the trade picture. The value of imports fell $1.1 billion to $164.18 billion. The nation's tab for oil surged to $15.3 billion for the month, up from $10.8 billion a year earlier. But the U.S. imported 10.1 million barrels a day during the month, on average, down from 10.5 million barrels a day a year earlier.

Exports rose by $430 million to $106.24 billion, led by increasing shipments of semiconductors, civilian aircraft and cotton.

Companies have had a difficult time passing higher energy costs on to customers. Excluding the volatile food and energy sectors, producer prices were unchanged for the month. The auto sector was a big factor in the modest showing outside of energy. Passenger-car prices fell 1.3% in August, the result of discounting programs by Detroit's Big Three auto makers.

At East Jordan Iron Works Inc., which makes manhole covers, fire hydrants and grates in East Jordan, Mich., most sales are negotiated months in advance with municipalities, and such clients rarely accept last-minute price changes. Moreover, the market for manhole covers has become global in recent years, with low-cost suppliers in places like India now swooping in to snap up business in the U.S.

"We're able to get through increases for smaller deliveries," says Thomas Teske, the company's general manager, "but not for larger customers."

Separately, the Treasury Department said the federal budget deficit narrowed to $353 billion for the first 11 months of the fiscal year, which ends Sept. 30, from $437 billion recorded in the first 11 months of fiscal 2004. Receipts totaled $1.9 trillion, up 14% from the same period in 2004. Outlays so far this fiscal year total $2.3 trillion, up 7% from the same point in the previous year.

With $62 billion already allocated for Katrina relief, the red ink could grow substantially in the new fiscal year which begins Oct. 1.

Also, consumer confidence fell last week as news about the impact of Hurricane Katrina rolled in. According to the ABC News/Washington Post poll, 32% of respondents expressed confidence in the economy, down from 34% the week before and 37% the week before that.

US Federal Reserve Set To Raise Rates Again (FT)

By Andrew Balls

Financial Times, September 14, 2005

The US Federal Reserve is set to press ahead with its campaign of raising interest rates at its meeting next week, in spite of the economic impact of Hurricane Katrina. But there is expected to be intense discussion of whether substantial changes to the wording of the accompanying policy statement are needed.

Fed officials are reasonably relaxed about the hurricane's impact on national measures of production and consumer spending and employment.

A small dip in the second half of the year is expected to be recovered during the reconstruction effort.

Within the Fed, there is considerable scepticism about the need for the “compassionate” pause in the tightening campaign that some politicians have called for following the devastation in New Orleans and the surrounding region caused by Katrina. An important subject of discussion will be whether the Fed should drop its characterisation of monetary policy as “accommodation” and whether it should maintain its guidance that it is likely to continue raising the federal funds rate at a “measured” pace.

The Federal Open Market Committee has raised rates in quarter point steps at its last 10 meetings, lifting the target for the federal funds rate to 3.5 per cent.Of greater concern is the impact of rising energy prices, particularly the petrol price. Higher oil prices may affect consumer confidence and spending. At a time when there is little spare production capacity or labour market slack, this may also feed into core inflation.

Alan Greenspan, Federal Reserve chairman, speaking at the Fed's Jackson Hole conference last month, said the flexibility of the economy had allowed the US to weather the steep rise in energy prices “thus far”, purposely avoiding stating his views on the resilience of consumer spending and the likelihood of higher core inflation.

The market reaction since Hurricane Katrina suggests investors are concerned about the impact of higher energy prices on growth next year. The yield on the two-year Treasury note, which was above 4 per cent in late August, has dipped back below 3.9 per cent.

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Data released yesterday showed that US wholesale prices jumped 0.6 per cent in August, owing to higher energy prices before the hurricane, but core consumer prices excluding food and energy were unchanged.

President George W. Bush, in a rare public admission of personal responsibility, yesterday acknowledged that the hurricane had "exposed serious problems in our response capability at alllevels of government, and to the extent that the federalgovernment didn't fully do its job right, I take responsibility".

US Trade Deficit Falls To $57.9bn In July (FT)

By Jennifer Hughes

Financial Times, September 14, 2005

Record levels of exports helped shrink the US trade deficit in July, but analysts warned new peaks in energy prices are likely to widen the gap in the months ahead as the cost of imports rises.

Figures from the US Commerce Department showed a deficit of $57.9bn, down from an upwardly revised $59.5bn in June - itself the second highest monthly gap on record.

Exports rose 0.4 per cent to $74.9bn while imports unexpectedly dropped by 0.7 per cent to $164.2bn.

The trade deficit in all petroleum products was a record $18.5bn in July, with crude oil imports worth $15.3bn - also an all-time high. There was a drop in the number of barrels of oil imported but an increase in the price paid for each one.

"The rise in energy prices threatens to result in further widening in the months ahead," said Mitul Kotecha, global head of FX strategy at Calyon.

Michelle Girard, economist at RBS Greenwich Capital, said :"In addition to the spike in oil prices, the volume of energy-related imports will probably rise, as international supplies are used to offset a portion of the domestic production which has been shutdown."

"While this appears to bode well for GDP, the trade balance is likely to resume its worsening trend in coming months," she added

The extra disruptions caused by Hurricane Katrina will not show up until September's data, due for release in November

Exports in July were led by record shipments of industrial supplies and materials such as cotton and steelmaking products, and consumer goods exports also gained.

The fall in imports was the result of a drop in big ticket items, such as aircraft, industrial equipment and computers. Imports of consumer goods also dropped.

The record levels of exports also resulted in a new peak in shipments to Asia, worth $3.6bn. But that was dwarfed by a new record trade deficit with China worth $17.7bn.

Separately, the US Labor Department released figures showing high energy costs pushed up producers' prices by 0.6 per cent in August. But excluding volatile food and energy measures, the producer price index was unchanged from July. The data were collected well before the hurricane, whose effects will become clearer in the September numbers released next month.

Katrina Payday For Land Owner In Tiny Town (WSJ)

By Christopher Cooper

The Wall Street Journal, September 14, 2005

LULING, La. -- His office is a bar called the Sailfish and the communications system is a pair of balky cellphones, but Jay Roberts strains their batteries to the limit running his impromptu commercial real-estate business.

The phone rings and it's a man representing the Veterans Administration inquiring about the empty Kmart in this boomtown community about 30 miles west of New Orleans. The caller's got 200 workers who need office space.

Too late. That building, outfitted with 46 miles of telephone wire and bursting with desks, now houses 500 State Farm claims adjusters, with room for 400 more. It was leased for a year at $25,000 a month even before the power came back on. "Randy, yeah baby, the Kmart's gone," Mr. Roberts, clad in a T-shirt and tight shorts, yells into the phone. "I got an old Burger King building if you could use that."

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The storm has changed practically everything in southeast Louisiana, including the commercial real-estate market. Baton Rouge has been overwhelmed by evacuees and now hosts companies that were flooded out in New Orleans and Jefferson parishes, some 80 miles away.

But for those businesses integral to the cleanup, such as power, insurance and engineering companies, towns closer to the devastation are the hottest properties around. In the early days of Katrina's aftermath, there was nowhere nearer to the action than Luling, which got raked by the western edge of the storm but is largely intact. Even before the streets were clear, logistics teams were combing over the place, snapping up every vacant hotel room and office they could find.

Few have benefited more from this than Mr. Roberts, who has lived in Luling all of his life and assembled a modest real-estate empire even as the town itself struggled. Powerfully built and high-school educated, the 46-year-old Mr. Roberts is a sewer-pipe suppler by vocation. He built a small hotel 2½ years ago. A few months later, he took a flyer on a semiabandoned strip mall with a dead Kmart, picking up the property at a sheriff's sale for $1.5 million, or $3 a square foot.

The Burger King came last year, when a regional operator unloaded about 40 restaurants in the area. Mr. Roberts paid $350,000 for that property. "In my opinion, the prices I paid were strictly the land value, with the buildings and signs thrown in for free," Mr. Roberts said. He predicts the 900-square-foot Burger King will begin life anew as a small office, citing a number of unsolicited offers he's already received.

In Luling, the real-estate mantra of location, location, location is proving true once again. As a staging area for disaster work, Luling, with a permanent population of about 6,000, is close to the ideal. It boasts one of the few working ATMs in the immediate area, has electricity, plenty of gasoline stations and a functioning Super Wal-Mart. Sitting fast on the west bank of the Mississippi River, prestorm Luling had been known primarily for its bulk cargo wharf and for a 1976 ferry crash that killed 78 passengers.

Its commercial district is little more than a few-miles-long strip of hotels and fast-food joints, many down at the heels. That's changing. "By quirk of fate, we're going to reap a lot of economic benefits out of this storm," said Joel Chaisson II, a local state senator and silent partner in some of Mr. Roberts's real-estate ventures.

To underscore that prediction, Mr. Roberts barks out an order to his administrative assistant, who is standing at the far end of the Sailfish Food & Spirits. "Get a sign made up for that empty Burger King out there -- for sale or lease. And get me a sign for my hotel that says, 'No vacancy -- long-term lease.' "

The Sailfish, Mr. Roberts's smallest property, opened in January and may also be his most lucrative, at least indirectly. Even with the power off, the place remained open and Mr. Roberts did his best to make the clientele comfortable, doling out warm beers to hurricane survivors and even smashing in the bar's cigarette machine so stressed evacuees could indulge.

As the days passed, Mr. Roberts snagged provisions from a shuttered local grocery owned by an uncle of a survivor. Mr. Roberts is the landlord of the Sailfish, not its operator, but he keeps a close eye on the kitchen, often whipping up menu items himself, including the huge pots of white beans he began making after the hurricane in a big propane-fired cooker out back. The food was free in those days, though Mr. Roberts repeatedly admonished patrons to generously tip the overwhelmed staff.

The fare became more elaborate after the power returned, like the recent gumbo he oversaw, a dark, savory concoction that drew raves. As with almost everything else, his culinary skills are self-taught. "I've never followed a recipe in my life," Mr. Roberts says.

Mr. Roberts's largess and ingenuity paid off: Sitting in a sea of storm-shuttered fast-food franchises, the Sailfish became the only place for folks to congregate over drinks and food, the preferred milieu for a Louisiana business deal. The Sailfish also became the only reliable place to see Mr. Roberts, as well as the state senator who provides introductions, the parish president (who can issue business permits) and the local judge (who operates a hotel outside the parish).

Two days before Katrina hit, Joe Green, an assistant manager for administrative services for State Farm Insurance in Tulsa, Okla., was watching a weather report when it became apparent he and his nine-man crew were about to enter a race toward the storm. Mr. Green's job is to set up the company's catastrophe, or "cat," office near the epicenter of major disasters. Mr. Green drove for three days, splitting the team in half to scour Louisiana and Mississippi on a desperate search for office space and hotel rooms.

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At almost every turn, the team found itself competing with nimble electric company crews, who were after the same commodity. Mr. Green blew into the Sailfish the day after the storm, having been directed there by the local Wal-Mart manager. Mr. Roberts was inside and the negotiations began. The Kmart went for $25,000 a month, plus an upgraded climate system, for which State Farm is paying.

Mr. Green initially got beat on the 30 hotel rooms that Mr. Roberts owns next door to the Sailfish. But after working a complicated swap involving the sprucing up of an independent motel down the street, Mr. Roberts managed to pawn the power crews off to his competitor, taking the more lucrative State Farm deal.

The independent hotelier ended up with steam-cleaned carpets, new linens and a clientele that pays twice the normal $30 nightly rate. Mr. Roberts in turn, inked a one-year State Farm deal: all the rooms at $89 a night -- a premium over the $49 rate the hotel usually commands. "Jay's the ultimate landlord: He helps me with everything and he's indispensable in a town like this," Mr. Green says.

Dreams Are Emerging Of A 'new' New Orleans — But Which One? (USAT)

By Richard Willing

USA Today, September 14, 2005

Three days after the New Orleans flood walls broke on Aug. 29, a visit to his hometown left Harry Connick Jr. feeling desperate.

"It is hard to sit in silence, to watch one's youth wash away," the singer and piano player wrote on his website. "I can only dream that one day she will recapture her glory."

On a follow-up visit a week later, Connick saw things that raised his hopes. Floodwaters were receding, violence was being contained, and at least one bar had reopened on Bourbon Street, where the 37-year-old Connick cut his musical teeth. "Man," Connick wrote, "if this isn't a sign of New Orleans coming back to its former state!"

Maybe. As the shock of one of America's worst natural disaster wears off and floodwaters are pumped out of New Orleans, public figures from local performers to President Bush are beginning to speak of reviving the 287-year-old city as if such a thing is inevitable.

They are contemplating what urban planner Robert Lang of Virginia Tech says has "never been done before in America": Using what could be hundreds of billions of public and private dollars to rebuild a modern city on a scale far beyond what happened in San Francisco after its 1906 earthquake, or in Chicago after its 1871 fire.

But what kind of city will rise from the receding waters, and when, and how?

Rebuilding is a complex issue, layered with racially sensitive questions about how to revamp the city while luring back the blue-collar and low-income residents — most of them black — who made up the bulk of the roughly half-million evacuees from the area who now are scattered across America. At stake is how much of New Orleans' identity — its unique combination of grit and refinement, bawdiness and charm — will be washed away for good.

Politicians, urban planners, business leaders and local residents with different views of a "new" New Orleans already are campaigning for their competing visions.

U.S. Rep. William Jefferson, D-La., whose New Orleans home was flooded, would focus on creating a city where tax credits, housing subsidies and jobs programs would be used to encourage the return of its working class.

U.S. Rep. Bobby Jindal, R-La., whose home in nearby Kenner also was damaged, would appoint a rebuilding czar and dust off plans to diversify the city's industrial base and modernize its hospitals and public housing.

Scientists such as John Rennie, editor of Scientific American, are talking about a safer and perhaps smaller city in which wetlands would be expanded to protect against storms.

Singer Art Neville of the Neville Brothers is calling for a "Newer Orleans" — a city re-populated by returning evacuees and protected by a new set of the "best levees ever built."

And Dane Ciolino, a criminal defense lawyer and a law professor at the University of New Orleans, wants a rebuilt city that excludes the "looters and the shooters" but that remains racially and economically diverse. He fears that restoring only the upper-

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income residential areas such as the Garden District and the tourist sites of the French Quarter — the areas in New Orleans least damaged by the flooding — would turn the city into an "adult Disneyland with cocktails."

"It's too much to say that (rebuilding) is the storm's silver lining, but there's no denying that it's given us an opportunity no one's ever had before," says Jindal, whose district includes part of New Orleans and its suburbs. "Now the challenge is to bring everyone together, to get the best thinking and planning and ideas out there, and to get together and do it right. … That hasn't been done before, either."

Whatever shape the rebuilding of New Orleans takes, rebuilding the city's psyche will be a key issue.

"I have great faith" in the ability of New Orleanians to rebound, Neville says. "But morale has taken a real blow. The people are down, man."

Several factors unique to the New Orleans disaster make it less likely that people will want to return to a rebuilt city, some analysts say.

"We've never seen scattering (of disaster victims) on this scale before," says Robert Fishman, an urban historian at the University of Michigan. Evacuees "have been relocated to any number of places, and told they'll be staying there for a long time. If it's months or years before people can get back in there, how many are going to want to go?"

Hurricane recovery specialist Michael Lindell says the images of widespread lawlessness and the suffering of many evacuated residents could have a profound impact on rebuilding efforts.

"If folks don't think government and their fellow citizens are up to the task, they may not feel that they are, either," says Lindell, senior scholar at the Hazard Reduction and Recovery Center at Texas A&M University in College Station. "What's civic morale going to be like, long term? I don't think we can say yet. We haven't ever seen anything like this."

With about 40% of New Orleans still underwater, it's unclear how long even the initial cleanup of the city will take.

The U.S. Army Corps of Engineers says it hopes to pump all the floodwater out of New Orleans by Oct. 8. Electric power and drinking water still must be restored. Des Moines needed nearly three weeks to restore potable water to 350,000 people after a flood crippled its water system in 1993.

Meanwhile, the water that has accumulated on New Orleans' streets poses health risks to recovery workers and residents. Besides leaves and dirt, it now carries backed-up sewage, feces and bacteria from decomposing bodies, as well as toxic chemicals from small businesses such as dry cleaners whose storage tanks flooded.

Tests by the federal Environmental Protection Agency indicated that bacteria are present in floodwaters at 10 times the acceptable level. That means workers wading in the water are at a high risk for health problems, says John Pardue, a professor of environmental engineering at Louisiana State University in Baton Rouge.

Even when it dries, the polluted stew will coat streets, parks and yards with a film of toxic chemicals and sewage. Cleansing the land of contamination could take months, maybe years.

"Are the schoolyards and people's yards going to be so contaminated that we're going to have to scrape them up? That's the big unknown right now," Pardue says. "It's not a very rosy picture, I'm afraid."

After electricity, water and basic services are restored, homes and businesses will have to be rehabilitated or demolished and rebuilt before New Orleans residents can return home. Given the extent of water damage, many buildings likely will be beyond salvaging, Lindell says.

"The issue is not just structural damage that water is going to do to wood and Sheetrock, but the likelihood of mold," he says. "That's going to make some places that appear to be relatively undamaged turn out to be health hazards that have got to be gotten rid of."

Pete Carkhuff, sales executive for National Property Damage Experts in West Berlin, N.J., says that "you're probably talking about bulldozing entire blocks, maybe whole neighborhoods."

Once cleanup is completed and basic services are restored, New Orleans will face some difficult choices. Among them: Whether the city and its surrounding area should be made smaller, but safer, by restoring wetlands that have disappeared during the past several decades.

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Even when the flood barriers are repaired, the city will remain substantially below sea level, making more flooding likely. And New Orleans is often wet, with an annual average of 64.16 inches of rain from 1971 to 2000, according to the National Climatic Data Center. Only Mobile, Ala., with an average of 66.29 inches, was wetter among major cities in the continental USA.

New Orleans has had more than 20 major floods since 1978, up from just two in the previous 50 years.

Any rebuilding plan, specialists say, should take New Orleans' topography and frequent rains into account. "You can bring the city back without making it any safer," Rennie says. "You want to avoid that."

The problem, Rennie says, is the gradual disappearance of barrier islands and wetlands between the city and the Gulf of Mexico, a process hastened by development in New Orleans and its suburbs. Building flood barriers to keep water away from homes and businesses, Rennie says, ultimately destroys surrounding wetlands and puts development at risk.

"The natural pattern of flooding supplies nutrients and sediment to wetlands areas, keeping them as kind of a buffer and a natural absorber when a really big storm hits," says Rennie, who published a report in October 2001 that said New Orleans was due to face major flooding from a hurricane.

The answer, he says, is to buttress the flood barriers needed to protect central New Orleans, then eliminate or downsize barriers and canals that sustain development on the city's fringes and in its suburbs. That would allow wetlands to resume their natural role of taking the brunt of smaller storms and protecting the city from catastrophe.

"We're talking about a smaller city, but a safer and hopefully more sustainable one," Rennie says. "The alternative is to continue as we are, losing 60 acres (of wetlands) a day. By 2090, New Orleans would be exposed to the open sea, with no protection at all."

The insurance industry could help direct New Orleans' reconstruction by declining to insure homes or businesses rebuilt in high-risk areas, or by making hurricane insurance easier to acquire if rebuilders agree to make new structures safer.

After Florida was struck by four big hurricanes last year, insurers played a "consultative role" in the rebuilding, says Robert Hartwig, chief economist of the Insurance Information Institute, a group funded by companies, trade associations and agents.

Industry representatives advised governments how to strengthen building codes, set up emergency cash pools and identify the riskiest areas in which to rebuild.

"We don't want to promote 'serial rebuilding,'" Hartwig says. "The industry does weigh in in post-disaster debates."

So, too, may Uncle Sam. Private insurers write most policies that cover hurricane damage, but the U.S. government is the principal insurer against flood loss through its National Flood Insurance Program. But the NFIP, Hartwig says, has become increasingly reluctant to insure replacement dwellings in high-risk areas.

House Speaker Dennis Hastert, R-Ill., has said that the federal government "ought to take a second look" at supporting the rebuilding of a city that will remain at risk for hurricanes.

Hastert's office later said that he wasn't advocating abandoning New Orleans, but rather taking risks into account before deciding what to rebuild.

Federal flood insurance will pay up to $250,000 to repair or replace a dwelling and up to $100,000 for lost or damaged contents.

But only about one-third of New Orleans homeowners appear to have taken out flood policies, Hartwig says, apparently trusting that "federal disaster efforts" will bail them out. Given the extent of the damage, and attitudes such as Hastert's, that may not be possible this time.

New Orleans also will have to decide how to rebuild its tourism industry.

The city's Convention & Visitors Bureau has opened an office in Baton Rouge, where New Orleans business owners have discussed plans to reopen attractions in the French Quarter and other relatively unscathed parts of the city's restaurant and entertainment district, perhaps by the end of the year.

But even by then, says urban historian Joel Kotkin, tens of thousands of tourists and conventioneers will have been redirected to other destinations. Rather than spending time and money to woo all of them back, Kotkin says, the city could consider trying to attract new industries that could complement a downscaled version of the tourism industry.

That's a tall order: Tourism in New Orleans has employed 80,000 people and each year has attracted 10 million visitors who have spent nearly $5 billion, the Convention & Visitors Bureau says.

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"There's always going to be a Mardi Gras — at least, a lot of Americans hope there will always be," says Kotkin, author of The City: A Global History. "But that doesn't mean that has to be the only reason for your economic existence."

New Orleans, he notes, has been a center for government, agricultural trade, banking and transportation at various times since it was founded as a French colony.

"Some of those industries have gone away, but some have migrated to other more energetic places," Kotkin says. "Look at Houston. It was nothing at the start of the 20th century, (but) now it has the port business and the energy industry that used to belong to New Orleans."

History seems to support that point. Major cities — Kobe, Japan, in 1995, San Francisco and Chicago — have suffered huge damage from earthquakes and/or fires and have rebounded smartly.

San Francisco's experience from 1906, detailed in A Crack at the Edge of the World, by Simon Winchester, appears to parallel many aspects of the New Orleans disaster: extensive destruction, loss of life, looting and the permanent relocation of some residents to nearby places such as Oakland. In the aftermath, San Francisco's economy shifted from manufacturing to finance, law and tourism, a mix that sustains the city to this day.

"As long as they've been around, cities have been flooded, burned, shaken by earthquakes or otherwise destroyed," says Thomas Campanella, a professor of urban planning at the University of North Carolina and co-editor of The Resilient City, a 2005 book that examined the revival of a dozen once-devastated cities. What ensures a city's recovery, he says, is the "extent to which (its) social and cultural fabric persists."

He cites the Sept. 11 terrorist attacks, after which "New York City took on a small-town feel" as strangers took in stranded travelers and helped families search for loved ones.

"The extent to which citizens can really come together and help each other will go a long way toward determining how resilient New Orleans will be," he says. New Yorkers, he says, essentially told themselves, "Hey, we can come out of this better than ever."

Whether New Orleanians will adopt that approach remains to be seen.

Winchester says the slow-building nature of the disaster — leaking barriers that led the city to flood over several days — could harm the civic psyche.

"This isn't (like San Francisco's disaster), a boom followed rapidly by a fire before you can even think about it," he says. "This (was) water creeping up, inch by inch, day by day. It sounds maddening."

Shalom Matthews knows what he means.

The 30-year-old hotel auditor says she had never ventured beyond the New Orleans city limits before she and her sister were evacuated to Baton Rouge. Four terrifying nights at the New Orleans convention center were enough to persuade her to leave the city for good, she says.

"I don't know where we'll end up, but we're gonna get out of Louisiana," Matthews says. "We'll never look back."

But other New Orleans residents such as Eric Morgan seem eager to join in its rebuilding. Lounging on the balcony of a home in the city's Lower Garden District last week, Morgan, 46, said he wasn't going anywhere, despite the mayor's order for residents to evacuate.

Morgan, a construction worker, said he had a working generator and enough food and water to last about two months.

"The police came by to ask if we were all right. We're doing fine," he said, nodding to a friend. "We're gonna get (the city) back."

New Orleans Works To Open 4 Districts As Services Return (NYT)

By Michael Luo

The New York Times, September 14, 2005

NEW ORLEANS, Sept. 13 - An upbeat Mayor C. Ray Nagin announced on Tuesday that he hoped to reopen four neighborhoods, including the city's central business district and the French Quarter, to residents and business owners in the next few days.

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"I have started to get into the mode of how do we reopen the city and how do we move it to the next level," Mr. Nagin said, appearing relaxed, even cracking jokes, while speaking to reporters in the French Quarter.

At the same time, he conceded that the city's financial problems were enormous. "The city is out of cash," he said. "We do not have the cash to make the payroll coming up."

Mr. Nagin said that city officials were trying hard to secure a line of credit. Many contractors who are helping the city clean up are working under the assumption that the city will get money to pay them.

The final go-ahead to reopen the city's central business district and the French Quarter, along with two residential neighborhoods - Algiers and Uptown - depends on an environmental report he said he expected to receive later in the day. He had been briefed on the report, on the quality of the air and water, he said, and things "looked good."

The four areas are now dry.

As for what residents will return to, Mr. Nagin cited progress on a number of fronts. City officials were working to get two hospitals - Touro Infirmary and Children's Hospital - running soon. The water is safe to drink in Algiers, and Mr. Nagin said he hoped drinkable water would be restored to the three other neighborhoods by the end of this week.

The city is working with Wal-Mart, Home Depot and other companies to open temporary stores in the convention center.

Daniel F. Packer, president and chief executive of Entergy New Orleans, said 264,000 of the 1.1 million customers in Louisiana and Mississippi who lost power after Hurricane Katrina were still without it. Most of those, Mr. Packer said, are in the metropolitan area.

He said he expected electricity would be restored to the central business district and the French Quarter in 10 days to two weeks. With more than 40 pumping stations online, water was now being drained at a significant rate from the city, Mr. Nagin said.

Teams will soon finish a door-to-door search of every home in the city, said Maj. Gen. William Caldwell, commander of the 82nd Airborne Division of the Army.

General Caldwell estimated that 3,000 people remained, in defiance of a mandatory evacuation order.

As for the long term, the mayor said he would establish a commission to plan major aspects of the city's restoration. "I'm tired of hearing these helicopters," he said. "I want to hear some jazz."

Exhausting, Frustrating Work On Water Pumps Is Paying Off (USAT)

By Alan Levin

USA Today, September 14, 2005

NEW ORLEANS — Fred Young paces through the muck outside one of the city pumping stations, surrounded by hundreds of blocks of submerged neighborhoods.

It's Sunday, nearly two weeks since Hurricane Katrina sent waterways surging over levees and floodgates to flood New Orleans. More than half a million evacuees are waiting for Young, a manager with the Army Corps of Engineers, to dry the city out so they can salvage what's left of their belongings or, worse, locate the dead.

Young has come here with a work crew and four armed guards to restart the pump. It's not going well. His cellphone battery just died. The crew needs more equipment to make the pump work. And daylight is fading fast.

“God, we're ready to go, and I'm stuck here,” he shouts to no one in particular.

This is ground zero in one of the biggest natural-disaster relief efforts in history. The Army Corps' emergency construction project is being managed by a bedraggled team that sleeps on cots at night.

The effort is paying off. As of today, perhaps half of the flooded areas have re-emerged. Temporary pumps and the giant permanent pumping stations are throwing as much as 9 billion gallons per day over the levees and out of the city.

It hasn't been easy. For Young and the other workers, it has been one of the toughest weekends of their lives.

Young, a civilian engineer, is tearing around New Orleans and St. Bernard Parish in a four-wheel-drive sport-utility vehicle with an armed guard. He is talking non-stop, taking cellphone calls and offering a running description of the devastation. He guns the car the wrong way onto an offramp on the deserted interstate.

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Young, a heavyset man with shaggy black hair, returned to the Army Corps' headquarters on the banks of the Mississippi River three days after the hurricane and has been based there ever since. He was named project manager for pumping.

He pulls up to New Orleans Pumping Station No. 6, the heart of the city's elaborate system to keep the surrounding waters at bay. Rotting fish lie on the road into the facility.

When Katrina swelled the waters of Lake Pontchartrain and the Gulf of Mexico, four sections of the walls that protect New Orleans against flooding gave way, and water poured into this below-sea-level bowl. The floods turned most of the pumping stations into mud and grease pits.

Three days before, power had been restored at Station No. 6, and it was the first of the flooded pumping stations switched on. It's pumping at a fraction of its capacity because most of the aged pumps won't be dried out for weeks, but the water in this neighborhood has dropped about a foot. “Look how far it's come down,” Young says. “That's great.”

By 4 p.m., the news gets worse. The attempts to bring back Pumping Station No. 7 caused a massive short circuit that has blacked out No. 6.

A shower and food haven't raised Young's spirits. He was out past midnight, meeting with the manager of an equipment company providing more than 20 temporary pumps.

He also saw his house for the first time since the storm. Water got in and ruined his plaster ceilings. “But at least I have a house,” he says. “A lot of people, they're going to have to bulldoze their houses.”

Young heads back to Pumping Station No. 6, which is still blacked out. He meets up with Chief Warrant Officer 4 Thomas Black, an expert in restoring electrical power. Black, who wears long-sleeve combat fatigues and a black beret despite temperatures in the mid-90s, assisted the failed effort to restart Station No. 7 the day before.

Young works the phones. He calls the manager of a nearby levee district. “I need pumps!” he says. “It's not raining. I need your stinking pumps. Whatever you've got.” He pauses, then says into the phone, “I'll take them.”

Shortly after 5 p.m., Young, accompanied by two other corps engineers, arrives at the London Avenue Canal. The engineers whip out cellphones in unison and shout a cacophony of instructions. If the canal can hold water, the water board can fire up Pumping Station No. 3. It was one of the few facilities that kept operating after the storm. It, too, was flooded, but a lone pump remained dry.

“We're going to start that sucker,” Young says.

An hour later at Station No. 6, Black and his crews have restored power.

Young and his crew are at Station No. 3. At 5:15 p.m., Black arrives in a helicopter provided by the Federal Emergency Management Agency. Al Vosbein, a pump operator, is with him.

Vosbein, 55, wheezing from emphysema, says he rode out the hurricane here on the second floor of the concrete electric control room and lived there above the water for the next two days. All he wants to do is get back to his flooded house to retrieve an urn holding his wife's ashes.

Vosbein says he needs more equipment to get the pump to actually push water. He boards the helicopter again to fetch it.

Just before dark, the helicopter returns with Vosbein. Thirty minutes later, the pump operator notifies the water board control room that he's ready to start the pump. A whir gradually rises from the innards of the station. After a few minutes, the water behind the station gurgles. At 7:39 p.m., a great surge of white foam exits the plant. The workers let out yelps and slap one another's backs.

“See that water move,” Vosbein shouts above the roar.

There's still a lot of work to do around the city. But little by little, they're getting the water out.

Polluted Waters Drown Environmental Efforts (LAT)

By Ralph Vartabedian And Marla Cone

The Los Angeles Times, September 14, 2005

NEW ORLEANS — The high-stakes effort to bail out New Orleans is sending plumes of contaminated, brown, stinking water into Lake Pontchartrain, setting back years of effort to restore the environmentally sensitive home of Gulf Coast marine life.

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After festering for two weeks in neighborhoods, commercial districts and industrial zones, the water is laden with bacteria, silt, petroleum products and possibly toxic substances.

City officials confirmed Tuesday that they were also releasing untreated sewage into the Mississippi River from one of two treatment plants operated by the New Orleans Sewerage and Water Board.

Hurricane Katrina has forced the abandonment of normal environmental and sanitation practices as workers scramble to preserve what's left of the city and prevent a breakdown of public health.

"We are still trying to save lives," said Col. Richard Wagenaar, who heads the Army Corps of Engineers' New Orleans district.

The floodwaters are overrun with fecal material, silt and other substances that could damage the marine environment.

Martha Sutula, a senior scientist at the Southern California Coastal Water Research Project who has studied the ecology of Louisiana wetlands, said nutrients in the floodwaters, such as nitrates and ammonia, would probably cause algae and phytoplankton blooms in the shallow lake and surrounding estuaries. The blooms can deplete oxygen and suffocate marine life.

"I would imagine that you're going to have a pretty tremendous dead zone," Sutula said. "This is going to set them back quite a few years."

Al Naomi, senior project engineer for the Army Corps of Engineers, agreed. "It will take years to clean up our estuaries. The lake was coming back with manatees and fish. Twenty years of effort has been wiped out in an afternoon storm surge."

Although few experts criticize the extreme measures being taken to save New Orleans, the practices are believed to violate federal laws in normal times.

"We have multiple disasters in Hurricane Katrina," said William R. Freudenburg, a professor of environmental studies at UC Santa Barbara. "Much of the disaster was caused by the initial decision of where to put the city's levees. It was turned into a human disaster by the worst response I have ever seen by the government. Now we have a disaster on one of the most environmentally sensitive and valuable wetlands in America."

Much of the nation's seafood catch spends some portion of its life in the marshes of Louisiana, areas that were damaged by the storm surge. On the east flank of New Orleans, marshlands have been stripped clean of vegetation. "It looks like the surface of the moon," Wagenaar said.

So far, tests have not discovered any toxic pollution.

The flood inundated at least one Superfund site, the Agriculture Street landfill. The cleanup was completed before the flood, although toxic residue remained in the soil. Tens of thousands of inundated homes are thought to have solvents, pesticides and other toxic substances stored in garages and under sinks that could be leaking.

The Environmental Protection Agency has tested floodwaters in six locations for more than 100 chemicals. Only one chemical has exceeded EPA standards. Lead in water near an Interstate 10 exit ramp was 15 times higher than the level allowed in drinking water.

Most of the hazardous chemicals — including polychlorinated biphenyls, found in electrical equipment, and benzene, found in crude oil and gasoline — were undetectable in the EPA's first round of tests conducted Sept. 3.

Lake Pontchartrain, a brackish, shallow body of water that is affected by ocean tides, normally appears blue. But the view from a helicopter this week showed at least three large plumes of brown water leaving the 17th Street Canal, the London Avenue Canal and the Inner Harbor Navigation Canal.

Those waterways are the main channels for billions of gallons of floodwaters per day from the city's pumping stations. Even several hundred feet above the city the air stinks of sewage.

The water pumped into the 630-square-mile lake eventually drains through two narrow outlets to Lake Borgne and then to the Gulf of Mexico. The sewage going into the Mississippi River flows into the gulf at the river's mouth, about 80 miles from downtown.

Marcia St. Martin, executive director of the sewage board, said there was no evidence to support the contention that the water was a "toxic brew."

Although it may contain bacteria, she said, the city never treated the massive quantities of storm water routinely pumped into Lake Pontchartrain.

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"Fecal coliform in floodwater is normal," she said.

New Orleans has two sewage-treatment plants, one on each side of the Mississippi River. The southern plant remains operational but the northern plant is underwater. It may require weeks or even months of repairs.

As a result, the city is releasing raw sewage into the river, St. Martin said. No EPA waivers are required under the circumstances, she said.

EPA tests show astronomical levels of bacteria in the floodwaters. The pollution could cause problems for downriver communities that draw drinking water from the river as well as marine life at the river's mouth. That area is already a dead zone exceeding 8,000 square miles in some years, resulting from nutrients in the river.

Bacteria can live longer in the bottom sediment of the lake and gulf than in the water. "I think Lake Pontchartrain will serve as a reservoir for pathogens," Sutula said.

Meanwhile, the Army Corps of Engineers is trying to mitigate problems. "We are taking prudent measures," said Col. Duane Gapinski, who leads the corps' "dewatering" team. "We have set up [pollution containment] booms at all the outlets."

Many of the worst pollutants, including petroleum products that give the floodwaters an oily sheen, have floated to the surface. That means the early pumping is removing relatively clean water.

"As you draw down the water, that top level of pollution will become more concentrated," Gapinski said. "So we have to make some decisions about how to deal with that."

After Storm, City's Heart Pumps Again (WP)

By David Brown

The Washington Post, September 14, 2005

NEW ORLEANS -- The giant heart that makes this city's life-sustaining water went into cardiac arrest on Tuesday, Aug. 30, at 5 a.m. Its many chambered ventricles stopped pumping. The pressure in its six great arteries fell to almost nothing. The flow in its 350-square-mile circulatory system became sluggish and then stopped.

At the time of its apparent death, the Carrollton Water Purification Plant was 99 years old. Today, it's alive again, after three heroic resuscitation attempts, the last one successful. It'll be in critical care for a while. But it's getting stronger.

The people of New Orleans could not let the Carrollton plant die -- not if they want their city to survive. For a century, New Orleans has depended on the 70-acre complex of pumps and generators and pipes to draw water from the Mississippi River, treat it with purifying chemicals, filter it and send it out to the city's half-million residents.

The death and reanimation of the water plant is a story of ingenuity, self-reliance, loyalty and luck. It required doing something that had never been done -- the first cold start of Carrollton since it opened in 1906. Before that could be tried, however, the workers who stayed at the plant had to fight a dangerous fire in the middle of Hurricane Katrina. In the flood that followed, they had to tourniquet-off a water-main break that was bleeding the plant dry. Along the way, many had to confront the fact that their houses were gone.

"There are a lot of heroes here," Vincent P. Fouchi Jr., the assistant superintendent of water purification, said as he and more than half a dozen workers described the events after the storm.

Fouchi, who turned 40 two days ago, came to work the Saturday before Katrina's landfall. He brought with him three changes of clothing and more food than usual for the work marathon everyone knew was required for big storms. He is now well into his third week. His wife and two children, ages 7 and 11, are in Jackson, Miss. His house, in the Lakeview neighborhood, still had water up to the eaves last week. He saw it on an aerial photograph. He says he'll be here "until they send me home."

The Carrollton water plant is like those of many old American cities -- only more so. It is from an age of limitless steel, heroic engineering, and the belief that public works were such an accomplishment they should be housed in beautiful buildings.

Carrollton's 20-odd structures are blinding white stucco under tile roofs. Their windows have divided panes set in starburst patterns, surmounted by semicircular reliefs that look like giant red eyebrows. It could be the summer place of an Italian king.

But much of it is out of date. Key functions operate on century-old specifications that simply can't be changed without tearing the place apart. The plant feeds a distribution system in which 40 percent of the water is "unaccounted for" -- not paid for

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by customers, who are the sole source of revenue. The water probably leaks into the city's already soggy ground. A consultant to the Sewerage and Water Board of New Orleans recently estimated that it would cost $4 billion to make the system fully modern.

The plant has about 200 workers. When Katrina arrived, 111 were on the job. It's hard to say exactly when things started going bad. But there was no question that something was very wrong the night of Monday, Aug. 29, when demand for water suddenly started to rise.

The plant normally pumps 120 million gallons a day. When a big water main breaks, moment-to-moment consumption may go up the equivalent of 10 million to 15 million gallons a day as water gushes out of the system. The plant kicks in to compensate and increases its output to maintain pressure and flow in the distribution system.

Soon after the height of the storm, however, demand rose the equivalent of 40 million to 50 million gallons a day, a step-up never seen before. It was something, Fouchi said, "that shouldn't be happening in a city that doesn't have a lot of people in it."

In New Orleans, water pipes run beside the roads, not under them. On many streets, live oaks grow over the pipes. When trees blow down, as hundreds did during Katrina, their roots pull up the small distribution lines, creating leaks. That was certainly happening. But it probably wasn't the whole story. There must have been an immense leak somewhere.

As a first step to try to stanch it, one worker, Christopher Fontan, 49, bear-sized and 51 days from retirement, went out into the storm and closed the 50-inch main serving the area where the instruments suggested the leak was. It is one of six huge distribution pipes, and closing the valve required 200 turns of a 10-foot-long T-shaped key, delivered down a hatch, to close.

"It was a good move because we got instant relief," said John R. Huerkamp, chief of operations.

But other bad things had already happened.

The city's electric system had failed. The plant, however, has its own generators that supply part of its electricity needs.

Its power system was running when the wind blew an eight-foot-high window and frame out of the wall of the powerhouse. Horizontal rain poured onto a motor control unit, shorting it out and starting a fire. The huge building, which contains six boilers and whose subroof is made of wood, began to fill with smoke.

As the storm raged, a dozen men frantically collected fire extinguishers from nearby buildings and fought the fire. The depleted devices, in every style and vintage, were in three piles on the floor.

"If it hadn't been for these guys putting it out, this whole building would have been gone," said George Belteau, the superintendent of power.

But it wasn't enough.

When the levees broke, New Orleans began to flood, and with it the Carrollton plant. The water could destroy the generators, and with reluctance, officials shut them down. For the first time since Theodore Roosevelt was president, the plant stopped making drinking water.

Over the two-way radio, the people in the plant could hear of the worsening plight of colleagues at pumping stations around the city. Some were being told to put on their life jackets and get to the highest place they could. At the Carrollton plant, the small trickle of people abandoning their posts became, briefly, an exodus. But about 65 stayed.

"We had fought the battle, and we were winning. If we had not had a levee failure, we would not be where we are today," Huerkamp said.

"That's why this is so horrible. We've never failed the city before," said Marvin R. Russell Jr., the white-haired superintendent of water purification.

By the Wednesday after the storm, gas-driven pumps had gotten enough water out of the powerhouse for Fouchi and the others to try a resuscitation. They were like medical students at their first code blue -- except there was nobody with experience to teach them.

They faced a chicken-or-egg problem: The boilers needed water to make steam to generate electricity to drive the pumps that could then replenish the water in the boilers and keep them running. If the boilers could stay up long enough, they could generate enough power to work the pumps that pull water out of the river and keep the system from running dry.

The first try required manually filling the boilers and overriding all sorts of safety mechanisms. The plant came back to life for 20 minutes, but the boilers ran out of water and had to be shut down again.

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The operators regrouped and tried again the next day, with a firetruck delivering water to help prime the boilers. This time the system stayed up for an hour.

On the third day, the plant had enough city power to run the pumps drawing water from the river, which flows by gravity into the acres of open basins and treatment tanks. This essentially "primed" the plant.

This time it worked. The engineers fired up the boilers, which did not run out of water. The turbines made enough power to drive the high-pressure distribution pumps, keeping the boilers full.

On Sunday, Fouchi and his colleagues started disinfecting the water for the first time since the storm. It's not yet good enough to drink. But 90 million gallons a day are in circulation, driven by the big heart that's back at work.

La. Deaths At 423; Facility Owners Charged (AJC/AP)

By Adam Nossiter, Associated Press Writer

The Atlanta Journal-Constitution, September 14, 2005

NEW ORLEANS — In a day of reckoning across battered New Orleans, the owners of a nursing home were charged in the deaths of dozens of patients killed by Hurricane Katrina's floodwaters, the death toll in Louisiana jumped to 423, and the mayor warned that the city is broke.

Mayor C. Ray Nagin said the city was working "feverishly" with banking and federal officials to secure lines of credit through the end of the year, but for now, it is unable to make its next payroll.

Amid the discouraging news, there were also clear signs of progress on many fronts: The New Orleans airport reopened to commercial flights, the port resumed operations, and the mayor said dry sections of the ravaged city — including the French Quarter and the central business district — could be reopened during the daytime as early as Monday, provided the Environmental Protection Agency finds the air is safe.

"We're out of nuclear-crisis mode and into normal, day-to-day crisis mode," Nagin said.

Entergy-New Orleans said it had restored power to 75 percent of the 1.1 million customers that were out at the height of the storm. And Defense Secretary Donald H. Rumsfeld said most of the military's search and rescue work was complete.

President Bush also put a final word on what he had called the "blame game" among politicians, saying: "I take responsibility" for the government's failures in dealing with the hurricane.

The death toll from Hurricane Katrina climbed more than 50 percent in a single day Tuesday to 423, including last week's grisly discovery of 34 dead patients and staff members at St. Rita's nursing home in the town of Chalmette in hard-hit St. Bernard Parish.

In the nursing home case, Louisiana Attorney General Charles Foti charged the husband-and-wife owners of St. Rita's with 34 counts of negligent homicide for not doing more to save their elderly patients.

"The pathetic thing in this case was that they were asked if they wanted to move them and they did not," Foti said. "They were warned repeatedly that this storm was coming. In effect, their inaction resulted in the deaths of these people."

Salvador A. Mangano and his wife, Mable, were released on $50,000 bond each.

Their attorney, Jim Cobb, said his clients were innocent.

Cobb said they followed the nursing home's evacuation plan that had been filed with officials, and he blamed the St. Bernard Parish officials for not ensuring the plan was proceeding.

"They sat and waited for a mandatory evacuation order from the officials of St. Bernard Parish that never came," he said.

Cobb said the Manganos were forced to make a difficult decision as the hurricane approached: evacuate the patients, many of them elderly and on feeding tubes, or keep them comfortable at the home through the storm.

"If you pull that trigger too soon (on evacuation) those people are going to die," Cobb said.

Tammy Daigle, a nurse who worked at the home, also said the owners had been worried about trying to evacuate some residents of the home who they knew wouldn't survive the move.

Tom Rodrigue, whose mother was among the dead, was still angry and near tears.

"She deserved the chance, you know, to be rescued instead of having to drown like a rat," he told CNN.

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In addition to St. Rita's, the attorney general said he is investigating the discovery of more than 40 corpses at flooded-out Memorial Medical Center in New Orleans. A hospital official said the 106-degree heat inside the hospital as the patients waited for days to be evacuated probably contributed to the deaths.

Even though the airport and waterfront were running at just a fraction of their capacity, the symbolic importance was not lost on a city that only days before had all but collapsed into looting and desperation.

"From a commercial and psychological standpoint, this is five stars," port president Gary LaGrange said between an outgoing barge shipment of auto parts to Alabama and the arrival of a ship carrying coffee and wood from Argentina, Brazil and Mexico. "This shows the people of New Orleans their city is back in business."

Some experts had predicted it would take up to six months to get the port operating again after the hurricane damaged terminals and knocked out the electricity to operate cranes. A backlog of vessels had formed along the Mississippi River, waiting to load and unload cargo.

The Louis Armstrong New Orleans International Airport, which escaped widespread damage from Katrina but was reserved for humanitarian flights in the storm's aftermath, received its first commercial arrival, a flight with about two dozen emergency workers and returning residents.

"Welcome home," airport director Roy Williams said as he greeted the passengers. "We're glad to see you."

Airport officials hope to be up to 60 flights a day within the week and back to full operation of 350 flights a day in six months. Before Katrina hit, the airport was on pace for a record 10 million passengers this year.

During a tour of hurricane-stricken Mississippi, U.S. Transportation Secretary Norman Y. Mineta pronounced Katrina the worst disaster for transportation in U.S. history and estimated the damage to bridges and highways — including broken and disjointed stretches of vital Interstate 10 — at $3 billion.

The Army Corps of Engineers reported significant progress running the operation to pump out flooded areas of New Orleans and neighboring parishes.

Col. Duane Gapinski estimated that half of the flooded area or less was still under water, and at the rate of 8 billion to 9 billion gallons a day, the city was on target to be almost completely drained by Oct. 8.

The mayor said more than 40 pumping stations were operating in the city, including the city's biggest pump.

"That will change the world as we know it," he said.

Amid the encouraging signs from the streets, there were promises from the White House and the Federal Emergency Management Agency to learn from their mistakes and intensify efforts to help the victims.

In Washington, Bush said "I take responsibility" for the government's failures in dealing with the hurricane, and he said the disaster raised questions about the nation's ability to respond to natural disasters as well as terrorist attacks.

"Are we capable of dealing with a severe attack? That's a very important question and it's in the national interest that we find out what went on so we can better respond," the president said.

The new acting director of FEMA, R. David Paulison, also promised to get thousands of evacuees out of shelters and into temporary housing.

"We're going to move on and get them the help they need," Paulison said in his first public statements since taking over the job.

Port Comes Back Early, Surprisingly (WP)

By Keith L. Alexander And Neil Irwin

The Washington Post, September 14, 2005

NEW ORLEANS, Sept. 13 -- The Port of New Orleans began unloading its first cargo ship since Hurricane Katrina on Tuesday night, months sooner than was predicted, a sign that disruption to the nation's shipping capacity may be less severe than originally forecast.

After the storm, port officials figured it would take six months to resume service in New Orleans and at facilities throughout the Gulf Coast. Importers scurried to reroute coffee, steel and other commodities, and Midwest farmers worried that they wouldn't

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be able to ship their grain to the rest of the world during the harvest. The disruption threatened the supply of goods across the United States, and some forecasters said it would cause a drag on the economy.

But Tuesday, the port was coming back to life, with electrical power restored to parts of the facility by late afternoon. About 8:30 p.m., the Lykes Flyer container ship pulled into the port, and towering cranes began lifting boxcar-size containers of plywood and coffee beans from the ship, as if they were children's building blocks. The goods were to be placed on trucks that would carry them out along newly cleared roads, for distribution across the nation.

Gary P. LaGrange, chief executive of the port, said he expects it to be at 80 percent of capacity within three months. The Port of South Louisiana and Port Fourchon, on the Gulf Coast, have also partially restored service, and the Port of Pascagoula, Miss., expects to resume service by early October, according to the American Association of Port Authorities.

That has made economists more optimistic about the hurricane's impact on the nation. "I was surprised at how quickly the ports got going again," said Mark M. Zandi, chief executive of Economy.com, a research firm. "The longer they remained closed, the greater the risk that we'd all be paying higher prices for coffee, cocoa, lumber, steel, zinc, aluminum and any number of other things. Now that things are going well, there's likely to be no measurable disruption at all."

That doesn't mean the economy is in the clear. Zandi noted that disruptions to energy production have been more persistent, and the drop in employment and production in the Gulf Coast is likely to be great. The improved expectations depend on continued progress, and there are no guarantees that it will continue at this pace, analysts said. Coastal Cargo Co., for example, operates barges from a terminal at the Port of New Orleans and on Monday shipped out a load of steel coils to an automaker in Alabama. But that was after a two-week effort to get back to business, and the company has only two -- instead of its usual 10 to 15 -- "gangs" of workers, each of which has about a dozen people. One of Coastal Cargo's barges was washed ashore in the storm, but was in decent condition, said Mike Lauland, the company's director of risk management. So it has been put to use to help clear out barges clogging shipping channels.

More will be needed to get the local economy fully back in business.

For example, Folgers coffee has a roasting plant in New Orleans that accounts for more than half its supply. For the first 10 days after the storm, it was unreachable except by helicopter, because of downed trees and security concerns on the roads. For the plant to be reopened, it needs a return of water, sewer and natural gas service, said Doug McGraw, vice president for global coffee at Folgers' parent company, Procter & Gamble.

There is enough green coffee in storage to supply the roasting plant for now, but without water and fuel, the company lacks the ability to turn bitter green coffee beans into the Folgers that shows up on shelves.

"We're hopeful that between starting some initial production, and living on inventories in the distribution centers and at retailers, the disruption to consumers will be limited," McGraw said. "But it's going to be a problem."

Nonetheless, the work at the Port of New Orleans proceeded at full speed Tuesday as workers toiled to reopen a trading hub through which 31 million tons of cargo flowed last year.

The faster-than-expected reopening came about through some bureaucratic arm-twisting, coordination between groups, and a careful focus on the most urgent areas for repair, said LaGrange and outside analysts.

"They're moving at light speed," said C. James Kruse, director of the Center for Ports and Waterways at the Texas Transportation Administration. "It's been an example of good cooperation between federal agencies and the port authority, and an action plan to get to the critical things first and fix other problems later."

LaGrange, a large, jovial man who Tuesday wore tennis shoes and a purple baseball cap that reads "Port of New Orleans," was celebrating his fourth year as head of the port. The most immediate problems, he said, were finding workers and getting a place for them to stay. The federal Maritime Administration provided ships with sleeping quarters, which are docked at the port and serve as floating dormitories for longshoremen and managers.

The port also collaborated with the dockworkers' union, the International Longshoremen's Association, to bring in workers from other ports. LaGrange said it was necessary because most Port of New Orleans employees were forced to leave the area and could not be located.

And state police are guarding the access roads from hijackers, and agreed to give truck drivers delivering goods to and from the port clearance to deliver their loads. Tyrone Dolese, 51, of Destrehan, La., is a clerk for the Port of New Orleans who

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usually works in the office. But because of a shortage of help, Dolese agreed to work outside under the hot afternoon sun at the Napoleon Avenue Container Terminal about five miles down the road to help prepare the cargo for export . He helped inspect containers that were to be a part of the first shipments exported.

"We are going to get this place back," he said.

The Region Starts To Stagger Back (WP)

By Evelyn Nieves

The Washington Post, September 14, 2005

WIGGINS, Miss., Sept. 13 -- Once the local television station announced that hurricane money was finally coming to Stone County, word spread fast.

People began showing up in front of Stone High School just after 10 p.m. Monday. By 8 the next morning, when the Red Cross opened for business, the line was 4 1/2 blocks long.

This line was just to get a number for an appointment later in the week that could land a cash voucher. "We've been waiting 15 days, so I guess we can wait some more," said Waymon Parker, whose trailer was wrecked.

As relief agencies are starting to get around to the last coastal towns left on their lists, assessments of Hurricane Katrina's devastation to 80 miles of coast and reaching 150 miles inland are just getting underway. State officials could offer no figures for damage to the Gulf Coast, but they say that Mississippi will take years, if not decades, to rebuild.

More than 115,000 evacuees remain in Red Cross shelters or temporary housing, and tens of thousands of others are staying with relatives or in other temporary housing. Debris is virtually all that is left of some smaller coastal towns. The Federal Emergency Management Agency remains swamped with cries for help. The agency has identified more than 154,000 people in need of assistance so far, said a spokesman, Gene Romano. It anticipates perhaps hundreds of thousands more as hurricane victims who have been trying to reach FEMA finally get through.

At the same time, life has noticeably improved in the five coastal counties where Katrina unleashed the brunt of her fury -- Stone, Hancock, Harrison, Jackson and Pearl River, where about 435,000 people lived and the death toll has reached 218, with 600 people reported missing. More businesses open every day, power is back to 80 percent of the buildings that could receive power and lines for gasoline are back to normal.

The Gulf Coast has a future; on that, most agree. But whether it can re-create a culture that took more than 200 years to build, return with its blend of residents, black and white, rich and poor, old money and new immigrant, or will become an entirely new and unfamiliar version of itself -- that is another story.

Even as the immediate mop-up of Katrina has brought in thousands of National Guard crews and relief workers from all over the country, some in once-booming Mississippi coast towns are worrying about what will come afterward.

Mayor A.J. Holloway of Biloxi (population 55,000) is among them. Biloxi, home to 10 casinos and most of the Mississippi coast's shrimp industry, was devastated from its waterfront to well inland, with more than 5,000 structures destroyed and uncounted others too damaged to fix.

"We've lost our history, all of our landmarks," Holloway said. "We have some completely devastated areas, especially along the east end." Those included the city's old, working-class and poor neighborhoods, which casinos had coveted for years as prime real estate.

The Gulf Coast was the heart of Mississippi's floating casino industry, accounting for nearly half of the state's nearly $2.93 billion a year in gambling revenue. With the coast's 13 casinos destroyed by the hurricane, Mississippi, already the poorest state in the nation, is losing $500,000 in gambling taxes every day. Now the casino industry is lobbying for land-based alternatives to their former barges, and some fear the coast will look like a cut-rate Las Vegas, with slablike condominiums, cinder-block subdivisions and gaudy hotels.

The $700 million-a-year shrimping industry lost not only much of its fleet but also the processing plants needed to bring the shellfish to market, at the peak of the season.

The immediate cleanup of Katrina is just beginning. Garbage trucks have just started to roll through towns in the last few days, and schools are gearing up to open, in some places as early as next Monday, in others by the beginning of next month.

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Officials on the Gulf Coast are also trying to find a way to ease traffic, now that it appears that Interstate 90, the major coastal highway, will not reopen for at least 90 days.

"If I'd said on August 29th that two weeks later we were going to be where we are now -- well, no one would believe me," said Col. Joe Spraggins, the relentlessly upbeat director of emergency operations for Harrison County (population 185,000). "I mean, we're doing great," he said. "I could see now that the future of the coast will be better than ever."

Others are not so sure. "We've lost 80 percent of Hancock County, at least," said Eddie Favre, the mayor of Bay St. Louis, which had 8,000 residents.

Its neighbor, Waveland, which had 7,000 residents, lost virtually its entire infrastructure and population. Only about two dozen residents remain, living off relief food and water.

Pass Christian, a city of about 8,500, was considered the little jewel of the coast, a place where tourists came just to gawk at its mix of antebellum mansions and century-old shotgun shacks. Almost the entire city is gone, save for between 50 to 100 houses on the east side, where residents have been holed up since the hurricane, said Joseph Piernas, an alderman there.

Those who lost their houses or businesses were finally allowed into Pass Christian to survey the damage Tuesday morning, though lines hours long have tried to get into the town every day for a week, only to be turned away by the National Guard.

"The good news is, people are saying they'll rebuild," Piernas said. "We have no idea when that can start."

The governor's office said 1,250 FEMA trailers or mobile homes were in a staging area in Jackson, 135 were ready for occupancy and 20 have been delivered to evacuees in Biloxi, where perhaps as many as 20,000 people need new places to live.

Much Wider Damage To Levees Is Disclosed (LAT)

By Ralph Vartabedian

The Los Angeles Times, September 14, 2005

NEW ORLEANS — The massive levee system protecting New Orleans has sustained heavy damage well beyond the five breaches that are widely known to have caused flooding after Hurricane Katrina, the Army Corps of Engineers said Monday.

Miles of levees that protected the eastern flank of the region, which borders Lake Borgne, washed away in the storm surge from Katrina, which swept inland and caused deep flooding in St. Bernard Parish and the 9th Ward of New Orleans.

Army officials disclosed the destruction of the city's eastern levee system in a detailed helicopter tour of the region Monday. Unlike some of the levees in New Orleans that continuously hold water back from areas below sea level, these levees exist mainly to repel storm surges.

The loss of the levees has left portions of New Orleans with little or no protection midway through the hurricane season, senior Army officials said. And rebuilding the levees will be a massive undertaking that could take years, meaning the city could be vulnerable for a long time.

"It is gone," said Col. Richard Wagenaar, the Army Corps' head engineer for the New Orleans district. "It is literally leveled in places. The power of the surge in this storm was greatly underestimated."

Wagenaar estimated that 90% of the levee system protecting the region's eastern flank had been knocked out.

The region is protected by two levees. One is formed by a 17-foot-high barrier along a shipping channel known as the Mississippi River Gulf Outlet. The controversial channel was built in the 1960s and has long stirred the ire of environmentalists and local officials, who say it has made the area more vulnerable to flooding by destroying the natural marshes that can blunt storm surges.

The other, lower levee further inland provides a second layer of defense for St. Bernard Parish and the 9th Ward.

As Katrina approached the Louisiana coastline from the south, it accumulated a wall of water possibly higher than 18 feet. As the storm continued north, its counterclockwise winds pushed the water westward. First, it surged into the bay known as Lake Borgne and then through a narrow barrier island. It next swept across the Mississippi River Gulf Outlet and then encountered the first levee.

Giant sections of that levee are heavily eroded or gone. The levees are made with piled dirt and rock with a steel sheet sandwiched vertically in the dirt. The steel is completely exposed in most of the area and badly deformed.

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After sweeping past the levee, Katrina continued inland through a large marsh. Along the way, it deposited more than a dozen large shrimp boats and shipping barges, tossing them like toys.

"I don't know where those shrimp boats came from," Wagenaar said, shaking his head. "There are some pretty nice boats down there."

He predicted that many of the barges stuck hundreds of yards into the marshes would never be removed.

After the surge moved through the marsh, it hit the second levee, the last line of defense for residential neighborhoods. It destroyed that barrier, leaving deep bowls in the dirt where the surging water and waves scoured the soil. It then swept over the suburban neighborhoods on the other side.

The first blocks were heavily damaged or destroyed. An entire row of houses was pushed back a quarter of a mile into the woods. Other houses ended up in the middle of the street. It appears that much of the area will be a total loss, because the damage involves serious structural failures.

Army officials have said repeatedly that the levees and storm walls protecting New Orleans were never designed to handle a Category 4 or 5 hurricane such as Katrina. But now, without any levee system, the city's eastern flank could be vulnerable even to smaller storms.

It appears that St. Bernard Parish and the 9th Ward were hit from two sides. In addition to the surge from Lake Borgne, water poured through a breach in the Inner Harbor Navigation Channel.

The channel is part of the complex system of shipping, flood control and industrial ports that snakes its way through this city. It connects the Mississippi River, Lake Pontchartrain, the Intracoastal Waterway and ultimately the Mississippi River Gulf Outlet.

Engineers have temporarily patched all five of the breaches in sea walls around the city that are designed to keep water at bay. In addition to the Inner Harbor Navigation Channel, breaches also occurred at the 17th Street Canal and the London Avenue Canal.

Progress is being made in removing standing water from the city. The Army reports that about 6.5 billion gallons are being pumped out each day. Col. Duane Gapinski, who was appointed Sunday to run the "dewatering" team the Army has set up, estimates that the city should be dried out by mid-October at the latest.

Engineers Say A Key Levee Won't Be Set For Months (NYT)

By Matthew L. Wald

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - Hurricane Katrina washed away a 17-foot-tall earthen levee that had protected St. Bernard Parish, east of New Orleans, from the waters of a shipping canal, and the Army Corps of Engineers said Tuesday that the ravaged parish would be left defenseless against even small storms at least until early next year because replacing the structure would take months.

In a conference call with reporters, Col. Duane P. Gapinski of the corps acknowledged that the levee might not be rebuilt even by the start of next year's hurricane season.

On the other hand, Colonel Gapinski and other corps officials said, at this point there is little for the levee to protect. "St. Bernard Parish is complete destruction," he said.

Local authorities have ordered the parish evacuated and have said no one will be allowed to return for four months.

"It's going to take longer than four months to rebuild that levee, a lot longer than four months," even to restore it to the level of protection it afforded before the hurricane, Colonel Gapinski said. "But it's going to take a lot longer than four months to rebuild St. Bernard Parish."

The parish, which unlike New Orleans lies above sea level, was protected by the levee from the Mississippi River-Gulf Outlet, a canal built by the corps that is now a subject of scrutiny. Completion of the canal four decades ago allowed saltwater intrusion that, the corps acknowledges, was a factor in the death of marshes that once helped protect the city from storm surges. Some experts say the canal may also have provided an express lane for the Aug. 29 surge to reach populated areas.

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Corps officials report progress in pumping out floodwaters from New Orleans and adjacent areas. The city is now 50 percent inundated, they said Tuesday, from a high of 80 percent, with 27 permanent pumps and 46 temporary pumps moving a daily total of seven billion to eight billion gallons.

The corps on Tuesday stuck to its estimate of "dewatering" the main part of New Orleans by Oct. 2, and the East New Orleans section and St. Bernard Parish - barring new flooding - by Oct. 8. Plaquemines Parish will be dry by Oct. 18, the corps said.

Officials also reported that the Mississippi River was now open to deep-draft navigation along its entire length, although a small part of the southern end is limited to daylight transit because some aids to navigation have not yet been replaced.

Canal May Have Worsened City's Flooding (WP)

By Michael Grunwald

The Washington Post, September 14, 2005

On May 19, Hassan Mashriqui addressed a roomful of emergency planners and warned of a "critical and fundamental flaw" in the coastal defenses for New Orleans. Mashriqui, a computer modeler at Louisiana State University's Hurricane Center, singled out the Mississippi River Gulf Outlet, a 40-year-old shipping canal aimed at the city's gut.

For years, local residents had decried the little-used canal as a "hurricane highway" that would deliver massive storm surges into their neighborhoods.

But now Mashriqui was offering proof. His hydrodynamic modeling showed that a "funnel" created by the Gulf Outlet and a nearby waterway would amplify storm surges by 20 to 40 percent. He described the funnel as "Crescent City's Trojan Horse," carrying the Gulf of Mexico's waters into the city.

"I showed how dangerous that outlet was -- there was no ambiguity," says Mashriqui, who came to the United States after a tropical cyclone devastated his native Bangladesh. "And now it's all come true."

Authorities have not yet concluded what caused the drowning of New Orleans, and most attention has focused on two breached floodwalls near Lake Pontchartrain, to the city's north. But now experts believe that the initial flooding that overwhelmed St. Bernard Parish and the Lower Ninth Ward of New Orleans came from the Gulf Outlet, a channel that was an ecological and economic disappointment long before Hurricane Katrina.

Satellite images show that levees along the outlet were severely damaged by storm surges. Flyovers by the Army Corps of Engineers have revealed a path of destruction consistent with Mashriqui's theory that the Outlet provided a pathway for storm surges from the Gulf and neighboring Lake Borgne.

Mashriqui had warned that the confluence of the MRGO and the Gulf Intracoastal Waterway created a funnel that would direct storm surges into the New Orleans Industrial Canal and on into St. Bernard Parish. On the Friday before Katrina made landfall, the parish's state senator, Walter Boasso, complained at a congressional hearing that the federal government was "playing Russian roulette" with his constituents.

Katrina's first storm surges apparently shot up the Gulf Outlet and neighboring Lake Borgne from the southeast, then overtopped levees along the Outlet and the Industrial Canal. The floodwaters eventually breached the Industrial Canal's levees, and officials believe a large portion of the Outlet's levees have been destroyed as well.

"That funnel was a back door into New Orleans," said G. Paul Kemp, an oceanographer at the LSU Hurricane Center. "I don't think there's much doubt that was the initial cause of the disaster."

In 1965, the Corps of Engineers completed the MRGO -- pronounced "Mr. Go" locally -- which was a larger dirt-moving project than the Panama Canal. It was designed as a 76-mile shipping shortcut from the Gulf of Mexico to the Port of New Orleans that would give cargo ships an alternative to the sinuous Mississippi River.

But less than 3 percent of the port's cargo -- fewer than one ship per day -- passes through it. MRGO's freight totals had dropped by half since 1994, while the port's had increased overall. But the Corps still spent $13 million dredging the canal last year.

Critics have calculated the cost to taxpayers at more than $12,000 per vessel per day, and the Outlet has destroyed or damaged more than 20,000 acres of adjacent wetlands.

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Shirley Laska, director of the Center for Hazards Assessment, Response and Technology at the University of New Orleans, says local flood-control meetings have been dominated for years by complaints about the Outlet, but nothing has changed.

Before Katrina, the Corps was already studying whether to close the canal. The initial conclusion was no, but the Bush administration ordered the agency to redo its analysis.

The main advocates for the channel were the Port of New Orleans and its supporters in the Corps of Engineers and in Louisiana's congressional delegation. "You had the people of St. Bernard Parish against the Port of New Orleans," Boasso said at a community meeting Monday. "And the Port of New Orleans had the clout."

Port Director Gary LaGrange said "the jury is still out" on whether MRGO contributed to Katrina's devastation. But he said the port would have been willing to give up the Outlet if the Corps had completed a $750 million project to expand a lock on the Industrial Canal, another little-used shipping channel.

Most ships heading to New Orleans use the Mississippi River, but LaGrange said many local businesses rely on the alternative routes, including America's largest chicken exporter -- which now has 5 million pounds of rotting meat on its hands.

In any case, LaGrange said, the city would never have drowned if Congress had authorized levees protecting it from a Category 5 hurricane, instead of a Category 3.

"We've been stuffing a 250-pound body into 180-pound pants," he said. "That's your problem right there."

But in 1998, the St. Bernard Parish Council unanimously called for the channel's closing. In 2002, an LSU study noted that "locally, the MRGO is perceived as a superhighway for storm surge because of the channel's susceptibility to inundation by tropical storms and hurricanes." In 2004, a federally funded simulation drill called Hurricane Pam concluded that surges from a Category 3 hurricane would overwhelm the MRGO "funnel," flood surrounding areas and kill tens of thousands of people.

Mashriqui has dedicated his career to preventing a repetition of the Bangladesh catastrophe, and after the grim experience of the Hurricane Pam study, he became an evangelist for building a floodgate across the throat of the funnel.

When he spoke to emergency responders at the Metairie, La., library on "Hurricane Vulnerability Modeling for Southeast Louisiana," the next speaker was an Army Corps engineer. But he said Corps officials told him they could not study anything that was not in their congressional authorization. One colleague at the Hurricane Center predicted that nothing would happen until hundreds of people died.

"I told everyone: If New Orleans is a boat, here are the holes," Mashriqui said. "This is my passion; I don't want people to die in hurricanes. But nobody did anything."

Several current and former Corps of Engineers employees say the Corps' New Orleans district was reluctant to give up MRGO.

In recent years, Corps officials have spoken about closing it. But last year, they estimated their "project capability" for dredging the outlet at a whopping $38 million, signaling their desire to keep it open. "The general feeling was: 'There's no way we're closing that,' " says one biologist who left the district this year. "They wanted all the business they could get."

John Paul Woodley Jr., the assistant Army secretary who oversees the Corps, said the Bush administration had to instruct the agency to restart its study of whether to close the channel, because it hadn't taken into account the channel's destruction of wetlands, even though it was conducting a separate study of a $14 billion project to restore Louisiana's coastal wetlands. Woodley said there was also concern that further erosion could merge the channel with Lake Borgne -- which happened after Katrina.

Yesterday, Woodley pointedly declined to rule out the possibility that MRGO contributed to the tragedy of Katrina. "I've heard those concerns, and I wouldn't discount them," he said.

Woodley cautioned that the investigation of the catastrophe has just begun, but many scientists, environmentalists and St. Bernard Parish officials said they do not need a forensic investigation by the Corps of Engineers to know that their warnings have come true. Larry Ingargiola, the head of emergency management in St. Bernard, said he knows exactly why only 52 of its 28,000 structures made it through Katrina unscathed.

"That's where the damn water came -- right up MRGO," he said. "We've been screaming about it for years. I don't know how many politicians I've taken on tours. But there it is."

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Death Toll In Louisiana Climbs Past 400 (AJC/AP)

By Adam Nossiter, Associated Press Writer

The Atlanta Journal-Constitution, September 14, 2005

NEW ORLEANS — Hurricane Katrina's death toll in Louisiana jumped by more than half Tuesday to 423 as recovery workers turned more of their attention to gathering up and counting the corpses in a city all but emptied out of the living.

The state Health Department announced the new death toll, which represented a sharp increase from 279 a day before.

The number of dead is all but certain to rise, because some flooded-out areas of the city have not been fully searched. But how high it might go is unclear.

Mayor Ray Nagin said earlier this month that New Orleans could have 10,000 dead. But a street-by-street sweep of the city last week yielded far fewer bodies than feared, and authorities said the toll could be well below the dire projections. They offered no specific estimates.

Up until the past few days, authorities were slow to release numbers, saying they were concentrating on rescuing the living first. Rescuers reported pushing corpses aside, or tying them down to banisters or roofs for others to collect later.

As of Monday at least 236 people were reported dead elsewhere along the Gulf Coast, most of them in Mississippi.

"Let me caution everyone: We have not done the secondary searches in the areas where the water was the highest. So we still have a lot of work to do, and those numbers probably will go up," Nagin said Tuesday.

Over the weekend, at least 44 patients found dead at a flooded-out hospital.

Dr. Frank Minyard, the Orleans Parish coroner, suggested that further such discoveries are possible as the floodwaters recede.

"There just may be a lot of people who are still down in those deep waters, and some of waters were 10, 12, 15 feet deep," he said. "My biggest fear is that we will find something down there that is way out of proportion. Hopefully, it doesn't happen, but we worry."

The updated Louisiana numbers were released as Gov. Kathleen Blanco lashed out at the federal government, accusing it of moving too slowly in recovering the bodies.

The dead "deserve more respect than they have received," she said.

Coast Guard Vice Adm. Thad Allen, who took charge of the hurricane rescue efforts last week, said Tuesday that federal agencies involved had been meeting their mission to recover the remains quickly "and to treat them with the dignity and respect they deserve."

But Blanco said FEMA has slowed down the process by failing to sign a contract with the company hired to handle the removal of the bodies, Houston-based Kenyon International Emergency Services. Kenyon is working without a contract but threatened to pull its workers out of Louisiana unless either the state or the federal government offered it a signed agreement, Blanco said. Calls to Kenyon were not immediately returned.

"No one, even those at the highest level, seems to be able to break through the bureaucracy to get this important mission done," Blanco said.

Troops Returning To Duties (NYT)

By The New York Times

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - In a sign that initial rescue efforts after Hurricane Katrina are coming to an end, Pentagon officials said late Tuesday that about 4,000 active-duty troops, two large Navy vessels and three dozen helicopters ordered into the relief effort would return to their regular duties.

Officials said a sizable active-duty contingent remained, including the approximately 5,200 ground soldiers from the 82nd Airborne Division and the First Cavalry Division. At the height of the effort, more than 20,000 active-duty troops were committed to hurricane relief, military officials said.

Some Forces To Be Pulled From Storm Relief (AJC/AP)

DOJ_NMG_0005118

By Robert Burns, Ap Military Writer

The Atlanta Journal-Constitution, September 14, 2005

WASHINGTON — The Pentagon is preparing to pull back some active-duty forces it sent to Mississippi and Louisiana in the early aftermath of Hurricane Katrina, even as it sends in some new groups for specialized work like the processing of corpses and aerial spraying for disease-carrying mosquitos.

The role of active-duty forces, including Navy ships like the aircraft carrier USS Harry S. Truman and Army ground combat units like the 82nd Airborne Division, may diminish within days or weeks, officials said Tuesday.

Maj. Gen. Bill Caldwell, commander of the 82nd Airborne, said on Monday in New Orleans that it appeared the search for city residents who still want assistance could be completed within 10 days. He said it remained to be determined by state and federal civilian authorities what tasks his soldiers would be assigned after that.

As the Army's premier quick-response force with important wartime roles in Iraq and Afghanistan, the 82nd Airborne seems unlikely to stay in New Orleans for an extended period. The first of the 3,800 soldiers it has in New Orleans began arriving Sept. 3 from Fort Bragg, N.C.

Operating with the 82nd Airborne are about 1,400 soldiers from the 1st Cavalry Division, based at Fort Hood, Texas.

National Guard troops under the direct control of Mississippi Gov. Haley Barbour and Louisiana Gov. Kathleen Blanco are expected to remain on the scene much longer, although likely on rotations of one month or less.

Pentagon spokesman Bryan Whitman said Tuesday there are about 45,800 National Guard troops and about 22,400 active-duty personnel participating in recovery operations in Mississippi and Louisiana, plus about 1,900 Reserves.

While traveling in Europe, Defense Secretary Donald H. Rumsfeld said Tuesday the search-and-rescue portion of the military's mission on the hurricane-battered Gulf Coast is about over.

"Some helicopters can undoubtedly be moved out over the period ahead," Rumsfeld told reporters. He stressed that nothing would be withdrawn without authorization by the two states' governors and the president.

The Pentagon's internal news service quoted Rumsfeld as also saying the Navy's dock landing ship USS Whidbey Island, which brought bridging equipment and supplies to the region, would be departing. Some sailors from the Whidbey Island went ashore at Biloxi, Miss., on Sept. 8 to deliver goods and help in other ways.

The Truman aircraft carrier, which deployed from its home port at Norfolk, Va., three days after Katrina struck the Gulf Coast and arrived in waters off Mississippi on Sept. 4, was another candidate for an early return home, officials said.

Rumsfeld said there is a large surplus of hospital beds for victims of Katrina, so those could also be decreased. The USNS Comfort, a hospital ship based at Baltimore, arrived off the Mississippi coast late last week.

The Pentagon's internal news service said Rumsfeld approved the Federal Emergency Management Agency's request that the military take over the mortuary affairs mission in New Orleans. It reported that nine mortuary affairs teams from the 54th Quartermaster Company at Fort Lee, Va., were preparing to deploy to the region, and that nine other teams from that unit are on alert and are ready to deploy if ordered.

C-130 transport planes with the Air Force Reserve's 910th Air Wing began mosquito-spraying operations in St. Bernard and Jefferson parishes in New Orleans.

Officials Fear Texas May Have To Foot Bill (DMN)

By Todd J. Gillman

The Dallas Morning News, September 14, 2005

WASHINGTON – The bills are piling up: rent, police overtime, meals, transportation, hospital beds. Texas is already spending hundreds of millions of dollars caring for Katrina victims – but exactly how much may not be known for weeks.

And as they start tallying costs, state officials are becoming increasingly worried that despite a federal disaster declaration, Washington will leave Texas taxpayers stuck with huge bills.

The biggest items not yet covered by Congress: up to $450 million for schools and as much as $400 million for health coverage for the 205,000 evacuees thought to be in Texas.

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"Are we concerned? Yes," Gov. Rick Perry's spokesman, Robert Black, said Tuesday after the latest in a series of meetings between state and local leaders and federal emergency officials. "We are not completely comfortable with the federal response in terms of education and Medicaid."

Mr. Black noted that Texas still hasn't received $2 million it sought from the Federal Emergency Management Agency after Tropical Storm Allison four years ago.

Direct costs for states that took in evacuees include Medicaid, welfare payments, unemployment coverage, housing and public safety. Many of these costs will be completely covered by federal disaster funding, though there will be headaches along the way.

"It's going to be a huge accounting process," said William Ayres, Texas Emergency Management Agency spokesman. "We don't even have ballpark estimates."

At last count, Texas schools had enrolled 33,000 evacuee students, and the state's education commissioner, Shirley Neeley, said she expected as many as 60,000. The annual cost per pupil is about $7,500.

The other big-ticket item is Medicaid. Albert Hawkins, chief of the Texas Health and Human Services Commission, estimated that Katrina could add $85 million a month to the state's Medicaid bill. The federal government covers 61 percent. So unless Congress steps in, Texas taxpayers could be forced to absorb nearly $400 million over the next year.

And there are smaller items. Emergency food stamps have gone to about 110,000 families who sought refuge in Texas. The federal government pays for the stamps but splits administrative costs 50-50 with states. U.S. Health and Human Services Secretary Michael Leavitt has assured Texas officials that he would work to find funding to cover that extra burden.

President Bush's Sept. 2 disaster declaration made Texas eligible for full reimbursement on a range of outlays. But many of the costs associated with long-term resettlement aren't covered.

House Majority Leader Tom DeLay, R-Sugar Land, said that inevitably, some evacuees would end up as Texas residents, so the state will have to accept responsibility. "We will have to come up with some arbitrary timeframe," he said.

On Monday, Sen. Kay Bailey Hutchison introduced legislation to ensure that states get repaid fully for at least six months on Medicaid and children's health coverage. Her Texas counterpart, Sen. John Cornyn, is a co-sponsor, and he is also pushing for federal funding for education and health care costs, as are other Texans.

Meanwhile, costs are mounting for school districts, cities and counties.

The Dallas school district, with an enrollment topping 160,000, has taken in 1,248 evacuees at 134 schools – roughly doubling the number of new students. But as soon as they start attending classes, the district starts collecting money from the state based on average daily attendance.

Dallas City Manager Mary Suhm said the city has kept meticulous records of supplies bought and overtime paid, especially to police officers who've staffed the city's evacuee shelters by the dozen. Officials haven't tallied the costs, but they do expect full reimbursement through FEMA.

El Paso officials said the city had spent $475,000. San Antonio officials say they expect to spend $1 million on food and shelter for evacuees, and Bexar County officials say they've spent more than $1 million already, mostly on health care and sheriff personnel. In Houston, police overtime alone is estimated at $1 million.

Last week, Ken Welch, director of fiscal management at the state comptroller's office, urged state agency heads to keep careful records, on the assumption that Congress will issue refunds.

Other states are struggling with the price tag, too.

"Even the categories are still up in the air," said Bill Wyatt, spokesman for the National Council of State Legislators. "We don't know how many lives have been affected."

From A Times Staff Writer (LAT)

The Los Angeles Times, September 14, 2005

Gov. Arnold Schwarzenegger on Tuesday signed legislation allowing California to join 47 states in a pact to provide rescue responders and other resources to disaster locations.

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California's firefighters had balked at the Emergency Management Assistance Compact out of fear that they would have less legal protection and reduced death and disability benefits if they were hurt while assisting in another state.

After a prolonged standoff, Schwarzenegger and Democratic legislators, in the aftermath of Hurricane Katrina, fashioned a compromise that protects the firefighters.

The Schwarzenegger administration said that without membership in the compact, California had to negotiate individual arrangements with other states, potentially delaying response times.

The legislation, AB 823, was sponsored by Assemblyman Pedro Nava (D-Santa Barbara).

Owners Of Nursing Home Charged (WP)

By Peter Whoriskey And Ann Scott Tyson

The Washington Post, September 14, 2005

BATON ROUGE, La., Sept. 13 -- Louisiana authorities charged the owners of a New Orleans area nursing home with negligent homicide Tuesday after 34 patients perished in the facility in the wake of Hurricane Katrina.

On a day in which Louisiana's death toll escalated to 423, state Attorney General Charles C. Foti Jr. said the owners of St. Rita's nursing home in St. Bernard Parish had been warned repeatedly by government officials and the news media that Katrina was coming, and also declined to evacuate the patients when asked if they wanted to do so. "In effect, their inaction resulted in the deaths of these patients," he said.

Foti announced the charges against the owners, Mable B. Mangano, 62, and Salvador A. Mangano, 65, at a late-afternoon news conference here. He said they had turned themselves in and had been booked on 34 counts of negligent homicide at the East Baton Rouge Parish jail.

Foti also said the state would investigate the deaths of 45 patients whose bodies were discovered Monday at Memorial Medical Center in New Orleans, as well as any other instances in which negligence may have led to the deaths of senior citizens or others unable to care for themselves.

"I'm going to look at every place in the affected area where patients died of unnatural causes," he said. A hospital or health care facility with "people that can't make a free choice because they are sick or unable to care for themselves has a duty to provide for their safety."

Bob Habans, an attorney for the Manganos, said they are "completely innocent." He said the couple and their children and grandchildren had attempted to evacuate residents, and had saved 50 people at the nursing home. "When all of the facts come out, everyone will know that they were heroes in this tragedy," he said.

As state officials issued an updated death toll, Gov. Kathleen Babineaux Blanco (D) once again ripped into the Federal Emergency Management Agency for not moving more rapidly to collect the bodies of those who died in the storm and its aftermath.

Saying she had expressed her "absolute frustration" to federal authorities about the pace of recovering bodies, Blanco told reporters, "I cannot stand by while this vital operation is not being handled appropriately." She said the state signed a contract with a body-recovery company that had been in prolonged discussions with FEMA to do the same work.

Coast Guard Vice Adm. Thad W. Allen, the on-scene federal coordinator of disaster relief, responded in a written statement: "The state has always maintained direct control over the mortuary process following this tragedy. We are committed to a process that treats the victims of Katrina with dignity and respect and accomplishes the mission as quickly as possible. We will work with state officials on what they believe to be the best solution for their constituents."

Meanwhile, there were additional signs of recovery along the battered Gulf Coast. Louis Armstrong New Orleans International Airport resumed limited commercial service with the arrival of a Northwest Airlines flight that carried only about 30 passengers, including federal emergency relief officials. The Port of New Orleans was due to handle its first ship since before the hurricane hit on the morning of Aug. 29 -- well ahead of predictions that it could be out of business for months.

The overall death toll from the storm topped more than 640 on Tuesday, including 218 in Mississippi and a few deaths in Alabama. In Louisiana, the number of confirmed dead leapt from 279 to 423, and officials in New Orleans said many more bodies are likely to be found as waters recede an average of one city block a day and allow them to reach neighborhoods that

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experienced the most severe flooding. State mortuary workers said they were ramping up their manpower in New Orleans on Tuesday to remove more bodies.

A California National Guard unit looking for bodies rescued an unconscious and emaciated Edgar Hollingsworth, 74, from his house, and doctors said they expected him to survive, the Orange County Register reported.

As the work shifts from rescue and evacuation of the living toward the recovery of remains, the U.S. military has begun planning for withdrawing some of the 68,000 troops, 21 ships and dozens of aircraft from the Gulf Coast region, senior military officials said.

A large-scale troop pullout is already underway in Mississippi, with all of the several thousand out-of-state National Guard forces there scheduled to depart within eight to 10 days, Lt. Gen. Russel L. Honore, commander of Joint Task Force Katrina, said in an interview.

Military forces are expected to remain longer in Louisiana, but with the primary search effort in New Orleans expected to be completed by Wednesday, thousands of troops are expected to start departing within weeks, according to FEMA and military officials.

"It will be weeks, not months," when active-duty soldiers begin departing Louisiana, said Brig. Gen. Mark A. Graham, deputy commanding general of the 5th U.S. Army. About 7,200 active-duty troops, including 5,200 soldiers and 2,000 Marines, are engaged in relief work.

Honore said that as lifesaving missions such as search and rescue, providing food and water, and medical evacuation wind down, so will the military presence. He said some helicopter crews are already departing, including those from the 4th Infantry Division, which is preparing to return to Iraq.

In terms of providing security, Honore indicated that the city has an adequate law enforcement presence without federal troops. But Honore and other officials said the military is likely to stay to assist the city with planning, logistics and basic services until it can bring back a full contingent of municipal workers. "Until we've got these city workers back, we've got to keep the city running," he said.

One military unit winding up its mission Tuesday was a contingent of the 20th Special Forces Group, which has rescued nearly 8,000 New Orleans residents using inflated Zodiac boats since the flood hit. The unit, trained to partner closely with indigenous forces abroad, used those skills to help organize the search effort for the New Orleans Police Department.

Now, its officers say, the police are ready to work on their own. "We think they'll be on their feet in the next two days. They'll be able to handle it and we'll pull out," said Warrant Officer Bruce Erick, from a 20th Special Forces Group team based in Birmingham. The team helped the police carry out a systematic search plan.

As recovery efforts continued, FEMA's newly named acting director, R. David Paulison, spoke to reporters in Washington and said he will examine later the lessons learned from FEMA's failures.

"I can't deal with what happened in the last two weeks, but I can tell you, from this point forward, we are going to be focusing on the victims of this hurricane," he said. "But we've had a hurricane of unimaginable proportions, and we're going to deal with it. We're going to get those people out of shelters, and we're going to move and get them the help that they need."

At the same news conference, Homeland Security Secretary Michael Chertoff once again praised Michael D. Brown, who resigned as FEMA director on Monday after being yanked back to Washington amid withering reviews of the agency's performance the first week of the disaster. "As I said previously, I believe Mike Brown did everything that was within his capability to manage this crisis effectively," he said.

Owners Of Nursing Home Charged In Deaths Of 34 (NYT)

By Shaila Dewan And Al Baker

The New York Times, September 14, 2005

BATON ROUGE, La., Sept. 13 - The owners of a nursing home where 34 people died in the floodwaters that inundated the New Orleans area were charged Tuesday with multiple counts of negligent homicide, shortly after a new dispute broke out between the State of Louisiana and the federal government over the retrieval of hundreds of other bodies.

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Mable B. Mangano and her husband, Salvatore A. Mangano Sr., owners of St. Rita's Nursing Home in Violet, just east of New Orleans, turned themselves in after the charges were filed, Attorney General Charles C. Foti Jr. said. He said the couple had not acted on several warnings to move the residents as Hurricane Katrina approached.

"They were warned repeatedly, both by the media and by the St. Bernard Parish emergency preparation people, that the storm was coming," Mr. Foti said at a news conference here. "In effect, I think that their inactions resulted in the death of these people."

The charges represent the first major prosecution to emerge in the hurricane's aftermath.

The legal action came as the pace of recovery of the storm's other casualties increased. Louisiana authorities said the number of confirmed dead in the state increased to 423, a substantial rise from the 279 reported on Monday. Bob Johannessen, a spokesman for the Louisiana Department of Health and Hospitals, said the number of confirmations was expected to rise each day.

Gov. Kathleen Babineaux Blanco said the pace of recoveries should have been much faster, however, and accused the Federal Emergency Management Agency of slowing the retrieval of the dead to the point where the contractor responsible for that work had threatened to pull out.

After days of news reports of bodies in the streets of New Orleans, Ms. Blanco, with palpable frustration, said the state would bypass FEMA and sign its own contract with the company, Kenyon Worldwide Disaster Management.

"In recent days, I have spoken with FEMA officials and administration officials to convey my absolute frustration regarding the lack of urgency and the lack of respect involving the recovery of our people whose lives were lost as a result of Hurricane Katrina," Ms. Blanco said at a news conference in Baton Rouge. "We have pleaded for contract resolution. In death, as in life, our people deserve more respect than they have received."

FEMA officials responded by saying that the recovery of bodies was a state responsibility, while the federal role was to assist state officials.

"The state has always maintained direct control over the mortuary process following this tragedy," Vice Adm. Thad W. Allen of the Coast Guard, who is directing FEMA efforts in the region, said in a written statement. "We are committed to a process that treats the victims of Katrina with dignity and respect and accomplishes the mission as quickly as possible. We will work with state officials on what they believe to be the best solution for their constituents."

Kenyon officials said they had been struggling under cumbersome conditions to execute a task that gets grislier by the day. The company, which has a contract with FEMA to respond when called, arrived Sept. 1 but was not asked to begin recovering bodies until Sept. 6, said Bill Berry, a company spokesman.

The company's 100 or so workers have bunked in a funeral home in Baton Rouge, forcing them to drive four hours round-trip each day, and Kenyon officials said they had repeatedly asked for living quarters in New Orleans.

On Sunday, Kenyon officials told FEMA that they would not enter into a contract with the agency and would pull out as soon as a replacement was found, Mr. Berry said.

Mr. Berry said the company was already responding to Ms. Blanco's request that it increase its staffing even before the new contract was completed. "We just keep moving the cots a little closer together," he said.

Mr. Berry said he did not consider it appropriate to discuss why the company did not want to continue working under FEMA. But he had high praise for the state, which reached out to Kenyon after the company notified FEMA on Sunday that it would not accept a contract.

"I can't say enough about the Louisiana state people," Mr. Berry said. "They heard our problems, and they simply fixed them. It's beautiful to see a general sitting there from the National Guard saying, 'I can do that,' and it's done."

In an effort to explain why Kenyon may have walked away from a federal contract, a senior official from the Department of Homeland Security, who would not allow his name to be used because the department had already issued an official statement, said Tuesday that the state's proposed contract was "less detailed than the plan we were negotiating" and had four provisions compared with nine that FEMA had wanted.

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For example, the official said the federal proposal would have required that the Kenyon employees have specialized training and use personal protective gear and have appropriate security, provisions that the federal official said were not included in the state contract.

Mr. Berry declined to respond, except to say that the company had 76 years of experience in disasters. It was hired in the aftermath of Sept. 11, 2001, and last year's tsunami. "We will let our record speak for itself," he said.

Kenyon - a unit of Service Corporation International, a giant funeral company - operates worldwide and handled preservation of remains after the World Trade Center attacks and the cleanup of mass graves in Iraq under government contracts. The company, which is based in Houston, has contributed heavily to President Bush's campaigns. The chairman and founder of the company is Robert L. Waltrip, a longtime friend of the Bush family and a trustee of the George Bush Presidential Library Foundation.

In New Orleans, anger over the slow collection of bodies, which officials say has been hampered by floodwater and debris, still smoldered. Dr. Brobson Lutz, a former health director for the City of New Orleans, led an impromptu and morbid tour on Tuesday that he said reflected the extent to which those who perished had been neglected.

It included a nursing home on Dauphine Street, where three bodies had stayed until Dr. Brobson had mentioned them on Fox News, and the kitchen area of his own office, where he wiped at blood from the body of Michael Lala, the owner of Old N'Awlins Cookery. Mr. Lala had died from heart failure a week after the storm, but the authorities did not respond to requests to pick up the body, Dr. Brobson said, so he stored it in his office for a week until it finally was collected on Tuesday morning.

"FEMA couldn't get the live people out in time and they can't get the dead people out in time," Dr. Brobson said. "They failed the living and the dead."

The residents of St. Rita's did not have to die, Attorney General said, and he warned that other nursing homes that failed to remove residents also faced prosecution.

Local officials had ordered a mandatory evacuation amid news reports about the approach of the storm, Mr. Foti said. Because St. Rita's was licensed as a Medicaid facility, it had an evacuation plan in place, but it did not use it, he said.

In addition to the mandatory evacuation order, officials offered to send two buses to the nursing home, but Mr. Foti said the Manganos declined that offer. Also, the owners had an agreement with an ambulance company, signed in April, to provide ambulances to evacuate special-needs patients, but "they were never called," Mr. Foti said.

At least two drowning victims at the home could have been family members who went to the scene or people who took refuge there, he said, adding that the remains were being identified.

James A. Cobb, the lawyer for the Manganos, said that they were not guilty of the charges and that they were unaware a mandatory evacuation order had been issued. Mr. Cobb said that if the patients - some on feeding tubes, oxygen and in need of medication - had been put on a bus for 12 hours to evacuate, "people are going to die."

A deputy at the East Baton Rouge jail said the Manganos had posted a bond of $50,000 and were expected to be released.

La. Nursing Home Owners Charged In Deaths (AJC/AP)

By Doug Simpson, Associated Press Writer

The Atlanta Journal-Constitution, September 14, 2005

BATON ROUGE, La. — The husband-and-wife owners of a nursing home near New Orleans were charged Tuesday with negligent homicide in the deaths of 34 people during the flooding unleashed by Hurricane Katrina. The case represents the first major prosecution to come out of the disaster.

The owners of St. Rita's Nursing Home in Chalmette "were asked if they wanted to move (the patients). They did not. They were warned repeatedly that this storm was coming," Louisiana Attorney General Charles Foti said.

"In effect, their inaction resulted in the deaths of these patients," Foti said.

Salvador A. Mangano and his wife, Mable, surrendered and were jailed on 34 counts of negligent homicide. They posted bond of $50,000 each later Tuesday. Each count carries up to five years in prison.

The attorney general said he is also investigating the discovery of more than 40 corpses at flooded-out Memorial Medical Center, in New Orleans' Uptown section.

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The Manganos' attorney, Jim Cobb, said his Tuesday night that his clients are innocent, and he blamed St. Bernard Parish officials for not ensuring an evacuation plan was proceeding.

The nursing home owners had to make a difficult decision between evacuating the patients, many of them elderly and on feeding tubes, or keeping them at the home and weathering the storm, Cobb said.

"If you pull that trigger too soon those people are going to die," he said. Three people from another nursing home had died during the evacuation ahead of the hurricane.

The Manganos had an evacuation plan as required under state law, both their attorney and the attorney general said.

But Foti said the nursing home had a contract with an ambulance service to evacuate the patients, but the owners didn't call the company. They also turned down an offer from St. Bernard Parish officials who asked if the nursing home wanted help evacuating, he said.

The victims at St. Rita's died Aug. 29, the day the hurricane hit, and on Sept. 6, at least 14 unrecognizable bodies were still inside the nursing home, the New York Times reported last week.

St. Bernard Parish Councilman Ricky Melerine said the water rose 3 feet in 15 minutes that morning and then even faster, the Times said.

Several men tried to rescue the nursing home's residents by floating them out on mattresses, and others were able to walk to a school, the Times said. In all, the home had about 60 residents.

There were apparent efforts to fight the incoming water inside St. Rita's. A table was nailed against a window and a couch was pushed up against a door, the Times said. There was also evidence that water had reached the roof.

Tom Rodrigue, whose mother died in the nursing home, was angry Tuesday and near tears.

"She deserved the chance, you know, to be rescued instead of having to drown like a rat," he told CNN.

Foti said the bodies have not all been identified and he was not sure how many of the victims were patients or staff.

"They had a duty and a standard of care to people who could not care for themselves," Foti said of the owners. "If you or I decided we are going to stay, we do it of our own free will. ... The people at the nursing home don't have that choice."

Louisiana Charges Nursing Home Owners With Negligent Homicide (KRT)

By Chris Gray, Brandon Bailey And Scott Dodd

Knight Ridder, September 14, 2005

BATON ROUGE, La. - Hurricane Katrina killed them, but the Louisiana attorney general said Tuesday that he's also holding the owners of a nursing home responsible for the deaths of 34 victims, mostly elderly, found after the storm.

People in St. Rita's Nursing Home, in a small town southeast of New Orleans, tried to fight the rising floodwaters by blocking windows and lashing themselves together with rope, but they lost their battle when water reached the roof.

Attorney General Charles Foti said Salvador and Mable Mangano, a married couple who owned the facility, turned themselves in to authorities on Tuesday and have been charged with 34 counts of negligent homicide.

The nursing home had a contract with an ambulance company to evacuate residents, Foti said, but it didn't call for help. It also turned down offers from St. Bernard Parish to send buses.

"Their inaction resulted in the death of those people," Foti said. "They did not die of natural causes. They drowned."

In Washington, President Bush accepted responsibility for the federal government's failures in the aftermath of Katrina, as the death toll along the Gulf Coast climbed to more than 600.

After more than a week of White House refusals to play "the blame game," Bush acknowledged that mistakes were made and that the government's halting, disorganized response raised questions about the country's ability to cope with a terrorist attack.

"Katrina exposed serious problems in our response capability at all levels of government," Bush said in a midday White House news conference. "To the extent that the federal government didn't fully do its job right, I take responsibility."

Facing the lowest approval ratings of his presidency - a Newsweek poll found just 38 percent of Americans say he's doing a good job - Bush planned a prime-time speech from the disaster area on Thursday night.

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"I want to know what went right and what went wrong," Bush said at a joint appearance Tuesday with the Iraqi president in Washington, "to answer that very question that you asked: Are we capable of dealing with a severe attack or another severe storm?"

Back in Baton Rouge, Foti said that some people at St. Rita's survived, including a man who got his elderly relative out of the facility by floating to safety on a mattress.

"Of all of this, that's the thing that hit the heart of most people," St. Bernard Parish President Henry "Junior" Rodriguez said of the nursing-home deaths. "I personally know two people who had their families in there and went to get them, and they were floating."

An attorney for the nursing home said the owners would fight the charges. "I can promise you there's another side of the story," lawyer Jim Cobb told CNN.

Dan Wagner came to the St. Bernard parish emergency operations center Tuesday looking for news about who was found in the nursing home. He couldn't find out what had happened to his 95-year-old grandmother, Mary Alma Wagner.

"They said they were going to evacuate her," he said. "We're just trying to find out if she's there. She's not on the list of the people brought out."

Foti said his office will also investigate other hospitals where bodies have been found, including Memorial Medical Center in New Orleans, to see if they died of anything other than natural causes.

About 45 bodies were removed from Memorial over the weekend. Hospital spokespeople said many elderly and sick people died at the flooded, powerless facility in the four days after the storm while doctors and nurses tried to keep them alive, waiting for rescuers who never came.

In the nation's capital, homeland security officials pledged a house cleaning of political appointees in top jobs who have little experience in disaster management, and more fingers were pointed in New Orleans over the snail's pace of retrieving bodies that litter the flood-ravaged city.

Meanwhile, the hard work of finding a place to live for thousands of now-homeless evacuees across the Gulf States promised to provide another major challenge for the government. The American Red Cross said thousands of people could be living in shelters for months.

State officials said the confirmed number of dead in Louisiana had reached 423, up from fewer than 200 last weekend. In Mississippi, emergency officials reported 218 deaths.

New Orleans Mayor Ray Nagin said workers haven't finished door-to-door searches for bodies in every sector of the city, so officials expect the death toll to rise. The grim job should be completed by week's end, he said.

Defense Secretary Donald Rumsfeld approved FEMA's request for the military to take over mortuary affairs in New Orleans. Nine mortuary affairs teams from the 54th Quartermaster Company at Fort Lee, Va., were preparing to go, and nine others are on alert.

Nagin said he's waiting for official results of an Environmental Protection Agency study of air and water quality. If the results are as good as he's heard, he hopes to open downtown New Orleans, the French Quarter and some neighborhoods to residents and businesses in the next few days.

In his first public statements, new acting FEMA chief R. David Paulison said he will focus on the hundreds of thousands of Gulf Coast evacuees living in shelters, tents or their cars. He pledged to "get these people out of the shelters into some type of either semi-permanent or permanent housing."

The American Red Cross said nearly 7,000 people are housed at shelters in Mississippi, with 75,000 around the country. Most emergency shelters weren't meant to serve as homes for more than a night or two.

"We expect we'll be sheltering people for several months," said Red Cross spokesman Kevin Titus.

State and federal officials say they're scouring the Southeast for up to 300,000 trailers and mobile homes to serve as free or subsidized housing for as long as two years.

The government is also looking for spots to establish miniature "communities" of several thousand mobile homes, but locations with enough space and needed utilities are hard to come by.

"You've got to have a place to put `em," said Mississippi Gov. Haley Barbour.

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Some of the first trailers were delivered to an RV park in Biloxi, Miss., where some local families were moving in Tuesday and unpacking the few belongings they were able to salvage from the hurricane.

"It's wonderful just to have a place to say is yours," said Peggy Nitcavic, 57. The home where she grew up and later raised two sons was destroyed by Katrina.

Nursing Home Owners Charged With Negligent Homicide (LAT)

By Ashley Powers And Nicholas Riccardi

The Los Angeles Times, September 14, 2005

NEW ORLEANS — Parts of this hurricane-devastated city could reopen by Monday, an upbeat Mayor C. Ray Nagin said today as officials announced the first homicide charges connected to the Hurricane Katrina disaster.

State Atty. Gen. Charles C. Foti Jr. announced today that the owners of St. Rita's Nursing Home in St. Bernard Parish had been charged with 34 counts of negligent homicide after 34 bodies were recovered at the facility.

Mable B. Mangano, 62, and Salvador A. Mangano Sr., 56, were each charged with 34 counts of negligent homicide and lodged in the East Baton Rouge Parish prison.

Each count carries a maximum penalty of five years incarceration.

"Thirty-four people drowned in a nursing home that should have been evacuated," Foti said.

The attorney general alleged that the Manganos declined to accept the two buses authorities had offered to send, and did not call an ambulance company they had contracted.

Officials discovered the bodies after the hurricane. They have yet to be identified, and could include staff members or relatives of patients, Foti said.

Foti also said his office would investigate other nursing homes, hospitals and care facilities where bodies were found, including Memorial Medical Center in New Orleans, where 45 bodies were discovered.

The criminal charges came as officials grew optimistic more than two weeks after Katrina struck, killing at least hundreds, perhaps thousands, and causing tens of billions of dollars in damage.

Nagin held his first news conference in the city since the weekend and was noticeably upbeat.

"We are in a situation now where we are out of nuclear crisis mode and in regular crisis mode," he told reporters.

Both the airport and the port reopened today as crews continued to clean up the city that has been under floodwater since Katrina hit the Gulf Coast on Aug. 29. Waters still covered more than half of the city today.

But Nagin, cheered by a verbal report from federal Environmental Protection Agency officials, said some the driest and most famed parts of the city — the downtown business district, the French Quarter, Uptown and Algiers — will hopefully reopen to residents by Monday.

"We are bringing New Orleans back, we are bringing its culture back, we are bringing its music back," Nagin said. Glancing up at the military helicopters, he said: "I'm tired of hearing these helicopters. I want to hear some jazz."

He estimated that 100,000 to 150,000 residents could return to the four open districts, if air quality test results were good, but insisted that no one will be allowed to go to areas that are still wet. Nagin said he was sure the evacuees, scattered across the country, would want to return.

"I know New Orleanians, and once the beignets start cooking up again and the gumbo's in the pot, and the red beans and rice are being served on Monday, and not where they are, they'll be back," he said.

In the capital of Baton Rouge, the governor lashed out at the federal government, accusing the Federal Emergency Management Agency of moving too slowly to recover the bodies of those killed in the wake of Hurricane Katrina.

At a speech this morning, Gov. Kathleen Babineaux Blanco expressed her "absolute frustration" with FEMA officials, whom she accused of moving too slowly.

"In death as in life, our people deserve more respect than they have received," Blanco said.

On an optimistic note, Blanco said she hoped to allow state buildings in seven parishes affected by Katrina to reopen next week.

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Blanco said that the state would contract with Kenyon International of Houston to remove the bodies because Kenyon could not agree with FEMA on a contract.

"I have taken action today to resolve a matter that involves life, death and dignity," the governor said from a conference room at state police headquarters while surrounded by state elected officials.

"No one, even those at the highest level, seems to be able to break though the bureaucracy to get this important mission done.... I am angry and outranged," Blanco said.

Collecting bodies is the responsibility of the state with FEMA only in a supporting role, David Passey, a FEMA spokesman, said today of the delays in signing a contract. From the start, the state has been in charge of the effort to locate and transport the dead to morgues, he said.

"The collection of bodies is not normally a FEMA responsibility," Passey said.

The governor's press secretary, Denise Bottcher, said FEMA would need to approve the contract so that the state could be reimbursed, or the state would have to pay.

"What they're there for is to have someone with experience of a natural disaster or a terrorist attack," Bottcher said.

After observing a moment of silence for Hurricane Katrina's victims, the governor said that most New Orleans residents had heeded the call to evacuate because the death toll appeared to be in the hundreds, not thousands.

The official toll in Louisiana was 423, but was expected to rise.

Blanco announced that seven parishes would conditionally re-open Monday: Lafocorche, Livingston, St. Charles, St. John, St. Tammany, Tangipahoa and Washington. State offices there can be reopened.

Parishes still closed are Jefferson, Orleans, Plaquemines and St. Bernard.

With the cleanup of New Orleans continuing, Mayor Nagin said he will attempt to get Wal-Mart, Lowe's and Home Depot to open temporary retail areas near the convention center so returning residents can buy necessities. He warned that anyone trying to commit crimes would be dealt with harshly, noting that the streets were still full of military troops.

"This city is probably the safest it has been in many, many years," he said.

The mayor said the restoration would become easier now that what he called "the big daddy of all pumps," Pumping Station No. 6, came back online Monday.

Officials said only about 30 people were evacuated Monday and that all had previously been urged to leave by rescue workers. Because there were so few evacuees, there will no longer be airlifts from the city after today's flight departs.

The first commercial passenger flights landed at New Orleans' international airport, named for jazz great and city native, Louis Armstrong.

There were two inbound flights from Memphis on Northwest and one Delta flight from Atlanta.

The Delta flight arrived with passengers but flew out empty. The two Northwest flights departed with passengers.

The airport, which until last night was a military bunkhouse filled with cots, looks like an airport again, but one filled with military personnel rather than passengers.

One passenger, Donna Brazile, a political science professor at Georgetown University, sat in a metal chair outside the Northwest terminal, waiting for a flight that would take her home to Washington DC.

Brazile came to New Orleans to help her family, who she said had lost everything in the storm. She said that her father had been evacuated to Texas and that she had gone after him, brought him back, and found him an apartment in the region.

She had been scheduled to fly out on one of the Northwest flights this morning, but was unable to get to the airport in time because of the military checkpoints along the road that slowed her down.

"I got lucky," she said. "Northwest put me on the next flight out. I'll get home, even though it will be late. I am not sure what I am going to do in the meantime. It's not like there are a lot of comfortable places to hang out in the airport right now."

Most shops in the airport remained closed, but one convenience type store was opened, anticipating that there would be passengers to serve.

The store was filled with dozens of military police, who browsed through clothing racks filled with pastel-colored New Orleans T-shirts. They stood around reading the first few pages of books designated New York Times bestsellers, and buying

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magazines that ranged from People and Vogue to Business Week. Most paid in cash, though the cashier said that the phone lines were up to take credit cards.

Pair Charged In 34 Deaths (USAT)

By Laura Parker

USA Today, September 14, 2005

NEW ORLEANS — The owners of a nursing home where 34 residents are believed to have drowned during Hurricane Katrina were charged Tuesday with negligent homicide.

Before the storm arrived, St. Bernard Parish officials had asked the owners of St. Rita's Nursing Home — Salvadore Mangano Sr., 65, and his wife, Mabel, 62 — whether they wanted to move the residents, Louisiana Attorney General Charles Foti said.

"They did not," Foti said. "They were warned repeatedly that this storm was coming. In effect, their inaction resulted in the deaths of these patients."

Neighbors described a horrible scene that unfolded on Aug. 29, the day Katrina hit. Floodwaters rose to the roof of the one-story nursing home in St. Bernard, outside New Orleans, trapping elderly and infirm residents inside. Neighbors came in boats and smashed a hole in the roof.

"We tried to get out as many as we could," said Steve Snyder, 29, an oil rig worker. "All we could go by was the hollering and screaming, 'Help, help!' "

"We got 25 to 27 people out alive," Snyder said. "And then we didn't hear anymore screaming, anymore people calling for help."

The Manganos surrendered to authorities Tuesday and were charged with 34 counts of negligent homicide. Each count carries a maximum five years in prison. The two were released on $50,000 bond each.

A lawyer for the Manganos said they were being scapegoated. "They are completely innocent," lawyer James Cobb said.

Cobb said the Manganos have a "spotless record" caring for the elderly and were presented with "a horrible choice" of risking the lives of patients on feeding tubes by evacuating them 70 miles away or keeping them at the facility. The Manganos contacted all relatives of the residents and told them of their plans to ride out the storm, he said. "To pick on these two people with the colossal failures of the federal, state and local government is out of bounds," Cobb said.

The father of Steve Galladore, a St. Bernard Parish firefighter, was among the dead. Galladore said he talked to the Manganos three days before the storm and was assured they would evacuate. But when he talked to Salvadore Mangano a second time, the nursing home owner had changed his mind, he said.

"He was sure the levees were going to hold, and if he put people on the bus, there was a good chance of losing two or three people on the ride to Lafayette," Galladore said.

Held Behind Walls In Katrina's Wake, They Also Serve (WSJ)

By Gary Fields

The Wall Street Journal, September 14, 2005

BOGALUSA, La. -- James Cox plunged his scarred, rough hands into the ice bucket to fish out two bottles of Gatorade and handed them to Tammey Duncan. A resident of devastated Washington Parish, she was waiting in line at the emergency-aid station in an industrial park here.

Mr. Cox, a prisoner for nearly 30 years, is serving time for armed robbery at the Washington Correctional Institute. In the past two weeks, though, he has also been a first responder, one of dozens of inmates in orange jumpsuits who have been driving forklifts, clearing debris and handing out food and water to people living here near the Mississippi line.

As Louisiana digs out from Hurricane Katrina, convicts have been opening roads with axes and chainsaws and doing other useful work. At Angola State Penitentiary, near Baton Rouge, inmates produced mattresses for shelters. Some prisoners have even donated money from what little they are paid so evacuees can buy postage stamps.

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"I've been a thug since 1966, and this feels good," said Mr. Cox, a brawny, tattooed 53-year-old. "When people come up and you look into their faces and see all the sadness, and then they thank you like you are the one giving this stuff to them, it makes you tear up."

Opened in 1983 to house 500 inmates, the Washington Correctional Institute now holds 1,200 men, most here on drug charges, and it employs 418 people, making it one of the largest employers in the parish. Since Katrina struck, this medium-security prison 70 miles north of New Orleans has sent scores of inmates every day with corrections officers to work in the parish. The jobs don't pay well -- 20 cents an hour, at best. But unlike the vast majority of the 43,900 people of this parish, the prisoners go back at day's end to hot showers, warm meals and electric lighting.

All of the prisoners who have been helping are "trusties," men who are given special privileges -- like getting to leave the prison grounds under supervision -- because of their exemplary disciplinary records.

The hurricane has resulted in neither riots nor escapes. Because the prison is surrounded by dense, forbidding woods, running away isn't much of an option. Indeed, since Katrina hit, the Louisiana state prison system has been relatively peaceful despite moving 8,000 inmates from prisons damaged by the hurricane to 13 different facilities.

In large part, that's because some of the prison authorities, such as Warden James Miller here at the Washington Correctional Institute, were a lot better prepared for the hurricane than state and federal authorities were.

On Aug. 29, the morning Katrina's eye passed about 30 miles east of here, prisoners huddled in the dorms watching the horizontal rain, listening as the gravel on the roof whipped off and shattered windshields a half-mile away. Heating units were torn off the buildings. About that time, two 10-foot-high fences topped with razor wire were breached by the storm.

While most inmates were locked in their cells, one crew of officers and trusties rushed to turn off a leaking main gas line. Fifty others, standing in the rain and wind, raised and welded the downed fence that confines them. As the storm began to subside, Warden Miller, who lives on the prison grounds, sent six crews of inmates and corrections officers out. Their instructions were to clear one lane on all the main roads in the parish.

As the men made their way out among downed power lines and roads littered with fallen trees, a radio call came in asking for help clearing the road to the emergency management center in Bogalusa. Another team from the prison headed that way with their axes, hatchets and saws to cut and move the downed trees from the roadway.

Mr. Miller, 50 years old, had his own personal emergency management plan in place. He had backup generators with a stockpile of fuel. The prison was already equipped with one of the largest food-storage facilities in the parish. It was so well stocked there was no chance food would run out and the prison was able to help out the school system, which had food in danger of spoiling.

The warden's biggest concern was gasoline to power the generators. As soon as the storm passed, Mr. Miller pulled out the satellite phone he had reserved for such emergencies and called Richard Stalder, the state's corrections chief, to arrange for additional fuel supplies. Mr. Miller has been able to give each of his workers 10 gallons of gas every two days so they can drive to work. Others, including a few officers, stayed over at a makeshift shelter on the prison grounds. "This isn't the kind of place where you can just let everybody take off work -- I've got to have them here," Mr. Miller said.

It has been hard for many inmates to grasp what has been happening outside the prison. About 85% of the inmates here are from the New Orleans area, and they had no access to news reports until the warden videotaped a newscast and played it on the prison's television system.

The TV rooms were silent as inmates crowded in. Darrell Johnson, 49, who has been here nine months for a parole violation, was watching the screen when he saw his neighborhood, then recognized his street and family home, all underwater. "I'm just hoping everybody got out safe," he said of his two brothers and two sisters. "You can't call because of the phone situation here, and there's no sense in writing a letter. The mail ain't got nowhere to go. I have no idea what shelter they went to or even what city they might be in."

Pausing while he moved pallets of baby formula, Keshawn Patterson, 27, said, "We can't help our families … At least doing this, helping, it takes your mind off it for a while."

A challenge for the prison is finding the families of prisoners who are soon to be released. The institute has already located the families of 180 prisoners and will continue to make calls and to use the Red Cross and other means to try to find them. The

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state still needs to figure out how to keep track of inmates on parole or probation should they leave Louisiana -- and to coordinate with other states.

Meanwhile, to keep operations here normal, Mr. Miller hasn't canceled regular visiting days. And letters will go into the files of inmates who have helped out in the hurricane relief effort, intended to help the men when they come up for parole..

DeLay Declares 'Victory' In War On Budget Fat (WT)

By Amy Fagan And Stephen Dinan

The Washington Times, September 14, 2005

House Majority Leader Tom DeLay said yesterday that Republicans have done so well in cutting spending that he declared an "ongoing victory," and said there is simply no fat left to cut in the federal budget.

Mr. DeLay was defending Republicans' choice to borrow money and add to this year's expected $331 billion deficit to pay for Hurricane Katrina relief. Some Republicans have said Congress should make cuts in other areas, but Mr. DeLay said that doesn't seem possible.

"My answer to those that want to offset the spending is sure, bring me the offsets, I'll be glad to do it. But nobody has been able to come up with any yet," the Texas Republican told reporters at his weekly briefing.

Asked if that meant the government was running at peak efficiency, Mr. DeLay said, "Yes, after 11 years of Republican majority we've pared it down pretty good."

Congress has passed two hurricane relief bills totaling $62.3 billion, all of which will be added to the deficit.

Republican leaders have been under pressure from conservative members and outside watchdog groups to find ways to pay for the Katrina relief. Some Republicans wanted to offer an amendment, including cuts, to pay for hurricane spending but were denied the chance under procedural rules.

"This is hardly a well-oiled machine," said Rep. Jeff Flake, Arizona Republican. "There's a lot of fat to trim. ... I wonder if we've been serving in the same Congress."

American Conservative Union Chairman David A. Keene said federal spending already was "spiraling out of control" before Katrina, and conservatives are "increasingly losing faith in the president and the Republican leadership in Congress."

"Excluding military and homeland security, American taxpayers have witnessed the largest spending increase under any preceding president and Congress since the Great Depression," he said.

Mr. Keene said annual nonmilitary and non-homeland security spending increased $303 billion between fiscal year 2001 and 2005; the acknowledged federal debt increased more than $2 trillion since fiscal year 2000; and the 2003 Medicare prescription drug bill is estimated to increase the government's unfunded obligations by $16 trillion.

Tom Schatz, president of Citizens Against Government Waste (CAGW), said if Mr. DeLay wants to know where to cut, "there are plenty of places to reduce."

His group soon will release a list of $2 trillion in suggested spending cuts over the next five years, and he said Congress also could cut the estimated $20 billion to $25 billion in pet projects that make their way into must-pass spending bills each year.

CAGW and the Heritage Foundation also suggest rescinding the 6,000-plus earmarked projects in the recently passed highway bill.

But Mr. DeLay said those projects are "important infrastructure" and eliminating them could undermine the economy as Congress tries to offer hurricane relief.

"It is right to borrow to pay for it," he said. "But it is not right to attack the very economy that will pay for it."

Mr. Schatz, though, said the highway bill included projects such as flowers for the Ronald Reagan freeway in California, which he said aren't essential spending.

Mr. DeLay said the budget this year was pared down and 100 programs or offices were eliminated in this year's spending bills. "We have been doing that for 11 years," he said. He said it's an "ongoing process" that will be more complete after this year's budget process, which calls for cuts to Medicaid and other entitlement programs.

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Rep. Patrick T. McHenry, North Carolina Republican, agreed that Republicans "have been more fiscally sound than the Democrats were in their decades in the House." He acknowledged that "we're still trying to improve," and noted Mr. DeLay is leading the fight to reform the budget process.

"We've had a good start, but many of us want to see the government be more fiscally sound and conservative in the future," Mr. McHenry said.

Aside From Roberts And Katrina, What Else Is New Lately? (HILL)

By Elana Schor

The Hill, September 14, 2005

In case anyone needed reminding of how consumed Congress is by just two issues at the moment, GOP senators left yesterday's policy lunch with matching talking point cards — one with a small graphic of the Supreme Court, the other with a photo of a hurricane.

Only five daring lawmakers convened hearings to compete with the morning appearance of chief justice nominee John Roberts before the Senate Judiciary Committee. And one of the four, Sen. Rick Santorum (R-Pa.), cleverly changed the focus of his pre-planned hearing, from nonprofit organizations to nonprofit organizations in the aftermath of Hurricane Katrina.

Santorum noted the fortunate coincidence that all three of his invited charity groups happened to be involved in the disaster relief effort, but turned skeptical at the suggestion that "Katrina-izing" the people's business was turning into a trend.

"In this case, the parallel is pretty obvious," Santorum said.

Sen. Joseph Biden's (D-Del.) immersion in Roberts was so complete that, heading for the policy lunch, he mistakenly referred to the judge as "Ginsburg" and volleyed away a ubiquitous Katrina question by explaining that preparing his confirmation questions had taken up the majority of his time. Still, Biden defended the chamber's ability to manage both hurricane reconstruction and the ongoing war in Iraq while dealing with Roberts.

"We ought to be able to walk and chew gum at the same time," Biden said.

For many on the Hill, the priority most in danger of slipping through the cracks is entitlement cuts mandated by the congressional budget resolution but put off to accommodate the response to Katrina. Democrats are strategizing on how to turn the month-long budget reconciliation delay into an indefinite one, with Republicans parrying that they can walk, chew gum and tighten penalties for sex offenders at the same time.

"This is something that can help bring the nation together" during a post-Katrina mourning period that has turned partisan, said Charlie Keller, spokesman for Rep. Ginny Brown-Waite (R-Fla.), whose sex-offender verification bill was folded into a broad package that House Judiciary Committee Chairman James Sensenbrenner (R-Wis.) shepherded to a floor vote today.

"While the House is trying to continue its business of the things American people are looking for, I think cracking down on sex offenders definitely falls under that category," Keller said. House GOP leadership agreed, touting an appearance by Sensenbrenner and his cosponsors in addition to one from the House "Lawsuit Abuse and Voter Values Public Affairs Teams" cheerleading for Roberts's confirmation, on which they have no vote.

The Congressional Hispanic Caucus was kept busy by a three tasks, preparing for its institute's annual convention this week, releasing its first survey on corporate employment of Hispanic-Americans and using the hurricane to push for an abandonment of mandated cuts in food stamp funding.

"One of the methods we can use to get attention for that is to put out [word of] the importance of food stamps for those who have suffered because of Katrina," said Michael Levin, spokesman for CHC member Rep. Joe Baca (D-Calif.). As for the other major story at hand, "I was going to say 'who's John Roberts,' but I guess that wouldn't be a good answer," Levin joked.

Lest the public worry that Roberts and Katrina have intercepted integral deliberation, Sen. Bob Bennett (R-Utah) offered to set it straight.

"You're making too big a deal out of it," Bennett said. "Of course the Senate set aside other things to deal with emergencies. Yeah, we delayed the debate over Hawaiian statehood. We're carrying forward in a normal fashion and I think we'll be fine."

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Normal Hill sights were in abundance, with crews of grassroots lobbyists visiting staffers to argue for their cherished causes. The National Association of Insurance and Financial Advisers (NAIFA) dispatched local representatives from as far away as Colorado to peer at Capitol maps and promote their call to make September "Life Insurance Awareness Month."

A cadre from environmental group American Rivers was also seen traipsing through the halls, although "River Lobby Day" had the perfect news peg lined up. "The Mississippi River and its tributaries are lined with countless miles of levees," said American Rivers president Rebecca Wodder in a Katrina response statement. "Each of these provides an unfounded sense of security for the communities behind them."

Katrina Gives Urgency To TV Transition (RC)

By Kate Ackley

Roll Call, September 14, 2005

Last Friday, roughly 15 first responders came to Capitol Hill. Their visit, timed to coincide with the anniversary of the Sept. 11, 2001, terrorist attacks, was designed to make an urgent call for a speedy transition from analog to digital television.

Television policy might seem like an odd rallying cry for fire and police officials. But there's a good reason for their interest: Once that transition takes place, first responders such as fire, rescue and police officers stand to benefit from a windfall of new frequencies that they can use to communicate with each other when handling emergencies. (The rest of the spectrum will be auctioned off, netting an estimated $10 billion for the government's coffers.)

What the group didn't plan on was that yet another tragedy, Hurricane Katrina, would occur in the interim — if anything, making their case stronger than ever. But the hurricane also has set their cause back, at least temporarily, as Congress' legislative course has been thrown into disarray.

Before Katrina, digital TV was supposed to move on a budget reconciliation package — by Congressional standards, a seemingly sure bet. But now that measure has been delayed. One GOP lobbyist put it this way: "It's delayed somewhere between a few weeks and never."

Alan Caldwell, a retired former fire chief in Fairfax County, Va., now serves as senior adviser of government relations for the International Association of Fire Chiefs. He took part in Friday's meetings with Rep. Roy Blunt (R-Mo.) as well as get-togethers with such Members as Reps. Eric Cantor (R-Va.) and Hilda Solis (D-Calif.) and Sen. George Allen (R-Va.).

"Right now, so much is in flux, I would hate to be a betting man on something like this," Caldwell said. "But what has changed ever so slightly is the absolute critical need. There are more needs for communication. Police chiefs and fire chiefs don't make any money off the spectrum. We just need it to do a better job for the people we're sworn to protect."

Burson Taylor, a spokeswoman for Blunt, said the first responders at the Friday meeting were "advocating for a hard deadline, and it was a good conversation. [Blunt] believes it's imperative to get the spectrum to the first responders just as soon as possible."

Taylor added that while reconciliation is on hold, there is no indication that the DTV measure won't be included when it moves. "Even with the delay," she said, "everything is still lined up for consideration."

Veronique Pluviose-Fenton, principal legislative counsel for the National League of Cities, said her association has joined with first-responder groups to urge Congress to free up spectrum ever since the Oklahoma City bombing in 1995.

During the Katrina aftermath, Pluviose-Fenton said, emergency workers were down to one channel. Senate Majority Leader Bill Frist (R-Tenn.) "himself witnessed it," she said. "People were using runners where a doctor says something and a young person runs it across to the other part of the airport to a nurse. Post 9/11, that is an embarrassment."

The independent commission that studied the 9/11 attacks put first-responder communications on its list of priorities.

Pluviose-Fenton added that as soon as a date is certain, local governments can begin investing their homeland security funds in new communications. "If we can talk, we can save lives," she said.

Bill Anaya, the senior director of legislative affairs for the electronics and communications giant Motorola, said he expects reconciliation to be delayed until next month. His company cares about the issue because it does business with first responders and because it manufactures boxes that can convert a digital signal for reception on an analog TV.

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"That's all we know right now. No decisions have been made," Anaya said. "It's unclear whether they will go forward with reconciliation or not."

But, he added, "there is growing momentum that this public-safety spectrum piece must be taken care of. Do they get to use the vehicle of budget reconciliation or do they become part of a Katrina relief piece? That's the razor it's sitting on."

Anaya added: "I think if reconciliation happens, this is in it — it's just a question of whether reconciliation happens at all."

Wherever the DTV language might end up, the revenue stemming from the auction could be in high demand. "It brings with it $10 billion in a wheelbarrow. There are a lot of places where that kind of resource can be quite beneficial," he said.

The call for a "hard" date for the DTV transition has gained enough legislative traction that some proponents have indicated it could even go as a standalone measure.

Dennis Wharton, spokesman for the National Association of Broadcasters, said his group has abandoned its opposition to a hard date for the transition to digital.

"We accept the fact that Congress is going to set a hard date. We're not going to stand in the way or fight that," he said.

But what the broadcasters want is for cable carriers to carry all the channels that broadcasters send out over their digital stream, some of which offer 24-hour local weather programming. Wharton said NAB argues that such "multicasting" should be included in whatever final legislative package carries the DTV measure.

"We would make the case that broadcasters provide a critical role in times of crisis," Wharton said. "Countless lives are saved every year by emergency weather warnings. But that is not meant to diminish the efforts of public safety providers."

Pluviose-Fenton, like her colleagues, said no matter the vehicle, the DTV measure needs to pass.

"We want it to go on a legislation that is moving," she said. "We have technology that shouldn't force people to make a choice between television and public safety. Now is the time for Members to say what happened in Katrina matters, what happened on 9/11 matters. How many lessons learned do we have to go through?"

GOP Counterpunching On Ethics (RC)

By Nicole Duran

Roll Call, September 14, 2005

Cognizant of how their effective portrayal of a Democratic Party drunk with power led to their historic takeover of the House in 1994, Republicans are moving quickly to ensure that Democrats do not get traction on the ethics issue for the 2006 elections.

For every Democratic Congressional Campaign Committee news release calling on Congressman So-and-So to return campaign contributions from indicted Republican ber-lobbyist Jack Abramoff, the National Republican Congressional Committee accuses Democratic leaders of hypocrisy — or worse.

When the Democratic Senatorial Campaign Committee and the Montana Democratic Party made a television buy last month criticizing Sen. Conrad Burns (R-Mont.) for his Abramoff ties, the National Republican Senatorial Committee wasted no time quibbling with the ad's imprecise wording.

The swift counterattack paid off: At the request of some local stations, the Democrats agreed to tweak the ad.

Democrats think the indictments of Abramoff and political allies of House Majority Leader Tom DeLay (R-Texas) taint enough Republicans to make ethics a salient issue for them in next year's midterm elections.

But Republicans, in addition to counterpunching, maintain that Democrats are talking about ethics so much because they have nothing else to say.

"The fact that they are chasing this rabbit demonstrates they don't have issues to talk about and they don't have an agenda," NRSC spokesman Brian Nick said. "So what recourse do they have? Well let's go throw spaghetti at the wall and see if it sticks."

Democratic pollster Celinda Lake said Republicans have to move aggressively to counter ethics charges because the issue hits home.

"It's a huge issue," she said. "We've also tested the statistic that the number of lobbyists has doubled [recently] and what we've found in general is there is a strong belief that Washington is really out of touch and that can really resonate, so it's a good overall umbrella argument."

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In the case of Burns, it's especially powerful because "you have two very clean Democratic candidates — one is a true outsider candidate" — who can draw clear distinctions between themselves and an "out of touch" Senator, Lake said.

Montana state Auditor John Morrison and state Senate President Jon Tester are competing for the Democratic nomination to take on Burns next year.

While individual Republican Members may be in exceptionally hot water, Democrats have a long way to go before they can truly nationalize the issue, warns Brad Coker, president of the independent Mason-Dixon polling firm.

"It's not registering on the Richter scale yet," Coker said.

At least at this early stage, voters are unhappy with lawmakers in general but Congressional Democrats are faring only a little better than Congressional Republicans in opinion polls.

A Gallup poll released Tuesday showed that only 36 percent of Americans approved of the job Congress is doing, while 58 percent disapproved. A Newsweek poll released earlier this week showed 50 percent of Americans preferring generic Democratic Congressional candidates compared to 38 percent who expressed a preference for Republicans.

Whether the GOP's low poll numbers, coupled with Democratic attacks on ethics, make the Republicans vulnerable in the long run is debatable.

"As long as there's been Congresses, there's been individual Members caught in ethical lapses," Coker said. "I'm not sure if [the Abramoff scandal] is seen as anything other than typical political rhetoric. It's hard to say" if the issue can really take root, because "more details need to come out but right now, Abramoff — he's not a household name."

Maybe so, but Democrats think they have enough time to hammer the point home so come November 2006, voters will know who he is — and seats that no one thought were competitive will be.

"We're going to keep talking about them," said Sarah Feinberg, spokeswoman for the DCCC. "The truth of the matter is they have several Members who are very much riddled with ethics matters and having to defend themselves each day."

Among others, Democrats are targeting DeLay, House Administration Chairman Bob Ney (R-Ohio), and the seat being vacated by embattled Rep. Duke Cunningham (R-Calif.) — not traditionally favorable terrain — because they think questions about those Members' ethics can put their seats in play.

Feinberg said Republican attempts to counter each DCCC allegation is a sign of their "desperation."

"Every step of the way, those releases and those attempts to get press have been pretty see-through," she said, noting that when DeLay's political associates in Texas were indicted last week, the NRCC accused DCCC Chairman Rahm Emanuel (Ill.) of shady behavior.

"It's so obviously trying to change the subject," Feinberg said.

Ed Patru, a spokesman for the NRCC, said the only thing obvious is that Democrats are devoid of ideas.

"Republicans had a clear alternative that resonated with the public, the Contract with America," he said, dismissing the notion that 2006 could be like the Republicans' 1994. "There's no indication that Democrats have anything near that."

Patru also said Republicans have no fear of an election based on ethics.

"If they're seeking an ethics war, that's what they're going to get," he said. "Democrats are failing to nationalize the election around ethics because to the public, there is no difference between the parties on this issue."

Many of the recent ethical lapses have involved Republicans, but just as some Democrats think Cunningham's seat is winnable now because of his questionable dealings with a federal contractor, Democrats are not completely innocent, Mason-Dixon's Coker noted. For example, Rep. William Jefferson (D-La.) had his home searched by the FBI not long after Cunningham's properties were raided.

Still, Coker said Democrats might be on to something.

"Over time, if there's a steady drumbeat and enough individual lapses come up to back it up" maybe voters will pay heed, he said. "But I don't think you got Watergate here."

OTHER NEWS:

Ophelia Nears, Islands Empty, Schools Shut (WP/AP)

DOJ_NMG_0005135

By Paul Nowell, The Associated Press

The Washington Post, September 14, 2005

WRIGHTSVILLE BEACH, N.C. -- Vulnerable islands were evacuated and mainland schools were closed Tuesday as Ophelia strengthened to a hurricane and wobbled closer to land with a threat of flooding rain.

The National Hurricane Center upgraded the storm's status Tuesday evening, saying maximum sustained winds had reached 75 mph, with higher gusts. The center said further strengthening was possible.

"I don't really want to mess with it," Bruce McIlvaine of Logan Township, N.J., said as he packed to leave the Outer Banks' Hatteras Island before his vacation ended. "You're on a spit of land a dozen miles into the ocean."

Others were nonchalant, following the lead of many longtime residents who were staying put.

Brenda and Rich Hooser, who moved to Nags Head from Winston-Salem three weeks ago, strolled hand-in-hand through the surf.

"All the locals _ none of them leave," Rich Hooser said. "If it's not over 125 (mph), they don't go anywhere."

A hurricane warning extended from the South Santee River in South Carolina north to Oregon Inlet at Pamlico Sound in North Carolina, meaning hurricane conditions were expected within 24 hours.

A hurricane watch and tropical storm warning were in effect from the Oregon Inlet north to the North Carolina-Virginia line and southward from the South Santee River to Edisto Beach in South Carolina.

After taunting coastal residents for days, the storm appeared ready to move ashore, as heavy rain battered South Carolina's northern coast and the beaches of southeastern North Carolina.

In Carolina Beach, south of Wrightsville Beach, officials reported a foot of water on one road due to heavy wind and a high tide.

Unlike Hurricane Katrina's devastating charge at the Gulf Coast, the week-old Ophelia had been following a meandering path, making predictions of its landfall difficult. The hurricane center's forecasts showed it running along the coast, then veering through Pamlico Sound, crossing the Outer Banks and heading back out to sea.

Its slow movement meant heavy rain could linger over land, possibly causing serious flooding. The hurricane center said up to 15 inches of rain was possible in eastern North Carolina.

At least six North Carolina counties ordered mandatory evacuations of some areas and eight others had voluntary evacuations.

Along the exposed Outer Banks chain, all residents and visitors were ordered to evacuate Hatteras Island on Tuesday, visitors had been ordered off Ocracoke Island and the National Park Service closed the Cape Hatteras lighthouse and the Wright Brothers National Memorial in Kill Devil Hills.

Schools were closed in several coastal counties in both North and South Carolina, while classes were canceled at the University of North Carolina at Wilmington and East Carolina University in Greenville.

North Carolina Gov. Mike Easley said coastal residents should be prepared to go without power for two to three days.

"The beaches we expect to take a real beating," Easley said. "The bottom line is we're definitely going to get flooding, not just on the coast but in low-lying areas as the rivers swell from the storm surge itself."

South Carolina Gov. Mark Sanford had called for a voluntary evacuation of oceanfront and riverside areas in the northeastern part of his state. Virginia Gov. Mark R. Warner declared a state of emergency.

A surfer was missing along the South Carolina coast, and the search had been suspended because of the rough sea.

At 11 p.m. EDT, Ophelia was centered about 115 miles east of Charleston, S.C. The storm was stationary, but a gradual turn toward the north was expected Wednesday, the hurricane center said.

The storm's likely path across Pamlico Sound and the Outer Banks would mean the biggest flooding threat would come not from the Atlantic Ocean but from the sounds _ the bodies of water between the mainland and the barrier islands, said Jonathan Hobbs, a spokesman for the Dare County Joint Information Center.

Ophelia became a tropical storm Wednesday off the Florida coast and later strengthened to a hurricane. It is the 15th named storm and seventh hurricane in this year's busy Atlantic hurricane season, which began June 1 and ends Nov. 30.

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Ophelia Poised To Swamp Coastal N.C. (USAT)

By Patrick O'Driscoll

USA Today, September 14, 2005

Hurricane Ophelia is projected to move along the northeast coast of North Carolina today, dumping heavy rain, producing high wind and possibly spawning tornadoes.

Ophelia, the first hurricane to reach U.S. shores since Katrina hit the Gulf Coast Aug. 29, may take an entire day to cross land before spinning back out to sea.

The storm, moving at 4 mph Tuesday night, could inundate coastal communities and lash them with gusts up to 92 mph.

Katrina was a Category 4 monster, with 140 mph winds. Ophelia is only Category 1 (74 mph or more), but Ophelia's slow pace means "the effects will be more protracted," meteorologist Eric Blake of the National Hurricane Center said.

"The highest winds will last longer. Rainfall totals over a foot are possible. Coastal erosion will be a big problem," Blake said.

Two years ago this weekend, Hurricane Isabel tore into beaches on North Carolina's Outer Banks, a 120-mile tourist mecca of narrow islands. The hurricane center predicts "large and dangerous waves" today and a 5- to 7-foot storm surge, possibly 10 feet in inlets.

Rainfall could total 10 inches on South Carolina's northeast coast and 15 inches in eastern North Carolina.

Ophelia's track is so erratic that the eye of the hurricane may not reach land, said Steve Lyons, tropical weather expert for The Weather Channel. It will still feel like a direct hit, he said, because the storm's strongest wind bands reach out up to 60 miles from its center.

Hurricane warnings were posted from South Carolina to Virginia. Six North Carolina counties ordered mandatory evacuations. Eight others asked people to leave voluntarily.

Storm Increases Off The Carolinas (NYT/REU)

By Reuters

The New York Times, September 14, 2005

SALVO, N.C., Sept. 13 (Reuters) - Hurricane Ophelia strengthened slightly on Tuesday as it wobbled toward the coast and sent thousands of people packing from North Carolina's barrier islands.

The storm's center was 110 miles south of Wilmington, N.C. It was creeping north-northwest and was expected to turn north and hit the North Carolina coast on Wednesday night and Thursday, the forecasters said.

The storm has sat off the coasts of North and South Carolina for four days, alternately strengthening into a hurricane and weakening back to a tropical storm.

On Tuesday night it strengthened back into a minimal hurricane, with winds of 75 miles an hour.

Along the 100-mile chain of barrier islands known as the Outer Banks, mandatory evacuation orders were issued for all 20,000 people on Hatteras Island, a popular vacation spot that includes Cape Hatteras Lighthouse and the Cape Hatteras National Seashore.

Delta And Northwest Are Poised To File For Bankruptcy Protection (WSJ)

By Evan Perez and Susan Carey

The Wall Street Journal, September 14, 2005

The dire financial condition of Delta Air Lines and Northwest Airlines indicates that recent hopes for a slight recovery of the beleaguered airline industry may have been crushed by the surge in oil prices and the effects of Hurricane Katrina.

The carriers' boards are each scheduled to meet Wednesday to decide whether they'll file for bankruptcy protection. The filings themselves may come as soon as Wednesday, although Northwest is considering holding off to give its unions a last chance to make financial concessions. Indeed, some industry officials speculate that the carrier's surprise board meeting may itself be a gambit to pressure the unions.

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Twin bankruptcies could further darken the skies for the industry at a time when prospects seemed to be brightening. Though fuel prices were burdening U.S. carriers even before Hurricane Katrina, many had eked more savings out of their operations and were benefiting from growing passenger traffic. Airlines were able to raise their fares somewhat this summer despite continued tough competition. Thanks in part to the summer surge in traffic, carriers like AMR Corp.'s American Airlines, the leading U.S. carrier in terms of traffic, and Continental Airlines posted second-quarter profit after several quarters of losses.

But bankruptcy filings by Northwest and Delta could make competition in the industry much tougher. Both would want to sharply reduce costs while under bankruptcy protection, which gives them greater ability to abrogate union contracts and make other radical moves.

The wave of bankruptcies in recent years has led to industry complaints that bankruptcy allows too many carriers to stay in the air, when the industry could benefit from less competition. Currently in Chapter 11 are US Airways Group Inc., UAL Corp.'s United Airlines, Aloha Airgroup Inc. and ATA Holdings Corp., parent of ATA Airlines. Hawaiian Airlines emerged from Chapter 11 this summer.

Bankruptcies rarely have much effect on passengers. The carriers continue to operate their route networks, although they often cut back some capacity and reduce their fleets, getting their commuter affiliates to assume more flying. Airlines maintain their frequent-flier plans as well, and sometimes they offer fare sales and mileage bonuses to keep customers who might be leaning toward switching carriers.

While Chapter 11 allows airlines to continue operating, it's a costly and cumbersome process. Carriers must pay bankruptcy lawyers and consultants, including the advisers to their creditors' committees. Dealing with these complex cases also takes up much of management's time. Companies must seek court approval for myriad standard expenditures and decisions, and all of their activities are an open book because filings, contracts and business decisions are outlined in public court filings.

US Airways, after shedding pension plans and getting concessions from its workers, hopes to emerge soon from Chapter 11 through a combination with America West Holdings Corp. The two carriers said the result would be one low-cost airline when the transaction is completed, perhaps in the next two weeks. United, which also shed pensions and won union concessions, last week filed its plan of reorganization after many months in bankruptcy protection. The country's No. 2 carrier in terms of traffic also hopes to emerge as a much-lower-cost airline.

Both No. 3 Delta and No. 4 Northwest have been warning for months about the possibility of seeking bankruptcy protection. The threat has grown more dire as Katrina disrupted flights to the Gulf Coast and crippled oil refineries, sending jet-fuel prices soaring. Delta has been further burdened by its inability to restructure its massive debt load and Northwest by a strike by mechanics.

At a meeting Wednesday, Delta executives and directors are expected to give final authorization for a Chapter 11 filing, capping a four-year financial dive brought on by a heavy debt load and high fuel costs that have overwhelmed restructuring efforts. Delta plans to make its filing after the close of financial markets in the U.S. Bankruptcy Court in New York, immediately following the directors' approval, according to people familiar with the situation.

In recent days, the company has wrapped up details of an approximately $1.7 billion financing package from creditors led by General Electric Co.'s commercial lending unit. The so-called debtor-in-possession agreement is meant to help the airline continue its operations while under court protection. The financing pact includes as much as $650 million in new financing, according to documents reviewed by The Wall Street Journal. The rest of the financing will go to pay off the approximately $1 billion outstanding on a loan made last fall, also from a group led by GE, that helped Delta avoid bankruptcy at that time.

To obtain the financing, Delta will have to encumber essentially every one of its unencumbered assets, including aircraft, spare parts, its Comair regional feeder unit and AirElite private-jet operation, airport gates and even its routes to Tokyo and London, according to the documents reviewed by the Journal. The assets have an estimated value of $3 billion.

Delta reported more than $20 billion in debt at the end of June and said its cash cushion stood at $1.7 billion. But the carrier warned that it was likely to violate certain debt agreements later this year that require it to maintain at least $1 billion in cash. Among its liabilities due by year end, Delta said, were $470 million in maturing debt, $550 million in interest payments, $460 million due for operating leases and $135 million in pension payments.

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As Delta's troubles have worsened, the value of its outstanding shares has fallen to below $125 million, less than even the $930 million market value of low-cost Atlanta rival AirTran Holdings Inc., which operates AirTran Airways, a carrier a fraction of Delta's size.

Delta officials are dispatching teams of supervisors to meet with employees Thursday and Friday to explain the likely impact of the filing on their wages, benefits and pensions.

The company has, along with Northwest, pushed for federal legislation that would give airlines more time to catch up with pension payments. Delta's pensions are underfunded by $5.3 billion. The legislation is making progress, but Delta officials now believe the bill in its current form, offering 14 years to catch up, may not be enough to help Delta preserve its pensions. Creditors are likely to make a move to force Delta into a distressed termination, which occurs when a company in bankruptcy is allowed to jettison its pensions onto the federal Pension Benefit Guaranty Corp.

Last week, Delta met with representatives of the government pension insurer, people familiar with the matter said. No decisions have been made on whether to end the pensions. But such a move would add substantially to growing deficit of the PBGC, which already has assumed the pensions of US Airways and United.

Northwest officially said Tuesday it had made no decision about a bankruptcy filing. But a person familiar with the matter said directors meeting Wednesday are expected to weigh whether to file at once or hold off for a few weeks to give the airline's unions a deadline for making concessions the carrier says it needs.

On Monday, the St. Paul, Minn., airline defaulted on an $18.7 million payment it owed one of its commuter affiliates, and faces a payment due Thursday of $65 million to its underfunded pension plans. Northwest has a grace period that ends next Tuesday to pay MAIR Holdings Inc., owner of Mesaba Airlines, but enjoys no such latitude on the pension obligation.

In a Securities and Exchange Commission filing late Tuesday, Northwest confirmed that it missed the semi-monthly payment to Mesaba. It also said it decided not to make $23 million in payments due last weekend and Monday on aircraft financings. Those agreements give the carrier grace periods of five to 10 business days. The SEC filing also said if Northwest fails to make Thursday's pension payment, a lien would arise against its assets unless it had previously sought bankruptcy protection.

While Northwest has managed to stay aloft through the mechanics strike, helped by temporary replacement workers it may take on full-time, its future without major labor concessions and legislative relief from its pension problems is in doubt. The carrier said its cash cushion, which was $2.46 billion at the end of last year, had fallen to $1.7 billion at the end of August, and the airline is burning through $4 million in cash a day. Still, the $1.7 billion is enough cash that Northwest doesn't necessarily need a debtor-in-possession loan, said a person with knowledge of the matter.

Another person familiar with Northwest's situation said the carrier could arrange such a loan later, but it might not be so easy. The carrier's long-term debt and capital-lease obligations stand at $8.1 billion, and its pension plans are underfunded by $3.8 billion. Since the industry downturn began in 2001, Northwest has produced nearly $3 billion in operating losses. Its liabilities and shareholders deficit total $14.4 billion.

Based on its closing price of $1.57 a share Tuesday, Northwest has a market capitalization of about $136 million.

Northwest's cash cushion has made it hard for the airline to convince unions it needed $950 million in annual savings. Northwest raised the target to $1.1 billion this year and is now telling workers it needs $1.4 billion, according to the striking Aircraft Mechanics Fraternal Association. So far, the pilots are the only unionized group that has granted wage concessions, and recently they agreed to talk about a second round of savings. Negotiations with other unions continue, but the mechanics struck over Northwest's last contract offer, made last month, and further talks this the weekend failed.

Northwest's board, which currently has 13 members, has three directors who represent labor. It's expected that they might press management to set a firm deadline for labor to give concessions, giving the unions notice that they must act now or face a bankruptcy filing, said one person familiar with the situation.

Douglas Runte, who covers airline debt and equity for Morgan Stanley, said Tuesday night that he believes Northwest "is a company that can successfully restructure out of court," adding that the airline hasn't yet pursued all avenues that could keep it out of Chapter 11.

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Bankruptcy filings give management more leverage over labor because the company can ask a judge to abrogate current labor agreements and let new terms be imposed. In addition, pension plans can be terminated in Chapter 11 and transferred to the PBGC, resulting in smaller payments to some workers.

Other directors might feel the unions have had plenty of time to reflect on Northwest's precarious situation and want to file now to avoid making Thursday's pension payment and another financing payment due in early October, one person said. In the SEC filing late Tuesday, Northwest said it is engaged in an analysis of its debt, lease and other obligations to determine which "should be targeted for restructuring." The payments it missed in recent days "are among those that the company has identified that it would seek to restructure as part of a transformation plan."

How long Delta or Northwest might be in Chapter 11 depends. US Airways was in and out in eight months on its first filing in 2002-03, and it is just about to emerge from its second filing after 12 months. UAL, on the other hand will hit the three-year mark in court protection in early December. If Northwest doesn't wind up filing until the bankruptcy laws change on Oct. 17, it would have to be quicker about it because the new law doesn't allow the debtor company to continue indefinitely having exclusive rights to field its reorganization plan.

Source: Delta Plans To File For Bankruptcy (FINDLAW/AP)

By Harry R. Weber, Ap Business Writer

Find Law, September 14, 2005

(AP) - ATLANTA-Delta Air Lines Inc., the nation's third-largest carrier, plans to file for bankruptcy protection in New York as early as Wednesday, according to an industry consultant who has been informed of the company's plans.

Delta's stock tumbled 25 cents, or 22.7 percent, to close at 85 cents in heavy trading Monday on the New York Stock Exchange.

The consultant, who was not authorized to disclose the information and thus spoke on condition of anonymity, said Delta is working with GE Commercial Finance and other creditors to arrange roughly $2 billion in debtor-in-possession financing. The money would allow the airline to operate in bankruptcy.

Delta, which has lost nearly $10 billion since January 2001, likely will pledge the few remaining assets not already pledged as collateral for loans as part of the bankruptcy financing agreement, the consultant said. "There is nothing unencumbered after this," according to this consultant.

The consultant said the filing was expected to come Wednesday afternoon but could be pushed to Thursday depending on when the bankruptcy financing is completed.

A Delta spokeswoman declined to comment, saying no decision about bankruptcy has been made. Two spokesmen for GE Commercial Finance also declined to immediately comment. Reached at his Connecticut home Monday, Delta director Edward H. Budd said, "Anything that's going to be talked about at Delta is going to come from Delta." Calls to the homes of four other company directors were not answered.

The bankruptcy filing would come as Atlanta-based Delta has been unable to right itself amid persistently high fuel costs and heavy debt and pension obligations.

The filing would make Delta the third major U.S. carrier to enter Chapter 11 since the 2001 terrorist attacks, joining Elk Grove Village, Ill.-based UAL Corp., parent of United Airlines, and Arlington, Va.-based US Airways Group, Inc., which has filed twice in the last three years.

Some smaller carriers, including Honolulu-based Hawaiian Airlines and Indianapolis-based ATA Airlines Inc., also have filed for bankruptcy in recent years.

If it follows the pattern of most big airline bankruptcies, Delta's existing shares would eventually become worthless and portions of the airline's existing debt would be exchanged for equity in a reorganized Delta. One major question is whether Delta would go the route of UAL and US Airways and seek to turn over its pilot and other employee pension plans to the federal government.

Delta's total debt is roughly $20.5 billion, and it listed $21.6 billion in assets as of June 30. The asset figure would make Delta's bankruptcy the ninth-largest in U.S. history, according to bankruptcy tracker New Generation Research, Inc.

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Delta has announced up to 24,000 job cuts over the last four years. In September 2004, it also said it would shed its Dallas hub as part of a sweeping turnaround plan aimed at saving the airline. The plan was hampered, however, by soaring fuel costs.

Fort Worth, Texas-based AMR Corp., the parent of American Airlines, the nation's biggest carrier, teetered on the verge of bankruptcy before winning deep concessions from its employees.

The other legacy carriers, those with a large presence in multiple regions prior to deregulation in 1978, are Eagan, Minn.-based Northwest Airlines Corp. and Houston-based Continental Airlines Inc.

Northwest has also been said to be close to bankruptcy.

On the Net:

Delta Air Lines Inc.: http://www.delta.com

Two Major Airlines Seen Near Filing For Bankruptcy (NYT)

By Micheline Maynard

The New York Times, September 14, 2005

Two of the nation's biggest and most troubled airlines, Northwest and Delta, appeared likely to file for bankruptcy protection as soon as today, people briefed on the airlines' plans said yesterday.

Both airlines have been hit hard by the spike in jet fuel prices this month and by the relentless competition in the industry.

Filings by Northwest and Delta would mean that four of the seven major airlines would be operating under court protection, with the others being United and US Airways. Also, when several smaller bankrupt carriers are included, half the seats available on flights in the United States would be operated by bankrupt airlines, according to an estimate by Standard & Poor's Ratings Services.

Court protection would have little immediate impact on either airline's routes and flights, and frequent-flier programs would remain in place. But consumers may eventually see reduced service to some cities, as the airlines shift their focus to destinations where they can make money.

And if the experience at the other major airlines in bankruptcy is a guide, workers at Northwest and Delta can expect significant job cuts, reductions in wages and benefits and termination of their traditional pension plans as the companies streamline their operations.

Both companies were completing bankruptcy plans yesterday. Officials at each airline said a final decision had not been made to seek Chapter 11 protection.

A filing by Northwest would need the approval of its board, which is set to meet today, its pilots' union said in a statement yesterday. The union has a representative on Northwest's board. Delta's board met last Friday.

Any filing by either airline would be made in United States Bankruptcy Court in New York. Delta's filing has been anticipated for weeks, but any Northwest move was not expected for several more weeks as it continued to try to win the $1.4 billion in concessions from its labor unions that it said it needed to avoid a court filing.

But the jump in fuel prices in the wake of Hurricane Katrina moved the company's timetable forward, people with direct knowledge of Northwest's position said last night. Still, a lively debate was expected at the board meeting over whether to file now or wait, these people said.

Bankruptcy filings give companies a chance to overhaul their operations and negotiate lower payments to creditors as well as streamline in ways they could not accomplish outside of court protection.

But for these airlines, bankruptcy would not eliminate the challenge posed by low-fare carriers, like Southwest and JetBlue, which now carry one-third of passengers on flights within the United States.

They can charge less for tickets because they operate at much lower costs than their major competitors, employing fewer workers for each airplane and having much quicker turnaround times at airports. That, in turn, allows them to make more flights a day than big airlines.

The low-fare airlines' growing presence, up from just 6 percent of passengers in 1990, has kept the big airlines from passing along the punishing rise in the price of jet fuel.

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The airlines use 19 billion gallons of fuel a year, and,

even before Hurricane Katrina, they were paying 50 percent more for it than in 2004. Prices jumped 25 percent in the days after the storm, although they have since moderated slightly.

Northwest and Delta, like most of their competitors, have no financial protection to shield them from the higher fuel prices, meaning they must immediately pay more in cash when prices go up.

The struggles of inefficient airlines and the rise of low-fare carriers are exactly what was envisioned when President Jimmy Carter ordered the deregulation of the industry in 1978, freeing the airlines from government controls on routes and fares, said Alfred E. Kahn, chairman of the Civil Aeronautics Board at the time.

"This is the continued working out of the restructuring that deregulation promised and made inescapable," Mr. Kahn said yesterday. He added, "I don't know where it is going to end."

At Northwest and Delta, at least, a way of life is coming to an end for employees.

United, which set off the biggest default in the history of the federal pension agency this year when it scrapped its traditional retirement plans, has obtained two deep rounds of cuts from its workers under bankruptcy protection, and it eliminated 25,000 jobs.

US Airways, which had 46,500 workers before the September 2001 terrorist attacks led to deep declines in travel, now has just 22,000. Its workers took three rounds of cuts in its two bankruptcies.

"For American workers, it's an unrelentingly grim scenario," David Gregory, a professor of labor law at St. John's University, said yesterday.

But even though both companies warned repeatedly that they might have to seek bankruptcy protection, workers at each have resisted cutbacks, especially those at Northwest, which has lost $3.6 billion since 2001.

It has been trying for three years to win concessions from its pilots, flight attendants, baggage handlers and other employees, raising its demand for cuts from $900 million to $1.4 billion in that time.

But only Northwest's pilots have agreed to cuts, and the airline is in the third week of a strike by 4,430 members of its mechanics' union, who walked out Aug. 20 over the airline's request for $176 million in concessions.

Northwest has kept operating with 1,900 supervisors, contractors and replacement workers. Yesterday, it began offering permanent jobs to some replacement workers. If the strike is settled, Northwest will not have to rehire workers it permanently replaced.

Northwest shares lost half their value yesterday, after The New York Times reported on its Web site that the company was considering filing for bankruptcy protection today. Northwest shares fell $1.74, or 52 percent, to $1.57.

Delta shares, meanwhile, fell 7 cents, to 78 cents. Delta asked its pilots yesterday for another round of deep cuts, on top of the $1 billion in concessions obtained a year ago, when Delta was on the verge of seeking bankruptcy protection.

Delta and its regional airlines operate about 3,000 daily flights. The airline, based in Atlanta, has about 52,000 employees. Northwest and its regional carriers operate 1,500 daily flights. Northwest, based in Eagan, Minn., has about 40,000 employees.

Leaders of the Air Line Pilots Association, Delta's only unionized group, said they would start a three-day meeting next Monday to decide whether to negotiate with the company.

But by then, Delta may be in bankruptcy, a fate that its chief executive, Gerald Grinstein, has tried desperately to avoid. Mr. Grinstein, 72, took charge of the airline 20 months ago, and has since tried to cut $5 billion in costs under a restructuring plan that included the elimination of 7,000 jobs.

Last week, Delta, which has lost nearly $10 billion since 2001, sold Atlantic Southeast Airlines, one of its commuter airlines, to SkyWest for $450 million. And Delta has been arranging the financing it will need to operate in bankruptcy, believed to be about $1.7 billion, with lenders like GE Corporate Financing.

This week, however, came signs that the airline was running out of time. As it was seeking more cuts from the pilots, Delta did not make an interest payment on its corporate debt, taking advantage of a grace period that gives it more time.

A Delta spokeswoman, Chris E. Kelly, said the airline believed that the move was "a prudent step to take" while it decided whether to seek bankruptcy protection. Delta faces another debt payment on Monday.

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Meanwhile, Northwest disclosed in a regulatory filing yesterday that it must make a $65 million pension payment tomorrow, which it cannot skip unless it has filed for bankruptcy protection. Yesterday, the Treasury Department rejected a request by Northwest to delay the payment, saying it was limiting relief to corporations in the gulf region.

Northwest also disclosed that it had delayed $42 million in debt payments. These, and the pension payment, would diminish Northwest's cash, which dwindled to $1.7 billion this month from $2.1 billion at the end of June.

But even that smaller amount could be enough to finance the airline's operations in the first months of bankruptcy protection, serving as the equivalent of debtor-in-possession financing, said Philip A. Baggaley, an airline analyst at S.& P. That would explain why the airline has apparently not sought outside financing as Delta has done.

One advantage for Northwest is that many of its senior executives have experience with airline bankruptcies, particularly its chief executive, Douglas M. Steenland, 53, a lawyer who took part in cases involving Continental Airlines and Eastern Air Lines.

And because Mr. Steenland is said to believe that his airline's bankruptcy case may take more than 18 months, that is probably one reason Northwest as well as Delta may file today.

Federal bankruptcy laws change on Oct. 17; after that management will have only 18 months to draft a restructuring plan.

Companies that file before Oct. 17 can have more time if they can persuade a judge to grant it. United, for example, has been operating under bankruptcy protection for nearly three years, and does not expect to emerge until February.

Ron Adams, a member of the mechanics' union at Northwest, said he was not surprised to hear the airline was contemplating a bankruptcy filing. But he said that did not make him any more willing to accept the cuts.

"I want to keep my job, but if they want to replace me, more power to them," Mr. Adams said yesterday while walking the picket line at Detroit Metropolitan Airport, one of the airline's hubs.

Delta, Northwest On Brink Of Chapter 11 (FT)

By Caroline Daniel

Financial Times, September 14, 2005

Delta Air Lines, the third-largest US carrier by revenues, is expected to file for bankruptcy protection on Wednesday, as the board of Northwest, its smaller rival, meets to examine strategic options ahead of its own possible filing.

Delta has lined up debtor-in-possession financing, allowing it to restructure operations and repair its balance sheet.

Although Northwest has been weighing a filing, its efforts to secure funding had been thought to be less advanced as management grapples with a three-week strike by maintenance workers.

However, the Minneapolis-based airline is understood to have lined up backing from US Bank, which operates its frequent flyer credit card programme. Airbus, which has financed a large part of the Northwest fleet, is also expected to participate.

The two airlines have sought additional concessions from employees in a bid to cope with rising fuel prices and the weak revenue environment created by intensifying competition from lower-cost rivals such as Southwest, AirTran and JetBlue.

The reorganisation plans are likely to see both airlines shrink domestic operations in favour of more profitable international routes, though analysts cautioned this would still leave the US industry with overcapacity. Independence Air, a Washington-based airline, is also understood to be close to a filing though industry sources suggested this would lead to its liquidation.

Both carriers on Tuesday declined to comment on the timing of any filing under Chapter 11 of the US bankruptcy code, though have repeatedly warned they may need to seek protection. Analysts have pointed to a window of opportunity for filing between the Labor Day holiday and October 17, when new bankruptcy legislation is due to be enacted.

United Airlines, the second-largest carrier after American, has been in Chapter 11 since December 2002, but hopes to emerge early next year. US Airways hopes to emerge later this month following its planned merger with smaller rival America West, whose shareholders on Tuesday approved the combination.

Delta, based in Atlanta, was seen as weaker because of its larger exposure to domestic routes, more onerous pension obligations and the cash drain of renegotiating a deal with its credit card vendors. However, credit analysts on Tuesday noted that Northwest had on Monday defaulted on an $18.7m payment to Mesaba, a regional feeder airline, and saw this as a signal that it was also close to filing.

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Airline restructuring experts have warned that filings by Delta and Northwest would increase pressure on American Airlines and Continental Airlines to consider restructuring through the bankruptcy courts. Both carriers have a better cash position ahead of the slacker winter travel season, and have not indicated any plans to seek protection.

Delta lost $5.2bn last year and is targeting $5bn of cost cuts by the end of 2006 through changing its network and securing at least $1bn in cuts from pilots. It has held fresh talks with pilots in an effort to increase the savings. Northwest on Tuesday began hiring permanent replacements for its 4,400 striking mechanics, who walked off the job on August 20 after rejecting the airline's calls for steep job and pay cuts. The airline has raised its targeted annual savings from $1.1bn to $1.4bn.

President Revisits Foreign Policy (WP)

By Peter Baker

The Washington Post, September 14, 2005

NEW YORK, Sept. 13 -- After nearly two weeks consumed by Hurricane Katrina, President Bush turned his attention back to the rest of the world Tuesday and confronted again the vexing challenges of an intractable war in Iraq, disputes with Iran and North Korea, and fitful relations with the United Nations.

Bush played host to Iraq's first democratically selected president at the White House in the morning and persuaded him to abandon talk of imminent U.S. troop pullouts. Bush then flew to New York in the afternoon to attend a division-plagued U.N. summit and to solicit Chinese help in pressuring Pyongyang and Tehran to abandon nuclear weapons ambitions.

The full day of diplomacy marked the first time that Bush has resumed a normal schedule since clearing his calendar after the devastation wrought by Katrina along the Gulf Coast. Among other events, Bush canceled a pomp-filled visit by Chinese President Hu Jintao last week to concentrate on getting relief to storm-ravaged areas. But Bush began to make it up to Hu by meeting with him here Tuesday evening, one of the first sit-down sessions with another world leader since the crisis.

The rest of the week is jammed with other foreign policy events, including meetings Wednesday with the prime ministers of Britain and Israel, a U.N. gathering of 170 world leaders and a White House summit Friday with Russian President Vladimir Putin. But aides insisted Bush would keep his attention on the afflicted region, scheduling a fourth trip there for Thursday capped by a prime-time national address.

In perhaps the most sensitive meeting of the day, Bush spent an hour with Hu. Bush gave him a list of human rights cases that the United States is concerned about, a list that a senior U.S. official said is topped by the longtime imprisonment of a researcher for the New York Times on accusations of disclosing state secrets.

During a public appearance, Hu promised "to step up" efforts on North Korea "so that we can facilitate fresh progress" in multilateral talks scheduled to resume in Beijing. During their private session, the U.S. side said Hu was supportive of efforts to curtail Iran's nuclear ambitions as well, but offered no support for Bush's bid to refer Tehran to the U.N. Security Council for possible sanctions.

Bush's meeting with Iraqi President Jalal Talabani came a day after he departed from White House talking points and broached the prospect of large-scale withdrawal of U.S. forces from his country. In an interview with The Washington Post on Monday, Talabani said "at least from 40,000 to 50,000 American troops can be [withdrawn] by the end of this year."

After meeting with Bush on Tuesday morning, Talabani joined the president in the East Room to deliver a different message. "We will set no timetable for withdrawal, Mr. President," Talabani said at a joint media availability. "A timetable will help the terrorists, will encourage them [to think] that they could defeat a superpower of the world and the Iraqi people."

Still, Talabani added that he hoped enough Iraqi security forces would be trained by the end of 2006 to take " responsibility from many American troops with complete agreement with Americans."

A longtime Kurdish leader who resisted Saddam Hussein's rule, Talabani effusively thanked Bush for liberating Iraqis from the "worst kind of dictatorship" and praised him as "a visionary, great statesman." Smiling broadly, Talabani said, "We will never forget what you have done for our people."

Bush, in turn, praised the new constitution drafted by Iraqi negotiators as "an historic milestone" that protects fundamental rights and makes all Iraqis equal before the law. In private, though, aides said Bush used the opportunity to urge Talabani to be

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flexible in considering changes to the constitution, which was written by Shiite and Kurdish leaders but rejected by leaders of the Sunni minority.

The president also delivered a sharp warning to Syria for not doing more to stop foreign fighters from crossing its border with Iraq to fight U.S. forces. "The Syrian leader must understand we take his lack of action seriously," Bush said, adding that he plans to speak with allies about pressuring Damascus.

Bush similarly said he would bring up Iran with Hu and Putin in hopes of forging a consensus approach to blocking any nuclear weapons development by the theocratic state. Iran's new president, Mahmoud Ahmadinejad, who will be in New York for his first U.S. visit since winning election, has insisted that his country wants to develop only civilian nuclear power.

"Some of us are wondering why they need civilian nuclear power, anyway," Bush said. "They're awash with hydrocarbons. Nevertheless, it's a right of a government to want to have a civilian nuclear program."

That comment caused a stir because the U.S. government has adamantly rejected North Korea's aspirations for civilian nuclear power. Aides later insisted Bush was not trying to signal a policy change toward Pyongyang. "I can guarantee you that's not what he intended to indicate," said National Security Council spokesman Frederick L. Jones II.

Arriving in New York later in the day, Bush met with U.N. Secretary General Kofi Annan in preparation for Wednesday's summit. Negotiators agreed on a plan to restructure the United Nations and follow up pledges to combat world poverty.

During his subsequent joint appearance with Hu, the Chinese leader acknowledged "some frictions" as trade grows and promised that Beijing will "take effective measures" to address trade imbalances and "step up its efforts to protect intellectual properties." Hu urged the United States to oppose "so-called Taiwan independence."

Bush, who will visit China in November, emphasized the strength of the relationship. "I will bring up human rights," the president said. "But most importantly, I view this visit as an opportunity to continue a dialogue in dealing with a very important relationship for the United States and the world."

Bush Puts Iraq, China And Iran On Agenda (NYT)

By David E. Sanger

The New York Times, September 14, 2005

For the first time since the Hurricane Katrina crisis, President Bush returned yesterday to dealing with festering global problems, trying to bolster Iraq's president at the White House and then flying to New York to urge President Hu Jintao of China to join him in trying to stop nuclear programs in Iran and North Korea.

Mr. Bush's meeting with Mr. Hu was delayed a week by the hurricane, and was the first in a series planned for coming months, including a trip by Mr. Bush to China in November.

When the session finally took place yesterday at the Waldorf-Astoria, Mr. Bush was lobbying hard to persuade Mr. Hu - who has nurtured a close relationship with Iran - not to block action by the International Atomic Energy Agency next week to refer Iran's work on uranium enrichment to the Security Council.

"We didn't come away with a clear commitment," Michael J. Green, the top official for Asia in the National Security Council, said yesterday evening. But he added that Mr. Hu had agreed to urge Iran to follow the mandates of the I.A.E.A.

Nuclear issues, trade and Taiwan dominated the meeting at the Waldorf, before Mr. Bush held a reception for more than 170 world leaders who have gathered for the opening of the United Nations General Assembly and a meeting on global poverty.

Mr. Bush's aides also turned over to Mr. Hu a list of human rights cases that particularly concern the United States, Mr. Green said. While they declined to describe most of those cases, Mr. Green said one involved Zhao Yan, a researcher for The New York Times in Beijing, who has been accused of leaking state secrets to the newspaper. Mr. Zhao and The Times have denied the accusation, and Mr. Zhao has had no court hearing or any public explanation of why he was arrested.

Earlier yesterday, at a news conference in Washington with President Jalal Talabani of Iraq, Mr. Bush expressed some impatience with Iran's defiance of an agreement it reached last year with three European nations.

"Some of us are wondering why they need civilian nuclear power anyway," Mr. Bush said. "They're awash with hydrocarbons. Nevertheless, it's a right of a government to want to have a civilian nuclear program."

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Mr. Bush's aides insisted later in the day that the president was not, with that last statement, signaling a greater willingness to allow either Iran or North Korea to acquire what both have said is their right: control over the complete nuclear fuel cycle, the path to making fuel for either civilian reactors or weapons. Mr. Bush explicitly said Iran's nuclear program should develop "in such a way that they don't gain the expertise necessary to be able to enrich."

But his comments were far milder than they were three years ago, when Mr. Bush first called Iran and North Korea part of an "axis of evil."

Instead, Mr. Green said, Mr. Hu and Mr. Bush talked about ways to pressure North Korea to make what Mr. Green called "a strategic decision" to give up its weapons programs.

Talks on North Korea resumed in Beijing yesterday, with North Korea repeating, as Iran has, that it has a right to develop its own civilian nuclear programs.

While Mr. Hu and Mr. Bush carefully chose words to show their agreement on the issue - "We have always stood for a nuclear-weapon-free Korean Peninsula," Mr. Hu said - some administration officials say they are increasingly concerned that the United States and Tokyo are pursuing one approach, and Beijing and South Korea are pursuing another.

The United States has made full disarmament of North Korea its priority. But both the Chinese and the South Koreans have spoken of the need to assure "stability" in North Korea, a code word for making sure that the North Korean government does not collapse.

At moments, the meeting with the Chinese had echoes of the kind of meetings Mr. Bush's father used to hold with Japan in the late 1980's when he was trying to lower a fast-widening trade deficit with Japan and used to travel to Tokyo to urge Japan, when its economy seemed to be growing without limit, to pay heed to the damage being done to American workers.

Mr. Hu was ready for that.

"What I would like to express here is that China does not pursue a huge trade surplus in its trade with the United States," he said. "And we are willing to work with the United States to take effective measures to increase China's imports from the United States."

The last statement was especially significant, because Mr. Hu steered clear of committing to any restraints in exports to the United States.

The issue may become even more heated if Hurricane Katrina leads to a downturn in American economic growth. Some of the affected industries in the south compete with Chinese companies, and were already calling for greater government protection.

The earlier meeting with Mr. Talabani was notable for the Iraqi leader's change of tone on an issue important to Mr. Bush: setting any parameters for the withdrawal of American troops from Iraq.

On Friday in Washington, Mr. Talabani said he believed that American troops would be required for two years. The Washington Post reported Monday that he had said he thought 40,000 to 50,000 American troops could be withdrawn by the end of the year. But yesterday, he recited the White House talking points: that it was impossible, and unwise, to set a deadline. "We will set no timetable for withdrawal, Mr. President," he said to Mr. Bush.

Bush Packs In Busy Day Of Diplomacy (AJC/AP)

By Terence Hunt, Ap White House Correspondent

The Atlanta Journal-Constitution, September 14, 2005

NEW YORK — President Bush won a pledge from Chinese President Hu Jintao to step up pressure on North Korea to abandon its nuclear weapons, but the two leaders remained apart Tuesday over whether to seek international sanctions against Iran.

The two leaders met here as talks resumed in Beijing aimed at persuading North Korea to abandon its nuclear weapons.

Bush said his discussions with Hu ranged from how to prevent an avian flu pandemic to economic matters and feared nuclear proliferation in North Korea and Iran. He seemed pleased when Hu said, "We stand ready to step up our communication and cooperation" to gain fresh progress in negotiations with North Korea.

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While offering help on North Korea, Hu did not embrace a U.S. proposal to bring Iran before the U.N. Security Council for possible sanctions for its suspected nuclear weapons program. "No, we didn't come away with a clear commitment on the tactics," Mike Green, the National Security Council's senior director for Asia, said at a briefing on the Bush-Hu meeting.

"China thinks we all need to step up the diplomatic efforts," Green said. He said Bush did not ask for a commitment on sanctions, but the Chinese side "understands, I think, exactly where we're coming from."

Bush, at a news conference earlier in Washington, appeared to give Iran a green light to have a peaceful nuclear program. But the United States has a different view about North Korea. "North Korea needs to get out, completely out, of the nuclear business," Green said.

Consumed by Hurricane Katrina recovery efforts for two weeks, Bush pivoted to foreign policy for a meeting of more than 160 presidents, prime ministers and kings at a summit on combating poverty and reforming the United Nations. Bush is to address the General Assembly on Wednesday.

Bush has had a testy relationship with the U.N., portraying it as a bloated bureaucracy slow to address global problems. Criticism of the United States is common, particularly over the war in Iraq and Bush's refusal to sign the Kyoto treaty on global warming. Bush arrived here with the lowest approval ratings of his presidency and the perception that his administration had mishandled hurricane relief. He said he took responsibility for whatever had gone wrong.

Bush met privately in a hotel suite with Hu, who is making his first visit to the United States as his country's leader. The White House is concerned about China's growing economic and military might and its voracious thirst for oil — a factor in rising U.S. gasoline prices.

The president broadly raised human rights concerns with Hu, and the administration presented China's delegation with a list of specific cases that the United States regards as particularly important. Green declined to identify the cases or say how many were on the list, saying the goal was to try to resolve them quietly.

Bush accepted an invitation to visit China in November after a summit in South Korea with Asian leaders. The president also is expected to stop in Japan.

For his part, Hu acknowledged tensions with Washington about China's huge trade surplus and said that "it is inevitable that we may have some frictions."

Bush met with Hu at the end of a busy day of diplomacy stretching from the White House to the United Nations. In Washington, the president issued a stern warning to Syria about alleged involvement in Iraq and vowed the United States will not waver from its commitment in Iraq.

The Bush administration is seeking the support of China, Russia and India to bring Iran before the U.N. Security Council for possible sanctions for its suspected nuclear weapons program. Iran suspended uranium conversion and enrichment activities last year but resumed them last month. Iran's foreign minister, Manouchehr Mottaki, warned of serious consequences if the Security Council considers sanctions.

Bush questioned why Iran needs a civilian nuclear power program, given Tehran's huge oil reserves. "Nevertheless, it's a right of a government to want to have a civilian nuclear program," Bush said. But he went on to say there must be guidelines and "one such guideline would be in such a way that they don't gain the expertise necessary to be able to enrich."

China has a massive surplus in trade with the United States. Last year's U.S.-China deficit hit a record $162 billion, the largest imbalance ever recorded with a single country.

Hu promised to "work hard" to address the trade imbalance and said China will protect the intellectual property rights of American companies — a major concern of U.S. firms.

"What I would like to stress here is that China does not pursue a huge trade surplus in trade with the United States," Hu said.

Bush began the day at the White House, meeting with Iraqi President Jalal Talabani. Once again, the two leaders refused to set a deadline for the withdrawal of U.S. troops from Iraq.

Hu Tells Bush China Will Work On U.S. Concerns (WSJ)

By Neil King Jr.

The Wall Street Journal, September 14, 2005

DOJ_NMG_0005147

NEW YORK -- Chinese President Hu Jintao told President Bush that his government was prepared to take "effective measures" to ease the soaring U.S. trade deficit with China while also moving to crack down on rampant piracy problems at home.

The two leaders met on the margins of a United Nations summit here at a time of varied tensions between the two countries and a week after Hurricane Katrina postponed a long-anticipated White House visit by Mr. Hu. In remarks before the two met in private, Mr. Hu said China "does not pursue a huge trade surplus" with the U.S. and was willing to take steps to increase U.S. imports to China, mainly by strengthening piracy rules and increasing purchases of big-ticket items.

The U.S. last year imported $162 billion more from China than it exported to China. U.S. officials said that Mr. Hu's remarks on intellectual-property protection were particularly important, and among the strongest assurances on that front that any Chinese leader has ever offered. Mr. Hu said that on the whole, relations between the two countries were "developing quite well," although he conceded that the rapid growth in bilateral trade had created "some frictions" between the two economic powers.

The U.S. and China in recent months have tussled over issues from China's restrictive monetary policy and intellectual-property problems to the desire among Chinese energy companies such as Cnooc Ltd. to acquire corporate assets in the U.S. and elsewhere.

Mike Green, President Bush's top Asia adviser, said Mr. Bush used the hourlong session to press Mr. Hu to use China's clout in international efforts to halt nuclear programs in Iran and North Korea. On Iran, Mr. Hu told the president that China wanted to see Tehran live up to its international obligations, but he didn't offer explicit support for any moves to take the matter to the U.N. Security Council.

Mr. Bush also urged the two countries to coordinate efforts to avoid a potential avian-flu pandemic through aggressive containment, and a strengthened early-warning system. Mr. Hu went on at some length during the private discussion to emphasize that China was intent on "peaceful development," Mr. Green said.

On the issue of China's exchange rate, Mr. Bush applauded Beijing's move this summer to allow the yuan to float slightly against other currencies, but urged Mr. Hu to take additional steps to adopt a fully flexible exchange rate. Mr. Bush also agreed to visit Beijing in late November.

Bush Heads To U.N. Summit With Global Views Of U.S. Altered (KRT)

By Warren P. Strobel

Knight Ridder, September 14, 2005

UNITED NATIONS - President Bush joins in the largest-ever gathering of world leaders here Wednesday at a moment when his government's botched response to Hurricane Katrina has changed views of America both at home and abroad.

Opinion columns around the world expressed incredulity that the world's wealthiest country could fail to take care of its own. The hurricane aftermath threw a light on America's class and racial divides.

At home, polls show, Americans want more attention on domestic concerns and less on the war on terrorism.

The president and his top aides have given no sign they intend to change the course from their foreign policy priorities: the promotion of democracy around the world and the war in Iraq. Still, public opinion at home and abroad will pose challenges for this agenda, according to diplomats and other foreign policy observers.

The images of poor, mostly black Americans waiting days for help and rescue collide with Bush's goal of improving the United States' image overseas, an effort headed by his long-time aide Karen Hughes.

"If Katrina has any redeeming impact, it must be to cause us to see ourselves as others see us. I regret to say the picture cannot be a pretty one," Sen. Robert Byrd, D-W.Va., said in a Senate floor speech. "The perception of the United States in these troubled times should be a cause of major concern for everyone who holds public office."

Hughes, the undersecretary of state for public diplomacy, vigorously disputed charges, heard at home and abroad, that the Bush administration reacted slowly because Katrina's victims were mostly poor and black.

The world has also seen evidence of Americans' overwhelming generosity in times of need, Hughes said. "The story is, Americans care about our fellow Americans."

But the world also has seen vivid examples of poverty and racial division in the disaster zone.

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The U.N.'s 2005 Human Development Report, a look at how the world is doing meeting targets set five years ago at reducing human suffering, examines, among many other things, inequality in the United States.

"U.S. public health indicators are marred by deep inequalities linked to income, health insurance coverage, race, ethnicity, geography and - critically - access to health care," the authors of the report wrote.

Fifty years of declines in the U.S. infant mortality rate are now being reversed, the report states. It added: "The Indian state of Kerala has an urban infant death rate lower than that for African Americans in Washington, D.C."

After briefly hesitating, Bush and Secretary of State Condoleezza Rice agreed to accept assistance from around the globe to help deal with the hurricane's aftermath. Aid, from cash for the American Red Cross to blankets and search and rescue teams, has flowed from dozens of countries.

Some diplomats hope the global solidarity will help heal ties with the United States, which were badly damaged by divisions over the Iraq war and other issues.

Canadians were simmering over a long-standing trade dispute with Washington over softwood lumber - until Katrina hit.

"After all we've gone through on Iraq and war and peace, this is a wonderful opportunity," said Wolfgang Ischinger, Germany's ambassador to the United States. Germany has sent three planeloads of military-style meals, or "meals ready to eat," as well as half a dozen airplanes with water purification experts and equipment.

Ischinger said that from his daily talks with top Bush officials, "They know that accepting these offers ... is not something that will be humiliating. ... It will actually have positive effects on America's relationships with these particular countries."

But Josef Joffe, publisher-editor of the prestigious German weekly Die Zeit, said the United States is unlikely to act more humbly in international affairs as a result.

"The U.S. doesn't need assistance, and help rarely buys compliance. Otherwise so many nations that are beneficiaries of U.S. largesse would do its bidding," Joffe said.

Katrina's main impact on foreign policy could be to simply divert the Bush administration's focus more toward domestic concerns.

Bush's visit to the United Nations is sandwiched between two trips to the Gulf Coast.

He and Rice have been bombarded with questions about Katrina and race issues. And diplomats from the Middle East and elsewhere say they are beginning to worry about sustained U.S. attention to their region.

A poll released last week by the Pew Research Center found that for the first time since the Sept. 11, 2001, terrorist attacks, more Americans felt it was important to focus on domestic issues rather than the war on terrorism, by a margin of 56 percent to 25 percent.

"I think this is really something to watch," said Carroll Doherty, the center's associate director. "You have a clear majority saying domestic policy is important."

The president will gather here with 170 fellow world leaders to sign a document on reducing poverty, raising development levels and reforming the United Nations. The document has been significantly watered down because of deep disagreements among U.N. members.

Bush also planned a series of meetings with other leaders, starting with a Tuesday afternoon meeting with Chinese President Hu Jintao, who expressed sympathy for the hurricane losses.

U.S. Shares Data With China, India To Build Iran Case (WSJ)

By Carla Anne Robbins

The Wall Street Journal, September 14, 2005

WASHINGTON -- As the U.S. and Europe prepare to face off with Iran at the United Nations, the Bush administration dispatched intelligence experts to China and India last week to brief them on Tehran's alleged efforts to develop a missile capable of delivering a nuclear warhead.

The decision to share the highly classified intelligence is a measure of the resistance the U.S. is meeting as it pushes, along with the Europeans, for Iran's nuclear activities to be referred to the U.N. Security Council.

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Even after Tehran resumed some sensitive nuclear activities last month and ended negotiations with the Europeans, the U.S. and its allies face a challenge persuading China, Russia and other key nations that the situation is grave enough -- or Iran's weapons program advanced enough -- for international reprisals.

The failure to find weapons of mass destruction in Iraq has damaged U.S. credibility, making it even harder to press the case against Iran.

The missile intelligence, which U.S. officials acquired covertly last year, documents Iran's efforts from 2001 to 2003 to adapt its Shahab-3 missile to deliver a "black box" that experts at U.S. nuclear-weapons laboratories believe almost certainly is a nuclear warhead. The data, which include tens of thousands of pages of Farsi-language computer files, diagrams and missile test results, don't include a nuclear-warhead design. But according to several officials who have been briefed on the intelligence, the specifications for size, shape, weight and detonation don't vary and make no sense for conventional weapons.

The U.S. has already shared the intelligence with Britain, which supported the Iraq war, and with France and Germany, which opposed it, as well as top officials at the International Atomic Energy Agency. Intelligence officials in all three European countries have been impressed with the depth and apparent authenticity of the finding, according to European officials.

The U.S. has also offered to brief Russia on the missile data and may share the findings with other countries in coming days, officials said.

The confrontation with Iran will be a central topic at this week's U.N. summit in New York and at next week's IAEA board meeting in Vienna. Iran's new hard-line President Mahmoud Ahmadinejad is expected to try to deflect Western pressure when he speaks to the U.N. today and later in the week. U.S. and European officials said he might call for wider negotiations -- possibly bringing in China, Russia and India -- after failing to persuade Europe and the U.S. that his country's nuclear program is solely for generating power.

President Bush speaks to the world body today . Officials last night were discussing what, if anything, he would say about Iran at a meeting that is focused on alleviating poverty and U.N. overhauls. Mindful of the ill will created by the Iraq war, the U.S. has left much of the public lobbying until now to the Europeans.

Recognizing the pivotal role China and Russia will play as veto-wielding members of the Security Council, Mr. Bush said he planned to "speak candidly about Iran" in private meetings with Chinese President Hu Jintao and Russian President Vladimir Putin. "It is very important for the world to understand that Iran with nuclear weapons will be incredibly destabilizing," he said. After Mr. Bush's meeting with the Chinese leader last night, White House Asia expert Michael Green told reporters that Mr. Hu told the President that he would press Iran to live up to its IAEA obligations but didn't commit to supporting a Security Council referral. (See related article on page A8.)

In recent days, Russia and India, among others, have said publicly that they would oppose a Security Council referral.

Iran insists that it has a right to pursue a peaceful nuclear program -- an argument that resonates around the world, especially when backed by Iran's considerable oil wealth. Mr. Bush yesterday acknowledged that right but said constraints need to be imposed to ensure that Iran also doesn't "gain the expertise" to produce nuclear weapons.

U.N. nuclear monitors have repeatedly cited Tehran for concealing and lying about its nuclear efforts. But without solid proof of a weapons program, many members of the IAEA board have resisted a showdown. Some are fearful that a referral could be a first step toward a military confrontation. Other countries have more mercantilist interests, which Iran has deftly played upon. With energy-hungry China and India, in particular, Tehran has emphasized its oil supply; with Moscow its willingness to buy nuclear technology,

In August, Iran restarted its uranium conversion plant, an important first step toward the production of enriched uranium either for nuclear fuel or a nuclear weapon. While the Europeans repeatedly warned Tehran that such a move would provoke a swift referral to the Security Council, neither they nor the Americans have been able to win over a large block of the IAEA's 35-member board, which usually acts on consensus.

U.S. officials said yesterday that it is too early to rate their chances for a referral next week and that much will depend on how conciliatory or confrontational the Iranian leader chooses to be during his meetings in New York.

Some U.S. officials have begun arguing that a simple majority of the board would be enough to go ahead, and that those votes are there. In recent days, the U.S. has come down especially hard on the Indians -- who have status among the nonaligned

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-- warning that a White House offer to sell it civilian technology could be scuttled if the U.S. Congress believes New Delhi is too supportive of Iran.

But without the support of Beijing and Moscow a referral would likely stall once it got to the U.N.

In a conversation with Secretary of State Condoleezza Rice earlier this week, IAEA Director General Mohamed ElBaradei suggested the U.S. and Europe might seek a resolution that gives Iran a few more weeks to suspend uranium conversion and provide more access to agency monitors or face a referral.

U.S. Deploys Slide Show To Press Case Against Iran (WP)

By Dafna Linzer

The Washington Post, September 14, 2005

UNITED NATIONS, Sept. 13 -- With an hour-long slide show that blends satellite imagery with disquieting assumptions about Iran's nuclear energy program, Bush administration officials have been trying to convince allies that Tehran is on a fast track toward nuclear weapons.

The PowerPoint briefing, titled "A History of Concealment and Deception," has been presented to diplomats from more than a dozen countries. Several diplomats said the presentation, intended to win allies for increasing pressure on the Iranian government, dismisses ambiguities in the evidence about Iran's intentions and omits alternative explanations under debate among intelligence analysts.

The presenters argue that the evidence leads solidly to a conclusion that Iran's nuclear program is aimed at producing weapons, according to diplomats who have attended the briefings and U.S. officials who helped to assemble the slide show. But even U.S. intelligence estimates acknowledge that other possibilities are plausible, though unverified.

The problem, acknowledged one U.S. official, is that the evidence is not definitive. Briefers "say you can't draw any other conclusion, and of course you can draw other conclusions," said the official, who would discuss the closed-door sessions only on condition of anonymity.

The briefings were conducted in Vienna over the past month in advance of a gathering of world leaders this week at the United Nations. President Bush, who is to address the annual General Assembly gathering Wednesday, and Secretary of State Condoleezza Rice, plan to use the meeting to press for agreement to threaten international sanctions against Iran.

The president's direct involvement marks an escalation of a two-year effort to bring Iran before the U.N. Security Council, which has the power to impose sanctions, unless Tehran gives up technology capable of enriching uranium for a bomb. U.S. officials have acknowledged that it has been an uphill campaign, with opposition from key allies who fear a prelude to a military campaign.

Several diplomats said the slide show reminded them of the flawed presentation on Iraq's weapons programs made by then-secretary of state Colin L. Powell to the U.N. Security Council in February 2003. "I don't think they'll lose any support, but it isn't going to win anyone either," said one European diplomat who attended the recent briefing and whose country backs the U.S. position on Iran.

Robert G. Joseph, undersecretary of state for arms control and international security, acknowledged last week that despite European support, the Bush administration has traveled a tough road in persuading others that Iran should face consequences for a nuclear program it built in secret.

"There's a great deal of resistance . . . on the part of many governments who don't seem to place, quite frankly, nonproliferation and Iran, a nuclear-armed Iran, at the top of their priority list," he told a congressional panel last week.

Several influential nations such as India, Russia, China, South Africa and Brazil share U.S. suspicions about Iran's intentions. But they maintain profound differences with the Bush administration over how to respond, and are apprehensive about the goals of a U.S. president who has said "all options are on the table," in dealing with Tehran.

Three years ago, the White House used the same annual gathering to put both Iraq, and the world community on notice. In a toughly-worded speech, delivered six months before the U.S. invasion of Iraq, Bush warned that the United States would deal alone, if necessary, with a dictator bent on launching nuclear weapons.

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The U.S. intelligence community no longer believes Iraq was trying to reconstitute a nuclear program, as the president said. Those and other U.S. intelligence failures have remained fresh in the minds of international decision-makers now being asked to weigh the case of Iran.

The Iraq experience has had a "sobering effect" on Iran discussions, said President Pervez Musharraf of Pakistan, a close ally of the Bush administration. In an interview, he refused to speculate on whether Iran, whose program was secretly aided by Pakistan's top nuclear scientist, had been designed for weapons production. But he said he feels confident Iran's aims are now peaceful and there was no need for Security Council action.

Iran's new president, Mahmoud Ahmadinejad, who is also attending the U.N. summit, has his own meetings scheduled in New York, and Iranian officials said he would use the gathering to mount forceful counterarguments. Iranian diplomats have been in close contact with countries such as Japan, which relies heavily on Iranian oil.

The outcome of both sides' efforts will be tested on Sept. 19, when diplomats from 35 countries meet at the International Atomic Energy Agency in Vienna to decide whether to report Iran's case to the Security Council.

Undersecretary of State R. Nicholas Burns last night suggested the administration may not be able to press for a successful vote and was exploring other options. He said the administration was working "with lots of other governments to devise an international coalition that will call upon Iran to return to the talks," it walked away from this summer with European negotiators. "There is a consensus that Iran has got to return to the talks."

Iran insists its nuclear efforts are aimed at producing nuclear energy, not bombs. The Bush administration contends that the energy program, built in secret and exposed in 2002, is just a cover. "They cannot be allowed to develop nuclear weapons under the guise of a civilian nuclear program, which is what they're trying to do," State Department spokesman Sean McCormack said earlier this month.

A recent U.S. intelligence estimate found that Iran, mostly through its energy program, is acquiring and mastering technologies that could also be used for bomb-making. But there is no proof that such diversion has occurred, the estimate said, and the intelligence community is uncertain as to whether Iran's ruling clerics have made a decision to go forward with a nuclear weapons program.

The estimate judged Iran to be as much as a decade away from being able to manufacture the fissile material necessary for a nuclear explosion. A report issued last week by the International Institute for Security Studies, a London-based research group, found Iran was 10 to 15 years from the technical know-how to build a bomb.

Both reports are based in large part on the findings of U.N. nuclear inspectors, now in their third year of investigating Iran's program. While no proof of a weapons program has been found, serious questions about Tehran's past work on centrifuge designs and experiments with plutonium -- a key ingredient for a nuclear weapon -- have yet to be adequately addressed and have furthered suspicions that the country is hiding information.

With little new information from the probe, the Bush administration put together its own presentation of Iran's program for diplomats in Vienna who are weighing whether to report Iran to the Security Council.

The presentation has not been vetted through standard U.S. intelligence channels because it does not include secret material. One U.S. official involved in the briefing said the intelligence community had nothing to do with the presentation and "probably would have disavowed some of it because it draws conclusions that aren't strictly supported by the facts."

The presentation, conducted in a conference room at the U.S. mission in Vienna, includes a pictorial comparison of Iranian facilities and missiles with photos of similar-looking items in North Korea and Pakistan, according to a copy of the slides handed out to diplomats. Pakistan largely supplied Iran with its nuclear infrastructure but, as a key U.S. ally, it is identified in the presentation only as "another country."

Corey Hinderstein, a nuclear analyst with the Institute for Science and International Security, said the presence of a weapons program could not be established through such comparisons. She noted that North Korea's missile wasn't designed for nuclear weapons so comparing it to an Iranian missile that also wasn't designed to carry a nuclear payload "doesn't make sense."

Decision Time On Iran (NYT)

DOJ_NMG_0005152

By Pierre Goldschmidt

The New York Times, September 14, 2005

Brussels

In November 2003, Iran averted a crisis when it agreed to suspend activities that could one day give it the capacity to produce weapons-grade nuclear material. The International Atomic Energy Agency had discovered an 18-year pattern of noncompliance by Iran with its obligations to report all its nuclear activities, during which time international inspectors could not verify that they were solely for peaceful purposes. Because Iran suspended its most sensitive activities, the agency's board agreed to hold off reporting Iran to the United Nations Security Council. This was understood, in effect, as a quid pro quo: suspension of uranium-enrichment-related and reprocessing activities in return for not being reported to the Security Council.

Last November, Iran agreed with Britain, France and Germany to extend its suspension to include "all tests or production at any uranium-conversion installation." Iran also agreed that "sustaining the suspension, while negotiations on a long-term agreement are under way, will be essential for the continuation of the overall process."

But last month, the day before Britain, France and Germany gave Iran a proposal for a long-term agreement that offered economic assistance in exchange for ending its nuclear fuel cycle activities (but not its electrical nuclear program), Tehran announced that it would resume uranium conversion activities in Isfahan, which it did.

The agency's board of governors will meet in Vienna next Monday to decide how to respond. At the moment there is no consensus or even a majority that agrees with Washington, Berlin, London and Paris that Iran's noncompliance should be reported to the Security Council. Iran is vigorously lobbying its fellow developing countries on the board. While the agency's statute makes clear that it should report Iran's noncompliance to the Security Council, many board members are reluctant to do so, fearing a repeat of the dynamic that led to the war in Iraq.

It is important to remember that under the agency's statute, there is no deadline or expiration date after which noncompliance becomes moot. Thus, Iran is still accountable for its past breaches. And Iran's resumption of work related to uranium conversion eliminates the only reason for the three European countries not to report Iran to the Security Council.

A failure by the board to make such a report would considerably weaken the agency and the global nonproliferation regime. It would reveal that the world is unwilling to hold rule-breakers to account, inviting proliferation by other countries.

And it should be made clear that the purpose of reporting Iran to the Security Council is not to seek sanctions. Rather, the Security Council's authority should be invoked to press Iran to give the agency's inspectors the information and access they need to clear up quickly the many remaining uncertainties about what Iran has been doing and why.

Iran has been asked to do this repeatedly. Yet, two and a half years after its noncompliance was discovered, Iran is still holding back both information and full cooperation. Iran has not provided the requested evidence on why its leadership decided in 1985, in the middle of the war against Iraq, to pursue a uranium enrichment program when there was no short or medium-term need to fuel any electrical nuclear power plant. Inspectors are still unable to specify the origin of all enriched uranium particles found in Iran. And they cannot assure the truth of Iran's claims that after receiving more advanced centrifuge designs in 1995, it did nothing with them until 2002. Nor can inspectors rule out the possible involvement of Iran's military in nuclear-related activities.

It is time for the International Atomic Energy Agency to get the authority it needs from the Security Council to complete the verification that Iran's nuclear program is and has been, as claimed, exclusively for peaceful purposes. This is in everyone's interest, including Iran's, unless it still has something to hide. The Iranian people deserve better than a confrontation with the world.

North Korea Talks Resume At Logjam (WSJ)

By gordon Fairclough

The Wall Street Journal, September 14, 2005

BEIJING -- Talks aimed at persuading North Korea to give up its nuclear ambitions resumed with no public sign of progress toward a compromise between Washington and Pyongyang on a central issue: whether the North should be allowed to develop atomic energy.

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North Korea's chief delegate to the talks, Kim Kye Gwan, insisted that his country won't give up its right to nuclear power, despite American demands that Pyongyang dismantle all of its atomic programs, military and civilian.

"We have this right, and the more important thing is that we should use this right," Mr. Kim said before flying to Beijing, according to China's Xinhua news agency. "We utterly cannot accept" any U.S.-imposed limits on civilian nuclear programs, he said.

Differences over the North's exercise of atomic-energy rights came into sharp focus during two weeks of negotiations that broke off in August. Other issues also remain, including a U.S. demand that North Korea pledge not to export weapons of mass destruction.

"Nothing is agreed unless everything is agreed," said the top U.S. envoy to the talks, Christopher Hill. "The fundamental question is whether [North Korea] is ready to abandon its nuclear programs."

If the talks again fail to reach an agreement, it could seriously erode support for continued negotiations. But it isn't clear that the administration of President Bush, focused on hurricane relief as well as Iraq and Iran, is prepared to quickly take other steps, such as seeking United Nations Security Council action.

Mr. Hill said it would become clear within "days, not weeks," whether an agreement could be struck laying down guidelines for an eventual resolution of the nuclear standoff. A senior South Korean diplomat concurred, saying: "Having longer meetings may not help if no one changes positions."

During the talks that ended in August, Pyongyang not only asserted its right to nuclear power but demanded that the U.S. and others provide it with reactors to generate electricity as part of any deal to abandon its atomic-weapons programs. In recent weeks, the North has reaffirmed its stance.

Washington, which says North Korea can't be trusted not to turn peaceful nuclear activities to military uses, opposes Pyongyang's demand for reactors. The demand appears to have little support among other participants at the talks. The other countries involved in the negotiations -- China, Japan, Russia and South Korea -- however, have expressed sympathy for the North's position that it must be able to retain its right to develop atomic energy.

A U.S.-led consortium started construction on two so-called light-water reactors for the North as part of a 1994 disarmament deal. That project was put on hold after the U.S. said it had evidence North Korea violated that agreement by starting a covert effort to develop nuclear weapons using uranium. U.S. officials have said the project won't be revived.

Six-Nation N. Korea Nuke Talks Resume (AJC/AP)

By Burt Herman, Associated Press Writer

The Atlanta Journal-Constitution, September 14, 2005

BEIJING — North Korea insisted Tuesday it will not give up its right to civilian nuclear programs, raising questions about the possibility of a breakthrough as six-nation talks aimed at persuading Pyongyang to abandon its atomic weapons resumed after a five-week recess.

Envoys from China, Japan, Russia, the United States and the two Koreas clasped hands together at a state guesthouse in Beijing before continuing the fourth round of talks since 2003 that have so far failed to resolve the standoff.

In New York on Tuesday, Chinese President Hu Jintao told President Bush that China was ready to "step up" pressure on Pyongyang for progress in the negotiations.

"We stand ready to step up our communication and cooperation" to gain fresh progress in negotiations aimed at halting North Korea's nuclear program, he said.

Mike Green, the National Security Council's senior director for Asia, said the Bush administration rejects the notion of North Korea retaining a civilian nuclear program. "North Korea needs to get out, completely out, of the nuclear business," Green said.

Last month, negotiators took a break after a record 13 days of meetings ended without agreement. The main U.S. negotiator said it would likely be shorter than last time.

"We should be able to wrap this up in a matter of days, not weeks," U.S. Assistant Secretary of State Christopher Hill said Tuesday evening.

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South Korea's head negotiator Song Min-soon agreed, saying talks would continue until Friday at least and then all parties would consult on a possible closing date, according to official Xinhua News Agency.

The issue of the North's peaceful nuclear program will be raised at the talks but Hill emphasized the focus is on ridding the North of atomic weapons.

"The fundamental question is whether (North Korea) is prepared to abandon its nuclear programs," he said, noting those programs are involved in production of materials for nuclear weapons.

Hill saw the North Korean delegation briefly Tuesday and said he planned a full one-on-one session with them Wednesday where their views would be made known.

Contacts between U.S. and North Korean diplomats in New York in the past month failed to make any progress, Hill said earlier. But he said "their position does seem to be evolving a little," without elaborating.

Chief North Korean negotiator Kim Kye Gwan said before he left for Beijing that his country will not tolerate any obstruction to its right to a peaceful nuclear program, China's official Xinhua News Agency reported.

"This right is neither awarded nor needs to be approved by others," Kim said in Pyongyang, adding that the country would "utterly not accept" if Washington tries to block that right.

Still, Kim said the North would attend the talks with a sincere and flexible attitude, according to Xinhua.

The Chinese hosts also acknowledged the impasse over the North's demand to keep its civilian nuclear program.

"There is a major difference between the parties, that is the DPRK's (North Korea's) peaceful use of nuclear energy," Chinese Foreign Ministry spokesman Liu Jianchao said.

The South Korea negotiator urged envoys to be open-minded at the talks.

"If each party can be a little more flexible in its position, there will be good results, but if they stick to their current position, good results will be hard to expect," Song said as he arrived in Beijing.

The two Koreas also began high-level talks Tuesday in Pyongyang separate from the nuclear forum, where the South proposed discussions on how to ease military tension and bring permanent peace to the divided peninsula. The Korean War ended in a 1953 cease-fire, leaving the two countries still at war. But reconciliation efforts have flourished since the first-and-only summit of their leaders in 2000.

The latest nuclear standoff was sparked in late 2002 after U.S. officials accused North Korea of running a secret uranium enrichment program in violation of an earlier deal, in which the North had agreed to stop weapons development in exchange for energy aid and other incentives.

The North has since denied having a uranium enrichment program, which would provide a way to create radioactive material for bombs other than its publicly acknowledged plutonium program.

On Tuesday, the North again called the uranium allegations "a sheer fabrication" in a commentary by the North's main Rodong Sinmun newspaper carried by the country's official Korean Central News Agency.

Pakistani President Gen. Pervez Musharraf told The New York Times in an interview released late Monday that he believed North Korea had obtained "probably a dozen" centrifuges — equipment needed to enrich uranium — from a network headed by the father of Pakistan's nuclear weapons program.

N. Korea Insists On Nuclear Energy As Talks Resume (WP)

By Edward Cody

The Washington Post, September 14, 2005

BEIJING, Sept. 13 -- Standing firm on a key disagreement, North Korea declared Tuesday it would not relinquish peaceful nuclear energy as diplomats from six nations opened another round of stalemated negotiations on its nuclear weapons program.

"The DPRK has the right to peaceful nuclear activity," said the chief North Korean negotiator, Vice Foreign Minister Kim Gye Gwan, using the initials for his country's formal name, the Democratic People's Republic of Korea. "This right is neither awarded nor needs to be approved by others."

Kim's declaration, made to the official New China News Agency as he flew to Beijing, suggested continued difficulties in the talks despite renewed pledges from all participants to show flexibility and goodwill. The talks among China, North and South

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Korea, Japan, Russia and the United States are aimed at the stated goal of achieving a nuclear-free Korean Peninsula. The issue of peaceful nuclear energy was a major reason the last round was suspended Aug. 7, after 13 days of intense bargaining.

The recess was supposed to be a time of reconsideration in the six nations' capitals, particularly in Pyongyang, U.S. officials said. But Kim's statement indicated that, from North Korea's point of view, the dispute over the production of nuclear energy for electricity remains unchanged.

"If the United States tries to lay down obstacles to the DPRK's using this right, we utterly cannot accept that," the North Korean envoy stated.

President Bush, speaking to reporters in Washington about Iran, which has also declared its intent to generate nuclear power, said, "It's a right of a government to want to have a civilian nuclear program," adding that "there ought to be guidelines" for such programs.

But the Bush administration remains adamant that North Korea must abandon its nuclear weapons programs and forgo nuclear energy production. The reason, the chief U.S. negotiator said in a briefing Friday in Washington, is that North Korea in the 1990s transformed a research reactor at Yongbyon into a source of weapons-grade plutonium.

"What North Korea needs to do is get out of the nuclear business," the U.S. negotiator, Christopher Hill, said. They have "had trouble keeping peaceful programs peaceful."

The chief Japanese negotiator, Kenichiro Sasae, said North Korea's position on peaceful nuclear energy would be key to determining whether the six-party talks could move forward.

Despite Kim's apparently clear-cut declaration, Hill expressed hope that North Korea may have found a way to alter its position on that and other points since August. "We know precisely what the issues are," he told reporters here Tuesday. "I hope the DPRK delegation has also done its homework."

Chinese diplomats met with Hill and other delegations Tuesday, beginning open-ended discussions on a Chinese-drafted proposal for "agreed principles" to govern North Korea's nuclear disarmament. China has sponsored the six-party talks since they began in August 2003. The search for broad principles was launched at the last round of talks as a way to find a lowest common denominator of agreement, on which more specific accords could then be built. The idea, Hill explained, was to avoid the swift deadlock that had developed in three previous rounds by first finding agreement on broader goals.

But the fourth round bogged down in fundamental discord over peaceful nuclear energy, the timing of recognition and aid that North Korea would receive in return for giving up nuclear weapons and North Korea's desire to address the nuclear protection it says is implicit in the U.S.-South Korean alliance.

Nuclear Talks Restart On Pessimistic Note (WT)

By Andrew Salmon

The Washington Times, September 14, 2005

SEOUL -- Six-nation talks on North Korea's nuclear weapons ambitions resumed in Beijing yesterday with Washington and Pyongyang publicly restating opposing positions that had forced a five-week recess.

Separately, South Korean Unification Minister Chung Dong-young arrived in North Korea yesterday for four days of Cabinet-level discussions.

Mr. Chung told reporters in Seoul that he was carrying a confidential message for the North's leadership from Washington.

The nuclear talks -- which were suspended Aug. 7 after 13 days of negotiations ended in stalemate -- resumed on a sour note after the North's chief negotiator, Kim Gye-gwan, told Xinhua News Agency that Pyongyang "has a right to peaceful nuclear activity."

Washington's chief negotiator, Assistant Secretary of State Christopher R. Hill, branded Mr. Kim's position "wrong" in comments to reporters in Beijing.

Pyongyang's demand to have a peaceful nuclear energy program has become a major sticking point.

"What the North needs to do is get out of the nuclear business," Mr. Hill said before arriving in Beijing.

North Korea has reiterated that it will not dismantle its atomic program "without getting any proposal compensating for the loss of nuclear energy."

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The South has offered to meet the North's power needs from its own grid, but North Korea has not officially responded to the offer.

The U.S. position is complicated by Chinese and South Korean support for civil atomic energy use by North Korea on the condition that it abandon nuclear weapons.

China and South Korea are North Korea's No. 1 and No. 2 trade partners, respectively. They would be expected to resist U.S. efforts to impose sanctions should the talks collapse.

Another point of friction is Pyongyang's human rights abuses, with North Korea criticizing the recent appointment of a U.S. special envoy on the issue.

North Korea also has demanded the removal of U.S. nuclear weapons from South Korea -- weapons Washington insists do not exist -- and repeatedly has demanded an end to what it calls hostile American policy.

There is no deadline to complete the current round of talks. The best that delegates can hope for from the negotiations is a joint agreement on principles for the denuclearization of the Korean Peninsula. The meeting yesterday focused on procedural issues.

Analysts saw few grounds for optimism.

"I think we are closer to breakdown than breakthrough," said Peter Beck, the Seoul-based northeast Asia project director of the International Crisis Group.

"The North has been harsh in its public statements, and the U.S. is not going to bend on the peaceful use of nuclear energy."

The talks involve the United States, the two Koreas, China, Japan and Russia.

N. Korea, Iran Say They Will Continue Nuclear Efforts (CSM)

By Tom Regan

The Christian Science Monitor, September 14, 2005

In an announcement likely to set up a collision with the United States, North Korea announced Monday that it will continue to demand the right to "peaceful" use of atomic energy. CNN reports that the six-nation talks – which also include China, Japan, Russia, and South Korea – resumed Tuesday in Beijing. AFXNews reports that the North Korea statement is the same demand that broke up the talks five weeks ago. (North Korea) has a right on peaceful nuclear activity. This right is neither awarded nor needs to be approved by others,' the country's chief envoy to the talks, Kim Gye-gwan, told the official Xinhua news agency at Pyongyang airport.

'We have this right, and the more important thing is that we should use this right. If the United States tries to set obstacles to the DPRK's (North Korea) using this right, we can utterly not accept that.'

Bloomberg News reports that the US rejected North Korea's stance. US chief negotiator Christopher Hill said Monday in Beijing that North Korea's position "does seem to be wrong." Still, US negotiators said they will renew efforts to convince North Korea to give up its civilian reactors at the talks. 'I hope the Democratic People's Republic of Korea delegation has done some homework,' Hill said. 'We had more than four weeks to look at the text of the proposed agreement.'

The talks will last 'as long as necessary and will not have a deadline,' China's Foreign Ministry said in a statement. Meanwhile, Reuters reports that Iran is "working hard to gather allies" to defeat a US-European attempt to "refer Tehran to the UN Security Council because of their fears it may be developing nuclear weapons." EU diplomats said Iran was focusing its lobbying efforts on key International Atomic Energy Agency (IAEA) board members such as China, Russia, India, Pakistan, South Africa and other non-aligned developing states, which have a good deal of sympathy for Tehran's arguments. In the past two weeks, Iran's chief nuclear negotiator, Ali Larijani, visited Pakistan and India. While successfully negotiating a deal to allow Iranian natural gas to pass through Pakistan to India, Xinhua reports he also persuaded both countries to publicly support Tehran's position for "a peaceful resolution of Iran's nuclear issue and Iran's right to the peaceful use of nuclear energy in accordance with related international conventions."

Iran is continuing its diplomatic offensive this week. Mikhail Zygar and Dmitry Sidorov write in a column for MosNews that Iranian Vice-President Gholamreza Aghazadeh is in Moscow to discuss next week's IAEA meeting, where Iran's nuclear program

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will be the main topic. Russia has indicated that it will support Iran, and fight to keep it from being referred to the UN Security Council, where it would probably face sanctions. Mr. Zygar and Mr. Sidorov say this is "an extremely important victory for the Iranians," and a move likely to "cause the Kremlin a lot of problems." Russian authorities are relying on the fact that the world community will not want to punish Iran too severely and that the Europeans will not vote to transfer the dossier to the UN Security Council. Ariel Cohen, an expert with the Heritage Foundation, who participated in a meeting with Putin, Ivanov and Lavrov in Moscow, told [MosNews] that 'on the Iran subject they were telling mutually exclusive things: from one side — the Russian position is close to the Europeans', but from the other side — the Kremlin is against passing the dossier to the UN Security Council.'

According to Cohen's opinion, 'Russia does not want to spoil its relationship with Iran, because it sees Tehran as a member of a multi-polar coalition, which also includes China, and plays a role of the counter-balance for the US.' Russia has been a nuclear partner with Iran for some years. Russian engineers are currently building a nuclear plant at Bushehr, in southern Iran.

The US, however, is not taking the Iranian initiative lightly. The New York Times reported last Friday that both President Bush and Secretary of State Condoleezza Rice will speak with the leaders of these countries during this week's UN summit in New York in an effort to change their minds on the issue. But experts say their task will not be an easy one. Lacking a consensus, the United States and its European allies have shifted strategy and are now trying to get the matter referred to the Security Council by a simple majority of the agency's board, a step that officials in Vienna say is without precedent. North Korea was referred to the United Nations, for example, by consensus.

US, S Korea Hold Preparatory Trade Talks (FT)

By Guy de Jonquières and Anna Fifield

Financial Times, September 14, 2005

US and South Korean officials are holding preparatory talks on a bilateral trade agreement, potentially paving the way for President George W. Bush to launch formal negotiations when he visits the country in November.

A deal with Asia's third biggest economy would give the US an important economic bridgehead into the region at a time of growing concern in Washington that the recent wave of regional trade initiatives in Asia could jeopardise US commercial interests there.

An agreement could pose a dilemma for the European Union, whose 25 members have been discussing for a year whether to seek a trade deal with Seoul. Brussels fears that if Washington forged an agreement first, it could guarantee US companies preferential access to South Korea's market for exports such as commercial aircraft and financial services. Rob Portman, the US trade representative, and Kim Hyun-chong, South Korea's trade minister, are understood already to have discussed the proposed deal at several meetings.

"We are working on it," a South Korean official said. "Whether this will actually materialise by the time Bush gets here is still uncertain."

US trade officials said no decision had yet been taken to launch negotiations with South Korea.

The preliminary discussions between Washington and Seoul are intended to iron out some of their differences on trade to simplify the eventual negotiations process and improve chances of agreement, according to people familiar with the talks.

South Korea is the seventh largest US trade partner, and the countries' bilateral trade exceeded $70bn last year.

Obstacles to a deal include South Korea's cinema quotas which stipulate that 40 per cent of films shown in cinemas are domestic and Korean restrictions on US beef, imposed after the mad cow scare. Korean officials hope the beef curbs can be removed later this year.

Washington also argues that Korea's pharmaceuticals pricing policy does not provide enough rewards for research-intensive drugs and its system of basing car taxes on engine capacity puts US carmakers at a disadvantage.

South Korea hopes a deal would cut industrial tariffs on many of its exports and lead Washington to exercise greater restraint over antidumping actions, of which Korean products have frequently been targets. A deal could also make it easier to resolve bilateral trade problems, such as a recent dispute over subsidies to Hynix, the Korean chipmaker.

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Singapore and Vietnam are the only east Asian countries with which the US has so far concluded trade agreements. Mr Bush will visit the South Korean port city of Busan in November for the annual summit of the Asia Pacific Economic Co-operation forum.

U.N. Adopts Modest Goals On Reforms And Poverty (NYT)

By Warren Hoge

The New York Times, September 14, 2005

UNITED NATIONS, Sept. 13 - The General Assembly unanimously approved a scaled-down statement of goals on Tuesday that Secretary General Kofi Annan said would still give world leaders gathering Wednesday a basis for recommendations to reform the organization and combat poverty.

Loud cheers from the delegates, however, could not disguise widespread disappointment at the weakening of the 35-page document.

When Mr. Annan first proposed the statement, it represented an ambitious blueprint for trying to balance the concerns of great powers over security, human rights and management efficiency with the developing world's needs for increased assistance and measures to cut poverty. In the end, virtually every section underwent severe cutbacks.

"Obviously, we didn't get everything we wanted," Mr. Annan said. "With 191 member states, it's not easy to get an agreement. But we can build on it." He noted that it represented progress in setting up a human rights council to replace the discredited Human Rights Commission and a new peace-building commission. He also singled out language on how to fight terrorism and establish means for international intervention when countries failed to protect their citizens from genocide.

He complained pointedly, however, about the elimination in the final version of language covering nuclear nonproliferation and disarmament, labeling the exclusion a "disgrace" at a time when the world feared a spread of unconventional weapons.

John R. Bolton, the American ambassador, said the United States was satisfied with the outcome, which he said matched the limited hopes he had had for the document.

"It would be wrong to claim more than is realistic and accurate about what these reforms are," he said. "They represent steps forward, but this is not the alpha and omega, and we never thought it would be."

The General Assembly vote ended three weeks of tense talks at which regional rivalries and national ambitions succeeded in scuttling attempts by a majority of nations to act in the broader United Nations interest. The continuing debate exposed in high profile the kind of indecisiveness that the document was supposed to address.

"There were governments that were not willing to make the concessions necessary," Mr. Annan said. "There were spoilers also in the group, let's be quite honest about that."

In his discussions with member states, he said, "I've tried to get them to understand that in our interconnected world, we need to look at issues in much broader terms rather than narrow national interests."

In answer to a question, he said he wished voting procedures could be changed so that a small minority of nations could not block the will of a large majority, as has occurred during recent weeks.

Mr. Bolton, a vocal critic of the organization's practices, seized on the events to say: "This is the way the U.N. operates. And it goes to the question, which is a much longer term question, as to whether the culture of decision-making at the U.N. is the most effective for the organization, and that's something that's not going to be resolved today or tomorrow."

The three-day meeting is expected to attract more than 170 presidents and prime ministers. The document they will be asked to approve does create a human rights council, but it leaves out any mention of its size and duties and drops language proposing that membership be subject to a two-thirds vote of the General Assembly. That was meant to insure that notorious rights offenders would not become members. While it condemns terrorism "in all forms," language saying that making targets of civilians is unjustified was deleted in exchange for dropping language exempting movements to resist occupation.

Management reform does not include strengthening the Secretary General's office, which is considered essential if the office is to have the flexibility to act decisively. In this case, a small group of developing countries blocked action out of fear of seeing power taken away from the General Assembly, where their voices are heard but where real decision-taking is discouraged.

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U.N. Reform Bid Exposes Its Woes (LAT)

By Maggie Farley

The Los Angeles Times, September 14, 2005

UNITED NATIONS — The U.N. World Summit on poverty and reform that opens today was supposed to be a watershed moment that breathed new life into the troubled world body and shored up its beleaguered leader, Secretary-General Kofi Annan.

But as diplomats approved the summit's centerpiece document Tuesday after weeks of bitter negotiations that eviscerated many of Annan's boldest reform proposals, many delegates expressed dismay that the meeting was highlighting the U.N.'s core problems rather than solving them.

Though U.N. officials tried to put the best face on the watered-down package of goals and structural changes concerning issues including human rights and terrorism, even Annan called the deletion of a section on nuclear disarmament "a disgrace" and an example of how the United Nations had failed.

How Annan's ambitious plan nearly collapsed and why says much about the way the U.N. works, and doesn't.

The secretary-general is treated more like an employee of the member nations than their leader, which made it difficult for him to guide the process. A culture of consensus allowed a handful of nations with entrenched interests to shape the outcome.

Though the final product retained little of the sweep and aspirations embodied in his original proposal, Annan framed it as a solid beginning for long-term reform.

"It would be wrong to describe this process as a failure. It is in the nature of the organization — when you have 191 member states you do not always get what you want," he said. "But the process is not over. As I said some years ago, reform is a process, not an event."

Annan began the reform process in earnest two years ago, seeking to restore the U.N.'s credibility after the U.S. and Britain invaded Iraq without the world body's blessing. He told the General Assembly that the U.N. had come to "a fork in the road" and must reinvent itself or fade into irrelevance.

In 2004, after a yearlong study, a panel of international experts recommended radical changes to help the organization better meet the challenges of the 21st century, including preemptive war, nuclear proliferation, terrorism, poverty and disease.

In March, Annan built on the panel's report to propose an ambitious plan that said the U.N. was built on four pillars — peace, security, development and human rights — and that the world was safer if countries acted together. Recognizing that nations would act first to protect their own interests, Annan urged them to not cherry-pick the package, but consider it as a whole and give something to gain something.

But in the following months, talks were distracted by the most contentious issue, Security Council expansion, and stalled by a few nations that believed they were better served by no change than the sweeping reforms Annan proposed. Meanwhile, Annan's ability to push the reforms behind the scenes was undermined by the revelations of corruption and abuse in the U.N.-run oil-for-food program for Iraq.

"Kofi was doing it out of the noblest of motives, but didn't have the moral authority to carry it out," said Stephen Schlesinger, author of "Acts of Creation," about the 1945 founding of the United Nations. "He needed to do the political groundwork first, but he just threw the reforms out there, thinking the moral imperative would be enough."

Parochial interests quickly surfaced. Nations including Pakistan and China objected to Security Council expansion because their regional rivals, India and Japan, respectively, aspired to new permanent seats as part of it.

Egypt wanted the struggle against foreign occupation to be excluded from any definition of terrorism. Cuba and others dug in their heels over the creation of a human rights body that would make it tougher for accused violators to be on the panel.

The U.S. said it would rather delete sections related to its key priorities — disarmament, a new human rights body, management reform and financing of development — than to sign on to something "half-baked."

As a result, diplomats had still not agreed on a reform document the day before world leaders began to arrive to endorse it. In the middle of the night, U.N. experts unilaterally created a new document they hoped everyone could agree on and later Tuesday told negotiators to take it or leave it. They accepted it.

Cuban Ambassador Orlando Gual said it took a last-ditch, undemocratic, nontransparent act to bolster the U.N.'s aspirations toward democracy, transparency and efficiency. "It's a Frankenstein," he said. "That's the best we could do?"

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Nevertheless, diplomats pointed to a few achievements. For the first time, U.N. members formally embraced the notion that the international community has a responsibility to intervene to protect populations from genocide or war crimes when a national government is unwilling to do so, a proposal known as the "Responsibility to Protect." When Annan first proposed it in 1999, it provoked intense opposition by nations that said it would violate their sovereignty.

The document also creates a Peacebuilding Commission to help nations recovering from conflict, and establishes a new Human Rights Council to replace the current, discredited body. The U.N. Secretariat pried a bit of power away from the General Assembly to make decisions on hiring, budget and oversight, a partial win for the U.S.

But there were many more disappointments than successes, diplomats said. Developing nations wanted stronger commitments to break down trade barriers and to oblige wealthy nations to pledge more money for foreign aid. The U.S. was unhappy to not win clear criteria for the new human rights council, or a clear definition of terrorism.

But Annan said the most significant gap in the document was the absence of any mention of nuclear disarmament and nonproliferation, an omission made at Washington's insistence.

"This is a real disgrace," Annan said. "We have failed twice this year: We failed at the NPT [Nonproliferation Treaty Conference], and we failed now…. So I will appeal to the leaders who are coming here in the next few days to really step up to the plate and accept the challenge and show leadership on this issue."

Annan also said that the U.N.'s culture of consensus caused the most problems, allowing "spoilers" with special interests to hold the whole process hostage.

He suggested that the General Assembly should make more decisions by vote.

"There is unwillingness to do that," Annan said, "and as long as you do not want to do that, you are either going to be negotiated down to the lowest common denominator or you don't get a decision at all."

U.N. Scales Back Plan Of Action (WP)

By Colum Lynch And Glenn Kessler

The Washington Post, September 14, 2005

UNITED NATIONS, Sept. 13 -- The U.N. General Assembly on Tuesday adopted a declaration on the need to combat world poverty, promote human rights and strengthen management of the organization, but only after negotiators scaled back the document because of intractable disagreements among nations on sensitive issues.

The 35-page declaration will be endorsed by an estimated 170 world leaders at a three-day summit on U.N. reform that is to begin Wednesday, and delegates expressed disappointment that it had fallen short of Secretary General Kofi Annan's aspirations for a broad reorganization of the 60-year-old organization.

Still, they voiced relief that the entire process had not collapsed, which would have left the summit with no tangible result, and they highlighted relatively modest achievements in the document. Those included provisions that call for an increase in foreign aid, condemn terrorism and underscore the obligation of states to halt genocide and ethnic cleansing. Only Cuba and Venezuela voiced reservations about Tuesday's agreement.

The negotiators were forced to put off action on some of the thorniest and most ambitious goals, including proposals to expand the U.N. Security Council, to create an independent auditing board to scrutinize U.N. spending, and to impose basic membership standards for a new Human Rights Council so that chronic rights abusers will not be able to join.

Various proposals for expanding membership in the Security Council, for example, had been opposed by countries that felt they would lose out in the deal. And some developing countries fought proposals for changes in U.N. management practices, which they felt would shift authority from the General Assembly to the secretary general's office.

Negotiators also failed to agree on provisions calling on governments to halt the transfer of weapons of mass destruction to terrorists and urging nuclear weapons states to abide by their commitments to dismantle their atomic arms.

Annan said that the members' inability to adopt these measures on disarmament and nonproliferation constituted "a real disgrace" and that he hoped world leaders would see this as "a real signal to pick up the ashes and show leadership."

"There were governments that were not willing to make the concessions necessary," Annan told reporters after the declaration was adopted by the General Assembly. "There were spoilers, let's be quite honest about that."

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Still, Annan said he was pleased that the declaration reiterated the U.N. commitment to meet targets for slashing rates of poverty, disease and child mortality and that it called for creation of the new human rights council and a peace-building commission to oversee postwar recoveries. "I would have wanted more, all of us would have wanted more, but it's an important step forward," he said. "I think we can work with what we've been given."

The negotiations provided the first test of American diplomacy at the United Nations since President Bush bypassed congressional confirmation to install John R. Bolton as U.S. ambassador for 17 months.

Bolton on Tuesday demonstrated sufficient flexibility to reach agreements on some issues, while fending off provisions that might have restricted U.S. prerogatives and the freedom to use force unilaterally. Bolton, who led efforts to block the disarmament provision, succeeded in eliminating language that would have urged countries to support a host of international treaties or organizations, including the Comprehensive Test Ban Treaty and the International Criminal Court, which the United States opposes.

But Bolton failed to secure support for a number of key U.S. priorities, including the provision urging states to halt the transfer of the world's deadliest weapons to terrorists and measures intended to expand Annan's authority over hiring and to strengthen the oversight of U.N. finances.

Bolton said that while he would have preferred stronger provisions to ensure greater accountability in the U.N. bureaucracy, Tuesday's agreement would lead to a "somewhat improved U.N."

"But it would be wrong to claim more than is realistic and accurate about what these reforms are," he said. "They represent steps forward, but this is not the alpha and the omega, and we never thought it would be."

"This is not the end of the reform effort," added Undersecretary of State R. Nicholas Burns. "It really is the beginning of a permanent reform effort that must be underway at the United Nations."

Despite setbacks, Burns said that Tuesday's agreement would eliminate the discredited U.N. Human Rights Commission, which includes Zimbabwe, Sudan and other human rights violators. But he acknowledged that "it is going to be a difficult exercise" to win the votes in the General Assembly to create a human rights council that reflects the wishes of the United States.

Burns said that although the United States and other governments had failed to include a clear condemnation of the deliberate targeting and killing of civilians, they had succeeded in extracting an Arab-backed provision that would have excluded so-called national liberation movements that target civilians from being labeled terrorists.

"We have broken the back of this ideological debate here about what constitutes terrorism," Burns said, noting that "sometimes in diplomacy defeating negative measures is very important." U.N. delegates, however, said Arab governments would insist on protections for armed groups fighting foreign occupation in an international convention on terrorism that is being negotiated by U.N. members.

Human rights and development advocates said the membership had squandered a rare opportunity to improve the organization, but praised the negotiators for endorsing the creation of an international obligation to halt attempted genocide.

"There is very little to celebrate," said Nicola Reindorp of Oxfam International. But governments "are showing that they can act boldly, by endorsing their responsibility to protect civilians from genocide, ethnic cleansing, war crimes and crimes against humanity."

General Assembly OKs Compromise Document (AJC/AP)

By Nick Wadhams, Associated Press Writer

The Atlanta Journal-Constitution, September 14, 2005

UNITED NATIONS — The U.N. General Assembly on Tuesday adopted a watered-down document on poverty, human rights, terrorism and reform for world leaders to approve at a U.N. summit, shedding many of Secretary-General Kofi Annan's most ambitious goals after weeks of bitter debate.

The compromise 35-page document is supposed to launch a major reform of the United Nations itself and galvanize efforts to ease global poverty. But to reach a consensus, most of the text's details were gutted in favor of abstract language.

A definition of terrorism and details on how to replace the discredited U.N. Commission on Human Rights will not be included. U.S.-led efforts to overhaul U.N. management have been diluted, while nuclear nonproliferation isn't mentioned at all.

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"Obviously we didn't get everything we wanted and with 191 member states it's not easy to get an agreement," Annan said. "All of us would have wanted more but we can work with what we have been given, and it's a step forward."

Diplomats called the document a breakthrough after so much debate. Several were pleased with the creation of a peacebuilding commission and a long section on development. That includes a mention of the desire by "many developed countries" to spend 0.7 percent of their gross national product on development.

"Don't expect Rome to be built in a day, it wasn't," Britain's U.N. Ambassador Emyr Jones-Parry said. "Against the difficulty of this negotiation, it's complexity, this is a very substantial gain."

The compromise document came after weeks of debate stretched into several days of marathon negotiation. Some diplomats had feared that negotiations would continue into the summit of world leaders that begins on Wednesday.

The outgoing president of the General Assembly, Gabon's Jean Ping, presented the compromise Tuesday afternoon in hopes of bridging the deepest divides and moving away from bitter line-by-line negotiations that had bogged down the debate.

"It would be wrong to claim more than is realistic and accurate about what these reforms are," U.S. Ambassador John Bolton said. "They represent steps forward, but this is not the alpha and the omega, and we never thought it would be."

Though Annan said he was pleased, the document was a significant step backward for him. In March, when he had unveiled his proposals, Annan had urged world leaders to expand the size of the Security Council, come up with a definition of terrorism and accept that they have a "responsibility to protect" those being killed, which requires collective action.

And last week, a committee investigating the scandal-tainted U.N. oil-for-food program had called for wide-ranging management reforms. The committee, led by former U.S. Federal Reserve Chairman Paul Volcker, said that the United Nations would need a complete overhaul to tackle programs like oil-for-food in the future.

But efforts to expand the council were abandoned because of longtime national differences. "Responsibility to protect" was whittled down to nations' obligations to protect their own citizens. The document says nations should "make all efforts" toward a convention against terrorism but doesn't try to define it.

Diplomats said it had become clear during the negotiations that they had tried to tackle too much at once, and had to lower their expectations from the document.

"I think we tried to have a full plate and we were unable to eat so much in a single gulp," Costa Rica's U.N. Ambassador Bruno Stagno said earlier Tuesday.

The failure of world leaders to adopt an ambitious plan for development and reform disappointed some non-governmental organizations.

They fear that leaving the tough decisions to the 191-member General Assembly, where even seemingly innocuous initiatives can stall for years, is the quickest way to sink Annan's agenda.

"If world leaders do nothing more than adopt a broad, vague text that defers all substantive decisions to the General Assembly, they will have squandered a historic opportunity," Yvonne Terlingen, Amnesty International's U.N. representative, said in a statement.

Several nations were angry with the way the document was pushed through the General Assembly before it was translated from English into the five other official U.N. languages, a violation of U.N. protocol. That gave ambassadors little time to review it.

"This process is a clear violation of the most basic elements governing democratic processes," Venezuela's Foreign Minister Ali Rodriguez said from the floor after the vote.

The debate over the summit has led some to question if the United Nations can be reformed at all, especially when such decisions have to be accepted by all member states .

Security Council reform, for example, has bedeviled the United Nations for more than a decade. Each time the issue surfaces, diplomats say they believe the will is there for change, and each time they fail.

"I'm very pragmatic in relation to the United Nations," Australia's Prime Minister John Howard said Tuesday. "One cannot ignore the fact that we still live in a world of nation states."

Negotiators Seek Deal On Reforming U.N. (KCS)

By Edith M. Lederer

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The Kansas City Star, September 14, 2005

UNITED NATIONS - With the U.N. summit a day away, negotiators tried to agree Tuesday on a watered-down plan for reforming the United Nations, having abandoned many of the sweeping changes recommended by Secretary-General Kofi Annan.

More than 160 presidents, prime ministers, kings and their entourages are descending on New York for Wednesday's summit opening. But it appeared less likely that the 191 U.N. member states would reach consensus on a document enabling the world body to tackle the major global issues of the 21st century.

Annan's chief of staff, Mark Malloch Brown, said negotiations seemed more favorable than a few days ago because "deadlines are starting to loosen minds and positions."

"There's a threshold where we always knew we wouldn't get the full loaf," Malloch Brown said. "We've got to start counting slices. Half or more will do at this stage."

Many countries blame the United States for proposing hundreds of amendments just a few weeks ago to a document they believed was nearing agreement. The major organizations of developing countries, including the Group of 77 and the Nonaligned Movement, then responded with dozens of their own.

Russia and other countries also offered many amendments.

The United States also has pushed for strong language on its top priorities of management reform and a new Human Rights Council with greater authority.

Germany's U.N. Ambassador Gunter Pleuger said Monday that achieving "great reform" was not possible at this late date with major divisions remaining. Instead, he expects either "a watered-down" or shorter text.

A meeting of the 32 countries in a "core" group trying to negotiate the final text was delayed Tuesday morning.

Incoming General Assembly President Jan Eliasson, who is scheduled to be installed Tuesday, said he did not know what the finished product would be yet, "but I hope it will contain the substance we all want it to have."

The seven issues that negotiators have been focusing on are terrorism; a Human Rights Council with more authority to replace the discredited Human Rights Commission; a new Peacebuilding Commission to help nations emerging from conflict; new responsibility for governments to protect civilians at risk from genocide and war crimes; disarmament and nonproliferation; overhauling U.N. management; and steps to promote development.

Akram said a group of about 15 countries had agreed to language on terrorism, the Peacebuilding Commission and on human rights, though some other countries were trying to reopen that issue.

Negotiators also were close to agreeing on the responsibility to protect civilians, but differences remained on management reforms, trade and climate change, he said.

Pakistan's U.N. Ambassador Munir Akram said he expected a "core" group to decide Tuesday whether the entire text was balanced enough for consideration by all members.

Many of the agreements in the text, however, were reached by leaving the most contentious issues for further negotiations - primarily in the General Assembly.

For example, the United States and many European countries want the Human Rights Council to become a permanent body, with a country's membership requiring approval by two-thirds of U.N. nations. Richard Grenell, spokesman for the U.S. Mission to the United Nations, said Egypt and China opposed that Monday, and other diplomats said Russia did as well.

Egyptian Ambassador Maged Abdelaziz said his country favored a rights council that would be a subsidiary of the General Assembly, which should decide on the criteria for membership.

"Let us give it a chance to function, and then we will review it," he said.

Last year, Annan urged world leaders to take bold action to promote development and reform the United Nations so it can tackle global challenges ranging from conflicts and terrorism to poverty and human rights abuses.

"We have reached a fork in the road," Annan warned member states. "If you, the political leaders of the world's nations, cannot reach agreement on the way forward, history will take the decisions for you, and the interests of your peoples may go by default."

Pleuger said that in hindsight, member states underestimated the amount of preparatory work needed to reach consensus.

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U.N. OKs Pared-down Declaration (WT)

By Betsy Pisik

The Washington Times, September 14, 2005

NEW YORK -- The U.N. World Summit opens today with a hard-fought but watered-down declaration that fails to include many reforms sought by the United States, including a replacement for the discredited Human Rights Commission.

The General Assembly yesterday approved the declaration for adoption today by the summit.

"It would be wrong to claim more than is realistic and accurate about what these reforms are," U.S. Ambassador John R. Bolton said of the 35-page declaration that is to be endorsed by 150 world leaders at the conclusion of the three-day event

"They represent steps forward, but this is not the alpha and the omega, and we never thought it would be," Mr. Bolton told reporters several hours before the final document was completed.

The document calls for the creation of a peacebuilding commission and a democracy fund, financed by voluntary contributions, to help conflict-riven countries make the transition to stability and good governance.

The text also commits nations to provide free primary education to all children, including girls, and for their leaders to take responsibility for their nations' development by pursuing sound economic policies.

Mr. Bolton, who has worked on little else since arriving here in early August, acknowledged, "I would have liked to have seen a broader discussion much earlier about fundamental changes in management and governance."

Some nations and private organizations were bitterly disappointed with the outcome, saying that it fell far short of ideals on human rights, nuclear weapons, women's rights and other issues.

Development specialists praised the outcome of the final declaration, noting that the passages were mostly strong and encouraging.

Secretary-General Kofi Annan had sought a declaration that would show that development and security are two sides of the same coin.

"The big item missing is nonproliferation and disarmament. This a real disgrace," Mr. Annan told a press conference, urging the leaders to take up the issue this week.

While acknowledging its shortcomings, he insisted the document was "an important step forward." The final document went through a tortuous negotiation process.

At first, U.N.-appointed regional representatives compiled a text based on input from governments.

In late August, Washington demanded that nations develop the document themselves, in direct negotiations.

That opened the process to line-by-line discussion, in which governments were free to advocate for their pet issues.

For nearly two weeks, the document grew longer instead of shorter, as more provisions were added and then countered.

With the process deadlocked at 1 a.m. yesterday, outgoing General Assembly President Jean Ping made a number of executive decisions on the text, including tossing out all language related to nuclear disarmament and nonproliferation.

When delegations yesterday evening formally closed the 59th session of the General Assembly one day late, they gave Mr. Ping an almost unheard-of standing ovation for his work.

Jan Eliasson, Sweden's former ambassador to Washington and the president of the General Assembly for the upcoming year, praised the declaration and said it should be assessed compared with historic reform measures, not to recent reform proposals.

"We will get a new political energy from the leaders gathering here," he said.

Discussions to strengthen the United Nations and make it more responsive and credible have been under way for nearly two years, when Mr. Annan commissioned a panel to come up with suggestions to restore luster to the world body, which celebrates its 60th anniversary this year.

The United Nations' Missed Opportunity (FT)

By Nancy Soderberg

Financial Times, September 14, 2005

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On Wednesday in New York, most of the world's leaders will gather at the United Nations "World Summit" for what was supposed to be a strong endorsement of a visionary plan for global governance in the 21st century. But the ideological clash between the US and much of the developing world has brought the meeting to the brink of failure.

Weary diplomats have been scrambling to come up with face-saving compromises, still being fought over as this is written. But it is already clear that while the summit will make some progress on the development and security goals set last March by Kofi Annan, UN secretary-general, the final document will fail to chart the bold course he urged.

This summit has been years in the making. In the aftermath of the international community's grave failures in the Balkans and Rwanda in the 1990s, Mr Annan set up several commissions to address the issue of protecting civilians when governments fail to do so, and to look at ways to meet the developing world's urgent needs.

After the Iraq war in 2003, he recognised the gap in perceptions of threat between the developing and the developed worlds. For the US, that threat was primarily terrorism and weapons of mass destruction; for the developing world, it was the threat of underdevelopment, poverty, debt, HIV/Aids and other infectious diseases.

Mr Annan offered sensible proposals in his March report, calling for the developed world to commit 0.7 per cent of gross national product to development, ease trade barriers and slash debt in exchange for a commitment by the developing world to implement good governance and get serious about ending support for terrorists and -weapons proliferation. Such steps were part of the effort to reach the UN's Millennium Development Goals by 2015.

All summer, diplomats whittled away at draft after draft, making scant progress. Throughout the process, much of the developing world has seemed stuck in the 1960s, arguing for the legitimacy of terrorism in liberation struggles, undermining the urgent need for UN management reform and pathetically unable to agree on how to expand the Security Council. The strongest opposition to the text has been led by a collection of retrogade states including Pakistan and Algeria, and increasingly, Russia and China which have opposed any perceived intrustion on state sovereignty.

The US is also blocking progress. It is fighting against its own ideological hot buttons, such as the Kyoto protocol on climate change, the International Criminal Court, specific levels of development aid, disarmament and non- proliferation, and abortion rights. Washington only began to engage seriously in mid-August when John Bolton, as the new US permanent representative to the UN, sought initially to restart the process from scratch.

The result of so many pressures from so many sides was a convoluted draft with pages of disputed texts in brackets that diplomats were still arguing over as their leaders arrived in New York.

The end result will be mixed. The US has now agreed that the specific targets for development assistance can be mentioned, but not specifically en-dorsed. The discredited Commission on Human Rights, hijacked over the past decade by Syria, Cuba, Libya, Sudan and others in the club of the repressive, will be replaced by a new Human Rights Council but of still uncertain composition. Argument remains about how much more authority and flexibility to give the UN secretary-general to manage the institution, despite the urgent call for this in the recent Volcker report's recommendations on UN reform.

On the brighter side, diplomats have, after much wrangling, agreed to -recognise the world's responsibility to protect civilians and improve peacekeeping operations. A new Peacebuilding Commission will focus on the needs of nations in, and emerging from, conflict. While important, these achievements are far from sufficient for preparing the UN, and the world, for the 21st century. They fail to address the toughest peace and security issues: terrorism, use of force, non-proliferation and Security Council reform. Even after September 11 2001, a hard-core group continues to block any definition of terrorism, agreeing only to address the issue later in the year.

Facing opposition from the US, -coupled with scepticism from the developing world, the proposals regarding disarmament and non-proliferation, and criteria for the use of force, are essentially dead. So, too, is any change in the makeup of the Security Council. Four Security Council aspirants – Japan, India, Brazil and Germany – failed in their efforts to create six new permanent seats including two African ones. Africa rejected the proposal.

World leaders will put on their game faces for the summit but the depressing truth is they have failed to take up the secretary-general's challenge. His proposals offer the right way forward for the 21st century but they will have to wait for the world to catch up with his vision. Until then, the world will remain the worse for it.

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The writer, vice president for multi-lateral affairs of the International Crisis Group, is author of The Superpower Myth: The Use and Misuse of American Might (John Wiley)

The Lost U.N. Summit Meeting (NYT)

The New York Times, September 14, 2005

A once-in-a-generation opportunity to reform and revive the United Nations has been squandered even before the opening gavel comes down this morning for the largest assemblage of world leaders ever brought together in a single location. The responsibility for this failure is widely shared. But the United States, as the host nation and the U.N.'s most indispensable and influential member, bears a disproportionate share.

There are several casualties of this failure of leadership, including the need to reform the United Nations and to strengthen its role as a monitor of human rights. But the most tragic loss is a genuine opportunity to help the one billion people around the world who each live on less than $1 a day.

Last month, President Bush used a recess appointment to send his notoriously undiplomatic, and Congressionally unacceptable, choice for ambassador to the United Nations, John Bolton, to New York. He contended that contrary to all appearances and to common sense, Mr. Bolton was just the man to achieve the reforms the United Nations needed. Almost immediately, Mr. Bolton began proving Mr. Bush wrong by insisting on a very long list of unilateral demands. The predictable effect was to transform what had been a painful and difficult search for workable diplomatic compromises into a competitive exercise in political posturing.

With Washington jealously protecting the prerogatives of the Security Council, where it holds a veto, others chose to be equally jealous in protecting the prerogatives of the General Assembly, where the influence of poorer and weaker countries is greatest. And when Washington challenged the right of the secretary general to set specific development goals, others then contested his right to set standards for management or human rights. And so on.

That extinguished the idea that international security issues and international development issues are vitally linked, and can be most effectively tackled in tandem. By the time Washington retreated to a more realistic position, it was too late to retrieve much of the bold original agenda, as set out in earlier United Nations summit meetings on development, in the thoughtful recommendations of several high-level panels and in the constructive proposals of Secretary General Kofi Annan. The failure is even more poignant because the United States is clearly on the right side of some important arguments.

Washington, for example, strongly supported the idea of replacing the discredited United Nations Commission on Human Rights, on which nations like Sudan, Libya and Cuba regularly sit, with a new, reformed body that would exclude such notorious rights violators. The final document dilutes this crucial provision to the point of meaninglessness.

On this and other issues, the document offers little more than a fudge of feel-good phrases and pious wishes for future action that leave everyone off the hook from taking entirely practical actions that are needed right now.

This week's summit meeting should have strengthened international commitments to reach broadly accepted development benchmarks over the next decade that could avert tens of thousands of needless deaths from extreme poverty. It should have given the secretary general the power to bypass patronage and rely on merit in choosing and retaining senior officials, creating a crucial institutional safeguard against a replay of the oil-for-food fiasco. It should have reinforced vital international commitments and understandings on nuclear nonproliferation, including those that Mr. Bolton, in his previous job, did so much to undercut.

Although the ceremonial speeches by national leaders are just beginning, the serious negotiations over this summit meeting's outcome are now over. Every one of the more than 170 national leaders attending, starting with President Bush, should be embarrassed about letting this rare opportunity slip away.

IMF Must Redefine To Stay Relevant (FT)

By Rodrigo de Rato

Financial Times, September 14, 2005

Globalisation has brought enormous benefits in growth and efficiency. Yet this same force has brought cross-border financial crises and heightened the imperative to bring into the mainstream those who are being left behind.

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Shortly after becoming International Monetary Fund managing director in 2004, I initiated a strategic review aimed at determining whether the fund is fully prepared to meet the challenges and crises of today and the future. When the review is released next week it will call for adjustments that will give greater focus to the fund's work and ensure the IMF can help all member countries face the challenge of integrating into the global economy.

The review suggests that some of the IMF's activities be scaled back, specifically through: streamlined work on standards and codes and financial sector assessments, a more focused approach to its role in low income countries, closer collaboration with the World Bank and spending less time on procedures and documentation. The new proposals also include an effort to deepen the analysis of globalisation, to broaden our research into the dynamics of capital account liberalisation and assess how best to achieve the UN -Millennium Development Goals.

Redefining the fund's mission is inseparable from reassessing IMF governance. The fund's legitimacy as a global organisation rests on fair representation for all members. The current allocation of quotas – capital shares in the IMF on which voting rights are based – puts this legitimacy at risk in many regions, including in Africa, where the fund is heavily engaged, and in Asia, whose place in the world economy has grown far more than its role in the fund. The issue touches on the interests of many stakeholders but it must be addressed. The reallocation of quotas is not a zero sum game if it results in an IMF with widely held legitimacy and ownership.

Over the past decade the fund has been pulled in new directions: devising and overseeing complex crisis prevention initiatives, contributing to the effort to combat the financing of terrorism and money laundering, and playing a role in poverty-reduction strategies. This accretion of new mandates occurred as old mandates remained unchanged. But many of the initiatives of the past decade have evolved into diffuse, resource-intensive operations.

The strategic review aims at preparing for key, yet unpredictable, challenges. The fund has already taken the lead in calling for concerted action to address global current account imbalances. In future, the nature of the imbalances may change but the IMF must stand ready to help its members anticipate them and respond quickly.

Thus, work analysing and advising on global trends and developments in individual countries must be strengthened and reoriented. More resources will be devoted to global and regional issues, even as our regular country work is refocused on the most pressing macroeconomic issues. More attention will be paid to the cross-border implications of country policies and long-term trends such as ageing and energy demand. Country work will be more closely aligned with analysis of capital markets and financial systems. Even greater progress on transparency is essential, not least for the promotion of strong institutions in all countries.

The IMF's lending has to take account of the evolving needs of the membership. For the emerging market countries, there is an unmet demand for insurance against large and volatile capital flows; this will require careful examination by the whole international community. Meanwhile, the needs of low income countries are becoming more differentiated: some require debt relief, others concessional financing, and others just policy advice and support. More must be done to meet these needs effectively. However, the IMF's work in low income countries is overloaded with procedures that absorb substantial resources yet yield questionable gains. This work must be streamlined to ensure the needs of poverty reduction are met.

The IMF's mandate has evolved considerably since it was set up after the second world war and the great depression. This evolution has been guided by the needs of an international community committed to multilateral co-operation. As we address the challenges of our rapidly globalising world, change is essential if the fund is to remain relevant. There are difficult choices to make but with the commitment of our membership it should be possible to agree on a common vision. The IMF stands ready to remain an adviser and a close partner with member countries.

The writer is managing director of the International Monetary Fund

U.N. Vs. Poverty: Seeking A Focus, Quarreling Over The Vision (NYT)

By Celia W. Dugger

The New York Times, September 14, 2005

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The United Nations General Assembly meeting today was to have been a rare moment when the quest to relieve the crushing poverty of a billion people took center stage. But so far that goal has been overshadowed by Katrina, the oil-for-food scandal and squabbling over reform of the United Nations itself.

Even the debate about the world's common agenda on global poverty began on an unexpectedly sour note, centered around the goals for healing the world's deepest poverty that were to be in the meeting's final document.

The American ambassador, John R. Bolton, initially proposed expunging any reference to specific goals for reducing poverty, hunger and child mortality and combating pandemics of AIDS, tuberculosis and malaria.

Known as the millennium development goals, they emerged from a United Nations conference five years ago. He favored instead citing the broad declaration from which the goals were drawn.

The United States subsequently relented, but not before the administration's opening foray in the negotiations left some African leaders dismayed.

"The thing that shocked me personally was that they're trying to shift and change goal posts," said Charity Kaluki Ngilu, the Kenyan health minister, who is in New York for the meeting. "If this is the case, we African leaders might as well go home and find other methods of developing ourselves."

Mrs. Ngilu, who said she was stunned by the Bush administration's initial position, added that nonetheless, she credits Mr. Bush's anti-AIDS program with helping Kenya to increase the number of people being treated for the disease to 45,000, from 2,000.

Administration officials say Mr. Bush has a vision and a record to offer on development. But as of yesterday, with presidents and prime ministers from more than 170 nations converging on New York, he had yet to put his personal stamp on the debate.

He will undoubtedly address the challenges of fighting global poverty when he speaks today at the United Nations.

But some say he has missed an opportunity to take the lead on poverty - an issue of looming concern in much of the world - even when America itself is preoccupied by terrorism, the war in Iraq and the aftermath of the hurricane.

At the same time, negotiations at the United Nations got absorbed by the issues around United Nations reform.

"It's a failure of the tactical and policy process inside the administration, perhaps because of distractions," said Nancy Birdsall, the founding president of the Center for Global Development in Washington. "It suggests these development issues aren't that high on the agenda. The administration hasn't seized the moment."

Bush administration officials disagree. They say the United States is taking a strong lead. They noted that Laura Bush will be attending an event today in New York to highlight American support to African countries fighting malaria.

John A. Simon, senior director for development at the National Security Council, said the administration's priority had been the substance of the summit meeting, not perceptions.

Officials want to be sure that the final document reflects the president's view that development is about more than the amount of aid rich countries provide to poor ones, but also about good government, sound economic policies and private sector growth.

They also wanted to make it plain that the administration, while agreeing on the need for increased aid, has not and will not promise to give 70 cents of every $100 of national income, as European nations have recently done, with timetables for achieving that level of aid.

"If we do the right things from a policy perspective, the results will speak for themselves," Mr. Simon said yesterday in an e-mail message.

But advocates of the target insist that the United States had already committed to moving toward it in 2002, when Mr. Bush supported a declaration at a summit meeting in Monterrey, Mexico, saying rich countries would "make concrete efforts" to give 0.7 percent of national income in aid.

The United States, the world's largest donor in terms of value, is next to last among richer nations in giving as a share of national income.

In the current negotiations, Mr. Bolton first proposed dropping all references to the target, but later said it could be restored.

The administration's approach and the haggling over the final document contrasts with the way Prime Minister Tony Blair pushed his agenda to alleviate poverty in Africa before the July meeting of the Group of 8 major industrial nations.

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Mr. Blair lobbied each leader beforehand. He collaborated with Sir Bob Geldof, the former Boomtown Rats singer, to build public support.

And when the terror bombings in London struck during the Group of 8 talks, Mr. Blair kept them focused on Africa.

He emerged with a commitment from the eight nations to double aid to Africa, to $50 billion a year, by 2010.

It is not clear that much new will emerge at the United Nations. World leaders are likely to affirm their commitment to push forward with the millennium goals to halve extreme poverty and hunger, cut child mortality by two-thirds and ensure the basic education of each child by 2015, among other things.

Those are the same broad goals agreed to five years ago.

Whatever the verdict on Mr. Bush's role, others are seizing the initiative. Former president Bill Clinton will sponsor a three-day conference in New York beginning tomorrow that will focus on poverty and governing, climate change and conflict.

Among those listed as confirmed participants are Mr. Blair, President Olusegun Obasanjo of Nigeria and Sonia Gandhi, who leads the governing Congress Party in India.

Jeffrey D. Sachs, an economist who headed the United Nation's Millennium Project and is the author of "The End of Poverty," is developing a new organization called Millennium Promise to test his antipoverty ideas in 100 African villages. MTV will broadcast a documentary today, "The Diary of Angelina Jolie and Dr. Jeffrey Sachs in Africa," that recounts their trip to one such village in Kenya.

At a screening on Monday evening at the Museum of Television and Radio, Professor Sachs said of the coming United Nations meeting, "Maybe what we've got to do is lead by action, and the government will follow along." Ms. Jolie, looking every inch the movie star in a figure-hugging black dress, said, "Europe has stepped up, but America should take the lead, or at least more of a lead."

Sachs: Private Initiatives At The World Summit (FT)

By Jeffrey Sachs

Financial Times, September 14, 2005

Tuesday, September 13

While the governments negotiate to find a least common denominator on which they can agree, the 2005 World Summit is being flanked by an impressive number of commitments from businesses and private philanthropists to take action on their own, indeed to lead their own governments in the fight against extreme poverty. The call for individual responsibility in the fight against global poverty - in which private citizens, businesses, foundations, and scientists act even when their governments don't - is catching on. And like other great movements of the past, including the fight against slavery and the fight for civil rights, it may very well prove to be the case that governments are the last to act, following the lead of private trailblazers.

The Clinton Global Initiative is surely the most visible of these efforts, drawing upon former President Bill Clinton's ability to mobilize friends from in and out of government and industry. Clinton seems intent on achieving practical actions, following the path set by America's great former President, Jimmy Carter, who has proved what post-Presidential leadership can mean in the fight against disease, hunger, and tyranny. If President Clinton takes a page from President Carter's playbook, the results could be spectacular.

President Carter himself has teamed up with a group of universities, private philanthropists, and celebrity-activists in a new effort, serving as Honorary Co-Chairman of Millennium Promise, a new initiative launched yesterday on the occasion of the Summit. This effort, which teams up with the UN Millennium Project, which I direct, will be a broad-based partnership of universities, non-governmental organizations, and private individuals, to spur private action on the Millennium Development Goals. President Carter and I are joined on the Board of Millennium Promise by corporate leaders, heads of major Universities and foundations, and leading voices in the fight against poverty including Angelina Jolie.

The centerpiece of the effort will be the Millennium Village concept, in which communities of around 5,000 people in rural Africa and Asia are encouraged and enabled to take the lead in fighting poverty, through an integrated strategy that focuses on agriculture, health, education, and infrastructure. The early examples of such integrated efforts are remarkable. A Millennium Village in western Kenya was able to quadruple food production this past year by helping farmers in the community to get access

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to improved seed varieties and fertilizers. This help came at a cost of a few dollars per capita, with benefits in higher food yields that are multiples of that. The village has also been able to build a clinic, step up the fight against malaria, and provide school meals for all of the children in the community.

Other business meetingsaround the Summit are seeing leading companies pledging to make their technologies available on a mass basis to impoverished regions. It's often the case that the marginal cost of supplying these cutting-edge technologies is very low compared to patent-protected prices in rich-country markets. The market prices of drugs, software, and communications technologies are often much higher than cost, with the margin reflecting the returns to earlier research and development. It often costs just pennies (or less) for a company to provide its software and medicines to impoverished communities for products that sell for tens or hundreds of dollars in the rich-country markets. The companies know that they recoup their R&D outlays in the rich-country markets.

Much of the attention in the fight against poverty has been directed at what rich and poor-country governments will or won't do. The answer, too often, is that they won't do much, or not enough. Despite all odds, the fight against extreme poverty is transforming itself from an official aid effort to a broader-based movement. Government remains critical - particularly to providing the large-scale financing that is needed. But in much of the world private initiatives are likely now to lead the way, in terms of innovation, proof of concept, and mobilization of public awareness and support.

To view reader comments click here

Monday, September 12

The negotiations on the draft declaration for the World Summit - which opens on Tuesday - have been nothing short of bizarre. The United States government has fought a relentless battle to dissociate itself from specific obligations regarding international development, and has tried repeatedly to the quash obligations that it has taken on the past. All of this has been taking place at a time when the US itself has become an aid recipient, in the wake of Hurricane Katrina.

The opening salvo a couple of weeks ago was the remarkable assertion by the United States government that the Millennium Development Goals do not even exist, so that the phrase itself should be expunged from the document. This was news to the rest of the world, who were gathering at the Summit first and foremost to find ways to reinforce the Millennium Development Goals. The US claimed that it had signed the Millennium Declaration but not the Millennium Development Goals.

The argument was not very impressive. All 18 of the targets of the Millennium Development Goals - to halve hunger, fight disease, reduce maternal mortality, ensure access to safe drinking water, and more - are explicitly part of the Millennium Declaration. With 190 countries standing in opposition to the US position, the US relented.

The longer battle has ensued around official development assistance and the target of 0.7 percent of GNP in official development aid. It seems at times that all US foreign policy regarding economic development revolves around the US insistence to pay almost nothing to help the poorest countries.

US official aid levels are 0.16 percent of GNP, an increase from 0.10 percent when President Bush took office but still the lowest or second lowest of all donors (vying with Italy for the bottom slot). US aid levels for Africa are 0.03 percent of GNP, meaning that the US gives Africa just 3 cents in aid for every $100 of US GNP. Much of the rest of US aid still goes to "strategic" countries such as Pakistan, Turkey, and Egypt, or to US consultant salaries.

Why the US government is so dead-set against doing more to help impoverished and dying people is one of the great mysteries of our time. It's not as if the poorest countries are asking for an open checkbook or an unconstrained line of credit. They are asking for rich countries to honor a modest commitment, a mere 0.7 percent of GNP, roughly one seventh of what the US is spending this year on the military and one third of what the US has spent on tax cuts in the first Bush term.

Just as with the Millennium Development Goals, the US government has worked overtime to huff and puff that it never signed the 0.7 target, and thus should not be bound by it. Even if it were true that the U.S. had never signed on, the sight of the world's richest country denying a long-standing international target in this manner is stunning. The US signed on to the 0.7 target in the Monterrey Conference on Financing for Development in March 2002. It has since bobbed and weaved to evade the implications of that agreement.

In paragraph 42 of the Monterrey Consensus, the US and other signatories declared that they "urge developed countries that have not done so to make concrete efforts toward the target of 0.7 percent of GNP in official development assistance."

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The European Union took up its pledge, and has defined "concrete efforts" as a new timetable to reach 0.56 percent of GNP in official aid by 2010 and 0.7 percent of GNP by 2015. The US on its side has simply been claiming that the target does not exist, and telling some in the corridors that signing the Monterrey pledge had been a mistake.

This aggressive position has continued down to the details. The US has fought commitments to a "Quick Win" against malaria through the mass distribution of insecticide-treated bed nets and effective medications. It has resisted commitments to quick wins in other areas as well. In the end, every specific target and timetable to help the world's poorest of the poor has come under US fire.

The US fight against the fight against poverty would be bizarre at any moment (remember John Kennedy pledging "to those peoples in the huts and villages across the globe struggling to break the bonds of mass misery, we pledge our best efforts to help them help themselves, for whatever period is required") but it has been especially shocking in the face of Hurricane Katrina. The US is accepting aid from UN agencies, Mexico, Europe, and others, at the very moment it is working overtime to avoid or evade commitments to the poorest of the poor, who are dying by the millions each year due to insufficient assistance from the donor countries.

There is a silver lining in all of this, believe it or not. The American people have been aghast at the failures of Washington to prepare for, and then address, the hurricane. They have been shocked that President Bush could declare that "I don't think anyone anticipated the breach of the levees [in New Orleans]" when that risk was notorious and had been discussed for decades.

Similarly, whenever they have gotten a glimpse of the UN negotiations, they have been shocked. Though the American people know little about the Millennium Development Goals (since President Bush has perhaps never even uttered the phrase), editorial writers around the country, in both liberal and conservative regions, were dismayed that the US delegation was working in America's name to undercut the world's measurable and monitorable poverty alleviation targets that provide a clear framework for accountable results.

Perhaps the most notable bottom line this week will be that the voices of the poor are finally piercing the deep layers of indifference and misdirection.

Professor Sachs is a director of the Earth Institute at Columbia University and author of The End of Poverty (Penguin, 2005). To respond to this posting, please email ask@ft.com

Palestinian Leader Vows To Restore Order In Gaza (USAT)

By Martin Patience

USA Today, September 14, 2005

JERUSALEM — Palestinian leader Mahmoud Abbas said Tuesday that he would impose law and order in Gaza in response to the chaos that followed the pullout of Israeli troops from the territory a day earlier.

In a televised speech, Abbas promised, "We are not going to hesitate to put an end to all the negative signs and violations of law and order. … We are not going to tolerate chaos after today."

Earlier, the Palestinian Authority president's chief of staff, Rafiq Husseini, said Abbas would begin disarming small militant groups soon. After parliamentary elections in January, he said, Abbas would insist that big militant groups such as Hamas and Islamic Jihad disarm in accordance with steps in the U.S.-mediated "road map" to establish a Palestinian state.

Israeli Prime Minister Ariel Sharon, speaking as he traveled to New York for a United Nations General Assembly meeting, called on the Palestinian Authority to put an end to riots in Gaza. "This rioting — even they understand they have to control this," he said.

Palestinian euphoria and celebration were mixed with lawlessness the day after Israel ended its 38-year presence in the territory. Israel withdrew about 8,500 settlers last month and pulled out the last of its troops early Monday. With Israel gone, Abbas is under pressure to restore order. There was more widespread looting in the abandoned Gaza settlements on Tuesday. Thousands of Palestinians also crossed the border from Gaza into Egypt, despite the official closing of the Rafah crossing.

Abbas' attempt to disarm militants could be the toughest test of his eight-month presidency. As he spoke Tuesday, a convoy of hundreds of Hamas gunmen drove through a Gaza refugee camp to celebrate the Israeli withdrawal.

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"This convoy is the size of our joy," Hamas leader Mahmoud Zahar said in the Jebaliya refugee camp. Hamas, which is dedicated to the destruction of Israel, is the largest Palestinian militant group.

Husseini, the president's chief of staff, said Hamas would face a choice: "Hamas can't mix between being a political party and having armed militias." A top Hamas military commander, Ahmed al-Jabari, insisted Monday that the group would "sever any hand" that tries to stop its resistance.

Michael Tarazi, a Palestinian Authority spokesman, played down the fires and vandalism at the former settlements. "For 38 years we were under the gun of a foreign occupation," he said. "Just like the fall of the Berlin Wall and the statue of Saddam Hussein being toppled during the Iraqi war, people are euphoric about a modicum of new-found liberty."

The celebrations hit Gaza's economy. Tuesday, Palestinians looted dozens of the more than 3,000 greenhouses that American Jewish donors had bought from Gaza settlers for $14 million last month. The greenhouses were given to the Palestinian Authority to provide jobs.

A Gaza Holiday: Looting, Chaos And Bargains In Egypt (NYT)

By Steven Erlanger

The New York Times, September 14, 2005

GAZA, Sept. 13 - Palestinians continued to celebrate a new sense of freedom on Tuesday, pouring across the temporarily open border with Egypt and through the abandoned Israeli settlements.

President Mahmoud Abbas, in a televised speech on Tuesday evening, urged Palestinians to "create a model and civilized Gaza," but also vowed to restore order, beginning with small militant groups aligned with his own Fatah movement. "We are not going to tolerate chaos after today," he pledged.

But on Tuesday there was chaos aplenty, with thousands of Palestinians rushing across the border to Egypt to shop, while thousands of others continued their active salvaging of saleable or usable materials from the 21 former Israeli settlements. In some places, Palestinians looted the greenhouses that were bought for their use by American philanthropists, taking nylon tarpaulins, irrigation hoses and electrical equipment.

Palestinian security forces deployed around the greenhouses said they were hopelessly outnumbered by the looters. "We need at least another 70 soldiers. This is just a joke," Taysir Haddad, one of 22 security guards assigned to Neve Dekalim, told The Associated Press. "We've tried to stop as many people as we can, but they're like locusts."

He said about 80 percent of the greenhouses were still intact, but looters walked off with lighting fixtures, cables and wires despite the police presence.

Ahmed Qurei, the Palestinian prime minister, toured Neve Dekalim and implored Palestinians to leave the greenhouses alone. "These greenhouses are for the Palestinian people," he said. "We don't want anyone to touch or harm anything that can be useful for our people."

For a second day, Egyptian border guards looked the other way as Palestinians crossed the fences into Egypt through the Philadelphi route, which had been patrolled by the Israeli Army until early Monday.

Egypt had promised to keep the border secure, but instead has allowed Palestinians a kind of holiday, to last until Thursday or Friday, to visit. Thousands of Palestinians crossed to visit friends in Cairo and El Arish, 24 miles from the border, to buy cheaper cigarettes, food, gasoline and medicines, while hundreds of Egyptians came to Gaza.

The Palestinians, who have been able to leave Gaza only with great difficulty in the past, visited seaside restaurants, looked for relatives and stocked up on household items. One man even bought two sheep, saying they were half the price of the sheep in Gaza. Taxi fares from Rafah to El Arish nearly doubled during the day, to about $70.

Some Israeli officials criticized the Egyptians and said the lax border controls boded badly for Israel's future security, given the ease of smuggling weapons and ammunition, and for compromise on issues like the Rafah crossing, which Israel is being pressed to leave in the hands of the Egyptians and Palestinians, with European monitoring. Mark Regev, the spokesman for the Israeli Foreign Ministry, said that Israel "has expressed concerns about the situation to the government of Egypt, and we've been assured the current situation is temporary."

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Another Israeli official noted that the Rafah crossing will be shut for six months, a period that would allow Israel and the world to better gauge how Mr. Abbas is running Gaza. In the meantime, traffic in southern Gaza will be diverted to the crossing point at Kerem Shalom, where Egypt, Israel and Gaza converge.

Mr. Abbas spoke on Palestinian television on Tuesday both to celebrate the withdrawal and to describe millions of dollars of job creation and infrastructure projects, including the rebuilding of the central road artery through Gaza, numerous housing complexes, improvements to sewerage and a seaport.

He also promised quick moves to restore the rule of law, which most Palestinians complain is lacking, and aides hinted he would start with small militant groups associated with Fatah. "After today, we are not going to hesitate to put an end to all the negative signs and violations of law and order," Mr. Abbas said. "We have one law for everyone, and no one is above the law."

In the former settlement of Netzarim, however, militants from Islamic Jihad said the group would not give up its weapons. "We will respect the rule of law, but the weapons are not negotiable," Muhammad Sheik Khalil, head of the group's military wing, said at a celebration rally. Dozens of masked gunmen - many holding Kalashnikov rifles and grenade launchers - joined the rally.

The larger militant group, Hamas, had its own celebratory rally, larger and noisier, on Tuesday night in Gaza City, with its leaders hailing the Israeli withdrawal, which they credit to the resistance of Palestinians like themselves, not to negotiations. But there was no visible display of weapons.

Ziad Abu Amr, a Palestinian legislator from Gaza, put the scavenging at the greenhouses down to poverty and to a sense of freedom from a hated Israeli occupation whose symbols are the settlements here and in the West Bank.

"There is an element of hatred for the occupation and revenge," he said. "Few Palestinian homes have escaped some form of Israeli oppression."

The jubilation is necessary and important, he said. "But soon Palestinians will realize that this improvement may not make a major difference in their lives or in the prospect of an independent Palestinian state," Mr. Amr said. "Then the situation will look gloomier."

New Legal Standing Of Gaza Stirs Debate (WT)

By Joshua Mitnick

The Washington Times, September 14, 2005

TEL AVIV -- With the final Israeli soldiers gone from the sands of Gaza, a debate over the coastal strip's new legal standing is taking a shape that is likely to have political ramifications for the future of Israeli-Palestinian relations.

Although Gazans are celebrating a liberation of sorts, the territory isn't a sovereign state, and many Palestinians don't consider Israel's occupation over. Israel, for its part, wants international recognition of the end of its military rule and the beginning of full Palestinian "jurisdiction" over the Gaza Strip.

At stake is whether Israel will be able to fully absolve itself of responsibility for Gaza's anarchy and economic blight, as well as the degree of force that the Jewish state would be able to use in retaliation for cross-border attacks.

The argument over the Gaza pullout will come to the fore this coming week, when Israeli Prime Minister Ariel Sharon and Palestinian Authority President Mahmoud Abbas attend the United Nations General Assembly's 60th anniversary in New York.

In a speech scheduled for tomorrow, Mr. Sharon is expected to announce that the termination of Israel's military rule in Gaza marks the transfer of responsibility to the Palestinians, Ha'aretz newspaper reported.

"From our point of view, with our pullout from Gaza, Gaza becomes Palestinian jurisdiction," said Foreign Ministry spokesman Ron Prosor. "We urge the Palestinian people to step up to the plate and start an urgent and vital process of nation building. It's all-important that we all see the development of good government."

Israel's government refused to describe the territories conquered in the 1967 Arab-Israeli conflict as occupied, saying there was never an internationally recognized sovereign power there. And Mr. Sharon wants to free Israel from its obligations in Gaza as an occupying power, analysts said.

But Israel will retain control of Gaza's airspace, its territorial waters and, for the near future, the border crossing to Egypt. Palestinians argue that those trappings of military occupation still qualify Israel as responsible for the situation inside Gaza.

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"It's still occupied. You don't need to have settlements or troops for [Gaza] to be occupied," said Diana Bhuttu, an aide to Palestinian Civil Affairs Minister Mohammad Dahlan. "The legal test is whether you can still maintain control over the area."

The Palestinians also say Gaza's economic, cultural and political links to occupied West Bank mean that the strip remains dominated by Israel. Indeed, under the 1993 Oslo peace accords, the two territories are considered one political unit.

Israel's unilateral withdrawal gives Gazans the greatest degree of self-determination yet, but it is not clear whether the international community will recognize the occupation as over.

"This is a big question which should fall in the hands of international lawyers," said Ron Pundak, a director of the Peres Center for Peace who helped start negotiations between Israel and the Palestinians in the early 1990s. "Can one declare an end to occupation when you are controlling the contours?"

No-Frills Candidate Aims For Germany's Top Spot (WP)

By Craig Whitlock

The Washington Post, September 14, 2005

OSNABRUECK, Germany -- The woman who wants to rule Germany stepped to a microphone on the packed main square of this industrial city and reminded the crowd of the nation's woes. The jobless rate is the highest since the end of World War II, she noted bleakly, economic growth is the weakest in Europe, the national mood gripped by doubt.

So what would Angela Merkel do about it? "Now, I don't expect to hear loud applause," she warned at the recent campaign event, before describing how she would raise the national sales tax -- already 16 percent for most items -- to pay for her party's job-creation program.

Moans and grumbles rose from the audience of about 8,000 people. But Merkel didn't back down. "You can decide," she said. "We can continue as we have been, with promises of blue skies. But promises already have been made and promises have been broken. That needs to change."

Unsmiling, unstylish and uncharismatic, Merkel, 51, is bidding to become Germany's first female chancellor, as well as the first to have grown up behind the Iron Curtain, in the former East Germany. Polls show that her party, the Christian Democratic Union, holds a lead, albeit a narrowing one, in a national election scheduled for Sunday and that she stands a very good chance of sitting at the chancellor's desk in Berlin.

The vote comes at a pivotal moment for Germany, the biggest country in Europe and the world's third-largest economy. Despite spending more than $1.5 trillion over the past 15 years to reunify the nation, Germany has failed to heal many divisions between east and west. It is also grappling with the competitive challenges of globalization, as German companies move jobs to lower-wage countries.

Although Merkel's party leads in the polls, for many Germans she remains a remote figure. The former physicist rarely talks about her personal life, her upbringing under communism or how she became involved in politics. She often appears dour and uncomfortable. On her latest campaign poster, she looks like she's clenching her teeth as she forces a grin.

"Typical German," said Kai Sausmikat, 41, a voter who came to hear Merkel at the Osnabrueck rally, pulling down the corners of his mouth into a clown-like frown.

Merkel's rivals, inside and outside her party, show little regard for her political skills. In July, when the Parliament voted to hold early elections, Foreign Minister Joschka Fischer told Merkel to her face that her campaign would collapse. "Mrs. Merkel, at this moment with your opinion polls, you appear like a magnificent-looking souffle in the oven," Fischer said. "We'll see what's really left after the voters prick into it. I can't wait."

If the election were a personality contest, surveys suggest Merkel would lose by a wide margin to the telegenic incumbent, Gerhard Schroeder. But in Germany's political system, national leaders are chosen by party, and the Christian Democrats lead the polls.

Merkel has run a simple campaign that makes no attempt to capitalize on her sex. She has focused on a plan to generate jobs by cutting payroll taxes and making it easier for companies to hire or fire workers. She has also called for an overhaul of Germany's notoriously complicated tax code.

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A victory for her party would likely mean closer relations with Washington. Merkel has strongly criticized Schroeder for alienating the United States, Germany's closest postwar ally, in disputes over Iraq, although she does not support sending troops to that country.Early Years Under Communism

Merkel was born in 1954 in Hamburg, a port city in West Germany, the first child of a Protestant pastor and an English teacher. When she was an infant, her father moved the family to the East German state of Brandenburg, crossing a border that had not yet hardened but was already marked by an exodus of Germans heading in the opposite direction.

Her father, Horst Kasner, sympathized with the utopian goals of the Communist government there. But his precise relationship with it is difficult to untangle.

As a preacher in a society that discouraged religion, Kasner was considered politically suspect. His wife, Herlind, was not allowed to teach school because of her husband's profession. But the family was granted privileges not afforded to most citizens, including two cars and permission to travel to the West.

When Angela entered elementary school in Templin, a town of about 11,000 people north of Berlin, her parents decided not to enroll her in the Young Pioneers, a Communist Party youth group. They changed their minds a year later after her teachers made clear she would suffer academically if she didn't join, according to interviews in her home town.

"Her parents, especially her mother, were very interested in making sure Angela wasn't stuck in the corner as a pastor's daughter," said Hans-Ulrich Beeskow, a middle-school math teacher who recalled Merkel as an especially gifted student. "It wasn't political engagement by any means. It was important to her mother to make sure no stones were thrown in her path."

Merkel excelled at math, Russian and English, and was rewarded with a coveted university slot in Leipzig. She studied physics and remained active in Communist youth groups, a prerequisite for university students.

In 1977, she married a fellow physics student, Ulrich Merkel. They divorced five years later.

In an interview with Evelyn Roll, a German journalist and biographer, Merkel said she was vigilant about suppressing any political opinions that might have attracted attention. "It was a real advantage from those times that you learned to keep quiet," she said. "That was one of the survival strategies."

In the late 1970s, she has said, she was approached by two men who asked her to serve as an informant for the East German intelligence agency, the Stasi. Merkel said she balked, arguing that she would be a poor spy because she was bad at keeping secrets.

She ended up in East Berlin, where she earned a doctorate in physics and worked as a researcher at the Academy of Science.

As a politician on the stump, Merkel has shied away from discussing life under communism, even when addressing East German audiences.

On Sunday, she visited her home town of Templin for the first time during the campaign. About 600 people, including her mother, heard her speak outside a beer garden. Rather than wax nostalgic, Merkel merely acknowledged that the region "is what you call home" and recited her standard speech.

Such detachment has alienated many eastern Germans, who had hoped she would stand up for a region some westerners view as backward. In Templin, for instance, there are no visible reminders that the hometown girl is running for chancellor, aside from a few stock campaign posters.

"If you walk through Templin and ask ordinary citizens, they don't want her to be chancellor," said Ulrich Schoeneich, the Templin mayor, a Social Democrat who is friends with Merkel's mother. "In part, she has forgotten where she came from."A Climb to Party Leadership

Merkel was late to the East German political revolution in 1989. She avoided early public protests against the Communists, focusing instead on her job. On the chaotic evening when the Berlin Wall was breached, she joined thousands of others in crossing to the other side, biographers have recounted, but returned home a few hours later because she had to get up early the next morning to go to work.

Gradually, she lost some of her caution and became involved in politics. Six weeks after the fall of the wall, she joined a new party, Democratic Awakening, and found a fresh calling as a press secretary.

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"She had a chance to get involved and make a change, and she took advantage of the situation," said Rainer Eppelmann, a former leader of Democratic Awakening and now a member of Parliament.

In 1990, she was named deputy spokeswoman for the first -- and last -- democratically elected government in East Germany. After unification that year, she joined the Christian Democrats, who promptly named her as a candidate for Parliament.

She won the spot and attracted the interest of Chancellor Helmut Kohl, who was looking for easterners to fill leadership jobs in his government. All of a sudden she found herself a member of Kohl's cabinet, with the title of minister for family and women.

At the time, Merkel was unmarried but living with a former academic adviser, Joachim Sauer. The couple married in 1998, but only after the archbishop of Cologne chided Merkel to formalize the relationship.

Merkel continued her climb into the upper ranks of the Christian Democrats through a combination of good timing and political savvy, political analysts say. In 1998, she took over as head of the party after Kohl, her mentor, became ensnared in a campaign finance scandal. Since then, she has eased out rivals and pressured competitors to stand aside so she could seek the chancellorship.

Merkel, who is childless, has built a wall around her private life and rarely appears with her husband in public. But that hasn't stopped opponents from taking personal shots. In an interview published last month, Schroeder's wife, Doris Schroeder-Koepf, highlighted Merkel's lack of children by calling her insensitive to the needs of working mothers.

The German mass media have also made sport of her personal appearance. After ignoring such critiques, she began a gradual makeover two years ago, visiting a celebrity hairstylist in Berlin who also counts Schroeder as a client.

The commentary has generated sympathy for Merkel, especially among women who see the attacks as sexist.

"She grew up in East Germany and is a natural scientist -- that means she was exposed to less pressure for so-called 'female' behavior than we western women were," said Alice Schwarzer, Germany's best-known feminist, in an e-mailed response to questions. "My advice: Stay true to herself. Stay authentic! Everything else would seem false."

Genocide, One Year On (WP)

The Washington Post, September 14, 2005

A year ago, then-Secretary of State Colin L. Powell declared that the violence in the Darfur region of Sudan justified the term "genocide." That was the first time since the adoption of the U.N. Genocide Convention in 1948 that a government had accused a sitting counterpart of this worst of all humanitarian crimes, and Mr. Powell chose his words carefully. His language was based on a survey of Darfurian refugees commissioned by the State Department: Of 1,136 civilians interviewed, a third had heard racial epithets while being attacked, suggesting that the mass killings and evictions in Darfur constituted genocide. The survey also found that three in four refugees had seen government insignia on the uniforms of their attackers, leaving no doubt as to the guilt of Sudan's government.

Since that finding, the United States has led an international effort to end the genocide. The effort has not been as quick or decisive as the genocide finding warranted: The Bush administration's attempt to pressure Sudan's government with U.N. sanctions was feckless, and it made no effort to deploy a robust NATO peacekeeping force. But, little by little, American diplomacy has made headway. For now, the horror has abated.

The first success of Western diplomacy was to improve access to Darfur for humanitarian workers and supplies, ending the government's policy of systematically denying visas to aid officials and bottling up their equipment in customs. Next, Sudan's rulers were persuaded to accept the deployment of 7,700 African Union troops in Darfur, up from the handful who were there a year ago. Partly thanks to the presence of these troops, violence between government forces and rebels, and between government and civilians, has greatly diminished.

But the progress is incomplete and reversible. Fully 3.2 million people have been affected by the war, half of Darfur's population. Many of these subsist in crowded camps for displaced people, where they depend on Western charity. Although humanitarian access has improved since last year, it remains imperfect. In the Kalma camp, which is home to something like 160,000 displaced people, the government has refused to extend a Norwegian group's authority to coordinate the distribution of relief supplies and has imposed an economic blockade. Meanwhile low-level violence continues. Although the government has

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authorized the deployment of 7,700 A.U. troops, only 5,800 are in place so far -- a failure both of the African governments that had promised troops and of the Western governments that promised to support them logistically.

The progress over the past year demonstrates that the United States and its allies do have the power to save lives by the tens of thousands. It also suggests that, if the Bush administration had pushed harder and earlier, it could have saved many more people. This lesson must be remembered over the coming weeks and months. Outsiders need to persist in their efforts to broker peace negotiations between Sudan's government and Darfur's rebels; they must complete the deployment of the African Union force and continue to pressure the government for humanitarian access. The past year demonstrates that, if the United States and its allies pursue these goals with determination, they can get what they want. But if they lose interest in Darfur, violence may resume and humanitarian access may dry up. With so much of the population already displaced and weakened, Darfur's death rate could easily return to the horrific levels of a year ago.

Marching Away From Trouble (LAT)

The Los Angeles Times, September 14, 2005

Something has gone terribly awry when a 5-year-old joins a riot started by a paramilitary army. Yet last weekend in Belfast, a child just that age was seized for throwing stones at the police and returned to his parents.

Violence erupted in Northern Ireland once again as authorities prevented the Orange Order, the largest Protestant organization in the province, from parading past a Catholic neighborhood. From Saturday to Tuesday morning, furious battles between young Protestant men and the police took place on the streets of Belfast. According to police reports, two paramilitary groups, the Ulster Defense Assn. and the Ulster Volunteer Force, have fired shots at the more than 1,000 police officers and 1,000 soldiers deployed in the area.

Nobody ever said it would be easy to make peace in Northern Ireland. But nearly a month ago, the democratic process in that troubled region got a boost when the Irish Republican Army ordered its troops to surrender their arms through a verifiable process. The British government began scaling back its military presence in Northern Ireland immediately after the IRA statement.

Although blame for the present violence rests mainly with the leadership of the Orange Order, the silence of at least two key Protestant political leaders who could have helped head off the clashes gives them a share of the responsibility. The Rev. Ian Paisley, head of the Democratic Unionist Party, and Reg Empey, the leader of the Ulster Unionist Party, should immediately denounce sectarian violence as unacceptable.

Every year, starting in April and finishing around September, hundreds of parades take place throughout Northern Ireland, mostly meant to celebrate centuries-old Protestant victories over Catholics. When these parades go past Catholic neighborhoods, they often amount to little more than open and pointless provocations.

To avoid the anger and resentment that have resulted in the past, a commission was granted legal authority in 1998 to set the rules and change the routes of the parades. This has produced some minor skirmishes in the intervening years but nothing like the recent riots.

Even acknowledging that most of these parades serve no good purpose, forbidding them seems to be unenforceable — such is the power of tradition, especially on a proud old island like Ireland. The only viable solution is to get political leaders to recognize equal rights for both communities, and to get Orange Order leaders to the table, negotiating directly with representatives of the communities through which it intends to march.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

McCain Pushes For Detainee Amendment (HILL)

By Roxana Tiron and Jonathan Allen

The Hill, September 14, 2005

Sen. John McCain (R-Ariz.) is threatening to attach an amendment to the defense appropriations bill defining acceptable treatment of military detainees if the defense authorization bill, to which it is currently attached, is not voted on this fall.

"I hate to do this," said McCain, chairman of the Senate Armed Services Committee's Airland Subcommittee.

When Senate Majority Leader Bill Frist (R-Tenn.) shelved the defense authorization bill before the August recess, the treatment of detainees was one of two contentious issues. The other was a delay of the base realignment and closure (BRAC) process.

The president opposed amendments on both issues and said he would veto the bill unless they were stripped from it.

The dispute between the White House and McCain is their first high-profile disagreement since the November election.

Meanwhile, Sen. John Warner (R-Va.), chairman of the Senate Armed Services Committee, remains "very supportive" of McCain's amendment, according to a committee spokesperson. And Warner also is committed to bringing the authorization bill to the floor this fall.

Warner told reporters yesterday that he and Frist are discussing bringing the bill back up after the president makes his recommendations on the BRAC list. The Base Closure and Realignment Commission submitted its recommendations to Bush last week. He has until Sept. 23 to decide whether to approve the list or change it.

Senate Defense Appropriations Subcommittee Chairman Ted Stevens (R-Alaska) has said that the defense appropriations bill will be considered after the defense authorization is voted on.

Sen. Thad Cochran(R-Miss.), chairman of the Appropriations Committee, said yesterday that appropriators are going to try to get the defense bill done the first week of October. The fiscal year 2006 starts Oct. 1.

18 Detainees Force-Fed At Guantanamo (LAT)

By Richard A. Serrano

The Los Angeles Times, September 14, 2005

WASHINGTON — A hunger strike at the U.S. naval base at Guantanamo Bay, Cuba, has grown to 128 prisoners who are demanding that they be immediately released or granted access to a legal process to defend themselves against blanket allegations that they are terrorists.

The strike, begun more than five weeks ago, has forced military authorities to hospitalize 18 of the prisoners and to take extraordinary measures to force-feed them.

Some detainees have vowed to die if necessary, but the Pentagon insists that it will not let anyone starve to death.

"Everyone is stable," Sgt. Justin Behrens, a prison spokesman, said of those hospitalized. "We're going to take care of everyone."

More than a quarter of the 502 detainees have refused food and liquids at various times as the protest has gained momentum since it began Aug. 8.

Along with demanding that they be freed or put on trial, some detainees also are complaining of assaults by guards and continuing to allege that there has been desecration of Muslim religious items. Behrens denied that detainees were being abused.

"The guards here are professional and are using standard operating procedures," he said. "Officers are on the cellblocks all the time to make sure this never happens."

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Nevertheless, some of the complaints from prisoners, natives of 40 different countries sent to the prison after it opened in 2002, are being disclosed by attorneys.

All 502 have been designated "enemy combatants." Four have been charged with specific crimes and are awaiting trial before military commissions.

Maj. Jane Boomer, a Pentagon spokeswoman assigned to the Office of Military Commissions, said that the military commissions were on hold, awaiting a decision on whether the Supreme Court would grant a challenge to the legality of the process.

"We are very, very patient here in Guantanamo," prisoner Binyam Mohammed wrote in an Aug. 11 letter to his lawyer, explaining why the hunger strike was begun. "But finally enough was enough."

He joined the hunger strike, vowing that "I do not plan to stop until I either die or we are respected."

Mohammed, a 27-year-old native of Ethiopia who was raised in England, is suspected of training in an Afghan paramilitary camp and of engaging in terrorist plots. After Sept. 11, he fled to Pakistan, where he was captured.

Another hunger striker, Hisham Sliti of Tunisia, told his lawyers that soldiers threw a chair and a mini-refrigerator at him in an effort to get him to talk.

The Center for Constitutional Rights, a New York legal advocacy group that has helped some of the prisoners, found in a new report that the protest followed several smaller hunger strikes, as well as a mass suicide attempt in which nearly two dozen prisoners tried to hang themselves in their cells two years ago.

The group said that frustration among prisoners was growing. The prisoners "need fair trials with proper legal representation," the center said in a report on the hunger strike.

The group quoted prisoner Shaker Aamer, a Saudi who later moved to London and was captured by allied forces in Afghanistan, as saying that the hunger strike was triggered when authorities placed some detainees who belonged to a "prisoners council" in isolation cells.

"The government's effort to detain hundreds of Muslim men outside the rule of law has greatly undermined our nation's moral standing in the international community," the Center for Constitutional Rights said in the report. It "threatens the values of justice and fairness for which our country stands."

The Pentagon defines a hunger striker as anyone who passes up nine meals over 72 hours.

The Supreme Court is expected to decide by the end of this month whether to hear the challenge about the legality of military commissions.

If it does decide to hear the challenge, the high court probably would not decide the case until sometime next year.

AP: Gitmo Interrogators Face Accusations (AJC/AP)

By Ben Fox, Associated Press Writer

The Atlanta Journal-Constitution, September 14, 2005

SAN JUAN, Puerto Rico — A U.S. inquiry into alleged abuse at Guantanamo uncovered a climate of deep distrust between military police and interrogators, who were accused during the probe of giving terror suspects personal information about their guards.

The MPs suspected interrogators gave their names and Social Security numbers to prisoners in exchange for intelligence, according to the investigation, which recommended that a senior interrogator be relieved of duty for "failure to know his enemy."

The interrogator "sees himself as a hero for the detainees, and against the MPs, on a crusade in the battle of the MPs against the detainees," one investigator wrote in the report on the inquiry that The Associated Press obtained under a Freedom of Information lawsuit.

The report recommended military authorities look further into the disclosure of MP information to detainees. Guantanamo officials didn't respond to repeated questions about the investigation, including whether the interrogator — a military officer — was relieved of duty or whether the prison camp instituted any reforms in response to the findings.

The investigation began in March 2004, when the same interrogator claimed military police had abused detainees at the high-security camp in eastern Cuba, where the United States holds about 500 men captured in its war on terror.

The interrogator claimed that guards mistreated a suspected al-Qaida member by not allowing him to use the bathroom immediately after a five-hour interrogation and that at other times withheld food and turned the temperature down on a cell to 52 degrees as punishment.

An investigating officer, however, found no evidence of abuse by the guards.

The investigator faulted the interrogator instead — recommending he be relieved of his duties for reasons that included a "failure to know his enemy," the "unfounded" allegations against the guards and "the noted possibility that he suffers from Reverse Stockholm Syndrome."

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Stockholm Syndrome is a psychological phenomenon in which hostages develop a bond with their captors. The most often-cited example is the heiress Patty Hearst who helped rob banks with the radicals who kidnapped her in 1974.

The MPs said in sworn statements that they suspected interrogators may have been trading the names and Social Security numbers of guards to get intelligence in return.

"I believe that some of the interrogators would do whatever it takes to gather that, including giving out some MP's personal information," said a guard from the 258th Military Police company who said he was concerned because some detainees had a "deep hatred" for him.

The investigator, after talking to guards, said: "All expressed concerns for the secrecy of their personal information and the safety of their families."

The situation was so bad that an investigator said two guards were "petrified" of disclosing their name, rank and Social Security numbers on Privacy Act statements during the probe.

"They both pushed away from the table with a look of horror on their faces and told the investigating officers that this information was provided to the detainees by the interrogators," the military investigator wrote.

The MPs said personal property of detainees that had been confiscated was sometimes returned to prisoners with the Privacy Act statements of guards who handled the belongings. The detainees told the guards that it was interrogators who gave them the documents.

Nearly 100 detainees have been released since the investigation, but it's unknown if any of those who have been freed had received information about the guards.

At Guantanamo, allegations of inappropriate ties between the largely Muslim detainees and their military and civilian handlers have surfaced before.

Troops had alleged that Ahmad I. al-Halabi, an Arabic translator for the Air Force who was convicted last year of mishandling documents at the base, and Army Capt. James Yee, a Muslim chaplain who was cleared of espionage charges, had also sympathized with detainees.

Suspicion of Muslim personnel by non-Muslims wasn't uncommon, said Donald Rehkopf Jr., the lawyer for al-Halabi, who had more serious espionage charges dropped in a plea deal.

"There was a lot of conflict between the Muslim linguists and the cadre of MPs down there," he told the AP. "It was a total lack of cultural awareness."

It isn't known whether the March 2004 probe involved a Muslim interrogator. Military censors blacked out names and other identifying details in the report. He was described as a regional team chief in charge of interrogators handling detainees from an undisclosed part of the world.

In his sworn statement, the interrogator alleged that it was the guards who allowed detainees to overhear sensitive information. He also said he was told MPs had conducted an "unauthorized cell search" at midnight and "openly talk" about harassing detainees.

"The majority of the ... personnel, especially the reservists, are consummate professionals," the interrogator said. "Those few that dispense information (even inadvertently), who harass detainees, and act in an altogether unprofessional manner, undermine the mission ... and do a disservice to those who work hard to do a good job."

The investigator, though, sided with the MPs and developed a harsh opinion of the interrogator, calling him immature and "driven by ego," according to the report.

Al-Arian Attorney Bumps Prosecutor During Break (TAMPTRIB)

By MICHAEL FECHTER

Tampa Tribune, September 14, 2005

TAMPA A defense attorney for Sami Al-Arian bumped a federal prosecutor and challenged an FBI agent during a break Tuesday morning, saying the government was cheating in prosecuting the terror- support case that could send the defendants to prison for life.

It happened during a morning break with both the judge and jury already out of the courtroom. An Israeli interior ministry official was testifying about birth and other family records involving four men who carried out a 1992 attack against Israeli soldiers. Al-Arian later sent the families of the four men nearly $2,000 each.

But the official only had Hebrew documents and no translations were provided. Defense attorney William Moffitt wanted to spend the break going over the documents with the witness. Federal prosecutor Cherie Krigsman told Moffitt she wanted someone else in the room to observe the questioning.

That set Moffitt off. Prosecutors should have provided translations he said, throwing the documents onto the defense table. He then bumped Krigsman and hollered ``This is business. You're trying to put a guy in jail for life."

``You cheat all the time," he continued.

The confrontation seemed to catch the other lawyers and U.S. Marshals in the courtroom off guard. FBI case agent Kerry Myers got in between Moffitt and Krigsman, telling Moffitt to leave Krigsman alone because ``she's a female."

Moffitt challenged the agent. ``Get in my face one more time," he said.

In the end, Moffitt did meet with the witness. Then he chose not to cross examine him.

Later, he said the issue was part of a pattern of unfair behavior by prosecutors.

``They hand me a Hebrew document. I have no translation," Moffitt said. ``I'm expected to make a decision about cross examination. This is typical of the way things have happened and I finally got fed up with it."

Hayats Seek Bail With $1.2 Million Worth Of Property (LODINS)

By Layla Bohm, News-Sentinel Staff Writer

Lodi News Sentinel, September 14, 2005

A Lodi father and son arrested in a terror investigation have secured more than $1.2 million worth of property and hope it's enough to be released from jail while they await trial.

In federal court documents filed Monday night, attorneys for Umer and Hamid Hayat said four homes belonging to the Hayats and their relatives are available to secure bond.

The father and son are currently jailed without bail, and the latest matter will be addressed in court Monday in Sacramento. Prosecutors did not return calls seeking comment today.

Defense attorneys Johnny Griffin III and Wazhma Mojaddidi have been working to secure the property for three weeks, since a U.S. Eastern District Court judge declined to reopen the issue of bail. However, at that same Aug. 23 hearing, Magistrate Judge Dale A. Drozd ruled that the Hayats cannot be held as dangers to the community, and said bail could still be an option.

Umer Hayat, 47, and Hamid Hayat, who turned 23 Saturday, have been held in the Sacramento County Jail for three months, charged with lying to FBI agents about their knowledge of terror training camps.

The younger Hayat is accused of attending such a camp in Pakistan, and his father allegedly knew about it and sent him money. Both have pleaded not guilty to the charges and through their attorneys have denied the allegations.

Additionally, defense attorneys wrote in the motions, the charges have not been corroborated by others and are based on statements made "during stressful, protracted and confusing interview sessions with FBI agents."

Homes Put Up For Hayat's Bail (STOCKREC)

By Jeff Hood, Lodi Bureau Chief

Stockton Record, September 14, 2005

Four homes worth a total of $1.2 million are being pledged to secure the release of a Lodi father and son held since June on federal charges they lied about their ties to terrorists.

Attorneys for Hamid Hayat, 22, and Umer Hayat, 47, filed papers late Monday requesting a new bail hearing. The hearing is tentatively scheduled for Monday in federal court in Sacramento.

The attorneys, Johnny Griffin III and Wazhma Mojaddidi, state in their filings that circumstances have changed since the Hayats were initially denied bail, a condition required for a new bail hearing. They cite a judge's finding on Aug. 23 that the suspects do not pose a danger to the community and the value of property pledged for their release.

The value of the properties, all in Lodi, was established by real-estate appraisers Marcia Wallace-Spaletta of Stockton and Roula Adalat of Fremont. Each appraised two homes, completing reports of 15 to 21 pages, that were attached to the court papers.

According to Monday's filing, the homes are:

n• The Hayats' home at 302 E. Acacia St., which FBI agents searched June 6. Monday's filing claims it is owned by both Hayats and Umer Hayat's brother. Two houses are on the lot. Appraised value: $390,000 with no outstanding debt.

A home belonging to Umer Hayat's brother at 333 E. Acacia St., owned outright with an appraised value of $243,000.

A home at 118 E. Oak St., belonging to a distant relative of the Hayats and worth $370,000 with a $40,000 loan outstanding.

A home at 1011 Priebe Way owned by a distant relative, worth $250,000 free of debt.

Mojaddidi said the Hayats' relatives met to decide who would pledge their homes as collateral.

"This is an extraordinarily high amount," Mojaddidi said of the $1,213,000 worth of property pledged. "We feel good about it because they're not a danger to the community. The judge told us if we came up with more property, he would consider that a new fact to reopen. Considering that, and if you come up with other conditions, there's no way they're going anywhere."

Federal prosecutors Robert Tice-Raskin and Stephen Lapham could not be reached for comment Monday evening.

Magistrate Judge Dale Drozd previously stated he considered the Hayats to be extreme flight risks in denying a previous request for a new bail hearing.

Hamid Hayat, charged with two counts of lying to federal agents for denying his alleged participation in terrorist training camps in 2003 and 2004 in Pakistan, faces up to 16 years in federal prison. His father faces up to eight years in prison for allegedly lying to agents when he denied knowing about his son's activities.

Monday's filings states that the government has no evidence against the Hayats other than their "unreliable statements," that they have strong ties to the community and that the law entitles them to bail.

Magistrate Judge Gregory G. Hollows is scheduled to hear the motion for bail. Mojaddidi said if the judge is willing to allow only one man free on the property bond, the attorneys would request Umer Hayat's release.

Prosecution, Defense Wrangle Over Terrorism Talk At Money-transmitting Trial (NSDY/AP)

By Michael Weissenstein, Associated Press Writer

Long Island Newsday, September 14, 2005

NEW YORK -- A Yemeni immigrant ice cream shop owner accused of illegally funneling $21.9 million overseas successfully fought to keep prosecutors from introducing evidence allegedly linking him to terrorist groups as his trial began Tuesday.

Abad Elfgeeh, 50, stands accused of transmitting money around the world without a license from a dozen bank accounts linked to his tiny storefront in Park Slope, Brooklyn. Prosecutors have said his business was used by a Yemeni cleric convicted earlier this year of a scheme to fund al-Qaida and the Palestinian militant group Hamas.

But prosecutors cannot raise the topic of terrorism at Elfgeeh's trial unless the defense does first because they did not have enough evidence to charge Elfgeeh with a terrorism-related crime.

Assistant U.S. Attorney Pamela Chen made her first attempt to bring up terrorism after an opening statement by defense attorney Frank Hancock, who called Elfgeeh a law-abiding citizen who sent money overseas for Yemeni immigrants innocently seeking to support their families and invest in their native country.

After the jury left the courtroom, Chen asked U.S. District Judge Sterling Johnson Jr. to let her refute Hancock's claims by introducing what she called suspicious checks confiscated from Elfgeeh, some bearing the words "jihad" and "mujahidin." Others were made out to the Yemen-based Charitable Society for Social Welfare, which the FBI has described as a terrorist front group.

Johnson rejected her request but is expected to revisit the issue as the trial moves forward.

Elfgeeh first came to the attention of FBI anti-terrorist agents as they investigated Sheik Mohammed Ali Hassan Al-Moayad, whom they eventually accused of funneling money from the United States to al-Qaida and Hamas. Al-Moayad was convicted of supporting and conspiring to support terrorism and sentenced to 75 years in prison in July.

Witnesses at al-Moayad's trial said he kept Elfgeeh's number in his phone book and called Elfgeeh someone he trusted to transfer money from the United States to Yemen.

Both sides dealt strictly with the unlicensed money-transferring charge in their opening statements Tuesday morning in federal court in Brooklyn. Prosecutors portrayed Elfgeeh as the mastermind of a complicated arrangement of "feeder accounts" and international transfers designed to hide the massive outflow of cash from his Carnival French Ice Cream store.

"You will see evidence about the great lengths to which Abad Elfgeeh went to conceal his business," Chen said. "By all appearances Carnival seemed like any other convenience store."

Defense attorneys called Elfgeeh a pillar of Brooklyn's Yemeni immigrant community who broke no law because he ran a nonprofit community service rather than a moneymaking business that required a license.

The money that went overseas came from hardworking immigrants looking to buy homes, purchase business equipment and support their families, Hancock told the jury.

"What Mr. Elfgeeh did here is what every other immigrant community in the United States does," he said.

Hundreds Closely Watched In Terror Threat, Britain Told (NYT)

By Sarah Lyall

The New York Times, September 14, 2005

LONDON, Sept. 13 - Hundreds of potential terrorists in Britain are being "closely surveyed" by the security services, part of a battle with no obvious end in sight, the home secretary said Tuesday.

"I would not like to put a time period on it," the secretary, Charles Clarke, said of how long Britain might remain a possible target of terrorist attacks. "The fact is that we have what I would call a nihilist terrorist threat, something that will only be beaten by demonstrating it cannot succeed."

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Mr. Clarke was testifying before a special parliamentary committee investigating the government's handling of the July 7 suicide bombings on three subways and a bus in London, which killed 56 people, including the four bombers. But in broad remarks on a wide range of topics, neither he nor Sir Ian Blair, commissioner of the Metropolitan Police, offered much in the way of specifics about the actual government response, or about the threats that the country still faces.

Mr. Clarke said he was examining ways that the authorities could do better in the event of another attack. But he praised the response of the emergency services to the July 7 bombings as "absolutely outstanding."

Asked about reports that the official terrorism threat level had been lowered from "severe general" to "substantial" about two months before the bombings, Mr. Clarke said intelligence was an effort to understand generally a situation, rather than knowing "what was out there." In contrast to the United States, Britain does not make public its conclusions about the relative threat levels from terrorism. A spokeswoman for the Home Office said she would not reveal what the current level was or comment on whether it had recently changed.

Mr. Clarke said the police had stepped up security considerably since July 7, spending some $110 million extra in overtime and diversion of existing resources into the antiterrorism effort.

In his testimony, Sir Ian reiterated that the police were "extremely sorry" about the death of Jean Charles de Menezes, a Brazilian electrician who on July 22 was shot repeatedly in the head in the London Underground by police officers who had mistaken him for a terror suspect. The shooting took place the day after four more bombs were set but failed to go off in London.

Sir Ian said the police had reviewed their so-called shoot-to-kill policy since the death of Mr. de Menezes, but had not changed it substantially. The incident is still being investigated by an independent panel; leaks of its early findings seem to indicate that the police and the security services made a series of errors that day that led to the death.

"We made a small number of administrative changes," Sir Ian told the committee, "but the essential thrust of the tactics remains the same." He added that "we now have to find a process for debating these issues without necessarily revealing the absolute details of the tactics, which would be extremely unhelpful."

Sir Ian said it was important that police tactics reflect the new reality of Britain since July 7, the first time suicide attacks have been carried out here. "There is no question that a suicide bomber, deadly and determined, who is intent on murder, is perhaps the highest level of threat that we face, and we must have an option to deal with it," he said.

Hundreds Of Suspects Are Being Watched (WT)

By Paul Martin

The Washington Times, September 14, 2005

LONDON -- British officials said yesterday they have put hundreds of suspects under surveillance since the two bombing attacks in July.

"There are certainly hundreds of individuals we continue to watch very closely, who we believe need to be very closely surveilled because of the threat they offer," British Home Secretary Charles Clarke said on the opening day of a parliamentary investigation.

Mr. Clarke explained that, although these suspects posed a "threat," they were not necessarily actively plotting more terrorist attacks.

The July 7 bombings of London's transport system killed 52 persons, plus the four suicide bombers. Bombs failed to detonate in a similar attack two weeks later.

Mr. Clarke also said he had imposed a "control order" on a Briton for the first time.

The special security measure effectively places a person under house arrest, but until now, it has only been used against foreign suspects.

Listening to the evidence at the parliamentary committee were relatives of Brazilian electrician Jean Charles de Menezes, who was fatally shot by British police who thought he was a suicide bomber.

London police Commissioner Ian Blair again apologized for the mistaken shooting, but reaffirmed his determination to continue a policy of "shoot to kill" when police think a terrorist suspect could be about to detonate an explosive.

Three of Mr. de Menezes' cousins attended the session, and Mr. Blair offered to speak to them afterward to apologize personally.

Britain has announced that it will ban foreign supporters of terrorism from entering Britain and will expel "preachers of hate" and others who glorify or excuse terrorists.

Under European human rights legislation, incorporated into British law, terrorist suspects cannot be extradited or expelled to countries where there is a danger they will be tortured or abused or subjected to a death penalty.

Britain has signed a number of bilateral agreements with some Muslim nations in an attempt to prevent extradited suspects from being tortured or executed.

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Human rights groups, including Amnesty International, say these agreements -- the first of which was with Jordan -- are not worth the paper they are written on .

In a related development, Italy's highest court yesterday upheld the extradition to Britain of Hamdi Issac, a suspect in the failed July 21 London bombings.

PATRIOT ACT:

Agencies Had Way Before Legislation Was Born (HDR)

By Sajid Farooq, STAFF WRITER

Hayward (CA) Daily Review, September 14, 2005

EDITOR'S NOTE: This is the last day of a three-day series looking at the impact and controversy over the Patriot Act and its second revision that awaits President Bush's signature. The series began Sunday.

Poet Amir Sulaiman was on a professional high after his taped performance aired across the country on HBO's "Def Poetry Jam" in February 2004. He had performed a piece titled "Dangerous," a poem he describes as passionate and intense.

But just six days after his performance first aired, the 26-year-old African-American father of three had FBI agents waiting to question him at his mother-in-law's house in SanFrancisco.

"I'm not sure," he said about the FBI knocking on his in-law's door soon after his HBO performance. "The reason the two (events) are connected is six days after the show aired, they knocked on my mother-in-law's door. ... It was a bizarre, almost surreal, phone call that the FBI was waiting for me."

While they waited, FBI agents asked Sulaiman's brother-in-law why his poetry was "anti-American." That's a charge he denies, saying his ancestors help build America and he never once mentions America on his album, but instead tackles issues such as poverty, oppression and tyranny.

The day after the FBI visited Sulaiman, he also found out, while trying to board an airplane, that his name had been added to the "no-fly list," subjecting him to extra security before he could board. He was never charged with a crime or given a reason why his name was added to the list or why he was visited by the FBI.

Contrary to popular belief, both of Sulaiman's experiences had nothing to do with the controversial USA PATRIOT Act, passed by Congress days after the Sept. 11 attacks to give law enforcement more power to investigate potential terrorists.

Since its passage, there have been a lot of myths attached with the Patriot Act's supposed power, from immigrant roundups post 9/11 to the creation of the "no-fly" list. Some of the powers associated with the act are more of a general sense of heightened security by law enforcement agencies than any single bill.

The "no-fly" list, for example, was initiated before the Patriot Act was passed in 2001 —created by a Federal Aviation Administration-issued security directive in 1996. But, still the origin of the no-fly list is mired in secrecy and some confusion. Some security experts have been left scratching their heads when asked when or where exactly the list originated, who is on it and what rights innocent passengers have if their names are similar to those on the list.

"The truth is you cannot really do a lot in the situation because you're not going to get on the plane if you don't comply," said Shirin Sinnar, an Equal Justice Works Fellow for the Lawyers' Committee for Civil Rights.

Sinnar has worked on immigrant rights post 9/11, including the no-fly list and other lists such as U.S. Treasury Department's Specially Designated Nationals and Blocked Persons list, which is used by banks and car dealerships, for example, to screen people and organizations before issuing a loan. That list is available for the public on the Treasury Department's Web site.

Another issue thought by some to be associated with the Patriot Act are FBI interviews and roundups. Both again are not tied to any legislation but instead to a heightened sense of security, according to Dorothy Ehrlich, the executive director of the American Civil Liberties Union of Northern

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California.

"The government has taken action since 9/11 (and) the heaviest hand has fallen on people from Muslim background and people from 24 other countries targeted," she said.

She said the FBI was also interested in people involved with the Tablighi Jamat, an Islamic movement founded in India, which encourages members to participate in evangelical efforts across the world. All of the initial interviews are voluntary, according to Sinnar, though some questioned are not aware of this.

"They don't even need legislation to do this because they are asking people to do this," she said. "There are definitely some patterns from the questioning. ... Some stuff has been 'what do you think of Iraq? Do you think we should go in there?'"

After following a lead, the FBI conducts an interview and then creates a web connecting people for more potential interviews.

Even within the powers granted under the Patriot Act, the FBI says there is misinformation.

"I think people need to understand what we can't do," said Special Agent LaRae Quay of the FBI's San Francisco bureau.

One of the more talked about measures of the act is Section 215, which gives agents the ability to access library, medical and financial records.

Civil libertarians have argued the act does not require the proper checks and balances for federal authorities to access records.

Quay, however, said a federal judge still has to approve an FBI agent's request to obtain records or set up a roving wire tap just like before the Patriot Act was passed. And judges still have the authority to deny a request, though, Quay admitted it is rare.

"They (judges) absolutely can say no," Quay said. "Let me tell you the reality. Rarely does a judge say no. You want to know why? Because of all the checks and balances that exist."

For instance, the ability to search library records was available to law enforcement before passage of the Patriot Act.

Jackie Griffin, the director of library services for the Berkeley Public Library, said her library has been served with court orders for book records not involving terrorism cases. She said the library has been served with subpoenas involving two parents getting divorced and one trying to prove the other is an unfit parent based on what books they checked out for their children.

Still, some of the controversy over powers under the act is more of different opinions than myths. There is the sneak-and-peek provision, which gives FBI agents the ability to secretly search through a suspect's house without giving notice. The ACLU says the measure is unfair while the FBI says it is necessary for national security.

"The idea that you have no chance to say you're innocent and they had the wrong address," Ehrlich said.

"Again very controversial," Quay said. "We've been doing this for decades for criminal investigations. You delay the notice of your presence to the person. If you have left a note behind saying 'good afternoon Mr. bin Laden. We were here,' that might hurt the investigation because they might leave or destroy evidence."

HOMELAND RESPONSE:

F.A.A. Alerted On Qaeda In '98, 9/11 Panel Said (NYT)

By Eric Lichtblau

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - American aviation officials were warned as early as 1998 that Al Qaeda could "seek to hijack a commercial jet and slam it into a U.S. landmark," according to previously secret portions of a report prepared last year by the Sept. 11 commission. The officials also realized months before the Sept. 11 attacks that two of the three airports used in the hijackings had suffered repeated security lapses.

Federal Aviation Administration officials were also warned in 2001 in a report prepared for the agency that airport screeners' ability to detect possible weapons had "declined significantly" in recent years, but little was done to remedy the problem, the Sept. 11 commission found.

The White House and many members of the commission, which has completed its official work, have been battling for more than a year over the release of the commission's report on aviation failures, which was completed in August 2004.

A heavily redacted version was released by the Bush administration in January, but commission members complained that the deleted material contained information critical to the public's understanding of what went wrong on Sept. 11. In response, the administration prepared a new public version of the report, which was posted Tuesday on the National Archives Web site.

While the new version still blacks out numerous references to particular shortcomings in aviation security, it restores dozens of other portions of the report that the administration had been considered too sensitive for public release.

The newly disclosed material follows the basic outline of what was already known about aviation failings, namely that the F.A.A. had ample reason to suspect that Al Qaeda might try to hijack a plane yet did little to deter it. But it also adds significant details about the nature and specificity of aviation warnings over the years, security lapses by the government and the airlines, and turf battles between federal agencies.

Some of the details were in confidential bulletins circulated by the agency to airports and airlines, and some were in its internal reports.

"While we still believe that the entire document could be made available to the public without damaging national security, we welcome this step forward," the former leaders of the commission, Thomas H. Kean and Lee H. Hamilton, said in a joint

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statement. "The additional detail provided in this version of the monograph will make a further contribution to the public record of the facts and circumstances of the 9/11 attacks established by the final report of the 9/11 commission."

Bush administration officials said they had worked at the commission's request to restore much of the material that had been blacked out in the original report. "Out of an abundance of caution, there are a variety of reasons why the U.S. government would not want to disclose certain security measures and not make them available in the public domain for terrorists to exploit," said Russ Knocke, spokesman for the Department of Homeland Security.

Commission officials said they were perplexed by the administration's original attempts to black out material they said struck them as trivial or mundane.

One previously deleted section showed, for instance, that flights carrying the author Salman Rushdie were subjected to heightened security in the summer of 2001 because of a fatwa of violence against him, while a previously deleted footnote showed that "sewing scissors" would be allowed in the hands of a woman with sewing equipment, but prohibited "in the possession of a man who possessed no other sewing equipment."

Other deletions, however, highlighted more serious security concerns. A footnote that was originally deleted from the report showed that a quarter of the security screeners used in 2001 by Argenbright Security for United Airlines flights at Dulles Airport had not completed required criminal background checks, the commission report said. Another previously deleted footnote, related to the lack of security for cockpit doors, criticized American Airlines for security lapses.

Much of the material now restored in the public version of the commission's report centered on the warnings the F.A.A. received about the threat of hijackings, including 52 intelligence documents in the months before the Sept. 11 attacks that mentioned Al Qaeda or Osama bin Laden.

A 1995 National Intelligence Estimate, a report prepared by intelligence officials, "highlighted the growing domestic threat of terrorist attack, including a risk to civil aviation," the commission found in a blacked-out portion of the report.

And in 1998 and 1999, the commission report said, the F.A.A.'s intelligence unit produced reports about the hijacking threat posed by Al Qaeda, "including the possibility that the terrorist group might try to hijack a commercial jet and slam it into a U.S. landmark."

The unit considered this prospect "unlikely" and a "last resort," with a greater threat of a hijacking overseas, the commission found.

Still, in 2000, the commission said, the F.A.A. warned carriers and airports that while political conditions in the 1990's had made a terrorist seizure of an airliner less likely, "we believe that the situation has changed."

"We assess that the prospect for terrorist hijacking has increased and that U.S. airliners could be targeted in an attempt to obtain the release of indicted or convicted terrorists imprisoned in the United States."

It concluded, however, that such a hijacking was more likely outside the United States.

By September 2001 the F.A.A. was receiving some 200 pieces a day of intelligence from other agencies about possible threats, and it had opened more than 1,200 files to track possible threats, the commission found.

The commission found that F.A.A. officials were repeatedly warned about security lapses before Sept. 11 and, despite their increased concerns about a hijacking, allowed screening performance to decline significantly.

While box cutters like those used by the hijackers were not necessarily a banned item before Sept. 11, some security experts have said that tougher screening and security could have detected the threat the hijackers posed. But screening measures at two of the three airports used by the hijackers - Logan in Boston and Dulles near Washington - were known to be inadequate, the commission found. Reviews at Newark airport also found some security violations, but it was the only one of the three airports used on Sept. 11 that met or exceeded national norms.

Richard Ben-Veniste, a former member of the Sept. 11 commission, said the release of the material more than a year after it was completed underscored the over-classification of federal material. "It's outrageous that it has taken the administration a year since this monograph was submitted for it to be released," he said. "There's no reason it could not have been released earlier."

Updated Version Of 9/11 Report Released (USAT)

USA Today, September 14, 2005

A new version of the 9/11 Commission's report on the four hijacked flights was released Tuesday with recently declassified information about terrorist threats and holes in airport security before the attacks.

At the request of the 9/11 commissioners, the Bush administration declassified much, but not all, of the material it had blacked out before turning the report over to the National Archives in January.

The new version provides fresh details on repeated warnings about al-Qaeda and its desire to attack airlines in the months before Sept. 11. To see the report: www.archives.gov/research/9-11-commission

Ferrer leading in NYC Democratic primary

Fernando Ferrer teetered on the edge of victory over three other Democrats in a primary Tuesday for the chance to run against Republican Mayor Michael Bloomberg. With all precincts reporting, Ferrer was just a few votes shy of 40%, the percentage he needs to avoid a runoff with Rep. Anthony Weiner, who had 29%. Manhattan Borough President C. Virginia Fields got 16%, City Council Speaker Gifford Miller 10%.

Ferrer, a former Bronx borough president, would be the city's first Latino mayor if elected. The primary's outcome may not be known for several days, until every vote is counted, including about 25,000 absentees.

The winner goes to the general election Nov. 8.

128 Gitmo detainees join hunger strike

Almost 25% of detainees at the military's Guantanamo base in Cuba are on a hunger strike to protest their indefinite detention, and 18 are being force-fed in a hospital, a military spokesman said Tuesday. The hunger strike began Aug. 8, and 128 prisoners have since joined, said Sgt. Justin Behrens, a spokesman for the task force running the prison. “They want to be tried or set free,” Behrens said. He said the number refusing food and water has fluctuated. “Most of the people that started it are off now,” he said.

The prison holds more than 500 terrorism suspects, many captured in Afghanistan. The Bush administration has said the detainees aren't entitled to due process rights.

Woman faces execution today in Texas

Lawyers continued efforts to halt today's execution of a Texas woman condemned to die for the slayings of her husband and two children 18 years ago.

Frances Newton, 40, would become the first black woman executed in Texas since the state resumed executions in 1982. Newton says a drug dealer may have been responsible for the killings. Prosecutors told the Associated Press that Newton killed her family for insurance money. In December, Newton came within hours of execution before receiving a reprieve to allow for more ballistics testing.

Authorities: 8 Ohio children kept in cages

Sheriff's deputies in Wakeman, Ohio, have removed 11 disabled children from a home where eight of them slept in cages less than 3 feet high, authorities said.

The children's adoptive and foster parents, Mike and Sharen Gravelle, denied that they'd abused or neglected the children. No charges had been filed.

“The impression that we got was that they felt it was OK,” said sheriff's Lt. Randy Sommers. The Gravelles said a psychiatrist recommended that they make the children sleep in the cages, County Prosecutor Russell Leffler said. Neighbor Jim Power said the kids were well-dressed and well-behaved.

The children, ages 1 to 14, were described as having conditions that included autism and fetal alcohol syndrome. A state investigator found them Friday. They have been put in foster homes.

Remains of Korean War veteran identified

The remains of a Korean War veteran from Pennsylvania who was listed as missing in action nearly 55 years ago have been identified and will be buried Friday. Heintzelman Funeral Home said Army Cpl. Edwin Steigerwalt of Lehighton will be buried with full military honors. Steigerwalt, 22, was last seen Nov. 30, 1950, as his unit fought Chinese forces near Chosin Reservoir in North Korea. His remains were turned over in 1993 and sent to a military lab in Hawaii for DNA analysis. Steigerwalt's remains were identified March 16, said Erika Ruthman of the U.S. Joint POW/MIA Accounting Command. Identification of the war's victims has been difficult because North Korea commingled many of the remains it returned in the 1990s.

Revised Sept. 11 Panel Report Released (AP)

By LESLIE MILLER

AP, September 14, 2005

WASHINGTON - A new version of the Sept. 11 commission's report on the four hijacked flights was released Tuesday with recently declassified information about terrorist threats and holes in airport security before the attacks.

At the request of the Sept. 11 commissioners, the Bush administration declassified much, but not all, of the material it had blacked out before turning the report over to the National Archives in January.

The new version provides fresh details on the repeated warnings about al-Qaida and its desire to attack airlines in the months before Sept. 11, 2001.

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For example, on page 61 a previously classified section shows that the Federal Aviation Administration's intelligence unit received "nearly 200 pieces of threat-related information daily from U.S. intelligence agencies, particularly the FBI, CIA, and State Department."

Also unclassified was the conclusion that the domestic aviation system had, since 1996, "operated at a security level that was, in effect, a permanent code orange."

The new report revealed that the civil aviation system was under under "Aviation Security Alert Level III" on Sept. 11, which meant that screeners were supposed to hand wand or pat down suspicious passengers - but only those who had checked their baggage.

Other details about security gaps before the attacks were also disclosed in the revised report. It described, for example, a report for the FAA in 2001 that showed "both carry-on and metal detection screening performance has declined significantly from 1999-2000."

Airport security has been tightened since then.

Many details were revealed in the original report about what happened on the four airplanes, but at least one detail was classified and then declassified: a knife concealed in a cigarette lighter was found at the crash site of United Flight 93, the one that crashed in Pennsylvania.

Former commission chairman Thomas Kean and former vice chairman Lee Hamilton said in a statement that they appreciated the Bush administration's making the information public.

"While we still believe that the entire document could be made available to the public without damaging national security, we welcome this step forward," they said.

The Bush administration has been criticized for its secrecy. Government watchdog groups this month said that federal agencies spent a record $148 last year creating and storing new secrets for each $1 spent declassifying old secrets.

King, Weldon Make Last-minute Push (HILL)

By Jonathan E. Kaplan

The Hill, September 14, 2005

Rep. Peter King (R-N.Y.), the leading candidate to take the helm of the Homeland Security Committee, expressed confidence late yesterday that his candidacy will prevail when the GOP Steering Committee meets today to decide the race.

“If I were a betting man, I’d bet on me,” he said. “But I’ve been in politics long enough to know that I could be calling you Thursday morning having to explain what went wrong,” King told The Hill.

Rep. Curt Weldon (R-Pa.), who is the current vice chairman of the panel, has campaigned hard for the gavel and continued to search for votes yesterday. He argued that he is the better choice because he has developed expertise and credibility on homeland-security issues.

“The leadership has to make a choice,” he said. “If the choice is based on what state you’re from, I can’t help that, or if it’s [based on] the credibility of issues, that is who I am and what I’m about.”

Weldon told The Hill that he promised Speaker Dennis Hastert (R-Ill.) that he “would not go out and run a race. I’m not running a geographical race.” He added that some of his colleagues, as well as Joe Allbaugh and James Lee Witt, former directors of the Federal Emergency Management Agency (FEMA) for Presidents Bush and Clinton, encouraged him to run.

As a New Yorker who personally knew many victims of the Sept. 11 attacks, basic geography may be King’s biggest asset. Republican Reps. John McHugh and Tom Reynolds, both powerful upstate New Yorkers, are King’s biggest supporters on the Steering Committee, he said, and that can only boost his candidacy.

Other candidates for the post include Reps. John Linder (Ga.), Dan Lungren (Calif.) and Don Young (Alaska). Rep. Mac Thornberry (Texas) has been mentioned as a candidate, but he has not returned calls to confirm his candidacy.

The 33-member steering panel will meet this afternoon in the Capitol’s basement to listen to the candidates’ 30-minute presentations. A vote is expected afterward.

Weldon holds a seat on the Steering Committee, representing the mid-Atlantic region. Another lawmaker of his choosing will vote in his place.

A senior House Republican aide said that a memorandum — first reported by The Hill and circulated yesterday — that highlighted King’s past criticism of the Republican Party would not hurt him. But any opposition within the GOP conference to his candidacy could hurt his ability to pass tough legislation on the committee and on the floor if he is chosen chairman.

“He has been much more supportive than most lately,” a GOP aide said of King.

Despite Weldon’s insistence that he’s running a low-key race, he spent yesterday continuing to explain to Steering Committee members how he would run the homeland-security panel. He also said he would circulate a classified memorandum

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at today's meeting that Defense Secretary Donald Rumsfeld wrote for his top aides citing Weldon's work on the threat of an electromagnetic-pulse bomb, which threatens computer networks.

Hurricane Katrina is also set to play a role in the decision. King said the first thing he would do as chairman is put together a field trip to the hurricane-ravaged Gulf Coast region; Weldon traveled to Louisiana on Sept. 2 to deliver relief supplies donated from private defense and medical companies.

Linder, chairman of the Prevention of Nuclear and Biological Attacks Subcommittee, has met twice with the now-embattled Department of Homeland Security Secretary Michael Chertoff since he was appointed earlier this year, expressing support for the secretary, who since has lost face in the wake of the department's widely panned response to Katrina.

"He is smart, he is tough and he is a great choice," Linder said in the letter. "He is facing bureaucratic foot-dragging."

"Katrina placed an exclamation point on that!" Linder wrote. "He needs our help."

The Steering Committee's decision could hinge on the lawmakers' reputations from their work on foreign-policy issues in which both lawmakers bucked conventional wisdom and the establishment's position.

But Weldon also has taken on the CIA and Pentagon. He wrote Countdown to Terror: The Top-Secret Information that Could Prevent the Next Terrorist Attack on America and How the CIA has Ignored It, which was published this year and ridiculed in some foreign-policy circles.

Weldon also has alleged that analysts working for a Pentagon program called "Able Danger" had identified Mohammed Atta and three other hijackers in 1999 but that Pentagon lawyers did not share the information with the FBI. The Pentagon has disputed the allegations.

Whatever the outcome in the contest for the Homeland Security chairmanship, Weldon is scheduled to testify at a Senate Judiciary Committee hearing next week in which he said a witness will testify that he was ordered to destroy thousands of pages of computer data relating to Atta and that the person will state who gave him the order to destroy that information.

For his part, King, an Irish-American, has been intimately involved in the Northern Ireland peace process and was closely associated with the cause of Irish nationalism and the Irish Republican Army's (IRA) political arm, Sinn Fein. In 1986, he welcomed home a convicted IRA gunrunner who had been released from federal prison. King was an early and aggressive advocate of trying to persuade former President Bill Clinton to grant Gerry Adams, a Sinn Fein leader, entry into the United States. Clinton granted him a visa in 1994.

King said his involvement with the IRA is "something that could be easily taken out of context" and that his friends in Congress thought it is something he should think about as he ran for chairman. But King said nobody on the Steering Committee has raised it as an issue.

"I've been very instrumental to bringing about a peaceful resolution. …" he said "Whenever the IRA deviated, I was the first one to criticize them."

"There are some people who are not happy with me," he added, referring to his call in March for the former terrorist group to disband.

Federal Experts To Assess Security At Indian Point (NYT)

By Lisa W. Foderaro

The New York Times, September 14, 2005

WHITE PLAINS, Sept. 13 - The United States Department of Homeland Security on Tuesday began a top-to-bottom review of emergency preparedness and security at the Indian Point nuclear plant in Westchester County. The review is part of a sweeping initiative by the federal government to assess the vulnerability of the nation's infrastructure.

A dozen experts from several federal agencies, including the Federal Emergency Management Agency, the F.B.I. and the Nuclear Regulatory Commission, converged on Indian Point's two reactors, in Buchanan, N.Y., to conduct a three-day inspection. The team started its review of security and emergency plans for Indian Point last week in Washington, according to Kirk Whitworth, a spokesman for Homeland Security.

The officials will identify gaps in those areas and suggest improvements in a report to be issued next week, Mr. Whitworth said. The report will not be made public, but it will be shared with local law enforcement officials and the plant's owner, Entergy Nuclear Northeast.

As the agencies were working in private on the plant's grounds, across the Hudson River in Rockland County an environmental group that has called for Indian Point's closing was staging a flashy protest.

The environmental group, Riverkeeper, like other critics of the plant, argues that it would be impossible to evacuate the more than 300,000 people who live within 10 miles of the plant, which is 35 miles north of Midtown Manhattan. Opponents also criticize what they call a lack of security at the plant. They are concerned, for example, that planes are allowed within 1,000 feet of the reactors and boats within 500 feet of the shore.

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To illustrate those points, a Riverkeeper boat bearing a large banner of a yellow "sitting duck" motored back and forth while a plane flew overhead dragging a sign that read, "FEMA: Late to Katrina, Lying to New York." The crafts were well outside the boundaries, but a law enforcement boat and helicopter tailed them for a time nonetheless.

Alex Matthiessen, Riverkeeper's president, called the response "a farcical show of force to give the impression that they are actually protecting the plant." He said that the group's own boat passed by the plant about 100 times a year, and the group had concluded that the security is "very, very minimal."

But Mr. Whitworth countered Riverkeeper's challenge, saying that the point of the review was to improve communication between the federal, state and local agencies that would be responsible for dealing with an accident at the plant. "We believe that this coordination is going to enhance security and emergency response at Indian Point," he said.

In the next 18 months, federal agencies will conduct similar reviews of all the nuclear power plants in the country. The reviews started in May, with Indian Point the eighth of more than 70 to be assessed. The Department of Homeland Security, which was created after the Sept. 11 terror attacks, will also investigate the security at chemical plants, liquid-natural-gas facilities and transportation networks, Mr. Whitworth said.

Mr. Matthiessen said that the federal government's handling of the Hurricane Katrina disaster did not augur well for a nuclear accident or a terrorist attack at Indian Point. "FEMA's gross incompetence has been on full display during the tragic events down in New Orleans," he said. "And that was a natural disaster for which we had several days' warning."

He urged the federal government to withdraw its approval of the emergency plan for Indian Point, and for the Nuclear Regulatory Commission to revoke Indian Point's license. The emergency plan was approved two years ago despite the protests of local officials and after a highly critical study commissioned by Gov. George E. Pataki by James Lee Witt, a consultant and former FEMA director.

Guess What Doesn't Get Screened By Airlines? Diplomatic Pouches. (CSM)

By Alexandra Marks

The Christian Science Monitor, September 14, 2005

WASHINGTON - Despite the intense scrutiny of airline passengers and their bags since 9/11, potentially explosive gaps still exist.

Top among them, for some analysts, are diplomatic bags - the privileged cargo that is given special immunity.

Security experts worry that terrorists could exploit the status of diplomatic pouches, which are protected from being opened or detained in any way by the Vienna Convention of 1961. In the past, rogue countries and individuals have used such bags to transport drugs, arms, and cash - and even to smuggle people. That's because a diplomatic pouch can be a crate big enough to carry a large desk.

Some security experts say it's "only a matter of time" before terrorists aligned with a rogue nation - or a dissatisfied diplomatic employee in a friendly one - find a way to abuse the privilege. To prevent that, a growing number of security experts, along with some diplomatic scholars, are calling for the United States and the international community to revisit the sanctity of diplomatic pouches.

The issue is gaining ground as the International Civil Aviation Organization, which sets global aviation standards and best practices, prepares to review its security guidelines later this month.

"The US needs to take the lead in saying this is a vulnerability that needs to at least be explored," says aviation security analyst Andrew Thomas of the University of Akron in Ohio. "Putting our heads in the sand and acting like it's still 1961 in a post-9/11 environment is just not the way to go."

But advocates of more tabs on diplomatic pouches have found an unlikely opponent - the US government itself. The State Department has consistently opposed screening diplomatic bags. "We support [the Vienna Convention] as it stands," says spokesman Noel Clay. That's because it doesn't want American diplomatic pouches screened when they are used overseas. The department worries such a move could compromise the nation's international intelligence operations, Mr. Clay says.

That view is shared by many in the intelligence and foreign affairs communities. The logic is based on preserving the integrity of the Vienna Convention, says Alfred Rubin, professor emeritus of international law at Tufts University's Fletcher School in Medford, Mass. So, if the US insists on screening another country's diplomatic bags, then the US would be vulnerable to the same treatment.

"Then American diplomatic pouches can presumably be examined and X-rayed or opened by our Latin American and African neighbors, and America doesn't want that," says Professor Rubin. "But I do think we have to explore the options."

Advocates of diplomatic bag screening contend there are ways to protect diplomatic protocol and at the same time increase aviation security. For instance, countries could ferry sensitive documents and technology on their own military aircraft.

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"Because of the historical record of state sponsorship of and complicity with terrorism, it's certainly something that should be discussed, especially when it comes to nonintrusive means of checking," says Prof. Robert Lieber of Georgetown University in Washington.

Since 9/11, the Canadian government has implemented a policy that allows it to request examination of a diplomatic pouch if it has reason to believe the contents are suspect. "If the process is unsuccessful, [they can] deny transportation of the bag," e-mailed Vanessa Vermette of Transport Canada in response to a question.

Asked if the US has a similar policy in place, Clay of the State Department did not answer directly with a yes or no. "Diplomatic pouches are inviolable under international accords," he says. "We expect that host countries will obey the uses of the diplomatic pouch and institute reasonable precautions to ensure they're used only as intended."

But there is a long history of diplomatic pouches not being used as intended. For instance, in 1984, British authorities found a former Nigerian government minister who'd been abducted and drugged in a large diplomatic crate bound for Nigeria from the Stansted Airport. Also in the crate was a man who was conscious and equipped with drugs and syringes, according to the the July 1985 issue of The American Journal of International Law. Three people were arrested and charged, one of whom claimed diplomatic immunity.

When asked recently if the issue of diplomatic bag screening should be revisited, Homeland Security Secretary Michael Chertoff demurred. "There's a lot of law and custom and treaty obligations with respect to this matter," he said at a Monitor breakfast. "We do want to be mindful of all kinds of threats, but we want to operate within the treaty obligations we have."

Technology, Barriers Have Made The Capitol Safer, Officials Say (HILL)

By Jackie Kucinich

The Hill, September 14, 2005

For the second time this week, outside mail was halted yesterday because of a power outage at the House off-site mail facility, but recent improvements to mail security allowed interoffice mail and newspapers to continue to circulate. This is just one small example of the numerous security upgrades that have occurred on Capitol Hill since the Sept. 11 attacks.

During the past four years, Congress has taken several steps to make the institution and its business less vulnerable to a terrorist attack. The steps include passing legislation providing for continued congressional operations should a significant number of members be killed or incapacitated in an attack. Congress also has established several off-site data centers that store important information should offices be destroyed and has implemented technology that immediately informs members of an emergency situation. Barriers such as bollards and concrete blocks also have been erected to enhance the security of the Capitol campus.

“Before 9-11, we were prepared for some type of bomb or a shooting,” said House Administration Committee Chairman Robert Ney (R-Ohio). “After airplanes were used as bombs and anthrax was introduced into the building, literally the next day we started to think outside the box.”

Ney credited Speaker Dennis Hastert (R-Ill.) for supporting and facilitating many of the dramatic changes in security but stressed that ensuring the safety of the campus has been a bipartisan effort.

The Alternate Computing Facility, designed to handle some of the House and Senate data and communications in the event of a catastrophe, is just one of the security centers built after Sept. 11.

In a House Administration Committee hearing June 9, James Eagan, Congress’s chief administration officer, described the facility as a “warm failover site for the House’s Ford Data Center” that handles a number of Congress’s administrative functions and provides redundant systems for e-mail and websites. The facility also backs up capabilities to support “member, committee and institutional-support offices.”

Senate Sergeant at Arms Bill Pickle told The Hill in June that the facility is a backup for some of the House and Senate entities.

“It protects against the loss of data and is similar to the alternative computing facilities of major corporations,” he said.

Eagen also provided an inventory of emergency-related steps. The House, he said, had e-mail, pagers and 6,000 BlackBerry communication devices in circulation with the capacity to receive notifications through the House Alert Capability system. Emergency notification devices have been placed in each congressional office to warn the staff and visitors about potential dangers when they occur.

A digital mail system, which allows first-class mail to be delivered in electronic form, was piloted in 2002 to reduce the House’s vulnerability through the mail in response to the anthrax attacks in 2001. The program began with 30 House offices and is expected to expand to 75 offices by the end of November, according to Ney.

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Ney touted the Capitol Visitor Center, or CVC, which is estimated to be completed in the fall of 2006, as a "tremendous addition and enhancement to security." The CVC received $38.5 million in additional funding to improve security inside the facility after Sept. 11.

The passage of the Continuity in Representation Act has been one of the most publicized security changes in the past few months. The provision, which was attached to the 2006 legislative-branch appropriations bill at the request of leadership, provides the House with a plan should 100 members die or be incapacitated during a catastrophic event. The bill stipulates that special elections for new members must occur within 49 days after the Speaker announces the vacancies.

Hurricane Katrina tested the operations of the House Recovery Operations Center (H-ROC), a 24-hour emergency communication center that aides in continuity of government. The system, which was created to ensure that congressional offices can remain running in the event of a disaster, helped Rep. Gene Taylor (D-Miss.) set up operations despite the destruction of his district office in the storm.

The Senate has implemented a similar program through the its sergeant at arms and the U.S. General Services Administration to replace temporarily offices lost by senators in Mississippi and Louisiana, according to Susan Irby, a spokeswoman for the Senate Rules and Administration Committee.

The Senate has also implemented a host of new procedures since Sept. 11.

In conjunction with the Senate sergeant at arms and the Rules and Administration Committee, the Office of Security and Emergency Preparedness was established, evacuation drills of all buildings have been conducted quarterly, quick masks (lightweight protective masks designed for people to don while they are evacuating buildings) have been distributed to all offices and continuity-of-operations plans have been established within each office.

"Disaster-assistance plans are constantly being discussed and improved," Irby said. "This is always an ongoing operation."

The Senate sergeant at arms declined to comment for this report.

The Capitol Police also have played a major role in testing the security procedures since Sept. 11. In addition to providing a more physical presence of safety on campus, the Capitol police have undergone additional training in order to effectively and safely evacuate staff and visitors in the event of an emergency.

"The Capitol Police Department is continually working with the Senate and House sergeant at arms on improving security for the Capitol complex," said a Capitol Police spokesman. "Truck interdiction, mail screening, prohibited items, and other security measures are all integrated to maximize overall effectiveness. These security improvements are necessary so that Congress can continue to operate in an open and safe environment."

Ney said technology is playing a vital part in improving security on the Hill.

"It is a constantly evolving process," he said.

A Clear Risk To The City (WP)

The Washington Post, September 14, 2005

The Bush administration, pertinent congressional committees and the D.C. government are all aware of a study showing that an attack on a single railroad tank car of chlorine traveling through a crowded nation's capital could:

· Kill or seriously harm 100,000 people within an hour.

· Set off a toxic plume that could extend over 40 miles.

· Leave deadly a core area of about 4 miles by 14 1/2 miles.

It is also true that while the D.C. government has enacted a law to deal with the issue, the federal government has taken no serious steps to prevent chemicals that are toxic if inhaled from being shipped through the District. What's more, the Justice Department and CSX Transportation Inc., rather than supporting D.C. legislation that sought to regulate the transport of ultra-hazardous materials through the city, instead obtained a court order to stop the District from enforcing its law.

As a result of federal opposition to local efforts, an undisputed risk to life and safety in the Washington region is unabated. Credit D.C. Council member Kathy Patterson (D-Ward 3) with bringing this danger to the public's attention and for marshaling legislative support on the council for a solution -- "to reduce the risk of an attack by removing the target from our midst," as she told the Department of Homeland Security in a letter yesterday. Again, Mrs. Patterson was putting her finger on the problem.

Mrs. Patterson was responding to a proposed Department of Homeland Security rail security plan that aims to protect city residents by installing surveillance cameras along seven miles of CSX Transportation tracks. She noted that the cameras "would, surely, provide historical documentation of what vehicle or what individuals gained sufficient proximity to the CSX tracks to blow up a 90-ton tanker full of chlorine -- after the fact of thousands of deaths." She rightly notes that the Homeland Security plan would not prevent a suicide bomber from accessing the tracks. It would only record the bomber doing the dastardly deed. Hooray.

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Residents, visitors, members of Congress and the Supreme Court deserve better. They need a federal plan that prevents, rather than simply detects, an attack on the city. On that score, nothing less than rerouting ultra-hazardous materials -- dangerous, toxic-by-inhalation cargo -- around densely populated communities at high risk of attack, such as the nation's capital, will do. Alternative routes for such chemicals are needed here in the District and for other high-risk communities around the nation. The difficulty of the challenge is no reason for the federal government to avert its gaze from this potential nightmare. It must either step up to the problem now or try to explain away the poor federal planning for a catastrophe in yet another national disaster's after-action report.

WAR NEWS:

Bomber Hits Baghdad Crowd; At Least 73 Die (USAT/AP)

By The Associated Press

USA Today, September 14, 2005

BAGHDAD — At least 73 people were killed early today when a terrorist drove an explosives-filled vehicle into a crowd of laborers waiting for construction work.

The attack came after Iraqi President Jalal Talabani said Tuesday in Washington that Iraq will not set a timetable for the withdrawal of U.S. troops. He said that to do so would send a signal to insurgents that they can weaken the alliance between Iraq and America.

Baghdad police Maj. Musa Abdel Kerim said the suicide bomber drove his vehicle into a crowd of day laborers waiting at Oruba square in the Kazimiyah district. The men had gathered about 6:30 a.m. to wait for work.

Lt. Col. Moayad Zubair said 73 people died and 162 were injured. He said the death toll would probably go up because some of the wounded were unlikely to survive.

Speaking at a White House news conference with President Bush, Talabani held out the option of significant U.S. troop withdrawals by the end of 2006 if Iraqi forces are ready to assume more responsibility for the nation's security. However, he said that would take place only if the United States agreed.

“A timetable will help the terrorists, will encourage them that they could defeat a superpower of the world and Iraqi people,” Talabani said. “We don't want to do anything without the agreement with the Americans because we don't want to give any signal to the terrorists that our will to defeat them is weakened.”

Bush, with Talabani at his side, promised that the United States would continue to stand behind Iraq's government despite “acts of staggering brutality” by insurgents.

“I pledge we will not waver, and I appreciate your same pledge,” he said. “Iraq will take its place among the world's democracies.”

Talabani thanked “the glorious American people” for liberating his country from “the worst kind of dictatorship” and called Bush a “great statesman.”

“We are proud to say openly and to repeat it that we are partners of the United States of America in fighting against tyranny, terrorism, and for democracy,” Talabani said.

Bush also warned Syria to stop foreign fighters who train there and then cross the border into Iraq. “The Syrian leader must understand that we take his lack of action seriously,” Bush said.

Talabani has sent mixed signals on troop withdrawals. At a news conference with Defense Secretary Donald Rumsfeld on Friday, he said Iraq will need some U.S. troops for the long term but that Iraqi security forces can take on the prime responsibility in two years. About 140,000 U.S. troops are in Iraq.

In Iraq on Tuesday, U.S. forces called in airstrikes during a raid on Hadithah in the north. Troops captured a militant with ties to al-Qaeda in Iraq and killed four others, the U.S. Central Command said.

The assault on Hadithah followed a recent offensive to retake Tal Afar, another northern town, which netted more than 400 suspects. The Iraqi military said its troops had detained 36 others, including a Yemeni citizen, just south of Tal Afar.

Bush Threatens Syrian Isolation For Lack Of Action (WT)

By Bill Sammon

The Washington Times, September 14, 2005

NEW YORK -- President Bush yesterday threatened to further isolate Syria if it does not stanch the flow of killers streaming into Iraq and vowed to press his case at the United Nations today.

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"The Syrian leader must understand we take his lack of action seriously," Mr. Bush said of Syrian President Bashar Assad. "The government is going to become more and more isolated."

The warning came one day after America's ambassador to Iraq, Zalmay Khalilzad, said "our patience is running out" and refused to rule out military action against Syria.

"The Syrian government can do a lot more to prevent the flow of foreign fighters into Iraq," Mr. Bush said. "These people are coming from Syria into Iraq and killing a lot of innocent people. They're trying to kill our folks, as well."

Mr. Bush made his comments at the White House before leaving for two days of meetings at the United Nations. He was joined in the East Room by Iraqi President Jalal Talabani, who was also on his way to the United Nations.

"President Talabani and I will take our seats at the United Nations in New York," Mr. Bush said. "The session will mark the first time in a half-century that Iraq is represented by a freely elected government."

U.S. and European diplomats said the United States is planning a diplomatic attack on Syria at the United Nations 60th anniversary summit, which begins today. Syrian officials have not been invited to a foreign ministers meeting on Lebanon hosted by Secretary of State Condoleezza Rice.

Participants in the Monday ministerial meeting will include Britain, France, the European Union, the World Bank and Lebanon, with the potential addition of Egypt, Saudi Arabia and Russia, diplomats said.

"It's an important meeting to reaffirm support for Lebanon's political and economic reforms," a senior European diplomat said.

Washington's renewed effort to isolate Syria follows repeated U.S. calls for Damascus to stop what the Bush administration says is continued meddling in Lebanon's internal affairs, including a potential role in political assassinations.

Although Syrian troops pulled out of Lebanon in the spring after three decades of de facto occupation, the United States says the Syrian intelligence service is still active in Lebanon.

U.S. and foreign diplomats said Mr. Assad decided against attending the summit, because he wanted to avoid the pressure he expected to encounter in New York.

"I suspect it has more to do with the fact that Syria feels under some pressure from U.N. investigations about its behavior in Lebanon," Deputy Secretary of State Robert B. Zoellick told the Al Arabiya TV network on Monday.

He referred to a probe into the February assassination of former Lebanese Prime Minister Rafik Hariri led by U.N. investigator Detlev Mehlis.

In Washington, Mr. Talabani thanked Mr. Bush effusively for toppling Iraqi dictator Saddam Hussein.

"In the name of the Iraqi people, I say to you, Mr. President, and to the glorious American people, thank you, thank you," he said. "Thank you because you have liberated us from the worst kind of dictatorship. Our people suffered too much from this worst kind of dictatorship."

Mr. Bush also said he would discuss his "grave concern" over Iran's nuclear ambitions during meetings with world leaders, including a bilateral session yesterday afternoon with Chinese President Hu Jintao.

The Bush administration is making a concerted effort to increase pressure on Iranian officials, who are in New York this week for U.N. meetings.

Mr. Hu acknowledged "frictions" over the U.S. trade imbalance with China, but promised to buy more imports from America. However, he hinted that cooperation would be forthcoming only if the Bush administration refrained from meddling in Taiwan.

"The proper handling of the Taiwan question holds the key to the sound and steady growth of the China-U.S. relationship," Mr. Hu said.

Mr. Bush, for his part, made good on his promise to "bring up human rights" in his meeting with Mr. Hu, said Michael Green, senior director for Asia on the National Security Council. Mr. Green added that the president accepted an invitation from Mr. Hu to visit China for two days in November.

The president's call for Syria to stop the flow of killers across its border came as U.S. forces continued to hunt such foreign fighters in the northern Iraqi city of Tal Afar. The offensive, known as Operation Restore Rights, began two weeks ago and has resulted in the killing or capture of hundreds of terrorists.

Mr. Khalilzad, the U.S. ambassador to Iraq, on Monday accused Syria of having training camps for insurgents on its territory.

"A lot of these people are coming in through the airport in Damascus," Mr. Zoellick said about the foreign fighters. "It's not hard to stop people coming through the airport, and that's where they ought to start."

U.S. Will Stick With Iraq Mission, Bush Pledges (LAT)

By Paul Richter

DOJ_NMG_0005198

The Los Angeles Times, September 14, 2005

WASHINGTON — President Bush promised his Iraqi counterpart Tuesday that the United States would persevere in the joint fight against insurgents.

Appearing with President Jalal Talabani during a day of meetings with foreign leaders, Bush pledged that U.S. forces would "stay on the offensive alongside Iraqi security forces." He said they would return home when their mission was over.

Bush also intensified American pressure on Syria, saying that he was working to isolate Damascus because it allowed insurgents to cross its eastern border into Iraq and continued to meddle in the affairs of neighboring Lebanon.

Bush said that during this week's meetings of the United Nations General Assembly, he would be talking to foreign leaders about Syria's actions.

The Syrian government "can do a lot more to prevent the flow of foreign fighters into Iraq," Bush said, adding that Syrian President Bashar Assad "must understand we take his lack of action seriously." Syrian officials say they have made a major effort to police their border.

U.S. officials have been complaining for months but recently stepped up the pressure. On Monday, Zalmay Khalilzad, the U.S. ambassador to Iraq, told reporters that U.S. officials were considering all options in dealing with the problem.

Haim Malka, a fellow in the Middle East Program of the Center for Strategic and International Studies in Washington, noted that Assad had canceled his trip to the U.N. gathering after the Americans made clear that he would not be welcome in joint meetings that U.S. officials were planning.

Ethnic and religious factions in Iraq clashed last month over development of a draft constitution that will face an October referendum. Bush on Tuesday praised the draft constitution as a milestone document that protects fundamental freedoms and helps ensure the unity of a diverse nation. Talabani offered a more balanced assessment, acknowledging that the document is not perfect.

Talabani said in a speech in Washington last week that he believed most coalition forces could be out of Iraq by 2007. On Monday, in an interview with the Washington Post, he said the United States might be able to withdraw as many as 50,000 troops by the end of this year.

Bush has refused to talk about timetables, saying it only encourages the insurgents to wait out the U.S. forces. Timetables could also be embarrassing for the president if the troops are not withdrawn by the designated date.

Talabani omitted any reference to dates for troop pullouts in his latest remarks.

"We will set no timetable for withdrawal, Mr. President," he said. "We hope that by the end of 2006, our security forces are up to the level of taking responsibility from many American troops, with complete agreement from America."

Bush's view of the U.S. military mission in Iraq continues to differ slightly from that of Pentagon officials, who consider it unlikely that U.S. forces will be able to defeat the insurgency. Bush says the U.S. objective is to defeat the insurgents, but American commanders have stressed that Iraqi forces would need to continue the battle after U.S. forces have departed.

The U.S. commander in charge of a campaign underway against insurgents near the Syrian border said that area might continue to serve as a refuge for fighters until Iraqi forces are able to defend it on their own. About 5,000 Iraqi troops are fighting alongside about 3,500 U.S. troops around the insurgent stronghold of Tall Afar.

"Is there enough force here right now to secure this area permanently? No," said Army Col. H.R. McMaster, speaking to Pentagon reporters in a videoconference. "We'll continue to conduct operations in those outlying areas to disrupt [the insurgents'] ability, until we can establish a permanent security capability with police and army."

McMaster said he couldn't predict how long that might take, in part because he expected insurgents to continue their attacks against Iraqi troops and police officers.

"We've got to really make sure that they can withstand the enemy's intimidation," he said.

Calling U.S. Troops `occupation Forces,' Iraqis Seek Timetable For Exit (KRT)

By Nancy A. Youssef

Knight Ridder, September 14, 2005

BAGHDAD, Iraq - In an attempt to lay the legal groundwork for asking the United States to withdraw its troops, an Iraqi National Assembly committee released a report Tuesday that said the presence of the American military prevents Iraq from becoming fully sovereign.

The 18-member National Sovereignty Committee, made up of legislators chosen in national elections in January, said the only way Iraq could achieve sovereignty was for multinational forces to leave. The report called for setting a timetable for the troops to go home and referred to them as "occupation forces," a first.

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The report is the second time in four months that National Assembly members have expressed frustration with the continued American military presence. In June, one-third of the 275 assembly members signed a petition asking the United States to set a timetable for withdrawal.

It wasn't clear what impact the new report would have. Iraqi government officials have said they oppose a U.S. withdrawal or setting a timetable, a position that President Jalal Talabani repeated Tuesday in Washington.

"We will set no timetable for withdrawal. A timetable will help the terrorists," said Talabani, who's a Kurd.

Most of the committee members are members of the Shiite Muslim political coalition that dominated January's parliamentary elections, though it was impossible to know how widespread their view is among government supporters.

Assembly members were silent after Jawad al-Malikit, the committee's chairman and a member of the powerful Shiite United Iraqi Alliance, completed reading the four-page report.

Later, members of the committee said they'd compiled the report to create a legal channel that would make their country independent. "It's normal to ask for our full sovereignty. It should have happened right after the elections because the government is legal," al-Malikit said.

Hassan al-Rubai, another committee member, said he was grateful to the United States for removing Saddam Hussein from power. But he added: "We want the United States to make us feel they came here to liberate us, not occupy us."

The report also asks the United Nations to issue a resolution declaring Iraq a sovereign country and the government to repeal an order enacted by the U.S. Coalition Provisional Authority that gives foreign nationals here immunity from prosecution in Iraqi courts.

It also called for the government to have control over its intelligence operations, palaces and prisons. American forces so far have refused to grant Iraqis access to many intelligence operations, to allow them to occupy several palaces that Saddam built and to let them operate several prisons.

The real measure of the report is how leaders of the Iraqi government, other National Assembly members and the people react to it in the next few days, said Anthony Cordesman, an Iraq analyst at the Center for Strategic and International Studies, a national-security research center.

"It's posturing," Cordesman said. "The question is: What kind of clout does the political posture have?"

Indeed, some wondered whether the committee released its findings as a way to reach out to Sunni Muslim Arab leaders. The assembly is seeking to win a national vote next month on a proposed permanent constitution. Many Sunni Arabs, some of whom have said they'll vote down the proposed constitution, have called for a timetable for withdrawing foreign troops.

Still, many were surprised that a committee made up of Shiites and Kurds would call for a timetable.

The United States returned sovereignty to Iraqis in June 2004, when L. Paul Bremer, then the head of the Coalition Provisional Authority, signed a resolution and dissolved the CPA.

But many National Assembly members and average Iraqis have said it's impossible to feel sovereign when troops are running through their streets and foreigners direct the actions of the Defense and Interior ministries.

"This country hasn't had sovereignty since the beginning of the occupation," said Saleh Mutlaq, who was one of the four principal Sunni negotiators in the drafting of Iraq's constitution. "People already know they are not sovereign because the Americans are everywhere. They are in the streets. They are on top of our houses. How can we feel sovereign?"

Committee members said they planned to asked officials of the Defense and Interior ministries when they thought Iraq would be able to defend itself.

75 Killed In Baghdad Blast; Amended Charter Approved (NYT)

By Robert F. Worth

The New York Times, September 14, 2005

BAGHDAD, Iraq, Wednesday, Sept. 14 -A suicide car bomber killed at least 75 people when it ripped through a gathering of day laborers waiting for work on Wednesday morning in one of Baghdad's largest Shiite districts.

The bomb detonated at 6:50 a.m. at Aruba Square in the Khadamiya district of northern Baghdad, where large numbers of laborers typically gather in the morning in hopes of being hired for the day. Another 162 were wounded by the blast, according to an official with the Interior Ministry.

The attack appeared to be the latest sectarian strike directed against Shiites in Baghdad, who have been repeatedly targeted by Sunni Arab insurgents and terrorists bent on exploiting Sunni-Shiite divisions across Iraq.

On Tuesday, the leaders in the Shiite-dominated National Assembly said they approved a final, modified version of the proposed new constitution. But the charter still does not come close to mollifying Sunni leaders who had hoped to win far broader changes in the document before the Oct. 15 national referendum.

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The approval came more than two weeks after the draft was formally presented to Parliament over the objections of some lawmakers.

The revisions are relatively minor, and are not likely to win the support of Sunni Arab leaders who oppose the charter and had hoped to see broader changes on regional autonomy and other issues. The four approved changes touch on water rights, adherence to international treaties, cabinet staffing, and Iraq's Arab identity, a more controversial subject on which the new draft offers a compromise position.

The leaders of the constitutional drafting committee said they had signed off on a final version, as did Hussein al-Shahristani, the acting speaker of the National Assembly and a leader of its Shiite majority. Mr. Shahristani said that he would announce the document's completion at a news conference on Wednesday, and that it would then be given to United Nations officials, who are responsible for printing and distributing it.

But in a measure of the chaos that has surrounded the constitutional process, some committee members said Tuesday afternoon that they were not aware a draft had been agreed on and suggested that more delays could be in store.

Nicholas Haysom, the head of the United Nations constitutional advisory team, said the United Nations would insist that any draft it received have the approval of the full assembly, not just the speaker or the committee that drafted the document.

For weeks, the constitution has been in a perplexing state of uncertainty. Several different versions were circulated after negotiations were said to have ended. Some Iraqi leaders held meetings on amending the charter in hopes of winning over the Sunni Arab opposition, while others insisted that the document was already final and that it would not be changed.

The delays have reduced the time Iraqis will have to study a final draft before they vote on the constitution on Oct. 15. It will take about 10 days to print the five million copies of the 39-page document, a little more than one for every household in Iraq, Mr. Haysom said. That will leave just over three weeks to distribute them, far less than originally envisioned. Nongovernmental groups and schools will assist in the effort, and newspapers and radio and television will help publicize it, he said.

One of the approved changes addresses an objection by the panel's Sunni minority. They were angered by an article describing Iraq as part of the Islamic world without saying it is part of the Arab world. The amended version compromises by stating that Iraq "is a founding member of the Arab League and is committed to its charter."

Mahmoud al-Mashadani, a Sunni member of the constitutional panel, said that was not enough to convince the constitution's opponents, who have sworn to lead a campaign against the document.

"The defense and the prosecution have rested," he said. "The case is now in the hands of the jury."

Under transitional law, the constitution will be defeated if two-thirds of the voters in any 3 of Iraq's 18 provinces vote against it. That would lead to fresh elections for a new temporary national assembly, which would be charged with writing a new constitution.

The revisions do not touch on the most controversial part of the draft constitution, a provision that allows for the creation of largely autonomous regions within Iraq. That section, written at the insistence of Shiite leaders, has ignited fierce opposition from Sunnis and some others, notably the rebellious Shiite cleric Moktada al-Sadr, who has hinted that he may lead a campaign against the document, too.

Many Sunnis were also angered by language that banned the symbols and remnants of Saddam Hussein's Baath Party, another provision that is not being changed.

The changes that were made include the addition of language making it clear that the central government is responsible for the distribution of water. Some Kurdish lawmakers, seeking control of water rights on rivers that flow through Iraqi Kurdistan, had resisted the change, but ultimately gave in, several committee members said.

Another change, specifying that the prime minister will have two deputies in the next elected government, was made in response to requests from the Kurds, who believe it will ensure some Kurdish influence over the prime minister's office.

The last change was the deletion of an article stating that Iraq would adhere to any treaties it had signed on international human rights "unless they conflict with the rules and principles of the constitution." The clause was widely seen as an effort to escape the treaties, so the lawmakers chose to drop the article altogether.

The constitutional agreement came as violence continued across the country, with American and Iraqi forces battling insurgents in central and northern Iraq.

In the northern city of Tal Afar on Tuesday, Iraqi forces said they had killed 14 insurgents and captured 35 on the third day of a major offensive aimed at clearing the area of guerrilla fighters, Reuters reported. In western Iraq, American forces struck at insurgents in Haditha, killing four and capturing a militant with ties to Al Qaeda, military officials said.

In Baghdad, gunmen killed a high-ranking Interior Ministry official, Muhammad Kadhum al-Musawi. Elsewhere, an Iraqi police officer was shot to death as he worked on his car, Interior Ministry officials said. Six handcuffed bodies were found in a northern neighborhood.

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For Success In Iraq, Change Course (WP)

By Joseph R. Biden Jr.

The Washington Post, September 14, 2005

The Bush administration's mishandling of Iraq has brought us to the brink of a national security debacle. To salvage the situation, the administration must fundamentally change course inside Iraq, in the region and at the international level.

Stabilizing Iraq is a political as well as a military challenge. The administration is taking a huge gamble by going forward with a referendum for a constitution that is more likely to divide Iraq than to unite it.

A majority of Sunni Arabs are likely to vote against the constitution, but not the two-thirds needed to defeat it. That will further embitter them.

The consequences for U.S. interests could be devastating. Sectarian violence might escalate into a full-blown civil war, drawing in Syria, Iran and Turkey and turning Iraq into a new Lebanon. Even worse, Iraqi Sunnis could forge stronger alliances with foreign jihadists, turning a swath of Iraq into a pre-Sept. 11 Afghanistan for a new generation of terrorists.

Stranded in the middle of this mayhem would be brave American soldiers, their lives on the line for a failing policy set by others.

The Bush administration's hope seems to be that Sunnis and Iraqi women will "get over it." But hope and stubbornness do not constitute a strategy. As our ambassador to Iraq, Zalmay Khalilzad, has said, the constitution should "be a national compact that brings Iraqis together and undermines the insurgency."

Sunni Arabs have themselves to blame for sitting out January's elections and supporting the insurgency. But unless they are offered a reasonable stake in the new order, they will continue to resist it. It would be a mistake to force-feed them a constitution they cannot stomach. There is a better way.

First, if negotiators don't reach reasonable compromises that bring moderate Sunnis on board, the Bush administration should support postponing the constitutional referendum until after elections for a new National Assembly are held in December, which would allow a new committee with elected Sunni members to reconsider the draft.

This would encourage the growing desire among Sunnis to participate in the political process. It would empower legitimate Sunni leaders who can sell the constitution to their community. And it could split the Sunni population from the insurgents and foreign jihadists. Moderate Kurds and Shiites, many of whom privately admit that some of their leaders overreached, will welcome the balance legitimate Sunni representation would bring to the process.

For this policy to work, the administration must do what it has failed to do thus far: involve the major international powers and Iraq's neighbors in a stabilization strategy. The administration should create a contact group with countries such as France, Japan, Britain and Russia, along with organizations such as the European Union, NATO and the United Nations. As constitutional negotiations resumed, the Iraqis would see a united international front and be more likely to make difficult compromises.

The administration must also develop a regional strategy that either forces or induces Iraq's neighbors to act responsibly. In some instances, that would require the administration to engage regimes that the United States would rather not work with. But that's exactly what we did in the Balkans to get to the Dayton peace agreement and with Afghanistan's neighbors in the "six plus two" group and the Bonn conference. Iran, Saudi Arabia and Egypt could help temper the demands of the communities with which they have influence. Tehran and Damascus would be more likely to end their dangerous meddling if they saw the rest of the international community lining up with us. The president should immediately name a senior envoy to the region and organize a regional conference.

The president can build international support for this new policy at the United Nations this month. He should challenge those countries that have as much to lose as we do from chaos in Iraq to join this effort.

At home, President Bush must close the credibility chasm that is threatening the most important weapon our overstretched troops have: the support of the American people. He must convince Americans that he is leveling with them about the situation in Iraq and that he has a coherent strategy for securing our fundamental national interests and bringing our troops home.

To that end, the administration should develop concrete goals for training Iraqi security forces so that they can operate independently, building a political system that enjoys legitimacy and rebuilding basic services -- and establish a reasonable timetable for meeting these goals.

It is no longer acceptable to say that our troops will stay in Iraq "as long as necessary -- and not one day longer." The American people need -- and our troops deserve -- a much clearer picture of the way forward.

Congress must step up to its responsibilities by holding monthly oversight hearings with senior administration witnesses to assess Iraq's progress.

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Some will argue that this policy would prolong our presence in Iraq. The opposite is true. Proceeding with an ill-advised referendum, and without a strategy to involve the region and the major powers, could lead to chaos that would take even more time, treasure and casualties to tame -- if it does not prove irreversible and leave Iraq what it was not before the war: a permanent base for radical fundamentalist terrorism.

Successfully involving moderate Sunnis, sharing the burden with the key international players, getting support from the region, setting concrete goals with timelines and insisting on regular accountability from the administration would bring our troops home sooner and safer. It's also the best way to leave Iraq with our most fundamental security interests intact.

The writer is a senator from Delaware and the ranking Democrat on the Senate Foreign Relations Committee.

Suicide Car Bomb Kills At Least 82 In Baghdad (NYT/REU)

By Reuters

The New York Times, September 14, 2005

BAGHDAD (Reuters) - A suicide bomber blew up his minibus after luring a crowd of men to the vehicle with promises of work in Baghdad on Wednesday, killing at least 82 people and wounding 163, police and officials said.

Witnesses said the blast in the mostly Shi'ite district of Kadhimiya tore through a group of laborers waiting at the roadside in the hope of finding jobs for the day.

``We gathered and suddenly a car blew up and turned the area into fire and dust and darkness," said Hadi, one of the workers who survived the attack.

An Interior Ministry source said the bomber had pulled up in the minibus and called to a group of men to gather round, saying he was looking for workers. He then detonated his explosives.

One source said up to 500 lbs of explosives might have been used in the bomb.

Bodies lay in the street beside burned-out cars, witnesses said. Some used wooden carts to haul away the dead. Iraqi government officials have accused Sunni Arab militants of attacking majority Shi'ites, who were swept to power in January elections, in a bid to spark a civil war.

The carnage followed late-night killings in the town of Taji, just north of the capital, where gunmen dragged 17 people out of their homes and shot them, police said.

Baghdad Blast Kills Scores Of Iraqis (LAT)

By Edmund Sanders

The Los Angeles Times, September 14, 2005

BAGHDAD — In one of the deadliest vehicle bombs to strike the capital, as many as 80 unemployed construction workers were killed early today as they lined up for day jobs in a largely Shiite neighborhood, Iraqi officials said.

One hundred sixty-three were injured, quickly overwhelming the city's hospitals.

Along with the slaying of 17 Shiite Muslims early today in the city of Taji, the attack broke a relative lull in large-scale assaults and threatened to fuel already high sectarian tensions between Iraq's majority Shiite population and the once-ruling Sunni Arabs.

It was the deadliest bombing in Iraq since a suicide attacker ignited a fuel tanker July 16 near a Shiite mosque in the central town of Musayyib, killing almost 100 people.

Today's bomb exploded about 6:45 a.m. in the Kadhimiya district of the capital, where as many as 3,000 construction workers gather each morning to seek work for the day. Construction supervisors and engineers drive to the area throughout the day to pick up workers, who swarm around the vehicles in hope of being selected.

A suicide driver approached in a truck, pretending to be interested in hiring workers, witnesses said.

"Everyone gathered around the car, and when they got close it exploded," said Hassan Qasim, one of the laborers. "I can't believe I'm alive. It's a miracle."

Hazam Araji, a representative of Shiite cleric Muqtada Sadr in Kadhimiya, said, "This is a terrorist act targeting civilians and ordinary people in one of the safest areas of Iraq."

One witness reported seeing a U.S. convoy passing the area shortly before the explosion. But several victims said they believed that the attack was motivated by sectarian tensions.

"The explosion was targeting Shiites, because there are no Sunnis there," said Majid Hamid, 18, who was taken to a nearby hospital with injuries to his eyes and hands. "We were all Shiites."

"We are fed up with the government," said Ahmed Qusay, another job seeker. "They are doing nothing. They should exterminate those terrorists. If the government can't do it, we will do it ourselves."

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About two hours before the blast, men armed with machine guns dragged 17 Shiite men from their homes and killed them in Taji, a Sunni Muslim-dominated city north of Baghdad, the Interior Ministry said.

Gunmen wearing Iraqi national guard uniforms and driving government-issued vehicles surrounded a residential neighborhood and entered several houses, seemingly at random, saying they were "arresting" the 17 men.

About 30 minutes later, residents heard gunshots on the edge of the neighborhood and discovered the men's bodies.

On Tuesday, U.S. and Iraqi forces continued their crackdown on insurgents in Tall Afar in northern Iraq and bombed a safe house in Haditha in the western province of Al Anbar.

U.S. officials said they killed four suspected insurgents in Haditha and captured one accused of having ties to Al Qaeda.

In Basra, four employees of a private U.S. company working at the airport were killed by a roadside bomb Tuesday, said Col. Kareem Zaidi, spokesman for the Basra police. Five others were injured. Nationalities of the victims were not released.

Number Of Attacks Decreases On Baghdad Highway To Airport (USAT)

By Kimberly Johnson Special For

USA Today, September 14, 2005

BAGHDAD — Attacks on and around the 7-mile highway linking Baghdad to its international airport have dropped 41% since May, the result of increased U.S. and Iraqi troop presence and new tactics to battle insurgents along one of the world's most dangerous roads.

There hasn't been a suicide car bombing on the road since April, according to U.S. military statistics through August.

U.S. officers attribute the decline to an influx of Iraqi troops who have been stationed at key points along Airport Road, which goes by the military designation Route Irish.

“Route Irish is definitely not the most dangerous road in Iraq any longer, and everyone who uses it knows it,” says Lt. Col. Geoffrey Slack, commander of the New York National Guard's 1st Battalion, 69th Infantry Regiment.

In May, insurgents staged 49 attacks on the road and in surrounding neighborhoods, including assaults with deadly roadside bombs and rocket-propelled grenades, according to statistics from Slack's battalion, which was responsible for the area until a recent hand-over.

Violence in the road's area peaked in November 2004. That month, insurgents launched 52 attacks, including 13 car bombs, according to the military statistics. The number of attacks fell to 29 in August, mostly small-arms fire.

Airport worker Hana Abdul Aziz, 28, was on her way to work in a bus with other airport employees one morning last November when the bus came under attack.

Aziz remembers glass and blood flying through the air. A woman sitting next to her was killed in the attack. “She got a bullet in her head and died immediately,” she says.

For most of the past year, the New York battalion has been responsible for securing the road and surrounding neighborhoods. U.S. military officials declined to discuss numbers, but American battalions generally number about 800 troops.

In June, an Iraqi police commando unit was assigned to work alongside the American troops. Iraqi battalions typically have about 750 troops, says Lt. Col. Fred Wellman, spokesman for the command responsible for training Iraqi troops.

The additional Iraqi troops, along with U.S. counterparts, were deployed at seven armed checkpoints at the entries to the road. The checkpoints are staffed around the clock and can carefully watch vehicles entering the highway.

The airport highway has been hotly contested. It is heavily used by American and coalition forces, contractors, diplomats and Iraqis working with them. Surrounding the airport is a large U.S. military facility that serves as headquarters for coalition forces.

There are few entrances or exits on the road. Most of the traffic is going to or from the airport or the U.S. base, presenting prime targets for insurgents.

“They knew you'd have diplomats traveling on that road,” says Maj. Alayne Conway, spokeswoman for the 3rd Infantry Division.

The highway also has symbolic importance as one of the main links between Iraq and the outside world.

During March and April, attacks on the road were so common that U.S. Embassy personnel were banned from using the road.

Dense neighborhoods along the road make ideal hiding places for insurgents who can attack and take cover in the narrow streets.

Coalition forces have struggled to make it safe, highlighting the difficulty of fighting an insurgency in a big city.

Soldiers have cut down date palms that lined the road, cleared trash, moved guardrails and cut weeds to make it difficult to hide roadside bombs, Conway says.

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Getting the additional Iraqi troops assigned to the area allowed commanders to set up strong points along the highway and "turned the tables," Slack says.

U.S. officers stop short of saying the problem is fixed. "I don't want to speculate that things are going to stay the same, but obviously with the things that have been done, the road is safer," Conway says.

U.S. Raids Militant Stronghold In Iraq (AJC/AP)

By Tarek El-tablawy, Associated Press Writer

The Atlanta Journal-Constitution, September 14, 2005

BAGHDAD, Iraq — U.S. forces widened their operations against insurgents in northern Iraq on Tuesday, launching an attack on the Euphrates River stronghold of Haditha only days after evicting militants from Tal Afar. Residents also reported American air strikes in the same region near Qaim.

The Americans called in bombing raids in Haditha, 140 miles northwest of the capital. They captured one militant with ties to al-Qaida in Iraq and killed four others.

In the volatile city of Qaim, about 80 miles northwest of Haditha, residents said clashes broke out between insurgents and coalition forces. The U.S. military did not confirm the air strike.

In the south, a roadside bomb killed four people near Basra — an attack that was a twin to a deadly bombing in the area last week. Iraqi police said the dead were four American contract workers, but U.S. officials were unable to confirm the nationalities of the victims. Last Wednesday, a roadside bomb near Basra hit a passing convoy of U.S. diplomatic security guards, killing four Americans.

President Jalal Talabani, meanwhile, said in Washington that Iraq would not set a timetable for the withdrawal of U.S. troops, declaring at a news conference with President Bush that the American force still was needed. The Bush administration is under increasing pressure at home to set a date to begin pulling out the 140,000 U.S. troops.

"We will set no timetable for withdrawal. A timetable will help the terrorists," Talabani said. He said he hoped Iraqi security forces could take responsibility for the country by the end of 2006.

Bush pledged to stand by Iraq despite "acts of staggering brutality" aimed at destabilizing the country.

A U.S. Army commander said Tuesday that extremist fighters battling for control of Tal Afar in northern Iraq had committed atrocities against civilians, including beheadings, torture and the booby-trapping of a murdered child's body.

"The enemy here did just the most horrible things you can imagine — in one case murdering a child, placing a booby trap within the child's body and waiting for the parent to come recover the body of their child and exploding it to kill the parents; beheadings and so forth," Col. H.R. McMaster, commander of the 3rd Armored Cavalry Regiment, said in an interview from Tal Afar with reporters at the Pentagon.

McMaster said Tal Afar is not yet under the control of the 5,000 Iraqi government forces and 3,500 to 3,800 U.S. troops that have been fighting together there for the past two weeks. Tal Afar lies about 50 miles from the Syrian border.

Iraqi Foreign Minister Hoshyar Zebari, speaking in Washington, said Syria was playing a "dangerous game" in allowing insurgents to penetrate Iraq from Syrian territory.

"Don't think you can benefit from our difficulties. It may be for the short term, but for the long term it might backfire on you," he warned Iraq's neighbor to the West.

Bush also renewed criticism of Syria, accusing it of doing too little to control the flow of fighters across the border.

"The Syrian leader must understand we take his lack of action seriously," he said. "The government is going to be more and more isolated."

Syrian officials say they are doing all they can and deny they offer sanctuary to insurgents.

During Sunday's operation in Tal Afar, Iraqi Prime Minister Ibrahim al-Jaafari closed the closest Syrian border crossing. Iraqi officials say most of the insurgents they flushed out of the city were foreigners who entered the country from Syria.

After the raid Tuesday on Haditha, Associated Press Television News videotape showed at least three houses that residents said were demolished in the U.S. air strike. The U.S. military said American jets destroyed a vehicle used by one of the insurgents. Haditha is one of a series of towns in the Euphrates River valley controlled by militants.

U.S. forces have been conducting random raids and air strikes in the region that target insurgent safe houses and weapons caches.

In Baghdad, insurgents shelled the heavily fortified Green Zone, firing two mortar rounds that exploded near a military hospital inside the protected area that houses the U.S. Embassy, the Iraqi government and parliament and other foreign missions. There were no casualties.

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In the Shiite holy city of Karbala, 50 miles south of Baghdad, police banned trucks from entering the city as of Tuesday and said they would prohibit cars from entering beginning Thursday. The move was a precaution against bomb attacks on 3 million pilgrims expected for a key religious festival early next week.

The stringent security measures in Karbala reflect fears that birthday celebrations for Imam al-Mahdi al-Muntadhar, a 9th-century religious leader, could be marred by attacks by Sunni Arab insurgents, many of whom view Shiites as heretics.

Insurgent attacks on similar celebrations throughout the country have left hundreds dead in the past two years, prompting authorities to impose increasingly restrictive measures.

The security plan involves roughly 5,400 provincial policemen, including police commandos and about 750 Iraqi soldiers, Karbala police chief Brig. Karim Al-Hasnawi told The Associated Press.

"The main duty for the army battalion and the 1,400 police special forces will be to set up check points on a 25-mile radius around the city to secure the main highways leading to the city and the surrounding farming areas," said Al-Hasnawi.

U.S. Commander: Iraq Fighters Use Torture (AJC/AP)

By Robert Burns, Ap Military Writer

The Atlanta Journal-Constitution, September 14, 2005

WASHINGTON — A U.S. Army commander asserted Tuesday that extremist fighters in northern Iraq committed atrocities against civilians, including beheadings, torture and the booby-trapping of a murdered child's body.

The accusations by Col. H.R. McMaster, commander of the 3rd Armored Cavalry Regiment, included some of the most graphic and specific charges by an American military officer during the ongoing

battle for control of Tal Afar, a city about 50 miles from the Syrian border that has been an insurgent stronghold.

"The enemy here did just the most horrible things you can imagine — in one case murdering a child, placing a booby trap within the child's body and waiting for the parent to come recover the body of their child and exploding it to kill the parents; beheadings and so forth," McMaster said in an interview from Tal Afar with reporters at the Pentagon.

McMaster said Tal Afar is not yet under the control of the 5,000 Iraqi government forces and 3,500 to 3,800 U.S. troops that have been fighting together there for the past two weeks. He predicted eventual victory but said it was impossible to know how long it would take before the Iraqis can control Tal Afar by themselves.

"Is Tal Afar secure? No, it's not secure," he said. "Is the enemy on the run in Tal Afar? Yes, the enemy's on the run. And we're going to conduct some follow-on operations in the next week or so to relentlessly pursue the enemy across the city."

McMaster repeatedly condemned the tactics of the insurgents, whom he called terrorists and extremists.

"Not only were they targeting civilians, brutally murdering them, torturing them, but they were also kidnapping the youth of the city and brainwashing them and trying to turn them into hate-filled murderers," he said.

His comments came two days after the al-Qaida leader in Iraq, Abu-Musab al-Zarqawi, purportedly accused American forces of using poison gas in the Tal Afar fighting, a charge that U.S. officials have denied. The accusation was made in an audiotape posted on the Internet on Sunday and attributed to al-Zarqawi.

McMaster alluded to that accusation and said he believed the insurgents had planned to detonate chemicals in a building in a residential area and then claim that U.S. forces had employed poison gas against civilians.

"In one of these buildings the enemy had big barrels of chemicals that had explosives implanted in the chemicals, wires running around them. The whole house was rigged for demolition," he said.

When U.S. troops went into the house, "immediately their eyes began burning, their throats began burning. So they withdrew out of the house immediately and then we conducted reconnaissance with some chemical protective gear, with a remote reconnaissance capability, into the house. And we could tell that the thing was rigged with chemicals."

McMaster also said U.S. troops found manuals that described how to make "these kind of chemical dirty bombs and so forth."

In Tall Afar, A Brawl To Blow Off Some Steam (WP)

By Jonathan Finer

The Washington Post, September 14, 2005

TALL AFAR, Iraq, Sept. 13 -- After months of preparing for a battle with insurgents that never fully materialized and 12 days of running around this city from dawn to dusk, the soldiers of Eagle Troop did what soldiers often do with unspent aggression.

They fought each other.

Squaring off Tuesday evening in the front yard of a home they had commandeered to be their command post for the final stage of the assault on Tall Afar, they grappled one-on-one on the grass for hours. Good-natured taunts flew. T-shirts and

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uniform pants were torn. And as the sun began to fall behind the stone buildings of this restive city, an audience of hecklers grew.

At the end of a particularly one-sided bout between soldiers mismatched by at least 100 pounds, Pfc. Hector Rodriguez, 21, an accomplished trash-talker from Buffalo, pointed at the preening victor and said to the vanquished: "What's he got in his hand? That's your manhood, son."

During the incursion into Tall Afar, a city of more than 200,000 located about 40 miles from the Syrian border in northwestern Iraq, more than 550 suspected insurgents have been killed or captured this month, commanders said. Much of the fighting was carried out with airstrikes or by the Iraqi army, which led the assault.

Though the operation is to continue through the end of the month, "the 24-hour curfew on the people moving in the street is lifted today, and the ban on driving cars in the street ends in the coming days," Najim Abdullah Jabouri, the newly appointed mayor, said at a news conference Tuesday.

Jabouri, a former general in ousted president Saddam Hussein's army who was installed as the city's police chief four months ago by U.S. and Iraqi forces, said thousands of people who fled the city in recent months would soon be encouraged to return.

With the current phase of the operation over, the soldiers of Eagle Troop, part of the U.S. Army's 3rd Armored Cavalry Regiment, planned to spend at least the next few nights at their base outside the city.

"We planned for this for months, and whenever you plan for an operation for that long, you always hope you have a bit more contact with the enemy than we did. But you also look back and say we didn't get anybody hurt, and that is definitely a good thing," said Capt. Noah Hanners, 26, of Chillicothe, Ohio, the leader of the troop's Blue Platoon.

He had told his charged-up troops from the start of the attack to show restraint, to avoid destroying property in the dozens of homes they raided across the city. But as the wrestling matches escalated Tuesday, each ending with a handshake and applause, Hanners took a seat on the grass and cheered with the others.

"Blue Four versus Blue One," came a shout from a rooftop, using radio call signs to request a match between Hanners and Sgt. 1st Class Herbert Gadsden, the platoon's two senior soldiers.

"No, man, that's like watching your parents fight," said another soldier to peals of laughter that signaled the showdown was canceled before it started.

Despite the lack of extensive fighting during the offensive, soldiers had slept an average of less than five hours a night over nearly two weeks and were exhausted. They were constantly on foot and constantly on the move from the moment they woke on a rooftop or living room floor or back yard of a commandeered home.

Working 18-hour days, they covered almost a quarter of the city, dashing from house to house or leaping between rooftops, kicking down doors or smashing them with sledgehammers -- while carrying 40 pounds of equipment. They were routinely shot at but could rarely tell where the bullets came from.

Without interpreters who spoke Turkish, the predominant language in this city where most people are ethnic Turkmens, interrogations often involved hand gestures or pidgin English or Arabic. American soldiers said they were lied to constantly.

Last week, a man in the eastern neighborhood of Hassan Koy communicated to them during a stilted, gesture-filled conversation that he was a teacher and that there were no weapons in his home. They found an Iraqi police armband and uniform in a closet. He said he did not know where the items had come from. Then they found a police academy graduation certificate made out in his name and a 9mm pistol sewn into a pillow.

"This is ridiculous. I don't even get whether he was lying because he was a policeman and didn't want us to know or because he was faking it," one soldier said.

At least some of the soldiers' frustration appeared to dissipate during Tuesday night's fights. Shouts and jeers came from troops assembled on rooftops and lining the yard to prevent combatants from slamming into head-high stone walls. The noise drew curious soldiers from an Iraqi army unit stationed across an arid field. Soon they wanted in.

Spec. Bernard Penegor, 19, of Rockland. Mich., fought to a draw with a feisty Iraqi corporal, who afterward presented him a small medal inscribed with Arabic writing.

At 7 p.m., Eagle Troop took a brief break for a group photograph to commemorate the operation. Then it was back to the bouts.

"We'll probably do this all night until someone gets killed," joked Spec. Jason North, 19, of Santaquin, Utah. "Not that we'd stop just 'cause someone gets hurt. I mean, this is Iraq. It happens."

Praise And Questions For Iraqi Prime Minister In Michigan (NYT)

By Danny Hakim And Jeremy W. Peters

The New York Times, September 14, 2005

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DEARBORN, Mich., Sept. 13 - This city's Iraqi-American population, who form one of the world's largest Iraqi expatriate communities, loathed Saddam Hussein. Tuesday evening, they embraced Ibrahim al-Jaafari, Iraq's first democratically elected prime minister, at times shouting poetry and prayer in his praise.

But they also had plenty of questions in a town hall meeting that was at times contentious. Attendees asked Mr. Jaafari about the future of Kirkuk, whether the rights of Chaldeans would be respected, whether there were still Iraqi prisoners of war in Iran and whether Iraqi embassies throughout the world and government agencies in the country were still stocked with former Baathists. And they wanted to know when justice and the rule of law would return to their native land.

"What moves me is my desire to work for my country and for you," Mr. Jaafari told the crowd of several hundred at a Ritz-Carlton hotel. "Just as we were once upon a time imposed on by this tyrant, we are now imposed upon by this group of terrorists," he said, adding that it was his top priority to combat terrorism. He said the country was making progress in lowering the number of daily car bombings, but added that there were very likely still hostile elements even inside the different institutions within the government.

"Don't think the time between May 3 and now is enough to diminish 35 years of Saddam's rule," he said, referring to the day he took office. "Don't think that anything is going to happen overnight. We need time."

Mr. Jaafari is a medical doctor who fled Iraq in 1980 when Mr. Hussein began rounding up members of the Dawa Party, which Mr. Jaafari now leads. He returned to Iraq shortly after the war began. On Monday, an insurgent group put a $100,000 bounty on him, coinciding with his visit to Tal Afar in northern Iraq, the site of a major coalition operation against insurgents.

Mr. Jaafari seemed somewhat wearied from his trip; he arrived in town shortly before his speech. He addressed a small group of local community leaders and then the crowd of several hundred for about an hour before sitting to listen to a stream of questioners.

He said he had personally asked Iranian officials about P.O.W.'s and had been told there were none. He assured a Chaldean in the crowd that his ethnic group would not be overlooked, adding that he had personally mentioned them in his acceptance speech after his selection. And he repeatedly asked for patience.

Nisrin Kadum, 49, a banking specialist at Comerica Bank who fled Iraq in 1979, was almost shouted down when she asked about the role of women in the country. "What kind of rights do women have in this Constitution?" Ms. Kadum said in a later interview, expressing anger at the Islamic bent of the constitution. "There is something missing in this Constitution. We want something more for this government."

Mr. Jaafari quoted parts of the new Constitution, saying, "It does provide several points to protect women's rights in all aspects."

Most of Dearborn's Iraqi-Americans are Shiite, as is Mr. Jaafari, and there is a visible Chaldean Christian community as well. Most have a story to tell about what Mr. Hussein did to their family. Many said they were distressed by the country's lack of stability and came seeking a progress report.

Abir Aldhalimi, a 20-year-old college student, said she no longer watched television for news on Iraq because she could not bear to see all the death. "It's not getting better," she said, "it's getting worse."

Her mother, Samira Alzayadi, 42, interrupted. "Saddam was a criminal; to have anything else is better," she said.

Mr. Jaafari, speaking of his visit to Tal Afar, said the Iraqi army had "succeeded in their honorable work in preventing the terrorists and removing them from the city." His comments, made in Arabic, were translated for a reporter by Dr. Basim M. Al-Khafaji, the director of the pathology residency program at a local hospital.

Imam Husham Al-Husainy, one of the organizers of the event, said of the crowd: "They see a prime minister among them. They see hope and they see the democratic process is working. It used to be dreams. Now it is a reality."

Iraq May Expand Death Penalty (LAT)

By Noam N. Levey

The Los Angeles Times, September 14, 2005

BAGHDAD — Struggling to fight back against insurgents roiling the country, Iraqi lawmakers have begun to debate sweeping anti-terrorism legislation that could significantly expand use of the death penalty.

Iraq's leaders, who have been widely criticized at home for not doing enough to protect their citizens, are contemplating expanding the list of crimes punishable by death to include offenses such as attacking government buildings, using explosives to kill people and advocating sectarian violence.

But like many issues in Iraq, the debate is being shadowed by the bloody legacy of Saddam Hussein and the religious and ethnic divisions that many fear are feeding the current violence.

Although many Iraqis have been calling for more executions since the insurgency began, some Sunni Arabs fear that they will be unfairly targeted by the death penalty because the rebellion is centered in Sunni regions of the country.

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And human rights groups are expressing concern that an expanded use of the death penalty may push Iraq back toward a time when the government wantonly executed its opponents.

"We have to be careful," acknowledged Thamer Ghadban, a Sunni legislator with the secular Iraqi List slate, who nonetheless said he was confident that lawmakers would pass a cautiously worded bill that would be implemented fairly.

"We need some kind of a response to these terrorists, to make them think two or three times before they decide to carry out terrorist acts," said Ala Noori Talabani, a member of the transitional National Assembly with the Kurdish alliance. "Otherwise, what will make people afraid to commit these crimes?"

U.S. authorities initially banned the death penalty after American-led forces deposed Hussein in 2003.

When Iraq's first transitional government took control last year, it immediately reinstated the death penalty, which is common throughout the Middle East. But delays in reforming the country's justice system slowed its use, to the growing frustration of many Iraqis who saw the delays as evidence of their government's impotence.

Iraqi President Jalal Talabani has been on the defensive recently for saying he personally opposes the death penalty, even for Hussein, who is set to go on trial next month on charges stemming from a 1982 massacre of 143 Shiite Muslims.

This month, Iraqi officials carried out the nation's first executions since the fall of Hussein, hanging three men convicted of murder, rape and kidnapping in the southeastern city of Kut.

Executions are a significant demonstration of the democratic government's credibility, said Laith Kubba, a spokesman for Prime Minister Ibrahim Jafari.

"If Iraqis do not get an effective government that will enforce law and order, then the outcry, the pressure for a strongman, may be dangerously strong," Kubba warned recently.

Iraq's current law makes numerous crimes punishable by death, including murder, sedition and some drug offenses, said Tariq Harb, a prominent Baghdad attorney.

According to a draft of the anti-terrorism legislation, people convicted of attacking police officers, army personnel and diplomatic missions could be subject to the death penalty. So too could those who arm, mobilize or finance citizens to carry out attacks against other sectarian groups. Lending assistance in any of the crimes also could be punishable by death.

The sweeping language of the legislation has prompted the National Assembly to try to clarify the proposal, lawmakers said. Ghadban said the original language could have made a taxi driver who drove a terrorist to a target subject to the death penalty. Those ambiguities will be cleared up, he and others said.

But talk of expanding the death penalty is already making some Sunni leaders and citizens uneasy.

At Baghdad's large Umm Qura Mosque, cleric Mahmoud Sumaidaie warned Friday against unjust uses of force by authorities. And several Sunnis who came to pray expressed misgivings about expanding the death penalty.

"I support the principle of execution," said Mohammed Dhiaa, a Baghdad shop owner. "But I fear that if the law is implemented, it will be imposed on one part of society more than another…. I fear that many will be executed."

Lawmakers said they expected the final anti-terrorism bill to pass within the next several weeks.

Guess Who's Coming To Dinar (WSJ)

By Amir Taheri

The Wall Street Journal, September 14, 2005

In the Tehran moneychangers' bazaar on Manuchehri Street, traders are always on the lookout for the new sogoli. The word, which means "top flower," is used to describe anyone or anything that is popular at any given time -- a thoroughbred steed, a beauty in the harem and, on "Foreign Exchange Street," the dozens of currencies traded each day. These days the moneychangers' sogoli is a surprise newcomer: the Iraqi dinar.

Iraq's currency of change.

With the world media depicting Iraq as a ship sinking in a sea of blood, and self-styled experts predicting civil war or disintegration, it is hard to imagine why anyone would want to abandon such all-time favorites as the U.S. dollar and the euro, not to mention the oil currencies of the region, in favor of the world's newest money.

One reason, of course, is the sharp rise in the supply of dollars, a result of the dramatic increase in the price of oil. (Iran is earning something like $200 million each day from its oil exports.) Another reason is that hundreds of thousands of Iranians have registered to travel to Iraq to visit Shiite sites in Najaf, Karbala, Samarra and Kazemiah. Under a recent agreement, an average of 1,000 Iranians are allowed to perform the pilgrimage each day. (The number is to rise to 5,000 a day in two years.) To these must be added several hundred non-Iranian Shiites, mostly from the Indian subcontinent and the Persian Gulf, who travel to Iraq via Iran after visiting the Iranian holy city of Mash'had.

Yet another reason for the increased interest in the Iraqi dinar is the dramatic increase in the volume and value of unofficial exports from Iraq to Iran. Ironically, a good part of this trade consists of petroleum products, which are shipped from Iraq to four

Iranian border provinces. Thanks to Iraqi government subsidies, petrol is 30 times cheaper in Iraq than in Iran. (There is also much smuggling of petroleum from Iraq to Turkey, where petrol costs 160 times more). Adventurous Iranian businessmen, often working on behalf of well-connected mullahs, are also making a killing by importing foodstuffs, medical supplies and consumer goods from Iraq, especially the Kurdish areas, at prices that defy competition inside Iran.

Iraq is also benefiting from a slow but steady transfer of Shiite religious funds from many foreign countries, notably Iran. The reverse was the case under Saddam Hussein, when the Shiite foundations were anxious to keep as little of their assets in Iraq as possible. In the past year or so, several foundations have started to withdraw their assets from Iran. The trend was accelerated last spring after the Iranian government seized assets worth some $200 million from the Khoi Foundation, named after the late Grand Ayatollah Abol-Qassem Mussavi Khoi. It is suddenly Iraq, and not Iran, that looks like the safe haven for Shiite foundations.

Angered by increasing state intervention in religious affairs, a small but growing number of Shiite mullahs are leaving Iran to settle in Iraq. There is further concern that President Mahmoud Ahmadinejad's new administration -- dominated by the Islamic Revolutionary Guard -- may order a crackdown against the clergy.

Iraq's economic attraction, however, is not solely due to the arcane calculations of mullahs and pilgrims. It is also reflected in the latest report by the International Monetary Fund, published last month. It offers a mixed picture. For example, the report estimates Iraq's annual economic growth rate at just over 4% for 2005, a sharp drop compared to last year, when the economy grew by 52%.

But a closer look shows that the Iraqi economy still performed surprisingly well. The 52% growth rate represented exceptional circumstances in the aftermath of liberation and was unsustainable. Furthermore, the current 4% growth rate is higher than the average rates for the members of the Arab League. It is also a full percentage point higher than the annual average Iran achieved during the eight years of President Muhammad Khatami's administration.

If oil prices hold, Iraq's gross domestic product per head is projected to reach $3,000 next year, making it number 12 in the Arab League; in 2003, it was number 18. The IMF report shows that Iraq absorbed only $4.2 billion in investments in the non-oil sector of the economy compared to the $5.2 billion forecast last year. That figure, however, ignores investments made by small and mid-sized businesses, as well as farmers and individuals. Anecdotal evidence shows that such schemes are acting as the engine of growth in many parts of the country.

The key reason for the strong performance of the Iraqi dinar, however, may be the sevenfold increase in the nation's foreign currency reserves -- from less than a billion dollars to $7.3 billion. And the real figure may be higher because the report, finalized last July, does not reflect the latest rise in oil prices.

* * *

Some Americans might think that Iraq owes its robust economic performance to a flood of dollars provided by the U.S. taxpayers. The IMF report shows that this is not the case. Iraq is paying 90% of its own expenditures, including the cost of economic reconstruction. Of the remaining 10%, the U.S. accounts for four-fifths, with the rest coming from other donors. The bulk of the money the U.S. spends in Iraq is allocated to military and security operations, consultancy contracts and administrative costs.

The IMF speculates that within a decade Iraq could emerge as an engine of growth in the Middle East. Theoretically, this looks plausible. Iraq owns the world's second-largest deposits of crude oil and, once it produces its full OPEC quota, could take in up to $250 million a day from exports. It is also the only country in the Middle East that could easily double its agricultural production by introducing new farming techniques and equipment.

Nevertheless, Iraq's economic model suffers from two basic weaknesses. First, it is a rentier economy designed to distribute the oil income via state subsidies. Subsidies now account for 51% of the gross domestic product; the comparable figure in Iran is 22%, and 13% in Turkey. This limits the state's ability to invest in infrastructural projects, economic development programs and social services. It is clear that the current government under Prime Minister Ibrahim al-Jaafari lacks the political courage to reduce -- let alone abolish -- the subsidies that prevent the Iraqi economy from fully taking off.

The second weakness is the foreign debt inherited from Saddam Hussein, which amounts to $190 billion, including reparations distributed through the United Nations. (It excludes Iran's claim of over $1 trillion in damages.) Even under the best case scenario, servicing that debt could consume almost half of Iraq's GDP for the next decade. The best way to help Iraq would be for its creditors to write off the debts accumulated by an unrepresentative despot.

Iraq is in the process of crafting a more durable government. Economic reform should be a major part of that important effort.

Mr. Taheri is the author of "L'Irak: Le Dessous Des Cartes" (Editions Complexe, 2002)..

U.S. Considering Troop Reduction In Afghanistan (WP)

By Bradley Graham

The Washington Post, September 14, 2005

KABUL, Afghanistan, Sept. 13 -- U.S. military commanders have drafted plans to lower the number of American troops in Afghanistan by roughly 20 percent next year if NATO-led troops from Europe continue to widen their role in securing the country, according to senior officers here.

A reduction of as many as 4,000 of the nearly 20,000 American troops in Afghanistan would be the largest drop in a force that generally has grown since the U.S.-led invasion in late 2001 drove the Taliban from power and routed al Qaeda fighters.

The U.S. plan is contingent on an improving political and security situation in Afghanistan and on decisions still to be made by NATO about what types of forces it would commit and its willingness for them to engage in combat against insurgents, the officers said.

"It makes sense that as NATO forces go in, and they're more in number, that we could drop some of the U.S. requirement somewhat," Army Gen. John P. Abizaid, the senior U.S. commander in the region, said in an interview here. He stressed that no decision had been made to shrink the U.S. military presence.

The planning comes as intensified fighting in Afghanistan this year has killed more than 50 Americans, the highest death toll in any year since the troops arrived. U.S. officials say the increase is due in large part to aggressive moves by U.S. forces to root out guerrillas.

Although U.S. commanders expect the fighting to subside when harsh winter weather sets in, they anticipate another round of battles starting in the spring. "I think you have to get used to the cycle of fighting in Afghanistan," Abizaid said.

Even so, he and other commanders expressed confidence that the threat posed by the Taliban movement will dwindle as the Afghan government's authority spreads and Afghan forces become more capable.

NATO already leads a peacekeeping contingent of more than 9,000 troops known as the International Security Assistance Force, whose mandate was renewed for another year on Tuesday by the U.N. Security Council. In the past two years, the force has broadened its reach from its original base in Kabul, the capital, and now commands operations in the country's northern and western regions.

The alliance is moving toward assuming command in the southern region by May, which would leave the U.S. military responsible only for the eastern region.

But the expansion remains a sensitive issue in the alliance, particularly among member countries that have been reluctant to put their troops into combat as opposed to the less risky job of peacekeeping in relatively secure areas.

U.S. troops have so far borne the brunt of the fight with Taliban insurgents, whose strongholds are in remote parts of the south and the rugged hills of eastern provinces bordering Pakistan.

Defense Secretary Donald H. Rumsfeld, arriving in Berlin on Tuesday for a meeting of NATO defense ministers, urged the alliance to shoulder more of the work in Afghanistan and to better develop its counterinsurgency and counter-narcotics capabilities. The NATO ministers plan to discuss Afghanistan on Wednesday.

The NATO force being readied for the south will consist of troops from Britain as well as the Netherlands and Canada, countries with records of combat operations since 2001.

British Defense Secretary John Reid appeared to back Rumsfeld's message after talks with the Pentagon leader, telling reporters Tuesday that the alliance must "have forces which are not paper forces."

However, speaking to reporters in London before heading for Berlin, Reid had said that the expansion of NATO's forces in Afghanistan next year was not intended primarily to deal with insurgents. "Their primary mission will not be to go chasing Taliban all over the country," Reid said, according to news service reports.

Handing more responsibility to NATO would appear to lighten the load on the U.S. military much faster than waiting for Afghanistan's fledgling security forces to become ready to conduct counterinsurgency operations on their own.

The Afghan army has grown to about 25,000 troops, and the Afghan police force has about 50,000 members. But U.S. commanders acknowledged in interviews here in the past two days that the development of both security branches has run into problems.

Concern about continuing shortfalls in logistical and other support for Afghan army units in the field recently prompted Army Lt. Gen. Karl W. Eikenberry, the senior commander in Afghanistan, to slow the formation of new battalions, from about two a month to one.

And a move to set up what officers call "partnering relationships" between Afghan and U.S. units to foster on-the-job training is only now beginning. The first joint operation between an Afghan battalion and an American one occurred last week in the northeastern province of Konar.

"This question of partnering is something we've now aggressively adopted," Eikenberry said, "but perhaps we could have moved on that piece a little bit earlier."

The police suffer serious shortages of weapons, vehicles and communications gear and a reputation for corruption. "It's more or less a hollow force," said Air Force Maj. Gen. John Brennan, who oversees the development effort.

Germany has had the lead in training the police under an international division of responsibility set up after the 2001 invasion. But the Pentagon recently stepped in, broadening the effort by adding a mentoring program using foreign civilian law enforcement veterans and developing Afghan trainers. The United States also has allotted $860 million for police equipment, with the goal of establishing what Brennan called "a credible, well-equipped" force by the end of 2009.

Even if U.S. force levels in Afghanistan drop significantly next year, a sizable U.S. military presence in this country is likely for some years, according to U.S. and military diplomatic officials here.

The United States would continue to have what Eikenberry called "enduring missions" in Afghanistan, including the development of Afghan's security forces and the struggle against the country's vast poppy crop and opium trade.

U.S. forces also will be needed to provide airlift, intelligence and other logistical assistance to NATO allies. "We have to keep a force that's agile enough to back up NATO," said Ronald E. Neumann, the U.S. ambassador here. "NATO is not a question of providing some excuse for us to quit the mission early."

Under a longer-term alliance plan that envisions NATO taking command of Afghanistan's eastern sector, U.S. ground forces would continue to play the lead role there.

With elections due Sunday for a national assembly and provincial councils, the U.S. military command here is bracing for a possible surge in violence, although the level of insurgent activity in recent days has been lower than officers expected.

The potential for danger will not pass with the election and might intensify in the aftermath, U.S. officers here warned. They noted that millions of ballots must be transported from distant villages to central counting centers and that victorious candidates would likely end up waiting several months to be sworn into office.

Rumsfeld Urges NATO To Expand Afghan Role (WSJ)

By Greg Jaffe

The Wall Street Journal, September 14, 2005

BERLIN -- Defense Secretary Donald Rumsfeld urged NATO nations to continue efforts to expand their presence in Afghanistan -- a move that eventually could enable the U.S. to draw down its own troops in the country.

The North Atlantic Treaty Organization's 11,000 troops have taken over security missions in northern and western Afghanistan, and by mid-2006, U.S. officials say they believe NATO troops will take over security in the country's once-restive south. The increased NATO presence and the development of Afghan security forces eventually should allow the U.S. to begin reducing its presence, Mr. Rumsfeld said.

He didn't give a time frame, saying any reduction would depend on conditions on the ground. With U.S. troops stretched by missions in Iraq, Afghanistan and now disaster relief on its own Gulf Coast, where about 71,000 U.S. troops are helping, any cuts would be welcome. Mr. Rumsfeld said the flow of troops into Louisiana, Mississippi and Alabama has stopped.

In recent months, the U.S. boosted its presence in Afghanistan to about 20,000 troops to help secure the elections scheduled for this weekend. U.S. troops also are the main counterinsurgency force, performing raids along the border with Pakistan. Mr. Rumsfeld suggested the U.S. would like NATO personnel eventually to take a larger role in counternarcotics operations and take over -- at least in part -- the counterinsurgency mission.

There has been debate within NATO nations over whether the alliance's troops should be involved in counterinsurgency operations. In Germany, which holds an election Sunday, the subject of how German troops might be used has become a polarizing issue.

British Defense Secretary John Reid, appearing with Mr. Rumsfeld in Berlin, told reporters he supports the U.S. push for a bigger NATO role. NATO "has to have forces which are not paper forces," he said after meeting with Mr. Rumsfeld, adding that there must be a balanced approach to Afghanistan combining economic development, counternarcotics and offensive raids on insurgents and terrorists.

U.S. May Start Pulling Out Of Afghanistan Next Spring (NYT)

By Eric Schmitt And David S. Cloud

The New York Times, September 14, 2005

KABUL, Afghanistan, Sept. 13 - Senior Pentagon and military officials are discussing a proposal to cut American troop levels in Afghanistan next spring, perhaps by as much as 20 percent, the largest withdrawal since the Taliban were ousted in late 2001.

The troops would be replaced by NATO soldiers, who now oversee security and reconstruction missions in northern and western Afghanistan and are to take over an American command in the south next spring. American troops have been taxed by

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lengthy deployments in Iraq and Afghanistan, and Pentagon officials have sought to replace them with indigenous or allied troops.

But Germany, supported by Britain, France and other European allies, said Tuesday at a meeting of defense ministers in Berlin that it strongly opposed any American-backed restructuring of the NATO command structure that could lead to having alliance troops become involved in counterinsurgency.

Because those operations represent a large part of American troop activity in the south, it is not clear whether the reductions can go forward. In the past few months, violence has surged in the south, with Taliban forces conducting a campaign of assassinations and intimidation ahead of elections on Sunday.

Military officials emphasize that any reductions in the nearly American 20,000 troops in Afghanistan hinge on resolution of the details with NATO, successful parliamentary and provincial elections and stable security.

"It makes sense that as NATO forces go in, and they're more in numbers, that we could drop some of the U.S. requirements somewhat," Gen. John P. Abizaid, the head the United States Central Command, said in an interview here on Tuesday.

General Abizaid declined to give an exact number of potential troop cuts. But another senior officer, who spoke anonymously because the decision is not final, said the Pentagon could reduce force levels by as much as 20 percent, or about 4,000 troops.

American officials were quick to note that the United States would still have the largest number of foreign soldiers in Afghanistan, and would remain committed to ensuring political, economic and security gains in the country.

At the meeting in Berlin, Defense Secretary Donald H. Rumsfeld said he would urge the alliance to expand its role in Afghanistan beyond its security and peacekeeping duties.

Although Mr. Rumsfeld emphasized that American troops would continue to handle the counterinsurgency mission "for a time," he said NATO should consider deploying troops to the eastern border region, which the United States oversees and where much of the fighting is occurring. He added that "over time, it would be nice if NATO developed counterterrorism capabilities, which don't exist at the present time."

But the German defense minister, Peter Struck, said merging NATO's peacekeeping mission with the American combat operation under a single commander would fundamentally change NATO's role in Afghanistan and "would make the situation for our soldiers doubly dangerous and worsen the current climate in Afghanistan." Officials in Britain and France also voiced opposition to the idea.

Some American officials played down the dispute, saying that while they were seeking to combine the operations of American and NATO forces, they were not committed to any particular approach, and that a consensus would be worked out.

To overcome European opposition, the Pentagon is proposing, among other ideas, a joint NATO command structure in which countries willing to contribute troops to counterinsurgency would be under one officer, while allies that want to continue to conduct peacekeeping and other noncombat roles would fall under another. The two contingents would fall under one overall commander.

Both France and Germany have small special forces involved in combat alongside American troops, but most of the European contribution is to the 11,000 officers in the International Security Assistance Force, which conducts peacekeeping and security duties in Kabul and in the north and west.

Britain, Canada and the Netherlands have already agreed to take over the NATO command in the south, where American troops have clashed with Taliban, in particular north of Kandahar. But it is unclear if the force in the south will be intended for counterinsurgency.

American commanders say they are bracing for factional violence to extend through the ballot-counting process and until the new legislators are seated in December or January. “We have to be prepared for uncertainty after the announcement of the candidates,” Lt. Gen. Karl W. Eikenberry, the senior American commander in Afghanistan, said in an interview.

Throughout Afghanistan on Tuesday, the American military continued gearing up for an anticipated spike in insurgent attacks just before the voting. Virtually all American troops will stand by, out of sight, to safeguard some 6,200 polling stations, which will be ringed with Afghan soldiers and police officers. American commanders say they are bracing for factional violence to extend through the ballot-counting process and until the new legislators are seated in December or January. "We have to be prepared for uncertainty after the announcement of the candidates," Lt. Gen. Karl W. Eikenberry, the senior American commander in Afghanistan, said in an interview.

Attacks against American forces are down slightly from a year ago, commanders said, but this year's violence has been deadlier, with assassinations and roadside bombings killing 2 candidates for Parliament and at least 16 others.

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Sixty-nine American service members have been killed in Afghanistan this year, the deadliest for United States troops since the war in 2001. Some deaths resulted from stepped-up American offensives in areas sympathetic to the Taliban. Lt. Col. Gerald J. O'Hara, a military spokesman, said coalition troops had killed about 600 insurgents since March.

Maj. Gen. Jason K. Kamiya, the American commander of daily tactical operations in Afghanistan, gave details on a new plan to outfit Afghan soldiers to fight through the winter, when both insurgent and allied troops usually curtail operations because heavy snows make travel through mountainous regions extremely difficult.

General Kamiya said in an interview that he wanted to keep the pressure on Taliban fighters as they leave their summer fighting positions for sanctuary in Pakistan or deep in the Afghan interior.

He said he was also planning to spend $68 million in reconstruction projects by next spring in an effort to show the Afghan people that combat operations were pushing ahead along with improvements to their villages and towns.

In a similar effort to impress villagers in the Taliban heartland, Army engineers and the Agency for International Development recently completed a $35 million, 74-mile road connecting Kandahar to Tarin Kwot, cutting a bone-jarring 11-hour drive to 3 hours.

Pakistanis Seize 21 Militants

By The New York Times

PESHAWAR, Pakistan, Sept. 13 - A top Pakistani military commander here said Tuesday that his forces had arrested 21 militants in its mountainous northwest region, found a remotely piloted spy plane and seized a cache of arms and communications equipment believed to be used in insurgent operations in Afghanistan.

The commander, Lt. Gen. Safdar Hussain, in charge of military forces and tribal agencies in the North West Frontier Province, also said his forces had detected an office for recruiting men to fight the government and Americans in Afghanistan.

Rumsfeld Seeks NATO Role In Afghanistan (AJC/AP)

By Lolita C. Baldor, Associated Press Writer

The Atlanta Journal-Constitution, September 14, 2005

BERLIN — NATO should ultimately take over anti-terrorism operations in Afghanistan handled by the U.S.-led coalition, Defense Secretary Donald H. Rumsfeld said Tuesday, but he refused to set a timetable for drawing down American troops.

Speaking to reporters at the beginning of a two-day NATO meeting, Rumsfeld also rejected suggestions that the United States might begin pulling troops out of Iraq by the end of the year, saying the departure would be determined by what is occurring in that country.

"It's all condition-based," Rumsfeld said.

Affirming that position was the British defense minister, John Reid.

"We are in Iraq for as long as it takes to solve the problems in Iraq," Reid said, "until the job is done."

More detailed talk was stifled by fears about increased violence accompanying parliamentary elections in Afghanistan scheduled for this coming weekend, as well as the upcoming elections in Germany, where some have openly opposed any increased combat missions for NATO.

Afghanistan's elections come four years after the U.S. invaded the country to overthrow the Taliban. Insurgents have vowed to disrupt the balloting.

Rumsfeld said NATO's move to take on a larger role in Afghanistan, including drug interdiction, will be a key topic of discussion throughout the meeting.

"Over time it would be nice if NATO would develop counterterrorist capabilities which don't exist at the current time," he said.

NATO has 11,000 mostly European troops providing security in northern and western Afghanistan. Around 19,000 U.S.-led troops cover the south and east.

NATO plans to expand slowly its peacekeeping role and eventually take primary responsibility for security in the country. Thirty-five countries have troops in Afghanistan, including a number of non-NATO nations.

Under the NATO plan, German troops will take the lead role in the north, Italians in the west, British in the south and Americans under NATO command in the east. French and Turkish troops will lead in Kabul — working alongside Afghanistan's fledgling army and police.

Rumsfeld said he is also urging his defense counterparts to find ways to increase the military flexibility of NATO's forces and the financing for the alliance. Several countries put limits on the military activity their forces can engage in as part of NATO, such as limiting where they can go or what type of combat force they can use.

Rumsfeld declined to single out which countries he felt posed problems. He said there are 17 pages of edicts limiting where troops can go and what they can do.

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"Different restrictions on national forces makes it enormously difficult for commanders to have the flexibility to function," said Rumsfeld.

In addition, he said a funding increase is needed because some smaller countries have lower defense budgets or must plan their spending so far in advance that it makes it difficult for them to respond quickly to changing military needs.

Rumsfeld said he hopes that changes in the structure of NATO will eventually allow the alliance to reduce some of its forces in Kosovo as well.

Rumsfeld plans to meet privately with several of his colleagues Wednesday, including Russian Defense Minister Sergei Ivanov.

Meanwhile, Afghan President Hamid Karzai said the U.S.-led coalition needs to reconsider the way it is fighting Taliban-led rebels. His comments came after six months of fierce battles that have left more than 1,200 dead.

"We and the international community, the coalition, must sit down and reconsider and rethink whether the approach to the threat of terrorism that has (been) taken is the absolutely right one," he told British Broadcasting Corp. in an interview broadcast Tuesday.

He suggested combating the problem where "terrorists are trained" but declined to elaborate.

Afghan officials say many insurgents train in secret bases in neighboring Pakistan, despite denials from Islamabad.

3 Charged In Prisoner Abuse Case (NYT/AP)

By The Associated Press

The New York Times, September 14, 2005

FORT BLISS, Tex., Sept. 13 (AP) - An Army officer and two more of his soldiers from a Reserve unit have been charged in a prisoner abuse investigation in Afghanistan, the Army announced Tuesday.

The officer, Capt. Christopher M. Beiring, who led the 377th Military Police Company based in Cincinnati, was charged with dereliction of duty and making a false official statement. He is the first officer to be charged in the investigation.

The abuse case primarily involves two detainees who died at the Bagram Air Base detention center, where Captain Beiring's unit worked. The first, Mullah Habibullah, was found dead in his cell at the detention center just days after being taken into American custody in December 2002. A second detainee, Dilawar, arrived at Bagram the day after Mr. Habibullah died. Mr. Dilawar died about a week later.

Investigators say Captain Beiring did not properly train or supervise soldiers under his command in legal uses of force, according to documents released by the Army. He is also accused of failing to take steps to correct the soldiers' actions - as directed by his superior and a legal adviser - after Mr. Habibullah died. In addition, Captain Beiring is accused of lying about training his soldiers received.

Staff Sgt. Brian L. Doyle and Sgt. Duane M. Grubb, both from the unit Captain Beiring commanded, were also charged Tuesday. Sergeant Doyle faces charges of dereliction of duty and maltreatment. Sergeant Grubb is accused of assault, maltreatment and making a false official statement.

U.S. To Fund Prison In Afghanistan (WT)

By Rowan Scarborough

The Washington Times, September 14, 2005

The Pentagon will help finance construction of a locally run military prison in Afghanistan as part of a plan to send to their home countries scores of terror detainees at the prison at U.S. Naval Base Guantanamo Bay, Cuba.

The releases in the next year or so could reduce the prisoner population at the base to less than 400, from a one-time high of 800. There has not been a new detainee sent to Guantanamo since last September.

"We hope that in the future there will be less need for us to detain large numbers there," Matthew C. Waxman, deputy assistant secretary of defense for detainee affairs, told The Washington Times. If any new detainees come to Guantanamo, he said, "it would be at a much slower, small rate of inflow than anything that we saw at the beginning" in 2002.

Instead, the Bush administration is embarking on a new strategy.

Mr. Waxman said the United States will help Afghanistan build a military prison to detain enemy combatants and to accept transfers from Guantanamo. A defense official could not supply details on the new prison, saying talks were in the early stages. The Pentagon also has made Guantanamo more selective, looking only for detainees thought to hold valuable intelligence information about terror networks.

Of the 500 detainees at Guantanamo, more than 100 are Saudi Arabians and 110 are Afghans. The United States has signed a deal with Afghanistan to gradually repatriate detainees on assurances that they will not be released to fight again. The Pentagon and State Department are "far along" in inking a similar agreement with Saudi Arabia, Mr. Waxman said.

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The deals could result in the prisoner population at Guantanamo shrinking significantly in the next several years. It also would present fewer opportunities for attorneys of the detainees to pursue cases in U.S. courts. Two federal appeals courts have sided with President Bush on his asserted right to hold enemy combatants.

Mr. Waxman is part of a movement to reform the Pentagon's prisons in Afghanistan, Iraq and Guantanamo. The changes come in response to the abuse of some detainees by U.S. military personnel and to criticism from human rights groups.

The Pentagon started 12 senior-level investigations, resulting in nearly 500 recommendations for improvement. Congress convened 31 hearings, and the military conducted more than 500 criminal probes.

Mr. Waxman's post was created to advise Defense Secretary Donald H. Rumsfeld on detainee policy. Mr. Waxman also coordinates operations with the Army, which runs the system, and reaches out to the International Committee of the Red Cross in Geneva.

In 2002, the prison network lacked adequately trained guards, field guidance on how to interrogate terror suspects and a good system of vetting complaints from Red Cross inspectors. Today, the Army is issuing new guidelines and has started modernized training programs. And prisoners have set up administrative review panels similar to parole boards that judge when inmates should be released.

"Over the past year, we've been quietly making significant changes across all aspects of detainee policy and operations," said Mr. Waxman, a Yale Law School graduate and former staffer on the White House National Security Council. "Detention operations today are more effective and humane than they were a year ago. ... We want to show that aggressive waging of the war on terrorism and humane treatment of detainees are not incompatible."

Pakistanis Seize Afghan Militants (NYT)

By Mohammed Khan And Somini Sengupta

The New York Times, September 14, 2005

PESHAWAR, Pakistan, Sept. 13 - With less than a week to go before the crucial elections in Afghanistan, a top Pakistani military commander here said Tuesday that his forces had arrested 21 militants along the border, found a remotely piloted spy plane and seized a cache of arms and communications equipment believed to be used in insurgent operations in Afghanistan.

The commander, Lt. Gen. Safdar Hussain, in charge of military forces and tribal agencies in the North West Frontier Province along the border, also said his forces had detected a recruitment office that was bringing in new fighters for the war against the Afghan government and the American-led forces there.

Afghanistan has blamed infiltrators from Pakistan for a rise in militant activity. As the government has prepared for national and provincial elections on Sunday, a new surge of violence from Taliban forces and their allies has been aimed at election workers, candidates and government installations along the border.

This week, Pakistan said it was willing to erect a fence to block the infiltration of militants into Afghanistan. General Hussain said he favored the idea but pointedly put the burden of fence-building on Afghanistan.

The general said his forces had found a Chinese-made drone aircraft that he said had been used by militants to spy on Pakistani Army activity, and displayed sophisticated radio equipment used to transmit instructions to fighters inside Afghanistan.

Pre-election violence showed no signs of letting up in Afghanistan. A candidate's convoy was hit Tuesday by a roadside bomb in eastern Nangahar Province, bordering Pakistan, wounding two members of his campaign team and two police officers.

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U.S. Attorney Nominated For Federal Judgeship In Eastern Kentucky (AP)

AP, September 14, 2005

LOUISVILLE, Ky. -- Greg Van Tatenhove, the chief federal prosecutor for the eastern half of Kentucky, is in line to become a federal judge after being tapped by President Bush.

Van Tatenhove, the U.S. attorney for the Eastern District of Kentucky, was nominated to fill a vacancy created on the federal bench when Judge Karl Forester took senior status in May.

In a statement Tuesday, Van Tatenhove thanked Bush for nominating him and expressed gratitude to Republican U.S. Sens. Mitch McConnell and Jim Bunning for their support.

The nomination requires confirmation by the U.S. Senate.

"I look forward now to the confirmation process and will withhold further comment until that process is completed," Van Tatenhove said.

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Van Tatenhove is well connected politically, having served as an assistant to McConnell before attending law school and later as a top aide to U.S. Rep. Ron Lewis, R-Ky.

McConnell praised the nomination and said his one-time aide would serve with distinction.

"Greg is an intelligent and thoughtful individual who has a temperament that will serve him and the bench well," McConnell said in a statement.

A McConnell spokesman said the Senate hopes to take up the nomination as soon as possible.

Van Tatenhove, 45, has been U.S. attorney for the 67-county Eastern District since 2001. The district runs from Shelbyville to Pikeville and from Covington to the Tennessee line.

He is a 1989 graduate of the University of Kentucky College of Law. His professors included John Rogers, now a member of the 6th U.S. Circuit Court of Appeals. Rogers on Tuesday remembered Van Tatenhove as a "diligent, energetic" student.

Van Tatenhove spent four years as a trial attorney for the U.S. Justice Department. He then served as Lewis' chief of staff and legal counsel from 1994 to 2001.

If confirmed as a U.S. District Court judge, Van Tatenhove would mainly be responsible for cases in Pikeville, but could handle cases elsewhere in the district, said Leslie Whitmer, clerk of the U.S. District Court for the Eastern District. His yearly salary would be $162,100.

The nomination of someone not from the eastern Kentucky mountains drew some criticism.

Pikeville attorney Larry Webster said the nomination was "an affront to the Big Sandy Valley." Van Tatenhove is a native of Wilmore in central Kentucky.

"Mr. Van Tatenhove's done much to cleanse the political environment in eastern Kentucky," Webster said, referring to a series of election fraud cases from Pike and Knott counties that resulted in convictions of some prominent people, including former state Sen. John Doug Hays. "But the federal judicial selection process has been carefully crafted to avoid danger to the establishment," Webster said in a phone interview.

Webster said cases often are switched from Pikeville to other federal courthouses in the Eastern District. "Any excuses that the judges can come up with to have hearings or trials in other places than here are employed routinely," he said.

Early this year, Forester said that his successor should consider living in Pikeville.

John David Preston, an eastern Kentucky Family Court judge and another candidate for the federal judgeship, said lawyers handling cases in the Pikeville division would prefer a judge from the area. "But for whatever reason, that has not been the case," he said.

Preston said there have been instances when cases in Pikeville were switched to other courthouses in the district, creating "something of an inconvenience and a cost to clients."

Preston said the outcome of the judgeship search left him disappointed but added "the geographical situation was not a factor in the thinking on the appointment."

"I'm sure that he will do a good job as judge," Preston said of Van Tatenhove.

Webster said that having roots in the area can be advantageous for a judge.

"Your knowledge of such things as environmental degradation that comes from mining would be actual knowledge based on reality," he said.

Still, Webster added, "We'll treat the new judge with respect."

Top D.C. Lawyer Is A Candidate For Judgeship (WP)

By Henri E. Cauvin, Washington Post Staff Writer

The Washington Post, September 14, 2005

D.C. Attorney General Robert J. Spagnoletti, the city government's chief lawyer, is one of three candidates for an opening on the bench of D.C. Superior Court.

Spagnoletti, 42, has had his eye on a judgeship for at least a few years, but when he took on his current job in May 2003, he indicated to Mayor Anthony A. Williams (D) that he was committed to staying through the mayor's current term. The new opportunity comes more than a year before the mayor's race, and Williams has yet to declare whether he will seek reelection.

A prosecutor for 13 years before joining the mayor's Cabinet, Spagnoletti was on the short list for the Superior Court bench once before, in 2000, while he was working at the U.S. attorney's office. His current job has given him a much higher public profile.

In addition to Spagnoletti, the D.C. Judicial Nomination Commission chose Andrew Fois, a former assistant attorney general at the Justice Department, and Carol A. Dalton, a D.C. Superior Court magistrate judge, for consideration by President Bush. The opening was created by the appointment of Judge Noel A. Kramer to the D.C. Court of Appeals.

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The president can pick one of the candidates offered by the commission or reject the slate. The president's choice is subject to Senate confirmation. The selection process can be lengthy -- lately, it has taken as long as a year.

Dalton, 55, has been a magistrate judge in the family court division of Superior Court since 2002. Before that, she was director of the court office that coordinates the work of attorneys who represent parents, caretakers and children in abuse and neglect cases.

Fois, 47, was the Justice Department's assistant attorney general for legislative affairs from 1995 to 1998. Before that, he held other positions at the Justice Department and on the House Judiciary Committee. Since 2000, he has served as a senior fellow at GlobalSecurity.org, an organization that tracks military and other security issues.

Spagnoletti took over what was then known as the corporation counsel's office when the city's legal arm was suffering from a heavy caseload, a staffing shortage and slumping morale. He made organizational and personnel changes and succeeded in having the office renamed the attorney general's office, a title he said was more fitting of its responsibilities.

CORPORATE SCANDALS:

Judge Splits Enron Broadband Case Into Three Retrials (FINDLAW/AP)

By Kristen Hays, Ap Business Writer

Find Law, September 14, 2005

(AP) - HOUSTON-Five former executives from Enron Corp.'s defunct broadband unit whose trial ended with jurors unable to reach verdicts on most charges will be retried in three separate cases next year.

Nearly two months ago a jury returned acquittals on some charges after a three-month trial but was deadlocked on dozens more. U.S. District Judge Vanessa Gilmore declared a mistrial on those charges and set retrial dates Monday.

At least one of the trials, involving conspiracy and fraud counts against the broadband unit's former finance chief and a former in-house accountant, was scheduled for May 1. It is likely to overlap with the conspiracy and fraud trial of Enron founder Kenneth Lay and former CEO Jeffrey Skilling, set to begin in January in a courtroom next door to Gilmore's. The other two cases were scheduled for June 5 and Sept. 5.

All five broadband defendants, as well as Lay and Skilling, have pleaded innocent.

Barry Pollack, who represents former in-house Enron broadband accountant Michael Krautz, questioned whether a a fair jury could be found in the middle of the publicity of the ongoing Lay and Skilling trial.

"I have concerns about selecting a jury for this case while that trial is going on," he told Gilmore.

The judge advised him to argue the point later.

The five men, indicted in 2003, went to trial in April in a case often bogged down with tedious, jargon-filled testimony about whether Enron's broadband network actually worked as touted to investors and analysts in 1999 and 2000. The unit went bankrupt along with its parent in December 2001.

A conspiracy charge linked all five defendants in two alleged schemes involving technology and finance.

On the finance side, jurors were deadlocked on all 15 counts of conspiracy and fraud pending against Krautz and Kevin Howard, former finance chief of the broadband unit. The two men are accused of using accounting tricks to manufacture income for the broadband unit so its losses would match those announced to Wall Street in 2000.

On the technology side, former broadband unit CEO Joseph Hirko, software head Rex Shelby and broadband strategist F. Scott Yeager were charged with conspiracy, fraud, insider trading and money laundering. The government alleged they touted capabilities of the network and its operating software to pump up Enron stock and get rich from selling inflated shares. All three testified that the network and software worked but was being implemented in phases.

Jurors acquitted Hirko of 14 of the 27 charges - two for insider trading, the other dozen for money laundering. They acquitted Shelby of four insider trading counts. Shelby's lawyer, Ed Tomko, said that left 16 charges unresolved, including six for insider trading. Both men remain charged with conspiracy and fraud. Gilmore scheduled their trial for Sept. 5.

Yeager faces the most charges. The jury acquitted him of the conspiracy charge linking him to the other defendants and five fraud counts, leaving 109 counts of insider trading and money laundering pending. Prosecutors intend to retry him June 5.

Prosecutor Lisa Monaco told Gilmore on Monday the government aims to file three separate indictments within a month. She said it expects to drop the remaining money laundering charges against Shelby, but otherwise all defendants would be tried on the other pending charges.

Gilmore said Monday she was considering requests from the defendants that she acquit them of all remaining charges.

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CRIMINAL LAW:

Court: Eric Rudolph Defense Cost $4M (AP)

By JAY REEVES, Associated Press Writer

AP, September 13, 2005

BIRMINGHAM, Ala. (AP) - Legal fees to defend Eric Rudolph in a deadly Alabama abortion clinic blast and the Atlanta Olympics bombing cost taxpayers more than $4 million before he agreed to plead guilty in a deal that spared his life, court documents show.

One of Rudolph's attorneys said Tuesday the bill would have been far higher had the case gone to trial.

"That would have probably tripled the cost," said Bill Bowen, part of a team of at least nine lawyers who defended Rudolph.

Rudolph is serving four life terms after pleading guilty in the Birmingham clinic bombing, which killed a police officer in 1998, and the Olympics bombing, in which a woman died in 1996. He also pleaded guilty in two other bombings that occurred in Atlanta in 1997.

U.S. Attorney Alice Martin said the government had not computed the total cost of prosecuting Rudolph, who was the subject of an intense manhunt following the Birmingham bombing in 1998 until May 2003, when he was captured in Murphy, N.C.

The cost of defending Rudolph was disclosed in an order filed last week by U.S. District Judge Lynwood Smith. Attorneys in the Alabama case were paid $2.02 million for representing Rudolph, who declared himself broke and received court-appointed legal representation following his arrest in 2003.

Experts, investigators and others who assisted in the defense were paid another $2.02 million, according to Smith's order.

Karen Redmond, a spokeswoman with the Administrative Office of U.S. Courts, said the cost of defending Rudolph was far less than the $18 million taxpayers spent on lawyers for Timothy McVeigh, who was convicted in a trial and executed in 2001 for the Oklahoma City bombing, which killed 168 people.

Redmond said the Justice Department spent $80 million prosecuting McVeigh in the Oklahoma City case.

Teen Pleads Guilty To Hacking Paris Hilton's Phone (WP)

By Brian Krebs, Washingtonpost.com Staff Writer

The Washington Post, September 14, 2005

A Massachusetts teenager has pleaded guilty to hacking into the cell-phone account of hotel heiress and Hollywood celebrity Paris Hilton, a high-profile stunt by the youngest member of the same hacking group federal investigators say was responsible for a series of electronic break-ins at data giant LexisNexis.

The 17-year-old boy was sentenced to 11 months' detention at a juvenile facility for a string of crimes that include the online posting of revealing photos and celebrity contact numbers from Hilton's phone. As an adult, he will then undergo two years of supervised release in which he will be barred from possessing or using any computer, cell phone or other electronic equipment capable of accessing the Internet.

The U.S. Attorney's Office for Massachusetts and the state district court declined to identify the teen, noting that federal juvenile proceedings and the identity of juvenile defendants are under seal. But a law enforcement official close to the case confirmed that the crimes admitted to by the teen included the hacking of Hilton's account.

The teen also pleaded guilty to making bomb threats at two high schools and for breaking into a telephone company's computer system to set up free wireless-phone accounts for friends. He also participated in an attack on data-collection firm LexisNexis Group that exposed personal records of more than 300,000 consumers. Prosecutors said victims of the teen's actions have suffered about $1 million in damages.

In a series of telephone and online communications between March and June with a washingtonpost.com reporter, the teen acknowledged responsibility for all of the crimes for which he was sentenced.

Washingtonpost.com is not revealing his name because he communicated with the reporter on the condition that he not be identified either directly or through his online alias.

Investigators began focusing on the teen in March 2004 when he sent an expletive-laced e-mail to a high school in Florida threatening to blow it up, according to a statement from prosecutors. The school was closed for two days while a bomb squad, a canine team, the fire department and and other emergency officials examined the building.

In August 2004, the teen broke into the internal computer systems of "a major internet service provider" by tricking an employee into opening a virus-infected file he sent as an e-mail attachment. The virus -- known as a "Trojan horse" program --

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allowed the juvenile to use the employee's computer remotely to access other computers on the ISP's internal network and gain access to portions of the company's operational information, prosecutors said.

The teen told washingtonpost.com earlier this year that around that time he broke into the network of Dulles, Va.-based America Online. AOL did not return calls seeking comment.

In January, the teen hacked into the telephone records system of T-Mobile International. He used a security flaw in the company's Web site that allowed him to reset the password of anyone using a Sidekick, a pricey phone-organizer-camera device that stores videos, photos and other data on T-Mobile's central computer servers. A month later, the teen would use that flaw to gain access to Hilton's Sidekick files, according to corroborating information and screen shots he shared with washingtonpost.com.

Later that month, according to prosecutors, an associate of the teen "set up accounts for the juvenile at a company which stores identity information concerning millions of individuals."

Again, prosecutors declined to name the company targeted in that attack. But according to screen shots provided by the teen -- supported by other information from the teen that was verified by a senior federal law enforcement official investigating the case who spoke on condition on anonymity -- the company was LexisNexis, which reported in March that hackers had gained access to the personal records of more than 310,000 Americans.

An adult member of the hacker group acknowledged in phone conversations with a washingtonpost.com reporter that he collaborated with the teen in sending hundreds of e-mails with an explicit image and a message urging recipients to open an attached file to view additional pornographic images of children. According to both hackers, a police officer in Florida was among those who opened the e-mail attachment, which harbored a virus-like program that allowed the hackers to record anything a victim typed on his or her computer keyboard. Not long after his computer was infected with the keystroke-capturing program, the officer logged on to his police department's account at Accurint, a LexisNexis service provided by Florida-based subsidiary Seisint Inc., which sells access to consumer data.

The teen said the group members then created a series of sub-accounts using the police department's name and billing information. Over the period of several days, the group looked up thousands of names in the database, including those of friends and celebrities.

Then in June, according to prosecutors, he called "a major telephone service provider because a phone that a friend had fraudulently activated had been shut off." (A washingtonpost.com reporter was invited to listen in on the call, which was made to Little Rock-based Alltel Corp.) When the company refused to provide the requested access, the teen threatened to cripple its Web site with a "distributed denial of service" attack, in which attackers use the Internet bandwidth of hundreds or thousands of remote-controlled computers to overwhelm a site with so much traffic that it can no longer accommodate legitimate visitors.

Roughly 10 minutes later the teen and others "initiated a denial of service attack that succeeded in shutting down a significant portion of the telephone service provider's web operations," according to the prosecutors.

The Justice Department said the investigation of the teen's associates is continuing, but it remains unclear how many of those individuals will be prosecuted. In May, Secret Service and FBI officials served search warrants on at least nine people thought to be connected to the hacking ring of which the teen was a member, known as the "Defonic Team Screen Name Club" or "DFNCTSC" for short.

The teen is likely to be required as a condition of his plea agreement to cooperate with the government in their ongoing investigation and provide information not only about how the attacks were carried out, but who else was involved and what their roles were, said Mark D. Rasch, senior vice president at McLean, Va.-based online security firm Solutionary Inc. and a former federal prosecutor for computer crimes.

According to interviews with at least two other former members of the group, investigators now are focusing on the individual who helped the teen gain access to LexisNexis.

"They came and took my laptop and asked a whole bunch of questions about him," a former group member known online as "DJint" said. "They told me they're looking to go after him for access-device fraud and possession of child pornography."

Still, Rasch said, it could be some time before the government wraps up its investigation into these attacks.

"Investigations of computer crimes are particularly difficult because they always involve many different types of evidence from numerous locations, and they require cooperation from many different organizations," Rasch said. "It's hard work."

Dentist Gets 57-month Term For Fraud (SBT)

By MARTI GOODLAD HELINE, Tribune Staff Writer

South Bend (IN) Tribune, September 13, 2005

SOUTH BEND -- A former Warsaw dentist who operated a mobile dental lab in the South Bend area has been sentenced to 57 months in prison for Medicaid fraud.

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U.S. District Judge Allen Sharp imposed the sentence specified in the plea agreement Dr. Bryan Spilmon accepted earlier this year.

Spilmon, 44, pleaded guilty to 12 counts of health care fraud and one count of money laundering.

The remaining charges in the 52-count indictment were dismissed, as were charges filed against Spilmon's wife, Diane.

At the time of his guilty plea, Spilmon admitted to submitting billings and claims for reimbursement to Medicaid for treatments and diagnostic procedures that were never done or were not necessary.

Spilmon was accused of falsely billing the heath care benefits program for the needy for more than $2.4 million from 2001 to 2003.

He took his mobile dental units to areas where he could serve needy youths between 12 and 18, purporting to provide adequate dental care for them, when he was just engaging in a massive billing fraud, according to Assistant U.S. Attorney Donald Schmid.

Sharp ordered Spilmon to make restitution of $2.4 million. Spilmon also was ordered to reimburse the Indiana attorney general's Medicaid Fraud Unit more than $70,000 for the costs of investigating the case.

In addition, Spilmon agreed to forfeit several vehicles, including two Lexus cars, a Subaru, a camper, a pickup truck and the mobile dental units. He and his wife also forfeited the contents of about 40 accounts at financial institutions, according to court documents.

The forfeitures have already netted some $2.3 million for the government, and that amount could reach $2.5 million by the time all the forfeited items are sold.

The U.S. Marshals Service may take the two mobile dental units to the Gulf Coast to assist in Hurricane Katrina relief efforts, Schmid said.

Sharp agreed to a term of the plea agreement in which Spilmon could be credited up to 50 percent of the value of the forfeited items toward the restitution obligation. That amount could reduce his restitution debt to $1.2 million.

The case was a very significant one for the government, according to Schmid. "The scope of the fraud is quite large and the investigative work by the Medicaid Fraud Unit and the FBI was outstanding."

Spilmon later tried to withdraw the guilty plea, asserting his innocence, but Sharp would not permit him to take it back.

Spilmon was ordered to report Oct. 11 to begin his term.

Four Admit Illegal Sale Of Electronics Gear To China (NSDY/AP)

By Jeffrey Gold, Associated Press Writer

Long Island Newsday, September 14, 2005

NEWARK, N.J. -- Four people who operated an electronics firm in southern New Jersey pleaded guilty Tuesday to violating export regulations by shipping nearly $400,000 of electronics that could be used for military purposes to entities controlled by the Chinese government.

The case involving Manten Electronics Inc. is the latest, but far from the largest, to deal with illegal technology and arms exports to China.

U.S. Immigration and Customs Enforcement said it has seen a dramatic increase in the shipment of sensitive technology and weapons components to China. Since January 2000, the agency has launched more than 400 investigations into illegal technology and arms exports to China.

The four people at Manten, as well as four people at Universal Technologies Inc. in Mount Laurel, were arrested in July 2004 following an 18-month investigation by ICE, the FBI and the U.S. Commerce Department.

Prosecutors have reached plea deals with the Universal defendants but the agreements have not yet been formalized, Assistant U.S. Attorney Judith H. Germano said.

Among the restricted items Manten obtained were monolithic microwave integrated circuits, an electronics component used in a variety of weapons systems and found on U.S. bombers, fighter aircraft, military helicopters, missiles and satellites, according to court papers.

In court Tuesday, Manten president Xu Weibo and his three co-defendants each pleaded guilty to a single charge of conspiring to violate export laws, admitting that they sent restricted items at the request at least two Chinese agencies, the 20th and 41st Research Institutes. They admitted they lied to U.S. distributors and on shipping documents to conceal the nature of the shipments. The conspiracy charge carries up to five years in prison and a fine of up to $250,000 or twice any profit.

The two Chinese agencies are part of the Ministry of Information Industry and develop military and civilian communications technology, according to court papers. Specialties of the 20th include aircraft landing systems and military radio-navigation technology. Work at the 41st includes military amplifiers and testing devices for military instruments.

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The Commerce Department in May 2001 said the 20th Research Institute "poses an unacceptable risk in the development of weapons of mass destruction or the missiles used to deliver weapons of mass destruction," according to court papers.

Weibo, 38, also pleaded guilty to violating the Export Administration Act, which carries up to 10 years in prison and a fine of up to $250,000 or five times the value of the export or twice any profit; and a count of violating the Arms Export Control Act, which carries up to 10 years in prison and a fine of up to $1 million or five times the value of the export or twice any profit.

Also pleading guilty was his wife, purchasing agent Xiu Ling Chen, also known as Linda, 33, of Mount Laurel; her brother, vice president Hao Li Chen, known as Ali, 29, of Mount Laurel; and his wife, controller Kwan Chun Chan, known as Jenny, 29, of Mount Laurel.

The four agreed to forfeit $391,337, which Germano said represented the revenue from illegal sales made from June 2002 until Manten was closed with the arrests in July 2004.

All four are naturalized U.S. citizens from China. The women used a translator to follow court proceedings, but answered in English when questioned by U.S. District Judge Joseph A. Greenaway Jr. They remain free on bail pending sentencing, scheduled for Feb. 6.

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On the Net: U.S. Attorney's Office in Newark:

http://www.njusao.org/break.html

U.S. Asks Manila To Uncover Suspected Spy Links (NYT/REU)

By Reuters

The New York Times, September 14, 2005

Filed at 7:18 a.m. ET

MANILA (Reuters) - The United States has asked the Philippines to help it trace recipients of classified documents suspected to have been stolen by a former Filipino police officer and an FBI employee, a senior official said on Tuesday.

Michael Ray Aquino, a former top police official in the Philippines, and Leandro Aragoncillo, a Philippine-born U.S. citizen, were arrested in the United States on espionage charges on Saturday.

The Philippine foreign affairs department said in a statement that the charge sheet accused Aquino, a known ally of senior opposition politicians, of passing classified papers from the Federal Bureau of Investigation to two ``national level'' officials and one ``former national level'' official in Manila.

``The FBI is now asking for our help to find out who received those documents here in the Philippines and who provided the money for the transaction,'' Reynaldo Wycoco, head of the National Bureau of Investigation (NBI), told reporters.

Wycoco said the information was a ``classified assessment of the Philippine political situation and political leaders.''

According to affidavits from FBI agents, Aragoncillo passed classified documents about the Philippines to Aquino between February and August this year using cellphone text and e-mail messages.

The Philippines has been through months of political turmoil sparked by allegations of electoral fraud and graft against President Gloria Macapagal Arroyo, who last week survived an impeachment attempt by the opposition.

Wycoco added that recipients of the classified documents could be indicted by U.S. or Philippine courts.

``Large amounts of money changed hands,'' Wycoco said, without giving specific details on the amount.

Aquino moved to the United States in 2001 after the ouster of former President Joseph Estrada in a military-backed popular uprising.

The Philippine foreign ministry said Aquino was arrested at his Queens residence in New York on Saturday and is being held at Passaic County Correctional while awaiting court hearings.

FBI Takes Sheriff's Elections Records (HTRIB)

By TODD RUGER

The Herald Tribune (Southwest Florida), September 14, 2005

SARASOTA — The FBI has subpoenaed Sarasota County Sheriff William Balkwill's campaign financial reports for the 2000 and 2004 elections.

The subpoena asks for the records to be provided for a grand jury convening Sept. 22 in U.S. District Court in Tampa.

Balkwill does not know why the records were subpoenaed, Sheriff's Office spokesman Lt. Chuck Lesaltato said Tuesday.

"He has no idea," Lesaltato said.

The FBI has not served a subpoena to Balkwill or anyone else in the Sheriff's Office, Lesaltato said.

The FBI special agent listed on the subpoena declined to comment Tuesday, referring questions to the FBI spokeswoman in Tampa.

That spokeswoman, Sara Oates, said the FBI does not confirm or deny the existence of any investigations.

A spokesman for the U.S. attorney's office in Tampa also declined to comment on the subpoena.

The records are hundreds of pages detailing the finances of Balkwill's campaigns, including lists of who donated to his elections and how he spent that money.

The donations generally range from $10 to $200 and were made by area residents, businesses and law enforcement officers.

The paperwork is filed periodically, as required by state law, and is open to public inspection.

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Nashville Attorney Charged In Fraud Extradited From Brazil (AP)

AP, September 14, 2005

NASHVILLE, Tenn. The U-S Attorney for Middle Tennessee says a former lawyer wanted on fraud and money-laundering charges has been brought back to Nashville from Brazil.

George Nason is one of eleven people named in a 2002 federal indictment in connection with the former Loan Ranger company.

U-S Attorney Jim Vines says Nason is charged with conspiracy to defraud mortgage loan companies and financial institutions, mail fraud, bank fraud, money laundering and false statements to financial institutions.

Prosecutors say Nason and the others bought properties, then sold them to "straw buyers" at inflated prices. The government says the "straw buyers" borrowed from the banks and mortgage lenders and the alleged conspirators paid them ten-thousand dollars per sale for helping in the scam.

Thirteen loans were taken out, for a total of more than three (m) million dollars.Nason fought extradition all the way to the Brazilian Supreme Court, which turned him down.Federal marshals returned him to Nashville over the weekend.

Mass. Attorney, GOP Official Charged With Money Laundering (LAW/AP)

By Denise Lavoie, The Associated Press

Law.com, September 14, 2005

The vice chairman of the Massachusetts Republican Party was charged Tuesday with money laundering after he allegedly offered to "cleanse" drug proceeds for a legal client.

Lawrence Novak, 54, an attorney from Brockton, Ma., was arrested at his home Tuesday after investigators said he allegedly offered to launder drug profits for Scott Holyoke, who is awaiting trial on federal drug trafficking charges and agreed to be a cooperating witness against Novak for the FBI.

Novak was taken into custody after he allegedly deposited money in a Brockton bank, federal authorities said.

Gov. Mitt Romney called for Novak to step down while the investigation continues.

"The charges against Larry Novak are very troubling and Gov. Romney believes that it's appropriate while these charges are pending for Mr. Novak to step aside as vice chairman of the state party," said Romney's spokesman, Eric Fehrnstrom.

Republican Party Executive Director Tim O'Brien said the charges are unrelated to Novak's GOP role. Novak served as the party's treasurer in the late 1990s.

"We're shocked to hear about the developments. These are very serious allegations that we are going to be following very closely," O'Brien said.

Novak made an initial appearance in U.S. District Court late Tuesday and was released on $25,000 non-surety bond. Neither he nor his attorney would comment on the charges.

Novak allegedly offered to have Holyoke sign false affidavits in an attempt to invalidate some of his prior state court convictions in order to reduce the sentence he would face in his federal case.

Holyoke told Novak that he had over $100,000 in cash in a safe deposit box, repeatedly telling Novak that the money was drug proceeds, according to an affidavit filed by Lauren Youngquist, a special agent with the criminal investigation unit of the Internal Revenue Service.

Novak allegedly told Holyoke that he would take approximately $60,000 of the money as a legal fee and offered to "clean" or "cleanse" the remainder of the cash, the affidavit said.

According to the arrest affidavit, after Novak made the offer to launder Holyoke's drug proceeds, the IRS and FBI introduced an undercover IRS special agent who posed as Holyoke's aunt.

On Tuesday, the agent gave Novak approximately $107,000 in cash and told Novak it was drug proceeds. Novak then took the money to Eastern Bank in Brockton, where he purchased three bank checks in the amount of $9,000 and three $1,000 money orders.

He deposited $77,000 into an existing account at the bank, according to the arrest affidavit.

Novak then returned to his home and office, where he was arrested.

A bank employee told the IRS special agent that when Novak deposited the cash and purchased the bank checks, he said he had found the money.

Novak is due back in court on Oct. 3. He faces a maximum sentence of 20 years in prison and a $250,000 fine if convicted.

AP writer Steve LeBlanc contributed to this report.

Female Killer Set For Death Penalty (WT)

By Hugh Aynesworth

The Washington Times, September 14, 2005

DALLAS -- Texas stands ready today to execute the first black woman, and only the third female, to be put to death since the state resumed capital punishment in 1982.

Frances Newton, 40, was convicted of murdering her husband and two children in 1987. She always has maintained her innocence, though prosecutors convinced a Harris County jury that she killed her family for $100,000 in insurance money.

Only a last minute stay of execution by Gov. Rick Perry or intervention by the Supreme Court can halt the execution. Newton's lawyers wrote a letter to Mr. Perry Monday, asking for a 30-day stay in their efforts to show that prosecutors erred in linking her to a presumed murder weapon.

Unlike the days preceding the executions of Karla Faye Tucker in 1998 and Betty Lou Beets in 2002, Newton's plight has not elicited much interest from outside the state, although the president of the American Bar Association has asked the governor to intercede, citing "compelling new evidence" that "has not been evaluated by Texas courts."

Michael S. Greco, the ABA president, said Newton was not properly represented by her court-appointed lawyer, Ron Mock of Houston -- a lawyer who often has been reprimanded by the state bar and is now prohibited from representing clients in death penalty cases because of his inadequacy. Mr. Mock told the judge the day her trial began that he had not interviewed a single witness on behalf of Newton.

David Dow, a Houston lawyer who now represents Newton, wrote the governor saying courts had been "influenced by a lie" in the state's assertion that a gun placed in an abandoned house was the one used to kill her family.

"Newton," he wrote, "has always admitted she placed a gun in an abandoned house. We know, however, that the State recovered at least two guns and perhaps as many as three, and we have reason to believe that at least two guns, and possibly all three, were handguns manufactured by Raven Arms. What that means is that we have absolutely no reason to believe the gun Newton admits to having placed [made by a different manufacturer] was the murder weapon."

One assistant district attorney testified that only one gun was found. A top police officer said he thought two had been recovered. Another assistant district attorney told a Dutch television newsman there had been two.

Few believe Mr. Perry will intercede and halt the execution. Last December he granted a 120-day stay.

In the past week, the 5th U.S. Circuit Court of Appeals voted not to stop the scheduled execution and the Texas Board of Pardons and Paroles voted 7-0 not to recommend that the governor commute the sentence to life in prison. Mr. Dow has filed a final appeal to the U.S. Supreme Court.

The Austin American Statesman editorialized strongly Monday that Newton should not be executed. "Race, ethnicity, income and geography all are factors in the imposition of death sentences. As long as Texas has a death penalty, capital defendants should have access to competent legal counsel. Newton didn't get that. For that reason she should be spared."

Two DeLay Associates Indicted (DMN)

By Wayne Slater

The Dallas Morning News, September 14, 2005

AUSTIN – Two political associates of U.S. House Majority Leader Tom DeLay were indicted Tuesday on additional felony charges of illegally using corporate money to elect Republicans in 2002.

John Colyandro and Jim Ellis were charged with using $190,000 in corporate money to make campaign contributions to GOP candidates for the Texas House in what prosecutors say was an illegal money-laundering scheme.

Mr. Colyandro, former executive director of the Texans for a Republican Majority Political Action Committee, and Mr. Ellis, who heads Mr. DeLay's Washington-based Americans for a Republican Majority, were indicted earlier on money-laundering charges. Tuesday's charges focus on the campaign contributions. Both defendants deny wrongdoing.

Mr. DeLay, the Sugar Land Republican who created both political action committees, is not charged in the three-year grand jury investigation into allegations of illegal corporate cash in Texas political races.

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An attorney for Mr. Ellis complained Tuesday that it was the second time the Travis County district attorney has revised the indictment to add charges.

"There is nothing new in the facts alleged in the latest version of the indictment," J.D. Pauerstein said. "Indicting these men three different times for the same alleged acts is unconscionable."

It is illegal in Texas to use corporate money to elect candidates. Texas law also prohibits corporate donations to political parties during the final 60 days of an election.

Mr. Colyandro and Mr. Ellis are accused of sending $190,000 in corporate money to the national Republican Party, which then issued the same amount in political party funds to seven Texas legislative candidates. Prosecutors say the transaction was designed to hide the source of the money.

After the Republicans won a Texas House majority in 2002, Rep. Tom Craddick of Midland was elected speaker. He helped Mr. DeLay achieve the goal of redrawing the Texas congressional map, and in 2004, the party won five more U.S. House seats.

The original $190,000 check was dated Sept. 13, 2002. A three-year statute of limitations would have expired Tuesday on additional charges.

The Travis County grand jury has also indicted TRMPAC and the state's largest business group, the Texas Association of Business, on charges of violating state campaign finance laws.

Meanwhile, a federal judge has dismissed a separate civil case brought against Mr. Colyandro by two Texas Democrats.

Judge Lee Yeakel ruled that lawyers for the Democrats had failed to prove that Mr. Colyandro had knowingly broken Texas law by using corporate money to fund campaign advertisements.

CIVIL LAW:

2nd Circuit Approves Holocaust Settlement Allocation Formula (LAW)

By Mark Hamblett, New York Law Journal

Law.com, September 14, 2005

An Eastern District of New York judge's allocation of settlement funds to the most needy, elderly victims in the Holocaust Victims Assets litigation has been upheld by a federal appeals court.

In a decision issued Friday written by Judge Jose Cabranes, the 2nd U.S. Circuit Court of Appeals upheld the formula used by Judge Edward Korman that placed special emphasis on compensating Holocaust victims who live in the former Soviet Union.

The principal issues in the appeals were settled by the circuit in In Re Holocaust Victim Assets Litigation cases 04-1898-cv and 04-1899-cv. The appeals challenged Korman's geography-based allocation of a $1.25 billion settlement with Swiss banks and other organizations designed to aid victims of the Holocaust.

The proceeds of the settlement are to be divided among five classes -- the Deposited Assets Class (those whose assets were stolen from Swiss banks); the Looted Assets Class (those whose possessions were stolen by the Nazis and then disposed of through Swiss banks), two classes of those forced into slave labor by the Nazis, and a fifth Refugee Class.

Special Master Judah Gribetz, of counsel at Bingham McCutchen, concluded that the Settlement Agreement gave priority to members of the Deposited Assets Class -- which should receive roughly $800 million based on evidence that as many as 54,000 Swiss bank accounts are "probably" or "possibly" related to Holocaust victims.

The remainder, he suggested, should be allocated to the other classes, including the Looted Assets Class. Gribetz recommended that, at least during the first stages, distributions should be focused on surviving Holocaust victims among the Looted Class members "who are in greatest financial need."

Of the $90 million to go to programs for the neediest survivors, Gribetz proposed earmarking 75 percent for destitute Jewish victims of Nazi persecution in the former Soviet Union.

While the total amount of funds was later increased for the Looted Assets Class, the proportions of the allocation remained the same when Korman adopted Gribetz's supplemental recommendations in 2002 and 2003.

In 2004, Korman turned aside an objection to the allocation formula by The Holocaust Survivors Foundation-U.S.A. Inc. and others who argued that survivors in the United States had received a disproportionately small allocation.

Korman endorsed the formula partly because of the wildly disproportionate distribution of restitution funds to survivors since the end of World War II. But he also favored the formula given the harsh conditions survivors endured both during Communism and after its collapse.

Korman noted that "the financial situation of individual survivors in the Former Soviet Union ... is woeful in comparison to that of survivors in the United States."

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Judges Thomas Meskill and Jon Newman joined in the appeal.

JUDGE WITHIN HIS DISCRETION

Cabranes said appellants were not challenging the District Court's discretion to distribute settlement proceeds to the neediest members, only "whether the District Court exceeded the bounds of that general principle in this case by allocating funds partly on the basis of geographic disparities in the provision of basic needs."

The conclusion, Cabranes said, was that Korman was "well within his discretion."

"We recognize that, in a traditional class action brought to remedy an injury that had occurred shortly before the initiation of suit, the amounts allocated among claimants would normally vary primarily by the effect of the injury upon different claimants, rather than by the current financial needs of the claimants," Cabranes said. "But in the circumstances presented by this case, we think the equitable principles of the cy pres doctrine permit the geographic variation that the District Court adopted."

The circuit gave considerable weight to Korman's focus on prior restitution.

"As that Court pointed out, survivors residing in the Former Soviet Union had been cut off by the prior Soviet regime from the ten prior major efforts at Holocaust reparations, and of the $53 billion that has been provided to Holocaust victims through these prior efforts, $14.8 billion or 28 percent has gone to survivors in the United States and only $444 million or 0.8 percent has gone to survivors in the Former Soviet Union," Cabranes said.

In the end, Korman's decision to allocate 75 percent of Looted Assets Class funds to needy Jewish survivors in the former Soviet Union "was rendered after the District Court carefully weighed all relevant considerations and made numerous factual findings," he said.

Korman "acted well within his discretion, and we find no support in the record of this case for appellants' suggestion that the Court acted in a 'totally subjective' manner," he said.

Despite a series of challenges to his rulings in this and other appeals, Cabranes said, Korman has approached every step of the litigation with "thoughtful analysis and scrupulous fairness."

Edward Labaton of Goodkind Labaton Rudoff & Sucharow was lead attorney for appellants in cases 04-1898-cv and 04-1899-cv. Burt Neuborne was the lead settlement counsel.

The circuit also upheld Korman's refusal to allocate funds to a trust that would have provided grants to "disability oriented, non-profit, non-governmental organizations," and his rejection of a second proposal to make allocations in support of "scholarly, educational and outreach programs" related to the Nazi persecution of homosexuals.

The circuit's accompanying decisions upholding Korman's discretion of those issues came in cases 04-2466-cv and 04-2511-cv, respectively.

Cold War Drags On — Forever (USAT)

USA Today, September 14, 2005

By the end of next week, President Bush has to decide what to do with a list of military base closings and realignments he received Thursday from a special commission. The president has two choices: approve the list, or kick it back to the commission for further review.

Because the panel gave the Pentagon most of what it sought, and because Bush is occupied with Hurricane Katrina and other issues, he's not expected to pick a fight.

But this is a fight worth picking.

This is the final round of a 17-year process aimed at trimming forces that were needed to fight the Cold War. A succession of commissions were created to overcome political opposition. Yet this commission still spared costly Air Force and Navy bases that the Pentagon doesn't want.

As absurd as this is, it's not as absurd as the reaction of several governors, who are suing to reverse the panel's modest changes to National Guard bases. Connecticut's governor, for instance, says A-10 planes need to be based there for homeland security. A-10s are used for strafing ground forces. Perhaps Gov. M. Jodi Rell fears invasion from Canada.

Rejecting the commission's report would signal the governors that the Pentagon needs to focus on the terror threat from abroad, not domestic jobs at Guard bases. And a rejection would force the commission to reconsider other questionable decisions born of the same misplaced motivations:

Tolerating excess submarine capacity. Submarines play a minor role in the terror war, and the country doesn't need three East Coast submarine bases. Nor does it need to retain its excess submarine repair capacity. And yet the commission elected to keep open the submarine base in New London, Conn., as well as the Portsmouth sub repair yard in Kittery, Maine.

Delaying base closings. Though the panel agreed that New Mexico's Cannon Air Force Base should lose its four F-16 fighter squadrons, it delayed closing the station — just in case the military could find a new use. Commissioners feared the impact that losing 5,000 jobs would have on the tiny city outside Cannon. But generosity was not the commission's mission.

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Just as ill-advised was the decision to keep open South Dakota's Ellsworth Air Force Base. Many suspect politics played a role there because killing Ellsworth could have been fatal to the career of freshman Sen. John Thune, R-S.D., who won his seat by promising to keep the base open. There's no proof, argued the commission, that consolidating the entire B-1 fleet at a single base in Texas would save money.

Common sense suggests otherwise.

The president has a full plate right now, but he shouldn't pass up a chance to save money and improve defense — even if it means putting the commission back to work.

Thune: Ready To Roll (RC)

By Mark Preston

Roll Call, September 14, 2005

A few days before a federal commission was scheduled to decide the fate of Ellsworth Air Force Base, South Dakota's two Senators preemptively released a lengthy statement pledging to work together on issues of importance to the state.

"We both strongly believe that the time for emphasizing partisan differences and partisan attacks is long over and that South Dakotans are eager that both of us work as closely together as possible, which we are committed to doing," Sens. John Thune (R) and Tim Johnson (D) wrote in the Aug. 23 letter.

It was a striking public statement from two political enemies who had spent the better part of the past four years trying to end the other's career. But the declaration came at a time when both Senators were bracing for the worst: the loss of a military base that is their state's second largest employer.

Within 72 hours, they were saved from their greatest fear, as the Base Realignment and Closure Commission shunned the Pentagon's recommendation to shutter Ellsworth and voted instead to keep the base open.

Now, the question is how long will the Thune-Johnson alliance remain intact, given that these two political rivals may be headed for yet another showdown in 2008.

Thune is the early frontrunner to lead the National Republican Senatorial Committee in the 2008 election cycle — the same year that Johnson will be seeking a third term. Johnson said he "anticipates" that Thune will be the chairman of the NRSC, and acknowledged "maybe this will come apart, but I hope not."

"I think we have ... come to terms with an understanding we will work together where we can," Johnson said.

For Thune, the decision to keep Ellsworth open allows him to expand his political portfolio beyond South Dakota's borders. The Republican Senator had campaigned in 2004 on the idea that, as a Republican in a GOP-controlled capital, he would be best positioned to keep the base open. That's why the closing of Ellsworth, had it happened, would have been so damaging: It would have forced Thune to shore up support in his home state rather than advancing his national ambitions.

But by helping convince BRAC to keep the base open, Thune has instead added to his reputation of overcoming long odds to win. Less than a year earlier, Thune defeated Senate Minority Leader Tom Daschle (D-S.D.) in the most closely watched Senate race of 2004. His campaign victory earned him the title of "giant killer" for being the first challenger to defeat a Senate leader in more than half a century.

The Pentagon, which recommended that Ellsworth be closed, is Thune's latest adversary to go down in defeat.

"He was extraordinarily effective in making the case about the impact of [closing Ellsworth] on his state," said Senate Majority Whip Mitch McConnell (R-Ky.). "Typically, these BRAC recommendations are not adjusted in any major way, but I would call that a major adjustment. That was a great victory for him."

Much to the chagrin of GOP officials, Thune suspended all campaign activity once it was announced in the spring that Ellsworth was being targeted for closure. He declined invitations to appear at Republican fundraisers across the country and even postponed a $100,000 event in New York City for his own political action committee.

The Ellsworth victory now allows Thune to spend part of his time helping the national Republican Party. He recently appeared at two fundraisers that raised about $200,000 for Sen. James Inhofe (R-Okla.). And the South Dakota Republican acknowledged that he is interested in chairing the NRSC in the 2008 election cycle.

"Some folks have talked to me about it, and I am at least entertaining the thought of possibly running for that," Thune said in an interview last week. "It is early on right now, but I think the key is recruiting good candidates and then raising money, and those are two things I think I can do well."

Democrats seized on Thune's renewed willingness to spend part of his time criss-crossing the country to raise money for GOP candidates.

"It is clear his priority is not South Dakota," charged Phil Singer, spokesman for the Democratic Senatorial Campaign Committee. "BRAC was not a big victory for him, but rather a big sigh of relief for him."

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But Republicans were quick to point out that whether Democrats like it or not, Thune has a national profile. Inhofe said many of the contributors that attended his fundraisers told him they had donated to Thune's 2004 campaign.

"Almost everyone who came in, of course they were real heavy hitters for me, almost everyone of them had given to him," Inhofe said. "So that gives you an idea of the national significance of his race and the national impression that is out there."

Further evidence of Thune's national appeal is the fact that his PAC raked in more than $500,000 in the first six months of this year.

McConnell, who is expected to succeed Senate Majority Leader Bill Frist (R-Tenn.) in the 110th Congress, said Thune has the qualities to be an effective leader of the NRSC.

"I think anyone who has won a tough race, you develop the kind of campaign skills that are very useful in a job like that," said McConnell, himself a former two-term NRSC chairman. "He certainly demonstrated, I think, great political skill."

Even though Thune is generally considered a loyal soldier for the GOP, Thune confidants said he is not afraid to use his political skills against his own party if it aids his own state. His allies note that when the White House refused to help Thune in his bid to keep Ellsworth open, the freshman Senator openly opposed President Bush's nominee for U.N. ambassador, John Bolton, though Thune himself never made the linkage.

Thune said he holds no animosity toward the Bush administration, but added in an interview that he would not support the administration in the future on issues where their "mutual interests are not aligned."

For now, Thune said he is evaluating each campaign fundraising request "on a case-by-case basis" to determine where he can be of the most assistance.

"I want to be helpful to the team and keep the majority in the Senate," Thune said. "There are a number of colleagues running this time who are friends, and I will do as much heavy lifting as I can."

CIVIL RIGHTS:

Corrections Department Under FBI Investigation (SPT)

By Join Us Internships Scholarships Times Jobs Contact us Briefs By wire services Published September 14, 2005

St. Petersburg (FL) Times, September 14, 2005

TALLAHASSEE - The FBI confirmed Tuesday it is investigating the Florida Department of Corrections, though the nature of the probe is unclear.

FBI agents are working with the Florida Department of Law Enforcement, said FBI spokesman Jeff Westcott in Jacksonville. He declined to provide details.

"I can confirm that the FBI, along with FDLE, are involved in an investigation that concerns the Department of Corrections," Westcott said.

A high-ranking state prison official, Region I director Allen "A.C." Clark, quit last week without explanation. Clark rose through the ranks under Corrections Secretary James Crosby, who also has declined to discuss why he quit, other than citing "personal reasons."

Gov. Jeb Bush suggested Monday that he knew details but could discuss them.

Clark, 40, is a former warden at New River Correctional Institution.

Four current or former Corrections Department employees were charged in February with illegal distribution of steroids. The case involved the Justice Department, FDLE, Clay County Sheriff's Office and federal postal inspectors.

Rates On Minority Mortgages Face Probe (TSSC)

By Binyamin Appelbaum

The State (SC), September 14, 2005

CHARLOTTE — In a national report issued Tuesday, the Federal Reserve Board said blacks and Hispanics disproportionately receive high interest rates on mortgage loans, that it does not know why and it intends to find out.

Regulators will examine lending by about 200 selected companies to see if discrimination affected pricing decisions, the report said. The Fed declined to name the firms.

The Fed also said it will examine whether blacks and Hispanics are sometimes steered to high-rate lenders when they could qualify for a market-rate loan.

The report is the federal government's opening statement in an accelerating public debate about the role of race in loan pricing.

For the first time, lenders must disclose which of their loans carry a high rate.

The Charlotte Observer reported in August that blacks were four times as likely as whites last year to receive high rates on home purchase loans, based on the newspaper's analysis of about half of all loans. Hispanics were twice as likely.

The government released complete national lending data Tuesday showing similar disparities among all lenders.

Charlotte's big banks, Bank of America Corp. and Wachovia Corp., made few high-rate loans last year. They also made relatively few loans to blacks.

The gaps do not prove discrimination. Lenders say pricing is based on risk and that race is not considered. They emphasize that the data do not include credit scores, down payment amounts or other factors lenders use to determine interest rates.

But the Fed report said discrimination might be a part of the explanation. The report found that many of the disparities resulted from the fact that minorities are far more likely than whites to borrow from companies that specialize in loans with high rates. In 2004, interest rates of about 8 percent and higher were considered high, while market rates averaged around 6 percent.

In addition to the possibility that borrowers are steered to high-rate lenders, the Fed said it will explore whether some market-rate lenders fail to make their loans equally available in minority communities.

"This industry is certainly under a spotlight," said Paul Hancock, a lawyer who once led the Justice Department's enforcement of fair housing laws and now works with lenders on compliance issues. "To the extent that differences in loan prices are correlated with race and national origins, the burden will be on the lender to explain the reason for the differences."

Playing Games With Voting Rights (NYT)

The New York Times, September 14, 2005

The State of Pennsylvania took a shameful step backward when the State House passed a bill that could potentially deprive tens of thousands of parolees and probationers of the right to vote. Even if the bill fails to be passed by the State Senate - as many people predict - it will inevitably suppress the vote in the poor and mainly minority communities where ex-felons tend to live. People in those communities are already confused about their rights under the law, and many who are actually eligible to vote don't do so out of fear that they may penalized or turned away at the polls.

The Pennsylvania bill comes at a time when the rest of the country is moving in the opposite direction. Over the last decade, a dozen states have softened or revoked disenfranchisement laws, understanding that voting rights are integral to the mission of reintegrating ex-offenders into the community. Indeed, the American Correctional Association, which represents prison officials, recently called on states everywhere to stop barring ex-offenders from the polls because that practice was inconsistent with the goal of rehabilitation.

The Pennsylvania bill represents an odious attempt by lawmakers to undo a state court ruling overturning a law that required newly released prisoners to wait five years before getting the right to vote. Republican lawmakers who disliked the court ruling liked it even less when community activists in Democratic parts of the state began to inform ex-felons that they now had the right to return to the polls. Legislators are also trying to direct public attention away from a hugely unpopular pay raise that they voted for themselves earlier this year. That makes the attack on voting rights all the more reprehensible.

ANTITRUST:

Microsoft, Google Both Claim Victory (WP)

By David A. Vise

The Washington Post, September 14, 2005

A ferocious battle for the loyalty of computer users, pitting mighty Microsoft Corp. against search engine juggernaut Google Inc., is playing out in a court case that feels more like a barroom brawl than a staid conflict over one company hiring an executive away from the other.

The feud between the companies reaches the highest levels of the corporate suites and has burst into public view amid court proceedings laced with bitterness and foul language. As the heavyweight and incumbent, Microsoft is trying to defend itself against attacks involving recruiting, products and innovation from a scrappy rival that poses a threat to its preeminent position in personal computing.

Yesterday, a judge in Washington state ruled that a former Microsoft executive hired by Google can begin doing some, but not all, work for the search engine company in China, the latest twist in a battle that will play out into next year.

In a written opinion, King County Superior Court Judge Steven C. Gonzalez ruled that Kai-Fu Lee can start recruiting employees for Google, meeting with government and university officials, and establishing a headquarters for Google's new

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research center. But, pending a trial in January, the judge barred Lee from hiring anyone away from Microsoft, using confidential information he learned during his employment there, or working in computer search and other specified fields for Google.

Not surprisingly -- given the ongoing war of words prompted by anger over Google's hirings of dozens of Microsoft employees around the world -- both sides immediately declared victory.

Tom Burt, Microsoft's deputy general counsel for litigation, said the Redmond, Wash.-based software giant had succeeded in severely restricting Lee's activities and use of corporate secrets. He said Google was paying Lee $10 million to head its China operations even though he could actually do very little of substance in light of the ruling.

"Dr. Lee has been reduced to the highest-paid HR [human resources] manager in history," Burt said. "Even calling him an HR manager is overstating it because an HR manger has an idea what new jobs will be, and how employees will be managed. . . . I'm sure Google and Dr. Lee will portray this as a split decision. It is like a boxer who lost on a third-round knockout saying, 'Yeah, but I got a good jab in there, didn't I?' "

Nicole Wong, associate general counsel for Google, said Lee would immediately get rolling, hiring employees in China and establishing a new research center there. "We're thrilled, and he's excited to get right to work on several big things," Wang said in a written statement. "The bottom line is Dr. Lee is going to get busy."

Depositions filed in the case revealed that top Microsoft officials, including CEO Steven A. Ballmer, increasingly saw Google as a serious competitive threat, and alleged, that angry outbursts have occurred. Mark Lucovsky, a former Microsoft executive, alleged in an affidavit that he had a stormy meeting with Ballmer as he left the company in November last year.

"At some point in the conversation, Mr. Ballmer said, 'Just tell me it's not Google,' " Lucovsky stated. "I told him it was Google. At that point, Mr. Ballmer picked up a chair and threw it across the room, hitting a table in his office." After cursing about how he was going "to bury" Google chief executive Eric Schmidt, Lucovsky stated, Ballmer said: "I have done it before, and I will do it again. I'm going to [expletive] kill Google."

Ballmer also allegedly sought to persuade Lucovsky to stay at Microsoft during the meeting and in phone calls. Microsoft said Lucovsky's description exaggerated what occurred in his exit meeting and conversations with Ballmer.

In a separate affidavit, Lee said that before leaving Microsoft for Google last summer, he had a series of tense meetings with top Microsoft officials, including Chairman Bill Gates, Ballmer and others. They told the Chinese computer scientist, the highest-ranking employee snared by Google, that a lawsuit would be filed if he left for Google, Lee stated.

"You should not go. Things will be very unpleasant for you if you go," Microsoft senior vice president Rick Rashid allegedly told Lee.

"Kai-Fu, Steve is definitely going to sue you and Google over this," Gates allegedly warned Lee. "He has been looking for something just like this."

Lee said Ballmer told him: "When we do something, please don't take it personally. We like you. Your contributions to Microsoft have been immense. It's not you we are after, it is Google."

In his ruling yesterday, the judge found that Lee misled Microsoft about his plans to return to the company after a sabbatical and continued to have access to proprietary information. "Dr. Lee began assisting Google while he was still employed at Microsoft," Gonzalez wrote.

Judge Rules On Ex-Microsoft Exec's New Work (FINDLAW/AP)

By Gene Johnson, Associated Press Writer

Find Law, September 14, 2005

(AP) - SEATTLE-A state judge, ruling in a case that exposed the behind-the-scenes animosity between two high-tech titans, cleared the way Tuesday for a former Microsoft Corp. executive to perform most of the tasks rival Google Inc. had hired him to do.

King County Superior Court Judge Steven Gonzalez's decision supersedes a temporary restraining order he imposed this summer and remains in effect until Microsoft's lawsuit against Google goes to trial in January.

Kai-Fu Lee remains barred from working on products, services or projects he worked on at Microsoft, including computer search technology. But while the judge said that a noncompete agreement Lee signed with Microsoft is valid, he said recruiting and staffing a Google center in China would not violate that agreement.

Lee cannot set budget or compensation levels or define the research that Google will do in China, but he can hire people to work there, the judge said.

Lee, who has worked at Microsoft since 2000 and oversaw development of its MSN Internet search technology, including desktop search software rivaling Google's, left in July to lead Google's expansion into China.

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Microsoft sued Lee and Google, contending that Lee's job at Google would violate the terms of a noncompete agreement, which prohibits him from doing similar work for a rival for a year. Microsoft also accused Lee of using insider information to get his job at Mountain View, Calif.-based Google.

Google has responded with its own lawsuit against Microsoft in U.S. District Court in San Jose, Calif.

Google, which is emerging as a formidable competitor to the Redmond, Wash.-based software behemoth, said it hired Lee to have him create an engineering office in China. But Lee is also an expert in computer recognition of language - an important field for search engines such as Google.

In a hearing last week, Microsoft asked Gonzalez to restrict the work Lee could do for Google until its lawsuit goes to trial. Gonzalez said in his ruling that the trial would more fully define the rights of both companies under the noncompete agreement.

Google wants Lee to help pick a site for the China facility and begin using his connections there to recruit students and software engineers. In China, companies recruit students in the fall to begin work the following summer. Had Lee been barred from recruiting this fall, he would have missed the recruiting season and would have had to wait until next fall, Google said.

Gates On Apple, Google -- And Microsoft's Future (SEAPI)

By TODD BISHOP, SEATTLE POST-INTELLIGENCER REPORTER

Seattle Post-Intelligencer, September 14, 2005

LOS ANGELES -- Microsoft Corp. is grappling with "a lot of smart competitors," including Google and Apple, who are ahead of the Redmond company in some key markets, Bill Gates acknowledges.

But the Microsoft chairman on Tuesday said his company remains the overall industry leader, and he compared the current rivalries to legendary ones with Lotus, Novell and WordPerfect -- situations in which the Redmond company ultimately overcame steep odds to prevail.

"At any point in our history, we've had competitors who were better at doing something," Gates said in an interview with the Seattle Post-Intelligencer, underscoring the fact that it wouldn't be unprecedented to come from behind now.

That was one of the subjects addressed by Gates during the interview at the company's Professional Developers Conference, where Microsoft is seeking to rally support for Windows Vista and Office 12, the next versions of its dominant PC software programs. Among other things, the company showed plans to shift away from traditional drop-down menus to a new "ribbon" of commands across the top of the widely used Office programs.

Gates answered questions on a wide range of topics, including Microsoft's growth prospects in the Seattle region, its ambitions in China, and efforts to shore up the security of its software. Edited excerpts from the interview:

Q: You showed Office 12 here for the first time today. How do you think users are going to react when they see such a different look?

Gates: Well, this is the world's most popular application, and people sit and use it hours and hours a day, and so any advance we make in Office can actually drive up global productivity in a significant way. For years we've had the user interface confined to just these 2-D menus.

As Office has gotten richer, we knew that was a very limiting thing. It just wasn't very visual and so now, what we've done, it is a big deal. If you're a Word user, it should only take you 10 or 15 minutes to see how those things are laid out, so it's not like you're starting over. All the same concepts are there. The capabilities are there, and you will find yourself using more of the product.

You'll hear some people say, "Yikes, this is a change," but pretty quickly you'll hear from people about what a timely and important change it is.

Q: Companies such as Google and Apple have taken the lead in some key areas. Are Windows Vista and Office 12 a chance for you to recapture some of that buzz, and show that Microsoft plans to remain a central figure in the software industry?

Gates: Well, if you look at software very broadly -- productivity software, software tools -- Microsoft is the leader in way more respects than anyone else. Driving the research that will give us speech recognition and vision, and all of those big hard things that you've got to take a long-term approach in.

At any point in our history, we've had competitors who were better at doing something. Novell was the best at file servers. Lotus was the best at spreadsheets. WordPerfect was the best at word processing.

Right now, because of the breadth of what we do, we have that in many areas. Nokia is way ahead of us in phones; we're closing the gap. Sony is ahead of us in video games. We're just on the verge of something (the Xbox 360) that will help us close the gap there. In Web search, Google is the far-away leader. Big honeymoon for them. Even if they do "me, too" type stuff, people think, "wow." And Apple in music has done a fantastic job.

We've got all these areas -- like tablet computing, this Internet connectivity, or taking presentation to a new level, office productivity -- where we're just out there in front and we just need to keep pushing the frontiers.

In those areas where somebody else has done well, that's great. We'll match what they do, we'll bring new things to it, do it better and integrate it in with other things. And so it's very healthy for the consumer. We see that in search, we see it in music. It's not new at all that that's out there.

Q: Are there any features of Windows Vista that the U.S. antitrust settlement is keeping you from including, that you would otherwise want to include?

Gates: We're not being prevented from including features, and that's the strength of the settlement that we reached with the Justice Department and others. There's quite a bit of process we go through to make sure that the way we're putting them in and exposing them to third parties, that we're meeting all the requirements of that. But it's not preventing us from being very, very innovative and making it as rich as we want to.

Q: I wondered, for example, if you might want to build in antivirus protections into Windows if not for the antitrust situation.

Gates: Well, there's a ton of security capability that we are building in to Windows Vista. The whole thing about spyware, malware, phishing, a lot of things that support antivirus. The actual capability of getting updated signatures, that's something you need on an ongoing basis, so you need to ship that separately from the operating system itself and so we will have a way that people sign up from that separate from the operating system.

Q: What will Windows Vista do for computer security, and for Microsoft's security reputation in general?

Gates: Ever since I put out the big security memo talking about that as our top priority, we've been gaining a lot of respect for how seriously we're taking it, and the steps we've taken. People have seen visible progress in terms of the ease of securing their systems, some reduction in the spam that's out there.

Now that doesn't mean that the bad guys aren't always trying to find something new. Phishing is the big thing they're doing right now. And so there will be constant innovation in these areas, invention, the need to educate customers how they set their systems up in the right way.

But in terms of making it something that doesn't really hold the industry back and Microsoft is viewed as a leader in terms of our investments, and our predictability and showing the framework for how we're doing this, we have made immense progress. We can see that when we go out and survey customers. They want more, and we're not done in any way, but they appreciate the progress and the attitude we're showing.

Q: Some people hold Microsoft most accountable for security problems, even though software flaws are exploited by "bad guys," as you said. Is that a fair criticism?

Gates: Software in general, whether it was from Microsoft or somebody else, was not set up for an environment where all the computers were connected together. So it's not like there was some software that had this security capability and our software did not. As we use the Internet to connect everyone up, then the need to essentially have suspicion and only listen to certain other systems, and if flaws come up to have those updated very quickly, that became a new requirement.

Because Microsoft is the biggest software company and so successful, we should be held responsible for coming up with those things. We've got to push the state of the art, we've got to be the one to solve those problems.

Q: You've said that this will be the most significant release of Windows since 95. Do you have any hope or expectation of recapturing the consumer excitement that accompanied that particular launch?

Gates: I'm sure we'll have some of that. The PC is so broad now compared to back in 1995, it's not quite as radical. Everybody has got a PC. I don't know if we'll use the same kind of midnight madness type things. We're seeing a lot of that in our Xbox world, where when we do a new version of 'Halo,' we do this Xbox 360, because it's very consumer oriented, we see just such mass enthusiasm.

Q: The economy has been rebounding, and Microsoft's hiring has remained steady, but at pretty much the same pace over the past few years. Do you envision that hiring rebounding in the coming years in the Seattle area?

Gates: We have been hiring people in Seattle. We see that continuing, I'm not sure I'd say at any different level than it's been at. The constraints on how many great engineers are there out there to hire will always put a ceiling on that. We're glad that we're adding people, but I wouldn't say we're entering some significantly new phase.

Q: Is outsourcing playing a role there, in lessening the amount of growth in the Seattle area?

Gates: Well, the economy is a very complex thing. We sell way more of our software overseas than we sell internally. That is, the U.S. disproportionately gets our R&D activity relative to the amount of software we sell in the U.S. And so, why has Microsoft ever been able to hire people? Because of world trade. So if people don't believe in letting other countries get rich and buy more U.S. products, if trade liberalization freezes up or goes backwards, that's a very bad thing for an export-oriented company like Microsoft.

We like the idea that China is developing their economy. They've taken more people out of poverty than any country in history over just even the last 10 years. We view those as a good thing. It does mean the world is getting a lot more competitive. We will have competitors arising out of these Asian countries. That's fine.

So I think the advances in the world economy largely have been positive, and we see that in the increasing sales in Asia, and without those our hiring growth couldn't be maintained.

Q: Last week you were scheduled to meet with Chinese President Hu Jintao before his U.S. trip was canceled. How much will China figure into Microsoft's future, and how will you overcome challenges there, such as open source software and piracy?

Gates: China is an amazing country, and I was very disappointed that it didn't work out for the President to come last week. I fully understand why the leaders decided that made sense. I'm very hopeful he'll come back to Seattle. It's going to be great to sit down and talk with him. I got to know his predecessor, Jiang Zemin, and now he's leading China in this new era.

We've been investing there, it's our long-term approach. I think China will set the standard in some ways in terms of efficiency, driving a new wave of companies into the world economy.

Q: One of the big pieces of news this week was Oracle's plan to acquire Siebel Systems. How would that deal affect the competitive landscape for Microsoft?

Gates: We've always had a good relationship with Siebel, and we'll do our best to keep that strong as they become part of Oracle. Oracle we do some things with and obviously compete in the database area. I don't think that acquisition overnight is a dramatic thing. It is part of a trend toward some consolidation that people want to simplify the software they run in their companies.

Whirlpool Officially Notifies Regulators Of Intent To Acquire Maytag (AP)

By James Prichard, ASSOCIATED PRESS

AP, September 13, 2005

GRAND RAPIDS, Mich. – Whirlpool Corp. has officially notified the Federal Trade Commission and the U.S. Department of Justice of its intent to purchase rival appliance maker Maytag Corp. in a cash-and-stock deal valued at more than $1.7 billion.

Whirlpool sent notification letters last week to both agencies because it is unclear at this point whether it will be the FTC or the Justice Department that will investigate possible antitrust concerns, Whirlpool spokesman Steve Duthie said Tuesday.

"Neither Justice nor the FTC has considered or ruled on a merger in the U.S. appliance industry for a long time – 15 to 20 years, I think," Duthie said.

Once the regulators figure out which of them has jurisdiction, Benton Harbor-based Whirlpool will provide the investigating agency with more details about its planned acquisition of Maytag, he said.

Probably by the end of this month, Whirlpool will notify the Securities and Exchange Commission that it plans to issue new shares of stock to be given to Maytag shareholders as part of the proposed transaction.

Shareholders of Newton, Iowa-based Maytag must approve the acquisition and will vote on the proposal before the end of the year, the company said last month. The agreement does not need the approval of Whirlpool's shareholders.

The companies announced Aug. 22 that they had formally agreed for Whirlpool to acquire Maytag for $21 per share and assume $977 million of Maytag debt.

A combined Whirlpool-Maytag company would capture about 48 percent of the U.S. major-appliances market, analysts have estimated. General Electric Co. would have about 26 percent of the market and Sweden's Electrolux AB would have about 20 percent.

Whirlpool-Maytag would control as much as 70 percent of the U.S. laundry market, a figure that analysts said would likely generate close government scrutiny.

Both companies have said they expect to close the deal during the first quarter of 2006, although some industry observers have said it may take longer to receive regulatory approval.

Shares of Whirpool fell $1.19, or 1.5 percent, to close at $77.91 on the New York Stock Exchange while Maytag shares dropped 19 cents, or 1 percent to $18.65.

U.S. Cellular To Acquire Alltel's Kansas, Nebraska Operations For Idaho Network And $50M (AP)

AP, September 13, 2005

CHICAGO (AP) -- Wireless carrier U.S. Cellular Corp. said Tuesday it is acquiring Cellular One's operations in Nebraska and Kansas in a move to expand its presence in the Midwest.

In exchange, U.S. Cellular will transfer its Idaho networks to an Alltel Corp. unit and pay $50 million.

U.S. Cellular said the deal will give it about 125,000 retail customers, 193 cell sites, 15 company-owned stores and 89 agent locations in an area containing about 1.4 million people. The company currently operates in 25 counties in southeastern Nebraska and 80 counties in northeastern and southeastern Kansas.

Little Rock, Ark.-based Alltel will receive about 91,000 customers, 84 cell sites, six company stores and 32 agent locations in a region containing about 500,000 people.

The companies predicted that the deal will close in the fourth quarter, pending approval by communications regulators and the Justice Department. After the agreement is complete, both companies will continue operating their stores under the old brand names until they are remodeled.

All the Alltel assets involved in this transaction belonged to Western Wireless before Alltel acquired that company earlier this year.

Shares of United States Cellular Corp. opened up 10 cents at $55.41 on the American Stock Exchange. Alltel shares were up 54 cents at $63.69 on the New York Stock Exchange.

PECO Files Settlement To Facilitate Exelon-PSEG Merger (DOWJONES)

Dow Jones Newswires, September 13, 2005

PHILADELPHIA -(Dow Jones)- Exelon Corp. (EXC)'s (EXC) Peco Energy (EXC) unit filed with Pennsylvania utility regulators a settlement that the company expects will resolve state regulatory concerns related to Exelon's planned merger with New Jersey utility Public Service Enterprise Group Inc. (PEG) (PEG).

Exelon and PSEG agreed in December to merge. The deal has received regulatory approval from New York, Connecticut and the Federal Energy Regulatory Commission, but still requires the go-ahead from Pennsylvania, New Jersey and the Justice Department.

In a press release Tuesday, PECO said its settlement offer to the Pennsylvania Public Utility Commission would cap rates for five years and give rate discounts of $120 million over the next four years.

Peco said a judge with the Pennsylvania regulator will review the proposed settlement, which also includes funding for investment in "alternative" energy and environmental projects.

The judge is expected to make a recommendation before the settlement goes before the regulator for a full vote, which Peco said may happen before the end of the year.

Exelon and PSEG expect to complete all regulatory reviews and close the merger in the first half of 2006.

In a separate email statement, an Exelon spokeswoman said the company plans a conference call at 11:30 a.m. EDT. The call can be accessed at 1-800-683-1525.

Exelon shares recently listed at $55.91, down 11 cents, or 0.2%.

Company Web sites: http://www.pseg.com; http://www.exeloncorp.com

-Jeremy Herron; Dow Jones Newswires; 201-938-5400; AskNewswires@DowJones.com

America West Shareholders Back US Airways Merger (WSJ/DJN)

By Nicole Urbanowicz, Dow Jones Newswires

The Wall Street Journal, September 14, 2005

PHOENIX -- America West Holdings Corp. said Tuesday its shareholders have voted in favor of the company's merger with US Airways Group Inc., clearing the way for the deal to close this month.

The parent company of low-fare carrier America West Airlines said 95.5% of total voting shares were voted in favor of the deal.

Class A shareholders voted 100% in favor of the deal, while class B shareholders voted 85.2% in favor. Out of the class B shareholders, 4.4% opposed the deal and 10.4% abstained from voting.

"With US Airways final bankruptcy court hearing scheduled for later this week, we anticipate closing our merger with US Airways at the end of September as previously scheduled," America West President and Chief Executive Doug Parker said in prepared statements.

US Airways' bankruptcy turnaround plan relies on the merger with America West. The U.S. Bankruptcy Court of Alexandria, Va., has a hearing scheduled for Thursday to consider final court approval of the air carrier's Chapter 11 turnaround plan.

Under the deal, America West will become a wholly owned unit of US Airways, and existing America West shareholders will receive about 37% of the merged airline's shares.

Investors in the merger, who have pledged a total of $565 million, are slated to receive about 52% of the reorganized US Airways. The remaining shares will fund distributions to the Pension Benefit Guaranty Corp. and US Airways' general unsecured creditors.

Once the merger is complete, the new company will operate as a low-cost airline based in Tempe, Ariz. The merged airline will trade under the stock symbol "LCC."

Shares of America West recently changed hands Tuesday at $7.21, down 11 cents, or 1.5%, in New York Stock Exchange composite trading.

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US Airways-America West Deal Approved (WT)

By William Glanz

The Washington Times, September 14, 2005

US Airways Group Inc. yesterday took a big step toward emerging from bankruptcy when shareholders at America West approved combining the two airlines.

Shareholders at America West overwhelmingly approved the merger, with more than 95 percent agreeing to the deal during voting at the company's headquarters in Tempe, Ariz.

The vote is a "ringing endorsement" of the proposed company's business plan, said Douglas Parker, who is chief executive of America West and would serve as chief executive of the combined company.

The combination of US Airways and America West would create the nation's sixth-largest airline and a low-cost carrier with a broad geographic reach.

Perhaps more important for US Airways, yesterday's vote made it more likely that U.S. Bankruptcy Court Judge Stephen Mitchell would approve its reorganization plan, analysts said.

"I expect court approval," said Ray Neidl, an airline industry analyst for Calyon Securities Inc., in New York.

Judge Mitchell's hearing on US Airways' reorganization plan, scheduled for tomorrow, is the last hurdle the company must clear before a merger can take effect and its second trip into bankruptcy can end.

The merger is the linchpin of the reorganization. It also may make the difference between US Airways' failure or success.

"I think most of us expected US Airways to disappear," said Michael Roach, an airline analyst and co-founder of America West, which began flying in 1983.

But then America West came along, he said. US Airways and America West began merger discussions in January, then announced their plan to combine operations May 19.

The new company will be funded with $1.5 billion in new equity from companies including Airbus SAS, Air Canada parent ACE Aviation Holdings Inc. and a group led by Air Wisconsin Airlines Corp.

US Airways' unsecured creditors and the Air Transportation Stabilization Board, which has backed more than $1 billion in loans for the two airlines, have approved the merger.

If Judge Mitchell approves US Airways' plan tomorrow, the first official day of the merged company would be Sept. 27, America West spokesman Philip Gee said.

The airlines are promoting Sept. 27 as "Day One."

The combined company will operate with the US Airways name, but it will move to America West's corporate headquarters in Arizona.

Immediate changes will be modest. US Airways and America West operate jointly in 38 cities, and it will take months before the airlines complete work to change logos and rebrand themselves in each market.

While work is done to present the airline as a single company, flight operations must remain separate until the Federal Aviation Administration issues the combined company a single operating certificate. That could take up to three years, Mr. Gee said.

Even if Judge Mitchell approves the reorganization plan tomorrow, the airlines still face significant obstacles, industry analyst Darryl Jenkins said.

Rising jet-fuel costs will impose a heavy financial burden, and determining seniority among pilots, flight attendants and mechanics will take years, he said.

"There are going to be problems," Mr. Jenkins said.

America West flight attendants demonstrated outside the airline's headquarters yesterday to voice their dissatisfaction with the slow progress of contract talks. The union this week asked a federal mediator to oversee negotiations with the airline.

Suit Says Wal-Mart Is Lax On Labor Abuses Overseas (NYT)

By Steven Greenhouse

The New York Times, September 14, 2005

A labor rights group filed a class-action lawsuit yesterday against Wal-Mart Stores in which apparel workers in Bangladesh, China and other countries assert that Wal-Mart violated its contractual obligations by not enforcing its code of conduct for overseas contractors.

The lawsuit, filed in state court in Los Angeles, makes the novel argument that Wal-Mart's code of conduct created contractual obligations between it and thousands of workers employed by contractors who were supposed to comply with the code.

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In the lawsuit brought by the International Labor Rights Fund, workers from Bangladesh, China, Indonesia, Nicaragua and Swaziland assert that the codes of conduct were violated in dozens of ways. They said they were often paid less than the minimum wage and did not receive time-and-a-half for overtime, and some said they were beaten by managers and were locked in their factories.

"Based on its vast economic power, Wal-Mart, based on its code of conduct, can and does control the working conditions of its supplier factories," the lawsuit states. "It could use its power and position to prevent its producers from profiting from the inhumane treatment of plaintiffs."

Beth Keck, a Wal-Mart spokeswoman, said the company was studying the lawsuit. "It's really too early for us to go into any kind of detail about this complaint," Ms. Keck said. "It involves a number of countries, suppliers and factories. We will be looking into this and taking it very seriously."

Wal-Mart executives say that they have the world's largest overseas monitoring program, with more than 5,000 factories inspected by 200 full-time inspectors who visit 30 factories a day. The executives say that when inspectors find violations, they give factories several months to fix any problems before another inspection.

Last year, according to the company's ethical standards report, Wal-Mart cut off 1,200 factories for at least 90 days because serious violations were found in the second visit. Another 108 factories were permanently banned, primarily because of child-labor violations.

In the lawsuit, two male workers for Wal-Mart contractors in Shenzhen, China, asserted that they were not paid the minimum wage, not permitted to take holidays off and were forced to work overtime. They said the contractors withheld the first three months of all workers' pay, almost making them indentured servants because the company refused to pay the money if they quit.

An apparel worker in Dhaka, Bangladesh, said that she was locked into the factory and did not have a day off in her first six months. She said that she was told if she refused to work the required overtime, she would be fired. Another worker said her supervisor attacked her "by slapping her face so hard that her nose began bleeding simply because she was unable to meet" her "high quota."

The complaint tells the stories of 16 plaintiffs, but lists them as John and Jane Does, saying they need to be protected against reprisal. Several said they were fired or suspended for backing unions.

The lawsuit accuses Wal-Mart of breach of contract for wage violations, forced labor and denying workers the right to associate freely. It also accuses the company of negligence, unjust enrichment and fraudulent and deceptive practices in violating California's business code.

Terry Collingsworth, executive director of the International Labor Rights Fund, a Washington-based advocacy group, asserted that filing the lawsuit in California was appropriate because Wal-Mart had violated that state's laws. He said that if the plaintiffs had filed the lawsuit in their home countries, they would have faced arrest, physical attacks and hostile judicial systems that favored corporations.

He faulted Wal-Mart's monitoring system, contending that fewer than 10 percent of its inspections were unannounced. He said company managers often coach workers on what to tell the inspectors.

Wal-Mart executives say that they are working to improve the monitoring and that more inspections will be unannounced.

"With our growth, the challenge of ethical sourcing has become increasingly complex," H. Lee Scott Jr., Wal-Mart's chief executive, wrote in the company's 2004 Report on Standards for Suppliers. "But we have a qualified ethical standards team dedicated to verifying that factories are in compliance with local labor laws and/or Wal-Mart standards, whichever are more stringent."

An Indonesian plaintiff who said she made jackets for Wal-Mart's private-label George line complained of unpaid work hours and unpaid overtime, saying that she often worked from 7 a.m. until 8 or 10 p.m. Mondays through Fridays. She said she also had to work on Saturdays from 7:30 a.m. until 3 or 4 p.m.

Another Indonesian worker said, "Wal-Mart production quotas were far higher than quotas from previous buyers, and her supervisor regularly yelled at her and her colleagues if the work was not performed quickly enough."

An apparel worker in Matsapha, Swaziland, said he sometimes had to work from 7 a.m. to 11 p.m. and once worked all night. "He was threatened with immediate dismissal if he did not work overtime, and the factory doors were locked to ensure he did not leave," the lawsuit asserted.

Mr. Scott wrote in the ethical standards report, "It is important to recognize the reality that however strong the programs we develop, violations of our standards will occur." He added that it was a point of pride with Wal-Mart when violations were discovered, action was taken.

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The plaintiffs include four unionized California supermarket workers who say that they suffered cuts in pay and benefits because of competition from Wal-Mart's low prices. They argue that those prices are attributable in part to violations of the chain's suppliers' code of conduct.

Wal-Mart Accused Of Denying Workers' Rights (WP)

By Michael Barbaro

The Washington Post, September 14, 2005

An American labor rights group filed a class-action lawsuit yesterday against Wal-Mart Stores Inc., alleging that suppliers in five countries violated workers' rights, including denying a minimum wage, requiring overtime and punishing union activity.

The suit, filed in California Superior Court in Los Angeles, accuses Wal-Mart of failing to enforce its standards for suppliers and, in some cases, observe local labor laws in China, Bangladesh, Swaziland, Nicaragua and Indonesia.

The International Labor Rights Fund, a District-based advocacy group, filed the suit on behalf of 15 foreign workers who claimed they were subjected to illegal working conditions, and four California grocery employees who claimed that Wal-Mart's cost-cutting measures resulted in lower wages and benefits.

The suit, which must be certified by a judge before achieving class-action status, is the latest legal salvo against the discount retailer, which faces class-action suits claiming that it discriminated against black truck drivers and female store employees. If certified, the suit could represent 200,000 to 400,000 people, said lawyer Terry Collingsworth of the International Labor Rights Fund.

Beth Keck, a spokeswoman for Wal-Mart's international division, called the case "complex" and said "it's too early for us to talk about this in detail."

Collingsworth said the suit would test whether corporate codes of conduct, which retailers such as Wal-Mart require their foreign suppliers to sign, "are simply public relations devices or whether they mean what they say."

The suit could take years to move through the courts, but in the meantime, the case is expected to add to the growing debate about Wal-Mart's business model, which has shifted the manufacturing of products including clothing and toys to foreign countries to cut labor costs. Wal-Mart is based in Bentonville, Ark.

According to one assertion in the suit, a woman at a Wal-Mart clothing manufacturer in Bangladesh worked seven days a week, from 7:45 a.m. to 10 p.m., making chalk marks on pants and did not have a day off for six months.

The four California plaintiffs are employees of unionized grocery chains, such as Ralphs and Safeway Inc., that have cut wages and benefits to better compete with Wal-Mart. All four are members of the United Food and Commercial Workers Union, which is trying to organize Wal-Mart's 1.2 million U.S. employees.

Aggressive Patent Litigants Pose Growing Threat To Big Business (WSJ)

By William M. Bulkeley

The Wall Street Journal, September 14, 2005

In one of Douglas Fougnies's early business ventures, he provided phony new-vehicle titles for stolen cars. His partner, Larry Day, is a onetime blackjack dealer in Las Vegas.

Together, the two men have found a more lucrative line of work: suing cellphone companies for patent infringement. Earlier this year their company -- which consists of four employees and six patents -- won $128 million in damages from Boston Communications Group Inc. and four other companies over alleged misuse of a 1998 patent.

Messrs. Fougnies (pronounced FOON-yay) and Day are successful practitioners of a growing trade. Several large companies, including Microsoft Corp., are struggling to beat back tiny outfits armed with little more than a broad patent or two and a team of lawyers.

Lured by the potential returns, hedge funds and other institutional investors now are bankrolling businesses that buy up patent portfolios. More law firms, including some branching out from product-liability and malpractice work, are taking patent cases on a contingency basis. That means the law firms are paid a percentage of any damages awarded but little or nothing if the patent-holder loses.

Critics call the small litigants "patent trolls" and say they are parasites on successful businesses. "We finally built it up to where we started to make money at it, and the patent troll industry came along and said, 'We want a piece of that,' " says Paul Tobin, the 62-year-old founder and chairman of Boston Communications. "No one comes after you until it all works. They don't go after the failures."

Boston Communications has 400 employees and had 2004 revenue of $108 million. Its stock, which is listed on the Nasdaq Stock Market, hit $30 a share in 2001 but plummeted after the recent judgment, and traded late yesterday at $1.17.

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Messrs. Fougnies and Day make no apologies. "The cause of the lawsuit is not that we are patent trolls. The cause of the lawsuit is that these defendants used our patented technology to make over $1.5 billion in revenue," says Mr. Day.

In 2003 Eolas Technologies Inc. and the University of California won a $560 million judgment against Microsoft over a patent covering features of Web browsers. (An appeals court this year ordered the case to be retried.) In March, BlackBerry maker Research In Motion Ltd. agreed to pay $450 million to NTP Inc. over wireless-email patents.

Acacia Technologies, of Newport Beach, Calif., has acquired 120 patents in areas ranging from credit-card fraud protection to hearing aids. It has filed patent-infringement lawsuits against Intel Corp., Cablevision Corp. and others. Nathan Myhrvold, Microsoft's former chief technology officer, has formed a company called Thinkfire, backed by high-tech firms and venture-capital investors, that acquires patents and manages patent licensing for others.

In response, some technology companies are supporting a House bill introduced in June by Texas Republican Rep. Lamar Smith. It would limit remedies for successful plaintiffs that don't make products. The bill faces opposition from inventors and pharmaceutical companies, and its fate is unclear.

The 48-year-old Mr. Fougnies says he worked in real-estate development and recreational-vehicle sales before getting into the cellphone business in 1990. Using $2,000 borrowed on his wife's credit card, he says, he opened a retail store in Phoenix selling cellphones and calling plans. Soon he had five outlets and became partners with Mr. Day. The former blackjack dealer and pit boss in Las Vegas had became a prosperous Phoenix insurance agent and was looking for an investment opportunity.

In 1994 Mr. Fougnies and Jack Harned, a Phoenix software engineer, filed for a patent covering a prepaid cellphone system. The patent describes in general terms a method for setting up such a system so that it can keep track of how many minutes users have left on their phones without requiring them to punch in a special access code. The system would be able to shut down cellphones that had run out of minutes.

At the time, prepaid phones were cumbersome to use because users typically had to dial a special number first and then type in a personal identification number before going on to complete their call. Companies were eager to offer prepaid calling because many people with poor credit couldn't qualify for regular cellphone plans.

Mr. Fougnies started showing the system to prospective customers, including GTE Wireless Corp. When GTE announced a prepaid plan based on a different system, his company filed a $500 million suit accusing GTE of stealing its trade secrets.

The suit went badly for Mr. Fougnies. In a deposition, he denied that he had ever stolen anything, only to be confronted later in the deposition by the record of a 1980s conviction for car theft. Mr. Fougnies says he never stole cars but in 1986 provided a ring of thieves with phony new-vehicle titles. The ring, he says, was renting cars in California and Las Vegas, reporting them stolen and driving them to Phoenix. Mr. Fougnies, who cooperated with the authorities, was convicted of a misdemeanor, which he says he thought had been expunged from the record at the time he was deposed.

The case against GTE dissolved after GTE presented testimony that another vendor was offering a similar prepaid technology. That suggested Messrs. Fougnies and Day didn't have any trade secrets that could be stolen. They eventually agreed to a settlement in which their company paid more than $90,000 to GTE for legal expenses, said GTE hadn't stolen any trade secrets, and agreed never to sue it again.

Despite the setback, the pair signed up licensees or partners in a dozen cities from Boston to San Francisco and had revenue in 1996 of $11 million. They expanded to Washington, D.C., installing a prepaid system and buying minutes from Bell Atlantic that they could resell to retail customers. But Bell Atlantic soon informed them that it would terminate the agreement. Later Mr. Fougnies discovered that Bell Atlantic was starting to sell a prepaid plan using technology from Boston Communications, whose service was more lucrative for carriers because the carriers got more of the prepaid revenue.

With the prepaid-cellphone business bringing in little profit and hopes for expansion receding, Messrs. Day and Fougnies shut it down in 1999. Having recently received the patent they had sought, they decided to start a new company called Freedom Wireless Inc. focusing solely on patent litigation. They raised several million dollars by selling their retail stores and the subscribers, and several million dollars more by selling shares in Freedom to private investors.

Freedom bought a "patent-enforcement" insurance policy through Lloyd's of London, which covered up to $5 million of any litigation costs in exchange for a premium payment that Mr. Day says was less than 12% of that sum, or less than $600,000. The policy resembled an investment: If Freedom won its lawsuit or settled, the insurer would get back its original outlay plus a 25% bonus. A Los Angeles law firm, Quinn Emanuel Urquhart Oliver & Hedges, agreed to represent Freedom Wireless in part on a contingency basis.

In 2000, Freedom filed suit against Boston Communications and many of its customers, alleging patent infringement. After mergers and out-of-court settlements, the main defendants that remain today are Boston Communications; Cingular Wireless, which is owned by SBC Communications Inc. and BellSouth Corp; and Western Wireless Corp., which is being acquired by Alltel Corp. Boston Communications is on the hook for the entire sum of any damages because it agreed to indemnify its customers against patent-infringement suits when it installed its technology.

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Boston Communications had been formed in 1988 by Mr. Tobin and three other cellphone veterans. Their company started out selling technology to let a customer of one cellphone provider make calls in another provider's region -- now a common feature called roaming but then an innovation.

In 1994, according to later trial testimony, a Boston Communications executive conceived of a prepaid system that would handle calls from cellphones without requiring PIN-codes or special chips in the phones. Cellphone carriers could keep using standard telephone switches in their existing facilities. All they needed to do was load the switches with Boston Communications software that could identify prepaid callers and check them against a database so their accounts could be debited.

No patent was sought for the system. "We didn't even focus on" obtaining one, says Mr. Tobin. "The hardware was off the shelf and we were just writing software."

By the time the case went to court, Boston Communications was a leader in the field of prepaid calling with a 35% market share. It had installed switches nationwide for Bell Atlantic, now part of Verizon Communications Inc. Today, Boston Communications's service is used by about four million of the 18 million prepaid cellphone customers in the U.S.

During the patent suit, Freedom's lawyers showed to the jury evidence uncovered in an earlier Freedom case that that Bell Atlantic engineers had been in regular communication with Boston Communications engineers about Mr. Fougnies's technology. The evidence included internal Bell Atlantic memos. Mr. Day says the phone company would call Mr. Fougnies "and then call BCGI and say, 'Here's how to solve your problems with incoming calls.' "

Boston Communications says the discussions were innocent. "We certainly didn't need to steal anyone's idea," Mr. Tobin says.

Boston Communications's defense, led by Michael Keating of the big Foley Hoag law firm, centered on a central plank of patent law: No one can patent something that is already public knowledge.

Following in the footsteps of GTE's successful defense, Mr. Keating showed that before Mr. Fougnies developed his system -- and before he filed for his patents -- he had visited a Phoenix company called Banana Cellular, which already had a working prepaid system. The defense also pointed to a 1993 article in a trade publication describing technology that could be used to make a prepaid system using switches with special software.

Freedom's lawyer, William Price of Quinn Emanuel, contended that the prepaid systems discussed before 1994 didn't invalidate Mr. Fougnies's patent because they had technical differences and weren't operational.

Separately, Boston Communications maintained that even if the patent was valid, its technology was different from Freedom's and therefore didn't infringe.

After a seven-week trial, the jury backed Freedom. Moreover, the jury found the infringement willful -- apparently relying on the evidence about the conversations between Bell Atlantic and Boston Communications -- although the judge didn't triple the damage award, as he could have done.

Boston Communications says its total profits since 1998 from prepaid plans were only $24 million. But Mr. Price, Freedom's lawyer, persuaded the jurors to award damages based not on Boston Communications's prices but on the higher prices that Messrs. Fougnies and Day had charged in the days when they sold their own prepaid system.

In order to post bond for a planned appeal, Boston Communications reached an agreement with Cingular to raise whatever sums are needed. Boston Communications says it can't afford to pay the damages and might have to file for bankruptcy.

Its chairman, Mr. Tobin, says, "I'm afraid it was beyond the jury. They didn't understand the technology." He adds that he fears the case will embolden other companies with patent portfolios. The decision is "helping to foster this other emerging industry," he says.

Mr. Fougnies says the jury verdict will help make up for what he regards as the theft of his idea. He says he always dreamed of building a company that would do big business selling its products. "We never envisioned," he says, "that our whole life would be in a courtroom."

Oracle's Siebel Buyout Might Stifle Creativity (UPI)

By SHIHOKO GOTO

United Press International, September 14, 2005

WASHINGTON, Sept. 13 (UPI) -- Software group Oracle's bid for Siebel Systems for a cool $5.85 billion Monday was greeted by many Wall Street analysts as a signal of the return of mega-mergers and better still -- renewed confidence in the information technology sector.

After all, earlier in the day online auction house eBay announced it will be acquiring Internet telecommunications group Skype for $2.6 billion.

As the world's biggest database-software company, the Silicon Valley-based Oracle would be acquiring a group that is one of the biggest players in customer relation management software, tracking marketing data, client information and other data that

helps companies be more efficient in their sales strategies. The deal is still subject to U.S. government regulations under the auspices of the Department of Justice, but while some industry analysts have high hopes for Oracle making the most of the acquisition, others are not so certain.

One thing, however, is certain. For Thomas Siebel himself, founder and chief executive of the company and once himself an Oracle executive, the deal is a very good one as Siebel Systems was faced with a growing number of rivals, while not many companies expressed interest in taking it over. Meanwhile, for Lawrence Ellison, Oracle's chief executive, it could well be that he finally would feel vanquished after years of bitter and public animosity with Siebel following his departure from Oracle.

"The combination of Siebel applications with the development capacity of Oracle to enhance our (client relation management) product set ... is a very beneficial business combination that will allow us to be even more effective in delivering high quality, leading edge solutions," Thomas Siebel said in a news release.

Ellison too was equally ebullient about the deal, stating that "in a single step, Oracle becomes the number one CRM applications company in the world. Siebel's 4,000 applications customers and 3,400,000 CRM users strengthen our number one position in applications in North America and move us closer to the number one position in applications globally."

Analysts, however, were less effusive about the planned buyout, even when they agreed it could be a mutually beneficial deal.

Credit raters Standard & Poor's, for instance, said the deal would have "no impact" on Oracle's rating or outlook, even as it pointed out that the acquisition "is expected to significantly strengthen Oracle's global market position, especially for customer relationship management software applications."

This is, of course, not Oracle's first major acquisition. The company finally got approval to buy out PeopleSoft in a hostile takeover bid earlier this year for $10 billion, after a long transatlantic dispute between the U.S. government and the European authorities on antitrust concerns.

While the bid for Siebel will certainly not be as controversial, some analysts including Janet White at Info-Tech Research Group of London, Ontario, argued that the purchase could actually stifle Oracle's longer-term prospects.

"By purchasing Siebel, Oracle has acquired an additional 3.4 million CRM users and the maintenance fees that go with that kind of installed base. However, where Oracle may be able to compete with (German rival) SAP on numbers in the short term, they may have trouble competing longer term on product innovation," White said.

She also argued that "Oracle is an applications company and it only makes sense that they will want to eventually move acquired customers over to their technology stack. But how much time will Oracle really have to integrate its existing portfolio, or create innovative new products, when it has to spend most of its time maintaining disparate, monolithic systems acquired through its recent acquisitions of PeopleSoft, JD Edwards and now Siebel," White said.

Oracle will be paying $10.66 per share for Siebel's stock, considerably above Siebel's Friday closing price of $9.13. Thomas Siebel owns about 55 million shares, or just over 10 percent of total shares. The deal is expected to go through by early next year.

Real Estate Agents Under Fire...again (CNN)

CNN/Money, September 14, 2005

New York (CNN/Money) - Are home buyers any closer to actually saving money on commissions?

The Department of Justice last week sued the National Association of Realtors over its "opt-out" policy -- the latest shot in an ongoing war to force competition in the real-estate industry, and one that could just maybe lead to a lowering of the standard 6 percent commission.

The opt-out policy allows NAR members to keep their real-estate listings from being broadly disseminated over the Internet.

Real-estate brokers regularly share information about listings. That enables them to put together buyers and sellers more efficiently. But if an agent opts out, it means that none of his listings can be displayed on other agents' Web sites. And he cannot list other agents' properties on his.

If a buyer begins his home search on the Web, he may never see some of the properties available. That, to the Justice Department, does a disservice to consumers. Buyers would have fewer homes to choose from. Sellers would have fewer buyers bidding for their properties.

Why would a broker want to opt out? After all, it's in the agent's best interest to have as many buyers as possible see (and bid on) a property, and the agent has a fiduciary responsibility to get the seller as high a price as the home can command.

NAR spokesman Peter Cook said that the opt-out policy is simply a way to provide good service -- many clients don't want their properties widely displayed on the Internet. Some of the wealthy and the famous wish to avoid publicity and some sellers have safety or security issues.

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But critics, such as Bruce MacDonald, deputy attorney general in the antitrust division of the Justice Department, said this opt-out system is designed to "elbow out" Web-based competitors.

The issue is simple, according to one of these competitors, Manuel Iraola, who founded HomeKeys, a Florida-based Internet real estate marketer: "[Realtors] are thinking, 'How do we protect the 6 percent commission?'" Past victories

This is not the first effort by the Justice Department to shake up the real-estate industry.

Previous victories for the government agency came in Kentucky, on July 13, when the state real-estate commission agreed to allow real-estate brokers to offer rebates, discounts and other inducements to consumers to win their business.

A similar agreement was reached in South Dakota this August. The Kentucky and South Dakota cases established the policy that brokers are allowed to lower their fees to drum up business.

It all threatens to chip away at the industry's longstanding way of doing business. If the Justice Department prevails, it could mean full-commission real-estate brokers would have to operate in a more competitive world in which low-cost innovators such as Internet-based marketers would claim greater share. In a more competitive marketplace, fees for the full-service brokers would almost certainly fall.

The savings could be substantial. The standard 6 percent commission on a $300,000 home works out to $18,000. If working with a discount broker becomes a more viable option, buyers and sellers could save half of that, if not more. Clients choice

Colby Sambrotto, chief operating officer of ForSaleByOwner, said that full-service brokers shouldn't fight the future. Real-estate brokers may be wary of real-estate following the trend in some other industries, such as stock trading and travel booking where Internet business models creamed the old way of doing things.

But Sambrotto said the examples aren't exactly parallel. "You can't get around the fact that with real estate, you have a physical property," he said. "That keeps it rooted in local markets."

In other words, there should always be a need for local real-estate agents in place, on the ground, to take customers down that final road to new homeownership.

It's whether they'll still receive a 6 percent commission for doing it that may be in doubt.

Justice v Realtors (WSJ)

The Wall Street Journal, September 14, 2005

We've been pounding the National Association of Realtors over its anti-competitive behavior, and last week the U.S. Justice Department filed its own antitrust suit charging the Realtors with illegally squeezing low-cost Internet companies out of the market. So why aren't we thrilled? Because this is a case of right target, wrong weapon.

Justice is certainly correct that the Realtors have used their political clout to suppress competition in local real-estate markets. One charming legal barrier in about a dozen states -- called "minimum service requirements" -- prohibits such discount realty firms as realestate.com from offering home sellers a flat fee of typically $500 to post their houses on local sale listings. In today's booming market, with the median-priced home now selling at $220,000, the Internet-based firms can save "do-it-yourself" consumers about $10,000 on average in exorbitant Realtor fees. Another Realtor favorite are state laws that prohibit discount agents from providing rebates to home buyers of typically $1,000 or more on their fees.

Justice is targeting something different, however. At issue is the Realtor practice of preventing Internet competitors from having access to the properties for sale on the local "Multiple Listing Service," or MLS. The antitrust suit maintains that Realtor "policy prevents consumers from receiving the full benefits of competition and threatens to lock in outmoded business models and discourage discounting."

There is little question that traditional high-fee Realtors are as receptive to Internet discounters as horse and buggy sellers were to Henry Ford's Model T. And it's true that Web-based services in other consumer industries -- from airlines to travel agents to booksellers to stockbrokers -- have all slashed costs to the great benefit of the public.

The Realtors have acknowledged in internal memos that many of their practices are meant to limit competition and preserve their lofty commissions -- typically 5% to 6% on the sale price. As such, the Realtor response to Justice that denying Internet firms access to MLS listings is "pro-consumer, pro-competitive, and pro-innovation" fails to pass the laugh test.

At the very least, these practices violate the ethical and fiduciary duty of real-estate agents to help find the best home at the best price for their clients. Instead, Realtors use their de facto price-fixing schemes to find the best home at the best price -- so long as that home offers the highest commission fee to the agents. A study by the American Enterprise Institute and Brookings Institution estimates that the economic rents that flow from consumers to Realtors as a result of this anti-competitive behavior exceed $10 billion a year.

And yet we have to admit the Realtors have a legitimate claim that they created and own the local MLS database of homes for sale. They are thus within their rights to use their private property as they wish, even if that includes denying access to

competitors. As an economic matter, there are no natural barriers to entry here; anyone can start a competing listing service if he desires. The Justice Department's lawsuit would require that all homes be listed on the MLS even if home sellers don't want them to be.

Another problem with the lawsuit is federalism. Real-estate markets are inherently local, so it's not clear there is any legitimate "interstate commerce" rationale for federal intervention. For years liberals have tried to regulate the marketplace by defining virtually every business transaction as "interstate commerce" -- a clear perversion of the Constitution's intent. The Bush Justice Department shouldn't go down this same hyper-regulatory path.

A federal lawsuit seems to be an inferior way to crack the real-estate cartel, especially since it may well lose on the legal merits. Far preferable would be for the states to repeal their laws that sustain the Realtor racket to the detriment of their own citizens and the cause of homeownership.

ENVIRONMENT/INDIAN AFFAIRS:

Senate Rejects Challenge To Mercury Emissions Rule (WSJ/AP)

By The Associated Press

The Wall Street Journal, September 14, 2005

WASHINGTON -- The Senate on Tuesday narrowly turned back a challenge to the Bush administration's strategy on mercury pollution, leaving intact federal rules that give power plants flexibility in how they reduce emissions of the dangerous toxin.

With a 51-47 vote, the Senate defeated a resolution to void Environmental Protection Agency rules finalized last March. The Democrats and nine Republicans who supported the repeal contended the EPA approach was too slow and too weak in dealing with a pollutant that can cause serious neurological damage to newborn and young children.

The White House insisted that its market-based approach to curtailing mercury pollution is effective and founded on sound science, and warned that the president would veto any legislation that overturned the EPA rules.

"In reality this is a political exercise in futility," said Environment and Public Works Committee Chairman James Inhofe (R., Okla.). "Who in this chamber would truly believe that the president would sign legislation to repeal his own administration's rule?"

The debate highlighted two very different approaches to environmental protection. The administration rules, backed by the utility industry, would set a nationwide cap on mercury emissions and put a ceiling on allowable pollution for each state. But individual plants, through a cap-and-trade system, can avoid cleanups by buying pollution credits from plants that are under allowable levels.

The utility industry says this method was successful in reducing acid rain in the 1990s. But opponents say the rules are too weak and would prolong a health risk that leaves newborns vulnerable to birth defects and mental retardation.

Sen. James Jeffords (I., Vt.) said the EPA rules violate the Clean Air Act. "The rule is plainly illegal. It is unwise. And it is definitely unhealthy for Americans living downwind of coal-fired power plants, especially mothers and their soon-to-be-born children."

Mercury pollutants work their way up the food chain after being absorbed by fish.

The sponsors of the resolution, Sens. Patrick Leahy (D., Vt.) and Susan Collins (R., Maine), turned to a little-used 1996 law that allows Congress to challenge agency rules with a guaranteed floor vote. The law has been successfully invoked only once, when Congress in 2001 repealed Clinton administration workplace ergonomics regulations.

By repealing the EPA rules, the Senate would compel the agency to rewrite the rules. The revisions would be in line with Clean Air Act standards requiring the use of the best available technology to reduce mercury emissions.

Sen. Leahy said the Clean Air Act would start reductions in 2008. They would achieve up to 90% reductions far sooner than the EPA rules that, according to Sen. Leahy, don't begin to cut emissions until 2018 and will not reach the goal of 70% reductions until 2030.

But supporters of the EPA rules said repealing the administration approach could have a devastating impact on the economy, forcing power plants to abandon coal for natural gas and driving up natural-gas prices. They contended it would cost $358 billion to achieve the 90% reduction in three years, as opposed to a cost of $2 billion under the administration plan.

"It just can't be justified from a cost-benefit point of view," said Sen. George Voinovich (R., Ohio).

The EPA approach "combines significant reductions in emissions with protection for energy security and consumers," said Scott Segal, director of the Electric Reliability Coordinating Council. "But these senators now seek to disrupt the program."

Senate Affirms EPA's Flexible Mercury Rules (USAT)

DOJ_NMG_0005242

USA Today, September 14, 2005

The Senate rejected on Tuesday a challenge to Environmental Protection Agency rules that give power plants flexibility in how they reduce emissions of mercury. The vote was 51-47 against overturning the rules that the EPA finalized in March. Mercury is a toxic metal that gets into fish, endangering the food chain.

Sen. Jim Jeffords, I-Vt., said the rules violate the Clean Air Act and are unwise. “It is definitely unhealthy for Americans living downwind of coal-fired power plants, especially mothers and their soon-to-be-born children,” he said.

When the EPA adopted the rules, it said they went as far as possible without imposing excessive costs to companies and their customers. The rules “will virtually eliminate elevated levels of mercury American women and children may face solely because of U.S. power plants,” Jeffrey Holmstead, the EPA's air director, said at the time.

Gadhafi disappointed in nuclear deal

Libyan leader Moammar Gadhafi complained to Sen. Richard Lugar, R-Ind., that Libya hasn't gotten enough in return for giving up its weapons of mass destruction and halting its nuclear development program. The decision in 2003 was made to help end Libya's international isolation. Since then, the United States has freed Libyan assets that were frozen, renewed airline service and ended many sanctions. The United States has not restored formal diplomatic relations with Libya.

Lugar said Gadhafi told him in a private meeting that officials in North Korea and Iran have asked him what he got for giving up Libya's nuclear program. Gadhafi said he told them he has received nothing.

— Maureen Groppe, Gannett News Service

Congressman questions memorial design

Rep. Tom Tancredo, R-Colo., is asking the Interior Department to reconsider the crescent-shaped design of red and sugar maples for the Sept. 11 memorial for those aboard Flight 93. The crescent is a symbol of Islam, and the plane's hijackers were radical Islamists. The memorial honors the passengers and crew of the United Airlines flight that crashed into a field in southwestern Pennsylvania near Shanksville as its passengers tried to take control of the plane.

The park service and family members of crash victims said that the memorial's shape — a circle broken by the flight pattern of the plane — simply follows the topography of the crash site. The design still needs approval from Congress and the secretary of the Interior.

King warns of ‘clash of civilizations'

Jordan's King Abdullah II, speaking at Catholic University of America, urged interfaith cooperation to confront those trying to bring about a “clash of civilizations” among Muslims, Jews and Christians. He said responsible leaders of all religions have denounced hatred and violence, “but there are those who think otherwise; who believe that there is, or will be, a clash of civilizations. Abdullah, 43, was a soldier by profession. He was educated in Britain and the USA.

Senate Rejects Call On E.P.A. To Toughen Emission Rule (NYT)

By Michael Janofsky

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - The Senate narrowly defeated a resolution on Tuesday that would have called on the Environmental Protection Agency to rewrite rules for mercury emissions from power plants. Health and environmental groups say the present rules are too weak.

The vote was 51 to 47, largely along party lines. The resolution was brought up for a vote through a rarely used and rarely successful procedure, the Congressional Review Act. It allows lawmakers to challenge regulatory decisions.

Even if the Senate had passed the resolution, it had little chance to go further. Such challenges require approval of the House, which was unlikely to act, as well as the president's signature.

On Monday, the Office of Management and Budget said President Bush's senior advisers would recommend that he veto the effort.

"I am extremely encouraged by the Senate's resolve to support a market-based approach to reducing mercury pollution and not to impede clean air progress by rolling back the existing regulation," said Senator James M. Inhofe, the Oklahoma Republican who is chairman of the Environment and Public Works Committee and a leading opponent of the resolution.

The vote, in which 6 Democrats joined 45 Republicans for a majority, was widely viewed as a victory for power plant operators and other industry groups.

They generally prefer the current rule, the first to regulate mercury emissions from power plants. It is supposed to reduce emissions 70 percent by 2018.

The rule is based on system called cap and trade that allows a plant to exceed its permitted level of emissions by buying credits from a plant in the same region whose emissions are below what is allowed.

Supporters of the rule also argue that it will lower fuel costs.

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Sponsors of the resolution to strengthen the rule argued that it would require all plants to upgrade with the best available pollution-control technologies and would achieve a greater reduction of emissions, up to 90 percent, in fewer years, creating substantial health benefits for people most vulnerable to mercury poisoning, including pregnant women and children.

"The public health community is very disappointed that members of the United States Senate voted today to protect the energy industry's financial interest over the health of our children and communities," said Robert K. Musil, chief executive of Physicians for Social Responsibility, a coalition of health organizations.

Opponents of the current rule say it fundamentally violates the Clean Air Act, which requires the best available technology to drive down all polluting emissions.

Aging Nuclear Power Plants May Affect Emissions Pact (NYT)

By Matthew L. Wald

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - A proposed agreement among nine Northeast states to cap greenhouse gas emissions from power plants casts a new light on arguments in New Jersey and Vermont about whether the licenses of two aging nuclear plants should be extended.

Community groups in both states are opposing the extensions of the licenses beyond their 40-year terms, but environmentalists are generally supportive of the proposed agreement among the governors to reduce these greenhouse gases, which contribute to global climate change. Shutting down the two reactors would mean immediate, substantial increases in the emissions, because it would increase reliance on fossil fuel plants, probably tripling emissions in Vermont and doubling them in New Jersey.

"I think the environmental community is confused right now in terms of where they want to go," said Richard A. Valentinetti, director of Vermont's air quality program, who has been deeply involved in drafting the nine-state agreement. "Obviously there's some real polarization."

Some environmentalists say the goals can be met even without the two nuclear plants, Vermont Yankee and Oyster Creek, and without other nuclear plants whose licenses will expire in the next few years.

"We just have to bust the myth that we need to be using more energy," said Rob Sargent, senior energy policy analyst for the State Public Interest Research Groups, a nonprofit consumer organization. The New Jersey affiliate of his group is a leading voice against Oyster Creek, the nation's oldest commercial nuclear plant. Mr. Sargent said that rising electricity prices would make many new energy-saving technologies practical, but he acknowledged that simply saving money would not be enough to reduce power consumption by the required amount.

Engineers and environmental experts have long predicted that planners would eventually have to choose between greater greenhouse gas emissions and heavier reliance on nuclear power. The debate has been mostly hypothetical, since nobody in the United States has ordered a new nuclear plant since the 1970's, long before global climate change was widely perceived as an issue. It was also hypothetical because there were no limits on carbon dioxide emissions in the United States.

Suddenly, both parts of the question are changing. The governors are proposing a cap on emissions, and renewal of power plant licenses has become imminent.

Oyster Creek opened near Egg Harbor, N.J., in 1969 and its license expires in 2009. A little over half the electricity produced in New Jersey comes from nuclear power, and Oyster Creek alone produces about 9 percent; in 2004 it generated 27.1 million megawatt hours.

In December 2004, the New Jersey Public Interest Research Group came out against a license extension. It said that the plant was designed to last 40 years, and that the decision by Exelon, Oyster Creek's owner, to seek a license extension was "ignoring public safety."

The plant is in a rapidly growing part of the state, the group noted, and it argued that in an emergency evacuation would be impractical.

The Nuclear Regulatory Commission announced on Monday that it had evaluated the application by Exelon for a license extension, and had decided that it merited review.

Vermont Yankee, in Vernon, near the border with Massachusetts and New Hampshire, began commercial operation in November 1972, and its license expires in March 2012. Its capacity is 535 megawatts. In 2004 the reactor produced 3.9 million megawatt hours, which was about 71 percent of the electricity produced in the state. (That production was only about one-third of the electricity consumed in the state, because Vermont is a chronic importer of power.)

Just how much carbon dioxide the two reactors are saving depends on what the replacement power source would be. A megawatt-hour from a coal plant produces about one ton of carbon dioxide. In the long run, power companies could build natural gas plants, which produce only about half a ton per megawatt hour.

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The governors' draft agreement gives Vermont a limit of 1.35 million tons of carbon dioxide, approximately equal to its current emissions. But if the Vermont Yankee nuclear plant's output were replaced with coal, Vermont's emissions would increase by nearly four million tons. If natural gas were used, the increase would still be nearly two million tons.

The agreement gives New Jersey a cap of 23 million tons, but if Oyster Creek's output was replaced with coal, the state's output of carbon dioxide would more than double.

Some environmentalists say that greenhouse emissions should be cut by switching to "renewable" fuels, including wind, solar and hydroelectric. Wind-produced power, in fact, is growing rapidly, but over all, electricity from renewable sources in 2004 was about 1 percent lower than in 2003, mostly because of less hydroelectric production. Environmentalists propose reducing carbon dioxide output by building wind turbines. But utility experts say that the amount of wind that a utility grid can tolerate is limited, because wind is intermittent and often unpredictable. In fact, the "capacity factor" of a wind turbine, defined as the amount of power actually produced in a year, compared with the amount that would result from around-the-clock generation, is about 33 percent.

In addition to Vermont and New Jersey, the seven other states in the accord are New York, Connecticut, Delaware, Maine, Massachusetts, New Hampshire and Rhode Island.

Rising Concern Over Heating Costs (HILL)

By Jim Snyder

The Hill, September 14, 2005

Sen. Pete Domenici (R-N.M.), chairman of the Senate Appropriations Committee's Energy Subcommittee, yesterday asked the administration to estimate home heating prices this winter in light of the damage done by Hurricane Katrina.

"It is becoming clear that heating homes this winter will cost quite a bit more than last year," Domenici said.

Energy experts last week told the Energy and Natural Resources Committee, which Domenici also chairs, that home-heating prices could be 31 percent higher than they were a year ago because of damage done to the Gulf Coast by Katrina.

The region produces as much as one-third of the oil and one-fifth of the natural gas produced domestically.

Domenici asked Energy Secretary Samuel Bodman yesterday to estimate how much Congress should provide in so-called weatherization assistance to help low-income families deal with higher prices.

The program helps families install more efficient heating and cooling systems, such as new windows or better equipment.

Court Rules EU Can Demand Criminal Prosecution Of Polluters (FINDLAW/AP)

By Robert Wielaard, Associated Press Writer

Find Law, September 14, 2005

(AP) - BRUSSELS, Belgium-European governments can bring criminal prosecutions against any company that violates the European Union's environmental legislation, the bloc's high court ruled on Tuesday.

The ruling boosts the powers of the European Commission, the executive body that drafts EU legislation which the bloc's 25 member states must incorporate into domestic law.

The Commission filed a lawsuit against all EU governments in 2001 for failing to include a reference to criminal prosecution of industrial violators in an anti-pollution bill it had drafted.

The governments, keen not to be seen to be yielding more powers to the EU, argued that criminal prosecutions shouuld be left to national authorities.

But the court said the Commission was entitled to ensure the laws it drafts are as effective as possible.

It said the fight against pollution was a cross-border issue and "one of the essential objectives" of the EU.

"The ruling strengthens the effectiveness of EU legislation in the case of environmental protection," Michel Petit, the European Commission's chief legal counsel, told a news conference.

The Commission's anti-pollution law forced any EU government "to establish as criminal offences under its domestic law" the discharge of hazardous wastes and dangerous radiation. It did not set minimum penalties or jail terms, leaving that to national courts.

Officials said Tuesday's court ruling may encourage the Commission to include the possibility of criminal prosecution in other areas, such as internal trade issues.

The Commission is currently at odds with some EU governments over a bill that would force phone network operators and internet access providers to retain traffic data for up to a year or more as part of the EU's fight against terrorism.

Petit said there was no immediate desire to refer to criminal prosecutions in that legislation - which has been the source of years of difficult debate due to privacy and cost concerns.

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European Commission President Jose Manuel Barroso said the high court ruling on the environmental law "breaks new ground. It strengthens democracy and efficiency in the European Union."

He said the Commission would draft criminal penalties "only for particularly serious offenses," and insisted the ruling would not lead to a power-grab in a sensitive battle over sovereignty between nationalists and those advocating greater centralized power in the EU.

A similar dispute arose during the drafting of the EU's proposed constitution over whether governments should cede veto rights or control of sensitive areas such as foreign or cultural policy to the EU.

No Blood For Oil (WSJ)

The Wall Street Journal, September 14, 2005

With $3 and $4 gas in some markets, all sorts of bad ideas are making a comeback. Price controls are the worst, but not far behind are Corporate Average Fuel Economy standards, known in the Beltway argot as CAFE. What proponents of this idea won't tell you is that they're in favor of trading blood for oil.

This notion goes back to the 1970s, and requires automakers to produce cars that get more miles per gallon across their entire fleet. The leading current proposal, promoted by environmental groups and Congressional Democrats, would raise the standard to 40 mpg by 2010 from 27.5 mpg today.

This might save gas, but we know for sure it will cost lives. That's because a primary way auto companies meet CAFE standards is to reduce the weight of their cars. Auto weight fell by about 500 pounds per vehicle after CAFE rules were introduced in 1975. Research has consistently confirmed that the lighter the vehicle the more dangerous it is in a crash because there is less survival space and less physical structure to absorb impact. A 2001 National Research Council study concluded that CAFE contributed to 2,000 additional deaths on the highways each year. Raising the standards to 40 mpg could raise to 5,000 the number of annual CAFE-related fatalities, according to a study by the Competitive Enterprise Institute.

Ralph Nader also knows lighter cars are more dangerous, though he too is a CAFE advocate. His 1972 book, "Small on Safety," described the lightweight Volkswagen Beetle as a death trap. One of the Beetle's primary attractions was its ultra-fuel efficiency. One cause of the Ford-Firestone defective tire episode of some years back was that Ford attempted to increase the fuel economy of the Explorer by making the tires lower in weight, thus contributing to the rollover effect, according to an analysis by none other than Joan Claybrook's Naderite offshoot, Public Citizen.

Under political pressure to do something, the Bush Administration proposed its own overhaul of fuel standards last month. The plan creates six categories of "light truck" vehicles and sets standards ranging from 21 mpg to 28 mpg according to size. This would increase fuel efficiency of SUVs, minivans and pickup trucks by about 6% starting in 2008. At least these rules were designed to balance fuel conservation against the dangers to passenger safety and the additional costs to struggling U.S. automakers. But it's a sign of the political times that the plan was ridiculed by the environmental lobby for not going far enough.

In fact, CAFE won't do much more to reduce gasoline use than higher prices are already doing. As oil prices have soared, cost-conscious drivers haven't needed politicians to tell them to look for more fuel-efficient cars. Sales of hybrids and high-gas-mileage cars are rising, and SUV sales have fallen off the cliff. Economist Robert Crandall of the Brookings Institution, a long-time student of CAFE, has concluded that during the 1970s high gas prices had a far greater impact on reducing fuel consumption in the U.S. than did fuel regulations.

Transportation Secretary Norman Mineta says CAFE standards are "preferable to raising taxes on consumers." It's more accurate to say that CAFE is a hidden tax on consumers, with even the new modest standards eventually raising the costs of an SUV or minivan by another $250.

Imagine the media and Sierra Club uproar if a private manufacturer put a new product on the market that knowingly killed 2,000 people every year. Yet CAFE supporters ignore the scientific evidence and pretend that no trade-off between safety and fuel efficiency even exists. If Congress really wanted to help American drivers, it would repeal CAFE.

A Splice Of Life (LAT)

The Los Angeles Times, September 14, 2005

Los Angeles squirmed with uncertainty Monday afternoon while its Department of Water and Power tried to pinpoint the source of a burgeoning outage, which spread from neighborhood to neighborhood like a fire tearing through a dry forest. The cause, once found, generated guffaws of relief. It wasn't a well-placed bomb, it was just a Three Stooges moment — some guy with cable cutters who got too enthusiastic.

That's the way it used to be with power outages. We would sit in the dark and wait to hear what dimwit in which power station hit the wrong switch. But after California's 2000-2001 energy crisis and its seemingly endless rolling blackouts, and then the terror attacks of 9/11, our assumptions turned darker.

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When the power suddenly cut off Monday, minds leaped to the extremes. Was it the handiwork of Osama bin Laden's minions, as a former Riverside County farm boy turned Al Qaeda mouthpiece had threatened on Sunday? Was it Armageddon for an overloaded and aged transmission system?

In fact, it was neither. Instead, it was a comeuppance for a city that smugly evaded not only the rolling blackouts of the state energy crisis but also the outages caused last month by a glitch at the DWP's own power transfer station in Sylmar.

The incident reminded Angelenos that their seemingly sturdy, self-contained municipal power system can still be brought to its knees in seconds by a single human error.

That's not a comforting thought in the post-9/11 era, when we have to worry about misdeeds as well as mishaps.

The outage leaves plenty of reliability issues to ponder for DWP chief Ron Deaton, the city's former chief legislative analyst who's had the post for less than a year. By Tuesday, Deaton was already promising the City Council that he would hire independent engineers to design a new system that would do a better job of isolating problems, rather than triggering broad shutdowns. Ironically, the worker who triggered Monday's outage was installing equipment that would help the DWP trace and respond more quickly to problems.

Still, such an overhaul won't be cheap. What's more, it would be prohibitively expensive to build an electrical grid with so many backups and safeguards that it would resist any and all human errors.

The real tragedy is how reassuring human error can be when the nation is reeling from a natural disaster and unnerved by the specter of terrorism. Monday's blackout harkened back to a more innocent time: Curly holds the cable, Moe makes the cut and Larry smacks his forehead.

FBI Probes Three Firms Tied To Catawbas (TSSC)

By Clif Leblanc

The State (SC), September 14, 2005

The Justice Department is investigating allegations of election fraud involving federal campaign contributions raised through organizations tied to the Catawba Indian Nation.

The FBI last month searched the offices of three Columbia companies, one of which is owned primarily by the York County tribe, according to investigative documents obtained by The State newspaper.

The inquiry is being run out of Washington and the Justice Department's Public Integrity section, court records show.

The Aug. 31 raid of New River Management & Development, SPM (formerly South Property Management) and Kapp Investment Management yielded 24 boxes of financial records, evidence of political contributions, computers, and business and tax documents, according to an inventory of the seized items.

All three companies share office space at 2711 Middleburg Drive off Forest Drive near Richland Mall.

In seeking the search warrant, FBI agent Amylynn Miller told a federal magistrate judge the government believes evidence was being concealed in the offices.

Jay Bender, a longtime attorney for the Catawbas, said Tuesday the tribe is not a target of the probe.

"Nobody has communicated in any way that the tribe is involved in an investigation," he said.

Bender is a Columbia attorney who specializes in media law and First Amendment issues. Among his clients are The State newspaper and the South Carolina Press Association; The State is a member of the press association.

He was contacted for this article in his capacity as a lawyer for the tribe.

Attempts to reach SPM chairman Terry Collier on Tuesday were unsuccessful.

An attorney for Kapp Investment, Jan Strifling, confirmed the investigation but would not comment.

Strifling said Lloyd Kapp no longer shares office space with SPM or New River.

New River manages the Catawbas' bingo and real estate development activities, Bender said.

SPM is owned by Collier but partners with the tribe through New River, Bender said.

He was unsure of Kapp's ties to the Catawbas.

In Miller's application for a search warrant, she says the government is looking into possible violations of the federal campaign contribution law.

A list of items agents sought includes "contributions of anything of value to political candidates or organizations" since January 2000.

Agents also sought bank account records, canceled checks, deposit slips or wire transfers involving the tribe's dealings with New River, SPM and Kapp Investments.

In addition, agents were looking for payments or reimbursements that funded political contributions.

The records, released by Magistrate Judge Bristow Marchant after the newspaper petitioned for access, do not indicate which races are in question.

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Miller's search warrant application cites federal law that sets contribution limits for individuals and political action committees.

Generally, individuals can't contribute more than $2,000 per election to any federal candidate, $5,000 per calendar year to any PAC, $10,000 per calendar year to each state or local party committee, and $25,000 per calendar year to any national party committee.

The application also cites the federal law prohibiting a person from making a campaign contribution in the name of another person.

A conviction under that section carries a maximum sentence of five years in federal prison if the total contribution amount is at least $25,000 during a calendar year, and two years in prison if the total amount is less than $25,000 but more than $10,000 in a calendar year.

Staff writer Rick Brundrett contributed to this report. Reach LeBlanc at (803) 771-8664 or cleblanc@thestate.com.

FBI/DEA/ATF/USMS:

Heroin's Journey Traces Coke Trail: Colombia Joins Trade (BOSH)

By Laura Crimaldi and O'Ryan Johnson

Boston Herald, September 14, 2005

Once shuttled into New England from Burma, Thailand or Afghanistan, a cheaper, purer heroin is now being sent to the Hub from Colombia via established cocaine trafficking routes, drug enforcement agents say.

``They had routes they used for cocaine and just like any other organization, if it was successful, why not use it for another drug," said Tony Pettigrew, a spokesman for the Drug Enforcement Administration's New England Field Division.

While drug enforcement agents say there is no single heroin trafficking route, smack typically makes its way to Massachusetts through Florida and then New York City.

Smugglers stash heroin in cargo shipments, send it in the mail or fill condoms with it and swallow them. Once the heroin is within U.S. borders, it arrives at its final destination by motor vehicle, said state police Lt. Dennis Brooks, who is assigned to the Middlesex District Attorney's Office.

``What we're seeing is more heroin at a cheaper price and the purity is some of the highest because it's not being cut," said Brooks.

The number of Massachusetts residents being treated for heroin addiction has climbed from 44,000 to 56,000 in recent years, he said, attributing the spike to the OxyContin craze, which is addicting people to opiates at a younger age.

Heroin hits the street in a rock form that is broken down into a powder and sold for as little as $4 to $6 per bag. The DEA classifies heroin into four categories depending on where it comes from: South American, Mexican, Southeast Asian and Southwest Asian.

The presence of South American heroin manufactured in Colombia has been on the rise since 1993, and is most prevalent in New England and along the East Coast, according to the DEA's Web site.

The South American heroin is brought in onboard commercial flights by couriers who carry about a pound to 2 pounds at a time. That region's heroin sellers broke into an already saturated Northeastern drug market by offering higher purity at lower prices than the competition, the DEA states. [continue]

Appeals Court Cancels Medical Marijuana Case (OPB)

By Colin Fogarty, OPB News

Oregon Public Broadcasting, September 14, 2005

PORTLAND, OR 2005-09-13 - The Ninth U.S. Circuit Court of Appeals cancelled oral arguments Tuesday in an Oregon medical marijuana case.

The lawsuit was filed by LeRoy Stubblefield of Sweet Home. In 2002, federal drug agents seized marijuana plants that he was growing under Oregon's 1998 medical marijuana law. In a separate case, the U-S Supreme Court in June sided with the federal government's efforts to crack down on medical marijuana in California.

Paul Stanford, with the Portland-based Hemp and Cannabis Foundation, says the California decision may be why the appeals court cancelled oral arguments in the Oregon case.

Paul Stanford: Well, generally, it does not bode well for the litigant, that being us in this case. So I don't know if they're going to write a ruling unanimously in our favor or unanimously in the governments favor. But I think the odds are definitely in the government's court at this point.

In the California case, the U.S. Supreme Court said the Drug Enforcement Agency has the authority to prosecute marijuana users under federal law, even if states allow the use of pot to treat medical ailments.

9th Circuit Mulls Pot-Smoking Celeb's Appeal (LAW)

By Justin Scheck, The Recorder

Law.com, September 14, 2005

It was unclear why there was no drum circle on the third floor of the 9th U.S. Circuit Court of Appeals on Tuesday morning.

The dozen or so people assembled outside Courtroom One were certainly loud enough -- despite repeated exhortations by security guards to keep the noise level down -- and the top thing on their minds was smoking pot.

And these are people who take their weed seriously: pot lawyers, pot lobbyists, pot activists, pot smokers, a pot reporter and the requisite pot publicists -- a middle-aged assembly that ranged from besuited to bedraggled.

As the group waited for a 9th Circuit panel to finish hearing more conventional arguments -- a qui tam case, for example -- they had lots to say about marijuana.

"If you smoke pot, you have less of a chance of getting cancer than if you don't," explained Ed Rosenthal, the focal point of the group.

Rosenthal is a pot celebrity, as well as an author and publisher of pot books. ("'The Big Book of Buds,' volume one and volume two, are probably our best-sellers," said the primly suited Jane Klein, Rosenthal's business partner and wife. "They treat marijuana like you would roses," she said, referring to pictures and descriptions of growing conditions.)

In 2003, Rosenthal's celebrity moved beyond the pot community when he was convicted in San Francisco federal court of growing marijuana, despite the fact that the city of Oakland had licensed him to do so.

Rosenthal appealed that verdict -- even though U.S. District Judge Charles Breyer sentenced him to just one day in jail -- because Breyer refused to let the jury hear that the pot was grown for locally sanctioned medicinal use.

"The trial was grossly unfair," Rosenthal said Tuesday in the middle of the passionate group outside the courtroom.

His lawyer, Dennis Riordan, stood a good distance away as the group waited. In court, Riordan used softer language than his client's in his oral argument before a 9th Circuit panel of Judge Marsha Berzon, Senior Judge Betty Fletcher, and, sitting by designation, 8th Circuit Senior Judge John Gibson.

Riordan said that since his client was a city officer -- by virtue of his medical-marijuana license -- he was immune from prosecution.

He likened the prosecution to the federal government arresting local law enforcement officials for possessing drugs while they are working on an undercover investigation, and pointed out that federal law gives immunity to officials "lawfully engaged" in law enforcement.

While the judges -- especially Berzon -- seemed somewhat skeptical of that argument (she wrestled several times with the meaning of "lawfully engaged"), they had few questions about a narrower defense by Riordan: that Rosenthal, because he could have reasonably thought his pot growing was legal, should have been acquitted. Or, at the very least, the jury should have been allowed to hear the medical marijuana argument, Riordan said.

"Due process requires simply that a jury hear that defense," he told the panel. Amber Rosen, an assistant U.S. attorney, argued the case for the government. She said that a city may not deputize someone to act in violation of federal law, challenging the assertion that Rosenthal was lawfully engaged. Rosen also spent time challenging Rosenthal's one-day sentence, which deviated from optional sentencing guidelines. That argument didn't go over well with the judges.

"If it's not mandatory, [Breyer] doesn't have to justify a departure from the guidelines," Berzon said. "So why are we looking at a departure from the guidelines?"

After the hearing, Riordan -- an appellate specialist with Riordan & Horgan -- said that while he hopes to win on the immunity issue, he's more confident that the judges will order a new trial based on the entrapment argument.

"We could go down like a rock on the immunity issue and win hands down on the entrapment-by-estoppel issue," he said.

In addition to Riordan, Joseph Elford, a lawyer with Americans for Safe Access, argued that prosecutors misled the grand jury that indicted Rosenthal.

After the arguments, which ran nearly a half-hour longer than scheduled, the judges didn't seem swayed by either side. The same could not be said for the pro-pot contingent, which stood outside the courtroom expounding on the need to legalize marijuana -- though that was not the issue before the 9th Circuit.

"If there's any justice in the universe," insisted Bruce Mirken of the Marijuana Policy Project, "Ed Rosenthal will win his appeal."

The case is U.S. v. Rosenthal, 03-10307.

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FBI Arrests Eight On Charges Of Racketeering In Pot, Cocaine Ring (NSDY)

Long Island Newsday, September 14, 2005

MIAMI -- FBI agents arrested eight men in New York and New Jersey on Tuesday on racketeering, money laundering and other charges stemming from an alleged conspiracy to distribute large quantities of marijuana and cocaine.

The eight were named in an indictment returned by a grand jury in Florida that also seeks forfeiture of $75 million in profits from the alleged illegal drug sales, some of which involved truckloads of marijuana shipped from the U.S.-Mexican border to New York, New Jersey, Florida, Pennsylvania, Ohio, Kansas and other states.

One of those charged was identified as John Leto, also known as "Johnny Balls" and allegedly a member of an organized crime family in New Jersey. Leto, 39, allegedly used his connections as a "La Cosa Nostra associate" and his construction business to protect the marijuana business and help distribute the drugs, according to the indictment.

Leto and the seven other defendants had their initial appearances before a judge Tuesday in U.S. District Court in Newark, N.J. It could not immediately be learned if any of the defendants had hired a lawyer or whether any would fight extradition to face the charges in Florida.

County Men Target Of Grand Jury Probe (VCNB)

By Scott Sandlin

Valencia County News-Bulletin, September 14, 2005

A state court grand jury is scheduled to take up potential death penalty charges against three alleged members of a Valencia County drug gang this month.

The target notice sent to the three men shifts the focus away from a pending drug prosecution in U.S. District Court.

Ben Gallegos, 33, Frankie Gallegos, 28, and Juan Calles, 31, alleged members of the East Side Locos, are being investigated for seven slayings, including shootings and strangulations. Investigators believe the shootings are either gang- or drug-related.

The three received target notices last week, telling them they have a right to testify at a Sept. 23 grand jury.

The grand jury is looking at a string of charges that include kidnapping, racketeering, witness intimidation, tampering with evidence and murder related to the following:

Dec. 20, 2000, death of Philip Silva, whose body was found with a rope around his neck and a bag on his head on a South Valley ditchbank.

April 18, 2004, shooting deaths of Eddie Verdugo and his girlfriend, Joyleen Chavez, in their Los Chavez home.

Dec. 12, 2004, shooting death of Elizabeth Gonzales, 26, of Belen.

Nov. 26, 2004, strangulation deaths of Cruse Rael, 31; his girlfriend Deanna Sais, 43, and her son Jason Slade, 22, on Isleta SW.

The three men, along with eight others, were indicted by a federal grand jury in March for methamphetamine distribution. The indictment also seeks forfeiture of $63,900 in cash seized during a series of raids March 10. A superseding indictment was handed up in July charging Ben Gallegos with operating a continuing criminal enterprise, conspiracy and distribution of methamphetamine.

Attorneys for the three in the federal case want to postpone pretrial matters because of the potential death penalty charges in state court.

The attorneys, Bob Cooper, Jacquelyn Robins and Assistant Federal Defender John Butcher, said they have asked the New Mexico Public Defender Office to make immediate arrangements to appoint death-qualified counsel in state court.

The East Side Locos is believed to have been active in the Belen and Los Lunas area since the early 1990s.

Agent Details Bomb Charges (JCL)

By Jimmie E. Gates

Jackson (MS) Clarion-Ledger, September 14, 2005

BRANDON — A Brandon teenager built a bomb designed to kill and injure, a prosecutor told a federal jury Monday.

James Rankin, 19, of 3175 U.S. 80 East is charged with possession of an unregistered firearm, transfer of an unregistered firearm and the manufacture of an unregistered firearm.

If convicted, Rankin faces up to 30 years in prison. The case continues today in U.S. District Court in Jackson.

"The defendant made a bomb, not a firework," U.S. Assistant Attorney David Fulcher said in his opening statement. "It's simple. The defendant made a bomb that was designed to kill and with the intent for it to kill."

Rankin's attorney, U.S. Public Defender Dennis Joiner, told the jury he would delay his opening statement until after the prosecution concludes its case.

Rankin was arrested Nov. 9, 2004, after he allegedly tried to sell a bomb to an undercover agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives.

"He asked if I wanted a large pipe bomb, a small pipe bomb or a hand-held grenade," ATF special agent Connie Wilson testified.

Wilson said she posed as someone wanting to harm an ex-husband in Texas after a confidential informant told her Rankin could make a bomb.

The informant set up a meeting for her with Rankin.

In the Oct. 28, 2004, meeting, Wilson said Rankin described a wide range of explosive devices, including pipe bombs, briefcase bombs like the one he allegedly delivered to Wilson, one that could be detonated with a mercury switch or one that could be attached to the bottom of a car.

Wilson said she called Rankin on Nov. 8 and arranged to purchase a bomb from Rankin for $130. Wilson met Rankin at about 3:30 p.m. Nov. 9 in The Home Depot parking lot.

A circuit judge revoked Rankin's probation in a car-theft case and sentenced him to five years in a state prison after his arrest on the federal weapon charges.

Ex-Marshal Gets 15 Years For Rockville Killing (WP)

By Fredrick Kunkle

The Washington Post, September 14, 2005

A former deputy U.S. marshal who killed a young Navy seaman in a road rage incident last year at a Rockville shopping plaza was sentenced yesterday to 15 years in prison.

Arthur L. Lloyd, 54, who was convicted in June of voluntary manslaughter in the Oct. 29 shooting of Ryan T. Stowers, probably will serve about 11 years before he is eligible for parole, prosecutors said.

Calling the shooting "an enormous tragedy" for both families, Montgomery County Circuit Court Judge Ann S. Harrington tailored a sentence that satisfied neither side completely. She went beyond state guidelines calling for a five- to 10-year sentence, but she declined to impose the maximum 35-year term requested by prosecutors.

Holding a collection of family photographs, Tricia Stowers told the court she believes Lloyd should serve the same amount of time she had been allowed with her son before his life was cut short.

"Your honor, this whole time I've had to listen to the defense's version of what happened, I never hear, 'I'm sorry.' I never hear, 'I was wrong,' " Stowers said. "That's not going to bring Ryan back, and putting Mr. Lloyd in jail will never bring Ryan back. But he needs to realize that he was wrong. He needs to sit there and think about it every day, every day for at least 20 years. Twenty years -- that's what I had with my son."

When it was his turn to speak, Lloyd asked the family to forgive him. Then, in remarks that drifted over several subjects, he placed some blame for the deadly encounter on Stowers's intoxication. He said that all law enforcement officers have been on edge in the post-Sept. 11 world and that he became fearful for himself and his family when Stowers followed him into the shopping plaza.

He claimed that he had no choice but to take action against a driver who made "racially profane" remarks and menaced him and his family. Lloyd is black; Stowers was white.

"Just between me and God, and to the family, especially the mother, and all the brothers and sisters, I have to ask forgiveness. And I have to ask forgiveness because a young man lost his life," Lloyd told the court.

The shooting occurred at the Mid-Pike Plaza in front of dozens of horrified witnesses, many of whom were shopping with children for Halloween costumes. That was why Lloyd, off duty and accompanied by his wife and five young children, headed to the shopping plaza in his black SUV. Then he encountered Stowers. A state toxicology report determined later that Stowers had a blood alcohol concentration nearly three times Maryland's legal driving limit.

Their traffic dispute became a fistfight. Dozens of shoppers dialed 911 on cell phones. Witnesses testified that, as Lloyd's wife tried to hold him back, Lloyd went to his vehicle for his .40-caliber Glock service weapon, vowing: "I'm going to show him."

Lloyd shot Stowers in the leg, saying he feared for his life and wanted only to disable a crazed adversary. Lloyd said he felt that his life was in danger when Stowers attempted to drive away in his red Camaro. Lloyd fired three shots into Stowers's car, one of which clipped Stowers's aorta.

Witnesses -- some of whom returned to court yesterday to address the judge -- said Lloyd looked more like an enraged motorist waving a gun around than a trained law enforcement officer. They said they, too, had been afraid.

Eugenia Hull, a Silver Spring woman who was buying Halloween costumes with her two boys, recalled holding her arms out to shield them, later realizing how absurd the gesture was.

"I had no way to protect my children from this man with a gun," said Hull, 44.

Marshal Gets 15 Years In Killing Of Calif. Navy Seaman (AP)

By JACOB ADELMAN, Associated Press Writer

AP, September 13, 2005

ROCKVILLE, Md. (AP) - Family members watching from both sides of the courtroom remained still and silent Tuesday as a Montgomery County judge handed the former U.S. Marshal convicted in the shooting death of a Navy seaman from California a 15-year sentence.

Arthur L. Lloyd, who sat beside his lawyers in a green prison jumpsuit, showed little emotion as Circuit Court Judge Ann Harrington sentenced him to 25 years, then suspended 10.

"I have to process it so I can deal with it," Lloyd's sister Beryl Stanley said of the decision as she stood outside the courtroom looking dazed.

During their testimony, members of Lloyd's family portrayed the 54-year-old as a peaceful man distraught over his actions in the Oct. 28 shooting and asked the judge to be lenient.

"There was no intent to purposefully do harm," said his brother Glenn Lloyd. "He is very sorry it happened."

"Just trying to deal with the whole situation is punishment enough," Stanley said.

Lloyd's family members were followed by those of his victim, Ryan T. Stowers, 20, of Redding, Calif. They offered teary testimony and asked for the judge to issue the harshest punishment she could.

"If he didn't shoot my grandson in the back, he would still be here," said Stowers' grandmother Sharon Barnes. "(Lloyd's) family would not be suffering. Our family would not be suffering."

Barnes said she wanted to see Lloyd in jail for life, but Stowers' mother, Tricia Stowers, said Lloyd should spend 20 years in prison - one for each year that her son had lived.

"He needs to realize he was wrong," Tricia Stowers said. "He needs to sit and he needs to think about it every day for at least 20 years. That's what I had with my son."

"God will forgive him. I don't think we can," she said.

When Lloyd was offered the chance to speak on his own behalf, he sought to explain his actions in the Rockville shopping center parking lot. He said law enforcement officers like him are skittish since the Sept. 11, 2001, terrorist attacks, and that he was incensed by a barrage of profanities and racial epithets that Stowers subjected him to. He also said he feared that Stowers might be someone he helped put in jail as a marshal, who was now seeking revenge.

"I'm sorry if my reaction was an overreaction," said Lloyd, who shot Stowers in the leg during their altercation before killing him with a bullet to his back as he drove away.

Harrington delivered her sentence, which she explained had to be consistent with the verdicts jurors issued in June. Lloyd received 10 years for involuntary manslaughter, which would run concurrently with a 20-year sentence for committing a felony with a handgun. Harrington also sentenced Lloyd to five years for reckless endangerment, then reduced the 25 years of total jail time to 15 years.

Defense lawyers said they plan to appeal because it hadn't been argued during his trial that he was acting on his responsibilities as a marshal during the altercation. Harrington had denied a defense request for a retrial on that basis at the start of the sentencing hearing. Lloyd has since retired from the Marshals Service.

Marshals Give $10,000 To Cabbie Who Turned In Fugitives (AP)

AP, September 14, 2005

COVINGTON, Ky. — Cab driver Mike Wagers, credited with the tip that led to the capture of two Tennessee fugitives wanted in the killing of a corrections officer, was rewarded Tuesday with $10,000.

John Clark, acting director of the U.S. Marshals Service, presented the check for information leading to the arrest of George and Jennifer Hyatte, charging in the fatal shooting of a guard during George Hyatte's escape outside a courthouse in Kingston, Tenn.

"I'm just overwhelmed," said Wagers, 33, who said he plans to split the money with a friend whose wife recently died, and will take a vacation.

Wagers picked up the couple Aug. 10 at a hotel in nearby Erlanger, Ky. Wagers drove them about 115 miles to a motel in Columbus, Ohio, registered for the couple, then headed home. They paid cash.

Alerted by another cab driver about the Tennessee fugitives, Wagers made the connection to the shootings and called authorities, who arrested the Hyattes in Columbus without a struggle. They were returned to Tennessee last month.

The arrest came about 36 hours after authorities say Jennifer Hyatte ambushed two corrections officers while they were escorting her husband from the courthouse to a van to take him back to prison.

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Veteran officer Wayne "Cotton" Morgan was killed, while Larry "Porky" Harris was able to return fire, wounding Mrs. Hyatte in the leg.

Taxi Driver Collects Reward For Fugitive Tip (CINE)

By Jim Hannah, Enquirer staff writer

The Cincinnati Enquirer, September 14, 2005

COVINGTON – A Northern Kentucky taxi cab driver today received a $10,000 reward for turning in two Tennessee fugitives last month.

Mike Wagers, 33, of Taylor Mill, received the check from John Clark, the acting director of the U.S. Marshals Service, at 11 a.m. at the U.S. District Courthouse in Covington.

Wagers said he will give half the money to his best friend, whose wife recently died. He will use the other half to take a two-week vacation from Community Yellow Cab of Newport.

"I really don't have any comments other than I'm just overwhelmed," Wagers said.

Wagers gave authorities a tip that helped lead to the Aug. 10 capture of George "Shorty" Hyatte and his wife Jennifer Hyatte.

The couple went on the run after George Hyatte made a daring Aug. 9 jail escape from Tennessee. He was being taken back to jail after a court hearing when his wife allegedly shot and killed corrections officer Wayne Morgan. During the shootout, Jennifer Hyatte received a bullet wound in the leg but was able to escape with her husband. The couple made their way north to Erlanger, where they stayed overnight at an EconoLodge and then hailed Wagers' cab to Columbus the following morning.

Wagers called authorities after realizing the fugitives' description matched his two passengers. His tip led police to the hotel room in Columbus where the couple was staying.

The couple had told Wagers that they were Amway salespeople who needed to get to Columbus for a convention. Wagers said he never suspected the two were fugitives, but he became suspicious of their Amway claim when they didn't try to sell him anything.

Clark, who traveled from Washington, D.C., to present the check, said Wagers' tip helped lead to the capture without anyone else getting hurt.

"My motivation was to do the right thing," said Wagers. "These are bad people that need to be held accountable."

IMMIGRATION:

Politicians Duck 'Amnesty' Label (WT)

By Stephen Dinan

The Washington Times, September 14, 2005

It's "the A-Word," and it can damn any immigration bill to oblivion.

The word is "amnesty," or as one immigration-control advocate calls it, "the death word." It's a charge that a lot of people want to make and nobody wants to hear.

As the immigration debate warms up over the next few months, President Bush and congressional lawmakers will try to prevent their legislation from being tagged with the "amnesty" label.

"For some, you would think amnesty is in the eye of the beholder because there are some critics who have nothing constructive to offer who criticize every proposal as amnesty or amnesty light," says Sen. John Cornyn, Texas Republican.

He finds himself defending against those who say his plan, which would enable illegal aliens to come forward and remain in the country for up to five years in a work program before they are required to return home, is an amnesty.

Craig Nelson, founder of Project USA, an immigration control advocacy group, has placed billboards in some congressional districts announcing that the local officeholder "supports amnesty." He takes some credit for giving a sting to the word.

"I very, very consciously set out to do that," he says. "Everything we put out was always using that word in an accusatory way."

The president says his own guest-worker proposal doesn't qualify.

"Now I've heard all kinds of talk about amnesty," Mr. Bush said last month. "I'm against amnesty. I think amnesty would be a mistake."

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The president demonstrated the power of the word during last year's campaign when he leveled the charge against his Democratic challenger, Sen. John Kerry of Massachusetts: "Here is where my opponent and I differ. In September 2003, he supported amnesty for illegal aliens."

Some Republicans, however, say the president's guest-worker plan is an amnesty that he doesn't want to call an amnesty.

"I've seen no guest-worker program that didn't include amnesty -- amnesty defined by Webster's," says Rep. Steve King. He debated the issue with White House political adviser Karl Rove in early January 2004, just before Mr. Bush announced his plan.

"Karl Rove argued it wasn't amnesty if you simply fined them $1,000, or $1,500," he says. "That way there'd be a punishment."

That makes no difference to the Iowa Republican. "The penalty for illegal entry into the United States is, in part, deportation. In all cases, if the law's applied, they have to return to their home country. Anything short of that is amnesty."

Mr. Cornyn says his immigration reform bill is not amnesty because amnesty would be "forgiving illegal conduct and putting people on a pathway to legal permanent residency or citizenship."

Another major proposal -- from Sen. John McCain, Arizona Republican, and Sen. Edward M. Kennedy, Massachusetts Democrat -- does put illegal aliens on a path to citizenship.

Mr. Kennedy calls it not amnesty, but "earned legalization," because the aliens would pay a fine and have to pass a security check.

Tamar Jacoby, a research fellow at Manhattan Institute, says the only workable solution has to include legalization. She says the McCain-Kennedy bill is more akin to "probation" than amnesty.

"The point is what it is. Not what kind of euphemistic term is used," she says. "Sure, we can all play with the terms -- both sides play with the terms. But the point of the American people is, is it unfairly rewarding people or is it a transition that is in our national interest?"

Mr. Nelson of Project USA has challenged Mr. McCain to submit his bill to an arbitration panel. "If they said yeah, this bill is not an amnesty, it really is a step-by-step path to whatever euphemism, then we would apologize publicly to Senator McCain and put up billboards saying, 'Senator McCain does not support amnesty for illegal aliens,' " he says.

If the panel says it's amnesty, "then he would put up 10 billboards around Phoenix saying, 'I, John McCain, support amnesty for illegal aliens.' " So far, he says, he has not heard from Mr. McCain.

TAX:

Jury Selection Delays Schiff Trial (LVS)

By David Kihara, LAS VEGAS SUN

Las Vegas Sun, September 14, 2005

Jury selection in the tax fraud case of anti-tax advocate Irwin Schiff was stalled Monday after potential jurors who were waiting outside the courtroom said a man tried to talk to them about the case.

A potential juror told U.S. District Judge Kent Dawson that John Anthony Malan told prospective jurors outside an elevator on the sixth floor of the George Federal Building to "just remember to listen to the facts" and not to listen to opinions. At least seven more potential jurors also heard comments from Malan and were called into a private sidebar individually with the attorneys from both sides and Dawson.

The interruption came during jury selection in the criminal case against Schiff, a local author and businessman, and two other defendants, Cynthia Neun and Lawrence Cohen.

All three were indicted in federal court in March of attempting to evade paying taxes, aiding and assisting in filing false tax returns and conspiring to defraud the government, among other charges.

The outspoken Schiff is defending himself while Neun and Cohen have attorneys.

Opening arguments in the trial were expected to begin this morning.

Malan was brought before the judge and initially denied speaking to the jurors.

"I'm a little bit confused as to what's going on," Malan said. "I didn't say nothing to the group -- I was speaking to someone else."

After Dawson further inquired as to whether Malan attempted to communicate with prospective jurors about the case and asked if he was attempting to influence the potential jurors, Malan replied, "I object to this entire proceeding."

Dawson, after calling for a hearing for Malan on Wednesday, ordered U.S. marshals to eject Malan from the federal courthouse.

Attorney Michael Cristalli, who is representing Schiff's former girlfriend Neun, denied that his client had anything to do with Malan. Attorney Chad Bowers, who is representing Cohen, also distanced his client from Malan.

Schiff said that while he knew Malan, he was not a close acquaintance with him and attempted to disassociate himself from him.

"This is not a buddy of mine or a friend of mine," Schiff said. "I had nothing to do with this."

The defendants are accused of filing false tax returns and preparing false returns on behalf of other clients of Freedom Books, which Schiff has owned and operated since 1995, according to the indictment.

The indictment alleges that the defendants and others filed almost 5,000 false tax returns from 2000 to 2002.

Cristalli said that Neun essentially believed that she was rejecting the tax law.

"We're not here to argue the legality of her beliefs -- we're going to prove that she holds the beliefs in good faith," Cristalli said.

Bowers is mounting a similar defense for Cohen, saying outside the courtroom that "the basis of the (government's) case is that our clients willfully violated the law. They didn't," he said.

Schiff said outside the courtroom that "there is no law that makes you liable for tax," that there is essentially no law that makes an individual responsible for paying income tax. He added that no court has jurisdiction over these matters.

CONGRESS-ADMINISTRATION:

Roberts Fields Questions On Privacy And Precedents (NYT)

By Sheryl Gay Stolberg And Adam Liptak

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - In a day punctuated by flashes of hostility and humor, Judge John G. Roberts Jr. on Tuesday acknowledged a constitutional right to privacy and said overturning precedent was a "jolt to the legal system."

But he artfully sidestepped the contentious question that has dogged him as a Supreme Court nominee, whether he opposes Roe v. Wade, the 1973 decision that established a constitutional right to abortion. [Excerpts, Page A26.]

Roe became an issue minutes after the start of the second day of the first Supreme Court confirmation hearing in 11 years and one in which Judge Roberts, President Bush's nominee to be the nation's 17th chief justice, was also questioned on his views on civil rights, gender discrimination, presidential authority and the proper role of judges.

Senator Arlen Specter, the Pennsylvania Republican who is chairman of the Senate Judiciary Committee, asked Judge Roberts a series of questions intended to draw him out on whether he believes the right to abortion is so embedded in the fabric of American life that it must not be overturned.

The nominee wasted little time in drawing the line against answering questions that, he said, could come before the court. Four minutes into the hearing, he told Mr. Specter, "I feel the need to stay away from a discussion of particular cases."

He reiterated that phrase in one form or another throughout the day on subjects as varied as the right to die and the treatment of foreign detainees.

Democrats kept a tally of the number of questions they said Judge Roberts refused to answer, putting the number at 60.

Judge Roberts told the senators that he did not have a specific legal philosophy, and he resisted comparisons to William H. Rehnquist, the late chief justice for whom he once clerked, telling senators that he would be "my own man."

He also flatly rejected the idea that his Roman Catholic religion played a role in his court decisions, saying: "I look to the law books and always have. I don't look to the Bible or any other religious source."

The session, which began at 9:30 a.m. and continued until nearly 8 p.m., was the panel's first unscripted public exchange with Judge Roberts.

It offered Senate Democrats, who have complained bitterly that they know too little about the nominee's personal views, their first chance to question Judge Roberts on his judicial philosophy and legal record.

Drawing on thousands of documents from the nominee's days as a young lawyer with the Reagan administration, the Democrats peppered Judge Roberts with questions on presidential authority, civil rights and gender discrimination.

Perhaps the sharpest clash involved memorandums that Judge Roberts wrote in the early 1980's that argued that the Reagan administration was correct in opposing new provisions in a law that extended the Voting Rights Act of 1965. The bill, which passed the House with an overwhelming majority, made it easier to prove voting rights violations.

"I'm deeply troubled by a narrow and cramped and, perhaps, even a mean-spirited view of the law that appears in some of your writings," Senator Edward M. Kennedy, the Massachusetts Democrat who was a chief architect of the extension, said.

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In a terse back and forth, Judge Roberts said he supported the Voting Rights Act, noting that the Supreme Court had previously agreed with the Reagan administration,

Later, when Senator Russell D. Feingold, Democrat of Wisconsin, pressed the issue again, the nominee could barely contain his exasperation. "Senator," Judge Roberts, 50 years old, said, "you keep referring to what I supported and what I wanted to do. I was a 26-year-old staff lawyer. It was my first job as a lawyer, after my clerkships. I was not shaping administration policy."

There were similar exchanges throughout the day. In one, Senator Dianne Feinstein, Democrat of California, pressed Judge Roberts about his writings on women's rights, saying, "You speak about modesty and humility, and yet none of these comments are modest or humble."

At another point, Senator Joseph R. Biden Jr., Democrat of Delaware, accused Judge Roberts of being misleading in answering a question about equal treatment for female prisoners, an accusation the judge firmly denied. Mr. Biden repeatedly cut off Judge Roberts, prompting Mr. Specter to interject and instruct his Democratic colleague to let the nominee speak.

"He's filibustering, Senator," Mr. Biden said. Then, to Judge Roberts, he said: "Go ahead. Go ahead and continue not to answer."

There were light moments, as well, as when Senator Charles E. Grassley, Republican of Iowa, read Judge Roberts a lengthy quotation from Benjamin N. Cardozo, the Supreme Court justice in the 1930's, in which the justice said, "A judge, even when he is free, is still not wholly free."

Mr. Grassley asked what the passage meant and whether he agreed with it.

"I know I agree with it," Judge Roberts responded. "Now let me figure out what he meant by it."

Another humorous moment occurred when Judge Roberts was asked about a 1983 memorandum in which he advocated term limits for judges.

"You know," he said, "that would be one of those memos that I no longer agree with."

Despite his often-stated reluctance to discuss particular Supreme Court cases, Judge Roberts did not avoid them entirely. He said he agreed with the ruling in Brown v. Board of Education, the 1954 case that declared racial segregation in public schools unconstitutional.

He allowed himself an answer, albeit a careful one, when Senator Patrick J. Leahy of Vermont, the senior Democrat on the panel, asked about the 1944 case, Korematsu v. United States, in which the Supreme Court upheld the right of the federal government to place people of Japanese ancestry in internment camps.

Mr. Leahy, saying he wanted to assure himself that Judge Roberts would not "be a Korematsu justice," asked the nominee whether he would consider such internment unconstitutional.

"I suppose a case like that could come before the court," Judge Roberts replied. "I would be surprised to see it. And I would be surprised if there were any arguments that could support it."

The day began with a bang, when Mr. Specter, whose support for abortion rights is well known, delved straight into that topic, pressing Judge Roberts on questions of precedent and the legal principle of stare decisis, a Latin term that means "to stand by things decided."

Mr. Specter quickly introduced the only prop of the day, a large chart that, he said, demonstrated that the Supreme Court had the opportunity to overrule Roe v. Wade on 38 occasions and had not done so.

He reminded the nominee of a remark that Judge Roberts made in 2003, when the Senate was considering him for the seat he has on the United States Court of Appeals for the District of Columbia Circuit, in which he said Roe was "settled law."

"Do you mean settled for you?" Mr. Specter asked. "Settled only for your capacity as a circuit judge? Or settled beyond that?"

"Well, beyond that," Judge Roberts replied. "It's settled as a precedent of the court, entitled to respect under principles of stare decisis."

Conservatives and liberals said the line of questioning was smart strategy on Mr. Specter's part.

"I think it takes some of the wind out of the Democrats' sails later," said Leonard Leo, who is on leave from a position at the Federalist Society, a conservative legal group, to coordinate support for Judge Roberts.

Some of the most freewheeling exchanges involved Mr. Biden, a potential presidential candidate, who elicited from the nominee that there is a right to privacy to be found in the liberty clause of the 14th Amendment and that the right extends to women.

The comment was important, because the right to privacy provided a part of the philosophical underpinning for Roe v. Wade.

But Judge Roberts was careful as he made the remark, telling the senators that all the current Supreme Court justices would agree that there was a right to privacy "to some extent or another."

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Judge Roberts parted company with some of the justices he will join, if he is confirmed, by expressing reservations about the Supreme Court's recent use of foreign judicial decisions in cases that involved constitutional questions.

In cases in the last few years involving the death penalty and gay rights, several justices have looked to decisions from courts abroad to help justify the rulings.

"The trend," Senator Jon Kyl, Republican of Arizona, said, "if it is to become one, is greatly troubling to me and to many of my colleagues."

Judge Roberts seemed to agree, citing two concerns. "The first," he said, "has to do with democratic theory."

Because foreign judges are not chosen by the elected representatives of the American people, he said, those judges are not accountable to them.

Moreover, he added, foreign decisions do not confine or constrain American judges.

"Looking at foreign law for support," Judge Roberts said, "is like looking out over a crowd and picking out your friends. You can find them. They're there. And that actually expands the discretion of the judge."

Judge Roberts's position on that point aligns him with Justice Antonin Scalia, who has been harshly dismissive of taking account of international precedents, and against Justices Anthony M. Kennedy and Stephen G. Breyer.

In the afternoon, Senator Lindsey Graham, Republican of South Carolina, asked Judge Roberts how he hoped historians would remember him.

"I'd like them to start by saying," Judge Roberts said, " 'He was confirmed.' "

Roberts Avoids Specifics On Abortion Issue (WP)

By Amy Goldstein And Charles Babington

The Washington Post, September 14, 2005

John G. Roberts Jr. testified yesterday that he believes that the Constitution protects the right to privacy, the legal underpinning of the nation's landmark abortion law, but he refused to say whether he would vote to uphold Roe v. Wade if he is confirmed as chief justice of the United States.

In a day of sometimes testy exchanges with senators, Roberts distanced himself repeatedly from his conservative writings as a young legal adviser to President Ronald Reagan, including a memo in which he had disparaged privacy as "amorphous" and a "so-called right" not spelled out in the Constitution.

Democrats pressed him aggressively, seeking to elicit his views on abortion and a range of other volatile civil rights issues by reminding him of stances he had advocated in the past. But time and again throughout the first full day of questioning at his Senate confirmation hearing, Roberts refused to divulge the way he would rule on matters of voting rights, gender equity, fair housing and the role of religion in public life.

He deflected some questions by asserting it would be improper to foreshadow his views on cases that might come before the Supreme Court. At other times, he shielded his personal views by saying his early writings simply mirrored the policies of two Republican presidents for whom he worked.

"Senator, I was a staff lawyer; I didn't have a position," Roberts said in a typical exchange, when asked about a memo from the early 1980s advocating a policy that would have allowed colleges to receive federal funds even if some of their programs discriminated against women.

The eight-hour hearing before the Senate Judiciary Committee gave senators their first chance to publicly grill Roberts, 50, nominated by President Bush to succeed the late Chief Justice William H. Rehnquist. Republicans, who control the committee and the full Senate, praised Roberts and defended his refusal to answer questions because the issues they involve could someday come before the high court.

With the political fallout of Hurricane Katrina hovering over the proceedings, amid evidence that poor people and minorities have suffered the most in the disaster, Republicans also sought to portray Bush's nominee as a former lawyer who had at times displayed compassion for the dispossessed.

But Democrats suggested that Roberts might be a stealth nominee who would shift the court more sharply rightward than his careful testimony suggests. They repeatedly read to him his own words from government memos he had written in the 1980s -- excerpts from tens of thousands of documents released in recent weeks from his time as a federal lawyer -- and demanded to know whether they reflected his personal views, then and now.

"His answers are misleading," an exasperated Sen. Joseph R. Biden Jr. (D-Del.) told committee Chairman Arlen Specter (R-Pa.).

"They may be misleading," Specter shot back, "but they are his answers." When the laughter in the marble hearing room died down, Roberts said: "With respect, they are my answers. And, with respect, they're not misleading, they're accurate."

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Sen. Lindsey O. Graham (R-S.C.) sought to persuade a reluctant Roberts to say that he would be the ideological heir to Rehnquist, for whom the nominee once worked as a law clerk. Finally, Roberts agreed that his nomination would not lead to "a dramatic departure" from the Rehnquist court.

Specter, who supports abortion rights, and several Democrats challenged Roberts especially hard on his views of Roe , the 1973 decision establishing that women have a constitutional right to privacy that includes the right to an abortion. Because Roe has stood for 32 years, much of the discussion centered on when and why a settled ruling should be overturned.

Roberts told Specter that he respected the doctrine of stare decisis -- letting decided issues stand -- adding, "I do think it is a jolt to the legal system when you overrule a precedent." But some long-standing cases deserve to be overturned, he said, such as those that legalized slavery in the 19th century and racial segregation in the 20th century.

Roberts set forth criteria that he said judges and justices should use to determine whether to "revisit" a precedent, saying they include "settled expectations," the court's legitimacy and whether a precedent is workable or has been "eroded by subsequent developments."

"It is not enough that you may think the prior decision was wrongly decided," said Roberts, who during the 1980s signed a memo saying that Roe was "wrongly decided" and should be overturned.

When Specter asked whether the decision's legal legs have been eroded, Roberts replied: "I feel the need to stay away from a discussion of particular cases."

Later, Biden asked whether "there is a right of privacy to be found in the liberty clause of the 14th Amendment?" Roberts replied, "I do, Senator. I think that the court's expressions, and I think if my reading of the precedent is correct, I think every justice on the court believes that, to some extent or another." The answer appeared ambiguous because some of the current justices have made it clear they would support overturning Roe .

With each senator allotted 30 minutes yesterday to question the nominee, Democrats divided up issues on which they believed Roberts is vulnerable.

Sen. Dianne Feinstein (D-Calif.), the only woman on the panel, cited portions of half a dozen 1980s-era memos by Roberts that she said reflected a lack of support for women's rights. In one of the memos, regarding the nomination for a prize by the Clairol company of a female government lawyer who had been a homemaker before entering law school, he wrote: "Some might question whether encouraging homemakers to become lawyers contributes to the common good, but I suppose that's for the judges to decide."

"I mention these examples to highlight what appears to be either a very acerbic pen or else you really thought that way," Feinstein said. Roberts replied that he has consistently supported "equal rights for women, particularly in the workplace" and said that he had merely been joking with his boss, former White House counsel Fred F. Fielding, "that there are too many lawyers today. . . . It has nothing to do with homemakers."

Roberts, however, did not say whether he currently favors an equal rights amendment or an expansive interpretation of Title IX, a federal law to promote equality for women in higher education -- both of which the Reagan administration opposed.

Feinstein also questioned Roberts, a Roman Catholic who has argued in past writings for an expanded role of religion in public life, about his views on the separation of church and state. "I don't know what that means when you say absolute separation," Roberts replied. "I do know this: that my faith and my religious beliefs do not play a role in judging. When it comes to judging, I look to the law books and always have. I don't look to the Bible or any other religious source."

The panel's senior Democrat, Sen. Edward M. Kennedy (Mass.) challenged Roberts on civil rights, including his memos on voting rights, which reflected Reagan's opposition to broadened federal protections that ultimately were approved by Congress. Roberts responded that the current Voting Rights Act has been found constitutional, saying, "I don't have any issue with that." But he declined to comment on any extension of the law, saying questions about that could come before the court.

Later, Sen. Russell Feingold (D-Wis.) pressed Roberts on why he backed a policy that would have made it harder to prove that states were limiting minorities' voting rights. "I was a 26-year-old staff lawyer," Roberts replied. "I was not shaping administration policy." When Feingold asked whether the policy looked wise in hindsight, the nominee said, "I haven't followed the issue of the particular litigation."

One of the few issues on which Roberts dissented yesterday from Reagan-era policy involved the case of Bob Jones University, in which that administration unsuccessfully argued that the fundamentalist school qualified for federal tax breaks under a law passed by Congress despite its ban on interracial dating. In a 1983 memo, Roberts wrote that the administration "did not feel Congress had given the IRS the authority" to remove the school's tax-exempt status. Yesterday, he told senators he did not believe the Reagan administration had taken "the correct position" on Bob Jones.

Biden accused Roberts of misleading the committee in part by suggesting that his Reagan-era memos simply parroted his superiors' views even though the vigor and detail of the writings suggested the author heartily endorsed them. The senator cited

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a Feb. 12, 1982, memo in which Roberts defended a Kentucky prison system that provided more services for male inmates than for women. If the system were challenged, the 1982 memo said, Kentucky might end the programs for men, Biden said.

"Explain to me your thinking there," Biden said. Roberts said he did not recall the memo, and when given a copy, he said he was reflecting his boss's views, an example of "good staff work."

"I would regard it as very poor staff work, with all due respect, Judge, because it seems to me you insert your views very strongly in here," Biden said.

Outside the hearing room, Roberts's handling of the abortion issue appeared to frustrate abortion rights proponents, while pleasing antiabortion groups. In front of the Capitol, about a dozen Planned Parenthood Protesters wore shirts emblazoned with the words "Answer the Question." Kate Michelman, the former president of NARAL Pro-Choice America, said, "I don't think we have any clarity yet on his views about Roe and privacy as it relates to reproductive freedom as a fundamental right."

Jay Sekulow of the conservative American Center for Law and Justice said Roberts's description of when courts should be willing to rethink precedents "left the door open" to the possibility he might vote to overturn Roe. "As someone who takes a pro-life position, I was extremely pleased with the answers he gave," he said.

Roberts Focuses On Precedent, Avoids Personal Views (LAT)

By Maura Reynolds And Richard B. Schmitt

The Los Angeles Times, September 14, 2005

WASHINGTON -- Chief justice nominee John G. Roberts Jr., addressing one of the nation's most contentious issues, indicated Tuesday that it would be hard for the Supreme Court to overturn the Roe v. Wade decision legalizing abortion, but he refused to say whether he would support efforts to do so.

Roe and the legal arguments behind it -- especially privacy rights and the rule of precedent -- came to the fore repeatedly during more than 10 hours of questioning by the Senate Judiciary Committee on its first day of grilling Roberts, whom President Bush nominated to lead the nation's highest court.

The hearing provided Democrats their first chance to publicly confront Roberts, a lawyer who currently is an appellate court judge, after weeks of poring through tens of thousands of pages of memos, opinions and other documents he wrote. They used the opportunity to inquire into the nominee's views on issues central to their party's legacy over the last half-century -- abortion rights, civil rights and environmental regulation, among others.

It was Roberts' first time in the full glare of public scrutiny. The 50-year-old former appellate lawyer kept his voice measured, his face placid and his manner deferential. A more deeply furrowed brow was his only sign of discomfort.

Roberts repeatedly reaffirmed his commitment to follow legal precedents. He said more than once that he considered Roe v. Wade, the controversial 1973 decision legalizing abortion nationwide, "settled" under the law.

He also discussed factors that could lead the court to overturn precedents -- and he was careful not to say whether any of those arguments might one day be applied to Roe.

"I do think that it is a jolt to the legal system when you overrule a precedent," Roberts said under questioning by the committee chairman, Sen. Arlen Specter, R-Pa., a moderate Republican who favors abortion rights.

But Roberts added: "There are situations when that's a price that has to be paid."

Roberts was equally guarded on other issues, but he managed to inject a note or two of humor. Asked by Sen. Herb Kohl, D-Wis., whether he would support the nomination of an equally qualified woman to his same position -- a question hinting at the rationale for affirmative action -- Roberts demurred.

"I don't think it's appropriate for me to comment in any way about the president's future selections, other than to say that I am happy with his past ones," Roberts said to laughter from the audience of senators, aides, reporters and members of the public.

Senate Democrats have expressed reservations about Roberts, but they have indicated they would not block his confirmation, which would require a filibuster in the Republican-controlled Senate. Still, the committee's questioning is likely to be crucial to the way many Democrats ultimately will vote for a nominee who is politically conservative but who has pledged repeatedly to keep an open mind in deciding cases.

"The ideal in the American justice system is epitomized by the fact that judges ... wear the black robes," Roberts said. "That is meant to symbolize the fact that they are not individuals promoting their own particular views, but they are supposed to be doing their best to interpret the law, to interpret the Constitution, according to the rule of law, not their own preferences, not their own personal beliefs."

Roberts will spend Wednesday answering more questions from senators. Thursday, friends and experts are scheduled to testify about Roberts' character and qualifications.

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The Judiciary Committee is expected to vote by the end of next week on Roberts' nomination, and the full Senate is scheduled to vote by the end of the month. With his expected confirmation, he would take over leadership of the court when its session begins Oct. 3.

Each committee member was allotted 30 minutes to question the nominee. Sen. Edward M. Kennedy, D-Mass., used his time to ask Roberts about his writings on civil rights.

"I am deeply troubled by a narrow and cramped and perhaps even a mean-spirited view of the law that appears in some of your writings," Kennedy said. "In the only documents that have been made available to us, it appears that you did not fully appreciate the problem of discrimination in our society."

Kennedy grew exasperated when Roberts defended the views of the Reagan administration on the Voting Rights Act, for which Kennedy was a central supporter. Specter intervened, asking Kennedy to "let him finish his answer."

The memo "represented my effort to articulate the views of the administration and the position of the administration for whom I worked ... 23 years ago," Roberts said. It was a line of defense he used repeatedly when questioned about his writings from that era.

Sen. Dianne Feinstein, D-Calif., asked Roberts to explain several instances in which he appeared to write disparagingly of women or women's rights, including one instance in which he asked -- apparently tongue-in-cheek -- "whether encouraging homemakers to become lawyers contributes to the common good."

Roberts replied that the joke was intended to disparage lawyers, not homemakers.

He said the suggestion that he believed women should remain homemakers "is totally inconsistent and rebutted by my life."

"I married a lawyer," he said. "I was raised with three sisters who work outside the home. I have a daughter for whom I will insist at every turn she has equal citizenship rights with her brother."

During one testy exchange, Specter asked Sen. Joseph R. Biden Jr., D-Del., to let Roberts finish, prompting Biden to retort, "His answers are misleading, with all due respect."

"Wait a minute. They may be misleading, but they are his answers," Specter responded. "You may finish, Judge Roberts."

As the day wore on, Democrats at times seemed disarmed by the nominee's genial and sometimes self-effacing testimony.

"I have to say I have been pleasantly surprised by some of your answers today," said Sen Charles E. Schumer, D.-N.Y. He cited Roberts' statement that he agreed there was a right to privacy under the law.

But Democrats also expressed frustration at what they viewed as his lack of responsiveness. Aides to committee Democrats said they counted 21 occasions in which Roberts declined to answer questions, including his views of cases that already had been decided.

"I think you have answered some questions, but not answered a whole lot of others," Schumer said later. "I hope you will be thinking about that overnight."

Roberts defended his reticence, saying he had decided to draw a distinction between discussing legal precedents long established in the law and those that remained the subject of debate. He said he felt free to talk about the former but ethically constrained from discussing the latter.

As he adjourned the hearing shortly before 8 p.m, Specter declared first day "dignified generally, contentious at times, but productive."

Roberts Avoids Specifics On Abortion (USAT)

By Kathy Kiely And Joan Biskupic

USA Today, September 14, 2005

WASHINGTON — In a sometimes testy hearing marked by tart exchanges with Democrats, chief justice nominee John Roberts would not say Tuesday if he'd vote to overturn the 1973 ruling that legalized abortion nationwide.

But Roberts did say he believes there is a constitutional right to privacy, and he said the Roe v. Wade ruling is “settled as precedent” that must be viewed with respect by judges.

Appearing before the Senate Judiciary Committee, Roberts repeatedly declined to answer specific questions about his views on several issues, including civil rights and limits on presidential power. He said he was following the precedent of prior nominees.

At one point, Sen. Joseph Biden, D-Del., accused Roberts of “filibustering.” Roberts, cool under fire, argued that he should not answer specific questions on issues that he might have to rule on if he is confirmed to the Supreme Court.

Doing so would be a “total distortion and a perversion” of the judicial process, Roberts said during the second day of Senate hearings on his nomination to succeed the late William Rehnquist.

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Biden, whose exchange with Roberts was one of the most spirited of the hearing, told the nominee at one point: “Go ahead and continue not to answer.” Biden also complained that Roberts' answers were “misleading.”

Snapped panel Chairman Arlen Specter, R-Pa.: “They may be misleading, but they are his answers.” Roberts' retort: “With respect, they are my answers, and … they are not misleading.”

The combative tone of the hearing led two of the committee's Republicans — Lindsey Graham of South Carolina and Jeff Sessions of Alabama — to question whether any of the panel's eight Democrats would vote for Roberts.

Graham said the nomination may mark the end of an era in which most Supreme Court nominees won strong bipartisan approval. He noted that liberal Justice Ruth Bader Ginsburg was confirmed in 1993 with 96 of the 100 votes in the Senate. Graham said Republicans, who hold 55 Senate seats, will retaliate “if the Democratic Party votes against him (Roberts) en masse because of his (conservative) philosophy.”

On abortion, Roberts said he regards Roe v. Wade and a 1992 ruling that upheld a woman's right to end a pregnancy as settled precedent. He endorsed stare decisis, the concept that long-established precedents should settle an issue except in special circumstances. “I do think it is a jolt to the legal system” when the high court reverses a precedent, Roberts said.

But Roberts left the door open to overturning Roe v. Wade or Planned Parenthood v. Casey, the 1992 ruling. Specter, a Republican who supports abortion rights, tried to get Roberts to affirm Roe as a “super-duper precedent” in light of Casey and other cases that reinforced Roe. Roberts declined.

Roberts drew complaints from Biden and other Democrats, but Sen. Dick Durbin, D-Ill., an abortion rights supporter, said he was encouraged that Roberts said there is a constitutional right to privacy, a pillar of the Roe decision. Durbin said Roberts left open the possibility that he, unlike Rehnquist, might back abortion rights.

Roberts opponent Nan Aron of the Alliance for Justice, however, said the nominee said nothing that “would give any woman who believes in reproductive rights and freedom any comfort.”

Of the eight remaining justices, six have backed abortion rights. One of those — Sandra Day O'Connor — is retiring. President Bush is likely to nominate a replacement for her after the Senate votes on Roberts. Specter wants a Senate vote this month. If approved, Roberts could take office by Oct. 3, the start of the high court's annual term.

Roberts Fields Hours Of Questions (AJC/AP)

By Nancy Benac, Associated Press Writer

The Atlanta Journal-Constitution, September 14, 2005

WASHINGTON — For a man who likens the job he wants to calling balls and strikes, John Roberts surely could have used a catcher's mask as he fielded hours of questions Tuesday from the Senate Judiciary Committee.

From the first question of the day — on abortion — right through the alphabet to the Zimmer case on voting rights, Roberts held his own as senators tried to goad him into revealing more of his thoughts than he wanted on the controversial issues of the day.

The artful dodger employed a mix of humor, history and humility as he found 50 ways to defend his views and politely demur when he didn't want to discuss them.

When Sen. Joseph Biden, D-Del., complained that Roberts was filibustering, the judge lightly scolded, "That's a bad word, senator."

But when Biden later complained, "His answers are misleading, with all respect," Roberts' response was more pointed.

"With respect, they are my answers," he said. "And, with respect, they're not misleading, they're accurate."

On Day Two of the hearings on Roberts' nomination to be chief justice of the United States, there was a lot of "respect" getting flung around.

Sen. Patrick Leahy, D-Vt., differing with Roberts' take on a war powers case, began, "Judge, with all due respect, the cases in Vietnam were not based on a specific law passed by Congress to get out ..."

A few minutes later, Roberts, differing with Leahy's interpretation of a memorandum he once wrote, began, "With respect, senator, you're vastly over-reading the memorandum."

There also were a lot of baseball metaphors, playing off Roberts' declaration a day earlier that a justice should be like an umpire, making sure everyone plays by the rules.

Biden complained that questioning Roberts was "like pitching to Ken Griffey Jr.," adding that the judge had hit a home run in his opening statement Monday.

Nodding toward actor-turned-senator-turned-actor Fred Thompson, who is helping guide Roberts through the nomination process, Biden added, "I'd much rather be pitching to Arthur Branch, sitting behind you there, on 'Law and Order,' than you."

But Sen. Herb Kohl, D-Wis., questioned whether Roberts' umpire analogy worked at all.

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"No two umpires, or no two referees, have the same strike zone or call the same kind of a basketball game," said Kohl, who knows a thing or two about basketball as owner of the NBA's Milwaukee Bucks. "And ballplayers and basketball players understand that, depending upon who the umpire is and who the referee is, the game can be called entirely differently."

Tuesday's televised hearing gave many Americans perhaps their first and last best chance to see Roberts describe his views on the law, given that the Supreme Court itself operates largely as a closed shop.

"If you are confirmed, you will essentially disappear from public view," said Sen. Russell Feingold, D-Wis., a Harvard Law classmate of Roberts. "This hearing will, in some ways, be the last time that the nation will see you at work." He urged Roberts to support televising the court's public proceedings.

Roberts tried to display humility, making several references to the possibility that he still could wind up back on the federal appeals court if his nomination were not approved.

When Sen. Charles Grassley, R-Iowa, questioned Roberts about a comment that Justice David Souter had made during his confirmation hearing, Roberts nimbly sidestepped, saying: "Well, I don't want to directly comment on what Justice Souter said. He is either going to be a colleague or continue to be one of my bosses. So I want to maintain good relations in either case."

But at other times, it was as if Roberts couldn't help but come across as the smartest kid in the class.

Biden cut Roberts off mid-sentence as he launched into an explanation of the Supreme Court's three-tiered analysis of the equal protection clause, saying, "I know what that is."

At another point, though, Roberts, holding one lifetime appointment and in line for another, was smart enough to disavow his own words from two decades ago in which he questioned life tenures.

"You know, that would be one of those memos I no longer agree with," he said, with a sly grin.

Nominee's Answers Get Mixed Reviews (WT)

By Stephen Dinan

The Washington Times, September 14, 2005

Republicans and conservatives said John G. Roberts Jr. acquitted himself perfectly before the Senate Judiciary Committee yesterday, but Democrats and liberal activists said he ducked questions and probably lost support for his nomination to be chief justice of the United States.

Conservatives from Leonard Leo, the executive vice president on leave from the Federalist Society, to the Family Research Council and Concerned Women for America said Judge Roberts expertly handled questions on abortion, in particular.

But Democratic senators said he was being evasive.

"I think you've answered some questions but not answered a whole lot of others," Sen. Charles E. Schumer, New York Democrat, told the judge in the afternoon session.

"I think it's a game so far," said Sen. Joseph R. Biden Jr., Delaware Democrat, who noted Democrats were not treating the hearings as "a game of gotcha."

"The American people are entitled to know what this guy thinks and he will affect your life more than anything Senator Biden will ever do," he said.

Liberal advocates were even harsher.

"Yesterday he spoke about baseball and today he played dodgeball all day," said Ralph G. Neas, president of People for the American Way. "He gave the illusion of candor and the appearance of openness, but he spent the entire day responding to direct questions with evasive answers."

Mr. Neas said Judge Roberts has lost support among Senate Democrats.

"I think he did not do himself any favors with a lot of key votes on that committee," he said. "I do think on the basis, especially of the last several days, there's been momentum, over the last several weeks, as senators reviewed documents and found the portrait the White House painted over the first few days was not accurate."

Judge Roberts, who now sits on the U.S. Circuit Court of Appeals for the District of Columbia, faced his first day of questions yesterday.

As of 6 p.m. he had faced 35 questions on civil rights, 10 on following precedent, 40 questions on the role of a judge and 25 on abortion and privacy, according to Sen. John Cornyn, Texas Republican, who said Judge Roberts handled them correctly by declining to answer some.

"I understand the line you're walking and I think it's really a constitutional standard you're trying to observe, and I applaud you for it," Mr. Cornyn said.

"I have never seen a better nominee for the court," said Sen. Orrin G. Hatch, Utah Republican. "I just don't see why the Democrats don't fold up their tents."

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Conservative groups also praised him.

"We firmly believe that Judge Roberts' statements and opinions demonstrate his unequivocal belief in and deference to the text of the Constitution and the intent of the Founders," said Jan LaRue, Concerned Women for America's chief counsel.

Some Democrats have said publicly they do not think Judge Roberts' nomination can be defeated on an up-or-down vote, and as of now there is little talk of a filibuster.

That leaves them trying to figure out what strategy to pursue once the hearings are over.

"Is the goal to lay down a marker for next time or is it to try to maximize the number of no votes, or some combination of the two? That decision has not been made yet," said one Democratic aide who has been following the hearings.

Sen. Barack Obama, Illinois Democrat, said Judge Roberts was articulate but not very informative.

"Anybody who's argued 39 cases before the Supreme Court is going to do very well in front of a panel of senators," he said. "I don't think it's any surprise he's been articulate and quick and has developed what most lawyers and politicians share, which is the ability to say not much in an elegant and lengthy way."

Liberal activists fear that Democrats may have already hindered their efforts in the early days after Judge Roberts' nomination to the court was announced.

"I think the Democrats shot themselves in the foot by basically saying this guy's going to pass anyway so what can we really do. That hurt their ability to just have an honest inquiry," said Democratic strategist David Sirota.

He said Democrats must show they are interested in a serious inquiry of the nominee, and use that as a way to show what they as a party stand for.

'Go Ahead ... Continue Not To Answer' (HILL)

By Jonathan Allen

The Hill, September 14, 2005

John Roberts ceded precious little ground yesterday to a series of senators intent on prodding him into revealing how he might rule in the future, as the Judiciary Committee began its inquisition of the president's nominee to become chief justice of the United States.

Roberts repeatedly, pointedly — and, to critics, selectively — refused to answer whether he supported specific rulings of the Supreme Court.

"I feel a need to stay away from decisions on particular cases," Roberts told Chairman Arlen Specter (R-Pa.) when the senator questioned him about abortion, considered by many to be the central issue in judicial nominations.

Roberts offered slight variations on that phrase repeatedly through the day. Quoting current Justice Ruth Bader Ginsburg, Roberts said he intended to give "no hints, no forecasts, no previews" on future rulings if he is confirmed.

Democrats argued that nothing should prevent Roberts from giving his opinions on past cases and provided examples of previous nominees' having done so for the Judiciary Committee. Several committee Republicans, however, encouraged Roberts to keep his positions on specific cases to himself.

Despite a few testy early exchanges with Democratic Sens. Edward Kennedy (Mass.) and Joseph Biden (Del.) over his views on voting rights and sex discrimination, Roberts demonstrated a level of composure rare among high-profile nominees facing adversarial senators.

"He's extraordinarily talented at dealing with questions," said Sen. Dick Durbin (D-Ill.).

The 50-year-old nominee seemed so at home before the panel that Biden complained to Specter at one point that Roberts was filibustering. "Go ahead and continue not to answer," a frustrated Biden told Roberts after Specter had interjected in an exchange to give Roberts more time to speak.

In contrast to some past nomination proceedings, senators limited themselves mostly to questions about jurisprudence, rather than Roberts's character or personal qualifications — perhaps yet another indication that Democrats do not intend to use all means necessary to defeat his nomination.

"I'm glad to see that the questions are on substantive subjects and the intellectual level of the discourse has been high," said former Solicitor General Ted Olson, who attended yesterday's hearing. He said that was refreshing.

Some said Roberts's ability to tiptoe carefully around the abortion issue left them unsatisfied. "That he is essentially not sharing his current views about Roe v. Wade continues to be extremely problematic," said Nan Aron, head of the liberal Alliance for Justice.

Though those on either side of the political divide said they could not parse specifically how he would rule from his comments at the hearing, some conservatives expressed optimism that a Roberts-led court would revisit abortion rights.

Gary Bauer, a former Republican presidential candidate who attended the hearing, said there was "a decent chance of him being part of a new majority."

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Inside the Hart Building hearing room — a larger and more modern version of the ornate caucus room that housed Monday's opening hearing — the abortion debate was cloaked in case names and legal principles, such as "stare decisis," which means to stand by previous decisions. Roberts acknowledged precedents in both Roe v. Wade and the 1992 case Planned Parenthood of Southeastern Pennsylvania v. Casey, in which the court reaffirmed the central holding of Roe but rejected portions of its framework.

Roberts, who prides himself on offering "stability," said, "It is a jolt to the legal system when you overrule a precedent."

He laid out several standards, including whether public expectations rely upon the stability of the law, for considering whether to upend precedents.

"It's not enough that you might think the precedent is flawed," Roberts said.

Sen. Dianne Feinstein (D-Calif.), the lone woman on the panel, asked the nominee about his intentions in a memo suggesting that encouraging homemakers to become lawyers would not serve the common good.

Roberts dismissed his writing as playing on a "common joke" that had more to do with limiting the number of lawyers than maintaining the number of homemakers. During the day, he repeatedly embraced a commitment to equality for his three sisters, his wife — who is also a lawyer — and his young daughter.

The early questioning of Roberts was particularly tame when compared to the often-explosive Supreme Court confirmation hearings of the past two decades. Democrats appear to be holding their fire for President Bush's pick to replace retiring Justice Sandra Day O'Connor, who is seen as a swing vote on the court.

"It depends on who he nominates," Durbin said.

Roberts Challenged By Democratic Senators (LAW)

By T.r. Goldman And Tony Mauro, Legal Times

Law.com, September 14, 2005

The Senate Judiciary Committee's second day of hearings into the nomination of John Roberts Jr. for chief justice was marked by withering criticism by some Democrats upset over Roberts' refusal to disavow comments he made while a Justice Department lawyer and as an assistant White House counsel.

Roberts also very carefully -- and repeatedly -- refused to answer questions Tuesday about any specific cases, pointing to what he said was the "precedent of prior nominees."

Said Roberts to Senate Judiciary Chairman Arlen Specter, R-Pa., "That is something where I will have to draw the line."

In the course of his testimony, Roberts insisted that language in several memos concerning civil rights and discrimination issues that he wrote during the 1980s, when he was a special assistant in the Justice Department and an assistant White House counsel, was simply the work of a diligent staffer.

"I was a staff lawyer; I didn't have a position," he told Sen. Joseph Biden, D-Del., whose exchange with Roberts was the most spirited in the morning round of questioning.

"His answers are misleading," Biden said at one point to Specter, who had pointedly asked Biden to let Roberts answer his questions.

"With all due respect, they are my answers, and they are not misleading," Roberts shot back, shedding, if only briefly, his characteristic coolness.

Specter, who led off the questioning, dived straight into the abortion debate, with what he called "the central issue of Roe v. Wade and a woman's right to choose."

But rather than ask Roberts directly whether he would vote to overturn Roe, Specter pressed Roberts on his views of precedent and how he would apply them.

"I do think it is a jolt to the legal system when you overrule a precedent," said Roberts, seated alone before the 18 Judiciary Committee members, at a table draped with a red cloth.

Roberts added that overturning precedent was something that would never take place in a vacuum. "It's not enough if you may think the prior decision is a wrong decision," he told the committee. "That doesn't answer the question, that poses the question."

Specter did probe Roberts' views on privacy -- one of the few ways senators have of getting a sense of a position on Roe, without an explicit answer on the case itself.

"Personal privacy," said Roberts, "is a component of liberty protected by the due process clause, going back 80 years."

Roberts' comments on Roe did not appear to shake the support of at least some conservatives who oppose the decision. Gary Bauer, president of the conservative American Values, said that based on Roberts' comments Tuesday, "I don't believe either side can come to any conclusion" about whether he would vote to overturn Roe. He added, "I'm willing to take a chance."

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In one of his more definitive answers Tuesday, Roberts took sides in an ongoing debate within the Court over the use of foreign laws and precedents in deciding cases. Sen. Jon Kyl, R-Ariz., raised the issue, citing last spring's decision Roper v. Simmons, in which Justice Anthony Kennedy invoked worldwide trends in support of his vote to strike down the death penalty for those who were under 18 when they committed their crimes.

Roberts said the use of foreign precedent troubled him because "with foreign law, you can find anything you want." Given the wide range of global laws and norms, Roberts likened the use of foreign law to "looking out on a crowd and picking out your friends." He also said it violates democratic principles, because it makes use of material that was written and decided by authorities who are not accountable to U.S. voters.

Roberts' position would place him strongly alongside Justices Antonin Scalia and Clarence Thomas, and at odds with justices such as Kennedy, Sandra Day O'Connor, and Stephen Breyer, who have said foreign materials are useful, though not dispositive.

Roberts was less decisive on an issue that media organizations were hoping he would be asked about: cameras in the Supreme Court. The Court has repeatedly resisted efforts to allow broadcast coverage of its proceedings.

"It's not something I have a settled view on," Roberts said in answer to a question from Sen. Russ Feingold, D-Wis.. "I certainly understand the interest." He said that in the past the issue has been referred to the whole Court, not just the chief justice, and he indicated he wanted to hear from other justices before taking a position.

Again and again, Roberts returned to familiar themes throughout the full day of hearings: that courts should judge, not legislate; that the right to be left alone is a fundamental American right, even though it is not specifically mentioned in the Constitution; that he would not answer specifics about any particular cases; and that his religious beliefs would not play any role in his decision-making.

"I do know this, that my faith and religious beliefs don't play a role in my judging," Roberts said in response to questions from Sen. Dianne Feinstein, D-Calif., about his impartiality. "When it comes to judging, I look to the law ... I don't look to the Bible."

Roberts also sidestepped a question from Feinstein about whether the federal courts should become involved in end-of-life decisions. His response: "An abstract opinion [on that subject] that would pre-judge that case is inappropriate."

Feinstein quizzed Roberts on another memo, this one from July 31, 1985, in which Roberts noted that "Some might question whether encouraging homemakers to become lawyers contributes to the common good ... "

Roberts insisted that the point of the memo was a humorous attempt to point out that there were too many lawyers, an idea, he noted at the hearing, "that goes back to Shakespeare... . It had nothing to do with homemakers."

Much of Roberts' discussion with Sen. Patrick Leahy, D-Vt., focused on the nominee's views on the balance between the president and Congress concerning war powers. Leahy cited a Reagan-era memo in which Roberts raised a red flag over a provision in a proposed law that would have given Congress the power to declare when a war was over‹for the purposes of allocating veterans' benefits.

Leahy, his voice rising, asked Roberts if his memo meant that he felt Congress did not have the power to stop a war.

"Senator, you are vastly overreading the memo," Roberts said, adding that the memo concerned a technical matter and that Congress retained the "power of the purse" in funding wars.

By late afternoon some conservative blogs were expressing dismay that Roberts had not been critical of Roe. "If there is a sense of disappointment in the conservative community, it's more of a dissatisfaction with the state of the law than the nominee," said Leonard Leo, the executive director of the Federalist Society and a leading conservative voice on judicial nominations, in an interview.

In fact, Leo said, "the testimony proffered by Clarence Thomas [on Roe] is not that different."

Advocates on the other side were far more critical.

"How many questions can he avoid answering?" wondered Elliot Mincberg, the legal director at People For the American Way.

And Sen. Edward Kennedy, D-Mass., interviewed outside the hearing room, had his own explanation for Roberts' insistence on keeping far away from even the remotest comment on a specific case or issue that is likely to come before the Court.

"I've seen it among candidates before," said Kennedy, a member of the Senate since 1963. "When they begin to feel they have the votes, they begin to get more and more vague -- and we're seeing it on the Judiciary Committee."

With a 10-8 split on the committee, Roberts does not need any Democratic votes if, as is widely expected, he maintains the support of all 10 committee Republicans.

In Complex Dance, Roberts Pays Tribute To Years Of Precedent Behind Roe V. Wade (NYT)

By Robin Toner

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - Nowhere were Judge John G. Roberts Jr.'s words framed more carefully - or listened to more closely - than on the subject of abortion.

In what advocates on both sides of the issue described as a complex dance, on the first day of questioning by the Senate Judiciary Committee, Judge Roberts paid full tribute to the weight of 32 years of precedent behind Roe v. Wade, the 1973 Supreme Court decision establishing abortion rights. "It's settled as a precedent of the court, entitled to respect under principles of stare decisis," he said, referring to the idea that decisions of prior courts are entitled to substantial deference.

In a long colloquy with Senator Arlen Specter, the chairman of the committee, Judge Roberts said, in general, that it was a "jolt to the legal system" when a precedent was overturned. Moreover, he noted, Roe had been explicitly reaffirmed by the court in 1992, in Planned Parenthood v. Casey, and thus had additional protection as precedent. And, at several points during the day, the nominee expressed his support for a constitutional right to privacy, which was the basis for Roe.

But Judge Roberts stopped short, again and again, of endorsing Roe itself. "I think I should stay away from discussions of particular issues that are likely to come before the court again," he said, in a typical exchange. "And in the area of abortion, there are cases on the court's docket, of course."

At another point, when Mr. Specter, a supporter of abortion rights, asked Judge Roberts whether "a woman's right to choose is so embedded that it's become a part of our national culture?" Mr. Roberts again demurred.

"Well, I think that gets to the application of the principles in a particular case," he said. "And based on my review of the prior transcripts of every nominee sitting on the court today, that's where they've generally declined to answer: when it gets to the application of legal principles to particular cases."

Abortion rights advocates, who were overwhelmingly opposed to the Roberts nomination before the hearing began, said his testimony Tuesday affirmed their fears.

"He's clearly embraced the right to privacy, which is the underpinning of the right to choose," said Nan Aron, president of the Alliance for Justice, a liberal advocacy group. "But he refuses to say it encompasses the right to choose."

Nancy Keenan, president of Naral Pro-Choice America, said, "He continues to avoid the fundamental question." She asserted that Judge Roberts's position on privacy was "privacy for some but maybe not for all."

Abortion opponents and social conservatives were praising Judge Roberts's testimony as appropriate and - by implication - politically acceptable. "We were pleased with Judge Roberts's answers about Roe v. Wade," said Cathy Cleaver Ruse, senior legal fellow to the conservative Family Research Council. "Judge Roberts refused to give hints or projections about how he might evaluate a future abortion case before the court, but carefully stated what the law is on the matter of stare decisis and repeatedly pledged to follow "the rule of law."

Gary Bauer, president of American Values, said Judge Roberts's answers were carefully scripted by the White House and thus "less than satisfying." But Mr. Bauer added, "A careful reading of the transcript shows he committed to nothing once he is on the court. We are left with what we always had - a hope and an expectation, based on the totality of his record, that if confirmed he will be part of a new conservative majority."

In fact, that expectation on the right is what alarms the left. "What do they know that we don't know?" asked Ms. Keenan of Naral.

Mr. Specter turned his questioning into a tutorial on stare decisis, all in the context of Roe. He produced a huge chart showing the number of times the court had dealt with Roe-related cases over the years - 38 by his count - and suggested that by now "Roe might be a super-duper precedent."

He noted that the late Chief Justice William H. Rehnquist, who did not agree with the Miranda decision requiring criminal defendants to be informed of their rights, nevertheless ultimately voted to uphold it years later because it had become so "embedded" in the culture. Mr. Roberts agreed that the Rehnquist decision to uphold reflected the values of "stare decisis," but again, added a caveat, noting that sometimes courts make a decision that they could reverse a precedent.

Senator Dianne Feinstein, Democrat of California, revisited the issue in her questioning, noting that, "there are now entire generations of women who know a world only where their reproductive rights are protected." Was that not, she argued, the kind of "settled expectations" about the law that make "stare decisis" so important?

But again Judge Roberts confined himself to the generalities. Mrs. Feinstein pressed on the Casey decision, and whether he agreed with its ruling that a state could not require a pregnant woman to notify her husband before obtaining an abortion.

"That is what Casey held, yes," he said, carefully. "And that's, as I said before, a precedent of the court, like any other precedent of the court, entitled to respect under principles of stare decisis."

Roberts Rebuffs Democrats' Questions (AJC/AP)

DOJ_NMG_0005266

By David Espo, Ap Special Correspondent

The Atlanta Journal-Constitution, September 14, 2005

WASHINGTON — Chief Justice-nominee John Roberts repeatedly refused to answer questions about abortion and other contentious issues at his confirmation hearing Tuesday, telling frustrated Democrats he would not discuss matters that could come before the Supreme Court.

"I think nominees have to draw the line where they are most comfortable," said Roberts, who also sidestepped questions about civil rights, voting rights and the limits of presidential power in a long, occasionally antagonistic day in the witness chair.

Appearing before the Senate Judiciary Committee, he said past Supreme Court rulings carry weight, including the Roe v. Wade decision that legalized abortion in 1973. But he quickly balanced that by adding that the same principle allows for overturning rulings, as well.

Over and over, he assured lawmakers he would be guided by his understanding of the facts of cases, the law and the Constitution, not by his personal views.

"My faith and my religious beliefs do not play a role," added Roberts, who is Catholic.

"I will be my own man," he said later in a daylong session that Republicans said had firmly established his prospects for swift confirmation.

The 50-year-old appeals court judge and former Reagan administration lawyer fielded questions about dozens of legal precedents without benefit of notes. His wife, Jane Roberts, also an attorney, sat behind him, flanked by a delegation of aides the White Houses assembled to assist him.

Roberts flashed his wit occasionally, announcing with a smile that he had reconsidered his long-ago support for term limits for judges. If confirmed, his appointment will be for life.

In a more serious vein, he disavowed the Reagan administration's support for a tax exemption for a university that banned racial dating — but also said he hadn't been involved in discussions on the issue.

He twice rebuffed Democratic attempts to draw him into a discussion of his views on lawsuits under the Voting Rights Act — whether a showing of discrimination should be sufficient to prevail as opposed to a more difficult-to-establish intent to discriminate.

Sen. Arlen Specter, R-Pa., and the committee chairman, raised the question of abortion moments after the hearing began, and the issue reverberated again and again.

"The right to privacy is protected under the Constitution in various ways," Roberts said at one point. Hours later, he said he agreed with a 38-year-old high court ruling in a case involving contraceptives for married couples, a decision often cited as the underpinning for abortion rights.

He said that if confronted with an abortion case — as seems likely in the high court's upcoming term — he would give full weight to the precedent of the landmark ruling that established a woman's right to end her pregnancy.

The legal principle of "stare decisis" requires that, he said — but he also said the same principle allows past rulings to be overturned.

Roberts struck sparks when he indicated his refusal to answer certain questions was based in part on a precedent of "no hints, no forecasts, no previews" that Justice Ruth Bader Ginsburg set at her hearings a dozen years ago.

"That is not true, judge," interrupted Sen. Joseph Biden, D-Del., telling Roberts that Ginsburg had been far more forthcoming, particularly about abortion.

Specter broke in at that point — one of several times he did so during the day — telling Biden to let Roberts finish his answer.

Biden said Roberts wasn't answering at all, then said to the witness seated a few feet away: "Go ahead and continue not to answer."

Despite the Democratic unhappiness, it appeared Roberts' had done nothing to diminish his strong chances for confirmation to replace the late William H. Rehnquist before the high court convenes on Oct. 3.

"We're reliving the '80s," Sen. Lindsey Graham, R,-S.C., muttered during one break, a reference to numerous questions from Democrats about conservative views Roberts expressed in memos he wrote as a young lawyer in the Reagan administration. Sen. Jeff Sessions, R-Ala., said he was glad Bush had picked Roberts for the job — and happy, too, that the nominee had rebuffed Biden's questions.

If approved, Roberts would become the nation's 17th chief justice and the youngest in more than 200 years.

President Bush originally named him to replace Sandra Day O'Connor when she announced her retirement earlier this summer. She has been a pivotal vote in recent years on cases that upheld abortion rights and affirmative action, and Roberts is seen by supporters and critics alike as a young, conservative successor with the potential to move the court rightward.

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That changed with Rehnquist's death. Unlike O'Connor, the late chief justice dissented in rulings that upheld a woman's right to abortion, for example. As a result, some of the intensity seems to have been drained from Roberts' confirmation proceedings but is likely to resurface when Bush names a new successor to O'Connor.

Confronted by Democrats with memos he wrote as a Reagan lawyer, Roberts stepped carefully: "In some instances they were consistent with personal views, in other instances they may not be."

Roberts sparred briefly with Sen. Edward M. Kennedy, D-Mass., who referred to some of the memos in asking about the views expressed in some that have been made public.

"If your position prevailed, it would have been legal in many cases to discriminate in athletics for girls, women. It would have been legal to discriminate in the hiring of teachers," Kennedy said.

"You have not accurately represented my opinion," Roberts replied.

"Those are your words," Kennedy retorted, but Roberts was unrelenting. "Senator, you did not accurately represent my opinion," he said.

Sen. Patrick Leahy of Vermont, the senior Democrat on the panel, asked about the limits of presidential power, specifically if the chief executive would be obligated to heed a law calling for the withdrawal of U.S. troops from foreign soil by a fixed date.

"I don't want to answer a particular hypothetical that could come before the court," Roberts replied.

Abortion Is The `600-pound Elephant' At Confirmation Hearing (MERCN/KRT)

By Jill Zuckman, Chicago Tribune

The San Jose Mercury News, September 14, 2005

WASHINGTON - (KRT) - More than civil rights, more than property rights, more than environmental rights, the issue of abortion has insinuated itself into every aspect of the Supreme Court confirmation process. And Tuesday, it seemed to be frustrating nearly everyone.

Perhaps because abortion touches on such core issues as life and death, women's autonomy, personal health and morality, it seems to have a power unmatched by any other subject in American political life.

That helps explain why Sen. Arlen Specter, R-Pa., chairman of the Senate Judiciary Committee, asked chief justice nominee John G. Roberts Jr. about the landmark abortion case Roe v. Wade in the very first set of questions. And why senators on both sides kept coming back to abortion, notably Sen. Dianne Feinstein, D-Calif., the only woman on the 18-member committee.

"That is the central issue," Specter, who favors abortion rights, said later. "If you have to pick one important issue that America is hanging on, it's a woman's right to choose."

Sen. Sam Brownback, R-Kan., a socially conservative abortion opponent, added, "It's the 600-pound elephant in the room. It's what everyone is looking at."

Not surprisingly, Roberts' answers did not entirely satisfy advocates on either side. This, after all, is a battle of absolutes: One camp considers abortion murder and says it should be forbidden, while the other sees it as a basic human right that should be guaranteed. On top of that, abortion has become perhaps the biggest proxy for the nation's bitter political divisions.

Roberts' answers to questions about Roe v. Wade gave no comfort to liberals, who wanted - though they could hardly have expected - an explicit promise of support for high court ruling that legalized abortion nationwide. But neither did it give comfort to social conservatives who hoped Roberts would vote to overturn the decision.

Still, the politicians who must continually confront the abortion issue in Congress and on the campaign trail used the hearing to push Roberts, and push him hard, for an answer.

The pressure was particularly great on the Democratic side because of fears that Roberts could vote to overturn Roe v. Wade and undo a 32-year-old victory by the abortion-rights movement.

"Even though everyone knows Roberts is going to be confirmed, they have to engage in a good-faith effort to satisfy the groups on the left," said Linda Fowler, a Dartmouth College government professor.

But Roberts, driven by both political and legal considerations, responded in a noncommittal way, paying homage to the importance of precedent and offering a tribute to "settled expectations" among the public.

"It is a jolt to the legal system when you overrule a precedent," Roberts said.

While that might seem to be reassuring to those who want Roe v. Wade to stand, Brownback said, "It seemed to me he left open that issue, how he would rule on it."

Gary Bauer, the prominent conservative activist, said he was left with little more than a feeling that Roberts might be on the side of those trying to derail abortion rights.

"Decent chance," said Bauer, noting that neither side can know for sure where Roberts will come down.

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By many measures, American society has utterly failed to resolve the abortion issue. Courts have tried to settle it, with Roe v. Wade in 1973 and the Casey decision in 1992 - both essentially guaranteeing the right to abortion within certain limits - but few consider the matter closed.

Many legal scholars question the reasoning in Roe, which is based on the finding of an implied right of privacy in the Constitution. And a significant portion of the population will no doubt be angry and unhappy no matter the legal outcome.

In political campaigns and judicial nominations, the question of abortion is a litmus test of sorts for many candidates and nominees. That, said advocates, is because abortion is not an abstract matter.

"It is such a fundamental issue because it is concrete, it is specific and people understand how it affects their lives every day," said Marcia Greenberger, co-president of the National Women's Law Center.

In her opening statement at the hearing and in a private conversation with Roberts, Feinstein said she was worried about women losing to politicians the ability to control their reproductive systems.

"I remember - and many of the young women here don't - what it was like when abortion was illegal in America," Feinstein said. She could not vote for Roberts, she said, if she thought his vote would send women back to the time of back-alley abortions and trips to Mexico.

But with the Supreme Court poised to address the abortion issue in its upcoming term, and with the justices split 5-4 in past cases, Roberts stayed away from specifics, prompting an angry Sen. Joseph Biden, D-Del., to accuse him of "filibustering."

Ralph Neas, president of People for the American Way, accused Roberts of playing "dodge ball." And Debra Ness, president of the National Partnership for Women and Families, said he used "carefully calibrated words" that "shed no light" on whether he would protect a woman's right to privacy or allow government to intrude in family decisions.

Many senators have said they would vote against Roberts - not because of his position on an issue, but because he refuses to explain what his position is.

But judicial nominees have a tradition of declining to answer questions on issues that may come before them on the court. And during a break in the proceedings, Specter said it is not surprising or unreasonable for Roberts to avoid answering his questions.

"I thought he went about as far as he could go," Specter said.

Asked if that means he and other senators will be voting on Roberts' nomination without knowing Roberts' views of Roe v. Wade, Specter said that was correct: "He cannot be required to answer how he's going to decide a case that is going to come before the court."

Unclear On Abortion, Critics Say (WP)

By Jo Becker

The Washington Post, September 14, 2005

Nearly a quarter of a century ago, John G. Roberts Jr. wrote skeptically about the legal concept that underpins a woman's right to an abortion, calling it "the so-called right to privacy." Yesterday, when pressed by a Republican senator about his writing, the Supreme Court nominee said he believes that the Constitution contains such a right, but he refused to say whether it covers the termination of a pregnancy.

At issue was a Dec. 11, 1981, memo that Roberts wrote to then-Attorney General William French Smith, in which he referred to "the so-called right to privacy" and said that a speech by former solicitor general Erwin N. Griswold showed that he believed, "as we do," that such an amorphous right does not exist in the Constitution.

"Do you believe today that the right to privacy does exist in the Constitution?" asked Sen. Arlen Specter (R-Pa.), chairman of the Senate Judiciary Committee. Roberts replied: "Senator, I do." Asked to square that statement with what he had written more than two decades ago, Roberts replied that he had merely summarized the views of the former solicitor general.

Roberts did not mention, however, that Griswold's speech did not refer, as he did, to the "so-called right to privacy." And Roberts did not say yesterday whether he believes that the right to privacy applies to abortion.

Instead, he repeatedly parried such questions by saying that it would be inappropriate for him to discuss issues that could come before the court.

"We still do not have clarity on his views," said Kate Michelman, former president of NARAL Pro-Choice America, which opposes Roberts's nomination.

Roberts Defends Roe As 'A Precedent' (WT)

By Charles Hurt

The Washington Times, September 14, 2005

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Federal Judge John G. Roberts Jr. said yesterday that he respects the legal precedence of Roe v. Wade -- the landmark case that established federal abortion rights -- and said that overturning it would "jolt" the stability of the judiciary.

Throughout more than nine hours of testimony yesterday, President Bush's nominee to be chief justice of the United States repeatedly declined to answer questions about specific cases such as Roe, but said Supreme Court precedents in general should not be overturned just because a case has been wrongly decided.

"It is a jolt to the legal system when you overrule a precedent," Judge Roberts told senators. "Precedent plays an important role in promoting stability and evenhandedness. It is not enough -- and the court has emphasized this on several occasions -- it is not enough that you may think the prior decision was wrongly decided."

Senate Judiciary Committee Chairman Arlen Specter, a pro-choice Pennsylvania Republican, wasted no time getting right to the heart of the Supreme Court nomination fight with an opening salvo of tough questions about abortion. Mr. Specter inquired whether the Constitution contains a "right to privacy," an unwritten phrase that is the basis of abortion rights.

"The right to privacy is protected under the Constitution in various ways," Judge Roberts said. "It's protected by the Fourth Amendment, which provides that the right of people to be secure in their persons, houses, effects and papers is protected.

"It's protected under the First Amendment dealing with the prohibition on establishment of a religion and guarantee of free exercise," he added. "It protects privacy in matters of conscience."

Judge Roberts' answers threw several members of the committee slightly off their partisan game.

Sen. Jeff Sessions, an Alabama Republican who thinks Roe is "a lawless decision that should be overturned," said he has no confidence that Judge Roberts will overturn Roe if given the opportunity.

"I don't know how to read it," he said of Judge Roberts' testimony. "It made me realize that I don't know what he'll do."

Sen. Charles E. Schumer, New York Democrat and leading Roberts inquisitor, told the judge that he was "pleasantly surprised by some of your answers today."

Several Democrats took issue with Judge Roberts' analogy during an opening statement Monday comparing judges to umpires who call the game but don't make the rules.

"As much as I respect your metaphor," said Sen. Joseph R. Biden Jr., Delaware Democrat, "it's not very apt because you get to determine the strike zone."

Sen. Herb Kohl, Wisconsin Democrat, advised the nominee that judges are not "automatons."

Judge Roberts agreed, but said judges should not "look to your own values and beliefs," but rather to the Constitution.

"Judges wear black robes because it doesn't matter who they are as individuals," he said. "That's not going to shape their decisions. It's their understanding of the law that will shape their decisions."

Judge Roberts' trademark modesty -- a term he often uses to describe his judicial philosophy -- was evident yesterday when he reminded the committee several times that he might not be confirmed, in which case he would continue in his present position on the U.S. Court of Appeals for the D.C. Circuit.

Asked about a statement made by Supreme Court Justice David H. Souter during his confirmation hearings, Judge Roberts demurred.

"Well, I don't want to directly comment on what Justice Souter said," he explained. "He's either going to be a colleague or continue to be one of my bosses. So, I want to maintain good relations in either case."

Judge Roberts' quick wit surfaced several times during the long day, such as when he was asked what he'd like history to say about him.

"I'd like them to start by saying he was confirmed," he shot back.

When asked whether he thought Mr. Bush should nominate a woman to the high court, Judge Roberts replied: "I don't think it's appropriate for me to comment in any way about the president's future selections other than to say that I am happy with his past ones."

Mr. Kohl, who had asked the question, smiled and said amid the laughter, "You're not an automaton."

But that's not to say that yesterday's proceedings didn't have sharp moments.

At one point, Judge Roberts emphatically told Sen. Edward M. Kennedy, Massachusetts Democrat, that the senator did "not accurately represent my position."

In another exchange, Judge Roberts took deep exception to the suggestion by Sen. Dianne Feinstein, California Democrat, that he doesn't believe in equality for women. She quoted from a memo in which he wrote, "Some might question whether encouraging homemakers to become lawyers contributes to the common good."

Judge Roberts dismissed the line as an insult to lawyers -- of which he said there are too many.

"That's a common joke that goes back to Shakespeare," he said. "It had nothing to do with homemakers."

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Any hostility to women's rights "is totally inconsistent and rebutted by my life," he added. "I married a lawyer. I was raised with three sisters who work outside the home. I have a daughter for whom I will insist at every turn she has equal citizenship rights with her brother."

Mrs. Feinstein said she didn't "want to belabor it" -- and moved on to other questions.

Abortion A `settled Precedent,' Roberts Says (KRT)

By Stephen Henderson And James Kuhnhenn

Knight Ridder, September 14, 2005

WASHINGTON - Supreme Court nominee John G. Roberts gave strong indications Tuesday that he'd be reluctant to overturn court precedents such as Roe v. Wade, and he voiced support for a right to privacy - which underpins court rulings on gay rights and other individual liberties - that's much broader than his previously known stance.

On the first day of questioning during his confirmation hearings for chief justice, Roberts bluntly described the landmark 1973 ruling that legalized abortion as "settled precedent." He said he would apply a complicated set of criteria to any effort to overturn such a precedent. A judge's personal disagreement with precedent, he said, isn't enough to justify a vote to reverse it.

"I do think that it is a jolt to the legal system when you overrule a precedent. Precedent plays an important role in promoting stability and evenhandedness," Roberts said.

That view dovetails with Roberts' insistence that judges play a limited role, and that restraint, rather than activism, is his preferred approach to cases.

Roberts was even more effusive about the right to privacy, saying it's supported in several different clauses of the Constitution and tied to fundamental notions of liberty. That idea puts him at odds with many conservatives - including Justice Antonin Scalia, one of President Bush's favorites - who argue that no such right to privacy exists.

"The court has ... recognized that personal privacy is a component of the liberty protected by the due process clause," Roberts said in answer to a question from Judiciary Committee Chairman Arlen Specter, R-Pa. "The court has explained that the liberty protected is not limited to freedom from physical restraint, and that it's protected not simply procedurally, but as a substantive matter as well."

Specter, a moderate conservative and the committee's first questioner, pushed Roberts on abortion and privacy issues. He tried several times to get Roberts to commit to upholding Roe and Casey v. Planned Parenthood of Pennsylvania, the 1992 case that upheld it.

But Roberts said he didn't feel comfortable commenting on specific issues that might come before the court.

Specter said he was satisfied with Roberts' answers.

"He did not give a definitive answer because obviously that question is going to be before the court again; it's going to be on the next term," Specter said. "But I think he - as they said in the old song, `Kansas City,' he went about as far as he could go."

Both liberal and conservative interest groups said Roberts' comments gave no definitive sense of what he might do on the court. Liberals said his statements weren't committed enough to the right to privacy or the right to abortion. Conservatives said he hadn't ruled out any action, particularly concerning abortion.

"He gave no assurance that he believes there is a right to privacy," said Nancy Northup, president of the Center for Reproductive Rights, which supports abortion rights.

"He didn't give any answers," said Sen. Tom Coburn, R-Okla. "What else can you want out of a judge? He's not going to answer where he is. It's wrong to make him answer where he is."

Sen. Jeff Sessions, R-Ala., a staunch opponent of Roe, said Roberts' answers left him in the dark. "I don't know how to read him. I don't know what he's going to do. It just made me know that we don't know what he's going to do. I don't think the president knows what he's going to do.

Asked whether Roberts' answers could raise questions among religious conservatives about his stance on abortion, Sessions said: "They could misinterpret ... and believe that he was making some sort of commitment that I don't think he made. I'm not sure that I could disagree with much of what he said."

Roberts' comments came on a long day of interrogation by senators. It was mostly cordial, but at times got testy. Roberts gave lengthy answers to many questions and mostly maintained the calm, cool demeanor that's his mark in Washington, where, as a private attorney, he's argued 39 cases at the Supreme Court, winning 25.

His refusal to address some queries caused several senators to complain that he was being evasive. Specter cautioned Sen. Edward Kennedy, D-Mass., and Sen. Joe Biden, D-Del., to let Roberts answer their questions before jumping in with commentary or new queries.

"His answers are misleading, with all due respect," Biden replied at one point after Specter tried to silence him.

"They may be misleading," Specter replied, "but they are his answers."

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Roberts interrupted quickly. "With respect, they are my answers. And, with respect, they are not misleading. They're accurate."

Roberts also addressed dozens of other issues during the questioning - some with substantive answers, some with deft evasion and others with polite demurral.

Several times, he suggested that many of the memos he wrote as a young lawyer in Republican administrations were reflective more of presidential policies than his views. But Democratic senators were skeptical.

Sen. Patrick Leahy, D-Vt., zeroed in on a memo that Roberts wrote suggesting that a teenager whose teacher abused her couldn't sue school district officials who did nothing to help her.

Leahy noted that the court unanimously rejected the administration's position, and he asked Roberts whether the memo's intent was to suggest sexual harassment was OK.

"There was no issue about condoning the behavior," Roberts said. "I found it abhorrent then, and I find it abhorrent now." The issue was whether Congress has intended for victims to be able to sue, and the administration believed it hadn't, Roberts said.

Kennedy asked him about his writings on the Voting Rights Act in the early 1980s, which Democrats have said showed hostility to voter participation. As a lawyer in the Reagan White House, Roberts wrote a memo advising the administration to support the act, but not expand it to make it easier to prove voter discrimination in some states.

Ultimately, a congressional compromise accepted the expansion.

Roberts insisted that he believed voting rights were the Constitution's single most important liberty, calling them "preservative of all the other rights."

Then he said the memo was reflective of a different view from Kennedy's - not an indication of a lack of support for voting rights.

"I agreed that the Voting Rights Act should be extended," Roberts said. "There was never a dispute about the basic proposition."

Roberts addressed the question of support for civil rights more directly in response to Sen. Charles Schumer, D-N.Y.

"Opposition to quotas is not opposition to civil rights," Roberts said.

Sen. Herbert Kohl, D-Wis., asked Roberts whether some of the memos he wrote - some of which carried dismissive or acerbic tones - reflected a youthful arrogance that he's since outgrown.

"There are many areas where it appears I knew a lot more when I was 25 than I know now, when I'm 50," Roberts said. "I certainly wouldn't write everything today as I wrote it back then, but I don't think any of us would do things or write things today as we did when we were 25 and had all the answers."

Democrats tried to turn the tide of public opinion by tying Roberts' confirmation to the hurricane victims in New Orleans, saying his view of civil rights and the limited role of Congress and the courts in that area helps explain the plight of the people left behind.

"The question is whether judicial restraint is used as a stalking horse for a kind of quiet activism that seeks to restrict the application of laws designed by the legislature to address particular problems," said Wade Henderson, executive director of the Leadership Conference on Civil Rights, the nation's largest group of civil rights organizations.

Still, no one's predicting that Roberts won't be confirmed. The only question is by what margin. Rehnquist was confirmed 65-33, the smallest margin for any chief justice. Republicans seemed to be lowering expectations on what Roberts' margin would be.

"If this guy with his qualifications and legal experience cannot get one Democrat to vote for him, we've lost our way," said Sen. Lindsey Graham, R-S.C.

Roberts Leaves Fate Of Roe Open (WSJ)

By Jeanne Cummings and Jess Bravin

The Wall Street Journal, September 14, 2005

WASHINGTON -- Chief justice nominee John Roberts raised concerns among conservatives by telling senators that he recognized a constitutional right to privacy, and backed the 1965 Supreme Court opinion that was later invoked to justify abortion rights -- a central battleground in the current ideological debate over the direction of the judiciary.

But in his first day of questioning by the Senate Judiciary Committee, President Bush's choice to lead the high court left open the fate of the 1973 Roe v. Wade decision on abortion rights -- often linked to the privacy case -- which he suggested rested on different reasoning.

Judge Roberts's embrace of the privacy right underlying Roe rejected the arguments of some prominent conservative legal scholars, and unsettled some religious activists who have made overturning the landmark abortion ruling a centerpiece of their

political agenda. He seemed to repudiate a 1981 memo he wrote as a lawyer in the Reagan Justice Department in which he referred to a "so-called 'right-of-privacy.' "

Phyllis Schlafly, president of the conservative Eagle Forum lobbying group, said Judge Roberts's comments yesterday were "a source of concern," but not enough to damp enthusiasm for the nominee. "Bush led us to believe he would appoint a Scalia or Thomas, and he's not a Scalia or Thomas," she said, referring to Justices Antonin Scalia and Clarence Thomas, the two most conservative on the bench. "But he'll probably be a Rehnquist and a pretty good judge," she added, referring to the late Chief Justice William Rehnquist, whom Mr. Bush chose Judge Roberts to succeed.

On the other side of the spectrum, Sen. Charles Schumer (D., N.Y.) -- a leader of the liberal fights against President Bush's judicial nominations -- told Judge Roberts that he was "pleasantly surprised" by the privacy comments. Mr. Schumer added that he was disappointed by the nominee's refusal to elaborate on other issues, notably civil rights, which are expected to become a major focus of the second round of questioning today.

The confirmation hearings are scheduled to end by the weekend, and the committee is planning to vote Sept. 22. Barring any bombshells -- which the hearings have yet to produce -- Judge Roberts is expected to win confirmation from the Senate, though a large number of Democrats are likely to vote against him.

During a day of questioning that began at 9:30 a.m. and nearly stretched to 8 p.m. Judge Roberts, who sits on the federal appeals court here, largely stuck to the script most judicial nominees follow, affirming commitments to fairness and respect for precedent, but steering clear of views on specific issues that could trigger opposition.

He sought to distance himself from the memorandums he wrote as a lawyer in the Reagan administration, suggesting that he functioned mainly as a staff lawyer rather than policy maker, and that his views had broadened since he was "25 and had all the answers."

Such replies didn't satisfy Sen. Edward Kennedy (D., Mass.), who confronted Judge Roberts about his early-1980s memorandums suggesting ways to narrow the scope of civil-rights laws the liberal senator has backed for decades. Mr. Kennedy said that Judge Roberts didn't grasp "that if his views from that time were actually enacted... there would be less opportunity and more discrimination."

In addition to his comments on privacy, Judge Roberts may have stirred some unease on the right when he talked about helping gay-rights advocates prepare for arguments before the Supreme Court, as a favor to a law partner who was working on the case. When pressed, Judge Roberts said that he wouldn't have done so had he considered it "morally objectionable."

While many cases and issues were covered in the 10-hour-long session, the one that got significant attention was Griswold v. Connecticut, the 1965 case that struck down a state ban on contraceptives. Both conservatives and liberals see that case as the precursor to Roe, and in the 1980s the Reagan administration identified the case as wrongly decided.

But responding to Sen. Herb Kohl (D., Wis.), Judge Roberts said he agreed with the Griswold opinion, where Justice William O. Douglas wrote that the "specific guarantees in the Bill of Rights have penumbras" encompassing unenumerated rights, including "marital privacy."

Moreover, Judge Roberts acknowledged that the court has affirmed Roe's central holding and that precedents shouldn't lightly be disturbed, as sometimes it can be damaging to reverse a questionable precedent if society has come to rely on it.

Judge Roberts's position on what the privacy right entailed, beyond access to contraceptives, remained unclear. He told Sen. Dianne Feinstein (D., Calif.) that privacy "is part of the liberty that is protected under the due-process clause" of the 14th Amendment. He took pains to separate the "penumbras" reasoning on which Griswold relied from the basis of Roe, which found that privacy was protected under the 14th Amendment's Due Process Clause. That distinction could allow Judge Roberts to reverse Roe on those grounds, while leaving Griswold undisturbed.

In his comments on Griswold and privacy, Judge Roberts differed from the arguments made by Robert Bork, a Reagan nominee, rejected by the Senate in 1987 in part for denying a constitutional-privacy right. Judge Roberts's remarks were similar to support for Griswold offered by Justice Thomas in his 1991 hearings.

Feinstein: Disappointed Roberts Not More Forthcoming (MERCN)

By Erica Werner

The San Jose Mercury News, September 14, 2005

WASHINGTON - Sen. Dianne Feinstein said she was disappointed John Roberts wasn't more forthcoming in discussing abortion, women's rights and other issues during the first day of questioning Tuesday in his Supreme Court nomination hearings.

"I actually felt he made up his mind not to answer my questions, knowing what I might ask," Feinstein, D-Calif., the only woman on the Senate Judiciary Committee, said in a statement after questioning the nominee for her allotted 30 minutes.

"What I was trying to do today is to get a sense of who Judge Roberts is. I'm disappointed that Judge Roberts was not more forthcoming," she said.

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Feinstein and the other 17 members of the Judiciary Committee will get another chance Wednesday for more rounds of questioning. During Tuesday's session the nominee to replace Chief Justice William Rehnquist avoided specifics on cases including Roe v. Wade, the case that established the right to abortion.

He said he believed the Constitution contains a right to privacy - the legal concept underpinning the Roe v. Wade decision. But he declined to say whether he thought it extended to abortion, which many abortion opponents believe it does not.

"The exact scope of it, with respect to the beginning of life and the end of life, those are issues that are coming before the court in both respects, and I don't think that I should go further," Roberts told Feinstein in one typical response.

Feinstein is a moderate, but a strong abortion-rights supporter who has repeatedly said it would be difficult for her to support someone she believes would overturn Roe v. Wade. Tuesday's questioning may not have settled the issue for her.

She asked Roberts what weight he would give to the reliance of generations of women on the right to legal abortion.

"Well, again, I think that's asking me whether I think the decision was correct or not on that point," Roberts said, declining to respond.

Feinstein opened her questioning by reading back to Roberts a series of arguably unflattering comments he'd written about women.

Why did he write as an associate White House counsel that, "'Some might question whether encouraging homemakers to become lawyers contributes to the common good?'" Feinstein asked.

Why write in response to female lawmakers concerned about the pay gap, "'Their slogan may as well be, from each according to his ability, to each according to her gender?'"

"I mention these examples to highlight what appears to be either a very acerbic pen, or else you really thought that way. Did you really think that way, and do you think that way today?" Feinstein asked.

"Sen., I have always supported, and support today, equal rights for women, particularly in the workplace," Roberts responded.

He said the first comment was a joke about whether it was good to have more lawyers. The second, he said, was written in the context of a memo making clear the administration's support for equal pay for equal work.

Roberts Sticks To Script On Abortion Questions (LAT)

By David G. Savage

The Los Angeles Times, September 14, 2005

WASHINGTON — Since Ronald Reagan's election as president in 1980, Republicans have run on a platform that calls for overturning the right to abortion established in Roe vs. Wade.

And whenever a Republican president's Supreme Court nominees come before the Senate for confirmation, defenders of the right to choose abortion want to know whether the justice-to-be supports the GOP's view on Roe vs. Wade.

Candor in answering that question can be dangerous.

Judge Robert H. Bork, Reagan's third nominee to the high court, had written that Roe vs. Wade was an illegitimate decision and that its right to privacy appeared nowhere in the Constitution.

When asked about that opinion during his 1987 confirmation hearings, he restated his view. And the Senate defeated his nomination.

Since then, Republican nominees have responded to the senators' questions without directly answering whether they would uphold or reverse Roe vs. Wade.

On Tuesday, Judge John G. Roberts Jr. followed that script, assuring pro-choice senators that the court's precedents were the building blocks of the law and should not be knocked down without good reason. It is a jolt to the legal system to overturn a precedent, he said.

Moreover, the 1973 Roe decision was affirmed by the Supreme Court in 1992, he said: It is now a "settled precedent."

And when asked, he readily agreed that the Constitution included a right of personal privacy, the doctrine that formed the foundation for Roe vs. Wade.

But in the end, Roberts did not say that as chief justice he would uphold abortion rights. He simply assured the senators that he would not casually overturn Roe vs. Wade.

When pressed, Roberts refused to go further.

He would not agree with Sen. Arlen Specter (R-Pa.), the Senate Judiciary Committee chairman, that the right to abortion was "embedded" in American law and culture.

Chief Justice William H. Rehnquist had used that word to describe the Miranda ruling and its famous right to remain silent. Though Rehnquist had long opposed the Miranda decision, he wrote an opinion upholding it because it was now embedded in American life.

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When Sen. Dianne Feinstein (D-Calif.) asked during Tuesday's hearings whether Roe vs. Wade had proven unworkable, Roberts refused to state his view. Earlier, he had said the court should reverse rulings that proved to be unworkable in practice, but he would not say whether the abortion right fit that category.

His careful comments on privacy and precedent sounded similar to the words used by other Republican nominees to the high court.

After Bork's defeat in 1987, Reagan nominated Judge Anthony M. Kennedy of California. He assured senators that he believed the Constitution protected a marital right to privacy, and he was confirmed unanimously.

Judge David H. Souter of New Hampshire said the same in 1990, and he too won easy confirmation.

Neither stated their views on Roe vs. Wade, but both voted subsequently to uphold the abortion right.

Judge Clarence Thomas had to overcome a hurdle when he was nominated in 1991. In speeches and articles, he had derided the right to privacy as an invented right, and he had praised authors who spoke of abortion as a holocaust.

During his confirmation hearings, Thomas disavowed many of his earlier writings, and he said he was not committed to following the strict original history of the Constitution.

The liberty protected by the Constitution was "not frozen in time. Our notion of what liberty means evolves with the country. It moves with our history and our traditions," Thomas said.

Nine months later, after he was narrowly confirmed to the high court, Thomas voted to overturn Roe vs. Wade.

As Questioning Begins, Euphemisms Abound (WP)

By Dana Milbank

The Washington Post, September 14, 2005

Early in yesterday's hearing into his nomination to be chief justice, John G. Roberts Jr. took the Senate Judiciary Committee in an unexpected direction, praising Justice Robert H. Jackson, who served as Franklin D. Roosevelt's attorney general before joining the high court.

"As he went on the court," Roberts told the senators, "he took an entirely different view of a lot of issues, in one famous case even disagreeing with one of his own prior opinions. He wrote a long opinion about how he can't believe he once held those views."

The committee's ranking Democrat, Sen. Patrick J. Leahy (Vt.), was puzzled. "Are you sending us a message?" the senator asked. Laughter bubbled from the gallery.

Roberts added that Jackson "recognized, when he became a member of the Supreme Court, that his job had changed And he took a different perspective. And that's, again, one reason many admire him, including myself." A couple of the conservatives on the committee looked up anxiously.

The exchange was emblematic of Roberts's performance on the first day fielding questions. Roberts, star litigator, adviser to presidents and top-flight jurist, showed that he could be something else: the very model of an enigmatic nominee. The Roberts who answered questions for eight hours yesterday was very much the Roberts who emerged in his writings released over the summer. He maddened the committee's Democrats, delighted its Republicans and charmed most of both.

He was sharp-tongued. When Leahy made a skeptical query about one of Roberts's Reagan administration memos, the nominee retorted: "Senator, you're vastly over-reading the memorandum."

He was quick on his feet. When Sen. Joseph R. Biden Jr. (D-Del.) fired off a series of questions without allowing Roberts to answer, the nominee finally replied: "Well, I was about to lay it out. You said you didn't want to hear about it." The room filled with laughter. Biden did not smile.

And he showed flashes of wit. Asked about an old memo he wrote supporting judicial term limits, he admitted: "You know, that would be one of those memos that I no longer agree with, senator. I didn't fully appreciate what was involved in the confirmation process when I wrote that."

Asked about the views of Justice David H. Souter, Roberts replied: "Well, I don't want to directly comment on what Justice Souter said. He is either going to be a colleague or continue to be one of my bosses."

In constitutional matters, the nominee proved deft at saying much and giving away little. The only time Roberts seemed flustered was when Sen. Lindsey O. Graham (R-S.C.) dropped the legalese. "I think it stinks that somebody can burn the flag, and that's called speech. What do you think about that?"

"Well," Roberts began, then paused, searching for words.

What Roberts did best -- or, at least, most -- was deflect questions on charged issues.

Roe v. Wade ? "I think I should stay away from discussions of particular issues that are likely to come before the court again."

War powers? "I don't want to answer a particular hypothetical."

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Voting rights? "Those cases come up all the time, and I do need to avoid expressing an opinion."

Sitting at a folding table dressed up with red felt, Roberts, his bald spot exposed under the studio lights, offered a stream of such evasions: "I don't think I should express a determinative view. . . . I should not respond. . . . I can't answer that. . . . I do not feel it appropriate for me to comment."

The most inflammatory subject -- abortion -- was essentially off-limits. Both sides claim they have no "litmus test" and therefore cannot ask Roberts his views on abortion. "It's the 600-pound elephant in the room," Sen. Sam Brownback (R-Kan.) told reporters during a break. Instead, they got at the subject elliptically, asking Roberts about his view of stare decisis , the Latin term for letting precedent -- in this case, Roe v. Wade -- stand. The word abortion was uttered only six times in the first four hours of the hearing; stare decisis was cited 34 times.

Sen. Arlen Specter (R-Pa.), chairman of the Senate Judiciary Committee, started things off with a query about "the issue of stare decisis and the issue of precedents."

Roberts knew where this was going. "While I'm happy to talk about stare decisis and the importance of precedent, I don't think I should get into the application of those principles in a particular area," he said.

Specter, shifting from the Latin, wondered whether " Roe might be a super-duper precedent."

Roberts finally showed some leg on stare decisis . Roe "is settled as a precedent of the court," he said, "entitled to respect under principles of stare decisis ."

That was about the most the senators could get out of Roberts.

Roberts told Biden that the 14th Amendment protected a right to privacy -- an apparent nod to abortion rights -- but immediately qualified that by saying: "I think every justice on the court believes that, to some extent or another."

He seemed to take pleasure in the ambiguity. Recalling his clerkship for Judge J. Henry Friendly, he mentioned, approvingly: "He liked the fact that the editorialists of the day couldn't decide whether he was a liberal or a conservative."

Even Sen. Edward M. Kennedy (D-Mass.), conqueror of Robert H. Bork, drew little blood. Roberts brushed off Kennedy's complaints about his 1980s memos questioning voting rights laws. "This was 23 years ago," the judge replied. "It was the position of the Reagan administration."

When Kennedy accused him of opposing a civil rights act, Roberts gave no ground. "No, Senator," he said. "You have not accurately represented my position."

The confrontation over, Roberts stood up and exhaled deeply. Kennedy gritted his teeth.

With Goal Clear, Nominee Is Profile In Caution (NYT)

By Todd S. Purdum

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - His face never scowled. His level tone seldom varied. He answered questions he found useful to his cause and avoided those he did not. Above all, Judge John G. Roberts Jr. explained his views and defended his honor with the force and fluidity of an advocate who has argued often before tougher judges than those he faced on the Senate Judiciary Committee on Tuesday.

But as he parried a sympathetic Republican's question about how careful the Supreme Court should be in overturning an act of Congress, Judge Roberts also acknowledged a political reality that hung over his confirmation hearings: "All judges are acutely aware of the fact that millions and millions of people have voted for you and not one has voted for any of us."

His job this week is to persuade a filibuster-proof majority of at least 60 senators to vote for him, and under hours of relentless and sometimes hostile questioning, Judge Roberts never lost sight of that goal. He listened. He smiled. He nodded. He spoke of the power of precedent and the importance of humility, using plain language with senators who sometimes got tangled in legal shorthand, jargon and precedents.

At one point, Senator Joseph R. Biden Jr., Democrat of Delaware, repeatedly interrupted Judge Roberts's explanation of a 20-year-old civil rights case, complaining, "His answers are misleading."

The committee chairman, Senator Arlen Specter of Pennsylvania, drew laughter when he declared: "Now, wait a minute, wait a minute. They may be misleading, but they are his answers."

Judge Roberts calmly replied: "With respect, they are my answers. And, with respect, they're not misleading; they're accurate."

That was about as agitated as Judge Roberts ever got. On Monday, Mr. Specter, a veteran of such hearings, said it was his experience that nominees generally answered just enough questions to be confirmed, and Judge Roberts proved no exception.

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He assured senators that he believed the Constitution embraced a right to privacy that has produced Supreme Court precedents protecting the right to contraceptives and abortion. But he declined to specify how such a right might apply to future cases on abortion or the right to die.

He agreed that the Supreme Court was right to outlaw public school segregation in Brown v. Board of Education and said there was new historical evidence to suggest that the framers of the 14th Amendment had envisioned just such a result. But he declined to say just what he thought of some more recent - and more controversial - civil rights rulings, on the ground that similar cases might come before him.

He said he had learned much since the days when he was "25 and had all the answers" as a young lawyer in the Reagan administration. But he declined to specify whether he still agreed with some of the most forceful critiques of pending civil rights legislation he wrote then, or even to confirm whether they represented his own views.

Asked by Senator Herb Kohl, Democrat of Wisconsin, whether he still supported the notion of term limits for federal judges, as he once had in 1983, he answered: "You know, that would be one of those memos that I no longer agree with, Senator. I didn't fully appreciate what was involved in the confirmation process when I wrote that."

In short, he was Delphic, and his supporters and critics each ended the day saying his performance had hardened their enthusiasm or their doubts. Judge Roberts himself said that one of the qualities he most admired in his first judicial mentor, Judge Henry J. Friendly of the Federal Appeals Court in New York, was that his "devotion to the rule of law" made him hard to pin down.

"He liked the fact that the editorialists of the day couldn't decide whether he was a liberal or a conservative," Judge Roberts told Senator Jon Kyl, Republican of Arizona. "And he would be chastised for the same opinion, depending on which paper had read it, as either 'that conservative judge' or 'that liberal judge.' And because he wasn't adhering to a political ideology; he was adhering to the rule of law."

At times, Judge Roberts's responses were so bland as to tremble on the precipice of platitude, as when he answered a question from Senator Lindsey Graham, Republican of South Carolina, about the meaning of the phrase "Reagan revolution," by saying it meant "a change in attitude" and renewed national optimism.

At other moments, he seemed pained to have to rebut charges that he was insensitive to women. He assured Senator Dianne Feinstein, Democrat of California, that his long-ago question about "whether encouraging homemakers to become lawyers contributes to the common good" was a joke about lawyers, not wives.

"That's a common joke that goes back to Shakespeare," Judge Roberts said, his face lightly flushed. "It has nothing to do with homemakers. The notion that that was my view is totally inconsistent and rebutted by my life. I married a lawyer. I was raised with three sisters who work outside the home. I have a daughter for whom I will insist at every turn that she has equal citizenship rights with her brother."

Ms. Feinstein frowned but said, "I don't want to belabor it."

Senator Charles E. Schumer, Democrat of New York, has been among the committee's most vocal skeptics about Judge Roberts in recent weeks, but even he allowed: "I have to say, I've been pleasantly surprised by some of your answers today," and at one point, consciously or not, declared: "You will be chief justice."

That was a luxury that Judge Roberts never allowed himself, invariably employing the conditional voice. When Senator Charles E. Grassley, Republican of Iowa, asked him if he agreed with Justice David H. Souter's contention in his own confirmation hearings that the courts sometime fill vacuums in the law left by Congress, Judge Roberts, who now sits on an appeals court, replied: "Well, I don't want to directly comment on what Justice Souter said. He is either going to be a colleague, or continue to be one of my bosses."

By Invoking A Former Justice, The Nominee Says Much But Gives Away Little (NYT)

By Linda Greenhouse

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - For those senators who were busy excavating his past for hints of his future, Judge John G. Roberts Jr. had a history lesson of his own to offer on his first day under questioning by the Senate Judiciary Committee.

Judge Roberts, who formerly worked in the Justice Department and has now been nominated to be chief justice, invoked the memory of a man who more than 60 years ago made a similar journey between two branches of government and who shed some of his earlier views in the process.

Robert H. Jackson was attorney general when President Franklin D. Roosevelt named him to the Supreme Court in 1941. As Judge Roberts pointed out in a colloquy with Senator Patrick J. Leahy of Vermont, the committee's senior Democrat, Justice Jackson then changed from "someone whose job it was to promote and defend an expansive view of executive powers" to someone who "took an entirely different view of a lot of issues," including the scope of presidential power.

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The nominee's message was oblique, but clear: Do not judge me by the hundreds of memorandums I wrote as a young lawyer in the Reagan administration. Or, as Justice Jackson once said in an opinion to which Judge Roberts alluded, repudiating as a Supreme Court justice a position he had advocated as attorney general: "The matter does not appear to me now as it appears to have appeared to me then."

Justice Jackson himself borrowed that line, which appeared in a 1950 opinion, McGrath v. Kristensen, from a famous judicial recantation by a 19th-century English jurist, Baron Bramwell. And Judge Roberts, speaking to Senator Herb Kohl, Democrat of Wisconsin, offered his own nonspecific variant: "I certainly wouldn't write everything today as I wrote it back then, but I don't think any of us would do things or write things today as we did when we were 25 and had all the answers."

Late in the afternoon, Judge Roberts returned to Justice Jackson in a discussion with Senator Russell D. Feingold, Democrat of Wisconsin. To resolve one of the recurrent clashes over presidential authority, he said, he would turn first to the framework set out in Justice Jackson's concurring opinion in Youngstown Sheet & Tube Co. v. Sawyer, the 1952 case that overturned President Harry S. Truman's seizure of the nation's steel mills during the Korean War.

The Jackson theme appeared both heartfelt and strategic, even more so given that Chief Justice William H. Rehnquist, Judge Roberts's mentor, who died 10 days ago, had been Justice Jackson's law clerk.

"He's in a sense a descendant of Jackson's court family tree," John Q. Barrett, a professor at St. John's University School of Law who is writing a biography of Justice Jackson, said of Judge Roberts. "It's obviously something he's been thinking about for a long time."

Indeed, in his Senate Judiciary Committee questionnaire for his confirmation to the federal appeals court here in 2003, Judge Roberts answered a question about the justices he most admired. "I admire the judicial restraint of Holmes and Brandeis, the intellectual rigor of Frankfurter, the common sense and pragmatism of Jackson, the vision of John Marshall," he said then.

Robert Jackson was a major figure in his time, at one point considered a potential presidential contender. His evolving view of presidential authority was due to more than his change of venue from the Justice Department to the court. The year he spent, while a Supreme Court justice, as the chief United States prosecutor at the Nuremberg war crimes trials had a formative effect, said Prof. Dennis J. Hutchinson of the University of Chicago, who wrote an article on the subject 10 years ago for The Journal of Supreme Court History.

From his close-up view of the Nazi regime, "Jackson became worried about pervasive national power," Professor Hutchinson said in an interview. "He told his law clerks when he came back that the first step to tyranny was to centralize control of the police and the courts."

In invoking Justice Jackson, Judge Roberts was sufficiently opaque as to leave his performance open to a variety of interpretations. He gave away little of substance. Nor did he quote from a book with which he is undoubtedly familiar, "The Struggle for Judicial Supremacy," an account of Roosevelt's failed court-packing plan. In the introduction, the author asked, as a liberal, a question that many conservatives have asked more recently as they pondered their seeming inability to gain firm control of the Supreme Court. "Why is it," Robert Jackson wondered, "that the court influences appointees more consistently than appointees influence the court?"

Explicit Endorsements Of Some Decisions (NYT)

By Adam Liptak

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - Judge John G. Roberts Jr. was generally careful not to comment on the correctness of specific Supreme Court cases on the first day of questioning at his confirmation hearings on Tuesday. But not always.

Judge Roberts was willing to discuss decisions concerning school desegregation, the privacy of the marital relationship, the internment of Japanese-Americans and the limits of presidential power. His willingness to comment on cases seemed to increase in direct proportion to his assessment of the extent to which they have become fundamental to an understanding of American constitutional law.

He was unequivocal in accepting the reasoning in Brown v. Board of Education, the landmark 1954 school desegregation case, and the result in Griswold v. Connecticut, a 1965 decision that struck down a law that made the use of contraceptives a crime and served as a basis for later cases protecting abortion and gay rights.

He explained how he had drawn the line between cases he was willing to discuss and those that were off limits in the context of Griswold.

"I feel comfortable commenting on Griswold and the result in Griswold," he said, "because that does not appear to me to be an area that is going to come before the court again."

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He was slightly less categorical in discussing Korematsu v. United States, the 1944 decision that upheld an executive order under which 120,000 Americans of Japanese ancestry were removed from their homes and confined in detention camps. It is widely viewed as a low point in the Supreme Court's history.

"Can I assume," Senator Patrick J. Leahy of Vermont asked, "that you will hold the internment of all residents of this country who are interned just because they have a particular nationality or ethnic or religious group - you would hold that to be unconstitutional?"

Judge Roberts seemed to be of mixed minds about answering, and he gave a carefully modulated answer.

"I suppose a case like that could come before the court," he said. "I would be surprised to see it. And I would be surprised if there were any arguments that could support it."

Later in the day, he noted that while Korematsu had not been formally overruled it was widely considered discredited.

Fred T. Korematsu, the plaintiff in the case, who died this year, filed a supporting brief in the Supreme Court arguing that the detention of prisoners in Guantánamo Bay, Cuba, resembled his case.

Mr. Leahy, the senior Democrat on the Judiciary Committee, also asked Judge Roberts about a 1952 decision known as Youngstown. It rejected the argument that President Harry S. Truman had authority to seize private steel mills.

"Would you consider Youngstown settled law?" Mr. Leahy asked.

Judge Roberts chose his words carefully. "I think," he said, "the approach in the case is one that has guided the court in this area since 1954, '52, whatever it was."

Roberts Criticizes Foreign Law Used As Precedent (WT)

By James G. Lakely

The Washington Times, September 14, 2005

Supreme Court chief justice nominee Judge John G. Roberts Jr. yesterday rebuked a recent high-court decision that relied on foreign law, calling it a "misuse of precedent" that substitutes a judge's "personal preferences" for the Constitution.

Sen. Jon Kyl, Arizona Republican, asked Judge Roberts what, "if anything, is the proper role of foreign law in U.S. Supreme Court decisions?"

The question was a reference to the Roper v. Simmons decision by the Supreme Court in March, in which the majority cited foreign law to overturn a death-penalty sentence for a 17-year-old murderer.

That 5-4 decision is cited by conservative legal scholars as one reason it is important for President Bush to appoint a reliable conservative to the Supreme Court.

One justice Mr. Bush has cited as a model for his appointments, Antonin Scalia, wrote a scathing dissent of Roper, declaring that when it comes to the court, "the views of our own citizens are essentially irrelevant," while "the views of other countries and the so-called international community take center stage."

Judge Roberts maintained that he didn't want to comment on any particular case decided by the court.

"I would say, as a general matter, that there are a couple of things that cause concern on my part about the use of foreign law as precedent," said Judge Roberts, beginning his critique by noting that while U.S. judges are not held directly accountable by the people, the politicians who appoint them are.

"In that way, the role of a judge is consistent with democratic theory," Judge Roberts said.

But a Supreme Court ruling that cites foreign statutes, as the majority decision did, he said, circumvents that accountability.

"If we're relying on a decision from a German judge about what our Constitution means, no president accountable to the people appointed that judge and no Senate accountable to the people confirmed that judge," he said. "And yet he's playing a role in shaping the law that binds the people in this country. I think that's a concern that has to be addressed."

Mark R. Levin, president of the conservative Landmark Legal Foundation and author of "Men in Black: How the Supreme Court Is Destroying America," said Judge Roberts was "right on."

At yesterday's hearing, Judge Roberts called the "little debate" this year at American University between Justice Scalia -- who disagreed with the Roper decision -- and Justice Stephen G. Breyer -- who supported it -- "very illuminating."

It was clear, however, that Judge Roberts sided with Justice Scalia.

He said "domestic precedent" has the ability to "confine and shape the discretion of judges," while noting that the precedent of foreign countries wrongly "expands the discretion of the judge."

Ed Whelan, president of the Ethics and Public Policy Center, said it is unusual for a prospective justice to criticize directly a recent court decision. And while noting that Judge Roberts was careful not to cite Roper specifically, he said the nominee's critique of its justification was correct.

"There is no legitimate basis for the Supreme Court to rely on contemporary foreign laws or decisions in determining the meaning of provisions of the Constitution," Mr. Whelan said.

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Roberts Probed On Overturning Past Rulings (WT)

By Guy Taylor

The Washington Times, September 14, 2005

How much weight should a Supreme Court justice give to "stare decisis," the Latin phrase meaning to let stand what has already been decided?

The Senate Judiciary Committee's Chairman, Sen. Arlen Specter, Pennsylvania Republican, wasted no time yesterday probing Judge John G. Roberts Jr.'s view on the doctrine.

Specifically, Mr. Specter asked how stare decisis applies to Roe v. Wade, which legalized abortion in 1973, and a subsequent case which upheld it in 1992.

Judge Roberts said he wished not to discuss abortion since it is likely to come before the Supreme Court again, but asserted that past rulings may indeed warrant reconsideration under special circumstances.

"It is a jolt to the legal system when you overrule a precedent," he said, adding that "the principles of stare decisis recognize that there are situations when that's a price that has to be paid."

Judge Roberts cited the historic 1954 ruling in Brown v. Board of Education, which revisited and overturned the "separate but equal" Plessy v. Ferguson ruling of 1896, paving the way for racially integrated public schools.

Legal scholars say stare decisis carries more weight than any other single judicial philosophy adhered to by the Supreme Court, but that it is by no means carved in stone.

Edward P. Lazarus, an appellate lawyer in Los Angeles, noted the high court's revisiting of issues related to sexuality in recent years.

In 1986, the court upheld a Georgia law criminalizing privately conducted oral and anal sex between consenting adults. The court revisited and overturned the ruling in 2003, finding such laws are unconstitutional.

"The notion that this is a court that will not revisit past precedent, that's not true," Mr. Lazarus said.

He added, however, that "there is a relationship between how long a case has been around and the court's willingness to revisit it."

"The degree to which society has organized itself around a decision is a well-acknowledged factor in the stare decisis calculus," Mr. Lazarus said.

Disagreements over the extent to which society has organized itself around legalized abortion are at the core of the debate over whether stare decisis should apply to Roe v. Wade.

After nearly two decades on the books, the Supreme Court revisited the ruling in 1992 and upheld it with Planned Parenthood v. Casey. Moments into yesterday's hearing, Mr. Specter, the lone pro-choice Republican on the committee, asked Judge Roberts whether stare decisis shall apply to Roe and Casey.

"For two decades of economic and social developments, people have organized intimate relationships in reliance on the availability of abortion in the event contraception should fail," said Mr. Specter, directly quoting the Casey ruling.

"Would you agree with that?" he asked.

"The importance of settled expectations in the application of stare decisis is a very important consideration," Judge Roberts said.

"Whether the doctrinal bases of a decision have been eroded by subsequent developments," he said, "may be a basis for reconsidering the prior precedent."

Probed further, Judge Roberts said: "I do feel compelled to point out that I should not, based on the precedent of prior nominees, agree or disagree with particular decisions."

Roberts Minimizes His Role (WT)

By Charles Hurt

The Washington Times, September 14, 2005

Federal Judge John G. Roberts Jr. downplayed his pro-bono legal work to help a homosexual rights group win one of the most significant Supreme Court cases regarding such rights.

"I was asked frequently by other partners to help out, particularly in my area of expertise," he told Senate Judiciary Committee Chairman Arlen Specter, Pennsylvania Republican. "And I never turned down a request."

The 1996 decision in Romer v. Evans ruled unconstitutional a voter-approved constitutional amendment that barred municipalities from granting homosexuals a protected class under civil rights laws.

Mr. Specter read a quote from a former colleague of Mr. Roberts' who said the nominee played a significant role in preparing the case.

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"Every good lawyer knows that if there is something in his client's cause that so personally offends you, morally, religiously, or if it so offends you that you think it would undermine your ability to do your duty as a lawyer, then you shouldn't take it on," said Mr. Specter, quoting former Hogan & Hartson lawyer Walter A. Smith. "And John -- referring to you -- wouldn't have. So at a minimum, he had no concerns that would rise to that level."

"I think it's right that if there had been something morally objectionable, I suppose I would have" avoided involvement, Judge Roberts said. "But it was my view that lawyers don't stand in the shoes of their clients and that good lawyers can give advice and argue any side of a case."

While Judge Roberts did not write briefs or become deeply involved in preparing the case, he did review files and help prepare oral arguments for Lambda Legal without charge. He also played the role of conservative Supreme Court Justice Antonin Scalia in the mock trial.

Liberal Groups Focus On 'Flipping' Centrists (HILL)

By Alexander Bolton

The Hill, September 14, 2005

Liberal interest groups are focusing on flipping three centrist Republican senators from the Northeast as the key to their strategy at least to tarnish the confirmation of Supreme Court nominee John Roberts.

Many Democratic Senate aides, strategists and journalists believe that Roberts's confirmation is a foregone conclusion. But liberal activists such as Ralph Neas, president of People for the American Way, insist the battle is not over and the committee and floor votes will be close.

The outlook is not encouraging for liberals. No Democratic senator has stated that he or she would oppose Roberts, though Sen. Joseph Biden (D-Del.) a senior member of the Judiciary Committee, said he would vote no based on the nominee's writings.

Democratic lobbyists who advise Senate Minority Leader Harry Reid (D-Nev.) have said that as many as 25 centrist and mainstream Democrats may vote for Roberts.

Liberal leaders are frustrated that the press has in some cases already called the fight a win for Republicans.

"You've said we've given up," Neas said with a tone of exasperation to a reporter at yesterday's hearing. "You've written your stories too soon."

Liberal strategists say that if they can turn a Republican against Roberts it would embolden Democrats to follow suit. Accordingly, they are focusing their lobbying efforts on Sens. Olympia Snowe and Susan Collins of Maine and Lincoln Chafee of Rhode Island.

"They're critical," said Llenda Jackson-Leslie, president of the National Women's Political Caucus, a self-described bipartisan grassroots organization with 22 state chapters dedicated to supporting female candidates. "Conservative Democrats will look to them."

Jackson-Leslie said her organization's staff has met aides to Collins and Snowe. Though the National Women's Political Caucus has yet to take a position on Roberts, Jackson-Leslie said she is becoming impatient because she believes he is being evasive. That echoes a theme sounded by committee Democrats yesterday.

Snowe, Collins and Chafee are considered ripe targets for several reasons.

In the 2004 election, Sen. John Kerry (D-Mass.) defeated President Bush in Maine and Rhode Island. Chafee and Snowe face reelection next year. All three lawmakers voted this year against the confirmation of Judge Bill Pryor to the 11th U.S. Circuit Court of Appeals.

Chafee also voted against former Texas Supreme Court Justice Priscilla Owen's nomination to the 5th U.S. Circuit Court of Appeals. He is considered one of the most vulnerable Senate Republicans and has already picked up the endorsement of NARAL Pro-Choice America, an abortion-rights pressure group strongly opposed to Roberts.

"We certainly want to reach Senators Chafee, Collins and Snowe," said Nan Aron, president of the Alliance for Justice, who with Neas is leading a coalition of liberal groups opposing Roberts. "Those are the three I can think of off the top of my head. We certainly begin with them, and we've provided our report to them."

Hilary Shelton, director of the Washington bureau of the NAACP, said his group would target Republicans who support the group's position on civil rights. He named Collins, Snowe and Chafee, as well as Sens. John McCain (R-Ariz.) and Mike DeWine (R-Ohio).

But Chafee and Collins, in particular, may be difficult to persuade.

Collins said on a Maine radio station yesterday that she was leaning strongly in favor of voting for Roberts but was waiting until the end of the hearing to decide.

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And the Providence Journal reported yesterday that Chafee was also leaning toward supporting Roberts, pending the outcome of the hearing.

That is despite heavy pressure in Maine and Rhode Island from liberal groups.

Liberal leaders in Washington began coordinating with local activists in Maine last year, when the effort to flip Snowe and Collins started, said Sarah Standiford, head of Maine Women's Lobby. They contacted activists in Rhode Island in June, said Marti Rosenberg, executive director of Ocean State Action, which is coordinating Rhode Islanders for a Fair Judiciary.

Standiford's group is part of a coalition of some 40 local groups in Maine concerned about Roberts's nomination. She said a substantial number of those groups have already decided to oppose Roberts. Members of the groups have participated in media events and have scheduled meetings with Collins and Snowe during the next two weeks, she added

The Maine coalition has received materials and other assistance from the Washington-based national coalition of liberal groups opposing Roberts, Standiford said.

Rosenberg said more than 20 local groups are affiliated with Rhode Islanders for a Fair Judiciary. The activists are encouraging Rhode Islanders to contact Chafee and Sen. Jack Reid (D-R.I.) and urge them to oppose Roberts. Rosenberg said she and liberal leaders in Washington have discussed strategies for lobbying Chafee on Roberts since June.

The Judicial Confirmation Network, a pro-Roberts conservative organization, is countering the efforts of liberal groups in Maine. The group is working with local activists, running phone campaigns and sending letters to editors in order to put pressure on Snowe and Collins. The group is not active in Rhode Island.

Roe Ruling: More Than Its Author Intended (LAT)

By David G. Savage

The Los Angeles Times, September 14, 2005

WASHINGTON — In mid-1971, the Supreme Court agreed for the first time to hear a constitutional challenge to the long-standing state laws limiting abortion. Its decision to do so reverberates today.

At that time, Texas and 30 other states had laws, dating from the 19th century, that made an abortion a crime unless it was performed to save the mother's life.

Georgia, like California, had revised its laws in the late 1960s to permit abortion in specific circumstances: if the mother's health was endangered, if the pregnancy was caused by rape or if the fetus had a severe defect.

The newest member of the Supreme Court, Justice Harry A. Blackmun, saw much to like in the revised abortion laws. A lawyer who greatly admired doctors, he had been general counsel for the Mayo Clinic in his home state of Minnesota before becoming a federal appellate judge.

He believed that doctors needed to have leeway to do medically necessary abortions. In the court's first private conference on the issue, he described Georgia's law as "a fine statute [that] strikes a balance that is fair."

Yet, a year later, Blackmun wrote an opinion for the court that struck down all of the nation's abortion laws. Equally important, his opinion made virtually all abortions legal as a matter of a constitutional right.

That opinion, in the case of Roe vs. Wade, remains the court's most disputed decision of recent decades. By abruptly voiding all laws against abortion, it galvanized a powerful antiabortion movement that has transformed American politics.

It also dominates public debate over the court and its future. The Senate confirmation hearing for Judge John G. Roberts Jr., like those of all recent nominees, is focusing on one question: Will he vote to uphold or to reverse Roe vs. Wade?

Blackmun's Story

Last year, on the fifth anniversary of Blackmun's death, the Library of Congress opened his papers to the public. His thick files on the abortion cases tell the little-known story of how Roe vs. Wade came to be. It is the story of a rookie justice, unsure of himself and his abilities, who set out to write a narrow ruling that would reform abortion laws, not repeal them.

It is also the story of a sometimes rudderless court led by Chief Justice Warren Burger. On the day the ruling was announced, Burger said, "Plainly, the court today rejects any claim that the Constitution requires abortion on demand."

Blackmun proposed to issue a news release to accompany the decision, issued Jan. 22, 1973. "I fear what the headlines may be," he wrote in a memo. His statement, never issued, emphasized that the court was not giving women "an absolute right to abortion," nor was it saying that the "Constitution compels abortion on demand."

In reality, the court did just that.

Blackmun had said that abortion "must be left to the medical judgment of the pregnant woman's attending physician." So long as doctors were willing to perform abortions — and clinics soon opened solely to do so — the court's ruling said they could not be restricted from doing so, at least through the first six months of pregnancy.

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But the most important sentence appears not in the Texas case of Roe vs. Wade, but in the Georgia case of Doe vs. Bolton, decided the same day. In deciding whether an abortion is necessary, Blackmun wrote, doctors may consider "all factors — physical, emotional, psychological, familial and the woman's age — relevant to the well-being of the patient."

It soon became clear that if a patient's "emotional well-being" was reason enough to justify an abortion, then any abortion could be justified.

Legal scholars have long pointed to the shaky constitutional basis for a right to abortion. Blackmun referred to the 14th Amendment, which says that a state may not "deprive any person of life, liberty or property, without due process of law."

In earlier opinions, the court had said that liberty included the concept of personal privacy. "This right to privacy … is broad enough to encompass a woman's decision whether or not to terminate her pregnancy," Blackmun declared.

Earlier this year, 11 legal scholars, led by Yale's Jack Balkin, tried to write a better opinion. Their book of essays, "What Roe v. Wade Should Have Said," proposed several alternatives, such as saying sexual equality for women required a right to abortion.

Far less attention has focused on the all-or-nothing nature of the Roe vs. Wade ruling.

Today, as in the early 1970s, the American public appears to have decidedly mixed views on abortion. In a Gallup poll in May, for instance, only 23% of those surveyed said abortion should be "legal under any circumstances," the rule set by Roe vs. Wade.

Only 22% said abortion should be "illegal in all circumstances," the rule that could take effect in many states if the Supreme Court were to overturn Roe vs. Wade.

The largest group — 53% — said abortion should be "legal only under certain circumstances."

But Roe vs. Wade foreclosed this middle course — for the states as well as for the court. It does not give states the room to adopt what might be a popular compromise: permitting abortions during the first three months of a pregnancy, but not afterward. Nor does it permit states to authorize only "medically necessary" abortions, a reform idea of the late 1960s.

How did Blackmun and the Supreme Court produce such a broad ruling on abortion, while professing to do no such thing?

Court scholars and law clerks from the Roe era say there is no single explanation. Some say Blackmun naively thought that doctors would perform abortions only for medical reasons.

"He was thinking of this in the medical framework of Rochester, Minn. He imagined abortions would be performed by a family physician or in a hospital," said historian David J. Garrow, the author of a scholarly history of the abortion-rights movement.

The justices did not foresee the full impact of the ruling or the backlash it would set off, said Georgetown University law professor Mark V. Tushnet, who was a clerk for Justice Thurgood Marshall when Roe was decided. They focused on striking down the Texas-type laws that outlawed all abortions, he said.

"All they wanted was to get those laws off the books," Tushnet said. "They were not thinking long-term with an overall vision."

In Burger's Footsteps

Blackmun made it to the Supreme Court because of his boyhood friend, Burger.

In 1969, President Richard Nixon chose Burger to be chief justice of the United States. A year later, after Nixon tried and failed to get two Southern judges confirmed, Burger suggested his old friend. Burger and Blackmun were soon dubbed the "Minnesota Twins."

In June 1971, five justices (but neither Burger nor Blackmun) voted to hear abortion cases from Texas and Georgia.

When those cases came before the court in December 1971, only seven justices were seated. Justices Hugo Black and John Marshall Harlan, both ailing and near death, had suddenly retired. Their Nixon-appointed successors — Lewis F. Powell Jr. and William H. Rehnquist — would not join the court until January and thus would not participate in abortion deliberations that term.

At the court's private conference, the seven justices agreed that the Texas law was extreme and unconstitutional, according to the notes of several justices. Even Byron R. White, a critic of abortion, said doctors must be permitted to act when there were "health problems."

Blackmun voiced disdain for feminists who said women deserved control over their bodies. "There is no absolute right to do with one's body what you like," he said. But he agreed that the Texas law was extreme and said it did "not go far enough to protect doctors."

The Georgia law was much better, the justices said, except for a requirement that three doctors approve an abortion.

Days later, the liberal justices were irked to receive a memo from Burger saying he had chosen Blackmun to write both opinions. With little guidance from colleagues, Blackmun and his clerks began research.

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Meanwhile, the court turned its attention to the death penalty. Capital punishment had been under attack, and in January 1972 the full court voted 5 to 4 to strike it down.

The ruling, handed down in June, described the states' death penalty laws as arbitrary; they sometimes treated rapists the same way they treated mass murderers. But it left room for states to try again. Most states rewrote laws to focus on those thought most deserving of execution. By 1976, the high court had upheld the revised laws and restored capital punishment.

Had abortion cases followed a similar course, the court would have required states to reform their laws to give more leeway to doctors and to pregnant women. But it would have also left states the power to prohibit abortions in some circumstances.

Blackmun's final opinion left no room for prohibitions on abortion. That was not apparent in the spring of 1972, however.

In mid-May, Blackmun wrote "a first and tentative draft" for Roe vs. Wade that stopped well short of declaring a constitutional right to abortion. Instead, it said the Texas law did not give doctors enough guidance.

Criminal laws must be clear, the court had emphasized, so people don't unwittingly commit a crime. Blackmun said Texas physicians could not be sure whether they were committing a crime by performing an abortion on a patient whose troubled pregnancy might risk her life.

"I come out on the theory that the Texas statute … is unconstitutionally vague," he said in a memo to his colleagues on May 18, 1972. "I think that this [finding] would be all that is necessary for the disposition of the case, and that we need not get into the more complex" issues.

In retrospect, this proved to be a crucial time in the court's handling of the abortion issue. Blackmun had proposed issuing a short opinion that would have struck down the Texas law and the 30 others like it. However, it would have also left the states ample room to revise their laws.

His proposal set off a flurry of memos on what to do next.

Justices William O. Douglas and William J. Brennan, mindful that Nixon's new appointees would join the deliberations if the cases were reargued in the fall, wanted quick action and a stronger opinion.

Burger, however, wanted to go slowly. He knew the Brennan-led majority was about to announce the striking down of the death penalty on a 5-4 vote. Burger and Blackmun had dissented, as had the new Nixon appointees, Powell and Rehnquist. Burger expected the votes on abortion to line up the same way.

If the abortion cases were carried over until the fall, Powell and Rehnquist would cast their votes, and the chief justice — with Blackmun and White also on board — could envision a new 5-4 majority that would uphold most of the state abortion laws.

"This is as sensitive and difficult an issue as any in this court in my time," Burger wrote. "Hence, I vote to reargue early in the next term."

A Miscalculation

But Burger miscalculated by seeking a delay. Had Blackmun's draft opinion been adopted, it would have left states free to prohibit abortions for nonmedical reasons. However, Blackmun reluctantly joined Burger in seeking a delay, and the majority voted to put off a decision on the abortion cases until the fall.

Blackmun spent the summer working in the Mayo Clinic's library in Minnesota. He researched the history of abortion in Persian, Greek and Roman times. He also studied abortion laws adopted in 19th century America and concluded that the bans were driven not by moral imperatives but by the reality that, before antibiotics, abortion — like other medical procedures — was dangerous.

When Blackmun returned to Washington, he had a long draft. It was a thorough work of medical history, but short on constitutional law. It also was hazy on just when abortion would be permitted or prohibited.

In October, the nine justices sat through the arguments again. When they met to discuss the cases, there was a surprise. Powell, the soft-spoken Virginian who was new to the court, firmly supported a woman's right to abortion. He urged Blackmun to say it directly rather than attack the laws as vague.

For Powell, the issue was personal: When he was a lawyer in Richmond, Va., a young man came to him in despair. His pregnant girlfriend had tried to abort her fetus with his help, and she had bled to death. Powell went to the authorities to explain what happened. Thereafter, he was determined to see abortion made safe and legal.

Suddenly, there were six solid votes to strike down the Texas and Georgia laws, and Blackmun had the backing to write a broader opinion in favor of a right to abortion. The liberals, who had worried about the delay, found they had a stronger hand, and Burger found himself with no room to maneuver.

On Nov. 21, two weeks after Nixon's reelection, Blackmun sent around revised drafts of the majority opinions. The Roe opinion said that for the first three months of a pregnancy, states must "leave the abortion decision to the best medical judgment of the pregnant woman's attending physician."

In a memo to his colleagues, however, he voiced uncertainty.

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"This has proved for me to be both difficult and elusive…. You will observe that I have concluded that the end of the first trimester is critical," he wrote, referring to a cutoff date for permitting abortions. "This is arbitrary, but perhaps any other selected point, such as quickening or viability, is equally arbitrary." The first trimester is the first three months of a pregnancy.

Brennan, Marshall and Powell wrote back to say that allowing abortions until "viability" — when a fetus has developed enough to live outside the womb — at six months made more sense.

Douglas disagreed. "I favor the first trimester, rather than viability," he said. He was outvoted, however, and Blackmun said he would revise the opinion over the Christmas holidays. In his final draft, states were told they could not restrict abortions through the second trimester.

That change would become the focus of today's legal and political battles. Opponents have especially condemned a procedure they call partial-birth abortion, which usually takes place in the fifth or sixth month of a pregnancy.

Blackmun's opinion ends by saying: "The decision vindicates the right of the physician to administer medical treatment according to his professional judgment…. The abortion decision in all its aspects is inherently, and primarily, a medical decision…. If an individual practitioner abuses the privilege of exercising proper medical judgment, the usual remedies, judicial and intra-professional, are available."

As some scholars later said, his opinion treated the pregnant woman as a bit player in a doctor's drama.

White and Rehnquist filed dissents, but Burger delayed casting his vote. His colleagues suspected that he did not want the opinion released before Nixon's second inauguration, set for Jan. 20.

As that day approached, Burger filed a short concurrence and predicted the ruling would not have "sweeping consequences."

Blackmun's proposed press release also downplayed the potential effects of the ruling, stressing that it would not mean "abortion on demand." His court colleagues convinced him that it would be inappropriate to issue a statement that commented on a ruling.

So, on Jan. 22, 1973, Roe vs. Wade and Doe vs. Bolton were handed down as 7-2 rulings in favor of a new right to abortion. That afternoon, former President Lyndon B. Johnson died, pushing aside the abortion decisions as the biggest news story of the day.

Sounding Less Conservative But Still Noncommittal (WP)

By Charles Lane

The Washington Post, September 14, 2005

Under detailed public questioning for the first time since President Bush tapped him for a seat on the Supreme Court, John G. Roberts Jr. appeared to sound a less conservative note on abortion-related issues than he had in the memos and briefs he wrote as a lawyer in the Reagan and George H.W. Bush administrations.

He offered a surprisingly emphatic endorsement of a constitutional right to privacy -- the basis of the Roe v. Wade decision recognizing a right to abortion, which he seemed to disparage as a young lawyer in the Reagan administration.

And, as if repeating a carefully formulated phrase, he referred time and again to a 1992 Supreme Court ruling upholding Roe as "a precedent entitled to respect."

Yet, ever the careful lawyer, Roberts committed himself to nothing more tangible than a promise to think hard before voting either to uphold or overturn the abortion precedents about which so much controversy revolves. Each time a senator pressed him for a clear statement, up or down, on abortion rights, Roberts refused, saying that to do so would be to declare his views on an issue that the court may face in the future.

The overall impression was of a talented nominee who used his skills to avoid twin perils: revealing nothing of his views or revealing too much.

Tacitly acknowledging that he would have far more latitude to make changes in the law as chief justice than he has now as an appeals court judge, Roberts offered a list of factors he would weigh in deciding whether to overturn a precedent of the court.

Stare decisis is the legal term for the principle that courts should let existing decisions stand for the sake of stability in the law -- and discussion of stare decisis took up much of the hearing, basically as a proxy for the larger issue of abortion.

Roberts told Sen. Arlen Specter (R-Pa.), the Senate Judiciary Committee chairman, that established precedents, including both Roe and the court's 1992 affirmance of Roe in Planned Parenthood v. Casey , should be overturned only when they have proved "unworkable," or when they have been "eroded" by intervening decisions of the court.

As examples of cases in which he thought the court was right to overturn precedent, Roberts cited the court's New Deal-era abandonment of its past cases invalidating economic regulations, and Brown v. Board of Education , the school desegregation case that overturned the court's 1896 validation of racial separation in public facilities.

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But those reversals by the court, much debated in their day, are no longer controversial. Roberts's criteria, "while superficially specific, are in fact highly elastic and could be used to overturn Roe and Casey , or to uphold them, depending upon his proclivities," said Michael J. Glennon, a professor of constitutional and international law at Tufts University's Fletcher School of Law and Diplomacy.

No sooner had Specter, a strong supporter of Roe , gaveled the proceedings to order at 9:30 a.m. than he began boring in on Roberts about the abortion precedents, asking whether he agreed with the Supreme Court's view, expressed in Casey , that so many women had come to rely on the abortion right that Roe had to be upheld.

Roberts did not answer directly, but did concede that Casey is a valid precedent "entitled to respect" and that "it is a jolt to the legal system when you overrule a precedent."

Yet he repeatedly brushed aside invitations to say whether overturning Roe -- after being upheld in Casey -- would be too big a jolt.

Specter invoked a change of heart by Roberts's mentor, the late Chief Justice William H. Rehnquist, for whom Roberts clerked in the court's 1980-1981 term. He noted that Rehnquist, a life-long critic of the 1966 Miranda decision that recognized a suspect's "right to remain silent" when questioned by police, ultimately voted to uphold it in 2000.

Rehnquist had concluded that Miranda was "embedded" in the "national culture," and Specter asked whether the same could be said for "a woman's right to choose."

Roberts demurred.

"I think that gets to the application of the principles in a particular case," he said. Like previous nominees to the court, Roberts said, he would refuse to say how he would rule.

In the coming term, the high court will hear a challenge to a New Hampshire law that requires teenagers to notify their parents before they can get an abortion. The question for the court is whether Roe and Casey require the state to permit an exception to the law in cases in which a girl's health may be in danger.

Sen. Herb Kohl (D-Wis.) seemed pleasantly surprised when Roberts told him that he agrees with a 1965 Supreme Court decision declaring "that there is a fundamental right to privacy as it relates to contraception."

Kohl said he was "delighted" to learn that Roberts had just endorsed an opinion which, Kohl said, leads logically to "a woman's right to choose to terminate her pregnancy," the right recognized in Roe v. Wade .

But, once again, Roberts slipped the punch. "That's an area that I do not feel it appropriate for me to comment on," he said.

Roberts Proves To Be A Cool, Savvy Witness (USAT)

By Joan Biskupic And Toni Locy

USA Today, September 14, 2005

WASHINGTON — Supreme Court nominee John Roberts was a deft witness Tuesday, showing himself to be a smart, articulate, by-the-book jurist while offering only minimal answers to senators' questions.

When Democrats tried to put him on the defensive about his past positions as a Reagan administration lawyer or his current reluctance to explain his views, the conservative federal judge countered their assertions without losing his cool. It was senators such as Edward Kennedy, D-Mass., and Joseph Biden, D-Del., who became visibly frustrated.

On the substance of the law, Roberts gave them little to chew on. He said he believed in a constitutional right of privacy and that he regarded Supreme Court rulings that upheld a woman's right to end a pregnancy as settled precedent. But he declined to tip his hand on how he, as U.S. chief justice, would vote on cases involving abortion rights.

Again and again, Roberts' answers were to the point and dispassionate. When Sen. Herb Kohl, D-Wis., asked what Roberts could do for the victims of Hurricane Katrina if he were on the high court, Roberts said the most important task would be “to uphold the rule of law.” Roberts said he expected some lawsuits related to the hurricane's aftermath to end up in federal court, and did not comment further on the tragedy.

The confident, Harvard-trained lawyer who became wealthy arguing cases before the Supreme Court also declined to express regret for certain memos he wrote as a young, wise-cracking counsel to the Reagan administration. At one point, Kennedy told Roberts that his writings on voting rights lacked an appreciation for problems related to racial discrimination. “I'm deeply troubled by a narrow and cramped and perhaps even a mean-spirited view of the law that appears in some of your writings,” Kennedy said, citing memos in which Roberts had argued for narrow interpretations of laws that protect racial minorities from discrimination. Roberts later told Kennedy that “you have not accurately represented my position.”

At another point during Tuesday's hearing, Biden accused Roberts of “filibustering” and called his answers “misleading.” Roberts' response: “With respect, they are my answers. And, with respect, they're not misleading, they're accurate.”

Biden later told reporters that questioning Roberts was “a little like pitching to Ken Griffey Jr.,” the Cincinnati Reds slugger.

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Sen. Dianne Feinstein, D-Calif., pressed Roberts for his views on the separation of church and state. Roberts eluded the question. But the nominee, a Roman Catholic, emphasized that his faith is not a factor in how he decides cases. He said he looks to “law books … not the Bible” in resolving disputes.

Roberts' remarks about privacy partially opened a window on his thinking, but they did not reveal how he would vote on questions of abortion rights.

During an exchange with Senate Judiciary Committee Chairman Arlen Specter, R-Pa., Roberts expressed respect for past decisions. He acknowledged the significance of Roe v. Wade, the 1973 ruling that made abortion legal nationwide, and a 1992 ruling in which the high court upheld Roe. Roberts did not, however, say whether he would support those decisions.

“I do think that it is a jolt to the legal system when you overrule a precedent,” he said. “It is not enough that you may think the prior decision was wrongly decided.” He said he would weigh many factors when considering whether to overturn a case, including stability in the law, public expectations and whether a prior court ruling had worked. Roberts declined to apply his view of precedent to abortion.

His remarks on privacy separate him from Robert Bork, the failed 1987 court nominee who rejected constitutional privacy. Bork said that a 1965 ruling that first found a right to sexual privacy was wrong.

But Roberts' comments also are distinct from those of David Souter, the 1990 nominee of the first President Bush. During his confirmation hearings, Souter vigorously embraced a broad right of privacy. Once on the court, he wound up casting a crucial vote to uphold Roe in the 1992 ruling.

Roberts Stays Solid Favorite Without Firm Answers (LAT)

By Ronald Brownstein

The Los Angeles Times, September 14, 2005

WASHINGTON — John G. Roberts Jr. exuded the quiet confidence of a man who knew that he was ahead in the game during a lengthy but mostly sedate confirmation hearing Tuesday.

He left the long first day of questioning before the Senate Judiciary Committee the same way he entered it: a clear favorite for confirmation as the youngest chief justice of the United States in two centuries.

By firmly refusing to answer questions on specific cases he might face on the bench — including the 1973 Supreme Court decision guaranteeing the right to abortion — Roberts may have provided Democrats already inclined to reject him more grounds to do so. But most analysts agree that he said little that was likely to enlarge the circle of senators opposed to him.

Indeed, with his conciliatory comments on the right to privacy and the importance of precedent, Roberts appeared to provide centrist Democrats with greater "cover to vote for him," said Marshall Wittmann, a senior fellow at the centrist Democratic Leadership Council.

"Just on grounds of being evasive, he will probably get a core of Democrats who will vote against him," Wittmann said. "But his nomination is not imperiled by any means."

Roberts' performance marked a bright spot for a White House battered by criticism of its response to Hurricane Katrina, and demonstrated the inherent vitality of presidential power.

Amid dissatisfaction not only with the hurricane response, but also with high gas prices and the war in Iraq, President Bush faces approval ratings for his job performance that are lower than the lowest points for such controversial predecessors as Ronald Reagan and Bill Clinton.

Yet Bush is on the brink of installing a chief justice who could shape American life for more than the next quarter century. And in a few weeks, Bush is to nominate a justice to fill a second vacancy.

With two national polls released this week showing that at least 55% of Americans supported Roberts' confirmation as the hearings began, GOP strategists expressed confidence that committee Democrats had not meaningfully dented Roberts' likelihood of approval.

"I don't think they landed a punch on him — and they have to get a knockout," said one GOP strategist who requested anonymity when discussing White House thinking. "They are not touching him."

One supporting piece of evidence for that view was the reaction of Sen. Ben Nelson (D-Neb.) to Tuesday's hearing. Nelson, the leader of seven mostly centrist Democrats who reached a bipartisan deal in May over judicial filibusters, had said he was inclined to back Roberts absent unexpected revelations at the hearings.

As Tuesday's questioning wound down, David DiMartino, Nelson's spokesperson, said the senator "had not seen or heard anything problematic."

On the other hand, one senior Senate Democratic aide said Roberts' refusal to answer questions about his views on specific cases, following the White House's refusal to release documents related to his service in the George H.W. Bush

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administration, could give opponents new ammunition to rally resistance. "There is no better way to [unify] our caucus than to stonewall," said the aide, who requested anonymity when discussing Roberts' nomination.

Roberts, in his testimony, was composed and rigidly disciplined. He did not make a reference to his family or personal life until after about three hours on the stand, when he cited his wife, young daughter and three sisters in rebutting charges from Sen. Joseph R. Biden Jr. (D-Del.) that memos he had written as a government attorney displayed a lack of concern about discrimination against women.

When Roberts flashed the dry wit that friends have touted, Sen. Herb Kohl (D-Wis.) looked at him sympathetically and said, "You're not an automaton."

Only a few Democrats generated much momentum against him with their questions. Roberts seemed flustered when Sen. Edward M. Kennedy (D-Mass.) pressed him about memos he had written on civil rights issues as a Justice Department attorney in the Reagan administration. There were fewer sparks between the Democrats and Roberts than between the Democrats and Judiciary Committee Chairman Arlen Specter (R-Pa.), who repeatedly admonished Kennedy and Biden for interrupting Roberts' answers with new questions.

The most tension revolved around how extensively Roberts would discuss his views on previous court rulings. Opponents such as Ralph Neas, president of People for the American Way, accused Roberts of evading "legitimate direct questions."

Roberts' supporters, in a torrent of e-mails released during the day, said he had properly demurred. "What he is doing is exactly what you would want a judge to do, which is to say, 'I am not going to discuss matters that will come before me because I don't want to prejudge them,' " said Ronald A. Cass, a former Boston University Law School dean working with a coalition supporting Roberts.

Roberts seemed most comfortable when he could discuss, in the tone of a law professor, rulings from the distant past, such as the 1857 Dred Scott decision, which helped spark the Civil War.

More relevantly, Roberts expressed support for the landmark 1965 Griswold vs. Connecticut ruling, which assured married couples access to birth control based on a constitutional right to privacy. Roberts' comments on the Griswold ruling may have been reassuring for supporters of legalized abortion, because the right to privacy was also a foundation of the Roe vs. Wade decision. Roberts also may have heartened them when he emphasized his reluctance to overturn settled law.

Yet when discussing Griswold with Kohl, Roberts would not say whether he believed the right to privacy extended to abortion. Roberts quickly recoiled when Specter, a supporter of legalized abortion, nudged him to imply that his respect for precedent would lead him to uphold Roe.

"I feel the need to stay away from a discussion of particular cases," Roberts told Specter a few minutes into the hearing. That was the first of many times Roberts would use such a formulation during his testimony.

Cass and David Yalof, a political scientist at the University of Connecticut who studies judicial appointments, said those answers, taken together, provided little guidance on whether Roberts would uphold the legal right to abortion.

But with his language on precedent and privacy, Roberts "gave a lot of ground to Democrats," Yalof added.

Throughout the day, Roberts followed a consistent — and often brilliantly effective — strategy of citing historical examples dear to liberals to defend his views. For instance, to make his case against overly activist courts, Roberts did not assail any of the Earl Warren-era decisions denounced by conservatives. Instead, he said the court had overreached in Lochner vs. New York, the 1905 decision that overturned a Progressive-era law to set a 10-hour workday.

Roberts cited later decisions overturning Lochner and mentioned the 1954 Brown vs. Board of Education decision banning school segregation to make his case that judges cannot always uphold precedents.

He used this tactic perhaps most effectively when Sen. Patrick J. Leahy (D-Vt.) pressed him on memos he had written during the Reagan administration that aggressively asserted presidential authority to act without congressional oversight.

Roberts quickly noted that Justice Robert H. Jackson, a mid-20th century hero to Democrats, had expressed similar views as Franklin D. Roosevelt's attorney general, but "took an entirely different view" and voted to limit presidential power on the court.

"Are you sending us a message?" Leahy asked when Roberts finished.

Characteristically, Roberts avoided an unequivocal answer. Like many of his remarks Tuesday, his response to Leahy offered hints, but no promises, of conciliation in an era of intense partisan confrontation.

Newsview: Roberts Smooths Rough Edges (AP)

By RON FOURNIER, AP Political Writer

AP, September 14, 2005

WASHINGTON (AP) - Perhaps the smoothest politician in the Senate hearing room, John Roberts cast himself Tuesday as a humble, fair-minded jurist with views just nimble enough to please anybody - from the abortion-rights ``soccer Mom'' to the staunchest red-state conservative.

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But there should be no mistake about his ideology. Roberts is deeply conservative. Period.

His performance before the Senate Judiciary Committee suggests that Democrats - with only 44 of the Senate's 100 votes - stand little chance of keeping Roberts out of the chief justice's seat, where he could help shape the nation's course for a generation or more.

``It's like pitching to Ken Griffey,'' said Sen. Joe Biden, D-Del., using a baseball metaphor to praise Roberts' political skills.

Right out of the batter's box Tuesday, Roberts faced fast balls.

Judiciary Committee Chairman Arlen Specter, a Pennsylvania Republican, tried to elicit Roberts' position on the 1973 Roe v. Wade ruling that legalized abortion. Would he abide by ``stare decisis,'' the doctrine that says justices should honor previous court rulings?

``Yes, Mr. Chairman, I would,'' Roberts replied. ``To avoid an arbitrary discretion in the judges, they need to be bound down by rules and precedent.'' He declared Roe v Wade ``settled as a precedent,'' and said overturning high court rulings creates ``a jolt to the legal system.''

A casual viewer might think he had ruled out overturning the 1973 abortion ruling. Not so.

In sentences thick with legalese, Roberts said precedents must be overturned when they are proven ``unworkable'' or ``eroded by subsequent developments.'' He refused at least three times to give his views on Roe v. Wade, citing a long tradition of judges not commenting on cases they might consider in the future.

Like a good politician, Roberts left his fingerprints on both sides of the issue.

``He did his best, and cleverly, to imply that he's sympathetic to Roe and its value as precedent,'' said Democratic consultant Jim Jordan. ``But we'd be foolish to take his testimony as an assurance that he's supportive of the right to choice or even the more fundamental right to privacy.''

``We're concerned about these statements,'' said anti-abortion activist Troy Newman, president of Operation Rescue. ``But the proof will come when it's time for him to rule on these cases as a justice.''

Most other conservatives had no doubts about Roberts' view.

``He certainly left the door open to overturning any case that is incorrect under the Constitution,'' including Roe, said Wendy Long of the Judicial Confirmation Network.

On the Internet, conservatives gleefully praised Roberts for his wink-and-nod approach. ``Roberts' answer was brilliant. He made a statement that will satisfy most Americans about privacy while leaving himself enough wiggle room to move the court on that issue in the future,'' said a blogger on Confirmthem.com.

It was the same story when Roberts was asked whether he believed in a person's right to privacy, a cornerstone of Roe v. Wade. ``Senator, I do. The right to privacy is protected under the Constitution in various ways,'' Roberts replied. He said it extends to searches of people and homes as well as ``matters of conscience.''

But that's hardly a broad definition of the right to privacy. Roberts did not say whether he would apply the right to a woman's body for the purposes of abortion.

``He still must answer this vital question directly,'' said Nancy Keenan, president of NARAL Pro-Choice America, an abortion-rights group.

On another social issue, Roberts was asked about the legal assistance he gave a gay rights group in a Colorado case about discrimination. Rather than staking out his position on either side of the contentious issue, Roberts told senators he was just doing what attorneys do.

``Good lawyers can give advice and argue any side of a case,'' he said.

That was often Roberts first line of defense when Democratic senators pressed him about memos he wrote a quarter century ago as a loyal foot soldier in the Reagan Revolution. He worked for the White House and the Justice Department, writing provocatively about conservative views.

``I was a staff lawyer,'' Roberts told senators. ``I didn't have a position.''

If he has positions now, he insisted they wouldn't affect his rulings. ``You don't look to your own values and beliefs. You look outside yourself to other sources,'' he told the senators.

Does he have a judicial ideology? Roberts says no: ``I resist labels.''

Well, his friends and foes alike have one for him: Conservative.

Roberts Eases Concerns, But Leaves Plenty Of Wiggle Room (USAT)

USA Today, September 14, 2005

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John Roberts more than lived up to his billing Tuesday as a knowledgeable, superbly prepared, genial and highly articulate legal mind — and as a nominee determined not to answer any question that could cause him trouble. But all-day testimony before the Senate Judiciary Committee nevertheless offered some new impressions of the prospective chief justice.

The first is that he is more likely to be a cautious, establishment jurist than a firebrand in the mold of Antonin Scalia or Clarence Thomas — or at least that is the impression he sought to convey. Most notably, Roberts distanced himself from some of his most troubling past writings, attributing them to youth (many were written when he was in his 20s), the need to reflect the views of his employer (the Reagan administration) or to misinterpretation (a comment about not wanting homemakers to become attorneys was just a lawyer joke).

If that is self-serving, it is nevertheless enlightening.

On privacy, which Roberts once referred to as a "so-called right," he reversed field, asserting flatly that such a right exists even though it is not explicit in the Constitution. Scalia and Thomas both have questioned that premise, the cornerstone of landmark decisions asserting a woman's right to use birth control or seek an abortion. Roberts also expressed healthy respect for the importance of the court's precedents generally.

On discrimination against women, which he had once mocked, he expressed deep personal concern. On civil rights and voting rights, he similarly dismissed past statements.

All are encouraging reversals, though Roberts, as nominees generally do, left himself plenty of wiggle room.

Most notably, the nominee resolutely refused to discuss his views on abortion, and in doing so he gave both sides in the debate something to worry about. He seemed to signal that the barrier to reversing Roe v. Wade would be high but not impossible.

Similarly, on civil rights and women's rights, the most critical question was left unanswered: What remedies would he allow the government to apply?

That is a matter of concern, and it was reinforced by his refusal to discuss the reach of Congress' power to regulate issues affecting health, safety, the environment, the workplace and other matters. His previous record has been raising questions.

Though no one expects Roberts to discuss pending cases, he could have been more forthcoming on key issues of settled law.

Still, the dominant impression left by his testimony was of a man who would likely be a dynamic chief justice with an independent — though surely conservative — mind. He went some distance toward easing concerns that he's outside the judicial mainstream.

A Judicious Script (LAT)

The Los Angeles Times, September 14, 2005

Judicial confirmation hearings almost always reveal more about the interrogators than the nominee. So it was with the first day of questioning Tuesday for John G. Roberts Jr., the president's choice for chief justice. But beyond the grand piece of political theater, there were moments of candor and revealing insights into the nominee's philosophy.

Most important, Roberts reaffirmed his commitment to the principle of stare decisis, which Sen. Arlen Specter (R-Pa.) helpfully defined for viewers who didn't go to law school as the importance of adhering to judicial precedents. Of course, at one level, for Roberts to say he believes in stare decisis is a bit like a college fraternity kid saying he believes in free beer.

But Roberts' answer went beyond token lip service. "I do think it is a jolt to the legal system when you overrule a precedent," he said, adding that "it is not enough that you may think a prior decision was wrongly decided." Stability, he added, is another factor in determining whether a decision should be overruled. The subtext here was clearly Roe vs. Wade, and Roberts' answer surely made opponents of a woman's right to choose an abortion a bit anxious (although its genius was that it was sufficiently opaque to worry supporters of abortion rights, too).

Throughout, Roberts remained as inscrutable and affable as ever. By the third question of the day, Roberts gave an answer that he would repeat in various formulations countless times over the next eight hours: "I feel the need to stay away from a discussion of particular cases." .

Specter, the committee chairman, played the role of earnest professor, trying to coax the answer he wanted from his student. Other senators tried different tactics but met with similar results. Sen. Charles E. Grassley (R-Iowa), a self-described non-lawyer, played the naif, asking about the role of judges and prompting an erudite (and purely theoretical) discourse on former Justice Benjamin Cardozo. Sen. Russell D. Feingold (D-Wis.) made a noble effort to learn Roberts' views about civil liberties and executive powers after 9/11. Sen. Edward M. Kennedy (D-Mass.) asked about the civil rights movement.

The two senators with the most colorful parts were Joseph R. Biden Jr. (D-Del.) and Lindsey O. Graham (R-S.C.). Biden bullied Roberts, while Graham flattered him. Roberts proved immune to both approaches.

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None of this is unexpected, of course, and none of it is likely to affect Roberts' chances for confirmation. At one point, Feingold referred to Roberts as "the principal decision-maker" on the court, as if he had already been confirmed. But even if these hearings are mostly theater, they can still be useful — as theater itself can be — by offering the public a new perspective on something we thought we knew.

In the case of the Senate, we may not be favorably impressed. But at least this cast will be back for a second run of the show in a few months, after the president nominates a replacement for retiring Justice Sandra Day O'Connor. Here's hoping they'll have better lines.

Bush Accepts Blame For Slow Hurricane Response (LAT)

By Nicholas Riccardi, Ashley Powers And Josh Meyer

The Los Angeles Times, September 14, 2005

NEW ORLEANS — President Bush took responsibility Tuesday for breakdowns in the federal government's response to Hurricane Katrina, saying the massive storm had "exposed serious problems in our response capability."

Although personally shouldering blame for the first time, Bush also insisted that flaws occurred "at all levels of government," and said he wanted more cooperative relations with state and local officials to aid dispossessed Gulf Coast residents. He plans a fourth post-hurricane trip to Louisiana on Thursday to deliver a national address on the crisis.

As Hurricane Katrina's death toll in Louisiana rose to 423, bureaucratic infighting raged as the governor traded charges with federal emergency officials over bogged-down efforts to retrieve the bodies of flood victims.

Gov. Kathleen Babineaux Blanco said Federal Emergency Management Agency officials had jeopardized the massive body recovery effort by failing to renew a temporary contract with a Houston mortuary firm. Blanco said the state would try to rehire the company on its own, and accused FEMA of shirking its financial oversight for the retrieval process. FEMA officials insisted that they had no decision-making role, but later tried to reassure Blanco.

"No one, even those at the highest level, seems to be able to break through the bureaucracy to get this important mission done," she said. "I am angry and outraged."

National Guard and Army troops have joined in the retrieval of bodies in recent days, but the grim ordeal in New Orleans has moved slowly, hampered by the deteriorating condition of corpses left in floodwaters and exposed to the sun over the last two weeks. Military units have had to tether dozens of bodies to trees and poles so they can be found by overworked mortuary teams.

In the first major criminal case arising from the hurricane, the state's chief prosecutor charged a husband and wife who owned a nursing home in St. Bernard Parish with negligent homicide, accusing them of abandoning dozens of elderly residents to die in the raging flood.

"They were warned repeatedly that this storm was coming," said Louisiana Atty. Gen. Charles C. Foti Jr. Their inaction "resulted in the deaths of these people."

Pathology experts and even a disaster mortuary official working for FEMA in the Gulf Coast expressed alarm at the risk of unattended bodies lying in the open for weeks. "What I've seen is not encouraging," said Cotton Howell, a South Carolina emergency management official who is leading FEMA's Disaster Mortuary Operations Response Team in Mississippi. "It seems like there are all sorts of problems over there."

With water now covering less than 40% of New Orleans, there were more heartening signs of revival. The Army Corps of Engineers said it was pumping out about 9 billion gallons per day, and that the city should be drained of floodwaters in about a month.

The first passenger flights returned to Louis Armstrong New Orleans International Airport. Port officials said they expected the first cargo ship to arrive next week. And Mayor C. Ray Nagin said he hoped to reopen the historic French Quarter and the city's central business district next week, along with the Algiers and Uptown neighborhoods, which mostly escaped storm damage.

"We are bringing New Orleans back. We are bringing its culture back, we are bringing its music back," Nagin said. Glancing up at military helicopters thudding overhead, he added: "I'm tired of hearing these helicopters. I want to hear some jazz."

Nagin also acknowledged that Katrina's knockout blow had exhausted the city's cash reserves. "I don't think we will have to" declare bankruptcy, Nagin said. "There are so many people who want to help us." He added that he was "working furiously" to obtain lines of credit from banks and the federal government.

After a tour of the flood-ravaged city Monday, Bush had pledged that the federal government would help in New Orleans' recovery. He deflected questions about federal mismanagement of Katrina relief, though, saying he would not "play the blame game" — a phrase that White House officials used repeatedly after the storm.

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But Tuesday, appearing at a Washington news conference with Iraqi President Jalal Talabani, Bush spoke plainly when asked whether the government was prepared for another natural disaster or a terrorist attack.

"Katrina exposed serious problems in our response capability at all levels of government," he said. "And to the extent that the federal government didn't fully do its job right, I take responsibility."

Bush added that he wanted to "know how to better cooperate with state and local government, to be able to answer that very question: Are we capable of dealing with a severe attack or another severe storm? And that's a very important question, and it's in our national interest that we find out exactly what went on so we can better respond."

By accepting personal responsibility, Bush appeared to try to shift the debate away from finger-pointing to the reconstruction of New Orleans, a formidable task that could repair his frayed image as a leader if it succeeded. Widespread public dismay with federal efforts has translated to Bush's lowest polling numbers in his five years as president.

Bush's admission drew immediate praise from one of his harshest critics.

"The president's comments today will do more to move the country forward from this tragedy than anything that has been said by any leader in the past two weeks," said Sen. Mary L. Landrieu (D-La.). "Accountability at every level is critical, and leadership begins at the top."

In Landrieu's home state, debate simmered between Blanco and FEMA officials over who was responsible for a floundering corpse-recovery operation. Last week, FEMA announced that Kenyon International, a Houston company that retrieved bodies after the Sept. 11 World Trade Center attacks, had been hired to recover and transport the corpses of flood victims.

But Tuesday, Kenyon officials said they were unable to come to terms with FEMA to extend their contract. Blanco quickly lashed out, accusing FEMA of yet another failure. "In death, as in life, our people deserve more respect than they have received," she said.

David Passey, a FEMA spokesman, responded that the agency had only a supporting role in the operation and that the state was in charge. When state officials asked for assistance last week, Passey said, FEMA entered into a verbal agreement with Kenyon. Passey added that he did not know why Kenyon had rejected a written contract.

State officials responded that in order to be reimbursed for the massive operation, they needed FEMA's financial approval. Irritated by the delay, Blanco said she "could not wait any longer" and authorized state officials to start their own negotiations with Kenyon. On Tuesday night, Blanco said she had been reassured by Coast Guard Vice Adm. Thad W. Allen, who is heading FEMA's relief operation.

"He expressed his confidence that our federal partners are working hard to quickly recover all bodies," Blanco said.

Kenyon spokesman Bill Berry said the firm's more than 100 workers would remain on the job while the contract was being worked out.

"It's not a case of FEMA not trying," Berry said. "It's not being able to — whenever we were talking to the federal government, we were not getting what we needed." He did not detail those needs.

Berry said the body retrieval operation was gaining speed — but only after chaotic early days, when his teams were hamstrung by poor information on the location of bodies.

"There was a lot of duplication," he said. "We'd get one report from an agency of an address, and then we'd get another from another agency with a slightly different address, and they would be talking about the same body."

The search for corpses was in full swing Tuesday as Louisiana's death toll jumped from 279 to 423. Although authorities have scaled back predictions of thousands of deaths, high water still exists in some neighborhoods, and officials are preparing for hundreds more bodies.

"Let me caution everyone: We have not done the secondary searches in the areas where the water was the highest. So we still have a lot of work to do, and those numbers probably will go up," said Nagin, who once warned of 10,000 deaths.

The mystery of how 34 people drowned under floodwaters inside a St. Bernard Parish nursing home unfolded as authorities arrested a married couple and charged them with negligent homicide.

Mable B. Mangano, 62, and Salvador A. Mangano Sr., 65, were each charged with 34 counts. Each count carries a maximum penalty of five years in prison. The Manganos were booked into East Baton Rouge Parish prison, then released on their own recognizance.

"Thirty-four people drowned in a nursing home that should have been evacuated," said Foti, the state attorney general, his voice rising.

He alleged that as the hurricane approached, the Manganos turned down a parish offer of two buses to evacuate the residents. The couple also failed to call an ambulance company, Foti said.

The Manganos' lawyer said his clients were faced with the prospect that the residents might die on an extended bus trip.

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"What people have to understand is, you're presented with a horrible choice," James Cobb said. "You take people who are on feeder tubes, who are on oxygen, who are on medications, and you put them on a bus to go 70 miles in 12 hours? People are going to die."

Foti said his office would also investigate the circumstances of multiple bodies found at other nursing homes, hospitals and care facilities, including Memorial Medical Center in New Orleans, where 45 bodies were found over the weekend. The hospital's officials said their patients were not abandoned to the flood but died of natural causes during a chaotic evacuation.

Bush Takes Responsibility For Slow Hurricane Response (LAT)

By James Gerstenzang And Michael Muskal

The Los Angeles Times, September 14, 2005

NEW ORLEANS — President Bush today accepted responsibility for the weak federal response to the Hurricane Katrina disaster.

At a news conference with Iraqi President Jalal Talabani, Bush acknowledged that the federal government has been blamed for a slow and inadequate response to the killer hurricane that hit the Gulf Coast on Aug. 29.

"Katrina exposed serious problems in our response capability at all levels of government. And to the extent that the federal government didn't fully do its job right, I take responsibility," the president said.

It was the strongest statement of responsibility from the White House since the hurricane crisis began and initial relief efforts were sharply criticized by officials in hard-hit New Orleans and Louisiana. Michael Brown stepped down as director of the Federal Emergency Management Agency.

The public's dissatisfaction with the federal storm response dragged Bush's job approval rating to the lowest level of his presidency at 42%, a Washington Post/ABC News poll reported. Some 57% disapproved of Bush's performance in office, a double-digit increase since January, the survey found.

Today, Bush was asked whether the federal response to Katrina should worry Americans that their government isn't prepared to respond to another disaster or a terrorist attack.

"That's a very important question, and it's in our national interest that we find out exactly what went on so that we can better respond," Bush said.

As he has before, Bush said he wanted to know what went wrong and what went right. "I'm not going to defend the process going in," Bush said. "I am going to defend the people saving lives."

He again praised relief workers at all levels. "I want people in America to understand how hard people worked to save lives down there," he said.

Bush will address the nation from Louisiana on Thursday evening, the White House announced today. It will be the fourth presidential trip to the hurricane-damaged Gulf Coast.

Bush spoke after R. David Paulison, the new acting director of the FEMA, pledged to increase efforts to house the tens of thousands of evacuees who fled the storm.

"We're going to get people out of the shelters. We're going to move on and get them the help they need," Paulison told reporters in his first public comments since he was appointed.

Hundreds of thousands of people have fled to shelters in states across the country. Texas has about 250,000 in shelters and private housing.

Katrina's Death Toll Rises To 659 (USAT)

By From staff and wire reports

USA Today, September 14, 2005

NEW ORLEANS — Ships began moving through the Port of New Orleans, the airport resumed passenger flights, and officials made plans to reopen the French Quarter as the still-draining city began lifting itself out of the muck Tuesday.

At the same time, the human cost of Hurricane Katrina continued to climb. The official death toll from the storm and ensuing floods rose to 659, including 423 in Louisiana.

In Washington, President Bush shouldered blame for mistakes in the federal government's response to Hurricane Katrina, which delivered one of the nation's worst natural disasters to the Gulf Coast 2½ weeks ago.

“Katrina exposed serious problems in our response capability at all levels of government,” Bush said. “To the extent that the federal government didn't fully do its job right, I take responsibility.”

The new head of the Federal Emergency Management Agency, David Paulison, said the agency is going to be focusing on the victims of this hurricane.

“We're going to get those people out of shelters, and we're going to … get them the help that they need," Paulison said.

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Louisiana Gov. Kathleen Blanco complained of “absolute frustration” with delays by FEMA that she said had slowed the process of recovering bodies, some of which were left uncollected and in public view for more than a week. Later in the day, however, Blanco said she had been “reassured” of federal efforts to collect bodies quickly.

In the latest sign of progress, New Orleans Mayor Ray Nagin said key areas could be opened from dawn to dusk as soon as Monday. That includes the French Quarter and the Uptown section of homes and businesses.

“We're out of nuclear-crisis mode and into normal, day-to-day crisis mode,” Nagin said.

The Army Corps of Engineers estimated that half of the flooded area or less was still under water, and at the rate of 8 billion to 9 billion gallons a day, the city was on target to be almost completely drained by Oct. 8.

Meanwhile, the first passenger flight since Aug. 28 arrived at Louis Armstrong New Orleans International Airport, a Northwest Airlines flight from Memphis. Other flights were resuming on a limited basis.

“Welcome home,” airport director Roy Williams said as he greeted the passengers. “We're glad to see you.”

The city's port on the Mississippi River sent out its first shipment since the hurricane: a barge of auto parts bound for Alabama. The first ship to arrive held coffee and wood from Argentina, Brazil and Mexico.

“Two weeks ago, the prognosis was six months," said Gary LaGrange, port president. “This shows the people of New Orleans their city is back in business.”

During a tour of devastated portions of Mississippi, Transportation Secretary Norman Mineta said Hurricane Katrina was the worst disaster for transportation in U.S. history — knocking out ports, highways and rivers. He estimated the damage to highways and bridges in Mississippi and Louisiana at $3 billion.

“Add that all up, and it's a larger magnitude than anything we've ever experienced,” Mineta said.

Bush Takes Responsibility For Failures Of Response (WP)

By Jim Vandehei And Jonathan Weisman

The Washington Post, September 14, 2005

President Bush yesterday said he takes personal responsibility for the federal government's stumbling response to Hurricane Katrina, as his White House worked on several fronts to move beyond the improvisation of the first days of the crisis and set a long-term course on a problem that aides now believe will shadow the balance of Bush's second term.

"Katrina exposed serious problems in our response capability at all levels of government," Bush said at a White House news conference with Iraqi President Jalal Talabani. "And to the extent that the federal government didn't fully do its job right, I take responsibility. I want to know what went right and what went wrong."

The first major public event in the White House effort to take control of the post-Katrina political and policy agenda will occur tomorrow night in a prime-time speech to the nation. The president will deliver it from the flood region on his fourth trip there since the hurricane struck.

Bush already has dispatched his top strategist, Deputy Chief of Staff Karl Rove, and other aides to assemble ideas from agencies, conservative think tanks, GOP lawmakers and state officials to guide the rebuilding of New Orleans and relocation of flood victims. The idea, aides said, is twofold: provide a quick federal response that comports with Bush's governing philosophy, and prevent Katrina from swamping his second-term ambitions on Social Security, taxes and Middle East democracy-building.

Sen. Jon Kyl (R-Ariz.), a Bush ally, said the recovery effort provides conservatives with an unusual opportunity to test ideas that have been hard to sell on a national scope, including vouchers to cover education for dislocated students and tax incentives for business investment. "There are a whole host of ideas being looked at," Kyl said.

In what may become the next major post-Katrina policy, the White House was working yesterday to suspend wage supports for service workers in the hurricane zone as it did for construction workers on federal contracts last week, administration and congressional officials said. This possible move, described by administration officials as being under debate, already provoked preemptive Democratic protests.

At tomorrow's speech, the president is to outline his vision more comprehensively than he has to date. A top aide said he will stress that New Orleans officials will dictate how the city will be rebuilt, but will also make plain the reconstruction should reflect his vision of government -- including reducing regulatory obstacles and emphasizing entrepreneurship over big government, the aide said. He will discuss plans to provide health care, education, jobs and housing assistance to flood victims, another aide said.

With some Republicans frustrated that the federal government essentially cut a $62 billion blank check for phase one of the recovery effort, the Bush administration and congressional GOP leaders are working on proposals to encourage business investment in the devastated areas and to test conservative ideas such as portable benefits for evacuees who want to reestablish in new locales, low-tax business zones and waived environmental regulations.

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GOP officials involved in the effort said more than $200 billion could be spent on Katrina-related projects, most of it over the next two years. They project that hurricane-related spending will trail off in the final two years of the Bush presidency, allowing him to say he met his stated goal of cutting the deficit in half by 2009. "You're a fiscal conservative until you get hit with a natural disaster," said Sen. Trent Lott (R-Miss.).

Behind the scenes, the president's inner circle is working with more than a dozen new task forces, run through the domestic policy counsel, to solicit ideas from federal agencies and outside groups such as the Heritage Foundation and American Enterprise Institute. Several aides said agency officials are under pressure to provide estimates of what money their agencies need, as well as ideas for solving the myriad problems the relief effort presents. Advisers have studied housing issues, for instance, trying to determine the best way to build temporary accommodations for relief workers and construction workers and avoid unintentionally encouraging people to never return.

Office of Management and Budget Director Joshua B. Bolten is overseeing the largest-ever federal expenditure on a natural disaster, but officials said he is relying on a beefed-up inspector general's office at the Department of Homeland Security to monitor how the money is spent. At a private House Republican leadership meeting yesterday, several lawmakers expressed concern about a repeat of the waste and fraud that many believe took place with the budget for rebuilding Iraq, according to a participant.

Republicans are lining up behind plans to use vouchers to help displaced students find new schools, including private ones, and a mix of vouchers and tax breaks to help flood victims pay for health care expenses, from insurance to immunization. A draft Senate GOP plan for post-Katrina policy includes both ideas, according to Republicans who have read the document.

Grover Norquist, a Rove ally who runs Americans for Tax Reform, is among those lobbying the White House to suspend wage supports for service workers in the hurricane zone.

Last week, Bush issued an executive order lifting the Davis-Bacon rules mandating that construction workers on federal contracts be paid the average wage in a region. The White House argued the regulations were slowing reconstruction and raising federal costs.

Now Labor Department and White House officials are examining a similar move for service workers covered by the McNamara-O'Hara Service Contract Act, which extended prevailing wage rules to service workers. Administration officials are concerned that workers on demolition and debris-removal jobs could protest that even with construction wage supports lifted, they should be paid prevailing wages because their work is more service-related than construction-related.

Any move to lift service wage supports would elicit protests by labor unions and their Democratic allies. The Depression-era Davis-Bacon Act includes a provision allowing its suspension for natural disasters. The Service Contract Act does not, and its suspension may be unprecedented, labor experts say.

Admission Signals A New Strategy (LAT)

By Edwin Chen

The Los Angeles Times, September 14, 2005

WASHINGTON — President Bush regularly passes up invitations to indulge in self-evaluation, happy to leave historians to assess his performance. But having majored in history at Yale (class of '68), he also knows that some impressions do not require the passage of time before crystallizing.

On Tuesday, Bush decided it was time to talk about his role in the federal response to Hurricane Katrina.

"Katrina exposed serious problems in our response capability at all levels of government, and to the extent that the federal government didn't fully do its job right, I take responsibility," Bush said during a brief news conference.

The president's comments signaled a new White House strategy as Bush and his top aides continued to work to stem the political damage to his leadership after Hurricane Katrina.

As a part of that effort, the president has scheduled a prime-time address to the nation Thursday from New Orleans.

Bush's statement contrasted with recent White House comments. For days, he and top aides have denigrated most questions about accountability for the hurricane response as part of a partisan "blame game."

By moving toward shouldering some of the blame, Bush appeared to be trying to shift the debate away from finger-pointing to focus on the reconstruction of New Orleans, a Herculean task that, if it goes smoothly, could help rehabilitate his image.

Throughout his nearly five years in office, Bush and his advisors have showed a determination to never admit a mistake for fear that he would appear weak. That determination held even amid the intense criticism that the administration had severely miscalculated in its assertions that Iraq was developing weapons of mass destruction.

Bush drew a blank when asked at an April 13, 2004, news conference to name his biggest mistake as president.

"You know, I just — I'm sure something will pop into my head here in the midst of this press conference, with all the pressure of trying to come up with an answer," he said.

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Eventually, he concluded: "I don't want to sound like I've made no mistakes. I'm confident I have. I just haven't — you just put me under the spot here, and maybe I'm not as quick on my feet as I should be in coming up with one."

On Tuesday, Bush did not hesitate when a reporter asked: "Given what happened with Katrina, shouldn't Americans be concerned that their government isn't prepared to respond to another disaster or even a terrorist attack?"

Bush said: "I want to know how to better cooperate with state and local government, to be able to answer that very question that you asked: 'Are we capable of dealing with a severe attack or another severe storm?' And that's a very important question. And it's in our national interest that we find out exactly what went on … so that we can better respond."

Bush's comments drew praise from some who had criticized the federal response.

"The president's comments today will do more to move the country forward from this tragedy than anything that has been said by any leader in the past two weeks," Sen. Mary L. Landrieu (D-La.) said. "Accountability at every level is critical, and leadership begins at the top."

Shaken By Katrina, Public Trust In Government Begins To Rebound (CSM)

By Linda Feldmann

The Christian Science Monitor, September 14, 2005

WASHINGTON - Government at all levels - not just President Bush and the Federal Emergency Management Agency (FEMA) - has taken a beating in the public arena following hurricane Katrina. Dark predictions of a deepening loss of faith toward public institutions have followed.

Now, there are inklings that negative reviews of the government response to Katrina have bottomed out and may be on the upswing.

The latest Gallup survey, comparing people's initial responses to the government handling of the crisis with how they feel now, shows that a majority of Americans are feeling better about the role of government in dealing with the hurricane than they did initially. And despite the sense that the president has suffered grave damage to his public image over Katrina, Gallup and other polls show the effect has been minimal.

"Despite initial criticism of the federal government's slow response to Katrina, Bush's overall job approval rating remains essentially where it was at the end of August," notes David Moore, managing editor of the Gallup poll, in a Sept. 13 report.

Currently, Gallup shows Bush's approval rating at 46 percent, up from 45 percent at the end of August and 40 percent in mid-August. Of course, all polls show variations in result. Some show Bush's public approval has dipped below the 40 percent threshold.

Others, such as the Rasmussen Report, favored by conservatives, show Bush with a slight uptick at 47 percent approval. And some leading pollsters are not at all sure that the president has bottomed out.

Independent pollster John Zogby says the president's latest numbers show him with 11 percent support among Democrats, 23 percent among independents, and 77 percent among Republicans - a significant decline even among GOP voters, who gave him 91 percent support on Election Day last November. Turning a corner?

"I don't know yet whether he's turning a corner," says Mr. Zogby. "He's a pretty resilient fellow, so now I think he gets it. But I think a lot of damage has been done to people's view of government and that's not the greatest thing to have presided over."

In the final analysis of Bush's tenure, Zogby believes Iraq will still be the central factor. "I can see, sometime in 2008, the president cutting the ribbon on the all-new 21st century New Orleans, and that would be a big deal, and it could erase some of the bad of the last two weeks, but I think Iraq returns to center stage very quickly."

Ever since 9/11, Bush's strength in public opinion has been in overall leadership and in his handling of terrorism. Now, even if polling shows he still has a reliable core of Republican support, the president is also clearly working to reestablish himself in those two areas.

Bush has replaced the head of FEMA, Michael Brown, who was found to have inadequate prior experience in emergency management and whose performance pre- and post-Katrina damaged the federal government's credibility. The president is also expected to name a "reconstruction czar" to lead the rebuilding of the Gulf Coast region. Using the bully pulpit

On Thursday, Bush will make a major speech addressing hurricane Katrina and its aftermath, the White House has announced. Like no other official in American public life, the president has the bully pulpit - and the megaphone of the media that will publicize his words - to present himself to the people in a way that seeks to win back the confidence at least of his voters.

To get himself back to 50-plus approval ratings, "he needs help from events - events on the ground in New Orleans, in Iraq, in gasoline prices," says Whit Ayres, a GOP pollster.

All presidents have faced moments of intense criticism. Some have bounced back. Others, like President Carter and the first President Bush, never recover. But the model the current President Bush may consider is Ronald Reagan.

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"At the depths of the '82 recession, Reagan looked like a goner, but the economy came back and so did Reagan's fortunes," says Jack Pitney, a political scientist at Claremont-McKenna College in California. Reagan's secret? "He stayed the course. Had he faltered in his policies in '82, we might not have seen as much progress in '83 and '84."

Another historical lesson Bush may be heeding comes from Carter's "crisis of confidence" speech, commonly remembered for conveying a sense of malaise in the country. Republican analysts agree that Bush is correct in not admitting mistakes, such as the placing of Mr. Brown at the head of FEMA.

"The danger is that one admission would lead to calls for more admissions," says Professor Pitney, who was at one time active in Republican politics. "He can address an issue without falling into the trap of perpetual apology."

The easing out of Brown is the latest example. Bush did not fire Brown outright; Brown was first sent back to Washington, and replaced on the ground in the Gulf region, then tendered his resignation three days later. That approach allows Bush to maintain his image of loyalty to his appointees.

Perhaps one of the toughest image problems Bush faces going forward is in his dealings with the African-American community. Of all the polling out of Katrina, perhaps the most arresting is the perceptions of African-Americans: While white Americans don't believe race played a role in the initial delays in hurricane relief, a strong majority of blacks do believe that is the case.

President Says He's Responsible In Storm Lapses (NYT)

By By Elisabeth Bumiller And Richard W. Stevenson

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - President Bush said on Tuesday that he bore responsibility for any failures of the federal government in its response to Hurricane Katrina and suggested that he was unsure whether the country was adequately prepared for another catastrophic storm or terrorist attack.

"Katrina exposed serious problems in our response capability at all levels of government, and to the extent that the federal government didn't fully do its job right, I take responsibility," Mr. Bush said in an appearance in the East Room with President Jalal Talabani of Iraq. "I want to know what went right and what went wrong."

In response to a reporter who asked if Americans, in the wake of the hurricane, should be concerned about the government's ability to respond to another disaster or a terrorist attack, Mr. Bush said: "I want to know how to better cooperate with state and local government, to be able to answer that very question that you asked: Are we capable of dealing with a severe attack or another severe storm? And that's a very important question."

Throughout his nearly five years in office, Mr. Bush has resisted publicly acknowledging mistakes or shortcomings, and his willingness in this case to edge up to a buck-stops-here statement, however conditional, was evidence of how shaken his presidency has been by the political fallout from the government's handling of the storm.

It also set the stage for a White House effort to pivot from dealing with urgent rescue and relief efforts to setting out a vision of how the federal government could help rebuild devastated communities and re-establish Mr. Bush's image as a leader.

The White House said Mr. Bush would address the nation from Louisiana on Thursday night, during the president's fourth trip to the region since the hurricane and his first major speech on the disaster. On Friday, which he has designated a national day of prayer and remembrance, he is planning to speak at the Washington National Cathedral in the morning, and T. D. Jakes, a conservative African-American television evangelist, is scheduled to deliver the sermon with some evacuees from New Orleans in attendance.

Even as Mr. Bush traveled to New York on Tuesday afternoon to begin a round of meetings with world leaders gathering at the United Nations, White House officials were weighing policy proposals and working on drafts of the speech that Mr. Bush will give Thursday. Administration officials, speaking on the condition of anonymity to discuss proposals that have yet to be decided on, said Mr. Bush was likely to set out a broad commitment to rebuilding New Orleans and the Gulf Coast, with a particular focus on housing.

The storm has so commanded the attention of the White House and of Washington that Mr. Bush's remarks on the hurricane overshadowed his news conference with Mr. Talabani, which on a normal day would have been a major event about a conflict that has come to define his presidency. In the news conference, Mr. Bush warned Syria that it would become "more and more isolated" if it did not stop the flow of foreign fighters into Iraq and reveal whether it has an intelligence presence or some other one in Lebanon.

As he prepares a blueprint to respond to the storm damage and to spend the billions of dollars that doing so will cost, Mr. Bush is confronting the likelihood that the rest of his agenda will have to be put on hold until next year.

A Republican ally of Mr. Bush who has been briefed on the administration's thinking said the White House's hope for the rest of this year was to deal with the hurricane and to win confirmation for Judge John G. Roberts Jr. as chief justice of the United

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States and for a second nominee, not yet selected, to the Supreme Court seat being vacated by Justice Sandra Day O'Connor. Next year, the ally said, Mr. Bush would return to issues like overhauling the tax code and the immigration laws that he had hoped to get a start on this year.

After the outcry over scenes of poor, black victims of the hurricane suffering and dying in New Orleans, White House officials continued on Tuesday to try to shore up support among the president's conservative African-American supporters, who have not all rallied to his side. Bishop Charles E. Blake of the West Angeles Church of God in Christ in Los Angeles, a major African-American supporter of Mr. Bush, said this week that he had declined an invitation to meet on Sept. 6 at the White House with Mr. Bush, black leaders and charitable organizations because he was too busy.

"It's a four-hour flight, it's a $2,000 ticket, I do have heavy responsibilities here," Bishop Blake said in a telephone interview.

Asked if the government's response to the hurricane had changed the way he felt about Mr. Bush, Bishop Blake responded: "I cannot say at this time. I'm holding the issue open until I can understand the dynamics involved and the delays that have been experienced."

In saying he took responsibility for any failures of the federal response to the storm, Mr. Bush stopped short of acknowledging that he or anyone else had made mistakes. The president has in the past resisted efforts to draw him out about errors in judgment and regrets.

At a news conference in April 2004, he was asked what his biggest mistake had been, and he responded that he was sure he had made some but that he was unable, on the spot, to say what they were. Asked again about mistakes during one of his debates last year with Senator John Kerry, Mr. Bush admitted to having made some bad personnel choices.

In his remarks in the East Room on Tuesday, Mr. Bush distinguished between criticizing the way the government responded to the hurricane and the way individuals responded.

The president said that having been down to the Gulf Coast three times, "I'm not going to defend the process going in, but I am going to defend the people who are on the front line of saving lives."

"Those Coast Guard kids pulling people out of the floods did heroic work," he said. "The first responders on the ground, whether they be state folks or local folks, did everything they could."

Bush Takes Responsibility (KCS)

By Seth Borenstein, Brandon Bailey And Scott Dodd

The Kansas City Star, September 14, 2005

WASHINGTON - President Bush accepted responsibility Tuesday for the federal government's failures in the aftermath of Hurricane Katrina.

After more than a week of White House refusals to play "the blame game," Bush acknowledged that mistakes were made, and that the government's halting, disorganized response raised questions about the country's ability to cope with a terrorist attack.

"Katrina exposed serious problems in our response capability at all levels of government," Bush said in a midday White House news conference. "To the extent that the federal government didn't fully do its job right, I take responsibility."

Homeland security officials pledged a house cleaning of political appointees in top jobs who have little experience in disaster management, and more fingers were pointed in New Orleans over the snail's pace of retrieving bodies that litter the flood-ravaged city.

Louisiana Gov. Kathleen Blanco said she signed a contract Tuesday with the Houston recovery company that had originally been hired by the federal government, after the firm threatened to pull out because it hadn't yet signed a formal deal with the Federal Emergency Management Agency.

"I cannot stand by while this vital operation is not being handled appropriately," Blanco said, calling it "a matter that involves life, death and dignity."

Meanwhile, the hard work of finding a place for hundreds of thousands of now-homeless evacuees across the Gulf States to live promised to provide another serious challenge to the government's capabilities. The American Red Cross said thousands of people could be living in shelters for months.

Facing the lowest approval ratings of his presidency, Bush planned a prime-time speech from Louisiana Thursday night to try to restore the nation's confidence in his administration's ability to manage the relief effort.

"I want to know what went right and what went wrong," Bush said at a joint appearance with the Iraqi president in Washington, "to answer that very question that you asked: Are we capable of dealing with a severe attack or another severe storm."

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The acceptance of responsibility came a day after Bush deflected criticism of the government's efforts while touring New Orleans. The president rebutted charges that FEMA was slow to respond because many of Katrina's victims were poor and black, or that military capabilities were stretched too thin by the fighting in Iraq.

As part of the administration's effort to rebound from the growing criticism, changes at FEMA won't stop with Monday's resignation of beleaguered director Michael Brown.

Homeland Security Secretary Michael Chertoff said Tuesday that he's going to put more emphasis on disaster and management experience in the agency, and will be bringing in a new deputy with more appropriate expertise.

Chertoff said new acting FEMA chief R. David Paulison's experience as head of the U.S. Fire Administration and former Miami-Dade fire chief was key to his appointment. Brown had no disaster experience before coming to FEMA in 2001.

Brown's chief-of-staff Patrick Rhode, a former TV anchor and Bush campaign official who also lacked disaster experience, had been acting as FEMA's deputy director. He raised eyebrows by defending FEMA's response to Katrina as "probably one of the most efficient … in the country's history."

When asked about whether FEMA will hire senior staff with disaster qualifications, Chertoff volunteered that he is looking for a permanent deputy director, adding: "We want to make sure we have a very talented and experienced team that is running this very, very important agency." Chertoff's spokesman later emphasized that the secretary did not mention Rhode by name, but Rhode is the only acting deputy director of FEMA.

In his first public statements, Paulison said his focus as FEMA's new chief will be on the hundreds of thousands of Gulf Coast evacuees living in shelters, tents or their cars after the storm. He pledged to "get these people out of the shelters into some type of either semi-permanent or permanent housing.''

Anita Gaddis of Gulfport and her teen-age daughter have been living at an emergency shelter in an elementary school since Katrina blew ashore. They smashed a window to escape their flooding apartment and waded more than a mile through waist-high water.

"They're helping us as best they can here, but I get more worried every day about when they're going to put us out," Gaddis said, fighting back tears. "I don't have any place to go."

The American Red Cross said nearly 7,000 people are still housed at shelters in Mississippi, with 75,000 around the country. Most emergency shelters were never meant to serve as homes from more than a night or two.

"The scale of this is just massive," said Red Cross spokesman Kevin Titus. "We expect we'll be sheltering people for several months."

State and federal officials say they are scouring the Southeast for up to 300,000 trailers and mobile homes to serve as free or subsidized housing for as long as two years.

The government is also looking for spots to establish miniature "communities" of several thousand mobile homes, but locations with enough space and the needed utilities are hard to come by.

"You've got to have a place to put 'em," Mississippi Gov. Haley Barbour said.

The looming demand has already prompted scattered complaints from local residents about companies buying out contracts and RV parks and trying to evict current tenants. The suspicion is that some property owners are hoping to collect higher rents from FEMA.

Officials in Harrison County, which includes Gulfport, Biloxi and other hard-hit communities, publicly warned landlords Tuesday that they cannot evict tenants without just cause and a court order.

Touring Mississippi on Tuesday, U.S. Transportation Secretary Norman Mineta called Katrina's damage along U.S. 90 "unbelievable."

The highway, which serves as the main route along the beach in south Mississippi, has been ripped apart and buried by sand along much of its length, and several major bridges were stripped down to pylons by Katrina's surging waves.

"We don't want transportation to be the choke point of the redevelopment of economic activity," Mineta said, adding that federal money will be made available to restore the region's highways. "That's very important to get the economy revitalized."

Cost Of Katrina To Hit Budget Hard (CSM)

By Mark Trumbull

The Christian Science Monitor, September 14, 2005

Think of it as the financial equivalent of another Iraq war.

Relief efforts for the storm-ravaged Gulf Coast throw a huge fiscal burden onto a US Treasury that is already deep in the red.

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Spending tied to hurricane Katrina has hit as much as $2 billion per day, or about 10 times the amount the United States is spending on military operations in Iraq. The pace will slow, but the recovery effort could easily cost the federal government $150 billion, experts say. Spread over a couple of years, that would roughly match the $6 billion a month being spent in Iraq.

As staggering as these numbers are, the question is not whether America can absorb this shock but whether it will alter the mind-sets of policymakers and financiers on other budget matters.

Already, for example, some US law- makers cite the storm as a reason to reconsider plans to cut entitlement programs, which would shrink government assistance to the poor by $35 billion over five years. At the least, the looming tab for everything from road repairs to business loans is a reminder that America's current budgetary path is not sustainable.

"It just compounds the problems we're already in," says Linda Bilmes, a Harvard University economist. "Any money that we spend on Katrina is more money that we have to borrow and pay interest on. There's less money ... for doing all the other things we want to do."

The magnitude of Katrina's devastation and the government's slow initial response argue in favor of generous spending to help the Gulf region recover. The danger is if investors who finance America's debts begin to worry about a profligate Congress.

"If foreigners took this as a leading indicator that we were going to become irresponsible in the budget in a great variety of ways ... you could have a negative psychological effect," says Rudolph Penner, a former director of the Congressional Budget Office.

Interest rates could tick upward if demand for US Treasury bonds ebbs. That danger is, for now, hypothetical. Readiness of investors to buy US debt is one reason long-term interest rates remain low today.

But the storm-surge of spending does weaken Washington's balance sheet. Even as spending rises, tax revenues from Gulf workers and businesses will fall. The fiscal 2006 budget deficit could shoot from $314 billion to $400 billion or more.

"It really depends crucially on how many people you want to compensate," says Mr. Penner, now with the Urban Institute in Washington. "If you include farmers in Iowa [whose grain shipments have been disrupted], then it could expand mightily."

The tally could include costs such as:

· Strengthening New Orleans' defenses against future floods.

· Promoting the return of businesses to the almost-vacant city. Making the Big Easy a big tax-free zone is one idea on the table.

· Making low-interest loans to small businesses along the Gulf Coast.

· Providing aid to evacuees, which could include costs for education, healthcare, and unemployment insurance that would be paid by states under normal circumstances. States could also be reimbursed for providing temporary shelter.

· Covering rebuilding and cleanup costs. These could range from highway and bridge repair to removal of environmental hazards.

· Giving financial assistance to homeowners who lacked flood insurance. Of perhaps 150,000 flooded homes in New Orleans, about 40 percent don't have coverage. The level of such aid could become a source of controversy, with critics arguing that it's a bailout that simply encourages future irresponsibility.

· Compensating storm-affected industries such as farming.

With these and other provisions under consideration, this relief effort promises to set a record for disaster spending. Congress has already approved $62.3 billion in emergency spending on the storm.

"While some people are talking about $200 billion, a number like $100 [billion] to perhaps $150 billion might be a better guess as to what's really needed," says Richard Kogan, an economist at the Center for Budget and Policy Priorities.

Recovery costs will represent only about 1 percent of America's $12 trillion annual economic output. By that standard, and because these are one-time costs, the impact on the budget is manageable, economists say.

Still, because every dollar of new spending expands the federal deficit, Katrina will add $5 billion or more in annual interest costs long after relief efforts are complete.

A potentially positive outcome, Mr. Kogan says, would be "if Katrina encourages people to think more about the long term" budget outlook.

Current trends, with entitlement costs poised to rise and with proposed tax cuts outstripping spending cuts, are not sustainable, many economists say.

Now, given the temporary post-storm political climate, President Bush's tax-reduction agenda may be in jeopardy. GOP leaders plan to delay a vote on extending tax breaks on dividends and capital gains, The Wall Street Journal reported Tuesday.

Meanwhile, some lawmakers question a pre-Katrina budget plan to scale back entitlements for the poor. "It makes no sense to consider such a bill at a time when the massive needs of those affected by hurricane Katrina are still being assessed," Sen. Harry Reid (D) of Nevada and Rep. Nancy Pelosi (D) of California wrote last week to Republican leaders in Congress.

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Katrina Puts Spotlight On Mr. Cochran (WSJ)

By David Rogers

The Wall Street Journal, September 14, 2005

WASHINGTON -- Bigger names in Mississippi politics have long obscured Thad Cochran's steady rise in Congress. But in Hurricane Katrina's wake, no lawmaker is more important to the Gulf Coast, or a more calming force amid the chaos engendered by the storm.

As chairman of the Senate Appropriations Committee, Mr. Cochran has been instrumental in securing $62 billion for the disaster recovery. A greater test will come in the months ahead as questions mount about paying for and managing the federal reconstruction effort.

"An enormous amount of money is going to be made available to rebuild," says Mr. Cochran, a veteran of more than three decades on Capitol Hill. "It's a challenge, but an opportunity for improvements that could have lasting consequences."

Mr. Cochran must protect the credibility of the process by controlling his committee's appetite -- and his own -- for pork-barrel spending. Katrina's costs will complicate his task of completing the regular spending bills for the fiscal year beginning Oct. 1. The Senate has borrowed heavily from defense funds to fill gaps in the president's domestic budget, and as chairman, Mr. Cochran is vulnerable to conservative criticism for being a big spender.

Mr. Cochran also must navigate between independent-minded governors in the Gulf -- including Mississippi's Haley Barbour -- and colleagues demanding a voice for Washington with the federal dollars. Prominent Democrats want a domestic Marshall Plan or new Gulf Coast development corporation to oversee the effort. In Mr. Cochran's committee, Republicans are urging President Bush to name a disaster czar from outside the government or to replicate the strong-man command under Herbert Hoover of the federal response to the Mississippi River floods in the 1920s.

Mr. Cochran, who has just begun what could be a six-year run as Appropriations chairman, holds immense leverage. Few senators enjoy the reservoir of personal support he has on both sides of the aisle. The role he has assumed is in some ways a modern Mississippi tradition; in recent decades, the late Jamie Whitten and John Stennis, both Democrats, were chairmen of the full House and Senate appropriations panels when their party held the majority.

But Mr. Cochran also will be challenged to shed his unassuming style and deference to the executive branch to make his voice heard.

"The country would be well served if Thad Cochran would take a high-profile role," says former Nebraska Sen. Bob Kerrey. "He could make clear it isn't going to be business as usual. He's up to a national role, and I'd love to see him have a legacy beyond just being chairman."

The white-haired Mr. Cochran, 67 years old, resembles a small-town attorney of Southern novels, more given to observing than interceding, but a moderating influence when he acts. Deeply conservative in manners, he's a gifted story-teller steeped in the land and literature of his region. From William Faulkner's "The Hamlet," he says, he learned "the importance of justice and the inadequacies of people to deal fairly with one another and the challenges that that presents."

His mother taught public-school math; his father was the principal; a younger brother played minor-league baseball. At the University of Mississippi, Mr. Cochran fell in love with the study of law amid the turmoil of desegregation on the campus in the 1960s and the obstructionist tactics of state officials. "I felt embarrassed by it all. ... It made me focus more on doing well in law school," he recalls of the period.

His style is to avoid confrontation and hear out complaints, while taking notes. "Somebody told me I was an eloquent listener," he says.

"He will not be pushed into a decision, he doesn't make snappy decisions," says his friend Grady Jolly, now a federal judge on the U.S. Court of Appeals for the Fifth Circuit. "He is a very much of a gentleman, but he has a backbone of blue steel."

Elected to the House in 1972, Mr. Cochran moved to the Senate six years later, the first Republican from Mississippi to win that post since Reconstruction. Charles Pickering, whose judicial nomination provoked a controversy in the last Congress, was his Republican primary opponent, backed by a young Mr. Barbour. In the general election, his victory owed much to the fact that an independent African-American candidate split the black vote.

But he reached across racial lines, and has had clear sailing ever since. In 1984, former Democratic Gov. William Winter tried to challenge him and drew just 39% of the vote. "I would not make that mistake again," Mr. Winter laughs now. That strength at home helped Mr. Cochran advance in Congress, even while his Republican colleague Trent Lott eclipsed him nationally by becoming Senate majority leader before losing that post more than two years ago.

On the Senate floor last week, Mr. Lott addressed his colleague as the "senior senator" from Mississippi. "I am quite pleased the chairman of the appropriations committee hails from my state," he said. In an interview later, Mr. Lott likened their relationship to that of siblings who "as they get older, they grow sometimes closer and they just mature."

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Mr. Lott lost his 154-year-old house in Pascagoula; Mr. Cochran was luckier, but says he felt lost going home to see the damage. "Some of those towns are just not there anymore," he says. "You lose your frame of reference. ... You can't believe what you're seeing, but it's real."

Katrina Lays Bare Medicaid Dispute (WSJ)

By Sarah Lueck and David Rogers

The Wall Street Journal, September 14, 2005

WASHINGTON -- In the two weeks since Hurricane Katrina devastated the Gulf Coast, the federal-state health program for the poor has emerged as the main way to provide medical coverage for many evacuees. But as the relief effort continues and costs mount, federal and state officials are in a tug of war over how much the federal government will reimburse states for their Medicaid spending and whether benefits should be extended to those not ordinarily eligible for the program.

Eligibility rules vary widely among states, and so do benefits. So far, state officials say the uncertainty surrounding Medicaid reimbursement hasn't prevented patients from getting needed care. But they add that the program's complex rules are causing confusion for both health-care providers and hurricane survivors about how medical needs will be met in coming months.

Several solutions are under discussion at the federal level. The federal Medicaid agency is working on ways to simplify enrollment and other issues without legislation. The Senate Finance Committee is writing a bipartisan bill to increase funding for states. House Energy and Commerce Committee Chairman Joe Barton (R., Texas) said he would have a package in coming weeks to shield states from harm "for a reasonable period of time."

"To me, each day that passes without us knowing ... exactly what the Medicaid relief package is going to include is adversely affecting not only our state ... but other states who are getting our evacuees," said J. Ruth Kennedy, deputy director of Louisiana's Medicaid program, which provided health care to one-quarter of the state's population before the hurricane.

The Bush administration has signaled that it wants to help states taking on Katrina evacuees, both financially and by easing red tape. In Congress, some relief for states seems certain. "I think it is likely that the federal government is going to have to step up more," said Senate Majority Leader Bill Frist (R., Tenn.).

The most contentious issue is a proposed expansion of Medicaid for Katrina survivors. Democrats have proposed that all displaced families from the storm be made eligible for the next six months, simply to ensure coverage. Even conservative lawmakers from the affected states are sympathetic. Asked if a family earning $30,000 to $40,000 in Biloxi, for example, might be allowed to qualify, Sen. Trent Lott (R., Miss.) answered bluntly: "If you're living in Biloxi, you've lost your house, you've lost your home, you've lost everything."

But the White House appears cool to any expansion, and Mr. Frist said he was "not convinced" it was needed.

"You're torn between 'Take care of the people that need taking care of, period' and doing it in a way that doesn't break the bank," Rep. Barton said.

Meanwhile, federal Medicaid officials said they still are working out details of an expedited program for states to get federal permission to simplify enrollment and make other changes in Medicaid. Instead of expanding Medicaid eligibility, they may try to use existing uncompensated-care programs to repay hospitals and other providers.

"We are going to get this resolved as quickly as we can, and we want to do it in the most effective way possible," said Mark McClellan, head of the federal Centers for Medicare and Medicaid Services. Democrats, such as Sen. Blanche Lincoln (D., Ark.), say the current state-by-state approach would increase, not alleviate, red tape. "That tug of war will continue," she said.

CMS also is in talks with Texas, which is housing the largest number of Katrina evacuees, on a state proposal to simplify the enrollment process and make other changes. Jennifer Harris, a spokeswoman for the Texas agency in charge of Medicaid, said there has been "good progress," but as of yesterday, nothing was finalized. Louisiana Medicaid recipients there are getting coverage, but only if providers also are enrolled in Louisiana's program. Bills are being sent to Louisiana, which is unlikely to be able to afford the costs.

In Louisiana, even very-low-income people don't always qualify for Medicaid. A family of three, for example, can't make more than $174 a month, about 14% of the poverty level. After the hurricane, "we know these people have needs," said Ms. Kennedy, the deputy director of Louisiana's Medicaid program. Since Katrina hit, her agency has denied or screened out 752 Medicaid applicants.

Congress Finesses The Storm (NYT)

The New York Times, September 14, 2005

President Bush's vow to speed welfare assistance to the victims of Hurricane Katrina overlooks the gruesome determination of many Republican Congressional leaders to make $13 billion in cuts to Medicaid and food stamps. They quietly plan this even as they throw short-term emergency money at the crisis.

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Sustaining their health and income is vital to the storm's impoverished survivors now and well into the future. But the most basic cuts in antipoverty programs are planned for enactment later this month by the same Republican majorities that approved the president's upper-bracket tax cuts and created deficits for a generation to come.

Congress's budget hawks are clearly hoping that the cacophony of sympathetic speechifying about the storm victims will distract the public from these cuts and from the fact that they will land heavily on the three states most devastated by the hurricane, where roughly one out of three children were already dependent on Medicaid.

Gov. Haley Barbour of Mississippi, the former Republican national chairman, personifies his party leaders' contradiction in begging for emergency aid now after having championed painful cuts in the social safety net. Earlier this year, Mr. Barbour was in the spotlight as his state's unapologetic Medicaid antagonist. Rejecting the alternative of a tax increase, he severely cut drug benefits and sought to drop 65,000 poor, elderly and disabled people from the program before the courts intervened.

Mr. Barbour remains one of Washington's most powerful emeritus lobbyists. He can spare his president and party a shameful episode by urging that the pending cuts for some of the storm's neediest be deep-sixed.

Hill Wants Details From Bush (RC)

By Ben Pershing

Roll Call, September 14, 2005

As Congress and the Bush administration work aggressively to tackle the recovery from Hurricane Katrina, House Republicans are giving the White House mixed reviews on its communication effort with the Hill, on both the political and the policy fronts.

Several Congressional sources said that the flow of information from the administration has improved since the first week of the Katrina crisis. But with legislative proposals moving quickly through the system and a steady drumbeat of negative media coverage weakening the GOP's standing with the public, House Republicans are pushing for the White House to provide more substantive policy details as well as a more cohesive message.

"I think the administration severely flubbed the first three or four days of this," said a senior House Republican leadership aide. "From that point on, I think they've been very good."

At the request of the leadership, the administration has instituted regular conference calls with House and Senate leadership aides and key committee personnel to discuss developments and message strategy related to Katrina. The White House has also been more forthcoming of late with details about how it plans to spend the billions of dollars Congress has appropriated so far, Hill aides say.

As a result, the frustrations felt by many Republican Members and aides in the initial days of the crisis have somewhat subsided .

"Whenever we coordinate with the White House, it's a better way for all of us to stay on message so we know what the left and right hand are doing, and we appreciate them reaching out to us," said Ron Bonjean, spokesman for Speaker Dennis Hastert (R-Ill.).

Yet some Republicans still complain privately about what they consider to be a glaring contrast between the two big stories right now on Capitol Hill: Katrina and the Supreme Court confirmation hearings of John Roberts. While the White House has set up a formal communications "war room" to serve as a clearinghouse for the Roberts nomination, as it did with other crucial efforts during the Bush presidency, the White House has not done so with Katrina.

"They do a fantastic job on coordinating on Judge Roberts and other issues," said a Republican Congressional aide. "One would think it would be to their benefit to have an effort like that" on Katrina.

But White House spokesman Trent Duffy dismissed the idea that establishing a Katrina war room would help matters.

"We're all in this together," Duffy said. "War rooms are designed to fight partisan battles. We're not fighting a partisan battle on this."

As recent poll numbers have shown Bush dropping in the public's esteem, House and Senate Republicans have looked anxiously for opportunities to turn the tide and make the case that they are taking swift action to deal with Katrina.

"Obviously we as Republicans have to deal with the reality that there is a perception out there that this Republican administration dropped the ball," said a senior House GOP leadership aide. But the White House has "a different set of communications challenges. We don't control FEMA. We don't control federal agencies. We have to get out there and show that we are leading and we have to communicate that."

When Katrina first hit, many Members found it difficult to demonstrate that kind of leadership because they lacked the necessary facts at their fingertips. Republicans lawmakers spoke openly of their frustrations with the pace of the response and their dealings with the federal bureaucracy.

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This week, the senior leadership aide said, “the communications flow from the agencies has been good. It wasn’t initially, but it’s gotten better. It had to.”

Overall, the White House has at times been unable to provide the level of detail Congress usually desires, particularly on appropriations bills. Hill aides said they recognized the fluidity of the situation and the difficulty of providing line-by-line accountings at this stage in the process.

At the same time, Members and staff are wary of providing the administration with a “blank check,” especially since Congress has already provided more than $60 billion and will likely appropriate tens or hundreds of billions more.

Many lawmakers were taken aback last week when the administration asked for a $51 billion supplemental just a few days after receiving the first $10 billion infusion. Republican leaders were told of the second request during a visit to the White House last Tuesday and felt blindsided, according to several leadership sources.

“There was very little communication on the [second] supplemental,” said another senior Republican leadership aide. “This number seemed to come out of thin air, and then there was a justification for it later.”

Frustrations among Members came to a head at last Wednesday’s Republican Conference meeting, as lawmakers peppered Office of Management and Budget Director Josh Bolten with questions. While most lawmakers gave Bolten credit just for showing up, some grew impatient with his inability to answer their specific queries about how all the money would be spent.

But Duffy pointed out that in addition to Bolten’s visit, House Members received a detailed briefing last week on the House floor from nearly every member of the Bush cabinet. In addition, legislative affairs staffers strive to maintain regular contact with lawmakers to keep them abreast of the Katrina situation.

“To the extent that this is the top Congressional and White House priority, we are working hand-in-glove with our friends in Congress,” Duffy said.

Bush Takes Responsibility For Blunders (AP)

By Lara Jakes Jordan

The AP, September 13, 2005

WASHINGTON — President Bush for the first time took responsibility Tuesday for federal government mistakes in dealing with Hurricane Katrina and suggested the calamity raised broader questions about the government's ability to handle both natural disasters and terror attacks.

"Katrina exposed serious problems in our response capability at all levels of government," Bush said at a joint White House news conference with Iraqi President Jalal Talabani.

"And to the extent that the federal government didn't fully do its job right, I take responsibility. I want to know what went right and what went wrong," said Bush.

Facing sharp criticism and the lowest approval ratings of his presidency, Bush scheduled a speech to the nation from Louisiana for Thursday evening. It will be his fourth trip to the devastated Gulf Coast since the storm struck two weeks ago.

It was the closest Bush has come to publicly faulting any federal officials involved in the hurricane response, which has been widely criticized as disjointed and slow. Some federal officials have sought to blame state and local officials for being unprepared to cope with the disaster.

Sen. Mary Landrieu, D-La., welcomed Bush's conciliatory remarks. "Accountability at every level is critical, and leadership begins at the top," she said.

Other Democrats were less charitable.

"The season has come for Americans to look homeward ... instead of continuing to spend billions of dollars in Iraq," said Sen. Robert C. Byrd, D-W.Va.

And Louisiana's Democratic governor, Kathleen Blanco, accused the Federal Emergency Management Agency of moving too slowly in recovering the bodies. The dead "deserve more respect than they have received," she said at state police headquarters in Baton Rouge.

Meanwhile, R. David Paulison, in his first full day on the job as acting FEMA director, told reporters in Washington the government would step up its efforts to find more permanent housing for the tens of thousands of Hurricane Katrina survivors now in shelters.

"We're going to get those people out of the shelters, and we're going to move and get them the help they need," Paulison said.

Bush selected him to replace Michael Brown, who resigned on Monday after being recalled as the top onsite disaster-relief coordinator. Brown, a Republican lawyer with little previous disaster-management experience, drew fierce criticism for his handling of the crisis.

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Paulison, a career firefighter with 30 years of rescue experience, said he was busy "getting brought up to speed." Bush promised him in a Monday night phone call that he would have "the full support of the federal government," Paulison said.

The storm displaced a million people, destroyed large areas of cities and communities and heavily damaged roads, bridges, canals and oil and natural gas facilities.

Bush's acceptance of responsibility came in response to a reporter's question on whether the United States was capable of handling another terrorist attack, given its halting and widely criticized response to Katrina.

"That's a very important question," Bush said. "And it's in our national interest that we find out exactly what went on — so that we can better respond."

"I'm not going to defend the process going in, but I am going to defend the people who are on the front line of saving lives," he added. "I also want people in America to understand how hard people are working to save lives down there in not only New Orleans, but surrounding parishes and along the Gulf Coast."

Also on Tuesday:

_Homeland Security Secretary Michael Chertoff said teams of federal auditors would scrutinize billions of dollars worth of government contracts. "We're going to cut through red tape, but we're not going to cut through laws and rules that govern ethics," he said. Congress has appropriated more than $60 billion for reconstruction. The Democratic National Committee accused the administration on Tuesday of "giving no-bid contracts to Bush's political cronies."

_Farm-state Democrats said they would ask for emergency money for farmers pummeled by Katrina as well as those struggling under high energy prices, drought and other natural disasters. Energy costs alone will shave farm incomes for North Dakota farmers by one-third to one-half, said Sen. Kent Conrad, D-N.D.

_Defense Secretary Donald H. Rumsfeld said some military aircraft and other equipment may be able to move out of the Gulf Coast soon. "We've got to the point where most if not all of the search and rescue is completed," said Rumsfeld, who is attending a NATO meeting in Berlin. He said nothing will be moved out of the area without the authorization of governors, the military leaders there and the president.

_A group of Democratic senators pressed Congress for a $5 billion upgrade of communications equipment that would make it easier for police, firefighters and other law enforcement authorities to talk to each other during emergencies. A similar measure was rejected in July as part of a homeland security bill. "They must be able to communicate with each other. This is a life and death issue," said Sen. Carl Levin, D-Mich.

Bush Shoulders Blame In Response (WT)

By Joseph Curl

The Washington Times, September 14, 2005

President Bush yesterday took full responsibility for federal government failures in the response to Hurricane Katrina and acknowledged that the storm exposed deficiencies at all levels of government.

"To the extent that the federal government didn't fully do its job right, I take responsibility," he said. "I want to know what went right and what went wrong."

Mr. Bush, who plans to hold a prime-time television address tomorrow from the hurricane-affected region, said the federal response to the catastrophic storm prompts serious questions about America's ability to respond not only to natural disasters, but also to terrorist attacks.

"Are we capable of dealing with a severe attack or another severe storm?" he said. "That's a very important question. And it's in our national interest that we find out exactly what went on ... so that we can better respond."

The White House said Mr. Bush would deliver the address to the nation from Louisiana on his fourth visit to the region in two weeks.

"The president will update the American people about the latest developments on the recovery, and discuss the way forward as we begin the process of helping people in the region rebuild their lives and their communities," spokesman Scott McClellan told The Washington Times.

In the 9 p.m. speech, Mr. Bush plans to lay out his administration's role in the recovery operation as well as the longer-term efforts to rebuild after the hurricane left New Orleans flooded and flattened other parts of Louisiana, as well as areas of Alabama and Mississippi, the spokesman said.

Mr. Bush, who days after the floods swept into New Orleans acknowledged that the federal response was "unacceptable," said yesterday that although he is unhappy with the initial federal efforts, he will not criticize first responders who worked to help residents in the path of the Category 4 hurricane.

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"One thing for certain -- having been down there three times and having seen how hard people are working -- I'm not going to defend the process going in, but I am going to defend the people who are on the front line of saving lives," he said in a public appearance at the White House with Iraqi President Jalal Talabani.

Democrats continued to blame Mr. Bush for inadequate recovery efforts in the immediate aftermath of the hurricane, which left thousands of New Orleans' residents stranded and thousands more without food and water.

"This administration still hasn't figured out the difference between spin and leadership," said Sen. John Kerry, Massachusetts Democrat.

"Instead of continuing to spend billions in Iraq, let us husband ... our hard-earned tax dollars and spend them here at home," Sen. Robert C. Byrd, West Virginia Democrat, said in an address on the Senate floor.

Bush Takes Responsibility (REU)

Reuters, September 13, 2005

WASHINGTON (Reuters) - President George W. Bush took responsibility on Tuesday for any failures in the federal response to Hurricane Katrina and acknowledged the storm exposed serious deficiencies at all levels of government four years after the September 11 attacks.

"To the extent that the federal government didn't fully do its job right, I take responsibility," Bush told a White House news conference at which he openly questioned U.S. preparedness for another storm or a "severe attack."

Bush's rare admission of "serious problems in our response capability" came as the White House stepped up efforts to repair his public standing. Bush will address the nation at 9 p.m. EDT (0100 GMT) on Thursday from hard-hit Louisiana, his fourth visit to the disaster zone since Katrina struck.

White House spokesman Scott McClellan said Bush would use Thursday's address to "talk to the American people about the recovery and the way forward on the longer-term rebuilding."

The president's approval ratings have hit new lows, partly due to fierce criticism of the slow response to the August 29 hurricane, which killed hundreds and displaced 1 million people in the worst natural disaster in U.S. history.

Fifty-four percent of Americans disapprove of Bush's handling of the response, but 57 percent say state and local officials should bear responsibility for the problems, according to the latest Washington Post-ABC poll.

Asked if Americans should worry that the government remains unprepared to respond to another major disaster or a terrorist attack, Bush said: "Katrina exposed serious problems in our response capability at all levels of government."

Bush himself raised questions about preparedness, after four years of record spending on domestic security since September 11, 2001.

"Are we capable of dealing with a severe attack or another severe storm? That's a very important question and it's in our national interest that we find out exactly what went on so we can better respond," he said at a news conference with Iraqi President Jalal Talabani.

Michael Brown resigned as head of the Federal Emergency Management Agency on Monday.

Republican senators with close ties to Bush have urged him to appoint a top official to lead the long-term recovery. White House officials say that is among options being discussed.

Former New York Mayor Rudolph Giuliani, former Secretary of State Colin Powell and retired Gen. Tommy Franks, former head of the U.S. Central Command have been mentioned for the job.

Giuliani said on CNBC that a commission like the one that investigated the September 11 attacks could assess the response. "Whether there were failures here on the state, city and federal level, I think a commission can decide that six months from now," he said. "No one person is responsible for this."

Bush Says Katrina Exposed `Serious Flaws' In U.S. Capabilities (BLOOM)

By Holly Rosenrantz And Nicholas Johnston

Bloomberg, September 14, 2005

Sept. 13 (Bloomberg) -- President George W. Bush said Hurricane Katrina exposed ``serious problems" in the government's ability to handle another national emergency such as a severe storm or a terrorist attack.

The number of people trapped in their homes or ill-equipped shelters and the inadequacy of the immediate relief effort showed flaws ``at all levels of government," Bush said in response to a question during a news conference today with Iraqi President Jalal Talabani in Washington. ``To the extent that the federal government didn't fully do its job right, I take responsibility."

His comments were his most critical yet of the government's response to Katrina. Until now, he has said the response has been unacceptable, and today is the first time he said he personally takes responsibility for the problems.

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Bush is seeking to restore public confidence in his ability to handle a crisis following the government's slow initial reaction to the hurricane that ravaged the Gulf Coast two weeks ago. He is planning a national address on Sept. 15 about U.S. efforts to help the Gulf Coast recover, and he may appoint a high- profile ``czar'' to oversee that effort.

The hurricane raised the question of whether the U.S. is ``capable of dealing with a severe attack or another severe storm,'' Bush said. ``It's in our national interests that we find out exactly what went on so that we can better respond.''

Investigations

Congressional Republicans have announced plans to conduct a joint House-Senate investigation into the federal response to Katrina. Some Democrats, such as New York Senator Hillary Clinton, have called for an independent panel to conduct the inquiry.

In response to widespread criticism, Federal Emergency Management Agency Director Michael Brown resigned yesterday after being relieved of his role overseeing recovery operations in the region last week. Bush appointed U.S. Fire Administration Director R. David Paulison, a career emergency service official, as FEMA's acting director.

Earlier today, U.S. Secretary of Homeland Security Michael Chertoff, whose department includes FEMA, said Brown ``did everything within his capability'' to manage the crisis and praised Paulison's long experience.

Paulison, 57, started as a fireman in Miami 30 years ago and rose to become chief of the department before taking his current job, which is part of FEMA. At a news conference with Chertoff at FEMA headquarters in Washington, Paulison said his focus would be helping those affected by Katrina, not analyzing the government's initial response.

`Focus on Victims'

``I can't deal with what happened in the last two weeks, but I can tell you, from this point forward, we are going to be focusing on the victims of this hurricane,'' Paulison said. ``We're going to look at what happened in the past just like we did with hurricane Andrew,'' which devastated Miami in 1992.

Chertoff said local governments would take the lead in the recovery and rebuilding operation.

``We have elected officials,'' Chertoff said. ``We have to respect their responsibility. We have to respect their authority. And so we're going to work with them to figure out the best solution.''

Bush has labeled Hurricane Katrina as the worst natural disaster in U.S. history. The storm caused hundreds of deaths and an estimated $100 billion in damage across 90,000 square miles of Louisiana, Mississippi and Alabama when it hit on Aug. 29.

Bush's job-approval rating is at record lows in several polls in the wake of the storm. A Washington Post/ABC News poll taken Sept. 8-11 among 1,200 adults found 54 percent disapproved of the way Bush is handling the recovery from the hurricane. The poll found that Bush's overall job-approval rating was 42 percent, the lowest of his presidency, in that survey.

First Lady Becomes President's Defender (AP)

By Nedra Pickler

The AP, September 13, 2005

WASHINGTON — Laura Bush is reprising her role as her husband's first defender, making several trips to the hurricane-ravaged Gulf Coast as President Bush's approval ratings sink to their lowest level yet.

Mrs. Bush is highlighting the positive that has come out of the storm, telling the stories of strangers helping one another in a time of tragedy.

Mrs. Bush said Tuesday that much more human good than bad has come from the disaster, despite what people see on TV. She said the evacuees she has met in her three trips to the Gulf Coast are hopeful and thankful that they don't have to start from rock bottom because of the donations and the kindness of strangers.

"That's what I've seen at each of the shelters I've visited," she said. "I've never heard a single word of complaint."

Mrs. Bush has performed this job before. With approval ratings much higher than her husband's, she was sent out across the country to help him win re-election. She also made a goodwill trip this year to the Middle East, where her husband is especially unpopular.

This time Mrs. Bush is focusing on stories of human compassion while the president is under a barrage of criticism about the government's slow response to the disaster. Some have suggested that he would have acted faster if so many of the victims weren't mostly poor and black, remarks that Mrs. Bush condemned as "disgusting."

She also blamed the media for focusing on the negative in the recovery efforts.

"We've seen terrible, terrible things and we've seen unbelievably unselfish acts of giving as well by communities all across the United States and, of course, many more unselfish acts of giving than bad things," she said in a speech Tuesday to the conservative Heritage Foundation. "Maybe the media hasn't shown us that much, but we've read about it and we do know about it."

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Mrs. Bush has traveled to the hurricane region with her husband and in solo trips where she has visited with evacuees. On the same day that her husband was in Mobile, Ala., offering his notorious compliments of now-resigned FEMA Director Mike Brown, Mrs. Bush was serving food to the sick, the elderly and families who fled with young children to the Cajundome arena in Lafayette, La.

"Some things are working very, very well in Louisiana, and certainly this center is one of them," she said.

Three days later, Mrs. Bush stayed mostly behind the scenes when she visited the storm zone at her husband's side. At the Bethany World Prayer Center in Baton Rouge, La., she worked the room of storm evacuees on her own — chatting with women and children who were being sheltered in a huge room at the nondenominational church.

Later that day in Poplarville, Miss., the Bushes visited a meeting of state and local officials from throughout the hurricane region. The officials sat subdued while the president talked about how the region will recover, but they leapt to their feet in a huge standing ovation when he pointed out his wife at the side of the room.

"I'm traveling with good company," he said.

Inside The Beltway (WT)

By John McCaslin

The Washington Times, September 14, 2005

The king speaks

One day after visiting the Vatican and being assured by Pope Benedict XVI of the Catholic Church's respect for Muslim people, Jordan's King Abdullah II came to Washington yesterday and delivered words at Catholic University that Washington Archbishop Theodore E. McCarrick predicted "will go down in history."

In his speech praising Jesus' teachings in the Bible and Koran alike, Abdullah, who assumed power the day his father, the late King Hussein, died in 1999, ripped Muslim terrorists Osama bin Laden and Abu Musab Zarqawi by name as "ignorant extremists" who do not speak for Islam.

He told the audience that included foreign ambassadors, State Department officials, church leaders and other invited guests that Jordan this summer hosted a major international conference representing 45 nations and all eight traditional schools of Islamic thought.

"They issued a joint statement of accord to help end abuses of our faith," the king noted, chiefly that "religious edicts cannot be issued by people lacking the proper qualifications and religious knowledge -- like bin Laden and Zarqawi. And they agreed that no one can call another Muslim an apostate, as the extremists do to those who disagree with them."

Last November, he also pointed out, Jordan started what's come to be known as the "Amman Message," articulating Islam's essential social values of compassion, respect for others, tolerance and acceptance, freedom of religion and rejecting Muslim isolation from the global movement of human society.

"In this effort, I know I am joined by President Bush and many other Western and Islamic leaders," said the king, who was accompanied yesterday by his wife, Queen Rania. "In the Middle East, in Europe and here in the United States, senior Muslim clerics have spoken out, authoritatively, against terror."

The ultimate goal, he concluded, "is to take back our religion from the vocal, violent and ignorant extremists who have tried to hijack Islam over the last 100 years. They do not speak for Islam any more than a Christian terrorist speaks for Christianity."

Not forgotten

It was only fitting that President Bush, in a visit to New Orleans that coincided with the fourth anniversary of the September 11 terror attacks, paid a visit to a parking lot that has become a staging ground for rescue workers.

"This is where all the firefighters from New Orleans and many from other towns around the country, judging from their shirts, are living," according to the official White House pool report.

While there, it continued, Mr. Bush posed for a picture with New York City firefighters who were standing before a not-so-ordinary New York City firetruck.

White House spokesman Scott McClellan revealed that this same fire engine was donated by the city of New Orleans to New York City in the days after the 9/11 terrorist attacks. And now New York has returned the gift, the report said.

A banner hanging on a memorial poster erected next to the truck stated: "God Bless America. Never Forget."

Army Eggs Benedict

We have to laugh at Mark Silva, White House correspondent for the Chicago Tribune, who accompanied President Bush to flood-ravaged New Orleans this week and revealed that he and fellow scribes "handed off our surplus boxes of breakfasts ready-to-eat -- sausage and egg on toast and bagel -- to a unit of the 82nd Airborne on the dock who, by the appearance of their reaction, hadn't eaten since the invasion of Afghanistan."

Quote of the week

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"The comedian Eddie Cantor used to say in all seriousness that every time he saw the 10 Most Wanted list, he thought maybe if we'd made them feel more wanted earlier, they wouldn't be wanted now."

-- First lady Laura Bush, speaking yesterday at the Heritage Foundation in Washington on the No Child Left Behind Act and its emphasis on eliminating the achievement gap between white and minority students.

Whose Victory, Exactly? (WP)

By Anne Applebaum

The Washington Post, September 14, 2005

Last week my son's elementary school raised several thousand dollars for hurricane victims by washing cars. My other son's preschool announced without fuss that a boy from New Orleans would be joining the class. My employer is organizing help for the company's Gulf Coast employees, my local bookstore is collecting money for the Red Cross and my favorite radio station raised $54,000 last weekend. Every church or synagogue attended by anyone I know is, of course, raising money, housing evacuees or delivering clothes to victims.

To put it differently, nearly every institution with which I come into daily contact -- my library, my grocery store, my search engine -- has already donated time or money to the victims of Hurricane Katrina, and I don't think this makes me or my community unique. A Zogby poll conducted last week found that 68 percent of Americans had donated money to hurricane relief. An ABC News/Washington Post poll published yesterday found that 60 percent had already donated, and a further 28 percent intend to. Those percentages mean that donors must represent a huge range of political views, economic classes, even aesthetic preferences. Indeed, among the fundraisers listed in last weekend's Post were a jazz concert, a tea dance, a "Christian music" concert and a rehearsal of Verdi's "The Sicilian Vespers." No wonder the Red Cross has already collected more than half a billion dollars; no wonder it was impossible to get on to the Salvation Army's Web site at peak times last week.

But those percentages also mean that it is important not to draw hasty conclusions about the ultimate political impact of this tragedy. More specifically, it's important to ignore the hasty conclusions that have already been drawn, both here and abroad, about the victory of "big government" and the death of a certain kind of American individualism. The German chancellor -- once again using American politics in his election campaign -- has already called the disaster an argument for "strong government." Polly Toynbee, a columnist for Britain's Guardian, declared that Katrina revealed "a hollowed superpower . . . a country that is not a country at all, but atomised, segmented individuals living parallel lives as far apart as possible." A Los Angeles Times article, headlined "A Comeback for Big Government," more objectively quoted lots of experts agreeing that in the wake of the hurricane, the administration will "put aside its interest in small government."

But while it is true that the government's relief effort looks set to dwarf anything it has tried before, consider what the actual experience of the disaster has already been -- not theoretically, not on paper, but in practice. Listen, for example, to volunteers who prepared 92 boats to help evacuate people from the rooftops of New Orleans. They were ultimately kept out by Federal Emergency Management Agency bureaucrats because, among other things, they didn't have life preservers. Or listen to the volunteers who organized 100 doctors to treat 400 sick people at a converted Baton Rouge warehouse -- until they, too, were told by the government to shut down, reopen and then shut down again. Or to the hundreds of firefighters who, according to the New York Times, responded to a nationwide call for help and were then "held by the federal agency in Atlanta for days of training on community relations and sexual harassment," while women were raped and lives were lost in New Orleans. Compare their frustration to the joy experienced by 8-year-olds across the country, washing cars for the Red Cross.

By the same token, consider the effectiveness of the relief strategies so far. With great fanfare, the federal government announced it would distribute debit cards to Katrina victims. The result was chaos, anger and expectations of fraud. Quietly, the Red Cross has been paying evacuees' hotel bills. The result is that 57,000 people have time to plan what to do next. Massive government efforts to get people into massive shelters have led to dissatisfaction, delays, long lines and frustration. But private initiatives -- ranging across the political spectrum from MoveOn.org's Hurricanehousing.org, which is advertising space in thousands of private homes, to First Baptist Church in Athens, Tex., which has just installed six new showers -- are helping people find better housing faster. Over the longer term, it's also pretty safe to bet that people who relocate thanks to a church, find a job thanks to a charitable Web site, and get by thanks to their extended families are going to do a lot better, economically and psychologically, than the people who hang around waiting to be helped by a government jobs program and a government trauma counselor.

I'm not saying anything radical here: I'm not calling for the abolition of FEMA, and I certainly think there's a role for government in disaster and evacuation planning. But it is true that the worst failures of the past two weeks have been big government failures. The biggest successes, by contrast, have come out of this country's incredibly vibrant, amazingly diverse and fantastically generous civil society. Sooner or later, it will be impossible not to draw political lessons from that paradox.

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A Fatal Incuriosity (NYT)

By Maureen Dowd

The New York Times, September 14, 2005

I hate spending time in hospitals and nursing homes. I find them to be some of the most depressing places on earth.

Maybe that's why the stories of the sick and elderly who died, 45 in a New Orleans hospital and 34 in St. Rita's nursing home in the devastated St. Bernard Parish outside New Orleans, haunt me so.

You're already vulnerable and alone when suddenly you're beset by nature and betrayed by your government.

At St. Rita's, 34 seniors fought to live with what little strength they had as the lights went out and the water rose over their legs, over their shoulders, over their mouths. As Gardiner Harris wrote in The Times, the failed defenses included a table nailed against a window and a couch pushed against a door.

Several electric wheelchairs were gathered near the front entrance, maybe by patients who dreamed of evacuating. Their drowned bodies were found swollen and unrecognizable a week later, as Mr. Harris reported, "draped over a wheelchair, wrapped in a shower curtain, lying on a floor in several inches of muck."

At Memorial Medical Center, victims also suffered in 100-degree heat and died, some while waiting to be rescued in the four days after Katrina hit.

As Louisiana's death toll spiked to 423 yesterday, the state charged St. Rita's owners with multiple counts of negligent homicide, accusing them of not responding to warnings about the hurricane. "In effect," State Attorney General Charles Foti Jr. said, "I think that their inactions resulted in the death of these people."

President Bush continued to try to spin his own inaction yesterday, but he may finally have reached a patch of reality beyond spin. Now he's the one drowning, unable to rescue himself by patting small black children on the head during photo-ops and making scripted attempts to appear engaged. He can keep going back down there, as he will again on Thursday when he gives a televised speech to the nation, but he can never compensate for his tragic inattention during days when so many lives could have been saved.

He made the ultimate sacrifice and admitted his administration had messed up, something he'd refused to do through all of the other screw-ups, from phantom W.M.D. and the torture at Abu Ghraib and Guantánamo to the miscalculations on the Iraq occupation and the insurgency, which will soon claim 2,000 young Americans.

How many places will be in shambles by the time the Bush crew leaves office?

Given that the Bush team has dealt with both gulf crises, Iraq and Katrina, with the same deadly mixture of arrogance and incompetence, and a refusal to face reality, it's frightening to think how it will handle the most demanding act of government domestic investment since the New Deal.

Even though we know W. likes to be in his bubble with his feather pillow, the stories this week are breathtaking about the lengths the White House staff had to go to in order to capture Incurious George's attention.

Newsweek reported that the reality of Katrina did not sink in for the president until days after the levees broke, turning New Orleans into a watery grave. It took a virtual intervention of his top aides to make W. watch the news about the worst natural disaster in a century. Dan Bartlett made a DVD of newscasts on the hurricane to show the president on Friday morning as he flew down to the Gulf Coast.

The aides were scared to tell the isolated president that he should cut short his vacation by a couple of days, Newsweek said, because he can be "cold and snappish in private." Mike Allen wrote in Time about one "youngish aide" who was so terrified about telling Mr. Bush he was wrong about something during the first term, he "had dry heaves" afterward.

The president had to be truly zoned out not to jump at the word "hurricane," given that he has always used his father's term as a reverse playbook and his father almost lost Florida in 1992 because of his slow-footed response to Hurricane Andrew. And W.'s chief of staff, Andy Card, was the White House transportation secretary the senior President Bush sent to the rescue after FEMA bungled that one.

W. has said he prefers to get his information straight up from aides, rather than filtered through newspapers or newscasts. But he surrounds himself with weak sisters who don't have the nerve to break bad news to him, or ideologues with agendas that require warping reality or chuckleheaded cronies like Brownie.

The president should stop haunting New Orleans, looking for that bullhorn moment. It's too late.

A 'Moronic' Proposal (WSJ)

The Wall Street Journal, September 14, 2005

Some public-spirited folks in Bozeman, Montana, have come up with a wonderful idea to help Uncle Sam offset some of the $62 billion federal cost of Hurricane Katrina relief. The Bozeman Daily Chronicle reports that Montanans from both sides of

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the political aisle have petitioned the city council to give the feds back a $4 million earmark to pay for a parking garage in the just-passed $286 billion highway bill. As one of these citizens, Jane Shaw, told us: "We figure New Orleans needs the money right now a lot more than we need extra downtown parking space."

Which got us thinking: Why not cancel all of the special-project pork in the highway bill and dedicate the $25 billion in savings to emergency relief on the Gulf Coast? Is it asking too much for Richmond, Indiana, to give up $3 million for its hiking trail, or Newark, New Jersey, to put a hold on its $2 million bike path?

And in the face of the worst natural disaster in U.S. history, couldn't Alaskans put a hold on the infamous $454 million earmark for the two "bridges to nowhere" that will serve a town of 50 people? That same half a billion dollars could rebuild thousands of homes for suffering New Orleans evacuees. One obstacle to this idea apparently will be Don Young, the House Transportation Committee Chairman who captured the funds for Alaska in the first place. A spokesman in his office told the Anchorage Daily News that the pork-for-relief swap was "moronic." Sounds like someone who wants Mr. Young to become "ranking Member" next Congress.

In all there are more than 6,000 of these parochial projects -- or about 14 for every Congressional district -- funded in the highway bill. The pork reduction plan is particularly appropriate as a response to Katrina, because we have learned in recent days that one reason that money was not spent on fortifying the levees in New Orleans was that hundreds of millions of dollars were rerouted to glitzier earmarked projects throughout the state of Louisiana.

We're hearing all sorts of bad ideas about how to offset the $62 billion of spending already authorized for Hurricane Katrina relief. Cancel the Bush tax cuts, raise the gasoline tax by $1 a gallon, increase deficit spending, and sharply cut spending on national defense and the war in Iraq. In Washington, it seems, everything is expendable except for the slabs of bacon that are carved out of the federal fisc to ensure re-election.

The glory of what is happening in Bozeman is that taxpayers are proving to be wiser about priorities than their politicians. We like the suggestion by Ronald Utt of the Foundation Heritage that, when the new levee is built to protect the Big Easy from future storms, it should bear a bronze plaque stamped: "Proudly Brought to You by the Citizens of Alaska."

Feds Promise Crackdown On Katrina Scams (NBC)

By Lisa Myers, Senior investigative correspondent

NBC News, September 14, 2005

WASHINGTON — As weather forecasters tracked the approach of Hurricane Katrina, Alan Paller, a computer security expert with the Sans Institute, tracked another gathering storm — the rush to register Internet sites containing the name "Katrina."

"Most of them," says Paller, "appear to be just plain thieves."

Story continues below ? advertisement

Tuesday, the U.S. Justice Department warned that many of some 4,000 Katrina Web sites could be fake. Sixty percent come from overseas, officials said, a warning sign the sites may be bogus.

U.S. Attorney General Alberto Gonzales promised swift punishment for those who victimize generous Americans.

"Federal, state and local law enforcement officials are watching carefully," Gonzales warned at a news conference Tuesday. "[We] will have zero tolerance for these kinds of crimes."

Missouri Attorney General Jay Nixon already has moved against 10 Web sites, tied to a group of white supremacists.

"It's totally outrageous," Nixon said, "for someone to take these domain names and then solicit funds, run them through what looks like a legitimate charity using pictures and other hurricane victims, when in reality that money was running to his hate sites."

Related story

How can you make sure your donation is well spent?

In Florida, state officials are suing a man who claimed all money donated to his sites would go to hurricane relief. In fact, it would have gone to his personal PayPal account.

Federal agents are also investigating an explosion in e-mails. Some look like pleas directly from victims. Others appear to be from the Red Cross, but in fact, the Red Cross does not send out e-mails.

Strong emotions make people especially vulnerable during a disaster, said Art Taylor of the Better Business Bureau. "Scamsters know this and prey upon that generosity, that immediate urge to give."

No one knows yet how many have been ripped off, or for how much. Those fooled may not know for weeks — until their credit cards bills reveal where the money really went.

FBI Warns About Fake Katrina Charity Web Sites (REU)

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Reuters, September 14, 2005

Many of the 4,000 Web sites advertising relief services for Hurricane Katrina could be fake and about 60 percent of them come from overseas--a sign they may be bogus, the FBI said Tuesday.

Senior FBI and Justice Department officials warned Americans who want to donate money to the relief effort to be cautious to avoid fraudulent charities, including those that pretend to be major organizations like the Red Cross.

"Just like these natural disasters bring out the best in people, they also bring out some of the worst elements of the criminal element out there who are willing to take advantage of those who are willing to give and those who so desperately need the relief," said Chris Swecker, chief of the FBI's criminal investigative division.

Swecker said the FBI is investigating sites of fraudulent charities. He said there are about 4,000 sites advertising Katrina relief services, and about 60 percent of them are coming from overseas.

"That is not a reason unto itself to conclude that that's a scam Web site, but it is a reason to be cautious," he said.

U.S. Attorney General Alberto Gonzales said some of the bogus sites had been shut down but would not give details on the number or how many investigations had been launched.

Previous Next

"We must ensure that those offering a helping hand do not become victims themselves and that those found preying on the compassion of our citizens are punished," he said.

The Red Cross' general counsel, Mary Elcano, said the organization had hired a security company to scan the Internet for fake e-mails that try to trick people into providing credit card numbers and personal information on a Web site that looks like the one run by the Red Cross.

"If the companies don't go away...the Department of Justice will prosecute and, if necessary, the Red Cross will file a civil action to seek restitution," she said.

Officials urged people who want to donate money not to click on links but to directly type in the Web address of the charity in order to donate.

Feds: Thousands Of Fraudulent Hurricane Aid Websites? (AP)

AP, September 14, 2005

WASHINGTON — At least 4,000 Web sites claiming to be Hurricane Katrina relief funds have popped up on the Internet and top U.S. law enforcement officials warned Tuesday that many could be fraudulent.

The number of Katrina-related sites has more than quadrupled in the past week, according to FBI officials.

“A devious few have sought to take advantage of our collective generosity,” Attorney General Alberto Gonzales said at a news conference to highlight the government’s efforts to combat fraud.

The FBI has so far reviewed 2,100 sites, of which 60 percent are foreign and thus more likely to be bogus, said FBI assistant director Chris Swecker. There have so far been no arrests. As of last week, the FBI had opened eight criminal investigations of suspect domestic sites.

Swecker said the number of probes has grown a lot in recent days, but he declined to be specific. The Justice Department has a Hurricane Katrina Fraud Task Force looking especially at phony charities, identity theft, insurance scams and government benefit fraud.

The American Red Cross, the relief group most frequently copied in Internet scams, also is working with authorities.

Officials again urged donors not to respond to unsolicited e-mails and to give only to well-known charities.

“If it doesn’t look right, chances are it’s not,” assistant Attorney General Alice Fisher said.

Dubious Katrina Web Sites Increasing (CNN)

By Terry Frieden

CNN.com, September 14, 2005

WASHINGTON (CNN) -- Many of the 4,000 Web sites claiming to offer help to victims of Hurricane Katrina are suspicious, the Justice Department said Tuesday.

FBI Assistant Director Chris Swecker said investigators have reviewed 2,100 sites and about 60 percent of them originate outside the United States. "That's not a reason unto itself to conclude that that's a scam Web site, but it is a reason to be cautious," Swecker said.

Swecker said no arrests have been made. But the number of criminal cyber probes has increased substantially since last Thursday, when the FBI acknowledged it was investigating eight instances of potential Web site fraud.

"I can't give you the exact number, but it's a lot more than eight," he said.

Last week the FBI said there were 2,300 sites that appeared to solicit money or offer Katrina aid.

Red Cross General Counsel Mary Elcano told reporters the organization is prepared to file civil lawsuits against operators of Web sites who do not promptly shut down when ordered to do so by the FBI.

Some of the suspect activities are sophisticated endeavors that are created to look like authentic Red Cross sites.

Many of the apparently fraudulent Web sites trying to tap into Katrina relief donations feature pop-ups, spam through provided links and other unsolicited e-mails.

"The emphasis here is on 'unsolicited,' things that come in that you didn't -- you have never made contact with this particular charitable organization," Swecker said. "There's a link. There's a pop-up. There's something that you need to do. Do not click on it.

"The best thing to do is to know the Internet address of the company or the NGO, the non-government organization, that you're dealing with and type that in yourself rather than clicking on a link."

Others traps are variations of the "Nigerian scam letter." The scammer will appear to offer money or relief help but will ask for money first from the e-mail recipient. Still other e-mails misdirect the user to bogus sites intended to lure people into divulging personal financial information.

"There is no place for crime of this nature," Attorney General Alberto Gonzales said. He promised aggressive prosecution of the "devious few who have sought to take advantage of our collective generosity."

Gonzales said the federal prosecutors' offices and the federal courts in Louisiana and Mississippi are functioning and will be able to handle the fraud prosecutions.

But he acknowledged that getting the full caseload handled in the Gulf Coast could require congressional action.

"[We are] looking at legislation to perhaps extend venue, the jurisdiction of the courts, so that in a case of emergency the court in New Orleans, for example, could hear the case somewhere else within the state of Louisiana," he said.

Current law requires cases to be heard in the judicial district where the charges are brought. Louisiana has three federal judicial districts.

Chertoff Delayed Federal Response, Memo Shows (KRT)

By Jonathan S. Landay, Alison Young And Shannon McCaffrey

Knight Ridder, September 14, 2005

WASHINGTON - The federal official with the power to mobilize a massive federal response to Hurricane Katrina was Homeland Security Secretary Michael Chertoff, not the former FEMA chief who was relieved of his duties and resigned earlier this week, federal documents reviewed by Knight Ridder show.

Even before the storm struck the Gulf Coast, Chertoff could have ordered federal agencies into action without any request from state or local officials. Federal Emergency Management Agency chief Michael Brown had only limited authority to do so until about 36 hours after the storm hit, when Chertoff designated him as the "principal federal official" in charge of the storm.

As thousands of hurricane victims went without food, water and shelter in the days after Katrina's early morning Aug. 29 landfall, critics assailed Brown for being responsible for delays that might have cost hundreds of lives.

But Chertoff - not Brown - was in charge of managing the national response to a catastrophic disaster, according to the National Response Plan, the federal government's blueprint for how agencies will handle major natural disasters or terrorist incidents. An order issued by President Bush in 2003 also assigned that responsibility to the homeland security director.

But according to a memo obtained by Knight Ridder, Chertoff didn't shift that power to Brown until late afternoon or evening on Aug. 30, about 36 hours after Katrina hit Louisiana and Mississippi. That same memo suggests that Chertoff may have been confused about his lead role in disaster response and that of his department.

"As you know, the President has established the `White House Task Force on Hurricane Katrina Response.' He will meet with us tomorrow to launch this effort. The Department of Homeland Security, along with other Departments, will be part of the task force and will assist the Administration with its response to Hurricane Katrina," Chertoff said in the memo to the secretaries of defense, health and human services and other key federal agencies.

On the day that Chertoff wrote the memo, Bush was in San Diego presiding over a ceremony marking the 60th anniversary of the end of World War II.

Chertoff's Aug. 30 memo for the first time declared Katrina an "Incident of National Significance," a key designation that triggers swift federal coordination. The following afternoon, Bush met with his Cabinet, then appeared before TV cameras in the White House Rose Garden to announce the government's planned action.

That same day, Aug. 31, the Department of Defense, whose troops and equipment are crucial in such large disasters, activated its Task Force Katrina. But active-duty troops didn't begin to arrive in large numbers along the Gulf Coast until Saturday.

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White House and homeland security officials wouldn't explain why Chertoff waited some 36 hours to declare Katrina an incident of national significance and why he didn't immediately begin to direct the federal response from the moment on Aug. 27 when the National Hurricane Center predicted that Katrina would strike the Gulf Coast with catastrophic force in 48 hours. Nor would they explain why Bush felt the need to appoint a separate task force.

Chertoff's hesitation and Bush's creation of a task force both appear to contradict the National Response Plan and previous presidential directives that specify what the secretary of homeland security is assigned to do without further presidential orders. The goal of the National Response Plan is to provide a streamlined framework for swiftly delivering federal assistance when a disaster - caused by terrorists or Mother Nature - is too big for local officials to handle.

Dana Perino, a White House spokeswoman, referred most inquiries about the memo and Chertoff's actions to the Department of Homeland Security.

"There will be an after-action report" on the government's response to Hurricane Katrina, Perino said. She added that "Chertoff had the authority to invoke the Incident of National Significance, and he did it on Tuesday."

Perino said the creation of the White House task force didn't add another bureaucratic layer or delay the response to the devastating hurricane. "Absolutely not," she said. "I think it helped move things along." When asked whether the delay in issuing the Incident of National Significance was to allow Bush time to return to Washington, Perino replied: "Not that I'm aware of."

Russ Knocke, a spokesman for the Department of Homeland Security, didn't dispute that the National Response Plan put Chertoff in charge in federal response to a catastrophe. But he disputed that the bureaucracy got in the way of launching the federal response.

"There was a tremendous sense of urgency," Knocke said. "We were mobilizing the greatest response to a disaster in the nation's history."

Knocke noted that members of the Coast Guard were already in New Orleans performing rescues and FEMA personnel and supplies had been deployed to the region.

The Department of Homeland Security has refused repeated requests to provide details about Chertoff's schedule and said it couldn't say specifically when the department requested assistance from the military. Knocke said a military liaison was working with FEMA, but said he didn't know his or her name or rank. FEMA officials said they wouldn't provide information about the liaison.

Knocke said members of almost every federal agency had already been meeting as part of the department's Interagency Incident Management Group, which convened for the first time on the Friday before the hurricane struck. So it would be a mistake, he said, to interpret the memo as meaning that Tuesday, Aug. 30 was the first time that members of the federal government coordinated.

The Chertoff memo indicates that the response to Katrina wasn't left to disaster professionals, but was run out of the White House, said George Haddow, a former deputy chief of staff at FEMA during the Clinton administration and the co-author of an emergency management textbook.

"It shows that the president is running the disaster, the White House is running it as opposed to Brown or Chertoff," Haddow said. Brown "is a convenient fall guy. He's not the problem really. The problem is a system that was marginalized."

A former FEMA director under President Reagan expressed shock by the inaction that Chertoff's memo suggested. It showed that Chertoff "does not have a full appreciation for what the country is faced with - nor does anyone who waits that long," said Gen. Julius Becton Jr., who was FEMA director from 1985-1989.

"Anytime you have a delay in taking action, there's a potential for losing lives," Becton told Knight Ridder. "I have no idea how many lives we're talking about. ... I don't understand why, except that they were inefficient."

Chertoff's Aug. 30 memo came on the heels of a memo from Brown, written several hours after Katrina made landfall, showing that the FEMA director was waiting for Chertoff's permission to get help from others within the massive department. In that memo, first obtained by the Associated Press last week, Brown requested Chertoff's "assistance to make available DHS employees willing to deploy as soon as possible." It asked for another 1,000 homeland security workers within two days and 2,000 within a week.

The four-paragraph memo ended with Brown thanking Chertoff "for your consideration in helping us meet our responsibilities in this near catastrophic event."

According to the National Response Plan, which was unveiled in January by Chertoff's predecessor, Tom Ridge, the secretary of homeland security is supposed to declare an Incident of National Significance when a catastrophic event occurs.

"Standard procedures regarding requests for assistance may be expedited or, under extreme circumstances, suspended in the immediate aftermath of an event of catastrophic magnitude," according to the plan, which evolved from earlier plans and lessons learned after the Sept. 11, 2001, terrorist attacks. "Notification and full coordination with the States will occur, but the coordination process must not delay or impede the rapid deployment and use of critical resources."

Should Chertoff have declared Katrina an Incident of National Significance sooner - even before the storm struck? Did his delay slow the quick delivery of the massive federal response that was needed? Would it have made a difference?

"You raise good questions," said Frank J. Cilluffo, the director of George Washington University's Homeland Security Planning Institute. It's too early to tell, he said, whether unfamiliarity with or glitches in the new National Response Plan were factors in the poor early response to Katrina.

"Clearly this is the first test. It certainly did not pass with flying colors," Cilluffo said of the National Response Plan.

Mike Byrne, a former senior homeland security official under Ridge who worked on the plan, said he doesn't think the new National Response Plan caused the confusion that plagued the early response to Katrina.

Something else went wrong, he suspects. The new National Response Plan isn't all that different from the previous plan, called the Federal Response Plan.

"Our history of responding to major disasters has been one where we've done it well," Byrne said. "We need to figure out why this one didn't go as well as the others did. It's shocking to me."

Chertoff's Aug. 30 memo is posted at www.krwashington.com

To read the National Response Plan, go to: http://www.dhs.gov/interweb/assetlibrary/NRP(underscore)FullText.pdf

Acting FEMA Director Vows To Focus On Katrina Victims (WT)

By Audrey Hudson

The Washington Times, September 14, 2005

R. David Paulison yesterday began work as acting director of the Federal Emergency Management Agency with a clean slate and the full backing of President Bush to help rebuild the hurricane-ravaged Gulf Coast.

"I can't deal with what happened in the last two weeks, but I can tell you from this point forward, we are going to be focusing on the victims of this hurricane," Mr. Paulison said.

Getting victims off cots and out of the Astrodome and church basements into homes is the focus, Mr. Paulison said in a press briefing with Homeland Security Secretary Michael Chertoff.

"We've had a hurricane of unimaginable proportions, and we're going to deal with it. We're going to get those people out of shelters, and we're going to move and get them the help that they need," said Mr. Paulison, who was chief of the Miami-Dade County Fire Rescue Department from 1992 to 2001.

Mr. Paulison, whose experience in hurricane recovery began just two weeks on the job as Miami's fire chief when Hurricane Andrew slammed the city, takes the helm of the federal agency two weeks after Hurricane Katrina devastated Louisiana, Mississippi and Alabama.

He replaces Michael D. Brown, who resigned Monday after state and local officials said FEMA failed in responding to the storm and critics questioned his limited background in overseeing disaster relief.

"If ever a government agency needed rescuing, it's FEMA, and Mr. Paulison has the right credentials for this crucial job," declared a Miami Herald editorial yesterday.

Capt. Faye Davis, president of the predominantly black Miami-Dade chapter of the Progressive Firefighters Association, told the Fort Lauderdale Sun-Sentinel that Mr. Paulison "did a good job being sensitive to our concerns."

"I think Chief Paulison is going to bring to FEMA a sense of urgency. He understands you have to have things, supplies and people in place. If you wait until after the fact it could be too late," she said.

Asked yesterday whether future FEMA directors, who are political appointments, will be selected based on disaster emergency management experience, Mr. Chertoff said it will be "a significant consideration."

"Certainly my recommendation of Chief Paulison was his wide experience in dealing with the issue of fire and emergency," Mr. Chertoff said.

FEMA fulfills many roles after an emergency, including coordinating federal financial assistance to states, communities, businesses and individuals, and the responses of the Red Cross and other charities.

Less than two weeks after the September 11 attacks, Mr. Paulison, who became a fireman at age 19, was nominated by Mr. Bush to lead the nation's firefighters as chief of the U.S. Fire Administration.

Mr. Paulison said he did not hesitate when Mr. Bush asked him to take charge of FEMA.

"The president called last night, and I was, obviously, humbled that he would take the time to do that," Mr. Paulison said.

Take My Job. Please. (WP)

By Mark Leibovich

The Washington Post, September 14, 2005

Brownie is no longer doing a heckuva job. Or any job.

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Talk about an inevitable sacrifice: It was just a matter of time before FEMA head Michael D. Brown resigned, as he did yesterday. He had come to personify the rule that once you become a joke in Washington, there is no rehab. He had became the subject of hundreds of punch lines amid the tragically unfunny spectacle of Katrina -- too many to recover from.

Last Thursday, the day before Brown was summarily posted back to Washington, Sen. Ken Salazar offered a lesson in the caricature Brown had become. Salazar, a Colorado Democrat who like many others had demanded that the Federal Emergency Management Agency chief be fired, was asked his assessment of Brown, a longtime resident of the senator's home state. After a few sentences about Brown's lack of experience in emergency management, Salazar shrugged and said simply, "Arabian horses."

This of course referred to Brown's stint as commissioner of the International Arabian Horse Association. It became the functional shorthand for a background short of emergency management experience. More to the point, it became a punch line.

"Prior to heading FEMA, Brown spent the '90s as a commissioner -- this is true -- of the International Arabian Horse Association," Jon Stewart said on "The Daily Show" last week. "I guess he stands out because most Bush appointees are beholden to the Arabian people."

The equine satire went well beyond professional comics. "I'm not aware of any Arabian horses being killed in this storm," Kate Hale, a former Miami emergency management chief, told the New York Daily News last week.

And the rout was on.

"Any public figure short of the president doesn't want to become fodder for late-night television shows," says Ed Kutler, a Republican lobbyist. "When you make it past a certain point of satire, there is no return. And, unfortunately for Brown, he passed that point last week or earlier, whether deserved or not."

"This horse business" -- Andy Lester, a longtime friend of Brown's, said in an interview -- was only the start.

Brown's saga incorporated a series of perceived fumbles and unfortunate sound bites that made for a caricature.

Some of it was not his fault. When Bush, during his first visit to the Gulf Coast after Katrina, said, "Brownie, you're doing a heckuva job," it embodied what many critics viewed as the administration's slow response to the disaster.

But Brown provided some ammunition himself. He was bludgeoned in a procession of TV interviews with the likes of Soledad O'Brien, Paula Zahn and, most glaringly, Ted Koppel, in which Brown said he had learned only that day of deteriorating conditions at the New Orleans Convention Center.

At which point Brown essentially disappeared from public view.

"I have no problem talking to you about my husband," Tamara Brown said when reached at her home last week. "But I need to talk to our press office first." She was, predictably, not heard from again, and Mike Brown's caricature was left to calcify in a flurry of resignation demands, accusations (in a Time magazine report that he exaggerated his disaster relief experience) and ridicule (Jay Leno: "Big news -- President Bush announced a plan to put a man on Mars. It's the head of FEMA").

"I'm worried for him personally," Lester said of his friend last week. He said Brown was not even the subject of criticism anymore. "It's not criticism, it's piling on."

Lester, who attended Georgetown Law School, added that the ordeal that has befallen Brown "is one of the reasons I don't live in Washington anymore."

The countdown to Brown's departure intensified Friday when Homeland Security chief Michael Chertoff "reassigned" him back to Washington. White House press secretary Scott McClellan said Brown had not resigned and the president had not asked for his resignation. When asked by a reporter whether the president had full confidence in Brown, McClellan said, "We appreciate all those who are working round the clock."

But it should generally not be taken as a good sign when the head of FEMA is taken off one of the worst catastrophes in American history. To wit:

"Some good news today," Leno said Friday night. "The most important evacuation was made today in New Orleans. They got the head of FEMA, Mike Brown, out of there."

Conan O'Brien: "Michael Brown, the controversial head of FEMA, was relieved of his duties in New Orleans. . . . Yeah, he's been told to report to Washington immediately, which means he should get there in about a week."

Before leaving the Gulf Coast, Brown announced that he planned to "go home and walk my dog and hug my wife and maybe get a good Mexican meal and a stiff margarita."

This violated another cardinal rule of image rehab, says Marshall Wittmann, Sen. John McCain's former press secretary, now with the Democratic Leadership Council: "In the aftermath of a disaster, you don't refer to a party drink you want to indulge in."

In the spirit of piling on, Wittmann says that Brown "had clearly become a bur in Bush's saddle."

The Five Stages Of Crisis-Management (WSJ)

By Jack Welch

The Wall Street Journal, September 14, 2005

Our last day in Nantucket this summer, we bumped into a crusty old islander we know, a sea-hand who has seen his share of hurricanes. We asked him about the storm bearing down on New Orleans. "Probably just another overhyped Weather Channel event," he mused. We saw him again the next day, a few hours after the storm's landfall, and he repeated his take, this time with relief. We agreed -- the pictures on TV weren't that bad.

Then, of course, the levees broke and all hell broke loose with them.

* * *

In the terrible days since then, there has been a hurricane of debate about what went wrong in New Orleans and who is to blame. Mother Nature, perhaps for the first time in the case of a bona fide natural disaster, has been given a pass. Instead, the shouting has been about crisis-management -- or the lack thereof. Everyone from President Bush to the police chief in a small parish on the outskirts of the city has been accused of making shockingly bad mistakes and misjudgments. The Katrina crisis, you would think, is unlike any before it.

Unfortunately, that's not completely true.

Yes, there has never been a natural disaster of Katrina's magnitude in our history. An entire city has been devastated, hundreds of lives lost, and hundreds of thousands of people displaced. In terms of impact, only an extended catastrophe like the Great Depression can compare in scope.

And yet, Hurricane Katrina is practically a case study of the five stages people seem to have to go through during severe crises. Over the past 40 years, I've seen these stages unfold in companies large and small, of every type, in every part of the world, and I went through them myself at my own company more than a few times.

New Orleans, of course, is not a company, but like any city, it is an organization. And there can be no denying that New Orleans' crisis is tragic in a way that company crises are not. But contrary to the sound and fury out there right now, the Katrina crisis follows a well-worn pattern.

The first stage of that pattern is denial. The problem isn't that bad, the thinking usually goes, it can't be, because bad things don't happen here, to us. The second is containment. This is the stage where people, including perfectly capable leaders, try to make the problem disappear by giving it to someone else to solve. The third stage is shame-mongering, in which all parties with a stake in the problem enter into a frantic dance of self-defense, assigning blame and claiming credit. Fourth comes blood on the floor. In just about every crisis, a high profile person pays with his job, and sometimes he takes a crowd with him. In the fifth and final stage, the crisis gets fixed and, despite prophesies of permanent doom, life goes on, usually for the better.

We are a way off from the fifth stage in New Orleans, but the first four played out like an old movie.

* * *

Denial: In the days and even hours before the hurricane struck, officials at every level of the government demonstrated a lack of urgency about the storm that seems crazy now. No one operated out of malice -- that can be said for certain. But the facts reveal the kind of paralysis so often brought on by panic and its ironically common side-effect, inertia. The federal government received hourly updates on the storm, but the head of FEMA, the ill-fated Michael Brown, waited 24 hours, by the most generous estimations, before ordering personnel into the area. The state's governor, in her early communications with the president, mainly asked for financial aid for the city's clean-up efforts. On the local level, the mayor let a critical 12 hours elapse before ordering an evacuation of the city.

Denial in the face of disaster is human. It is the main and immediate emotion people feel at the receiving end of any really bad news. That doesn't excuse what happened in New Orleans. In fact, one of the marks of good leadership is the ability to dispense with denial quickly and face into hard stuff with eyes open and fists raised. With particularly bad crises facing them, good leaders also define reality, set direction and inspire people to move forward. Just think of Giuliani after 9/11 or Churchill during World War II. Denial doesn't exactly come to mind -- a forthright, calm, fierce boldness does.

All that was in short supply during the disaster in New Orleans. But it might be argued that denial in and about New Orleans started long ago. New Orleans was a city with more than 20% living below the poverty line, a homicide rate almost 10 times higher than New York, and an intractable tradition of political corruption.

Why did it take a hurricane to reveal these unacceptable conditions?

New Orleans was also well aware that its levee system was inadequate for a major storm and that the economic plight of its citizenry, with their lack of cars and cash, rendered evacuation plans meaningless.

Why did it take a hurricane to prove those points?

In both cases, the only answer is denial, that predictable first phase of crisis, which in Katrina's case, happened before, during, and after the actual storm.

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Containment: For this second predictable phase in crises, Katrina was no exception. In companies, containment usually plays out with leaders trying to keep the "matter" quiet -- a total waste of energy, as all problems, and especially messy ones, eventually get out and explode. In Katrina's case, containment came in a related form, buck-passing -- pushing responsibility for the disaster from one part of government to another in hopes of making it go away. The city and state screamed for federal help, the feds said they couldn't send in the troops (literally) until the state asked for them, the state said it wouldn't approve the federal relief plan, and round and round went the baton.

No layer is a good layer. Bureaucracy, with its pettiness and formalities, slows action and initiative in any situation, business or otherwise. In a crisis like Katrina, it can be deadly. The terrible part is that Katrina might have avoided some of its bureaucratic bumbling if FEMA had not been buried in the Department of Homeland Security. As an independent entity for decades prior, FEMA fared better. But inside Homeland Security, FEMA was a layer down, twisted in and hobbled by government hierarchy. And to make matters worse, its head, Michael Brown, appears to have been an inexperienced political operative -- making his appointment an example of bureaucratic inefficiency at its worst.

Shame-mongering: This is a period in which all stakeholders fight to get their side of the story told, with themselves as the heroes at the center. Katrina's shame-mongering had blasted into overdrive by Tuesday, about 48 hours after landfall. I would wager that never before has a storm become so politicized. Very quickly, Katrina wasn't a hurricane -- it was a test of George Bush's leadership, it was a reflection of race and poverty in America, it was a metaphor for Iraq. The Democrats used the event to define George Bush for their own purposes; the Republicans -- after a delay and with markedly less gusto -- used it to define them back. The key word here is delay. Because in any crisis, effective leaders get their message out strongly, clearly -- and early. George Bush and his team in Washington didn't do that, and they are paying for it.

Blood on the floor: From the moment it became obvious that Katrina was a crisis-management disaster, you knew someone's head was going to roll. That's what usually happens in the fourth stage of crises. People need to feel that someone has paid, and paid dearly, for what went wrong. Michael Brown was the obvious choice -- a guy who had few hard credentials in his bag of defenses. And if Katrina is like most crises, his blood won't be the last spilled. In a few weeks, more personnel changes in FEMA and Homeland Security are sure to come, and politicians in New Orleans and Louisiana will be both made and ruined by what they did during the storm.

* * *

Eventually, all crises go away, and New Orleans' will too. The waters will recede; people will return and rebuild. In a year, the media will report that progress toward normalcy has been made. In three years, the best levees ever constructed will be completed with great fanfare; the Superdome or its replacement will have been outfitted to keep thousands of people housed and fed for a month. In five years, the before-and-after photos of New Orleans will boggle the mind.

History shows us that crises almost always seem to give way to something better. Maybe that's because crises reveal how and where the system is broken in ways that make denial no longer feasible. They have a way of forcing real solutions to happen.

Hurricane Katrina has the potential to do that in New Orleans -- to compel leaders in government and business to find ways to break the city's cycle of poverty and corruption. The opportunities are huge because the losses were. There is a blank slate for change to begin, and it most likely will. Just watch the entrepreneurs rush in with ideas and energy, revitalizing old and creating new businesses with the help of the money politicians will be outbidding one another to throw at the problem. Just watch the residents of New Orleans flock to the jobs that are created with a new spirit of optimism. Crises like Katrina have a way of galvanizing people toward a better future. That's the fifth and final part of the pattern -- the best part.

Now, you may be wondering that if most every crisis follows a pattern, why can't we manage them better, or even prevent them?

In business, we very often do. Over time, organizations may go through several crises, but very rarely do they go through the same type twice. The reason? Companies typically go to extremes after a crisis. They throw up fortresses of rules, controls and procedures to fix what went wrong in the first place. In that way, they build a kind of immunity to the sickness that felled them. It is very unlikely, for instance, that Johnson & Johnson will ever have another product-tampering disaster like Tylenol.

Immunity to crises comes from learning. Crises teach us where the system is broken and how to repair it so it won't break again. Ultimately, learning is why disasters, in business and in nature, have the potential to make the organizations that survive them so much stronger in the long run. And learning will reveal the crisis management of Katrina for what it was -- an age-old pattern meant to be broken.

Mr. Welch, former chairman and CEO of General Electric, is the author, with Suzy Welch, of "Winning" (Collins, 2005).

Homeland Security Reorganization Plan Faces New, Post-Hurricane Scrutiny (CQ)

By Tim Starks

DOJ_NMG_0005318

Congressional Quarterly Today, September 14, 2005

Two key Senate committee chairmen said Tuesday they were willing to take a fresh look following the Hurricane Katrina catastrophe at a proposal made by the Homeland Security secretary this summer to restructure his department.

A pair of top Democratic appropriators are urging Secretary Michael Chertoff to postpone his plan, released in July, to reorganize his department, arguing that it could hinder the response to future major natural disasters.

The request came on the eve of President Bush's concession Tuesday that "Katrina exposed serious problems in our response capability at all levels of government, and to the extent that the federal government didn't fully do its job right, I take responsibility."

Chertoff has proposed abolishing the division of his department that deals with emergency preparedness and response, a division that encompasses the Federal Emergency Management Agency (FEMA).

The two functions now performed by FEMA — preparing for disasters in advance and responding to them when they occur — would be separated, with FEMA restructured as a stand-alone agency focused on response that would report directly to the Homeland Security secretary. The reorganization would place responsibility for pre-disaster planning under a new Directorate for Preparedness.

On Sept. 12, David R. Obey, D-Wis., and Martin Olav Sabo, D-Minn., asked Chertoff in a letter to reconsider.

"You justify creating a Directorate for Preparedness with the following statement: 'While operational response and recovery programs have an 'all-hazards' approach, federal preparedness efforts need to be targeted toward addressing gaps in our terrorism and homeland security capabilities,' " the Democrats wrote. "We have long believed that federal preparedness efforts also need to address gaps in our natural disaster preparedness capabilities."

Evaluating Proposals

Authorizing and appropriations committees had been evaluating Chertoff's proposals, some of which require congressional approval, for inclusion in the fiscal 2006 Homeland Security appropriations bill (HR 2360) currently in conference and a separate departmentwide authorization bill.

The House passed an authorizing bill (HR 1817) in May, before Chertoff unveiled his reorganization plan, and Susan Collins, R-Maine, chairwoman of the Senate Homeland Security and Governmental Affairs Committee, had been considering her own version of an authorization bill.

On Tuesday, Judd Gregg, the New Hampshire Republican who chairs the Senate Appropriations Homeland Security Subcommittee, said he had not given any thought to Obey's and Sabo's suggestion to Chertoff.

However, the hurricane gives Chertoff a chance to review his restructuring plan as it pertains to the department as a whole and FEMA specifically, Gregg said, which the senator called an appropriate step. He did not anticipate that restructuring concerns would create difficulties clearing the spending bill, because new authorizing language would be relatively easy to insert before final passage.

Gregg said he and his House counterpart, Rep. Harold Rogers, R-Ky., were no longer far apart on reconciling their versions of the $31.9 billion bill, including funding for the Coast Guard fleet modernization program, where negotiators were more than $400 million apart to start.

Collins said she is looking at a fall time frame for consideration of a Homeland Security authorization bill. She also is tentatively scheduled to head the Senate side of a bipartisan, bicameral Hurricane Katrina review panel. That proposed panel is mired in a dispute between Democrats and Republicans, but in the meantime she has begun an investigation in her committee. (Story, p. 3)

She said Tuesday she intends to explore the proper structure for the department in light of Hurricane Katrina, including suggestions from some that the restructuring should be postponed. But if FEMA remains a part of the department, Collins said it appears that it should at least have a "direct report" to the secretary, as Chertoff has proposed.

At a news conference Sept. 12, Chertoff defended the restructuring proposals, which came as a result of a department-wide review and were scheduled to become effective by Oct. 1. He said he would meet with congressional leaders to discuss options for improving preparedness.

A spokeswoman for the department said it "will continue to pursue the agenda outlined under [the review] because hurricane response efforts underscore the need for an undersecretary for preparedness that pulls all these responsibilities into one accountable authority."

Democrats And Others Press For An Independent Inquiry (NYT)

By Carl Hulse And Philip Shenon

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - As Congress prepares to take its first tentative steps toward evaluating the government response to Hurricane Katrina, Democrats and others are pressing for an independent inquiry, saying lawmakers cannot be trusted to assess their own complicity in the failures.

"I don't think the Congress can investigate ourselves," Senator Hillary Rodham Clinton, Democrat of New York, said Monday.

Mrs. Clinton, a chief proponent of forming an outside commission similar to the one that investigated the Sept. 11 attacks, is seeking a vote Wednesday on creating such a panel.

Members of the Sept. 11 commission will echo that call on Wednesday when they release a new privately financed study that will cite failures in the federal response to the storm to argue that the government remains unprepared to deal with a catastrophic terrorist strike on American soil.

Commission members said in recent interviews that the report would criticize the Bush administration and Congress as not following up on many of the commission's recommendations for improving federal disaster-response programs. That lack of action, commissioners said, cost lives in areas of the Gulf Coast struck by the hurricane.

"In Congress, this issue has already become a political football," Slade Gorton, a Republican member of the Sept. 11 commission and a former United States senator from Washington, said this week. "If we're really going to learn anything from this new catastrophe, that's much more likely to happen through an objective look. An independent commission is something that ought to be seriously considered."

The Congressional actions that are coming under new scrutiny include the decision to place the Federal Emergency Management Agency under the larger umbrella of the Department of Homeland Security and the use of flood-control programs as a reliable source of home-state spending projects.

"The Corps of Engineers and Congress are partners in crime," said Steve Ellis, vice president for programs at the group Taxpayers for Common Sense. "We have this process where the pork barrel dictates that we spread the money over the 535 mouths to feed that are Congress rather than putting our resources where it makes the most sense."

Several members of the Sept. 11 commission said they had been startled by what they described as the federal government's inept performance after the hurricane, suggesting that little had changed in federal disaster-relief planning since the terrorist attacks on New York and the Pentagon four years ago this week.

"It's really the same confusion that you had on 9/11 - worse, really, because at least in New York City you had Rudy Giuliani," Thomas H. Kean, the chairman of the commission and a former Republican governor of New Jersey, said Monday.

After the hurricane, Mr. Kean said, "you had no command and control. Who was in charge? Really, nobody was in charge."

Mr. Kean said the shortcomings in the response to the hurricane suggested that the government's response to a large-scale terrorist attack would be no better. "Whether it's a chemical attack or a nuclear attack or an earthquake in San Francisco, it's largely the same response," he said. "And this is proof that we still haven't got it right."

Republican leaders who are resisting an independent inquiry into the response to the hurricane say a joint House-Senate panel proposed by Republicans can conduct an objective investigation. They say that creating a separate group would amount to an abdication of Congress's proper role.

"People are too quick to give up their responsibility and duty as congressmen to other people," said Representative Tom DeLay, Republican of Texas and the House majority leader. "We are more than capable of looking at it."

Senate Republican leaders moved Tuesday to resolve the dispute over the joint panel, preparing a proposal that would delegate members of the Senate Homeland Security and Governmental Affairs Committee to represent the Senate in the investigation, with the possibility of other panel members.

Lawmakers would be empowered to examine the "development, coordination and execution by local, state and federal authorities of emergency response plans and other activities in preparation for Hurricane Katrina; and the local, state and federal government response to Hurricane Katrina." House Republicans were preparing their own plan for consideration later this week.

Republicans said the joint panel was based on 11 special Congressional investigations since 1973 and would allow issuance of subpoenas either by agreement of the two committee leaders or by a panel vote.

Senator Harry Reid of Nevada, the Democratic leader, said Tuesday that he would consider the offer but was interested in equal representation and subpoena power and was also worried about Congress investigating itself.

"Congress is not blameless," Mr. Reid said.

While the wrangling continued over the independent panel, the Senate Homeland Security and Governmental Affairs Committee was scheduled to meet Wednesday to hear disaster-response experts.

Senator Susan Collins, Republican of Maine and chairman of the security committee, said the first hearing would focus on how response to hurricanes could be improved, to be followed by "an in-depth, extensive review" of the government performance surrounding the hurricane.

"We would be remiss if we did not have an aggressive, vigorous Congressional review," Ms. Collins said, saying she expected that Democrats and Republicans would resolve their differences over the investigation.

Disaster Veterans Will Give Advice To Senators Today (USAT)

By Andrea Stone

USA Today, September 14, 2005

Veterans of floods, earthquakes and tsunamis will offer advice today to a Senate committee looking into how to help victims of Hurricane Katrina in the first of an expected multitude of congressional inquiries into the disaster.

"We're going to hear from experts so we can assess what steps we should be taking right now to assist," said Sen. Susan Collins, R-Maine, chairwoman of the Senate Homeland Security and Governmental Affairs Committee.

Pete Wilson, who dealt with 22 natural disasters when he was governor of California, and Marc Morial, a former mayor of New Orleans who now heads the National Urban League, will testify. So will Patricia Owens, the former mayor of Grand Forks, N.D., who successfully evacuated 50,000 people when the Red River flooded in 1997.

The House Government Reform Committee will hold a hearing Thursday to look at other cities' emergency plans to make sure they're prepared for the worst and to learn lessons that can be applied to Katrina recovery.

— Andrea Stone

Victims getting housing, medical help in Alabama

State health and welfare officials in Alabama say they are preparing to meet the long-term Medicaid and housing needs stemming from Hurricane Katrina.

The Federal Emergency Management Agency said more than 41,000 Alabamians registered for some type of assistance after their homes were damaged or destroyed, and up to 5,000 people from Mississippi and Louisiana have come to Alabama.

State Medicaid Commissioner Carol Herrmann said a temporary eligibility has been set up for hurricane evacuees, who will receive benefits for up to four months. Technically, Mississippi and Louisiana would be responsible for their residents' Medicaid costs in Alabama. But Herrmann said it's unlikely she would bill the states. She said she will ask federal officials to reimburse some of the costs.

Jacqueline Buck, head of the Central Alabama American Red Cross, said the agency is giving $760 to $1,100 to families, depending on the size. Her district has given out about $3.5 million in assistance and sees 300 to 400 families daily.

Oil production better, but problems persist in Gulf

Oil production in the Gulf of Mexico is increasing, but 56.5% of the normal daily flow remains off line because of offshore platform evacuations, a federal agency reported. After a survey of 54 production companies, the Minerals Management Service said that 87 platforms remained evacuated, down from 105 on Monday. But oil production has increased only a bit since 57.4% had been shut off Monday, the MMS said. Normally, the Gulf of Mexico produces about 1.5 million barrels of oil per day.

Since Katrina first threatened the Gulf on Aug. 26, the production of 19.7 million barrels of oil and 95.5 billion cubic feet of gas have been delayed, the MMS said.

Dallas shutting down one of its two major shelters

The city of Dallas will close its shelter at the convention center over the next couple of days and move everyone who has not found a place to live to Reunion Arena, Red Cross spokesman Paul Studebaker said. He said many evacuees were beginning to run errands, often by taking buses around the city, and were setting out in search of areas they would like to live.

Railroad freight service restored to New Orleans

Norfolk Southern railroad said it has repaired its Lake Pontchartrain Bridge and restored rail freight service into New Orleans. The railroad said reopening the bridge makes it possible to transport supplies and materials in and out of the city to aid recovery operations.

The storm washed nearly 5 miles of track from the top of the 5.8-mile-long rail bridge and into the lake. It took nine cranes on barges to lift the track out of the water and back onto the bridge, Norfolk Southern said.

Nine miles of track running through New Orleans required major repairs from washouts and other water-related problems, Norfolk Southern said.

Temporary jail loses 'Camp Greyhound' moniker

Greyhound Lines asked Louisiana's prisons department to stop referring to a temporary New Orleans jail as "Camp Greyhound."

The Greyhound bus station in New Orleans was converted into a makeshift jail by police trying to restore law and order in the days after Hurricane Katrina hit.

"Greyhound called us on Friday and asked us not to refer to it as Camp Greyhound anymore," said Pam Laborde, communications director of Louisiana's department of corrections.

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Laborde said the jail would now be known as Angola South. Those in the temporary jail include criminals that took part in the crime spree after the hurricane and some prisoners from the state's maximum-security Angola prison.

As Congress Reviews What Went Wrong, It Finds Itself In Disarray (LAT)

By Janet Hook

The Los Angeles Times, September 14, 2005

WASHINGTON — When a Senate committee opens hearings today on what the government did wrong in response to Hurricane Katrina, there will be a conspicuous absence at the witness table: No one who actually handled the disaster will be there.

Hesitant to interfere with relief operations in the storm-ravaged South, lawmakers in Washington will be left to grill veterans of past disasters. That is emblematic of how hard it is for Congress to grapple with the calamity that has washed away much of the rest of its legislative agenda.

The hurricane is testing Congress' ability to do something that the lumbering institution is ill-equipped to do: move quickly and decisively on a huge, bipartisan project.

In their early response, members of Congress instead have been doing what seems to come more naturally: spending lots of money, hurling partisan insults and holding hearings — even if the most pertinent witnesses cannot attend.

Senate Budget Committee Chairman Judd Gregg (R-N.H.) has decried the lack of focus in Congress' response so far and called on GOP leaders and the White House to do more to set priorities among the ideas, bills and hearings flowing through the Capitol.

"I have been extremely concerned about this because I think we are going to wake up six months from now or three months from now and realize that a haphazard approach has not been effective either in resolving the problems in the Gulf Coast or in managing the taxpayers' money effectively," Gregg said Monday on the Senate floor.

Sharing those concerns, Sen. Pete V. Domenici (R-N.M.) has prepared a letter to President Bush urging him to put a coordinator in charge of overseeing spending on the recovery effort. "Who's going to manage and help Congress decide what to fund?" he asked in an interview. "Conventional approaches are going to cause total chaos. If we leave it up to committees, if we leave it up to individual claimants telling us what they need, we're in for a real mess."

Republican leaders have tried to coordinate plans for investigating what went wrong in the hurricane response by proposing a joint House-Senate committee. But even that has not gotten off the ground, because Democrats have objected that it would be stacked in favor of Republicans and prone to cover up rather than investigate the Bush administration's mistakes.

Senior GOP aides and administration staffers began meeting last week to plan longer-term policy for rebuilding the damaged region. But that has not stopped lawmakers from offering their own ideas in the meantime.

"It's hard to be patient when you are flat on your back," said Sen. Trent Lott (R-Miss.). "But we've also got to make sure our leadership pulls us together to coordinate our efforts."

The situation underscores how thoroughly the Katrina aftermath has challenged and changed Congress' rhythms. Republicans who run Congress, not usually inclined to draft grand government designs, are being asked to consider new aid to thousands of displaced people. Two political parties so polarized that they can hardly agree on the time of day are being asked to come together to rebuild a city.

The short- and long-term policy questions that now dominate are a far cry from Congress' more routine ideological issues, such as abortion and Social Security, where lawmakers tend to hew to party lines.

"They are not used to serious oversight or real deliberation," said Thomas Mann, an expert on Congress at the Brookings Institution. "It's all, 'Are you with the president or against him?' "

For members of Congress representing the devastated area, the debate is immediate and personal. Lott waxed literary when he spoke Tuesday about the cleanup of his home state. "These are times that try men's souls," he said on the Senate floor.

Sen. David Vitter (R-La.) also bore witness, bitterly denouncing the Federal Emergency Management Agency — as well as the bickering and partisanship he hears in Congress' debate over the hurricane's fallout. "I saw horrific scenes in the days after the storm. I smelled sweltering stench. But what I sometimes hear coming out of Washington was far more sickening."

At the same time, House members and senators from the region are being treated to acts of kindness on Capitol Hill. Dozens of senators directed their staffs to help Sen. Mary L. Landrieu (D-La.), whose office installed six extra phone lines to handle the deluge of calls seeking help. Other Senate offices sent meals to her staff, which was working around the clock. Sen. Edward M. Kennedy (D-Mass.) personally delivered lobster rolls; Sen. Ted Stevens (R-Alaska) sent salmon.

Delegations from the gulf region will be asking soon for far more from their colleagues. In a bipartisan House-Senate enterprise, lawmakers from the area are compiling a wish list of what aid their states need.

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At least nine committees and subcommittees have planned hearings this week on Katrina-related subjects, including the effectiveness of hurricane forecasting, housing programs for hurricane victims and the role of private charities. The broadest inquiries into the government response are being held today by the Senate Homeland Security and Governmental Affairs Committee and Thursday by the companion House panel. But those committees' chairmen said they would not call any of the frontline officials of FEMA or state and local agencies to testify, at least for now, because that would detract from relief efforts.

Instead, the Senate panel will hear from officials with experience handling major disasters, including former California Gov. Pete Wilson, who was in office during the 1994 Northridge earthquake. Lawmakers will ask for advice about what initial aid the government should provide in the wake of the hurricane.

A bipartisan delegation of about 20 senators will be touring the region at the end of this week. In the House, however, Speaker J. Dennis Hastert (R-Ill.) has been discouraging lawmakers from taking trips for fear they will get in the way of rescue efforts.

Lawmakers are also finding ways to recast their own legislative priorities in terms of hurricane response. Republicans say, for example, that the damage caused to the nation's energy supply strengthens their argument for opening more of Alaska's wilderness to oil and gas exploration. House Majority Leader Tom DeLay (R-Texas), a longtime foe of trial lawyers, is pushing a bill that would limit lawsuits against people who volunteer to help hurricane victims.

The intensity of Congress' focus on hurricane relief was plain as the Senate tried Tuesday to finish work on a routine appropriations bill. It was slowed by a flurry of amendments to provide additional funding for the battered region, including a $1-billion plan to aid law enforcement agencies through a program that Republicans want to abolish.

That proposal did not pass. Republican leaders urged restraint until a broader package could be developed, a view supported even by lawmakers whose constituents stood to benefit.

"We need to approach hurricane funding needs in a coordinated manner, not in an ad hoc" way, said Sen. Richard Shelby (R-Ala.).

Parties Remain Split On Panel (RC)

By Mark Preston

Roll Call, September 14, 2005

Congressional Republicans vowed Tuesday to move forward with their plan to form a bicameral committee to examine the response to Hurricane Katrina, even as Democrats were making it clear that launching such a joint investigation would be impossible without their blessing.

Senate Minority Leader Harry Reid (D-Nev.) noted in an interview that such a committee can be created only by legislation and GOP leaders would need his party's support for it to be approved in the Senate.

Reid and House Minority Leader Nancy Pelosi (D-Calif.) continued their call for an independent commission to investigate the matter. But the two Democratic leaders added that if Republicans insist on forming a bicameral committee, there needs to be equal representation between the two parties on the committee and that Democrats should have the authority to issue subpoenas. GOP leaders first proposed creating the panel last week.

But Republicans said they planned to follow historical precedent, which dictates the ruling party maintain a majority and full control on such panels.

Further complicating matters is Democrats admitted unease with entrusting House Republican leaders with the responsibility for leading a comprehensive investigation of the Bush administration on this matter, yet another sign of the bitter relations that exist between the two political parties.

"We are going to do the oversight hearing, that is our responsibility," said Senate Republican Conference Chairman Rick Santorum (Pa.), who chastised "some" Democrats for "trying to exploit everything for a political advantage."

House Majority Leader Tom DeLay (R-Texas) was equally harsh in characterizing Congressional Democrats' alleged motivations and said he hoped rank-and-file Democrats would "reject the blind partisanship of their leaders."

"They have decided not to participate [in the joint committee] for partisan political reasons," he said at his weekly meeting with members of the media. DeLay echoed Santorum's suggestion that the GOP was moving forward with the plan, even if the Democrats chose not to participate.

Reid said he would not yield on the issue of giving Republicans the sole power to issue subpoenas.

"Why don't we just have the [House and Senate] Homeland Security committees hold joint hearings?" Reid said. "Other than that, the only thing I will agree to is an equal number of Democrats and Republicans [serving on the committee] and they both having the power of subpoena."

While not using the word filibuster, Reid did allude to the minority party's power in the Senate to block legislation when told of Republicans' plans to move forward with the bicameral committee.

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"They can't do that," he said flatly. "It takes legislation. We still have a democracy around here. The American public is not going to accept this."

But Sen. Trent Lott (R-Miss.) suggested that Democrats should fully consider the consequences before outright refusing to participate in the panel.

"I think if an effort is made to accommodate them and they still continue to refuse to participate, I think that could backfire on them," Lott said.

In place of the bicameral committee, Democrats are advocating for the creation of an independent commission — similar to the 9/ll commission — to investigate the poor emergency response of local, state and federal officials to Hurricane Katrina.

"If we don't get an outside commission to do this, I think the American public will believe it was flawed," said Sen. Ben Nelson (D-Neb.). "They will see on television, in the hearings, cheerleading and attack-dogging. The American people, at the end of the day, want to know what went wrong and what went right. I don't think in this partisan environment you can get that done."

Senate Majority Leader Bill Frist (R-Tenn.) was expected to present Reid with a new proposal on the makeup of the bicameral committee Tuesday night, sources said. It is not clear what Frist was offering, but sources said it would not be a 50-50 split on the panel. And Hastert told reporters Tuesday afternoon, he planned to speak again with Pelosi about the issue.

There is hope among at least some key Republicans and Democrats that the issue will eventually be resolved.

"I am confident in the end we are going to be able to reach an agreement that would allow the joint committee to go forth," said Sen. Susan Collins (R-Maine), the chairwoman of the Homeland Security and Governmental Affairs Committee. Sen. Joe Lieberman (D-Conn.), too, said he "had confidence that Sen. Frist and Sen. Reid are going to work out the bipartisan investigation."

House Republicans could name their co-chairman for the bicameral committee as early as this week, setting in motion the task of selecting Members to serve on the panel. Senate Republicans have already chosen Collins to serve as their senior representative on the bicameral committee.

Panel Vote Will Test Loyalty (HILL)

By Josephine Hearn

The Hill, September 14, 2005

The House is moving closer to a vote on a GOP plan that would create a joint committee to investigate the government's response to Hurricane Katrina, presenting Republicans with a potentially difficult vote to support a plan Democrats have derided as a political sham.

The vote is shaping up to be an intense test of party loyalty.

Democrats have called instead for an independent commission to examine government failures in the aftermath of Katrina.

House Majority Leader Tom DeLay (R-Texas) said yesterday that Democrats' refusal to participate in the joint committee did not worry him.

"No one is rejecting Democrats," DeLay said. "We will go forward. I think they will be incredibly embarrassed if they don't participate because you will find that the committee will be an objective committee, doing its responsibility and really looking at everything."

The floor vote could come as early as tomorrow. The debate on the measure is expected to be fierce, continuing the partisan fireworks that have intensified in the wake of Katrina.

Democrats, meanwhile, were confident that their members would vote against the joint committee. A spokeswoman for House Democratic Whip Steny Hoyer (Md.) said that Democrats would not need to whip the vote to ensure unity in the caucus.

"There is already unified opposition to the committee as proposed by Republicans and support for an independent commission similar to the 9-11 commission," the spokeswoman said.

In the upper chamber, Sen. David Vitter (R-La.), who represents a state heavily damaged by the hurricane, appeared to criticize both the Democrats' refusal to take part in the joint committee and the Republicans' decision not to back an independent commission.

"I saw horrific scenes in the days after the storm. I smelled sweltering stench," Vitter recalled in a floor speech. "But what I sometimes heard coming out of Washington was more sickening: ridiculous arguments tying the suffering to the war in Iraq and the … deficit, talk of boycotting bipartisan hearings and stonewalling independent commissions."

Both Vitter and Sen. Mary Landrieu (D-La.) have called for an end to the partisan infighting that rapidly spread across the Hill regarding how to investigate the lapses in the federal, state and local responses to the storm.

Vitter yesterday called for an independent commission to oversee the tens of billions of dollars Congress has approved for the reconstruction effort along the Gulf Coast following Katrina.

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"The very same agencies that failed us will lead to more failure. We need a Katrina reconstruction commission headed by a no-nonsense, nonpolitical businessman manager so that we will all have something lasting to show for this enormous spending," he said.

On the House side, the parties continued to trade barbs over the planned joint committee.

DeLay said in his weekly briefing with reporters that Senate Majority Leader Bill Frist (R-Tenn.), House Speaker Dennis Hastert (R-Ill.) and their respective staffs initially reached out to congressional Democrats when they were formulating plans for the joint committee.

House Minority Leader Nancy Pelosi (D-Calif.) characterized the contact differently, saying Monday that her office had been informed several hours before Republicans publicly announced it but that House Democrats had not been consulted.

The Senate has no immediate plans to vote on the joint committee. Although few details of the panel's proposed structure have been released, it is expected to include the chairmen and vice chairmen of several standing committees in Congress. Sen. Susan Collins (R-Maine) has been named as the Senate co-chair. No corresponding House co-chair has yet been named. As with other congressional committees, it would be controlled by Republicans.

As Republicans pressed forward with the joint committee, Democrats were readying a relief package for the immediate needs of the Gulf Coast residents, including proposals aimed at providing food, housing and income. They expect to unveil the package today or tomorrow.

Many of the elements of the package will be familiar legislative initiatives backed by Democrats. It is also likely to include actions that can be taken independently by the administration.

Democratic strategists spoke approvingly of Democrats' handling of the fallout from the administration's poor response to the disaster, although they said it was too soon to say whether the situation would benefit Democrats in the long term.

"The real test is whether or not in 10 months the public is really willing to make a judgment on who's in control" on the response to Katrina, Democratic consultant Matt Angle said.

Pelosi was the first to call for Congress to return early from the August recess to authorize money for Katrina relief, which it eventually did. She demanded that former Federal Emergency Management Agency Director Michael Brown be fired; he resigned Monday after having been removed from Katrina relief efforts. She and other Democrats have forcefully called for greater oversight of the disaster-relief funds.

A spokesman for House Speaker Dennis Hastert (R-Ill.) could not be reached for comment.

9/11 Panel Says U.S. Hasn't Enacted Crucial Reforms (WP)

By Dan Eggen

The Washington Post, September 14, 2005

Four years after the Sept. 11, 2001, attacks, the federal government has failed to enact crucial homeland security reforms that could have saved lives and improved the sluggish response to Hurricane Katrina, according to a report to be issued today by former members of the Sept. 11 commission.

Local emergency officials are still unable to reliably communicate with one another during disasters, the federal government has no clear system of command and control for responding to a crisis, and authorities have faltered in enacting basic border controls designed to keep out terrorists, according to the report's findings, which commission members outlined in interviews.

A separate commission report released yesterday provided chilling details about the Federal Aviation Administration's assessment as early as 1998 that al Qaeda might try to fly a jet into a U.S. landmark.

"In 1998 and 1999, the FAA intelligence unit produced reports about the hijacking threat posed by [Osama] Bin Ladin and al Qaeda, including the possibility that the terrorist group might try to hijack a commercial jet and slam it into a U.S. landmark," according to the report, which was a new version of a more heavily edited document released earlier this year.

But, the report added, the FAA viewed the possibility as "unlikely" and a "last resort."

Thomas H. Kean (R), the former New Jersey governor who headed the panel that investigated the terrorist attacks, said the bungled response to Katrina laid bare how unprepared the nation remains for a catastrophic event, whether it is another terrorist strike or a natural disaster.

"This is not a terrorist incident, but it brings into play all of the same issues and shortcomings," Kean said. "What makes you mad is that it's the same things we saw on 9/11. Whoever is responsible for acting in these places hasn't acted. Are they going to do it now? What else has to happen for people to act?"

Lawmakers and the Bush administration are in the midst of a partisan debate over whether an independent panel akin to the Sept. 11 commission should be formed to study missteps that left tens of thousands in New Orleans and along the Gulf

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Coast stranded without assistance after Katrina. More than 640 deaths have been confirmed from the Aug. 29 storm and its aftermath.

Congressional Republicans have proposed a special committee to investigate the Katrina response, but many Democrats support the idea of an independent commission. The Bush administration, which also resisted formation of the Sept. 11 panel, has signaled that it does not support a separate Katrina commission.

The Sept. 11 commission is technically disbanded and is now operating as the nonprofit 9/11 Public Discourse Project. It has held a series of hearings in recent months to examine the government's progress in enacting recommended reforms.

Congress and the Bush administration have embraced many of the major changes recommended by the Sept. 11 panel in its best-selling 2004 report, such as creation of an intelligence director to coordinate anti-terrorism and anti-espionage efforts.

But Kean and other commission officials fault Congress and the administration for proceeding too slowly on some changes and ignoring others altogether, including a recommendation that Congress restructure the way it handles oversight of homeland security issues. Today's findings will be the first of three reports to be issued in coming months, followed by an overall "report card" that will rank the government's progress at the end of the year.

Kean and other commission officials said the most serious oversights are those that might have helped in the response to Hurricane Katrina.

The commission's report will note that lawmakers, facing opposition from the broadcast industry, have not established a unified emergency communications system by dedicating a portion of the broadcast spectrum to medical and disaster responders.

As on Sept. 11, when malfunctioning radios contributed to deaths in the World Trade Center, public safety officials in New Orleans have reported widespread communications problems.

"The fact that Congress has chosen not to do something about this is a national scandal that has cost lives," Kean said.

Other shortcomings that will be highlighted by today's report include delays by the Department of Homeland Security in ranking potential transportation and infrastructure vulnerabilities, continuing confusion over the line of command to be followed in national emergencies, and sluggish efforts to track visitors entering and leaving the United States.

The panel's follow-up investigation also has found that only a few of the nation's 441 commercial airports have deployed equipment to check passengers for explosives, despite the continued threat of attack by suicide bombers.

"The White House and the Congress took off with the baton . . . but they haven't finished running the race," said commission member Timothy J. Roemer, a former Democratic congressman from Indiana. "The fundamental job of the government is to protect and defend its citizens, and at this point the United States is still very vulnerable."

Some Steps Congress Can Take To Prevent Another Katrina (RC)

By Norman Ornstein

Roll Call, September 14, 2005

Last week, I took Congress to task for its four-year-long failure to deal with lapses in the communications system that became evident on Sept. 11, 2001, as well as for Congress' failure to provide any effective oversight in homeland security and disaster response, especially its failure to provide adequate scrutiny at the time the Department of Homeland Security was created. In this column, I want to provide some suggestions for what to do now.

But before I get there, I have to address another area of embarrassing failure on the part of Congress (once again): the continuity issue.

For years after 9/11, Congress dithered on the question of how to make sure the legislative branch could be quickly reconstituted after a devastating attack. It finally responded with a bill to mandate quick elections if 100 House Members were killed. Before the August recess, the House bludgeoned the Senate into accepting its accelerated elections bill, without a hearing or any feedback or scrutiny, by attaching this substantive piece of legislation — one imposing an unfunded mandate on states and localities with no federal spending involved — to an appropriations bill.

Procedurally, this was offensive. Substantively, the bill is woefully inadequate. To illustrate, let us use the Hurricane Katrina situation as a template.

Imagine that what happened in Louisiana and Mississippi had happened more widely — say, a series of terrorist attacks causing mass havoc in 10 states, not two or three, with all or most of their lawmakers killed in one of the attacks on the Capitol. What would happen under this law? Louisiana and Mississippi would have had to have chosen the candidates for all their seats days ago — even as rescue operations continued, with all officials mobilized every minute of every day to provide basic services, and with the states coping with hundreds of thousands of evacuees.

Election officials would have then had basically until the end of this month to get all the polling places ready to go, print ballots or prepare their electronic machines (all assuming there is electricity to run them) and the candidates would have to have

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begun to run their campaigns. Oh, one other "technicality": voters would have to be home to cast their ballots. Or found, very quickly, to cast absentee ballots (which would have to be printed in the days after the candidates were selected. Maybe at the local Kinko's — oops, it's under water). And voter registration records, in some cases also under water, would have to be uncovered to make sure that the voters were voting in the right districts — including voters without any ID.

This is the core of Congress' response to the terrorist threat to governing institutions, and it is farcical.

Now on to a road map for dealing with some of the broader problems. First, communications. It should be an urgent priority for Congress to carve out an adequate spectrum for public safety and first responders. In other words, no more dithering, no more puppets on the string of broadcasters. It does not take a lot of spectrum space to make this happen — a mere 24 Mhz out of the 700 Mhz band now used by broadcasters for their analog signals, which should be coming to a swift conclusion anyhow. We need a date certain, and a rapidly expedited date.

In the meantime, Congress should provide backing for the Federal Communications Commission's desire to free up some of the unused spectrum that now provides "white space" between broadcast channels — space which, given new technology, can be used without interference and can supplement the airwaves now used by emergency responders. This white space also can provide unlicensed opportunities for low power local transmissions to enable citizens and emergency responders to communicate after a catastrophe and to get up and running quickly if their equipment takes a hit. The commercial broadcasters have tried to beat the drums against this use, but virtually every major independent expert, including those at the FCC, has challenged them. This set of issues should no longer be in the usual realm of power politics, where the National Association of Broadcasters has long reigned supreme, but rather in the realm of urgent public priority.

In addition, Congress also needs to step in to mandate that all first responders have interoperable radio equipment, and equipment that can be easily replaced and recharged.

Two other issues need to be addressed. One is the structure of Congress itself as it deals with homeland security and the response to attacks or catastrophes.

Congress did implement many of the recommendations of the 9/11 commission. But one area where it fell short, to no big surprise, was its own capacity. The House changed its homeland security panel into a permanent standing committee, but did not give it adequate jurisdiction. Not much can or will be done about this problem immediately. But as Speaker Dennis Hastert (R-Ill.) and the majority Republican leadership move now to name a chairman for the committee to replace the excellent Rep. Christopher Cox (R-Calif.), it should put a premium on choosing a strong chairman who will not hesitate to take on other chairmen in turf battles, and most importantly will see oversight of the DHS as a noble and critical function. There are several good choices, but one to keep in mind is Rep. Dan Lungren (R-Calif.), a strong conservative who understands the need for an independent Congress and Congressional role.

As for the Senate, it is ridiculous not to give its homeland security committee jurisdiction over the Coast Guard, which Katrina is showing to be a critical piece of the homeland security puzzle.

The other issue is the distribution of homeland security funds to states and localities. There is not enough money available for first responders — period. But the money that is available is misallocated, with the usual desire to give every district a piece of the pie reigning supreme.

There are some commendable formulas being debated out there. But in the end, if Congress is left to its own devices, and if the small states that dominate the Senate and its homeland security panel exert themselves, we will fritter away a lot of money and leave the most vulnerable areas inadequately protected. That includes areas most vulnerable to natural disasters as well as terrorist attacks.

I think it is time to consider the Base Realignment and Closure Commission model for this important need. We all owe former Rep. Dick Armey (R-Texas) a vote of thanks for establishing the framework for dealing with base closings. It is imperfect, to be sure, but Armey found a good way to get bases closed while retaining a real role for Congress and protecting it against its worst parochial instincts. A parallel approach could work for allocating first-responder funds, hopefully channeling the money more efficiently to where it is most needed.

Of course, that alone is not enough. States and localities also waste a lot of the money they get, sending it within states to all counties when some are far more vulnerable than others, and using some of the money for comparatively frivolous items. Congress should tie the grant of these monies to states with state plans that use models similar to BRAC to allocate their funds fairly, judiciously and efficiently.

Norman Ornstein is a resident scholar at the American Enterprise Institute.

400 N.Y. Court Volunteers Set To Aid Hurricane Victims (LAW)

By Thomas Adcock, New York Law Journal

Law.com, September 14, 2005

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New York's Unified Court System has organized a stand-by contingent of up to 400 volunteer court officials to help the devastated legal communities of Louisiana and Mississippi, the two states hardest hit last month by Hurricane Katrina.

In light of the Sept. 11, 2001, terrorist attacks, Chief Judge Judith S. Kaye said Monday, "We have very special expertise, sad to say. We know what it's like to have courtrooms brought to a standstill. We lived it -- those unforgettable days and weeks when we had to figure out so many things for the first time."

The volunteers, most veterans of 9/11, are set to offer emergency help in such areas as court security, records recovery, voice and data communications, computer networks and the creation of temporary court sites.

"I'm amazed. Everybody wants to do something," Kaye said Monday in a phone interview from Albany. "The e-mails just keep coming to me."

The New York volunteers -- as well as commitments of equipment and money through a specially created relief fund -- have been registered with the State Emergency Management Office in Albany. Registration enables disaster-impacted states to quickly request specific assistance from other states, in accordance with the Interstate Emergency Management Assistance Compact, a federal program begun in 1996 when then-Florida Governor Lawton Chiles was unhappy with government response to Hurricane Andrew.

Ronald Younkins, chief of operations for the Office of Court Administration, said that Gulf Coast court officials are currently assessing damage to their facilities and conducting a census of their scattered personnel.

"As soon as they're ready to have us, we'll deploy people and materials," he said. "Right now, we have team leaders in place just waiting to hear the word."

In addition to volunteers, the following New York assets were registered as available to the courts of Louisiana and Mississippi:

· 50 law enforcement personnel to help with courthouse and courtroom security and handling prisoners.

· 100 personal computers.

· Assorted technical equipment, including 10 magnetometers, 20 hand-scanners, 10 rechargeable search lanterns, 72 heavy-duty flashlights and 1,500 light sticks.

Kaye said sending the personnel and resources to the Gulf Coast will not have any negative repercussions at home.

"We may not have a large cadre of people actually go down, so I don't think it's going to be a drain on us or negatively impact our resources," she said. "At the first level, what I hope is that it's going to be a solace to people there that we have so many eager to help."

When Katrina struck the Gulf Coast on Aug. 29, Kaye called on three top deputies -- Younkins from OCA; Lawrence K. Marks, OCA's administrative director; and Chief Administrative Judge Jonathan Lippman -- to begin assessing which people and what assets could be available for dispatch to the region.

In addition, the trio informed their Southern counterparts of cash grants available through the "UCS Katrina Courts and Families Recovery Fund," modeled on a fund created after 9/11 that raised about $350,000 to aid New York court personnel and their families. (Contributions to the UCS Katrina Fund may be sent to OCA at 25 Beaver Street, 11th floor, New York, N.Y., 10004.)

On Friday, Kaye was advised that the legal systems of Louisiana and Mississippi were in shambles. In an internal report, Lippman wrote of those states: "Countless judges and court employees and their families have been dislocated from their homes. ... [S]ome court personnel are reported missing, and many courthouses have been destroyed, damaged or flooded."

While Alabama officials said courts there had "escaped relatively unscathed," according to Lippman's report, the destruction elsewhere along the Gulf Coast is incalculable.

"[T]he Mississippi court system was not prepared for the severity of the hurricane and has been brought to its knees," Lippman wrote. "Communications have been virtually nonexistent. As a result, they are unaware at this time whether any court personnel are among the dead and missing."

In Louisiana, court officials in the capital of Baton Rouge are "still very much in the dark as to the condition of the courthouses located in the affected regions," Lippman wrote, "since they have been unable to gain access ... to assess the damage, including, for example, to the Supreme Court, which is located in downtown New Orleans."

Lippman said Louisiana officials do not yet know the number of displaced or deceased court employees, but that they do know that 10 of the 12 judges who sit on the 5th U.S. Circuit Court of Appeals are without homes.

Since recovery of legal systems in Louisiana and Mississippi hinge on retrieving or recreating vital documents, the New York court official most likely to head south is Rick Hogan, OCA's chief records manager.

"We've done this kind of work before," he said, referring to 9/11, "but nothing on this scale."

Last Tuesday, Hogan began researching court rules and regulations in Louisiana and Mississippi with respect to record-keeping in order to prepare for the massive restoration task.

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"Louisiana actually has a pretty robust system of records preservation," he said, citing procedures for backing up paper records via microfilm and digital archives. "You don't necessarily find that in every state, and it will help in our efforts if we're called."

As for paper records still underwater, he added, "If they're not mush, to some degree they're in a better situation than 9/11 when things were blown up."

Hogan said water-damaged paper would first be preserved by freezing, then put through any of several chemical processes to restore ink images.

"It's actually pretty fascinating," said Younkins, who expects to travel south with two to three assistants and a supply of latex gloves, masks and tweezers for peeling apart stuck pages. "Talk about hands on. We really are."

Louisiana Governor Blasts FEMA Over Recovery Of Bodies (KRT)

By Thomas Fitzgerald And Joyce Tsai

Knight Ridder, September 14, 2005

BATON ROUGE, La. - Blasting federal officials for a "lack of urgency and lack of respect," Louisiana Gov. Kathleen Babineaux Blanco said Tuesday that the state would seize control of the task of recovering the bodies of Hurricane Katrina victims.

"In death, as in life, our people deserve more respect than they have received," Blanco told reporters before convening a cabinet meeting.

She accused the Federal Emergency Management Agency of causing delays because the agency had failed to sign a contract with the firm hired to collect corpses and was not providing enough support for the firm's crews.

FEMA spokesman David Passey responded that body recovery has always been the state's job, and federal authorities were in charge of body identification. "I can't explain the disconnect," he said.

The latest round of finger-pointing came over a particularly sensitive issue, as floodwaters continued to recede in New Orleans, opening access to some of the areas hardest-hit by the storm.

As recently as Monday afternoon, in the Lower 9th Ward of New Orleans, a woman's corpse was hung up on a cyclone fence, her arms outstretched as if she had been caught running from something. Another body lay face down in the muck in a yard a couple of blocks away.

Blanco said she signed a state contract with Kenyon International Services, an expert body-recovery firm, after it threatened to pull out of the state because it did not have a formal contract with FEMA.

Kenyon crews have been on the ground since last week, when FEMA brought the firm in under a verbal agreement to assist in recovery efforts, Passey said. The agency, he added, offered the company a contract.

"Kenyon chose for their own reasons not to sign a contract," Passey said. He said the federal government's disaster-mortuary teams specialize in identifying bodies through fingerprinting, photography, personal effects, digital dental X-rays and DNA.

Kenyon officials did not return phone calls seeking comment.

Kenyon technicians come in after search-and-rescue teams and military personnel identify locations of bodies. Kenyon workers then transport the bodies to FEMA's mortuary teams in the town of St. Gabriel, where the agency has established a makeshift morgue.

Further complicating the body recovery, Passey said, is the desire of some parishes to recover bodies in their own jurisdictions.

"That's their prerogative," he said. "We're here to support the state and the local government."

New Orleans Mayor Ray Nagin said that door-to-door searches for bodies should be complete by the end of the week.

Pace Of Corpse Recovery Draws Rebuke (LAT)

By Josh Meyer And Solomon Moore

The Los Angeles Times, September 14, 2005

BATON ROUGE, La. — As Hurricane Katrina's victims continued to decompose on streets and inside homes, Louisiana's governor lashed out Tuesday at the Federal Emergency Management Agency, saying its failure to recover the dead has forced the state to hire its own contractors to do the job.

"In death as in life, our people deserve more respect than they have received," Gov. Kathleen Babineaux Blanco said at a news conference here, flanked by state elected officials.

"No one, even those at the highest level, seems to be able to break through the bureaucracy to get this important mission done," Blanco said. "I am angry and outraged."

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Representatives of Kenyon International Emergency Services Inc. of Houston confirmed that they were entering into a long-term contract to provide the state with 100 to 200 contract workers who specialize in recovering bodies from disaster zones. They said the firm rejected a similar request for a contract from FEMA, citing the federal agency's failure to provide adequate support for its operations and other shortcomings.

State and federal officials also said Tuesday that they now believed that a significant number of homicide victims were among the dead, including those killed in post-hurricane violence or in alleged acts of criminal negligence, such as the case of the nursing home owners charged with leaving dozens of elderly patients in Katrina's path.

That will complicate the body recovery effort because local authorities would need to be brought in to gather evidence for possible arrests and prosecutions, the officials said.

But because so many bodies have been left unclaimed and lying out in Louisiana's heat, humidity and fetid waters, it will be virtually impossible to determine how some died, whether they were killed or by whom, said Blanco spokeswoman Denise Bottcher.

"We'll probably never know," she said.

Until now, Blanco, a Democrat, has shied away from criticizing Washington's response to the hurricane since it hit shore more than two weeks ago. The governor said she decided to go public with her criticism after promises from Washington failed to come through, including a pledge from Michael Chertoff, the secretary of Homeland Security, "that plans would be put in place for a system of 'recovery with respect.' "

Blanco accused FEMA and the Department of Homeland Security of botching the recovery effort by hiring Kenyon and then failing to provide it with the resources needed to do the job.

"Yesterday, Kenyon officials told me that if things don't change, they would leave as soon as they could professionally pull out," Blanco said. "While recovery of bodies is a FEMA responsibility, I cannot stand by while this vital operation is not being handled appropriately."

Teams of Kenyon workers have been working alongside FEMA officials since Sept. 7, after playing a similar role after the tsunami in Asia and the Sept. 11, 2001, attacks.

But Kenyon's temporary contract with FEMA was set to expire Tuesday.

Bill Berry, a Kenyon spokesman, was also critical of the FEMA effort but said the company was trying to stay neutral.

Berry said the situation improved in recent days as Louisiana state officials played a greater role in the recovery effort.

And he said Kenyon workers would continue unabated the grisly task of finding the bloated and often unrecognizable corpses.

From there, the bodies are delivered to refrigerated FEMA trucks set up around the region, and then taken to a makeshift morgue near Baton Rouge so FEMA's Disaster Mortuary Operational Response Teams can try to identify them.

Those identified and claimed by next of kin are then sent back to local mortuaries for burial.

FEMA officials said they were stung by Blanco's comments, and that under mutually arranged disaster plans, the state of Louisiana was responsible for initial recovery of bodies with assistance from the disaster teams.

"The collection of bodies is not normally a FEMA responsibility. Last week, that plan was modified at the state's request," said David Passey, a lead FEMA spokesman for the recovery effort.

According to Passey, state officials said that they were too overwhelmed by the scope of the disaster and that they needed FEMA's help in finding the many bodies hidden in the nooks and crannies of still-flooded homes and other locations.

FEMA agreed, and last week it called in Kenyon on an emergency basis while long-term arrangements could be made, Passey said.

In a statement Tuesday evening, Blanco extended an olive branch of sorts to those involved in the federal rescue effort after receiving a phone call from Coast Guard Vice Adm. Thad W. Allen, Washington's newly appointed hurricane recovery czar.

She said Allen called to say the federal government was working hard to quickly recover all bodies and to do so with dignity and respect.

"I deeply appreciate Adm. Allen's sensitivity and understanding and his call to me this afternoon," Blanco said.

Meanwhile, bodies continued to surface in New Orleans, and the official death toll rose to 423. Many of the corpses that had been out on the streets for a week or more continued to decompose in plain sight.

In one of New Orleans' poorest sections, one man was still facedown in the mud on Reynes Street. Another's foot remained tangled in a tree, his torso over a fence at Flood and Johnson streets. And a woman was still tethered to a tree at Claiborne and Lizardi streets in the Lower 9th Ward days after a Times article Saturday described their condition.

Cotton Howell, the York County, S.C., emergency management director who is helping the body recovery operation, said the New Orleans effort appeared to be plagued by problems.

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Howell said that according to federal guidelines, the bodies of the dead should not be left outside in the sun or in warm water because they decompose so quickly that it is much harder and more expensive to identify them. Also, he said, they can create health problems.

"They would certainly be brought" inside, Howell said. "That is the No. 1 thing."

Howell said he knew that "FEMA is down there pouring resources every day."

But he said he was troubled by the fact that so many bodies had been left out.

"Even though it is a body, they are still a person," Howell said. "We get them into a morgue facility so we can take care of preserving their dignity. Away from prying eyes, so they can be afforded some respect in death."

Official Vows Investigation Of No-Bid Relief Contracts (NYT)

By Philip Shenon

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - The inspector general of the Department of Homeland Security said Tuesday that his office had received accusations of fraud and waste in the multibillion-dollar relief programs linked to Hurricane Katrina and would investigate how no-bid contracts were awarded to several large, politically well-connected companies.

The inspector general, Richard L. Skinner, who serves as the department's internal watchdog, said in an interview that he intended to be "extremely aggressive" in monitoring the Federal Emergency Management Agency, which will receive most of the $62 billion in disaster-response financing approved by Congress last week.

FEMA, which is part of Homeland Security, was harshly criticized in recent months as mismanaging millions of dollars in relief funds after a 2004 hurricane in Florida.

Mr. Skinner's remarks came as the secretary of homeland security, Michael Chertoff; Attorney General Alberto R. Gonzales; and Republican Congressional leaders said Tuesday that they also were concerned about the potential for abuse, given the amount of federal money and private charity committed to the hurricane-relief effort.

Their comments appeared to be a response, in part, to charges from Democratic lawmakers that such a large, hurriedly organized federal relief program could produce the sort of contract abuses, cronyism and waste that numerous investigations have identified in the Bush administration's reconstruction programs in postwar Iraq.

"We are very mindful of this," said Mr. Chertoff, a former federal prosecutor who directed the Justice Department's criminal division earlier in the current administration. "We haven't suspended the laws that govern the way in which people have to behave ethically and legally."

Spokesmen at FEMA have been unwilling to provide details of the decision-making process that is being used to award contracts for the hurricane-relief program, nor have they identified the agency officials who are making the procurement decisions. During the Bush administration, the agency's senior management has included several officials without significant experience in disaster relief, including its former director, Michael D. Brown, who resigned on Monday.

Mr. Skinner, a former acting inspector general of FEMA, would not discuss details of the accusations his office had received in recent days involving hurricane relief projects. But he said he was dispatching about 30 investigators and auditors to Louisiana, Mississippi and Alabama next week to "focus on prevention, to prevent things from going wrong" in the way the disaster money is spent.

He said that his investigators would focus on several no-bid contracts awarded over the last two weeks to large, politically influential companies, including the Fluor Corporation of California, a major donor to the Republican Party, and the Shaw Group of Baton Rouge, La. Shaw is a client of Joe M. Allbaugh, a consultant who is the former head of FEMA and was President Bush's campaign manager in 2000.

Another of Mr. Allbaugh's clients - Kellogg Brown & Root, a subsidiary of Halliburton, the giant defense contractor once led by Vice President Dick Cheney - is doing major repairs at Navy facilities along the Gulf Coast that were damaged by the hurricane. That work is being done under a $500 million contract with the Defense Department.

Mr. Skinner said he had no reason to believe there was anything wrong with the no-bid contracts, "but we're going to be looking at all of the contracting, the decision-making that was used to determine a sole-source contract."

"We want validation and we want documentation to show that it was rational to go one way or the other" in offering a no-bid contract, he said.

He said his investigators would also closely monitor expenditures on the government-issued credit cards of Department of Homeland Security contracting officials involved in the hurricane relief program. As a result of Hurricane Katrina, Congress last week raised the limit that could be charged on the cards to $250,000 from $25,000, a move that Democratic lawmakers have warned will invite fraud.

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Mr. Skinner said his office had acquired computer software that would allow his investigators to monitor the credit card charges on a daily basis and "flag anything that looks peculiar or extraordinary."

He added, "If we see a credit card purchase of $250,000, we would immediately find out whether it was appropriate."

Under the $51.8 billion hurricane relief bill passed by Congress last week, Mr. Skinner's office was provided with $15 million for investigations related to Hurricane Katrina. That money, when added to the office's regular annual budget of about $82 million, would allow his staff to have a "good start" in preventing abuse resulting from the hurricane relief effort, Mr. Skinner said.

"I'm not saying that's all we're going to need, but it's a good start," he said.

U.S. To Monitor Spending Of Katrina Relief Funds (WSJ)

By Robert Block and Yochi J. Dreazen

The Wall Street Journal, September 14, 2005

WASHINGTON -- Amid growing concern in Congress over billions of dollars in federal relief flowing to the Gulf Coast with few controls, the Homeland Security Department will send a team of investigators to the disaster zone to follow the money.

The investigators and auditors from DHS's Office of the Inspector General, the agency's internal watchdog, are part of a growing effort to ensure federal funds are properly distributed in a rescue, relief and rebuilding process. The funds are expected to exceed $100 billion.

DHS Secretary Michael Chertoff said that as the effort to save lives winds down, his department will focus on recovery challenges, including ensuring that the contracting process is conducted properly. "We want to get aid to people who need it quickly, but we also don't want to lose sight of the importance of preserving the integrity of the process and our responsibility as stewards of the public money," he said.

Meanwhile, President Bush spoke out again about the federal response to Hurricane Katrina and its aftermath, and in an unexpected concession told reporters at the White House that as president, he bears responsibility for the breakdown, as well.

"Katrina exposed serious problems in our response capability at all levels of government," Mr. Bush said. "And to the extent the federal government didn't fully do its job right, I take responsibility."

Under fire for the delayed federal relief effort in the Gulf Coast and facing the lowest approval ratings of his presidency, Mr. Bush has scheduled a speech to the nation from Louisiana tomorrow night. It will be his fourth trip to the region since the storm struck two weeks ago.

Appearing with Mr. Chertoff, R. David Paulison, the newly appointed head of the Federal Emergency Management Agency, said he would study what went wrong with the response effort with an eye to fixing the problems. But, he added, his top priority was finishing rescue operations and finding housing for tens of thousands of storm victims.

"We're going to get people out of the shelters, we're going to move on and get them the help they need," he said in his first public comments since taking the job.

The huge amounts of money at stake in housing and reconstruction contracts are prompting calls for special supervisory efforts. Critics call the spending deluge a disaster-in-waiting if not properly controlled. So far, Congress has approved spending $62 billion in Katrina-related relief efforts. Of $50 billion directed to FEMA, part of Homeland Security, just over $9 billion has so far been spent, FEMA spokeswoman Natalie Rule said.

Many of the normal safeguards to prevent federal contracting fraud have been suspended following Katrina to ensure emergency federal aid gets to victims as soon as possible. Some contracts, including five with emergency housing and construction companies, were awarded hurriedly without undergoing normal competitive bidding processes.

House Foreign Operations Appropriations Chairman Jim Kolbe (R., Ariz.) last night introduced legislation to create a special inspector general charged with monitoring the way the Katrina funds are spent to stave off waste and abuse. The bill has 14 co-sponsors, including 11 Republicans. The new post is designed to replicate the special inspector general for Iraq reconstruction, Stuart Bowen, who is widely credited with sharply reducing the waste and fraud there.

Health Records Of Evacuees Go Online (WP)

By Jonathan Krim

The Washington Post, September 14, 2005

The federal government is making medical information on Hurricane Katrina evacuees available online to doctors, the first time private records from various pharmacies and other health care providers have been compiled into centralized databases.

The data contain records from 150 Zip codes in areas hit by Katrina. Starting yesterday, doctors in eight shelters for evacuees could go to the Internet to search prescription drug records on more than 800,000 people from the storm-racked region.

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Officials hope to soon add computerized records from Medicaid in Mississippi and Louisiana, Department of Veterans Affairs health facilities, laboratories and benefits managers.

The records are one step in reconstructing medical files on more than 1 million people disconnected from their regular doctors and drug stores. Officials fear that many medical records in the region, especially those that were not computerized, were lost to the storm and its aftermath.

Although the immediate focus is on urgent care for hurricane victims, participants in the effort say the disaster demonstrates a broader need to computerize individual health records nationwide and make them available throughout the medical system. Such a step could, for example, give emergency room doctors a way to quickly view medical histories for late-night accident victims.

Electronic health records are controversial among many privacy advocates, who fear the data could be exploited by hackers, companies or the government.

Ray Fowler, head of medical relief operations in Dallas, said "it was extremely scary" for doctors to have no records to rely on as thousands of evacuees poured off buses with serious injuries or infections.

Some patients had been on various medications before the hurricane, for conditions such as high blood pressure, but did not know what prescriptions they took, Fowler said.

Currently, roughly 8,000 people are in critical care shelters, while other seriously ill patients are being treated in hospitals outside the Gulf Coast region. But many of the 250,000 evacuees in various shelters also need medical attention.

"We think this could help save some lives," said Dr. David J. Brailer, coordinator of health information technology for the Department of Health and Human Services, who is spearheading the effort.

The system took about 10 days to organize, with daily conference calls involving as many as 60 state and federal officials; emergency medical providers; insurance, pharmacy and medical-software company representatives; and government lawyers.

Participating pharmacies so far include CVS, Rite Aid, Albertsons, Walgreens and Wal-Mart. Expected to be added soon are Winn-Dixie, Kmart and Target.

Brailer said he was concerned throughout the process with privacy issues. Only medical personnel at the various shelters and hospitals treating evacuees will have access to the information.

Federal regulations do not require patient consent for their records to be shared for medical purposes. Companies or organizations that have such data must have formal agreements with each other before data can be exchanged, but the government said it would not enforce those rules while Katrina victims were in need, as long at the entities had verbal agreements to use the data for the relief effort.

States with more stringent regulations suspended their rules as well.

"We've been extremely cautious," Brailer said. "There were a lot of things we could have done that we didn't do."

Brailer said in his original vision, the database program would end once evacuees are permanently resettled, either back in their home communities or elsewhere.

Others involved in the effort, however, already are discussing ways to enhance the system and create personal health records for those who might need to move frequently over the next several months. As constructed, the databases do not allow doctors to update the records with information on treatment provided in the shelters.

"We're already preparing for a second wave of victims who have been in hotels but the money is running out," Fowler said.

The Bush administration and the pharmaceutical and technology industries have long argued that standardized, individual electronic health records that can be shared and quickly viewed would improve care and cut costs.

Electronic records also would speed the way for patients seeing different specialists, switching doctors or moving frequently in an increasingly mobile society. And they could be used to identify medical inefficiencies in the public-health system, proponents argue.

Even before the hurricane hit, Brailer's office was preparing to award contracts to create a "national architecture" for electronic records that every player in the medical system could use. The government is not mandating such a system nor will it operate it, Brailer said, but it wants to enable the private sector to do so.

On Monday, Health and Human Services Secretary Michael Leavitt named 16 people to a task force to advance the administration's goal of bringing electronic health records to most Americans within 10 years.

None is from a recognized privacy organization, and privacy advocates worry that even beneficial efforts during an emergency can expand beyond the scope of the original crisis.

Sue A. Blevins, founder of the Institute for Health Freedom, a medical-policy think tank, said she supports emergency programs such as the Katrina databases. But she said that "many things are done during a crisis that society normally would not accept."

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Blevins opposes national electronic health records for individuals because the Bush Administration eliminated the right of patients to give consent before their health information could be shared under many circumstances.

"When you don't give people the freedom to decide how much information they want to share . . . the only choice they have is to either lie or withhold the information when they want their privacy," she said.

IRS Offers Leave-Donation Plan, Other Steps To Aid Storm Victims (WSJ)

By Tom Herman

The Wall Street Journal, September 14, 2005

The Internal Revenue Service is stepping up efforts to bring relief to Hurricane Katrina victims.

Officials recently disclosed a plan designed to attract more charitable donations to storm victims. The IRS plan encourages employees and employers to participate in so-called leave-based donation programs.

Under such programs, an employee generally gives up unused vacation, sick or personal leave, in exchange for the employer donating the value of that time to charities helping hurricane victims. Tax lawyers say numerous companies are considering offering this leave-donation program soon.

IRS officials say employees don't have to include the value of the donated leave in their taxable income, while employers can claim a tax deduction. The program applies to payments made before the end of 2006 to charities aiding Katrina victims.

"It's likely to lead to millions of dollars of employee donations that might not otherwise have been made," says Mary B. Hevener, a tax lawyer at Baker & McKenzie in Washington.

The IRS announced a similar move late in 2001, after the Sept. 11 terrorist attacks. Officials say they don't have any statistics on how many people signed up to donate time then.

One business that says it's planning to offer such a program is Health Net Inc., a Woodland Hills, Calif., managed-care company. Health Net also is planning to match -- in dollar donations -- whatever employees contribute, a spokesman says. In addition, the company is making direct contributions on its own to charities helping in the recovery effort.

Separately, the IRS extended several key tax deadlines again. For example, shortly after the hurricane struck, the IRS extended the Sept. 15 deadline for estimated-tax payments until Oct. 17. Now, the IRS says the deadline has been extended to Jan. 3, 2006.

The IRS also says it will team up with the American Institute of Certified Public Accountants to offer help to taxpayers at local disaster-recovery centers set up by the Federal Emergency Management Agency. With so many lives disrupted by Hurricane Katrina, "the ability to expand service by using CPA volunteers should help reduce some of the tax issues victims will face," said IRS Commissioner Mark W. Everson.

· See complete coverage.

Meanwhile, Congress this week is considering a wide-ranging package of tax proposals aimed at helping the storm-ravaged areas. For example, Sen. Chuck Grassley, an Iowa Republican and chairman of the Senate Finance Committee, joined with Montana Sen. Max Baucus, the committee's ranking Democrat, to offer a 17-point plan.

One proposal would waive the 10% penalty for taxable premature distributions from individual retirement accounts and qualified retirement plans for someone whose principal residence is in a federally declared disaster area, according to a Grassley statement. Individuals eligible for this special waiver because of Hurricane Katrina would be allowed to pay income tax on the distributions over a three-year period. Amounts distributed could be recontributed to a qualified retirement plan over the three-year period following the distribution date and receive rollover treatment.

Another proposal generally would allow taxpayers who house Katrina evacuees for at least 60 days in their principal residence to claim an additional personal exemption of $500 per refugee, with a maximum $2,000 deduction. The senators also propose changing the rules on deducting personal casualty losses from Hurricane Katrina. Under current law, taxpayers who itemize can deduct casualty losses only to the extent they exceed 10% of adjusted gross income and a $100 floor. Sens. Grassley and Baucus propose eliminating the 10% floor for casualty losses incurred in the Katrina disaster area.

* * *

INTEREST RATES will rise on overdue taxes.

The interest rate on federal tax underpayments by individuals will increase to 7% during the October-December quarter, according to the IRS. That's up from 6% in the July-September quarter.

The new 7% rate will be the highest since the fourth quarter of 2001.

* * *

USING YOUR CAR to help out a charity may produce a bigger deduction.

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Under current law, taxpayers who itemize may deduct certain unreimbursed expenses, such as the cost of gas and oil, that are directly related to using their cars in helping charities. Drivers have the choice of deducting certain actual expenses or using the standard mileage rate of 14 cents a mile to figure the contribution. That 14-cent rate is set by statute.

This week, Sens. Grassley and Baucus proposed raising that rate to 50% of the optional standard business mileage rate set periodically by the IRS. "Making the rate flexible by linking it to the business rate takes fluctuations in gas prices into account and will encourage charitable activity," a Grassley statement says.

The IRS recently raised the optional standard mileage rate for taxpayers using their cars for business, but that new rate is effective only for the final four months of this year. The rate will rise to 48.5 cents a mile for all business miles driven between Sept. 1 and Dec. 31 this year, up from 40.5 cents a mile for the first eight months of this year.

The IRS also boosted the rate to calculate deductible medical or moving expenses to 22 cents a mile for the September through December period from 15 cents for the first eight months.

* * *

BRIEFS: Amid Washington's focus on hurricane recovery efforts, President Bush's advisory panel on federal tax reform won't issue its report by Sept. 30, as had been planned. "We are having ongoing discussions to determine when the panel's final report will be delivered" to Treasury Secretary Snow, says Tara Bradshaw, a panel spokeswoman. "Given that we have to reschedule our public meetings and we are working to accommodate all our panel members' calendars, a delay of at least 30 days is a fair assessment." ... The IRS Art Advisory Panel, which reviews appraisals of artworks in connection with federal income, estate and gift-tax returns, is scheduled to meet Sept. 21 in Washington.

Separate But Equal? Schooling Of Evacuees Provokes Debate (WSJ)

By Daniel Golden

The Wall Street Journal, September 14, 2005

The 372,000 schoolchildren displaced by Hurricane Katrina are stirring an old debate about whether separate education can really be equal.

A number of states, including Utah and Texas, want to teach some of the dispersed Gulf Coast students in shelters instead of in local public schools, a stance supported by the Bush administration and some private education providers. But advocates for homeless families and civil rights oppose that approach.

At the center of the dispute is whether the McKinney-Vento Act, a landmark federal law banning educational segregation of homeless children, should apply to the evacuees. In addition, because many of the stranded students are black, holding classes for them at military bases, convention centers or other emergency housing sites could run afoul of racial desegregation plans still operating in some school districts.

Separate education for the evacuees is "unconscionable," says Barbara Duffield, policy director for the National Association for the Education of Homeless Children and Youth. "Many states have worked extremely hard to comply with the law and give these kids a regular school experience. The federal Department of Education is seeking to undermine the law at a time when it is most needed."

Students from New Orleans board a school bus at Houston's Reliant Center.

But officials of some states contend that separate classes would be less disruptive to both school districts and displaced families. U.S. Secretary of Education Margaret Spellings is expected to ask Congress soon for authority to waive McKinney-Vento and other key education legislation, such as the 2001 No Child Left Behind law, which holds districts and schools accountable for test scores of students in each racial group. Without a waiver, the penalty for violating McKinney-Vento is to deny states the funding they receive under the act for homeless education. Although the act was enacted in 1987, the desegregation requirement was adopted in 1994 and strengthened in 2001.

Susan Aspey, an Education Department spokeswoman, said that "we still don't know" how broad a waiver the secretary will seek and that the secretary plans to be "prudent" in exercising the waiver authority. She also said the department doesn't know how many children have re-enrolled in public schools, how many are being educated separately and how many are awaiting placement. Since it's unclear how long the children will be displaced, she added, the secretary won't be granting waivers "in perpetuity."

Businesses from charter schools to distance-education providers are already pressing for permission to teach the homeless in shelters and other makeshift housing, hoping to gain broader acceptance for their approaches to education. Mark Thimmig, chief executive of White Hat Ventures LLC, which educates nearly 5,000 students in Pennsylvania and Ohio via the Internet, said last week that his company would be eager to educate displaced students in the Astrodome.

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After nearly 600 evacuees landed at Camp Williams, a National Guard training center in Utah, officials at the neighboring Jordan school district were ready to bus the children to school. The district, which is 1% black, has more than 75,000 students, including 1,800 homeless pupils.

But Pamela Atkinson, a special consultant to Utah Gov. Jon Huntsman Jr., had other ideas. The displaced families had experienced "so much trauma, anxiety and separation" that the parents "wanted their children close by," said Ms. Atkinson. "Since we had classrooms at Camp Williams, it made more sense to keep them there."

She contacted Sen. Orrin Hatch, a Utah Republican, who then asked Secretary Spellings to seek to waive McKinney-Vento. "These displaced and homeless children are not the typical homeless children," Sen. Hatch wrote. "Nearly all of them are with their families. It is important to keep families together as the Katrina victims receive aid and support." The secretary had already made a verbal commitment to Sen. Hatch that she would not enforce McKinney-Vento, according to the letter.

Now, while many families have moved off Camp Williams, about 20 displaced children in kindergarten through 12th grade are studying art, reading and other subjects in classrooms on the base. The state brought in two black educators to advise district teachers on "cultural sensitivity," Ms. Atkinson said. "As long as there's one child at Camp Williams, we will continue to hold that school."

Texas Education Commissioner Shirley Neeley, noting that 25,000 evacuees are housed at a closed Air Force base in San Antonio, asked the federal Education Department last week for "flexibility" to serve students "at facilities where they are housed, or otherwise separate from Texas residents during the 2005-2006 school year." U.S. Senator Kay Bailey Hutchison, a Texas Republican, introduced legislation Monday that would grant Secretary Spellings authority to waive McKinney-Vento.

Such proposals are arousing consternation among advocates for the homeless, who fear that nearly two decades of gains in public-school enrollment for homeless children will be wiped out. They note that the act, which also requires school systems to enroll homeless children even without documentation such as health and residency records and to employ liaisons to the homeless, was vital to the swift, open-armed response of school districts to the student influx in the hurricane's aftermath. Also, they say, thousands of storm-battered children have already enrolled in public schools across the country without ill effects.

Gary Orfield, director of a Harvard University project that monitors school integration, said that segregating a predominantly black group of evacuees could raise "constitutional questions of racial discrimination." He also said that because many of them may be traumatized, have learning deficits, or come from failing schools, it would be "terrifically difficult" to teach a separate class of the displaced students, and that placing them in middle-class schools and communities would benefit them educationally.

William L. Taylor, chairman of the Citizen's Commission on Civil Rights, said the administration's plans to ease McKinney-Vento and No Child Left Behind could leave the displaced students warehoused and forgotten. "We need some focus on the needs of the children, and not go around waiving a lot of regulations without deciding whether there's a need," Mr. Taylor said.

Not all states are seeking waivers. Mississippi officials turned down a proposal from a Navy base to hold classes there. Nikisha Ware, a Mississippi Department of Education official, said the law had helped evacuees to enroll in schools without red tape. "If there were no McKinney-Vento," she said, the hurricane "would have created it."

Education Official To Visit North Texas (DMN)

By Robert Dodge, The Dallas Morning News

The Dallas Morning News, September 14, 2005

WASHINGTON – Assistant Education Secretary Tom Luce will meet with North Texas school superintendents today to learn firsthand about the problems local schools face in educating students displaced by Hurricane Katrina.

Mr. Luce, a former Dallas lawyer and longtime education advocate, will be accompanied by Texas Education Commissioner Shirley Neeley. They also will visit some of the 90 students and families displaced by the hurricane at Madison High School in South Dallas.

"My No. 1 concern is to try and pick the brains of people on site about how they are dealing with taking students in," said Mr. Luce, who is working with U.S. Education Secretary Margaret Spellings on budget and policy issues related to the department's hurricane relief efforts.

Mr. Luce plans to return to Washington immediately after his meetings but is planning other visits possibly later this week to Houston and Austin. Other education officials visited San Antonio and cities in Louisiana and Mississippi this week.

Mr. Luce said their findings will eventually be part of the department's request to Congress for money to pay for the costs Texas faces for educating students displaced by the hurricane, a number that could reach 60,000. State officials say about 33,000 evacuated students have enrolled in Texas schools so far.

"We are trying to get as much info as possible so we can put together a response package on how the Department of Education can best meet these needs," he said.

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Federal Emergency Management Agency officials notified Texas earlier this week that it will reimburse the state for much of its expense. Some of those expenses include portable classroom buildings, mental health counselors and new computers.

Mr. Luce is likely to hear from the superintendents that they need more help to pay for textbooks and additional teachers. He said there probably will be other expenses for opening previously closed school facilities and buying desks and other supplies.

School superintendents are also likely to request that the department relax its enforcement of academic requirements under the No Child Left Behind Act.

Ms. Spellings, who toured schools affected by Katrina last week, has promised to be flexible in enforcing certain provisions of the law but will do so on a case-by-case basis. And Mr. Luce said it was much too early to make those assessments.

"That is not where any of us are right now, not even the school superintendents," he said. "The situation is much too fluid."

Mr. Luce said the department has no timetable for assembling its request to Congress. But he said Ms. Spellings is leading a relief task force that meets twice daily to assess the immediate needs facing schools.

He said he will share success stories from his Dallas trip with districts elsewhere that are struggling to work with hurricane evacuees. Mr. Luce, who was confirmed by the Senate in July, said he already knows many of the superintendents and is expecting to get a candid briefing.

"We will not need much time to get to know each other," he said.

More than 247,000 public and private school students have been displaced and 489 schools have been closed in Louisiana.

And in Mississippi, more than 125,000 students have been forced out of their schools. Officials have closed 226 schools in 30 districts, and almost 30 campuses were destroyed.

Ms. Neeley estimated educating students from the affected states could cost up to $450 million, based on the current average annual cost of $7,500 per public school pupil.

While Congress had already approved some funds for relief, Sen. Kay Bailey Hutchison, R-Texas, introduced legislation Monday that she hopes will give schools more flexibility in using federal funds.

Her proposal would give the education secretary greater authority to determine what costs should be reimbursed. It also would give the secretary power to relax federal standards for school systems that have taken on substantial numbers of students from other districts and states.

Katrina's Costs Weigh Down Stock Indexes (WSJ)

By Ian McDonald

The Wall Street Journal, September 14, 2005

Stocks sloshed around in the red as investors focused more on post-Katrina worries than positive economic data collected prior to the devastating hurricane and its aftermath.

Stock indexes started the day up about 3% since the hurricane slammed the Gulf Coast at the end of last month. But rising damage estimates are stoking fears that the economy and corporate profits will be dinged by higher gas prices and lower consumer spending resulting from Katrina.

The Dow Jones Industrial Average fell 85.50 points, or 0.8%, to 10597.44. The tech-stock-heavy Nasdaq Composite Index slipped 0.5%, or 11.08 points, to 2171.75. The Standard & Poor's 500-stock index dropped 0.8%, or 9.36 points, to 1231.20. Bond prices rose as investors were cheered by lower-than-expected inflation in August, pushing down yields.

"The market has been pretty strong since the storm, so it makes sense that we'd give some gains back," said Andy Brooks, head of stock trading for T. Rowe Price Group Inc. "All this economic data is open to revision post-Katrina."

Indeed, investors shrugged off heartening readings on the economy gathered prior to the hurricane. Despite record oil imports, the U.S. trade deficit unexpectedly narrowed in July, the Commerce Department said[TUE]. Meantime, the Labor Department released data showing that the prices of wholesale goods in the U.S. rose at a slower rate last month[AUG].

Traders' skepticism is likely reinforced with each trip to the pump. Crude futures fell 23 cents, or 0.4%, to $63.11 a barrel on the New York Mercantile Exchange, but gasoline futures rose 2.13 cents, or 1.1%, to $1.895 a gallon. The average retail price for regular gas was $2.956 a gallon, said driving club AAA.

Shares of electronics retailer Best Buy Co. were a barometer for investor fears about steep gas prices' effects on consumer spending. Its third-period projections were lower than expected, and shares fell 11% to $44.79 on the New York Stock Exchange.

In major U.S. market action:

Stocks fell and bonds rose. The 10-year Treasury note rose 12/32, or $3.75 for each $1,000 invested, pushing the yield down to 4.132%. The 30-year bond rose 17/32 to yield 4.418%.

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The dollar rose. Late in New York, the currency traded at 110.64 yen, up from 110.27 yen, while the euro fell against the dollar to $1.2270 from $1.2285.

Growth From Katrina Could Hurt Economy Most, Experts Say (KRT)

By Kevin G. Hall

Knight Ridder, September 14, 2005

WASHINGTON - A major hurricane devastates the Gulf Coast, dismembers the nation's energy center, sends national gasoline prices to all-time highs and leaves a storied city a toxic tidal pool. Yet there's little impact on the broader economy.

Economists call it a testament to the strength of the U.S. and global economy, which buffered the nation against Hurricane Katrina's damage and should offset any long-term economic ills from the storm.

Oddly enough, Katrina's biggest economic impact may not be the damage it left but the rapid growth it may spark next year when rebuilding begins in earnest along the Gulf Coast. That could fuel a pace of growth that adds to inflationary risks in an already strong economy.

Higher interest rates are the medicine for inflation, and that could lead to higher mortgage rates, which could threaten the nation's housing boom.

"To me, that could well prove a more important issue than the impact of Katrina," said Ken Matheny, a senior economist with Macroeconomic Advisers LLC, an economic forecasting company in St. Louis.

The nation's four-year housing boom has been fueled in large measure by low interest rates and consumer spending that has reduced household savings to nearly zero. The Federal Reserve has been notching up short-term interest rates - now at 3.5 percent. The number of mortgages and levels of consumer credit remain at all-time highs, and some liken the robust U.S. economy to a house of cards that is built on low interest rates. A sharp rise in rates could bring it all crashing down.

"The floodwaters unleashed by Katrina may be receding. But the economic aftershock of the disaster may still lie ahead," said Niall Ferguson, a Harvard University history professor who warns that Katrina may provoke interest-rate hikes down the road that shock the U.S. economy.

For the moment, however, economists are most worried about Katrina's damage to the energy infrastructure. Decreased oil production and damage to refineries has sent gasoline prices soaring to record highs. The cost of heating a home this winter is projected to rise 71 percent in some parts of the nation.

"It undermines growth at the same time that it fans inflation," said Mark Zandi, chief economist for Economy.com, an economic consultancy in West Chester, Pa.

If the price of energy climbs much further, it could set off an inflationary spiral throughout the economy, Zandi said. In such a scenario, rising prices create pressure to raise wages. Consumers spend less, and with declining sales, businesses fire workers or reduce hiring. Higher unemployment leads to even less consumer spending. It's a downward economic spiral.

Energy prices have climbed steadily since late 2004. That has pushed inflation - the rise in prices across the economy - above 3 percent, the top of the comfort zone for most economists.

But core inflation - the rise in prices excluding food and energy - has been surprisingly unaffected. On Tuesday, the Labor Department reported in its Producer Price Index that core inflation in the production of finished goods was unchanged in August. It grew by 0.4 percent in July. Core inflation for both consumer and production prices remains under a 3 percent annual rate.

That suggests that the economy's absorbing higher energy prices.

"It's not leaking into the core inflation rate as it did back in the 1970s," said David Wyss, chief economist for New York-based Standard & Poor's, a credit-rating and research company.

Energy price spikes in the 1970s created stagflation - a stagnating economy with high inflation. But before Katrina struck, the U.S. economy was on pace to grow at about 4 percent this year. Unemployment hovers around 4.9 percent, historically very low. Consumer and business spending are strong and inflation is nowhere near the galloping double digits of the 1970s.

Katrina "rekindles some concerns about inflation," said Wyss, but the U.S. economy depends less on cheap oil than it did during the 1970s. The strong government and private-sector spending expected to finance rebuilding on the Gulf Coast makes "the stagflation part a long shot," he said.

International trade has also softened the blow of higher energy prices. Although global trade has cost Americans jobs in some sectors, cheap imports from China and elsewhere have a deflationary effect. Imported clothing and consumer goods have stayed cheap and offset the higher energy prices.

"For two years, we've seen this tremendous increase in prices, yet the core inflation rate has stayed at 2.3 percent or less and the only explanation for that is globalization means inflation is contained," said Ed Yardeni, an investment strategist with Oak Associates Ltd. in Akron, Ohio. Yardeni also believes higher productivity - more worker output per hour - has resulted in higher savings for companies, which also serves to offset the higher energy prices.

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Katrina will clearly have some short-term impact on the broader economy. The U.S. Congressional Budget Office said Katrina might knock U.S. economic growth back by as much as a full percentage point in the second half of this year.

However, economists point to past hurricanes and say reconstruction will bring job-intensive infrastructure projects like levee reconstruction, homebuilding and repairs to damaged highways and bridges.

The good news is that wholesale prices for gasoline and oil on the New York Mercantile Exchange have both returned to pre-Katrina levels - but that's still high. And crude oil, gasoline and home-heating fuel prices are expected to remain high through next year.

The world's supply of oil is nearly matched by global demand, and U.S. refineries couldn't handle any additional oil supplies if they had them, because they are running at full throttle. Another hurricane, a natural disaster elsewhere in the world or a terrorist attack could easily send today's already-high energy prices to punishing levels, sending consumer confidence plunging.

"The combination of three bucks a gallon for gas and what the rest of the country is looking at on TV and hearing about and reading about certainly are not positives," said Ken Goldstein, an economist with The Conference Board, a New York-based organization that publishes a monthly Consumer Confidence Index.

But even before Katrina, gasoline prices were climbing, sparking fears that consumer confidence would fall sharply. Yet the latest confidence index, published Aug. 30, showed it had not.

"We discovered for the umpteenth time that what matters most for most Americans is the labor market," said Goldstein.

As long as employment remains strong, consumers seem likely to continue to spend despite high energy prices.

For more on the Congressional Budget Office analysis of the economic impact likely from Katrina, go to www.cbo.gov and find the report listed on the left of the home page.

For the Producer Price Index, go to www.bls.gov/news.release/ppi.nr0.htm.

Energy Costs Fuel Wholesale Inflation (WT/AP)

By Martin Crutsinger

The Washington Times, September 14, 2005

Surging costs for gasoline and other energy products fueled inflation at the wholesale level in August, pressure that is expected to become even more intense when the full effect of Hurricane Katrina is felt.

The Labor Department said its Producer Price Index, which measures inflation before it reaches the consumer, jumped a sharp 0.6 percent in August following an even bigger 1 percent increase in July.

In other economic news, the Commerce Department reported that oil imports reached an all-time high in July and the trade gap with China also set a record. However, the overall trade deficit improved slightly to $57.9 billion as exports rose and imports outside of energy fell.

The PPI report showed that energy prices jumped 3.7 percent in August, led by a 9.5 percent rise in gasoline costs. Natural gas for home use was up 2.5 percent. The energy increases captured in the PPI report occurred before Katrina battered the Gulf Coast, sharply reducing production.

Energy Secretary Samuel W. Bodman and other administration officials touring Gulf Coast energy facilities yesterday expressed concern about potential shortages of natural gas in coming months because the region's production may not recover for months.

Last week, the Energy Information Administration predicted that natural gas prices could soar this winter, including increases of as much as 71 percent in the Midwest, because of the hurricane.

The PPI report showed that aside from energy and food, the so-called "core" rate of inflation showed no increase at all in August, after a 0.4 percent rise in July and a 0.1 percent drop in June.

While rising energy have not yet spilled over into more widespread inflation problems, economists said Katrina is likely to disrupt the benign overall inflation performance.

"Pressure to bump prices up, or levy temporary freight surcharges, will become more intense in September," said Brian Bethune, U.S. economist at Global Insight, a private forecasting firm in Lexington, Mass.

The pre-Katrina inflation reading contained in the PPI showed price pressures were absent outside of energy. Food costs fell by 0.3 percent in July, the fifth consecutive monthly decline, as the price of fruit, eggs and beef all declined. About half of the downward pressure on prices outside of energy in August reflected a 1.3 percent drop in the cost of new passenger cars, the second decline in the past three months.

Analysts are split on whether the Federal Reserve will again raise interest rates at its meeting next week. Some suggest that the Fed may pause to give policy-makers time to assess how much of a jolt the economy will receive from Katrina. Other

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economists believe the Fed will deliver an 11th quarter-point rate increase out of concern that the higher interest rates are needed to combat rising inflation pressures.

The trade report showed a 2.6 percent improvement over a revised June imbalance of $59.5 billion, which was the second-highest deficit in history. The deficit this year is running at an annual rate of $693.1 billion, 12 percent higher than last year's record of $617.6 billion.

The deficit with China increased by 0.3 percent to a new high of $17.7 billion and is running at an annual rate 29 percent above the same period last year, when the deficit reached a record $162 billion. This year's widening deficit reflects a 55.2 percent surge thus far this year in Chinese imports of clothing and textiles since global quotas were lifted Jan. 1.

With oil prices soaring briefly above $69 per barrel after Katrina struck, analysts believe that America's foreign oil bill will surpass the July record, adding further pressure on the overall deficit.

Producer Prices Increase 0.6% Amid Higher Energy Costs (WSJ)

By Rafael Gerena-Morales

The Wall Street Journal, September 14, 2005

While energy prices soared during the summer, underlying inflation showed signs of stability in the weeks leading up to Hurricane Katrina. Moreover, the U.S.'s trade performance showed signs of improving.

Producer prices for finished goods rose 0.6% in August from July and were 5.1% higher than a year earlier, the Labor Department said. The increase was driven largely by a burst in energy prices, much of which occurred even before the hurricane struck the Gulf Coast, disrupting energy production. Gasoline prices jumped 48% from a year earlier, the Labor Department said.

Producer prices are the prices charged by makers of goods like cars, gasoline and manufacturing equipment.

A separate report showed that the U.S. trade deficit narrowed in July to $57.9 billion. That put it down $1.6 billion from the preceding month, and left it below levels seen at the beginning of the year, a sign that the pace of widening for the deficit might be moderating.

Soaring oil prices were an important subplot in the trade picture. The value of imports fell $1.1 billion to $164.18 billion. The nation's tab for oil surged to $15.3 billion for the month, up from $10.8 billion a year earlier. But the U.S. imported 10.1 million barrels a day during the month, on average, down from 10.5 million barrels a day a year earlier.

Exports rose by $430 million to $106.24 billion, led by increasing shipments of semiconductors, civilian aircraft and cotton.

Companies have had a difficult time passing higher energy costs on to customers. Excluding the volatile food and energy sectors, producer prices were unchanged for the month. The auto sector was a big factor in the modest showing outside of energy. Passenger-car prices fell 1.3% in August, the result of discounting programs by Detroit's Big Three auto makers.

At East Jordan Iron Works Inc., which makes manhole covers, fire hydrants and grates in East Jordan, Mich., most sales are negotiated months in advance with municipalities, and such clients rarely accept last-minute price changes. Moreover, the market for manhole covers has become global in recent years, with low-cost suppliers in places like India now swooping in to snap up business in the U.S.

"We're able to get through increases for smaller deliveries," says Thomas Teske, the company's general manager, "but not for larger customers."

Separately, the Treasury Department said the federal budget deficit narrowed to $353 billion for the first 11 months of the fiscal year, which ends Sept. 30, from $437 billion recorded in the first 11 months of fiscal 2004. Receipts totaled $1.9 trillion, up 14% from the same period in 2004. Outlays so far this fiscal year total $2.3 trillion, up 7% from the same point in the previous year.

With $62 billion already allocated for Katrina relief, the red ink could grow substantially in the new fiscal year which begins Oct. 1.

Also, consumer confidence fell last week as news about the impact of Hurricane Katrina rolled in. According to the ABC News/Washington Post poll, 32% of respondents expressed confidence in the economy, down from 34% the week before and 37% the week before that.

US Federal Reserve Set To Raise Rates Again (FT)

By Andrew Balls

Financial Times, September 14, 2005

The US Federal Reserve is set to press ahead with its campaign of raising interest rates at its meeting next week, in spite of the economic impact of Hurricane Katrina. But there is expected to be intense discussion of whether substantial changes to the wording of the accompanying policy statement are needed.

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Fed officials are reasonably relaxed about the hurricane's impact on national measures of production and consumer spending and employment.

A small dip in the second half of the year is expected to be recovered during the reconstruction effort.

Within the Fed, there is considerable scepticism about the need for the "compassionate" pause in the tightening campaign that some politicians have called for following the devastation in New Orleans and the surrounding region caused by Katrina. An important subject of discussion will be whether the Fed should drop its characterisation of monetary policy as "accommodation" and whether it should maintain its guidance that it is likely to continue raising the federal funds rate at a "measured" pace.

The Federal Open Market Committee has raised rates in quarter point steps at its last 10 meetings, lifting the target for the federal funds rate to 3.5 per cent.Of greater concern is the impact of rising energy prices, particularly the petrol price. Higher oil prices may affect consumer confidence and spending. At a time when there is little spare production capacity or labour market slack, this may also feed into core inflation.

Alan Greenspan, Federal Reserve chairman, speaking at the Fed's Jackson Hole conference last month, said the flexibility of the economy had allowed the US to weather the steep rise in energy prices "thus far", purposely avoiding stating his views on the resilience of consumer spending and the likelihood of higher core inflation.

The market reaction since Hurricane Katrina suggests investors are concerned about the impact of higher energy prices on growth next year. The yield on the two-year Treasury note, which was above 4 per cent in late August, has dipped back below 3.9 per cent.

Data released yesterday showed that US wholesale prices jumped 0.6 per cent in August, owing to higher energy prices before the hurricane, but core consumer prices excluding food and energy were unchanged.

President George W. Bush, in a rare public admission of personal responsibility, yesterday acknowledged that the hurricane had "exposed serious problems in our response capability at alllevels of government, and to the extent that the federalgovernment didn't fully do its job right, I take responsibility".

US Trade Deficit Falls To $57.9bn In July (FT)

By Jennifer Hughes

Financial Times, September 14, 2005

Record levels of exports helped shrink the US trade deficit in July, but analysts warned new peaks in energy prices are likely to widen the gap in the months ahead as the cost of imports rises.

Figures from the US Commerce Department showed a deficit of $57.9bn, down from an upwardly revised $59.5bn in June - itself the second highest monthly gap on record.

Exports rose 0.4 per cent to $74.9bn while imports unexpectedly dropped by 0.7 per cent to $164.2bn.

The trade deficit in all petroleum products was a record $18.5bn in July, with crude oil imports worth $15.3bn - also an all-time high. There was a drop in the number of barrels of oil imported but an increase in the price paid for each one.

"The rise in energy prices threatens to result in further widening in the months ahead," said Mitul Kotecha, global head of FX strategy at Calyon.

Michelle Girard, economist at RBS Greenwich Capital, said :"In addition to the spike in oil prices, the volume of energy-related imports will probably rise, as international supplies are used to offset a portion of the domestic production which has been shutdown."

"While this appears to bode well for GDP, the trade balance is likely to resume its worsening trend in coming months," she added

The extra disruptions caused by Hurricane Katrina will not show up until September's data, due for release in November

Exports in July were led by record shipments of industrial supplies and materials such as cotton and steelmaking products, and consumer goods exports also gained.

The fall in imports was the result of a drop in big ticket items, such as aircraft, industrial equipment and computers. Imports of consumer goods also dropped.

The record levels of exports also resulted in a new peak in shipments to Asia, worth $3.6bn. But that was dwarfed by a new record trade deficit with China worth $17.7bn.

Separately, the US Labor Department released figures showing high energy costs pushed up producers' prices by 0.6 per cent in August. But excluding volatile food and energy measures, the producer price index was unchanged from July. The data were collected well before the hurricane, whose effects will become clearer in the September numbers released next month.

Katrina Payday For Land Owner In Tiny Town (WSJ)

By Christopher Cooper

DOJ_NMG_0005341

The Wall Street Journal, September 14, 2005

LULING, La. -- His office is a bar called the Sailfish and the communications system is a pair of balky cellphones, but Jay Roberts strains their batteries to the limit running his impromptu commercial real-estate business.

The phone rings and it's a man representing the Veterans Administration inquiring about the empty Kmart in this boomtown community about 30 miles west of New Orleans. The caller's got 200 workers who need office space.

Too late. That building, outfitted with 46 miles of telephone wire and bursting with desks, now houses 500 State Farm claims adjusters, with room for 400 more. It was leased for a year at $25,000 a month even before the power came back on. "Randy, yeah baby, the Kmart's gone," Mr. Roberts, clad in a T-shirt and tight shorts, yells into the phone. "I got an old Burger King building if you could use that."

The storm has changed practically everything in southeast Louisiana, including the commercial real-estate market. Baton Rouge has been overwhelmed by evacuees and now hosts companies that were flooded out in New Orleans and Jefferson parishes, some 80 miles away.

But for those businesses integral to the cleanup, such as power, insurance and engineering companies, towns closer to the devastation are the hottest properties around. In the early days of Katrina's aftermath, there was nowhere nearer to the action than Luling, which got raked by the western edge of the storm but is largely intact. Even before the streets were clear, logistics teams were combing over the place, snapping up every vacant hotel room and office they could find.

Few have benefited more from this than Mr. Roberts, who has lived in Luling all of his life and assembled a modest real-estate empire even as the town itself struggled. Powerfully built and high-school educated, the 46-year-old Mr. Roberts is a sewer-pipe suppler by vocation. He built a small hotel 2½ years ago. A few months later, he took a flyer on a semiabandoned strip mall with a dead Kmart, picking up the property at a sheriff's sale for $1.5 million, or $3 a square foot.

The Burger King came last year, when a regional operator unloaded about 40 restaurants in the area. Mr. Roberts paid $350,000 for that property. "In my opinion, the prices I paid were strictly the land value, with the buildings and signs thrown in for free," Mr. Roberts said. He predicts the 900-square-foot Burger King will begin life anew as a small office, citing a number of unsolicited offers he's already received.

In Luling, the real-estate mantra of location, location, location is proving true once again. As a staging area for disaster work, Luling, with a permanent population of about 6,000, is close to the ideal. It boasts one of the few working ATMs in the immediate area, has electricity, plenty of gasoline stations and a functioning Super Wal-Mart. Sitting fast on the west bank of the Mississippi River, prestorm Luling had been known primarily for its bulk cargo wharf and for a 1976 ferry crash that killed 78 passengers.

Its commercial district is little more than a few-miles-long strip of hotels and fast-food joints, many down at the heels. That's changing. "By quirk of fate, we're going to reap a lot of economic benefits out of this storm," said Joel Chaisson II, a local state senator and silent partner in some of Mr. Roberts's real-estate ventures.

To underscore that prediction, Mr. Roberts barks out an order to his administrative assistant, who is standing at the far end of the Sailfish Food & Spirits. "Get a sign made up for that empty Burger King out there -- for sale or lease. And get me a sign for my hotel that says, 'No vacancy -- long-term lease.' "

The Sailfish, Mr. Roberts's smallest property, opened in January and may also be his most lucrative, at least indirectly. Even with the power off, the place remained open and Mr. Roberts did his best to make the clientele comfortable, doling out warm beers to hurricane survivors and even smashing in the bar's cigarette machine so stressed evacuees could indulge.

As the days passed, Mr. Roberts snagged provisions from a shuttered local grocery owned by an uncle of a survivor. Mr. Roberts is the landlord of the Sailfish, not its operator, but he keeps a close eye on the kitchen, often whipping up menu items himself, including the huge pots of white beans he began making after the hurricane in a big propane-fired cooker out back. The food was free in those days, though Mr. Roberts repeatedly admonished patrons to generously tip the overwhelmed staff.

The fare became more elaborate after the power returned, like the recent gumbo he oversaw, a dark, savory concoction that drew raves. As with almost everything else, his culinary skills are self-taught. "I've never followed a recipe in my life," Mr. Roberts says.

Mr. Roberts's largess and ingenuity paid off: Sitting in a sea of storm-shuttered fast-food franchises, the Sailfish became the only place for folks to congregate over drinks and food, the preferred milieu for a Louisiana business deal. The Sailfish also became the only reliable place to see Mr. Roberts, as well as the state senator who provides introductions, the parish president (who can issue business permits) and the local judge (who operates a hotel outside the parish).

Two days before Katrina hit, Joe Green, an assistant manager for administrative services for State Farm Insurance in Tulsa, Okla., was watching a weather report when it became apparent he and his nine-man crew were about to enter a race toward the storm. Mr. Green's job is to set up the company's catastrophe, or "cat," office near the epicenter of major disasters.

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Mr. Green drove for three days, splitting the team in half to scour Louisiana and Mississippi on a desperate search for office space and hotel rooms.

At almost every turn, the team found itself competing with nimble electric company crews, who were after the same commodity. Mr. Green blew into the Sailfish the day after the storm, having been directed there by the local Wal-Mart manager. Mr. Roberts was inside and the negotiations began. The Kmart went for $25,000 a month, plus an upgraded climate system, for which State Farm is paying.

Mr. Green initially got beat on the 30 hotel rooms that Mr. Roberts owns next door to the Sailfish. But after working a complicated swap involving the sprucing up of an independent motel down the street, Mr. Roberts managed to pawn the power crews off to his competitor, taking the more lucrative State Farm deal.

The independent hotelier ended up with steam-cleaned carpets, new linens and a clientele that pays twice the normal $30 nightly rate. Mr. Roberts in turn, inked a one-year State Farm deal: all the rooms at $89 a night -- a premium over the $49 rate the hotel usually commands. "Jay's the ultimate landlord: He helps me with everything and he's indispensable in a town like this," Mr. Green says.

Dreams Are Emerging Of A 'new' New Orleans — But Which One? (USAT)

By Richard Willing

USA Today, September 14, 2005

Three days after the New Orleans flood walls broke on Aug. 29, a visit to his hometown left Harry Connick Jr. feeling desperate.

"It is hard to sit in silence, to watch one's youth wash away," the singer and piano player wrote on his website. "I can only dream that one day she will recapture her glory."

On a follow-up visit a week later, Connick saw things that raised his hopes. Floodwaters were receding, violence was being contained, and at least one bar had reopened on Bourbon Street, where the 37-year-old Connick cut his musical teeth. "Man," Connick wrote, "if this isn't a sign of New Orleans coming back to its former state!"

Maybe. As the shock of one of America's worst natural disaster wears off and floodwaters are pumped out of New Orleans, public figures from local performers to President Bush are beginning to speak of reviving the 287-year-old city as if such a thing is inevitable.

They are contemplating what urban planner Robert Lang of Virginia Tech says has "never been done before in America": Using what could be hundreds of billions of public and private dollars to rebuild a modern city on a scale far beyond what happened in San Francisco after its 1906 earthquake, or in Chicago after its 1871 fire.

But what kind of city will rise from the receding waters, and when, and how?

Rebuilding is a complex issue, layered with racially sensitive questions about how to revamp the city while luring back the blue-collar and low-income residents — most of them black — who made up the bulk of the roughly half-million evacuees from the area who now are scattered across America. At stake is how much of New Orleans' identity — its unique combination of grit and refinement, bawdiness and charm — will be washed away for good.

Politicians, urban planners, business leaders and local residents with different views of a "new" New Orleans already are campaigning for their competing visions.

U.S. Rep. William Jefferson, D-La., whose New Orleans home was flooded, would focus on creating a city where tax credits, housing subsidies and jobs programs would be used to encourage the return of its working class.

U.S. Rep. Bobby Jindal, R-La., whose home in nearby Kenner also was damaged, would appoint a rebuilding czar and dust off plans to diversify the city's industrial base and modernize its hospitals and public housing.

Scientists such as John Rennie, editor of Scientific American, are talking about a safer and perhaps smaller city in which wetlands would be expanded to protect against storms.

Singer Art Neville of the Neville Brothers is calling for a "Newer Orleans" — a city re-populated by returning evacuees and protected by a new set of the "best levees ever built."

And Dane Ciolino, a criminal defense lawyer and a law professor at the University of New Orleans, wants a rebuilt city that excludes the "looters and the shooters" but that remains racially and economically diverse. He fears that restoring only the upper-income residential areas such as the Garden District and the tourist sites of the French Quarter — the areas in New Orleans least damaged by the flooding — would turn the city into an "adult Disneyland with cocktails."

"It's too much to say that (rebuilding) is the storm's silver lining, but there's no denying that it's given us an opportunity no one's ever had before," says Jindal, whose district includes part of New Orleans and its suburbs. "Now the challenge is to bring everyone together, to get the best thinking and planning and ideas out there, and to get together and do it right. … That hasn't been done before, either."

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Whatever shape the rebuilding of New Orleans takes, rebuilding the city's psyche will be a key issue.

“I have great faith” in the ability of New Orleanians to rebound, Neville says. “But morale has taken a real blow. The people are down, man.”

Several factors unique to the New Orleans disaster make it less likely that people will want to return to a rebuilt city, some analysts say.

“We've never seen scattering (of disaster victims) on this scale before,” says Robert Fishman, an urban historian at the University of Michigan. Evacuees “have been relocated to any number of places, and told they'll be staying there for a long time. If it's months or years before people can get back in there, how many are going to want to go?”

Hurricane recovery specialist Michael Lindell says the images of widespread lawlessness and the suffering of many evacuated residents could have a profound impact on rebuilding efforts.

“If folks don't think government and their fellow citizens are up to the task, they may not feel that they are, either,” says Lindell, senior scholar at the Hazard Reduction and Recovery Center at Texas A&M University in College Station. “What's civic morale going to be like, long term? I don't think we can say yet. We haven't ever seen anything like this.”

With about 40% of New Orleans still underwater, it's unclear how long even the initial cleanup of the city will take.

The U.S. Army Corps of Engineers says it hopes to pump all the floodwater out of New Orleans by Oct. 8. Electric power and drinking water still must be restored. Des Moines needed nearly three weeks to restore potable water to 350,000 people after a flood crippled its water system in 1993.

Meanwhile, the water that has accumulated on New Orleans' streets poses health risks to recovery workers and residents. Besides leaves and dirt, it now carries backed-up sewage, feces and bacteria from decomposing bodies, as well as toxic chemicals from small businesses such as dry cleaners whose storage tanks flooded.

Tests by the federal Environmental Protection Agency indicated that bacteria are present in floodwaters at 10 times the acceptable level. That means workers wading in the water are at a high risk for health problems, says John Pardue, a professor of environmental engineering at Louisiana State University in Baton Rouge.

Even when it dries, the polluted stew will coat streets, parks and yards with a film of toxic chemicals and sewage. Cleansing the land of contamination could take months, maybe years.

“Are the schoolyards and people's yards going to be so contaminated that we're going to have to scrape them up? That's the big unknown right now,” Pardue says. “It's not a very rosy picture, I'm afraid.”

After electricity, water and basic services are restored, homes and businesses will have to be rehabilitated or demolished and rebuilt before New Orleans residents can return home. Given the extent of water damage, many buildings likely will be beyond salvaging, Lindell says.

“The issue is not just structural damage that water is going to do to wood and Sheetrock, but the likelihood of mold,” he says. “That's going to make some places that appear to be relatively undamaged turn out to be health hazards that have got to be gotten rid of.”

Pete Carkhuff, sales executive for National Property Damage Experts in West Berlin, N.J., says that “you're probably talking about bulldozing entire blocks, maybe whole neighborhoods.”

Once cleanup is completed and basic services are restored, New Orleans will face some difficult choices. Among them: Whether the city and its surrounding area should be made smaller, but safer, by restoring wetlands that have disappeared during the past several decades.

Even when the flood barriers are repaired, the city will remain substantially below sea level, making more flooding likely. And New Orleans is often wet, with an annual average of 64.16 inches of rain from 1971 to 2000, according to the National Climatic Data Center. Only Mobile, Ala., with an average of 66.29 inches, was wetter among major cities in the continental USA.

New Orleans has had more than 20 major floods since 1978, up from just two in the previous 50 years.

Any rebuilding plan, specialists say, should take New Orleans' topography and frequent rains into account. “You can bring the city back without making it any safer,” Rennie says. “You want to avoid that.”

The problem, Rennie says, is the gradual disappearance of barrier islands and wetlands between the city and the Gulf of Mexico, a process hastened by development in New Orleans and its suburbs. Building flood barriers to keep water away from homes and businesses, Rennie says, ultimately destroys surrounding wetlands and puts development at risk.

“The natural pattern of flooding supplies nutrients and sediment to wetlands areas, keeping them as kind of a buffer and a natural absorber when a really big storm hits,” says Rennie, who published a report in October 2001 that said New Orleans was due to face major flooding from a hurricane.

The answer, he says, is to buttress the flood barriers needed to protect central New Orleans, then eliminate or downsize barriers and canals that sustain development on the city's fringes and in its suburbs. That would allow wetlands to resume their natural role of taking the brunt of smaller storms and protecting the city from catastrophe.

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“We're talking about a smaller city, but a safer and hopefully more sustainable one,” Rennie says. “The alternative is to continue as we are, losing 60 acres (of wetlands) a day. By 2090, New Orleans would be exposed to the open sea, with no protection at all.”

The insurance industry could help direct New Orleans' reconstruction by declining to insure homes or businesses rebuilt in high-risk areas, or by making hurricane insurance easier to acquire if rebuilders agree to make new structures safer.

After Florida was struck by four big hurricanes last year, insurers played a “consultative role” in the rebuilding, says Robert Hartwig, chief economist of the Insurance Information Institute, a group funded by companies, trade associations and agents.

Industry representatives advised governments how to strengthen building codes, set up emergency cash pools and identify the riskiest areas in which to rebuild.

“We don't want to promote ‘serial rebuilding,' ” Hartwig says. “The industry does weigh in in post-disaster debates.”

So, too, may Uncle Sam. Private insurers write most policies that cover hurricane damage, but the U.S. government is the principal insurer against flood loss through its National Flood Insurance Program. But the NFIP, Hartwig says, has become increasingly reluctant to insure replacement dwellings in high-risk areas.

House Speaker Dennis Hastert, R-Ill., has said that the federal government “ought to take a second look” at supporting the rebuilding of a city that will remain at risk for hurricanes.

Hastert's office later said that he wasn't advocating abandoning New Orleans, but rather taking risks into account before deciding what to rebuild.

Federal flood insurance will pay up to $250,000 to repair or replace a dwelling and up to $100,000 for lost or damaged contents.

But only about one-third of New Orleans homeowners appear to have taken out flood policies, Hartwig says, apparently trusting that “federal disaster efforts” will bail them out. Given the extent of the damage, and attitudes such as Hastert's, that may not be possible this time.

New Orleans also will have to decide how to rebuild its tourism industry.

The city's Convention & Visitors Bureau has opened an office in Baton Rouge, where New Orleans business owners have discussed plans to reopen attractions in the French Quarter and other relatively unscathed parts of the city's restaurant and entertainment district, perhaps by the end of the year.

But even by then, says urban historian Joel Kotkin, tens of thousands of tourists and conventioneers will have been redirected to other destinations. Rather than spending time and money to woo all of them back, Kotkin says, the city could consider trying to attract new industries that could complement a downscaled version of the tourism industry.

That's a tall order: Tourism in New Orleans has employed 80,000 people and each year has attracted 10 million visitors who have spent nearly $5 billion, the Convention & Visitors Bureau says.

“There's always going to be a Mardi Gras — at least, a lot of Americans hope there will always be,” says Kotkin, author of The City: A Global History. “But that doesn't mean that has to be the only reason for your economic existence.”

New Orleans, he notes, has been a center for government, agricultural trade, banking and transportation at various times since it was founded as a French colony.

“Some of those industries have gone away, but some have migrated to other more energetic places,” Kotkin says. “Look at Houston. It was nothing at the start of the 20th century, (but) now it has the port business and the energy industry that used to belong to New Orleans.”

History seems to support that point. Major cities — Kobe, Japan, in 1995, San Francisco and Chicago — have suffered huge damage from earthquakes and/or fires and have rebounded smartly.

San Francisco's experience from 1906, detailed in A Crack at the Edge of the World, by Simon Winchester, appears to parallel many aspects of the New Orleans disaster: extensive destruction, loss of life, looting and the permanent relocation of some residents to nearby places such as Oakland. In the aftermath, San Francisco's economy shifted from manufacturing to finance, law and tourism, a mix that sustains the city to this day.

“As long as they've been around, cities have been flooded, burned, shaken by earthquakes or otherwise destroyed,” says Thomas Campanella, a professor of urban planning at the University of North Carolina and co-editor of The Resilient City, a 2005 book that examined the revival of a dozen once-devastated cities. What ensures a city's recovery, he says, is the “extent to which (its) social and cultural fabric persists.”

He cites the Sept. 11 terrorist attacks, after which “New York City took on a small-town feel” as strangers took in stranded travelers and helped families search for loved ones.

“The extent to which citizens can really come together and help each other will go a long way toward determining how resilient New Orleans will be,” he says. New Yorkers, he says, essentially told themselves, “Hey, we can come out of this better than ever.”

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Whether New Orleanians will adopt that approach remains to be seen.

Winchester says the slow-building nature of the disaster — leaking barriers that led the city to flood over several days — could harm the civic psyche.

“This isn't (like San Francisco's disaster), a boom followed rapidly by a fire before you can even think about it,” he says. “This (was) water creeping up, inch by inch, day by day. It sounds maddening.”

Shalom Matthews knows what he means.

The 30-year-old hotel auditor says she had never ventured beyond the New Orleans city limits before she and her sister were evacuated to Baton Rouge. Four terrifying nights at the New Orleans convention center were enough to persuade her to leave the city for good, she says.

“I don't know where we'll end up, but we're gonna get out of Louisiana,” Matthews says. “We'll never look back.”

But other New Orleans residents such as Eric Morgan seem eager to join in its rebuilding. Lounging on the balcony of a home in the city's Lower Garden District last week, Morgan, 46, said he wasn't going anywhere, despite the mayor's order for residents to evacuate.

Morgan, a construction worker, said he had a working generator and enough food and water to last about two months.

“The police came by to ask if we were all right. We're doing fine,” he said, nodding to a friend. “We're gonna get (the city) back.”

New Orleans Works To Open 4 Districts As Services Return (NYT)

By Michael Luo

The New York Times, September 14, 2005

NEW ORLEANS, Sept. 13 - An upbeat Mayor C. Ray Nagin announced on Tuesday that he hoped to reopen four neighborhoods, including the city's central business district and the French Quarter, to residents and business owners in the next few days.

"I have started to get into the mode of how do we reopen the city and how do we move it to the next level," Mr. Nagin said, appearing relaxed, even cracking jokes, while speaking to reporters in the French Quarter.

At the same time, he conceded that the city's financial problems were enormous. "The city is out of cash," he said. "We do not have the cash to make the payroll coming up."

Mr. Nagin said that city officials were trying hard to secure a line of credit. Many contractors who are helping the city clean up are working under the assumption that the city will get money to pay them.

The final go-ahead to reopen the city's central business district and the French Quarter, along with two residential neighborhoods - Algiers and Uptown - depends on an environmental report he said he expected to receive later in the day. He had been briefed on the report, on the quality of the air and water, he said, and things "looked good."

The four areas are now dry.

As for what residents will return to, Mr. Nagin cited progress on a number of fronts. City officials were working to get two hospitals - Touro Infirmary and Children's Hospital - running soon. The water is safe to drink in Algiers, and Mr. Nagin said he hoped drinkable water would be restored to the three other neighborhoods by the end of this week.

The city is working with Wal-Mart, Home Depot and other companies to open temporary stores in the convention center.

Daniel F. Packer, president and chief executive of Entergy New Orleans, said 264,000 of the 1.1 million customers in Louisiana and Mississippi who lost power after Hurricane Katrina were still without it. Most of those, Mr. Packer said, are in the metropolitan area.

He said he expected electricity would be restored to the central business district and the French Quarter in 10 days to two weeks. With more than 40 pumping stations online, water was now being drained at a significant rate from the city, Mr. Nagin said.

Teams will soon finish a door-to-door search of every home in the city, said Maj. Gen. William Caldwell, commander of the 82nd Airborne Division of the Army.

General Caldwell estimated that 3,000 people remained, in defiance of a mandatory evacuation order.

As for the long term, the mayor said he would establish a commission to plan major aspects of the city's restoration. "I'm tired of hearing these helicopters," he said. "I want to hear some jazz."

Exhausting, Frustrating Work On Water Pumps Is Paying Off (USAT)

By Alan Levin

USA Today, September 14, 2005

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NEW ORLEANS — Fred Young paces through the muck outside one of the city pumping stations, surrounded by hundreds of blocks of submerged neighborhoods.

It's Sunday, nearly two weeks since Hurricane Katrina sent waterways surging over levees and floodgates to flood New Orleans. More than half a million evacuees are waiting for Young, a manager with the Army Corps of Engineers, to dry the city out so they can salvage what's left of their belongings or, worse, locate the dead.

Young has come here with a work crew and four armed guards to restart the pump. It's not going well. His cellphone battery just died. The crew needs more equipment to make the pump work. And daylight is fading fast.

“God, we're ready to go, and I'm stuck here,” he shouts to no one in particular.

This is ground zero in one of the biggest natural-disaster relief efforts in history. The Army Corps' emergency construction project is being managed by a bedraggled team that sleeps on cots at night.

The effort is paying off. As of today, perhaps half of the flooded areas have re-emerged. Temporary pumps and the giant permanent pumping stations are throwing as much as 9 billion gallons per day over the levees and out of the city.

It hasn't been easy. For Young and the other workers, it has been one of the toughest weekends of their lives.

Young, a civilian engineer, is tearing around New Orleans and St. Bernard Parish in a four-wheel-drive sport-utility vehicle with an armed guard. He is talking non-stop, taking cellphone calls and offering a running description of the devastation. He guns the car the wrong way onto an offramp on the deserted interstate.

Young, a heavyset man with shaggy black hair, returned to the Army Corps' headquarters on the banks of the Mississippi River three days after the hurricane and has been based there ever since. He was named project manager for pumping.

He pulls up to New Orleans Pumping Station No. 6, the heart of the city's elaborate system to keep the surrounding waters at bay. Rotting fish lie on the road into the facility.

When Katrina swelled the waters of Lake Pontchartrain and the Gulf of Mexico, four sections of the walls that protect New Orleans against flooding gave way, and water poured into this below-sea-level bowl. The floods turned most of the pumping stations into mud and grease pits.

Three days before, power had been restored at Station No. 6, and it was the first of the flooded pumping stations switched on. It's pumping at a fraction of its capacity because most of the aged pumps won't be dried out for weeks, but the water in this neighborhood has dropped about a foot. “Look how far it's come down,” Young says. “That's great.”

By 4 p.m., the news gets worse. The attempts to bring back Pumping Station No. 7 caused a massive short circuit that has blacked out No. 6.

A shower and food haven't raised Young's spirits. He was out past midnight, meeting with the manager of an equipment company providing more than 20 temporary pumps.

He also saw his house for the first time since the storm. Water got in and ruined his plaster ceilings. “But at least I have a house,” he says. “A lot of people, they're going to have to bulldoze their houses.”

Young heads back to Pumping Station No. 6, which is still blacked out. He meets up with Chief Warrant Officer 4 Thomas Black, an expert in restoring electrical power. Black, who wears long-sleeve combat fatigues and a black beret despite temperatures in the mid-90s, assisted the failed effort to restart Station No. 7 the day before.

Young works the phones. He calls the manager of a nearby levee district. “I need pumps!” he says. “It's not raining. I need your stinking pumps. Whatever you've got.” He pauses, then says into the phone, “I'll take them.”

Shortly after 5 p.m., Young, accompanied by two other corps engineers, arrives at the London Avenue Canal. The engineers whip out cellphones in unison and shout a cacophony of instructions. If the canal can hold water, the water board can fire up Pumping Station No. 3. It was one of the few facilities that kept operating after the storm. It, too, was flooded, but a lone pump remained dry.

“We're going to start that sucker,” Young says.

An hour later at Station No. 6, Black and his crews have restored power.

Young and his crew are at Station No. 3. At 5:15 p.m., Black arrives in a helicopter provided by the Federal Emergency Management Agency. Al Vosbein, a pump operator, is with him.

Vosbein, 55, wheezing from emphysema, says he rode out the hurricane here on the second floor of the concrete electric control room and lived there above the water for the next two days. All he wants to do is get back to his flooded house to retrieve an urn holding his wife's ashes.

Vosbein says he needs more equipment to get the pump to actually push water. He boards the helicopter again to fetch it.

Just before dark, the helicopter returns with Vosbein. Thirty minutes later, the pump operator notifies the water board control room that he's ready to start the pump. A whir gradually rises from the innards of the station. After a few minutes, the water behind the station gurgles. At 7:39 p.m., a great surge of white foam exits the plant. The workers let out yelps and slap one another's backs.

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“See that water move,” Vosbein shouts above the roar.

There's still a lot of work to do around the city. But little by little, they're getting the water out.

Polluted Waters Drown Environmental Efforts (LAT)

By Ralph Vartabedian And Marla Cone

The Los Angeles Times, September 14, 2005

NEW ORLEANS — The high-stakes effort to bail out New Orleans is sending plumes of contaminated, brown, stinking water into Lake Pontchartrain, setting back years of effort to restore the environmentally sensitive home of Gulf Coast marine life.

After festering for two weeks in neighborhoods, commercial districts and industrial zones, the water is laden with bacteria, silt, petroleum products and possibly toxic substances.

City officials confirmed Tuesday that they were also releasing untreated sewage into the Mississippi River from one of two treatment plants operated by the New Orleans Sewerage and Water Board.

Hurricane Katrina has forced the abandonment of normal environmental and sanitation practices as workers scramble to preserve what's left of the city and prevent a breakdown of public health.

"We are still trying to save lives," said Col. Richard Wagenaar, who heads the Army Corps of Engineers' New Orleans district.

The floodwaters are overrun with fecal material, silt and other substances that could damage the marine environment.

Martha Sutula, a senior scientist at the Southern California Coastal Water Research Project who has studied the ecology of Louisiana wetlands, said nutrients in the floodwaters, such as nitrates and ammonia, would probably cause algae and phytoplankton blooms in the shallow lake and surrounding estuaries. The blooms can deplete oxygen and suffocate marine life.

"I would imagine that you're going to have a pretty tremendous dead zone," Sutula said. "This is going to set them back quite a few years."

Al Naomi, senior project engineer for the Army Corps of Engineers, agreed. "It will take years to clean up our estuaries. The lake was coming back with manatees and fish. Twenty years of effort has been wiped out in an afternoon storm surge."

Although few experts criticize the extreme measures being taken to save New Orleans, the practices are believed to violate federal laws in normal times.

"We have multiple disasters in Hurricane Katrina," said William R. Freudenburg, a professor of environmental studies at UC Santa Barbara. "Much of the disaster was caused by the initial decision of where to put the city's levees. It was turned into a human disaster by the worst response I have ever seen by the government. Now we have a disaster on one of the most environmentally sensitive and valuable wetlands in America."

Much of the nation's seafood catch spends some portion of its life in the marshes of Louisiana, areas that were damaged by the storm surge. On the east flank of New Orleans, marshlands have been stripped clean of vegetation. "It looks like the surface of the moon," Wagenaar said.

So far, tests have not discovered any toxic pollution.

The flood inundated at least one Superfund site, the Agriculture Street landfill. The cleanup was completed before the flood, although toxic residue remained in the soil. Tens of thousands of inundated homes are thought to have solvents, pesticides and other toxic substances stored in garages and under sinks that could be leaking.

The Environmental Protection Agency has tested floodwaters in six locations for more than 100 chemicals. Only one chemical has exceeded EPA standards. Lead in water near an Interstate 10 exit ramp was 15 times higher than the level allowed in drinking water.

Most of the hazardous chemicals — including polychlorinated biphenyls, found in electrical equipment, and benzene, found in crude oil and gasoline — were undetectable in the EPA's first round of tests conducted Sept. 3.

Lake Pontchartrain, a brackish, shallow body of water that is affected by ocean tides, normally appears blue. But the view from a helicopter this week showed at least three large plumes of brown water leaving the 17th Street Canal, the London Avenue Canal and the Inner Harbor Navigation Canal.

Those waterways are the main channels for billions of gallons of floodwaters per day from the city's pumping stations. Even several hundred feet above the city the air stinks of sewage.

The water pumped into the 630-square-mile lake eventually drains through two narrow outlets to Lake Borgne and then to the Gulf of Mexico. The sewage going into the Mississippi River flows into the gulf at the river's mouth, about 80 miles from downtown.

Marcia St. Martin, executive director of the sewage board, said there was no evidence to support the contention that the water was a "toxic brew."

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Although it may contain bacteria, she said, the city never treated the massive quantities of storm water routinely pumped into Lake Pontchartrain.

"Fecal coliform in floodwater is normal," she said.

New Orleans has two sewage-treatment plants, one on each side of the Mississippi River. The southern plant remains operational but the northern plant is underwater. It may require weeks or even months of repairs.

As a result, the city is releasing raw sewage into the river, St. Martin said. No EPA waivers are required under the circumstances, she said.

EPA tests show astronomical levels of bacteria in the floodwaters. The pollution could cause problems for downriver communities that draw drinking water from the river as well as marine life at the river's mouth. That area is already a dead zone exceeding 8,000 square miles in some years, resulting from nutrients in the river.

Bacteria can live longer in the bottom sediment of the lake and gulf than in the water. "I think Lake Pontchartrain will serve as a reservoir for pathogens," Sutula said.

Meanwhile, the Army Corps of Engineers is trying to mitigate problems. "We are taking prudent measures," said Col. Duane Gapinski, who leads the corps' "dewatering" team. "We have set up [pollution containment] booms at all the outlets."

Many of the worst pollutants, including petroleum products that give the floodwaters an oily sheen, have floated to the surface. That means the early pumping is removing relatively clean water.

"As you draw down the water, that top level of pollution will become more concentrated," Gapinski said. "So we have to make some decisions about how to deal with that."

After Storm, City's Heart Pumps Again (WP)

By David Brown

The Washington Post, September 14, 2005

NEW ORLEANS -- The giant heart that makes this city's life-sustaining water went into cardiac arrest on Tuesday, Aug. 30, at 5 a.m. Its many chambered ventricles stopped pumping. The pressure in its six great arteries fell to almost nothing. The flow in its 350-square-mile circulatory system became sluggish and then stopped.

At the time of its apparent death, the Carrollton Water Purification Plant was 99 years old. Today, it's alive again, after three heroic resuscitation attempts, the last one successful. It'll be in critical care for a while. But it's getting stronger.

The people of New Orleans could not let the Carrollton plant die -- not if they want their city to survive. For a century, New Orleans has depended on the 70-acre complex of pumps and generators and pipes to draw water from the Mississippi River, treat it with purifying chemicals, filter it and send it out to the city's half-million residents.

The death and reanimation of the water plant is a story of ingenuity, self-reliance, loyalty and luck. It required doing something that had never been done -- the first cold start of Carrollton since it opened in 1906. Before that could be tried, however, the workers who stayed at the plant had to fight a dangerous fire in the middle of Hurricane Katrina. In the flood that followed, they had to tourniquet-off a water-main break that was bleeding the plant dry. Along the way, many had to confront the fact that their houses were gone.

"There are a lot of heroes here," Vincent P. Fouchi Jr., the assistant superintendent of water purification, said as he and more than half a dozen workers described the events after the storm.

Fouchi, who turned 40 two days ago, came to work the Saturday before Katrina's landfall. He brought with him three changes of clothing and more food than usual for the work marathon everyone knew was required for big storms. He is now well into his third week. His wife and two children, ages 7 and 11, are in Jackson, Miss. His house, in the Lakeview neighborhood, still had water up to the eaves last week. He saw it on an aerial photograph. He says he'll be here "until they send me home."

The Carrollton water plant is like those of many old American cities -- only more so. It is from an age of limitless steel, heroic engineering, and the belief that public works were such an accomplishment they should be housed in beautiful buildings.

Carrollton's 20-odd structures are blinding white stucco under tile roofs. Their windows have divided panes set in starburst patterns, surmounted by semicircular reliefs that look like giant red eyebrows. It could be the summer place of an Italian king.

But much of it is out of date. Key functions operate on century-old specifications that simply can't be changed without tearing the place apart. The plant feeds a distribution system in which 40 percent of the water is "unaccounted for" -- not paid for by customers, who are the sole source of revenue. The water probably leaks into the city's already soggy ground. A consultant to the Sewerage and Water Board of New Orleans recently estimated that it would cost $4 billion to make the system fully modern.

The plant has about 200 workers. When Katrina arrived, 111 were on the job. It's hard to say exactly when things started going bad. But there was no question that something was very wrong the night of Monday, Aug. 29, when demand for water suddenly started to rise.

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The plant normally pumps 120 million gallons a day. When a big water main breaks, moment-to-moment consumption may go up the equivalent of 10 million to 15 million gallons a day as water gushes out of the system. The plant kicks in to compensate and increases its output to maintain pressure and flow in the distribution system.

Soon after the height of the storm, however, demand rose the equivalent of 40 million to 50 million gallons a day, a step-up never seen before. It was something, Fouchi said, "that shouldn't be happening in a city that doesn't have a lot of people in it."

In New Orleans, water pipes run beside the roads, not under them. On many streets, live oaks grow over the pipes. When trees blow down, as hundreds did during Katrina, their roots pull up the small distribution lines, creating leaks. That was certainly happening. But it probably wasn't the whole story. There must have been an immense leak somewhere.

As a first step to try to stanch it, one worker, Christopher Fontan, 49, bear-sized and 51 days from retirement, went out into the storm and closed the 50-inch main serving the area where the instruments suggested the leak was. It is one of six huge distribution pipes, and closing the valve required 200 turns of a 10-foot-long T-shaped key, delivered down a hatch, to close.

"It was a good move because we got instant relief," said John R. Huerkamp, chief of operations.

But other bad things had already happened.

The city's electric system had failed. The plant, however, has its own generators that supply part of its electricity needs.

Its power system was running when the wind blew an eight-foot-high window and frame out of the wall of the powerhouse. Horizontal rain poured onto a motor control unit, shorting it out and starting a fire. The huge building, which contains six boilers and whose subroof is made of wood, began to fill with smoke.

As the storm raged, a dozen men frantically collected fire extinguishers from nearby buildings and fought the fire. The depleted devices, in every style and vintage, were in three piles on the floor.

"If it hadn't been for these guys putting it out, this whole building would have been gone," said George Belteau, the superintendent of power.

But it wasn't enough.

When the levees broke, New Orleans began to flood, and with it the Carrollton plant. The water could destroy the generators, and with reluctance, officials shut them down. For the first time since Theodore Roosevelt was president, the plant stopped making drinking water.

Over the two-way radio, the people in the plant could hear of the worsening plight of colleagues at pumping stations around the city. Some were being told to put on their life jackets and get to the highest place they could. At the Carrollton plant, the small trickle of people abandoning their posts became, briefly, an exodus. But about 65 stayed.

"We had fought the battle, and we were winning. If we had not had a levee failure, we would not be where we are today," Huerkamp said.

"That's why this is so horrible. We've never failed the city before," said Marvin R. Russell Jr., the white-haired superintendent of water purification.

By the Wednesday after the storm, gas-driven pumps had gotten enough water out of the powerhouse for Fouchi and the others to try a resuscitation. They were like medical students at their first code blue -- except there was nobody with experience to teach them.

They faced a chicken-or-egg problem: The boilers needed water to make steam to generate electricity to drive the pumps that could then replenish the water in the boilers and keep them running. If the boilers could stay up long enough, they could generate enough power to work the pumps that pull water out of the river and keep the system from running dry.

The first try required manually filling the boilers and overriding all sorts of safety mechanisms. The plant came back to life for 20 minutes, but the boilers ran out of water and had to be shut down again.

The operators regrouped and tried again the next day, with a firetruck delivering water to help prime the boilers. This time the system stayed up for an hour.

On the third day, the plant had enough city power to run the pumps drawing water from the river, which flows by gravity into the acres of open basins and treatment tanks. This essentially "primed" the plant.

This time it worked. The engineers fired up the boilers, which did not run out of water. The turbines made enough power to drive the high-pressure distribution pumps, keeping the boilers full.

On Sunday, Fouchi and his colleagues started disinfecting the water for the first time since the storm. It's not yet good enough to drink. But 90 million gallons a day are in circulation, driven by the big heart that's back at work.

La. Deaths At 423; Facility Owners Charged (AJC/AP)

By Adam Nossiter, Associated Press Writer

The Atlanta Journal-Constitution, September 14, 2005

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NEW ORLEANS — In a day of reckoning across battered New Orleans, the owners of a nursing home were charged in the deaths of dozens of patients killed by Hurricane Katrina's floodwaters, the death toll in Louisiana jumped to 423, and the mayor warned that the city is broke.

Mayor C. Ray Nagin said the city was working "feverishly" with banking and federal officials to secure lines of credit through the end of the year, but for now, it is unable to make its next payroll.

Amid the discouraging news, there were also clear signs of progress on many fronts: The New Orleans airport reopened to commercial flights, the port resumed operations, and the mayor said dry sections of the ravaged city — including the French Quarter and the central business district — could be reopened during the daytime as early as Monday, provided the Environmental Protection Agency finds the air is safe.

"We're out of nuclear-crisis mode and into normal, day-to-day crisis mode," Nagin said.

Entergy-New Orleans said it had restored power to 75 percent of the 1.1 million customers that were out at the height of the storm. And Defense Secretary Donald H. Rumsfeld said most of the military's search and rescue work was complete.

President Bush also put a final word on what he had called the "blame game" among politicians, saying: "I take responsibility" for the government's failures in dealing with the hurricane.

The death toll from Hurricane Katrina climbed more than 50 percent in a single day Tuesday to 423, including last week's grisly discovery of 34 dead patients and staff members at St. Rita's nursing home in the town of Chalmette in hard-hit St. Bernard Parish.

In the nursing home case, Louisiana Attorney General Charles Foti charged the husband-and-wife owners of St. Rita's with 34 counts of negligent homicide for not doing more to save their elderly patients.

"The pathetic thing in this case was that they were asked if they wanted to move them and they did not," Foti said. "They were warned repeatedly that this storm was coming. In effect, their inaction resulted in the deaths of these people."

Salvador A. Mangano and his wife, Mable, were released on $50,000 bond each.

Their attorney, Jim Cobb, said his clients were innocent.

Cobb said they followed the nursing home's evacuation plan that had been filed with officials, and he blamed the St. Bernard Parish officials for not ensuring the plan was proceeding.

"They sat and waited for a mandatory evacuation order from the officials of St. Bernard Parish that never came," he said.

Cobb said the Manganos were forced to make a difficult decision as the hurricane approached: evacuate the patients, many of them elderly and on feeding tubes, or keep them comfortable at the home through the storm.

"If you pull that trigger too soon (on evacuation) those people are going to die," Cobb said.

Tammy Daigle, a nurse who worked at the home, also said the owners had been worried about trying to evacuate some residents of the home who they knew wouldn't survive the move.

Tom Rodrigue, whose mother was among the dead, was still angry and near tears.

"She deserved the chance, you know, to be rescued instead of having to drown like a rat," he told CNN.

In addition to St. Rita's, the attorney general said he is investigating the discovery of more than 40 corpses at flooded-out Memorial Medical Center in New Orleans. A hospital official said the 106-degree heat inside the hospital as the patients waited for days to be evacuated probably contributed to the deaths.

Even though the airport and waterfront were running at just a fraction of their capacity, the symbolic importance was not lost on a city that only days before had all but collapsed into looting and desperation.

"From a commercial and psychological standpoint, this is five stars," port president Gary LaGrange said between an outgoing barge shipment of auto parts to Alabama and the arrival of a ship carrying coffee and wood from Argentina, Brazil and Mexico. "This shows the people of New Orleans their city is back in business."

Some experts had predicted it would take up to six months to get the port operating again after the hurricane damaged terminals and knocked out the electricity to operate cranes. A backlog of vessels had formed along the Mississippi River, waiting to load and unload cargo.

The Louis Armstrong New Orleans International Airport, which escaped widespread damage from Katrina but was reserved for humanitarian flights in the storm's aftermath, received its first commercial arrival, a flight with about two dozen emergency workers and returning residents.

"Welcome home," airport director Roy Williams said as he greeted the passengers. "We're glad to see you."

Airport officials hope to be up to 60 flights a day within the week and back to full operation of 350 flights a day in six months. Before Katrina hit, the airport was on pace for a record 10 million passengers this year.

During a tour of hurricane-stricken Mississippi, U.S. Transportation Secretary Norman Y. Mineta pronounced Katrina the worst disaster for transportation in U.S. history and estimated the damage to bridges and highways — including broken and disjointed stretches of vital Interstate 10 — at $3 billion.

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The Army Corps of Engineers reported significant progress running the operation to pump out flooded areas of New Orleans and neighboring parishes.

Col. Duane Gapinski estimated that half of the flooded area or less was still under water, and at the rate of 8 billion to 9 billion gallons a day, the city was on target to be almost completely drained by Oct. 8.

The mayor said more than 40 pumping stations were operating in the city, including the city's biggest pump.

"That will change the world as we know it," he said.

Amid the encouraging signs from the streets, there were promises from the White House and the Federal Emergency Management Agency to learn from their mistakes and intensify efforts to help the victims.

In Washington, Bush said "I take responsibility" for the government's failures in dealing with the hurricane, and he said the disaster raised questions about the nation's ability to respond to natural disasters as well as terrorist attacks.

"Are we capable of dealing with a severe attack? That's a very important question and it's in the national interest that we find out what went on so we can better respond," the president said.

The new acting director of FEMA, R. David Paulison, also promised to get thousands of evacuees out of shelters and into temporary housing.

"We're going to move on and get them the help they need," Paulison said in his first public statements since taking over the job.

Port Comes Back Early, Surprisingly (WP)

By Keith L. Alexander And Neil Irwin

The Washington Post, September 14, 2005

NEW ORLEANS, Sept. 13 -- The Port of New Orleans began unloading its first cargo ship since Hurricane Katrina on Tuesday night, months sooner than was predicted, a sign that disruption to the nation's shipping capacity may be less severe than originally forecast.

After the storm, port officials figured it would take six months to resume service in New Orleans and at facilities throughout the Gulf Coast. Importers scurried to reroute coffee, steel and other commodities, and Midwest farmers worried that they wouldn't be able to ship their grain to the rest of the world during the harvest. The disruption threatened the supply of goods across the United States, and some forecasters said it would cause a drag on the economy.

But Tuesday, the port was coming back to life, with electrical power restored to parts of the facility by late afternoon. About 8:30 p.m., the Lykes Flyer container ship pulled into the port, and towering cranes began lifting boxcar-size containers of plywood and coffee beans from the ship, as if they were children's building blocks. The goods were to be placed on trucks that would carry them out along newly cleared roads, for distribution across the nation.

Gary P. LaGrange, chief executive of the port, said he expects it to be at 80 percent of capacity within three months. The Port of South Louisiana and Port Fourchon, on the Gulf Coast, have also partially restored service, and the Port of Pascagoula, Miss., expects to resume service by early October, according to the American Association of Port Authorities.

That has made economists more optimistic about the hurricane's impact on the nation. "I was surprised at how quickly the ports got going again," said Mark M. Zandi, chief executive of Economy.com, a research firm. "The longer they remained closed, the greater the risk that we'd all be paying higher prices for coffee, cocoa, lumber, steel, zinc, aluminum and any number of other things. Now that things are going well, there's likely to be no measurable disruption at all."

That doesn't mean the economy is in the clear. Zandi noted that disruptions to energy production have been more persistent, and the drop in employment and production in the Gulf Coast is likely to be great. The improved expectations depend on continued progress, and there are no guarantees that it will continue at this pace, analysts said. Coastal Cargo Co., for example, operates barges from a terminal at the Port of New Orleans and on Monday shipped out a load of steel coils to an automaker in Alabama. But that was after a two-week effort to get back to business, and the company has only two -- instead of its usual 10 to 15 -- "gangs" of workers, each of which has about a dozen people. One of Coastal Cargo's barges was washed ashore in the storm, but was in decent condition, said Mike Lauland, the company's director of risk management. So it has been put to use to help clear out barges clogging shipping channels.

More will be needed to get the local economy fully back in business.

For example, Folgers coffee has a roasting plant in New Orleans that accounts for more than half its supply. For the first 10 days after the storm, it was unreachable except by helicopter, because of downed trees and security concerns on the roads. For the plant to be reopened, it needs a return of water, sewer and natural gas service, said Doug McGraw, vice president for global coffee at Folgers' parent company, Procter & Gamble.

There is enough green coffee in storage to supply the roasting plant for now, but without water and fuel, the company lacks the ability to turn bitter green coffee beans into the Folgers that shows up on shelves.

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"We're hopeful that between starting some initial production, and living on inventories in the distribution centers and at retailers, the disruption to consumers will be limited," McGraw said. "But it's going to be a problem."

Nonetheless, the work at the Port of New Orleans proceeded at full speed Tuesday as workers toiled to reopen a trading hub through which 31 million tons of cargo flowed last year.

The faster-than-expected reopening came about through some bureaucratic arm-twisting, coordination between groups, and a careful focus on the most urgent areas for repair, said LaGrange and outside analysts.

"They're moving at light speed," said C. James Kruse, director of the Center for Ports and Waterways at the Texas Transportation Administration. "It's been an example of good cooperation between federal agencies and the port authority, and an action plan to get to the critical things first and fix other problems later."

LaGrange, a large, jovial man who Tuesday wore tennis shoes and a purple baseball cap that reads "Port of New Orleans," was celebrating his fourth year as head of the port. The most immediate problems, he said, were finding workers and getting a place for them to stay. The federal Maritime Administration provided ships with sleeping quarters , which are docked at the port and serve as floating dormitories for longshoremen and managers .

The port also collaborated with the dockworkers' union, the International Longshoremen's Association, to bring in workers from other ports. LaGrange said it was necessary because most Port of New Orleans employees were forced to leave the area and could not be located.

And state police are guarding the access roads from hijackers, and agreed to give truck drivers delivering goods to and from the port clearance to deliver their loads. Tyrone Dolese, 51, of Destrehan, La., is a clerk for the Port of New Orleans who usually works in the office. But because of a shortage of help, Dolese agreed to work outside under the hot afternoon sun at the Napoleon Avenue Container Terminal about five miles down the road to help prepare the cargo for export . He helped inspect containers that were to be a part of the first shipments exported.

"We are going to get this place back," he said.

The Region Starts To Stagger Back (WP)

By Evelyn Nieves

The Washington Post, September 14, 2005

WIGGINS, Miss., Sept. 13 -- Once the local television station announced that hurricane money was finally coming to Stone County, word spread fast.

People began showing up in front of Stone High School just after 10 p.m. Monday. By 8 the next morning, when the Red Cross opened for business, the line was 4 1/2 blocks long.

This line was just to get a number for an appointment later in the week that could land a cash voucher. "We've been waiting 15 days, so I guess we can wait some more," said Waymon Parker, whose trailer was wrecked.

As relief agencies are starting to get around to the last coastal towns left on their lists, assessments of Hurricane Katrina's devastation to 80 miles of coast and reaching 150 miles inland are just getting underway. State officials could offer no figures for damage to the Gulf Coast, but they say that Mississippi will take years, if not decades, to rebuild.

More than 115,000 evacuees remain in Red Cross shelters or temporary housing, and tens of thousands of others are staying with relatives or in other temporary housing. Debris is virtually all that is left of some smaller coastal towns. The Federal Emergency Management Agency remains swamped with cries for help. The agency has identified more than 154,000 people in need of assistance so far, said a spokesman, Gene Romano. It anticipates perhaps hundreds of thousands more as hurricane victims who have been trying to reach FEMA finally get through.

At the same time, life has noticeably improved in the five coastal counties where Katrina unleashed the brunt of her fury -- Stone, Hancock, Harrison, Jackson and Pearl River, where about 435,000 people lived and the death toll has reached 218, with 600 people reported missing. More businesses open every day, power is back to 80 percent of the buildings that could receive power and lines for gasoline are back to normal.

The Gulf Coast has a future; on that, most agree. But whether it can re-create a culture that took more than 200 years to build, return with its blend of residents, black and white, rich and poor, old money and new immigrant, or will become an entirely new and unfamiliar version of itself -- that is another story.

Even as the immediate mop-up of Katrina has brought in thousands of National Guard crews and relief workers from all over the country, some in once-booming Mississippi coast towns are worrying about what will come afterward.

Mayor A.J. Holloway of Biloxi (population 55,000) is among them. Biloxi, home to 10 casinos and most of the Mississippi coast's shrimp industry, was devastated from its waterfront to well inland, with more than 5,000 structures destroyed and uncounted others too damaged to fix.

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"We've lost our history, all of our landmarks," Holloway said. "We have some completely devastated areas, especially along the east end." Those included the city's old, working-class and poor neighborhoods, which casinos had coveted for years as prime real estate.

The Gulf Coast was the heart of Mississippi's floating casino industry, accounting for nearly half of the state's nearly $2.93 billion a year in gambling revenue. With the coast's 13 casinos destroyed by the hurricane, Mississippi, already the poorest state in the nation, is losing $500,000 in gambling taxes every day. Now the casino industry is lobbying for land-based alternatives to their former barges, and some fear the coast will look like a cut-rate Las Vegas, with slablike condominiums, cinder-block subdivisions and gaudy hotels.

The $700 million-a-year shrimping industry lost not only much of its fleet but also the processing plants needed to bring the shellfish to market, at the peak of the season.

The immediate cleanup of Katrina is just beginning. Garbage trucks have just started to roll through towns in the last few days, and schools are gearing up to open, in some places as early as next Monday, in others by the beginning of next month. Officials on the Gulf Coast are also trying to find a way to ease traffic, now that it appears that Interstate 90, the major coastal highway, will not reopen for at least 90 days.

"If I'd said on August 29th that two weeks later we were going to be where we are now -- well, no one would believe me," said Col. Joe Spraggins, the relentlessly upbeat director of emergency operations for Harrison County (population 185,000). "I mean, we're doing great," he said. "I could see now that the future of the coast will be better than ever."

Others are not so sure. "We've lost 80 percent of Hancock County, at least," said Eddie Favre, the mayor of Bay St. Louis, which had 8,000 residents.

Its neighbor, Waveland, which had 7,000 residents, lost virtually its entire infrastructure and population. Only about two dozen residents remain, living off relief food and water.

Pass Christian, a city of about 8,500, was considered the little jewel of the coast, a place where tourists came just to gawk at its mix of antebellum mansions and century-old shotgun shacks. Almost the entire city is gone, save for between 50 to 100 houses on the east side, where residents have been holed up since the hurricane, said Joseph Piernas, an alderman there.

Those who lost their houses or businesses were finally allowed into Pass Christian to survey the damage Tuesday morning, though lines hours long have tried to get into the town every day for a week, only to be turned away by the National Guard.

"The good news is, people are saying they'll rebuild," Piernas said. "We have no idea when that can start."

The governor's office said 1,250 FEMA trailers or mobile homes were in a staging area in Jackson, 135 were ready for occupancy and 20 have been delivered to evacuees in Biloxi, where perhaps as many as 20,000 people need new places to live.

Much Wider Damage To Levees Is Disclosed (LAT)

By Ralph Vartabedian

The Los Angeles Times, September 14, 2005

NEW ORLEANS — The massive levee system protecting New Orleans has sustained heavy damage well beyond the five breaches that are widely known to have caused flooding after Hurricane Katrina, the Army Corps of Engineers said Monday.

Miles of levees that protected the eastern flank of the region, which borders Lake Borgne, washed away in the storm surge from Katrina, which swept inland and caused deep flooding in St. Bernard Parish and the 9th Ward of New Orleans.

Army officials disclosed the destruction of the city's eastern levee system in a detailed helicopter tour of the region Monday. Unlike some of the levees in New Orleans that continuously hold water back from areas below sea level, these levees exist mainly to repel storm surges.

The loss of the levees has left portions of New Orleans with little or no protection midway through the hurricane season, senior Army officials said. And rebuilding the levees will be a massive undertaking that could take years, meaning the city could be vulnerable for a long time.

"It is gone," said Col. Richard Wagenaar, the Army Corps' head engineer for the New Orleans district. "It is literally leveled in places. The power of the surge in this storm was greatly underestimated."

Wagenaar estimated that 90% of the levee system protecting the region's eastern flank had been knocked out.

The region is protected by two levees. One is formed by a 17-foot-high barrier along a shipping channel known as the Mississippi River Gulf Outlet. The controversial channel was built in the 1960s and has long stirred the ire of environmentalists and local officials, who say it has made the area more vulnerable to flooding by destroying the natural marshes that can blunt storm surges.

The other, lower levee further inland provides a second layer of defense for St. Bernard Parish and the 9th Ward.

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As Katrina approached the Louisiana coastline from the south, it accumulated a wall of water possibly higher than 18 feet. As the storm continued north, its counterclockwise winds pushed the water westward. First, it surged into the bay known as Lake Borgne and then through a narrow barrier island. It next swept across the Mississippi River Gulf Outlet and then encountered the first levee.

Giant sections of that levee are heavily eroded or gone. The levees are made with piled dirt and rock with a steel sheet sandwiched vertically in the dirt. The steel is completely exposed in most of the area and badly deformed.

After sweeping past the levee, Katrina continued inland through a large marsh. Along the way, it deposited more than a dozen large shrimp boats and shipping barges, tossing them like toys.

"I don't know where those shrimp boats came from," Wagenaar said, shaking his head. "There are some pretty nice boats down there."

He predicted that many of the barges stuck hundreds of yards into the marshes would never be removed.

After the surge moved through the marsh, it hit the second levee, the last line of defense for residential neighborhoods. It destroyed that barrier, leaving deep bowls in the dirt where the surging water and waves scoured the soil. It then swept over the suburban neighborhoods on the other side.

The first blocks were heavily damaged or destroyed. An entire row of houses was pushed back a quarter of a mile into the woods. Other houses ended up in the middle of the street. It appears that much of the area will be a total loss, because the damage involves serious structural failures.

Army officials have said repeatedly that the levees and storm walls protecting New Orleans were never designed to handle a Category 4 or 5 hurricane such as Katrina. But now, without any levee system, the city's eastern flank could be vulnerable even to smaller storms.

It appears that St. Bernard Parish and the 9th Ward were hit from two sides. In addition to the surge from Lake Borgne, water poured through a breach in the Inner Harbor Navigation Channel.

The channel is part of the complex system of shipping, flood control and industrial ports that snakes its way through this city. It connects the Mississippi River, Lake Pontchartrain, the Intracoastal Waterway and ultimately the Mississippi River Gulf Outlet.

Engineers have temporarily patched all five of the breaches in sea walls around the city that are designed to keep water at bay. In addition to the Inner Harbor Navigation Channel, breaches also occurred at the 17th Street Canal and the London Avenue Canal.

Progress is being made in removing standing water from the city. The Army reports that about 6.5 billion gallons are being pumped out each day. Col. Duane Gapinski, who was appointed Sunday to run the "dewatering" team the Army has set up, estimates that the city should be dried out by mid-October at the latest.

Engineers Say A Key Levee Won't Be Set For Months (NYT)

By Matthew L. Wald

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - Hurricane Katrina washed away a 17-foot-tall earthen levee that had protected St. Bernard Parish, east of New Orleans, from the waters of a shipping canal, and the Army Corps of Engineers said Tuesday that the ravaged parish would be left defenseless against even small storms at least until early next year because replacing the structure would take months.

In a conference call with reporters, Col. Duane P. Gapinski of the corps acknowledged that the levee might not be rebuilt even by the start of next year's hurricane season.

On the other hand, Colonel Gapinski and other corps officials said, at this point there is little for the levee to protect. "St. Bernard Parish is complete destruction," he said.

Local authorities have ordered the parish evacuated and have said no one will be allowed to return for four months.

"It's going to take longer than four months to rebuild that levee, a lot longer than four months," even to restore it to the level of protection it afforded before the hurricane, Colonel Gapinski said. "But it's going to take a lot longer than four months to rebuild St. Bernard Parish."

The parish, which unlike New Orleans lies above sea level, was protected by the levee from the Mississippi River-Gulf Outlet, a canal built by the corps that is now a subject of scrutiny. Completion of the canal four decades ago allowed saltwater intrusion that, the corps acknowledges, was a factor in the death of marshes that once helped protect the city from storm surges. Some experts say the canal may also have provided an express lane for the Aug. 29 surge to reach populated areas.

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Corps officials report progress in pumping out floodwaters from New Orleans and adjacent areas. The city is now 50 percent inundated, they said Tuesday, from a high of 80 percent, with 27 permanent pumps and 46 temporary pumps moving a daily total of seven billion to eight billion gallons.

The corps on Tuesday stuck to its estimate of "dewatering" the main part of New Orleans by Oct. 2, and the East New Orleans section and St. Bernard Parish - barring new flooding - by Oct. 8. Plaquemines Parish will be dry by Oct. 18, the corps said.

Officials also reported that the Mississippi River was now open to deep-draft navigation along its entire length, although a small part of the southern end is limited to daylight transit because some aids to navigation have not yet been replaced.

Canal May Have Worsened City's Flooding (WP)

By Michael Grunwald

The Washington Post, September 14, 2005

On May 19, Hassan Mashriqui addressed a roomful of emergency planners and warned of a "critical and fundamental flaw" in the coastal defenses for New Orleans. Mashriqui, a computer modeler at Louisiana State University's Hurricane Center, singled out the Mississippi River Gulf Outlet, a 40-year-old shipping canal aimed at the city's gut.

For years, local residents had decried the little-used canal as a "hurricane highway" that would deliver massive storm surges into their neighborhoods.

But now Mashriqui was offering proof. His hydrodynamic modeling showed that a "funnel" created by the Gulf Outlet and a nearby waterway would amplify storm surges by 20 to 40 percent. He described the funnel as "Crescent City's Trojan Horse," carrying the Gulf of Mexico's waters into the city.

"I showed how dangerous that outlet was -- there was no ambiguity," says Mashriqui, who came to the United States after a tropical cyclone devastated his native Bangladesh. "And now it's all come true."

Authorities have not yet concluded what caused the drowning of New Orleans, and most attention has focused on two breached floodwalls near Lake Pontchartrain, to the city's north. But now experts believe that the initial flooding that overwhelmed St. Bernard Parish and the Lower Ninth Ward of New Orleans came from the Gulf Outlet, a channel that was an ecological and economic disappointment long before Hurricane Katrina.

Satellite images show that levees along the outlet were severely damaged by storm surges. Flyovers by the Army Corps of Engineers have revealed a path of destruction consistent with Mashriqui's theory that the Outlet provided a pathway for storm surges from the Gulf and neighboring Lake Borgne.

Mashriqui had warned that the confluence of the MRGO and the Gulf Intracoastal Waterway created a funnel that would direct storm surges into the New Orleans Industrial Canal and on into St. Bernard Parish. On the Friday before Katrina made landfall, the parish's state senator, Walter Boasso, complained at a congressional hearing that the federal government was "playing Russian roulette" with his constituents.

Katrina's first storm surges apparently shot up the Gulf Outlet and neighboring Lake Borgne from the southeast, then overtopped levees along the Outlet and the Industrial Canal. The floodwaters eventually breached the Industrial Canal's levees, and officials believe a large portion of the Outlet's levees have been destroyed as well.

"That funnel was a back door into New Orleans," said G. Paul Kemp, an oceanographer at the LSU Hurricane Center. "I don't think there's much doubt that was the initial cause of the disaster."

In 1965, the Corps of Engineers completed the MRGO -- pronounced "Mr. Go" locally -- which was a larger dirt-moving project than the Panama Canal. It was designed as a 76-mile shipping shortcut from the Gulf of Mexico to the Port of New Orleans that would give cargo ships an alternative to the sinuous Mississippi River.

But less than 3 percent of the port's cargo -- fewer than one ship per day -- passes through it. MRGO's freight totals had dropped by half since 1994, while the port's had increased overall. But the Corps still spent $13 million dredging the canal last year.

Critics have calculated the cost to taxpayers at more than $12,000 per vessel per day, and the Outlet has destroyed or damaged more than 20,000 acres of adjacent wetlands.

Shirley Laska, director of the Center for Hazards Assessment, Response and Technology at the University of New Orleans, says local flood-control meetings have been dominated for years by complaints about the Outlet, but nothing has changed.

Before Katrina, the Corps was already studying whether to close the canal. The initial conclusion was no, but the Bush administration ordered the agency to redo its analysis.

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The main advocates for the channel were the Port of New Orleans and its supporters in the Corps of Engineers and in Louisiana's congressional delegation. "You had the people of St. Bernard Parish against the Port of New Orleans," Boasso said at a community meeting Monday. "And the Port of New Orleans had the clout."

Port Director Gary LaGrange said "the jury is still out" on whether MRGO contributed to Katrina's devastation. But he said the port would have been willing to give up the Outlet if the Corps had completed a $750 million project to expand a lock on the Industrial Canal, another little-used shipping channel.

Most ships heading to New Orleans use the Mississippi River, but LaGrange said many local businesses rely on the alternative routes, including America's largest chicken exporter -- which now has 5 million pounds of rotting meat on its hands.

In any case, LaGrange said, the city would never have drowned if Congress had authorized levees protecting it from a Category 5 hurricane, instead of a Category 3.

"We've been stuffing a 250-pound body into 180-pound pants," he said. "That's your problem right there."

But in 1998, the St. Bernard Parish Council unanimously called for the channel's closing. In 2002, an LSU study noted that "locally, the MRGO is perceived as a superhighway for storm surge because of the channel's susceptibility to inundation by tropical storms and hurricanes." In 2004, a federally funded simulation drill called Hurricane Pam concluded that surges from a Category 3 hurricane would overwhelm the MRGO "funnel," flood surrounding areas and kill tens of thousands of people.

Mashriqui has dedicated his career to preventing a repetition of the Bangladesh catastrophe, and after the grim experience of the Hurricane Pam study, he became an evangelist for building a floodgate across the throat of the funnel.

When he spoke to emergency responders at the Metairie, La., library on "Hurricane Vulnerability Modeling for Southeast Louisiana," the next speaker was an Army Corps engineer. But he said Corps officials told him they could not study anything that was not in their congressional authorization. One colleague at the Hurricane Center predicted that nothing would happen until hundreds of people died.

"I told everyone: If New Orleans is a boat, here are the holes," Mashriqui said. "This is my passion; I don't want people to die in hurricanes. But nobody did anything."

Several current and former Corps of Engineers employees say the Corps' New Orleans district was reluctant to give up MRGO.

In recent years, Corps officials have spoken about closing it. But last year, they estimated their "project capability" for dredging the outlet at a whopping $38 million, signaling their desire to keep it open. "The general feeling was: 'There's no way we're closing that,' " says one biologist who left the district this year. "They wanted all the business they could get."

John Paul Woodley Jr., the assistant Army secretary who oversees the Corps, said the Bush administration had to instruct the agency to restart its study of whether to close the channel, because it hadn't taken into account the channel's destruction of wetlands, even though it was conducting a separate study of a $14 billion project to restore Louisiana's coastal wetlands. Woodley said there was also concern that further erosion could merge the channel with Lake Borgne -- which happened after Katrina.

Yesterday, Woodley pointedly declined to rule out the possibility that MRGO contributed to the tragedy of Katrina. "I've heard those concerns, and I wouldn't discount them," he said.

Woodley cautioned that the investigation of the catastrophe has just begun, but many scientists, environmentalists and St. Bernard Parish officials said they do not need a forensic investigation by the Corps of Engineers to know that their warnings have come true. Larry Ingargiola, the head of emergency management in St. Bernard, said he knows exactly why only 52 of its 28,000 structures made it through Katrina unscathed.

"That's where the damn water came -- right up MRGO," he said. "We've been screaming about it for years. I don't know how many politicians I've taken on tours. But there it is."

Death Toll In Louisiana Climbs Past 400 (AJC/AP)

By Adam Nossiter, Associated Press Writer

The Atlanta Journal-Constitution, September 14, 2005

NEW ORLEANS — Hurricane Katrina's death toll in Louisiana jumped by more than half Tuesday to 423 as recovery workers turned more of their attention to gathering up and counting the corpses in a city all but emptied out of the living.

The state Health Department announced the new death toll, which represented a sharp increase from 279 a day before.

The number of dead is all but certain to rise, because some flooded-out areas of the city have not been fully searched. But how high it might go is unclear.

Mayor Ray Nagin said earlier this month that New Orleans could have 10,000 dead. But a street-by-street sweep of the city last week yielded far fewer bodies than feared, and authorities said the toll could be well below the dire projections. They offered no specific estimates.

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Up until the past few days, authorities were slow to release numbers, saying they were concentrating on rescuing the living first. Rescuers reported pushing corpses aside, or tying them down to banisters or roofs for others to collect later.

As of Monday at least 236 people were reported dead elsewhere along the Gulf Coast, most of them in Mississippi.

"Let me caution everyone: We have not done the secondary searches in the areas where the water was the highest. So we still have a lot of work to do, and those numbers probably will go up," Nagin said Tuesday.

Over the weekend, at least 44 patients found dead at a flooded-out hospital.

Dr. Frank Minyard, the Orleans Parish coroner, suggested that further such discoveries are possible as the floodwaters recede.

"There just may be a lot of people who are still down in those deep waters, and some of waters were 10, 12, 15 feet deep," he said. "My biggest fear is that we will find something down there that is way out of proportion. Hopefully, it doesn't happen, but we worry."

The updated Louisiana numbers were released as Gov. Kathleen Blanco lashed out at the federal government, accusing it of moving too slowly in recovering the bodies.

The dead "deserve more respect than they have received," she said.

Coast Guard Vice Adm. Thad Allen, who took charge of the hurricane rescue efforts last week, said Tuesday that federal agencies involved had been meeting their mission to recover the remains quickly "and to treat them with the dignity and respect they deserve."

But Blanco said FEMA has slowed down the process by failing to sign a contract with the company hired to handle the removal of the bodies, Houston-based Kenyon International Emergency Services. Kenyon is working without a contract but threatened to pull its workers out of Louisiana unless either the state or the federal government offered it a signed agreement, Blanco said. Calls to Kenyon were not immediately returned.

"No one, even those at the highest level, seems to be able to break through the bureaucracy to get this important mission done," Blanco said.

Troops Returning To Duties (NYT)

By The New York Times

The New York Times, September 14, 2005

WASHINGTON, Sept. 13 - In a sign that initial rescue efforts after Hurricane Katrina are coming to an end, Pentagon officials said late Tuesday that about 4,000 active-duty troops, two large Navy vessels and three dozen helicopters ordered into the relief effort would return to their regular duties.

Officials said a sizable active-duty contingent remained, including the approximately 5,200 ground soldiers from the 82nd Airborne Division and the First Cavalry Division. At the height of the effort, more than 20,000 active-duty troops were committed to hurricane relief, military officials said.

Some Forces To Be Pulled From Storm Relief (AJC/AP)

By Robert Burns, Ap Military Writer

The Atlanta Journal-Constitution, September 14, 2005

WASHINGTON — The Pentagon is preparing to pull back some active-duty forces it sent to Mississippi and Louisiana in the early aftermath of Hurricane Katrina, even as it sends in some new groups for specialized work like the processing of corpses and aerial spraying for disease-carrying mosquitos.

The role of active-duty forces, including Navy ships like the aircraft carrier USS Harry S. Truman and Army ground combat units like the 82nd Airborne Division, may diminish within days or weeks, officials said Tuesday.

Maj. Gen. Bill Caldwell, commander of the 82nd Airborne, said on Monday in New Orleans that it appeared the search for city residents who still want assistance could be completed within 10 days. He said it remained to be determined by state and federal civilian authorities what tasks his soldiers would be assigned after that.

As the Army's premier quick-response force with important wartime roles in Iraq and Afghanistan, the 82nd Airborne seems unlikely to stay in New Orleans for an extended period. The first of the 3,800 soldiers it has in New Orleans began arriving Sept. 3 from Fort Bragg, N.C.

Operating with the 82nd Airborne are about 1,400 soldiers from the 1st Cavalry Division, based at Fort Hood, Texas.

National Guard troops under the direct control of Mississippi Gov. Haley Barbour and Louisiana Gov. Kathleen Blanco are expected to remain on the scene much longer, although likely on rotations of one month or less.

Pentagon spokesman Bryan Whitman said Tuesday there are about 45,800 National Guard troops and about 22,400 active-duty personnel participating in recovery operations in Mississippi and Louisiana, plus about 1,900 Reserves.

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While traveling in Europe, Defense Secretary Donald H. Rumsfeld said Tuesday the search-and-rescue portion of the military's mission on the hurricane-battered Gulf Coast is about over.

"Some helicopters can undoubtedly be moved out over the period ahead," Rumsfeld told reporters. He stressed that nothing would be withdrawn without authorization by the two states' governors and the president.

The Pentagon's internal news service quoted Rumsfeld as also saying the Navy's dock landing ship USS Whidbey Island, which brought bridging equipment and supplies to the region, would be departing. Some sailors from the Whidbey Island went ashore at Biloxi, Miss., on Sept. 8 to deliver goods and help in other ways.

The Truman aircraft carrier, which deployed from its home port at Norfolk, Va., three days after Katrina struck the Gulf Coast and arrived in waters off Mississippi on Sept. 4, was another candidate for an early return home, officials said.

Rumsfeld said there is a large surplus of hospital beds for victims of Katrina, so those could also be decreased. The USNS Comfort, a hospital ship based at Baltimore, arrived off the Mississippi coast late last week.

The Pentagon's internal news service said Rumsfeld approved the Federal Emergency Management Agency's request that the military take over the mortuary affairs mission in New Orleans. It reported that nine mortuary affairs teams from the 54th Quartermaster Company at Fort Lee, Va., were preparing to deploy to the region, and that nine other teams from that unit are on alert and are ready to deploy if ordered.

C-130 transport planes with the Air Force Reserve's 910th Air Wing began mosquito-spraying operations in St. Bernard and Jefferson parishes in New Orleans.

Officials Fear Texas May Have To Foot Bill (DMN)

By Todd J. Gillman

The Dallas Morning News, September 14, 2005

WASHINGTON – The bills are piling up: rent, police overtime, meals, transportation, hospital beds. Texas is already spending hundreds of millions of dollars caring for Katrina victims – but exactly how much may not be known for weeks.

And as they start tallying costs, state officials are becoming increasingly worried that despite a federal disaster declaration, Washington will leave Texas taxpayers stuck with huge bills.

The biggest items not yet covered by Congress: up to $450 million for schools and as much as $400 million for health coverage for the 205,000 evacuees thought to be in Texas.

"Are we concerned? Yes," Gov. Rick Perry's spokesman, Robert Black, said Tuesday after the latest in a series of meetings between state and local leaders and federal emergency officials. "We are not completely comfortable with the federal response in terms of education and Medicaid."

Mr. Black noted that Texas still hasn't received $2 million it sought from the Federal Emergency Management Agency after Tropical Storm Allison four years ago.

Direct costs for states that took in evacuees include Medicaid, welfare payments, unemployment coverage, housing and public safety. Many of these costs will be completely covered by federal disaster funding, though there will be headaches along the way.

"It's going to be a huge accounting process," said William Ayres, Texas Emergency Management Agency spokesman. "We don't even have ballpark estimates."

At last count, Texas schools had enrolled 33,000 evacuee students, and the state's education commissioner, Shirley Neeley, said she expected as many as 60,000. The annual cost per pupil is about $7,500.

The other big-ticket item is Medicaid. Albert Hawkins, chief of the Texas Health and Human Services Commission, estimated that Katrina could add $85 million a month to the state's Medicaid bill. The federal government covers 61 percent. So unless Congress steps in, Texas taxpayers could be forced to absorb nearly $400 million over the next year.

And there are smaller items. Emergency food stamps have gone to about 110,000 families who sought refuge in Texas. The federal government pays for the stamps but splits administrative costs 50-50 with states. U.S. Health and Human Services Secretary Michael Leavitt has assured Texas officials that he would work to find funding to cover that extra burden.

President Bush's Sept. 2 disaster declaration made Texas eligible for full reimbursement on a range of outlays. But many of the costs associated with long-term resettlement aren't covered.

House Majority Leader Tom DeLay, R-Sugar Land, said that inevitably, some evacuees would end up as Texas residents, so the state will have to accept responsibility. "We will have to come up with some arbitrary timeframe," he said.

On Monday, Sen. Kay Bailey Hutchison introduced legislation to ensure that states get repaid fully for at least six months on Medicaid and children's health coverage. Her Texas counterpart, Sen. John Cornyn, is a co-sponsor, and he is also pushing for federal funding for education and health care costs, as are other Texans.

Meanwhile, costs are mounting for school districts, cities and counties.

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The Dallas school district, with an enrollment topping 160,000, has taken in 1,248 evacuees at 134 schools – roughly doubling the number of new students. But as soon as they start attending classes, the district starts collecting money from the state based on average daily attendance.

Dallas City Manager Mary Suhm said the city has kept meticulous records of supplies bought and overtime paid, especially to police officers who've staffed the city's evacuee shelters by the dozen. Officials haven't tallied the costs, but they do expect full reimbursement through FEMA.

El Paso officials said the city had spent $475,000. San Antonio officials say they expect to spend $1 million on food and shelter for evacuees, and Bexar County officials say they've spent more than $1 million already, mostly on health care and sheriff personnel. In Houston, police overtime alone is estimated at $1 million.

Last week, Ken Welch, director of fiscal management at the state comptroller's office, urged state agency heads to keep careful records, on the assumption that Congress will issue refunds.

Other states are struggling with the price tag, too.

"Even the categories are still up in the air," said Bill Wyatt, spokesman for the National Council of State Legislators. "We don't know how many lives have been affected."

From A Times Staff Writer (LAT)

The Los Angeles Times, September 14, 2005

Gov. Arnold Schwarzenegger on Tuesday signed legislation allowing California to join 47 states in a pact to provide rescue responders and other resources to disaster locations.

California's firefighters had balked at the Emergency Management Assistance Compact out of fear that they would have less legal protection and reduced death and disability benefits if they were hurt while assisting in another state.

After a prolonged standoff, Schwarzenegger and Democratic legislators, in the aftermath of Hurricane Katrina, fashioned a compromise that protects the firefighters.

The Schwarzenegger administration said that without membership in the compact, California had to negotiate individual arrangements with other states, potentially delaying response times.

The legislation, AB 823, was sponsored by Assemblyman Pedro Nava (D-Santa Barbara).

Owners Of Nursing Home Charged (WP)

By Peter Whoriskey And Ann Scott Tyson

The Washington Post, September 14, 2005

BATON ROUGE, La., Sept. 13 -- Louisiana authorities charged the owners of a New Orleans area nursing home with negligent homicide Tuesday after 34 patients perished in the facility in the wake of Hurricane Katrina.

On a day in which Louisiana's death toll escalated to 423, state Attorney General Charles C. Foti Jr. said the owners of St. Rita's nursing home in St. Bernard Parish had been warned repeatedly by government officials and the news media that Katrina was coming, and also declined to evacuate the patients when asked if they wanted to do so. "In effect, their inaction resulted in the deaths of these patients," he said.

Foti announced the charges against the owners, Mable B. Mangano, 62, and Salvador A. Mangano, 65, at a late-afternoon news conference here. He said they had turned themselves in and had been booked on 34 counts of negligent homicide at the East Baton Rouge Parish jail.

Foti also said the state would investigate the deaths of 45 patients whose bodies were discovered Monday at Memorial Medical Center in New Orleans, as well as any other instances in which negligence may have led to the deaths of senior citizens or others unable to care for themselves.

"I'm going to look at every place in the affected area where patients died of unnatural causes," he said. A hospital or health care facility with "people that can't make a free choice because they are sick or unable to care for themselves has a duty to provide for their safety."

Bob Habans, an attorney for the Manganos, said they are "completely innocent." He said the couple and their children and grandchildren had attempted to evacuate residents, and had saved 50 people at the nursing home. "When all of the facts come out, everyone will know that they were heroes in this tragedy," he said.

As state officials issued an updated death toll, Gov. Kathleen Babineaux Blanco (D) once again ripped into the Federal Emergency Management Agency for not moving more rapidly to collect the bodies of those who died in the storm and its aftermath.

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Saying she had expressed her "absolute frustration" to federal authorities about the pace of recovering bodies, Blanco told reporters, "I cannot stand by while this vital operation is not being handled appropriately." She said the state signed a contract with a body-recovery company that had been in prolonged discussions with FEMA to do the same work.

Coast Guard Vice Adm. Thad W. Allen, the on-scene federal coordinator of disaster relief, responded in a written statement: "The state has always maintained direct control over the mortuary process following this tragedy. We are committed to a process that treats the victims of Katrina with dignity and respect and accomplishes the mission as quickly as possible. We will work with state officials on what they believe to be the best solution for their constituents."

Meanwhile, there were additional signs of recovery along the battered Gulf Coast. Louis Armstrong New Orleans International Airport resumed limited commercial service with the arrival of a Northwest Airlines flight that carried only about 30 passengers, including federal emergency relief officials. The Port of New Orleans was due to handle its first ship since before the hurricane hit on the morning of Aug. 29 -- well ahead of predictions that it could be out of business for months.

The overall death toll from the storm topped more than 640 on Tuesday, including 218 in Mississippi and a few deaths in Alabama. In Louisiana, the number of confirmed dead leapt from 279 to 423, and officials in New Orleans said many more bodies are likely to be found as waters recede an average of one city block a day and allow them to reach neighborhoods that experienced the most severe flooding. State mortuary workers said they were ramping up their manpower in New Orleans on Tuesday to remove more bodies.

A California National Guard unit looking for bodies rescued an unconscious and emaciated Edgar Hollingsworth, 74, from his house, and doctors said they expected him to survive, the Orange County Register reported.

As the work shifts from rescue and evacuation of the living toward the recovery of remains, the U.S. military has begun planning for withdrawing some of the 68,000 troops, 21 ships and dozens of aircraft from the Gulf Coast region, senior military officials said.

A large-scale troop pullout is already underway in Mississippi, with all of the several thousand out-of-state National Guard forces there scheduled to depart within eight to 10 days, Lt. Gen. Russel L. Honore, commander of Joint Task Force Katrina, said in an interview.

Military forces are expected to remain longer in Louisiana, but with the primary search effort in New Orleans expected to be completed by Wednesday, thousands of troops are expected to start departing within weeks, according to FEMA and military officials.

"It will be weeks, not months," when active-duty soldiers begin departing Louisiana, said Brig. Gen. Mark A. Graham, deputy commanding general of the 5th U.S. Army. About 7,200 active-duty troops, including 5,200 soldiers and 2,000 Marines, are engaged in relief work.

Honore said that as lifesaving missions such as search and rescue, providing food and water, and medical evacuation wind down, so will the military presence. He said some helicopter crews are already departing, including those from the 4th Infantry Division, which is preparing to return to Iraq.

In terms of providing security, Honore indicated that the city has an adequate law enforcement presence without federal troops. But Honore and other officials said the military is likely to stay to assist the city with planning, logistics and basic services until it can bring back a full contingent of municipal workers. "Until we've got these city workers back, we've got to keep the city running," he said.

One military unit winding up its mission Tuesday was a contingent of the 20th Special Forces Group, which has rescued nearly 8,000 New Orleans residents using inflated Zodiac boats since the flood hit. The unit, trained to partner closely with indigenous forces abroad, used those skills to help organize the search effort for the New Orleans Police Department.

Now, its officers say, the police are ready to work on their own. "We think they'll be on their feet in the next two days. They'll be able to handle it and we'll pull out," said Warrant Officer Bruce Erick, from a 20th Special Forces Group team based in Birmingham. The team helped the police carry out a systematic search plan.

As recovery efforts continued, FEMA's newly named acting director, R. David Paulison, spoke to reporters in Washington and said he will examine later the lessons learned from FEMA's failures.

"I can't deal with what happened in the last two weeks, but I can tell you, from this point forward, we are going to be focusing on the victims of this hurricane," he said. "But we've had a hurricane of unimaginable proportions, and we're going to deal with it. We're going to get those people out of shelters, and we're going to move and get them the help that they need."

At the same news conference, Homeland Security Secretary Michael Chertoff once again praised Michael D. Brown, who resigned as FEMA director on Monday after being yanked back to Washington amid withering reviews of the agency's performance the first week of the disaster. "As I said previously, I believe Mike Brown did everything that was within his capability to manage this crisis effectively," he said.

DOJ_NMG_0005361

Owners Of Nursing Home Charged In Deaths Of 34 (NYT)

By Shaila Dewan And Al Baker

The New York Times, September 14, 2005

BATON ROUGE, La., Sept. 13 - The owners of a nursing home where 34 people died in the floodwaters that inundated the New Orleans area were charged Tuesday with multiple counts of negligent homicide, shortly after a new dispute broke out between the State of Louisiana and the federal government over the retrieval of hundreds of other bodies.

Mable B. Mangano and her husband, Salvatore A. Mangano Sr., owners of St. Rita's Nursing Home in Violet, just east of New Orleans, turned themselves in after the charges were filed, Attorney General Charles C. Foti Jr. said. He said the couple had not acted on several warnings to move the residents as Hurricane Katrina approached.

"They were warned repeatedly, both by the media and by the St. Bernard Parish emergency preparation people, that the storm was coming," Mr. Foti said at a news conference here. "In effect, I think that their inactions resulted in the death of these people."

The charges represent the first major prosecution to emerge in the hurricane's aftermath.

The legal action came as the pace of recovery of the storm's other casualties increased. Louisiana authorities said the number of confirmed dead in the state increased to 423, a substantial rise from the 279 reported on Monday. Bob Johannessen, a spokesman for the Louisiana Department of Health and Hospitals, said the number of confirmations was expected to rise each day.

Gov. Kathleen Babineaux Blanco said the pace of recoveries should have been much faster, however, and accused the Federal Emergency Management Agency of slowing the retrieval of the dead to the point where the contractor responsible for that work had threatened to pull out.

After days of news reports of bodies in the streets of New Orleans, Ms. Blanco, with palpable frustration, said the state would bypass FEMA and sign its own contract with the company, Kenyon Worldwide Disaster Management.

"In recent days, I have spoken with FEMA officials and administration officials to convey my absolute frustration regarding the lack of urgency and the lack of respect involving the recovery of our people whose lives were lost as a result of Hurricane Katrina," Ms. Blanco said at a news conference in Baton Rouge. "We have pleaded for contract resolution. In death, as in life, our people deserve more respect than they have received."

FEMA officials responded by saying that the recovery of bodies was a state responsibility, while the federal role was to assist state officials.

"The state has always maintained direct control over the mortuary process following this tragedy," Vice Adm. Thad W. Allen of the Coast Guard, who is directing FEMA efforts in the region, said in a written statement. "We are committed to a process that treats the victims of Katrina with dignity and respect and accomplishes the mission as quickly as possible. We will work with state officials on what they believe to be the best solution for their constituents."

Kenyon officials said they had been struggling under cumbersome conditions to execute a task that gets grislier by the day. The company, which has a contract with FEMA to respond when called, arrived Sept. 1 but was not asked to begin recovering bodies until Sept. 6, said Bill Berry, a company spokesman.

The company's 100 or so workers have bunked in a funeral home in Baton Rouge, forcing them to drive four hours round-trip each day, and Kenyon officials said they had repeatedly asked for living quarters in New Orleans.

On Sunday, Kenyon officials told FEMA that they would not enter into a contract with the agency and would pull out as soon as a replacement was found, Mr. Berry said.

Mr. Berry said the company was already responding to Ms. Blanco's request that it increase its staffing even before the new contract was completed. "We just keep moving the cots a little closer together," he said.

Mr. Berry said he did not consider it appropriate to discuss why the company did not want to continue working under FEMA. But he had high praise for the state, which reached out to Kenyon after the company notified FEMA on Sunday that it would not accept a contract.

"I can't say enough about the Louisiana state people," Mr. Berry said. "They heard our problems, and they simply fixed them. It's beautiful to see a general sitting there from the National Guard saying, 'I can do that,' and it's done."

In an effort to explain why Kenyon may have walked away from a federal contract, a senior official from the Department of Homeland Security, who would not allow his name to be used because the department had already issued an official statement, said Tuesday that the state's proposed contract was "less detailed than the plan we were negotiating" and had four provisions compared with nine that FEMA had wanted.

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For example, the official said the federal proposal would have required that the Kenyon employees have specialized training and use personal protective gear and have appropriate security, provisions that the federal official said were not included in the state contract.

Mr. Berry declined to respond, except to say that the company had 76 years of experience in disasters. It was hired in the aftermath of Sept. 11, 2001, and last year's tsunami. "We will let our record speak for itself," he said.

Kenyon - a unit of Service Corporation International, a giant funeral company - operates worldwide and handled preservation of remains after the World Trade Center attacks and the cleanup of mass graves in Iraq under government contracts. The company, which is based in Houston, has contributed heavily to President Bush's campaigns. The chairman and founder of the company is Robert L. Waltrip, a longtime friend of the Bush family and a trustee of the George Bush Presidential Library Foundation.

In New Orleans, anger over the slow collection of bodies, which officials say has been hampered by floodwater and debris, still smoldered. Dr. Brobson Lutz, a former health director for the City of New Orleans, led an impromptu and morbid tour on Tuesday that he said reflected the extent to which those who perished had been neglected.

It included a nursing home on Dauphine Street, where three bodies had stayed until Dr. Brobson had mentioned them on Fox News, and the kitchen area of his own office, where he wiped at blood from the body of Michael Lala, the owner of Old N'Awlins Cookery. Mr. Lala had died from heart failure a week after the storm, but the authorities did not respond to requests to pick up the body, Dr. Brobson said, so he stored it in his office for a week until it finally was collected on Tuesday morning.

"FEMA couldn't get the live people out in time and they can't get the dead people out in time," Dr. Brobson said. "They failed the living and the dead."

The residents of St. Rita's did not have to die, Attorney General said, and he warned that other nursing homes that failed to remove residents also faced prosecution.

Local officials had ordered a mandatory evacuation amid news reports about the approach of the storm, Mr. Foti said. Because St. Rita's was licensed as a Medicaid facility, it had an evacuation plan in place, but it did not use it, he said.

In addition to the mandatory evacuation order, officials offered to send two buses to the nursing home, but Mr. Foti said the Manganos declined that offer. Also, the owners had an agreement with an ambulance company, signed in April, to provide ambulances to evacuate special-needs patients, but "they were never called," Mr. Foti said.

At least two drowning victims at the home could have been family members who went to the scene or people who took refuge there, he said, adding that the remains were being identified.

James A. Cobb, the lawyer for the Manganos, said that they were not guilty of the charges and that they were unaware a mandatory evacuation order had been issued. Mr. Cobb said that if the patients - some on feeding tubes, oxygen and in need of medication - had been put on a bus for 12 hours to evacuate, "people are going to die."

A deputy at the East Baton Rouge jail said the Manganos had posted a bond of $50,000 and were expected to be released.

La. Nursing Home Owners Charged In Deaths (AJC/AP)

By Doug Simpson, Associated Press Writer

The Atlanta Journal-Constitution, September 14, 2005

BATON ROUGE, La. — The husband-and-wife owners of a nursing home near New Orleans were charged Tuesday with negligent homicide in the deaths of 34 people during the flooding unleashed by Hurricane Katrina. The case represents the first major prosecution to come out of the disaster.

The owners of St. Rita's Nursing Home in Chalmette "were asked if they wanted to move (the patients). They did not. They were warned repeatedly that this storm was coming," Louisiana Attorney General Charles Foti said.

"In effect, their inaction resulted in the deaths of these patients," Foti said.

Salvador A. Mangano and his wife, Mable, surrendered and were jailed on 34 counts of negligent homicide. They posted bond of $50,000 each later Tuesday. Each count carries up to five years in prison.

The attorney general said he is also investigating the discovery of more than 40 corpses at flooded-out Memorial Medical Center, in New Orleans' Uptown section.

The Manganos' attorney, Jim Cobb, said his Tuesday night that his clients are innocent, and he blamed St. Bernard Parish officials for not ensuring an evacuation plan was proceeding.

The nursing home owners had to make a difficult decision between evacuating the patients, many of them elderly and on feeding tubes, or keeping them at the home and weathering the storm, Cobb said.

"If you pull that trigger too soon those people are going to die," he said. Three people from another nursing home had died during the evacuation ahead of the hurricane.

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The Manganos had an evacuation plan as required under state law, both their attorney and the attorney general said.

But Foti said the nursing home had a contract with an ambulance service to evacuate the patients, but the owners didn't call the company. They also turned down an offer from St. Bernard Parish officials who asked if the nursing home wanted help evacuating, he said.

The victims at St. Rita's died Aug. 29, the day the hurricane hit, and on Sept. 6, at least 14 unrecognizable bodies were still inside the nursing home, the New York Times reported last week.

St. Bernard Parish Councilman Ricky Melerine said the water rose 3 feet in 15 minutes that morning and then even faster, the Times said.

Several men tried to rescue the nursing home's residents by floating them out on mattresses, and others were able to walk to a school, the Times said. In all, the home had about 60 residents.

There were apparent efforts to fight the incoming water inside St. Rita's. A table was nailed against a window and a couch was pushed up against a door, the Times said. There was also evidence that water had reached the roof.

Tom Rodrigue, whose mother died in the nursing home, was angry Tuesday and near tears.

"She deserved the chance, you know, to be rescued instead of having to drown like a rat," he told CNN.

Foti said the bodies have not all been identified and he was not sure how many of the victims were patients or staff.

"They had a duty and a standard of care to people who could not care for themselves," Foti said of the owners. "If you or I decided we are going to stay, we do it of our own free will. ... The people at the nursing home don't have that choice."

Louisiana Charges Nursing Home Owners With Negligent Homicide (KRT)

By Chris Gray, Brandon Bailey And Scott Dodd

Knight Ridder, September 14, 2005

BATON ROUGE, La. - Hurricane Katrina killed them, but the Louisiana attorney general said Tuesday that he's also holding the owners of a nursing home responsible for the deaths of 34 victims, mostly elderly, found after the storm.

People in St. Rita's Nursing Home, in a small town southeast of New Orleans, tried to fight the rising floodwaters by blocking windows and lashing themselves together with rope, but they lost their battle when water reached the roof.

Attorney General Charles Foti said Salvador and Mable Mangano, a married couple who owned the facility, turned themselves in to authorities on Tuesday and have been charged with 34 counts of negligent homicide.

The nursing home had a contract with an ambulance company to evacuate residents, Foti said, but it didn't call for help. It also turned down offers from St. Bernard Parish to send buses.

"Their inaction resulted in the death of those people," Foti said. "They did not die of natural causes. They drowned."

In Washington, President Bush accepted responsibility for the federal government's failures in the aftermath of Katrina, as the death toll along the Gulf Coast climbed to more than 600.

After more than a week of White House refusals to play "the blame game," Bush acknowledged that mistakes were made and that the government's halting, disorganized response raised questions about the country's ability to cope with a terrorist attack.

"Katrina exposed serious problems in our response capability at all levels of government," Bush said in a midday White House news conference. "To the extent that the federal government didn't fully do its job right, I take responsibility."

Facing the lowest approval ratings of his presidency - a Newsweek poll found just 38 percent of Americans say he's doing a good job - Bush planned a prime-time speech from the disaster area on Thursday night.

"I want to know what went right and what went wrong," Bush said at a joint appearance Tuesday with the Iraqi president in Washington, "to answer that very question that you asked: Are we capable of dealing with a severe attack or another severe storm?"

Back in Baton Rouge, Foti said that some people at St. Rita's survived, including a man who got his elderly relative out of the facility by floating to safety on a mattress.

"Of all of this, that's the thing that hit the heart of most people," St. Bernard Parish President Henry "Junior" Rodriguez said of the nursing-home deaths. "I personally know two people who had their families in there and went to get them, and they were floating."

An attorney for the nursing home said the owners would fight the charges. "I can promise you there's another side of the story," lawyer Jim Cobb told CNN.

Dan Wagner came to the St. Bernard parish emergency operations center Tuesday looking for news about who was found in the nursing home. He couldn't find out what had happened to his 95-year-old grandmother, Mary Alma Wagner.

"They said they were going to evacuate her," he said. "We're just trying to find out if she's there. She's not on the list of the people brought out."

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Foti said his office will also investigate other hospitals where bodies have been found, including Memorial Medical Center in New Orleans, to see if they died of anything other than natural causes.

About 45 bodies were removed from Memorial over the weekend. Hospital spokespeople said many elderly and sick people died at the flooded, powerless facility in the four days after the storm while doctors and nurses tried to keep them alive, waiting for rescuers who never came.

In the nation's capital, homeland security officials pledged a house cleaning of political appointees in top jobs who have little experience in disaster management, and more fingers were pointed in New Orleans over the snail's pace of retrieving bodies that litter the flood-ravaged city.

Meanwhile, the hard work of finding a place to live for thousands of now-homeless evacuees across the Gulf States promised to provide another major challenge for the government. The American Red Cross said thousands of people could be living in shelters for months.

State officials said the confirmed number of dead in Louisiana had reached 423, up from fewer than 200 last weekend. In Mississippi, emergency officials reported 218 deaths.

New Orleans Mayor Ray Nagin said workers haven't finished door-to-door searches for bodies in every sector of the city, so officials expect the death toll to rise. The grim job should be completed by week's end, he said.

Defense Secretary Donald Rumsfeld approved FEMA's request for the military to take over mortuary affairs in New Orleans. Nine mortuary affairs teams from the 54th Quartermaster Company at Fort Lee, Va., were preparing to go, and nine others are on alert.

Nagin said he's waiting for official results of an Environmental Protection Agency study of air and water quality. If the results are as good as he's heard, he hopes to open downtown New Orleans, the French Quarter and some neighborhoods to residents and businesses in the next few days.

In his first public statements, new acting FEMA chief R. David Paulison said he will focus on the hundreds of thousands of Gulf Coast evacuees living in shelters, tents or their cars. He pledged to "get these people out of the shelters into some type of either semi-permanent or permanent housing."

The American Red Cross said nearly 7,000 people are housed at shelters in Mississippi, with 75,000 around the country. Most emergency shelters weren't meant to serve as homes for more than a night or two.

"We expect we'll be sheltering people for several months," said Red Cross spokesman Kevin Titus.

State and federal officials say they're scouring the Southeast for up to 300,000 trailers and mobile homes to serve as free or subsidized housing for as long as two years.

The government is also looking for spots to establish miniature "communities" of several thousand mobile homes, but locations with enough space and needed utilities are hard to come by.

"You've got to have a place to put `em," said Mississippi Gov. Haley Barbour.

Some of the first trailers were delivered to an RV park in Biloxi, Miss., where some local families were moving in Tuesday and unpacking the few belongings they were able to salvage from the hurricane.

"It's wonderful just to have a place to say is yours," said Peggy Nitcavic, 57. The home where she grew up and later raised two sons was destroyed by Katrina.

Nursing Home Owners Charged With Negligent Homicide (LAT)

By Ashley Powers And Nicholas Riccardi

The Los Angeles Times, September 14, 2005

NEW ORLEANS — Parts of this hurricane-devastated city could reopen by Monday, an upbeat Mayor C. Ray Nagin said today as officials announced the first homicide charges connected to the Hurricane Katrina disaster.

State Atty. Gen. Charles C. Foti Jr. announced today that the owners of St. Rita's Nursing Home in St. Bernard Parish had been charged with 34 counts of negligent homicide after 34 bodies were recovered at the facility.

Mable B. Mangano, 62, and Salvador A. Mangano Sr., 56, were each charged with 34 counts of negligent homicide and lodged in the East Baton Rouge Parish prison.

Each count carries a maximum penalty of five years incarceration.

"Thirty-four people drowned in a nursing home that should have been evacuated," Foti said.

The attorney general alleged that the Manganos declined to accept the two buses authorities had offered to send, and did not call an ambulance company they had contracted.

Officials discovered the bodies after the hurricane. They have yet to be identified, and could include staff members or relatives of patients, Foti said.

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Foti also said his office would investigate other nursing homes, hospitals and care facilities where bodies were found, including Memorial Medical Center in New Orleans, where 45 bodies were discovered.

The criminal charges came as officials grew optimistic more than two weeks after Katrina struck, killing at least hundreds, perhaps thousands, and causing tens of billions of dollars in damage.

Nagin held his first news conference in the city since the weekend and was noticeably upbeat.

"We are in a situation now where we are out of nuclear crisis mode and in regular crisis mode," he told reporters.

Both the airport and the port reopened today as crews continued to clean up the city that has been under floodwater since Katrina hit the Gulf Coast on Aug. 29. Waters still covered more than half of the city today.

But Nagin, cheered by a verbal report from federal Environmental Protection Agency officials, said some the driest and most famed parts of the city — the downtown business district, the French Quarter, Uptown and Algiers — will hopefully reopen to residents by Monday.

"We are bringing New Orleans back, we are bringing its culture back, we are bringing its music back," Nagin said. Glancing up at the military helicopters, he said: "I'm tired of hearing these helicopters. I want to hear some jazz."

He estimated that 100,000 to 150,000 residents could return to the four open districts, if air quality test results were good, but insisted that no one will be allowed to go to areas that are still wet. Nagin said he was sure the evacuees, scattered across the country, would want to return.

"I know New Orleanians, and once the beignets start cooking up again and the gumbo's in the pot, and the red beans and rice are being served on Monday, and not where they are, they'll be back," he said.

In the capital of Baton Rouge, the governor lashed out at the federal government, accusing the Federal Emergency Management Agency of moving too slowly to recover the bodies of those killed in the wake of Hurricane Katrina.

At a speech this morning, Gov. Kathleen Babineaux Blanco expressed her "absolute frustration" with FEMA officials, whom she accused of moving too slowly.

"In death as in life, our people deserve more respect than they have received," Blanco said.

On an optimistic note, Blanco said she hoped to allow state buildings in seven parishes affected by Katrina to reopen next week.

Blanco said that the state would contract with Kenyon International of Houston to remove the bodies because Kenyon could not agree with FEMA on a contract.

"I have taken action today to resolve a matter that involves life, death and dignity," the governor said from a conference room at state police headquarters while surrounded by state elected officials.

"No one, even those at the highest level, seems to be able to break though the bureaucracy to get this important mission done.... I am angry and outranged," Blanco said.

Collecting bodies is the responsibility of the state with FEMA only in a supporting role, David Passey, a FEMA spokesman, said today of the delays in signing a contract. From the start, the state has been in charge of the effort to locate and transport the dead to morgues, he said.

"The collection of bodies is not normally a FEMA responsibility," Passey said.

The governor's press secretary, Denise Bottcher, said FEMA would need to approve the contract so that the state could be reimbursed, or the state would have to pay.

"What they're there for is to have someone with experience of a natural disaster or a terrorist attack," Bottcher said.

After observing a moment of silence for Hurricane Katrina's victims, the governor said that most New Orleans residents had heeded the call to evacuate because the death toll appeared to be in the hundreds, not thousands.

The official toll in Louisiana was 423, but was expected to rise.

Blanco announced that seven parishes would conditionally re-open Monday: Lafocorche, Livingston, St. Charles, St. John, St. Tammany, Tangipahoa and Washington. State offices there can be reopened.

Parishes still closed are Jefferson, Orleans, Plaquemines and St. Bernard.

With the cleanup of New Orleans continuing, Mayor Nagin said he will attempt to get Wal-Mart, Lowe's and Home Depot to open temporary retail areas near the convention center so returning residents can buy necessities. He warned that anyone trying to commit crimes would be dealt with harshly, noting that the streets were still full of military troops.

"This city is probably the safest it has been in many, many years," he said.

The mayor said the restoration would become easier now that what he called "the big daddy of all pumps," Pumping Station No. 6, came back online Monday.

Officials said only about 30 people were evacuated Monday and that all had previously been urged to leave by rescue workers. Because there were so few evacuees, there will no longer be airlifts from the city after today's flight departs.

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The first commercial passenger flights landed at New Orleans' international airport, named for jazz great and city native, Louis Armstrong.

There were two inbound flights from Memphis on Northwest and one Delta flight from Atlanta.

The Delta flight arrived with passengers but flew out empty. The two Northwest flights departed with passengers.

The airport, which until last night was a military bunkhouse filled with cots, looks like an airport again, but one filled with military personnel rather than passengers.

One passenger, Donna Brazile, a political science professor at Georgetown University, sat in a metal chair outside the Northwest terminal, waiting for a flight that would take her home to Washington DC.

Brazile came to New Orleans to help her family, who she said had lost everything in the storm. She said that her father had been evacuated to Texas and that she had gone after him, brought him back, and found him an apartment in the region.

She had been scheduled to fly out on one of the Northwest flights this morning, but was unable to get to the airport in time because of the military checkpoints along the road that slowed her down.

"I got lucky," she said. "Northwest put me on the next flight out. I'll get home, even though it will be late. I am not sure what I am going to do in the meantime. It's not like there are a lot of comfortable places to hang out in the airport right now."

Most shops in the airport remained closed, but one convenience type store was opened, anticipating that there would be passengers to serve.

The store was filled with dozens of military police, who browsed through clothing racks filled with pastel-colored New Orleans T-shirts. They stood around reading the first few pages of books designated New York Times bestsellers, and buying magazines that ranged from People and Vogue to Business Week. Most paid in cash, though the cashier said that the phone lines were up to take credit cards.

Pair Charged In 34 Deaths (USAT)

By Laura Parker

USA Today, September 14, 2005

NEW ORLEANS — The owners of a nursing home where 34 residents are believed to have drowned during Hurricane Katrina were charged Tuesday with negligent homicide.

Before the storm arrived, St. Bernard Parish officials had asked the owners of St. Rita's Nursing Home — Salvadore Mangano Sr., 65, and his wife, Mabel, 62 — whether they wanted to move the residents, Louisiana Attorney General Charles Foti said.

“They did not,” Foti said. “They were warned repeatedly that this storm was coming. In effect, their inaction resulted in the deaths of these patients.”

Neighbors described a horrible scene that unfolded on Aug. 29, the day Katrina hit. Floodwaters rose to the roof of the one-story nursing home in St. Bernard, outside New Orleans, trapping elderly and infirm residents inside. Neighbors came in boats and smashed a hole in the roof.

“We tried to get out as many as we could,” said Steve Snyder, 29, an oil rig worker. “All we could go by was the hollering and screaming, ‘Help, help!' ”

“We got 25 to 27 people out alive,” Snyder said. “And then we didn't hear anymore screaming, anymore people calling for help.”

The Manganos surrendered to authorities Tuesday and were charged with 34 counts of negligent homicide. Each count carries a maximum five years in prison. The two were released on $50,000 bond each.

A lawyer for the Manganos said they were being scapegoated. “They are completely innocent,” lawyer James Cobb said.

Cobb said the Manganos have a “spotless record” caring for the elderly and were presented with “a horrible choice” of risking the lives of patients on feeding tubes by evacuating them 70 miles away or keeping them at the facility. The Manganos contacted all relatives of the residents and told them of their plans to ride out the storm, he said. “To pick on these two people with the colossal failures of the federal, state and local government is out of bounds,” Cobb said.

The father of Steve Galladore, a St. Bernard Parish firefighter, was among the dead. Galladore said he talked to the Manganos three days before the storm and was assured they would evacuate. But when he talked to Salvadore Mangano a second time, the nursing home owner had changed his mind, he said.

“He was sure the levees were going to hold, and if he put people on the bus, there was a good chance of losing two or three people on the ride to Lafayette,” Galladore said.

Held Behind Walls In Katrina's Wake, They Also Serve (WSJ)

By Gary Fields

DOJ_NMG_0005367

The Wall Street Journal, September 14, 2005

BOGALUSA, La. -- James Cox plunged his scarred, rough hands into the ice bucket to fish out two bottles of Gatorade and handed them to Tammey Duncan. A resident of devastated Washington Parish, she was waiting in line at the emergency-aid station in an industrial park here.

Mr. Cox, a prisoner for nearly 30 years, is serving time for armed robbery at the Washington Correctional Institute. In the past two weeks, though, he has also been a first responder, one of dozens of inmates in orange jumpsuits who have been driving forklifts, clearing debris and handing out food and water to people living here near the Mississippi line.

As Louisiana digs out from Hurricane Katrina, convicts have been opening roads with axes and chainsaws and doing other useful work. At Angola State Penitentiary, near Baton Rouge, inmates produced mattresses for shelters. Some prisoners have even donated money from what little they are paid so evacuees can buy postage stamps.

"I've been a thug since 1966, and this feels good," said Mr. Cox, a brawny, tattooed 53-year-old. "When people come up and you look into their faces and see all the sadness, and then they thank you like you are the one giving this stuff to them, it makes you tear up."

Opened in 1983 to house 500 inmates, the Washington Correctional Institute now holds 1,200 men, most here on drug charges, and it employs 418 people, making it one of the largest employers in the parish. Since Katrina struck, this medium-security prison 70 miles north of New Orleans has sent scores of inmates every day with corrections officers to work in the parish. The jobs don't pay well -- 20 cents an hour, at best. But unlike the vast majority of the 43,900 people of this parish, the prisoners go back at day's end to hot showers, warm meals and electric lighting.

All of the prisoners who have been helping are "trusties," men who are given special privileges -- like getting to leave the prison grounds under supervision -- because of their exemplary disciplinary records.

The hurricane has resulted in neither riots nor escapes. Because the prison is surrounded by dense, forbidding woods, running away isn't much of an option. Indeed, since Katrina hit, the Louisiana state prison system has been relatively peaceful despite moving 8,000 inmates from prisons damaged by the hurricane to 13 different facilities.

In large part, that's because some of the prison authorities, such as Warden James Miller here at the Washington Correctional Institute, were a lot better prepared for the hurricane than state and federal authorities were.

On Aug. 29, the morning Katrina's eye passed about 30 miles east of here, prisoners huddled in the dorms watching the horizontal rain, listening as the gravel on the roof whipped off and shattered windshields a half-mile away. Heating units were torn off the buildings. About that time, two 10-foot-high fences topped with razor wire were breached by the storm.

While most inmates were locked in their cells, one crew of officers and trusties rushed to turn off a leaking main gas line. Fifty others, standing in the rain and wind, raised and welded the downed fence that confines them. As the storm began to subside, Warden Miller, who lives on the prison grounds, sent six crews of inmates and corrections officers out. Their instructions were to clear one lane on all the main roads in the parish.

As the men made their way out among downed power lines and roads littered with fallen trees, a radio call came in asking for help clearing the road to the emergency management center in Bogalusa. Another team from the prison headed that way with their axes, hatchets and saws to cut and move the downed trees from the roadway.

Mr. Miller, 50 years old, had his own personal emergency management plan in place. He had backup generators with a stockpile of fuel. The prison was already equipped with one of the largest food-storage facilities in the parish. It was so well stocked there was no chance food would run out and the prison was able to help out the school system, which had food in danger of spoiling.

The warden's biggest concern was gasoline to power the generators. As soon as the storm passed, Mr. Miller pulled out the satellite phone he had reserved for such emergencies and called Richard Stalder, the state's corrections chief, to arrange for additional fuel supplies. Mr. Miller has been able to give each of his workers 10 gallons of gas every two days so they can drive to work. Others, including a few officers, stayed over at a makeshift shelter on the prison grounds. "This isn't the kind of place where you can just let everybody take off work -- I've got to have them here," Mr. Miller said.

It has been hard for many inmates to grasp what has been happening outside the prison. About 85% of the inmates here are from the New Orleans area, and they had no access to news reports until the warden videotaped a newscast and played it on the prison's television system.

The TV rooms were silent as inmates crowded in. Darrell Johnson, 49, who has been here nine months for a parole violation, was watching the screen when he saw his neighborhood, then recognized his street and family home, all underwater. "I'm just hoping everybody got out safe," he said of his two brothers and two sisters. "You can't call because of the phone situation here, and there's no sense in writing a letter. The mail ain't got nowhere to go. I have no idea what shelter they went to or even what city they might be in."

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Pausing while he moved pallets of baby formula, Keshawn Patterson, 27, said, "We can't help our families … At least doing this, helping, it takes your mind off it for a while."

A challenge for the prison is finding the families of prisoners who are soon to be released. The institute has already located the families of 180 prisoners and will continue to make calls and to use the Red Cross and other means to try to find them. The state still needs to figure out how to keep track of inmates on parole or probation should they leave Louisiana -- and to coordinate with other states.

Meanwhile, to keep operations here normal, Mr. Miller hasn't canceled regular visiting days. And letters will go into the files of inmates who have helped out in the hurricane relief effort, intended to help the men when they come up for parole..

DeLay Declares 'Victory' In War On Budget Fat (WT)

By Amy Fagan And Stephen Dinan

The Washington Times, September 14, 2005

House Majority Leader Tom DeLay said yesterday that Republicans have done so well in cutting spending that he declared an "ongoing victory," and said there is simply no fat left to cut in the federal budget.

Mr. DeLay was defending Republicans' choice to borrow money and add to this year's expected $331 billion deficit to pay for Hurricane Katrina relief. Some Republicans have said Congress should make cuts in other areas, but Mr. DeLay said that doesn't seem possible.

"My answer to those that want to offset the spending is sure, bring me the offsets, I'll be glad to do it. But nobody has been able to come up with any yet," the Texas Republican told reporters at his weekly briefing.

Asked if that meant the government was running at peak efficiency, Mr. DeLay said, "Yes, after 11 years of Republican majority we've pared it down pretty good."

Congress has passed two hurricane relief bills totaling $62.3 billion, all of which will be added to the deficit.

Republican leaders have been under pressure from conservative members and outside watchdog groups to find ways to pay for the Katrina relief. Some Republicans wanted to offer an amendment, including cuts, to pay for hurricane spending but were denied the chance under procedural rules.

"This is hardly a well-oiled machine," said Rep. Jeff Flake, Arizona Republican. "There's a lot of fat to trim. ... I wonder if we've been serving in the same Congress."

American Conservative Union Chairman David A. Keene said federal spending already was "spiraling out of control" before Katrina, and conservatives are "increasingly losing faith in the president and the Republican leadership in Congress."

"Excluding military and homeland security, American taxpayers have witnessed the largest spending increase under any preceding president and Congress since the Great Depression," he said.

Mr. Keene said annual nonmilitary and non-homeland security spending increased $303 billion between fiscal year 2001 and 2005; the acknowledged federal debt increased more than $2 trillion since fiscal year 2000; and the 2003 Medicare prescription drug bill is estimated to increase the government's unfunded obligations by $16 trillion.

Tom Schatz, president of Citizens Against Government Waste (CAGW), said if Mr. DeLay wants to know where to cut, "there are plenty of places to reduce."

His group soon will release a list of $2 trillion in suggested spending cuts over the next five years, and he said Congress also could cut the estimated $20 billion to $25 billion in pet projects that make their way into must-pass spending bills each year.

CAGW and the Heritage Foundation also suggest rescinding the 6,000-plus earmarked projects in the recently passed highway bill.

But Mr. DeLay said those projects are "important infrastructure" and eliminating them could undermine the economy as Congress tries to offer hurricane relief.

"It is right to borrow to pay for it," he said. "But it is not right to attack the very economy that will pay for it."

Mr. Schatz, though, said the highway bill included projects such as flowers for the Ronald Reagan freeway in California, which he said aren't essential spending.

Mr. DeLay said the budget this year was pared down and 100 programs or offices were eliminated in this year's spending bills. "We have been doing that for 11 years," he said. He said it's an "ongoing process" that will be more complete after this year's budget process, which calls for cuts to Medicaid and other entitlement programs.

Rep. Patrick T. McHenry, North Carolina Republican, agreed that Republicans "have been more fiscally sound than the Democrats were in their decades in the House." He acknowledged that "we're still trying to improve," and noted Mr. DeLay is leading the fight to reform the budget process.

"We've had a good start, but many of us want to see the government be more fiscally sound and conservative in the future," Mr. McHenry said.

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Aside From Roberts And Katrina, What Else Is New Lately? (HILL)

By Elana Schor

The Hill, September 14, 2005

In case anyone needed reminding of how consumed Congress is by just two issues at the moment, GOP senators left yesterday's policy lunch with matching talking point cards — one with a small graphic of the Supreme Court, the other with a photo of a hurricane.

Only five daring lawmakers convened hearings to compete with the morning appearance of chief justice nominee John Roberts before the Senate Judiciary Committee. And one of the four, Sen. Rick Santorum (R-Pa.), cleverly changed the focus of his pre-planned hearing, from nonprofit organizations to nonprofit organizations in the aftermath of Hurricane Katrina.

Santorum noted the fortunate coincidence that all three of his invited charity groups happened to be involved in the disaster relief effort, but turned skeptical at the suggestion that "Katrina-izing" the people's business was turning into a trend.

"In this case, the parallel is pretty obvious," Santorum said.

Sen. Joseph Biden's (D-Del.) immersion in Roberts was so complete that, heading for the policy lunch, he mistakenly referred to the judge as "Ginsburg" and volleyed away a ubiquitous Katrina question by explaining that preparing his confirmation questions had taken up the majority of his time. Still, Biden defended the chamber's ability to manage both hurricane reconstruction and the ongoing war in Iraq while dealing with Roberts.

"We ought to be able to walk and chew gum at the same time," Biden said.

For many on the Hill, the priority most in danger of slipping through the cracks is entitlement cuts mandated by the congressional budget resolution but put off to accommodate the response to Katrina. Democrats are strategizing on how to turn the month-long budget reconciliation delay into an indefinite one, with Republicans parrying that they can walk, chew gum and tighten penalties for sex offenders at the same time.

"This is something that can help bring the nation together" during a post-Katrina mourning period that has turned partisan, said Charlie Keller, spokesman for Rep. Ginny Brown-Waite (R-Fla.), whose sex-offender verification bill was folded into a broad package that House Judiciary Committee Chairman James Sensenbrenner (R-Wis.) shepherded to a floor vote today.

"While the House is trying to continue its business of the things American people are looking for, I think cracking down on sex offenders definitely falls under that category," Keller said. House GOP leadership agreed, touting an appearance by Sensenbrenner and his cosponsors in addition to one from the House "Lawsuit Abuse and Voter Values Public Affairs Teams" cheerleading for Roberts's confirmation, on which they have no vote.

The Congressional Hispanic Caucus was kept busy by a three tasks, preparing for its institute's annual convention this week, releasing its first survey on corporate employment of Hispanic-Americans and using the hurricane to push for an abandonment of mandated cuts in food stamp funding.

"One of the methods we can use to get attention for that is to put out [word of] the importance of food stamps for those who have suffered because of Katrina," said Michael Levin, spokesman for CHC member Rep. Joe Baca (D-Calif.). As for the other major story at hand, "I was going to say 'who's John Roberts,' but I guess that wouldn't be a good answer," Levin joked.

Lest the public worry that Roberts and Katrina have intercepted integral deliberation, Sen. Bob Bennett (R-Utah) offered to set it straight.

"You're making too big a deal out of it," Bennett said. "Of course the Senate set aside other things to deal with emergencies. Yeah, we delayed the debate over Hawaiian statehood. We're carrying forward in a normal fashion and I think we'll be fine."

Normal Hill sights were in abundance, with crews of grassroots lobbyists visiting staffers to argue for their cherished causes. The National Association of Insurance and Financial Advisers (NAIFA) dispatched local representatives from as far away as Colorado to peer at Capitol maps and promote their call to make September "Life Insurance Awareness Month."

A cadre from environmental group American Rivers was also seen traipsing through the halls, although "River Lobby Day" had the perfect news peg lined up. "The Mississippi River and its tributaries are lined with countless miles of levees," said American Rivers president Rebecca Wodder in a Katrina response statement. "Each of these provides an unfounded sense of security for the communities behind them."

Katrina Gives Urgency To TV Transition (RC)

By Kate Ackley

Roll Call, September 14, 2005

Last Friday, roughly 15 first responders came to Capitol Hill. Their visit, timed to coincide with the anniversary of the Sept. 11, 2001, terrorist attacks, was designed to make an urgent call for a speedy transition from analog to digital television.

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Television policy might seem like an odd rallying cry for fire and police officials. But there's a good reason for their interest: Once that transition takes place, first responders such as fire, rescue and police officers stand to benefit from a windfall of new frequencies that they can use to communicate with each other when handling emergencies. (The rest of the spectrum will be auctioned off, netting an estimated $10 billion for the government's coffers.)

What the group didn't plan on was that yet another tragedy, Hurricane Katrina, would occur in the interim — if anything, making their case stronger than ever. But the hurricane also has set their cause back, at least temporarily, as Congress' legislative course has been thrown into disarray.

Before Katrina, digital TV was supposed to move on a budget reconciliation package — by Congressional standards, a seemingly sure bet. But now that measure has been delayed. One GOP lobbyist put it this way: "It's delayed somewhere between a few weeks and never."

Alan Caldwell, a retired former fire chief in Fairfax County, Va., now serves as senior adviser of government relations for the International Association of Fire Chiefs. He took part in Friday's meetings with Rep. Roy Blunt (R-Mo.) as well as get-togethers with such Members as Reps. Eric Cantor (R-Va.) and Hilda Solis (D-Calif.) and Sen. George Allen (R-Va.).

"Right now, so much is in flux, I would hate to be a betting man on something like this," Caldwell said. "But what has changed ever so slightly is the absolute critical need. There are more needs for communication. Police chiefs and fire chiefs don't make any money off the spectrum. We just need it to do a better job for the people we're sworn to protect."

Burson Taylor, a spokeswoman for Blunt, said the first responders at the Friday meeting were "advocating for a hard deadline, and it was a good conversation. [Blunt] believes it's imperative to get the spectrum to the first responders just as soon as possible."

Taylor added that while reconciliation is on hold, there is no indication that the DTV measure won't be included when it moves. "Even with the delay," she said, "everything is still lined up for consideration."

Veronique Pluviose-Fenton, principal legislative counsel for the National League of Cities, said her association has joined with first-responder groups to urge Congress to free up spectrum ever since the Oklahoma City bombing in 1995.

During the Katrina aftermath, Pluviose-Fenton said, emergency workers were down to one channel. Senate Majority Leader Bill Frist (R-Tenn.) "himself witnessed it," she said. "People were using runners where a doctor says something and a young person runs it across to the other part of the airport to a nurse. Post 9/11, that is an embarrassment."

The independent commission that studied the 9/11 attacks put first-responder communications on its list of priorities.

Pluviose-Fenton added that as soon as a date is certain, local governments can begin investing their homeland security funds in new communications. "If we can talk, we can save lives," she said.

Bill Anaya, the senior director of legislative affairs for the electronics and communications giant Motorola, said he expects reconciliation to be delayed until next month. His company cares about the issue because it does business with first responders and because it manufactures boxes that can convert a digital signal for reception on an analog TV.

"That's all we know right now. No decisions have been made," Anaya said. "It's unclear whether they will go forward with reconciliation or not."

But, he added, "there is growing momentum that this public-safety spectrum piece must be taken care of. Do they get to use the vehicle of budget reconciliation or do they become part of a Katrina relief piece? That's the razor it's sitting on."

Anaya added: "I think if reconciliation happens, this is in it — it's just a question of whether reconciliation happens at all."

Wherever the DTV language might end up, the revenue stemming from the auction could be in high demand. "It brings with it $10 billion in a wheelbarrow. There are a lot of places where that kind of resource can be quite beneficial," he said.

The call for a "hard" date for the DTV transition has gained enough legislative traction that some proponents have indicated it could even go as a standalone measure.

Dennis Wharton, spokesman for the National Association of Broadcasters, said his group has abandoned its opposition to a hard date for the transition to digital.

"We accept the fact that Congress is going to set a hard date. We're not going to stand in the way or fight that," he said.

But what the broadcasters want is for cable carriers to carry all the channels that broadcasters send out over their digital stream, some of which offer 24-hour local weather programming. Wharton said NAB argues that such "multicasting" should be included in whatever final legislative package carries the DTV measure.

"We would make the case that broadcasters provide a critical role in times of crisis," Wharton said. "Countless lives are saved every year by emergency weather warnings. But that is not meant to diminish the efforts of public safety providers."

Pluviose-Fenton, like her colleagues, said no matter the vehicle, the DTV measure needs to pass.

"We want it to go on a legislation that is moving," she said. "We have technology that shouldn't force people to make a choice between television and public safety. Now is the time for Members to say what happened in Katrina matters, what happened on 9/11 matters. How many lessons learned do we have to go through?"

GOP Counterpunching On Ethics (RC)

By Nicole Duran

Roll Call, September 14, 2005

Cognizant of how their effective portrayal of a Democratic Party drunk with power led to their historic takeover of the House in 1994, Republicans are moving quickly to ensure that Democrats do not get traction on the ethics issue for the 2006 elections.

For every Democratic Congressional Campaign Committee news release calling on Congressman So-and-So to return campaign contributions from indicted Republican ber-lobbyist Jack Abramoff, the National Republican Congressional Committee accuses Democratic leaders of hypocrisy — or worse.

When the Democratic Senatorial Campaign Committee and the Montana Democratic Party made a television buy last month criticizing Sen. Conrad Burns (R-Mont.) for his Abramoff ties, the National Republican Senatorial Committee wasted no time quibbling with the ad's imprecise wording.

The swift counterattack paid off: At the request of some local stations, the Democrats agreed to tweak the ad.

Democrats think the indictments of Abramoff and political allies of House Majority Leader Tom DeLay (R-Texas) taint enough Republicans to make ethics a salient issue for them in next year's midterm elections.

But Republicans, in addition to counterpunching, maintain that Democrats are talking about ethics so much because they have nothing else to say.

"The fact that they are chasing this rabbit demonstrates they don't have issues to talk about and they don't have an agenda," NRSC spokesman Brian Nick said. "So what recourse do they have? Well let's go throw spaghetti at the wall and see if it sticks."

Democratic pollster Celinda Lake said Republicans have to move aggressively to counter ethics charges because the issue hits home.

"It's a huge issue," she said. "We've also tested the statistic that the number of lobbyists has doubled [recently] and what we've found in general is there is a strong belief that Washington is really out of touch and that can really resonate, so it's a good overall umbrella argument."

In the case of Burns, it's especially powerful because "you have two very clean Democratic candidates — one is a true outsider candidate" — who can draw clear distinctions between themselves and an "out of touch" Senator, Lake said.

Montana state Auditor John Morrison and state Senate President Jon Tester are competing for the Democratic nomination to take on Burns next year.

While individual Republican Members may be in exceptionally hot water, Democrats have a long way to go before they can truly nationalize the issue, warns Brad Coker, president of the independent Mason-Dixon polling firm.

"It's not registering on the Richter scale yet," Coker said.

At least at this early stage, voters are unhappy with lawmakers in general but Congressional Democrats are faring only a little better than Congressional Republicans in opinion polls.

A Gallup poll released Tuesday showed that only 36 percent of Americans approved of the job Congress is doing, while 58 percent disapproved. A Newsweek poll released earlier this week showed 50 percent of Americans preferring generic Democratic Congressional candidates compared to 38 percent who expressed a preference for Republicans.

Whether the GOP's low poll numbers, coupled with Democratic attacks on ethics, make the Republicans vulnerable in the long run is debatable.

"As long as there's been Congresses, there's been individual Members caught in ethical lapses," Coker said. "I'm not sure if [the Abramoff scandal] is seen as anything other than typical political rhetoric. It's hard to say" if the issue can really take root, because "more details need to come out but right now, Abramoff — he's not a household name."

Maybe so, but Democrats think they have enough time to hammer the point home so come November 2006, voters will know who he is — and seats that no one thought were competitive will be.

"We're going to keep talking about them," said Sarah Feinberg, spokeswoman for the DCCC. "The truth of the matter is they have several Members who are very much riddled with ethics matters and having to defend themselves each day."

Among others, Democrats are targeting DeLay, House Administration Chairman Bob Ney (R-Ohio), and the seat being vacated by embattled Rep. Duke Cunningham (R-Calif.) — not traditionally favorable terrain — because they think questions about those Members' ethics can put their seats in play.

Feinberg said Republican attempts to counter each DCCC allegation is a sign of their "desperation."

"Every step of the way, those releases and those attempts to get press have been pretty see-through," she said, noting that when DeLay's political associates in Texas were indicted last week, the NRCC accused DCCC Chairman Rahm Emanuel (Ill.) of shady behavior.

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"It's so obviously trying to change the subject," Feinberg said.

Ed Patru, a spokesman for the NRCC, said the only thing obvious is that Democrats are devoid of ideas.

"Republicans had a clear alternative that resonated with the public, the Contract with America," he said, dismissing the notion that 2006 could be like the Republicans' 1994. "There's no indication that Democrats have anything near that."

Patru also said Republicans have no fear of an election based on ethics.

"If they're seeking an ethics war, that's what they're going to get," he said. "Democrats are failing to nationalize the election around ethics because to the public, there is no difference between the parties on this issue."

Many of the recent ethical lapses have involved Republicans, but just as some Democrats think Cunningham's seat is winnable now because of his questionable dealings with a federal contractor, Democrats are not completely innocent, Mason-Dixon's Coker noted. For example, Rep. William Jefferson (D-La.) had his home searched by the FBI not long after Cunningham's properties were raided.

Still, Coker said Democrats might be on to something.

"Over time, if there's a steady drumbeat and enough individual lapses come up to back it up" maybe voters will pay heed, he said. "But I don't think you got Watergate here."

OTHER NEWS:

Ophelia Nears, Islands Empty, Schools Shut (WP/AP)

By Paul Nowell, The Associated Press

The Washington Post, September 14, 2005

WRIGHTSVILLE BEACH, N.C. -- Vulnerable islands were evacuated and mainland schools were closed Tuesday as Ophelia strengthened to a hurricane and wobbled closer to land with a threat of flooding rain.

The National Hurricane Center upgraded the storm's status Tuesday evening, saying maximum sustained winds had reached 75 mph, with higher gusts. The center said further strengthening was possible.

"I don't really want to mess with it," Bruce McIlvaine of Logan Township, N.J., said as he packed to leave the Outer Banks' Hatteras Island before his vacation ended. "You're on a spit of land a dozen miles into the ocean."

Others were nonchalant, following the lead of many longtime residents who were staying put.

Brenda and Rich Hooser, who moved to Nags Head from Winston-Salem three weeks ago, strolled hand-in-hand through the surf.

"All the locals _ none of them leave," Rich Hooser said. "If it's not over 125 (mph), they don't go anywhere."

A hurricane warning extended from the South Santee River in South Carolina north to Oregon Inlet at Pamlico Sound in North Carolina, meaning hurricane conditions were expected within 24 hours.

A hurricane watch and tropical storm warning were in effect from the Oregon Inlet north to the North Carolina-Virginia line and southward from the South Santee River to Edisto Beach in South Carolina.

After taunting coastal residents for days, the storm appeared ready to move ashore, as heavy rain battered South Carolina's northern coast and the beaches of southeastern North Carolina.

In Carolina Beach, south of Wrightsville Beach, officials reported a foot of water on one road due to heavy wind and a high tide.

Unlike Hurricane Katrina's devastating charge at the Gulf Coast, the week-old Ophelia had been following a meandering path, making predictions of its landfall difficult. The hurricane center's forecasts showed it running along the coast, then veering through Pamlico Sound, crossing the Outer Banks and heading back out to sea.

Its slow movement meant heavy rain could linger over land, possibly causing serious flooding. The hurricane center said up to 15 inches of rain was possible in eastern North Carolina.

At least six North Carolina counties ordered mandatory evacuations of some areas and eight others had voluntary evacuations.

Along the exposed Outer Banks chain, all residents and visitors were ordered to evacuate Hatteras Island on Tuesday, visitors had been ordered off Ocracoke Island and the National Park Service closed the Cape Hatteras lighthouse and the Wright Brothers National Memorial in Kill Devil Hills.

Schools were closed in several coastal counties in both North and South Carolina, while classes were canceled at the University of North Carolina at Wilmington and East Carolina University in Greenville.

North Carolina Gov. Mike Easley said coastal residents should be prepared to go without power for two to three days.

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"The beaches we expect to take a real beating," Easley said. "The bottom line is we're definitely going to get flooding, not just on the coast but in low-lying areas as the rivers swell from the storm surge itself."

South Carolina Gov. Mark Sanford had called for a voluntary evacuation of oceanfront and riverside areas in the northeastern part of his state. Virginia Gov. Mark R. Warner declared a state of emergency.

A surfer was missing along the South Carolina coast, and the search had been suspended because of the rough sea.

At 11 p.m. EDT, Ophelia was centered about 115 miles east of Charleston, S.C. The storm was stationary, but a gradual turn toward the north was expected Wednesday, the hurricane center said.

The storm's likely path across Pamlico Sound and the Outer Banks would mean the biggest flooding threat would come not from the Atlantic Ocean but from the sounds _ the bodies of water between the mainland and the barrier islands, said Jonathan Hobbs, a spokesman for the Dare County Joint Information Center.

Ophelia became a tropical storm Wednesday off the Florida coast and later strengthened to a hurricane. It is the 15th named storm and seventh hurricane in this year's busy Atlantic hurricane season, which began June 1 and ends Nov. 30.

Ophelia Poised To Swamp Coastal N.C. (USAT)

By Patrick O'Driscoll

USA Today, September 14, 2005

Hurricane Ophelia is projected to move along the northeast coast of North Carolina today, dumping heavy rain, producing high wind and possibly spawning tornadoes.

Ophelia, the first hurricane to reach U.S. shores since Katrina hit the Gulf Coast Aug. 29, may take an entire day to cross land before spinning back out to sea.

The storm, moving at 4 mph Tuesday night, could inundate coastal communities and lash them with gusts up to 92 mph.

Katrina was a Category 4 monster, with 140 mph winds. Ophelia is only Category 1 (74 mph or more), but Ophelia's slow pace means “the effects will be more protracted,” meteorologist Eric Blake of the National Hurricane Center said.

“The highest winds will last longer. Rainfall totals over a foot are possible. Coastal erosion will be a big problem,” Blake said.

Two years ago this weekend, Hurricane Isabel tore into beaches on North Carolina's Outer Banks, a 120-mile tourist mecca of narrow islands. The hurricane center predicts “large and dangerous waves” today and a 5- to 7-foot storm surge, possibly 10 feet in inlets.

Rainfall could total 10 inches on South Carolina's northeast coast and 15 inches in eastern North Carolina.

Ophelia's track is so erratic that the eye of the hurricane may not reach land, said Steve Lyons, tropical weather expert for The Weather Channel. It will still feel like a direct hit, he said, because the storm's strongest wind bands reach out up to 60 miles from its center.

Hurricane warnings were posted from South Carolina to Virginia. Six North Carolina counties ordered mandatory evacuations. Eight others asked people to leave voluntarily.

Storm Increases Off The Carolinas (NYT/REU)

By Reuters

The New York Times, September 14, 2005

SALVO, N.C., Sept. 13 (Reuters) - Hurricane Ophelia strengthened slightly on Tuesday as it wobbled toward the coast and sent thousands of people packing from North Carolina's barrier islands.

The storm's center was 110 miles south of Wilmington, N.C. It was creeping north-northwest and was expected to turn north and hit the North Carolina coast on Wednesday night and Thursday, the forecasters said.

The storm has sat off the coasts of North and South Carolina for four days, alternately strengthening into a hurricane and weakening back to a tropical storm.

On Tuesday night it strengthened back into a minimal hurricane, with winds of 75 miles an hour.

Along the 100-mile chain of barrier islands known as the Outer Banks, mandatory evacuation orders were issued for all 20,000 people on Hatteras Island, a popular vacation spot that includes Cape Hatteras Lighthouse and the Cape Hatteras National Seashore.

Delta And Northwest Are Poised To File For Bankruptcy Protection (WSJ)

By Evan Perez and Susan Carey

The Wall Street Journal, September 14, 2005

DOJ_NMG_0005374

The dire financial condition of Delta Air Lines and Northwest Airlines indicates that recent hopes for a slight recovery of the beleaguered airline industry may have been crushed by the surge in oil prices and the effects of Hurricane Katrina.

The carriers' boards are each scheduled to meet Wednesday to decide whether they'll file for bankruptcy protection. The filings themselves may come as soon as Wednesday, although Northwest is considering holding off to give its unions a last chance to make financial concessions. Indeed, some industry officials speculate that the carrier's surprise board meeting may itself be a gambit to pressure the unions.

Twin bankruptcies could further darken the skies for the industry at a time when prospects seemed to be brightening. Though fuel prices were burdening U.S. carriers even before Hurricane Katrina, many had eked more savings out of their operations and were benefiting from growing passenger traffic. Airlines were able to raise their fares somewhat this summer despite continued tough competition. Thanks in part to the summer surge in traffic, carriers like AMR Corp.'s American Airlines, the leading U.S. carrier in terms of traffic, and Continental Airlines posted second-quarter profit after several quarters of losses.

But bankruptcy filings by Northwest and Delta could make competition in the industry much tougher. Both would want to sharply reduce costs while under bankruptcy protection, which gives them greater ability to abrogate union contracts and make other radical moves.

The wave of bankruptcies in recent years has led to industry complaints that bankruptcy allows too many carriers to stay in the air, when the industry could benefit from less competition. Currently in Chapter 11 are US Airways Group Inc., UAL Corp.'s United Airlines, Aloha Airgroup Inc. and ATA Holdings Corp., parent of ATA Airlines. Hawaiian Airlines emerged from Chapter 11 this summer.

Bankruptcies rarely have much effect on passengers. The carriers continue to operate their route networks, although they often cut back some capacity and reduce their fleets, getting their commuter affiliates to assume more flying. Airlines maintain their frequent-flier plans as well, and sometimes they offer fare sales and mileage bonuses to keep customers who might be leaning toward switching carriers.

While Chapter 11 allows airlines to continue operating, it's a costly and cumbersome process. Carriers must pay bankruptcy lawyers and consultants, including the advisers to their creditors' committees. Dealing with these complex cases also takes up much of management's time. Companies must seek court approval for myriad standard expenditures and decisions, and all of their activities are an open book because filings, contracts and business decisions are outlined in public court filings.

US Airways, after shedding pension plans and getting concessions from its workers, hopes to emerge soon from Chapter 11 through a combination with America West Holdings Corp. The two carriers said the result would be one low-cost airline when the transaction is completed, perhaps in the next two weeks. United, which also shed pensions and won union concessions, last week filed its plan of reorganization after many months in bankruptcy protection. The country's No. 2 carrier in terms of traffic also hopes to emerge as a much-lower-cost airline.

Both No. 3 Delta and No. 4 Northwest have been warning for months about the possibility of seeking bankruptcy protection. The threat has grown more dire as Katrina disrupted flights to the Gulf Coast and crippled oil refineries, sending jet-fuel prices soaring. Delta has been further burdened by its inability to restructure its massive debt load and Northwest by a strike by mechanics.

At a meeting Wednesday, Delta executives and directors are expected to give final authorization for a Chapter 11 filing, capping a four-year financial dive brought on by a heavy debt load and high fuel costs that have overwhelmed restructuring efforts. Delta plans to make its filing after the close of financial markets in the U.S. Bankruptcy Court in New York, immediately following the directors' approval, according to people familiar with the situation.

In recent days, the company has wrapped up details of an approximately $1.7 billion financing package from creditors led by General Electric Co.'s commercial lending unit. The so-called debtor-in-possession agreement is meant to help the airline continue its operations while under court protection. The financing pact includes as much as $650 million in new financing, according to documents reviewed by The Wall Street Journal. The rest of the financing will go to pay off the approximately $1 billion outstanding on a loan made last fall, also from a group led by GE, that helped Delta avoid bankruptcy at that time.

To obtain the financing, Delta will have to encumber essentially every one of its unencumbered assets, including aircraft, spare parts, its Comair regional feeder unit and AirElite private-jet operation, airport gates and even its routes to Tokyo and London, according to the documents reviewed by the Journal. The assets have an estimated value of $3 billion.

Delta reported more than $20 billion in debt at the end of June and said its cash cushion stood at $1.7 billion. But the carrier warned that it was likely to violate certain debt agreements later this year that require it to maintain at least $1 billion in cash. Among its liabilities due by year end, Delta said, were $470 million in maturing debt, $550 million in interest payments, $460 million due for operating leases and $135 million in pension payments.

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As Delta's troubles have worsened, the value of its outstanding shares has fallen to below $125 million, less than even the $930 million market value of low-cost Atlanta rival AirTran Holdings Inc., which operates AirTran Airways, a carrier a fraction of Delta's size.

Delta officials are dispatching teams of supervisors to meet with employees Thursday and Friday to explain the likely impact of the filing on their wages, benefits and pensions.

The company has, along with Northwest, pushed for federal legislation that would give airlines more time to catch up with pension payments. Delta's pensions are underfunded by $5.3 billion. The legislation is making progress, but Delta officials now believe the bill in its current form, offering 14 years to catch up, may not be enough to help Delta preserve its pensions. Creditors are likely to make a move to force Delta into a distressed termination, which occurs when a company in bankruptcy is allowed to jettison its pensions onto the federal Pension Benefit Guaranty Corp.

Last week, Delta met with representatives of the government pension insurer, people familiar with the matter said. No decisions have been made on whether to end the pensions. But such a move would add substantially to growing deficit of the PBGC, which already has assumed the pensions of US Airways and United.

Northwest officially said Tuesday it had made no decision about a bankruptcy filing. But a person familiar with the matter said directors meeting Wednesday are expected to weigh whether to file at once or hold off for a few weeks to give the airline's unions a deadline for making concessions the carrier says it needs.

On Monday, the St. Paul, Minn., airline defaulted on an $18.7 million payment it owed one of its commuter affiliates, and faces a payment due Thursday of $65 million to its underfunded pension plans. Northwest has a grace period that ends next Tuesday to pay MAIR Holdings Inc., owner of Mesaba Airlines, but enjoys no such latitude on the pension obligation.

In a Securities and Exchange Commission filing late Tuesday, Northwest confirmed that it missed the semi-monthly payment to Mesaba. It also said it decided not to make $23 million in payments due last weekend and Monday on aircraft financings. Those agreements give the carrier grace periods of five to 10 business days. The SEC filing also said if Northwest fails to make Thursday's pension payment, a lien would arise against its assets unless it had previously sought bankruptcy protection.

While Northwest has managed to stay aloft through the mechanics strike, helped by temporary replacement workers it may take on full-time, its future without major labor concessions and legislative relief from its pension problems is in doubt. The carrier said its cash cushion, which was $2.46 billion at the end of last year, had fallen to $1.7 billion at the end of August, and the airline is burning through $4 million in cash a day. Still, the $1.7 billion is enough cash that Northwest doesn't necessarily need a debtor-in-possession loan, said a person with knowledge of the matter.

Another person familiar with Northwest's situation said the carrier could arrange such a loan later, but it might not be so easy. The carrier's long-term debt and capital-lease obligations stand at $8.1 billion, and its pension plans are underfunded by $3.8 billion. Since the industry downturn began in 2001, Northwest has produced nearly $3 billion in operating losses. Its liabilities and shareholders deficit total $14.4 billion.

Based on its closing price of $1.57 a share Tuesday, Northwest has a market capitalization of about $136 million.

Northwest's cash cushion has made it hard for the airline to convince unions it needed $950 million in annual savings. Northwest raised the target to $1.1 billion this year and is now telling workers it needs $1.4 billion, according to the striking Aircraft Mechanics Fraternal Association. So far, the pilots are the only unionized group that has granted wage concessions, and recently they agreed to talk about a second round of savings. Negotiations with other unions continue, but the mechanics struck over Northwest's last contract offer, made last month, and further talks this the weekend failed.

Northwest's board, which currently has 13 members, has three directors who represent labor. It's expected that they might press management to set a firm deadline for labor to give concessions, giving the unions notice that they must act now or face a bankruptcy filing, said one person familiar with the situation.

Douglas Runte, who covers airline debt and equity for Morgan Stanley, said Tuesday night that he believes Northwest "is a company that can successfully restructure out of court," adding that the airline hasn't yet pursued all avenues that could keep it out of Chapter 11.

Bankruptcy filings give management more leverage over labor because the company can ask a judge to abrogate current labor agreements and let new terms be imposed. In addition, pension plans can be terminated in Chapter 11 and transferred to the PBGC, resulting in smaller payments to some workers.

Other directors might feel the unions have had plenty of time to reflect on Northwest's precarious situation and want to file now to avoid making Thursday's pension payment and another financing payment due in early October, one person said. In the SEC filing late Tuesday, Northwest said it is engaged in an analysis of its debt, lease and other obligations to determine which "should be targeted for restructuring." The payments it missed in recent days "are among those that the company has identified that it would seek to restructure as part of a transformation plan."

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How long Delta or Northwest might be in Chapter 11 depends. US Airways was in and out in eight months on its first filing in 2002-03, and it is just about to emerge from its second filing after 12 months. UAL, on the other hand will hit the three-year mark in court protection in early December. If Northwest doesn't wind up filing until the bankruptcy laws change on Oct. 17, it would have to be quicker about it because the new law doesn't allow the debtor company to continue indefinitely having exclusive rights to field its reorganization plan.

Source: Delta Plans To File For Bankruptcy (FINDLAW/AP)

By Harry R. Weber, Ap Business Writer

Find Law, September 14, 2005

(AP) - ATLANTA-Delta Air Lines Inc., the nation's third-largest carrier, plans to file for bankruptcy protection in New York as early as Wednesday, according to an industry consultant who has been informed of the company's plans.

Delta's stock tumbled 25 cents, or 22.7 percent, to close at 85 cents in heavy trading Monday on the New York Stock Exchange.

The consultant, who was not authorized to disclose the information and thus spoke on condition of anonymity, said Delta is working with GE Commercial Finance and other creditors to arrange roughly $2 billion in debtor-in-possession financing. The money would allow the airline to operate in bankruptcy.

Delta, which has lost nearly $10 billion since January 2001, likely will pledge the few remaining assets not already pledged as collateral for loans as part of the bankruptcy financing agreement, the consultant said. "There is nothing unencumbered after this," according to this consultant.

The consultant said the filing was expected to come Wednesday afternoon but could be pushed to Thursday depending on when the bankruptcy financing is completed.

A Delta spokeswoman declined to comment, saying no decision about bankruptcy has been made. Two spokesmen for GE Commercial Finance also declined to immediately comment. Reached at his Connecticut home Monday, Delta director Edward H. Budd said, "Anything that's going to be talked about at Delta is going to come from Delta." Calls to the homes of four other company directors were not answered.

The bankruptcy filing would come as Atlanta-based Delta has been unable to right itself amid persistently high fuel costs and heavy debt and pension obligations.

The filing would make Delta the third major U.S. carrier to enter Chapter 11 since the 2001 terrorist attacks, joining Elk Grove Village, Ill.-based UAL Corp., parent of United Airlines, and Arlington, Va.-based US Airways Group, Inc., which has filed twice in the last three years.

Some smaller carriers, including Honolulu-based Hawaiian Airlines and Indianapolis-based ATA Airlines Inc., also have filed for bankruptcy in recent years.

If it follows the pattern of most big airline bankruptcies, Delta's existing shares would eventually become worthless and portions of the airline's existing debt would be exchanged for equity in a reorganized Delta. One major question is whether Delta would go the route of UAL and US Airways and seek to turn over its pilot and other employee pension plans to the federal government.

Delta's total debt is roughly $20.5 billion, and it listed $21.6 billion in assets as of June 30. The asset figure would make Delta's bankruptcy the ninth-largest in U.S. history, according to bankruptcy tracker New Generation Research, Inc.

Delta has announced up to 24,000 job cuts over the last four years. In September 2004, it also said it would shed its Dallas hub as part of a sweeping turnaround plan aimed at saving the airline. The plan was hampered, however, by soaring fuel costs.

Fort Worth, Texas-based AMR Corp., the parent of American Airlines, the nation's biggest carrier, teetered on the verge of bankruptcy before winning deep concessions from its employees.

The other legacy carriers, those with a large presence in multiple regions prior to deregulation in 1978, are Eagan, Minn.-based Northwest Airlines Corp. and Houston-based Continental Airlines Inc.

Northwest has also been said to be close to bankruptcy.

On the Net:

Delta Air Lines Inc.: http://www.delta.com

Two Major Airlines Seen Near Filing For Bankruptcy (NYT)

By Micheline Maynard

The New York Times, September 14, 2005

DOJ_NMG_0005377

Two of the nation's biggest and most troubled airlines, Northwest and Delta, appeared likely to file for bankruptcy protection as soon as today, people briefed on the airlines' plans said yesterday.

Both airlines have been hit hard by the spike in jet fuel prices this month and by the relentless competition in the industry.

Filings by Northwest and Delta would mean that four of the seven major airlines would be operating under court protection, with the others being United and US Airways. Also, when several smaller bankrupt carriers are included, half the seats available on flights in the United States would be operated by bankrupt airlines, according to an estimate by Standard & Poor's Ratings Services.

Court protection would have little immediate impact on either airline's routes and flights, and frequent-flier programs would remain in place. But consumers may eventually see reduced service to some cities, as the airlines shift their focus to destinations where they can make money.

And if the experience at the other major airlines in bankruptcy is a guide, workers at Northwest and Delta can expect significant job cuts, reductions in wages and benefits and termination of their traditional pension plans as the companies streamline their operations.

Both companies were completing bankruptcy plans yesterday. Officials at each airline said a final decision had not been made to seek Chapter 11 protection.

A filing by Northwest would need the approval of its board, which is set to meet today, its pilots' union said in a statement yesterday. The union has a representative on Northwest's board. Delta's board met last Friday.

Any filing by either airline would be made in United States Bankruptcy Court in New York. Delta's filing has been anticipated for weeks, but any Northwest move was not expected for several more weeks as it continued to try to win the $1.4 billion in concessions from its labor unions that it said it needed to avoid a court filing.

But the jump in fuel prices in the wake of Hurricane Katrina moved the company's timetable forward, people with direct knowledge of Northwest's position said last night. Still, a lively debate was expected at the board meeting over whether to file now or wait, these people said.

Bankruptcy filings give companies a chance to overhaul their operations and negotiate lower payments to creditors as well as streamline in ways they could not accomplish outside of court protection.

But for these airlines, bankruptcy would not eliminate the challenge posed by low-fare carriers, like Southwest and JetBlue, which now carry one-third of passengers on flights within the United States.

They can charge less for tickets because they operate at much lower costs than their major competitors, employing fewer workers for each airplane and having much quicker turnaround times at airports. That, in turn, allows them to make more flights a day than big airlines.

The low-fare airlines' growing presence, up from just 6 percent of passengers in 1990, has kept the big airlines from passing along the punishing rise in the price of jet fuel.

The airlines use 19 billion gallons of fuel a year, and,

even before Hurricane Katrina, they were paying 50 percent more for it than in 2004. Prices jumped 25 percent in the days after the storm, although they have since moderated slightly.

Northwest and Delta, like most of their competitors, have no financial protection to shield them from the higher fuel prices, meaning they must immediately pay more in cash when prices go up.

The struggles of inefficient airlines and the rise of low-fare carriers are exactly what was envisioned when President Jimmy Carter ordered the deregulation of the industry in 1978, freeing the airlines from government controls on routes and fares, said Alfred E. Kahn, chairman of the Civil Aeronautics Board at the time.

"This is the continued working out of the restructuring that deregulation promised and made inescapable," Mr. Kahn said yesterday. He added, "I don't know where it is going to end."

At Northwest and Delta, at least, a way of life is coming to an end for employees.

United, which set off the biggest default in the history of the federal pension agency this year when it scrapped its traditional retirement plans, has obtained two deep rounds of cuts from its workers under bankruptcy protection, and it eliminated 25,000 jobs.

US Airways, which had 46,500 workers before the September 2001 terrorist attacks led to deep declines in travel, now has just 22,000. Its workers took three rounds of cuts in its two bankruptcies.

"For American workers, it's an unrelentingly grim scenario," David Gregory, a professor of labor law at St. John's University, said yesterday.

But even though both companies warned repeatedly that they might have to seek bankruptcy protection, workers at each have resisted cutbacks, especially those at Northwest, which has lost $3.6 billion since 2001.

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It has been trying for three years to win concessions from its pilots, flight attendants, baggage handlers and other employees, raising its demand for cuts from $900 million to $1.4 billion in that time.

But only Northwest's pilots have agreed to cuts, and the airline is in the third week of a strike by 4,430 members of its mechanics' union, who walked out Aug. 20 over the airline's request for $176 million in concessions.

Northwest has kept operating with 1,900 supervisors, contractors and replacement workers. Yesterday, it began offering permanent jobs to some replacement workers. If the strike is settled, Northwest will not have to rehire workers it permanently replaced.

Northwest shares lost half their value yesterday, after The New York Times reported on its Web site that the company was considering filing for bankruptcy protection today. Northwest shares fell $1.74, or 52 percent, to $1.57.

Delta shares, meanwhile, fell 7 cents, to 78 cents. Delta asked its pilots yesterday for another round of deep cuts, on top of the $1 billion in concessions obtained a year ago, when Delta was on the verge of seeking bankruptcy protection.

Delta and its regional airlines operate about 3,000 daily flights. The airline, based in Atlanta, has about 52,000 employees. Northwest and its regional carriers operate 1,500 daily flights. Northwest, based in Eagan, Minn., has about 40,000 employees.

Leaders of the Air Line Pilots Association, Delta's only unionized group, said they would start a three-day meeting next Monday to decide whether to negotiate with the company.

But by then, Delta may be in bankruptcy, a fate that its chief executive, Gerald Grinstein, has tried desperately to avoid. Mr. Grinstein, 72, took charge of the airline 20 months ago, and has since tried to cut $5 billion in costs under a restructuring plan that included the elimination of 7,000 jobs.

Last week, Delta, which has lost nearly $10 billion since 2001, sold Atlantic Southeast Airlines, one of its commuter airlines, to SkyWest for $450 million. And Delta has been arranging the financing it will need to operate in bankruptcy, believed to be about $1.7 billion, with lenders like GE Corporate Financing.

This week, however, came signs that the airline was running out of time. As it was seeking more cuts from the pilots, Delta did not make an interest payment on its corporate debt, taking advantage of a grace period that gives it more time.

A Delta spokeswoman, Chris E. Kelly, said the airline believed that the move was "a prudent step to take" while it decided whether to seek bankruptcy protection. Delta faces another debt payment on Monday.

Meanwhile, Northwest disclosed in a regulatory filing yesterday that it must make a $65 million pension payment tomorrow, which it cannot skip unless it has filed for bankruptcy protection. Yesterday, the Treasury Department rejected a request by Northwest to delay the payment, saying it was limiting relief to corporations in the gulf region.

Northwest also disclosed that it had delayed $42 million in debt payments. These, and the pension payment, would diminish Northwest's cash, which dwindled to $1.7 billion this month from $2.1 billion at the end of June.

But even that smaller amount could be enough to finance the airline's operations in the first months of bankruptcy protection, serving as the equivalent of debtor-in-possession financing, said Philip A. Baggaley, an airline analyst at S.& P. That would explain why the airline has apparently not sought outside financing as Delta has done.

One advantage for Northwest is that many of its senior executives have experience with airline bankruptcies, particularly its chief executive, Douglas M. Steenland, 53, a lawyer who took part in cases involving Continental Airlines and Eastern Air Lines.

And because Mr. Steenland is said to believe that his airline's bankruptcy case may take more than 18 months, that is probably one reason Northwest as well as Delta may file today.

Federal bankruptcy laws change on Oct. 17; after that management will have only 18 months to draft a restructuring plan.

Companies that file before Oct. 17 can have more time if they can persuade a judge to grant it. United, for example, has been operating under bankruptcy protection for nearly three years, and does not expect to emerge until February.

Ron Adams, a member of the mechanics' union at Northwest, said he was not surprised to hear the airline was contemplating a bankruptcy filing. But he said that did not make him any more willing to accept the cuts.

"I want to keep my job, but if they want to replace me, more power to them," Mr. Adams said yesterday while walking the picket line at Detroit Metropolitan Airport, one of the airline's hubs.

Delta, Northwest On Brink Of Chapter 11 (FT)

By Caroline Daniel

Financial Times, September 14, 2005

Delta Air Lines, the third-largest US carrier by revenues, is expected to file for bankruptcy protection on Wednesday, as the board of Northwest, its smaller rival, meets to examine strategic options ahead of its own possible filing.

Delta has lined up debtor-in-possession financing, allowing it to restructure operations and repair its balance sheet.

Although Northwest has been weighing a filing, its efforts to secure funding had been thought to be less advanced as management grapples with a three-week strike by maintenance workers.

However, the Minneapolis-based airline is understood to have lined up backing from US Bank, which operates its frequent flyer credit card programme. Airbus, which has financed a large part of the Northwest fleet, is also expected to participate.

The two airlines have sought additional concessions from employees in a bid to cope with rising fuel prices and the weak revenue environment created by intensifying competition from lower-cost rivals such as Southwest, AirTran and JetBlue.

The reorganisation plans are likely to see both airlines shrink domestic operations in favour of more profitable international routes, though analysts cautioned this would still leave the US industry with overcapacity. Independence Air, a Washington-based airline, is also understood to be close to a filing though industry sources suggested this would lead to its liquidation.

Both carriers on Tuesday declined to comment on the timing of any filing under Chapter 11 of the US bankruptcy code, though have repeatedly warned they may need to seek protection. Analysts have pointed to a window of opportunity for filing between the Labor Day holiday and October 17, when new bankruptcy legislation is due to be enacted.

United Airlines, the second-largest carrier after American, has been in Chapter 11 since December 2002, but hopes to emerge early next year. US Airways hopes to emerge later this month following its planned merger with smaller rival America West, whose shareholders on Tuesday approved the combination.

Delta, based in Atlanta, was seen as weaker because of its larger exposure to domestic routes, more onerous pension obligations and the cash drain of renegotiating a deal with its credit card vendors. However, credit analysts on Tuesday noted that Northwest had on Monday defaulted on an $18.7m payment to Mesaba, a regional feeder airline, and saw this as a signal that it was also close to filing.

Airline restructuring experts have warned that filings by Delta and Northwest would increase pressure on American Airlines and Continental Airlines to consider restructuring through the bankruptcy courts. Both carriers have a better cash position ahead of the slacker winter travel season, and have not indicated any plans to seek protection.

Delta lost $5.2bn last year and is targeting $5bn of cost cuts by the end of 2006 through changing its network and securing at least $1bn in cuts from pilots. It has held fresh talks with pilots in an effort to increase the savings. Northwest on Tuesday began hiring permanent replacements for its 4,400 striking mechanics, who walked off the job on August 20 after rejecting the airline's calls for steep job and pay cuts. The airline has raised its targeted annual savings from $1.1bn to $1.4bn.

President Revisits Foreign Policy (WP)

By Peter Baker

The Washington Post, September 14, 2005

NEW YORK, Sept. 13 -- After nearly two weeks consumed by Hurricane Katrina, President Bush turned his attention back to the rest of the world Tuesday and confronted again the vexing challenges of an intractable war in Iraq, disputes with Iran and North Korea, and fitful relations with the United Nations.

Bush played host to Iraq's first democratically selected president at the White House in the morning and persuaded him to abandon talk of imminent U.S. troop pullouts. Bush then flew to New York in the afternoon to attend a division-plagued U.N. summit and to solicit Chinese help in pressuring Pyongyang and Tehran to abandon nuclear weapons ambitions.

The full day of diplomacy marked the first time that Bush has resumed a normal schedule since clearing his calendar after the devastation wrought by Katrina along the Gulf Coast. Among other events, Bush canceled a pomp-filled visit by Chinese President Hu Jintao last week to concentrate on getting relief to storm-ravaged areas. But Bush began to make it up to Hu by meeting with him here Tuesday evening, one of the first sit-down sessions with another world leader since the crisis.

The rest of the week is jammed with other foreign policy events, including meetings Wednesday with the prime ministers of Britain and Israel, a U.N. gathering of 170 world leaders and a White House summit Friday with Russian President Vladimir Putin. But aides insisted Bush would keep his attention on the afflicted region, scheduling a fourth trip there for Thursday capped by a prime-time national address.

In perhaps the most sensitive meeting of the day, Bush spent an hour with Hu. Bush gave him a list of human rights cases that the United States is concerned about, a list that a senior U.S. official said is topped by the longtime imprisonment of a researcher for the New York Times on accusations of disclosing state secrets.

During a public appearance, Hu promised "to step up" efforts on North Korea "so that we can facilitate fresh progress" in multilateral talks scheduled to resume in Beijing. During their private session, the U.S. side said Hu was supportive of efforts to curtail Iran's nuclear ambitions as well, but offered no support for Bush's bid to refer Tehran to the U.N. Security Council for possible sanctions.

Bush's meeting with Iraqi President Jalal Talabani came a day after he departed from White House talking points and broached the prospect of large-scale withdrawal of U.S. forces from his country. In an interview with The Washington Post on Monday, Talabani said "at least from 40,000 to 50,000 American troops can be [withdrawn] by the end of this year."

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After meeting with Bush on Tuesday morning, Talabani joined the president in the East Room to deliver a different message. "We will set no timetable for withdrawal, Mr. President," Talabani said at a joint media availability. "A timetable will help the terrorists, will encourage them [to think] that they could defeat a superpower of the world and the Iraqi people."

Still, Talabani added that he hoped enough Iraqi security forces would be trained by the end of 2006 to take " responsibility from many American troops with complete agreement with Americans."

A longtime Kurdish leader who resisted Saddam Hussein's rule, Talabani effusively thanked Bush for liberating Iraqis from the "worst kind of dictatorship" and praised him as "a visionary, great statesman." Smiling broadly, Talabani said, "We will never forget what you have done for our people."

Bush, in turn, praised the new constitution drafted by Iraqi negotiators as "an historic milestone" that protects fundamental rights and makes all Iraqis equal before the law. In private, though, aides said Bush used the opportunity to urge Talabani to be flexible in considering changes to the constitution, which was written by Shiite and Kurdish leaders but rejected by leaders of the Sunni minority.

The president also delivered a sharp warning to Syria for not doing more to stop foreign fighters from crossing its border with Iraq to fight U.S. forces. "The Syrian leader must understand we take his lack of action seriously," Bush said, adding that he plans to speak with allies about pressuring Damascus.

Bush similarly said he would bring up Iran with Hu and Putin in hopes of forging a consensus approach to blocking any nuclear weapons development by the theocratic state. Iran's new president, Mahmoud Ahmadinejad, who will be in New York for his first U.S. visit since winning election, has insisted that his country wants to develop only civilian nuclear power.

"Some of us are wondering why they need civilian nuclear power, anyway," Bush said. "They're awash with hydrocarbons. Nevertheless, it's a right of a government to want to have a civilian nuclear program."

That comment caused a stir because the U.S. government has adamantly rejected North Korea's aspirations for civilian nuclear power. Aides later insisted Bush was not trying to signal a policy change toward Pyongyang. "I can guarantee you that's not what he intended to indicate," said National Security Council spokesman Frederick L. Jones II.

Arriving in New York later in the day, Bush met with U.N. Secretary General Kofi Annan in preparation for Wednesday's summit. Negotiators agreed on a plan to restructure the United Nations and follow up pledges to combat world poverty.

During his subsequent joint appearance with Hu, the Chinese leader acknowledged "some frictions" as trade grows and promised that Beijing will "take effective measures" to address trade imbalances and "step up its efforts to protect intellectual properties." Hu urged the United States to oppose "so-called Taiwan independence."

Bush, who will visit China in November, emphasized the strength of the relationship. "I will bring up human rights," the president said. "But most importantly, I view this visit as an opportunity to continue a dialogue in dealing with a very important relationship for the United States and the world."

Bush Puts Iraq, China And Iran On Agenda (NYT)

By David E. Sanger

The New York Times, September 14, 2005

For the first time since the Hurricane Katrina crisis, President Bush returned yesterday to dealing with festering global problems, trying to bolster Iraq's president at the White House and then flying to New York to urge President Hu Jintao of China to join him in trying to stop nuclear programs in Iran and North Korea.

Mr. Bush's meeting with Mr. Hu was delayed a week by the hurricane, and was the first in a series planned for coming months, including a trip by Mr. Bush to China in November.

When the session finally took place yesterday at the Waldorf-Astoria, Mr. Bush was lobbying hard to persuade Mr. Hu - who has nurtured a close relationship with Iran - not to block action by the International Atomic Energy Agency next week to refer Iran's work on uranium enrichment to the Security Council.

"We didn't come away with a clear commitment," Michael J. Green, the top official for Asia in the National Security Council, said yesterday evening. But he added that Mr. Hu had agreed to urge Iran to follow the mandates of the I.A.E.A.

Nuclear issues, trade and Taiwan dominated the meeting at the Waldorf, before Mr. Bush held a reception for more than 170 world leaders who have gathered for the opening of the United Nations General Assembly and a meeting on global poverty.

Mr. Bush's aides also turned over to Mr. Hu a list of human rights cases that particularly concern the United States, Mr. Green said. While they declined to describe most of those cases, Mr. Green said one involved Zhao Yan, a researcher for The New York Times in Beijing, who has been accused of leaking state secrets to the newspaper. Mr. Zhao and The Times have denied the accusation, and Mr. Zhao has had no court hearing or any public explanation of why he was arrested.

Earlier yesterday, at a news conference in Washington with President Jalal Talabani of Iraq, Mr. Bush expressed some impatience with Iran's defiance of an agreement it reached last year with three European nations.

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"Some of us are wondering why they need civilian nuclear power anyway," Mr. Bush said. "They're awash with hydrocarbons. Nevertheless, it's a right of a government to want to have a civilian nuclear program."

Mr. Bush's aides insisted later in the day that the president was not, with that last statement, signaling a greater willingness to allow either Iran or North Korea to acquire what both have said is their right: control over the complete nuclear fuel cycle, the path to making fuel for either civilian reactors or weapons. Mr. Bush explicitly said Iran's nuclear program should develop "in such a way that they don't gain the expertise necessary to be able to enrich."

But his comments were far milder than they were three years ago, when Mr. Bush first called Iran and North Korea part of an "axis of evil."

Instead, Mr. Green said, Mr. Hu and Mr. Bush talked about ways to pressure North Korea to make what Mr. Green called "a strategic decision" to give up its weapons programs.

Talks on North Korea resumed in Beijing yesterday, with North Korea repeating, as Iran has, that it has a right to develop its own civilian nuclear programs.

While Mr. Hu and Mr. Bush carefully chose words to show their agreement on the issue - "We have always stood for a nuclear-weapon-free Korean Peninsula," Mr. Hu said - some administration officials say they are increasingly concerned that the United States and Tokyo are pursuing one approach, and Beijing and South Korea are pursuing another.

The United States has made full disarmament of North Korea its priority. But both the Chinese and the South Koreans have spoken of the need to assure "stability" in North Korea, a code word for making sure that the North Korean government does not collapse.

At moments, the meeting with the Chinese had echoes of the kind of meetings Mr. Bush's father used to hold with Japan in the late 1980's when he was trying to lower a fast-widening trade deficit with Japan and used to travel to Tokyo to urge Japan, when its economy seemed to be growing without limit, to pay heed to the damage being done to American workers.

Mr. Hu was ready for that.

"What I would like to express here is that China does not pursue a huge trade surplus in its trade with the United States," he said. "And we are willing to work with the United States to take effective measures to increase China's imports from the United States."

The last statement was especially significant, because Mr. Hu steered clear of committing to any restraints in exports to the United States.

The issue may become even more heated if Hurricane Katrina leads to a downturn in American economic growth. Some of the affected industries in the south compete with Chinese companies, and were already calling for greater government protection.

The earlier meeting with Mr. Talabani was notable for the Iraqi leader's change of tone on an issue important to Mr. Bush: setting any parameters for the withdrawal of American troops from Iraq.

On Friday in Washington, Mr. Talabani said he believed that American troops would be required for two years. The Washington Post reported Monday that he had said he thought 40,000 to 50,000 American troops could be withdrawn by the end of the year. But yesterday, he recited the White House talking points: that it was impossible, and unwise, to set a deadline. "We will set no timetable for withdrawal, Mr. President," he said to Mr. Bush.

Bush Packs In Busy Day Of Diplomacy (AJC/AP)

By Terence Hunt, Ap White House Correspondent

The Atlanta Journal-Constitution, September 14, 2005

NEW YORK — President Bush won a pledge from Chinese President Hu Jintao to step up pressure on North Korea to abandon its nuclear weapons, but the two leaders remained apart Tuesday over whether to seek international sanctions against Iran.

The two leaders met here as talks resumed in Beijing aimed at persuading North Korea to abandon its nuclear weapons.

Bush said his discussions with Hu ranged from how to prevent an avian flu pandemic to economic matters and feared nuclear proliferation in North Korea and Iran. He seemed pleased when Hu said, "We stand ready to step up our communication and cooperation" to gain fresh progress in negotiations with North Korea.

While offering help on North Korea, Hu did not embrace a U.S. proposal to bring Iran before the U.N. Security Council for possible sanctions for its suspected nuclear weapons program. "No, we didn't come away with a clear commitment on the tactics," Mike Green, the National Security Council's senior director for Asia, said at a briefing on the Bush-Hu meeting.

"China thinks we all need to step up the diplomatic efforts," Green said. He said Bush did not ask for a commitment on sanctions, but the Chinese side "understands, I think, exactly where we're coming from."

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Bush, at a news conference earlier in Washington, appeared to give Iran a green light to have a peaceful nuclear program. But the United States has a different view about North Korea. "North Korea needs to get out, completely out, of the nuclear business," Green said.

Consumed by Hurricane Katrina recovery efforts for two weeks, Bush pivoted to foreign policy for a meeting of more than 160 presidents, prime ministers and kings at a summit on combating poverty and reforming the United Nations. Bush is to address the General Assembly on Wednesday.

Bush has had a testy relationship with the U.N., portraying it as a bloated bureaucracy slow to address global problems. Criticism of the United States is common, particularly over the war in Iraq and Bush's refusal to sign the Kyoto treaty on global warming. Bush arrived here with the lowest approval ratings of his presidency and the perception that his administration had mishandled hurricane relief. He said he took responsibility for whatever had gone wrong.

Bush met privately in a hotel suite with Hu, who is making his first visit to the United States as his country's leader. The White House is concerned about China's growing economic and military might and its voracious thirst for oil — a factor in rising U.S. gasoline prices.

The president broadly raised human rights concerns with Hu, and the administration presented China's delegation with a list of specific cases that the United States regards as particularly important. Green declined to identify the cases or say how many were on the list, saying the goal was to try to resolve them quietly.

Bush accepted an invitation to visit China in November after a summit in South Korea with Asian leaders. The president also is expected to stop in Japan.

For his part, Hu acknowledged tensions with Washington about China's huge trade surplus and said that "it is inevitable that we may have some frictions."

Bush met with Hu at the end of a busy day of diplomacy stretching from the White House to the United Nations. In Washington, the president issued a stern warning to Syria about alleged involvement in Iraq and vowed the United States will not waver from its commitment in Iraq.

The Bush administration is seeking the support of China, Russia and India to bring Iran before the U.N. Security Council for possible sanctions for its suspected nuclear weapons program. Iran suspended uranium conversion and enrichment activities last year but resumed them last month. Iran's foreign minister, Manouchehr Mottaki, warned of serious consequences if the Security Council considers sanctions.

Bush questioned why Iran needs a civilian nuclear power program, given Tehran's huge oil reserves. "Nevertheless, it's a right of a government to want to have a civilian nuclear program," Bush said. But he went on to say there must be guidelines and "one such guideline would be in such a way that they don't gain the expertise necessary to be able to enrich."

China has a massive surplus in trade with the United States. Last year's U.S.-China deficit hit a record $162 billion, the largest imbalance ever recorded with a single country.

Hu promised to "work hard" to address the trade imbalance and said China will protect the intellectual property rights of American companies — a major concern of U.S. firms.

"What I would like to stress here is that China does not pursue a huge trade surplus in trade with the United States," Hu said.

Bush began the day at the White House, meeting with Iraqi President Jalal Talabani. Once again, the two leaders refused to set a deadline for the withdrawal of U.S. troops from Iraq.

Hu Tells Bush China Will Work On U.S. Concerns (WSJ)

By Neil King Jr.

The Wall Street Journal, September 14, 2005

NEW YORK -- Chinese President Hu Jintao told President Bush that his government was prepared to take "effective measures" to ease the soaring U.S. trade deficit with China while also moving to crack down on rampant piracy problems at home.

The two leaders met on the margins of a United Nations summit here at a time of varied tensions between the two countries and a week after Hurricane Katrina postponed a long-anticipated White House visit by Mr. Hu. In remarks before the two met in private, Mr. Hu said China "does not pursue a huge trade surplus" with the U.S. and was willing to take steps to increase U.S. imports to China, mainly by strengthening piracy rules and increasing purchases of big-ticket items.

The U.S. last year imported $162 billion more from China than it exported to China. U.S. officials said that Mr. Hu's remarks on intellectual-property protection were particularly important, and among the strongest assurances on that front that any Chinese leader has ever offered. Mr. Hu said that on the whole, relations between the two countries were "developing quite well," although he conceded that the rapid growth in bilateral trade had created "some frictions" between the two economic powers.

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The U.S. and China in recent months have tussled over issues from China's restrictive monetary policy and intellectual-property problems to the desire among Chinese energy companies such as Cnooc Ltd. to acquire corporate assets in the U.S. and elsewhere.

Mike Green, President Bush's top Asia adviser, said Mr. Bush used the hourlong session to press Mr. Hu to use China's clout in international efforts to halt nuclear programs in Iran and North Korea. On Iran, Mr. Hu told the president that China wanted to see Tehran live up to its international obligations, but he didn't offer explicit support for any moves to take the matter to the U.N. Security Council.

Mr. Bush also urged the two countries to coordinate efforts to avoid a potential avian-flu pandemic through aggressive containment, and a strengthened early-warning system. Mr. Hu went on at some length during the private discussion to emphasize that China was intent on "peaceful development," Mr. Green said.

On the issue of China's exchange rate, Mr. Bush applauded Beijing's move this summer to allow the yuan to float slightly against other currencies, but urged Mr. Hu to take additional steps to adopt a fully flexible exchange rate. Mr. Bush also agreed to visit Beijing in late November.

Bush Heads To U.N. Summit With Global Views Of U.S. Altered (KRT)

By Warren P. Strobel

Knight Ridder, September 14, 2005

UNITED NATIONS - President Bush joins in the largest-ever gathering of world leaders here Wednesday at a moment when his government's botched response to Hurricane Katrina has changed views of America both at home and abroad.

Opinion columns around the world expressed incredulity that the world's wealthiest country could fail to take care of its own. The hurricane aftermath threw a light on America's class and racial divides.

At home, polls show, Americans want more attention on domestic concerns and less on the war on terrorism.

The president and his top aides have given no sign they intend to change the course from their foreign policy priorities: the promotion of democracy around the world and the war in Iraq. Still, public opinion at home and abroad will pose challenges for this agenda, according to diplomats and other foreign policy observers.

The images of poor, mostly black Americans waiting days for help and rescue collide with Bush's goal of improving the United States' image overseas, an effort headed by his long-time aide Karen Hughes.

"If Katrina has any redeeming impact, it must be to cause us to see ourselves as others see us. I regret to say the picture cannot be a pretty one," Sen. Robert Byrd, D-W.Va., said in a Senate floor speech. "The perception of the United States in these troubled times should be a cause of major concern for everyone who holds public office."

Hughes, the undersecretary of state for public diplomacy, vigorously disputed charges, heard at home and abroad, that the Bush administration reacted slowly because Katrina's victims were mostly poor and black.

The world has also seen evidence of Americans' overwhelming generosity in times of need, Hughes said. "The story is, Americans care about our fellow Americans."

But the world also has seen vivid examples of poverty and racial division in the disaster zone.

The U.N.'s 2005 Human Development Report, a look at how the world is doing meeting targets set five years ago at reducing human suffering, examines, among many other things, inequality in the United States.

"U.S. public health indicators are marred by deep inequalities linked to income, health insurance coverage, race, ethnicity, geography and - critically - access to health care," the authors of the report wrote.

Fifty years of declines in the U.S. infant mortality rate are now being reversed, the report states. It added: "The Indian state of Kerala has an urban infant death rate lower than that for African Americans in Washington, D.C."

After briefly hesitating, Bush and Secretary of State Condoleezza Rice agreed to accept assistance from around the globe to help deal with the hurricane's aftermath. Aid, from cash for the American Red Cross to blankets and search and rescue teams, has flowed from dozens of countries.

Some diplomats hope the global solidarity will help heal ties with the United States, which were badly damaged by divisions over the Iraq war and other issues.

Canadians were simmering over a long-standing trade dispute with Washington over softwood lumber - until Katrina hit.

"After all we've gone through on Iraq and war and peace, this is a wonderful opportunity," said Wolfgang Ischinger, Germany's ambassador to the United States. Germany has sent three planeloads of military-style meals, or "meals ready to eat," as well as half a dozen airplanes with water purification experts and equipment.

Ischinger said that from his daily talks with top Bush officials, "They know that accepting these offers ... is not something that will be humiliating. ... It will actually have positive effects on America's relationships with these particular countries."

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But Josef Joffe, publisher-editor of the prestigious German weekly Die Zeit, said the United States is unlikely to act more humbly in international affairs as a result.

"The U.S. doesn't need assistance, and help rarely buys compliance. Otherwise so many nations that are beneficiaries of U.S. largesse would do its bidding," Joffe said.

Katrina's main impact on foreign policy could be to simply divert the Bush administration's focus more toward domestic concerns.

Bush's visit to the United Nations is sandwiched between two trips to the Gulf Coast.

He and Rice have been bombarded with questions about Katrina and race issues. And diplomats from the Middle East and elsewhere say they are beginning to worry about sustained U.S. attention to their region.

A poll released last week by the Pew Research Center found that for the first time since the Sept. 11, 2001, terrorist attacks, more Americans felt it was important to focus on domestic issues rather than the war on terrorism, by a margin of 56 percent to 25 percent.

"I think this is really something to watch," said Carroll Doherty, the center's associate director. "You have a clear majority saying domestic policy is important."

The president will gather here with 170 fellow world leaders to sign a document on reducing poverty, raising development levels and reforming the United Nations. The document has been significantly watered down because of deep disagreements among U.N. members.

Bush also planned a series of meetings with other leaders, starting with a Tuesday afternoon meeting with Chinese President Hu Jintao, who expressed sympathy for the hurricane losses.

U.S. Shares Data With China, India To Build Iran Case (WSJ)

By Carla Anne Robbins

The Wall Street Journal, September 14, 2005

WASHINGTON -- As the U.S. and Europe prepare to face off with Iran at the United Nations, the Bush administration dispatched intelligence experts to China and India last week to brief them on Tehran's alleged efforts to develop a missile capable of delivering a nuclear warhead.

The decision to share the highly classified intelligence is a measure of the resistance the U.S. is meeting as it pushes, along with the Europeans, for Iran's nuclear activities to be referred to the U.N. Security Council.

Even after Tehran resumed some sensitive nuclear activities last month and ended negotiations with the Europeans, the U.S. and its allies face a challenge persuading China, Russia and other key nations that the situation is grave enough -- or Iran's weapons program advanced enough -- for international reprisals.

The failure to find weapons of mass destruction in Iraq has damaged U.S. credibility, making it even harder to press the case against Iran.

The missile intelligence, which U.S. officials acquired covertly last year, documents Iran's efforts from 2001 to 2003 to adapt its Shahab-3 missile to deliver a "black box" that experts at U.S. nuclear-weapons laboratories believe almost certainly is a nuclear warhead. The data, which include tens of thousands of pages of Farsi-language computer files, diagrams and missile test results, don't include a nuclear-warhead design. But according to several officials who have been briefed on the intelligence, the specifications for size, shape, weight and detonation don't vary and make no sense for conventional weapons.

The U.S. has already shared the intelligence with Britain, which supported the Iraq war, and with France and Germany, which opposed it, as well as top officials at the International Atomic Energy Agency. Intelligence officials in all three European countries have been impressed with the depth and apparent authenticity of the finding, according to European officials.

The U.S. has also offered to brief Russia on the missile data and may share the findings with other countries in coming days, officials said.

The confrontation with Iran will be a central topic at this week's U.N. summit in New York and at next week's IAEA board meeting in Vienna. Iran's new hard-line President Mahmoud Ahmadinejad is expected to try to deflect Western pressure when he speaks to the U.N. today and later in the week. U.S. and European officials said he might call for wider negotiations -- possibly bringing in China, Russia and India -- after failing to persuade Europe and the U.S. that his country's nuclear program is solely for generating power.

President Bush speaks to the world body today . Officials last night were discussing what, if anything, he would say about Iran at a meeting that is focused on alleviating poverty and U.N. overhauls. Mindful of the ill will created by the Iraq war, the U.S. has left much of the public lobbying until now to the Europeans.

Recognizing the pivotal role China and Russia will play as veto-wielding members of the Security Council, Mr. Bush said he planned to "speak candidly about Iran" in private meetings with Chinese President Hu Jintao and Russian President Vladimir

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Putin. "It is very important for the world to understand that Iran with nuclear weapons will be incredibly destabilizing," he said. After Mr. Bush's meeting with the Chinese leader last night, White House Asia expert Michael Green told reporters that Mr. Hu told the President that he would press Iran to live up to its IAEA obligations but didn't commit to supporting a Security Council referral. (See related article on page A8.)

In recent days, Russia and India, among others, have said publicly that they would oppose a Security Council referral.

Iran insists that it has a right to pursue a peaceful nuclear program -- an argument that resonates around the world, especially when backed by Iran's considerable oil wealth. Mr. Bush yesterday acknowledged that right but said constraints need to be imposed to ensure that Iran also doesn't "gain the expertise" to produce nuclear weapons.

U.N. nuclear monitors have repeatedly cited Tehran for concealing and lying about its nuclear efforts. But without solid proof of a weapons program, many members of the IAEA board have resisted a showdown. Some are fearful that a referral could be a first step toward a military confrontation. Other countries have more mercantilist interests, which Iran has deftly played upon. With energy-hungry China and India, in particular, Tehran has emphasized its oil supply; with Moscow its willingness to buy nuclear technology,

In August, Iran restarted its uranium conversion plant, an important first step toward the production of enriched uranium either for nuclear fuel or a nuclear weapon. While the Europeans repeatedly warned Tehran that such a move would provoke a swift referral to the Security Council, neither they nor the Americans have been able to win over a large block of the IAEA's 35-member board, which usually acts on consensus.

U.S. officials said yesterday that it is too early to rate their chances for a referral next week and that much will depend on how conciliatory or confrontational the Iranian leader chooses to be during his meetings in New York.

Some U.S. officials have begun arguing that a simple majority of the board would be enough to go ahead, and that those votes are there. In recent days, the U.S. has come down especially hard on the Indians -- who have status among the nonaligned -- warning that a White House offer to sell it civilian technology could be scuttled if the U.S. Congress believes New Delhi is too supportive of Iran.

But without the support of Beijing and Moscow a referral would likely stall once it got to the U.N.

In a conversation with Secretary of State Condoleezza Rice earlier this week, IAEA Director General Mohamed ElBaradei suggested the U.S. and Europe might seek a resolution that gives Iran a few more weeks to suspend uranium conversion and provide more access to agency monitors or face a referral.

U.S. Deploys Slide Show To Press Case Against Iran (WP)

By Dafna Linzer

The Washington Post, September 14, 2005

UNITED NATIONS, Sept. 13 -- With an hour-long slide show that blends satellite imagery with disquieting assumptions about Iran's nuclear energy program, Bush administration officials have been trying to convince allies that Tehran is on a fast track toward nuclear weapons.

The PowerPoint briefing, titled "A History of Concealment and Deception," has been presented to diplomats from more than a dozen countries. Several diplomats said the presentation, intended to win allies for increasing pressure on the Iranian government, dismisses ambiguities in the evidence about Iran's intentions and omits alternative explanations under debate among intelligence analysts.

The presenters argue that the evidence leads solidly to a conclusion that Iran's nuclear program is aimed at producing weapons, according to diplomats who have attended the briefings and U.S. officials who helped to assemble the slide show. But even U.S. intelligence estimates acknowledge that other possibilities are plausible, though unverified.

The problem, acknowledged one U.S. official, is that the evidence is not definitive. Briefers "say you can't draw any other conclusion, and of course you can draw other conclusions," said the official, who would discuss the closed-door sessions only on condition of anonymity.

The briefings were conducted in Vienna over the past month in advance of a gathering of world leaders this week at the United Nations. President Bush, who is to address the annual General Assembly gathering Wednesday, and Secretary of State Condoleezza Rice, plan to use the meeting to press for agreement to threaten international sanctions against Iran.

The president's direct involvement marks an escalation of a two-year effort to bring Iran before the U.N. Security Council, which has the power to impose sanctions, unless Tehran gives up technology capable of enriching uranium for a bomb. U.S. officials have acknowledged that it has been an uphill campaign, with opposition from key allies who fear a prelude to a military campaign.

Several diplomats said the slide show reminded them of the flawed presentation on Iraq's weapons programs made by then-secretary of state Colin L. Powell to the U.N. Security Council in February 2003. "I don't think they'll lose any support, but it

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isn't going to win anyone either," said one European diplomat who attended the recent briefing and whose country backs the U.S. position on Iran.

Robert G. Joseph, undersecretary of state for arms control and international security, acknowledged last week that despite European support, the Bush administration has traveled a tough road in persuading others that Iran should face consequences for a nuclear program it built in secret.

"There's a great deal of resistance . . . on the part of many governments who don't seem to place, quite frankly, nonproliferation and Iran, a nuclear-armed Iran, at the top of their priority list," he told a congressional panel last week.

Several influential nations such as India, Russia, China, South Africa and Brazil share U.S. suspicions about Iran's intentions. But they maintain profound differences with the Bush administration over how to respond, and are apprehensive about the goals of a U.S. president who has said "all options are on the table," in dealing with Tehran.

Three years ago, the White House used the same annual gathering to put both Iraq, and the world community on notice. In a toughly-worded speech, delivered six months before the U.S. invasion of Iraq, Bush warned that the United States would deal alone, if necessary, with a dictator bent on launching nuclear weapons.

The U.S. intelligence community no longer believes Iraq was trying to reconstitute a nuclear program, as the president said. Those and other U.S. intelligence failures have remained fresh in the minds of international decision-makers now being asked to weigh the case of Iran.

The Iraq experience has had a "sobering effect" on Iran discussions, said President Pervez Musharraf of Pakistan, a close ally of the Bush administration. In an interview, he refused to speculate on whether Iran, whose program was secretly aided by Pakistan's top nuclear scientist, had been designed for weapons production. But he said he feels confident Iran's aims are now peaceful and there was no need for Security Council action.

Iran's new president, Mahmoud Ahmadinejad, who is also attending the U.N. summit, has his own meetings scheduled in New York, and Iranian officials said he would use the gathering to mount forceful counterarguments. Iranian diplomats have been in close contact with countries such as Japan, which relies heavily on Iranian oil.

The outcome of both sides' efforts will be tested on Sept. 19, when diplomats from 35 countries meet at the International Atomic Energy Agency in Vienna to decide whether to report Iran's case to the Security Council.

Undersecretary of State R. Nicholas Burns last night suggested the administration may not be able to press for a successful vote and was exploring other options. He said the administration was working "with lots of other governments to devise an international coalition that will call upon Iran to return to the talks," it walked away from this summer with European negotiators. "There is a consensus that Iran has got to return to the talks."

Iran insists its nuclear efforts are aimed at producing nuclear energy, not bombs. The Bush administration contends that the energy program, built in secret and exposed in 2002, is just a cover. "They cannot be allowed to develop nuclear weapons under the guise of a civilian nuclear program, which is what they're trying to do," State Department spokesman Sean McCormack said earlier this month.

A recent U.S. intelligence estimate found that Iran, mostly through its energy program, is acquiring and mastering technologies that could also be used for bomb-making. But there is no proof that such diversion has occurred, the estimate said, and the intelligence community is uncertain as to whether Iran's ruling clerics have made a decision to go forward with a nuclear weapons program.

The estimate judged Iran to be as much as a decade away from being able to manufacture the fissile material necessary for a nuclear explosion. A report issued last week by the International Institute for Security Studies, a London-based research group, found Iran was 10 to 15 years from the technical know-how to build a bomb.

Both reports are based in large part on the findings of U.N. nuclear inspectors, now in their third year of investigating Iran's program. While no proof of a weapons program has been found, serious questions about Tehran's past work on centrifuge designs and experiments with plutonium -- a key ingredient for a nuclear weapon -- have yet to be adequately addressed and have furthered suspicions that the country is hiding information.

With little new information from the probe, the Bush administration put together its own presentation of Iran's program for diplomats in Vienna who are weighing whether to report Iran to the Security Council.

The presentation has not been vetted through standard U.S. intelligence channels because it does not include secret material. One U.S. official involved in the briefing said the intelligence community had nothing to do with the presentation and "probably would have disavowed some of it because it draws conclusions that aren't strictly supported by the facts."

The presentation, conducted in a conference room at the U.S. mission in Vienna, includes a pictorial comparison of Iranian facilities and missiles with photos of similar-looking items in North Korea and Pakistan, according to a copy of the slides handed out to diplomats. Pakistan largely supplied Iran with its nuclear infrastructure but, as a key U.S. ally, it is identified in the presentation only as "another country."

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Corey Hinderstein, a nuclear analyst with the Institute for Science and International Security, said the presence of a weapons program could not be established through such comparisons. She noted that North Korea's missile wasn't designed for nuclear weapons so comparing it to an Iranian missile that also wasn't designed to carry a nuclear payload "doesn't make sense."

Decision Time On Iran (NYT)

By Pierre Goldschmidt

The New York Times, September 14, 2005

Brussels

In November 2003, Iran averted a crisis when it agreed to suspend activities that could one day give it the capacity to produce weapons-grade nuclear material. The International Atomic Energy Agency had discovered an 18-year pattern of noncompliance by Iran with its obligations to report all its nuclear activities, during which time international inspectors could not verify that they were solely for peaceful purposes. Because Iran suspended its most sensitive activities, the agency's board agreed to hold off reporting Iran to the United Nations Security Council. This was understood, in effect, as a quid pro quo: suspension of uranium-enrichment-related and reprocessing activities in return for not being reported to the Security Council.

Last November, Iran agreed with Britain, France and Germany to extend its suspension to include "all tests or production at any uranium-conversion installation." Iran also agreed that "sustaining the suspension, while negotiations on a long-term agreement are under way, will be essential for the continuation of the overall process."

But last month, the day before Britain, France and Germany gave Iran a proposal for a long-term agreement that offered economic assistance in exchange for ending its nuclear fuel cycle activities (but not its electrical nuclear program), Tehran announced that it would resume uranium conversion activities in Isfahan, which it did.

The agency's board of governors will meet in Vienna next Monday to decide how to respond. At the moment there is no consensus or even a majority that agrees with Washington, Berlin, London and Paris that Iran's noncompliance should be reported to the Security Council. Iran is vigorously lobbying its fellow developing countries on the board. While the agency's statute makes clear that it should report Iran's noncompliance to the Security Council, many board members are reluctant to do so, fearing a repeat of the dynamic that led to the war in Iraq.

It is important to remember that under the agency's statute, there is no deadline or expiration date after which noncompliance becomes moot. Thus, Iran is still accountable for its past breaches. And Iran's resumption of work related to uranium conversion eliminates the only reason for the three European countries not to report Iran to the Security Council.

A failure by the board to make such a report would considerably weaken the agency and the global nonproliferation regime. It would reveal that the world is unwilling to hold rule-breakers to account, inviting proliferation by other countries.

And it should be made clear that the purpose of reporting Iran to the Security Council is not to seek sanctions. Rather, the Security Council's authority should be invoked to press Iran to give the agency's inspectors the information and access they need to clear up quickly the many remaining uncertainties about what Iran has been doing and why.

Iran has been asked to do this repeatedly. Yet, two and a half years after its noncompliance was discovered, Iran is still holding back both information and full cooperation. Iran has not provided the requested evidence on why its leadership decided in 1985, in the middle of the war against Iraq, to pursue a uranium enrichment program when there was no short or medium-term need to fuel any electrical nuclear power plant. Inspectors are still unable to specify the origin of all enriched uranium particles found in Iran. And they cannot assure the truth of Iran's claims that after receiving more advanced centrifuge designs in 1995, it did nothing with them until 2002. Nor can inspectors rule out the possible involvement of Iran's military in nuclear-related activities.

It is time for the International Atomic Energy Agency to get the authority it needs from the Security Council to complete the verification that Iran's nuclear program is and has been, as claimed, exclusively for peaceful purposes. This is in everyone's interest, including Iran's, unless it still has something to hide. The Iranian people deserve better than a confrontation with the world.

North Korea Talks Resume At Logjam (WSJ)

By gordon Fairclough

The Wall Street Journal, September 14, 2005

BEIJING -- Talks aimed at persuading North Korea to give up its nuclear ambitions resumed with no public sign of progress toward a compromise between Washington and Pyongyang on a central issue: whether the North should be allowed to develop atomic energy.

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North Korea's chief delegate to the talks, Kim Kye Gwan, insisted that his country won't give up its right to nuclear power, despite American demands that Pyongyang dismantle all of its atomic programs, military and civilian.

"We have this right, and the more important thing is that we should use this right," Mr. Kim said before flying to Beijing, according to China's Xinhua news agency. "We utterly cannot accept" any U.S.-imposed limits on civilian nuclear programs, he said.

Differences over the North's exercise of atomic-energy rights came into sharp focus during two weeks of negotiations that broke off in August. Other issues also remain, including a U.S. demand that North Korea pledge not to export weapons of mass destruction.

"Nothing is agreed unless everything is agreed," said the top U.S. envoy to the talks, Christopher Hill. "The fundamental question is whether [North Korea] is ready to abandon its nuclear programs."

If the talks again fail to reach an agreement, it could seriously erode support for continued negotiations. But it isn't clear that the administration of President Bush, focused on hurricane relief as well as Iraq and Iran, is prepared to quickly take other steps, such as seeking United Nations Security Council action.

Mr. Hill said it would become clear within "days, not weeks," whether an agreement could be struck laying down guidelines for an eventual resolution of the nuclear standoff. A senior South Korean diplomat concurred, saying: "Having longer meetings may not help if no one changes positions."

During the talks that ended in August, Pyongyang not only asserted its right to nuclear power but demanded that the U.S. and others provide it with reactors to generate electricity as part of any deal to abandon its atomic-weapons programs. In recent weeks, the North has reaffirmed its stance.

Washington, which says North Korea can't be trusted not to turn peaceful nuclear activities to military uses, opposes Pyongyang's demand for reactors. The demand appears to have little support among other participants at the talks. The other countries involved in the negotiations -- China, Japan, Russia and South Korea -- however, have expressed sympathy for the North's position that it must be able to retain its right to develop atomic energy.

A U.S.-led consortium started construction on two so-called light-water reactors for the North as part of a 1994 disarmament deal. That project was put on hold after the U.S. said it had evidence North Korea violated that agreement by starting a covert effort to develop nuclear weapons using uranium. U.S. officials have said the project won't be revived.

Six-Nation N. Korea Nuke Talks Resume (AJC/AP)

By Burt Herman, Associated Press Writer

The Atlanta Journal-Constitution, September 14, 2005

BEIJING — North Korea insisted Tuesday it will not give up its right to civilian nuclear programs, raising questions about the possibility of a breakthrough as six-nation talks aimed at persuading Pyongyang to abandon its atomic weapons resumed after a five-week recess.

Envoys from China, Japan, Russia, the United States and the two Koreas clasped hands together at a state guesthouse in Beijing before continuing the fourth round of talks since 2003 that have so far failed to resolve the standoff.

In New York on Tuesday, Chinese President Hu Jintao told President Bush that China was ready to "step up" pressure on Pyongyang for progress in the negotiations.

"We stand ready to step up our communication and cooperation" to gain fresh progress in negotiations aimed at halting North Korea's nuclear program, he said.

Mike Green, the National Security Council's senior director for Asia, said the Bush administration rejects the notion of North Korea retaining a civilian nuclear program. "North Korea needs to get out, completely out, of the nuclear business," Green said.

Last month, negotiators took a break after a record 13 days of meetings ended without agreement. The main U.S. negotiator said it would likely be shorter than last time.

"We should be able to wrap this up in a matter of days, not weeks," U.S. Assistant Secretary of State Christopher Hill said Tuesday evening.

South Korea's head negotiator Song Min-soon agreed, saying talks would continue until Friday at least and then all parties would consult on a possible closing date, according to official Xinhua News Agency.

The issue of the North's peaceful nuclear program will be raised at the talks but Hill emphasized the focus is on ridding the North of atomic weapons.

"The fundamental question is whether (North Korea) is prepared to abandon its nuclear programs," he said, noting those programs are involved in production of materials for nuclear weapons.

Hill saw the North Korean delegation briefly Tuesday and said he planned a full one-on-one session with them Wednesday where their views would be made known.

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Contacts between U.S. and North Korean diplomats in New York in the past month failed to make any progress, Hill said earlier. But he said "their position does seem to be evolving a little," without elaborating.

Chief North Korean negotiator Kim Kye Gwan said before he left for Beijing that his country will not tolerate any obstruction to its right to a peaceful nuclear program, China's official Xinhua News Agency reported.

"This right is neither awarded nor needs to be approved by others," Kim said in Pyongyang, adding that the country would "utterly not accept" if Washington tries to block that right.

Still, Kim said the North would attend the talks with a sincere and flexible attitude, according to Xinhua.

The Chinese hosts also acknowledged the impasse over the North's demand to keep its civilian nuclear program.

"There is a major difference between the parties, that is the DPRK's (North Korea's) peaceful use of nuclear energy," Chinese Foreign Ministry spokesman Liu Jianchao said.

The South Korea negotiator urged envoys to be open-minded at the talks.

"If each party can be a little more flexible in its position, there will be good results, but if they stick to their current position, good results will be hard to expect," Song said as he arrived in Beijing.

The two Koreas also began high-level talks Tuesday in Pyongyang separate from the nuclear forum, where the South proposed discussions on how to ease military tension and bring permanent peace to the divided peninsula. The Korean War ended in a 1953 cease-fire, leaving the two countries still at war. But reconciliation efforts have flourished since the first-and-only summit of their leaders in 2000.

The latest nuclear standoff was sparked in late 2002 after U.S. officials accused North Korea of running a secret uranium enrichment program in violation of an earlier deal, in which the North had agreed to stop weapons development in exchange for energy aid and other incentives.

The North has since denied having a uranium enrichment program, which would provide a way to create radioactive material for bombs other than its publicly acknowledged plutonium program.

On Tuesday, the North again called the uranium allegations "a sheer fabrication" in a commentary by the North's main Rodong Sinmun newspaper carried by the country's official Korean Central News Agency.

Pakistani President Gen. Pervez Musharraf told The New York Times in an interview released late Monday that he believed North Korea had obtained "probably a dozen" centrifuges — equipment needed to enrich uranium — from a network headed by the father of Pakistan's nuclear weapons program.

N. Korea Insists On Nuclear Energy As Talks Resume (WP)

By Edward Cody

The Washington Post, September 14, 2005

BEIJING, Sept. 13 -- Standing firm on a key disagreement, North Korea declared Tuesday it would not relinquish peaceful nuclear energy as diplomats from six nations opened another round of stalemated negotiations on its nuclear weapons program.

"The DPRK has the right to peaceful nuclear activity," said the chief North Korean negotiator, Vice Foreign Minister Kim Gye Gwan, using the initials for his country's formal name, the Democratic People's Republic of Korea. "This right is neither awarded nor needs to be approved by others."

Kim's declaration, made to the official New China News Agency as he flew to Beijing, suggested continued difficulties in the talks despite renewed pledges from all participants to show flexibility and goodwill. The talks among China, North and South Korea, Japan, Russia and the United States are aimed at the stated goal of achieving a nuclear-free Korean Peninsula. The issue of peaceful nuclear energy was a major reason the last round was suspended Aug. 7, after 13 days of intense bargaining.

The recess was supposed to be a time of reconsideration in the six nations' capitals, particularly in Pyongyang, U.S. officials said. But Kim's statement indicated that, from North Korea's point of view, the dispute over the production of nuclear energy for electricity remains unchanged.

"If the United States tries to lay down obstacles to the DPRK's using this right, we utterly cannot accept that," the North Korean envoy stated.

President Bush, speaking to reporters in Washington about Iran, which has also declared its intent to generate nuclear power, said, "It's a right of a government to want to have a civilian nuclear program," adding that "there ought to be guidelines" for such programs.

But the Bush administration remains adamant that North Korea must abandon its nuclear weapons programs and forgo nuclear energy production. The reason, the chief U.S. negotiator said in a briefing Friday in Washington, is that North Korea in the 1990s transformed a research reactor at Yongbyon into a source of weapons-grade plutonium.

"What North Korea needs to do is get out of the nuclear business," the U.S. negotiator, Christopher Hill, said. They have "had trouble keeping peaceful programs peaceful."

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The chief Japanese negotiator, Kenichiro Sasae, said North Korea's position on peaceful nuclear energy would be key to determining whether the six-party talks could move forward.

Despite Kim's apparently clear-cut declaration, Hill expressed hope that North Korea may have found a way to alter its position on that and other points since August. "We know precisely what the issues are," he told reporters here Tuesday. "I hope the DPRK delegation has also done its homework."

Chinese diplomats met with Hill and other delegations Tuesday, beginning open-ended discussions on a Chinese-drafted proposal for "agreed principles" to govern North Korea's nuclear disarmament. China has sponsored the six-party talks since they began in August 2003. The search for broad principles was launched at the last round of talks as a way to find a lowest common denominator of agreement, on which more specific accords could then be built. The idea, Hill explained, was to avoid the swift deadlock that had developed in three previous rounds by first finding agreement on broader goals.

But the fourth round bogged down in fundamental discord over peaceful nuclear energy, the timing of recognition and aid that North Korea would receive in return for giving up nuclear weapons and North Korea's desire to address the nuclear protection it says is implicit in the U.S.-South Korean alliance.

Nuclear Talks Restart On Pessimistic Note (WT)

By Andrew Salmon

The Washington Times, September 14, 2005

SEOUL -- Six-nation talks on North Korea's nuclear weapons ambitions resumed in Beijing yesterday with Washington and Pyongyang publicly restating opposing positions that had forced a five-week recess.

Separately, South Korean Unification Minister Chung Dong-young arrived in North Korea yesterday for four days of Cabinet-level discussions.

Mr. Chung told reporters in Seoul that he was carrying a confidential message for the North's leadership from Washington.

The nuclear talks -- which were suspended Aug. 7 after 13 days of negotiations ended in stalemate -- resumed on a sour note after the North's chief negotiator, Kim Gye-gwan, told Xinhua News Agency that Pyongyang "has a right to peaceful nuclear activity."

Washington's chief negotiator, Assistant Secretary of State Christopher R. Hill, branded Mr. Kim's position "wrong" in comments to reporters in Beijing.

Pyongyang's demand to have a peaceful nuclear energy program has become a major sticking point.

"What the North needs to do is get out of the nuclear business," Mr. Hill said before arriving in Beijing.

North Korea has reiterated that it will not dismantle its atomic program "without getting any proposal compensating for the loss of nuclear energy."

The South has offered to meet the North's power needs from its own grid, but North Korea has not officially responded to the offer.

The U.S. position is complicated by Chinese and South Korean support for civil atomic energy use by North Korea on the condition that it abandon nuclear weapons.

China and South Korea are North Korea's No. 1 and No. 2 trade partners, respectively. They would be expected to resist U.S. efforts to impose sanctions should the talks collapse.

Another point of friction is Pyongyang's human rights abuses, with North Korea criticizing the recent appointment of a U.S. special envoy on the issue.

North Korea also has demanded the removal of U.S. nuclear weapons from South Korea -- weapons Washington insists do not exist -- and repeatedly has demanded an end to what it calls hostile American policy.

There is no deadline to complete the current round of talks. The best that delegates can hope for from the negotiations is a joint agreement on principles for the denuclearization of the Korean Peninsula. The meeting yesterday focused on procedural issues.

Analysts saw few grounds for optimism.

"I think we are closer to breakdown than breakthrough," said Peter Beck, the Seoul-based northeast Asia project director of the International Crisis Group.

"The North has been harsh in its public statements, and the U.S. is not going to bend on the peaceful use of nuclear energy."

The talks involve the United States, the two Koreas, China, Japan and Russia.

N. Korea, Iran Say They Will Continue Nuclear Efforts (CSM)

By Tom Regan

DOJ_NMG_0005391

The Christian Science Monitor, September 14, 2005

In an announcement likely to set up a collision with the United States, North Korea announced Monday that it will continue to demand the right to "peaceful" use of atomic energy. CNN reports that the six-nation talks – which also include China, Japan, Russia, and South Korea – resumed Tuesday in Beijing. AFXNews reports that the North Korea statement is the same demand that broke up the talks five weeks ago. (North Korea) has a right on peaceful nuclear activity. This right is neither awarded nor needs to be approved by others,' the country's chief envoy to the talks, Kim Gye-gwan, told the official Xinhua news agency at Pyongyang airport.

'We have this right, and the more important thing is that we should use this right. If the United States tries to set obstacles to the DPRK's (North Korea) using this right, we can utterly not accept that.'

Bloomberg News reports that the US rejected North Korea's stance. US chief negotiator Christopher Hill said Monday in Beijing that North Korea's position "does seem to be wrong." Still, US negotiators said they will renew efforts to convince North Korea to give up its civilian reactors at the talks. 'I hope the Democratic People's Republic of Korea delegation has done some homework,' Hill said. 'We had more than four weeks to look at the text of the proposed agreement.'

The talks will last 'as long as necessary and will not have a deadline,' China's Foreign Ministry said in a statement. Meanwhile, Reuters reports that Iran is "working hard to gather allies" to defeat a US-European attempt to "refer Tehran to the UN Security Council because of their fears it may be developing nuclear weapons." EU diplomats said Iran was focusing its lobbying efforts on key International Atomic Energy Agency (IAEA) board members such as China, Russia, India, Pakistan, South Africa and other non-aligned developing states, which have a good deal of sympathy for Tehran's arguments. In the past two weeks, Iran's chief nuclear negotiator, Ali Larijani, visited Pakistan and India. While successfully negotiating a deal to allow Iranian natural gas to pass through Pakistan to India, Xinhua reports he also persuaded both countries to publicly support Tehran's position for "a peaceful resolution of Iran's nuclear issue and Iran's right to the peaceful use of nuclear energy in accordance with related international conventions."

Iran is continuing its diplomatic offensive this week. Mikhail Zygar and Dmitry Sidorov write in a column for MosNews that Iranian Vice-President Gholamreza Aghazadeh is in Moscow to discuss next week's IAEA meeting, where Iran's nuclear program will be the main topic. Russia has indicated that it will support Iran, and fight to keep it from being referred to the UN Security Council, where it would probably face sanctions. Mr. Zygar and Mr. Sidorov say this is "an extremely important victory for the Iranians," and a move likely to "cause the Kremlin a lot of problems." Russian authorities are relying on the fact that the world community will not want to punish Iran too severely and that the Europeans will not vote to transfer the dossier to the UN Security Council. Ariel Cohen, an expert with the Heritage Foundation, who participated in a meeting with Putin, Ivanov and Lavrov in Moscow, told [MosNews] that 'on the Iran subject they were telling mutually exclusive things: from one side — the Russian position is close to the Europeans', but from the other side — the Kremlin is against passing the dossier to the UN Security Council.'

According to Cohen's opinion, 'Russia does not want to spoil its relationship with Iran, because it sees Tehran as a member of a multi-polar coalition, which also includes China, and plays a role of the counter-balance for the US.' Russia has been a nuclear partner with Iran for some years. Russian engineers are currently building a nuclear plant at Bushehr, in southern Iran.

The US, however, is not taking the Iranian initiative lightly. The New York Times reported last Friday that both President Bush and Secretary of State Condoleezza Rice will speak with the leaders of these countries during this week's UN summit in New York in an effort to change their minds on the issue. But experts say their task will not be an easy one. Lacking a consensus, the United States and its European allies have shifted strategy and are now trying to get the matter referred to the Security Council by a simple majority of the agency's board, a step that officials in Vienna say is without precedent. North Korea was referred to the United Nations, for example, by consensus.

US, S Korea Hold Preparatory Trade Talks (FT)

By Guy de Jonquières and Anna Fifield

Financial Times, September 14, 2005

US and South Korean officials are holding preparatory talks on a bilateral trade agreement, potentially paving the way for President George W. Bush to launch formal negotiations when he visits the country in November.

A deal with Asia's third biggest economy would give the US an important economic bridgehead into the region at a time of growing concern in Washington that the recent wave of regional trade initiatives in Asia could jeopardise US commercial interests there.

An agreement could pose a dilemma for the European Union, whose 25 members have been discussing for a year whether to seek a trade deal with Seoul. Brussels fears that if Washington forged an agreement first, it could guarantee US

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companies preferential access to South Korea's market for exports such as commercial aircraft and financial services. Rob Portman, the US trade representative, and Kim Hyun-chong, South Korea's trade minister, are understood already to have discussed the proposed deal at several meetings.

"We are working on it," a South Korean official said. "Whether this will actually materialise by the time Bush gets here is still uncertain."

US trade officials said no decision had yet been taken to launch negotiations with South Korea.

The preliminary discussions between Washington and Seoul are intended to iron out some of their differences on trade to simplify the eventual negotiations process and improve chances of agreement, according to people familiar with the talks.

South Korea is the seventh largest US trade partner, and the countries' bilateral trade exceeded $70bn last year.

Obstacles to a deal include South Korea's cinema quotas which stipulate that 40 per cent of films shown in cinemas are domestic and Korean restrictions on US beef, imposed after the mad cow scare. Korean officials hope the beef curbs can be removed later this year.

Washington also argues that Korea's pharmaceuticals pricing policy does not provide enough rewards for research-intensive drugs and its system of basing car taxes on engine capacity puts US carmakers at a disadvantage.

South Korea hopes a deal would cut industrial tariffs on many of its exports and lead Washington to exercise greater restraint over antidumping actions, of which Korean products have frequently been targets. A deal could also make it easier to resolve bilateral trade problems, such as a recent dispute over subsidies to Hynix, the Korean chipmaker.

Singapore and Vietnam are the only east Asian countries with which the US has so far concluded trade agreements. Mr Bush will visit the South Korean port city of Busan in November for the annual summit of the Asia Pacific Economic Co-operation forum.

U.N. Adopts Modest Goals On Reforms And Poverty (NYT)

By Warren Hoge

The New York Times, September 14, 2005

UNITED NATIONS, Sept. 13 - The General Assembly unanimously approved a scaled-down statement of goals on Tuesday that Secretary General Kofi Annan said would still give world leaders gathering Wednesday a basis for recommendations to reform the organization and combat poverty.

Loud cheers from the delegates, however, could not disguise widespread disappointment at the weakening of the 35-page document.

When Mr. Annan first proposed the statement, it represented an ambitious blueprint for trying to balance the concerns of great powers over security, human rights and management efficiency with the developing world's needs for increased assistance and measures to cut poverty. In the end, virtually every section underwent severe cutbacks.

"Obviously, we didn't get everything we wanted," Mr. Annan said. "With 191 member states, it's not easy to get an agreement. But we can build on it." He noted that it represented progress in setting up a human rights council to replace the discredited Human Rights Commission and a new peace-building commission. He also singled out language on how to fight terrorism and establish means for international intervention when countries failed to protect their citizens from genocide.

He complained pointedly, however, about the elimination in the final version of language covering nuclear nonproliferation and disarmament, labeling the exclusion a "disgrace" at a time when the world feared a spread of unconventional weapons.

John R. Bolton, the American ambassador, said the United States was satisfied with the outcome, which he said matched the limited hopes he had had for the document.

"It would be wrong to claim more than is realistic and accurate about what these reforms are," he said. "They represent steps forward, but this is not the alpha and omega, and we never thought it would be."

The General Assembly vote ended three weeks of tense talks at which regional rivalries and national ambitions succeeded in scuttling attempts by a majority of nations to act in the broader United Nations interest. The continuing debate exposed in high profile the kind of indecisiveness that the document was supposed to address.

"There were governments that were not willing to make the concessions necessary," Mr. Annan said. "There were spoilers also in the group, let's be quite honest about that."

In his discussions with member states, he said, "I've tried to get them to understand that in our interconnected world, we need to look at issues in much broader terms rather than narrow national interests."

In answer to a question, he said he wished voting procedures could be changed so that a small minority of nations could not block the will of a large majority, as has occurred during recent weeks.

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Mr. Bolton, a vocal critic of the organization's practices, seized on the events to say: "This is the way the U.N. operates. And it goes to the question, which is a much longer term question, as to whether the culture of decision-making at the U.N. is the most effective for the organization, and that's something that's not going to be resolved today or tomorrow."

The three-day meeting is expected to attract more than 170 presidents and prime ministers. The document they will be asked to approve does create a human rights council, but it leaves out any mention of its size and duties and drops language proposing that membership be subject to a two-thirds vote of the General Assembly. That was meant to insure that notorious rights offenders would not become members. While it condemns terrorism "in all forms," language saying that making targets of civilians is unjustified was deleted in exchange for dropping language exempting movements to resist occupation.

Management reform does not include strengthening the Secretary General's office, which is considered essential if the office is to have the flexibility to act decisively. In this case, a small group of developing countries blocked action out of fear of seeing power taken away from the General Assembly, where their voices are heard but where real decision-taking is discouraged.

U.N. Reform Bid Exposes Its Woes (LAT)

By Maggie Farley

The Los Angeles Times, September 14, 2005

UNITED NATIONS — The U.N. World Summit on poverty and reform that opens today was supposed to be a watershed moment that breathed new life into the troubled world body and shored up its beleaguered leader, Secretary-General Kofi Annan.

But as diplomats approved the summit's centerpiece document Tuesday after weeks of bitter negotiations that eviscerated many of Annan's boldest reform proposals, many delegates expressed dismay that the meeting was highlighting the U.N.'s core problems rather than solving them.

Though U.N. officials tried to put the best face on the watered-down package of goals and structural changes concerning issues including human rights and terrorism, even Annan called the deletion of a section on nuclear disarmament "a disgrace" and an example of how the United Nations had failed.

How Annan's ambitious plan nearly collapsed and why says much about the way the U.N. works, and doesn't.

The secretary-general is treated more like an employee of the member nations than their leader, which made it difficult for him to guide the process. A culture of consensus allowed a handful of nations with entrenched interests to shape the outcome.

Though the final product retained little of the sweep and aspirations embodied in his original proposal, Annan framed it as a solid beginning for long-term reform.

"It would be wrong to describe this process as a failure. It is in the nature of the organization — when you have 191 member states you do not always get what you want," he said. "But the process is not over. As I said some years ago, reform is a process, not an event."

Annan began the reform process in earnest two years ago, seeking to restore the U.N.'s credibility after the U.S. and Britain invaded Iraq without the world body's blessing. He told the General Assembly that the U.N. had come to "a fork in the road" and must reinvent itself or fade into irrelevance.

In 2004, after a yearlong study, a panel of international experts recommended radical changes to help the organization better meet the challenges of the 21st century, including preemptive war, nuclear proliferation, terrorism, poverty and disease.

In March, Annan built on the panel's report to propose an ambitious plan that said the U.N. was built on four pillars — peace, security, development and human rights — and that the world was safer if countries acted together. Recognizing that nations would act first to protect their own interests, Annan urged them to not cherry-pick the package, but consider it as a whole and give something to gain something.

But in the following months, talks were distracted by the most contentious issue, Security Council expansion, and stalled by a few nations that believed they were better served by no change than the sweeping reforms Annan proposed. Meanwhile, Annan's ability to push the reforms behind the scenes was undermined by the revelations of corruption and abuse in the U.N.-run oil-for-food program for Iraq.

"Kofi was doing it out of the noblest of motives, but didn't have the moral authority to carry it out," said Stephen Schlesinger, author of "Acts of Creation," about the 1945 founding of the United Nations. "He needed to do the political groundwork first, but he just threw the reforms out there, thinking the moral imperative would be enough."

Parochial interests quickly surfaced. Nations including Pakistan and China objected to Security Council expansion because their regional rivals, India and Japan, respectively, aspired to new permanent seats as part of it.

Egypt wanted the struggle against foreign occupation to be excluded from any definition of terrorism. Cuba and others dug in their heels over the creation of a human rights body that would make it tougher for accused violators to be on the panel.

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The U.S. said it would rather delete sections related to its key priorities — disarmament, a new human rights body, management reform and financing of development — than to sign on to something "half-baked."

As a result, diplomats had still not agreed on a reform document the day before world leaders began to arrive to endorse it. In the middle of the night, U.N. experts unilaterally created a new document they hoped everyone could agree on and later Tuesday told negotiators to take it or leave it. They accepted it.

Cuban Ambassador Orlando Gual said it took a last-ditch, undemocratic, nontransparent act to bolster the U.N.'s aspirations toward democracy, transparency and efficiency. "It's a Frankenstein," he said. "That's the best we could do?"

Nevertheless, diplomats pointed to a few achievements. For the first time, U.N. members formally embraced the notion that the international community has a responsibility to intervene to protect populations from genocide or war crimes when a national government is unwilling to do so, a proposal known as the "Responsibility to Protect." When Annan first proposed it in 1999, it provoked intense opposition by nations that said it would violate their sovereignty.

The document also creates a Peacebuilding Commission to help nations recovering from conflict, and establishes a new Human Rights Council to replace the current, discredited body. The U.N. Secretariat pried a bit of power away from the General Assembly to make decisions on hiring, budget and oversight, a partial win for the U.S.

But there were many more disappointments than successes, diplomats said. Developing nations wanted stronger commitments to break down trade barriers and to oblige wealthy nations to pledge more money for foreign aid. The U.S. was unhappy to not win clear criteria for the new human rights council, or a clear definition of terrorism.

But Annan said the most significant gap in the document was the absence of any mention of nuclear disarmament and nonproliferation, an omission made at Washington's insistence.

"This is a real disgrace," Annan said. "We have failed twice this year: We failed at the NPT [Nonproliferation Treaty Conference], and we failed now…. So I will appeal to the leaders who are coming here in the next few days to really step up to the plate and accept the challenge and show leadership on this issue."

Annan also said that the U.N.'s culture of consensus caused the most problems, allowing "spoilers" with special interests to hold the whole process hostage.

He suggested that the General Assembly should make more decisions by vote.

"There is unwillingness to do that," Annan said, "and as long as you do not want to do that, you are either going to be negotiated down to the lowest common denominator or you don't get a decision at all."

U.N. Scales Back Plan Of Action (WP)

By Colum Lynch And Glenn Kessler

The Washington Post, September 14, 2005

UNITED NATIONS, Sept. 13 -- The U.N. General Assembly on Tuesday adopted a declaration on the need to combat world poverty, promote human rights and strengthen management of the organization, but only after negotiators scaled back the document because of intractable disagreements among nations on sensitive issues.

The 35-page declaration will be endorsed by an estimated 170 world leaders at a three-day summit on U.N. reform that is to begin Wednesday, and delegates expressed disappointment that it had fallen short of Secretary General Kofi Annan's aspirations for a broad reorganization of the 60-year-old organization.

Still, they voiced relief that the entire process had not collapsed, which would have left the summit with no tangible result, and they highlighted relatively modest achievements in the document. Those included provisions that call for an increase in foreign aid, condemn terrorism and underscore the obligation of states to halt genocide and ethnic cleansing. Only Cuba and Venezuela voiced reservations about Tuesday's agreement.

The negotiators were forced to put off action on some of the thorniest and most ambitious goals, including proposals to expand the U.N. Security Council, to create an independent auditing board to scrutinize U.N. spending, and to impose basic membership standards for a new Human Rights Council so that chronic rights abusers will not be able to join.

Various proposals for expanding membership in the Security Council, for example, had been opposed by countries that felt they would lose out in the deal. And some developing countries fought proposals for changes in U.N. management practices, which they felt would shift authority from the General Assembly to the secretary general's office.

Negotiators also failed to agree on provisions calling on governments to halt the transfer of weapons of mass destruction to terrorists and urging nuclear weapons states to abide by their commitments to dismantle their atomic arms.

Annan said that the members' inability to adopt these measures on disarmament and nonproliferation constituted "a real disgrace" and that he hoped world leaders would see this as "a real signal to pick up the ashes and show leadership."

"There were governments that were not willing to make the concessions necessary," Annan told reporters after the declaration was adopted by the General Assembly. "There were spoilers, let's be quite honest about that."

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Still, Annan said he was pleased that the declaration reiterated the U.N. commitment to meet targets for slashing rates of poverty, disease and child mortality and that it called for creation of the new human rights council and a peace-building commission to oversee postwar recoveries. "I would have wanted more, all of us would have wanted more, but it's an important step forward," he said. "I think we can work with what we've been given."

The negotiations provided the first test of American diplomacy at the United Nations since President Bush bypassed congressional confirmation to install John R. Bolton as U.S. ambassador for 17 months.

Bolton on Tuesday demonstrated sufficient flexibility to reach agreements on some issues, while fending off provisions that might have restricted U.S. prerogatives and the freedom to use force unilaterally. Bolton, who led efforts to block the disarmament provision, succeeded in eliminating language that would have urged countries to support a host of international treaties or organizations, including the Comprehensive Test Ban Treaty and the International Criminal Court, which the United States opposes.

But Bolton failed to secure support for a number of key U.S. priorities, including the provision urging states to halt the transfer of the world's deadliest weapons to terrorists and measures intended to expand Annan's authority over hiring and to strengthen the oversight of U.N. finances.

Bolton said that while he would have preferred stronger provisions to ensure greater accountability in the U.N. bureaucracy, Tuesday's agreement would lead to a "somewhat improved U.N."

"But it would be wrong to claim more than is realistic and accurate about what these reforms are," he said. "They represent steps forward, but this is not the alpha and the omega, and we never thought it would be."

"This is not the end of the reform effort," added Undersecretary of State R. Nicholas Burns. "It really is the beginning of a permanent reform effort that must be underway at the United Nations."

Despite setbacks, Burns said that Tuesday's agreement would eliminate the discredited U.N. Human Rights Commission, which includes Zimbabwe, Sudan and other human rights violators. But he acknowledged that "it is going to be a difficult exercise" to win the votes in the General Assembly to create a human rights council that reflects the wishes of the United States.

Burns said that although the United States and other governments had failed to include a clear condemnation of the deliberate targeting and killing of civilians, they had succeeded in extracting an Arab-backed provision that would have excluded so-called national liberation movements that target civilians from being labeled terrorists.

"We have broken the back of this ideological debate here about what constitutes terrorism," Burns said, noting that "sometimes in diplomacy defeating negative measures is very important." U.N. delegates, however, said Arab governments would insist on protections for armed groups fighting foreign occupation in an international convention on terrorism that is being negotiated by U.N. members.

Human rights and development advocates said the membership had squandered a rare opportunity to improve the organization, but praised the negotiators for endorsing the creation of an international obligation to halt attempted genocide.

"There is very little to celebrate," said Nicola Reindorp of Oxfam International. But governments "are showing that they can act boldly, by endorsing their responsibility to protect civilians from genocide, ethnic cleansing, war crimes and crimes against humanity."

General Assembly OKs Compromise Document (AJC/AP)

By Nick Wadhams, Associated Press Writer

The Atlanta Journal-Constitution, September 14, 2005

UNITED NATIONS — The U.N. General Assembly on Tuesday adopted a watered-down document on poverty, human rights, terrorism and reform for world leaders to approve at a U.N. summit, shedding many of Secretary-General Kofi Annan's most ambitious goals after weeks of bitter debate.

The compromise 35-page document is supposed to launch a major reform of the United Nations itself and galvanize efforts to ease global poverty. But to reach a consensus, most of the text's details were gutted in favor of abstract language.

A definition of terrorism and details on how to replace the discredited U.N. Commission on Human Rights will not be included. U.S.-led efforts to overhaul U.N. management have been diluted, while nuclear nonproliferation isn't mentioned at all.

"Obviously we didn't get everything we wanted and with 191 member states it's not easy to get an agreement," Annan said. "All of us would have wanted more but we can work with what we have been given, and it's a step forward."

Diplomats called the document a breakthrough after so much debate. Several were pleased with the creation of a peacebuilding commission and a long section on development. That includes a mention of the desire by "many developed countries" to spend 0.7 percent of their gross national product on development.

"Don't expect Rome to be built in a day, it wasn't," Britain's U.N. Ambassador Emyr Jones-Parry said. "Against the difficulty of this negotiation, it's complexity, this is a very substantial gain."

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The compromise document came after weeks of debate stretched into several days of marathon negotiation. Some diplomats had feared that negotiations would continue into the summit of world leaders that begins on Wednesday.

The outgoing president of the General Assembly, Gabon's Jean Ping, presented the compromise Tuesday afternoon in hopes of bridging the deepest divides and moving away from bitter line-by-line negotiations that had bogged down the debate.

"It would be wrong to claim more than is realistic and accurate about what these reforms are," U.S. Ambassador John Bolton said. "They represent steps forward, but this is not the alpha and the omega, and we never thought it would be."

Though Annan said he was pleased, the document was a significant step backward for him. In March, when he had unveiled his proposals, Annan had urged world leaders to expand the size of the Security Council, come up with a definition of terrorism and accept that they have a "responsibility to protect" those being killed, which requires collective action.

And last week, a committee investigating the scandal-tainted U.N. oil-for-food program had called for wide-ranging management reforms. The committee, led by former U.S. Federal Reserve Chairman Paul Volcker, said that the United Nations would need a complete overhaul to tackle programs like oil-for-food in the future.

But efforts to expand the council were abandoned because of longtime national differences. "Responsibility to protect" was whittled down to nations' obligations to protect their own citizens. The document says nations should "make all efforts" toward a convention against terrorism but doesn't try to define it.

Diplomats said it had become clear during the negotiations that they had tried to tackle too much at once, and had to lower their expectations from the document.

"I think we tried to have a full plate and we were unable to eat so much in a single gulp," Costa Rica's U.N. Ambassador Bruno Stagno said earlier Tuesday.

The failure of world leaders to adopt an ambitious plan for development and reform disappointed some non-governmental organizations.

They fear that leaving the tough decisions to the 191-member General Assembly, where even seemingly innocuous initiatives can stall for years, is the quickest way to sink Annan's agenda.

"If world leaders do nothing more than adopt a broad, vague text that defers all substantive decisions to the General Assembly, they will have squandered a historic opportunity," Yvonne Terlingen, Amnesty International's U.N. representative, said in a statement.

Several nations were angry with the way the document was pushed through the General Assembly before it was translated from English into the five other official U.N. languages, a violation of U.N. protocol. That gave ambassadors little time to review it.

"This process is a clear violation of the most basic elements governing democratic processes," Venezuela's Foreign Minister Ali Rodriguez said from the floor after the vote.

The debate over the summit has led some to question if the United Nations can be reformed at all, especially when such decisions have to be accepted by all member states .

Security Council reform, for example, has bedeviled the United Nations for more than a decade. Each time the issue surfaces, diplomats say they believe the will is there for change, and each time they fail.

"I'm very pragmatic in relation to the United Nations," Australia's Prime Minister John Howard said Tuesday. "One cannot ignore the fact that we still live in a world of nation states."

Negotiators Seek Deal On Reforming U.N. (KCS)

By Edith M. Lederer

The Kansas City Star, September 14, 2005

UNITED NATIONS - With the U.N. summit a day away, negotiators tried to agree Tuesday on a watered-down plan for reforming the United Nations, having abandoned many of the sweeping changes recommended by Secretary-General Kofi Annan.

More than 160 presidents, prime ministers, kings and their entourages are descending on New York for Wednesday's summit opening. But it appeared less likely that the 191 U.N. member states would reach consensus on a document enabling the world body to tackle the major global issues of the 21st century.

Annan's chief of staff, Mark Malloch Brown, said negotiations seemed more favorable than a few days ago because "deadlines are starting to loosen minds and positions."

"There's a threshold where we always knew we wouldn't get the full loaf," Malloch Brown said. "We've got to start counting slices. Half or more will do at this stage."

Many countries blame the United States for proposing hundreds of amendments just a few weeks ago to a document they believed was nearing agreement. The major organizations of developing countries, including the Group of 77 and the Nonaligned Movement, then responded with dozens of their own.

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Russia and other countries also offered many amendments.

The United States also has pushed for strong language on its top priorities of management reform and a new Human Rights Council with greater authority.

Germany's U.N. Ambassador Gunter Pleuger said Monday that achieving "great reform" was not possible at this late date with major divisions remaining. Instead, he expects either "a watered-down" or shorter text.

A meeting of the 32 countries in a "core" group trying to negotiate the final text was delayed Tuesday morning.

Incoming General Assembly President Jan Eliasson, who is scheduled to be installed Tuesday, said he did not know what the finished product would be yet, "but I hope it will contain the substance we all want it to have."

The seven issues that negotiators have been focusing on are terrorism; a Human Rights Council with more authority to replace the discredited Human Rights Commission; a new Peacebuilding Commission to help nations emerging from conflict; new responsibility for governments to protect civilians at risk from genocide and war crimes; disarmament and nonproliferation; overhauling U.N. management; and steps to promote development.

Akram said a group of about 15 countries had agreed to language on terrorism, the Peacebuilding Commission and on human rights, though some other countries were trying to reopen that issue.

Negotiators also were close to agreeing on the responsibility to protect civilians, but differences remained on management reforms, trade and climate change, he said.

Pakistan's U.N. Ambassador Munir Akram said he expected a "core" group to decide Tuesday whether the entire text was balanced enough for consideration by all members.

Many of the agreements in the text, however, were reached by leaving the most contentious issues for further negotiations - primarily in the General Assembly.

For example, the United States and many European countries want the Human Rights Council to become a permanent body, with a country's membership requiring approval by two-thirds of U.N. nations. Richard Grenell, spokesman for the U.S. Mission to the United Nations, said Egypt and China opposed that Monday, and other diplomats said Russia did as well.

Egyptian Ambassador Maged Abdelaziz said his country favored a rights council that would be a subsidiary of the General Assembly, which should decide on the criteria for membership.

"Let us give it a chance to function, and then we will review it," he said.

Last year, Annan urged world leaders to take bold action to promote development and reform the United Nations so it can tackle global challenges ranging from conflicts and terrorism to poverty and human rights abuses.

"We have reached a fork in the road," Annan warned member states. "If you, the political leaders of the world's nations, cannot reach agreement on the way forward, history will take the decisions for you, and the interests of your peoples may go by default."

Pleuger said that in hindsight, member states underestimated the amount of preparatory work needed to reach consensus.

U.N. OKs Pared-down Declaration (WT)

By Betsy Pisik

The Washington Times, September 14, 2005

NEW YORK -- The U.N. World Summit opens today with a hard-fought but watered-down declaration that fails to include many reforms sought by the United States, including a replacement for the discredited Human Rights Commission.

The General Assembly yesterday approved the declaration for adoption today by the summit.

"It would be wrong to claim more than is realistic and accurate about what these reforms are," U.S. Ambassador John R. Bolton said of the 35-page declaration that is to be endorsed by 150 world leaders at the conclusion of the three-day event

"They represent steps forward, but this is not the alpha and the omega, and we never thought it would be," Mr. Bolton told reporters several hours before the final document was completed.

The document calls for the creation of a peacebuilding commission and a democracy fund, financed by voluntary contributions, to help conflict-riven countries make the transition to stability and good governance.

The text also commits nations to provide free primary education to all children, including girls, and for their leaders to take responsibility for their nations' development by pursuing sound economic policies.

Mr. Bolton, who has worked on little else since arriving here in early August, acknowledged, "I would have liked to have seen a broader discussion much earlier about fundamental changes in management and governance."

Some nations and private organizations were bitterly disappointed with the outcome, saying that it fell far short of ideals on human rights, nuclear weapons, women's rights and other issues.

Development specialists praised the outcome of the final declaration, noting that the passages were mostly strong and encouraging.

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Secretary-General Kofi Annan had sought a declaration that would show that development and security are two sides of the same coin.

"The big item missing is nonproliferation and disarmament. This a real disgrace," Mr. Annan told a press conference, urging the leaders to take up the issue this week.

While acknowledging its shortcomings, he insisted the document was "an important step forward." The final document went through a tortuous negotiation process.

At first, U.N.-appointed regional representatives compiled a text based on input from governments.

In late August, Washington demanded that nations develop the document themselves, in direct negotiations.

That opened the process to line-by-line discussion, in which governments were free to advocate for their pet issues.

For nearly two weeks, the document grew longer instead of shorter, as more provisions were added and then countered.

With the process deadlocked at 1 a.m. yesterday, outgoing General Assembly President Jean Ping made a number of executive decisions on the text, including tossing out all language related to nuclear disarmament and nonproliferation.

When delegations yesterday evening formally closed the 59th session of the General Assembly one day late, they gave Mr. Ping an almost unheard-of standing ovation for his work.

Jan Eliasson, Sweden's former ambassador to Washington and the president of the General Assembly for the upcoming year, praised the declaration and said it should be assessed compared with historic reform measures, not to recent reform proposals.

"We will get a new political energy from the leaders gathering here," he said.

Discussions to strengthen the United Nations and make it more responsive and credible have been under way for nearly two years, when Mr. Annan commissioned a panel to come up with suggestions to restore luster to the world body, which celebrates its 60th anniversary this year.

The United Nations' Missed Opportunity (FT)

By Nancy Soderberg

Financial Times, September 14, 2005

On Wednesday in New York, most of the world's leaders will gather at the United Nations "World Summit" for what was supposed to be a strong endorsement of a visionary plan for global governance in the 21st century. But the ideological clash between the US and much of the developing world has brought the meeting to the brink of failure.

Weary diplomats have been scrambling to come up with face-saving compromises, still being fought over as this is written. But it is already clear that while the summit will make some progress on the development and security goals set last March by Kofi Annan, UN secretary-general, the final document will fail to chart the bold course he urged.

This summit has been years in the making. In the aftermath of the international community's grave failures in the Balkans and Rwanda in the 1990s, Mr Annan set up several commissions to address the issue of protecting civilians when governments fail to do so, and to look at ways to meet the developing world's urgent needs.

After the Iraq war in 2003, he recognised the gap in perceptions of threat between the developing and the developed worlds. For the US, that threat was primarily terrorism and weapons of mass destruction; for the developing world, it was the threat of underdevelopment, poverty, debt, HIV/Aids and other infectious diseases.

Mr Annan offered sensible proposals in his March report, calling for the developed world to commit 0.7 per cent of gross national product to development, ease trade barriers and slash debt in exchange for a commitment by the developing world to implement good governance and get serious about ending support for terrorists and -weapons proliferation. Such steps were part of the effort to reach the UN's Millennium Development Goals by 2015.

All summer, diplomats whittled away at draft after draft, making scant progress. Throughout the process, much of the developing world has seemed stuck in the 1960s, arguing for the legitimacy of terrorism in liberation struggles, undermining the urgent need for UN management reform and pathetically unable to agree on how to expand the Security Council. The strongest opposition to the text has been led by a collection of retrogade states including Pakistan and Algeria, and increasingly, Russia and China which have opposed any perceived intrustion on state sovereignty.

The US is also blocking progress. It is fighting against its own ideological hot buttons, such as the Kyoto protocol on climate change, the International Criminal Court, specific levels of development aid, disarmament and non- proliferation, and abortion rights. Washington only began to engage seriously in mid-August when John Bolton, as the new US permanent representative to the UN, sought initially to restart the process from scratch.

The result of so many pressures from so many sides was a convoluted draft with pages of disputed texts in brackets that diplomats were still arguing over as their leaders arrived in New York.

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The end result will be mixed. The US has now agreed that the specific targets for development assistance can be mentioned, but not specifically en-dorsed. The discredited Commission on Human Rights, hijacked over the past decade by Syria, Cuba, Libya, Sudan and others in the club of the repressive, will be replaced by a new Human Rights Council but of still uncertain composition. Argument remains about how much more authority and flexibility to give the UN secretary-general to manage the institution, despite the urgent call for this in the recent Volcker report's recommendations on UN reform.

On the brighter side, diplomats have, after much wrangling, agreed to -recognise the world's responsibility to protect civilians and improve peacekeeping operations. A new Peacebuilding Commission will focus on the needs of nations in, and emerging from, conflict. While important, these achievements are far from sufficient for preparing the UN, and the world, for the 21st century. They fail to address the toughest peace and security issues: terrorism, use of force, non-proliferation and Security Council reform. Even after September 11 2001, a hard-core group continues to block any definition of terrorism, agreeing only to address the issue later in the year.

Facing opposition from the US, -coupled with scepticism from the developing world, the proposals regarding disarmament and non-proliferation, and criteria for the use of force, are essentially dead. So, too, is any change in the makeup of the Security Council. Four Security Council aspirants – Japan, India, Brazil and Germany – failed in their efforts to create six new permanent seats including two African ones. Africa rejected the proposal.

World leaders will put on their game faces for the summit but the depressing truth is they have failed to take up the secretary-general's challenge. His proposals offer the right way forward for the 21st century but they will have to wait for the world to catch up with his vision. Until then, the world will remain the worse for it.

The writer, vice president for multi-lateral affairs of the International Crisis Group, is author of The Superpower Myth: The Use and Misuse of American Might (John Wiley)

The Lost U.N. Summit Meeting (NYT)

The New York Times, September 14, 2005

A once-in-a-generation opportunity to reform and revive the United Nations has been squandered even before the opening gavel comes down this morning for the largest assemblage of world leaders ever brought together in a single location. The responsibility for this failure is widely shared. But the United States, as the host nation and the U.N.'s most indispensable and influential member, bears a disproportionate share.

There are several casualties of this failure of leadership, including the need to reform the United Nations and to strengthen its role as a monitor of human rights. But the most tragic loss is a genuine opportunity to help the one billion people around the world who each live on less than $1 a day.

Last month, President Bush used a recess appointment to send his notoriously undiplomatic, and Congressionally unacceptable, choice for ambassador to the United Nations, John Bolton, to New York. He contended that contrary to all appearances and to common sense, Mr. Bolton was just the man to achieve the reforms the United Nations needed. Almost immediately, Mr. Bolton began proving Mr. Bush wrong by insisting on a very long list of unilateral demands. The predictable effect was to transform what had been a painful and difficult search for workable diplomatic compromises into a competitive exercise in political posturing.

With Washington jealously protecting the prerogatives of the Security Council, where it holds a veto, others chose to be equally jealous in protecting the prerogatives of the General Assembly, where the influence of poorer and weaker countries is greatest. And when Washington challenged the right of the secretary general to set specific development goals, others then contested his right to set standards for management or human rights. And so on.

That extinguished the idea that international security issues and international development issues are vitally linked, and can be most effectively tackled in tandem. By the time Washington retreated to a more realistic position, it was too late to retrieve much of the bold original agenda, as set out in earlier United Nations summit meetings on development, in the thoughtful recommendations of several high-level panels and in the constructive proposals of Secretary General Kofi Annan. The failure is even more poignant because the United States is clearly on the right side of some important arguments.

Washington, for example, strongly supported the idea of replacing the discredited United Nations Commission on Human Rights, on which nations like Sudan, Libya and Cuba regularly sit, with a new, reformed body that would exclude such notorious rights violators. The final document dilutes this crucial provision to the point of meaninglessness.

On this and other issues, the document offers little more than a fudge of feel-good phrases and pious wishes for future action that leave everyone off the hook from taking entirely practical actions that are needed right now.

This week's summit meeting should have strengthened international commitments to reach broadly accepted development benchmarks over the next decade that could avert tens of thousands of needless deaths from extreme poverty. It should have given the secretary general the power to bypass patronage and rely on merit in choosing and retaining senior officials, creating a

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crucial institutional safeguard against a replay of the oil-for-food fiasco. It should have reinforced vital international commitments and understandings on nuclear nonproliferation, including those that Mr. Bolton, in his previous job, did so much to undercut.

Although the ceremonial speeches by national leaders are just beginning, the serious negotiations over this summit meeting's outcome are now over. Every one of the more than 170 national leaders attending, starting with President Bush, should be embarrassed about letting this rare opportunity slip away.

IMF Must Redefine To Stay Relevant (FT)

By Rodrigo de Rato

Financial Times, September 14, 2005

Globalisation has brought enormous benefits in growth and efficiency. Yet this same force has brought cross-border financial crises and heightened the imperative to bring into the mainstream those who are being left behind.

Shortly after becoming International Monetary Fund managing director in 2004, I initiated a strategic review aimed at determining whether the fund is fully prepared to meet the challenges and crises of today and the future. When the review is released next week it will call for adjustments that will give greater focus to the fund's work and ensure the IMF can help all member countries face the challenge of integrating into the global economy.

The review suggests that some of the IMF's activities be scaled back, specifically through: streamlined work on standards and codes and financial sector assessments, a more focused approach to its role in low income countries, closer collaboration with the World Bank and spending less time on procedures and documentation. The new proposals also include an effort to deepen the analysis of globalisation, to broaden our research into the dynamics of capital account liberalisation and assess how best to achieve the UN -Millennium Development Goals.

Redefining the fund's mission is inseparable from reassessing IMF governance. The fund's legitimacy as a global organisation rests on fair representation for all members. The current allocation of quotas – capital shares in the IMF on which voting rights are based – puts this legitimacy at risk in many regions, including in Africa, where the fund is heavily engaged, and in Asia, whose place in the world economy has grown far more than its role in the fund. The issue touches on the interests of many stakeholders but it must be addressed. The reallocation of quotas is not a zero sum game if it results in an IMF with widely held legitimacy and ownership.

Over the past decade the fund has been pulled in new directions: devising and overseeing complex crisis prevention initiatives, contributing to the effort to combat the financing of terrorism and money laundering, and playing a role in poverty-reduction strategies. This accretion of new mandates occurred as old mandates remained unchanged. But many of the initiatives of the past decade have evolved into diffuse, resource-intensive operations.

The strategic review aims at preparing for key, yet unpredictable, challenges. The fund has already taken the lead in calling for concerted action to address global current account imbalances. In future, the nature of the imbalances may change but the IMF must stand ready to help its members anticipate them and respond quickly.

Thus, work analysing and advising on global trends and developments in individual countries must be strengthened and reoriented. More resources will be devoted to global and regional issues, even as our regular country work is refocused on the most pressing macroeconomic issues. More attention will be paid to the cross-border implications of country policies and long-term trends such as ageing and energy demand. Country work will be more closely aligned with analysis of capital markets and financial systems. Even greater progress on transparency is essential, not least for the promotion of strong institutions in all countries.

The IMF's lending has to take account of the evolving needs of the membership. For the emerging market countries, there is an unmet demand for insurance against large and volatile capital flows; this will require careful examination by the whole international community. Meanwhile, the needs of low income countries are becoming more differentiated: some require debt relief, others concessional financing, and others just policy advice and support. More must be done to meet these needs effectively. However, the IMF's work in low income countries is overloaded with procedures that absorb substantial resources yet yield questionable gains. This work must be streamlined to ensure the needs of poverty reduction are met.

The IMF's mandate has evolved considerably since it was set up after the second world war and the great depression. This evolution has been guided by the needs of an international community committed to multilateral co-operation. As we address the challenges of our rapidly globalising world, change is essential if the fund is to remain relevant. There are difficult choices to make but with the commitment of our membership it should be possible to agree on a common vision. The IMF stands ready to remain an adviser and a close partner with member countries.

The writer is managing director of the International Monetary Fund

U.N. Vs. Poverty: Seeking A Focus, Quarreling Over The Vision (NYT)

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By Celia W. Dugger

The New York Times, September 14, 2005

The United Nations General Assembly meeting today was to have been a rare moment when the quest to relieve the crushing poverty of a billion people took center stage. But so far that goal has been overshadowed by Katrina, the oil-for-food scandal and squabbling over reform of the United Nations itself.

Even the debate about the world's common agenda on global poverty began on an unexpectedly sour note, centered around the goals for healing the world's deepest poverty that were to be in the meeting's final document.

The American ambassador, John R. Bolton, initially proposed expunging any reference to specific goals for reducing poverty, hunger and child mortality and combating pandemics of AIDS, tuberculosis and malaria.

Known as the millennium development goals, they emerged from a United Nations conference five years ago. He favored instead citing the broad declaration from which the goals were drawn.

The United States subsequently relented, but not before the administration's opening foray in the negotiations left some African leaders dismayed.

"The thing that shocked me personally was that they're trying to shift and change goal posts," said Charity Kaluki Ngilu, the Kenyan health minister, who is in New York for the meeting. "If this is the case, we African leaders might as well go home and find other methods of developing ourselves."

Mrs. Ngilu, who said she was stunned by the Bush administration's initial position, added that nonetheless, she credits Mr. Bush's anti-AIDS program with helping Kenya to increase the number of people being treated for the disease to 45,000, from 2,000.

Administration officials say Mr. Bush has a vision and a record to offer on development. But as of yesterday, with presidents and prime ministers from more than 170 nations converging on New York, he had yet to put his personal stamp on the debate.

He will undoubtedly address the challenges of fighting global poverty when he speaks today at the United Nations.

But some say he has missed an opportunity to take the lead on poverty - an issue of looming concern in much of the world - even when America itself is preoccupied by terrorism, the war in Iraq and the aftermath of the hurricane.

At the same time, negotiations at the United Nations got absorbed by the issues around United Nations reform.

"It's a failure of the tactical and policy process inside the administration, perhaps because of distractions," said Nancy Birdsall, the founding president of the Center for Global Development in Washington. "It suggests these development issues aren't that high on the agenda. The administration hasn't seized the moment."

Bush administration officials disagree. They say the United States is taking a strong lead. They noted that Laura Bush will be attending an event today in New York to highlight American support to African countries fighting malaria.

John A. Simon, senior director for development at the National Security Council, said the administration's priority had been the substance of the summit meeting, not perceptions.

Officials want to be sure that the final document reflects the president's view that development is about more than the amount of aid rich countries provide to poor ones, but also about good government, sound economic policies and private sector growth.

They also wanted to make it plain that the administration, while agreeing on the need for increased aid, has not and will not promise to give 70 cents of every $100 of national income, as European nations have recently done, with timetables for achieving that level of aid.

"If we do the right things from a policy perspective, the results will speak for themselves," Mr. Simon said yesterday in an e-mail message.

But advocates of the target insist that the United States had already committed to moving toward it in 2002, when Mr. Bush supported a declaration at a summit meeting in Monterrey, Mexico, saying rich countries would "make concrete efforts" to give 0.7 percent of national income in aid.

The United States, the world's largest donor in terms of value, is next to last among richer nations in giving as a share of national income.

In the current negotiations, Mr. Bolton first proposed dropping all references to the target, but later said it could be restored.

The administration's approach and the haggling over the final document contrasts with the way Prime Minister Tony Blair pushed his agenda to alleviate poverty in Africa before the July meeting of the Group of 8 major industrial nations.

Mr. Blair lobbied each leader beforehand. He collaborated with Sir Bob Geldof, the former Boomtown Rats singer, to build public support.

And when the terror bombings in London struck during the Group of 8 talks, Mr. Blair kept them focused on Africa.

He emerged with a commitment from the eight nations to double aid to Africa, to $50 billion a year, by 2010.

It is not clear that much new will emerge at the United Nations. World leaders are likely to affirm their commitment to push forward with the millennium goals to halve extreme poverty and hunger, cut child mortality by two-thirds and ensure the basic education of each child by 2015, among other things.

Those are the same broad goals agreed to five years ago.

Whatever the verdict on Mr. Bush's role, others are seizing the initiative. Former president Bill Clinton will sponsor a three-day conference in New York beginning tomorrow that will focus on poverty and governing, climate change and conflict.

Among those listed as confirmed participants are Mr. Blair, President Olusegun Obasanjo of Nigeria and Sonia Gandhi, who leads the governing Congress Party in India.

Jeffrey D. Sachs, an economist who headed the United Nation's Millennium Project and is the author of "The End of Poverty," is developing a new organization called Millennium Promise to test his antipoverty ideas in 100 African villages. MTV will broadcast a documentary today, "The Diary of Angelina Jolie and Dr. Jeffrey Sachs in Africa," that recounts their trip to one such village in Kenya.

At a screening on Monday evening at the Museum of Television and Radio, Professor Sachs said of the coming United Nations meeting, "Maybe what we've got to do is lead by action, and the government will follow along." Ms. Jolie, looking every inch the movie star in a figure-hugging black dress, said, "Europe has stepped up, but America should take the lead, or at least more of a lead."

Sachs: Private Initiatives At The World Summit (FT)

By Jeffrey Sachs

Financial Times, September 14, 2005

Tuesday, September 13

While the governments negotiate to find a least common denominator on which they can agree, the 2005 World Summit is being flanked by an impressive number of commitments from businesses and private philanthropists to take action on their own, indeed to lead their own governments in the fight against extreme poverty. The call for individual responsibility in the fight against global poverty - in which private citizens, businesses, foundations, and scientists act even when their governments don't - is catching on. And like other great movements of the past, including the fight against slavery and the fight for civil rights, it may very well prove to be the case that governments are the last to act, following the lead of private trailblazers.

The Clinton Global Initiative is surely the most visible of these efforts, drawing upon former President Bill Clinton's ability to mobilize friends from in and out of government and industry. Clinton seems intent on achieving practical actions, following the path set by America's great former President, Jimmy Carter, who has proved what post-Presidential leadership can mean in the fight against disease, hunger, and tyranny. If President Clinton takes a page from President Carter's playbook, the results could be spectacular.

President Carter himself has teamed up with a group of universities, private philanthropists, and celebrity-activists in a new effort, serving as Honorary Co-Chairman of Millennium Promise, a new initiative launched yesterday on the occasion of the Summit. This effort, which teams up with the UN Millennium Project, which I direct, will be a broad-based partnership of universities, non-governmental organizations, and private individuals, to spur private action on the Millennium Development Goals. President Carter and I are joined on the Board of Millennium Promise by corporate leaders, heads of major Universities and foundations, and leading voices in the fight against poverty including Angelina Jolie.

The centerpiece of the effort will be the Millennium Village concept, in which communities of around 5,000 people in rural Africa and Asia are encouraged and enabled to take the lead in fighting poverty, through an integrated strategy that focuses on agriculture, health, education, and infrastructure. The early examples of such integrated efforts are remarkable. A Millennium Village in western Kenya was able to quadruple food production this past year by helping farmers in the community to get access to improved seed varieties and fertilizers. This help came at a cost of a few dollars per capita, with benefits in higher food yields that are multiples of that. The village has also been able to build a clinic, step up the fight against malaria, and provide school meals for all of the children in the community.

Other business meetingsaround the Summit are seeing leading companies pledging to make their technologies available on a mass basis to impoverished regions. It's often the case that the marginal cost of supplying these cutting-edge technologies is very low compared to patent-protected prices in rich-country markets. The market prices of drugs, software, and communications technologies are often much higher than cost, with the margin reflecting the returns to earlier research and development. It often costs just pennies (or less) for a company to provide its software and medicines to impoverished communities for products that sell for tens or hundreds of dollars in the rich-country markets. The companies know that they recoup their R&D outlays in the rich-country markets.

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Much of the attention in the fight against poverty has been directed at what rich and poor-country governments will or won't do. The answer, too often, is that they won't do much, or not enough. Despite all odds, the fight against extreme poverty is transforming itself from an official aid effort to a broader-based movement. Government remains critical - particularly to providing the large-scale financing that is needed. But in much of the world private initiatives are likely now to lead the way, in terms of innovation, proof of concept, and mobilization of public awareness and support.

To view reader comments click here

Monday, September 12

The negotiations on the draft declaration for the World Summit - which opens on Tuesday - have been nothing short of bizarre. The United States government has fought a relentless battle to dissociate itself from specific obligations regarding international development, and has tried repeatedly to the quash obligations that it has taken on the past. All of this has been taking place at a time when the US itself has become an aid recipient, in the wake of Hurricane Katrina.

The opening salvo a couple of weeks ago was the remarkable assertion by the United States government that the Millennium Development Goals do not even exist, so that the phrase itself should be expunged from the document. This was news to the rest of the world, who were gathering at the Summit first and foremost to find ways to reinforce the Millennium Development Goals. The US claimed that it had signed the Millennium Declaration but not the Millennium Development Goals.

The argument was not very impressive. All 18 of the targets of the Millennium Development Goals - to halve hunger, fight disease, reduce maternal mortality, ensure access to safe drinking water, and more - are explicitly part of the Millennium Declaration. With 190 countries standing in opposition to the US position, the US relented.

The longer battle has ensued around official development assistance and the target of 0.7 percent of GNP in official development aid. It seems at times that all US foreign policy regarding economic development revolves around the US insistence to pay almost nothing to help the poorest countries.

US official aid levels are 0.16 percent of GNP, an increase from 0.10 percent when President Bush took office but still the lowest or second lowest of all donors (vying with Italy for the bottom slot). US aid levels for Africa are 0.03 percent of GNP, meaning that the US gives Africa just 3 cents in aid for every $100 of US GNP. Much of the rest of US aid still goes to "strategic" countries such as Pakistan, Turkey, and Egypt, or to US consultant salaries.

Why the US government is so dead-set against doing more to help impoverished and dying people is one of the great mysteries of our time. It's not as if the poorest countries are asking for an open checkbook or an unconstrained line of credit. They are asking for rich countries to honor a modest commitment, a mere 0.7 percent of GNP, roughly one seventh of what the US is spending this year on the military and one third of what the US has spent on tax cuts in the first Bush term.

Just as with the Millennium Development Goals, the US government has worked overtime to huff and puff that it never signed the 0.7 target, and thus should not be bound by it. Even if it were true that the U.S. had never signed on, the sight of the world's richest country denying a long-standing international target in this manner is stunning. The US signed on to the 0.7 target in the Monterrey Conference on Financing for Development in March 2002. It has since bobbed and weaved to evade the implications of that agreement.

In paragraph 42 of the Monterrey Consensus, the US and other signatories declared that they "urge developed countries that have not done so to make concrete efforts toward the target of 0.7 percent of GNP in official development assistance."

The European Union took up its pledge, and has defined "concrete efforts" as a new timetable to reach 0.56 percent of GNP in official aid by 2010 and 0.7 percent of GNP by 2015. The US on its side has simply been claiming that the target does not exist, and telling some in the corridors that signing the Monterrey pledge had been a mistake.

This aggressive position has continued down to the details. The US has fought commitments to a "Quick Win" against malaria through the mass distribution of insecticide-treated bed nets and effective medications. It has resisted commitments to quick wins in other areas as well. In the end, every specific target and timetable to help the world's poorest of the poor has come under US fire.

The US fight against the fight against poverty would be bizarre at any moment (remember John Kennedy pledging "to those peoples in the huts and villages across the globe struggling to break the bonds of mass misery, we pledge our best efforts to help them help themselves, for whatever period is required") but it has been especially shocking in the face of Hurricane Katrina. The US is accepting aid from UN agencies, Mexico, Europe, and others, at the very moment it is working overtime to avoid or evade commitments to the poorest of the poor, who are dying by the millions each year due to insufficient assistance from the donor countries.

There is a silver lining in all of this, believe it or not. The American people have been aghast at the failures of Washington to prepare for, and then address, the hurricane. They have been shocked that President Bush could declare that "I don't think anyone anticipated the breach of the levees [in New Orleans]" when that risk was notorious and had been discussed for decades.

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Similarly, whenever they have gotten a glimpse of the UN negotiations, they have been shocked. Though the American people know little about the Millennium Development Goals (since President Bush has perhaps never even uttered the phrase), editorial writers around the country, in both liberal and conservative regions, were dismayed that the US delegation was working in America's name to undercut the world's measurable and monitorable poverty alleviation targets that provide a clear framework for accountable results.

Perhaps the most notable bottom line this week will be that the voices of the poor are finally piercing the deep layers of indifference and misdirection.

Professor Sachs is a director of the Earth Institute at Columbia University and author of The End of Poverty (Penguin, 2005). To respond to this posting, please email ask@ft.com

Palestinian Leader Vows To Restore Order In Gaza (USAT)

By Martin Patience

USA Today, September 14, 2005

JERUSALEM — Palestinian leader Mahmoud Abbas said Tuesday that he would impose law and order in Gaza in response to the chaos that followed the pullout of Israeli troops from the territory a day earlier.

In a televised speech, Abbas promised, "We are not going to hesitate to put an end to all the negative signs and violations of law and order. … We are not going to tolerate chaos after today."

Earlier, the Palestinian Authority president's chief of staff, Rafiq Husseini, said Abbas would begin disarming small militant groups soon. After parliamentary elections in January, he said, Abbas would insist that big militant groups such as Hamas and Islamic Jihad disarm in accordance with steps in the U.S.-mediated "road map" to establish a Palestinian state.

Israeli Prime Minister Ariel Sharon, speaking as he traveled to New York for a United Nations General Assembly meeting, called on the Palestinian Authority to put an end to riots in Gaza. "This rioting — even they understand they have to control this," he said.

Palestinian euphoria and celebration were mixed with lawlessness the day after Israel ended its 38-year presence in the territory. Israel withdrew about 8,500 settlers last month and pulled out the last of its troops early Monday. With Israel gone, Abbas is under pressure to restore order. There was more widespread looting in the abandoned Gaza settlements on Tuesday. Thousands of Palestinians also crossed the border from Gaza into Egypt, despite the official closing of the Rafah crossing.

Abbas' attempt to disarm militants could be the toughest test of his eight-month presidency. As he spoke Tuesday, a convoy of hundreds of Hamas gunmen drove through a Gaza refugee camp to celebrate the Israeli withdrawal.

"This convoy is the size of our joy," Hamas leader Mahmoud Zahar said in the Jebaliya refugee camp. Hamas, which is dedicated to the destruction of Israel, is the largest Palestinian militant group.

Husseini, the president's chief of staff, said Hamas would face a choice: "Hamas can't mix between being a political party and having armed militias." A top Hamas military commander, Ahmed al-Jabari, insisted Monday that the group would "sever any hand" that tries to stop its resistance.

Michael Tarazi, a Palestinian Authority spokesman, played down the fires and vandalism at the former settlements. "For 38 years we were under the gun of a foreign occupation," he said. "Just like the fall of the Berlin Wall and the statue of Saddam Hussein being toppled during the Iraqi war, people are euphoric about a modicum of new-found liberty."

The celebrations hit Gaza's economy. Tuesday, Palestinians looted dozens of the more than 3,000 greenhouses that American Jewish donors had bought from Gaza settlers for $14 million last month. The greenhouses were given to the Palestinian Authority to provide jobs.

A Gaza Holiday: Looting, Chaos And Bargains In Egypt (NYT)

By Steven Erlanger

The New York Times, September 14, 2005

GAZA, Sept. 13 - Palestinians continued to celebrate a new sense of freedom on Tuesday, pouring across the temporarily open border with Egypt and through the abandoned Israeli settlements.

President Mahmoud Abbas, in a televised speech on Tuesday evening, urged Palestinians to "create a model and civilized Gaza," but also vowed to restore order, beginning with small militant groups aligned with his own Fatah movement. "We are not going to tolerate chaos after today," he pledged.

But on Tuesday there was chaos aplenty, with thousands of Palestinians rushing across the border to Egypt to shop, while thousands of others continued their active salvaging of saleable or usable materials from the 21 former Israeli settlements. In some places, Palestinians looted the greenhouses that were bought for their use by American philanthropists, taking nylon tarpaulins, irrigation hoses and electrical equipment.

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Palestinian security forces deployed around the greenhouses said they were hopelessly outnumbered by the looters. "We need at least another 70 soldiers. This is just a joke," Taysir Haddad, one of 22 security guards assigned to Neve Dekalim, told The Associated Press. "We've tried to stop as many people as we can, but they're like locusts."

He said about 80 percent of the greenhouses were still intact, but looters walked off with lighting fixtures, cables and wires despite the police presence.

Ahmed Qurei, the Palestinian prime minister, toured Neve Dekalim and implored Palestinians to leave the greenhouses alone. "These greenhouses are for the Palestinian people," he said. "We don't want anyone to touch or harm anything that can be useful for our people."

For a second day, Egyptian border guards looked the other way as Palestinians crossed the fences into Egypt through the Philadelphi route, which had been patrolled by the Israeli Army until early Monday.

Egypt had promised to keep the border secure, but instead has allowed Palestinians a kind of holiday, to last until Thursday or Friday, to visit. Thousands of Palestinians crossed to visit friends in Cairo and El Arish, 24 miles from the border, to buy cheaper cigarettes, food, gasoline and medicines, while hundreds of Egyptians came to Gaza.

The Palestinians, who have been able to leave Gaza only with great difficulty in the past, visited seaside restaurants, looked for relatives and stocked up on household items. One man even bought two sheep, saying they were half the price of the sheep in Gaza. Taxi fares from Rafah to El Arish nearly doubled during the day, to about $70.

Some Israeli officials criticized the Egyptians and said the lax border controls boded badly for Israel's future security, given the ease of smuggling weapons and ammunition, and for compromise on issues like the Rafah crossing, which Israel is being pressed to leave in the hands of the Egyptians and Palestinians, with European monitoring. Mark Regev, the spokesman for the Israeli Foreign Ministry, said that Israel "has expressed concerns about the situation to the government of Egypt, and we've been assured the current situation is temporary."

Another Israeli official noted that the Rafah crossing will be shut for six months, a period that would allow Israel and the world to better gauge how Mr. Abbas is running Gaza. In the meantime, traffic in southern Gaza will be diverted to the crossing point at Kerem Shalom, where Egypt, Israel and Gaza converge.

Mr. Abbas spoke on Palestinian television on Tuesday both to celebrate the withdrawal and to describe millions of dollars of job creation and infrastructure projects, including the rebuilding of the central road artery through Gaza, numerous housing complexes, improvements to sewerage and a seaport.

He also promised quick moves to restore the rule of law, which most Palestinians complain is lacking, and aides hinted he would start with small militant groups associated with Fatah. "After today, we are not going to hesitate to put an end to all the negative signs and violations of law and order," Mr. Abbas said. "We have one law for everyone, and no one is above the law."

In the former settlement of Netzarim, however, militants from Islamic Jihad said the group would not give up its weapons. "We will respect the rule of law, but the weapons are not negotiable," Muhammad Sheik Khalil, head of the group's military wing, said at a celebration rally. Dozens of masked gunmen - many holding Kalashnikov rifles and grenade launchers - joined the rally.

The larger militant group, Hamas, had its own celebratory rally, larger and noisier, on Tuesday night in Gaza City, with its leaders hailing the Israeli withdrawal, which they credit to the resistance of Palestinians like themselves, not to negotiations. But there was no visible display of weapons.

Ziad Abu Amr, a Palestinian legislator from Gaza, put the scavenging at the greenhouses down to poverty and to a sense of freedom from a hated Israeli occupation whose symbols are the settlements here and in the West Bank.

"There is an element of hatred for the occupation and revenge," he said. "Few Palestinian homes have escaped some form of Israeli oppression."

The jubilation is necessary and important, he said. "But soon Palestinians will realize that this improvement may not make a major difference in their lives or in the prospect of an independent Palestinian state," Mr. Amr said. "Then the situation will look gloomier."

New Legal Standing Of Gaza Stirs Debate (WT)

By Joshua Mitnick

The Washington Times, September 14, 2005

TEL AVIV -- With the final Israeli soldiers gone from the sands of Gaza, a debate over the coastal strip's new legal standing is taking a shape that is likely to have political ramifications for the future of Israeli-Palestinian relations.

Although Gazans are celebrating a liberation of sorts, the territory isn't a sovereign state, and many Palestinians don't consider Israel's occupation over. Israel, for its part, wants international recognition of the end of its military rule and the beginning of full Palestinian "jurisdiction" over the Gaza Strip.

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At stake is whether Israel will be able to fully absolve itself of responsibility for Gaza's anarchy and economic blight, as well as the degree of force that the Jewish state would be able to use in retaliation for cross-border attacks.

The argument over the Gaza pullout will come to the fore this coming week, when Israeli Prime Minister Ariel Sharon and Palestinian Authority President Mahmoud Abbas attend the United Nations General Assembly's 60th anniversary in New York.

In a speech scheduled for tomorrow, Mr. Sharon is expected to announce that the termination of Israel's military rule in Gaza marks the transfer of responsibility to the Palestinians, Ha'aretz newspaper reported.

"From our point of view, with our pullout from Gaza, Gaza becomes Palestinian jurisdiction," said Foreign Ministry spokesman Ron Prosor. "We urge the Palestinian people to step up to the plate and start an urgent and vital process of nation building. It's all-important that we all see the development of good government."

Israel's government refused to describe the territories conquered in the 1967 Arab-Israeli conflict as occupied, saying there was never an internationally recognized sovereign power there. And Mr. Sharon wants to free Israel from its obligations in Gaza as an occupying power, analysts said.

But Israel will retain control of Gaza's airspace, its territorial waters and, for the near future, the border crossing to Egypt. Palestinians argue that those trappings of military occupation still qualify Israel as responsible for the situation inside Gaza.

"It's still occupied. You don't need to have settlements or troops for [Gaza] to be occupied," said Diana Bhuttu, an aide to Palestinian Civil Affairs Minister Mohammad Dahlan. "The legal test is whether you can still maintain control over the area."

The Palestinians also say Gaza's economic, cultural and political links to occupied West Bank mean that the strip remains dominated by Israel. Indeed, under the 1993 Oslo peace accords, the two territories are considered one political unit.

Israel's unilateral withdrawal gives Gazans the greatest degree of self-determination yet, but it is not clear whether the international community will recognize the occupation as over.

"This is a big question which should fall in the hands of international lawyers," said Ron Pundak, a director of the Peres Center for Peace who helped start negotiations between Israel and the Palestinians in the early 1990s. "Can one declare an end to occupation when you are controlling the contours?"

No-Frills Candidate Aims For Germany's Top Spot (WP)

By Craig Whitlock

The Washington Post, September 14, 2005

OSNABRUECK, Germany -- The woman who wants to rule Germany stepped to a microphone on the packed main square of this industrial city and reminded the crowd of the nation's woes. The jobless rate is the highest since the end of World War II, she noted bleakly, economic growth is the weakest in Europe, the national mood gripped by doubt.

So what would Angela Merkel do about it? "Now, I don't expect to hear loud applause," she warned at the recent campaign event, before describing how she would raise the national sales tax -- already 16 percent for most items -- to pay for her party's job-creation program.

Moans and grumbles rose from the audience of about 8,000 people. But Merkel didn't back down. "You can decide," she said. "We can continue as we have been, with promises of blue skies. But promises already have been made and promises have been broken. That needs to change."

Unsmiling, unstylish and uncharismatic, Merkel, 51, is bidding to become Germany's first female chancellor, as well as the first to have grown up behind the Iron Curtain, in the former East Germany. Polls show that her party, the Christian Democratic Union, holds a lead, albeit a narrowing one, in a national election scheduled for Sunday and that she stands a very good chance of sitting at the chancellor's desk in Berlin.

The vote comes at a pivotal moment for Germany, the biggest country in Europe and the world's third-largest economy. Despite spending more than $1.5 trillion over the past 15 years to reunify the nation, Germany has failed to heal many divisions between east and west. It is also grappling with the competitive challenges of globalization, as German companies move jobs to lower-wage countries.

Although Merkel's party leads in the polls, for many Germans she remains a remote figure. The former physicist rarely talks about her personal life, her upbringing under communism or how she became involved in politics. She often appears dour and uncomfortable. On her latest campaign poster, she looks like she's clenching her teeth as she forces a grin.

"Typical German," said Kai Sausmikat, 41, a voter who came to hear Merkel at the Osnabrueck rally, pulling down the corners of his mouth into a clown-like frown.

Merkel's rivals, inside and outside her party, show little regard for her political skills. In July, when the Parliament voted to hold early elections, Foreign Minister Joschka Fischer told Merkel to her face that her campaign would collapse. "Mrs. Merkel, at this moment with your opinion polls, you appear like a magnificent-looking souffle in the oven," Fischer said. "We'll see what's really left after the voters prick into it. I can't wait."

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If the election were a personality contest, surveys suggest Merkel would lose by a wide margin to the telegenic incumbent, Gerhard Schroeder. But in Germany's political system, national leaders are chosen by party, and the Christian Democrats lead the polls.

Merkel has run a simple campaign that makes no attempt to capitalize on her sex. She has focused on a plan to generate jobs by cutting payroll taxes and making it easier for companies to hire or fire workers. She has also called for an overhaul of Germany's notoriously complicated tax code.

A victory for her party would likely mean closer relations with Washington. Merkel has strongly criticized Schroeder for alienating the United States, Germany's closest postwar ally, in disputes over Iraq, although she does not support sending troops to that country.Early Years Under Communism

Merkel was born in 1954 in Hamburg, a port city in West Germany, the first child of a Protestant pastor and an English teacher. When she was an infant, her father moved the family to the East German state of Brandenburg, crossing a border that had not yet hardened but was already marked by an exodus of Germans heading in the opposite direction.

Her father, Horst Kasner, sympathized with the utopian goals of the Communist government there. But his precise relationship with it is difficult to untangle.

As a preacher in a society that discouraged religion, Kasner was considered politically suspect. His wife, Herlind, was not allowed to teach school because of her husband's profession. But the family was granted privileges not afforded to most citizens, including two cars and permission to travel to the West.

When Angela entered elementary school in Templin, a town of about 11,000 people north of Berlin, her parents decided not to enroll her in the Young Pioneers, a Communist Party youth group. They changed their minds a year later after her teachers made clear she would suffer academically if she didn't join, according to interviews in her home town.

"Her parents, especially her mother, were very interested in making sure Angela wasn't stuck in the corner as a pastor's daughter," said Hans-Ulrich Beeskow, a middle-school math teacher who recalled Merkel as an especially gifted student. "It wasn't political engagement by any means. It was important to her mother to make sure no stones were thrown in her path."

Merkel excelled at math, Russian and English, and was rewarded with a coveted university slot in Leipzig. She studied physics and remained active in Communist youth groups, a prerequisite for university students.

In 1977, she married a fellow physics student, Ulrich Merkel. They divorced five years later.

In an interview with Evelyn Roll, a German journalist and biographer, Merkel said she was vigilant about suppressing any political opinions that might have attracted attention. "It was a real advantage from those times that you learned to keep quiet," she said. "That was one of the survival strategies."

In the late 1970s, she has said, she was approached by two men who asked her to serve as an informant for the East German intelligence agency, the Stasi. Merkel said she balked, arguing that she would be a poor spy because she was bad at keeping secrets.

She ended up in East Berlin, where she earned a doctorate in physics and worked as a researcher at the Academy of Science.

As a politician on the stump, Merkel has shied away from discussing life under communism, even when addressing East German audiences.

On Sunday, she visited her home town of Templin for the first time during the campaign. About 600 people, including her mother, heard her speak outside a beer garden. Rather than wax nostalgic, Merkel merely acknowledged that the region "is what you call home" and recited her standard speech.

Such detachment has alienated many eastern Germans, who had hoped she would stand up for a region some westerners view as backward. In Templin, for instance, there are no visible reminders that the hometown girl is running for chancellor, aside from a few stock campaign posters.

"If you walk through Templin and ask ordinary citizens, they don't want her to be chancellor," said Ulrich Schoeneich, the Templin mayor, a Social Democrat who is friends with Merkel's mother. "In part, she has forgotten where she came from."A Climb to Party Leadership

Merkel was late to the East German political revolution in 1989. She avoided early public protests against the Communists, focusing instead on her job. On the chaotic evening when the Berlin Wall was breached, she joined thousands of others in crossing to the other side, biographers have recounted, but returned home a few hours later because she had to get up early the next morning to go to work.

Gradually, she lost some of her caution and became involved in politics. Six weeks after the fall of the wall, she joined a new party, Democratic Awakening, and found a fresh calling as a press secretary.

"She had a chance to get involved and make a change, and she took advantage of the situation," said Rainer Eppelmann, a former leader of Democratic Awakening and now a member of Parliament.

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In 1990, she was named deputy spokeswoman for the first -- and last -- democratically elected government in East Germany. After unification that year, she joined the Christian Democrats, who promptly named her as a candidate for Parliament.

She won the spot and attracted the interest of Chancellor Helmut Kohl, who was looking for easterners to fill leadership jobs in his government. All of a sudden she found herself a member of Kohl's cabinet, with the title of minister for family and women.

At the time, Merkel was unmarried but living with a former academic adviser, Joachim Sauer. The couple married in 1998, but only after the archbishop of Cologne chided Merkel to formalize the relationship.

Merkel continued her climb into the upper ranks of the Christian Democrats through a combination of good timing and political savvy, political analysts say. In 1998, she took over as head of the party after Kohl, her mentor, became ensnared in a campaign finance scandal. Since then, she has eased out rivals and pressured competitors to stand aside so she could seek the chancellorship.

Merkel, who is childless, has built a wall around her private life and rarely appears with her husband in public. But that hasn't stopped opponents from taking personal shots. In an interview published last month, Schroeder's wife, Doris Schroeder-Koepf, highlighted Merkel's lack of children by calling her insensitive to the needs of working mothers.

The German mass media have also made sport of her personal appearance. After ignoring such critiques, she began a gradual makeover two years ago, visiting a celebrity hairstylist in Berlin who also counts Schroeder as a client.

The commentary has generated sympathy for Merkel, especially among women who see the attacks as sexist.

"She grew up in East Germany and is a natural scientist -- that means she was exposed to less pressure for so-called 'female' behavior than we western women were," said Alice Schwarzer, Germany's best-known feminist, in an e-mailed response to questions. "My advice: Stay true to herself. Stay authentic! Everything else would seem false."

Genocide, One Year On (WP)

The Washington Post, September 14, 2005

A year ago, then-Secretary of State Colin L. Powell declared that the violence in the Darfur region of Sudan justified the term "genocide." That was the first time since the adoption of the U.N. Genocide Convention in 1948 that a government had accused a sitting counterpart of this worst of all humanitarian crimes, and Mr. Powell chose his words carefully. His language was based on a survey of Darfurian refugees commissioned by the State Department: Of 1,136 civilians interviewed, a third had heard racial epithets while being attacked, suggesting that the mass killings and evictions in Darfur constituted genocide. The survey also found that three in four refugees had seen government insignia on the uniforms of their attackers, leaving no doubt as to the guilt of Sudan's government.

Since that finding, the United States has led an international effort to end the genocide. The effort has not been as quick or decisive as the genocide finding warranted: The Bush administration's attempt to pressure Sudan's government with U.N. sanctions was feckless, and it made no effort to deploy a robust NATO peacekeeping force. But, little by little, American diplomacy has made headway. For now, the horror has abated.

The first success of Western diplomacy was to improve access to Darfur for humanitarian workers and supplies, ending the government's policy of systematically denying visas to aid officials and bottling up their equipment in customs. Next, Sudan's rulers were persuaded to accept the deployment of 7,700 African Union troops in Darfur, up from the handful who were there a year ago. Partly thanks to the presence of these troops, violence between government forces and rebels, and between government and civilians, has greatly diminished.

But the progress is incomplete and reversible. Fully 3.2 million people have been affected by the war, half of Darfur's population. Many of these subsist in crowded camps for displaced people, where they depend on Western charity. Although humanitarian access has improved since last year, it remains imperfect. In the Kalma camp, which is home to something like 160,000 displaced people, the government has refused to extend a Norwegian group's authority to coordinate the distribution of relief supplies and has imposed an economic blockade. Meanwhile low-level violence continues. Although the government has authorized the deployment of 7,700 A.U. troops, only 5,800 are in place so far -- a failure both of the African governments that had promised troops and of the Western governments that promised to support them logistically.

The progress over the past year demonstrates that the United States and its allies do have the power to save lives by the tens of thousands. It also suggests that, if the Bush administration had pushed harder and earlier, it could have saved many more people. This lesson must be remembered over the coming weeks and months. Outsiders need to persist in their efforts to broker peace negotiations between Sudan's government and Darfur's rebels; they must complete the deployment of the African Union force and continue to pressure the government for humanitarian access. The past year demonstrates that, if the United States and its allies pursue these goals with determination, they can get what they want. But if they lose interest in Darfur,

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violence may resume and humanitarian access may dry up. With so much of the population already displaced and weakened, Darfur's death rate could easily return to the horrific levels of a year ago.

Marching Away From Trouble (LAT)

The Los Angeles Times, September 14, 2005

Something has gone terribly awry when a 5-year-old joins a riot started by a paramilitary army. Yet last weekend in Belfast, a child just that age was seized for throwing stones at the police and returned to his parents.

Violence erupted in Northern Ireland once again as authorities prevented the Orange Order, the largest Protestant organization in the province, from parading past a Catholic neighborhood. From Saturday to Tuesday morning, furious battles between young Protestant men and the police took place on the streets of Belfast. According to police reports, two paramilitary groups, the Ulster Defense Assn. and the Ulster Volunteer Force, have fired shots at the more than 1,000 police officers and 1,000 soldiers deployed in the area.

Nobody ever said it would be easy to make peace in Northern Ireland. But nearly a month ago, the democratic process in that troubled region got a boost when the Irish Republican Army ordered its troops to surrender their arms through a verifiable process. The British government began scaling back its military presence in Northern Ireland immediately after the IRA statement.

Although blame for the present violence rests mainly with the leadership of the Orange Order, the silence of at least two key Protestant political leaders who could have helped head off the clashes gives them a share of the responsibility. The Rev. Ian Paisley, head of the Democratic Unionist Party, and Reg Empey, the leader of the Ulster Unionist Party, should immediately denounce sectarian violence as unacceptable.

Every year, starting in April and finishing around September, hundreds of parades take place throughout Northern Ireland, mostly meant to celebrate centuries-old Protestant victories over Catholics. When these parades go past Catholic neighborhoods, they often amount to little more than open and pointless provocations.

To avoid the anger and resentment that have resulted in the past, a commission was granted legal authority in 1998 to set the rules and change the routes of the parades. This has produced some minor skirmishes in the intervening years but nothing like the recent riots.

Even acknowledging that most of these parades serve no good purpose, forbidding them seems to be unenforceable — such is the power of tradition, especially on a proud old island like Ireland. The only viable solution is to get political leaders to recognize equal rights for both communities, and to get Orange Order leaders to the table, negotiating directly with representatives of the communities through which it intends to march.

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TERRORISM NEWS:

Sept. 11 Commission Rejects Atta Claim (AP-Y2)

By Devlin Barrett, Associated Press Writer

AP2, September 15, 2005

Former members of the Sept. 11 commission on Wednesday dismissed assertions that a Pentagon intelligence unit identified lead hijacker Mohamed Atta as an member of al-Qaida long before the 2001 attacks.

The ex-commissioners also criticized the government for not putting in place changes recommended last year in homeland security and emergency response. They pointed most notably to the failure to improve communication systems, which they said might have saved lives after Hurricane Katrina.

Rep. Curt Weldon (news, bio, voting record), R-Pa., had accused the commission of ignoring intelligence about Atta while it investigated the attacks. The commission's former chairman, Thomas Kean, said there was no evidence anyone in the government knew about Atta before Sept. 11, 2001.

Two military officers, Army Lt. Col. Anthony Shaffer and Navy Capt. Scott Phillpott, claimed a classified military intelligence unit, known as "Able Danger," identified Atta before the attacks. Shaffer has said three other hijackers were identified, too.

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Kean said the recollections of the intelligence officers cannot be verified by any document.

"Bluntly, it just didn't happen and that's the conclusion of all 10 of us," said a former commissioner, ex-Sen. Slade Gorton, R-Wash.

Pentagon officials said this month that they could find no documents to back up the claims.

According to Weldon, members of "Able Danger" identified Atta and three other hijackers in 1999 as potential members of a terrorist cell in New York City. Weldon said Pentagon lawyers rejected the unit's recommendation that the information be turned over to the FBI in 2000.

Weldon's spokesman, John Tomaszewski, said no commissioners have met with anyone from Able Danger "yet they choose to speak with some form of certainty without firsthand knowledge."

Separately, the former commissioners criticized Congress for not updating communications rules to help police, fire, and rescue personnel in a crisis such as Katrina.

"It is a scandal in our minds," Kean said.

The commissioners also faulted state, local, and federal authorities responding to Katrina for not having a clear chain of command, leading to some of the same confusion that plagued the Sept. 11 rescue effort.

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On the Net:

The 9/11 Public Discourse Project: http://www.9-11pdp.org

Judge Says Somali Man's Statements Will Be Admissible (AP)

Associated Press

AP, September 15, 2005

COLUMBUS, Ohio - The government can use at trial statements made by a Somali man accused of plotting to bomb a shopping mall, a judge ruled.

Nuradin Abdi's attorneys had sought to bar statements he made to authorities in which he admitted to falsifying immigration documents and planning to blow up an undetermined Columbus-area mall.

But U.S. District Judge Algenon L. Marbley said Tuesday that the statements were admissible because Abdi made them in the presence of his lawyer.

Marbley said Abdi's arrest in November 2003 was illegal because government agents appeared to act only so they could interrogate him. Statements he made after his arrest would have been void had he not repeated them later when his lawyer was at his side, the judge ruled.

Abdi's attorney, Mahir T. Sherif, says the value of the information "is outweighed by the danger of unfair prejudice," against his client, whose trial is scheduled for Sept. 26.

Abdi, 33, has pleaded innocent to charges of conspiring to aid terrorists and lying to gain political asylum in the United States as a refugee.

Prosecutors accuse him of obtaining travel documents in 1999 by telling officials he planned to visit Germany and Saudi Arabia when he actually went to a military-style training camp for terrorists in Ethiopia.

Federal agents arrested Abdi on Nov. 28, 2003, after convicted al-Qaida operative Iyman Faris told them Abdi suggested the mall plot.

RP To Hand Over 3 Officials Linked To Spy Case (MANSUNST)

Manila Sun Star, September 15, 2005

MANILA -- The Philippine Government is willing to turn over three public officials tagged by the US Federal Bureau of Investigation (FBI) in connection with the espionage case filed against former police official Michael Ray Aquino in the US, Justice Secretary Raul Gonzalez Sr. said.

Gonzalez met with US legal attaché to the Philippines Jeff Cole, who furnished him confidential notes on the arrest of Aquino in Queens, New York and his friend, FBI analyst Leandro Aragoncillo, a Filipino-American, in New Jersey.

They were arrested for espionage and conspiracy in stealing 101 secret documents relating to the Philippines.

DOJ_NMG_0005416

In a press briefing, Gonzalez said among those who are allegedly involved in Aquino's espionage activities include a former official and two incumbent officials.

"These things will be revealed when they (US) open the evidence during the indictment proceedings on Sept. 21. The documents, including the CDs, are still sealed. These officials who are believed to be involved are coded," he said.

Once the names of the three Philippine officials are revealed and it is proven that they are Aquino's cohorts, they will be named as co-conspirators for violation of US laws.

"The Philippine Government will only be dragged into this once the warrants for their (three Philippine officials) arrest are issued by the US court. Then we will be asked for their extradition," he said.

The Philippine Government has extended legal assistance to Aquino, although the allegation of his involvement in espionage activities in the US was highly sensitive and serious against the Philippine Government.

"The Philippine consulate in New York has immediately hired a lawyer for Aquino. We always give lawyers to any Filipino accused of crimes in the US and other countries," Gonzalez said, noting that the Philippines is bound by the extradition treaty and the mutual legal assistance treaty with the US Government.

Under US rules, espionage is a non-bailable offense punishable by 10 years' imprisonment and a fine of not less than $250,000.

Earlier reports said the espionage activities of Aquino in the US are part of the current destabilization move against the Arroyo government.

Aquino was a close aide of Senator Panfilo Lacson, who served as Philippine National Police director under the Estrada administration before he ran for public office.

However, Lacson said Aquino cannot be charged with espionage because he is not a foreign agent.

Based on the information he gleaned from the Internet, Section 783 of the US Code states that a person can be charged of crime of espionage only if he is proven a foreign agent.

Lacson said the definition of a foreign agent under Section 951 of the same US code is an individual who agrees to operating within the US, subject to the direction and control of a foreign government.

One of the so-called classified information passed to him were the contents of the "Hello Garci" tapes, anomalies and corruption in the government and the recent impeachment proceedings in the House.

Lacson said he and "many others" received information passed by Aquino, but he downplayed the value of the reports, describing them as "shallow information."

"I am not sure which of the information that I and others received were considered classified, because to my recollection, the bits of information I got from him were largely news that everyone has read and heard in our local media," Lacson said in a statement.

He said the information may have been US Embassy reports to Washington on the current political situation in the Philippines.

Lacson said the FBI does not have the kind of information and this was gleaned from newspaper clippings that were compiled by the Philippine embassy here and sent to the US.

"But come to think of it, we have far more sensitive information which we can read at Philippine Center for Investigative Journalism (PCIJ) and Newsbreak Magazine than the classified information the US is pertaining to that Michael Ray Aquino has passed on," Lacson explained.

The senator said he has called his friends abroad to help Aquino pay the attorney's fees because legal services in the US are steep.

Meanwhile, NBI Director Reynaldo Wycoco said that if Lacson is intent on dragging his name in Aquino's case, he should probably go to any of the Philippine consulates in the US and explain himself.

He said Lacson could do this now or after he has been named in the case. (Sunnex)

DOJ To Turn Over RP Officials In Spy Case (PHILSTAR)

Philippine Star, September 15, 2005

Justice Secretary Raul Gonzalez is ready to turn over to US authorities a former and two incumbent government officials believed to be involved in the alleged espionage activities of cashiered police Senior Superintendent Michael Ray Aquino.

Speaking to reporters, Gonzalez said the three would be charged with acting as Aquino's cohorts in a conspiracy to violate US laws, once they have been identified.

"These things will be revealed when (the US) opens the evidence during the indictment proceedings on Sept. 21," he said. "The documents, including the CDs, are still sealed. They will be opened on September 21. These officials who are believed to be involved are coded."

The CDs are thought to contain copies of the evidence supposedly obtained by the suspects from computers at an office of the Federal Bureau of Investigation (FBI).

Gonzalez said that, based on highly confidential documents from Legal Attaché Jeff Cole, Aquino's cohorts include a former and two incumbent officials.

"The Philippine government will only be dragged into this once the warrants for their (the three Philippine officials') arrest are issued by the US Court," he said.

"Then we will be asked for their extradition. The former official number one is classified as High Level, number two is a current public official, while number three is a second High Level public official."

The Philippines is bound by an extradition treaty and the Mutual Legal Assistance Treaty (MLAT) with the US, he added.

National Bureau of Investigation Director Reynaldo Wycoco said yesterday the government would accede to any request from the United States to extradite three unnamed Filipino politicians reportedly involved in Aquino's activities.

"It is a treaty (extradition) we have with the US so we have to honor and abide by it although there is a process we have to go through," he said.

"I think that (extradition request) will follow if and when there would be an indictment, if and when a warrant would be issued by an American judge and if as a consequence there would be a request for the extradition" of the three unnamed officials.

Speaking to reporters at Malacañang, Wycoco said Sen. Panfilo Lacson should "go to any US territory or Philippine consulate in the US to clarify matters if he feels alluded to in the FBI complaint."

Aquino was an aide of Lacson while he was Philippine National Police chief under former President Joseph Estrada.

The NBI is not concerned about the political implications of Aquino's case as its main concern is "purely informational," he added.

On the other hand, lawyer Ricardo Diaz, NBI Interpol Division chief, said the FBI might reveal the names of the three men arrested on Sept. 22 or 23.

"The unsealing of the documents is scheduled on either September 22 or 23," he quoted an FBI official as saying. "By that time, the cat would already be out of the bag, meaning the names would be available by that time.

"Once the documents have been unsealed the names of the three officials based in the Philippines would already be made available to the public as well as the contents of the tampered documents."

Diaz said they have no idea what documents FBI intelligence analyst Leandro Aragoncillo allegedly printed or downloaded between May and Aug. 15, except that it consisted of 101 classified documents related to the Philippines.

"To determine if a document is top secret is part of their sovereignty," he said.

Gonzalez had already made an official request to Cole for copies of the documents, he added.

An FBI agent met yesterday with Wycoco and Diaz, but after the meeting, Wycoco begged off from being interviewed.

Meanwhile, Gonzalez said the government has extended legal assistance to Aquino.

"We are extending legal assistance to Michael Ray Aquino because he is a Filipino," he said.

"The Filipino consulate in New York has immediately hired a lawyer for Aquino. We always give lawyers to any Filipinos accused of crimes in the US and other countries."

Aquino's wife seeks help On the other hand, Lacson said yesterday Aquino's wife, Fatima, has asked him to extend legal assistance to her husband, since the family cannot afford to pay for the services of a top-caliber lawyer.

DOJ_NMG_0005418

"She told me, 'Sir, you might have a friend who can help us,' because they have no money to pay a lawyer," he said in Filipino.

"I started seeking the help of some friends. But US lawyers really charge a lot, you have to pay for each telephone call to them. He is really in a difficult situation.

"So it's important that (he) gets a lawyer of his choice, not provided by the US government. He would be comfortable in explaining that, under US law, he is not guilty."

Lacson said Aquino's case might not fall under Section 783, Title 50 on War and National Defense, chapter 23 (Internal Security) and subchapter one (Control of Subversive Activities) of the US Code, with which he is being charged.

Meanwhile, Lacson said he would ask a lawyer the extent of the US government's jurisdiction over a Filipino who is in the Philippines.

Aquino is not considered a foreign agent, he added.

Material related to the controversial "Hello, Garci" tapes was reportedly among the information passed on to Lacson by Aquino, but the opposition senator said the material was not sensitive, since it had already appeared in Philippine newspapers and other media outfits.

"Help my brother" A sister of Aquino asked the government yesterday to help her brother be released from jail in the US, where he is facing charges of espionage.

"My brother is still a Filipino," Dr. Jasmin Aquino said in Filipino at a press conference in Pasig City yesterday afternoon.

"He did not do anything wrong, he was just a victim. He loves the country so he was forced to leave for his peace of mind."

She said she saw her brother in September last year when she went to the US.

Holding back tears, Jasmin said her brother, a former top police official when Lacson was PNP chief, was forced to do odd jobs in the US to make a living.

Her family has yet to talk to Lacson and other groups to help in their brother's legal problems, Jasmin said.

Filipino consul can't see Aquino In New York, Consul General Cecil Rebong told visiting Filipino journalists that it was not normal for US authorities to take so long in notifying a foreign government of the arrest of one of its citizens, as in the case of Aquino.

Rebong said she received from the US Attorney's office a "notification of arrest" informing the consulate that "We (US authorities) arrested and detained Michael Ray Aquino, who we understand to be a national of your country, on September 10, 2005."

"It's just a short notification," she said. "There are no other specifics, not even the place where Aquino is being held."

The document was signed by Assistant US Attorney Karl Buch, she added.

However, Rebong said she had learned from Felix Vinluan, Aquino's immigration lawyer, that the former police officer was detained in a New Jersey jail.

Aquino hired Vinluan in March when he was arrested by immigration agents for overstaying after his tourist visa lapsed, she added.

Rebong said Vinluan appeared in a New Jersey court Monday when Aquino and Aragoncillo were presented before a judge, but Vinluan did not represent Aquino. The two were provided with public defenders by the court, she added.

"We are satisfied with the information we got from Attorney Vinluan that Aquino's rights have been respected," she said.

She and her staff, along with the staff of the United Nations mission, are busy with the short visit in New York of President Arroyo, Rebong said.

It is standard procedure for diplomats to visit detained nationals to check not only on their rights, but on their condition as well.

Rebong is the Philippine diplomat who was recently at the center of a scandal after she reportedly rented an apartment for $10,000 a month at the expensive Trump Tower, just across the UN headquarters, courtesy of Filipino taxpayers.

On the other hand, Press Secretary Ignacio Bunye told reporters at the Philippine Mission in New York that Mrs. Arroyo would not be distracted by the case against Aquino.

"Let me just put it this way. The Michael Ray Aquino case is something between him and the US," he said.

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"It is alleged that he broke some of the laws of the US, and he will have to answer for that, and as a Filipino citizen, the Philippine government is committed to provide him with all the legal assistance that is necessary and appropriate under the circumstances."

Bunye said Aquino's case did not overshadow the arrival of Mrs. Arroyo who is attending the UN General Assembly to preside over the Security Council, which is being chaired by the Philippines this month. –Jose Rodel Clapano, Christina Mendez, Cecille Suerte Felipe, Evelyn Macairan, Paolo Romero, Jess Diaz and Pia Lee-Brago in New York

FBI To Reveal RP Officials In Aquino Link (ABSCBN)

ABS-CBN Interactive, September 15, 2005

The Federal Bureau of Investigation (FBI) will reveal next week the names of former and current Philippine government officials who allegedly received classified US government documents sent by Michael Ray Aquino, the National Bureau of Investigation (NBI) said Thursday.

Lawyer Ricardo Diaz, chief of the NBI-International Police division, told ANC that the FBI is set to identify the Philippine officials linked in the espionage charges against Aquino and intelligence analyst Leandro Aragoncillo after September 21.

Aquino faces a US district court on that date to determine if he will remain in detention and attend trial or be turned over to immigration authorities.

Diaz said two of the officials identified by the FBI are on active government service. He said the FBI will unseal the documents on the case on September 21 and 22.

Diaz said the names in the FBI files pertain to former and current government officials who received classified information stolen by Aragoncillo while working as an intelligence analyst at the US Army's Fort Monmouth facility in New Jersey.

Aragoncillo forwarded the information to Aquino, who passed them to contacts in the Philippines.

Diaz said the documents downloaded by Aragoncillo were about the current political situation in the Philippines, among other matters concerning the country. "I would venture to say that it was about the political situation."

He, however, said it could also be about concerns other than the political situation.

Asked if the documents could provide clues to the alleged wiretapped conversation involving President Arroyo and former Commission on Elections commissioner Virgilio Garcillano, Diaz said he had no idea.

"[US authorities] have all the right to secure information," Diaz said. "They classify information being a sovereign country. When they add their analysis [on these information] they (information) become classified."

No mention of Lacson

Diaz said the NBI has not identified Sen. Panfilo Lacson as one of the three officials who allegedly received information from Aquino.

"Who knows? [Lacson] might not be the one alluded to or identified [as one of the officials who received information]," Diaz said. The NBI has not even named Lacson in its statements to the media, he added.

Lacson on Wednesday admitted receiving information from Aquino.

Lacson said he and "many others" received information passed by Aquino. He, however, played down the value of the reports, describing them as "shallow information." The senator is a former national police chief under whom Aquino served.

Diaz said the government will cooperate with US officials to pin down the Philippine officials receiving classified information regardless of their political leanings.

"When they invoke the Mutual Legal Assistance Treaty and the Extradition Treaty, we have to comply," he said.

Pimentel got Aquino info too

Also on Thursday, opposition Sen. Aquilino Pimentel revealed that he exchanged electronic mails (e-mails) with Aquino two of weeks ago.

Aquino initiated the exchange of emails, Pimentel said.

In the second e-mail, Pimentel said Aquino asked him for the address of Garcillano in the US. Garcillano, according to the reports, has been sighted in New Jersey after fleeing to Singapore, then London, in July.

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According to Pimentel, he was unable to tell Aquino about Garcillano's complete address. The senator told Aquino that he knew only the address of the former poll official's relative in the state.

In their brief exchanges, Aquino supposedly decried the harrassment he went through as well as the difficulties experienced in obtaining officials documents from the Philippine government to legitimize his US residency.

Aquino fled the country secretly in 2001, months after former President Joseph Estrada was ousted from Malacañan.

Although implicated in the rubout of suspected Kuratong Baleleng bank robbery gang members and the murder of public relations executive Salvador "Bubby" Dacer and his driver Emmanuel Corbito, no warrant of arrest has been issued against Aquino.

On May 18, 1995, Lacson, Aquino and 32 other police officers were charged for the murder of 11 members of the Kuratong Baleleng gang in Commonwealth Avenue, Quezon City. Their case was thrown out by Quezon City Regional Trial Court Judge Maria Theresa Yadao in 2003.

In November 2000, at the height of street protests triggered by allegations that Estrada received "jueteng" payola, Aquino and police Superintendent Cesar Mancao were implicated by Superintendent Glenn Dumlao in the abduction and murder Dacer and Corbito.

PATRIOT ACT:

Ashcroft Defends Patriot Act (SBT)

By CAROL DRAEGER, Tribune Staff Writer

South Bend Tribune, September 14, 2005

BENTON HARBOR -- Former Attorney General John Ashcroft is well aware his name is nearly synonymous with the 2001 Patriot Act that gave the FBI and Justice Department broad powers.

As its chief enforcer and defender, Ashcroft has been a target of librarians and civil rights activists who say the Patriot Act brings Big Brother into the private lives of ordinary citizens by allowing investigators to detain terrorism suspects.

"I'm probably a poster boy for the ACLU (American Civil Liberties Union)," Ashcroft told members of the Economic Club of SW Michigan Tuesday at the Mendel Center for the Arts and Technology at Lake Michigan College.

"They've built their membership against me," he added.

But he told the audience of mostly like-minded Republicans why the act is necessary in a post-9/11 country.

The act's measures give federal investigators more tools to prevent future terrorist attacks, such as "bringing down the wall" of silence that prevented the CIA, FBI and local enforcement agencies from sharing information that could've stopped the planners of the Sept. 11, 2001, attacks.

Measures like "roving wiretaps," he said, sound alarmist, but they extend to terrorists what law officers have used to fight drug dealers for years.

"We needed the authority to extend that to terrorists," he said.

Another provision that angered librarians at the time about the federal government being allowed to inquire about reading materials of patrons was also highlighted by a bookstore owner in the audience.

She told Ashcroft she has no safeguards against her records being seized.

Ashcroft said during the first two years of the Patriot Act, no library records were seized to hunt for terrorists.

He added that the act provides for congressional oversight, during which every six months members review activities conducted under the act.

"I don't think there have been abuses of the Patriot Act," he said, adding that "libraries should not be a safe haven for terrorists."

He pointed out that before the act was approved, the federal government had reviewed library materials used by the Unabomber suspect while piecing together evidence against him.

The events of 9/11 changed the United States and it required a new set of tools to prevent future terrorist attacks, he said.

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Prior to the Patriot Act, Ashcroft said the FBI and the Justice Department was good at putting together pieces of a puzzle to determine what happened and why to prosecute criminals.

But when perpetrators blow themselves up in the commission of a terrorist strike, Ashcroft said there is no one to prosecute, so the government needs to focus on prevention measures to stop terrorists before the strike.

On Sept. 11, 2001, Ashcroft said he was heading to Milwaukee for a meeting with schoolchildren when he heard about the attacks at the World Trade Center. After his plane landed in Milwaukee, dozens of SWAT team members ushered him back on a plane bound for Washington to meet with the president and his advisers.

One of President Bush's strongest attributes, Ashcroft said, is his clarity of mission.

"I'll never forget what the president said as he leaned in my direction: 'Don't ever let this happen again,'" Ashcroft said.

Later in his speech, Ashcroft touched upon Bush's directness in fighting terrorism again, when he said, "The president could've said, "Do your best to not let this happen again,' but he didn't."

Ashcroft said the tools necessary to make Americans safe were written into the Patriot Act to preserve liberty and freedom.

"I believe America is safer today," he said.

HOMELAND RESPONSE:

Chertoff Waives Rules On Fence (WT)

By Jerry Seper

The Washington Times, September 15, 2005

Homeland Security Secretary Michael Chertoff yesterday exercised his legal authority to bypass regulatory obstacles that had long delayed completion of a 14-mile border "enforcement zone" near San Diego.

"Completing the border infrastructure system will strengthen our efforts to reduce illegal entry to the United States. Congress provided us the authority to ensure this project is completed, and I intend to use it," Mr. Chertoff said.

The order came under the Homeland Security Act of 2002 and the Real ID Act of 2005, both of which mandated construction of necessary infrastructure in the region to reduce illegal entry and improve border security -- but that has been delayed since 1996 by litigation and environmental challenges.

U.S. Border Patrol chief David V. Aguilar, during a press briefing, called the project "the next important step in border security," saying it would allow an enforcement zone in San Diego that would free up manpower and resources for other areas.

"This is not about building a fence but managing our borders more effectively. That's a good thing, not only for San Diego and California, but also Mexico," Mr. Aguilar said, noting that elevated levels of illegal immigration had increased crime on both sides of the border. "This is about border security, about the responsibility we have to protect our nation."

He said primary and secondary fences, parallel roadways to give Border Patrol agents immediate access to the boundary and speed response efforts, stadium lighting to deter border crossers, and sensors and surveillance cameras to monitor incursions would create "a certainty of arrest in that zone."

"This is not so much about apprehension, but about deterrence. It will give us accessibility and mobility on the border," he said.

Rep. F. James Sensenbrenner Jr., Wisconsin Republican and author of the Real ID Act, said that although U.S. Customs and Border Patrol (CBP) deserved credit for improving security in the area, "completion of this congressionally mandated border fence continues to be stymied by litigation and obstructionism."

"This intolerable situation forced Congress earlier this year to pass the Real ID Act, which gave Secretary Chertoff the authority he announced today he will be exercising," he said.

Mr. Sensenbrenner, who is chairman of the House Judiciary Committee, said the project would improve the security of the American public, especially those in the San Diego area; allow CBP to use its resources in a more effective manner; and clean up the environmental destruction that has resulted from illegal border crossings.

Mr. Chertoff noted that construction within the middle nine miles of the project area has begun, and that an extension of the roadway system, barriers and lighting would expand the project to areas west and east of the current enforcement zone.

He said the initial construction efforts resulted in a decline in border crossings and reduced what he called the "negative environmental impacts" to the region caused by illegal migration, such as trails of garbage, destruction of vegetation and trampling of sensitive lands.

Mr. Chertoff said that by completing both phases of the project, damage to the surrounding environment will be sharply reduced.

"The Department of Homeland Security is not compromising its commitment to responsible environmental stewardship in the area," he said. "We will act in an environmentally responsible manner consistent with the security needs of the nation."

Top CIA Official To Quit Sooner Over Goss Dispute (WT)

By Bill Gertz

The Washington Times, September 15, 2005

A senior official in the CIA's espionage branch will leave earlier than announced because of a dispute with CIA Director Porter J. Goss on reforms within the agency's spying branch, Bush administration officials said yesterday.

Robert Richer, the associate deputy director of operations, the No. 2 official in the CIA's clandestine service, had planned to retire from the agency effective November, according to a recent announcement to agency employees by Mr. Goss.

However, Mr. Richer now will enter the agency's retirement transition program within two weeks, said officials, who declined to be named.

A CIA spokesman refused to comment.

Mr. Richer told associates earlier this week that he decided to enter the transition program earlier because of concerns about the CIA leadership.

He has said that he disagreed with and did not have confidence in Mr. Goss and his key aides.

The move speeds up the end of Mr. Richer's involvement with CIA operations matters.

His scheduled departure highlights an ongoing and largely secret political struggle inside the CIA over efforts by Mr. Goss to reform the agency in the aftermath of intelligence failures related to September 11 and Iraq's weapons programs.

A senior intelligence official said Mr. Richer was forced out because of "insubordination."

A second official said the departure was due to a personality clash between Mr. Richer and Mr. Goss related to reforms at the Directorate of Operations. Both officials declined to elaborate.

Some leaders within the directorate have been opposing efforts by Mr. Goss to improve CIA spying. One issue in the recent past was a dispute over the selection of station chiefs, which mainly is done by the deputy director of operations, as the chief of the agency clandestine service is known.

The espionage branch was considered the elite element of the agency and is made up of about 7,000 case officers trained for spying overseas. Almost all other CIA employees are involved in analysis or technical work.

Mr. Goss and four close aides have been working behind the scenes to try to improve the agency's spying operations and have encountered resistance from officials who oppose some of the changes.

In particular, Mr. Goss is pressing hard for agency spies to do better in Iraq.

"The biggest problem for CIA can be summed up in two words: No spies," said one official.

The agency, in the two years since a presidential commission called for reforming human spying efforts, still has not succeeded in penetrating the major targets of U.S. intelligence with human spies, the official said.

Those targets include the terrorist group al Qaeda and the governments of China, North Korea and Iran.

According to intelligence officials who support reforming the CIA, a network of current and former operations officials has been working to oppose the reform efforts of Mr. Goss and his aides, whom they regard as political appointees and not professional spies. Mr. Goss is a former CIA case officer.

Ricin Case 'Still Being Looked At' (HILL)

By Jackie Kucinich

The Hill, September 15, 2005

DOJ_NMG_0005423

"I'm a fleet owner of a tanker company. I have access to castor pulp. If my demand is dismissed, I'm capable of making ricin."

It has been nearly 18 months since this message was sent with a vile of ricin to the Department of Transportation (DoT). A similar letter was mailed to the White House, and traces of the deadly substance were found on a mail-opening machine in Majority Leader Bill Frist's (R-Tenn.) Dirksen office mailroom.

Despite the fact that no one has been implicated yet in these crimes, experts believe that the person responsible for the ricin attack will be found.

"If you look at the Unabomber case, it took 18 years to solve," said Clinton Van Zandt, president of Van Zandt Associates Inc., an international threat- and risk-assessment group, and a 25-year-veteran special agent with the FBI. "I think any case can be solved. … All it's going to do is take someone who knows the individual to come forward."

Van Zandt, who has not worked on the ricin investigation but whose specialties include criminal profiling, said the individual who sent the ricin letters would be easier to catch than the individuals who sent the anthrax through the mail in 2001.

He explained that the individual who mailed the anthrax-laced letter probably did so for quasi-altruistic purposes, perhaps to warn the public of the danger of biological agents. The ricin sender did not strike him as that kind of intellectual.

"I don't see this person as a rocket scientist," he said. "This makes the case more solvable."

Lee Browning, a researcher and president of Browning Seed Inc., a Texas-based seed company, said, "It can be traced back down through the isotopes. I assure you [the government] can trace it down. … They can even tell what country it came from."

Browning, who spoke to the FBI about the ricin attack in Washington, said he suspects that the FBI knows where the letters came from and who sent them because of extensive research on the DNA of castor beans, from which ricin is derived.

Ricin is a deadly poison that can be inhaled, injected or ingested. A dose the size of the head of a pin could kill an adult.

Debbie Wireman, a spokeswoman for the Washington bureau of the FBI, said there are currently no updates on the case but "it is still being looked at."

The FBI, the U.S. Postal Inspection Service and the DoT are offering a $120,000 reward for information leading to the arrest of the individual who mailed the poisoned letters.

Initially, reports pointed to a member of the trucking industry based on the content of the letters, signed "Fallen Angel," that threatened to manufacture more of the deadly poison if certain trucking regulations weren't dropped. The DoT letter was found at a sorting center serving a South Carolina airport. The second letter, postmarked from Chattanooga, was bound for the White House. Neither letter has been linked to the small amount of ricin found in Frist's office Rick Todd, president of the South Carolina Trucking Association, said FBI inquiries have ceased and the government no longer seems interested.

"We did post a message for a good eights months with information who to call with information," Todd said, but he added that the message since had taken it down.

Since the attacks, funding has increased for projects that genetically engineer castor beans without ricin. The process "blocks the expression of the ricin gene to make [the plant] safe to grow and process," said Thomas McKeon, a research chemist for Agricultural Research.

McKeon added that many household items are derived from castor beans, including cosmetics and lithium grease, used to lubricate car engines.

King Tapped For Homeland (RC)

By Ben Pershing

Roll Call, September 15, 2005

The House Republican Steering Committee selected Rep. Peter King (R) to be the next chairman of the Homeland Security Committee Wednesday evening, handing the gavel to a media-savvy New Yorker at a time when the panel's turf is under heavy scrutiny.

The Steering choice is still subject to ratification by the full Republican Conference, but it is highly doubtful that the larger GOP group wouldn't approve the choice.

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Speaker Dennis Hastert (R-Ill.) announced the choice after an hours-long Steering Committee gathering, during which GOP Reps. Don Young (Alaska), Curt Weldon (Pa.), John Linder (Ga.), Dan Lungren (Calif.) all made pitches for the gavel.

"After hours of deliberation and many good candidates … we came to a decision," Hastert said Wednesday night.

In accepting the post, King thanked the Steering Committee profusely and promised to do his best to defend the country from terrorism and deal with the aftermath of Hurricane Katrina in the same resolute way the country recovered after the Sept. 11, 2001, terrorist attacks.

"I want to pledge that as someone who came from New York … I will show that same commitment to rebuilding the Gulf states," King said.

Republican aides said that the choice of the New Yorker just days after the fourth anniversary of 9/11 would be important symbolically. The fact that King is a moderate with good relationships across the aisle is also considered helpful, given the nature of the post.

GOP leaders also believe the Homeland job is likely to be more high-profile than it has been in the past, and King has always aggressively courted the media.

The contest for the Homeland post has been under way since June, when then-Chairman Christopher Cox (R-Calif.) was named by President Bush to serve as chairman of the Securities and Exchange Commission.

The race was relatively quiet through the summer, as Cox was not confirmed by the Senate to his new post until July. Soon after, Congress left for the August recess.

But in the last weeks before Steering met to make its choice, the race became more heated. King was the target of an opposition research campaign, as unidentified operatives on K Street and on the Hill circulated evidence designed to back up allegations of past disloyalty to the party and support for the Irish Republican Army.

After King, Weldon was the most energetic campaigner, though Republican leaders have expressed frustration in the past with the Pennsylvanian's tendency to freelance and to pick controversial fights with the intelligence community.

Young, meanwhile, was hurt by his already having chaired two consecutive full committees. Young was also a vehement opponent of the Homeland panel's creation in the first place.

Linder emphasized his experience and, more importantly, his long political service to the party as a fundraiser and past chairman of the National Republican Congressional Committee.

Lungren, meanwhile, was something of a late mover in the contest, drawing on his previous experience as California's attorney general.

Republican Of New York To Lead House Panel (NYT)

By Raymond Hernandez

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 - Representative Peter J. King, a moderate Republican from New York known for his independent streak, was selected by House leaders to lead a committee seeking to determine how federal funds are distributed to help communities prepare for terrorist attacks and natural disasters, Congressional officials announced yesterday.

Mr. King's appointment as chairman of the House Committee on Homeland Security provides New York a potentially more prominent voice in a critical area at a time when the state's heavily Democratic delegation in the House finds itself largely sidelined by conservatives from other parts of the country. His appointment is expected to be ratified by House Republicans.

For years, Mr. King, who represents parts of Nassau and Suffolk Counties, has called for an overhaul of the way the government distributes antiterrorism aid, saying more funds should flow to New York City and other localities considered at high risk of terrorist attack. But his calls have met with resistance from lawmakers from other regions who insist on money for their districts, regardless of potential threats or vulnerabilities, in a process that has been derided as pork-barrel politics.

Mr. King's ascension places him at the center of several major issues confronting Congress, including questions about what went wrong with the federal government's response to Hurricane Katrina and whether the country was prepared for another catastrophic storm or terrorist attack.

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Mr. King said in an interview last night that the destruction caused by Hurricane Katrina was a reminder that the country "must do more" to brace itself for catastrophic events.

Of his appointment, he said, "It's a great opportunity - and an even greater challenge."

The appointment marks a political turnaround for Mr. King, whose attacks on the House's conservative leadership had made him something of an outcast within his party. He criticized everything from its efforts to impeach former President Bill Clinton to its policies toward the heavily Democratic Northeast.

But in recent years, he has seemed to make an effort to return to the fold by, among other things, supporting a House-sponsored energy bill that included a controversial plan to grant product liability immunity to producers of MTBE, a gasoline additive that has polluted groundwater around the country.

Mr. King also refused to join Democratic and Republican lawmakers who criticized the federal government's response to Hurricane Katrina, instead placing blame elsewhere.

He said recently that missteps by state and local authorities might have hampered the federal government's ability to mobilize. He also said the state and local governments' response should be investigated as closely as the federal response.

Mr. King succeeds Christopher Cox, a former congressman from California who was chosen by President Bush to be chairman of the Securities and Exchange Commission.

Mr. King's chief rival for the job had been Representative Don Young, Alaska's sole congressman, who as chairman of the Transportation Committee has been criticized for directing pork-barrel projects to his state.

Mr. King spent weeks trying to shore up support among his colleagues through letters and private meetings. He also received crucial backing from Representative Thomas M. Reynolds, who may be the only New York Republican who has clout with the House leadership, partly because of his role as head of the National Republican Congressional Committee.

King Wins Homeland Gavel (HILL)

By Roxana Tiron

The Hill, September 15, 2005

House Republicans last night tapped Rep. Peter King (R-N.Y.) as the new chairman of the House Homeland Security Committee after an intense three-month campaign.

“After hours of deliberations and long discussions ... we selected Peter King,” Speaker Dennis Hastert (R-Ill.) told reporters after the selection.

He also described the past few weeks in the aftermath of Hurricane Katrina as “a huge emotional roller coaster” and said he was glad such a committed, passionate person had been chosen for the post.

King still must be confirmed by the full GOP conference. That vote is planned for today.

King thanked Hastert and said he is absolutely committed to the war on terrorism but will also show the same commitment to build up the Gulf area.

He replaces former Rep. Christopher Cox (R-Calif.), who took over as chairman of the Securities and Exchange Commission early last month.

King, a New Yorker who was deeply affected by the Sept. 11 attacks, made an emotional appeal for the gavel in his letter to the 30-member Republican Steering Committee, which selects committee chairmen. He said his life was completely altered by the tragic events.

King was chosen over several other candidates, including Reps. Curt Weldon (R-Pa.), John Linder (R-Ga.), Dan Lungren (R-Calif.), Don Young (R-Alaska) and Mac Thornberry (R-Texas).

Lungren impressed many members of the Steering Committee by making a strong appeal for the gavel yesterday, according to GOP aides, but King prevailed during the secret-ballot vote.

King emerged as the front-runner late in August when GOP leaders coalesced around his candidacy and privately backed him, according to Republican aides. Hastert has five votes on the Steering Committee, Majority Leader Tom DeLay (R-Texas) has two and everyone else on the committee has one.

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During his presentation to the Steering Committee, King said, Rep. Lamar Smith (R-Texas) asked him a tough question about immigration. King, whose parents are from Ireland, supported the free flow of immigrants to this country in the past, but more recently, he has backed measures aimed at curbing the smuggling of illegal migrants.

"I told Lamar Smith my position changed after 9-11," King said after giving his presentation.

For Weldon, the vice chairman of the committee, who waged an aggressive campaign based on his two decades of experience on homeland-security issues, the defeat is a stinging blow. The Steering Committee has passed him over for two other chairmanships in the past, including the homeland-security panel when it was first created. He also lost a bid in 2002 for the Armed Services Committee gavel and complained that DeLay had lied when he promised him the job.

But Weldon, who also serves as vice chairman of the House Armed Services Committee, may still have a chance to become that panel's chairman. In early August, he told The Hill that Hastert had told him privately that he would support him to become Armed Services chairman.

Many Republicans believed Weldon was never a serious contender because he had angered too many Republicans and was considered unpredictable. Weldon had rankled fellow Republicans by publishing a book in June that harshly criticizes the intelligence community and the CIA. He also has alleged that analysts working for the Pentagon program called "Able Danger" had identified some of the hijackers in 1999 and that Pentagon lawyers did not share the information with the FBI.

Even though Young was the most senior of the candidates vying for the chairmanship, he had several strikes against him in his bid for the Homeland Security post.

Young already has held the gavel of two powerful committees; he is the chairman of Transportation and Infrastructure and previously served in the top spot on the Resources panel. Young also vigorously opposed the creation of the Homeland Security panel in the wake of the Sept. 11 attacks, which may have become the biggest hurdle to his bid to chair it.

In many ways, King is not the traditional choice for the gavel.

Not long ago, the sometimes-jovial, sometimes-brash Irish Catholic was known as a wild card, bucking his own party on numerous occasions, most notably by voting against President Bill Clinton's impeachment and supporting Sen. John McCain's (R-Ariz.) presidential bid in 2000.

In fact, King's rank-and-file Republican opponents circulated a compilation of quotes just days before the Steering Committee decision to point out some of the negative remarks King, a moderate, has made over the years about Southern members of the Republican Party.

King does not have a leadership political action committee and readily admits that he has not helped fill his party's or his GOP colleagues' coffers over the years. But he has pledged that once selected as chairman he will make fundraising a top priority and will be in a better position to do so.

King is also quick to point out that recently he has been one of the staunchest supporters of the Bush administration, taking pains earlier this year to hit the airwaves to defend embattled White House Deputy Chief of Staff Karl Rove.

When House Majority Leader Tom DeLay (R-Texas) found himself mired in a series of scandals late last year, King was one of the first to rush to his defense. He also considers himself a loyal supporter of Hastert.

"King is seen as generally a team player and a solid candidate," one GOP leadership aide said.

"When you look at his temperament in the past, you can say he was brash and difficult, but [we] have really seen him come into his own and it positions him nicely to be considered for the chair" a former leadership aide added.

Feds' Search Moves Trouble 9th Circuit (LAW)

By Justin Scheck, The Recorder

Law.com, September 15, 2005

Judge Betty Fletcher gave the federal government what it wanted Wednesday. But she didn't feel too good about it. And her colleague, Judge Raymond Fisher, wasn't really happy, either.

Fletcher, a senior judge on the 9th U.S. Circuit U.S. Court of Appeals, authored two opinions Wednesday, and sat on the panel that offered a third, per curiam opinion. They said that border agents searching for contraband may disembowel gas tanks, drill holes in truck beds and disassemble car doors without reasonable cause for suspicion.

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Fletcher made her feelings known in a concurrence to her own opinion in U.S.A. v. Chaudhry, 05 C.D.O.S. 8344, that, she wrote, is intended "to express my distaste for the government's game-playing."

The game-playing involved the government's goal of getting an appeals court to agree that border agents could take apart an automobile without apparent suspicion.

But in all three cases, there were clear reasons for suspicion that the government chose not to enter into evidence -- from drug-sniffing dogs to visibly nervous drivers.

"But the government wanted confirmation that no suspicion is required for extensive, intrusive searches at the border," Fletcher wrote. "This would have an ancillary benefit for the government -- it would not have to prove the reliability of its drug-sniffing dogs."

The question of whether the government may conduct such extensive searches without suspicion, she added, "is an entirely fictional construct. Suspicion existed in each case, and in my view, review of cases at the appellate level is a waste of judicial resources. The only possible purposes are the government's desire to push the envelope to its limits: to find out how much destruction it can do without any suspicion, and to avoid proving it uses reliable dogs."

In a separate -- but much shorter -- concurrence, Fisher agreed.

Northern District of California Federal Defender Barry Portman said Fletcher seemed constrained by the longstanding trend of U.S. Supreme decisions expanding the freedom of border guards to conduct random searches.

"We're looking to see, when the crowbar comes out to the cab, what is the allowable destruction of the vehicle," he said. Without room to rule against the government, he said, Fletcher did everything possible to criticize the litigation strategy.

"She's never been one to tiptoe around things she thinks are off," he said.

But, Portman added, the easy solution for a judge who felt forced to make a distasteful ruling would be to issue an unpublished opinion.

And Rory Little, a professor at Hastings College of the Law and a former federal prosecutor, said he was puzzled by the fact that Fletcher would author an opinion in a case that she called "essentially a request for an advisory opinion."

"It's a little bit of judges crying, in a sense, after they've inflicted their own wound," he said.

But, Little continued, he understands why judges might be annoyed by the government's strategy of eliminating certain facts from a case to get a favorable appeals court ruling. "I don't like the strategy either, personally, but if I was an appellate lawyer, I'd use it," he said. "It is a way, in a sense, for a party to overreach. You can win on your facts, but you want more."

The strategy is common in instances when a litigant is hopeful they can get a favorable ruling on a controversial issue.

"It's not game playing. It's a litigation technique that is often used by appellate lawyers when they want to develop law that is favorable to them," Little added.

But in the criminal justice system, Portman said, it's a technique whose benefits are limited to prosecutors.

"That's an advantage that the government has that defense counsel never does," he said. "Because the government represents positions, while defense lawyers represent a person."

Wiretap Mosques, Romney Suggests (BOS)

By Scott Helman

The Boston Globe, September 15, 2005

WASHINGTON -- Governor Mitt Romney raised the prospect of wiretapping mosques and conducting surveillance of foreign students in Massachusetts, as he issued a broad call yesterday for the federal government to devote far more money and attention to domestic intelligence gathering.

In remarks that caused alarm among civil libertarians and advocates for immigrants rights, Romney said in a speech to the Heritage Foundation that the United States needs to radically rethink how it guards itself against terrorism.

"How many individuals are coming to our state and going to those institutions who have come from terrorist-sponsored states?" he said, referring to foreign students who attend universities in Massachusetts. "Do we know where they are? Are we tracking them?"

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"How about people who are in settings -- mosques, for instance -- that may be teaching doctrines of hate and terror," Romney continued. "Are we monitoring that? Are we wiretapping? Are we following what's going on?"

As he ponders a potential run for president in 2008, Romney has positioned himself as a homeland security expert: He sits on a federal homeland security advisory council, is active on the issue with the National Governors Association, and repeatedly speaks about the lessons the country has learned from the terrorist attacks of Sept. 11, 2001 and, more recently, from Hurricane Katrina.

Romney, who referred to himself yesterday as "red-state folk," has also struck more conservative postures on social issues that may alienate voters in Massachusetts but endear him to the Republican electorate nationwide; his tough talk on antiterrorism measures could also earn him support among conservatives.

His latest message is that the United States needs to shift its focus from response to prevention: Instead of spending billions on training and equipment to react to an attack, he argues, the country ought to work on stopping one.

"It is virtually impossible to have a homeland security system based upon the principles only of protecting key assets and response," he told an audience of about 100. "The key to a multilayered strategy begins with effective prevention, and, for me, prevention begins with intelligence and counterterror activity."

But that activity is deeply troubling to civil rights groups. Ali Noorani, executive director of the Massachusetts Immigrants and Refugee Advocacy Coalition, called the methods Romney suggested misguided and ineffective. Tracking people based on their ethnicity, he said, will only sow resentment among immigrant communities and prevent their cooperation with authorities.

"Blanket eavesdropping and blanket profiling only erodes the safety and security of our country," Noorani said. "People who really know what national security is and what intelligence is realize that we need to build trust between law enforcement and immigrant communities."

Elyes Yaich, president of the Islamic Society of Northeastern University, said that foreign students, especially those from Islamic countries, already face unfair scrutiny coming to the United States and that subjecting them to specialized monitoring would further invade their right to privacy.

"It's something that shouldn't happen," Yaich said. "If they're going to do surveillance, why not do it for synagogues and churches, too?"

Nancy Murray, director of education for the American Civil Liberties Union of Massachusetts, said international students are already forced to submit personal data to a federal database designed to let the government closely track them. Keeping closer tabs would only cause a greater chilling effect on scholars coming here from other countries.

"Now they're beginning to think, 'Well, why don't we just go somewhere else?' " Murray said. "We are really going to fall behind. It's very shortsighted."

Asked to respond to that criticism, Romney spokeswoman Julie Teer said last night that the governor has a "realistic view" of what it takes to fight terrorism.

"The governor believes we can strike a balance between what is necessary to protect our homeland while respecting individual freedom and liberty," Teer said.

Romney said he believes that both state and federal governments have a role in intelligence-gathering. It is the FBI's job to do wiretapping and surveillance, he said, but Massachusetts has a responsibility to collect any useful information it can.

Central to that is a facility opened last year at the State Police headquarters in Framingham designed to be the clearinghouse for a variety of intelligence gathered in the state. At the facility, which state officials call "the fusion center," analysts armed with tips and information from residents, police, water-meter readers, and others, will pore through the data, look for patterns, and contact Washington about anything noteworthy.

Romney wants to see every state have such a system, which allows it to easily send intelligence to Washington and easily get intelligence back.

"It's the state's responsibility to figure out how to gather that information and fuse it together . . . to determine where the real threats exist," Romney said.

The ACLU has been critical of the fusion center. The group has asked whether collecting loads of data, much of which is sure to prove useless, is the most effective way to prevent a terrorist attack.

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"It just seems like we're getting more and more driven by the need to fight the war on terrorism in a very counterproductive way," Murray said.

Romney stressed in his address at the Heritage Foundation that the country's antiterrorism and military operations have to be "nimble, agile, and fast-moving." He said the distribution of antiterrorism money after 9/11 was haphazard and ineffective.

Cities and towns in Massachusetts and nationwide seized the opportunity to buy new fire trucks and unnecessary equipment, he said. "It was everybody grabbing money as fast as we could."

If the response to Hurricane Katrina was any indication, the extra funds did not appear to have helped, he said.

Romney was one of the first high-profile Republicans to criticize the federal government's response to the hurricane, calling it "an embarrassment." But in the two weeks since, he has reserved most of his criticism for state and local governments, in particular Louisiana's Democratic governor, Kathleen Blanco.

Yesterday, Romney did not criticize Blanco by name, though he did so implicitly a few times. At one point, he said that one clear failure in the response to Katrina was a lack of "fast-moving decision-making and clear authority." He said there would be no such leadership vacuum if a disaster hit Massachusetts.

"In my state, it's me," he said. "The governor's in charge. I got it."

Answering a question yesterday about the National Guard, Romney said he believes there is no need for a military draft, calling it "totally unnecessary."

The Heritage audience was highly receptive to Romney yesterday, giving him a rousing welcome and lengthy applause as he concluded his remarks. The foundation promotes study of issues important to conservatives.

'Crescent' Not Embraced (WT)

By Jennifer Harper

The Washington Times, September 15, 2005

It is unbuilt, but already under fire. The proposed memorial to United Flight 93 has a chorus of critics, irked by a single design element that ultimately might be reconfigured.

The "Crescent of Embrace," a double arc of maple trees that will turn red in the fall, has drawn the ire of some, who say it will resemble the red crescent -- a symbol of Islam dear to the hearts of the September 11 hijackers on the flight that crashed into a Pennsylvania field.

The Rev. Ron McRae, pastor of the Bible Anabaptist Church near Pittsburgh and founder of the Street Preachers Fellowship, called the design "a memorial to terrorists." He vows to file a lawsuit and stage a public protest.

The families of the 40 passengers and crew disagree, but the Los Angeles-based architect said yesterday that he would work to satisfy critics.

"This is an unfortunate distraction from the mission of the memorial," said Hamilton Peterson, who lost his father and stepmother on the flight and is president of the District-based Families of Flight 93.

"We've vetted this design and thought it through. In reality, the red crescent is a symbol of a benevolent humanitarian mission founded in World War I. Now, wackos with idle time and energy are trying to divert our goal," Mr. Peterson said.

But designer Paul Murdoch said he is "somewhat optimistic" that the spirit of the design could be maintained.

"It's a disappointment there is a misinterpretation and a simplistic distortion of this, but if that is a public concern, than that is something we will look to resolve in a way that keeps the essential qualities," Mr. Murdoch, 48, told the Associated Press.

Mr. McRae's isolated comments garnered considerable coverage in the Pennsylvania press and resonated on Web sites such as Free Republic, Power Line and Constitutional Conservative.

Columnists weighed in this week. Michelle Malkin called the crescent design a "monumental surrender" and "boneheaded," while Mark Steyn observed that Flight 93 had been "re-hijacked," and in the thrall of "the cultural elite."

In a letter sent Tuesday to the National Park Service, Rep. Tom Tancredo, Colorado Republican, called on the agency to reject the design as "a flash point for controversy and criticism."

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"The crescent in the design does not imply or depict religious iconography. The crescent follows the actual ridge line of the crash site and is intended to honor the heroes of Flight 93 and comfort their families," said Joanna Hanley, superintendent of the memorial site, which will be managed by the National Park Service.

The design for the 2,000-acre memorial also includes a chapel and a wall dedicated to Flight 93.

WAR NEWS:

Insurgent Bombings Kill More Than 170 In Baghdad (USAT)

By Rick Jervis And Mona Mahmoud

USA Today, September 15, 2005

BAGHDAD — Insurgents launched a wave of attacks throughout the Iraqi capital Wednesday and today. More than 150 people were killed Wednesday in one of the deadliest days in Baghdad since major combat ended in May 2003.

At least 16 Iraqi policemen and five civilians were killed today when a suicide bomber drove his car into a convoy of police vehicles in Baghdad's southern Dora district, police Lt. Thair Mahmoud said. The wounded included 13 policemen.

About a dozen explosions ripped through Baghdad neighborhoods Wednesday, including an early-morning suicide car blast in a predominantly Shiite neighborhood that killed about 112, according to the Interior Ministry.

More than 540 people were wounded in the attacks Wednesday. Four suicide car bombs targeted American convoys, but the U.S. military did not report any deaths.

In a Web posting, al-Qaeda in Iraq linked the attacks to an offensive by Iraqi and U.S. forces in Tal Afar, near the Syrian border. The offensive began Saturday and evicted most insurgents from the city. The U.S. military estimated 200 militants were killed. No Americans were killed.

Abu Musab al-Zarqawi, al-Qaeda's leader in Iraq, purportedly declared “all-out war” on Shiite Muslims, Iraqi troops and the country's government in an audio recording released on the Internet.

The U.S. military said there were four direct attacks on Americans on Wednesday and 10 soldiers were wounded. The office of Prime Minister Ibrahim al-Jaafari denounced the attacks and called an emergency meeting of members of the Defense and Interior ministries and U.S. military officials to determine the government's response. The deadliest attack Wednesday came about 6:45 a.m. as day laborers gathered in Kazimiyah's Oruba Square, hoping to get picked up for work. A man in a car drove up and began shouting that he was looking for helpers, said Lt. Muhammed al-Nuami, an Interior Ministry official. When the workers crowded around, the driver detonated, al-Nuami said.

Shiites have often been the target of attacks by predominantly Sunni insurgents, but Sunnis have also been attacked. On Wednesday, 17 men were executed in a predominantly Sunni village north of Baghdad. The victims were rounded up by gunmen wearing Iraqi military uniforms, marched 50 yards out of town and shot, al-Nuami said.

Insurgent Attacks Target Scores Of Poor Shiites (LAT)

By Borzou Daragahi

The Los Angeles Times, September 15, 2005

BAGHDAD, Iraq -- At their uncle Hamid Ghatti Fares' behest, the Rashid brothers left the desperation and unemployment of Nasiriya down south to look for construction jobs in the Iraqi capital.

And under their uncle's care, the two bothers, Hossein, 33, and Tahseen, 27, were returned to their home in the south Wednesday, their mangled bodies laid side by side in simple wooden coffins strapped atop a Korean-made minibus.

"What can I say? How can I describe this feeling?" said Fares, a 57-year-old Baghdad cigarette vendor, whimpering as he boarded the vehicle and prepared to deliver his nephews' remains to their father -- his brother -- in Nasiriya. "It will be a long ride."

The brothers were killed when a massive car bomb exploded in a crowd of day laborers in the largely Shiite Muslim district of Kadhimiya on Wednesday, one of the deadliest days of insurgent attacks in the capital since the March 2003 U.S.-led invasion.

By nightfall, at least 141 Iraqis had been killed and 228 injured in the bombings and ambushes in Baghdad, most of the victims members of Iraq's Shiite majority. Between 6:50 a.m. and 2:10 p.m. local time, 10 car bombs were set off in the capital.

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Another 17 people were shot execution-style in a massacre in a Shiite enclave near Taji, north of the capital.

The barrage of explosions plunged the capital once again into fear and despair. Gunfire and sirens rang out as black smoke rose into the sky. Police and soldiers choked traffic with checkpoints. In eastern Baghdad, automatic weapons fire continued into the night.

The violence appeared to be retaliation for a recent joint U.S.-Iraqi offensive against rebels in the northern city of Tall Afar that Iraqi officials said killed at least 150 insurgents. The attacks also seemed designed to stoke tension between the country's Shiite majority and Sunni minority, which along with Sunni Arab fighters from abroad is spearheading the insurgency.

The group of Jordanian-born Abu Musab al-Zarqawi, an insurgent leader, claimed responsibility for the day's assaults in an Internet posting.

"Al-Qaida Organization in Iraq ... has declared war against Shiites in all of Iraq," the audio recording said. "As for the government, servants of the crusaders headed by (Prime Minister) Ibrahim Jafari, they have declared a war on Sunnis in Tall Afar. You have begun and started the attacks, and you won't see mercy from us."

A senior U.S. military official, speaking on condition of anonymity, said the attacks were evidence of insurgents' weakness against Iraq's nascent security forces. "(The insurgents) failed to stand up to the assault up north, so they slink away and kill civilians in Baghdad," he said. "It is astonishing that they can try to claim some victory from pure murder."

John Arquila, a counter-insurgency specialist at the Naval Postgraduate School in Monterey, Calif., offered a similar assessment.

"The insurgent networks in Iraq have repeatedly demonstrated their ability to mount substantial operations on short notice, particularly when the targets are `soft' (i.e., innocent civilians). ... It takes the insurgents much longer to mount operations against coalition forces, when they choose to do anything more than plant bombs or run suicide attacks."

Five of Wednesday's car bombs targeted U.S. patrols, injuring at least two Americans. In one foiled attack, a man of Syrian origin rammed a car bomb into an American tank, but it failed to explode and he was captured, a U.S. military officer said. Three bombs targeted Iraqi security officials, killing three soldiers and police officers.

But ordinary Iraqi civilians, almost all Shiites, bore the brunt of the attacks. One car bomb in the mostly Shiite Shuala district targeted a group of people waiting for a bus. At least four were killed, according to the Interior Ministry.

In Taji, according to one witness, a group of at least 50 men in Iraqi army uniforms pulled 17 members of the mostly Shiite Tamimi tribe out of their homes, lined them up against a wall and executed them before firing off flares and escaping into the dense palm groves along the Tigris River.

"The people who were killed have nothing to do with the Americans, the government or security forces," Mohammad Baqer Tamimi, a Taji produce wholesaler, said in a telephone interview. "Some sold vegetables, some sold ice and some were taxi drivers."

The car bomb in Kadhimiya, though, was the day's deadliest incident, killing 112 people, the Interior Ministry said.

Some witnesses said the suicide bomber posed as a potential employer; dozens of poor, mostly Shiite young men crowded around the vehicle in hopes of landing a job.

Hours after the explosion, women walking by the scene covered their eyes and gasped, overwhelmed by the smell of burnt flesh. Slick pools of blood covered the pavement. Farm tractors hauled away piles of charred debris.

The lobby of nearby Kadhimiya hospital had been turned into an overflow emergency room. Stacks of saline bags and bandages lay atop the receptionist's counter. Flies swarmed the bloodied, half-conscious patients lying on hospital beds.

Many of the victims said they were unemployed bricklayers, painters and construction workers from Iraq's south. The young men told similar stories of paying $7 or so for a taxi ride up to Baghdad and staying in $1-a-night flophouses for the chance to earn up to $10 a day working on building projects in the capital.

"What is the reason for killing those innocent people? They work to eat. If they don't work they will not eat for the day," said Hashim Naji, a 23-year-old employee of a shoe factory, recovering from wounds he sustained in the Kadhimiya attack. "They are not officials. They don't represent a threat to anyone."

Insurgents Kill 160 In Baghdad (FT)

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By Steve Negus

Financial Times, September 15, 2005

In some of the deadliest terror attacks since the 2003 invasion, up to a dozen insurgent bombings and shootings saw around 160 people killed in Baghdad on Wednesday and wounded over 500 others.

The attacks came as Iraqi leaders claimed to have finalised a constitution, and as the Iraqi branch of al-Qaeda swore to avenge a recent US-Iraqi offensive on the north-eastern town of Tal Afar. The one-day death toll was possibly the highest in the capital since March 2003, and one of the attacks – a suicide car bomb in the predominantly Shia north Baghdad neighbourhood of Kadhemiya that killed over 112 people – was the second deadliest single blast.

According to the Iraqi interior ministry, a suicide bomber pulled up to a crowd of day labourers waiting for work by a public square, called them over to his pick-up with offers of employment, then detonated the vehicle with 220kg of explosive.

Witnesses said that no US or Iraqi military or police targets were in the vicinity, suggesting that the attacker had aimed to cause as much civilian carnage as possible.

The blast comes two weeks after a stampede at a Shia religious commemoration sparked by fears of a suicide bomber killed over 1,000 people in the same area.

Elsewhere in the city, a car bomber blew himself up near a queue of people lined up to fill gas canisters, killing 11, while other bombs targeted Iraqi and US patrols and the offices of a Shia party. In addition, unknown gunmen pulled 17 Shia men from a single tribe from their homes in the town of Taji north of Baghdad and killed them, in one of a series of apparent sectarian massacres that have become increasingly common in the last six months.

The attacks came as a statement appeared on a website used by the al-Qaeda in Iraq organisation of militant Abu Musab al-Zarqawi vowing revenge for a recent US-Iraqi offensive. “We would like to congratulate the Muslim nation and inform it the battle to avenge the Sunnis of Tal Afar has begun,” it said, although it did not directly take credit for Wednesday’s bombs. An audio tape purportedly released by the organisation also declared all-out war on Shia.

US patrols also came under attack. A Humvee military vehicle was burnt out by a roadside bomb, but the US military said it suffered no casualties. Minutes later another bomb nearby wounded two Iraqi policemen in a convoy.

On Sunday, the US and Iraqi militaries had wrapped up a sweep through the town, of Tal Afar, a reported transit route for Islamist volunteers moving in from Syria, in which they claimed to have killed over 150 insurgents and detained at least 500 suspects.

The insurgents have timed similar waves of explosions for politically sensitive moments, and this surge in the bloodshed comes as Shia and Kurdish leaders try to win Sunni Arab support for Iraq’s permanent constitution. The run-up to the October 15 vote on the constitution has worsened tensions between Iraq’s main communities, Shia, Sunni Arabs and Kurds.

Attacks In Iraq Inflame Worries About Civil War (WSJ)

By Farnaz Fassihi

The Wall Street Journal, September 15, 2005

Attacks resulting in one of Iraq's deadliest days in more than two years intensified concerns about escalating sectarian violence and its potential to evolve into open civil war.

Insurgents yesterday attacked crowds of Shiite Muslim civilians, Iraqi police and American convoys in 12 separate assaults around the capital, killing more than 150 people and wounding nearly 600. The attacks coincided with an announcement by Shiite Arabs and ethnic Kurds -- who make up the majority of the transitional government -- that the nation's draft constitution was finalized, without amendments to appease Sunni Muslim Arabs' demands.

Al Qaeda's arm in Iraq claimed responsibility for the attacks in a statement published on a Web site, calling them retaliation against a U.S.-Iraqi military operation under way in Tal Afar, a town near the border with Syria. And in a purported audiotape of the group's leader, Abu Musab al-Zarqawi, he called for all-out war against Shiites, Iraqi troops and the country's government.

The string of attacks in Baghdad followed the apparent execution of 17 men -- believed to be Shiites -- by a group of men dressed in Iraqi military uniforms who staged an early-morning raid on a neighborhood in Taji, 10 miles north of Baghdad. The dead were handcuffed, blindfolded and shot in the head, Iraqi officials said.

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The scale and scope of the attacks, with Sunni Arab militants targeting and killing groups of Shiites, shows the increasingly sectarian nature of the conflict, and is reviving doubts about whether the newly trained Iraqi forces can properly secure it.

Many analysts believe the buffer keeping Iraq's Sunni and Shiites from a full-fledge civil war has been the Shiite religious and political leaders' restraint from accusing the Sunnis outright and calling for Shiites to retaliate. But no one is sure how much longer the Shiite community will be willing to heed their advice. There have been numerous tit-for-tat killings of a sectarian nature among ordinary Iraqis, with almost daily reports of civilian corpses -- both Shiite and Sunni -- found murdered.

"It is very clear that they want to start a civil war between Sunni and Shiite," said Mohammad Bahr Ul-Ulom, a prominent Shiite cleric and politician, reached by phone in Baghdad last night. "They want the Shiites to say, 'Let's go after them,' but so far our leaders are calling for calm."

The worst attack yesterday occurred in the Shiite neighborhood of Kathemiya, where day laborers gathered at dawn looking for work. A truck approached the crowd and detonated once the driver had lured the men toward it. U.S. military convoys also came under fire yesterday in three separate car-bomb attacks around Baghdad, wounding two American soldiers. Iraqi police were attacked with gunfire and a car bomb, leaving several police officers dead.

The violence yesterday came after several months of relative calm in the capital, where according to the U.S. military car bombs and attacks against coalition forces had dropped significantly since May. But both Iraqi and American officials said they expect a spike in violence in the weeks preceding the constitutional referendum scheduled for Oct. 15.

For months now, Iraq's various sectarian and ethnic groups have been torn about the nature of their new constitution and the political path ahead for Iraq. The Kurds and Shiite Arabs pushed for a federal system whereby regional governments could function with semiautonomy from the central government. Sunni Arabs oppose federalism and rejected the constitution, complaining that the political process aimed at unifying Iraq had instead divided it even further.

Since the fall of Saddam Hussein's regime in April 2003, Iraq's deteriorating security has fallen into a vicious cycle: relative calm followed by spikes of spectacular violence timed around political milestones, such as the hand over of sovereignty, elections, drafting of the constitution and now the referendum.

Multiple Attacks Kill Nearly 150 In Iraqi Capital (NYT)

By Robert F. Worth And Richard A. Oppel Jr.

The New York Times, September 15, 2005

BAGHDAD, Iraq, Thursday, Sept. 15 - Insurgents staged at least a dozen suicide bombings that ripped through Baghdad in rapid succession on Wednesday, killing almost 150 people and wounding more than 500 in a coordinated assault that left much of the capital paralyzed.

Al Qaeda in Mesopotamia claimed responsibility for the assault, which inflicted the biggest death toll in Baghdad since the American-led invasion of Iraq toppled Saddam Hussein more than two years ago.

The violence appeared to be retaliation for the weeklong siege of the insurgent stronghold of Tal Afar and included a bombing in a Shiite neighborhood of Baghdad that used a new tactic: luring scores of day laborers to a minivan with promises of work, and then blowing it up. At least 112 died in that blast alone, the second highest death toll from any single terrorist bombing in Iraq since the invasion.

The attacks coincided with the opening of the United Nations General Assembly in New York, attended by top Iraqi leaders and President Bush, who pressed for a resolution calling on all nations to take action against the incitement of terrorism.

Wednesday's attacks demonstrated again how easily insurgents could still stage well-coordinated attacks, despite a series of highly publicized military offensives like the recent one in Tal Afar, a northern city that has been an insurgent base.

The explosions struck Shiite civilians, Iraqi security forces and American troops, the favored targets of Iraq's Sunni Arab insurgency. The worst attack singled out workers in a Shiite neighborhood, Kadhimiya, with an explosion that tore through a crowded intersection, leaving the facades of nearby shops shattered and puddles of blood on the streets.

"I saw a huge fireball in the air, and I felt the heat and flame on my face," said Kadhum Nasir Malih, 28, a laborer who lives in a hotel near the site of the blast. "I went outside the hotel, and I was amazed to see the number of bodies. Some were still, and some were groaning with agony, charred and covered with blood, with smoke rising from them."

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On Thursday morning at 8. a.m., a suicide car bomb detonated next to a police convoy in southern Baghdad, killing 16 people and wounding another 21, an official at the Interior Ministry said. Most of the dead and the wounded were police officers and the rest were civilians, the official said. Also in the capital on Thursday morning, gunmen shot and killed three Shiite pilgrims as they traveled toward the holy city of Karbala.

Senior military officials interviewed Wednesday said intelligence indicated that the bombs and planning for the Baghdad attacks came from insurgents in the Euphrates River valley in western Iraq, where Abu Musab al-Zarqawi, the Jordanian leader of Al Qaeda in Mesopotamia, has his base of operations.

"We believe these attacks were spawned in the west, then the bombs migrated from the Euphrates River valley," said a senior United States Central Command officer, who spoke anonymously because of the secret source of the intelligence. "The heart of Zarqawi's network is not in Baghdad, we're quite confident of that," the officer continued in a telephone interview. "In a corridor from Syria to Baghdad is where he's nested right now."

Hours after the first attack, Al Qaeda in Mesopotamia issued a statement calling the strikes revenge for the American and Iraqi assault on Tal Afar. It said the bombings signified that "the battle to avenge the Sunni people of Tal Afar has started." The American military has said it killed more than 150 insurgents in Tal Afar over the past two weeks.

Bombings and other attacks soon followed the Kadhimiya blast, at a rate of several per hour. Police cars careered through the city struggling to restore order, and hospitals overflowed with the wounded.

Police officers transporting their own casualties to hospitals fired wildly and pointed rocket-propelled grenade launchers at drivers to force them out of the way. At Yarmouk Hospital, the floors were splashed with blood, and medics rushed through the halls carrying burned and bloodied victims. One man lay on the ground, his chest cavity held together by a few stitches. A girl was brought inside, her fingers blown off. A man lay in a bed, screaming after being told his leg was amputated.

"There were bodies everywhere, I was lucky to have survived," said Saadi Hussein Ali, a 55 year-old laborer whose arm was broken in the Kadhimiya bombing, as he lay exhausted on a hospital cot. "It was only workers - why would they want to kill us? We are poor."

At least 10 American soldiers were wounded in attacks that the military said struck at least three military convoys. No deaths were reported. In Taji, north of Baghdad, gunmen dressed in Iraqi uniforms abducted 17 men and shot them, the Interior Ministry said.

Later Wednesday, an audiotape released over the Internet that was said to be from Mr. Zarqawi, the Jordanian terrorist, declared a "full-scale war on Shiites around Iraq, without mercy" to avenge Tal Afar and what the speaker asserted was a "war against the Sunnis" undertaken by the Iraqi government and conducted under the guise of attacking terrorists. The authenticity of the tape could not be verified.

Speaking in the United States, Prime Minister Ibrahim al-Jaafari also said the attacks appeared to be revenge for the military sweep of Tal Afar. In recent days, several terrorist groups had vowed to avenge allies killed in Tal Afar, and one warning issued by Al Qaeda in Mesopotamia had pledged specifically to attack Shiites. Kurdish and Shiite troops made up almost all of the Iraqi troops in Tal Afar. The National Assembly and Iraqi government, led by Mr. Jaafari, who had given approval for the Tal Afar offensive, are both dominated by Shiites.

Iraqi and American officials have also been anticipating a rise in violence in reaction to Iraq's new constitution, which has provoked angry opposition from many Sunni leaders and demonstrations in several cities since it was presented in the National Assembly last month. The attacks on Wednesday came as the acting speaker of the National Assembly announced that an amended version of the constitution was complete.

On Wednesday night, Mr. Jaafari's cabinet convened an emergency session to plan a response to the bombings. In a statement it said the attacks revealed the insurgents' "desperation and cowardice in the face of the setbacks they have suffered in Tal Afar and elsewhere at the hands of Iraq's security forces." Referring to the Tal Afar siege, the statement added that "the fact that the terrorists are claiming to be responding specifically to Operation Restoring Rights shows the serious blow that operation has dealt them."

Several of Iraq's leading political parties issued statements condemning the bombings and offering condolences to the victims. But there were indications that the continuing violence could soon be a potent issue in Iraq's next round of parliamentary

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elections in December. The Iraqi National Accord, led by Ayad Allawi, the former prime minister, released a statement condemning the bombings and "holding the government responsible for the deteriorating security situation."

With the offensive in Tal Afar and stepped up airstrikes and ground attacks in Anbar Province, senior American commanders say they are pursuing militants, including Mr. Zarqawi, who have been driven out of cities in central and north-central Iraq, including Baghdad.

"The insurgency is much more pushed to the west in Iraq this year than it was in the previous years," Gen. John P. Abizaid, the leader of the military's Central Command, said in an interview on Tuesday. "I actually regard that as a sign that the insurgency is having a hard time getting established elsewhere."

But on Wednesday, the senior Central Command officer said the new attacks showed that Mr. Zarqawi retained the ability to launch coordinated strikes in central Iraq. "Just when you think you have your foot on his throat, he can come back," said the officer. "He marshals his resources in order to have days like today to get himself in the news."

Insurgents Kill 160 In Baghdad (WP)

By Ellen Knickmeyer And Naseer Nouri

The Washington Post, September 15, 2005

BAGHDAD, Sept. 14 -- Insurgents struck the Iraqi capital Wednesday with at least a dozen attacks that targeted Shiite Muslim civilians, Iraqi security forces and American troops, killing more than 160 people in the deadliest day of violence in Baghdad since the U.S. invasion more than two years ago.

U.S. military officials said the day-long wave of suicide bombings, rocket attacks and shootings across the city bore the hallmarks of al Qaeda in Iraq, the radical Sunni Muslim insurgent organization led by Abu Musab Zarqawi, a Jordanian.

The group did not immediately assert direct responsibility for the attacks, but an Internet statement issued in its name welcomed the start of "revenge battles throughout the land of Mesopotamia."

The statement linked the attacks to a U.S. and Iraqi offensive underway against insurgents in the northwestern city of Tall Afar. A subsequent audio recording attributed to Zarqawi, which was posted on the Internet, accused the Shiite-led Iraqi government of having declared war on Sunnis in that city. As a result, al Qaeda in Iraq "has decided to launch a comprehensive war on the Shiites all over Iraq, wherever and whenever they are found. This is revenge. . . . Take care, because we are not going to have mercy on you," the recording said, according to a translation by the Washington-based SITE Institute, a group that monitors radical Web sites.

The attacks appeared calculated to undermine public faith in the ability of the fledgling government to protect its people, by showing that insurgents could strike in Baghdad despite the U.S. and Iraqi military efforts to stop them. Some of Wednesday's attacks were carried out in ways that maximized death tolls.

In northwest Baghdad, a driver in the heavily Shiite neighborhood of Kadhimiyah pulled up alongside a gathering point for day laborers and offered the men jobs, witnesses said. He waited until a crowd of workers had clustered around his four-door car, then detonated explosives packed inside, said Salim Hussein, 20, who witnessed the attack.

The blast killed at least 112 people and wounded hundreds of others.

As burned, blackened victims filled the district hospital, a Shiite cleric patrolled the scene of the bombing in an ambulance, calling over the vehicle's loudspeaker for donations of blood. Men looking for loved ones ran fingers down pages and pages of names of bombing victims posted outside the hospital.

"Why haven't they killed Saddam?" wailed a Shiite woman in black abaya as she walked away from the hospital. "Cut his head off."

Within an hour of that attack, a driver smashed his car into two other vehicles at an intersection, then blew up the vehicle when a crowd gathered, police said. At least 15 people died, police Lt. Mustafa Majid said.

"I saw people's bodies flying in the air and thrown for yards," minibus-taxi driver Amer Salman said.

More attacks were mounted throughout the day, signaled by rattling booms, black smoke and U.S. military helicopters shuttling across the sky. Traffic on main roads shut down as police closed key routes. Rumors spread that more car bombers were roaming the city and that men wearing suicide belts were infiltrating hospitals.

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The other attacks included two car bombings that killed a total of 26 people, one that targeted an Iraqi army convoy and killed three soldiers, and two that hit U.S. military convoys, U.S. and Iraqi officials said. A U.S. military spokesman, Lt. Col. Steve Boylan, said that he knew of three U.S. soldiers wounded in the day's attacks and that none had been reported killed.

Separately, attackers opened fire on a car carrying Iraqi police officers, killing one, and then detonated a car bomb when other officers responded, killing four more people, police said. A separate rocket attack killed two Iraqi civilians.

In Taji, a town just north of Baghdad, men wearing the uniforms of Iraqi security forces dragged 17 men out of their homes, then handcuffed, blindfolded and shot them, news agencies reported.

A U.S. military convoy came under intense attack in the late afternoon, first with a roadside bomb and then, half an hour later, with a car bomb, police said. A reporter watched as U.S. forces traded gunfire with hidden assailants at the scene.

One of the final bombings of the day hit outside the Green Zone, the concrete- and razor-wire barricaded base of U.S. officials and the Iraqi government. There was no immediate official word on casualties.

The estimated death toll of more than 160 made Wednesday the deadliest day of insurgent violence in Baghdad since the United States and its allies invaded Iraq in March 2003. The deadliest day of insurgent violence nationwide was March 2, 2004 , when at least 181 people were killed in mortar and bomb attacks on Shiite shrines in Karbala and Baghdad.

Prime Minister Ibrahim Jafari, who was visiting Dearborn, Mich., as part of a U.S. tour, condemned the attacks and declared that his government's "rational, political struggle" would prevail over "criminal acts," the Associated Press reported. "I share with the people their sorrow and grief. They are martyrs," Jafari said.

Survivors condemned the insurgents but blamed their government as well. "We voted for Jafari so he can help us get rid of terrorism. He cannot," Hussein Lami, a laborer, said at the site of the first bombing. "He must admit now that he cannot do it" and resign.

"Every day I am losing one of my friends or my relatives," Lami said.

Wednesday's carnage tested the ability of U.S. and Iraqi forces to maintain security shortly before two events that insurgents are widely expected to target: a Shiite pilgrimage this week that is expected to draw millions to the holy city of Karbala, and an Oct. 15 national referendum on Iraq's draft constitution. While voter registration among Sunnis has soared ahead of the vote, Zarqawi has declared that anyone who goes near a polling place is a legitimate target.

Growing political violence in much of the country also threatens what U.S. officials have said is their goal of bringing the insurgency to a level that is manageable by Iraqi forces ahead of any U.S. withdrawal.

At Least 160 Killed In Series Of Bombings (WT/AP)

By Steven R. Hurst, Associated Press

The Washington Times, September 15, 2005

BAGHDAD -- A spasm of bombs claimed by al Qaeda killed at least 160 persons yesterday, marking a declaration of "all-out war" against Iraq's Shi'ite Muslims by terror leader Abu Musab Zarqawi.

The onslaught of more than a dozen highly coordinated explosions terrorized Baghdad for more than nine hours and left 570 wounded on the capital's bloodiest day since the end of major combat.

The attacks coincided with the Internet posting of an audiotape in which a man identified as Zarqawi declared "all-out war" on Shi'ites, Iraqi troops and the government.

The first attack -- at 6:30 a.m. -- was the deadliest when a suicide car bomb tore through a crowd of day laborers in the predominantly Shi'ite Muslim neighborhood of Kazimiyah.

The bomber set off the explosive after calling the laborers to his small van and enticing them with promises of work, a witness said.

At least 112 persons were killed and more than 200 were wounded, Iraqi Health Ministry officials said.

The attacks came as U.S. and Iraqi forces pressed their offensive against insurgents in the northern city of Tal Afar and along the Euphrates River valley, striking hard at what officials have said were militants sneaking across the border from Syria.

Al Qaeda in Iraq said in a separate Web posting that it launched the attacks, some less than 10 minutes apart, in response to the Tal Afar offensive, which began Saturday and evicted most insurgents from the city.

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"To the nation of Islam, we give you the good news that the battles of revenge for the Sunni people of Tal Afar began yesterday," said the statement. It was not clear why the statement referred to "yesterday."

The audiotape was posted later yesterday. The speaker, introduced as Zarqawi, a Jordanian, said his militant forces would attack any Iraqi they think has cooperated with the Tal Afar offensive.

"If proven that any of [Iraq's] national guards, police or army are agents of the crusaders, they will be killed and his house will demolished or burned -- after evacuating all women and children -- as a punishment," the speaker said.

As the hours ticked by, at least 12 car or roadside bombs shattered what had been a few days of relative calm in Baghdad. Two mortar attacks were reported, and a multitude of gunbattles broke out between U.S. and Iraqi forces and insurgents.

Also yesterday, terrorists killed 17 men -- including Iraqi drivers and construction workers for the U.S. military -- in a Sunni village north of Baghdad before dawn. That raised the death toll in and around the capital yesterday to 169. A senior Health Ministry official said 570 persons were wounded in all.

At least six attacks targeted U.S. forces, Iraqi authorities said. The U.S. military said there were four direct attacks on Americans, with 10 soldiers wounded. No U.S. deaths were reported.

Iraqi Prime Minister Ibrahim al-Jaafari, in the United States for the annual U.N. General Assembly meeting, expressed "his personal sorrow for the victims of the attacks," his office said.

In Dearborn, Mich., a Detroit suburb with a large Iraqi population, Mr. al-Jaafari vowed to fight back.

"Those criminals will not run away from our justice system. Our cities, our villages will not welcome them," he said.

Yesterday's blasts coincided with Iraqi lawmakers' announcing the country's draft constitution was in its final form and would be sent to the United Nations for printing and distribution ahead of an Oct. 15 referendum.

Sunni Arabs, who form the core of the insurgency, have vowed to defeat the charter.

The carnage was thought to have produced the second-worst one-day death toll since the U.S.-led invasion in March 2003.

On March 2, 2004, coordinated blasts from suicide bombers, mortars and planted explosives hit Shi'ite shrines in Karbala and Baghdad, killing at least 181 and wounding 573.

Yesterday's bombing was the second tragedy in the Kazimiyah district in two weeks. On Aug. 31, about 950 people were killed during a bridge stampede as tens of thousands of Shi'ite pilgrims headed to a nearby shrine.

Iraqi Insurgents Are A Moving Target (CSM)

By Jill Carroll And Dan Murphy

The Christian Science Monitor, September 15, 2005

BAGHDAD AND CAIRO - In the north and west of Iraq Wednesday, troops were wrapping up operations designed to restore government control to insurgent dominated towns, in an effort to deny foreign and local insurgents the "rat-lines" to move men and equipment into Baghdad and other cities to carry out major attacks.

Meanwhile in Baghdad, at least a dozen explosions thundered across the city, with the deadliest a suicide attack that killed at least 114 laborers waiting for jobs in a Shiite neighborhood. In total, at least 152 were killed - the single largest one-day death toll attributed to insurgent attacks in Baghdad.

The contrast between what are being described as largely successful operations against insurgent hotbeds in Tal Afar, Qaim, and Haditha - towns with historic trading links to Syria that the US military says are way-stations for foreign fighters - and ongoing violence across the country, demonstrates the fluidity of Iraq's insurgency against thinly spread US and Iraqi forces.

In particular, the assault on the ethnic-Turkmen town of Tal Afar - where 8,500 US and Iraqi troops, largely drawn from the ethnic Kurdish peshmerga militia, took over the city this week - was aimed at limiting the mobility of Sunni insurgents. "It is a pathway from Syria that pretty historically was a trading route and smuggling route into Iraq," said US military spokesman Lt. Col. Steve Boylan.

An estimated 200 militants were killed and hundreds captured. But as forces moved on the city, the US military said many insurgents simply fled, using a network of tunnels they'd created in advance of the assault. That pattern has become increasingly common since the April assault on Fallujah, where hundreds of insurgents died in the most sustained combat of the war.

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Instead of standing up to superior US firepower - particularly air support that drops 500-pound bombs on insurgent positions - insurgents now generally avoid major engagements. Instead of holding their ground, insurgents are counting on US forces to eventually withdraw and on the Iraqi forces left behind not being able to prevent their return.

So far, that approach has worked. This was at least the third major assault on Tal Afar in the past 18 months. As in previous engagements in western Iraqi towns along the Euphrates like Hit, Haditha, and Qaim, the insurgents reasserted themselves when US forces were shifted elsewhere.

Colonel Boylan says that while much of the US effort is focused on shutting off infiltration into Iraq, completely sealing Iraq off isn't likely. "To say it's shutdown is difficult. It's almost impossible to physically shut it down."

That's because of the topography of the desert and expanses of arid plains in along the 270-mile border with Syria, Boylan noted.

"The border is absolutely something you can't seal. I wandered back and forth across those borders in the region for a long, long time where there's supposed to be border guards and desert police, but you just don't see them," says Col. Pat Lang (ret.), a former head of Middle East intelligence analysis for the Pentagon's Defense Intelligence Agency.

Colonel Lang says that when the US masses troops, as in Tal Afar, it's always going to win, but that it doesn't have enough troops to deny insurgents sanctuary elsewhere, essentially shifting the problem around.

"The insurgents are increasingly creating redoubt areas, the kinds of places we can't go without stripping people from elsewhere and entering in large numbers," says Lang. "Therefore the insurgents own it 95 percent of the time. The object of the drill for the guerrillas is not to fight [US forces] head-to-head, but to wait until they have an advantage."

That's what happened in much of the Western portion of the Sunni-dominated Anbar province this year. In a major operation there last March, US Marines swept through Hit and other cities, and encountered little resistance as insurgents melted away. At the time, Marine commanders fretted about what would happen when they rotated out at the end of the month, and were replaced by other Marine units with about 1,000 fewer troops.

Officers and enlisted men at the time said they worried that their replacements would be in greater danger because of their smaller size. Roads wouldn't be patrolled as often to keep them clear of concealed bombs. At least 40 US troops have been killed in Western Anbar since the start of August.

And in Tal Afar, a city of 200,000 people, there are other concerns. The city's mostly Turkomen population views the Kurds as their ancestral enemies, so ethnic tension could be ratcheted up after using mostly Kurdish militias to attack the city.

Walid Sharika, a Turkman member of the national assembly and on a government committee focusing in Tal Afar, says that while he's glad the assault took place, ethnic divisions there have been widened.

"This should have happened four or five months ago because Tal Afar is one of the most important terrorism bases in all the world. I believe for a lot of problems in Iraq the source is Tal Afar," he says.

Even so, "more than half the city is destroyed and there are a lot of refugees living in a camp and we lost children and elderly," says Sharika.

Tal Afar Turning Point? (WSJ)

The Wall Street Journal, September 15, 2005

Only weeks ago -- until Katrina stole the headlines -- Washington was deep in the grip of yet another of its "quagmire" panics about Iraq. We don't want to make the opposite mistake of over-optimism. But the recent Iraqi victory in the battle of Tal Afar could be a turning point in the war against the terrorists who slaughtered more than 150 innocents (mostly poor Shiite laborers) in multiple bombings yesterday.

In recent days Iraqi forces -- yes, Iraqi forces -- have led the largest urban assault there since the liberation of Fallujah last November. Meanwhile, Iraq and the United States are finally ratcheting up the pressure on Syria, with U.S. Ambassador Zalmay Khalilzad saying "all options" -- including military force -- "are on the table" when it comes to stopping terrorist infiltration from that country. Without Syria's help, the insurgency would be seriously weakened.

There are good reasons to believe the current operation in Tal Afar -- a largely Turkoman city near the Syrian border -- will be a model of things to come. Previous attempts to clean the terrorists out of Tal Afar and other cities in northern and western Iraq

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have too often seen the insurgents melt away only to return when the U.S. spearhead withdrew. This time Iraqis are leading the fight and, most important, many will stay so the people of Tal Afar can begin to believe they can live free of terrorist intimidation.

As of last night, a force of about 5,000 Iraqis and 3,800 Americans had killed at least 157 terrorists, detained 440 suspects, and discovered 34 weapons caches, all while suffering minimal casualties. "The terrorists are losing their morale. They couldn't resist as they did in Fallujah," Iraqi President Jalal Talabani told us yesterday in an interview in New York, where he is attending the United Nations General Assembly.

The Tal Afar operation calls into question the contention of war critics like Senator Joe Biden that there are only a handful of Iraqi troops capable of meaningful operations. In fact, U.S. commanders classify about 40 battalions -- roughly 750 soldiers in each -- as "fully independent" or able to fight "in the lead."

A U.S. officer with detailed knowledge offered us this assessment: "The Tal Afar operation has been a sweeping success for the Iraqi Security Forces in many ways. There is an Iraqi Army Brigade headquarters with four infantry battalions, a Special Police Commando Brigade headquarters with two battalions, and an Army Transportation battalion in the fight up there. The Police Commandos and one of the Army battalions were flown there by the Iraqi Air Force's own C-130 fleet executing their first combat support missions." Eight Iraqi soldiers and one American have died in the offensive.

Similar Iraqi-led clean-and-garrison operations might well be performed in other problematic cities like Ramadi. This is a classic form of anti-insurgency warfare that has the potential to narrow the range of operations for the terrorists. President Talabani told us that about 50,000-60,000 Iraqi troops can be considered "well trained," and the number is growing. They will eventually replace Americans, though we hope not before more Tal Afar operations can be undertaken.

Whether those Iraqi troops are competently led and deployed will depend on a political process that includes a constitutional referendum and another parliamentary election before the year is out. But the victory in Tal Afar is the best sign of anti-insurgent progress since the Marine sweep through Fallujah.

A Family, Torn Apart, Pulls Together (WP)

By Ellen Knickmeyer

The Washington Post, September 15, 2005

BAGHDAD, Sept. 14 -- The hunt for one of the missing young men of the Rahim family ended at a refrigerator truck in a hospital back lot.

"He's gone! He's gone!" an aunt of 19-year-old Saif Kadhum Rahim cried, striking herself in the face with her open palms at the sight of her nephew. His bare, charred legs protruded from under a white shroud in the back of the truck.

"My brother! My brother!" said one of Saif's eight younger siblings, tilting his head back and grasping his hair. With barely a pause, the men of the family moved in around the stunned boy and transferred Saif's body from steel truck to wooden coffin, then loaded the coffin into a van that would take Saif on what would be his next-to-last ride.

Bedlam was bubbling up in Iraq's capital all day Wednesday, bursting through the thin surface of what passes for routine. Families rushed to find loved ones and ambulances sped to aid survivors, even as new bombings sent more waves of frantic searchers into the chaos. Towers of black smoke rose into the sky as police turned away cars from hospitals, fearing secondary attacks that might target medical centers treating the bombing victims.

Members of Shiite cleric Moqtada Sadr's militia and Iraqi police officers sped back and forth in pickup trucks on the city's highways and through the poor neighborhoods of the Shiite majority. They waved pistols and AK-47 assault rifles at nothing. "Explosions! Explosions!" a Shiite militiaman shouted, pounding the metal roof of a car to get it to turn back from the site of one blast.

In their van, the men of the Rahim family drove across the city, rushing to take the body of Saif home, to search for his 17-year-old cousin Haider, who was lost and presumed dead, and to tend to a 24-year-old cousin who lay wounded in a hospital.

All three were victims of a suicide bombing in Baghdad's Kadhimiyah district, the first of at least 10 bombings and other attacks during the day. They were with several other relatives -- some sitting in Saif's minibus taxi, some stepping away for tea at a sidewalk booth -- when a suicide attacker blew up a four-door Volkswagen packed with explosives.

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At least 112 people were killed, most of them the Shiite neighborhood's day laborers, who were gathered at a traffic circle to wait for work. Survivors said the bomber lured the men closer with offers of jobs before detonating his payload. Hussein Ali, another cousin in the extensive Rahim family, said the workers, nearly impoverished, were targeted simply "because they were Shiite."

Al Qaeda in Iraq, the insurgent group led by Jordanian-born Abu Musab Zarqawi, issued a statement praising the attacks. The group, dominated by foreign Sunni Muslim extremists like Zarqawi, draws much of its support from Iraqi Sunnis resentful of the new political dominance of the country's Shiite majority.

The Sunni insurgents bear "hatred against us," Ali said. "This is a war against the Shiites."

A year ago this month, insurgents shot and killed Saif's 50-year-old father on a street in a Shiite neighborhood of Baghdad, his family said. One of Saif's uncles died the same way four months ago, they said.

From his father, Saif inherited the minibus taxi and responsibility for his mother, six sisters and two younger brothers, the family said. The family on Wednesday passed around a photo of Saif standing by the black minibus, twisting a bare foot out of his sandal, an uncertain breadwinner.

Saif earned about $7 a day driving laborers to and from work sites. On Wednesday, one of his cousins, alerted by a phone call from the family that there had been a bombing at the traffic circle where Saif worked, sped to the scene. He said he found Saif dead, still inside his minibus. He carried the body to the hospital, where it was stored in the refrigerator truck.

After Saif's body had been retrieved and driven home, the men of the family gathered silently, fingering worry beads under framed photos of family members killed in the insurgency. Posters depicting the revered founder of Shiite Islam, cradling children or waving a sword, hung under broken chandeliers on thinly painted concrete walls.

The men waited for others to finish searching the morgues for the body of Haider, the missing cousin, so that the family could drive him and Saif together to the Shiite holy city of Najaf for burial. In accordance with Islamic tradition, Saif would be buried the same day he was killed, his body headed to burial less than six hours after he last walked out his front door.

"In another country, if everything turned upside down, everyone would talk about" Saif's death, Ali, 27, said as he waited. "Here, so many died, and no one cares."

One of Saif's uncles, Falih Kehait, called over an 8-year-old boy and kissed him lightly. The boy had hopped off the minibus just before it exploded.

In another room, away from the men, Saif's six sisters wailed. Kneeling and supported by other women, the sisters tore at their hair, cried with open mouths and pulled down their black clothing to slap their flesh until it burned red. Little girls, one in a Mickey Mouse abaya and others in pajamas, watched wide-eyed against the walls of the back room.

Asked who would take care of Rahim's eight brothers and sisters now, Ali said, "God will keep them."

In a doorway, a neighbor, Fatima Yassim, spoke softly: "What you are seeing now is so little compared to the tragedy that has happened."

"But what shall we do?" she asked, her hands on the shoulders of a girl with a bow in her brown hair. "Shall we prevent our daughters from going to school? We are afraid even to send our sons to work."

The insurgents "want our people to kill each other," she concluded. "But we are Muslims. We are one religion. We love [the Sunnis] so much."

In the front room, the men wavered between returning Saif's body to the morgue so they could resume the hunt for Haider and taking Saif alone to Najaf for burial. Kehait, the uncle, finally decided he and three others would make the journey to Najaf and trust militiamen and the police to protect the Shiite families who would be streaming toward the holy city.

"Only us four," he ordered. "If we are attacked, only we will be killed."

A girl of 6 or 7 years, a relative of Saif's, watched silently as the men wrapped his coffin in a rose velour blanket and tied it to the roof of a car. Her chin trembled uncontrollably.

No women, a man of the family ordered. Even as he spoke, new wailing signaled Saif's mother emerging from the privacy of mourning in her home. Held up by other women, the twice-bereaved woman collapsed, throwing the dirt of the street in her face.

Men lashing down the coffin stopped, buried their faces in their hands and wept, shoulders shaking.

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No women, an uncle insisted again, turning back the sisters as the minibus started up. The women poured from the house. The uncle relented slightly, and Saif's mother pushed herself inside for the ride to Najaf.

CBS Asks Why U.S. Imprisons Its Iraqi Hire (WSJ)

By Yochi J. Dreazen

The Wall Street Journal, September 15, 2005

For 25-year-old CBS cameraman Abdul Amir Younes Hussein, being shot and wounded by American forces in Iraq was just the beginning.

On April 5, Mr. Hussein, a freelancer employed by the network in the northern city of Mosul, went to the scene of a car bombing to film the aftermath. He was standing near an armed insurgent when U.S. forces opened fire, killing the militant and wounding him lightly. The military released a statement that expressed regret about the incident and said it was under investigation.

Three days later, the military released a second statement saying that Mr. Hussein had been "detained for alleged insurgent activity" and there was probable cause to believe he posed "an imperative threat to coalition forces."

That statement has sparked a bitter legal and political dispute with Viacom Inc.'s CBS, which has lobbied senior military and civilian officials to try to win the cameraman's release. Mr. Hussein, who has been unable to see his family or his lawyer since being detained, faces a hearing today in Baghdad that will determine whether he will be released.

CBS News, which insists that its cameraman is innocent, says it has spent tens of thousands of dollars gathering evidence in Iraq that could be presented at review board hearings for Mr. Hussein and hiring a Washington law firm to press his case with the Pentagon, Congress and the State Department. But so far, those efforts have proved fruitless, and the network is publicly discussing aspects of the case for the first time.

"The cameraman has now been detained for more than five months, and no one concerned has been informed of the evidence against him," the network said in a statement yesterday. "We continue to request that information and hope it will be provided and his status be decided, one way or another, in a fair and timely manner."

The military defends its handling of the case and says Mr. Hussein remains under suspicion. The journalist has been detained "based on information that he was affiliated with anti-Iraqi and anti-coalition forces and engaged in anti-coalition activity," Lt. Col. Guy Rudisill, a military spokesman, said in a statement. He said the activity included "recruiting and inciting Iraqi nationals to violence against coalition forces and participating in attacks against coalition forces."

Mr. Hussein's story illustrates the difficulty of reporting in Iraq. The Committee to Protect Journalists, a nonprofit organization, describes the country "as the most dangerous place in the world to work as a journalist," noting that 23 journalists were killed there last year and an additional 15 have died so far this year. Because the dangers to Westerners are so great, foreign media outlets frequently rely on Iraqis hired locally to supplement their staff reporting. The Iraqis travel around the country far more than the Westerners and are routinely targeted by insurgents or involved in accidental shootings by Americans. On June 30, for instance, Knight Ridder reporter Yasser Salihee was killed on his day off by a U.S. Army sniper.

Western media organizations increasingly complain that their Iraqi hires are routinely detained by the U.S. military without charges. In addition to Mr. Hussein, at least four Iraqi journalists -- including two cameramen for the Reuters news agency -- remain in American custody. In an interview yesterday with Reuters, Iraqi Justice Minister Abdul Hussein Shandal criticized such detentions and said journalists should be able to film attacks and interview insurgents without fear of being arrested.

CBS describes Mr. Hussein as a timid young man who was so afraid of coming into contact with insurgents that he was warned at least once that he would be fired unless he went into the field more often. The network says it found Mr. Hussein through its local correspondent in Tikrit, an employee who had been on its payroll for two years. It says Mr. Hussein was a graduate of Mosul University where he belonged to a student group that organized a reception for Mosul's new governor that was funded with American money and attended by several U.S. military officers. Mr. Hussein, who is unmarried, lived with his family in a predominantly Kurdish neighborhood where they are some of the only Arabs.

The military's reversal of its initial description of Mr. Hussein's shooting was the first of several occasions it changed course in its handling of the journalist, according to both the military and CBS News. After its public statement describing Mr. Hussein as

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a security threat, the military told CBS News that it would allow network employees to meet with him and recover the camera and videotape seized from him after the shooting, the network says. CBS immediately dispatched London-based producer Randall Joyce, who arrived at an American base in Mosul on April 15.

During their meetings with the CBS News producer, however, military officials refused to say where Mr. Hussein was being held or who was interrogating him, the network says. They told Mr. Joyce that he couldn't meet with Mr. Hussein on security grounds, and couldn't recover the camera or duplicate the videotape because they were evidence, the network says. When he asked for an update on Mr. Hussein's health, the military declined, citing a domestic U.S. law barring the government from releasing health information on American citizens, according to the network.

Afterward, the military moved Mr. Hussein to Abu Ghraib prison but said it would allow CBS to submit evidence to a military panel that would decide during a July hearing whether to keep Mr. Hussein in custody or release him, according to CBS News. The network gathered evidence -- including affidavits from a relative that works as an Iraqi police officer and from other Iraqi journalists in Mosul -- asserting that Mr. Hussein was at his university at the time of the attack, didn't arrive at the scene of the April 5 bombing until almost 30 minutes after the explosion, and had no known ties to the insurgents. It sent its findings to the military, but the hearing was canceled and the military told the network that it was instead submitting Mr. Hussein's case to the Iraqi legal system for prosecution.

In his statement, Lt. Col. Rudisill said the hearing wasn't held because the panel's attorney "found there was sufficient admissible evidence to successfully prosecute Mr. Hussein for unlawful possession of explosives and aiding and abetting armed attacks against coalition forces."

The Iraqis declined to prosecute, but instead of releasing Mr. Hussein the military took him back into its own custody, where he has remained.

In a letter to CBS News reviewed by The Wall Street Journal, Pentagon General Counsel William J. Haynes said the Iraqis' decision not to prosecute didn't necessarily mean Mr. Hussein would be freed. He noted that the military panel used both classified and unclassified information, while the Iraqi legal system based its decision solely on the unclassified information that could be presented in open court. "Such a determination [by the Iraqis] does not preclude the possibility that sufficient evidence exists ... to conclude that Mr. Hussein should continue to be detained for imperative reasons of security," he wrote.

According to a Coalition Provisional Authority decree still legally binding in Iraq, captives like Mr. Hussein must have their detentions formally reviewed by the Combined Review and Release Board within six months. Since Mr. Hussein was arrested in early April, the review by the panel -- which includes three American military officers and a total of six representatives of the Iraqi ministries of Justice, Interior and Human Rights -- must be held by early October.

In Mr. Hussein's case, the questions about innocence or involvement in insurgent activity are supposed to be answered today during the scheduled meeting of the panel, which will take place behind closed doors in Baghdad without the presence of Mr. Hussein, his Iraqi attorney, or representatives of CBS News. Depending on the panel's determination, he will either be released or consigned to potentially indefinite captivity. CBS News says it plans to pay Mr. Hussein's salary to his family as long as he remains in custody.

Detention Of Iraqi Employees Angers Western News Media (NYT)

By Robert F. Worth

The New York Times, September 15, 2005

BAGHDAD, Iraq, Sept. 14 - On April 5, Abdul Ameer Younis Hussein, an Iraqi cameraman for CBS News, was struck in the thigh by an American sniper's bullet while filming the aftermath of a suicide bombing in Mosul. As he recovered in a military hospital, the Americans arrested him. They later said the film in his camera suggested he was working for insurgents.

More than five months later, Mr. Hussein is still in an American military prison. The Iraqi criminal authorities have reviewed his case and declined to prosecute him. Colleagues who were with him that day have produced affidavits supporting his innocence. The American military has not released any evidence against him, despite repeated requests for information by CBS producers, lawyers and even the network's president, Andrew Heyward.

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Mr. Hussein's case exemplifies a quandary faced by Western news organizations here. Their own reporters are mostly confined to fortified compounds and military bases. As a result, they are forced to rely on Iraqis, who work in increasingly dangerous settings, where the line between observer and participant is not always clear.

Western bureau chiefs concede that they cannot be certain the people they hire do not have links with insurgents, though they do their best to weed out such people.

One thing is clear: dozens of Iraqis who carry out assignments for the news organizations have been detained while on the job, and sometimes released weeks or months later with no explanation. American forces have mistakenly killed a dozen others, including a soundman working for Reuters who was shot dead by a sniper on Aug. 28.

Some of those cases raise a broader question: how close can Iraqi reporters get to insurgents without being considered the enemy? American commanders often suggest that reporters who are tipped off about an attack are automatically implicated, but Iraqis often take a different view.

"Maybe some are working with insurgents, but many others just get a call from someone saying, 'There will be clashes,' " said Ibrahim Saraji, the director of the Iraqi Journalists' Rights Defense Organization, formed last year after the fatal shooting of two Arab journalists in Iraq. "It doesn't mean they are an insurgent."

Pentagon lawyers have told CBS that Mr. Hussein is being held on classified evidence, according to letters sent to the network that were provided to The New York Times. The military has released statements saying that Mr. Hussein tested positive for explosive residue, and citing accusations that he "had knowledge of future terrorist attacks." It is not clear who made the accusations, or whether the residue may have resulted from his proximity to the scene.

Mr. Hussein's friends and relatives - who have not been able to visit him in prison - say the military has not interviewed them or searched his home, standard procedure with people suspected of having ties to insurgents. CBS executives say the network has investigated the incident and has no reason to believe that its cameraman was working with insurgents.

Clearly, it is often difficult for American soldiers to tell a reporter from a combatant in Iraq's chaos, with no uniforms or clear battle lines. The fact that insurgents routinely film and distribute scenes of their attacks makes it even harder. The military cannot afford to give journalists special treatment under those circumstances, said Lt. Col. Steven A. Boylan, a military spokesman in Baghdad.

But Western bureau chiefs say the military often seems to arrest their Iraqi employees merely for getting too close to the action - in effect, for doing their jobs too well. When journalists are killed, the bureau chiefs say, the military often does little more than a cursory investigation.

"They seem to have moved to the view that everyone in a conflict area with a camera is a potential terrorist," said Alastair Macdonald, the Reuters bureau chief in Baghdad. "The burden of proof is on them to prove that they're not."

A number of Reuters Iraqi employees have been detained by the American military, including three who said after being released that they were abused by American interrogators while being detained in Falluja last year. Ali al-Mashadani, a Reuters cameraman, was detained in Ramadi on Aug. 8 and remains in American custody. Mr. Macdonald said he had seen no evidence against Mr. Mashadani or clear accusations, and had no reason to believe he had any insurgent connections.

Iraqi employees with many other companies, including CNN, Associated Press Television News and Agence France-Presse have been detained for long periods in the past year. But some companies declined to comment about the detentions, saying they feared that doing so might harm their relations with the military.

Iraqi reporters often point out that they routinely receive death threats from insurgents, who have killed more reporters than the United States military by far. But they also say the military's suspicion is making it almost impossible for them to work in some areas.

"The American military has intelligence sources, but they don't seem to understand that we have sources too," said Maher Hassan al-Thanoon, 36, who has carried out assignments for Reuters in Mosul for 18 months. "They may just be people who live in insurgent neighborhoods. It doesn't mean they support what the insurgents are doing."

Western bureau chiefs also say that after being detained by American forces, their Iraqi employees often disappear into a void, where nothing can be learned about the case against them and their legal status is unclear. Mr. Hussein, for instance, was initially scheduled for a hearing with the Combined Review and Release Board, a nine-member panel formed to review detention

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cases. It is made up of three American military officials and six Iraqi government officials from the Justice, Human Rights and Interior Ministries.

But before the board could hold a hearing his case was transferred to the authority of the Iraqi central criminal court. He remained in American custody, though. The Iraqi criminal authorities reviewed the case, though they had not been provided with the classified part of it, and declined to prosecute it.

Jurisdiction over Mr. Hussein was then transferred back to the combined board, which is scheduled to hear his case on Thursday.

His status seemed uncertain in other ways, too. When CBS officials first asked about his health after he was shot and detained, military officials declined to answer, citing American laws on medical privacy.

On Wednesday, Iraq's justice minister, Abdul Hussein Shandal, criticized the detentions of Iraqi journalists in an interview with Reuters, saying he wanted to change a United Nations resolution that gives American troops immunity from Iraqi law. He said journalists were not free to report on all sides of the conflict.

He also dismissed American claims that his ministry had an equal say in detentions, suggesting that the American military controlled the Combined Review and Release Board.

Military officials in Iraq contend that some Iraqi cameramen and photographers show up at attacks so promptly that they must have had advance notice. Colonel Boylan said he knew of two Iraqi journalists in detention whose film footage indicated that they had filmed several attacks on one day, from the start.

Mr. Macdonald and other Western bureau chiefs say they have seen no evidence of such cases. They also say the frequent repetition of that accusation is irresponsible because it makes soldiers more likely to be aggressive with Iraqi journalists at attack scenes.

Afghan Ballots Carry Mullahs, Jihadis, Women (CSM)

By Scott Baldauf

The Christian Science Monitor, September 15, 2005

TORKHAM, AFGHANISTAN - A mullah, a feminist, a jihadi, and a communist: It sounds like the start of an Afghan joke, but instead, it is the makings of Afghanistan's first-ever elected parliament.

These are some of the 5,700 candidates running for seats in parliament and provincial assemblies around Afghanistan. Their diversity is both an endorsement of democracy, and a challenge to its very existence.

When Afghans line up to vote on Sunday, choosing 249 men and women from these thousands, they will be selecting from candidates who hold conflicting views over concepts as fundamental as the very definition of democracy itself.

"This is a project of decades and generations, not months and years," says Kit Spence, a senior analyst at the National Democratic Institute in Washington. "The good thing is that people are buying in to the concept in a strong way."

Kabul and most towns are papered over with campaign posters, a sign that the Afghans are taking this election seriously. It is the presence of so many faces - of men and women - that serves as a striking reminder of how much has changed since the days of the Taliban, when depictions of the human face were forbidden.

Yet this campaign has also seen spates of violence, reminders that Afghanistan is still emerging from 23 years of occupation and civil war. Six candidates and four election workers have been killed thus far, and scores continue to receive death threats. In Uruzgan Province, Taliban fighters killed seven people for carrying voting cards, according to Gov. Jan Mohammad Khan.

Safiya Sadiqi, an energetic liberal candidate from the conservative province of Nangrahar, was attacked with Kalashnikovs, grenades, and rockets last week. None of her campaign workers were hurt, but some villagers were injured. She now travels less openly and with government gunmen.

Yet her moderate Islamic, antiwarlord message remains as strident as before.

"Those people who rob you, who kill your children, if they give you food, will you give him your vote?" she says to a small group in the town of Torkham, mocking a nearby rally of a warlord where some 5,000 people have gathered with the promise of free food. "If you elect him ... the winner will be the one who killed your rights."

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Perhaps her bravest words, and the ones that stick in the craw of many ethnic Pashtuns here, are when Mrs. Sadiqi - an official from the Ministry of Rural Development - talks of the cruelty of many Afghan traditions toward women.

She describes seeing a pregnant woman being driven to the hospital. According to tradition, the male relatives sat in front, and the pregnant woman was forced to sit, obviously under great pain, in the trunk. "I asked the men, how can they do this? This is not right. Show me where in the Koran it says you should do this."

The crowd of around 300 men clap politely. Sadiqi's case may seem hopeless, but she is probably one of the strongest female candidates in her province, and is seen as a likely winner of one of the four seats here that are reserved for women.

But if she wins, so will many others with completely different visions.

Some, like former Taliban deputy interior minister Mullah Khaksar, want to bring back sharia, where major decisions are made according to Islamic scripture, as interpreted by religious scholars.

Some, like Kabir Ranjbar - a former advisor to pro-Soviet President Najibullah - want to bring a more equitable distribution of resources to the poor, borrowing pages from the former Soviet Union.

Some say that Afghanistan must be ruled by technocrats, while others, like mujahideen leaders Younus Qanooni and Abdulrab Rasul Sayaaf, say it must be ruled by those who fought the jihad, no matter their educational achievement.

Many, perhaps the majority, pose as opponents of President Hamid Karzai, and some demand the removal of US troops as a sign that Afghanistan can now run itself.

With such ideological diversity, parliament is likely to be much better at staking out positions than in getting anything done.

"Today, power is still held by warlords," says Mr. Ranjbar, the head of the Union of Lawyers of Afghanistan, and a parliamentary candidate from Kabul. "In the new parliament, most of the time will be spent getting your own people into the cabinet, and this fighting will take Afghanistan backward."

Meanwhile, high up in the Paghman valley above Kabul, a very different man with a very different vision for Afghanistan is speaking in a mosque full of some 3,000 men. Surrounded by gunmen, Abdulrab Rasul Sayaaf strokes his long white beard and speaks of a glorious future for Afghanistan, led by "men of good Islamic character" who have fought nearly 23 years to get rid of men like Ranjbar.

"Those who fought for the freedom of this country are worthy to take part in its government," says Sayaaf, after a long discourse on Islamic government. "If the mujahideen are not able to act in a political way, those people who looted Afghanistan before ... will play the same roles."

Almost everyone agrees that the first few months, if not years, of Afghanistan's experiment with democracy will be messy. The fact that so many political factions remain armed makes it possible for political disputes to turn deadly.

Sadiqi has survived one such attack, but says she will press on. "I trust in my vision," she says. "The day before yesterday, they attacked us, but we are here today."

Election Gives Group That Battled Taliban Chance At A Comeback (WP)

By N.c. Aizenman

The Washington Post, September 15, 2005

BAZARAK, Afghanistan -- The green-domed mausoleum housing the tomb of Afghanistan's legendary guerrilla leader Ahmed Shah Massoud sits atop a windblown cliff with a breathtaking view of the lush Panjshir Valley. This was Massoud's northern redoubt over two decades of fighting against a succession of enemies, beginning with invading troops from the Soviet Union and ending with the extremist Taliban militia.

But the vista seemed lost on the hundreds of grim-faced men who trudged up the peak on a recent morning to pay their respects on the fourth anniversary of Massoud's assassination by two al Qaeda suicide bombers posing as journalists -- a strike that came just two days before the Sept. 11 attacks in the United States.

"If Massoud were still alive, we would not be living like this," proclaimed an enormous black banner carried by the crowd, as a handful of parliamentary candidates looked on solemnly.

"We feel so sad and alone," said Nader Khan, 22, wiping away tears. Khan is a former mujaheddin, or holy warrior, in Massoud's militia who is now unemployed. "Massoud loved the mujaheddin. Today, nobody cares for us."

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As leading members of a coalition of northern ethnic militias that joined forces with the United States to topple the Taliban rulers after the Sept. 11 attacks, Massoud's Panjshiri successors were a dominant force in Afghanistan's first post-Taliban government. But over the last year and a half, the ethnic Tajiks of the Panjshir Valley have watched with dismay as President Hamid Karzai, a member of Afghanistan's majority Pashtun ethnic group, has replaced some of their most prominent leaders with Pashtuns and welcomed former Taliban officials back into the country as part of a reconciliation program.

Now, many Panjshiris see Afghanistan's parliamentary elections, to be held Sunday, as their chance at a comeback.

As in the rest of Afghanistan, campaign posters with pictures of the contenders have been affixed to every conceivable surface of the Panjshir Valley -- shop doors, tree branches, even the rusting Soviet tanks that still litter the area. But here, where Massoud's image has become synonymous with the past Tajik glory, many of the advertisements also feature portraits of "the Lion of the Panjshir," as Massoud is widely known. His pictures are as large as, if not larger, than those of the candidates themselves. One candidate, Saleh Registani, is handing out an entire brochure of moody photographs of himself with Massoud during the years of the Soviet war.

Speaking in the tidy, modest living room of his house about a mile from Massoud's tomb, Registani, 42, complained that "right now the role of non-Pashtuns is too weak. We want the government to be a broad-based government for all Afghans." Most of the policies he proposes involve amending the constitution to transfer authority from the presidency to the provinces, a move that would considerably enhance the power of Afghanistan's ethnic minorities.

Registani may get his way. Yonus Qanooni, a polished former deputy to Massoud and the runner-up in presidential elections last October, is leading a coalition of 14 parties fielding approximately 500 candidates from provinces across the country for Sunday's vote -- the first legislative elections in Afghanistan since the 1960s. Many candidates who are not officially part of the bloc say they also support Qanooni.

Their bid presents a double-edged challenge for Karzai, who has enjoyed relative freedom to maneuver since he won the presidency with 55 percent of the vote: If Qanooni and his allies win a majority of seats, the president will likely face a highly combative parliament. If Qanooni's bloc fails to make a strong showing, Karzai may have to contend with the wrath of a sizable swath of voters convinced that the election was stolen.

Although international observers signed off on the results of last year's presidential election, Qanooni and many of his supporters still maintain that he was the true victor.

"I only accepted the results for the sake of national stability," Qanooni said in a recent interview.

Foreign election officials have privately expressed concern that Qanooni's recent complaints about the vote-counting procedures planned for the legislative elections are an attempt to lay the groundwork for claiming fraud again if he is unhappy with the results.

Interviews with registered voters from several villages in Panjshir suggest that Qanooni would find a receptive audience for his concerns.

"This is their last chance," Del Agha, 30, a wiry, sandy-haired veteran of Massoud's militia, warned darkly. "If they steal our votes again, it will be time for us mujaheddin to do something."

He spoke from his guard hut at a munitions depot next to a rushing river at the foot of a narrow valley. Around him were stacks upon stacks of forest green ammunition boxes, alongside several dozen shipping containers packed with small arms.

The arms and ammunition should have been sent to the capital, Kabul, months ago under a U.N.-run program to demobilize armed groups in Afghanistan. However, while the militia's leaders have handed over about 150 heavy weapon pieces to the government -- including tanks and Scud missiles -- they have so far proved reluctant to relinquish their ammunition stocks, according to U.N. officials.

Agha said he understood his superiors' reluctance to comply. A fighter since the age of 17, Agha said he remained haunted by memories of war: the back-breaking weight of the rockets he used to carry across freezing mountain passes, the eyes of a wounded enemy fighter his comrades urged him to shoot at point-blank range, the terror he felt as his truck plummeted down a steep ravine one night, and the pain of multiple surgeries in India to repair his spine.

The thought of handing control of the weapons amassed during those years to the central government fills him with bitterness.

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"Most of those officials were off having fun in European capitals while my brothers were dying," he said.

The Panjshiris' resentment is compounded by their impression that they have received less foreign aid than southern and eastern provinces that were former strongholds of the Taliban.

Western observers acknowledge that there is some truth to these complaints. For instance, while the United States spent $190 million to build a road connecting Kabul to the southern city of Kandahar in 2004, work on a $26 million U.S.-funded project to pave the narrow main road through the Panjshir Valley did not start until last month. Officials said the delay was caused by a plan, since scrapped, to use the project to train Afghan officials and companies in road-building.

Also, because former fighters in the Panjshir were slow to disarm, they did not receive the financial compensation and job training called for in the program as quickly as counterparts in other provinces.

But analysts also say that the Panjshiris' sense of grievance is overstated.

Last month, for example, the U.S. military agreed to contribute an additional $4 million to the Panjshir road project. And this year, the government declared the valley a province, granting it separate representation in the new parliament even though its population and land area are far smaller than those of many existing provinces.

Also, while Karzai has sidelined top Panjshiri leaders such as the former defense minister and vice president, Mohammed Fahim, and the former head of national intelligence, Muhammad Arif Sarwari, many other Panjshiris remain in prominent positions -- including Foreign Minister Abdullah, army chief Bismillah Khan and the new head of intelligence, Amralluah Saleh.

"In fact, I think you'll find that the top positions are way oversubscribed by Panjshiris given their percentage in the population," said a foreign diplomat who spoke on condition of anonymity.

Still, the diplomat said, whatever the outcome of the elections, the government will have a strong interest in placating Panjshir's residents for some time to come. "In a place where there are tens of thousands of tons of weapons, it's not a good idea to have people alienated from the government," he said.

New Generation Of Afghan Voters Is Finding Its Voice (NYT)

By Carlotta Gall

The New York Times, September 15, 2005

KABUL, Afghanistan, Sept. 11 - Late in the afternoon here the streets are full of young men, pouring out of private classes that teach English and computer skills or that offer the chance to catch up on years of missed schooling during two decades of war. With books under their arms, the young men jump on their bicycles or head home on foot across the dusty roads and parks.

"We don't want anything special; the only thing we want is the atmosphere and facilities to be educated," Abdul Rahim, 18, said after emerging from an English class. Another student, Abdul Hadi, 28, said, "We do hope that finally we will have a capable Parliament and they can make facilities for studying."

The young people of Afghanistan stand out in this already industrious nation as particularly motivated and politically aware and are seen by some here as an important constituency in the coming parliamentary elections, on Sunday.

Half of the population is estimated to be under 30, said Amena Afzali, who heads the new Ministry of Youth and Sports.

"They have initiative and a readiness to learn - that is obvious," she said. "We want the desires of young people to be listened to."

An estimated 70 to 80 candidates under age 30 are running for the Wolesi Jirga, the lower house of Parliament, where the minimum age is 25; about 150 are under 35. That is relatively few of the 5,800 candidates, yet it is raising hopes that a new generation of leaders will start to emerge in this war-ravaged country.

"I don't like the long beards," said Khaleda, 27, a teacher and mother of four who uses only one name, alluding to religious conservatives. "We want young people, enlightened people, and a new generation."

Candidates are picking up the message. "A lot of our members are the new generation," said Jamil Karzai, 30, a second cousin of President Hamid Karzai and leader of the National Youth Solidarity Party of Afghanistan. His party is fielding 25 candidates in parliamentary and provincial council elections, but he says he would be happy to win four seats in the lower house.

"This Parliament will be mixed up like a vegetable soup," he said. "We will have tribal leaders, warlords, drug lords, but also democratic new faces and policies."

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"What I have heard from the people - and I have visited a lot of provinces in the past six months and daily meet about 100 people - they want new faces. They say: 'What has been tried is tried. We tried these guys and they failed.' "

At a rally of young supporters, Muhammad Yunus Qanooni, 46, who finished second in the presidential race and is now hoping to win a large bloc in Parliament, called on his audience to vote for people who could speak for them. "If you choose those representatives who support the new generation, you will not suffer from poor education," he said.

Like most of their elders, younger adults want security, good educational systems and a good health system, in that order, Mr. Karzai said. Despite his relationship to the president, he criticized the government, saying it had in some cases appointed corrupt and incompetent governors and police chiefs and allowed the parliamentary candidacies of many figures whom human rights organizations accused of abuses.

Issues like letting young people decide their own futures, and even select a spouse, will have to wait, he said. "First you have to prepare people to listen to you about this, then later introduce it. It needs years."

A dozen young people interviewed in Kabul overwhelmingly said their priority was improving education, in particular school and university facilities and teaching standards, followed by creating jobs. They also cited the same concerns as their parents: government corruption, security and the pace of reconstruction.

"There are people who cannot feed themselves; there are no factories, no jobs," said Qais, 17, an assistant in one of Kabul's new perfumer shops, who said he planned to vote even though the minimum voting age is 18.

About half of those interviewed said they would vote as their fathers advised, while the others said they would make their own decisions.

"I will decide as I want," said one student, Hedayat, 19, who missed five years of schooling but wants to study law. "Maybe my father does not have the complete information about young people. I will vote for someone who can understand."

"It is because of the views of our fathers' generation that this country is like this. They did not want peace. They were fighting each other. There are a lot of things that we want, that they don't even know about."

He added: "The young generation wants to be equal with the youth of other countries. We have people who are engineers in Afghanistan but they don't even know how to use computers. We want to be the same as other countries."

Female Candidate Sees Election As 'A New Beginning' (WT)

By Carmen Gentile

The Washington Times, September 15, 2005

KABUL, Afghanistan -- Jamilah Mujahid, who hopes to win one of 68 seats set aside for women in Afghanistan's parliament, view's Sunday's election as a turning point for her war-ravaged nation.

Among Mrs. Mujahid's priorities if elected would be education for women, especially those who are behind the learning curve because they grew up under the Taliban regime, which prohibited girls from going to school.

"The Taliban and others are still against women in positions of power because they know that once we get power, we will pursue equal rights for all women," said Mrs. Mujahid, who is favored to win a seat in Wardak province.

Some female candidates have reported being harassed and intimidated on the campaign circuit, particularly in rural Afghanistan, where restrictions on women are deep-seated and enforced by Taliban supporters and tribal warlords.

A longtime radio and TV personality here, Mrs. Mujahid called Sunday's scheduled parliamentary and provincial elections "a new beginning for Afghanistan."

Afghanistan has set aside more than one-quarter of its 249 parliamentary seats exclusively for women.

According to electoral law governing the vote, the top female vote-getters in each of Afghanistan's provinces will be awarded seats in the Wolesi Jirga, or House of People.

"Even though the law guarantees women a position in the parliament, they are still going to receive support at the pollsþ" said Najiba Sediqi, a program director at a radio station airing shows geared toward Afghan women.

Although the Taliban regime is no longer in power, it remains a viable force in Afghanistan, continuing to clash with coalition and Afghan forces.

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So far this year more than 1,000 have been killed in these battles, the most for any year since U.S. forces arrived after the September 11, 2001, attacks.

Women's rights activist Hassina Sherjan agrees with Mrs. Mujahid saying the key to leveling the playing field among men and women is education.

"Many of [the female candidates] seem motivated to create a better society for womenþ at least I hope they are," said Mrs. Sherjan, whose Kabul-based Aid Afghanistan organization has spent the past 10 years trying to provide supplemental education for women and girls.

"We're trying to avoid the segregation of women" from the workplace and in other sectors of society, said Mrs. Sherjan, who sees the presence of women in parliament as a step in that direction.

De Afghani Khazi Ghag Radio, which means "the voice of Afghan women," broadcasts 12 shows six days a week dealing with issues such as abusive spouses, and airs call-in shows and songs featuring Afghan and regional female vocalists -- even the Britney Spears tunes.

"The bottom line is we are trying to promote women's self-esteem after years of oppressionþ" Mrs. Sherjan said.

Women Embrace New Freedom In Bamiyan (USAT)

By Paul Wiseman

USA Today, September 15, 2005

BAMIYAN, Afghanistan — The five men traveled three hours across rugged Afghan terrain to take their troubles to the provincial governor. Their problem: A local warlord was blocking a crucial irrigation project; no bribe, no water.

After listening patiently to their story, the governor agreed to send police to the remote district to deal with the local commander and his armed thugs. “I will solve the problem,” the governor said. “We'll have to do it by force.”

The extortionist warlord is all too typical in Afghanistan. The decisive governor, who declined to name the offender to avoid further trouble, is anything but. Habiba Sarabi is the first woman to run a province in Afghan history.

Perhaps more than anywhere else in Afghanistan, women in Bamiyan province are leaping into the political space created by the U.S.-led overthrow of the Islamic fundamentalist Taliban militia four years ago. They are more likely to run for office and to vote than other Afghan women.

Sixteen women will be on ballots in Bamiyan province Sunday, when voters choose candidates for the provincial council and the lower house of the Afghan National Assembly, known as the Wolesi Jirga. Elsewhere, some provinces couldn't field enough female candidates to fill the seats reserved for them.

In Bamiyan, 48% of registered voters are women, who are a majority in some districts. Nationwide, women are less than 42% of voters.

The enthusiasm with which Bamiyan women embrace politics reflects the relatively moderate brand of Islam that predominates in the remote province, best known for the 1,500-year-old giant Buddha statues the Taliban destroyed in March 2001. Bamiyan men are more likely to tolerate female candidates and voters than the men in Afghanistan's fundamentalist-dominated southern and eastern provinces.

Sarabi was appointed six months ago by Afghan President Hamid Karzai. She has emerged as a role model for Bamiyan's aspiring female politicians.

“She gave great hope to women. They know they can run a province,” says Marzia Mohammadi, a female Wolesi Jirga candidate and former kindergarten principal.

Khadija Bahari, 26, is out campaigning in a Toyota van that has a red heart labeled “Love” dangling from the mirror.

“This country has operated at a very low level,” says Bahari, who is the former head of a human rights group. She aims to start fixing things if the voters give her the go-ahead Sunday.

Under Afghan law, women are guaranteed 68 of the 249 Wolesi Jirga seats being contested nationwide and 124 of the 420 seats on the country's 34 provincial councils. In Bamiyan, one of four Wolesi Jirga seats and three of nine provincial council seats must go to women. Bahari reckons she's one of seven women running for the one legislative seat reserved for a woman.

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In some places, the appearance of women on the ballot is causing a stir. In the western city of Herat and the northern province Badakhshan, three young female candidates are attracting ardent admirers, according to the Daily Outlook Afghanistan, an English-language newspaper. Smitten storekeeper Mohammad Karim plastered posters of candidate Qaida Afif, 28, on the wall of his shop in Herat. "We are determined to vote for the most beautiful," he told the newspaper.

Other Afghan men are less than thrilled to see women running for public office. In many places, tribal and religious customs restrict women to the home and require them to wear head-to-toe coverings called burqas when they go out.

After Bahari gave a campaign speech at a Bamiyan mosque, the mullah denounced her as un-Islamic. "The fundamentalists don't like me," she says.

Mohammadi says she was confronted in a remote Bamiyan village: "A man argued with me that women should stay at home. He was telling me women must not go to parliament because there are so many men there. … It was difficult to make him understand."

Things are worse for female candidates and election workers elsewhere in Afghanistan. According to a report last month by the New York-based activist group Human Rights Watch, a total of five provincial seats reserved for women in the Taliban strongholds of Zabul, Uruzgan and Nangarhar will remain empty, probably because women are too frightened to run. Elsewhere, women who want to run for office face intimidation, the report said. "Violence against women, forced marriage and early marriage are endemic problems," it said.

The group cited statistics from UNICEF that show that one in six Afghan women die in childbirth and 87% of those deaths are preventable. The illiteracy rate for Afghan women over 15 is 86%. In Afghanistan's seven conservative southern provinces, less than 10% of girls go to school.

The appearance of female candidates is raising hope that issues such as women's health and education finally might get on the national agenda. "No one cares about women's health in Afghanistan," says nurse Zainab Rezai, 40. "The husband must allow (his pregnant) wife to go to the hospital every month. They are now treated like a prisoner in their homes."

Sarabi cites another simple advantage of putting women in high office: It gives ordinary women a place to go to air grievances and make suggestions. For many Afghan women, the idea of visiting a male politician in his office is unthinkable.

Sarabi's office sits in a one-story yellow building overlooking the bluffs that once held the Bamiyan Buddhas. Bamiyan is a poor, isolated place. The 130-mile drive to Kabul over unpaved roads is a bone-jarring 81/2-hour journey. The people here are predominantly Hazaras, a long-oppressed ethnic minority group. They are probable descendants of Genghis Khan's Mongol armies, which swept through in the 12th century. The Persian-speaking Hazaras are moderate Shiite Muslims in this majority Sunni country.

The Pashto-speaking Sunni Taliban hated them. When the Taliban overran the province in the late 1990s, they slaughtered hundreds of Hazaras. Nurse Rezai remembers how she had to slide into bed and pretend to be a patient whenever Taliban members came to inspect the hospital where she worked. With women banned from work and girls from school, "I thought women in Afghanistan had lost everything," she says.

Now she is delighted to have so many female candidates to choose from. "They will work for women's rights," she says. And she is overjoyed to have Sarabi running the province. "She is the pride of all Afghans, not just women," Rezai says.

A decade ago, Sarabi was a pharmacist living comfortably in Kabul. Her political days as a Kabul University student leader organizing demonstrations against the Soviet occupation in the early 1980s seemed far behind her. She was a mother of three when the Taliban took over Afghanistan. Sarabi fled with her children to Peshawar, Pakistan. Her husband stayed behind to care for his aging father and their property.

In Peshawar, Sarabi found a job training teachers to work in squalid Afghan refugee camps. Eventually, she founded an aid group that ran clandestine girls schools inside Taliban-occupied Afghanistan. Four or five times, she sneaked into the country.

When the Taliban fell in late 2001, she came home. President Karzai named her minister for women's affairs in 2002. He sent her to Bamiyan as governor six months ago. She is Hazara, though she is from Ghazni province, southeast of here.

Sarabi's job is overwhelming. Bamiyan needs so much — roads, schools, clinics, clean water — and has no money to pay for it. She is reduced to begging for cash from the central government and from aid agencies whose "bureaucracy is worse than our bureaucracy." She also must contend with "dozens" of provincial warlords such as the one holding up the irrigation project.

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She says another warlord is blocking a health clinic a day's drive from Bamiyan town. When the election is over, Sarabi plans to dispatch the police to deal with him. Still, she describes her management style as motherly: listening patiently, seeking consensus, cracking heads only when she has to. It's made her popular. "We don't want a boss," says driver Mohammed Hassan, 29. "We want someone to serve the people. She is doing a good job."

"About the only complaint I've heard about her," election officer Gezim Kiseri says, "is that she's put on a little weight since she took office."

Afghans Helped Bin Laden Flee Country, Official Says (LAT/REU)

By From Reuters

The Los Angeles Times, September 15, 2005

KABUL, Afghanistan — Osama bin Laden was given safe passage to Pakistan in 2001 by Afghan commanders paid by Al Qaeda and sympathetic to the terrorist network's cause, a senior Afghan official said Wednesday.

Lutfullah Mashal, a spokesman for the Interior Ministry, said commanders had helped the Al Qaeda leader escape from the Tora Bora mountains near the Pakistani border as U.S. warplanes and Afghan forces attacked his hide-out in late 2001.

"The help was provided because of monetary aid availed by Al Qaeda and also partly because of ideological issues," Mashal said.

"Osama, along with other Al Qaeda people, managed to go to Parachinar at the time, and then Pakistani forces battled the Al Qaeda runaways, killing around 70 of them," he said, referring to an area in Pakistan's Kurram tribal region.

He said commanders loyal to Maulvi Yunus Khalis had helped Bin Laden escape. The whereabouts of Khalis, a top mujahedin leader in the war against the Soviet occupation of Afghanistan, are unknown.

Mashal told private Pakistani television channel Geo on Tuesday that U.S. forces had made a mistake in entrusting the capture of Bin Laden to Afghan commanders.

Mashal said that he was present in the Tora Bora mountains during the December 2001 operation and that although U.S. forces were not there in uniform, Green Berets were present in plainclothes.

While 800 to 900 Arabs fled Tora Bora for Pakistan's Khyber tribal region, he said, senior Al Qaeda leaders trekked to Parachinar with the help of some Sulemankheil tribal elders.

Mashal said Bin Laden later recrossed the border to Khowst, where the leader of the Taliban there gave him refuge. He then returned to Pakistan, this time heading for Miranshah, the main town in another tribal area, North Waziristan.

U.S. officials have said Bin Laden, who has evaded a U.S.-led manhunt since the Sept. 11, attacks, is probably still hiding in the rugged mountains between Pakistan and Afghanistan.

CORPORATE SCANDALS:

Merrill Lynch Changes How It Forecasts Earnings Stock Options To Be Included (USAT/REU)

By Jonathan Stempel, Reuters

USA Today, September 15, 2005

NEW YORK — Merrill Lynch on Wednesday said it will require all U.S. equity research analysts to include options and other stock-based compensation in their earnings forecasts for U.S. companies.

The changes by the largest U.S. full-service brokerage, which covers more than 1,000 U.S. companies in 50 industries, are intended to reflect a controversial new accounting rule. That rule requires public companies in fiscal years beginning after June 15 to treat stock options as routine business expenses, such as salaries.

"Merrill is anticipating there may be very large changes in earnings per share for many companies," says April Klein, an associate professor in accounting at New York University's Stern School of Business. "Not only do I expect other Wall Street brokerages to follow, but I expect them at least for a while to be restating some companies' old financial results."

Many technology companies, including Cisco Systems, opposed the new rule, fearing it might increase operating costs and reduce profits.

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But the Financial Accounting Standards Board and Securities and Exchange Commission backed the change, and companies such as Wal-Mart began implementing it before the deadline. Meanwhile, some companies, including Microsoft, have stopped granting stock options.

Merrill will require its analysts to incorporate options and other stock-based compensation into their earnings forecasts for quarters ending after Sept. 30.

"This is a move in the right direction," says Charles Mulford, an accounting professor at the Georgia Institute of Technology in Atlanta.

About 90% of the 250 largest U.S. companies now offer stock options, down from 99% in 2003, says compensation consultant Frederic W. Cook & Co.

"It is important to show compensation included in income statements so that investors can make apples-to-apples comparisons of companies' earnings," says Steve Tighe, Merrill's head of Americas equity research.

Marsh Ex-Executives Are Expected To Be Indicted On Fraud Charges (WSJ)

By Ian Mcdonald

The Wall Street Journal, September 15, 2005

As many as eight former Marsh Inc. executives are expected to be indicted on criminal-fraud charges Thursday, according to two people close to the situation.

As reported last month in The Wall Street Journal, a grand jury impaneled in Manhattan has been weighing criminal charges against the former executives. The probe is an outgrowth of a fraud investigation last year by New York Attorney General Eliot Spitzer that resulted in a $850 million settlement by Marsh & McLennan Cos. of bid-rigging charges early this year. Marsh Inc. is the New York company's insurance-brokerage unit.

In settling, Marsh apologized to clients for the "shameful" conduct of some employees who "unlawfully deceived their customers."

Mr. Spitzer is expected to unseal indictments charging the former Marsh employees with scheming to defraud, according to the two people, barring any last-minute guilty-pleas hammered out with prosecutors. A spokesman for Mr. Spitzer declined to comment.

In the civil suit settled by Marsh, state authorities alleged that some Marsh brokers cheated institutional clients by rigging bids for large insurance contracts and steering business to insurers who paid Marsh large commission payments. All told, more than 15 insurance managers and executives have pleaded guilty to criminal charges stemming from the probe, including other former Marsh brokers and former employees of large insurers American International Group Inc.; Zurich American Insurance Co., a unit of Zurich Financial Services AG; and ACE Ltd.

Mr. Spitzer built his case against former Marsh executives by gathering evidence from some of those who pleaded guilty and pledged to cooperate in the investigation.

In recent weeks, Mr. Spitzer's office instructed attorneys for the eight individuals that their clients should be available to surrender to authorities in New York with 24 hours notice from Sept. 7 to Sept. 21. A spokesman for the company declined to comment.

The individuals will likely surrender themselves at Manhattan police precincts early Thursday and then be arraigned. Prosecutors threatened organized-crime charges in recent weeks, but it isn't clear whether any of the former Marsh executives will face those charges.

At least two of the former Marsh executives facing potential criminal charges aren't negotiating with authorities, according to three people close to the matter. William Gilman, a former top Marsh insurance broker profiled in a Page One story5 in The Wall Street Journal last year, has long been a focus of Mr. Spitzer's probe. Mr. Spitzer's suit against Marsh alleged the bid-rigging scheme was "strictly enforced by Marsh through William Gilman." Mr. Gilman's attorney didn't return a call for comment.

The second is former Marsh executive Joseph Peiser. "I have not seen the charges, but Joe Peiser was a loyal Marsh employee who did not do anything wrong," said his attorney, Jerry Bernstein of Blank Rome LLP.

Ex-NYSE Regulator Testifies To SEC Call On Email Policies (WSJ/DJN)

By Siobhan Hughes, Dow Jones Newswires

The Wall Street Journal, September 15, 2005

The Securities and Exchange Commission asked the New York Stock Exchange in 2001 to drop enforcement cases against a dozen Wall Street firms whose email retention and storage policies were deficient, according to a former NYSE regulator.

Annette Nazareth, then-director of the SEC's market regulation and now an SEC commissioner, called the NYSE in the spring of 2001 and asked that the exchange's regulatory arm stop reporting email-retention violations to the NYSE's enforcement division and withdraw referrals that had already been made, according to testimony by Salvatore Pallante, former NYSE executive vice president for member-firm regulation.

At the time, the SEC was in discussions with Wall Street over changes to its email rules, which the industry had criticized as being too broad. Because of those discussions, Ms. Nazareth believed it would be "unreasonable" to bring enforcement actions, according to Mr. Pallante's testimony.

Mr. Pallante testified on behalf of Raymond James Financial Services Inc., which is fighting civil fraud charges filed by the SEC last year. The SEC sued Raymond James for failing to supervise a broker who allegedly bilked investors out of millions of dollars and also accused the firm of failing to fully preserve email records. The testimony was available through the SEC's public records office.

SEC Chief Administrative Law Judge Brenda Murray is set to make a decision in the matter by today. Raymond James is using Mr. Pallante's testimony to bolster its case, arguing that the SEC had planned to change its own rules.

Lori Richards, director of the SEC's office of compliance, inspections and examinations, told Mr. Pallante that she agreed with Ms. Nazareth's approach, Mr. Pallante said. As a result, he said, the NYSE dropped cases it had developed against about 12 member firms. In an interview, Ed Kwalwasser, the NYSE's vice president of regulation in 2001, confirmed Mr. Pallante's account.

Mr. Pallante didn't return a phone call, and NYSE spokesman Brendan Intindola declined to comment. A call to Ms. Richards's office was referred to the SEC press office. Both Ms. Nazareth and SEC spokesman John Heine declined to comment.

The SEC hasn't contested Mr. Pallante's account. In a brief responding to his testimony, the SEC said the commission didn't engage in misconduct, adding SEC staff opinions aren't the same as the views of the five-member commission. The SEC also argued that its rule is clear.

The SEC requires brokerage firms to keep email messages for three years, with the two most recent years' worth in an easily accessible place. Wall Street has long complained about the regulation, saying it is too broad, strains the limits of storage technology, and could apply even to personal emails, such as messages between brokers or analysts making dinner plans.

The email requirement was first spelled out in a February 1997 SEC release. By 2000, the SEC was in closed-door discussions with Wall Street firms about narrowing the regulation. The discussions were still going on by 2001 when Ms. Nazareth made her phone call, according to Mr. Pallante's testimony.

Some securities lawyers defended Ms. Nazareth's approach, saying the SEC was trying to respond to complaints about the 1997 mandate at a time when it seemed Wall Street was negotiating in good faith.

On the other hand, investor advocates question why the SEC would have considered accommodating the wishes of the brokerage industry in the first place.

"Who in their right mind decides we're going to lighten up on record-retention policies for the new, emerging, primary way people communicate in the market?" said Barbara Roper, director of investor protection for the Consumer Federation of America. "What genius came up with that idea?"

Credit Derivatives And Their Risks Are On The Table (WSJ)

By Henny Sender

The Wall Street Journal, September 15, 2005

The New York Federal Reserve Bank is gathering the big Wall Street players today. The topic: rising concerns about risk in what is known as the credit-derivatives markets.

The talks come amid frustration about the failure of the structure of the market to keep pace with the explosive growth in the trading of these complex securities.

"People have the best intentions, but there are resource issues," says Donna Parisi, head of the derivatives practice at the law firm of Shearman & Sterling. Credit derivatives, which allow investors to take positions on the risk of default of both companies and countries, have been one of the most rapidly growing financial products on Wall Street.

Infrastructure issues that have bedeviled the market involve processing and settling trades, or what some experts such as Thomas Russo, vice chairman of Lehman Brothers Holdings Inc., refer to as the "plumbing of the market." Such descriptions sound boring and technical. But the credit-derivatives arena has become increasingly important in terms of managing investment risk, which means regulators are eager to ensure that these complex and often opaque markets operate smoothly.

Thus far, their proddings have largely gone unheeded, leading to the unusual summit at the New York Fed.

The love-hate relationship between Wall Street firms and their hedge-fund clients has grown more acrimonious when it comes to credit derivatives. Hedge funds claim that Wall Street firms are reluctant to move to more efficient electronic trading and processing systems, because such a move would crimp the Street's margins. The dealers in turn say that hedge funds have been reluctant to invest sufficient funds in their back offices, and that it is the hedge funds, not Wall Street firms, that are the problem.

In any case, the result is stacks of paper at both hedge funds and at Wall Street firms. And the paper load is growing, as the labor-intensive review of documents and agreements confirming trades falls increasingly behind the growing volume of new trades.

"The burden gets bigger and bigger," says Robert Pickel, head of the International Swaps & Derivatives Association. ISDA provides master agreements for trades in the credit-derivatives market, but there is often a lot of debate about basic definitions of the trades, especially on what constitutes a default. The agreements "are only a partially completed canvas," adds Mr. Pickel.

The spotty record of confirmations can become a risk-management issue in times of turbulence. Such conditions occurred in May, when the gap between safer Treasurys and less-safe corporate bonds widened sharply. The trading turmoil that month has prompted several reviews of the market, with regulators trying to get a stronger handle on how best to ensure smoothness in the credit-derivatives market.

Valuations are another issue of contention. Since credit derivatives can be illiquid, hedge funds can garner a wide range of estimates on what a given position might be worth. Indeed, two different areas within a single investment bank have been known to give widely differing quotes on a given credit derivative, hedge-fund managers say. Who gets to say what a position is worth in times of volatility is an even more troubling issue, especially since it is such a critical element in assessing hedge-fund performance and the risk exposure of firms dealing with the hedge fund.

The Fed is also tackling the related, highly arcane issue of assignment. Hedge funds sometimes move out of trades -- "assign" them -- without telling the bank that sold them the credit-derivative contract. This practice makes it harder for other market participants to know whether their positions are properly hedged.

While the purpose of the meeting is simply "to discuss how best to address a range of important issues," according to the letter sent to 14 industry participants and a variety of international regulators, there is always the implicit threat of regulatory action.

"When things get relegated to the support areas, they sometimes often do not get the attention they deserve," says Mr. Russo, who was part of a private-sector group led by former New York Fed Chief Gerald Corrigan that looked at such risk issues. "Meetings such as those sponsored by the New York Fed are sometimes necessary to shine a light on a problem, mobilize people and bring about positive action."

Greenspan Issues Another Warning On Fannie, Freddie (WSJ)

By John D. McKinnon And Dawn Kopecki

The Wall Street Journal, September 15, 2005

WASHINGTON -- Federal Reserve Chairman Alan Greenspan, in his strongest warning yet, said in a recent letter that Wall Street investment firms eventually could be incapable of hedging all the financial risk posed by mortgage giants Fannie Mae and Freddie Mac, if Congress doesn't impose meaningful limits on them.

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"As Fannie and Freddie increase in size relative to the counterparties for their hedging transactions, the ability of these [companies] to quickly correct the inevitable misjudgments inherent in their complex hedging strategies becomes more difficult," Mr. Greenspan wrote in the letter1, dated Sept. 2, to Sen. Robert Bennett (R., Utah), and reviewed by The Wall Street Journal.

Mr. Greenspan's letter concludes: "In the case of [Fannie Mae and Freddie Mac], excessive caution in reducing their portfolios could prove to be destabilizing to our financial system as a whole and in the end could seriously diminish the availability of home mortgage funds."

Legislation to impose a range of new controls over the congressionally chartered companies, known as government-sponsored enterprises, or GSEs, has been stalled in the House, in part over Mr. Greenspan's concerns that it doesn't go far enough in curbing the growth of the companies' mortgage portfolios.

Many conservatives, who see Fannie and Freddie as a form of government intrusion, also worry that another provision of the bill would strengthen the companies' already substantial political clout on Capitol Hill, by substantially raising the amount of money they dedicate to affordable-housing programs around the country.

The two companies borrow money to buy home mortgages. They either hold the mortgages in their own portfolios or sell them to other investors. Because they can borrow almost as cheaply as the federal government itself, critics worry that there are no effective curbs on their potential growth, and particularly the growth of their portfolios. That is a potential concern because their portfolios of mortgages make the companies extremely vulnerable to interest-rate swings.

The companies try to hedge that risk through complicated strategies involving derivative investments such as interest-rate swaps. But Mr. Greenspan and some others worry that as the companies and their portfolios grow, they could overwhelm the ability of Wall Street banks to act as the counterparties. Already, market participants have reported occasional shocks when sudden zigzags in interest rates have brought the companies -- along with other mortgage-market players -- into the swaps market suddenly.

Freddie Mac said Mr. Greenspan's comments were consistent with prior statements he has made. The company also sought to play down concerns about systemic risk posed by its portfolio investments. "Our portfolio is very conservatively managed and tightly regulated," said Freddie spokesman David Palombi, pointing to the elaborate tests that federal officials run to measure its safety. He also suggested that the markets themselves would prevent untoward growth of the companies, and warned that "arbitrarily limiting our retained portfolio would decrease over time the availability of the long-term, fixed-rate, prepayable mortgage."

Fannie declined to comment. Both companies have warned investors that the legislation could materially hurt their profits and affect their ability to promote affordable housing.

While holdings of mortgages and related securities by Fannie and Freddie have soared during the past 15 years, so far this year their combined holdings have declined. At the end of July, the combined total came to about $1.449 trillion, down 7% from the end of 2004. That is partly because Fannie has been shrinking its holdings to meet stiffer capital requirements imposed by the company's regulator in the wake of an accounting scandal.

But critics worry that if the current wave of scrutiny passes without strong new legislative curbs, the companies will be free to start growing again. That concern led Mr. Greenspan to warn earlier this year that passing the House bill would be worse than doing nothing.

Yesterday, the chief proponents of the House legislation sought to improve chances for their bill by amending it to steer more of the companies' profits into affordable housing in the stricken Gulf Coast region. One of the leaders of the effort is Rep. Richard Baker, a Louisiana Republican who represents the Baton Rouge area.

Another proponent, House Financial Services Chairman Michael Oxley (R., Ohio), said the bill is expected to come to a floor vote next week. Still, it isn't clear that the changes will be enough to overcome objections to the House measure among conservative critics.

CRIMINAL LAW:

House Gets Tough On Pedophile Offenders (USAT)

USA Today, September 15, 2005

Sex offenders who abuse children would be subject to stringent monitoring requirements and face new mandatory penalties under legislation the House passed Wednesday, 371-52. The bill would create a national website on pedophile sex offenders and stipulate that sex felons face up to 20-year sentences for not complying with registration requirements.

"We track library books better than we do sexual predators," said Rep. Mark Foley, R-Fla. Rep. Bobby Scott, D-Va., criticized the bill because released offenders who face harassment or job discrimination "may just go underground and not bother to register again." The House approved an amendment to expand federal hate-crime laws to include some crimes involving sexual orientation, gender and disability. The vote was 223-199. The House had failed to pass similar legislation in the past. Joe Solmonese, president of the Human Rights Campaign, the nation's largest gay rights group, said it was an "incredibly historic vote" that could give momentum to similar action in the Senate.

Ex-panel members reject Atta allegation

Former members of the 9/11 Commission dismissed assertions that a Pentagon intelligence unit identified lead hijacker Mohamed Atta as a member of al-Qaeda long before the 2001 attacks. Army Lt. Col. Anthony Shaffer and Navy Capt. Scott Phillpott have said a classified military intelligence unit known as "Able Danger" identified Atta before the attacks. Shaffer has said three other hijackers were also identified.

The commission's former chairman, Thomas Kean, said the recollections of the intelligence officers couldn't be verified by any document. Slade Gorton, a former commissioner, said, "It just didn't happen, and that's the conclusion of all 10 of us."

Rep. Curt Weldon, R-Pa., has accused the commission of ignoring the intelligence about Atta. Weldon spokesman John Tomaszewski said no commissioner has met with anyone from Able Danger, "yet they choose to speak with some form of certainty without firsthand knowledge."

Uranium waste to be moved from river

The Energy Department cleared the way for nearly 12 million tons of radioactive waste in Utah to be moved from the banks of the Colorado River, which provides drinking water for more than 25 million people across the West. The 94-foot-tall pile of uranium tailings — radioactive material left over from uranium mining — will be moved by rail from Moab, Utah, to Crescent Junction, more than 30 miles from the river.

Energy Secretary Samuel Bodman signed the decision, which was announced earlier this year. Federal studies in the 1990s found that an underground plume of pollutants — 1 mile wide and 40 feet deep — reaches from the site to the river.

House Favors Expanding Hate Crime Law To Protect Gays (WP/AP)

By Associated Press

The Washington Post, September 15, 2005

Sex offenders who prey on children would be subject to stringent monitoring requirements and face new mandatory penalties under a bill, passed by the House, that was expanded to include protections for gay men and lesbians under federal hate crime law.

The House voted 371 to 52 yesterday in favor of the Children's Safety Act, which, among its many provisions, creates a national Web site for child sex offenders and stipulates that sex felons face up to 20 years in prison for failing to comply with registration requirements.

Unexpectedly, the House voted 223 to 199 in favor of an amendment by Rep. John Conyers Jr. (D-Mich.) that expands current hate crime law to include some crimes involving sexual orientation, gender and disability. Under current law, the federal government assists local and state authorities prosecuting limited types of crimes based on the victim's race, religion or ethnic background.

The House has been the chief obstacle in numerous previous attempts to expand hate crimes law, and Joe Solmonese, president of the Human Rights Campaign, the nation's largest gay rights group, said it was an "incredibly historic vote" that could give momentum to similar action in the Senate.

The sex offender bill, which also requires felony offenders to register for life and authorizes the death penalty for sex crimes resulting in the killing of a child, responds to what House Judiciary Committee Chairman F. James Sensenbrenner Jr. (R-Wis.),

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said was a "national crisis" in child sex offenses. He said that of about 550,000 convicted sex offenders in the nation, the whereabouts of 100,000 are unknown.

Sensenbrenner said the legislation would get favorable treatment in the Senate. The White House expressed support, saying that even though sex crimes against children have declined significantly in recent years, more needs to be done. It noted that the legislation codified the online National Sex Offender Public Registry that the Justice Department launched earlier this year.

The legislation brings together parts of numerous proposals to protect children from sex offenders.

House GOP Derails Democratic Inquiries (NSDY/AP)

By Liz Sidoti, Associated Press Writer

Long Island Newsday, September 15, 2005

WASHINGTON -- House Republicans derailed Democratic attempts on Wednesday to force the Bush administration to surrender documents on prewar intelligence and the disclosure of the identity of a CIA operative.

Democrats have introduced several "resolutions of inquiry" to compel President Bush and members of his Cabinet to release all information relating to communications with British officials before the U.S.-led invasion of Iraq and the Valerie Plame case.

The White House has taken heat since the disclosure this year of the "Downing Street memos," British documents that suggest the Bush administration had made up its mind by 2002 to invade Iraq. Administration officials also have been interviewed by a special prosecutor in his quest to determine who leaked Plame's covert identity to reporters.

Largely along party lines, the House International Relations Committee unfavorably reported two of the resolutions on Iraq and one resolution on the Plame matter. Earlier, the House Judiciary Committee "unfavorably" reported a similar Plame resolution.

Under House rules, the committees had to act on the resolutions within 14 legislative days of the resolutions' introduction. If not, sponsors could have forced the measures before the full House for a vote.

But the votes Wednesday against the measures all but prevented them from ever being taken up by the House.

Other Democratic-sponsored resolutions on both matters are in different committees. Those resolutions will be considered in the next few weeks; the outcome is expected to be the same.

Republican leaders want to avoid the spectacle of either issue being debated on the House floor amid some fear that the measures could succeed if enough Republicans side with minority Democrats.

House Republicans Block Bid For CIA Leak Data (REU)

Reuters, September 15, 2005

WASHINGTON (Reuters) - Two U.S. congressional committees on Wednesday rejected Democrat-backed resolutions that would have compelled the Bush administration to turn over records relating to the outing of CIA operative Valerie Plame.

Republicans on the House Judiciary Committee and International Relations Committee, who opposed the resolution, said Congress should await the outcome of a federal investigation by special counsel Patrick Fitzgerald.

Democrats countered that Republicans were trying to protect President George W. Bush and his top political adviser, Karl Rove. "We know that this is a political decision because there is potential embarrassment to the administration," said Massachusetts Democratic Rep. William Delahunt.

The resolutions, rejected in committee votes along party lines, sought to force the departments of Justice and State to turn over all documents related to Plame.

Lawyers close to the Plame investigation say there are signs that the 20-month-long inquiry could be wrapped up within weeks. The outcome could have major political implications for Bush, whose approval ratings are already the lowest of his presidency.

Plame's husband, former diplomat Joseph Wilson, said the leak was meant to discredit him for criticizing Bush's Iraq policy in 2003 after a CIA-funded trip to investigate whether Niger helped supply nuclear materials to Baghdad.

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A reporter for Time magazine said the first person to tell him about Plame was Rove. Rove's attorney says Rove did nothing wrong and has been repeatedly assured he is not a target of Fitzgerald's investigation.

Democrats have urged Bush to fire Rove or revoke his access to classified information. It is against the law in some cases to knowingly reveal the identity of an undercover CIA officer.

Editorial: Fence Off Internet Porn (USAT)

USA Today, September 15, 2005

The Internet has transformed the pornography business. In little more than a decade, online "adult entertainment" has become a booming multibillion dollar industry, enabled by the World Wide Web's easy, impersonal accessibility.

Avoiding or blocking the X-rated onslaught can be nearly impossible. Internet content moves with no respect for borders and at such slippery speed that tracking it is like trying to grab hold of mercury. Innocuous-looking e-mail titled, say, "Here's the offer you requested" can link to pornography generated in the Ukraine. Much of what's out there makes the "adult content" of the past look quaint.

For those who want porn, that may be fine. But for others, it can be deeply offensive. And for children, it can be damaging.

A blanket ban is not a useful option because foreign sites are beyond the reach of U.S. law, which is why one fresh approach deserves encouragement.

It's a proposal for a virtual red-light district in the form of a new Internet domain. Instead of .com or one of the other familiar Web address suffixes, porn would have .xxx. People would know what they're getting. Parents could more easily filter it out.

The idea is no cure-all. For one, it would be voluntary. Critics point out, correctly, that pornographers could still keep their .com addresses, and many probably would. Nor would it stop those deceptive e-mails. But that's not the point.

Its value is as an experiment, particularly for protecting children. Why not?

Parents need all the help they can get in protecting their kids' experience online. They have a variety of constantly improving filters and other tools. Internet service providers, vying for customers, have made it a priority to give parents levels of screening and ways to report offensive e-mail. An .xxx address is one more kind of filter.

Nobody can predict for sure just how it would affect the industry, but there's some cause to believe the impact would be helpful. Purveyors signing up for .xxx would be required to pledge responsible business practices, including no pushing to minors. Financial institutions, now leery of them, might provide an incentive for better behavior.

The adult entertainment industry has already been sensitive to pressure to protect children. It has taken steps — under pressure from Congress, which wants to tax adult entertainment sites — to voluntarily avoid pushing content to children.

But the .xxx idea is running into opposition. Some critics say it would encourage online porn. Hello? Do they have computers?

Other opponents fear that the new domain would legitimize porn. Their protests — including more than 6,000 letters, many part of a campaign by the conservative Family Research Council — forced a delay in implementing .xxx. The regulatory board, the Internet Corporation for Assigned Names and Numbers, is to meet today on the issue.

The board shouldn't bow to the pressure. Internet porn is big business driven by big demand. It can't be eradicated. But trying to improve the protections for parents is a good idea — including a .xxx domain experiment.

Op-ed: .xxx Would Legitimize Porn (USAT)

By Patrick Trueman

USA Today, September 15, 2005

It was Churchill who observed, "There is nothing so exhilarating as to be shot at, without result!" And this must be the sentiment of pornographers. For years there has been near unanimous condemnation of the notion that they should be rewarded with even more space on the Internet. Yet, the Internet Corporation for Assigned Names and Numbers (ICANN), the Internet's governing agency, is moving ahead on this seductive idea.

Most who advocate for a .xxx domain for porn sites say children would be the chief beneficiaries because filtering pornography would become a simple matter — just block .xxx sites. That assumes that pornographers would give up their .com sites, the cash cow of the porn industry, and move to .xxx.

Pornographers may be sleazy, but that hasn't affected their sound business sense. They have been making millions on the .com domain since long before Michael Dell sold his first computer over the Internet, and they would keep all their current .com locations.

Nor would they be evicted. Indeed, any law attempting to force all pornographers to relocate to .xxx would likely be challenged in court. Although it is a myth that all pornography is protected by the First Amendment, the U.S. Supreme Court has said that it is "presumptively protected" unless and until it is ruled obscenity or child porn in a court.

ICANN does not pretend that the .xxx domain would clean up the .com domain, and the agency has no enforcement powers to make this happen. Pornographers would simply expand to .xxx, thus perhaps doubling the number of porn sites and doubling their menace to society. Thus the argument that .xxx would benefit children is without any basis in fact.

Furthermore, creating a designated domain for pornography would simply have the effect of legitimizing much material that is likely illegal. Selling hard-core pornography on the Internet is a violation of federal obscenity law no matter where it is located. A relatively small number of U.S. pornographers own the vast majority of Web sites selling illegal material. That is why the Family Research Council supports the efforts of Attorney General Alberto Gonzales to establish an obscenity prosecution task force to prosecute violators of the obscenity law — rather than making them masters of a new domain.

Patrick Trueman is senior legal counsel at the conservative Family Research Council.

Texas Executes Woman Who Killed Three Family Members (NYT)

By Steve Barnes

The New York Times, September 15, 2005

Frances Newton, convicted of murdering her husband and their two children in 1987, was executed last night in Huntsville, Tex.

The Supreme Court declined to review Ms. Newton's case earlier, and Gov. Rick Perry declined to intervene.

The Texas Board of Pardons and Paroles unanimously refused on Monday to recommend that Mr. Perry, a Republican, commute her sentence to life in prison.

Ms. Newton, 40, was the third woman put to death in Texas since capital punishment resumed in 1982.

Commissioner Seeks FBI Probe (CINE)

By Janice Morse, Enquirer staff writer

The Cincinnati Enquirer, September 15, 2005

HAMILTON - Butler County Commissioner Chuck Furmon on Wednesday asked the FBI in Cincinnati to investigate a multimillion-dollar equipment lease that included the county's name without the commissioners' approval.

FBI spokesman Michael Brooks confirmed that Furmon contacted the office. "We'll look into the information that he provided and see if an investigation should be opened," Brooks said, declining further comment.

Dynus Technologies, a company formerly known as CBS Technologies, is a party to the disputed contract involving the lease of at least $5.3 million in telecommunications equipment used to transmit data via fiber-optic lines.

The lease was signed before Dynus and Butler County commissioners finalized a contract in which Dynus is supposed to sign up customers for the county's fiber-optic loop. Furmon is urging his fellow commissioners to terminate that contract in the wake of the lease-agreement controversy. He says commissioners found out about the county's name being included on the lease only "by happenstance," after an invoice for a $99,000 lease payment showed up unexpectedly at the County Auditor's Office on Aug. 31.

"We do not understand Commissioner Furmon's motivations in calling for an FBI investigation," said Dynus spokesman Tom Rowe. "Based upon what we've looked into thus far, we haven't seen anything that would appear to warrant that type of action or an FBI investigation."

Rowe said Dynus executives have talked with other county officials to try to clear up the concerns numerous times during the past two weeks, but Furmon has excluded himself from the meetings.

Furmon said he no longer trusts the company after he learned that a Dynus executive had used the county's name in the equipment lease without the knowledge of the commissioners.

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But Rowe says: "At the time that all these agreements and the documents were executed, everyone thought they had authority to execute those agreements."

Rowe said Dynus intends to continue working with the other county officials.

"This is a muddy situation with a lot of issues," Rowe said. "As a company, we are feverishly working to resolve all of those to everyone's satisfaction, including Butler County, because frankly I don't think anyone benefits with the situation escalating beyond what it already has."

Furmon says he's looking out for county taxpayers' interests.

" It's like someone using your credit card without permission. It seems to be pretty clear-cut to me. This company has taken out a loan for millions of dollars and we didn't authorize it," he said.

Furmon said he did feel somewhat reassured that the County Prosecutor's Office issued a written opinion stating that County Auditor Kay Rogers lacked legal authority to designate anyone as an "agent" of the county and that a lease signed by Jim Smith, a Dynus executive, could not be enforceable, although Rogers had signed some documents that appeared to grant Smith certain privileges.

Mass. GOP Official Resigns After Charges (WP/AP)

The Associated Press

The Washington Post, September 15, 2005

BOSTON, Mass. -- The vice chairman of the state Republican Party resigned after a federal sting led to money-laundering charges accusing him of offering to "cleanse" drug proceeds for a legal client.

Lawrence Novak, an attorney, was arrested at his home Tuesday after investigators said he allegedly offered to launder drug profits for Scott Holyoke. Novak resigned his party position on Tuesday after his release on bond.

Holyoke is awaiting trial on federal drug trafficking charges and agreed to be a cooperating witness against Novak for the FBI.

Novak allegedly offered to have Holyoke sign false affidavits in an attempt to gain a reduced sentence for Holyoke. Holyoke told Novak that he had more than $100,000 in cash in a safe deposit box, repeatedly telling Novak that the money was drug proceeds, according to an affidavit filed by Lauren Youngquist, an Internal Revenue Service agent.

Novak allegedly told Holyoke that he would take about $60,000 of the money as a legal fee and offered to "clean" or "cleanse" the remainder of the cash, the affidavit said. According to the arrest affidavit, after Novak made the offer to launder Holyoke's drug proceeds, the IRS and FBI introduced an undercover IRS special agent who posed as Holyoke's aunt.

Novak, 54, was taken into custody after allegedly depositing money in a Brockton bank, federal authorities said.

"I think that it's an unfortunate incident. It's something that's happened in his private life, and the party has responded appropriately," O'Brien said Wednesday.

The party's chairman, Darrell Crate, said in a statement the charges are strictly related to Novak's private business dealings and "have absolutely no connection to the Republican Party."

Novak also served at the party's treasurer in the late 1990s. Neither he nor his attorney would comment on the charges.

Novak is due back in court on Oct. 3. He faces a maximum sentence of 20 years in prison and a $250,000 fine if convicted.

State Republican Party's Embattled Vice Chairman Resigns (BOS)

By Raphael Lewis, Globe Staff

The Boston Globe, September 15, 2005

The Massachusetts Republican Party has accepted the resignation of its vice chairman, Lawrence P. Novak, after his arrest Tuesday in a money-laundering case, in which he is accused of trying to obtain his fee from a jailed client through illicit drug profits.

Party chairman Darrell W. Crate issued a statement yesterday saying Novak had offered to step down late Tuesday, hours after his arrest. Crate sought to distance himself and the Republican Party from the former vice chairman, who was elected by the party's rank-and-file committee over the objections of Crate and Governor Mitt Romney."I have never endorsed Mr. Novak's service in the party," Crate said in the statement. "The charges against him are strictly related to his private business dealings and

have absolutely no connection to the Republican Party. The Massachusetts Republican Party abides by the highest ethical standards, and we will continue to maintain those standards as we continue our work to elect Republicans in Massachusetts."

The state GOP and Romney will probably return Novak's donations from recent years, Republican Party executive director Tim O'Brien said. Novak donated $750 last year to the state Republican Party's federal campaign account and $125 to Romney during his 2002 campaign for governor.

Romney press secretary Julie Teer released a statement on the governor's behalf: "Mr. Novak's resignation was the appropriate action for him to take for the good of the Massachusetts Republican Party. Governor Romney believes his continued service would have been a distraction to the state committee's work, which is always carried out with the highest ethical standards."

Novak, a 54-year-old lawyer running for Brockton City Council on an anticrime platform, was secretly recorded arranging to hide $107,000 for his client, an alleged drug dealer, according to an affidavit. The client, Scott Holyoke, repeatedly inform ed Novak that the money was obtained through the illegal sales of methamphetamines, federal authorities allege.

Bay State Democratic Party chairman Philip W. Johnston said the Republican Party's state committee should have known that electing Novak as vice chairman would create the potential for public relations trouble.

Lawmakers Say Tough Ethics Proposal In Works (TENN)

By TRENT SEIBERT, Staff Writer

The Tennessean, September 15, 2005

Ethics legislation began to take shape yesterday as a panel of legislators unveiled proposals to prevent some of the problems revealed by the FBI's Operation Tennessee Waltz sting.

But to some, the movement toward tougher laws for lawmakers is creeping along.

At yesterday's meeting of the 12-member panel — its third — the discussion revolved not around ethics, but largely around how lawmakers can efficiently use the state's electronic filing system for disclosures of their campaign contributions.

"I guess I'm frustrated, I'll tell you that," said Sen. Ron Ramsey, R-Blountville, a member of the committee and the Senate's majority leader. "I just hope at the next committee meeting we come out with some proposed legislation."

It was only in the last few minutes of the hours-long meeting that its leaders said they had plans for tougher ethics legislation. They put off discussion of those proposals until Oct. 10.

Some of those ideas include:

• Limiting cash contributions to campaigns.

• Requiring those who make campaign donations to list their employers.

• Requiring lobbyists to disclose how much they spend to wine and dine lawmakers.

• Auditing lobbyists and campaign funds.

• Providing subpoena power to the Registry of Election Finance.

• Creating a state ethics commission to investigate complaints against lawmakers.

The roles of campaign donations and lobbyists in the political process in Tennessee have been under much public scrutiny this year after the arrests of five sitting and former lawmakers in the Tennessee Waltz bribery sting.

House Majority Leader Kim McMillan, D-Clarksville, and also a member of the committee, said she hoped to see a bill crafted in early October, sponsored by members of both parties.

"This is not a partisan issue. This is an institutional issue," McMillan said.

McMillan also said she hopes to soon have a final report from Gov. Phil Bredesen's citizen ethics panel, which is drafting its own ideas on how to tighten ethics laws.

McMillan said she hopes to have a final agreement on legislation soon after that.

Sen. Roy Herron, D-Dresden, who pushed for the creation of this joint committee, said he was not concerned that the process to create new ethics laws was a slow one. Because the laws probably would not go into effect until next year, he said, as long as something is in place by then, everything should work out.

"Doing this right is what's most important," Herron said.

FBI Raids Denver Lawyer's Office (RMN)

By John Accola, Rocky Mountain News

Rocky Mountain News, September 15, 2005

Federal agents raided the downtown offices of a Denver law firm Tuesday, seizing computers and records for evidence in an undisclosed FBI probe.

Witnesses said as many as 20 agents from the Federal Bureau of Investigation searched the 11th-floor offices of Futro & Associates PC at 1401 17th St.

Advertisement

The small law firm is headed by Denver attorney Peter Futro, who until last May was chairman of U.S. MedSys Corp., a one-time Denver company that is now the subject of a Securities and Exchange Commission investigation.

Through a privately held company he controls, Futro, 62, had an 83 percent stake in U.S. MedSys as recently as a year ago, when the over-the-counter stock went on a trading high, reaching nearly $7 a share before falling back to its more typical 40 cents to 80 cents range.

At its high point, the company had a short-lived market capitalization of $170 million. U.S. MedSys is described as a network marketing and distributing organization that provides technology and support services to the health care industry, according to Yahoo! Finance.

The stock spike has never been fully explained but appears to be related to investor speculation that MedSys, despite zero revenues, had a distribution lock on a state-of-the-art ultrasound imaging machine.

Futro, who specializes in corporate governance and securities law, wouldn't comment Wednesday on either of his roles at MedSys Corp. or Futro & Associates.

"It's a confidential client-related matter," he said of the FBI search that lasted most of Tuesday.

The law firm's swank offices at the Alamo Plaza building are listed as the former headquarters of MedSys, which relocated to New Jersey following the resignations of Futro, Chief Executive Thomas King and two other board directors, George Anagnost and Kenton Sieckman.

Also during May, it was reported that Futro's privately held Rangeley Corp. sold its majority MedSys stake to Montague Investments Inc., although Futro and the law firm retained nearly 800,000 shares.

MedSys' filings with the SEC didn't say why they resigned. It was several months earlier, in February, that the company disclosed it was the subject of a formal SEC investigation of unknown scope.

On Wednesday, Jacob Futro - a former MedSys executive and Peter Futro's son - spoke briefly with a Rocky Mountain News reporter before a security guard was summoned to escort the reporter out.

"There's a lot going on," said the junior Futro. "I wish we could talk about it."

Teamster President Claims Company Illegally Taped Talks (BRA)

By PENNY BROWN ROBERTS, Advocate staff writer

Baton Rouge Advocate, September 15, 2005

A longtime Baton Rouge Teamsters president claims the FBI illegally recorded his contract negotiations with Formosa Plastics Corp.

In new court documents filed in federal court last month, Teamsters Local 5 President Byron Keith Partin contends the FBI convinced Formosa Human Resources Manager Tim LeBlanc to record as many as eight conversations in 2001.

Partin's lawyer -- Lewis Unglesby -- argues in two separate motions that secretly recording labor contract negotiations is a violation of the National Labor Relations Act. The motions seek to have the tapes thrown out and the case dismissed.

"To allow these tapes will overturn years of carefully considered National Labor Relations Board law, and will make any labor negotiation subject to FBI oversight overnight at the secret request of either party," Unglesby writes. "While it is very doubtful the FBI knew of -- nor considered -- this law as it wired up Tim LeBlanc, Formosa surely knew."

Partin, 43, of Ethel was charged in a bill of information in November with blackmail -- a misdemeanor that carries a maximum sentence of one year and a fine of $100,000.

Federal authorities say Partin threatened to report the company for illegally discharging ethylene dicloride into the Mississippi River if it didn't pay the wages of eight union members for hours of work they missed during the negotiations.

At the time, Formosa and its workers were engaged in talks on a new three-year labor contract for 230 hourly employees.

Union workers went on strike for five days in June 2001 in a dispute about wages, overtime policies and benefits.

Unglesby also argues that Partin's attempts to get committee members paid during contract negotiations was "perfectly legal."

Partin never reported the alleged discharge, the lawyer notes, and Formosa never paid the committee members.

Unglesby also argues that Formosa used the tapes and subsequent investigation to decertify the union. Teamsters represented Formosa workers for nearly four decades, but employees voted to decertify the union in April 2004.

In their reply to Unglesby's motion to dismiss the case, prosecutors argue that Partin's threats to report the company in exchange for payment to negotiators were "unlawful."

Assistant U.S. Attorney Chad Ennis writes that Partin threatened to "reveal 'the whole story' about Formosa's release of ethylene dichloride into the Mississippi River" if the company didn't pay the eight negotiators.

"This," Ennis writes, "is a clear act of coercion under the standard definition."

Neither LeBlanc nor Plant Manager Kelly Serio returned calls to their offices Wednesday.

Fort Lauderdale Residents Face Federal Real Estate Fraud Charges (FLSUNSEN)

South Florida Sun-Sentinel, September 15, 2005

Federal authorities arrested two Fort Lauderdale residents Tuesday on more than a dozen charges involving real estate and bankruptcy fraud, the U.S. Attorney's Office said.

Edward Garnett, 62, and Shirley Akey, 69, lied on loan applications about income, assets, and tax information, a U.S. Attorney's Office news release says.

According to the release, the two racked up $1.4 million in loans, which Akey laundered through different bank accounts. Garnett also hid money and assets from a bankruptcy proceeding.

Both were arrested on one count of conspiracy, three counts of loan application fraud, two counts of mail fraud, three counts of wire fraud and three counts of money laundering. Garnett was charged with an additional count of loan application fraud, two additional counts of mail fraud and three counts of bankruptcy fraud.

Penalties for the charges could total more than 100 years in prison and $6 million in fines.

Charges Stun Family, Friends (DEN)

Detroit News, September 15, 2005

ANN ARBOR -- On Monday, three 17-year-old Pioneer High School students were worrying about keeping up their grades and where to go to college next fall.

Today, they're spending their third day in the county jail, facing a lengthy prison sentence if convicted in the Aug. 22 robbery of an Ann Arbor bank.

On Wednesday, the mothers of two of the students put their arms around each other as they watched grainy black and white closed-circuit video of their sons' brief arraignment on three felony charges. All three are charged as adults.

One is the son of an auto executive and went to Minnesota this summer to visit a music school and who plays lacrosse.

Another runs the 100-yard dash and works part time at a local restaurant, while the third does volunteer work -- including handing out apples at University of Michigan football games.

About 50 classmates packed the jail waiting room, some of them crying while they watched the proceedings.

Prosecutors contend that in the waning days of a quiet Ann Arbor summer, two of the students, Charles Spencer Heath and Brian Keith Jackson, robbed the Bank One branch on West Stadium and made off with about $19,000 -- after they had demanded $50,000 and access to the vault while brandishing a toy gun.

They apparently spent some of the money on clothes and music equipment and the alleged motive, lawyers say, was simply to get money. None of the three has any prior criminal record, and none has been in any serious disciplinary trouble at school.

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The third student, Brian Christopher White, the son of a former teacher and a Big Three auto executive, told police he allowed his friends to use his car, but didn't know they planned to rob the bank, according to a written statement he gave police. He is charged with conspiracy and bank robbery -- even though police say he didn't enter the bank Aug. 22.

White's lawyer, Daniel Geherin, offered a letter of character from Ann Arbor school board President Karen D. Cross.

"I think it's safe to say people's jaws dropped when they heard about the charges," Geherin said. "No one expected this. I think the alleged motive is pretty straightforward: to get money."

But the magistrate was not impressed.

Citing the three as a threat to the community and the seriousness of the charges, she set bond at $100,000 cash for each of them. Their parents might be required to put up their homes as collateral.

The three students will have a chance to get a reduced bond Wednesday, when they face a preliminary examination in Ann Arbor District Court. All three likely will remain in the Washtenaw County Jail until then.

Jackson's lawyer, Michael J. Vincent, said his client was scared.

"He's petrified. He's as scared as any 17-year-old sitting in the Washtenaw County Jail would be."

Heath's lawyer, Joseph Simon, noted his client had been doing much better in school this year and was getting "all A's currently."

Heath has lived in Ann Arbor for all but two years, when his parents went to the Dominican Republic to do missionary work for their church, Simon said.

Heath did a number of volunteer activities at the Free Methodist Church in Ypsilanti. One activity of his youth group is to pass out apples at U-M football games.

Simon added that if the allegations are true: "What a shame. What a waste for these kids."

Parents of the three declined to comment.

Two of the students were arrested in class Monday without incident, while the third was arrested later.

Police arrested but later released a fourth Ann Arbor man. He has not been charged in connection with the robbery.

The three said little during their court appearances. When Jackson approached the microphone in the jail, he was asked to state his name.

"Hi, I'm Brian Jackson," he said.

None of the three showed any reaction when they received the stiff bond. A bail bondsman took notes and quietly talked to each of the three families about what might be necessary to get their children out of jail.

Some students wearing Pioneer High T-shirts or hats shook their heads when the magistrate refused to set a lower bond.

"People can't believe it. I can't believe they did it. If they did do it, well they're going to have to face the music," said Owen Fly, 16, a junior at Pioneer High School, the state's largest high school with 3,000 students.

All three teenagers are considered adults under Michigan law and face up to life in prison if convicted on the armed robbery, bank robbery and conspiracy charges. Under Michigan's sentencing guidelines, a conviction on a first offense is generally not a probationary offense and calls for prison time, typically at least four or five years, lawyers for the three said.

The three also could get their driver's licenses suspended after allegedly using a car to commit a felony.

The armed robbery charge carries a mandatory minimum two-year sentence.

The FBI also investigated the case, but it's unlikely the U.S. Attorney's Office will seek to charge the three federally. That would require getting permission of the Justice Department in Washington -- a cumbersome process -- because they are younger than 18.

You can reach David Shepardson at (313) 222--2028 or dshepardson@detnews.com.

Jefferson Begins To Fight Charges (RC)

By Erin P. Billings And Lauren W. Whittington

Roll Call, September 15, 2005

Rep. William Jefferson (D-La.), under investigation by the FBI, went on the defensive Wednesday in the wake of a damaging ABC News report that the Congressman allegedly used National Guard resources to gather personal belongings from his New Orleans home amid the Hurricane Katrina rescue operation.

Jefferson is apparently gearing up for a tough legal fight. He recently retained defense attorney Robert Trout of the Washington, D.C., law firm Trout Cacheris, in addition to his New Orleans-based attorney, Michael Fawer. Trout is a former federal prosecutor. Jefferson also recently set up a legal defense fund.

Jefferson, according to sources, spoke to his colleagues at the Congressional Black Caucus meeting Wednesday. During the session, the Louisiana Democrat defended his tour of his damaged district on Sept. 2 and insisted that the ABC story that aired Tuesday night distorted the facts and misrepresented his actions.

In an interview, Melanie Rouffell, a Jefferson spokeswoman, reiterated her boss's belief that the story was unfair, noting that National Guard officials refused to let the Congressman tour the devastated area without the presence of armed guards.

She said that Jefferson was only doing his job by trying to assess the damage in his district and that he was concerned about his neighbors, whom he knew had not evacuated their homes.

"There is no story," Rouffell said. "There's no misuse of anything. If he had been able to tour the city on his own, he would have done so. And he would have preferred to."

But even as some of Jefferson's colleagues defended their friend, some Democrats wonder about the broader implications that the FBI investigation could have for their party. The Congressman had his homes in New Orleans and Washington, D.C., searched last month as part of an ongoing FBI investigation.

Authorities are investigating whether Jefferson illegally pocketed hundreds of thousands of dollars from a start-up technology firm during an FBI-authorized sting, according to published reports.

"People appreciate the seriousness of the allegations," said one CBC member, speaking on the condition of anonymity. "I don't think anyone has drawn any conclusions or is attempting to prejudge the matter."

Others, however, made it clear that they were prepared to stick by Jefferson.

"I'm going to be fully supportive of him all the way through to the ultimate disposition and beyond," said Rep. Mel Watt (D-N.C.), chairman of the CBC.

Watt praised his colleague's character and called him "an outstanding legislator and a wonderful friend."

But the CBC chairman acknowledged that in the end, the disposition of the Caucus is not politically important.

"Mr. Jefferson doesn't need my support," he said. "He is an elected representative answerable to his constituents. He's not answerable to the Congressional Black Caucus."

According to the ABC News report, Jefferson emerged from his house after about an hour with three suitcases, a laptop and a box about the size of a refrigerator.

Rouffell said that information was inaccurate and that Jefferson took two suitcases, his daughter's laptop and a box that contained another suitcase, which was to be shipped to his daughter.

"The story gives the impression that he asked the National Guard to go with him to retrieve his personal items," she said. "That was not the purpose of it."

The ABC News report and the ongoing investigation of Jefferson may have broader implications for Democrats, as they seek to capitalize on ethical improprieties by Congressional Republicans.

Democrats have sought to highlight the ethical troubles of Republicans such as House Majority Leader Tom DeLay (Texas) and House Administration Chairman Bob Ney (Ohio) as proof of a broader culture of corruption within the GOP-run Congress.

House Minority Whip Steny Hoyer (D-Md.) said he "doesn't know much about" the August searches of Jefferson's home, office and vehicle, aside from the fact that an investigation is ongoing.

But the Maryland Democrat said that "if somebody has acted unethically or committed criminal offenses, we need to hold them accountable."

"Let's see what the facts are," Hoyer said later. "But if the facts are such that there is an ethical violation or there is a criminal violation, then I think it is appropriate for the ethics committee and for perhaps the Congress to act, period, whether it is a Democrat or a Republican."

Hoyer added that the Jefferson case "raises the public's concern about the ethics and legality with which the Congress is operating, and we ought to look into that."

The National Republican Congressional Committee circulated the ABC News story to reporters Wednesday morning under the headline "In Case You Missed It."

CIVIL RIGHTS:

New Justice Unit To Probe Old Bias Cases (AP-Y2)

By Sam Hananel, Associated Press Writer

AP2, September 15, 2005

A new Justice Department office would investigate and prosecute "cold case" murders from the civil rights era, under a measure approved by the Senate on Wednesday.

The Unsolved Crimes Section would target pre-1970 homicides motivated by racial hatred that remain unsolved, often because of lax state and federal prosecution at the time they occurred.

The bill was inspired by efforts to reopen the case of Emmett Till, a 14-year old black boy who was murdered in 1955 after being accused of whistling at a white woman in Mississippi, said Sen. Jim Talent (news, bio, voting record), R-Mo., who sponsored the legislation with Sen. Christopher Dodd (news, bio, voting record), D-Conn.

"We want the murderers and their accomplices who are still living to know there's an entire section of the Department of Justice that is going after them," Talent said in a statement. "We need to unearth the truth and do justice because there cannot be healing without the truth."

The Senate voted by unanimous consent to add the measure to the massive Commerce, Justice and Science appropriations bill, expected to pass the Senate this week.

A House-passed version of the bill does not include the civil rights measure, but lawmakers will try to include it in legislation that emerges from a conference committee.

Talent and Dodd introduced the bill in June, shortly after a Mississippi court sentenced 80-year-old former Klansman Edgar Ray Killen to 60 years in jail for the slayings of three civil rights workers in 1964.

Killen was the latest in a string of elderly suspects tried and convicted for decades-old crimes committed at a time when justice was out of reach for many American blacks.

The new office has been compared to Justice Department's Office of Special Investigations, which focuses on finding and deporting former Nazis living in the United States.

The bill authorizes up to $5 million a year for the unit to investigate and try cases, working together with state and local law enforcement officials. If a crime other than murder is discovered, it would be referred to the criminal section of the Justice Department's civil rights division.

Federal Judge Rules Against Pledge (USAT)

By Richard Willing

USA Today, September 15, 2005

A federal judge in Sacramento ruled Wednesday that teacher-led recitation of the Pledge of Allegiance in public schools violates the Constitution's protection of religious freedom because the pledge refers to "one Nation under God."

The ruling, by U.S. District Judge Lawrence Karlton, revives a legal challenge to the 51-year-old version of the Pledge. The U.S. Supreme Court rejected that challenge last year. The case may be headed that way again. Derek Gaubatz, lawyer for students who want to keep the Pledge, says the decision will be appealed to the Supreme Court "if necessary … as quickly as possible."

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In June 2004, five of the Supreme Court's nine justices found that Sacramento atheist Michael Newdow did not have custody of his school-age daughter and thus could not challenge school district policy that allowed teachers to lead students in a voluntary recitation of the Pledge.

The decision enabled the high court to dodge a battle over whether the phrase "under God" carries a religious meaning that is unacceptable under the Constitution's First Amendment, which forbids government endorsement of religion. The court also avoided deciding whether reciting the Pledge in schools is a coerced religious practice.

Newdow refiled the case in January and added as plaintiffs two sets of anonymous atheist parents who also have children in Sacramento-area schools. On Wednesday, Karlton ruled that the new plaintiffs were qualified to sue although Newdow isn't.

Because the Supreme Court had rejected Newdow's challenge on procedural grounds and not on its merits, Karlton wrote, he was required to reinstate an earlier federal appeals court ruling in the case that had struck down the recitation of the pledge.

In 2003, the 9th U.S. Circuit Court of Appeals found teacher-led recitation of the Pledge to be "coercive" because it "places students in the untenable position of choosing between participating in an exercise with religious content or protesting."

That ruling, Karlton wrote, is "binding precedent" on him as a "judge of a subordinate court."

Newdow, a physician and a lawyer, said he was "very pleased" by Karlton's ruling. "The Pledge is wrong, and the (school district) government is wrong here," Newdow said.

Gaubatz said Karlton's ruling showed that he was afraid to address the heart of the matter. "Basically, he punted and let the 9th Circuit do his dirty work," said Gaubatz, litigation director for the Becket Fund for Religious Liberty, a research and legal advocacy group in Washington, D.C.

The phrase "under God" was added to the Pledge of Allegiance by Congress in 1954 after a campaign by the Knights of Columbus, a Catholic men's group. The Supreme Court has never ruled on the constitutionality of reciting the pledge in public schools and has a mixed record in other cases involving the public invocation of the deity. For instance, it has struck down prayer at school graduations but has upheld chaplain-led prayers offered at the opening of Congress.

Pledge Of Allegiance In Public Schools Ruled Unconstitutional (LAT)

By Maura Dolan

The Los Angeles Times, September 15, 2005

SAN FRANCISCO — A federal judge in Sacramento ruled today that requiring schoolchildren to recite the words "under God" in the Pledge of Allegiance is unconstitutional, reviving a legal battle by an atheist who lost his first round in the U.S. Supreme Court.

U.S. District Judge Lawrence K. Karlton said he was bound by a U.S. 9th Circuit Court of Appeals decision in the earlier lawsuit that the reference to God violated the constitution's requirement of separation of church and state.

Michael A. Newdow, the atheist who brought that case, eventually lost when the U.S. Supreme Court ruled that he did not have legal standing to sue on behalf of his grade-school daughter because he did not have primary custody of her.

Karlton, however, said Newdow's current lawsuit may go forward because parents with full custody of their children are involved in the lawsuit. Today's ruling is expected to be appealed. He said he would issue a restraining order blocking the recitation of the pledge in four Sacramento-area school districts named in the lawsuit.

A spokesman for the Elk Grove, Calif., Unified School District, one of the school districts sued, said the judge had not yet issued an order prohibiting the recitation of the pledge in the classroom.

Asked about a possible appeal, Jim Elliott, director of communications, said, "We continue to support the Pledge of Allegiance as a patriotic exercise."

Newdow could not be reached for comment.

Any order enforcing Karlton's decision would not extend beyond the Elk Grove Unified, Rio Linda and Elverta Joint Elementary school districts in Sacramento County, where the plaintiffs' children attend.

Today's ruling comes as Supreme Court nominee John G. Roberts Jr. is in his third day of his confirmation hearings before the Senate Judiciary Committee. He would succeed the late William H. Rehnquist as chief justice.

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The Becket Fund, a religious rights group that is a party to the case, said it would immediately appeal the case to the San Francisco-based U.S. 9th Circuit Court of Appeals. If the court does not change its precedent, the group would go to the Supreme Court.

"It's a way to get this issue to the Supreme Court for a final decision to be made," said fund attorney Jared Leland.

The decisions by Karlton and the 9th Circuit conflict with an August opinion by the U.S. 4th Circuit Court of Appeals in Richmond, Va. That court upheld a Virginia law requiring public schools to lead daily Pledge of Allegiance recitation, which is similar to the requirement in California.

Karlton, appointed to the Sacramento bench in 1979 by President Jimmy Carter, wrote that the case concerned "the ongoing struggle as to the role of religion in the civil life of this nation," and added that his opinion "will satisfy no one involved in that debate."

Judge Rules Pledge Of Allegiance In Calif. Schools Unconstitutional (WP)

By John Pomfret

The Washington Post, September 15, 2005

LOS ANGELES, Sept. 14 -- A federal judge ruled Wednesday that the law requiring the recitation of the Pledge of Allegiance in public schools is unconstitutional and said he was ready to issue an injunction to three California school districts to halt the daily reciting of the pledge.

Terming the case "a cause celebre in the ongoing struggle as to the role of religion in the civil life of this nation," U.S. District Judge Lawrence Karlton ruled that the pledge's reference to "one nation under God" violates children's right to be "free from a coercive requirement to affirm God."

Michael A. Newdow, the atheist resident of Sacramento whose previous case against the pledge's words "under God" was rejected last year by the Supreme Court on procedural grounds, said he will ask the judge to issue a restraining order halting the pledge at the Elk Grove Unified, Rio Linda and Elverta Joint Elementary school districts in Sacramento County. A lawyer for the districts told the Associated Press he was not prepared to comment on the case.

Newdow, speaking from his cell phone in El Paso, Tex., said he was pleased by the verdict but expects a tough legal fight ahead. "It'll be emotional when it's ruled that all Americans should be treated equally," he said. "This is a start towards that, but we still have a ways to go." He said he wants the Pledge of Allegiance restored to its original text, approved by Congress in 1942, with no mention of God.

Jared Leland, a lawyer for the Washington-based Becket Fund for Religious Liberty, which fought the case, said he had expected the verdict but that his group, which represented students and parents of students in the case, will appeal to the U.S. Court of Appeals for the 9th Circuit. In the case, Leland also represented the Knights of Columbus, which started using the revised pledge in 1951 as the Cold War heated up. The Knights lobbied Congress and the Eisenhower administration to officially change the pledge in 1954.

"The pendulum is swinging in the wrong direction in our country," Leland said. "Mike Newdow is on a train whose destination is designed to hide and undermine the role of religion in public life. We want to restore religion to the public square."

In his ruling, which he acknowledged will "satisfy no one involved" in the debate about the role of religion in public life, Karlton said he was bound by precedent from the appeals court, which in 2002 ruled in favor of Newdow that the pledge is unconstitutional when recited in public schools.

Last year, the Supreme Court dismissed the case, saying that Newdow lacked standing because he did not have custody of his elementary school daughter, on whose behalf he sued.

Newdow then filed a similar suit on behalf of three unnamed parents and their children. Karlton, ruling in Sacramento, said those families have the right to sue and, arguing that he was bowing to the 9th Circuit court's initial ruling on the pledge, ruled in their favor.

Wednesday's ruling increases the chance that the case could return to the Supreme Court because the 9th Circuit's ruling on Newdow's suit clashes with an opinion, issued in August, by the U.S. Court of Appeals for the 4th Circuit in Richmond. That

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court upheld a Virginia law requiring public schools to lead daily Pledge of Allegiance recitation, saying the pledge is a patriotic exercise, not a religious affirmation similar to a prayer.

Judge Rules Reciting Pledge In Schools Is Unconstitutional (NYT)

By Dean E. Murphy

The New York Times, September 15, 2005

SAN FRANCISCO, Sept. 14 - A federal judge in Sacramento ruled Wednesday that reciting the Pledge of Allegiance in public schools was an unconstitutional endorsement of religion, once again igniting a firestorm over the appropriateness of the pledge's reference to "under God."

The judge, Lawrence K. Karlton of Federal District Court, said that the decision would "satisfy no one involved" in the debate over "the role of religion in the civil life of this nation," but that he was bound by a ruling in 2002 by the United States Court of Appeals for the Ninth Circuit, in San Francisco.

In that ruling, the Ninth Circuit concluded the recitation of the pledge, even if noncompulsory, "impermissibly coerces a religious act" and "places students in the untenable position of choosing between participating in an exercise with religious content or protesting."

The ruling Wednesday was denounced by conservative religious groups that urged its appeal. Gov. Arnold Schwarzenegger, a Republican, issued a similar plea.

Judge Karlton's decision came in a lawsuit brought by Michael Newdow, an atheist whose daughter attends a public school in Elk Grove, a suburb of Sacramento, and two families with children in two other school districts in the Sacramento area.

Mr. Newdow lost a similar case last year when the United States Supreme Court ruled that he had no legal standing to bring the lawsuit because he did not have custody of his daughter. The justices left open the question of the pledge's constitutionality, prompting Mr. Newdow to try again with the additional plaintiffs.

Judge Karlton said that Mr. Newdow still lacked standing, but ruled that the two families, who were not identified in the lawsuit, were entitled to sue. Mr. Newdow said that he was disappointed but not surprised by the determination on his standing, but that the decision on the pledge's constitutionality would apply to all students in the three school districts.

"It will still affect my child as much as anyone else's," he said in a telephone interview from El Paso, where he was working at a hospital.

A spokesman for the Elk Grove Unified School District said teachers were notified Wednesday that they should continue leading students in the pledge because the judge's ruling did not include an injunction stopping the practice. Judge Karlton indicated that he would issue an injunction if one was requested, but Mr. Newdow said that he had not decided whether to seek one.

"I will probably do that, but I have clients now I have to talk to first," said Mr. Newdow, who is the lawyer in the case in addition to being a doctor. "Unfortunately, I haven't had a chance to read this thing yet."

At a news conference attended by officials from the three districts, Steven M. Ladd, the Elk Grove superintendent, said that no decision on an appeal had been made but that he would not be surprised if the schools challenged the ruling "so as to resolve this matter once and for all."

The Elk Grove district defended itself against the previous lawsuit by Mr. Newdow. "Our board has long supported the Pledge of Allegiance as an appropriate patriotic exercise for willing students," Mr. Ladd said. "We are disappointed that our district, as well as two other school districts listed in this complaint, need to continue to devote time, energy, and resources to defend this case. These are resources we could otherwise use on our mission of teaching and learning."

A lawyer for the Becket Fund for Religious Liberty, a religious rights group that has joined the school districts in defending the case, said there was no doubt the ruling would be appealed.

The group's lawyer, Jared N. Leland, said he would not be surprised if the issue ended up before the Supreme Court, particularly since the Court of Appeals for the Fourth Circuit last month upheld a law in Virginia that requires the recitation of the pledge in public schools. That court found that the pledge was "a patriotic activity" not a religious one.

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In the Supreme Court's ruling dismissing Mr. Newdow's previous lawsuit, the three dissenting justices indicated they would have upheld the constitutionality of "under God" had the case gone forward. The phrase was added to the pledge in 1954.

Federal Judge: Pledge Of Allegiance In Public Schools Is Unconstitutional (LAW/AP)

By David Kravets, The Associated Press

Law.com, September 15, 2005

A federal judge declared the reciting of the Pledge of Allegiance in public schools unconstitutional Wednesday in a case brought by the same atheist whose previous battle against the words "under God" was rejected by the U.S. Supreme Court on procedural grounds.

U.S. District Judge Lawrence Karlton ruled that the pledge's reference to one nation "under God" violates schoolchildren's right to be "free from a coercive requirement to affirm God."

Karlton said he was bound by precedent of the 9th U.S. Circuit Court of Appeals, which in 2002 ruled in favor of Sacramento atheist Michael Newdow that the pledge is unconstitutional when recited in public schools.

The Supreme Court dismissed the case last year, saying Newdow lacked standing because he did not have custody of his elementary school daughter he sued on behalf of.

Newdow, an attorney and a medical doctor, filed an identical case on behalf of three unnamed parents and their children. Karlton said those families have the right to sue.

Karlton, ruling in Sacramento, Calif., said he would sign a restraining order preventing the recitation of the pledge at the Elk Grove Unified, Rio Linda and Elverta Joint Elementary school districts in Sacramento County, where the plaintiffs' children attend.

The order would not extend beyond those districts unless it is affirmed by a higher court, in which case it would apply to nine western states.

The decision sets up another showdown over the pledge in schools, at a time when the makeup of the Supreme Court is in flux.

Wednesday's ruling comes as Supreme Court nominee John Roberts faces day three of his confirmation hearings before the Senate Judiciary Committee. He would succeed the late William H. Rehnquist as chief justice.

In July, Sandra Day O'Connor announced her plans to retire when a successor is confirmed.

The Becket Fund, a religious rights group that is a party to the case, said it would immediately appeal the case to the San Francisco-based 9th U.S. Circuit Court of Appeals. If the court does not change its precedent, the group would go to the Supreme Court.

"It's a way to get this issue to the Supreme Court for a final decision to be made," said fund attorney Jared Leland.

The decisions by Karlton and the 9th Circuit conflict with an August opinion by the 4th U.S. Circuit Court of Appeals in Richmond, Va. That court upheld a Virginia law requiring public schools lead daily Pledge of Allegiance recitation, which is similar to the requirement in California.

A three-judge panel of that circuit ruled that the pledge is a patriotic exercise, not a religious affirmation similar to a prayer.

"Undoubtedly, the pledge contains a religious phrase, and it is demeaning to persons of any faith to assert that the words 'under God' contain no religious significance," Judge Karen Williams wrote for the 4th Circuit. "The inclusion of those two words, however, does not alter the nature of the pledge as a patriotic activity."

Newdow, reached at his home, was not immediately prepared to comment.

Karlton, appointed to the Sacramento bench in 1979 by President Carter, wrote that the case concerned "the ongoing struggle as to the role of religion in the civil life of this nation" and added that his opinion "will satisfy no one involved in that debate."

Karlton dismissed claims that the 1954 Congressional legislation inserting the words "under God" was unconstitutional. If his ruling stands, he reasoned that the schoolchildren and their parents in the case would not be harmed by the phrase because they would no longer have to recite it at school.

Terence Cassidy, a lawyer representing the school districts, said he was reviewing the opinion and was not immediately prepared to comment.

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Pledge Unconstitutional At Public Schools, Judge Says (Update2) (BLOOM)

Bloomberg News, September 15, 2005

Sept. 14 (Bloomberg) -- A federal judge in California said the recitation of the Pledge of Allegiance in public schools is unconstitutional, in a ruling that will rekindle a debate over the use of the phrase ``under God."

Judge Lawrence Karlton in Sacramento, California, today said that a school district's policy requiring the pledge with the phrase ``under God" is unconstitutional. The case was brought by Michael Newdow, an atheist who had previously sued to challenge the use of the phrase.

The U.S. Supreme Court last year vacated a decision that said a California school district violated the Constitution's separation of church and state clause by requiring teachers to lead the pledge. The justices didn't decide whether the pledge was constitutional, instead ruling that Newdow lacked the right to bring the challenge. Newdow overcame the hurdle by including students who live in the district in today's case.

Karlton said he followed a previous ruling by the 9th U.S. Circuit Court of Appeals based in San Francisco. Newdow's claims ``are resolved because the 9th Circuit has held that the school policy mandating the pledge is unconstitutional," Karlton wrote.

Derek Gaubatz, director of litigation for the Washington- based Becket Fund for Religious Liberty, said his group would appeal today's decision. Gaubatz said he represents 10 students and their parents in the Sacramento case.

Immediate Appeal

``We object to the ruling that the pledge violates any part of the establishment clause," Gaubatz said. ``We will immediately appeal" the ruling to a federal appeals court, ``and if necessary to the Supreme Court to get that ruling reversed to secure the constitutionality of the pledge once and for all."

Newdow, a Sacramento lawyer, didn't immediately return a call seeking comment.

Today's ruling doesn't require the four Sacramento-area public school districts Newdow sued to change their practice of reciting the pledge. Karlton said he'd issue a restraining order ``upon a properly supported motion."

Karlton's ruling is likely to take on more prominence as the U.S. Senate considers the confirmation of U.S. Supreme Court Justice nominee John Roberts. The ruling was released during a hearing today in Washington.

``This is an example, in my opinion, of where judges do not protect us from having the government impose religion on us, but declare war on all things religious," Senator Lindsey Graham, a Republican from South Carolina, said during Roberts' hearing.

The school districts are the Elk Grove Unified School District, Sacramento City Unified School District, Elverta Joint Elementary School District and the Rio Linda School District.

The case is Newdow v. Congress of the United States of America, No. S-05-17, in U.S. District Court in Sacramento.

To contact the reporter on this story: Joel Rosenblatt in San Francisco at jrosenblatt@bloomberg.net Last Updated: September 14, 2005 17:07 EDT

Judge Rules Against Pledge In Schools (WT)

By Julia Duin

The Washington Times, September 15, 2005

A California federal judge yesterday ruled it is unconstitutional to require children to recite the Pledge of Allegiance in public schools.

U.S. District Judge Lawrence Karlton's ruling came in a revised lawsuit brought by Michael Newdow, an atheist whose first bid to remove the words "under God" from the pledge was rejected last year by the Supreme Court.

"The pledge is an unconstitutional violation of the children's right to be free from a coercive requirement to affirm God," Judge Karlton wrote in yesterday's decision.

Three Sacramento-area school districts were named in the retooled suit, which features a new set of plaintiffs, including the atheist parents of a seventh-grader and the divorced atheist parent of a third-grader and a kindergartner.

Judge Karlton, 70, was appointed to the court in 1979 by President Carter. The judge cited a 2003 decision by the 9th U.S. Circuit Court of Appeals "that the school districts' policies violate the establishment clause" as the reason for his decision.

A jubilant Mr. Newdow hailed the news.

"I'm excited," he said in an interview. "It's good now that the judge has agreed with me and that the Constitution was upheld. We'll see how long that lasts."

The judge also told Mr. Newdow he would sign a restraining order preventing the recitation of the pledge at the Elk Grove Unified, Rio Linda Union and Elverta Joint Elementary school districts, where the plaintiffs' children attend.

Mr. Newdow promised he'd file a restraining order soon.

House and Senate Republicans criticized Judge Karlton's ruling.

"The Pledge of Allegiance is a vital, ennobling part of our national identity, and the American people resoundingly support its value in the education of our children," said House Majority Leader Tom DeLay of Texas. "The ruling is wrong, period, and I look forward to its reversal."

"This is yet another example of an irresponsible decision by a liberal activist judge unable to separate personal politics from public service," said Sen. John Thune, South Dakota Republican. "As we work to fill two vacancies in the highest court of the land, today's news only serves to underscore the importance of appointing judicial nominees who refuse to allow their personal views to shape decisions."

During oral arguments for the case in July, Judge Karlton threw out several parts of Mr. Newdow's revised lawsuit, saying the plaintiff's argument that the entire pledge is unconstitutional would not make it past a higher court. Rather, the judge said, the case should focus on whether saying the pledge in public schools is an unacceptable endorsement of religion.

Derek Gaubatz, director of litigation for the Becket Fund, a religious liberties group opposing Mr. Newdow, described the judge as an "old-time liberal."

"He telegraphed to everyone how he wanted to rule," Mr. Gaubatz said. "He wanted to strike the pledge down, but he wanted to rely on the prior 9th Circuit decision so they could do his dirty work."

He said the Becket Fund will appeal the case to the 9th Circuit, which sided with Mr. Newdow in 2003. The Supreme Court struck down that ruling in June 2004, but did not rule on the merits of the case. Instead, the high court said Mr. Newdow, the divorced, noncustodial father of a fourth-grader in the Elk Grove district, did not have legal standing as a plaintiff.

Lee Strang, an assistant law professor at Ave Maria School of Law in Ann Arbor, Mich., said the public should not be surprised that the issue has resurfaced.

"The Supreme Court has been all over the map on this issue," he said. "Their establishment clause case law has been such a muddle because you have these shifting coalitions of justices who come together to arrive at sometimes unprincipled results."

Judge Karlton was "pushing the limits" of his job description, Mr. Strang said, "but judges have been known to guide litigants in subtle and not-so-subtle ways."

"I think the judge made the right call," said Rob Boston of Americans United for Separation of Church and State. "The whole question of patriotism and the religious content of the pledge hasn't been explored like it should be. A student should be able to express patriotism and love of country without making a religious affirmation at the same time."

Massachusetts Rejects Bill To Eliminate Gay Marriage (NYT)

By Pam Belluck

The New York Times, September 15, 2005

BOSTON, Sept. 14 - In a sign that the legalization of same-sex marriage has changed the political landscape in Massachusetts, the legislature soundly defeated a proposed constitutional amendment on Wednesday to ban gay marriage and create civil unions, an amendment that lawmakers gave preliminary approval to in a raucous constitutional convention last year.

Wednesday's 157-to-39 vote by a joint session of the House and Senate partly reflected the fact that some legislators now consider same-sex marriage more politically acceptable, after a largely conflict-free year in which some 6,600 same-sex couples got married and lawmakers who supported it got re-elected.

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The vote also reflected some lawmakers' reluctance to pass a bill that could either withdraw rights from already married couples or create a class of married gay men and lesbians and a class of those unable to marry.

Indeed, Senator Brian P. Lees, a Republican who is the minority leader and who co-sponsored the amendment, which received preliminary approval from the legislature in March 2004 in a 105-to-92 vote, said he voted against it Wednesday.

"Today, gay marriage is the law of the land," Mr. Lees said, noting that same-sex marriage became legal in May 2004. Voting for the amendment, he said, would mean "taking action against our friends and neighbors who today are currently enjoying the benefits of marriage."

Saying he had heard from over 7,000 constituents, most against the amendment, Mr. Lees added, "Gay marriage has begun and life has not changed for the citizens of the commonwealth, with the exception of those who can now marry who could not before."

Wednesday's vote also reflected a change in the strategy of opponents of same-sex marriage.

Last year some legislators who opposed both same-sex marriage and civil unions voted for the amendment because they considered it their best chance at preserving marriage for heterosexuals.

This year, after it appeared that the amendment would fail, many opponents of same-sex marriage started a citizens' petition for a stricter amendment that would ban same-sex marriage without creating civil unions.

The earliest that amendment, endorsed by Gov. Mitt Romney, could become law is 2008. Supporters must get 65,000 signatures, the votes of 50 lawmakers in two consecutive legislative sessions and the approval of voters in a referendum. Both sides expect a difficult fight.

Representative Philip Travis, a Democrat and opponent of same-sex marriage, argued Wednesday for the stricter amendment.

"The union of two women and two men can never consummate a marriage," Mr. Travis said. "It's physically impossible. We can't get around that."

In contrast to last year's long sessions packed with activists, Wednesday's session lasted two hours and drew smaller, calmer crowds.

Juan Carlos Huertas was one of a few dozen opponents of same-sex marriage singing Christian hymns at the statehouse. Mr. Huertas said that the idea that marriage is between a man and a woman is "written in the Scripture."

Nearby were about 200 supporters of same-sex marriage, some with T-shirts or buttons that said "I Do."

For weeks, same-sex couples and supporters met with legislators to present their case. Elaine Lamy, 49, and Chris Hannibal, 50, of Quincy, who married last year, met with Representative Bruce J. Ayers and Senator Michael W. Morrissey, who was also lobbied by the women's heterosexual neighbors. On Wednesday, the women saw the two legislators, both Democrats who had supported the amendment, vote against it.

Senator James E. Timilty, a Democrat who last year supported the amendment, also changed his mind.

"When I looked in the eyes of the children living with these couples," Mr. Timilty said, "I decided that I don't feel at this time that same-sex marriage has hurt the commonwealth in any way. In fact I would say that in my view it has had a good effect for the children in these families."

Massachusetts Lawmakers Reject Bid To Stop Same-Sex Marriages (WP)

By David A. Fahrenthold

The Washington Post, September 15, 2005

BOSTON, Sept. 14 -- Amid a pep-rally atmosphere, Massachusetts legislators on Wednesday overwhelmingly rejected an attempt to halt same-sex marriages here -- showing how quickly gay nuptials have moved from being a court-ordered imposition to a powerful political cause.

By a vote of 157 to 39, members of the House and the Senate meeting together voted down a proposed constitutional amendment that would have eliminated the same-sex marriages legalized two years ago and replaced them with "civil unions" for gay couples.

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Instead, the vote leaves same-sex marriage as the status quo in Massachusetts, and it now seems likely to remain so until at least 2008.

But, in a broader sense, the vote also illuminated how widely Massachusetts has diverged from much of the nation, where several dozen states have passed laws limiting marriage to heterosexual couples. California's lawmakers have passed legislation legalizing same-sex marriage. It is now sitting on the desk of Gov. Arnold Schwarzenegger (R), who has said he will veto it.

Politicians here credit the weddings themselves with shifting the political momentum, saying their growing ordinariness has defused some of the opposition.

"The difference is that we have marriage," said state Sen. Jarrett T. Barrios (D) after the vote, while other supporters screamed and cheered nearby in a rally under a mural of the Boston Tea Party. "We've got a world that hasn't changed."

The issue of same-sex marriage has been on the front burner of politics here since November 2003, when the state's Supreme Court ruled in favor of seven same-sex couples who had pressed for the right to wed.

The court found that "the right to marry means little if it does not include the right to marry the person of one's choice" -- making Massachusetts the first state to offer gay couples more than civil unions.

Weeks of emotional debate followed, as some state legislators sought to nullify the court's ruling. Finally, plans were made to amend the state constitution to permit civil unions but ban marriage. But such amendments require votes in two successive sessions of the state legislature.

The proposal passed in March 2004 but still required another vote; it was the measure turned down on Wednesday.

In the meantime, the weddings began. Since the first one on May 17, 2004, more than 6,100 gay couples have wed, accounting for about 17 percent of all the state's weddings during that period.

Each one made the idea of same-sex marriage more acceptable, observers say.

The differences were noticed by politicians, who say they started getting more letters in favor of the marriages, and by public-opinion pollsters, who noted in March that 56 percent of state residents believed same-sex marriages should be allowed.

"It's one of those areas of politics where people have become accustomed to something that was once radical," said Julian E. Zelizer, a history professor at Boston University. "It's just normative at this point."

By the time Wednesday rolled around, support for the civil-unions measure had collapsed. Forces in favor of same-sex marriage were feeling too confident to compromise, while opponents had united behind another constitutional amendment that would eliminate same-sex unions of any kind.

Gov. Mitt Romney (R), who is contemplating a presidential bid in 2008, favors a complete ban on any legalization of same-sex unions. In an interview this week, he said he has concerns about whether children brought up by a same-sex couple could develop normally.

"The ideal setting for raising a child is where there is a male and female," Romney said.

Even though the amendment under consideration was known to be dead beforehand, its killing took on a party atmosphere.

First, there were speeches, from legislators who compared Massachusetts's place in the national debate to the radical role the state's Minutemen played in the Revolutionary War.

"We are as out of step today as we were on the village green in Lexington and Concord," said state Sen. Edward M. Augustus Jr. (D). "Massachusetts has always been the conscience of the nation."

Gay 'Marriage' Amendment Rejected (WT)

By Cheryl Wetzstein

The Washington Times, September 15, 2005

Massachusetts lawmakers yesterday rejected a marriage constitutional amendment, guaranteeing that same-sex "marriage" will continue in that state for at least three more years.

The amendment would have created civil unions for same-sex couples while disallowing same-sex "marriage."

It was approved last year, 105-92, and lawmakers had to pass it a second time to place it on the 2006 ballot. However, yesterday's 157-39 rejection showed how little support the amendment had after a year.

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Many lawmakers said they rejected the measure because they no longer wanted to undo the Massachusetts Supreme Judicial Court's 2004 ruling legalizing same-sex "marriage."

"Gay marriage has begun, and life has not changed for the citizens of the commonwealth, with the exception of those who can now marry," said state Sen. Brian Lees, a Republican co-sponsor of the amendment. "This amendment, which was an appropriate measure or compromise a year ago, is no longer, I feel, a compromise today."

Conservatives shunned the amendment because it created civil unions, which they oppose as ersatz same-sex "marriage."

"The union of two women and two men can never consummate a marriage. It's physically impossible," said Rep. Phil Travis, a Democrat. "The other 49 states are right, and we are wrong."

Homosexual-rights advocates and traditional-values groups all lobbied for the defeat of the amendment, which had been introduced by Senate President Robert E. Travaglini and Mr. Lees.

With yesterday's defeat, the battle shifts to a petition drive for a marriage constitutional amendment aimed at the 2008 ballot.

The amendment, sponsored by VoteOnMarriage.org and supported by Massachusetts Gov. Mitt Romney, a Republican, would outlaw same-sex "marriage" in Massachusetts upon passage.

However, the amendment would not be retroactive and same-sex "marriages" already conducted by 2008 would not be affected. An estimated 6,100 same-sex "marriages" have been conducted in Massachusetts since May 2004.

The petition drive starts later this month. Supporters have until the Nov. 23 to meet their goal of around 120,000 certified signatures.

The amendment initiative must then be approved twice by 25 percent of lawmakers -- or 50 members -- before it can go to voters.

Traditional values groups think they can find 50 votes in each of the Democrat-led legislative chambers. However, House Speaker Salvatore F. DiMasi supports same-sex "marriage" rights, and Mr. Travaglini is also viewed as friendly to homosexual rights.

The amendment initiative says, "When recognizing marriages entered into after the adoption of this amendment by the people, the Commonwealth and its political subdivisions shall define marriage only as the union of one man and one woman."

ANTITRUST:

Industry-supported Study Concludes There Is Competition (INMAN)

By Jessica Swesey, Inman News

Inman News, September 14, 2005

A new study funded by the National Association of Realtors concludes that competition for customers among real estate brokerage firms in local housing markets across the nation is strong.

The study, compiled by researchers at Pennsylvania State University, looks at 12 local real estate markets and draws data from multiple listing services, interviews and secondary sources.

"The central finding is the intense competition in local real estate markets," Professor Steve Sawyer of Penn State's School of Information Sciences & Technology writes.

The report is timely in the continuing battle between the U.S. Justice Department and organized real estate. Competition in the real estate industry has come under fire after the DOJ filed an antitrust lawsuit last week against the National Association of Realtors over its policies for online listings. The DOJ charges that the powerful trade group's policies restrain competition by obstructing real estate brokers who use Web-based systems to offer consumers lower costs.

NAR says its policy for Web property listings is "fair, pro-consumer, pro-competitive and accommodates innovation."

The DOJ and the Federal Trade Commission will hold a public forum to discuss competition in the real estate industry on Oct. 25, in Washington, D.C. The forum will focus on the real estate transaction, the multiple listing service, and private and state actions that affect competition among brokers.

The Penn State study, while focusing on a small sample of real estate markets, concludes that inter-firm competition is fierce within local housing markets.

In 10 of the 12 markets examined in the Penn State study, market share held by top firms was found to be shrinking.

Meanwhile, franchised firms had a larger percentage of market share than other locally owned firms in seven of the 12 markets and in four of the six largest markets studied.

The study also noted that there is steady to substantial growth in each of the 12 markets, and that smaller markets are seeing the least growth.

"This high level of competition in real estate is striking given that the combined volume dollar growth across the many local real estate markets would suggest that competition might be lessened," Sawyer wrote.

As home sales and housing prices have soared in markets nationwide over the last few years, so have the number of Realtors. The National Association of Realtors now has about 1.1 million members, a record high for the trade group.

Markets included in the Penn State study were St. Louis, Mo.; Tampa, Fla.; Columbus, Ohio; Madison, Wis.; Lima, Ohio; Baltimore, Md.; Culpepper, Va.; Cumberland, Md.; Charlotte, N.C.; Easton, Md.; Hagerstown, Md.; and Wilmington, N.C.

The study suggests that increased consumer access to real estate information is redefining how consumers engage real estate services and may be contributing to growth of real estate markets even as it drives competition.

Increased access to housing information on the Web may be "a critical factor in the current surge in house prices," the study suggests. "Buyers and sellers are better informed, and this is reflected in their confidence in the housing market."

In collecting data for the 12 markets cited in the study, researchers interviewed five people from the local real estate markets, including one from St. Louis, one from Madison, Wis., one from Tampa, Fla., and two from Lima, Ohio.

Interviewees noted that competition among agents – even those affiliated with the same brokerage company – for a listing is fierce, researchers said. Increased access to real estate information has armed consumers with more knowledge and raised their expectations for the services provided by real estate agents.

"The ability for consumers to access real estate information about their markets is raising the stakes for real estate agents and brokers," the study noted.

The Penn State researchers also found no numerical evidence of discount brokerage or for-sale-by-owner sales increasing even in the fastest growing of the 12 local markets studied. The discount brokerages involved in the areas accounted for less than one percent of the total market share.

The author noted that few patterns of competitive activity are common to all local real estate markets. Smaller markets are more concentrated than larger markets, and there are market share position changes among the top firms in each market.

In St. Louis, one firm has a dominant share of the local real estate market, the study found. However, the researchers said they learned through interviews that the unidentified firm competes in most of the micro-markets that make up St. Louis, and in each of the micro-markets there are one or two other firms with substantial percentages of market share.

Meanwhile, in Tampa, four brokerage firms affiliated with a single national franchise compete with each other and other locally owned firms and their year-to-year market shares vary, the study found.

In Madison, brokerage companies affiliated with national franchises have a smaller share of the total market than other locally owned companies, researchers said.

House Democrats Target High Gas Prices (KRT)

By Maria Recio

Knight Ridder, September 15, 2005

WASHINGTON - (KRT) - House Democratic leaders unveiled a plan Wednesday to combat what they said was price gouging at the pump, as some Republican lawmakers worried about the lackluster Bush administration response to high gasoline prices.

"Many of America's families are experiencing a middle-class squeeze, and the price at the pump is becoming oppressive," said House Democratic Leader Nancy Pelosi, D-Calif, adding that prices were high even before Hurricane Katrina knocked out 20 percent of the nation's supply lines.

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"Something must be done about this," Pelosi told reporters after House Democrats signed off on the plan at their weekly meeting. "There must be a federal law to investigate and prosecute price gouging, and to receive damages from those in violation of the law" that would be directed to the federal home heating oil assistance program.

The nationwide average price of regular gasoline was $2.93 per gallon Wednesday, according to the AAA, down from the Sept. 5 high of $3.05, but still 49 cents higher than a month ago and $1.10 a gallon more expensive than a year ago. The average price in Texas was $2.83 per gallon Wednesday.

House Democratic Caucus Chairman Robert Menendez of New Jersey faulted the Bush administration for not having "sensitivity" on the issue. "Maybe it's because we have two oilmen in the White House," Menendez said.

President Bush is a former Texas oilman and Vice President Dick Cheney ran the oil services giant Halliburton Co. Bush has said he will not tolerate gouging and White House spokesman Scott McClellan said last week that gasoline prices were too high and the administration's sales from the Strategic Petroleum Reserve would ease supplies - and prices.

"We view this as a temporary disruption," McClellan said.

Republicans have largely focused on the need to re-open supply lines and using federal oil reserves to push prices down. But Sen. Trent Lott, R-Miss., spoke out sharply Wednesday about the consequences of gasoline prices at a hearing of the Senate Commerce Committee's Aviation Subcommittee.

"Now, you can give me a lecture about free enterprise, supply and demand and all that other stuff," Lott told an official from the Energy Information Administration. "That ain't good enough."

"We'd better realize that there's a problem," Lott said. "It's hurting farmers, small businessmen and women, families with children. And we at least need to empathize. At least say `this is bad, we know it's bad.' And make it look like we care and we're doing something about it. I think the energy department needs to be a little bit more aggressive in jawboning the industry as a whole."

Pelosi's plan would give the Federal Trade Commission added authority to prosecute oil companies. Republicans and Democrats in the Senate and House have asked the agency to aggressively investigate pricing, but FTC officials told Congress in hearings last week that they can only pursue collusive activity - which had not uncovered any gouging in previous investigations.

American Petroleum Institute spokesman Ray Connolly said he had not seen the Democratic package but that Red Cavaney, president of the oil industry trade association had testified before Congress last week that "API and its members condemn price gouging."

The debate in Washington has amused economists like Bernard Weinstein, director of the Center for Economic Development at the University of North Texas.

"Price gouging is a political term," he said. "I don't think economic textbooks list price gouging." He sees the run-up in prices as a reflection of the market's expectation of prices based on tighter supplies. "The price has gone up for a reason," said Byron Schlomach, chief economist at the Texas Public Policy Foundation, an Austin-based conservative think tank. "I would argue it's immoral for people not to be able to price freely." He added that he recognized that "it's not a popular view."

Menendez, meanwhile, introduced legislation separate from the Democratic leadership plan to reduce the 18.4 cents federal gasoline tax by 10 cents and pay for the lost revenue with a windfall profits tax on oil that is over $40 a barrel.

The Pelosi plan would require so-called "transparency" of pricing by making the oil companies disclose how they determine price at all levels. It would also apply antitrust laws to OPEC countries to force information about pricing policies.

Gillette Is Betting That Men Want An Even Closer Shave (NYT)

By Claudia H. Deutsch

The New York Times, September 15, 2005

LET regulators worry whether Gillette's proposed merger with Procter & Gamble poses antitrust problems. Let investors worry about how that merger will affect the fused companies' stocks. The people at Gillette have a far more immediate challenge: persuading men that they need to buy yet another new shaving system.

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Yesterday, Gillette unveiled Fusion (manual) and Fusion Power (battery operated), a wet-shaving system with a lot more bells and whistles than the company's Mach3Turbo and M3Power, currently the top-selling shavers. It also announced a line of shaving creams and gels to go with the new razors.

Gillette Fusion is "the future of shaving," James M. Kilts, Gillette's chairman and chief executive, told analysts and reporters who had gathered in a Manhattan auditorium to hear the latest news. Not to be outdone in hyperbole, Peter K. Hoffman, president of Gillette's blades and razors unit, defined fusion for the crowd - "a nuclear reaction in which nuclei combine to create power" - and intimated that the Fusion system's "breakthrough technology" lives up to the analogy.

Much is at stake. According to Gillette, American men spent about $1.7 billion on blades and razors last year, and another $300 million on shaving creams and gels. Globally, shaving products accounted for more than $10.4 billion in sales.

Gillette will spend a lot to get the word out. It would not divulge marketing plans or even let product samples leave the room - "We don't want to give anything to the competition," Mr. Hoffman said in an interview after the event. But he promised that come early 2006, when the Fusion products hit stores, Gillette will mount a "blockbuster marketing program, absolutely huge, the biggest launch of a Gillette shaving system in history." And, yes, that is true even if adjusted for inflation, Mr. Kilts chimed in.

"Mach3 will remain No. 1 for the first few years, but Fusion will become our flagship brand," Mr. Kilts said.

This is the first time Gillette has introduced a full line of razors and accouterments at once, and marketing experts agree with the decision.

"Hats off to these guys; they're offering metrosexual nirvana," said Gary M. Stibel, principal and founder of the New England Consulting Group, a marketing consulting firm in Westport, Conn. "You get a five-bladed razor any way you want it, with power, without power. You get the gel and grooming products to go with it. Men will credit the whole system for a better shave."

Maybe so - but do men really need a better shave than Mach3 provides? Mr. Hoffman is certain they do. Noting that 60 percent of the men who tested the Fusion razors preferred them to the Mach3, he predicts that Fusion will be a "billion-dollar product" by 2008.

But marketing experts, while applauding Gillette's willingness to eat into Mach3 sales, are not so sure. "It is an incredibly hard decision, to cannibalize your own leading brand, even when you know that someone else will do it to you if you don't," said Nicholas Donatiello Jr., president of Odyssey, a San Francisco market research firm. "But there is still the question of market fatigue - I mean, at this point, how much better do men really think their shaving experience needs to be?"

Gillette's agency - BBDO Worldwide, a unit of the Omnicom Group - has access to plenty of product images and attributes to whet the jaded shaver's appetite. Both Fusion models have five blades instead of Mach3's three, and they are spaced 30 percent closer than are Mach3 blades - changes that the company says provide a more comfortable shave.

The Fusion models have a "Precision Trimmer" blade on the back of the blade cartridge, to be used to trim sideburns or shape facial hair. (According to Gillette, about half of all men have a mustache, goatee or other form of decorative facial hair.)

Fusion Power gets more techie. Its cartridges - which will also fit on the manual version - have a super-thin coating that Gillette says provides for an even closer shave. And while it runs on conventional AAA batteries, it incorporates an electronic chip to regulate voltage and otherwise ensure that the "shaving experience" is consistent as the battery drains. It even turns itself off if it sits idle for eight minutes.

Gillette has already filed 70 patents on the Fusion razors, and it expects to be able to command prices about 30 percent higher than for the Mach3. The manual razor and two cartridges will sell for about $9.99, with a 4-pack of refill cartridges going for about $11.99. Fusion Power, with one cartridge and a battery - Duracell, of course, since Gillette owns that brand - will retail for about $11.99, with refill 4-packs going for $13 or $14.

The elephant in the room, though, is the merger with Procter, which, barring regulatory holdups, should be completed this fall. Procter is already doing pre-emptive divestitures to ward off the antitrust cops - for example, it is selling its SpinBrush electric toothbrush business to Church & Dwight to avoid becoming too dominant in that area when it joins forces with Gillette's formidable Oral-B line.

Fortunately for Mr. Hoffman and his team, Procter is not in the shaving business, so Gillette's new-product plans do not pose any potential conflicts. "Fusion will be the first blockbuster for the merged P.& G.-Gillette entity," predicted William P. Pecoriello, a household products analyst at Morgan Stanley.

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Mr. Kilts certainly agrees. Fusion is being introduced in North America first, and the merger should be well under way when Gillette rolls out the product internationally.

Procter has a better global distribution system than does Gillette, and "our combined sales forces will have the kind of scale to really get meaningful distribution in those markets," Mr. Kilts said in an interview. Moreover, he added, "Procter is one of the best media buyers in the world."

The merger could still cause problems, though. "A big product launch is hard under any circumstances, but particularly so if the staff is distracted by a merger," Mr. Donatiello warned.

Mr. Kilts shrugs that off. "You'll see," he said. "We'll write the Harvard case history on how to do an integration while launching a product."

Church & Dwight To Buy SpinBrush From P&G (NYT/REU)

By Reuters

The New York Times, September 15, 2005

CHICAGO (Reuters) - Church & Dwight Co. Inc. (CHD.N) on Wednesday said it has agreed to buy the SpinBrush toothbrush business from Procter & Gamble Co. (PG.N), a sale P&G hopes will help lead to antitrust approval of its multibillion dollar acquisition of Gillette Co. (G.N).

P&G had agreed to divest the business, which had $110 million in sales in the fiscal year that ended June 30, as part of its negotiations over the Gillette deal with the European Commission.

SpinBrush competes with some of Gillette's Oral-B toothbrushes.

Church & Dwight would pay an initial $75 million in cash at the closing of the deal, which would unite the battery-powered toothbrush with its Arm & Hammer and Mentadent toothpaste brands. An additional inventory settlement would be paid following the transfer of the business and Church & Dwight would also pay up to another $30 million based on near-term performance, Church & Dwight said.

The price would be sharply lower than the $475 million P&G paid for SpinBrush between 2000 and 2002. But while battery powered toothbrushes were a hot item in the oral care industry for a while, sales have waned in the category lately.

``The deal came cheap, but (the) category and SpinBrush have both lagged recently," William Schmitz, analyst at Deutsche Bank Equity Research, said in a research note.

He added that power toothbrush sales overall declined 10 percent in sales outlets tracked by market research firms last year and SpinBrush market share was down to 15.3 percent in the second quarter of this year from a high of 37.4 percent in the first quarter of 2003.

The deal is expected to close in the fourth quarter, subject to review by the Federal Trade Commission and European Commission.

P&G said it still expects its Gillette acquisition to close in the fall.

Church & Dwight shares were down 37 cents at $38.21 on Wednesday afternoon on the New York Stock Exchange, while P&G shares were down 50 cents at $55.04.

Lazard Ltd. (LAZ.N) advised Church & Dwight on the deal and Merrill Lynch advised P&G.

File-Sharing Firms Are Urged To Protect Music-Industry Rights (WSJ)

By Sarah Mcbride, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 15, 2005

The Recording Industry Association of America has sent cease-and-desist letters to several file-sharing companies, including BearShare, LimeWire and WinMX, asking that they stop activities that allow users to download copyrighted music.

The letters ask the companies to "immediately cease and desist from enabling and inducing the infringement of RIAA member sound recordings," according to a copy of the letter reviewed by The Wall Street Journal.

The letters are an attempt by the music industry to build on the favorable ruling it received from the U.S. Supreme Court in June in the so-called Grokster case, involving a file-sharing company that was accused by the industry of facilitating copyright

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violations. In that ruling, the court found that copyright holders could sue file-sharing companies for encouraging people to violate copyrights. Now, the industry is taking the first step toward enforcing the ruling against other file-sharing companies.

"Companies similar to Grokster have been given ample opportunity to do the right thing," said the RIAA, which confirmed sending the letters to seven file-sharing companies.

The RIAA has long said it supports legal uses of file sharing. It wants file-sharing firms to alter their software -- for example, by creating filters to strip out copyrighted material or creating mechanisms to pay copyright holders. In recent months, it has been working with several file-sharing firms, including iMesh and Mashboxx, to create services that wouldn't violate copyrights.

The file-sharing companies that received cease-and-desist letters can shut down, fight the RIAA in court, or make changes that mollify the RIAA.

Despite the Grokster decision, a court case based on other file-sharing programs wouldn't necessarily be open and shut, says Ralph Oman, the former U.S. Register of Copyrights and a Washington, D.C.-based intellectual-property lawyer at the law firm Dechert LLP. The Supreme Court found that Grokster and co-defendant Morpheus were actively pursuing former users of the original Napster, a free file-sharing service found to be illegal, and remanded the case to trial court for further consideration. (A new Napster service offers paid, legal downloads.) It might be harder to prove that for the newer services.

Mr. Oman said file-sharing companies would have to prove they had "some credible rationale other than the promotion of illegal file sharing."

LimeWire confirmed receiving the letter, but declined to comment on any action it would take. BearShare and WinMX didn't respond to requests for comment. As of last night, these companies were still offering unchanged file-sharing software programs for download.

Write to Sarah McBride at sarah.mcbride@wsj.com2

A Specialist On Mergers Joins Morgan As A Senior Adviser (NYT)

By Julie Creswell

The New York Times, September 15, 2005

J. P. Morgan Chase said yesterday that Robert I. Lipp, a longtime financial services executive who has played a role in some of the biggest bank and insurance mergers in recent decades, is joining the bank as a senior adviser.

In his new role, Mr. Lipp, 67, will work closely with J. P. Morgan's chairman, William B. Harrison Jr., and its president, James Dimon, in strategic planning as the bank continues to integrate operations after last year's merger between J. P. Morgan Chase and Bank One.

While Morgan has been hampered from deal making by its low-valued stock, Mr. Dimon alluded in remarks this summer to analysts that the bank could be on the hunt for acquisitions as early as next year.

"One of my duties is going to be thinking about growth, especially in the context of strategic planning," said Mr. Lipp, who will remain on Morgan's board. "I look forward to knowing the organization better so that I can contribute to strategic discussions."

Mr. Lipp has a long personal and professional history with both Mr. Harrison and Mr. Dimon. He spent 23 years at Chemical Bank, where he worked with Mr. Harrison before leaving in the mid-1980's to join Sanford I. Weill at Commercial Credit, which is based in Baltimore. There, he worked alongside Mr. Dimon in turning the sleepy consumer finance company into the nation's largest financial services giant, Citigroup, through a series of acquisitions.

After stepping down as head of global consumer banking at Citigroup in 2001, Mr. Lipp became chief executive of the Travelers Property Casualty Corporation, which Citigroup spun off for $3.89 billion in 2002. Two years later, Travelers Property Casualty merged with St. Paul in a deal valued at $16 billion.

Earlier this week, Mr. Lipp stepped down as chairman of St. Paul Travelers, four months ahead of schedule. He will remain on St. Paul Travelers' board.

Mr. Lipp, who will report to work next week, said he was looking forward to working closely again with Mr. Harrison and Mr. Dimon. "It's going to be fun working with people who are friends and that you have respect for," Mr. Lipp said.

Mr. Lipp said he would also assist in leadership development programs at the bank.

EU Fines Thread Makers EU43.5 Mln For Fixing Prices (Update1) (BLOOM)

Bloomberg News, September 15, 2005

Sept. 14 (Bloomberg) -- European Union regulators fined manufacturers of industrial thread including Coats Ltd., the world's biggest, 43.5 million euros ($53 million) for operating a price-fixing cartel.

The makers of thread used in products such as clothes, shoes, furniture and car seats held meetings starting in the 1990s to agree on prices, exchange information and allocate customers, the Brussels-based European Commission said today. The fine ends a probe that began with raids in the U.K. and Germany in 2001.

``Cartel behavior is illegal, unjustified and unjustifiable, and will be punished severely no matter how large or small the companies involved," Competition Commissioner Neelie Kroes said in a statement. ``I will not allow consumers to be denied the benefits of the single market by companies carving up markets between themselves."

Under EU law, the commission, the EU's antitrust regulator, can fine companies accused of operating a cartel as much as 10 percent of their annual sales. It typically opts for about 2-3 percent of sales. The largest EU cartel fine was 462 million euros levied against Hoffmann-La Roche AG in 2001 for fixing the price of vitamins.

Coats, based in Uxbridge on the outskirts of London and owned by Guinness Peat Group Plc since March 2003, received the largest fine of 15 million euros, followed by Amann & Soehne GmbH with 13 million euros.

Three Cartels

The commission said it found a total of three cartels in the industrial thread market. The first was in Belgium, the Netherlands, Luxembourg and the Nordic countries from January 1990 until September 2001. Another was in the U.K. from October 1990 until September 1996. The third was in the thread market for automotive customers in the EU, as well as Iceland, Liechtenstein and Norway, from May 1998 until May 2000.

Other companies fined for the thread cartels include Guetermann AG, 4 million euros, Barbour Thread Ltd., 2.1 million euros, Belgian Sewing Thread NV, 979,000 euros, Bieze Stork BV, 514,000 euros, and Zwicky & Co. AG, 174,000 euros.

In the automotive thread cartel, the companies fined were Cousin/Amann, 4.9 million euros, Coats, 650,000 euros, Oxley Threads Ltd. and Barbour 715,000 euros.

To contact the reporter on this story: Matthew Newman in Brussels at mnewman6@bloomberg.net. Last Updated: September 14, 2005 09:28 EDT

S.Korea's FTC Slaps Fines On Fixed-Line Telecom Firms (ASIAP)

Asia Pulse, September 15, 2005

SEOUL, Sept 15 Asia Pulse - South Korea's antitrust regulator decided Thursday to slap fines on four local fixed-line telecommunication service providers for illegal cartel activities.

The nine-person committee of the Fair Trade Commission (FTC) ruled to levy a combined 25.74 billion won (US$25.1 million) in fines against the country's four fixed-line companies - KT Corp. (KSE:030200), Hanarotelecom Inc., Onse Telecom Co. and Dacom Corp..

KT, the country's largest fixed-line telephone and broadband Internet operator, has been ordered to pay 23.87 billion won in fines for rigging the prices of both its long distance domestic services and international telephone services.

Dacom, the nation's second-largest long-distance telephone company, was slapped with a total 1.6 billion won in fines, with Onse being ordered to pay 2.1 billion won for its involvement in illegally fixing long distance and international telephone services.

Hanarotelecom was fined 60 million won for irregularities in its domestic long distance line operations.

The anti-trust authority also ordered the four companies, along with Dreamline Co. and Thrunet Co., to correct irregular activities related to their ultra-high-speed broadband operations.

The FTC's decision-making body said that it took the actions because the companies colluded in setting rates on both domestic and international telephone services and rigged fees they charged to businesses using their Internet lines.

Officials at the regulatory authority said they are planning to conclude a similar investigation into mobile telecommunication operators by the end of the year.

Industry sources said that the companies cited may contest the charges and take the matter to court.

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S.Korea Fines KT, 3 Others $25 Mln For Price Fixing (REU)

Reuters, September 15, 2005

SEOUL, Sept 15 (Reuters) - South Korea's antitrust watchdog fined the country's top fixed-line operator, KT Corp., and three other firms 25.74 billion won ($25.10 million) for price fixing, the Fair Trade Commission (FTC) said on Thursday.

"The penalties are for price fixing in long-distance calls and international calls," a spokesman at the commission said by telephone.

The commission fined KT 23.87 billion won and Dacom Corp. 1.6 billion won. Hanarotelecom inc. and Onse Telecom were fined 60 million won and 210 million won, respectively.

The commission also found evidences of collusion in the high-speed Internet service charges, but only issued orders to improve business practices without imposing fines, the spokesman said.

The punishment comes as local operators struggle with stalled growth and cut-throat competition. In a separate case in May, the FTC slapped a record $120 million fine on KT, hanarotelecom and Dacom over collusion in local calls and network connection charges.

Competition in the fixed-line market has intensified because the broadband market is close to being saturated and growth in voice traffic has slowed as subscribers migrate to mobile phone services.

Shares in KT fell 0.94 percent to 42,000 won by 0050 GMT, versus a 0.14 percent fall in the broader market .

Dacom shares dropped 2.31 percent to 12,700 won and hanarotelecom shed 3.04 percent to 2,710 won. ($1=1025.4 Won)

ECB Chief Warns Against Attempts To Remove Fazio (FT)

By Ralph Atkins In Frankfurt And Tony Barber In Rome

Financial Times, September 15, 2005

Jean-Claude Trichet, the European Central Bank president, made clear on Wednesday he would oppose unwarranted political attempts to remove Antonio Fazio, the Bank of Italy governor engulfed in controversy over his handling of bank takeover bids.

Using national legislation to eject a central bank governor would set “a catastrophic precedent for the independence of all central banks”, Mr Trichet told the European parliament's monetary affairs committee.

He was speaking as Domenico Siniscalco, Italy's finance minister, put more pressure on Mr Fazio by saying Italy risked isolation in international financial markets unless its central bank and regulatory systems were profoundly reformed.

Mr Siniscalco and several other government ministers are demanding Mr Fazio's resignation for alleged improper conduct in two takeover battles for Italian banks. Critics accuse Mr Fazio of favouring domestic bidders over foreign ones. The central banker denies wrongdoing and has benefited from divisions in Italy's centre-right government over how, or even whether, to remove him.

Mr Siniscalco urged Italy's parliament to pass a government bill that would impose a seven-year term of office on future governors of the Bank of Italy. Under another reform, which was not in the original bill approved on September 2 by the Italian cabinet, Mr Siniscalco proposed transferring supervision of banking competition to Italy's antitrust authority from the central bank.

“We have waited nine months for a self-reform by the central bank, and there has been no trace of it,” he said.

The proposed reforms would apply only to Mr Fazio's successors, and there is much uncertainty about when they might take effect, given Mr Fazio's refusal to resign and the risk that parliament might not pass the bill before it is dissolved early next year ahead of national elections.

Mr Trichet suggested that, even if Italy's parliament passed the reforms, Mr Fazio would not immediately leave office. He referred to an opinion issued by the ECB in May 2004, which recommended a five-year “transitional regime” for an incumbent national central bank governor.

Mr Trichet said the ECB would give “urgent consideration” to the Italian government's proposals, including the fixed term of office. He suggested the ECB was likely to support their thrust.

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Mr Trichet is treading a delicate path in the Fazio affair, affirming the principle of central bank independence from political pressure but stressing the ECB's support for eurozone financial integration and the equal treatment of banks of different nationalities.

The Italian government's proposals form part of a broader overhaul of financial market regulation that was drawn up after the multi-billion euro fraud at the Parmalat food group, discovered in December 2003.

ENVIRONMENT/INDIAN AFFAIRS:

Mirant Plans To Request Plant's Reopening (WP)

By Jerry Markon, Washington Post Staff Writer

The Washington Post, September 15, 2005

Mirant Corp. plans to propose that its Alexandria power plant, which provides electricity to homes in the District and Maryland, be allowed to reopen on a limited basis. The plant was closed last month because of environmental problems.

Under a tentative plan Mirant outlined last week in documents filed with federal regulators, the Potomac River plant would operate at a level "significantly reduced from full capacity" that does not violate national air quality standards. At the same time, Mirant would continue studying long-term fixes such as burning cleaner coal or raising the height of the plant's smokestacks to disperse pollutants.

The plan must pass muster with the Virginia Department of Environmental Quality (DEQ), which has ordered Mirant to take immediate steps to reduce pollution. DEQ spokesman Bill Hayden said the department has not seen a proposal from Mirant but "will take a look at what they do propose. The main thing we're looking for is, if they are continuing to operate, it must be in a way that does not violate air quality standards."

Federal regulators, meanwhile, are also evaluating a petition, filed by the D.C. Public Service Commission, that asks them to order the plant to reopen. Mirant revealed that it will probably propose the partial reopening in documents the company filed last week with the Federal Energy Regulatory Commission.

Amid the blitz of regulatory activity, it remains unclear when the plant might reopen, even temporarily. And Mirant acknowledges that a full-scale resumption of operations could be more than a year away. Although the plant is in Alexandria, it does not serve Virginia.

Mirant decided Aug. 24 to shut down the plant in response to the order from Virginia officials to cut potentially harmful pollution from the coal-fired facility. The directive by the Department of Environmental Quality came after it reviewed the results of an analysis that showed some pollutants found in the plant's vicinity are at times considerably higher than what national standards allow.

Neighbors of Mirant have complained for years about what they believe to be high levels of contaminants emanating from the plant.

But the 56-year-old plant supplies enough electricity to serve about 400,000 homes in the District and Maryland, and officials with Pepco and the D.C. Public Service Commission have described it as a vital link in the Washington power grid.

Without the plant's generating capacity, if other transmission circuits failed there could be a blackout "in much of the District of Columbia" affecting all electric customers in Georgetown, Foggy Bottom and major portions of downtown Washington, Pepco wrote in a filing last week with the Federal Energy Regulatory Commission.

"Numerous federal facilities will lose power, including those crucial to the security, safety and welfare of the whole country, such as the FBI, the Justice Department, the State Department," wrote Pepco, which distributes electric power in the region.

Officials at Pepco and the D.C. Public Service Commission acknowledged last week that the plant's shutdown has not yet affected the power supplied to residents. "So far, we've gotten by because we haven't had the kind of conditions that could lead to sudden blackouts, like equipment failures, and we've had relatively mild weather," said D.C. public service Commissioner Richard E. Morgan.

"But it still could happen," he added.

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Pepco said it does not plan on letting things get to that point. The company announced that it plans to work with the D.C. commission to accelerate construction of new transmission facilities that would ensure reliable electric power even without the Mirant plant.

"Given Mirant's recent decisions, we believe action is necessary to satisfy Pepco's obligation to provide reliable service to our customers," said Dennis Wraase, president and chief executive officer of Pepco Holdings Inc. The transmission construction project is expected to take about 18 months.

For now, Pepco said it supports the D.C. Public Service Commission petition asking federal regulators to order the plant to reopen. Brian Lee, a spokesman for the Federal Energy Regulatory Commission, declined to say when the commission will make a decision.

Mirant, for its part, remains determined to reopen the plant. "We're confident that we're going to find a solution that will allow us to get our plant back into service and restore the level of electric reliability that we've come to expect," Mirant spokesman Steve Arabia said.

The report that precipitated the shutdown looked at worst-case scenarios involving pollution, weather and operational capacity. Researchers found that under certain conditions, the levels of sulfur dioxide, nitrogen dioxide and particles in the vicinity of the Mirant plant are higher than national ambient air quality standards allow.

As a result, state officials directed Mirant to take immediate steps to reduce pollution from the plant. Mirant decided to shut the plant down until it could find a way to meet air quality standards.

Atlanta-based Mirant, which filed for bankruptcy in 2003, operates four plants in the Washington area, including three in Maryland: in Montgomery, Prince George's and Charles counties.

Neighbors of the Alexandria plant, on the banks of the Potomac in the northern end of the city, have complained for years about what they believed to be high levels of mercury, contaminants in the air and water, and of a sooty substance that they say covers surfaces around their homes and gardens.

Poul Hertel, a neighbor who has helped lead the fight against the plant, said he is skeptical about Mirant's plan to reopen on a limited basis. He said the problem of polluted downwash from the plant's smokestacks could actually worsen.

"Downwash is not proportional to how much they are producing, it's more proportional to the speed and velocity of the emissions," Hertel said. "Just because they are operating at lowered capacity doesn't mean the issue is by any way, shape or form resolved."

In the end, Hertel said, he believes the plant probably will have to close. "Everything suggests that this plant is just not suitable or compatible with its surroundings," he said. "The health effects are too significant to ignore or negotiate away."

Straight Shooter To Some, Loose Cannon To Others (WP)

By Carol D. Leonnig, Washington Post Staff Writer

The Washington Post, September 15, 2005

The fans of U.S. District Judge Royce Lamberth praise his straight-talking ways, his defense of the wronged, and his stinging rebukes of lawyers and officials who try to fudge the facts.

So many decades after he left his beloved Texas and cowboy roots for a legal career in government service, fellow judges and former colleagues say, old Royce still gets riled up when he smells a bunch of bull.

When Lamberth theorized in a July ruling that the Interior Department's failure, over many decades, to account for potentially billions of dollars owed to Native Americans could only be explained by outright evil, apathy, cowardice or -- more likely -- crushing bureaucratic incompetence, the Justice Department decided to go after the judge.

In one of the rarest legal moves Justice has ever taken, the government asked that a higher court remove Lamberth from a case he has overseen for the past nine years.

In the escalating and unparalleled war between the judge and Interior, Justice lawyers said privately they saw no other option. They argued to the U.S. Court of Appeals for the District of Columbia Circuit that Lamberth has gone overboard in a string of verbal harangues in recent years, accused agency officials of racism and lost the appearance of impartiality in the case.

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Already, he has found two secretaries of Interior in contempt of court and ordered sanctions against numerous government lawyers for improper conduct in the case.

When they stand before a different bench tomorrow, government lawyers are expected to try to shift the discussion from the acknowledged failure of Interior to properly account for money held in trust and due 50,000 Indians, to the often assaulting words and actions of a powerful Reagan appointee who has made no secret of his disgust. Only three times before has this appeals court disqualified a trial judge from a case.

Lamberth and Justice Department officials declined to comment for this article. But their most recent writings in the case of Cobell v. Norton capture the tenor of what the appellate court's chief judge called the "peculiar dialogue going on" in Courtroom 21.

"On numerous occasions over the last nine years, the Court has wanted to simply wash its hands of Interior and its iniquities once and for all," Lamberth wrote. The plaintiffs have urged him to appoint a receiver to take over, he wrote, "but doing so . . . would constitute an announcement that negligence and incompetence in government are beyond judicial remedy."

In their Aug. 15 request for a new judge, Justice lawyers said that besides using intemperate language, Lamberth has ignored appellate rulings and accused the government of "falsification, spite and obstinate litigiousness" with "no legal or factual basis."

Lamberth has many defenders, from conservative Supreme Court justices to left-wing civil liberties lawyers, and is repeatedly ranked by lawyers as among the most skilled judges on the court.

Many of his fans applaud his stamina and even his outrage, but a few say privately that they think Lamberth has been pushed too far in the Interior case and has made himself a target with his sharp tongue. Said one fellow judge who requested anonymity: "He's been driven beyond the limit of his patience by these people. In his heart, he may know he's no longer dispassionate."

Since a Blackfeet tribe leader named Eloise Cobell filed this lawsuit in 1996, several independent investigations found much evidence for Lamberth's concerns. Although, the government initially said its existing Indian trust fund records were in good shape, Lamberth hired a hacker who found they could easily be accessed and altered from outside. Other reviews found that the Interior Departmenthad never kept complete records, used unknown amounts of money to help balance the federal budget, and let the oil and gas industry use Indian lands at bargain rates. They also concluded that the Clinton and Bush administrations have repeatedly sidestepped initiating the required accounting because of the likely cost.

Colleagues say Lamberth's strong prose is motivated by his government service and belief that it is a high calling. "He believes every person -- whether it's the president of the United States or an administrative clerk -- has a duty to serve the American people and do their duty as required under the law," said Mark Nagle, who worked under Lamberth when he ran the civil division of the U.S. attorney's office.

"I remember him calling up some senior-level presidential appointees and telling them: 'We can't defend this one. And we're not going to,' " Nagle said.

Lamberth's directness continued when he joined the bench. In presiding over several controversial cases involving the Clinton administration, Lamberth repeatedly accused government officials of trying to dupe the court.

In the November trial of Murder Inc. gang members, Lamberth spotted one defendant mouthing words to an ex-girlfriend as she reluctantly testified. Lamberth excused the jury, then let loose. "You sit down and shut up," the judge growled. "If you want to be bound and gagged for the rest of this trial, you just keep it up."

Lamberth has never spared the government in Cobell , and government lawyers say they cringe at his sometimes mocking tone. "You know any banker would be in jail for handling funds like this, don't you?" he told one Interior witness.

U.S. District Judge Stanley Sporkin, now retired, who was removed from a criminal case by the appeals court after not following sentencing guidelines, said Lamberth's motives are undoubtedly pure in Cobell , and the appeals court needs to acknowledge this litigation is "no tea party."

"Here you have a judge who is terribly frustrated," Sporkin said. "Every time he tells the government to get something done, they don't. It seems to me you have a bunch of crybabies that aren't willing to do what has to be done."

FBI/DEA/ATF/USMS:

Report: FBI Turnover Hampers Cooperation (AP-Y2)

By Mark Sherman, Associated Press Writer

AP2, September 15, 2005

The FBI has experienced excessive turnover among senior officials, hampering cooperation with state and local authorities since the Sept. 11 attacks, a new report released Wednesday said.

The senior agents who run the 56 FBI field offices average just 15 months in their jobs before moving on to new assignments or leaving the bureau altogether, according to a report by the congressionally chartered National Academy of Public Administration. At FBI headquarters in Washington, the average posting for high-ranking officials is 13 months, the report said.

The short tenures of Special Agents in Charge of the field offices, or SACs in FBI parlance, make "it difficult for them to perform one of their most important functions, developing effective relationships with state and local officials," said former Attorney General Richard Thornburgh, chairman of the panel that produced the report. It was released at a House Appropriations subcommittee hearing on changes at the FBI following the Sept. 11, 2001 attacks.

Thornburgh told lawmakers at the hearing that he was "astonished to see the short tenures of SACs."

No senior executive in Washington and only four SACs have been in their jobs longer than FBI Director Robert Mueller, who started work 10 days before the attacks.

Floyd Clarke, another panel member, spent five years as FBI deputy director, Thornburgh said. Since Clarke's retirement in 1994, there have been nine deputy directors, Thornburgh said.

Mueller, testifying at the same hearing, acknowledged the difficulty in keeping experienced agents. "There have been tremendous problems with retaining persons particularly since Sept. 11 because there's not a corporation in the country that doesn't want a security officer," Mueller said.

The FBI is expected shortly to hire a chief personnel officer to address problems raised in the report and other studies by the Government Accountability Office, the Congressional Research Service and the Justice Department inspector general, he said.

The reports are the latest in a series of examinations of the FBI that say the bureau has made enormous strides in changing its primary mission from solving crimes to thwarting terrorism, but still needs to improve its intelligence gathering and analysis, as well as upgrade its technology.

Thornburgh ascribed some turnover to the dramatic change in the FBI's duties. "It is traumatic," he said, especially for agents who made careers pursuing mobsters, drug dealers and bank robbers.

The FBI has had several costly setbacks in its attempt to overhaul its computer systems, a top priority for Mueller after Sept. 11. Mueller scrapped a paperless case management system at a loss of $105 million to taxpayers after he was told it was obsolete.

Its replacement, dubbed Sentinel, will be rolled out in four phases, beginning by the end of 2006, he said.

The Thornburgh panel report, however, found some field offices and FBI training facilities in Quantico still have limited access to the Internet.

The FBI purchased 10,000 licenses from a software company for computer-based training, "but access to appropriate computers is so limited that only 200 employees, on average, are in a position to use the licenses at any one time," Thornburgh said.

FBI chief information officer Zalmai Azmi said the numbers were wrong, but did not elaborate.

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On the Net:

FBI: http://www.fbi.gov

National Academy of Public Administration: http://www.napawash.org

Court Says FBI Whistleblower May Sue The Agency For Retaliation (AP)

By MARY CLARE JALONICK, Associated Press

AP, September 15, 2005

WASHINGTON - A federal appeals court has ruled that Jane Turner, an FBI whistleblower who accused the agency of discrimination and retaliation, may seek monetary damages and a jury trial.

Turner accused male FBI agents of mishandling several cases of sexual abuse in Indian country and alleged her superiors transferred her from Minot, N.D., to Minneapolis in retaliation for complaints about sexual discrimination.

The 8th U.S. Circuit Court of Appeals, in a ruling Aug. 30, said Turner had sufficient evidence to justify at trial over whether the transfer was in retaliation for her complaints. But the judges dismissed Turner's claims that she worked in a hostile environment and was a victim of discrimination because of her gender.

An FBI spokeswoman said the agency would not comment on the case because the litigation is ongoing.

"I am very pleased that after all these years, we have vindication on retaliation happening in the FBI," Turner said Wednesday.

Turner has a separate case against the agency alleging wrongful termination under the Whistleblower Act. She said the agency started termination proceedings against her after she triggered an internal investigation into the agency's removal of souvenir debris from the site of the Sept. 11, 2001 terrorist attacks in New York.

Turner noticed a Tiffany globe paperweight on a secretary's desk in the Minneapolis FBI office in August 2002. After learning it came from the World Trade Center, she brought the globe to the attention of the inspector general.

She resigned in October 2003 before the termination proceedings could be completed.

Pot Author Challenges Drug Convictions (FINDLAW/AP)

By David Kravets, Associated Press Writer

Find Law, September 15, 2005

(AP) - SAN FRANCISCO-Attorneys for a man who has written books on how to grow marijuana and avoid getting caught asked a federal appeals court Tuesday to overturn his drug convictions.

Ed Rosenthal, the self-described "Guru of Ganja," was convicted two years ago of growing and distributing hundreds of marijuana plants. He says he was authorized to do so by the city of Oakland under a 1996 California medical marijuana law.

After U.S. District Judge Charles Breyer refused to allow a jury to hear that defense, Rosenthal was convicted of being a major drug supplier.

Breyer sentenced him to one day in prison on grounds that Rosenthal reasonably believed he was immune from prosecution because he was acting on behalf of Oakland city officials. The government and Rosenthal both appealed.

The government maintained Rosenthal, now 60, should have gotten at least 24 months. Amber Rosen, an assistant United States attorney, told a three-judge panel of the 9th U.S. Circuit Court of Appeals that Breyer abused his discretion by issuing a sentence that fell outside sentencing guidelines.

While the case was on appeal, the Supreme Court ruled that the federal government can prosecute medical marijuana growers and users despite California's medical marijuana law.

The justices also ruled in an unrelated case while Rosenthal's prosecution was pending appeal that federal judges do not have to follow congressional sentencing guidelines. That decision was also retroactive.

Dennis Riordan, one of Rosenthal's appellate attorneys, told the court that Rosenthal's conviction should be overturned.

"I was told by the city attorney's office that I was immune from prosecution. If I can't rely on government officials, who can you rely on?" Rosenthal said in an interview after the hearing.

He once wrote the "Ask Ed" column for High Times magazine and has written books with titles including "The Big Book of Buds" and "Ask Ed: Marijuana Law. Don't Get Busted."

Prospect Of Drugs ‘black List’ Hangs Over Venezuela (FT)

By Andy Webb-vidal In Caracas

Financial Times, September 15, 2005

From the jetty at San Juan de las Galdonas, a fishing village on the eastern coast of Venezuela, Pedro Salcedo casts his eye across the Caribbean. The sea is calm. A fine day for sailing.

Fishing, however, is just an occasional pastime for Mr Salcedo. He makes better money transporting drugs to far-flung islands in the Caribbean, for a couple of thousand dollars a journey.

''Trinidad, Grenada, and nowadays we go as far as Puerto Rico,'' he says. The US lies almost 900km away, two days on a small launch.

Mr Salcedo, and others like him, used to avoid soldiers from Venezuela's National Guard, the body charged with combating drugs-trafficking in the country, through which up to one-third of the cocaine smuggled from Colombia passes. But increasingly often, US officials say, the fishermen are in competition with the National Guard, rogue elements of which also take part in drug-running.

This may be one reason why the US, the world's largest consumer of cocaine, could remove Venezuela from its annual list of countries ''certified'' as adequately collaborating in the war on drugs. The State Department is expected to announce its list today, and some US officials say Venezuela will be ''decertified'', incurring sanctions.

Controversy over drugs was recently added to the list of factors that have become a fresh source of diplomatic tension between Caracas and Washington. Last month Hugo Chávez, Venezuela's president, suspended a co-operation agreement with the US Drugs Enforcement Administration, alleging that its officials were ''spying''.

Days later it emerged that the US had revoked the visas of several National Guard officers for alleged complicity in drugs cases. But Venezuelan officials claim they are delivering ever improving results in the war on drugs, and that a decision to decertify Venezuela would be ''political''.

On Tuesday, Jesse Chacón, the interior minister, said the authorities had seized 18.7 tonnes of cocaine in the first eight months of the year, almost as much as the 19.6 tonnes seized in 2004.

John Walsh, a senior analyst at the Washington Office on Latin America, a liberal think-tank, agrees that it will be hard for a decertification decision to not be seen as political. ''It's difficult in this context to imagine that if there is a decertification it won't be read as more political than substantive,'' he says. ''If the US isn't careful once again they are going to give Chávez some material to work with.''

Mr Chávez frequently criticises Washington's policies as ''imperialist'', and charges that it is ''hypocritical'' of the world's top drugs- consuming country to certify other countries.

This week, Venezuela offered an alternative arrangement to allow the DEA to continue operating under a more limited framework. A US embassy official said the draft agreement was being ''studied''.

Analysts have questioned the effectiveness of a drugs ''black list''. The decertification of the government of President Ernesto Samper in Colombia in the mid-1990s arguably had little lasting impact. And in Venezuela, sanctions that could amount to as little $500,000 (€400,000, £245,000) would be of little concern to Mr Chávez, whose government is dizzy on an unprecedented oil bonanza.

Sullivan County Grand Jury Hands Up 100 Indictments (UNIONL)

By STEPHEN SEITZ, Union Leader Correspondent

Manchester Union Leader, September 15, 2005

NEWPORT — In the end, "Operation Summer Sizzle" yielded more than 100 indictments against 41 people.

The drug raids took place on Aug. 31, involving 15 state and local law enforcement agencies, as well as the federal Drug Enforcement Administration. The indictments were handed up on Monday by the Sullivan County grand jury. The raids took place mostly in Newport and Claremont, although arrests were made in Charlestown and Sunapee as well.

Newport resident Sherry West, 38, faces 10 to 40 years and up to $600,000 in possible fines if convicted on charges of selling methadone and crack cocaine within 1,000 feet of a school. Robin Langlois, 38, of Claremont, was charged with selling heroin within 1,000 feet of a school; due to a prior conviction of selling cocaine, her penalty could reach 30 years and a $400,000 fine if convicted. Claremont resident Del Lord, 46, was charged with two counts each of selling the prescription drug Percocet and marijuana within 1,000 feet of a school. That could bring 12 to 30 years on each count and total fines of $400,000.

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Charges against the others range from possession to conspiracy to sell, as well as sales of various drugs. Penalties in these cases range from one year in prison to 15 for each count, depending on the severity of the offense; fines top out at $100,000, again depending on the charge.

Four charges were dropped by the Sullivan County Attorney's office.

Texas Mafia Member Is Given 60 Years (SAEN)

San Antonio Express-News, September 15, 2005

A federal judge on Wednesday sentenced a Texas Mexican Mafia member to 60 years in prison for his role in a violent drug-dealing conspiracy.

Johnny "Gira" Garcia-Esparza, 45, was the last of four Mexican Mafia members awaiting punishment on charges stemming from their April conviction on drug-related charges.

U.S. District Judge Orlando Garcia sentenced Garcia-Esparza to 55 years on the conspiracy and drug charges, plus five years on the gun charges.

Between 1999 and 2004, as many as 28 gang members were accused of delivering more than 150 kilos of cocaine and more than 30 kilos of heroin. Law officers seized more than 80 firearms in the course of making the arrests in August 2004, prompting the U.S. attorney's office to say the conspirators operated like a terrorist organization.

Out of the 28 who were rounded up, only four defendants went to trial last April and all were convicted of charges that included drug-trafficking conspiracy, money-laundering conspiracy, selling drugs and using guns in the commission of drug crimes.

Teen Convicted In Bomb Case (JCL)

By Jimmie E. Gates

Jackson Clarion-Ledger, September 15, 2005

A Brandon teenager who made a bomb powerful enough to blow up half of a car was convicted Tuesday of federal charges.

U.S. District Judge William Barbour Jr. set James Vaughn Rankin, 19, sentencing for Dec. 1. He faces a maximum 30 years in prison.

Rankin was convicted of possession of an unregistered firearm, transfer of an unregistered firearm and the manufacture of an unregistered firearm.

U.S. Assistant Attorney David Fulcher said Rankin intended for the bomb to kill. "He said on the videotape it will destroy half of a car," Fulcher said.

Rankin's landlord, Willis Freeman, said by telephone late Tuesday: "I would have bet my right arm that he wouldn't have done something like that, but he did. I never had a problem with him.

"I hope they take the good in him and try to rehabilitate him," Freeman said.

During the two-day trial, jurors watched a videotape of Rankin selling the bomb to an undercover agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives.

Rankin's attorney, Federal Assistant Public Defender Kathy Nester, argued her client may have possessed the bomb, but the government didn't prove beyond a reasonable doubt that he intended to harm anyone.

Nester said ATF agent Connie Wilson testified on cross-examination that she didn't mention anything about wanting the bomb to kill an ex-husband until after Rankin had placed the device in her car. Also, Nester said the government didn't prove her client transported across state lines gunpowder used in making the bomb.

"They haven't proved it (gunpowder) wasn't made in his bedroom," Nester said.

Rankin was arrested Nov. 9. Wilson said she posed as someone wanting to harm an ex-husband in Texas after a confidential informant told her Rankin could make a bomb. The informant set up a meeting for her with Rankin.

After Rankin was charged in federal court, his probation in a car-theft case was revoked and he was sentenced to five years in a state prison.

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Feds Target Firearms (FPTJ)

By Kelly Townsend, The Times-Journal

Fort Payne (AL) Times-Journal, September 13, 2005

DeKalb County was one of five counties in Alabama that had indictments handed down Sept. 2 in federal court for various federal firearm violations.

The others were Cullman, Madison, Shelby and Jefferson counties.

U.S. Attorney Alice Martin would not release the names of those indicted.

"The names of theses individuals are being withheld pending service of outstanding warrants," Martin said. "We cannot release any of this information, including how many were indicted in each county, until all the warrants have been served."

DeKalb County Drug Task Force Agent Darrell Collins said he couldn't recall the number of gun cases worked in the past couple of months. But he did say that normally, three-fourths of the methamphetamine cases they do work involve some type of firearm.

"That is why we work with the ATF on a daily basis, in an effort to enforce the reduction of illegal gun use," Collins said.

Martin, along with James M. Cavanaugh, Special Agent in Charge of the Bureau of Alcohol, Tobacco, Firearms and Explosives, said a grand jury returned indictments against 12 people in unrelated cases.

According to Martin, the indictments include seven violations for felons in possession of firearms, a violation for possession a sawed-off shotgun, possession of a firearm by an illegal alien, and three violations for possessing a firearm during and in relation to a drug trafficking or violent offense.

Plan To Blow Up Rudolph Truck Upsets Some (AP)

By JAY REEVES, Associated Press Writer

AP, September 15, 2005

BIRMINGHAM, Ala. — The government wants to blow up the truck Eric Rudolph was driving when he bombed an Alabama abortion clinic, a plan that has upset some of Rudolph's victims.

Authorities said they want to use the pickup truck in a training drill to prevent it from ending up in the hands of Rudolph's admirers.

"It was done partly out of concern that it would show up on eBay," said Assistant U.S. Attorney James Ingram, referring to the Internet auction site. "Somebody would plunk down some money for it."

But nurse Emily Lyons, who was badly wounded in the clinic bombing, believes the truck should go to Rudolph's victims, who are unlikely to get any other compensation, according to her husband, Jeff Lyons.

In 2003, a state court judge awarded the couple $115 million in a lawsuit against Rudolph, who was declared indigent in federal court and has not paid anything. Trucks similar to Rudolph's 1989 Nissan have a retail value of about $1,700, according to Kelley Blue Book, a pricing guide for used vehicles.

"We had the judgment before they did the seizure," Jeff Lyons said Wednesday.

Shortly after the clinic bombing, a witness recorded the truck's license plate number and reported it to police, who used the information to identify Rudolph as a suspect in the explosion. He was later tied to the 1996 Olympic park bombing and two other bombings in Atlanta in 1997.

Rudolph was captured in May 2003, pleaded guilty in four bombings, and is now in federal prison serving four life terms.

Last month, a federal judge in Birmingham approved the government's request to permanently seize the truck, which had been held as evidence for Rudolph's trial.

The truck likely will be loaded with explosives and detonated by the FBI or the Bureau of Alcohol, Tobacco and Firearms, said Jim Cavanaugh, the ATF's regional director. Both agencies routinely blow up vehicles in classes to teach officers about explosives and bomb reconstruction.

Donald Spitz, an abortion opponent who has corresponded with Rudolph and posted some of his writings on the Internet, said he doubted anyone in his movement would want to buy the truck, "but there are people out there who would do it."

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Marshals Rescind Ban On Releasing Mug Shots (DEN)

By David Shepardson, The Detroit News

Detroit News, September 15, 2005

DETROIT -- The U.S. Marshals Service has reversed a ban on releasing mug shots in response to a pair of federal lawsuits.

In an Aug. 10 memorandum made public Friday, the service's Office of General Counsel told officials in Michigan, Kentucky, Ohio and Tennessee -- the states covered by the U.S. Sixth Circuit Court of Appeals -- that they must release the photographs.

The memo rescinded an Aug. 19, 2004, order that said officials would no longer release the mug shots, citing a March U.S. Supreme Court decision.

In that unanimous decision, the court said the government wasn't required to release four photographs of former White House lawyer Vincent Foster's dead body, saying it would violate the family's privacy.

Two newspapers filed separate lawsuits this spring seeking to overturn an August 2004 decision by the U.S. Marshal Service to stop releasing the booking photos of prisoners to news media outlets and others under the Freedom of Information Act.

The Justice Department reversed itself and agreed to release the mugshots.

In the other 46 states, the U.S. Marshals Service typically only releases mug shots for "fugitive apprehension purposes." Under a 1996 ruling by the U.S. Sixth Circuit Court of Appeals, the department has been required to release mug shots. That upheld a ruling by U.S. District Judge Anna Diggs Taylor in Detroit ordering the release of the photographs in a 1993 lawsuit.

IMMIGRATION:

13 Bosnian Serbs Arrested For Immigration Fraud,7 Others Detained (AP)

By BETH DeFALCO, The Associated Press

AP, September 14, 2005

PHOENIX - Thirteen Bosnian Serbs living here were indicted on charges of lying to American authorities about their service in the Serbian Army and seven others were being detained for similar reasons, federal authorities said Wednesday.

According to an indictment filed in U.S. District Court in Phoenix, the 13 who were indicted on immigration fraud charges are accused of lying on their immigration applications by omitting that they served in Serbia's Army of the Republic of Srpska.

All immigrants applying for refugee status and legal residency are required to declare prior military service.

"We will not allow the United States to become a sanctuary for those using fraud and deception to qualify for refugee status," said Roberto G. Medina, special agent in charge of the Immigration and Customs Enforcement in Phoenix.

The seven being detained would have been charged criminally for failing to declare their past military service except that the statute of limitations had run out, said Russell Ahr, an ICE spokesman in Phoenix.

The 13 arrested on Monday were: Nenad Dragic, Milenko Gujic, Mitra Gujic, Rajko Hercegovac, Risto Hercegovac, Rajko Ninkovic, Radenko Spiric, Vitomir Spiric, Savo Tojcic, Nikola Stankovic, Cvijan Vidakovic, Momcilo Krstic and Mladen Blagojevic. All were citizens of the former Yugoslavia, now Bosnia-Herzegovina, according to the U.S. Attorney's Office in Phoenix.

The seven being held on immigration charges were not immediately identified by federal authorities.

This week's apprehensions left many in Phoenix's Bosnian Serbian community confounded as to why their friends and family members were taken away after living in this country peacefully for so many years. Some wondered if they would be next.

Goran Spiric's father and brother were both apprehended. His brother, Vitomir Spiric, was among those charged criminally. He said his 63-year-old father, who came to Arizona seven years ago, was a civil firefighter but never served in the Serbian Army.

Goran Spiric, who said he came to America 11 years ago from a concentration camp where he was kept by Bosnian Muslims, wondered if he would also be apprehended.

"Every single morning I go to work, I carefully watch on both sides and wonder if the FBI or someone is watching me," Spiric said.

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Some in the Bosnian Serb community said they believe the connection among those arrested and detained is that many lived in Srebrenica, the site of a massacre in July 1995 - months before the end of the Bosnian war and after the Bosnian Serb troops took control over the town in the east of the Balkan republic.

The victorious Bosnian Serb troops allegedly executed some 8,000 Muslim boys and men who were captured in the onslaught on the town. The remains of the victims were buried in mass graves around Srebrenica.

Several top Bosnian Serb military and political officials already are serving sentences for war crimes over Srebrenica.

Federal authorities in Phoenix would not disclose why immigration paperwork for those Bosnians Serbs arrested and detained this week was targeted for review or how officials knew they served in the Serbian Army.

"Information was provided to ICE and our agents relating to service in the Serb Army. With enough investigation work, we determined that the statements made on refugee applications turned out to be false," Ahr said.

Federal authorities also declined to say whether any of the 20 Bosnian Serbs were suspected of war crimes or were material witnesses. None of those arrested or detained have been charged with a war crime, according to war tribunal indictments.

Last year, four Bosnian Serbs living in Phoenix were also arrested and charged with lying on immigration paperwork. They are Radenko Ubiparipovic, Dragon Ubiparipovic, Goran Bencun and Zdravko Bozic.

Bozic was sentenced on March 30 to a year in prison. After serving his sentenced, he'll be turned over to ICE for deportation, federal prosecutors said.

The other three cases are still pending.

According to court documents, all four - Bozic, Radenko Ubiparipovic, Dragon Ubiparipovic and Bencun - were said to have been assigned to the Drina Corp in the Batunac Brigade in 1995.

Earlier rulings by the U.N. tribunal have established that the Bosnian Serb Drina Corps led the attack on Srebrenica.

There are no indications from authorities that the 13 arrested or seven detained this week have any connection to the four arrested last year.

Alexander Stojsic, a spokesman for St. Nicholas Orthodox Church in Phoenix, where many Bosnian Serbs attend, said church members had already begun to raise money for a legal defense fund. He also said the Serbian consulate planned to meet with the community members this week.

Judge Is Asked To Dismiss War Crime Case (BOS)

The Boston Globe, September 15, 2005

Charges against a Peabody construction worker accused of hiding his role in a Bosnian Muslim massacre should be thrown out because Marko Boskic was forced under threat of death to participate in the Srebrenica killings, his lawyer said yesterday.

The lawyer, Max D. Stern, told a US district court judge yesterday that Boskic was not deceptive on immigration forms when he entered the United States in 2000 and that he was never motivated by the fact that the victims were Muslim.

Judge Douglas P. Woodlock promised to issue a ruling on the motion soon.

Boskic faces a five-count indictment of fraudulently entering the US as a refugee, as well as concealing his past in a Bosnian Serb Army unit accused of killing some 7,000 Muslim men and boys.

Lawmakers, Rove Talk Immigration (HILL)

By Patrick O'Connor

The Hill, September 15, 2005

Two House Republicans met with White House Deputy Chief of Staff Karl Rove yesterday to discuss immigration reform one week after the House chairman with jurisdiction over that issue predicted that Hurricane Katrina could delay it until next year.

Reps. Jeff Flake (R-Ariz.) and Jim Kolbe (R-Ariz.) met with Rove at the White House to discuss immigration reform, Flake said yesterday. Neither member had returned from the afternoon meeting by press time.

The meeting comes as congressional leaders reshuffle their fall agenda after a glut of emergency legislation responding to the damage caused by Katrina. It also comes days after House Judiciary Committee Chairman James Sensenbrenner (R-Wis.) told the Milwaukee Journal-Sentinel: "I think immigration is off until next year."

Immigration reform is a particularly difficult issue for congressional Republicans because it divides supporters of the business community from those social conservatives whose goal is to shut down the borders and prohibit employers from hiring illegal immigrants.

The business community, on the other hand, argues that the estimated 10 million to 12 million illegal immigrants employed in this country fill jobs U.S. citizens would not otherwise take. This broad coalition, which includes large corporate interests such as the Chamber of Commerce as well as regional businesses such as seasonal crab farmers in Maryland, also argues that the relocation costs would be too high.

While the political climate favors a strong border-security measure, the business lobby could be essential in creating the political momentum to pass a broader bill through the Senate.

Kolbe and Flake have introduced a bill, along with Rep. Luis Gutierrez (D-Ill.), to register illegal immigrants currently employed in the United States as part of a national database for prospective employers. Their legislation does not require those immigrants to return to their countries of origin before gaining temporary residency.

Sens. Edward Kennedy (D-Mass.) and John McCain (R-Ariz.), meanwhile, have offered companion legislation in the Senate, while Sens. John Cornyn (R-Texas) and Jon Kyl (R-Ariz.) have offered competing legislation that would require immigrants to return to their countries of origin to register as guest workers.

Both bills have provisions that would expand border security and increase fines for employers caught violating the law.

GOP House leaders made immigration reform a priority early in the 109th Congress. Speaker Dennis Hastert (R-Ill.) tapped Republican Policy Committee Chairman John Shadegg (R-Ariz.) to coordinate the divergent member views on this issue in anticipation of a floor vote this year.

Shadegg was to hold the fourth of his Unity Dinners to discuss the subject last night. The Arizona Republican has used these Unity Dinners, which were established by former Majority Leader Dick Armey (R-Texas), to find consensus on fractious issues within the conference.

In the wake of Katrina, House Majority Leader Tom DeLay (R-Texas) has maintained his commitment to passing an immigration and border-security package that could be either one bill or multiple pieces of legislation. DeLay has recently hinted that he would like to pass a border-security bill first and then address the issue of illegal immigrants employed in this country. He is working with Sensenbrenner, whose Judiciary Committee has jurisdiction over the legislation.

Flake said he believes the practical details of enforcement, such as locating illegal workers, will eventually require lawmakers to address instead the question of registering these employees before passing a separate enforcement bill.

"If you want enforcement, you've got to have a law you can enforce," Flake said.

The Judiciary Committee already had a full schedule of legislation on its plate heading into the fall, including the child-safety bill that passed yesterday, an update of the Voting Rights Act that may spark a fight about redistricting and a House-Senate conference negotiation about reauthorizing the USA Patriot Act.

Sensenbrenner made his remarks about postponement in response to a question about the fall legislative agenda.

After the damage wrought by Katrina, the Federation for American Immigration Reform, a group strongly opposed to illegal immigration, released a report illustrating how immigration loopholes could lead to another massive terrorist attack.

Meanwhile, the Department of Homeland Security last week relaxed document requirements for employers hiring workers who have been displaced by the hurricane. The department will not fine any businesses that hire any of these workers within 45 days of last Tuesday, which could create a major immigration loophole.

Washington lobbying firm Quinn-Gillespie has organized a large coalition of business lobbies, including the Chamber, to work with the White House to pass a broader immigration bill, which would allow for more flexibility for employers to retain those workers already in this country.

Kilgore Urges Penalties For Employers Of Illegals (WT)

By Christina Bellantoni

The Washington Times, September 15, 2005

Republican gubernatorial candidate Jerry W. Kilgore said yesterday if elected he will go after businesses that knowingly hire illegal aliens.

"They are supposed to check for legal status," Mr. Kilgore told The Washington Times. "If they are knowingly violating the law they shouldn't be getting state contracts and they should not be getting state credits and benefits."

His comments come one day after he debated his Democratic challenger Timothy M. Kaine over a host of topics, including the establishment of a day laborer center in Herndon that will provide services for legal immigrants and illegal aliens.

The debate was sponsored by the Fairfax County Chamber of Commerce, whose members include local business leaders. Last night, a chamber spokesman had no comment on Mr. Kilgore's proposal, saying it would be up to individual businesses to weigh in.

Mr. Kilgore has said officials in Northern Virginia are giving incentives to illegals by allowing such centers. One way to address the problem would be to revoke any tax credits or benefits companies receive from the state if they knowingly hire illegal aliens, he said.

Mr. Kaine said at the debate that his opponent was "mean-spirited" and that the members of the Herndon Town Council should have the right to deal with "tough public safety challenges."

"They are elected by local people and I'm not going to grandstand over their right to make the best decision for themselves, using their own money," Mr. Kaine said Tuesday. "The problem is a federal government that turns its back, that lets employers violate the law and then expects local governments to try to pick up the pieces.

"Jerry, there is a mean-spiritedness in your attack," he added.

Yesterday, Mr. Kilgore responded to Mr. Kaine's remarks: "I don't know how it is mean-spirited to ask someone to follow the law."

Mr. Kilgore also said if elected he would sign an agreement with the U.S. Department of Homeland Security to train 50 state troopers and give them special authority to detain illegal aliens.

The executive director of the Virginia Association of Chiefs of Police said Mr. Kilgore's stance is not realistic.

"We believe you need to be here legally, but in the real world we don't have the resources to address that," said Dana Schrad, executive director of the association that represents police chiefs in the state.

"If you take a position we're going to launch enforcement activities to rid Virginia of all illegal immigrants, it backfires on law enforcement because we don't have the resources to do that," she said.

She said that authorities worry about detaining gang members and violent criminals before they worry about detaining illegal aliens who violated immigration law.

Miss Schrad also said day laborer centers are a better alternative to large groups of men standing around and potentially causing trouble for local businesses, which is one of the reasons Herndon leaders gave when they approved the center.

Mark Bergman, a spokesman for the Democratic Party of Virginia, said Mr. Kaine is correct in stating that the federal government is failing to do its job and agreed that Herndon shouldn't be second-guessed on its decision to allow the center.

"These are local issues and we shouldn't be in the position to bully people," he said. "We shouldn't be in the business of coming in and intervening in local issues."

Mr. Bergman also said that Democrats agree with Mr. Kilgore that illegal behavior should not be rewarded with state contracts.

Conservative lawmakers supporting Mr. Kilgore yesterday criticized Mr. Kaine for the comments he made at the debate.

Delegates David B. Albo and L. Scott Lingamfelter, both Republicans, said Mr. Kaine's comments put him out of touch with Virginia voters and equate to encouraging illegal activity.

"He is turning a blind eye toward the problem," said Mr. Lingamfelter of Prince William County. "Tim is completely out of step with the voting public on this issue."

However, statewide polls show that concern over illegal aliens ranks low in voting priorities.

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Independent candidate H. Russell Potts Jr., a Republican state senator from Winchester, has previously criticized Mr. Kilgore's position on the day laborer center as "bigoted."

Mr. Kilgore and the two lawmakers said that illegal aliens is an issue that is "constantly" brought up by voters.

Mr. Lingamfelter and Mr. Albo said they agree with Mr. Kaine that the federal government must take action on illegal aliens. The lawmakers also agree with Mr. Kilgore that all benefits should be yanked from companies that hire illegal workers.

TAX:

Defendant Maintains Anti-income Tax Stance (LVS)

By David Kihara, LAS VEGAS SUN

Las Vegas Sun, September 14, 2005

The defendant in a tax evasion trial that began on Tuesday said he is innocent of the charges against him because there is essentially no law that requires people to pay income tax.

In a rambling opening statement that brought at least seven objections from a Justice Department lawyer and just as many admonitions from U.S. District Judge Kent Dawson, Irwin Schiff also tried to discount his alleged influence, saying that doctors, lawyers and others wouldn't stop paying income taxes just because he told them to.

"In my view, there is no law requiring people to pay income tax," said Schiff, who is representing himself in the criminal case against him.

The trial is expected to last five weeks.

Schiff and fellow defendants Cynthia Neun and Lawrence Cohen are facing multiple criminal charges in U.S. District Court, including aiding and assisting others in filing false income tax returns, attempting to evade paying taxes and failing to file false returns, according to a March indictment.

The indictment charges that Schiff filed "zero return" tax forms, in which he would enter zeros in every line for expenses and income. Schiff, Neun and Cohen allegedly filed or helped file for people almost 5,000 "zero return" tax forms.

People would then make claims for a full refund of all federal taxes withheld or paid, the indictment stated.

During his opening statement, Schiff denied that he was involved in breaking any laws because he was unaware that any laws existed requiring people to pay income tax.

Unlike "universal laws" such as robbery, stealing or rape -- which someone from Taiwan would intrinsically understand -- taxes in the United States are different because someone would need to know they have an obligation to pay taxes, he said.

He also said that he never attempted to hide what he was doing, and that he is a high profile lecturer who had a local radio show and authored numerous books, including "The Great Income Tax Hoax" and "The Federal Mafia: How the Government Imposes and Unlawfully Collects Income Tax."

"The government knew what I was doing -- I didn't make it a secret," he said.

The Justice Department, however, said Schiff and the other defendants were involved in what amounted to a scam.

Jeffrey Neiman, attorney with the Justice Department's Tax Division, said the defendants would advertise the "zero return" tax returns as a way to not pay taxes and would sell people a $38 book explaining how to do it.

Neiman also conceded that the Internal Revenue Service also did not catch some of the "zero returns," and that Schiff held them up as proof that his method worked.

However, after clients or followers of the practice would get into trouble with the authorities, Schiff and others would continue to offer help by selling more merchandise from Schiff's business, Freedom Books, Neiman said.

Schiff could sell anything from $2 bumper stickers to $415 video and cassette seminars that offered ways for the people to get out of further tax troubles, he said.

From 1997 to 2002, Freedom Books generated gross business receipts of $3,726,000, the indictment stated.

"He encouraged thousands to file the zero returns," Neiman said.

The first witness called, Antoinette Mitchell, a former employee of Freedom Books, testified that she filed "zero return" taxes for about three years after hearing Schiff on a paid radio broadcast on AM 1230.

She eventually volunteered for Schiff because she wanted to be "close to what was going on, basically for the cause," she said.

Schiff paid her $10 an hour in cash, and she said she never received a W-2 or 1099 tax form.

The IRS eventually penalized her, she said, and she is facing a $17,000 lien on her home.

Neiman also accused Neun, Schiff's former girlfriend, of not reporting income she received from working at Freedom Books because she would have lost about $600 a month in Social Security benefits.

Nuen's attorney, Michael Cristalli, told jurors that the essence of his case is whether Neun believed whether Schiff's "teachings" were legitimate.

"Cindy sincerely does not believe that the government has legal authority to collect personal income tax," he said.

Cristalli framed Schiff's tax beliefs in almost religious terms and described some who followed Schiff, such as Neun, as willing to give up many things to practice his ideas.

"Her belief system ruined her" financially, emotionally and even hurt family relationships, he said.

"She sacrificed her life for this belief," he said, adding that Neun didn't seem like someone who was profiting from her belief system because she had so little.

Chad Bowers, attorney for Lawrence Cohen, also stated that his client believed in the "zero return" tax idea, that it was an expression of his beliefs.

However, Bowers also also tried to put a little distance between Cohen and Schiff and Nuen, saying that Cohen is not alleged to have shared in any of the profit from the Freedom Books venture.

"This plan was designed to overwhelm the IRS and make money," Bowers said. "That isn't going to be presented for Larry Cohen. Larry genuinely believes this."

'ZERO RETURN': Income Tax Foe's Trial Begins (LVRJ)

By CARRI GEER THEVENOT, REVIEW-JOURNAL

Las Vegas Review-Journal, September 14, 2005

Income-tax opponent Irwin Schiff delivered his opening statement to jurors Tuesday and promised to unravel "the greatest hoax ever perpetrated upon the American people."

"So fasten your seat belts," said Schiff, who is representing himself. "I hope you enjoy the ride."

Prosecutors began presenting evidence Tuesday against Schiff and two of his followers, Cynthia Neun and Lawrence Cohen, who are accused of conspiring to defraud the federal government.

"Nobody likes to pay taxes, but that's not what this case is about," Justice Department attorney Jeffrey Neiman told the jury.

Schiff, the 77-year-old owner of Freedom Books in Las Vegas, has made a career of teaching his customers how to avoid paying federal income tax.

He claims no law requires Americans to pay the tax, and he has written several books advocating his position.

Neiman said the main issue in the criminal case is: "What were the defendants aware of, and what were they told?"

The prosecutor said evidence will prove that the defendants knew the law and chose to violate it.

Neiman said Schiff's book, "The Federal Mafia: How the Government Illegally Imposes and Unlawfully Collects Income Taxes," provides details of his scheme, which involves instructing his customers to file a "zero return."

"As the name would suggest, the zero return has all zeroes," the prosecutor said.

A court order has prevented Schiff from selling "The Federal Mafia" since 2003.

Neiman said Schiff advised his customers to list zero income on their tax returns, regardless of whether they had received income.

Schiff also advised his customers to write down the amount of taxes withheld from their paychecks, then seek a refund for that amount, the prosecutor said.

"At first, when the IRS began receiving these, some slipped through the cracks, and some refunds were paid," Neiman said.

The prosecutor said Schiff used those refunds to support his position.

Another part of Schiff's scheme, Neiman said, involved advising employees to write "exempt" on their W-4 forms in an attempt to prevent their employers from withholding taxes.

"What the defendants didn't tell you was: Trouble was on its way," the prosecutor said.

When trouble came, Neiman said, the customers turned to Freedom Books for help. The help came in the form of more products "that the defendants knew would just ensure more trouble," he said.

The prosecutor said Schiff has sold millions of dollars worth of products, which ranged from a $2 bumper sticker to a $415 video and cassette seminar.

In a 2002 Review-Journal interview, Schiff said he had paid no income tax since 1973.

Schiff was indicted in 2004 and is accused of evading the payment of $1.3 million in taxes, penalties and interest between 1979 and 1985.

Neiman said some of Schiff's followers also have faced prosecution. Many have had to file for bankruptcy, and all have faced fines, the prosecutor said.

One woman, Toni Mitchell, testified for the government Tuesday under a grant of immunity.

Mitchell, a banquet food server at the Monte Carlo, said she followed Schiff's advice and filed zero returns for 1996, 1997 and 2000.

Mitchell said she began volunteering at Freedom Books in 2000 and later became a part-time employee.

Neiman said both Neun, Schiff's girlfriend, and Cohen, Schiff's top sales person, worked at Freedom Books and earned "decent hourly wages," which they received in cash.

"No paper trail, no documents, no W-2s," the prosecutor said.

All three defendants are accused of aiding and assisting in the preparation of false returns for helping customers file zero returns.

Neiman said Neun chose not to file a tax return for herself, because she knew it would jeopardize the $600 a month she received in Social Security benefits.

She is accused of failure to file tax returns, Social Security fraud and theft of government property.

Schiff began his opening statement Tuesday by telling jurors, "I hope you'll be patient with me while I'm fumbling along trying to be a lawyer."

His often-rambling statement was frequently interrupted by objections from Neiman, and U.S. District Judge Kent Dawson repeatedly instructed Schiff on how to deliver a proper opening statement.

Schiff told jurors the government must prove "that not only was the information false, but I didn't believe it."

"It's what I know, and I know I don't have to pay income taxes," the defendant said.

If authorities can point out a law that requires the payment of income taxes, Schiff said, "I'll plead guilty right now, and I'll save the court the expense of a trial."

"In 30 years of research, I never found a law that says I have to pay income tax," Schiff said.

He also said anybody who has followed his advice knows that he has spent time in prison.

Lawyers representing both Neun and Cohen said their clients acted in good faith.

Defense attorney Chad Bowers said Cohen's "only intent was to follow the law as he understands it."

Attorney Michael Cristalli, who represents Neun, said jurors must decide whether she believed Schiff's teachings were legitimate.

"If you believe that she believes it, you will not be able to convict her," Cristalli said.

The attorney said Neun did not profit from her beliefs. He said she received financial support from Schiff but never received payment for her work at Freedom Books.

Las Vegas Tax Rebel Goes On Trial (FINDLAW/AP)

Find Law, September 14, 2005

(AP) - LAS VEGAS-An author went on trial Tuewho claims that paying federal income taxes is voluntary sday on federal charges including tax evasion and aiding in the filing of fraudulent tax returns.

Irwin Schiff, author of "The Federal Mafia: How the Government Illegally Imposes and Unlawfully Collects Income Taxes," and two co-defendants are accused of causing hundreds of people to file false returns and promoting tax-evasion schemes through Schiff's business, Freedom Books.

Schiff, representing himself, said during opening statements that no law requires Americans to pay taxes and the federal court has no jurisdiction over the matter.

Schiff is accused of failing to report income on federal tax returns from 1987 to 2002, and of evading payment of $1.3 million in taxes, penalties and interest between 1979 and 1985. If convicted, he faces a maximum sentence of 43 years in prison and $3.25 million in fines.

Attorneys for co-defendants Cynthia Neun and Lawrence Cohen, who worked for Schiff, said their clients believed their conduct was legal.

Neun's lawyer, Michael Cristalli, said Neun followed Schiff's tax advice partly because of his powerful personality but also because she did not believe she was violating the law.

Cohen's lawyer, Chad Bowers, said there was no evidence his client intended to break the law.

If convicted, Neun could receive a 51-year sentence and $3.4 million in fines. Cohen faces a maximum 27 years and $1.5 million in fines.

CONGRESS-ADMINISTRATION:

'Advise And Consent,' Anyone? (WP)

By Dana Milbank

The Washington Post, September 15, 2005

Efforts to get an answer out of John G. Roberts were going nowhere at yesterday's Senate Judiciary Committee meeting, so Sen. Charles E. Schumer went Hollywood.

"Your failure to answer questions is confounding me," the New York Democrat fumed at the nominee for chief justice. "It's as if I asked you: 'What kind of movies do you like? Tell me two or three good movies.' And you say, 'I like movies with good acting.' Then I ask you if you like 'Casablanca,' and you respond by saying, 'Lots of people like "Casablanca." ' You tell me, 'It's widely settled that "Casablanca" is one of the great movies.' "

As the laughter at his expense subsided, the judge's smile shifted toward a smirk. Chairman Arlen Specter (R-Pa.) moved to call a recess, but Roberts asked if he could reply to Schumer.

" 'Dr. Zhivago' and 'North by Northwest,' " the nominee deadpanned. The crowd scored it another point for Roberts. Jane Roberts gave her husband a kiss. Schumer went outside to the cameras, where he observed, a bit wistfully, that Roberts "is a very, very smart man."

In yesterday's second day of questioning Roberts, the confirmation hearing had lost much of what little suspense it had in the first place. The only speculation in the halls outside the hearing was how many, if any, Democrats on the committee would vote for Roberts en route to his all-but-certain confirmation.

On Tuesday, Jane Roberts was so confident about her husband's fate that she was seen dozing on camera as her husband answered questions. By yesterday, there was not much left in the way of either questions or answers. Roberts avoided any query on a topic that might come before the high court -- which is to say most any question senators wished to ask. The result: Democrats and Republicans alike used the bulk of their time for speechmaking.

The conservatives blew kisses to Roberts.

"I've never seen anyone do a better job," said Sen. Orrin G. Hatch (Utah). "You have made a very, very strong presentation here.

Lindsey Graham (S.C.) called Roberts "the most qualified justice in my lifetime" and added: "Obviously, he's read every case ever written and memorized it."

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Sen. John Cornyn (Tex.) dashed to the microphones during a break and shoved aside John Marshall, Oliver Wendell Holmes and Felix Frankfurter. Roberts, Cornyn said, is probably "the most qualified nominee who has ever been put up for a Supreme Court vacancy."

Awash in flattery, Roberts grew more brash in declining to answer the Democrats' questions.

Sen. Dianne Feinstein (Calif.) observed that on Tuesday morning, "you were very full and forward-speaking. And then after lunch, it was as if you shut down and became very cautious. So my first question: Did anybody caution you between the morning and the afternoon sessions?"

"No, Senator," Roberts protested.

Feinstein knew she was just going through the motions. "I have another question I could ask, but you won't answer it," she said.

"Give it a try, Dianne," Sen. Patrick J. Leahy (D-Vt.) encouraged. "Go ahead."

Feinstein, tentative, asked about "the right of a woman to decide whether to continue her pregnancy."

"Well, Senator, as I've explained, that is an area that's --" "Yes," Feinstein said, finishing his sentence, "apt to come before you."

With Republicans not inclined to grill Roberts and Democrats unable to pin him down, senators on both sides decided to do the talking themselves. In Hatch's 15 minutes of questioning, the senator spoke for 12 and left the nominee with three. When Sen. Edward M. Kennedy (D-Mass.) took his turn, he used 15 of the 20 minutes and gave Roberts five. Sen. Joseph R. Biden (D-Del.) warned Roberts to give "short answers" and held the floor for 12 of his 20 minutes. Sen. Sam Brownback (R-Kan.), who spoke 3,500 words, left Roberts time for 1,500.

It was, as Sen. Jon Kyl (R-Ariz.) put it, "a lot of senator talk." Explained Kyl: "I think this is a once-in-a-lifetime opportunity. It is the only time that you'll have the opportunity to be directly lobbied in the political context in an appropriate way."

Brownback used his question time to digress into a discussion about an elevator operator in the Capitol who has Down syndrome. "He frequently gives me a hug in the elevator," Brownback said. "I know he hugs Senator Hatch often, too, who kindly gives him ties -- some of which I question the taste of, Orrin."

Hatch, wearing a loud blue-and-gold-striped tie, interjected: "It doesn't have to get personal."

Sen. Tom Coburn (R-Okla.) used his time to deliver an antiabortion speech. After this long message, Coburn asked, "Would you agree that the opposite of being dead is being alive?" After another monologue on his abortion views, Coburn said he wasn't even intending to ask a question about it. "That was for your information," he said.

Then Coburn went moved on to assert that he used his "medical skills of observation of body language" to ascertain whether Roberts was telling the truth. "And I will tell you that I am very pleased, both in my observational capabilities as a physician to know that your answers have been honest and forthright as I watch the rest of your body respond to the stress that you're under."

The body language was quite different on the Democratic side, where Biden gave Roberts the full Al Gore: While Roberts spoke, Biden shook his head, put his face in his hand, pouted and glared disgustedly. "We are rolling the dice with you, Judge," Biden said. "It's kind of interesting, this Kabuki dance we have in these hearings here, as if the public doesn't have a right to know what you think about fundamental issues facing them."

Biden kept talking. Graham rolled his eyes. Roberts explained that a fuller answer would be "inconsistent with the independence and integrity of the Supreme Court." The Kabuki continued.

Spinning In The Ring (WP)

By Marcia Davis

The Washington Post, September 15, 2005

It's midmorning on the second day of questioning John G. Roberts Jr., President Bush's nominee for Supreme Court chief justice.

Things are going pretty much like the day before: Democrats are pressing Roberts on voting rights and issues of privacy (translation: Roe v. Wade), and Roberts is looking a little bit like a young Muhammad Ali dancing his way around the hearing

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room. He's drawn his judicial line about what he is going to say and what he isn't. Steam is rising from Democratic collars, and their Republican colleagues have all but grabbed Roberts's arm and thrown it up in victory. Yesterday, they'd almost stopped asking questions, opting instead for congratulatory speeches.

Don't be fooled, though. There are many rounds to go.

Any evidence you need is right outside the doors of Hearing Room 216 in the Hart office building. When Judiciary Committee Chairman Arlen Specter (R-Pa.) calls a 15-minute break, what was constrained tension inside the room explodes into the corridors.

This is spin city, where both sides jockey to get their word out to an American public preoccupied with Hurricane Katrina, the war in Iraq and gas prices that require second mortgages.

A bank of cameras lines one wall, and look, there's Sen. Tom Coburn (R-Okla.) in front of a row of mikes. Sen. Lindsey Graham (R-S.C.) is just behind him as Coburn voices his frustration with the Democrats, who he says just aren't giving Roberts a fair shot.

"We want judges who are well qualified. Ginsburg was confirmed with 96 votes. . . . I would hate to see a double standard," Coburn is saying.

A few feet away, Ralph Neas, president of People for the American Way, the liberal organization that helped defeat the nomination of Robert Bork 18 years ago, is surrounded by reporters, too.

He's got a one-liner that he's working about Roberts, who in his introductory remarks on Monday likened the role of a judge to that of an umpire.

"He's spent his time talking about baseball, now he's playing dodgeball," Neas says, venting his frustration about the nominee. "I think the American people have a right to know the judicial philosophy of Judge Roberts."

Roberts, he says, is being disingenuous, too clever by half, giving answers about privacy, then quickly qualifying them so that they are only, well -- dodges.

Then a reporter listening to Neas is interrupted by a tug on the sleeve.

It's Greg Mueller, president of Creative Response Concepts, who's flacking for conservative groups the Federalist Society and the Judicial Confirmation Network.

"Hey," he says, with a nod in the opposite direction, with what will have to pass for a come-hither look. Mueller's operation has been working the hearing room and hallway like that all week. There are some viewpoints he wants to make sure don't get overlooked in this crowd.

Abigail Thernstrom, the conservative vice chair of the U.S. Commission on Civil Rights, is really annoyed at Ted Kennedy's persistent questions on voting rights.

No sooner than Thernstrom is done, Bethanie Swendsen, media coordinator for the Family Research Council, is introducing Tony Perkins. Perkins, president of the conservative group that would like to see Roe v. Wade overturned, says he's pleased with what he's been hearing from Roberts. He likes his philosophy and how he approaches the hearings.

"We're here making sure we're getting what we were promised," he says.

And what's that?

"A judge who practices judicial restraint. Roberts understands the limited role of the court."

"With all the media, these are high-stakes games," Mueller says. "And a little presidential politics are going on here."

"Hey, if Ralph Neas is having a mini-press conference, then we have to make sure that folks get to hear the other side," he says.

Julie Bernstein, communications director for the Alliance for Justice, is working just as hard, getting interviews for her boss, Nan Aron, who along with Neas and Wade Henderson of the Leadership Conference on Civil Rights, are well known activists working to oppose the nominations of conservative judges.

"Since seating is so restrictive, we try and connect reporters to leaders in the civil rights and women's rights communities so they can share their reactions with press," says Bernstein, who doesn't have a seat in the hearings. She has to watch it on television, then get on scene during the breaks.

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Her boss is doing more than working the hall. Aron is meeting with senators and liberal groups that have come to lobby their representatives against Roberts.

Aron didn't get home until almost midnight Tuesday, she says, and was up yesterday by 4 a.m., getting ready for another day of the message wars.

Even the seating in the hearing room seems to be divided into camps, with Aron, Neas and allies such as Kim Gandy, of the National Organization for Women, and Debra Ness, of the National Partnership for Women & Families, on one side of the room. Thernstrom and others are seated across the aisle.

"What we do now will establish how they handle future nominations," Aron said of the Bush administration. "This is the time to send the White House a message. That helps frame [the debate for] filing the O'Connor seat."

Ding! That's the bell for the next round.

Roberts Parries Queries On Roe And End Of Life (NYT)

By Adam Liptak And Robin Toner

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 - Judge John G. Roberts Jr. faced increasingly contentious questions from Democrats on Wednesday as he outlined his views on an array of legal issues, but repeatedly declined to address some of the most ideologically charged matters, including whether the Constitution establishes a right to abortion and a right to die.

"I'm not standing for election," Judge Roberts said in one testy exchange on end-of-life issues on the third day of his confirmation hearings for chief justice of the United States. [Excerpts, Page A28.]

His refusal to elaborate on his statement that there is a constitutionally protected right to privacy drew criticism from Senator Joseph R. Biden Jr. of Delaware, one of several Democrats on the Judiciary Committee who challenged him with growing frustration on Wednesday.

"Without any knowledge of your understanding of the law, because you will not share it with us," Mr. Biden said, "we are rolling the dice with you, Judge."

But Judge Roberts, by the end of a second long day of careful, unflappable testimony, appeared in comfortable position for a confirmation vote next Thursday in the Republican-controlled Senate Judiciary Committee and, many Republicans predicted, a strong vote the following week in the full Senate, where Republicans have a 10-vote majority.

"If people can't vote for you," Senator Orrin G. Hatch, Republican of Utah, told Judge Roberts, "then I doubt that they can vote for any Republican nominee."

Leading Democrats on the committee refused to discuss how they would vote, saying Judge Roberts's views were still largely unknown.

"The American people are entitled to answers," said Senator Edward M. Kennedy, Democrat of Massachusetts.

Judge Roberts did respond to questions on capital punishment, affirmative action, the limits of Congressional power and other legal issues during 10 hours of testimony before the committee's 18 senators.

He said, for instance, that he agreed with an aspect of Justice Sandra Day O'Connor's decision in a recent case that allowed public colleges and universities to take race into account in admissions decisions. The decision took note of the practical consequences for minority applicants.

"You do need to look at the real-world impact in this area," Judge Roberts said.

He also discussed a Supreme Court death penalty case in which he filed a brief as a government lawyer in 1992. The brief said that newly discovered evidence of a death row inmate's innocence should not be considered by the courts if it is raised too late.

"Does the Constitution permit the execution of an innocent person?" asked Senator Patrick J. Leahy, Democrat of Vermont.

"I would think not," Judge Roberts said, adding later that the 1992 case did not involve DNA evidence that could provide categorical proof of innocence.

Also, while acknowledging that as a young lawyer in the Reagan administration he opposed a provision that made it easier to prove voting rights violations, Judge Roberts defended his position on the Voting Rights Act.

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"It wasn't a dispute about the goal," he said. "It wasn't a dispute about the objective." He said that he now believed that the broader approach ultimately adopted by Congress was constitutional.

While most of the questions ran along party lines - friendly from the Republicans, decidedly less so from the Democrats - senators from both parties expressed frustration with and even hostility toward the current court. That left Judge Roberts in the uncomfortable position of trying to protect the reputation and prerogatives of the institution he hopes to join while appearing attentive to the concerns of those who will decide whether he can.

Over and over, Judge Roberts was questioned by senators in both parties about Roe v. Wade, the 1973 Supreme Court decision recognizing a constitutional right to abortion. As on Tuesday, he refused to discuss his views on whether the case should be overruled. Under questioning from Senator Dianne Feinstein, Democrat of California, he did say that no one in the Bush administration had asked him for his views on the case.

Judge Roberts listened carefully to questions touching on any area related to abortion and hesitated to answer many of them. He was noticeably suspicious, for instance, when Senator Tom Coburn, Republican of Oklahoma, asked him, "Would you agree that the opposite of being dead is being alive?"

Judge Roberts paused and said, hesitantly and to laughter, "Yes," adding, "I don't mean to be overly cautious in answering it."

The line of questioning did indeed end at abortion, and Judge Roberts declined to answer direct questions concerning it.

Judge Roberts also declined to answer questions about his personal views on issues like assisted suicide.

"I'm trying to see your feelings as a man," Ms. Feinstein said. "I'm not asking you for a legal view."

But Judge Roberts resisted, saying that a judge's personal views and values should play no role in his judicial decisions.

He also declined to comment on Bush v. Gore, the 2000 decision that resolved the presidential election that year.

He was less reluctant to talk about his judicial philosophy, so long as the discussion remained relatively abstract. He distanced himself, for instance, from the most conservative members of the current Supreme Court, Justices Antonin Scalia and Clarence Thomas, who have said they view themselves as bound by the original meaning of the Constitution.

"I depart from some views of original intent," Judge Roberts said, without naming names. "I think you need to look at the words they use," referring to the framers of the Constitution, "and if the words adopt a broader principle, it applies more broadly."

He added, "I think the framers, when they used broad language like 'liberty,' like 'due process,' like 'unreasonable' with respect to searches and seizures, they were crafting a document that they intended to apply in a meaningful way down the ages."

He similarly distanced himself from members of the court, including Justices Anthony M. Kennedy and Stephen G. Breyer, who have endorsed the citation of decisions from foreign courts in some cases. But Judge Roberts drew the line when Mr. Coburn suggested that Supreme Court justices who cite foreign judicial precedents in their decisions should be subject to impeachment.

Judge Roberts said he agreed that the citation of foreign law was "not a good approach." But, he added, "I wouldn't accuse judges or justices who disagree with that, though, of violating their oath."

In a somewhat similar vein, Senator Sam Brownback, Republican of Kansas, asked Judge Roberts whether the Constitution authorizes Congress to limit the Supreme Court's jurisdiction to hear certain sorts of cases. Judge Roberts discussed the legal arguments on both sides of the question but suggested that he viewed any such efforts as unwise. "The primary check on the courts," he said, "has always been judicial self-restraint."

But Judge Roberts also said he was reluctant to pick too many fights with Congress, at least for now.

Mr. Coburn asked him, for instance, whether there was room for improvement in the clarity of the legislation Congress passes.

"Sitting where I am," Judge Roberts said, "I'm not terribly inclined to be critical of the Congress and wouldn't be, in any event."

Supporters of abortion rights remained wary of Judge Roberts. Planned Parenthood Federation of America formally announced its opposition to his nomination on Wednesday, saying Judge Roberts's record and testimony "leave grave doubt about whether he will protect, not take away, a woman's right to choose."

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Most Democrats of the Judiciary Committee seem inclined to oppose the Roberts nomination, but it is still unclear how Democrats as a whole will vote. Republicans are all but challenging them not to vote for a jurist who is unquestionably qualified.

Ed Gillespie, the former Republican Party chairman who is overseeing the nomination on behalf of the White House, said, "If you apply the historical standard - is he intellectually qualified, is he ethically qualified, is he fair and even-handed, the standard that allowed Justice Scalia to get close to 100 votes and Justice Ginsburg to get close to 100 votes, then clearly Judge Roberts deserves to get close to 100 votes."

But some Democrats argue that times have changed, that the nation and the courts are far more ideologically divided than they were during those earlier nominations and that they have a right to know where Judge Roberts stands on some of the most divisive issues.

"There's so much water under the dam since then," Mrs. Feinstein said.

"The nation is divided, it's polarized, we're at war," she said, adding, "Executive authority is very much on people's minds."

Moreover, the prospect of another nomination - and how conservative he or she might be - is an unpredictable variable in any political calculation, many strategists said.

Judge Roberts gave expansive answers, seeming most at ease when he was given the opportunity to explain the state of the law in complex areas like eminent domain and antitrust. He did not give much detail about his own views on these topics, but his discussion of the leading cases and governing principles was informal, confident and lucid.

After declining to answer any questions on Tuesday about charges that he had acted improperly in participating in a case earlier this year, he gave some basic information about it on Wednesday. The case concerned the military commissions the Bush administration intends to use to try several of those being held as enemy combatants at the naval base at Guantánamo Bay, Cuba. Judge Roberts joined a decision ruling for the administration in July.

Experts on legal ethics have been divided about whether Judge Roberts should have recused himself given that he was then under consideration for the Supreme Court. On Wednesday, Judge Roberts said that the decision was drafted before there was a Supreme Court vacancy and completed before he was first interviewed by President Bush.

Senator Charles E. Schumer, Democrat of New York, said that Judge Roberts's refusal to answer many questions had rendered the hearings absurd. Mr. Schumer suggested that Judge Roberts would not even name his favorite movies.

Judge Roberts named two: "Doctor Zhivago" and "North by Northwest."

Nominee Is Standing On Precedent, And Setting His Own, With Hearing Responses (NYT)

By Sheryl Gay Stolberg

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 - Time and again, as he has danced his way around questions on issues like the right to privacy and the right to die, Judge John G. Roberts Jr. has looked to the past, saying he is simply following the precedent of Supreme Court nominees who have come before him and will become his colleagues if he is confirmed.

But with a second vacancy on the court, Judge Roberts is also setting his own precedent for whomever comes next.

As President Bush's nominee to be the nation's 17th chief justice, Judge Roberts has carved out what Senator Lindsey Graham, Republican of South Carolina, on Wednesday called "the Roberts standard," drawing the line against talking about cases that, in the judge's view, are likely to come before the Supreme Court.

"I think what he's trying to do," Mr. Graham said, "is to bootstrap himself to past justice's hearings, follow their lead, and trying to tell the next nominee: 'Where you can, speak.' "

But the nominee is not talking nearly enough to satisfy Democrats, and how he is interpreting his standard has become a major flashpoint in the hearings. On Wednesday, Democrats grew increasingly agitated over what they regarded as his repeated refusal to answer their questions. A coalition of civil rights and liberal advocacy groups, meanwhile, was making plans to run an Internet advertisement on Thursday spotlighting what they regarded as stonewalling by Judge Roberts.

In one particularly contentious exchange on Wednesday afternoon, Senator Charles E. Schumer, Democrat of New York, pressed Judge Roberts - who acknowledged a day earlier that the Constitution included a right to privacy - on the case of Lawrence v. Texas, in which the court found that the right to privacy provided a framework for protection of gay rights.

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Mr. Schumer reminded Judge Roberts that Justice Clarence Thomas, who voted in the minority on the Lawrence case, had spoken at his own confirmation hearings of a general right to privacy. The two men went round and round on the issue, with Judge Roberts repeatedly declining to talk about Lawrence.

"Would you say there's a general right to privacy?" Mr. Schumer finally asked.

"I don't know what 'general' means," Judge Roberts replied.

Yet at times, the judge has surprised senators, as he did on Wednesday, when Senator Edward M. Kennedy, Democrat of Massachusetts, asked if he agreed with an opinion in which Justice Sandra Day O'Connor said the court should give great weight to the "real world impact" of affirmative action in universities.

"Well, Senator," Judge Roberts replied, "I think I can answer the specific questions you asked, because, as you phrased the question - Do you agree with her that it's important to look at the real-world significance and impact? - and I can certainly say that I do think that that is the appropriate approach; without commenting on the outcome or the judgment in a particular case."

Judge Roberts has argued that he has been more forthcoming than some of his predecessors - an obvious reference to Justice Antonin Scalia, who declined even to answer questions about Marbury v. Madison, the fundamental 1803 decision that established the authority of the Supreme Court to strike down laws as unconstitutional.

Michael Gerhardt, a law professor at the University of North Carolina, said that Judge Roberts had indeed been more expansive than Justice Scalia, but not by much.

"I think there has been a spectrum," Professor Gerhardt said, "with Justice Scalia clearly being the least forthcoming of all modern nominees, post-1982 nominees, and I think Justices Breyer and Ginsburg have been among the most forthcoming nominees," referring to Justices Stephen G. Breyer and Ruth Bader Ginsburg. He said Judge Roberts "is closest to what I would call the Scalia end of the spectrum."

That delights Tony Perkins, president of the Family Research Council, a conservative advocacy group. The next nominee can "follow his footsteps," Mr. Perkins said, adding, "If I were another nominee, I would carefully study his responses, the way he has handled questions."

Democrats and Republicans have kept tallies of the number of questions that Judge Roberts has answered. Republicans said he had declined to answer 57 of 477 questions, while Justice Ginsburg had declined to answer 59 of 275.

But Democrats say it is the substance, not the numbers, that is important. Justice Ginsburg's standard was to answer questions if she had either written about cases or taken a public position on them, though Democrats say in some cases she went beyond that. Judge Roberts has little trouble adhering to that standard because, having served on the United States Court of Appeals for just two years, he has a limited record.

Mr. Schumer said that was all the more reason for Judge Roberts to be forthcoming.

"I think he's answered fewer questions than most nominees, and his burden was greater than most nominees, because most nominees have a more extensive record," Mr. Schumer said, adding, "Just when they're needed to talk more, they talk less."

Roberts Heads Toward Likely Confirmation (BSUN)

By Gwyneth K. Shaw

The Baltimore Sun, September 15, 2005

WASHINGTON -- Pressed by senators on issues ranging from private property rights to the right to die, Judge John G. Roberts Jr. said Wednesday that he would not allow his personal views to creep into his work on the Supreme Court.

President Bush's nominee for chief justice declined, for the second day in a row, to lay out his views on issues that might come before the court. His reticence prompted annoyance from Democrats on the Senate Judiciary Committee, who complained that the 50-year-old appellate judge was talking a lot but saying little.

"Without any knowledge of your understanding of the law -- because you will not share it with us -- we are rolling the dice with you, Judge," said Democratic Sen. Joseph R. Biden Jr. of Delaware.

Republicans defended Roberts' right to demur, saying previous nominees have done so.

Sen. Orrin G. Hatch told Roberts he was the best nominee he had seen in decades and that he looked forward to watching him in the chief justice's seat when the court begins its new term Oct. 3.

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"We've seen some really sterling, brilliant, wonderful people before this committee. But I've never seen anybody who has done a better job of explaining himself than you have," said the Utah Republican. "If people can't vote for you, then I doubt that they can vote for any Republican nominee."

A final, short round of questioning is set for Thursday morning, followed by testimony from more than two dozen outside witnesses, including former colleagues and conservative and liberal partisans.

Republicans hold a 10-8 advantage on the committee, which is expected to approve Roberts' nomination next week. Barring a major surprise, the Senate will confirm him as the nation's 17th chief justice this month.

Wednesday, senators returned to Roberts' interpretation of the right to privacy, with both sides looking for hints about how he might vote in abortion cases. The conversations wound up being mostly one-sided.

Biden asked about the ability of citizens to make decisions about ending their lives and encouraged Roberts to answer on a personal level. Roberts replied that judges should not bring their personal views into their decisions.

"I'm not going to consider issues like that in the context as a father or a husband, or anything else," Roberts said. "I think obviously putting aside any of those considerations, these issues are the most difficult we face as people and they are profoundly affected by views of individuality and moral views and deeply personal views."

Democratic Sen. Patrick J. Leahy of Vermont asked Roberts about the rights of death-row inmates to appeal their cases, pointing to the exoneration of a string of wrongfully convicted prisoners.

"Does the Constitution permit the execution of an innocent person?" Leahy asked.

"I would think not," Roberts replied. "But the question is never 'Do you allow the execution of an innocent person?' The question is 'Do you allow particular claimants to raise different claims, four or five or six times, to say at the last minute that somebody who just died was actually the person who committed the murder and let's have a new trial? Or do you take into account the proceedings that have already gone on?'"

Sen. Sam Brownback, a Kansas Republican, asked about one of the Supreme Court's most contentious recent decisions, in which the city of New London, Conn., was allowed to take private property and give it to another private entity for economic development.

Roberts said Congress and state legislatures have the power to pass laws barring such transactions. He would not say whether he thought the case was wrongly decided but did say the primary check on judges is their self-restraint.

"They're given life tenure, as you mentioned, precisely because they're not shaping policy. They're not supposed to be responsive; they're supposed to just interpret the law," Roberts said.

Democrats View Roberts As Evasive (WSJ)

By Jeanne Cummings And Jess Bravin

The Wall Street Journal, September 15, 2005

WASHINGTON -- White House hopes for Judge John Roberts to be confirmed as chief justice by a wide margin in the Senate grew dimmer yesterday, as Democrats complained that the nominee gave narrowly crafted responses or declined to answer questions about civil rights, privacy and other issues.

With Republicans holding a 10-vote Senate advantage, Judge Roberts is likely to be confirmed. But Democrats on the Senate Judiciary Committee have stepped up their accusations that he is being evasive, and will use that claim to lobby their colleagues to withhold their votes. Democrats argue that Judge Roberts's thin public record -- two years on the federal appeals court here, after two decades of private practice and service in Republican administrations -- is inadequate to gauge his approach to major legal issues.

No senator has announced plans to vote against Judge Roberts, and he has carefully avoided giving them any new substantive grounds for doing so during two full days of questioning. But some Democrats have stepped close to opposition. A confirmation vote, based on what legislators now know, would be like "rolling the dice with you, judge," Sen. Joseph Biden (D., Del.) told the nominee at one point yesterday, the second full day he faced questions by the panel.

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Judge Roberts defended his decision not to answer all questions -- and insisted that he has been more forthcoming than some previous nominees who declined to discuss even long-settled landmark cases. But he said that speaking on issues he believed might return to the high court would be inappropriate, and suggested that some senators had crossed this line.

"This is not a process under which senators get to say, 'I want you to rule this way, this way and this way, and if you tell me you'll rule this way, this way and this way, I'll vote for you,' " he told Sen. Charles Schumer (D., N.Y.), perhaps the most aggressive questioner.

As a concession to Democrats, Judiciary Chairman Arlen Specter (R., Pa.) agreed, over White House objections, to allow questioning to continue into this morning.

The Bush administration wants to pull in a substantial number of Democrats when the full Senate votes -- likely in two weeks -- on Judge Roberts, hoping that will give the president room to nominate a more openly conservative judge to fill the seat of retiring Justice Sandra Day O'Connor.

The political intensity heightened yesterday when a federal court in Sacramento, Calif., ruled that local authorities couldn't require teacher-led recitation of the Pledge of Allegiance in public schools. The issue has outraged social conservatives, and was mentioned by several Republican senators during yesterday's hearing as evidence of improper judicial activism they hope Judge Roberts will halt. In his decision, the Sacramento judge wrote that the Supreme Court had given lower courts confusing guidance on religion cases.

Judge Roberts declined to comment on the case directly, but agreed that the Supreme Court should provide more clarity.

White House officials have hoped that Judge Roberts' résumé and gracious manner could persuade at least one or two Democrats on the panel, say people familiar with their strategy. But one of their prime targets, Sen. Dianne Feinstein (D. Calif.), yesterday expressed frustration. In order to make a judgment on his nomination, "I do expect to know a little bit more about how you think," she said.

Despite Democratic complaints, Judge Roberts did give a few more glimpses of his views. After Sen. Sam Brownback (R., Kan.) excoriated the high court's June decision that local governments enjoyed wide discretion in exercising their eminent-domain powers, Judge Roberts explained that the court had -- as lawmakers have demanded in other contexts -- deferred to the judgment of elected officials.

"The court was not saying you have...to exercise this power. What the court was saying is, there is this power, and then it's up to the legislature to determine whether it wants that to be available," Judge Roberts said. He didn't say whether he agreed with the ruling, but in response to Sen. Herb Kohl (D., Wis.) said it had "surprised" him.

Sen. Tom Coburn (R., Okla.) suggested that justices who cite foreign authority in interpreting constitutional provisions might deserve impeachment. Judge Roberts replied that while he disapproved of looking to foreign sources, "I wouldn't accuse judges or justices who disagree" of "violating their oath. I'd accuse them of getting it wrong on that point, and I'd hope to sit down with them and debate it and reason about it."

Sen. Patrick Leahy (D., Vt.) asked Judge Roberts his views on government restrictions on media coverage. The judge said he had limited experience with First Amendment law, but said "there is obviously a balancing of sorts between particular interests when you're dealing with governmental operations, and there's some perfectly valid reasons for excluding media. On the other hand, simply disagreement about whether it's an appropriate issue for the public to see would not strike me as a very compelling governmental interest."

Responding to Sen. Feinstein, Judge Roberts seemed to accept affirmative action, saying he endorsed "efforts to ensure the full participation in all aspects of our society by people, without regard to their race, ethnicity, gender or religious beliefs," which he said was also the policy of the Reagan administration, where he worked on affirmative-action issues. He didn't say whether he specifically considered race-conscious affirmative-action programs constitutional.

Responding to Illinois Democrat Richard Durbin's questions on capital punishment, Judge Roberts acknowledged a "risk" of executing innocent people, because like any "human enterprise" the criminal justice system is flawed. But he also defended the goal -- over the objections of civil libertarians -- of limiting condemned inmates from raising repeated claims of innocence. "Do you allow someone who has raised several claims over the years to suddenly say at the last minute, somebody who just died was the person who committed the murder, and does that mean you start the trial all over again, simply on the basis of that last-

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minute claim, or do you require more of a showing at that stage?" he told Mr. Leahy at another point. As deputy solicitor general in the first Bush administration, Judge Roberts helped persuade the Supreme Court to bar such an appeal. The high court will hear a case on a related issue in its coming term.

Roberts Displays More Moderate Views (USAT)

By Joan Biskupic And Kathy Kiely

USA Today, September 15, 2005

WASHINGTON — Supreme Court nominee John Roberts suggested Wednesday that his views on civil rights were more moderate than those he expressed during his days as a Reagan administration lawyer, and he hinted at a concern for gay men and lesbians who might face discrimination.

Roberts, 50, also described several principles that seemed to separate his legal views from those of Justices Antonin Scalia and Clarence Thomas, the high court's most conservative members. Roberts said he did not subscribe to a limited view of constitutional liberty, and he suggested that constitutional principles should evolve with the times.

That's a distinction from the views of Scalia and Thomas, who view the Constitution as a more rigid document. Their approach leads to a narrow interpretation of the constitutional guarantee of equality for racial minorities and women, provides no right to abortion and offers no particular protection for gay men and lesbians. The comments by Roberts — the federal judge President Bush has chosen to replace the late William Rehnquist as chief justice — were significant because Bush has said he wants court nominees like Scalia and Thomas.

Roberts' testimony Wednesday suggested that he might not be as conservative as Scalia or Thomas, and that his brand of conservatism could be more in line with that of Rehnquist, for whom Roberts once was a law clerk.

Whatever light Roberts shed on his legal views Wednesday, it wasn't enough for several Democrats on the Senate Judiciary Committee. For the second day, they were irked that Roberts refused to answer several questions on issues that he said might come before the high court.

“We are rolling the dice with you, judge,” Sen. Joseph Biden, D-Del., told Roberts after Biden failed to draw out the nominee's views on when someone can remove life support to an ailing relative. Even so, Roberts offered some insight into his philosophy:

•In response to questions from Sen. Russ Feingold, D-Wis., Roberts said he could not address whether Congress could bar discrimination against gays and lesbians in employment because the question might come before the court. However, Roberts said, “Personally, I believe that everybody should be treated with dignity in this area and respect.”

•Roberts suggested to Sen. Edward Kennedy, D-Mass., that he did not believe federal voting rights laws should be weakened. In a lengthy give-and-take with Kennedy, Roberts distanced himself from a position he argued during the Reagan administration that would have limited protections in the Voting Rights Act intended to help blacks and Hispanics elect more of their own. Roberts said that if he were called upon to interpret the law or any amendments, “I would, of course, confront that issue as a judge and not as a staff attorney for an administration with a position.”

•He also said that when the Supreme Court upheld the use of affirmative action in college admissions in 2003, it rightly examined “the real-world impact in this area.” Without commenting on the ruling, he implicitly agreed with an approach used by Justice Sandra Day O'Connor, who cited the importance of fostering diversity on campuses.

•Roberts emphasized the need for competent lawyers to represent defendants who face capital punishment, to minimize the risk of executing the innocent.

•Roberts said dilemmas over the “right to die” and physician-assisted suicide are “the most difficult that we face as individuals.” He said a judge's job, however, is to set aside any personal feelings and look to the law.

Roberts passed up opportunities to compare himself with current justices, and he declined to answer questions by Sen. Charles Schumer, D-N.Y., on how his view of privacy rights differs from Thomas'. Schumer noted that Thomas, like Roberts, had testified as a nominee that he believed in a constitutional right to privacy. As a justice, however, Thomas has not embraced the idea.

“I will be my own man on the Supreme Court, period,” Roberts said.

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Although the committee's eight Democrats have fired tough questions at Roberts this week, none has declared that they will not vote for him. Sen. Herb Kohl, D-Wis., gave the judge high marks for his performance. “I don't think he's hurt himself,” Kohl said.

Several of the panel's 10 Republicans, such as Jon Kyl of Arizona and Lindsey Graham of South Carolina, said they will back Roberts.

Committee Chairman Arlen Specter, R-Pa., wants a Senate vote on Roberts by the end of the month, so Roberts could join the court by the start of its term Oct. 3.

Roberts Appears Open To New Interpretations (LAT)

By David G. Savage, Times Staff Writer

The Los Angeles Times, September 15, 2005

WASHINGTON — Chief justice nominee John G. Roberts Jr. carefully avoided taking sides on many issues Wednesday, but he went out of his way at his Senate confirmation hearing to put some distance between himself and justices Antonin Scalia and Clarence Thomas — the Supreme Court's two staunchest conservatives.

And the issue was a basic one, with possibly great import for the future: How should a high court justice interpret the Constitution?

Scalia and Thomas proudly call themselves "originalists." They say the Constitution should be interpreted strictly, based on its literal words and its original history.

Like other conservatives, they shun the notion of a "living Constitution." They say their approach is faithful to the Constitution as it was written in 1787 and amended since then. Scalia says, only half-joking, that he believes in a "dead Constitution."

This look to the past leaves no room to consider such contemporary concepts as a right to die or equal rights for gays.

Roberts pointedly said Wednesday that he disagreed with this narrow originalist approach and would apply the Constitution in light of today's concerns and understandings.

"I depart from some views of original intent," he told the Senate Judiciary Committee.

Words such as liberty or equality should not be given a "cramped or narrow construction," based on "just the conditions at the time" when the Constitution was written, he said.

"The framers chose broad terms, [with] a broad applicability, and they state a broad principle," he told Sen. Arlen Specter (R-Pa.), the committee's chairman.

He noted that the preamble to the Constitution says the document was designed "to secure the blessings of liberty to ourselves and our posterity."

"It applies to modern times," he said. The Founding Fathers intended the Constitution "to apply to changing conditions. And I think that in that sense, it is alive … and applies down through the ages," Roberts said.

It is certainly not clear how Roberts would decide controversies such as abortion rights, gay rights or the right to die. He repeatedly refused to state his view or comment on most past rulings on those disputes.

But his comments hint that he is at least open to a future decision saying the Constitution protects a right to die, or gives gays protection from discrimination.

Roberts also endorsed the 1965 decision in Griswold vs. Connecticut, which first spoke of a right to privacy in the Constitution. The ruling struck down an archaic state law that prohibited the use of contraceptives, but it has remained controversial because the right to privacy formed the basis for the Roe vs. Wade ruling in 1973, which established a woman's right to abortion.

Roberts said much during the two days of questioning that should reassure conservatives. He emphasized that the court has a "limited role" in deciding social controversies, and he insists judges should not "make law."

He also said the Constitution should be read in light of the "nation's history, traditions and practices."

And several conservative lawyers said Wednesday that they were not troubled by his comments about interpreting the Constitution.

"What I think Roberts was saying was that the framers were smart enough to take into account changes in circumstances," said Leonard Leo, executive vice president of the Federalist Society. "I don't read all that much into what he said."

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Leo added, "It's right to say he believes privacy is protected, and the language of the Constitution is broad enough to capture modern problems. But he would not take these broad principles and rewrite the Constitution."

Whether to focus on the past or the present often divides the Supreme Court.

Scalia has scoffed at the notion of a right to die and insisted the justices have no business even discussing such claims.

But most of his colleagues have taken a more flexible view of the nation's founding charter. When faced with the question of whether to maintain the death penalty for mentally retarded defendants, the majority barred such executions in 2002, saying this was "cruel and unusual punishment" in light of "evolving standards of decency" in America.

Scalia and Thomas dissented, along with the late Chief Justice William H. Rehnquist. They said such executions would not have troubled the authors of the Constitution, and therefore, they should not be deemed unconstitutional today.

Two years ago, in a victory for gay rights, the court struck down a Texas law that made sex between gays a crime. Justice Anthony M. Kennedy, speaking for the majority, said the law violated the constitutional right to liberty in light of contemporary American values. Rehnquist, Scalia and Thomas dissented.

Scalia said he feared this evolving notion of liberty meant the high court would soon rule that gays had a constitutional right to marry, a prospect that has divided the nation.

The debate largely concerns a few words in the 14th Amendment, adopted in 1868, after the Civil War. It says states may not "deprive any person of life, liberty, or property, without due process of law; nor deny [them] the equal protection of the laws."

Roberts said these words, read literally, might mean only that the government may not arrest and hold someone without giving them due process of law. He said he believed the protection for liberty went well beyond that interpretation and included protections for fundamental rights.

For example, Roberts cited the court's decision in 1925 that struck down a state law that required children to enroll in public schools. The justices said parents had the "personal liberty" to send their children to the school of their choice, including a private or parochial school.

As was the case when the committee began questioning Roberts on Tuesday, Democrats spent much of Wednesday's hearing trying to pin him down on issues such as abortion and civil rights. As he did Tuesday, he dodged most of their inquiries.

At one point, he refused even to answer whether a mentally competent dying person had a right to end his life. The Supreme Court answered that question in 1990. In the case of Nancy Cruzan, the justices agreed that all people have a right to refuse unwanted medical treatment.

The harder issue, in Cruzan's case as well as the recent one involving Terri Schiavo, arises when patients cannot speak for themselves.

Roberts refused to tip his hand. "There are cases involving disputes between people asserting their rights to terminate life, to remove feeding tubes, either on their own behalf or on behalf of others," he said.

"Those are issues that will come before the court, and I will confront those issues in light of the court's precedents with an open mind."

A Conservative, Yes, But Not A Scalia (WP)

By Charles Lane

The Washington Post, September 15, 2005

After two days of often intense questioning of John G. Roberts Jr. by the Senate Judiciary Committee, a new image of President Bush's nominee for chief justice of the United States is coming into focus.

Still blurry at the edges, thanks to Roberts's refusal to declare how he would rule on abortion rights and other specific issues, it is nevertheless a picture of a conservative different in important respects from the two members of the Supreme Court whom Bush has said he most admires, Justices Antonin Scalia and Clarence Thomas.

Scalia has said that courts should avoid basing their interpretations of laws on the history behind them; Roberts said there is a role for legislative history. Thomas has embraced an approach to constitutional interpretation that relies heavily on his view of the original intent of the framers; Roberts said that is not always possible.

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Concretely, Roberts said he believes the Constitution creates a right to privacy. Such a right was recognized by the Supreme Court in modern cases protecting the use of contraception, abortion and consensual homosexual conduct, but which Scalia and Thomas have sharply criticized.

Asked by Sen. Charles E. Schumer (D-N.Y.) if he considered himself "in the mold" of Scalia and Thomas, Roberts replied, "I will be my own man on the Supreme Court."

While the differences may seem like nuances, they are likely to play an important role at the court, especially because Roberts has been named to fill the chief justice's chair.

As an eclectic legal thinker who can easily play at the same intellectual level as Scalia and Thomas, yet without employing the sharp rhetoric that Scalia especially is known to aim at colleagues, Roberts could exert a strong pull on the other justices -- particularly Anthony M. Kennedy, who, after Sandra Day O'Connor retires, probably will be left as the court's sole center-right swing voter.

Randy E. Barnett, a professor of law at Boston University and a leading thinker in conservative academic circles, likened Roberts to justices such as Felix Frankfurter and Robert H. Jackson, moderate conservatives appointed by President Franklin D. Roosevelt who "deferred to Congress, the executive and to legal precedent -- in some unspecified mix."

Roberts was perhaps most unlike Scalia and Thomas in his acknowledgment that the Constitution creates a right to privacy, even if such a right is not specifically spelled out.

Among the few cases he was willing to discuss specifically were a 1965 ruling, Griswold v. Connecticut , and a 1972 ruling, Eisenstadt v. Baird , which guaranteed a right to contraception use by married couples and singles.

Roberts said he agreed with the results of Griswold and Eisenstadt , noting that, in his view, privacy is part of the "liberty" that the 14th Amendment says cannot be taken away without due process of law.

Griswold and Eisenstadt formed part of the chain of precedents that led to Roe v. Wade in 1973.

In a 2003 case, Lawrence v. Texas , the court invoked this right to strike down all state laws banning consensual sex between same-sex couples.

Scalia has practically made a career out of attacking the court's past cases in which it has read specific "substantive" rights into the 14th Amendment's liberty clause. For him, and for many other conservatives, "substantive due process" is a contradiction in terms that gives judicial activists license to convert their own views into constitutional law.

Dissenting in Lawrence , he wrote disparagingly of Griswold and the "so-called right to privacy"; Thomas, agreeing with a dissenting justice in Griswold , said he could find no such right in the Constitution.

There is, however, a limit to the daylight between Scalia and Thomas, on the one hand, and Roberts on the other.

Roberts stopped well short of endorsing Roe -- or calling for its overruling -- in the hearings.

Social conservatives who support his nomination said they were generally comfortable with his testimony, which some said privately was what he had to say to help get confirmed. At the same time, it is also possible that Roberts will change his views once he is on the court.

As Schumer pointed out yesterday, Thomas gave a similar answer to Roberts on the right to privacy at his 1991 confirmation hearing, but struck a different note it in Lawrence .

Still, there was other evidence that Roberts, while he might or might not reach the same results as Scalia and Thomas, would approach cases in a different way.

Sen. Charles E. Grassley (R-Iowa) asked Roberts: "To what extent do you share Justice Scalia's view on unreliability of legislative history?"

Roberts replied that, though the interpretation of a law or the Constitution has to begin with the text, "I have quoted and looked to legislative history in the past to help determine the meaning of ambiguous terms, and I would expect to follow that same approach on the Supreme Court."

Whereas Scalia and Thomas often look to strict rules of statutory or constitutional interpretation to keep judges from taking over the legislative or executive function, Roberts repeatedly emphasized the restraining influence of what he called "the judicial process."

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Harking back to concepts he learned at Harvard Law School, Roberts depicted judges deliberating within a kind of insulated environment in which the only materials they take into account are existing law, legal briefs, the case record and the views of other judges.

"It's basically an emphasis on legal craftsmanship," Barnett said. "You take a smidgen of history, a dollop of text, a spoonful of precedent and ladle it all over a very sensitive treatment of the facts and that yields a very high-quality product."

Roberts Says He's Been More Expansive Than Confirmed Justices (LAW)

By T.r. Goldman And Tony Mauro, Legal Times

Law.com, September 15, 2005

John Roberts Jr. moved into the second day of questioning before the Senate Judiciary Committee on Wednesday, with Democrats still complaining that the likely future chief justice remains too much of a cipher, and with GOP committee members stressing that Roberts has answered more questions than any other nominee.

"I do think I've been more expansive than most nominees, and those justices were confirmed," Roberts told Sen. Jon Kyl, R-Ariz.

The committee will wrap up questioning of Roberts on Thursday morning, then proceed directly to six panels of witnesses, who will speak for and against the nominee.

Committee Chairman Arlen Specter, R-Pa., said late Wednesday that he would conclude the Roberts hearings on Thursday and set a committee vote on the nominee for Sept. 22.

As in his testimony on the previous day, Roberts was probed about his views on the Voting Rights Act, privacy and the judiciary's proper role in interpreting congressional statutes.

And as in Tuesday's performance, Roberts was loath to do more than outline in the broadest terms his view of how he would adjudicate certain issues, prompting a frustrated Sen. Charles Schumer, D-N.Y., to complain: "It's as if we ask you what movies you like, and you say, 'I like movies with good acting.' And if I ask you if you like 'Casablanca' and you tell me, 'Lots of people like 'Casablanca.'"

"'Doctor Zhivago' and 'North by Northwest,'" Roberts shot back.

It was a rare moment of humor in an all-day hearing during which Democrats appeared increasingly outgunned by an unperturbable witness. One chief counsel for a committee Republican noted the reams of paperwork being passed between staff and the panel's 18 members and remarked, "Roberts has just got all this stuff in his head."

Indeed, by the end of the day, the most interesting question was not whether Roberts would win confirmation, but whether he would secure any Democratic votes in the process.

Earlier in the day, in some of the week's most heated testimony, Sen. Joseph Biden, D-Del., bored into Roberts in an effort to elicit his views on whether a state legislature should have the right to pass laws restricting the right of a dying person's next of kin to remove a feeding tube, evoking the Terri Schiavo case.

"You are one of the best witnesses to come before this committee, and I've been here some 30 years," said Biden, who had been chided by Specter the day before for repeatedly interrupting Roberts' testimony. "You've convinced folks on Sen. [Sam] Brownback's side that you are just right for them, and on Sen. [Edward] Kennedy's that you are just right for them," he added, referring to one of the committee's most conservative members and one of its most liberal.

"Can any law trump a fundamental right to die?" Biden asked the nominee.

Roberts replied that his personal views would not enter into his decision-making on the issue and that he would decide a question like that "based on my understanding of the law."

"That's what I want to know about," retorted Biden. "We're rolling the dice with you, Judge."

Roberts, however, who has yet to show any flashes of anger, and only the rarest moments of irritation, refused to give a direct answer. "Senator, that's asking me for an opinion in the abstract that will come before the Court," he replied.

After Biden noted that executive and legislative branch candidates must lay out their views on various issues, while judicial candidates can keep theirs to themselves, Roberts launched into a vigorous defense of judicial independence.

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It was no accident that federal judges don't stand for election, Roberts said, adding that to make pledges in a confirmation hearing would violate their role as open-minded and fair arbiters of legal disputes. "It is contrary to the role of the judge in our society that this judge should go on the bench because this is his or her position," said Roberts. "That's inconsistent with the independence and integrity of the Supreme Court."

So far, the three days of hearings have been marked by Roberts' disarming manner, which allows him to repeatedly turn down senators' requests for answers yet maintain what appears to be a large reservoir of good will among the entire committee.

While Roberts insisted he had been "more expansive" than other nominees, he largely stuck to his views on cases, such as 1803's Marbury v. Madison, that are unlikely to be reconsidered by the Court. But then again, in 1986, then-nominee Antonin Scalia would not even comment on Marbury.

But the 50-year-old federal appeals court judge did surrender a few pieces of information on Wednesday, in particular his views on the high court's proclivity to produce decisions with several concurring opinions.

Specter said he was troubled by the Court's decisions in June 2004 over the detainees at Guantánamo Bay, calling the opinions "a patchwork of confusion." In response, Roberts seemed to almost startle the committee by implying that too many separate opinions were not a good thing.

"The Supreme Court speaks only as a court," he said. "Individually, the justices have no authority... . [A]n important function of the Supreme Court is to provide guidance. As a lower court judge, I appreciate clear guidance from the Supreme Court."

And Roberts offered other comments Wednesday that could signal a different approach from Scalia and other conservative legal thinkers. "I depart from some views of the original intent" movement, Roberts said.

Originalists, he suggested, believe the Constitution should be interpreted in light of "just the conditions at that time, just the particular problem" at the time of the Constitution's drafting. "I think you need to look at the words they used, and if the words adopt a broader principle, it applies more broadly," he said.

When principles like liberty are involved, Roberts said, "that doesn't get a narrow construction." A broad view of the liberty concept could have implications for Roberts' views on privacy, abortion, and the right to die.

Looking More Moderate Than His Early Writings (LAT)

By Richard B. Schmitt And Maura Reynolds

The Los Angeles Times, September 15, 2005

WASHINGTON — Chief justice nominee John G. Roberts Jr. offered a fuller accounting of his views on voting rights and affirmative action Wednesday in carefully guarded testimony that provided the barest hints that he did not hew to the most conservative positions on the two sensitive issues.

Under relentless and occasionally sharp interrogation before the Senate Judiciary Committee, Roberts also emphasized a modest approach to judicial action and a deference to Congress.

Panel members pressed him for his views on a series of controversial cases and social issues, searching for clues about how he would affect the Supreme Court's ideological balance.

Although his comments leaned toward a more moderate position than the views expressed in some of his writings as a Justice Department lawyer in the Reagan administration, they were so sparse and cautiously phrased that they sparked protests from Democrats about his refusal to be more forthcoming.

Roberts declined to discuss his views on whether the Constitution allowed terminally ill people to end their lives — even though the Supreme Court ruled that it did more than a decade ago.

And he declined to say whether he agreed with a high court ruling that limited the rights of death row inmates to appeal their convictions based on newly discovered evidence that might prove them innocent.

In the absence of answers, many panel members resorted to a kind of lobbying effort, seeking to impress upon Roberts their views of the law — opinions he might consider if, as expected, he wins Senate confirmation to lead the court.

"I hope, sitting in the marble palace, you'll remember that I have great pride in the success of the False Claims Act," Sen. Charles E. Grassley (R-Iowa) told Roberts. He made his remarks after trying, mostly unsuccessfully, to learn more about what

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Roberts thought about a federal whistle-blower law Grassley sponsored that allows private individuals to sue in cases of government fraud.

A day after Democrats grilled Roberts over whether he would overturn high court rulings guaranteeing abortion rights — to no avail — antiabortion Republicans seized an opportunity to make their case, admittedly with little, if any, expectation of a response.

"I would just ask you, Judge Roberts, to consider — and probably you can't answer here today — whether individuals with disabilities have the same constitutional rights that you and I share while they're in the womb," Sen. Sam Brownback (R-Kan.) said.

"I appreciate your thoughts on the subject very much," Roberts said. But he declined to answer, saying: "Those precise questions could come before the courts."

Despite Roberts' reticence on several fronts, a somewhat more complete portrait of the 50-year-old federal appeals court judge and former Reagan administration lawyer emerged. At times, his newly expressed views seemed at odds with those contained in the thousands of pages of memos and musings he wrote as a government lawyer two decades ago.

Pressed by Sen. Edward M. Kennedy (D-Mass.), Roberts said he saw nothing "constitutionally suspect" in a provision of the Voting Rights Act that he had raised questions about in the early 1980s. The provision makes it possible for minorities to win voting rights cases without proving intentional discrimination by election officials.

His position on the rights law — a portion of which is set to expire in 2007 — is a central concern to Democrats wary that as chief justice, he would promote rigidly conservative views on civil rights.

Roberts expressed support for portions of a 2003 opinion by Justice Sandra Day O'Connor upholding the rights of state universities to consider race in making admission decisions. Roberts said it was proper for the court to take note of the positive effect of racial and ethnic diversity in the military when it upheld an admissions policy at the University of Michigan Law School.

"You do need to look at the real-world impact in this area," Roberts said.

Roberts gave what Republican members of the panel interpreted as signals that he would be more deferential to the power of Congress to enact laws without being second-guessed by an activist judiciary.

He said it would be appropriate for state and local lawmakers to pass legislation to lessen the effect of a Supreme Court ruling in June that took an expansive view of the right of the government to seize private property.

As Roberts concluded his second day of taking questions from senators, he appeared on track to win confirmation from the GOP-controlled committee. The panel is expected to conclude its questioning of Roberts today.

Several of the Republican committee members expressed effusive support for the nominee.

"If people can't vote for you, then I doubt that they can vote for any Republican nominee," Sen. Orrin G. Hatch (R-Utah) said.

The Judiciary Committee chairman, Sen. Arlen Specter (R-Pa.), told reporters that Roberts had "answered more questions than most."

"Nominees answer about as many questions as they think they have to to be confirmed," Specter said.

But it remained uncertain how Democrats — either on the committee or in the full Senate — would vote on Roberts.

Several Democrats on the panel made it clear they were not persuaded that Roberts could set aside his political views and rule impartially on the court.

At the same time, they acknowledged privately that it was hard to quarrel with his credentials.

Republicans on the committee have pointed out that they set aside partisan differences in 1993 to vote overwhelmingly in favor of President Clinton's high court nominee — Ruth Bader Ginsburg, a former legal counsel for the American Civil Liberties Union. They argue that the opposition should return the courtesy and confirm the choice President Bush has made.

But Democrats say the country is more deeply divided now than it was then, and that the stakes are higher.

Sen. Dianne Feinstein (D-Calif.) said that in the last 10 years, nearly 200 cases had been decided by a single vote, "which suggests that on major questions the court is also very divided."

Feinstein said that she supported Roberts' confirmation to the federal appeals court in Washington in 2003. "But there's more [at stake] in this vote," she said.

Other Democrats indicated they also would have problems supporting Roberts.

"We are rolling the dice with you, judge," Sen. Joseph R. Biden Jr. (D-Del.) said after Roberts declined to say whether he believed terminally ill people had a right to discontinue life-preserving treatment.

Roberts responded that he should not have to answer such questions, and that it would be dangerous if the process of selecting judges turned on promises that nominees made to elected officials.

"Judges don't stand for election. I'm not standing for election," he said.

But Biden said the judge was missing the point.

"No one's asking for a promise," he said.

Roberts Vows To Seek Consensus (REU-Y2)

By Thomas Ferraro

Reuters, September 15, 2005

U.S. Chief Justice nominee John Roberts said on Wednesday that if confirmed by the Senate he would seek consensus on the often bitterly divided Supreme Court that has spawned frustration with a series of 5-4 rulings.

Roberts, President George W. Bush's nominee to replace the late Chief Justice William Rehnquist, made the pledge as Democrats complained he had dodged many questions in two days of his confirmation hearing before the Senate Judiciary Committee.

"When you add it all up you are being less forthcoming ... with this committee than just about any other person who has come before us," said Sen. Charles Schumer (news, bio, voting record), a New York Democrat.

Roberts, a conservative federal appeals court judge, calmly countered the complaint as he appeared headed toward confirmation by the Republican-led Senate before the court begins its new term on October 3.

"I wanted to be able to share as much as I can with the committee," he said.

The hearing, which began on Monday, recessed on Wednesday night, and was to resume early Thursday for a possible final day.

Besides his vow to seek consensus on the high court, Roberts has promised to address each case with an open mind and a strict interpretation of the Constitution and to safeguard the rights of all Americans.

But he refused to discuss a number of specific matters -- from voting rights to gender bias -- saying such issues may come before him on the court. He has said like earlier nominees, he did not want to prejudge them.

For example, Roberts declined to say if he favors reversing the 1973 Supreme Court decision that legalized abortion, but said the Constitution affords Americans the right to privacy, the key legal underpinning of the landmark ruling.

Sen. Joseph Biden (news, bio, voting record), a Delaware Democrat, complained that Roberts' answers were so vague that both Republicans and Democrats thought he agreed with them.

"Without any knowledge of your understanding of the law, because you will not share it with us, we are rolling the dice with you, judge," Biden said.

Chairman Arlen Specter, a Pennsylvania Republican, said the Senate knows a lot about Roberts, 50, who was one of the nation's top lawyers and served in the Reagan and first Bush administrations.

Specter asked Roberts what he would do to address what many lawmakers and state and local officials across the country claim is a tendency by the nine-member high court to produce often conflicting 5-4 decisions in recent years.

"I do think the chief justice has a particular obligation to try to achieve consensus consistent with everyone's individual oath to uphold the Constitution, and that would certainly be a priority for me if I were confirmed," Roberts said.

The court has been closely divided on issues including church-state separation and the death penalty. It has at times issued rulings that appeared to be at odds and based on narrow distinctions that failed to give broad legal principles.

"An important function of the Supreme Court is to provide guidance," said Roberts. "As a lower court judge, I appreciate clear guidance from the Supreme Court."

As he was testifying, a California atheist who last year lost a Supreme Court fight to remove the phrase "under God" from the Pledge of Allegiance won an initial round as he revived the case in the courts.

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While not commenting because the case could again be before the high court, Roberts said: "I think everyone would agree that the religion jurisprudence under the First Amendment, the establishment clause and the free exercise clause, could be clearer."

Though Democrats have challenged Roberts' commitment to civil rights and women's rights, based largely on memos he wrote as a young lawyer in the Reagan administration, Republicans control the Senate, holding 55 of 100 seats. A simple majority is needed to confirm him.

Roberts said his memos reflected the policies of a conservative administration that approached such issues differently from liberal critics.

"I would resist the suggestion that I'm racially insensitive," Roberts said. "I know why the phrase, 'Equal Justice Under Law' is carved in marble above the Supreme Court entrance."

(Additional reporting by Richard Cowan, Jim Vicini and Jackie Frank)

Roberts Frustrates Committee Democrats (WP)

By Charles Babington And Jo Becker

The Washington Post, September 15, 2005

Democratic senators angrily accused John G. Roberts Jr. yesterday of hiding his views on end-of-life questions, privacy and other contentious issues, but the nominee to be the nation's 17th chief justice refused to be drawn out, and his Republican supporters said his confirmation is virtually assured.

Democrats' frustration boiled over several times during the eight hours of questioning, as Roberts repeatedly declined to discuss his personal or judicial views on matters that he said could come before the court someday. Senators implored him to speak from the heart, but Roberts told them time and again that he would be guided by "the rule of law."

"We are rolling the dice with you, Judge," Sen. Joseph R. Biden Jr. (D-Del.) said. "It's kind of interesting, this Kabuki dance we have in these hearings here, as if the public doesn't have a right to know what you think about fundamental issues facing them."

Sen. Charles E. Schumer (D-N.Y.) accused Roberts of treating the hearing room as a "cone of silence." "It seems strange, I think, to the American people that you can't talk about decided cases -- past cases, not future cases -- when you've been nominated to the most important job in the federal judiciary," the senator said.

Roberts asked for extra time to defend himself. "I think I have been more forthcoming than any of the other nominees," said Roberts, who had reviewed the confirmation hearing testimony of all the sitting Supreme Court justices in preparation for his hearing. "It is not a process under which senators get to say: 'I want you to rule this way, this way and this way. And if you tell me you'll rule this way, this way and this way, I'll vote for you.' Judges are not politicians. They cannot promise to do certain things in exchange for votes."

But Republican Arlen Specter (Pa.), the chairman of the Senate Judiciary Committee, also expressed irritation when Roberts refused to answer questions about several Supreme Court decisions striking down laws passed by Congress to help the disabled and victims of domestic violence. "Why not?" Specter asked sharply. "Judge Roberts, I'm not talking about an issue. I'm talking about the essence of jurisprudence."

But several Republicans defended Roberts's circumscribed answers for a second straight day and began congratulating him as though he were already on the court. As a sign of their confidence, Republican senators ended their questions late yesterday but agreed to let Democrats have another round today, and then conclude the day with testimony from outside witnesses. The committee plans to vote on the nomination Sept. 22. The full Senate will vote by the month's end, leaders said.

If Democrats will not support Roberts, said Sen. Orrin G. Hatch (R-Utah), they will not endorse any GOP nominee. "They all admit that he is qualified," Hatch said in an interview. "So if they vote against him, it just means they are playing partisan politics and they'll look like hell."

Liberal activists privately said they would consider it a moral victory if all eight committee Democrats oppose Roberts, noting that the 10 Republicans are widely expected to back him. With Republicans holding 55 of the Senate's 100 seats -- and Democrats ruling out a filibuster -- his confirmation is highly likely, activists on both sides said.

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In frequently emotional terms, Democrats pressed Roberts to discuss the government's proper role in determining when and how doctors and families can allow a terminally ill or severely incapacitated person to die. "Just talk to me as a father," Biden said. "Just tell me, just philosophically, what do you think?"

Roberts replied, "I'm not going to consider issues like that in the context as a father or a husband or anything else." He could not tell the panel how the law would guide him, he said, because "those are issues that come before the court."

Later, Sen. Dianne Feinstein (D-Calif.) tried again. "I'm trying to see your feelings as a man," she said, adding that she had to make wrenching end-of-life decisions about her father and her husband. Roberts told her, "it is difficult to put yourself in that position."

"All I'm saying is, you wouldn't want the government telling you what to do," Feinstein said. Roberts replied: "Well, I'm happy to say that as a general matter." But when asked if there "should be a basic right of privacy" involved, he said: "Well, that's getting into a legal question."

Roberts testified that he believes it would be "very appropriate" for Congress and state legislatures to consider legislation to effectively modify a recent Supreme Court ruling that expanded the right of local governments to force the sale of private property in the name of economic development. "What the court was saying is 'There is this power' and then it's up to the legislature to determine whether it wants that to be available," Roberts said. "You can protect" people's rights, he added.

Roberts was pressed about a death-penalty position he took during his 1989-1993 tenure as deputy U.S. solicitor general. Roberts had argued that death row inmates have no constitutional right to ask federal courts to consider a new claim of innocence. Sen. Patrick J. Leahy (D-Vt.) asked if he still holds that view.

Roberts replied, "The question is: Do you allow someone who has raised several claims over the years to suddenly say at the last minute that somebody who just died was the person who committed the murder?"

Throughout two days of questions and answers, Roberts has offered few details about his life. But the Indiana native, who attended a private high school and graduated at the top of his class as a Harvard undergraduate and law student, grew animated when Sen. Richard J. Durbin (D-Ill.) asked whether he understood there were real people behind the legal precedents, "families behind footnotes." "What would the powerless, the disenfranchised, minorities and others see in your life experience that would lead them to believe that they would have a fighting chance in your court?" Durbin asked.

Roberts said his life has been comfortable but "isolated in no sense." Critics, he said, should consider the clients he represented: death row inmates and corporations, welfare recipients and environmental groups.

On the issue of abortion, Roberts declined to answer a Republican's question whether a fetus is a person or property. On Tuesday, Roberts said there is a constitutional right to privacy, but yesterday he refused to say whether he agrees with Justice Clarence Thomas, who has written that there is no "general right to privacy." Such a right is considered the legal underpinning of a right to abortion.

Sen. Edward M. Kennedy (D-Mass.) returned to civil rights, disputing Roberts's contention that memos he wrote as a young administration lawyer did not necessarily reflect his own views but rather reflected those of the administration he served.

Questioned by Republicans, Roberts agreed that the Supreme Court should clarify its rulings on public expressions of religious faith. "I think everyone would agree that the religion jurisprudence under the First Amendment, the establishment clause and the free-exercise clause, could be clearer," he said. And as chief justice, he said, he would work to unite a court that has been sharply divided on many major issues.

For Roberts, Path To High Court Splits Candor, Caution (CSM)

By Warren Richey

The Christian Science Monitor, September 15, 2005

WASHINGTON - As one of the most respected advocates practicing before the US Supreme Court, John Roberts held that a good lawyer should be able to argue either side of a case.

Now he's using a variation of that same strategy and all the skills he honed under intense High Court questioning to try to win Senate confirmation as the 17th chief justice of the United States.

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His plan: reveal just enough information about his approach to judging to convince the senators of his integrity and constitutional expertise - but not enough to permit someone to forecast how he might vote once on the high court.

Roberts isn't just fighting for himself. If he is successful in holding that line he will help set the stage for the president's next high court nominee - the pick that will replace centrist Justice Sandra Day O'Connor and potentially swing the court to the right.

So far, Roberts has fended off, dodged, and sidestepped his way through a gauntlet of Senate Judiciary Committee questions involving the abortion precedent Roe v. Wade, efforts to strike down congressional enactments under the commerce clause, and the president's power to wage war independent of congressional guidance.

The bottom line: Senators - and the American public - are learning precious little about which way Roberts is likely rule as the nation's most powerful judge.

To Roberts, refusing to reveal how he might rule is important because in his view it upholds the special role of unelected, life-tenure judges in a representative democracy.

"It's based on the concern that the independence and integrity of the Supreme Court depend upon justices who will decide issues there with an open mind based on the judicial decisional process, not based on prior commitments they made during the nomination hearing," Roberts told the committee.

"All the justices have adhered to that approach," he says. "And if I'm to join their number, I need to be able to look them in the eye in the conference room and say I kept the same faith with the independence and integrity of this court."

That's the view of a judge and prospective chief justice.

But the issue looks a bit different from a seat in the US Senate, particularly on the Democratic side of the aisle, with constituents worried about threats to the abortion precedent and broad court rulings upholding civil rights.

While discussing constitutional precedents, Roberts frequently highlights both sides of the issue, leaving senators to guess which side of the argument he personally favors.

"He is doing a delicate dance trying to please everyone," says Nan Aron, president of the Alliance for Justice, which opposes the Roberts nomination. "At the end of the day people are going to walk out of this hearing room being uncomfortable."

Ms. Aron, a well-known watchdog of the judicial selection process, says Clinton high court nominees Justices Ruth Bader Ginsburg and Stephen Breyer were both more forthcoming than Roberts during their confirmation hearings. While many liberals are worried about Roberts's lack of candor, some conservatives seem pleased, even reassured by his cautious approach.

"We are not concerned," says Andrea Sheldon Lafferty, executive director of the Traditional Values Coalition. "We are looking for a jurist who will faithfully interpret the Constitution. We are not asking for someone who is pro-life."

Ms. Lafferty adds, "We believe he will be an honest jurist."

Roberts was repeatedly asked about his vigorous defense of White House power while serving as a lawyer in the Reagan administration. And more recently, he was a member of a three-judge appeals court panel that upheld the Bush administration's position on military tribunals for Al Qaeda suspects.

In reply, Roberts told the senator that one of the former Supreme Court justices he most admires is Robert Jackson. Justice Jackson was an advocate for White House power as President Franklin D. Roosevelt's attorney general before his nomination to the high court.

But in 1952, Justice Jackson voted to rein in presidential authority in invalidating President Truman's attempt to take over steel mills during the Korean conflict.

"Although he had strong views as attorney general, he recognized when he became a member of the Supreme Court that his job had changed," Roberts says.

The drawback of being such a gifted advocate is that it is sometimes difficult for observers to know when he is merely acting as an effective lawyer fighting to win a case and when he is speaking from the heart.

But there are moments during the hearing that point to the "real" John Roberts, and perhaps even the judge he is striving to become.

One of those moments came when he recalled one of his judicial mentors, Judge Henry Friendly who served on the federal appeals court in New York City.

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"With Judge Friendly, it was just a total devotion to the rule of law and the confidence that if you just worked hard enough at it, you'd come up with the right answers," Roberts says.

"He liked the fact that the editorialists of the day couldn't decide whether he was a liberal or a conservative."

What the editorial writers failed to understand, Roberts says, is "he wasn't adhering to a political ideology, he was adhering to the rule of law."

Nominee Sails Through Second Day Of Questions (HILL)

By Jonathan Allen

The Hill, September 15, 2005

Chief-justice nominee John Roberts sailed through a second day of inquiries from the Senate Judiciary Committee yesterday, leaving some lawmakers and analysts to wonder whether President Bush's pick to fill a second Supreme Court vacancy will be able to measure up.

The full Senate could take up the nomination as early as the end of next week, according to Eric Ueland, chief of staff to Senate Majority Leader Bill Frist (R-Tenn).

"Can't rule it out. Things are going well in committee," Ueland said in an e-mail.

Chairman Arlen Specter (R-Pa.) and ranking Democrat Patrick Leahy (Vt.) indicated the committee will have its executive session, to vote on Roberts, next Thursday.

Republicans have given up their right to a third round of questioning, but Democrats will go ahead. Kennedy is scheduled for this morning.

As he had Monday, the 50-year-old Roberts fielded and at times sidestepped questions with poise and humor, even as Democratic Senate heavyweights Joseph Biden (Del.) and Edward Kennedy (Mass.) pressed him repeatedly on civil rights and whether people have a right to determine when they die.

Some wondered if Roberts's composure and ability to establish his own framework for which questions to answer and which to avoid will set an artificially high bar for the next nominee.

"The next candidate's going to have a real job," said Sen. Pete Domenici (R-N.M.), who watched the proceedings briefly.

Jeff Peck, a former Judiciary Committee general counsel and staff director under Biden and a partner at the Washington lobbying firm Johnson, Madigan, Peck, Boland and Stewart, agreed, saying, "On style points and on substance points, the next nominee's going to be in for a tough road."

Democrats again expressed exasperation at Roberts's refusal to detail how he would rule in specific cases or to reveal his personal views on many issues.

Without such answers, Biden charged, "We are rolling the dice with you, judge."

Late in the day, Roberts repeated his refrain to Sen. Charles Schumer (D-N.Y.) that "judges are not politicians" and thus not in a position to make promises in exchange for votes.

With testimony from others still to come today, Roberts appears to be all but assured of committee approval and confirmation. No Republican senator has announced opposition to Roberts, and many Democrats have said they are reserving judgment.

Roberts, a judge only since 2003, has a short record as a jurist and has characterized his writings as a lawyer in Republican administrations as those of an aide responsible for backing the administration's policy. GOP supporters said potential Democratic opponents had little substantive ground on which to attack him.

"What's the biggest crime he's been accused of?" asked Sen. Lindsey Graham (R-S.C.), a member of the Judiciary Committee. "Working for Ronald Reagan."

Rather than criticizing Roberts for what he has said, liberal opponents have been left to attack him for playing "dodge ball," as People For the American Way did on its website yesterday.

"He really didn't tell us anything," said Ralph G. Neas, president of the group. Rather than predicting Roberts's defeat, Neas, known for his aggressive opposition to conservative nominees to the high court, has said only that he expects close votes in committee and on the floor.

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The two sides are gearing up for Bush's nomination of an associate justice to replace Sandra Day O'Connor, who is retiring and has been a swing vote on the closely divided court.

"Who knows what the president will do with the O'Connor seat, but clearly that is one where the balance of the court on so many critical issues will be in play," Peck said.

Former Republican National Committee Chairman Ed Gillespie, assigned by the White House to help guide Roberts through the process, predicted that the largely civil tone of the Roberts confirmation hearings would extend to Bush's next choice.

"What you've seen here is going to play out again in the next round," Gillespie said in a hallway outside the hearing room.

But Specter, a centrist who has been praised by more conservative colleagues for his conduct of the hearings, was more circumspect when asked whether the second nominee would get the same treatment from the panel.

"If you tell me who the next nominee is, I'll give you an answer," Specter said.

For some observers, the central question remaining about the Roberts nomination is how many Democrats will vote against him.

Democrats Dissect Memos From 1980s (WP)

By Amy Goldstein

The Washington Post, September 15, 2005

As Democrats on the Senate Judiciary Committee try to cast doubt on whether John G. Roberts Jr. deserves to become chief justice of the United States, the main club they are wielding are his own words -- as glimpsed in memos he wrote, as a young but well-positioned legal adviser inside the Reagan revolution, on the most polarizing civil rights issues of a generation ago.

For two days, the Democrats have read excerpts -- and at times even handed the nominee copies of his own work -- on voting rights, sex discrimination, affirmative action, racial bias, and the possibility of stripping the Supreme Court of jurisdiction over certain kinds of rights cases.

To try to blunt the impact of this document assault, Roberts has employed a two-pronged strategy: He has asserted that his words and legal reasoning were merely those of a staff lawyer. And he has largely refused to embrace or disavow the views his memos espouse.

In response, as Roberts's confirmation hearings went through a third day, Democrats and their allies among liberal advocacy groups loudly contended that the memos provide a more revealing window onto the nominee's true beliefs than his testimony suggests. "He was an advocate," the Senate's most enduring liberal, Edward M. Kennedy (D-Mass.), said in an interview. "You can't read through those memoranda and not understand that he had a very strong commitment" to conservative values.

The centrality of Roberts's decades-old words to the minority party's strategy makes clear why Democrats worked intensely -- and with limited success -- this summer to pry loose all the nominee's records from his tenure in two Republican administrations. Roberts worked as a special assistant to then-Attorney General William French Smith in 1981 and 1982, then spent four years in the White House counsel's office. He returned to the government in 1989, as deputy solicitor general under President George H.W. Bush.

Lacking papers from his solicitor general's years -- the current Bush administration has refused to release them -- and with a thin record of rulings from Roberts's two years as a federal appellate judge, Democrats are drawing their ammunition from the early Reagan era.

Those were tempestuous years on civil rights, as the conservatives who had entered the government tried to curtail use of the courts to remedy discrimination. "They were flipping the script with respect to whose interests they were going to protect," said Theodore M. Shaw, president of the NAACP Legal Defense and Educational Fund, which is opposing Roberts. "He was in the thick of it."

During the past two days, some of the most extensive questioning of Roberts's memos stems from his work on voting rights. In 1982, following a Supreme Court ruling two years earlier, Congress altered the Voting Rights Act to make clear that the law prohibited voting practices that had the effect of denying any groups the ability to elect candidates of their choice, regardless of

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whether the practices were specifically intended to have that effect. During Roberts's time in the attorney general's office, the Reagan administration opposed that change, preferring a more restrictive standard that outlawed intentional voting discrimination.

On Tuesday, Sen. Russell Feingold (D-Wis.) attempted to press Roberts on memos he had written on the topic. "Senator, you keep referring to what I supported and what I wanted to do," Roberts replied. "I was a 26-year-old staff lawyer. It was my first job as a lawyer after my clerkships. I was not shaping administration policy."

Yesterday, Kennedy returned to the theme of voting rights, challenging Roberts about the last paragraph of a four-page memo in which Roberts had written that the broader "effects" standard "is not only constitutionally suspect, but also contrary to the most fundamental tenets of the legislative process on which the laws of this country are based." Kennedy asked whether Roberts believes that today.

After a lengthy series of questions, Roberts replied, "And I have no basis for viewing it as constitutionally suspect and I don't." He declined, however, to indicate his views on an extension of the voting rights law.

In a similar vein, the committee's ranking Democrat, Sen. Patrick J. Leahy (Vt.), questioned Roberts about a 1983 memo concerning the proper role of the Supreme Court, in which he had suggested that the court was overburdened and should consider fewer appeals of death penalty cases.

Leahy asked: "Are you saying that judges are just too busy to pay attention to death cases?" Roberts replied that he was not.

Yesterday afternoon, Sen. Richard J. Durbin (D-Ill.) cited a memo co-written by Roberts that had criticized the solicitor general's office for not filing a brief on behalf of Texas in a 1982 case in which the Supreme Court ruled that the state could not forbid illegal immigrants from attending public elementary schools.

Roberts replied that he had been "making the point that the position was inconsistent with the attorney general's litigation policy approach." When Durbin asked what he thought of that case today, Roberts said he had not looked at it in 23 years.

At one point, Sen. Herb Kohl (D-Wis.) asked in exasperation: "You have . . . suggested on numerous occasions that the things that you represented in writing or in an opinion back in the '80s and into the '90s . . . were in many cases the opinions of people for whom you worked, not necessarily your own. I assume, therefore, there are those opinions that you're prepared to disavow?"

Roberts replied: "My view in preparing all the memoranda that people have been talking about was as a staff lawyer. I was promoting the views of the people for whom I worked, and in some instances those are consistent with personal views, and in other instances they may not be.

"In most instances, no one cared terribly much what my personal views were. They were to advance the views of the administration for which I worked."

Roberts Backs Eminent Domain Limits (WT)

By Charles Hurt

The Washington Times, September 15, 2005

Federal Judge John G. Roberts Jr. told senators yesterday that laws restricting the government's power of eminent domain are legitimate, despite a landmark Supreme Court decision earlier this year that broadly expanded that authority.

"The court was not saying, 'You have to have this power, you have to exercise this power,' " Judge Roberts told the Senate Judiciary Committee. "That leaves the ball in the court of the legislature."

Judge Roberts, nominated to be the next chief justice of the Supreme Court, finished a second day of testimony yesterday with a few flare-ups, but no major upsets.

The hearings have been so devoid of fireworks that Senate staffers are having a hard time keeping the limited public seating area filled. There also have not been the major protests that normally accompany Supreme Court confirmation hearings.

Judge Roberts is slated to sit before the committee for a final round of questions this morning at the request of Democrats on the panel.

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Yesterday, several Democrats commended the nominee for his performance thus far, but none has indicated that he or she will vote to confirm him. The committee vote is scheduled for next Thursday, and many observers speculate that his nomination will be sent to the full Senate on a straight party-line vote.

"You are one of the best witnesses that, I think, has come before this committee," said Sen. Joseph R. Biden Jr., a Delaware Democrat who has been one of the most combative questioners of Judge Roberts.

"If people can't vote for you, then I doubt that they can vote for any Republican nominee," said Sen. Orrin G. Hatch, Utah Republican.

One of the most closely watched Democrats is Sen. Dianne Feinstein, a California Democrat who voted in favor of Judge Roberts for his position on the U.S. Court of Appeals for the D.C. Circuit. She said she will vote against Judge Roberts for the Supreme Court, however, if she determines that he would overturn Roe v. Wade, the court decision that established federal abortion rights.

She told Judge Roberts that he'd spoken "eloquently" about Roe.

"I learned a lot from listening to you," she said. "You discussed the right to privacy. You were very full and forward-speaking."

Then Mrs. Feinstein inquired whether the White House also had applied an abortion litmus test when it selected Judge Roberts for nomination.

"Has anyone -- when you were being interviewed for this position -- ever asked your opinion on Roe?" she asked, to which he responded in the negative.

"OK. That's good to know," she added.

As on the previous day, Judge Roberts repeatedly declined -- to the great irritation of several senators -- to answer questions about particular cases or issues that might come before the Supreme Court.

"Without any knowledge of your understanding of the law -- because you will not share it with us -- we are rolling the dice with you, judge," said Mr. Biden, after failing to prod Judge Roberts into discussing "right to die" issues.

"Senator, that's asking me for an opinion in the abstract on a question that'll come before the court," Judge Roberts told Mr. Biden. "And when that question does come before the court, the litigants before me are entitled to have a justice deciding their case with an open mind based on the arguments presented, based on the precedence presented."

In a different exchange, Judge Roberts said his confirmation is not a "bargaining process."

"Judges are not politicians," he said. "They cannot promise to do certain things in exchange for votes."

The matter of the eminent domain case, however, proved safer waters for Judge Roberts.

Sen. Sam Brownback, Kansas Republican, had asked Judge Roberts about the court decision in Kelo v. City of New London, in which the Supreme Court ruled 5-4 that the government could take private property from one owner and give it to another.

Previously, eminent domain was restricted to cases in which the property was acquired for public use. Under the new parameters, eminent domain could be invoked if it is merely thought that the new owner could generate more tax revenue.

The ruling triggered a national outcry from both liberals and conservatives. Judge Roberts said yesterday that he was "surprised" by the ruling.

"In, you know, the first year in law school we all read the decision in Calder against Bull, which has the famous statement that the government may not take the property of A and give it to B," he said.

Judiciary Panel Peppers Nominee With Pet Issues (WT)

By Charles Hurt

The Washington Times, September 15, 2005

With federal Judge John G. Roberts Jr.'s confirmation appearing more likely, members of the Senate Judiciary Committee have resorted to using the hearings to lobby the nominee about their own favorite issues.

Senators have pressed their views on the prospective chief justice about televising Supreme Court proceedings, the right to die and abortion, among other issues.

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"Are you against cameras in the courtroom like [Chief] Justice [William H.] Rehnquist was?" Sen. Charles E. Grassley, Iowa Republican and longtime advocate of televising Supreme Court proceedings, asked bluntly.

Judge Roberts -- sensing the prickly territory -- made a lighthearted reference to former Sen. Fred Thompson, the Tennessee Republican and television star who has been ushering him through the confirmation process.

"Well, you know, my new best friend, Senator Thompson, assures me that television cameras are nothing to be afraid of," he responded, before adding that he does not have a "set view" on the matter, but would listen to colleagues if confirmed.

After establishing that the opposite of being alive is being dead, Sen. Tom Coburn, Oklahoma Republican, went on to impress upon Judge Roberts his own view of abortion.

"I won't press you on this issue," Mr. Coburn said. "But for the listeners of this hearing, if in fact life is the presence of a heartbeat and brain wave, it's important for everybody in the country to know that at 16 days post-conception, a heartbeat is present. At 41 days, right now we can assure ourselves, that brain activity and brain waves are present."

Committee Chairman Arlen Specter, Pennsylvania Republican, took issue with the "denigrating comments" Supreme Court justices make about Congress. In particular, he was galled by one decision that ruled a law of Congress unconstitutional for its "method of reasoning."

"Do we have your commitment that you won't characterize your method of reasoning as superior to ours?" Mr. Specter asked in a tone that wasn't terribly inquisitive.

"I don't think it's appropriate," Judge Roberts responded.

For good measure, Mr. Specter added: "I take umbrage at what the court has said, and so do my colleagues. There isn't a method of reasoning which changes when you move across the green from the Senate columns to the Supreme Court columns."

But not all such exchanges were so friendly.

Sen. Joseph R. Biden Jr., Delaware Democrat, took the opportunity to lecture Judge Roberts about his own views of whether Congress has any say in whether feeding tubes are removed to allow a patient to die.

"My family faced -- I'm sure many people in this audience's families faced a difficult decision -- of deciding when to no longer continue the application of artificial apparatus to keep your father or mother or husband or wife or son or daughter alive," he explained. "It's of great moment to the American public."

Judge Roberts, as he had many times before, said it would be improper for him to discuss a matter pending before the Supreme Court.

Nominee Sees 'Room' For Bigger Caseload (WT)

By Guy Taylor

The Washington Times, September 15, 2005

Judge John G. Roberts Jr. yesterday revealed one way his management of the Supreme Court could differ starkly from his predecessor and mentor William H. Rehnquist: The number of cases the court takes on is likely to increase.

Under Chief Justice Rehnquist, who began his tenure in 1986, the average high court caseload dropped from about 150 to 80 cases a year -- a trend Judge Roberts appeared intent on reversing during exchanges yesterday.

"I do think there's room for the court to take more cases," Judge Roberts told Sen. Herb Kohl, Wisconsin Democrat, although he couched the remark by first saying, "It may be a view I'll have to be educated on further if I am confirmed and I'm not stating it as a solid view."

In an earlier exchange with Sen. Patrick J. Leahy, Vermont Democrat, Judge Roberts noted that the justices "handled twice as many cases 20 years ago than they do today, and I think the capability to address more issues is there on the court."

While legal scholars agree more cases would significantly alter how the high court does business, there are varied theories of why the caseload decreased so dramatically during the Rehnquist years.

Through much of its history, the Supreme Court was required by Congress to hear certain cases appealed from lower courts. Congress abolished this "mandatory jurisdiction" law in 1988, effectively doing away with about 20 cases a year.

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The caseload has since been set by the justices, who pick -- or "grant certiorari" to -- the cases they wish to hear from about 6,000 petitions filed with the Supreme Court annually by individuals seeking review of their cases at the highest level.

During the shift toward conservatism under Chief Justice Rehnquist, liberal lawyers grew more reluctant to petition the Supreme Court "because of the potential for an adverse ruling," says Richard C. Reuben of the University of Missouri School of Law.

"While they may have lost at the court of appeals, they figured that was just one circuit," Mr. Reuben said.

Stephen Wermiel of American University's Washington College of Law agreed, but added the phenomena was only "one of several factors" behind the shrunken caseload.

With Supreme Court and lower federal court appointments filled by the Reagan and first Bush administrations, a conservative Supreme Court "would feel that there were fewer cases that they needed to review because the federal appeals courts were more in line with the Supreme Court's thinking," Mr. Wermiel said.

Another reason was simply that Chief Justice Rehnquist "was a very efficient administrator," said Mr. Reuben. "The quality of the workmanship in Supreme Court opinions, I think improved as a general manner. The opinions were less rushed, they were crafted better."

Judge Roberts' remarks on the issue yesterday were unexpected because they strayed from a memo he wrote as a White House lawyer in 1983 to then Chief Justice Warren E. Burger, strongly urging the high court to reduce its caseload -- specifically by hearing fewer death penalty cases.

Now Right Demanding Dem Memos (HILL)

By Alexander Bolton

The Hill, September 15, 2005

Conservative strategists are drafting a letter to Democratic members of the Senate Judiciary Committee demanding the release of hundreds of internal memos detailing contacts between the lawmakers and liberal interest groups opposing John Roberts's nomination to the Supreme Court.

By planning to press Democrats on the sensitive subject, conservatives seem to be pulling a page from the Democrats' own political playbook. In the weeks leading up to the confirmation hearings, Senate Democrats have repeatedly called on the White House to give them memos Roberts penned while he was deputy solicitor general in President George H.W. Bush's administration.

Sen. Patrick Leahy (D-Vt.), the ranking member on the Judiciary Committee, raised the issue again yesterday by releasing a letter dated Sept. 9 from William Moschella, the assistant attorney general. In the letter, Moschella declined to disclose legal memos from Roberts's tenure in the Office of the Solicitor General.

"It is regrettable that the Bush administration persists in keeping this information from the Senate," Leahy said. "These documents, from the period of Judge Roberts's most substantive work experience in the executive branch, would help illuminate his views and earlier decisions on a wide range of key issues that are of vital importance to the American people and to the Senate."

In their letter, conservatives quote Leahy's argument that the Senate should have access to the withheld documents. In the letter, they assert that the public is equally entitled to know what is motivating and directing Senate Democratic scrutiny of Roberts, according to a verbal summary given to The Hill.

"Given your demand that the Justice Department hand over John Roberts's work documents during his time as deputy solicitor general, you should have no reservations about approving the release of the full complement of documents that make up all of the Memogate papers," conservatives wrote in a draft of the letter, which will be circulated for signatures starting today. About 30 conservative leaders or more are expected to sign it.

A spokeswoman for the Democrats on the Senate Judiciary Committee declined to comment without first seeing a copy of the letter.

Specifically, conservatives want access to what they estimate may be as many as 4,000 Democratic memos that are in Senate Sergeant at Arms William Pickle's possession. Last year, Pickle seized Senate Judiciary Committee computers during an

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investigation. Democrats on the committee called for the probe after internal memos written by aides to Sens. Edward Kennedy (D-Mass.) and Dick Durbin (D-Ill.) were made available to the press without Kennedy's or Durbin's consent.

The publicized memos detailed contacts between leading liberal members on the committee and groups that lobbied them on President Bush's judicial nominees.

In their letter to Democrats, conservatives plan to argue that the memos are not protected by attorney-client privilege, giving them a stronger claim to the documents, they assert, than the Democrats have to the solicitor general's documents. Roberts's defenders have argued that a solicitor general's relationship to a president is akin to an attorney-client relationship and deserves special privilege.

Mark Levin, president of the Landmark Legal Foundation, a conservative public-interest-litigation firm, said that he was familiar with the letter and plans to circulate it.

"I fully support it," he said. "I've always thought that the Congress and the Senate Judiciary Committee in particular gets away with a hypocritical standard. They demand that the executive branch produce everything, and yet on the other hand they refuse to make anything public."

Kay Daly, president of Coalition for a Fair Judiciary, a conservative group defending Roberts, said she was aware of the letter.

"There are some 4,000 memos locked away in the sergeant at arms' office that the public has a right to know about," she said.

Daly said that the since the taxpayers' fund the salaries of lawmakers and their aides they have a right to know about their work.

Conservatives said their case is bolstered by a memo sent by the Senate archivist to all Judiciary Committee staff members instructing them to preserve all documents and e-mails related to Roberts's confirmation proceedings, including correspondence with outside groups. Conservatives cite the archivist's message to support their claim that the internal memos held by the sergeant at arms should be made part of the public domain.

Jeff Lord, who served as associate political director in the Reagan administration from 1985 to 1988 and is working with Progress for America, a pro-Roberts advocacy group, has called for the Democratic memos to be made public during recent trips to Washington state and North Dakota. He traveled to those states to promote a new book he has written about the contentious 2002 Senate confirmation battle over Judge Brooks Smith's appointment to the 3rd U.S. Circuit Court of Appeals.

Lord called the memos "some of the most revealing things I've ever seen while in government," adding that the evidence of coordination between Democratic senators and third-party groups in the memos made public was "eye-opening."

One of the publicized memos, by a former aide to Kennedy and dated April 2002, reported that Elaine Jones of the NAACP Legal Defense Fund had asked Democrats to postpone the nomination of Judge Julia Gibbons to the 6th Circuit court until a key case on affirmative action had been decided. Conservatives consider it one of the most damning of the publicized batch.

The memo was downloaded from the Judiciary Committee server and made public in 2003.

In Roberts Hearing, Specter Assails Court (NYT)

By Linda Greenhouse

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 - Senator Arlen Specter's testy interrogation of Judge John G. Roberts Jr. on the Supreme Court's treatment of Congress may well have left viewers scratching their heads on Wednesday morning, with cryptic references to the "congruence and proportionality test" and to unfamiliar case names like "Lane and Hibbs."

But the line of questioning that Mr. Specter, the Pennsylvania Republican who is Judiciary Committee chairman, chose to pursue offered a window on the increasingly troubled relationship between the court and Congress, as well as on one of the most consequential developments of the Rehnquist court's later years.

In a series of decisions, many written by Chief Justice William H. Rehnquist himself, the court declared unconstitutional acts of Congress that had been passed by broad bipartisan majorities.

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Laws permitting public employees to sue state employers for discrimination on the basis of disability and age, and also giving women access to federal court to sue rapists for damages, ran up against the court's new definition of the limits on Congress's power and the justices' insistence that they alone have the final word in interpreting the Constitution.

"I take umbrage at what the court has said, and so do my colleagues," Senator Specter told Judge Roberts.

From 1995 to 2003, the Supreme Court overturned all or parts of 33 federal statutes, 10 of them on the ground that Congress had exceeded its authority either to regulate interstate commerce or to enforce the constitutional guarantees of due process and equal protection. Until then, the modern court gave Congress wide berth to define its own role under both of the Constitution's relevant provisions, the Commerce Clause and the 14th Amendment.

Senator Specter took particular exception to the court's conclusion in several of the cases that Congress had not compiled an adequate record showing the existence of the problems the statutes sought to solve.

He said that leading up to the passage of the Violence Against Women Act, for example, "there were reports on gender bias from the task forces in 21 states, and eight separate reports issued by Congress and its committees over a long period."

In United States v. Morrison, the court's decision in 2000 that overturned the private-lawsuit portion of the statute, Chief Justice Rehnquist said that "Congress's findings were weakened by the fact that they rely so heavily on a method of reasoning that we have already rejected," namely that various instances of violence against women could be added together to demonstrate an impact on the nation's economy sufficient to bring the subject within Congress's authority over interstate commerce.

Turning to Judge Roberts, nominated to succeed the late chief justice, Senator Specter said, "Do we have your commitment that you won't characterize your 'method of reasoning' as superior to ours?" The nominee demurred and, in fact, was so cautiously nonresponsive as to leave the senator to continue with what amounted to a monologue.

"There isn't a method of reasoning which changes when you move across the green from the Senate columns to the Supreme Court columns," Mr. Specter said. "And we do our homework, evidenced by what has gone on in this hearing. And we don't like being treated as schoolchildren, requiring, as Justice Scalia says, a taskmaster." Then he demanded, "Will you do better on this subject, Judge Roberts?"

"Well, I don't think the court should be taskmaster of Congress," Judge Roberts replied. "I think the Constitution is the court's taskmaster, and it's Congress's taskmaster as well. And we each have responsibilities under the Constitution."

Senator Specter's reference was to a dissenting opinion by Justice Antonin Scalia in a decision last year, Tennessee v. Lane, which permitted states to be sued under the Americans With Disabilities Act for failing to provide accessible courtrooms. On the surface, at least, the decision conflicted with a 2001 ruling, Board of Trustees v. Garrett, which gave states immunity from lawsuits by their employees under the same law.

Justice Scalia, who had joined the majority in the 2001 case, said the conflicting results showed the "judicial arbitrariness" of the court's approach. "It casts this court in the role of Congress's taskmaster," he said.

Justice Scalia objected to the requirement the court has placed on Congress to show that its legislative approaches are "congruent" with, and "proportionate" to, the problem it is seeking to address.

Mr. Specter asked Judge Roberts: "Isn't this 'congruence and proportionality' test, which comes out of thin air, a classic example of judicial activism? Isn't that the very essence of what is in the eye of the beholder, where the court takes carte blanche to declare acts of Congress unconstitutional?"

Judge Roberts started to reply that in its two most recent cases in this series, the Lane case from Tennessee and another case, Nevada Department of Human Resources v. Hibbs, the court had shifted gears and rejected constitutional challenges to the laws in question. The Hibbs case, from 2003, allowed suits against states under the Family and Medical Leave Act.

But no sooner had Judge Roberts started to explain "Lane and Hibbs," than Senator Specter cut him off: "But Judge Roberts, they uphold it at the pleasure of the court. Congress can't figure that out. There's no way we can tell what's congruent and proportional in the eyes of the court."

Mr. Specter asked Judge Roberts if he agreed with Justice Scalia's critique of the "congruence and proportionality test." The nominee declined to say, noting that another such case is on the docket for the coming term.

That case, United States v. Georgia, scheduled for argument on Nov. 9, raises the question of whether prisoners can sue states under the disabilities act, as Congress intended.

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Senator Specter was not satisfied, but it was clear that he knew the dialogue was over. Before turning to a less freighted subject - how the nominee would, as chief justice, lead the other justices, all of whom are his elders - he made one last try.

"Judge Roberts, I'm not talking about an issue," he said. "I'm talking about the essence of jurisprudence. I'm talking about the essence of a man-, woman-made test in the Supreme Court which has no grounding in the Constitution, no grounding in the Federalist Papers, no grounding in the history of the country. It comes out of thin air."

Group Pushes Specter To Back Roberts (HILL)

By Peter Savodnik

The Hill, September 15, 2005

The anti-abortion-rights group Concerned Women for America (CWA) is applying pressure on Senate Judiciary Committee Chairman Arlen Specter (R-Pa.) to back Supreme Court Chief Justice nominee John Roberts.

"When it comes time for the committee to vote, Chairman Specter's promise of fairness should lead him to the inescapable conclusion that it couldn't possibly be fair not to vote for this exceptionally qualified nominee," said the CWA chief counsel, Jan LaRue.

She acknowledged that "I've been very tough on Senator Specter … but fairness requires me to applaud him for running a full and fair hearing, as he promised to do."

The CWA statement appears to dispel some concerns voiced by Republicans on Capitol Hill that Roberts had alienated some conservatives with his statements on abortion and judicial precedent.

Brownback Outlines Terms For Next Pick (RC)

By Paul Kane

Roll Call, September 15, 2005

Sen. Sam Brownback (R-Kan.) said Wednesday that he would like the next Supreme Court nominee to have a detailed track record opposing the Roe v. Wade decision, as opposed to the relatively limited record on abortion issues held by Judge John Roberts.

While Brownback expects to support Roberts as President Bush's pick for chief justice of the United States, he warned that he and many in the conservative movement would like the nominee to replace retiring Associate Justice Sandra Day O'Connor to have a clearer record of opposing abortion rights than Roberts.

"I'd like to see it take place," Brownback said in between his first and second round of questioning of Roberts at the Judiciary Committee's confirmation hearings.

While Democrats and liberal activists have grown increasingly weary of Roberts' refusal to answer detailed questions about Roe and the right to privacy, Brownback voiced frustration of his own at the nominee's unwillingness to go much further in response to GOP questions on the matter.

"Democrats should be happy," Brownback said, only half-jokingly.

Brownback's veiled criticism of Roberts' record on the divisive issue of abortion could resonate for months, as the Kansan is considering running for the GOP presidential nomination in 2008 as the conservative anti-abortion candidate.

In the short run, it could make the selection of the next nominee to the high court even more difficult for Bush, as some Democrats appear to have withheld their sharpest political fire on Roberts and instead are concentrating on the nominee who succeeds the swing-voting O'Connor.

Brownback said Bush owes it to the millions of conservative voters who heard him say he would pick nominees similar to Justices Antonin Scalia and Clarence Thomas — two favorites of anti-abortion activists.

"It really is what the election was about, and Bush ran on it and Kerry did not," Brownback said of Sen. John Kerry's (D-Mass.) presidential campaign.

To date, the Bush White House has done little if any consultation with Senators on the second Supreme Court choice. Aides to Judiciary Chairman Arlen Specter (R-Pa.) said they are unaware of any substantive conversations Specter has had on the topic with White House officials.

And there has been no indication from the White House when the next pick will be announced.

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Edward Gillespie, the former Republican National Committee chairman who is serving as an unpaid White House adviser for the Roberts nomination process, said that the views of Brownback and many other Senators will be heard in the selection process, noting that more than 70 Senators were consulted before Roberts' nomination was announced.

"In the consultation process, I'm sure those views will be heard," he said of Brownback.

Gillespie, who is not involved in the selection process for the second pick, said he expects the president to live up to his pledge to pick justices "in the mold of Scalia and Thomas."

"I have no doubt the president will do what he said he would in two presidential elections," he said.

Roberts has been an active lawyer since the early 1980s, first in the Reagan and Bush administrations and then in private practice before taking a seat on the U.S. Court of Appeals for the D.C. Circuit. However, his writings on Roe v. Wade have been limited, leaving his liberal opponents with just a couple of pieces of evidence to presume that he would be an anti-abortion justice.

In particular, they have pointed to his tenure in the Solicitor General's office, when he signed a 1991 brief in a pivotal Pennsylvania abortion case saying that Roe v. Wade was wrongly decided.

In addition, in a memo from his early days in the Reagan administration, he referred to a "so-called" right to privacy.

Under questioning from Judiciary Chairman Arlen Specter (R-Pa.) and others, Roberts seems to have left some wiggle room concerning how he would rule on such cases. Most conservatives remain pleased with Roberts, but many still fear his appointment could turn out as badly for conservatives as President George H.W. Bush's appointment of Justice David Souter, who eventually voted to uphold Roe v. Wade when the Pennsylvania abortion case, Planned Parenthood v. Casey, was decided in 1992.

In his questioning Wednesday morning, Brownback sought to elicit a bit more on his views on the matter, asking the nominee: "Could you state your view as to whether the unborn child is a person or is a piece of property?"

Roberts declined to answer the question, saying that the issue may come before him on the court and he didn't want to give any hints as to how he'd rule.

Manuel Miranda, a former Senate GOP leadership aide, sent conservative activists an e-mail Wednesday warning that the second pick should come from a crop of candidates who have either ruled on the issue on state courts or written on the matter. He noted that William Rehnquist won confirmation as chief justice in 1986 even though he was one of two justices to rule against Roe in 1973.

"When the President promised he would appoint judges like Scalia and Thomas, it was not their views on the Clean Sewers Act that he was trying to signal to us — it was code for Roe. He knew it, we knew it," wrote Miranda, who resigned his Senate post 20 months ago during an internal chamber investigation about whether he had improperly accessed Judiciary Committee memos.

Miranda now runs Third Branch, a group devoted to confirming conservative jurists to the federal bench.

Brownback said that he has not spoken to White House officials about the next Supreme Court selection, but indicated that he's made plain that he wants someone with a clearer record on Roe.

"I have communicated that, but I have not talked directly to [White House] individuals," he said.

As he closed his second round of questioning with Roberts on Wednesday evening, Brownback told the nominee that there was much pressure on him. "A lot of hopes and prayers are riding on you," he told Roberts.

"May God bless you," Brownback added.

How Conservative Is Judge Roberts? (NYT)

The New York Times, September 15, 2005

It's not surprising that the Senate hearings for Judge John Roberts Jr. are turning out to be about how conservative he would be as the next chief justice of the United States. But there is a twist. It is the Democrats on the Judiciary Committee who want to make sure that he would be conservative in the true sense: respectful of tradition, and not seeking to impose radical new rules. The key question is whether he would stand by established legal precedents on issues like abortion, civil rights, the environment and the power of Congress, or would seek to push the law in a drastically different direction.

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Judge Roberts's record, on the bench and off, puts him well to the right end of the ideological spectrum. As a Reagan administration lawyer, he argued for a very narrow interpretation of the Voting Rights Act. As an appeals court judge, he wrote an opinion in an Endangered Species Act case that suggests he may have a very cramped view of Congress's power. The documents about his past legal work that have become public contain some troubling passages, notably his assertion that abortion rights are based on a "so-called 'right to privacy.' "

Responding to questions, he has talked at length about his commitment to civil rights, privacy and Congressional authority. He told Russell Feingold, the Wisconsin Democrat, that "the gains under the Voting Rights Act have been very beneficial in promoting the right to vote, which is preservative of all other rights." He emphasized that the Reagan administration had favored extending the act, whatever its differences with voting rights groups over the details. He told Joseph Biden Jr., the Delaware Democrat, that he believes the Constitution prohibits discrimination against women, and he endorsed the test the court now uses in such cases.

He told Senator Arlen Specter, the Pennsylvania Republican, that Roe v. Wade is "settled as a precedent of the court" and "entitled to respect" under the legal principle that a court's past rulings should be given deference. He also said he recognizes the existence of a constitutional right to privacy and agrees with the principle of the 1965 case striking down the laws against selling birth control devices, that "marital privacy extends to contraception and availability of that."

These are good things to hear, but there's reason for concern. He did not say he agrees with Roe, for instance, only that it is entitled to deference. That is a truism: all of the court's decisions are entitled to such deference, but some are reversed anyway. Judge Roberts waved away questions about troubling statements in his older legal memos, saying he was just a staff lawyer in his 20's when he wrote them. But he and the White House have refused to release more recent memos, from his time in the solicitor general's office, which might give a better picture of his views as a mature lawyer.

Senate Democrats have two goals. Before Mr. Roberts, now 50, becomes chief justice for life, they want to try to determine that he does not hold far-right views on important issues. It is a determination that many senators seem not to have made yet. Senator Biden, for one, complained about the "Kabuki dance" of the hearings and worried out loud, saying, "We are rolling the dice with you, judge."

No less important, Senate Democrats are putting down markers for the next judicial battle. President Bush will soon nominate a replacement for Justice Sandra Day O'Connor, who has been an important swing vote on the court. Democrats have been calling for Justice O'Connor to be replaced with another centrist Republican. By subjecting Judge Roberts to tough questioning, they are sending a message that if President Bush chooses a far-right nominee, he can expect a major fight.

Judge Roberts Speaks (WP)

The Washington Post, September 15, 2005

In his testimony before the Senate Judiciary Committee over the past two days, Judge John G. Roberts Jr. shed important light on his views and likely approach if confirmed as the Supreme Court's chief justice. To the apparent frustration of some Democrats on the committee, he declined, as nominees traditionally do, to give his specific opinion of the merits of matters that could come before the court. But he spoke with surprising clarity on several issues and displayed an agile legal mind and an appealing ability to disagree constructively, both characteristics of a good chief justice. While Americans still lack a road map to how he will handle the many important matters the court will face, Judge Roberts is less of a sphinx than he was at the time of his nomination.

The nominee affirmed that he regards stare decisis -- the doctrine of generally allowing even erroneous past decisions to stand -- as a critical foundation of the American legal system. While he rightly pointed out that pre-

cedents sometimes need to be overruled, his position distinguishes him from more radical conservatives such as Justice Clarence Thomas, who regards the doctrine as having limited value in constitutional cases. Those who might disagree with Judge Roberts's views have some assurance that he will not seek to rewrite large swaths of modern American law.

Judge Roberts made clear that he believes the Constitution contains a right to privacy, and he expressed his agreement with high- court decisions striking down bans on contraception. While he declined to address the merits of Roe v. Wade , he did indicate that it is a decision to which stare decisis considerations properly apply. Importantly, he said several times that the

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subsequent decision in Planned Parenthood v. Casey -- which reaffirmed Roe's core principle -- was independently entitled to be treated as a precedent. That implies that there would be a heavy burden for the court in upsetting abortion rights now. Judge Roberts was careful not to say what he would do, but his comments suggest that he appreciates the difficulty of eliminating a right the court has solemnly declared, and redeclared, in the past.

He was less clear concerning the balance of power between the federal government and the states, a subject on which his writings have been ambiguous and in some respects troubling. Still, he expressed a healthy regard for the foundations of federal power and an appreciation of the need for the courts to defer to congressional expertise. There is no reason to assume Judge Roberts will be more radical on federalism questions than either the late Chief Justice William H. Rehnquist or retiring Justice Sandra Day O'Connor.

Concerning his memos as a young lawyer in the Reagan Justice Department, Judge Roberts's answers varied considerably. He generally did not back off the substance of his memos on civil rights issues, but, rather, he stressed that the positions in question were those of the administration -- leaving ambiguous his own stance now. He did, however, retreat somewhat from his embrace of legislation to limit the jurisdiction of the courts. He also treated the court's jurisprudence on religion and public life with far greater respect than he did as a young man. His clear statement that only law, not religious faith, will govern his decisions was welcome.

The cumulative impression is of a cautious, incremental conservative, unlikely to unmask himself as a liberal once on the bench but unlikely as well to try to impose his own political agenda.

Roberts Comes Off As No Conservative In Scalia-Thomas Mold (RC)

By Morton M. Kondracke

Roll Call, September 15, 2005

It's about as certain as anything that John Roberts will be the next chief justice of the United States, but it's anything but certain where he'll come out ideologically.

That should be encouraging to moderates and liberals and discouraging to conservatives, who expected President Bush to appoint a justice in the mold of Justices Antonin Scalia and Clarence Thomas, whose views are seldom in doubt.

Liberal interest groups and Democratic Senators ought to be using the standard Sen. Charles Schumer (D-N.Y.) applied to Roberts: If he's not an "extremist" conservative and "out of the mainstream," he ought to be confirmed.

If that's the test, Roberts surely passed it, judging by his early performance before the Senate Judiciary Committee. But the interest groups and, apparently, the main body of committee Democrats, still seem set to oppose him.

If a majority of Senate Democrats follow their lead, assuming no damning evidence surfaces before a confirmation vote, it will brand the party as ideologically driven and out of the mainstream itself.

Polls show that Roberts has made a highly favorable impression with the public. And both his history and performance more than fulfill the traditional requirements of a Supreme Court justice: intelligence, fair-mindedness, a judicial temperament and the respect of his professional colleagues.

Roberts specifically declared that he would not bring an "overarching philosophy" to the court and would "look at cases from the ground up rather than the top down."

He said he is a "modest judge" who will interpret law and not make it, who values precedent, who respects the views of his colleagues and who will not allow his personal opinions to sway his judgments.

Roberts may be a conservative, but he's not a rigid, big-C conservative ideologue. And, assuming he's being honest, he's not going to be the activist hoped for by the right and feared by the left.

Roberts' memos from the Reagan era do suggest a smart-alecky conservative possibly on his way to big-C status, as in his reference to a "so-called right of privacy" in the Constitution.

But Roberts is now 20-plus years older, and he went out of his way to inform the committee that he admires the late Justice Robert H. Jackson, once Franklin D. Roosevelt's attorney general, who changed his mind as he changed his job.

It's also a good sign of Roberts' maturity and open-mindedness that he told students at Wake Forest Law School in February that he's found being a federal appeals court judge far harder than he had anticipated.

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"I kind of thought that in most of the cases, it would be pretty obvious ... that this person should lose, this person should win and you'd spend most of your time writing opinions," he said.

"I've found that I have to spend more time than I thought just getting to the first step — what the right answer should be," he said. "It's not at all unusual to have one view when you finish reading the briefs, a different view when you sit down with your clerks, another after oral arguments and you're back to a different view after the conference [with other judges].

"Then as you go through the writing process, you come up with either the original view, a third view or the second view." Can anyone imagine Justices Thomas or Scalia not knowing from the get-go how he'll rule?

When asked by a student several months before he was nominated who his favorite justices were, he did not name Scalia and Thomas — Bush's favorites — but rather Jackson, Felix Frankfurter, John Marshall Harlan, William Brennan and his mentor, William Rehnquist.

And it's just conceivable that Roberts might end up a justice ideologically more in the mold of Anthony Kennedy, a swing conservative, than even Rehnquist.

Kennedy wrote the court's plurality opinion in the 1992 Planned Parenthood v. Casey case, upholding Roe v. Wade, and sided with liberals in striking down state laws discriminating against gays.

Kennedy also voted with conservatives on some states' rights and capital punishment cases and on Bush v. Gore after the 2000 election. Roberts disagrees with Kennedy's frequent crediting of foreign precedents, but he seems to share Kennedy's open-mindedness.

Roberts rigorously refused to forecast his views on possibly pending cases, but he did indicate strongly that he's no automatic vote to overturn Roe, as right-wingers expect from a Bush appointee.

In answer to searching questions from Judiciary Chairman Arlen Specter (R-Pa.), Roberts demonstrated strong respect for the doctrine of stare decisis — that is, following precedent. Specter said that Roe had been revisited by the court in 38 cases since 1972 without being reversed.

Roberts concurred that breaking precedent constitutes "a jolt to the legal system" and that "it's not enough that you might think the precedent is flawed to justify revisiting it."

He certainly cited theoretical grounds for revisiting precedents — such as unworkability or erosion of the precedent — but right-wingers are expecting a reversal on the mere grounds that the case was "wrongly decided" to begin with.

Roberts also departed from the right-wing line by saying that "the right to privacy is protected under the Constitution in various ways" and that "the court — in a series of decisions going back 80 years — has recognized that personal privacy is a component of the liberty protected by the due process clause."

A right of privacy was a key basis for the Roe decision, and big-C conservatives routinely say it's nowhere to be found in the Constitution, much as Roberts did back in 1981.

In response to Roberts' first-day testimony, a coalition of liberal groups, Independentcourt.org, put out a press release accusing him of moving "from dodging to dishonest."

Judiciary Committee Democrats issued a joint statement saying that Roberts "didn't answer questions." Sen. Joseph Biden (D-Del.) practically shouted, "You've told us nothing," because Roberts wouldn't disclose his personal feelings about life and death.

But, assuming he's not dissembling, Roberts has in fact told Congress a lot: that he's fully qualified to be chief justice, that he'll look at cases fairly and without prejudgment and that he's no ideologue.

Democrats have no way to block him, since the "Gang of 14" agreement takes the filibuster out of play. They have a decision: Let him through and concentrate on Bush's next appointee, or oppose him and brand themselves as mere agents of their interest groups.

Dean Of The Democrats (WSJ)

The Wall Street Journal, September 15, 2005

No, not Howard. The Dean whom Democrats have tapped to represent them at John Roberts's confirmation hearings this week is John W. Dean III, White House Counsel to President Nixon and one of the architects of the Watergate coverup.

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This isn't the first time Mr. Dean will be appearing in the Caucus Room of the Senate's Russell office building. In 1973, he sat at the witness table during the Watergate hearings and testified about a "cancer on the Presidency." This was shortly before he spent two years in jail for obstruction of justice.

This paragon of the law is now a columnist for FindLaw.com, where he has been writing articles opposing Mr. Roberts's confirmation. Specifically, he wants the White House to release Mr. Roberts's documents from his time in the Solicitor General's office -- presumably the reason he's turned up on the Democrats' witness list. (He has a conflict on Thursday and will appear if the hearings are extended to Friday, says a spokeswoman for Senator Pat Leahy, the Committee's ranking Democrat.)

In other words, the Democrats are using a man who will go down in history for facilitating a Presidential coverup to make the case for open government. Meanwhile, they ignore six Solicitors General from several administrations, Democrat and Republican, who have said publicly that the Roberts documents are covered by attorney-client privilege and should be kept confidential. So: a bipartisan group of law-abiding SGs vs. a convicted felon and Watergate enabler? You make the call.

Bush, Annan Tout The Role Of The U.N. (LAT)

By Maggie Farley And Warren Vieth

The Los Angeles Times, September 15, 2005

UNITED NATIONS — In a rare show of unity after a bruising week for the U.N., President Bush joined U.N. Secretary-General Kofi Annan on Wednesday in saying that no country can stand alone against the 21st century challenges of terrorism, disease and natural disasters.

Both leaders also chided the world body's member nations for blocking key reforms aimed at making the United Nations more able to tackle those challenges, even though many diplomats felt the U.S. was one of the countries responsible.

But Bush also surprised delegates by reversing U.S. stances on trade and development that had nearly scuttled weeks of negotiation on the reforms.

"To spread a vision of hope, the United States is determined to help nations that are struggling with poverty," Bush said. "We are committed to the Millennium Development Goals."

Those goals include cutting poverty and hunger in half, ensuring universal education and stemming the spread of AIDS by 2015.

"In this young century, the far corners of the world are linked more closely than ever before, and no nation can remain isolated and indifferent to the struggles of others," Bush said in a keynote speech at the opening of the three-day World Summit.

In an address that was at once global and aimed at home, Bush noted that the United States was in the unusual position of receiving aid from abroad after Hurricane Katrina, and thanked the 115 nations that had offered money and help.

"The world is more compassionate and hopeful when we act together," Bush said. "This truth was the inspiration for the United Nations."

Although Washington had endorsed the eight Millennium Development Goals at the 2000 summit and again in the so-called Monterrey Consensus statement, U.S. negotiators feared that targets related to the goals would require the U.S. to increase foreign aid.

The goals were restored at the last minute in a U.S.-crafted compromise that saved the talks from collapse.

Nonetheless, delegates and U.N. officials had not expected Bush to publicly endorse the goals in front of more than 150 world leaders.

"That was a big deal," said Mark Malloch Brown, Annan's chief of staff and the former head of the U.N. Development Program. "They are not standing in the way of it, and that is real progress."

Some diplomats saw Bush's emphasis on development as an attempt to defuse the sentiment here that the United States was one of the spoilers of the summit document, which now falls far short of Annan's original ambitions.

Or, quipped one diplomat, perhaps Hurricane Katrina made him suddenly aware of the dire effects of poverty.

Reversing another U.S. negotiating stance, Bush also called for the removal of trade barriers and farm subsidies that prevent poor nations from selling their goods.

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"The United States is ready to eliminate all tariffs, subsidies and other barriers to free flow of goods and services as other nations do the same," he said.

Bush and Annan expressed their disappointment that a summit accord passed grudgingly by the General Assembly on Tuesday did not go further.

The stripped-down document omits key proposals on nuclear disarmament and trade and defers details on human rights, terrorism and U.N. reform.

World leaders are expected to adopt it Friday, the last day of the summit.

Bush aimed his strongest criticism at the failure to establish criteria for membership in a new human rights council to replace the U.N. Human Rights Commission, which has included among its members alleged violators such as Libya and Sudan.

"When this great institution's member states choose notorious abusers of human rights to sit on the U.N. Human Rights Commission, they discredit a noble effort and undermine the credibility of the whole organization," Bush said. "If member nations want the United Nations to be respected and effective, they should begin by making sure it is worthy of respect."

Annan expressed greater concern about the failure to include in the final document any reference to nuclear disarmament and nonproliferation, calling it "our biggest tragedy and our biggest failure." The Bush administration opposed language that called for nuclear powers to reduce their weapons stockpiles.

In what appeared to be a jab at the U.S.-led invasion of Iraq, Annan cautioned, "Even the strongest among us cannot succeed alone…. We cannot succeed without the leadership of the strong and the engagement of all."

Compared with previous Bush speeches in which he demanded that the U.N. confront Iraq or stand aside, Wednesday's address seemed almost conciliatory.

"He found the themes that resonate with the international community," said Jean-Marie Guehenno, the head of peacekeeping at the U.N. "The emphasis on poverty and development was certainly noticed and welcomed."

But what Bush didn't mention — Afghanistan, Sudan and the Middle East — also resonated. The president did not focus on the U.S. use of power, or the U.N. role in rebuilding new governments and societies that have been disrupted by conflict.

After his address, Bush met with Israeli Prime Minister Ariel Sharon. In brief remarks to reporters, he praised Sharon's courage in removing Israeli settlers from the Gaza Strip.

The president then participated in a meeting of the U.N. Security Council, which adopted a resolution banning the incitement of terrorism and calling for action to share intelligence, restrict cross-border movement and freeze financing for terrorist organizations.

Human rights groups fear the wide-ranging resolution could be used to censor inflammatory media and deport political opponents cast as extremists.

Separately, Bush signed a new international accord to deter nuclear terrorism and participated in the launch of the U.N. Democracy Fund, designed to help developing nations build democratic institutions.

Bush Challenges World To Drop Trade Barriers (REU-Y2)

By Caren Bohan

Reuters, September 15, 2005

U.S. President George W. Bush told a U.N summit on Wednesday he was willing to drop all trade barriers if other countries did the same, issuing a challenge that could invigorate critical talks on world trade.

Trade experts saw little chance of the pledge becoming a reality but some said the attention Bush gave to trade in his speech could spur interest in the World Trade Organization talks on trade and development, known as the Doha Round.

"The United States is ready to eliminate all tariffs, subsidies and other barriers to free flow of goods and services as other nations do the same," Bush told other leaders.

"The elimination of trade barriers could lift hundreds of millions of people out of poverty over the next 15 years."

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Bush said the stakes were high for a successful conclusion to the Doha talks, which aim to lower trade barriers for everything from farm goods to services and foster economic growth in the poorest countries. He devoted a full three paragraphs to Doha in a 25-minute speech.

With a deal needed by the end of next year, the Doha Round is entering a crucial stage. Negotiators need to make substantial progress at a WTO ministerial meeting in Hong Kong this December to keep the round alive.

The talks have suffered from a lack of high-level interest, which makes Bush's comments significant even though they mean little on a practical level, said Greg Mastel, trade adviser at the law firm Miller and Chevalier in Washington, DC.

"It's an offer that will never be taken up," Mastel said. "Other countries are not likely to drop their trade barriers any time soon."

He noted such a move would not be politically feasible in the United States, where protectionist policies are popular for industries such as steel but even more so agricultural goods.

Disagreements over how much to cut farm subsidies and tariffs are the biggest obstacles to a new world trade deal. However, the negotiations are also bogged down on issues linked to trade in services and industrial goods.

"I strongly endorse the spirit of (Bush's) remarks and I think that it's important that somebody like the president should give this amount of attention to the round," European Trade Commissioner Peter Mandelson told reporters after meetings in Washington on farm trade.

The United States and the European Union both generously subsidize their farmers, but are striving to reach agreement in coming months on how far to cut their subsidies and tariffs.

How much other countries, such as Brazil and India, are willing to scale back their own protection for farmers will also be an important element of final WTO deal.

"It's rhetorical but it's important as a political signal that the president is willing to push the envelope on trade further than the conventional wisdom of the Congress," said Jeffrey Schott, senior fellow at the Institute for International Economics, a Washington think-tank.

As an example of the difficulty of the politics of trade liberalization in Congress, Schott pointed to the tough fight it took Bush to secure passage of the Central America Free Trade Agreement.

Mastel said talk had been circulating that the Bush administration might be ready to offer a proposal to phase out all industrial tariffs eventually, also an ambitious goal but perhaps more feasible than the one Bush spoke of at the U.N.

(Additional reporting by Doug Palmer in Washington)

At U.N., Bush Links War On Terrorism To Anti-Poverty Efforts (WP)

By Peter Baker And Colum Lynch

The Washington Post, September 15, 2005

UNITED NATIONS, Sept. 14 -- President Bush, reaching out to an audience he has antagonized in the past, told the assembled leaders of the world Wednesday that the United States shared "a moral duty" to combat not only terrorism but also the poverty, oppression and hopelessness that give rise to it.

Addressing the United Nations, Bush linked his campaign against terrorism to the anti-poverty agenda advanced by other nations, although he shied away from adopting some of the specific commitments sought by allies. He later took the U.S. seat at the Security Council for the first time in his presidency to emphasize his solidarity with other countries in the struggle against terrorism.

"We must help raise up the failing states and stagnant societies that provide fertile ground for the terrorists," Bush said at the gathering of more than 150 presidents and prime ministers on hand to mark the 60th anniversary of the world body. "We must defend and extend a vision of human dignity and opportunity and prosperity, a vision far stronger than the dark appeal of resentment and murder. To spread the vision of hope, the United States is determined to help nations that are struggling with poverty."

Arguing that trade can lift hundreds of millions of people out of poverty, Bush pushed for a new global trade agreement and for the first time vowed to drop all U.S. tariffs, subsidies and other barriers to foreign goods if other countries do the same. He also

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urged other nations to join U.S. efforts to fight AIDS and malaria, and he launched a new international partnership to address the spread of avian flu.

Paying special notice to perennial conflicts that leave much of the world destitute, Bush said the United States would train 40,000 African peacekeeping troops over five years "to preserve justice and order in Africa." And he marked the inception of a new U.N. democracy fund to promote greater liberty around the world.

"The lesson is clear," Bush said. "There can be no safety in looking away or seeking the quiet life by ignoring the hardship and oppression of others. Either hope will spread or violence will spread, and we must take the side of hope."

On the sideline of the U.N. events here, Bush also met for 35 minutes with Israeli Prime Minister Ariel Sharon to congratulate him on the withdrawal from the Gaza Strip and to challenge the Palestinians to reciprocate. "I know it was hard, but I admire your courage," Bush told Sharon in front of reporters. The president added: "Now is the time for Palestinians to come together and establish a government that will be peaceful with Israel."

Bush's two-day visit here focused his attention back on world affairs at a time of domestic crisis along the Gulf Coast. Many of his counterparts expressed their sympathy following the death and devastation caused by Hurricane Katrina; more than 115 countries have offered assistance. Comparing Katrina to the tsunami that killed hundreds of thousands in South Asia last year, Bush said the outpouring of compassion this month showed that the world is better "when we act together."

The rhetorical nod to international harmony contrasted with past visits by Bush to the United Nations that were marked by bitter disagreement over the war in Iraq. Since his reelection last year, Bush has worked to heal those wounds and has adopted a more multilateral approach to sensitive issues such as Iran's nuclear program.

His approach Wednesday generated a far warmer reaction among U.N. officials and foreign delegates than previous appearances, when he lectured countries about their responsibility to fight terrorism and stand up to North Korea and Iraq. Diplomats praised Bush's embrace of targets known as the Millennium Development Goals to dramatically scale back poverty, child mortality and disease, although he did not endorse proposals to spend 0.7 percent of national income on international aid, four times more than current U.S. spending.

"It was a different tone," said Chile's ambassador, Heraldo Muñoz. "Before, it was all about terrorism. Although this speech had an unavoidable component on terrorism, it went well beyond. He expressed . . . renewed trust in the United Nations, and I feel many leaders welcomed that."

At the same time, Bush was trailed around U.N. headquarters by his ambassador, John R. Bolton, a longtime U.N. critic who was sent here with a temporary recess appointment after Senate Democrats blocked his confirmation. Bolton has clashed with diplomats here over efforts to make the United Nations more efficient and accountable.

When Bush was greeted by Secretary General Kofi Annan on Tuesday, U.N. closed-circuit television showed the president joking about the tension over Bolton, who once suggested it would make no difference if 10 floors of the U.N. building disappeared. "How is he behaving?" Bush asked. "Has the place blown up?"

A 35-page declaration on poverty and U.N. reform completed this week did little to overhaul the organization in the way Washington wants, but Bush publicly credited Annan for trying. "We have made a solid start," he said in a toast. "More work remains."

U.N. officials sought to counter the impression that weeks of hard negotiations had yielded a scaled-back document that would have little impact. The declaration, to be endorsed by world leaders attending a summit on Friday, includes the first unqualified U.N. condemnation of terrorism "by whomever, wherever and for whatever purpose." It also constitutes the first public commitment by the full U.N. membership to take responsibility for protecting people from genocide, war crimes, ethnic cleansing and crimes against humanity. The declaration does not legally obligate governments to intervene in places such as the Darfur region of Sudan, but it will increase political pressure on countries to do so.

As it has during many of Bush's visits here, terrorism dominated the agenda, coming on a day when more than 160 people were killed and hundreds more injured by a wave of bombings and rocket attacks in Baghdad. Many of the leaders sitting with Bush at the Security Council, including Russian President Vladimir Putin and Chinese President Hu Jintao, did not support the U.S. invasion of Iraq.

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But they agreed with Bush and British Prime Minister Tony Blair to adopt the resolution calling on nations to crack down on the incitement of terrorism.

"The terrorists must know that wherever they go they cannot escape justice," Bush said, adding, "We must send a clear message to the rulers of outlaw regimes that sponsor terror and pursue weapons of mass murder: You will not be allowed to threaten the peace and stability of the world."

This Year, Bush Takes A Different Tone With The U.N. (WP)

By Glenn Kessler

The Washington Post, September 15, 2005

UNITED NATIONS, Sept. 14 -- Three years ago, making the case for confronting Iraq, President Bush said the United Nations would sink into irrelevancy if it failed to act at a "difficult and defining moment." But, addressing the U.N. General Assembly on Wednesday, the president struck a strikingly different tone, praising the "vital work and great ideals of this institution" and its efforts to take the "first steps" toward managerial and structural reforms.

A year ago, in the same venue, Bush denounced terrorists as people who believed "the Universal Declaration of Human Rights and the American Bill of Rights and every charter of liberty ever written are lies, to be burned and destroyed and forgotten." Bush condemned terrorism in this year's speech as well, but with a twist -- he explicitly linked defeating terrorism to changing "the conditions that allow terrorists to flourish."

"We must help raise up the failing states and stagnant societies that provide fertile ground for the terrorists," Bush said.

Bush then ticked off a series of U.N.-sponsored initiatives to help promote human dignity and prosperity, saying the United States has a "moral duty" to join in the effort. In effect, Bush used the speech to marry the United Nations' goals of defeating poverty and disease with his vision of fighting terrorism by promoting democracy.

Since the start of his second term, Bush has tried hard to reach out to a world that has been dismayed with the foreign-policy choices and actions of his first term. He has traveled four times this year to Europe, the heart of anti-Bush attitudes, though polling by the German Marshall Fund has indicated that the charm offensive thus far has failed to resonate with many Europeans.

The United Nations refused to back a war against Iraq, but apparently it did not become irrelevant either. Bush's speech Wednesday lacked the confrontational tone of his previous addresses here, and he reached out for common goals and objectives. Bush even lingered to participate for the first time in a session of the U.N. Security Council and then joined other world leaders for a meal.

"May the U.N. embody the high ideals of its founding in the years to come," Bush said in a toast.

Interestingly, Bush did not mention the looming confrontation with Iran over its nuclear programs, even though the United States is leading the drive to bring the matter to the Security Council as quickly as possible. Instead, French Prime Minister Dominique de Villepin -- who as foreign minister in 2003 had clashed heatedly with U.S. officials over the invasion of Iraq -- played the heavy in his own speech. He warned Iran that it faces referral to the Security Council if it fails to meet its obligations under the nuclear Non-Proliferation Treaty.

Unlike last year's address -- when Bush was trying to woo his conservative base during a presidential campaign -- the president did not mention trafficking in humans or the conflict in Sudan, two issues of importance to evangelical voters.

Skipping a chance to be confrontational, Bush also referred only obliquely to the Iraq oil-for-food scandal that has tarnished the world body -- and he skipped lightly over the fact that the General Assembly on Tuesday agreed to a watered-down document intended to guide the reforms that U.S. officials say are necessary for the United Nations.

Bush was also significantly less defensive about conditions in Iraq, nearly three years after the invasion. Two years ago, he all but demanded that the world join in helping rebuild that shattered nation. Yesterday, he simply said: "No civilized nation has an interest in seeing a new terrorist state emerge in that country."

Bush used his speech to explain why, in his view, democracy thwarts the growth of terrorism. "Democratic nations uphold the rule of law, impose limits on the power of the state, treat women and minorities as full citizens," he said. "Democratic nations protect private property, free speech and religious expression."

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Writing in the current issue of Foreign Affairs, F. Gregory Gause III said that a review of academic literature and statistics finds little evidence that democracy stops terrorism. Gause, a political science professor at the University of Vermont, noted that the State Department's records show that, between 2000 and 2003, India, the world's most populous democracy, had 203 terrorist attacks while, China, the world's most populous authoritarian state, had none. One study cited by Gause found that "most terrorist incidents occur in democracies and that generally both the victims and the perpetrators are citizens of democracies."

Bush Thanks World Leaders And Takes Conciliatory Tone (NYT)

By David E. Sanger And Warren Hoge

The New York Times, September 15, 2005

UNITED NATIONS, Sept. 14 - President Bush, facing an array of world leaders who are deeply divided on how to define terrorism or act against nuclear proliferation and poverty, struck a conciliatory tone at the United Nations on Wednesday, describing himself as the grateful leader of a superpower that in recent days has received emergency aid from nations around the world.

His speech, at the opening of a United Nations session that drew more than 150 presidents, prime ministers and monarchs, came hours after the General Assembly greatly watered down what had once been ambitious plans for institutional change and for commitments to fight terrorism and nuclear arms.

But Mr. Bush only alluded to the leaders' differences, and his tone was far more muted than three years ago, when he urged the United Nations to confront Saddam Hussein.

On Wednesday, from the same podium, he balanced his discussion of the need to chase down terrorists with his endorsement of a set of antipoverty objectives called the millennium development goals. Only weeks ago, the administration had proposed eliminating all reference to the specific goals from the United Nations' agenda this week, but the administration subsequently backed off. Rather than declare, as he had in the past, that countries had to choose to be "with us or against us" in battling terrorists, Mr. Bush cast himself as the leader of one of many nations fighting the same plague.

"No nation can remain isolated and indifferent to the struggles of others," he said in a hall that remained, by tradition, largely silent. "When a country or a region is filled with despair and resentment and vulnerable to violent and aggressive ideologies, the threat passes easily across oceans and borders and could threaten the security of any peaceful country."

Mr. Bush began his speech by thanking 115 countries and a dozen international organizations for offering aid to victims of Hurricane Katrina, putting him in the unaccustomed position of being the recipient of help from abroad - including from countries like Iraq. "I offer the thanks of my nation," he said.

Secretary General Kofi Annan seemed to allude to American vulnerability in a speech earlier in the day, noting, "Whether our challenge is peacemaking, nation-building, democratization or responding to natural or man-made disasters, we have seen that even the strongest among us cannot succeed alone."

That seemed to set the tone for Mr. Bush, who arrived politically injured. His approval levels among Americans are at record lows, with the aftermath from Hurricane Katrina raising questions about the administration's abilities to respond to a major disaster, and with Iraq facing violence on a scale few predicted three years ago. But even with close to 150 people killed in Iraq just hours before he spoke, Mr. Bush stuck to his message of optimism about democratic revolution in the Middle East.

"It's an exciting opportunity for all of us in this chamber," he told the leaders, many of whom opposed his decision three years ago to go to war and have steered clear of Iraq since.

Nonetheless, American officials traveling with Mr. Bush said that they wondered how successful the White House would be in allocating more reconstruction aid for Iraq now that the hurricane damage will soak up so many American resources. "It seems clear," said one senior official traveling with Mr. Bush, "that the days of American largess for Iraq are coming to a close."

At his toughest on Wednesday, Mr. Bush seemed to scold the United Nations for failing to enact change on the scale discussed for more than a year. "The United Nations must be strong and efficient, free of corruption, and accountable to the people it serves," he said, adding that it "must stand for integrity, and live by the high standards it sets for others."

He described the effort to improve the operations of the organization as in its infancy, adding: "The process of reform begins with members taking our responsibilities seriously. When this great institution's member states choose notorious abusers

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of human rights to sit on the U.N. Human Rights Commission, they discredit a noble effort, and undermine the credibility of the whole organization," apparently a reference to Sudan, Zimbabwe, Cuba and Libya.

"If member countries want the United Nations to be respected - respected and effective - they should begin by making sure it is worthy of respect," Mr. Bush concluded.

He pressed for a Security Council resolution committing countries to prosecute - and extradite - anyone seeking fissile materials or the technology for nuclear devices.

On Tuesday, Mr. Annan said the exclusion of language in goals on countering nuclear proliferation was a "disgrace" that compounded a similar failure at a spring United Nations conference on the future of the Nuclear Nonproliferation Treaty.

But Mr. Bush did not repeat his previous calls to bar any new country from producing enriched uranium or plutonium - a plan the administration has done little to promote over the past year and a half.

In his references to the goals for poverty reduction, he cited not only the millennium development goals but also another initiative that grew out of a summit meeting in Monterrey, Mexico. There, poor nations agreed to fight corruption and improve governance, and rich nations committed to "make concrete efforts" toward giving 0.7 percent of their national income in aid. Mr. Bush did not address the aid issue, but advocates said they hoped his endorsement of Monterrey would make it harder for the United States to continue to oppose such aid targets.

Jeffrey D. Sachs, the economist who led the millennium project, said in an interview that Mr. Bush's support "was as explicit and plain as could be." As to Mr. Bush's mention of the millennium goals, he said, "As far as I know, the president has never uttered that phrase before."

The Security Council also passed a resolution calling on countries to ban incitement to terrorism and prevent subversion of educational, cultural and religious institutions by terrorists and their supporters. The measure was offered by Prime Minister Tony Blair of Britain in a move paralleling his government's response to bombings in London in July.

The seats around the horseshoe panel were filled by the leaders attending the United Nations summit meeting, and among those raising hands in approval were Presidents Bush, Vladimir V. Putin of Russia, Hu Jintao of China, Luiz Inácio Lula da Silva of Brazil, and Gloria Macapagal Arroyo of the Philippines.

"We must unite not just in condemning the acts of terrorism, which we all do, but in fighting the poisonous propaganda that the root cause of this lies with us, not them," Mr. Blair said. Citing the bombings Wednesday in Baghdad, he called it "obscene" for terrorists to claim to be acting in response to Western aggression against Muslims. "Their victims are largely Muslim," he said.

Rights groups in Britain have protested the government's crackdown since the bombings, and the New York-based Human Rights Watch criticized Wednesday's resolution for failing to define incitement.

"The resolution's sponsors have made it easy for abusive governments to invoke the resolution to target peaceful political opponents, impose censorship and close mosques, churches and schools," said Kenneth Roth, the group's executive director.

Bush Calls On U.N. To Fight Poverty, Terror (USAT)

USA Today, September 15, 2005

President Bush urged the members of the United Nations on Wednesday to unite in the war on terrorism and to push for the spread of democracy and prosperity in Iraq and the Middle East.

“We have a solemn obligation to defend our citizens against terrorism, to attack terrorist networks and deprive them of any safe haven,” Bush told the World Summit in New York. “No nation can remain isolated and indifferent to the struggles of others.”

With Bush casting the U.S. vote, the U.N. Security Council unanimously passed a resolution that condemns the incitement of terrorism and calls for all nations to take “appropriate action” to fight such incitements. “Appropriate action” was not defined.

Declaring that poverty breeds despair and terrorism, Bush challenged world leaders to abolish trade tariffs and subsidies to promote prosperity and opportunity in poor nations, a move that would be worth billions of dollars.

“There can be no safety in looking away or seeking the quiet life by ignoring the hardship and oppression of others,” Bush said. “Either hope will spread, or violence will.”

Court lifts curbs on Aruban suspects in Holloway case

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A court ruled Wednesday that three suspects in the disappearance of an American teenager in Aruba can remain free without conditions, overturning an earlier decision that restricted their travel.

The appeals court ruled there was a “lack of sufficient grounds and serious suspicions” to keep the restrictions on Joran van der Sloot and brothers Deepak and Satish Kalpoe, the Aruban prosecutor's office said. They remain suspects in the May 30 disappearance of Alabama teenager Natalee Holloway, the prosecutor's office said.

WWII bomb unearthed at Berlin's main airport

Berlin's Tegel Airport was closed for about an hour to allow explosives experts to detonate a 1,100-pound bomb from World War II unearthed during construction work. Police evacuated nearby homes and closed a highway.

Bombmaking instructions at issue in Belfast trial

Arabic instructions on how to detonate a bomb hidden in a baby's milk bottle could be used to destroy an aircraft in midair, a U.S. explosives expert testified in the trial of an Algerian man accused of links to the al-Qaeda network.

Abbas Boutrab, 32, is charged in Belfast, Northern Ireland, with possessing 25 computer disks filled with instructions on how to build compact bombs and other weapons and how to smuggle them aboard passenger aircraft.

Donald Sachtleben, an FBI explosives expert, testified that he built and successfully detonated three bombs based on the instructions found in Boutrab's home. Boutrab says he downloaded the material from the Internet out of curiosity.

In U.N. Talk, Bush Urges Nations To Fight Poverty, Open Up Trade (WSJ)

By Neil King Jr.

The Wall Street Journal, September 15, 2005

NEW YORK -- President Bush urged world leaders to band together to combat poverty, terrorism and disease, while eliminating barriers to trade.

Mr. Bush's remarks before the United Nations General Assembly came three years after he used the same setting to lay the ground for the U.S.-led invasion of Iraq. He began his speech yesterday noting the "awesome power of nature" that was Hurricane Katrina, and thanking the more than 115 countries that offered the U.S. aid "in this hour of need."

Amid declining approval ratings, Mr. Bush plans to interrupt several days of diplomacy to give a nationwide address on Katrina this evening from Louisiana, before returning for a meeting tomorrow with Russian President Vladimir Putin.

Mr. Bush traveled here with several aims. The U.S. hopes to build support from China, Russia and other nations to bring Iran's nuclear program before the Security Council, and to keep up pressure on North Korea through the six-party talks under way in Beijing. Mr. Bush and his aides also have used the gathering to push for other goals, such as health programs and trade.

President Bush repeated a pledge that he would move to eliminate all tariffs and agricultural subsidies within the current global round of trade talks if other countries agreed to do the same. He also stepped up calls for Asian countries to increase their vigilance against the spread of avian flu, which he warned could become "the first pandemic of the 21st century."

The Security Council afterward approved a British-sponsored resolution urging countries to adopt laws prohibiting "incitements to terrorism," a move that some civil-rights groups say could offer countries legal cover to crack down on dissent. U.N. members resisted pressure from Washington to agree to a definition of terrorism.

The Bush administration came under some criticism for declining to endorse a widespread push to enlarge the permanent core group of countries within the Security Council, from five member nations to as many as nine. The U.S. had backed the idea of Japan joining the five veto-wielding countries, but didn't support including Brazil, Germany and India.

Efforts to enlarge the Security Council were part of a broad push to overhaul the U.N., which devolved this week into a package of relatively small changes. Developing countries blocked a move to give more power to the secretary-general's office, while others eliminated a section on nonproliferation and disarmament.

There was also dismay over Bush administration attempts to drop any mention of specific targets for aid to developing countries. The U.S. is the largest aid giver in dollar terms but among the lowest among rich countries as a percentage of its overall economy.

In his speech, Mr. Bush surprised developing countries by unequivocally committing to U.N. goals to end global poverty by 2015, which could mean a trebling of U.S. aid.

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Bush Hits U.N. Corruption (WT)

By Bill Sammon

The Washington Times, September 15, 2005

NEW YORK -- President Bush yesterday implored the United Nations to rid itself of corruption and scolded the global body for squandering the world's respect and making a mockery of human rights.

"When this great institution's member states choose notorious abusers of human rights to sit on the U.N. Human Rights Commission, they discredit a noble effort and undermine the credibility of the whole organization," Mr. Bush told the U.N. General Assembly.

In past years, Libya and Sudan have served on the commission.

"If member countries want the United Nations to be respected and effective, they should begin by making sure it is worthy of respect," he said.

Although Mr. Bush did not mention the multibillion-dollar oil-for-food debacle that has rocked the United Nations, he called on the world body to move past scandal.

"The United Nations must be strong and efficient, free of corruption and accountable to the people it serves," he said. "The United Nations must stand for integrity and live by the high standards it sets for others."

The president also used yesterday's speech to thank U.N. member nations for donating money to Hurricane Katrina relief efforts.

"To every nation, every province and every community across the world that is standing with the American people in this hour of need, I offer the thanks of my nation," he said. "The world is more compassionate and hopeful when we act together."

Mr. Bush also called on the United Nations to do more in the U.S.-led fight against AIDS and malaria in Africa. He said foreign aid and debt forgiveness will not eliminate global poverty without the economic catalyst of free trade.

"The United States is ready to eliminate all tariffs and subsidies and other barriers to free flow of goods and services as other nations do the same," he pledged. "This is key to overcoming poverty in the world's poorest nations."

Mr. Bush also pushed for various international initiatives to fight terrorism, stop the spread of nuclear weapons and curb the proliferation of chemical and biological weapons.

"We must send a clear message to the rulers of outlaw regimes that sponsor terror and pursue weapons of mass murder: You will not be allowed to threaten the peace and stability of the world," he said.

Although the United Nations did not support the U.S.-led Operation Iraqi Freedom in 2003, Mr. Bush yesterday praised the world body for supporting the fledgling democracy that has resulted from that war.

"The whole world has a vital interest in the success of a free Iraq, and no civilized nation has an interest in seeing a new terrorist state emerge in that country," he said. "The United Nations and its member states must continue to stand by the Iraqi people as they complete the journey to a fully constitutional government."

After his morning speech at U.N. headquarters, Mr. Bush spent the afternoon meeting with a variety of world leaders, including Israeli Prime Minister Ariel Sharon, British Prime Minister Tony Blair and U.N. Secretary-General Kofi Annan.

The Foreign Aid Gap (LAT)

The Los Angeles Times, September 15, 2005

Did the spirit of Bono somehow possess the body of President Bush on Wednesday? How else to explain the president's speech before the United Nations? He sounded more like a crusading anti-poverty rocker — or, worse on the bleeding-heart scale, a European president — than the man whose ambassador to the U.N. has been working behind the scenes to sabotage the world's most important anti-poverty initiative.

"To spread a vision of hope, the United States is determined to help nations that are struggling with poverty," Bush told more than 160 world leaders at the U.N. summit, which runs through Friday. "We are committed to the Millennium Development Goals…. We have a moral obligation to help others — and a moral duty to make sure our actions are effective."

But not, apparently, a moral obligation to live up to our commitments, or even tell the truth about them.

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The Millennium Development Goals were approved by the U.N. in 2000. They constitute a revolutionary document, setting out objectives such as halving extreme poverty, reducing disease and child mortality and boosting education in the world's poorest nations by 2015. To make them a reality, U.N. members, including the United States, agreed in 2002 at a summit in Monterrey, Mexico, that wealthy nations would "make concrete efforts" to contribute 0.7% of their national income toward foreign aid by 2015.

At this week's summit, world leaders were supposed to adopt a set of reforms that would have improved the U.N.'s management and strengthened its ability to fight poverty and promote human rights. But John R. Bolton, appointed as ambassador to the U.N. by Bush after the Senate failed to confirm him, threw negotiators into disarray last month by introducing hundreds of last-minute amendments. Among them was the deletion of nearly all references to the millennium goals and the 0.7% target. Under pressure, Bolton relented and allowed the language to remain.

The Bush administration has made it abundantly clear that it has no intention of trying to reach the 0.7% goal. The United States has the second-worst record of the 22 donor nations whose contributions as a percentage of national income are tracked by the Organization for Economic Cooperation and Development, giving just 0.16% in 2004 (only Italy is stingier). The European Union's 15 richest members, despite Italy's poor showing, agreed this year to contribute 0.51% of national income by 2010 and 0.7% by 2015.

Administration officials have said the 0.7% figure is arbitrary, that it represents a goal rather than a concrete commitment, that quality of aid is more important than quantity and that, at any rate, the United States has increased foreign aid dramatically. Wrong or misleading on all counts but the last.

Whether the 0.7% number is arbitrary is irrelevant; what matters is whether it's adequate. By that measure, if anything, it's too timid. The U.N. Millennium Project estimates that even if all the commitments are met, it may fall short of the amount needed to meet the Millennium Development Goals. Though the Monterrey statement wasn't very concrete, such vagueness is typical of international agreements; if heads of state don't intend to follow them, they shouldn't approve them. And the administration's statements on quality would be more convincing if its record in that area weren't so abysmal.

In its Human Development Report released last week, the U.N. identified several problems that make foreign aid less effective than it should be. Sometimes donors make aid contingent on onerous conditions; often they fail to coordinate similar projects, leading to repetition and waste. The United States is a prime offender in nearly every area. Particularly egregious is the practice of "tied aid" — the requirement that aid money be spent on goods and services from the donating country. U.S. aid money is commonly spent on expensive American contractors rather than given directly to poor nations, where it would do far more good.

The administration's best defense is that it has increased foreign aid, albeit from a paltry 0.1% of national income in 2000 to 0.16% last year. President Bush also deserves credit for making foreign aid a priority in a country where African poverty seldom shows up on the political radar screen. Yet this has the effect of making the administration's truculence on the Millennium Development Goals all the more frustrating.

The administration has not met its commitments, and the president has failed to live up to his own inspirational rhetoric. Until it has and he does, speeches like the one Bush delivered on Wednesday will continue to be seen as cynical political ploys.

Hopeful Words: On Helping The Poor (NYT)

The New York Times, September 15, 2005

Let's face it: most Americans wouldn't know a Millennium Development Goal, a Monterrey Consensus or a Doha round if all three jumped out and hit them in the head. But those phrases have life-or-death importance to more than two billion people around the world who survive on barely anything. And yesterday at the United Nations, President Bush used them in front of the world.

To understand this good news, here's a quick primer.

The Millennium Development Goals make up an ambitious agenda adopted by the United Nations in 2000. Chief among them is the goal of cutting global poverty in half by 2015. They also call for tackling problems like hunger, disease and women's

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inequality. The goals include vague wording about how poor nations need to adopt good governance, and how rich nations need to give them money.

As this week's U.N. summit meeting approached, Mr. Bush's flame-throwing U.N. envoy, John Bolton, struck all mention of the Millennium Development Goals from the text of the agreement the world leaders are supposed to sign. After saner heads prevailed, some of that language was restored, although the agreement remains weak. Yesterday, Mr. Bush said it clearly: "We are committed to the Millennium Development Goals." Full stop.

That's important because America, the richest country on earth, is most able to help poor countries reach these goals.

That brings us to the Monterrey Consensus, named for the city in Mexico. (Diplomats like to name things after the city where they decided to do something.) In 2002, many members of the group meeting in New York this week trooped down to Monterrey to figure out how they were going to pay for the Millennium Development Goals. The text they signed said, "We urge developed countries that have not done so to make concrete efforts toward the target of 0.7 percent of gross national product as O.D.A. [official development assistance] to developing countries." Since then, Britain, France and Germany have all announced how they plan to do that by 2015. The United States, which was rated the world's second-stingiest rich country (behind Italy) by a U.N. report this month, gives just 0.18 percent of its G.N.P. to poorer countries. And since Monterrey, Bush administration officials have taken pains to tell everyone that the United States didn't commit to the 0.7 percent goal. But it's right there in Paragraph 42 of the Monterrey Consensus. Yesterday, Mr. Bush said, "I call on all the world's nations to implement the Monterrey Consensus." Including, we hope, America.

We end today's lesson with the Doha round, the trade negotiations begun in (you got it) Doha, Qatar, in 2002. That was just after Sept. 11, 2001, when America and Europe, trying to woo poor countries to join the war against terrorism, finally agreed to start negotiating an end to farm subsidies. Those subsidies hurt farmers in poor countries because they keep the price of products artificially low, giving poor countries little chance on the world market. Since then, no one has cut anything, and the negotiations have degenerated into the usual bickering between Europe and America. Meanwhile, the poor keep starving.

Yesterday, Mr. Bush declared: "The United States is ready to eliminate all tariffs, subsidies and other barriers to free flow of goods and services as other nations do the same. This is key to overcoming poverty in the world's poorest nations."

These were exactly the right words, and we applaud them. Now, let's get to it. The world is waiting.

Bush Switches U.N. Tone, But Will It Help Iraq In Time? (USAT)

USA Today, September 15, 2005

Three years ago, in the most undiplomatic of terms, President Bush challenged the United Nations to be relevant by standing up to Saddam Hussein and enforcing its many resolutions against him. A discomfited U.N. Security Council took the challenge. It sent in weapons inspectors. But the United States, impatient to get on with the war, invaded before they finished, cementing Bush's image in much of the world as a go-it-alone cowboy. That no weapons of mass destruction were found further damaged U.S. credibility.

Fast forward to Wednesday for a study in contrasts.

In this year's U.N. address, Bush's world view seemed transformed. He was far more solicitous as he argued that preventing Iraq from becoming a terrorist state is in the world's vital interest. He appealed to other countries to take up the "exciting opportunity for all of us" to build a democracy in Iraq. And he spent much time talking about how countries work best together and just what democracy entails beyond elections.

Bush is right. There's no question a democratic Iraq is in the world's best interest, and other countries could be an enormous help. But persuading them now is unlikely. That much was plain from the skeptical faces of many of the more than 160 world leaders gathered for the U.N. session. Their unspoken message was this: We told you invading Iraq was a bad idea. You ignored us and rushed to war. Now clean up your own mess.

Wednesday's spasm of violence in Baghdad — a dozen bombings that killed at least 160 and wounded 570 — underscored just what a mess the Iraq war has become. And just how little the world has been inclined to pitch in and help. That's in contrast to the Persian Gulf War in 1991, when the first President Bush used diplomacy to form a genuine coalition and get others to pay for most of the war that reversed Saddam's invasion of Kuwait.

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In part, George W. Bush is following the path of many second-term presidents who show a better understanding of the way the world works after a steep foreign-policy learning curve. In the short run, the legacy of the administration'sin-your-face approach during Bush's first term is that the United States faces an increasingly lonely task trying to extricate itself from Iraq during his second.

Over time, however, Bush's new attitude toward international cooperation might help turn global opinion around.

After Katrina, Republicans Back A Sea Of Conservative Ideas (WSJ)

By John R. Wilke And Brody Mullins

The Wall Street Journal, September 15, 2005

Congressional Republicans, backed by the White House, say they are using relief measures for the hurricane-ravaged Gulf coast to achieve a broad range of conservative economic and social policies, both in the storm zone and beyond.

Some new measures are already taking shape. In the past week, the Bush administration has suspended some union-friendly rules that require federal contractors pay prevailing wages, moved to ease tariffs on Canadian lumber, and allowed more foreign sugar imports to calm rising sugar prices. Just yesterday, it waived some affirmative-action rules for employers with federal contracts in the Gulf region.

Now, Republicans are working on legislation that would limit victims' right to sue, offer vouchers for displaced school children, lift some environment restrictions on new refineries and create tax-advantaged enterprise zones to maximize private-sector participation in recovery and reconstruction. Yesterday, the House overwhelmingly passed a bill that would offer sweeping protection against lawsuits to any person or organization that helps Katrina victims without compensation.

"The desire to bring conservative, free-market ideas to the Gulf Coast is white hot," says Rep. Mike Pence, the Indiana Republican who leads the Republican Study Group, an influential caucus of conservative House members. "We want to turn the Gulf Coast into a magnet for free enterprise. The last thing we want is a federal city where New Orleans once was."

Many of the ideas under consideration have been pushed by the 40-member study group, which is circulating a list of "free-market solutions," including proposals to eliminate regulatory barriers to awarding federal funds to religious groups housing hurricane victims, waiving the estate tax for deaths in the storm-affected states; and making the entire region a "flat-tax free-enterprise zone."

Members of the group met in a closed session Tuesday night at the conservative Heritage Foundation headquarters here to map strategy. Edwin Meese, the former Reagan administration attorney general, has been actively involved.

Rep. Todd Tiahrt (R., Kan.) said that the plans under development "are all part of a philosophy of lowering costs for doing business." He said southern Louisiana, Mississippi and Alabama offer a "microcosm" where new ideas can be applied to speed the rebuilding.

The proposals to cut taxes and waive regulations come after Congress quickly approved $62.8 billion in federal spending for the Gulf Coast, and is expected to approve further spending that will push the price tag above $100 billion.

Some of the proposals are attracting fire from Democrats. "They're going back to the playbook on issues like tort reform, school vouchers and freeing business from environmental rules to achieve ideological objectives they haven't been able to get in the normal legislative process," said Rep. Rahm Emanuel (D., Ill.)

In response, Democrats are pressing for other proposals that suit their ideology. Sen. Richard Durbin of Illinois has suggested creating a national emergency airlift program so that U.S. airlines can help evacuate Americans from areas before a natural disaster strike. Senate Minority Leader Harry Reid of Nevada and Louisiana Democrat Sen. Mary Landrieu unveiled a plan that would, among other things, preserve victims' Medicaid health coverage, provide $2,500 education grants to displaced students and give victims a 180-day extension on outstanding loan payments.

Trial lawyers were quick to attack the bill the House passed yesterday on a voice vote to limit lawsuits against volunteers saying it prevents airlines, hospitals, stadiums, and bus companies from being held accountable for misconduct or negligence. In a statement, the Association of Trial Lawyers of America said, "If a nursing home resident evacuated from New Orleans to a nursing home in a neighboring state dies of untreated, infected pressure sores, the out-of-state home would be protected."

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The bill's chief sponsor, Judiciary Committee Chairman James Sensenbrenner of Wisconsin, said in a statement that the legislation removes the "threat of legal fear that stands between many willing and able Good Samaritans and the victims of Hurricane Katrina." The bill does permit lawsuits for injuries that were caused "by willful, wanton, reckless, or criminal conduct."

Some conservatives expressed concern about the growing reach of the reconstruction effort. "Everyone is attaching their own agenda to this," said William A. Niskanen, a former Reagan White House economic adviser now at the libertarian Cato Institute. "It's being seen as a test of the conservative agenda, from enterprise zones to school vouchers and the repeal of labor laws, and these ideas deserve careful thought," he said. "But [the massive spending] could also create expectations that we can do this every time a disaster hits."

Some of the proposals are unlikely to win quick passage. But congressional tax-writing committees hope to approve legislation within days to offer $5 billion in tax relief and other aid to residents of areas hit by the storm. The legislation would, among other things, let victims withdraw money from retirement accounts without penalty, give tax incentives to those who house evacuees and give companies incentives to hire displaced workers.

Republicans, meanwhile, say they will also press for a new round of energy concessions, including incentives to rebuild and expand offshore drilling and clear the way for new refineries that were dropped from a 500-page energy bill that passed last month.

House Energy and Commerce Chairman Joe Barton of Texas and Senate Environment and Public Works Chairman James Inhofe are working on bills that would encourage refineries to build new plants and expand existing ones by rolling back environmental rules and making it easier for refineries to navigate regulatory channels in Washington.

Republicans hope Hurricane Katrina prods Congress to approve a second energy bill this fall that includes several provisions that were dropped from the first bill. The National Petrochemical & Refineries Association would like lawmakers to reduce the depreciation period from 10 years to five years in order to stimulate investment. Some refineries are talking about reviving an effort to get liability protection for producing the fuel additive methyl tertiary butyl ether, or MTBE. Both were dropped from the earlier energy bill at the insistence of Democrats.

Bush Plans Speech; Death Toll Rises (LAT)

By Lianne Hart And Janet Hook

The Los Angeles Times, September 15, 2005

BATON ROUGE, La. — As the death toll from Hurricane Katrina climbed to 710 on Wednesday, White House aides said President Bush's address to the nation tonight would call for reconstructing the Gulf Coast using conservative blueprints and private-sector initiatives.

In preparing for his speech to be delivered from New Orleans, the president consulted widely with Republican leaders and conservative thinkers.

With damage estimates as high as $200 billion, massive federal spending appears inevitable. Late Wednesday, the Senate passed a $3.5-billion measure that would provide emergency housing vouchers to more than 350,000 families. That is in addition to nearly $60 billion in emergency aid already authorized.

A day after Bush accepted blame for breakdowns in federal disaster efforts, Louisiana Gov. Kathleen Babineaux Blanco took "full responsibility" for her own mistakes. Blanco did not specify those errors in her televised speech from the statehouse in Baton Rouge. City and federal officials have questioned preparations made by state officials before Katrina struck.

"We must take a careful look at what went wrong and make sure it never happens again," Blanco said.

Earlier in the day, officials said that Blanco and Coast Guard Vice Adm. Thad W. Allen had repaired splintering relations over management of the body retrieval effort in New Orleans, where corpses have floated for days in floodwaters and accumulated in houses and evacuated buildings.

Louisiana officials said they had taken over a lapsed federal contract with a Houston mortuary firm. The arrangement would allow the private company's crews to continue collecting the bodies of flood victims scattered across southern Louisiana.

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Blanco had lashed out at the Federal Emergency Management Agency on Tuesday, arguing that its failure to come to terms with Kenyon International Emergency Services Inc. had threatened the operation. Allen, the agency's new point man in the flood-swept Gulf Coast region, at first responded that the state, not FEMA, had full authority for the recovery of bodies.

The conflict centered on who would pay for Kenyon's contract. State officials insisted that FEMA had hired Kenyon and needed to guarantee that Louisiana would be compensated for future costs. FEMA replied that the decision was the state's to make.

After the two officials spoke by phone late Tuesday, Blanco and Allen said Wednesday that they were satisfied with the results. Neither of them provided details, but during her address, Blanco pointedly said that she had asked the federal government to cover all of the state's massive disaster expenses, "just as was done after 9/11."

State officials said that Kenyon had been rehired by Louisiana and that its team of 115 mortuary specialists would stay on through November at a cost of nearly $119,000 a day. State officials would not say if FEMA had agreed to defray any of those expenses.

"To date," Allen said during a news briefing in Baton Rouge, "we've had a well-running organization."

As he defended the pace of the body recovery operation, Allen acknowledged it had started off slowly because "access was made difficult by weather and lack of communication."

Dr. Louis Cataldie, Louisiana's medical incident commander for the disaster, agreed that "things are getting better." He added that "as long as there's one body in the water, we need to be doing a better job."

Officials expect that hundreds — if not thousands — more corpses are lying beneath the floodwaters still covering about 40% of the city.

Wednesday, the official death toll from the hurricane stood at 474 in Louisiana, 218 in Mississippi, 14 in Florida, and two each in Alabama and Georgia.

"This is going to be long, arduous process," Cataldie said. "And it's going to be even longer and more arduous to do the identifications. That's going to take months, maybe years."

The discovery of 34 bodies left in St. Rita's Nursing Home and scores more in several New Orleans hospitals has provoked a widening state inquiry. Louisiana Atty. Gen. Charles C. Foti Jr. filed involuntary manslaughter charges against a couple who owns the St. Bernard Parish nursing home for allegedly failing to evacuate patients..

Foti also said he would look into the circumstances surrounding 45 bodies found inside Memorial Medical Center and an unknown number of corpses left at Charity Hospital. CNN reported that as many as 50 bodies were still at Charity on Wednesday, waiting processing by mortuary teams.

Officials from both hospitals have said that many of the bodies left behind were critically ill patients who died during chaotic evacuations after the facilities were isolated by high water. Both hospitals evacuated hundreds of other patients by boat and by helicopter.

Harry Anderson, a spokesman for Dallas-based Tenet Healthcare Corp., which operated Memorial, said Wednesday that between 10 and 12 of the patients who died were "very sick or frail." Ten more were patients who had died at the hospital before the storm struck.

The remaining corpses, Anderson said, were those of patients from a long-term care facility operated by another firm, LifeCare Holdings Inc., on the hospital's seventh floor. LifeCare officials did not return several calls. But Anderson said many of those patients relied on electric respirators and could not be saved despite efforts by nurses to manually ventilate their breathing.

New Orleans Mayor C. Ray Nagin said on CNN's "Larry King Live" on Wednesday that he hoped to allow as many as 180,000 New Orleans residents to return to their homes "in a week or two" in city neighborhoods that were not devastated by Katrina's floods. More than 80% of the city's 500,000 residents fled before the hurricane struck, and about 50,000 were evacuated in Katrina's immediate aftermath.

A federal emergency bill passed Wednesday night in the Senate would provide emergency housing vouchers averaging $600 a month for as many as six months for more than 350,000 displaced Gulf Coast families.

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The measure offered by Sen. Paul S. Sarbanes (D-Md.) was attached on a voice vote to an unrelated spending bill. The Senate is slated to pass the overall bill today, but a final version needs to be worked out with the House, which passed its own version in June.

Congress also moved Wednesday to reinforce the health and welfare safety net for Katrina's evacuees, promising speedy action on a new bill that would significantly expand Medicaid, unemployment and welfare benefits. The proposal has the support of Senate leaders and could go to the floor as early as today. It would cost an estimated $5 billion to $7 billion through 2006.

While a Senate panel launched the first formal inquiry into the government's much-criticized response to the hurricane, the Senate Republican majority defeated a bid by Democrats to establish an independent commission to investigate the disaster effort.

In a strict party-line vote, Republicans blocked a bid by Sen. Hillary Rodham Clinton (D-N.Y.) to establish the independent panel. After the vote, Clinton said she called for the independent probe because "it is simply not appropriate for government to investigate itself."

At the White House, officials readied for Bush' national address from New Orleans. Aides billed the speech as Bush's chance to recover from lost political momentum and wed conservative ideals to the pressing need to redesign the broken city. The televised speech, to be delivered at 6 p.m. PDT, is expected to last about 30 minutes.

"The president wants people to think big," White House spokesman Scott McClellan said. "Most importantly, he believes that it should be driven locally, in terms of the vision and the planning, with the full support of the federal government."

Advisors also want the speech to hew to conservative notions of small government and ample business opportunities. Aides have broached ideas with Republican leaders in Congress and analysts at conservative think tanks.

Ideas they discussed include a strong role for the private sector and charitable organizations along with a package of housing and education vouchers and tax breaks to encourage business activity in the region.

"Bush has a very well defined vision of what government should do and how it should do it," said Michael Franc, a vice president of the Heritage Foundation, a conservative research organization consulted by the White House. "This is a moment to teach or explain to the American people how his values apply to this catastrophic situation."

Bush's Vow: To Rebuild Better (USAT)

By Judy Keen

USA Today, September 15, 2005

WASHINGTON — President Bush will tell the nation tonight that he's committed to rebuilding New Orleans and the Gulf Coast, while eliminating the poverty and joblessness that were exposed in the wake of Hurricane Katrina.

Dan Bartlett, Bush's counselor, said the president will reflect on “the horrific suffering” in the region and “outline the beginnings of a vision of the future.”

In a prime-time speech from New Orleans, Bush also will pledge more federal help providing housing, health care and education to evacuees. “We want to see a region that is better and stronger than before,” said Bush spokesman Scott McClellan.

Two Bush advisers with direct knowledge of the speech said the president is considering the appointment of a high-profile “czar” to oversee recovery efforts. But one said the White House is checking whether that would be allowed under federal law. The aides insisted on anonymity to avoid pre-empting Bush's remarks at 9:02 p.m. ET. The speech is expected to be about 30 minutes long and will be aired by the major networks.

Twelve Senate Republicans wrote to Bush Wednesday asking him to create a White House office to coordinate reconstruction.

The speech is part of a White House plan to show the president's concern and commitment to the devastated region after criticism about initial slow responses by Bush and federal agencies.

Bush's statement Tuesday that he takes responsibility for those problems was part of the plan. On Friday, he will speak at a service for storm victims at Washington's National Cathedral.

A USA TODAY/CNN/Gallup Poll released this week found that six in 10 African-Americans said the fact that most victims were poor and black was a factor in delays in the federal response.

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"The president is very cognizant of both the realities and the perceptions," Bartlett said. The fact that so many "African-American people think there was a sense of discrimination or negligence is very troubling." But, he said, "Those feelings aren't instantly created and won't be instantly healed."

Bush To Request More Aid Funding (Washington Post)

By Jonathan Weisman And Jim Vandehei

Washington Post, September 15, 2005

President Bush will call tonight for an unprecedented federal commitment to rebuild New Orleans and other areas obliterated by Hurricane Katrina, putting the United States on pace to spend more in the next year on the storm's aftermath than it has over three years on the Iraq war, according to White House and congressional officials.

With the federal tab for Katrina already nearly quadruple the cost of the country's previous most expensive natural disaster cleanup, Bush plans to offer federal assistance to help flood victims find jobs, get housing and health care, and attend school, according to White House aides.

In a speech from the flood zone, Bush will commit the federal government to what many predict will become the largest reconstruction effort ever on U.S. soil.

The president will call on Washington to resist spending money unwisely, but some in his own party are already starting to recoil at a price tag expected to exceed $200 billion -- about the cost of the Iraq war and reconstruction efforts. As emergency expenditures soar -- with new commitments as high as $2 billion a day -- some budget analysts and conservative groups are warning that the Katrina spending has combined with earlier fiscal decisions in ways that will wreak havoc on the government's finances for years to come.

Bush and Republican congressional leaders, by contrast, are calculating that the U.S. economy can safely absorb a sharp spike in spending and budget deficits, and that the only way to regain public confidence after the stumbling early response to the disaster is to spend whatever it takes to rebuild the region and help Katrina's victims get back on their feet.

"I think absolutely it's going to convert the political landscape in Washington," Sen. Olympia J. Snowe (R-Maine) said of Katrina's impact. "We do have a social safety net in this country. Those aren't just words. Government has a role to play in people's lives."

Hours before Bush speaks, the Louisiana congressional delegation will present its tab for reconstruction and rebuilding efforts, which could put pressure on Bush to spend money in areas not currently on his agenda. In addition, aides said yesterday that nearly 2.5 million have registered with the Federal Emergency Management Agency for help and that Education Department officials estimate the number of displaced students to be approaching 400,000. Officials from several departments raced yesterday to complete proposals that Bush can talk about in his speech and in the days to follow.

The Education Department, for instance, is readying plans to waive No Child Left Behind requirements for some states; to provide cash assistance to school districts absorbing students; and to finance new schoolbooks, demolition and reconstruction of school buildings, and temporary trailers and new teachers for schools bursting with Katrina evacuees, Republican aides said.

The way in which the administration plans to spend money -- and not just the amount -- is raising caution flags. In a letter he plans to send to Bush today, Rep. Mike Turner (R-Ohio) said the president should scrap the administration's plan to deploy as many as 300,000 mobile homes to temporarily house people. Turner said the victims would be better served by market-rate and subsidized housing already in place in other regions of the country. A dozen Republicans also lobbied Bush to appoint a disaster czar to oversee the reconstruction and relief efforts in the South, an idea the president has, thus far, resisted.

Administration officials concede that the hurricane and its aftermath could push the budget deficit back above $400 billion next year, or about 3 percent of the country's gross domestic product, just as the tide of federal red ink that rolled over Washington during Bush's first term had begun to recede.

Since Katrina struck, Congress has already spent $62.3 billion, dwarfing the inflation-adjusted $17.8 billion that Congress spent on hurricanes Andrew, Iniki and Omar, which struck in 1992, and the $15.2 billion emergency appropriation for the Northridge, Calif., earthquake of 1994. The entire Persian Gulf War of 1991 cost less than $83 billion in today's dollars.

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The libertarian Cato Institute warned yesterday of a looming "budget disaster." In meetings with GOP congressional leaders and White House aides, some Republican lawmakers have expressed alarm about the growing price tag and concern that vast sums could be wasted without proper oversight.

White House officials have told Congress that the $51.8 billion approved late last week will fund the disaster relief effort only through the first week of October, and senior congressional appropriations aides have told the White House that they need to see the next request by next week. Republicans say the next bill could exceed $50 billion.

The scale of the disaster has not even come into focus, largely because many agencies have not been allowed into the disaster zone to assess the damage, according to congressional appropriations aides, who are trying to examine the costs to the government, agency by agency.

Nearly 1,000 drinking-water and sewer systems -- 391 in Mississippi, 606 in Louisiana and one in Alabama -- remain shut down. Repairing and rebuilding such systems could cost between $3 billion and $10 billion, much of it on the tab of the Environmental Protection Agency.

Before Katrina struck, the federal highway emergency relief fund already faced a $120 million backlog of road repairs. With so many crumbled bridges and washed-out highways after the storm, the fund's deficit will now be in the billions, appropriations aides said.

The Air Force will seek as much as $4 billion to repair damaged Gulf-state facilities, a House Appropriations Committee aide said. An additional $2 billion to $4 billion will be needed to finance the mobilization of the National Guard, the evacuation of military personnel and military-family support programs. Damage to national parks, forests and wildlife refuges is estimated to approach $300 million.

Once the administration makes its request, congressional officials expect a cascade of demands from lawmakers. Farm-state members have signaled that they will seek substantial relief for midwestern grain farmers, whose shipments of grain down the Mississippi River were disrupted by Katrina. Even before the storm, parched farms in Illinois, Missouri and parts of Iowa had prompted farm-state lawmakers to seek relief.

Lawmakers from the Northeast have said they will push for $800 million or more in assistance to offset the soaring price of home heating oil. And state governments from Washington and South Dakota to West Virginia and South Carolina are expected to seek federal dollars to offset the cost of housing Katrina survivors.

The White House has declared 41 states and the District of Columbia either major disaster areas or in states of emergency, allowing federal aid to flow to any state that takes in an evacuee.

Against calls to trim spending elsewhere to accommodate the emergency, House Majority Leader Tom DeLay (R-Tex.) did little to close those floodgates when he suggested this week that the Republican-controlled Congress had already trimmed all the fat from federal spending. "My answer to those that want to offset the spending is 'Sure, bring me the offsets,' " he said. "I will be glad to do it, but no one is able to come up with any yet."

Against this tide, conservative think tanks are taking up DeLay's challenge. But their suggested spending cuts may only underscore Congress's flagging resolve.

To reach $62 billion in savings, Cato Institute analysts Chris Edwards and Stephen Slivinski have proposed cutting NASA in half, slashing energy research and subsidies just as Congress is gearing up to increase them in the face of soaring gasoline prices, cutting the U.S. Army Corps of Engineers' budget by $4.6 billion after its levees failed to protect New Orleans, and eliminating $4.2 billion in homeland security grants while lawmakers are debating the nation's lack of preparedness.

Help Is On The Way, But It's Unclear Where (USAT)

By Mimi Hall, Kevin Johnson And Mike Linn

USA Today, September 15, 2005

More than 100 tractor-trailers packed with water, ice and other critical hurricane-relief supplies have been sitting at an Air Force base in Montgomery, Ala., for nearly a week while the federal government pays $600 a day for each truck.

The idle trucks, called up by the Federal Emergency Management Agency to deliver supplies, are just the latest example of the waste, bureaucratic errors and miscommunication that continue to foul Hurricane Katrina relief efforts.

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"When somebody gets paid 600 bucks to sit and not burn fuel, that's a pretty good profit margin," said Alabama Food Services President Buck Hamilton, who is being paid by FEMA for about six truckloads of ice.

His shipments waited at similar truck staging areas in Mississippi. "Would you like to get paid $600 a day to sit and do nothing?" he said. "It's hard to criticize."

Rep. Mike Pence, R-Ind., doesn't think so. He said Wednesday that Congress should create a special inspector general for hurricane relief, similar to the position overseeing spending on Iraq reconstruction. "It is imperative that those most in need receive assistance and that no resources are wasted," Pence said.

FEMA spokesman Butch Kinerney said the agency needs to have plenty of trucks at the ready. Many of those that have been waiting at Maxwell-Gunter Air Force Base are now headed for Virginia, North Carolina and South Carolina to "pre-position" for Hurricane Ophelia. "We stage vehicles and equipment and supplies all over the country really any time a disaster is pending," he said.

Other FEMA problems:

•A convoy of 100 trucks full of supplies spent a week traveling to Meridian, Miss., and Selma, Ala., before being sent to Memphis last Saturday night.

The city's emergency chief, Claude Talford, was roused around midnight to find out that the trucks were lining up on one of his city's main streets. He didn't know they were coming, and neither did state officials. "They just showed up on our doorstep," he said.

•In St. Louis, officials were asked by FEMA last week to prepare for up to 2,500 evacuees. After a small city was constructed in an airport hangar, FEMA called and said no evacuees were coming. The city has spent "hundreds of thousands of dollars," said Gary Christmann, chief of the city's emergency management department. "We considered that this was an outstanding drill."

•In Oregon, FEMA requests for assistance changed virtually daily. Holly Armstrong, spokeswoman for Gov. Ted Kulongoski, said FEMA called on Sept. 2 to request shelter in the Portland area for 1,000 evacuees. Officials scrambled, and Nike offered to donate clothes.

Two days later, FEMA said to hold off. On Sept. 7, FEMA said 500 evacuees would show up Sept. 10. Then FEMA told the state no one was coming.

The governor is now reviewing his own state's readiness. Among the considerations, Armstrong said: "How much do you really want to count on FEMA?"

Katrina Erodes Support In U.S. For Iraq War (WSJ)

By John Harwood

The Wall Street Journal, September 15, 2005

WASHINGTON -- Hurricane Katrina has accelerated the erosion in public support for the Iraq war as President Bush's core of supporters dwindles and economic pessimism turns Americans' attention inward.

A new Wall Street Journal/NBC News Poll1 shows that cutting spending on Iraq is Americans' top choice for financing the recovery from Katrina. Shaken by high gas prices and bracing for further jolts, Americans have turned negative about Mr. Bush across the board -- on handling the economy, foreign policy, and even the war on terrorism.

The president's overall approval has fallen to a record-low for Mr. Bush of 40%, reflecting a shrunken core of base supporters. That promises to have repercussions for his domestic agenda on issues like Social Security, taxes and immigration, and leaves Mr. Bush with a steeper challenge on his most significant second-term priority: using American power and resources to transform Iraq and the broader Middle East.

A plurality of Americans has favored reducing troop levels in Iraq for most of the year. Now, 55% favor bringing soldiers home, while just 36% back Mr. Bush's position that current levels should be maintained to help secure peace and stability.

"His standing to prosecute that case has been made more difficult," says Republican pollster Bill McInturff, who helps conduct the Journal/NBC Poll. Adds Democratic counterpart Peter Hart: It's "going to be very hard to just move straight forward" on Iraq.

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To be sure, the survey contains some bright spots for Mr. Bush. Federal appeals court Judge John Roberts, his nominee to succeed the late William Rehnquist as chief justice of the Supreme Court, has drawn respectable support and little intense opposition. Some 38% say they support Judge Roberts for that post, while just 20% oppose him and 41% don't know enough to say.

And while Senate Democrats press Judge Roberts in Judiciary Committee hearings to state his views on key issues, 57% of Americans say the nominee shouldn't be required to spell them out since those issues may come before the court. Democrats enjoy firmer support in public opinion for their demand for more documents about Judge Roberts's previous government service; 41% say the White House should make additional documents public, outpacing the 31% who say Democrats already have enough information.

Yet the poll's findings about Americans' priorities show the work facing Mr. Bush, who is scheduled to deliver a nationally televised address tonight on the recovery from Katrina. Some 60% say rebuilding the Gulf Coast should be a higher national priority than establishing democracy in Iraq; 5% say Iraq, while 34% say the two are equally important.

The White House says the administration can handle both at once, but by 51%-37% Americans say the Iraq war wasn't worth its human and financial costs.

The proportion of Republicans disapproving of Mr. Bush's job performance has doubled to 15% from 7% in January, with pronounced defections among moderates within Mr. Bush's party.

Katrina has contributed to that decline in support. By a 58%-38% margin, Americans say they are dissatisfied with the Bush administration's response to the catastrophe. Reflecting the absence of the traditional rally behind the commander in chief during national emergencies, just 48% approve of the president's handling of the matter; 80% approved of how he handled the aftermath of the Sept. 11, 2001, terrorist attacks, while 64% backed the actions of his father, President George H.W. Bush, following Hurricane Andrew in 1992. The survey of 1,013 adults, conducted Sept. 9-12, has a margin for error of 3.1 percentage points.

In particular, Katrina appears to have shaken public regard on two attributes that sustained Mr. Bush through earlier political challenges. The public now splits evenly, 41%-41%, on assessments of Mr. Bush's ability to handle a crisis; at the outset of his second term in January, he received positive marks for crisis-management ability by a 56%-28% margin. A bare 43%-40% plurality rates him positively for having "strong leadership qualities," down from 52%-30% in January.

The crisis along the Gulf Coast may have also damaged the long-term effort by Mr. Bush's strategists to expand Republican support among members of minority groups. Fully 70% of African-Americans say the Bush administration would have reacted to Katrina with greater urgency had the affected areas been mostly white suburbs rather than mostly black inner-city neighborhoods. Nearly seven in 10 whites reject that assertion.

Hispanics are divided evenly on the question. But the president's overall rating among Hispanics, who were split on his job performance in January, is now negative by a two-to-one margin.

Mr. Bush's signature domestic priority, overhauling the Social Security system with private investment accounts, was already in political trouble before the hurricane. Assessments of the administration's handling of Social Security -- 28% say they are satisfied while 60% aren't -- are more negative than assessments of how it handled the response to Katrina.

Beyond Social Security, the domestic political landscape has been buffeted in a way that complicates challenges facing the White House and Republicans in the 2006 midterm elections. Following the gas-price spikes immediately after the hurricane, six in 10 Americans now expect pump prices to continue rising.

In fact, the public now ranks gas prices as the country's top economic issue. Just 6% assign top importance to federal taxes, the issue that Mr. Bush and Republicans planned to elevate next year through a yet-unspecified overhaul of the tax system.

Of particular concern to lawmakers facing voters next year, Americans have turned pessimistic on the outlook for the economy. Some 49% expect the economy to get worse over the next 12 months, triple the 16% who expect it to improve. In January, those numbers were essentially reversed.

At the same time, Katrina may have left the public feeling slightly more nervous about security at home. Fully 75% of Americans now say the U.S. isn't adequately prepared for a nuclear, biological or chemical attack, up from 66% who expressed that concern in 2002.

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The net effect may be increased pressure on members of the Republican majority to strike an independent course on a range of issues, resisting appeals for party discipline that have been effective for most of Mr. Bush's presidency. Those pressures will be greatest in the Northeast and Midwest, where Mr. Bush's approval rating stands at 32% and 36%, respectively.

"All these [results] suggest unstable days ahead in the Republican caucus," says Mr. McInturff, whose firm advises many Republican lawmakers.

Support For Bush Continues To Drop, Poll Shows (NYT)

By Todd S. Purdum And Marjorie Connelly

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 - A summer of bad news from Iraq, high gasoline prices, economic unease and now the devastation of Hurricane Katrina has left President Bush with overall approval ratings for his job performance and handling of Iraq, foreign policy and the economy at or near the lowest levels of his presidency, according to the latest New York Times/CBS News Poll.

For the first time, just half of Americans approve of Mr. Bush's handling of terrorism, which has been his most consistent strength since he scored 90 percent approval ratings in the aftermath of the Sept. 11 attacks. More than 6 in 10 now say that he does not share their priorities for the country, 10 percentage points worse than on the eve of his re-election last fall, while barely half say he has strong qualities of leadership, about the same as said so at the early low-ebb of his presidency in the summer of 2001.

More Americans now distrust the federal government to do the right thing than at any time since the attacks on the World Trade Center and the Pentagon. And the poll revealed a sharp racial divide. While half of all respondents disapprove of the way Mr. Bush has handled the aftermath of Katrina, nearly three quarters of blacks do. (Mr. Bush won only about 10 percent of the black vote last year.)

The hurricane, alone, does not appear to have taken any significant toll on Mr. Bush's overall job approval rating, which remains stuck virtually where it has been since early summer. But the findings do suggest that the slow federal response to the hurricane has increased public doubts about the Bush administration's effectiveness. Fifty-six percent of Americans said they were now less confident about the government's ability to respond to a terrorist attack or natural disaster.

Taken together, the numbers suggest that a public that has long seen Mr. Bush as a determined leader, whether it agreed with him or not, has growing doubts about his capacity to deal with pressing problems. More than 6 in 10 said they were uneasy about his ability to make the right decisions about the war in Iraq, and half expressed similar unease about his ability to deal with the problems of the storm's victims.

Mr. Bush's support remained strong among Republicans, conservatives, evangelical Christians and those who said they voted for him last fall. Nearly twice as many people - 63 percent - said the country was "pretty seriously" on the wrong track as those who said it was headed in the right direction, equal to the worst level of Mr. Bush's presidency during a spate of bad news last year.

Over all, 41 percent of respondents approved of Mr. Bush's performance in office, while 53 percent disapproved. Those figures are in line with other national polls conducted in the last week, roughly equal to the worst ratings Mr. Bush has ever received, comparable to Ronald Reagan and Bill Clinton's worst ratings, but well above the worst ever posted by the president's father, Jimmy Carter and Richard M. Nixon.

The Times/CBS News Poll was conducted Friday through Tuesday with 1,167 adults, including 877 whites and 211 blacks. The margin of sampling error is plus or minus three percentage points for all respondents and whites, and seven percentage points for blacks. The survey was mostly completed before Mr. Bush said on Tuesday that he accepted responsibility for flaws in the federal response to the hurricane.

Dan Bartlett, Mr. Bush's counselor and chief communications strategist, said the White House was not especially surprised by the poll's findings.

"Obviously, as we have said, with a sharp increase in the cost of gasoline and anxiety about the war, that is obviously reflected in the polls, and then we have a sustained amount of heavy coverage of what has been described as a major failure of

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government at all levels, it shouldn't surprise people that that would be reflected in the poll numbers on the president, and particularly on terrorism," Mr. Bartlett said.

"The president is going to continue to focus on his responsibilities as not only president but commander in chief, when it comes to making sure we do everything we can to help the people hit by Katrina, as well as continue to conduct the war on terrorism in an aggressive way," he added.

While the poll found that 70 percent said the Federal Emergency Management Agency was too slow in responding to the aftermath of the hurricane, 53 percent said the agency was now doing all it could reasonably be expected to do.

The same did not hold true for the Bush administration itself; 68 percent said it had not yet developed a clear plan for finding housing and jobs for people left homeless by the hurricane. Mr. Bush is to address the nation from New Orleans on Thursday night to elaborate on the government's planned response to the disaster.

Before the storm hit, polls had shown that rising gasoline prices were becoming increasingly worrisome to a majority of Americans, and the hurricane has only worsened that concern. Almost half the public said the economy was deteriorating, the worst that number has been in four years. Fifty-six percent expect the economy to decline as a result of the hurricane, and nearly three-quarters anticipate taxes will rise for the same reason.

The poll also pointed up starkly different attitudes toward Mr. Bush and the government among blacks and whites that were not so much caused by the storm as laid bare by it. While two-thirds of all Americans said Mr. Bush cares at least somewhat about the people left homeless by the hurricane, fewer than one-third of blacks agreed. Two-thirds of blacks said race was a major factor in the government's slow response to the flooding in New Orleans, while an almost identical number of whites said it was not.

Storm victims had to wait for a week for help to arrive, said Allison McKinney, 33, a housewife and former teacher in Fort Bragg, N.C. "I don't think that would happen to any other city, because New Orleans is a poor city." Ms. McKinney, who is black, grew up in New Orleans and was among those who agreed to be interviewed after participating in the poll. "It took Katrina for people to realize that the city had a major impact on the rest of the country. I think it's sad that you would wait for the total devastation of a city to come to that realization."

But Juanita Harrington, 78, a retired Verizon employee and Bush supporter in Larkspur, Colo., said critics of the president "focus everything as if he were a magician and could wave a magic wand and change things."

She added: "The people that were there locally didn't take care of matters there, either. I'm talking about the mayor of New Orleans, I'm talking about the governor, I'm talking about that crazy woman senator from Louisiana - she was an idiot. He may not have succeeded totally, but nobody else did, either."

The poll suggested the cumulative effects of months of bad news from the continuing insurgency in Iraq. Exactly 50 percent of Americans approve of Mr. Bush's handling of terrorism, for example, and while that figure is the single worst ranking since the question was first asked four years ago, it is only slightly worse than it was early this summer. But that is 11 points worse than it was in February, just after the first successful round of elections in Iraq.

The data also suggest that the residual support that has steadily buoyed Mr. Bush in the four years since the Sept. 11 attacks may have reached its limit, for now. Fifty-three percent of Americans still say he has strong qualities of leadership, down 9 percentage points since he was re-elected and essentially equal to his all-time previous low in the summer of 2001, when his presidency seemed becalmed before the attacks.

At the same time, 45 percent of Americans now say Mr. Bush does not have strong leadership qualities, six percentage points more than last fall, and the highest percentage since the Times/CBS poll first asked the question during Mr. Bush's initial campaign in 1999.

Those general impressions now extend across the board in reviews of Mr. Bush's handling of particular issues. Thirty-eight percent of Americans approve of his handling of foreign policy; 35 percent of his handling of the economy; and 36 percent of his handling of the situation in Iraq. All those are at or roughly equal to his all-time lows - and below his all-time highs by double digits.

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Some of the pessimism seemed clearly fueled by higher gasoline prices. Nearly two-thirds of those polled said they had cut back on household spending as a result of higher prices, and 8 in 10 said the administration had no plan for keeping prices down, though more than 6 in 10 said the price of gas is something a president can do a lot about.

A majority of the public is willing to pay more in taxes to assist hurricane victims with job training and housing; about 4 in 10 said they would be willing to pay as much as $200 a year more to help out with the storm's aftermath.

Poll: Rebuilding New Orleans High Priority (AJC/AP)

By The Associated Press

The Atlanta Journal-Constitution, September 15, 2005

WASHINGTON — Americans say rebuilding New Orleans is more important to them than cutting taxes or changing Social Security, a poll found. Cutting taxes and changing Social Security were both priorities of the Bush administration before the storm.

Almost two-thirds, 63 percent, said rebuilding the city devastated by Hurricane Katrina is more important to them than changing Social Security, and almost three-fourths, 73 percent, said rebuilding the flooded city is more important to them than cutting taxes, according to a CBS-New York Times poll released Wednesday.

A large majority of Americans, 73 percent, said they think their taxes will increase as a result of Katrina. More than half of those polled said they were willing to pay more taxes to help with Katrina recovery, job training and housing for victims.

Three-fourths said they are not willing to pay more for gasoline to help with the recovery, however.

The poll found whites and blacks have sharply different views of government efforts to help victims recover from the hurricane. While six in 10 whites say the government is doing all it can to help with the recovery, only a third of blacks felt that way.

Seven in 10 blacks polled said they have little or no confidence that the Bush administration will help hurricane victims find housing and jobs.

Two-thirds of all those polled said they doubt the Bush administration has a clear plan to find homes and jobs for victims.

The poll of 1,167 adults was conducted Sept. 9-11 and had a margin of sampling error of plus or minus 3 percentage points.

What Responsibility? (WP)

By Richard Cohen

The Washington Post, September 15, 2005

Following the botched Bay of Pigs invasion of Cuba in 1961, John F. Kennedy took full responsibility for the debacle. "I am the responsible officer," the president said. Similarly, in 1983, Ronald Reagan said "I accept responsibility" for the catastrophic terrorist attack on the Marine barracks in Beirut. Now, as if in the grand tradition of presidents affirming that the buck stops where Truman said it did -- the Oval Office -- George Bush has taken responsibility for the shortcomings in the federal effort regarding Hurricane Katrina. If he means what he said, then Katrina washed up a whole new George Bush.

But a little skepticism is in order here. After all, the George Bush we have come to know sorely lacks a rearview mirror. Not only is he disinclined to look back, but when he does so he sees nothing but triumph and astounding successes. Even his debacles -- and the war in Iraq for some reason comes to mind -- get transformed from what they once were to what he would like them to be. We are getting murdered in Baghdad not on account of weapons of mass destruction but to bring democracy to the Middle East. Who would not want to die for that?

For Bush there is only today and tomorrow. Yesterday is someone else's responsibility -- maybe still Clinton's. Even in his White House statement saying "I take responsibility," he also said that "Katrina exposed serious problems in our response capability." Funny, I thought the terrorist attacks of Sept. 11, 2001, did that. It was then that we learned about inadequate communications systems, among other things. It was then that our minds were focused on the incomprehensible and that people -- not to mention governments -- started thinking about the evacuation of whole cities. Bush makes a lousy Boy Scout. Prepared he wasn't.

If Bush were the CEO of a major corporation, his board would fire him. It would want to know what the hell he's been doing for the past four years and what he's done with the untold billions given to the Department of Homeland Security. After seeing how

the feds stood by while sick people died in New Orleans hospitals, the board might want to fire itself -- but that is not practical. The board in this case is the American people.

Actually, I find myself feeling a bit sorry for Bush. The man must be perplexed about why he is being held accountable for a natural disaster and not for one wholly of his making. The war in Iraq, after all, is entirely his doing -- everything from its inception to its execution, which have both been inexcusable examples of incompetence. The very basis for the war -- Iraq's alleged weapons of mass destruction -- turns out to have been nonexistent. And that was followed by a military campaign that was insufficient to meet the challenge. Outside the Bush administration itself, it is virtually impossible to find anyone in Washington who believes enough troops were sent to do the task.

Why should we believe that Bush will take names and boot buttocks about Katrina when he has not done so over Iraq? On the contrary, the principal architects of the inadequate military plan remain in the Pentagon -- Rumsfeld and his crew. Others have gone on to plushy appointments -- the World Bank for Paul Wolfowitz, for instance, or the entire State Department for Condi Rice. Still others have been given the once-hallowed Presidential Medal of Freedom, now as tainted as a pardon from Bill Clinton.

If anyone at the top has been held responsible for an intelligence debacle without precedent, then his name is unknown to me -- or, for that matter, to the president. Only the hapless Michael Brown failed to understand Bush. If he had hung on to his FEMA job, in another month or two Bush would surely have honored him on the White House lawn. ("Brownie, you did a heck of a job.")

Anyone in Congress who thinks this administration is capable of really investigating itself has learned nothing from the past four years. Bush will not acknowledge mistakes because, probably, he doesn't think he makes them. For him, good intentions are everything. But people died in the wake of Katrina because Washington could not get helicopters or trucks to hospitals. Bush says he is willing to take responsibility for that. Maybe so. But it's not responsibility that matters, it's accountability -- a kick instead of a medal. From what we know about Bush, it is history -- not the president -- that will have to deliver that.

Hopeful Words: On Taking Responsibility (NYT)

The New York Times, September 15, 2005

When President Bush addresses the country from New Orleans tonight, he will have the opportunity to build on the good beginning he made earlier this week, when he took responsibility for the federal government's failures in responding to Hurricane Katrina. In an administration that has hated to acknowledge that it ever does anything wrong, it was refreshing to hear Mr. Bush freely admit that Katrina demonstrated that there is a question about whether the nation is really prepared to respond to a terrorist attack or another natural disaster. It is only by squarely acknowledging past failure that the country will be able to do better in the future.

The wording of the president's statement on Tuesday was important, and at least a bit worrisome. Mr. Bush accepted responsibility "to the extent that the federal government didn't fully do its job right," which may suggest that he thinks the jury is still out on what the federal government's role should have been. Obviously, it will take time to completely analyze all of the federal system failures, and no one imagines that the city and state were perfectly prepared for the disaster. But we certainly hope that the president was not taking responsibility for a government that he doesn't really think was responsible.

Localities have plenty of duties that are uniquely their own, and if a building catches on fire or a sewer pipe breaks, no one blames the president if the response isn't adequate. But no one community, or even any one state, can protect against hurricanes or vast flooding, any more than a city or state can protect itself against international terrorism.

It would be wonderful if the president would take the opportunity tonight to endorse an independent inquiry into the Katrina disaster, similar to the 9/11 commission's work. It would also be heartening if Mr. Bush announced that from now on, the federal government, which pays the bill for flood control projects, would make sure that the most important priorities were taken care of first - even if it required the kind of commission used to arbitrate Pentagon base closings to make sure that Congressional pork didn't trump necessity. It would be amazing if Mr. Bush really showed his sense of responsibility for this disaster by apologizing for stuffing the Federal Emergency Management Agency with inexperienced political appointees.

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None of these possibilities are very likely - particularly the last one. But it's critical that the president at least acknowledge, clearly, that the federal government is where the responsibility for disaster management rests. Real accountability begins by stressing that the buck stops in Washington.

Hurricane Bush (WSJ)

The Wall Street Journal, September 15, 2005

President Bush addresses the nation on Hurricane Katrina tonight, and after keeping too quiet for too long there's a lot for him to say. We hope he tells Americans that such a demonstrable failure at all levels of government is a rare opportunity to change that government, not another excuse to expand it willy-nilly.

Two weeks after the hurricane, we have a clearer picture of both the storm damage and the bureaucratic mistakes. The former is happily lower in human terms than the 10,000 deaths predicted by New Orleans Mayor Ray Nagin, as of Tuesday much lower at 423 (659 throughout the region). The Gulf Coast has begun to rebuild, and even many residents of the Big Easy are returning to clean up the mess.

The political trauma that has followed Katrina is almost entirely a result of the slow, haphazard government response in the first days after the storm hit. Mayor Nagin had an evacuation plan sitting in a drawer but never got the buses in place to implement it. He then blamed everyone else. Louisiana Governor Kathleen Blanco froze amid the crisis and failed to deploy the National Guard properly to protect those stranded at the Convention Center and Superdome. She is still blaming everyone else.

FEMA was overwhelmed by the magnitude of the storm, and former director Michael Brown showed he was clueless about events that he could see merely by turning on his TV set. Notably, he is the only public official so far to lose his job, just as Mr. Bush is the only elected official who has so far accepted any public "responsibility." Alas, tonight the President isn't likely to assail the Department of Homeland Security that he helped to create, but he at least ought to admit that federal and state disaster duties and communication need to be better sorted out. He could also praise the Pentagon's relief success.

Only in Washington, however, could so much government failure be used to justify expanding the size and scope of government. Some emergency money is essential. But Congress has already appropriated some $62 billion, with essentially zero accountability, to be spent by such models of compassion as the Department of Housing and Urban Development. Another $100 billion may soon follow. Ted Kennedy has proposed that Congress create another Tennessee Valley Authority for the Gulf region. Give them one more week to panic, and Republicans on Capitol Hill will be demanding another Great Society.

Mr. Bush has a chance tonight to turn all of this around. Instead of channeling more cash through the same failed bureaucracies, he should declare the entire Gulf Coast region an enterprise zone, with low tax rates for new investments and waivers for any regulatory obstacles to rebuilding. He can also learn from California's 1994 earthquake experience -- which former Governor Pete Wilson described on this page on Tuesday -- and demand emergency powers to waive rules and allow bonus payments for contractors that finish projects ahead of time.

Above all, he can reframe the entire debate on how to help the poor of New Orleans. The people who couldn't flee the storm were not ignored by "small government conservatism," as if that actually still exists outside of Hong Kong. The city's poor have been smothered by decades of corrupt, paternal government -- local, state and federal.

While Chicago and other cities leveled their public housing projects, the Big Easy has continued to run nasty places like the Lafitte homes. The city's crime rate is 10 times the national average, even as New York and other big cities have seen their rates fall. Its public schools are as bad as any, and its city government more corrupt than most. The last thing the poor need is to be returned to such tender, loving care.

This would include killing the idea, floated by the White House, of buying 300,000 mobile homes for the displaced. Governor Blanco wants to build communities of thousands of trailers for a year or more near Baton Rouge and Shreveport. Such shelter makes sense in some parts of the Gulf Coast where there literally is no housing stock left. But it is an act of insanity -- defined as repeating the same mistake over and over -- to recreate trailer-park versions of Lafitte on military bases, isolating the poor once again and returning them to dependence on the government. Far better to give them vouchers to find housing of their own, especially where there is unused rental space.

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The same goes for the city's 77,000 displaced public school students. Their parents should be given vouchers for the equivalent of their tuition, with the option of using it at any school where they can find an opening, public or private. Charter schools should be allowed to expand immediately, and the Bush Administration could seek an emergency federal waiver of state charter laws to let them accept New Orleans kids now swamping other public schools.

There are other good ideas, but the key point is for Mr. Bush and Republicans to get back on the political and intellectual offensive. With media help, Democrats and the left have used Katrina to portray a systemic collapse of "conservative" government. It was certainly a collapse of government, but more accurately of bureaucracy and the welfare state. If Mr. Bush uses his bully pulpit to explain this, Americans will understand and follow.

Three Louisville Women Charged In Katrina Relief Scam (LCJ)

By Alex Davis, The Courier-Journal

Louisville Courier Journal, September 15, 2005

Three Louisville women have been charged with felony fraud, accused of trying to cheat the American Red Cross in Jeffersonville, Ind., out of hundreds of dollars in Hurricane Katrina aid.

Red Cross officials said yesterday that they believe that the case is part of a pattern of deceit in Clark County, Ind., that may include at least seven other individuals and families.

Some people who received Red Cross debit cards in Jeffersonville over the last two weeks have used them to shop at Victoria's Secret, Circuit City and other stores that are "not typical" destinations for disaster victims, said Phyllis Wilkins, executive director of the agency's Clark County chapter.

"It's broken my heart to see that happen," she said of the suspected fraud. "It's definitely affected our staff and our caseworkers."

Wilkins said the three women came to her office Tuesday but did not receive money. According to a Jeffersonville Police Department report, the women said they were from Louisiana and asked for clothes and money. They later admitted that the stories weren't true, the report states.

Latoyia Taylor, 19, of the 400 block of South 12th Street, was charged with felony fraud. Charges of fraud and false informing were filed against Norma Jean Calloway-Tillman, 34, of the 1700 block of Bolin Avenue, and Denise Huguley, 24, of the 900 block of Cedar Street. All three were taken to the Clark County Jail.

In Louisville, police have arrested one person in a similar case involving a Red Cross debit card worth $360. Derick Clayton, 25, of the 3400 block of Bardstown Road, was charged Tuesday with fraudulent use of a credit card, a felony.

Officer Dwight Mitchell of Louisville Metro Police said he was not aware of other fraud cases linked to the hurricane.

But Jan Walther, spokeswoman for the Louisville Area chapter of the Red Cross, said one other suspect is being pursued. She said many more people have walked away from Red Cross relief sites after they failed to produce valid identification.

National fraud statistics for the Red Cross hurricane relief effort were not available yesterday.

But Tara Lynch, a spokeswoman at the agency's Washington headquarters, said there could be an increase in fraud because of the sheer magnitude of the disaster. She said the problem is taken "very, very seriously."

The value of Red Cross debit cards is typically linked to the size of a family, and it ranges from about $300 to $1,500. Acceptable purchases include food and clothing, Wilkins said, and, in some cases, toys for children or meals at a restaurant.

Wilkins said her staff became suspicious after receiving tips that some card users were actually local residents with few or no links to areas damaged by Katrina.

In one such case, she said, a pregnant woman was staying with her boyfriend at a hotel in Sellersburg while four of her children were living at a hotel in Louisville. She said the woman's debit card was cut off after a tip from a relative.

Records compiled by the Red Cross in Jeffersonville show that one debit card was used Saturday to buy $1,065 worth of items at Best Buy. Another $177 in purchases were made Friday at Victoria's Secret, and a third card was used for $233 in meals over a four-day period at Ernesto's Mexican Grill, Hooters and other restaurants in Southern Indiana.

Wilkins said most of the suspects told aid workers they had lost all forms of identification and needed help. She said the chapter takes a digital photo of applicants without identification and tries to verify their addresses.

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But she said that the Clark County chapter doesn't have access to a national database of disaster victims maintained by the Red Cross and that the agency's policy is to "always err on the side of compassion" when in doubt.

Several measures are now being taken to combat thefts in Clark County.

Police began stationing a uniformed officer at the chapter's disaster resource center yesterday, and Capt. Bruce Wilkerson of the Jeffersonville Police Department said names of applicants were being entered into a national crime database run by the FBI.

Wilkins said she's working with regional and national Red Cross officials and law-enforcement agencies on criminal charges for other suspects who haven't been arrested. She said her chapter also is sharing names and other information with the Louisville chapter, which has its own staff and operates separately.

Walther said the Louisville chapter has access to the national Red Cross database and that the agency will seek restitution for thefts.

She said the number of suspicious hurricane claims -- two as of yesterday -- was low compared with the more than 2,300 people receiving aid.

Senators Seek Post-Katrina "Marshall Plan" (REU-Y2)

By Joanne Kenen

Reuters, September 15, 2005

Senate Republican leaders on Wednesday urged President George W. Bush to establish a "Marshall Plan" for the recovery after Hurricane Katrina, similar to the massive post-World War II effort to rebuild western Europe.

In a letter to Bush, Majority Leader Bill Frist and the rest of the Senate Republican leadership called for a "Marshall Plan" to establish a "coordinated and comprehensive plan to help the Gulf Coast region."

They did not spell out precisely what such a plan would entail, but lawmakers are beginning to consider ways of assembling a public-private partnership to redevelop the shattered region in the coming years.

Senators from both parties will visit the Gulf Coast on Friday for a first-hand inspection of the devastation.

The Republican-controlled Senate also rejected a proposal by Sen. Hillary Clinton of New York and other Democrats to set up an independent panel modeled on the 9/11 Commission to investigate the bungled evacuation and emergency response to Katrina.

Separately, bipartisan group of senators proposed an emergency package of health care benefits for storm victims. The bill would ease eligibility requirements for the Medicaid health care program for the poor and help those with private insurance maintain their coverage.

The Senate may take up the bill, which also provides an additional 13 weeks of unemployment benefits for storm victims, on Thursday.

INVESTIGATING STORM RESPONSE

Republicans have proposed a joint House-Senate special panel but Democrats are demanding an independent investigation.

Despite the bickering over how to investigate the disaster, Frist and Senate Democratic leader Harry Reid of Nevada announced they would lead a 14-member delegation to Louisiana, Mississippi and Alabama on Friday. Both Louisiana's senators, one Democrat and one Republican, would take part.

In addition to the "Marshall plan" letter, lawmakers from both parties have put forth various proposals for oversight of the tens of billions of dollars of federal funds pouring into the emergency efforts.

Senate Democrats have proposed creation of a redevelopment agency modeled on the Tennessee Valley Authority, an independent government corporation created during the 1930s to manage a huge flood control and electrical generation program.

Republican Sens. Pete Domenici of New Mexico and Jeff Sessions of Alabama urged Bush to name a central coordinator to oversee storm recovery by federal agencies, an effort that they said would take years and cost huge amounts of money.

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"My concern is that without a primary coordinator, we face the likely prospect of dozens of well-meaning federal agencies chaotically tripping over each other as the recovery process moves forward," Domenici said.

Illinois Democratic Sen. Barack Obama and Oklahoma Republican Sen. Tom Coburn -- representing opposite ends of the political spectrum -- called on Congress to establish a "chief financial officer" to oversee the $62 billion in relief funds the Federal Emergency Management Agency is doling out.

"This is to assure the American people that there's not going to be any shenanigans," Coburn said.

Meanwhile, the Senate Homeland Security and Governmental Affairs Committee held its first open hearing on the government's response to the devastating storm with testimony from former New Orleans mayor Marc Morial, who now heads the National Urban League.

Morial suggested the government set up a compensation fund for Katrina victims, similar to the one established after the September 11, 2001 attacks. He also said Gulf coast residents must have a role in all aspects of rebuilding.

The House of Representatives Government Reform Committee plans to hold its first hearing into the Katrina response on Thursday, and the full House hopes to pass a bill giving short-term tax breaks to storm victims and help the recovery effort.

Congress Won't Sacrifice Pork In Federal Spending For Katrina (UNIONL)

By Robert D. Novak

Manchester Union Leader, September 15, 2005

Sen. Tom Coburn, playing his familiar role of skunk at the Sunday school picnic, is arguing that massive federal spending in the wake of Hurricane Katrina must entail some sacrifice. By that he meant the pork so dear to his colleagues. That has evoked an icy response, not only from Congress but from the White House as well.

Coburn, a freshman Republican from Oklahoma, telephoned Joshua Bolten, director of the Office of Management and Budget (OMB), to ask support for $15.3 billion in offsets based on the administration's own proposed terminations and spending reductions. Bolten politely informed the senator that the administration's hands were full dealing with Katrina's aftermath.

Coburn told me he did not blame Bolten but his superiors. The superior he meant was George W. Bush. On the Senate floor last week as the emergency Katrina bill was passed, Coburn declared: "I am disappointed in our President for not bringing forward with this bill recommended spending cuts that would easily be achieved in the discretionary budget of this country to pay for the disaster assistance." Citing calls for "sacrifice" by Americans, he declared that "it is no sacrifice on the part of Congress to steal $51.2 billion from our grandchildren."

When Bolten appeared before House Republicans the evening of Sept. 7, members of the conservative Republican Study Committee went to the microphone with complaints similar to Coburn's. Bolten responded, much as he had to Coburn, that this was not the time to try offsets when a 24-hour turnaround on the aid bill was necessary.

However, Coburn's problem is less Bolten or even Bush and more his Senate colleagues. While the House at least has tried to stay within the administration's bounds, the Senate threatens to run wild with new earmarks and additional spending. Senators are tapping money from the Defense budget on grounds all such funds will be restored.

Bolten promises to revisit offsets, and he can count on Coburn pressing him to keep that promise. Coburn's performance confirms dread of him as a senator by establishment Republicans, both in Oklahoma and the nation's capital. A plain-spoken obstetrician from Muskogee, Okla., Dr. Coburn won no popularity contests with a principled assault on pork during his House tenure (1995-2000) that was ended by self-imposed term limits. He entered the Senate determined to keep a low profile, but that is difficult considering the Washington spending carnival under Republican rule.

When Congress was called back before Labor Day to pass a $10 billion first installment, Coburn on Sept. 1 declared Congress should "make budget sacrifices of its own if we expect the American people to do the same." On Sept. 6, Sen. John McCain, a longtime anti-pork crusader, joined Coburn's effort. On Sept. 8, as the big aid bill reached the Senate floor, Coburn said, "members of Congress should, at least temporarily, deny themselves a few of the comforts of political office." But there has been no word of support from Republican leaders or the administration.

The $15.3 billion in OMB proposed cuts is just the beginning of the Coburn "sacrifices." He would cut into $27 billion of spending earmarked by individual senators and House members in this year alone. As chairman of the Senate subcommittee on

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federal financial management, he has found $41.5 billion in government overpayments because of poor accounting practices, $1.2 billion in an "over-priced" renovation of United Nations headquarters, $18 billion in General Services Administration (GSA) middle-man fees and $46 million in cost overruns at the Securities and Exchange Commission (SEC).

Coburn's call for "sacrifice" means something entirely different on the left end of the ideological spectrum. In the House, one liberal Democrat after another has taken the floor to demand higher taxes in upper income brackets. A few successful Americans, not the elected politicians, would be doing the sacrificing.

Tom Coburn contends any government worker could find room to cut back spending in his own department before the federal leviathan demands more funds from any individual taxpayers. Ultimately, it is up to the government to sacrifice. As Coburn asserts, "It is inexcusable for the White House and Congress to not even make the effort to find any offsets."

New Architecture As Gulf Prepares To Rebuild, Tensions Mount Over Control (WSJ)

By Jackie Calmes, Ann Carrns And Jeff D. Opdyke

The Wall Street Journal, September 15, 2005

With as much as $200 billion beginning to gush out of Washington for the Hurricane Katrina disaster zone, the fight already has begun over who will control the spending and make critical decisions about the future of New Orleans and the Gulf Coast.

The battle is shaping up around three key questions: Will state, local or federal officials have the final say about the shape of redevelopment? Will existing government bodies spend the reconstruction bonanza, or will some new agency be created for the job? And finally, will New Orleans be rebuilt as it was, or will some low-lying areas -- often poor, working class or predominantly African-American -- be sacrificed to improve flood protection?

In Washington, officials from both parties are concluding the reconstruction job is so immense that it demands an entirely new government entity, perhaps similar to the Depression-era Tennessee Valley Authority. Top presidential adviser Karl Rove and other administration officials have begun soliciting names for the new organization's czar. Former General Electric Co. chief Jack Welch has been mentioned as a possible candidate, as have former Secretary of State Colin Powell and former New York Mayor Rudy Giuliani, though those two have detractors within the White House.

But the prospect of a big federal role is arousing suspicion and anger along the Gulf Coast, an area with long memories of a painful post-Civil War reconstruction and powerful suspicions of intrusions on states' rights and local autonomy. "I don't want anyone outside of New Orleans telling us how to plan this city," said New Orleans Mayor Ray Nagin during a City Council meeting in Baton Rouge, 80 miles from the group's normal chambers.

Hovering over the battle is a central, perhaps intractable problem. Long before Katrina arrived, New Orleans was a broken city, burdened by poverty, crime, racial divisions, a lethargic economy, substandard schools and public services, and a clearly inadequate flood-control system. Nearly every faction fighting for influence agrees that restoring the prehurricane status quo to New Orleans is untenable.

"We must rebuild our communities better than ever before," said Louisiana Gov. Kathleen Blanco in an address to the State Legislature last night. "Any good architect will tell you that you don't restore a structure without correcting its flaws."

Yet many of the lowest-lying areas most vulnerable to flooding were home to thousands of poor and mostly African-American residents. Some environmentalists and flood-control experts argue that those areas would best be used as marshy buffers against future floods. But that would mean preventing some of New Orleans's poorest residents from ever returning to their neighborhoods.

"New Orleans of the last 40 to 50 years was a mansion built atop matches," says Oliver Thomas, the city council president. "The foundation does not work."

Before Katrina, nearly 15% of the people in the New Orleans metropolitan area lived below the poverty line, as did more than 25% of the children, according to the Census Bureau. Only seven other U.S. cities have higher child-poverty rates. Among the nation's 70 biggest cities, New Orleans' median household income ranked 64th.

Katrina, Mr. Thomas says, highlighted "the hurricanes of poverty and illiteracy...that are here every day."

The city's current flood-control system was designed to handle up to a Category 3 hurricane. Katrina, with winds of up to 145 miles an hour, was a Category 4. Officials with the U.S. Army Corps of Engineers, which builds most levees and other flood-

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control systems, say that from a scientific and engineering standpoint, a levee system can be built to safeguard the city from even the most powerful hurricanes.

A 2002 preliminary study by the Army Corps' New Orleans district of whether the hurricane-protection system around New Orleans should be upgraded outlined several options. They included fortifying and raising levees -- some to as much as nearly 30 feet from the current 13 feet to 18 feet -- and adding locks to certain canals that some experts believe may have played a part in the flooding of the city. Al Naomi, a long-time engineer with the corps' New Orleans district, estimated the cost of one of the proposals would be $2.5 billion to $3 billion.

But with the city now virtually empty, some influential local business leaders and environmentalists say it might be better to let nature win in some areas. That would almost certainly mean sacrificing some poorer neighborhoods as part of a new flood-control system.

Sherwood Gagliano, president of Coastal Environments Inc. and one of Louisiana's foremost experts on coastal restoration issues, says some low-lying areas of New Orleans shouldn't be heavily populated again. "You don't want to put a lot of people back in those holes," says Dr. Gagliano. Some sections of the city are several feet below sea level.

One idea, he says, would be to transform some of the low-lying residential areas in the city into water "retention areas" of about 5,000 acres each that would gather water during heavy rainfalls or major storms, providing relief to the city's pumps.

Transforming poor, black neighborhoods into retaining ponds wouldn't be easy politically, Dr. Gagliano acknowledges. "We want to come up with a plan that will allow people to be in the region and stay linked to their heritage, but we want their families to be safe," he says.

The possibility that a rebuilt New Orleans will be less black is a sensitive issue in a city that is more than 75% African-American. Mayor Nagin seemed aware of that this week when he said he planned to appoint a blue-ribbon reconstruction commission whose members would be picked according to race -- but not in proportion to the city. He said the 16-member panel would include eight whites and eight African-Americans. The mayor also told the City Council this week that he rejected "the thoughts and ideas" that some, including at least one member of his administration, have voiced publicly about using the storm as a chance to reshape the city's demographics and have fewer poor people.

On Monday night, nearly 30 black business leaders from New Orleans and Baton Rouge met at a church in the capital city to discuss ways to make sure that all New Orleans citizens are included in conversations about how to rebuild the city.

"What makes this city so great is the gumbo mix of people," says Alden J. McDonald Jr., chief executive of Liberty Bank & Trust Co., one of the nation's largest black-controlled banks, and chairman of the New Orleans Chamber of Commerce. "Everyone has to be at the table."

In Washington, Congress is moving ahead on plans to set up a large new federal reconstruction authority. As models, lawmakers point to the TVA, created in 1933 to develop a woefully backward area of exhausted farmland and timberland, and the Appalachian Regional Commission, created during Lyndon Johnson's administration at the behest of governors of the impoverished region. Senate Budget Committee Chairman Judd Gregg, a New Hampshire Republican, proposed a powerful new government body, based within the White House but with its headquarters on the Gulf Coast, that would be led by an "individual with strong leadership skills" for three years.

Senate Appropriations Committee Chairman Thad Cochran, a Republican from hard-hit Mississippi, is weighing an alliance with liberal Sen. Ted Kennedy of Massachusetts, who last week proposed a Gulf Coast Regional Redevelopment Authority with at least $150 billion to invest in rebuilding the region's infrastructure. Mr. Kennedy sees a permanent entity, but the government's dominance would give way to public-private partnerships after a couple of years, says his spokeswoman, Stephanie Cutter.

One source of tension: President Bush's closest ally in the region is Mississippi Gov. Haley Barbour, the former head of the national Republican Party. Gov. Barbour "is going to have a big say in this," an administration official says. Neither he nor Sen. Cochran is likely to allow Mississippi to be shortchanged while New Orleans, a city where Democrats dominate, receives much of the federal largesse.

Other flashpoints are the first wave of aid contracts, which some local officials complain were awarded to out-of-state companies without consulting them. "The federal government is not including us or communicating with us," says New Orleans

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Councilwoman Renee Gill Pratt. "We were a city long before the U.S. was a country, and we don't need someone from Minnesota coming down here to tell us where to put our city."

Mr. Bush, who will address the nation tonight, so far is agreeing. On his trip to the Gulf Coast on Monday, Mr. Bush was emphatic that the federal government will defer to the locals in rebuilding. "I think the best policy is one in which the federal government doesn't come down and say, here's what your city will look like," he said in New Orleans.

Historically, federally funded flood-control projects are proposed and funded through a painfully slow system, often taking years or decades of study and planning. Congressional authorization for a major expansion of the New Orleans levees occurred in 1965, the year that Hurricane Betsy swamped the city. But funding for some major components of the work wasn't actually appropriated until 20 years later.

Local levee districts have a big say. The Army Corps of Engineers takes the lead in designing and building major levee projects, then turns them over to the local districts for maintenance.

The Orleans Levee District is particularly powerful. Six members of its eight-seat board are appointed by the governor, and historically the posts have been used to reward political supporters.

The board also operates the chronically money-losing New Orleans Lakefront Airport on the shore of Lake Pontchartrain, two marinas, including the South Shore Harbor Marina with 400 boat slips, and it leases property for a casino on the lake. The district employs more than 200 people, including its own police and fire departments.

Three months before Hurricane Katrina flooded New Orleans, the board gathered on the shores of Lake Pontchartrain to celebrate the dedication of a Mardi Gras Fountain, featuring electronically timed spurts and multicolored lights. The fountain and an adjoining plaza were built at a cost of more than $2 million, partly using tax revenue that the board collects for levee maintenance, according to financial statements filed with the state of Louisiana.

James Huey, a local businessman who serves as the board's president, couldn't be reached yesterday. One former board member who supported the restoration, retired Marine Maj. Gen. James Livingston, who resigned and moved to South Carolina more than a year ago, said he wasn't aware of the fountain project's final cost but the restoration was consistent with the district's responsibility to maintain its waterfront property, which is heavily used for recreation by the community. "It was something that needed to be fixed," he said. "It was a gesture to be a good neighbor. In retrospect, I don't have any issue with that decision being made."

One of Mayor Nagin's biggest concerns is that money to rebuild New Orleans is likely to flow through the state and levee boards. There has long been tension between the city and state. Mr. Nagin points to the tens of millions of dollars Louisiana received from Harrah's Entertainment Inc. when the Las Vegas gambling concern won the right to build a casino in downtown New Orleans in the 1990s. That money, he said, "built state buildings in Baton Rouge," instead of being pumped back into New Orleans. Moreover, while New Orleans contributes between one-quarter and one-third of the state's revenue, "the state uses that New Orleans money elsewhere."

The Gulf Coast faced similar tensions after a massive 1927 flood along the Mississippi River devastated about 25,000 square miles -- about a quarter of the area Katrina ravaged -- and left 350,000 homeless. According to historian John Barry's popular book "Rising Tide," a key to the recovery was President Calvin Coolidge's quick dispatch of his secretary of commerce, Herbert Hoover.

Mr. Hoover was given sweeping authority to coordinate all local, state, federal and private endeavors. His success helped elect him president in 1928.

Hoover relied heavily on the private sector to get the job done. "I suppose I could have called in the whole of the Army," he said later, according to Richard Norton Smith's biography, "An Uncommon Man." "But what was the use? All I had to do was to call in Main Street itself."

Contracts For Recovery Work Raise Controversy (USAT)

By Kevin McCoy

USA Today, September 15, 2005

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Two of the first companies that got emergency no-bid federal contracts for Hurricane Katrina recovery work have faced questions over past business practices, court and government records show.

A division of Fluor, a California firm awarded a housing contract worth up to $100 million, has paid millions of dollars to settle federal government lawsuits — including one that accused it of overbilling for 1989 hurricane cleanup work.

The Shaw Group, a Louisiana firm that won housing and engineering contracts worth up to $200 million, has disclosed that it is being investigated by the Securities and Exchange Commission. The firm is also a defendant in federal securities class-action cases.

The contracts were awarded by the U.S. Army Corps of Engineers and Federal Emergency Management Agency as part of a relief effort expected to top $100 billion. The awards, which so far include contracts to such national giants as Bechtel as well as smaller Louisiana and Mississippi firms, eventually are expected to constitute the largest rebuilding effort in U.S. history.

It is routine for government agencies to award non-competitive contracts for emergency work as part of an effort to speed recovery work. Federal Homeland Security officials announced this week that 30 investigators and auditors would go to the Gulf Coast to ensure that the emergency contracts are carried out properly.

At least one government watchdog group critical of the Hurricane Katrina contract-award process says the federal oversight effort should include tougher screening before emergency contracts are awarded, as well as afterward.

"This is an area where the federal government falls flat on its face," said Danielle Brian, executive director of the Project on Government Oversight, the watchdog group.

Federal court records show Fluor agreed to pay $3.2 million in 1997 to settle allegations that its FD Services division padded repair bills for cleaning up U.S. Navy bases in South Carolina after the 1989 strike of Hurricane Hugo. Fluor also agreed to pay $8.5 million in 2001 to settle allegations that it billed the government for work done for other clients, court records show.

Fluor spokeswoman Lisa Boyette said the company has "been working successfully for FEMA for eight years now on disaster work across the country." She referred questions about the most recent contract award to FEMA officials.

In an e-mail response, FEMA spokesman Michael Widomski said the agency checks whether firms being considered for emergency work have been barred from getting contracts. But he said FEMA had been unaware of the Hurricane Hugo settlement and other cases.

In its annual report filed in July, the Shaw Group disclosed that it was the subject of what the company termed an "informal inquiry" by the SEC. The firm said it was cooperating with investigators, who had not told the firm the reason for the inquiry or its scope. The SEC declined to comment.

Separately, federal securities class-action cases accuse the Shaw Group and its executives of defrauding investors with misleading statements about the company's finances and management.

The firm did not respond to phone messages seeking comment. But in its annual report, the firm said it believed all of its financial statements satisfied generally accepted accounting principles, "and that none of our press releases or public filings contained misrepresentations or omissions."

Moreover, in a Sept. 8 news release announcing its Hurricane Katrina award, the firm said it was also doing emergency contract work for the Army Corps of Engineers, U.S. Navy and other agencies.

Army Corps officials weigh companies' past performance in deciding new contracts, said spokeswoman Carol Sanders. Current investigations might also be noted, Sanders said. She could not say whether the agency had known about the SEC inquiry.

FEMA spokesman Widomski said his agency had been unaware of both the SEC matter and the securities class-action lawsuits involving the Shaw Group.

Brian complained that federal contract officers have little contact with prosecutors or agencies that might be investigating firms under consideration for awards.

"Right now, there isn't a place for the federal government to get a history of a company's business background," she said. "There should be one place where they can look."

Labor Fights To Preserve Davis-Bacon (HILL)

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By Elana Schor

The Hill, September 15, 2005

Among the litany of regulations in line to be eased or suspended during the daunting rebuilding process on the Gulf Coast are several that have greatly alarmed labor unions, whose furious lobbying efforts are hitting a brick wall of conservative might.

Union officials are concerned that President Bush's Sept. 8 suspension of the Davis-Bacon Act, which requires federal contractors to pay construction workers a prevailing wage, was only the beginning. Further hurting the union cause is GOP lawmakers' support for broad bureaucratic relaxation in the Labor Department, a push rooted in the long-standing bad blood between unions and Republican think tanks.

"I think this is a mean-spirited attack on the labor movement. The right wing has never been able to touch us in the legislative arena on Davis-Bacon. They saw an opportunity and took it," said Don Kaniewski, political director for the Laborers' International Union of North America (LIUNA).

The presidents of LIUNA, the carpenters union and the engineers union wrote to Senate Majority Leader Bill Frist (R-Tenn.) and House Speaker Dennis Hastert (R-Ill.) yesterday decrying the Davis-Bacon suspension. LIUNA and the carpenters belong to the new labor federation Change to Win, formed by unions seceded from the AFL-CIO, while the engineers remain AFL-CIO members.

Despite the scrutiny heaped upon organized labor for its internal division, the AFL-CIO echoed LIUNA's concerns, singling out Grover Norquist's Americans for Tax Reform (ATR) as an instrumental force for undoing worker-rights laws.

"People in the think-tank world have a long history of opposing protection for unions," said AFL-CIO Legislative Director Bill Samuel, resulting in a GOP "leadership that is pretty determinedly anti-labor. We haven't gotten a single phone call from Republicans on the Hill asking what should we do for this crisis."

The AFL-CIO sent legislative recommendations to Sen. Michael Enzi (R-Wyo.), chairman of the Health, Education, Labor and Pensions Committee, for use as he spearheads the drafting of a broad Katrina bill that will include employee-benefits provisions. But when asked whether Davis-Bacon's wage floors would be taken into account, Enzi said no and that he had no position on the act.

Bush waived Davis-Bacon for storm-affected areas in Alabama, Mississippi and Louisiana as well as the two southernmost counties of Florida, one day after receiving a letter from Rep. Jeff Flake (R-Ariz.) and 34 other House Republicans urging him to do so. While hundreds of thousands of Gulf homes were destroyed, local reports estimated that Katrina leveled about 350 houses in South Florida.

Norquist, for his part, was far from cowed by the possibility of political counterattack by the AFL-CIO or Change to Win.

"Oh, gee, maybe they'll try to oppose the president the next time he runs for office," Norquist cracked. He added that the temporary Davis-Bacon suspension "certainly strengthens the case" for an eventual full repeal. "It will make it obvious to people what the dead-weight costs of Davis-Bacon will be."

On the heels of Davis-Bacon will come a likely easing of the Service Contract Act, mandating a prevailing wage for service workers on federal contracts. The purpose of abandoning wage floors, both labor and conservative sources agreed, is to increase efficiency and help companies rebuilding the Gulf Coast to save money. Where that money will go is another story.

Samuel wondered whether Congress should institute an oversight mechanism to ensure construction savings are passed from the private companies retained by the government and into federal coffers. "These no-bid contracts, are they somehow mandating lower profits?" he asked. Firms awarded lucrative reconstruction jobs include several with ties to the White House, and most have already reaped the benefits through rising stock prices.

The impact of labor deregulation will be felt politically as well as financially. One building-trades lobbyist, who asked to remain anonymous because his group's internal division means it can take no stance on the issue, pointed out that prevailing wages in the Gulf are so much lower than the national average that the suspension will barely move profits.

"Politically, it was a mistake. Practically, it will have no impact. It was a fight the administration didn't need to take on at this time," the lobbyist said.

However, he noted, the conservative voting record of construction union members as compared with the rest of the labor community means congressional Republicans could see swing votes slip away for the 2006 election. "Now the leaders of the

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building trades will be reporting to their members, 'you can't trust Republicans, because every time they have a chance they are going to weaken Davis-Bacon,'" he said.

Ryan Ellis, ATR's labor lobbyist, conceded that historically low paychecks for Gulf workers will result in less potential savings from Davis-Bacon elimination. He reinforced the widespread conservative contention that unions hoard workers' wages for use on dues payments and political giving to Democrats.

"Some of the money [from a prevailing wage] would go to workers, but a lot of it would be siphoned off by unions through dues money because they are no longer forced to hold taxpayers hostage through union contracts. The union guys would rather have taxpayer dollars go into their pockets," Ellis said. Despite the difference between Davis-Bacon's prevailing wage and the standard union wage, he said, they are "de facto" identical.

The Labor Department is examining still more areas in which existing rules can be suspended for Katrina relief to accelerate. Official word from Secretary Elaine Chao of new 401(k) hardship loans for Gulf workers and waiver relaxation at state work-force investment boards, in addition to other moves, could come as quickly as today.

"We are looking at [more] ways to release red tape to deliver needed resources to workers who have been affected," said Labor Department spokesman David James.

Lessons From Galveston (USAT)

By Alcestis "Cooky" Oberg

USA Today, September 15, 2005

When the flood waters recede, New Orleans will certainly be rebuilt, if for no better reason than its strategic location: on the Mississippi River near the Gulf of Mexico. Many of our nation's vital industries and transportation resources are centralized there.

Some want to rebuild the city exactly where and how it was before Hurricane Katrina, with stronger, higher levees. Simply turn back the clock. And that's crazy.

We have a historic opportunity to rebuild New Orleans better, safer — to change its shape, the location of its neighborhoods, even its topography. It's all been done before.

The greatest natural disaster to hit the USA — and the only one comparable to Katrina in the scope of its destruction — was the 1900 storm that devastated Galveston, Texas. Between 6,000 and 12,000 people died and, afterward, 75 looters had to be shot dead before law and order could be restored. Every Galvestonian knew that some places never come back from a storm like that. Indianola, Texas' No. 1 port in the 1800s, was clobbered by two ferocious storms within 11 years that destroyed its buildings and silted its bay. Indianola was abandoned in 1886.

Goodbye isn't an option

But that wasn't going to happen to Galveston. Like New Orleans today, it was too dominant and vital an economic center to just die. Galvestonians burned their dead, cleared the debris and rebuilt with dazzling energy and boldness.

Work started on a mighty concrete seawall — 17 feet high, 16 to 20 feet thick at the base, nearly 10.5 miles long. The seawall had a concave shape, so waves would break upward and back onto themselves. Granite blocks along its base protected against erosion. Because Galveston sat on a sandbar-type barrier island of 5-7 feet elevation, leaders decided to raise the entire grade of the city to 12-15 feet elevation. This meant that every building and every house in a 500-block area was raised on jackscrews and filled in underneath with sand.

The project took eight years and was financed by bonds underwritten by Galveston itself, along with tax relief from the state. When another monster hurricane came, in 1915, the city was ready: Only eight people died, and damage was relatively limited. The 1900 storm was a historic opportunity to change Galveston's vulnerability to hurricanes forever with an engineering project so vast, it was breathtaking.

Such an opportunity now exists for New Orleans. Certainly, officials could change its bowl-like topography and raise the grade of its new neighborhoods much higher, as Galveston did. New Orleans might forbid rebuilding some neighborhoods at all and give them back to the marshes and swamps they came from. A new transportation system could carry residents to higher, safer suburbs farther away, reducing the population allowed to live in the city. Perhaps Baton Rouge and New Orleans could merge into one metropolitan entity, offering both pleasure to tourists and safety to residents.

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The human calculus of rebuilding is less certain. Some businesses and people will just never come back. They'll put down roots wherever they are now — Texas, Georgia, Arkansas — and be lost to New Orleans forever. That happened to Galveston, too, which never completely came back to its former glory as a dominant port or as the "Wall Street of the Southwest." Some of that had to do with the 1900 storm; some didn't. Much of 20th century commerce went to Houston, partly for its huge, less vulnerable port miles inland, partly because new industries — oil and gas refineries, international banks, medical and space centers — needed to build massive facilities and sprawling neighborhoods on the vast prairies of the mainland, not on a small, vulnerable island.

Nonetheless, Galveston thrived and adapted after the 1900 storm. The city recaptured its tourist industry with new seawall-protected hotels, and its cotton-shipping business remained robust for decades. It even became a tame prototype of Las Vegas from Prohibition to 1957, with glittery nightclubs where discreet and illegal drinking, gambling and prostitution flourished until they were shut down.

Some of New Orleans' future direction can be detected in Galveston's patterns; some can't. The things we all love about New Orleans — the French Quarter, the Garden District, the magnificent downtown hotels, the great music, culture and food — will undoubtedly come back better than ever. Other commerce is less predictable. The existing energy and transportation assets might stay near New Orleans in the short term but might disperse and relocate in future decades. We don't know what 21st century industries and opportunities might come along, too, or whether New Orleans can offer them the resources they need.

What can't be predicted

We can't be hubristic about rebuilding New Orleans. While some hurricane challenges, such as storm surge and wind damage, can be met with costly, mega-engineering projects and extremely stiff building codes, others cannot.

The gut punch to Galveston was thrown by Hurricane Carla in 1961. Though the seawall held firm to protect against storm surges, unpredictable tornadoes spun out of the storm, hopped right over the seawall and devastated some neighborhoods — all broadcast by the new technology of television to horrified Americans. Carla's punch was more psychological than physical. Although only seven people died and damages totaled $15 million, Galveston lost its sense of safety and invulnerability. It went into a decades-long economic slump from which it has only recently emerged.

New Orleans has had its Big One, the hideous twin to Galveston's 1900 storm in scope and destruction. But before we rebuild it, we should ask whether rebuilding for another Katrina is enough. Perhaps there's a Carla or something worse lurking that we should prepare for, too.

Alcestis "Cooky" Oberg lives in Houston and is a member of USA TODAY's board of contributors.

Chertoff Delayed Federal Response, Memo Shows (KRT)

By Jonathan S. Landay, Alison Young And Shannon McCaffrey

Knight Ridder, September 15, 2005

WASHINGTON - The federal official with the power to mobilize a massive federal response to Hurricane Katrina was Homeland Security Secretary Michael Chertoff, not the former FEMA chief who was relieved of his duties and resigned earlier this week, federal documents reviewed by Knight Ridder show.

Even before the storm struck the Gulf Coast, Chertoff could have ordered federal agencies into action without any request from state or local officials. Federal Emergency Management Agency chief Michael Brown had only limited authority to do so until about 36 hours after the storm hit, when Chertoff designated him as the "principal federal official" in charge of the storm.

As thousands of hurricane victims went without food, water and shelter in the days after Katrina's early morning Aug. 29 landfall, critics assailed Brown for being responsible for delays that might have cost hundreds of lives.

But Chertoff - not Brown - was in charge of managing the national response to a catastrophic disaster, according to the National Response Plan, the federal government's blueprint for how agencies will handle major natural disasters or terrorist incidents. An order issued by President Bush in 2003 also assigned that responsibility to the homeland security director.

But according to a memo obtained by Knight Ridder, Chertoff didn't shift that power to Brown until late afternoon or evening on Aug. 30, about 36 hours after Katrina hit Louisiana and Mississippi. That same memo suggests that Chertoff may have been confused about his lead role in disaster response and that of his department.

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"As you know, the President has established the `White House Task Force on Hurricane Katrina Response.' He will meet with us tomorrow to launch this effort. The Department of Homeland Security, along with other Departments, will be part of the task force and will assist the Administration with its response to Hurricane Katrina," Chertoff said in the memo to the secretaries of defense, health and human services and other key federal agencies.

On the day that Chertoff wrote the memo, Bush was in San Diego presiding over a ceremony marking the 60th anniversary of the end of World War II.

Chertoff's Aug. 30 memo for the first time declared Katrina an "Incident of National Significance," a key designation that triggers swift federal coordination. The following afternoon, Bush met with his Cabinet, then appeared before TV cameras in the White House Rose Garden to announce the government's planned action.

That same day, Aug. 31, the Department of Defense, whose troops and equipment are crucial in such large disasters, activated its Task Force Katrina. But active-duty troops didn't begin to arrive in large numbers along the Gulf Coast until Saturday.

White House and homeland security officials wouldn't explain why Chertoff waited some 36 hours to declare Katrina an incident of national significance and why he didn't immediately begin to direct the federal response from the moment on Aug. 27 when the National Hurricane Center predicted that Katrina would strike the Gulf Coast with catastrophic force in 48 hours. Nor would they explain why Bush felt the need to appoint a separate task force.

Chertoff's hesitation and Bush's creation of a task force both appear to contradict the National Response Plan and previous presidential directives that specify what the secretary of homeland security is assigned to do without further presidential orders. The goal of the National Response Plan is to provide a streamlined framework for swiftly delivering federal assistance when a disaster - caused by terrorists or Mother Nature - is too big for local officials to handle.

Dana Perino, a White House spokeswoman, referred most inquiries about the memo and Chertoff's actions to the Department of Homeland Security.

"There will be an after-action report" on the government's response to Hurricane Katrina, Perino said. She added that "Chertoff had the authority to invoke the Incident of National Significance, and he did it on Tuesday."

Perino said the creation of the White House task force didn't add another bureaucratic layer or delay the response to the devastating hurricane. "Absolutely not," she said. "I think it helped move things along." When asked whether the delay in issuing the Incident of National Significance was to allow Bush time to return to Washington, Perino replied: "Not that I'm aware of."

Russ Knocke, a spokesman for the Department of Homeland Security, didn't dispute that the National Response Plan put Chertoff in charge in federal response to a catastrophe. But he disputed that the bureaucracy got in the way of launching the federal response.

"There was a tremendous sense of urgency," Knocke said. "We were mobilizing the greatest response to a disaster in the nation's history."

Knocke noted that members of the Coast Guard were already in New Orleans performing rescues and FEMA personnel and supplies had been deployed to the region.

The Department of Homeland Security has refused repeated requests to provide details about Chertoff's schedule and said it couldn't say specifically when the department requested assistance from the military. Knocke said a military liaison was working with FEMA, but said he didn't know his or her name or rank. FEMA officials said they wouldn't provide information about the liaison.

Knocke said members of almost every federal agency had already been meeting as part of the department's Interagency Incident Management Group, which convened for the first time on the Friday before the hurricane struck. So it would be a mistake, he said, to interpret the memo as meaning that Tuesday, Aug. 30 was the first time that members of the federal government coordinated.

The Chertoff memo indicates that the response to Katrina wasn't left to disaster professionals, but was run out of the White House, said George Haddow, a former deputy chief of staff at FEMA during the Clinton administration and the co-author of an emergency management textbook.

"It shows that the president is running the disaster, the White House is running it as opposed to Brown or Chertoff," Haddow said. Brown "is a convenient fall guy. He's not the problem really. The problem is a system that was marginalized."

A former FEMA director under President Reagan expressed shock by the inaction that Chertoff's memo suggested. It showed that Chertoff "does not have a full appreciation for what the country is faced with - nor does anyone who waits that long," said Gen. Julius Becton Jr., who was FEMA director from 1985-1989.

"Anytime you have a delay in taking action, there's a potential for losing lives," Becton told Knight Ridder. "I have no idea how many lives we're talking about. ... I don't understand why, except that they were inefficient."

Chertoff's Aug. 30 memo came on the heels of a memo from Brown, written several hours after Katrina made landfall, showing that the FEMA director was waiting for Chertoff's permission to get help from others within the massive department. In that memo, first obtained by the Associated Press last week, Brown requested Chertoff's "assistance to make available DHS employees willing to deploy as soon as possible." It asked for another 1,000 homeland security workers within two days and 2,000 within a week.

The four-paragraph memo ended with Brown thanking Chertoff "for your consideration in helping us meet our responsibilities in this near catastrophic event."

According to the National Response Plan, which was unveiled in January by Chertoff's predecessor, Tom Ridge, the secretary of homeland security is supposed to declare an Incident of National Significance when a catastrophic event occurs.

"Standard procedures regarding requests for assistance may be expedited or, under extreme circumstances, suspended in the immediate aftermath of an event of catastrophic magnitude," according to the plan, which evolved from earlier plans and lessons learned after the Sept. 11, 2001, terrorist attacks. "Notification and full coordination with the States will occur, but the coordination process must not delay or impede the rapid deployment and use of critical resources."

Should Chertoff have declared Katrina an Incident of National Significance sooner - even before the storm struck? Did his delay slow the quick delivery of the massive federal response that was needed? Would it have made a difference?

"You raise good questions," said Frank J. Cilluffo, the director of George Washington University's Homeland Security Planning Institute. It's too early to tell, he said, whether unfamiliarity with or glitches in the new National Response Plan were factors in the poor early response to Katrina.

"Clearly this is the first test. It certainly did not pass with flying colors," Cilluffo said of the National Response Plan.

Mike Byrne, a former senior homeland security official under Ridge who worked on the plan, said he doesn't think the new National Response Plan caused the confusion that plagued the early response to Katrina.

Something else went wrong, he suspects. The new National Response Plan isn't all that different from the previous plan, called the Federal Response Plan.

"Our history of responding to major disasters has been one where we've done it well," Byrne said. "We need to figure out why this one didn't go as well as the others did. It's shocking to me."

To read the National Response Plan, go to: http://www.dhs.gov/interweb/assetlibrary/NRP_FullText.pdf

Ex-FEMA Chief Tells Of Frustration And Chaos (NYT)

By David D. Kirkpatrick And Scott Shane

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 - Hours after Hurricane Katrina passed New Orleans on Aug. 29, as the scale of the catastrophe became clear, Michael D. Brown recalls, he placed frantic calls to his boss, Michael Chertoff, the secretary of homeland security, and to the office of the White House chief of staff, Andrew H. Card Jr.

Mr. Brown, then director of the Federal Emergency Management Agency, said he told the officials in Washington that the Louisiana governor, Kathleen Babineaux Blanco, and her staff were proving incapable of organizing a coherent state effort and that his field officers in the city were reporting an "out of control" situation.

"I am having a horrible time," Mr. Brown said he told Mr. Chertoff and a White House official - either Mr. Card or his deputy, Joe Hagin - in a status report that evening. "I can't get a unified command established."

By the time of that call, he added, "I was beginning to realize things were going to hell in a handbasket" in Louisiana. A day later, Mr. Brown said, he asked the White House to take over the response effort.

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He said he felt the subsequent appointment of Lt. Gen. Russel L. Honoré of the Army as the Pentagon's commander of active-duty forces began to turn the situation around.

In his first extensive interview since resigning as FEMA director on Monday under intense criticism, Mr. Brown declined to blame President Bush or the White House for his removal or for the flawed response.

"I truly believed the White House was not at fault here," he said.

He focused much of his criticism on Governor Blanco, contrasting what he described as her confused response with far more agile mobilizations in Mississippi and Alabama, as well as in Florida during last year's hurricanes.

But Mr. Brown's account, in which he described making "a blur of calls" all week to Mr. Chertoff, Mr. Card and Mr. Hagin, suggested that Mr. Bush, or at least his top aides, were informed early and repeatedly by the top federal official at the scene that state and local authorities were overwhelmed and that the overall response was going badly.

A senior administration official said Wednesday night that White House officials recalled the conversations with Mr. Brown but did not believe they had the urgency or desperation he described in the interview.

"There's a general recollection of him saying, 'They're going to need more help,' " said the official, who insisted on anonymity because of the delicacy of internal White House discussions.

Mr. Brown's version of events raises questions about whether the White House and Mr. Chertoff acted aggressively enough in the response. New Orleans convulsed in looting and violence after the hurricane, and troops did not arrive in force to restore order until five days later.

The account also suggests that responsibility for the failure may go well beyond Mr. Brown, who has been widely pilloried as an inexperienced manager who previously oversaw horse show judges.

Mr. Brown was removed by Mr. Chertoff last week from directing the relief effort. A 50-year-old lawyer and Republican activist who joined FEMA as general counsel in 2001, Mr. Brown said he had been hobbled by limitations on the power of the agency to command resources.

With only 2,600 employees nationwide, he said, FEMA must rely on state workers, the National Guard, private contractors and other federal agencies to supply manpower and equipment.

He said his biggest mistake was in waiting until the end of the day on Aug. 30 to ask the White House explicitly to take over the response from FEMA and state officials.

Of his resignation, Mr. Brown said: "I said I was leaving because I don't want to be a distraction. I want to focus on what happened here and the issues that this raises."

Governor Blanco said Wednesday that she took responsibility for failures and missteps in the immediate response to the hurricane and pledged a united effort to rebuild areas ravaged by the storm, adding, "at the state level, we must take a careful look at what went wrong and make sure it never happens again." A spokesman for Ms. Blanco denied Mr. Brown's description of disarray in Louisiana's emergency response operation. "That is just totally inaccurate," said Bob Mann, the governor's communications director. "Everything that Mr. Brown needed in terms of resources or information from the state, he had those available to him."

In Washington, Mr. Chertoff's spokesman, Russ Knocke, said there had been no delay in the federal response. "We pushed absolutely everything we could," Mr. Knocke said, "every employee, every asset, every effort, to save and sustain lives."

As Mr. Brown recounted it, the weekend before New Orleans's levees burst, FEMA sent an emergency response team of 10 or 20 people to Louisiana to review evacuation plans with local officials.

By Saturday afternoon, many residents were leaving. But as the hurricane approached early on Sunday, Mr. Brown said he grew so frustrated with the failure of local authorities to make the evacuation mandatory that he asked Mr. Bush for help.

"Would you please call the mayor and tell him to ask people to evacuate?" Mr. Brown said he asked Mr. Bush in a phone call.

"Mike, you want me to call the mayor?" the president responded in surprise, Mr. Brown said. Moments later, apparently on his own, the mayor, C. Ray Nagin, held a news conference to announce a mandatory evacuation, but it was too late, Mr. Brown said. Plans said it would take at least 72 hours to get everyone out.

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When he arrived in Baton Rouge on Sunday evening, Mr. Brown said, he was concerned about the lack of coordinated response from Governor Blanco and Maj. Gen. Bennett C. Landreneau, the adjutant general of the Louisiana National Guard.

"What do you need? Help me help you," Mr. Brown said he asked them. "The response was like, 'Let us find out,' and then I never received specific requests for specific things that needed doing."

The most responsive person he could find, Mr. Brown said, was Governor Blanco's husband, Raymond. "He would try to go find stuff out for me," Mr. Brown said.

Governor Blanco's communications director, Mr. Mann, said that she was frustrated that Mr. Brown and others at FEMA wanted itemized requests before acting. "It was like walking into an emergency room bleeding profusely and being expected to instruct the doctors how to treat you," he said.

On Monday night, Mr. Brown said, he reported his growing worries to Mr. Chertoff and the White House. He said he did not ask for federal active-duty troops to be deployed because he assumed his superiors in Washington were doing all they could. Instead, he said, he repeated a dozen times, "I cannot get a unified command established."

The next morning, Mr. Brown said, he and Governor Blanco decided to take a helicopter into New Orleans to see the mayor and assess the situation. But before the helicopter took off, his field coordinating officer, or F.C.O., called from the city on a satellite phone. "It is getting out of control down here; the levee has broken," the staff member told him, he said.

The crowd in the Superdome, the city's shelter of last resort, was already larger than expected. But Mr. Brown said he was relieved to see that the mayor had a detailed list of priorities, starting with help to evacuate the Superdome.

Mr. Brown passed the list on to the state emergency operations center in Baton Rouge, but when he returned that evening he was surprised to find that nothing had been done.

"I am just screaming at my F.C.O., 'Where are the helicopters?' " he recalled. " 'Where is the National Guard? Where is all the stuff that the mayor wanted?' "

FEMA, he said, had no helicopters and only a few communications trucks. The agency typically depends on state resources, a system he said worked well in the other Gulf Coast states and in Florida last year.

Meanwhile, "unbeknownst to me," Mr. Brown said, at some point on Monday or Tuesday the hotels started directing their remaining guests to the convention center - something neither FEMA nor local officials had planned.

At the same time, the Superdome was degenerating into "gunfire and anarchy," and on Tuesday the FEMA staff and medical team in New Orleans called to say they were leaving for their own safety.

That night, Mr. Brown said, he called Mr. Chertoff and the White House again in desperation. "Guys, this is bigger than what we can handle," he told them, he said. "This is bigger than what FEMA can do. I am asking for help."

"Maybe I should have screamed 12 hours earlier," Mr. Brown said in the interview. "But that is hindsight. We were still trying to make things work."

By Wednesday morning, Mr. Brown said, he learned that General Honoré was on his way. While the general did not have responsibility for the entire relief effort and the Guard, his commanding manner helped mobilize the state's efforts.

"Honoré shows up and he and I have a phone conversation," Mr. Brown said. "He gets the message, and, boom, it starts happening."

Mr. Brown said that in one much-publicized gaffe - his repeated statement on live television on Thursday night, Sept. 1, that he had just learned that day of thousands of people at New Orleans's convention center without food or water - "I just absolutely misspoke." In fact, he said, he learned about the evacuees there from the first media reports more than 24 hours earlier, but the reports conflicted with information from local authorities and he had no staff on the site until Thursday.

There were also conflicts with the Congressional delegations that wanted resources for their offices and districts, FEMA officials said. Senator Trent Lott of Mississippi said he "resisted aggressively" a decision by Mr. Brown to dispatch a Navy medical ship to Louisiana instead of his home state.

Mr. Brown acknowledged that he had been criticized for not ordering a complete evacuation or calling in federal troops sooner. But he said the storm made it hard to communicate and assess the situation.

"Until you have been there," he said, "you don't realize it is the middle of a hurricane."

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Governor, Mayor Acknowledge Mistakes (USAT)

By From staff and wire reports

USA Today, September 15, 2005

NEW ORLEANS — Louisiana Gov. Kathleen Blanco admitted “failures at every level of government" in the response to Hurricane Katrina on Wednesday. New Orleans Mayor Ray Nagin also conceded missteps.

Meanwhile, businesses began to open their doors in New Orleans after the reopening of the city airport and ports.

“Right now we're going forward," said Bruce Hicks, spokesman for Starwood Hotels. Starwood owns the Sheraton, one of the first of several big downtown hotels to reopen. “The city must have this and other hotels to house the thousands of people who come in here to rebuild."

In an evening address to a special meeting of the state Legislature in Baton Rouge, Blanco said she shouldered blame for her state's situation.

“The buck stops here, and as your governor, I take full responsibility,” said Blanco, a first-term Democrat.

“We all know that there were failures at every level of government: state, federal and local. At the state level, we must take a careful look at what went wrong and make sure it never happens again,” she said.

Nagin also struck a more conciliatory note.

“We could have all done things better,” Nagin said.

Blame has been rampant over the sluggish evacuation of New Orleans as the storm bore down and the failure to rescue everyone caught in the aftermath of Hurricane Katrina. President Bush, who will address the nation this evening about Katrina, has said he accepts responsibility for federal failures.

In New Orleans, pumps working around the clock had reduced floodwaters that covered 80% of the city to about half of the city.

Traffic, very limited last week, has increased as more business owners return to inspect their property.

About 168,000 customers were still without power. Electricity cannot be restored until areas are drained. “It's all about power,” said Bubby Valentino, 58, who owns three hotels in the French Quarter that needed only a few repairs.

“If we can get power back and get air circulating in these rooms, we're OK,” Valentino said.

The number of Gulf Coast deaths from Katrina rose to 708, including 474 in Louisiana.

In Washington, a Senate committee held a hearing on the disaster and response. Sen. Susan Collins, R-Maine, the chairwoman, said expensive changes in the government's emergency-preparedness system made after the Sept. 11 terrorist attacks had failed their first major test during Katrina.

Given the billions of dollars spent in the past four years, she said, “We would have expected a sharp, crisp response to this terrible tragedy."

“Instead,” she said, “we witnessed what appeared to be a sluggish initial response."

Blanco Takes Blame For State Response (WT/AP)

By Melinda DeSlatte, Associated Press

The Washington Times, September 15, 2005

BATON ROUGE, La. -- Louisiana Gov. Kathleen Babineaux Blanco yesterday took responsibility for failures and missteps in the immediate response to Hurricane Katrina and pledged a united effort to rebuild areas ravaged by the storm.

"We all know that there were failures at every level of government: state, federal and local. At the state level, we must take a careful look at what went wrong and make sure it never happens again. The buck stops here, and as your governor, I take full responsibility," Mrs. Blanco told lawmakers in a special meeting of the Louisiana Legislature.

Mrs. Blanco's statement came a day after President Bush said he would "take responsibility" for federal failures in dealing with Katrina. The Democratic governor, who has criticized the response of federal officials to the storm and subsequent flood that deluged New Orleans, yesterday told legislators that Mr. Bush is "a friend and partner" in Louisiana's recovery effort.

In New Orleans yesterday, test results released showed that floodwaters still pose a health risk because of dangerous levels of sewage-related bacteria and toxic chemicals, potentially delaying the mayor's plan to reopen parts of the city by Monday.

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The Army Corps of Engineers estimates that up to 50 percent of the floodwaters that had covered 80 percent of the city had been removed and said New Orleans would be almost completely drained by Oct. 8.

Pumps are removing more than 8 billion gallons a day, and Mayor C. Ray Nagin was deliberating time frames for reopening parts of the city that are dry, including the French Quarter and Central Business District.

Addressing Louisiana lawmakers yesterday, Mrs. Blanco said she would appoint an outside financial adviser to oversee the expenditure of billions of dollars in federal money that Congress has allocated to help the recovery from the disaster.

"I assure the Congress and every American taxpayer that every nickel will be properly spent," Mrs. Blanco said.

Meanwhile, in Washington, Senate Republicans scuttled an attempt by Sen. Hillary Rodham Clinton, New York Democrat, to establish an independent, bipartisan panel patterned after the September 11 commission to investigate what went wrong with federal, state and local governments' response to the hurricane.

Separately, a Senate committee opened a hearing on the disaster, with the panel's Republican chairman saying that changes instituted after September 11 in the government's emergency preparedness failed their first major test during Katrina.

With billions of dollars to boost disaster preparedness at all levels of government, "we would have expected a sharp, crisp response to this terrible tragedy," said Sen. Susan Collins, Maine Republican. "Instead, we witnessed what appeared to be a sluggish initial response."

The official death toll from Hurricane Katrina rose to 708 yesterday after Louisiana confirmed 51 more deaths. In addition to Louisiana's 474 deaths, 218 deaths have been recorded in Mississippi, two in Alabama and 14 in Florida, according to officials in the different states.

At least two of the Katrina evacuees scattered across the country have committed suicide, and 55 others have died, authorities said yesterday.

Most of the post-Katrina dead were elderly or already sick, with heart conditions, cancer or other terminal illnesses, authorities said. Many had been living in hospitals, hospices and nursing homes. Several suffered heart attacks.

On Tuesday, Mrs. Blanco had lashed out at the Federal Emergency Management Agency (FEMA), saying she was "outraged" at the slow pace of recovering bodies of those who perished in the storm. Yesterday, FEMA responded by saying that Louisiana officials asked to take over the effort last week.

"The collection of bodies is not normally a FEMA responsibility," FEMA spokesman David Passey said.

According to documents released by the state yesterday, Kenyon International Emergency Services was hired Tuesday to recover, document and handle the bodies of the victims of Hurricane Katrina. The contract will cost almost $119,000 a day for two months.

"It's going to take months, maybe years," said Dr. Louis Cataldi, the coroner for Baton Rouge Parish. "This is not going away."

Louisiana transportation officials estimated yesterday that about 1.2 million people were evacuated from the metropolitan New Orleans area in the two days leading up to Katrina's Aug. 29 landfall and that many of those people are still scattered in other states.

Despite speculation that some would prefer to settle in their new towns, Mr. Nagin expected most would return and rebuild.

"I know New Orleanians," he said. "Once the beignets start cooking up again and the gumbo is in the pots and red beans and rice are served on Monday -- in New Orleans, and not where they are -- they're going to be back."

A day after Mr. Nagin said the city is essentially broke, New Orleans' already beleaguered school system announced that it would also need federal assistance to keep paying its teachers.

Dan Packer, chief executive of Entergy New Orleans, said the company had restored power to 75 percent of the 1.1 million customers who were out at the height of the storm, mostly in Mississippi and areas of Louisiana north and west of New Orleans.

President Bush will arrive in Louisiana today to deliver a prime-time televised speech to the nation.

Hearings To Shape FEMA's Future (WSJ)

By Robert Block

The Wall Street Journal, September 15, 2005

WASHINGTON -- Congress opened hearings yesterday to figure out what went wrong in the immediate response to Hurricane Katrina and resolve the question of what is to become of the Federal Emergency Management Agency.

FEMA has become synonymous with the government's bungled response to the hurricane, with a number of politicians saying part of the problem is that the agency is no longer cabinet-level but rather a small cog in the mammoth Department of Homeland Security.

Prominent Democrats, such as Sen. Hillary Clinton of New York, have proposed bills that would make FEMA an independent agency -- a move enthusiastically endorsed by several state emergency managers, who are effectively FEMA's "clients." To them, FEMA's mission to help states prepare for "all hazards" -- from tornadoes to terrorism -- got lost as the department's policies and funding programs became increasingly terrorism-centric.

But yesterday's hearings showed that such a move has far from unanimous backing in the Senate. Susan Collins, a Maine Republican and chairwoman of the Senate Homeland Security Committee, said she would explore the idea but cautioned her colleagues against making any hasty moves. "My inclination is that FEMA should be part of the Department of Homeland Security," she said.

Ms. Collins was one of the main architects of the legislation that subsumed FEMA, along with 21 other agencies, into a new Department of Homeland Security in 2003. The creation of the department, the biggest shake-up of the government since the creation of the Pentagon after World War II, came in response to the 2001 terrorist attacks and was supposed to have solved many of the same problems that surfaced after Katrina.

Ms. Collins noted that Katrina was the first major test that the government's new bureaucracy has faced since 9/11, and "this structure failed to meet our expectations."

That said, some security experts say that moving FEMA might help how the country deals with natural disasters, but could undermine Homeland Security's efforts to respond to acts of catastrophic terrorism. A relationship between Homeland Security and an independent FEMA could also be complicated: Who will be in charge of running response efforts during disasters? Will there be two separate plans and chains of command for terrorist-related events and nonterrorism-related events? There could be a significant duplication of efforts and confusion that further undermine the country's emergency-response system.

"Making FEMA a separate agency reporting directly to the president won't in and of itself solve anything," says Clark Kent Ervin, the former inspector general for Homeland Security. "The danger is that people will assume that such an organizational change will fix the problem, when an independent FEMA will be caught just as flat-footed when disaster next strikes if it still has leaders who fail to plan and prepare for utterly foreseeable catastrophes."

Another option on the table is to transform FEMA into a super-emergency preparedness and response division inside Homeland Security. Although Congress actually created such a division in the department, the preparedness part of the job was stripped away and put in a completely separate entity elsewhere in the department. It reports directly to the Homeland Security secretary and has become the main distributor of grants to first responders, a job that was once central to FEMA.

The idea would be to reintegrate these preparedness and planning functions along with control over grant money back into a single department that is effectively run by FEMA. Putting planning, preparedness and response all back under one roof is considered by emergency officials as essential to maximizing a federal disaster response, whether or not FEMA is an independent agency.

"FEMA's in a fix at this point, and there are no quick answers for rebuilding its strength," says University of Maryland Visiting Professor R. Scott Fosler, who played a major role in overhauling FEMA in the 1990s after its poor performance in the wake of Hurricane Andrew in 1992.

Whatever the decision, many emergency managers are arguing for a better balance between how the country prepares for terrorism and natural disasters. "Many people regard Hurricane Katrina as an event. It's not. It's part of a continuum. There will be another like it for sure." Iain Barclay Logan, of the International Red Cross, told Ms. Collins's committee.

Lawmakers said they did not ask officials from FEMA or the Homeland Security Department to appear at the hearing out of fear that would disrupt recovery efforts. Instead, a slew of former city and state officials who have faced major disasters in their communities -- from former California Gov. Pete Wilson to former New Orleans Mayor Marc H. Morial -- offered their advice on how to best help stricken communities get back on their feet.

The hearing marked Congress's first step in investigating major gaps in the country's readiness and response systems that Katrina exposed. It comes as Republicans and Democrats continue to debate whether to appoint an unusual House-Senate panel to investigate the matter, or to create an independent commission much like the one that examined government missteps before and after the Sept. 11, 2001, terror attacks.

At FEMA, Disasters And Politics Go Hand In Hand (NYT)

By Alan B. Krueger

The New York Times, September 15, 2005

AS we are all aware," James Lee Witt told Congress in April 1996, when he was director of the Federal Emergency Management Agency, "disasters are very political events."

There is much truth to Mr. Witt's statement. Research on the spending patterns of the emergency management agency shows that, to a significant degree, the agency is influenced by political concerns that are distinct from the suffering and destruction wrought by natural disasters, under both Democratic and Republican administrations.

Although declaring a disaster should be clear-cut and above politics, the legislation that governs FEMA gives the president much discretion to decide whether an event is a disaster that qualifies for assistance. Upon receiving a request by a state's governor, the president may declare a "major disaster" if a natural catastrophe "causes damage of sufficient severity and magnitude to warrant major disaster assistance."

While no one would doubt that a disaster of the magnitude of Hurricane Katrina deserves the full commitment of the federal government, the language in the FEMA law is vague enough to count two feet of snow in Ohio as a major disaster, as was the case last December.

Indeed, the law specifically prohibits the use of an "arithmetic formula or sliding scale" to deny assistance. So, disaster requests are not evaluated based on standard quantitative evidence; instead, declarations involve subjective judgment.

Not surprisingly, in this vacuum presidents have displayed a tendency to declare more disasters in years when they face re-election. Mary W. Downton of the National Center for Atmospheric Research and Roger A. Pielke Jr. of the University of Colorado, Boulder, for example, looked at the flood-related disasters that were declared from 1965 to 1997 in an article published in "Natural Hazards Review" in 2001. Even after accounting for the amount of precipitation and flood damage each year, they found that the average number of flood-related disasters declared by the president was 46 percent higher in election years than in other years.

The tendency to declare more disasters during election years is not limited to floods. President Bill Clinton set a record by declaring 73 major disasters in 35 states and the District of Columbia in 1996, the year he was up for re-election.

When George W. Bush faced re-election in 2004, he declared 61 major disasters in 36 states - 10 more than in 2003 and tied for the second highest number of major disaster declarations ever, according to data provided by FEMA.

The increase from 2003 to 2004 was particularly sharp in the 12 battleground states in which the election was decided by 5 percent or less; these states had 17 major disasters declared in 2004 but only 8 in 2003, and, therefore, accounted for 90 percent of the increase.

In perhaps the most thorough econometric analysis of the politics of FEMA disaster funds to date, Thomas A. Garrett of the Federal Reserve Bank of St. Louis and Russell S. Sobel of West Virginia University concluded in a study published in "Economic Inquiry" in 2003 that Congressional as well as presidential politics play a role in allocating payments. Specifically, they examined factors related to the number of disasters declared in each state from 1991 to 1999, and the dollar amount of assistance provided.

Of course, a state may be particularly unlucky in any given year and be struck by an unusually large number of destructive storms. To account for this effect, they controlled statistically for the value of private insurance property claims from disasters in a state each year and the amount of Red Cross assistance provided. States that incur greater insurance losses and receive more aid from the Red Cross in a particular year are undoubtedly in greater need of emergency assistance.

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It is reassuring to note that FEMA payments are substantially greater when the Red Cross provides more aid or private insurance losses are greater, suggesting that more generous FEMA payments do reach states that suffer more severe damage from disasters.

Nonetheless, Mr. Garrett and Professor Sobel conclude that Congressional and presidential politics play an important role in allocating FEMA assistance. Most important, they find that the amount of disaster relief provided per incident increases with the number of representatives a state has on one of the FEMA oversight committees in the House of Representatives. Having an additional representative on either of the two main House oversight committees is associated with an extra $36.5 million of assistance from FEMA, they found.

This figure may seem to overstate the role of politics because representatives from states prone to be hit by disasters probably seek out seats on FEMA oversight committees. But recall that the analysis simultaneously adjusts for the amount of Red Cross assistance and private insurance losses from disasters each year. So, having Congressional representation on an oversight committee appears to matter even when compared with disasters in other states that cause roughly the same amount of damage and suffering.

Interestingly, representation on a Senate oversight committee does not have a detectable effect on FEMA payments, perhaps because disasters are often local events that more intensely affect House members' constituents.

All told, Mr. Garrett calculates that a third of FEMA payments are directly attributable to representation on one of the nine FEMA Congressional oversight committees, independent of the disaster's severity.

When Congress turns to evaluating the Hurricane Katrina disaster, it should also consider sharpening FEMA's mission. One helpful step would be to define more precisely the requirements necessary for the president to declare a disaster. For example, disaster payments could be restricted to events that cause damage exceeding a specified threshold or significant loss of life. Long before Hurricane Katrina, it should have been apparent that FEMA needed to focus more on alleviating and preventing suffering from major catastrophes and less on delivering pork to voters at election time.

Sick And Abandoned (NYT)

By Bob Herbert

The New York Times, September 15, 2005

It was the stuff of nightmares. Poisonous water moccasins were swimming in the filthy water of the flooded first floor, and snipers, rats and even a 12-foot alligator were roaming the treacherous area just outside the hospital's doors.

"To me, it was like being in hell," said Carl Warner, the chief engineer for Methodist Hospital in the hard-hit eastern part of New Orleans. "There were bodies floating in the water outside the building, and our staffers had to swim through that water to get fuel for the generator."

The patients and staff at Methodist could have been evacuated before Hurricane Katrina hit. But instead they were condemned to several days of fear and agony by bad decision-making in Louisiana and the chaotic ineptitude of the Federal Emergency Management Agency. Some of the patients died.

Incredibly, when the out-of-state corporate owners of the hospital responded to the flooding by sending emergency relief supplies, they were confiscated at the airport by FEMA and sent elsewhere.

The time to evacuate the hospital was when it became clear that New Orleans was in the path of a Category 4 or 5 hurricane. "We had about 137 patients," said Dr. Jeffrey Coco, the hospital's chief of staff, "and we had a company called Lifeguard that was going to take them out."

But apparently there was a reluctance to evacuate without some sort of governmental guidance. When the mayor of New Orleans, Ray Nagin, issued a mandatory evacuation order, hospitals were exempted. Dr. Fred Cerise, secretary of Louisiana's Department of Health and Hospitals, said Methodist officials could have decided on their own to evacuate, but that never happened.

Some of the patients were extremely ill, requiring ventilators or dialysis treatment or major surgery. When the hurricane hit, part of the roof blew off, windows were blown out, the atrium was badly damaged and the hospital was drenched with rain. On Monday night the power went out, and on Tuesday, after the levees broke, the first floor became hopelessly flooded.

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By midweek you had a bizarre situation in which hundreds of people (patients, doctors, nurses, administrative staffers, relatives and people seeking emergency shelter) were stranded, cut off from the rest of the world, in a badly damaged hospital in a major American city.

Staffers with flashlights worked heroically in a sodden, stench-filled environment in which temperatures reached 110 degrees. Elevators did not work, and some patients weighing more than 400 pounds had to be carried up dark, reeking staircases. When ventilators shut down with the loss of power, volunteers worked in shifts to do the difficult hand-pumping necessary to keep patients alive.

Nevertheless, according to Dr. Albert Barrocas, the chief medical officer, the decline in the well-being of the patients was both palpable and widespread. "All of them were deteriorating in the sense of becoming weak," he said. "You could see in their faces the fact that they were scared."

By Tuesday evening four patients had died, and a dozen were dead by the time the hospital was finally evacuated Friday. Doctors believe half of the deaths were caused by the dreadful conditions in the hospital.

Everybody's suffering would have been eased if the emergency relief effort mounted by the hospital's owner, Universal Health Services in King of Prussia, Pa., had not been interfered with by FEMA. Company officials sent desperately needed water, food, diesel fuel to power the hospital's generators and helicopters to ferry in the supplies and evacuate the most vulnerable individuals.

Bruce Gilbert, Universal's general counsel, told me yesterday, "Those supplies were in fact taken from us by FEMA, and we were unable to get them to the hospital. We then determined that it would be better to send our supplies, food and water to Lafayette [130 miles from New Orleans] and have our helicopters fly them from Lafayette to the hospital."

Significant relief began to reach the hospital on Thursday, and by Friday evening everyone had been removed from the ruined premises. They had endured the agonies of the damned, and for all practical purposes had been abandoned by government at all levels.

When you consider that the Methodist Hospital experience was just one small part of the New Orleans catastrophe, you get a sense of the size of the societal failure that we allowed to happen.

Welcome to the United States in 2005.

Separate Inquiry Fails To Gain Support (WP)

By Spencer S. Hsu And Josh White

The Washington Post, September 15, 2005

The Senate voted along party lines yesterday to reject creation of an independent panel to investigate the government's fumbling response to Hurricane Katrina.

The proposal, from Sen. Hillary Rodham Clinton (D-N.Y.), would have established a panel similar to the one that examined the Sept. 11, 2001, terrorist attacks. The partisan wrangling came amid rising calls from members of both parties to change how the nation manages major disasters.

Senior Republicans proposed such critical fixes as streamlining how the president can order the U.S. military to enforce law and order, and funding compatible radio systems for use in emergencies.

The need for new radios was a major finding of the Sept. 11 commission, whose former members met yesterday and decried that, more than four years after the terrorist attacks, the federal government's command systems, plans and laws remain uncoordinated and unready for a catastrophe such as Katrina.

"There are distinct similarities between Katrina and 9/11, between what was known beforehand and how the government responded to pending dangers," said Sen. Daniel K. Akaka (Hawaii), echoing fellow Democrats' calls for an outside inquiry. "In the four years since 9/11, we should have done a better job in preparing to protect Americans."

"It is Congress's responsibility," countered Sen. George V. Voinovich (R-Ohio). "By golly, we're going to get into the bowels of the Department of Homeland Security and make sure the next time around, it will be able to get the job done."

The House and Senate GOP leadership plan to form a joint congressional investigative committee with a Republican majority. A House vote is scheduled for today. Democrats oppose the move.

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The stalemate over the makeup of the panel muted the first hearing in Congress into the Katrina response led by the Senate Committee for Homeland Security and Governmental Affairs. Chairman Susan M. Collins (R-Maine) promised "to lay bare the painful evidence of human errors that have added to the damage."

Witnesses included former California governor Pete Wilson, in office for the 1992 Los Angeles riots and 1994 Northridge earthquake, and Patricia A. Owens, who was mayor of Grand Forks, N.D., during the 1997 flood there. They emphasized the need for recovery efforts and called for a single federal "czar" to take charge.

Collins and Sen. Joseph I. Lieberman (D-Conn.) will call for building unified radio systems for responders in an upcoming emergency hurricane spending bill, atop $62.3 billion Congress has already spent, Collins spokeswoman Jen Burita said.

Senate Armed Services Committee Chairman John W. Warner (R-Va.) wrote Defense Secretary Donald H. Rumsfeld last night urging a legal review of the use of active-duty troops in domestic emergencies and announced his intent to rename a key martial law statute called the Insurrection Act.

Warner said renaming the law -- used by presidents to fight the Civil War and to integrate schools in Arkansas and Alabama -- would ease political barriers to the presidential exercise of such authority. White House aides cited such concerns in deciding not to federalize state National Guard units to do police work after the storm hit.

"The President should not have to worry about misperceptions by the public based upon outdated wording that does not accurately describe what the armed forces may be doing in a particular emergency," Warner wrote.

Military officials resist federalizing troops because of concerns that the action could appear as an occupying force within U.S. borders. Soldiers, Marines and sailors who were sent to help in the wake of Hurricane Katrina were prevented from taking over police functions.

The National Guard -- under control of the governors -- can do police work such as stopping looters and keeping the peace.

Not having a centralized command structure for all federal authorities and the military at the outset caused significant confusion, military commanders said. A lack of communications -- something the military might have been able to supply if called up -- exacerbated problems.

At their meeting yesterday, former members of the Sept. 11 commission offered blistering criticism and issued a report finding that the government has made little or no progress in enacting reforms.

The panel, now operating as the nonprofit 9/11 Public Discourse Project, focused on congressional failure to provide a dedicated spectrum of radio frequencies for use by emergency responders. Such frequencies could have saved lives in New Orleans by allowing police, firefighters and troops to communicate more directly, the commission said.

"It is the same thing we saw on 9/11," said Thomas H. Kean, the former Republican New Jersey governor who chaired the commission, adding: "If Congress does not act, people will die."

Parties Remain Deadlocked On Katrina Investigation (HILL)

By Josephine Hearn And Patrick O'Connor

The Hill, September 15, 2005

Republicans and Democrats remained in a partisan deadlock yesterday as they prepared for a floor vote to determine how to investigate the bungled response to Hurricane Katrina.

Republican leaders have pressed for a GOP-controlled bicameral committee to review the government's handling of the disaster, while Democrats favor an independent panel similar to the Sept. 11 commission.

Republican House leaders plan to bring their proposal to the floor today, despite Democratic opposition, and pass it in a largely party-line vote.

House Majority Whip Roy Blunt (R-Mo.) is confident that his Republican colleagues will back the measure.

"I think we're fine," Blunt said yesterday in response to a question about whether his office would whip the bill. "We've talked to our members. Our members are fine."

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The proposal would set up a 20-member committee consisting of 11 Republicans and nine Democrats on the House side, according to a draft of the resolution. The minority will be extended the ability to call for extra witnesses at hearings. A budget of $500,000 will be provided through the House Administration Committee.

Democrats plan to offer a motion to recommit, a common parliamentary maneuver that would come up shortly before the vote on the Republicans' joint committee and would attempt to create an independent commission. That motion is expected to fail along party lines.

House Minority Whip Steny Hoyer (D-Md.) said he anticipated that the "overwhelming majority" of Democrats would back an independent commission, which will be called for in the motion to recommit.

He hinted that some Democrats may also vote for the Republicans' joint committee.

"That's not a partisan issue. That's a judgment issue," he said.

In the upper chamber, Republicans defeated by a vote of 44-54 an amendment offered by Sen. Hillary Rodham Clinton (D-N.Y.) that would have created a 10-member independent commission evenly divided between Democrats and Republicans. No Senate Republicans voted for the amendment. And Senate Minority Leader Harry Reid (D-Nev.) rejected an offer from Majority Leader Bill Frist (R-Tenn.) to create a joint committee because the proposal did not provide equal representation and subpoena power for Democrats.

Frist has already named Sen. Susan Collins (R-Maine), the chairwoman of the Homeland Security and Governmental Affairs Committee, to lead the Senate investigation. House Speaker Dennis Hastert (R-Ill.) is not expected to name a chairman or members of the investigative committee until the House has passed the bill.

He told reporters yesterday that he wanted to get members on the ground in the hurricane-ravaged states as soon as possible to start the congressional investigation.

Both parties face potential political fallout from the bitter standoff. Democrats could face charges of partisanship for failing to go along with the Republicans' joint panel, a type of committee that has been used dozens of times in recent decades to investigate different administrations, including the Iran-Contra scandal, Republicans argue.

Democrats counter that the circumstances were different during the 1980s because Democrats controlled Congress and were investigating a Republican administration. They also charge that congressional Republicans have shown little enthusiasm for any kind of oversight of the Bush administration and that any investigation controlled by Republicans would amount to a whitewash.

As Republicans go forward with plans for a joint committee, Democrats could be faced with an awkward decision to drop their protest and participate in the committee or remain on the sidelines.

Hoyer noted that Democrats had not yet decided whether they would boycott the committee further down the road.

Dropping the protest at some point remained a possibility, said one Democratic strategist.

"You can fight something and then go grudgingly along. That is an option in order to have some voice in the process," the strategist said. Still, Democrats held the high ground in calling for an independent commission rather than a committee controlled by a party sympathetic to the administration, the strategist added.

Asked if Democrats could be persuaded to support the Republicans' plan if given some concessions, Hoyer said he felt there could be some "wiggle room" but "we want to ensure that there is at least one independent commission with subpoena power."

Some Democratic aides drew parallels between the current standoff over Katrina and an earlier impasse over the structure of the House ethics committee, noting that Democrats had boycotted that committee, forcing Republicans to reverse certain rule changes.

Aside from the current dustup over the botched response to Katrina, the political fallout from the storm is beginning to emerge across the country.

The National Republican Congressional Committee put out a press release late last week criticizing Democratic Rep. Jim Matheson (Utah) for voting against the emergency spending bill to fund the Katrina cleanup, only to have The Salt Lake Tribune publish a long article about how the allegations were untrue. Matheson voted against one of the rules leading up to the spending bill.

In fact, the only members to vote against the first emergency spending bill were Republicans. Eleven House conservatives voted against the bill for various reasons, but primarily in protest of a lack of oversight for the funds.

In addition, President Bush has suffered career-low approval ratings in the wake of a slow federal response to the disaster. Michael Brown, the former director of the Federal Emergency Management Agency, resigned earlier this week.

A large majority of Americans favor an independent oversight committee in the mold of the Sept. 11 commission, according to an ABC News/Washington Post poll from over the weekend.

Clinton's Attempt To Form Katrina Panel Rejected (WT/AP)

By The Associated Press

The Washington Times, September 15, 2005

Senate Republicans yesterday scuttled an attempt by Sen. Hillary Rodham Clinton to establish a panel patterned after the September 11 commission to investigate what went wrong with federal, state and local governments' response to Hurricane Katrina.

The New York Democrat's bid to establish the panel -- which also would have made recommendations on how to improve the government's disaster-response apparatus -- failed to win the two-thirds majority needed to overcome procedural hurdles. Mrs. Clinton's proposal received 44 votes, all from Democrats and independent Sen. James M. Jeffords of Vermont. Fifty-four Republicans all voted no.

"Just as with 9/11, we did not get to the point where we believed we understood what happened until an independent investigation was conducted," Mrs. Clinton said.

The Senate vote likely won't be the last word on whether to create an independent commission or, as an alternative, a special congressional committee to investigate the Katrina response. A CNN/USA Today/Gallup poll taken last Thursday through Sunday found that 70 percent of those surveyed supported an independent panel to investigate the government's response to Katrina.

Senate Minority Leader Harry Reid, Nevada Democrat, has rebuffed a bid by congressional Republican leaders to create a committee patterned after the 1987 Iran-Contra panel, which would have a Republican majority -- reflecting their dominance of Congress.

Mr. Reid instead has vowed that any bid by Republican leaders to establish a special bipartisan committee involving lawmakers from both the House and Senate will go forward only if Democrats have equal representation.

Separately, Senate Homeland Security and Governmental Affairs Committee Chairman Susan Collins, Maine Republican, said yesterday that post-September 11 changes to improve the government response to disasters failed their first major test in Hurricane Katrina's aftermath.

Despite billions of dollars to boost disaster preparedness at all levels of government, the response to Katrina was beset by confusion, communication failures and lack of coordination, Miss Collins said as she opened hearings into the disaster.

"At this point, we would have expected a sharp, crisp response to this terrible tragedy," she said. "Instead, we witnessed what appeared to be a sluggish initial response."

Sen. Joe Lieberman of Connecticut, the top Democrat on the committee, said the response to Katrina "has shaken the public's confidence in the ability of government at all levels to protect them in a crisis."

Lawmakers said they did not ask officials from the Federal Emergency Management Agency or the Homeland Security Department to appear at the hearing out of fear of disrupting the ongoing recovery process in the battered Gulf Coast. Instead, numerous former city and state officials testified about their experiences in facing major disasters in their communities.

Calling Katrina a "national tragedy," former New Orleans Mayor Marc H. Morial put the primary responsibility for disaster response on the federal government.

Finding Relief -- Slowly (WP)

By Keith L. Alexander And Nell Henderson

The Washington Post, September 15, 2005

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BATON ROUGE, La., Sept. 14 -- First they had to ride out a howling storm. Then find shelter. Then food and water. Now, the thousands of families driven from their homes by Hurricane Katrina face the daunting challenge of applying for financial assistance under a dizzying mix of government programs.

The Congressional Budget Office has estimated that the storm wiped out about as many as 400,000 jobs in Louisiana, Mississippi and Alabama, prompting a surge in new claims for unemployment insurance benefits.

Many of the affected workers and their families are also newly eligible for food stamps, Medicaid, housing assistance, subsidized school lunches, emergency cash assistance from the Federal Emergency Management Agency and other programs. But many have never received such benefits and will have to navigate through multiple government agencies to find out if they qualify and how to apply.

"The baffling problem is that each of these programs is its own bureaucracy," said Sheila R. Zedlewski, director of Income and Benefits Policy at the Urban Institute. Many poor people who are eligible for these benefits "don't apply because the process is so cumbersome and the system is so difficult to understand."

And that's in normal times -- without a hurricane that has closed many government offices and downed telephone lines in hard-hit areas.

Shelleand Terry, 48, said she and her daughter Erica, 25, had both tried for two weeks to apply for unemployment insurance benefits but were frustrated by long lines and busy signals. They got through by telephone Sunday but were told they still had to drive about an hour from Napoleonville, La., to the Baton Rouge office to activate their benefits in person.

"We are spending all our money on gas, and we still haven't received any benefits," Shelleand Terry said. "This is so frustrating and hard."

Efforts are being made to streamline the process for Katrina survivors. The Red Cross and AFL-CIO have set up emergency centers where evacuees can use computers and telephones and receive guidance on how to apply for various programs. And because many families lost financial records in the storm, several state social-service agencies are asking claimants for documents "if possible" to prove they are eligible for programs.

Due to their evacuee status, people who fled their home states because of Katrina can apply for all federal benefits without having to produce the usual records proving eligibility, according to the federal Centers for Medicare and Medicaid Services.

Progress is occurring gradually. Take jobless claims, for example. Last week, the U.S. Labor Department estimated that only 10,000 hurricane survivors had filed new claims for unemployment insurance benefits. By today, more than 200,000 new claims had been filed by residents of Louisiana, Alabama and Mississippi, according to the labor agencies in those states.

In Louisiana and Mississippi, state employees are seeking out workers in their homes and in shelters to help them fill out jobless claims by hand.

"We've gone to virtually every shelter in the state," said Ed Pratt, press secretary for the Louisiana Department of Labor.

In Louisiana, union members are "knocking on the doors of residents to reach out to workers about how to register" for the range of available benefits, AFL-CIO President John J. Sweeney said in an interview Tuesday.

Adding to the complications, tens of thousands of evacuees are scattered across the country, living with relatives, in church shelters or in facilities such as the Houston Astrodome and the D.C. Armory.

Texas Workforce Commission employees are taking claims from Louisiana evacuees living at the Astrodome. And more than 60,000 displaced Louisiana residents have filed from out of state by telephone or online, Pratt said.

Meanwhile, other unemployed gulf state workers will have to be persistent to file a claim. B.J. Fink, 26, of New Orleans, said he and his girlfriend first tried to apply for unemployment benefits three days after the hurricane hit. They waited in line for more than three hours. When the two finally made it inside to see a counselor, the overworked office computer crashed. They returned today to try to complete their applications. "They got lost in the process, I guess," he said.

Many displaced residents will find that their benefits don't buy as much in the higher-cost communities where they've settled, from California to the Washington area.

"It's hard to imagine how they are going to make ends meet in the cities where they have landed," said Jared Bernstein, a senior economist with the Economic Policy Institute, a think tank that focuses on labor issues.

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Wherever evacuees have arrived, their unemployment benefit will be based on their previous earnings in the state they've left behind. The amounts are determined by the states according to different income-based formulas and carry maximum amounts; the national average for this cap is $377.18 per week.

Mississippi's maximum unemployment benefit, at $210 per week, is the lowest in the country, according to Department of Labor figures. Alabama's maximum, at $220 per week, is the second lowest. Louisiana's limit, at $258 a week, is the sixth lowest.

Meanwhile, a family of two adults and two children normally needs $715 a week to cover the basic cost of living in Baton Rouge, according to EPI. But many evacuees have moved to areas with much higher living costs. A family of four needs $756 per week to cover living expenses in Houston; that same family needs $1,182 a week to live in the Washington area, according to EPI. The national median cost of living is $769 per week.

Some of the evacuees are going to find jobs in their new communities, many of which will pay higher wages, reflecting the steeper cost of living, Bernstein said. "The people you need to worry about are those who are unemployed in the city where they've landed, trying to get by in a northern city on unemployment benefits from a southern state."

Other benefits are available. FEMA, for example, is offering a lump sum of $2,000 per household in cash assistance. Food-stamp benefits vary slightly by state, due to differences in eligibility rules; the average monthly benefit per person last year was $85.85 in Alabama, $89.03 in Louisiana, and $79.81 in Mississippi.

Other health, housing and welfare programs are funded by the federal government but administered by the states, with benefits reflecting diverse eligibility and participation rules.

The first Louisiana claimants should start receiving their unemployment benefits late this week or early next week, Pratt said.

While the hurricane victims grow frustrated with the application process, the extra efforts being made on their behalf are stirring resentment among some state residents who lost their jobs before the storm. Nataisha Phifer, 34, of north Baton Rouge, hasn't worked since June, when she lost her job as a saleswoman at Dillard's department store. Phifer says that now she has to stand in longer lines and compete for jobs with those who have been displaced by the hurricane.

"I'm very compassionate, and I understand what they're going through," Phifer said. "But it's frustrating. It seems we've been pushed to the back of the line behind them."

Inside The Beltway (WT)

By John McCaslin

The Washington Times, September 15, 2005

Still Republican

"Thank you for writing an article that contains an astute and accurate framing of the issue that resulted in resignations by some individuals associated with the [National Black Republican Association]," writes Frances Rice, chairman of the NBRA, albeit she wants to clarify several points made in this week's Inside the Beltway column.

She states that through "a majority vote of the executive committee, NBRA press releases were prepared and distributed to the media in support of President Bush, as the head of the Republican Party, regarding the Supreme Court nomination of Judge John G. Roberts Jr. and Hurricane Katrina."

That said, Ms. Rice reveals: "Several members of the NBRA inactive board of directors, who had been permitted to participate in the open meetings of the executive committee, and two members of the executive committee stated that the National Black Republican Association should not support the Republican Party."

Recognizing "a division" over the main purpose of the NBRA, she says that with the approval of the executive committee she sent a letter to each member of the executive committee requesting they sign and return a statement supporting the NBRA's bylaws.

"The dissension over the purpose of the NBRA led to five of the seven members of the inactive board of directors resigning, and one of the five members of the executive committee," she confirms.

Ms. Rice adds that "several black Republicans from across the country" have indicated interest in the NBRA leadership vacancies, including Rev. Wayne Perryman of Washington state, author of Unfounded Loyalty.

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Finally, she assures us that the NBRA will continue its obviously unwavering support of the Republican Party.

Throwing $ at Katrina

The $60-plus billion "down payment" Congress doled out thus far in response to Hurricane Katrina "is already twice the annual budget for the Department of Homeland Security."

So reveals Rep. Jim Kolbe, Arizona Republican, who -- given the staggering dollar figures -- has introduced the "Special Inspector General for Hurricane Katrina Recovery Act of 2005," seeking to appoint an independent inspector general to oversee continued funding efforts.

Rep. Jeb Hensarling, Texas Republican, agrees that Capitol Hill "must do everything necessary" to help Katrina's victims, but stresses "Congress must also use its head."

Which means, he says, that "Congress cannot continue to fund projects like the $800,000 outhouse, $1.2 million for panda research or the $1 million rain forest in Iowa."

Sam's "Top 10"

Not happy with your job? Be advised that the best places to work in the federal government are, in order, the Office of Management and Budget, the National Science Foundation and the Nuclear Regulatory Commission.

Some 150,000 executive branch employees surveyed by the Office of Personnel Management, in conjunction with the Partnership for Public Service and American University, say the remainder of the 10 best places to hang your bureaucratic hat: the Government Accountability Office, Securities and Exchange Commission, NASA, General Services Administration, Environmental Protection Agency, Department of Energy and the State Department.

Sea of regimes

Just returning from leading a delegation to terrorism-torn Iraq is Rep. Mike Pence, Indiana Republican, who kept a diary of the trip. One entry catching our eye notes that a fellow congressman asked Iraqi Defense Minister Sadoun al-Duleimi what neighboring nation represented the greatest challenge to peace within Iraq?

To which the minister replied, "All of them." He then added, "Kuwait is OK."

"It was an illuminating moment," the diary reads. "I will never forget that this new Iraq is, with one exception, floating in a sea of authoritarian regimes with long histories of association with terror among their people and their governments."

Kissing cousin

King Harald V of Norway is to arrive in Washington for this weekend's dedication of a bronze statue of Crown Princess Martha on the Norwegian Embassy grounds.

The princess died in 1954, three years before her crown prince husband -- and cousin -- became Norway's King Olav V.

9/11 Panelists Fault Storm Response (WSJ)

By Scot J. Paltrow

The Wall Street Journal, September 15, 2005

WASHINGTON -- Members of the independent commission that investigated the Sept. 11, 2001, terror attacks said the federal government's poor response to Hurricane Katrina underscored its failure to adopt urgent recommendations the commission made more than a year ago to enhance emergency preparedness.

Thomas Kean, the former governor of New Jersey who was chairman of the 9/11 panel, said many of the steps should have been taken immediately after the 2001 attacks. He also said quick implementation of certain commission recommendations issued more than a year ago "could have saved peoples' lives" in New Orleans.

The commissioners' assessment comes as the Bush administration struggles to contain political damage from its often disjointed response to the hurricane. Although the commission officially was disbanded last summer, its members have continued to press for implementation of their recommendations. In recent months, through public hearings and examination of records, they have made the first formal assessments of how far federal, state and local authorities have come in carrying out their proposals.

Last July, the bipartisan, 10-member commission issued a final report of its investigation into the attacks and their aftermath. It contained numerous recommendations on topics such as emergency preparedness and U.S. foreign policy. Earlier

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this summer, the former commissioners held hearings to assess compliance with their recommendations. Their "report card," issued yesterday on emergency readiness, is the first of several they are expected to issue in coming weeks on the different categories of their proposals.

The commissioners in a written report gave failing grades to the response on 11 of 14 recommendations related to emergency preparedness. They noted, for example, that little progress has been made in awarding additional radio frequencies to fire, police and other emergency responders. Proposals to do this have been stalled in Congress by opposition from television broadcasters, who want to delay relinquishing frequencies until 2009.

They faulted both the federal and local governments for failing to establish a system for clear-cut command and coordination in the event of disasters. And they singled out the Department of Homeland Security for failing to meet statutory deadlines that passed months ago to issue reports on the vulnerability of "national critical infrastructure" and on transportation security.

A DHS spokeswoman said the department just last week gave a classified report on transportation security to Congress, and noted that it is continuing to work on the report on infrastructure, "taking the time to do it properly."

The commissioners, who despite deep political differences had been unanimous in their recommendations, were split over current calls to form an independent commission similar to their own to investigate the Katrina response. In a party-line vote the Senate rejected a Democratic proposal to form such an independent commission. Republicans favor an inquiry by a special House-Senate investigative committee.

While several Democrats on the commission, including former Rep. Tim Roemer, said such an inquiry would help establish what needs to be done, John Lehman, a Republican former secretary of the Navy, said the media already had done a thorough job of investigating and exposing what went wrong.

Commission Criticizes Storm Response (NYT)

By Philip Shenon

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 - The members of the 9/11 commission criticized the Bush administration and Congress on Wednesday for "minimal progress" in enacting many of the panel's year-old recommendations to bolster domestic security agencies and their ability to respond to terrorist attacks and natural disasters like Hurricane Katrina.

In a unanimous privately financed report, the 10 former commissioners found that there had been little or no action by the White House and Congress to enact many of its recommendation on domestic security.At a news conference here to release the report, the commissioners expressed astonishment at what they described as the federal government's disastrous performance in responding to Hurricane Katrina, saying it suggested that Washington was also ill prepared to deal with another catastrophic terrorist strike.

The report was issued under the auspices of an education group that the five Republicans and five Democrats on the commission created as the panel was going out of business last year.

John F. Lehman, a Republican on the panel who was a Navy secretary in the Reagan administration, said he feared that the "unconscionable" failures of the rescue effort along the Gulf Coast would embolden terrorist groups to attack again on American soil, making quick adoption of the commission's year-old recommendations all the more important.

Katrina's Lesson: US 'Not Safe' Enough (CSM)

By David Cook

The Christian Science Monitor, September 15, 2005

WASHINGTON - Some Americans perished needlessly in hurricane Katrina because the US government has not adopted several reforms urged by the Sept. 11 commission.

That is the view of former commission chairman Thomas Kean and vice-chairman Lee Hamilton. The two now lead the 9/11 Public Discourse Project, a successor to the National Commission on Terrorist Attacks.

"A number of our recommendations were in the area of emergency preparedness. Many of those recommendations have not been implemented. We believe had they been implemented that the tragedy might have been less severe in terms of human

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lives," Mr. Kean said at a Monitor breakfast. "Do we have to wait for another national emergency to get some of these things done?"

Hurricane Katrina has altered Mr. Hamilton's assessment of overall security. "We often said during ... the 9/11 hearings that we were safer but not safe," he said. "What struck me after Katrina was that we were not as safe as I thought we were."

Two reforms are vital in the post-Katrina world, they argue. One is to make clear who is in charge at the federal level during emergencies. The other, they say, is to require every state to adopt a detailed command-and-control plan for disasters - and link it to receiving funding from the US Department of Homeland Security.

"It was obvious that nobody knew who was in charge when Katrina struck. We had the same problem on 9/11," Kean said. "If you don't have a unified command structure with somebody in charge and somebody following through ... it is going to cost lives."

The two also urged Congress to adopt the Sept. 11 panel's plea for homeland-security funds to be allocated on the basis of priority rather than dispensing security money to all states regardless of risk, as is the current practice. "You can't really put the money in the best places until you have identified your priorities," Kean said. The Department of Homeland Security, he noted, missed the deadline for filing a report to Congress ranking the nation's most vulnerable areas.

Hamilton, who spent 34 years in Congress, recognizes the challenges the government faces in moving more quickly on the reforms. "All of these things sound simple, but they really require very, very hard choices by policymakers," he said.

Hamilton warned that "we could easily have a disaster much, much worse than Katrina." The greatest risks to the nation, he says, are a nuclear weapon exploding in a populated area and a biological attack on the food supply. "In setting priorities, you have to prepare for the worst cases," Hamilton said. Given the other threats the United States faces, "I think we have overdone it, personally," by spending an estimated $20 billion to protect passengers and crew on commercial airlines. "We are not preparing for other kinds of threats that would be far more devastating."

As City Dries, Residents Plan Return (WP)

By Peter Whoriskey

The Washington Post, September 15, 2005

NEW ORLEANS, Sept. 14 -- Tens of thousands of New Orleans residents could begin returning to their homes as early as Monday as city and federal authorities have set out an accelerated plan to repopulate the city, reversing earlier estimates that the metropolis could be closed for months.

The plan would reopen a portion of New Orleans that was home to about 170,000 people, or one-third of the city's population, federal officials said, and be rolled out over the next two weeks.

The reentry plan would unfold by Zip code, depending on which section gets power and water utilities online, and how quickly hospital and emergency services can be restored. It involves portions of New Orleans that largely were unflooded: downtown, the French Quarter, Uptown and Algiers.

"The timing of the plan is subject to getting security and health issues in order," said William Lehman, the Federal Emergency Management Agency spokesman for Orleans Parish.

Other portions of the city could remain uninhabited for months, authorities said, as tens of thousands of homes must be drained and many rebuilt.

The legal and political disputes over how authorities responded to Hurricane Katrina also promise to persist, as controversy flared over nursing homes and hospitals that did not evacuate, and over the recovery of the dead.

Louisiana state authorities said Wednesday that they are investigating the Lafon Nursing Home of the Holy Family in New Orleans, where a number of deaths have been reported. They may investigate as many as 18 nursing homes, authorities said.

The state has charged the owners of St. Rita's nursing home in St. Bernard Parish with 34 counts of negligent homicide stemming from patient deaths in flooding from Katrina. State Attorney General Charles C. Foti Jr. said that the owners of the nursing home, Salvador and Mable Mangano, had a legal obligation to evacuate the home.

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The couple's attorney, James Cobb, said that his clients did not evacuate their 60 patients because they believed that their nursing home was safe -- it had never flooded in 20 years -- because St. Bernard Parish officials never ordered a mandatory evacuation and because the Manganos believed that transporting their patients en masse by bus could kill them.

Cobb cited numerous reports of elderly people dying during the evacuation before Katrina. "What do you do? You know if you evacuate, 10, 12 or 14 -- pick a number -- might die on the way out," he said in a cell phone interview.

He described the efforts the Manganos and their children made to rescue patients after the nursing home flooded, getting them onto mattresses to float out through broken windows, and then into boats. "They saved 52 lives," Cobb said. "And their reward . . . is an arrest warrant."

The owners of a New Orleans hospital where 44 bodies were found said they were those of critically ill patients who died in stifling heat after power was cut to the flooded building. Tenet Healthcare Corp. said no one still alive was left behind at Memorial Medical Center in New Orleans.

The death toll for Louisiana reached 474 as the recovery of bodies continued. In response to criticism from Louisiana Gov. Kathleen Babineaux Blanco (D) that the federal effort to bring bodies to the morgues was going too slowly and showed disrespect for the dead, the official in charge of hurricane recovery described a process in which a chaplain accompanied each search team and recited a prayer whenever a body was discovered.

"This is a sensitive process," Vice Adm. Thad W. Allen said at a news conference. "We are mindful of the dignity needed to be afforded each individual."

Less than half the city is now underwater, down from 80 percent at the peak of the flooding. Of the 144 pumps in Orleans Parish, 80 have begun working, Lehman said, up from 20 just days ago. About 50 percent of the phone lines are working, he said.

"We are out of nuclear crisis mode and are into day-to-day crisis mode," Mayor C. Ray Nagin said Tuesday night. He said his decision on reentry, which is expected to be announced Thursday, will depend on air and water quality in the city. According to the Environmental Protection Agency, "every effort should be made to limit contact with flood water due to potentially elevated levels of contamination associated with raw sewage and other hazardous substances." But Nagin said that test results have generally been better than expected.

In the suburbs outside of the heavily hit areas of Orleans, St. Bernard and Plaquemines parishes, residents have begun to come back, waiting either for electricity or the grocery store.

In New Orleans, even those streets in areas least affected by the storm are badly in need of cleanup. Stoplights do not work. Outside restaurants, the stench from two weeks' worth of rotten food is sometimes overpowering. Broken glass litters sidewalks and gutters. In places, fallen brick walls block roadways.

Yet amid the debris, restoration crews and armed troops on the streets Wednesday, some residents were looking forward again -- almost optimistically.

About midmorning, restaurateur Alex Patout was sitting outside his famed French Quarter establishment, sipping champagne.

"Thank God the heart and soul of what New Orleans is all about is basically damage-free," he said. "All we need is electricity -- we want to be one of the first restaurants to open."

He was planning his first menus, but he acknowledges that he is facing a daunting challenge. Of his staff of 40, many of whom lived in east New Orleans, he has located only one.

As he sees it, New Orleans has been split into two very different halves, one flooded, the other dry. Though the dry portion may be better off in some ways, the businesses there depend on the less-fortunate parts for employees.

"That is going to be the biggest nut for this city," he said. "Where is the human infrastructure that makes it run?"

Some Evacuees Relish Chance To Start Anew (WP)

By Shankar Vedantam

The Washington Post, September 15, 2005

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As Donald Henry clung to the side of his New Orleans house and watched as his brother and niece were plucked from his side and drowned by Hurricane Katrina, he had no way of knowing that his own life was about to change dramatically -- for the better.

A few blocks away, Cash Smith floated his two children on laundry hampers and plunged into chest-high waters. It was a journey that would begin in heartbreak but end in tears of joy, as Cash and his family found themselves delivered from a neighborhood under sea level into a new life a mile high, in Denver.

For Henry, Smith and a third evacuee, Vylandrus Dupree, who is now being housed at a resort in Arkansas, the unimaginable disaster has led to an unimaginable gift. Through a series of chance encounters and random decisions made by relief workers, these young African American men find themselves in parts of the country they had never seen before, and each believes there is no going back.

Their stories illustrate the game of chance that the resettlement effort is for so many victims of Katrina. Evacuees enter the relief roulette wheel with little idea whether they will emerge in a dreary shelter or in the cool air of the Ozark Mountains.

"It was just a blessing for me," said Henry, 28, who stepped off a rescue plane and found himself in Michigan for the first time in his life. "I am going to make Michigan my home. I know I ain't going back to New Orleans."

These men know better than most that their stories are exceptional, that thousands of other survivors, including some of their own family members, are still in crowded shelters with few options. Each remains keenly aware of all he has lost. Henry's voice chokes as he describes his drowned family. Dupree's house in Orleans Parish is "totaled." But while Katrina destroyed nearly everything each man owned, it also gave each the kind of options and opportunities that just did not exist for a poor black man in New Orleans: Strangers in strange places are behaving like family.

"I am going to start all over here in Denver," Smith said, speaking from a Marriott TownePlace Suites that has given his family free lodging for two months. Volunteers are helping to set him up with a job.

Dupree, 20, has enrolled at the University of Arkansas, where his tuition, books and supplies are free for the first semester. A clergyman has helped him find work.

"Everyone's friendly, and everyone's willing to help," he marveled. "I am going to try to stay in Arkansas forever."'A New Beginning'

Donald Henry remembers the last thing his brother Clifford told him before they leaped into Katrina's raging floodwaters in the lower Ninth Ward of New Orleans: "If I don't make it, make sure my kids do."

The two brothers and Clifford's girlfriend tethered three children with straps and stepped outside. A neighbor refused to let them in, so the group hung to the side of their own house.

Clifford was the first to go under, after he lost his grip on his brother's ankle. When Henry turned his attention back to the children, pulling on the strap that held them, he found his niece, Serena, had drowned, he said in an interview.

Around them, houses were unfolding like paper, he recalled. A second child had his life jacket ripped off, and went under. Henry, Clifford's girlfriend and the last child finally clambered onto a roof, and then to a higher one. Henry broke into an attic for shelter.

When the rescue boats came, the survivors slept on a bridge the first night. People were being taken to the Superdome, but Henry wanted none of that because he had heard rumors of crowding and rioting there. He wandered around for days, finally getting to the New Orleans Convention Center, from where he was airlifted to the airport.

When he got on an airplane, no one told him where it was headed. After they closed the doors, the word came down: Chicago.

But when the plane pulled into the Windy City, the group ran into a bureaucratic problem. The airplane took off again. When the doors opened, Henry and hundreds of other evacuees emerged to find themselves in Michigan, where Gov. Jennifer M. Granholm (D) had offered to house 1,500 evacuees. Henry was taken to a National Guard facility at Fort Custer near Battle Creek.

"They just got on a plane only knowing they were going to be taken somewhere for shelter, and they ended up happening to come to Battle Creek," said Capt. Aaron Jenkins, a spokesman for the Michigan National Guard. "That's what happened to a lot of people."

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When Henry got off the bus at the base, people were holding signs saying "Welcome" and "I love you."

Henry said he was glad to have been given a way out of New Orleans. He talked about the violence and drugs that had surrounded him there, the "harassment by police" and "false promises" by politicians.

"The Lord was telling me it was time for a change," he said. "I am going to take this opportunity to change my life and start a new beginning.'"What Do I Have to Lose?'

Chad Ladov and two of his friends in Denver had watched the unfolding disaster in New Orleans as had millions of other Americans. One of the friends, Andrew Hudson, worked at Denver-based Frontier Airlines, and asked his company whether it could fly New Orleans evacuees to Denver free. When the company agreed, the trio immediately left for Houston, where thousands of evacuees were being housed at the Astrodome.

The friends arrived on the Friday after the hurricane. Ladov, who used to work at the Federal Emergency Management Agency, had contacts among emergency workers on the ground. He had announcements broadcast over the public address system asking whether there were people who wanted to go to Denver.

The three friends canvassed the Astrodome, putting up signs and posters about their Denver proposal. That's when they came by Cash Smith.

"Hey, dude, do you want to come to Denver?" Smith recalled them asking.

Smith, his wife and their two small children had initially sought shelter at the Superdome in New Orleans, after fleeing their flooded neighborhood. Smith and the children had gotten to Houston, but his wife had not been able to find space on the same bus and was scheduled to arrive later.

"I have no money," Smith replied.

The group told him the airline ride to Denver was free. They promised him help in finding a job and getting on his feet.

"Why not give it a try?" Ladov said.

Smith decided to take a chance. After all, he was surrounded by strangers in the stadium; why not trust these three?

"I have lost everything else," he said he thought to himself. "What do I have to lose?"

Two-thirds of the 18 people Ladov and his friends brought back to Denver had never been on an airplane before. They peppered the Denver friends with questions: "What's Denver look like? What's the racial makeup? What's the cost of living? What kind of food do you have there?"

Henry's wife joined him in Denver a few days later, and the couple had an emotional reunion at the airport.

Jim White, manager of community affairs for the Colorado branch of Volunteers of America, said area hotels had offered 30 rooms free for two months. The group is actively working to help people find permanent housing, and set them up with jobs and supplies.

"My life has really changed," said Smith, who said he plans to stay in Denver. "All I came here with was the clothes on my back. Now I have more than I had then.'"It's a Big Opportunity'

Vylandrus Dupree fled New Orleans the day before the hurricane struck. Dupree, who was getting ready for his sophomore year at a community college, was told to head west. Along with a friend, he drove to Texas, expecting to wait out the storm and then return home in a day or two.

They slept in the car the first night and, when they returned to Louisiana, state troopers directed them north. They hit the road again, and eventually pulled into a Red Cross shelter in Springdale, Ark., 700 miles away.

As more evacuees came in, Red Cross officials decided to move a group that included Dupree 20 miles away to the Mount Sequoyah Conference and Retreat Center in Fayetteville, a scenic 30-acre facility overlooking the Ozark Mountains of northwest Arkansas.

"The United Methodist Church has a policy of open minds, open hearts and open doors," said the Rev. Jack Wilson, a board member of the center and an official at the church, which has run the center for 83 years as a teaching facility and a place for spiritual reflection.

Brian Swain, a volunteer coordinator, said work has begun in earnest to find evacuees more permanent homes, jobs, food stamps and Social Security checks. Twenty children were enrolled last week in Fayetteville public schools, and school buses are coming by the center to pick up the kids.

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"We asked people: 'What is your goal? Relocate to northwest Arkansas, or move back or move elsewhere?' " Swain said. "Ninety-five percent said they wanted to relocate to northwest Arkansas."

Volunteers helped Dupree enroll at the University of Arkansas. "It's a big opportunity," he said. "I would have been a fool not to take it."

Dupree said a clergyman he had met at the Red Cross facility had helped him find a job at a Walgreens drugstore.

There was no question of going back to New Orleans, Dupree said. "It's beautiful up here."

Neighborhoods Likely To Be Razed In Cleanup (WT)

By Joyce Howard Price

The Washington Times, September 15, 2005

Environmental Protection Agency officials and environmental specialists said yesterday that the cleanup of flood-soaked New Orleans will require razing neighborhoods, comprehensive disinfection, and extensive removal of soil and sediment infused with chemicals and bacteria.

"The whole city of New Orleans has the potential for being a giant Superfund [toxic dump] site," said Robert D. Bullard, director of the Environmental Justice Resource Center at Clark Atlanta University in Georgia.

EPA Administrator Stephen L. Johnson said tests continue to show high, unsafe levels of sewage and lead in New Orleans' water and evidence of other chemicals, such as chromium, copper, iron and sodium.

He characterized Hurricane Katrina as the "largest natural disaster the EPA and the nation have ever faced."

"Until we have a better handle on the magnitude of the problems, it is impossible to speculate on how long it will take" to resolve the environmental threats, said Mr. Johnson, who cited concern about the contaminated floodwaters' effect on the Mississippi River, Lake Pontchartrain and the Gulf of Mexico.

Several people familiar with the subject predicted that once the floodwaters are flushed out, possibly by next month, there will be extensive debate about the safety of certain neighborhoods, schoolyards and parks because of the presence of chemicals and bacteria.

"They are now part of the ecosystem, part of the water, part of the soil. Those chemicals will be absorbed on any surface, organic and inorganic," said Mirat Gurol, professor of environmental engineering at San Diego State University.

Ms. Gurol said many of the organisms will survive in spores and cysts, becoming dangerous again once they get in contact with water or humidity. She also expressed concerns about health risks from long-term exposure to chemicals and to heavy metals, such as lead, which do not decay in the soil.

The EPA also has found carcinogenic polychlorinated biphenyls, or PCBs, in New Orleans' floodwaters.

Von Roebuck, spokesman for the federal Centers for Disease Control and Prevention, declined to speculate about the health risks.

"The key is what kind of pollutants are in that water, and until we find that out, we can't predict," he said. The EPA tests are "preliminary," and much more analysis is needed, he said.

Some people in the hurricane zone died after they waded in the contaminated floodwaters and developed bacterial infections that penetrated open sores. In shelters, there were outbreaks of norovirus, a condition caused by consuming feces-contaminated food or water or coming into contact with an infected person. Norovirus is not usually life-threatening.

The levels of sewage found in New Orleans' floodwaters were 10 to 20 times greater than levels the EPA considers safe.

Daniel W. McCarthy, president and chief executive officer of Black & Veatch Water in Kansas City, Mo. -- which has contracts with Federal Emergency Management Agency to install and repair water systems in the flood-ravaged area -- said he thinks it's "more than likely drinking-water systems have been contaminated, even if they are still in service."

Boiling water "will kill live organisms, but not chemicals," Ms. Gurol said. "Long-term exposure to chemicals is a risk factor."

Mr. McCarthy agreed, saying it's necessary to flush and sanitize all lines.

Roy K. Dokka, a Louisiana State University geologist, expects that thousands of New Orleans residents "will be traumatized" when they are told their houses will have to be torn down.

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Big Easy May Be Ready For New Year's (USAT)

By Gene Sloan

USA Today, September 15, 2005

New Year's in New Orleans?

Don't count it out, says Stephen Perry, president of the New Orleans Metropolitan Convention & Visitors Bureau.

Though it could be years before some residential areas bounce back from Hurricane Katrina, Perry and other leaders say tourist areas will be ready for visitors far, far sooner.

"When you see estimates of New Orleans not getting power back or water flowing for six or eight months, that is not the part of the city where tourists go," Perry says. He notes that power was restored to the city's big hotels Monday and should be up across the downtown within two weeks. Potable water could return across the French Quarter and other neighborhoods within days.

Half a dozen hotels, including the Sheraton, Hyatt, Hilton and W, already have reopened, and an additional 35 to 40 will be open by the end of next week, Perry says. For now, they house relief workers, government officials and journalists. But the city's power brokers hope to have them ready for tourists by New Year's. Already there are plans for a scaled-down version of Mardi Gras in February.

Perry says getting tourism going quickly is crucial to the city's survival. Tourism is the biggest employer, accounting for 81,000 jobs and nearly $5 billion a year.

Reviving tourism, moreover, is realistic, say industry leaders. Tourist areas such as the French Quarter are on high ground and were spared serious flooding.

Mark Sanders, general manager of Marriott's 15 hotels, says Marriott should have most or all of its properties open by October. Like other chains, the company is setting aside 25% of its rooms to house displaced employees and their families. (There are plans to bring many back next week.) Hilton also plans to have most of its 17 hotels open soon, spokeswoman Kathy Shepard says.

Restaurateurs also are racing to get eateries up.

"We're in pretty good shape," says Ralph Brennan, a top restaurateur. He hopes to have two of his places, Bacco's and Red Fish Grill, open within weeks to serve relief workers.

One hurdle is housing tourism service workers. Mayor Ray Nagin announced Tuesday that residents of less-damaged areas such as Uptown and Algiers could move back as early as Monday. And the city plans to shuttle evacuees in from Baton Rouge and elsewhere.

Speculators Rush In As Water Recedes (LAT)

By David Streitfeld

The Los Angeles Times, September 15, 2005

BATON ROUGE, La. -- Brandy Farris is house hunting in New Orleans.

The real estate agent has $10 million in the bank, wired by an investor who has instructed her to scoop up houses -- any houses. "Flooding no problem," Farris advises in her newspaper ads.

Her backer is a Miami businessman who specializes in buying storm-ravaged property at a deep discount, something that has paid dividends in hurricane-prone Florida. But he may have a harder time finding bargains this time around.

In some ways, Hurricane Katrina seems to have taken a vibrant real estate market and made it hotter. Large sections of the city are under water, but that's only increasing the demand for dry houses. And in flooded areas, speculators are trying to buy properties on the cheap, hoping that the redevelopment of New Orleans will start a boom.

This land rush has long-term implications in a city where many of the poorest residents were flooded out. It raises the question of what sort of housing -- if any -- will be available to those without a six-figure salary. If New Orleans ends up a high-priced enclave, without a mix of cultures, races and incomes, something vital may be lost.

"There's a public interest question here," said Ann Oliveri, a senior vice president with the Urban Land Institute, a Washington think-tank. "You don't have to abdicate the city to whoever shows up."

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For now, though, it's a seller's market, at least for habitable homes.

Two months ago, Steve Young bought a two-bedroom condo in New Orleans' Garden District as an investment for $145,000. Last month, he was transferred by Shell Oil to Houston. Last week, he put the condo on the market.

In a posting on the Internet classified site Craig's List, Young asked $220,000. He got a dozen serious expressions of interest -- enough so he's no longer actively pursuing a buyer.

"I'm pretty positive the market's going to move up from here," he said.

So, to their surprise, are many others.

"I thought this storm was the end of the city," said Arthur Sterbcow, president of New Orleans-based Latter & Blum, one of the biggest real estate brokerages on the Gulf Coast.

"If anyone had told me two weeks ago that I'd be getting the calls and e-mails I'm getting, I would have thought he was ready for the psychiatric ward."

Messages from those wanting to buy houses -- whether intact or flooded -- and commercial properties are outrunning those who want to sell by a factor of 20, said Sterbcow, who has set up temporary quarters in his firm's Baton Rouge office.

"We're pressing everyone into service just to answer the phones," he added.

These eager would-be buyers may be drawing their inspiration from lower Manhattan immediately after 9/11, which proved a bonanza for those smart enough to buy condos there.

Of course, in southern Louisiana, everything is hypothetical for the moment. The storm destroyed many property records and displaced buyers, sellers, agents and title companies, so no deals are actually being done. Insurance companies haven't started to settle claims yet, much less determine how, or whether, they will insure New Orleans in the future. The city isn't even drained yet.

But people are thinking ahead, influenced by a single factor: the belief that hundreds of billions of dollars in government aid is going to create a boomtown. The people administering that aid will need somewhere to live, as will those doing the rebuilding. So will employees of companies lured back to the area, and the service people that attend to them.

All this will lead to what Sterbcow delicately calls a "reorientation" of the city.

"Everyone I talked to has said, `Let's start with a clean sheet of paper, fix it and get it right,' " he said. "Some of the homes here were only held together by the termites."

What the owners of the city's estimated 150,000 flooded houses will get out of "reorientation" is unclear, especially if they were in poor repair and uninsured.

Some black New Orleans residents say dourly they know what's coming. Melvin Gilbert, a sixty-something maintenance crew chief, stood outside an elegant hotel in the French Quarter this week and recalled how that neighborhood had gentrified.

He remembered a half century ago when the French Quarter had a substantial number if black residents.

"Then the Caucasians started offering them $10,000 for their homes," he said. "Well, they only bought the places for $2,000, so they took it and ran."

The whites restored the homes, which rose quickly in value. Gilbert said he expects the same dynamic when the floodwaters recede in the heavily black neighborhoods east of downtown.

The process of tracking down owners of deluged houses is greatly slowed by the absence of records. It's not going to be easy to find these people, said Farris, the Baton Rouge real estate agent.

What would she pay for a ruined house?

Farris demurred, saying it was too early to tell, but probably only the value of the land, if that. While the French Quarter may be back to life within months, outlying districts like North Bywater and the Lower 9th Ward will take years, if they ever do. Investors might hope this is the equivalent of buying land on the distant outskirts of a boomtown, but it's not a guarantee.

For one thing, there are already proposals to convert certain flooded areas -- including some water-logged neighborhoods -- into parks. Under the U.S. Supreme Court's recent ruling broadening the definition of eminent domain, speculators could be forced to sell their properties to the government.

That would be a great outcome for many homeowners in the parishes south and east of New Orleans that bore the brunt of the storm.

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Six months ago, Todd La Valla, a real estate agent, bought a four-unit apartment building for $59,000 in the community of Buras, an unincorporated hamlet in Plaquemines Parish 55 miles southeast of New Orleans.

The tenants evacuated in the storm, or at least La Valla hopes they did. He's sure the building itself is gone too, like just about everything else in the area. La Valla had no insurance, which means his $10,000 investment is probably a complete loss.

Yet where there's disaster, there's opportunity.

"I've had calls from investors in Los Angeles, Las Vegas, New York, looking to buy property," La Valla said. "This is going to be hard for the poor, the elderly, those that didn't have insurance. But it's going to be great for some people."

Germans Help Clean Up After Katrina (WT)

By Amy Doolittle

The Washington Times, September 15, 2005

NEW ORLEANS -- The 90 men and women sent by the German government to drain flood water from the city are among thousands of specialists now arriving to begin the cleanup process.

"If you can help and you have the opportunity to help, you should," said Jan Goerich, 29, from Speyer, Germany. "We are here to help, that is all."

The team of Germans, volunteers with Technisches Hilfswerk, a German disaster-relief organization, arrived Friday at Belle Chasse Naval Air Base with 15 pumps that can move almost 6 million gallons of water a day.

The German specialists are split into eight groups across the flooded city to pump water from such places as parking garages, sewage stations and neighborhoods.

"Our job is to get the pumping stations up and running," said Andsreas Garrecht, 35. "We have no plans to leave. We are here until it's done."

The German team is just one of many on hand to clean up and to protect those doing the work.

The special-response teams of the D.C.-based Immigration Customs Enforcement patrol outside the Superdome, which was a major evacuation center for tens of thousands, while crews inside clear broken bottles, water-soaked plaster, rotting trash and other messes.

"They are doing a real good job of getting the place back to normal," said Officer Fred Stacey, 45, of Reston, Va. "It's almost mind-numbing here, but we're just here to help. You get over it."

In the Hyatt Regency Hotel and the mall attached to the Superdome, a cleaning crew from Chicago-based United Service Companies has been working all week to remove garbage and sanitize the area.

"Right now, inside is marvelous compared to how it was," said employee Bobby Lisanty, 69. "How it was is not to be believed by man nor beast."

Mr. Lisanty and his 26-member team will systematically clean the hotel over the coming days. The team will move to other projects when the work is finished.

In St. Bernard Parish, where the worst flooding occurred, the 3650th Maintenance Company of the Colorado National Guard spent the afternoon clearing an intersection.

"You wouldn't believe what we've found back here," said Sgt. Daniel Rinker, 47, of Westminster, Colo. "There's a lot of alcohol. People just came back here and had a party."

The National Guardsmen, whose only protection during cleanup yesterday was rubber gloves, swept the trash into a pile, then picked it up by hand and placed it in a large bin.

As the flood water recedes, mud dried and cracked in the hot sun has caked the streets and sidewalks. Cars, baby strollers, blankets and other items are scattered where the flooding left them.

Danny Prinz, 40, was allowed to return to his New Orleans Parish business, Dwyer Motors, yesterday to collect three tool carts and an industrial-strength power washer.

"It's going to be a long time before this place is back to normal," he said.

More Deaths Confirmed In Homes For The Aged (NYT)

By David Rohde And Shaila Dewan

The New York Times, September 15, 2005

A day after Louisiana officials charged the owners of a nursing home in the deaths of 34 patients there, the owners of two other nursing homes confirmed yesterday that an additional 13 patients died in their homes in the aftermath of Hurricane Katrina. State officials also said they were investigating the deaths of 14 patients at yet another nursing home in New Orleans.

The new reports suggest that at least 61 patients died in four New Orleans-area nursing homes after their operators ignored a mandatory evacuation order a day before Hurricane Katrina hit. The owners of 15 other nursing homes contacted by The New York Times said they had successfully evacuated hundreds of patients from their homes.

A total of 53 nursing homes were evacuated in the New Orleans area, but it is unclear how many of them were evacuated before the storm.

Some nursing homes spent as much as $50,000 to move their patients to safety, including using private helicopters, owners and administrators said. Other nursing home owners chose to keep their patients in the city and wait out the storm.

The attorney general, Charles C. Foti Jr., was investigating reports that 14 people died at the Lafon Nursing Facility of Holy Family in New Orleans, said his chief spokeswoman, Kris Wartelle.

"We're trying to make sure the criminal justice system still works in this case," Ms. Wartelle said. "It is such a horrendously horrible thing, and it's so important to these families."

Peggy Hoffmann, executive director of the nonprofit Bethany Home, said 9 of her home's 49 patients died after she chose not to move them despite the mayor's mandatory evacuation order. Ms. Hoffman said she had been unable to find 10 patients who were evacuated to the New Orleans airport and flown to an unknown city.

"I haven't been able to sleep at night," Ms. Hoffmann said. "We haven't been able to track down 10 of my people who went through my airport."

She said she thought it would be better for her fragile patients to remain in the home, which sits on high ground, than to endure the stress of an evacuation. In past hurricane evacuations in New Orleans, nursing home patients have died on buses caught in traffic jams for up to 12 hours.

Andrew Sandler, the administrator of a second nonprofit nursing home, Maison Hospitaliere, where four patients died, cited the same reason and added that the evacuation order was not made until the day before the hurricane struck.

"Usually there is more warning," Mr. Sandler said. "This one came very quickly."

Neither home flooded, and both had emergency generators that provided limited electricity. Both owners said that day after day of high temperatures inside the homes might have contributed to the deaths, but they were not sure.

Senator Charles E. Grassley of Iowa asked the Department of Justice, the inspector general of the Department of Health and Human Services and the Government Accountability Office yesterday to begin full investigations of the deaths in nursing homes.

"The utter disrespect for the life and dignity of the frail and elderly is nearly incomprehensible," wrote Mr. Grassley, the chairman of the Senate Finance Committee.

In other developments yesterday, Gov. Kathleen Babineaux Blanco, who has been a vocal critic of the federal response to the hurricane and subsequent flooding, said blame should be shared by all levels of government - and included herself.

"We all know that there were failures at all level of government: state, federal and local," Ms. Blanco said in a speech before a joint session of the Louisiana Legislature. "At the state level, we must take a careful look at what went wrong and make sure it never happens again. The buck stops here. And as your governor, I take full responsibility."

She said she had demanded that FEMA give priority to Louisiana residents in rebuilding jobs and to "pay them in a timely fashion."

The federal government, Ms. Blanco said, should also "cover 100 percent of what Louisiana will spend on this disaster - just as was done after 9/11."

The governor also said she had issued an executive order directing state agencies to limit spending, and called for federal aid to rebuild houses, bring residents back to the state, offer tax breaks and loans to businesses, and extend unemployment benefits. She said she had hired a former FEMA director, James Lee Witt, to help work with FEMA to cut through bureaucracy.

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Standing outside the chambers, Mayor C. Ray Nagin of New Orleans said he had missed all but the end of the governor's speech but called it "encouraging."

But, Mr. Nagin said, he is "nervous about how the implementation is going to take place."

On Tuesday, the state attorney general's office charged the owners of St. Rita's Nursing Home in Violet, just east of New Orleans, with multiple counts of negligent homicide in the deaths of 34 residents. The attorney general said the couple, Mable B. Mangano, 62, and Salvatore A. Mangano Sr., 65, had not acted on several warnings to move the residents as the hurricane approached.

In an interview on Wednesday, the couple's lawyer, James A. Cobb, said his clients were innocent, calling the charges "absurd" and "mean spirited."

"These folks have lost everything," Mr. Cobb said. "They've lost their entire life's work."

He said that the home was above flood stage level and that most of the families decided to keep their relatives at St. Rita's.

Tony Mendoza, a nursing home owner who used a private helicopter to evacuate patients before the hurricane's arrival, criticized nursing home owners who chose to remain in the city. Mr. Mendoza said he chose to evacuate his two commercial homes on Friday, two full days before Hurricane Katrina struck New Orleans.

"It was a given," Mr. Mendoza said. "Every hour that went by since Friday you knew you had to go."

Kevan Cullins's 100-year-old grandmother was evacuated from Lafon a few days after the flooding, only to die, dehydrated and weak, a few days later in a hospital. Mr. Cullins said that when his family called Lafon before the storm, staff members said they had a generator and the staff was going to stay with the patients, Mr. Cullins said. If it flooded, he said, they planned to move to the second floor.

Mr. Cullins said the home had made the wrong decision in failing to evacuate.

"But at the same time," he said, "there's a lot of people in that nursing home that may not have made it anyway, they're just that frail. It's a Catch-22. A lot of the people were like my grandmother, 100 years old, and they didn't have too much more to go, but they didn't deserve to die like that."

Lafon and Bethany had been cited by inspectors for mistreatment and quality-of-care deficiencies from April 2004 to June 2005. But Lafon, with 8 deficiencies, had less than the state average of 10 per home, while Bethany had 23. For both homes, all of the deficiencies were rated 2 on a scale of 1 to 4, with 1 indicating the lowest level of harm or potential harm to residents.

Lauren Shaham, a spokeswoman for the American Association of Homes and Services for the Aging, based in Washington, said her group, which represents about 5,300 nonprofit nursing homes, assisted-living facilities and elderly-housing sites, including about 90 in the region affected by Hurricane Katrina, had not had complaints that nursing homes were not evacuated.

St. Rita's was not a member of the association.

"I think the St. Rita's thing, at least from what we're hearing, is really an anomaly, far from the norm," Ms. Shaham said.

'It Was As If All Of Us Were Already Pronounced Dead' (WP)

By Wil Haygood And Ann Scott Tyson

The Washington Post, September 15, 2005

NEW ORLEANS For five eternal-seeming days, as many as 20,000 people, most of them black, waited to be rescued, not just from the floodwaters of Hurricane Katrina but from the nightmarish place where they had sought refuge.

During that time, the moon that hovered over the Ernest N. Morial Convention Center seemed closer than anyone who could provide those inside the center with any help.

On the fourth day, after TV had been filled with live reports from the center describing sexual assaults, robberies and gunfire, single mothers desperately seeking help for their children and fathers doing their best to protect them, the federal official charged with leading the hurricane response, Homeland Security Secretary Michael Chertoff, responded to an interviewer's question by saying it was the first he had heard that people "don't have food and water in there."

"It was as if all of us were already pronounced dead," said Tony Cash, 25, who endured three nights of hunger, violence and darkness at the convention center. "As if somebody already had the body bags. Wasn't nobody coming to get us."

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No one has been able to say how many people died inside the convention center; police, military and center officials estimate the number is about 10. Nor has there been any attempt to document the number of assaults, robberies and rapes that eyewitnesses said occurred from the time the first people broke into the convention center seeking shelter on the afternoon of Monday, Aug. 29, and when units of the Arkansas National Guard moved into the center on Friday, Sept. 2.

But even without those numbers, what happened in the convention center stands as a harsh indictment of government's failure to help its citizens when they needed it most. That futility was symbolized by the presence in the convention center for three of the most chaotic days of at least 250 armed troops from the Louisiana National Guard. They were camped out in a huge exhibition hall separated from the crowd by a wall, and used their trucks as a barricade when they were afraid the crowd would break in.

The troops were never deployed to restore order and eventually withdrew, despite the pleas of the convention center's management. Louisiana Guard commanders said their units' mission was not to secure the facility, and soldiers on the scene feared inciting further bloodshed if they had intervened. "We didn't want another Kent State," said Army Lt. Gen. Russel L. Honore, commander of the active-duty military forces responding to Katrina. "They weren't trained for crowd control."

In more than 70 interviews, with both military and law enforcement officials -- who were themselves sometimes inside the center -- and with many of the survivors who suffered over the course of several nights, a chilling portrait emerges of anarchy and violence, exacerbated by young men from rival housing projects -- Magnolia, St. Bernard, Iberville, Calliope.

"Everywhere I went, I saw people with guns in their hands," said Troy Harris, 18. "They were putting guns to people's heads."

Recounting their pleas for milk for their babies, for food, for protection, many survivors described the same sense of bewilderment and anger -- broadcast, surreally, on live television. "This is America," one woman shouted into the TV cameras. What she meant was, this is not supposed to happen here.Too Late to Leave

It was Saturday, Aug. 27, when New Orleans Mayor C. Ray Nagin pleaded with city residents to leave. Katrina would be on land in less than two days. A day earlier, Gov. Kathleen Babineaux Blanco had declared a state of emergency, prompting heightened preparation by the Louisiana National Guard.

But by this point, the appeals from Blanco and Nagin were aimed at one group in particular -- the poor. Those with resources had already bolted.

Many simply had no way of leaving on their own. Many who had survived hurricanes figured this wouldn't get them, either. "They tend to look at evacuation orders as scare tactics," said Troy Jarreau, a New Orleans schoolteacher who has taught many children from impoverished households.

But by Monday, after Katrina hit New Orleans and the levees had broken, a different reality was clear. "Get out! Get out now!" was the message on WYLD ("Wild for Jesus"), a popular black radio station. It was repeated on Q93-FM, heavy with rhythm and blues and rap music.

This time, those who stayed behind found themselves wading, or swimming, using every ounce of energy to get themselves to the Louisiana Superdome, which had served as a refuge in previous hurricanes. But the indoor stadium had begun filling as early as Sunday, and by the next day, officials had started turning people away. It was becoming overcrowded, and the floodwaters had begun to encircle it.

The convention center, a sprawling complex of meeting halls nearly a mile long near the Mississippi River, was never intended as a shelter, said Capt. M.A. Pfeiffer, an operations officer with the New Orleans Police Department. "It was supposed to be a bus stop where they dropped people off for transportation. The problem was, the transportation never came."

As rising water engulfed the Superdome on Monday, trucks and vans that were rescuing people from the I-10 overpass and other locations began dropping them off on the dry road in front of the center. It was the only option, police said. Quickly, the crowd grew to 1,000 people.

Katrina had ripped a hole in the center's roof, dumping pools of rainwater into Hall C in the middle of the huge complex. The center lost electricity and water pressure, but otherwise damage was not severe.

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Monitoring the damage were about 40 essential convention workers -- carpenters, electricians and unarmed security guards -- supervised by the center's president, Jimmie Fore, who had arrived there Sunday determined to ride out the storm. Joining them were about 300 other employees and their families seeking shelter.

As a crowd gathered outside and it became dark, Fore said he sensed trouble, so he went down to the sidewalk and made an appeal. He warned those arriving that the center had no food, water, electricity, medical care or other provisions to serve as a shelter. They ignored him. "They just kept coming," he said.

Security guards had locked the building, but later that night, people began yanking on the doors and eventually opened one. "Once one got in, they let all the others in," said Fore, explaining that the doors had "panic hardware" and could not be locked on the inside.

At the Superdome, officials had devised a security plan to check for weapons. No such plan was put into place for the convention center, even as the numbers of people seeking shelter swelled and swelled.Descent Into Danger

Leon Doby, 26, had gotten daughters Leah, 1, and Khaylin, 3, out of their home, put them in a crate, tied the crate with rope to his waist, then began swimming. He hustled his way, finally, onto a motorboat. It sped off to the Superdome, all aboard exhausted.

At the Superdome, they were rebuffed, and pointed in the direction of the convention center, 10 blocks away.

By the time Doby -- with the crate and the two daughters -- arrived Tuesday, he found himself gazing into thousands of bewildered faces. Gripping his daughters, he walked fast -- exactly where he was going, he did not know -- but he passed an elderly lady who seemed to be listing in a wheelchair.

"I went down the hall," he said. "By the time I was back, she was already gone."

Doby would spend four days at the center. All he had for himself and two girls during that time was a sandwich and two bottles of water that a stranger had given him.

Linda Cash, 26, arrived with her two children, Clarence, 6, and Cyrin, 2. "Soon as I got there," Cash recalled, "I saw fighting. I saw people throwing chairs. People pulling guns out, right in front of little children."

Near where Cash had hunkered down Monday night, she noticed a little boy having difficulty breathing. She figured he was having an asthma attack or an anxiety attack. She and others nearby spotted a too-seldom-seen police officer. The officer came over, his gun drawn. Cash said she pointed to the young boy. "The officer checked the boy," Cash remembered, "then turned to us and said there was nothing he could do."

The officer vanished. The boy was dead -- a death confirmed by three others interviewed for this article.

Another officer soon appeared, and Cash and the others figured he would remove the dead child. "But that officer told us he had come over to our area to check on some gunshots he heard near us," she said. The body stayed there.

By Tuesday, the center's population had exploded to nearly 20,000. "The lights never came on, for some reason, all the way," Cash said.

And among those thousands were gangsters, though maybe not members of gangs. Community activists for years had been warning the city's leadership about the folly of mixing youths from one housing project with youths from another.

"You declare martial law," said Jazz Washington, a community activist, "and to these gangsters that just means, 'We can kill you and keep on moving.' "

A gang broke into the locked alcohol storage areas and suddenly had 50 cases of hard liquor and 200 cases of beer. And before long, there were scenes of gangsters, drunk, groping after young girls -- and those scenes not far from the ones of women in corners, balled up, praying all frozen with a Hobson's choice: the gangsters, or the floodwaters.

"They took so much, they couldn't drink it all," said George Lancie, manager of the center's food-service company, who had been at Fore's side.

In the chaos, the youths hotwired anything that would move, including electric utility carts and forklifts. Tony Cash saw the forklifts being driven about in zigzags. "They were nearly running over people," he said. "I'm telling you, it was crazy."

Fore was at a loss as to how to quell the danger. He said he tried desperately to call local and state emergency authorities. But he never got through. And he looked and looked for the arrival of local police.

"You might see them drive by," he said. "Is that providing security?"

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New Orleans police officials said they could not safeguard the center after Katrina left them short of officers, vehicles and a dependable communication system. And when their armory flooded, they were short of ammunition. Dozens of officers tried patrolling outside around the convention center, but, according to Lt. Melvin Howard, the crowds and darkness made it difficult and dangerous to work inside.

Police could not use flashlights without giving away their position and becoming possible targets, Howard said. Nor could they open fire, if confronted, without the risk of killing innocent people.

Troy Harris, 18, who had survived a gunshot to the stomach on the hard streets of New Orleans, thought he could handle himself anywhere in the city. The darkened convention center gravely tested his moxie. "They were robbing people in there. At gunpoint," he said. "Somebody robbed me of a hundred dollars."

Even police officers were afraid, Harris said. "I saw police officers in the bathroom taking off their uniforms!" he said. "I'm telling you, they were taking off their uniforms and throwing their badges down!"

Doby saw prostrate bodies near the bathroom -- dead or unconscious, he didn't know. He told his little girls it was okay to soil themselves. His hungry girls in his arms, Doby was furious.

At daybreak, many would flee outside, where TV cameras gave them desperate moments to make appeals. But for the most part they had nowhere else to go. It was as if they were marooned in some faraway locale, on some faraway island -- instead of New Orleans.

Rumors were treated as fact -- both inside the convention center and out. A later report that there were 200 bodies in the convention center and the Superdome brought a coroner's unit rushing from St. Gabriel and Baton Rouge, La.

One night, said Steve Rochon, a deranged man started yelling, "Here comes the water!" -- intimating the Mississippi was about to flood the center. A panic ensued, and mothers grabbed children.

The deaf didn't know what was happening. The old in the wheelchairs couldn't move. But the stampede was on anyway. A mother screamed that someone was stepping on her baby.

"People just started panicking," recalled Rochon, himself forced to move animatedly on a prosthetic leg. "People were getting run over each other."

At one point, a police car drove up. Perhaps good news. Perhaps ships were steaming up the Mississippi over there right now.

A police officer tossed out a few bottles and drove off. It ignited a free for all. Doby himself looked on in horror as a man -- arguing over the water -- struck another man with a two-by-four. "That man, he was split" in the head, said Doby. "He was leaking. He just dropped, face first."

Back inside, Doby was stilled by yet another confrontation. Three women were arguing, over what everyone seemed to be arguing about: lack of food, water, space. One of the women -- a snap-of-the-finger quick -- plunged a pair of scissors into the shoulder of the woman she had been arguing with.

Everywhere, a new woe. A group of people desperate for food broke into the kitchen. When they tried to cook something, a fire erupted.Desperate to Flee

By Wednesday night, Fore and eight colleagues had locked themselves in an office. A gang had threatened to break through, rattling the door. A security guard informed Fore the situation appeared to be getting worse in the center.

Fore and his aides had parked their cars over in Hall J, and Fore decided they had to make a break. Thursday afternoon, they moved stealthily to their cars. When they reached them, they slipped inside and fled.

Wednesday, some buses arrived, but of the thousands in the convention center only a tiny number could board. They had been standing outside, where the buses rolled to a stop.

Then there was a miracle: Seven more buses rolled up. The race was on to get to them. Linda Cash, slow off the draw, grabbed her children anyway. And started racing. "Then the buses pulled off," she said. "And no one was on them. That's when I knew I really had to find a way out of there."

On Thursday, Cash left, taking her children and stealing a car that eventually got her to Baton Rouge. That same day, the New Orleans police made a dramatic entrance. Sgt. Hans Ganthier and 12 other New Orleans SWAT team members entered the center, M-4 commando rifles at the ready. Prayers had been answered -- only it was a rescue mission of a different purpose.

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A Jefferson Parish police deputy had appealed to SWAT team Capt. Jeff Winn for help in bringing out his wife and a female relative from the center. "He knew they were there and was hearing nightmarish stories," said Ganthier, who declined to identify the officer for security reasons.

Winn approved the mission.

When the SWAT team entered at 11 a.m., the Jefferson Parish officer called out his wife's name. She heard him, and along with the relative rushed to his side. The SWAT team put the women in the middle of the team, then backed out the door.

Once it became clear that the SWAT team had come with the single goal of rescuing two white women, anger exploded.

"Racists!" one man cried out.

"Some people were upset we weren't rescuing them," said Ganthier. "It's hard to leave people behind like that, but we were aiding an officer."'A Mob, Crazy Mentality'

By Tuesday night, a contingent of at least 250 Louisiana National Guard troops was hunkered down in Hall A, off Julia Street at the northern end of the building.

The armed troops, from at least two engineering battalions -- the 769th and 527th -- had been assigned to set up a base at the center to prepare for debris removal and road clearing, as well as rescue and security. But they had enough food and water only for themselves and had no immediate orders to provide assistance or security for the thousands of evacuees in their midst, according to interviews with a dozen enlisted soldiers and officers.

Instead, as the danger level grew, they felt they must first protect themselves.

"There was way too many of them and way too few of us," said Master Sgt. Chad Anderson, 37. "Since we couldn't help them, it was best to avoid them. They had a mob, crazy mentality."

Whenever the soldiers left the center on missions, they drove west on Julia Street and away from the throngs of people begging for food and water along Convention Center Boulevard. "When they saw the soldiers, they'd think, 'That's food,' " said Sgt. Karla Spillers, 26. "We didn't have any for them. We had to feed our own people."

Spillers said she felt pain at the knowledge that teenage girls were wandering around the center, alone, knowing they were possible prey.

"There were prisoners, mobsters, gangs" in there, she said.

Almost as soon as they arrived, Guard commanders became concerned enough about the safety of their troops that they ordered more weapons and ammunition. On Wednesday night, there was kicking and banging on the doors to Hall A, where the guardsmen were. "They were trying to break the doors and get us," said Anderson. "They knew we were there."

"About 9 that night, we started barricading the doors," said Staff Sgt. Bryan Lowery, a supply sergeant with the 527th battalion.

Guardsmen parked at least three dump trucks next to the doors to block them, and Lowery began dispensing weapons and ammunition.

"It scared me," Spillers recalled. "Everyone went to get their weapons from the backs of the trucks."

That night, Guard commanders figured the convention center was untenable as a staging base. And they, too, left the center despite what Fore said were his pleas to stay.

"We were told they couldn't help us unless the order came down from the top, from a lot of people," Fore said. "The only time they partnered with us was when there were gunshots in the area where they were actually staying. They protected themselves."

Maj. Keith Waddell, commander of the 769th Engineer Battalion, said his unit was never asked to quell the violence at the convention center. "The idea of helping with the convention center never came up," he said. "We were just preparing ourselves for the next mission."

Waddell said he believes that, if so ordered, the Louisiana Guard forces present would have been adequate to get the center under control.

"I feel confident we could have controlled it, with the numbers we had," Waddell said.

But senior commanders indicated they had ruled out that possibility. Col. Stephen C. Dabadie, chief of staff of the Louisiana National Guard, said the engineer units were "not designed to secure the convention center."The Troops Arrive

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Early Thursday, the Guard troops packed up and rolled out amid angry calls from the crowd inside. Twenty-four hours elapsed before more troops arrived -- including a contingent of the Arkansas National Guard, imposing enough so that no one tried to bother them.

Many of the guardsmen had recently returned from Iraq, and they arrived wearing helmets and full body armor, and shouldering rifles. To their surprise, they encountered virtually no violence -- only a crowd of hot, frustrated, angry people desperate for food and water. "A lot of them said we should have been there earlier," said Spec. Keithean Heath of the Arkansas Guard's 39th Infantry Brigade.

Military commanders had worried the crowd would rush medevac helicopters. Instead, soldiers faced little interference as they moved to help frail and elderly people in wheelchairs in urgent need of care, women cradling tiny infants and others about to give birth. The soldiers set up food lines to hand out bottled water and packaged military meals, and people lined up to receive them.

On Saturday, soldiers again lined up people and searched them before loading them onto buses. They counted as many as 16,000 people who got on the buses, an eerily quiet process.

Leon Doby, the daddy who swam his two young daughters to safety -- before they all arrived at the convention center -- had already left. He headed out as he had arrived, his two little girls -- his everything -- in the crook of his arms.

A genuine miracle: A man on the road picked them up and drove them all the way to Dallas.

"That was hell," Doby said of the New Orleans convention center. "They sent us to the grave."Tending to the Dead

Three days after the evacuation, Staff Sgt. Juan Almonte, a medic with the 82nd Airborne Division, slipped past a caution sign and through a ripped metal door, bracing himself for the task ahead -- to "bag" the bodies still inside the convention center.

Inside the food-service area near Hall A, sitting slumped in a black wheelchair, was a woman of about 60 in a hospital gown. A man in a shirt and jogging pants lay curled up on the concrete floor next to her, his hand over his face.

To Almonte's right down a wide hallway, a large man -- the medic guessed he was at least 6-foot-4 and 300 pounds -- lay with his arms over his head and knees bent. Another woman in hospital scrubs lay a few feet from him, next to aluminum cans and trays with stained but elegant white dinner menus.

Around the bodies were pools of dried blood. Looking closer, he noted swelling and abrasions on the corpses. He stared at what he found next. On the gray, soiled floor several feet from the dead lay a pair of shiny brass knuckles.

"My perception was that they were beaten to death," he said last week. "Absolutely, they were killed."

Almonte and his fellow medics had to struggle to straighten the corpses to fit them in double bags -- the large man took up one by himself. The next day, about 20 boxes of body bags appeared in front of Almonte's tent, and he told his men to prepare for more recoveries. But no order ever came. Civilian authorities, he was told, would handle "packaging and retrieval."

Health Officials Urge Flu Shots For All Katrina Evacuees (WSJ/AP)

By Associated Press

The Wall Street Journal, September 15, 2005

WASHINGTON -- Federal health officials are pressing forward with plans to ensure flu vaccinations for hurricane evacuees in shelters as well as all people in nursing homes, populations they say are particularly at risk for catching the illness while living in tight quarters.

Julie L. Gerberding, director of the Centers for Disease Control and Prevention, said Wednesday that elderly evacuees, as well as those of all ages at shelters, will be among the first to receive flu shots this fall.

Manufacturer Sanofi-Pasteur is making 200,000 of the first flu shots available to those evacuees. Sanofi-Pasteur is the vaccine division of France-based Sanofi-Aventis.

Federal stocks of all vaccines are being made available to children who are evacuees, Dr. Gerberding said.

Mark McClellan, administrator for the Centers for Medicare and Medicaid Services, said a proposed rule would require all nursing homes to offer vaccinations against the flu and bacterial pneumonia.

The goal is to get 90% of people in nursing homes vaccinated, Dr. McClellan said. Nursing home residents can opt out, and a few may not be eligible for the shots for other health reasons, he said.

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About two million people live in the nation's 18,000 nursing homes, Medicare officials said.

Because of questions about the vaccine supply, federal officials want high-risk groups -- including people aged 65 and older, and children between 6 months and 23 months -- to get their flu shots and are asking doctors to hold off on giving the shots to healthy adults until Oct. 24 at the earliest.

CDC: Outlook For Flu Vaccine This Year Good (USAT)

By Liz Szabo, Usa Today

USA Today, September 15, 2005

Federal health officials said Wednesday that flu shots this year should go first to the most vulnerable patients — including Hurricane Katrina survivors living in shelters — but should be available to everyone by late October.

Although the vaccine supply should be ample this year, with 71 million to 97 million doses, the Centers for Disease Control and Prevention expects some shots to be delayed.

The flu vaccine supply has become a major public health concern. The USA lost nearly half its expected supplies last year after the Food and Drug Administration banned distribution of flu shots from vaccine maker Chiron Corp., whose license was suspended by British regulators because of contamination problems at its plant in England.

The nation's expected flu supply was cut from 100 million doses to 61 million last fall, which caused widespread shortages and long lines at flu clinics.

Chiron announced last month that the Food and Drug Administration has found its British facility "generally acceptable." Although the company expects to produce 18 million to 26 million doses for this flu season, it won't start shipping until the end of September or early October, spokeswoman Alison Marquiss says.

The CDC is not asking doctors to ration the FluMist nasal spray, which uses a live virus instead of the inactivated virus used in flu shots. The sprays can be used by healthy people ages 5 to 49, except for pregnant women.

Julie Gerberding, director of the CDC, urged doctors to delay until Oct. 24 giving flu shots to people at lower risk. That should give high-risk patients the chance to be inoculated first, she said during a briefing at the National Press Club in Washington. In addition to hurricane survivors, who are more likely to get sick if they have been living in close contact with many other people, doctors should give priority to health workers, people over 65, people with chronic diseases, children ages 6 months to 23 months and people who live with or care for babies under 6 months.

This schedule is designed to allow enough time to protect people who have the most to lose from flu infections, Gerberding says. But it is also meant to allow organizations to schedule vaccine clinics. Health officials say the flu season typically peaks from late December to March.

Managing vaccine supplies is a challenge every year, says Tracy Lieu, an associate professor at Harvard Medical School and member of the CDC's Advisory Committee on Immunization Practices. Last year's warnings about shortages led millions of healthy adults to skip vaccination, and 4.5 million doses went unsold.

"Physicians and nurses feel we send mixed messages — and we do," Lieu says. "We say, 'Everyone come get your flu shot,' then, 'Wait, there are no flu shots.' "

Ten percent to 20% of Americans get the flu every year, Henry Bernstein, a member of the American Academy of Pediatrics' committee on infectious disease, said at the conference. It kills 36,000 Americans a year and sends 200,000 to the hospital.

Evacuee Students Happy To Be At Madison (DMN)

By Tawnell D. Hobbs, The Dallas Morning News

The Dallas Morning News, September 15, 2005

One thing is obvious at Madison High School in South Dallas. Students who evacuated here because of Hurricane Katrina appreciate Texas.

U.S. Department of Education Assistant Secretary Tom Luce, Texas Education Commissioner Shirley Neeley, Dallas Superintendent Michael Hinojosa and Dallas trustee Ron Price toured the school on Wednesday and were thanked profusely by some students.

"I appreciate what you did for us, letting us into your schools," 16-year-old James Smith told the group as he sat in class.

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Madison has taken in about 115 students, more than any other public school in Dallas. In all, Dallas schools have enrolled nearly 1,500 students since Sept. 1, when the district began tracking new students from hurricane-ravaged areas.

Mr. Luce, a native of Dallas, said the visit to his home state was necessary to determine the needs of educating student evacuees. He said other government officials would also visit other cities.

"Part of my job is to try to develop national policy in a real big hurry," Mr. Luce told students at Madison. "It's our job to make sure that you all have the educational opportunity that every American deserves. We're going to get you some help."

Tyne Thompson, a 17-year-old senior, praised the state of Texas for willingly accepting students from Louisiana.

"They loved us enough to provide us with what we need," she said. "My mom said, 'Texas has a big heart.' "

Mr. Luce plans to meet with area school superintendents later today.

Hurricane Puts Strain On S.A. Schools (SAEN)

By Jenny LaCoste-Caputo

San Antonio Express-News (TX), September 15, 2005

San Antonio school leaders concerned about the ramifications of taking in nearly 1,400 new students escaping the aftermath of Hurricane Katrina will have the chance to voice their worries and ask for help today.

Ray Simon, deputy secretary for the U.S. Education Department, will visit San Antonio today to meet with superintendents and visit schools. School leaders will meet with Simon and Texas Education Commissioner Shirley Neeley at the Region 20 Education Service Center.

Simon plans to tour Hull Elementary in Northside School District and South San Antonio High School West Campus in South San Antonio School District.

"San Antonio has really stepped up to the plate and is doing the right thing for these students," said Chad Colby, a spokesman for the U.S. Education Department.

As of early this week, at least 1,399 Hurricane Katrina evacuees had enrolled in local school districts. The majority of the students are enrolling in the districts serving the city's four shelters — Northside, North East, Edgewood and South San Antonio. Other districts are seeing a spike in enrollment as families move out of shelters and into the community or bunk with friends or relatives in San Antonio.

Judson School District had 140 hurricane evacuee students, or "Katrina kids" as several districts have dubbed them, as of Tuesday. Alamo Heights has enrolled 34, and San Antonio has 81.

San Antonio school leaders were lauded for getting students enrolled as soon as possible. But as the numbers swell, the realities are setting in.

"We know firsthand that a very small population can skew test results and give a school a bad academic rating," said Richard Middleton, superintendent of North East School District. "We're hoping for a little bit of common sense from the state and federal governments."

Both Texas and the federal government have strict accountability laws that rank schools based on test performance. Low-performing schools are subject to sanctions. If no exceptions are made, the storm victims' test scores will count toward the school ranking given the Texas school they now attend.

The rankings also take into account attendance and dropout rates. Those rates could take a hit as children move on to another district or back to their home state.

Last week, the National Education Association, the country's largest teachers union, asked Education Secretary Margaret Spellings to waive the accountability portion of the federal No Child Left Behind law for schools directly affected by the hurricane in Louisiana, Mississippi and Alabama, as well as Texas and other states receiving large numbers of students.

Commissioner Neeley has sent a letter to the Education Department, asking, among other things, for flexibility under No Child Left Behind.

So far, at least, the new students will be counted in the state's accountability system, according to the Texas Education Agency.

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Diana Bowman, director of the National Center for Homeless Education, said expecting these children to perform up to standard after the trauma they've experienced could be unrealistic.

"There have been studies that show every time a child transfers from one school to another, they lose about four to six months of continuity in education," Bowman said. "And the more time they're out of school, more is lost."

Educators also are concerned about graduation requirements for high school seniors.

Texas law requires high school students to pass exit tests before earning a diploma. There are no waivers.

"We are aware of the (complication), and we are looking into it," said DeEtta Culbertson, a TEA spokeswoman.

It might take legislative action to address the potential problem, she said.

Another possible option is for high school seniors from Louisiana who now attend Texas schools to take Louisiana tests and earn a Louisiana diploma, Culbertson said.

"We're looking at the graduation requirements for the three states (Texas, Louisiana and Mississippi) to cover all of the evacuees, not just the Louisiana kids," she said

Middleton said he hopes a solution is found soon.

"Is it fair for these kids to be thrown into a different system, in a situation they didn't create, and held to different requirements?" he said.

The influx of students likely will cost San Antonio-area schools tens of millions of dollars over the next school year. Neeley has estimated the state's bill could be at least $450 million.

The Federal Emergency Management Agency will reimburse school districts for transportation costs, portable buildings, school computers and mental health counselors, but not other, and potentially more expensive costs, such as hiring new teachers and support staff.

Spellings is working with Congress to develop a plan for financial aid for the states.

"We're tracking every expenditure and it's going to be a lot of money," said Northside Superintendent John Folks.

Louisiana Elections Put Off (WT)

By Audrey Hudson

The Washington Times, September 15, 2005

Louisiana officials yesterday postponed local elections scheduled for Oct. 15, citing a lack of equipment and manpower.

"Right now, because of Hurricane Katrina and its resulting aftermath, we don't have the machines, personnel, or electorate in place to properly conduct a fair election in these affected areas," said Al Ater, Louisiana's secretary of state. "We will reschedule these elections at the appropriate time."

The cancellation affects judicial candidates, a school board race and one council seat in the parishes of Orleans and Jefferson, special propositions for tax increases for security patrols in two neighborhoods, and a "beautification, security and overall betterment" tax increase in eastern New Orleans.

According to Louisiana law, an office holder remains at his or her post until a successor is sworn into office.

Mandatory evacuation after the storm also leaves the state short on voters, prompting the National Association for the Advancement of Colored People to begin organizing New Orleans evacuees in shelters across the country to ensure they can vote in the Orleans Parish mayoral race in February and a congressional race in 2006.

Ellen Davis, spokeswoman for the Louisiana Republican Party, said getting elections back on track and ensuring legal residents can cast votes will be a "logistical nightmare."

"Our country has never seen anything like this, we have entire counties that are without a population," Mrs. Davis said.

Democratic Rep. William J. Jefferson of New Orleans, the only black member of Louisiana's congressional delegation, faces re-election next year.

With Louisiana voters scattered among 300 shelters in 24 states, black leaders fear a permanent exodus reminiscent of the 1927 Mississippi River flood, when hundreds of black residents fled the region.

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President Bush carried Louisiana with 57 percent of the vote in 2004. Statewide, white voters outnumber black voters, nearly 1.8 million versus 780,000, and Democrats outnumber Republicans 2-1. In New Orleans, there are about 63,000 white voters -- more than half of whom are Democrats -- and 143,000 black voters.

New Orleans Democrats showed their strength in the 2002 runoff election between Sen. Mary L. Landrieu, Louisiana Democrat, and Republican Elections Commissioner Suzanne Terrell. Voter turnout statewide was low, but 40,000 New Orleans voters gave Mrs. Landrieu her margin of victory.

Marc Morial, former New Orleans mayor and president of the National Urban League, yesterday asked the Senate Homeland Security and Governmental Affairs Committee to create a Katrina victim's Bill of Rights for the evacuees, that would among other assistance ensure future voting rights.

"We must continue to have voting rights in the state, not to politicize this, but they must have a voice in the rebuilding effort in the community from which they have been displaced," Mr. Morial said.

Lloyd's Estimates Its Katrina Costs At $2.55 Billion (WSJ)

By Charles Fleming

The Wall Street Journal, September 15, 2005

Lloyd's of London estimated that claims related to Hurricane Katrina and the devastation of New Orleans could cost it a net $2.55 billion (€2.08 billion), its second-biggest loss ever, reinforcing expectations that insurers world-wide will push prices up next year to recover some of their huge losses.

Lloyd's estimate of its losses makes Katrina the second-most-expensive single disaster ever in nominal terms for the Lloyd's insurance market, whose members paid out about $3.5 billion for the World Trade Center terrorist attacks in New York in 2001. It also tops all other insurance groups' estimates of their individual exposure to Katrina claims so far. Lloyd's functions as a marketplace for syndicates that underwrite insurance policies.

Lloyd's warned that conclusive data on how much the insurance market would have to pay out on Katrina wouldn't be available for some time. But it said in a statement yesterday that, based on current information, it didn't believe the disaster would push out of business any of the 62 syndicates that operate through Lloyd's. It also said it didn't believe any Lloyd's syndicates would make a material claim on Lloyd's £1.1 billion (€1.6 billion) bailout fund for its members, known as the Central Fund.

Katrina could cost the global insurance industry up to $60 billion, according to some industry estimates. Large European insurers often find themselves on the line for hefty chunks of insurance claims incurred by distant hurricanes such as Katrina, because they provide reinsurance cover to the direct insurers who sell home, automobile, industrial or life policies in the disaster zones.

The estimated $2.55 billion that Lloyd's syndicates could end up paying is split evenly between claims by individual policy holders who bought coverage directly on the Lloyd's market and claims from U.S. insurance companies that reinsured their risks through Lloyd's, spokesman Nick Gammage said. Lloyd's also sells reinsurance coverage to the reinsurance groups themselves, giving it three potential levels of exposure. Mr. Gammage said a detailed breakdown of Lloyd's exposure wasn't yet available.

Other European reinsurers, notably Swiss Reinsurance Co. of Zurich and Munich Re AG of Munich, have also said in recent days that they could face hefty bills for Katrina-related damage. Swiss Re has estimated its maximum loss could be $1.2 billion, and Munich Re, which initially estimated its losses at about $500 million, has said it could raise its estimate as further information comes in.

A number of Bermuda-based reinsurance groups, which are smaller than the large European companies but tend to be more focused on natural-catastrophe insurance, are also likely to face big losses.

Insurance brokers say the size of the reinsurers' exposure means it is almost inevitable that reinsurers will try to claw back losses by raising the prices they charge the direct insurers. "In the light of these numbers, there'll be upward pressure on prices in many areas, especially property catastrophe coverage, energy and large [industrial] risks," said Geoffrey Bromley, chairman of reinsurance brokerage firm Guy Carpenter & Co.'s non-U.S. activities.

Insurers May Face Flood Lawsuits In Mississippi (WSJ)

By Theo Francis

DOJ_NMG_0005601

The Wall Street Journal, September 15, 2005

Mississippi Attorney General Jim Hood is considering suing insurers to force them to pay flood damage from Hurricane Katrina that could total billions of dollars, seeking to override decades-old exclusions in standard homeowners' policies, two people familiar with the matter said.

The attorney general's examination of legal moves comes as tens of thousands of Mississippi homeowners are grappling with the cost of rebuilding homes that in many cases were badly damaged by the huge storm surge that accompanied the category-four hurricane's strong winds. Mr. Hood and a spokesman for his office couldn't be reached for comment late yesterday.

Standard homeowners' policies cover wind damage, not flooding. Yet fewer than one in five Mississippi homes and businesses in areas most at risk of flooding hold policies from the National Flood Insurance Program, according to federal figures. While some government grants are available to uninsured flood victims, such homeowners typically rebuild with low-interest federal loans.

Any legal action by Mr. Hood, which could be announced this week, would be expected to meet resistance from the insurance sector. Insurers cannot afford to pay flood damage from Katrina because they "have never collected a cent of premium for flood insurance," said Robert Hartwig, chief economist for Insurance Information Institute, a New York trade group. He said insurers would argue that "the flood exclusion in homeowners' policies is well-established in all states...That is why there exists a national flood-insurance program" and many people "have been paying flood premiums [to the government] for decades."

As of last week, estimates of the cost to private-sector insurers had grown to as high as $60 billion. As big a bite as that is, U.S. property-casualty insurers have more than $400 billion in capital. In recent days, a growing chorus of consumer activists and government officials have called on insurers to give Gulf Coast policyholders the benefit of the doubt in any instances where homes suffered both wind and flood damage.

Indeed, plaintiffs' lawyers in Mississippi are forming a network to work free of charge for homeowners seeking payments for flood damage from their insurers, in a potential second legal front against the insurance industry, a person close to the effort said. Lawyers include Richard Scruggs, a class-action attorney who made his name suing the tobacco and asbestos industries, the person said.

One person familiar with Mr. Hood's possible suit said it might argue that insurers are on the hook because Katrina's storm surge and waves were wind-driven events, and thus should be covered as wind damage. Options include seeking a court order to prevent insurers from denying claims based on the flood exclusion.

Some isolated legal efforts to get around the flood exclusion have succeeded over the years, which has prompted insurers to stiffen the policy language or persuade lawmakers to plug legal loopholes. Mr. Hartwig, whose trade group has been anticipating legal action, said, "I haven't read every policy written in the state of Mississippi, and policy terms and conditions will vary. But the definition of a flood" is fairly uniform, including "storm surge and water that rises for any reason off any body of water, whether or not the cause of the rise of the water is associated with wind."

N.C. Locals Take It In Stride As Ophelia Batters Coast (USAT)

By Tom Vanden Brook

USA Today, September 15, 2005

ATLANTIC BEACH, N.C. — Terry Slaughter swayed in the mounting wind on Wednesday, watching a crew struggle with a utility pole snapped by one of Hurricane Ophelia's first blasts.

He has lived here for 40 of his 47 years, endured hurricanes from Bertha to Isabel, and had no plans to leave for a storm whose winds don't top 100 mph, much less match the ferocity of Katrina.

Asked what he has done to prepare for Ophelia, he took a deep drag from a cigarette and said, “You're looking at it.”

Up and down Bogue Banks, a slender, sandy barrier island, residents were mindful of the destruction Katrina wrought on the Gulf Coast but not worried about a repeat here.

At 11 p.m. Wednesday, Ophelia was about 20 miles south-southeast of Cape Lookout, N.C., according to the National Hurricane Center. It had maximum sustained winds of 85 mph, making it a Category 1 hurricane on the five-stage scale. Katrina was a Category 4 storm with 145 mph winds when it came ashore Aug. 29.

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North Carolina Gov. Mike Easley warned people not to be complacent. Tourists were told to leave the popular beaches of the Outer Banks. Residents of some low-lying areas were evacuated.

"Let me be clear: Ophelia is a dangerous storm," Easley said.

Power flickered off as the wind lashed coastal towns, leaving 120,000 homes and businesses in the dark.

Still dealing with Hurricane Katrina, the Federal Emergency Management Agency said it had stockpiled food, water and ice at locations in states surrounding North Carolina. It had 250 workers in place.

The governor said that he had spoken to Homeland Security Secretary Michael Chertoff and that National Guard teams were prepared to evacuate sick, frail and elderly residents.

FEMA said it was doing nothing different than normal.

"You can bet we are ready though," said FEMA spokeswoman Nicol Andrews.

Ophelia was to make landfall today. But this storm is big, spreading hurricane-force winds 50 miles from its center, so it will affect a broad swath of North Carolina, said Eric Blake, a meteorologist with the National Hurricane Center.

Ophelia's pace of 7 mph means some areas could receive hour after hour of pounding rain. Some spots in eastern North Carolina could be doused with 15 inches.

That's what concerned Sam Ramos. The hospital corpsman, who works at Camp Lejeune Marine Corps Base, stopped at K & V 1 Stop Shop on Emerald Isle to finish off his hurricane preparations. Ramos, 35, already had stocked up on food and filled his bathtub with fresh water.

"The only thing I'm worried about is the rain," said Ramos. "There's going to be some flooding."

Up Highway 58, in the town of Salter Path, emergency crews hunkered down at the firehouse. Gusts of wind keened as they were sliced by power lines, and rain smacked against windshields.

Emergency medical technician Megan Kinnaman, 24, ticked off hurricanes she has weathered on North Carolina's coast: Isabel, Fran, Dennis, Bertha, Floyd. "This is just the usual for us," she said. "Most of us will spend the night here. We'll cook, and eat and wait it out."

They've already urged the elderly and ill to leave, she said. When winds top 45 mph, it's unsafe for even the rescue workers to venture out.

"People think they can just punch 911 and everybody'll come running," said Crystal Mizelle, 24, another EMT. "We have to be concerned for our own safety."

The two say they never thought about evacuating. "You live here, you deal with hurricanes," Kinnaman said.

Slaughter, who builds houses, noted that most people hadn't boarded up windows.

"I guess plywood got too high," he said with a laugh.

Heavy Rain Hits N.C. Coast As Ophelia Picks Up Strength (LAT/AP)

By From Associated Press

The Los Angeles Times, September 15, 2005

CAROLINA BEACH, N.C. -- Hurricane Ophelia lashed the North Carolina coast with high winds and heavy rains Wednesday, beginning an anticipated two-day assault that threatened serious flooding and an 11-foot storm surge.

"If you have not heeded the warning before, let me be clear right now: Ophelia is a dangerous storm," Gov. Mike Easley said from Raleigh, appealing especially to those in flood-prone areas to evacuate.

Ophelia was moving so slowly -- just 7 mph Wednesday night -- that authorities expected the storm's passage through North Carolina to take 48 hours from the start of rainfall on the southeastern coast Tuesday afternoon to the storm's anticipated exit into the Atlantic late Thursday.

The storm had sustained winds of 85 mph, the National Hurricane Center said. Hurricane warnings covered the entire North Carolina coast from the South Carolina line to Virginia, where a tropical storm warning covered the mouth of Chesapeake Bay.

More than 12 inches of rain had fallen on Oak Island at the mouth of the Cape Fear River, said meteorologist Jeff Orrock with the National Weather Service in Raleigh.

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More than 120,000 homes and business were without power in eastern North Carolina, electric utilities said.

On Ocean Isle Beach, south of Carolina Beach, a 50-foot section of beachfront road was washed out by heavy surf and the only bridge to the island was closed.

Jetnella Gibbs and her family made their way to a shelter at a Craven County high school after the rain started Tuesday.

"We noticed the street was starting to fill up, and I said, 'It's time to go,'" she said. "I know if this little bit here has flooded the street, what will it do when it really pours?"

The storm's eye was expected to brush the coast between midnight and 2 a.m., but it might not come ashore as it hugs and parallels the barrier islands of the Outer Banks through Thursday, officials said.

At 11 p.m., Ophelia's center was about 20 miles south-southeast of Cape Lookout and moving northeast at about 7 mph toward Cape Hatteras, about 85 miles away.

Water pushed out of Bogue Sound washed into garages and ground floors while ocean surf chewed away the end of a hotel's pier on Bogue Banks, a barrier island.

Following the criticism of its response to Hurricane Katrina, the Federal Emergency Management Agency had 250 workers on the ground -- a larger-than-usual contingent given Ophelia's size. FEMA also put a military officer, Coast Guard Rear Adm. Brian Peterman, in place to command any federal response the storm might require.

The storm's slow, meandering path to the coast gave FEMA more time to get staff on the ground than is usually the case with North Carolina hurricanes, said Shelley Boone, the agency's team leader for Ophelia.

President Bush issued an emergency declaration for 37 counties in eastern North Carolina, authorizing the Department of Homeland Security and FEMA to coordinate disaster relief efforts.

Easley said he had spoken to Homeland Security chief Michael Chertoff and that National Guard teams were prepared to evacuate sick, frail and elderly residents.

Craven County expected a 6- to 8-foot storm surge in the Harlowe area near the Neuse River -- an area that flooded during Isabel two years ago, said Stanley Kite, the county emergency management coordinator.

The Beaufort County town of Washington ordered an evacuation of a 20-block area that flooded during Hurricane Fran in 1996. A storm surge of up to 9 feet was forecast along the Pamlico River and water wasn't expected to recede until Thursday morning, county manager Paul Spruill said.

Officials on the Outer Banks warned Ophelia could bring 10 hours of hurricane-force wind to exposed Hatteras Island. The southernmost villages of Hatteras, Frisco and Buxton were expected to get the worst of the winds and the flooding.

"It's an island -- the water will come over, it'll go out -- and we'll do it all over again," said lifelong Buxton resident Tiffany Bigham, 27.

"You grow up knowing it's a part of life," she said.

Ophelia is the 15th named storm and seventh named hurricane of this year's busy Atlantic season, which ends Nov. 30.

Ophelia Batters The North Carolina Coast (NYT)

By John DeSantis

The New York Times, September 15, 2005

SURF CITY, N.C., Sept. 14 - After stalling at sea for a week, Hurricane Ophelia battered the coast of North Carolina on Wednesday, spawning blinding rains that flooded beach communities and left thousands farther inland without power.

The storm, rated Category 1 by the National Weather Service with sustained winds of 85 miles an hour, is expected to scrape the shoreline from Cape Fear to the Outer Banks through Thursday, where a northeasterly track may take it out to sea.

Officials said that voluntary evacuations went smoothly and that by 3 p.m. Wednesday, 519 people had taken refuge in shelters.

Residents and officials alike said the cataclysmic effects of Hurricane Katrina on New Orleans and the Gulf Coast had made little difference in how they responded to the storm.

"We felt we were as prepared as we could be," said Mayor Spence Broadhurst of Wilmington. "Katrina didn't play any role in the process. We have a very clear plan."

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Still, Mr. Broadhurst added, "I wouldn't be human if the effects of that storm did not have an effect on my thought process."

State officials agreed.

"Unfortunately, we have a history with hurricanes," said Lt. Everett Clendenin, a spokesman for the North Carolina Department of Crime Control and Public Safety. "We have a fairly standard operating process."

But Stephen Barnett, executive director of the American Red Cross's Cape Fear chapter, said he thought Hurricane Katrina had some bearing on the decisions people had made.

"I think just the fact that there were so many individuals who had not adequately prepared in New Orleans, I think they took extra precautions," Mr. Barnett said of residents here. "I think they planned better and took the storm more seriously. People both increased supplies and got out sooner."

The Associated Press reported that President Bush issued an emergency declaration for 37 counties in eastern North Carolina, authorizing the Department of Homeland Security and the Federal Emergency Management Agency to coordinate disaster relief efforts.

By 3 p.m. on Wednesday, 519 people had taken refuge in eight shelters in the coastal counties of Brunswick, New Hanover and Pender.

At least two trees fell on houses in Wilmington, a quaint city sandwiched between the Atlantic Intracoastal Waterway and the Cape Fear River, near North Carolina's southeastern tip. A giant old live oak was seen toppled to its side on Market Street, a major thoroughfare.

Oceanside communities like Topsail Island, Carolina Beach and Wrightsville Beach took hard hits and were expected to experience heavy beach erosion. Carolina Beach reported flooding as high as one foot in some neighborhoods.

Streets were flooded in sections of Surf City, north of Wilmington. Sheets of rain pushed sideways across its small boardwalk area. The white-sand beach could not be seen for the heavy surf.

About 15 miles inland from Topsail Island, where strong winds howled and waves battered the beach, David Paul stood outside the hot dog restaurant that has carried his family's name for three generations, watching a stand of sycamore trees bend on the other side of a deserted highway.

"It was tedious before it ever got here," Mr. Paul said. "We've been watching this storm all week."

At the Sloop Point Volunteer Fire Department station near Surf City, firefighters awaited the storm's arrival Wednesday night, ending a week of mild tension and anticipation as the hurricane stalled and wobbled its way south of the state line.

"It's kind of like a kid at Christmas, just wanting to know what you're going to get," said Assistant Chief Scott Bradshaw. "But once the storm is here that Christmas-like feeling is definitely over. Then you're happy to see it go away."

Officials Rush To Prepare Coastal N.C. For Ophelia (WP)

By Alan Cooperman

The Washington Post, September 15, 2005

FRISCO, N.C., Sept. 14 -- As slow-moving Hurricane Ophelia hugged the North Carolina coast in a torrential embrace Wednesday, federal, state and local officials were taking no chances of a repeat of the sluggish response to Hurricane Katrina.

Here on Hatteras Island, which was expected to bear the worst of the storm, emergency officials stockpiled enough water and military rations to last 3,000 people for three days. The National Guard was standing by with all-terrain vehicles and four-wheel-drive ambulances. The National Forest Service had 10 chain-saw teams ready to remove fallen trees.

Gov. Mike Easley (D) urged residents of low-lying coastal areas to evacuate. "We're asking them and begging them to please do that because it's going to be hard to get them out later," he said. "The storm surge is going to be higher than projected" Tuesday.

But despite a "mandatory" evacuation order -- which state officials acknowledged was not really mandatory at all -- many residents stayed behind on Hatteras and neighboring islands along the Outer Banks. They parked dozens of cars, pickup trucks and a fire engine on the lawn of the Cape Hatteras Baptist Church in Frisco, not because it is the holiest ground in town, but because it is the highest.

They piled sandbags, stowed boats, bought groceries. And while emergency officials took no chances, some locals did.

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"Gosh, that was great. Best way to stretch out your back," said Jim Bagwell, 52, after a 10-minute swim in the pounding, six-foot ocean surf at the Frisco Fishing Pier, just hours before the eye of the hurricane was forecast to come through. In last year's Hurricane Alex, the 200-foot pier itself was carried away.

Cars pulled in and out of the parking lot as residents came to gawk at the high waves and exchange gossip. Bagwell's Labrador retriever, Gator, started to run after him into the surf, then thought better of it.

"They're bringing in truckloads of water. It's paranoia from Katrina," said Murray Clark, 77, a retired trawler captain. "All of us locals are sitting and giggling."

The Federal Emergency Management Agency placed emergency operations centers on 24-hour alert and readied 50 rescue aircraft, spokeswoman Nicol Andrews said.

The agency staged three response teams and stockpiled medical supplies in Raleigh, N.C., and held three more in reserve in Virginia and Maryland in case the storm moved north, a FEMA official said. More than 100 medical personnel were in Raleigh.

While North Carolina had stored enough ice to last two days for 10,000 people, federal authorities staged more food, water and ice in Emporia, Va.; Palmetto and Thomasville, Ga.; Columbia, S.C.; Cumberland, Md.; and Edison, N.J.

North Carolina also activated 200 National Guard members and placed 200 more on standby, a FEMA official said.

"It's not paranoia to be prepared -- it's simple prudence," said FEMA's acting Director R. David Paulison.

The hardy, or foolhardy, ways of North Carolina residents inured to hurricanes clearly frustrated state and local officials. They said that on the Outer Banks, unlike the Ninth Ward of New Orleans, the overwhelming majority of residents have vehicles and can leave if they want to.

"The feedback I'm getting is that a large number of vacationers have evacuated," said Dorothy Toolan, spokeswoman for the Department of Emergency Services in Dare County, which includes Hatteras. "When it comes to the locals, everybody just decides what they're personal level of comfort is."

As Ophelia strengthened from a Category 1 to a Category 2 hurricane with sustained winds of 85 mph, it pushed water out of Pamlico Sound into the Neuse and Pamlico rivers, flooding such coastal communities as Engelhard and Washington, N.C.

While high waves crashed into the ocean side of Hatteras, the water level on the bay side was so low that a half-mile of sand was exposed in places that usually are covered, even at low tide. But when the hurricane's 50-mile-wide eye passes through, everybody here knew, all that water would surge back into Pamlico Sound and smash into the island.

"We know there will be flooding. The barrier islands will be getting hammered one way [as the hurricane comes in] and then another way coming out," Easley said.

"We didn't know whether to call for a voluntary evacuation or a mandatory, so we called for a voluntary," Mayor Betty Medlin of Kure Beach, south of Wilmington, told Reuters. "The way it's getting here today, we probably should have had a mandatory."

"It's just sitting there, which makes the wind beat us and be on us longer," Medlin said.

Residents staying put noted, however, that Ophelia was the seventh hurricane and 15th named storm of 2005 alone, and that it did not pack anything like the punch of Katrina, which was a Category 4 hurricane, or Isabel, which began as a Category 5 hurricane and came ashore as a Category 2, walloping the Outer Banks two years ago.

"If it was going to be as bad as Katrina, I would have left," said Cathy Davidson, 44, who was stocking her house in Frisco with macaroni and cheese, propane gas and bottled water.

"More locals have left than I thought would leave. I guess they're gun-shy after Katrina," said Bagwell, toweling off after his swim. "You can't live on an island and not realize that if she wants to, Mother Nature can reach out and really touch you."

Katrina Lays Bare Superfund Woes (CSM)

By Brad Knickerbocker

The Christian Science Monitor, September 15, 2005

The receding floodwaters in New Orleans and other parts of the Gulf Coast are exposing hazardous chemicals and other dangerous waste. But they're also revealing the accomplishments - and the limits - of government programs designed to clean up such pollution.

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Among the concerns: That natural disasters such as earthquakes and hurricanes haven't been adequately considered in fashioning safe and secure remedies; that areas tainted by toxic waste, such as rivers in the East and old mines in the West, are becoming larger and more complex; that many newly closed military bases will require considerable cleanup before they're ready for private or local government use; and that federal funding is falling behind the need.

The main program here is a bureaucratic mouthful: the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund.

Passed in the wake of the Love Canal episode in upstate New York 25 years ago, the law created a tax on the chemical and petroleum industries. Operating under the "polluter pays" principle, individually liable companies or property owners could be held financially responsible for cleaning up hazardous waste sites as well. The Environmental Protection Agency created a "National Priorities List" of the most serious uncontrolled or abandoned hazardous waste sites, a list that has grown to about 1,600 nationwide.

Several Superfund sites in the New Orleans area were inundated by hurricane Katrina and the flooding that followed. The most worrisome is the Agriculture Street Landfill, located about halfway between the French Quarter and Lake Pontchartrain. For nearly a century, municipal garbage and industrial wastes accumulated there. It was loaded with lead, arsenic, dioxin and carcinogenic hydrocarbons and later sprayed with the now-banned pesticide DDT. Underground fires gave it the nickname "Dante's Inferno."

The 95-acre site eventually was "remediated" under Superfund - fenced off and covered with a mat barrier and two feet of clean soil. As was the case with Love Canal, local residents continued to complain of health problems.

Today, the EPA and other agencies are investigating whether several feet of rushing floodwaters from the storm and from the collapsed Industrial Canal Levee very close to the former landfill spread the hazardous wastes from that downtown site across a much wider area. Other Superfund sites near New Orleans in Slidell, La., and Madisonville, La., also sustained flooding and there is concern two sites in neighboring Mississippi counties also have water damage.

"The potential for contaminants to rise and migrate through the flood waters to other areas is real," Solid Waste & Recycling magazine reported this week. "It's likely that the multimillion-dollar site restoration conducted a few years ago has been compromised, perhaps even rendered worthless."

Congress and the Bush administration are sure to address hazardous waste cleanup as part of the massive federal response to Katrina.

But they're also faced with renewed scrutiny of the whole Superfund program. The industry tax fund ran out of money when Congress refused to renew it in 1995. Assigning blame among multiple polluters and subsequent property owners has been difficult.

The Government Accountability Office, the investigative arm of Congress, recently warned that companies are using bankruptcies to avoid legal responsibility. The recent round of base closings complicates things as toxic waste sites on military property get transferred to state and local governments. And some of the most challenging hazardous waste problems - the Hudson and Passaic Rivers in the East, the hard-rock mines around Butte, Mont. - are proving to be far more difficult to deal with than landfills and shuttered factories.

"Both of those kinds of sites tend to be physically huge and very challenging," says Katherine Probst of Resources for the Future, a Washington think tank. "Not only are they very expensive, it's not exactly clear what to do."

"They're very expensive, and they're very complex," says Ms. Probst, who is an expert on Superfund and other hazardous waste management programs. "It's not like capping a landfill."

Last year, several members of Congress asked the EPA's inspector general about the adequacy of funding for hazardous waste cleanup under Superfund.

In her 104-page report, EPA inspector general Nikki Tinsley wrote: "In summary, during FY 2003, limited funding prevented EPA from beginning construction at all sites or providing additional funds needed to address sites in a manner believed necessary by regional officials...."

Whether due to increasingly difficult challenges in hazardous waste cleanups or a lack of political will, the number of Superfund cleanups has slowed in recent years. Meanwhile, analyses of EPA's National Priorities List show that 1 in 4

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Americans, including some 10 million children, live within four miles of a Superfund site. As has become the case along the Gulf Coast, many of those people live in low-income, largely African-American communities.

In recent years, the budget for Superfund has stayed essentially flat at about $1.5 billion a year. With inflation and new sites needing cleanup, critics say, that means a slight but steady decrease.

"The program is not getting the funding it needs," says Alex Fidis, an attorney specializing in Superfund for the US Public Interest Research Group in Washington. "The problems are still there and if anything are getting worse."

The experience with Katrina tells some observers that dealing with hazardous waste sites may need a different approach - especially in areas vulnerable to forces of nature. "There needs to be a greater emphasis on cleanups that are really cleanups and not just covering it up," says Ed Hopkins, director of environmental quality programs for the Sierra Club in Washington. "But of course that involves money."

E.P.A. Struggles To Determine Extent Of Hazards In Sludge (NYT)

By Felicity Barringer And Michael Janofsky

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 - The magnitude and geographic sweep of the pollution left by Hurricane Katrina is so enormous that the Environmental Protection Agency is struggling to determine what the worst hazards are, where they are and what can be done about them, the agency's administrator said Wednesday.

The difficulties could cast doubt on plans of the New Orleans mayor and other city officials to reopen drier neighborhoods within days.

Late Wednesday, a day after raising the possibility of letting some residents return to their neighborhoods, Mayor C. Ray Nagin urged residents to stay out of the city because the water was undrinkable and remaining floodwaters posed what the health director called "significant health risks."

Dr. Kevin Stephens, director of the New Orleans Health Department, said in a written statement that while officials analyzed the environmental risks, citizens "should stay out of Orleans Parish until the exact nature of the conditions is known." A news release published Wednesday on the city Web site added that "a disease-laden sludge could remain on streets and buildings, which may further compromise public health."

Scientists who have studied other floods say that receding waters leave mud, sometimes contaminated with toxic chemicals, on streets and mold on walls. When dry, each can become airborne.

At a Congressional briefing and at a separate news conference, the E.P.A. administrator, Stephen L. Johnson, described for the first time the wide variety of problems the agency was confronting, including the difficulty of determining the extent and toxicity of the sludge left by the floodwaters. Mr. Johnson said the agency was using aircraft to test for air pollution and taking daily samples of floodwaters and the sludge. The sampling is concentrated in residential areas.

The agency has not completed or released details about specific strategies and the scientific protocols it is using as it tries to analyze the hazards posed by what Mr. Johnson called "the largest national disaster that we at E.P.A., or we believe, that the nation has faced."

Mr. Johnson said early tests did not look for hazardous petrochemical byproducts like benzene because the presence of oil and gasoline was obvious.

In the wake of the Sept. 11 attacks in New York, the E.P.A. came under criticism by prominent members of New York's Congressional delegation for declaring the air near ground zero safe based largely on testing for asbestos. Later, the agency's inspector general criticized agency officials as making this declaration without sufficient scientific evidence.

In the past two days, Mayor Nagin and Mr. Johnson offered differing accounts of the federal agency's role in certifying the city's neighborhoods as fit for human occupancy.

Mr. Nagin said Tuesday that he was awaiting an E.P.A. report on air and water quality in four unflooded neighborhoods. On Wednesday, Col. Terry J. Ebbert, the head of homeland security for New Orleans, restated the remark. But public affairs officers at both the environmental agency and the Louisiana State Department of Environmental Quality said they knew of no such report.

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Mr. Johnson made it clear that the E.P.A. would not take final responsibility on whether to reopen the city but would collaborate with state and local agencies. A spokesman for the Department of Homeland Security in Washington said, "Ultimately, local officials have the authority to reopen their city."

A Senate staff member who attended Mr. Johnson's meeting with the lawmakers, and would not speak for attribution because she is not authorized to speak publicly, said Mr. Johnson told the members that the level of lead found in the floodwaters was 56 times the amount considered safe in drinking water. He also said the level of bacteria found was 19 times the acceptable level.

Floods' Pollutants Within The Norm (WP)

By David Brown

The Washington Post, September 15, 2005

NEW ORLEANS, Sept. 14 -- Early tests on the floodwater that covered most of this city do not suggest it will leave a permanent toxic residue or render residential areas uninhabitable for more than a short time, officials of both state and federal environmental agencies said yesterday.

The pollution consists primarily of fecal matter and slightly elevated concentrations of metals such as lead and chromium that were in the city's soil before Hurricane Katrina. There are also trace amounts of many petroleum-based chemicals and some pesticides.

Despite descriptions of the floodwater as a "toxic soup" and a "witch's brew" of contaminants, the preliminary tests reveal it contains little that is different from what has been seen after past floods in other cities and here.

The exception is a residential area in the suburb of Meraux southeast of the city, where 672,000 gallons of oil leaked from a refinery storage tank. Areas around six smaller oil spills may also require special cleanup, the officials said.

"The early results do not indicate specific toxic pollutants at any levels of concern," said Chris M. Piehler, a senior environmental scientist at the Louisiana Department of Environmental Quality. Asked if residue from floodwaters posed hazards that would keep residents from moving back, he answered: "No. The limiting factor is going to be what structures are going to be salvageable and which ones are not."

Piehler's observations were similar to those of Jerry Fenner, the leader of the environmental health team sent by the Centers for Disease Control and Prevention.

"So far, all the test results show there shouldn't be any long-term problems of health and habitability," he said, adding that the chemical and oil spills "are a special issue and will require abatement."

The generally optimistic view of the experts here contrasted somewhat with the impression given yesterday by Stephen L. Johnson, administrator of the federal Environmental Protection Agency, at a telephone news conference from Washington. Johnson stressed the uncertainty over toxic hazards that remain in flooded parts of the city.

"What we are focused on is assessing what the problems are. It really is impossible to speculate on what it's going to take and how long it's going to take" to clean up environmental problems, he said.

The EPA is taking daily samples of floodwater both in the city and in the outfalls to Lake Pontchartrain. It is also sampling air and wet and dry mud at dozens of locations. Tests from Sept. 3, 4 and 6 showed levels of hexavalent chromium, lead and arsenic exceeding agency standards for drinking water.

"These compounds would pose a risk to children only if a child were to drink a liter of flood water a day. Long-term exposure [a year or longer] to arsenic would be required before health effects would be a concern," said a statement on the EPA Web site.

The city's drinking water comes from the Mississippi River and not from Lake Pontchartrain, where the floodwater is being pumped.

The most obvious pollutant in the floodwater is fecal bacteria. The city's sewage-treatment plant is not operating, and the standing water is mingling with the sewage in the underground system. Tests from Sept. 3 to 5 found that some sites had bacteria levels above the EPA's measurement scale. From Sept. 7 to Sept. 10, however, the amount of bacteria was falling.

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Fecal bacteria have a limited life span in the open water and will not cause lasting contamination. On land, the bacteria dies once the residue dries out.

"The stuff will desiccate and you can clean it up. You fertilize your lawn? It's the same thing," Fenner said.

While the environmental findings so far have not been surprising, many potentially hazardous areas remain to be assessed. They include five Superfund sites in New Orleans. EPA inspectors have visited four, but one remains underwater. "One of the things we need to do is make sure that these sites have not been compromised," Johnson said.

The agency and local officials are also evaluating numerable small spills and hazards, including more than 5,000 "orphan containers" found floating in the water. These include everything from gas cylinders to a drum containing medical waste, he said.

A U.S. Coast Guard spokeswoman said there have been seven oil spills of more than 100,000 gallons since the storm. The biggest is at the Meraux Refinery, operated by Murphy Oil Corp. in St. Bernard Parish, southeast of the city.

During a sampling trip there two days ago, the EPA's Paul Doherty said the company estimated that about 9,600 of the 16,000 barrels of oil that leaked were recoverable and most of the rest had evaporated.

In a housing development nearby, workers in yellow safety suits scooped up samples of fine-grained mud that smelled partly of sulfurous decay and partly of petroleum.

The houses were severely damaged. At several, the flood floated cars that came to rest with their rear ends on the roof and the front ends on the lawn. Even without the spill, the neighborhood seemed unlikely to be habitable anytime soon.

Exposed To A Flood Of Filth, Homes Must Be Bulldozed (USAT)

By Thomas Frank And Tom Kenworthy

USA Today, September 15, 2005

BATON ROUGE — The putrid floodwaters left by Hurricane Katrina are so bad that Louisiana's top environmental official warned Wednesday that many houses will have to be bulldozed because of contamination.

"It's going to be a while before areas that were flooded will see people moving back," said Mike McDaniel, secretary of the Louisiana Department of Environmental Quality. He said residents of those areas will be allowed to return to their homes briefly to retrieve personal items but will be told about the health risks and given protective gear.

McDaniel said many houses in flooded parts of the New Orleans area "will have to be disposed of."

The Environmental Protection Agency also released new test results that show the floodwaters around New Orleans contain levels of toxic chemicals and bacteria that exceed federal standards for drinking water.

The water contains high levels of arsenic and hexavalent chromium, a chemical in paints and dyes that can cause lung cancer when inhaled. The agency said the chromium and arsenic would pose a "risk to children only if a child were to drink a liter of floodwater a day." The EPA also detected high levels of lead and bacteria in the waters.

"This is the largest natural disaster that we at the EPA … have faced," EPA Administrator Stephen Johnson said.

The agency warned the public and emergency responders to avoid direct contact with standing water and to wash carefully with soap and water if they are exposed. Other tests have found some pollutants in the air, but not enough to raise health concerns.

Louisiana's McDaniel said he remains concerned about "large quantities of hazardous materials" at industrial facilities, such as rail cars containing toxic materials. "We haven't been into some of the industrial areas … where we might find hot spots," he said.

McDaniel also said the potential for seafood contamination in the waters off Louisiana, Mississippi and Alabama is a "major concern." A National Oceanic and Atmospheric Administration ship started taking samples of water, fish, shrimp and sediment to check for contaminants and pathogens.

EPA teams have done preliminary inspections at four hazardous waste sites in the area on the federal Superfund list of the nation's most serious pollution spots. No thorough testing has been done yet to determine whether contaminants escaped. A fifth Superfund site in New Orleans is still underwater.

The range of toxic chemicals that may have been released is extensive, said Lynn Goldman, an environmental health sciences professor at Johns Hopkins University. "We're talking about metals, persistent chemicals, solvents, materials that have

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numerous potential health impacts over the long term," said Goldman, an assistant EPA administrator in the Clinton administration.

Other environmental specialists warn of a potential crisis.

"We are dealing with an area that has been dubbed by many 'chemical alley' or 'cancer alley,' " said Sylvia Lowrance, who was the EPA's chief of enforcement for 24 years until 2003. Cleaning up from dozens of industrial facilities and hundreds of thousands of homes, autos and businesses will probably be "the most daunting" environmental restoration project ever, Lowrance said.

Thomas Dunne, EPA's acting assistant administrator for solid waste and emergency response, said it's too early to know how much hazardous material has been released. "This is going to evolve over weeks," he said.

Erik Olson of the Natural Resources Defense Council said: "We worry that most of the city of New Orleans could end up being a toxic waste site. There isn't a concerted effort to contain pollution at some of these industrial waste sites, and the monitoring … seems far too limited."

Retail Sales Declined 2.1% In August (WSJ)

By Rafael Gerena-morales

The Wall Street Journal, September 15, 2005

Consumer spending showed some signs of cooling during the weeks leading up to Hurricane Katrina, and the storm could further damp consumption in the weeks ahead if gasoline prices don't retreat. In addition, Katrina affected industrial production in August.

Retail sales in August fell 2.1% from the month before to $350 billion on a seasonally adjusted basis, following a 1.8% increase in July. It was the largest monthly sales decline since demand tumbled 2.9% in November 2001. Much of the volatility related to the automobile sector, which saw sales rocket in July, boosted by Big Three discounting, but then slump in August.

The Commerce Department said it couldn't quantify the effect of Katrina on retail sales for the month. However, it noted that the region struck by the hurricane accounts for a little more than 1% of total sales nationally.

Excluding autos, all other retail sales climbed 1% in August. About half of that increase was from surging gasoline prices, which drove up receipts at gasoline stations. Excluding gasoline and autos -- which some economists said gave a clearer read of underlying spending patterns -- sales rose 0.5% for the month. They were 7% higher than year-earlier levels, roughly in line with the pace established for much of the year.

The gains outside the topsy-turvy auto and gasoline sectors suggested that consumer spending had "good momentum" ahead of the hurricane, said Jim O'Sullivan, U.S. economist at UBS AG. However, he and other economists said sales could take a hit in September with high gasoline prices further crimping household purchasing power.

"It's quite possible that these are the first signs that higher energy prices are [reducing] discretionary consumer spending," said Joshua Shapiro, chief U.S. economist at MFR Inc. Consumer spending last month was flat at restaurants, bars and clothing stores. Sales climbed at furniture stores, building-material and garden stores and health and personal-care stores.

Another government report showed that Hurricane Katrina slowed industrial output last month. Industrial production edged up a weaker-than-expected 0.1% in August, according to the Federal Reserve, which estimated that Katrina reduced output by 0.3 percentage point.

"Hurricane Katrina severely curtailed output in the Gulf Coast region at the end of August," the Fed said. "Hurricane-related production declines were most evident in oil and gas extraction, industrial chemicals manufacturing, and petroleum refining."

Manufacturing output increased 0.3% in August, which economists described as a mixed performance. Much of the gain was tied to cars. Excluding motor vehicles and parts, manufacturing output was unchanged from July, the Fed reported. In September, hurricane-related disruptions are expected to slow manufacturing output, but activity should "snap back" in subsequent months, said Mr. O'Sullivan of UBS.

Industrial-capacity utilization was unchanged at 79.8%. Throughout the summer, capacity utilization has remained at its highest level since December 2000, but the Fed noted that it is still 1.2 percentage points below its 1972-2004 average.

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Another report suggested the housing sector is holding up in the wake of the hurricane. The Mortgage Bankers Association said its index that tracks mortgage applications for the purchase of homes rose 2.9% to 513.4 -- the highest level of activity since the week ended July 1, when it hit 520.8. Applications for refinancing declined.

Gasoline Demand Fell In Last Weeks Of Driving Season (WSJ)

By Thaddeus Herrick

The Wall Street Journal, September 15, 2005

Americans used considerably less gasoline in the final weeks of the summer driving season than a year earlier as Hurricane Katrina limited fuel supplies and distribution and drove up prices.

Data released by the U.S. Department of Energy's Energy Information Administration could indicate that U.S. drivers are responding to soaring gasoline prices by conserving fuel, though the supply disruptions and gasoline lines that followed could also be a factor. In a report issued this week, Credit Suisse First Boston said recent drops in gasoline demand are part of a longer-term decline that will play out over the next several years as the high cost of energy eats into disposable income.

Gasoline demand for the week ended Sept. 9, which includes the Labor Day weekend, dropped 4.3% to 8.64 million barrels a day from 9.03 million barrels the previous week, the Energy Information Administration said. For the four weeks ended Sept. 9, gasoline demand averaged 9.1 million barrels a day, a decline of 1.1% from the same period last year.

The decline comes just two weeks after Katrina brought the country to the brink of an energy crisis. Next week, the Organization of the Petroleum Exporting Countries meets in Vienna to consider increasing oil output by 500,000 barrels a day. But among OPEC members, only Saudi Arabia has significant spare production capacity and many U.S. refineries can't process its heavy, high-sulfur crude.

Yesterday, benchmark light, sweet crude-oil futures for October settled up 3.1%, or $1.98, at $65.09 a barrel on the New York Mercantile Exchange as U.S. crude supplies fell more than expected last week on damage to oil production by Hurricane Katrina. For the week ended Sept. 9, commercial crude-oil stockpiles fell 6.6 million barrels to 308.4 million barrels.

In Washington, 16 members of the House of Representatives introduced legislation aimed at increasing fuel-economy standards for vehicles sold in the U.S. Similar proposals haven't fared well in the past. Meanwhile, Senate Democrats say they want to discuss giving the president and the Federal Trade Commission additional authority to investigate what they say is gasoline-price gouging.

Katrina pounded the Gulf Coast, wreaking havoc on production platforms, pipelines and refineries and sending the price of gasoline past $3 a gallon for a while. The average U.S. price of a gallon of regular unleaded now stands at about $2.96, according to the Energy Information Administration, down 11.4 cents from last week but about $1.11 above prices a year ago.

"Consumers should not expect prices to decline quickly, since the disruption to supply is still occurring," the agency said, though the administration said increased imports should help ease the cost of fuel.

Yesterday, the Minerals Management Service said 56% of crude production from the Gulf of Mexico, home to a quarter of U.S. oil and natural-gas output, is still shut down, as is 35% of natural-gas production. About 5% of the nation's refining capacity remains shut down and could remain so for months.

Separately, the Department of Energy said it sold 11 million barrels of oil to energy companies out of the nation's emergency stockpile, known as the Strategic Petroleum Reserve. The figures indicate that many refiners feel adequately supplied with crude, since the government had originally offered as much as 30 million barrels.

Demand For Gasoline Falls For A 2nd Week (NYT)

By Vikas Bajaj

The New York Times, September 15, 2005

Demand for gasoline fell nationwide for a second consecutive week, the government reported yesterday, indicating that record retail prices may have forced some consumers to cut back on their driving over the week of Labor Day.

The weaker demand may also be explained by disruptions in the nation's energy supply system, which is still recovering from Hurricane Katrina.

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Americans used an estimated 8.63 million barrels of gasoline a day in the week that ended Sept. 9, down 4.3 percent from the week before and 6.5 percent less than the comparable week in 2004, according to the Energy Information Administration. Demand fell 4 percent for the week that ended Sept. 2.

But those estimates do not measure every drop of fuel that drivers put in their tanks, because the agency can track gasoline only until it is delivered to large regional terminals, where it is then trucked to wholesalers and retailers, said Larry Alverson, an analyst at the agency.

When fuel is flowing through the system normally, the agency's figures are fairly good at measuring final demand because wholesalers and retailers usually buy enough fuel to meet consumer demand. But in tight times, when they cannot get enough gasoline from the terminals, wholesalers and retailers will draw down their inventories to fill demand. That consumption is not counted in the agency's data.

So, are consumers cutting back or not?

"Some people are saying these high prices haven't affected demand much, and others say of course it has," Mr. Alverson said. "You take your pick."

There is some anecdotal evidence that fewer consumers drove over the Labor Day holiday and that more people are taking mass transit when possible, but there is little hard data.

"The unofficial surveys and conversations we have had with people who deliver gasoline to stations and who sell that gasoline to consumers say that their sales are off 10 percent in the last 10 days," said Ben Brockwell, director of pricing and data services at the Oil Price Information Service.

Retail gasoline prices topped $3 a gallon on Labor Day weekend after the hurricane shut down much of the Gulf Coast's oil production, refineries and pipelines. More than 5 percent of American refining capacity is still out of service.

The Energy Department said yesterday that it was selling 11 million barrels of oil from the nation's Strategic Petroleum Reserve to BP, Astra Oil and Marathon. The government had said it would sell up to 30 million barrels of oil, which is refined into gasoline and other fuels.

Nationally, a gallon of regular unleaded gasoline sold for an average of $2.935 this morning, according to a survey Mr. Brockwell's firm runs for AAA, the auto club. That is down from $2.956 the day before and up from $2.44 a month ago.

Demand may have started falling even before the hurricane hit. The American Petroleum Institute said yesterday that gasoline demand fell 0.4 percent as prices rose 32 percent in August from the same month a year ago. So far this year, Americans' average daily gasoline consumption of 9.13 million barrels a day is about 0.3 percent higher than a year ago, according to the E.I.A.

On the futures market, gasoline for October delivery rose 4.57 cents yesterday, to $1.937 a gallon, on the New York Mercantile Exchange. Crude oil gained $1.98, to $65.09 a barrel.

Gasoline inventories rose by 1 percent, to 192 million barrels, last week. The week after the hurricane, inventories fell 2 percent, to 190.1 million barrels, the Energy Information Administration reported.

Numbers Show Economic Lag Before Storm (NYT/AP)

By The Associated Press

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 (AP) - Hurricane Katrina is eating into the economy, leading to concern that consumers will lose confidence and curtail spending.

The government reported Wednesday that retail sales fell 2.1 percent in August, even before the storm hit, as high gasoline prices jolted consumers.

Also, industrial output was nearly flat, reflecting widespread shutdowns of oil platforms, refineries and chemical plants along the battered Gulf Coast.

Analysts said they still believed that Katrina would amount to only a temporary blow to the economy and that strong growth would follow as rebuilding begins.

The decline in retail sales was twice the size economists had forecast.

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The weakness came from a 12 percent drop in auto sales. Demand slackened after two strong months when American automakers allowed consumers to buy at the discount prices given to the automakers' employees.

Excluding autos, retail sales rose by 1 percent, with half of that coming from a huge rise in gasoline prices. Analysts said the retail sales data was evidence that gasoline above $3 a gallon was having an impact on consumer demand in other areas like clothing.

Sales at department stores rose a sluggish 0.3 percent. Demand at clothing stores was flat in August after a 0.9 percent decline in July.

The biggest increase in spending in August occurred at service stations. The 4.4 percent increase reflected pump prices that have soared past $3 a gallon in many places.

Without the jump in spending at gas stations, retail sales would have fallen by 2.8 percent last month as demand faltered in many sectors, the government estimated.

Ian Shepherdson, chief economist at High Frequency Economics, a consulting firm in Valhalla, N.Y., said he did not expect a quick rebound in retail sales. Mr. Shepherdson said he believed high energy costs would continue to depress consumer spending for several more months.

Industrial output posted a 0.1 percent gain in August. It would have been 0.4 percent, the Federal Reserve reported, if not for the shutdown of much energy and chemical production along the Gulf Coast at the end of August.

Economists predicted the hurricane fallout would continue as the energy industry struggles to regain its footing.

"The industrial production numbers in the next two months will look pretty awful as the full impact of the hurricane-related shutdowns shows up in the data," said Nariman Behravesh, chief economist at Global Insight, a Lexington, Mass., consulting firm.

Stock Losses Accelerate (WSJ)

By David Gaffen

The Wall Street Journal, September 15, 2005

Major stock indexes wilted Wednesday as crude oil jumped nearly $2 a barrel and traders fretted over tepid economic reports. A profit warning from Walt Disney sank the Dow industrials in the last hour of trading.

The Dow Jones Industrial Average fell 52.54 points to 10544.90, hurt by Disney's 2.8% drop, which led decliners on the average. The Nasdaq Composite Index fell 22.42 points, or 1.03%, to 2149.33, just off the day's low. The Standard & Poor's 500-stock index fell 4.15 to 1226.51.

In the final hour of trading, Disney reported that it expected a $250 million to $300 million quarterly loss in its film division, and warned that it may write down a $101 million investment in Delta Air Lines airplane leases. Delta filed for bankruptcy-court protection1 after the market closed.

A combination of concerns about slowing economic growth and rising inflation are seeping into the market, market participants said. Retail sales fell 2.1% in August, the Commerce Department reported Wednesday, though much of that decline was due to a 12% stumble in auto and auto-parts sales. Investors remain worried about high energy costs and climbing labor costs, which the Labor Department said last week are rising 4.2% on a year-over-year basis.

The concerns about inflation were evident in other markets. Gold closed up $3.70 a troy ounce to $449.80 on the Comex division of the New York Mercantile Exchange, its highest close since Dec. 7, 2004. Prices of long-dated Treasurys finished sharply lower, pushing the yield on the benchmark 10-year Treasury to 4.16% and the 30-year Treasury yield to 4.45%.

Joachim Fels, economist at Morgan Stanley, wrote in a note that "recent economic data, combined with the rise in energy prices this summer and the likely policy reactions in Washington to Hurricane Katrina," affirmed his view that the "global macro environment will turn stagflationary soon." If that does happen, energy prices will be partially to blame, Mr. Fels said.

Wednesday, oil prices broke a streak of three down sessions on the Nymex. Light, sweet crude scheduled for October delivery settled up $1.98 at $65.09 a barrel. Gasoline futures for the same month settled at $1.9374 a gallon, up 4.5 cents, or 2.4%. In the past 12 months, gasoline futures have soared 59.6%.

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The jump in petroleum futures came after the Energy Department reported gasoline inventories last week rose 1.9 million gallons, while crude-oil stocks fell by a steeper-than-expected 6.6 million barrels. Forecasters expected a drop of 2.8 million gallons of gasoline and only a mild decline in crude inventories.

The reaction among energy traders to the drawdown in crude-oil inventories could partially reflect the expectation that demand for oil products of all types will rebound in due course. Phil Flynn, senior energy market analyst at Alaron Trading in Chicago, said the drawdown, as well as recent news of various facilities coming back, has energy traders in a bullish mood. "The market is speculating that demand is going to bounce back, and that we've seen the worst," he said.

The cloud of economic concerns, poor retail sales and rising energy prices polluted the equity market, where the Dow industrials stayed in positive territory through part of the afternoon even as overall market breadth was worsening. Decliners outpaced advancers more than two-to-one on the Nasdaq Stock Market and by a ratio of 5-to-3 on the New York Stock Exchange.

Ultimately, the Dow average slipped into the red as investors gave back part of the post-Katrina rally that sustained the market for two weeks. Between Aug. 30 and the beginning of this week, the S&P 500 had risen 3.3%, while the Dow industrials gained a surprising 2.6%.

Wednesday's malaise meant the market mostly glossed over the strong earnings report out of Lehman Brothers Holdings, which kicked off earnings season by reporting a 74% jump in third-quarter net9, handily surpassing Wall Street's forecasts. The stock rose 0.4%, giving up most of its gains in the late part of the session. The report, however, bodes well for forthcoming financial-services earnings releases, including Bear Stearns tomorrow, and Goldman Sachs and Morgan Stanley next week.

Baidu.com, the Chinese Internet-search portal, tumbled 28% after Piper Jaffray and Goldman Sachs initiated coverage with "underperform" ratings, saying the stock price's rich valuation was unsustainable.

In major market action:

Stocks declined10. On the Big Board, where 1.49 billion shares traded, 1,211 stocks rose and 2,083 fell. On the Nasdaq Stock Market, where 1.71 billion shares traded, 984 stocks advanced and 2,017 declined.

Bonds fell11. The benchmark 10-year Treasury fell 8/32, or $2.50 per $1,000 invested, to yield 4.162%. The 30-year bond was down 18/32 to yield 4.450%. Yields move inversely to prices.

The dollar weakened.12 It was at 110.30 yen, off from 110.64 yen late Tuesday, while the euro rose to $1.2282 from $1.2270.

Georgia Chief Justice Attempts To Cut Red Tape For Evacuee Lawyers (LAW)

By Meredith Hobbs, Fulton County Daily Report

Law.com, September 15, 2005

Georgia's top judge is trying to make things easier for hurricane-displaced lawyers who want to start a practice in Georgia.

Chief Justice Leah Ward Sears of the Georgia Supreme Court has asked her counterparts in Louisiana, Mississippi and Alabama to change their rules so that lawyers from those states could get a State Bar of Georgia license in as little as eight weeks.

Right now, those lawyers can practice in Georgia temporarily but must pass the state's bar exam to set up shop permanently -- a process that would take at least nine months. The next bar exam is not offered until February, and results do not arrive until late May.

The problem is that Louisiana, Mississippi and Alabama do not allow reciprocity with other states. For states that do, lawyers licensed in one state can join another state's bar without having to take its bar exam.

Currently 33 states, including Georgia, allow this kind of reciprocity, said Hulett H. "Bucky" Askew, the director of the Georgia Office of Bar Admissions.

If the top judges in those states agree, then lawyers from the Gulf Coast states would need only to pass a certification of fitness to practice in Georgia, a process that ordinarily takes eight to 12 weeks, said Askew, who added that his office would try to speed things up for displaced lawyers.

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Askew said his office has received a lot of phone calls from Louisiana lawyers looking for reciprocity, "but as soon as they hear we're not reciprocal, they hang up."

"The problem that these lawyers will have is their lack of access to documentation," he said. Out-of-state lawyers must provide educational transcripts, employment histories and other information to be licensed by the Georgia Bar.

"I had two lawyers from New Orleans who walked in here who had lost everything. They had no client files and no documentation," Askew said. "Assume you went to Tulane Law School and practiced in New Orleans for 15 years. You would have no access to [bar] disciplinary records or transcripts, so we're going to have some issues around them being able to document what they need to document."

Luckily for lawyers hit by Katrina, Texas accepts lawyers in good standing from any other state, under a rule called comity.

But Louisiana, Mississippi and Alabama lawyers wishing to set up practices in other states face serious obstacles, since the three Gulf Coast states are not reciprocity states.

Georgia has allowed reciprocity for lawyers from other states since 2003. Under the rule, lawyers who meet certain conditions can get a Georgia Bar license without taking the state's bar exam.

Gulf Coast lawyers are already able to practice in Georgia on a temporary basis, thanks to a multi-jurisdictional practice rule passed by the state's Supreme Court in 2004.

The rule's intent is to allow out-of-state lawyers to work on existing client matters from a Georgia office, said Clifton A. Brashier, director of the State Bar.

"Our rules accommodate a temporary situation in which a lawyer licensed in another state is in Georgia on a client matter relating back to the home state," he said.

That means a Louisiana lawyer could run a Louisiana practice from Georgia temporarily, without running afoul of Georgia's unauthorized-practice-of-law statute, he said. But lawyers wishing to find a job with a Georgia firm would need to join the State Bar.

Although the multi-jurisdictional practice rule allows only for temporary practice in Georgia, it specifies no time limit, Brashier said. Rather, it depends on the circumstances in each case. "If one's office in New Orleans is underwater," he said, "that would be a pretty understandable circumstance."

Askew, the bar admissions chief, was not sure when the supreme courts of the three Gulf Coast states will reply to the Sears' request, or whether they will change their rules to allow for reciprocity.

Just getting the letter to the hard-hit courts was a challenge, he said. "We faxed, e-mailed and Fed-Exed this letter today, not knowing how in the world their system would cope." He said the Alabama court has received the letter, but he has not yet heard from those in Louisiana and Mississippi.

"How high a priority [the rule change] will be for them, I don't know. They've got huge problems there," he said.

Senate Bill Rejects Bush Cuts For Many Commerce Programs (WSJ)

By David Rogers

The Wall Street Journal, September 15, 2005

WASHINGTON -- With a year-end budget battle looming, the Senate pushed toward passage today of a $52 billion spending bill that rejects many of President Bush's cuts from industrial technology and science programs within the Commerce Department.

The measure, at the same time, is a magnet for Katrina-relief amendments, and Senate leaders last night accepted a $3.5 billion proposal authorizing emergency housing vouchers for hundreds of thousands of families displaced by the storm. But a second amendment to extend Medicaid coverage to evacuees was withdrawn after the Senate Finance Committee unveiled a bipartisan $5 billion to $7 billion plan to expedite unemployment and health-care coverage for families.

As the costs of the storm grow, the Commerce Department budget bill is also a reminder of the differences that have already surfaced between Republicans and President Bush this summer over domestic spending for the coming year.

Funding for the National Oceanic and Atmospheric Administration would grow to almost $4.48 billion, a $550 million increase above current spending, and $894 million more than Mr. Bush's request for the new fiscal year that begins Oct. 1. The

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National Institute of Standards and Technology, a second unit within Commerce, is promised $844.5 million, nearly 60% more than the White House's request, and including $140 million for the Advanced Technology Program, which provides "seed financing" for the development of generic technologies.

The White House has strongly objected to the Senate funding the ATP. But Republicans remain badly split, and an amendment backing Mr. Bush was easily tabled, 68-29.

To date, the House and Senate have sidestepped confrontation with the president by quietly borrowing from defense and foreign-aid accounts to fill gaps in Mr. Bush's domestic budget. But as the Oct. 1 deadline approaches, some reckoning will soon be required.

By the administration's calculations, the $52 billion Senate bill, which would fund the Justice Department and science agencies, as well as Commerce, is about $1.4 billion more than the president's requests. That appears at least $679 million higher than the House spending levels for the same accounts, and as a rule senators have been more aggressive in adding money to the president's budget for energy and water programs, education and medical research.

With only two of the annual spending bills completed, there is an estimated $7 billion gap between the House and Senate over the remaining measures. Republican lawmakers must reconcile these differences and then try to reach some agreement with the president.

With the new fiscal year less than three weeks away, some stopgap measure will be needed again to keep agencies funded for the first few months. The House Appropriations Committee leadership is considering a very restrictive funding formula to give itself more leverage in talks with the Senate. But this strategy could backfire if it leaves agencies such as the Army Corps of Engineers at a disadvantage, just when they are trying to cope with Katrina relief.

The Senate Finance panel's hurricane-relief bill was negotiated by Chairman Charles Grassley (R., Iowa) and Montana Sen. Max Baucus, the panel's ranking Democrat, who are both pressing for quick action this week.

Washington would relieve Louisiana, Mississippi and disaster-struck Alabama counties of the state share of Medicaid costs through Dec. 31, 2006. And to help families who have relocated outside their home states, the bill creates a five-month Disaster Relief Medicaid program for Katrina survivors below the poverty level and as much as 200% of the poverty level for pregnant women and children.

Relief is also promised for elderly Medicare patients, who would not be required to pay copayments and deductibles to receive hospital services, if they were displaced by the storm. And any individual in Alabama, Louisiana or Mississippi whose unemployment benefits expire would get a 13-week extension.

OTHER NEWS:

4th Union Quits A.F.L.-C.I.O. In A Dispute Over Organizing (NYT)

By Steven Greenhouse

The New York Times, September 15, 2005

Deepening the split in organized labor, Unite Here, a union that represents apparel, hotel, casino and restaurant workers, announced yesterday that it was quitting the A.F.L.-C.I.O., becoming the fourth union to do so this summer.

Bruce Raynor, president of Unite Here, said his union's board had voted unanimously to quit because the A.F.L.-C.I.O. had not done enough to spur union organizing to reverse the decline of the labor movement.

"We believe that American workers are facing a historical crisis," Mr. Raynor said in a telephone news conference from St. Paul, where his union's board was meeting. "There are 28 million Americans that went to work this morning who made less than the poverty level."

This summer, three other major unions quit the labor federation: the Service Employees International Union, the International Brotherhood of Teamsters and the United Food and Commercial Workers. The four departing unions represented about 4.5 million workers out of the A.F.L.-C.I.O.'s membership of 13 million.

The leaders of Unite Here, which represents 450,000 workers, said the dissident unions would focus on large-scale organizing drives to try to unionize thousands of workers at the same time.

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Immigrants will be a particular focus, they said, because the breakaway unions cover industries with millions of immigrant workers, like restaurants, nursing homes, supermarkets, hotels and janitorial companies.

On Sept. 27, the four breakaway unions will hold a founding convention in St. Louis to create a union federation, tentatively called the Change to Win Coalition. The dissident leaders say the new group will be more aggressive about organizing workers than the A.F.L.-C.I.O.'s unions.

Two unions still in the A.F.L.-C.I.O. - the laborers' union and the United Farm Workers - say they will join the new group. The carpenters' union, which quit the main labor federation in 2001, also plans to join.

"We believe it's our responsibility to do everything we can to work with all interested unions to grow the labor movement," said John W. Wilhelm, president of the hospitality division of Unite Here. "The labor movement is the only institution in 21st-century America that can reverse the decline in living standards for most Americans."

Unite Here is an amalgam of several famous unions. Unite was formed in 1995 when the Amalgamated Clothing and Textile Workers merged with the International Ladies' Garment Workers Union. Unite Here was formed last year when Unite merged with the Hotel Employees and Restaurant Employees International Union.

The A.F.L.-C.I.O. criticized yesterday's move.

"Unite Here's leadership made the wrong decision for their members and for America's working people because now more than ever, working people need to be united," said Lane Windham, a spokeswoman for the federation. "Everybody supports organizing, everybody supports politics, and we're stronger when we're united."

Unite Here contributes $4 million a year to the A.F.L.-C.I.O.'s $120 million budget. Together, the departing unions contributed about $30 million a year.

Officials of Unite Here say their union emerged largely victorious in recent hotel strikes in Los Angeles and Washington, and in a casino strike in Atlantic City.

Delta, Northwest File Chapter 11 (USAT)

By Marilyn Adams And Dan Reed

USA Today, September 15, 2005

In a historic move, Delta and Northwest airlines — saddled by high jet-fuel and labor costs and huge debts — filed for bankruptcy protection Wednesday.

The twin filings in U.S. Bankruptcy Court in New York put four of the seven largest U.S. airlines — Delta, Northwest, United and US Airways — in Chapter 11 at once, an unprecedented level of misery for the industry.

About 51% of the flying capacity of the USA's top 12 airlines is now operating under bankruptcy protection. Both carriers will continue flying in reorganization and plan no immediate changes to their schedules, cities served, fares or frequent-flier plans. But their operations will shrink. While further job losses are expected, neither would predict the number who will be laid off.

Delta CEO Gerald Grinstein said in an interview that “everyone at Delta is going to have to make sacrifices.” He said none of Delta's senior officers will receive performance bonuses or retention bonuses in 2005. He also said pay cuts for the workforce will be announced in coming weeks. Delta has asked its pilots union for a new round of contract concessions.

Northwest CEO Doug Steenland said the airline “must significantly lower its costs to compete” with both fast-growing, low-cost carriers and its traditional rivals that have used Chapter 11 to reduce their costs. Northwest's recent efforts to restructure its costs were thwarted by soaring jet-fuel costs after Hurricane Katrina crippled gulf oil production. The airline's jet-fuel bill this year will be about $3.3 billion, he said, up from $2.2 billion last year and $1.6 billion in 2003.

Delta has $2.05 billion in bankruptcy financing: a $1.7 billion debtor-in-possession loan arranged by GE Commercial Finance and Morgan Stanley, and a $350 million loan from American Express. Only $1.4 billion of the $1.7 billion loan will be immediately available. Northwest has debts totaling more than $8 billion and pension plans that are underfunded by $3.8 billion. About 4,500 mechanics and related workers are in their fourth week of a strike against the airline. Steenland said the Chapter 11 filing was not triggered by the strike.

Northwest said it has $1.5 billion in cash, down from $2.1 billion on June 30. But Steenland said its ability to take on more debt in Chapter 11 is minimal because nearly all of its assets are pledged as collateral on existing loans.

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Bankruptcy For 2: Storm Broke The Camel's Back (NYT)

By Micheline Maynard

The New York Times, September 15, 2005

Late last month, Northwest's chief executive, Douglas M. Steenland, still thought his airline had a chance to avoid seeking bankruptcy protection.

No matter that the mechanics' union was on strike, the price of jet fuel had risen by 50 percent, and, yes, low-fare airlines were brutal competitors. But then Hurricane Katrina struck, wiping out not only homes, lives and businesses on the Gulf Coast, but Northwest's chances of staying solvent.

Yesterday, Northwest, the nation's fifth-largest airline, filed for bankruptcy protection, and Delta Air Lines, the country's third-largest carrier, took the step at the same time - though that was not planned, their chief executives said. A result is that now, half the seats on flights in the United States are offered by airlines operating under court protection.

Delta's bankruptcy filing, in United States Bankruptcy Court in New York, where Northwest also filed, was long expected.

Northwest's was not. And the story of Northwest's decision to file shows how a highly attentive financial community can miss an important sign: in this case, the effects of a sudden jump in the cost of jet fuel in finally pushing an airline over the edge.

Word that Northwest was considering Chapter 11 bankruptcy shocked Wall Street on Tuesday, sending the company's shares plummeting by over 50 percent. But skepticism remained that it would actually follow through. Unlike Delta, which had begun talking to bankers and financiers weeks ago to arrange bankruptcy financing, Northwest had left no telltale footprints in the corridors of the financial community.

As late as yesterday morning, veteran industry analysts like Jaime Baker of J. P. Morgan were saying that the airline still had time to wrest $1.4 billion in wage and benefit cuts from its unions, which Northwest had said could forestall bankruptcy, especially if coupled with pension changes under consideration by Congress.

Many experts thought the airline would wait until closer to Oct. 17, when changes in federal bankruptcy law take effect and limit the amount of time in which management may draft restructuring plans.

What they missed was the impact of Katrina, Mr. Steenland said yesterday. After the storm hit the Gulf Coast, shutting down refineries and causing a spike in the price of jet fuel, Mr. Steenland said his airline was faced with the equivalent of paying $100 a barrel for oil, including the cost of refining it into jet fuel.

That outlay - more than double what the airline paid for oil a year ago - had a "staggering impact" on the airline, and made a bankruptcy filing inevitable, Mr. Steenland said.

Still, all the members of Northwest's board, which includes three representatives from its labor unions, were not yet convinced. So Mr. Steenland and his team of executives, lawyers and restructuring experts, whose backgrounds included experience with bankruptcies at US Airways, Continental and Eastern Airlines, laid the numbers out in precise detail.

"We are a very analytical and empirical decision-making company here," he said yesterday, during a conference call with reporters.

Northwest faced a fuel bill of $3.3 billion this year, $1.1 billion more than it spent in 2004, even though it had plans to cut back some flights, like its service between New York and Tokyo. The airline also had a $65 million pension payment due today that it could not miss unless it was under bankruptcy protection. Other "sizable" payments also lay ahead, Mr. Steenland said.

If it did not file for bankruptcy protection, Northwest risked heavy losses, on top of the $3.6 billion it has lost since 2001 and the $300 million to $400 million it expects to lose this quarter.

And Northwest's $1.5 billion in cash could evaporate, money it would need as bankruptcy financing.

Faced with that, the board members, including the labor representatives, recognized the peril and voted unanimously to seek court protection, Mr. Steenland said.

If the bankruptcy filing shocked Wall Street, it should not have, Mr. Steenland said. Over the last few weeks, the airline had grimly laid out that likelihood in a series of regulatory filings, the most recent on Tuesday, when the airline said it had skipped $23 million in debt payments.

And Mr. Steenland, in interviews as recently as Monday, repeatedly emphasized that the airline's chance to restructure was fast disappearing.

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"Northwest ran out of time," Philip A. Baggaley, an airline industry analyst with Standard & Poor's Ratings Services, said yesterday. Bankruptcy "was unavoidable, and it was the wisest course," he added.

Yesterday, Mr. Steenland pointed out another issue: heated competition from low-fare carriers, whose growing presence has made it difficult for major airlines to raise fares enough to cover their costs.

With the surging price of oil, Mr. Steenland said, Northwest raised fares 40 times, usually by $5 to $10 on selected routes. But those increases resulted in only a 3 percent to 5 percent gain in revenue, well short of what the airline needed to cover the price of fuel.

Gerald Grinstein, the chief executive at Delta, agreed with his Northwest counterpart yesterday. Mr. Grinstein said Delta was already contemplating bankruptcy because of the rise in energy costs that occurred even before the storm.

"If it needed emphasis, underline and exclamation point, Katrina did that," Mr. Grinstein said.

Delta executives declined to say how long the airline would remain under bankruptcy protection, but it could take years if the nearly three-year bankruptcy at United is any guide.

Problems are also looming with its pension plan. If Delta's pension plan defaults, it would set a record, surpassing even the size of United's pension plan collapse earlier this year, according to estimates issued yesterday by the Pension Benefit Guaranty Corporation.

Already, the agency's finances have been severely shaken by a series of large corporate bankruptcies and pension failures.

The guarantor estimated that Delta's pension plan had promised benefits worth $17.5 billion, but had assets of only $6.9 billion, for a $10.6 billion shortfall. The most recent estimate of United's shortfall, by contrast, was $10.1 billion.

James C. Whitehurst, Delta's chief operating officer, said yesterday that the airline had gotten a jump on its restructuring with a transformation plan introduced last year, under which Delta is striving to cut $5 billion in costs and 7,000 jobs by next year.

"We want to get through this as fast as possible but deliberately enough to build a plan to allow us to survive and thrive," Mr. Whitehurst said.

Indeed, Mr. Grinstein, who had urgently tried to keep his airline from a court filing, expressed optimism that Delta, which has lost nearly $10 billion since 2001, can become a successful player again.

"Delta's financial problems are severe, but not insurmountable," Mr. Grinstein said yesterday.

The chief executive of the industry's most successful carrier, Southwest, said yesterday that there was more involved in operating profitably than cutting jobs, pay and benefits.

Southwest's chief, Gary C. Kelly, said airlines could not grow and become profitable by making workers pay the price.

"If you don't treat your people right, you pay the price," said Mr. Kelly, whose unionized airline pays some of the highest wages in the industry, even though its overall costs are among the lowest.

Mr. Kelly, whose low-fare airline has a higher market capitalization than all its major rivals combined, likewise had little sympathy for the pain that fuel prices had inflicted on Northwest and Delta.

Neither company has contracts protecting them from the rise in prices, while Southwest locked in the price of 85 percent of the fuel it plans to purchase this year.

"This industry is dependent on energy," he said. "Energy prices are volatile. The industry did not take adequate steps to protect itself from volatility and now that risk has come home to roost."

Delta, Northwest See Bankruptcy As Key To Revival (WSJ)

By Evan Perez And Susan Carey

The Wall Street Journal, September 15, 2005

Two more bankruptcy filings by big airlines -- Delta Air Lines and Northwest Airlines -- underscored how old-line carriers increasingly see court protection as the preferred route to revival amid the industry's biggest crisis in decades.

Yesterday's filings by the nation's third- and fourth-largest airlines, both of which came in U.S. Bankruptcy Court in New York's Southern District, mean that four of the nation's seven biggest carriers as measured by passenger traffic now are operating under Chapter 11 protection. Including UAL Corp.'s United Airlines and US Airways Group Inc., more than half the capacity of the nation's top 12 airlines now belongs to companies in bankruptcy.

All four are legacy carriers -- those airlines born before the era of industry deregulation that have been unable to shed costs such as pensions amid competition from low-cost startups. Bankruptcy gives them at least the chance to leave financial baggage -- labor costs, pension obligations, aircraft orders -- at the courthouse door and emerge months later as leaner companies better able to absorb high oil prices, competition and other turbulence.

Many legacy carriers "have already used the bankruptcy process to achieve changes in their cost structures," Northwest Chief Executive Doug Steenland said yesterday. That has helped them compete, he said, with "newer, low-cost carriers which have much lower labor and operating costs than legacy carriers."

Airlines have faced a brutal environment in recent years with high labor costs, soaring oil prices and competition. With two more in bankruptcy -- and not having to pay many of their bills -- pressure could rise on other old-line carriers such as Continental Airlines, which sought cost cuts earlier this year, and AMR Corp.'s American.

A bankruptcy filing is no guarantee of success. More than 100 airlines have filed for bankruptcy in the last quarter-century. Several, including US Airways and Continental, have done so more than once.

Delta's filing came despite a year-long push by executives to avoid bankruptcy by transforming the airline into a carrier that could go head to head with Southwest Airlines and the upstart new carriers such as JetBlue Airways that have spread bargain-basement fares across the country. Though it has tallied nearly $10 billion in losses since the start of 2001, Atlanta-based Delta has cut operating costs by more than $4 billion a year -- about 28% of its operating expenses in 2002.

Yesterday, executives expressed the hope that their efforts will leave Delta poised to emerge from court protection stronger than at least some of its major-airline rivals. It expects to face fewer court battles with workers and creditors, now owed more than $28 billion, to bring costs further in line.

Delta has a "well-planned, well-executed" restructuring plan that will continue to serve the company even in bankruptcy, said Chief Executive Gerald Grinstein in an interview. "Everyone is going to have to work harder, for less money," he said. "But we're convinced we can produce an outstanding airline here."

For its part, Northwest entered bankruptcy facing several immediate problems. Its filing was preceded by defaults on some payments due in the past few days. A $65 million pension payment is due today. Like Delta, Northwest has been cutting costs, but so far has eliminated just $1.7 billion a year in nonlabor expenses. The company also has been dealing with a strike by its mechanics since August.

In a conference call late yesterday, Mr. Steenland said Northwest will become a somewhat smaller airline and return some planes to lessors while in Chapter 11. He said it will continue to press for pension relief "so we'll be in a position to preserve" the benefits earned to date by its workers and "hopefully" avoid pension terminations.

As the two companies enter bankruptcy, two other rivals are preparing to come out. US Airways is close to emerging from bankruptcy in significantly changed form, after a merger with low-cost carrier America West Holdings Corp. The airline's reorganization plan was approved by creditors yesterday. Today it seeks judicial confirmation, which would set the stage for its emergence.

United, meanwhile, expects to exit bankruptcy around Feb. 1 after 38 months of protection from creditors. However, its recovery plan assumes an oil price of $50 a barrel, about 20% below the current level.

Both of yesterday's filings came after the close of major stock markets, but both were expected. Delta shares were off 7 cents at 71 cents, in 4 p.m. trading on the New York Stock Exchange. Northwest shares, after losing 53% of their value on Tuesday, recovered somewhat yesterday, trading up 19% to close at $1.87 on the Nasdaq Stock Market.

In its filing, Delta said it planned to use the bankruptcy process to reconfigure its fleet and network, retiring four of the 11 aircraft types it currently flies and using smaller regional jets on routes where larger aircraft aren't profitable. Such a restructuring typically involves shrinking capacity, though Delta didn't say by how much.

It also warned of more job and pay cuts, and could announce as early as next week pay cuts of up to 15% for its largely nonunion workers and executives, said people familiar with the situation. Delta has eliminated about 17,500 jobs, or 20% of its workforce, since mid-2001, according to securities filings.

On Monday, Delta presented its pilots union with a wage and benefits proposal calling for up to about $325 million in concessions, according to people familiar with the matter. In January, Delta imposed a 10% wage cut and trimmed benefits for

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its nonunion workers. That followed an agreement in November with its Air Line Pilots Association unit for $1 billion in annual wage and benefits givebacks.

The airline said it has received a commitment for $1.7 billion in debtor-in-possession financing from creditors led by General Electric Co.'s commercial finance unit and investment bank Morgan Stanley. Terms of the deal call for about $980 million going to pay off a previous loan from GE and American Express Co. American Express also agreed in principle to provide Delta with $350 million in additional financing, giving the airline a total of $2.05 billion in financing to sustain it during bankruptcy.

Nearly 20 Delta subsidiaries were included in its bankruptcy filing, including Song, a low-fare airline. For Northwest, the first bankruptcy filing in the company's 79-year history covered it and 12 of its subsidiaries.

In its initial court filing, Northwest listed assets of $14.35 billion and debts of $17.92 billion. Its largest shareholder is FMR Corp., followed by Wellington Management Co. LLP and State Street Bank & Trust Co. Major unsecured creditors, after the banks that are trustees for notes and preferred stock, include alliance partner KLM Royal Dutch Airlines, which is owed more than $64 million, regional commuter affiliates Pinnacle Airlines, owed $28 million, and Mesaba Aviation, owed $23 million.

The company had talked to Citigroup Inc. about arranging a $1.6 billion DIP loan, but Mr. Steenland said Northwest decided against it because it believes it has sufficient cash and most of its assets already are pledged. The airline engaged Bruce R. Zirinsky of Cadwalader, Wickersham & Taft LLP as its lead bankruptcy counsel.

Until this week, many industry observers expected Northwest to wait until next month before deciding to file for bankruptcy, partly because it would have more time to wrest concessions from its unions. But rising fuel costs, the ongoing mechanics' strike and flagging prospects for legislative relief on its underfunded pension plans apparently led the carrier to conclude that significant cost savings weren't readily obtainable. Northwest has the oldest fleet among the major U.S. airlines, meaning its burns more fuel than its peers, a situation made worse by the fact that its fuel needs aren't hedged.

Northwest is seeking $1.4 billion in annual labor savings from its employees and is hoping that Congress passes legislation that would allow it to spread out the time to catch up on its $3.8 billion in pension underfunding to 14 years from the current three to five years. Mr. Steenland said the carrier will continue to seek legislation while in court protection. But he said it must make a transition out of its defined-benefit pension arrangements, which are slated to require $3.3 billion in contributions from 2006 through 2008.

While in bankruptcy, both United and US Airways have terminated their defined-benefit plans and turned the liabilities over to the Pension Benefit Guaranty Corp., a federal insurer.

Since the mechanics' strike, Northwest has stayed aloft by using 1,200 temporary replacement technicians. This week it said it started the process of offering some of them permanent employment. But the airline won't say how many offers it has made or how many of the 1,200 it might like to keep.

In Chapter 11, the carrier will be able to use the threat of annulling contracts and imposing new terms to get its unions to agree to cuts. Three of Northwest's largest unions said they weren't surprised by the filing and will work to protect member interests.

Even before the virtually simultaneous bankruptcy filings by Delta and Northwest, some investors speculated that the two carriers could wind up merging with the help of a private-equity firm. Their route networks have little overlap, and Delta's dominance on trans-Atlantic flights would complement Northwest's strength in Asia. Delta and Northwest officials declined to comment.

Delta And Northwest Enter Chapter 11 (FT)

By Doug Cameron And Caroline Daniel

Financial Times, September 15, 2005

The US airline industry on Wednesday faced its biggest shake-out in a decade after Delta Air Lines and Northwest Airlines, the third- and fourth-largest carriers by revenue respectively, both filed for bankruptcy.

The bankruptcies after four years of heavy losses and at least 120,000 job losses across the sector are likely to accelerate an industry-wide restructuring around a low-cost model but could raise political pressure on the indebted federal agency that insures workers' pensions.

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Four US airlines are now in Chapter 11 bankruptcy protection, following earlier moves by United and US Airways a recognition, analysts said, of the traditional carriers' inability to restore profitability and shed legacy costs in a unionised industry.

Even so, observers doubted that Wednesday's bankruptcy filings would eliminate the overcapacity that has seen airlines lose pricing power as too many seats chase too few passengers.

Analysts at Merrill Lynch estimate there are 100-200 too many aircraft in the domestic network. Delta has a fleet of 869 aircraft while Northwest operates more than 400.

"The airline industry has changed permanently," said Doug Steenland, Northwest's president and chief executive officer. "Northwest must significantly lower its costs to compete with other carriers."

The carrier employs 40,000 staff. Mr Steenland said one trigger for the filing was that, after Hurricane Katrina, Northwest had been paying close to $100 a barrel for jet fuel more than twice the amount it paid at the start of the year.

Northwest and Delta's decision to go into Chapter 11 was likely to have been hastened by an October 17 deadline when bankruptcy legislation comes into force that will give management far less room to manoeuvre than under the present regime.

Delta's filing in New York comes a year after the Atlanta-based carrier launched a restructuring aimed at reducing annual costs by $5bn by 2006. The carrier, advised by the Blackstone Group, has secured $1.7bn in debtor-in-possession finance from GE Commercial Finance and Morgan Stanley, and agreement in principle for a further $350m from American Express.

The airline hopes to use bankruptcy protection to secure additional savings from its 52,000 employees and has made a proposal to its pilots union.

Northwest, advised by the Seabury Group, is not using such funding and will instead rely on its cash balance of $1.4bn as of September 14 to see it through the process. It is seeking more concessions from its three union-represented employee groups, with analysts estimating that these need to be raised to an annual $1.4bn to restore profitability.

Delta has higher pension obligations than Northwest and its strategic position is viewed by analysts as weaker, prompting speculation that the two carriers could seek to exit bankruptcy together through a merger. Delta is the most exposed of the majors to low-cost competitors, and analysts remain concerned about its ability to generate viable revenues even on a lowered cost base. The airline said it would rationalise its fleet and network, increasing its focus on more profitable international services. "Delta's financial problems are severe, but by no means insurmountable," said Gerald Grinstein, chief executive.

Delta, Northwest Airlines File For Bankruptcy (LAT)

By James F. Peltz

The Los Angeles Times, September 15, 2005

The nation's airline crisis took a stunning turn for the worse today when Delta Air Lines Inc. and Northwest Airlines Corp. both filed for bankruptcy in the face of massive losses, meaning that four of the seven largest U.S. carriers are now flying in Chapter 11 bankruptcy.

Delta and Northwest, the third- and fourth-largest airlines respectively by passenger traffic, joined United Airlines and its parent UAL Corp., along with US Airways Group Inc., in seeking protection from its creditors in Bankruptcy Court.

Rarely have four of the largest players in a major business found themselves in bankruptcy simultaneously. It's a dubious feat that some analysts said marks the onset of a climax to the industry shakeout that many have predicted since the airlines were deregulated in 1978.

The filings by Delta and Northwest weren't expected to have an immediate effect on travelers.

Under Chapter 11, a company continues operating while it works out a reorganization plan to repay creditors. Delta and Northwest said they would maintain their current flight schedule and frequent flier plans. United and US Airways have done the same.

"Delta is open for business as usual and will continue normal operations," Delta Chief Executive Gerald Grinstein said in a statement, adding that passengers' travel plans and frequent flier miles "are secure."

At Los Angeles International Airport, Delta ranks as the fourth-largest carrier, with 7.6% of passenger traffic during fiscal 2004, according to airport statistics.

Northwest ranks as the seventh-largest carrier at LAX, accounting for 3.6% of the airport's passenger traffic.

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The Delta and Northwest filings underlined the financial debacle occurring in an industry that has lost $30 billion since 2000 and is on track to lose an additional $5 billion to $10 billion this year.

There are still too many airplane seats chasing too few passengers, many analysts contend, and most carriers' ability to stay in business using bankruptcy reorganization has kept that trend going. But with so many big airlines in bankruptcy at once, a shakeout could truly be coming, they said.

"It's imperative that the traditional airlines regroup and become stronger," said Hugo Burge, president of Cheapflights.com, a travel website. "The airlines can't go on as they are, and something needs to give."

Over the past few years the airlines have been pummeled by a list of problems, including the post-Sept. 11 drop in air travel, the growth of discount airlines that pushed fares lower, bloated cost structures, enormous debt loads, excess capacity and soaring jet fuel prices.

The price of fuel — an airline's second-biggest expense after labor — surged above $2.30 a gallon after Hurricane Katrina disrupted the Gulf Coast's refining operations, and it helped push Delta and Northwest into bankruptcy. Before the storm, fuel cost less than $1.90 a gallon.

Northwest said it expects to pay about $3.3 billion for fuel this year, compared to $2.2 billion in 2004.

Northwest's effort to reorganize its operations outside Bankruptcy Court "have been overtaken by skyrocketing fuel costs," said airline President Doug Steenland in a statement.

Northwest's woes deepened last month when 4,400 members of the Aircraft Mechanics Fraternal Assn. went on strike over the wage and benefit cuts proposed by the airline. The carrier has managed to operate more than 95% of its flights by bringing in replacement workers to replace the striking employees.

Delta, once a prosperous carrier admired for customer service laced with Southern hospitality, has lost $10 billion since 2000 and is saddled with more than $20 billion in debts and pension obligations.

The airline came perilously close to bankruptcy a year ago, but avoided it by reaching concessions with its pilots union, suppliers and creditors.

The airlines' trade group, the Air Transport Assn., sought relief from the U.S. government today by asking that the 4.3-cent-a-gallon federal tax on jet fuel be suspended for a year.

That would trim about $600 million from the industry's fuel bill, which is expected to jump $9.2 billion from 2004, the ATA said.

"We remain at the mercy of oil markets and the federal government," ATA President James May told a Senate aviation subcommittee.

The high fuel prices also threaten the few airlines that have remained profitable, such as JetBlue Airways Corp. The New York-based carrier, whose West Coast hub is Long Beach, is in danger of posting its first quarterly loss since the airline went public in 2002, JetBlue Chief Executive David Neeleman told Bloomberg News on Tuesday.

The industry's hardship also has enveloped smaller, struggling carriers. Aloha Airgroup Inc., the parent of Aloha Airlines, and ATA Holdings Corp., which runs ATA Airlines, also are operating in Chapter 11.

Although consumers might not be immediately affected by today's Chapter 11 filings, they could see gradual changes in the breadth and frequency of Delta and Northwest service to certain cities.

Northwest, Delta File For Bankruptcy Protection (WP)

By Sara Kehaulani Goo

The Washington Post, September 15, 2005

Delta Air Lines and Northwest, the nation's third- and fourth-largest carriers, filed for bankruptcy protection yesterday as skyrocketing fuel costs accelerated the carriers' financial decline.

With the filings, an unprecedented four of the nation's seven largest carriers will be operating under bankruptcy protection, marking a low point for an industry that many analysts said had shown signs of turning a corner this year -- if not for the run-up in jet fuel prices.

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Analysts expect Dulles-based Independence Air's parent, Flyi Inc., to soon join the pack of bankrupt carriers. Two carriers in bankruptcy protection, UAL Corp.'s United and US Airways Group Inc., have indicated plans to emerge in the coming months. AMR Corp.'s American Airlines, Continental Airlines Inc. and Southwest Airlines Inc., the other three major carriers, posted profits last quarter.

Despite the wave of bankruptcy filings, airline travelers should see little change. Frequent-flier miles are expected to be preserved because airlines cannot afford to anger their most loyal customers. Fares are likely to remain low because of intense competition from low-fare carriers. Federal officials have stepped up airline inspections, and safety does not appear to have been compromised by the industry's problems.

Airline workers, whose wages and benefits have been cut aggressively, are likely to face further hardship. The airlines are likely to further trim their workforces to become smaller, more efficient businesses. Older carriers, such as Delta Air Lines Inc. and Northwest Airlines Corp., are saddled with hefty obligations to pension funds that could be turned over to the federal government under bankruptcy protection, diminishing workers' retirement benefits.

The airlines beat next month's launch of a new bankruptcy law, which makes it more difficult for executives to collect retention pay. The new law also requires carriers to emerge from bankruptcy within 18 months.

Some industry observers think the bankruptcy filings could prompt consolidation. US Airways, whose creditors approved its bankruptcy-reorganization plan yesterday, is merging with America West Holdings Corp. in an effort to become a leaner, low-cost carrier.

"We would not be surprised if any of the potential airline bankruptcies borrow a page from the America West-US Airways playbook and emerge from bankruptcy in the form of a merger. That would be one way of achieving airline consolidation -- an objective that has eluded that industry for years," said Michael J. Linenberg of Merrill Lynch & Co.

Unlike the days when airlines filed for bankruptcy protection and were then liquidated, creditors are less likely to demand their assets -- namely, aircraft -- for fear that a huge number of planes on the market would drive down prices. Instead, bankruptcy protection leaves more room for airlines to negotiate with creditors. In many cases, the carriers are looking to reconfigure their fleets for greater efficiency -- a change that some consultants say is more difficult to do outside of bankruptcy reorganization.

"It's more difficult than ever to liquidate an airline," said Darryl Jenkins, visiting professor at Embry-Riddle Aeronautical University. "You have so many lenders of last resort who want to keep aircraft prices high."

Northwest said its decision to file for Chapter 11 bankruptcy protection was unrelated to its striking mechanics, who walked off the job several weeks ago to protest the company's effort to cut pay and reduce their ranks. The company blamed its fuel costs, which have risen to $3.3 billion annually, for preventing it from reducing its expenses enough outside of bankruptcy protection.

"We had developed a plan to restructure Northwest outside of Chapter 11 and have been implementing that plan," Northwest chief executive Douglas M. Steenland said. "Unfortunately, in addition to an uncompetitive cost structure, our efforts have been overtaken by skyrocketing fuel costs. . . . By filing for Chapter 11 now, we ensure that we have the means to complete the transformation of Northwest quickly and effectively."

The carrier expects to become 5 to 6 percent smaller by the fourth quarter, with layoffs expected, Steenland said.

Delta's filing was a "necessary and responsible step to preserve Delta's value" chief executive Gerald Grinstein said in a written statement. The company said it had secured $1.7 billion in debtor-in-possession financing to continue normal operations under bankruptcy protection.

Delta said yesterday that it would continue to pay wages, health care coverage, vacation and sick leave for its 52,000 employees but that further reductions in jobs, pay and benefits are likely.

Delta also said that it does not plan to make contributions to its pension plans that are due soon. "Missing contributions does not mean that our qualified plans stop paying monthly retirement benefits or that we have initiated the process to terminate the plans," Grinstein said, who added that he would push for pension-reform legislation. A statement from the company said "there can be no guarantees -- even with pension reform -- about the future of Delta's qualified defined benefit pension plans."

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Delta does not have as many unionized workers as other carriers, but it is $21.6 billion in debt and posted a $1.5 billion loss for the first six months of the year. The airline operates a wide range of aircraft, which analysts say could be narrowed to provide more efficiency.

Northwest said that it is required to contribute $3.3 billion to its defined-benefit plans from 2006 to 2008 and that it would continue its move toward defined-contribution plans.

Because of their bankruptcy protection filings, Delta and Northwest will be removed from the Dow Jones Transportation Average index at the close of business Friday, Dow Jones said. They will be replaced by Overseas Shipholding Group Inc. and JetBlue Airways Corp.

Several aviation consultants and academics said Northwest and Delta bankruptcies represent the latest chapter in the industry's long and painful transformation. Nearly all of the older carriers have flirted with bankruptcy protection, and each has had to cut billions of dollars in labor and operating costs.

"Right now, you are kind of reaching the climax of a different environment," said Michael E. Levine, a former airline executive and now a research scholar at New York University. "All have to transform themselves."

Airlines File For Chapter 11 Haven (WT)

By William Glanz

The Washington Times, September 15, 2005

Delta Air Lines Inc. and Northwest Airlines Corp. yesterday filed for bankruptcy in an unprecedented day for the struggling airline industry.

Delta, the nation's third-largest airline, filed for Chapter 11 bankruptcy protection from creditors after the stock market closed yesterday, saying record-high fuel prices have undermined efforts to cut costs.

Northwest, the fourth-largest airline, filed for Chapter 11 bankruptcy protection about 30 minutes later, citing high labor costs.

Both airlines threatened for months that they would seek bankruptcy protection, but the back-to-back filings emphasized the difficulty the traditional carriers are having competing with younger competitors like Southwest Airlines and JetBlue Airways.

Both Delta, based in Atlanta, and Northwest, based in Eagan, Minn., promised their operations won't be disrupted.

The filings mean four major airlines are in bankruptcy. UAL's United Airlines filed in 2002 and US Airways Group Inc., based in Crystal City, filed one year ago. But US Airways could win court approval today for its reorganization plan and proposed purchase by America West Airlines and emerge by the end of the month.

"The fact that [Delta and Northwest] filed back to back is dramatic, but the fact that you have half of the industry's capacity in bankruptcy says something," said John Heimlich, chief economist for the Air Transport Association, an industry group representing the nation's largest airlines.

At least one more airline could fail. Flyi Inc., which operates low-cost carrier Independence Air out of Washington Dulles International Airport, is widely expected to file for bankruptcy.

"I see consolidation or contraction for the big six airlines as well as the low-cost carriers," Mr. Heimlich said.

Delta listed its total debt at $28.3 billion and assets at $21.6 billion, according to the filing in U.S. Bankruptcy Court for the Southern District of New York. Song, Delta's low-cost carrier, was included in the bankruptcy filing.

Delta's bankruptcy is the ninth-largest in U.S. history. WorldCom Inc., which filed in 2002, was the largest with $103.91 billion in debt.

"Delta's financial problems are severe, but by no means insurmountable," Delta Chief Executive Gerald Grinstein said.

Northwest listed debts of $17.9 billion and assets of $14.4 billion and also filed in U.S. Bankruptcy Court for the Southern District of New York.

Northwest filed yesterday to avoid a $65 million pension payment that would have come due today.

Delta filed yesterday to preserve its cash and said it won't make an upcoming payment to a defined benefit plan.

"Missing contributions does not mean that our [pension] plans stop paying monthly retirement benefits or that we have initiated the process to terminate the plans," Mr. Grinstein said.

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Northwest said its bankruptcy filing is unrelated to the strike by its 4,400 mechanics.

Both airlines said they have money to fund operations through bankruptcy.

Delta said it has obtained a commitment for $1.7 billion in financing from General Electric Commercial Finance and Morgan Stanley. Separately, American Express has promised an additional $350 million in secured financing.

Northwest has $1.5 billion in cash. It will save money by shedding some planes in its fleet and eliminating some routes to "operate a somewhat smaller airline," Chief Executive Douglas Steenland said.

It is not clear how many Northwest workers will be cast off, but the airline hopes to avoid jettisoning pensions like US Airways has done, he said.

Northwest tried for months to cut labor costs and wants to renegotiate union contracts to save $1.4 billion annually. Bankruptcy will allow Northwest to lower its labor costs and compete with low-cost carriers, Mr. Steenland said.

Northwest this week began hiring replacement mechanics.

Delta won $1 billion in concessions last year from its pilots.

Mr. Steenland said Northwest had a plan to restructure without filing for bankruptcy, but soaring fuel costs forced the company into court.

Northwest expects its fuel bill for 2005 will reach $3.3 billion, compared with $2.2 billion in 2004 and $1.6 billion in 2003.

Mr. Grinstein said Delta will reduce its fleet of 869 planes and rely on smaller planes that use less fuel. Delta has lost almost $10 billion since early 2001.

During the six-month period that ended June 30, Delta's fuel costs increased 56 percent, or $695 million, compared with the same period in 2004.

The airline industry yesterday asked Congress for a one-year reprieve from federal jet fuel taxes. Suspension of the 4.3-cents-a-gallon federal tax would save the industry $600 million.

Difficult Times Battered Airlines (USAT)

By Marilyn Adams And Dan Reed

USA Today, September 15, 2005

The slide into bankruptcy protection of two of the USA's largest airlines is more a result of the carriers' bad assumptions and slowness to act than the recent rise in fuel prices or the devastating terror attacks four years ago.

The Delta and Northwest bankruptcies, filed Wednesday in New York, are different in key respects from that of No. 2 United and No. 7 US Airways. Both United and US Airways were directly affected by the 9/11 attacks. Two of United's planes were hijacked that day, and Washington Reagan National Airport, where US Airways has a major operation, was shut down for weeks.

Neither Delta nor Northwest was similarly affected by the attacks, and four years have passed. Industry experts say that in the case of Delta, and to some extent Northwest, these filings are more a reflection of how traditional, hub-and-spoke airlines failed to adapt in the face of aggressive low-cost carriers, falling fares and rising oil prices.

They counted too heavily on the hope that business conditions would improve and return them to profits — that oil prices would fall, airfares would rise, weaker competitors would fail and low-cost carriers would make mistakes.

Instead, low-cost carriers grew, competitors United and US Airways methodically slashed their costs in bankruptcy, and oil prices hit record levels. When Hurricane Katrina shut down New Orleans and sent fuel prices even higher, the cash bleed was too much to withstand.

“Delta probably should have filed a year and a half ago,” said Washington, D.C.-based airline consultant Jon Ash.

Ash said Delta mistakenly counted on the expected failures of rivals US Airways and Independence Air, reducing the competitive pressure on Delta in the busy Northeast. US Airways has visited Chapter 11 twice, but now it's being acquired by America West. A judge may release it from Chapter 11 at a hearing today.

Washington-based Independence Air, while at risk of a near-term bankruptcy-protection filing or even liquidation, continues to fly at very low fares.

Other analysts agree with Ash.

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"Katrina and oil prices are simply the straw that broke the camel's back," said San Francisco-based consultant Michael Roach, co-founder of America West. "Delta was going to file anyway. And Northwest was playing chicken with its unions. It seems to me they didn't do nearly enough and waited much too long. They thought they could just ride it out. But the rise in oil prices upset everyone's plans."

Delta narrowly averted a bankruptcy filing a year ago, and its action Wednesday had been widely anticipated. But the fact that Northwest is also in Chapter 11 is a remarkable turnabout.

Two years ago, the Eagan, Minn.-based carrier was modestly profitable and seemed ready to emerge from the post-9/11 industry mess as one of the strongest among the big traditional U.S. carriers. But its inability to rein it its costs negated the $1.7 billion in annual operating cost cuts since 9/11.

Delta came very close to filing late last year but stepped back when it was able to extract $1 billion a year in contract concessions from its pilots union and raise another $1 billion in loans from business partners General Electric and American Express. Meanwhile, Delta has spent the last year and a half cutting an array of costs, closing its unprofitable Dallas/Fort Worth hub, restructuring its main Atlanta hub, restructuring debt and cutting jobs.

Last year, Delta CEO Gerald Grinstein told employees he would do everything in his power to restructure the company outside of bankruptcy. The company unveiled a comprehensive "transformation plan" last fall. But the plan wasn't enough to overcome $70-a-barrel oil or the relentless expansion of low-cost, low-fare discounters such as Southwest, AirTran, JetBlue and Independence Air. AirTran, one of the fastest growing, operates most of its flights from Atlanta's Hartsfield-Jackson, Delta's home airport.

Delta officials said Wednesday night that they have a clear vision of where they want Delta to go. Now, only about 20% of its revenue derives from its international system. Chief Operating Officer Jim Whitehurst said Delta should boost that to about 33%.

Delta, including its Song subsidiary, and Northwest will continue to fly in Chapter 11. Over time, travelers are sure to see major changes in fares, cities served, frequency of service, types of aircraft used and onboard service. During their reorganizations, both United and US Airways have shrunk their total flying capacity by about 15%.

Delta said it plans to simplify and streamline its fleet by removing four aircraft types, leaving seven. Delta also plans to deploy smaller aircraft on many of its routes to better fit demand. Grinstein and Whitehurst said they plan to soon announce expansion of service to Europe and Latin America and expansion of Delta's domestic and international flights from New York's Kennedy airport.

What's likely to shrink is service elsewhere within the USA. Delta operates other domestic hubs in Cincinnati and Salt Lake City.

Some of the strongest shock waves may be felt in Washington, D.C., where Congress and federal officials have taken a carrot-and-stick approach to the airline industry in recent years.

Rep. Tom Price, R-Ga., Wednesday night called Delta "the latest casualty" in the competitive airline industry. "Today's announcement is merely a symptom of a greater problem and must serve as a wakeup call to all of us," he said.

But former Continental Airlines CEO Gordon Bethune said Congress bears some of the blame for the industry's sorry state: "To hear all these congressmen harrumphing on TV that this is horrible. Why, these are the same turkeys who just proposed a new security tax on top of all the other taxes they've loaded on the airlines."

Congress has provided massive financial relief to the industry since 9/11, when United and American lost four jetliners and travel nationwide came to a stop.

But Congress has also adopted new taxes, chiefly for post-9/11 security. Although the Department of Justice recently let stand the pending takeover of US Airways by America West, it has blocked most proposed airline mergers in recent years on antitrust grounds. In 2001, just months before the attacks, Justice's antitrust unit denied United's proposal to acquire US Airways, saying the deal would hurt competition and consumers in lucrative Northeast markets.

Ash and other industry experts suspect airline officials already are quietly exploring possible marriages involving United, Delta, Northwest and others.

Grinstein Wednesday said it's too soon to consider whether Delta might be a merger candidate. But he added, "I do think consolidation is ahead for our industry."

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Even as Delta's and Northwest's boards were deciding Wednesday whether to proceed to the courthouse, the Senate Commerce Committee in Washington was hearing testimony on the industry's woes.

"No business model at any airline can survive with sustained jet-fuel prices of $90 to $100 a barrel," said James May, CEO of the Air Transport Association, the airlines' trade group, during the hearing. The ATA is requesting that the industry get a one-year holiday from the federal fuel tax to ease the effects of unprecedented fuel costs.

The industry has also been asking Congress to spread out required payments to their costly employee pension plans. Without relief, Delta and Northwest may ask the bankruptcy court to allow them to terminate the plans. That would transfer financial responsibility to the Pension Benefit Guaranty Corp., the federal insurer. The transfer would cost Delta and Northwest pensioners millions in benefits and worsen the PBGC's already huge deficit.

Grinstein said no decision has been made about the pension plans. If Delta terminates its pension plans in bankruptcy court, it will represent the single-biggest corporate pension default ever, eclipsing the recent pension default by United.

PBGC said that Delta's pension plans would be underfunded by $10.6 billion if they are terminated. The agency would insure $8.4 billion of that sum.

Consultant Mark Gerchick, the DOT's highest-ranking aviation policy official under President Clinton, thinks the double filings will force Congress and regulators to revisit industry policies.

"People have to fly," said Gerchick, a Washington consultant. "We are going to have to create a new environment for airlines. This is likely to send a jolt through the Department of Transportation and the Department of Justice in their thinking about consolidation in the industry."

Bankruptcy Filing Launches Delta Fight With Workers (LAW)

By Andy Peters, Fulton County Daily Report

Law.com, September 15, 2005

Now that Delta Air Lines Inc. has filed for Chapter 11 bankruptcy protection, the carrier will have a legal fight on its hands from employees and retirees seeking to protect their benefits, legal experts said.

Delta, the third-largest U.S. airline, filed late Wednesday for reorganization under Chapter 11 of the federal bankruptcy code, No. 1-05-bk-17923. (U.S. Bankruptcy Court for the Southern District of New York, filed Sept. 14, 2005).

The filing comes after repeated warnings from Delta CEO Gerald Grinstein that higher fuel costs and lower demand have crippled the airline. Delta also has faced stiff competition from carriers such as AirTran Airways that have lower labor and operating costs.

Delta's case was assigned to Judge Prudence C. Beatty.

Delta has been in talks with Stamford, Conn.-based GE Commercial Finance to provide the airline with $2 billion in debtor-in-possession financing, which would allow the airline to continue operating after a bankruptcy filing. Details of the loan had not been released early Wednesday, but industry analysts said they expect Delta to pledge virtually all of its remaining unencumbered assets, such as aircraft, as collateral for the loan.

Bankruptcy protection will allow Delta to change the terms of its agreements with other creditors. The airline is expected to sell many assets and slash costs, the latter by renegotiating pilot salaries and perhaps cutting back its workforce.

Delta also could cut or even abandon its pension plan and health care benefits for retirees and employees. Such a move likely would lead to a legal fight from employee groups.

"The employees and retirees clearly want to protect whatever rights they have," said Darryl S. Laddin, chairman of the bankruptcy and creditors' rights practice group at Arnall Golden Gregory. "They're going to want to have legal counsel to protect their interests."

While holders of common stock are likely to see their investments become worthless, rank-and-file Delta employees and retirees are also vulnerable to losses, said Dean Booth, an attorney with Schreeder, Wheeler & Flint who represents retired Delta pilots.

"Delta going bankrupt is bad for Atlanta, and the people who will be impacted the worst are the retired people," Booth said.

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Indeed, both United Airlines and US Airways gained judges' approval during bankruptcy proceedings to transfer responsibility for their pensions to the federal Pension Benefit Guaranty Corp. (United filed for bankruptcy in December 2002; US Airways has filed twice in the past three years.)

When that happens, a retiree is guaranteed a minimum payment from his pension, but it is far less than what the employee would have received had the pension plan remained under the company's administration, said C. David Butler, an attorney at Shapiro Fussell and a former U.S. trustee for bankruptcy courts in Georgia, Florida and the Caribbean.

"Who's going to be taking the haircuts? It's going to be the pensioners," said Butler, who was a founding director of the Southeastern Bankruptcy Law Institute.

Delta met with Pension Benefit Guaranty representatives last week, although no decisions were made, The Wall Street Journal reported on Wednesday.

"They'll have to shrink their operations and vigorously sell whatever they can," Butler said, adding that he expects the airline to sell planes, flight routes, airport gates and spare parts. The airline also will be looking to convert bondholders' debt into equity, as a way to produce cash, Butler said.

"They need to sell a lot of stuff to get down to the shrink-wrapped size they need to be to make a return to stockholders," Butler said.

Butler and Laddin both said that an outright liquidation of Delta is highly unlikely.

Talks already have begun between Delta and its pilots on wage concessions. On Monday, Delta submitted a new contract proposal to its pilots, asking for pay cuts. The Air Line Pilots Association, which represents Delta's pilots, isn't scheduled to meet and consider Delta's proposal until next week.

INDUSTRY MISERY

Delta has lost about $10 billion since January 2001, the Associated Press reported Wednesday, citing JP Morgan airline analyst Jamie Baker.

Delta joins a large fleet of U.S. airlines already operating under or threatening to enter bankruptcy protection, including United Airlines, US Airways and ATA Airlines of Indianapolis.

Northwest Airlines Corp. also filed for bankruptcy protection Wednesday.

Bankruptcy hasn't kept any of these airlines from flying, however, and Delta will be no different.

"The public will not notice a difference," said John A. Christy, an attorney with Schreeder, Wheeler & Flint who represents retired Delta pilots.

Bankruptcy is the best option for the air carrier at this stage, because "it will allow Delta the flexibility they need on several fronts and give them some breathing room," said Arnall Golden's Laddin.

"If anything, there is an incentive to file for Chapter 11, as opposed to a disincentive," he said.

Frequent-flyer miles also will be kept intact, as a way to reassure customers that Delta won't be disappearing, Christy said.

"They won't kill the frequent-flyer program," Christy said. "That would be like slitting their own throats."

What will emerge after bankruptcy is a much leaner Delta, one that a bankruptcy judge will have determined should be able to meet its financial obligations in the future.

"The word 'shrink' is on everybody's lips," Shapiro Fussell's Butler said.

MORE LEGAL WORK

Delta's bankruptcy could mean additional legal work for some Atlanta firms, although the airline's primary bankruptcy counsel is Davis Polk & Wardwell of New York. Delta spreads its legal work around in Atlanta. Some of Delta's firms include Alston & Bird; King & Spalding; McKenna Long & Aldridge; Troutman Sanders; Kilpatrick Stockton; Ford & Harrison; and Smith, Gambrell & Russell.

The roiling of the airline industry has taken a toll on employee retention in the ranks of Delta's senior executives, including Delta's in-house legal counsel. In July, both Delta's general counsel and assistant general counsel, Gregory L. Riggs and Walter A. Brill, respectively, retired. Riggs joined Alston & Bird as senior counsel but was retained by Delta as a temporary consultant.

Scott Kruse, a partner at Gibson, Dunn & Crutcher, was named Delta's interim general counsel. Kruse is a former general counsel for the Federal Mediation & Conciliation Service. State lawmakers have tried to get involved in helping Delta. The

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General Assembly this March voted to approve a temporary cap on taxes Delta pays on fuel and to eliminate sales tax on food and beverages served in-flight.

Earlier this month, a state senator proposed a temporary freeze on all state taxes for Delta.

A joint meeting of the House and Senate transportation committees has been scheduled for Sept. 22 to explore ways to help Delta.

Weiner Concedes Race For Mayor To Avert Runoff (NYT)

By Patrick D. Healy

The New York Times, September 15, 2005

Representative Anthony D. Weiner conceded the 2005 Democratic mayoral nomination yesterday to Fernando Ferrer, the top vote-getter in the race, in hopes of averting a potentially destructive runoff election and strengthening Mr. Ferrer's hand as he begins the final eight-week campaign against Mayor Michael R. Bloomberg.

Mr. Weiner's decision, made after a long night of strategizing with aides and his mentor, Senator Charles E. Schumer, came as a surprise to New York Democrats, not least Mr. Ferrer, who was said to be ecstatic. Mr. Ferrer lost a bruising mayoral runoff to Mark Green in 2001, and faced an uncertain bout against the scrappy Mr. Weiner; yesterday, he embraced a nomination that had eluded him in two previous runs for mayor.

In a surprising development, however, city elections officials announced that they were required under state law to hold a runoff despite Mr. Weiner's withdrawal - at a cost to taxpayers of at least $10 million to pay for sending 6,030 voting machines to 1,409 polling stations and running the special election on Sept. 27. Mr. Ferrer will also stand to collect more than $421,000 in public campaign funds if a runoff is held.

Campaign lawyers for Mr. Ferrer and Mr. Weiner began looking for loopholes yesterday to avert a runoff, which is required when no mayoral primary candidate wins 40 percent of the vote. According to unofficial results, Mr. Ferrer won 39.949 percent of the vote, about 250 shy of 40 percent, in an election that drew just 15 percent of registered Democrats. Some 8,000 absentee ballots remain to be counted, but it is unclear if those votes will help or hurt him.

Mr. Weiner said he would not participate in a runoff even if one were held, calling it "a waste," and Mr. Ferrer's camp said they hoped to have the problem solved quickly so he could turn his sights on Mr. Bloomberg, beginning with a unity rally with Mr. Weiner and dozens of other Democrats on the steps of City Hall this afternoon.

"I am proud to support Freddy Ferrer," Mr. Weiner said at a news conference in front of his childhood home in Brooklyn. "He has the record, he has the brains, he has the commitment, he has the understanding to not only run circles around Republican Mike Bloomberg, but to lift up our city."

Mr. Ferrer spent yesterday speaking by phone to donors, his advertising team and consultants as they strategized to end 12 years of Republican rule this November with the election of the first Hispanic mayor in city history. Aides also began preparing to roll out new endorsements soon, including one from Senator Hillary Rodham Clinton.

Though Mr. Bloomberg began what amounted to the first day of his general election drive with an overt campaign event, he ended it by trying to revert to a Rose Garden strategy, portraying himself as too busy governing to pay much mind to politics.

Asked in a session with reporters if he had a response to the complaints Mr. Ferrer and Mr. Weiner had lodged against him - that he was too close to the Republican president; that he had not done enough to help the poor or working class - the mayor initially answered with a flat "no."

"Seriously, you can call the campaign for those," Mr. Bloomberg went on, before giving in only so slightly: "I think the public knows what's going on in this city. Just take a look at the numbers: the schools are getting better, crime is coming down, we're building housing, a record housing plan."

Apparently referring to the campaign itself, he said, "What I've got to do is not get involved in that. I'm going to focus on telling the story and explaining to people what we've done and how were going to continue it."

Mr. Bloomberg also moved to counter Democratic attempts to link him to President Bush, announcing the formation of "Democrats For Bloomberg." The event was attended by stalwarts of the national Democratic donor base - the film executives

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Harvey Weinstein and Jane L. Rosenthal and the investment banker Alan Patricof - as well as prominent former New York City Democratic officials, like Hugh L. Carey, the former governor, and Claire Shulman, the former Queens borough president.

Even among Democrats supporting Mr. Ferrer, beating Mr. Bloomberg is seen as an awesome and perhaps impossible challenge, given his money and approval ratings of about 60 percent. Even one of Mr. Ferrer's most prominent supporters, who is also a New York officeholder, offered a grim prediction yesterday that the mayor would beat Mr. Ferrer, 53 percent to 47 percent, if Mr. Ferrer did not invigorate his Democratic campaign. This ally's advice: Show more of the creative, imaginative, and aggressive style that Mr. Ferrer exhibited as Bronx borough chief from 1987 to 2001.

The political calculus appeared even more complicated for Mr. Weiner, whose popularity surged during the last two weeks of the campaign to the point where he captured 29 percent of the vote on Tuesday.

According to several of his aides and advisers, Mr. Weiner's decision to withdraw came down to political and personal factors: A hard-fought runoff could damage the eventual nominee and effectively hand the election to Mr. Bloomberg; Mr. Weiner could leave the race on a high note as a uniter of the Democratic Party; the first week of the runoff would be consumed by fights over ballots, and make it hard to raise money; Mr. Weiner, at 41, could run again in 2009 or well after; and Mr. Ferrer would have a far broader support in a runoff from ethnic, labor and political groups.

Late Tuesday night Mr. Weiner spoke with Senator Schumer and tossed around the various options, according to people who were familiar with the conversation. Senator Schumer did not lean on him to bow out, but did say that the runoff would be a no-win proposition for Mr. Weiner, according to one person familiar with the conversation.

Other advisers took the same lose-lose view of a runoff, although a few thought he should go for it, aides said. They worried that if Mr. Weiner won, it would alienate Mr. Ferrer's base of black and Hispanic voters, driving them to Mr. Bloomberg, and if Mr. Weiner lost, he would be damaged politically in the long run. By staying out, Mr. Weiner is seen as helping the party while Mr. Ferrer takes all the risks in the general election.

Another factor was the animosity that Mr. Weiner would have had to deal with. A third Democratic candidate for mayor, Gifford Miller, volunteered support to Mr. Ferrer yesterday morning even before Mr. Weiner dropped out. Mr. Miller and Mr. Weiner tangled often during the campaign, sometimes with an edge in their voices, as two white candidates seeking to appeal to the same blocs of white and middle-class voters.

Another potential foe Mr. Weiner now avoids is the Rev. Al Sharpton, a Ferrer supporter who was preparing to step up criticism of Mr. Weiner today. While the two men get along in private, Mr. Sharpton had wanted to stop Mr. Weiner's momentum so he did not become a greater threat to two Sharpton allies: Mr. Ferrer and William C. Thompson Jr., the city comptroller, who plans to run for mayor in 2009 if Mr. Ferrer loses this election.

"Dropping out was a smart move, the move of a statesmen, and it gives Anthony a lot of goodwill," said Mr. Sharpton, who had been lambasting the congressman for voting in 2002 to authorize the war in Iraq.

Other rumors were swatted down by Weiner aides yesterday - that Mrs. Clinton had urged him to drop out; that Attorney General Eliot Spitzer, a Ferrer supporter, had called (Mr. Weiner and Mr. Spitzer are far from close); and that Representative Charles B. Rangel, a senior Democrat, had offered a plum committee seat to Mr. Weiner in exchange for dropping out. (Mr. Rangel had backed the fourth candidate in the race, C. Virginia Fields.)

Mr. Weiner explained his decision yesterday by saying that, his competitive spirit aside, Democrats needed to unite quickly if they were to overcome the unlimited campaign spending of "billionaire Republican Mike Bloomberg."

"It was a difficult decision - it's in my DNA to keep fighting," said Mr. Weiner, standing on the bottom step of his childhood home in Park Slope, where he was known as a sports fanatic. "But I believe it is the right thing to do."

Mr. Weiner also played down his policy and philosophical differences with Mr. Ferrer, which were sharp but politely discussed during the campaign.

Mr. Weiner cast himself as being in the vanguard for the middle class and as a native son of predominantly white neighborhoods outside Manhattan. Mr. Ferrer is more traditionally liberal and is putting together a coalition dominated by black and Hispanic voters.

Asked if he still wanted to be mayor someday and might run in 2009, Mr. Weiner showed that his trademark quips were not dulled even though he had had only three hours' sleep.

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"I will not be running in 2009 because Fernando Ferrer will be up for re-election that year," he said.

New York's Democrats Take Aim At Bloomberg (CSM)

By Alexandra Marks

The Christian Science Monitor, September 15, 2005

NEW YORK - In the end, just shy turned out to be just enough.

Despite the fact that New York City's Democrats failed to decisively pick a candidate in this week's primary, the Democratic favorite, former Bronx borough president Fernando "Freddie" Ferrer is expected to be the party's standard bearer after all to take on billionaire Republican Mayor Michael Bloomberg in November's general election.

The mild-mannered Mr. Ferrer failed to win the 40 percent needed to avoid a runoff.

But runner-up Anthony Weiner, a Brooklyn-born congressman - who staged a surprise come-from-behind with an upstart, wisecracking assault on the Democratic status quo - conceded Wednesday in a bow to party unity.

That will end the prospects of a potentially divisive runoff as well as a week of Democratic paralysis, while the estimated 20,000 absentee ballots were counted. Now, Mr. Ferrer can immediately take on the increasingly popular Democrat-turned-Republican Mayor Bloomberg.

That is very good news for the Democrats, who despite their 5-to-1 edge over Republicans in voter registration, haven't controlled City Hall for more than a decade, in part because of past divisive and expensive internecine contests.

"Runoffs can be 'tsouris' - that spells trouble in Yiddish. This saves them from a punch-in-the-nose runoff," says pollster Mickey Carroll of the Quinnipiac Polling Institute. "[Now these guys won't be] at each other's throats ... while Bloomberg can watch from the sidelines."

In September 2001, with ground zero still filling the air with acrid smoke, Ferrer lost a bitter, racially tainted runoff to Public Advocate Mark Green. That's credited in part with helping Bloomberg win, because many angry blacks and Hispanics refused to support Green - the Democratic standard-bearer.

That lesson was not lost on this year's batch of Democratic primary wannabes. In general, they were polite and well-mannered during debates, determined not to give the Bloomberg camp any extra ammunition.

Some analysts contend that Mr. Weiner's expected decision to concede is a testament to the Democrats' determination to take back City Hall.

But Ferrer still faces a daunting, uphill battle against Bloomberg, whose popularity has been steadily increasing.

A recent poll shows that two-thirds of New Yorkers approve of the job he's been doing.

And Bloomberg's campaign, which started an upbeat multimillion-dollar advertising blitz in the spring, shows no sign of giving up its relentless pace and spending.

"They haven't given any Democrats any oxygen at all," says Doug Muzzio, professor of public affairs at Baruch College of the City University of New York. "It's total war: it's like Grant in the Civil War - you attack them at all points and at all times."

Add to that the fact that the once highly unpopular billionaire - once chided as rich and out of touch, particularly with working people in the outer boroughs - is in the midst of a second honeymoon, says Mr. Carroll.

And the challenge for Ferrer is formidable.

That was evident in Democratic turnout in Tuesday's primary. It was a sparse 15 percent - the second-lowest in recent memory - a testament to how many "Bloomberg Democrats" just stayed home.

"The guy has a record you can run on and win on, he's got opponents who've not shown they can take him on yet, and he's got $5 billion," says Professor Muzzio. "Excuse me, I wanna be Mike Bloomberg."

But no one is writing Ferrer off completely yet. "It's a Democratic town, remember that," says Carroll. "Things happen."

Ferrer To Take On Bloomberg In NYC (WP)

By Michael Powell

The Washington Post, September 15, 2005

NEW YORK, Sept. 14 -- Fernando Ferrer, the former Bronx borough president, stood alone as the Democratic challenger to Mayor Michael R. Bloomberg after Rep. Anthony D. Weiner surprised supporters by conceding the primary.

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After Tuesday's primary, Ferrer had finished a whisker short of the 40 percent needed to avoid a runoff election with Weiner, and supporters of both candidates beat hard on the war drums election night.

But Weiner, a skinny, fast-talking quipster whose campaign roared down the stretch, awoke Wednesday morning and decided that there was little percentage in continuing. A count of 25,000 absentee ballots might well hand victory to Ferrer. And the ritual bloodletting to which city Democrats are prone all but guaranteed that the victor would limp onto the field against Bloomberg.

"Our differences are relatively small in comparison to our differences with Republican Mike Bloomberg," Weiner said at a hastily convened news conference in front of his old family home in Brooklyn's Park Slope neighborhood. "We need to be unified against a man who demonstrated that he will spend any amount of money to win."

That man, Bloomberg, is a billionaire media mogul who spent $70 million on his 2001 campaign (slightly less than most candidates spend running for president) and he has served notice he is ready to toss many more bales of cash into the fire this time around. Political strategists say the prospects for Ferrer, who could become the city's first mayor of Puerto Rican descent, are not terribly encouraging.

Bloomberg, who can project a CEO's disdain for the symbols and ceremonies of politics, has rebounded from low poll numbers of 2002 and now rides well ahead of Ferrer. The city's economy is no longer reeling as it was in 2001. And Bloomberg, if rarely loved, is regarded by many residents as an able manager.

"Bloomberg made a lot of amateur mistakes early on and his personality is not great and sometimes he can't help himself," said Douglas Muzzio, a political scientist at Baruch College in New York City. "But he's a smart guy and he's matured."

Befitting a man who spent his formative years in the Wall Street pit, Bloomberg plays a mean game of political hardball. His strategy is to hone in on his opponents' every weakness, and reinforce the point with a daily barrage of television commercials. On Wednesday, the mayor staged a sort of plutocrats' pep rally, unveiling a Democrats for Bloomberg list that included financiers Steven Rattner and Felix Rohatyn, and film producer Harvey Weinstein.

Ferrer, meanwhile, began raising money and sharpening attacks on Bloomberg as a Bush-supporting Republican who is out of touch with New Yorkers (Bloomberg is, in fact, a lifelong Democrat who switched party affiliations to capture the Republican nomination in 2001. The mayor is pro-choice and anti-death penalty, though he has donated tens of thousands of dollars to Republican candidates).

As for Weiner, he caught a few bouquets. Few Democrats looked forward to a replay of the ethnic and racial tensions that erupted during the party's last runoff -- four years ago, when Ferrer lost to consumer advocate Mark Green, who like Weiner is white and Jewish. Nothing so prompts admiration as a politician who manages to seamlessly marry selflessness and self-interest, and the chatter Wednesday was that Weiner is a formidable contender for the 2009 nomination.

"He was edgier than the other candidates and he had a sense of humor," Muzzio said. "And Weiner proved that he could think outside the box, right down the last move."

Schwarzenegger All But Declares Reelection Bid (LAT)

By Robert Salladay

The Los Angeles Times, September 15, 2005

CLOVIS, Calif. — Gov. Arnold Schwarzenegger all but declared today that he would run for a second term next year, saying, "Let me tell you, I am not in this for the short run."

Speaking at a special election campaign event in this Central Valley town near Fresno, Schwarzenegger was asked by an audience member if Californians would get "a chance to vote for you again."

The governor then revealed what his campaign staff had been hinting for several days: "I'm going to make an official announcement on Friday, this Friday. I believe very strongly in follow-through. Follow-through is the most important thing. If you start something, you've got to finish it."

The Republican governor, who came to office in 2003 after winning a historic recall election that ousted Democrat Gray Davis, is scheduled to attend a campaign rally in San Diego on Friday to sell three initiatives he is supporting on the Nov. 8 special election.

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An announcement for a 2006 reelection campaign is designed to add a boost to Schwarzenegger's initiative cause and send a signal to financial donors and supporters that he intends to be around for another term.

The announcement would also come on the eve of the state GOP convention in Orange County on Saturday. Schwarzenegger, whose popularity ratings have been slumping since January, is scheduled to give a luncheon speech to the party faithful there.

So far, two Democrats have said they plan to run for governor: state Treasurer Phil Angelides and Controller Steve Westly.

Schwarzenegger Hints At Second Run For Governor (REU-Y2)

By Adam Tanner

Reuters, September 15, 2005

California Gov. Arnold Schwarzenegger signaled on Wednesday that he would seek a second term as governor in what would already be his fifth major campaign since seeking the office in 2003.

The former Hollywood actor kicked off a series of campaign events this week ahead of a special election he has called for November on teacher pay, redistricting and the state budget. In an appearance before an invited audience in Clovis, California, he said he would announce on Friday whether he will seek a second term for governor starting in 2006.

"I'm not in this for the short term," he told the crowd, strongly suggesting he would run again. "I believe strongly in follow-up."

Speaking to often enthusiastic crowds in controlled campaign settings is a role the star of the "Terminator" star clearly relishes, and perhaps his greatest talent in politics.

"Anyone who has watched the governor's political career knows that he is a superlative campaigner," said Tim Hudson, director of the Center for California Studies at California State University, Sacramento. "He both energizes and is energized by going out on the campaign trail."

The Republican governor has signaled his primary focus on the referendum campaign in the coming months by taking some of his top aides -- including his finance director, chief of staff and communications director -- off the state payroll and putting them full time on his electioneering effort.

The upcoming 2005 campaign could also revive the former Mr. Olympia's fading popularity, which is reflected in his lowest poll numbers ever this year, ahead of the reelection effort.

"Of course, I'm bloodied, yes. But unbowed," Schwarzenegger said on Monday. "I made a promise to California that I will fix a broken system. And I will do everything I can, and it makes no difference how many attacks they have on me, because remember one thing: that this, what we are doing here, is much bigger than me."

As in past campaigns, Schwarzenegger is likely to follow a script in which some audiences are screened and details such as lighting and settings are carefully planned. Political reporters likely to ask the toughest questions are rarely granted interviews.

Even though he is still a relative newcomer to politics, Schwarzenegger knows the drill well.

After coming to power in an unprecedented 2003 recall election, Schwarzenegger campaigned for ballot measures in the spring and the fall of 2004. Then this year he called a special election despite complaints that the issues he raised could have waited until 2006.

Schwarzenegger's Friday announcement would come ahead of the weekend Republican state convention in which he is seeking to rally the party faithful who have sometimes expressed reservations about his positions on social issues.

(Additional reporting by Jorene Barut-Phillips in Clovis)

Jackson Action (WSJ)

By Charlie Ross

The Wall Street Journal, September 15, 2005

JACKSON, Miss. -- Legislative battles over tort reform are being waged in statehouses across the country. Congress, too, is fighting out the issue in the form of proposed legislation to cap medical malpractice damage awards and to reform asbestosis litigation. Always hotly debated in such contests is whether tort reform accomplishes its purported goals. Does it make the legal system more predictable and more credible? Does it positively affect insurance costs and availability? Does it reduce litigation expenditures? More broadly, does it improve the economic well-being of the citizens?

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In 2004, a long hard battle in the Mississippi Legislature over a comprehensive Tort Reform Bill came to a close, during which the same questions arose. Opponents claimed that the bill was unnecessary, and that, even if it passed, it would not make a difference. Still, we were able to get it through. In many respects, the bill is considered model legislation. Among other provisions, it included venue reform (so trial lawyers cannot shop around for favorable courts) and caps on subjective noneconomic damages (such as pain and suffering). Now, a year has passed since the legislation took effect, and the Mississippi experience is instructive. Tort reform works.

Prior to the legislation, Mississippi was known as the "jackpot justice capital of America." The American Tort Reform Association had labeled certain jurisdictions "judicial hellholes." A survey of more than 1,200 senior in-house counsels for the U.S. Chamber Commerce ranked Mississippi 50th in virtually every category of judicial system nationwide. Insurance companies were fleeing the state. Others were refusing to write new policies. The medical field was particularly strained: Liability insurance was in many cases unaffordable, and in some cases unavailable.

One year later, the story is very different. Mass Mutual Insurance Group, St. Paul Travelers, World Insurance Co. and Equitable Life Insurance Co. are returning to Mississippi. State Farm Insurance eased its growth restrictions for homeowners' insurance and lowered its rates on property insurance.

The Medical Assurance Company of Mississippi, which writes 60% of the medical malpractice coverage for doctors in the state, had raised its rates 20% the year prior to the tort reform legislation. After its passage, MACM did not raise its rates at all. "Those people who said tort reform would not work and actively fought any civil justice reform," Mississippi Insurance Commissioner George Dale said. "I think this indicates they were wrong." MACM also recently announced an end to its moratorium on new business; it also just declared it will cut its rates for 2006.

Insurance was becoming less available and less affordable prior to the passage of the tort reform legislation. Now, the opposite is true. Some plaintiff lawyers and some consumer groups still contend that tort reform doesn't work -- but it does not take a rocket scientist to understand that when liability exposure is made predictable and governed by reasonable rules, risk can be better assessed, and insurance companies are more likely to offer coverage.

Gov. Haley Barbour attributes the successful recruitment of new business to Mississippi to the lower cost of doing business in the state. Texatron has invested $35 million and Kingsford Charcoal $20 million; we have coaxed back Winchester Ammunition and its $3.5 million payroll, as well FedEx Ground, as part of a $1.8 billion expansion.

Our reform package also virtually eliminated the mass-tort industry in Mississippi. This change came about not only because the legislation provided that venues for lawsuits must be established independently for each plaintiff, but also because Mississippi Supreme Court decisions reinstated the traditional rules of joinder of plaintiffs. These two changes went hand in hand, since the process of passing tort reform (which lasted four years) raised public awareness of the problem, which in turn affected judicial elections. This has provided for a more balanced judiciary.

As a result of these procedural changes, pending mass-tort cases are being split up. The cases of out-of-state plaintiffs are being dismissed, and the cases of in-state plaintiffs are being transferred to the proper venues for trial. Lawsuits in Mississippi are returning to what they are supposed to be -- and used to be -- about: one plaintiff, or a very small group of plaintiffs, suing a defendant, or a very small group of defendants, for a single cause of action. Common sense has made a comeback.

Not surprisingly, the demise of mass-tort litigation has resulted in a decrease in litigation costs. The CEO of one Mississippi company recently told me that his company's legal bills were reduced by $70,000 a month as a result of the reform. Litigation expense does not produce value for most members of our society. It is merely a transaction cost in the transfer of wealth to compensate injured persons. To be justified, the transfer process must be fair.

Mississippi's mass-tort system was anything but fair, and in many cases it resulted in patently unjustified awards. And people had lost confidence in getting a fair hearing at the trial court level. There was no confidence that the appellate courts would correct abuses. In essence, there was total unpredictability. The sky was the limit on damages. There was even a perception that fundamentals of the rule of law were being threatened.

Since the passage of tort reform and the changes implemented by judicial decisions, both perception and reality have changed. We have begun to restore credibility to state courts in the mind of the public and business, and have thus restored trust to government in Mississippi in general.

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Since only a year has passed, the long-term consequences of tort reform cannot be known. There are thousands of cases in the system still governed by the old rules. There is enough information, however, to state unequivocally that tort reform has made the Mississippi legal environment more fair, more predictable and less expensive. For now, that is more than enough.

Mr. Ross is a Mississippi state senator and chairman of the Senate Judiciary A Committee.

North Korea Sets New Demand For Ending Arms Program: Money To Buy A Civilian Reactor (NYT)

By Joseph Kahn

The New York Times, September 15, 2005

BEIJING, Sept. 14 - North Korea demanded on Wednesday that the United States and other nations give it money to build a new light-water nuclear reactor before it will end its nuclear weapons program, a condition that appeared to undermine prospects for a breakthrough in the talks here.

The demand, made during the second day of six-nation nuclear talks, suggested that North Korea was coming up with fresh obstacles to signing a broadly worded commitment to denuclearize, the main goal of the negotiations.

"I must say it was a meeting in which we did not make a lot of progress," said Christopher Hill, the top American negotiator. "Neither the United States nor any other participant is prepared to fund a light-water reactor."

A light-water reactor would cost $2 billion to $3 billion and take about a decade to build, Mr. Hill said. While such reactors are less likely than North Korea's existing nuclear facilities to produce the raw materials for nuclear bombs, the United States has argued that they still pose proliferation risks.

"There are not too many other ways I know how to say 'no,' " he said after the United States had a one-on-one session with the North Koreans on Wednesday afternoon.

The Beijing talks resumed Tuesday after a five-week recess. China, Japan, Russia and South Korea are participating, as well as North Korea and the United States. The last round stretched over 13 days but failed to produce even a communiqué outlining objectives for future negotiations.

North Korea has said it is prepared to end its nuclear program in principle. But the conditions it sets for doing so have included, at various times, security guarantees, food and economic aid, diplomatic concessions and the withdrawal of American forces from South Korea.

The main stumbling block now is North Korea's insistence that it has the right to retain a civilian nuclear program even if it gives up its nuclear weapons.

The issue has divided the participants in the talks, with China, Russia and South Korea accepting North Korea's demand, while the United States and Japan have argued that the country cannot be trusted with any kind of nuclear technology, whether nominally peaceful or military.

American negotiators recently signaled a softening of that line, saying they would be willing to leave aside the issue of civilian uses of nuclear technology for now to clear the way for a general agreement on ending the North's weapons effort.

Speaking in New York on Tuesday, President Bush indicated some flexibility, saying, "It's a right of a government to want to have a civilian nuclear program, but there ought to be guidelines in which they be allowed to have that civilian nuclear program."

But Mr. Bush was referring to Iran, another budding nuclear weapons state, and his aides later denied that he intended to change the American position in the Beijing talks.

But United States officials drew a sharp line at building new reactors for North Korea.

The North Korean demand for a light-water reactor echoes the main benefit it received in a 1994 agreement, now defunct. At that time, an American-led consortium agreed to replace North Korea's graphite-moderated reactors, which produce plutonium, with two light-water reactors.

But construction was suspended in 2002 when the United States accused the North of violating the earlier accord by pursuing a separate, underground effort to enrich uranium for nuclear bombs. North Korea has since claimed to have reactivated its plutonium facilities and produced bomb fuel through that method.

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Mr. Hill said North Korea should scrap its demand for new nuclear plants and accept a South Korean proposal to build power plants on its border with North Korea. Seoul has said it could provide enough kilowatts to match the output of all of the North's existing power plants combined.

China, the host, has circulated a draft agreement in which North Korea would commit to denuclearize in exchange for economic and energy aid as well as diplomatic and security benefits.

It has pushed the parties to agree to a draft text by this weekend, when both China and South Korea celebrate holidays, but it was unclear how long the talks would continue.

U.S. Again Rejects North Korea's Demands For A Nuclear Reactor (WSJ)

By Gordon Fairclough

The Wall Street Journal, September 15, 2005

BEIJING -- North Korea insisted, in direct talks with American negotiators, that it would only give up its atomic-weapons programs if Washington and other participants in multilateral disarmament talks agreed to build the country a nuclear reactor to produce electricity, a demand the U.S. has already rejected.

The top U.S. envoy to the negotiations here, Christopher R. Hill, assistant secretary of state for East Asian and Pacific Affairs, said that a so-called light-water reactor of the sort North Korea wants "is simply not on the table." Mr. Hill said discussions with the North yesterday "did not make a lot of progress."

Pyongyang raised the issue of receiving a power reactor as compensation for abandoning its nuclear-weapons programs during two weeks of talks this summer that broke off without an agreement. It was rebuffed at the time, but has since made the demand central to the negotiations, dimming hopes for a breakthrough.

The North Korean delegation didn't have any public comment yesterday.

Mr. Hill said that neither the U.S. nor any other party to the talks, which also include delegations from China, Japan, Russia and South Korea, was "prepared to fund a light-water reactor." Mr. Hill said that the impoverished country needs to "get out of the nuclear business" and start "integrating itself into the world economy."

North Korea's push for a reactor is a replay of demands made during negotiations in the early 1990s. Those talks ended with a 1994 pact, the Agreed Framework, under which Pyongyang would first freeze and then dismantle nuclear-weapons programs. In return, a U.S.-led consortium was to build two light-water reactors in the North.

Construction started, but the agreement unraveled in late 2002 when the U.S. confronted North Korea with what the Americans say is evidence that Pyongyang cheated on the deal by starting a covert program to enrich uranium for weapons. Pyongyang has since expelled international inspectors and declared its possession of atomic bombs.

The administration of George W. Bush has harshly criticized the 1994 accord and vowed not to repeat what it calls the mistakes of the Clinton administration. Even if the White House were to have a change of heart, any such deal would be an extremely tough sell for the conservative U.S. Congress.

Mr. Hill encouraged the North to look favorably on the steps that the U.S. and others have said they are willing to take in exchange for Pyongyang's dismantling its nuclear programs. The package includes energy and economic assistance and security guarantees.

N. Korea Holds To Its Demands At Nuclear Talks (WP)

By Edward Cody

The Washington Post, September 15, 2005

BEIJING, Sept. 14 -- Just-resumed negotiations on North Korean nuclear disarmament swiftly bogged down Wednesday in the same standoff that led to their suspension five weeks ago, undermining any hopes that the talks could move forward more easily after the recess.

In a bilateral meeting with U.S. diplomats, North Korea drove home its insistence on a light-water nuclear reactor for producing electricity as part of any bargain on dismantling its nuclear weapons program, according to the chief U.S. negotiator, Assistant Secretary of State Christopher Hill. While briefing reporters afterward, Hill said he responded clearly that the United States would not agree.

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"It's very clear they wanted to make this light-water reactor day," he said. "I hope they don't want to make it light-water reactor week. I don't know how many ways I can say no."

North Korean demands for a light-water reactor to produce electricity were the main sticking point when the fourth round of disarmament talks broke up here Aug. 7. "In certain respects, we have picked up where we left off," Hill said.

The Bush administration has refused to consider such a reactor for North Korea, saying the Pyongyang government cannot be trusted because in the 1990s it converted a research reactor into a source of weapons-grade plutonium for nuclear weapons. South Korea has proposed supplying electricity to North Korea as part of the nuclear disarmament agreement, which Hill suggested was a more practical way to meet North Korea's energy needs if that is the issue.

France Warns Iran Of U.N. Referral (WT)

By Betsy Pisik

The Washington Times, September 15, 2005

NEW YORK -- French Prime Minister Dominique de Villepin yesterday threatened to refer Iran's nuclear program to the U.N. Security Council, saying, "The proliferation of weapons of mass destruction ... calls for a determined response on our part."

"In the nuclear sphere, we have all put our trust in the International Atomic Energy Agency," Mr. de Villepin, whose government is one of three negotiating with Tehran on behalf of the IAEA, told the 15-nation Security Council.

"There are rights to uphold, in particular the peaceful use of nuclear energy. But there are also duties to enforce, for the security of all: If a state fails in its obligations under the Non-Proliferation Treaty, it is legitimate, once dialogue has been exhausted, to refer it to the Security Council."

At only the third U.N. Security Council meeting attended by the national leaders of the 15 council members, terrorism also was a focus. The leaders unanimously passed two resolutions -- one aimed at outlawing the incitement of terrorism and the other at preventing conflict, especially in Africa.

For months, France had resisted U.S. pressure to send a dispute over Iran's nuclear program to the United Nations for possible sanctions.

Mr. de Villepin's remarks yesterday came after a failed attempt by France, Britain and Germany to negotiate an end to the nuclear standoff.

A vote by the Vienna, Austria-based IAEA could come as early as Monday.

IAEA chief Mohamed ElBaradei called yesterday for Iran to be given a final chance to address IAEA concerns.

"Everything points in the direction of a need for more time. So it would be in everybody's favor to give it some three or four weeks," a senior diplomat close to the IAEA told Reuters news agency on the condition of anonymity.

The 35-member IAEA board of governors is said to be divided on whether to refer Iran to the Security Council.

The United States was an early advocate to refer Iran to the council, where members can urge Tehran to meet its obligations or face sanctions.

President Bush did not mention Iran by name during either of his two speeches today.

In his first U.N. appearance yesterday, new Iranian President Mahmoud Ahmadinejad did not address the nuclear dispute directly.

He denounced the "production and use of weapons of mass destruction, intimidations, resort to the threat or use of force and imposition of destructive wars on peoples."

Mr. Ahmadinejad will address the General Assembly again on Saturday, where he could outline a proposal to avert the standoff with the IAEA.

About 2,000 Iranian exiles who oppose Mr. Ahmadinejad held a demonstration across the street from the United Nations in which they denounced the president as a "terrorist."

As a signatory to the Non-Proliferation Treaty, Tehran agrees to only peaceful uses of atomic energy and must submit to IAEA monitoring of all facilities.

India Balks At Confronting Iran, Straining Its Friendship With U.S. (NYT)

By Steven R. Weisman

DOJ_NMG_0005639

The New York Times, September 15, 2005

UNITED NATIONS, Sept. 14 - A few months after the United States and India elevated their relationship to a new level with a broad accord, a fresh irritant has disrupted the friendship - the Bush administration's insistence that a reluctant India join in the confrontation over Iran's suspected nuclear weapons program.

India, with a longstanding friendship with Tehran, is demurring.

"The Indians are emerging from their nonaligned status and becoming a global power, and they have to begin to think about their responsibilities," said a senior administration official. "They have to make a basic choice."

The choice being posed to India is to enlist in, or rebuff, the European-led effort to get a majority on the board of the International Atomic Energy Agency to vote next week to refer the matter of Iran's nuclear activities to the United Nations Security Council for possible consideration of sanctions.

Indian officials say they agree that Iran should not be allowed to get nuclear weapons and that it has failed to disclose elements of its program to international inspections. But they say that bringing the issue to the Security Council will backfire, especially by provoking Iran's new president, Mahmoud Ahmadinejad.

"You have to allow a certain learning process to take place in Tehran rather than banging them on the head," said an Indian official, who asked not to be quoted by name because of the delicate nature of the discussions.

Mr. Ahmadinejad briefly addressed the United Nations General Assembly on Wednesday, speaking in generalities by warning against "pre-emptive measures" by unnamed states, a comment that some listeners took to be a reference either to the Iraq war or the possibility of Security Council action against the Tehran government.

Past attempts by the United States and leading European nations to move the issue to the Security Council have been rebuffed by several members of the International Atomic Energy Agency's governing board. A new attempt is to be made next week, but it is not clear that it will succeed.

Bush administration officials say that with India's support, there is a chance of mustering a majority vote. But Indian officials say they prefer not to seek a majority vote but rather to get some sort of consensus among board members demanding that Iran go back to suspending its nuclear activities or negotiating to give up its programs.

"Whether we get a consensus depends on what kind of resolution we have," said the Indian official, noting that by tradition the atomic energy agency does not take any action except by consensus.

In some ways, the tensions between India and the United States are reminiscent of the cold war, when Washington expected India to stand up to the Soviet Union and was regularly disappointed. While India professed a nonaligned status, some in Washington saw it as a satellite of Moscow.

Now India is in the middle between the West and Iran, with which it has tried to foster a close relationship, and is discussing construction of a natural gas pipeline.

Iran has warned that moving the issue of its conduct to the Security Council would be a provocation, and it has waged a successful campaign to get at least a third, and perhaps more, of the votes on the I.A.E.A.'s board to side with it.

Normally, blocking a "consensus" at the board is enough to block any action at all. But American officials say that with India's help, they can obtain a majority vote - if not next week, then within a few months - to refer Iran to the Security Council.

A separate theme of the American-Indian tensions is energy. The centerpiece of the accord President Bush and Prime Minister Manmohan Singh signed last July effectively exempted India from decades of international rules under the Nuclear Nonproliferation Treaty. Under the agreement, which represented an extraordinary change of policy, the United States agreed to share peaceful nuclear energy technology with India even though it possesses nuclear weapons.

In effect, Bush administration officials say, India must now choose who is the best partner to meet its surging energy needs - Iran with its natural gas resources or the West with its ability to help in developing Indian civilian nuclear power.

Administration officials have warned India that if it fails to cooperate on Iran, the civilian nuclear energy agreement negotiated last summer could be rejected by Congress.

Dealers Smuggle Weapons Into Gaza From Egypt (NYT/AP)

By The Associated Press

DOJ_NMG_0005640

The New York Times, September 15, 2005

RAFAH, Gaza Strip, Sept. 14 (AP) - Palestinian gunrunners smuggled hundreds of assault rifles and pistols across the Egyptian frontier into Gaza, dealers and border officials said Wednesday. The influx confirmed Israeli fears about giving up border control and could further destabilize Gaza.

Black market prices for weapons dropped sharply, with the price of AK-47 assault rifles nearly cut in half, to $1,300, and even steeper reductions for handguns.

The Palestinian leader, Mahmoud Abbas, has tried to impose order since the Israeli troop withdrawal from Gaza on Monday, but militant groups scoffed at a new demand by the Palestinian Authority that they must disband after parliamentary elections in January, saying they would not surrender their weapons.

Israel voiced concern about chaos along the Egypt-Gaza border in the three days since its pullout, sending messages to the United States, Egypt and the Palestinians. "We will not put up with this," Defense Minister Shaul Mofaz said.

Egypt had assured Israel that it would prevent weapons smuggling once its troops took over from Israel along the Gaza frontier, and Cairo and the Palestinian Authority pledged to seal the border by Wednesday evening. Thousands had crossed unhindered since Monday.

Around 8 p.m. Wednesday, about two hours after the deadline for closing the border, an Egyptian officer bellowed into a bullhorn for Palestinians to stop entering Egypt and prepare to return to Gaza.

The frontier was still porous later, however, with the Egyptian police pushing back Palestinians scaling the wall on the Gaza side and trying to sneak through the barbed-wire fence on the Egyptian side. Up to 750 Egyptian border guards were expected Thursday, the police said.

Palestinian security forces in Gaza appeared to be doing little to stop infiltrators. At midday, Hamas militants blew a hole in the Gaza wall, making it even easier for people to enter the 18-foot-wide buffer zone leading to Egypt's fence.

One arms dealer, interviewed in a car outside the Rafah cemetery, said hundreds of AK-47's had been smuggled from Egypt since Monday. He said he sold his guns to militants but declined to say how many pieces his runners brought back.

Another dealer said competitors reported having $1 million worth of loot confiscated, including grenade launchers.

Palestinians Rush Over Egypt Border (WT/AP)

By Ibrahim Barzak, Associated Press

The Washington Times, September 15, 2005

RAFAH, Gaza Strip -- Scores of Palestinians crossed from the Gaza Strip into Egypt yesterday evening before Egyptian security forces moved to close the border in an attempt to restore order three days after Israel left the territory.

The frontier was still porous hours after the clampdown, however, with about a dozen Egyptian police pushing back Palestinians scaling the concrete wall on the Gaza side and trying to sneak through the barbed-wire fence on the Egyptian side. Hundreds of Egyptian border guards were expected this morning to enforce the closure in earnest.

Palestinian security forces in Gaza apparently were doing little to stop infiltrators, and earlier yesterday, Hamas militants -- unhindered by Palestinian police -- blew a hole in the Gaza barrier, making it even easier for people to reach the Egyptian fence.

Elsewhere in Gaza, a militant disrupted a celebratory rally at an abandoned Jewish settlement, grabbing a microphone from a rap singer. He was led away by police firing into the air. No one was injured.

Imposing security in unruly Gaza is seen as the key test of Palestinian Authority President Mahmoud Abbas' government. Earlier yesterday, one of his top aides announced what he said was a new plan of action -- including a demand that armed groups disband immediately after parliamentary elections in January.

Hamas reiterated that it would not disarm, and Palestinian officials cautioned that they will not risk civil war, despite intense international pressure to confront militants.

Mr. Abbas' security forces largely have displayed weakness since the Israeli withdrawal. By contrast, Hamas brought tens of thousands into Gaza City's main square late Tuesday -- the first day Palestinians controlled Gaza -- for the biggest rally here by the Islamic militant group.

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Mr. Abbas stayed away from an official celebration that he had scheduled for yesterday near the ruins of the Neve Dekalim settlement. An aide said he was concerned about gunmen.

The rally had been billed as a show of Palestinian unity, but most factions stayed away. Hamas scheduled another rally for tomorrow.

At the border yesterday, Egyptian police arrived about an hour after the 6 p.m. deadline. A senior officer bellowed into a bullhorn, telling Palestinians to stop entering Egypt and prepare to return to Gaza.

"I don't care about the closure; we can get in and out anytime we want," Palestinian university student Khaled al-Massari said after crossing from Gaza after the deadline.

Egypt also said yesterday that its border guards found an arms-smuggling tunnel under the Gaza border in the al-Duhniya area, 2½ miles south of the Rafah crossing point.

The tunnel, found Tuesday evening, contained 38 firearms and three rocket-propelled grenades, a security official said. It extended to the Palestinian side of the frontier, and Palestinian security forces seized the weapons yesterday, the official said.

In Gaza, Mr. Rayes Struggles To Replant Bulldozed Olive Trees (WSJ)

By Karby Leggett

The Wall Street Journal, September 15, 2005

GAZA CITY, Gaza -- In the predawn darkness, Mohammad Rayes arrived at the edge of a Palestinian neighborhood called Zeitoun to celebrate with family and friends the recovery of his 37-acre farm from Israeli occupation. With the rising sun an hour later, the challenge ahead of him sank in.

At the front of his property, Mr. Rayes stared at a heap of twisted metal bars and crumbled concrete blocks -- the remnants of his farmhouse and chicken coop. At the far end, he saw a 10-foot wall of sand left behind by Israel's military. And all of Mr. Rayes's 2,500 citrus and olive trees had been bulldozed, then buried under the sand.

For the 66-year-old farmer, it was almost too much to take in. "I have to start all over again," he said.

The Israeli army's departure from the Gaza Strip this week after 38 years of occupation marks a new era for Palestinians. Once divided into tightly controlled cantons separated by 21 Jewish communities, Gaza's 1.3 million residents can now go where they want, when they want. Under Israeli occupation, their lives had been severely restricted, particularly in the past five years. So for many, this is freedom only dreamed about until now.

Still, there are major concerns. With the Israelis gone, Gaza teeters on the brink of lawlessness as armed groups fight each other and the official Palestinian quasi-government, the Palestinian Authority. The Palestinian Authority remains weak and plagued by corruption, while the Israelis have kept control of Gaza's borders. That leaves Palestinian Gazans with little control over a key element of their economic well-being: who and what can enter and leave Gaza. Some Palestinians say they fear Gaza could turn into a large prison.

Mr. Rayes and his three sons, two of whom live abroad, have spent the past few months cooking up big plans for post-Israel life in Gaza. Mr. Rayes wants to get his farm running again. His sons want to build a factory on part of the land.

For now, those are distant dreams. When Israel's army took over Mr. Rayes's farm a year ago, it wiped out his income and forced him to live off savings. Even before the farmhouse was bulldozed, he spent most nights at the home he maintains in Gaza City, and he still has that.

Just hours after he got his farm back, Mr. Rayes was faced with securing it from Palestinian looters and squatters. "I'm afraid people will think my land is part of the settlement," Mr. Rayes said, pointing toward the once heavily fortified Jewish settlement of Netzarim, recently emptied of residents. Moments later, a young Palestinian tried to cart off a downed electricity cable at the edge of his land. Mr. Rayes and several hired hands shooed the boy away.

Born into a wealthy family, Mr. Rayes has lived his whole life under foreign occupation -- first the British, then Egyptians and finally Israelis. He made the best of it. In the 1970s and 1980s, he worked with Israeli agricultural experts to turn the family farm into a thriving business. He earned more than $150,000 some years. He shared the income with several brothers and sisters who still own part of the farm. A fluent Hebrew speaker, Mr. Rayes recalls that time fondly, ticking off the names of Israelis he says were friends. "Gaza was a better place back then," he says.

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In the 1990s, tensions with nearby Jewish settlements mounted, eventually spilling over into violence in 2000. Palestinian militants began using Mr. Rayes's farm as an occasional venue to launch mortar and gun attacks. Mr. Rayes says he asked them to stop, but they ignored him. With each attack, Israel destroyed a bigger stretch of Mr. Rayes's farm. Events of the last year finally made the place uninhabitable and Mr. Rayes stopped going there.

Now, Mr. Rayes says he doesn't have enough money to rehabilitate and replant his farm. He figures he will need at least $300,000. Though international donors, including the World Bank, plan to pump hundreds of millions of dollars into Gaza over the next year, Mr. Rayes says officials at the Palestinian Authority's Ministry of Agriculture told him during a recent visit that he may not qualify for aid.

In a region where corruption has flourished over the past decade, Mr. Rayes fears some officials may seek kickbacks in return for releasing aid funds. "There is simply no plan in place, nothing," he says.

Palestinian officials say they have a plan but that it's incomplete. They blame Israel for that. Because the pullout was unilateral, they weren't given much of a chance to get ready. This week, President Mahmoud Abbas, in a speech, detailed some investment plans but not in the kind of detail people are looking for. They want to know how they are to be compensated for lost property.

Even more unnerving, Mr. Rayes says, is talk that his land may be devoured by a new seaport the Palestinian government hopes to build along the coast. Already, Mr. Rayes says officials have told him that he will need permission from the government to replant. He has heard that his land may be expropriated, and that his compensation will be a patch of land in a far less fertile area. Or, perhaps, he will get money, which he says he doesn't want.

Such speculation is also complicating his sons' dream of building a factory. Mr. Rayes's middle son, Fayya, is a senior engineer with Procter & Gamble in the Middle East and has helped put together an initial plan to build as a family venture a detergent and toilet-paper factory that could cost more than $500,000 and employ hundreds of Gazans. Yet even if the Rayes family retains its land and builds the plant, there are other things to worry about.

"We don't know if Israel will open the border so we can export," says Mr. Rayes's youngest son, Hamam, sitting in a canvas tent he and his father put up hours after Israel left Gaza. Sipping a cup of coffee, he added, "Gaza is poor and if we can't export, the factory doesn't really make sense."

For both father and son, perhaps the greatest fear is Gaza's rampant lawlessness -- from gunbattles between militants to the absence of simple traffic regulations. With Israel now gone, Mr. Rayes says he hopes Mr. Abbas will start to exert control over the battling factions and members of his own government who work more for personal gain than for the public's benefit.

Mr. Rayes says he rejects the militant view of the Palestinian faction Hamas, which wants to conquer all of Israel. But he says Hamas has grown so strong that it may be impossible for the Palestinian government security forces to block its attacks on Israel. That could prompt reprisals and, he says, even the return of Israel's military to Gaza.

But for now, Mr. Rayes says his sole task is to hire a Palestinian bulldozer that can unearth his buried olive and citrus trees and then level his land. On Monday and Tuesday, he began that process by torching the dry weeds and underbrush that have grown up over the past year. Once the trees are unearthed and removed, he says, he plans to approach the government again in hopes of getting a grant to rebuild the irrigation network and buy new trees.

Back at the tent with his son, he looked over his land as the sun set. "More than anything, what we need now is a period of calm," he said. "But only God knows if we'll get that."

Bad Start In Gaza (WP)

The Washington Post, September 15, 2005

Only days after the final withdrawal of Israeli forces, the Gaza Strip is on the verge of anarchy. Despite promises to impose law and order, the Palestinian Authority has allowed mobs of looters and armed extremists to rampage through former Jewish settlements, where they have burned or bulldozed synagogues left standing by Israel. Many of the valuable greenhouses that, with the generous help of international donors, were saved for use by the Palestinians have been stripped of equipment as police stood by and watched. Despite a formal agreement with Israel to maintain security, Egypt has allowed thousands of Palestinians

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to illegally cross its border, including rifle-brandishing militants. If it is not quickly checked, the disorder will destroy Palestinian hopes that the Gaza transfer will become a step toward statehood.

This week's events further undermine the claim of Palestinian President Mahmoud Abbas that he can impose democratic rule of law in Gaza without directly confronting armed extremist groups such as Hamas and Islamic Jihad. Mr. Abbas keeps declaring that only Palestinian security forces will be allowed weapons and that "no one is above the law." But he also keeps shrinking from confronting the gunmen who have been parading through former Jewish settlements or punching holes in the border fence between Gaza and Egypt. "We are not going to tolerate chaos after today," Mr. Abbas declared on Tuesday. Yesterday, as the chaos continued, he instead canceled his appearance at a rally organized by his own administration.

Mr. Abbas's problem is in part one of weakness; it's not certain that the security forces loyal to him could impose order by force in Gaza even if he ordered them to. Egypt's failure is far harder to excuse. The government of Hosni Mubarak formally committed itself to send Egyptian troops to replace the Israeli army on the border between Gaza and Egypt and to maintain security. No agreement has yet been reached on opening a crossing, mainly because of Israel's legitimate security concerns. But Egyptian troops this week have allowed thousands of Palestinians to pass back and forth, urged on by Hamas fighters who have blown holes in the fence. Egypt announced that it would put a stop to the traffic by yesterday evening. According to news reports, the crossings continued.

The Gaza withdrawal should have been a step toward an Israeli-Palestinian settlement; instead, it could become a leap away from it. The big winner so far is Hamas, which rejects Israel's existence. In Israel, continuing disorder will give a boost to hard-line challengers to Prime Minister Ariel Sharon, the architect of the Gaza evacuation. As it is, Mr. Sharon probably will reiterate in an address to the United Nations today that Israel will consider no more territorial withdrawals or other concessions to the Palestinians until militant groups are dismantled. Unless Palestinian and Egyptian leaders take immediate steps to fulfill their commitments in Gaza, they will bear the responsibility for a new stalemate -- or worse -- in the Middle East.

U.S. And European Reluctance To Cut Farm Subsidies Weighs On Trade Talks (NYT)

By Edmund L. Andrews

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 - With three months left before a crucial deadline in global talks to reduce trade barriers, top negotiators for the United States and the European Union were still far apart on Wednesday on reducing the elaborate protections for their own farmers.

"We've both got our homework to do," Rob Portman, the United States trade representative, said after meetings here with Peter Mandelson, the European Union's trade minister.

American and European officials are trying to breathe new life into the so-called Doha Round of trade talks, which are supposed to lead to an agreement on a basic framework at meetings in December in Hong Kong.

But the global negotiations, aimed at reducing trade barriers in goods as well as services, have been bogged down in large part because of the reluctance by the United States and the European Union to reduce tariffs on imported crops and subsidies for domestic farmers.

That reluctance has spurred a rebellion of sorts by many large developing countries, like Brazil and India, which are demanding more access for their own farm products in exchange for lowering barriers to manufactured goods and services.

President Bush, addressing the United Nations on Wednesday, urged countries to push ahead and promised to end all American subsidies and tariffs if other nations did so as well.

"Today, I broaden the challenge by making this pledge," Mr. Bush said. "The United States is ready to eliminate tariffs, subsidies and other barriers to free flow of goods and services as other nations do the same."

But both American and European leaders are reluctant to give up their farm protections.

European leaders have agreed to eliminate all export subsidies for farm products, but they still have high tariff barriers and pay tens of billions of dollars a year in farm subsidies.

The United States has lower tariffs on most farm imports, but it retains high barriers for products like sugar and orange juice and it pays out billions of dollars in subsidies to producers of cotton, corn, beef and other commodities.

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On Wednesday, Mr. Portman and Mr. Mandelson put the best spin possible on their meetings but offered no evidence that they had bridged the gap between them.

Mr. Portman said the talks had been "very frank and constructive," adding that "we understand our responsibilities as the two great trading partners in the global economy."

Both he and Mr. Mandelson expressed support for an approach floated in July by the Group of 20, a collection of large developing nations, which would divide countries into five groups and let the less-developed nations reduce their barriers more slowly.

Mr. Mandelson said the United States and Europe needed to offer "joint leadership" and said "it is essential that we build a common and coordinated platform."

But European officials have made it clear they do not want to reduce their internal subsidies more than the amount prescribed by the European Union's Common Agriculture Policy.

That policy calls for reductions of up to 70 percent below the level that Europe is allowed under its current obligations to the World Trade Organization.

American officials insist that Europe make deeper cuts. But the Bush administration is under heavy pressure from Congress to preserve up to $19 billion a year in farm subsidies. The 2002 farm bill passed by Congress, which Mr. Bush supported, greatly increased support payments for farmers and is set to expire at the end of 2007.

Administration officials have yet to signal which farm subsidies they would promise to reduce, and farm state legislators are already bracing to defend their local producers.

Both Mr. Portman and Mr. Mandelson said the benefits of freer trade would far outweigh the losses, and Mr. Portman argued that individual European countries should focus on the broader export opportunities in manufactured goods and lucrative services rather than on their fears about parochial interests.

But Claude E. Barfield, a resident scholar at the American Enterprise Institute, a conservative research group in Washington, said the chances of a comprehensive trade agreement by December were "dim."

"It just seems that people are so far apart, and that they are apart in so many areas," Mr. Barfield said. "Here we are and it's already mid-September. You have to have the agreements pretty much in place a month before Hong Kong."

Pascal Lamy, director general of the World Trade Organization, warned last Friday that time was running out.

"The problems are numerous and time is fading," Mr. Lamy told reporters in Berne, Switzerland. "There are a mountain of subjects to address and I hope that it can be climbed."

Tough Decision In German Vote, Onetime Outsider Offers Big Changes (WSJ)

By Marcus Walker And Marc Champion

The Wall Street Journal, September 15, 2005

BERLIN -- When Angela Merkel first entered politics in the early 1990s, she was the token East German woman in a cabinet dominated by men from the West. Chancellor Helmut Kohl made her his minister of women's affairs. He nicknamed her "my girl."

A few years later, amid a campaign-funding scandal, she helped end his career.

It was time, Ms. Merkel wrote in a 1999 newspaper article, to leave "the old warhorse" behind. She suggested the man who had reunified Germany and led its conservative Christian Democrats for a quarter of a century should step aside. Within weeks Ms. Merkel, a former physicist, had become head of the party.

In a general election this Sunday, Ms. Merkel is favored to become leader of the world's third-largest economy. Her Christian Democratic Union, which maintains a narrowing lead in the polls, has promised to end Germany's economic malaise by shaking up longstanding labor, tax and social policies.

For German voters, Ms. Merkel's economic platform is their clearest chance yet to scale back bloated welfare programs. Ms. Merkel's election could also shift the balance of European politics, drawing Germany closer to the flexible markets of countries like Britain and isolating its longtime ally, France.

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One of the biggest question marks in Germany's future is Ms. Merkel herself. Some observers have likened the 51-year-old politician to Margaret Thatcher, the British prime minister whose policies revived that country's economy in the 1980s. But though Ms. Merkel has at times proved shrewd and ruthless in advancing her career, her ability to drive profound political change is untested. She has been uncomfortable and distant on the campaign trail, and even Germans in her own party oppose many of her economic proposals.

Still, Ms. Merkel's life story suggests that it would be unwise to count her out. An outsider whose rapid political rise defied convention, she is unencumbered by the traditions of German politics and business. She was raised by a Lutheran minister behind the Iron Curtain. The communist East German regime spied on her, but her individualistic ideals found small outlets in poetry and hitchhiking. When the Berlin Wall fell, she was a political novice. Yet she fought her way to the top of a party dominated by a close-knit network of older men from predominantly Catholic parts of the former West Germany.

On the economic front, Ms. Merkel is promising to cut some welfare benefits and weaken job guarantees. (See related article.5) Germany has higher taxes on labor than most other countries, limiting the ability of business to create new jobs. Partly as a result, the unemployment rate has risen to 11.4%. "The labor market is a market in name only," Ms. Merkel said during a interview conducted in German at her office in Berlin. "Germany has to get used to the idea again that it can only redistribute what it produces."

Fueled by hopes that Ms. Merkel can lower labor costs, Germany's DAX stock market index has risen 20% since May, when current Chancellor Gerhard Schröder called for early elections. The country's affluent middle class is solidly behind Ms. Merkel, and this week Germany's leading business group announced it would back her.

Ms. Merkel's party and its smaller allies are polling several points ahead of Mr. Schröder's incumbent center-left coalition. But if conservatives fall short of a majority, they will have to govern with support from Mr. Schröder's Social Democrats. Such a "grand coalition" of Germany's two major parties would likely force Ms. Merkel to make major compromises on her economic plans.

Even if Ms. Merkel wins an outright majority, she may find it difficult to push through her reform agenda. Resistance to overturning Germany's generous welfare programs runs deep, and ambitious regional governors have the power to form alliances that can block the central government. Also, unlike nearly every German leader who has preceded her, Ms. Merkel lacks a strong regional power base.

"It will be difficult for her," predicts Dagmar Schipanski, a university professor and Christian Democratic Union colleague. "She has a limited circle of trusted friends."

Ms. Merkel was born in 1954 in Hamburg, West Germany, at the height of the Cold War. Her father, a Lutheran minister, later moved the family to a small town 50 miles north of Berlin in what was then East Germany. The atheist regime frowned on the church, and often discriminated against ministers' children, blocking their education and careers.

Never a dissident or activist, Ms. Merkel nonetheless had a tense relationship with the state. As a teenager, she was once nearly expelled from school for reciting a "bourgeois" poem. On trips to Poland, she made friends with Solidarity supporters. The East German state security service, or Stasi, kept a file on Ms. Merkel stamped PID, for "political-ideological deviation."

She rebelled in other ways. In 1984, Ms. Merkel made an illegal hitchhiking trip through the Soviet Union with two female friends. In an account confirmed by her spokeswoman, for three weeks the companions avoided hotels and railway stations where they might be asked to show their papers. They were finally caught in Georgia, when the off-duty policeman with whom they had hitched a ride was stopped for speeding.

At the local police headquarters, Ms. Merkel escaped by appealing to the Georgians' national pride, waxing lyrical about the region's beauty. "Right away we were asked: Had we seen the capital, Tbilisi? We absolutely had to see that!" Ms. Merkel is quoted as saying in a biography by journalist Wolfgang Stock. The police let them go.

Ms. Merkel, who excelled at math and science, eventually obtained a post at the Academy of Sciences in East Berlin. It was the communist state's top scientific institution, but Ms. Merkel was relegated to a converted workers barracks tucked behind overgrown shrubbery. Her work in quantum chemistry was considered marginal because it had no industrial relevance.

Fellow physicist Michael Schindhelm recalls that doing worthwhile research was difficult. Because neither he nor Ms. Merkel was a member of the communist party, they weren't permitted to travel to the West or even read most Western science

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publications. The laboratory's computers and equipment were obsolete. "We tried to focus on research you could do with a pencil and paper," Mr. Schindhelm says.

The experience helped sharpen Ms. Merkel's political views. Mr. Schindhelm says he and Ms. Merkel both became convinced that the overbearing East German state had caused a decay of society by undermining individual responsibility. "In a different form, we're experiencing something similar now in unified Germany," he says.

The night the Berlin Wall fell in 1989, Ms. Merkel was returning home from a weekly sauna. Carrying a damp towel, she crossed into the West with thousands of other East Germans and quickly realized that the regime was doomed. Three weeks later, she left her job and joined a new political party dedicated to reunifying Germany and developing a free-market economy.

Ms. Merkel made herself indispensable in the tiny party. She got the computers out of their boxes and put them to use. She became a party spokeswoman, and she began to develop ideas on economic policy. In a 1990 newspaper article, she argued that East Germany should rebuild by limiting the state's economic role to fostering competition and fighting monopolies.

West Germany's economic boom of the 1950s and 1960s had been built on similar ideas, first advanced by economists at Freiburg University. The Freiburg school held that a "social market economy" could create prosperity for all, not just the rich.

Today, Ms. Merkel believes Germany has gone too far in insulating its citizens against the risks of the marketplace. Since the mid-1960s, Germany's state spending on the unemployed and pensioners has grown faster than gross domestic product or tax revenues, leading to ever-larger debts, she says. "That violates the sustainability of the social market economy," she says.

Ms. Merkel's initial foray into politics proved lucky. Her small party polled less than 1% in March 1990 East German elections, but Ms. Merkel's job as press spokeswoman had won her notice. The ruling Christian Democratic Union, then led by Mr. Kohl, was short on women and eastern Germans. In late 1990 Mr. Kohl recruited her to join his cabinet.

Over the next eight years, Ms. Merkel held second-tier ministerial posts. Gradually, her party's hold on power began to weaken as the German economy strained to extend generous social benefits to the industrially moribund East. After 16 years in office, voters ejected Mr. Kohl and the CDU in 1998.

As the CDU reorganized the following year, Ms. Merkel seized on a defining political moment. A German arms dealer living in Canada revealed he had made an undeclared one-million-mark donation to the party's coffers, worth about $540,000 at the time. Mr. Kohl, still the party's honorary chairman, admitted he had systematically accepted illegal political gifts.

A few days later, Ms. Merkel called the conservative newspaper Frankfurter Allgemeine Zeitung and offered to write an article on the funding affair. Five minutes later the faxed text arrived at the paper's offices, according to Mr. Stock's biography. It was a devastating assault on her mentor. "The party has to learn how to find its own feet" without its longtime leader, she wrote.

Ms. Merkel's stand proved hugely popular with the CDU's rank and file. Within a few months, they had elected her party chairwoman.

Prof. Schipanski, her CDU colleague, remembers Ms. Merkel calculating her moves with scientific logic. "She said very clearly that she would take this position [on Kohl] but she would do it alone. She wouldn't rely on the men," she says.

As head of her party, Ms. Merkel believed she was poised to run for chancellor as new elections approached in 2002. She updated her dowdy hairstyle and purchased a new wardrobe. She made the rounds of TV programs, speaking about the challenges facing Germany's next chancellor.

Behind the scenes her rapid political ascent had hit a wall. A then-secret coalition within the CDU decided to block her candidacy and instead back Edmund Stoiber, leader of the CDU's smaller Bavarian sister party, the Christian Social Union. One by one, some of Germany's most influential political figures came to Ms. Merkel and asked her to stand aside.

"Some of us believe we helped her," says Friedbert Pflüger, a CDU politician who was part of the coalition that backed Mr. Stoiber. "At the time it would have been too early and many people would not have supported her. A woman from the East, Protestant, very young -- this needed time."

When it became clear she lacked support in her own party, Ms. Merkel turned up early one morning at Mr. Stoiber's home near Munich. She agreed that he would be the candidate, and said that she would back him. "What was impressive was that she didn't for an hour give the impression of being a loser," says Mr. Pflüger.

After Mr. Stoiber lost at the polls, Ms. Merkel's show of loyalty helped assure her the leading role among Germany's conservatives.

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If she wins on Sunday, Ms. Merkel has plans to raise Germany's sales tax by two percentage points to 18% in order to cut employers' and workers' contributions to unemployment insurance. She believes this will reduce labor costs and create new jobs for Germany's 4.7 million unemployed.

Ms. Merkel also hired a controversial academic, Paul Kirchhof, as her economic adviser. Mr. Kirchhof, who could be Germany's next finance minister, is an advocate of a flat 25% income tax and says he wants to abolish all subsidies and exemptions in Germany's tax code.

Such changes are likely to face substantial resistance in Germany. The CDU, which polls showed had a comfortable 23-percentage-point edge in June, has seen its lead narrow to around 9 points yesterday. Polls of German television viewers found Ms. Merkel came off badly in a recent debate against Mr. Schröder.

At a recent rally in the eastern German city of Erfurt, Ms. Merkel's supporters did their best to make her seem more appealing. Party activists waved placards bearing her nickname, "Angie," while a public-address system blared out the song of the same name by the Rolling Stones. Ms. Merkel lectured the crowd with a stump speech on Germany's rising public-sector debt.

In the East, where unemployment is 18%, her pitch doesn't go down well. Cutting benefits will mean more hardship in a region where many depend on government assistance. And Ms. Merkel is seen as an outsider even here. Wolfgang Riese, a tax consultant drinking beer from a plastic cup on the edge of the rally, said he'll vote for the former East German communist party, which still gets around a third of the vote in the region. "She tries to represent all of Germany, but Easterners think she represents them too little, while Westerners think she's from out East," says Mr. Riese.

Say It Slowly -- 'Zukunftsangst' (WSJ)

By Gabor Steingart

The Wall Street Journal, September 15, 2005

BERLIN -- Germany is haunted. My countrymen see ghosts everywhere as they go to the polls this Sunday.

When neo-Nazis are elected to a regional parliament, many fear a resurgence of Hitler. When a left-wing splinter party gains strength, scores believe they see the ghost of communism. Because Angela Merkel, leader of the opposition Christian Democratic Union, has proposed a larger dose of reform policy than Gerhard Schröder, the current chancellor, millions see her as the reincarnation of Maggie Thatcher. No wonder pollsters have found a level of fear in this election campaign that is greater than anything we've ever experienced since the war. A balance of terror has emerged: Fear of unemployment competes with fear of an overly radical fight against it. Empty state coffers cause the same horror as the budget cuts designed to overcome them. Some call for a serious increase in genetic research, which leads others reflexively to cringe.

Everyone is terrified of everyone. As if of its own accord, the word "fear" attaches itself to the word "future" -- Zukunftsangst permeates the German mind. Fear of reform, fear of stagnation, fear of a failure of democracy and now -- as the frantic climax of this collective neurosis -- the fear of a further growth of fear.

The result is political exhaustion on all sides. On Sunday, Europe's largest industrialized country will most likely elect the weakest of all postwar governments -- assuming the result even allows a government to be formed. If the Social Democrat Mr. Schröder wins, he will not be able to do much with his victory. During the campaign he moved far away from his own convictions in order to collect the disheartened and insecure. His party is once again humming old working-class songs and its traditionalist members couldn't be happier.

But the politician Schröder now lives to the left of reality. He's never been so distant from his spiritual neighbor Tony Blair. Even if he wanted to move back again after a successful election, his party would not allow him to return to reality. His line of retreat is cut off. If he wins, he'll be in government, but not in power.

If Ms. Merkel wins, she won't have much to celebrate either. The 140-square-meter office of the head of government stands in stark contrast to the small amount of power she would actually have. At least at the beginning she'd be a chancellor of limited possibilities. Three things would prevent the kind of powerful governance of which she recently spoke in Parliament.

One is the outcome of the election itself: Her majority against the post-communists, environmentalists and Social Democrats will be razor thin -- if she can win at all. That is not what a mandate for radical reform looks like. The more clearly she

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informs Germans of her intentions, the more they back away from her in horror. The absolute majority projected in surveys melted away with breathtaking speed. Germans' fear was greater than her powers of persuasion.

Second: There are rumblings in her own party. For the powerful provincial princes, this was a unsatisfying campaign. No one in the conservative ranks had expected that the chancellor, who had decided upon early elections because of a lack of loyalty in his own ranks, would be able to revitalize himself. His deathbed resurrection is blamed on Ms. Merkel. She was courageous; she was honest; she was even precise. In short, she did everything wrong. She ran a campaign counter to rational party tactics. She announced a tax increase, called for privatizing nursing care insurance and told subsidy recipients, night workers, commuters and home builders that they could no longer expect government handouts. The fear increased, the support shrank. The men in her party's second and third tiers will never forgive her for that. These gentlemen are panting for revenge, and they'll have plenty of opportunity to pay her back.

Through the Bundesrat, the upper house of parliament that represents the states, the princes possess a de facto veto. Eleven of 16 heads of state governments come from the conservative party. The German defect, that paralyzing arrangement of checks and balances built into the system after 1945, is very convenient for them. They take part in discussions, share in decision-making -- and block progress. Ms. Merkel's hardline enemies are just waiting to topple her. Most probably, however, the more moderate among her rivals will prevail. They have taken it upon themselves to wear her out in office.

Of course, Ms. Merkel also has supporters, especially among the party base. She has to spoil these people with presentable achievements, which leads us to the third reason for her lack of political power -- the most serious, although she's not responsible for it. Germany's decline is farther along than the public realizes. No rapid successes can be expected -- especially not from a woman with no mandate for a new start. Her government will be of the lowest common denominator. The ghosts will be sitting at the government table. Fear will soon possess cabinet status.

Ms. Merkel knows everything one has to know about the state of the nation. She knows the data, and in her years in opposition she took a thorough look at the economy. Much of it reminds her of the decline of East Germany, which she experienced as a scientist in Berlin. She recognizes this refusal to acknowledge, the looking away, the wavering in the face of danger.

A glance at the state's finances shows how dramatic the situation is: Of 190 billion euros in tax revenues, 80 billion is passed on to the cash-strapped state pension system, 30 billion goes to the unemployed, and another 40 billion belongs to the banks, just to service debt. The rest is not even enough to pay the bureaucracy and to build roads. Ever-new credits are constantly needed so that Germany at least has the appearance of a prosperous country.

Relief is not in sight because the birth-rate has fallen by half since the early 1960s and so the work force will also soon fall by half. Two retirees will then be financed by one worker, which would be too much for everyone -- the workers and the state. If nothing changes, the government will need 80% of the state budget in 2050 just to prop up pensions.

The task of building up the German east is another factor. The region once dominated by the Soviets devours a fortune, and has cost 1.4 trillion euros so far. For 15 years, the western part of Germany has been transferring 4% of its GDP to the East. Because the West has not grown by 4% for decades -- at best by half of that -- the transfer payments are depleting reserves. Former Ford manager and Social Democrat Klaus von Dohnanyi speaks of a "permanent loss of blood from our economy."

Ms. Merkel knows the forces at work here. They are pulling the country, as well as its chancellor, down -- down to the place where the wellspring of eternal fear flows. No nation likes to lose a piece of its power and prosperity each day. German assertiveness is thus Ms. Merkel's natural coalition partner. She must ally herself with it, promote it and let it grow into a mighty political force.

Willpower is society's most underestimated productive force in history. Historians don't like it because they cannot measure it or ask it any questions. But states do not consist only of armed forces, banks and steel mills, and more or less diligent civil servants. Every country is propelled by a mixture of ambition and pride, which can bring forth both the reprehensible and the great. Angela Merkel has a chance if she succeeds in mobilizing this force of will behind her policies, and thus puts an end to the haunting. Before she takes on the details of pension and tax reforms, there is something more important to do: It's time to call in "Die Geisterjäger" -- the Ghostbusters.

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Mr. Steingart, Berlin bureau chief for Der Spiegel, is author of "Der Abstieg eines Superstars" (Piper, 2004). Belinda Cooper translated this piece from the original German.

Father's Ideals Forged Life In East For German Candidate (NYT)

By Judy Dempsey, International Herald Tribune

The New York Times, September 15, 2005

TEMPLIN, Germany - Half a century ago, the Rev. Horst Kasner made an extraordinary decision: He packed up his young family and moved from democratically governed Hamburg, West Germany, to this small town in the Brandenburg countryside, then the heart of Communist East Germany.

"We were young and idealistic back then," Mr. Kasner said recently, perched high above the pews in the choir loft of a Protestant church he rebuilt from the ruins when the Berlin Wall fell in 1989.

It seemed a laconic explanation of how Angela Merkel, his daughter, who could make history on Sept. 18 by becoming Germany's first chancellor from the East, grew up and lived under Communism until the wall was torn down.

A slim, tall man looking younger than his 79 years, Mr. Kasner offered insight into the workings of the Communist system in which he struggled to tell the truth and fended off the secret police.

Mrs. Merkel, who was just 3 months old when the family moved east, has said little about the effect of living under Communism.

Only in recent interviews has she revealed that her parents instilled in her the need to excel at everything to survive an environment suspicious of her father's Christian teachings.

Her father, who remains a pastor here in Templin, 50 miles north of Berlin, was certain in 1954, when the Protestant church asked him to move to East Germany from Hamburg. "We were needed over there," he said.

That was before the wall went up in 1961, and "you could still travel between both parts of the country," he said.

The company that Mr. Kasner contacted to move his family was nevertheless astonished.

The manager "said there were two kinds of people that went over to the East - Communists and real idiots." Mr. Kasner said.

Asked what category the manager reserved for him, he said: "The manager said he would have to find a third category. You see, I was young. It was my mission to go there."

The initial reaction of the East German authorities, he said, was: "It is so good of you to have gone over. Many have gone to the West." But, Mr. Kasner said the secret services always watched him.

He said that although he never openly challenged the authorities he used his weekly seminars and his Weissenseer Circle, an elite group of left-wing intellectuals tolerated by the government, to discuss difficult issues. Then in 1968, he was asked to become an informer for the Stasi, the state security secret police. "I had been discussing Andrei Sakharov's letter at the seminar," he said.

The letter by Mr. Sakharov, a Soviet dissident, was a trenchant account of how nuclear weapons and the arms race between the United States and the Soviet Union could destroy humanity. To avoid this, Mr. Sakharov called for a rapprochement between the capitalist and socialist systems.

"I do not know who informed on me," Mr. Kasner said. "Anyway, the Stasi called me in. They told me it was a criminal act to discuss such things."

"They proposed I work for them to avoid pressing charges. I told them anyone could hear Sakharov's letter on the radio. You could not build a wall to keep such things out. I refused to cooperate."

Mr. Kasner suffered no penalties. But his wife, Herlind, who had taught Latin and English in Hamburg, and his daughter ran into difficulty.

"My wife was not allowed to teach," he said.

At school in Templin, Mrs. Merkel excelled at languages. She had wanted to train to become a teacher and translator, but was not allowed to because of her father's profession.

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Instead, she studied physics at Leipzig University. Mrs. Merkel's fellow members of the Christian Democratic Party who know her well say her experience as a young woman led her to embrace the market economy and the United States.

While Mr. Kasner does not like to talk about his daughter, it is clear that he does not support her beliefs. When the wall fell, he would have preferred to have two separate Germanys. "I wanted a democratic East Germany," he said. "But the people wanted the Deutsche mark. The revolution is now over."

Mrs. Merkel, now 51, could hardly wait to seize the moment to embrace unification. "As far as I have been shaped by politics, I have been shaped by German reunification," she said during her television duel with Chancellor Gerhard Schröder. "I am proud to be a politician for all of Germany with East German roots."

In the buttoned-down town of her youth, residents interviewed seemed to take less pride in Mrs. Merkel than in her father.

"We are proud of Pastor Kasner because he rebuilt the church," said Birgit Dornbusch, 37, an unemployed mother. "I don't know what Merkel has achieved."

A New 'German Path' (WSJ)

By Wolfgang Schauble

The Wall Street Journal, September 15, 2005

How can our country's interests be best protected under the conditions of globalization, of ever more rapid and far-reaching world-wide changes, bringing a wealth of new opportunities, but also dangerous risks? This question currently demands that all European countries take fundamental positions. In Germany, because of the elections, it goes to the heart of future government policy.

The analysis of the Christian Democratic Union (CDU) and its sister party, the Christian Social Union (CSU), is clear: To preserve peace, freedom and security in Europe, the success of the European unification process and a functioning trans-Atlantic partnership are of paramount importance. There are no realistic and responsible alternatives -- neither going it alone as a nation, nor special relationships, nor politics in exclusive groups can lead in the long run to anything close to a justifiable level of stability.

Our guideline must thus be the strengthening of partnerships in our foreign and security policies and to avoid everything that could weaken trust. This way we'll aim to correct the wrong maneuvers of Gerhard Schröder's government, which have contributed greatly to the fact that Europe and the trans-Atlantic relationship are today experiencing their deepest crisis. The policy Mr. Schröder calls the "German path" was meant to suggest that reliability in foreign policy could be replaced by the demonstration of a kind of new national self-confidence. The disastrous consequence is a severe loss of trust among smaller and newer EU members, especially among Germany's eastern neighbors. The attempt to put Washington in its place, so to speak, by cultivating a Paris-Berlin-Moscow axis and missing no chance to ride the waves of anti-American sentiment has worsened Europe's division. Mr. Schröder ignored the fact that our new EU partners, in particular, will not allow themselves to be forced to choose between European and Atlantic solidarity. There is also a contradiction in his policies: on the one hand rightly demanding legitimacy for international action through multilateralism; on the other, however, acting unilaterally himself and taking positions on significant issues in a premature fashion that thwarts any joint decision-making process. Just take the question of lifting the weapons embargo on China. That Mr. Schröder is loudly proclaiming in his campaign that "German foreign policy is decided in Berlin and nowhere else" is emblematic of his foreign policy concept, fixated solely on domestic effect.

A federal government led by the CDU/CSU would put an end to such separate national paths and false axes. Germany will pursue policies that see European integration and the Atlantic partnership not as artificial opposites, but as two sides of the same coin. It will restore trans-Atlantic relations to a foundation of fundamental trust, not out of submissiveness toward Washington, but because we are linked by a common set of values, as well as by the most heavily interconnected economic market in the world, and because we are equally affected by the threats of transnational terrorism, weapons of mass destruction that could fall into the wrong hands, failing states, world-wide poverty and underdevelopment, and because we can best overcome these challenges if we develop common Euro-Atlantic positions. The coordinated action against Iran's nuclear program should serve as an example.

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Because European and Atlantic security cannot be separated, we want to strengthen NATO as the primary instrument of our security and defense policy. And we will act to increase the EU's capabilities and options, in order to strengthen the European pillar of the Atlantic security partnership. At the same time, we have a great interest in good relations with Russia, but not over the heads of our eastern neighbors and not by keeping silent about the problematic developments regarding the rule of law in Russia. Characterizing President Vladimir Putin, as Mr. Schröder did, as a "flawless democrat" harms the credibility of European policy toward Russia more than it helps it.

At the same time, it is important to free ourselves of old ways of thinking in the goals of our Russia policy as well as in the development of our relationships with other regions of the world; constellations oriented toward confrontation or competing poles will be unable to stand up to the actual challenges of the future. We Europeans must take Asia seriously in terms of its political and economic importance, and we must develop a long-term strategy of partnership with China, India and others without speculating upon rivalries and power shifts in regard to American efforts. Our future will depend in great part on the extent to which we succeed in using strategic partnerships to find effective policies to assist regions of the world currently mired in hopelessness. This defines a common responsibility for the poor and for the preservation of our natural resources, which will help fighting global dangers. For security, development and human rights go hand-in-hand, and together they will determine the long-term stability of our continent.

The wealth of tasks that we must master in order to protect our interests in a globalized world demand from us Europeans, above all, close cohesion and efforts to combat signs of economic sclerosis and restore dynamism, innovation and optimism. To remain relevant in tomorrow's world, we must strengthen the European integration process. We must use the current crisis in the EU as a chance to restore credibility to European politics and win back the support of the people. Europe needs to concentrate on the essentials, the effort to find the right balance both within and without. This requires a clear division of responsibilities among the EU, the member states, and the regions, and a certain rollback in the thicket of excessive European regulation, so that growth and dynamism are not suffocated by bureaucracy. And it is also necessary to take care that the borders of the EU are not stretched too far and that we do not ask too much of the people of Europe -- that the standard for future expansions is its absorption capacity; concretely, that our security goal of a positive development and permanent western linkage of Turkey should be achieved through a privileged partnership with the EU and not through full membership. In all this, close German-French cooperation will particularly important.

If we succeed in strengthening Europe's cohesion, achieving common Euro-Atlantic positions, and binding Russia, China and others into a system of cooperative international responsibility, then we will also face down the greatest challenge for our future: to credibly convince the non-Western world that the West does not stand against them.

Mr. Schäuble is a member of the German parliament and Angela Merkel's foreign and security advisor. Belinda Cooper translated this article from the German.

Protestants Say Anger And Alienation Are Fueling Riots In Belfast (NYT)

By Brian Lavery

The New York Times, September 15, 2005

BELFAST, Northern Ireland, Sept. 14 - Every morning this week, the broken glass and burned-out cars have quickly disappeared from the streets here after the previous night's rioting by Protestant mobs.

By late afternoon, the buildup to those riots begins again, as protests stall traffic. And Belfast seems shaken by the realization that deep-seated anger among Protestants has dashed hopes of a reconciliation with Roman Catholics anytime soon.

The police have blamed Protestant paramilitaries for organizing the recent violence, which has injured more than 80 police officers and two children who were hit in the head by bricks thrown through the windows of a car and a school bus.

Britain's Northern Ireland secretary, Peter Hain, said Wednesday that the government no longer recognized the cease-fire of a Protestant terrorist organization, the Ulster Volunteer Force, which has also been accused of killing four members of a rival Protestant gang this summer.

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The violence was largely unexpected, since the Irish Republican Army, the larger Catholic enemy of the Protestant paramilitary groups, in July announced an end to its 36-year armed campaign to drive Britain out of Northern Ireland, prompting Prime Minister Tony Blair to declare a new era of peace.

But many people said the clashes were the result of a more significant rift between the British government and Protestants, who are in the majority here. Britain wants to restart the local legislature set up by the 1998 peace accord to share power between Catholic and Protestant parties, but the rioting shows how resistant Protestants are to the idea.

On Wednesday, the police dispersed a roadblock in a gritty residential area. Davy Reid, a 28-year-old protester, said he was responding to a ban on a parade by the Orange Order, a Protestant organization, through a Catholic neighborhood last weekend. He listed other grievances, including the closing of a hospital maternity ward and the lack of a shopping mall nearby. Those services were available in Catholic areas, he said. "The government hasn't been listening," he said.

Nelson McCausland, a Belfast politician and a member of the Democratic Unionists, a hard-line Protestant party, said: "There is a fundamental anger and alienation. That sense of being marginalized and disempowered runs very deep."

No prominent unionists, who are largely Protestant and want the province to remain part of Britain, condemned the violence. After members of the Orange Order attacked police officers, Robert Saulter, the group's grand master, said, "Ordinary, decent and reasonable men have been goaded into behaving out of character by the authorities."

Mitchell B. Reiss, the American special envoy for Northern Ireland, criticized Protestants' failure to speak out against the rioting. "All of us are pretty disappointed with the abdication of responsibility by many unionist political leaders," he said.

Protestants held a privileged position in Northern Ireland for centuries, with access to better jobs and housing. That status has gradually eroded since the 1960's, when a civil rights movement began putting Catholics on an equal footing, and Protestants continue to feel slighted.

Protestants are also infuriated that Britain has rewarded the I.R.A. - by dismantling British military bases and releasing an imprisoned bomber - before the terrorist group fulfills its promise to disarm.

"We've given a lot over the last few years," said Reggie Spencer, manager of a community center. "I personally feel that we've given enough," he said, adding that the concessions to the I.R.A. had convinced most Protestants that violence was politically effective.

For IRA Critics, No Peace In Belfast (WP)

By Kevin Sullivan

The Washington Post, September 15, 2005

BELFAST, Sept. 14 -- The family of Robert McCartney, a Catholic whose death at the hands of Irish Republican Army members in January caused international outrage and brought White House condemnation, said Wednesday it was being subjected to a campaign of violence and intimidation for speaking out forcefully against the IRA.

Paula McCartney, Robert's sister, said her two teenage sons were beaten recently by family members of a high-ranking IRA officer who they believe was involved in McCartney's killing. On Monday night, one of Robert McCartney's closest friends, Jeff Commander, was beaten with metal rods by a gang of men the McCartney family also contends are IRA members linked to the killing.

On Tuesday night, at least 50 people, mostly women, demonstrated outside the home of Bridgeen Hagans, McCartney's fiancee, vowing to return every night until she moves out of the neighborhood.

"They want to intimidate us, they want us to keep quiet," said Paula McCartney, whose small home in the Short Strand, a close-knit Catholic community in East Belfast, is decorated with photos of well-wishers including U.S. Sens. Edward M. Kennedy (D-Mass.), Christopher J. Dodd (D-Conn.) and Hillary Rodham Clinton (D-N.Y.).

She said Commander's attackers used the recent riots in Belfast's Protestant communities as an opportunity to take revenge on McCartney's family while police and public attention were focused elsewhere.

Mitchell B. Reiss, President Bush's special envoy to Northern Ireland, described the situation as "disgraceful."

"We deplore the recent violence and intimidation against the McCartney family, Bridgeen and their friends," Reiss said Wednesday in a statement to The Washington Post. "It is unacceptable and should stop immediately."

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McCartney, a supporter of Sinn Fein, the IRA's political wing, was killed Jan. 30 in a pub brawl after an argument got out of hand. He was dragged outside and beaten by at least a dozen men, one of whom stabbed him in the heart.

In a remarkable departure from the code of silence enforced by the IRA among its Catholic supporters, McCartney's family publicly and repeatedly said that he was killed by IRA members and demanded justice. They said the IRA intimidated witnesses to keep them from coming forward and sent in professionals to clean up the murder scene and destroy evidence.

The family's campaign -- which included a visit with Bush at the White House -- badly embarrassed Sinn Fein and damaged its reputation as it fought an increasing perception that the IRA was tainted by thugs and criminals who lacked their forefathers' political ideals. Trying to stem the political damage, Sinn Fein's leader, Gerry Adams, invited the family to address a party meeting, where they issued impassioned demands for justice.

The IRA took the unusual step of publicly denouncing the McCartney killing and offered to shoot those responsible in the kind of rough justice it has long used to police Catholic communities. The McCartney family rejected that offer. Two men have been charged in connection with McCartney's murder, and the IRA announced it had expelled three members over the killing. In July, the IRA announced it was laying down its weapons for good.

Sinn Fein issued a statement Wednesday denying any link to the beating of Commander, whose bloodied head was featured in several front-page newspaper photos in Belfast on Wednesday. "Sinn Fein is totally opposed to intimidation of any type no matter where it comes from or who it is aimed at," said the statement issued by a party official, Gerry Kelly.

But in the Short Strand, an IRA stronghold where about 3,000 people live in modest two-story brick buildings, McCartney's family said IRA intimidation was still a way of life.

Even as the IRA has disarmed and lost much of its former clout, individual IRA members still "act as if they can do anything they want," said Jim Arnold, Paula McCartney's husband. "It's an absolute disgrace," said Arnold, a house painter. "They are dinosaurs. They live on the back of the IRA, but the IRA are finished, and they cannot grasp it. They won't move on."

Arnold said the people who took part in the McCartney killing are well known in the Short Strand. And he said that despite the IRA's claims that the men were expelled, they are still deeply involved with the paramilitary group. "This district is sickened by these people still parading around who were involved in Robert's murder," he said.

Arnold said these men joined a crowd of Catholics who gathered at the entrance to the Short Strand on Monday evening, standing guard against any rioting Protestants who might try to come in and cause trouble. He said they were also among the men who ambushed Commander later in the evening, opening a large gash on his head.

"They're trying to tell our family: Shut up or this is going to happen again," Arnold said. "The McCartney family opened a lot of eyes in Belfast."

Arnold and Paula McCartney, as well as Bridgeen Hagans, are making plans to move out of the neighborhood. "I can't live in a community where it is perfectly acceptable to murder an innocent man and still walk around freely," Paula McCartney said.

Deal For Ukraine Company Renews Charges Of Abuse (NYT)

By Steven Lee Myers

The New York Times, September 15, 2005

KIEV, Ukraine, Sept. 14 - In the last weeks of Leonid D. Kuchma's scandal-tarred presidency, an American company reached an agreement with his government to take control of a state-owned chemical factory in eastern Ukraine under terms that have been criticized as secretive and suspiciously generous.

On Sept. 2, dozens of men dressed in camouflage and body armor stormed and seized the headquarters of the factory, the Severodonetsk Azot Association. They were accompanied by officials of a new government, carrying an order signed by a minister under Mr. Kuchma's successor, Viktor A. Yushchenko.

The order was based on a court case filed by a fictitious company, on behalf of a politician who stood to gain from the seizure, according to a senior government official.

"It was a very serious abuse of the system," said the chairwoman of the country's State Property Fund, Valentyna P. Semeniuk.

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The accumulated weight of scandal and internal rifts has destroyed the political coalition that Mr. Yushchenko formed to challenge Mr. Kuchma's government and create a newly democratic, corruption-free government. It has also raised questions about the true success of what came to be known as the Orange Revolution, as members of Mr. Yushchenko's team volley accusations of abuse of power, bribery and other forms of corruption.

"Corruption exists in different countries, but in civilized countries there is prompt action against it," said Oleksandr O. Zinchenko, Mr. Yushchenko's chief of staff, who resigned, coincidentally, on the same day that the company was seized. Three days later he went public with accusations of corruption among Mr. Yushchenko's senior aides, three of whom he named, and the president did nothing about it.

Mr. Zinchenko's resignation provoked a political firestorm here that shows little sign of subsiding.

Last week Mr. Yushchenko dismissed his prime minister and the rest of her government, as well as the head of the customs service. He also suspended or accepted the resignation of several members of his staff who are at the center of Mr. Zinchenko's accusations.

Even so he has defended his aides, much as Mr. Kuchma called accusations against his own aides politically motivated. "There is an anecdote," Mr. Yushchenko said Monday. "It does not really matter whether a man has a daughter or does not have a daughter. It is enough to say in public that his daughter does not behave herself well."

That has not stopped him, however, from accusing the departed prime minister, Yulia V. Tymoshenko, of corruption herself. After first striking a conciliatory note after her dismissal, Mr. Yushchenko accused her of siphoning $1.6 billion from the budget "in favor of private undertakings," coercing judges and improperly intervening in a dispute over an alloy plant, Nikopol Ferroalloys.

"It is very unpleasant for me to think what Yulia Vladimirovna could have received if Nikopol Ferroalloy would have been transferred into the hands of business groups," he said in another interview, on Tuesday, referring to Ms. Tymoshenko.

Mr. Yushchenko appointed a new prime minister, Yury I. Yekhanurov, and has since rallied political parties, including some that he opposed only a year ago, to form a sort of unity cabinet. He also created a commission to investigate corruption in his inner circle, but gave it only 10 days - until next week - to say whether the charges warrant further investigation. He has already suggested publicly that they will not.

The allegations, however, may prove difficult to sweep aside. Reports of bribery and corruption have swirled around Mr. Yushchenko's circle from the time of his inauguration in January. His son came under scrutiny this summer for receiving gifts and favors.

"Corruption is in the air," Ms. Tymoshenko, who was one of the most impassioned and popular leaders of last year's protests, said in an interview, citing complaints of businessmen forced to pay bribes to members of Mr. Yushchenko's administration. "This is the air we had to breathe."

A senior Western diplomat said he gave credence to reports that Mr. Yushchenko's aides had solicited payment for access to the president, for appointments to government positions, to influence court cases and to win control over state enterprises. He said a government official had told him of personally being asked for a bribe by one of Mr. Yushchenko's senior aides, whom he would not name.

"I think he is vulnerable, because of his loyalty, to the bad behavior of those around him," the diplomat said of Mr. Yushchenko, speaking on condition of anonymity because of diplomatic protocol.

Even an informal adviser to Mr. Yushchenko, Oleksandr Y. Pakhavyov, said corruption was endemic in Ukraine, and the shadowy intersection of business and state made it unrealistic to expect a swift change.

He cited an effort by Ms. Tymoshenko to crack down on the smuggling of meat through customs. The contraband, he said, accounted for nearly a fifth of all meat purchased in Ukraine. After Ms. Tymoshenko's government tightened controls, prices soared, sparking one of the economic crises that have eroded Mr. Yushchenko's popularity.

Viktor M. Pinchuk, one of the country's wealthiest men and the son-in-law of Mr. Kuchma, said it was not government policy but commercial interest - Ms. Tymoshenko's - that was driving the legal challenge to Nikopol Ferroalloy Plant. He acquired a controlling share in 2003 in a tender since criticized as rigged.

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He said Ms. Tymoshenko had intervened on behalf of a minority shareholder who had close ties to her. Ms. Tymoshenko denied that, saying she was acting to seize the shares owed the state.

The dispute over Severodonetsk Azot, Ukraine's third largest chemical plant, boiled over even as Mr. Yushchenko's coalition imploded.

Worldwide Chemical, a subsidiary of New York-based IBE Trade, agreed to invest $180 million in a new company with Mr. Kuchma's government in exchange for 60 percent of its shares.

James William Grant, Worldwide Chemical's vice president, said that within months the new investors, including Americans and Russians, had increased production, raised salaries and paid off the debts that had forced the former state enterprise into bankruptcy.

But a lawsuit filed in March in a district court in Kiev - not in Lugansk, where the factory is located - challenged that deal, and the court agreed. Neither the state nor the new company had the chance to mount a defense, according to Ms. Semeniuk of the property fund.

The government's role in the dispute is far from clear. In letters to American congressmen who voiced concerns, Ms. Semeniuk and Mr. Yushchenko promised that the matter would be resolved in court.

Yet, despite Mr. Yushchenko's pledges, the minister of industrial policy, Valery N. Shandra, signed an order late last month returning control of the plant to what was left of the state enterprise, and one of his deputies was there when the plant was seized. Mr. Shandra, who was dismissed with the rest of the government, could not be reached for comment but his deputy, Viktor N. Baranchuk, said the ministry had to carry out the court's order, even though it was on appeal. "We are being made scapegoats," he said.

The men in camouflage - Mr. Grant said it was never clear who they were or whether they were armed - occupied the plant's headquarters for four days, as workers and company executives protested outside. On Sept. 6, Mr. Yushchenko intervened, even as he held frantic negotiations to salvage his government, ordering that the factory be returned to Worldwide Chemical until the matter was resolved in court.

Referring to this case, as well to Nikopol and others, Mr. Yushchenko said intrigues in his circle reflected a "a very complicated metastasis in the society and in the authorities."

Mr. Grant, a former congressman from Florida, said the company remained concerned about the fate of its investment in what had promised to be a new Ukraine.

"We expected better," he said.

Remember Daniel Ortega? He's Back. (CSM)

By Danna Harman

The Christian Science Monitor, September 15, 2005

EL JICARAL, NICARAGUA - Little seems to have changed in this small rural village in the past two decades: women are down by the river doing their washing, cattle are roaming among the cacti, cowboys are drinking beer at the canteen, and Sandinista leader Daniel Ortega is in the town square, holding forth on the evils of capitalism and the United States.

"The US no longer rules Latin America!" Mr. Ortega thunders into the dark night. "The Yankees no longer rule Nicaragua!" The small crowd of farmers hoist their black and red Sandinista flags high and chant: "Daniel, Daniel!"

Fifteen years after unexpectedly being voted out of power, and with two unsuccessful runs for the presidency since, the iconic head of the Marxist Sandinista National Liberation Front (FSLN) is back on the campaign trail. Ortega, a name many US officials had hoped to consign to the history books, has a fighting chance of returning to power.

Just staying in the running has looked doubtful for Ortega at times. His credibility has taken a beating since he signed a self-serving pact in 1999 with political rival and former President Arnoldo Aleman, now serving a 20-year sentence for embezzlement; his grown-up stepdaughter accused him in 1998 of abusing and raping her for years; and his former comrade-in-arms Herty Lewites is now running against him, mounting the first serious challenge to his leadership from within the Sandinista ranks.

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But despite it all, Ortega says he is confident the November 2006 elections will put him back in the presidential palace. Even his critics say divisions within the ruling party, coupled with Ortega's grip on the electoral machine, make his resurrection possible. "Conditions are ripe for triumph," says Ortega in a late-night interview in Managua. "We will win, and we will wield great power here."

Washington, which backed the contra rebels in a civil war against Ortega's government of the 1980s until he lost the 1990 election, is none too pleased with the prospect. After toppling the Somoza family dictatorship in 1979, Ortega's Soviet-backed Sandinistas sparked widespread US intervention in Central America to counter what Washington saw as a communist threat in the region.

Roger Noriega, the Bush administration's outgoing top envoy to Latin America (who has called Ortega a "hoodlum"), told the Managua newspaper La Prensa last month that if the Sandinistas returned to power, Nicaragua would "sink like a stone and reach depths such as those of Cuba."

Ortega's democratic credentials "are very doubtful," sniffed US Ambassador Paul Trivelli, taking up his new post in the country this week.

"The triumph of the Sandinistas will raise the morale of Latin America," says Ortega, tapping into the Bush administration's worst fears of a growing left-leaning, populist, anti-American movement on the continent, led by Cuba's Fidel Castro and Venezuela's Hugo Chávez. "Other countries will say - 'look, that small country got away with it - so can we!' We will spread the revolution." There is an alternative, he whispers, his voice hoarse from weeks of rallies, "to succumbing to the American Empire."

US interference could backfire

Carlos Fernando Chamorro, a former editor of the Sandinista newspaper Barricada, says too much US interference in the lead up to the election could actually help Ortega. The problem with Washington, he argues, is that they are stuck in the past. "The new right running Latin America policy are all leftovers from the '80s, who still behave like we are in the middle of the cold war," he says. "Every time Washington attacks Ortega, his supporters close ranks."

Otto Reich, a chief architect of President Ronald Reagan's policy against the Sandinistas and today a private consultant, shoots back: "Ortega is a communist, or whatever he calls himself," says Mr. Reich, in a phone interview from Washington. "If he wins, there will be no foreign investment and no US aid." Washington might see the world through '80s glasses, he concedes, but Ortega "...is stuck in the '60s and is acting like a Bolshevik."

Talking to Ortega, or hearing him on the campaign trail, is indeed more history lesson than interview, more nostalgia for the past than concrete plans for the future.

"[President] Bush is the Reagan of these times," Ortega tells a crowd gathered in the scorching sun of Santa Rosa del Pinon, a village in the mountains north of Leon - and immediately segues into tales of days gone by. "Yankee Reagan forbade peace," he rails. "He wanted to bring death and destruction to the region."

Adults cheer, children step forth to receive free FSLN bandannas, and old rebel anthems blare from the loudspeakers. Ortega's wife, revolutionary poet Rosario Murillo, thrusts her thin arms into the air, her bejeweled fingers clenched together in a tight fist.

Everywhere Ortega goes, people circle around him, hugging, kissing - and handing him handwritten notes. Most begin in the same way: "Please, Commandante ..." A young girl in El Jicaral has no school books. An old lady in Masaya needs arthritis medicine. A mother of five in Santa Rosa del Pinon wants shoes for her children - and a new house.

The notes get passed along to a burly man with a gold watch and thick mustache named Chico Lopez, or to Julio Paladino. Mr. Lopez is Ortega's financial officer in charge of "disbursements," Mr. Paladino, a handsome man with a big black bag, is the Sandinista leader's doctor, in charge of prescriptions. Some requests are handled on the spot - 300 cordoba ($17) for clothes here, 200 ($11) for medicine there. Larger requests - for scholarships, say, or operations - are dealt with later, back at headquarters in Managua.

Nicaragua remains one of the poorest countries in an impoverished region. The money disbursed, says Lopez, is all from donations. "We are the only ones who consistently help the people," says Paladino as he checks someone's distended stomach behind the stage. "This is what Daniel is about and that is why he is loved."

And yet for all these pronouncements, and US anxiety, analysts here say Ortega's political future is far from assured.

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A poll done this month by B&A, a regional company based in Costa Rica, shows Ortega, with 20 percent of the vote, lagging behind both Eduardo Montealgre, a right-center candidate with 23 percent of the vote, and Mr. Lewites, with 35 percent.

Lewites, the former mayor of Managua, was expelled from the Sandinista Party when he announced his intention to run for president. Ortega canceled his challenger's permits to hold political rallies, forbade him to use Sandinista Party symbols, and accused him of corruption. New regional mood of 'lite left'

Central America, unlike South America, is actually moving away from left-wing anti-Americanism, says Victor Borge, director of B&A. Upcoming elections in El Salvador, Costa Rica, and Honduras are all expected to be won by moderates, he says. "If Ortega manages to come to power in 2006," he adds, "...it would indeed symbolically be a big deal and might motivate other leftists. But that does not seem in tune with the mood in the region."

Lewites calls the new mood "lite left," and it is one he subscribes to. Lewites says he does not share Ortega's singleminded obsession with the US - but neither is he running to Washington for validation. "I think we should maintain good relations with the US. We need each other," he says. "I will be respectful, but firm."

If elections are fairly run, says Lewites, he is confident of victory. But will they be fair? "Of course not," he responds. Thanks to his pact with [former president] Aleman, Ortega all but controls the parliament, the supreme court, and the electoral commission, he adds.

Ortega, too, says is worried about cheating in the elections - but a different kind. "Elections in Nicaragua are not normal elections - they are a confrontation between the US and the Sandinista front," he says, concluding the interview and heading into a midnight meeting. "The US will do anything to decimate us," he says. "But we are here." Ortega's Political Path

1961: Sandinista National Liberation Front (FSLN) founded.

1979: President Anastasio Somoza Debayle overthrown.

1980: FSLN government led by Daniel Ortega nationalizes lands held by the Somoza family.

1982: US-sponsored attacks by Honduras-based contra rebels begin; state of emergency declared.

1984: Mr. Ortega elected president in elections boycotted by opposition.

1987-88: FLSN signs cease-fire pact. Later, holds talks with contra rebels.

1990: US-backed center-right National Opposition Union defeats FSLN in elections; Violeta Chamorro becomes president.

1996: Ortega loses presidential bid.

2001: Liberal party candidate Enrique Bolaños beats Ortega for president.

2002: Opposition Sandinista Party re-elects Ortega as its leader despite his three consecutive defeats since 1990.

2005, September: After pressure from neighboring countries, the US, and the Organization of American States (OAS) to avert a political crisis in Nicaragua, Ortega tells Sandinista lawmakers to drop efforts to have President Bolaños impeached.

Sources: BBC, AP, Reuters.

Revolutionary China, Complacent America (WSJ)

By Charlene Barshefsky And Edward Gresser

The Wall Street Journal, September 15, 2005

Are Americans missing a revolution? Across the Pacific, China's emergence is reshaping not only trade, but also world finances, global manufacturing and the entire East Asian economy. This should naturally give rise to searching debate. But the debate we are actually having is limited to a series of complaints about currency rates, intellectual property piracy and Chinese investment intentions in the U.S. It is more a to-do list than an assessment of structural global change and what it means for America. Some of the complaints are valid. But to focus on complaints alone -- even serious ones -- is to risk mistaking the foothills for the Himalayas behind.

China is opening to the world, merging its low costs and vast manpower reserves with the financial and technological strengths of its wealthier neighbors. In the process, it is rapidly creating an informal "Asian Union" -- a deeply integrated Asian economy with a GDP equal to America's, a population six times as large, the technological and financial strengths of an advanced economy and the cost advantages of a developing one. This powerful competitive challenge cannot be met by protectionist legislation, penalty tariffs or bans on Chinese investment. Instead, America needs a strategic response that rethinks

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our own consumption and debt-led growth, addresses our competitive weaknesses and reshapes our approach to Asian trade and global financial institutions.

No country leads the world by divine right. China itself provides a sobering lesson. According to the economic historian Angus Maddison, the emperors of the Qing dynasty ruled almost a third of the world's population and oversaw a third of world GDP. They looked back on a history of innovation, spanning the inventions of paper money, explosives, the printed book and the professional civil service. They considered their status natural and eternal. When Europe's diplomats and merchants began to arrive in the 1790s, the emperors thought them insignificant. It was a devastating mistake. Employing superior technology and military tactics, Europe came to rule Asia in just a few decades. China's leaders were discredited and its vassal states fell away. The ensuing period of demoralization and upheaval lasted almost two centuries.

America faces no such grim future: What we do face, however, is a substantial challenge. We have been the leading economy for a century. But other countries of similar size and potential can catch up -- if they try, and we remain content with past glories. China's economy has tripled in size since 1980 and continues to grow at 9% per year: it could equal ours by 2020. China is also climbing the tech ladder, investing in ports, coastal-road systems, telecom networks, research centers and universities. It draws $50 billion a year in foreign direct investment, and topped $60 billion in 2004. It is already getting results, first shifting from exports of light, labor-intensive manufactured goods to heavy industry and technology, and now to a new role as financier and outward investor. This is happening because China is getting some big things right; its neighbors are contributing to and benefiting from its success; and we are not keeping up. Consider three trends.

Asia is pooling its strengths. Despite America's outsourcing debate, investment in China is predominantly an Asian phenomenon. Three-quarters of China's $60 billion in FDI last year came from Hong Kong, Taiwan, Japan, Korea and Southeast Asia. In 2003, China's Commerce Ministry calculated that Asian investment puts up about 20,000 "manufacturing facilities" a year. These facilities mesh China's low costs and skilled workers with the technology and capital of its wealthier neighbors, strengthening all of Asia. China now intends to extend these relationships through formal preferential trade agreements with Asean, India, Pakistan, Australia and perhaps Japan. America's response to date is limited to a free trade agreement with Singapore and perhaps a later accord with Thailand. Our role in the Pacific risks erosion.

Asia's human capital is improving. The Chinese government builds about 200 new research centers a year. Since the '80s, Chinese college enrollment has quadrupled to 20 million. And students are taking the hard subjects. The Computer Systems Policy Project notes that Chinese universities now produce 200,000 engineers a year. Japanese schools produce 100,000, and smaller economies like Taiwan, Korea, Hong Kong and Singapore are much the same. America, meanwhile, has fewer native-born technology graduates than we did 20 years ago. Only 60,000 new American engineers graduate each spring. Concurrently, new visa restrictions have impaired our ability to compensate by discouraging skilled workers, scientists and aspiring students to emigrate to the U.S. Since Sept. 11, our pool of foreign graduate-study applicants has shrunk by 30%.

Asia is saving money. Chinese families save as much as 40% of GDP. Savings rates in Korea, Taiwan, Hong Kong and Japan are also exceptionally high. Meanwhile, we are borrowing. Our savings have fallen to between 1% and 2% of GDP since 2001, a level last seen in 1934. Our economic growth rests on a consumption and shopping boom, financed by China, Korea and Japan, which has pushed up current account deficits and overseas liabilities. Public opinion polls show Americans anxious despite two years of strong growth -- and rightly so.

Asia has weaknesses too, of course. Great-power relationships among China, Russia, Japan and India are uneasy. Asia's population is aging faster than ours. China in particular faces weak finances, environmental stress, severe income inequality, widespread poverty and an uncertain rule of law. And the U.S. maintains many strengths, from a robust political system to superior universities, from sophisticated environmental and intellectual property policies to special advantages in medicine and the life sciences. But if we do not recognize our weaknesses, our strengths may not be enough. * * *

How should we respond? The U.S. must develop an integrated policy to address this emerging challenge in all its aspects. Perhaps we can identify four priorities. • First, we must reduce the risk of global trade and financial imbalances. America saves and exports too little and consumes too much on credit; Asia saves too much and overinvests in real estate and export industries. This pattern poses risks for both sides. Because our current-account deficit is above 6% of GDP and we are dependent on foreign capital to finance growth, we risk financial shock and face rising long-term liabilities. Asia, for its part, is building up stocks

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of dollars whose value is likely to fall and relies on the mood of U.S. consumers for growth. Since responsibility for the imbalances is shared, we must together reduce them. This necessitates further currency appreciation in China, deficit reduction and personal savings incentives in the U.S., and sustained liberalization in Japan and Korea.

• Second, America needs to raise its game at home to remain the world's technological leader. To this end, our tax policy needs sharpened focus on encouraging innovation. Public investment must be reshaped to improve high-tech and traditional infrastructure. Both the government and the private sector should increase investment in research, particularly in the physical and information sciences. Federal spending on basic science (excluding life sciences) has been stagnant in real terms for three decades, and since the '70s has dropped by 37% relative to GDP. The government must also contribute to a renewal of human talent by rethinking visa policy. Waiting periods for foreign students applying to graduate schools should be cut and work-visa constraints for scientists and engineers should be eased. America also needs to create a larger network of elementary and secondary schools focused on science and technology.

• Third, America's central place in the Pacific economy must be maintained. The FTA with Singapore and the partially negotiated one with Thailand are a start, but scale matters. Regardless of the outcome of the WTO's Doha Round, ambitious agreements should be negotiated with the major Asean countries, South Korea and Japan. In addition, strengthened economic ties with India should further ensure a robust U.S. economic presence in Asia.

• Finally, American needs to restructure its economic relationship with China, and China needs to reshape its own engagement with the world. For the U.S., episodic attention to the specific issues highlighted by Congressional debates is not enough. Complaints about specific Chinese trade policies should be met through bilateral negotiations, the WTO and U.S. trade laws. Together with this must come a broad and intensified engagement with China and Asia more generally, predicated on China's own growth, its central role in Asian integration and Asia's larger role in the world economy. This requires not only rethinking American policy, but fundamental reform of global economic institutions, in particular the G-8, the IMF and APEC. As the world's second-largest economy, third-largest exporter, largest destination for FDI and second-largest holder of foreign currency reserves, China should be a G-8 member, not an occasionally invited guest. Korea has an economy easily comparable to Canada or Italy, and should also be a member. The IMF quota allocation is similarly undersized. China's share of contribution to IMF resources is 3%, a rate equal to Canada's and not far above Belgium's. This is far below the level of responsibility China should accept in the global financial system. APEC, too, needs a new mission, one that reignites its early vision of "free and open" trade in the Pacific and addresses four major long-term issues of common concern: energy, climate change, aging and Pacific finance.

Before all this, however, comes a first step. That is recognition by the administration, Congress, businesses and the public that we face a powerful competitive challenge, one that cannot be attributed to undervalued currencies or unfair trade. The plain fact is that our competition has gotten tougher, and we need to match it. Two hundred years ago the Chinese emperors failed. America must act now to succeed.

Ms. Barshefsky, U.S. Trade Representative from 1997 to 2001, is a lawyer in Washington. Mr. Gresser, director of trade and global markets at the Progressive Policy Institute, was policy advisor at the Office of the USTR from 1998 to 2001.

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TERRORISM NEWS:

Sept. 11 Commission Rejects Atta Claim (AP-Y2)

By Devlin Barrett, Associated Press Writer

AP2, September 15, 2005

Former members of the Sept. 11 commission on Wednesday dismissed assertions that a Pentagon intelligence unit identified lead hijacker Mohamed Atta as an member of al-Qaida long before the 2001 attacks.

The ex-commissioners also criticized the government for not putting in place changes recommended last year in homeland security and emergency response. They pointed most notably to the failure to improve communication systems, which they said might have saved lives after Hurricane Katrina.

Rep. Curt Weldon (news, bio, voting record), R-Pa., had accused the commission of ignoring intelligence about Atta while it investigated the attacks. The commission's former chairman, Thomas Kean, said there was no evidence anyone in the government knew about Atta before Sept. 11, 2001.

Two military officers, Army Lt. Col. Anthony Shaffer and Navy Capt. Scott Phillpott, claimed a classified military intelligence unit, known as "Able Danger," identified Atta before the attacks. Shaffer has said three other hijackers were identified, too.

Kean said the recollections of the intelligence officers cannot be verified by any document.

"Bluntly, it just didn't happen and that's the conclusion of all 10 of us," said a former commissioner, ex-Sen. Slade Gorton, R-Wash.

Pentagon officials said this month that they could find no documents to back up the claims.

According to Weldon, members of "Able Danger" identified Atta and three other hijackers in 1999 as potential members of a terrorist cell in New York City. Weldon said Pentagon lawyers rejected the unit's recommendation that the information be turned over to the FBI in 2000.

Weldon's spokesman, John Tomaszewski, said no commissioners have met with anyone from Able Danger "yet they choose to speak with some form of certainty without firsthand knowledge."

Separately, the former commissioners criticized Congress for not updating communications rules to help police, fire, and rescue personnel in a crisis such as Katrina.

"It is a scandal in our minds," Kean said.

The commissioners also faulted state, local, and federal authorities responding to Katrina for not having a clear chain of command, leading to some of the same confusion that plagued the Sept. 11 rescue effort.

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On the Net:

The 9/11 Public Discourse Project: http://www.9-11pdp.org

Judge Says Somali Man's Statements Will Be Admissible (AP)

Associated Press

AP, September 15, 2005

COLUMBUS, Ohio - The government can use at trial statements made by a Somali man accused of plotting to bomb a shopping mall, a judge ruled.

Nuradin Abdi's attorneys had sought to bar statements he made to authorities in which he admitted to falsifying immigration documents and planning to blow up an undetermined Columbus-area mall.

But U.S. District Judge Algenon L. Marbley said Tuesday that the statements were admissible because Abdi made them in the presence of his lawyer.

Marbley said Abdi's arrest in November 2003 was illegal because government agents appeared to act only so they could interrogate him. Statements he made after his arrest would have been void had he not repeated them later when his lawyer was at his side, the judge ruled.

Abdi's attorney, Mahir T. Sherif, says the value of the information "is outweighed by the danger of unfair prejudice," against his client, whose trial is scheduled for Sept. 26.

Abdi, 33, has pleaded innocent to charges of conspiring to aid terrorists and lying to gain political asylum in the United States as a refugee.

Prosecutors accuse him of obtaining travel documents in 1999 by telling officials he planned to visit Germany and Saudi Arabia when he actually went to a military-style training camp for terrorists in Ethiopia.

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Federal agents arrested Abdi on Nov. 28, 2003, after convicted al-Qaida operative Iyman Faris told them Abdi suggested the mall plot.

RP To Hand Over 3 Officials Linked To Spy Case (MANSUNST)

Manila Sun Star, September 15, 2005

MANILA -- The Philippine Government is willing to turn over three public officials tagged by the US Federal Bureau of Investigation (FBI) in connection with the espionage case filed against former police official Michael Ray Aquino in the US, Justice Secretary Raul Gonzalez Sr. said.

Gonzalez met with US legal attaché to the Philippines Jeff Cole, who furnished him confidential notes on the arrest of Aquino in Queens, New York and his friend, FBI analyst Leandro Aragoncillo, a Filipino-American, in New Jersey.

They were arrested for espionage and conspiracy in stealing 101 secret documents relating to the Philippines.

In a press briefing, Gonzalez said among those who are allegedly involved in Aquino's espionage activities include a former official and two incumbent officials.

"These things will be revealed when they (US) open the evidence during the indictment proceedings on Sept. 21. The documents, including the CDs, are still sealed. These officials who are believed to be involved are coded," he said.

Once the names of the three Philippine officials are revealed and it is proven that they are Aquino's cohorts, they will be named as co-conspirators for violation of US laws.

"The Philippine Government will only be dragged into this once the warrants for their (three Philippine officials) arrest are issued by the US court. Then we will be asked for their extradition," he said.

The Philippine Government has extended legal assistance to Aquino, although the allegation of his involvement in espionage activities in the US was highly sensitive and serious against the Philippine Government.

"The Philippine consulate in New York has immediately hired a lawyer for Aquino. We always give lawyers to any Filipino accused of crimes in the US and other countries," Gonzalez said, noting that the Philippines is bound by the extradition treaty and the mutual legal assistance treaty with the US Government.

Under US rules, espionage is a non-bailable offense punishable by 10 years' imprisonment and a fine of not less than $250,000.

Earlier reports said the espionage activities of Aquino in the US are part of the current destabilization move against the Arroyo government.

Aquino was a close aide of Senator Panfilo Lacson, who served as Philippine National Police director under the Estrada administration before he ran for public office.

However, Lacson said Aquino cannot be charged with espionage because he is not a foreign agent.

Based on the information he gleaned from the Internet, Section 783 of the US Code states that a person can be charged of crime of espionage only if he is proven a foreign agent.

Lacson said the definition of a foreign agent under Section 951 of the same US code is an individual who agrees to operating within the US, subject to the direction and control of a foreign government.

One of the so-called classified information passed to him were the contents of the "Hello Garci" tapes, anomalies and corruption in the government and the recent impeachment proceedings in the House.

Lacson said he and "many others" received information passed by Aquino, but he downplayed the value of the reports, describing them as "shallow information."

"I am not sure which of the information that I and others received were considered classified, because to my recollection, the bits of information I got from him were largely news that everyone has read and heard in our local media," Lacson said in a statement.

He said the information may have been US Embassy reports to Washington on the current political situation in the Philippines.

Lacson said the FBI does not have the kind of information and this was gleaned from newspaper clippings that were compiled by the Philippine embassy here and sent to the US.

"But come to think of it, we have far more sensitive information which we can read at Philippine Center for Investigative Journalism (PCIJ) and Newsbreak Magazine than the classified information the US is pertaining to that Michael Ray Aquino has passed on," Lacson explained.

The senator said he has called his friends abroad to help Aquino pay the attorney's fees because legal services in the US are steep.

Meanwhile, NBI Director Reynaldo Wycoco said that if Lacson is intent on dragging his name in Aquino's case, he should probably go to any of the Philippine consulates in the US and explain himself.

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He said Lacson could do this now or after he has been named in the case. (Sunnex)

DOJ To Turn Over RP Officials In Spy Case (PHILSTAR)

Philippine Star, September 15, 2005

Justice Secretary Raul Gonzalez is ready to turn over to US authorities a former and two incumbent government officials believed to be involved in the alleged espionage activities of cashiered police Senior Superintendent Michael Ray Aquino.

Speaking to reporters, Gonzalez said the three would be charged with acting as Aquino's cohorts in a conspiracy to violate US laws, once they have been identified.

"These things will be revealed when (the US) opens the evidence during the indictment proceedings on Sept. 21," he said. "The documents, including the CDs, are still sealed. They will be opened on September 21. These officials who are believed to be involved are coded."

The CDs are thought to contain copies of the evidence supposedly obtained by the suspects from computers at an office of the Federal Bureau of Investigation (FBI).

Gonzalez said that, based on highly confidential documents from Legal Attaché Jeff Cole, Aquino's cohorts include a former and two incumbent officials.

"The Philippine government will only be dragged into this once the warrants for their (the three Philippine officials') arrest are issued by the US Court," he said.

"Then we will be asked for their extradition. The former official number one is classified as High Level, number two is a current public official, while number three is a second High Level public official."

The Philippines is bound by an extradition treaty and the Mutual Legal Assistance Treaty (MLAT) with the US, he added.

National Bureau of Investigation Director Reynaldo Wycoco said yesterday the government would accede to any request from the United States to extradite three unnamed Filipino politicians reportedly involved in Aquino's activities.

"It is a treaty (extradition) we have with the US so we have to honor and abide by it although there is a process we have to go through," he said.

"I think that (extradition request) will follow if and when there would be an indictment, if and when a warrant would be issued by an American judge and if as a consequence there would be a request for the extradition" of the three unnamed officials.

Speaking to reporters at Malacañang, Wycoco said Sen. Panfilo Lacson should "go to any US territory or Philippine consulate in the US to clarify matters if he feels alluded to in the FBI complaint."

Aquino was an aide of Lacson while he was Philippine National Police chief under former President Joseph Estrada.

The NBI is not concerned about the political implications of Aquino's case as its main concern is "purely informational," he added.

On the other hand, lawyer Ricardo Diaz, NBI Interpol Division chief, said the FBI might reveal the names of the three men arrested on Sept. 22 or 23.

"The unsealing of the documents is scheduled on either September 22 or 23," he quoted an FBI official as saying. "By that time, the cat would already be out of the bag, meaning the names would be available by that time.

"Once the documents have been unsealed the names of the three officials based in the Philippines would already be made available to the public as well as the contents of the tampered documents."

Diaz said they have no idea what documents FBI intelligence analyst Leandro Aragoncillo allegedly printed or downloaded between May and Aug. 15, except that it consisted of 101 classified documents related to the Philippines.

"To determine if a document is top secret is part of their sovereignty," he said.

Gonzalez had already made an official request to Cole for copies of the documents, he added.

An FBI agent met yesterday with Wycoco and Diaz, but after the meeting, Wycoco begged off from being interviewed.

Meanwhile, Gonzalez said the government has extended legal assistance to Aquino.

"We are extending legal assistance to Michael Ray Aquino because he is a Filipino," he said.

"The Filipino consulate in New York has immediately hired a lawyer for Aquino. We always give lawyers to any Filipinos accused of crimes in the US and other countries."

Aquino's wife seeks help On the other hand, Lacson said yesterday Aquino's wife, Fatima, has asked him to extend legal assistance to her husband, since the family cannot afford to pay for the services of a top-caliber lawyer.

"She told me, 'Sir, you might have a friend who can help us,' because they have no money to pay a lawyer," he said in Filipino.

"I started seeking the help of some friends. But US lawyers really charge a lot, you have to pay for each telephone call to them. He is really in a difficult situation.

"So it's important that (he) gets a lawyer of his choice, not provided by the US government. He would be comfortable in explaining that, under US law, he is not guilty."

Lacson said Aquino's case might not fall under Section 783, Title 50 on War and National Defense, chapter 23 (Internal Security) and subchapter one (Control of Subversive Activities) of the US Code, with which he is being charged.

Meanwhile, Lacson said he would ask a lawyer the extent of the US government's jurisdiction over a Filipino who is in the Philippines.

Aquino is not considered a foreign agent, he added.

Material related to the controversial "Hello, Garci" tapes was reportedly among the information passed on to Lacson by Aquino, but the opposition senator said the material was not sensitive, since it had already appeared in Philippine newspapers and other media outfits.

"Help my brother" A sister of Aquino asked the government yesterday to help her brother be released from jail in the US, where he is facing charges of espionage.

"My brother is still a Filipino," Dr. Jasmin Aquino said in Filipino at a press conference in Pasig City yesterday afternoon.

"He did not do anything wrong, he was just a victim. He loves the country so he was forced to leave for his peace of mind."

She said she saw her brother in September last year when she went to the US.

Holding back tears, Jasmin said her brother, a former top police official when Lacson was PNP chief, was forced to do odd jobs in the US to make a living.

Her family has yet to talk to Lacson and other groups to help in their brother's legal problems, Jasmin said.

Filipino consul can't see Aquino In New York, Consul General Cecil Rebong told visiting Filipino journalists that it was not normal for US authorities to take so long in notifying a foreign government of the arrest of one of its citizens, as in the case of Aquino.

Rebong said she received from the US Attorney's office a "notification of arrest" informing the consulate that "We (US authorities) arrested and detained Michael Ray Aquino, who we understand to be a national of your country, on September 10, 2005."

"It's just a short notification," she said. "There are no other specifics, not even the place where Aquino is being held."

The document was signed by Assistant US Attorney Karl Buch, she added.

However, Rebong said she had learned from Felix Vinluan, Aquino's immigration lawyer, that the former police officer was detained in a New Jersey jail.

Aquino hired Vinluan in March when he was arrested by immigration agents for overstaying after his tourist visa lapsed, she added.

Rebong said Vinluan appeared in a New Jersey court Monday when Aquino and Aragoncillo were presented before a judge, but Vinluan did not represent Aquino. The two were provided with public defenders by the court, she added.

"We are satisfied with the information we got from Attorney Vinluan that Aquino's rights have been respected," she said.

She and her staff, along with the staff of the United Nations mission, are busy with the short visit in New York of President Arroyo, Rebong said.

It is standard procedure for diplomats to visit detained nationals to check not only on their rights, but on their condition as well.

Rebong is the Philippine diplomat who was recently at the center of a scandal after she reportedly rented an apartment for $10,000 a month at the expensive Trump Tower, just across the UN headquarters, courtesy of Filipino taxpayers.

On the other hand, Press Secretary Ignacio Bunye told reporters at the Philippine Mission in New York that Mrs. Arroyo would not be distracted by the case against Aquino.

"Let me just put it this way. The Michael Ray Aquino case is something between him and the US," he said.

"It is alleged that he broke some of the laws of the US, and he will have to answer for that, and as a Filipino citizen, the Philippine government is committed to provide him with all the legal assistance that is necessary and appropriate under the circumstances."

Bunye said Aquino's case did not overshadow the arrival of Mrs. Arroyo who is attending the UN General Assembly to preside over the Security Council, which is being chaired by the Philippines this month. –Jose Rodel Clapano, Christina Mendez, Cecille Suerte Felipe, Evelyn Macairan, Paolo Romero, Jess Diaz and Pia Lee-Brago in New York

FBI To Reveal RP Officials In Aquino Link (ABSCBN)

ABS-CBN Interactive, September 15, 2005

DOJ_NMG_0005667

The Federal Bureau of Investigation (FBI) will reveal next week the names of former and current Philippine government officials who allegedly received classified US government documents sent by Michael Ray Aquino, the National Bureau of Investigation (NBI) said Thursday.

Lawyer Ricardo Diaz, chief of the NBI-International Police division, told ANC that the FBI is set to identify the Philippine officials linked in the espionage charges against Aquino and intelligence analyst Leandro Aragoncillo after September 21.

Aquino faces a US district court on that date to determine if he will remain in detention and attend trial or be turned over to immigration authorities.

Diaz said two of the officials identified by the FBI are on active government service. He said the FBI will unseal the documents on the case on September 21 and 22.

Diaz said the names in the FBI files pertain to former and current government officials who received classified information stolen by Aragoncillo while working as an intelligence analyst at the US Army's Fort Monmouth facility in New Jersey.

Aragoncillo forwarded the information to Aquino, who passed them to contacts in the Philippines.

Diaz said the documents downloaded by Aragoncillo were about the current political situation in the Philippines, among other matters concerning the country. "I would venture to say that it was about the political situation."

He, however, said it could also be about concerns other than the political situation.

Asked if the documents could provide clues to the alleged wiretapped conversation involving President Arroyo and former Commission on Elections commissioner Virgilio Garcillano, Diaz said he had no idea.

"[US authorities] have all the right to secure information," Diaz said. "They classify information being a sovereign country. When they add their analysis [on these information] they (information) become classified."

No mention of Lacson

Diaz said the NBI has not identified Sen. Panfilo Lacson as one of the three officials who allegedly received information from Aquino.

"Who knows? [Lacson] might not be the one alluded to or identified [as one of the officials who received information]," Diaz said. The NBI has not even named Lacson in its statements to the media, he added.

Lacson on Wednesday admitted receiving information from Aquino.

Lacson said he and "many others" received information passed by Aquino. He, however, played down the value of the reports, describing them as "shallow information." The senator is a former national police chief under whom Aquino served.

Diaz said the government will cooperate with US officials to pin down the Philippine officials receiving classified information regardless of their political leanings.

"When they invoke the Mutual Legal Assistance Treaty and the Extradition Treaty, we have to comply," he said.

Pimentel got Aquino info too

Also on Thursday, opposition Sen. Aquilino Pimentel revealed that he exchanged electronic mails (e-mails) with Aquino two of weeks ago.

Aquino initiated the exchange of emails, Pimentel said.

In the second e-mail, Pimentel said Aquino asked him for the address of Garcillano in the US. Garcillano, according to the reports, has been sighted in New Jersey after fleeing to Singapore, then London, in July.

According to Pimentel, he was unable to tell Aquino about Garcillano's complete address. The senator told Aquino that he knew only the address of the former poll official's relative in the state.

In their brief exchanges, Aquino supposedly decried the harrassment he went through as well as the difficulties experienced in obtaining officials documents from the Philippine government to legitimize his US residency.

Aquino fled the country secretly in 2001, months after former President Joseph Estrada was ousted from Malacañan.

Although implicated in the rubout of suspected Kuratong Baleleng bank robbery gang members and the murder of public relations executive Salvador "Bubby" Dacer and his driver Emmanuel Corbito, no warrant of arrest has been issued against Aquino.

On May 18, 1995, Lacson, Aquino and 32 other police officers were charged for the murder of 11 members of the Kuratong Baleleng gang in Commonwealth Avenue, Quezon City. Their case was thrown out by Quezon City Regional Trial Court Judge Maria Theresa Yadao in 2003.

In November 2000, at the height of street protests triggered by allegations that Estrada received "jueteng" payola, Aquino and police Superintendent Cesar Mancao were implicated by Superintendent Glenn Dumlao in the abduction and murder Dacer and Corbito.

DOJ_NMG_0005668

PATRIOT ACT:

Ashcroft Defends Patriot Act (SBT)

By CAROL DRAEGER, Tribune Staff Writer

South Bend Tribune, September 14, 2005

BENTON HARBOR -- Former Attorney General John Ashcroft is well aware his name is nearly synonymous with the 2001 Patriot Act that gave the FBI and Justice Department broad powers.

As its chief enforcer and defender, Ashcroft has been a target of librarians and civil rights activists who say the Patriot Act brings Big Brother into the private lives of ordinary citizens by allowing investigators to detain terrorism suspects.

"I'm probably a poster boy for the ACLU (American Civil Liberties Union)," Ashcroft told members of the Economic Club of SW Michigan Tuesday at the Mendel Center for the Arts and Technology at Lake Michigan College.

"They've built their membership against me," he added.

But he told the audience of mostly like-minded Republicans why the act is necessary in a post-9/11 country.

The act's measures give federal investigators more tools to prevent future terrorist attacks, such as "bringing down the wall" of silence that prevented the CIA, FBI and local enforcement agencies from sharing information that could've stopped the planners of the Sept. 11, 2001, attacks.

Measures like "roving wiretaps," he said, sound alarmist, but they extend to terrorists what law officers have used to fight drug dealers for years.

"We needed the authority to extend that to terrorists," he said.

Another provision that angered librarians at the time about the federal government being allowed to inquire about reading materials of patrons was also highlighted by a bookstore owner in the audience.

She told Ashcroft she has no safeguards against her records being seized.

Ashcroft said during the first two years of the Patriot Act, no library records were seized to hunt for terrorists.

He added that the act provides for congressional oversight, during which every six months members review activities conducted under the act.

"I don't think there have been abuses of the Patriot Act," he said, adding that "libraries should not be a safe haven for terrorists."

He pointed out that before the act was approved, the federal government had reviewed library materials used by the Unabomber suspect while piecing together evidence against him.

The events of 9/11 changed the United States and it required a new set of tools to prevent future terrorist attacks, he said.

Prior to the Patriot Act, Ashcroft said the FBI and the Justice Department was good at putting together pieces of a puzzle to determine what happened and why to prosecute criminals.

But when perpetrators blow themselves up in the commission of a terrorist strike, Ashcroft said there is no one to prosecute, so the government needs to focus on prevention measures to stop terrorists before the strike.

On Sept. 11, 2001, Ashcroft said he was heading to Milwaukee for a meeting with schoolchildren when he heard about the attacks at the World Trade Center. After his plane landed in Milwaukee, dozens of SWAT team members ushered him back on a plane bound for Washington to meet with the president and his advisers.

One of President Bush's strongest attributes, Ashcroft said, is his clarity of mission.

"I'll never forget what the president said as he leaned in my direction: 'Don't ever let this happen again,'" Ashcroft said.

Later in his speech, Ashcroft touched upon Bush's directness in fighting terrorism again, when he said, "The president could've said, "Do your best to not let this happen again,' but he didn't."

Ashcroft said the tools necessary to make Americans safe were written into the Patriot Act to preserve liberty and freedom.

"I believe America is safer today," he said.

HOMELAND RESPONSE:

Chertoff Waives Rules On Fence (WT)

By Jerry Seper

The Washington Times, September 15, 2005

Homeland Security Secretary Michael Chertoff yesterday exercised his legal authority to bypass regulatory obstacles that had long delayed completion of a 14-mile border "enforcement zone" near San Diego.

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"Completing the border infrastructure system will strengthen our efforts to reduce illegal entry to the United States. Congress provided us the authority to ensure this project is completed, and I intend to use it," Mr. Chertoff said.

The order came under the Homeland Security Act of 2002 and the Real ID Act of 2005, both of which mandated construction of necessary infrastructure in the region to reduce illegal entry and improve border security -- but that has been delayed since 1996 by litigation and environmental challenges.

U.S. Border Patrol chief David V. Aguilar, during a press briefing, called the project "the next important step in border security," saying it would allow an enforcement zone in San Diego that would free up manpower and resources for other areas.

"This is not about building a fence but managing our borders more effectively. That's a good thing, not only for San Diego and California, but also Mexico," Mr. Aguilar said, noting that elevated levels of illegal immigration had increased crime on both sides of the border. "This is about border security, about the responsibility we have to protect our nation."

He said primary and secondary fences, parallel roadways to give Border Patrol agents immediate access to the boundary and speed response efforts, stadium lighting to deter border crossers, and sensors and surveillance cameras to monitor incursions would create "a certainty of arrest in that zone."

"This is not so much about apprehension, but about deterrence. It will give us accessibility and mobility on the border," he said.

Rep. F. James Sensenbrenner Jr., Wisconsin Republican and author of the Real ID Act, said that although U.S. Customs and Border Patrol (CBP) deserved credit for improving security in the area, "completion of this congressionally mandated border fence continues to be stymied by litigation and obstructionism."

"This intolerable situation forced Congress earlier this year to pass the Real ID Act, which gave Secretary Chertoff the authority he announced today he will be exercising," he said.

Mr. Sensenbrenner, who is chairman of the House Judiciary Committee, said the project would improve the security of the American public, especially those in the San Diego area; allow CBP to use its resources in a more effective manner; and clean up the environmental destruction that has resulted from illegal border crossings.

Mr. Chertoff noted that construction within the middle nine miles of the project area has begun, and that an extension of the roadway system, barriers and lighting would expand the project to areas west and east of the current enforcement zone.

He said the initial construction efforts resulted in a decline in border crossings and reduced what he called the "negative environmental impacts" to the region caused by illegal migration, such as trails of garbage, destruction of vegetation and trampling of sensitive lands.

Mr. Chertoff said that by completing both phases of the project, damage to the surrounding environment will be sharply reduced.

"The Department of Homeland Security is not compromising its commitment to responsible environmental stewardship in the area," he said. "We will act in an environmentally responsible manner consistent with the security needs of the nation."

Top CIA Official To Quit Sooner Over Goss Dispute (WT)

By Bill Gertz

The Washington Times, September 15, 2005

A senior official in the CIA's espionage branch will leave earlier than announced because of a dispute with CIA Director Porter J. Goss on reforms within the agency's spying branch, Bush administration officials said yesterday.

Robert Richer, the associate deputy director of operations, the No. 2 official in the CIA's clandestine service, had planned to retire from the agency effective November, according to a recent announcement to agency employees by Mr. Goss.

However, Mr. Richer now will enter the agency's retirement transition program within two weeks, said officials, who declined to be named.

A CIA spokesman refused to comment.

Mr. Richer told associates earlier this week that he decided to enter the transition program earlier because of concerns about the CIA leadership.

He has said that he disagreed with and did not have confidence in Mr. Goss and his key aides.

The move speeds up the end of Mr. Richer's involvement with CIA operations matters.

His scheduled departure highlights an ongoing and largely secret political struggle inside the CIA over efforts by Mr. Goss to reform the agency in the aftermath of intelligence failures related to September 11 and Iraq's weapons programs.

A senior intelligence official said Mr. Richer was forced out because of "insubordination."

A second official said the departure was due to a personality clash between Mr. Richer and Mr. Goss related to reforms at the Directorate of Operations. Both officials declined to elaborate.

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Some leaders within the directorate have been opposing efforts by Mr. Goss to improve CIA spying. One issue in the recent past was a dispute over the selection of station chiefs, which mainly is done by the deputy director of operations, as the chief of the agency clandestine service is known.

The espionage branch was considered the elite element of the agency and is made up of about 7,000 case officers trained for spying overseas. Almost all other CIA employees are involved in analysis or technical work.

Mr. Goss and four close aides have been working behind the scenes to try to improve the agency's spying operations and have encountered resistance from officials who oppose some of the changes.

In particular, Mr. Goss is pressing hard for agency spies to do better in Iraq.

"The biggest problem for CIA can be summed up in two words: No spies," said one official.

The agency, in the two years since a presidential commission called for reforming human spying efforts, still has not succeeded in penetrating the major targets of U.S. intelligence with human spies, the official said.

Those targets include the terrorist group al Qaeda and the governments of China, North Korea and Iran.

According to intelligence officials who support reforming the CIA, a network of current and former operations officials has been working to oppose the reform efforts of Mr. Goss and his aides, whom they regard as political appointees and not professional spies. Mr. Goss is a former CIA case officer.

Ricin Case 'Still Being Looked At' (HILL)

By Jackie Kucinich

The Hill, September 15, 2005

"I'm a fleet owner of a tanker company. I have access to castor pulp. If my demand is dismissed, I'm capable of making ricin."

It has been nearly 18 months since this message was sent with a vile of ricin to the Department of Transportation (DoT). A similar letter was mailed to the White House, and traces of the deadly substance were found on a mail-opening machine in Majority Leader Bill Frist's (R-Tenn.) Dirksen office mailroom.

Despite the fact that no one has been implicated yet in these crimes, experts believe that the person responsible for the ricin attack will be found.

"If you look at the Unabomber case, it took 18 years to solve," said Clinton Van Zandt, president of Van Zandt Associates Inc., an international threat- and risk-assessment group, and a 25-year-veteran special agent with the FBI. "I think any case can be solved. … All it's going to do is take someone who knows the individual to come forward."

Van Zandt, who has not worked on the ricin investigation but whose specialties include criminal profiling, said the individual who sent the ricin letters would be easier to catch than the individuals who sent the anthrax through the mail in 2001.

He explained that the individual who mailed the anthrax-laced letter probably did so for quasi-altruistic purposes, perhaps to warn the public of the danger of biological agents. The ricin sender did not strike him as that kind of intellectual.

"I don't see this person as a rocket scientist," he said. "This makes the case more solvable."

Lee Browning, a researcher and president of Browning Seed Inc., a Texas-based seed company, said, "It can be traced back down through the isotopes. I assure you [the government] can trace it down. … They can even tell what country it came from."

Browning, who spoke to the FBI about the ricin attack in Washington, said he suspects that the FBI knows where the letters came from and who sent them because of extensive research on the DNA of castor beans, from which ricin is derived.

Ricin is a deadly poison that can be inhaled, injected or ingested. A dose the size of the head of a pin could kill an adult.

Debbie Wireman, a spokeswoman for the Washington bureau of the FBI, said there are currently no updates on the case but "it is still being looked at."

The FBI, the U.S. Postal Inspection Service and the DoT are offering a $120,000 reward for information leading to the arrest of the individual who mailed the poisoned letters.

Initially, reports pointed to a member of the trucking industry based on the content of the letters, signed "Fallen Angel," that threatened to manufacture more of the deadly poison if certain trucking regulations weren't dropped. The DoT letter was found at a sorting center serving a South Carolina airport. The second letter, postmarked from Chattanooga, was bound for the White House. Neither letter has been linked to the small amount of ricin found in Frist's office Rick Todd, president of the South Carolina Trucking Association, said FBI inquiries have ceased and the government no longer seems interested.

"We did post a message for a good eights months with information who to call with information," Todd said, but he added that the message since had taken it down.

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Since the attacks, funding has increased for projects that genetically engineer castor beans without ricin. The process "blocks the expression of the ricin gene to make [the plant] safe to grow and process," said Thomas McKeon, a research chemist for Agricultural Research.

McKeon added that many household items are derived from castor beans, including cosmetics and lithium grease, used to lubricate car engines.

King Tapped For Homeland (RC)

By Ben Pershing

Roll Call, September 15, 2005

The House Republican Steering Committee selected Rep. Peter King (R) to be the next chairman of the Homeland Security Committee Wednesday evening, handing the gavel to a media-savvy New Yorker at a time when the panel's turf is under heavy scrutiny.

The Steering choice is still subject to ratification by the full Republican Conference, but it is highly doubtful that the larger GOP group wouldn't approve the choice.

Speaker Dennis Hastert (R-Ill.) announced the choice after an hours-long Steering Committee gathering, during which GOP Reps. Don Young (Alaska), Curt Weldon (Pa.), John Linder (Ga.), Dan Lungren (Calif.) all made pitches for the gavel.

"After hours of deliberation and many good candidates … we came to a decision," Hastert said Wednesday night.

In accepting the post, King thanked the Steering Committee profusely and promised to do his best to defend the country from terrorism and deal with the aftermath of Hurricane Katrina in the same resolute way the country recovered after the Sept. 11, 2001, terrorist attacks.

"I want to pledge that as someone who came from New York … I will show that same commitment to rebuilding the Gulf states," King said.

Republican aides said that the choice of the New Yorker just days after the fourth anniversary of 9/11 would be important symbolically. The fact that King is a moderate with good relationships across the aisle is also considered helpful, given the nature of the post.

GOP leaders also believe the Homeland job is likely to be more high-profile than it has been in the past, and King has always aggressively courted the media.

The contest for the Homeland post has been under way since June, when then-Chairman Christopher Cox (R-Calif.) was named by President Bush to serve as chairman of the Securities and Exchange Commission.

The race was relatively quiet through the summer, as Cox was not confirmed by the Senate to his new post until July. Soon after, Congress left for the August recess.

But in the last weeks before Steering met to make its choice, the race became more heated. King was the target of an opposition research campaign, as unidentified operatives on K Street and on the Hill circulated evidence designed to back up allegations of past disloyalty to the party and support for the Irish Republican Army.

After King, Weldon was the most energetic campaigner, though Republican leaders have expressed frustration in the past with the Pennsylvanian's tendency to freelance and to pick controversial fights with the intelligence community.

Young, meanwhile, was hurt by his already having chaired two consecutive full committees. Young was also a vehement opponent of the Homeland panel's creation in the first place.

Linder emphasized his experience and, more importantly, his long political service to the party as a fundraiser and past chairman of the National Republican Congressional Committee.

Lungren, meanwhile, was something of a late mover in the contest, drawing on his previous experience as California's attorney general.

Republican Of New York To Lead House Panel (NYT)

By Raymond Hernandez

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 - Representative Peter J. King, a moderate Republican from New York known for his independent streak, was selected by House leaders to lead a committee seeking to determine how federal funds are distributed to help communities prepare for terrorist attacks and natural disasters, Congressional officials announced yesterday.

Mr. King's appointment as chairman of the House Committee on Homeland Security provides New York a potentially more prominent voice in a critical area at a time when the state's heavily Democratic delegation in the House finds itself largely sidelined by conservatives from other parts of the country. His appointment is expected to be ratified by House Republicans.

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For years, Mr. King, who represents parts of Nassau and Suffolk Counties, has called for an overhaul of the way the government distributes antiterrorism aid, saying more funds should flow to New York City and other localities considered at high risk of terrorist attack. But his calls have met with resistance from lawmakers from other regions who insist on money for their districts, regardless of potential threats or vulnerabilities, in a process that has been derided as pork-barrel politics.

Mr. King's ascension places him at the center of several major issues confronting Congress, including questions about what went wrong with the federal government's response to Hurricane Katrina and whether the country was prepared for another catastrophic storm or terrorist attack.

Mr. King said in an interview last night that the destruction caused by Hurricane Katrina was a reminder that the country "must do more" to brace itself for catastrophic events.

Of his appointment, he said, "It's a great opportunity - and an even greater challenge."

The appointment marks a political turnaround for Mr. King, whose attacks on the House's conservative leadership had made him something of an outcast within his party. He criticized everything from its efforts to impeach former President Bill Clinton to its policies toward the heavily Democratic Northeast.

But in recent years, he has seemed to make an effort to return to the fold by, among other things, supporting a House-sponsored energy bill that included a controversial plan to grant product liability immunity to producers of MTBE, a gasoline additive that has polluted groundwater around the country.

Mr. King also refused to join Democratic and Republican lawmakers who criticized the federal government's response to Hurricane Katrina, instead placing blame elsewhere.

He said recently that missteps by state and local authorities might have hampered the federal government's ability to mobilize. He also said the state and local governments' response should be investigated as closely as the federal response.

Mr. King succeeds Christopher Cox, a former congressman from California who was chosen by President Bush to be chairman of the Securities and Exchange Commission.

Mr. King's chief rival for the job had been Representative Don Young, Alaska's sole congressman, who as chairman of the Transportation Committee has been criticized for directing pork-barrel projects to his state.

Mr. King spent weeks trying to shore up support among his colleagues through letters and private meetings. He also received crucial backing from Representative Thomas M. Reynolds, who may be the only New York Republican who has clout with the House leadership, partly because of his role as head of the National Republican Congressional Committee.

King Wins Homeland Gavel (HILL)

By Roxana Tiron

The Hill, September 15, 2005

House Republicans last night tapped Rep. Peter King (R-N.Y.) as the new chairman of the House Homeland Security Committee after an intense three-month campaign.

“After hours of deliberations and long discussions ... we selected Peter King,” Speaker Dennis Hastert (R-Ill.) told reporters after the selection.

He also described the past few weeks in the aftermath of Hurricane Katrina as “a huge emotional roller coaster” and said he was glad such a committed, passionate person had been chosen for the post.

King still must be confirmed by the full GOP conference. That vote is planned for today.

King thanked Hastert and said he is absolutely committed to the war on terrorism but will also show the same commitment to build up the Gulf area.

He replaces former Rep. Christopher Cox (R-Calif.), who took over as chairman of the Securities and Exchange Commission early last month.

King, a New Yorker who was deeply affected by the Sept. 11 attacks, made an emotional appeal for the gavel in his letter to the 30-member Republican Steering Committee, which selects committee chairmen. He said his life was completely altered by the tragic events.

King was chosen over several other candidates, including Reps. Curt Weldon (R-Pa.), John Linder (R-Ga.), Dan Lungren (R-Calif.), Don Young (R-Alaska) and Mac Thornberry (R-Texas).

Lungren impressed many members of the Steering Committee by making a strong appeal for the gavel yesterday, according to GOP aides, but King prevailed during the secret-ballot vote.

King emerged as the front-runner late in August when GOP leaders coalesced around his candidacy and privately backed him, according to Republican aides. Hastert has five votes on the Steering Committee, Majority Leader Tom DeLay (R-Texas) has two and everyone else on the committee has one.

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During his presentation to the Steering Committee, King said, Rep. Lamar Smith (R-Texas) asked him a tough question about immigration. King, whose parents are from Ireland, supported the free flow of immigrants to this country in the past, but more recently, he has backed measures aimed at curbing the smuggling of illegal migrants.

"I told Lamar Smith my position changed after 9-11," King said after giving his presentation.

For Weldon, the vice chairman of the committee, who waged an aggressive campaign based on his two decades of experience on homeland-security issues, the defeat is a stinging blow. The Steering Committee has passed him over for two other chairmanships in the past, including the homeland-security panel when it was first created. He also lost a bid in 2002 for the Armed Services Committee gavel and complained that DeLay had lied when he promised him the job.

But Weldon, who also serves as vice chairman of the House Armed Services Committee, may still have a chance to become that panel's chairman. In early August, he told The Hill that Hastert had told him privately that he would support him to become Armed Services chairman.

Many Republicans believed Weldon was never a serious contender because he had angered too many Republicans and was considered unpredictable. Weldon had rankled fellow Republicans by publishing a book in June that harshly criticizes the intelligence community and the CIA. He also has alleged that analysts working for the Pentagon program called "Able Danger" had identified some of the hijackers in 1999 and that Pentagon lawyers did not share the information with the FBI.

Even though Young was the most senior of the candidates vying for the chairmanship, he had several strikes against him in his bid for the Homeland Security post.

Young already has held the gavel of two powerful committees; he is the chairman of Transportation and Infrastructure and previously served in the top spot on the Resources panel. Young also vigorously opposed the creation of the Homeland Security panel in the wake of the Sept. 11 attacks, which may have become the biggest hurdle to his bid to chair it.

In many ways, King is not the traditional choice for the gavel.

Not long ago, the sometimes-jovial, sometimes-brash Irish Catholic was known as a wild card, bucking his own party on numerous occasions, most notably by voting against President Bill Clinton's impeachment and supporting Sen. John McCain's (R-Ariz.) presidential bid in 2000.

In fact, King's rank-and-file Republican opponents circulated a compilation of quotes just days before the Steering Committee decision to point out some of the negative remarks King, a moderate, has made over the years about Southern members of the Republican Party.

King does not have a leadership political action committee and readily admits that he has not helped fill his party's or his GOP colleagues' coffers over the years. But he has pledged that once selected as chairman he will make fundraising a top priority and will be in a better position to do so.

King is also quick to point out that recently he has been one of the staunchest supporters of the Bush administration, taking pains earlier this year to hit the airwaves to defend embattled White House Deputy Chief of Staff Karl Rove.

When House Majority Leader Tom DeLay (R-Texas) found himself mired in a series of scandals late last year, King was one of the first to rush to his defense. He also considers himself a loyal supporter of Hastert.

"King is seen as generally a team player and a solid candidate," one GOP leadership aide said.

"When you look at his temperament in the past, you can say he was brash and difficult, but [we] have really seen him come into his own and it positions him nicely to be considered for the chair" a former leadership aide added.

Feds' Search Moves Trouble 9th Circuit (LAW)

By Justin Scheck, The Recorder

Law.com, September 15, 2005

Judge Betty Fletcher gave the federal government what it wanted Wednesday. But she didn't feel too good about it. And her colleague, Judge Raymond Fisher, wasn't really happy, either.

Fletcher, a senior judge on the 9th U.S. Circuit U.S. Court of Appeals, authored two opinions Wednesday, and sat on the panel that offered a third, per curiam opinion. They said that border agents searching for contraband may disembowel gas tanks, drill holes in truck beds and disassemble car doors without reasonable cause for suspicion.

Fletcher made her feelings known in a concurrence to her own opinion in U.S.A. v. Chaudhry, 05 C.D.O.S. 8344, that, she wrote, is intended "to express my distaste for the government's game-playing."

The game-playing involved the government's goal of getting an appeals court to agree that border agents could take apart an automobile without apparent suspicion.

But in all three cases, there were clear reasons for suspicion that the government chose not to enter into evidence -- from drug-sniffing dogs to visibly nervous drivers.

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"But the government wanted confirmation that no suspicion is required for extensive, intrusive searches at the border," Fletcher wrote. "This would have an ancillary benefit for the government -- it would not have to prove the reliability of its drug-sniffing dogs."

The question of whether the government may conduct such extensive searches without suspicion, she added, "is an entirely fictional construct. Suspicion existed in each case, and in my view, review of cases at the appellate level is a waste of judicial resources. The only possible purposes are the government's desire to push the envelope to its limits: to find out how much destruction it can do without any suspicion, and to avoid proving it uses reliable dogs."

In a separate -- but much shorter -- concurrence, Fisher agreed.

Northern District of California Federal Defender Barry Portman said Fletcher seemed constrained by the longstanding trend of U.S. Supreme decisions expanding the freedom of border guards to conduct random searches.

"We're looking to see, when the crowbar comes out to the cab, what is the allowable destruction of the vehicle," he said. Without room to rule against the government, he said, Fletcher did everything possible to criticize the litigation strategy.

"She's never been one to tiptoe around things she thinks are off," he said.

But, Portman added, the easy solution for a judge who felt forced to make a distasteful ruling would be to issue an unpublished opinion.

And Rory Little, a professor at Hastings College of the Law and a former federal prosecutor, said he was puzzled by the fact that Fletcher would author an opinion in a case that she called "essentially a request for an advisory opinion."

"It's a little bit of judges crying, in a sense, after they've inflicted their own wound," he said.

But, Little continued, he understands why judges might be annoyed by the government's strategy of eliminating certain facts from a case to get a favorable appeals court ruling. "I don't like the strategy either, personally, but if I was an appellate lawyer, I'd use it," he said. "It is a way, in a sense, for a party to overreach. You can win on your facts, but you want more."

The strategy is common in instances when a litigant is hopeful they can get a favorable ruling on a controversial issue.

"It's not game playing. It's a litigation technique that is often used by appellate lawyers when they want to develop law that is favorable to them," Little added.

But in the criminal justice system, Portman said, it's a technique whose benefits are limited to prosecutors.

"That's an advantage that the government has that defense counsel never does," he said. "Because the government represents positions, while defense lawyers represent a person."

Wiretap Mosques, Romney Suggests (BOS)

By Scott Helman

The Boston Globe, September 15, 2005

WASHINGTON -- Governor Mitt Romney raised the prospect of wiretapping mosques and conducting surveillance of foreign students in Massachusetts, as he issued a broad call yesterday for the federal government to devote far more money and attention to domestic intelligence gathering.

In remarks that caused alarm among civil libertarians and advocates for immigrants rights, Romney said in a speech to the Heritage Foundation that the United States needs to radically rethink how it guards itself against terrorism.

"How many individuals are coming to our state and going to those institutions who have come from terrorist-sponsored states?" he said, referring to foreign students who attend universities in Massachusetts. "Do we know where they are? Are we tracking them?"

"How about people who are in settings -- mosques, for instance -- that may be teaching doctrines of hate and terror," Romney continued. "Are we monitoring that? Are we wiretapping? Are we following what's going on?"

As he ponders a potential run for president in 2008, Romney has positioned himself as a homeland security expert: He sits on a federal homeland security advisory council, is active on the issue with the National Governors Association, and repeatedly speaks about the lessons the country has learned from the terrorist attacks of Sept. 11, 2001 and, more recently, from Hurricane Katrina.

Romney, who referred to himself yesterday as "red-state folk," has also struck more conservative postures on social issues that may alienate voters in Massachusetts but endear him to the Republican electorate nationwide; his tough talk on antiterrorism measures could also earn him support among conservatives.

His latest message is that the United States needs to shift its focus from response to prevention: Instead of spending billions on training and equipment to react to an attack, he argues, the country ought to work on stopping one.

"It is virtually impossible to have a homeland security system based upon the principles only of protecting key assets and response," he told an audience of about 100. "The key to a multilayered strategy begins with effective prevention, and, for me, prevention begins with intelligence and counterterror activity."

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But that activity is deeply troubling to civil rights groups. Ali Noorani, executive director of the Massachusetts Immigrants and Refugee Advocacy Coalition, called the methods Romney suggested misguided and ineffective. Tracking people based on their ethnicity, he said, will only sow resentment among immigrant communities and prevent their cooperation with authorities.

"Blanket eavesdropping and blanket profiling only erodes the safety and security of our country," Noorani said. "People who really know what national security is and what intelligence is realize that we need to build trust between law enforcement and immigrant communities."

Elyes Yaich, president of the Islamic Society of Northeastern University, said that foreign students, especially those from Islamic countries, already face unfair scrutiny coming to the United States and that subjecting them to specialized monitoring would further invade their right to privacy.

"It's something that shouldn't happen," Yaich said. "If they're going to do surveillance, why not do it for synagogues and churches, too?"

Nancy Murray, director of education for the American Civil Liberties Union of Massachusetts, said international students are already forced to submit personal data to a federal database designed to let the government closely track them. Keeping closer tabs would only cause a greater chilling effect on scholars coming here from other countries.

"Now they're beginning to think, 'Well, why don't we just go somewhere else?' " Murray said. "We are really going to fall behind. It's very shortsighted."

Asked to respond to that criticism, Romney spokeswoman Julie Teer said last night that the governor has a "realistic view" of what it takes to fight terrorism.

"The governor believes we can strike a balance between what is necessary to protect our homeland while respecting individual freedom and liberty," Teer said.

Romney said he believes that both state and federal governments have a role in intelligence-gathering. It is the FBI's job to do wiretapping and surveillance, he said, but Massachusetts has a responsibility to collect any useful information it can.

Central to that is a facility opened last year at the State Police headquarters in Framingham designed to be the clearinghouse for a variety of intelligence gathered in the state. At the facility, which state officials call "the fusion center," analysts armed with tips and information from residents, police, water-meter readers, and others, will pore through the data, look for patterns, and contact Washington about anything noteworthy.

Romney wants to see every state have such a system, which allows it to easily send intelligence to Washington and easily get intelligence back.

"It's the state's responsibility to figure out how to gather that information and fuse it together . . . to determine where the real threats exist," Romney said.

The ACLU has been critical of the fusion center. The group has asked whether collecting loads of data, much of which is sure to prove useless, is the most effective way to prevent a terrorist attack.

"It just seems like we're getting more and more driven by the need to fight the war on terrorism in a very counterproductive way," Murray said.

Romney stressed in his address at the Heritage Foundation that the country's antiterrorism and military operations have to be "nimble, agile, and fast-moving." He said the distribution of antiterrorism money after 9/11 was haphazard and ineffective.

Cities and towns in Massachusetts and nationwide seized the opportunity to buy new fire trucks and unnecessary equipment, he said. "It was everybody grabbing money as fast as we could."

If the response to Hurricane Katrina was any indication, the extra funds did not appear to have helped, he said.

Romney was one of the first high-profile Republicans to criticize the federal government's response to the hurricane, calling it "an embarrassment." But in the two weeks since, he has reserved most of his criticism for state and local governments, in particular Louisiana's Democratic governor, Kathleen Blanco.

Yesterday, Romney did not criticize Blanco by name, though he did so implicitly a few times. At one point, he said that one clear failure in the response to Katrina was a lack of "fast-moving decision-making and clear authority." He said there would be no such leadership vacuum if a disaster hit Massachusetts.

"In my state, it's me," he said. "The governor's in charge. I got it."

Answering a question yesterday about the National Guard, Romney said he believes there is no need for a military draft, calling it "totally unnecessary."

The Heritage audience was highly receptive to Romney yesterday, giving him a rousing welcome and lengthy applause as he concluded his remarks. The foundation promotes study of issues important to conservatives.

'Crescent' Not Embraced (WT)

By Jennifer Harper

DOJ_NMG_0005676

The Washington Times, September 15, 2005

It is unbuilt, but already under fire. The proposed memorial to United Flight 93 has a chorus of critics, irked by a single design element that ultimately might be reconfigured.

The "Crescent of Embrace," a double arc of maple trees that will turn red in the fall, has drawn the ire of some, who say it will resemble the red crescent -- a symbol of Islam dear to the hearts of the September 11 hijackers on the flight that crashed into a Pennsylvania field.

The Rev. Ron McRae, pastor of the Bible Anabaptist Church near Pittsburgh and founder of the Street Preachers Fellowship, called the design "a memorial to terrorists." He vows to file a lawsuit and stage a public protest.

The families of the 40 passengers and crew disagree, but the Los Angeles-based architect said yesterday that he would work to satisfy critics.

"This is an unfortunate distraction from the mission of the memorial," said Hamilton Peterson, who lost his father and stepmother on the flight and is president of the District-based Families of Flight 93.

"We've vetted this design and thought it through. In reality, the red crescent is a symbol of a benevolent humanitarian mission founded in World War I. Now, wackos with idle time and energy are trying to divert our goal," Mr. Peterson said.

But designer Paul Murdoch said he is "somewhat optimistic" that the spirit of the design could be maintained.

"It's a disappointment there is a misinterpretation and a simplistic distortion of this, but if that is a public concern, than that is something we will look to resolve in a way that keeps the essential qualities," Mr. Murdoch, 48, told the Associated Press.

Mr. McRae's isolated comments garnered considerable coverage in the Pennsylvania press and resonated on Web sites such as Free Republic, Power Line and Constitutional Conservative.

Columnists weighed in this week. Michelle Malkin called the crescent design a "monumental surrender" and "boneheaded," while Mark Steyn observed that Flight 93 had been "re-hijacked," and in the thrall of "the cultural elite."

In a letter sent Tuesday to the National Park Service, Rep. Tom Tancredo, Colorado Republican, called on the agency to reject the design as "a flash point for controversy and criticism."

"The crescent in the design does not imply or depict religious iconography. The crescent follows the actual ridge line of the crash site and is intended to honor the heroes of Flight 93 and comfort their families," said Joanna Hanley, superintendent of the memorial site, which will be managed by the National Park Service.

The design for the 2,000-acre memorial also includes a chapel and a wall dedicated to Flight 93.

WAR NEWS:

Insurgent Bombings Kill More Than 170 In Baghdad (USAT)

By Rick Jervis And Mona Mahmoud

USA Today, September 15, 2005

BAGHDAD — Insurgents launched a wave of attacks throughout the Iraqi capital Wednesday and today. More than 150 people were killed Wednesday in one of the deadliest days in Baghdad since major combat ended in May 2003.

At least 16 Iraqi policemen and five civilians were killed today when a suicide bomber drove his car into a convoy of police vehicles in Baghdad's southern Dora district, police Lt. Thair Mahmoud said. The wounded included 13 policemen.

About a dozen explosions ripped through Baghdad neighborhoods Wednesday, including an early-morning suicide car blast in a predominantly Shiite neighborhood that killed about 112, according to the Interior Ministry.

More than 540 people were wounded in the attacks Wednesday. Four suicide car bombs targeted American convoys, but the U.S. military did not report any deaths.

In a Web posting, al-Qaeda in Iraq linked the attacks to an offensive by Iraqi and U.S. forces in Tal Afar, near the Syrian border. The offensive began Saturday and evicted most insurgents from the city. The U.S. military estimated 200 militants were killed. No Americans were killed.

Abu Musab al-Zarqawi, al-Qaeda's leader in Iraq, purportedly declared “all-out war” on Shiite Muslims, Iraqi troops and the country's government in an audio recording released on the Internet.

The U.S. military said there were four direct attacks on Americans on Wednesday and 10 soldiers were wounded. The office of Prime Minister Ibrahim al-Jaafari denounced the attacks and called an emergency meeting of members of the Defense and Interior ministries and U.S. military officials to determine the government's response. The deadliest attack Wednesday came about 6:45 a.m. as day laborers gathered in Kazimiyah's Oruba Square, hoping to get picked up for work. A man in a car drove up and began shouting that he was looking for helpers, said Lt. Muhammed al-Nuami, an Interior Ministry official. When the workers crowded around, the driver detonated, al-Nuami said.

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Shiites have often been the target of attacks by predominantly Sunni insurgents, but Sunnis have also been attacked. On Wednesday, 17 men were executed in a predominantly Sunni village north of Baghdad. The victims were rounded up by gunmen wearing Iraqi military uniforms, marched 50 yards out of town and shot, al-Nuami said.

Insurgent Attacks Target Scores Of Poor Shiites (LAT)

By Borzou Daragahi

The Los Angeles Times, September 15, 2005

BAGHDAD, Iraq -- At their uncle Hamid Ghatti Fares' behest, the Rashid brothers left the desperation and unemployment of Nasiriya down south to look for construction jobs in the Iraqi capital.

And under their uncle's care, the two bothers, Hossein, 33, and Tahseen, 27, were returned to their home in the south Wednesday, their mangled bodies laid side by side in simple wooden coffins strapped atop a Korean-made minibus.

"What can I say? How can I describe this feeling?" said Fares, a 57-year-old Baghdad cigarette vendor, whimpering as he boarded the vehicle and prepared to deliver his nephews' remains to their father -- his brother -- in Nasiriya. "It will be a long ride."

The brothers were killed when a massive car bomb exploded in a crowd of day laborers in the largely Shiite Muslim district of Kadhimiya on Wednesday, one of the deadliest days of insurgent attacks in the capital since the March 2003 U.S.-led invasion.

By nightfall, at least 141 Iraqis had been killed and 228 injured in the bombings and ambushes in Baghdad, most of the victims members of Iraq's Shiite majority. Between 6:50 a.m. and 2:10 p.m. local time, 10 car bombs were set off in the capital.

Another 17 people were shot execution-style in a massacre in a Shiite enclave near Taji, north of the capital.

The barrage of explosions plunged the capital once again into fear and despair. Gunfire and sirens rang out as black smoke rose into the sky. Police and soldiers choked traffic with checkpoints. In eastern Baghdad, automatic weapons fire continued into the night.

The violence appeared to be retaliation for a recent joint U.S.-Iraqi offensive against rebels in the northern city of Tall Afar that Iraqi officials said killed at least 150 insurgents. The attacks also seemed designed to stoke tension between the country's Shiite majority and Sunni minority, which along with Sunni Arab fighters from abroad is spearheading the insurgency.

The group of Jordanian-born Abu Musab al-Zarqawi, an insurgent leader, claimed responsibility for the day's assaults in an Internet posting.

"Al-Qaida Organization in Iraq ... has declared war against Shiites in all of Iraq," the audio recording said. "As for the government, servants of the crusaders headed by (Prime Minister) Ibrahim Jafari, they have declared a war on Sunnis in Tall Afar. You have begun and started the attacks, and you won't see mercy from us."

A senior U.S. military official, speaking on condition of anonymity, said the attacks were evidence of insurgents' weakness against Iraq's nascent security forces. "(The insurgents) failed to stand up to the assault up north, so they slink away and kill civilians in Baghdad," he said. "It is astonishing that they can try to claim some victory from pure murder."

John Arquila, a counter-insurgency specialist at the Naval Postgraduate School in Monterey, Calif., offered a similar assessment.

"The insurgent networks in Iraq have repeatedly demonstrated their ability to mount substantial operations on short notice, particularly when the targets are `soft' (i.e., innocent civilians). ... It takes the insurgents much longer to mount operations against coalition forces, when they choose to do anything more than plant bombs or run suicide attacks."

Five of Wednesday's car bombs targeted U.S. patrols, injuring at least two Americans. In one foiled attack, a man of Syrian origin rammed a car bomb into an American tank, but it failed to explode and he was captured, a U.S. military officer said. Three bombs targeted Iraqi security officials, killing three soldiers and police officers.

But ordinary Iraqi civilians, almost all Shiites, bore the brunt of the attacks. One car bomb in the mostly Shiite Shuala district targeted a group of people waiting for a bus. At least four were killed, according to the Interior Ministry.

In Taji, according to one witness, a group of at least 50 men in Iraqi army uniforms pulled 17 members of the mostly Shiite Tamimi tribe out of their homes, lined them up against a wall and executed them before firing off flares and escaping into the dense palm groves along the Tigris River.

"The people who were killed have nothing to do with the Americans, the government or security forces," Mohammad Baqer Tamimi, a Taji produce wholesaler, said in a telephone interview. "Some sold vegetables, some sold ice and some were taxi drivers."

The car bomb in Kadhimiya, though, was the day's deadliest incident, killing 112 people, the Interior Ministry said.

Some witnesses said the suicide bomber posed as a potential employer; dozens of poor, mostly Shiite young men crowded around the vehicle in hopes of landing a job.

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Hours after the explosion, women walking by the scene covered their eyes and gasped, overwhelmed by the smell of burnt flesh. Slick pools of blood covered the pavement. Farm tractors hauled away piles of charred debris.

The lobby of nearby Kadhimiya hospital had been turned into an overflow emergency room. Stacks of saline bags and bandages lay atop the receptionist's counter. Flies swarmed the bloodied, half-conscious patients lying on hospital beds.

Many of the victims said they were unemployed bricklayers, painters and construction workers from Iraq's south. The young men told similar stories of paying $7 or so for a taxi ride up to Baghdad and staying in $1-a-night flophouses for the chance to earn up to $10 a day working on building projects in the capital.

"What is the reason for killing those innocent people? They work to eat. If they don't work they will not eat for the day," said Hashim Naji, a 23-year-old employee of a shoe factory, recovering from wounds he sustained in the Kadhimiya attack. "They are not officials. They don't represent a threat to anyone."

Insurgents Kill 160 In Baghdad (FT)

By Steve Negus

Financial Times, September 15, 2005

In some of the deadliest terror attacks since the 2003 invasion, up to a dozen insurgent bombings and shootings saw around 160 people killed in Baghdad on Wednesday and wounded over 500 others.

The attacks came as Iraqi leaders claimed to have finalised a constitution, and as the Iraqi branch of al-Qaeda swore to avenge a recent US-Iraqi offensive on the north-eastern town of Tal Afar. The one-day death toll was possibly the highest in the capital since March 2003, and one of the attacks – a suicide car bomb in the predominantly Shia north Baghdad neighbourhood of Kadhemiya that killed over 112 people – was the second deadliest single blast.

According to the Iraqi interior ministry, a suicide bomber pulled up to a crowd of day labourers waiting for work by a public square, called them over to his pick-up with offers of employment, then detonated the vehicle with 220kg of explosive.

Witnesses said that no US or Iraqi military or police targets were in the vicinity, suggesting that the attacker had aimed to cause as much civilian carnage as possible.

The blast comes two weeks after a stampede at a Shia religious commemoration sparked by fears of a suicide bomber killed over 1,000 people in the same area.

Elsewhere in the city, a car bomber blew himself up near a queue of people lined up to fill gas canisters, killing 11, while other bombs targeted Iraqi and US patrols and the offices of a Shia party. In addition, unknown gunmen pulled 17 Shia men from a single tribe from their homes in the town of Taji north of Baghdad and killed them, in one of a series of apparent sectarian massacres that have become increasingly common in the last six months.

The attacks came as a statement appeared on a website used by the al-Qaeda in Iraq organisation of militant Abu Musab al-Zarqawi vowing revenge for a recent US-Iraqi offensive. “We would like to congratulate the Muslim nation and inform it the battle to avenge the Sunnis of Tal Afar has begun,” it said, although it did not directly take credit for Wednesday’s bombs. An audio tape purportedly released by the organisation also declared all-out war on Shia.

US patrols also came under attack. A Humvee military vehicle was burnt out by a roadside bomb, but the US military said it suffered no casualties. Minutes later another bomb nearby wounded two Iraqi policemen in a convoy.

On Sunday, the US and Iraqi militaries had wrapped up a sweep through the town, of Tal Afar, a reported transit route for Islamist volunteers moving in from Syria, in which they claimed to have killed over 150 insurgents and detained at least 500 suspects.

The insurgents have timed similar waves of explosions for politically sensitive moments, and this surge in the bloodshed comes as Shia and Kurdish leaders try to win Sunni Arab support for Iraq’s permanent constitution. The run-up to the October 15 vote on the constitution has worsened tensions between Iraq’s main communities, Shia, Sunni Arabs and Kurds.

Attacks In Iraq Inflame Worries About Civil War (WSJ)

By Farnaz Fassihi

The Wall Street Journal, September 15, 2005

Attacks resulting in one of Iraq's deadliest days in more than two years intensified concerns about escalating sectarian violence and its potential to evolve into open civil war.

Insurgents yesterday attacked crowds of Shiite Muslim civilians, Iraqi police and American convoys in 12 separate assaults around the capital, killing more than 150 people and wounding nearly 600. The attacks coincided with an announcement by Shiite Arabs and ethnic Kurds -- who make up the majority of the transitional government -- that the nation's draft constitution was finalized, without amendments to appease Sunni Muslim Arabs' demands.

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Al Qaeda's arm in Iraq claimed responsibility for the attacks in a statement published on a Web site, calling them retaliation against a U.S.-Iraqi military operation under way in Tal Afar, a town near the border with Syria. And in a purported audiotape of the group's leader, Abu Musab al-Zarqawi, he called for all-out war against Shiites, Iraqi troops and the country's government.

The string of attacks in Baghdad followed the apparent execution of 17 men -- believed to be Shiites -- by a group of men dressed in Iraqi military uniforms who staged an early-morning raid on a neighborhood in Taji, 10 miles north of Baghdad. The dead were handcuffed, blindfolded and shot in the head, Iraqi officials said.

The scale and scope of the attacks, with Sunni Arab militants targeting and killing groups of Shiites, shows the increasingly sectarian nature of the conflict, and is reviving doubts about whether the newly trained Iraqi forces can properly secure it.

Many analysts believe the buffer keeping Iraq's Sunni and Shiites from a full-fledge civil war has been the Shiite religious and political leaders' restraint from accusing the Sunnis outright and calling for Shiites to retaliate. But no one is sure how much longer the Shiite community will be willing to heed their advice. There have been numerous tit-for-tat killings of a sectarian nature among ordinary Iraqis, with almost daily reports of civilian corpses -- both Shiite and Sunni -- found murdered.

"It is very clear that they want to start a civil war between Sunni and Shiite," said Mohammad Bahr Ul-Ulom, a prominent Shiite cleric and politician, reached by phone in Baghdad last night. "They want the Shiites to say, 'Let's go after them,' but so far our leaders are calling for calm."

The worst attack yesterday occurred in the Shiite neighborhood of Kathemiya, where day laborers gathered at dawn looking for work. A truck approached the crowd and detonated once the driver had lured the men toward it. U.S. military convoys also came under fire yesterday in three separate car-bomb attacks around Baghdad, wounding two American soldiers. Iraqi police were attacked with gunfire and a car bomb, leaving several police officers dead.

The violence yesterday came after several months of relative calm in the capital, where according to the U.S. military car bombs and attacks against coalition forces had dropped significantly since May. But both Iraqi and American officials said they expect a spike in violence in the weeks preceding the constitutional referendum scheduled for Oct. 15.

For months now, Iraq's various sectarian and ethnic groups have been torn about the nature of their new constitution and the political path ahead for Iraq. The Kurds and Shiite Arabs pushed for a federal system whereby regional governments could function with semiautonomy from the central government. Sunni Arabs oppose federalism and rejected the constitution, complaining that the political process aimed at unifying Iraq had instead divided it even further.

Since the fall of Saddam Hussein's regime in April 2003, Iraq's deteriorating security has fallen into a vicious cycle: relative calm followed by spikes of spectacular violence timed around political milestones, such as the hand over of sovereignty, elections, drafting of the constitution and now the referendum.

Multiple Attacks Kill Nearly 150 In Iraqi Capital (NYT)

By Robert F. Worth And Richard A. Oppel Jr.

The New York Times, September 15, 2005

BAGHDAD, Iraq, Thursday, Sept. 15 - Insurgents staged at least a dozen suicide bombings that ripped through Baghdad in rapid succession on Wednesday, killing almost 150 people and wounding more than 500 in a coordinated assault that left much of the capital paralyzed.

Al Qaeda in Mesopotamia claimed responsibility for the assault, which inflicted the biggest death toll in Baghdad since the American-led invasion of Iraq toppled Saddam Hussein more than two years ago.

The violence appeared to be retaliation for the weeklong siege of the insurgent stronghold of Tal Afar and included a bombing in a Shiite neighborhood of Baghdad that used a new tactic: luring scores of day laborers to a minivan with promises of work, and then blowing it up. At least 112 died in that blast alone, the second highest death toll from any single terrorist bombing in Iraq since the invasion.

The attacks coincided with the opening of the United Nations General Assembly in New York, attended by top Iraqi leaders and President Bush, who pressed for a resolution calling on all nations to take action against the incitement of terrorism.

Wednesday's attacks demonstrated again how easily insurgents could still stage well-coordinated attacks, despite a series of highly publicized military offensives like the recent one in Tal Afar, a northern city that has been an insurgent base.

The explosions struck Shiite civilians, Iraqi security forces and American troops, the favored targets of Iraq's Sunni Arab insurgency. The worst attack singled out workers in a Shiite neighborhood, Kadhimiya, with an explosion that tore through a crowded intersection, leaving the facades of nearby shops shattered and puddles of blood on the streets.

"I saw a huge fireball in the air, and I felt the heat and flame on my face," said Kadhum Nasir Malih, 28, a laborer who lives in a hotel near the site of the blast. "I went outside the hotel, and I was amazed to see the number of bodies. Some were still, and some were groaning with agony, charred and covered with blood, with smoke rising from them."

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On Thursday morning at 8. a.m., a suicide car bomb detonated next to a police convoy in southern Baghdad, killing 16 people and wounding another 21, an official at the Interior Ministry said. Most of the dead and the wounded were police officers and the rest were civilians, the official said. Also in the capital on Thursday morning, gunmen shot and killed three Shiite pilgrims as they traveled toward the holy city of Karbala.

Senior military officials interviewed Wednesday said intelligence indicated that the bombs and planning for the Baghdad attacks came from insurgents in the Euphrates River valley in western Iraq, where Abu Musab al-Zarqawi, the Jordanian leader of Al Qaeda in Mesopotamia, has his base of operations.

"We believe these attacks were spawned in the west, then the bombs migrated from the Euphrates River valley," said a senior United States Central Command officer, who spoke anonymously because of the secret source of the intelligence. "The heart of Zarqawi's network is not in Baghdad, we're quite confident of that," the officer continued in a telephone interview. "In a corridor from Syria to Baghdad is where he's nested right now."

Hours after the first attack, Al Qaeda in Mesopotamia issued a statement calling the strikes revenge for the American and Iraqi assault on Tal Afar. It said the bombings signified that "the battle to avenge the Sunni people of Tal Afar has started." The American military has said it killed more than 150 insurgents in Tal Afar over the past two weeks.

Bombings and other attacks soon followed the Kadhimiya blast, at a rate of several per hour. Police cars careered through the city struggling to restore order, and hospitals overflowed with the wounded.

Police officers transporting their own casualties to hospitals fired wildly and pointed rocket-propelled grenade launchers at drivers to force them out of the way. At Yarmouk Hospital, the floors were splashed with blood, and medics rushed through the halls carrying burned and bloodied victims. One man lay on the ground, his chest cavity held together by a few stitches. A girl was brought inside, her fingers blown off. A man lay in a bed, screaming after being told his leg was amputated.

"There were bodies everywhere, I was lucky to have survived," said Saadi Hussein Ali, a 55 year-old laborer whose arm was broken in the Kadhimiya bombing, as he lay exhausted on a hospital cot. "It was only workers - why would they want to kill us? We are poor."

At least 10 American soldiers were wounded in attacks that the military said struck at least three military convoys. No deaths were reported. In Taji, north of Baghdad, gunmen dressed in Iraqi uniforms abducted 17 men and shot them, the Interior Ministry said.

Later Wednesday, an audiotape released over the Internet that was said to be from Mr. Zarqawi, the Jordanian terrorist, declared a "full-scale war on Shiites around Iraq, without mercy" to avenge Tal Afar and what the speaker asserted was a "war against the Sunnis" undertaken by the Iraqi government and conducted under the guise of attacking terrorists. The authenticity of the tape could not be verified.

Speaking in the United States, Prime Minister Ibrahim al-Jaafari also said the attacks appeared to be revenge for the military sweep of Tal Afar. In recent days, several terrorist groups had vowed to avenge allies killed in Tal Afar, and one warning issued by Al Qaeda in Mesopotamia had pledged specifically to attack Shiites. Kurdish and Shiite troops made up almost all of the Iraqi troops in Tal Afar. The National Assembly and Iraqi government, led by Mr. Jaafari, who had given approval for the Tal Afar offensive, are both dominated by Shiites.

Iraqi and American officials have also been anticipating a rise in violence in reaction to Iraq's new constitution, which has provoked angry opposition from many Sunni leaders and demonstrations in several cities since it was presented in the National Assembly last month. The attacks on Wednesday came as the acting speaker of the National Assembly announced that an amended version of the constitution was complete.

On Wednesday night, Mr. Jaafari's cabinet convened an emergency session to plan a response to the bombings. In a statement it said the attacks revealed the insurgents' "desperation and cowardice in the face of the setbacks they have suffered in Tal Afar and elsewhere at the hands of Iraq's security forces." Referring to the Tal Afar siege, the statement added that "the fact that the terrorists are claiming to be responding specifically to Operation Restoring Rights shows the serious blow that operation has dealt them."

Several of Iraq's leading political parties issued statements condemning the bombings and offering condolences to the victims. But there were indications that the continuing violence could soon be a potent issue in Iraq's next round of parliamentary elections in December. The Iraqi National Accord, led by Ayad Allawi, the former prime minister, released a statement condemning the bombings and "holding the government responsible for the deteriorating security situation."

With the offensive in Tal Afar and stepped up airstrikes and ground attacks in Anbar Province, senior American commanders say they are pursuing militants, including Mr. Zarqawi, who have been driven out of cities in central and north-central Iraq, including Baghdad.

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"The insurgency is much more pushed to the west in Iraq this year than it was in the previous years," Gen. John P. Abizaid, the leader of the military's Central Command, said in an interview on Tuesday. "I actually regard that as a sign that the insurgency is having a hard time getting established elsewhere."

But on Wednesday, the senior Central Command officer said the new attacks showed that Mr. Zarqawi retained the ability to launch coordinated strikes in central Iraq. "Just when you think you have your foot on his throat, he can come back," said the officer. "He marshals his resources in order to have days like today to get himself in the news."

Insurgents Kill 160 In Baghdad (WP)

By Ellen Knickmeyer And Naseer Nouri

The Washington Post, September 15, 2005

BAGHDAD, Sept. 14 -- Insurgents struck the Iraqi capital Wednesday with at least a dozen attacks that targeted Shiite Muslim civilians, Iraqi security forces and American troops, killing more than 160 people in the deadliest day of violence in Baghdad since the U.S. invasion more than two years ago.

U.S. military officials said the day-long wave of suicide bombings, rocket attacks and shootings across the city bore the hallmarks of al Qaeda in Iraq, the radical Sunni Muslim insurgent organization led by Abu Musab Zarqawi, a Jordanian.

The group did not immediately assert direct responsibility for the attacks, but an Internet statement issued in its name welcomed the start of "revenge battles throughout the land of Mesopotamia."

The statement linked the attacks to a U.S. and Iraqi offensive underway against insurgents in the northwestern city of Tall Afar. A subsequent audio recording attributed to Zarqawi, which was posted on the Internet, accused the Shiite-led Iraqi government of having declared war on Sunnis in that city. As a result, al Qaeda in Iraq "has decided to launch a comprehensive war on the Shiites all over Iraq, wherever and whenever they are found. This is revenge. . . . Take care, because we are not going to have mercy on you," the recording said, according to a translation by the Washington-based SITE Institute, a group that monitors radical Web sites.

The attacks appeared calculated to undermine public faith in the ability of the fledgling government to protect its people, by showing that insurgents could strike in Baghdad despite the U.S. and Iraqi military efforts to stop them. Some of Wednesday's attacks were carried out in ways that maximized death tolls.

In northwest Baghdad, a driver in the heavily Shiite neighborhood of Kadhimiyah pulled up alongside a gathering point for day laborers and offered the men jobs, witnesses said. He waited until a crowd of workers had clustered around his four-door car, then detonated explosives packed inside, said Salim Hussein, 20, who witnessed the attack.

The blast killed at least 112 people and wounded hundreds of others.

As burned, blackened victims filled the district hospital, a Shiite cleric patrolled the scene of the bombing in an ambulance, calling over the vehicle's loudspeaker for donations of blood. Men looking for loved ones ran fingers down pages and pages of names of bombing victims posted outside the hospital.

"Why haven't they killed Saddam?" wailed a Shiite woman in black abaya as she walked away from the hospital. "Cut his head off."

Within an hour of that attack, a driver smashed his car into two other vehicles at an intersection, then blew up the vehicle when a crowd gathered, police said. At least 15 people died, police Lt. Mustafa Majid said.

"I saw people's bodies flying in the air and thrown for yards," minibus-taxi driver Amer Salman said.

More attacks were mounted throughout the day, signaled by rattling booms, black smoke and U.S. military helicopters shuttling across the sky. Traffic on main roads shut down as police closed key routes. Rumors spread that more car bombers were roaming the city and that men wearing suicide belts were infiltrating hospitals.

The other attacks included two car bombings that killed a total of 26 people, one that targeted an Iraqi army convoy and killed three soldiers, and two that hit U.S. military convoys, U.S. and Iraqi officials said. A U.S. military spokesman, Lt. Col. Steve Boylan, said that he knew of three U.S. soldiers wounded in the day's attacks and that none had been reported killed.

Separately, attackers opened fire on a car carrying Iraqi police officers, killing one, and then detonated a car bomb when other officers responded, killing four more people, police said. A separate rocket attack killed two Iraqi civilians.

In Taji, a town just north of Baghdad, men wearing the uniforms of Iraqi security forces dragged 17 men out of their homes, then handcuffed, blindfolded and shot them, news agencies reported.

A U.S. military convoy came under intense attack in the late afternoon, first with a roadside bomb and then, half an hour later, with a car bomb, police said. A reporter watched as U.S. forces traded gunfire with hidden assailants at the scene.

One of the final bombings of the day hit outside the Green Zone, the concrete- and razor-wire barricaded base of U.S. officials and the Iraqi government. There was no immediate official word on casualties.

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The estimated death toll of more than 160 made Wednesday the deadliest day of insurgent violence in Baghdad since the United States and its allies invaded Iraq in March 2003. The deadliest day of insurgent violence nationwide was March 2, 2004, when at least 181 people were killed in mortar and bomb attacks on Shiite shrines in Karbala and Baghdad.

Prime Minister Ibrahim Jafari, who was visiting Dearborn, Mich., as part of a U.S. tour, condemned the attacks and declared that his government's "rational, political struggle" would prevail over "criminal acts," the Associated Press reported. "I share with the people their sorrow and grief. They are martyrs," Jafari said.

Survivors condemned the insurgents but blamed their government as well. "We voted for Jafari so he can help us get rid of terrorism. He cannot," Hussein Lami, a laborer, said at the site of the first bombing. "He must admit now that he cannot do it" and resign.

"Every day I am losing one of my friends or my relatives," Lami said.

Wednesday's carnage tested the ability of U.S. and Iraqi forces to maintain security shortly before two events that insurgents are widely expected to target: a Shiite pilgrimage this week that is expected to draw millions to the holy city of Karbala, and an Oct. 15 national referendum on Iraq's draft constitution. While voter registration among Sunnis has soared ahead of the vote, Zarqawi has declared that anyone who goes near a polling place is a legitimate target.

Growing political violence in much of the country also threatens what U.S. officials have said is their goal of bringing the insurgency to a level that is manageable by Iraqi forces ahead of any U.S. withdrawal.

At Least 160 Killed In Series Of Bombings (WT/AP)

By Steven R. Hurst, Associated Press

The Washington Times, September 15, 2005

BAGHDAD -- A spasm of bombs claimed by al Qaeda killed at least 160 persons yesterday, marking a declaration of "all-out war" against Iraq's Shi'ite Muslims by terror leader Abu Musab Zarqawi.

The onslaught of more than a dozen highly coordinated explosions terrorized Baghdad for more than nine hours and left 570 wounded on the capital's bloodiest day since the end of major combat.

The attacks coincided with the Internet posting of an audiotape in which a man identified as Zarqawi declared "all-out war" on Shi'ites, Iraqi troops and the government.

The first attack -- at 6:30 a.m. -- was the deadliest when a suicide car bomb tore through a crowd of day laborers in the predominantly Shi'ite Muslim neighborhood of Kazimiyah.

The bomber set off the explosive after calling the laborers to his small van and enticing them with promises of work, a witness said.

At least 112 persons were killed and more than 200 were wounded, Iraqi Health Ministry officials said.

The attacks came as U.S. and Iraqi forces pressed their offensive against insurgents in the northern city of Tal Afar and along the Euphrates River valley, striking hard at what officials have said were militants sneaking across the border from Syria.

Al Qaeda in Iraq said in a separate Web posting that it launched the attacks, some less than 10 minutes apart, in response to the Tal Afar offensive, which began Saturday and evicted most insurgents from the city.

"To the nation of Islam, we give you the good news that the battles of revenge for the Sunni people of Tal Afar began yesterday," said the statement. It was not clear why the statement referred to "yesterday."

The audiotape was posted later yesterday. The speaker, introduced as Zarqawi, a Jordanian, said his militant forces would attack any Iraqi they think has cooperated with the Tal Afar offensive.

"If proven that any of [Iraq's] national guards, police or army are agents of the crusaders, they will be killed and his house will demolished or burned -- after evacuating all women and children -- as a punishment," the speaker said.

As the hours ticked by, at least 12 car or roadside bombs shattered what had been a few days of relative calm in Baghdad. Two mortar attacks were reported, and a multitude of gunbattles broke out between U.S. and Iraqi forces and insurgents.

Also yesterday, terrorists killed 17 men -- including Iraqi drivers and construction workers for the U.S. military -- in a Sunni village north of Baghdad before dawn. That raised the death toll in and around the capital yesterday to 169. A senior Health Ministry official said 570 persons were wounded in all.

At least six attacks targeted U.S. forces, Iraqi authorities said. The U.S. military said there were four direct attacks on Americans, with 10 soldiers wounded. No U.S. deaths were reported.

Iraqi Prime Minister Ibrahim al-Jaafari, in the United States for the annual U.N. General Assembly meeting, expressed "his personal sorrow for the victims of the attacks," his office said.

In Dearborn, Mich., a Detroit suburb with a large Iraqi population, Mr. al-Jaafari vowed to fight back.

"Those criminals will not run away from our justice system. Our cities, our villages will not welcome them," he said.

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Yesterday's blasts coincided with Iraqi lawmakers' announcing the country's draft constitution was in its final form and would be sent to the United Nations for printing and distribution ahead of an Oct. 15 referendum.

Sunni Arabs, who form the core of the insurgency, have vowed to defeat the charter.

The carnage was thought to have produced the second-worst one-day death toll since the U.S.-led invasion in March 2003.

On March 2, 2004, coordinated blasts from suicide bombers, mortars and planted explosives hit Shi'ite shrines in Karbala and Baghdad, killing at least 181 and wounding 573.

Yesterday's bombing was the second tragedy in the Kazimiyah district in two weeks. On Aug. 31, about 950 people were killed during a bridge stampede as tens of thousands of Shi'ite pilgrims headed to a nearby shrine.

Iraqi Insurgents Are A Moving Target (CSM)

By Jill Carroll And Dan Murphy

The Christian Science Monitor, September 15, 2005

BAGHDAD AND CAIRO - In the north and west of Iraq Wednesday, troops were wrapping up operations designed to restore government control to insurgent dominated towns, in an effort to deny foreign and local insurgents the "rat-lines" to move men and equipment into Baghdad and other cities to carry out major attacks.

Meanwhile in Baghdad, at least a dozen explosions thundered across the city, with the deadliest a suicide attack that killed at least 114 laborers waiting for jobs in a Shiite neighborhood. In total, at least 152 were killed - the single largest one-day death toll attributed to insurgent attacks in Baghdad.

The contrast between what are being described as largely successful operations against insurgent hotbeds in Tal Afar, Qaim, and Haditha - towns with historic trading links to Syria that the US military says are way-stations for foreign fighters - and ongoing violence across the country, demonstrates the fluidity of Iraq's insurgency against thinly spread US and Iraqi forces.

In particular, the assault on the ethnic-Turkmen town of Tal Afar - where 8,500 US and Iraqi troops, largely drawn from the ethnic Kurdish peshmerga militia, took over the city this week - was aimed at limiting the mobility of Sunni insurgents. "It is a pathway from Syria that pretty historically was a trading route and smuggling route into Iraq," said US military spokesman Lt. Col. Steve Boylan.

An estimated 200 militants were killed and hundreds captured. But as forces moved on the city, the US military said many insurgents simply fled, using a network of tunnels they'd created in advance of the assault. That pattern has become increasingly common since the April assault on Fallujah, where hundreds of insurgents died in the most sustained combat of the war.

Instead of standing up to superior US firepower - particularly air support that drops 500-pound bombs on insurgent positions - insurgents now generally avoid major engagements. Instead of holding their ground, insurgents are counting on US forces to eventually withdraw and on the Iraqi forces left behind not being able to prevent their return.

So far, that approach has worked. This was at least the third major assault on Tal Afar in the past 18 months. As in previous engagements in western Iraqi towns along the Euphrates like Hit, Haditha, and Qaim, the insurgents reasserted themselves when US forces were shifted elsewhere.

Colonel Boylan says that while much of the US effort is focused on shutting off infiltration into Iraq, completely sealing Iraq off isn't likely. "To say it's shutdown is difficult. It's almost impossible to physically shut it down."

That's because of the topography of the desert and expanses of arid plains in along the 270-mile border with Syria, Boylan noted.

"The border is absolutely something you can't seal. I wandered back and forth across those borders in the region for a long, long time where there's supposed to be border guards and desert police, but you just don't see them," says Col. Pat Lang (ret.), a former head of Middle East intelligence analysis for the Pentagon's Defense Intelligence Agency.

Colonel Lang says that when the US masses troops, as in Tal Afar, it's always going to win, but that it doesn't have enough troops to deny insurgents sanctuary elsewhere, essentially shifting the problem around.

"The insurgents are increasingly creating redoubt areas, the kinds of places we can't go without stripping people from elsewhere and entering in large numbers," says Lang. "Therefore the insurgents own it 95 percent of the time. The object of the drill for the guerrillas is not to fight [US forces] head-to-head, but to wait until they have an advantage."

That's what happened in much of the Western portion of the Sunni-dominated Anbar province this year. In a major operation there last March, US Marines swept through Hit and other cities, and encountered little resistance as insurgents melted away. At the time, Marine commanders fretted about what would happen when they rotated out at the end of the month, and were replaced by other Marine units with about 1,000 fewer troops.

Officers and enlisted men at the time said they worried that their replacements would be in greater danger because of their smaller size. Roads wouldn't be patrolled as often to keep them clear of concealed bombs. At least 40 US troops have been killed in Western Anbar since the start of August.

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And in Tal Afar, a city of 200,000 people, there are other concerns. The city's mostly Turkomen population views the Kurds as their ancestral enemies, so ethnic tension could be ratcheted up after using mostly Kurdish militias to attack the city.

Walid Sharika, a Turkman member of the national assembly and on a government committee focusing in Tal Afar, says that while he's glad the assault took place, ethnic divisions there have been widened.

"This should have happened four or five months ago because Tal Afar is one of the most important terrorism bases in all the world. I believe for a lot of problems in Iraq the source is Tal Afar," he says.

Even so, "more than half the city is destroyed and there are a lot of refugees living in a camp and we lost children and elderly," says Sharika.

Tal Afar Turning Point? (WSJ)

The Wall Street Journal, September 15, 2005

Only weeks ago -- until Katrina stole the headlines -- Washington was deep in the grip of yet another of its "quagmire" panics about Iraq. We don't want to make the opposite mistake of over-optimism. But the recent Iraqi victory in the battle of Tal Afar could be a turning point in the war against the terrorists who slaughtered more than 150 innocents (mostly poor Shiite laborers) in multiple bombings yesterday.

In recent days Iraqi forces -- yes, Iraqi forces -- have led the largest urban assault there since the liberation of Fallujah last November. Meanwhile, Iraq and the United States are finally ratcheting up the pressure on Syria, with U.S. Ambassador Zalmay Khalilzad saying "all options" -- including military force -- "are on the table" when it comes to stopping terrorist infiltration from that country. Without Syria's help, the insurgency would be seriously weakened.

There are good reasons to believe the current operation in Tal Afar -- a largely Turkoman city near the Syrian border -- will be a model of things to come. Previous attempts to clean the terrorists out of Tal Afar and other cities in northern and western Iraq have too often seen the insurgents melt away only to return when the U.S. spearhead withdrew. This time Iraqis are leading the fight and, most important, many will stay so the people of Tal Afar can begin to believe they can live free of terrorist intimidation.

As of last night, a force of about 5,000 Iraqis and 3,800 Americans had killed at least 157 terrorists, detained 440 suspects, and discovered 34 weapons caches, all while suffering minimal casualties. "The terrorists are losing their morale. They couldn't resist as they did in Fallujah," Iraqi President Jalal Talabani told us yesterday in an interview in New York, where he is attending the United Nations General Assembly.

The Tal Afar operation calls into question the contention of war critics like Senator Joe Biden that there are only a handful of Iraqi troops capable of meaningful operations. In fact, U.S. commanders classify about 40 battalions -- roughly 750 soldiers in each -- as "fully independent" or able to fight "in the lead."

A U.S. officer with detailed knowledge offered us this assessment: "The Tal Afar operation has been a sweeping success for the Iraqi Security Forces in many ways. There is an Iraqi Army Brigade headquarters with four infantry battalions, a Special Police Commando Brigade headquarters with two battalions, and an Army Transportation battalion in the fight up there. The Police Commandos and one of the Army battalions were flown there by the Iraqi Air Force's own C-130 fleet executing their first combat support missions." Eight Iraqi soldiers and one American have died in the offensive.

Similar Iraqi-led clean-and-garrison operations might well be performed in other problematic cities like Ramadi. This is a classic form of anti-insurgency warfare that has the potential to narrow the range of operations for the terrorists. President Talabani told us that about 50,000-60,000 Iraqi troops can be considered "well trained," and the number is growing. They will eventually replace Americans, though we hope not before more Tal Afar operations can be undertaken.

Whether those Iraqi troops are competently led and deployed will depend on a political process that includes a constitutional referendum and another parliamentary election before the year is out. But the victory in Tal Afar is the best sign of anti-insurgent progress since the Marine sweep through Fallujah.

A Family, Torn Apart, Pulls Together (WP)

By Ellen Knickmeyer

The Washington Post, September 15, 2005

BAGHDAD, Sept. 14 -- The hunt for one of the missing young men of the Rahim family ended at a refrigerator truck in a hospital back lot.

"He's gone! He's gone!" an aunt of 19-year-old Saif Kadhum Rahim cried, striking herself in the face with her open palms at the sight of her nephew. His bare, charred legs protruded from under a white shroud in the back of the truck.

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"My brother! My brother!" said one of Saif's eight younger siblings, tilting his head back and grasping his hair. With barely a pause, the men of the family moved in around the stunned boy and transferred Saif's body from steel truck to wooden coffin, then loaded the coffin into a van that would take Saif on what would be his next-to-last ride.

Bedlam was bubbling up in Iraq's capital all day Wednesday, bursting through the thin surface of what passes for routine. Families rushed to find loved ones and ambulances sped to aid survivors, even as new bombings sent more waves of frantic searchers into the chaos. Towers of black smoke rose into the sky as police turned away cars from hospitals, fearing secondary attacks that might target medical centers treating the bombing victims.

Members of Shiite cleric Moqtada Sadr's militia and Iraqi police officers sped back and forth in pickup trucks on the city's highways and through the poor neighborhoods of the Shiite majority. They waved pistols and AK-47 assault rifles at nothing. "Explosions! Explosions!" a Shiite militiaman shouted, pounding the metal roof of a car to get it to turn back from the site of one blast.

In their van, the men of the Rahim family drove across the city, rushing to take the body of Saif home, to search for his 17-year-old cousin Haider, who was lost and presumed dead, and to tend to a 24-year-old cousin who lay wounded in a hospital.

All three were victims of a suicide bombing in Baghdad's Kadhimiyah district, the first of at least 10 bombings and other attacks during the day. They were with several other relatives -- some sitting in Saif's minibus taxi, some stepping away for tea at a sidewalk booth -- when a suicide attacker blew up a four-door Volkswagen packed with explosives.

At least 112 people were killed, most of them the Shiite neighborhood's day laborers, who were gathered at a traffic circle to wait for work. Survivors said the bomber lured the men closer with offers of jobs before detonating his payload. Hussein Ali, another cousin in the extensive Rahim family, said the workers, nearly impoverished, were targeted simply "because they were Shiite."

Al Qaeda in Iraq, the insurgent group led by Jordanian-born Abu Musab Zarqawi, issued a statement praising the attacks. The group, dominated by foreign Sunni Muslim extremists like Zarqawi, draws much of its support from Iraqi Sunnis resentful of the new political dominance of the country's Shiite majority.

The Sunni insurgents bear "hatred against us," Ali said. "This is a war against the Shiites."

A year ago this month, insurgents shot and killed Saif's 50-year-old father on a street in a Shiite neighborhood of Baghdad, his family said. One of Saif's uncles died the same way four months ago, they said.

From his father, Saif inherited the minibus taxi and responsibility for his mother, six sisters and two younger brothers, the family said. The family on Wednesday passed around a photo of Saif standing by the black minibus, twisting a bare foot out of his sandal, an uncertain breadwinner.

Saif earned about $7 a day driving laborers to and from work sites. On Wednesday, one of his cousins, alerted by a phone call from the family that there had been a bombing at the traffic circle where Saif worked, sped to the scene. He said he found Saif dead, still inside his minibus. He carried the body to the hospital, where it was stored in the refrigerator truck.

After Saif's body had been retrieved and driven home, the men of the family gathered silently, fingering worry beads under framed photos of family members killed in the insurgency. Posters depicting the revered founder of Shiite Islam, cradling children or waving a sword, hung under broken chandeliers on thinly painted concrete walls.

The men waited for others to finish searching the morgues for the body of Haider, the missing cousin, so that the family could drive him and Saif together to the Shiite holy city of Najaf for burial. In accordance with Islamic tradition, Saif would be buried the same day he was killed, his body headed to burial less than six hours after he last walked out his front door.

"In another country, if everything turned upside down, everyone would talk about" Saif's death, Ali, 27, said as he waited. "Here, so many died, and no one cares."

One of Saif's uncles, Falih Kehait, called over an 8-year-old boy and kissed him lightly. The boy had hopped off the minibus just before it exploded.

In another room, away from the men, Saif's six sisters wailed. Kneeling and supported by other women, the sisters tore at their hair, cried with open mouths and pulled down their black clothing to slap their flesh until it burned red. Little girls, one in a Mickey Mouse abaya and others in pajamas, watched wide-eyed against the walls of the back room.

Asked who would take care of Rahim's eight brothers and sisters now, Ali said, "God will keep them."

In a doorway, a neighbor, Fatima Yassim, spoke softly: "What you are seeing now is so little compared to the tragedy that has happened."

"But what shall we do?" she asked, her hands on the shoulders of a girl with a bow in her brown hair. "Shall we prevent our daughters from going to school? We are afraid even to send our sons to work."

The insurgents "want our people to kill each other," she concluded. "But we are Muslims. We are one religion. We love [the Sunnis] so much."

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In the front room, the men wavered between returning Saif's body to the morgue so they could resume the hunt for Haider and taking Saif alone to Najaf for burial. Kehait, the uncle, finally decided he and three others would make the journey to Najaf and trust militiamen and the police to protect the Shiite families who would be streaming toward the holy city.

"Only us four," he ordered. "If we are attacked, only we will be killed."

A girl of 6 or 7 years, a relative of Saif's, watched silently as the men wrapped his coffin in a rose velour blanket and tied it to the roof of a car. Her chin trembled uncontrollably.

No women, a man of the family ordered. Even as he spoke, new wailing signaled Saif's mother emerging from the privacy of mourning in her home. Held up by other women, the twice-bereaved woman collapsed, throwing the dirt of the street in her face.

Men lashing down the coffin stopped, buried their faces in their hands and wept, shoulders shaking.

No women, an uncle insisted again, turning back the sisters as the minibus started up. The women poured from the house. The uncle relented slightly, and Saif's mother pushed herself inside for the ride to Najaf.

CBS Asks Why U.S. Imprisons Its Iraqi Hire (WSJ)

By Yochi J. Dreazen

The Wall Street Journal, September 15, 2005

For 25-year-old CBS cameraman Abdul Amir Younes Hussein, being shot and wounded by American forces in Iraq was just the beginning.

On April 5, Mr. Hussein, a freelancer employed by the network in the northern city of Mosul, went to the scene of a car bombing to film the aftermath. He was standing near an armed insurgent when U.S. forces opened fire, killing the militant and wounding him lightly. The military released a statement that expressed regret about the incident and said it was under investigation.

Three days later, the military released a second statement saying that Mr. Hussein had been "detained for alleged insurgent activity" and there was probable cause to believe he posed "an imperative threat to coalition forces."

That statement has sparked a bitter legal and political dispute with Viacom Inc.'s CBS, which has lobbied senior military and civilian officials to try to win the cameraman's release. Mr. Hussein, who has been unable to see his family or his lawyer since being detained, faces a hearing today in Baghdad that will determine whether he will be released.

CBS News, which insists that its cameraman is innocent, says it has spent tens of thousands of dollars gathering evidence in Iraq that could be presented at review board hearings for Mr. Hussein and hiring a Washington law firm to press his case with the Pentagon, Congress and the State Department. But so far, those efforts have proved fruitless, and the network is publicly discussing aspects of the case for the first time.

"The cameraman has now been detained for more than five months, and no one concerned has been informed of the evidence against him," the network said in a statement yesterday. "We continue to request that information and hope it will be provided and his status be decided, one way or another, in a fair and timely manner."

The military defends its handling of the case and says Mr. Hussein remains under suspicion. The journalist has been detained "based on information that he was affiliated with anti-Iraqi and anti-coalition forces and engaged in anti-coalition activity," Lt. Col. Guy Rudisill, a military spokesman, said in a statement. He said the activity included "recruiting and inciting Iraqi nationals to violence against coalition forces and participating in attacks against coalition forces."

Mr. Hussein's story illustrates the difficulty of reporting in Iraq. The Committee to Protect Journalists, a nonprofit organization, describes the country "as the most dangerous place in the world to work as a journalist," noting that 23 journalists were killed there last year and an additional 15 have died so far this year. Because the dangers to Westerners are so great, foreign media outlets frequently rely on Iraqis hired locally to supplement their staff reporting. The Iraqis travel around the country far more than the Westerners and are routinely targeted by insurgents or involved in accidental shootings by Americans. On June 30, for instance, Knight Ridder reporter Yasser Salihee was killed on his day off by a U.S. Army sniper.

Western media organizations increasingly complain that their Iraqi hires are routinely detained by the U.S. military without charges. In addition to Mr. Hussein, at least four Iraqi journalists -- including two cameramen for the Reuters news agency -- remain in American custody. In an interview yesterday with Reuters, Iraqi Justice Minister Abdul Hussein Shandal criticized such detentions and said journalists should be able to film attacks and interview insurgents without fear of being arrested.

CBS describes Mr. Hussein as a timid young man who was so afraid of coming into contact with insurgents that he was warned at least once that he would be fired unless he went into the field more often. The network says it found Mr. Hussein through its local correspondent in Tikrit, an employee who had been on its payroll for two years. It says Mr. Hussein was a graduate of Mosul University where he belonged to a student group that organized a reception for Mosul's new governor that

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was funded with American money and attended by several U.S. military officers. Mr. Hussein, who is unmarried, lived with his family in a predominantly Kurdish neighborhood where they are some of the only Arabs.

The military's reversal of its initial description of Mr. Hussein's shooting was the first of several occasions it changed course in its handling of the journalist, according to both the military and CBS News. After its public statement describing Mr. Hussein as a security threat, the military told CBS News that it would allow network employees to meet with him and recover the camera and videotape seized from him after the shooting, the network says. CBS immediately dispatched London-based producer Randall Joyce, who arrived at an American base in Mosul on April 15.

During their meetings with the CBS News producer, however, military officials refused to say where Mr. Hussein was being held or who was interrogating him, the network says. They told Mr. Joyce that he couldn't meet with Mr. Hussein on security grounds, and couldn't recover the camera or duplicate the videotape because they were evidence, the network says. When he asked for an update on Mr. Hussein's health, the military declined, citing a domestic U.S. law barring the government from releasing health information on American citizens, according to the network.

Afterward, the military moved Mr. Hussein to Abu Ghraib prison but said it would allow CBS to submit evidence to a military panel that would decide during a July hearing whether to keep Mr. Hussein in custody or release him, according to CBS News. The network gathered evidence -- including affidavits from a relative that works as an Iraqi police officer and from other Iraqi journalists in Mosul -- asserting that Mr. Hussein was at his university at the time of the attack, didn't arrive at the scene of the April 5 bombing until almost 30 minutes after the explosion, and had no known ties to the insurgents. It sent its findings to the military, but the hearing was canceled and the military told the network that it was instead submitting Mr. Hussein's case to the Iraqi legal system for prosecution.

In his statement, Lt. Col. Rudisill said the hearing wasn't held because the panel's attorney "found there was sufficient admissible evidence to successfully prosecute Mr. Hussein for unlawful possession of explosives and aiding and abetting armed attacks against coalition forces."

The Iraqis declined to prosecute, but instead of releasing Mr. Hussein the military took him back into its own custody, where he has remained.

In a letter to CBS News reviewed by The Wall Street Journal, Pentagon General Counsel William J. Haynes said the Iraqis' decision not to prosecute didn't necessarily mean Mr. Hussein would be freed. He noted that the military panel used both classified and unclassified information, while the Iraqi legal system based its decision solely on the unclassified information that could be presented in open court. "Such a determination [by the Iraqis] does not preclude the possibility that sufficient evidence exists ... to conclude that Mr. Hussein should continue to be detained for imperative reasons of security," he wrote.

According to a Coalition Provisional Authority decree still legally binding in Iraq, captives like Mr. Hussein must have their detentions formally reviewed by the Combined Review and Release Board within six months. Since Mr. Hussein was arrested in early April, the review by the panel -- which includes three American military officers and a total of six representatives of the Iraqi ministries of Justice, Interior and Human Rights -- must be held by early October.

In Mr. Hussein's case, the questions about innocence or involvement in insurgent activity are supposed to be answered today during the scheduled meeting of the panel, which will take place behind closed doors in Baghdad without the presence of Mr. Hussein, his Iraqi attorney, or representatives of CBS News. Depending on the panel's determination, he will either be released or consigned to potentially indefinite captivity. CBS News says it plans to pay Mr. Hussein's salary to his family as long as he remains in custody.

Detention Of Iraqi Employees Angers Western News Media (NYT)

By Robert F. Worth

The New York Times, September 15, 2005

BAGHDAD, Iraq, Sept. 14 - On April 5, Abdul Ameer Younis Hussein, an Iraqi cameraman for CBS News, was struck in the thigh by an American sniper's bullet while filming the aftermath of a suicide bombing in Mosul. As he recovered in a military hospital, the Americans arrested him. They later said the film in his camera suggested he was working for insurgents.

More than five months later, Mr. Hussein is still in an American military prison. The Iraqi criminal authorities have reviewed his case and declined to prosecute him. Colleagues who were with him that day have produced affidavits supporting his innocence. The American military has not released any evidence against him, despite repeated requests for information by CBS producers, lawyers and even the network's president, Andrew Heyward.

Mr. Hussein's case exemplifies a quandary faced by Western news organizations here. Their own reporters are mostly confined to fortified compounds and military bases. As a result, they are forced to rely on Iraqis, who work in increasingly dangerous settings, where the line between observer and participant is not always clear.

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Western bureau chiefs concede that they cannot be certain the people they hire do not have links with insurgents, though they do their best to weed out such people.

One thing is clear: dozens of Iraqis who carry out assignments for the news organizations have been detained while on the job, and sometimes released weeks or months later with no explanation. American forces have mistakenly killed a dozen others, including a soundman working for Reuters who was shot dead by a sniper on Aug. 28.

Some of those cases raise a broader question: how close can Iraqi reporters get to insurgents without being considered the enemy? American commanders often suggest that reporters who are tipped off about an attack are automatically implicated, but Iraqis often take a different view.

"Maybe some are working with insurgents, but many others just get a call from someone saying, 'There will be clashes,' " said Ibrahim Saraji, the director of the Iraqi Journalists' Rights Defense Organization, formed last year after the fatal shooting of two Arab journalists in Iraq. "It doesn't mean they are an insurgent."

Pentagon lawyers have told CBS that Mr. Hussein is being held on classified evidence, according to letters sent to the network that were provided to The New York Times. The military has released statements saying that Mr. Hussein tested positive for explosive residue, and citing accusations that he "had knowledge of future terrorist attacks." It is not clear who made the accusations, or whether the residue may have resulted from his proximity to the scene.

Mr. Hussein's friends and relatives - who have not been able to visit him in prison - say the military has not interviewed them or searched his home, standard procedure with people suspected of having ties to insurgents. CBS executives say the network has investigated the incident and has no reason to believe that its cameraman was working with insurgents.

Clearly, it is often difficult for American soldiers to tell a reporter from a combatant in Iraq's chaos, with no uniforms or clear battle lines. The fact that insurgents routinely film and distribute scenes of their attacks makes it even harder. The military cannot afford to give journalists special treatment under those circumstances, said Lt. Col. Steven A. Boylan, a military spokesman in Baghdad.

But Western bureau chiefs say the military often seems to arrest their Iraqi employees merely for getting too close to the action - in effect, for doing their jobs too well. When journalists are killed, the bureau chiefs say, the military often does little more than a cursory investigation.

"They seem to have moved to the view that everyone in a conflict area with a camera is a potential terrorist," said Alastair Macdonald, the Reuters bureau chief in Baghdad. "The burden of proof is on them to prove that they're not."

A number of Reuters Iraqi employees have been detained by the American military, including three who said after being released that they were abused by American interrogators while being detained in Falluja last year. Ali al-Mashadani, a Reuters cameraman, was detained in Ramadi on Aug. 8 and remains in American custody. Mr. Macdonald said he had seen no evidence against Mr. Mashadani or clear accusations, and had no reason to believe he had any insurgent connections.

Iraqi employees with many other companies, including CNN, Associated Press Television News and Agence France-Presse have been detained for long periods in the past year. But some companies declined to comment about the detentions, saying they feared that doing so might harm their relations with the military.

Iraqi reporters often point out that they routinely receive death threats from insurgents, who have killed more reporters than the United States military by far. But they also say the military's suspicion is making it almost impossible for them to work in some areas.

"The American military has intelligence sources, but they don't seem to understand that we have sources too," said Maher Hassan al-Thanoon, 36, who has carried out assignments for Reuters in Mosul for 18 months. "They may just be people who live in insurgent neighborhoods. It doesn't mean they support what the insurgents are doing."

Western bureau chiefs also say that after being detained by American forces, their Iraqi employees often disappear into a void, where nothing can be learned about the case against them and their legal status is unclear. Mr. Hussein, for instance, was initially scheduled for a hearing with the Combined Review and Release Board, a nine-member panel formed to review detention cases. It is made up of three American military officials and six Iraqi government officials from the Justice, Human Rights and Interior Ministries.

But before the board could hold a hearing his case was transferred to the authority of the Iraqi central criminal court. He remained in American custody, though. The Iraqi criminal authorities reviewed the case, though they had not been provided with the classified part of it, and declined to prosecute it.

Jurisdiction over Mr. Hussein was then transferred back to the combined board, which is scheduled to hear his case on Thursday.

His status seemed uncertain in other ways, too. When CBS officials first asked about his health after he was shot and detained, military officials declined to answer, citing American laws on medical privacy.

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On Wednesday, Iraq's justice minister, Abdul Hussein Shandal, criticized the detentions of Iraqi journalists in an interview with Reuters, saying he wanted to change a United Nations resolution that gives American troops immunity from Iraqi law. He said journalists were not free to report on all sides of the conflict.

He also dismissed American claims that his ministry had an equal say in detentions, suggesting that the American military controlled the Combined Review and Release Board.

Military officials in Iraq contend that some Iraqi cameramen and photographers show up at attacks so promptly that they must have had advance notice. Colonel Boylan said he knew of two Iraqi journalists in detention whose film footage indicated that they had filmed several attacks on one day, from the start.

Mr. Macdonald and other Western bureau chiefs say they have seen no evidence of such cases. They also say the frequent repetition of that accusation is irresponsible because it makes soldiers more likely to be aggressive with Iraqi journalists at attack scenes.

Afghan Ballots Carry Mullahs, Jihadis, Women (CSM)

By Scott Baldauf

The Christian Science Monitor, September 15, 2005

TORKHAM, AFGHANISTAN - A mullah, a feminist, a jihadi, and a communist: It sounds like the start of an Afghan joke, but instead, it is the makings of Afghanistan's first-ever elected parliament.

These are some of the 5,700 candidates running for seats in parliament and provincial assemblies around Afghanistan. Their diversity is both an endorsement of democracy, and a challenge to its very existence.

When Afghans line up to vote on Sunday, choosing 249 men and women from these thousands, they will be selecting from candidates who hold conflicting views over concepts as fundamental as the very definition of democracy itself.

"This is a project of decades and generations, not months and years," says Kit Spence, a senior analyst at the National Democratic Institute in Washington. "The good thing is that people are buying in to the concept in a strong way."

Kabul and most towns are papered over with campaign posters, a sign that the Afghans are taking this election seriously. It is the presence of so many faces - of men and women - that serves as a striking reminder of how much has changed since the days of the Taliban, when depictions of the human face were forbidden.

Yet this campaign has also seen spates of violence, reminders that Afghanistan is still emerging from 23 years of occupation and civil war. Six candidates and four election workers have been killed thus far, and scores continue to receive death threats. In Uruzgan Province, Taliban fighters killed seven people for carrying voting cards, according to Gov. Jan Mohammad Khan.

Safiya Sadiqi, an energetic liberal candidate from the conservative province of Nangrahar, was attacked with Kalashnikovs, grenades, and rockets last week. None of her campaign workers were hurt, but some villagers were injured. She now travels less openly and with government gunmen.

Yet her moderate Islamic, antiwarlord message remains as strident as before.

"Those people who rob you, who kill your children, if they give you food, will you give him your vote?" she says to a small group in the town of Torkham, mocking a nearby rally of a warlord where some 5,000 people have gathered with the promise of free food. "If you elect him ... the winner will be the one who killed your rights."

Perhaps her bravest words, and the ones that stick in the craw of many ethnic Pashtuns here, are when Mrs. Sadiqi - an official from the Ministry of Rural Development - talks of the cruelty of many Afghan traditions toward women.

She describes seeing a pregnant woman being driven to the hospital. According to tradition, the male relatives sat in front, and the pregnant woman was forced to sit, obviously under great pain, in the trunk. "I asked the men, how can they do this? This is not right. Show me where in the Koran it says you should do this."

The crowd of around 300 men clap politely. Sadiqi's case may seem hopeless, but she is probably one of the strongest female candidates in her province, and is seen as a likely winner of one of the four seats here that are reserved for women.

But if she wins, so will many others with completely different visions.

Some, like former Taliban deputy interior minister Mullah Khaksar, want to bring back sharia, where major decisions are made according to Islamic scripture, as interpreted by religious scholars.

Some, like Kabir Ranjbar - a former advisor to pro-Soviet President Najibullah - want to bring a more equitable distribution of resources to the poor, borrowing pages from the former Soviet Union.

Some say that Afghanistan must be ruled by technocrats, while others, like mujahideen leaders Younus Qanooni and Abdulrab Rasul Sayaaf, say it must be ruled by those who fought the jihad, no matter their educational achievement.

Many, perhaps the majority, pose as opponents of President Hamid Karzai, and some demand the removal of US troops as a sign that Afghanistan can now run itself.

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With such ideological diversity, parliament is likely to be much better at staking out positions than in getting anything done.

"Today, power is still held by warlords," says Mr. Ranjbar, the head of the Union of Lawyers of Afghanistan, and a parliamentary candidate from Kabul. "In the new parliament, most of the time will be spent getting your own people into the cabinet, and this fighting will take Afghanistan backward."

Meanwhile, high up in the Paghman valley above Kabul, a very different man with a very different vision for Afghanistan is speaking in a mosque full of some 3,000 men. Surrounded by gunmen, Abdulrab Rasul Sayaaf strokes his long white beard and speaks of a glorious future for Afghanistan, led by "men of good Islamic character" who have fought nearly 23 years to get rid of men like Ranjbar.

"Those who fought for the freedom of this country are worthy to take part in its government," says Sayaaf, after a long discourse on Islamic government. "If the mujahideen are not able to act in a political way, those people who looted Afghanistan before ... will play the same roles."

Almost everyone agrees that the first few months, if not years, of Afghanistan's experiment with democracy will be messy. The fact that so many political factions remain armed makes it possible for political disputes to turn deadly.

Sadiqi has survived one such attack, but says she will press on. "I trust in my vision," she says. "The day before yesterday, they attacked us, but we are here today."

Election Gives Group That Battled Taliban Chance At A Comeback (WP)

By N.c. Aizenman

The Washington Post, September 15, 2005

BAZARAK, Afghanistan -- The green-domed mausoleum housing the tomb of Afghanistan's legendary guerrilla leader Ahmed Shah Massoud sits atop a windblown cliff with a breathtaking view of the lush Panjshir Valley. This was Massoud's northern redoubt over two decades of fighting against a succession of enemies, beginning with invading troops from the Soviet Union and ending with the extremist Taliban militia.

But the vista seemed lost on the hundreds of grim-faced men who trudged up the peak on a recent morning to pay their respects on the fourth anniversary of Massoud's assassination by two al Qaeda suicide bombers posing as journalists -- a strike that came just two days before the Sept. 11 attacks in the United States.

"If Massoud were still alive, we would not be living like this," proclaimed an enormous black banner carried by the crowd, as a handful of parliamentary candidates looked on solemnly.

"We feel so sad and alone," said Nader Khan, 22, wiping away tears. Khan is a former mujaheddin, or holy warrior, in Massoud's militia who is now unemployed. "Massoud loved the mujaheddin. Today, nobody cares for us."

As leading members of a coalition of northern ethnic militias that joined forces with the United States to topple the Taliban rulers after the Sept. 11 attacks, Massoud's Panjshiri successors were a dominant force in Afghanistan's first post-Taliban government. But over the last year and a half, the ethnic Tajiks of the Panjshir Valley have watched with dismay as President Hamid Karzai, a member of Afghanistan's majority Pashtun ethnic group, has replaced some of their most prominent leaders with Pashtuns and welcomed former Taliban officials back into the country as part of a reconciliation program.

Now, many Panjshiris see Afghanistan's parliamentary elections, to be held Sunday, as their chance at a comeback.

As in the rest of Afghanistan, campaign posters with pictures of the contenders have been affixed to every conceivable surface of the Panjshir Valley -- shop doors, tree branches, even the rusting Soviet tanks that still litter the area. But here, where Massoud's image has become synonymous with the past Tajik glory, many of the advertisements also feature portraits of "the Lion of the Panjshir," as Massoud is widely known. His pictures are as large as, if not larger, than those of the candidates themselves. One candidate, Saleh Registani, is handing out an entire brochure of moody photographs of himself with Massoud during the years of the Soviet war.

Speaking in the tidy, modest living room of his house about a mile from Massoud's tomb, Registani, 42, complained that "right now the role of non-Pashtuns is too weak. We want the government to be a broad-based government for all Afghans." Most of the policies he proposes involve amending the constitution to transfer authority from the presidency to the provinces, a move that would considerably enhance the power of Afghanistan's ethnic minorities.

Registani may get his way. Yonus Qanooni, a polished former deputy to Massoud and the runner-up in presidential elections last October, is leading a coalition of 14 parties fielding approximately 500 candidates from provinces across the country for Sunday's vote -- the first legislative elections in Afghanistan since the 1960s. Many candidates who are not officially part of the bloc say they also support Qanooni.

Their bid presents a double-edged challenge for Karzai, who has enjoyed relative freedom to maneuver since he won the presidency with 55 percent of the vote: If Qanooni and his allies win a majority of seats, the president will likely face a highly

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combative parliament. If Qanooni's bloc fails to make a strong showing, Karzai may have to contend with the wrath of a sizable swath of voters convinced that the election was stolen.

Although international observers signed off on the results of last year's presidential election, Qanooni and many of his supporters still maintain that he was the true victor.

"I only accepted the results for the sake of national stability," Qanooni said in a recent interview.

Foreign election officials have privately expressed concern that Qanooni's recent complaints about the vote-counting procedures planned for the legislative elections are an attempt to lay the groundwork for claiming fraud again if he is unhappy with the results.

Interviews with registered voters from several villages in Panjshir suggest that Qanooni would find a receptive audience for his concerns.

"This is their last chance," Del Agha, 30, a wiry, sandy-haired veteran of Massoud's militia, warned darkly. "If they steal our votes again, it will be time for us mujaheddin to do something."

He spoke from his guard hut at a munitions depot next to a rushing river at the foot of a narrow valley. Around him were stacks upon stacks of forest green ammunition boxes, alongside several dozen shipping containers packed with small arms.

The arms and ammunition should have been sent to the capital, Kabul, months ago under a U.N.-run program to demobilize armed groups in Afghanistan. However, while the militia's leaders have handed over about 150 heavy weapon pieces to the government -- including tanks and Scud missiles -- they have so far proved reluctant to relinquish their ammunition stocks, according to U.N. officials.

Agha said he understood his superiors' reluctance to comply. A fighter since the age of 17, Agha said he remained haunted by memories of war: the back-breaking weight of the rockets he used to carry across freezing mountain passes, the eyes of a wounded enemy fighter his comrades urged him to shoot at point-blank range, the terror he felt as his truck plummeted down a steep ravine one night, and the pain of multiple surgeries in India to repair his spine.

The thought of handing control of the weapons amassed during those years to the central government fills him with bitterness.

"Most of those officials were off having fun in European capitals while my brothers were dying," he said.

The Panjshiris' resentment is compounded by their impression that they have received less foreign aid than southern and eastern provinces that were former strongholds of the Taliban.

Western observers acknowledge that there is some truth to these complaints. For instance, while the United States spent $190 million to build a road connecting Kabul to the southern city of Kandahar in 2004, work on a $26 million U.S.-funded project to pave the narrow main road through the Panjshir Valley did not start until last month. Officials said the delay was caused by a plan, since scrapped, to use the project to train Afghan officials and companies in road-building.

Also, because former fighters in the Panjshir were slow to disarm, they did not receive the financial compensation and job training called for in the program as quickly as counterparts in other provinces.

But analysts also say that the Panjshiris' sense of grievance is overstated.

Last month, for example, the U.S. military agreed to contribute an additional $4 million to the Panjshir road project. And this year, the government declared the valley a province, granting it separate representation in the new parliament even though its population and land area are far smaller than those of many existing provinces.

Also, while Karzai has sidelined top Panjshiri leaders such as the former defense minister and vice president, Mohammed Fahim, and the former head of national intelligence, Muhammad Arif Sarwari, many other Panjshiris remain in prominent positions -- including Foreign Minister Abdullah, army chief Bismillah Khan and the new head of intelligence, Amralluah Saleh.

"In fact, I think you'll find that the top positions are way oversubscribed by Panjshiris given their percentage in the population," said a foreign diplomat who spoke on condition of anonymity.

Still, the diplomat said, whatever the outcome of the elections, the government will have a strong interest in placating Panjshir's residents for some time to come. "In a place where there are tens of thousands of tons of weapons, it's not a good idea to have people alienated from the government," he said.

New Generation Of Afghan Voters Is Finding Its Voice (NYT)

By Carlotta Gall

The New York Times, September 15, 2005

KABUL, Afghanistan, Sept. 11 - Late in the afternoon here the streets are full of young men, pouring out of private classes that teach English and computer skills or that offer the chance to catch up on years of missed schooling during two decades of war. With books under their arms, the young men jump on their bicycles or head home on foot across the dusty roads and parks.

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"We don't want anything special; the only thing we want is the atmosphere and facilities to be educated," Abdul Rahim, 18, said after emerging from an English class. Another student, Abdul Hadi, 28, said, "We do hope that finally we will have a capable Parliament and they can make facilities for studying."

The young people of Afghanistan stand out in this already industrious nation as particularly motivated and politically aware and are seen by some here as an important constituency in the coming parliamentary elections, on Sunday.

Half of the population is estimated to be under 30, said Amena Afzali, who heads the new Ministry of Youth and Sports.

"They have initiative and a readiness to learn - that is obvious," she said. "We want the desires of young people to be listened to."

An estimated 70 to 80 candidates under age 30 are running for the Wolesi Jirga, the lower house of Parliament, where the minimum age is 25; about 150 are under 35. That is relatively few of the 5,800 candidates, yet it is raising hopes that a new generation of leaders will start to emerge in this war-ravaged country.

"I don't like the long beards," said Khaleda, 27, a teacher and mother of four who uses only one name, alluding to religious conservatives. "We want young people, enlightened people, and a new generation."

Candidates are picking up the message. "A lot of our members are the new generation," said Jamil Karzai, 30, a second cousin of President Hamid Karzai and leader of the National Youth Solidarity Party of Afghanistan. His party is fielding 25 candidates in parliamentary and provincial council elections, but he says he would be happy to win four seats in the lower house.

"This Parliament will be mixed up like a vegetable soup," he said. "We will have tribal leaders, warlords, drug lords, but also democratic new faces and policies."

"What I have heard from the people - and I have visited a lot of provinces in the past six months and daily meet about 100 people - they want new faces. They say: 'What has been tried is tried. We tried these guys and they failed.' "

At a rally of young supporters, Muhammad Yunus Qanooni, 46, who finished second in the presidential race and is now hoping to win a large bloc in Parliament, called on his audience to vote for people who could speak for them. "If you choose those representatives who support the new generation, you will not suffer from poor education," he said.

Like most of their elders, younger adults want security, good educational systems and a good health system, in that order, Mr. Karzai said. Despite his relationship to the president, he criticized the government, saying it had in some cases appointed corrupt and incompetent governors and police chiefs and allowed the parliamentary candidacies of many figures whom human rights organizations accused of abuses.

Issues like letting young people decide their own futures, and even select a spouse, will have to wait, he said. "First you have to prepare people to listen to you about this, then later introduce it. It needs years."

A dozen young people interviewed in Kabul overwhelmingly said their priority was improving education, in particular school and university facilities and teaching standards, followed by creating jobs. They also cited the same concerns as their parents: government corruption, security and the pace of reconstruction.

"There are people who cannot feed themselves; there are no factories, no jobs," said Qais, 17, an assistant in one of Kabul's new perfumer shops, who said he planned to vote even though the minimum voting age is 18.

About half of those interviewed said they would vote as their fathers advised, while the others said they would make their own decisions.

"I will decide as I want," said one student, Hedayat, 19, who missed five years of schooling but wants to study law. "Maybe my father does not have the complete information about young people. I will vote for someone who can understand."

"It is because of the views of our fathers' generation that this country is like this. They did not want peace. They were fighting each other. There are a lot of things that we want, that they don't even know about."

He added: "The young generation wants to be equal with the youth of other countries. We have people who are engineers in Afghanistan but they don't even know how to use computers. We want to be the same as other countries."

Female Candidate Sees Election As 'A New Beginning' (WT)

By Carmen Gentile

The Washington Times, September 15, 2005

KABUL, Afghanistan -- Jamilah Mujahid, who hopes to win one of 68 seats set aside for women in Afghanistan's parliament, view's Sunday's election as a turning point for her war-ravaged nation.

Among Mrs. Mujahid's priorities if elected would be education for women, especially those who are behind the learning curve because they grew up under the Taliban regime, which prohibited girls from going to school.

"The Taliban and others are still against women in positions of power because they know that once we get power, we will pursue equal rights for all women," said Mrs. Mujahid, who is favored to win a seat in Wardak province.

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Some female candidates have reported being harassed and intimidated on the campaign circuit, particularly in rural Afghanistan, where restrictions on women are deep-seated and enforced by Taliban supporters and tribal warlords.

A longtime radio and TV personality here, Mrs. Mujahid called Sunday's scheduled parliamentary and provincial elections "a new beginning for Afghanistan."

Afghanistan has set aside more than one-quarter of its 249 parliamentary seats exclusively for women.

According to electoral law governing the vote, the top female vote-getters in each of Afghanistan's provinces will be awarded seats in the Wolesi Jirga, or House of People.

"Even though the law guarantees women a position in the parliament, they are still going to receive support at the pollsþ" said Najiba Sediqi, a program director at a radio station airing shows geared toward Afghan women.

Although the Taliban regime is no longer in power, it remains a viable force in Afghanistan, continuing to clash with coalition and Afghan forces.

So far this year more than 1,000 have been killed in these battles, the most for any year since U.S. forces arrived after the September 11, 2001, attacks.

Women's rights activist Hassina Sherjan agrees with Mrs. Mujahid saying the key to leveling the playing field among men and women is education.

"Many of [the female candidates] seem motivated to create a better society for womenþ at least I hope they are," said Mrs. Sherjan, whose Kabul-based Aid Afghanistan organization has spent the past 10 years trying to provide supplemental education for women and girls.

"We're trying to avoid the segregation of women" from the workplace and in other sectors of society, said Mrs. Sherjan, who sees the presence of women in parliament as a step in that direction.

De Afghani Khazi Ghag Radio, which means "the voice of Afghan women," broadcasts 12 shows six days a week dealing with issues such as abusive spouses, and airs call-in shows and songs featuring Afghan and regional female vocalists -- even the Britney Spears tunes.

"The bottom line is we are trying to promote women's self-esteem after years of oppressionþ" Mrs. Sherjan said.

Women Embrace New Freedom In Bamiyan (USAT)

By Paul Wiseman

USA Today, September 15, 2005

BAMIYAN, Afghanistan — The five men traveled three hours across rugged Afghan terrain to take their troubles to the provincial governor. Their problem: A local warlord was blocking a crucial irrigation project; no bribe, no water.

After listening patiently to their story, the governor agreed to send police to the remote district to deal with the local commander and his armed thugs. “I will solve the problem,” the governor said. “We'll have to do it by force.”

The extortionist warlord is all too typical in Afghanistan. The decisive governor, who declined to name the offender to avoid further trouble, is anything but. Habiba Sarabi is the first woman to run a province in Afghan history.

Perhaps more than anywhere else in Afghanistan, women in Bamiyan province are leaping into the political space created by the U.S.-led overthrow of the Islamic fundamentalist Taliban militia four years ago. They are more likely to run for office and to vote than other Afghan women.

Sixteen women will be on ballots in Bamiyan province Sunday, when voters choose candidates for the provincial council and the lower house of the Afghan National Assembly, known as the Wolesi Jirga. Elsewhere, some provinces couldn't field enough female candidates to fill the seats reserved for them.

In Bamiyan, 48% of registered voters are women, who are a majority in some districts. Nationwide, women are less than 42% of voters.

The enthusiasm with which Bamiyan women embrace politics reflects the relatively moderate brand of Islam that predominates in the remote province, best known for the 1,500-year-old giant Buddha statues the Taliban destroyed in March 2001. Bamiyan men are more likely to tolerate female candidates and voters than the men in Afghanistan's fundamentalist-dominated southern and eastern provinces.

Sarabi was appointed six months ago by Afghan President Hamid Karzai. She has emerged as a role model for Bamiyan's aspiring female politicians.

“She gave great hope to women. They know they can run a province,” says Marzia Mohammadi, a female Wolesi Jirga candidate and former kindergarten principal.

Khadija Bahari, 26, is out campaigning in a Toyota van that has a red heart labeled “Love” dangling from the mirror.

“This country has operated at a very low level,” says Bahari, who is the former head of a human rights group. She aims to start fixing things if the voters give her the go-ahead Sunday.

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Under Afghan law, women are guaranteed 68 of the 249 Wolesi Jirga seats being contested nationwide and 124 of the 420 seats on the country's 34 provincial councils. In Bamiyan, one of four Wolesi Jirga seats and three of nine provincial council seats must go to women. Bahari reckons she's one of seven women running for the one legislative seat reserved for a woman.

In some places, the appearance of women on the ballot is causing a stir. In the western city of Herat and the northern province Badakhshan, three young female candidates are attracting ardent admirers, according to the Daily Outlook Afghanistan, an English-language newspaper. Smitten storekeeper Mohammad Karim plastered posters of candidate Qaida Afif, 28, on the wall of his shop in Herat. “We are determined to vote for the most beautiful,” he told the newspaper.

Other Afghan men are less than thrilled to see women running for public office. In many places, tribal and religious customs restrict women to the home and require them to wear head-to-toe coverings called burqas when they go out.

After Bahari gave a campaign speech at a Bamiyan mosque, the mullah denounced her as un-Islamic. “The fundamentalists don't like me,” she says.

Mohammadi says she was confronted in a remote Bamiyan village: “A man argued with me that women should stay at home. He was telling me women must not go to parliament because there are so many men there. … It was difficult to make him understand.”

Things are worse for female candidates and election workers elsewhere in Afghanistan. According to a report last month by the New York-based activist group Human Rights Watch, a total of five provincial seats reserved for women in the Taliban strongholds of Zabul, Uruzgan and Nangarhar will remain empty, probably because women are too frightened to run. Elsewhere, women who want to run for office face intimidation, the report said. “Violence against women, forced marriage and early marriage are endemic problems,” it said.

The group cited statistics from UNICEF that show that one in six Afghan women die in childbirth and 87% of those deaths are preventable. The illiteracy rate for Afghan women over 15 is 86%. In Afghanistan's seven conservative southern provinces, less than 10% of girls go to school.

The appearance of female candidates is raising hope that issues such as women's health and education finally might get on the national agenda. “No one cares about women's health in Afghanistan,” says nurse Zainab Rezai, 40. “The husband must allow (his pregnant) wife to go to the hospital every month. They are now treated like a prisoner in their homes.”

Sarabi cites another simple advantage of putting women in high office: It gives ordinary women a place to go to air grievances and make suggestions. For many Afghan women, the idea of visiting a male politician in his office is unthinkable.

Sarabi's office sits in a one-story yellow building overlooking the bluffs that once held the Bamiyan Buddhas. Bamiyan is a poor, isolated place. The 130-mile drive to Kabul over unpaved roads is a bone-jarring 81/2-hour journey. The people here are predominantly Hazaras, a long-oppressed ethnic minority group. They are probable descendants of Genghis Khan's Mongol armies, which swept through in the 12th century. The Persian-speaking Hazaras are moderate Shiite Muslims in this majority Sunni country.

The Pashto-speaking Sunni Taliban hated them. When the Taliban overran the province in the late 1990s, they slaughtered hundreds of Hazaras. Nurse Rezai remembers how she had to slide into bed and pretend to be a patient whenever Taliban members came to inspect the hospital where she worked. With women banned from work and girls from school, “I thought women in Afghanistan had lost everything,” she says.

Now she is delighted to have so many female candidates to choose from. “They will work for women's rights,” she says. And she is overjoyed to have Sarabi running the province. “She is the pride of all Afghans, not just women,” Rezai says.

A decade ago, Sarabi was a pharmacist living comfortably in Kabul. Her political days as a Kabul University student leader organizing demonstrations against the Soviet occupation in the early 1980s seemed far behind her. She was a mother of three when the Taliban took over Afghanistan. Sarabi fled with her children to Peshawar, Pakistan. Her husband stayed behind to care for his aging father and their property.

In Peshawar, Sarabi found a job training teachers to work in squalid Afghan refugee camps. Eventually, she founded an aid group that ran clandestine girls schools inside Taliban-occupied Afghanistan. Four or five times, she sneaked into the country.

When the Taliban fell in late 2001, she came home. President Karzai named her minister for women's affairs in 2002. He sent her to Bamiyan as governor six months ago. She is Hazara, though she is from Ghazni province, southeast of here.

Sarabi's job is overwhelming. Bamiyan needs so much — roads, schools, clinics, clean water — and has no money to pay for it. She is reduced to begging for cash from the central government and from aid agencies whose “bureaucracy is worse than our bureaucracy.” She also must contend with “dozens” of provincial warlords such as the one holding up the irrigation project.

She says another warlord is blocking a health clinic a day's drive from Bamiyan town. When the election is over, Sarabi plans to dispatch the police to deal with him. Still, she describes her management style as motherly: listening patiently, seeking

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consensus, cracking heads only when she has to. It's made her popular. “We don't want a boss,” says driver Mohammed Hassan, 29. “We want someone to serve the people. She is doing a good job.”

“About the only complaint I've heard about her,” election officer Gezim Kiseri says, “is that she's put on a little weight since she took office.”

Afghans Helped Bin Laden Flee Country, Official Says (LAT/REU)

By From Reuters

The Los Angeles Times, September 15, 2005

KABUL, Afghanistan — Osama bin Laden was given safe passage to Pakistan in 2001 by Afghan commanders paid by Al Qaeda and sympathetic to the terrorist network's cause, a senior Afghan official said Wednesday.

Lutfullah Mashal, a spokesman for the Interior Ministry, said commanders had helped the Al Qaeda leader escape from the Tora Bora mountains near the Pakistani border as U.S. warplanes and Afghan forces attacked his hide-out in late 2001.

"The help was provided because of monetary aid availed by Al Qaeda and also partly because of ideological issues," Mashal said.

"Osama, along with other Al Qaeda people, managed to go to Parachinar at the time, and then Pakistani forces battled the Al Qaeda runaways, killing around 70 of them," he said, referring to an area in Pakistan's Kurram tribal region.

He said commanders loyal to Maulvi Yunus Khalis had helped Bin Laden escape. The whereabouts of Khalis, a top mujahedin leader in the war against the Soviet occupation of Afghanistan, are unknown.

Mashal told private Pakistani television channel Geo on Tuesday that U.S. forces had made a mistake in entrusting the capture of Bin Laden to Afghan commanders.

Mashal said that he was present in the Tora Bora mountains during the December 2001 operation and that although U.S. forces were not there in uniform, Green Berets were present in plainclothes.

While 800 to 900 Arabs fled Tora Bora for Pakistan's Khyber tribal region, he said, senior Al Qaeda leaders trekked to Parachinar with the help of some Sulemankheil tribal elders.

Mashal said Bin Laden later recrossed the border to Khowst, where the leader of the Taliban there gave him refuge. He then returned to Pakistan, this time heading for Miranshah, the main town in another tribal area, North Waziristan.

U.S. officials have said Bin Laden, who has evaded a U.S.-led manhunt since the Sept. 11, attacks, is probably still hiding in the rugged mountains between Pakistan and Afghanistan.

CORPORATE SCANDALS:

Merrill Lynch Changes How It Forecasts Earnings Stock Options To Be Included (USAT/REU)

By Jonathan Stempel, Reuters

USA Today, September 15, 2005

NEW YORK — Merrill Lynch on Wednesday said it will require all U.S. equity research analysts to include options and other stock-based compensation in their earnings forecasts for U.S. companies.

The changes by the largest U.S. full-service brokerage, which covers more than 1,000 U.S. companies in 50 industries, are intended to reflect a controversial new accounting rule. That rule requires public companies in fiscal years beginning after June 15 to treat stock options as routine business expenses, such as salaries.

“Merrill is anticipating there may be very large changes in earnings per share for many companies,” says April Klein, an associate professor in accounting at New York University's Stern School of Business. “Not only do I expect other Wall Street brokerages to follow, but I expect them at least for a while to be restating some companies' old financial results.”

Many technology companies, including Cisco Systems, opposed the new rule, fearing it might increase operating costs and reduce profits.

But the Financial Accounting Standards Board and Securities and Exchange Commission backed the change, and companies such as Wal-Mart began implementing it before the deadline. Meanwhile, some companies, including Microsoft, have stopped granting stock options.

Merrill will require its analysts to incorporate options and other stock-based compensation into their earnings forecasts for quarters ending after Sept. 30.

“This is a move in the right direction,” says Charles Mulford, an accounting professor at the Georgia Institute of Technology in Atlanta.

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About 90% of the 250 largest U.S. companies now offer stock options, down from 99% in 2003, says compensation consultant Frederic W. Cook & Co.

"It is important to show compensation included in income statements so that investors can make apples-to-apples comparisons of companies' earnings," says Steve Tighe, Merrill's head of Americas equity research.

Marsh Ex-Executives Are Expected To Be Indicted On Fraud Charges (WSJ)

By Ian Mcdonald

The Wall Street Journal, September 15, 2005

As many as eight former Marsh Inc. executives are expected to be indicted on criminal-fraud charges Thursday, according to two people close to the situation.

As reported last month in The Wall Street Journal, a grand jury impaneled in Manhattan has been weighing criminal charges against the former executives. The probe is an outgrowth of a fraud investigation last year by New York Attorney General Eliot Spitzer that resulted in a $850 million settlement by Marsh & McLennan Cos. of bid-rigging charges early this year. Marsh Inc. is the New York company's insurance-brokerage unit.

In settling, Marsh apologized to clients for the "shameful" conduct of some employees who "unlawfully deceived their customers."

Mr. Spitzer is expected to unseal indictments charging the former Marsh employees with scheming to defraud, according to the two people, barring any last-minute guilty-pleas hammered out with prosecutors. A spokesman for Mr. Spitzer declined to comment.

In the civil suit settled by Marsh, state authorities alleged that some Marsh brokers cheated institutional clients by rigging bids for large insurance contracts and steering business to insurers who paid Marsh large commission payments. All told, more than 15 insurance managers and executives have pleaded guilty to criminal charges stemming from the probe, including other former Marsh brokers and former employees of large insurers American International Group Inc.; Zurich American Insurance Co., a unit of Zurich Financial Services AG; and ACE Ltd.

Mr. Spitzer built his case against former Marsh executives by gathering evidence from some of those who pleaded guilty and pledged to cooperate in the investigation.

In recent weeks, Mr. Spitzer's office instructed attorneys for the eight individuals that their clients should be available to surrender to authorities in New York with 24 hours notice from Sept. 7 to Sept. 21. A spokesman for the company declined to comment.

The individuals will likely surrender themselves at Manhattan police precincts early Thursday and then be arraigned. Prosecutors threatened organized-crime charges in recent weeks, but it isn't clear whether any of the former Marsh executives will face those charges.

At least two of the former Marsh executives facing potential criminal charges aren't negotiating with authorities, according to three people close to the matter. William Gilman, a former top Marsh insurance broker profiled in a Page One story5 in The Wall Street Journal last year, has long been a focus of Mr. Spitzer's probe. Mr. Spitzer's suit against Marsh alleged the bid-rigging scheme was "strictly enforced by Marsh through William Gilman." Mr. Gilman's attorney didn't return a call for comment.

The second is former Marsh executive Joseph Peiser. "I have not seen the charges, but Joe Peiser was a loyal Marsh employee who did not do anything wrong," said his attorney, Jerry Bernstein of Blank Rome LLP.

Ex-NYSE Regulator Testifies To SEC Call On Email Policies (WSJ/DJN)

By Siobhan Hughes, Dow Jones Newswires

The Wall Street Journal, September 15, 2005

The Securities and Exchange Commission asked the New York Stock Exchange in 2001 to drop enforcement cases against a dozen Wall Street firms whose email retention and storage policies were deficient, according to a former NYSE regulator.

Annette Nazareth, then-director of the SEC's market regulation and now an SEC commissioner, called the NYSE in the spring of 2001 and asked that the exchange's regulatory arm stop reporting email-retention violations to the NYSE's enforcement division and withdraw referrals that had already been made, according to testimony by Salvatore Pallante, former NYSE executive vice president for member-firm regulation.

At the time, the SEC was in discussions with Wall Street over changes to its email rules, which the industry had criticized as being too broad. Because of those discussions, Ms. Nazareth believed it would be "unreasonable" to bring enforcement actions, according to Mr. Pallante's testimony.

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Mr. Pallante testified on behalf of Raymond James Financial Services Inc., which is fighting civil fraud charges filed by the SEC last year. The SEC sued Raymond James for failing to supervise a broker who allegedly bilked investors out of millions of dollars and also accused the firm of failing to fully preserve email records. The testimony was available through the SEC's public records office.

SEC Chief Administrative Law Judge Brenda Murray is set to make a decision in the matter by today. Raymond James is using Mr. Pallante's testimony to bolster its case, arguing that the SEC had planned to change its own rules.

Lori Richards, director of the SEC's office of compliance, inspections and examinations, told Mr. Pallante that she agreed with Ms. Nazareth's approach, Mr. Pallante said. As a result, he said, the NYSE dropped cases it had developed against about 12 member firms. In an interview, Ed Kwalwasser, the NYSE's vice president of regulation in 2001, confirmed Mr. Pallante's account.

Mr. Pallante didn't return a phone call, and NYSE spokesman Brendan Intindola declined to comment. A call to Ms. Richards's office was referred to the SEC press office. Both Ms. Nazareth and SEC spokesman John Heine declined to comment.

The SEC hasn't contested Mr. Pallante's account. In a brief responding to his testimony, the SEC said the commission didn't engage in misconduct, adding SEC staff opinions aren't the same as the views of the five-member commission. The SEC also argued that its rule is clear.

The SEC requires brokerage firms to keep email messages for three years, with the two most recent years' worth in an easily accessible place. Wall Street has long complained about the regulation, saying it is too broad, strains the limits of storage technology, and could apply even to personal emails, such as messages between brokers or analysts making dinner plans.

The email requirement was first spelled out in a February 1997 SEC release. By 2000, the SEC was in closed-door discussions with Wall Street firms about narrowing the regulation. The discussions were still going on by 2001 when Ms. Nazareth made her phone call, according to Mr. Pallante's testimony.

Some securities lawyers defended Ms. Nazareth's approach, saying the SEC was trying to respond to complaints about the 1997 mandate at a time when it seemed Wall Street was negotiating in good faith.

On the other hand, investor advocates question why the SEC would have considered accommodating the wishes of the brokerage industry in the first place.

"Who in their right mind decides we're going to lighten up on record-retention policies for the new, emerging, primary way people communicate in the market?" said Barbara Roper, director of investor protection for the Consumer Federation of America. "What genius came up with that idea?"

Credit Derivatives And Their Risks Are On The Table (WSJ)

By Henny Sender

The Wall Street Journal, September 15, 2005

The New York Federal Reserve Bank is gathering the big Wall Street players today. The topic: rising concerns about risk in what is known as the credit-derivatives markets.

The talks come amid frustration about the failure of the structure of the market to keep pace with the explosive growth in the trading of these complex securities.

"People have the best intentions, but there are resource issues," says Donna Parisi, head of the derivatives practice at the law firm of Shearman & Sterling. Credit derivatives, which allow investors to take positions on the risk of default of both companies and countries, have been one of the most rapidly growing financial products on Wall Street.

Infrastructure issues that have bedeviled the market involve processing and settling trades, or what some experts such as Thomas Russo, vice chairman of Lehman Brothers Holdings Inc., refer to as the "plumbing of the market." Such descriptions sound boring and technical. But the credit-derivatives arena has become increasingly important in terms of managing investment risk, which means regulators are eager to ensure that these complex and often opaque markets operate smoothly.

Thus far, their proddings have largely gone unheeded, leading to the unusual summit at the New York Fed.

The love-hate relationship between Wall Street firms and their hedge-fund clients has grown more acrimonious when it comes to credit derivatives. Hedge funds claim that Wall Street firms are reluctant to move to more efficient electronic trading and processing systems, because such a move would crimp the Street's margins. The dealers in turn say that hedge funds have been reluctant to invest sufficient funds in their back offices, and that it is the hedge funds, not Wall Street firms, that are the problem.

In any case, the result is stacks of paper at both hedge funds and at Wall Street firms. And the paper load is growing, as the labor-intensive review of documents and agreements confirming trades falls increasingly behind the growing volume of new trades.

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"The burden gets bigger and bigger," says Robert Pickel, head of the International Swaps & Derivatives Association. ISDA provides master agreements for trades in the credit-derivatives market, but there is often a lot of debate about basic definitions of the trades, especially on what constitutes a default. The agreements "are only a partially completed canvas," adds Mr. Pickel.

The spotty record of confirmations can become a risk-management issue in times of turbulence. Such conditions occurred in May, when the gap between safer Treasurys and less-safe corporate bonds widened sharply. The trading turmoil that month has prompted several reviews of the market, with regulators trying to get a stronger handle on how best to ensure smoothness in the credit-derivatives market.

Valuations are another issue of contention. Since credit derivatives can be illiquid, hedge funds can garner a wide range of estimates on what a given position might be worth. Indeed, two different areas within a single investment bank have been known to give widely differing quotes on a given credit derivative, hedge-fund managers say. Who gets to say what a position is worth in times of volatility is an even more troubling issue, especially since it is such a critical element in assessing hedge-fund performance and the risk exposure of firms dealing with the hedge fund.

The Fed is also tackling the related, highly arcane issue of assignment. Hedge funds sometimes move out of trades -- "assign" them -- without telling the bank that sold them the credit-derivative contract. This practice makes it harder for other market participants to know whether their positions are properly hedged.

While the purpose of the meeting is simply "to discuss how best to address a range of important issues," according to the letter sent to 14 industry participants and a variety of international regulators, there is always the implicit threat of regulatory action.

"When things get relegated to the support areas, they sometimes often do not get the attention they deserve," says Mr. Russo, who was part of a private-sector group led by former New York Fed Chief Gerald Corrigan that looked at such risk issues. "Meetings such as those sponsored by the New York Fed are sometimes necessary to shine a light on a problem, mobilize people and bring about positive action."

Greenspan Issues Another Warning On Fannie, Freddie (WSJ)

By John D. McKinnon And Dawn Kopecki

The Wall Street Journal, September 15, 2005

WASHINGTON -- Federal Reserve Chairman Alan Greenspan, in his strongest warning yet, said in a recent letter that Wall Street investment firms eventually could be incapable of hedging all the financial risk posed by mortgage giants Fannie Mae and Freddie Mac, if Congress doesn't impose meaningful limits on them.

"As Fannie and Freddie increase in size relative to the counterparties for their hedging transactions, the ability of these [companies] to quickly correct the inevitable misjudgments inherent in their complex hedging strategies becomes more difficult," Mr. Greenspan wrote in the letter1, dated Sept. 2, to Sen. Robert Bennett (R., Utah), and reviewed by The Wall Street Journal.

Mr. Greenspan's letter concludes: "In the case of [Fannie Mae and Freddie Mac], excessive caution in reducing their portfolios could prove to be destabilizing to our financial system as a whole and in the end could seriously diminish the availability of home mortgage funds."

Legislation to impose a range of new controls over the congressionally chartered companies, known as government-sponsored enterprises, or GSEs, has been stalled in the House, in part over Mr. Greenspan's concerns that it doesn't go far enough in curbing the growth of the companies' mortgage portfolios.

Many conservatives, who see Fannie and Freddie as a form of government intrusion, also worry that another provision of the bill would strengthen the companies' already substantial political clout on Capitol Hill, by substantially raising the amount of money they dedicate to affordable-housing programs around the country.

The two companies borrow money to buy home mortgages. They either hold the mortgages in their own portfolios or sell them to other investors. Because they can borrow almost as cheaply as the federal government itself, critics worry that there are no effective curbs on their potential growth, and particularly the growth of their portfolios. That is a potential concern because their portfolios of mortgages make the companies extremely vulnerable to interest-rate swings.

The companies try to hedge that risk through complicated strategies involving derivative investments such as interest-rate swaps. But Mr. Greenspan and some others worry that as the companies and their portfolios grow, they could overwhelm the ability of Wall Street banks to act as the counterparties. Already, market participants have reported occasional shocks when sudden zigzags in interest rates have brought the companies -- along with other mortgage-market players -- into the swaps market suddenly.

Freddie Mac said Mr. Greenspan's comments were consistent with prior statements he has made. The company also sought to play down concerns about systemic risk posed by its portfolio investments. "Our portfolio is very conservatively managed and tightly regulated," said Freddie spokesman David Palombi, pointing to the elaborate tests that federal officials run

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to measure its safety. He also suggested that the markets themselves would prevent untoward growth of the companies, and warned that "arbitrarily limiting our retained portfolio would decrease over time the availability of the long-term, fixed-rate, prepayable mortgage."

Fannie declined to comment. Both companies have warned investors that the legislation could materially hurt their profits and affect their ability to promote affordable housing.

While holdings of mortgages and related securities by Fannie and Freddie have soared during the past 15 years, so far this year their combined holdings have declined. At the end of July, the combined total came to about $1.449 trillion, down 7% from the end of 2004. That is partly because Fannie has been shrinking its holdings to meet stiffer capital requirements imposed by the company's regulator in the wake of an accounting scandal.

But critics worry that if the current wave of scrutiny passes without strong new legislative curbs, the companies will be free to start growing again. That concern led Mr. Greenspan to warn earlier this year that passing the House bill would be worse than doing nothing.

Yesterday, the chief proponents of the House legislation sought to improve chances for their bill by amending it to steer more of the companies' profits into affordable housing in the stricken Gulf Coast region. One of the leaders of the effort is Rep. Richard Baker, a Louisiana Republican who represents the Baton Rouge area.

Another proponent, House Financial Services Chairman Michael Oxley (R., Ohio), said the bill is expected to come to a floor vote next week. Still, it isn't clear that the changes will be enough to overcome objections to the House measure among conservative critics.

CRIMINAL LAW:

House Gets Tough On Pedophile Offenders (USAT)

USA Today, September 15, 2005

Sex offenders who abuse children would be subject to stringent monitoring requirements and face new mandatory penalties under legislation the House passed Wednesday, 371-52. The bill would create a national website on pedophile sex offenders and stipulate that sex felons face up to 20-year sentences for not complying with registration requirements.

“We track library books better than we do sexual predators,” said Rep. Mark Foley, R-Fla. Rep. Bobby Scott, D-Va., criticized the bill because released offenders who face harassment or job discrimination “may just go underground and not bother to register again.” The House approved an amendment to expand federal hate-crime laws to include some crimes involving sexual orientation, gender and disability. The vote was 223-199. The House had failed to pass similar legislation in the past. Joe Solmonese, president of the Human Rights Campaign, the nation's largest gay rights group, said it was an “incredibly historic vote” that could give momentum to similar action in the Senate.

Ex-panel members reject Atta allegation

Former members of the 9/11 Commission dismissed assertions that a Pentagon intelligence unit identified lead hijacker Mohamed Atta as a member of al-Qaeda long before the 2001 attacks. Army Lt. Col. Anthony Shaffer and Navy Capt. Scott Phillpott have said a classified military intelligence unit known as “Able Danger” identified Atta before the attacks. Shaffer has said three other hijackers were also identified.

The commission's former chairman, Thomas Kean, said the recollections of the intelligence officers couldn't be verified by any document. Slade Gorton, a former commissioner, said, “It just didn't happen, and that's the conclusion of all 10 of us.”

Rep. Curt Weldon, R-Pa., has accused the commission of ignoring the intelligence about Atta. Weldon spokesman John Tomaszewski said no commissioner has met with anyone from Able Danger, “yet they choose to speak with some form of certainty without firsthand knowledge.”

Uranium waste to be moved from river

The Energy Department cleared the way for nearly 12 million tons of radioactive waste in Utah to be moved from the banks of the Colorado River, which provides drinking water for more than 25 million people across the West. The 94-foot-tall pile of uranium tailings — radioactive material left over from uranium mining — will be moved by rail from Moab, Utah, to Crescent Junction, more than 30 miles from the river.

Energy Secretary Samuel Bodman signed the decision, which was announced earlier this year. Federal studies in the 1990s found that an underground plume of pollutants — 1 mile wide and 40 feet deep — reaches from the site to the river.

House Favors Expanding Hate Crime Law To Protect Gays (WP/AP)

By Associated Press

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The Washington Post, September 15, 2005

Sex offenders who prey on children would be subject to stringent monitoring requirements and face new mandatory penalties under a bill, passed by the House, that was expanded to include protections for gay men and lesbians under federal hate crime law.

The House voted 371 to 52 yesterday in favor of the Children's Safety Act, which, among its many provisions, creates a national Web site for child sex offenders and stipulates that sex felons face up to 20 years in prison for failing to comply with registration requirements.

Unexpectedly, the House voted 223 to 199 in favor of an amendment by Rep. John Conyers Jr. (D-Mich.) that expands current hate crime law to include some crimes involving sexual orientation, gender and disability. Under current law, the federal government assists local and state authorities prosecuting limited types of crimes based on the victim's race, religion or ethnic background.

The House has been the chief obstacle in numerous previous attempts to expand hate crimes law, and Joe Solmonese, president of the Human Rights Campaign, the nation's largest gay rights group, said it was an "incredibly historic vote" that could give momentum to similar action in the Senate.

The sex offender bill, which also requires felony offenders to register for life and authorizes the death penalty for sex crimes resulting in the killing of a child, responds to what House Judiciary Committee Chairman F. James Sensenbrenner Jr. (R-Wis.), said was a "national crisis" in child sex offenses. He said that of about 550,000 convicted sex offenders in the nation, the whereabouts of 100,000 are unknown.

Sensenbrenner said the legislation would get favorable treatment in the Senate. The White House expressed support, saying that even though sex crimes against children have declined significantly in recent years, more needs to be done. It noted that the legislation codified the online National Sex Offender Public Registry that the Justice Department launched earlier this year.

The legislation brings together parts of numerous proposals to protect children from sex offenders.

House GOP Derails Democratic Inquiries (NSDY/AP)

By Liz Sidoti, Associated Press Writer

Long Island Newsday, September 15, 2005

WASHINGTON -- House Republicans derailed Democratic attempts on Wednesday to force the Bush administration to surrender documents on prewar intelligence and the disclosure of the identity of a CIA operative.

Democrats have introduced several "resolutions of inquiry" to compel President Bush and members of his Cabinet to release all information relating to communications with British officials before the U.S.-led invasion of Iraq and the Valerie Plame case.

The White House has taken heat since the disclosure this year of the "Downing Street memos," British documents that suggest the Bush administration had made up its mind by 2002 to invade Iraq. Administration officials also have been interviewed by a special prosecutor in his quest to determine who leaked Plame's covert identity to reporters.

Largely along party lines, the House International Relations Committee unfavorably reported two of the resolutions on Iraq and one resolution on the Plame matter. Earlier, the House Judiciary Committee "unfavorably" reported a similar Plame resolution.

Under House rules, the committees had to act on the resolutions within 14 legislative days of the resolutions' introduction. If not, sponsors could have forced the measures before the full House for a vote.

But the votes Wednesday against the measures all but prevented them from ever being taken up by the House.

Other Democratic-sponsored resolutions on both matters are in different committees. Those resolutions will be considered in the next few weeks; the outcome is expected to be the same.

Republican leaders want to avoid the spectacle of either issue being debated on the House floor amid some fear that the measures could succeed if enough Republicans side with minority Democrats.

House Republicans Block Bid For CIA Leak Data (REU)

Reuters, September 15, 2005

WASHINGTON (Reuters) - Two U.S. congressional committees on Wednesday rejected Democrat-backed resolutions that would have compelled the Bush administration to turn over records relating to the outing of CIA operative Valerie Plame.

Republicans on the House Judiciary Committee and International Relations Committee, who opposed the resolution, said Congress should await the outcome of a federal investigation by special counsel Patrick Fitzgerald.

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Democrats countered that Republicans were trying to protect President George W. Bush and his top political adviser, Karl Rove. "We know that this is a political decision because there is potential embarrassment to the administration," said Massachusetts Democratic Rep. William Delahunt.

The resolutions, rejected in committee votes along party lines, sought to force the departments of Justice and State to turn over all documents related to Plame.

Lawyers close to the Plame investigation say there are signs that the 20-month-long inquiry could be wrapped up within weeks. The outcome could have major political implications for Bush, whose approval ratings are already the lowest of his presidency.

Plame's husband, former diplomat Joseph Wilson, said the leak was meant to discredit him for criticizing Bush's Iraq policy in 2003 after a CIA-funded trip to investigate whether Niger helped supply nuclear materials to Baghdad.

A reporter for Time magazine said the first person to tell him about Plame was Rove. Rove's attorney says Rove did nothing wrong and has been repeatedly assured he is not a target of Fitzgerald's investigation.

Democrats have urged Bush to fire Rove or revoke his access to classified information. It is against the law in some cases to knowingly reveal the identity of an undercover CIA officer.

Editorial: Fence Off Internet Porn (USAT)

USA Today, September 15, 2005

The Internet has transformed the pornography business. In little more than a decade, online "adult entertainment" has become a booming multibillion dollar industry, enabled by the World Wide Web's easy, impersonal accessibility.

Avoiding or blocking the X-rated onslaught can be nearly impossible. Internet content moves with no respect for borders and at such slippery speed that tracking it is like trying to grab hold of mercury. Innocuous-looking e-mail titled, say, "Here's the offer you requested" can link to pornography generated in the Ukraine. Much of what's out there makes the "adult content" of the past look quaint.

For those who want porn, that may be fine. But for others, it can be deeply offensive. And for children, it can be damaging.

A blanket ban is not a useful option because foreign sites are beyond the reach of U.S. law, which is why one fresh approach deserves encouragement.

It's a proposal for a virtual red-light district in the form of a new Internet domain. Instead of .com or one of the other familiar Web address suffixes, porn would have .xxx. People would know what they're getting. Parents could more easily filter it out.

The idea is no cure-all. For one, it would be voluntary. Critics point out, correctly, that pornographers could still keep their .com addresses, and many probably would. Nor would it stop those deceptive e-mails. But that's not the point.

Its value is as an experiment, particularly for protecting children. Why not?

Parents need all the help they can get in protecting their kids' experience online. They have a variety of constantly improving filters and other tools. Internet service providers, vying for customers, have made it a priority to give parents levels of screening and ways to report offensive e-mail. An .xxx address is one more kind of filter.

Nobody can predict for sure just how it would affect the industry, but there's some cause to believe the impact would be helpful. Purveyors signing up for .xxx would be required to pledge responsible business practices, including no pushing to minors. Financial institutions, now leery of them, might provide an incentive for better behavior.

The adult entertainment industry has already been sensitive to pressure to protect children. It has taken steps — under pressure from Congress, which wants to tax adult entertainment sites — to voluntarily avoid pushing content to children.

But the .xxx idea is running into opposition. Some critics say it would encourage online porn. Hello? Do they have computers?

Other opponents fear that the new domain would legitimize porn. Their protests — including more than 6,000 letters, many part of a campaign by the conservative Family Research Council — forced a delay in implementing .xxx. The regulatory board, the Internet Corporation for Assigned Names and Numbers, is to meet today on the issue.

The board shouldn't bow to the pressure. Internet porn is big business driven by big demand. It can't be eradicated. But trying to improve the protections for parents is a good idea — including a .xxx domain experiment.

Op-ed: .xxx Would Legitimize Porn (USAT)

By Patrick Trueman

USA Today, September 15, 2005

It was Churchill who observed, "There is nothing so exhilarating as to be shot at, without result!" And this must be the sentiment of pornographers. For years there has been near unanimous condemnation of the notion that they should be rewarded

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with even more space on the Internet. Yet, the Internet Corporation for Assigned Names and Numbers (ICANN), the Internet's governing agency, is moving ahead on this seductive idea.

Most who advocate for a .xxx domain for porn sites say children would be the chief beneficiaries because filtering pornography would become a simple matter — just block .xxx sites. That assumes that pornographers would give up their .com sites, the cash cow of the porn industry, and move to .xxx.

Pornographers may be sleazy, but that hasn't affected their sound business sense. They have been making millions on the .com domain since long before Michael Dell sold his first computer over the Internet, and they would keep all their current .com locations.

Nor would they be evicted. Indeed, any law attempting to force all pornographers to relocate to .xxx would likely be challenged in court. Although it is a myth that all pornography is protected by the First Amendment, the U.S. Supreme Court has said that it is "presumptively protected" unless and until it is ruled obscenity or child porn in a court.

ICANN does not pretend that the .xxx domain would clean up the .com domain, and the agency has no enforcement powers to make this happen. Pornographers would simply expand to .xxx, thus perhaps doubling the number of porn sites and doubling their menace to society. Thus the argument that .xxx would benefit children is without any basis in fact.

Furthermore, creating a designated domain for pornography would simply have the effect of legitimizing much material that is likely illegal. Selling hard-core pornography on the Internet is a violation of federal obscenity law no matter where it is located. A relatively small number of U.S. pornographers own the vast majority of Web sites selling illegal material. That is why the Family Research Council supports the efforts of Attorney General Alberto Gonzales to establish an obscenity prosecution task force to prosecute violators of the obscenity law — rather than making them masters of a new domain.

Patrick Trueman is senior legal counsel at the conservative Family Research Council.

Texas Executes Woman Who Killed Three Family Members (NYT)

By Steve Barnes

The New York Times, September 15, 2005

Frances Newton, convicted of murdering her husband and their two children in 1987, was executed last night in Huntsville, Tex.

The Supreme Court declined to review Ms. Newton's case earlier, and Gov. Rick Perry declined to intervene.

The Texas Board of Pardons and Paroles unanimously refused on Monday to recommend that Mr. Perry, a Republican, commute her sentence to life in prison.

Ms. Newton, 40, was the third woman put to death in Texas since capital punishment resumed in 1982.

Commissioner Seeks FBI Probe (CINE)

By Janice Morse, Enquirer staff writer

The Cincinnati Enquirer, September 15, 2005

HAMILTON - Butler County Commissioner Chuck Furmon on Wednesday asked the FBI in Cincinnati to investigate a multimillion-dollar equipment lease that included the county's name without the commissioners' approval.

FBI spokesman Michael Brooks confirmed that Furmon contacted the office. "We'll look into the information that he provided and see if an investigation should be opened," Brooks said, declining further comment.

Dynus Technologies, a company formerly known as CBS Technologies, is a party to the disputed contract involving the lease of at least $5.3 million in telecommunications equipment used to transmit data via fiber-optic lines.

The lease was signed before Dynus and Butler County commissioners finalized a contract in which Dynus is supposed to sign up customers for the county's fiber-optic loop. Furmon is urging his fellow commissioners to terminate that contract in the wake of the lease-agreement controversy. He says commissioners found out about the county's name being included on the lease only "by happenstance," after an invoice for a $99,000 lease payment showed up unexpectedly at the County Auditor's Office on Aug. 31.

"We do not understand Commissioner Furmon's motivations in calling for an FBI investigation," said Dynus spokesman Tom Rowe. "Based upon what we've looked into thus far, we haven't seen anything that would appear to warrant that type of action or an FBI investigation."

Rowe said Dynus executives have talked with other county officials to try to clear up the concerns numerous times during the past two weeks, but Furmon has excluded himself from the meetings.

Furmon said he no longer trusts the company after he learned that a Dynus executive had used the county's name in the equipment lease without the knowledge of the commissioners.

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But Rowe says: "At the time that all these agreements and the documents were executed, everyone thought they had authority to execute those agreements."

Rowe said Dynus intends to continue working with the other county officials.

"This is a muddy situation with a lot of issues," Rowe said. "As a company, we are feverishly working to resolve all of those to everyone's satisfaction, including Butler County, because frankly I don't think anyone benefits with the situation escalating beyond what it already has."

Furmon says he's looking out for county taxpayers' interests.

" It's like someone using your credit card without permission. It seems to be pretty clear-cut to me. This company has taken out a loan for millions of dollars and we didn't authorize it," he said.

Furmon said he did feel somewhat reassured that the County Prosecutor's Office issued a written opinion stating that County Auditor Kay Rogers lacked legal authority to designate anyone as an "agent" of the county and that a lease signed by Jim Smith, a Dynus executive, could not be enforceable, although Rogers had signed some documents that appeared to grant Smith certain privileges.

Mass. GOP Official Resigns After Charges (WP/AP)

The Associated Press

The Washington Post, September 15, 2005

BOSTON, Mass. -- The vice chairman of the state Republican Party resigned after a federal sting led to money-laundering charges accusing him of offering to "cleanse" drug proceeds for a legal client.

Lawrence Novak, an attorney, was arrested at his home Tuesday after investigators said he allegedly offered to launder drug profits for Scott Holyoke. Novak resigned his party position on Tuesday after his release on bond.

Holyoke is awaiting trial on federal drug trafficking charges and agreed to be a cooperating witness against Novak for the FBI.

Novak allegedly offered to have Holyoke sign false affidavits in an attempt to gain a reduced sentence for Holyoke. Holyoke told Novak that he had more than $100,000 in cash in a safe deposit box, repeatedly telling Novak that the money was drug proceeds, according to an affidavit filed by Lauren Youngquist, an Internal Revenue Service agent.

Novak allegedly told Holyoke that he would take about $60,000 of the money as a legal fee and offered to "clean" or "cleanse" the remainder of the cash, the affidavit said. According to the arrest affidavit, after Novak made the offer to launder Holyoke's drug proceeds, the IRS and FBI introduced an undercover IRS special agent who posed as Holyoke's aunt.

Novak, 54, was taken into custody after allegedly depositing money in a Brockton bank, federal authorities said.

"I think that it's an unfortunate incident. It's something that's happened in his private life, and the party has responded appropriately," O'Brien said Wednesday.

The party's chairman, Darrell Crate, said in a statement the charges are strictly related to Novak's private business dealings and "have absolutely no connection to the Republican Party."

Novak also served at the party's treasurer in the late 1990s. Neither he nor his attorney would comment on the charges.

Novak is due back in court on Oct. 3. He faces a maximum sentence of 20 years in prison and a $250,000 fine if convicted.

State Republican Party's Embattled Vice Chairman Resigns (BOS)

By Raphael Lewis, Globe Staff

The Boston Globe, September 15, 2005

The Massachusetts Republican Party has accepted the resignation of its vice chairman, Lawrence P. Novak, after his arrest Tuesday in a money-laundering case, in which he is accused of trying to obtain his fee from a jailed client through illicit drug profits.

Party chairman Darrell W. Crate issued a statement yesterday saying Novak had offered to step down late Tuesday, hours after his arrest. Crate sought to distance himself and the Republican Party from the former vice chairman, who was elected by the party's rank-and-file committee over the objections of Crate and Governor Mitt Romney."I have never endorsed Mr. Novak's service in the party," Crate said in the statement. "The charges against him are strictly related to his private business dealings and have absolutely no connection to the Republican Party. The Massachusetts Republican Party abides by the highest ethical standards, and we will continue to maintain those standards as we continue our work to elect Republicans in Massachusetts."

The state GOP and Romney will probably return Novak's donations from recent years, Republican Party executive director Tim O'Brien said. Novak donated $750 last year to the state Republican Party's federal campaign account and $125 to Romney during his 2002 campaign for governor.

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Romney press secretary Julie Teer released a statement on the governor's behalf: "Mr. Novak's resignation was the appropriate action for him to take for the good of the Massachusetts Republican Party. Governor Romney believes his continued service would have been a distraction to the state committee's work, which is always carried out with the highest ethical standards."

Novak, a 54-year-old lawyer running for Brockton City Council on an anticrime platform, was secretly recorded arranging to hide $107,000 for his client, an alleged drug dealer, according to an affidavit. The client, Scott Holyoke, repeatedly informed Novak that the money was obtained through the illegal sales of methamphetamines, federal authorities allege.

Bay State Democratic Party chairman Philip W. Johnston said the Republican Party's state committee should have known that electing Novak as vice chairman would create the potential for public relations trouble.

Lawmakers Say Tough Ethics Proposal In Works (TENN)

By TRENT SEIBERT, Staff Writer

The Tennessean, September 15, 2005

Ethics legislation began to take shape yesterday as a panel of legislators unveiled proposals to prevent some of the problems revealed by the FBI's Operation Tennessee Waltz sting.

But to some, the movement toward tougher laws for lawmakers is creeping along.

At yesterday's meeting of the 12-member panel — its third — the discussion revolved not around ethics, but largely around how lawmakers can efficiently use the state's electronic filing system for disclosures of their campaign contributions.

"I guess I'm frustrated, I'll tell you that," said Sen. Ron Ramsey, R-Blountville, a member of the committee and the Senate's majority leader. "I just hope at the next committee meeting we come out with some proposed legislation."

It was only in the last few minutes of the hours-long meeting that its leaders said they had plans for tougher ethics legislation. They put off discussion of those proposals until Oct. 10.

Some of those ideas include:

· Limiting cash contributions to campaigns.
· Requiring those who make campaign donations to list their employers.
· Requiring lobbyists to disclose how much they spend to wine and dine lawmakers.
· Auditing lobbyists and campaign funds.
· Providing subpoena power to the Registry of Election Finance.
· Creating a state ethics commission to investigate complaints against lawmakers.

The roles of campaign donations and lobbyists in the political process in Tennessee have been under much public scrutiny this year after the arrests of five sitting and former lawmakers in the Tennessee Waltz bribery sting.

House Majority Leader Kim McMillan, D-Clarksville, and also a member of the committee, said she hoped to see a bill crafted in early October, sponsored by members of both parties.

"This is not a partisan issue. This is an institutional issue," McMillan said.

McMillan also said she hopes to soon have a final report from Gov. Phil Bredesen's citizen ethics panel, which is drafting its own ideas on how to tighten ethics laws.

McMillan said she hopes to have a final agreement on legislation soon after that.

Sen. Roy Herron, D-Dresden, who pushed for the creation of this joint committee, said he was not concerned that the process to create new ethics laws was a slow one. Because the laws probably would not go into effect until next year, he said, as long as something is in place by then, everything should work out.

"Doing this right is what's most important," Herron said.

FBI Raids Denver Lawyer's Office (RMN)

By John Accola, Rocky Mountain News

Rocky Mountain News, September 15, 2005

Federal agents raided the downtown offices of a Denver law firm Tuesday, seizing computers and records for evidence in an undisclosed FBI probe.

Witnesses said as many as 20 agents from the Federal Bureau of Investigation searched the 11th-floor offices of Futro & Associates PC at 1401 17th St.

Advertisement

The small law firm is headed by Denver attorney Peter Futro, who until last May was chairman of U.S. MedSys Corp., a one-time Denver company that is now the subject of a Securities and Exchange Commission investigation.

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Through a privately held company he controls, Futro, 62, had an 83 percent stake in U.S. MedSys as recently as a year ago, when the over-the-counter stock went on a trading high, reaching nearly $7 a share before falling back to its more typical 40 cents to 80 cents range.

At its high point, the company had a short-lived market capitalization of $170 million. U.S. MedSys is described as a network marketing and distributing organization that provides technology and support services to the health care industry, according to Yahoo! Finance.

The stock spike has never been fully explained but appears to be related to investor speculation that MedSys, despite zero revenues, had a distribution lock on a state-of-the-art ultrasound imaging machine.

Futro, who specializes in corporate governance and securities law, wouldn't comment Wednesday on either of his roles at MedSys Corp. or Futro & Associates.

"It's a confidential client-related matter," he said of the FBI search that lasted most of Tuesday.

The law firm's swank offices at the Alamo Plaza building are listed as the former headquarters of MedSys, which relocated to New Jersey following the resignations of Futro, Chief Executive Thomas King and two other board directors, George Anagnost and Kenton Sieckman.

Also during May, it was reported that Futro's privately held Rangeley Corp. sold its majority MedSys stake to Montague Investments Inc., although Futro and the law firm retained nearly 800,000 shares.

MedSys' filings with the SEC didn't say why they resigned. It was several months earlier, in February, that the company disclosed it was the subject of a formal SEC investigation of unknown scope.

On Wednesday, Jacob Futro - a former MedSys executive and Peter Futro's son - spoke briefly with a Rocky Mountain News reporter before a security guard was summoned to escort the reporter out.

"There's a lot going on," said the junior Futro. "I wish we could talk about it."

Teamster President Claims Company Illegally Taped Talks (BRA)

By PENNY BROWN ROBERTS, Advocate staff writer

Baton Rouge Advocate, September 15, 2005

A longtime Baton Rouge Teamsters president claims the FBI illegally recorded his contract negotiations with Formosa Plastics Corp.

In new court documents filed in federal court last month, Teamsters Local 5 President Byron Keith Partin contends the FBI convinced Formosa Human Resources Manager Tim LeBlanc to record as many as eight conversations in 2001.

Partin's lawyer -- Lewis Unglesby -- argues in two separate motions that secretly recording labor contract negotiations is a violation of the National Labor Relations Act. The motions seek to have the tapes thrown out and the case dismissed.

"To allow these tapes will overturn years of carefully considered National Labor Relations Board law, and will make any labor negotiation subject to FBI oversight overnight at the secret request of either party," Unglesby writes. "While it is very doubtful the FBI knew of -- nor considered -- this law as it wired up Tim LeBlanc, Formosa surely knew."

Partin, 43, of Ethel was charged in a bill of information in November with blackmail -- a misdemeanor that carries a maximum sentence of one year and a fine of $100,000.

Federal authorities say Partin threatened to report the company for illegally discharging ethylene dicloride into the Mississippi River if it didn't pay the wages of eight union members for hours of work they missed during the negotiations.

At the time, Formosa and its workers were engaged in talks on a new three-year labor contract for 230 hourly employees.

Union workers went on strike for five days in June 2001 in a dispute about wages, overtime policies and benefits.

Unglesby also argues that Partin's attempts to get committee members paid during contract negotiations was "perfectly legal."

Partin never reported the alleged discharge, the lawyer notes, and Formosa never paid the committee members.

Unglesby also argues that Formosa used the tapes and subsequent investigation to decertify the union. Teamsters represented Formosa workers for nearly four decades, but employees voted to decertify the union in April 2004.

In their reply to Unglesby's motion to dismiss the case, prosecutors argue that Partin's threats to report the company in exchange for payment to negotiators were "unlawful."

Assistant U.S. Attorney Chad Ennis writes that Partin threatened to "reveal 'the whole story' about Formosa's release of ethylene dichloride into the Mississippi River" if the company didn't pay the eight negotiators.

"This," Ennis writes, "is a clear act of coercion under the standard definition."

Neither LeBlanc nor Plant Manager Kelly Serio returned calls to their offices Wednesday.

Fort Lauderdale Residents Face Federal Real Estate Fraud Charges (FLSUNSEN)

South Florida Sun-Sentinel, September 15, 2005

Federal authorities arrested two Fort Lauderdale residents Tuesday on more than a dozen charges involving real estate and bankruptcy fraud, the U.S. Attorney's Office said.

Edward Garnett, 62, and Shirley Akey, 69, lied on loan applications about income, assets, and tax information, a U.S. Attorney's Office news release says.

According to the release, the two racked up $1.4 million in loans, which Akey laundered through different bank accounts. Garnett also hid money and assets from a bankruptcy proceeding.

Both were arrested on one count of conspiracy, three counts of loan application fraud, two counts of mail fraud, three counts of wire fraud and three counts of money laundering. Garnett was charged with an additional count of loan application fraud, two additional counts of mail fraud and three counts of bankruptcy fraud.

Penalties for the charges could total more than 100 years in prison and $6 million in fines.

Charges Stun Family, Friends (DEN)

Detroit News, September 15, 2005

ANN ARBOR -- On Monday, three 17-year-old Pioneer High School students were worrying about keeping up their grades and where to go to college next fall.

Today, they're spending their third day in the county jail, facing a lengthy prison sentence if convicted in the Aug. 22 robbery of an Ann Arbor bank.

On Wednesday, the mothers of two of the students put their arms around each other as they watched grainy black and white closed-circuit video of their sons' brief arraignment on three felony charges. All three are charged as adults.

One is the son of an auto executive and went to Minnesota this summer to visit a music school and who plays lacrosse.

Another runs the 100-yard dash and works part time at a local restaurant, while the third does volunteer work -- including handing out apples at University of Michigan football games.

About 50 classmates packed the jail waiting room, some of them crying while they watched the proceedings.

Prosecutors contend that in the waning days of a quiet Ann Arbor summer, two of the students, Charles Spencer Heath and Brian Keith Jackson, robbed the Bank One branch on West Stadium and made off with about $19,000 -- after they had demanded $50,000 and access to the vault while brandishing a toy gun.

They apparently spent some of the money on clothes and music equipment and the alleged motive, lawyers say, was simply to get money. None of the three has any prior criminal record, and none has been in any serious disciplinary trouble at school.

The third student, Brian Christopher White, the son of a former teacher and a Big Three auto executive, told police he allowed his friends to use his car, but didn't know they planned to rob the bank, according to a written statement he gave police. He is charged with conspiracy and bank robbery -- even though police say he didn't enter the bank Aug. 22.

White's lawyer, Daniel Geherin, offered a letter of character from Ann Arbor school board President Karen D. Cross.

"I think it's safe to say people's jaws dropped when they heard about the charges," Geherin said. "No one expected this. I think the alleged motive is pretty straightforward: to get money."

But the magistrate was not impressed.

Citing the three as a threat to the community and the seriousness of the charges, she set bond at $100,000 cash for each of them. Their parents might be required to put up their homes as collateral.

The three students will have a chance to get a reduced bond Wednesday, when they face a preliminary examination in Ann Arbor District Court. All three likely will remain in the Washtenaw County Jail until then.

Jackson's lawyer, Michael J. Vincent, said his client was scared.

"He's petrified. He's as scared as any 17-year-old sitting in the Washtenaw County Jail would be."

Heath's lawyer, Joseph Simon, noted his client had been doing much better in school this year and was getting "all A's currently."

Heath has lived in Ann Arbor for all but two years, when his parents went to the Dominican Republic to do missionary work for their church, Simon said.

Heath did a number of volunteer activities at the Free Methodist Church in Ypsilanti. One activity of his youth group is to pass out apples at U-M football games.

Simon added that if the allegations are true: "What a shame. What a waste for these kids."

Parents of the three declined to comment.

Two of the students were arrested in class Monday without incident, while the third was arrested later.

Police arrested but later released a fourth Ann Arbor man. He has not been charged in connection with the robbery.

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The three said little during their court appearances. When Jackson approached the microphone in the jail, he was asked to state his name.

"Hi, I'm Brian Jackson," he said.

None of the three showed any reaction when they received the stiff bond. A bail bondsman took notes and quietly talked to each of the three families about what might be necessary to get their children out of jail.

Some students wearing Pioneer High T-shirts or hats shook their heads when the magistrate refused to set a lower bond.

"People can't believe it. I can't believe they did it. If they did do it, well they're going to have to face the music," said Owen Fly, 16, a junior at Pioneer High School, the state's largest high school with 3,000 students.

All three teenagers are considered adults under Michigan law and face up to life in prison if convicted on the armed robbery, bank robbery and conspiracy charges. Under Michigan's sentencing guidelines, a conviction on a first offense is generally not a probationary offense and calls for prison time, typically at least four or five years, lawyers for the three said.

The three also could get their driver's licenses suspended after allegedly using a car to commit a felony.

The armed robbery charge carries a mandatory minimum two-year sentence.

The FBI also investigated the case, but it's unlikely the U.S. Attorney's Office will seek to charge the three federally. That would require getting permission of the Justice Department in Washington -- a cumbersome process -- because they are younger than 18.

You can reach David Shepardson at (313) 222--2028 or dshepardson@detnews.com.

Jefferson Begins To Fight Charges (RC)

By Erin P. Billings And Lauren W. Whittington

Roll Call, September 15, 2005

Rep. William Jefferson (D-La.), under investigation by the FBI, went on the defensive Wednesday in the wake of a damaging ABC News report that the Congressman allegedly used National Guard resources to gather personal belongings from his New Orleans home amid the Hurricane Katrina rescue operation.

Jefferson is apparently gearing up for a tough legal fight. He recently retained defense attorney Robert Trout of the Washington, D.C., law firm Trout Cacheris, in addition to his New Orleans-based attorney, Michael Fawer. Trout is a former federal prosecutor. Jefferson also recently set up a legal defense fund.

Jefferson, according to sources, spoke to his colleagues at the Congressional Black Caucus meeting Wednesday. During the session, the Louisiana Democrat defended his tour of his damaged district on Sept. 2 and insisted that the ABC story that aired Tuesday night distorted the facts and misrepresented his actions.

In an interview, Melanie Rouffell, a Jefferson spokeswoman, reiterated her boss's belief that the story was unfair, noting that National Guard officials refused to let the Congressman tour the devastated area without the presence of armed guards.

She said that Jefferson was only doing his job by trying to assess the damage in his district and that he was concerned about his neighbors, whom he knew had not evacuated their homes.

"There is no story," Rouffell said. "There's no misuse of anything. If he had been able to tour the city on his own, he would have done so. And he would have preferred to."

But even as some of Jefferson's colleagues defended their friend, some Democrats wonder about the broader implications that the FBI investigation could have for their party. The Congressman had his homes in New Orleans and Washington, D.C., searched last month as part of an ongoing FBI investigation.

Authorities are investigating whether Jefferson illegally pocketed hundreds of thousands of dollars from a start-up technology firm during an FBI-authorized sting, according to published reports.

"People appreciate the seriousness of the allegations," said one CBC member, speaking on the condition of anonymity. "I don't think anyone has drawn any conclusions or is attempting to prejudge the matter."

Others, however, made it clear that they were prepared to stick by Jefferson.

"I'm going to be fully supportive of him all the way through to the ultimate disposition and beyond," said Rep. Mel Watt (D-N.C.), chairman of the CBC.

Watt praised his colleague's character and called him "an outstanding legislator and a wonderful friend."

But the CBC chairman acknowledged that in the end, the disposition of the Caucus is not politically important.

"Mr. Jefferson doesn't need my support," he said. "He is an elected representative answerable to his constituents. He's not answerable to the Congressional Black Caucus."

According to the ABC News report, Jefferson emerged from his house after about an hour with three suitcases, a laptop and a box about the size of a refrigerator.

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Rouffell said that information was inaccurate and that Jefferson took two suitcases, his daughter's laptop and a box that contained another suitcase, which was to be shipped to his daughter.

"The story gives the impression that he asked the National Guard to go with him to retrieve his personal items," she said. "That was not the purpose of it."

The ABC News report and the ongoing investigation of Jefferson may have broader implications for Democrats, as they seek to capitalize on ethical improprieties by Congressional Republicans.

Democrats have sought to highlight the ethical troubles of Republicans such as House Majority Leader Tom DeLay (Texas) and House Administration Chairman Bob Ney (Ohio) as proof of a broader culture of corruption within the GOP-run Congress.

House Minority Whip Steny Hoyer (D-Md.) said he "doesn't know much about" the August searches of Jefferson's home, office and vehicle, aside from the fact that an investigation is ongoing.

But the Maryland Democrat said that "if somebody has acted unethically or committed criminal offenses, we need to hold them accountable."

"Let's see what the facts are," Hoyer said later. "But if the facts are such that there is an ethical violation or there is a criminal violation, then I think it is appropriate for the ethics committee and for perhaps the Congress to act, period, whether it is a Democrat or a Republican."

Hoyer added that the Jefferson case "raises the public's concern about the ethics and legality with which the Congress is operating, and we ought to look into that."

The National Republican Congressional Committee circulated the ABC News story to reporters Wednesday morning under the headline "In Case You Missed It."

CIVIL RIGHTS:

New Justice Unit To Probe Old Bias Cases (AP-Y2)

By Sam Hananel, Associated Press Writer

AP2, September 15, 2005

A new Justice Department office would investigate and prosecute "cold case" murders from the civil rights era, under a measure approved by the Senate on Wednesday.

The Unsolved Crimes Section would target pre-1970 homicides motivated by racial hatred that remain unsolved, often because of lax state and federal prosecution at the time they occurred.

The bill was inspired by efforts to reopen the case of Emmett Till, a 14-year old black boy who was murdered in 1955 after being accused of whistling at a white woman in Mississippi, said Sen. Jim Talent (news, bio, voting record), R-Mo., who sponsored the legislation with Sen. Christopher Dodd (news, bio, voting record), D-Conn.

"We want the murderers and their accomplices who are still living to know there's an entire section of the Department of Justice that is going after them," Talent said in a statement. "We need to unearth the truth and do justice because there cannot be healing without the truth."

The Senate voted by unanimous consent to add the measure to the massive Commerce, Justice and Science appropriations bill, expected to pass the Senate this week.

A House-passed version of the bill does not include the civil rights measure, but lawmakers will try to include it in legislation that emerges from a conference committee.

Talent and Dodd introduced the bill in June, shortly after a Mississippi court sentenced 80-year-old former Klansman Edgar Ray Killen to 60 years in jail for the slayings of three civil rights workers in 1964.

Killen was the latest in a string of elderly suspects tried and convicted for decades-old crimes committed at a time when justice was out of reach for many American blacks.

The new office has been compared to Justice Department's Office of Special Investigations, which focuses on finding and deporting former Nazis living in the United States.

The bill authorizes up to $5 million a year for the unit to investigate and try cases, working together with state and local law enforcement officials. If a crime other than murder is discovered, it would be referred to the criminal section of the Justice Department's civil rights division.

Federal Judge Rules Against Pledge (USAT)

By Richard Willing

USA Today, September 15, 2005

DOJ_NMG_0005709

A federal judge in Sacramento ruled Wednesday that teacher-led recitation of the Pledge of Allegiance in public schools violates the Constitution's protection of religious freedom because the pledge refers to “one Nation under God.”

The ruling, by U.S. District Judge Lawrence Karlton, revives a legal challenge to the 51-year-old version of the Pledge. The U.S. Supreme Court rejected that challenge last year. The case may be headed that way again. Derek Gaubatz, lawyer for students who want to keep the Pledge, says the decision will be appealed to the Supreme Court “if necessary … as quickly as possible.”

In June 2004, five of the Supreme Court's nine justices found that Sacramento atheist Michael Newdow did not have custody of his school-age daughter and thus could not challenge school district policy that allowed teachers to lead students in a voluntary recitation of the Pledge.

The decision enabled the high court to dodge a battle over whether the phrase “under God” carries a religious meaning that is unacceptable under the Constitution's First Amendment, which forbids government endorsement of religion. The court also avoided deciding whether reciting the Pledge in schools is a coerced religious practice.

Newdow refiled the case in January and added as plaintiffs two sets of anonymous atheist parents who also have children in Sacramento-area schools. On Wednesday, Karlton ruled that the new plaintiffs were qualified to sue although Newdow isn't.

Because the Supreme Court had rejected Newdow's challenge on procedural grounds and not on its merits, Karlton wrote, he was required to reinstate an earlier federal appeals court ruling in the case that had struck down the recitation of the pledge.

In 2003, the 9th U.S. Circuit Court of Appeals found teacher-led recitation of the Pledge to be “coercive” because it “places students in the untenable position of choosing between participating in an exercise with religious content or protesting.”

That ruling, Karlton wrote, is “binding precedent” on him as a “judge of a subordinate court.”

Newdow, a physician and a lawyer, said he was “very pleased” by Karlton's ruling. “The Pledge is wrong, and the (school district) government is wrong here,” Newdow said.

Gaubatz said Karlton's ruling showed that he was afraid to address the heart of the matter. “Basically, he punted and let the 9th Circuit do his dirty work,” said Gaubatz, litigation director for the Becket Fund for Religious Liberty, a research and legal advocacy group in Washington, D.C.

The phrase “under God” was added to the Pledge of Allegiance by Congress in 1954 after a campaign by the Knights of Columbus, a Catholic men's group. The Supreme Court has never ruled on the constitutionality of reciting the pledge in public schools and has a mixed record in other cases involving the public invocation of the deity. For instance, it has struck down prayer at school graduations but has upheld chaplain-led prayers offered at the opening of Congress.

Pledge Of Allegiance In Public Schools Ruled Unconstitutional (LAT)

By Maura Dolan

The Los Angeles Times, September 15, 2005

SAN FRANCISCO — A federal judge in Sacramento ruled today that requiring schoolchildren to recite the words "under God" in the Pledge of Allegiance is unconstitutional, reviving a legal battle by an atheist who lost his first round in the U.S. Supreme Court.

U.S. District Judge Lawrence K. Karlton said he was bound by a U.S. 9th Circuit Court of Appeals decision in the earlier lawsuit that the reference to God violated the constitution's requirement of separation of church and state.

Michael A. Newdow, the atheist who brought that case, eventually lost when the U.S. Supreme Court ruled that he did not have legal standing to sue on behalf of his grade-school daughter because he did not have primary custody of her.

Karlton, however, said Newdow's current lawsuit may go forward because parents with full custody of their children are involved in the lawsuit. Today's ruling is expected to be appealed. He said he would issue a restraining order blocking the recitation of the pledge in four Sacramento-area school districts named in the lawsuit.

A spokesman for the Elk Grove, Calif., Unified School District, one of the school districts sued, said the judge had not yet issued an order prohibiting the recitation of the pledge in the classroom.

Asked about a possible appeal, Jim Elliott, director of communications, said, "We continue to support the Pledge of Allegiance as a patriotic exercise."

Newdow could not be reached for comment.

Any order enforcing Karlton's decision would not extend beyond the Elk Grove Unified, Rio Linda and Elverta Joint Elementary school districts in Sacramento County, where the plaintiffs' children attend.

Today's ruling comes as Supreme Court nominee John G. Roberts Jr. is in his third day of his confirmation hearings before the Senate Judiciary Committee. He would succeed the late William H. Rehnquist as chief justice.

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The Becket Fund, a religious rights group that is a party to the case, said it would immediately appeal the case to the San Francisco-based U.S. 9th Circuit Court of Appeals. If the court does not change its precedent, the group would go to the Supreme Court.

"It's a way to get this issue to the Supreme Court for a final decision to be made," said fund attorney Jared Leland.

The decisions by Karlton and the 9th Circuit conflict with an August opinion by the U.S. 4th Circuit Court of Appeals in Richmond, Va. That court upheld a Virginia law requiring public schools to lead daily Pledge of Allegiance recitation, which is similar to the requirement in California.

Karlton, appointed to the Sacramento bench in 1979 by President Jimmy Carter, wrote that the case concerned "the ongoing struggle as to the role of religion in the civil life of this nation," and added that his opinion "will satisfy no one involved in that debate."

Judge Rules Pledge Of Allegiance In Calif. Schools Unconstitutional (WP)

By John Pomfret

The Washington Post, September 15, 2005

LOS ANGELES, Sept. 14 -- A federal judge ruled Wednesday that the law requiring the recitation of the Pledge of Allegiance in public schools is unconstitutional and said he was ready to issue an injunction to three California school districts to halt the daily reciting of the pledge.

Terming the case "a cause celebre in the ongoing struggle as to the role of religion in the civil life of this nation," U.S. District Judge Lawrence Karlton ruled that the pledge's reference to "one nation under God" violates children's right to be "free from a coercive requirement to affirm God."

Michael A. Newdow, the atheist resident of Sacramento whose previous case against the pledge's words "under God" was rejected last year by the Supreme Court on procedural grounds, said he will ask the judge to issue a restraining order halting the pledge at the Elk Grove Unified, Rio Linda and Elverta Joint Elementary school districts in Sacramento County. A lawyer for the districts told the Associated Press he was not prepared to comment on the case.

Newdow, speaking from his cell phone in El Paso, Tex., said he was pleased by the verdict but expects a tough legal fight ahead. "It'll be emotional when it's ruled that all Americans should be treated equally," he said. "This is a start towards that, but we still have a ways to go." He said he wants the Pledge of Allegiance restored to its original text, approved by Congress in 1942, with no mention of God.

Jared Leland, a lawyer for the Washington-based Becket Fund for Religious Liberty, which fought the case, said he had expected the verdict but that his group, which represented students and parents of students in the case, will appeal to the U.S. Court of Appeals for the 9th Circuit. In the case, Leland also represented the Knights of Columbus, which started using the revised pledge in 1951 as the Cold War heated up. The Knights lobbied Congress and the Eisenhower administration to officially change the pledge in 1954.

"The pendulum is swinging in the wrong direction in our country," Leland said. "Mike Newdow is on a train whose destination is designed to hide and undermine the role of religion in public life. We want to restore religion to the public square."

In his ruling, which he acknowledged will "satisfy no one involved" in the debate about the role of religion in public life, Karlton said he was bound by precedent from the appeals court, which in 2002 ruled in favor of Newdow that the pledge is unconstitutional when recited in public schools.

Last year, the Supreme Court dismissed the case, saying that Newdow lacked standing because he did not have custody of his elementary school daughter, on whose behalf he sued.

Newdow then filed a similar suit on behalf of three unnamed parents and their children. Karlton, ruling in Sacramento, said those families have the right to sue and, arguing that he was bowing to the 9th Circuit court's initial ruling on the pledge, ruled in their favor.

Wednesday's ruling increases the chance that the case could return to the Supreme Court because the 9th Circuit's ruling on Newdow's suit clashes with an opinion, issued in August, by the U.S. Court of Appeals for the 4th Circuit in Richmond. That court upheld a Virginia law requiring public schools to lead daily Pledge of Allegiance recitation, saying the pledge is a patriotic exercise, not a religious affirmation similar to a prayer.

Judge Rules Reciting Pledge In Schools Is Unconstitutional (NYT)

By Dean E. Murphy

The New York Times, September 15, 2005

DOJ_NMG_0005711

SAN FRANCISCO, Sept. 14 - A federal judge in Sacramento ruled Wednesday that reciting the Pledge of Allegiance in public schools was an unconstitutional endorsement of religion, once again igniting a firestorm over the appropriateness of the pledge's reference to "under God."

The judge, Lawrence K. Karlton of Federal District Court, said that the decision would "satisfy no one involved" in the debate over "the role of religion in the civil life of this nation," but that he was bound by a ruling in 2002 by the United States Court of Appeals for the Ninth Circuit, in San Francisco.

In that ruling, the Ninth Circuit concluded the recitation of the pledge, even if noncompulsory, "impermissibly coerces a religious act" and "places students in the untenable position of choosing between participating in an exercise with religious content or protesting."

The ruling Wednesday was denounced by conservative religious groups that urged its appeal. Gov. Arnold Schwarzenegger, a Republican, issued a similar plea.

Judge Karlton's decision came in a lawsuit brought by Michael Newdow, an atheist whose daughter attends a public school in Elk Grove, a suburb of Sacramento, and two families with children in two other school districts in the Sacramento area.

Mr. Newdow lost a similar case last year when the United States Supreme Court ruled that he had no legal standing to bring the lawsuit because he did not have custody of his daughter. The justices left open the question of the pledge's constitutionality, prompting Mr. Newdow to try again with the additional plaintiffs.

Judge Karlton said that Mr. Newdow still lacked standing, but ruled that the two families, who were not identified in the lawsuit, were entitled to sue. Mr. Newdow said that he was disappointed but not surprised by the determination on his standing, but that the decision on the pledge's constitutionality would apply to all students in the three school districts.

"It will still affect my child as much as anyone else's," he said in a telephone interview from El Paso, where he was working at a hospital.

A spokesman for the Elk Grove Unified School District said teachers were notified Wednesday that they should continue leading students in the pledge because the judge's ruling did not include an injunction stopping the practice. Judge Karlton indicated that he would issue an injunction if one was requested, but Mr. Newdow said that he had not decided whether to seek one.

"I will probably do that, but I have clients now I have to talk to first," said Mr. Newdow, who is the lawyer in the case in addition to being a doctor. "Unfortunately, I haven't had a chance to read this thing yet."

At a news conference attended by officials from the three districts, Steven M. Ladd, the Elk Grove superintendent, said that no decision on an appeal had been made but that he would not be surprised if the schools challenged the ruling "so as to resolve this matter once and for all."

The Elk Grove district defended itself against the previous lawsuit by Mr. Newdow. "Our board has long supported the Pledge of Allegiance as an appropriate patriotic exercise for willing students," Mr. Ladd said. "We are disappointed that our district, as well as two other school districts listed in this complaint, need to continue to devote time, energy, and resources to defend this case. These are resources we could otherwise use on our mission of teaching and learning."

A lawyer for the Becket Fund for Religious Liberty, a religious rights group that has joined the school districts in defending the case, said there was no doubt the ruling would be appealed.

The group's lawyer, Jared N. Leland, said he would not be surprised if the issue ended up before the Supreme Court, particularly since the Court of Appeals for the Fourth Circuit last month upheld a law in Virginia that requires the recitation of the pledge in public schools. That court found that the pledge was "a patriotic activity" not a religious one.

In the Supreme Court's ruling dismissing Mr. Newdow's previous lawsuit, the three dissenting justices indicated they would have upheld the constitutionality of "under God" had the case gone forward. The phrase was added to the pledge in 1954.

Federal Judge: Pledge Of Allegiance In Public Schools Is Unconstitutional (LAW/AP)

By David Kravets, The Associated Press

Law.com, September 15, 2005

A federal judge declared the reciting of the Pledge of Allegiance in public schools unconstitutional Wednesday in a case brought by the same atheist whose previous battle against the words "under God" was rejected by the U.S. Supreme Court on procedural grounds.

U.S. District Judge Lawrence Karlton ruled that the pledge's reference to one nation "under God" violates schoolchildren's right to be "free from a coercive requirement to affirm God."

Karlton said he was bound by precedent of the 9th U.S. Circuit Court of Appeals, which in 2002 ruled in favor of Sacramento atheist Michael Newdow that the pledge is unconstitutional when recited in public schools.

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The Supreme Court dismissed the case last year, saying Newdow lacked standing because he did not have custody of his elementary school daughter he sued on behalf of.

Newdow, an attorney and a medical doctor, filed an identical case on behalf of three unnamed parents and their children. Karlton said those families have the right to sue.

Karlton, ruling in Sacramento, Calif., said he would sign a restraining order preventing the recitation of the pledge at the Elk Grove Unified, Rio Linda and Elverta Joint Elementary school districts in Sacramento County, where the plaintiffs' children attend.

The order would not extend beyond those districts unless it is affirmed by a higher court, in which case it would apply to nine western states.

The decision sets up another showdown over the pledge in schools, at a time when the makeup of the Supreme Court is in flux.

Wednesday's ruling comes as Supreme Court nominee John Roberts faces day three of his confirmation hearings before the Senate Judiciary Committee. He would succeed the late William H. Rehnquist as chief justice.

In July, Sandra Day O'Connor announced her plans to retire when a successor is confirmed.

The Becket Fund, a religious rights group that is a party to the case, said it would immediately appeal the case to the San Francisco-based 9th U.S. Circuit Court of Appeals. If the court does not change its precedent, the group would go to the Supreme Court.

"It's a way to get this issue to the Supreme Court for a final decision to be made," said fund attorney Jared Leland.

The decisions by Karlton and the 9th Circuit conflict with an August opinion by the 4th U.S. Circuit Court of Appeals in Richmond, Va. That court upheld a Virginia law requiring public schools lead daily Pledge of Allegiance recitation, which is similar to the requirement in California.

A three-judge panel of that circuit ruled that the pledge is a patriotic exercise, not a religious affirmation similar to a prayer.

"Undoubtedly, the pledge contains a religious phrase, and it is demeaning to persons of any faith to assert that the words 'under God' contain no religious significance," Judge Karen Williams wrote for the 4th Circuit. "The inclusion of those two words, however, does not alter the nature of the pledge as a patriotic activity."

Newdow, reached at his home, was not immediately prepared to comment.

Karlton, appointed to the Sacramento bench in 1979 by President Carter, wrote that the case concerned "the ongoing struggle as to the role of religion in the civil life of this nation" and added that his opinion "will satisfy no one involved in that debate."

Karlton dismissed claims that the 1954 Congressional legislation inserting the words "under God" was unconstitutional. If his ruling stands, he reasoned that the schoolchildren and their parents in the case would not be harmed by the phrase because they would no longer have to recite it at school.

Terence Cassidy, a lawyer representing the school districts, said he was reviewing the opinion and was not immediately prepared to comment.

Pledge Unconstitutional At Public Schools, Judge Says (Update2) (BLOOM)

Bloomberg News, September 15, 2005

Sept. 14 (Bloomberg) -- A federal judge in California said the recitation of the Pledge of Allegiance in public schools is unconstitutional, in a ruling that will rekindle a debate over the use of the phrase ``under God."

Judge Lawrence Karlton in Sacramento, California, today said that a school district's policy requiring the pledge with the phrase ``under God'' is unconstitutional. The case was brought by Michael Newdow, an atheist who had previously sued to challenge the use of the phrase.

The U.S. Supreme Court last year vacated a decision that said a California school district violated the Constitution's separation of church and state clause by requiring teachers to lead the pledge. The justices didn't decide whether the pledge was constitutional, instead ruling that Newdow lacked the right to bring the challenge. Newdow overcame the hurdle by including students who live in the district in today's case.

Karlton said he followed a previous ruling by the 9th U.S. Circuit Court of Appeals based in San Francisco. Newdow's claims ``are resolved because the 9th Circuit has held that the school policy mandating the pledge is unconstitutional," Karlton wrote.

Derek Gaubatz, director of litigation for the Washington- based Becket Fund for Religious Liberty, said his group would appeal today's decision. Gaubatz said he represents 10 students and their parents in the Sacramento case.

Immediate Appeal

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``We object to the ruling that the pledge violates any part of the establishment clause," Gaubatz said. ``We will immediately appeal" the ruling to a federal appeals court, ``and if necessary to the Supreme Court to get that ruling reversed to secure the constitutionality of the pledge once and for all."

Newdow, a Sacramento lawyer, didn't immediately return a call seeking comment.

Today's ruling doesn't require the four Sacramento-area public school districts Newdow sued to change their practice of reciting the pledge. Karlton said he'd issue a restraining order ``upon a properly supported motion."

Karlton's ruling is likely to take on more prominence as the U.S. Senate considers the confirmation of U.S. Supreme Court Justice nominee John Roberts. The ruling was released during a hearing today in Washington.

``This is an example, in my opinion, of where judges do not protect us from having the government impose religion on us, but declare war on all things religious," Senator Lindsey Graham, a Republican from South Carolina, said during Roberts' hearing.

The school districts are the Elk Grove Unified School District, Sacramento City Unified School District, Elverta Joint Elementary School District and the Rio Linda School District.

The case is Newdow v. Congress of the United States of America, No. S-05-17, in U.S. District Court in Sacramento.

To contact the reporter on this story: Joel Rosenblatt in San Francisco at jrosenblatt@bloomberg.net Last Updated: September 14, 2005 17:07 EDT

Judge Rules Against Pledge In Schools (WT)

By Julia Duin

The Washington Times, September 15, 2005

A California federal judge yesterday ruled it is unconstitutional to require children to recite the Pledge of Allegiance in public schools.

U.S. District Judge Lawrence Karlton's ruling came in a revised lawsuit brought by Michael Newdow, an atheist whose first bid to remove the words "under God" from the pledge was rejected last year by the Supreme Court.

"The pledge is an unconstitutional violation of the children's right to be free from a coercive requirement to affirm God," Judge Karlton wrote in yesterday's decision.

Three Sacramento-area school districts were named in the retooled suit, which features a new set of plaintiffs, including the atheist parents of a seventh-grader and the divorced atheist parent of a third-grader and a kindergartner.

Judge Karlton, 70, was appointed to the court in 1979 by President Carter. The judge cited a 2003 decision by the 9th U.S. Circuit Court of Appeals "that the school districts' policies violate the establishment clause" as the reason for his decision.

A jubilant Mr. Newdow hailed the news.

"I'm excited," he said in an interview. "It's good now that the judge has agreed with me and that the Constitution was upheld. We'll see how long that lasts."

The judge also told Mr. Newdow he would sign a restraining order preventing the recitation of the pledge at the Elk Grove Unified, Rio Linda Union and Elverta Joint Elementary school districts, where the plaintiffs' children attend.

Mr. Newdow promised he'd file a restraining order soon.

House and Senate Republicans criticized Judge Karlton's ruling.

"The Pledge of Allegiance is a vital, ennobling part of our national identity, and the American people resoundingly support its value in the education of our children," said House Majority Leader Tom DeLay of Texas. "The ruling is wrong, period, and I look forward to its reversal."

"This is yet another example of an irresponsible decision by a liberal activist judge unable to separate personal politics from public service," said Sen. John Thune, South Dakota Republican. "As we work to fill two vacancies in the highest court of the land, today's news only serves to underscore the importance of appointing judicial nominees who refuse to allow their personal views to shape decisions."

During oral arguments for the case in July, Judge Karlton threw out several parts of Mr. Newdow's revised lawsuit, saying the plaintiff's argument that the entire pledge is unconstitutional would not make it past a higher court. Rather, the judge said, the case should focus on whether saying the pledge in public schools is an unacceptable endorsement of religion.

Derek Gaubatz, director of litigation for the Becket Fund, a religious liberties group opposing Mr. Newdow, described the judge as an "old-time liberal."

"He telegraphed to everyone how he wanted to rule," Mr. Gaubatz said. "He wanted to strike the pledge down, but he wanted to rely on the prior 9th Circuit decision so they could do his dirty work."

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He said the Becket Fund will appeal the case to the 9th Circuit, which sided with Mr. Newdow in 2003. The Supreme Court struck down that ruling in June 2004, but did not rule on the merits of the case. Instead, the high court said Mr. Newdow, the divorced, noncustodial father of a fourth-grader in the Elk Grove district, did not have legal standing as a plaintiff.

Lee Strang, an assistant law professor at Ave Maria School of Law in Ann Arbor, Mich., said the public should not be surprised that the issue has resurfaced.

"The Supreme Court has been all over the map on this issue," he said. "Their establishment clause case law has been such a muddle because you have these shifting coalitions of justices who come together to arrive at sometimes unprincipled results."

Judge Karlton was "pushing the limits" of his job description, Mr. Strang said, "but judges have been known to guide litigants in subtle and not-so-subtle ways."

"I think the judge made the right call," said Rob Boston of Americans United for Separation of Church and State. "The whole question of patriotism and the religious content of the pledge hasn't been explored like it should be. A student should be able to express patriotism and love of country without making a religious affirmation at the same time."

Massachusetts Rejects Bill To Eliminate Gay Marriage (NYT)

By Pam Belluck

The New York Times, September 15, 2005

BOSTON, Sept. 14 - In a sign that the legalization of same-sex marriage has changed the political landscape in Massachusetts, the legislature soundly defeated a proposed constitutional amendment on Wednesday to ban gay marriage and create civil unions, an amendment that lawmakers gave preliminary approval to in a raucous constitutional convention last year.

Wednesday's 157-to-39 vote by a joint session of the House and Senate partly reflected the fact that some legislators now consider same-sex marriage more politically acceptable, after a largely conflict-free year in which some 6,600 same-sex couples got married and lawmakers who supported it got re-elected.

The vote also reflected some lawmakers' reluctance to pass a bill that could either withdraw rights from already married couples or create a class of married gay men and lesbians and a class of those unable to marry.

Indeed, Senator Brian P. Lees, a Republican who is the minority leader and who co-sponsored the amendment, which received preliminary approval from the legislature in March 2004 in a 105-to-92 vote, said he voted against it Wednesday.

"Today, gay marriage is the law of the land," Mr. Lees said, noting that same-sex marriage became legal in May 2004. Voting for the amendment, he said, would mean "taking action against our friends and neighbors who today are currently enjoying the benefits of marriage."

Saying he had heard from over 7,000 constituents, most against the amendment, Mr. Lees added, "Gay marriage has begun and life has not changed for the citizens of the commonwealth, with the exception of those who can now marry who could not before."

Wednesday's vote also reflected a change in the strategy of opponents of same-sex marriage.

Last year some legislators who opposed both same-sex marriage and civil unions voted for the amendment because they considered it their best chance at preserving marriage for heterosexuals.

This year, after it appeared that the amendment would fail, many opponents of same-sex marriage started a citizens' petition for a stricter amendment that would ban same-sex marriage without creating civil unions.

The earliest that amendment, endorsed by Gov. Mitt Romney, could become law is 2008. Supporters must get 65,000 signatures, the votes of 50 lawmakers in two consecutive legislative sessions and the approval of voters in a referendum. Both sides expect a difficult fight.

Representative Philip Travis, a Democrat and opponent of same-sex marriage, argued Wednesday for the stricter amendment.

"The union of two women and two men can never consummate a marriage," Mr. Travis said. "It's physically impossible. We can't get around that."

In contrast to last year's long sessions packed with activists, Wednesday's session lasted two hours and drew smaller, calmer crowds.

Juan Carlos Huertas was one of a few dozen opponents of same-sex marriage singing Christian hymns at the statehouse. Mr. Huertas said that the idea that marriage is between a man and a woman is "written in the Scripture."

Nearby were about 200 supporters of same-sex marriage, some with T-shirts or buttons that said "I Do."

For weeks, same-sex couples and supporters met with legislators to present their case. Elaine Lamy, 49, and Chris Hannibal, 50, of Quincy, who married last year, met with Representative Bruce J. Ayers and Senator Michael W. Morrissey, who

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was also lobbied by the women's heterosexual neighbors. On Wednesday, the women saw the two legislators, both Democrats who had supported the amendment, vote against it.

Senator James E. Timilty, a Democrat who last year supported the amendment, also changed his mind.

"When I looked in the eyes of the children living with these couples," Mr. Timilty said, "I decided that I don't feel at this time that same-sex marriage has hurt the commonwealth in any way. In fact I would say that in my view it has had a good effect for the children in these families."

Massachusetts Lawmakers Reject Bid To Stop Same-Sex Marriages (WP)

By David A. Fahrenthold

The Washington Post, September 15, 2005

BOSTON, Sept. 14 -- Amid a pep-rally atmosphere, Massachusetts legislators on Wednesday overwhelmingly rejected an attempt to halt same-sex marriages here -- showing how quickly gay nuptials have moved from being a court-ordered imposition to a powerful political cause.

By a vote of 157 to 39, members of the House and the Senate meeting together voted down a proposed constitutional amendment that would have eliminated the same-sex marriages legalized two years ago and replaced them with "civil unions" for gay couples.

Instead, the vote leaves same-sex marriage as the status quo in Massachusetts, and it now seems likely to remain so until at least 2008.

But, in a broader sense, the vote also illuminated how widely Massachusetts has diverged from much of the nation, where several dozen states have passed laws limiting marriage to heterosexual couples. California's lawmakers have passed legislation legalizing same-sex marriage. It is now sitting on the desk of Gov. Arnold Schwarzenegger (R), who has said he will veto it.

Politicians here credit the weddings themselves with shifting the political momentum, saying their growing ordinariness has defused some of the opposition.

"The difference is that we have marriage," said state Sen. Jarrett T. Barrios (D) after the vote, while other supporters screamed and cheered nearby in a rally under a mural of the Boston Tea Party. "We've got a world that hasn't changed."

The issue of same-sex marriage has been on the front burner of politics here since November 2003, when the state's Supreme Court ruled in favor of seven same-sex couples who had pressed for the right to wed.

The court found that "the right to marry means little if it does not include the right to marry the person of one's choice" -- making Massachusetts the first state to offer gay couples more than civil unions.

Weeks of emotional debate followed, as some state legislators sought to nullify the court's ruling. Finally, plans were made to amend the state constitution to permit civil unions but ban marriage. But such amendments require votes in two successive sessions of the state legislature.

The proposal passed in March 2004 but still required another vote; it was the measure turned down on Wednesday.

In the meantime, the weddings began. Since the first one on May 17, 2004, more than 6,100 gay couples have wed, accounting for about 17 percent of all the state's weddings during that period.

Each one made the idea of same-sex marriage more acceptable, observers say.

The differences were noticed by politicians, who say they started getting more letters in favor of the marriages, and by public-opinion pollsters, who noted in March that 56 percent of state residents believed same-sex marriages should be allowed.

"It's one of those areas of politics where people have become accustomed to something that was once radical," said Julian E. Zelizer, a history professor at Boston University. "It's just normative at this point."

By the time Wednesday rolled around, support for the civil-unions measure had collapsed. Forces in favor of same-sex marriage were feeling too confident to compromise, while opponents had united behind another constitutional amendment that would eliminate same-sex unions of any kind.

Gov. Mitt Romney (R), who is contemplating a presidential bid in 2008, favors a complete ban on any legalization of same-sex unions. In an interview this week, he said he has concerns about whether children brought up by a same-sex couple could develop normally.

"The ideal setting for raising a child is where there is a male and female," Romney said.

Even though the amendment under consideration was known to be dead beforehand, its killing took on a party atmosphere.

First, there were speeches, from legislators who compared Massachusetts's place in the national debate to the radical role the state's Minutemen played in the Revolutionary War.

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"We are as out of step today as we were on the village green in Lexington and Concord," said state Sen. Edward M. Augustus Jr. (D). "Massachusetts has always been the conscience of the nation."

Gay 'Marriage' Amendment Rejected (WT)

By Cheryl Wetzstein

The Washington Times, September 15, 2005

Massachusetts lawmakers yesterday rejected a marriage constitutional amendment, guaranteeing that same-sex "marriage" will continue in that state for at least three more years.

The amendment would have created civil unions for same-sex couples while disallowing same-sex "marriage."

It was approved last year, 105-92, and lawmakers had to pass it a second time to place it on the 2006 ballot. However, yesterday's 157-39 rejection showed how little support the amendment had after a year.

Many lawmakers said they rejected the measure because they no longer wanted to undo the Massachusetts Supreme Judicial Court's 2004 ruling legalizing same-sex "marriage."

"Gay marriage has begun, and life has not changed for the citizens of the commonwealth, with the exception of those who can now marry," said state Sen. Brian Lees, a Republican co-sponsor of the amendment. "This amendment, which was an appropriate measure or compromise a year ago, is no longer, I feel, a compromise today."

Conservatives shunned the amendment because it created civil unions, which they oppose as ersatz same-sex "marriage."

"The union of two women and two men can never consummate a marriage. It's physically impossible," said Rep. Phil Travis, a Democrat. "The other 49 states are right, and we are wrong."

Homosexual-rights advocates and traditional-values groups all lobbied for the defeat of the amendment, which had been introduced by Senate President Robert E. Travaglini and Mr. Lees.

With yesterday's defeat, the battle shifts to a petition drive for a marriage constitutional amendment aimed at the 2008 ballot.

The amendment, sponsored by VoteOnMarriage.org and supported by Massachusetts Gov. Mitt Romney, a Republican, would outlaw same-sex "marriage" in Massachusetts upon passage.

However, the amendment would not be retroactive and same-sex "marriages" already conducted by 2008 would not be affected. An estimated 6,100 same-sex "marriages" have been conducted in Massachusetts since May 2004.

The petition drive starts later this month. Supporters have until the Nov. 23 to meet their goal of around 120,000 certified signatures.

The amendment initiative must then be approved twice by 25 percent of lawmakers -- or 50 members -- before it can go to voters.

Traditional values groups think they can find 50 votes in each of the Democrat-led legislative chambers. However, House Speaker Salvatore F. DiMasi supports same-sex "marriage" rights, and Mr. Travaglini is also viewed as friendly to homosexual rights.

The amendment initiative says, "When recognizing marriages entered into after the adoption of this amendment by the people, the Commonwealth and its political subdivisions shall define marriage only as the union of one man and one woman."

ANTITRUST:

Industry-supported Study Concludes There Is Competition (INMAN)

By Jessica Swesey, Inman News

Inman News, September 14, 2005

A new study funded by the National Association of Realtors concludes that competition for customers among real estate brokerage firms in local housing markets across the nation is strong.

The study, compiled by researchers at Pennsylvania State University, looks at 12 local real estate markets and draws data from multiple listing services, interviews and secondary sources.

"The central finding is the intense competition in local real estate markets," Professor Steve Sawyer of Penn State's School of Information Sciences & Technology writes.

The report is timely in the continuing battle between the U.S. Justice Department and organized real estate. Competition in the real estate industry has come under fire after the DOJ filed an antitrust lawsuit last week against the National Association of Realtors over its policies for online listings. The DOJ charges that the powerful trade group's policies restrain competition by obstructing real estate brokers who use Web-based systems to offer consumers lower costs.

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NAR says its policy for Web property listings is "fair, pro-consumer, pro-competitive and accommodates innovation."

The DOJ and the Federal Trade Commission will hold a public forum to discuss competition in the real estate industry on Oct. 25, in Washington, D.C. The forum will focus on the real estate transaction, the multiple listing service, and private and state actions that affect competition among brokers.

The Penn State study, while focusing on a small sample of real estate markets, concludes that inter-firm competition is fierce within local housing markets.

In 10 of the 12 markets examined in the Penn State study, market share held by top firms was found to be shrinking.

Meanwhile, franchised firms had a larger percentage of market share than other locally owned firms in seven of the 12 markets and in four of the six largest markets studied.

The study also noted that there is steady to substantial growth in each of the 12 markets, and that smaller markets are seeing the least growth.

"This high level of competition in real estate is striking given that the combined volume dollar growth across the many local real estate markets would suggest that competition might be lessened," Sawyer wrote.

As home sales and housing prices have soared in markets nationwide over the last few years, so have the number of Realtors. The National Association of Realtors now has about 1.1 million members, a record high for the trade group.

Markets included in the Penn State study were St. Louis, Mo.; Tampa, Fla.; Columbus, Ohio; Madison, Wis.; Lima, Ohio; Baltimore, Md.; Culpepper, Va.; Cumberland, Md.; Charlotte, N.C.; Easton, Md.; Hagerstown, Md.; and Wilmington, N.C.

The study suggests that increased consumer access to real estate information is redefining how consumers engage real estate services and may be contributing to growth of real estate markets even as it drives competition.

Increased access to housing information on the Web may be "a critical factor in the current surge in house prices," the study suggests. "Buyers and sellers are better informed, and this is reflected in their confidence in the housing market."

In collecting data for the 12 markets cited in the study, researchers interviewed five people from the local real estate markets, including one from St. Louis, one from Madison, Wis., one from Tampa, Fla., and two from Lima, Ohio.

Interviewees noted that competition among agents – even those affiliated with the same brokerage company – for a listing is fierce, researchers said. Increased access to real estate information has armed consumers with more knowledge and raised their expectations for the services provided by real estate agents.

"The ability for consumers to access real estate information about their markets is raising the stakes for real estate agents and brokers," the study noted.

The Penn State researchers also found no numerical evidence of discount brokerage or for-sale-by-owner sales increasing even in the fastest growing of the 12 local markets studied. The discount brokerages involved in the areas accounted for less than one percent of the total market share.

The author noted that few patterns of competitive activity are common to all local real estate markets. Smaller markets are more concentrated than larger markets, and there are market share position changes among the top firms in each market.

In St. Louis, one firm has a dominant share of the local real estate market, the study found. However, the researchers said they learned through interviews that the unidentified firm competes in most of the micro-markets that make up St. Louis, and in each of the micro-markets there are one or two other firms with substantial percentages of market share.

Meanwhile, in Tampa, four brokerage firms affiliated with a single national franchise compete with each other and other locally owned firms and their year-to-year market shares vary, the study found.

In Madison, brokerage companies affiliated with national franchises have a smaller share of the total market than other locally owned companies, researchers said.

House Democrats Target High Gas Prices (KRT)

By Maria Recio

Knight Ridder, September 15, 2005

WASHINGTON - (KRT) - House Democratic leaders unveiled a plan Wednesday to combat what they said was price gouging at the pump, as some Republican lawmakers worried about the lackluster Bush administration response to high gasoline prices.

"Many of America's families are experiencing a middle-class squeeze, and the price at the pump is becoming oppressive," said House Democratic Leader Nancy Pelosi, D-Calif, adding that prices were high even before Hurricane Katrina knocked out 20 percent of the nation's supply lines.

"Something must be done about this," Pelosi told reporters after House Democrats signed off on the plan at their weekly meeting. "There must be a federal law to investigate and prosecute price gouging, and to receive damages from those in violation of the law" that would be directed to the federal home heating oil assistance program.

The nationwide average price of regular gasoline was $2.93 per gallon Wednesday, according to the AAA, down from the Sept. 5 high of $3.05, but still 49 cents higher than a month ago and $1.10 a gallon more expensive than a year ago. The average price in Texas was $2.83 per gallon Wednesday.

House Democratic Caucus Chairman Robert Menendez of New Jersey faulted the Bush administration for not having "sensitivity" on the issue. "Maybe it's because we have two oilmen in the White House," Menendez said.

President Bush is a former Texas oilman and Vice President Dick Cheney ran the oil services giant Halliburton Co. Bush has said he will not tolerate gouging and White House spokesman Scott McClellan said last week that gasoline prices were too high and the administration's sales from the Strategic Petroleum Reserve would ease supplies - and prices.

"We view this as a temporary disruption," McClellan said.

Republicans have largely focused on the need to re-open supply lines and using federal oil reserves to push prices down. But Sen. Trent Lott, R-Miss., spoke out sharply Wednesday about the consequences of gasoline prices at a hearing of the Senate Commerce Committee's Aviation Subcommittee.

"Now, you can give me a lecture about free enterprise, supply and demand and all that other stuff," Lott told an official from the Energy Information Administration. "That ain't good enough."

"We'd better realize that there's a problem," Lott said. "It's hurting farmers, small businessmen and women, families with children. And we at least need to empathize. At least say `this is bad, we know it's bad.' And make it look like we care and we're doing something about it. I think the energy department needs to be a little bit more aggressive in jawboning the industry as a whole."

Pelosi's plan would give the Federal Trade Commission added authority to prosecute oil companies. Republicans and Democrats in the Senate and House have asked the agency to aggressively investigate pricing, but FTC officials told Congress in hearings last week that they can only pursue collusive activity - which had not uncovered any gouging in previous investigations.

American Petroleum Institute spokesman Ray Connolly said he had not seen the Democratic package but that Red Cavaney, president of the oil industry trade association had testified before Congress last week that "API and its members condemn price gouging."

The debate in Washington has amused economists like Bernard Weinstein, director of the Center for Economic Development at the University of North Texas.

"Price gouging is a political term," he said. "I don't think economic textbooks list price gouging." He sees the run-up in prices as a reflection of the market's expectation of prices based on tighter supplies. "The price has gone up for a reason," said Byron Schlomach, chief economist at the Texas Public Policy Foundation, an Austin-based conservative think tank. "I would argue it's immoral for people not to be able to price freely." He added that he recognized that "it's not a popular view."

Menendez, meanwhile, introduced legislation separate from the Democratic leadership plan to reduce the 18.4 cents federal gasoline tax by 10 cents and pay for the lost revenue with a windfall profits tax on oil that is over $40 a barrel.

The Pelosi plan would require so-called "transparency" of pricing by making the oil companies disclose how they determine price at all levels. It would also apply antitrust laws to OPEC countries to force information about pricing policies.

Gillette Is Betting That Men Want An Even Closer Shave (NYT)

By Claudia H. Deutsch

The New York Times, September 15, 2005

LET regulators worry whether Gillette's proposed merger with Procter & Gamble poses antitrust problems. Let investors worry about how that merger will affect the fused companies' stocks. The people at Gillette have a far more immediate challenge: persuading men that they need to buy yet another new shaving system.

Yesterday, Gillette unveiled Fusion (manual) and Fusion Power (battery operated), a wet-shaving system with a lot more bells and whistles than the company's Mach3Turbo and M3Power, currently the top-selling shavers. It also announced a line of shaving creams and gels to go with the new razors.

Gillette Fusion is "the future of shaving," James M. Kilts, Gillette's chairman and chief executive, told analysts and reporters who had gathered in a Manhattan auditorium to hear the latest news. Not to be outdone in hyperbole, Peter K. Hoffman, president of Gillette's blades and razors unit, defined fusion for the crowd - "a nuclear reaction in which nuclei combine to create power" - and intimated that the Fusion system's "breakthrough technology" lives up to the analogy.

Much is at stake. According to Gillette, American men spent about $1.7 billion on blades and razors last year, and another $300 million on shaving creams and gels. Globally, shaving products accounted for more than $10.4 billion in sales.

Gillette will spend a lot to get the word out. It would not divulge marketing plans or even let product samples leave the room - "We don't want to give anything to the competition," Mr. Hoffman said in an interview after the event. But he promised that

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come early 2006, when the Fusion products hit stores, Gillette will mount a "blockbuster marketing program, absolutely huge, the biggest launch of a Gillette shaving system in history." And, yes, that is true even if adjusted for inflation, Mr. Kilts chimed in.

"Mach3 will remain No. 1 for the first few years, but Fusion will become our flagship brand," Mr. Kilts said.

This is the first time Gillette has introduced a full line of razors and accouterments at once, and marketing experts agree with the decision.

"Hats off to these guys; they're offering metrosexual nirvana," said Gary M. Stibel, principal and founder of the New England Consulting Group, a marketing consulting firm in Westport, Conn. "You get a five-bladed razor any way you want it, with power, without power. You get the gel and grooming products to go with it. Men will credit the whole system for a better shave."

Maybe so - but do men really need a better shave than Mach3 provides? Mr. Hoffman is certain they do. Noting that 60 percent of the men who tested the Fusion razors preferred them to the Mach3, he predicts that Fusion will be a "billion-dollar product" by 2008.

But marketing experts, while applauding Gillette's willingness to eat into Mach3 sales, are not so sure. "It is an incredibly hard decision, to cannibalize your own leading brand, even when you know that someone else will do it to you if you don't," said Nicholas Donatiello Jr., president of Odyssey, a San Francisco market research firm. "But there is still the question of market fatigue - I mean, at this point, how much better do men really think their shaving experience needs to be?"

Gillette's agency - BBDO Worldwide, a unit of the Omnicom Group - has access to plenty of product images and attributes to whet the jaded shaver's appetite. Both Fusion models have five blades instead of Mach3's three, and they are spaced 30 percent closer than are Mach3 blades - changes that the company says provide a more comfortable shave.

The Fusion models have a "Precision Trimmer" blade on the back of the blade cartridge, to be used to trim sideburns or shape facial hair. (According to Gillette, about half of all men have a mustache, goatee or other form of decorative facial hair.)

Fusion Power gets more techie. Its cartridges - which will also fit on the manual version - have a super-thin coating that Gillette says provides for an even closer shave. And while it runs on conventional AAA batteries, it incorporates an electronic chip to regulate voltage and otherwise ensure that the "shaving experience" is consistent as the battery drains. It even turns itself off if it sits idle for eight minutes.

Gillette has already filed 70 patents on the Fusion razors, and it expects to be able to command prices about 30 percent higher than for the Mach3. The manual razor and two cartridges will sell for about $9.99, with a 4-pack of refill cartridges going for about $11.99. Fusion Power, with one cartridge and a battery - Duracell, of course, since Gillette owns that brand - will retail for about $11.99, with refill 4-packs going for $13 or $14.

The elephant in the room, though, is the merger with Procter, which, barring regulatory holdups, should be completed this fall. Procter is already doing pre-emptive divestitures to ward off the antitrust cops - for example, it is selling its SpinBrush electric toothbrush business to Church & Dwight to avoid becoming too dominant in that area when it joins forces with Gillette's formidable Oral-B line.

Fortunately for Mr. Hoffman and his team, Procter is not in the shaving business, so Gillette's new-product plans do not pose any potential conflicts. "Fusion will be the first blockbuster for the merged P.& G.-Gillette entity," predicted William P. Pecoriello, a household products analyst at Morgan Stanley.

Mr. Kilts certainly agrees. Fusion is being introduced in North America first, and the merger should be well under way when Gillette rolls out the product internationally.

Procter has a better global distribution system than does Gillette, and "our combined sales forces will have the kind of scale to really get meaningful distribution in those markets," Mr. Kilts said in an interview. Moreover, he added, "Procter is one of the best media buyers in the world."

The merger could still cause problems, though. "A big product launch is hard under any circumstances, but particularly so if the staff is distracted by a merger," Mr. Donatiello warned.

Mr. Kilts shrugs that off. "You'll see," he said. "We'll write the Harvard case history on how to do an integration while launching a product."

Church & Dwight To Buy SpinBrush From P&G (NYT/REU)

By Reuters

The New York Times, September 15, 2005

CHICAGO (Reuters) - Church & Dwight Co. Inc. (CHD.N) on Wednesday said it has agreed to buy the SpinBrush toothbrush business from Procter & Gamble Co. (PG.N), a sale P&G hopes will help lead to antitrust approval of its multibillion dollar acquisition of Gillette Co. (G.N).

P&G had agreed to divest the business, which had $110 million in sales in the fiscal year that ended June 30, as part of its negotiations over the Gillette deal with the European Commission.

SpinBrush competes with some of Gillette's Oral-B toothbrushes.

Church & Dwight would pay an initial $75 million in cash at the closing of the deal, which would unite the battery-powered toothbrush with its Arm & Hammer and Mentadent toothpaste brands. An additional inventory settlement would be paid following the transfer of the business and Church & Dwight would also pay up to another $30 million based on near-term performance, Church & Dwight said.

The price would be sharply lower than the $475 million P&G paid for SpinBrush between 2000 and 2002. But while battery powered toothbrushes were a hot item in the oral care industry for a while, sales have waned in the category lately.

``The deal came cheap, but (the) category and SpinBrush have both lagged recently," William Schmitz, analyst at Deutsche Bank Equity Research, said in a research note.

He added that power toothbrush sales overall declined 10 percent in sales outlets tracked by market research firms last year and SpinBrush market share was down to 15.3 percent in the second quarter of this year from a high of 37.4 percent in the first quarter of 2003.

The deal is expected to close in the fourth quarter, subject to review by the Federal Trade Commission and European Commission.

P&G said it still expects its Gillette acquisition to close in the fall.

Church & Dwight shares were down 37 cents at $38.21 on Wednesday afternoon on the New York Stock Exchange, while P&G shares were down 50 cents at $55.04.

Lazard Ltd. (LAZ.N) advised Church & Dwight on the deal and Merrill Lynch advised P&G.

File-Sharing Firms Are Urged To Protect Music-Industry Rights (WSJ)

By Sarah Mcbride, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 15, 2005

The Recording Industry Association of America has sent cease-and-desist letters to several file-sharing companies, including BearShare, LimeWire and WinMX, asking that they stop activities that allow users to download copyrighted music.

The letters ask the companies to "immediately cease and desist from enabling and inducing the infringement of RIAA member sound recordings," according to a copy of the letter reviewed by The Wall Street Journal.

The letters are an attempt by the music industry to build on the favorable ruling it received from the U.S. Supreme Court in June in the so-called Grokster case, involving a file-sharing company that was accused by the industry of facilitating copyright violations. In that ruling, the court found that copyright holders could sue file-sharing companies for encouraging people to violate copyrights. Now, the industry is taking the first step toward enforcing the ruling against other file-sharing companies.

"Companies similar to Grokster have been given ample opportunity to do the right thing," said the RIAA, which confirmed sending the letters to seven file-sharing companies.

The RIAA has long said it supports legal uses of file sharing. It wants file-sharing firms to alter their software -- for example, by creating filters to strip out copyrighted material or creating mechanisms to pay copyright holders. In recent months, it has been working with several file-sharing firms, including iMesh and Mashboxx, to create services that wouldn't violate copyrights.

The file-sharing companies that received cease-and-desist letters can shut down, fight the RIAA in court, or make changes that mollify the RIAA.

Despite the Grokster decision, a court case based on other file-sharing programs wouldn't necessarily be open and shut, says Ralph Oman, the former U.S. Register of Copyrights and a Washington, D.C.-based intellectual-property lawyer at the law firm Dechert LLP. The Supreme Court found that Grokster and co-defendant Morpheus were actively pursuing former users of the original Napster, a free file-sharing service found to be illegal, and remanded the case to trial court for further consideration. (A new Napster service offers paid, legal downloads.) It might be harder to prove that for the newer services.

Mr. Oman said file-sharing companies would have to prove they had "some credible rationale other than the promotion of illegal file sharing."

LimeWire confirmed receiving the letter, but declined to comment on any action it would take. BearShare and WinMX didn't respond to requests for comment. As of last night, these companies were still offering unchanged file-sharing software programs for download.

Write to Sarah McBride at sarah.mcbride@wsj.com2

A Specialist On Mergers Joins Morgan As A Senior Adviser (NYT)

By Julie Creswell

The New York Times, September 15, 2005

DOJ_NMG_0005721

J. P. Morgan Chase said yesterday that Robert I. Lipp, a longtime financial services executive who has played a role in some of the biggest bank and insurance mergers in recent decades, is joining the bank as a senior adviser.

In his new role, Mr. Lipp, 67, will work closely with J. P. Morgan's chairman, William B. Harrison Jr., and its president, James Dimon, in strategic planning as the bank continues to integrate operations after last year's merger between J. P. Morgan Chase and Bank One.

While Morgan has been hampered from deal making by its low-valued stock, Mr. Dimon alluded in remarks this summer to analysts that the bank could be on the hunt for acquisitions as early as next year.

"One of my duties is going to be thinking about growth, especially in the context of strategic planning," said Mr. Lipp, who will remain on Morgan's board. "I look forward to knowing the organization better so that I can contribute to strategic discussions."

Mr. Lipp has a long personal and professional history with both Mr. Harrison and Mr. Dimon. He spent 23 years at Chemical Bank, where he worked with Mr. Harrison before leaving in the mid-1980's to join Sanford I. Weill at Commercial Credit, which is based in Baltimore. There, he worked alongside Mr. Dimon in turning the sleepy consumer finance company into the nation's largest financial services giant, Citigroup, through a series of acquisitions.

After stepping down as head of global consumer banking at Citigroup in 2001, Mr. Lipp became chief executive of the Travelers Property Casualty Corporation, which Citigroup spun off for $3.89 billion in 2002. Two years later, Travelers Property Casualty merged with St. Paul in a deal valued at $16 billion.

Earlier this week, Mr. Lipp stepped down as chairman of St. Paul Travelers, four months ahead of schedule. He will remain on St. Paul Travelers' board.

Mr. Lipp, who will report to work next week, said he was looking forward to working closely again with Mr. Harrison and Mr. Dimon. "It's going to be fun working with people who are friends and that you have respect for," Mr. Lipp said.

Mr. Lipp said he would also assist in leadership development programs at the bank.

EU Fines Thread Makers EU43.5 Mln For Fixing Prices (Update1) (BLOOM)

Bloomberg News, September 15, 2005

Sept. 14 (Bloomberg) -- European Union regulators fined manufacturers of industrial thread including Coats Ltd., the world's biggest, 43.5 million euros ($53 million) for operating a price-fixing cartel.

The makers of thread used in products such as clothes, shoes, furniture and car seats held meetings starting in the 1990s to agree on prices, exchange information and allocate customers, the Brussels-based European Commission said today. The fine ends a probe that began with raids in the U.K. and Germany in 2001.

``Cartel behavior is illegal, unjustified and unjustifiable, and will be punished severely no matter how large or small the companies involved," Competition Commissioner Neelie Kroes said in a statement. ``I will not allow consumers to be denied the benefits of the single market by companies carving up markets between themselves."

Under EU law, the commission, the EU's antitrust regulator, can fine companies accused of operating a cartel as much as 10 percent of their annual sales. It typically opts for about 2-3 percent of sales. The largest EU cartel fine was 462 million euros levied against Hoffmann-La Roche AG in 2001 for fixing the price of vitamins.

Coats, based in Uxbridge on the outskirts of London and owned by Guinness Peat Group Plc since March 2003, received the largest fine of 15 million euros, followed by Amann & Soehne GmbH with 13 million euros.

Three Cartels

The commission said it found a total of three cartels in the industrial thread market. The first was in Belgium, the Netherlands, Luxembourg and the Nordic countries from January 1990 until September 2001. Another was in the U.K. from October 1990 until September 1996. The third was in the thread market for automotive customers in the EU, as well as Iceland, Liechtenstein and Norway, from May 1998 until May 2000.

Other companies fined for the thread cartels include Guetermann AG, 4 million euros, Barbour Thread Ltd., 2.1 million euros, Belgian Sewing Thread NV, 979,000 euros, Bieze Stork BV, 514,000 euros, and Zwicky & Co. AG, 174,000 euros.

In the automotive thread cartel, the companies fined were Cousin/Amann, 4.9 million euros, Coats, 650,000 euros, Oxley Threads Ltd. and Barbour 715,000 euros.

To contact the reporter on this story: Matthew Newman in Brussels at mnewman6@bloomberg.net. Last Updated: September 14, 2005 09:28 EDT

S.Korea's FTC Slaps Fines On Fixed-Line Telecom Firms (ASIAP)

Asia Pulse, September 15, 2005

DOJ_NMG_0005722

SEOUL, Sept 15 Asia Pulse - South Korea's antitrust regulator decided Thursday to slap fines on four local fixed-line telecommunication service providers for illegal cartel activities.

The nine-person committee of the Fair Trade Commission (FTC) ruled to levy a combined 25.74 billion won (US$25.1 million) in fines against the country's four fixed-line companies - KT Corp. (KSE:030200), Hanarotelecom Inc., Onse Telecom Co. and Dacom Corp..

KT, the country's largest fixed-line telephone and broadband Internet operator, has been ordered to pay 23.87 billion won in fines for rigging the prices of both its long distance domestic services and international telephone services.

Dacom, the nation's second-largest long-distance telephone company, was slapped with a total 1.6 billion won in fines, with Onse being ordered to pay 2.1 billion won for its involvement in illegally fixing long distance and international telephone services.

Hanarotelecom was fined 60 million won for irregularities in its domestic long distance line operations.

The anti-trust authority also ordered the four companies, along with Dreamline Co. and Thrunet Co., to correct irregular activities related to their ultra-high-speed broadband operations.

The FTC's decision-making body said that it took the actions because the companies colluded in setting rates on both domestic and international telephone services and rigged fees they charged to businesses using their Internet lines.

Officials at the regulatory authority said they are planning to conclude a similar investigation into mobile telecommunication operators by the end of the year.

Industry sources said that the companies cited may contest the charges and take the matter to court.

S.Korea Fines KT, 3 Others $25 Mln For Price Fixing (REU)

Reuters, September 15, 2005

SEOUL, Sept 15 (Reuters) - South Korea's antitrust watchdog fined the country's top fixed-line operator, KT Corp., and three other firms 25.74 billion won ($25.10 million) for price fixing, the Fair Trade Commission (FTC) said on Thursday.

"The penalties are for price fixing in long-distance calls and international calls," a spokesman at the commission said by telephone.

The commission fined KT 23.87 billion won and Dacom Corp. 1.6 billion won. Hanarotelecom inc. and Onse Telecom were fined 60 million won and 210 million won, respectively.

The commission also found evidences of collusion in the high-speed Internet service charges, but only issued orders to improve business practices without imposing fines, the spokesman said.

The punishment comes as local operators struggle with stalled growth and cut-throat competition. In a separate case in May, the FTC slapped a record $120 million fine on KT, hanarotelecom and Dacom over collusion in local calls and network connection charges.

Competition in the fixed-line market has intensified because the broadband market is close to being saturated and growth in voice traffic has slowed as subscribers migrate to mobile phone services.

Shares in KT fell 0.94 percent to 42,000 won by 0050 GMT, versus a 0.14 percent fall in the broader market .

Dacom shares dropped 2.31 percent to 12,700 won and hanarotelecom shed 3.04 percent to 2,710 won. ($1=1025.4 Won)

ECB Chief Warns Against Attempts To Remove Fazio (FT)

By Ralph Atkins In Frankfurt And Tony Barber In Rome

Financial Times, September 15, 2005

Jean-Claude Trichet, the European Central Bank president, made clear on Wednesday he would oppose unwarranted political attempts to remove Antonio Fazio, the Bank of Italy governor engulfed in controversy over his handling of bank takeover bids.

Using national legislation to eject a central bank governor would set “a catastrophic precedent for the independence of all central banks”, Mr Trichet told the European parliament's monetary affairs committee.

He was speaking as Domenico Siniscalco, Italy's finance minister, put more pressure on Mr Fazio by saying Italy risked isolation in international financial markets unless its central bank and regulatory systems were profoundly reformed.

Mr Siniscalco and several other government ministers are demanding Mr Fazio's resignation for alleged improper conduct in two takeover battles for Italian banks. Critics accuse Mr Fazio of favouring domestic bidders over foreign ones. The central banker denies wrongdoing and has benefited from divisions in Italy's centre-right government over how, or even whether, to remove him.

Mr Siniscalco urged Italy's parliament to pass a government bill that would impose a seven-year term of office on future governors of the Bank of Italy. Under another reform, which was not in the original bill approved on September 2 by the Italian cabinet, Mr Siniscalco proposed transferring supervision of banking competition to Italy's antitrust authority from the central bank.

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"We have waited nine months for a self-reform by the central bank, and there has been no trace of it," he said.

The proposed reforms would apply only to Mr Fazio's successors, and there is much uncertainty about when they might take effect, given Mr Fazio's refusal to resign and the risk that parliament might not pass the bill before it is dissolved early next year ahead of national elections.

Mr Trichet suggested that, even if Italy's parliament passed the reforms, Mr Fazio would not immediately leave office. He referred to an opinion issued by the ECB in May 2004, which recommended a five-year "transitional regime" for an incumbent national central bank governor.

Mr Trichet said the ECB would give "urgent consideration" to the Italian government's proposals, including the fixed term of office. He suggested the ECB was likely to support their thrust.

Mr Trichet is treading a delicate path in the Fazio affair, affirming the principle of central bank independence from political pressure but stressing the ECB's support for eurozone financial integration and the equal treatment of banks of different nationalities.

The Italian government's proposals form part of a broader overhaul of financial market regulation that was drawn up after the multi-billion euro fraud at the Parmalat food group, discovered in December 2003.

ENVIRONMENT/INDIAN AFFAIRS:

Mirant Plans To Request Plant's Reopening (WP)

By Jerry Markon, Washington Post Staff Writer

The Washington Post, September 15, 2005

Mirant Corp. plans to propose that its Alexandria power plant, which provides electricity to homes in the District and Maryland, be allowed to reopen on a limited basis. The plant was closed last month because of environmental problems.

Under a tentative plan Mirant outlined last week in documents filed with federal regulators, the Potomac River plant would operate at a level "significantly reduced from full capacity" that does not violate national air quality standards. At the same time, Mirant would continue studying long-term fixes such as burning cleaner coal or raising the height of the plant's smokestacks to disperse pollutants.

The plan must pass muster with the Virginia Department of Environmental Quality (DEQ), which has ordered Mirant to take immediate steps to reduce pollution. DEQ spokesman Bill Hayden said the department has not seen a proposal from Mirant but "will take a look at what they do propose. The main thing we're looking for is, if they are continuing to operate, it must be in a way that does not violate air quality standards."

Federal regulators, meanwhile, are also evaluating a petition, filed by the D.C. Public Service Commission, that asks them to order the plant to reopen. Mirant revealed that it will probably propose the partial reopening in documents the company filed last week with the Federal Energy Regulatory Commission.

Amid the blitz of regulatory activity, it remains unclear when the plant might reopen, even temporarily. And Mirant acknowledges that a full-scale resumption of operations could be more than a year away. Although the plant is in Alexandria, it does not serve Virginia.

Mirant decided Aug. 24 to shut down the plant in response to the order from Virginia officials to cut potentially harmful pollution from the coal-fired facility. The directive by the Department of Environmental Quality came after it reviewed the results of an analysis that showed some pollutants found in the plant's vicinity are at times considerably higher than what national standards allow.

Neighbors of Mirant have complained for years about what they believe to be high levels of contaminants emanating from the plant.

But the 56-year-old plant supplies enough electricity to serve about 400,000 homes in the District and Maryland, and officials with Pepco and the D.C. Public Service Commission have described it as a vital link in the Washington power grid.

Without the plant's generating capacity, if other transmission circuits failed there could be a blackout "in much of the District of Columbia" affecting all electric customers in Georgetown, Foggy Bottom and major portions of downtown Washington, Pepco wrote in a filing last week with the Federal Energy Regulatory Commission.

"Numerous federal facilities will lose power, including those crucial to the security, safety and welfare of the whole country, such as the FBI, the Justice Department, the State Department," wrote Pepco, which distributes electric power in the region.

Officials at Pepco and the D.C. Public Service Commission acknowledged last week that the plant's shutdown has not yet affected the power supplied to residents. "So far, we've gotten by because we haven't had the kind of conditions that could lead

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to sudden blackouts, like equipment failures, and we've had relatively mild weather," said D.C. public service Commissioner Richard E. Morgan.

"But it still could happen," he added.

Pepco said it does not plan on letting things get to that point. The company announced that it plans to work with the D.C. commission to accelerate construction of new transmission facilities that would ensure reliable electric power even without the Mirant plant.

"Given Mirant's recent decisions, we believe action is necessary to satisfy Pepco's obligation to provide reliable service to our customers," said Dennis Wraase, president and chief executive officer of Pepco Holdings Inc. The transmission construction project is expected to take about 18 months.

For now, Pepco said it supports the D.C. Public Service Commission petition asking federal regulators to order the plant to reopen. Brian Lee, a spokesman for the Federal Energy Regulatory Commission, declined to say when the commission will make a decision.

Mirant, for its part, remains determined to reopen the plant. "We're confident that we're going to find a solution that will allow us to get our plant back into service and restore the level of electric reliability that we've come to expect," Mirant spokesman Steve Arabia said.

The report that precipitated the shutdown looked at worst-case scenarios involving pollution, weather and operational capacity. Researchers found that under certain conditions, the levels of sulfur dioxide, nitrogen dioxide and particles in the vicinity of the Mirant plant are higher than national ambient air quality standards allow.

As a result, state officials directed Mirant to take immediate steps to reduce pollution from the plant. Mirant decided to shut the plant down until it could find a way to meet air quality standards.

Atlanta-based Mirant, which filed for bankruptcy in 2003, operates four plants in the Washington area, including three in Maryland: in Montgomery, Prince George's and Charles counties.

Neighbors of the Alexandria plant, on the banks of the Potomac in the northern end of the city, have complained for years about what they believed to be high levels of mercury, contaminants in the air and water, and of a sooty substance that they say covers surfaces around their homes and gardens.

Poul Hertel, a neighbor who has helped lead the fight against the plant, said he is skeptical about Mirant's plan to reopen on a limited basis. He said the problem of polluted downwash from the plant's smokestacks could actually worsen.

"Downwash is not proportional to how much they are producing, it's more proportional to the speed and velocity of the emissions," Hertel said. "Just because they are operating at lowered capacity doesn't mean the issue is by any way, shape or form resolved."

In the end, Hertel said, he believes the plant probably will have to close. "Everything suggests that this plant is just not suitable or compatible with its surroundings," he said. "The health effects are too significant to ignore or negotiate away."

Straight Shooter To Some, Loose Cannon To Others (WP)

By Carol D. Leonnig, Washington Post Staff Writer

The Washington Post, September 15, 2005

The fans of U.S. District Judge Royce Lamberth praise his straight-talking ways, his defense of the wronged, and his stinging rebukes of lawyers and officials who try to fudge the facts.

So many decades after he left his beloved Texas and cowboy roots for a legal career in government service, fellow judges and former colleagues say, old Royce still gets riled up when he smells a bunch of bull.

When Lamberth theorized in a July ruling that the Interior Department's failure, over many decades, to account for potentially billions of dollars owed to Native Americans could only be explained by outright evil, apathy, cowardice or -- more likely -- crushing bureaucratic incompetence, the Justice Department decided to go after the judge.

In one of the rarest legal moves Justice has ever taken, the government asked that a higher court remove Lamberth from a case he has overseen for the past nine years.

In the escalating and unparalleled war between the judge and Interior, Justice lawyers said privately they saw no other option. They argued to the U.S. Court of Appeals for the District of Columbia Circuit that Lamberth has gone overboard in a string of verbal harangues in recent years, accused agency officials of racism and lost the appearance of impartiality in the case. Already, he has found two secretaries of Interior in contempt of court and ordered sanctions against numerous government lawyers for improper conduct in the case.

When they stand before a different bench tomorrow, government lawyers are expected to try to shift the discussion from the acknowledged failure of Interior to properly account for money held in trust and due 50,000 Indians, to the often assaulting

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words and actions of a powerful Reagan appointee who has made no secret of his disgust. Only three times before has this appeals court disqualified a trial judge from a case.

Lamberth and Justice Department officials declined to comment for this article. But their most recent writings in the case of Cobell v. Norton capture the tenor of what the appellate court's chief judge called the "peculiar dialogue going on" in Courtroom 21.

"On numerous occasions over the last nine years, the Court has wanted to simply wash its hands of Interior and its iniquities once and for all," Lamberth wrote. The plaintiffs have urged him to appoint a receiver to take over, he wrote, "but doing so . . . would constitute an announcement that negligence and incompetence in government are beyond judicial remedy."

In their Aug. 15 request for a new judge, Justice lawyers said that besides using intemperate language, Lamberth has ignored appellate rulings and accused the government of "falsification, spite and obstinate litigiousness" with "no legal or factual basis."

Lamberth has many defenders, from conservative Supreme Court justices to left-wing civil liberties lawyers, and is repeatedly ranked by lawyers as among the most skilled judges on the court.

Many of his fans applaud his stamina and even his outrage, but a few say privately that they think Lamberth has been pushed too far in the Interior case and has made himself a target with his sharp tongue. Said one fellow judge who requested anonymity: "He's been driven beyond the limit of his patience by these people. In his heart, he may know he's no longer dispassionate."

Since a Blackfeet tribe leader named Eloise Cobell filed this lawsuit in 1996, several independent investigations found much evidence for Lamberth's concerns. Although, the government initially said its existing Indian trust fund records were in good shape, Lamberth hired a hacker who found they could easily be accessed and altered from outside. Other reviews found that the Interior Departmenthad never kept complete records, used unknown amounts of money to help balance the federal budget, and let the oil and gas industry use Indian lands at bargain rates. They also concluded that the Clinton and Bush administrations have repeatedly sidestepped initiating the required accounting because of the likely cost.

Colleagues say Lamberth's strong prose is motivated by his government service and belief that it is a high calling. "He believes every person -- whether it's the president of the United States or an administrative clerk -- has a duty to serve the American people and do their duty as required under the law," said Mark Nagle, who worked under Lamberth when he ran the civil division of the U.S. attorney's office.

"I remember him calling up some senior-level presidential appointees and telling them: 'We can't defend this one. And we're not going to,' " Nagle said.

Lamberth's directness continued when he joined the bench. In presiding over several controversial cases involving the Clinton administration, Lamberth repeatedly accused government officials of trying to dupe the court.

In the November trial of Murder Inc. gang members, Lamberth spotted one defendant mouthing words to an ex-girlfriend as she reluctantly testified. Lamberth excused the jury, then let loose. "You sit down and shut up," the judge growled. "If you want to be bound and gagged for the rest of this trial, you just keep it up."

Lamberth has never spared the government in Cobell , and government lawyers say they cringe at his sometimes mocking tone. "You know any banker would be in jail for handling funds like this, don't you?" he told one Interior witness.

U.S. District Judge Stanley Sporkin, now retired, who was removed from a criminal case by the appeals court after not following sentencing guidelines, said Lamberth's motives are undoubtedly pure in Cobell , and the appeals court needs to acknowledge this litigation is "no tea party."

"Here you have a judge who is terribly frustrated," Sporkin said. "Every time he tells the government to get something done, they don't. It seems to me you have a bunch of crybabies that aren't willing to do what has to be done."

FBI/DEA/ATF/USMS:

Report: FBI Turnover Hampers Cooperation (AP-Y2)

By Mark Sherman, Associated Press Writer

AP2, September 15, 2005

The FBI has experienced excessive turnover among senior officials, hampering cooperation with state and local authorities since the Sept. 11 attacks, a new report released Wednesday said.

The senior agents who run the 56 FBI field offices average just 15 months in their jobs before moving on to new assignments or leaving the bureau altogether, according to a report by the congressionally chartered National Academy of Public Administration. At FBI headquarters in Washington, the average posting for high-ranking officials is 13 months, the report said.

The short tenures of Special Agents in Charge of the field offices, or SACs in FBI parlance, make "it difficult for them to perform one of their most important functions, developing effective relationships with state and local officials," said former Attorney General Richard Thornburgh, chairman of the panel that produced the report. It was released at a House Appropriations subcommittee hearing on changes at the FBI following the Sept. 11, 2001 attacks.

Thornburgh told lawmakers at the hearing that he was "astonished to see the short tenures of SACs."

No senior executive in Washington and only four SACs have been in their jobs longer than FBI Director Robert Mueller, who started work 10 days before the attacks.

Floyd Clarke, another panel member, spent five years as FBI deputy director, Thornburgh said. Since Clarke's retirement in 1994, there have been nine deputy directors, Thornburgh said.

Mueller, testifying at the same hearing, acknowledged the difficulty in keeping experienced agents. "There have been tremendous problems with retaining persons particularly since Sept. 11 because there's not a corporation in the country that doesn't want a security officer," Mueller said.

The FBI is expected shortly to hire a chief personnel officer to address problems raised in the report and other studies by the Government Accountability Office, the Congressional Research Service and the Justice Department inspector general, he said.

The reports are the latest in a series of examinations of the FBI that say the bureau has made enormous strides in changing its primary mission from solving crimes to thwarting terrorism, but still needs to improve its intelligence gathering and analysis, as well as upgrade its technology.

Thornburgh ascribed some turnover to the dramatic change in the FBI's duties. "It is traumatic," he said, especially for agents who made careers pursuing mobsters, drug dealers and bank robbers.

The FBI has had several costly setbacks in its attempt to overhaul its computer systems, a top priority for Mueller after Sept. 11. Mueller scrapped a paperless case management system at a loss of $105 million to taxpayers after he was told it was obsolete.

Its replacement, dubbed Sentinel, will be rolled out in four phases, beginning by the end of 2006, he said.

The Thornburgh panel report, however, found some field offices and FBI training facilities in Quantico still have limited access to the Internet.

The FBI purchased 10,000 licenses from a software company for computer-based training, "but access to appropriate computers is so limited that only 200 employees, on average, are in a position to use the licenses at any one time," Thornburgh said.

FBI chief information officer Zalmai Azmi said the numbers were wrong, but did not elaborate.

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On the Net:

FBI: http://www.fbi.gov

National Academy of Public Administration: http://www.napawash.org

Court Says FBI Whistleblower May Sue The Agency For Retaliation (AP)

By MARY CLARE JALONICK, Associated Press

AP, September 15, 2005

WASHINGTON - A federal appeals court has ruled that Jane Turner, an FBI whistleblower who accused the agency of discrimination and retaliation, may seek monetary damages and a jury trial.

Turner accused male FBI agents of mishandling several cases of sexual abuse in Indian country and alleged her superiors transferred her from Minot, N.D., to Minneapolis in retaliation for complaints about sexual discrimination.

The 8th U.S. Circuit Court of Appeals, in a ruling Aug. 30, said Turner had sufficient evidence to justify at trial over whether the transfer was in retaliation for her complaints. But the judges dismissed Turner's claims that she worked in a hostile environment and was a victim of discrimination because of her gender.

An FBI spokeswoman said the agency would not comment on the case because the litigation is ongoing.

"I am very pleased that after all these years, we have vindication on retaliation happening in the FBI," Turner said Wednesday.

Turner has a separate case against the agency alleging wrongful termination under the Whistleblower Act. She said the agency started termination proceedings against her after she triggered an internal investigation into the agency's removal of souvenir debris from the site of the Sept. 11, 2001 terrorist attacks in New York.

Turner noticed a Tiffany globe paperweight on a secretary's desk in the Minneapolis FBI office in August 2002. After learning it came from the World Trade Center, she brought the globe to the attention of the inspector general.

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She resigned in October 2003 before the termination proceedings could be completed.

Pot Author Challenges Drug Convictions (FINDLAW/AP)

By David Kravets, Associated Press Writer

Find Law, September 15, 2005

(AP) - SAN FRANCISCO-Attorneys for a man who has written books on how to grow marijuana and avoid getting caught asked a federal appeals court Tuesday to overturn his drug convictions.

Ed Rosenthal, the self-described "Guru of Ganja," was convicted two years ago of growing and distributing hundreds of marijuana plants. He says he was authorized to do so by the city of Oakland under a 1996 California medical marijuana law.

After U.S. District Judge Charles Breyer refused to allow a jury to hear that defense, Rosenthal was convicted of being a major drug supplier.

Breyer sentenced him to one day in prison on grounds that Rosenthal reasonably believed he was immune from prosecution because he was acting on behalf of Oakland city officials. The government and Rosenthal both appealed.

The government maintained Rosenthal, now 60, should have gotten at least 24 months. Amber Rosen, an assistant United States attorney, told a three-judge panel of the 9th U.S. Circuit Court of Appeals that Breyer abused his discretion by issuing a sentence that fell outside sentencing guidelines.

While the case was on appeal, the Supreme Court ruled that the federal government can prosecute medical marijuana growers and users despite California's medical marijuana law.

The justices also ruled in an unrelated case while Rosenthal's prosecution was pending appeal that federal judges do not have to follow congressional sentencing guidelines. That decision was also retroactive.

Dennis Riordan, one of Rosenthal's appellate attorneys, told the court that Rosenthal's conviction should be overturned.

"I was told by the city attorney's office that I was immune from prosecution. If I can't rely on government officials, who can you rely on?" Rosenthal said in an interview after the hearing.

He once wrote the "Ask Ed" column for High Times magazine and has written books with titles including "The Big Book of Buds" and "Ask Ed: Marijuana Law. Don't Get Busted."

Prospect Of Drugs 'black List' Hangs Over Venezuela (FT)

By Andy Webb-vidal In Caracas

Financial Times, September 15, 2005

From the jetty at San Juan de las Galdonas, a fishing village on the eastern coast of Venezuela, Pedro Salcedo casts his eye across the Caribbean. The sea is calm. A fine day for sailing.

Fishing, however, is just an occasional pastime for Mr Salcedo. He makes better money transporting drugs to far-flung islands in the Caribbean, for a couple of thousand dollars a journey.

''Trinidad, Grenada, and nowadays we go as far as Puerto Rico,'' he says. The US lies almost 900km away, two days on a small launch.

Mr Salcedo, and others like him, used to avoid soldiers from Venezuela's National Guard, the body charged with combating drugs-trafficking in the country, through which up to one-third of the cocaine smuggled from Colombia passes. But increasingly often, US officials say, the fishermen are in competition with the National Guard, rogue elements of which also take part in drug-running.

This may be one reason why the US, the world's largest consumer of cocaine, could remove Venezuela from its annual list of countries ''certified'' as adequately collaborating in the war on drugs. The State Department is expected to announce its list today, and some US officials say Venezuela will be ''decertified'', incurring sanctions.

Controversy over drugs was recently added to the list of factors that have become a fresh source of diplomatic tension between Caracas and Washington. Last month Hugo Chávez, Venezuela's president, suspended a co-operation agreement with the US Drugs Enforcement Administration, alleging that its officials were ''spying''.

Days later it emerged that the US had revoked the visas of several National Guard officers for alleged complicity in drugs cases. But Venezuelan officials claim they are delivering ever improving results in the war on drugs, and that a decision to decertify Venezuela would be ''political''.

On Tuesday, Jesse Chacón, the interior minister, said the authorities had seized 18.7 tonnes of cocaine in the first eight months of the year, almost as much as the 19.6 tonnes seized in 2004.

John Walsh, a senior analyst at the Washington Office on Latin America, a liberal think-tank, agrees that it will be hard for a decertification decision to not be seen as political. ''It's difficult in this context to imagine that if there is a decertification it won't be

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read as more political than substantive,'' he says. ''If the US isn't careful once again they are going to give Chávez some material to work with.''

Mr Chávez frequently criticises Washington's policies as ''imperialist'', and charges that it is ''hypocritical'' of the world's top drugs- consuming country to certify other countries.

This week, Venezuela offered an alternative arrangement to allow the DEA to continue operating under a more limited framework. A US embassy official said the draft agreement was being ''studied''.

Analysts have questioned the effectiveness of a drugs ''black list''. The decertification of the government of President Ernesto Samper in Colombia in the mid-1990s arguably had little lasting impact. And in Venezuela, sanctions that could amount to as little $500,000 (€400,000, £245,000) would be of little concern to Mr Chávez, whose government is dizzy on an unprecedented oil bonanza.

Sullivan County Grand Jury Hands Up 100 Indictments (UNIONL)

By STEPHEN SEITZ, Union Leader Correspondent

Manchester Union Leader, September 15, 2005

NEWPORT — In the end, "Operation Summer Sizzle" yielded more than 100 indictments against 41 people.

The drug raids took place on Aug. 31, involving 15 state and local law enforcement agencies, as well as the federal Drug Enforcement Administration. The indictments were handed up on Monday by the Sullivan County grand jury. The raids took place mostly in Newport and Claremont, although arrests were made in Charlestown and Sunapee as well.

Newport resident Sherry West, 38, faces 10 to 40 years and up to $600,000 in possible fines if convicted on charges of selling methadone and crack cocaine within 1,000 feet of a school. Robin Langlois, 38, of Claremont, was charged with selling heroin within 1,000 feet of a school; due to a prior conviction of selling cocaine, her penalty could reach 30 years and a $400,000 fine if convicted. Claremont resident Del Lord, 46, was charged with two counts each of selling the prescription drug Percocet and marijuana within 1,000 feet of a school. That could bring 12 to 30 years on each count and total fines of $400,000.

Charges against the others range from possession to conspiracy to sell, as well as sales of various drugs. Penalties in these cases range from one year in prison to 15 for each count, depending on the severity of the offense; fines top out at $100,000, again depending on the charge.

Four charges were dropped by the Sullivan County Attorney's office.

Texas Mafia Member Is Given 60 Years (SAEN)

San Antonio Express-News, September 15, 2005

A federal judge on Wednesday sentenced a Texas Mexican Mafia member to 60 years in prison for his role in a violent drug-dealing conspiracy.

Johnny "Gira" Garcia-Esparza, 45, was the last of four Mexican Mafia members awaiting punishment on charges stemming from their April conviction on drug-related charges.

U.S. District Judge Orlando Garcia sentenced Garcia-Esparza to 55 years on the conspiracy and drug charges, plus five years on the gun charges.

Between 1999 and 2004, as many as 28 gang members were accused of delivering more than 150 kilos of cocaine and more than 30 kilos of heroin. Law officers seized more than 80 firearms in the course of making the arrests in August 2004, prompting the U.S. attorney's office to say the conspirators operated like a terrorist organization.

Out of the 28 who were rounded up, only four defendants went to trial last April and all were convicted of charges that included drug-trafficking conspiracy, money-laundering conspiracy, selling drugs and using guns in the commission of drug crimes.

Teen Convicted In Bomb Case (JCL)

By Jimmie E. Gates

Jackson Clarion-Ledger, September 15, 2005

A Brandon teenager who made a bomb powerful enough to blow up half of a car was convicted Tuesday of federal charges.

U.S. District Judge William Barbour Jr. set James Vaughn Rankin, 19, sentencing for Dec. 1. He faces a maximum 30 years in prison.

Rankin was convicted of possession of an unregistered firearm, transfer of an unregistered firearm and the manufacture of an unregistered firearm.

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U.S. Assistant Attorney David Fulcher said Rankin intended for the bomb to kill. "He said on the videotape it will destroy half of a car," Fulcher said.

Rankin's landlord, Willis Freeman, said by telephone late Tuesday: "I would have bet my right arm that he wouldn't have done something like that, but he did. I never had a problem with him.

"I hope they take the good in him and try to rehabilitate him," Freeman said.

During the two-day trial, jurors watched a videotape of Rankin selling the bomb to an undercover agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives.

Rankin's attorney, Federal Assistant Public Defender Kathy Nester, argued her client may have possessed the bomb, but the government didn't prove beyond a reasonable doubt that he intended to harm anyone.

Nester said ATF agent Connie Wilson testified on cross-examination that she didn't mention anything about wanting the bomb to kill an ex-husband until after Rankin had placed the device in her car. Also, Nester said the government didn't prove her client transported across state lines gunpowder used in making the bomb.

"They haven't proved it (gunpowder) wasn't made in his bedroom," Nester said.

Rankin was arrested Nov. 9. Wilson said she posed as someone wanting to harm an ex-husband in Texas after a confidential informant told her Rankin could make a bomb. The informant set up a meeting for her with Rankin.

After Rankin was charged in federal court, his probation in a car-theft case was revoked and he was sentenced to five years in a state prison.

Feds Target Firearms (FPTJ)

By Kelly Townsend, The Times-Journal

Fort Payne (AL) Times-Journal, September 13, 2005

DeKalb County was one of five counties in Alabama that had indictments handed down Sept. 2 in federal court for various federal firearm violations.

The others were Cullman, Madison, Shelby and Jefferson counties.

U.S. Attorney Alice Martin would not release the names of those indicted.

“The names of theses individuals are being withheld pending service of outstanding warrants,” Martin said. “We cannot release any of this information, including how many were indicted in each county, until all the warrants have been served.”

DeKalb County Drug Task Force Agent Darrell Collins said he couldn’t recall the number of gun cases worked in the past couple of months. But he did say that normally, three-fourths of the methamphetamine cases they do work involve some type of firearm.

“That is why we work with the ATF on a daily basis, in an effort to enforce the reduction of illegal gun use,” Collins said.

Martin, along with James M. Cavanaugh, Special Agent in Charge of the Bureau of Alcohol, Tobacco, Firearms and Explosives, said a grand jury returned indictments against 12 people in unrelated cases.

According to Martin, the indictments include seven violations for felons in possession of firearms, a violation for possession a sawed-off shotgun, possession of a firearm by an illegal alien, and three violations for possessing a firearm during and in relation to a drug trafficking or violent offense.

Plan To Blow Up Rudolph Truck Upsets Some (AP)

By JAY REEVES, Associated Press Writer

AP, September 15, 2005

BIRMINGHAM, Ala. — The government wants to blow up the truck Eric Rudolph was driving when he bombed an Alabama abortion clinic, a plan that has upset some of Rudolph's victims.

Authorities said they want to use the pickup truck in a training drill to prevent it from ending up in the hands of Rudolph's admirers.

"It was done partly out of concern that it would show up on eBay," said Assistant U.S. Attorney James Ingram, referring to the Internet auction site. "Somebody would plunk down some money for it."

But nurse Emily Lyons, who was badly wounded in the clinic bombing, believes the truck should go to Rudolph's victims, who are unlikely to get any other compensation, according to her husband, Jeff Lyons.

In 2003, a state court judge awarded the couple $115 million in a lawsuit against Rudolph, who was declared indigent in federal court and has not paid anything. Trucks similar to Rudolph's 1989 Nissan have a retail value of about $1,700, according to Kelley Blue Book, a pricing guide for used vehicles.

"We had the judgment before they did the seizure," Jeff Lyons said Wednesday.

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Shortly after the clinic bombing, a witness recorded the truck's license plate number and reported it to police, who used the information to identify Rudolph as a suspect in the explosion. He was later tied to the 1996 Olympic park bombing and two other bombings in Atlanta in 1997.

Rudolph was captured in May 2003, pleaded guilty in four bombings, and is now in federal prison serving four life terms.

Last month, a federal judge in Birmingham approved the government's request to permanently seize the truck, which had been held as evidence for Rudolph's trial.

The truck likely will be loaded with explosives and detonated by the FBI or the Bureau of Alcohol, Tobacco and Firearms, said Jim Cavanaugh, the ATF's regional director. Both agencies routinely blow up vehicles in classes to teach officers about explosives and bomb reconstruction.

Donald Spitz, an abortion opponent who has corresponded with Rudolph and posted some of his writings on the Internet, said he doubted anyone in his movement would want to buy the truck, "but there are people out there who would do it."

Marshals Rescind Ban On Releasing Mug Shots (DEN)

By David Shepardson, The Detroit News

Detroit News, September 15, 2005

DETROIT -- The U.S. Marshals Service has reversed a ban on releasing mug shots in response to a pair of federal lawsuits.

In an Aug. 10 memorandum made public Friday, the service's Office of General Counsel told officials in Michigan, Kentucky, Ohio and Tennessee -- the states covered by the U.S. Sixth Circuit Court of Appeals -- that they must release the photographs.

The memo rescinded an Aug. 19, 2004, order that said officials would no longer release the mug shots, citing a March U.S. Supreme Court decision.

In that unanimous decision, the court said the government wasn't required to release four photographs of former White House lawyer Vincent Foster's dead body, saying it would violate the family's privacy.

Two newspapers filed separate lawsuits this spring seeking to overturn an August 2004 decision by the U.S. Marshal Service to stop releasing the booking photos of prisoners to news media outlets and others under the Freedom of Information Act.

The Justice Department reversed itself and agreed to release the mugshots.

In the other 46 states, the U.S. Marshals Service typically only releases mug shots for "fugitive apprehension purposes." Under a 1996 ruling by the U.S. Sixth Circuit Court of Appeals, the department has been required to release mug shots. That upheld a ruling by U.S. District Judge Anna Diggs Taylor in Detroit ordering the release of the photographs in a 1993 lawsuit.

IMMIGRATION:

13 Bosnian Serbs Arrested For Immigration Fraud,7 Others Detained (AP)

By BETH DeFALCO, The Associated Press

AP, September 14, 2005

PHOENIX - Thirteen Bosnian Serbs living here were indicted on charges of lying to American authorities about their service in the Serbian Army and seven others were being detained for similar reasons, federal authorities said Wednesday.

According to an indictment filed in U.S. District Court in Phoenix, the 13 who were indicted on immigration fraud charges are accused of lying on their immigration applications by omitting that they served in Serbia's Army of the Republic of Srpska.

All immigrants applying for refugee status and legal residency are required to declare prior military service.

"We will not allow the United States to become a sanctuary for those using fraud and deception to qualify for refugee status," said Roberto G. Medina, special agent in charge of the Immigration and Customs Enforcement in Phoenix.

The seven being detained would have been charged criminally for failing to declare their past military service except that the statute of limitations had run out, said Russell Ahr, an ICE spokesman in Phoenix.

The 13 arrested on Monday were: Nenad Dragic, Milenko Gujic, Mitra Gujic, Rajko Hercegovac, Risto Hercegovac, Rajko Ninkovic, Radenko Spiric, Vitomir Spiric, Savo Tojcic, Nikola Stankovic, Cvijan Vidakovic, Momcilo Krstic and Mladen Blagojevic. All were citizens of the former Yugoslavia, now Bosnia-Herzegovina, according to the U.S. Attorney's Office in Phoenix.

The seven being held on immigration charges were not immediately identified by federal authorities.

This week's apprehensions left many in Phoenix's Bosnian Serbian community confounded as to why their friends and family members were taken away after living in this country peacefully for so many years. Some wondered if they would be next.

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Goran Spiric's father and brother were both apprehended. His brother, Vitomir Spiric, was among those charged criminally. He said his 63-year-old father, who came to Arizona seven years ago, was a civil firefighter but never served in the Serbian Army.

Goran Spiric, who said he came to America 11 years ago from a concentration camp where he was kept by Bosnian Muslims, wondered if he would also be apprehended.

"Every single morning I go to work, I carefully watch on both sides and wonder if the FBI or someone is watching me," Spiric said.

Some in the Bosnian Serb community said they believe the connection among those arrested and detained is that many lived in Srebrenica, the site of a massacre in July 1995 - months before the end of the Bosnian war and after the Bosnian Serb troops took control over the town in the east of the Balkan republic.

The victorious Bosnian Serb troops allegedly executed some 8,000 Muslim boys and men who were captured in the onslaught on the town. The remains of the victims were buried in mass graves around Srebrenica.

Several top Bosnian Serb military and political officials already are serving sentences for war crimes over Srebrenica.

Federal authorities in Phoenix would not disclose why immigration paperwork for those Bosnians Serbs arrested and detained this week was targeted for review or how officials knew they served in the Serbian Army.

"Information was provided to ICE and our agents relating to service in the Serb Army. With enough investigation work, we determined that the statements made on refugee applications turned out to be false," Ahr said.

Federal authorities also declined to say whether any of the 20 Bosnian Serbs were suspected of war crimes or were material witnesses. None of those arrested or detained have been charged with a war crime, according to war tribunal indictments.

Last year, four Bosnian Serbs living in Phoenix were also arrested and charged with lying on immigration paperwork. They are Radenko Ubiparipovic, Dragon Ubiparipovic, Goran Bencun and Zdravko Bozic.

Bozic was sentenced on March 30 to a year in prison. After serving his sentenced, he'll be turned over to ICE for deportation, federal prosecutors said.

The other three cases are still pending.

According to court documents, all four - Bozic, Radenko Ubiparipovic, Dragon Ubiparipovic and Bencun - were said to have been assigned to the Drina Corp in the Batunac Brigade in 1995.

Earlier rulings by the U.N. tribunal have established that the Bosnian Serb Drina Corps led the attack on Srebrenica.

There are no indications from authorities that the 13 arrested or seven detained this week have any connection to the four arrested last year.

Alexander Stojsic, a spokesman for St. Nicholas Orthodox Church in Phoenix, where many Bosnian Serbs attend, said church members had already begun to raise money for a legal defense fund. He also said the Serbian consulate planned to meet with the community members this week.

Judge Is Asked To Dismiss War Crime Case (BOS)

The Boston Globe, September 15, 2005

Charges against a Peabody construction worker accused of hiding his role in a Bosnian Muslim massacre should be thrown out because Marko Boskic was forced under threat of death to participate in the Srebrenica killings, his lawyer said yesterday.

The lawyer, Max D. Stern, told a US district court judge yesterday that Boskic was not deceptive on immigration forms when he entered the United States in 2000 and that he was never motivated by the fact that the victims were Muslim.

Judge Douglas P. Woodlock promised to issue a ruling on the motion soon.

Boskic faces a five-count indictment of fraudulently entering the US as a refugee, as well as concealing his past in a Bosnian Serb Army unit accused of killing some 7,000 Muslim men and boys.

Lawmakers, Rove Talk Immigration (HILL)

By Patrick O'Connor

The Hill, September 15, 2005

Two House Republicans met with White House Deputy Chief of Staff Karl Rove yesterday to discuss immigration reform one week after the House chairman with jurisdiction over that issue predicted that Hurricane Katrina could delay it until next year.

Reps. Jeff Flake (R-Ariz.) and Jim Kolbe (R-Ariz.) met with Rove at the White House to discuss immigration reform, Flake said yesterday. Neither member had returned from the afternoon meeting by press time.

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The meeting comes as congressional leaders reshuffle their fall agenda after a glut of emergency legislation responding to the damage caused by Katrina. It also comes days after House Judiciary Committee Chairman James Sensenbrenner (R-Wis.) told the Milwaukee Journal-Sentinel: "I think immigration is off until next year."

Immigration reform is a particularly difficult issue for congressional Republicans because it divides supporters of the business community from those social conservatives whose goal is to shut down the borders and prohibit employers from hiring illegal immigrants.

The business community, on the other hand, argues that the estimated 10 million to 12 million illegal immigrants employed in this country fill jobs U.S. citizens would not otherwise take. This broad coalition, which includes large corporate interests such as the Chamber of Commerce as well as regional businesses such as seasonal crab farmers in Maryland, also argues that the relocation costs would be too high.

While the political climate favors a strong border-security measure, the business lobby could be essential in creating the political momentum to pass a broader bill through the Senate.

Kolbe and Flake have introduced a bill, along with Rep. Luis Gutierrez (D-Ill.), to register illegal immigrants currently employed in the United States as part of a national database for prospective employers. Their legislation does not require those immigrants to return to their countries of origin before gaining temporary residency.

Sens. Edward Kennedy (D-Mass.) and John McCain (R-Ariz.), meanwhile, have offered companion legislation in the Senate, while Sens. John Cornyn (R-Texas) and Jon Kyl (R-Ariz.) have offered competing legislation that would require immigrants to return to their countries of origin to register as guest workers.

Both bills have provisions that would expand border security and increase fines for employers caught violating the law.

GOP House leaders made immigration reform a priority early in the 109th Congress. Speaker Dennis Hastert (R-Ill.) tapped Republican Policy Committee Chairman John Shadegg (R-Ariz.) to coordinate the divergent member views on this issue in anticipation of a floor vote this year.

Shadegg was to hold the fourth of his Unity Dinners to discuss the subject last night. The Arizona Republican has used these Unity Dinners, which were established by former Majority Leader Dick Armey (R-Texas), to find consensus on fractious issues within the conference.

In the wake of Katrina, House Majority Leader Tom DeLay (R-Texas) has maintained his commitment to passing an immigration and border-security package that could be either one bill or multiple pieces of legislation. DeLay has recently hinted that he would like to pass a border-security bill first and then address the issue of illegal immigrants employed in this country. He is working with Sensenbrenner, whose Judiciary Committee has jurisdiction over the legislation.

Flake said he believes the practical details of enforcement, such as locating illegal workers, will eventually require lawmakers to address instead the question of registering these employees before passing a separate enforcement bill.

"If you want enforcement, you've got to have a law you can enforce," Flake said.

The Judiciary Committee already had a full schedule of legislation on its plate heading into the fall, including the child-safety bill that passed yesterday, an update of the Voting Rights Act that may spark a fight about redistricting and a House-Senate conference negotiation about reauthorizing the USA Patriot Act.

Sensenbrenner made his remarks about postponement in response to a question about the fall legislative agenda.

After the damage wrought by Katrina, the Federation for American Immigration Reform, a group strongly opposed to illegal immigration, released a report illustrating how immigration loopholes could lead to another massive terrorist attack.

Meanwhile, the Department of Homeland Security last week relaxed document requirements for employers hiring workers who have been displaced by the hurricane. The department will not fine any businesses that hire any of these workers within 45 days of last Tuesday, which could create a major immigration loophole.

Washington lobbying firm Quinn-Gillespie has organized a large coalition of business lobbies, including the Chamber, to work with the White House to pass a broader immigration bill, which would allow for more flexibility for employers to retain those workers already in this country.

Kilgore Urges Penalties For Employers Of Illegals (WT)

By Christina Bellantoni

The Washington Times, September 15, 2005

Republican gubernatorial candidate Jerry W. Kilgore said yesterday if elected he will go after businesses that knowingly hire illegal aliens.

"They are supposed to check for legal status," Mr. Kilgore told The Washington Times. "If they are knowingly violating the law they shouldn't be getting state contracts and they should not be getting state credits and benefits."

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His comments come one day after he debated his Democratic challenger Timothy M. Kaine over a host of topics, including the establishment of a day laborer center in Herndon that will provide services for legal immigrants and illegal aliens.

The debate was sponsored by the Fairfax County Chamber of Commerce, whose members include local business leaders. Last night, a chamber spokesman had no comment on Mr. Kilgore's proposal, saying it would be up to individual businesses to weigh in.

Mr. Kilgore has said officials in Northern Virginia are giving incentives to illegals by allowing such centers. One way to address the problem would be to revoke any tax credits or benefits companies receive from the state if they knowingly hire illegal aliens, he said.

Mr. Kaine said at the debate that his opponent was "mean-spirited" and that the members of the Herndon Town Council should have the right to deal with "tough public safety challenges."

"They are elected by local people and I'm not going to grandstand over their right to make the best decision for themselves, using their own money," Mr. Kaine said Tuesday. "The problem is a federal government that turns its back, that lets employers violate the law and then expects local governments to try to pick up the pieces.

"Jerry, there is a mean-spiritedness in your attack," he added.

Yesterday, Mr. Kilgore responded to Mr. Kaine's remarks: "I don't know how it is mean-spirited to ask someone to follow the law."

Mr. Kilgore also said if elected he would sign an agreement with the U.S. Department of Homeland Security to train 50 state troopers and give them special authority to detain illegal aliens.

The executive director of the Virginia Association of Chiefs of Police said Mr. Kilgore's stance is not realistic.

"We believe you need to be here legally, but in the real world we don't have the resources to address that," said Dana Schrad, executive director of the association that represents police chiefs in the state.

"If you take a position we're going to launch enforcement activities to rid Virginia of all illegal immigrants, it backfires on law enforcement because we don't have the resources to do that," she said.

She said that authorities worry about detaining gang members and violent criminals before they worry about detaining illegal aliens who violated immigration law.

Miss Schrad also said day laborer centers are a better alternative to large groups of men standing around and potentially causing trouble for local businesses, which is one of the reasons Herndon leaders gave when they approved the center.

Mark Bergman, a spokesman for the Democratic Party of Virginia, said Mr. Kaine is correct in stating that the federal government is failing to do its job and agreed that Herndon shouldn't be second-guessed on its decision to allow the center.

"These are local issues and we shouldn't be in the position to bully people," he said. "We shouldn't be in the business of coming in and intervening in local issues."

Mr. Bergman also said that Democrats agree with Mr. Kilgore that illegal behavior should not be rewarded with state contracts.

Conservative lawmakers supporting Mr. Kilgore yesterday criticized Mr. Kaine for the comments he made at the debate.

Delegates David B. Albo and L. Scott Lingamfelter, both Republicans, said Mr. Kaine's comments put him out of touch with Virginia voters and equate to encouraging illegal activity.

"He is turning a blind eye toward the problem," said Mr. Lingamfelter of Prince William County. "Tim is completely out of step with the voting public on this issue."

However, statewide polls show that concern over illegal aliens ranks low in voting priorities.

Independent candidate H. Russell Potts Jr., a Republican state senator from Winchester, has previously criticized Mr. Kilgore's position on the day laborer center as "bigoted."

Mr. Kilgore and the two lawmakers said that illegal aliens is an issue that is "constantly" brought up by voters.

Mr. Lingamfelter and Mr. Albo said they agree with Mr. Kaine that the federal government must take action on illegal aliens. The lawmakers also agree with Mr. Kilgore that all benefits should be yanked from companies that hire illegal workers.

TAX:

Defendant Maintains Anti-income Tax Stance (LVS)

By David Kihara, LAS VEGAS SUN

Las Vegas Sun, September 14, 2005

The defendant in a tax evasion trial that began on Tuesday said he is innocent of the charges against him because there is essentially no law that requires people to pay income tax.

In a rambling opening statement that brought at least seven objections from a Justice Department lawyer and just as many admonitions from U.S. District Judge Kent Dawson, Irwin Schiff also tried to discount his alleged influence, saying that doctors, lawyers and others wouldn't stop paying income taxes just because he told them to.

"In my view, there is no law requiring people to pay income tax," said Schiff, who is representing himself in the criminal case against him.

The trial is expected to last five weeks.

Schiff and fellow defendants Cynthia Neun and Lawrence Cohen are facing multiple criminal charges in U.S. District Court, including aiding and assisting others in filing false income tax returns, attempting to evade paying taxes and failing to file false returns, according to a March indictment.

The indictment charges that Schiff filed "zero return" tax forms, in which he would enter zeros in every line for expenses and income. Schiff, Neun and Cohen allegedly filed or helped file for people almost 5,000 "zero return" tax forms.

People would then make claims for a full refund of all federal taxes withheld or paid, the indictment stated.

During his opening statement, Schiff denied that he was involved in breaking any laws because he was unaware that any laws existed requiring people to pay income tax.

Unlike "universal laws" such as robbery, stealing or rape -- which someone from Taiwan would intrinsically understand -- taxes in the United States are different because someone would need to know they have an obligation to pay taxes, he said.

He also said that he never attempted to hide what he was doing, and that he is a high profile lecturer who had a local radio show and authored numerous books, including "The Great Income Tax Hoax" and "The Federal Mafia: How the Government Imposes and Unlawfully Collects Income Tax."

"The government knew what I was doing -- I didn't make it a secret," he said.

The Justice Department, however, said Schiff and the other defendants were involved in what amounted to a scam.

Jeffrey Neiman, attorney with the Justice Department's Tax Division, said the defendants would advertise the "zero return" tax returns as a way to not pay taxes and would sell people a $38 book explaining how to do it.

Neiman also conceded that the Internal Revenue Service also did not catch some of the "zero returns," and that Schiff held them up as proof that his method worked.

However, after clients or followers of the practice would get into trouble with the authorities, Schiff and others would continue to offer help by selling more merchandise from Schiff's business, Freedom Books, Neiman said.

Schiff could sell anything from $2 bumper stickers to $415 video and cassette seminars that offered ways for the people to get out of further tax troubles, he said.

From 1997 to 2002, Freedom Books generated gross business receipts of $3,726,000, the indictment stated.

"He encouraged thousands to file the zero returns," Neiman said.

The first witness called, Antoinette Mitchell, a former employee of Freedom Books, testified that she filed "zero return" taxes for about three years after hearing Schiff on a paid radio broadcast on AM 1230.

She eventually volunteered for Schiff because she wanted to be "close to what was going on, basically for the cause," she said.

Schiff paid her $10 an hour in cash, and she said she never received a W-2 or 1099 tax form.

The IRS eventually penalized her, she said, and she is facing a $17,000 lien on her home.

Neiman also accused Neun, Schiff's former girlfriend, of not reporting income she received from working at Freedom Books because she would have lost about $600 a month in Social Security benefits.

Nuen's attorney, Michael Cristalli, told jurors that the essence of his case is whether Neun believed whether Schiff's "teachings" were legitimate.

"Cindy sincerely does not believe that the government has legal authority to collect personal income tax," he said.

Cristalli framed Schiff's tax beliefs in almost religious terms and described some who followed Schiff, such as Neun, as willing to give up many things to practice his ideas.

"Her belief system ruined her" financially, emotionally and even hurt family relationships, he said.

"She sacrificed her life for this belief," he said, adding that Neun didn't seem like someone who was profiting from her belief system because she had so little.

Chad Bowers, attorney for Lawrence Cohen, also stated that his client believed in the "zero return" tax idea, that it was an expression of his beliefs.

However, Bowers also also tried to put a little distance between Cohen and Schiff and Nuen, saying that Cohen is not alleged to have shared in any of the profit from the Freedom Books venture.

"This plan was designed to overwhelm the IRS and make money," Bowers said. "That isn't going to be presented for Larry Cohen. Larry genuinely believes this."

'ZERO RETURN': Income Tax Foe's Trial Begins (LVRJ)

By CARRI GEER THEVENOT, REVIEW-JOURNAL

Las Vegas Review-Journal, September 14, 2005

Income-tax opponent Irwin Schiff delivered his opening statement to jurors Tuesday and promised to unravel "the greatest hoax ever perpetrated upon the American people."

"So fasten your seat belts," said Schiff, who is representing himself. "I hope you enjoy the ride."

Prosecutors began presenting evidence Tuesday against Schiff and two of his followers, Cynthia Neun and Lawrence Cohen, who are accused of conspiring to defraud the federal government.

"Nobody likes to pay taxes, but that's not what this case is about," Justice Department attorney Jeffrey Neiman told the jury.

Schiff, the 77-year-old owner of Freedom Books in Las Vegas, has made a career of teaching his customers how to avoid paying federal income tax.

He claims no law requires Americans to pay the tax, and he has written several books advocating his position.

Neiman said the main issue in the criminal case is: "What were the defendants aware of, and what were they told?"

The prosecutor said evidence will prove that the defendants knew the law and chose to violate it.

Neiman said Schiff's book, "The Federal Mafia: How the Government Illegally Imposes and Unlawfully Collects Income Taxes," provides details of his scheme, which involves instructing his customers to file a "zero return."

"As the name would suggest, the zero return has all zeroes," the prosecutor said.

A court order has prevented Schiff from selling "The Federal Mafia" since 2003.

Neiman said Schiff advised his customers to list zero income on their tax returns, regardless of whether they had received income.

Schiff also advised his customers to write down the amount of taxes withheld from their paychecks, then seek a refund for that amount, the prosecutor said.

"At first, when the IRS began receiving these, some slipped through the cracks, and some refunds were paid," Neiman said.

The prosecutor said Schiff used those refunds to support his position.

Another part of Schiff's scheme, Neiman said, involved advising employees to write "exempt" on their W-4 forms in an attempt to prevent their employers from withholding taxes.

"What the defendants didn't tell you was: Trouble was on its way," the prosecutor said.

When trouble came, Neiman said, the customers turned to Freedom Books for help. The help came in the form of more products "that the defendants knew would just ensure more trouble," he said.

The prosecutor said Schiff has sold millions of dollars worth of products, which ranged from a $2 bumper sticker to a $415 video and cassette seminar.

In a 2002 Review-Journal interview, Schiff said he had paid no income tax since 1973.

Schiff was indicted in 2004 and is accused of evading the payment of $1.3 million in taxes, penalties and interest between 1979 and 1985.

Neiman said some of Schiff's followers also have faced prosecution. Many have had to file for bankruptcy, and all have faced fines, the prosecutor said.

One woman, Toni Mitchell, testified for the government Tuesday under a grant of immunity.

Mitchell, a banquet food server at the Monte Carlo, said she followed Schiff's advice and filed zero returns for 1996, 1997 and 2000.

Mitchell said she began volunteering at Freedom Books in 2000 and later became a part-time employee.

Neiman said both Neun, Schiff's girlfriend, and Cohen, Schiff's top sales person, worked at Freedom Books and earned "decent hourly wages," which they received in cash.

"No paper trail, no documents, no W-2s," the prosecutor said.

All three defendants are accused of aiding and assisting in the preparation of false returns for helping customers file zero returns.

Neiman said Neun chose not to file a tax return for herself, because she knew it would jeopardize the $600 a month she received in Social Security benefits.

She is accused of failure to file tax returns, Social Security fraud and theft of government property.

Schiff began his opening statement Tuesday by telling jurors, "I hope you'll be patient with me while I'm fumbling along trying to be a lawyer."

His often-rambling statement was frequently interrupted by objections from Neiman, and U.S. District Judge Kent Dawson repeatedly instructed Schiff on how to deliver a proper opening statement.

Schiff told jurors the government must prove "that not only was the information false, but I didn't believe it."

"It's what I know, and I know I don't have to pay income taxes," the defendant said.

If authorities can point out a law that requires the payment of income taxes, Schiff said, "I'll plead guilty right now, and I'll save the court the expense of a trial."

"In 30 years of research, I never found a law that says I have to pay income tax," Schiff said.

He also said anybody who has followed his advice knows that he has spent time in prison.

Lawyers representing both Neun and Cohen said their clients acted in good faith.

Defense attorney Chad Bowers said Cohen's "only intent was to follow the law as he understands it."

Attorney Michael Cristalli, who represents Neun, said jurors must decide whether she believed Schiff's teachings were legitimate.

"If you believe that she believes it, you will not be able to convict her," Cristalli said.

The attorney said Neun did not profit from her beliefs. He said she received financial support from Schiff but never received payment for her work at Freedom Books.

Las Vegas Tax Rebel Goes On Trial (FINDLAW/AP)

Find Law, September 14, 2005

(AP) - LAS VEGAS-An author went on trial Tuewho claims that paying federal income taxes is voluntary sday on federal charges including tax evasion and aiding in the filing of fraudulent tax returns.

Irwin Schiff, author of "The Federal Mafia: How the Government Illegally Imposes and Unlawfully Collects Income Taxes," and two co-defendants are accused of causing hundreds of people to file false returns and promoting tax-evasion schemes through Schiff's business, Freedom Books.

Schiff, representing himself, said during opening statements that no law requires Americans to pay taxes and the federal court has no jurisdiction over the matter.

Schiff is accused of failing to report income on federal tax returns from 1987 to 2002, and of evading payment of $1.3 million in taxes, penalties and interest between 1979 and 1985. If convicted, he faces a maximum sentence of 43 years in prison and $3.25 million in fines.

Attorneys for co-defendants Cynthia Neun and Lawrence Cohen, who worked for Schiff, said their clients believed their conduct was legal.

Neun's lawyer, Michael Cristalli, said Neun followed Schiff's tax advice partly because of his powerful personality but also because she did not believe she was violating the law.

Cohen's lawyer, Chad Bowers, said there was no evidence his client intended to break the law.

If convicted, Neun could receive a 51-year sentence and $3.4 million in fines. Cohen faces a maximum 27 years and $1.5 million in fines.

CONGRESS-ADMINISTRATION:

'Advise And Consent,' Anyone? (WP)

By Dana Milbank

The Washington Post, September 15, 2005

Efforts to get an answer out of John G. Roberts were going nowhere at yesterday's Senate Judiciary Committee meeting, so Sen. Charles E. Schumer went Hollywood.

"Your failure to answer questions is confounding me," the New York Democrat fumed at the nominee for chief justice. "It's as if I asked you: 'What kind of movies do you like? Tell me two or three good movies.' And you say, 'I like movies with good acting.' Then I ask you if you like 'Casablanca,' and you respond by saying, 'Lots of people like "Casablanca." ' You tell me, 'It's widely settled that "Casablanca" is one of the great movies.' "

As the laughter at his expense subsided, the judge's smile shifted toward a smirk. Chairman Arlen Specter (R-Pa.) moved to call a recess, but Roberts asked if he could reply to Schumer.

" 'Dr. Zhivago' and 'North by Northwest,' " the nominee deadpanned. The crowd scored it another point for Roberts. Jane Roberts gave her husband a kiss. Schumer went outside to the cameras, where he observed, a bit wistfully, that Roberts "is a very, very smart man."

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In yesterday's second day of questioning Roberts, the confirmation hearing had lost much of what little suspense it had in the first place. The only speculation in the halls outside the hearing was how many, if any, Democrats on the committee would vote for Roberts en route to his all-but-certain confirmation.

On Tuesday, Jane Roberts was so confident about her husband's fate that she was seen dozing on camera as her husband answered questions. By yesterday, there was not much left in the way of either questions or answers. Roberts avoided any query on a topic that might come before the high court -- which is to say most any question senators wished to ask. The result: Democrats and Republicans alike used the bulk of their time for speechmaking.

The conservatives blew kisses to Roberts.

"I've never seen anyone do a better job," said Sen. Orrin G. Hatch (Utah). "You have made a very, very strong presentation here.

Lindsey Graham (S.C.) called Roberts "the most qualified justice in my lifetime" and added: "Obviously, he's read every case ever written and memorized it."

Sen. John Cornyn (Tex.) dashed to the microphones during a break and shoved aside John Marshall, Oliver Wendell Holmes and Felix Frankfurter. Roberts, Cornyn said, is probably "the most qualified nominee who has ever been put up for a Supreme Court vacancy."

Awash in flattery, Roberts grew more brash in declining to answer the Democrats' questions.

Sen. Dianne Feinstein (Calif.) observed that on Tuesday morning, "you were very full and forward-speaking. And then after lunch, it was as if you shut down and became very cautious. So my first question: Did anybody caution you between the morning and the afternoon sessions?"

"No, Senator," Roberts protested.

Feinstein knew she was just going through the motions. "I have another question I could ask, but you won't answer it," she said.

"Give it a try, Dianne," Sen. Patrick J. Leahy (D-Vt.) encouraged. "Go ahead."

Feinstein, tentative, asked about "the right of a woman to decide whether to continue her pregnancy."

"Well, Senator, as I've explained, that is an area that's --" "Yes," Feinstein said, finishing his sentence, "apt to come before you."

With Republicans not inclined to grill Roberts and Democrats unable to pin him down, senators on both sides decided to do the talking themselves. In Hatch's 15 minutes of questioning, the senator spoke for 12 and left the nominee with three. When Sen. Edward M. Kennedy (D-Mass.) took his turn, he used 15 of the 20 minutes and gave Roberts five. Sen. Joseph R. Biden (D-Del.) warned Roberts to give "short answers" and held the floor for 12 of his 20 minutes. Sen. Sam Brownback (R-Kan.), who spoke 3,500 words, left Roberts time for 1,500.

It was, as Sen. Jon Kyl (R-Ariz.) put it, "a lot of senator talk." Explained Kyl: "I think this is a once-in-a-lifetime opportunity. It is the only time that you'll have the opportunity to be directly lobbied in the political context in an appropriate way."

Brownback used his question time to digress into a discussion about an elevator operator in the Capitol who has Down syndrome. "He frequently gives me a hug in the elevator," Brownback said. "I know he hugs Senator Hatch often, too, who kindly gives him ties -- some of which I question the taste of, Orrin."

Hatch, wearing a loud blue-and-gold-striped tie, interjected: "It doesn't have to get personal."

Sen. Tom Coburn (R-Okla.) used his time to deliver an antiabortion speech. After this long message, Coburn asked, "Would you agree that the opposite of being dead is being alive?" After another monologue on his abortion views, Coburn said he wasn't even intending to ask a question about it. "That was for your information," he said.

Then Coburn went moved on to assert that he used his "medical skills of observation of body language" to ascertain whether Roberts was telling the truth. "And I will tell you that I am very pleased, both in my observational capabilities as a physician to know that your answers have been honest and forthright as I watch the rest of your body respond to the stress that you're under."

The body language was quite different on the Democratic side, where Biden gave Roberts the full Al Gore: While Roberts spoke, Biden shook his head, put his face in his hand, pouted and glared disgustedly. "We are rolling the dice with you, Judge," Biden said. "It's kind of interesting, this Kabuki dance we have in these hearings here, as if the public doesn't have a right to know what you think about fundamental issues facing them."

Biden kept talking. Graham rolled his eyes. Roberts explained that a fuller answer would be "inconsistent with the independence and integrity of the Supreme Court." The Kabuki continued.

Spinning In The Ring (WP)

By Marcia Davis

DOJ_NMG_0005738

The Washington Post, September 15, 2005

It's midmorning on the second day of questioning John G. Roberts Jr., President Bush's nominee for Supreme Court chief justice.

Things are going pretty much like the day before: Democrats are pressing Roberts on voting rights and issues of privacy (translation: Roe v. Wade), and Roberts is looking a little bit like a young Muhammad Ali dancing his way around the hearing room. He's drawn his judicial line about what he is going to say and what he isn't. Steam is rising from Democratic collars, and their Republican colleagues have all but grabbed Roberts's arm and thrown it up in victory. Yesterday, they'd almost stopped asking questions, opting instead for congratulatory speeches.

Don't be fooled, though. There are many rounds to go.

Any evidence you need is right outside the doors of Hearing Room 216 in the Hart office building. When Judiciary Committee Chairman Arlen Specter (R-Pa.) calls a 15-minute break, what was constrained tension inside the room explodes into the corridors.

This is spin city, where both sides jockey to get their word out to an American public preoccupied with Hurricane Katrina, the war in Iraq and gas prices that require second mortgages.

A bank of cameras lines one wall, and look, there's Sen. Tom Coburn (R-Okla.) in front of a row of mikes. Sen. Lindsey Graham (R-S.C.) is just behind him as Coburn voices his frustration with the Democrats, who he says just aren't giving Roberts a fair shot.

"We want judges who are well qualified. Ginsburg was confirmed with 96 votes. . . . I would hate to see a double standard," Coburn is saying.

A few feet away, Ralph Neas, president of People for the American Way, the liberal organization that helped defeat the nomination of Robert Bork 18 years ago, is surrounded by reporters, too.

He's got a one-liner that he's working about Roberts, who in his introductory remarks on Monday likened the role of a judge to that of an umpire.

"He's spent his time talking about baseball, now he's playing dodgeball," Neas says, venting his frustration about the nominee. "I think the American people have a right to know the judicial philosophy of Judge Roberts."

Roberts, he says, is being disingenuous, too clever by half, giving answers about privacy, then quickly qualifying them so that they are only, well -- dodges.

Then a reporter listening to Neas is interrupted by a tug on the sleeve.

It's Greg Mueller, president of Creative Response Concepts, who's flacking for conservative groups the Federalist Society and the Judicial Confirmation Network.

"Hey," he says, with a nod in the opposite direction, with what will have to pass for a come-hither look. Mueller's operation has been working the hearing room and hallway like that all week. There are some viewpoints he wants to make sure don't get overlooked in this crowd.

Abigail Thernstrom, the conservative vice chair of the U.S. Commission on Civil Rights, is really annoyed at Ted Kennedy's persistent questions on voting rights.

No sooner than Thernstrom is done, Bethanie Swendsen, media coordinator for the Family Research Council, is introducing Tony Perkins. Perkins, president of the conservative group that would like to see Roe v. Wade overturned, says he's pleased with what he's been hearing from Roberts. He likes his philosophy and how he approaches the hearings.

"We're here making sure we're getting what we were promised," he says.

And what's that?

"A judge who practices judicial restraint. Roberts understands the limited role of the court."

"With all the media, these are high-stakes games," Mueller says. "And a little presidential politics are going on here."

"Hey, if Ralph Neas is having a mini-press conference, then we have to make sure that folks get to hear the other side," he says.

Julie Bernstein, communications director for the Alliance for Justice, is working just as hard, getting interviews for her boss, Nan Aron, who along with Neas and Wade Henderson of the Leadership Conference on Civil Rights, are well known activists working to oppose the nominations of conservative judges.

"Since seating is so restrictive, we try and connect reporters to leaders in the civil rights and women's rights communities so they can share their reactions with press," says Bernstein, who doesn't have a seat in the hearings. She has to watch it on television, then get on scene during the breaks.

Her boss is doing more than working the hall. Aron is meeting with senators and liberal groups that have come to lobby their representatives against Roberts.

Aron didn't get home until almost midnight Tuesday, she says, and was up yesterday by 4 a.m., getting ready for another day of the message wars.

Even the seating in the hearing room seems to be divided into camps, with Aron, Neas and allies such as Kim Gandy, of the National Organization for Women, and Debra Ness, of the National Partnership for Women & Families, on one side of the room. Thernstrom and others are seated across the aisle.

"What we do now will establish how they handle future nominations," Aron said of the Bush administration. "This is the time to send the White House a message. That helps frame [the debate for] filing the O'Connor seat."

Ding! That's the bell for the next round.

Roberts Parries Queries On Roe And End Of Life (NYT)

By Adam Liptak And Robin Toner

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 - Judge John G. Roberts Jr. faced increasingly contentious questions from Democrats on Wednesday as he outlined his views on an array of legal issues, but repeatedly declined to address some of the most ideologically charged matters, including whether the Constitution establishes a right to abortion and a right to die.

"I'm not standing for election," Judge Roberts said in one testy exchange on end-of-life issues on the third day of his confirmation hearings for chief justice of the United States. [Excerpts, Page A28.]

His refusal to elaborate on his statement that there is a constitutionally protected right to privacy drew criticism from Senator Joseph R. Biden Jr. of Delaware, one of several Democrats on the Judiciary Committee who challenged him with growing frustration on Wednesday.

"Without any knowledge of your understanding of the law, because you will not share it with us," Mr. Biden said, "we are rolling the dice with you, Judge."

But Judge Roberts, by the end of a second long day of careful, unflappable testimony, appeared in comfortable position for a confirmation vote next Thursday in the Republican-controlled Senate Judiciary Committee and, many Republicans predicted, a strong vote the following week in the full Senate, where Republicans have a 10-vote majority.

"If people can't vote for you," Senator Orrin G. Hatch, Republican of Utah, told Judge Roberts, "then I doubt that they can vote for any Republican nominee."

Leading Democrats on the committee refused to discuss how they would vote, saying Judge Roberts's views were still largely unknown.

"The American people are entitled to answers," said Senator Edward M. Kennedy, Democrat of Massachusetts.

Judge Roberts did respond to questions on capital punishment, affirmative action, the limits of Congressional power and other legal issues during 10 hours of testimony before the committee's 18 senators.

He said, for instance, that he agreed with an aspect of Justice Sandra Day O'Connor's decision in a recent case that allowed public colleges and universities to take race into account in admissions decisions. The decision took note of the practical consequences for minority applicants.

"You do need to look at the real-world impact in this area," Judge Roberts said.

He also discussed a Supreme Court death penalty case in which he filed a brief as a government lawyer in 1992. The brief said that newly discovered evidence of a death row inmate's innocence should not be considered by the courts if it is raised too late.

"Does the Constitution permit the execution of an innocent person?" asked Senator Patrick J. Leahy, Democrat of Vermont.

"I would think not," Judge Roberts said, adding later that the 1992 case did not involve DNA evidence that could provide categorical proof of innocence.

Also, while acknowledging that as a young lawyer in the Reagan administration he opposed a provision that made it easier to prove voting rights violations, Judge Roberts defended his position on the Voting Rights Act.

"It wasn't a dispute about the goal," he said. "It wasn't a dispute about the objective." He said that he now believed that the broader approach ultimately adopted by Congress was constitutional.

While most of the questions ran along party lines - friendly from the Republicans, decidedly less so from the Democrats - senators from both parties expressed frustration with and even hostility toward the current court. That left Judge Roberts in the uncomfortable position of trying to protect the reputation and prerogatives of the institution he hopes to join while appearing attentive to the concerns of those who will decide whether he can.

Over and over, Judge Roberts was questioned by senators in both parties about Roe v. Wade, the 1973 Supreme Court decision recognizing a constitutional right to abortion. As on Tuesday, he refused to discuss his views on whether the case

should be overruled. Under questioning from Senator Dianne Feinstein, Democrat of California, he did say that no one in the Bush administration had asked him for his views on the case.

Judge Roberts listened carefully to questions touching on any area related to abortion and hesitated to answer many of them. He was noticeably suspicious, for instance, when Senator Tom Coburn, Republican of Oklahoma, asked him, "Would you agree that the opposite of being dead is being alive?"

Judge Roberts paused and said, hesitantly and to laughter, "Yes," adding, "I don't mean to be overly cautious in answering it."

The line of questioning did indeed end at abortion, and Judge Roberts declined to answer direct questions concerning it.

Judge Roberts also declined to answer questions about his personal views on issues like assisted suicide.

"I'm trying to see your feelings as a man," Ms. Feinstein said. "I'm not asking you for a legal view."

But Judge Roberts resisted, saying that a judge's personal views and values should play no role in his judicial decisions.

He also declined to comment on Bush v. Gore, the 2000 decision that resolved the presidential election that year.

He was less reluctant to talk about his judicial philosophy, so long as the discussion remained relatively abstract. He distanced himself, for instance, from the most conservative members of the current Supreme Court, Justices Antonin Scalia and Clarence Thomas, who have said they view themselves as bound by the original meaning of the Constitution.

"I depart from some views of original intent," Judge Roberts said, without naming names. "I think you need to look at the words they use," referring to the framers of the Constitution, "and if the words adopt a broader principle, it applies more broadly."

He added, "I think the framers, when they used broad language like 'liberty,' like 'due process,' like 'unreasonable' with respect to searches and seizures, they were crafting a document that they intended to apply in a meaningful way down the ages."

He similarly distanced himself from members of the court, including Justices Anthony M. Kennedy and Stephen G. Breyer, who have endorsed the citation of decisions from foreign courts in some cases. But Judge Roberts drew the line when Mr. Coburn suggested that Supreme Court justices who cite foreign judicial precedents in their decisions should be subject to impeachment.

Judge Roberts said he agreed that the citation of foreign law was "not a good approach." But, he added, "I wouldn't accuse judges or justices who disagree with that, though, of violating their oath."

In a somewhat similar vein, Senator Sam Brownback, Republican of Kansas, asked Judge Roberts whether the Constitution authorizes Congress to limit the Supreme Court's jurisdiction to hear certain sorts of cases. Judge Roberts discussed the legal arguments on both sides of the question but suggested that he viewed any such efforts as unwise. "The primary check on the courts," he said, "has always been judicial self-restraint."

But Judge Roberts also said he was reluctant to pick too many fights with Congress, at least for now.

Mr. Coburn asked him, for instance, whether there was room for improvement in the clarity of the legislation Congress passes.

"Sitting where I am," Judge Roberts said, "I'm not terribly inclined to be critical of the Congress and wouldn't be, in any event."

Supporters of abortion rights remained wary of Judge Roberts. Planned Parenthood Federation of America formally announced its opposition to his nomination on Wednesday, saying Judge Roberts's record and testimony "leave grave doubt about whether he will protect, not take away, a woman's right to choose."

Most Democrats of the Judiciary Committee seem inclined to oppose the Roberts nomination, but it is still unclear how Democrats as a whole will vote. Republicans are all but challenging them not to vote for a jurist who is unquestionably qualified.

Ed Gillespie, the former Republican Party chairman who is overseeing the nomination on behalf of the White House, said, "If you apply the historical standard - is he intellectually qualified, is he ethically qualified, is he fair and even-handed, the standard that allowed Justice Scalia to get close to 100 votes and Justice Ginsburg to get close to 100 votes, then clearly Judge Roberts deserves to get close to 100 votes."

But some Democrats argue that times have changed, that the nation and the courts are far more ideologically divided than they were during those earlier nominations and that they have a right to know where Judge Roberts stands on some of the most divisive issues.

"There's so much water under the dam since then," Mrs. Feinstein said.

"The nation is divided, it's polarized, we're at war," she said, adding, "Executive authority is very much on people's minds."

Moreover, the prospect of another nomination - and how conservative he or she might be - is an unpredictable variable in any political calculation, many strategists said.

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Judge Roberts gave expansive answers, seeming most at ease when he was given the opportunity to explain the state of the law in complex areas like eminent domain and antitrust. He did not give much detail about his own views on these topics, but his discussion of the leading cases and governing principles was informal, confident and lucid.

After declining to answer any questions on Tuesday about charges that he had acted improperly in participating in a case earlier this year, he gave some basic information about it on Wednesday. The case concerned the military commissions the Bush administration intends to use to try several of those being held as enemy combatants at the naval base at Guantánamo Bay, Cuba. Judge Roberts joined a decision ruling for the administration in July.

Experts on legal ethics have been divided about whether Judge Roberts should have recused himself given that he was then under consideration for the Supreme Court. On Wednesday, Judge Roberts said that the decision was drafted before there was a Supreme Court vacancy and completed before he was first interviewed by President Bush.

Senator Charles E. Schumer, Democrat of New York, said that Judge Roberts's refusal to answer many questions had rendered the hearings absurd. Mr. Schumer suggested that Judge Roberts would not even name his favorite movies.

Judge Roberts named two: "Doctor Zhivago" and "North by Northwest."

Nominee Is Standing On Precedent, And Setting His Own, With Hearing Responses (NYT)

By Sheryl Gay Stolberg

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 - Time and again, as he has danced his way around questions on issues like the right to privacy and the right to die, Judge John G. Roberts Jr. has looked to the past, saying he is simply following the precedent of Supreme Court nominees who have come before him and will become his colleagues if he is confirmed.

But with a second vacancy on the court, Judge Roberts is also setting his own precedent for whomever comes next.

As President Bush's nominee to be the nation's 17th chief justice, Judge Roberts has carved out what Senator Lindsey Graham, Republican of South Carolina, on Wednesday called "the Roberts standard," drawing the line against talking about cases that, in the judge's view, are likely to come before the Supreme Court.

"I think what he's trying to do," Mr. Graham said, "is to bootstrap himself to past justice's hearings, follow their lead, and trying to tell the next nominee: 'Where you can, speak.' "

But the nominee is not talking nearly enough to satisfy Democrats, and how he is interpreting his standard has become a major flashpoint in the hearings. On Wednesday, Democrats grew increasingly agitated over what they regarded as his repeated refusal to answer their questions. A coalition of civil rights and liberal advocacy groups, meanwhile, was making plans to run an Internet advertisement on Thursday spotlighting what they regarded as stonewalling by Judge Roberts.

In one particularly contentious exchange on Wednesday afternoon, Senator Charles E. Schumer, Democrat of New York, pressed Judge Roberts - who acknowledged a day earlier that the Constitution included a right to privacy - on the case of Lawrence v. Texas, in which the court found that the right to privacy provided a framework for protection of gay rights.

Mr. Schumer reminded Judge Roberts that Justice Clarence Thomas, who voted in the minority on the Lawrence case, had spoken at his own confirmation hearings of a general right to privacy. The two men went round and round on the issue, with Judge Roberts repeatedly declining to talk about Lawrence.

"Would you say there's a general right to privacy?" Mr. Schumer finally asked.

"I don't know what 'general' means," Judge Roberts replied.

Yet at times, the judge has surprised senators, as he did on Wednesday, when Senator Edward M. Kennedy, Democrat of Massachusetts, asked if he agreed with an opinion in which Justice Sandra Day O'Connor said the court should give great weight to the "real world impact" of affirmative action in universities.

"Well, Senator," Judge Roberts replied, "I think I can answer the specific questions you asked, because, as you phrased the question - Do you agree with her that it's important to look at the real-world significance and impact? - and I can certainly say that I do think that that is the appropriate approach; without commenting on the outcome or the judgment in a particular case."

Judge Roberts has argued that he has been more forthcoming than some of his predecessors - an obvious reference to Justice Antonin Scalia, who declined even to answer questions about Marbury v. Madison, the fundamental 1803 decision that established the authority of the Supreme Court to strike down laws as unconstitutional.

Michael Gerhardt, a law professor at the University of North Carolina, said that Judge Roberts had indeed been more expansive than Justice Scalia, but not by much.

"I think there has been a spectrum," Professor Gerhardt said, "with Justice Scalia clearly being the least forthcoming of all modern nominees, post-1982 nominees, and I think Justices Breyer and Ginsburg have been among the most forthcoming nominees," referring to Justices Stephen G. Breyer and Ruth Bader Ginsburg. He said Judge Roberts "is closest to what I would call the Scalia end of the spectrum."

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That delights Tony Perkins, president of the Family Research Council, a conservative advocacy group. The next nominee can "follow his footsteps," Mr. Perkins said, adding, "If I were another nominee, I would carefully study his responses, the way he has handled questions."

Democrats and Republicans have kept tallies of the number of questions that Judge Roberts has answered. Republicans said he had declined to answer 57 of 477 questions, while Justice Ginsburg had declined to answer 59 of 275.

But Democrats say it is the substance, not the numbers, that is important. Justice Ginsburg's standard was to answer questions if she had either written about cases or taken a public position on them, though Democrats say in some cases she went beyond that. Judge Roberts has little trouble adhering to that standard because, having served on the United States Court of Appeals for just two years, he has a limited record.

Mr. Schumer said that was all the more reason for Judge Roberts to be forthcoming.

"I think he's answered fewer questions than most nominees, and his burden was greater than most nominees, because most nominees have a more extensive record," Mr. Schumer said, adding, "Just when they're needed to talk more, they talk less."

Roberts Heads Toward Likely Confirmation (BSUN)

By Gwyneth K. Shaw

The Baltimore Sun, September 15, 2005

WASHINGTON -- Pressed by senators on issues ranging from private property rights to the right to die, Judge John G. Roberts Jr. said Wednesday that he would not allow his personal views to creep into his work on the Supreme Court.

President Bush's nominee for chief justice declined, for the second day in a row, to lay out his views on issues that might come before the court. His reticence prompted annoyance from Democrats on the Senate Judiciary Committee, who complained that the 50-year-old appellate judge was talking a lot but saying little.

"Without any knowledge of your understanding of the law -- because you will not share it with us -- we are rolling the dice with you, Judge," said Democratic Sen. Joseph R. Biden Jr. of Delaware.

Republicans defended Roberts' right to demur, saying previous nominees have done so.

Sen. Orrin G. Hatch told Roberts he was the best nominee he had seen in decades and that he looked forward to watching him in the chief justice's seat when the court begins its new term Oct. 3.

"We've seen some really sterling, brilliant, wonderful people before this committee. But I've never seen anybody who has done a better job of explaining himself than you have," said the Utah Republican. "If people can't vote for you, then I doubt that they can vote for any Republican nominee."

A final, short round of questioning is set for Thursday morning, followed by testimony from more than two dozen outside witnesses, including former colleagues and conservative and liberal partisans.

Republicans hold a 10-8 advantage on the committee, which is expected to approve Roberts' nomination next week. Barring a major surprise, the Senate will confirm him as the nation's 17th chief justice this month.

Wednesday, senators returned to Roberts' interpretation of the right to privacy, with both sides looking for hints about how he might vote in abortion cases. The conversations wound up being mostly one-sided.

Biden asked about the ability of citizens to make decisions about ending their lives and encouraged Roberts to answer on a personal level. Roberts replied that judges should not bring their personal views into their decisions.

"I'm not going to consider issues like that in the context as a father or a husband, or anything else," Roberts said. "I think obviously putting aside any of those considerations, these issues are the most difficult we face as people and they are profoundly affected by views of individuality and moral views and deeply personal views."

Democratic Sen. Patrick J. Leahy of Vermont asked Roberts about the rights of death- row inmates to appeal their cases, pointing to the exoneration of a string of wrongfully convicted prisoners.

"Does the Constitution permit the execution of an innocent person?" Leahy asked.

"I would think not," Roberts replied. "But the question is never 'Do you allow the execution of an innocent person?' The question is 'Do you allow particular claimants to raise different claims, four or five or six times, to say at the last minute that somebody who just died was actually the person who committed the murder and let's have a new trial? Or do you take into account the proceedings that have already gone on?'"

Sen. Sam Brownback, a Kansas Republican, asked about one of the Supreme Court's most contentious recent decisions, in which the city of New London, Conn., was allowed to take private property and give it to another private entity for economic development.

Roberts said Congress and state legislatures have the power to pass laws barring such transactions. He would not say whether he thought the case was wrongly decided but did say the primary check on judges is their self-restraint.

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"They're given life tenure, as you mentioned, precisely because they're not shaping policy. They're not supposed to be responsive; they're supposed to just interpret the law," Roberts said.

Democrats View Roberts As Evasive (WSJ)

By Jeanne Cummings And Jess Bravin

The Wall Street Journal, September 15, 2005

WASHINGTON -- White House hopes for Judge John Roberts to be confirmed as chief justice by a wide margin in the Senate grew dimmer yesterday, as Democrats complained that the nominee gave narrowly crafted responses or declined to answer questions about civil rights, privacy and other issues.

With Republicans holding a 10-vote Senate advantage, Judge Roberts is likely to be confirmed. But Democrats on the Senate Judiciary Committee have stepped up their accusations that he is being evasive, and will use that claim to lobby their colleagues to withhold their votes. Democrats argue that Judge Roberts's thin public record -- two years on the federal appeals court here, after two decades of private practice and service in Republican administrations -- is inadequate to gauge his approach to major legal issues.

No senator has announced plans to vote against Judge Roberts, and he has carefully avoided giving them any new substantive grounds for doing so during two full days of questioning. But some Democrats have stepped close to opposition. A confirmation vote, based on what legislators now know, would be like "rolling the dice with you, judge," Sen. Joseph Biden (D., Del.) told the nominee at one point yesterday, the second full day he faced questions by the panel.

Judge Roberts defended his decision not to answer all questions -- and insisted that he has been more forthcoming than some previous nominees who declined to discuss even long-settled landmark cases. But he said that speaking on issues he believed might return to the high court would be inappropriate, and suggested that some senators had crossed this line.

"This is not a process under which senators get to say, 'I want you to rule this way, this way and this way, and if you tell me you'll rule this way, this way and this way, I'll vote for you,' " he told Sen. Charles Schumer (D., N.Y.), perhaps the most aggressive questioner.

As a concession to Democrats, Judiciary Chairman Arlen Specter (R., Pa.) agreed, over White House objections, to allow questioning to continue into this morning.

The Bush administration wants to pull in a substantial number of Democrats when the full Senate votes -- likely in two weeks -- on Judge Roberts, hoping that will give the president room to nominate a more openly conservative judge to fill the seat of retiring Justice Sandra Day O'Connor.

The political intensity heightened yesterday when a federal court in Sacramento, Calif., ruled that local authorities couldn't require teacher-led recitation of the Pledge of Allegiance in public schools. The issue has outraged social conservatives, and was mentioned by several Republican senators during yesterday's hearing as evidence of improper judicial activism they hope Judge Roberts will halt. In his decision, the Sacramento judge wrote that the Supreme Court had given lower courts confusing guidance on religion cases.

Judge Roberts declined to comment on the case directly, but agreed that the Supreme Court should provide more clarity.

White House officials have hoped that Judge Roberts' résumé and gracious manner could persuade at least one or two Democrats on the panel, say people familiar with their strategy. But one of their prime targets, Sen. Dianne Feinstein (D. Calif.), yesterday expressed frustration. In order to make a judgment on his nomination, "I do expect to know a little bit more about how you think," she said.

Despite Democratic complaints, Judge Roberts did give a few more glimpses of his views. After Sen. Sam Brownback (R., Kan.) excoriated the high court's June decision that local governments enjoyed wide discretion in exercising their eminent-domain powers, Judge Roberts explained that the court had -- as lawmakers have demanded in other contexts -- deferred to the judgment of elected officials.

"The court was not saying you have...to exercise this power. What the court was saying is, there is this power, and then it's up to the legislature to determine whether it wants that to be available," Judge Roberts said. He didn't say whether he agreed with the ruling, but in response to Sen. Herb Kohl (D., Wis.) said it had "surprised" him.

Sen. Tom Coburn (R., Okla.) suggested that justices who cite foreign authority in interpreting constitutional provisions might deserve impeachment. Judge Roberts replied that while he disapproved of looking to foreign sources, "I wouldn't accuse judges or justices who disagree" of "violating their oath. I'd accuse them of getting it wrong on that point, and I'd hope to sit down with them and debate it and reason about it."

Sen. Patrick Leahy (D., Vt.) asked Judge Roberts his views on government restrictions on media coverage. The judge said he had limited experience with First Amendment law, but said "there is obviously a balancing of sorts between particular interests when you're dealing with governmental operations, and there's some perfectly valid reasons for excluding media. On the other

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hand, simply disagreement about whether it's an appropriate issue for the public to see would not strike me as a very compelling governmental interest."

Responding to Sen. Feinstein, Judge Roberts seemed to accept affirmative action, saying he endorsed "efforts to ensure the full participation in all aspects of our society by people, without regard to their race, ethnicity, gender or religious beliefs," which he said was also the policy of the Reagan administration, where he worked on affirmative-action issues. He didn't say whether he specifically considered race-conscious affirmative-action programs constitutional.

Responding to Illinois Democrat Richard Durbin's questions on capital punishment, Judge Roberts acknowledged a "risk" of executing innocent people, because like any "human enterprise" the criminal justice system is flawed. But he also defended the goal -- over the objections of civil libertarians -- of limiting condemned inmates from raising repeated claims of innocence. "Do you allow someone who has raised several claims over the years to suddenly say at the last minute, somebody who just died was the person who committed the murder, and does that mean you start the trial all over again, simply on the basis of that last-minute claim, or do you require more of a showing at that stage?" he told Mr. Leahy at another point. As deputy solicitor general in the first Bush administration, Judge Roberts helped persuade the Supreme Court to bar such an appeal. The high court will hear a case on a related issue in its coming term.

Roberts Displays More Moderate Views (USAT)

By Joan Biskupic And Kathy Kiely

USA Today, September 15, 2005

WASHINGTON — Supreme Court nominee John Roberts suggested Wednesday that his views on civil rights were more moderate than those he expressed during his days as a Reagan administration lawyer, and he hinted at a concern for gay men and lesbians who might face discrimination.

Roberts, 50, also described several principles that seemed to separate his legal views from those of Justices Antonin Scalia and Clarence Thomas, the high court's most conservative members. Roberts said he did not subscribe to a limited view of constitutional liberty, and he suggested that constitutional principles should evolve with the times.

That's a distinction from the views of Scalia and Thomas, who view the Constitution as a more rigid document. Their approach leads to a narrow interpretation of the constitutional guarantee of equality for racial minorities and women, provides no right to abortion and offers no particular protection for gay men and lesbians. The comments by Roberts — the federal judge President Bush has chosen to replace the late William Rehnquist as chief justice — were significant because Bush has said he wants court nominees like Scalia and Thomas.

Roberts' testimony Wednesday suggested that he might not be as conservative as Scalia or Thomas, and that his brand of conservatism could be more in line with that of Rehnquist, for whom Roberts once was a law clerk.

Whatever light Roberts shed on his legal views Wednesday, it wasn't enough for several Democrats on the Senate Judiciary Committee. For the second day, they were irked that Roberts refused to answer several questions on issues that he said might come before the high court.

“We are rolling the dice with you, judge,” Sen. Joseph Biden, D-Del., told Roberts after Biden failed to draw out the nominee's views on when someone can remove life support to an ailing relative. Even so, Roberts offered some insight into his philosophy:

·In response to questions from Sen. Russ Feingold, D-Wis., Roberts said he could not address whether Congress could bar discrimination against gays and lesbians in employment because the question might come before the court. However, Roberts said, “Personally, I believe that everybody should be treated with dignity in this area and respect.”

·Roberts suggested to Sen. Edward Kennedy, D-Mass., that he did not believe federal voting rights laws should be weakened. In a lengthy give-and-take with Kennedy, Roberts distanced himself from a position he argued during the Reagan administration that would have limited protections in the Voting Rights Act intended to help blacks and Hispanics elect more of their own. Roberts said that if he were called upon to interpret the law or any amendments, “I would, of course, confront that issue as a judge and not as a staff attorney for an administration with a position.”

·He also said that when the Supreme Court upheld the use of affirmative action in college admissions in 2003, it rightly examined “the real-world impact in this area.” Without commenting on the ruling, he implicitly agreed with an approach used by Justice Sandra Day O'Connor, who cited the importance of fostering diversity on campuses.

·Roberts emphasized the need for competent lawyers to represent defendants who face capital punishment, to minimize the risk of executing the innocent.

·Roberts said dilemmas over the “right to die” and physician-assisted suicide are “the most difficult that we face as individuals.” He said a judge's job, however, is to set aside any personal feelings and look to the law.

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Roberts passed up opportunities to compare himself with current justices, and he declined to answer questions by Sen. Charles Schumer, D-N.Y., on how his view of privacy rights differs from Thomas'. Schumer noted that Thomas, like Roberts, had testified as a nominee that he believed in a constitutional right to privacy. As a justice, however, Thomas has not embraced the idea.

"I will be my own man on the Supreme Court, period," Roberts said.

Although the committee's eight Democrats have fired tough questions at Roberts this week, none has declared that they will not vote for him. Sen. Herb Kohl, D-Wis., gave the judge high marks for his performance. "I don't think he's hurt himself," Kohl said.

Several of the panel's 10 Republicans, such as Jon Kyl of Arizona and Lindsey Graham of South Carolina, said they will back Roberts.

Committee Chairman Arlen Specter, R-Pa., wants a Senate vote on Roberts by the end of the month, so Roberts could join the court by the start of its term Oct. 3.

Roberts Appears Open To New Interpretations (LAT)

By David G. Savage, Times Staff Writer

The Los Angeles Times, September 15, 2005

WASHINGTON — Chief justice nominee John G. Roberts Jr. carefully avoided taking sides on many issues Wednesday, but he went out of his way at his Senate confirmation hearing to put some distance between himself and justices Antonin Scalia and Clarence Thomas — the Supreme Court's two staunchest conservatives.

And the issue was a basic one, with possibly great import for the future: How should a high court justice interpret the Constitution?

Scalia and Thomas proudly call themselves "originalists." They say the Constitution should be interpreted strictly, based on its literal words and its original history.

Like other conservatives, they shun the notion of a "living Constitution." They say their approach is faithful to the Constitution as it was written in 1787 and amended since then. Scalia says, only half-joking, that he believes in a "dead Constitution."

This look to the past leaves no room to consider such contemporary concepts as a right to die or equal rights for gays.

Roberts pointedly said Wednesday that he disagreed with this narrow originalist approach and would apply the Constitution in light of today's concerns and understandings.

"I depart from some views of original intent," he told the Senate Judiciary Committee.

Words such as liberty or equality should not be given a "cramped or narrow construction," based on "just the conditions at the time" when the Constitution was written, he said.

"The framers chose broad terms, [with] a broad applicability, and they state a broad principle," he told Sen. Arlen Specter (R-Pa.), the committee's chairman.

He noted that the preamble to the Constitution says the document was designed "to secure the blessings of liberty to ourselves and our posterity."

"It applies to modern times," he said. The Founding Fathers intended the Constitution "to apply to changing conditions. And I think that in that sense, it is alive … and applies down through the ages," Roberts said.

It is certainly not clear how Roberts would decide controversies such as abortion rights, gay rights or the right to die. He repeatedly refused to state his view or comment on most past rulings on those disputes.

But his comments hint that he is at least open to a future decision saying the Constitution protects a right to die, or gives gays protection from discrimination.

Roberts also endorsed the 1965 decision in Griswold vs. Connecticut, which first spoke of a right to privacy in the Constitution. The ruling struck down an archaic state law that prohibited the use of contraceptives, but it has remained controversial because the right to privacy formed the basis for the Roe vs. Wade ruling in 1973, which established a woman's right to abortion.

Roberts said much during the two days of questioning that should reassure conservatives. He emphasized that the court has a "limited role" in deciding social controversies, and he insists judges should not "make law."

He also said the Constitution should be read in light of the "nation's history, traditions and practices."

And several conservative lawyers said Wednesday that they were not troubled by his comments about interpreting the Constitution.

"What I think Roberts was saying was that the framers were smart enough to take into account changes in circumstances," said Leonard Leo, executive vice president of the Federalist Society. "I don't read all that much into what he said."

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Leo added, "It's right to say he believes privacy is protected, and the language of the Constitution is broad enough to capture modern problems. But he would not take these broad principles and rewrite the Constitution."

Whether to focus on the past or the present often divides the Supreme Court.

Scalia has scoffed at the notion of a right to die and insisted the justices have no business even discussing such claims.

But most of his colleagues have taken a more flexible view of the nation's founding charter. When faced with the question of whether to maintain the death penalty for mentally retarded defendants, the majority barred such executions in 2002, saying this was "cruel and unusual punishment" in light of "evolving standards of decency" in America.

Scalia and Thomas dissented, along with the late Chief Justice William H. Rehnquist. They said such executions would not have troubled the authors of the Constitution, and therefore, they should not be deemed unconstitutional today.

Two years ago, in a victory for gay rights, the court struck down a Texas law that made sex between gays a crime. Justice Anthony M. Kennedy, speaking for the majority, said the law violated the constitutional right to liberty in light of contemporary American values. Rehnquist, Scalia and Thomas dissented.

Scalia said he feared this evolving notion of liberty meant the high court would soon rule that gays had a constitutional right to marry, a prospect that has divided the nation.

The debate largely concerns a few words in the 14th Amendment, adopted in 1868, after the Civil War. It says states may not "deprive any person of life, liberty, or property, without due process of law; nor deny [them] the equal protection of the laws."

Roberts said these words, read literally, might mean only that the government may not arrest and hold someone without giving them due process of law. He said he believed the protection for liberty went well beyond that interpretation and included protections for fundamental rights.

For example, Roberts cited the court's decision in 1925 that struck down a state law that required children to enroll in public schools. The justices said parents had the "personal liberty" to send their children to the school of their choice, including a private or parochial school.

As was the case when the committee began questioning Roberts on Tuesday, Democrats spent much of Wednesday's hearing trying to pin him down on issues such as abortion and civil rights. As he did Tuesday, he dodged most of their inquiries.

At one point, he refused even to answer whether a mentally competent dying person had a right to end his life. The Supreme Court answered that question in 1990. In the case of Nancy Cruzan, the justices agreed that all people have a right to refuse unwanted medical treatment.

The harder issue, in Cruzan's case as well as the recent one involving Terri Schiavo, arises when patients cannot speak for themselves.

Roberts refused to tip his hand. "There are cases involving disputes between people asserting their rights to terminate life, to remove feeding tubes, either on their own behalf or on behalf of others," he said.

"Those are issues that will come before the court, and I will confront those issues in light of the court's precedents with an open mind."

A Conservative, Yes, But Not A Scalia (WP)

By Charles Lane

The Washington Post, September 15, 2005

After two days of often intense questioning of John G. Roberts Jr. by the Senate Judiciary Committee, a new image of President Bush's nominee for chief justice of the United States is coming into focus.

Still blurry at the edges, thanks to Roberts's refusal to declare how he would rule on abortion rights and other specific issues, it is nevertheless a picture of a conservative different in important respects from the two members of the Supreme Court whom Bush has said he most admires, Justices Antonin Scalia and Clarence Thomas.

Scalia has said that courts should avoid basing their interpretations of laws on the history behind them; Roberts said there is a role for legislative history. Thomas has embraced an approach to constitutional interpretation that relies heavily on his view of the original intent of the framers; Roberts said that is not always possible.

Concretely, Roberts said he believes the Constitution creates a right to privacy. Such a right was recognized by the Supreme Court in modern cases protecting the use of contraception, abortion and consensual homosexual conduct, but which Scalia and Thomas have sharply criticized.

Asked by Sen. Charles E. Schumer (D-N.Y.) if he considered himself "in the mold" of Scalia and Thomas, Roberts replied, "I will be my own man on the Supreme Court."

While the differences may seem like nuances, they are likely to play an important role at the court, especially because Roberts has been named to fill the chief justice's chair.

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As an eclectic legal thinker who can easily play at the same intellectual level as Scalia and Thomas, yet without employing the sharp rhetoric that Scalia especially is known to aim at colleagues, Roberts could exert a strong pull on the other justices -- particularly Anthony M. Kennedy, who, after Sandra Day O'Connor retires, probably will be left as the court's sole center-right swing voter.

Randy E. Barnett, a professor of law at Boston University and a leading thinker in conservative academic circles, likened Roberts to justices such as Felix Frankfurter and Robert H. Jackson, moderate conservatives appointed by President Franklin D. Roosevelt who "deferred to Congress, the executive and to legal precedent -- in some unspecified mix."

Roberts was perhaps most unlike Scalia and Thomas in his acknowledgment that the Constitution creates a right to privacy, even if such a right is not specifically spelled out.

Among the few cases he was willing to discuss specifically were a 1965 ruling, Griswold v. Connecticut , and a 1972 ruling, Eisenstadt v. Baird , which guaranteed a right to contraception use by married couples and singles.

Roberts said he agreed with the results of Griswold and Eisenstadt , noting that, in his view, privacy is part of the "liberty" that the 14th Amendment says cannot be taken away without due process of law.

Griswold and Eisenstadt formed part of the chain of precedents that led to Roe v. Wade in 1973.

In a 2003 case, Lawrence v. Texas , the court invoked this right to strike down all state laws banning consensual sex between same-sex couples.

Scalia has practically made a career out of attacking the court's past cases in which it has read specific "substantive" rights into the 14th Amendment's liberty clause. For him, and for many other conservatives, "substantive due process" is a contradiction in terms that gives judicial activists license to convert their own views into constitutional law.

Dissenting in Lawrence , he wrote disparagingly of Griswold and the "so-called right to privacy"; Thomas, agreeing with a dissenting justice in Griswold , said he could find no such right in the Constitution.

There is, however, a limit to the daylight between Scalia and Thomas, on the one hand, and Roberts on the other.

Roberts stopped well short of endorsing Roe -- or calling for its overruling -- in the hearings.

Social conservatives who support his nomination said they were generally comfortable with his testimony, which some said privately was what he had to say to help get confirmed. At the same time, it is also possible that Roberts will change his views once he is on the court.

As Schumer pointed out yesterday, Thomas gave a similar answer to Roberts on the right to privacy at his 1991 confirmation hearing, but struck a different note it in Lawrence .

Still, there was other evidence that Roberts, while he might or might not reach the same results as Scalia and Thomas, would approach cases in a different way.

Sen. Charles E. Grassley (R-Iowa) asked Roberts: "To what extent do you share Justice Scalia's view on unreliability of legislative history?"

Roberts replied that, though the interpretation of a law or the Constitution has to begin with the text, "I have quoted and looked to legislative history in the past to help determine the meaning of ambiguous terms, and I would expect to follow that same approach on the Supreme Court."

Whereas Scalia and Thomas often look to strict rules of statutory or constitutional interpretation to keep judges from taking over the legislative or executive function, Roberts repeatedly emphasized the restraining influence of what he called "the judicial process."

Harking back to concepts he learned at Harvard Law School, Roberts depicted judges deliberating within a kind of insulated environment in which the only materials they take into account are existing law, legal briefs, the case record and the views of other judges.

"It's basically an emphasis on legal craftsmanship," Barnett said. "You take a smidgen of history, a dollop of text, a spoonful of precedent and ladle it all over a very sensitive treatment of the facts and that yields a very high-quality product."

Roberts Says He's Been More Expansive Than Confirmed Justices (LAW)

By T.r. Goldman And Tony Mauro, Legal Times

Law.com, September 15, 2005

John Roberts Jr. moved into the second day of questioning before the Senate Judiciary Committee on Wednesday, with Democrats still complaining that the likely future chief justice remains too much of a cipher, and with GOP committee members stressing that Roberts has answered more questions than any other nominee.

"I do think I've been more expansive than most nominees, and those justices were confirmed," Roberts told Sen. Jon Kyl, R-Ariz.

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The committee will wrap up questioning of Roberts on Thursday morning, then proceed directly to six panels of witnesses, who will speak for and against the nominee.

Committee Chairman Arlen Specter, R-Pa., said late Wednesday that he would conclude the Roberts hearings on Thursday and set a committee vote on the nominee for Sept. 22.

As in his testimony on the previous day, Roberts was probed about his views on the Voting Rights Act, privacy and the judiciary's proper role in interpreting congressional statutes.

And as in Tuesday's performance, Roberts was loath to do more than outline in the broadest terms his view of how he would adjudicate certain issues, prompting a frustrated Sen. Charles Schumer, D-N.Y., to complain: "It's as if we ask you what movies you like, and you say, 'I like movies with good acting.' And if I ask you if you like 'Casablanca' and you tell me, 'Lots of people like 'Casablanca.'"

"'Doctor Zhivago' and 'North by Northwest,'" Roberts shot back.

It was a rare moment of humor in an all-day hearing during which Democrats appeared increasingly outgunned by an unperturbable witness. One chief counsel for a committee Republican noted the reams of paperwork being passed between staff and the panel's 18 members and remarked, "Roberts has just got all this stuff in his head."

Indeed, by the end of the day, the most interesting question was not whether Roberts would win confirmation, but whether he would secure any Democratic votes in the process.

Earlier in the day, in some of the week's most heated testimony, Sen. Joseph Biden, D-Del., bored into Roberts in an effort to elicit his views on whether a state legislature should have the right to pass laws restricting the right of a dying person's next of kin to remove a feeding tube, evoking the Terri Schiavo case.

"You are one of the best witnesses to come before this committee, and I've been here some 30 years," said Biden, who had been chided by Specter the day before for repeatedly interrupting Roberts' testimony. "You've convinced folks on Sen. [Sam] Brownback's side that you are just right for them, and on Sen. [Edward] Kennedy's that you are just right for them," he added, referring to one of the committee's most conservative members and one of its most liberal.

"Can any law trump a fundamental right to die?" Biden asked the nominee.

Roberts replied that his personal views would not enter into his decision-making on the issue and that he would decide a question like that "based on my understanding of the law."

"That's what I want to know about," retorted Biden. "We're rolling the dice with you, Judge."

Roberts, however, who has yet to show any flashes of anger, and only the rarest moments of irritation, refused to give a direct answer. "Senator, that's asking me for an opinion in the abstract that will come before the Court," he replied.

After Biden noted that executive and legislative branch candidates must lay out their views on various issues, while judicial candidates can keep theirs to themselves, Roberts launched into a vigorous defense of judicial independence.

It was no accident that federal judges don't stand for election, Roberts said, adding that to make pledges in a confirmation hearing would violate their role as open-minded and fair arbiters of legal disputes. "It is contrary to the role of the judge in our society that this judge should go on the bench because this is his or her position," said Roberts. "That's inconsistent with the independence and integrity of the Supreme Court."

So far, the three days of hearings have been marked by Roberts' disarming manner, which allows him to repeatedly turn down senators' requests for answers yet maintain what appears to be a large reservoir of good will among the entire committee.

While Roberts insisted he had been "more expansive" than other nominees, he largely stuck to his views on cases, such as 1803's Marbury v. Madison, that are unlikely to be reconsidered by the Court. But then again, in 1986, then-nominee Antonin Scalia would not even comment on Marbury.

But the 50-year-old federal appeals court judge did surrender a few pieces of information on Wednesday, in particular his views on the high court's proclivity to produce decisions with several concurring opinions.

Specter said he was troubled by the Court's decisions in June 2004 over the detainees at Guantánamo Bay, calling the opinions "a patchwork of confusion." In response, Roberts seemed to almost startle the committee by implying that too many separate opinions were not a good thing.

"The Supreme Court speaks only as a court," he said. "Individually, the justices have no authority... . [A]n important function of the Supreme Court is to provide guidance. As a lower court judge, I appreciate clear guidance from the Supreme Court."

And Roberts offered other comments Wednesday that could signal a different approach from Scalia and other conservative legal thinkers. "I depart from some views of the original intent" movement, Roberts said.

Originalists, he suggested, believe the Constitution should be interpreted in light of "just the conditions at that time, just the particular problem" at the time of the Constitution's drafting. "I think you need to look at the words they used, and if the words adopt a broader principle, it applies more broadly," he said.

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When principles like liberty are involved, Roberts said, "that doesn't get a narrow construction." A broad view of the liberty concept could have implications for Roberts' views on privacy, abortion, and the right to die.

Looking More Moderate Than His Early Writings (LAT)

By Richard B. Schmitt And Maura Reynolds

The Los Angeles Times, September 15, 2005

WASHINGTON — Chief justice nominee John G. Roberts Jr. offered a fuller accounting of his views on voting rights and affirmative action Wednesday in carefully guarded testimony that provided the barest hints that he did not hew to the most conservative positions on the two sensitive issues.

Under relentless and occasionally sharp interrogation before the Senate Judiciary Committee, Roberts also emphasized a modest approach to judicial action and a deference to Congress.

Panel members pressed him for his views on a series of controversial cases and social issues, searching for clues about how he would affect the Supreme Court's ideological balance.

Although his comments leaned toward a more moderate position than the views expressed in some of his writings as a Justice Department lawyer in the Reagan administration, they were so sparse and cautiously phrased that they sparked protests from Democrats about his refusal to be more forthcoming.

Roberts declined to discuss his views on whether the Constitution allowed terminally ill people to end their lives — even though the Supreme Court ruled that it did more than a decade ago.

And he declined to say whether he agreed with a high court ruling that limited the rights of death row inmates to appeal their convictions based on newly discovered evidence that might prove them innocent.

In the absence of answers, many panel members resorted to a kind of lobbying effort, seeking to impress upon Roberts their views of the law — opinions he might consider if, as expected, he wins Senate confirmation to lead the court.

"I hope, sitting in the marble palace, you'll remember that I have great pride in the success of the False Claims Act," Sen. Charles E. Grassley (R-Iowa) told Roberts. He made his remarks after trying, mostly unsuccessfully, to learn more about what Roberts thought about a federal whistle-blower law Grassley sponsored that allows private individuals to sue in cases of government fraud.

A day after Democrats grilled Roberts over whether he would overturn high court rulings guaranteeing abortion rights — to no avail — antiabortion Republicans seized an opportunity to make their case, admittedly with little, if any, expectation of a response.

"I would just ask you, Judge Roberts, to consider — and probably you can't answer here today — whether individuals with disabilities have the same constitutional rights that you and I share while they're in the womb," Sen. Sam Brownback (R-Kan.) said.

"I appreciate your thoughts on the subject very much," Roberts said. But he declined to answer, saying: "Those precise questions could come before the courts."

Despite Roberts' reticence on several fronts, a somewhat more complete portrait of the 50-year-old federal appeals court judge and former Reagan administration lawyer emerged. At times, his newly expressed views seemed at odds with those contained in the thousands of pages of memos and musings he wrote as a government lawyer two decades ago.

Pressed by Sen. Edward M. Kennedy (D-Mass.), Roberts said he saw nothing "constitutionally suspect" in a provision of the Voting Rights Act that he had raised questions about in the early 1980s. The provision makes it possible for minorities to win voting rights cases without proving intentional discrimination by election officials.

His position on the rights law — a portion of which is set to expire in 2007 — is a central concern to Democrats wary that as chief justice, he would promote rigidly conservative views on civil rights.

Roberts expressed support for portions of a 2003 opinion by Justice Sandra Day O'Connor upholding the rights of state universities to consider race in making admission decisions. Roberts said it was proper for the court to take note of the positive effect of racial and ethnic diversity in the military when it upheld an admissions policy at the University of Michigan Law School.

"You do need to look at the real-world impact in this area," Roberts said.

Roberts gave what Republican members of the panel interpreted as signals that he would be more deferential to the power of Congress to enact laws without being second-guessed by an activist judiciary.

He said it would be appropriate for state and local lawmakers to pass legislation to lessen the effect of a Supreme Court ruling in June that took an expansive view of the right of the government to seize private property.

As Roberts concluded his second day of taking questions from senators, he appeared on track to win confirmation from the GOP-controlled committee. The panel is expected to conclude its questioning of Roberts today.

Several of the Republican committee members expressed effusive support for the nominee.

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"If people can' t vote for you, then I doubt that they can vote for any Republican nominee," Sen. Orrin G. Hatch (R-Utah) said.

The Judiciary Committee chairman, Sen. Arlen Specter (R-Pa.), told reporters that Roberts had "answered more questions than most."

"Nominees answer about as many questions as they think they have to to be confirmed," Specter said.

But it remained uncertain how Democrats — either on the committee or in the full Senate — would vote on Roberts.

Several Democrats on the panel made it clear they were not persuaded that Roberts could set aside his political views and rule impartially on the court.

At the same time, they acknowledged privately that it was hard to quarrel with his credentials.

Republicans on the committee have pointed out that they set aside partisan differences in 1993 to vote overwhelmingly in favor of President Clinton's high court nominee — Ruth Bader Ginsburg, a former legal counsel for the American Civil Liberties Union. They argue that the opposition should return the courtesy and confirm the choice President Bush has made.

But Democrats say the country is more deeply divided now than it was then, and that the stakes are higher.

Sen. Dianne Feinstein (D-Calif.) said that in the last 10 years, nearly 200 cases had been decided by a single vote, "which suggests that on major questions the court is also very divided."

Feinstein said that she supported Roberts' confirmation to the federal appeals court in Washington in 2003. "But there's more [at stake] in this vote," she said.

Other Democrats indicated they also would have problems supporting Roberts.

"We are rolling the dice with you, judge," Sen. Joseph R. Biden Jr. (D-Del.) said after Roberts declined to say whether he believed terminally ill people had a right to discontinue life-preserving treatment.

Roberts responded that he should not have to answer such questions, and that it would be dangerous if the process of selecting judges turned on promises that nominees made to elected officials.

"Judges don't stand for election. I'm not standing for election," he said.

But Biden said the judge was missing the point.

"No one's asking for a promise," he said.

Roberts Vows To Seek Consensus (REU-Y2)

By Thomas Ferraro

Reuters, September 15, 2005

U.S. Chief Justice nominee John Roberts said on Wednesday that if confirmed by the Senate he would seek consensus on the often bitterly divided Supreme Court that has spawned frustration with a series of 5-4 rulings.

Roberts, President George W. Bush's nominee to replace the late Chief Justice William Rehnquist, made the pledge as Democrats complained he had dodged many questions in two days of his confirmation hearing before the Senate Judiciary Committee.

"When you add it all up you are being less forthcoming ... with this committee than just about any other person who has come before us," said Sen. Charles Schumer (news, bio, voting record), a New York Democrat.

Roberts, a conservative federal appeals court judge, calmly countered the complaint as he appeared headed toward confirmation by the Republican-led Senate before the court begins its new term on October 3.

"I wanted to be able to share as much as I can with the committee," he said.

The hearing, which began on Monday, recessed on Wednesday night, and was to resume early Thursday for a possible final day.

Besides his vow to seek consensus on the high court, Roberts has promised to address each case with an open mind and a strict interpretation of the Constitution and to safeguard the rights of all Americans.

But he refused to discuss a number of specific matters -- from voting rights to gender bias -- saying such issues may come before him on the court. He has said like earlier nominees, he did not want to prejudge them.

For example, Roberts declined to say if he favors reversing the 1973 Supreme Court decision that legalized abortion, but said the Constitution affords Americans the right to privacy, the key legal underpinning of the landmark ruling.

Sen. Joseph Biden (news, bio, voting record), a Delaware Democrat, complained that Roberts' answers were so vague that both Republicans and Democrats thought he agreed with them.

"Without any knowledge of your understanding of the law, because you will not share it with us, we are rolling the dice with you, judge," Biden said.

Chairman Arlen Specter, a Pennsylvania Republican, said the Senate knows a lot about Roberts, 50, who was one of the nation's top lawyers and served in the Reagan and first Bush administrations.

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Specter asked Roberts what he would do to address what many lawmakers and state and local officials across the country claim is a tendency by the nine-member high court to produce often conflicting 5-4 decisions in recent years.

"I do think the chief justice has a particular obligation to try to achieve consensus consistent with everyone's individual oath to uphold the Constitution, and that would certainly be a priority for me if I were confirmed," Roberts said.

The court has been closely divided on issues including church-state separation and the death penalty. It has at times issued rulings that appeared to be at odds and based on narrow distinctions that failed to give broad legal principles.

"An important function of the Supreme Court is to provide guidance," said Roberts. "As a lower court judge, I appreciate clear guidance from the Supreme Court."

As he was testifying, a California atheist who last year lost a Supreme Court fight to remove the phrase "under God" from the Pledge of Allegiance won an initial round as he revived the case in the courts.

While not commenting because the case could again be before the high court, Roberts said: "I think everyone would agree that the religion jurisprudence under the First Amendment, the establishment clause and the free exercise clause, could be clearer."

Though Democrats have challenged Roberts' commitment to civil rights and women's rights, based largely on memos he wrote as a young lawyer in the Reagan administration, Republicans control the Senate, holding 55 of 100 seats. A simple majority is needed to confirm him.

Roberts said his memos reflected the policies of a conservative administration that approached such issues differently from liberal critics.

"I would resist the suggestion that I'm racially insensitive," Roberts said. "I know why the phrase, 'Equal Justice Under Law' is carved in marble above the Supreme Court entrance."

(Additional reporting by Richard Cowan, Jim Vicini and Jackie Frank)

Roberts Frustrates Committee Democrats (WP)

By Charles Babington And Jo Becker

The Washington Post, September 15, 2005

Democratic senators angrily accused John G. Roberts Jr. yesterday of hiding his views on end-of-life questions, privacy and other contentious issues, but the nominee to be the nation's 17th chief justice refused to be drawn out, and his Republican supporters said his confirmation is virtually assured.

Democrats' frustration boiled over several times during the eight hours of questioning, as Roberts repeatedly declined to discuss his personal or judicial views on matters that he said could come before the court someday. Senators implored him to speak from the heart, but Roberts told them time and again that he would be guided by "the rule of law."

"We are rolling the dice with you, Judge," Sen. Joseph R. Biden Jr. (D-Del.) said. "It's kind of interesting, this Kabuki dance we have in these hearings here, as if the public doesn't have a right to know what you think about fundamental issues facing them."

Sen. Charles E. Schumer (D-N.Y.) accused Roberts of treating the hearing room as a "cone of silence." "It seems strange, I think, to the American people that you can't talk about decided cases -- past cases, not future cases -- when you've been nominated to the most important job in the federal judiciary," the senator said.

Roberts asked for extra time to defend himself. "I think I have been more forthcoming than any of the other nominees," said Roberts, who had reviewed the confirmation hearing testimony of all the sitting Supreme Court justices in preparation for his hearing. "It is not a process under which senators get to say: 'I want you to rule this way, this way and this way. And if you tell me you'll rule this way, this way and this way, I'll vote for you.' Judges are not politicians. They cannot promise to do certain things in exchange for votes."

But Republican Arlen Specter (Pa.), the chairman of the Senate Judiciary Committee, also expressed irritation when Roberts refused to answer questions about several Supreme Court decisions striking down laws passed by Congress to help the disabled and victims of domestic violence. "Why not?" Specter asked sharply. "Judge Roberts, I'm not talking about an issue. I'm talking about the essence of jurisprudence."

But several Republicans defended Roberts's circumscribed answers for a second straight day and began congratulating him as though he were already on the court. As a sign of their confidence, Republican senators ended their questions late yesterday but agreed to let Democrats have another round today, and then conclude the day with testimony from outside witnesses. The committee plans to vote on the nomination Sept. 22. The full Senate will vote by the month's end, leaders said.

If Democrats will not support Roberts, said Sen. Orrin G. Hatch (R-Utah), they will not endorse any GOP nominee. "They all admit that he is qualified," Hatch said in an interview. "So if they vote against him, it just means they are playing partisan politics and they'll look like hell."

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Liberal activists privately said they would consider it a moral victory if all eight committee Democrats oppose Roberts, noting that the 10 Republicans are widely expected to back him. With Republicans holding 55 of the Senate's 100 seats -- and Democrats ruling out a filibuster -- his confirmation is highly likely, activists on both sides said.

In frequently emotional terms, Democrats pressed Roberts to discuss the government's proper role in determining when and how doctors and families can allow a terminally ill or severely incapacitated person to die. "Just talk to me as a father," Biden said. "Just tell me, just philosophically, what do you think?"

Roberts replied, "I'm not going to consider issues like that in the context as a father or a husband or anything else." He could not tell the panel how the law would guide him, he said, because "those are issues that come before the court."

Later, Sen. Dianne Feinstein (D-Calif.) tried again. "I'm trying to see your feelings as a man," she said, adding that she had to make wrenching end-of-life decisions about her father and her husband. Roberts told her, "it is difficult to put yourself in that position."

"All I'm saying is, you wouldn't want the government telling you what to do," Feinstein said. Roberts replied: "Well, I'm happy to say that as a general matter." But when asked if there "should be a basic right of privacy" involved, he said: "Well, that's getting into a legal question."

Roberts testified that he believes it would be "very appropriate" for Congress and state legislatures to consider legislation to effectively modify a recent Supreme Court ruling that expanded the right of local governments to force the sale of private property in the name of economic development. "What the court was saying is 'There is this power' and then it's up to the legislature to determine whether it wants that to be available," Roberts said. "You can protect" people's rights, he added.

Roberts was pressed about a death-penalty position he took during his 1989-1993 tenure as deputy U.S. solicitor general. Roberts had argued that death row inmates have no constitutional right to ask federal courts to consider a new claim of innocence. Sen. Patrick J. Leahy (D-Vt.) asked if he still holds that view.

Roberts replied, "The question is: Do you allow someone who has raised several claims over the years to suddenly say at the last minute that somebody who just died was the person who committed the murder?"

Throughout two days of questions and answers, Roberts has offered few details about his life. But the Indiana native, who attended a private high school and graduated at the top of his class as a Harvard undergraduate and law student, grew animated when Sen. Richard J. Durbin (D-Ill.) asked whether he understood there were real people behind the legal precedents, "families behind footnotes." "What would the powerless, the disenfranchised, minorities and others see in your life experience that would lead them to believe that they would have a fighting chance in your court?" Durbin asked.

Roberts said his life has been comfortable but "isolated in no sense." Critics, he said, should consider the clients he represented: death row inmates and corporations, welfare recipients and environmental groups.

On the issue of abortion, Roberts declined to answer a Republican's question whether a fetus is a person or property. On Tuesday, Roberts said there is a constitutional right to privacy, but yesterday he refused to say whether he agrees with Justice Clarence Thomas, who has written that there is no "general right to privacy." Such a right is considered the legal underpinning of a right to abortion.

Sen. Edward M. Kennedy (D-Mass.) returned to civil rights, disputing Roberts's contention that memos he wrote as a young administration lawyer did not necessarily reflect his own views but rather reflected those of the administration he served.

Questioned by Republicans, Roberts agreed that the Supreme Court should clarify its rulings on public expressions of religious faith. "I think everyone would agree that the religion jurisprudence under the First Amendment, the establishment clause and the free-exercise clause, could be clearer," he said. And as chief justice, he said, he would work to unite a court that has been sharply divided on many major issues.

For Roberts, Path To High Court Splits Candor, Caution (CSM)

By Warren Richey

The Christian Science Monitor, September 15, 2005

WASHINGTON - As one of the most respected advocates practicing before the US Supreme Court, John Roberts held that a good lawyer should be able to argue either side of a case.

Now he's using a variation of that same strategy and all the skills he honed under intense High Court questioning to try to win Senate confirmation as the 17th chief justice of the United States.

His plan: reveal just enough information about his approach to judging to convince the senators of his integrity and constitutional expertise - but not enough to permit someone to forecast how he might vote once on the high court.

Roberts isn't just fighting for himself. If he is successful in holding that line he will help set the stage for the president's next high court nominee - the pick that will replace centrist Justice Sandra Day O'Connor and potentially swing the court to the right.

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So far, Roberts has fended off, dodged, and sidestepped his way through a gauntlet of Senate Judiciary Committee questions involving the abortion precedent Roe v. Wade, efforts to strike down congressional enactments under the commerce clause, and the president's power to wage war independent of congressional guidance.

The bottom line: Senators - and the American public - are learning precious little about which way Roberts is likely rule as the nation's most powerful judge.

To Roberts, refusing to reveal how he might rule is important because in his view it upholds the special role of unelected, life-tenure judges in a representative democracy.

"It's based on the concern that the independence and integrity of the Supreme Court depend upon justices who will decide issues there with an open mind based on the judicial decisional process, not based on prior commitments they made during the nomination hearing," Roberts told the committee.

"All the justices have adhered to that approach," he says. "And if I'm to join their number, I need to be able to look them in the eye in the conference room and say I kept the same faith with the independence and integrity of this court."

That's the view of a judge and prospective chief justice.

But the issue looks a bit different from a seat in the US Senate, particularly on the Democratic side of the aisle, with constituents worried about threats to the abortion precedent and broad court rulings upholding civil rights.

While discussing constitutional precedents, Roberts frequently highlights both sides of the issue, leaving senators to guess which side of the argument he personally favors.

"He is doing a delicate dance trying to please everyone," says Nan Aron, president of the Alliance for Justice, which opposes the Roberts nomination. "At the end of the day people are going to walk out of this hearing room being uncomfortable."

Ms. Aron, a well-known watchdog of the judicial selection process, says Clinton high court nominees Justices Ruth Bader Ginsburg and Stephen Breyer were both more forthcoming than Roberts during their confirmation hearings. While many liberals are worried about Roberts's lack of candor, some conservatives seem pleased, even reassured by his cautious approach.

"We are not concerned," says Andrea Sheldon Lafferty, executive director of the Traditional Values Coalition. "We are looking for a jurist who will faithfully interpret the Constitution. We are not asking for someone who is pro-life."

Ms. Lafferty adds, "We believe he will be an honest jurist."

Roberts was repeatedly asked about his vigorous defense of White House power while serving as a lawyer in the Reagan administration. And more recently, he was a member of a three-judge appeals court panel that upheld the Bush administration's position on military tribunals for Al Qaeda suspects.

In reply, Roberts told the senator that one of the former Supreme Court justices he most admires is Robert Jackson. Justice Jackson was an advocate for White House power as President Franklin D. Roosevelt's attorney general before his nomination to the high court.

But in 1952, Justice Jackson voted to rein in presidential authority in invalidating President Truman's attempt to take over steel mills during the Korean conflict.

"Although he had strong views as attorney general, he recognized when he became a member of the Supreme Court that his job had changed," Roberts says.

The drawback of being such a gifted advocate is that it is sometimes difficult for observers to know when he is merely acting as an effective lawyer fighting to win a case and when he is speaking from the heart.

But there are moments during the hearing that point to the "real" John Roberts, and perhaps even the judge he is striving to become.

One of those moments came when he recalled one of his judicial mentors, Judge Henry Friendly who served on the federal appeals court in New York City.

"With Judge Friendly, it was just a total devotion to the rule of law and the confidence that if you just worked hard enough at it, you'd come up with the right answers," Roberts says.

"He liked the fact that the editorialists of the day couldn't decide whether he was a liberal or a conservative."

What the editorial writers failed to understand, Roberts says, is "he wasn't adhering to a political ideology, he was adhering to the rule of law."

Nominee Sails Through Second Day Of Questions (HILL)

By Jonathan Allen

The Hill, September 15, 2005

Chief-justice nominee John Roberts sailed through a second day of inquiries from the Senate Judiciary Committee yesterday, leaving some lawmakers and analysts to wonder whether President Bush's pick to fill a second Supreme Court vacancy will be able to measure up.

The full Senate could take up the nomination as early as the end of next week, according to Eric Ueland, chief of staff to Senate Majority Leader Bill Frist (R-Tenn).

"Can't rule it out. Things are going well in committee," Ueland said in an e-mail.

Chairman Arlen Specter (R-Pa.) and ranking Democrat Patrick Leahy (Vt.) indicated the committee will have its executive session, to vote on Roberts, next Thursday.

Republicans have given up their right to a third round of questioning, but Democrats will go ahead. Kennedy is scheduled for this morning.

As he had Monday, the 50-year-old Roberts fielded and at times sidestepped questions with poise and humor, even as Democratic Senate heavyweights Joseph Biden (Del.) and Edward Kennedy (Mass.) pressed him repeatedly on civil rights and whether people have a right to determine when they die.

Some wondered if Roberts's composure and ability to establish his own framework for which questions to answer and which to avoid will set an artificially high bar for the next nominee.

"The next candidate's going to have a real job," said Sen. Pete Domenici (R-N.M.), who watched the proceedings briefly.

Jeff Peck, a former Judiciary Committee general counsel and staff director under Biden and a partner at the Washington lobbying firm Johnson, Madigan, Peck, Boland and Stewart, agreed, saying, "On style points and on substance points, the next nominee's going to be in for a tough road."

Democrats again expressed exasperation at Roberts's refusal to detail how he would rule in specific cases or to reveal his personal views on many issues.

Without such answers, Biden charged, "We are rolling the dice with you, judge."

Late in the day, Roberts repeated his refrain to Sen. Charles Schumer (D-N.Y.) that "judges are not politicians" and thus not in a position to make promises in exchange for votes.

With testimony from others still to come today, Roberts appears to be all but assured of committee approval and confirmation. No Republican senator has announced opposition to Roberts, and many Democrats have said they are reserving judgment.

Roberts, a judge only since 2003, has a short record as a jurist and has characterized his writings as a lawyer in Republican administrations as those of an aide responsible for backing the administration's policy. GOP supporters said potential Democratic opponents had little substantive ground on which to attack him.

"What's the biggest crime he's been accused of?" asked Sen. Lindsey Graham (R-S.C.), a member of the Judiciary Committee. "Working for Ronald Reagan."

Rather than criticizing Roberts for what he has said, liberal opponents have been left to attack him for playing "dodge ball," as People For the American Way did on its website yesterday.

"He really didn't tell us anything," said Ralph G. Neas, president of the group. Rather than predicting Roberts's defeat, Neas, known for his aggressive opposition to conservative nominees to the high court, has said only that he expects close votes in committee and on the floor.

The two sides are gearing up for Bush's nomination of an associate justice to replace Sandra Day O'Connor, who is retiring and has been a swing vote on the closely divided court.

"Who knows what the president will do with the O'Connor seat, but clearly that is one where the balance of the court on so many critical issues will be in play," Peck said.

Former Republican National Committee Chairman Ed Gillespie, assigned by the White House to help guide Roberts through the process, predicted that the largely civil tone of the Roberts confirmation hearings would extend to Bush's next choice.

"What you've seen here is going to play out again in the next round," Gillespie said in a hallway outside the hearing room.

But Specter, a centrist who has been praised by more conservative colleagues for his conduct of the hearings, was more circumspect when asked whether the second nominee would get the same treatment from the panel.

"If you tell me who the next nominee is, I'll give you an answer," Specter said.

For some observers, the central question remaining about the Roberts nomination is how many Democrats will vote against him.

Democrats Dissect Memos From 1980s (WP)

By Amy Goldstein

The Washington Post, September 15, 2005

As Democrats on the Senate Judiciary Committee try to cast doubt on whether John G. Roberts Jr. deserves to become chief justice of the United States, the main club they are wielding are his own words -- as glimpsed in memos he wrote, as a

young but well-positioned legal adviser inside the Reagan revolution, on the most polarizing civil rights issues of a generation ago.

For two days, the Democrats have read excerpts -- and at times even handed the nominee copies of his own work -- on voting rights, sex discrimination, affirmative action, racial bias, and the possibility of stripping the Supreme Court of jurisdiction over certain kinds of rights cases.

To try to blunt the impact of this document assault, Roberts has employed a two-pronged strategy: He has asserted that his words and legal reasoning were merely those of a staff lawyer. And he has largely refused to embrace or disavow the views his memos espouse.

In response, as Roberts's confirmation hearings went through a third day, Democrats and their allies among liberal advocacy groups loudly contended that the memos provide a more revealing window onto the nominee's true beliefs than his testimony suggests. "He was an advocate," the Senate's most enduring liberal, Edward M. Kennedy (D-Mass.), said in an interview. "You can't read through those memoranda and not understand that he had a very strong commitment" to conservative values.

The centrality of Roberts's decades-old words to the minority party's strategy makes clear why Democrats worked intensely -- and with limited success -- this summer to pry loose all the nominee's records from his tenure in two Republican administrations. Roberts worked as a special assistant to then-Attorney General William French Smith in 1981 and 1982, then spent four years in the White House counsel's office. He returned to the government in 1989, as deputy solicitor general under President George H.W. Bush.

Lacking papers from his solicitor general's years -- the current Bush administration has refused to release them -- and with a thin record of rulings from Roberts's two years as a federal appellate judge, Democrats are drawing their ammunition from the early Reagan era.

Those were tempestuous years on civil rights, as the conservatives who had entered the government tried to curtail use of the courts to remedy discrimination. "They were flipping the script with respect to whose interests they were going to protect," said Theodore M. Shaw, president of the NAACP Legal Defense and Educational Fund, which is opposing Roberts. "He was in the thick of it."

During the past two days, some of the most extensive questioning of Roberts's memos stems from his work on voting rights. In 1982, following a Supreme Court ruling two years earlier, Congress altered the Voting Rights Act to make clear that the law prohibited voting practices that had the effect of denying any groups the ability to elect candidates of their choice, regardless of whether the practices were specifically intended to have that effect. During Roberts's time in the attorney general's office, the Reagan administration opposed that change, preferring a more restrictive standard that outlawed intentional voting discrimination.

On Tuesday, Sen. Russell Feingold (D-Wis.) attempted to press Roberts on memos he had written on the topic. "Senator, you keep referring to what I supported and what I wanted to do," Roberts replied. "I was a 26-year-old staff lawyer. It was my first job as a lawyer after my clerkships. I was not shaping administration policy."

Yesterday, Kennedy returned to the theme of voting rights, challenging Roberts about the last paragraph of a four-page memo in which Roberts had written that the broader "effects" standard "is not only constitutionally suspect, but also contrary to the most fundamental tenets of the legislative process on which the laws of this country are based." Kennedy asked whether Roberts believes that today.

After a lengthy series of questions, Roberts replied, "And I have no basis for viewing it as constitutionally suspect and I don't." He declined, however, to indicate his views on an extension of the voting rights law.

In a similar vein, the committee's ranking Democrat, Sen. Patrick J. Leahy (Vt.), questioned Roberts about a 1983 memo concerning the proper role of the Supreme Court, in which he had suggested that the court was overburdened and should consider fewer appeals of death penalty cases.

Leahy asked: "Are you saying that judges are just too busy to pay attention to death cases?" Roberts replied that he was not.

Yesterday afternoon, Sen. Richard J. Durbin (D-Ill.) cited a memo co-written by Roberts that had criticized the solicitor general's office for not filing a brief on behalf of Texas in a 1982 case in which the Supreme Court ruled that the state could not forbid illegal immigrants from attending public elementary schools.

Roberts replied that he had been "making the point that the position was inconsistent with the attorney general's litigation policy approach." When Durbin asked what he thought of that case today, Roberts said he had not looked at it in 23 years.

At one point, Sen. Herb Kohl (D-Wis.) asked in exasperation: "You have . . . suggested on numerous occasions that the things that you represented in writing or in an opinion back in the '80s and into the '90s . . . were in many cases the opinions of

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people for whom you worked, not necessarily your own. I assume, therefore, there are those opinions that you're prepared to disavow?"

Roberts replied: "My view in preparing all the memoranda that people have been talking about was as a staff lawyer. I was promoting the views of the people for whom I worked, and in some instances those are consistent with personal views, and in other instances they may not be.

"In most instances, no one cared terribly much what my personal views were. They were to advance the views of the administration for which I worked."

Roberts Backs Eminent Domain Limits (WT)

By Charles Hurt

The Washington Times, September 15, 2005

Federal Judge John G. Roberts Jr. told senators yesterday that laws restricting the government's power of eminent domain are legitimate, despite a landmark Supreme Court decision earlier this year that broadly expanded that authority.

"The court was not saying, 'You have to have this power, you have to exercise this power,' " Judge Roberts told the Senate Judiciary Committee. "That leaves the ball in the court of the legislature."

Judge Roberts, nominated to be the next chief justice of the Supreme Court, finished a second day of testimony yesterday with a few flare-ups, but no major upsets.

The hearings have been so devoid of fireworks that Senate staffers are having a hard time keeping the limited public seating area filled. There also have not been the major protests that normally accompany Supreme Court confirmation hearings.

Judge Roberts is slated to sit before the committee for a final round of questions this morning at the request of Democrats on the panel.

Yesterday, several Democrats commended the nominee for his performance thus far, but none has indicated that he or she will vote to confirm him. The committee vote is scheduled for next Thursday, and many observers speculate that his nomination will be sent to the full Senate on a straight party-line vote.

"You are one of the best witnesses that, I think, has come before this committee," said Sen. Joseph R. Biden Jr., a Delaware Democrat who has been one of the most combative questioners of Judge Roberts.

"If people can't vote for you, then I doubt that they can vote for any Republican nominee," said Sen. Orrin G. Hatch, Utah Republican.

One of the most closely watched Democrats is Sen. Dianne Feinstein, a California Democrat who voted in favor of Judge Roberts for his position on the U.S. Court of Appeals for the D.C. Circuit. She said she will vote against Judge Roberts for the Supreme Court, however, if she determines that he would overturn Roe v. Wade, the court decision that established federal abortion rights.

She told Judge Roberts that he'd spoken "eloquently" about Roe.

"I learned a lot from listening to you," she said. "You discussed the right to privacy. You were very full and forward-speaking."

Then Mrs. Feinstein inquired whether the White House also had applied an abortion litmus test when it selected Judge Roberts for nomination.

"Has anyone -- when you were being interviewed for this position -- ever asked your opinion on Roe?" she asked, to which he responded in the negative.

"OK. That's good to know," she added.

As on the previous day, Judge Roberts repeatedly declined -- to the great irritation of several senators -- to answer questions about particular cases or issues that might come before the Supreme Court.

"Without any knowledge of your understanding of the law -- because you will not share it with us -- we are rolling the dice with you, judge," said Mr. Biden, after failing to prod Judge Roberts into discussing "right to die" issues.

"Senator, that's asking me for an opinion in the abstract on a question that'll come before the court," Judge Roberts told Mr. Biden. "And when that question does come before the court, the litigants before me are entitled to have a justice deciding their case with an open mind based on the arguments presented, based on the precedence presented."

In a different exchange, Judge Roberts said his confirmation is not a "bargaining process."

"Judges are not politicians," he said. "They cannot promise to do certain things in exchange for votes."

The matter of the eminent domain case, however, proved safer waters for Judge Roberts.

Sen. Sam Brownback, Kansas Republican, had asked Judge Roberts about the court decision in Kelo v. City of New London, in which the Supreme Court ruled 5-4 that the government could take private property from one owner and give it to another.

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Previously, eminent domain was restricted to cases in which the property was acquired for public use. Under the new parameters, eminent domain could be invoked if it is merely thought that the new owner could generate more tax revenue.

The ruling triggered a national outcry from both liberals and conservatives. Judge Roberts said yesterday that he was "surprised" by the ruling.

"In, you know, the first year in law school we all read the decision in Calder against Bull, which has the famous statement that the government may not take the property of A and give it to B," he said.

Judiciary Panel Peppers Nominee With Pet Issues (WT)

By Charles Hurt

The Washington Times, September 15, 2005

With federal Judge John G. Roberts Jr.'s confirmation appearing more likely, members of the Senate Judiciary Committee have resorted to using the hearings to lobby the nominee about their own favorite issues.

Senators have pressed their views on the prospective chief justice about televising Supreme Court proceedings, the right to die and abortion, among other issues.

"Are you against cameras in the courtroom like [Chief] Justice [William H.] Rehnquist was?" Sen. Charles E. Grassley, Iowa Republican and longtime advocate of televising Supreme Court proceedings, asked bluntly.

Judge Roberts -- sensing the prickly territory -- made a lighthearted reference to former Sen. Fred Thompson, the Tennessee Republican and television star who has been ushering him through the confirmation process.

"Well, you know, my new best friend, Senator Thompson, assures me that television cameras are nothing to be afraid of," he responded, before adding that he does not have a "set view" on the matter, but would listen to colleagues if confirmed.

After establishing that the opposite of being alive is being dead, Sen. Tom Coburn, Oklahoma Republican, went on to impress upon Judge Roberts his own view of abortion.

"I won't press you on this issue," Mr. Coburn said. "But for the listeners of this hearing, if in fact life is the presence of a heartbeat and brain wave, it's important for everybody in the country to know that at 16 days post-conception, a heartbeat is present. At 41 days, right now we can assure ourselves, that brain activity and brain waves are present."

Committee Chairman Arlen Specter, Pennsylvania Republican, took issue with the "denigrating comments" Supreme Court justices make about Congress. In particular, he was galled by one decision that ruled a law of Congress unconstitutional for its "method of reasoning."

"Do we have your commitment that you won't characterize your method of reasoning as superior to ours?" Mr. Specter asked in a tone that wasn't terribly inquisitive.

"I don't think it's appropriate," Judge Roberts responded.

For good measure, Mr. Specter added: "I take umbrage at what the court has said, and so do my colleagues. There isn't a method of reasoning which changes when you move across the green from the Senate columns to the Supreme Court columns."

But not all such exchanges were so friendly.

Sen. Joseph R. Biden Jr., Delaware Democrat, took the opportunity to lecture Judge Roberts about his own views of whether Congress has any say in whether feeding tubes are removed to allow a patient to die.

"My family faced -- I'm sure many people in this audience's families faced a difficult decision -- of deciding when to no longer continue the application of artificial apparatus to keep your father or mother or husband or wife or son or daughter alive," he explained. "It's of great moment to the American public."

Judge Roberts, as he had many times before, said it would be improper for him to discuss a matter pending before the Supreme Court.

Nominee Sees 'Room' For Bigger Caseload (WT)

By Guy Taylor

The Washington Times, September 15, 2005

Judge John G. Roberts Jr. yesterday revealed one way his management of the Supreme Court could differ starkly from his predecessor and mentor William H. Rehnquist: The number of cases the court takes on is likely to increase.

Under Chief Justice Rehnquist, who began his tenure in 1986, the average high court caseload dropped from about 150 to 80 cases a year -- a trend Judge Roberts appeared intent on reversing during exchanges yesterday.

"I do think there's room for the court to take more cases," Judge Roberts told Sen. Herb Kohl, Wisconsin Democrat, although he couched the remark by first saying, "It may be a view I'll have to be educated on further if I am confirmed and I'm not stating it as a solid view."

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In an earlier exchange with Sen. Patrick J. Leahy, Vermont Democrat, Judge Roberts noted that the justices "handled twice as many cases 20 years ago than they do today, and I think the capability to address more issues is there on the court."

While legal scholars agree more cases would significantly alter how the high court does business, there are varied theories of why the caseload decreased so dramatically during the Rehnquist years.

Through much of its history, the Supreme Court was required by Congress to hear certain cases appealed from lower courts. Congress abolished this "mandatory jurisdiction" law in 1988, effectively doing away with about 20 cases a year.

The caseload has since been set by the justices, who pick -- or "grant certiorari" to -- the cases they wish to hear from about 6,000 petitions filed with the Supreme Court annually by individuals seeking review of their cases at the highest level.

During the shift toward conservatism under Chief Justice Rehnquist, liberal lawyers grew more reluctant to petition the Supreme Court "because of the potential for an adverse ruling," says Richard C. Reuben of the University of Missouri School of Law.

"While they may have lost at the court of appeals, they figured that was just one circuit," Mr. Reuben said.

Stephen Wermiel of American University's Washington College of Law agreed, but added the phenomena was only "one of several factors" behind the shrunken caseload.

With Supreme Court and lower federal court appointments filled by the Reagan and first Bush administrations, a conservative Supreme Court "would feel that there were fewer cases that they needed to review because the federal appeals courts were more in line with the Supreme Court's thinking," Mr. Wermiel said.

Another reason was simply that Chief Justice Rehnquist "was a very efficient administrator," said Mr. Reuben. "The quality of the workmanship in Supreme Court opinions, I think improved as a general manner. The opinions were less rushed, they were crafted better."

Judge Roberts' remarks on the issue yesterday were unexpected because they strayed from a memo he wrote as a White House lawyer in 1983 to then Chief Justice Warren E. Burger, strongly urging the high court to reduce its caseload -- specifically by hearing fewer death penalty cases.

Now Right Demanding Dem Memos (HILL)

By Alexander Bolton

The Hill, September 15, 2005

Conservative strategists are drafting a letter to Democratic members of the Senate Judiciary Committee demanding the release of hundreds of internal memos detailing contacts between the lawmakers and liberal interest groups opposing John Roberts's nomination to the Supreme Court.

By planning to press Democrats on the sensitive subject, conservatives seem to be pulling a page from the Democrats' own political playbook. In the weeks leading up to the confirmation hearings, Senate Democrats have repeatedly called on the White House to give them memos Roberts penned while he was deputy solicitor general in President George H.W. Bush's administration.

Sen. Patrick Leahy (D-Vt.), the ranking member on the Judiciary Committee, raised the issue again yesterday by releasing a letter dated Sept. 9 from William Moschella, the assistant attorney general. In the letter, Moschella declined to disclose legal memos from Roberts's tenure in the Office of the Solicitor General.

"It is regrettable that the Bush administration persists in keeping this information from the Senate," Leahy said. "These documents, from the period of Judge Roberts's most substantive work experience in the executive branch, would help illuminate his views and earlier decisions on a wide range of key issues that are of vital importance to the American people and to the Senate."

In their letter, conservatives quote Leahy's argument that the Senate should have access to the withheld documents. In the letter, they assert that the public is equally entitled to know what is motivating and directing Senate Democratic scrutiny of Roberts, according to a verbal summary given to The Hill.

"Given your demand that the Justice Department hand over John Roberts's work documents during his time as deputy solicitor general, you should have no reservations about approving the release of the full complement of documents that make up all of the Memogate papers," conservatives wrote in a draft of the letter, which will be circulated for signatures starting today. About 30 conservative leaders or more are expected to sign it.

A spokeswoman for the Democrats on the Senate Judiciary Committee declined to comment without first seeing a copy of the letter.

Specifically, conservatives want access to what they estimate may be as many as 4,000 Democratic memos that are in Senate Sergeant at Arms William Pickle's possession. Last year, Pickle seized Senate Judiciary Committee computers during an

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investigation. Democrats on the committee called for the probe after internal memos written by aides to Sens. Edward Kennedy (D-Mass.) and Dick Durbin (D-Ill.) were made available to the press without Kennedy's or Durbin's consent.

The publicized memos detailed contacts between leading liberal members on the committee and groups that lobbied them on President Bush's judicial nominees.

In their letter to Democrats, conservatives plan to argue that the memos are not protected by attorney-client privilege, giving them a stronger claim to the documents, they assert, than the Democrats have to the solicitor general's documents. Roberts's defenders have argued that a solicitor general's relationship to a president is akin to an attorney-client relationship and deserves special privilege.

Mark Levin, president of the Landmark Legal Foundation, a conservative public-interest-litigation firm, said that he was familiar with the letter and plans to circulate it.

"I fully support it," he said. "I've always thought that the Congress and the Senate Judiciary Committee in particular gets away with a hypocritical standard. They demand that the executive branch produce everything, and yet on the other hand they refuse to make anything public."

Kay Daly, president of Coalition for a Fair Judiciary, a conservative group defending Roberts, said she was aware of the letter.

"There are some 4,000 memos locked away in the sergeant at arms' office that the public has a right to know about," she said.

Daly said that the since the taxpayers' fund the salaries of lawmakers and their aides they have a right to know about their work.

Conservatives said their case is bolstered by a memo sent by the Senate archivist to all Judiciary Committee staff members instructing them to preserve all documents and e-mails related to Roberts's confirmation proceedings, including correspondence with outside groups. Conservatives cite the archivist's message to support their claim that the internal memos held by the sergeant at arms should be made part of the public domain.

Jeff Lord, who served as associate political director in the Reagan administration from 1985 to 1988 and is working with Progress for America, a pro-Roberts advocacy group, has called for the Democratic memos to be made public during recent trips to Washington state and North Dakota. He traveled to those states to promote a new book he has written about the contentious 2002 Senate confirmation battle over Judge Brooks Smith's appointment to the 3rd U.S. Circuit Court of Appeals.

Lord called the memos "some of the most revealing things I've ever seen while in government," adding that the evidence of coordination between Democratic senators and third-party groups in the memos made public was "eye-opening."

One of the publicized memos, by a former aide to Kennedy and dated April 2002, reported that Elaine Jones of the NAACP Legal Defense Fund had asked Democrats to postpone the nomination of Judge Julia Gibbons to the 6th Circuit court until a key case on affirmative action had been decided. Conservatives consider it one of the most damning of the publicized batch.

The memo was downloaded from the Judiciary Committee server and made public in 2003.

In Roberts Hearing, Specter Assails Court (NYT)

By Linda Greenhouse

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 - Senator Arlen Specter's testy interrogation of Judge John G. Roberts Jr. on the Supreme Court's treatment of Congress may well have left viewers scratching their heads on Wednesday morning, with cryptic references to the "congruence and proportionality test" and to unfamiliar case names like "Lane and Hibbs."

But the line of questioning that Mr. Specter, the Pennsylvania Republican who is Judiciary Committee chairman, chose to pursue offered a window on the increasingly troubled relationship between the court and Congress, as well as on one of the most consequential developments of the Rehnquist court's later years.

In a series of decisions, many written by Chief Justice William H. Rehnquist himself, the court declared unconstitutional acts of Congress that had been passed by broad bipartisan majorities.

Laws permitting public employees to sue state employers for discrimination on the basis of disability and age, and also giving women access to federal court to sue rapists for damages, ran up against the court's new definition of the limits on Congress's power and the justices' insistence that they alone have the final word in interpreting the Constitution.

"I take umbrage at what the court has said, and so do my colleagues," Senator Specter told Judge Roberts.

From 1995 to 2003, the Supreme Court overturned all or parts of 33 federal statutes, 10 of them on the ground that Congress had exceeded its authority either to regulate interstate commerce or to enforce the constitutional guarantees of due process and equal protection. Until then, the modern court gave Congress wide berth to define its own role under both of the Constitution's relevant provisions, the Commerce Clause and the 14th Amendment.

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Senator Specter took particular exception to the court's conclusion in several of the cases that Congress had not compiled an adequate record showing the existence of the problems the statutes sought to solve.

He said that leading up to the passage of the Violence Against Women Act, for example, "there were reports on gender bias from the task forces in 21 states, and eight separate reports issued by Congress and its committees over a long period."

In United States v. Morrison, the court's decision in 2000 that overturned the private-lawsuit portion of the statute, Chief Justice Rehnquist said that "Congress's findings were weakened by the fact that they rely so heavily on a method of reasoning that we have already rejected," namely that various instances of violence against women could be added together to demonstrate an impact on the nation's economy sufficient to bring the subject within Congress's authority over interstate commerce.

Turning to Judge Roberts, nominated to succeed the late chief justice, Senator Specter said, "Do we have your commitment that you won't characterize your 'method of reasoning' as superior to ours?" The nominee demurred and, in fact, was so cautiously nonresponsive as to leave the senator to continue with what amounted to a monologue.

"There isn't a method of reasoning which changes when you move across the green from the Senate columns to the Supreme Court columns," Mr. Specter said. "And we do our homework, evidenced by what has gone on in this hearing. And we don't like being treated as schoolchildren, requiring, as Justice Scalia says, a taskmaster." Then he demanded, "Will you do better on this subject, Judge Roberts?"

"Well, I don't think the court should be taskmaster of Congress," Judge Roberts replied. "I think the Constitution is the court's taskmaster, and it's Congress's taskmaster as well. And we each have responsibilities under the Constitution."

Senator Specter's reference was to a dissenting opinion by Justice Antonin Scalia in a decision last year, Tennessee v. Lane, which permitted states to be sued under the Americans With Disabilities Act for failing to provide accessible courtrooms. On the surface, at least, the decision conflicted with a 2001 ruling, Board of Trustees v. Garrett, which gave states immunity from lawsuits by their employees under the same law.

Justice Scalia, who had joined the majority in the 2001 case, said the conflicting results showed the "judicial arbitrariness" of the court's approach. "It casts this court in the role of Congress's taskmaster," he said.

Justice Scalia objected to the requirement the court has placed on Congress to show that its legislative approaches are "congruent" with, and "proportionate" to, the problem it is seeking to address.

Mr. Specter asked Judge Roberts: "Isn't this 'congruence and proportionality' test, which comes out of thin air, a classic example of judicial activism? Isn't that the very essence of what is in the eye of the beholder, where the court takes carte blanche to declare acts of Congress unconstitutional?"

Judge Roberts started to reply that in its two most recent cases in this series, the Lane case from Tennessee and another case, Nevada Department of Human Resources v. Hibbs, the court had shifted gears and rejected constitutional challenges to the laws in question. The Hibbs case, from 2003, allowed suits against states under the Family and Medical Leave Act.

But no sooner had Judge Roberts started to explain "Lane and Hibbs," than Senator Specter cut him off: "But Judge Roberts, they uphold it at the pleasure of the court. Congress can't figure that out. There's no way we can tell what's congruent and proportional in the eyes of the court."

Mr. Specter asked Judge Roberts if he agreed with Justice Scalia's critique of the "congruence and proportionality test." The nominee declined to say, noting that another such case is on the docket for the coming term.

That case, United States v. Georgia, scheduled for argument on Nov. 9, raises the question of whether prisoners can sue states under the disabilities act, as Congress intended.

Senator Specter was not satisfied, but it was clear that he knew the dialogue was over. Before turning to a less freighted subject - how the nominee would, as chief justice, lead the other justices, all of whom are his elders - he made one last try.

"Judge Roberts, I'm not talking about an issue," he said. "I'm talking about the essence of jurisprudence. I'm talking about the essence of a man-, woman-made test in the Supreme Court which has no grounding in the Constitution, no grounding in the Federalist Papers, no grounding in the history of the country. It comes out of thin air."

Group Pushes Specter To Back Roberts (HILL)

By Peter Savodnik

The Hill, September 15, 2005

The anti-abortion-rights group Concerned Women for America (CWA) is applying pressure on Senate Judiciary Committee Chairman Arlen Specter (R-Pa.) to back Supreme Court Chief Justice nominee John Roberts.

“When it comes time for the committee to vote, Chairman Specter’s promise of fairness should lead him to the inescapable conclusion that it couldn’t possibly be fair not to vote for this exceptionally qualified nominee,” said the CWA chief counsel, Jan LaRue.

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She acknowledged that "I've been very tough on Senator Specter … but fairness requires me to applaud him for running a full and fair hearing, as he promised to do."

The CWA statement appears to dispel some concerns voiced by Republicans on Capitol Hill that Roberts had alienated some conservatives with his statements on abortion and judicial precedent.

Brownback Outlines Terms For Next Pick (RC)

By Paul Kane

Roll Call, September 15, 2005

Sen. Sam Brownback (R-Kan.) said Wednesday that he would like the next Supreme Court nominee to have a detailed track record opposing the Roe v. Wade decision, as opposed to the relatively limited record on abortion issues held by Judge John Roberts.

While Brownback expects to support Roberts as President Bush's pick for chief justice of the United States, he warned that he and many in the conservative movement would like the nominee to replace retiring Associate Justice Sandra Day O'Connor to have a clearer record of opposing abortion rights than Roberts.

"I'd like to see it take place," Brownback said in between his first and second round of questioning of Roberts at the Judiciary Committee's confirmation hearings.

While Democrats and liberal activists have grown increasingly weary of Roberts' refusal to answer detailed questions about Roe and the right to privacy, Brownback voiced frustration of his own at the nominee's unwillingness to go much further in response to GOP questions on the matter.

"Democrats should be happy," Brownback said, only half-jokingly.

Brownback's veiled criticism of Roberts' record on the divisive issue of abortion could resonate for months, as the Kansan is considering running for the GOP presidential nomination in 2008 as the conservative anti-abortion candidate.

In the short run, it could make the selection of the next nominee to the high court even more difficult for Bush, as some Democrats appear to have withheld their sharpest political fire on Roberts and instead are concentrating on the nominee who succeeds the swing-voting O'Connor.

Brownback said Bush owes it to the millions of conservative voters who heard him say he would pick nominees similar to Justices Antonin Scalia and Clarence Thomas — two favorites of anti-abortion activists.

"It really is what the election was about, and Bush ran on it and Kerry did not," Brownback said of Sen. John Kerry's (D-Mass.) presidential campaign.

To date, the Bush White House has done little if any consultation with Senators on the second Supreme Court choice. Aides to Judiciary Chairman Arlen Specter (R-Pa.) said they are unaware of any substantive conversations Specter has had on the topic with White House officials.

And there has been no indication from the White House when the next pick will be announced.

Edward Gillespie, the former Republican National Committee chairman who is serving as an unpaid White House adviser for the Roberts nomination process, said that the views of Brownback and many other Senators will be heard in the selection process, noting that more than 70 Senators were consulted before Roberts' nomination was announced.

"In the consultation process, I'm sure those views will be heard," he said of Brownback.

Gillespie, who is not involved in the selection process for the second pick, said he expects the president to live up to his pledge to pick justices "in the mold of Scalia and Thomas."

"I have no doubt the president will do what he said he would in two presidential elections," he said.

Roberts has been an active lawyer since the early 1980s, first in the Reagan and Bush administrations and then in private practice before taking a seat on the U.S. Court of Appeals for the D.C. Circuit. However, his writings on Roe v. Wade have been limited, leaving his liberal opponents with just a couple of pieces of evidence to presume that he would be an anti-abortion justice.

In particular, they have pointed to his tenure in the Solicitor General's office, when he signed a 1991 brief in a pivotal Pennsylvania abortion case saying that Roe v. Wade was wrongly decided.

In addition, in a memo from his early days in the Reagan administration, he referred to a "so-called" right to privacy.

Under questioning from Judiciary Chairman Arlen Specter (R-Pa.) and others, Roberts seems to have left some wiggle room concerning how he would rule on such cases. Most conservatives remain pleased with Roberts, but many still fear his appointment could turn out as badly for conservatives as President George H.W. Bush's appointment of Justice David Souter, who eventually voted to uphold Roe v. Wade when the Pennsylvania abortion case, Planned Parenthood v. Casey, was decided in 1992.

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In his questioning Wednesday morning, Brownback sought to elicit a bit more on his views on the matter, asking the nominee: “Could you state your view as to whether the unborn child is a person or is a piece of property?”

Roberts declined to answer the question, saying that the issue may come before him on the court and he didn’t want to give any hints as to how he’d rule.

Manuel Miranda, a former Senate GOP leadership aide, sent conservative activists an e-mail Wednesday warning that the second pick should come from a crop of candidates who have either ruled on the issue on state courts or written on the matter. He noted that William Rehnquist won confirmation as chief justice in 1986 even though he was one of two justices to rule against Roe in 1973.

“When the President promised he would appoint judges like Scalia and Thomas, it was not their views on the Clean Sewers Act that he was trying to signal to us — it was code for Roe. He knew it, we knew it,” wrote Miranda, who resigned his Senate post 20 months ago during an internal chamber investigation about whether he had improperly accessed Judiciary Committee memos.

Miranda now runs Third Branch, a group devoted to confirming conservative jurists to the federal bench.

Brownback said that he has not spoken to White House officials about the next Supreme Court selection, but indicated that he’s made plain that he wants someone with a clearer record on Roe.

“I have communicated that, but I have not talked directly to [White House] individuals,” he said.

As he closed his second round of questioning with Roberts on Wednesday evening, Brownback told the nominee that there was much pressure on him. “A lot of hopes and prayers are riding on you,” he told Roberts.

“May God bless you,” Brownback added.

How Conservative Is Judge Roberts? (NYT)

The New York Times, September 15, 2005

It's not surprising that the Senate hearings for Judge John Roberts Jr. are turning out to be about how conservative he would be as the next chief justice of the United States. But there is a twist. It is the Democrats on the Judiciary Committee who want to make sure that he would be conservative in the true sense: respectful of tradition, and not seeking to impose radical new rules. The key question is whether he would stand by established legal precedents on issues like abortion, civil rights, the environment and the power of Congress, or would seek to push the law in a drastically different direction.

Judge Roberts's record, on the bench and off, puts him well to the right end of the ideological spectrum. As a Reagan administration lawyer, he argued for a very narrow interpretation of the Voting Rights Act. As an appeals court judge, he wrote an opinion in an Endangered Species Act case that suggests he may have a very cramped view of Congress's power. The documents about his past legal work that have become public contain some troubling passages, notably his assertion that abortion rights are based on a "so-called 'right to privacy.' "

Responding to questions, he has talked at length about his commitment to civil rights, privacy and Congressional authority. He told Russell Feingold, the Wisconsin Democrat, that "the gains under the Voting Rights Act have been very beneficial in promoting the right to vote, which is preservative of all other rights." He emphasized that the Reagan administration had favored extending the act, whatever its differences with voting rights groups over the details. He told Joseph Biden Jr., the Delaware Democrat, that he believes the Constitution prohibits discrimination against women, and he endorsed the test the court now uses in such cases.

He told Senator Arlen Specter, the Pennsylvania Republican, that Roe v. Wade is "settled as a precedent of the court" and "entitled to respect" under the legal principle that a court's past rulings should be given deference. He also said he recognizes the existence of a constitutional right to privacy and agrees with the principle of the 1965 case striking down the laws against selling birth control devices, that "marital privacy extends to contraception and availability of that."

These are good things to hear, but there's reason for concern. He did not say he agrees with Roe, for instance, only that it is entitled to deference. That is a truism: all of the court's decisions are entitled to such deference, but some are reversed anyway. Judge Roberts waved away questions about troubling statements in his older legal memos, saying he was just a staff lawyer in his 20's when he wrote them. But he and the White House have refused to release more recent memos, from his time in the solicitor general's office, which might give a better picture of his views as a mature lawyer.

Senate Democrats have two goals. Before Mr. Roberts, now 50, becomes chief justice for life, they want to try to determine that he does not hold far-right views on important issues. It is a determination that many senators seem not to have made yet. Senator Biden, for one, complained about the "Kabuki dance" of the hearings and worried out loud, saying, "We are rolling the dice with you, judge."

No less important, Senate Democrats are putting down markers for the next judicial battle. President Bush will soon nominate a replacement for Justice Sandra Day O'Connor, who has been an important swing vote on the court. Democrats have

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been calling for Justice O'Connor to be replaced with another centrist Republican. By subjecting Judge Roberts to tough questioning, they are sending a message that if President Bush chooses a far-right nominee, he can expect a major fight.

Judge Roberts Speaks (WP)

The Washington Post, September 15, 2005

In his testimony before the Senate Judiciary Committee over the past two days, Judge John G. Roberts Jr. shed important light on his views and likely approach if confirmed as the Supreme Court's chief justice. To the apparent frustration of some Democrats on the committee, he declined, as nominees traditionally do, to give his specific opinion of the merits of matters that could come before the court. But he spoke with surprising clarity on several issues and displayed an agile legal mind and an appealing ability to disagree constructively, both characteristics of a good chief justice. While Americans still lack a road map to how he will handle the many important matters the court will face, Judge Roberts is less of a sphinx than he was at the time of his nomination.

The nominee affirmed that he regards stare decisis -- the doctrine of generally allowing even erroneous past decisions to stand -- as a critical foundation of the American legal system. While he rightly pointed out that pre-

cedents sometimes need to be overruled, his position distinguishes him from more radical conservatives such as Justice Clarence Thomas, who regards the doctrine as having limited value in constitutional cases. Those who might disagree with Judge Roberts's views have some assurance that he will not seek to rewrite large swaths of modern American law.

Judge Roberts made clear that he believes the Constitution contains a right to privacy, and he expressed his agreement with high- court decisions striking down bans on contraception. While he declined to address the merits of Roe v. Wade , he did indicate that it is a decision to which stare decisis considerations properly apply. Importantly, he said several times that the subsequent decision in Planned Parenthood v. C asey -- which reaffirmed Roe' s core principle -- was independently entitled to be treated as a precedent. That implies that there would be a heavy burden for the court in upsetting abortion rights now. Judge Roberts was careful not to say what he would do, but his comments suggest that he appreciates the difficulty of eliminating a right the court has solemnly declared, and redeclared, in the past.

He was less clear concerning the balance of power between the federal government and the states, a subject on which his writings have been ambiguous and in some respects troubling. Still, he expressed a healthy regard for the foundations of federal power and an appreciation of the need for the courts to defer to congressional expertise. There is no reason to assume Judge Roberts will be more radical on federalism questions than either the late Chief Justice William H. Rehnquist or retiring Justice Sandra Day O'Connor.

Concerning his memos as a young lawyer in the Reagan Justice Department, Judge Roberts's answers varied considerably. He generally did not back off the substance of his memos on civil rights issues, but, rather, he stressed that the positions in question were those of the administration -- leaving ambiguous his own stance now. He did, however, retreat somewhat from his embrace of legislation to limit the jurisdiction of the courts. He also treated the court's jurisprudence on religion and public life with far greater respect than he did as a young man. His clear statement that only law, not religious faith, will govern his decisions was welcome.

The cumulative impression is of a cautious, incremental conservative, unlikely to unmask himself as a liberal once on the bench but unlikely as well to try to impose his own political agenda.

Roberts Comes Off As No Conservative In Scalia-Thomas Mold (RC)

By Morton M. Kondracke

Roll Call, September 15, 2005

It's about as certain as anything that John Roberts will be the next chief justice of the United States, but it's anything but certain where he'll come out ideologically.

That should be encouraging to moderates and liberals and discouraging to conservatives, who expected President Bush to appoint a justice in the mold of Justices Antonin Scalia and Clarence Thomas, whose views are seldom in doubt.

Liberal interest groups and Democratic Senators ought to be using the standard Sen. Charles Schumer (D-N.Y.) applied to Roberts: If he's not an "extremist" conservative and "out of the mainstream," he ought to be confirmed.

If that's the test, Roberts surely passed it, judging by his early performance before the Senate Judiciary Committee. But the interest groups and, apparently, the main body of committee Democrats, still seem set to oppose him.

If a majority of Senate Democrats follow their lead, assuming no damning evidence surfaces before a confirmation vote, it will brand the party as ideologically driven and out of the mainstream itself.

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Polls show that Roberts has made a highly favorable impression with the public. And both his history and performance more than fulfill the traditional requirements of a Supreme Court justice: intelligence, fair-mindedness, a judicial temperament and the respect of his professional colleagues.

Roberts specifically declared that he would not bring an "overarching philosophy" to the court and would "look at cases from the ground up rather than the top down."

He said he is a "modest judge" who will interpret law and not make it, who values precedent, who respects the views of his colleagues and who will not allow his personal opinions to sway his judgments.

Roberts may be a conservative, but he's not a rigid, big-C conservative ideologue. And, assuming he's being honest, he's not going to be the activist hoped for by the right and feared by the left.

Roberts' memos from the Reagan era do suggest a smart-alecky conservative possibly on his way to big-C status, as in his reference to a "so-called right of privacy" in the Constitution.

But Roberts is now 20-plus years older, and he went out of his way to inform the committee that he admires the late Justice Robert H. Jackson, once Franklin D. Roosevelt's attorney general, who changed his mind as he changed his job.

It's also a good sign of Roberts' maturity and open-mindedness that he told students at Wake Forest Law School in February that he's found being a federal appeals court judge far harder than he had anticipated.

"I kind of thought that in most of the cases, it would be pretty obvious ... that this person should lose, this person should win and you'd spend most of your time writing opinions," he said.

"I've found that I have to spend more time than I thought just getting to the first step — what the right answer should be," he said. "It's not at all unusual to have one view when you finish reading the briefs, a different view when you sit down with your clerks, another after oral arguments and you're back to a different view after the conference [with other judges].

"Then as you go through the writing process, you come up with either the original view, a third view or the second view." Can anyone imagine Justices Thomas or Scalia not knowing from the get-go how he'll rule?

When asked by a student several months before he was nominated who his favorite justices were, he did not name Scalia and Thomas — Bush's favorites — but rather Jackson, Felix Frankfurter, John Marshall Harlan, William Brennan and his mentor, William Rehnquist.

And it's just conceivable that Roberts might end up a justice ideologically more in the mold of Anthony Kennedy, a swing conservative, than even Rehnquist.

Kennedy wrote the court's plurality opinion in the 1992 Planned Parenthood v. Casey case, upholding Roe v. Wade, and sided with liberals in striking down state laws discriminating against gays.

Kennedy also voted with conservatives on some states' rights and capital punishment cases and on Bush v. Gore after the 2000 election. Roberts disagrees with Kennedy's frequent crediting of foreign precedents, but he seems to share Kennedy's open-mindedness.

Roberts rigorously refused to forecast his views on possibly pending cases, but he did indicate strongly that he's no automatic vote to overturn Roe, as right-wingers expect from a Bush appointee.

In answer to searching questions from Judiciary Chairman Arlen Specter (R-Pa.), Roberts demonstrated strong respect for the doctrine of stare decisis — that is, following precedent. Specter said that Roe had been revisited by the court in 38 cases since 1972 without being reversed.

Roberts concurred that breaking precedent constitutes "a jolt to the legal system" and that "it's not enough that you might think the precedent is flawed to justify revisiting it."

He certainly cited theoretical grounds for revisiting precedents — such as unworkability or erosion of the precedent — but right-wingers are expecting a reversal on the mere grounds that the case was "wrongly decided" to begin with.

Roberts also departed from the right-wing line by saying that "the right to privacy is protected under the Constitution in various ways" and that "the court — in a series of decisions going back 80 years — has recognized that personal privacy is a component of the liberty protected by the due process clause."

A right of privacy was a key basis for the Roe decision, and big-C conservatives routinely say it's nowhere to be found in the Constitution, much as Roberts did back in 1981.

In response to Roberts' first-day testimony, a coalition of liberal groups, Independentcourt.org, put out a press release accusing him of moving "from dodging to dishonest."

Judiciary Committee Democrats issued a joint statement saying that Roberts "didn't answer questions." Sen. Joseph Biden (D-Del.) practically shouted, "You've told us nothing," because Roberts wouldn't disclose his personal feelings about life and death.

But, assuming he's not dissembling, Roberts has in fact told Congress a lot: that he's fully qualified to be chief justice, that he'll look at cases fairly and without prejudgment and that he's no ideologue.

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Democrats have no way to block him, since the “Gang of 14” agreement takes the filibuster out of play. They have a decision: Let him through and concentrate on Bush’s next appointee, or oppose him and brand themselves as mere agents of their interest groups.

Dean Of The Democrats (WSJ)

The Wall Street Journal, September 15, 2005

No, not Howard. The Dean whom Democrats have tapped to represent them at John Roberts's confirmation hearings this week is John W. Dean III, White House Counsel to President Nixon and one of the architects of the Watergate coverup.

This isn't the first time Mr. Dean will be appearing in the Caucus Room of the Senate's Russell office building. In 1973, he sat at the witness table during the Watergate hearings and testified about a "cancer on the Presidency." This was shortly before he spent two years in jail for obstruction of justice.

This paragon of the law is now a columnist for FindLaw.com, where he has been writing articles opposing Mr. Roberts's confirmation. Specifically, he wants the White House to release Mr. Roberts's documents from his time in the Solicitor General's office -- presumably the reason he's turned up on the Democrats' witness list. (He has a conflict on Thursday and will appear if the hearings are extended to Friday, says a spokeswoman for Senator Pat Leahy, the Committee's ranking Democrat.)

In other words, the Democrats are using a man who will go down in history for facilitating a Presidential coverup to make the case for open government. Meanwhile, they ignore six Solicitors General from several administrations, Democrat and Republican, who have said publicly that the Roberts documents are covered by attorney-client privilege and should be kept confidential. So: a bipartisan group of law-abiding SGs vs. a convicted felon and Watergate enabler? You make the call.

Bush, Annan Tout The Role Of The U.N. (LAT)

By Maggie Farley And Warren Vieth

The Los Angeles Times, September 15, 2005

UNITED NATIONS — In a rare show of unity after a bruising week for the U.N., President Bush joined U.N. Secretary-General Kofi Annan on Wednesday in saying that no country can stand alone against the 21st century challenges of terrorism, disease and natural disasters.

Both leaders also chided the world body's member nations for blocking key reforms aimed at making the United Nations more able to tackle those challenges, even though many diplomats felt the U.S. was one of the countries responsible.

But Bush also surprised delegates by reversing U.S. stances on trade and development that had nearly scuttled weeks of negotiation on the reforms.

"To spread a vision of hope, the United States is determined to help nations that are struggling with poverty," Bush said. "We are committed to the Millennium Development Goals."

Those goals include cutting poverty and hunger in half, ensuring universal education and stemming the spread of AIDS by 2015.

"In this young century, the far corners of the world are linked more closely than ever before, and no nation can remain isolated and indifferent to the struggles of others," Bush said in a keynote speech at the opening of the three-day World Summit.

In an address that was at once global and aimed at home, Bush noted that the United States was in the unusual position of receiving aid from abroad after Hurricane Katrina, and thanked the 115 nations that had offered money and help.

"The world is more compassionate and hopeful when we act together," Bush said. "This truth was the inspiration for the United Nations."

Although Washington had endorsed the eight Millennium Development Goals at the 2000 summit and again in the so-called Monterrey Consensus statement, U.S. negotiators feared that targets related to the goals would require the U.S. to increase foreign aid.

The goals were restored at the last minute in a U.S.-crafted compromise that saved the talks from collapse.

Nonetheless, delegates and U.N. officials had not expected Bush to publicly endorse the goals in front of more than 150 world leaders.

"That was a big deal," said Mark Malloch Brown, Annan's chief of staff and the former head of the U.N. Development Program. "They are not standing in the way of it, and that is real progress."

Some diplomats saw Bush's emphasis on development as an attempt to defuse the sentiment here that the United States was one of the spoilers of the summit document, which now falls far short of Annan's original ambitions.

Or, quipped one diplomat, perhaps Hurricane Katrina made him suddenly aware of the dire effects of poverty.

Reversing another U.S. negotiating stance, Bush also called for the removal of trade barriers and farm subsidies that prevent poor nations from selling their goods.

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"The United States is ready to eliminate all tariffs, subsidies and other barriers to free flow of goods and services as other nations do the same," he said.

Bush and Annan expressed their disappointment that a summit accord passed grudgingly by the General Assembly on Tuesday did not go further.

The stripped-down document omits key proposals on nuclear disarmament and trade and defers details on human rights, terrorism and U.N. reform.

World leaders are expected to adopt it Friday, the last day of the summit.

Bush aimed his strongest criticism at the failure to establish criteria for membership in a new human rights council to replace the U.N. Human Rights Commission, which has included among its members alleged violators such as Libya and Sudan.

"When this great institution's member states choose notorious abusers of human rights to sit on the U.N. Human Rights Commission, they discredit a noble effort and undermine the credibility of the whole organization," Bush said. "If member nations want the United Nations to be respected and effective, they should begin by making sure it is worthy of respect."

Annan expressed greater concern about the failure to include in the final document any reference to nuclear disarmament and nonproliferation, calling it "our biggest tragedy and our biggest failure." The Bush administration opposed language that called for nuclear powers to reduce their weapons stockpiles.

In what appeared to be a jab at the U.S.-led invasion of Iraq, Annan cautioned, "Even the strongest among us cannot succeed alone…. We cannot succeed without the leadership of the strong and the engagement of all."

Compared with previous Bush speeches in which he demanded that the U.N. confront Iraq or stand aside, Wednesday's address seemed almost conciliatory.

"He found the themes that resonate with the international community," said Jean-Marie Guehenno, the head of peacekeeping at the U.N. "The emphasis on poverty and development was certainly noticed and welcomed."

But what Bush didn't mention — Afghanistan, Sudan and the Middle East — also resonated. The president did not focus on the U.S. use of power, or the U.N. role in rebuilding new governments and societies that have been disrupted by conflict.

After his address, Bush met with Israeli Prime Minister Ariel Sharon. In brief remarks to reporters, he praised Sharon's courage in removing Israeli settlers from the Gaza Strip.

The president then participated in a meeting of the U.N. Security Council, which adopted a resolution banning the incitement of terrorism and calling for action to share intelligence, restrict cross-border movement and freeze financing for terrorist organizations.

Human rights groups fear the wide-ranging resolution could be used to censor inflammatory media and deport political opponents cast as extremists.

Separately, Bush signed a new international accord to deter nuclear terrorism and participated in the launch of the U.N. Democracy Fund, designed to help developing nations build democratic institutions.

Bush Challenges World To Drop Trade Barriers (REU-Y2)

By Caren Bohan

Reuters, September 15, 2005

U.S. President George W. Bush told a U.N summit on Wednesday he was willing to drop all trade barriers if other countries did the same, issuing a challenge that could invigorate critical talks on world trade.

Trade experts saw little chance of the pledge becoming a reality but some said the attention Bush gave to trade in his speech could spur interest in the World Trade Organization talks on trade and development, known as the Doha Round.

"The United States is ready to eliminate all tariffs, subsidies and other barriers to free flow of goods and services as other nations do the same," Bush told other leaders.

"The elimination of trade barriers could lift hundreds of millions of people out of poverty over the next 15 years."

Bush said the stakes were high for a successful conclusion to the Doha talks, which aim to lower trade barriers for everything from farm goods to services and foster economic growth in the poorest countries. He devoted a full three paragraphs to Doha in a 25-minute speech.

With a deal needed by the end of next year, the Doha Round is entering a crucial stage. Negotiators need to make substantial progress at a WTO ministerial meeting in Hong Kong this December to keep the round alive.

The talks have suffered from a lack of high-level interest, which makes Bush's comments significant even though they mean little on a practical level, said Greg Mastel, trade adviser at the law firm Miller and Chevalier in Washington, DC.

"It's an offer that will never be taken up," Mastel said. "Other countries are not likely to drop their trade barriers any time soon."

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He noted such a move would not be politically feasible in the United States, where protectionist policies are popular for industries such as steel but even more so agricultural goods.

Disagreements over how much to cut farm subsidies and tariffs are the biggest obstacles to a new world trade deal. However, the negotiations are also bogged down on issues linked to trade in services and industrial goods.

"I strongly endorse the spirit of (Bush's) remarks and I think that it's important that somebody like the president should give this amount of attention to the round," European Trade Commissioner Peter Mandelson told reporters after meetings in Washington on farm trade.

The United States and the European Union both generously subsidize their farmers, but are striving to reach agreement in coming months on how far to cut their subsidies and tariffs.

How much other countries, such as Brazil and India, are willing to scale back their own protection for farmers will also be an important element of final WTO deal.

"It's rhetorical but it's important as a political signal that the president is willing to push the envelope on trade further than the conventional wisdom of the Congress," said Jeffrey Schott, senior fellow at the Institute for International Economics, a Washington think-tank.

As an example of the difficulty of the politics of trade liberalization in Congress, Schott pointed to the tough fight it took Bush to secure passage of the Central America Free Trade Agreement.

Mastel said talk had been circulating that the Bush administration might be ready to offer a proposal to phase out all industrial tariffs eventually, also an ambitious goal but perhaps more feasible than the one Bush spoke of at the U.N.

(Additional reporting by Doug Palmer in Washington)

At U.N., Bush Links War On Terrorism To Anti-Poverty Efforts (WP)

By Peter Baker And Colum Lynch

The Washington Post, September 15, 2005

UNITED NATIONS, Sept. 14 -- President Bush, reaching out to an audience he has antagonized in the past, told the assembled leaders of the world Wednesday that the United States shared "a moral duty" to combat not only terrorism but also the poverty, oppression and hopelessness that give rise to it.

Addressing the United Nations, Bush linked his campaign against terrorism to the anti-poverty agenda advanced by other nations, although he shied away from adopting some of the specific commitments sought by allies. He later took the U.S. seat at the Security Council for the first time in his presidency to emphasize his solidarity with other countries in the struggle against terrorism.

"We must help raise up the failing states and stagnant societies that provide fertile ground for the terrorists," Bush said at the gathering of more than 150 presidents and prime ministers on hand to mark the 60th anniversary of the world body. "We must defend and extend a vision of human dignity and opportunity and prosperity, a vision far stronger than the dark appeal of resentment and murder. To spread the vision of hope, the United States is determined to help nations that are struggling with poverty."

Arguing that trade can lift hundreds of millions of people out of poverty, Bush pushed for a new global trade agreement and for the first time vowed to drop all U.S. tariffs, subsidies and other barriers to foreign goods if other countries do the same. He also urged other nations to join U.S. efforts to fight AIDS and malaria, and he launched a new international partnership to address the spread of avian flu.

Paying special notice to perennial conflicts that leave much of the world destitute, Bush said the United States would train 40,000 African peacekeeping troops over five years "to preserve justice and order in Africa." And he marked the inception of a new U.N. democracy fund to promote greater liberty around the world.

"The lesson is clear," Bush said. "There can be no safety in looking away or seeking the quiet life by ignoring the hardship and oppression of others. Either hope will spread or violence will spread, and we must take the side of hope."

On the sideline of the U.N. events here, Bush also met for 35 minutes with Israeli Prime Minister Ariel Sharon to congratulate him on the withdrawal from the Gaza Strip and to challenge the Palestinians to reciprocate. "I know it was hard, but I admire your courage," Bush told Sharon in front of reporters. The president added: "Now is the time for Palestinians to come together and establish a government that will be peaceful with Israel."

Bush's two-day visit here focused his attention back on world affairs at a time of domestic crisis along the Gulf Coast. Many of his counterparts expressed their sympathy following the death and devastation caused by Hurricane Katrina; more than 115 countries have offered assistance. Comparing Katrina to the tsunami that killed hundreds of thousands in South Asia last year, Bush said the outpouring of compassion this month showed that the world is better "when we act together."

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The rhetorical nod to international harmony contrasted with past visits by Bush to the United Nations that were marked by bitter disagreement over the war in Iraq. Since his reelection last year, Bush has worked to heal those wounds and has adopted a more multilateral approach to sensitive issues such as Iran's nuclear program.

His approach Wednesday generated a far warmer reaction among U.N. officials and foreign delegates than previous appearances, when he lectured countries about their responsibility to fight terrorism and stand up to North Korea and Iraq. Diplomats praised Bush's embrace of targets known as the Millennium Development Goals to dramatically scale back poverty, child mortality and disease, although he did not endorse proposals to spend 0.7 percent of national income on international aid, four times more than current U.S. spending.

"It was a different tone," said Chile's ambassador, Heraldo Muñoz. "Before, it was all about terrorism. Although this speech had an unavoidable component on terrorism, it went well beyond. He expressed . . . renewed trust in the United Nations, and I feel many leaders welcomed that."

At the same time, Bush was trailed around U.N. headquarters by his ambassador, John R. Bolton, a longtime U.N. critic who was sent here with a temporary recess appointment after Senate Democrats blocked his confirmation. Bolton has clashed with diplomats here over efforts to make the United Nations more efficient and accountable.

When Bush was greeted by Secretary General Kofi Annan on Tuesday, U.N. closed-circuit television showed the president joking about the tension over Bolton, who once suggested it would make no difference if 10 floors of the U.N. building disappeared. "How is he behaving?" Bush asked. "Has the place blown up?"

A 35-page declaration on poverty and U.N. reform completed this week did little to overhaul the organization in the way Washington wants, but Bush publicly credited Annan for trying. "We have made a solid start," he said in a toast. "More work remains."

U.N. officials sought to counter the impression that weeks of hard negotiations had yielded a scaled-back document that would have little impact. The declaration, to be endorsed by world leaders attending a summit on Friday, includes the first unqualified U.N. condemnation of terrorism "by whomever, wherever and for whatever purpose." It also constitutes the first public commitment by the full U.N. membership to take responsibility for protecting people from genocide, war crimes, ethnic cleansing and crimes against humanity. The declaration does not legally obligate governments to intervene in places such as the Darfur region of Sudan, but it will increase political pressure on countries to do so.

As it has during many of Bush's visits here, terrorism dominated the agenda, coming on a day when more than 160 people were killed and hundreds more injured by a wave of bombings and rocket attacks in Baghdad. Many of the leaders sitting with Bush at the Security Council, including Russian President Vladimir Putin and Chinese President Hu Jintao, did not support the U.S. invasion of Iraq.

But they agreed with Bush and British Prime Minister Tony Blair to adopt the resolution calling on nations to crack down on the incitement of terrorism.

"The terrorists must know that wherever they go they cannot escape justice," Bush said, adding, "We must send a clear message to the rulers of outlaw regimes that sponsor terror and pursue weapons of mass murder: You will not be allowed to threaten the peace and stability of the world."

This Year, Bush Takes A Different Tone With The U.N. (WP)

By Glenn Kessler

The Washington Post, September 15, 2005

UNITED NATIONS, Sept. 14 -- Three years ago, making the case for confronting Iraq, President Bush said the United Nations would sink into irrelevancy if it failed to act at a "difficult and defining moment." But, addressing the U.N. General Assembly on Wednesday, the president struck a strikingly different tone, praising the "vital work and great ideals of this institution" and its efforts to take the "first steps" toward managerial and structural reforms.

A year ago, in the same venue, Bush denounced terrorists as people who believed "the Universal Declaration of Human Rights and the American Bill of Rights and every charter of liberty ever written are lies, to be burned and destroyed and forgotten." Bush condemned terrorism in this year's speech as well, but with a twist -- he explicitly linked defeating terrorism to changing "the conditions that allow terrorists to flourish."

"We must help raise up the failing states and stagnant societies that provide fertile ground for the terrorists," Bush said.

Bush then ticked off a series of U.N.-sponsored initiatives to help promote human dignity and prosperity, saying the United States has a "moral duty" to join in the effort. In effect, Bush used the speech to marry the United Nations' goals of defeating poverty and disease with his vision of fighting terrorism by promoting democracy.

Since the start of his second term, Bush has tried hard to reach out to a world that has been dismayed with the foreign-policy choices and actions of his first term. He has traveled four times this year to Europe, the heart of anti-Bush attitudes,

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though polling by the German Marshall Fund has indicated that the charm offensive thus far has failed to resonate with many Europeans.

The United Nations refused to back a war against Iraq, but apparently it did not become irrelevant either. Bush's speech Wednesday lacked the confrontational tone of his previous addresses here, and he reached out for common goals and objectives. Bush even lingered to participate for the first time in a session of the U.N. Security Council and then joined other world leaders for a meal.

"May the U.N. embody the high ideals of its founding in the years to come," Bush said in a toast.

Interestingly, Bush did not mention the looming confrontation with Iran over its nuclear programs, even though the United States is leading the drive to bring the matter to the Security Council as quickly as possible. Instead, French Prime Minister Dominique de Villepin -- who as foreign minister in 2003 had clashed heatedly with U.S. officials over the invasion of Iraq -- played the heavy in his own speech. He warned Iran that it faces referral to the Security Council if it fails to meet its obligations under the nuclear Non-Proliferation Treaty.

Unlike last year's address -- when Bush was trying to woo his conservative base during a presidential campaign -- the president did not mention trafficking in humans or the conflict in Sudan, two issues of importance to evangelical voters.

Skipping a chance to be confrontational, Bush also referred only obliquely to the Iraq oil-for-food scandal that has tarnished the world body -- and he skipped lightly over the fact that the General Assembly on Tuesday agreed to a watered-down document intended to guide the reforms that U.S. officials say are necessary for the United Nations.

Bush was also significantly less defensive about conditions in Iraq, nearly three years after the invasion. Two years ago, he all but demanded that the world join in helping rebuild that shattered nation. Yesterday, he simply said: "No civilized nation has an interest in seeing a new terrorist state emerge in that country."

Bush used his speech to explain why, in his view, democracy thwarts the growth of terrorism. "Democratic nations uphold the rule of law, impose limits on the power of the state, treat women and minorities as full citizens," he said. "Democratic nations protect private property, free speech and religious expression."

Writing in the current issue of Foreign Affairs, F. Gregory Gause III said that a review of academic literature and statistics finds little evidence that democracy stops terrorism. Gause, a political science professor at the University of Vermont, noted that the State Department's records show that, between 2000 and 2003, India, the world's most populous democracy, had 203 terrorist attacks while, China, the world's most populous authoritarian state, had none. One study cited by Gause found that "most terrorist incidents occur in democracies and that generally both the victims and the perpetrators are citizens of democracies."

Bush Thanks World Leaders And Takes Conciliatory Tone (NYT)

By David E. Sanger And Warren Hoge

The New York Times, September 15, 2005

UNITED NATIONS, Sept. 14 - President Bush, facing an array of world leaders who are deeply divided on how to define terrorism or act against nuclear proliferation and poverty, struck a conciliatory tone at the United Nations on Wednesday, describing himself as the grateful leader of a superpower that in recent days has received emergency aid from nations around the world.

His speech, at the opening of a United Nations session that drew more than 150 presidents, prime ministers and monarchs, came hours after the General Assembly greatly watered down what had once been ambitious plans for institutional change and for commitments to fight terrorism and nuclear arms.

But Mr. Bush only alluded to the leaders' differences, and his tone was far more muted than three years ago, when he urged the United Nations to confront Saddam Hussein.

On Wednesday, from the same podium, he balanced his discussion of the need to chase down terrorists with his endorsement of a set of antipoverty objectives called the millennium development goals. Only weeks ago, the administration had proposed eliminating all reference to the specific goals from the United Nations' agenda this week, but the administration subsequently backed off. Rather than declare, as he had in the past, that countries had to choose to be "with us or against us" in battling terrorists, Mr. Bush cast himself as the leader of one of many nations fighting the same plague.

"No nation can remain isolated and indifferent to the struggles of others," he said in a hall that remained, by tradition, largely silent. "When a country or a region is filled with despair and resentment and vulnerable to violent and aggressive ideologies, the threat passes easily across oceans and borders and could threaten the security of any peaceful country."

Mr. Bush began his speech by thanking 115 countries and a dozen international organizations for offering aid to victims of Hurricane Katrina, putting him in the unaccustomed position of being the recipient of help from abroad - including from countries like Iraq. "I offer the thanks of my nation," he said.

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Secretary General Kofi Annan seemed to allude to American vulnerability in a speech earlier in the day, noting, "Whether our challenge is peacemaking, nation-building, democratization or responding to natural or man-made disasters, we have seen that even the strongest among us cannot succeed alone."

That seemed to set the tone for Mr. Bush, who arrived politically injured. His approval levels among Americans are at record lows, with the aftermath from Hurricane Katrina raising questions about the administration's abilities to respond to a major disaster, and with Iraq facing violence on a scale few predicted three years ago. But even with close to 150 people killed in Iraq just hours before he spoke, Mr. Bush stuck to his message of optimism about democratic revolution in the Middle East.

"It's an exciting opportunity for all of us in this chamber," he told the leaders, many of whom opposed his decision three years ago to go to war and have steered clear of Iraq since.

Nonetheless, American officials traveling with Mr. Bush said that they wondered how successful the White House would be in allocating more reconstruction aid for Iraq now that the hurricane damage will soak up so many American resources. "It seems clear," said one senior official traveling with Mr. Bush, "that the days of American largess for Iraq are coming to a close."

At his toughest on Wednesday, Mr. Bush seemed to scold the United Nations for failing to enact change on the scale discussed for more than a year. "The United Nations must be strong and efficient, free of corruption, and accountable to the people it serves," he said, adding that it "must stand for integrity, and live by the high standards it sets for others."

He described the effort to improve the operations of the organization as in its infancy, adding: "The process of reform begins with members taking our responsibilities seriously. When this great institution's member states choose notorious abusers of human rights to sit on the U.N. Human Rights Commission, they discredit a noble effort, and undermine the credibility of the whole organization," apparently a reference to Sudan, Zimbabwe, Cuba and Libya.

"If member countries want the United Nations to be respected - respected and effective - they should begin by making sure it is worthy of respect," Mr. Bush concluded.

He pressed for a Security Council resolution committing countries to prosecute - and extradite - anyone seeking fissile materials or the technology for nuclear devices.

On Tuesday, Mr. Annan said the exclusion of language in goals on countering nuclear proliferation was a "disgrace" that compounded a similar failure at a spring United Nations conference on the future of the Nuclear Nonproliferation Treaty.

But Mr. Bush did not repeat his previous calls to bar any new country from producing enriched uranium or plutonium - a plan the administration has done little to promote over the past year and a half.

In his references to the goals for poverty reduction, he cited not only the millennium development goals but also another initiative that grew out of a summit meeting in Monterrey, Mexico. There, poor nations agreed to fight corruption and improve governance, and rich nations committed to "make concrete efforts" toward giving 0.7 percent of their national income in aid. Mr. Bush did not address the aid issue, but advocates said they hoped his endorsement of Monterrey would make it harder for the United States to continue to oppose such aid targets.

Jeffrey D. Sachs, the economist who led the millennium project, said in an interview that Mr. Bush's support "was as explicit and plain as could be." As to Mr. Bush's mention of the millennium goals, he said, "As far as I know, the president has never uttered that phrase before."

The Security Council also passed a resolution calling on countries to ban incitement to terrorism and prevent subversion of educational, cultural and religious institutions by terrorists and their supporters. The measure was offered by Prime Minister Tony Blair of Britain in a move paralleling his government's response to bombings in London in July.

The seats around the horseshoe panel were filled by the leaders attending the United Nations summit meeting, and among those raising hands in approval were Presidents Bush, Vladimir V. Putin of Russia, Hu Jintao of China, Luiz Inácio Lula da Silva of Brazil, and Gloria Macapagal Arroyo of the Philippines.

"We must unite not just in condemning the acts of terrorism, which we all do, but in fighting the poisonous propaganda that the root cause of this lies with us, not them," Mr. Blair said. Citing the bombings Wednesday in Baghdad, he called it "obscene" for terrorists to claim to be acting in response to Western aggression against Muslims. "Their victims are largely Muslim," he said.

Rights groups in Britain have protested the government's crackdown since the bombings, and the New York-based Human Rights Watch criticized Wednesday's resolution for failing to define incitement.

"The resolution's sponsors have made it easy for abusive governments to invoke the resolution to target peaceful political opponents, impose censorship and close mosques, churches and schools," said Kenneth Roth, the group's executive director.

Bush Calls On U.N. To Fight Poverty, Terror (USAT)

USA Today, September 15, 2005

President Bush urged the members of the United Nations on Wednesday to unite in the war on terrorism and to push for the spread of democracy and prosperity in Iraq and the Middle East.

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"We have a solemn obligation to defend our citizens against terrorism, to attack terrorist networks and deprive them of any safe haven," Bush told the World Summit in New York. "No nation can remain isolated and indifferent to the struggles of others."

With Bush casting the U.S. vote, the U.N. Security Council unanimously passed a resolution that condemns the incitement of terrorism and calls for all nations to take "appropriate action" to fight such incitements. "Appropriate action" was not defined.

Declaring that poverty breeds despair and terrorism, Bush challenged world leaders to abolish trade tariffs and subsidies to promote prosperity and opportunity in poor nations, a move that would be worth billions of dollars.

"There can be no safety in looking away or seeking the quiet life by ignoring the hardship and oppression of others," Bush said. "Either hope will spread, or violence will."

Court lifts curbs on Aruban suspects in Holloway case

A court ruled Wednesday that three suspects in the disappearance of an American teenager in Aruba can remain free without conditions, overturning an earlier decision that restricted their travel.

The appeals court ruled there was a "lack of sufficient grounds and serious suspicions" to keep the restrictions on Joran van der Sloot and brothers Deepak and Satish Kalpoe, the Aruban prosecutor's office said. They remain suspects in the May 30 disappearance of Alabama teenager Natalee Holloway, the prosecutor's office said.

WWII bomb unearthed at Berlin's main airport

Berlin's Tegel Airport was closed for about an hour to allow explosives experts to detonate a 1,100-pound bomb from World War II unearthed during construction work. Police evacuated nearby homes and closed a highway.

Bombmaking instructions at issue in Belfast trial

Arabic instructions on how to detonate a bomb hidden in a baby's milk bottle could be used to destroy an aircraft in midair, a U.S. explosives expert testified in the trial of an Algerian man accused of links to the al-Qaeda network.

Abbas Boutrab, 32, is charged in Belfast, Northern Ireland, with possessing 25 computer disks filled with instructions on how to build compact bombs and other weapons and how to smuggle them aboard passenger aircraft.

Donald Sachtleben, an FBI explosives expert, testified that he built and successfully detonated three bombs based on the instructions found in Boutrab's home. Boutrab says he downloaded the material from the Internet out of curiosity.

In U.N. Talk, Bush Urges Nations To Fight Poverty, Open Up Trade (WSJ)

By Neil King Jr.

The Wall Street Journal, September 15, 2005

NEW YORK -- President Bush urged world leaders to band together to combat poverty, terrorism and disease, while eliminating barriers to trade.

Mr. Bush's remarks before the United Nations General Assembly came three years after he used the same setting to lay the ground for the U.S.-led invasion of Iraq. He began his speech yesterday noting the "awesome power of nature" that was Hurricane Katrina, and thanking the more than 115 countries that offered the U.S. aid "in this hour of need."

Amid declining approval ratings, Mr. Bush plans to interrupt several days of diplomacy to give a nationwide address on Katrina this evening from Louisiana, before returning for a meeting tomorrow with Russian President Vladimir Putin.

Mr. Bush traveled here with several aims. The U.S. hopes to build support from China, Russia and other nations to bring Iran's nuclear program before the Security Council, and to keep up pressure on North Korea through the six-party talks under way in Beijing. Mr. Bush and his aides also have used the gathering to push for other goals, such as health programs and trade.

President Bush repeated a pledge that he would move to eliminate all tariffs and agricultural subsidies within the current global round of trade talks if other countries agreed to do the same. He also stepped up calls for Asian countries to increase their vigilance against the spread of avian flu, which he warned could become "the first pandemic of the 21st century."

The Security Council afterward approved a British-sponsored resolution urging countries to adopt laws prohibiting "incitements to terrorism," a move that some civil-rights groups say could offer countries legal cover to crack down on dissent. U.N. members resisted pressure from Washington to agree to a definition of terrorism.

The Bush administration came under some criticism for declining to endorse a widespread push to enlarge the permanent core group of countries within the Security Council, from five member nations to as many as nine. The U.S. had backed the idea of Japan joining the five veto-wielding countries, but didn't support including Brazil, Germany and India.

Efforts to enlarge the Security Council were part of a broad push to overhaul the U.N., which devolved this week into a package of relatively small changes. Developing countries blocked a move to give more power to the secretary-general's office, while others eliminated a section on nonproliferation and disarmament.

There was also dismay over Bush administration attempts to drop any mention of specific targets for aid to developing countries. The U.S. is the largest aid giver in dollar terms but among the lowest among rich countries as a percentage of its overall economy.

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In his speech, Mr. Bush surprised developing countries by unequivocally committing to U.N. goals to end global poverty by 2015, which could mean a trebling of U.S. aid.

Bush Hits U.N. Corruption (WT)

By Bill Sammon

The Washington Times, September 15, 2005

NEW YORK -- President Bush yesterday implored the United Nations to rid itself of corruption and scolded the global body for squandering the world's respect and making a mockery of human rights.

"When this great institution's member states choose notorious abusers of human rights to sit on the U.N. Human Rights Commission, they discredit a noble effort and undermine the credibility of the whole organization," Mr. Bush told the U.N. General Assembly.

In past years, Libya and Sudan have served on the commission.

"If member countries want the United Nations to be respected and effective, they should begin by making sure it is worthy of respect," he said.

Although Mr. Bush did not mention the multibillion-dollar oil-for-food debacle that has rocked the United Nations, he called on the world body to move past scandal.

"The United Nations must be strong and efficient, free of corruption and accountable to the people it serves," he said. "The United Nations must stand for integrity and live by the high standards it sets for others."

The president also used yesterday's speech to thank U.N. member nations for donating money to Hurricane Katrina relief efforts.

"To every nation, every province and every community across the world that is standing with the American people in this hour of need, I offer the thanks of my nation," he said. "The world is more compassionate and hopeful when we act together."

Mr. Bush also called on the United Nations to do more in the U.S.-led fight against AIDS and malaria in Africa. He said foreign aid and debt forgiveness will not eliminate global poverty without the economic catalyst of free trade.

"The United States is ready to eliminate all tariffs and subsidies and other barriers to free flow of goods and services as other nations do the same," he pledged. "This is key to overcoming poverty in the world's poorest nations."

Mr. Bush also pushed for various international initiatives to fight terrorism, stop the spread of nuclear weapons and curb the proliferation of chemical and biological weapons.

"We must send a clear message to the rulers of outlaw regimes that sponsor terror and pursue weapons of mass murder: You will not be allowed to threaten the peace and stability of the world," he said.

Although the United Nations did not support the U.S.-led Operation Iraqi Freedom in 2003, Mr. Bush yesterday praised the world body for supporting the fledgling democracy that has resulted from that war.

"The whole world has a vital interest in the success of a free Iraq, and no civilized nation has an interest in seeing a new terrorist state emerge in that country," he said. "The United Nations and its member states must continue to stand by the Iraqi people as they complete the journey to a fully constitutional government."

After his morning speech at U.N. headquarters, Mr. Bush spent the afternoon meeting with a variety of world leaders, including Israeli Prime Minister Ariel Sharon, British Prime Minister Tony Blair and U.N. Secretary-General Kofi Annan.

The Foreign Aid Gap (LAT)

The Los Angeles Times, September 15, 2005

Did the spirit of Bono somehow possess the body of President Bush on Wednesday? How else to explain the president's speech before the United Nations? He sounded more like a crusading anti-poverty rocker — or, worse on the bleeding-heart scale, a European president — than the man whose ambassador to the U.N. has been working behind the scenes to sabotage the world's most important anti-poverty initiative.

"To spread a vision of hope, the United States is determined to help nations that are struggling with poverty," Bush told more than 160 world leaders at the U.N. summit, which runs through Friday. "We are committed to the Millennium Development Goals…. We have a moral obligation to help others — and a moral duty to make sure our actions are effective."

But not, apparently, a moral obligation to live up to our commitments, or even tell the truth about them.

The Millennium Development Goals were approved by the U.N. in 2000. They constitute a revolutionary document, setting out objectives such as halving extreme poverty, reducing disease and child mortality and boosting education in the world's poorest nations by 2015. To make them a reality, U.N. members, including the United States, agreed in 2002 at a summit in Monterrey, Mexico, that wealthy nations would "make concrete efforts" to contribute 0.7% of their national income toward foreign aid by 2015.

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At this week's summit, world leaders were supposed to adopt a set of reforms that would have improved the U.N.'s management and strengthened its ability to fight poverty and promote human rights. But John R. Bolton, appointed as ambassador to the U.N. by Bush after the Senate failed to confirm him, threw negotiators into disarray last month by introducing hundreds of last-minute amendments. Among them was the deletion of nearly all references to the millennium goals and the 0.7% target. Under pressure, Bolton relented and allowed the language to remain.

The Bush administration has made it abundantly clear that it has no intention of trying to reach the 0.7% goal. The United States has the second-worst record of the 22 donor nations whose contributions as a percentage of national income are tracked by the Organization for Economic Cooperation and Development, giving just 0.16% in 2004 (only Italy is stingier). The European Union's 15 richest members, despite Italy's poor showing, agreed this year to contribute 0.51% of national income by 2010 and 0.7% by 2015.

Administration officials have said the 0.7% figure is arbitrary, that it represents a goal rather than a concrete commitment, that quality of aid is more important than quantity and that, at any rate, the United States has increased foreign aid dramatically. Wrong or misleading on all counts but the last.

Whether the 0.7% number is arbitrary is irrelevant; what matters is whether it's adequate. By that measure, if anything, it's too timid. The U.N. Millennium Project estimates that even if all the commitments are met, it may fall short of the amount needed to meet the Millennium Development Goals. Though the Monterrey statement wasn't very concrete, such vagueness is typical of international agreements; if heads of state don't intend to follow them, they shouldn't approve them. And the administration's statements on quality would be more convincing if its record in that area weren't so abysmal.

In its Human Development Report released last week, the U.N. identified several problems that make foreign aid less effective than it should be. Sometimes donors make aid contingent on onerous conditions; often they fail to coordinate similar projects, leading to repetition and waste. The United States is a prime offender in nearly every area. Particularly egregious is the practice of "tied aid" — the requirement that aid money be spent on goods and services from the donating country. U.S. aid money is commonly spent on expensive American contractors rather than given directly to poor nations, where it would do far more good.

The administration's best defense is that it has increased foreign aid, albeit from a paltry 0.1% of national income in 2000 to 0.16% last year. President Bush also deserves credit for making foreign aid a priority in a country where African poverty seldom shows up on the political radar screen. Yet this has the effect of making the administration's truculence on the Millennium Development Goals all the more frustrating.

The administration has not met its commitments, and the president has failed to live up to his own inspirational rhetoric. Until it has and he does, speeches like the one Bush delivered on Wednesday will continue to be seen as cynical political ploys.

Hopeful Words: On Helping The Poor (NYT)

The New York Times, September 15, 2005

Let's face it: most Americans wouldn't know a Millennium Development Goal, a Monterrey Consensus or a Doha round if all three jumped out and hit them in the head. But those phrases have life-or-death importance to more than two billion people around the world who survive on barely anything. And yesterday at the United Nations, President Bush used them in front of the world.

To understand this good news, here's a quick primer.

The Millennium Development Goals make up an ambitious agenda adopted by the United Nations in 2000. Chief among them is the goal of cutting global poverty in half by 2015. They also call for tackling problems like hunger, disease and women's inequality. The goals include vague wording about how poor nations need to adopt good governance, and how rich nations need to give them money.

As this week's U.N. summit meeting approached, Mr. Bush's flame-throwing U.N. envoy, John Bolton, struck all mention of the Millennium Development Goals from the text of the agreement the world leaders are supposed to sign. After saner heads prevailed, some of that language was restored, although the agreement remains weak. Yesterday, Mr. Bush said it clearly: "We are committed to the Millennium Development Goals." Full stop.

That's important because America, the richest country on earth, is most able to help poor countries reach these goals.

That brings us to the Monterrey Consensus, named for the city in Mexico. (Diplomats like to name things after the city where they decided to do something.) In 2002, many members of the group meeting in New York this week trooped down to Monterrey to figure out how they were going to pay for the Millennium Development Goals. The text they signed said, "We urge developed countries that have not done so to make concrete efforts toward the target of 0.7 percent of gross national product as O.D.A. [official development assistance] to developing countries." Since then, Britain, France and Germany have all announced how they plan to do that by 2015. The United States, which was rated the world's second-stingiest rich country (behind Italy) by a

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U.N. report this month, gives just 0.18 percent of its G.N.P. to poorer countries. And since Monterrey, Bush administration officials have taken pains to tell everyone that the United States didn't commit to the 0.7 percent goal. But it's right there in Paragraph 42 of the Monterrey Consensus. Yesterday, Mr. Bush said, "I call on all the world's nations to implement the Monterrey Consensus." Including, we hope, America.

We end today's lesson with the Doha round, the trade negotiations begun in (you got it) Doha, Qatar, in 2002. That was just after Sept. 11, 2001, when America and Europe, trying to woo poor countries to join the war against terrorism, finally agreed to start negotiating an end to farm subsidies. Those subsidies hurt farmers in poor countries because they keep the price of products artificially low, giving poor countries little chance on the world market. Since then, no one has cut anything, and the negotiations have degenerated into the usual bickering between Europe and America. Meanwhile, the poor keep starving.

Yesterday, Mr. Bush declared: "The United States is ready to eliminate all tariffs, subsidies and other barriers to free flow of goods and services as other nations do the same. This is key to overcoming poverty in the world's poorest nations."

These were exactly the right words, and we applaud them. Now, let's get to it. The world is waiting.

Bush Switches U.N. Tone, But Will It Help Iraq In Time? (USAT)

USA Today, September 15, 2005

Three years ago, in the most undiplomatic of terms, President Bush challenged the United Nations to be relevant by standing up to Saddam Hussein and enforcing its many resolutions against him. A discomfited U.N. Security Council took the challenge. It sent in weapons inspectors. But the United States, impatient to get on with the war, invaded before they finished, cementing Bush's image in much of the world as a go-it-alone cowboy. That no weapons of mass destruction were found further damaged U.S. credibility.

Fast forward to Wednesday for a study in contrasts.

In this year's U.N. address, Bush's world view seemed transformed. He was far more solicitous as he argued that preventing Iraq from becoming a terrorist state is in the world's vital interest. He appealed to other countries to take up the "exciting opportunity for all of us" to build a democracy in Iraq. And he spent much time talking about how countries work best together and just what democracy entails beyond elections.

Bush is right. There's no question a democratic Iraq is in the world's best interest, and other countries could be an enormous help. But persuading them now is unlikely. That much was plain from the skeptical faces of many of the more than 160 world leaders gathered for the U.N. session. Their unspoken message was this: We told you invading Iraq was a bad idea. You ignored us and rushed to war. Now clean up your own mess.

Wednesday's spasm of violence in Baghdad — a dozen bombings that killed at least 160 and wounded 570 — underscored just what a mess the Iraq war has become. And just how little the world has been inclined to pitch in and help. That's in contrast to the Persian Gulf War in 1991, when the first President Bush used diplomacy to form a genuine coalition and get others to pay for most of the war that reversed Saddam's invasion of Kuwait.

In part, George W. Bush is following the path of many second-term presidents who show a better understanding of the way the world works after a steep foreign-policy learning curve. In the short run, the legacy of the administration'sin-your-face approach during Bush's first term is that the United States faces an increasingly lonely task trying to extricate itself from Iraq during his second.

Over time, however, Bush's new attitude toward international cooperation might help turn global opinion around.

After Katrina, Republicans Back A Sea Of Conservative Ideas (WSJ)

By John R. Wilke And Brody Mullins

The Wall Street Journal, September 15, 2005

Congressional Republicans, backed by the White House, say they are using relief measures for the hurricane-ravaged Gulf coast to achieve a broad range of conservative economic and social policies, both in the storm zone and beyond.

Some new measures are already taking shape. In the past week, the Bush administration has suspended some union-friendly rules that require federal contractors pay prevailing wages, moved to ease tariffs on Canadian lumber, and allowed more foreign sugar imports to calm rising sugar prices. Just yesterday, it waived some affirmative-action rules for employers with federal contracts in the Gulf region.

Now, Republicans are working on legislation that would limit victims' right to sue, offer vouchers for displaced school children, lift some environment restrictions on new refineries and create tax-advantaged enterprise zones to maximize private-sector participation in recovery and reconstruction. Yesterday, the House overwhelmingly passed a bill that would offer sweeping protection against lawsuits to any person or organization that helps Katrina victims without compensation.

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"The desire to bring conservative, free-market ideas to the Gulf Coast is white hot," says Rep. Mike Pence, the Indiana Republican who leads the Republican Study Group, an influential caucus of conservative House members. "We want to turn the Gulf Coast into a magnet for free enterprise. The last thing we want is a federal city where New Orleans once was."

Many of the ideas under consideration have been pushed by the 40-member study group, which is circulating a list of "free-market solutions," including proposals to eliminate regulatory barriers to awarding federal funds to religious groups housing hurricane victims, waiving the estate tax for deaths in the storm-affected states; and making the entire region a "flat-tax free-enterprise zone."

Members of the group met in a closed session Tuesday night at the conservative Heritage Foundation headquarters here to map strategy. Edwin Meese, the former Reagan administration attorney general, has been actively involved.

Rep. Todd Tiahrt (R., Kan.) said that the plans under development "are all part of a philosophy of lowering costs for doing business." He said southern Louisiana, Mississippi and Alabama offer a "microcosm" where new ideas can be applied to speed the rebuilding.

The proposals to cut taxes and waive regulations come after Congress quickly approved $62.8 billion in federal spending for the Gulf Coast, and is expected to approve further spending that will push the price tag above $100 billion.

Some of the proposals are attracting fire from Democrats. "They're going back to the playbook on issues like tort reform, school vouchers and freeing business from environmental rules to achieve ideological objectives they haven't been able to get in the normal legislative process," said Rep. Rahm Emanuel (D., Ill.)

In response, Democrats are pressing for other proposals that suit their ideology. Sen. Richard Durbin of Illinois has suggested creating a national emergency airlift program so that U.S. airlines can help evacuate Americans from areas before a natural disaster strike. Senate Minority Leader Harry Reid of Nevada and Louisiana Democrat Sen. Mary Landrieu unveiled a plan that would, among other things, preserve victims' Medicaid health coverage, provide $2,500 education grants to displaced students and give victims a 180-day extension on outstanding loan payments.

Trial lawyers were quick to attack the bill the House passed yesterday on a voice vote to limit lawsuits against volunteers saying it prevents airlines, hospitals, stadiums, and bus companies from being held accountable for misconduct or negligence. In a statement, the Association of Trial Lawyers of America said, "If a nursing home resident evacuated from New Orleans to a nursing home in a neighboring state dies of untreated, infected pressure sores, the out-of-state home would be protected."

The bill's chief sponsor, Judiciary Committee Chairman James Sensenbrenner of Wisconsin, said in a statement that the legislation removes the "threat of legal fear that stands between many willing and able Good Samaritans and the victims of Hurricane Katrina." The bill does permit lawsuits for injuries that were caused "by willful, wanton, reckless, or criminal conduct."

Some conservatives expressed concern about the growing reach of the reconstruction effort. "Everyone is attaching their own agenda to this," said William A. Niskanen, a former Reagan White House economic adviser now at the libertarian Cato Institute. "It's being seen as a test of the conservative agenda, from enterprise zones to school vouchers and the repeal of labor laws, and these ideas deserve careful thought," he said. "But [the massive spending] could also create expectations that we can do this every time a disaster hits."

Some of the proposals are unlikely to win quick passage. But congressional tax-writing committees hope to approve legislation within days to offer $5 billion in tax relief and other aid to residents of areas hit by the storm. The legislation would, among other things, let victims withdraw money from retirement accounts without penalty, give tax incentives to those who house evacuees and give companies incentives to hire displaced workers.

Republicans, meanwhile, say they will also press for a new round of energy concessions, including incentives to rebuild and expand offshore drilling and clear the way for new refineries that were dropped from a 500-page energy bill that passed last month.

House Energy and Commerce Chairman Joe Barton of Texas and Senate Environment and Public Works Chairman James Inhofe are working on bills that would encourage refineries to build new plants and expand existing ones by rolling back environmental rules and making it easier for refineries to navigate regulatory channels in Washington.

Republicans hope Hurricane Katrina prods Congress to approve a second energy bill this fall that includes several provisions that were dropped from the first bill. The National Petrochemical & Refineries Association would like lawmakers to reduce the depreciation period from 10 years to five years in order to stimulate investment. Some refineries are talking about reviving an effort to get liability protection for producing the fuel additive methyl tertiary butyl ether, or MTBE. Both were dropped from the earlier energy bill at the insistence of Democrats.

Bush Plans Speech; Death Toll Rises (LAT)

By Lianne Hart And Janet Hook

The Los Angeles Times, September 15, 2005

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BATON ROUGE, La. — As the death toll from Hurricane Katrina climbed to 710 on Wednesday, White House aides said President Bush's address to the nation tonight would call for reconstructing the Gulf Coast using conservative blueprints and private-sector initiatives.

In preparing for his speech to be delivered from New Orleans, the president consulted widely with Republican leaders and conservative thinkers.

With damage estimates as high as $200 billion, massive federal spending appears inevitable. Late Wednesday, the Senate passed a $3.5-billion measure that would provide emergency housing vouchers to more than 350,000 families. That is in addition to nearly $60 billion in emergency aid already authorized.

A day after Bush accepted blame for breakdowns in federal disaster efforts, Louisiana Gov. Kathleen Babineaux Blanco took "full responsibility" for her own mistakes. Blanco did not specify those errors in her televised speech from the statehouse in Baton Rouge. City and federal officials have questioned preparations made by state officials before Katrina struck.

"We must take a careful look at what went wrong and make sure it never happens again," Blanco said.

Earlier in the day, officials said that Blanco and Coast Guard Vice Adm. Thad W. Allen had repaired splintering relations over management of the body retrieval effort in New Orleans, where corpses have floated for days in floodwaters and accumulated in houses and evacuated buildings.

Louisiana officials said they had taken over a lapsed federal contract with a Houston mortuary firm. The arrangement would allow the private company's crews to continue collecting the bodies of flood victims scattered across southern Louisiana.

Blanco had lashed out at the Federal Emergency Management Agency on Tuesday, arguing that its failure to come to terms with Kenyon International Emergency Services Inc. had threatened the operation. Allen, the agency's new point man in the flood-swept Gulf Coast region, at first responded that the state, not FEMA, had full authority for the recovery of bodies.

The conflict centered on who would pay for Kenyon's contract. State officials insisted that FEMA had hired Kenyon and needed to guarantee that Louisiana would be compensated for future costs. FEMA replied that the decision was the state's to make.

After the two officials spoke by phone late Tuesday, Blanco and Allen said Wednesday that they were satisfied with the results. Neither of them provided details, but during her address, Blanco pointedly said that she had asked the federal government to cover all of the state's massive disaster expenses, "just as was done after 9/11."

State officials said that Kenyon had been rehired by Louisiana and that its team of 115 mortuary specialists would stay on through November at a cost of nearly $119,000 a day. State officials would not say if FEMA had agreed to defray any of those expenses.

"To date," Allen said during a news briefing in Baton Rouge, "we've had a well-running organization."

As he defended the pace of the body recovery operation, Allen acknowledged it had started off slowly because "access was made difficult by weather and lack of communication."

Dr. Louis Cataldie, Louisiana's medical incident commander for the disaster, agreed that "things are getting better." He added that "as long as there's one body in the water, we need to be doing a better job."

Officials expect that hundreds — if not thousands — more corpses are lying beneath the floodwaters still covering about 40% of the city.

Wednesday, the official death toll from the hurricane stood at 474 in Louisiana, 218 in Mississippi, 14 in Florida, and two each in Alabama and Georgia.

"This is going to be long, arduous process," Cataldie said. "And it's going to be even longer and more arduous to do the identifications. That's going to take months, maybe years."

The discovery of 34 bodies left in St. Rita's Nursing Home and scores more in several New Orleans hospitals has provoked a widening state inquiry. Louisiana Atty. Gen. Charles C. Foti Jr. filed involuntary manslaughter charges against a couple who owns the St. Bernard Parish nursing home for allegedly failing to evacuate patients..

Foti also said he would look into the circumstances surrounding 45 bodies found inside Memorial Medical Center and an unknown number of corpses left at Charity Hospital. CNN reported that as many as 50 bodies were still at Charity on Wednesday, waiting processing by mortuary teams.

Officials from both hospitals have said that many of the bodies left behind were critically ill patients who died during chaotic evacuations after the facilities were isolated by high water. Both hospitals evacuated hundreds of other patients by boat and by helicopter.

Harry Anderson, a spokesman for Dallas-based Tenet Healthcare Corp., which operated Memorial, said Wednesday that between 10 and 12 of the patients who died were "very sick or frail." Ten more were patients who had died at the hospital before the storm struck.

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The remaining corpses, Anderson said, were those of patients from a long-term care facility operated by another firm, LifeCare Holdings Inc., on the hospital's seventh floor. LifeCare officials did not return several calls. But Anderson said many of those patients relied on electric respirators and could not be saved despite efforts by nurses to manually ventilate their breathing.

New Orleans Mayor C. Ray Nagin said on CNN's "Larry King Live" on Wednesday that he hoped to allow as many as 180,000 New Orleans residents to return to their homes "in a week or two" in city neighborhoods that were not devastated by Katrina's floods. More than 80% of the city's 500,000 residents fled before the hurricane struck, and about 50,000 were evacuated in Katrina's immediate aftermath.

A federal emergency bill passed Wednesday night in the Senate would provide emergency housing vouchers averaging $600 a month for as many as six months for more than 350,000 displaced Gulf Coast families.

The measure offered by Sen. Paul S. Sarbanes (D-Md.) was attached on a voice vote to an unrelated spending bill. The Senate is slated to pass the overall bill today, but a final version needs to be worked out with the House, which passed its own version in June.

Congress also moved Wednesday to reinforce the health and welfare safety net for Katrina's evacuees, promising speedy action on a new bill that would significantly expand Medicaid, unemployment and welfare benefits. The proposal has the support of Senate leaders and could go to the floor as early as today. It would cost an estimated $5 billion to $7 billion through 2006.

While a Senate panel launched the first formal inquiry into the government's much-criticized response to the hurricane, the Senate Republican majority defeated a bid by Democrats to establish an independent commission to investigate the disaster effort.

In a strict party-line vote, Republicans blocked a bid by Sen. Hillary Rodham Clinton (D-N.Y.) to establish the independent panel. After the vote, Clinton said she called for the independent probe because "it is simply not appropriate for government to investigate itself."

At the White House, officials readied for Bush' national address from New Orleans. Aides billed the speech as Bush's chance to recover from lost political momentum and wed conservative ideals to the pressing need to redesign the broken city. The televised speech, to be delivered at 6 p.m. PDT, is expected to last about 30 minutes.

"The president wants people to think big," White House spokesman Scott McClellan said. "Most importantly, he believes that it should be driven locally, in terms of the vision and the planning, with the full support of the federal government."

Advisors also want the speech to hew to conservative notions of small government and ample business opportunities. Aides have broached ideas with Republican leaders in Congress and analysts at conservative think tanks.

Ideas they discussed include a strong role for the private sector and charitable organizations along with a package of housing and education vouchers and tax breaks to encourage business activity in the region.

"Bush has a very well defined vision of what government should do and how it should do it," said Michael Franc, a vice president of the Heritage Foundation, a conservative research organization consulted by the White House. "This is a moment to teach or explain to the American people how his values apply to this catastrophic situation."

Bush's Vow: To Rebuild Better (USAT)

By Judy Keen

USA Today, September 15, 2005

WASHINGTON — President Bush will tell the nation tonight that he's committed to rebuilding New Orleans and the Gulf Coast, while eliminating the poverty and joblessness that were exposed in the wake of Hurricane Katrina.

Dan Bartlett, Bush's counselor, said the president will reflect on “the horrific suffering” in the region and “outline the beginnings of a vision of the future.”

In a prime-time speech from New Orleans, Bush also will pledge more federal help providing housing, health care and education to evacuees. “We want to see a region that is better and stronger than before,” said Bush spokesman Scott McClellan.

Two Bush advisers with direct knowledge of the speech said the president is considering the appointment of a high-profile “czar” to oversee recovery efforts. But one said the White House is checking whether that would be allowed under federal law. The aides insisted on anonymity to avoid pre-empting Bush's remarks at 9:02 p.m. ET. The speech is expected to be about 30 minutes long and will be aired by the major networks.

Twelve Senate Republicans wrote to Bush Wednesday asking him to create a White House office to coordinate reconstruction.

The speech is part of a White House plan to show the president's concern and commitment to the devastated region after criticism about initial slow responses by Bush and federal agencies.

Bush's statement Tuesday that he takes responsibility for those problems was part of the plan. On Friday, he will speak at a service for storm victims at Washington's National Cathedral.

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A USA TODAY/CNN/Gallup Poll released this week found that six in 10 African-Americans said the fact that most victims were poor and black was a factor in delays in the federal response.

"The president is very cognizant of both the realities and the perceptions," Bartlett said. The fact that so many "African-American people think there was a sense of discrimination or negligence is very troubling." But, he said, "Those feelings aren't instantly created and won't be instantly healed."

Bush To Request More Aid Funding (Washington Post)

By Jonathan Weisman And Jim Vandehei

Washington Post, September 15, 2005

President Bush will call tonight for an unprecedented federal commitment to rebuild New Orleans and other areas obliterated by Hurricane Katrina, putting the United States on pace to spend more in the next year on the storm's aftermath than it has over three years on the Iraq war, according to White House and congressional officials.

With the federal tab for Katrina already nearly quadruple the cost of the country's previous most expensive natural disaster cleanup, Bush plans to offer federal assistance to help flood victims find jobs, get housing and health care, and attend school, according to White House aides.

In a speech from the flood zone, Bush will commit the federal government to what many predict will become the largest reconstruction effort ever on U.S. soil.

The president will call on Washington to resist spending money unwisely, but some in his own party are already starting to recoil at a price tag expected to exceed $200 billion -- about the cost of the Iraq war and reconstruction efforts. As emergency expenditures soar -- with new commitments as high as $2 billion a day -- some budget analysts and conservative groups are warning that the Katrina spending has combined with earlier fiscal decisions in ways that will wreak havoc on the government's finances for years to come.

Bush and Republican congressional leaders, by contrast, are calculating that the U.S. economy can safely absorb a sharp spike in spending and budget deficits, and that the only way to regain public confidence after the stumbling early response to the disaster is to spend whatever it takes to rebuild the region and help Katrina's victims get back on their feet.

"I think absolutely it's going to convert the political landscape in Washington," Sen. Olympia J. Snowe (R-Maine) said of Katrina's impact. "We do have a social safety net in this country. Those aren't just words. Government has a role to play in people's lives."

Hours before Bush speaks, the Louisiana congressional delegation will present its tab for reconstruction and rebuilding efforts, which could put pressure on Bush to spend money in areas not currently on his agenda. In addition, aides said yesterday that nearly 2.5 million have registered with the Federal Emergency Management Agency for help and that Education Department officials estimate the number of displaced students to be approaching 400,000. Officials from several departments raced yesterday to complete proposals that Bush can talk about in his speech and in the days to follow.

The Education Department, for instance, is readying plans to waive No Child Left Behind requirements for some states; to provide cash assistance to school districts absorbing students; and to finance new schoolbooks, demolition and reconstruction of school buildings, and temporary trailers and new teachers for schools bursting with Katrina evacuees, Republican aides said.

The way in which the administration plans to spend money -- and not just the amount -- is raising caution flags. In a letter he plans to send to Bush today, Rep. Mike Turner (R-Ohio) said the president should scrap the administration's plan to deploy as many as 300,000 mobile homes to temporarily house people. Turner said the victims would be better served by market-rate and subsidized housing already in place in other regions of the country. A dozen Republicans also lobbied Bush to appoint a disaster czar to oversee the reconstruction and relief efforts in the South, an idea the president has, thus far, resisted.

Administration officials concede that the hurricane and its aftermath could push the budget deficit back above $400 billion next year, or about 3 percent of the country's gross domestic product, just as the tide of federal red ink that rolled over Washington during Bush's first term had begun to recede.

Since Katrina struck, Congress has already spent $62.3 billion, dwarfing the inflation-adjusted $17.8 billion that Congress spent on hurricanes Andrew, Iniki and Omar, which struck in 1992, and the $15.2 billion emergency appropriation for the Northridge, Calif., earthquake of 1994. The entire Persian Gulf War of 1991 cost less than $83 billion in today's dollars.

The libertarian Cato Institute warned yesterday of a looming "budget disaster." In meetings with GOP congressional leaders and White House aides, some Republican lawmakers have expressed alarm about the growing price tag and concern that vast sums could be wasted without proper oversight.

White House officials have told Congress that the $51.8 billion approved late last week will fund the disaster relief effort only through the first week of October, and senior congressional appropriations aides have told the White House that they need to see the next request by next week. Republicans say the next bill could exceed $50 billion.

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The scale of the disaster has not even come into focus, largely because many agencies have not been allowed into the disaster zone to assess the damage, according to congressional appropriations aides, who are trying to examine the costs to the government, agency by agency.

Nearly 1,000 drinking-water and sewer systems -- 391 in Mississippi, 606 in Louisiana and one in Alabama -- remain shut down. Repairing and rebuilding such systems could cost between $3 billion and $10 billion, much of it on the tab of the Environmental Protection Agency.

Before Katrina struck, the federal highway emergency relief fund already faced a $120 million backlog of road repairs. With so many crumbled bridges and washed-out highways after the storm, the fund's deficit will now be in the billions, appropriations aides said.

The Air Force will seek as much as $4 billion to repair damaged Gulf-state facilities, a House Appropriations Committee aide said. An additional $2 billion to $4 billion will be needed to finance the mobilization of the National Guard, the evacuation of military personnel and military-family support programs. Damage to national parks, forests and wildlife refuges is estimated to approach $300 million.

Once the administration makes its request, congressional officials expect a cascade of demands from lawmakers. Farm-state members have signaled that they will seek substantial relief for midwestern grain farmers, whose shipments of grain down the Mississippi River were disrupted by Katrina. Even before the storm, parched farms in Illinois, Missouri and parts of Iowa had prompted farm-state lawmakers to seek relief.

Lawmakers from the Northeast have said they will push for $800 million or more in assistance to offset the soaring price of home heating oil. And state governments from Washington and South Dakota to West Virginia and South Carolina are expected to seek federal dollars to offset the cost of housing Katrina survivors.

The White House has declared 41 states and the District of Columbia either major disaster areas or in states of emergency, allowing federal aid to flow to any state that takes in an evacuee.

Against calls to trim spending elsewhere to accommodate the emergency, House Majority Leader Tom DeLay (R-Tex.) did little to close those floodgates when he suggested this week that the Republican-controlled Congress had already trimmed all the fat from federal spending. "My answer to those that want to offset the spending is 'Sure, bring me the offsets,' " he said. "I will be glad to do it, but no one is able to come up with any yet."

Against this tide, conservative think tanks are taking up DeLay's challenge. But their suggested spending cuts may only underscore Congress's flagging resolve.

To reach $62 billion in savings, Cato Institute analysts Chris Edwards and Stephen Slivinski have proposed cutting NASA in half, slashing energy research and subsidies just as Congress is gearing up to increase them in the face of soaring gasoline prices, cutting the U.S. Army Corps of Engineers' budget by $4.6 billion after its levees failed to protect New Orleans, and eliminating $4.2 billion in homeland security grants while lawmakers are debating the nation's lack of preparedness.

Help Is On The Way, But It's Unclear Where (USAT)

By Mimi Hall, Kevin Johnson And Mike Linn

USA Today, September 15, 2005

More than 100 tractor-trailers packed with water, ice and other critical hurricane-relief supplies have been sitting at an Air Force base in Montgomery, Ala., for nearly a week while the federal government pays $600 a day for each truck.

The idle trucks, called up by the Federal Emergency Management Agency to deliver supplies, are just the latest example of the waste, bureaucratic errors and miscommunication that continue to foul Hurricane Katrina relief efforts.

“When somebody gets paid 600 bucks to sit and not burn fuel, that's a pretty good profit margin,” said Alabama Food Services President Buck Hamilton, who is being paid by FEMA for about six truckloads of ice.

His shipments waited at similar truck staging areas in Mississippi. “Would you like to get paid $600 a day to sit and do nothing?” he said. “It's hard to criticize.”

Rep. Mike Pence, R-Ind., doesn't think so. He said Wednesday that Congress should create a special inspector general for hurricane relief, similar to the position overseeing spending on Iraq reconstruction. “It is imperative that those most in need receive assistance and that no resources are wasted,” Pence said.

FEMA spokesman Butch Kinerney said the agency needs to have plenty of trucks at the ready. Many of those that have been waiting at Maxwell-Gunter Air Force Base are now headed for Virginia, North Carolina and South Carolina to “pre-position” for Hurricane Ophelia. “We stage vehicles and equipment and supplies all over the country really any time a disaster is pending,” he said.

Other FEMA problems:

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·A convoy of 100 trucks full of supplies spent a week traveling to Meridian, Miss., and Selma, Ala., before being sent to Memphis last Saturday night.

The city's emergency chief, Claude Talford, was roused around midnight to find out that the trucks were lining up on one of his city's main streets. He didn't know they were coming, and neither did state officials. “They just showed up on our doorstep,” he said.

·In St. Louis, officials were asked by FEMA last week to prepare for up to 2,500 evacuees. After a small city was constructed in an airport hangar, FEMA called and said no evacuees were coming. The city has spent “hundreds of thousands of dollars,” said Gary Christmann, chief of the city's emergency management department. “We considered that this was an outstanding drill.”

·In Oregon, FEMA requests for assistance changed virtually daily. Holly Armstrong, spokeswoman for Gov. Ted Kulongoski, said FEMA called on Sept. 2 to request shelter in the Portland area for 1,000 evacuees. Officials scrambled, and Nike offered to donate clothes.

Two days later, FEMA said to hold off. On Sept. 7, FEMA said 500 evacuees would show up Sept. 10. Then FEMA told the state no one was coming.

The governor is now reviewing his own state's readiness. Among the considerations, Armstrong said: “How much do you really want to count on FEMA?”

Katrina Erodes Support In U.S. For Iraq War (WSJ)

By John Harwood

The Wall Street Journal, September 15, 2005

WASHINGTON -- Hurricane Katrina has accelerated the erosion in public support for the Iraq war as President Bush's core of supporters dwindles and economic pessimism turns Americans' attention inward.

A new Wall Street Journal/NBC News Poll1 shows that cutting spending on Iraq is Americans' top choice for financing the recovery from Katrina. Shaken by high gas prices and bracing for further jolts, Americans have turned negative about Mr. Bush across the board -- on handling the economy, foreign policy, and even the war on terrorism.

The president's overall approval has fallen to a record-low for Mr. Bush of 40%, reflecting a shrunken core of base supporters. That promises to have repercussions for his domestic agenda on issues like Social Security, taxes and immigration, and leaves Mr. Bush with a steeper challenge on his most significant second-term priority: using American power and resources to transform Iraq and the broader Middle East.

A plurality of Americans has favored reducing troop levels in Iraq for most of the year. Now, 55% favor bringing soldiers home, while just 36% back Mr. Bush's position that current levels should be maintained to help secure peace and stability.

"His standing to prosecute that case has been made more difficult," says Republican pollster Bill McInturff, who helps conduct the Journal/NBC Poll. Adds Democratic counterpart Peter Hart: It's "going to be very hard to just move straight forward" on Iraq.

To be sure, the survey contains some bright spots for Mr. Bush. Federal appeals court Judge John Roberts, his nominee to succeed the late William Rehnquist as chief justice of the Supreme Court, has drawn respectable support and little intense opposition. Some 38% say they support Judge Roberts for that post, while just 20% oppose him and 41% don't know enough to say.

And while Senate Democrats press Judge Roberts in Judiciary Committee hearings to state his views on key issues, 57% of Americans say the nominee shouldn't be required to spell them out since those issues may come before the court. Democrats enjoy firmer support in public opinion for their demand for more documents about Judge Roberts's previous government service; 41% say the White House should make additional documents public, outpacing the 31% who say Democrats already have enough information.

Yet the poll's findings about Americans' priorities show the work facing Mr. Bush, who is scheduled to deliver a nationally televised address tonight on the recovery from Katrina. Some 60% say rebuilding the Gulf Coast should be a higher national priority than establishing democracy in Iraq; 5% say Iraq, while 34% say the two are equally important.

The White House says the administration can handle both at once, but by 51%-37% Americans say the Iraq war wasn't worth its human and financial costs.

The proportion of Republicans disapproving of Mr. Bush's job performance has doubled to 15% from 7% in January, with pronounced defections among moderates within Mr. Bush's party.

Katrina has contributed to that decline in support. By a 58%-38% margin, Americans say they are dissatisfied with the Bush administration's response to the catastrophe. Reflecting the absence of the traditional rally behind the commander in chief during national emergencies, just 48% approve of the president's handling of the matter; 80% approved of how he handled the

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aftermath of the Sept. 11, 2001, terrorist attacks, while 64% backed the actions of his father, President George H.W. Bush, following Hurricane Andrew in 1992. The survey of 1,013 adults, conducted Sept. 9-12, has a margin for error of 3.1 percentage points.

In particular, Katrina appears to have shaken public regard on two attributes that sustained Mr. Bush through earlier political challenges. The public now splits evenly, 41%-41%, on assessments of Mr. Bush's ability to handle a crisis; at the outset of his second term in January, he received positive marks for crisis-management ability by a 56%-28% margin. A bare 43%-40% plurality rates him positively for having "strong leadership qualities," down from 52%-30% in January.

The crisis along the Gulf Coast may have also damaged the long-term effort by Mr. Bush's strategists to expand Republican support among members of minority groups. Fully 70% of African-Americans say the Bush administration would have reacted to Katrina with greater urgency had the affected areas been mostly white suburbs rather than mostly black inner-city neighborhoods. Nearly seven in 10 whites reject that assertion.

Hispanics are divided evenly on the question. But the president's overall rating among Hispanics, who were split on his job performance in January, is now negative by a two-to-one margin.

Mr. Bush's signature domestic priority, overhauling the Social Security system with private investment accounts, was already in political trouble before the hurricane. Assessments of the administration's handling of Social Security -- 28% say they are satisfied while 60% aren't -- are more negative than assessments of how it handled the response to Katrina.

Beyond Social Security, the domestic political landscape has been buffeted in a way that complicates challenges facing the White House and Republicans in the 2006 midterm elections. Following the gas-price spikes immediately after the hurricane, six in 10 Americans now expect pump prices to continue rising.

In fact, the public now ranks gas prices as the country's top economic issue. Just 6% assign top importance to federal taxes, the issue that Mr. Bush and Republicans planned to elevate next year through a yet-unspecified overhaul of the tax system.

Of particular concern to lawmakers facing voters next year, Americans have turned pessimistic on the outlook for the economy. Some 49% expect the economy to get worse over the next 12 months, triple the 16% who expect it to improve. In January, those numbers were essentially reversed.

At the same time, Katrina may have left the public feeling slightly more nervous about security at home. Fully 75% of Americans now say the U.S. isn't adequately prepared for a nuclear, biological or chemical attack, up from 66% who expressed that concern in 2002.

The net effect may be increased pressure on members of the Republican majority to strike an independent course on a range of issues, resisting appeals for party discipline that have been effective for most of Mr. Bush's presidency. Those pressures will be greatest in the Northeast and Midwest, where Mr. Bush's approval rating stands at 32% and 36%, respectively.

"All these [results] suggest unstable days ahead in the Republican caucus," says Mr. McInturff, whose firm advises many Republican lawmakers.

Support For Bush Continues To Drop, Poll Shows (NYT)

By Todd S. Purdum And Marjorie Connelly

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 - A summer of bad news from Iraq, high gasoline prices, economic unease and now the devastation of Hurricane Katrina has left President Bush with overall approval ratings for his job performance and handling of Iraq, foreign policy and the economy at or near the lowest levels of his presidency, according to the latest New York Times/CBS News Poll.

For the first time, just half of Americans approve of Mr. Bush's handling of terrorism, which has been his most consistent strength since he scored 90 percent approval ratings in the aftermath of the Sept. 11 attacks. More than 6 in 10 now say that he does not share their priorities for the country, 10 percentage points worse than on the eve of his re-election last fall, while barely half say he has strong qualities of leadership, about the same as said so at the early low-ebb of his presidency in the summer of 2001.

More Americans now distrust the federal government to do the right thing than at any time since the attacks on the World Trade Center and the Pentagon. And the poll revealed a sharp racial divide. While half of all respondents disapprove of the way Mr. Bush has handled the aftermath of Katrina, nearly three quarters of blacks do. (Mr. Bush won only about 10 percent of the black vote last year.)

The hurricane, alone, does not appear to have taken any significant toll on Mr. Bush's overall job approval rating, which remains stuck virtually where it has been since early summer. But the findings do suggest that the slow federal response to the

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hurricane has increased public doubts about the Bush administration's effectiveness. Fifty-six percent of Americans said they were now less confident about the government's ability to respond to a terrorist attack or natural disaster.

Taken together, the numbers suggest that a public that has long seen Mr. Bush as a determined leader, whether it agreed with him or not, has growing doubts about his capacity to deal with pressing problems. More than 6 in 10 said they were uneasy about his ability to make the right decisions about the war in Iraq, and half expressed similar unease about his ability to deal with the problems of the storm's victims.

Mr. Bush's support remained strong among Republicans, conservatives, evangelical Christians and those who said they voted for him last fall. Nearly twice as many people - 63 percent - said the country was "pretty seriously" on the wrong track as those who said it was headed in the right direction, equal to the worst level of Mr. Bush's presidency during a spate of bad news last year.

Over all, 41 percent of respondents approved of Mr. Bush's performance in office, while 53 percent disapproved. Those figures are in line with other national polls conducted in the last week, roughly equal to the worst ratings Mr. Bush has ever received, comparable to Ronald Reagan and Bill Clinton's worst ratings, but well above the worst ever posted by the president's father, Jimmy Carter and Richard M. Nixon.

The Times/CBS News Poll was conducted Friday through Tuesday with 1,167 adults, including 877 whites and 211 blacks. The margin of sampling error is plus or minus three percentage points for all respondents and whites, and seven percentage points for blacks. The survey was mostly completed before Mr. Bush said on Tuesday that he accepted responsibility for flaws in the federal response to the hurricane.

Dan Bartlett, Mr. Bush's counselor and chief communications strategist, said the White House was not especially surprised by the poll's findings.

"Obviously, as we have said, with a sharp increase in the cost of gasoline and anxiety about the war, that is obviously reflected in the polls, and then we have a sustained amount of heavy coverage of what has been described as a major failure of government at all levels, it shouldn't surprise people that that would be reflected in the poll numbers on the president, and particularly on terrorism," Mr. Bartlett said.

"The president is going to continue to focus on his responsibilities as not only president but commander in chief, when it comes to making sure we do everything we can to help the people hit by Katrina, as well as continue to conduct the war on terrorism in an aggressive way," he added.

While the poll found that 70 percent said the Federal Emergency Management Agency was too slow in responding to the aftermath of the hurricane, 53 percent said the agency was now doing all it could reasonably be expected to do.

The same did not hold true for the Bush administration itself; 68 percent said it had not yet developed a clear plan for finding housing and jobs for people left homeless by the hurricane. Mr. Bush is to address the nation from New Orleans on Thursday night to elaborate on the government's planned response to the disaster.

Before the storm hit, polls had shown that rising gasoline prices were becoming increasingly worrisome to a majority of Americans, and the hurricane has only worsened that concern. Almost half the public said the economy was deteriorating, the worst that number has been in four years. Fifty-six percent expect the economy to decline as a result of the hurricane, and nearly three-quarters anticipate taxes will rise for the same reason.

The poll also pointed up starkly different attitudes toward Mr. Bush and the government among blacks and whites that were not so much caused by the storm as laid bare by it. While two-thirds of all Americans said Mr. Bush cares at least somewhat about the people left homeless by the hurricane, fewer than one-third of blacks agreed. Two-thirds of blacks said race was a major factor in the government's slow response to the flooding in New Orleans, while an almost identical number of whites said it was not.

Storm victims had to wait for a week for help to arrive, said Allison McKinney, 33, a housewife and former teacher in Fort Bragg, N.C. "I don't think that would happen to any other city, because New Orleans is a poor city." Ms. McKinney, who is black, grew up in New Orleans and was among those who agreed to be interviewed after participating in the poll. "It took Katrina for people to realize that the city had a major impact on the rest of the country. I think it's sad that you would wait for the total devastation of a city to come to that realization."

But Juanita Harrington, 78, a retired Verizon employee and Bush supporter in Larkspur, Colo., said critics of the president "focus everything as if he were a magician and could wave a magic wand and change things."

She added: "The people that were there locally didn't take care of matters there, either. I'm talking about the mayor of New Orleans, I'm talking about the governor, I'm talking about that crazy woman senator from Louisiana - she was an idiot. He may not have succeeded totally, but nobody else did, either."

The poll suggested the cumulative effects of months of bad news from the continuing insurgency in Iraq. Exactly 50 percent of Americans approve of Mr. Bush's handling of terrorism, for example, and while that figure is the single worst ranking

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since the question was first asked four years ago, it is only slightly worse than it was early this summer. But that is 11 points worse than it was in February, just after the first successful round of elections in Iraq.

The data also suggest that the residual support that has steadily buoyed Mr. Bush in the four years since the Sept. 11 attacks may have reached its limit, for now. Fifty-three percent of Americans still say he has strong qualities of leadership, down 9 percentage points since he was re-elected and essentially equal to his all-time previous low in the summer of 2001, when his presidency seemed becalmed before the attacks.

At the same time, 45 percent of Americans now say Mr. Bush does not have strong leadership qualities, six percentage points more than last fall, and the highest percentage since the Times/CBS poll first asked the question during Mr. Bush's initial campaign in 1999.

Those general impressions now extend across the board in reviews of Mr. Bush's handling of particular issues. Thirty-eight percent of Americans approve of his handling of foreign policy; 35 percent of his handling of the economy; and 36 percent of his handling of the situation in Iraq. All those are at or roughly equal to his all-time lows - and below his all-time highs by double digits.

Some of the pessimism seemed clearly fueled by higher gasoline prices. Nearly two-thirds of those polled said they had cut back on household spending as a result of higher prices, and 8 in 10 said the administration had no plan for keeping prices down, though more than 6 in 10 said the price of gas is something a president can do a lot about.

A majority of the public is willing to pay more in taxes to assist hurricane victims with job training and housing; about 4 in 10 said they would be willing to pay as much as $200 a year more to help out with the storm's aftermath.

Poll: Rebuilding New Orleans High Priority (AJC/AP)

By The Associated Press

The Atlanta Journal-Constitution, September 15, 2005

WASHINGTON — Americans say rebuilding New Orleans is more important to them than cutting taxes or changing Social Security, a poll found. Cutting taxes and changing Social Security were both priorities of the Bush administration before the storm.

Almost two-thirds, 63 percent, said rebuilding the city devastated by Hurricane Katrina is more important to them than changing Social Security, and almost three-fourths, 73 percent, said rebuilding the flooded city is more important to them than cutting taxes, according to a CBS-New York Times poll released Wednesday.

A large majority of Americans, 73 percent, said they think their taxes will increase as a result of Katrina. More than half of those polled said they were willing to pay more taxes to help with Katrina recovery, job training and housing for victims.

Three-fourths said they are not willing to pay more for gasoline to help with the recovery, however.

The poll found whites and blacks have sharply different views of government efforts to help victims recover from the hurricane. While six in 10 whites say the government is doing all it can to help with the recovery, only a third of blacks felt that way.

Seven in 10 blacks polled said they have little or no confidence that the Bush administration will help hurricane victims find housing and jobs.

Two-thirds of all those polled said they doubt the Bush administration has a clear plan to find homes and jobs for victims.

The poll of 1,167 adults was conducted Sept. 9-11 and had a margin of sampling error of plus or minus 3 percentage points.

What Responsibility? (WP)

By Richard Cohen

The Washington Post, September 15, 2005

Following the botched Bay of Pigs invasion of Cuba in 1961, John F. Kennedy took full responsibility for the debacle. "I am the responsible officer," the president said. Similarly, in 1983, Ronald Reagan said "I accept responsibility" for the catastrophic terrorist attack on the Marine barracks in Beirut. Now, as if in the grand tradition of presidents affirming that the buck stops where Truman said it did -- the Oval Office -- George Bush has taken responsibility for the shortcomings in the federal effort regarding Hurricane Katrina. If he means what he said, then Katrina washed up a whole new George Bush.

But a little skepticism is in order here. After all, the George Bush we have come to know sorely lacks a rearview mirror. Not only is he disinclined to look back, but when he does so he sees nothing but triumph and astounding successes. Even his debacles -- and the war in Iraq for some reason comes to mind -- get transformed from what they once were to what he would like them to be. We are getting murdered in Baghdad not on account of weapons of mass destruction but to bring democracy to the Middle East. Who would not want to die for that?

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For Bush there is only today and tomorrow. Yesterday is someone else's responsibility -- maybe still Clinton's. Even in his White House statement saying "I take responsibility," he also said that "Katrina exposed serious problems in our response capability." Funny, I thought the terrorist attacks of Sept. 11, 2001, did that. It was then that we learned about inadequate communications systems, among other things. It was then that our minds were focused on the incomprehensible and that people -- not to mention governments -- started thinking about the evacuation of whole cities. Bush makes a lousy Boy Scout. Prepared he wasn't.

If Bush were the CEO of a major corporation, his board would fire him. It would want to know what the hell he's been doing for the past four years and what he's done with the untold billions given to the Department of Homeland Security. After seeing how the feds stood by while sick people died in New Orleans hospitals, the board might want to fire itself -- but that is not practical. The board in this case is the American people.

Actually, I find myself feeling a bit sorry for Bush. The man must be perplexed about why he is being held accountable for a natural disaster and not for one wholly of his making. The war in Iraq, after all, is entirely his doing -- everything from its inception to its execution, which have both been inexcusable examples of incompetence. The very basis for the war -- Iraq's alleged weapons of mass destruction -- turns out to have been nonexistent. And that was followed by a military campaign that was insufficient to meet the challenge. Outside the Bush administration itself, it is virtually impossible to find anyone in Washington who believes enough troops were sent to do the task.

Why should we believe that Bush will take names and boot buttocks about Katrina when he has not done so over Iraq? On the contrary, the principal architects of the inadequate military plan remain in the Pentagon -- Rumsfeld and his crew. Others have gone on to plushy appointments -- the World Bank for Paul Wolfowitz, for instance, or the entire State Department for Condi Rice. Still others have been given the once-hallowed Presidential Medal of Freedom, now as tainted as a pardon from Bill Clinton.

If anyone at the top has been held responsible for an intelligence debacle without precedent, then his name is unknown to me -- or, for that matter, to the president. Only the hapless Michael Brown failed to understand Bush. If he had hung on to his FEMA job, in another month or two Bush would surely have honored him on the White House lawn. ("Brownie, you did a heck of a job.")

Anyone in Congress who thinks this administration is capable of really investigating itself has learned nothing from the past four years. Bush will not acknowledge mistakes because, probably, he doesn't think he makes them. For him, good intentions are everything. But people died in the wake of Katrina because Washington could not get helicopters or trucks to hospitals. Bush says he is willing to take responsibility for that. Maybe so. But it's not responsibility that matters, it's accountability -- a kick instead of a medal. From what we know about Bush, it is history -- not the president -- that will have to deliver that.

Hopeful Words: On Taking Responsibility (NYT)

The New York Times, September 15, 2005

When President Bush addresses the country from New Orleans tonight, he will have the opportunity to build on the good beginning he made earlier this week, when he took responsibility for the federal government's failures in responding to Hurricane Katrina. In an administration that has hated to acknowledge that it ever does anything wrong, it was refreshing to hear Mr. Bush freely admit that Katrina demonstrated that there is a question about whether the nation is really prepared to respond to a terrorist attack or another natural disaster. It is only by squarely acknowledging past failure that the country will be able to do better in the future.

The wording of the president's statement on Tuesday was important, and at least a bit worrisome. Mr. Bush accepted responsibility "to the extent that the federal government didn't fully do its job right," which may suggest that he thinks the jury is still out on what the federal government's role should have been. Obviously, it will take time to completely analyze all of the federal system failures, and no one imagines that the city and state were perfectly prepared for the disaster. But we certainly hope that the president was not taking responsibility for a government that he doesn't really think was responsible.

Localities have plenty of duties that are uniquely their own, and if a building catches on fire or a sewer pipe breaks, no one blames the president if the response isn't adequate. But no one community, or even any one state, can protect against hurricanes or vast flooding, any more than a city or state can protect itself against international terrorism.

It would be wonderful if the president would take the opportunity tonight to endorse an independent inquiry into the Katrina disaster, similar to the 9/11 commission's work. It would also be heartening if Mr. Bush announced that from now on, the federal government, which pays the bill for flood control projects, would make sure that the most important priorities were taken care of first - even if it required the kind of commission used to arbitrate Pentagon base closings to make sure that Congressional pork didn't trump necessity. It would be amazing if Mr. Bush really showed his sense of responsibility for this disaster by apologizing for stuffing the Federal Emergency Management Agency with inexperienced political appointees.

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None of these possibilities are very likely - particularly the last one. But it's critical that the president at least acknowledge, clearly, that the federal government is where the responsibility for disaster management rests. Real accountability begins by stressing that the buck stops in Washington.

Hurricane Bush (WSJ)

The Wall Street Journal, September 15, 2005

President Bush addresses the nation on Hurricane Katrina tonight, and after keeping too quiet for too long there's a lot for him to say. We hope he tells Americans that such a demonstrable failure at all levels of government is a rare opportunity to change that government, not another excuse to expand it willy-nilly.

Two weeks after the hurricane, we have a clearer picture of both the storm damage and the bureaucratic mistakes. The former is happily lower in human terms than the 10,000 deaths predicted by New Orleans Mayor Ray Nagin, as of Tuesday much lower at 423 (659 throughout the region). The Gulf Coast has begun to rebuild, and even many residents of the Big Easy are returning to clean up the mess.

The political trauma that has followed Katrina is almost entirely a result of the slow, haphazard government response in the first days after the storm hit. Mayor Nagin had an evacuation plan sitting in a drawer but never got the buses in place to implement it. He then blamed everyone else. Louisiana Governor Kathleen Blanco froze amid the crisis and failed to deploy the National Guard properly to protect those stranded at the Convention Center and Superdome. She is still blaming everyone else.

FEMA was overwhelmed by the magnitude of the storm, and former director Michael Brown showed he was clueless about events that he could see merely by turning on his TV set. Notably, he is the only public official so far to lose his job, just as Mr. Bush is the only elected official who has so far accepted any public "responsibility." Alas, tonight the President isn't likely to assail the Department of Homeland Security that he helped to create, but he at least ought to admit that federal and state disaster duties and communication need to be better sorted out. He could also praise the Pentagon's relief success.

Only in Washington, however, could so much government failure be used to justify expanding the size and scope of government. Some emergency money is essential. But Congress has already appropriated some $62 billion, with essentially zero accountability, to be spent by such models of compassion as the Department of Housing and Urban Development. Another $100 billion may soon follow. Ted Kennedy has proposed that Congress create another Tennessee Valley Authority for the Gulf region. Give them one more week to panic, and Republicans on Capitol Hill will be demanding another Great Society.

Mr. Bush has a chance tonight to turn all of this around. Instead of channeling more cash through the same failed bureaucracies, he should declare the entire Gulf Coast region an enterprise zone, with low tax rates for new investments and waivers for any regulatory obstacles to rebuilding. He can also learn from California's 1994 earthquake experience -- which former Governor Pete Wilson described on this page on Tuesday -- and demand emergency powers to waive rules and allow bonus payments for contractors that finish projects ahead of time.

Above all, he can reframe the entire debate on how to help the poor of New Orleans. The people who couldn't flee the storm were not ignored by "small government conservatism," as if that actually still exists outside of Hong Kong. The city's poor have been smothered by decades of corrupt, paternal government -- local, state and federal.

While Chicago and other cities leveled their public housing projects, the Big Easy has continued to run nasty places like the Lafitte homes. The city's crime rate is 10 times the national average, even as New York and other big cities have seen their rates fall. Its public schools are as bad as any, and its city government more corrupt than most. The last thing the poor need is to be returned to such tender, loving care.

This would include killing the idea, floated by the White House, of buying 300,000 mobile homes for the displaced. Governor Blanco wants to build communities of thousands of trailers for a year or more near Baton Rouge and Shreveport. Such shelter makes sense in some parts of the Gulf Coast where there literally is no housing stock left. But it is an act of insanity -- defined as repeating the same mistake over and over -- to recreate trailer-park versions of Lafitte on military bases, isolating the poor once again and returning them to dependence on the government. Far better to give them vouchers to find housing of their own, especially where there is unused rental space.

The same goes for the city's 77,000 displaced public school students. Their parents should be given vouchers for the equivalent of their tuition, with the option of using it at any school where they can find an opening, public or private. Charter schools should be allowed to expand immediately, and the Bush Administration could seek an emergency federal waiver of state charter laws to let them accept New Orleans kids now swamping other public schools.

There are other good ideas, but the key point is for Mr. Bush and Republicans to get back on the political and intellectual offensive. With media help, Democrats and the left have used Katrina to portray a systemic collapse of "conservative" government. It was certainly a collapse of government, but more accurately of bureaucracy and the welfare state. If Mr. Bush uses his bully pulpit to explain this, Americans will understand and follow.

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Three Louisville Women Charged In Katrina Relief Scam (LCJ)

By Alex Davis, The Courier-Journal

Louisville Courier Journal, September 15, 2005

Three Louisville women have been charged with felony fraud, accused of trying to cheat the American Red Cross in Jeffersonville, Ind., out of hundreds of dollars in Hurricane Katrina aid.

Red Cross officials said yesterday that they believe that the case is part of a pattern of deceit in Clark County, Ind., that may include at least seven other individuals and families.

Some people who received Red Cross debit cards in Jeffersonville over the last two weeks have used them to shop at Victoria's Secret, Circuit City and other stores that are "not typical" destinations for disaster victims, said Phyllis Wilkins, executive director of the agency's Clark County chapter.

"It's broken my heart to see that happen," she said of the suspected fraud. "It's definitely affected our staff and our caseworkers."

Wilkins said the three women came to her office Tuesday but did not receive money. According to a Jeffersonville Police Department report, the women said they were from Louisiana and asked for clothes and money. They later admitted that the stories weren't true, the report states.

Latoyia Taylor, 19, of the 400 block of South 12th Street, was charged with felony fraud. Charges of fraud and false informing were filed against Norma Jean Calloway-Tillman, 34, of the 1700 block of Bolin Avenue, and Denise Huguley, 24, of the 900 block of Cedar Street. All three were taken to the Clark County Jail.

In Louisville, police have arrested one person in a similar case involving a Red Cross debit card worth $360. Derick Clayton, 25, of the 3400 block of Bardstown Road, was charged Tuesday with fraudulent use of a credit card, a felony.

Officer Dwight Mitchell of Louisville Metro Police said he was not aware of other fraud cases linked to the hurricane.

But Jan Walther, spokeswoman for the Louisville Area chapter of the Red Cross, said one other suspect is being pursued. She said many more people have walked away from Red Cross relief sites after they failed to produce valid identification.

National fraud statistics for the Red Cross hurricane relief effort were not available yesterday.

But Tara Lynch, a spokeswoman at the agency's Washington headquarters, said there could be an increase in fraud because of the sheer magnitude of the disaster. She said the problem is taken "very, very seriously."

The value of Red Cross debit cards is typically linked to the size of a family, and it ranges from about $300 to $1,500. Acceptable purchases include food and clothing, Wilkins said, and, in some cases, toys for children or meals at a restaurant.

Wilkins said her staff became suspicious after receiving tips that some card users were actually local residents with few or no links to areas damaged by Katrina.

In one such case, she said, a pregnant woman was staying with her boyfriend at a hotel in Sellersburg while four of her children were living at a hotel in Louisville. She said the woman's debit card was cut off after a tip from a relative.

Records compiled by the Red Cross in Jeffersonville show that one debit card was used Saturday to buy $1,065 worth of items at Best Buy. Another $177 in purchases were made Friday at Victoria's Secret, and a third card was used for $233 in meals over a four-day period at Ernesto's Mexican Grill, Hooters and other restaurants in Southern Indiana.

Wilkins said most of the suspects told aid workers they had lost all forms of identification and needed help. She said the chapter takes a digital photo of applicants without identification and tries to verify their addresses.

But she said that the Clark County chapter doesn't have access to a national database of disaster victims maintained by the Red Cross and that the agency's policy is to "always err on the side of compassion" when in doubt.

Several measures are now being taken to combat thefts in Clark County.

Police began stationing a uniformed officer at the chapter's disaster resource center yesterday, and Capt. Bruce Wilkerson of the Jeffersonville Police Department said names of applicants were being entered into a national crime database run by the FBI.

Wilkins said she's working with regional and national Red Cross officials and law-enforcement agencies on criminal charges for other suspects who haven't been arrested. She said her chapter also is sharing names and other information with the Louisville chapter, which has its own staff and operates separately.

Walther said the Louisville chapter has access to the national Red Cross database and that the agency will seek restitution for thefts.

She said the number of suspicious hurricane claims -- two as of yesterday -- was low compared with the more than 2,300 people receiving aid.

Senators Seek Post-Katrina "Marshall Plan" (REU-Y2)

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By Joanne Kenen

Reuters, September 15, 2005

Senate Republican leaders on Wednesday urged President George W. Bush to establish a "Marshall Plan" for the recovery after Hurricane Katrina, similar to the massive post-World War II effort to rebuild western Europe.

In a letter to Bush, Majority Leader Bill Frist and the rest of the Senate Republican leadership called for a "Marshall Plan" to establish a "coordinated and comprehensive plan to help the Gulf Coast region."

They did not spell out precisely what such a plan would entail, but lawmakers are beginning to consider ways of assembling a public-private partnership to redevelop the shattered region in the coming years.

Senators from both parties will visit the Gulf Coast on Friday for a first-hand inspection of the devastation.

The Republican-controlled Senate also rejected a proposal by Sen. Hillary Clinton of New York and other Democrats to set up an independent panel modeled on the 9/11 Commission to investigate the bungled evacuation and emergency response to Katrina.

Separately, bipartisan group of senators proposed an emergency package of health care benefits for storm victims. The bill would ease eligibility requirements for the Medicaid health care program for the poor and help those with private insurance maintain their coverage.

The Senate may take up the bill, which also provides an additional 13 weeks of unemployment benefits for storm victims, on Thursday.

INVESTIGATING STORM RESPONSE

Republicans have proposed a joint House-Senate special panel but Democrats are demanding an independent investigation.

Despite the bickering over how to investigate the disaster, Frist and Senate Democratic leader Harry Reid of Nevada announced they would lead a 14-member delegation to Louisiana, Mississippi and Alabama on Friday. Both Louisiana's senators, one Democrat and one Republican, would take part.

In addition to the "Marshall plan" letter, lawmakers from both parties have put forth various proposals for oversight of the tens of billions of dollars of federal funds pouring into the emergency efforts.

Senate Democrats have proposed creation of a redevelopment agency modeled on the Tennessee Valley Authority, an independent government corporation created during the 1930s to manage a huge flood control and electrical generation program.

Republican Sens. Pete Domenici of New Mexico and Jeff Sessions of Alabama urged Bush to name a central coordinator to oversee storm recovery by federal agencies, an effort that they said would take years and cost huge amounts of money.

"My concern is that without a primary coordinator, we face the likely prospect of dozens of well-meaning federal agencies chaotically tripping over each other as the recovery process moves forward," Domenici said.

Illinois Democratic Sen. Barack Obama and Oklahoma Republican Sen. Tom Coburn -- representing opposite ends of the political spectrum -- called on Congress to establish a "chief financial officer" to oversee the $62 billion in relief funds the Federal Emergency Management Agency is doling out.

"This is to assure the American people that there's not going to be any shenanigans," Coburn said.

Meanwhile, the Senate Homeland Security and Governmental Affairs Committee held its first open hearing on the government's response to the devastating storm with testimony from former New Orleans mayor Marc Morial, who now heads the National Urban League.

Morial suggested the government set up a compensation fund for Katrina victims, similar to the one established after the September 11, 2001 attacks. He also said Gulf coast residents must have a role in all aspects of rebuilding.

The House of Representatives Government Reform Committee plans to hold its first hearing into the Katrina response on Thursday, and the full House hopes to pass a bill giving short-term tax breaks to storm victims and help the recovery effort.

Congress Won't Sacrifice Pork In Federal Spending For Katrina (UNIONL)

By Robert D. Novak

Manchester Union Leader, September 15, 2005

Sen. Tom Coburn, playing his familiar role of skunk at the Sunday school picnic, is arguing that massive federal spending in the wake of Hurricane Katrina must entail some sacrifice. By that he meant the pork so dear to his colleagues. That has evoked an icy response, not only from Congress but from the White House as well.

Coburn, a freshman Republican from Oklahoma, telephoned Joshua Bolten, director of the Office of Management and Budget (OMB), to ask support for $15.3 billion in offsets based on the administration's own proposed terminations and spending reductions. Bolten politely informed the senator that the administration's hands were full dealing with Katrina's aftermath.

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Coburn told me he did not blame Bolten but his superiors. The superior he meant was George W. Bush. On the Senate floor last week as the emergency Katrina bill was passed, Coburn declared: "I am disappointed in our President for not bringing forward with this bill recommended spending cuts that would easily be achieved in the discretionary budget of this country to pay for the disaster assistance." Citing calls for "sacrifice" by Americans, he declared that "it is no sacrifice on the part of Congress to steal $51.2 billion from our grandchildren."

When Bolten appeared before House Republicans the evening of Sept. 7, members of the conservative Republican Study Committee went to the microphone with complaints similar to Coburn's. Bolten responded, much as he had to Coburn, that this was not the time to try offsets when a 24-hour turnaround on the aid bill was necessary.

However, Coburn's problem is less Bolten or even Bush and more his Senate colleagues. While the House at least has tried to stay within the administration's bounds, the Senate threatens to run wild with new earmarks and additional spending. Senators are tapping money from the Defense budget on grounds all such funds will be restored.

Bolten promises to revisit offsets, and he can count on Coburn pressing him to keep that promise. Coburn's performance confirms dread of him as a senator by establishment Republicans, both in Oklahoma and the nation's capital. A plain-spoken obstetrician from Muskogee, Okla., Dr. Coburn won no popularity contests with a principled assault on pork during his House tenure (1995-2000) that was ended by self-imposed term limits. He entered the Senate determined to keep a low profile, but that is difficult considering the Washington spending carnival under Republican rule.

When Congress was called back before Labor Day to pass a $10 billion first installment, Coburn on Sept. 1 declared Congress should "make budget sacrifices of its own if we expect the American people to do the same." On Sept. 6, Sen. John McCain, a longtime anti-pork crusader, joined Coburn's effort. On Sept. 8, as the big aid bill reached the Senate floor, Coburn said, "members of Congress should, at least temporarily, deny themselves a few of the comforts of political office." But there has been no word of support from Republican leaders or the administration.

The $15.3 billion in OMB proposed cuts is just the beginning of the Coburn "sacrifices." He would cut into $27 billion of spending earmarked by individual senators and House members in this year alone. As chairman of the Senate subcommittee on federal financial management, he has found $41.5 billion in government overpayments because of poor accounting practices, $1.2 billion in an "over-priced" renovation of United Nations headquarters, $18 billion in General Services Administration (GSA) middle-man fees and $46 million in cost overruns at the Securities and Exchange Commission (SEC).

Coburn's call for "sacrifice" means something entirely different on the left end of the ideological spectrum. In the House, one liberal Democrat after another has taken the floor to demand higher taxes in upper income brackets. A few successful Americans, not the elected politicians, would be doing the sacrificing.

Tom Coburn contends any government worker could find room to cut back spending in his own department before the federal leviathan demands more funds from any individual taxpayers. Ultimately, it is up to the government to sacrifice. As Coburn asserts, "It is inexcusable for the White House and Congress to not even make the effort to find any offsets."

New Architecture As Gulf Prepares To Rebuild, Tensions Mount Over Control (WSJ)

By Jackie Calmes, Ann Carrns And Jeff D. Opdyke

The Wall Street Journal, September 15, 2005

With as much as $200 billion beginning to gush out of Washington for the Hurricane Katrina disaster zone, the fight already has begun over who will control the spending and make critical decisions about the future of New Orleans and the Gulf Coast.

The battle is shaping up around three key questions: Will state, local or federal officials have the final say about the shape of redevelopment? Will existing government bodies spend the reconstruction bonanza, or will some new agency be created for the job? And finally, will New Orleans be rebuilt as it was, or will some low-lying areas -- often poor, working class or predominantly African-American -- be sacrificed to improve flood protection?

In Washington, officials from both parties are concluding the reconstruction job is so immense that it demands an entirely new government entity, perhaps similar to the Depression-era Tennessee Valley Authority. Top presidential adviser Karl Rove and other administration officials have begun soliciting names for the new organization's czar. Former General Electric Co. chief Jack Welch has been mentioned as a possible candidate, as have former Secretary of State Colin Powell and former New York Mayor Rudy Giuliani, though those two have detractors within the White House.

But the prospect of a big federal role is arousing suspicion and anger along the Gulf Coast, an area with long memories of a painful post-Civil War reconstruction and powerful suspicions of intrusions on states' rights and local autonomy. "I don't want anyone outside of New Orleans telling us how to plan this city," said New Orleans Mayor Ray Nagin during a City Council meeting in Baton Rouge, 80 miles from the group's normal chambers.

Hovering over the battle is a central, perhaps intractable problem. Long before Katrina arrived, New Orleans was a broken city, burdened by poverty, crime, racial divisions, a lethargic economy, substandard schools and public services, and a clearly

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inadequate flood-control system. Nearly every faction fighting for influence agrees that restoring the prehurricane status quo to New Orleans is untenable.

"We must rebuild our communities better than ever before," said Louisiana Gov. Kathleen Blanco in an address to the State Legislature last night. "Any good architect will tell you that you don't restore a structure without correcting its flaws."

Yet many of the lowest-lying areas most vulnerable to flooding were home to thousands of poor and mostly African-American residents. Some environmentalists and flood-control experts argue that those areas would best be used as marshy buffers against future floods. But that would mean preventing some of New Orleans's poorest residents from ever returning to their neighborhoods.

"New Orleans of the last 40 to 50 years was a mansion built atop matches," says Oliver Thomas, the city council president. "The foundation does not work."

Before Katrina, nearly 15% of the people in the New Orleans metropolitan area lived below the poverty line, as did more than 25% of the children, according to the Census Bureau. Only seven other U.S. cities have higher child-poverty rates. Among the nation's 70 biggest cities, New Orleans' median household income ranked 64th.

Katrina, Mr. Thomas says, highlighted "the hurricanes of poverty and illiteracy...that are here every day."

The city's current flood-control system was designed to handle up to a Category 3 hurricane. Katrina, with winds of up to 145 miles an hour, was a Category 4. Officials with the U.S. Army Corps of Engineers, which builds most levees and other flood-control systems, say that from a scientific and engineering standpoint, a levee system can be built to safeguard the city from even the most powerful hurricanes.

A 2002 preliminary study by the Army Corps' New Orleans district of whether the hurricane-protection system around New Orleans should be upgraded outlined several options. They included fortifying and raising levees -- some to as much as nearly 30 feet from the current 13 feet to 18 feet -- and adding locks to certain canals that some experts believe may have played a part in the flooding of the city. Al Naomi, a long-time engineer with the corps' New Orleans district, estimated the cost of one of the proposals would be $2.5 billion to $3 billion.

But with the city now virtually empty, some influential local business leaders and environmentalists say it might be better to let nature win in some areas. That would almost certainly mean sacrificing some poorer neighborhoods as part of a new flood-control system.

Sherwood Gagliano, president of Coastal Environments Inc. and one of Louisiana's foremost experts on coastal restoration issues, says some low-lying areas of New Orleans shouldn't be heavily populated again. "You don't want to put a lot of people back in those holes," says Dr. Gagliano. Some sections of the city are several feet below sea level.

One idea, he says, would be to transform some of the low-lying residential areas in the city into water "retention areas" of about 5,000 acres each that would gather water during heavy rainfalls or major storms, providing relief to the city's pumps.

Transforming poor, black neighborhoods into retaining ponds wouldn't be easy politically, Dr. Gagliano acknowledges. "We want to come up with a plan that will allow people to be in the region and stay linked to their heritage, but we want their families to be safe," he says.

The possibility that a rebuilt New Orleans will be less black is a sensitive issue in a city that is more than 75% African-American. Mayor Nagin seemed aware of that this week when he said he planned to appoint a blue-ribbon reconstruction commission whose members would be picked according to race -- but not in proportion to the city. He said the 16-member panel would include eight whites and eight African-Americans. The mayor also told the City Council this week that he rejected "the thoughts and ideas" that some, including at least one member of his administration, have voiced publicly about using the storm as a chance to reshape the city's demographics and have fewer poor people.

On Monday night, nearly 30 black business leaders from New Orleans and Baton Rouge met at a church in the capital city to discuss ways to make sure that all New Orleans citizens are included in conversations about how to rebuild the city.

"What makes this city so great is the gumbo mix of people," says Alden J. McDonald Jr., chief executive of Liberty Bank & Trust Co., one of the nation's largest black-controlled banks, and chairman of the New Orleans Chamber of Commerce. "Everyone has to be at the table."

In Washington, Congress is moving ahead on plans to set up a large new federal reconstruction authority. As models, lawmakers point to the TVA, created in 1933 to develop a woefully backward area of exhausted farmland and timberland, and the Appalachian Regional Commission, created during Lyndon Johnson's administration at the behest of governors of the impoverished region. Senate Budget Committee Chairman Judd Gregg, a New Hampshire Republican, proposed a powerful new government body, based within the White House but with its headquarters on the Gulf Coast, that would be led by an "individual with strong leadership skills" for three years.

Senate Appropriations Committee Chairman Thad Cochran, a Republican from hard-hit Mississippi, is weighing an alliance with liberal Sen. Ted Kennedy of Massachusetts, who last week proposed a Gulf Coast Regional Redevelopment Authority with

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at least $150 billion to invest in rebuilding the region's infrastructure. Mr. Kennedy sees a permanent entity, but the government's dominance would give way to public-private partnerships after a couple of years, says his spokeswoman, Stephanie Cutter.

One source of tension: President Bush's closest ally in the region is Mississippi Gov. Haley Barbour, the former head of the national Republican Party. Gov. Barbour "is going to have a big say in this," an administration official says. Neither he nor Sen. Cochran is likely to allow Mississippi to be shortchanged while New Orleans, a city where Democrats dominate, receives much of the federal largesse.

Other flashpoints are the first wave of aid contracts, which some local officials complain were awarded to out-of-state companies without consulting them. "The federal government is not including us or communicating with us," says New Orleans Councilwoman Renee Gill Pratt. "We were a city long before the U.S. was a country, and we don't need someone from Minnesota coming down here to tell us where to put our city."

Mr. Bush, who will address the nation tonight, so far is agreeing. On his trip to the Gulf Coast on Monday, Mr. Bush was emphatic that the federal government will defer to the locals in rebuilding. "I think the best policy is one in which the federal government doesn't come down and say, here's what your city will look like," he said in New Orleans.

Historically, federally funded flood-control projects are proposed and funded through a painfully slow system, often taking years or decades of study and planning. Congressional authorization for a major expansion of the New Orleans levees occurred in 1965, the year that Hurricane Betsy swamped the city. But funding for some major components of the work wasn't actually appropriated until 20 years later.

Local levee districts have a big say. The Army Corps of Engineers takes the lead in designing and building major levee projects, then turns them over to the local districts for maintenance.

The Orleans Levee District is particularly powerful. Six members of its eight-seat board are appointed by the governor, and historically the posts have been used to reward political supporters.

The board also operates the chronically money-losing New Orleans Lakefront Airport on the shore of Lake Pontchartrain, two marinas, including the South Shore Harbor Marina with 400 boat slips, and it leases property for a casino on the lake. The district employs more than 200 people, including its own police and fire departments.

Three months before Hurricane Katrina flooded New Orleans, the board gathered on the shores of Lake Pontchartrain to celebrate the dedication of a Mardi Gras Fountain, featuring electronically timed spurts and multicolored lights. The fountain and an adjoining plaza were built at a cost of more than $2 million, partly using tax revenue that the board collects for levee maintenance, according to financial statements filed with the state of Louisiana.

James Huey, a local businessman who serves as the board's president, couldn't be reached yesterday. One former board member who supported the restoration, retired Marine Maj. Gen. James Livingston, who resigned and moved to South Carolina more than a year ago, said he wasn't aware of the fountain project's final cost but the restoration was consistent with the district's responsibility to maintain its waterfront property, which is heavily used for recreation by the community. "It was something that needed to be fixed," he said. "It was a gesture to be a good neighbor. In retrospect, I don't have any issue with that decision being made."

One of Mayor Nagin's biggest concerns is that money to rebuild New Orleans is likely to flow through the state and levee boards. There has long been tension between the city and state. Mr. Nagin points to the tens of millions of dollars Louisiana received from Harrah's Entertainment Inc. when the Las Vegas gambling concern won the right to build a casino in downtown New Orleans in the 1990s. That money, he said, "built state buildings in Baton Rouge," instead of being pumped back into New Orleans. Moreover, while New Orleans contributes between one-quarter and one-third of the state's revenue, "the state uses that New Orleans money elsewhere."

The Gulf Coast faced similar tensions after a massive 1927 flood along the Mississippi River devastated about 25,000 square miles -- about a quarter of the area Katrina ravaged -- and left 350,000 homeless. According to historian John Barry's popular book "Rising Tide," a key to the recovery was President Calvin Coolidge's quick dispatch of his secretary of commerce, Herbert Hoover.

Mr. Hoover was given sweeping authority to coordinate all local, state, federal and private endeavors. His success helped elect him president in 1928.

Hoover relied heavily on the private sector to get the job done. "I suppose I could have called in the whole of the Army," he said later, according to Richard Norton Smith's biography, "An Uncommon Man." "But what was the use? All I had to do was to call in Main Street itself."

Contracts For Recovery Work Raise Controversy (USAT)

By Kevin McCoy

USA Today, September 15, 2005

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Two of the first companies that got emergency no-bid federal contracts for Hurricane Katrina recovery work have faced questions over past business practices, court and government records show.

A division of Fluor, a California firm awarded a housing contract worth up to $100 million, has paid millions of dollars to settle federal government lawsuits — including one that accused it of overbilling for 1989 hurricane cleanup work.

The Shaw Group, a Louisiana firm that won housing and engineering contracts worth up to $200 million, has disclosed that it is being investigated by the Securities and Exchange Commission. The firm is also a defendant in federal securities class-action cases.

The contracts were awarded by the U.S. Army Corps of Engineers and Federal Emergency Management Agency as part of a relief effort expected to top $100 billion. The awards, which so far include contracts to such national giants as Bechtel as well as smaller Louisiana and Mississippi firms, eventually are expected to constitute the largest rebuilding effort in U.S. history.

It is routine for government agencies to award non-competitive contracts for emergency work as part of an effort to speed recovery work. Federal Homeland Security officials announced this week that 30 investigators and auditors would go to the Gulf Coast to ensure that the emergency contracts are carried out properly.

At least one government watchdog group critical of the Hurricane Katrina contract-award process says the federal oversight effort should include tougher screening before emergency contracts are awarded, as well as afterward.

"This is an area where the federal government falls flat on its face," said Danielle Brian, executive director of the Project on Government Oversight, the watchdog group.

Federal court records show Fluor agreed to pay $3.2 million in 1997 to settle allegations that its FD Services division padded repair bills for cleaning up U.S. Navy bases in South Carolina after the 1989 strike of Hurricane Hugo. Fluor also agreed to pay $8.5 million in 2001 to settle allegations that it billed the government for work done for other clients, court records show.

Fluor spokeswoman Lisa Boyette said the company has "been working successfully for FEMA for eight years now on disaster work across the country." She referred questions about the most recent contract award to FEMA officials.

In an e-mail response, FEMA spokesman Michael Widomski said the agency checks whether firms being considered for emergency work have been barred from getting contracts. But he said FEMA had been unaware of the Hurricane Hugo settlement and other cases.

In its annual report filed in July, the Shaw Group disclosed that it was the subject of what the company termed an "informal inquiry" by the SEC. The firm said it was cooperating with investigators, who had not told the firm the reason for the inquiry or its scope. The SEC declined to comment.

Separately, federal securities class-action cases accuse the Shaw Group and its executives of defrauding investors with misleading statements about the company's finances and management.

The firm did not respond to phone messages seeking comment. But in its annual report, the firm said it believed all of its financial statements satisfied generally accepted accounting principles, "and that none of our press releases or public filings contained misrepresentations or omissions."

Moreover, in a Sept. 8 news release announcing its Hurricane Katrina award, the firm said it was also doing emergency contract work for the Army Corps of Engineers, U.S. Navy and other agencies.

Army Corps officials weigh companies' past performance in deciding new contracts, said spokeswoman Carol Sanders. Current investigations might also be noted, Sanders said. She could not say whether the agency had known about the SEC inquiry.

FEMA spokesman Widomski said his agency had been unaware of both the SEC matter and the securities class-action lawsuits involving the Shaw Group.

Brian complained that federal contract officers have little contact with prosecutors or agencies that might be investigating firms under consideration for awards.

"Right now, there isn't a place for the federal government to get a history of a company's business background," she said. "There should be one place where they can look."

Labor Fights To Preserve Davis-Bacon (HILL)

By Elana Schor

The Hill, September 15, 2005

Among the litany of regulations in line to be eased or suspended during the daunting rebuilding process on the Gulf Coast are several that have greatly alarmed labor unions, whose furious lobbying efforts are hitting a brick wall of conservative might.

Union officials are concerned that President Bush's Sept. 8 suspension of the Davis-Bacon Act, which requires federal contractors to pay construction workers a prevailing wage, was only the beginning. Further hurting the union cause is GOP

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lawmakers' support for broad bureaucratic relaxation in the Labor Department, a push rooted in the long-standing bad blood between unions and Republican think tanks.

"I think this is a mean-spirited attack on the labor movement. The right wing has never been able to touch us in the legislative arena on Davis-Bacon. They saw an opportunity and took it," said Don Kaniewski, political director for the Laborers' International Union of North America (LIUNA).

The presidents of LIUNA, the carpenters union and the engineers union wrote to Senate Majority Leader Bill Frist (R-Tenn.) and House Speaker Dennis Hastert (R-Ill.) yesterday decrying the Davis-Bacon suspension. LIUNA and the carpenters belong to the new labor federation Change to Win, formed by unions seceded from the AFL-CIO, while the engineers remain AFL-CIO members.

Despite the scrutiny heaped upon organized labor for its internal division, the AFL-CIO echoed LIUNA's concerns, singling out Grover Norquist's Americans for Tax Reform (ATR) as an instrumental force for undoing worker-rights laws.

"People in the think-tank world have a long history of opposing protection for unions," said AFL-CIO Legislative Director Bill Samuel, resulting in a GOP "leadership that is pretty determinedly anti-labor. We haven't gotten a single phone call from Republicans on the Hill asking what should we do for this crisis."

The AFL-CIO sent legislative recommendations to Sen. Michael Enzi (R-Wyo.), chairman of the Health, Education, Labor and Pensions Committee, for use as he spearheads the drafting of a broad Katrina bill that will include employee-benefits provisions. But when asked whether Davis-Bacon's wage floors would be taken into account, Enzi said no and that he had no position on the act.

Bush waived Davis-Bacon for storm-affected areas in Alabama, Mississippi and Louisiana as well as the two southernmost counties of Florida, one day after receiving a letter from Rep. Jeff Flake (R-Ariz.) and 34 other House Republicans urging him to do so. While hundreds of thousands of Gulf homes were destroyed, local reports estimated that Katrina leveled about 350 houses in South Florida.

Norquist, for his part, was far from cowed by the possibility of political counterattack by the AFL-CIO or Change to Win.

"Oh, gee, maybe they'll try to oppose the president the next time he runs for office," Norquist cracked. He added that the temporary Davis-Bacon suspension "certainly strengthens the case" for an eventual full repeal. "It will make it obvious to people what the dead-weight costs of Davis-Bacon will be."

On the heels of Davis-Bacon will come a likely easing of the Service Contract Act, mandating a prevailing wage for service workers on federal contracts. The purpose of abandoning wage floors, both labor and conservative sources agreed, is to increase efficiency and help companies rebuilding the Gulf Coast to save money. Where that money will go is another story.

Samuel wondered whether Congress should institute an oversight mechanism to ensure construction savings are passed from the private companies retained by the government and into federal coffers. "These no-bid contracts, are they somehow mandating lower profits?" he asked. Firms awarded lucrative reconstruction jobs include several with ties to the White House, and most have already reaped the benefits through rising stock prices.

The impact of labor deregulation will be felt politically as well as financially. One building-trades lobbyist, who asked to remain anonymous because his group's internal division means it can take no stance on the issue, pointed out that prevailing wages in the Gulf are so much lower than the national average that the suspension will barely move profits.

"Politically, it was a mistake. Practically, it will have no impact. It was a fight the administration didn't need to take on at this time," the lobbyist said.

However, he noted, the conservative voting record of construction union members as compared with the rest of the labor community means congressional Republicans could see swing votes slip away for the 2006 election. "Now the leaders of the building trades will be reporting to their members, 'you can't trust Republicans, because every time they have a chance they are going to weaken Davis-Bacon,'" he said.

Ryan Ellis, ATR's labor lobbyist, conceded that historically low paychecks for Gulf workers will result in less potential savings from Davis-Bacon elimination. He reinforced the widespread conservative contention that unions hoard workers' wages for use on dues payments and political giving to Democrats.

"Some of the money [from a prevailing wage] would go to workers, but a lot of it would be siphoned off by unions through dues money because they are no longer forced to hold taxpayers hostage through union contracts. The union guys would rather have taxpayer dollars go into their pockets," Ellis said. Despite the difference between Davis-Bacon's prevailing wage and the standard union wage, he said, they are "de facto" identical.

The Labor Department is examining still more areas in which existing rules can be suspended for Katrina relief to accelerate. Official word from Secretary Elaine Chao of new 401(k) hardship loans for Gulf workers and waiver relaxation at state work-force investment boards, in addition to other moves, could come as quickly as today.

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"We are looking at [more] ways to release red tape to deliver needed resources to workers who have been affected," said Labor Department spokesman David James.

Lessons From Galveston (USAT)

By Alcestis "Cooky" Oberg

USA Today, September 15, 2005

When the flood waters recede, New Orleans will certainly be rebuilt, if for no better reason than its strategic location: on the Mississippi River near the Gulf of Mexico. Many of our nation's vital industries and transportation resources are centralized there.

Some want to rebuild the city exactly where and how it was before Hurricane Katrina, with stronger, higher levees. Simply turn back the clock. And that's crazy.

We have a historic opportunity to rebuild New Orleans better, safer — to change its shape, the location of its neighborhoods, even its topography. It's all been done before.

The greatest natural disaster to hit the USA — and the only one comparable to Katrina in the scope of its destruction — was the 1900 storm that devastated Galveston, Texas. Between 6,000 and 12,000 people died and, afterward, 75 looters had to be shot dead before law and order could be restored. Every Galvestonian knew that some places never come back from a storm like that. Indianola, Texas' No. 1 port in the 1800s, was clobbered by two ferocious storms within 11 years that destroyed its buildings and silted its bay. Indianola was abandoned in 1886.

Goodbye isn't an option

But that wasn't going to happen to Galveston. Like New Orleans today, it was too dominant and vital an economic center to just die. Galvestonians burned their dead, cleared the debris and rebuilt with dazzling energy and boldness.

Work started on a mighty concrete seawall — 17 feet high, 16 to 20 feet thick at the base, nearly 10.5 miles long. The seawall had a concave shape, so waves would break upward and back onto themselves. Granite blocks along its base protected against erosion. Because Galveston sat on a sandbar-type barrier island of 5-7 feet elevation, leaders decided to raise the entire grade of the city to 12-15 feet elevation. This meant that every building and every house in a 500-block area was raised on jackscrews and filled in underneath with sand.

The project took eight years and was financed by bonds underwritten by Galveston itself, along with tax relief from the state. When another monster hurricane came, in 1915, the city was ready: Only eight people died, and damage was relatively limited. The 1900 storm was a historic opportunity to change Galveston's vulnerability to hurricanes forever with an engineering project so vast, it was breathtaking.

Such an opportunity now exists for New Orleans. Certainly, officials could change its bowl-like topography and raise the grade of its new neighborhoods much higher, as Galveston did. New Orleans might forbid rebuilding some neighborhoods at all and give them back to the marshes and swamps they came from. A new transportation system could carry residents to higher, safer suburbs farther away, reducing the population allowed to live in the city. Perhaps Baton Rouge and New Orleans could merge into one metropolitan entity, offering both pleasure to tourists and safety to residents.

The human calculus of rebuilding is less certain. Some businesses and people will just never come back. They'll put down roots wherever they are now — Texas, Georgia, Arkansas — and be lost to New Orleans forever. That happened to Galveston, too, which never completely came back to its former glory as a dominant port or as the "Wall Street of the Southwest." Some of that had to do with the 1900 storm; some didn't. Much of 20th century commerce went to Houston, partly for its huge, less vulnerable port miles inland, partly because new industries — oil and gas refineries, international banks, medical and space centers — needed to build massive facilities and sprawling neighborhoods on the vast prairies of the mainland, not on a small, vulnerable island.

Nonetheless, Galveston thrived and adapted after the 1900 storm. The city recaptured its tourist industry with new seawall-protected hotels, and its cotton-shipping business remained robust for decades. It even became a tame prototype of Las Vegas from Prohibition to 1957, with glittery nightclubs where discreet and illegal drinking, gambling and prostitution flourished until they were shut down.

Some of New Orleans' future direction can be detected in Galveston's patterns; some can't. The things we all love about New Orleans — the French Quarter, the Garden District, the magnificent downtown hotels, the great music, culture and food — will undoubtedly come back better than ever. Other commerce is less predictable. The existing energy and transportation assets might stay near New Orleans in the short term but might disperse and relocate in future decades. We don't know what 21st century industries and opportunities might come along, too, or whether New Orleans can offer them the resources they need.

What can't be predicted

We can't be hubristic about rebuilding New Orleans. While some hurricane challenges, such as storm surge and wind damage, can be met with costly, mega-engineering projects and extremely stiff building codes, others cannot.

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The gut punch to Galveston was thrown by Hurricane Carla in 1961. Though the seawall held firm to protect against storm surges, unpredictable tornadoes spun out of the storm, hopped right over the seawall and devastated some neighborhoods — all broadcast by the new technology of television to horrified Americans. Carla's punch was more psychological than physical. Although only seven people died and damages totaled $15 million, Galveston lost its sense of safety and invulnerability. It went into a decades-long economic slump from which it has only recently emerged.

New Orleans has had its Big One, the hideous twin to Galveston's 1900 storm in scope and destruction. But before we rebuild it, we should ask whether rebuilding for another Katrina is enough. Perhaps there's a Carla or something worse lurking that we should prepare for, too.

Alcestis "Cooky" Oberg lives in Houston and is a member of USA TODAY's board of contributors.

Chertoff Delayed Federal Response, Memo Shows (KRT)

By Jonathan S. Landay, Alison Young And Shannon McCaffrey

Knight Ridder, September 15, 2005

WASHINGTON - The federal official with the power to mobilize a massive federal response to Hurricane Katrina was Homeland Security Secretary Michael Chertoff, not the former FEMA chief who was relieved of his duties and resigned earlier this week, federal documents reviewed by Knight Ridder show.

Even before the storm struck the Gulf Coast, Chertoff could have ordered federal agencies into action without any request from state or local officials. Federal Emergency Management Agency chief Michael Brown had only limited authority to do so until about 36 hours after the storm hit, when Chertoff designated him as the "principal federal official" in charge of the storm.

As thousands of hurricane victims went without food, water and shelter in the days after Katrina's early morning Aug. 29 landfall, critics assailed Brown for being responsible for delays that might have cost hundreds of lives.

But Chertoff - not Brown - was in charge of managing the national response to a catastrophic disaster, according to the National Response Plan, the federal government's blueprint for how agencies will handle major natural disasters or terrorist incidents. An order issued by President Bush in 2003 also assigned that responsibility to the homeland security director.

But according to a memo obtained by Knight Ridder, Chertoff didn't shift that power to Brown until late afternoon or evening on Aug. 30, about 36 hours after Katrina hit Louisiana and Mississippi. That same memo suggests that Chertoff may have been confused about his lead role in disaster response and that of his department.

"As you know, the President has established the `White House Task Force on Hurricane Katrina Response.' He will meet with us tomorrow to launch this effort. The Department of Homeland Security, along with other Departments, will be part of the task force and will assist the Administration with its response to Hurricane Katrina," Chertoff said in the memo to the secretaries of defense, health and human services and other key federal agencies.

On the day that Chertoff wrote the memo, Bush was in San Diego presiding over a ceremony marking the 60th anniversary of the end of World War II.

Chertoff's Aug. 30 memo for the first time declared Katrina an "Incident of National Significance," a key designation that triggers swift federal coordination. The following afternoon, Bush met with his Cabinet, then appeared before TV cameras in the White House Rose Garden to announce the government's planned action.

That same day, Aug. 31, the Department of Defense, whose troops and equipment are crucial in such large disasters, activated its Task Force Katrina. But active-duty troops didn't begin to arrive in large numbers along the Gulf Coast until Saturday.

White House and homeland security officials wouldn't explain why Chertoff waited some 36 hours to declare Katrina an incident of national significance and why he didn't immediately begin to direct the federal response from the moment on Aug. 27 when the National Hurricane Center predicted that Katrina would strike the Gulf Coast with catastrophic force in 48 hours. Nor would they explain why Bush felt the need to appoint a separate task force.

Chertoff's hesitation and Bush's creation of a task force both appear to contradict the National Response Plan and previous presidential directives that specify what the secretary of homeland security is assigned to do without further presidential orders. The goal of the National Response Plan is to provide a streamlined framework for swiftly delivering federal assistance when a disaster - caused by terrorists or Mother Nature - is too big for local officials to handle.

Dana Perino, a White House spokeswoman, referred most inquiries about the memo and Chertoff's actions to the Department of Homeland Security.

"There will be an after-action report" on the government's response to Hurricane Katrina, Perino said. She added that "Chertoff had the authority to invoke the Incident of National Significance, and he did it on Tuesday."

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Perino said the creation of the White House task force didn't add another bureaucratic layer or delay the response to the devastating hurricane. "Absolutely not," she said. "I think it helped move things along." When asked whether the delay in issuing the Incident of National Significance was to allow Bush time to return to Washington, Perino replied: "Not that I'm aware of."

Russ Knocke, a spokesman for the Department of Homeland Security, didn't dispute that the National Response Plan put Chertoff in charge in federal response to a catastrophe. But he disputed that the bureaucracy got in the way of launching the federal response.

"There was a tremendous sense of urgency," Knocke said. "We were mobilizing the greatest response to a disaster in the nation's history."

Knocke noted that members of the Coast Guard were already in New Orleans performing rescues and FEMA personnel and supplies had been deployed to the region.

The Department of Homeland Security has refused repeated requests to provide details about Chertoff's schedule and said it couldn't say specifically when the department requested assistance from the military. Knocke said a military liaison was working with FEMA, but said he didn't know his or her name or rank. FEMA officials said they wouldn't provide information about the liaison.

Knocke said members of almost every federal agency had already been meeting as part of the department's Interagency Incident Management Group, which convened for the first time on the Friday before the hurricane struck. So it would be a mistake, he said, to interpret the memo as meaning that Tuesday, Aug. 30 was the first time that members of the federal government coordinated.

The Chertoff memo indicates that the response to Katrina wasn't left to disaster professionals, but was run out of the White House, said George Haddow, a former deputy chief of staff at FEMA during the Clinton administration and the co-author of an emergency management textbook.

"It shows that the president is running the disaster, the White House is running it as opposed to Brown or Chertoff," Haddow said. Brown "is a convenient fall guy. He's not the problem really. The problem is a system that was marginalized."

A former FEMA director under President Reagan expressed shock by the inaction that Chertoff's memo suggested. It showed that Chertoff "does not have a full appreciation for what the country is faced with - nor does anyone who waits that long," said Gen. Julius Becton Jr., who was FEMA director from 1985-1989.

"Anytime you have a delay in taking action, there's a potential for losing lives," Becton told Knight Ridder. "I have no idea how many lives we're talking about. ... I don't understand why, except that they were inefficient."

Chertoff's Aug. 30 memo came on the heels of a memo from Brown, written several hours after Katrina made landfall, showing that the FEMA director was waiting for Chertoff's permission to get help from others within the massive department. In that memo, first obtained by the Associated Press last week, Brown requested Chertoff's "assistance to make available DHS employees willing to deploy as soon as possible." It asked for another 1,000 homeland security workers within two days and 2,000 within a week.

The four-paragraph memo ended with Brown thanking Chertoff "for your consideration in helping us meet our responsibilities in this near catastrophic event."

According to the National Response Plan, which was unveiled in January by Chertoff's predecessor, Tom Ridge, the secretary of homeland security is supposed to declare an Incident of National Significance when a catastrophic event occurs.

"Standard procedures regarding requests for assistance may be expedited or, under extreme circumstances, suspended in the immediate aftermath of an event of catastrophic magnitude," according to the plan, which evolved from earlier plans and lessons learned after the Sept. 11, 2001, terrorist attacks. "Notification and full coordination with the States will occur, but the coordination process must not delay or impede the rapid deployment and use of critical resources."

Should Chertoff have declared Katrina an Incident of National Significance sooner - even before the storm struck? Did his delay slow the quick delivery of the massive federal response that was needed? Would it have made a difference?

"You raise good questions," said Frank J. Cilluffo, the director of George Washington University's Homeland Security Planning Institute. It's too early to tell, he said, whether unfamiliarity with or glitches in the new National Response Plan were factors in the poor early response to Katrina.

"Clearly this is the first test. It certainly did not pass with flying colors," Cilluffo said of the National Response Plan.

Mike Byrne, a former senior homeland security official under Ridge who worked on the plan, said he doesn't think the new National Response Plan caused the confusion that plagued the early response to Katrina.

Something else went wrong, he suspects. The new National Response Plan isn't all that different from the previous plan, called the Federal Response Plan.

"Our history of responding to major disasters has been one where we've done it well," Byrne said. "We need to figure out why this one didn't go as well as the others did. It's shocking to me."

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To read the National Response Plan, go to: http://www.dhs.gov/interweb/assetlibrary/NRP_FullText.pdf

Ex-FEMA Chief Tells Of Frustration And Chaos (NYT)

By David D. Kirkpatrick And Scott Shane

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 - Hours after Hurricane Katrina passed New Orleans on Aug. 29, as the scale of the catastrophe became clear, Michael D. Brown recalls, he placed frantic calls to his boss, Michael Chertoff, the secretary of homeland security, and to the office of the White House chief of staff, Andrew H. Card Jr.

Mr. Brown, then director of the Federal Emergency Management Agency, said he told the officials in Washington that the Louisiana governor, Kathleen Babineaux Blanco, and her staff were proving incapable of organizing a coherent state effort and that his field officers in the city were reporting an "out of control" situation.

"I am having a horrible time," Mr. Brown said he told Mr. Chertoff and a White House official - either Mr. Card or his deputy, Joe Hagin - in a status report that evening. "I can't get a unified command established."

By the time of that call, he added, "I was beginning to realize things were going to hell in a handbasket" in Louisiana. A day later, Mr. Brown said, he asked the White House to take over the response effort.

He said he felt the subsequent appointment of Lt. Gen. Russel L. Honoré of the Army as the Pentagon's commander of active-duty forces began to turn the situation around.

In his first extensive interview since resigning as FEMA director on Monday under intense criticism, Mr. Brown declined to blame President Bush or the White House for his removal or for the flawed response.

"I truly believed the White House was not at fault here," he said.

He focused much of his criticism on Governor Blanco, contrasting what he described as her confused response with far more agile mobilizations in Mississippi and Alabama, as well as in Florida during last year's hurricanes.

But Mr. Brown's account, in which he described making "a blur of calls" all week to Mr. Chertoff, Mr. Card and Mr. Hagin, suggested that Mr. Bush, or at least his top aides, were informed early and repeatedly by the top federal official at the scene that state and local authorities were overwhelmed and that the overall response was going badly.

A senior administration official said Wednesday night that White House officials recalled the conversations with Mr. Brown but did not believe they had the urgency or desperation he described in the interview.

"There's a general recollection of him saying, 'They're going to need more help,' " said the official, who insisted on anonymity because of the delicacy of internal White House discussions.

Mr. Brown's version of events raises questions about whether the White House and Mr. Chertoff acted aggressively enough in the response. New Orleans convulsed in looting and violence after the hurricane, and troops did not arrive in force to restore order until five days later.

The account also suggests that responsibility for the failure may go well beyond Mr. Brown, who has been widely pilloried as an inexperienced manager who previously oversaw horse show judges.

Mr. Brown was removed by Mr. Chertoff last week from directing the relief effort. A 50-year-old lawyer and Republican activist who joined FEMA as general counsel in 2001, Mr. Brown said he had been hobbled by limitations on the power of the agency to command resources.

With only 2,600 employees nationwide, he said, FEMA must rely on state workers, the National Guard, private contractors and other federal agencies to supply manpower and equipment.

He said his biggest mistake was in waiting until the end of the day on Aug. 30 to ask the White House explicitly to take over the response from FEMA and state officials.

Of his resignation, Mr. Brown said: "I said I was leaving because I don't want to be a distraction. I want to focus on what happened here and the issues that this raises."

Governor Blanco said Wednesday that she took responsibility for failures and missteps in the immediate response to the hurricane and pledged a united effort to rebuild areas ravaged by the storm, adding, "at the state level, we must take a careful look at what went wrong and make sure it never happens again." A spokesman for Ms. Blanco denied Mr. Brown's description of disarray in Louisiana's emergency response operation. "That is just totally inaccurate," said Bob Mann, the governor's communications director. "Everything that Mr. Brown needed in terms of resources or information from the state, he had those available to him."

In Washington, Mr. Chertoff's spokesman, Russ Knocke, said there had been no delay in the federal response. "We pushed absolutely everything we could," Mr. Knocke said, "every employee, every asset, every effort, to save and sustain lives."

As Mr. Brown recounted it, the weekend before New Orleans's levees burst, FEMA sent an emergency response team of 10 or 20 people to Louisiana to review evacuation plans with local officials.

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By Saturday afternoon, many residents were leaving. But as the hurricane approached early on Sunday, Mr. Brown said he grew so frustrated with the failure of local authorities to make the evacuation mandatory that he asked Mr. Bush for help.

"Would you please call the mayor and tell him to ask people to evacuate?" Mr. Brown said he asked Mr. Bush in a phone call.

"Mike, you want me to call the mayor?" the president responded in surprise, Mr. Brown said. Moments later, apparently on his own, the mayor, C. Ray Nagin, held a news conference to announce a mandatory evacuation, but it was too late, Mr. Brown said. Plans said it would take at least 72 hours to get everyone out.

When he arrived in Baton Rouge on Sunday evening, Mr. Brown said, he was concerned about the lack of coordinated response from Governor Blanco and Maj. Gen. Bennett C. Landreneau, the adjutant general of the Louisiana National Guard.

"What do you need? Help me help you," Mr. Brown said he asked them. "The response was like, 'Let us find out,' and then I never received specific requests for specific things that needed doing."

The most responsive person he could find, Mr. Brown said, was Governor Blanco's husband, Raymond. "He would try to go find stuff out for me," Mr. Brown said.

Governor Blanco's communications director, Mr. Mann, said that she was frustrated that Mr. Brown and others at FEMA wanted itemized requests before acting. "It was like walking into an emergency room bleeding profusely and being expected to instruct the doctors how to treat you," he said.

On Monday night, Mr. Brown said, he reported his growing worries to Mr. Chertoff and the White House. He said he did not ask for federal active-duty troops to be deployed because he assumed his superiors in Washington were doing all they could. Instead, he said, he repeated a dozen times, "I cannot get a unified command established."

The next morning, Mr. Brown said, he and Governor Blanco decided to take a helicopter into New Orleans to see the mayor and assess the situation. But before the helicopter took off, his field coordinating officer, or F.C.O., called from the city on a satellite phone. "It is getting out of control down here; the levee has broken," the staff member told him, he said.

The crowd in the Superdome, the city's shelter of last resort, was already larger than expected. But Mr. Brown said he was relieved to see that the mayor had a detailed list of priorities, starting with help to evacuate the Superdome.

Mr. Brown passed the list on to the state emergency operations center in Baton Rouge, but when he returned that evening he was surprised to find that nothing had been done.

"I am just screaming at my F.C.O., 'Where are the helicopters?' " he recalled. " 'Where is the National Guard? Where is all the stuff that the mayor wanted?' "

FEMA, he said, had no helicopters and only a few communications trucks. The agency typically depends on state resources, a system he said worked well in the other Gulf Coast states and in Florida last year.

Meanwhile, "unbeknownst to me," Mr. Brown said, at some point on Monday or Tuesday the hotels started directing their remaining guests to the convention center - something neither FEMA nor local officials had planned.

At the same time, the Superdome was degenerating into "gunfire and anarchy," and on Tuesday the FEMA staff and medical team in New Orleans called to say they were leaving for their own safety.

That night, Mr. Brown said, he called Mr. Chertoff and the White House again in desperation. "Guys, this is bigger than what we can handle," he told them, he said. "This is bigger than what FEMA can do. I am asking for help."

"Maybe I should have screamed 12 hours earlier," Mr. Brown said in the interview. "But that is hindsight. We were still trying to make things work."

By Wednesday morning, Mr. Brown said, he learned that General Honoré was on his way. While the general did not have responsibility for the entire relief effort and the Guard, his commanding manner helped mobilize the state's efforts.

"Honoré shows up and he and I have a phone conversation," Mr. Brown said. "He gets the message, and, boom, it starts happening."

Mr. Brown said that in one much-publicized gaffe - his repeated statement on live television on Thursday night, Sept. 1, that he had just learned that day of thousands of people at New Orleans's convention center without food or water - "I just absolutely misspoke." In fact, he said, he learned about the evacuees there from the first media reports more than 24 hours earlier, but the reports conflicted with information from local authorities and he had no staff on the site until Thursday.

There were also conflicts with the Congressional delegations that wanted resources for their offices and districts, FEMA officials said. Senator Trent Lott of Mississippi said he "resisted aggressively" a decision by Mr. Brown to dispatch a Navy medical ship to Louisiana instead of his home state.

Mr. Brown acknowledged that he had been criticized for not ordering a complete evacuation or calling in federal troops sooner. But he said the storm made it hard to communicate and assess the situation.

"Until you have been there," he said, "you don't realize it is the middle of a hurricane."

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Governor, Mayor Acknowledge Mistakes (USAT)

By From staff and wire reports

USA Today, September 15, 2005

NEW ORLEANS — Louisiana Gov. Kathleen Blanco admitted “failures at every level of government" in the response to Hurricane Katrina on Wednesday. New Orleans Mayor Ray Nagin also conceded missteps.

Meanwhile, businesses began to open their doors in New Orleans after the reopening of the city airport and ports.

“Right now we're going forward," said Bruce Hicks, spokesman for Starwood Hotels. Starwood owns the Sheraton, one of the first of several big downtown hotels to reopen. “The city must have this and other hotels to house the thousands of people who come in here to rebuild."

In an evening address to a special meeting of the state Legislature in Baton Rouge, Blanco said she shouldered blame for her state's situation.

“The buck stops here, and as your governor, I take full responsibility,” said Blanco, a first-term Democrat.

“We all know that there were failures at every level of government: state, federal and local. At the state level, we must take a careful look at what went wrong and make sure it never happens again,” she said.

Nagin also struck a more conciliatory note.

“We could have all done things better,” Nagin said.

Blame has been rampant over the sluggish evacuation of New Orleans as the storm bore down and the failure to rescue everyone caught in the aftermath of Hurricane Katrina. President Bush, who will address the nation this evening about Katrina, has said he accepts responsibility for federal failures.

In New Orleans, pumps working around the clock had reduced floodwaters that covered 80% of the city to about half of the city.

Traffic, very limited last week, has increased as more business owners return to inspect their property.

About 168,000 customers were still without power. Electricity cannot be restored until areas are drained. “It's all about power,” said Bubby Valentino, 58, who owns three hotels in the French Quarter that needed only a few repairs.

“If we can get power back and get air circulating in these rooms, we're OK,” Valentino said.

The number of Gulf Coast deaths from Katrina rose to 708, including 474 in Louisiana.

In Washington, a Senate committee held a hearing on the disaster and response. Sen. Susan Collins, R-Maine, the chairwoman, said expensive changes in the government's emergency-preparedness system made after the Sept. 11 terrorist attacks had failed their first major test during Katrina.

Given the billions of dollars spent in the past four years, she said, “We would have expected a sharp, crisp response to this terrible tragedy."

“Instead,” she said, “we witnessed what appeared to be a sluggish initial response."

Blanco Takes Blame For State Response (WT/AP)

By Melinda DeSlatte, Associated Press

The Washington Times, September 15, 2005

BATON ROUGE, La. -- Louisiana Gov. Kathleen Babineaux Blanco yesterday took responsibility for failures and missteps in the immediate response to Hurricane Katrina and pledged a united effort to rebuild areas ravaged by the storm.

"We all know that there were failures at every level of government: state, federal and local. At the state level, we must take a careful look at what went wrong and make sure it never happens again. The buck stops here, and as your governor, I take full responsibility," Mrs. Blanco told lawmakers in a special meeting of the Louisiana Legislature.

Mrs. Blanco's statement came a day after President Bush said he would "take responsibility" for federal failures in dealing with Katrina. The Democratic governor, who has criticized the response of federal officials to the storm and subsequent flood that deluged New Orleans, yesterday told legislators that Mr. Bush is "a friend and partner" in Louisiana's recovery effort.

In New Orleans yesterday, test results released showed that floodwaters still pose a health risk because of dangerous levels of sewage-related bacteria and toxic chemicals, potentially delaying the mayor's plan to reopen parts of the city by Monday.

The Army Corps of Engineers estimates that up to 50 percent of the floodwaters that had covered 80 percent of the city had been removed and said New Orleans would be almost completely drained by Oct. 8.

Pumps are removing more than 8 billion gallons a day, and Mayor C. Ray Nagin was deliberating time frames for reopening parts of the city that are dry, including the French Quarter and Central Business District.

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Addressing Louisiana lawmakers yesterday, Mrs. Blanco said she would appoint an outside financial adviser to oversee the expenditure of billions of dollars in federal money that Congress has allocated to help the recovery from the disaster.

"I assure the Congress and every American taxpayer that every nickel will be properly spent," Mrs. Blanco said.

Meanwhile, in Washington, Senate Republicans scuttled an attempt by Sen. Hillary Rodham Clinton, New York Democrat, to establish an independent, bipartisan panel patterned after the September 11 commission to investigate what went wrong with federal, state and local governments' response to the hurricane.

Separately, a Senate committee opened a hearing on the disaster, with the panel's Republican chairman saying that changes instituted after September 11 in the government's emergency preparedness failed their first major test during Katrina.

With billions of dollars to boost disaster preparedness at all levels of government, "we would have expected a sharp, crisp response to this terrible tragedy," said Sen. Susan Collins, Maine Republican. "Instead, we witnessed what appeared to be a sluggish initial response."

The official death toll from Hurricane Katrina rose to 708 yesterday after Louisiana confirmed 51 more deaths. In addition to Louisiana's 474 deaths, 218 deaths have been recorded in Mississippi, two in Alabama and 14 in Florida, according to officials in the different states.

At least two of the Katrina evacuees scattered across the country have committed suicide, and 55 others have died, authorities said yesterday.

Most of the post-Katrina dead were elderly or already sick, with heart conditions, cancer or other terminal illnesses, authorities said. Many had been living in hospitals, hospices and nursing homes. Several suffered heart attacks.

On Tuesday, Mrs. Blanco had lashed out at the Federal Emergency Management Agency (FEMA), saying she was "outraged" at the slow pace of recovering bodies of those who perished in the storm. Yesterday, FEMA responded by saying that Louisiana officials asked to take over the effort last week.

"The collection of bodies is not normally a FEMA responsibility," FEMA spokesman David Passey said.

According to documents released by the state yesterday, Kenyon International Emergency Services was hired Tuesday to recover, document and handle the bodies of the victims of Hurricane Katrina. The contract will cost almost $119,000 a day for two months.

"It's going to take months, maybe years," said Dr. Louis Cataldi, the coroner for Baton Rouge Parish. "This is not going away."

Louisiana transportation officials estimated yesterday that about 1.2 million people were evacuated from the metropolitan New Orleans area in the two days leading up to Katrina's Aug. 29 landfall and that many of those people are still scattered in other states.

Despite speculation that some would prefer to settle in their new towns, Mr. Nagin expected most would return and rebuild.

"I know New Orleanians," he said. "Once the beignets start cooking up again and the gumbo is in the pots and red beans and rice are served on Monday -- in New Orleans, and not where they are -- they're going to be back."

A day after Mr. Nagin said the city is essentially broke, New Orleans' already beleaguered school system announced that it would also need federal assistance to keep paying its teachers.

Dan Packer, chief executive of Entergy New Orleans, said the company had restored power to 75 percent of the 1.1 million customers who were out at the height of the storm, mostly in Mississippi and areas of Louisiana north and west of New Orleans.

President Bush will arrive in Louisiana today to deliver a prime-time televised speech to the nation.

Hearings To Shape FEMA's Future (WSJ)

By Robert Block

The Wall Street Journal, September 15, 2005

WASHINGTON -- Congress opened hearings yesterday to figure out what went wrong in the immediate response to Hurricane Katrina and resolve the question of what is to become of the Federal Emergency Management Agency.

FEMA has become synonymous with the government's bungled response to the hurricane, with a number of politicians saying part of the problem is that the agency is no longer cabinet-level but rather a small cog in the mammoth Department of Homeland Security.

Prominent Democrats, such as Sen. Hillary Clinton of New York, have proposed bills that would make FEMA an independent agency -- a move enthusiastically endorsed by several state emergency managers, who are effectively FEMA's "clients." To them, FEMA's mission to help states prepare for "all hazards" -- from tornadoes to terrorism -- got lost as the department's policies and funding programs became increasingly terrorism-centric.

But yesterday's hearings showed that such a move has far from unanimous backing in the Senate. Susan Collins, a Maine Republican and chairwoman of the Senate Homeland Security Committee, said she would explore the idea but cautioned her

colleagues against making any hasty moves. "My inclination is that FEMA should be part of the Department of Homeland Security," she said.

Ms. Collins was one of the main architects of the legislation that subsumed FEMA, along with 21 other agencies, into a new Department of Homeland Security in 2003. The creation of the department, the biggest shake-up of the government since the creation of the Pentagon after World War II, came in response to the 2001 terrorist attacks and was supposed to have solved many of the same problems that surfaced after Katrina.

Ms. Collins noted that Katrina was the first major test that the government's new bureaucracy has faced since 9/11, and "this structure failed to meet our expectations."

That said, some security experts say that moving FEMA might help how the country deals with natural disasters, but could undermine Homeland Security's efforts to respond to acts of catastrophic terrorism. A relationship between Homeland Security and an independent FEMA could also be complicated: Who will be in charge of running response efforts during disasters? Will there be two separate plans and chains of command for terrorist-related events and nonterrorism-related events? There could be a significant duplication of efforts and confusion that further undermine the country's emergency-response system.

"Making FEMA a separate agency reporting directly to the president won't in and of itself solve anything," says Clark Kent Ervin, the former inspector general for Homeland Security. "The danger is that people will assume that such an organizational change will fix the problem, when an independent FEMA will be caught just as flat-footed when disaster next strikes if it still has leaders who fail to plan and prepare for utterly foreseeable catastrophes."

Another option on the table is to transform FEMA into a super-emergency preparedness and response division inside Homeland Security. Although Congress actually created such a division in the department, the preparedness part of the job was stripped away and put in a completely separate entity elsewhere in the department. It reports directly to the Homeland Security secretary and has become the main distributor of grants to first responders, a job that was once central to FEMA.

The idea would be to reintegrate these preparedness and planning functions along with control over grant money back into a single department that is effectively run by FEMA. Putting planning, preparedness and response all back under one roof is considered by emergency officials as essential to maximizing a federal disaster response, whether or not FEMA is an independent agency.

"FEMA's in a fix at this point, and there are no quick answers for rebuilding its strength," says University of Maryland Visiting Professor R. Scott Fosler, who played a major role in overhauling FEMA in the 1990s after its poor performance in the wake of Hurricane Andrew in 1992.

Whatever the decision, many emergency managers are arguing for a better balance between how the country prepares for terrorism and natural disasters. "Many people regard Hurricane Katrina as an event. It's not. It's part of a continuum. There will be another like it for sure." Iain Barclay Logan, of the International Red Cross, told Ms. Collins's committee.

Lawmakers said they did not ask officials from FEMA or the Homeland Security Department to appear at the hearing out of fear that would disrupt recovery efforts. Instead, a slew of former city and state officials who have faced major disasters in their communities -- from former California Gov. Pete Wilson to former New Orleans Mayor Marc H. Morial -- offered their advice on how to best help stricken communities get back on their feet.

The hearing marked Congress's first step in investigating major gaps in the country's readiness and response systems that Katrina exposed. It comes as Republicans and Democrats continue to debate whether to appoint an unusual House-Senate panel to investigate the matter, or to create an independent commission much like the one that examined government missteps before and after the Sept. 11, 2001, terror attacks.

At FEMA, Disasters And Politics Go Hand In Hand (NYT)

By Alan B. Krueger

The New York Times, September 15, 2005

AS we are all aware," James Lee Witt told Congress in April 1996, when he was director of the Federal Emergency Management Agency, "disasters are very political events."

There is much truth to Mr. Witt's statement. Research on the spending patterns of the emergency management agency shows that, to a significant degree, the agency is influenced by political concerns that are distinct from the suffering and destruction wrought by natural disasters, under both Democratic and Republican administrations.

Although declaring a disaster should be clear-cut and above politics, the legislation that governs FEMA gives the president much discretion to decide whether an event is a disaster that qualifies for assistance. Upon receiving a request by a state's governor, the president may declare a "major disaster" if a natural catastrophe "causes damage of sufficient severity and magnitude to warrant major disaster assistance."

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While no one would doubt that a disaster of the magnitude of Hurricane Katrina deserves the full commitment of the federal government, the language in the FEMA law is vague enough to count two feet of snow in Ohio as a major disaster, as was the case last December.

Indeed, the law specifically prohibits the use of an "arithmetic formula or sliding scale" to deny assistance. So, disaster requests are not evaluated based on standard quantitative evidence; instead, declarations involve subjective judgment.

Not surprisingly, in this vacuum presidents have displayed a tendency to declare more disasters in years when they face re-election. Mary W. Downton of the National Center for Atmospheric Research and Roger A. Pielke Jr. of the University of Colorado, Boulder, for example, looked at the flood-related disasters that were declared from 1965 to 1997 in an article published in "Natural Hazards Review" in 2001. Even after accounting for the amount of precipitation and flood damage each year, they found that the average number of flood-related disasters declared by the president was 46 percent higher in election years than in other years.

The tendency to declare more disasters during election years is not limited to floods. President Bill Clinton set a record by declaring 73 major disasters in 35 states and the District of Columbia in 1996, the year he was up for re-election.

When George W. Bush faced re-election in 2004, he declared 61 major disasters in 36 states - 10 more than in 2003 and tied for the second highest number of major disaster declarations ever, according to data provided by FEMA.

The increase from 2003 to 2004 was particularly sharp in the 12 battleground states in which the election was decided by 5 percent or less; these states had 17 major disasters declared in 2004 but only 8 in 2003, and, therefore, accounted for 90 percent of the increase.

In perhaps the most thorough econometric analysis of the politics of FEMA disaster funds to date, Thomas A. Garrett of the Federal Reserve Bank of St. Louis and Russell S. Sobel of West Virginia University concluded in a study published in "Economic Inquiry" in 2003 that Congressional as well as presidential politics play a role in allocating payments. Specifically, they examined factors related to the number of disasters declared in each state from 1991 to 1999, and the dollar amount of assistance provided.

Of course, a state may be particularly unlucky in any given year and be struck by an unusually large number of destructive storms. To account for this effect, they controlled statistically for the value of private insurance property claims from disasters in a state each year and the amount of Red Cross assistance provided. States that incur greater insurance losses and receive more aid from the Red Cross in a particular year are undoubtedly in greater need of emergency assistance.

It is reassuring to note that FEMA payments are substantially greater when the Red Cross provides more aid or private insurance losses are greater, suggesting that more generous FEMA payments do reach states that suffer more severe damage from disasters.

Nonetheless, Mr. Garrett and Professor Sobel conclude that Congressional and presidential politics play an important role in allocating FEMA assistance. Most important, they find that the amount of disaster relief provided per incident increases with the number of representatives a state has on one of the FEMA oversight committees in the House of Representatives. Having an additional representative on either of the two main House oversight committees is associated with an extra $36.5 million of assistance from FEMA, they found.

This figure may seem to overstate the role of politics because representatives from states prone to be hit by disasters probably seek out seats on FEMA oversight committees. But recall that the analysis simultaneously adjusts for the amount of Red Cross assistance and private insurance losses from disasters each year. So, having Congressional representation on an oversight committee appears to matter even when compared with disasters in other states that cause roughly the same amount of damage and suffering.

Interestingly, representation on a Senate oversight committee does not have a detectable effect on FEMA payments, perhaps because disasters are often local events that more intensely affect House members' constituents.

All told, Mr. Garrett calculates that a third of FEMA payments are directly attributable to representation on one of the nine FEMA Congressional oversight committees, independent of the disaster's severity.

When Congress turns to evaluating the Hurricane Katrina disaster, it should also consider sharpening FEMA's mission. One helpful step would be to define more precisely the requirements necessary for the president to declare a disaster. For example, disaster payments could be restricted to events that cause damage exceeding a specified threshold or significant loss of life. Long before Hurricane Katrina, it should have been apparent that FEMA needed to focus more on alleviating and preventing suffering from major catastrophes and less on delivering pork to voters at election time.

Sick And Abandoned (NYT)

By Bob Herbert

The New York Times, September 15, 2005

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It was the stuff of nightmares. Poisonous water moccasins were swimming in the filthy water of the flooded first floor, and snipers, rats and even a 12-foot alligator were roaming the treacherous area just outside the hospital's doors.

"To me, it was like being in hell," said Carl Warner, the chief engineer for Methodist Hospital in the hard-hit eastern part of New Orleans. "There were bodies floating in the water outside the building, and our staffers had to swim through that water to get fuel for the generator."

The patients and staff at Methodist could have been evacuated before Hurricane Katrina hit. But instead they were condemned to several days of fear and agony by bad decision-making in Louisiana and the chaotic ineptitude of the Federal Emergency Management Agency. Some of the patients died.

Incredibly, when the out-of-state corporate owners of the hospital responded to the flooding by sending emergency relief supplies, they were confiscated at the airport by FEMA and sent elsewhere.

The time to evacuate the hospital was when it became clear that New Orleans was in the path of a Category 4 or 5 hurricane. "We had about 137 patients," said Dr. Jeffrey Coco, the hospital's chief of staff, "and we had a company called Lifeguard that was going to take them out."

But apparently there was a reluctance to evacuate without some sort of governmental guidance. When the mayor of New Orleans, Ray Nagin, issued a mandatory evacuation order, hospitals were exempted. Dr. Fred Cerise, secretary of Louisiana's Department of Health and Hospitals, said Methodist officials could have decided on their own to evacuate, but that never happened.

Some of the patients were extremely ill, requiring ventilators or dialysis treatment or major surgery. When the hurricane hit, part of the roof blew off, windows were blown out, the atrium was badly damaged and the hospital was drenched with rain. On Monday night the power went out, and on Tuesday, after the levees broke, the first floor became hopelessly flooded.

By midweek you had a bizarre situation in which hundreds of people (patients, doctors, nurses, administrative staffers, relatives and people seeking emergency shelter) were stranded, cut off from the rest of the world, in a badly damaged hospital in a major American city.

Staffers with flashlights worked heroically in a sodden, stench-filled environment in which temperatures reached 110 degrees. Elevators did not work, and some patients weighing more than 400 pounds had to be carried up dark, reeking staircases. When ventilators shut down with the loss of power, volunteers worked in shifts to do the difficult hand-pumping necessary to keep patients alive.

Nevertheless, according to Dr. Albert Barrocas, the chief medical officer, the decline in the well-being of the patients was both palpable and widespread. "All of them were deteriorating in the sense of becoming weak," he said. "You could see in their faces the fact that they were scared."

By Tuesday evening four patients had died, and a dozen were dead by the time the hospital was finally evacuated Friday. Doctors believe half of the deaths were caused by the dreadful conditions in the hospital.

Everybody's suffering would have been eased if the emergency relief effort mounted by the hospital's owner, Universal Health Services in King of Prussia, Pa., had not been interfered with by FEMA. Company officials sent desperately needed water, food, diesel fuel to power the hospital's generators and helicopters to ferry in the supplies and evacuate the most vulnerable individuals.

Bruce Gilbert, Universal's general counsel, told me yesterday, "Those supplies were in fact taken from us by FEMA, and we were unable to get them to the hospital. We then determined that it would be better to send our supplies, food and water to Lafayette [130 miles from New Orleans] and have our helicopters fly them from Lafayette to the hospital."

Significant relief began to reach the hospital on Thursday, and by Friday evening everyone had been removed from the ruined premises. They had endured the agonies of the damned, and for all practical purposes had been abandoned by government at all levels.

When you consider that the Methodist Hospital experience was just one small part of the New Orleans catastrophe, you get a sense of the size of the societal failure that we allowed to happen.

Welcome to the United States in 2005.

Separate Inquiry Fails To Gain Support (WP)

By Spencer S. Hsu And Josh White

The Washington Post, September 15, 2005

The Senate voted along party lines yesterday to reject creation of an independent panel to investigate the government's fumbling response to Hurricane Katrina.

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The proposal, from Sen. Hillary Rodham Clinton (D-N.Y.), would have established a panel similar to the one that examined the Sept. 11, 2001, terrorist attacks. The partisan wrangling came amid rising calls from members of both parties to change how the nation manages major disasters.

Senior Republicans proposed such critical fixes as streamlining how the president can order the U.S. military to enforce law and order, and funding compatible radio systems for use in emergencies.

The need for new radios was a major finding of the Sept. 11 commission, whose former members met yesterday and decried that, more than four years after the terrorist attacks, the federal government's command systems, plans and laws remain uncoordinated and unready for a catastrophe such as Katrina.

"There are distinct similarities between Katrina and 9/11, between what was known beforehand and how the government responded to pending dangers," said Sen. Daniel K. Akaka (Hawaii), echoing fellow Democrats' calls for an outside inquiry. "In the four years since 9/11, we should have done a better job in preparing to protect Americans."

"It is Congress's responsibility," countered Sen. George V. Voinovich (R-Ohio). "By golly, we're going to get into the bowels of the Department of Homeland Security and make sure the next time around, it will be able to get the job done."

The House and Senate GOP leadership plan to form a joint congressional investigative committee with a Republican majority. A House vote is scheduled for today. Democrats oppose the move.

The stalemate over the makeup of the panel muted the first hearing in Congress into the Katrina response led by the Senate Committee for Homeland Security and Governmental Affairs. Chairman Susan M. Collins (R-Maine) promised "to lay bare the painful evidence of human errors that have added to the damage."

Witnesses included former California governor Pete Wilson, in office for the 1992 Los Angeles riots and 1994 Northridge earthquake, and Patricia A. Owens, who was mayor of Grand Forks, N.D., during the 1997 flood there. They emphasized the need for recovery efforts and called for a single federal "czar" to take charge.

Collins and Sen. Joseph I. Lieberman (D-Conn.) will call for building unified radio systems for responders in an upcoming emergency hurricane spending bill, atop $62.3 billion Congress has already spent, Collins spokeswoman Jen Burita said.

Senate Armed Services Committee Chairman John W. Warner (R-Va.) wrote Defense Secretary Donald H. Rumsfeld last night urging a legal review of the use of active-duty troops in domestic emergencies and announced his intent to rename a key martial law statute called the Insurrection Act.

Warner said renaming the law -- used by presidents to fight the Civil War and to integrate schools in Arkansas and Alabama -- would ease political barriers to the presidential exercise of such authority. White House aides cited such concerns in deciding not to federalize state National Guard units to do police work after the storm hit.

"The President should not have to worry about misperceptions by the public based upon outdated wording that does not accurately describe what the armed forces may be doing in a particular emergency," Warner wrote.

Military officials resist federalizing troops because of concerns that the action could appear as an occupying force within U.S. borders. Soldiers, Marines and sailors who were sent to help in the wake of Hurricane Katrina were prevented from taking over police functions.

The National Guard -- under control of the governors -- can do police work such as stopping looters and keeping the peace.

Not having a centralized command structure for all federal authorities and the military at the outset caused significant confusion, military commanders said. A lack of communications -- something the military might have been able to supply if called up -- exacerbated problems.

At their meeting yesterday, former members of the Sept. 11 commission offered blistering criticism and issued a report finding that the government has made little or no progress in enacting reforms.

The panel, now operating as the nonprofit 9/11 Public Discourse Project, focused on congressional failure to provide a dedicated spectrum of radio frequencies for use by emergency responders. Such frequencies could have saved lives in New Orleans by allowing police, firefighters and troops to communicate more directly, the commission said.

"It is the same thing we saw on 9/11," said Thomas H. Kean, the former Republican New Jersey governor who chaired the commission, adding: "If Congress does not act, people will die."

Parties Remain Deadlocked On Katrina Investigation (HILL)

By Josephine Hearn And Patrick O'Connor

The Hill, September 15, 2005

Republicans and Democrats remained in a partisan deadlock yesterday as they prepared for a floor vote to determine how to investigate the bungled response to Hurricane Katrina.

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Republican leaders have pressed for a GOP-controlled bicameral committee to review the government's handling of the disaster, while Democrats favor an independent panel similar to the Sept. 11 commission.

Republican House leaders plan to bring their proposal to the floor today, despite Democratic opposition, and pass it in a largely party-line vote.

House Majority Whip Roy Blunt (R-Mo.) is confident that his Republican colleagues will back the measure.

"I think we're fine," Blunt said yesterday in response to a question about whether his office would whip the bill. "We've talked to our members. Our members are fine."

The proposal would set up a 20-member committee consisting of 11 Republicans and nine Democrats on the House side, according to a draft of the resolution. The minority will be extended the ability to call for extra witnesses at hearings. A budget of $500,000 will be provided through the House Administration Committee.

Democrats plan to offer a motion to recommit, a common parliamentary maneuver that would come up shortly before the vote on the Republicans' joint committee and would attempt to create an independent commission. That motion is expected to fail along party lines.

House Minority Whip Steny Hoyer (D-Md.) said he anticipated that the "overwhelming majority" of Democrats would back an independent commission, which will be called for in the motion to recommit.

He hinted that some Democrats may also vote for the Republicans' joint committee.

"That's not a partisan issue. That's a judgment issue," he said.

In the upper chamber, Republicans defeated by a vote of 44-54 an amendment offered by Sen. Hillary Rodham Clinton (D-N.Y.) that would have created a 10-member independent commission evenly divided between Democrats and Republicans. No Senate Republicans voted for the amendment. And Senate Minority Leader Harry Reid (D-Nev.) rejected an offer from Majority Leader Bill Frist (R-Tenn.) to create a joint committee because the proposal did not provide equal representation and subpoena power for Democrats.

Frist has already named Sen. Susan Collins (R-Maine), the chairwoman of the Homeland Security and Governmental Affairs Committee, to lead the Senate investigation. House Speaker Dennis Hastert (R-Ill.) is not expected to name a chairman or members of the investigative committee until the House has passed the bill.

He told reporters yesterday that he wanted to get members on the ground in the hurricane-ravaged states as soon as possible to start the congressional investigation.

Both parties face potential political fallout from the bitter standoff. Democrats could face charges of partisanship for failing to go along with the Republicans' joint panel, a type of committee that has been used dozens of times in recent decades to investigate different administrations, including the Iran-Contra scandal, Republicans argue.

Democrats counter that the circumstances were different during the 1980s because Democrats controlled Congress and were investigating a Republican administration. They also charge that congressional Republicans have shown little enthusiasm for any kind of oversight of the Bush administration and that any investigation controlled by Republicans would amount to a whitewash.

As Republicans go forward with plans for a joint committee, Democrats could be faced with an awkward decision to drop their protest and participate in the committee or remain on the sidelines.

Hoyer noted that Democrats had not yet decided whether they would boycott the committee further down the road.

Dropping the protest at some point remained a possibility, said one Democratic strategist.

"You can fight something and then go grudgingly along. That is an option in order to have some voice in the process," the strategist said. Still, Democrats held the high ground in calling for an independent commission rather than a committee controlled by a party sympathetic to the administration, the strategist added.

Asked if Democrats could be persuaded to support the Republicans' plan if given some concessions, Hoyer said he felt there could be some "wiggle room" but "we want to ensure that there is at least one independent commission with subpoena power."

Some Democratic aides drew parallels between the current standoff over Katrina and an earlier impasse over the structure of the House ethics committee, noting that Democrats had boycotted that committee, forcing Republicans to reverse certain rule changes.

Aside from the current dustup over the botched response to Katrina, the political fallout from the storm is beginning to emerge across the country.

The National Republican Congressional Committee put out a press release late last week criticizing Democratic Rep. Jim Matheson (Utah) for voting against the emergency spending bill to fund the Katrina cleanup, only to have The Salt Lake Tribune publish a long article about how the allegations were untrue. Matheson voted against one of the rules leading up to the spending bill.

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In fact, the only members to vote against the first emergency spending bill were Republicans. Eleven House conservatives voted against the bill for various reasons, but primarily in protest of a lack of oversight for the funds.

In addition, President Bush has suffered career-low approval ratings in the wake of a slow federal response to the disaster. Michael Brown, the former director of the Federal Emergency Management Agency, resigned earlier this week.

A large majority of Americans favor an independent oversight committee in the mold of the Sept. 11 commission, according to an ABC News/Washington Post poll from over the weekend.

Clinton's Attempt To Form Katrina Panel Rejected (WT/AP)

By The Associated Press

The Washington Times, September 15, 2005

Senate Republicans yesterday scuttled an attempt by Sen. Hillary Rodham Clinton to establish a panel patterned after the September 11 commission to investigate what went wrong with federal, state and local governments' response to Hurricane Katrina.

The New York Democrat's bid to establish the panel -- which also would have made recommendations on how to improve the government's disaster-response apparatus -- failed to win the two-thirds majority needed to overcome procedural hurdles. Mrs. Clinton's proposal received 44 votes, all from Democrats and independent Sen. James M. Jeffords of Vermont. Fifty-four Republicans all voted no.

"Just as with 9/11, we did not get to the point where we believed we understood what happened until an independent investigation was conducted," Mrs. Clinton said.

The Senate vote likely won't be the last word on whether to create an independent commission or, as an alternative, a special congressional committee to investigate the Katrina response. A CNN/USA Today/Gallup poll taken last Thursday through Sunday found that 70 percent of those surveyed supported an independent panel to investigate the government's response to Katrina.

Senate Minority Leader Harry Reid, Nevada Democrat, has rebuffed a bid by congressional Republican leaders to create a committee patterned after the 1987 Iran-Contra panel, which would have a Republican majority -- reflecting their dominance of Congress.

Mr. Reid instead has vowed that any bid by Republican leaders to establish a special bipartisan committee involving lawmakers from both the House and Senate will go forward only if Democrats have equal representation.

Separately, Senate Homeland Security and Governmental Affairs Committee Chairman Susan Collins, Maine Republican, said yesterday that post-September 11 changes to improve the government response to disasters failed their first major test in Hurricane Katrina's aftermath.

Despite billions of dollars to boost disaster preparedness at all levels of government, the response to Katrina was beset by confusion, communication failures and lack of coordination, Miss Collins said as she opened hearings into the disaster.

"At this point, we would have expected a sharp, crisp response to this terrible tragedy," she said. "Instead, we witnessed what appeared to be a sluggish initial response."

Sen. Joe Lieberman of Connecticut, the top Democrat on the committee, said the response to Katrina "has shaken the public's confidence in the ability of government at all levels to protect them in a crisis."

Lawmakers said they did not ask officials from the Federal Emergency Management Agency or the Homeland Security Department to appear at the hearing out of fear of disrupting the ongoing recovery process in the battered Gulf Coast. Instead, numerous former city and state officials testified about their experiences in facing major disasters in their communities.

Calling Katrina a "national tragedy," former New Orleans Mayor Marc H. Morial put the primary responsibility for disaster response on the federal government.

Finding Relief -- Slowly (WP)

By Keith L. Alexander And Nell Henderson

The Washington Post, September 15, 2005

BATON ROUGE, La., Sept. 14 -- First they had to ride out a howling storm. Then find shelter. Then food and water. Now, the thousands of families driven from their homes by Hurricane Katrina face the daunting challenge of applying for financial assistance under a dizzying mix of government programs.

The Congressional Budget Office has estimated that the storm wiped out about as many as 400,000 jobs in Louisiana, Mississippi and Alabama, prompting a surge in new claims for unemployment insurance benefits.

Many of the affected workers and their families are also newly eligible for food stamps, Medicaid, housing assistance, subsidized school lunches, emergency cash assistance from the Federal Emergency Management Agency and other programs.

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But many have never received such benefits and will have to navigate through multiple government agencies to find out if they qualify and how to apply.

"The baffling problem is that each of these programs is its own bureaucracy," said Sheila R. Zedlewski, director of Income and Benefits Policy at the Urban Institute. Many poor people who are eligible for these benefits "don't apply because the process is so cumbersome and the system is so difficult to understand."

And that's in normal times -- without a hurricane that has closed many government offices and downed telephone lines in hard-hit areas.

Shelleand Terry, 48, said she and her daughter Erica, 25, had both tried for two weeks to apply for unemployment insurance benefits but were frustrated by long lines and busy signals. They got through by telephone Sunday but were told they still had to drive about an hour from Napoleonville, La., to the Baton Rouge office to activate their benefits in person.

"We are spending all our money on gas, and we still haven't received any benefits," Shelleand Terry said. "This is so frustrating and hard."

Efforts are being made to streamline the process for Katrina survivors. The Red Cross and AFL-CIO have set up emergency centers where evacuees can use computers and telephones and receive guidance on how to apply for various programs. And because many families lost financial records in the storm, several state social-service agencies are asking claimants for documents "if possible" to prove they are eligible for programs.

Due to their evacuee status, people who fled their home states because of Katrina can apply for all federal benefits without having to produce the usual records proving eligibility, according to the federal Centers for Medicare and Medicaid Services.

Progress is occurring gradually. Take jobless claims, for example. Last week, the U.S. Labor Department estimated that only 10,000 hurricane survivors had filed new claims for unemployment insurance benefits. By today, more than 200,000 new claims had been filed by residents of Louisiana, Alabama and Mississippi, according to the labor agencies in those states.

In Louisiana and Mississippi, state employees are seeking out workers in their homes and in shelters to help them fill out jobless claims by hand.

"We've gone to virtually every shelter in the state," said Ed Pratt, press secretary for the Louisiana Department of Labor.

In Louisiana, union members are "knocking on the doors of residents to reach out to workers about how to register" for the range of available benefits, AFL-CIO President John J. Sweeney said in an interview Tuesday.

Adding to the complications, tens of thousands of evacuees are scattered across the country, living with relatives, in church shelters or in facilities such as the Houston Astrodome and the D.C. Armory.

Texas Workforce Commission employees are taking claims from Louisiana evacuees living at the Astrodome. And more than 60,000 displaced Louisiana residents have filed from out of state by telephone or online, Pratt said.

Meanwhile, other unemployed gulf state workers will have to be persistent to file a claim. B.J. Fink, 26, of New Orleans, said he and his girlfriend first tried to apply for unemployment benefits three days after the hurricane hit. They waited in line for more than three hours. When the two finally made it inside to see a counselor, the overworked office computer crashed. They returned today to try to complete their applications. "They got lost in the process, I guess," he said.

Many displaced residents will find that their benefits don't buy as much in the higher-cost communities where they've settled, from California to the Washington area.

"It's hard to imagine how they are going to make ends meet in the cities where they have landed," said Jared Bernstein, a senior economist with the Economic Policy Institute, a think tank that focuses on labor issues.

Wherever evacuees have arrived, their unemployment benefit will be based on their previous earnings in the state they've left behind. The amounts are determined by the states according to different income-based formulas and carry maximum amounts; the national average for this cap is $377.18 per week.

Mississippi's maximum unemployment benefit, at $210 per week, is the lowest in the country, according to Department of Labor figures. Alabama's maximum, at $220 per week, is the second lowest. Louisiana's limit, at $258 a week, is the sixth lowest.

Meanwhile, a family of two adults and two children normally needs $715 a week to cover the basic cost of living in Baton Rouge, according to EPI. But many evacuees have moved to areas with much higher living costs. A family of four needs $756 per week to cover living expenses in Houston; that same family needs $1,182 a week to live in the Washington area, according to EPI. The national median cost of living is $769 per week.

Some of the evacuees are going to find jobs in their new communities, many of which will pay higher wages, reflecting the steeper cost of living, Bernstein said. "The people you need to worry about are those who are unemployed in the city where they've landed, trying to get by in a northern city on unemployment benefits from a southern state."

Other benefits are available. FEMA, for example, is offering a lump sum of $2,000 per household in cash assistance. Food-stamp benefits vary slightly by state, due to differences in eligibility rules; the average monthly benefit per person last year was $85.85 in Alabama, $89.03 in Louisiana, and $79.81 in Mississippi.

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Other health, housing and welfare programs are funded by the federal government but administered by the states, with benefits reflecting diverse eligibility and participation rules.

The first Louisiana claimants should start receiving their unemployment benefits late this week or early next week, Pratt said.

While the hurricane victims grow frustrated with the application process, the extra efforts being made on their behalf are stirring resentment among some state residents who lost their jobs before the storm. Nataisha Phifer, 34, of north Baton Rouge, hasn't worked since June, when she lost her job as a saleswoman at Dillard's department store. Phifer says that now she has to stand in longer lines and compete for jobs with those who have been displaced by the hurricane.

"I'm very compassionate, and I understand what they're going through," Phifer said. "But it's frustrating. It seems we've been pushed to the back of the line behind them."

Inside The Beltway (WT)

By John McCaslin

The Washington Times, September 15, 2005

Still Republican

"Thank you for writing an article that contains an astute and accurate framing of the issue that resulted in resignations by some individuals associated with the [National Black Republican Association]," writes Frances Rice, chairman of the NBRA, albeit she wants to clarify several points made in this week's Inside the Beltway column.

She states that through "a majority vote of the executive committee, NBRA press releases were prepared and distributed to the media in support of President Bush, as the head of the Republican Party, regarding the Supreme Court nomination of Judge John G. Roberts Jr. and Hurricane Katrina."

That said, Ms. Rice reveals: "Several members of the NBRA inactive board of directors, who had been permitted to participate in the open meetings of the executive committee, and two members of the executive committee stated that the National Black Republican Association should not support the Republican Party."

Recognizing "a division" over the main purpose of the NBRA, she says that with the approval of the executive committee she sent a letter to each member of the executive committee requesting they sign and return a statement supporting the NBRA's bylaws.

"The dissension over the purpose of the NBRA led to five of the seven members of the inactive board of directors resigning, and one of the five members of the executive committee," she confirms.

Ms. Rice adds that "several black Republicans from across the country" have indicated interest in the NBRA leadership vacancies, including Rev. Wayne Perryman of Washington state, author of Unfounded Loyalty.

Finally, she assures us that the NBRA will continue its obviously unwavering support of the Republican Party.

Throwing $ at Katrina

The $60-plus billion "down payment" Congress doled out thus far in response to Hurricane Katrina "is already twice the annual budget for the Department of Homeland Security."

So reveals Rep. Jim Kolbe, Arizona Republican, who -- given the staggering dollar figures -- has introduced the "Special Inspector General for Hurricane Katrina Recovery Act of 2005," seeking to appoint an independent inspector general to oversee continued funding efforts.

Rep. Jeb Hensarling, Texas Republican, agrees that Capitol Hill "must do everything necessary" to help Katrina's victims, but stresses "Congress must also use its head."

Which means, he says, that "Congress cannot continue to fund projects like the $800,000 outhouse, $1.2 million for panda research or the $1 million rain forest in Iowa."

Sam's "Top 10"

Not happy with your job? Be advised that the best places to work in the federal government are, in order, the Office of Management and Budget, the National Science Foundation and the Nuclear Regulatory Commission.

Some 150,000 executive branch employees surveyed by the Office of Personnel Management, in conjunction with the Partnership for Public Service and American University, say the remainder of the 10 best places to hang your bureaucratic hat: the Government Accountability Office, Securities and Exchange Commission, NASA, General Services Administration, Environmental Protection Agency, Department of Energy and the State Department.

Sea of regimes

Just returning from leading a delegation to terrorism-torn Iraq is Rep. Mike Pence, Indiana Republican, who kept a diary of the trip. One entry catching our eye notes that a fellow congressman asked Iraqi Defense Minister Sadoun al-Duleimi what neighboring nation represented the greatest challenge to peace within Iraq?

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To which the minister replied, "All of them." He then added, "Kuwait is OK."

"It was an illuminating moment," the diary reads. "I will never forget that this new Iraq is, with one exception, floating in a sea of authoritarian regimes with long histories of association with terror among their people and their governments."

Kissing cousin

King Harald V of Norway is to arrive in Washington for this weekend's dedication of a bronze statue of Crown Princess Martha on the Norwegian Embassy grounds.

The princess died in 1954, three years before her crown prince husband -- and cousin -- became Norway's King Olav V.

9/11 Panelists Fault Storm Response (WSJ)

By Scot J. Paltrow

The Wall Street Journal, September 15, 2005

WASHINGTON -- Members of the independent commission that investigated the Sept. 11, 2001, terror attacks said the federal government's poor response to Hurricane Katrina underscored its failure to adopt urgent recommendations the commission made more than a year ago to enhance emergency preparedness.

Thomas Kean, the former governor of New Jersey who was chairman of the 9/11 panel, said many of the steps should have been taken immediately after the 2001 attacks. He also said quick implementation of certain commission recommendations issued more than a year ago "could have saved peoples' lives" in New Orleans.

The commissioners' assessment comes as the Bush administration struggles to contain political damage from its often disjointed response to the hurricane. Although the commission officially was disbanded last summer, its members have continued to press for implementation of their recommendations. In recent months, through public hearings and examination of records, they have made the first formal assessments of how far federal, state and local authorities have come in carrying out their proposals.

Last July, the bipartisan, 10-member commission issued a final report of its investigation into the attacks and their aftermath. It contained numerous recommendations on topics such as emergency preparedness and U.S. foreign policy. Earlier this summer, the former commissioners held hearings to assess compliance with their recommendations. Their "report card," issued yesterday on emergency readiness, is the first of several they are expected to issue in coming weeks on the different categories of their proposals.

The commissioners in a written report gave failing grades to the response on 11 of 14 recommendations related to emergency preparedness. They noted, for example, that little progress has been made in awarding additional radio frequencies to fire, police and other emergency responders. Proposals to do this have been stalled in Congress by opposition from television broadcasters, who want to delay relinquishing frequencies until 2009.

They faulted both the federal and local governments for failing to establish a system for clear-cut command and coordination in the event of disasters. And they singled out the Department of Homeland Security for failing to meet statutory deadlines that passed months ago to issue reports on the vulnerability of "national critical infrastructure" and on transportation security.

A DHS spokeswoman said the department just last week gave a classified report on transportation security to Congress, and noted that it is continuing to work on the report on infrastructure, "taking the time to do it properly."

The commissioners, who despite deep political differences had been unanimous in their recommendations, were split over current calls to form an independent commission similar to their own to investigate the Katrina response. In a party-line vote the Senate rejected a Democratic proposal to form such an independent commission. Republicans favor an inquiry by a special House-Senate investigative committee.

While several Democrats on the commission, including former Rep. Tim Roemer, said such an inquiry would help establish what needs to be done, John Lehman, a Republican former secretary of the Navy, said the media already had done a thorough job of investigating and exposing what went wrong.

Commission Criticizes Storm Response (NYT)

By Philip Shenon

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 - The members of the 9/11 commission criticized the Bush administration and Congress on Wednesday for "minimal progress" in enacting many of the panel's year-old recommendations to bolster domestic security agencies and their ability to respond to terrorist attacks and natural disasters like Hurricane Katrina.

In a unanimous privately financed report, the 10 former commissioners found that there had been little or no action by the White House and Congress to enact many of its recommendation on domestic security.At a news conference here to release the

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report, the commissioners expressed astonishment at what they described as the federal government's disastrous performance in responding to Hurricane Katrina, saying it suggested that Washington was also ill prepared to deal with another catastrophic terrorist strike.

The report was issued under the auspices of an education group that the five Republicans and five Democrats on the commission created as the panel was going out of business last year.

John F. Lehman, a Republican on the panel who was a Navy secretary in the Reagan administration, said he feared that the "unconscionable" failures of the rescue effort along the Gulf Coast would embolden terrorist groups to attack again on American soil, making quick adoption of the commission's year-old recommendations all the more important.

Katrina's Lesson: US 'Not Safe' Enough (CSM)

By David Cook

The Christian Science Monitor, September 15, 2005

WASHINGTON - Some Americans perished needlessly in hurricane Katrina because the US government has not adopted several reforms urged by the Sept. 11 commission.

That is the view of former commission chairman Thomas Kean and vice-chairman Lee Hamilton. The two now lead the 9/11 Public Discourse Project, a successor to the National Commission on Terrorist Attacks.

"A number of our recommendations were in the area of emergency preparedness. Many of those recommendations have not been implemented. We believe had they been implemented that the tragedy might have been less severe in terms of human lives," Mr. Kean said at a Monitor breakfast. "Do we have to wait for another national emergency to get some of these things done?"

Hurricane Katrina has altered Mr. Hamilton's assessment of overall security. "We often said during ... the 9/11 hearings that we were safer but not safe," he said. "What struck me after Katrina was that we were not as safe as I thought we were."

Two reforms are vital in the post-Katrina world, they argue. One is to make clear who is in charge at the federal level during emergencies. The other, they say, is to require every state to adopt a detailed command-and-control plan for disasters - and link it to receiving funding from the US Department of Homeland Security.

"It was obvious that nobody knew who was in charge when Katrina struck. We had the same problem on 9/11," Kean said. "If you don't have a unified command structure with somebody in charge and somebody following through ... it is going to cost lives."

The two also urged Congress to adopt the Sept. 11 panel's plea for homeland-security funds to be allocated on the basis of priority rather than dispensing security money to all states regardless of risk, as is the current practice. "You can't really put the money in the best places until you have identified your priorities," Kean said. The Department of Homeland Security, he noted, missed the deadline for filing a report to Congress ranking the nation's most vulnerable areas.

Hamilton, who spent 34 years in Congress, recognizes the challenges the government faces in moving more quickly on the reforms. "All of these things sound simple, but they really require very, very hard choices by policymakers," he said.

Hamilton warned that "we could easily have a disaster much, much worse than Katrina." The greatest risks to the nation, he says, are a nuclear weapon exploding in a populated area and a biological attack on the food supply. "In setting priorities, you have to prepare for the worst cases," Hamilton said. Given the other threats the United States faces, "I think we have overdone it, personally," by spending an estimated $20 billion to protect passengers and crew on commercial airlines. "We are not preparing for other kinds of threats that would be far more devastating."

As City Dries, Residents Plan Return (WP)

By Peter Whoriskey

The Washington Post, September 15, 2005

NEW ORLEANS, Sept. 14 -- Tens of thousands of New Orleans residents could begin returning to their homes as early as Monday as city and federal authorities have set out an accelerated plan to repopulate the city, reversing earlier estimates that the metropolis could be closed for months.

The plan would reopen a portion of New Orleans that was home to about 170,000 people, or one-third of the city's population, federal officials said, and be rolled out over the next two weeks.

The reentry plan would unfold by Zip code, depending on which section gets power and water utilities online, and how quickly hospital and emergency services can be restored. It involves portions of New Orleans that largely were unflooded: downtown, the French Quarter, Uptown and Algiers.

"The timing of the plan is subject to getting security and health issues in order," said William Lehman, the Federal Emergency Management Agency spokesman for Orleans Parish.

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Other portions of the city could remain uninhabited for months, authorities said, as tens of thousands of homes must be drained and many rebuilt.

The legal and political disputes over how authorities responded to Hurricane Katrina also promise to persist, as controversy flared over nursing homes and hospitals that did not evacuate, and over the recovery of the dead.

Louisiana state authorities said Wednesday that they are investigating the Lafon Nursing Home of the Holy Family in New Orleans, where a number of deaths have been reported. They may investigate as many as 18 nursing homes, authorities said.

The state has charged the owners of St. Rita's nursing home in St. Bernard Parish with 34 counts of negligent homicide stemming from patient deaths in flooding from Katrina. State Attorney General Charles C. Foti Jr. said that the owners of the nursing home, Salvador and Mable Mangano, had a legal obligation to evacuate the home.

The couple's attorney, James Cobb, said that his clients did not evacuate their 60 patients because they believed that their nursing home was safe -- it had never flooded in 20 years -- because St. Bernard Parish officials never ordered a mandatory evacuation and because the Manganos believed that transporting their patients en masse by bus could kill them.

Cobb cited numerous reports of elderly people dying during the evacuation before Katrina. "What do you do? You know if you evacuate, 10, 12 or 14 -- pick a number -- might die on the way out," he said in a cell phone interview.

He described the efforts the Manganos and their children made to rescue patients after the nursing home flooded, getting them onto mattresses to float out through broken windows, and then into boats. "They saved 52 lives," Cobb said. "And their reward . . . is an arrest warrant."

The owners of a New Orleans hospital where 44 bodies were found said they were those of critically ill patients who died in stifling heat after power was cut to the flooded building. Tenet Healthcare Corp. said no one still alive was left behind at Memorial Medical Center in New Orleans.

The death toll for Louisiana reached 474 as the recovery of bodies continued. In response to criticism from Louisiana Gov. Kathleen Babineaux Blanco (D) that the federal effort to bring bodies to the morgues was going too slowly and showed disrespect for the dead, the official in charge of hurricane recovery described a process in which a chaplain accompanied each search team and recited a prayer whenever a body was discovered.

"This is a sensitive process," Vice Adm. Thad W. Allen said at a news conference. "We are mindful of the dignity needed to be afforded each individual."

Less than half the city is now underwater, down from 80 percent at the peak of the flooding. Of the 144 pumps in Orleans Parish, 80 have begun working, Lehman said, up from 20 just days ago. About 50 percent of the phone lines are working, he said.

"We are out of nuclear crisis mode and are into day-to-day crisis mode," Mayor C. Ray Nagin said Tuesday night. He said his decision on reentry, which is expected to be announced Thursday, will depend on air and water quality in the city. According to the Environmental Protection Agency, "every effort should be made to limit contact with flood water due to potentially elevated levels of contamination associated with raw sewage and other hazardous substances." But Nagin said that test results have generally been better than expected.

In the suburbs outside of the heavily hit areas of Orleans, St. Bernard and Plaquemines parishes, residents have begun to come back, waiting either for electricity or the grocery store.

In New Orleans, even those streets in areas least affected by the storm are badly in need of cleanup. Stoplights do not work. Outside restaurants, the stench from two weeks' worth of rotten food is sometimes overpowering. Broken glass litters sidewalks and gutters. In places, fallen brick walls block roadways.

Yet amid the debris, restoration crews and armed troops on the streets Wednesday, some residents were looking forward again -- almost optimistically.

About midmorning, restaurateur Alex Patout was sitting outside his famed French Quarter establishment, sipping champagne.

"Thank God the heart and soul of what New Orleans is all about is basically damage-free," he said. "All we need is electricity -- we want to be one of the first restaurants to open."

He was planning his first menus, but he acknowledges that he is facing a daunting challenge. Of his staff of 40, many of whom lived in east New Orleans, he has located only one.

As he sees it, New Orleans has been split into two very different halves, one flooded, the other dry. Though the dry portion may be better off in some ways, the businesses there depend on the less-fortunate parts for employees.

"That is going to be the biggest nut for this city," he said. "Where is the human infrastructure that makes it run?"

Some Evacuees Relish Chance To Start Anew (WP)

By Shankar Vedantam

DOJ_NMG_0005811

The Washington Post, September 15, 2005

As Donald Henry clung to the side of his New Orleans house and watched as his brother and niece were plucked from his side and drowned by Hurricane Katrina, he had no way of knowing that his own life was about to change dramatically -- for the better.

A few blocks away, Cash Smith floated his two children on laundry hampers and plunged into chest-high waters. It was a journey that would begin in heartbreak but end in tears of joy, as Cash and his family found themselves delivered from a neighborhood under sea level into a new life a mile high, in Denver.

For Henry, Smith and a third evacuee, Vylandrus Dupree, who is now being housed at a resort in Arkansas, the unimaginable disaster has led to an unimaginable gift. Through a series of chance encounters and random decisions made by relief workers, these young African American men find themselves in parts of the country they had never seen before, and each believes there is no going back.

Their stories illustrate the game of chance that the resettlement effort is for so many victims of Katrina. Evacuees enter the relief roulette wheel with little idea whether they will emerge in a dreary shelter or in the cool air of the Ozark Mountains.

"It was just a blessing for me," said Henry, 28, who stepped off a rescue plane and found himself in Michigan for the first time in his life. "I am going to make Michigan my home. I know I ain't going back to New Orleans."

These men know better than most that their stories are exceptional, that thousands of other survivors, including some of their own family members, are still in crowded shelters with few options. Each remains keenly aware of all he has lost. Henry's voice chokes as he describes his drowned family. Dupree's house in Orleans Parish is "totaled." But while Katrina destroyed nearly everything each man owned, it also gave each the kind of options and opportunities that just did not exist for a poor black man in New Orleans: Strangers in strange places are behaving like family.

"I am going to start all over here in Denver," Smith said, speaking from a Marriott TownePlace Suites that has given his family free lodging for two months. Volunteers are helping to set him up with a job.

Dupree, 20, has enrolled at the University of Arkansas, where his tuition, books and supplies are free for the first semester. A clergyman has helped him find work.

"Everyone's friendly, and everyone's willing to help," he marveled. "I am going to try to stay in Arkansas forever."'A New Beginning'

Donald Henry remembers the last thing his brother Clifford told him before they leaped into Katrina's raging floodwaters in the lower Ninth Ward of New Orleans: "If I don't make it, make sure my kids do."

The two brothers and Clifford's girlfriend tethered three children with straps and stepped outside. A neighbor refused to let them in, so the group hung to the side of their own house.

Clifford was the first to go under, after he lost his grip on his brother's ankle. When Henry turned his attention back to the children, pulling on the strap that held them, he found his niece, Serena, had drowned, he said in an interview.

Around them, houses were unfolding like paper, he recalled. A second child had his life jacket ripped off, and went under. Henry, Clifford's girlfriend and the last child finally clambered onto a roof, and then to a higher one. Henry broke into an attic for shelter.

When the rescue boats came, the survivors slept on a bridge the first night. People were being taken to the Superdome, but Henry wanted none of that because he had heard rumors of crowding and rioting there. He wandered around for days, finally getting to the New Orleans Convention Center, from where he was airlifted to the airport.

When he got on an airplane, no one told him where it was headed. After they closed the doors, the word came down: Chicago.

But when the plane pulled into the Windy City, the group ran into a bureaucratic problem. The airplane took off again. When the doors opened, Henry and hundreds of other evacuees emerged to find themselves in Michigan, where Gov. Jennifer M. Granholm (D) had offered to house 1,500 evacuees. Henry was taken to a National Guard facility at Fort Custer near Battle Creek.

"They just got on a plane only knowing they were going to be taken somewhere for shelter, and they ended up happening to come to Battle Creek," said Capt. Aaron Jenkins, a spokesman for the Michigan National Guard. "That's what happened to a lot of people."

When Henry got off the bus at the base, people were holding signs saying "Welcome" and "I love you."

Henry said he was glad to have been given a way out of New Orleans. He talked about the violence and drugs that had surrounded him there, the "harassment by police" and "false promises" by politicians.

"The Lord was telling me it was time for a change," he said. "I am going to take this opportunity to change my life and start a new beginning."'What Do I Have to Lose?'

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Chad Ladov and two of his friends in Denver had watched the unfolding disaster in New Orleans as had millions of other Americans. One of the friends, Andrew Hudson, worked at Denver-based Frontier Airlines, and asked his company whether it could fly New Orleans evacuees to Denver free. When the company agreed, the trio immediately left for Houston, where thousands of evacuees were being housed at the Astrodome.

The friends arrived on the Friday after the hurricane. Ladov, who used to work at the Federal Emergency Management Agency, had contacts among emergency workers on the ground. He had announcements broadcast over the public address system asking whether there were people who wanted to go to Denver.

The three friends canvassed the Astrodome, putting up signs and posters about their Denver proposal. That's when they came by Cash Smith.

"Hey, dude, do you want to come to Denver?" Smith recalled them asking.

Smith, his wife and their two small children had initially sought shelter at the Superdome in New Orleans, after fleeing their flooded neighborhood. Smith and the children had gotten to Houston, but his wife had not been able to find space on the same bus and was scheduled to arrive later.

"I have no money," Smith replied.

The group told him the airline ride to Denver was free. They promised him help in finding a job and getting on his feet.

"Why not give it a try?" Ladov said.

Smith decided to take a chance. After all, he was surrounded by strangers in the stadium; why not trust these three?

"I have lost everything else," he said he thought to himself. "What do I have to lose?"

Two-thirds of the 18 people Ladov and his friends brought back to Denver had never been on an airplane before. They peppered the Denver friends with questions: "What's Denver look like? What's the racial makeup? What's the cost of living? What kind of food do you have there?"

Henry's wife joined him in Denver a few days later, and the couple had an emotional reunion at the airport.

Jim White, manager of community affairs for the Colorado branch of Volunteers of America, said area hotels had offered 30 rooms free for two months. The group is actively working to help people find permanent housing, and set them up with jobs and supplies.

"My life has really changed," said Smith, who said he plans to stay in Denver. "All I came here with was the clothes on my back. Now I have more than I had then."'It's a Big Opportunity'

Vylandrus Dupree fled New Orleans the day before the hurricane struck. Dupree, who was getting ready for his sophomore year at a community college, was told to head west. Along with a friend, he drove to Texas, expecting to wait out the storm and then return home in a day or two.

They slept in the car the first night and, when they returned to Louisiana, state troopers directed them north. They hit the road again, and eventually pulled into a Red Cross shelter in Springdale, Ark., 700 miles away.

As more evacuees came in, Red Cross officials decided to move a group that included Dupree 20 miles away to the Mount Sequoyah Conference and Retreat Center in Fayetteville, a scenic 30-acre facility overlooking the Ozark Mountains of northwest Arkansas.

"The United Methodist Church has a policy of open minds, open hearts and open doors," said the Rev. Jack Wilson, a board member of the center and an official at the church, which has run the center for 83 years as a teaching facility and a place for spiritual reflection.

Brian Swain, a volunteer coordinator, said work has begun in earnest to find evacuees more permanent homes, jobs, food stamps and Social Security checks. Twenty children were enrolled last week in Fayetteville public schools, and school buses are coming by the center to pick up the kids.

"We asked people: 'What is your goal? Relocate to northwest Arkansas, or move back or move elsewhere?' " Swain said. "Ninety-five percent said they wanted to relocate to northwest Arkansas."

Volunteers helped Dupree enroll at the University of Arkansas. "It's a big opportunity," he said. "I would have been a fool not to take it."

Dupree said a clergyman he had met at the Red Cross facility had helped him find a job at a Walgreens drugstore.

There was no question of going back to New Orleans, Dupree said. "It's beautiful up here."

Neighborhoods Likely To Be Razed In Cleanup (WT)

By Joyce Howard Price

The Washington Times, September 15, 2005

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Environmental Protection Agency officials and environmental specialists said yesterday that the cleanup of flood-soaked New Orleans will require razing neighborhoods, comprehensive disinfection, and extensive removal of soil and sediment infused with chemicals and bacteria.

"The whole city of New Orleans has the potential for being a giant Superfund [toxic dump] site," said Robert D. Bullard, director of the Environmental Justice Resource Center at Clark Atlanta University in Georgia.

EPA Administrator Stephen L. Johnson said tests continue to show high, unsafe levels of sewage and lead in New Orleans' water and evidence of other chemicals, such as chromium, copper, iron and sodium.

He characterized Hurricane Katrina as the "largest natural disaster the EPA and the nation have ever faced."

"Until we have a better handle on the magnitude of the problems, it is impossible to speculate on how long it will take" to resolve the environmental threats, said Mr. Johnson, who cited concern about the contaminated floodwaters' effect on the Mississippi River, Lake Pontchartrain and the Gulf of Mexico.

Several people familiar with the subject predicted that once the floodwaters are flushed out, possibly by next month, there will be extensive debate about the safety of certain neighborhoods, schoolyards and parks because of the presence of chemicals and bacteria.

"They are now part of the ecosystem, part of the water, part of the soil. Those chemicals will be absorbed on any surface, organic and inorganic," said Mirat Gurol, professor of environmental engineering at San Diego State University.

Ms. Gurol said many of the organisms will survive in spores and cysts, becoming dangerous again once they get in contact with water or humidity. She also expressed concerns about health risks from long-term exposure to chemicals and to heavy metals, such as lead, which do not decay in the soil.

The EPA also has found carcinogenic polychlorinated biphenyls, or PCBs, in New Orleans' floodwaters.

Von Roebuck, spokesman for the federal Centers for Disease Control and Prevention, declined to speculate about the health risks.

"The key is what kind of pollutants are in that water, and until we find that out, we can't predict," he said. The EPA tests are "preliminary," and much more analysis is needed, he said.

Some people in the hurricane zone died after they waded in the contaminated floodwaters and developed bacterial infections that penetrated open sores. In shelters, there were outbreaks of norovirus, a condition caused by consuming feces-contaminated food or water or coming into contact with an infected person. Norovirus is not usually life-threatening.

The levels of sewage found in New Orleans' floodwaters were 10 to 20 times greater than levels the EPA considers safe.

Daniel W. McCarthy, president and chief executive officer of Black & Veatch Water in Kansas City, Mo. -- which has contracts with Federal Emergency Management Agency to install and repair water systems in the flood-ravaged area -- said he thinks it's "more than likely drinking-water systems have been contaminated, even if they are still in service."

Boiling water "will kill live organisms, but not chemicals," Ms. Gurol said. "Long-term exposure to chemicals is a risk factor."

Mr. McCarthy agreed, saying it's necessary to flush and sanitize all lines.

Roy K. Dokka, a Louisiana State University geologist, expects that thousands of New Orleans residents "will be traumatized" when they are told their houses will have to be torn down.

Big Easy May Be Ready For New Year's (USAT)

By Gene Sloan

USA Today, September 15, 2005

New Year's in New Orleans?

Don't count it out, says Stephen Perry, president of the New Orleans Metropolitan Convention & Visitors Bureau.

Though it could be years before some residential areas bounce back from Hurricane Katrina, Perry and other leaders say tourist areas will be ready for visitors far, far sooner.

“When you see estimates of New Orleans not getting power back or water flowing for six or eight months, that is not the part of the city where tourists go,” Perry says. He notes that power was restored to the city's big hotels Monday and should be up across the downtown within two weeks. Potable water could return across the French Quarter and other neighborhoods within days.

Half a dozen hotels, including the Sheraton, Hyatt, Hilton and W, already have reopened, and an additional 35 to 40 will be open by the end of next week, Perry says. For now, they house relief workers, government officials and journalists. But the city's power brokers hope to have them ready for tourists by New Year's. Already there are plans for a scaled-down version of Mardi Gras in February.

Perry says getting tourism going quickly is crucial to the city's survival. Tourism is the biggest employer, accounting for 81,000 jobs and nearly $5 billion a year.

Reviving tourism, moreover, is realistic, say industry leaders. Tourist areas such as the French Quarter are on high ground and were spared serious flooding.

Mark Sanders, general manager of Marriott's 15 hotels, says Marriott should have most or all of its properties open by October. Like other chains, the company is setting aside 25% of its rooms to house displaced employees and their families. (There are plans to bring many back next week.) Hilton also plans to have most of its 17 hotels open soon, spokeswoman Kathy Shepard says.

Restaurateurs also are racing to get eateries up.

“We're in pretty good shape,” says Ralph Brennan, a top restaurateur. He hopes to have two of his places, Bacco's and Red Fish Grill, open within weeks to serve relief workers.

One hurdle is housing tourism service workers. Mayor Ray Nagin announced Tuesday that residents of less-damaged areas such as Uptown and Algiers could move back as early as Monday. And the city plans to shuttle evacuees in from Baton Rouge and elsewhere.

Speculators Rush In As Water Recedes (LAT)

By David Streitfeld

The Los Angeles Times, September 15, 2005

BATON ROUGE, La. -- Brandy Farris is house hunting in New Orleans.

The real estate agent has $10 million in the bank, wired by an investor who has instructed her to scoop up houses -- any houses. "Flooding no problem," Farris advises in her newspaper ads.

Her backer is a Miami businessman who specializes in buying storm-ravaged property at a deep discount, something that has paid dividends in hurricane-prone Florida. But he may have a harder time finding bargains this time around.

In some ways, Hurricane Katrina seems to have taken a vibrant real estate market and made it hotter. Large sections of the city are under water, but that's only increasing the demand for dry houses. And in flooded areas, speculators are trying to buy properties on the cheap, hoping that the redevelopment of New Orleans will start a boom.

This land rush has long-term implications in a city where many of the poorest residents were flooded out. It raises the question of what sort of housing -- if any -- will be available to those without a six-figure salary. If New Orleans ends up a high-priced enclave, without a mix of cultures, races and incomes, something vital may be lost.

"There's a public interest question here," said Ann Oliveri, a senior vice president with the Urban Land Institute, a Washington think-tank. "You don't have to abdicate the city to whoever shows up."

For now, though, it's a seller's market, at least for habitable homes.

Two months ago, Steve Young bought a two-bedroom condo in New Orleans' Garden District as an investment for $145,000. Last month, he was transferred by Shell Oil to Houston. Last week, he put the condo on the market.

In a posting on the Internet classified site Craig's List, Young asked $220,000. He got a dozen serious expressions of interest -- enough so he's no longer actively pursuing a buyer.

"I'm pretty positive the market's going to move up from here," he said.

So, to their surprise, are many others.

"I thought this storm was the end of the city," said Arthur Sterbcow, president of New Orleans-based Latter & Blum, one of the biggest real estate brokerages on the Gulf Coast.

"If anyone had told me two weeks ago that I'd be getting the calls and e-mails I'm getting, I would have thought he was ready for the psychiatric ward."

Messages from those wanting to buy houses -- whether intact or flooded -- and commercial properties are outrunning those who want to sell by a factor of 20, said Sterbcow, who has set up temporary quarters in his firm's Baton Rouge office.

"We're pressing everyone into service just to answer the phones," he added.

These eager would-be buyers may be drawing their inspiration from lower Manhattan immediately after 9/11, which proved a bonanza for those smart enough to buy condos there.

Of course, in southern Louisiana, everything is hypothetical for the moment. The storm destroyed many property records and displaced buyers, sellers, agents and title companies, so no deals are actually being done. Insurance companies haven't started to settle claims yet, much less determine how, or whether, they will insure New Orleans in the future. The city isn't even drained yet.

But people are thinking ahead, influenced by a single factor: the belief that hundreds of billions of dollars in government aid is going to create a boomtown. The people administering that aid will need somewhere to live, as will those doing the rebuilding. So will employees of companies lured back to the area, and the service people that attend to them.

All this will lead to what Sterbcow delicately calls a "reorientation" of the city.

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"Everyone I talked to has said, `Let's start with a clean sheet of paper, fix it and get it right,' " he said. "Some of the homes here were only held together by the termites."

What the owners of the city's estimated 150,000 flooded houses will get out of "reorientation" is unclear, especially if they were in poor repair and uninsured.

Some black New Orleans residents say dourly they know what's coming. Melvin Gilbert, a sixty-something maintenance crew chief, stood outside an elegant hotel in the French Quarter this week and recalled how that neighborhood had gentrified.

He remembered a half century ago when the French Quarter had a substantial number if black residents.

"Then the Caucasians started offering them $10,000 for their homes," he said. "Well, they only bought the places for $2,000, so they took it and ran."

The whites restored the homes, which rose quickly in value. Gilbert said he expects the same dynamic when the floodwaters recede in the heavily black neighborhoods east of downtown.

The process of tracking down owners of deluged houses is greatly slowed by the absence of records. It's not going to be easy to find these people, said Farris, the Baton Rouge real estate agent.

What would she pay for a ruined house?

Farris demurred, saying it was too early to tell, but probably only the value of the land, if that. While the French Quarter may be back to life within months, outlying districts like North Bywater and the Lower 9th Ward will take years, if they ever do. Investors might hope this is the equivalent of buying land on the distant outskirts of a boomtown, but it's not a guarantee.

For one thing, there are already proposals to convert certain flooded areas -- including some water-logged neighborhoods -- into parks. Under the U.S. Supreme Court's recent ruling broadening the definition of eminent domain, speculators could be forced to sell their properties to the government.

That would be a great outcome for many homeowners in the parishes south and east of New Orleans that bore the brunt of the storm.

Six months ago, Todd La Valla, a real estate agent, bought a four-unit apartment building for $59,000 in the community of Buras, an unincorporated hamlet in Plaquemines Parish 55 miles southeast of New Orleans.

The tenants evacuated in the storm, or at least La Valla hopes they did. He's sure the building itself is gone too, like just about everything else in the area. La Valla had no insurance, which means his $10,000 investment is probably a complete loss.

Yet where there's disaster, there's opportunity.

"I've had calls from investors in Los Angeles, Las Vegas, New York, looking to buy property," La Valla said. "This is going to be hard for the poor, the elderly, those that didn't have insurance. But it's going to be great for some people."

Germans Help Clean Up After Katrina (WT)

By Amy Doolittle

The Washington Times, September 15, 2005

NEW ORLEANS -- The 90 men and women sent by the German government to drain flood water from the city are among thousands of specialists now arriving to begin the cleanup process.

"If you can help and you have the opportunity to help, you should," said Jan Goerich, 29, from Speyer, Germany. "We are here to help, that is all."

The team of Germans, volunteers with Technisches Hilfswerk, a German disaster-relief organization, arrived Friday at Belle Chasse Naval Air Base with 15 pumps that can move almost 6 million gallons of water a day.

The German specialists are split into eight groups across the flooded city to pump water from such places as parking garages, sewage stations and neighborhoods.

"Our job is to get the pumping stations up and running," said Andsreas Garrecht, 35. "We have no plans to leave. We are here until it's done."

The German team is just one of many on hand to clean up and to protect those doing the work.

The special-response teams of the D.C.-based Immigration Customs Enforcement patrol outside the Superdome, which was a major evacuation center for tens of thousands, while crews inside clear broken bottles, water-soaked plaster, rotting trash and other messes.

"They are doing a real good job of getting the place back to normal," said Officer Fred Stacey, 45, of Reston, Va. "It's almost mind-numbing here, but we're just here to help. You get over it."

In the Hyatt Regency Hotel and the mall attached to the Superdome, a cleaning crew from Chicago-based United Service Companies has been working all week to remove garbage and sanitize the area.

"Right now, inside is marvelous compared to how it was," said employee Bobby Lisanty, 69. "How it was is not to be believed by man nor beast."

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Mr. Lisanty and his 26-member team will systematically clean the hotel over the coming days. The team will move to other projects when the work is finished.

In St. Bernard Parish, where the worst flooding occurred, the 3650th Maintenance Company of the Colorado National Guard spent the afternoon clearing an intersection.

"You wouldn't believe what we've found back here," said Sgt. Daniel Rinker, 47, of Westminster, Colo. "There's a lot of alcohol. People just came back here and had a party."

The National Guardsmen, whose only protection during cleanup yesterday was rubber gloves, swept the trash into a pile, then picked it up by hand and placed it in a large bin.

As the flood water recedes, mud dried and cracked in the hot sun has caked the streets and sidewalks. Cars, baby strollers, blankets and other items are scattered where the flooding left them.

Danny Prinz, 40, was allowed to return to his New Orleans Parish business, Dwyer Motors, yesterday to collect three tool carts and an industrial-strength power washer.

"It's going to be a long time before this place is back to normal," he said.

More Deaths Confirmed In Homes For The Aged (NYT)

By David Rohde And Shaila Dewan

The New York Times, September 15, 2005

A day after Louisiana officials charged the owners of a nursing home in the deaths of 34 patients there, the owners of two other nursing homes confirmed yesterday that an additional 13 patients died in their homes in the aftermath of Hurricane Katrina. State officials also said they were investigating the deaths of 14 patients at yet another nursing home in New Orleans.

The new reports suggest that at least 61 patients died in four New Orleans-area nursing homes after their operators ignored a mandatory evacuation order a day before Hurricane Katrina hit. The owners of 15 other nursing homes contacted by The New York Times said they had successfully evacuated hundreds of patients from their homes.

A total of 53 nursing homes were evacuated in the New Orleans area, but it is unclear how many of them were evacuated before the storm.

Some nursing homes spent as much as $50,000 to move their patients to safety, including using private helicopters, owners and administrators said. Other nursing home owners chose to keep their patients in the city and wait out the storm.

The attorney general, Charles C. Foti Jr., was investigating reports that 14 people died at the Lafon Nursing Facility of Holy Family in New Orleans, said his chief spokeswoman, Kris Wartelle.

"We're trying to make sure the criminal justice system still works in this case," Ms. Wartelle said. "It is such a horrendously horrible thing, and it's so important to these families."

Peggy Hoffmann, executive director of the nonprofit Bethany Home, said 9 of her home's 49 patients died after she chose not to move them despite the mayor's mandatory evacuation order. Ms. Hoffman said she had been unable to find 10 patients who were evacuated to the New Orleans airport and flown to an unknown city.

"I haven't been able to sleep at night," Ms. Hoffmann said. "We haven't been able to track down 10 of my people who went through my airport."

She said she thought it would be better for her fragile patients to remain in the home, which sits on high ground, than to endure the stress of an evacuation. In past hurricane evacuations in New Orleans, nursing home patients have died on buses caught in traffic jams for up to 12 hours.

Andrew Sandler, the administrator of a second nonprofit nursing home, Maison Hospitaliere, where four patients died, cited the same reason and added that the evacuation order was not made until the day before the hurricane struck.

"Usually there is more warning," Mr. Sandler said. "This one came very quickly."

Neither home flooded, and both had emergency generators that provided limited electricity. Both owners said that day after day of high temperatures inside the homes might have contributed to the deaths, but they were not sure.

Senator Charles E. Grassley of Iowa asked the Department of Justice, the inspector general of the Department of Health and Human Services and the Government Accountability Office yesterday to begin full investigations of the deaths in nursing homes.

"The utter disrespect for the life and dignity of the frail and elderly is nearly incomprehensible," wrote Mr. Grassley, the chairman of the Senate Finance Committee.

In other developments yesterday, Gov. Kathleen Babineaux Blanco, who has been a vocal critic of the federal response to the hurricane and subsequent flooding, said blame should be shared by all levels of government - and included herself.

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"We all know that there were failures at all level of government: state, federal and local," Ms. Blanco said in a speech before a joint session of the Louisiana Legislature. "At the state level, we must take a careful look at what went wrong and make sure it never happens again. The buck stops here. And as your governor, I take full responsibility."

She said she had demanded that FEMA give priority to Louisiana residents in rebuilding jobs and to "pay them in a timely fashion."

The federal government, Ms. Blanco said, should also "cover 100 percent of what Louisiana will spend on this disaster - just as was done after 9/11."

The governor also said she had issued an executive order directing state agencies to limit spending, and called for federal aid to rebuild houses, bring residents back to the state, offer tax breaks and loans to businesses, and extend unemployment benefits. She said she had hired a former FEMA director, James Lee Witt, to help work with FEMA to cut through bureaucracy.

Standing outside the chambers, Mayor C. Ray Nagin of New Orleans said he had missed all but the end of the governor's speech but called it "encouraging."

But, Mr. Nagin said, he is "nervous about how the implementation is going to take place."

On Tuesday, the state attorney general's office charged the owners of St. Rita's Nursing Home in Violet, just east of New Orleans, with multiple counts of negligent homicide in the deaths of 34 residents. The attorney general said the couple, Mable B. Mangano, 62, and Salvatore A. Mangano Sr., 65, had not acted on several warnings to move the residents as the hurricane approached.

In an interview on Wednesday, the couple's lawyer, James A. Cobb, said his clients were innocent, calling the charges "absurd" and "mean spirited."

"These folks have lost everything," Mr. Cobb said. "They've lost their entire life's work."

He said that the home was above flood stage level and that most of the families decided to keep their relatives at St. Rita's.

Tony Mendoza, a nursing home owner who used a private helicopter to evacuate patients before the hurricane's arrival, criticized nursing home owners who chose to remain in the city. Mr. Mendoza said he chose to evacuate his two commercial homes on Friday, two full days before Hurricane Katrina struck New Orleans.

"It was a given," Mr. Mendoza said. "Every hour that went by since Friday you knew you had to go."

Kevan Cullins's 100-year-old grandmother was evacuated from Lafon a few days after the flooding, only to die, dehydrated and weak, a few days later in a hospital. Mr. Cullins said that when his family called Lafon before the storm, staff members said they had a generator and the staff was going to stay with the patients, Mr. Cullins said. If it flooded, he said, they planned to move to the second floor.

Mr. Cullins said the home had made the wrong decision in failing to evacuate.

"But at the same time," he said, "there's a lot of people in that nursing home that may not have made it anyway, they're just that frail. It's a Catch-22. A lot of the people were like my grandmother, 100 years old, and they didn't have too much more to go, but they didn't deserve to die like that."

Lafon and Bethany had been cited by inspectors for mistreatment and quality-of-care deficiencies from April 2004 to June 2005. But Lafon, with 8 deficiencies, had less than the state average of 10 per home, while Bethany had 23. For both homes, all of the deficiencies were rated 2 on a scale of 1 to 4, with 1 indicating the lowest level of harm or potential harm to residents.

Lauren Shaham, a spokeswoman for the American Association of Homes and Services for the Aging, based in Washington, said her group, which represents about 5,300 nonprofit nursing homes, assisted-living facilities and elderly-housing sites, including about 90 in the region affected by Hurricane Katrina, had not had complaints that nursing homes were not evacuated.

St. Rita's was not a member of the association.

"I think the St. Rita's thing, at least from what we're hearing, is really an anomaly, far from the norm," Ms. Shaham said.

'It Was As If All Of Us Were Already Pronounced Dead' (WP)

By Wil Haygood And Ann Scott Tyson

The Washington Post, September 15, 2005

NEW ORLEANS For five eternal-seeming days, as many as 20,000 people, most of them black, waited to be rescued, not just from the floodwaters of Hurricane Katrina but from the nightmarish place where they had sought refuge.

During that time, the moon that hovered over the Ernest N. Morial Convention Center seemed closer than anyone who could provide those inside the center with any help.

On the fourth day, after TV had been filled with live reports from the center describing sexual assaults, robberies and gunfire, single mothers desperately seeking help for their children and fathers doing their best to protect them, the federal official

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charged with leading the hurricane response, Homeland Security Secretary Michael Chertoff, responded to an interviewer's question by saying it was the first he had heard that people "don't have food and water in there."

"It was as if all of us were already pronounced dead," said Tony Cash, 25, who endured three nights of hunger, violence and darkness at the convention center. "As if somebody already had the body bags. Wasn't nobody coming to get us."

No one has been able to say how many people died inside the convention center; police, military and center officials estimate the number is about 10. Nor has there been any attempt to document the number of assaults, robberies and rapes that eyewitnesses said occurred from the time the first people broke into the convention center seeking shelter on the afternoon of Monday, Aug. 29, and when units of the Arkansas National Guard moved into the center on Friday, Sept. 2.

But even without those numbers, what happened in the convention center stands as a harsh indictment of government's failure to help its citizens when they needed it most. That futility was symbolized by the presence in the convention center for three of the most chaotic days of at least 250 armed troops from the Louisiana National Guard. They were camped out in a huge exhibition hall separated from the crowd by a wall, and used their trucks as a barricade when they were afraid the crowd would break in.

The troops were never deployed to restore order and eventually withdrew, despite the pleas of the convention center's management. Louisiana Guard commanders said their units' mission was not to secure the facility, and soldiers on the scene feared inciting further bloodshed if they had intervened. "We didn't want another Kent State," said Army Lt. Gen. Russel L. Honore, commander of the active-duty military forces responding to Katrina. "They weren't trained for crowd control."

In more than 70 interviews, with both military and law enforcement officials -- who were themselves sometimes inside the center -- and with many of the survivors who suffered over the course of several nights, a chilling portrait emerges of anarchy and violence, exacerbated by young men from rival housing projects -- Magnolia, St. Bernard, Iberville, Calliope.

"Everywhere I went, I saw people with guns in their hands," said Troy Harris, 18. "They were putting guns to people's heads."

Recounting their pleas for milk for their babies, for food, for protection, many survivors described the same sense of bewilderment and anger -- broadcast, surreally, on live television. "This is America," one woman shouted into the TV cameras. What she meant was, this is not supposed to happen here.Too Late to Leave

It was Saturday, Aug. 27, when New Orleans Mayor C. Ray Nagin pleaded with city residents to leave. Katrina would be on land in less than two days. A day earlier, Gov. Kathleen Babineaux Blanco had declared a state of emergency, prompting heightened preparation by the Louisiana National Guard.

But by this point, the appeals from Blanco and Nagin were aimed at one group in particular -- the poor. Those with resources had already bolted.

Many simply had no way of leaving on their own. Many who had survived hurricanes figured this wouldn't get them, either. "They tend to look at evacuation orders as scare tactics," said Troy Jarreau, a New Orleans schoolteacher who has taught many children from impoverished households.

But by Monday, after Katrina hit New Orleans and the levees had broken, a different reality was clear. "Get out! Get out now!" was the message on WYLD ("Wild for Jesus"), a popular black radio station. It was repeated on Q93-FM, heavy with rhythm and blues and rap music.

This time, those who stayed behind found themselves wading, or swimming, using every ounce of energy to get themselves to the Louisiana Superdome, which had served as a refuge in previous hurricanes. But the indoor stadium had begun filling as early as Sunday, and by the next day, officials had started turning people away. It was becoming overcrowded, and the floodwaters had begun to encircle it.

The convention center, a sprawling complex of meeting halls nearly a mile long near the Mississippi River, was never intended as a shelter, said Capt. M.A. Pfeiffer, an operations officer with the New Orleans Police Department. "It was supposed to be a bus stop where they dropped people off for transportation. The problem was, the transportation never came."

As rising water engulfed the Superdome on Monday, trucks and vans that were rescuing people from the I-10 overpass and other locations began dropping them off on the dry road in front of the center. It was the only option, police said. Quickly, the crowd grew to 1,000 people.

Katrina had ripped a hole in the center's roof, dumping pools of rainwater into Hall C in the middle of the huge complex. The center lost electricity and water pressure, but otherwise damage was not severe.

Monitoring the damage were about 40 essential convention workers -- carpenters, electricians and unarmed security guards -- supervised by the center's president, Jimmie Fore, who had arrived there Sunday determined to ride out the storm. Joining them were about 300 other employees and their families seeking shelter.

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As a crowd gathered outside and it became dark, Fore said he sensed trouble, so he went down to the sidewalk and made an appeal. He warned those arriving that the center had no food, water, electricity, medical care or other provisions to serve as a shelter. They ignored him. "They just kept coming," he said.

Security guards had locked the building, but later that night, people began yanking on the doors and eventually opened one. "Once one got in, they let all the others in," said Fore, explaining that the doors had "panic hardware" and could not be locked on the inside.

At the Superdome, officials had devised a security plan to check for weapons. No such plan was put into place for the convention center, even as the numbers of people seeking shelter swelled and swelled.Descent Into Danger

Leon Doby, 26, had gotten daughters Leah, 1, and Khaylin, 3, out of their home, put them in a crate, tied the crate with rope to his waist, then began swimming. He hustled his way, finally, onto a motorboat. It sped off to the Superdome, all aboard exhausted.

At the Superdome, they were rebuffed, and pointed in the direction of the convention center, 10 blocks away.

By the time Doby -- with the crate and the two daughters -- arrived Tuesday, he found himself gazing into thousands of bewildered faces. Gripping his daughters, he walked fast -- exactly where he was going, he did not know -- but he passed an elderly lady who seemed to be listing in a wheelchair.

"I went down the hall," he said. "By the time I was back, she was already gone."

Doby would spend four days at the center. All he had for himself and two girls during that time was a sandwich and two bottles of water that a stranger had given him.

Linda Cash, 26, arrived with her two children, Clarence, 6, and Cyrin, 2. "Soon as I got there," Cash recalled, "I saw fighting. I saw people throwing chairs. People pulling guns out, right in front of little children."

Near where Cash had hunkered down Monday night, she noticed a little boy having difficulty breathing. She figured he was having an asthma attack or an anxiety attack. She and others nearby spotted a too-seldom-seen police officer. The officer came over, his gun drawn. Cash said she pointed to the young boy. "The officer checked the boy," Cash remembered, "then turned to us and said there was nothing he could do."

The officer vanished. The boy was dead -- a death confirmed by three others interviewed for this article.

Another officer soon appeared, and Cash and the others figured he would remove the dead child. "But that officer told us he had come over to our area to check on some gunshots he heard near us," she said. The body stayed there.

By Tuesday, the center's population had exploded to nearly 20,000. "The lights never came on, for some reason, all the way," Cash said.

And among those thousands were gangsters, though maybe not members of gangs. Community activists for years had been warning the city's leadership about the folly of mixing youths from one housing project with youths from another.

"You declare martial law," said Jazz Washington, a community activist, "and to these gangsters that just means, 'We can kill you and keep on moving.' "

A gang broke into the locked alcohol storage areas and suddenly had 50 cases of hard liquor and 200 cases of beer. And before long, there were scenes of gangsters, drunk, groping after young girls -- and those scenes not far from the ones of women in corners, balled up, praying all frozen with a Hobson's choice: the gangsters, or the floodwaters.

"They took so much, they couldn't drink it all," said George Lancie, manager of the center's food-service company, who had been at Fore's side.

In the chaos, the youths hotwired anything that would move, including electric utility carts and forklifts. Tony Cash saw the forklifts being driven about in zigzags. "They were nearly running over people," he said. "I'm telling you, it was crazy."

Fore was at a loss as to how to quell the danger. He said he tried desperately to call local and state emergency authorities. But he never got through. And he looked and looked for the arrival of local police.

"You might see them drive by," he said. "Is that providing security?"

New Orleans police officials said they could not safeguard the center after Katrina left them short of officers, vehicles and a dependable communication system. And when their armory flooded, they were short of ammunition. Dozens of officers tried patrolling outside around the convention center, but, according to Lt. Melvin Howard, the crowds and darkness made it difficult and dangerous to work inside.

Police could not use flashlights without giving away their position and becoming possible targets, Howard said. Nor could they open fire, if confronted, without the risk of killing innocent people.

Troy Harris, 18, who had survived a gunshot to the stomach on the hard streets of New Orleans, thought he could handle himself anywhere in the city. The darkened convention center gravely tested his moxie. "They were robbing people in there. At gunpoint," he said. "Somebody robbed me of a hundred dollars."

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Even police officers were afraid, Harris said. "I saw police officers in the bathroom taking off their uniforms!" he said. "I'm telling you, they were taking off their uniforms and throwing their badges down!"

Doby saw prostrate bodies near the bathroom -- dead or unconscious, he didn't know. He told his little girls it was okay to soil themselves. His hungry girls in his arms, Doby was furious.

At daybreak, many would flee outside, where TV cameras gave them desperate moments to make appeals. But for the most part they had nowhere else to go. It was as if they were marooned in some faraway locale, on some faraway island -- instead of New Orleans.

Rumors were treated as fact -- both inside the convention center and out. A later report that there were 200 bodies in the convention center and the Superdome brought a coroner's unit rushing from St. Gabriel and Baton Rouge, La.

One night, said Steve Rochon, a deranged man started yelling, "Here comes the water!" -- intimating the Mississippi was about to flood the center. A panic ensued, and mothers grabbed children.

The deaf didn't know what was happening. The old in the wheelchairs couldn't move. But the stampede was on anyway. A mother screamed that someone was stepping on her baby.

"People just started panicking," recalled Rochon, himself forced to move animatedly on a prosthetic leg. "People were getting run over each other."

At one point, a police car drove up. Perhaps good news. Perhaps ships were steaming up the Mississippi over there right now.

A police officer tossed out a few bottles and drove off. It ignited a free for all. Doby himself looked on in horror as a man -- arguing over the water -- struck another man with a two-by-four. "That man, he was split" in the head, said Doby. "He was leaking. He just dropped, face first."

Back inside, Doby was stilled by yet another confrontation. Three women were arguing, over what everyone seemed to be arguing about: lack of food, water, space. One of the women -- a snap-of-the-finger quick -- plunged a pair of scissors into the shoulder of the woman she had been arguing with.

Everywhere, a new woe. A group of people desperate for food broke into the kitchen. When they tried to cook something, a fire erupted.Desperate to Flee

By Wednesday night, Fore and eight colleagues had locked themselves in an office. A gang had threatened to break through, rattling the door. A security guard informed Fore the situation appeared to be getting worse in the center.

Fore and his aides had parked their cars over in Hall J, and Fore decided they had to make a break. Thursday afternoon, they moved stealthily to their cars. When they reached them, they slipped inside and fled.

Wednesday, some buses arrived, but of the thousands in the convention center only a tiny number could board. They had been standing outside, where the buses rolled to a stop.

Then there was a miracle: Seven more buses rolled up. The race was on to get to them. Linda Cash, slow off the draw, grabbed her children anyway. And started racing. "Then the buses pulled off," she said. "And no one was on them. That's when I knew I really had to find a way out of there."

On Thursday, Cash left, taking her children and stealing a car that eventually got her to Baton Rouge. That same day, the New Orleans police made a dramatic entrance. Sgt. Hans Ganthier and 12 other New Orleans SWAT team members entered the center, M-4 commando rifles at the ready. Prayers had been answered -- only it was a rescue mission of a different purpose.

A Jefferson Parish police deputy had appealed to SWAT team Capt. Jeff Winn for help in bringing out his wife and a female relative from the center. "He knew they were there and was hearing nightmarish stories," said Ganthier, who declined to identify the officer for security reasons.

Winn approved the mission.

When the SWAT team entered at 11 a.m., the Jefferson Parish officer called out his wife's name. She heard him, and along with the relative rushed to his side. The SWAT team put the women in the middle of the team, then backed out the door.

Once it became clear that the SWAT team had come with the single goal of rescuing two white women, anger exploded.

"Racists!" one man cried out.

"Some people were upset we weren't rescuing them," said Ganthier. "It's hard to leave people behind like that, but we were aiding an officer."'A Mob, Crazy Mentality'

By Tuesday night, a contingent of at least 250 Louisiana National Guard troops was hunkered down in Hall A, off Julia Street at the northern end of the building.

The armed troops, from at least two engineering battalions -- the 769th and 527th -- had been assigned to set up a base at the center to prepare for debris removal and road clearing, as well as rescue and security. But they had enough food and water only for themselves and had no immediate orders to provide assistance or security for the thousands of evacuees in their midst, according to interviews with a dozen enlisted soldiers and officers.

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Instead, as the danger level grew, they felt they must first protect themselves.

"There was way too many of them and way too few of us," said Master Sgt. Chad Anderson, 37. "Since we couldn't help them, it was best to avoid them. They had a mob, crazy mentality."

Whenever the soldiers left the center on missions, they drove west on Julia Street and away from the throngs of people begging for food and water along Convention Center Boulevard. "When they saw the soldiers, they'd think, 'That's food,' " said Sgt. Karla Spillers, 26. "We didn't have any for them. We had to feed our own people."

Spillers said she felt pain at the knowledge that teenage girls were wandering around the center, alone, knowing they were possible prey.

"There were prisoners, mobsters, gangs" in there, she said.

Almost as soon as they arrived, Guard commanders became concerned enough about the safety of their troops that they ordered more weapons and ammunition. On Wednesday night, there was kicking and banging on the doors to Hall A, where the guardsmen were. "They were trying to break the doors and get us," said Anderson. "They knew we were there."

"About 9 that night, we started barricading the doors," said Staff Sgt. Bryan Lowery, a supply sergeant with the 527th battalion.

Guardsmen parked at least three dump trucks next to the doors to block them, and Lowery began dispensing weapons and ammunition.

"It scared me," Spillers recalled. "Everyone went to get their weapons from the backs of the trucks."

That night, Guard commanders figured the convention center was untenable as a staging base. And they, too, left the center despite what Fore said were his pleas to stay.

"We were told they couldn't help us unless the order came down from the top, from a lot of people," Fore said. "The only time they partnered with us was when there were gunshots in the area where they were actually staying. They protected themselves."

Maj. Keith Waddell, commander of the 769th Engineer Battalion, said his unit was never asked to quell the violence at the convention center. "The idea of helping with the convention center never came up," he said. "We were just preparing ourselves for the next mission."

Waddell said he believes that, if so ordered, the Louisiana Guard forces present would have been adequate to get the center under control.

"I feel confident we could have controlled it, with the numbers we had," Waddell said.

But senior commanders indicated they had ruled out that possibility. Col. Stephen C. Dabadie, chief of staff of the Louisiana National Guard, said the engineer units were "not designed to secure the convention center."The Troops Arrive

Early Thursday, the Guard troops packed up and rolled out amid angry calls from the crowd inside. Twenty-four hours elapsed before more troops arrived -- including a contingent of the Arkansas National Guard, imposing enough so that no one tried to bother them.

Many of the guardsmen had recently returned from Iraq, and they arrived wearing helmets and full body armor, and shouldering rifles. To their surprise, they encountered virtually no violence -- only a crowd of hot, frustrated, angry people desperate for food and water. "A lot of them said we should have been there earlier," said Spec. Keithean Heath of the Arkansas Guard's 39th Infantry Brigade.

Military commanders had worried the crowd would rush medevac helicopters. Instead, soldiers faced little interference as they moved to help frail and elderly people in wheelchairs in urgent need of care, women cradling tiny infants and others about to give birth. The soldiers set up food lines to hand out bottled water and packaged military meals, and people lined up to receive them.

On Saturday, soldiers again lined up people and searched them before loading them onto buses. They counted as many as 16,000 people who got on the buses, an eerily quiet process.

Leon Doby, the daddy who swam his two young daughters to safety -- before they all arrived at the convention center -- had already left. He headed out as he had arrived, his two little girls -- his everything -- in the crook of his arms.

A genuine miracle: A man on the road picked them up and drove them all the way to Dallas.

"That was hell," Doby said of the New Orleans convention center. "They sent us to the grave."Tending to the Dead

Three days after the evacuation, Staff Sgt. Juan Almonte, a medic with the 82nd Airborne Division, slipped past a caution sign and through a ripped metal door, bracing himself for the task ahead -- to "bag" the bodies still inside the convention center.

Inside the food-service area near Hall A, sitting slumped in a black wheelchair, was a woman of about 60 in a hospital gown. A man in a shirt and jogging pants lay curled up on the concrete floor next to her, his hand over his face.

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To Almonte's right down a wide hallway, a large man -- the medic guessed he was at least 6-foot-4 and 300 pounds -- lay with his arms over his head and knees bent. Another woman in hospital scrubs lay a few feet from him, next to aluminum cans and trays with stained but elegant white dinner menus.

Around the bodies were pools of dried blood. Looking closer, he noted swelling and abrasions on the corpses. He stared at what he found next. On the gray, soiled floor several feet from the dead lay a pair of shiny brass knuckles.

"My perception was that they were beaten to death," he said last week. "Absolutely, they were killed."

Almonte and his fellow medics had to struggle to straighten the corpses to fit them in double bags -- the large man took up one by himself. The next day, about 20 boxes of body bags appeared in front of Almonte's tent, and he told his men to prepare for more recoveries. But no order ever came. Civilian authorities, he was told, would handle "packaging and retrieval."

Health Officials Urge Flu Shots For All Katrina Evacuees (WSJ/AP)

By Associated Press

The Wall Street Journal, September 15, 2005

WASHINGTON -- Federal health officials are pressing forward with plans to ensure flu vaccinations for hurricane evacuees in shelters as well as all people in nursing homes, populations they say are particularly at risk for catching the illness while living in tight quarters.

Julie L. Gerberding, director of the Centers for Disease Control and Prevention, said Wednesday that elderly evacuees, as well as those of all ages at shelters, will be among the first to receive flu shots this fall.

Manufacturer Sanofi-Pasteur is making 200,000 of the first flu shots available to those evacuees. Sanofi-Pasteur is the vaccine division of France-based Sanofi-Aventis.

Federal stocks of all vaccines are being made available to children who are evacuees, Dr. Gerberding said.

Mark McClellan, administrator for the Centers for Medicare and Medicaid Services, said a proposed rule would require all nursing homes to offer vaccinations against the flu and bacterial pneumonia.

The goal is to get 90% of people in nursing homes vaccinated, Dr. McClellan said. Nursing home residents can opt out, and a few may not be eligible for the shots for other health reasons, he said.

About two million people live in the nation's 18,000 nursing homes, Medicare officials said.

Because of questions about the vaccine supply, federal officials want high-risk groups -- including people aged 65 and older, and children between 6 months and 23 months -- to get their flu shots and are asking doctors to hold off on giving the shots to healthy adults until Oct. 24 at the earliest.

CDC: Outlook For Flu Vaccine This Year Good (USAT)

By Liz Szabo, Usa Today

USA Today, September 15, 2005

Federal health officials said Wednesday that flu shots this year should go first to the most vulnerable patients — including Hurricane Katrina survivors living in shelters — but should be available to everyone by late October.

Although the vaccine supply should be ample this year, with 71 million to 97 million doses, the Centers for Disease Control and Prevention expects some shots to be delayed.

The flu vaccine supply has become a major public health concern. The USA lost nearly half its expected supplies last year after the Food and Drug Administration banned distribution of flu shots from vaccine maker Chiron Corp., whose license was suspended by British regulators because of contamination problems at its plant in England.

The nation's expected flu supply was cut from 100 million doses to 61 million last fall, which caused widespread shortages and long lines at flu clinics.

Chiron announced last month that the Food and Drug Administration has found its British facility "generally acceptable." Although the company expects to produce 18 million to 26 million doses for this flu season, it won't start shipping until the end of September or early October, spokeswoman Alison Marquiss says.

The CDC is not asking doctors to ration the FluMist nasal spray, which uses a live virus instead of the inactivated virus used in flu shots. The sprays can be used by healthy people ages 5 to 49, except for pregnant women.

Julie Gerberding, director of the CDC, urged doctors to delay until Oct. 24 giving flu shots to people at lower risk. That should give high-risk patients the chance to be inoculated first, she said during a briefing at the National Press Club in Washington. In addition to hurricane survivors, who are more likely to get sick if they have been living in close contact with many other people, doctors should give priority to health workers, people over 65, people with chronic diseases, children ages 6 months to 23 months and people who live with or care for babies under 6 months.

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This schedule is designed to allow enough time to protect people who have the most to lose from flu infections, Gerberding says. But it is also meant to allow organizations to schedule vaccine clinics. Health officials say the flu season typically peaks from late December to March.

Managing vaccine supplies is a challenge every year, says Tracy Lieu, an associate professor at Harvard Medical School and member of the CDC's Advisory Committee on Immunization Practices. Last year's warnings about shortages led millions of healthy adults to skip vaccination, and 4.5 million doses went unsold.

"Physicians and nurses feel we send mixed messages — and we do," Lieu says. "We say, 'Everyone come get your flu shot,' then, 'Wait, there are no flu shots.' "

Ten percent to 20% of Americans get the flu every year, Henry Bernstein, a member of the American Academy of Pediatrics' committee on infectious disease, said at the conference. It kills 36,000 Americans a year and sends 200,000 to the hospital.

Evacuee Students Happy To Be At Madison (DMN)

By Tawnell D. Hobbs, The Dallas Morning News

The Dallas Morning News, September 15, 2005

One thing is obvious at Madison High School in South Dallas. Students who evacuated here because of Hurricane Katrina appreciate Texas.

U.S. Department of Education Assistant Secretary Tom Luce, Texas Education Commissioner Shirley Neeley, Dallas Superintendent Michael Hinojosa and Dallas trustee Ron Price toured the school on Wednesday and were thanked profusely by some students.

"I appreciate what you did for us, letting us into your schools," 16-year-old James Smith told the group as he sat in class.

Madison has taken in about 115 students, more than any other public school in Dallas. In all, Dallas schools have enrolled nearly 1,500 students since Sept. 1, when the district began tracking new students from hurricane-ravaged areas.

Mr. Luce, a native of Dallas, said the visit to his home state was necessary to determine the needs of educating student evacuees. He said other government officials would also visit other cities.

"Part of my job is to try to develop national policy in a real big hurry," Mr. Luce told students at Madison. "It's our job to make sure that you all have the educational opportunity that every American deserves. We're going to get you some help."

Tyne Thompson, a 17-year-old senior, praised the state of Texas for willingly accepting students from Louisiana.

"They loved us enough to provide us with what we need," she said. "My mom said, 'Texas has a big heart.' "

Mr. Luce plans to meet with area school superintendents later today.

Hurricane Puts Strain On S.A. Schools (SAEN)

By Jenny LaCoste-Caputo

San Antonio Express-News (TX), September 15, 2005

San Antonio school leaders concerned about the ramifications of taking in nearly 1,400 new students escaping the aftermath of Hurricane Katrina will have the chance to voice their worries and ask for help today.

Ray Simon, deputy secretary for the U.S. Education Department, will visit San Antonio today to meet with superintendents and visit schools. School leaders will meet with Simon and Texas Education Commissioner Shirley Neeley at the Region 20 Education Service Center.

Simon plans to tour Hull Elementary in Northside School District and South San Antonio High School West Campus in South San Antonio School District.

"San Antonio has really stepped up to the plate and is doing the right thing for these students," said Chad Colby, a spokesman for the U.S. Education Department.

As of early this week, at least 1,399 Hurricane Katrina evacuees had enrolled in local school districts. The majority of the students are enrolling in the districts serving the city's four shelters — Northside, North East, Edgewood and South San Antonio. Other districts are seeing a spike in enrollment as families move out of shelters and into the community or bunk with friends or relatives in San Antonio.

Judson School District had 140 hurricane evacuee students, or "Katrina kids" as several districts have dubbed them, as of Tuesday. Alamo Heights has enrolled 34, and San Antonio has 81.

San Antonio school leaders were lauded for getting students enrolled as soon as possible. But as the numbers swell, the realities are setting in.

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"We know firsthand that a very small population can skew test results and give a school a bad academic rating," said Richard Middleton, superintendent of North East School District. "We're hoping for a little bit of common sense from the state and federal governments."

Both Texas and the federal government have strict accountability laws that rank schools based on test performance. Low-performing schools are subject to sanctions. If no exceptions are made, the storm victims' test scores will count toward the school ranking given the Texas school they now attend.

The rankings also take into account attendance and dropout rates. Those rates could take a hit as children move on to another district or back to their home state.

Last week, the National Education Association, the country's largest teachers union, asked Education Secretary Margaret Spellings to waive the accountability portion of the federal No Child Left Behind law for schools directly affected by the hurricane in Louisiana, Mississippi and Alabama, as well as Texas and other states receiving large numbers of students.

Commissioner Neeley has sent a letter to the Education Department, asking, among other things, for flexibility under No Child Left Behind.

So far, at least, the new students will be counted in the state's accountability system, according to the Texas Education Agency.

Diana Bowman, director of the National Center for Homeless Education, said expecting these children to perform up to standard after the trauma they've experienced could be unrealistic.

"There have been studies that show every time a child transfers from one school to another, they lose about four to six months of continuity in education," Bowman said. "And the more time they're out of school, more is lost."

Educators also are concerned about graduation requirements for high school seniors.

Texas law requires high school students to pass exit tests before earning a diploma. There are no waivers.

"We are aware of the (complication), and we are looking into it," said DeEtta Culbertson, a TEA spokeswoman.

It might take legislative action to address the potential problem, she said.

Another possible option is for high school seniors from Louisiana who now attend Texas schools to take Louisiana tests and earn a Louisiana diploma, Culbertson said.

"We're looking at the graduation requirements for the three states (Texas, Louisiana and Mississippi) to cover all of the evacuees, not just the Louisiana kids," she said

Middleton said he hopes a solution is found soon.

"Is it fair for these kids to be thrown into a different system, in a situation they didn't create, and held to different requirements?" he said.

The influx of students likely will cost San Antonio-area schools tens of millions of dollars over the next school year. Neeley has estimated the state's bill could be at least $450 million.

The Federal Emergency Management Agency will reimburse school districts for transportation costs, portable buildings, school computers and mental health counselors, but not other, and potentially more expensive costs, such as hiring new teachers and support staff.

Spellings is working with Congress to develop a plan for financial aid for the states.

"We're tracking every expenditure and it's going to be a lot of money," said Northside Superintendent John Folks.

Louisiana Elections Put Off (WT)

By Audrey Hudson

The Washington Times, September 15, 2005

Louisiana officials yesterday postponed local elections scheduled for Oct. 15, citing a lack of equipment and manpower.

"Right now, because of Hurricane Katrina and its resulting aftermath, we don't have the machines, personnel, or electorate in place to properly conduct a fair election in these affected areas," said Al Ater, Louisiana's secretary of state. "We will reschedule these elections at the appropriate time."

The cancellation affects judicial candidates, a school board race and one council seat in the parishes of Orleans and Jefferson, special propositions for tax increases for security patrols in two neighborhoods, and a "beautification, security and overall betterment" tax increase in eastern New Orleans.

According to Louisiana law, an office holder remains at his or her post until a successor is sworn into office.

Mandatory evacuation after the storm also leaves the state short on voters, prompting the National Association for the Advancement of Colored People to begin organizing New Orleans evacuees in shelters across the country to ensure they can vote in the Orleans Parish mayoral race in February and a congressional race in 2006.

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Ellen Davis, spokeswoman for the Louisiana Republican Party, said getting elections back on track and ensuring legal residents can cast votes will be a "logistical nightmare."

"Our country has never seen anything like this, we have entire counties that are without a population," Mrs. Davis said.

Democratic Rep. William J. Jefferson of New Orleans, the only black member of Louisiana's congressional delegation, faces re-election next year.

With Louisiana voters scattered among 300 shelters in 24 states, black leaders fear a permanent exodus reminiscent of the 1927 Mississippi River flood, when hundreds of black residents fled the region.

President Bush carried Louisiana with 57 percent of the vote in 2004. Statewide, white voters outnumber black voters, nearly 1.8 million versus 780,000, and Democrats outnumber Republicans 2-1. In New Orleans, there are about 63,000 white voters -- more than half of whom are Democrats -- and 143,000 black voters.

New Orleans Democrats showed their strength in the 2002 runoff election between Sen. Mary L. Landrieu, Louisiana Democrat, and Republican Elections Commissioner Suzanne Terrell. Voter turnout statewide was low, but 40,000 New Orleans voters gave Mrs. Landrieu her margin of victory.

Marc Morial, former New Orleans mayor and president of the National Urban League, yesterday asked the Senate Homeland Security and Governmental Affairs Committee to create a Katrina victim's Bill of Rights for the evacuees, that would among other assistance ensure future voting rights.

"We must continue to have voting rights in the state, not to politicize this, but they must have a voice in the rebuilding effort in the community from which they have been displaced," Mr. Morial said.

Lloyd's Estimates Its Katrina Costs At $2.55 Billion (WSJ)

By Charles Fleming

The Wall Street Journal, September 15, 2005

Lloyd's of London estimated that claims related to Hurricane Katrina and the devastation of New Orleans could cost it a net $2.55 billion (€2.08 billion), its second-biggest loss ever, reinforcing expectations that insurers world-wide will push prices up next year to recover some of their huge losses.

Lloyd's estimate of its losses makes Katrina the second-most-expensive single disaster ever in nominal terms for the Lloyd's insurance market, whose members paid out about $3.5 billion for the World Trade Center terrorist attacks in New York in 2001. It also tops all other insurance groups' estimates of their individual exposure to Katrina claims so far. Lloyd's functions as a marketplace for syndicates that underwrite insurance policies.

Lloyd's warned that conclusive data on how much the insurance market would have to pay out on Katrina wouldn't be available for some time. But it said in a statement yesterday that, based on current information, it didn't believe the disaster would push out of business any of the 62 syndicates that operate through Lloyd's. It also said it didn't believe any Lloyd's syndicates would make a material claim on Lloyd's £1.1 billion (€1.6 billion) bailout fund for its members, known as the Central Fund.

Katrina could cost the global insurance industry up to $60 billion, according to some industry estimates. Large European insurers often find themselves on the line for hefty chunks of insurance claims incurred by distant hurricanes such as Katrina, because they provide reinsurance cover to the direct insurers who sell home, automobile, industrial or life policies in the disaster zones.

The estimated $2.55 billion that Lloyd's syndicates could end up paying is split evenly between claims by individual policy holders who bought coverage directly on the Lloyd's market and claims from U.S. insurance companies that reinsured their risks through Lloyd's, spokesman Nick Gammage said. Lloyd's also sells reinsurance coverage to the reinsurance groups themselves, giving it three potential levels of exposure. Mr. Gammage said a detailed breakdown of Lloyd's exposure wasn't yet available.

Other European reinsurers, notably Swiss Reinsurance Co. of Zurich and Munich Re AG of Munich, have also said in recent days that they could face hefty bills for Katrina-related damage. Swiss Re has estimated its maximum loss could be $1.2 billion, and Munich Re, which initially estimated its losses at about $500 million, has said it could raise its estimate as further information comes in.

A number of Bermuda-based reinsurance groups, which are smaller than the large European companies but tend to be more focused on natural-catastrophe insurance, are also likely to face big losses.

Insurance brokers say the size of the reinsurers' exposure means it is almost inevitable that reinsurers will try to claw back losses by raising the prices they charge the direct insurers. "In the light of these numbers, there'll be upward pressure on prices in many areas, especially property catastrophe coverage, energy and large [industrial] risks," said Geoffrey Bromley, chairman of reinsurance brokerage firm Guy Carpenter & Co.'s non-U.S. activities.

Insurers May Face Flood Lawsuits In Mississippi (WSJ)

DOJ_NMG_0005826

By Theo Francis

The Wall Street Journal, September 15, 2005

Mississippi Attorney General Jim Hood is considering suing insurers to force them to pay flood damage from Hurricane Katrina that could total billions of dollars, seeking to override decades-old exclusions in standard homeowners' policies, two people familiar with the matter said.

The attorney general's examination of legal moves comes as tens of thousands of Mississippi homeowners are grappling with the cost of rebuilding homes that in many cases were badly damaged by the huge storm surge that accompanied the category-four hurricane's strong winds. Mr. Hood and a spokesman for his office couldn't be reached for comment late yesterday.

Standard homeowners' policies cover wind damage, not flooding. Yet fewer than one in five Mississippi homes and businesses in areas most at risk of flooding hold policies from the National Flood Insurance Program, according to federal figures. While some government grants are available to uninsured flood victims, such homeowners typically rebuild with low-interest federal loans.

Any legal action by Mr. Hood, which could be announced this week, would be expected to meet resistance from the insurance sector. Insurers cannot afford to pay flood damage from Katrina because they "have never collected a cent of premium for flood insurance," said Robert Hartwig, chief economist for Insurance Information Institute, a New York trade group. He said insurers would argue that "the flood exclusion in homeowners' policies is well-established in all states...That is why there exists a national flood-insurance program" and many people "have been paying flood premiums [to the government] for decades."

As of last week, estimates of the cost to private-sector insurers had grown to as high as $60 billion. As big a bite as that is, U.S. property-casualty insurers have more than $400 billion in capital. In recent days, a growing chorus of consumer activists and government officials have called on insurers to give Gulf Coast policyholders the benefit of the doubt in any instances where homes suffered both wind and flood damage.

Indeed, plaintiffs' lawyers in Mississippi are forming a network to work free of charge for homeowners seeking payments for flood damage from their insurers, in a potential second legal front against the insurance industry, a person close to the effort said. Lawyers include Richard Scruggs, a class-action attorney who made his name suing the tobacco and asbestos industries, the person said.

One person familiar with Mr. Hood's possible suit said it might argue that insurers are on the hook because Katrina's storm surge and waves were wind-driven events, and thus should be covered as wind damage. Options include seeking a court order to prevent insurers from denying claims based on the flood exclusion.

Some isolated legal efforts to get around the flood exclusion have succeeded over the years, which has prompted insurers to stiffen the policy language or persuade lawmakers to plug legal loopholes. Mr. Hartwig, whose trade group has been anticipating legal action, said, "I haven't read every policy written in the state of Mississippi, and policy terms and conditions will vary. But the definition of a flood" is fairly uniform, including "storm surge and water that rises for any reason off any body of water, whether or not the cause of the rise of the water is associated with wind."

N.C. Locals Take It In Stride As Ophelia Batters Coast (USAT)

By Tom Vanden Brook

USA Today, September 15, 2005

ATLANTIC BEACH, N.C. — Terry Slaughter swayed in the mounting wind on Wednesday, watching a crew struggle with a utility pole snapped by one of Hurricane Ophelia's first blasts.

He has lived here for 40 of his 47 years, endured hurricanes from Bertha to Isabel, and had no plans to leave for a storm whose winds don't top 100 mph, much less match the ferocity of Katrina.

Asked what he has done to prepare for Ophelia, he took a deep drag from a cigarette and said, “You're looking at it.”

Up and down Bogue Banks, a slender, sandy barrier island, residents were mindful of the destruction Katrina wrought on the Gulf Coast but not worried about a repeat here.

At 11 p.m. Wednesday, Ophelia was about 20 miles south-southeast of Cape Lookout, N.C., according to the National Hurricane Center. It had maximum sustained winds of 85 mph, making it a Category 1 hurricane on the five-stage scale. Katrina was a Category 4 storm with 145 mph winds when it came ashore Aug. 29.

North Carolina Gov. Mike Easley warned people not to be complacent. Tourists were told to leave the popular beaches of the Outer Banks. Residents of some low-lying areas were evacuated.

“Let me be clear: Ophelia is a dangerous storm,” Easley said.

Power flickered off as the wind lashed coastal towns, leaving 120,000 homes and businesses in the dark.

Still dealing with Hurricane Katrina, the Federal Emergency Management Agency said it had stockpiled food, water and ice at locations in states surrounding North Carolina. It had 250 workers in place.

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The governor said that he had spoken to Homeland Security Secretary Michael Chertoff and that National Guard teams were prepared to evacuate sick, frail and elderly residents.

FEMA said it was doing nothing different than normal.

“You can bet we are ready though,” said FEMA spokeswoman Nicol Andrews.

Ophelia was to make landfall today. But this storm is big, spreading hurricane-force winds 50 miles from its center, so it will affect a broad swath of North Carolina, said Eric Blake, a meteorologist with the National Hurricane Center.

Ophelia's pace of 7 mph means some areas could receive hour after hour of pounding rain. Some spots in eastern North Carolina could be doused with 15 inches.

That's what concerned Sam Ramos. The hospital corpsman, who works at Camp Lejeune Marine Corps Base, stopped at K & V 1 Stop Shop on Emerald Isle to finish off his hurricane preparations. Ramos, 35, already had stocked up on food and filled his bathtub with fresh water.

“The only thing I'm worried about is the rain,” said Ramos. “There's going to be some flooding.”

Up Highway 58, in the town of Salter Path, emergency crews hunkered down at the firehouse. Gusts of wind keened as they were sliced by power lines, and rain smacked against windshields.

Emergency medical technician Megan Kinnaman, 24, ticked off hurricanes she has weathered on North Carolina's coast: Isabel, Fran, Dennis, Bertha, Floyd. “This is just the usual for us,” she said. “Most of us will spend the night here. We'll cook, and eat and wait it out.”

They've already urged the elderly and ill to leave, she said. When winds top 45 mph, it's unsafe for even the rescue workers to venture out.

“People think they can just punch 911 and everybody'll come running,” said Crystal Mizelle, 24, another EMT. “We have to be concerned for our own safety.”

The two say they never thought about evacuating. “You live here, you deal with hurricanes,” Kinnaman said.

Slaughter, who builds houses, noted that most people hadn't boarded up windows.

“I guess plywood got too high,” he said with a laugh.

Heavy Rain Hits N.C. Coast As Ophelia Picks Up Strength (LAT/AP)

By From Associated Press

The Los Angeles Times, September 15, 2005

CAROLINA BEACH, N.C. -- Hurricane Ophelia lashed the North Carolina coast with high winds and heavy rains Wednesday, beginning an anticipated two-day assault that threatened serious flooding and an 11-foot storm surge.

"If you have not heeded the warning before, let me be clear right now: Ophelia is a dangerous storm," Gov. Mike Easley said from Raleigh, appealing especially to those in flood-prone areas to evacuate.

Ophelia was moving so slowly -- just 7 mph Wednesday night -- that authorities expected the storm's passage through North Carolina to take 48 hours from the start of rainfall on the southeastern coast Tuesday afternoon to the storm's anticipated exit into the Atlantic late Thursday.

The storm had sustained winds of 85 mph, the National Hurricane Center said. Hurricane warnings covered the entire North Carolina coast from the South Carolina line to Virginia, where a tropical storm warning covered the mouth of Chesapeake Bay.

More than 12 inches of rain had fallen on Oak Island at the mouth of the Cape Fear River, said meteorologist Jeff Orrock with the National Weather Service in Raleigh.

More than 120,000 homes and business were without power in eastern North Carolina, electric utilities said.

On Ocean Isle Beach, south of Carolina Beach, a 50-foot section of beachfront road was washed out by heavy surf and the only bridge to the island was closed.

Jetnella Gibbs and her family made their way to a shelter at a Craven County high school after the rain started Tuesday.

"We noticed the street was starting to fill up, and I said, 'It's time to go,'" she said. "I know if this little bit here has flooded the street, what will it do when it really pours?"

The storm's eye was expected to brush the coast between midnight and 2 a.m., but it might not come ashore as it hugs and parallels the barrier islands of the Outer Banks through Thursday, officials said.

At 11 p.m., Ophelia's center was about 20 miles south-southeast of Cape Lookout and moving northeast at about 7 mph toward Cape Hatteras, about 85 miles away.

Water pushed out of Bogue Sound washed into garages and ground floors while ocean surf chewed away the end of a hotel's pier on Bogue Banks, a barrier island.

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Following the criticism of its response to Hurricane Katrina, the Federal Emergency Management Agency had 250 workers on the ground -- a larger-than-usual contingent given Ophelia's size. FEMA also put a military officer, Coast Guard Rear Adm. Brian Peterman, in place to command any federal response the storm might require.

The storm's slow, meandering path to the coast gave FEMA more time to get staff on the ground than is usually the case with North Carolina hurricanes, said Shelley Boone, the agency's team leader for Ophelia.

President Bush issued an emergency declaration for 37 counties in eastern North Carolina, authorizing the Department of Homeland Security and FEMA to coordinate disaster relief efforts.

Easley said he had spoken to Homeland Security chief Michael Chertoff and that National Guard teams were prepared to evacuate sick, frail and elderly residents.

Craven County expected a 6- to 8-foot storm surge in the Harlowe area near the Neuse River -- an area that flooded during Isabel two years ago, said Stanley Kite, the county emergency management coordinator.

The Beaufort County town of Washington ordered an evacuation of a 20-block area that flooded during Hurricane Fran in 1996. A storm surge of up to 9 feet was forecast along the Pamlico River and water wasn't expected to recede until Thursday morning, county manager Paul Spruill said.

Officials on the Outer Banks warned Ophelia could bring 10 hours of hurricane-force wind to exposed Hatteras Island. The southernmost villages of Hatteras, Frisco and Buxton were expected to get the worst of the winds and the flooding.

"It's an island -- the water will come over, it'll go out -- and we'll do it all over again," said lifelong Buxton resident Tiffany Bigham, 27.

"You grow up knowing it's a part of life," she said.

Ophelia is the 15th named storm and seventh named hurricane of this year's busy Atlantic season, which ends Nov. 30.

Ophelia Batters The North Carolina Coast (NYT)

By John DeSantis

The New York Times, September 15, 2005

SURF CITY, N.C., Sept. 14 - After stalling at sea for a week, Hurricane Ophelia battered the coast of North Carolina on Wednesday, spawning blinding rains that flooded beach communities and left thousands farther inland without power.

The storm, rated Category 1 by the National Weather Service with sustained winds of 85 miles an hour, is expected to scrape the shoreline from Cape Fear to the Outer Banks through Thursday, where a northeasterly track may take it out to sea.

Officials said that voluntary evacuations went smoothly and that by 3 p.m. Wednesday, 519 people had taken refuge in shelters.

Residents and officials alike said the cataclysmic effects of Hurricane Katrina on New Orleans and the Gulf Coast had made little difference in how they responded to the storm.

"We felt we were as prepared as we could be," said Mayor Spence Broadhurst of Wilmington. "Katrina didn't play any role in the process. We have a very clear plan."

Still, Mr. Broadhurst added, "I wouldn't be human if the effects of that storm did not have an effect on my thought process."

State officials agreed.

"Unfortunately, we have a history with hurricanes," said Lt. Everett Clendenin, a spokesman for the North Carolina Department of Crime Control and Public Safety. "We have a fairly standard operating process."

But Stephen Barnett, executive director of the American Red Cross's Cape Fear chapter, said he thought Hurricane Katrina had some bearing on the decisions people had made.

"I think just the fact that there were so many individuals who had not adequately prepared in New Orleans, I think they took extra precautions," Mr. Barnett said of residents here. "I think they planned better and took the storm more seriously. People both increased supplies and got out sooner."

The Associated Press reported that President Bush issued an emergency declaration for 37 counties in eastern North Carolina, authorizing the Department of Homeland Security and the Federal Emergency Management Agency to coordinate disaster relief efforts.

By 3 p.m. on Wednesday, 519 people had taken refuge in eight shelters in the coastal counties of Brunswick, New Hanover and Pender.

At least two trees fell on houses in Wilmington, a quaint city sandwiched between the Atlantic Intracoastal Waterway and the Cape Fear River, near North Carolina's southeastern tip. A giant old live oak was seen toppled to its side on Market Street, a major thoroughfare.

Oceanside communities like Topsail Island, Carolina Beach and Wrightsville Beach took hard hits and were expected to experience heavy beach erosion. Carolina Beach reported flooding as high as one foot in some neighborhoods.

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Streets were flooded in sections of Surf City, north of Wilmington. Sheets of rain pushed sideways across its small boardwalk area. The white-sand beach could not be seen for the heavy surf.

About 15 miles inland from Topsail Island, where strong winds howled and waves battered the beach, David Paul stood outside the hot dog restaurant that has carried his family's name for three generations, watching a stand of sycamore trees bend on the other side of a deserted highway.

"It was tedious before it ever got here," Mr. Paul said. "We've been watching this storm all week."

At the Sloop Point Volunteer Fire Department station near Surf City, firefighters awaited the storm's arrival Wednesday night, ending a week of mild tension and anticipation as the hurricane stalled and wobbled its way south of the state line.

"It's kind of like a kid at Christmas, just wanting to know what you're going to get," said Assistant Chief Scott Bradshaw. "But once the storm is here that Christmas-like feeling is definitely over. Then you're happy to see it go away."

Officials Rush To Prepare Coastal N.C. For Ophelia (WP)

By Alan Cooperman

The Washington Post, September 15, 2005

FRISCO, N.C., Sept. 14 -- As slow-moving Hurricane Ophelia hugged the North Carolina coast in a torrential embrace Wednesday, federal, state and local officials were taking no chances of a repeat of the sluggish response to Hurricane Katrina.

Here on Hatteras Island, which was expected to bear the worst of the storm, emergency officials stockpiled enough water and military rations to last 3,000 people for three days. The National Guard was standing by with all-terrain vehicles and four-wheel-drive ambulances. The National Forest Service had 10 chain-saw teams ready to remove fallen trees.

Gov. Mike Easley (D) urged residents of low-lying coastal areas to evacuate. "We're asking them and begging them to please do that because it's going to be hard to get them out later," he said. "The storm surge is going to be higher than projected" Tuesday.

But despite a "mandatory" evacuation order -- which state officials acknowledged was not really mandatory at all -- many residents stayed behind on Hatteras and neighboring islands along the Outer Banks. They parked dozens of cars, pickup trucks and a fire engine on the lawn of the Cape Hatteras Baptist Church in Frisco, not because it is the holiest ground in town, but because it is the highest.

They piled sandbags, stowed boats, bought groceries. And while emergency officials took no chances, some locals did.

"Gosh, that was great. Best way to stretch out your back," said Jim Bagwell, 52, after a 10-minute swim in the pounding, six-foot ocean surf at the Frisco Fishing Pier, just hours before the eye of the hurricane was forecast to come through. In last year's Hurricane Alex, the 200-foot pier itself was carried away.

Cars pulled in and out of the parking lot as residents came to gawk at the high waves and exchange gossip. Bagwell's Labrador retriever, Gator, started to run after him into the surf, then thought better of it.

"They're bringing in truckloads of water. It's paranoia from Katrina," said Murray Clark, 77, a retired trawler captain. "All of us locals are sitting and giggling."

The Federal Emergency Management Agency placed emergency operations centers on 24-hour alert and readied 50 rescue aircraft, spokeswoman Nicol Andrews said.

The agency staged three response teams and stockpiled medical supplies in Raleigh, N.C., and held three more in reserve in Virginia and Maryland in case the storm moved north, a FEMA official said. More than 100 medical personnel were in Raleigh.

While North Carolina had stored enough ice to last two days for 10,000 people, federal authorities staged more food, water and ice in Emporia, Va.; Palmetto and Thomasville, Ga.; Columbia, S.C.; Cumberland, Md.; and Edison, N.J.

North Carolina also activated 200 National Guard members and placed 200 more on standby, a FEMA official said.

"It's not paranoia to be prepared -- it's simple prudence," said FEMA's acting Director R. David Paulison.

The hardy, or foolhardy, ways of North Carolina residents inured to hurricanes clearly frustrated state and local officials. They said that on the Outer Banks, unlike the Ninth Ward of New Orleans, the overwhelming majority of residents have vehicles and can leave if they want to.

"The feedback I'm getting is that a large number of vacationers have evacuated," said Dorothy Toolan, spokeswoman for the Department of Emergency Services in Dare County, which includes Hatteras. "When it comes to the locals, everybody just decides what they're personal level of comfort is."

As Ophelia strengthened from a Category 1 to a Category 2 hurricane with sustained winds of 85 mph, it pushed water out of Pamlico Sound into the Neuse and Pamlico rivers, flooding such coastal communities as Engelhard and Washington, N.C.

While high waves crashed into the ocean side of Hatteras, the water level on the bay side was so low that a half-mile of sand was exposed in places that usually are covered, even at low tide. But when the hurricane's 50-mile-wide eye passes through, everybody here knew, all that water would surge back into Pamlico Sound and smash into the island.

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"We know there will be flooding. The barrier islands will be getting hammered one way [as the hurricane comes in] and then another way coming out," Easley said.

"We didn't know whether to call for a voluntary evacuation or a mandatory, so we called for a voluntary," Mayor Betty Medlin of Kure Beach, south of Wilmington, told Reuters. "The way it's getting here today, we probably should have had a mandatory."

"It's just sitting there, which makes the wind beat us and be on us longer," Medlin said.

Residents staying put noted, however, that Ophelia was the seventh hurricane and 15th named storm of 2005 alone, and that it did not pack anything like the punch of Katrina, which was a Category 4 hurricane, or Isabel, which began as a Category 5 hurricane and came ashore as a Category 2, walloping the Outer Banks two years ago.

"If it was going to be as bad as Katrina, I would have left," said Cathy Davidson, 44, who was stocking her house in Frisco with macaroni and cheese, propane gas and bottled water.

"More locals have left than I thought would leave. I guess they're gun-shy after Katrina," said Bagwell, toweling off after his swim. "You can't live on an island and not realize that if she wants to, Mother Nature can reach out and really touch you."

Katrina Lays Bare Superfund Woes (CSM)

By Brad Knickerbocker

The Christian Science Monitor, September 15, 2005

The receding floodwaters in New Orleans and other parts of the Gulf Coast are exposing hazardous chemicals and other dangerous waste. But they're also revealing the accomplishments - and the limits - of government programs designed to clean up such pollution.

Among the concerns: That natural disasters such as earthquakes and hurricanes haven't been adequately considered in fashioning safe and secure remedies; that areas tainted by toxic waste, such as rivers in the East and old mines in the West, are becoming larger and more complex; that many newly closed military bases will require considerable cleanup before they're ready for private or local government use; and that federal funding is falling behind the need.

The main program here is a bureaucratic mouthful: the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund.

Passed in the wake of the Love Canal episode in upstate New York 25 years ago, the law created a tax on the chemical and petroleum industries. Operating under the "polluter pays" principle, individually liable companies or property owners could be held financially responsible for cleaning up hazardous waste sites as well. The Environmental Protection Agency created a "National Priorities List" of the most serious uncontrolled or abandoned hazardous waste sites, a list that has grown to about 1,600 nationwide.

Several Superfund sites in the New Orleans area were inundated by hurricane Katrina and the flooding that followed. The most worrisome is the Agriculture Street Landfill, located about halfway between the French Quarter and Lake Pontchartrain. For nearly a century, municipal garbage and industrial wastes accumulated there. It was loaded with lead, arsenic, dioxin and carcinogenic hydrocarbons and later sprayed with the now-banned pesticide DDT. Underground fires gave it the nickname "Dante's Inferno."

The 95-acre site eventually was "remediated" under Superfund - fenced off and covered with a mat barrier and two feet of clean soil. As was the case with Love Canal, local residents continued to complain of health problems.

Today, the EPA and other agencies are investigating whether several feet of rushing floodwaters from the storm and from the collapsed Industrial Canal Levee very close to the former landfill spread the hazardous wastes from that downtown site across a much wider area. Other Superfund sites near New Orleans in Slidell, La., and Madisonville, La., also sustained flooding and there is concern two sites in neighboring Mississippi counties also have water damage.

"The potential for contaminants to rise and migrate through the flood waters to other areas is real," Solid Waste & Recycling magazine reported this week. "It's likely that the multimillion-dollar site restoration conducted a few years ago has been compromised, perhaps even rendered worthless."

Congress and the Bush administration are sure to address hazardous waste cleanup as part of the massive federal response to Katrina.

But they're also faced with renewed scrutiny of the whole Superfund program. The industry tax fund ran out of money when Congress refused to renew it in 1995. Assigning blame among multiple polluters and subsequent property owners has been difficult.

The Government Accountability Office, the investigative arm of Congress, recently warned that companies are using bankruptcies to avoid legal responsibility. The recent round of base closings complicates things as toxic waste sites on military property get transferred to state and local governments. And some of the most challenging hazardous waste problems - the

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Hudson and Passaic Rivers in the East, the hard-rock mines around Butte, Mont. - are proving to be far more difficult to deal with than landfills and shuttered factories.

"Both of those kinds of sites tend to be physically huge and very challenging," says Katherine Probst of Resources for the Future, a Washington think tank. "Not only are they very expensive, it's not exactly clear what to do."

"They're very expensive, and they're very complex," says Ms. Probst, who is an expert on Superfund and other hazardous waste management programs. "It's not like capping a landfill."

Last year, several members of Congress asked the EPA's inspector general about the adequacy of funding for hazardous waste cleanup under Superfund.

In her 104-page report, EPA inspector general Nikki Tinsley wrote: "In summary, during FY 2003, limited funding prevented EPA from beginning construction at all sites or providing additional funds needed to address sites in a manner believed necessary by regional officials...."

Whether due to increasingly difficult challenges in hazardous waste cleanups or a lack of political will, the number of Superfund cleanups has slowed in recent years. Meanwhile, analyses of EPA's National Priorities List show that 1 in 4 Americans, including some 10 million children, live within four miles of a Superfund site. As has become the case along the Gulf Coast, many of those people live in low-income, largely African-American communities.

In recent years, the budget for Superfund has stayed essentially flat at about $1.5 billion a year. With inflation and new sites needing cleanup, critics say, that means a slight but steady decrease.

"The program is not getting the funding it needs," says Alex Fidis, an attorney specializing in Superfund for the US Public Interest Research Group in Washington. "The problems are still there and if anything are getting worse."

The experience with Katrina tells some observers that dealing with hazardous waste sites may need a different approach - especially in areas vulnerable to forces of nature. "There needs to be a greater emphasis on cleanups that are really cleanups and not just covering it up," says Ed Hopkins, director of environmental quality programs for the Sierra Club in Washington. "But of course that involves money."

E.P.A. Struggles To Determine Extent Of Hazards In Sludge (NYT)

By Felicity Barringer And Michael Janofsky

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 - The magnitude and geographic sweep of the pollution left by Hurricane Katrina is so enormous that the Environmental Protection Agency is struggling to determine what the worst hazards are, where they are and what can be done about them, the agency's administrator said Wednesday.

The difficulties could cast doubt on plans of the New Orleans mayor and other city officials to reopen drier neighborhoods within days.

Late Wednesday, a day after raising the possibility of letting some residents return to their neighborhoods, Mayor C. Ray Nagin urged residents to stay out of the city because the water was undrinkable and remaining floodwaters posed what the health director called "significant health risks."

Dr. Kevin Stephens, director of the New Orleans Health Department, said in a written statement that while officials analyzed the environmental risks, citizens "should stay out of Orleans Parish until the exact nature of the conditions is known." A news release published Wednesday on the city Web site added that "a disease-laden sludge could remain on streets and buildings, which may further compromise public health."

Scientists who have studied other floods say that receding waters leave mud, sometimes contaminated with toxic chemicals, on streets and mold on walls. When dry, each can become airborne.

At a Congressional briefing and at a separate news conference, the E.P.A. administrator, Stephen L. Johnson, described for the first time the wide variety of problems the agency was confronting, including the difficulty of determining the extent and toxicity of the sludge left by the floodwaters. Mr. Johnson said the agency was using aircraft to test for air pollution and taking daily samples of floodwaters and the sludge. The sampling is concentrated in residential areas.

The agency has not completed or released details about specific strategies and the scientific protocols it is using as it tries to analyze the hazards posed by what Mr. Johnson called "the largest national disaster that we at E.P.A., or we believe, that the nation has faced."

Mr. Johnson said early tests did not look for hazardous petrochemical byproducts like benzene because the presence of oil and gasoline was obvious.

In the wake of the Sept. 11 attacks in New York, the E.P.A. came under criticism by prominent members of New York's Congressional delegation for declaring the air near ground zero safe based largely on testing for asbestos. Later, the agency's inspector general criticized agency officials as making this declaration without sufficient scientific evidence.

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In the past two days, Mayor Nagin and Mr. Johnson offered differing accounts of the federal agency's role in certifying the city's neighborhoods as fit for human occupancy.

Mr. Nagin said Tuesday that he was awaiting an E.P.A. report on air and water quality in four unflooded neighborhoods. On Wednesday, Col. Terry J. Ebbert, the head of homeland security for New Orleans, restated the remark. But public affairs officers at both the environmental agency and the Louisiana State Department of Environmental Quality said they knew of no such report.

Mr. Johnson made it clear that the E.P.A. would not take final responsibility on whether to reopen the city but would collaborate with state and local agencies. A spokesman for the Department of Homeland Security in Washington said, "Ultimately, local officials have the authority to reopen their city."

A Senate staff member who attended Mr. Johnson's meeting with the lawmakers, and would not speak for attribution because she is not authorized to speak publicly, said Mr. Johnson told the members that the level of lead found in the floodwaters was 56 times the amount considered safe in drinking water. He also said the level of bacteria found was 19 times the acceptable level.

Floods' Pollutants Within The Norm (WP)

By David Brown

The Washington Post, September 15, 2005

NEW ORLEANS, Sept. 14 -- Early tests on the floodwater that covered most of this city do not suggest it will leave a permanent toxic residue or render residential areas uninhabitable for more than a short time, officials of both state and federal environmental agencies said yesterday.

The pollution consists primarily of fecal matter and slightly elevated concentrations of metals such as lead and chromium that were in the city's soil before Hurricane Katrina. There are also trace amounts of many petroleum-based chemicals and some pesticides.

Despite descriptions of the floodwater as a "toxic soup" and a "witch's brew" of contaminants, the preliminary tests reveal it contains little that is different from what has been seen after past floods in other cities and here.

The exception is a residential area in the suburb of Meraux southeast of the city, where 672,000 gallons of oil leaked from a refinery storage tank. Areas around six smaller oil spills may also require special cleanup, the officials said.

"The early results do not indicate specific toxic pollutants at any levels of concern," said Chris M. Piehler, a senior environmental scientist at the Louisiana Department of Environmental Quality. Asked if residue from floodwaters posed hazards that would keep residents from moving back, he answered: "No. The limiting factor is going to be what structures are going to be salvageable and which ones are not."

Piehler's observations were similar to those of Jerry Fenner, the leader of the environmental health team sent by the Centers for Disease Control and Prevention.

"So far, all the test results show there shouldn't be any long-term problems of health and habitability," he said, adding that the chemical and oil spills "are a special issue and will require abatement."

The generally optimistic view of the experts here contrasted somewhat with the impression given yesterday by Stephen L. Johnson, administrator of the federal Environmental Protection Agency, at a telephone news conference from Washington. Johnson stressed the uncertainty over toxic hazards that remain in flooded parts of the city.

"What we are focused on is assessing what the problems are. It really is impossible to speculate on what it's going to take and how long it's going to take" to clean up environmental problems, he said.

The EPA is taking daily samples of floodwater both in the city and in the outfalls to Lake Pontchartrain. It is also sampling air and wet and dry mud at dozens of locations. Tests from Sept. 3, 4 and 6 showed levels of hexavalent chromium, lead and arsenic exceeding agency standards for drinking water.

"These compounds would pose a risk to children only if a child were to drink a liter of flood water a day. Long-term exposure [a year or longer] to arsenic would be required before health effects would be a concern," said a statement on the EPA Web site.

The city's drinking water comes from the Mississippi River and not from Lake Pontchartrain, where the floodwater is being pumped.

The most obvious pollutant in the floodwater is fecal bacteria. The city's sewage-treatment plant is not operating, and the standing water is mingling with the sewage in the underground system. Tests from Sept. 3 to 5 found that some sites had bacteria levels above the EPA's measurement scale. From Sept. 7 to Sept. 10, however, the amount of bacteria was falling.

Fecal bacteria have a limited life span in the open water and will not cause lasting contamination. On land, the bacteria dies once the residue dries out.

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"The stuff will desiccate and you can clean it up. You fertilize your lawn? It's the same thing," Fenner said.

While the environmental findings so far have not been surprising, many potentially hazardous areas remain to be assessed. They include five Superfund sites in New Orleans. EPA inspectors have visited four, but one remains underwater. "One of the things we need to do is make sure that these sites have not been compromised," Johnson said.

The agency and local officials are also evaluating numerable small spills and hazards, including more than 5,000 "orphan containers" found floating in the water. These include everything from gas cylinders to a drum containing medical waste, he said.

A U.S. Coast Guard spokeswoman said there have been seven oil spills of more than 100,000 gallons since the storm. The biggest is at the Meraux Refinery, operated by Murphy Oil Corp. in St. Bernard Parish, southeast of the city.

During a sampling trip there two days ago, the EPA's Paul Doherty said the company estimated that about 9,600 of the 16,000 barrels of oil that leaked were recoverable and most of the rest had evaporated.

In a housing development nearby, workers in yellow safety suits scooped up samples of fine-grained mud that smelled partly of sulfurous decay and partly of petroleum.

The houses were severely damaged. At several, the flood floated cars that came to rest with their rear ends on the roof and the front ends on the lawn. Even without the spill, the neighborhood seemed unlikely to be habitable anytime soon.

Exposed To A Flood Of Filth, Homes Must Be Bulldozed (USAT)

By Thomas Frank And Tom Kenworthy

USA Today, September 15, 2005

BATON ROUGE — The putrid floodwaters left by Hurricane Katrina are so bad that Louisiana's top environmental official warned Wednesday that many houses will have to be bulldozed because of contamination.

“It's going to be a while before areas that were flooded will see people moving back,” said Mike McDaniel, secretary of the Louisiana Department of Environmental Quality. He said residents of those areas will be allowed to return to their homes briefly to retrieve personal items but will be told about the health risks and given protective gear.

McDaniel said many houses in flooded parts of the New Orleans area “will have to be disposed of.”

The Environmental Protection Agency also released new test results that show the floodwaters around New Orleans contain levels of toxic chemicals and bacteria that exceed federal standards for drinking water.

The water contains high levels of arsenic and hexavalent chromium, a chemical in paints and dyes that can cause lung cancer when inhaled. The agency said the chromium and arsenic would pose a “risk to children only if a child were to drink a liter of floodwater a day.” The EPA also detected high levels of lead and bacteria in the waters.

“This is the largest natural disaster that we at the EPA … have faced,” EPA Administrator Stephen Johnson said.

The agency warned the public and emergency responders to avoid direct contact with standing water and to wash carefully with soap and water if they are exposed. Other tests have found some pollutants in the air, but not enough to raise health concerns.

Louisiana's McDaniel said he remains concerned about “large quantities of hazardous materials” at industrial facilities, such as rail cars containing toxic materials. “We haven't been into some of the industrial areas … where we might find hot spots,” he said.

McDaniel also said the potential for seafood contamination in the waters off Louisiana, Mississippi and Alabama is a “major concern.” A National Oceanic and Atmospheric Administration ship started taking samples of water, fish, shrimp and sediment to check for contaminants and pathogens.

EPA teams have done preliminary inspections at four hazardous waste sites in the area on the federal Superfund list of the nation's most serious pollution spots. No thorough testing has been done yet to determine whether contaminants escaped. A fifth Superfund site in New Orleans is still underwater.

The range of toxic chemicals that may have been released is extensive, said Lynn Goldman, an environmental health sciences professor at Johns Hopkins University. “We're talking about metals, persistent chemicals, solvents, materials that have numerous potential health impacts over the long term,” said Goldman, an assistant EPA administrator in the Clinton administration.

Other environmental specialists warn of a potential crisis.

“We are dealing with an area that has been dubbed by many ‘chemical alley' or ‘cancer alley,' ” said Sylvia Lowrance, who was the EPA's chief of enforcement for 24 years until 2003. Cleaning up from dozens of industrial facilities and hundreds of thousands of homes, autos and businesses will probably be “the most daunting” environmental restoration project ever, Lowrance said.

Thomas Dunne, EPA's acting assistant administrator for solid waste and emergency response, said it's too early to know how much hazardous material has been released. “This is going to evolve over weeks,” he said.

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Erik Olson of the Natural Resources Defense Council said: “We worry that most of the city of New Orleans could end up being a toxic waste site. There isn't a concerted effort to contain pollution at some of these industrial waste sites, and the monitoring … seems far too limited.”

Retail Sales Declined 2.1% In August (WSJ)

By Rafael Gerena-morales

The Wall Street Journal, September 15, 2005

Consumer spending showed some signs of cooling during the weeks leading up to Hurricane Katrina, and the storm could further damp consumption in the weeks ahead if gasoline prices don't retreat. In addition, Katrina affected industrial production in August.

Retail sales in August fell 2.1% from the month before to $350 billion on a seasonally adjusted basis, following a 1.8% increase in July. It was the largest monthly sales decline since demand tumbled 2.9% in November 2001. Much of the volatility related to the automobile sector, which saw sales rocket in July, boosted by Big Three discounting, but then slump in August.

The Commerce Department said it couldn't quantify the effect of Katrina on retail sales for the month. However, it noted that the region struck by the hurricane accounts for a little more than 1% of total sales nationally.

Excluding autos, all other retail sales climbed 1% in August. About half of that increase was from surging gasoline prices, which drove up receipts at gasoline stations. Excluding gasoline and autos -- which some economists said gave a clearer read of underlying spending patterns -- sales rose 0.5% for the month. They were 7% higher than year-earlier levels, roughly in line with the pace established for much of the year.

The gains outside the topsy-turvy auto and gasoline sectors suggested that consumer spending had "good momentum" ahead of the hurricane, said Jim O'Sullivan, U.S. economist at UBS AG. However, he and other economists said sales could take a hit in September with high gasoline prices further crimping household purchasing power.

"It's quite possible that these are the first signs that higher energy prices are [reducing] discretionary consumer spending," said Joshua Shapiro, chief U.S. economist at MFR Inc. Consumer spending last month was flat at restaurants, bars and clothing stores. Sales climbed at furniture stores, building-material and garden stores and health and personal-care stores.

Another government report showed that Hurricane Katrina slowed industrial output last month. Industrial production edged up a weaker-than-expected 0.1% in August, according to the Federal Reserve, which estimated that Katrina reduced output by 0.3 percentage point.

"Hurricane Katrina severely curtailed output in the Gulf Coast region at the end of August," the Fed said. "Hurricane-related production declines were most evident in oil and gas extraction, industrial chemicals manufacturing, and petroleum refining."

Manufacturing output increased 0.3% in August, which economists described as a mixed performance. Much of the gain was tied to cars. Excluding motor vehicles and parts, manufacturing output was unchanged from July, the Fed reported. In September, hurricane-related disruptions are expected to slow manufacturing output, but activity should "snap back" in subsequent months, said Mr. O'Sullivan of UBS.

Industrial-capacity utilization was unchanged at 79.8%. Throughout the summer, capacity utilization has remained at its highest level since December 2000, but the Fed noted that it is still 1.2 percentage points below its 1972-2004 average.

Another report suggested the housing sector is holding up in the wake of the hurricane. The Mortgage Bankers Association said its index that tracks mortgage applications for the purchase of homes rose 2.9% to 513.4 -- the highest level of activity since the week ended July 1, when it hit 520.8. Applications for refinancing declined.

Gasoline Demand Fell In Last Weeks Of Driving Season (WSJ)

By Thaddeus Herrick

The Wall Street Journal, September 15, 2005

Americans used considerably less gasoline in the final weeks of the summer driving season than a year earlier as Hurricane Katrina limited fuel supplies and distribution and drove up prices.

Data released by the U.S. Department of Energy's Energy Information Administration could indicate that U.S. drivers are responding to soaring gasoline prices by conserving fuel, though the supply disruptions and gasoline lines that followed could also be a factor. In a report issued this week, Credit Suisse First Boston said recent drops in gasoline demand are part of a longer-term decline that will play out over the next several years as the high cost of energy eats into disposable income.

Gasoline demand for the week ended Sept. 9, which includes the Labor Day weekend, dropped 4.3% to 8.64 million barrels a day from 9.03 million barrels the previous week, the Energy Information Administration said. For the four weeks ended Sept. 9, gasoline demand averaged 9.1 million barrels a day, a decline of 1.1% from the same period last year.

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The decline comes just two weeks after Katrina brought the country to the brink of an energy crisis. Next week, the Organization of the Petroleum Exporting Countries meets in Vienna to consider increasing oil output by 500,000 barrels a day. But among OPEC members, only Saudi Arabia has significant spare production capacity and many U.S. refineries can't process its heavy, high-sulfur crude.

Yesterday, benchmark light, sweet crude-oil futures for October settled up 3.1%, or $1.98, at $65.09 a barrel on the New York Mercantile Exchange as U.S. crude supplies fell more than expected last week on damage to oil production by Hurricane Katrina. For the week ended Sept. 9, commercial crude-oil stockpiles fell 6.6 million barrels to 308.4 million barrels.

In Washington, 16 members of the House of Representatives introduced legislation aimed at increasing fuel-economy standards for vehicles sold in the U.S. Similar proposals haven't fared well in the past. Meanwhile, Senate Democrats say they want to discuss giving the president and the Federal Trade Commission additional authority to investigate what they say is gasoline-price gouging.

Katrina pounded the Gulf Coast, wreaking havoc on production platforms, pipelines and refineries and sending the price of gasoline past $3 a gallon for a while. The average U.S. price of a gallon of regular unleaded now stands at about $2.96, according to the Energy Information Administration, down 11.4 cents from last week but about $1.11 above prices a year ago.

"Consumers should not expect prices to decline quickly, since the disruption to supply is still occurring," the agency said, though the administration said increased imports should help ease the cost of fuel.

Yesterday, the Minerals Management Service said 56% of crude production from the Gulf of Mexico, home to a quarter of U.S. oil and natural-gas output, is still shut down, as is 35% of natural-gas production. About 5% of the nation's refining capacity remains shut down and could remain so for months.

Separately, the Department of Energy said it sold 11 million barrels of oil to energy companies out of the nation's emergency stockpile, known as the Strategic Petroleum Reserve. The figures indicate that many refiners feel adequately supplied with crude, since the government had originally offered as much as 30 million barrels.

Demand For Gasoline Falls For A 2nd Week (NYT)

By Vikas Bajaj

The New York Times, September 15, 2005

Demand for gasoline fell nationwide for a second consecutive week, the government reported yesterday, indicating that record retail prices may have forced some consumers to cut back on their driving over the week of Labor Day.

The weaker demand may also be explained by disruptions in the nation's energy supply system, which is still recovering from Hurricane Katrina.

Americans used an estimated 8.63 million barrels of gasoline a day in the week that ended Sept. 9, down 4.3 percent from the week before and 6.5 percent less than the comparable week in 2004, according to the Energy Information Administration. Demand fell 4 percent for the week that ended Sept. 2.

But those estimates do not measure every drop of fuel that drivers put in their tanks, because the agency can track gasoline only until it is delivered to large regional terminals, where it is then trucked to wholesalers and retailers, said Larry Alverson, an analyst at the agency.

When fuel is flowing through the system normally, the agency's figures are fairly good at measuring final demand because wholesalers and retailers usually buy enough fuel to meet consumer demand. But in tight times, when they cannot get enough gasoline from the terminals, wholesalers and retailers will draw down their inventories to fill demand. That consumption is not counted in the agency's data.

So, are consumers cutting back or not?

"Some people are saying these high prices haven't affected demand much, and others say of course it has," Mr. Alverson said. "You take your pick."

There is some anecdotal evidence that fewer consumers drove over the Labor Day holiday and that more people are taking mass transit when possible, but there is little hard data.

"The unofficial surveys and conversations we have had with people who deliver gasoline to stations and who sell that gasoline to consumers say that their sales are off 10 percent in the last 10 days," said Ben Brockwell, director of pricing and data services at the Oil Price Information Service.

Retail gasoline prices topped $3 a gallon on Labor Day weekend after the hurricane shut down much of the Gulf Coast's oil production, refineries and pipelines. More than 5 percent of American refining capacity is still out of service.

The Energy Department said yesterday that it was selling 11 million barrels of oil from the nation's Strategic Petroleum Reserve to BP, Astra Oil and Marathon. The government had said it would sell up to 30 million barrels of oil, which is refined into gasoline and other fuels.

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Nationally, a gallon of regular unleaded gasoline sold for an average of $2.935 this morning, according to a survey Mr. Brockwell's firm runs for AAA, the auto club. That is down from $2.956 the day before and up from $2.44 a month ago.

Demand may have started falling even before the hurricane hit. The American Petroleum Institute said yesterday that gasoline demand fell 0.4 percent as prices rose 32 percent in August from the same month a year ago. So far this year, Americans' average daily gasoline consumption of 9.13 million barrels a day is about 0.3 percent higher than a year ago, according to the E.I.A.

On the futures market, gasoline for October delivery rose 4.57 cents yesterday, to $1.937 a gallon, on the New York Mercantile Exchange. Crude oil gained $1.98, to $65.09 a barrel.

Gasoline inventories rose by 1 percent, to 192 million barrels, last week. The week after the hurricane, inventories fell 2 percent, to 190.1 million barrels, the Energy Information Administration reported.

Numbers Show Economic Lag Before Storm (NYT/AP)

By The Associated Press

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 (AP) - Hurricane Katrina is eating into the economy, leading to concern that consumers will lose confidence and curtail spending.

The government reported Wednesday that retail sales fell 2.1 percent in August, even before the storm hit, as high gasoline prices jolted consumers.

Also, industrial output was nearly flat, reflecting widespread shutdowns of oil platforms, refineries and chemical plants along the battered Gulf Coast.

Analysts said they still believed that Katrina would amount to only a temporary blow to the economy and that strong growth would follow as rebuilding begins.

The decline in retail sales was twice the size economists had forecast.

The weakness came from a 12 percent drop in auto sales. Demand slackened after two strong months when American automakers allowed consumers to buy at the discount prices given to the automakers' employees.

Excluding autos, retail sales rose by 1 percent, with half of that coming from a huge rise in gasoline prices. Analysts said the retail sales data was evidence that gasoline above $3 a gallon was having an impact on consumer demand in other areas like clothing.

Sales at department stores rose a sluggish 0.3 percent. Demand at clothing stores was flat in August after a 0.9 percent decline in July.

The biggest increase in spending in August occurred at service stations. The 4.4 percent increase reflected pump prices that have soared past $3 a gallon in many places.

Without the jump in spending at gas stations, retail sales would have fallen by 2.8 percent last month as demand faltered in many sectors, the government estimated.

Ian Shepherdson, chief economist at High Frequency Economics, a consulting firm in Valhalla, N.Y., said he did not expect a quick rebound in retail sales. Mr. Shepherdson said he believed high energy costs would continue to depress consumer spending for several more months.

Industrial output posted a 0.1 percent gain in August. It would have been 0.4 percent, the Federal Reserve reported, if not for the shutdown of much energy and chemical production along the Gulf Coast at the end of August.

Economists predicted the hurricane fallout would continue as the energy industry struggles to regain its footing.

"The industrial production numbers in the next two months will look pretty awful as the full impact of the hurricane-related shutdowns shows up in the data," said Nariman Behravesh, chief economist at Global Insight, a Lexington, Mass., consulting firm.

Stock Losses Accelerate (WSJ)

By David Gaffen

The Wall Street Journal, September 15, 2005

Major stock indexes wilted Wednesday as crude oil jumped nearly $2 a barrel and traders fretted over tepid economic reports. A profit warning from Walt Disney sank the Dow industrials in the last hour of trading.

The Dow Jones Industrial Average fell 52.54 points to 10544.90, hurt by Disney's 2.8% drop, which led decliners on the average. The Nasdaq Composite Index fell 22.42 points, or 1.03%, to 2149.33, just off the day's low. The Standard & Poor's 500-stock index fell 4.15 to 1226.51.

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In the final hour of trading, Disney reported that it expected a $250 million to $300 million quarterly loss in its film division, and warned that it may write down a $101 million investment in Delta Air Lines airplane leases. Delta filed for bankruptcy-court protection1 after the market closed.

A combination of concerns about slowing economic growth and rising inflation are seeping into the market, market participants said. Retail sales fell 2.1% in August, the Commerce Department reported Wednesday, though much of that decline was due to a 12% stumble in auto and auto-parts sales. Investors remain worried about high energy costs and climbing labor costs, which the Labor Department said last week are rising 4.2% on a year-over-year basis.

The concerns about inflation were evident in other markets. Gold closed up $3.70 a troy ounce to $449.80 on the Comex division of the New York Mercantile Exchange, its highest close since Dec. 7, 2004. Prices of long-dated Treasurys finished sharply lower, pushing the yield on the benchmark 10-year Treasury to 4.16% and the 30-year Treasury yield to 4.45%.

Joachim Fels, economist at Morgan Stanley, wrote in a note that "recent economic data, combined with the rise in energy prices this summer and the likely policy reactions in Washington to Hurricane Katrina," affirmed his view that the "global macro environment will turn stagflationary soon." If that does happen, energy prices will be partially to blame, Mr. Fels said.

Wednesday, oil prices broke a streak of three down sessions on the Nymex. Light, sweet crude scheduled for October delivery settled up $1.98 at $65.09 a barrel. Gasoline futures for the same month settled at $1.9374 a gallon, up 4.5 cents, or 2.4%. In the past 12 months, gasoline futures have soared 59.6%.

The jump in petroleum futures came after the Energy Department reported gasoline inventories last week rose 1.9 million gallons, while crude-oil stocks fell by a steeper-than-expected 6.6 million barrels. Forecasters expected a drop of 2.8 million gallons of gasoline and only a mild decline in crude inventories.

The reaction among energy traders to the drawdown in crude-oil inventories could partially reflect the expectation that demand for oil products of all types will rebound in due course. Phil Flynn, senior energy market analyst at Alaron Trading in Chicago, said the drawdown, as well as recent news of various facilities coming back, has energy traders in a bullish mood. "The market is speculating that demand is going to bounce back, and that we've seen the worst," he said.

The cloud of economic concerns, poor retail sales and rising energy prices polluted the equity market, where the Dow industrials stayed in positive territory through part of the afternoon even as overall market breadth was worsening. Decliners outpaced advancers more than two-to-one on the Nasdaq Stock Market and by a ratio of 5-to-3 on the New York Stock Exchange.

Ultimately, the Dow average slipped into the red as investors gave back part of the post-Katrina rally that sustained the market for two weeks. Between Aug. 30 and the beginning of this week, the S&P 500 had risen 3.3%, while the Dow industrials gained a surprising 2.6%.

Wednesday's malaise meant the market mostly glossed over the strong earnings report out of Lehman Brothers Holdings, which kicked off earnings season by reporting a 74% jump in third-quarter net9, handily surpassing Wall Street's forecasts. The stock rose 0.4%, giving up most of its gains in the late part of the session. The report, however, bodes well for forthcoming financial-services earnings releases, including Bear Stearns tomorrow, and Goldman Sachs and Morgan Stanley next week.

Baidu.com, the Chinese Internet-search portal, tumbled 28% after Piper Jaffray and Goldman Sachs initiated coverage with "underperform" ratings, saying the stock price's rich valuation was unsustainable.

In major market action:

Stocks declined10. On the Big Board, where 1.49 billion shares traded, 1,211 stocks rose and 2,083 fell. On the Nasdaq Stock Market, where 1.71 billion shares traded, 984 stocks advanced and 2,017 declined.

Bonds fell11. The benchmark 10-year Treasury fell 8/32, or $2.50 per $1,000 invested, to yield 4.162%. The 30-year bond was down 18/32 to yield 4.450%. Yields move inversely to prices.

The dollar weakened.12 It was at 110.30 yen, off from 110.64 yen late Tuesday, while the euro rose to $1.2282 from $1.2270.

Georgia Chief Justice Attempts To Cut Red Tape For Evacuee Lawyers (LAW)

By Meredith Hobbs, Fulton County Daily Report

Law.com, September 15, 2005

Georgia's top judge is trying to make things easier for hurricane-displaced lawyers who want to start a practice in Georgia.

Chief Justice Leah Ward Sears of the Georgia Supreme Court has asked her counterparts in Louisiana, Mississippi and Alabama to change their rules so that lawyers from those states could get a State Bar of Georgia license in as little as eight weeks.

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Right now, those lawyers can practice in Georgia temporarily but must pass the state's bar exam to set up shop permanently -- a process that would take at least nine months. The next bar exam is not offered until February, and results do not arrive until late May.

The problem is that Louisiana, Mississippi and Alabama do not allow reciprocity with other states. For states that do, lawyers licensed in one state can join another state's bar without having to take its bar exam.

Currently 33 states, including Georgia, allow this kind of reciprocity, said Hulett H. "Bucky" Askew, the director of the Georgia Office of Bar Admissions.

If the top judges in those states agree, then lawyers from the Gulf Coast states would need only to pass a certification of fitness to practice in Georgia, a process that ordinarily takes eight to 12 weeks, said Askew, who added that his office would try to speed things up for displaced lawyers.

Askew said his office has received a lot of phone calls from Louisiana lawyers looking for reciprocity, "but as soon as they hear we're not reciprocal, they hang up."

"The problem that these lawyers will have is their lack of access to documentation," he said. Out-of-state lawyers must provide educational transcripts, employment histories and other information to be licensed by the Georgia Bar.

"I had two lawyers from New Orleans who walked in here who had lost everything. They had no client files and no documentation," Askew said. "Assume you went to Tulane Law School and practiced in New Orleans for 15 years. You would have no access to [bar] disciplinary records or transcripts, so we're going to have some issues around them being able to document what they need to document."

Luckily for lawyers hit by Katrina, Texas accepts lawyers in good standing from any other state, under a rule called comity.

But Louisiana, Mississippi and Alabama lawyers wishing to set up practices in other states face serious obstacles, since the three Gulf Coast states are not reciprocity states.

Georgia has allowed reciprocity for lawyers from other states since 2003. Under the rule, lawyers who meet certain conditions can get a Georgia Bar license without taking the state's bar exam.

Gulf Coast lawyers are already able to practice in Georgia on a temporary basis, thanks to a multi-jurisdictional practice rule passed by the state's Supreme Court in 2004.

The rule's intent is to allow out-of-state lawyers to work on existing client matters from a Georgia office, said Clifton A. Brashier, director of the State Bar.

"Our rules accommodate a temporary situation in which a lawyer licensed in another state is in Georgia on a client matter relating back to the home state," he said.

That means a Louisiana lawyer could run a Louisiana practice from Georgia temporarily, without running afoul of Georgia's unauthorized-practice-of-law statute, he said. But lawyers wishing to find a job with a Georgia firm would need to join the State Bar.

Although the multi-jurisdictional practice rule allows only for temporary practice in Georgia, it specifies no time limit, Brashier said. Rather, it depends on the circumstances in each case. "If one's office in New Orleans is underwater," he said, "that would be a pretty understandable circumstance."

Askew, the bar admissions chief, was not sure when the supreme courts of the three Gulf Coast states will reply to the Sears' request, or whether they will change their rules to allow for reciprocity.

Just getting the letter to the hard-hit courts was a challenge, he said. "We faxed, e-mailed and Fed-Exed this letter today, not knowing how in the world their system would cope." He said the Alabama court has received the letter, but he has not yet heard from those in Louisiana and Mississippi.

"How high a priority [the rule change] will be for them, I don't know. They've got huge problems there," he said.

Senate Bill Rejects Bush Cuts For Many Commerce Programs (WSJ)

By David Rogers

The Wall Street Journal, September 15, 2005

WASHINGTON -- With a year-end budget battle looming, the Senate pushed toward passage today of a $52 billion spending bill that rejects many of President Bush's cuts from industrial technology and science programs within the Commerce Department.

The measure, at the same time, is a magnet for Katrina-relief amendments, and Senate leaders last night accepted a $3.5 billion proposal authorizing emergency housing vouchers for hundreds of thousands of families displaced by the storm. But a second amendment to extend Medicaid coverage to evacuees was withdrawn after the Senate Finance Committee unveiled a bipartisan $5 billion to $7 billion plan to expedite unemployment and health-care coverage for families.

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As the costs of the storm grow, the Commerce Department budget bill is also a reminder of the differences that have already surfaced between Republicans and President Bush this summer over domestic spending for the coming year.

Funding for the National Oceanic and Atmospheric Administration would grow to almost $4.48 billion, a $550 million increase above current spending, and $894 million more than Mr. Bush's request for the new fiscal year that begins Oct. 1. The National Institute of Standards and Technology, a second unit within Commerce, is promised $844.5 million, nearly 60% more than the White House's request, and including $140 million for the Advanced Technology Program, which provides "seed financing" for the development of generic technologies.

The White House has strongly objected to the Senate funding the ATP. But Republicans remain badly split, and an amendment backing Mr. Bush was easily tabled, 68-29.

To date, the House and Senate have sidestepped confrontation with the president by quietly borrowing from defense and foreign-aid accounts to fill gaps in Mr. Bush's domestic budget. But as the Oct. 1 deadline approaches, some reckoning will soon be required.

By the administration's calculations, the $52 billion Senate bill, which would fund the Justice Department and science agencies, as well as Commerce, is about $1.4 billion more than the president's requests. That appears at least $679 million higher than the House spending levels for the same accounts, and as a rule senators have been more aggressive in adding money to the president's budget for energy and water programs, education and medical research.

With only two of the annual spending bills completed, there is an estimated $7 billion gap between the House and Senate over the remaining measures. Republican lawmakers must reconcile these differences and then try to reach some agreement with the president.

With the new fiscal year less than three weeks away, some stopgap measure will be needed again to keep agencies funded for the first few months. The House Appropriations Committee leadership is considering a very restrictive funding formula to give itself more leverage in talks with the Senate. But this strategy could backfire if it leaves agencies such as the Army Corps of Engineers at a disadvantage, just when they are trying to cope with Katrina relief.

The Senate Finance panel's hurricane-relief bill was negotiated by Chairman Charles Grassley (R., Iowa) and Montana Sen. Max Baucus, the panel's ranking Democrat, who are both pressing for quick action this week.

Washington would relieve Louisiana, Mississippi and disaster-struck Alabama counties of the state share of Medicaid costs through Dec. 31, 2006. And to help families who have relocated outside their home states, the bill creates a five-month Disaster Relief Medicaid program for Katrina survivors below the poverty level and as much as 200% of the poverty level for pregnant women and children.

Relief is also promised for elderly Medicare patients, who would not be required to pay copayments and deductibles to receive hospital services, if they were displaced by the storm. And any individual in Alabama, Louisiana or Mississippi whose unemployment benefits expire would get a 13-week extension.

OTHER NEWS:

4th Union Quits A.F.L.-C.I.O. In A Dispute Over Organizing (NYT)

By Steven Greenhouse

The New York Times, September 15, 2005

Deepening the split in organized labor, Unite Here, a union that represents apparel, hotel, casino and restaurant workers, announced yesterday that it was quitting the A.F.L.-C.I.O., becoming the fourth union to do so this summer.

Bruce Raynor, president of Unite Here, said his union's board had voted unanimously to quit because the A.F.L.-C.I.O. had not done enough to spur union organizing to reverse the decline of the labor movement.

"We believe that American workers are facing a historical crisis," Mr. Raynor said in a telephone news conference from St. Paul, where his union's board was meeting. "There are 28 million Americans that went to work this morning who made less than the poverty level."

This summer, three other major unions quit the labor federation: the Service Employees International Union, the International Brotherhood of Teamsters and the United Food and Commercial Workers. The four departing unions represented about 4.5 million workers out of the A.F.L.-C.I.O.'s membership of 13 million.

The leaders of Unite Here, which represents 450,000 workers, said the dissident unions would focus on large-scale organizing drives to try to unionize thousands of workers at the same time.

Immigrants will be a particular focus, they said, because the breakaway unions cover industries with millions of immigrant workers, like restaurants, nursing homes, supermarkets, hotels and janitorial companies.

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On Sept. 27, the four breakaway unions will hold a founding convention in St. Louis to create a union federation, tentatively called the Change to Win Coalition. The dissident leaders say the new group will be more aggressive about organizing workers than the A.F.L.-C.I.O.'s unions.

Two unions still in the A.F.L.-C.I.O. - the laborers' union and the United Farm Workers - say they will join the new group. The carpenters' union, which quit the main labor federation in 2001, also plans to join.

"We believe it's our responsibility to do everything we can to work with all interested unions to grow the labor movement," said John W. Wilhelm, president of the hospitality division of Unite Here. "The labor movement is the only institution in 21st-century America that can reverse the decline in living standards for most Americans."

Unite Here is an amalgam of several famous unions. Unite was formed in 1995 when the Amalgamated Clothing and Textile Workers merged with the International Ladies' Garment Workers Union. Unite Here was formed last year when Unite merged with the Hotel Employees and Restaurant Employees International Union.

The A.F.L.-C.I.O. criticized yesterday's move.

"Unite Here's leadership made the wrong decision for their members and for America's working people because now more than ever, working people need to be united," said Lane Windham, a spokeswoman for the federation. "Everybody supports organizing, everybody supports politics, and we're stronger when we're united."

Unite Here contributes $4 million a year to the A.F.L.-C.I.O.'s $120 million budget. Together, the departing unions contributed about $30 million a year.

Officials of Unite Here say their union emerged largely victorious in recent hotel strikes in Los Angeles and Washington, and in a casino strike in Atlantic City.

Delta, Northwest File Chapter 11 (USAT)

By Marilyn Adams And Dan Reed

USA Today, September 15, 2005

In a historic move, Delta and Northwest airlines — saddled by high jet-fuel and labor costs and huge debts — filed for bankruptcy protection Wednesday.

The twin filings in U.S. Bankruptcy Court in New York put four of the seven largest U.S. airlines — Delta, Northwest, United and US Airways — in Chapter 11 at once, an unprecedented level of misery for the industry.

About 51% of the flying capacity of the USA's top 12 airlines is now operating under bankruptcy protection. Both carriers will continue flying in reorganization and plan no immediate changes to their schedules, cities served, fares or frequent-flier plans. But their operations will shrink. While further job losses are expected, neither would predict the number who will be laid off.

Delta CEO Gerald Grinstein said in an interview that “everyone at Delta is going to have to make sacrifices.” He said none of Delta's senior officers will receive performance bonuses or retention bonuses in 2005. He also said pay cuts for the workforce will be announced in coming weeks. Delta has asked its pilots union for a new round of contract concessions.

Northwest CEO Doug Steenland said the airline “must significantly lower its costs to compete” with both fast-growing, low-cost carriers and its traditional rivals that have used Chapter 11 to reduce their costs. Northwest's recent efforts to restructure its costs were thwarted by soaring jet-fuel costs after Hurricane Katrina crippled gulf oil production. The airline's jet-fuel bill this year will be about $3.3 billion, he said, up from $2.2 billion last year and $1.6 billion in 2003.

Delta has $2.05 billion in bankruptcy financing: a $1.7 billion debtor-in-possession loan arranged by GE Commercial Finance and Morgan Stanley, and a $350 million loan from American Express. Only $1.4 billion of the $1.7 billion loan will be immediately available. Northwest has debts totaling more than $8 billion and pension plans that are underfunded by $3.8 billion. About 4,500 mechanics and related workers are in their fourth week of a strike against the airline. Steenland said the Chapter 11 filing was not triggered by the strike.

Northwest said it has $1.5 billion in cash, down from $2.1 billion on June 30. But Steenland said its ability to take on more debt in Chapter 11 is minimal because nearly all of its assets are pledged as collateral on existing loans.

Bankruptcy For 2: Storm Broke The Camel's Back (NYT)

By Micheline Maynard

The New York Times, September 15, 2005

Late last month, Northwest's chief executive, Douglas M. Steenland, still thought his airline had a chance to avoid seeking bankruptcy protection.

No matter that the mechanics' union was on strike, the price of jet fuel had risen by 50 percent, and, yes, low-fare airlines were brutal competitors. But then Hurricane Katrina struck, wiping out not only homes, lives and businesses on the Gulf Coast, but Northwest's chances of staying solvent.

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Yesterday, Northwest, the nation's fifth-largest airline, filed for bankruptcy protection, and Delta Air Lines, the country's third-largest carrier, took the step at the same time - though that was not planned, their chief executives said. A result is that now, half the seats on flights in the United States are offered by airlines operating under court protection.

Delta's bankruptcy filing, in United States Bankruptcy Court in New York, where Northwest also filed, was long expected.

Northwest's was not. And the story of Northwest's decision to file shows how a highly attentive financial community can miss an important sign: in this case, the effects of a sudden jump in the cost of jet fuel in finally pushing an airline over the edge.

Word that Northwest was considering Chapter 11 bankruptcy shocked Wall Street on Tuesday, sending the company's shares plummeting by over 50 percent. But skepticism remained that it would actually follow through. Unlike Delta, which had begun talking to bankers and financiers weeks ago to arrange bankruptcy financing, Northwest had left no telltale footprints in the corridors of the financial community.

As late as yesterday morning, veteran industry analysts like Jaime Baker of J. P. Morgan were saying that the airline still had time to wrest $1.4 billion in wage and benefit cuts from its unions, which Northwest had said could forestall bankruptcy, especially if coupled with pension changes under consideration by Congress.

Many experts thought the airline would wait until closer to Oct. 17, when changes in federal bankruptcy law take effect and limit the amount of time in which management may draft restructuring plans.

What they missed was the impact of Katrina, Mr. Steenland said yesterday. After the storm hit the Gulf Coast, shutting down refineries and causing a spike in the price of jet fuel, Mr. Steenland said his airline was faced with the equivalent of paying $100 a barrel for oil, including the cost of refining it into jet fuel.

That outlay - more than double what the airline paid for oil a year ago - had a "staggering impact" on the airline, and made a bankruptcy filing inevitable, Mr. Steenland said.

Still, all the members of Northwest's board, which includes three representatives from its labor unions, were not yet convinced. So Mr. Steenland and his team of executives, lawyers and restructuring experts, whose backgrounds included experience with bankruptcies at US Airways, Continental and Eastern Airlines, laid the numbers out in precise detail.

"We are a very analytical and empirical decision-making company here," he said yesterday, during a conference call with reporters.

Northwest faced a fuel bill of $3.3 billion this year, $1.1 billion more than it spent in 2004, even though it had plans to cut back some flights, like its service between New York and Tokyo. The airline also had a $65 million pension payment due today that it could not miss unless it was under bankruptcy protection. Other "sizable" payments also lay ahead, Mr. Steenland said.

If it did not file for bankruptcy protection, Northwest risked heavy losses, on top of the $3.6 billion it has lost since 2001 and the $300 million to $400 million it expects to lose this quarter.

And Northwest's $1.5 billion in cash could evaporate, money it would need as bankruptcy financing.

Faced with that, the board members, including the labor representatives, recognized the peril and voted unanimously to seek court protection, Mr. Steenland said.

If the bankruptcy filing shocked Wall Street, it should not have, Mr. Steenland said. Over the last few weeks, the airline had grimly laid out that likelihood in a series of regulatory filings, the most recent on Tuesday, when the airline said it had skipped $23 million in debt payments.

And Mr. Steenland, in interviews as recently as Monday, repeatedly emphasized that the airline's chance to restructure was fast disappearing.

"Northwest ran out of time," Philip A. Baggaley, an airline industry analyst with Standard & Poor's Ratings Services, said yesterday. Bankruptcy "was unavoidable, and it was the wisest course," he added.

Yesterday, Mr. Steenland pointed out another issue: heated competition from low-fare carriers, whose growing presence has made it difficult for major airlines to raise fares enough to cover their costs.

With the surging price of oil, Mr. Steenland said, Northwest raised fares 40 times, usually by $5 to $10 on selected routes. But those increases resulted in only a 3 percent to 5 percent gain in revenue, well short of what the airline needed to cover the price of fuel.

Gerald Grinstein, the chief executive at Delta, agreed with his Northwest counterpart yesterday. Mr. Grinstein said Delta was already contemplating bankruptcy because of the rise in energy costs that occurred even before the storm.

"If it needed emphasis, underline and exclamation point, Katrina did that," Mr. Grinstein said.

Delta executives declined to say how long the airline would remain under bankruptcy protection, but it could take years if the nearly three-year bankruptcy at United is any guide.

Problems are also looming with its pension plan. If Delta's pension plan defaults, it would set a record, surpassing even the size of United's pension plan collapse earlier this year, according to estimates issued yesterday by the Pension Benefit Guaranty Corporation.

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Already, the agency's finances have been severely shaken by a series of large corporate bankruptcies and pension failures.

The guarantor estimated that Delta's pension plan had promised benefits worth $17.5 billion, but had assets of only $6.9 billion, for a $10.6 billion shortfall. The most recent estimate of United's shortfall, by contrast, was $10.1 billion.

James C. Whitehurst, Delta's chief operating officer, said yesterday that the airline had gotten a jump on its restructuring with a transformation plan introduced last year, under which Delta is striving to cut $5 billion in costs and 7,000 jobs by next year.

"We want to get through this as fast as possible but deliberately enough to build a plan to allow us to survive and thrive," Mr. Whitehurst said.

Indeed, Mr. Grinstein, who had urgently tried to keep his airline from a court filing, expressed optimism that Delta, which has lost nearly $10 billion since 2001, can become a successful player again.

"Delta's financial problems are severe, but not insurmountable," Mr. Grinstein said yesterday.

The chief executive of the industry's most successful carrier, Southwest, said yesterday that there was more involved in operating profitably than cutting jobs, pay and benefits.

Southwest's chief, Gary C. Kelly, said airlines could not grow and become profitable by making workers pay the price.

"If you don't treat your people right, you pay the price," said Mr. Kelly, whose unionized airline pays some of the highest wages in the industry, even though its overall costs are among the lowest.

Mr. Kelly, whose low-fare airline has a higher market capitalization than all its major rivals combined, likewise had little sympathy for the pain that fuel prices had inflicted on Northwest and Delta.

Neither company has contracts protecting them from the rise in prices, while Southwest locked in the price of 85 percent of the fuel it plans to purchase this year.

"This industry is dependent on energy," he said. "Energy prices are volatile. The industry did not take adequate steps to protect itself from volatility and now that risk has come home to roost."

Delta, Northwest See Bankruptcy As Key To Revival (WSJ)

By Evan Perez And Susan Carey

The Wall Street Journal, September 15, 2005

Two more bankruptcy filings by big airlines -- Delta Air Lines and Northwest Airlines -- underscored how old-line carriers increasingly see court protection as the preferred route to revival amid the industry's biggest crisis in decades.

Yesterday's filings by the nation's third- and fourth-largest airlines, both of which came in U.S. Bankruptcy Court in New York's Southern District, mean that four of the nation's seven biggest carriers as measured by passenger traffic now are operating under Chapter 11 protection. Including UAL Corp.'s United Airlines and US Airways Group Inc., more than half the capacity of the nation's top 12 airlines now belongs to companies in bankruptcy.

All four are legacy carriers -- those airlines born before the era of industry deregulation that have been unable to shed costs such as pensions amid competition from low-cost startups. Bankruptcy gives them at least the chance to leave financial baggage -- labor costs, pension obligations, aircraft orders -- at the courthouse door and emerge months later as leaner companies better able to absorb high oil prices, competition and other turbulence.

Many legacy carriers "have already used the bankruptcy process to achieve changes in their cost structures," Northwest Chief Executive Doug Steenland said yesterday. That has helped them compete, he said, with "newer, low-cost carriers which have much lower labor and operating costs than legacy carriers."

Airlines have faced a brutal environment in recent years with high labor costs, soaring oil prices and competition. With two more in bankruptcy -- and not having to pay many of their bills -- pressure could rise on other old-line carriers such as Continental Airlines, which sought cost cuts earlier this year, and AMR Corp.'s American.

A bankruptcy filing is no guarantee of success. More than 100 airlines have filed for bankruptcy in the last quarter-century. Several, including US Airways and Continental, have done so more than once.

Delta's filing came despite a year-long push by executives to avoid bankruptcy by transforming the airline into a carrier that could go head to head with Southwest Airlines and the upstart new carriers such as JetBlue Airways that have spread bargain-basement fares across the country. Though it has tallied nearly $10 billion in losses since the start of 2001, Atlanta-based Delta has cut operating costs by more than $4 billion a year -- about 28% of its operating expenses in 2002.

Yesterday, executives expressed the hope that their efforts will leave Delta poised to emerge from court protection stronger than at least some of its major-airline rivals. It expects to face fewer court battles with workers and creditors, now owed more than $28 billion, to bring costs further in line.

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Delta has a "well-planned, well-executed" restructuring plan that will continue to serve the company even in bankruptcy, said Chief Executive Gerald Grinstein in an interview. "Everyone is going to have to work harder, for less money," he said. "But we're convinced we can produce an outstanding airline here."

For its part, Northwest entered bankruptcy facing several immediate problems. Its filing was preceded by defaults on some payments due in the past few days. A $65 million pension payment is due today. Like Delta, Northwest has been cutting costs, but so far has eliminated just $1.7 billion a year in nonlabor expenses. The company also has been dealing with a strike by its mechanics since August.

In a conference call late yesterday, Mr. Steenland said Northwest will become a somewhat smaller airline and return some planes to lessors while in Chapter 11. He said it will continue to press for pension relief "so we'll be in a position to preserve" the benefits earned to date by its workers and "hopefully" avoid pension terminations.

As the two companies enter bankruptcy, two other rivals are preparing to come out. US Airways is close to emerging from bankruptcy in significantly changed form, after a merger with low-cost carrier America West Holdings Corp. The airline's reorganization plan was approved by creditors yesterday. Today it seeks judicial confirmation, which would set the stage for its emergence.

United, meanwhile, expects to exit bankruptcy around Feb. 1 after 38 months of protection from creditors. However, its recovery plan assumes an oil price of $50 a barrel, about 20% below the current level.

Both of yesterday's filings came after the close of major stock markets, but both were expected. Delta shares were off 7 cents at 71 cents, in 4 p.m. trading on the New York Stock Exchange. Northwest shares, after losing 53% of their value on Tuesday, recovered somewhat yesterday, trading up 19% to close at $1.87 on the Nasdaq Stock Market.

In its filing, Delta said it planned to use the bankruptcy process to reconfigure its fleet and network, retiring four of the 11 aircraft types it currently flies and using smaller regional jets on routes where larger aircraft aren't profitable. Such a restructuring typically involves shrinking capacity, though Delta didn't say by how much.

It also warned of more job and pay cuts, and could announce as early as next week pay cuts of up to 15% for its largely nonunion workers and executives, said people familiar with the situation. Delta has eliminated about 17,500 jobs, or 20% of its workforce, since mid-2001, according to securities filings.

On Monday, Delta presented its pilots union with a wage and benefits proposal calling for up to about $325 million in concessions, according to people familiar with the matter. In January, Delta imposed a 10% wage cut and trimmed benefits for its nonunion workers. That followed an agreement in November with its Air Line Pilots Association unit for $1 billion in annual wage and benefits givebacks.

The airline said it has received a commitment for $1.7 billion in debtor-in-possession financing from creditors led by General Electric Co.'s commercial finance unit and investment bank Morgan Stanley. Terms of the deal call for about $980 million going to pay off a previous loan from GE and American Express Co. American Express also agreed in principle to provide Delta with $350 million in additional financing, giving the airline a total of $2.05 billion in financing to sustain it during bankruptcy.

Nearly 20 Delta subsidiaries were included in its bankruptcy filing, including Song, a low-fare airline. For Northwest, the first bankruptcy filing in the company's 79-year history covered it and 12 of its subsidiaries.

In its initial court filing, Northwest listed assets of $14.35 billion and debts of $17.92 billion. Its largest shareholder is FMR Corp., followed by Wellington Management Co. LLP and State Street Bank & Trust Co. Major unsecured creditors, after the banks that are trustees for notes and preferred stock, include alliance partner KLM Royal Dutch Airlines, which is owed more than $64 million, regional commuter affiliates Pinnacle Airlines, owed $28 million, and Mesaba Aviation, owed $23 million.

The company had talked to Citigroup Inc. about arranging a $1.6 billion DIP loan, but Mr. Steenland said Northwest decided against it because it believes it has sufficient cash and most of its assets already are pledged. The airline engaged Bruce R. Zirinsky of Cadwalader, Wickersham & Taft LLP as its lead bankruptcy counsel.

Until this week, many industry observers expected Northwest to wait until next month before deciding to file for bankruptcy, partly because it would have more time to wrest concessions from its unions. But rising fuel costs, the ongoing mechanics' strike and flagging prospects for legislative relief on its underfunded pension plans apparently led the carrier to conclude that significant cost savings weren't readily obtainable. Northwest has the oldest fleet among the major U.S. airlines, meaning its burns more fuel than its peers, a situation made worse by the fact that its fuel needs aren't hedged.

Northwest is seeking $1.4 billion in annual labor savings from its employees and is hoping that Congress passes legislation that would allow it to spread out the time to catch up on its $3.8 billion in pension underfunding to 14 years from the current three to five years. Mr. Steenland said the carrier will continue to seek legislation while in court protection. But he said it must make a transition out of its defined-benefit pension arrangements, which are slated to require $3.3 billion in contributions from 2006 through 2008.

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While in bankruptcy, both United and US Airways have terminated their defined-benefit plans and turned the liabilities over to the Pension Benefit Guaranty Corp., a federal insurer.

Since the mechanics' strike, Northwest has stayed aloft by using 1,200 temporary replacement technicians. This week it said it started the process of offering some of them permanent employment. But the airline won't say how many offers it has made or how many of the 1,200 it might like to keep.

In Chapter 11, the carrier will be able to use the threat of annulling contracts and imposing new terms to get its unions to agree to cuts. Three of Northwest's largest unions said they weren't surprised by the filing and will work to protect member interests.

Even before the virtually simultaneous bankruptcy filings by Delta and Northwest, some investors speculated that the two carriers could wind up merging with the help of a private-equity firm. Their route networks have little overlap, and Delta's dominance on trans-Atlantic flights would complement Northwest's strength in Asia. Delta and Northwest officials declined to comment.

Delta And Northwest Enter Chapter 11 (FT)

By Doug Cameron And Caroline Daniel

Financial Times, September 15, 2005

The US airline industry on Wednesday faced its biggest shake-out in a decade after Delta Air Lines and Northwest Airlines, the third- and fourth-largest carriers by revenue respectively, both filed for bankruptcy.

The bankruptcies after four years of heavy losses and at least 120,000 job losses across the sector are likely to accelerate an industry-wide restructuring around a low-cost model but could raise political pressure on the indebted federal agency that insures workers' pensions.

Four US airlines are now in Chapter 11 bankruptcy protection, following earlier moves by United and US Airways a recognition, analysts said, of the traditional carriers' inability to restore profitability and shed legacy costs in a unionised industry.

Even so, observers doubted that Wednesday's bankruptcy filings would eliminate the overcapacity that has seen airlines lose pricing power as too many seats chase too few passengers.

Analysts at Merrill Lynch estimate there are 100-200 too many aircraft in the domestic network. Delta has a fleet of 869 aircraft while Northwest operates more than 400.

“The airline industry has changed permanently,” said Doug Steenland, Northwest's president and chief executive officer. “Northwest must significantly lower its costs to compete with other carriers.”

The carrier employs 40,000 staff. Mr Steenland said one trigger for the filing was that, after Hurricane Katrina, Northwest had been paying close to $100 a barrel for jet fuel more than twice the amount it paid at the start of the year.

Northwest and Delta's decision to go into Chapter 11 was likely to have been hastened by an October 17 deadline when bankruptcy legislation comes into force that will give management far less room to manoeuvre than under the present regime.

Delta's filing in New York comes a year after the Atlanta-based carrier launched a restructuring aimed at reducing annual costs by $5bn by 2006. The carrier, advised by the Blackstone Group, has secured $1.7bn in debtor-in-possession finance from GE Commercial Finance and Morgan Stanley, and agreement in principle for a further $350m from American Express.

The airline hopes to use bankruptcy protection to secure additional savings from its 52,000 employees and has made a proposal to its pilots union.

Northwest, advised by the Seabury Group, is not using such funding and will instead rely on its cash balance of $1.4bn as of September 14 to see it through the process. It is seeking more concessions from its three union-represented employee groups, with analysts estimating that these need to be raised to an annual $1.4bn to restore profitability.

Delta has higher pension obligations than Northwest and its strategic position is viewed by analysts as weaker, prompting speculation that the two carriers could seek to exit bankruptcy together through a merger. Delta is the most exposed of the majors to low-cost competitors, and analysts remain concerned about its ability to generate viable revenues even on a lowered cost base. The airline said it would rationalise its fleet and network, increasing its focus on more profitable international services. “Delta's financial problems are severe, but by no means insurmountable,” said Gerald Grinstein, chief executive.

Delta, Northwest Airlines File For Bankruptcy (LAT)

By James F. Peltz

The Los Angeles Times, September 15, 2005

The nation's airline crisis took a stunning turn for the worse today when Delta Air Lines Inc. and Northwest Airlines Corp. both filed for bankruptcy in the face of massive losses, meaning that four of the seven largest U.S. carriers are now flying in Chapter 11 bankruptcy.

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Delta and Northwest, the third- and fourth-largest airlines respectively by passenger traffic, joined United Airlines and its parent UAL Corp., along with US Airways Group Inc., in seeking protection from its creditors in Bankruptcy Court.

Rarely have four of the largest players in a major business found themselves in bankruptcy simultaneously. It's a dubious feat that some analysts said marks the onset of a climax to the industry shakeout that many have predicted since the airlines were deregulated in 1978.

The filings by Delta and Northwest weren't expected to have an immediate effect on travelers.

Under Chapter 11, a company continues operating while it works out a reorganization plan to repay creditors. Delta and Northwest said they would maintain their current flight schedule and frequent flier plans. United and US Airways have done the same.

"Delta is open for business as usual and will continue normal operations," Delta Chief Executive Gerald Grinstein said in a statement, adding that passengers' travel plans and frequent flier miles "are secure."

At Los Angeles International Airport, Delta ranks as the fourth-largest carrier, with 7.6% of passenger traffic during fiscal 2004, according to airport statistics.

Northwest ranks as the seventh-largest carrier at LAX, accounting for 3.6% of the airport's passenger traffic.

The Delta and Northwest filings underlined the financial debacle occurring in an industry that has lost $30 billion since 2000 and is on track to lose an additional $5 billion to $10 billion this year.

There are still too many airplane seats chasing too few passengers, many analysts contend, and most carriers' ability to stay in business using bankruptcy reorganization has kept that trend going. But with so many big airlines in bankruptcy at once, a shakeout could truly be coming, they said.

"It's imperative that the traditional airlines regroup and become stronger," said Hugo Burge, president of Cheapflights.com, a travel website. "The airlines can't go on as they are, and something needs to give."

Over the past few years the airlines have been pummeled by a list of problems, including the post-Sept. 11 drop in air travel, the growth of discount airlines that pushed fares lower, bloated cost structures, enormous debt loads, excess capacity and soaring jet fuel prices.

The price of fuel — an airline's second-biggest expense after labor — surged above $2.30 a gallon after Hurricane Katrina disrupted the Gulf Coast's refining operations, and it helped push Delta and Northwest into bankruptcy. Before the storm, fuel cost less than $1.90 a gallon.

Northwest said it expects to pay about $3.3 billion for fuel this year, compared to $2.2 billion in 2004.

Northwest's effort to reorganize its operations outside Bankruptcy Court "have been overtaken by skyrocketing fuel costs," said airline President Doug Steenland in a statement.

Northwest's woes deepened last month when 4,400 members of the Aircraft Mechanics Fraternal Assn. went on strike over the wage and benefit cuts proposed by the airline. The carrier has managed to operate more than 95% of its flights by bringing in replacement workers to replace the striking employees.

Delta, once a prosperous carrier admired for customer service laced with Southern hospitality, has lost $10 billion since 2000 and is saddled with more than $20 billion in debts and pension obligations.

The airline came perilously close to bankruptcy a year ago, but avoided it by reaching concessions with its pilots union, suppliers and creditors.

The airlines' trade group, the Air Transport Assn., sought relief from the U.S. government today by asking that the 4.3-cent-a-gallon federal tax on jet fuel be suspended for a year.

That would trim about $600 million from the industry's fuel bill, which is expected to jump $9.2 billion from 2004, the ATA said.

"We remain at the mercy of oil markets and the federal government," ATA President James May told a Senate aviation subcommittee.

The high fuel prices also threaten the few airlines that have remained profitable, such as JetBlue Airways Corp. The New York-based carrier, whose West Coast hub is Long Beach, is in danger of posting its first quarterly loss since the airline went public in 2002, JetBlue Chief Executive David Neeleman told Bloomberg News on Tuesday.

The industry's hardship also has enveloped smaller, struggling carriers. Aloha Airgroup Inc., the parent of Aloha Airlines, and ATA Holdings Corp., which runs ATA Airlines, also are operating in Chapter 11.

Although consumers might not be immediately affected by today's Chapter 11 filings, they could see gradual changes in the breadth and frequency of Delta and Northwest service to certain cities.

Northwest, Delta File For Bankruptcy Protection (WP)

By Sara Kehaulani Goo

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The Washington Post, September 15, 2005

Delta Air Lines and Northwest, the nation's third- and fourth-largest carriers, filed for bankruptcy protection yesterday as skyrocketing fuel costs accelerated the carriers' financial decline.

With the filings, an unprecedented four of the nation's seven largest carriers will be operating under bankruptcy protection, marking a low point for an industry that many analysts said had shown signs of turning a corner this year -- if not for the run-up in jet fuel prices.

Analysts expect Dulles-based Independence Air's parent, Flyi Inc., to soon join the pack of bankrupt carriers. Two carriers in bankruptcy protection, UAL Corp.'s United and US Airways Group Inc., have indicated plans to emerge in the coming months. AMR Corp.'s American Airlines, Continental Airlines Inc. and Southwest Airlines Inc., the other three major carriers, posted profits last quarter.

Despite the wave of bankruptcy filings, airline travelers should see little change. Frequent-flier miles are expected to be preserved because airlines cannot afford to anger their most loyal customers. Fares are likely to remain low because of intense competition from low-fare carriers. Federal officials have stepped up airline inspections, and safety does not appear to have been compromised by the industry's problems.

Airline workers, whose wages and benefits have been cut aggressively, are likely to face further hardship. The airlines are likely to further trim their workforces to become smaller, more efficient businesses. Older carriers, such as Delta Air Lines Inc. and Northwest Airlines Corp., are saddled with hefty obligations to pension funds that could be turned over to the federal government under bankruptcy protection, diminishing workers' retirement benefits.

The airlines beat next month's launch of a new bankruptcy law, which makes it more difficult for executives to collect retention pay. The new law also requires carriers to emerge from bankruptcy within 18 months.

Some industry observers think the bankruptcy filings could prompt consolidation. US Airways, whose creditors approved its bankruptcy-reorganization plan yesterday, is merging with America West Holdings Corp. in an effort to become a leaner, low-cost carrier.

"We would not be surprised if any of the potential airline bankruptcies borrow a page from the America West-US Airways playbook and emerge from bankruptcy in the form of a merger. That would be one way of achieving airline consolidation -- an objective that has eluded that industry for years," said Michael J. Linenberg of Merrill Lynch & Co.

Unlike the days when airlines filed for bankruptcy protection and were then liquidated, creditors are less likely to demand their assets -- namely, aircraft -- for fear that a huge number of planes on the market would drive down prices. Instead, bankruptcy protection leaves more room for airlines to negotiate with creditors. In many cases, the carriers are looking to reconfigure their fleets for greater efficiency -- a change that some consultants say is more difficult to do outside of bankruptcy reorganization.

"It's more difficult than ever to liquidate an airline," said Darryl Jenkins, visiting professor at Embry-Riddle Aeronautical University. "You have so many lenders of last resort who want to keep aircraft prices high."

Northwest said its decision to file for Chapter 11 bankruptcy protection was unrelated to its striking mechanics, who walked off the job several weeks ago to protest the company's effort to cut pay and reduce their ranks. The company blamed its fuel costs, which have risen to $3.3 billion annually, for preventing it from reducing its expenses enough outside of bankruptcy protection.

"We had developed a plan to restructure Northwest outside of Chapter 11 and have been implementing that plan," Northwest chief executive Douglas M. Steenland said. "Unfortunately, in addition to an uncompetitive cost structure, our efforts have been overtaken by skyrocketing fuel costs. . . . By filing for Chapter 11 now, we ensure that we have the means to complete the transformation of Northwest quickly and effectively."

The carrier expects to become 5 to 6 percent smaller by the fourth quarter, with layoffs expected, Steenland said.

Delta's filing was a "necessary and responsible step to preserve Delta's value" chief executive Gerald Grinstein said in a written statement. The company said it had secured $1.7 billion in debtor-in-possession financing to continue normal operations under bankruptcy protection.

Delta said yesterday that it would continue to pay wages, health care coverage, vacation and sick leave for its 52,000 employees but that further reductions in jobs, pay and benefits are likely.

Delta also said that it does not plan to make contributions to its pension plans that are due soon. "Missing contributions does not mean that our qualified plans stop paying monthly retirement benefits or that we have initiated the process to terminate the plans," Grinstein said, who added that he would push for pension-reform legislation. A statement from the company said "there can be no guarantees -- even with pension reform -- about the future of Delta's qualified defined benefit pension plans."

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Delta does not have as many unionized workers as other carriers, but it is $21.6 billion in debt and posted a $1.5 billion loss for the first six months of the year. The airline operates a wide range of aircraft, which analysts say could be narrowed to provide more efficiency.

Northwest said that it is required to contribute $3.3 billion to its defined-benefit plans from 2006 to 2008 and that it would continue its move toward defined-contribution plans.

Because of their bankruptcy protection filings, Delta and Northwest will be removed from the Dow Jones Transportation Average index at the close of business Friday, Dow Jones said. They will be replaced by Overseas Shipholding Group Inc. and JetBlue Airways Corp.

Several aviation consultants and academics said Northwest and Delta bankruptcies represent the latest chapter in the industry's long and painful transformation. Nearly all of the older carriers have flirted with bankruptcy protection, and each has had to cut billions of dollars in labor and operating costs.

"Right now, you are kind of reaching the climax of a different environment," said Michael E. Levine, a former airline executive and now a research scholar at New York University. "All have to transform themselves."

Airlines File For Chapter 11 Haven (WT)

By William Glanz

The Washington Times, September 15, 2005

Delta Air Lines Inc. and Northwest Airlines Corp. yesterday filed for bankruptcy in an unprecedented day for the struggling airline industry.

Delta, the nation's third-largest airline, filed for Chapter 11 bankruptcy protection from creditors after the stock market closed yesterday, saying record-high fuel prices have undermined efforts to cut costs.

Northwest, the fourth-largest airline, filed for Chapter 11 bankruptcy protection about 30 minutes later, citing high labor costs.

Both airlines threatened for months that they would seek bankruptcy protection, but the back-to-back filings emphasized the difficulty the traditional carriers are having competing with younger competitors like Southwest Airlines and JetBlue Airways.

Both Delta, based in Atlanta, and Northwest, based in Eagan, Minn., promised their operations won't be disrupted.

The filings mean four major airlines are in bankruptcy. UAL's United Airlines filed in 2002 and US Airways Group Inc., based in Crystal City, filed one year ago. But US Airways could win court approval today for its reorganization plan and proposed purchase by America West Airlines and emerge by the end of the month.

"The fact that [Delta and Northwest] filed back to back is dramatic, but the fact that you have half of the industry's capacity in bankruptcy says something," said John Heimlich, chief economist for the Air Transport Association, an industry group representing the nation's largest airlines.

At least one more airline could fail. Flyi Inc., which operates low-cost carrier Independence Air out of Washington Dulles International Airport, is widely expected to file for bankruptcy.

"I see consolidation or contraction for the big six airlines as well as the low-cost carriers," Mr. Heimlich said.

Delta listed its total debt at $28.3 billion and assets at $21.6 billion, according to the filing in U.S. Bankruptcy Court for the Southern District of New York. Song, Delta's low-cost carrier, was included in the bankruptcy filing.

Delta's bankruptcy is the ninth-largest in U.S. history. WorldCom Inc., which filed in 2002, was the largest with $103.91 billion in debt.

"Delta's financial problems are severe, but by no means insurmountable," Delta Chief Executive Gerald Grinstein said.

Northwest listed debts of $17.9 billion and assets of $14.4 billion and also filed in U.S. Bankruptcy Court for the Southern District of New York.

Northwest filed yesterday to avoid a $65 million pension payment that would have come due today.

Delta filed yesterday to preserve its cash and said it won't make an upcoming payment to a defined benefit plan.

"Missing contributions does not mean that our [pension] plans stop paying monthly retirement benefits or that we have initiated the process to terminate the plans," Mr. Grinstein said.

Northwest said its bankruptcy filing is unrelated to the strike by its 4,400 mechanics.

Both airlines said they have money to fund operations through bankruptcy.

Delta said it has obtained a commitment for $1.7 billion in financing from General Electric Commercial Finance and Morgan Stanley. Separately, American Express has promised an additional $350 million in secured financing.

Northwest has $1.5 billion in cash. It will save money by shedding some planes in its fleet and eliminating some routes to "operate a somewhat smaller airline," Chief Executive Douglas Steenland said.

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It is not clear how many Northwest workers will be cast off, but the airline hopes to avoid jettisoning pensions like US Airways has done, he said.

Northwest tried for months to cut labor costs and wants to renegotiate union contracts to save $1.4 billion annually. Bankruptcy will allow Northwest to lower its labor costs and compete with low-cost carriers, Mr. Steenland said.

Northwest this week began hiring replacement mechanics.

Delta won $1 billion in concessions last year from its pilots.

Mr. Steenland said Northwest had a plan to restructure without filing for bankruptcy, but soaring fuel costs forced the company into court.

Northwest expects its fuel bill for 2005 will reach $3.3 billion, compared with $2.2 billion in 2004 and $1.6 billion in 2003.

Mr. Grinstein said Delta will reduce its fleet of 869 planes and rely on smaller planes that use less fuel. Delta has lost almost $10 billion since early 2001.

During the six-month period that ended June 30, Delta's fuel costs increased 56 percent, or $695 million, compared with the same period in 2004.

The airline industry yesterday asked Congress for a one-year reprieve from federal jet fuel taxes. Suspension of the 4.3-cents-a-gallon federal tax would save the industry $600 million.

Difficult Times Battered Airlines (USAT)

By Marilyn Adams And Dan Reed

USA Today, September 15, 2005

The slide into bankruptcy protection of two of the USA's largest airlines is more a result of the carriers' bad assumptions and slowness to act than the recent rise in fuel prices or the devastating terror attacks four years ago.

The Delta and Northwest bankruptcies, filed Wednesday in New York, are different in key respects from that of No. 2 United and No. 7 US Airways. Both United and US Airways were directly affected by the 9/11 attacks. Two of United's planes were hijacked that day, and Washington Reagan National Airport, where US Airways has a major operation, was shut down for weeks.

Neither Delta nor Northwest was similarly affected by the attacks, and four years have passed. Industry experts say that in the case of Delta, and to some extent Northwest, these filings are more a reflection of how traditional, hub-and-spoke airlines failed to adapt in the face of aggressive low-cost carriers, falling fares and rising oil prices.

They counted too heavily on the hope that business conditions would improve and return them to profits — that oil prices would fall, airfares would rise, weaker competitors would fail and low-cost carriers would make mistakes.

Instead, low-cost carriers grew, competitors United and US Airways methodically slashed their costs in bankruptcy, and oil prices hit record levels. When Hurricane Katrina shut down New Orleans and sent fuel prices even higher, the cash bleed was too much to withstand.

“Delta probably should have filed a year and a half ago,” said Washington, D.C.-based airline consultant Jon Ash.

Ash said Delta mistakenly counted on the expected failures of rivals US Airways and Independence Air, reducing the competitive pressure on Delta in the busy Northeast. US Airways has visited Chapter 11 twice, but now it's being acquired by America West. A judge may release it from Chapter 11 at a hearing today.

Washington-based Independence Air, while at risk of a near-term bankruptcy-protection filing or even liquidation, continues to fly at very low fares.

Other analysts agree with Ash.

“Katrina and oil prices are simply the straw that broke the camel's back,” said San Francisco-based consultant Michael Roach, co-founder of America West. “Delta was going to file anyway. And Northwest was playing chicken with its unions. It seems to me they didn't do nearly enough and waited much too long. They thought they could just ride it out. But the rise in oil prices upset everyone's plans.”

Delta narrowly averted a bankruptcy filing a year ago, and its action Wednesday had been widely anticipated. But the fact that Northwest is also in Chapter 11 is a remarkable turnabout.

Two years ago, the Eagan, Minn.-based carrier was modestly profitable and seemed ready to emerge from the post-9/11 industry mess as one of the strongest among the big traditional U.S. carriers. But its inability to rein it its costs negated the $1.7 billion in annual operating cost cuts since 9/11.

Delta came very close to filing late last year but stepped back when it was able to extract $1 billion a year in contract concessions from its pilots union and raise another $1 billion in loans from business partners General Electric and American Express. Meanwhile, Delta has spent the last year and a half cutting an array of costs, closing its unprofitable Dallas/Fort Worth hub, restructuring its main Atlanta hub, restructuring debt and cutting jobs.

Last year, Delta CEO Gerald Grinstein told employees he would do everything in his power to restructure the company outside of bankruptcy. The company unveiled a comprehensive "transformation plan" last fall. But the plan wasn't enough to overcome $70-a-barrel oil or the relentless expansion of low-cost, low-fare discounters such as Southwest, AirTran, JetBlue and Independence Air. AirTran, one of the fastest growing, operates most of its flights from Atlanta's Hartsfield-Jackson, Delta's home airport.

Delta officials said Wednesday night that they have a clear vision of where they want Delta to go. Now, only about 20% of its revenue derives from its international system. Chief Operating Officer Jim Whitehurst said Delta should boost that to about 33%.

Delta, including its Song subsidiary, and Northwest will continue to fly in Chapter 11. Over time, travelers are sure to see major changes in fares, cities served, frequency of service, types of aircraft used and onboard service. During their reorganizations, both United and US Airways have shrunk their total flying capacity by about 15%.

Delta said it plans to simplify and streamline its fleet by removing four aircraft types, leaving seven. Delta also plans to deploy smaller aircraft on many of its routes to better fit demand. Grinstein and Whitehurst said they plan to soon announce expansion of service to Europe and Latin America and expansion of Delta's domestic and international flights from New York's Kennedy airport.

What's likely to shrink is service elsewhere within the USA. Delta operates other domestic hubs in Cincinnati and Salt Lake City.

Some of the strongest shock waves may be felt in Washington, D.C., where Congress and federal officials have taken a carrot-and-stick approach to the airline industry in recent years.

Rep. Tom Price, R-Ga., Wednesday night called Delta "the latest casualty" in the competitive airline industry. "Today's announcement is merely a symptom of a greater problem and must serve as a wakeup call to all of us," he said.

But former Continental Airlines CEO Gordon Bethune said Congress bears some of the blame for the industry's sorry state: "To hear all these congressmen harrumphing on TV that this is horrible. Why, these are the same turkeys who just proposed a new security tax on top of all the other taxes they've loaded on the airlines."

Congress has provided massive financial relief to the industry since 9/11, when United and American lost four jetliners and travel nationwide came to a stop.

But Congress has also adopted new taxes, chiefly for post-9/11 security. Although the Department of Justice recently let stand the pending takeover of US Airways by America West, it has blocked most proposed airline mergers in recent years on antitrust grounds. In 2001, just months before the attacks, Justice's antitrust unit denied United's proposal to acquire US Airways, saying the deal would hurt competition and consumers in lucrative Northeast markets.

Ash and other industry experts suspect airline officials already are quietly exploring possible marriages involving United, Delta, Northwest and others.

Grinstein Wednesday said it's too soon to consider whether Delta might be a merger candidate. But he added, "I do think consolidation is ahead for our industry."

Even as Delta's and Northwest's boards were deciding Wednesday whether to proceed to the courthouse, the Senate Commerce Committee in Washington was hearing testimony on the industry's woes.

"No business model at any airline can survive with sustained jet-fuel prices of $90 to $100 a barrel," said James May, CEO of the Air Transport Association, the airlines' trade group, during the hearing. The ATA is requesting that the industry get a one-year holiday from the federal fuel tax to ease the effects of unprecedented fuel costs.

The industry has also been asking Congress to spread out required payments to their costly employee pension plans. Without relief, Delta and Northwest may ask the bankruptcy court to allow them to terminate the plans. That would transfer financial responsibility to the Pension Benefit Guaranty Corp., the federal insurer. The transfer would cost Delta and Northwest pensioners millions in benefits and worsen the PBGC's already huge deficit.

Grinstein said no decision has been made about the pension plans. If Delta terminates its pension plans in bankruptcy court, it will represent the single-biggest corporate pension default ever, eclipsing the recent pension default by United.

PBGC said that Delta's pension plans would be underfunded by $10.6 billion if they are terminated. The agency would insure $8.4 billion of that sum.

Consultant Mark Gerchick, the DOT's highest-ranking aviation policy official under President Clinton, thinks the double filings will force Congress and regulators to revisit industry policies.

"People have to fly," said Gerchick, a Washington consultant. "We are going to have to create a new environment for airlines. This is likely to send a jolt through the Department of Transportation and the Department of Justice in their thinking about consolidation in the industry."

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Bankruptcy Filing Launches Delta Fight With Workers (LAW)

By Andy Peters, Fulton County Daily Report

Law.com, September 15, 2005

Now that Delta Air Lines Inc. has filed for Chapter 11 bankruptcy protection, the carrier will have a legal fight on its hands from employees and retirees seeking to protect their benefits, legal experts said.

Delta, the third-largest U.S. airline, filed late Wednesday for reorganization under Chapter 11 of the federal bankruptcy code, No. 1-05-bk-17923. (U.S. Bankruptcy Court for the Southern District of New York, filed Sept. 14, 2005).

The filing comes after repeated warnings from Delta CEO Gerald Grinstein that higher fuel costs and lower demand have crippled the airline. Delta also has faced stiff competition from carriers such as AirTran Airways that have lower labor and operating costs.

Delta's case was assigned to Judge Prudence C. Beatty.

Delta has been in talks with Stamford, Conn.-based GE Commercial Finance to provide the airline with $2 billion in debtor-in-possession financing, which would allow the airline to continue operating after a bankruptcy filing. Details of the loan had not been released early Wednesday, but industry analysts said they expect Delta to pledge virtually all of its remaining unencumbered assets, such as aircraft, as collateral for the loan.

Bankruptcy protection will allow Delta to change the terms of its agreements with other creditors. The airline is expected to sell many assets and slash costs, the latter by renegotiating pilot salaries and perhaps cutting back its workforce.

Delta also could cut or even abandon its pension plan and health care benefits for retirees and employees. Such a move likely would lead to a legal fight from employee groups.

"The employees and retirees clearly want to protect whatever rights they have," said Darryl S. Laddin, chairman of the bankruptcy and creditors' rights practice group at Arnall Golden Gregory. "They're going to want to have legal counsel to protect their interests."

While holders of common stock are likely to see their investments become worthless, rank-and-file Delta employees and retirees are also vulnerable to losses, said Dean Booth, an attorney with Schreeder, Wheeler & Flint who represents retired Delta pilots.

"Delta going bankrupt is bad for Atlanta, and the people who will be impacted the worst are the retired people," Booth said.

Indeed, both United Airlines and US Airways gained judges' approval during bankruptcy proceedings to transfer responsibility for their pensions to the federal Pension Benefit Guaranty Corp. (United filed for bankruptcy in December 2002; US Airways has filed twice in the past three years.)

When that happens, a retiree is guaranteed a minimum payment from his pension, but it is far less than what the employee would have received had the pension plan remained under the company's administration, said C. David Butler, an attorney at Shapiro Fussell and a former U.S. trustee for bankruptcy courts in Georgia, Florida and the Caribbean.

"Who's going to be taking the haircuts? It's going to be the pensioners," said Butler, who was a founding director of the Southeastern Bankruptcy Law Institute.

Delta met with Pension Benefit Guaranty representatives last week, although no decisions were made, The Wall Street Journal reported on Wednesday.

"They'll have to shrink their operations and vigorously sell whatever they can," Butler said, adding that he expects the airline to sell planes, flight routes, airport gates and spare parts. The airline also will be looking to convert bondholders' debt into equity, as a way to produce cash, Butler said.

"They need to sell a lot of stuff to get down to the shrink-wrapped size they need to be to make a return to stockholders," Butler said.

Butler and Laddin both said that an outright liquidation of Delta is highly unlikely.

Talks already have begun between Delta and its pilots on wage concessions. On Monday, Delta submitted a new contract proposal to its pilots, asking for pay cuts. The Air Line Pilots Association, which represents Delta's pilots, isn't scheduled to meet and consider Delta's proposal until next week.

INDUSTRY MISERY

Delta has lost about $10 billion since January 2001, the Associated Press reported Wednesday, citing JP Morgan airline analyst Jamie Baker.

Delta joins a large fleet of U.S. airlines already operating under or threatening to enter bankruptcy protection, including United Airlines, US Airways and ATA Airlines of Indianapolis.

Northwest Airlines Corp. also filed for bankruptcy protection Wednesday.

Bankruptcy hasn't kept any of these airlines from flying, however, and Delta will be no different.

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"The public will not notice a difference," said John A. Christy, an attorney with Schreeder, Wheeler & Flint who represents retired Delta pilots.

Bankruptcy is the best option for the air carrier at this stage, because "it will allow Delta the flexibility they need on several fronts and give them some breathing room," said Arnall Golden's Laddin.

"If anything, there is an incentive to file for Chapter 11, as opposed to a disincentive," he said.

Frequent-flyer miles also will be kept intact, as a way to reassure customers that Delta won't be disappearing, Christy said.

"They won't kill the frequent-flyer program," Christy said. "That would be like slitting their own throats."

What will emerge after bankruptcy is a much leaner Delta, one that a bankruptcy judge will have determined should be able to meet its financial obligations in the future.

"The word 'shrink' is on everybody's lips," Shapiro Fussell's Butler said.

MORE LEGAL WORK

Delta's bankruptcy could mean additional legal work for some Atlanta firms, although the airline's primary bankruptcy counsel is Davis Polk & Wardwell of New York. Delta spreads its legal work around in Atlanta. Some of Delta's firms include Alston & Bird; King & Spalding; McKenna Long & Aldridge; Troutman Sanders; Kilpatrick Stockton; Ford & Harrison; and Smith, Gambrell & Russell.

The roiling of the airline industry has taken a toll on employee retention in the ranks of Delta's senior executives, including Delta's in-house legal counsel. In July, both Delta's general counsel and assistant general counsel, Gregory L. Riggs and Walter A. Brill, respectively, retired. Riggs joined Alston & Bird as senior counsel but was retained by Delta as a temporary consultant.

Scott Kruse, a partner at Gibson, Dunn & Crutcher, was named Delta's interim general counsel. Kruse is a former general counsel for the Federal Mediation & Conciliation Service. State lawmakers have tried to get involved in helping Delta. The General Assembly this March voted to approve a temporary cap on taxes Delta pays on fuel and to eliminate sales tax on food and beverages served in-flight.

Earlier this month, a state senator proposed a temporary freeze on all state taxes for Delta.

A joint meeting of the House and Senate transportation committees has been scheduled for Sept. 22 to explore ways to help Delta.

Weiner Concedes Race For Mayor To Avert Runoff (NYT)

By Patrick D. Healy

The New York Times, September 15, 2005

Representative Anthony D. Weiner conceded the 2005 Democratic mayoral nomination yesterday to Fernando Ferrer, the top vote-getter in the race, in hopes of averting a potentially destructive runoff election and strengthening Mr. Ferrer's hand as he begins the final eight-week campaign against Mayor Michael R. Bloomberg.

Mr. Weiner's decision, made after a long night of strategizing with aides and his mentor, Senator Charles E. Schumer, came as a surprise to New York Democrats, not least Mr. Ferrer, who was said to be ecstatic. Mr. Ferrer lost a bruising mayoral runoff to Mark Green in 2001, and faced an uncertain bout against the scrappy Mr. Weiner; yesterday, he embraced a nomination that had eluded him in two previous runs for mayor.

In a surprising development, however, city elections officials announced that they were required under state law to hold a runoff despite Mr. Weiner's withdrawal - at a cost to taxpayers of at least $10 million to pay for sending 6,030 voting machines to 1,409 polling stations and running the special election on Sept. 27. Mr. Ferrer will also stand to collect more than $421,000 in public campaign funds if a runoff is held.

Campaign lawyers for Mr. Ferrer and Mr. Weiner began looking for loopholes yesterday to avert a runoff, which is required when no mayoral primary candidate wins 40 percent of the vote. According to unofficial results, Mr. Ferrer won 39.949 percent of the vote, about 250 shy of 40 percent, in an election that drew just 15 percent of registered Democrats. Some 8,000 absentee ballots remain to be counted, but it is unclear if those votes will help or hurt him.

Mr. Weiner said he would not participate in a runoff even if one were held, calling it "a waste," and Mr. Ferrer's camp said they hoped to have the problem solved quickly so he could turn his sights on Mr. Bloomberg, beginning with a unity rally with Mr. Weiner and dozens of other Democrats on the steps of City Hall this afternoon.

"I am proud to support Freddy Ferrer," Mr. Weiner said at a news conference in front of his childhood home in Brooklyn. "He has the record, he has the brains, he has the commitment, he has the understanding to not only run circles around Republican Mike Bloomberg, but to lift up our city."

Mr. Ferrer spent yesterday speaking by phone to donors, his advertising team and consultants as they strategized to end 12 years of Republican rule this November with the election of the first Hispanic mayor in city history. Aides also began preparing to roll out new endorsements soon, including one from Senator Hillary Rodham Clinton.

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Though Mr. Bloomberg began what amounted to the first day of his general election drive with an overt campaign event, he ended it by trying to revert to a Rose Garden strategy, portraying himself as too busy governing to pay much mind to politics.

Asked in a session with reporters if he had a response to the complaints Mr. Ferrer and Mr. Weiner had lodged against him - that he was too close to the Republican president; that he had not done enough to help the poor or working class - the mayor initially answered with a flat "no."

"Seriously, you can call the campaign for those," Mr. Bloomberg went on, before giving in only so slightly: "I think the public knows what's going on in this city. Just take a look at the numbers: the schools are getting better, crime is coming down, we're building housing, a record housing plan."

Apparently referring to the campaign itself, he said, "What I've got to do is not get involved in that. I'm going to focus on telling the story and explaining to people what we've done and how were going to continue it."

Mr. Bloomberg also moved to counter Democratic attempts to link him to President Bush, announcing the formation of "Democrats For Bloomberg." The event was attended by stalwarts of the national Democratic donor base - the film executives Harvey Weinstein and Jane L. Rosenthal and the investment banker Alan Patricof - as well as prominent former New York City Democratic officials, like Hugh L. Carey, the former governor, and Claire Shulman, the former Queens borough president.

Even among Democrats supporting Mr. Ferrer, beating Mr. Bloomberg is seen as an awesome and perhaps impossible challenge, given his money and approval ratings of about 60 percent. Even one of Mr. Ferrer's most prominent supporters, who is also a New York officeholder, offered a grim prediction yesterday that the mayor would beat Mr. Ferrer, 53 percent to 47 percent, if Mr. Ferrer did not invigorate his Democratic campaign. This ally's advice: Show more of the creative, imaginative, and aggressive style that Mr. Ferrer exhibited as Bronx borough chief from 1987 to 2001.

The political calculus appeared even more complicated for Mr. Weiner, whose popularity surged during the last two weeks of the campaign to the point where he captured 29 percent of the vote on Tuesday.

According to several of his aides and advisers, Mr. Weiner's decision to withdraw came down to political and personal factors: A hard-fought runoff could damage the eventual nominee and effectively hand the election to Mr. Bloomberg; Mr. Weiner could leave the race on a high note as a uniter of the Democratic Party; the first week of the runoff would be consumed by fights over ballots, and make it hard to raise money; Mr. Weiner, at 41, could run again in 2009 or well after; and Mr. Ferrer would have a far broader support in a runoff from ethnic, labor and political groups.

Late Tuesday night Mr. Weiner spoke with Senator Schumer and tossed around the various options, according to people who were familiar with the conversation. Senator Schumer did not lean on him to bow out, but did say that the runoff would be a no-win proposition for Mr. Weiner, according to one person familiar with the conversation.

Other advisers took the same lose-lose view of a runoff, although a few thought he should go for it, aides said. They worried that if Mr. Weiner won, it would alienate Mr. Ferrer's base of black and Hispanic voters, driving them to Mr. Bloomberg, and if Mr. Weiner lost, he would be damaged politically in the long run. By staying out, Mr. Weiner is seen as helping the party while Mr. Ferrer takes all the risks in the general election.

Another factor was the animosity that Mr. Weiner would have had to deal with. A third Democratic candidate for mayor, Gifford Miller, volunteered support to Mr. Ferrer yesterday morning even before Mr. Weiner dropped out. Mr. Miller and Mr. Weiner tangled often during the campaign, sometimes with an edge in their voices, as two white candidates seeking to appeal to the same blocs of white and middle-class voters.

Another potential foe Mr. Weiner now avoids is the Rev. Al Sharpton, a Ferrer supporter who was preparing to step up criticism of Mr. Weiner today. While the two men get along in private, Mr. Sharpton had wanted to stop Mr. Weiner's momentum so he did not become a greater threat to two Sharpton allies: Mr. Ferrer and William C. Thompson Jr., the city comptroller, who plans to run for mayor in 2009 if Mr. Ferrer loses this election.

"Dropping out was a smart move, the move of a statesmen, and it gives Anthony a lot of goodwill," said Mr. Sharpton, who had been lambasting the congressman for voting in 2002 to authorize the war in Iraq.

Other rumors were swatted down by Weiner aides yesterday - that Mrs. Clinton had urged him to drop out; that Attorney General Eliot Spitzer, a Ferrer supporter, had called (Mr. Weiner and Mr. Spitzer are far from close); and that Representative Charles B. Rangel, a senior Democrat, had offered a plum committee seat to Mr. Weiner in exchange for dropping out. (Mr. Rangel had backed the fourth candidate in the race, C. Virginia Fields.)

Mr. Weiner explained his decision yesterday by saying that, his competitive spirit aside, Democrats needed to unite quickly if they were to overcome the unlimited campaign spending of "billionaire Republican Mike Bloomberg."

"It was a difficult decision - it's in my DNA to keep fighting," said Mr. Weiner, standing on the bottom step of his childhood home in Park Slope, where he was known as a sports fanatic. "But I believe it is the right thing to do."

Mr. Weiner also played down his policy and philosophical differences with Mr. Ferrer, which were sharp but politely discussed during the campaign.

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Mr. Weiner cast himself as being in the vanguard for the middle class and as a native son of predominantly white neighborhoods outside Manhattan. Mr. Ferrer is more traditionally liberal and is putting together a coalition dominated by black and Hispanic voters.

Asked if he still wanted to be mayor someday and might run in 2009, Mr. Weiner showed that his trademark quips were not dulled even though he had had only three hours' sleep.

"I will not be running in 2009 because Fernando Ferrer will be up for re-election that year," he said.

New York's Democrats Take Aim At Bloomberg (CSM)

By Alexandra Marks

The Christian Science Monitor, September 15, 2005

NEW YORK - In the end, just shy turned out to be just enough.

Despite the fact that New York City's Democrats failed to decisively pick a candidate in this week's primary, the Democratic favorite, former Bronx borough president Fernando "Freddie" Ferrer is expected to be the party's standard bearer after all to take on billionaire Republican Mayor Michael Bloomberg in November's general election.

The mild-mannered Mr. Ferrer failed to win the 40 percent needed to avoid a runoff.

But runner-up Anthony Weiner, a Brooklyn-born congressman - who staged a surprise come-from-behind with an upstart, wisecracking assault on the Democratic status quo - conceded Wednesday in a bow to party unity.

That will end the prospects of a potentially divisive runoff as well as a week of Democratic paralysis, while the estimated 20,000 absentee ballots were counted. Now, Mr. Ferrer can immediately take on the increasingly popular Democrat-turned-Republican Mayor Bloomberg.

That is very good news for the Democrats, who despite their 5-to-1 edge over Republicans in voter registration, haven't controlled City Hall for more than a decade, in part because of past divisive and expensive internecine contests.

"Runoffs can be 'tsouris' - that spells trouble in Yiddish. This saves them from a punch-in-the-nose runoff," says pollster Mickey Carroll of the Quinnipiac Polling Institute. "[Now these guys won't be] at each other's throats ... while Bloomberg can watch from the sidelines."

In September 2001, with ground zero still filling the air with acrid smoke, Ferrer lost a bitter, racially tainted runoff to Public Advocate Mark Green. That's credited in part with helping Bloomberg win, because many angry blacks and Hispanics refused to support Green - the Democratic standard-bearer.

That lesson was not lost on this year's batch of Democratic primary wannabes. In general, they were polite and well-mannered during debates, determined not to give the Bloomberg camp any extra ammunition.

Some analysts contend that Mr. Weiner's expected decision to concede is a testament to the Democrats' determination to take back City Hall.

But Ferrer still faces a daunting, uphill battle against Bloomberg, whose popularity has been steadily increasing.

A recent poll shows that two-thirds of New Yorkers approve of the job he's been doing.

And Bloomberg's campaign, which started an upbeat multimillion-dollar advertising blitz in the spring, shows no sign of giving up its relentless pace and spending.

"They haven't given any Democrats any oxygen at all," says Doug Muzzio, professor of public affairs at Baruch College of the City University of New York. "It's total war: it's like Grant in the Civil War - you attack them at all points and at all times."

Add to that the fact that the once highly unpopular billionaire - once chided as rich and out of touch, particularly with working people in the outer boroughs - is in the midst of a second honeymoon, says Mr. Carroll.

And the challenge for Ferrer is formidable.

That was evident in Democratic turnout in Tuesday's primary. It was a sparse 15 percent - the second-lowest in recent memory - a testament to how many "Bloomberg Democrats" just stayed home.

"The guy has a record you can run on and win on, he's got opponents who've not shown they can take him on yet, and he's got $5 billion," says Professor Muzzio. "Excuse me, I wanna be Mike Bloomberg."

But no one is writing Ferrer off completely yet. "It's a Democratic town, remember that," says Carroll. "Things happen."

Ferrer To Take On Bloomberg In NYC (WP)

By Michael Powell

The Washington Post, September 15, 2005

NEW YORK, Sept. 14 -- Fernando Ferrer, the former Bronx borough president, stood alone as the Democratic challenger to Mayor Michael R. Bloomberg after Rep. Anthony D. Weiner surprised supporters by conceding the primary.

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After Tuesday's primary, Ferrer had finished a whisker short of the 40 percent needed to avoid a runoff election with Weiner, and supporters of both candidates beat hard on the war drums election night.

But Weiner, a skinny, fast-talking quipster whose campaign roared down the stretch, awoke Wednesday morning and decided that there was little percentage in continuing. A count of 25,000 absentee ballots might well hand victory to Ferrer. And the ritual bloodletting to which city Democrats are prone all but guaranteed that the victor would limp onto the field against Bloomberg.

"Our differences are relatively small in comparison to our differences with Republican Mike Bloomberg," Weiner said at a hastily convened news conference in front of his old family home in Brooklyn's Park Slope neighborhood. "We need to be unified against a man who demonstrated that he will spend any amount of money to win."

That man, Bloomberg, is a billionaire media mogul who spent $70 million on his 2001 campaign (slightly less than most candidates spend running for president) and he has served notice he is ready to toss many more bales of cash into the fire this time around. Political strategists say the prospects for Ferrer, who could become the city's first mayor of Puerto Rican descent, are not terribly encouraging.

Bloomberg, who can project a CEO's disdain for the symbols and ceremonies of politics, has rebounded from low poll numbers of 2002 and now rides well ahead of Ferrer. The city's economy is no longer reeling as it was in 2001. And Bloomberg, if rarely loved, is regarded by many residents as an able manager.

"Bloomberg made a lot of amateur mistakes early on and his personality is not great and sometimes he can't help himself," said Douglas Muzzio, a political scientist at Baruch College in New York City. "But he's a smart guy and he's matured."

Befitting a man who spent his formative years in the Wall Street pit, Bloomberg plays a mean game of political hardball. His strategy is to hone in on his opponents' every weakness, and reinforce the point with a daily barrage of television commercials. On Wednesday, the mayor staged a sort of plutocrats' pep rally, unveiling a Democrats for Bloomberg list that included financiers Steven Rattner and Felix Rohatyn, and film producer Harvey Weinstein.

Ferrer, meanwhile, began raising money and sharpening attacks on Bloomberg as a Bush-supporting Republican who is out of touch with New Yorkers (Bloomberg is, in fact, a lifelong Democrat who switched party affiliations to capture the Republican nomination in 2001. The mayor is pro-choice and anti-death penalty, though he has donated tens of thousands of dollars to Republican candidates).

As for Weiner, he caught a few bouquets. Few Democrats looked forward to a replay of the ethnic and racial tensions that erupted during the party's last runoff -- four years ago, when Ferrer lost to consumer advocate Mark Green, who like Weiner is white and Jewish. Nothing so prompts admiration as a politician who manages to seamlessly marry selflessness and self-interest, and the chatter Wednesday was that Weiner is a formidable contender for the 2009 nomination.

"He was edgier than the other candidates and he had a sense of humor," Muzzio said. "And Weiner proved that he could think outside the box, right down the last move."

Schwarzenegger All But Declares Reelection Bid (LAT)

By Robert Salladay

The Los Angeles Times, September 15, 2005

CLOVIS, Calif. — Gov. Arnold Schwarzenegger all but declared today that he would run for a second term next year, saying, "Let me tell you, I am not in this for the short run."

Speaking at a special election campaign event in this Central Valley town near Fresno, Schwarzenegger was asked by an audience member if Californians would get "a chance to vote for you again."

The governor then revealed what his campaign staff had been hinting for several days: "I'm going to make an official announcement on Friday, this Friday. I believe very strongly in follow-through. Follow-through is the most important thing. If you start something, you've got to finish it."

The Republican governor, who came to office in 2003 after winning a historic recall election that ousted Democrat Gray Davis, is scheduled to attend a campaign rally in San Diego on Friday to sell three initiatives he is supporting on the Nov. 8 special election.

An announcement for a 2006 reelection campaign is designed to add a boost to Schwarzenegger's initiative cause and send a signal to financial donors and supporters that he intends to be around for another term.

The announcement would also come on the eve of the state GOP convention in Orange County on Saturday. Schwarzenegger, whose popularity ratings have been slumping since January, is scheduled to give a luncheon speech to the party faithful there.

So far, two Democrats have said they plan to run for governor: state Treasurer Phil Angelides and Controller Steve Westly.

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Schwarzenegger Hints At Second Run For Governor (REU-Y2)

By Adam Tanner

Reuters, September 15, 2005

California Gov. Arnold Schwarzenegger signaled on Wednesday that he would seek a second term as governor in what would already be his fifth major campaign since seeking the office in 2003.

The former Hollywood actor kicked off a series of campaign events this week ahead of a special election he has called for November on teacher pay, redistricting and the state budget. In an appearance before an invited audience in Clovis, California, he said he would announce on Friday whether he will seek a second term for governor starting in 2006.

"I'm not in this for the short term," he told the crowd, strongly suggesting he would run again. "I believe strongly in follow-up."

Speaking to often enthusiastic crowds in controlled campaign settings is a role the star of the "Terminator" star clearly relishes, and perhaps his greatest talent in politics.

"Anyone who has watched the governor's political career knows that he is a superlative campaigner," said Tim Hudson, director of the Center for California Studies at California State University, Sacramento. "He both energizes and is energized by going out on the campaign trail."

The Republican governor has signaled his primary focus on the referendum campaign in the coming months by taking some of his top aides -- including his finance director, chief of staff and communications director -- off the state payroll and putting them full time on his electioneering effort.

The upcoming 2005 campaign could also revive the former Mr. Olympia's fading popularity, which is reflected in his lowest poll numbers ever this year, ahead of the reelection effort.

"Of course, I'm bloodied, yes. But unbowed," Schwarzenegger said on Monday. "I made a promise to California that I will fix a broken system. And I will do everything I can, and it makes no difference how many attacks they have on me, because remember one thing: that this, what we are doing here, is much bigger than me."

As in past campaigns, Schwarzenegger is likely to follow a script in which some audiences are screened and details such as lighting and settings are carefully planned. Political reporters likely to ask the toughest questions are rarely granted interviews.

Even though he is still a relative newcomer to politics, Schwarzenegger knows the drill well.

After coming to power in an unprecedented 2003 recall election, Schwarzenegger campaigned for ballot measures in the spring and the fall of 2004. Then this year he called a special election despite complaints that the issues he raised could have waited until 2006.

Schwarzenegger's Friday announcement would come ahead of the weekend Republican state convention in which he is seeking to rally the party faithful who have sometimes expressed reservations about his positions on social issues.

(Additional reporting by Jorene Barut-Phillips in Clovis)

Jackson Action (WSJ)

By Charlie Ross

The Wall Street Journal, September 15, 2005

JACKSON, Miss. -- Legislative battles over tort reform are being waged in statehouses across the country. Congress, too, is fighting out the issue in the form of proposed legislation to cap medical malpractice damage awards and to reform asbestosis litigation. Always hotly debated in such contests is whether tort reform accomplishes its purported goals. Does it make the legal system more predictable and more credible? Does it positively affect insurance costs and availability? Does it reduce litigation expenditures? More broadly, does it improve the economic well-being of the citizens?

In 2004, a long hard battle in the Mississippi Legislature over a comprehensive Tort Reform Bill came to a close, during which the same questions arose. Opponents claimed that the bill was unnecessary, and that, even if it passed, it would not make a difference. Still, we were able to get it through. In many respects, the bill is considered model legislation. Among other provisions, it included venue reform (so trial lawyers cannot shop around for favorable courts) and caps on subjective noneconomic damages (such as pain and suffering). Now, a year has passed since the legislation took effect, and the Mississippi experience is instructive. Tort reform works.

Prior to the legislation, Mississippi was known as the "jackpot justice capital of America." The American Tort Reform Association had labeled certain jurisdictions "judicial hellholes." A survey of more than 1,200 senior in-house counsels for the U.S. Chamber Commerce ranked Mississippi 50th in virtually every category of judicial system nationwide. Insurance companies were fleeing the state. Others were refusing to write new policies. The medical field was particularly strained: Liability insurance was in many cases unaffordable, and in some cases unavailable.

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One year later, the story is very different. Mass Mutual Insurance Group, St. Paul Travelers, World Insurance Co. and Equitable Life Insurance Co. are returning to Mississippi. State Farm Insurance eased its growth restrictions for homeowners' insurance and lowered its rates on property insurance.

The Medical Assurance Company of Mississippi, which writes 60% of the medical malpractice coverage for doctors in the state, had raised its rates 20% the year prior to the tort reform legislation. After its passage, MACM did not raise its rates at all. "Those people who said tort reform would not work and actively fought any civil justice reform," Mississippi Insurance Commissioner George Dale said. "I think this indicates they were wrong." MACM also recently announced an end to its moratorium on new business; it also just declared it will cut its rates for 2006.

Insurance was becoming less available and less affordable prior to the passage of the tort reform legislation. Now, the opposite is true. Some plaintiff lawyers and some consumer groups still contend that tort reform doesn't work -- but it does not take a rocket scientist to understand that when liability exposure is made predictable and governed by reasonable rules, risk can be better assessed, and insurance companies are more likely to offer coverage.

Gov. Haley Barbour attributes the successful recruitment of new business to Mississippi to the lower cost of doing business in the state. Texatron has invested $35 million and Kingsford Charcoal $20 million; we have coaxed back Winchester Ammunition and its $3.5 million payroll, as well FedEx Ground, as part of a $1.8 billion expansion.

Our reform package also virtually eliminated the mass-tort industry in Mississippi. This change came about not only because the legislation provided that venues for lawsuits must be established independently for each plaintiff, but also because Mississippi Supreme Court decisions reinstated the traditional rules of joinder of plaintiffs. These two changes went hand in hand, since the process of passing tort reform (which lasted four years) raised public awareness of the problem, which in turn affected judicial elections. This has provided for a more balanced judiciary.

As a result of these procedural changes, pending mass-tort cases are being split up. The cases of out-of-state plaintiffs are being dismissed, and the cases of in-state plaintiffs are being transferred to the proper venues for trial. Lawsuits in Mississippi are returning to what they are supposed to be -- and used to be -- about: one plaintiff, or a very small group of plaintiffs, suing a defendant, or a very small group of defendants, for a single cause of action. Common sense has made a comeback.

Not surprisingly, the demise of mass-tort litigation has resulted in a decrease in litigation costs. The CEO of one Mississippi company recently told me that his company's legal bills were reduced by $70,000 a month as a result of the reform. Litigation expense does not produce value for most members of our society. It is merely a transaction cost in the transfer of wealth to compensate injured persons. To be justified, the transfer process must be fair.

Mississippi's mass-tort system was anything but fair, and in many cases it resulted in patently unjustified awards. And people had lost confidence in getting a fair hearing at the trial court level. There was no confidence that the appellate courts would correct abuses. In essence, there was total unpredictability. The sky was the limit on damages. There was even a perception that fundamentals of the rule of law were being threatened.

Since the passage of tort reform and the changes implemented by judicial decisions, both perception and reality have changed. We have begun to restore credibility to state courts in the mind of the public and business, and have thus restored trust to government in Mississippi in general.

Since only a year has passed, the long-term consequences of tort reform cannot be known. There are thousands of cases in the system still governed by the old rules. There is enough information, however, to state unequivocally that tort reform has made the Mississippi legal environment more fair, more predictable and less expensive. For now, that is more than enough.

Mr. Ross is a Mississippi state senator and chairman of the Senate Judiciary A Committee.

North Korea Sets New Demand For Ending Arms Program: Money To Buy A Civilian Reactor (NYT)

By Joseph Kahn

The New York Times, September 15, 2005

BEIJING, Sept. 14 - North Korea demanded on Wednesday that the United States and other nations give it money to build a new light-water nuclear reactor before it will end its nuclear weapons program, a condition that appeared to undermine prospects for a breakthrough in the talks here.

The demand, made during the second day of six-nation nuclear talks, suggested that North Korea was coming up with fresh obstacles to signing a broadly worded commitment to denuclearize, the main goal of the negotiations.

"I must say it was a meeting in which we did not make a lot of progress," said Christopher Hill, the top American negotiator. "Neither the United States nor any other participant is prepared to fund a light-water reactor."

A light-water reactor would cost $2 billion to $3 billion and take about a decade to build, Mr. Hill said. While such reactors are less likely than North Korea's existing nuclear facilities to produce the raw materials for nuclear bombs, the United States has argued that they still pose proliferation risks.

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"There are not too many other ways I know how to say 'no,' " he said after the United States had a one-on-one session with the North Koreans on Wednesday afternoon.

The Beijing talks resumed Tuesday after a five-week recess. China, Japan, Russia and South Korea are participating, as well as North Korea and the United States. The last round stretched over 13 days but failed to produce even a communiqué outlining objectives for future negotiations.

North Korea has said it is prepared to end its nuclear program in principle. But the conditions it sets for doing so have included, at various times, security guarantees, food and economic aid, diplomatic concessions and the withdrawal of American forces from South Korea.

The main stumbling block now is North Korea's insistence that it has the right to retain a civilian nuclear program even if it gives up its nuclear weapons.

The issue has divided the participants in the talks, with China, Russia and South Korea accepting North Korea's demand, while the United States and Japan have argued that the country cannot be trusted with any kind of nuclear technology, whether nominally peaceful or military.

American negotiators recently signaled a softening of that line, saying they would be willing to leave aside the issue of civilian uses of nuclear technology for now to clear the way for a general agreement on ending the North's weapons effort.

Speaking in New York on Tuesday, President Bush indicated some flexibility, saying, "It's a right of a government to want to have a civilian nuclear program, but there ought to be guidelines in which they be allowed to have that civilian nuclear program."

But Mr. Bush was referring to Iran, another budding nuclear weapons state, and his aides later denied that he intended to change the American position in the Beijing talks.

But United States officials drew a sharp line at building new reactors for North Korea.

The North Korean demand for a light-water reactor echoes the main benefit it received in a 1994 agreement, now defunct. At that time, an American-led consortium agreed to replace North Korea's graphite-moderated reactors, which produce plutonium, with two light-water reactors.

But construction was suspended in 2002 when the United States accused the North of violating the earlier accord by pursuing a separate, underground effort to enrich uranium for nuclear bombs. North Korea has since claimed to have reactivated its plutonium facilities and produced bomb fuel through that method.

Mr. Hill said North Korea should scrap its demand for new nuclear plants and accept a South Korean proposal to build power plants on its border with North Korea. Seoul has said it could provide enough kilowatts to match the output of all of the North's existing power plants combined.

China, the host, has circulated a draft agreement in which North Korea would commit to denuclearize in exchange for economic and energy aid as well as diplomatic and security benefits.

It has pushed the parties to agree to a draft text by this weekend, when both China and South Korea celebrate holidays, but it was unclear how long the talks would continue.

U.S. Again Rejects North Korea's Demands For A Nuclear Reactor (WSJ)

By Gordon Fairclough

The Wall Street Journal, September 15, 2005

BEIJING -- North Korea insisted, in direct talks with American negotiators, that it would only give up its atomic-weapons programs if Washington and other participants in multilateral disarmament talks agreed to build the country a nuclear reactor to produce electricity, a demand the U.S. has already rejected.

The top U.S. envoy to the negotiations here, Christopher R. Hill, assistant secretary of state for East Asian and Pacific Affairs, said that a so-called light-water reactor of the sort North Korea wants "is simply not on the table." Mr. Hill said discussions with the North yesterday "did not make a lot of progress."

Pyongyang raised the issue of receiving a power reactor as compensation for abandoning its nuclear-weapons programs during two weeks of talks this summer that broke off without an agreement. It was rebuffed at the time, but has since made the demand central to the negotiations, dimming hopes for a breakthrough.

The North Korean delegation didn't have any public comment yesterday.

Mr. Hill said that neither the U.S. nor any other party to the talks, which also include delegations from China, Japan, Russia and South Korea, was "prepared to fund a light-water reactor." Mr. Hill said that the impoverished country needs to "get out of the nuclear business" and start "integrating itself into the world economy."

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North Korea's push for a reactor is a replay of demands made during negotiations in the early 1990s. Those talks ended with a 1994 pact, the Agreed Framework, under which Pyongyang would first freeze and then dismantle nuclear-weapons programs. In return, a U.S.-led consortium was to build two light-water reactors in the North.

Construction started, but the agreement unraveled in late 2002 when the U.S. confronted North Korea with what the Americans say is evidence that Pyongyang cheated on the deal by starting a covert program to enrich uranium for weapons. Pyongyang has since expelled international inspectors and declared its possession of atomic bombs.

The administration of George W. Bush has harshly criticized the 1994 accord and vowed not to repeat what it calls the mistakes of the Clinton administration. Even if the White House were to have a change of heart, any such deal would be an extremely tough sell for the conservative U.S. Congress.

Mr. Hill encouraged the North to look favorably on the steps that the U.S. and others have said they are willing to take in exchange for Pyongyang's dismantling its nuclear programs. The package includes energy and economic assistance and security guarantees.

N. Korea Holds To Its Demands At Nuclear Talks (WP)

By Edward Cody

The Washington Post, September 15, 2005

BEIJING, Sept. 14 -- Just-resumed negotiations on North Korean nuclear disarmament swiftly bogged down Wednesday in the same standoff that led to their suspension five weeks ago, undermining any hopes that the talks could move forward more easily after the recess.

In a bilateral meeting with U.S. diplomats, North Korea drove home its insistence on a light-water nuclear reactor for producing electricity as part of any bargain on dismantling its nuclear weapons program, according to the chief U.S. negotiator, Assistant Secretary of State Christopher Hill. While briefing reporters afterward, Hill said he responded clearly that the United States would not agree.

"It's very clear they wanted to make this light-water reactor day," he said. "I hope they don't want to make it light-water reactor week. I don't know how many ways I can say no."

North Korean demands for a light-water reactor to produce electricity were the main sticking point when the fourth round of disarmament talks broke up here Aug. 7. "In certain respects, we have picked up where we left off," Hill said.

The Bush administration has refused to consider such a reactor for North Korea, saying the Pyongyang government cannot be trusted because in the 1990s it converted a research reactor into a source of weapons-grade plutonium for nuclear weapons. South Korea has proposed supplying electricity to North Korea as part of the nuclear disarmament agreement, which Hill suggested was a more practical way to meet North Korea's energy needs if that is the issue.

France Warns Iran Of U.N. Referral (WT)

By Betsy Pisik

The Washington Times, September 15, 2005

NEW YORK -- French Prime Minister Dominique de Villepin yesterday threatened to refer Iran's nuclear program to the U.N. Security Council, saying, "The proliferation of weapons of mass destruction ... calls for a determined response on our part."

"In the nuclear sphere, we have all put our trust in the International Atomic Energy Agency," Mr. de Villepin, whose government is one of three negotiating with Tehran on behalf of the IAEA, told the 15-nation Security Council.

"There are rights to uphold, in particular the peaceful use of nuclear energy. But there are also duties to enforce, for the security of all: If a state fails in its obligations under the Non-Proliferation Treaty, it is legitimate, once dialogue has been exhausted, to refer it to the Security Council."

At only the third U.N. Security Council meeting attended by the national leaders of the 15 council members, terrorism also was a focus. The leaders unanimously passed two resolutions -- one aimed at outlawing the incitement of terrorism and the other at preventing conflict, especially in Africa.

For months, France had resisted U.S. pressure to send a dispute over Iran's nuclear program to the United Nations for possible sanctions.

Mr. de Villepin's remarks yesterday came after a failed attempt by France, Britain and Germany to negotiate an end to the nuclear standoff.

A vote by the Vienna, Austria-based IAEA could come as early as Monday.

IAEA chief Mohamed ElBaradei called yesterday for Iran to be given a final chance to address IAEA concerns.

"Everything points in the direction of a need for more time. So it would be in everybody's favor to give it some three or four weeks," a senior diplomat close to the IAEA told Reuters news agency on the condition of anonymity.

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The 35-member IAEA board of governors is said to be divided on whether to refer Iran to the Security Council.

The United States was an early advocate to refer Iran to the council, where members can urge Tehran to meet its obligations or face sanctions.

President Bush did not mention Iran by name during either of his two speeches today.

In his first U.N. appearance yesterday, new Iranian President Mahmoud Ahmadinejad did not address the nuclear dispute directly.

He denounced the "production and use of weapons of mass destruction, intimidations, resort to the threat or use of force and imposition of destructive wars on peoples."

Mr. Ahmadinejad will address the General Assembly again on Saturday, where he could outline a proposal to avert the standoff with the IAEA.

About 2,000 Iranian exiles who oppose Mr. Ahmadinejad held a demonstration across the street from the United Nations in which they denounced the president as a "terrorist."

As a signatory to the Non-Proliferation Treaty, Tehran agrees to only peaceful uses of atomic energy and must submit to IAEA monitoring of all facilities.

India Balks At Confronting Iran, Straining Its Friendship With U.S. (NYT)

By Steven R. Weisman

The New York Times, September 15, 2005

UNITED NATIONS, Sept. 14 - A few months after the United States and India elevated their relationship to a new level with a broad accord, a fresh irritant has disrupted the friendship - the Bush administration's insistence that a reluctant India join in the confrontation over Iran's suspected nuclear weapons program.

India, with a longstanding friendship with Tehran, is demurring.

"The Indians are emerging from their nonaligned status and becoming a global power, and they have to begin to think about their responsibilities," said a senior administration official. "They have to make a basic choice."

The choice being posed to India is to enlist in, or rebuff, the European-led effort to get a majority on the board of the International Atomic Energy Agency to vote next week to refer the matter of Iran's nuclear activities to the United Nations Security Council for possible consideration of sanctions.

Indian officials say they agree that Iran should not be allowed to get nuclear weapons and that it has failed to disclose elements of its program to international inspections. But they say that bringing the issue to the Security Council will backfire, especially by provoking Iran's new president, Mahmoud Ahmadinejad.

"You have to allow a certain learning process to take place in Tehran rather than banging them on the head," said an Indian official, who asked not to be quoted by name because of the delicate nature of the discussions.

Mr. Ahmadinejad briefly addressed the United Nations General Assembly on Wednesday, speaking in generalities by warning against "pre-emptive measures" by unnamed states, a comment that some listeners took to be a reference either to the Iraq war or the possibility of Security Council action against the Tehran government.

Past attempts by the United States and leading European nations to move the issue to the Security Council have been rebuffed by several members of the International Atomic Energy Agency's governing board. A new attempt is to be made next week, but it is not clear that it will succeed.

Bush administration officials say that with India's support, there is a chance of mustering a majority vote. But Indian officials say they prefer not to seek a majority vote but rather to get some sort of consensus among board members demanding that Iran go back to suspending its nuclear activities or negotiating to give up its programs.

"Whether we get a consensus depends on what kind of resolution we have," said the Indian official, noting that by tradition the atomic energy agency does not take any action except by consensus.

In some ways, the tensions between India and the United States are reminiscent of the cold war, when Washington expected India to stand up to the Soviet Union and was regularly disappointed. While India professed a nonaligned status, some in Washington saw it as a satellite of Moscow.

Now India is in the middle between the West and Iran, with which it has tried to foster a close relationship, and is discussing construction of a natural gas pipeline.

Iran has warned that moving the issue of its conduct to the Security Council would be a provocation, and it has waged a successful campaign to get at least a third, and perhaps more, of the votes on the I.A.E.A.'s board to side with it.

Normally, blocking a "consensus" at the board is enough to block any action at all. But American officials say that with India's help, they can obtain a majority vote - if not next week, then within a few months - to refer Iran to the Security Council.

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A separate theme of the American-Indian tensions is energy. The centerpiece of the accord President Bush and Prime Minister Manmohan Singh signed last July effectively exempted India from decades of international rules under the Nuclear Nonproliferation Treaty. Under the agreement, which represented an extraordinary change of policy, the United States agreed to share peaceful nuclear energy technology with India even though it possesses nuclear weapons.

In effect, Bush administration officials say, India must now choose who is the best partner to meet its surging energy needs - Iran with its natural gas resources or the West with its ability to help in developing Indian civilian nuclear power.

Administration officials have warned India that if it fails to cooperate on Iran, the civilian nuclear energy agreement negotiated last summer could be rejected by Congress.

Dealers Smuggle Weapons Into Gaza From Egypt (NYT/AP)

By The Associated Press

The New York Times, September 15, 2005

RAFAH, Gaza Strip, Sept. 14 (AP) - Palestinian gunrunners smuggled hundreds of assault rifles and pistols across the Egyptian frontier into Gaza, dealers and border officials said Wednesday. The influx confirmed Israeli fears about giving up border control and could further destabilize Gaza.

Black market prices for weapons dropped sharply, with the price of AK-47 assault rifles nearly cut in half, to $1,300, and even steeper reductions for handguns.

The Palestinian leader, Mahmoud Abbas, has tried to impose order since the Israeli troop withdrawal from Gaza on Monday, but militant groups scoffed at a new demand by the Palestinian Authority that they must disband after parliamentary elections in January, saying they would not surrender their weapons.

Israel voiced concern about chaos along the Egypt-Gaza border in the three days since its pullout, sending messages to the United States, Egypt and the Palestinians. "We will not put up with this," Defense Minister Shaul Mofaz said.

Egypt had assured Israel that it would prevent weapons smuggling once its troops took over from Israel along the Gaza frontier, and Cairo and the Palestinian Authority pledged to seal the border by Wednesday evening. Thousands had crossed unhindered since Monday.

Around 8 p.m. Wednesday, about two hours after the deadline for closing the border, an Egyptian officer bellowed into a bullhorn for Palestinians to stop entering Egypt and prepare to return to Gaza.

The frontier was still porous later, however, with the Egyptian police pushing back Palestinians scaling the wall on the Gaza side and trying to sneak through the barbed-wire fence on the Egyptian side. Up to 750 Egyptian border guards were expected Thursday, the police said.

Palestinian security forces in Gaza appeared to be doing little to stop infiltrators. At midday, Hamas militants blew a hole in the Gaza wall, making it even easier for people to enter the 18-foot-wide buffer zone leading to Egypt's fence.

One arms dealer, interviewed in a car outside the Rafah cemetery, said hundreds of AK-47's had been smuggled from Egypt since Monday. He said he sold his guns to militants but declined to say how many pieces his runners brought back.

Another dealer said competitors reported having $1 million worth of loot confiscated, including grenade launchers.

Palestinians Rush Over Egypt Border (WT/AP)

By Ibrahim Barzak, Associated Press

The Washington Times, September 15, 2005

RAFAH, Gaza Strip -- Scores of Palestinians crossed from the Gaza Strip into Egypt yesterday evening before Egyptian security forces moved to close the border in an attempt to restore order three days after Israel left the territory.

The frontier was still porous hours after the clampdown, however, with about a dozen Egyptian police pushing back Palestinians scaling the concrete wall on the Gaza side and trying to sneak through the barbed-wire fence on the Egyptian side. Hundreds of Egyptian border guards were expected this morning to enforce the closure in earnest.

Palestinian security forces in Gaza apparently were doing little to stop infiltrators, and earlier yesterday, Hamas militants -- unhindered by Palestinian police -- blew a hole in the Gaza barrier, making it even easier for people to reach the Egyptian fence.

Elsewhere in Gaza, a militant disrupted a celebratory rally at an abandoned Jewish settlement, grabbing a microphone from a rap singer. He was led away by police firing into the air. No one was injured.

Imposing security in unruly Gaza is seen as the key test of Palestinian Authority President Mahmoud Abbas' government. Earlier yesterday, one of his top aides announced what he said was a new plan of action -- including a demand that armed groups disband immediately after parliamentary elections in January.

Hamas reiterated that it would not disarm, and Palestinian officials cautioned that they will not risk civil war, despite intense international pressure to confront militants.

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Mr. Abbas' security forces largely have displayed weakness since the Israeli withdrawal. By contrast, Hamas brought tens of thousands into Gaza City's main square late Tuesday -- the first day Palestinians controlled Gaza -- for the biggest rally here by the Islamic militant group.

Mr. Abbas stayed away from an official celebration that he had scheduled for yesterday near the ruins of the Neve Dekalim settlement. An aide said he was concerned about gunmen.

The rally had been billed as a show of Palestinian unity, but most factions stayed away. Hamas scheduled another rally for tomorrow.

At the border yesterday, Egyptian police arrived about an hour after the 6 p.m. deadline. A senior officer bellowed into a bullhorn, telling Palestinians to stop entering Egypt and prepare to return to Gaza.

"I don't care about the closure; we can get in and out anytime we want," Palestinian university student Khaled al-Massari said after crossing from Gaza after the deadline.

Egypt also said yesterday that its border guards found an arms-smuggling tunnel under the Gaza border in the al-Duhniya area, 2½ miles south of the Rafah crossing point.

The tunnel, found Tuesday evening, contained 38 firearms and three rocket-propelled grenades, a security official said. It extended to the Palestinian side of the frontier, and Palestinian security forces seized the weapons yesterday, the official said.

In Gaza, Mr. Rayes Struggles To Replant Bulldozed Olive Trees (WSJ)

By Karby Leggett

The Wall Street Journal, September 15, 2005

GAZA CITY, Gaza -- In the predawn darkness, Mohammad Rayes arrived at the edge of a Palestinian neighborhood called Zeitoun to celebrate with family and friends the recovery of his 37-acre farm from Israeli occupation. With the rising sun an hour later, the challenge ahead of him sank in.

At the front of his property, Mr. Rayes stared at a heap of twisted metal bars and crumbled concrete blocks -- the remnants of his farmhouse and chicken coop. At the far end, he saw a 10-foot wall of sand left behind by Israel's military. And all of Mr. Rayes's 2,500 citrus and olive trees had been bulldozed, then buried under the sand.

For the 66-year-old farmer, it was almost too much to take in. "I have to start all over again," he said.

The Israeli army's departure from the Gaza Strip this week after 38 years of occupation marks a new era for Palestinians. Once divided into tightly controlled cantons separated by 21 Jewish communities, Gaza's 1.3 million residents can now go where they want, when they want. Under Israeli occupation, their lives had been severely restricted, particularly in the past five years. So for many, this is freedom only dreamed about until now.

Still, there are major concerns. With the Israelis gone, Gaza teeters on the brink of lawlessness as armed groups fight each other and the official Palestinian quasi-government, the Palestinian Authority. The Palestinian Authority remains weak and plagued by corruption, while the Israelis have kept control of Gaza's borders. That leaves Palestinian Gazans with little control over a key element of their economic well-being: who and what can enter and leave Gaza. Some Palestinians say they fear Gaza could turn into a large prison.

Mr. Rayes and his three sons, two of whom live abroad, have spent the past few months cooking up big plans for post-Israel life in Gaza. Mr. Rayes wants to get his farm running again. His sons want to build a factory on part of the land.

For now, those are distant dreams. When Israel's army took over Mr. Rayes's farm a year ago, it wiped out his income and forced him to live off savings. Even before the farmhouse was bulldozed, he spent most nights at the home he maintains in Gaza City, and he still has that.

Just hours after he got his farm back, Mr. Rayes was faced with securing it from Palestinian looters and squatters. "I'm afraid people will think my land is part of the settlement," Mr. Rayes said, pointing toward the once heavily fortified Jewish settlement of Netzarim, recently emptied of residents. Moments later, a young Palestinian tried to cart off a downed electricity cable at the edge of his land. Mr. Rayes and several hired hands shooed the boy away.

Born into a wealthy family, Mr. Rayes has lived his whole life under foreign occupation -- first the British, then Egyptians and finally Israelis. He made the best of it. In the 1970s and 1980s, he worked with Israeli agricultural experts to turn the family farm into a thriving business. He earned more than $150,000 some years. He shared the income with several brothers and sisters who still own part of the farm. A fluent Hebrew speaker, Mr. Rayes recalls that time fondly, ticking off the names of Israelis he says were friends. "Gaza was a better place back then," he says.

In the 1990s, tensions with nearby Jewish settlements mounted, eventually spilling over into violence in 2000. Palestinian militants began using Mr. Rayes's farm as an occasional venue to launch mortar and gun attacks. Mr. Rayes says he asked them to stop, but they ignored him. With each attack, Israel destroyed a bigger stretch of Mr. Rayes's farm. Events of the last year finally made the place uninhabitable and Mr. Rayes stopped going there.

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Now, Mr. Rayes says he doesn't have enough money to rehabilitate and replant his farm. He figures he will need at least $300,000. Though international donors, including the World Bank, plan to pump hundreds of millions of dollars into Gaza over the next year, Mr. Rayes says officials at the Palestinian Authority's Ministry of Agriculture told him during a recent visit that he may not qualify for aid.

In a region where corruption has flourished over the past decade, Mr. Rayes fears some officials may seek kickbacks in return for releasing aid funds. "There is simply no plan in place, nothing," he says.

Palestinian officials say they have a plan but that it's incomplete. They blame Israel for that. Because the pullout was unilateral, they weren't given much of a chance to get ready. This week, President Mahmoud Abbas, in a speech, detailed some investment plans but not in the kind of detail people are looking for. They want to know how they are to be compensated for lost property.

Even more unnerving, Mr. Rayes says, is talk that his land may be devoured by a new seaport the Palestinian government hopes to build along the coast. Already, Mr. Rayes says officials have told him that he will need permission from the government to replant. He has heard that his land may be expropriated, and that his compensation will be a patch of land in a far less fertile area. Or, perhaps, he will get money, which he says he doesn't want.

Such speculation is also complicating his sons' dream of building a factory. Mr. Rayes's middle son, Fayya, is a senior engineer with Procter & Gamble in the Middle East and has helped put together an initial plan to build as a family venture a detergent and toilet-paper factory that could cost more than $500,000 and employ hundreds of Gazans. Yet even if the Rayes family retains its land and builds the plant, there are other things to worry about.

"We don't know if Israel will open the border so we can export," says Mr. Rayes's youngest son, Hamam, sitting in a canvas tent he and his father put up hours after Israel left Gaza. Sipping a cup of coffee, he added, "Gaza is poor and if we can't export, the factory doesn't really make sense."

For both father and son, perhaps the greatest fear is Gaza's rampant lawlessness -- from gunbattles between militants to the absence of simple traffic regulations. With Israel now gone, Mr. Rayes says he hopes Mr. Abbas will start to exert control over the battling factions and members of his own government who work more for personal gain than for the public's benefit.

Mr. Rayes says he rejects the militant view of the Palestinian faction Hamas, which wants to conquer all of Israel. But he says Hamas has grown so strong that it may be impossible for the Palestinian government security forces to block its attacks on Israel. That could prompt reprisals and, he says, even the return of Israel's military to Gaza.

But for now, Mr. Rayes says his sole task is to hire a Palestinian bulldozer that can unearth his buried olive and citrus trees and then level his land. On Monday and Tuesday, he began that process by torching the dry weeds and underbrush that have grown up over the past year. Once the trees are unearthed and removed, he says, he plans to approach the government again in hopes of getting a grant to rebuild the irrigation network and buy new trees.

Back at the tent with his son, he looked over his land as the sun set. "More than anything, what we need now is a period of calm," he said. "But only God knows if we'll get that."

Bad Start In Gaza (WP)

The Washington Post, September 15, 2005

Only days after the final withdrawal of Israeli forces, the Gaza Strip is on the verge of anarchy. Despite promises to impose law and order, the Palestinian Authority has allowed mobs of looters and armed extremists to rampage through former Jewish settlements, where they have burned or bulldozed synagogues left standing by Israel. Many of the valuable greenhouses that, with the generous help of international donors, were saved for use by the Palestinians have been stripped of equipment as police stood by and watched. Despite a formal agreement with Israel to maintain security, Egypt has allowed thousands of Palestinians to illegally cross its border, including rifle-brandishing militants. If it is not quickly checked, the disorder will destroy Palestinian hopes that the Gaza transfer will become a step toward statehood.

This week's events further undermine the claim of Palestinian President Mahmoud Abbas that he can impose democratic rule of law in Gaza without directly confronting armed extremist groups such as Hamas and Islamic Jihad. Mr. Abbas keeps declaring that only Palestinian security forces will be allowed weapons and that "no one is above the law." But he also keeps shrinking from confronting the gunmen who have been parading through former Jewish settlements or punching holes in the border fence between Gaza and Egypt. "We are not going to tolerate chaos after today," Mr. Abbas declared on Tuesday. Yesterday, as the chaos continued, he instead canceled his appearance at a rally organized by his own administration.

Mr. Abbas's problem is in part one of weakness; it's not certain that the security forces loyal to him could impose order by force in Gaza even if he ordered them to. Egypt's failure is far harder to excuse. The government of Hosni Mubarak formally committed itself to send Egyptian troops to replace the Israeli army on the border between Gaza and Egypt and to maintain security. No agreement has yet been reached on opening a crossing, mainly because of Israel's legitimate security concerns. But

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Egyptian troops this week have allowed thousands of Palestinians to pass back and forth, urged on by Hamas fighters who have blown holes in the fence. Egypt announced that it would put a stop to the traffic by yesterday evening. According to news reports, the crossings continued.

The Gaza withdrawal should have been a step toward an Israeli-Palestinian settlement; instead, it could become a leap away from it. The big winner so far is Hamas, which rejects Israel's existence. In Israel, continuing disorder will give a boost to hard-line challengers to Prime Minister Ariel Sharon, the architect of the Gaza evacuation. As it is, Mr. Sharon probably will reiterate in an address to the United Nations today that Israel will consider no more territorial withdrawals or other concessions to the Palestinians until militant groups are dismantled. Unless Palestinian and Egyptian leaders take immediate steps to fulfill their commitments in Gaza, they will bear the responsibility for a new stalemate -- or worse -- in the Middle East.

U.S. And European Reluctance To Cut Farm Subsidies Weighs On Trade Talks (NYT)

By Edmund L. Andrews

The New York Times, September 15, 2005

WASHINGTON, Sept. 14 - With three months left before a crucial deadline in global talks to reduce trade barriers, top negotiators for the United States and the European Union were still far apart on Wednesday on reducing the elaborate protections for their own farmers.

"We've both got our homework to do," Rob Portman, the United States trade representative, said after meetings here with Peter Mandelson, the European Union's trade minister.

American and European officials are trying to breathe new life into the so-called Doha Round of trade talks, which are supposed to lead to an agreement on a basic framework at meetings in December in Hong Kong.

But the global negotiations, aimed at reducing trade barriers in goods as well as services, have been bogged down in large part because of the reluctance by the United States and the European Union to reduce tariffs on imported crops and subsidies for domestic farmers.

That reluctance has spurred a rebellion of sorts by many large developing countries, like Brazil and India, which are demanding more access for their own farm products in exchange for lowering barriers to manufactured goods and services.

President Bush, addressing the United Nations on Wednesday, urged countries to push ahead and promised to end all American subsidies and tariffs if other nations did so as well.

"Today, I broaden the challenge by making this pledge," Mr. Bush said. "The United States is ready to eliminate tariffs, subsidies and other barriers to free flow of goods and services as other nations do the same."

But both American and European leaders are reluctant to give up their farm protections.

European leaders have agreed to eliminate all export subsidies for farm products, but they still have high tariff barriers and pay tens of billions of dollars a year in farm subsidies.

The United States has lower tariffs on most farm imports, but it retains high barriers for products like sugar and orange juice and it pays out billions of dollars in subsidies to producers of cotton, corn, beef and other commodities.

On Wednesday, Mr. Portman and Mr. Mandelson put the best spin possible on their meetings but offered no evidence that they had bridged the gap between them.

Mr. Portman said the talks had been "very frank and constructive," adding that "we understand our responsibilities as the two great trading partners in the global economy."

Both he and Mr. Mandelson expressed support for an approach floated in July by the Group of 20, a collection of large developing nations, which would divide countries into five groups and let the less-developed nations reduce their barriers more slowly.

Mr. Mandelson said the United States and Europe needed to offer "joint leadership" and said "it is essential that we build a common and coordinated platform."

But European officials have made it clear they do not want to reduce their internal subsidies more than the amount prescribed by the European Union's Common Agriculture Policy.

That policy calls for reductions of up to 70 percent below the level that Europe is allowed under its current obligations to the World Trade Organization.

American officials insist that Europe make deeper cuts. But the Bush administration is under heavy pressure from Congress to preserve up to $19 billion a year in farm subsidies. The 2002 farm bill passed by Congress, which Mr. Bush supported, greatly increased support payments for farmers and is set to expire at the end of 2007.

Administration officials have yet to signal which farm subsidies they would promise to reduce, and farm state legislators are already bracing to defend their local producers.

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Both Mr. Portman and Mr. Mandelson said the benefits of freer trade would far outweigh the losses, and Mr. Portman argued that individual European countries should focus on the broader export opportunities in manufactured goods and lucrative services rather than on their fears about parochial interests.

But Claude E. Barfield, a resident scholar at the American Enterprise Institute, a conservative research group in Washington, said the chances of a comprehensive trade agreement by December were "dim."

"It just seems that people are so far apart, and that they are apart in so many areas," Mr. Barfield said. "Here we are and it's already mid-September. You have to have the agreements pretty much in place a month before Hong Kong."

Pascal Lamy, director general of the World Trade Organization, warned last Friday that time was running out.

"The problems are numerous and time is fading," Mr. Lamy told reporters in Berne, Switzerland. "There are a mountain of subjects to address and I hope that it can be climbed."

Tough Decision In German Vote, Onetime Outsider Offers Big Changes (WSJ)

By Marcus Walker And Marc Champion

The Wall Street Journal, September 15, 2005

BERLIN -- When Angela Merkel first entered politics in the early 1990s, she was the token East German woman in a cabinet dominated by men from the West. Chancellor Helmut Kohl made her his minister of women's affairs. He nicknamed her "my girl."

A few years later, amid a campaign-funding scandal, she helped end his career.

It was time, Ms. Merkel wrote in a 1999 newspaper article, to leave "the old warhorse" behind. She suggested the man who had reunified Germany and led its conservative Christian Democrats for a quarter of a century should step aside. Within weeks Ms. Merkel, a former physicist, had become head of the party.

In a general election this Sunday, Ms. Merkel is favored to become leader of the world's third-largest economy. Her Christian Democratic Union, which maintains a narrowing lead in the polls, has promised to end Germany's economic malaise by shaking up longstanding labor, tax and social policies.

For German voters, Ms. Merkel's economic platform is their clearest chance yet to scale back bloated welfare programs. Ms. Merkel's election could also shift the balance of European politics, drawing Germany closer to the flexible markets of countries like Britain and isolating its longtime ally, France.

One of the biggest question marks in Germany's future is Ms. Merkel herself. Some observers have likened the 51-year-old politician to Margaret Thatcher, the British prime minister whose policies revived that country's economy in the 1980s. But though Ms. Merkel has at times proved shrewd and ruthless in advancing her career, her ability to drive profound political change is untested. She has been uncomfortable and distant on the campaign trail, and even Germans in her own party oppose many of her economic proposals.

Still, Ms. Merkel's life story suggests that it would be unwise to count her out. An outsider whose rapid political rise defied convention, she is unencumbered by the traditions of German politics and business. She was raised by a Lutheran minister behind the Iron Curtain. The communist East German regime spied on her, but her individualistic ideals found small outlets in poetry and hitchhiking. When the Berlin Wall fell, she was a political novice. Yet she fought her way to the top of a party dominated by a close-knit network of older men from predominantly Catholic parts of the former West Germany.

On the economic front, Ms. Merkel is promising to cut some welfare benefits and weaken job guarantees. (See related article.5) Germany has higher taxes on labor than most other countries, limiting the ability of business to create new jobs. Partly as a result, the unemployment rate has risen to 11.4%. "The labor market is a market in name only," Ms. Merkel said during a interview conducted in German at her office in Berlin. "Germany has to get used to the idea again that it can only redistribute what it produces."

Fueled by hopes that Ms. Merkel can lower labor costs, Germany's DAX stock market index has risen 20% since May, when current Chancellor Gerhard Schröder called for early elections. The country's affluent middle class is solidly behind Ms. Merkel, and this week Germany's leading business group announced it would back her.

Ms. Merkel's party and its smaller allies are polling several points ahead of Mr. Schröder's incumbent center-left coalition. But if conservatives fall short of a majority, they will have to govern with support from Mr. Schröder's Social Democrats. Such a "grand coalition" of Germany's two major parties would likely force Ms. Merkel to make major compromises on her economic plans.

Even if Ms. Merkel wins an outright majority, she may find it difficult to push through her reform agenda. Resistance to overturning Germany's generous welfare programs runs deep, and ambitious regional governors have the power to form alliances that can block the central government. Also, unlike nearly every German leader who has preceded her, Ms. Merkel lacks a strong regional power base.

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"It will be difficult for her," predicts Dagmar Schipanski, a university professor and Christian Democratic Union colleague. "She has a limited circle of trusted friends."

Ms. Merkel was born in 1954 in Hamburg, West Germany, at the height of the Cold War. Her father, a Lutheran minister, later moved the family to a small town 50 miles north of Berlin in what was then East Germany. The atheist regime frowned on the church, and often discriminated against ministers' children, blocking their education and careers.

Never a dissident or activist, Ms. Merkel nonetheless had a tense relationship with the state. As a teenager, she was once nearly expelled from school for reciting a "bourgeois" poem. On trips to Poland, she made friends with Solidarity supporters. The East German state security service, or Stasi, kept a file on Ms. Merkel stamped PID, for "political-ideological deviation."

She rebelled in other ways. In 1984, Ms. Merkel made an illegal hitchhiking trip through the Soviet Union with two female friends. In an account confirmed by her spokeswoman, for three weeks the companions avoided hotels and railway stations where they might be asked to show their papers. They were finally caught in Georgia, when the off-duty policeman with whom they had hitched a ride was stopped for speeding.

At the local police headquarters, Ms. Merkel escaped by appealing to the Georgians' national pride, waxing lyrical about the region's beauty. "Right away we were asked: Had we seen the capital, Tbilisi? We absolutely had to see that!" Ms. Merkel is quoted as saying in a biography by journalist Wolfgang Stock. The police let them go.

Ms. Merkel, who excelled at math and science, eventually obtained a post at the Academy of Sciences in East Berlin. It was the communist state's top scientific institution, but Ms. Merkel was relegated to a converted workers barracks tucked behind overgrown shrubbery. Her work in quantum chemistry was considered marginal because it had no industrial relevance.

Fellow physicist Michael Schindhelm recalls that doing worthwhile research was difficult. Because neither he nor Ms. Merkel was a member of the communist party, they weren't permitted to travel to the West or even read most Western science publications. The laboratory's computers and equipment were obsolete. "We tried to focus on research you could do with a pencil and paper," Mr. Schindhelm says.

The experience helped sharpen Ms. Merkel's political views. Mr. Schindhelm says he and Ms. Merkel both became convinced that the overbearing East German state had caused a decay of society by undermining individual responsibility. "In a different form, we're experiencing something similar now in unified Germany," he says.

The night the Berlin Wall fell in 1989, Ms. Merkel was returning home from a weekly sauna. Carrying a damp towel, she crossed into the West with thousands of other East Germans and quickly realized that the regime was doomed. Three weeks later, she left her job and joined a new political party dedicated to reunifying Germany and developing a free-market economy.

Ms. Merkel made herself indispensable in the tiny party. She got the computers out of their boxes and put them to use. She became a party spokeswoman, and she began to develop ideas on economic policy. In a 1990 newspaper article, she argued that East Germany should rebuild by limiting the state's economic role to fostering competition and fighting monopolies.

West Germany's economic boom of the 1950s and 1960s had been built on similar ideas, first advanced by economists at Freiburg University. The Freiburg school held that a "social market economy" could create prosperity for all, not just the rich.

Today, Ms. Merkel believes Germany has gone too far in insulating its citizens against the risks of the marketplace. Since the mid-1960s, Germany's state spending on the unemployed and pensioners has grown faster than gross domestic product or tax revenues, leading to ever-larger debts, she says. "That violates the sustainability of the social market economy," she says.

Ms. Merkel's initial foray into politics proved lucky. Her small party polled less than 1% in March 1990 East German elections, but Ms. Merkel's job as press spokeswoman had won her notice. The ruling Christian Democratic Union, then led by Mr. Kohl, was short on women and eastern Germans. In late 1990 Mr. Kohl recruited her to join his cabinet.

Over the next eight years, Ms. Merkel held second-tier ministerial posts. Gradually, her party's hold on power began to weaken as the German economy strained to extend generous social benefits to the industrially moribund East. After 16 years in office, voters ejected Mr. Kohl and the CDU in 1998.

As the CDU reorganized the following year, Ms. Merkel seized on a defining political moment. A German arms dealer living in Canada revealed he had made an undeclared one-million-mark donation to the party's coffers, worth about $540,000 at the time. Mr. Kohl, still the party's honorary chairman, admitted he had systematically accepted illegal political gifts.

A few days later, Ms. Merkel called the conservative newspaper Frankfurter Allgemeine Zeitung and offered to write an article on the funding affair. Five minutes later the faxed text arrived at the paper's offices, according to Mr. Stock's biography. It was a devastating assault on her mentor. "The party has to learn how to find its own feet" without its longtime leader, she wrote.

Ms. Merkel's stand proved hugely popular with the CDU's rank and file. Within a few months, they had elected her party chairwoman.

Prof. Schipanski, her CDU colleague, remembers Ms. Merkel calculating her moves with scientific logic. "She said very clearly that she would take this position [on Kohl] but she would do it alone. She wouldn't rely on the men," she says.

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As head of her party, Ms. Merkel believed she was poised to run for chancellor as new elections approached in 2002. She updated her dowdy hairstyle and purchased a new wardrobe. She made the rounds of TV programs, speaking about the challenges facing Germany's next chancellor.

Behind the scenes her rapid political ascent had hit a wall. A then-secret coalition within the CDU decided to block her candidacy and instead back Edmund Stoiber, leader of the CDU's smaller Bavarian sister party, the Christian Social Union. One by one, some of Germany's most influential political figures came to Ms. Merkel and asked her to stand aside.

"Some of us believe we helped her," says Friedbert Pflüger, a CDU politician who was part of the coalition that backed Mr. Stoiber. "At the time it would have been too early and many people would not have supported her. A woman from the East, Protestant, very young -- this needed time."

When it became clear she lacked support in her own party, Ms. Merkel turned up early one morning at Mr. Stoiber's home near Munich. She agreed that he would be the candidate, and said that she would back him. "What was impressive was that she didn't for an hour give the impression of being a loser," says Mr. Pflüger.

After Mr. Stoiber lost at the polls, Ms. Merkel's show of loyalty helped assure her the leading role among Germany's conservatives.

If she wins on Sunday, Ms. Merkel has plans to raise Germany's sales tax by two percentage points to 18% in order to cut employers' and workers' contributions to unemployment insurance. She believes this will reduce labor costs and create new jobs for Germany's 4.7 million unemployed.

Ms. Merkel also hired a controversial academic, Paul Kirchhof, as her economic adviser. Mr. Kirchhof, who could be Germany's next finance minister, is an advocate of a flat 25% income tax and says he wants to abolish all subsidies and exemptions in Germany's tax code.

Such changes are likely to face substantial resistance in Germany. The CDU, which polls showed had a comfortable 23-percentage-point edge in June, has seen its lead narrow to around 9 points yesterday. Polls of German television viewers found Ms. Merkel came off badly in a recent debate against Mr. Schröder.

At a recent rally in the eastern German city of Erfurt, Ms. Merkel's supporters did their best to make her seem more appealing. Party activists waved placards bearing her nickname, "Angie," while a public-address system blared out the song of the same name by the Rolling Stones. Ms. Merkel lectured the crowd with a stump speech on Germany's rising public-sector debt.

In the East, where unemployment is 18%, her pitch doesn't go down well. Cutting benefits will mean more hardship in a region where many depend on government assistance. And Ms. Merkel is seen as an outsider even here. Wolfgang Riese, a tax consultant drinking beer from a plastic cup on the edge of the rally, said he'll vote for the former East German communist party, which still gets around a third of the vote in the region. "She tries to represent all of Germany, but Easterners think she represents them too little, while Westerners think she's from out East," says Mr. Riese.

Say It Slowly -- 'Zukunftsangst' (WSJ)

By Gabor Steingart

The Wall Street Journal, September 15, 2005

BERLIN -- Germany is haunted. My countrymen see ghosts everywhere as they go to the polls this Sunday.

When neo-Nazis are elected to a regional parliament, many fear a resurgence of Hitler. When a left-wing splinter party gains strength, scores believe they see the ghost of communism. Because Angela Merkel, leader of the opposition Christian Democratic Union, has proposed a larger dose of reform policy than Gerhard Schröder, the current chancellor, millions see her as the reincarnation of Maggie Thatcher. No wonder pollsters have found a level of fear in this election campaign that is greater than anything we've ever experienced since the war. A balance of terror has emerged: Fear of unemployment competes with fear of an overly radical fight against it. Empty state coffers cause the same horror as the budget cuts designed to overcome them. Some call for a serious increase in genetic research, which leads others reflexively to cringe.

Everyone is terrified of everyone. As if of its own accord, the word "fear" attaches itself to the word "future" -- Zukunftsangst permeates the German mind. Fear of reform, fear of stagnation, fear of a failure of democracy and now -- as the frantic climax of this collective neurosis -- the fear of a further growth of fear.

The result is political exhaustion on all sides. On Sunday, Europe's largest industrialized country will most likely elect the weakest of all postwar governments -- assuming the result even allows a government to be formed. If the Social Democrat Mr. Schröder wins, he will not be able to do much with his victory. During the campaign he moved far away from his own convictions in order to collect the disheartened and insecure. His party is once again humming old working-class songs and its traditionalist members couldn't be happier.

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But the politician Schröder now lives to the left of reality. He's never been so distant from his spiritual neighbor Tony Blair. Even if he wanted to move back again after a successful election, his party would not allow him to return to reality. His line of retreat is cut off. If he wins, he'll be in government, but not in power.

If Ms. Merkel wins, she won't have much to celebrate either. The 140-square-meter office of the head of government stands in stark contrast to the small amount of power she would actually have. At least at the beginning she'd be a chancellor of limited possibilities. Three things would prevent the kind of powerful governance of which she recently spoke in Parliament.

One is the outcome of the election itself: Her majority against the post-communists, environmentalists and Social Democrats will be razor thin -- if she can win at all. That is not what a mandate for radical reform looks like. The more clearly she informs Germans of her intentions, the more they back away from her in horror. The absolute majority projected in surveys melted away with breathtaking speed. Germans' fear was greater than her powers of persuasion.

Second: There are rumblings in her own party. For the powerful provincial princes, this was a unsatisfying campaign. No one in the conservative ranks had expected that the chancellor, who had decided upon early elections because of a lack of loyalty in his own ranks, would be able to revitalize himself. His deathbed resurrection is blamed on Ms. Merkel. She was courageous; she was honest; she was even precise. In short, she did everything wrong. She ran a campaign counter to rational party tactics. She announced a tax increase, called for privatizing nursing care insurance and told subsidy recipients, night workers, commuters and home builders that they could no longer expect government handouts. The fear increased, the support shrank. The men in her party's second and third tiers will never forgive her for that. These gentlemen are panting for revenge, and they'll have plenty of opportunity to pay her back.

Through the Bundesrat, the upper house of parliament that represents the states, the princes possess a de facto veto. Eleven of 16 heads of state governments come from the conservative party. The German defect, that paralyzing arrangement of checks and balances built into the system after 1945, is very convenient for them. They take part in discussions, share in decision-making -- and block progress. Ms. Merkel's hardline enemies are just waiting to topple her. Most probably, however, the more moderate among her rivals will prevail. They have taken it upon themselves to wear her out in office.

Of course, Ms. Merkel also has supporters, especially among the party base. She has to spoil these people with presentable achievements, which leads us to the third reason for her lack of political power -- the most serious, although she's not responsible for it. Germany's decline is farther along than the public realizes. No rapid successes can be expected -- especially not from a woman with no mandate for a new start. Her government will be of the lowest common denominator. The ghosts will be sitting at the government table. Fear will soon possess cabinet status.

Ms. Merkel knows everything one has to know about the state of the nation. She knows the data, and in her years in opposition she took a thorough look at the economy. Much of it reminds her of the decline of East Germany, which she experienced as a scientist in Berlin. She recognizes this refusal to acknowledge, the looking away, the wavering in the face of danger.

A glance at the state's finances shows how dramatic the situation is: Of 190 billion euros in tax revenues, 80 billion is passed on to the cash-strapped state pension system, 30 billion goes to the unemployed, and another 40 billion belongs to the banks, just to service debt. The rest is not even enough to pay the bureaucracy and to build roads. Ever-new credits are constantly needed so that Germany at least has the appearance of a prosperous country.

Relief is not in sight because the birth-rate has fallen by half since the early 1960s and so the work force will also soon fall by half. Two retirees will then be financed by one worker, which would be too much for everyone -- the workers and the state. If nothing changes, the government will need 80% of the state budget in 2050 just to prop up pensions.

The task of building up the German east is another factor. The region once dominated by the Soviets devours a fortune, and has cost 1.4 trillion euros so far. For 15 years, the western part of Germany has been transferring 4% of its GDP to the East. Because the West has not grown by 4% for decades -- at best by half of that -- the transfer payments are depleting reserves. Former Ford manager and Social Democrat Klaus von Dohnanyi speaks of a "permanent loss of blood from our economy."

Ms. Merkel knows the forces at work here. They are pulling the country, as well as its chancellor, down -- down to the place where the wellspring of eternal fear flows. No nation likes to lose a piece of its power and prosperity each day. German assertiveness is thus Ms. Merkel's natural coalition partner. She must ally herself with it, promote it and let it grow into a mighty political force.

Willpower is society's most underestimated productive force in history. Historians don't like it because they cannot measure it or ask it any questions. But states do not consist only of armed forces, banks and steel mills, and more or less diligent civil servants. Every country is propelled by a mixture of ambition and pride, which can bring forth both the reprehensible and the great. Angela Merkel has a chance if she succeeds in mobilizing this force of will behind her policies, and thus puts an end to the haunting. Before she takes on the details of pension and tax reforms, there is something more important to do: It's time to call in "Die Geisterjäger" -- the Ghostbusters.

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Mr. Steingart, Berlin bureau chief for Der Spiegel, is author of "Der Abstieg eines Superstars" (Piper, 2004). Belinda Cooper translated this piece from the original German.

Father's Ideals Forged Life In East For German Candidate (NYT)

By Judy Dempsey, International Herald Tribune

The New York Times, September 15, 2005

TEMPLIN, Germany - Half a century ago, the Rev. Horst Kasner made an extraordinary decision: He packed up his young family and moved from democratically governed Hamburg, West Germany, to this small town in the Brandenburg countryside, then the heart of Communist East Germany.

"We were young and idealistic back then," Mr. Kasner said recently, perched high above the pews in the choir loft of a Protestant church he rebuilt from the ruins when the Berlin Wall fell in 1989.

It seemed a laconic explanation of how Angela Merkel, his daughter, who could make history on Sept. 18 by becoming Germany's first chancellor from the East, grew up and lived under Communism until the wall was torn down.

A slim, tall man looking younger than his 79 years, Mr. Kasner offered insight into the workings of the Communist system in which he struggled to tell the truth and fended off the secret police.

Mrs. Merkel, who was just 3 months old when the family moved east, has said little about the effect of living under Communism.

Only in recent interviews has she revealed that her parents instilled in her the need to excel at everything to survive an environment suspicious of her father's Christian teachings.

Her father, who remains a pastor here in Templin, 50 miles north of Berlin, was certain in 1954, when the Protestant church asked him to move to East Germany from Hamburg. "We were needed over there," he said.

That was before the wall went up in 1961, and "you could still travel between both parts of the country," he said.

The company that Mr. Kasner contacted to move his family was nevertheless astonished.

The manager "said there were two kinds of people that went over to the East - Communists and real idiots." Mr. Kasner said.

Asked what category the manager reserved for him, he said: "The manager said he would have to find a third category. You see, I was young. It was my mission to go there."

The initial reaction of the East German authorities, he said, was: "It is so good of you to have gone over. Many have gone to the West." But, Mr. Kasner said the secret services always watched him.

He said that although he never openly challenged the authorities he used his weekly seminars and his Weissenseer Circle, an elite group of left-wing intellectuals tolerated by the government, to discuss difficult issues. Then in 1968, he was asked to become an informer for the Stasi, the state security secret police. "I had been discussing Andrei Sakharov's letter at the seminar," he said.

The letter by Mr. Sakharov, a Soviet dissident, was a trenchant account of how nuclear weapons and the arms race between the United States and the Soviet Union could destroy humanity. To avoid this, Mr. Sakharov called for a rapprochement between the capitalist and socialist systems.

"I do not know who informed on me," Mr. Kasner said. "Anyway, the Stasi called me in. They told me it was a criminal act to discuss such things."

"They proposed I work for them to avoid pressing charges. I told them anyone could hear Sakharov's letter on the radio. You could not build a wall to keep such things out. I refused to cooperate."

Mr. Kasner suffered no penalties. But his wife, Herlind, who had taught Latin and English in Hamburg, and his daughter ran into difficulty.

"My wife was not allowed to teach," he said.

At school in Templin, Mrs. Merkel excelled at languages. She had wanted to train to become a teacher and translator, but was not allowed to because of her father's profession.

Instead, she studied physics at Leipzig University. Mrs. Merkel's fellow members of the Christian Democratic Party who know her well say her experience as a young woman led her to embrace the market economy and the United States.

While Mr. Kasner does not like to talk about his daughter, it is clear that he does not support her beliefs. When the wall fell, he would have preferred to have two separate Germanys. "I wanted a democratic East Germany," he said. "But the people wanted the Deutsche mark. The revolution is now over."

Mrs. Merkel, now 51, could hardly wait to seize the moment to embrace unification. "As far as I have been shaped by politics, I have been shaped by German reunification," she said during her television duel with Chancellor Gerhard Schröder. "I am proud to be a politician for all of Germany with East German roots."

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In the buttoned-down town of her youth, residents interviewed seemed to take less pride in Mrs. Merkel than in her father.

"We are proud of Pastor Kasner because he rebuilt the church," said Birgit Dornbusch, 37, an unemployed mother. "I don't know what Merkel has achieved."

A New 'German Path' (WSJ)

By Wolfgang Schauble

The Wall Street Journal, September 15, 2005

How can our country's interests be best protected under the conditions of globalization, of ever more rapid and far-reaching world-wide changes, bringing a wealth of new opportunities, but also dangerous risks? This question currently demands that all European countries take fundamental positions. In Germany, because of the elections, it goes to the heart of future government policy.

The analysis of the Christian Democratic Union (CDU) and its sister party, the Christian Social Union (CSU), is clear: To preserve peace, freedom and security in Europe, the success of the European unification process and a functioning trans-Atlantic partnership are of paramount importance. There are no realistic and responsible alternatives -- neither going it alone as a nation, nor special relationships, nor politics in exclusive groups can lead in the long run to anything close to a justifiable level of stability.

Our guideline must thus be the strengthening of partnerships in our foreign and security policies and to avoid everything that could weaken trust. This way we'll aim to correct the wrong maneuvers of Gerhard Schröder's government, which have contributed greatly to the fact that Europe and the trans-Atlantic relationship are today experiencing their deepest crisis. The policy Mr. Schröder calls the "German path" was meant to suggest that reliability in foreign policy could be replaced by the demonstration of a kind of new national self-confidence. The disastrous consequence is a severe loss of trust among smaller and newer EU members, especially among Germany's eastern neighbors. The attempt to put Washington in its place, so to speak, by cultivating a Paris-Berlin-Moscow axis and missing no chance to ride the waves of anti-American sentiment has worsened Europe's division. Mr. Schröder ignored the fact that our new EU partners, in particular, will not allow themselves to be forced to choose between European and Atlantic solidarity. There is also a contradiction in his policies: on the one hand rightly demanding legitimacy for international action through multilateralism; on the other, however, acting unilaterally himself and taking positions on significant issues in a premature fashion that thwarts any joint decision-making process. Just take the question of lifting the weapons embargo on China. That Mr. Schröder is loudly proclaiming in his campaign that "German foreign policy is decided in Berlin and nowhere else" is emblematic of his foreign policy concept, fixated solely on domestic effect.

A federal government led by the CDU/CSU would put an end to such separate national paths and false axes. Germany will pursue policies that see European integration and the Atlantic partnership not as artificial opposites, but as two sides of the same coin. It will restore trans-Atlantic relations to a foundation of fundamental trust, not out of submissiveness toward Washington, but because we are linked by a common set of values, as well as by the most heavily interconnected economic market in the world, and because we are equally affected by the threats of transnational terrorism, weapons of mass destruction that could fall into the wrong hands, failing states, world-wide poverty and underdevelopment, and because we can best overcome these challenges if we develop common Euro-Atlantic positions. The coordinated action against Iran's nuclear program should serve as an example.

Because European and Atlantic security cannot be separated, we want to strengthen NATO as the primary instrument of our security and defense policy. And we will act to increase the EU's capabilities and options, in order to strengthen the European pillar of the Atlantic security partnership. At the same time, we have a great interest in good relations with Russia, but not over the heads of our eastern neighbors and not by keeping silent about the problematic developments regarding the rule of law in Russia. Characterizing President Vladimir Putin, as Mr. Schröder did, as a "flawless democrat" harms the credibility of European policy toward Russia more than it helps it.

At the same time, it is important to free ourselves of old ways of thinking in the goals of our Russia policy as well as in the development of our relationships with other regions of the world; constellations oriented toward confrontation or competing poles will be unable to stand up to the actual challenges of the future. We Europeans must take Asia seriously in terms of its political and economic importance, and we must develop a long-term strategy of partnership with China, India and others without speculating upon rivalries and power shifts in regard to American efforts. Our future will depend in great part on the extent to which we succeed in using strategic partnerships to find effective policies to assist regions of the world currently mired in hopelessness. This defines a common responsibility for the poor and for the preservation of our natural resources, which will help fighting global dangers. For security, development and human rights go hand-in-hand, and together they will determine the long-term stability of our continent.

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The wealth of tasks that we must master in order to protect our interests in a globalized world demand from us Europeans, above all, close cohesion and efforts to combat signs of economic sclerosis and restore dynamism, innovation and optimism. To remain relevant in tomorrow's world, we must strengthen the European integration process. We must use the current crisis in the EU as a chance to restore credibility to European politics and win back the support of the people. Europe needs to concentrate on the essentials, the effort to find the right balance both within and without. This requires a clear division of responsibilities among the EU, the member states, and the regions, and a certain rollback in the thicket of excessive European regulation, so that growth and dynamism are not suffocated by bureaucracy. And it is also necessary to take care that the borders of the EU are not stretched too far and that we do not ask too much of the people of Europe -- that the standard for future expansions is its absorption capacity; concretely, that our security goal of a positive development and permanent western linkage of Turkey should be achieved through a privileged partnership with the EU and not through full membership. In all this, close German-French cooperation will particularly important.

If we succeed in strengthening Europe's cohesion, achieving common Euro-Atlantic positions, and binding Russia, China and others into a system of cooperative international responsibility, then we will also face down the greatest challenge for our future: to credibly convince the non-Western world that the West does not stand against them.

Mr. Schäuble is a member of the German parliament and Angela Merkel's foreign and security advisor. Belinda Cooper translated this article from the German.

Protestants Say Anger And Alienation Are Fueling Riots In Belfast (NYT)

By Brian Lavery

The New York Times, September 15, 2005

BELFAST, Northern Ireland, Sept. 14 - Every morning this week, the broken glass and burned-out cars have quickly disappeared from the streets here after the previous night's rioting by Protestant mobs.

By late afternoon, the buildup to those riots begins again, as protests stall traffic. And Belfast seems shaken by the realization that deep-seated anger among Protestants has dashed hopes of a reconciliation with Roman Catholics anytime soon.

The police have blamed Protestant paramilitaries for organizing the recent violence, which has injured more than 80 police officers and two children who were hit in the head by bricks thrown through the windows of a car and a school bus.

Britain's Northern Ireland secretary, Peter Hain, said Wednesday that the government no longer recognized the cease-fire of a Protestant terrorist organization, the Ulster Volunteer Force, which has also been accused of killing four members of a rival Protestant gang this summer.

The violence was largely unexpected, since the Irish Republican Army, the larger Catholic enemy of the Protestant paramilitary groups, in July announced an end to its 36-year armed campaign to drive Britain out of Northern Ireland, prompting Prime Minister Tony Blair to declare a new era of peace.

But many people said the clashes were the result of a more significant rift between the British government and Protestants, who are in the majority here. Britain wants to restart the local legislature set up by the 1998 peace accord to share power between Catholic and Protestant parties, but the rioting shows how resistant Protestants are to the idea.

On Wednesday, the police dispersed a roadblock in a gritty residential area. Davy Reid, a 28-year-old protester, said he was responding to a ban on a parade by the Orange Order, a Protestant organization, through a Catholic neighborhood last weekend. He listed other grievances, including the closing of a hospital maternity ward and the lack of a shopping mall nearby. Those services were available in Catholic areas, he said. "The government hasn't been listening," he said.

Nelson McCausland, a Belfast politician and a member of the Democratic Unionists, a hard-line Protestant party, said: "There is a fundamental anger and alienation. That sense of being marginalized and disempowered runs very deep."

No prominent unionists, who are largely Protestant and want the province to remain part of Britain, condemned the violence. After members of the Orange Order attacked police officers, Robert Saulter, the group's grand master, said, "Ordinary, decent and reasonable men have been goaded into behaving out of character by the authorities."

Mitchell B. Reiss, the American special envoy for Northern Ireland, criticized Protestants' failure to speak out against the rioting. "All of us are pretty disappointed with the abdication of responsibility by many unionist political leaders," he said.

Protestants held a privileged position in Northern Ireland for centuries, with access to better jobs and housing. That status has gradually eroded since the 1960's, when a civil rights movement began putting Catholics on an equal footing, and Protestants continue to feel slighted.

Protestants are also infuriated that Britain has rewarded the I.R.A. - by dismantling British military bases and releasing an imprisoned bomber - before the terrorist group fulfills its promise to disarm.

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"We've given a lot over the last few years," said Reggie Spencer, manager of a community center. "I personally feel that we've given enough," he said, adding that the concessions to the I.R.A. had convinced most Protestants that violence was politically effective.

For IRA Critics, No Peace In Belfast (WP)

By Kevin Sullivan

The Washington Post, September 15, 2005

BELFAST, Sept. 14 -- The family of Robert McCartney, a Catholic whose death at the hands of Irish Republican Army members in January caused international outrage and brought White House condemnation, said Wednesday it was being subjected to a campaign of violence and intimidation for speaking out forcefully against the IRA.

Paula McCartney, Robert's sister, said her two teenage sons were beaten recently by family members of a high-ranking IRA officer who they believe was involved in McCartney's killing. On Monday night, one of Robert McCartney's closest friends, Jeff Commander, was beaten with metal rods by a gang of men the McCartney family also contends are IRA members linked to the killing.

On Tuesday night, at least 50 people, mostly women, demonstrated outside the home of Bridgeen Hagans, McCartney's fiancee, vowing to return every night until she moves out of the neighborhood.

"They want to intimidate us, they want us to keep quiet," said Paula McCartney, whose small home in the Short Strand, a close-knit Catholic community in East Belfast, is decorated with photos of well-wishers including U.S. Sens. Edward M. Kennedy (D-Mass.), Christopher J. Dodd (D-Conn.) and Hillary Rodham Clinton (D-N.Y.).

She said Commander's attackers used the recent riots in Belfast's Protestant communities as an opportunity to take revenge on McCartney's family while police and public attention were focused elsewhere.

Mitchell B. Reiss, President Bush's special envoy to Northern Ireland, described the situation as "disgraceful."

"We deplore the recent violence and intimidation against the McCartney family, Bridgeen and their friends," Reiss said Wednesday in a statement to The Washington Post. "It is unacceptable and should stop immediately."

McCartney, a supporter of Sinn Fein, the IRA's political wing, was killed Jan. 30 in a pub brawl after an argument got out of hand. He was dragged outside and beaten by at least a dozen men, one of whom stabbed him in the heart.

In a remarkable departure from the code of silence enforced by the IRA among its Catholic supporters, McCartney's family publicly and repeatedly said that he was killed by IRA members and demanded justice. They said the IRA intimidated witnesses to keep them from coming forward and sent in professionals to clean up the murder scene and destroy evidence.

The family's campaign -- which included a visit with Bush at the White House -- badly embarrassed Sinn Fein and damaged its reputation as it fought an increasing perception that the IRA was tainted by thugs and criminals who lacked their forefathers' political ideals. Trying to stem the political damage, Sinn Fein's leader, Gerry Adams, invited the family to address a party meeting, where they issued impassioned demands for justice.

The IRA took the unusual step of publicly denouncing the McCartney killing and offered to shoot those responsible in the kind of rough justice it has long used to police Catholic communities. The McCartney family rejected that offer. Two men have been charged in connection with McCartney's murder, and the IRA announced it had expelled three members over the killing. In July, the IRA announced it was laying down its weapons for good.

Sinn Fein issued a statement Wednesday denying any link to the beating of Commander, whose bloodied head was featured in several front-page newspaper photos in Belfast on Wednesday. "Sinn Fein is totally opposed to intimidation of any type no matter where it comes from or who it is aimed at," said the statement issued by a party official, Gerry Kelly.

But in the Short Strand, an IRA stronghold where about 3,000 people live in modest two-story brick buildings, McCartney's family said IRA intimidation was still a way of life.

Even as the IRA has disarmed and lost much of its former clout, individual IRA members still "act as if they can do anything they want," said Jim Arnold, Paula McCartney's husband. "It's an absolute disgrace," said Arnold, a house painter. "They are dinosaurs. They live on the back of the IRA, but the IRA are finished, and they cannot grasp it. They won't move on."

Arnold said the people who took part in the McCartney killing are well known in the Short Strand. And he said that despite the IRA's claims that the men were expelled, they are still deeply involved with the paramilitary group. "This district is sickened by these people still parading around who were involved in Robert's murder," he said.

Arnold said these men joined a crowd of Catholics who gathered at the entrance to the Short Strand on Monday evening, standing guard against any rioting Protestants who might try to come in and cause trouble. He said they were also among the men who ambushed Commander later in the evening, opening a large gash on his head.

"They're trying to tell our family: Shut up or this is going to happen again," Arnold said. "The McCartney family opened a lot of eyes in Belfast."

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Arnold and Paula McCartney, as well as Bridgeen Hagans, are making plans to move out of the neighborhood. "I can't live in a community where it is perfectly acceptable to murder an innocent man and still walk around freely," Paula McCartney said.

Deal For Ukraine Company Renews Charges Of Abuse (NYT)

By Steven Lee Myers

The New York Times, September 15, 2005

KIEV, Ukraine, Sept. 14 - In the last weeks of Leonid D. Kuchma's scandal-tarred presidency, an American company reached an agreement with his government to take control of a state-owned chemical factory in eastern Ukraine under terms that have been criticized as secretive and suspiciously generous.

On Sept. 2, dozens of men dressed in camouflage and body armor stormed and seized the headquarters of the factory, the Severodonetsk Azot Association. They were accompanied by officials of a new government, carrying an order signed by a minister under Mr. Kuchma's successor, Viktor A. Yushchenko.

The order was based on a court case filed by a fictitious company, on behalf of a politician who stood to gain from the seizure, according to a senior government official.

"It was a very serious abuse of the system," said the chairwoman of the country's State Property Fund, Valentyna P. Semeniuk.

The accumulated weight of scandal and internal rifts has destroyed the political coalition that Mr. Yushchenko formed to challenge Mr. Kuchma's government and create a newly democratic, corruption-free government. It has also raised questions about the true success of what came to be known as the Orange Revolution, as members of Mr. Yushchenko's team volley accusations of abuse of power, bribery and other forms of corruption.

"Corruption exists in different countries, but in civilized countries there is prompt action against it," said Oleksandr O. Zinchenko, Mr. Yushchenko's chief of staff, who resigned, coincidentally, on the same day that the company was seized. Three days later he went public with accusations of corruption among Mr. Yushchenko's senior aides, three of whom he named, and the president did nothing about it.

Mr. Zinchenko's resignation provoked a political firestorm here that shows little sign of subsiding.

Last week Mr. Yushchenko dismissed his prime minister and the rest of her government, as well as the head of the customs service. He also suspended or accepted the resignation of several members of his staff who are at the center of Mr. Zinchenko's accusations.

Even so he has defended his aides, much as Mr. Kuchma called accusations against his own aides politically motivated. "There is an anecdote," Mr. Yushchenko said Monday. "It does not really matter whether a man has a daughter or does not have a daughter. It is enough to say in public that his daughter does not behave herself well."

That has not stopped him, however, from accusing the departed prime minister, Yulia V. Tymoshenko, of corruption herself. After first striking a conciliatory note after her dismissal, Mr. Yushchenko accused her of siphoning $1.6 billion from the budget "in favor of private undertakings," coercing judges and improperly intervening in a dispute over an alloy plant, Nikopol Ferroalloys.

"It is very unpleasant for me to think what Yulia Vladimirovna could have received if Nikopol Ferroalloy would have been transferred into the hands of business groups," he said in another interview, on Tuesday, referring to Ms. Tymoshenko.

Mr. Yushchenko appointed a new prime minister, Yury I. Yekhanurov, and has since rallied political parties, including some that he opposed only a year ago, to form a sort of unity cabinet. He also created a commission to investigate corruption in his inner circle, but gave it only 10 days - until next week - to say whether the charges warrant further investigation. He has already suggested publicly that they will not.

The allegations, however, may prove difficult to sweep aside. Reports of bribery and corruption have swirled around Mr. Yushchenko's circle from the time of his inauguration in January. His son came under scrutiny this summer for receiving gifts and favors.

"Corruption is in the air," Ms. Tymoshenko, who was one of the most impassioned and popular leaders of last year's protests, said in an interview, citing complaints of businessmen forced to pay bribes to members of Mr. Yushchenko's administration. "This is the air we had to breathe."

A senior Western diplomat said he gave credence to reports that Mr. Yushchenko's aides had solicited payment for access to the president, for appointments to government positions, to influence court cases and to win control over state enterprises. He said a government official had told him of personally being asked for a bribe by one of Mr. Yushchenko's senior aides, whom he would not name.

"I think he is vulnerable, because of his loyalty, to the bad behavior of those around him," the diplomat said of Mr. Yushchenko, speaking on condition of anonymity because of diplomatic protocol.

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Even an informal adviser to Mr. Yushchenko, Oleksandr Y. Pakhavyov, said corruption was endemic in Ukraine, and the shadowy intersection of business and state made it unrealistic to expect a swift change.

He cited an effort by Ms. Tymoshenko to crack down on the smuggling of meat through customs. The contraband, he said, accounted for nearly a fifth of all meat purchased in Ukraine. After Ms. Tymoshenko's government tightened controls, prices soared, sparking one of the economic crises that have eroded Mr. Yushchenko's popularity.

Viktor M. Pinchuk, one of the country's wealthiest men and the son-in-law of Mr. Kuchma, said it was not government policy but commercial interest - Ms. Tymoshenko's - that was driving the legal challenge to Nikopol Ferroalloy Plant. He acquired a controlling share in 2003 in a tender since criticized as rigged.

He said Ms. Tymoshenko had intervened on behalf of a minority shareholder who had close ties to her. Ms. Tymoshenko denied that, saying she was acting to seize the shares owed the state.

The dispute over Severodonetsk Azot, Ukraine's third largest chemical plant, boiled over even as Mr. Yushchenko's coalition imploded.

Worldwide Chemical, a subsidiary of New York-based IBE Trade, agreed to invest $180 million in a new company with Mr. Kuchma's government in exchange for 60 percent of its shares.

James William Grant, Worldwide Chemical's vice president, said that within months the new investors, including Americans and Russians, had increased production, raised salaries and paid off the debts that had forced the former state enterprise into bankruptcy.

But a lawsuit filed in March in a district court in Kiev - not in Lugansk, where the factory is located - challenged that deal, and the court agreed. Neither the state nor the new company had the chance to mount a defense, according to Ms. Semeniuk of the property fund.

The government's role in the dispute is far from clear. In letters to American congressmen who voiced concerns, Ms. Semeniuk and Mr. Yushchenko promised that the matter would be resolved in court.

Yet, despite Mr. Yushchenko's pledges, the minister of industrial policy, Valery N. Shandra, signed an order late last month returning control of the plant to what was left of the state enterprise, and one of his deputies was there when the plant was seized. Mr. Shandra, who was dismissed with the rest of the government, could not be reached for comment but his deputy, Viktor N. Baranchuk, said the ministry had to carry out the court's order, even though it was on appeal. "We are being made scapegoats," he said.

The men in camouflage - Mr. Grant said it was never clear who they were or whether they were armed - occupied the plant's headquarters for four days, as workers and company executives protested outside. On Sept. 6, Mr. Yushchenko intervened, even as he held frantic negotiations to salvage his government, ordering that the factory be returned to Worldwide Chemical until the matter was resolved in court.

Referring to this case, as well to Nikopol and others, Mr. Yushchenko said intrigues in his circle reflected a "a very complicated metastasis in the society and in the authorities."

Mr. Grant, a former congressman from Florida, said the company remained concerned about the fate of its investment in what had promised to be a new Ukraine.

"We expected better," he said.

Remember Daniel Ortega? He's Back. (CSM)

By Danna Harman

The Christian Science Monitor, September 15, 2005

EL JICARAL, NICARAGUA - Little seems to have changed in this small rural village in the past two decades: women are down by the river doing their washing, cattle are roaming among the cacti, cowboys are drinking beer at the canteen, and Sandinista leader Daniel Ortega is in the town square, holding forth on the evils of capitalism and the United States.

"The US no longer rules Latin America!" Mr. Ortega thunders into the dark night. "The Yankees no longer rule Nicaragua!" The small crowd of farmers hoist their black and red Sandinista flags high and chant: "Daniel, Daniel!"

Fifteen years after unexpectedly being voted out of power, and with two unsuccessful runs for the presidency since, the iconic head of the Marxist Sandinista National Liberation Front (FSLN) is back on the campaign trail. Ortega, a name many US officials had hoped to consign to the history books, has a fighting chance of returning to power.

Just staying in the running has looked doubtful for Ortega at times. His credibility has taken a beating since he signed a self-serving pact in 1999 with political rival and former President Arnoldo Aleman, now serving a 20-year sentence for embezzlement; his grown-up stepdaughter accused him in 1998 of abusing and raping her for years; and his former comrade-in-arms Herty Lewites is now running against him, mounting the first serious challenge to his leadership from within the Sandinista ranks.

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But despite it all, Ortega says he is confident the November 2006 elections will put him back in the presidential palace. Even his critics say divisions within the ruling party, coupled with Ortega's grip on the electoral machine, make his resurrection possible. "Conditions are ripe for triumph," says Ortega in a late-night interview in Managua. "We will win, and we will wield great power here."

Washington, which backed the contra rebels in a civil war against Ortega's government of the 1980s until he lost the 1990 election, is none too pleased with the prospect. After toppling the Somoza family dictatorship in 1979, Ortega's Soviet-backed Sandinistas sparked widespread US intervention in Central America to counter what Washington saw as a communist threat in the region.

Roger Noriega, the Bush administration's outgoing top envoy to Latin America (who has called Ortega a "hoodlum"), told the Managua newspaper La Prensa last month that if the Sandinistas returned to power, Nicaragua would "sink like a stone and reach depths such as those of Cuba."

Ortega's democratic credentials "are very doubtful," sniffed US Ambassador Paul Trivelli, taking up his new post in the country this week.

"The triumph of the Sandinistas will raise the morale of Latin America," says Ortega, tapping into the Bush administration's worst fears of a growing left-leaning, populist, anti-American movement on the continent, led by Cuba's Fidel Castro and Venezuela's Hugo Chávez. "Other countries will say - 'look, that small country got away with it - so can we!' We will spread the revolution." There is an alternative, he whispers, his voice hoarse from weeks of rallies, "to succumbing to the American Empire."

US interference could backfire

Carlos Fernando Chamorro, a former editor of the Sandinista newspaper Barricada, says too much US interference in the lead up to the election could actually help Ortega. The problem with Washington, he argues, is that they are stuck in the past. "The new right running Latin America policy are all leftovers from the '80s, who still behave like we are in the middle of the cold war," he says. "Every time Washington attacks Ortega, his supporters close ranks."

Otto Reich, a chief architect of President Ronald Reagan's policy against the Sandinistas and today a private consultant, shoots back: "Ortega is a communist, or whatever he calls himself," says Mr. Reich, in a phone interview from Washington. "If he wins, there will be no foreign investment and no US aid." Washington might see the world through '80s glasses, he concedes, but Ortega "...is stuck in the '60s and is acting like a Bolshevik."

Talking to Ortega, or hearing him on the campaign trail, is indeed more history lesson than interview, more nostalgia for the past than concrete plans for the future.

"[President] Bush is the Reagan of these times," Ortega tells a crowd gathered in the scorching sun of Santa Rosa del Pinon, a village in the mountains north of Leon - and immediately segues into tales of days gone by. "Yankee Reagan forbade peace," he rails. "He wanted to bring death and destruction to the region."

Adults cheer, children step forth to receive free FSLN bandannas, and old rebel anthems blare from the loudspeakers. Ortega's wife, revolutionary poet Rosario Murillo, thrusts her thin arms into the air, her bejeweled fingers clenched together in a tight fist.

Everywhere Ortega goes, people circle around him, hugging, kissing - and handing him handwritten notes. Most begin in the same way: "Please, Commandante ..." A young girl in El Jicaral has no school books. An old lady in Masaya needs arthritis medicine. A mother of five in Santa Rosa del Pinon wants shoes for her children - and a new house.

The notes get passed along to a burly man with a gold watch and thick mustache named Chico Lopez, or to Julio Paladino. Mr. Lopez is Ortega's financial officer in charge of "disbursements," Mr. Paladino, a handsome man with a big black bag, is the Sandinista leader's doctor, in charge of prescriptions. Some requests are handled on the spot - 300 cordoba ($17) for clothes here, 200 ($11) for medicine there. Larger requests - for scholarships, say, or operations - are dealt with later, back at headquarters in Managua.

Nicaragua remains one of the poorest countries in an impoverished region. The money disbursed, says Lopez, is all from donations. "We are the only ones who consistently help the people," says Paladino as he checks someone's distended stomach behind the stage. "This is what Daniel is about and that is why he is loved."

And yet for all these pronouncements, and US anxiety, analysts here say Ortega's political future is far from assured.

A poll done this month by B&A, a regional company based in Costa Rica, shows Ortega, with 20 percent of the vote, lagging behind both Eduardo Montealgre, a right-center candidate with 23 percent of the vote, and Mr. Lewites, with 35 percent.

Lewites, the former mayor of Managua, was expelled from the Sandinista Party when he announced his intention to run for president. Ortega canceled his challenger's permits to hold political rallies, forbade him to use Sandinista Party symbols, and accused him of corruption.

New regional mood of 'lite left'

Central America, unlike South America, is actually moving away from left-wing anti-Americanism, says Victor Borge, director of B&A. Upcoming elections in El Salvador, Costa Rica, and Honduras are all expected to be won by moderates, he

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says. "If Ortega manages to come to power in 2006," he adds, "...it would indeed symbolically be a big deal and might motivate other leftists. But that does not seem in tune with the mood in the region."

Lewites calls the new mood "lite left," and it is one he subscribes to. Lewites says he does not share Ortega's singleminded obsession with the US - but neither is he running to Washington for validation. "I think we should maintain good relations with the US. We need each other," he says. "I will be respectful, but firm."

If elections are fairly run, says Lewites, he is confident of victory. But will they be fair? "Of course not," he responds. Thanks to his pact with [former president] Aleman, Ortega all but controls the parliament, the supreme court, and the electoral commission, he adds.

Ortega, too, says is worried about cheating in the elections - but a different kind. "Elections in Nicaragua are not normal elections - they are a confrontation between the US and the Sandinista front," he says, concluding the interview and heading into a midnight meeting. "The US will do anything to decimate us," he says. "But we are here." Ortega's Political Path

1961: Sandinista National Liberation Front (FSLN) founded.

1979: President Anastasio Somoza Debayle overthrown.

1980: FSLN government led by Daniel Ortega nationalizes lands held by the Somoza family.

1982: US-sponsored attacks by Honduras-based contra rebels begin; state of emergency declared.

1984: Mr. Ortega elected president in elections boycotted by opposition.

1987-88: FLSN signs cease-fire pact. Later, holds talks with contra rebels.

1990: US-backed center-right National Opposition Union defeats FSLN in elections; Violeta Chamorro becomes president.

1996: Ortega loses presidential bid.

2001: Liberal party candidate Enrique Bolaños beats Ortega for president.

2002: Opposition Sandinista Party re-elects Ortega as its leader despite his three consecutive defeats since 1990.

2005, September: After pressure from neighboring countries, the US, and the Organization of American States (OAS) to avert a political crisis in Nicaragua, Ortega tells Sandinista lawmakers to drop efforts to have President Bolaños impeached.

Sources: BBC, AP, Reuters.

Revolutionary China, Complacent America (WSJ)

By Charlene Barshefsky And Edward Gresser

The Wall Street Journal, September 15, 2005

Are Americans missing a revolution? Across the Pacific, China's emergence is reshaping not only trade, but also world finances, global manufacturing and the entire East Asian economy. This should naturally give rise to searching debate. But the debate we are actually having is limited to a series of complaints about currency rates, intellectual property piracy and Chinese investment intentions in the U.S. It is more a to-do list than an assessment of structural global change and what it means for America. Some of the complaints are valid. But to focus on complaints alone -- even serious ones -- is to risk mistaking the foothills for the Himalayas behind.

China is opening to the world, merging its low costs and vast manpower reserves with the financial and technological strengths of its wealthier neighbors. In the process, it is rapidly creating an informal "Asian Union" -- a deeply integrated Asian economy with a GDP equal to America's, a population six times as large, the technological and financial strengths of an advanced economy and the cost advantages of a developing one. This powerful competitive challenge cannot be met by protectionist legislation, penalty tariffs or bans on Chinese investment. Instead, America needs a strategic response that rethinks our own consumption and debt-led growth, addresses our competitive weaknesses and reshapes our approach to Asian trade and global financial institutions.

No country leads the world by divine right. China itself provides a sobering lesson. According to the economic historian Angus Maddison, the emperors of the Qing dynasty ruled almost a third of the world's population and oversaw a third of world GDP. They looked back on a history of innovation, spanning the inventions of paper money, explosives, the printed book and the professional civil service. They considered their status natural and eternal. When Europe's diplomats and merchants began to arrive in the 1790s, the emperors thought them insignificant. It was a devastating mistake. Employing superior technology and military tactics, Europe came to rule Asia in just a few decades. China's leaders were discredited and its vassal states fell away. The ensuing period of demoralization and upheaval lasted almost two centuries.

America faces no such grim future: What we do face, however, is a substantial challenge. We have been the leading economy for a century. But other countries of similar size and potential can catch up -- if they try, and we remain content with past glories. China's economy has tripled in size since 1980 and continues to grow at 9% per year: it could equal ours by 2020. China is also climbing the tech ladder, investing in ports, coastal-road systems, telecom networks, research centers and universities. It draws $50 billion a year in foreign direct investment, and topped $60 billion in 2004. It is already getting results,

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first shifting from exports of light, labor-intensive manufactured goods to heavy industry and technology, and now to a new role as financier and outward investor. This is happening because China is getting some big things right; its neighbors are contributing to and benefiting from its success; and we are not keeping up. Consider three trends.

Asia is pooling its strengths. Despite America's outsourcing debate, investment in China is predominantly an Asian phenomenon. Three-quarters of China's $60 billion in FDI last year came from Hong Kong, Taiwan, Japan, Korea and Southeast Asia. In 2003, China's Commerce Ministry calculated that Asian investment puts up about 20,000 "manufacturing facilities" a year. These facilities mesh China's low costs and skilled workers with the technology and capital of its wealthier neighbors, strengthening all of Asia. China now intends to extend these relationships through formal preferential trade agreements with Asean, India, Pakistan, Australia and perhaps Japan. America's response to date is limited to a free trade agreement with Singapore and perhaps a later accord with Thailand. Our role in the Pacific risks erosion.

Asia's human capital is improving. The Chinese government builds about 200 new research centers a year. Since the '80s, Chinese college enrollment has quadrupled to 20 million. And students are taking the hard subjects. The Computer Systems Policy Project notes that Chinese universities now produce 200,000 engineers a year. Japanese schools produce 100,000, and smaller economies like Taiwan, Korea, Hong Kong and Singapore are much the same. America, meanwhile, has fewer native-born technology graduates than we did 20 years ago. Only 60,000 new American engineers graduate each spring. Concurrently, new visa restrictions have impaired our ability to compensate by discouraging skilled workers, scientists and aspiring students to emigrate to the U.S. Since Sept. 11, our pool of foreign graduate-study applicants has shrunk by 30%.

Asia is saving money. Chinese families save as much as 40% of GDP. Savings rates in Korea, Taiwan, Hong Kong and Japan are also exceptionally high. Meanwhile, we are borrowing. Our savings have fallen to between 1% and 2% of GDP since 2001, a level last seen in 1934. Our economic growth rests on a consumption and shopping boom, financed by China, Korea and Japan, which has pushed up current account deficits and overseas liabilities. Public opinion polls show Americans anxious despite two years of strong growth -- and rightly so.

Asia has weaknesses too, of course. Great-power relationships among China, Russia, Japan and India are uneasy. Asia's population is aging faster than ours. China in particular faces weak finances, environmental stress, severe income inequality, widespread poverty and an uncertain rule of law. And the U.S. maintains many strengths, from a robust political system to superior universities, from sophisticated environmental and intellectual property policies to special advantages in medicine and the life sciences. But if we do not recognize our weaknesses, our strengths may not be enough. * * *

How should we respond? The U.S. must develop an integrated policy to address this emerging challenge in all its aspects. Perhaps we can identify four priorities. · First, we must reduce the risk of global trade and financial imbalances. America saves and exports too little and consumes too much on credit; Asia saves too much and overinvests in real estate and export industries. This pattern poses risks for both sides. Because our current-account deficit is above 6% of GDP and we are dependent on foreign capital to finance growth, we risk financial shock and face rising long-term liabilities. Asia, for its part, is building up stocks of dollars whose value is likely to fall and relies on the mood of U.S. consumers for growth. Since responsibility for the imbalances is shared, we must together reduce them. This necessitates further currency appreciation in China, deficit reduction and personal savings incentives in the U.S., and sustained liberalization in Japan and Korea.

· Second, America needs to raise its game at home to remain the world's technological leader. To this end, our tax policy needs sharpened focus on encouraging innovation. Public investment must be reshaped to improve high-tech and traditional infrastructure. Both the government and the private sector should increase investment in research, particularly in the physical and information sciences. Federal spending on basic science (excluding life sciences) has been stagnant in real terms for three decades, and since the '70s has dropped by 37% relative to GDP. The government must also contribute to a renewal of human talent by rethinking visa policy. Waiting periods for foreign students applying to graduate schools should be cut and work-visa constraints for scientists and engineers should be eased. America also needs to create a larger network of elementary and secondary schools focused on science and technology.

· Third, America's central place in the Pacific economy must be maintained. The FTA with Singapore and the partially negotiated one with Thailand are a start, but scale matters. Regardless of the outcome of the WTO's Doha Round, ambitious agreements should be negotiated with the major Asean countries, South Korea and Japan. In addition, strengthened economic ties with India should further ensure a robust U.S. economic presence in Asia.

· Finally, American needs to restructure its economic relationship with China, and China needs to reshape its own engagement with the world. For the U.S., episodic attention to the specific issues highlighted by Congressional debates is not enough. Complaints about specific Chinese trade policies should be met through bilateral negotiations, the WTO and U.S. trade laws. Together with this must come a broad and intensified engagement with China and Asia more generally, predicated on China's own growth, its central role in Asian integration and Asia's larger role in the world economy. This requires not only rethinking American policy, but fundamental reform of global economic institutions, in particular the G-8, the IMF and APEC. As

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the world's second-largest economy, third-largest exporter, largest destination for FDI and second-largest holder of foreign currency reserves, China should be a G-8 member, not an occasionally invited guest. Korea has an economy easily comparable to Canada or Italy, and should also be a member. The IMF quota allocation is similarly undersized. China's share of contribution to IMF resources is 3%, a rate equal to Canada's and not far above Belgium's. This is far below the level of responsibility China should accept in the global financial system. APEC, too, needs a new mission, one that reignites its early vision of "free and open" trade in the Pacific and addresses four major long-term issues of common concern: energy, climate change, aging and Pacific finance.

Before all this, however, comes a first step. That is recognition by the administration, Congress, businesses and the public that we face a powerful competitive challenge, one that cannot be attributed to undervalued currencies or unfair trade. The plain fact is that our competition has gotten tougher, and we need to match it. Two hundred years ago the Chinese emperors failed. America must act now to succeed.

Ms. Barshefsky, U.S. Trade Representative from 1997 to 2001, is a lawyer in Washington. Mr. Gresser, director of trade and global markets at the Progressive Policy Institute, was policy advisor at the Office of the USTR from 1998 to 2001.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, SEPTEMBER 16, 2005 7:45 AM EDT

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TERRORISM NEWS:

Massive Anthrax Investigation Yet To Yield Results As Trail Grows Cold. In a front-page story, the Washington Post (9/16, Lengel) reports, "Four years after the deadly 2001 anthrax attacks, one of the most exhaustive investigations in FBI history has yielded no arrests and is showing signs of growing cold as officials have sharply reduced the number of agents on the case. FBI agents and postal inspectors have pursued leads on four continents, conducted more than 8,000 interviews and carried out dozens of searches of houses, laboratories and other locations." The Post adds, "FBI officials said yesterday that investigators are still working diligently to find whoever was responsible" and "said they are getting assistance from forensics experts and scientific researchers from law enforcement agencies, the intelligence community, university laboratories and private corporations."

Weldon Claims Pentagon Employee Was Ordered To Destroy Able Danger Documents. The AP (9/16, de la Cruz) reports US Rep. Curt Weldon on Thursday said that "a Pentagon employee was ordered to destroy documents that identified Mohamed Atta as a terrorist two years before the 2001 attacks." Weldon added that "the employee is prepared to testify next week before the Senate Judiciary Committee and was expected to name the person who ordered him to destroy the large volume of documents," which "Weldon described…as '2.5 terabytes' — as much as one-fourth of all the printed materials in the Library of Congress. A Senate Judiciary Committee aide said the witnesses for Wednesday hearing had not been finalized and could not confirm Weldon's comments."

Moroccan-Born Dane Denies Promoting Terrorism. The AP (9/16, Olsen) reports, "A Moroccan-born Danish citizen arrested on suspicion of promoting terrorism denied the allegations in (a Copenhagen, Denmark) court Thursday." The AP continues, "Said Mansour was arrested Sept. 8 in Copenhagen on suspicion of encouraging terrorism by calling for a Jihad, or holy war, against the West in scores of CDs, computer discs and video tapes found in his home. … In his challenge to a court order allowing police to hold him for four weeks, Mansour told the Eastern High Court that he was not a terrorist and that the material was for his personal use. The court is expected to rule Friday. … 'I have lived in this country for 23 years and I have always lived in peace,' Mansour told the court. 'I can assure you, I am no terrorist and I have nothing to do with terrorism.'" The AP adds, "In three raids on his home since November, police have seized some 3,000 CD-ROMs and roughly 500 computer disks, most containing calls for a jihad. Police also seized 161 CD-ROMs when Mansour was allegedly selling at a Copenhagen flea market in June, and 14 computer disks found in his car during a Danish-German border check in March."

Judge Denies Bail For Egyptian Student Caught With Airline Materials. The Memphis Commercial Appeal (9/16, Conley) reports, "When FBI agents walked into Mahmoud Maawad's spartan apartment…they found a desk, chair, computer and a Koran. They also found an airline pilot's uniform, a chart of Memphis International Airport, and instructional DVDs, including one called 'How an Airline Captain Should Look and Act.' A federal magistrate Thursday ordered Maawad, a 29-year-old University of Memphis student from Egypt, jailed until his trial on charges of wire fraud and fraudulent use of a Social Security number. 'The specific facts and circumstances are scary,' Asst. U.S. Atty. Steve Parker said," adding, "'we don't know either way' if Maawad is a terrorist or connected to any terror groups." The Commercial Appeal adds, "Maawad has been in the country illegally since 1999, and has used a false Social Security number to enroll in schools and open a bank account, Parker said."

Guantanamo Hunger Strike Spreads. The AP (9/16, Jacobs) reports, "A hunger strike at the U.S. prison for terror suspects in Guantanamo Bay, Cuba, has grown to its largest point since detainees began their latest protest more than a month ago, a military official said Thursday." The AP continues, "After 11 detainees joined the protest overnight, there are now 131 taking part in the hunger strike, said Maj. Jeff Weir, a spokesman for the detention center. … Twenty-one of the striking prisoners were hospitalized in stable condition at the prison medical clinic, including 20 who were being tube-fed, Weir said." The AP adds, "The military considers a hunger strike to be a form of suicide and Weir

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said that one prisoner was restrained after he resisted having a feeding tube inserted. … 'No facility in the U.S., and hopefully the world, is going to let someone starve to death,' Weir said. 'We're charged with keeping them in good health, and that's what we're doing.'" The AP notes, "Guantanamo officials said this latest hunger strike began Aug. 8 with 76 detainees protesting their confinement. It has since grown to more than a quarter of the approximately 500 detainees. … The military defines someone as being on a hunger strike after they have refused nine consecutive meals. There have been at least two previous hunger strikes, but military officials said they were not able to confirm whether this was the largest."

PATRIOT ACT:

Nebraska US Attorney Says Patriot Act No Threat To Average Citizen. KNEB-AM 960, Scottsbluff, NE (9/16) reports, "U.S. Attorney Mike Heavican told Scottsbluff Kiwanians Thursday the average citizen should not fear the expanded power authorities have under the Patriot Act. Heavican, who spoke on the issue in Sidney Wednesday and will be in Chadron Friday, says the only people who should be concerned about the legislation should be those involved in terrorist activity." KNEB-AM continues, "Heavican says authorities have always had access to library, bank and medical records for cases involving criminal investigations. Heavican says with the Patriot Act, those powers now expand to cases involving international terrorism. Heavican told the group searches into personal records can only be done if probable cause is established and if the judicial system agrees it is justified." KNEB-AM adds, "Heavican says the feds have tried to use their new authority, which includes delayed notice search warrants, sparingly and only under circumstances where somebody's life is in danger, the suspect is a flight risk, or if the investigation would be compromised."

HOMELAND RESPONSE:

Romney Reiterates Call For Increased Domestic Surveillance Of Terror Suspects. On Fox News' The Big Story With John Gibson (9/15), Massachusetts Gov. Mitt Romney discussed his call for increased surveillance of mosques and international students in the US. Romney said, "I'm sure the FBI infiltrates organizations they're concerned about. If they have probable cause, they're able to do wiretapping. … What we need to do is more of that and have more resources devoted to the FBI in their effort to do intelligence work and counterintelligence work. We don't need different tools. We need to use the tools we have got under the Patriot Act and under our current laws to assure that we really are following groups that are preaching terror…that we have the resources necessary to prevent the bombs from going off, rather than just the resources to clean up afterwards."

CNN's The Situation Room (9/15, Cafferty) reported "the Republican governor, who's considering a run for the White House in 2008, said that, when it comes to homeland security, the U.S. needs to shift its focus from response to prevention. Civil rights groups are aghast at this idea, saying his ideas are misguided and ineffective. The ACLU points out, the government already collects data on foreign students."

FBI Investigating Disappearance Of Plague-Infected Mice. ABC World News Tonight (9/15, story 5, 1:55, Woodruff) reported that in New Jersey, FBI "agents have been swarming over a bioterrorism research lab for the past two weeks after three mice infected with bubonic plague went missing. They are less worried about the public health risk than how the mice could have disappeared from a high security lab." ABC (Thomas) added that the bureau is "so concerned, it sent more than a dozen agents, including experts in bioterrorism, to interview and polygraph employees." Public health officials "believe the mice probably died very quickly and pose a low risk. So far, no evidence of foul play has been discovered. Still, the incident raises troubling questions about the security at more than 300 similar labs across the country, many of them without adequate surveillance camera coverage."

WAR NEWS:

Pentagon Touts Success In Destroying Al Qaeda In Iraq As Violence Mounts. In Iraq, four suicide bombers again struck in Baghdad, killing 31 and bringing the two-day death toll to 200, as al Qaeda in Iraq leader Abu Musab al-Zarqawi sought to inflame the ethnic and religious divisions between Sunni and Shiite Arabs. However, the US military is confident its recent operations

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targeting Al Qaeda in Iraq have been successful despite the recent violence.

The CBS Evening News (9/15, story 6, 2:00, Martin) reported it was "gruesome evidence of Abu Musab Al-Zarqawi's declaration of all-out war against the Shiites who control the government of Iraq. Zarqawi's Website claims the carnage in Baghdad is revenge for an assault by US and Iraqi troops on the town of Tal Afar near the Syrian border, a hub for insurgent operations in northern Iraq, where the US military says it has scored dramatic successes." Col. Robert Brown, commander, 25th Infantry Division: "One of the great pieces of information we got recently is 80% of the al Qaeda network in the north has been devastated." Martin: "Col. Robert Brown says the six top leaders in the city of Mosul have all been killed or captured, including this man, Abu Zaid, who was carrying a letter to Zarqawi complaining about everything from the incompetence of local insurgency leaders to the poor training of the foreign fighters being sent into the country. But US troops have cleared out other cities before, only to withdraw and have the insurgents return, facing little or no opposition from Iraqi security forces."

ABC World News Tonight (9/15, story 7, :15, Woodruff) and NBC Nightly News (9/15, story 6, 0:15, Williams) also briefly reported the story. The New York Times/AP (9/16) notes, "The latest violence only deepened the misery in Baghdad, where streets on Thursday were noticeably quieter and, in the southern Dora district, where the latest bombings were concentrated, deserted." US and Iraqi soldiers "using loudspeakers roamed the district, warning residents to stay indoors because five more suicide car bombers were believed to be in the area."

Joint US-Iraqi Forces To Continue Strikes Against Insurgents Along Syrian Border. The New York Times/AP (9/16) reports Lynch said that after the Tal Afar operation, US and Iraqi forces "were fighting to regain control of the Syrian border, near the western insurgent stronghold of Qaim, on the Euphrates River and well to the south of Tal Afar. 'We believe that the terrorists and foreign fighters are entering Iraq across the Syrian border, down the Euphrates River Valley into Baghdad,' General Lynch said."

US Military Says Zarqawi "On The Ropes." The Washington Post (9/16, A27, Knickmeyer) reports, "The top U.S. military spokesman in Iraq, Maj. Gen. Rick Lynch, said the surge in bombings represented the kind of occasional spikes in attacks that the military has been expecting. Lynch told reporters, 'Zarqawi is on the ropes.'" Lynch said, "We believe we are experiencing great success against the most crucial element of the insurgency, which is the terrorists and the foreign fighters. The face of that is Zarqawi and al Qaeda in Iraq. … We've got great intelligence which tells us where he's moving to and where he's trying to establish safe havens. As soon as we see him trying to establish a safe haven, we will conduct operations. … We're using all assets under our control in conjunction with the Iraqi security forces to find him and kill him."

Zarqawi Said To Be Drawing Increasing Support From Iraqi Nationals. In contrast to the US military's public comments, the Los Angeles Times (9/16, Miller, Marshall) reports some US officials believe Al Qaeda leader Abu Musab Zarqawi's success is increasingly attracting Iraqi nationals to his cause. The three US officials' "comments reflect the government's latest attempt to come to grips with a multi-layered insurgency that has often confounded U.S. forces and intelligence agencies." They "indicated that the infusion of Iraqis, including, apparently, former members of the Iraqi intelligence service and military, represented a change in the group's makeup rather than a major expansion." The increasing presence of Iraqis "carries ominous implications, both for the Bush administration and the fledgling, popularly elected government it supports in Baghdad."

US Definition Of Victory In Iraq Has Evolved. The Christian Science Monitor (9/16, Sappenfield) reports, "Since the day in May 2003 when President Bush stood beneath a banner proclaiming 'Mission Accomplished,' the course of the conflict in Iraq has been one of optimism followed by revision." Despite earlier expectations that US troops would be able to stabilize Iraq and leave relatively quickly, the "increasingly bracing tone from the White House and Pentagon, however, points to a new calculus. The persistence of the attacks, as well as their undiminished capacity…seems to have confirmed that the insurgency will probably outlast the American occupation." The Monitor notes, "Indeed, the inability of American forces to defeat the insurgency through strikes such as the current offensive in Tal Afar raises doubts about the possibility of any clear victory for the administration. And it could leave the Iraqis with a years-long task that many planners had not anticipated."

Talabani Confident Iraqis Can Avoid Civil War. Daniel Henninger in his column in the Wall Street Journal (9/16) recounts the details of an interview with Iraqi President Jalal Talabani who stresses that most of Iraq is

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stable and secure. The Kurdish Talabani considers himself, Shiite cleric Ayatollah Ali al-Sistani and Ahmed Chalabi as leaders working to prevent a civil war. Talabani believes that "while the Sunnis are starting to understand where their best interests lie, they lack a political center just now. The Kurds and Shiites, Mr. Talabani explains, are relatively cohesive as political entities, but the Sunnis are divided into small, often tribal groups: 'Saddam didn't permit any kind of Sunni leadership to emerge.' Right now, he said, the Sunnis need assurance that the government can protect them, as in the current joint U.S.-Iraqi offensive against the insurgents in Tal Afar." Talabani believes the new strategy of leaving Iraqi forces to secure troubled areas will succeed.

UN To Distribute Five Million Copies Of Iraqi Draft Constitution. The New York Times/AP (9/16) notes that "the United Nations planned to print and distribute five million copies of Iraq's draft constitution before the Oct. 15 referendum, a spokesman said Thursday." Spokesman Farhan Haq "said officials hoped the Iraqi Parliament would sign off on the text by Sunday."

Saddam To Face Broader Charges. The Washington Post (9/16, A27, Knickmeyer) in an article on the latest violence in Iraq also notes that one "Western official familiar with arrangements for Saddam Hussein's trial by an Iraqi tribunal, scheduled for Oct. 19, said he expected the former president to be tried in connection with a variety of crimes, including the destruction of thousands of Kurdish villages and the disappearance and killing of their inhabitants in the 1980s. Authorities so far have announced charges in only one, smaller event, the killing of 140 Shiite Muslims after an assassination attempt against Hussein in their town."

Records Detail US Abuse Of Detainees. The Los Angeles Times (9/16, Serrano) reports, "Army officers in Iraq told their superiors last year that soldiers often lacked the training to handle detainees, did not always understand what constituted abuse and sometimes used techniques against prisoners that they 'remembered from movies,' according to new military records made public Thursday." In 2004, Army IG Lt. Gen. Paul T. Mikolashek "concluded that there were no systemic failures or widespread patterns of detainee abuse," yet "according to documents generated for his report…Mikolashek was told of many incidents in which poor training and inadequate facilities created an atmosphere that fostered abuse." ACLU executive director Anthony Romero "said the new documents suggested Mikolashek brushed aside evidence that there had been abuse and significant training problems."

Female Candidate In Afghan Election Attacked. Afghani election candidate Hawa Alam Nuristani was shot in the hip by attackers who also kidnapped two of her supporters. The New York Times (9/16, Gall) reports Nuristani "was treated by American troops in the region and then evacuated to Bagram Air Base, near Kabul, where she was in stable condition." Local leaders "were gathering to try to secure the release of the kidnapped men, General Baqi said. Early reports indicated that the attackers were not Taliban fighters or other antigovernment insurgents but rival candidates, he said."

Afghans Unfazed By Pre-Election Violence, Threats. The New York Times (9/16, Sengupta) reports, "Nearly four years after the Taliban government was routed from Afghanistan by American-led forces, a newly emboldened insurgency has stepped up a campaign of threats and thuggery on the eve of the country's parliamentary and provincial elections, particularly here in the badlands of the country's south. Elsewhere, the presence of former warlords on the ballot has led to charges of voter intimidation." Yet, "what is just as remarkable is the degree to which so many ordinary Afghans seem unfazed by the threats and violence, and, on occasion, are openly defiant.

Afghans Expected To Create Coalition Government. The Christian Science Monitor (9/16, Baldauf) reports that according to Afghani candidates and foreign observers the problem with the Afghan elections "is the way in which Afghanistan's parliament was created in the country's new constitution. Voters choose candidates as individuals, not as members of a party. This creates an environment where personalities are more important than ideas, coalitions struggle to stick to common agendas, and individual MPs are more easily manipulated by the palace." But, "already there are signs that some candidates are forming three main coalitions. One, led by Northern Alliance politician Younus Qanooni, will act as a sort of permanent opposition to President Karzai, and will attempt to change the system of government to give parliament more power, including a prime minister. A second faction will be a cross section of independents from around Afghanistan, who side with Karzai on most issues. A third faction of liberal and leftist parties will swing back and forth between the opposition and

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Karzai, supporting the president on common issues, but voting against him on others."

Election Officials Worried About Warlords, Taliban On Ballot. USA Today (9/16, Wiseman) reports, "The presence of warlords and ex-Taliban officials on the ballot when Afghans vote Sunday is raising fears that figures from the past will sabotage efforts to build a stable democracy." Sam Zarifi of Human Rights Watch said, "The Afghan people need a government that is functional and accountable. … The warlords offer neither." But former Taliban administrator Mawlavi Qalumuddin "says it would be dangerous to ban warlords from the democratic process; isolated, they might turn to violence."

WPost Praises US Decision To Foster Democracy In Afghanistan. The Washington Post (9/16, A30) editorializes, "It's easy for Westerners, and even Afghans, to lose sight of how much progress" the Afghan election represents. There has been much criticism in the West of the Afghan political progress, but although "many of these critiques are legitimate, it's worth noting the tenaciousness with which many liberal Westerners have opposed every step by Afghanistan toward freedom. Four years ago…former European Union commissioner Emma Bonino was one of those who condemned the U.S. intervention against the Taliban, which she said would 'all but doom' millions of Afghans 'to death.' Now, incredibly, she leads the E.U.'s observer mission at the elections" and remains pessimistic. The Afghan "political life isn't entirely 'healthy.' But as the world will shortly see, it is immeasurably better off than it was four years ago -- and than it would have been had the United States hesitated to act."

Observers Concerned International Community Will Abandon Afghanistan. Joanna Nathan, a senior analyst in Kabul for the International Crisis Group, and Mark Schneider, the ICG's senior vice president, in an op-ed in the Washington Times (9/16) warn about the danger of allowing warlords and former Taliban who are running for election "and now seeking the mantle of a democratic mandate." Nathan and Schneider state, "It is absolutely imperative that these elections are viewed as the beginnings of democratization, not the end." Past "lessons about the consequences of abandoning Afghanistan should be fresh in everyone's mind. … If Afghanistan is allowed to slip back into being a failed state because the international community turns away after elections, that sense of discontent will be the country's major export."

DOJ:

New Detroit US Attorney Sworn In. The Detroit News (9/16, Shepardson) reports, "If nothing else, the U.S. attorney is a man who can cry. …Stephen J. Murphy III, a former assistant U.S. attorney and General Motors lawyer, repeatedly fought through tears after his formal swearing-in as the top law enforcement officer in eastern Michigan." The News continues, "A Who's Who of Michigan politicians lauded Murphy Thursday and ribbed him about his performance as an assistant U.S. attorney. … Gov. Jennifer M. Granholm and Murphy were among the 'young Turks' who served in the U.S. attorney's office in the 1990s, she noted." The News adds, "In 1992, Granholm recalled seeing Murphy fall asleep at his desk with his finger on the 'Z key.' … Granholm and a colleague responded by sending Murphy a phony memorandum sternly reprimanding him for falling asleep on the job." The News notes, "Unmentioned directly but referenced by several speakers was the continuing fallout from the botched 2003 Detroit terrorism case. … A federal judge threw out the convictions of two Arab immigrants arrested shortly after Sept. 11 after a Justice Department review found evidence of prosecutorial misconduct. … The case and a separate criminal investigation into the conduct of the former lead prosecutor are pending. … Bradford A. Berenson, a former White House counsel's office lawyer, noted that Murphy was taking over 'at a time when the office has been through some serious difficulties.' … Since taking office in March, Murphy has reshuffled the leadership in the office and issued a two-sentence mission statement. Murphy said his office 'is dedicated to doing the right thing.'"

CORPORATE SCANDALS:

Eight Former Marsh Brokers & Executives Indicted. The Wall Street Journal (9/16, Mcdonald) reports, "Eight former Marsh Inc. insurance brokers and executives were indicted yesterday by New York state's attorney general, Eliot Spitzer, on criminal-fraud charges including an alleged scheme to defraud and grand larceny." William Gilman, Joseph Peiser, Edward McNenney, Greg Doherty and Thomas Green "were indicted on charges including scheme to defraud in the first degree, and grand larceny in the first, second and third degrees." Kathleen Drake, William McBurnie and Edward Keane "were indicted

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on the same charges, but the grand-larceny charges are in the second degree."

Interpublic Accounting Problems Include Illegal Acts. The Wall Street Journal (9/16, Steinberg, Vranica) reports that Interpublic Group, with a revelation that appeared to take its "long-running accounting problems to a new level," said "an internal investigation has turned up instances of 'misappropriation of assets' and 'falsified books and records' that violated laws, mainly occurring at operations outside the U.S.," although it says "it has fired or is in the process of firing 'culpable' employees." Still, a six-month investigation "confirmed that the company would have to restate its earnings going back to 2000 as a result of several accounting error," whose "impact on our results of operations for all periods will be material," and "past financial statements shouldn't be relied upon."

The New York Times (9/16, Elliot) adds that this is "the first time in those three years that Interpublic has said that not all the errors leading to its plight were necessarily honest ones." Interpublic "has been struggling with financial and operational difficulties for three years, mostly related to weak internal controls." Analysts who follow advertising stocks" had mixed reactions to Interpublic's news," with Credit Suisse First Boston saying in a report, "If management can execute, the risk-reward on IPG is highly favorable and this is a major turnaround story."

Growing Concern Over Hedge Funds, Credit Derivatives. The New York Times (9/16, Atlas) reports, "Yesterday, the Federal Reserve Bank of New York met with representatives of 14 banks, as well as regulators from the United States and overseas, to discuss cleaning up the processing of the contracts in the booming market for credit derivatives." As "the number and influence of hedge funds have ballooned," it has "prompted concerns that if a big bet goes wrong, regulators and banks will again be caught up in a collapse. High on the list of worries is the voracious appetite of hedge funds for arcane credit derivatives."

Long Sentences For White Collar Crime Questioned. The New York Times (9/16, Sorkin) reports, "While recent lengthy sentences for white-collar crimes have been hailed by some as desperately needed deterrents after a deluge of corporate scandals…a number of lawyers, including former prosecutors, are questioning whether such sentences are justified … No lawyer is suggesting that white-collar criminals not serve time. Rather, lawyers and jurists are asking what the appropriate sentence is for white-collar crimes relative to punishments for other crimes in a post-Enron world." Jonathan Simon, a professor of law at the University of California, Berkeley, said "he had doubts about whether an especially long sentence worked as a significantly greater deterrent to potential white-collar criminals than shorter terms."

Shareholder Suit Against ITT Dismissed. The Indianapolis Star (9/16, Wall) reports, "A federal judge in Indianapolis dismissed a shareholder lawsuit against ITT Educational Services Inc. Wednesday, saying the shareholders did not adequately demonstrate securities fraud." The Star continues, "U.S. District Court Judge David F. Hamilton gave the shareholders, who had been seeking class-action status, until Oct. 14 to file an amended complaint." The Star adds, "The lawsuit had accused ITT Educational, a Carmel-based for-profit educator, of inflating enrollment figures, falsifying grades, attendance and placement records, and shredding documents just before visits by government investigators. … But Hamilton found that none of the accusations were precise or strong enough under the Securities Exchange Act and the Private Securities Litigation Reform Act, which govern shareholder lawsuits." The Star notes, "The dismissal comes less than three months after the U.S. Justice Department said its investigation of ITT Educational had found no evidence of wrongdoing by the company or its executives. The Justice Department shifted its focus to 'local issues' at individual ITT campuses."

Columnist Questions If Oracle Settlement Helps Shareholders. In his column in the New York Times (9/16), Floyd Norris reports, "Lawrence J. Ellison, the chief executive of Oracle, has settled a shareholder derivative suit, without admitting he did anything wrong, for a $100 million donation in Oracle's name to a charity chosen by Mr. Ellison." Oracle will pay $24 million to the plaintiffs' lawyers, so "the company owned by the shareholders will have that much less cash. Mr. Ellison will donate $100 million to charity." The lead plaintiffs' lawyer, Joseph J. Tabacco Jr., a partner in Berman DeValerio Pease Tabacco Burt & Pucillo, said that "Oracle would benefit because its chief executive would not be distracted by having to defend the suit,

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something one might think could have been arranged had the suit not been filed in the first place."

CRIMINAL LAW:

DOJ Urged House GOP To Block Forced Release Of Plame Documents. Reuters (9/15) reports, "The Justice Department and the special counsel investigating the leak of a CIA operative's identity pressed Congress to block legislation that would compel the administration to turn over documents related to the case, the department said in a letter released on Thursday." Reuters continues, "The Justice Department, in a letter dated September 14, said special counsel Patrick Fitzgerald had advised that producing documents and holding hearings would interfere with his investigation. The letter was sent to the House Intelligence Committee's Republican chairman, Rep. Peter Hoekstra of Michigan." Reuters adds, "Congressional Democrats have so far failed in their attempts to pass legislation that would force President George W. Bush and the departments of state, justice and defense to provide Congress with documents relating to CIA operative Valerie Plame. … Republicans on the House Intelligence Committee on Thursday rejected the legislation on a party-line vote. Republicans on the House Judiciary Committee and International Relations Committee rejected similar resolutions on Wednesday. … Republican say Congress should await the outcome of Fitzgerald's investigation. … Democrats countered that Republicans were trying to protect Bush and his top political adviser, Karl Rove."

Senate Turns Aside Ban On Internet Gambling. Reuters (9/15) reports, "The U.S. Senate on Thursday turned aside an attempt to restrict Internet gambling in a procedural move, but Sen. Jon Kyl vowed he would try again and said he expected the legislation would become law eventually." Reuters continues, "The Arizona Republican tried to attach language restricting Internet gambling to an annual spending bill that must be passed this year, but an unnamed Democrat objected to attaching an unrelated matter to the spending measure under consideration." Reuters adds, "Kyl said his legislation would require banks and credit card companies to block payments to online Internet gambling sites. He said some firms were already voluntarily blocking money transfers. … Sen. Barbara Mikulski, a Maryland Democrat, said that a member of her party had objected to attaching Kyl's language to the spending bill but she was not sure who. Kyl urged the lawmaker to come forward so the concerns could be addressed. … The U.S. Justice Department has said the laws that prohibit interstate gambling apply to the Internet. But Americans have turned to offshore gambling Internet sites as an alternative."

Counterfeiter Convicted Of Chicago Federal Courthouse Bomb Plot. The AP (9/16) reports, "A counterfeiter who sat in prison dreaming of revenge against the judge who sent him there was convicted Thursday of planning to blow up Chicago's federal courthouse. Gale Nettles, 66, was also convicted of making a fresh batch of bogus $20 and $100 bills." The AP notes that after his release from prison, "Nettles went searching for ammonium nitrate," and "the FBI saw to it that he got urea, a substance that looks like ammonium nitrate but which would not have exploded if detonated in the way that Nettles planned. Nettles then went looking for a member of Osama bin Laden's al-Qaida terrorist network. What he found was an undercover FBI agent who was posing as a terrorist. Nettles sold a batch of the urea to the undercover agent, who made many of the recordings that were played for the jury."

The Chicago Tribune (9/16, Higgins) notes, "Nettles' defense attorney, John Theis, argued that the FBI entrapped Nettles by, among other things, having an undercover officer repeatedly offer to sell him the fertilizer. But Assistant U.S. Atty. Brandon Fox disputed that in his closing arguments Wednesday." Fox told jurors, "This was something he was going to do from the beginning. ... He was going to take down this building."

Missing Chicago Mob Figure Again Contacts Attorney By Mail. The AP (9/16, Robinson) reports, "Missing reputed mob figure Joseph 'Joey the Clown' Lombardo has written a new letter to his attorney disputing testimony from an FBI agent, the attorney said Thursday." Rick Halprin "said the letter was postmarked Chicago and dated Aug. 25. He said two Chicago newspaper clippings were in the envelope. … Halprin said the letter takes issue with testimony before the Illinois Gaming Board by John Mallul, the head of one of the FBI's Chicago-based organized crime squads. … Mallul testified that in May 1999, Lombardo and other mob figures and mob associates met with Donald Stephens, the mayor of the tiny suburb near O'Hare

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International Airport. … Halprin said Lombardo denies it in his letter."

WMAQ-TV Chicago (9/15, Marin) also reports about the letter on its Web site from a story broadcast Thursday. WMAQ notes, "Lombardo has said he's willing to take truth serum or a lie detector test alongside the FBI agent to see who is telling the truth." The Chicago Sun Times (9/16, Marin, Toomey) adds, "Rosemont Mayor Donald E. Stephens adamantly denied under oath Thursday that he met with the mob in 1999 to talk about a casino for his town. And, in an ironic twist, a reputed mob boss on the lam is backing him up." The Sun Times goes on to report the details of the Lombardo letter.

Mob Informant Claims FBI, New Jersey Officials Framed Gangster. The New York Sun (9/16, Capeci) reports, "A turncoat Luchese mobster who helped authorities nail two suspects in the deadly Seton Hall arson five years ago has now turned the tables on law enforcement, claiming that a high-level FBI agent, together with New Jersey investigators, have knowingly kept an innocent man incarcerated for 12 years for a murder he didn't commit." Thomas Ricciardi, "whose cooperation has also led to convictions of mobsters and mob associates, alleged that the officials learned they had wrongly convicted the gangster," Martin Taccetta, "just four days after he was found guilty in 1993." Yale Law professor Steven Duke told the Sun, "The evidence clearly establishes an audacious, pervasive conspiracy by many New Jersey law enforcement agencies, including the FBI, that is comparable to the disgraceful conduct of FBI agents who framed innocent men for murder in Boston in the 1960s."

Bonanno Figure Sentenced To 20 Years For Mob Murder. Newsday (9/16, DeStefano) reports, "Anthony Urso, the driver for Bonanno boss Joseph Massino who briefly took over command of the crime family in 2003, was sentenced to 20 years in prison for the killing of a mob associate." Urso "pleaded guilty earlier in the year to taking part in the murder of Anthony Tomasulo. Tomasulo, a Bonanno family associate, was killed in May 1990 after he allegedly failed to pass along some of his illegal gambling proceeds from joker-poker machines to the crime family administration, officials said."

Chicago Lawyer Alleges Contracting Scheme By Blagojevich, Fundraisers. The Chicago Sun Times (9/16, Fusco, McKinney, Fornek) reports, "Gov. Blagojevich and two top fund-raisers schemed to steer lucrative state pension deals to investment firms and consultants who agreed to donate to Blagojevich's campaign, a key figure in a widening corruption probe claims he's been told. The unproved but explosive allegation surfaced Thursday in a federal plea deal by Chicago lawyer Joseph Cari," who "pleaded guilty to attempted extortion for his role in a kickback scheme the feds say was directed by former state teacher pension board member Stuart Levine." The Sun Times notes, "Cheryle Jackson, Blagojevich's communications director, downplayed the credibility of Cari's statements. 'This is speculation based on testimony from an admitted extortionist who was told this by someone twice accused of extortion himself.' Jackson said the feds have not contacted the governor." The Chicago Tribune (9/16, Pearson, O'Connor) notes Cari "said he was told that a 'high-ranking Illinois public official' was behind" the kickback scheme. Blagojevich "was peppered with questions about the plea agreements at an unrelated news conference but said he had no knowledge of them."

Former Landscaping Executive Pleads Guilty To Bribery. The Chicago Tribune (9/16, Higgins) reports former landscaping company executive John Kevin Haas "on Thursday admitted his role in a scheme to pay $137,000 in bribes to a Chicago Park District official to help win $8 million in contracts at Millennium Park and other city properties." Haas "admitted he made arrangements to send former parks official Shirley McMayon to a Wisconsin resort in 2000, bought a computer for her son and helped orchestrate other payoffs. Haas, who has agreed to cooperate with prosecutors, described bribes to McMayon that included cash, ski vacations and $22,000 to help pay off McMayon's loan on a Dodge Durango. The plea deal calls for Haas to be sentenced to 2 years, 7 months in prison, forfeit $350,000 in wrongly obtained profits and pay restitution of $49,000."

Veteran Connecticut Lawmaker Resigns Amid Corruption Probe. The New York Times (9/16, Stowe) reports veteran Connecticut state Sen. Ernest E. Newton II resigned in Bridgeport "on Thursday morning in a fiery speech on the steps of City Hall." Newton "was the target of a raid on his office in February by the Federal Bureau of Investigation in connection with an inquiry into a job training program here. The head of that program, Warren Keith Godbolt, pleaded guilty on Aug. 2 to charges that included

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offering a $5,000 bribe to an unnamed public official in exchange for securing a $100,000 state grant." The Times notes Newton "has not been charged. He said on Thursday that he was resigning from his Senate seat for the sake of his family."

Ohio County Seeks FBI Probe Of Tech Firm Loan. The Hamilton Journal News (9/16, Brooks) reports, "The Butler County Commissioners unanimously agreed Thursday to sever an agreement with a fiber optics firm," Dynus Technologies, "and request an FBI investigation into why the firm obtained multi-million-dollar loans in the county's name, allegedly without commissioners' approval." The Journal News notes Cincinnati FBI spokesman Michael Brooks said, "We have received the complaint from the commissioner. We'll make a determination if an investigation should be conducted."

Florida Town Records Subpoenaed In Federal Embezzlement Probe. The Gainesville Sun (9/16, Voyles) reports, "About two years ago," Bronson town councilman Aaron Edmondson "started asking questions about why some new lights on the mayor's property looked so much like the new lights the town had just received. Edmondson's curiosity led to a joint local and state investigation into embezzlement that ended with the mayor, James Blaine 'Jamie' Griffin, going to state prison and the town clerk, June Greenlee, being put on probation. On Thursday an FBI agent served a subpoena on the town for its financial records. … Mayor Beatrice Mongo said she expects the federal government will dig even deeper than state officials dug."

Federal Agents Raid Pennsylvania Technical School. The Philadelphia Daily News (9/16, Caparella) reports that on Thursday "agents from the FBI and the U.S. Department of Education Inspector General's office raided" Philadelphia's Harrison Career Institute "at four of its 15 locations…said FBI spokeswoman Jeri Williams. In the past month, the Department of Education accused the school of alleged fraud in its federal financial-aid program." Harrison's "programs certify students to become licensed practical nurses, dental technicians, home health assistants, among other jobs." The Daily News adds, "The agents took boxes of records and other materials from four floors at the Walnut Street site."

Attorney Testifies Gotti Threats Made Him Change Legal Strategy. The New York Law Journal (9/16, Perrotta) reports, "The former attorney for Frank LoCascio, a co-defendant of John Gotti Sr. in a 1992 murder and racketeering trial, testified Thursday that he tailored his defense strategy to suit Gotti after the now deceased mob boss threatened him. … 'He would take care of me -- and I knew what that meant,' the attorney, Anthony Cardinale, said Thursday during an evidentiary hearing in Brooklyn federal court." The Journal continues, "The alleged threat, he said, came during a break in the trial while Cardinale was cross-examining the prosecution's star witness, Salvatore 'Sammy the Bull' Gravano. … Cardinale had considered asking Gravano if he knew that LoCascio was not involved in one of the central charges of the indictment, the murder of Louis DiBono. But after Gotti spoke with him, Cardinale said, he did not ask for fear of making LoCascio look better at the expense of Gotti. … 'I was afraid, if that's what you're asking, yes,' Cardinale told LoCascio's appellate lawyer, Herald Price Fahringer of Lipsitz, Green, Fahringer, Roll, Salisbury & Cambria." The Journal adds, "Cardinale also said he did not meet with LoCascio alone after Gotti told him not to, and changed the tenor of his overall defense and his closing arguments to emphasize Gotti's innocence. … Under questioning from Assistant U.S. Attorney Thomas Firestone, however, Cardinale would not say that his actions constituted an ethical breach or ineffective assistance of counsel. … Cardinale, a Boston attorney, was testifying at a hearing that was ordered in January by the 2nd U.S. Circuit Court of Appeals. The circuit asked Eastern District Judge I. Leo Glasser to determine if LoCascio received ineffective assistance of counsel and deserved a new trial."

Woman On FBI's Most Wanted List Surrenders. The CBS Evening News (9/15, story 12, 1:35, Schieffer) reported, "One of the FBI's most wanted fugitives is in custody today, more than a decade after she stole millions of dollars from a Las Vegas casino." CBS (Hughes) added, "It appears to be a heavy conscience that brought Heather Tallchief back to Las Vegas." Twelve years ago "she was the driver of an armored car making a routine drop off at the Circus, Circus Casino, when she drove off with more than $3 million … She now claims Roberto Solis brainwashed her and planned every detail of the crime himself, from the moment she drove away from the casino."

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The New York Times (9/16, Archibold) reports that Heather C. Tallchief, "walked into a federal courthouse…and surrendered." She said she "she was in Europe much of the time, out of reach of the money and working as a hotel maid." Tallchief "was ordered held on charges that included bank larceny, fraud, conspiracy and making false statements to obtain a passport." She claims she was "a victim of… brainwashing" by suspected accomplice, Roberto Solis. "Tallchief said she decided to abandon her flight for the sake of her son, who she fears will ultimately suffer consequences of her crime."

The AP (9/16, Ritter) reports, "Attorney Robert Axelrod, her lawyer, was with Tallchief when she surrendered at U.S. District Court in Las Vegas. He said she was tired of hiding, and wanted her 10-year-old son to have a chance at living a normal life. … Axelrod said Tallchief was an impressionable 21-year-old who blindly followed a persuasive older boyfriend in the Oct. 1, 1993, theft. The boyfriend, Roberto Solis, is now 60 and is still a fugitive on the FBI's Most Wanted list. … Tallchief maintained she was only following Solis' instructions and doesn't know where Solis is now, although they have a son together."

FBI Internet Sex Solicitation Sting Snares Us Weekly Editor. The AP (9/16) reports, "An Us Weekly gossip writer found himself on the wrong side of the police blotter after being charged with trying to seduce an FBI agent posing on the Internet as a 13-year-old girl. Us Weekly suspended Timothy McDarrah, editor of the Hot Stuff column, without pay, a magazine spokesman said Thursday. McDarrah responded in June to a posting on the craigslist.com Web site offering introductions to the 'freshest, youngest' girls in New York, an FBI affidavit said. The gossip writer told an undercover FBI agent…that he would pay $200 for sex with a 13-year-old girl, the affidavit said. After McDarrah failed to show up for a meeting, the agent began sending instant messages in his guise as a 13-year-old girl. … On Wednesday, the agent wrote, McDarrah e-mailed that he was waiting at a building the agent had described as the 13-year-old girl's address. FBI agents went there and arrested McDarrah."

Convicted Massachusetts Voc-Ed Scam Artist Seeks Early Release. The AP (9/16) reports, "A former payroll clerk convicted with three others of swindling thousands of dollars from a city-run vocational school has asked a federal judge (in Springfield, MA) for early release from a halfway house." The AP continues, "Jamie Dwyer, 54, has served two months of a six-month sentence at a halfway house in Hartford, Conn., for her role in a no-show job scheme that bled about $50,000 from the Massachusetts Career Development Institute. … Dwyer was convicted of fraud, conspiracy and lying to FBI agents. U.S. District Judge Michael A. Ponsor sentenced her to the halfway house, to be followed by six months home confinement. … But she said she doesn't need the mandatory group counseling and drug-testing at the facility, The Republican of Springfield reported Friday. … 'The Hartford House's rehabilitative mission causes me to be subjected to restrictions and rules that are unnecessary and demeaning,' Dwyer wrote in an affidavit filed Tuesday in U.S. District Court. … 'I have been gainfully employed throughout my adult life,' Dwyer continued. 'I successfully raised two children. I do not have problems with alcohol or substance abuse, and I have historically respected authority and the rights of others. I do not need counseling regarding those issues.'" The AP adds, "Gerald Phillips, MCDI's former executive director, was sentenced to 21 months in prison. Luisa Cardaropoli was sentenced to 15 months in prison for pocketing thousands of dollars from a no-show job she got through Giuseppe Polimeni, who was sentenced to one year in prison. … The charges against all four sprang from an ongoing investigation into public corruption in Springfield that began about five years ago and has netted several indictments and convictions."

DNA In 450 Criminal Cases Was Tested In Lab Where Examiner Falsified An Entry. The Washington Times (9/16, Gertz, Scarborough) reports in its "Inside the Ring" column, "The Army has compiled a list of more than 450 criminal cases whose DNA was tested by a laboratory where an examiner has admitted to making a false entry in one case. The list includes defendants from military installations across the country and around the world, from the Air Force Academy to Incirlik Air Base in Turkey. The blood testing dates back to 1995. The exams are being reviewed by the U.S. Army Criminal Investigation Laboratory in Forest Park, Ga. In a memo, the laboratory is asking staff judge advocates — the military's lawyers — to contact the Army Criminal Investigative Command about any cases involving DNA."

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Waiter's Assailant Sentenced In Dupont Circle Killing. The Washington Post (9/16, B2, Cauvin) reports that Kurt Williams, "the lookout as" Adrien Alstad, a waiter, "was robbed and fatally shot" near Dupont Circle, was sentenced to "the maximum 15 years that the sentencing guidelines recommend for voluntary manslaughter." Judge Judith E. Retchin said "the killing was not…a single, 'youthful act' but rather part of 'a series of crimes' … The judge acknowledged that Williams" is mildly retarded, "'had a terrible childhood' and 'suffered all types of abuse,'" but also noted that he, "in the days that followed Alstad's death," committed "another robbery" and, "when he was spotted by police, he ran."

AU Lays Off Chef As Part Of Probe Into President's Spending. The Washington Post (9/16, B9, Strauss, Kinzie) reports, As American University's Board of Trustees' "is close to completing a months-long probe of" University President Benjamin Ladner, they let go his personal chef, Rodney Scruggs, and Nancy Bullard Ladner, social secretary for the president and his wife, "has been transferred." It "was not clear why the board eliminated Scruggs's position now; he had been employed by the university since 1996. University presidents are expected to entertain a great deal as part of their fundraising and other duties, so many rely on caterers or, less commonly, chefs."

Search For VA Student Now Criminal Investigation. The Washington Post (9/16, B1, Smith) reports, "Although there is still no evidence that she has been harmed, the search for missing Virginia Commonwealth University freshman Taylor Marie Behl was upgraded yesterday to a criminal investigation, and an Amber Alert was issued in the case late last night." The decision was "based on three factors: The search involves a juvenile; more than a week has passed without a solid lead in the 17-year-old's disappearance; and an increasing number of tips are coming in because of national media coverage."

Diaz Photographer Gets Prison Time. The Los Angeles Times (9/16) reports that the photographer John Rutter "was sentenced Thursday to prison for trying to extort $3 million for nude pictures of superstar Cameron Diaz he had taken early in her career … Rutter's attorney, Mark Werksman, called the July trial a battle between a 'rich and famous celebrity' and a 'hardworking photographer.' Deputy District Attorney David Walgren downplayed the celebrity aspect of the case in statements to reporters, saying that, had the victim been someone other than Diaz, the case still would have been prosecuted 'in the same courts' and 'in the same manner.'"

CIVIL LAW:

Bush Endorses Base Closure Plan. President Bush has endorsed a plan for closing 22 major military bases and reconfiguring 33 others, the Washington Post/AP (9/16, A4, Riechmann) reports. The report "will become final in 45 days unless Congress acts to reject it in full. Communities probably have little hope of a reprieve for their bases, as lawmakers have never rejected such reports." The AP adds, "Bush's submission of the report comes as his administration and Congress are preoccupied with aiding the hurricane-ravaged Gulf Coast and other priorities. A GOP-led effort in the Senate to derail the base-closing process, which Republican leaders feared could embarrass them, has fizzled."

CIVIL RIGHTS:

Gonzales Says US Will Challenge Pledge Ruling. The AP (9/16, Sherman) reports, "Attorney General Alberto Gonzales said Thursday that the Justice Department will fight to overturn a federal court ruling that the Pledge of Allegiance can't be recited in public schools because it contains a reference to God." The AP continues, "Gonzales said the pledge is one of several expressions of national identity and patriotism that mention of God but don't violate the Constitution's ban on state-sponsored religion. … The high court 'has affirmed time and again that such official acknowledgments of our nation's religious heritage, foundation and character are constitutional,' Gonzales said in a statement a day after the ruling by U.S. District Judge Lawrence Karlton in Sacramento." The AP adds, "Karlton's decision could put the issue on track for another round of Supreme Court arguments. The court sidestepped the issue last year, ruling atheist Michael Newdow had no standing to bring the case on behalf of his daughter because he did not have custody of her. … The Bush administration had opposed Newdow on the same basis that Gonzales set forth Thursday. Newdow also is involved in the latest case, acting

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as attorney for three parents challenging the pledge because it includes the words 'under God.'" The AP notes, "Gonzales is widely viewed as a leading contender for retiring Justice Sandra Day O'Connor's seat on the Supreme Court because he is close to President Bush. Gonzales' statement of support to keep 'under God' in the pledge could appeal to religious conservatives, who have expressed concerns about him as a potential justice because he has not stated opposition to the 1973 Roe v. Wade decision legalizing abortion."

Knight Ridder (9/16, Puzzanghera) reports, "Sandra Banning, the Sacramento, Calif.-area mother of the girl who helped trigger the legal battle over the Pledge of Allegiance that flared anew this week, came to the nation's capital Thursday with a pledge of her own: … To do everything she can to keep the pledge in schools and the phrase 'under God' in the pledge." Knight Ridder continues, "The day after a Sacramento federal judge revived the controversy by ruling that reciting the pledge in public schools is an unconstitutional violation of the separation of church and state, Banning's efforts became intertwined with the Senate Judiciary Committee hearings for Supreme Court nominee John G. Roberts Jr. … Banning publicly urged his confirmation in hopes that he would rule against the case brought by her 11-year-old daughter's father, Michael Newdow, the atheist and amateur lawyer who has argued before the Supreme Court that the pledge should be kept out of public schools. And to help rally support for the Pledge of Allegiance as the case works its way again toward the high court, she's forming a grass-roots advocacy group, the 'One Nation Under God Foundation,' affiliated with the conservative Traditional Values Coalition. … Banning and other Roberts supporters said they hoped the pledge issue would give an additional boost to his nomination." Knight Ridder notes, "Thursday, the Senate condemned the ruling, and Attorney General Alberto Gonzales said the Justice Department would again 'defend the ability of American school children to pledge allegiance to the flag.'"

Local Television. KUSA-TV Denver (9/15, 10:08 p.m.) reported, "Attorney general Alberto Gonzales says the Justice Department will fight to overturn a federal court decision banning the Pledge of Allegiance from public schools. A district judge in California yesterday ruled that teacher-led recitation of the pledge is unconstitutional because it contains a reference to God. The Senate voted today to condemn the judge's ruling. Gonzales argues the pledge is one of several expressions of national identity and patriotism that mention God but don't violate the constitution's ban on state-sponsored religion."

This story was also covered by KNSD-TV San Diego (9/15, 11:12 p.m.), WITI-TV Milwaukee (9/15, 9:17 p.m.), WBRC-TV Birmingham (9/15, 10:14 p.m.), WOI-TV Des Moines (9/15, 10:19 p.m.), KHGI-TV Lincoln (9/15, 10:11 p.m.), KSWO-TV Wichita Falls (9/15, 10:01 p.m.), KPSP-TV Palm Springs (9/15, 11:03 p.m.), and WEWS-TV Cleveland (9/15, 11:13 p.m.).

DOJ Settles Boston Voting Rights Suit. The AP (9/16) reports, "The Justice Department said Thursday it has dropped its voting rights lawsuit against Boston after city officials agreed to provide voting materials in Chinese and Vietnamese, and to allow federal observers to monitor polling places." The AP continues, "The agreement comes six weeks after the federal government filed a lawsuit — part of what it said is a national initiative — alleging that Boston's election practices discriminate against Hispanic and Asian American voters who do not speak English. … 'The city of Boston is to be congratulated for agreeing to resolve this matter in a constructive and forward-looking manner,' Bradley J. Schlozman, acting assistant attorney general for the department's civil rights division, said in a news release announcing the agreement." The AP adds, "When the suit was filed, Schlozman alleged that Boston's violations were 'deeply disturbing.' … A city lawyer at the time called the claims 'unsubstantiated.' City officials said they already provide ballots in English and Spanish. … Seth Gitell, a spokesman for Mayor Thomas Menino, said Thursday the agreement does not say the city did anything wrong. 'What the city objected to originally was to signing a consent decree and acknowledging wrongdoing,' he said."

WPost Praises State Rejections Of Anti-Gay Marriage Amendments. An editorial in the Washington Post (9/16, A20) says, "For the second time in as many weeks, a state legislature has bucked the ugly trend of writing discrimination against gays into state law. Last week, the California Assembly voted to allow same-sex marriage. This week, lawmakers in Massachusetts decisively rejected a proposed constitutional amendment to overturn the state's Supreme Judicial Court decision acknowledging gay marriage rights. … The vote shows that as people grow used to gay marriages, which have been taking place in Massachusetts for more than a year, their discomfort -- and

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the political impetus for banning them -- diminishes." Public opinion "is moving in the right direction, and the reason is not hard to discern: Since the high court's ruling went into effect, a lot of couples have tied the knot in Massachusetts, and, somehow, the sun has continued to rise in the east. Many people are realizing that it costs heterosexual marriage nothing for same-sex marriage also to exist. The longer people have to absorb that lesson, the more support for banning marriages between committed couples is likely to erode."

ANTITRUST:

Microsoft, Time Warner Discussing Online Partnerships. The AP (9/16, Linn) reports, "Microsoft Corp. and Time Warner Inc. have been discussing potential online partnerships that would help the two companies better compete against rivals Google Inc. and Yahoo Inc., two people familiar with the talks said Thursday." The AP continues, "They two said the discussions have been going on for months and that any possible deal is not imminent." The AP adds, "Microsoft and AOL — who just two years ago settled a bitter antitrust lawsuit over Microsoft's tactics in the Internet browser market — are discussing possible collaboration in search technology, online advertising and instant messaging, said the two sources, one of whom is an executive with Time Warner's America Online unit. … The other source, who works closely with Microsoft and has been involved in company discussions on the possible partnership, said the talks have heated up in the last couple weeks but are not advanced." The AP notes, "The AOL executive said one aspect of the talks originally centered on using Microsoft's new MSN search engine on AOL, replacing AOL's current relationship with Google. … More recently, the executive said, the two companies have been talking about the possibility of deeper relationships, such as collaborating in the lucrative market of selling advertising online. … Such a collaboration could allow the two companies to benefit from growing interest in search-based advertising, helping them better compete against search leaders Google and Yahoo. … But, the executive said, 'the discussions are not advanced.'"

Reuters (9/16, Li) reports, "Talks of a Microsoft stake in the AOL division was one of several scenarios under review, a separate source familiar with the matter said. 'There has been discussions about Microsoft investing in Time Warner,' one source said, who also said nothing was imminent." Reutes adds, "A combination would create the single largest Internet audience pool by unique visitors and forge a formidable online competitor in a field currently led by Yahoo Inc. and Google Inc. … AOL and MSN would have a combined unique audience of about 167.8 million, although there would likely be duplicates. This compares to Yahoo's 101.3 million unique visitors and Google's 80.4 million in August, according to Nielsen/NetRatings." Reuters adds, "Broad discussions on how the two companies could work together began two years ago after the companies settled a long-running antitrust suit that America Online, a unit of Time Warner, filed against the software giant, the source said."

Microsoft-AOL Talks Show Concern Over Google. The Wall Street Journal (9/16, Angwin, Guth) reports, "Demonstrating its growing concern about Google Inc., Microsoft Corp. has entered talks with Time Warner Inc. about taking a substantial stake in the media giant's America Online unit." The talks "centered on whether AOL would switch to using Microsoft's search engine instead of Google's," but "also included discussions of combining the advertising sales forces of AOL and Microsoft's MSN online service."

USA Today (9/16, Acohido, Petrecca) adds, "No deal is imminent."

The New York Times (9/16, Hansell) adds that the two companies "explored a variety of possible combinations of the MSN Internet portal with the America Online operation of Time Warner, including a merger of the two into a new company that would be jointly owned … Some important issues in the talks remain undecided. For example, both AOL and Microsoft want to control a combined instant messaging system, which each company sees as strategically important technology. Another question is how much traffic Microsoft would direct to the combined venture."

The Washington Post (9/16, D1, Vise) adds, "Time Warner has made it clear that it wants to continue to own a substantial chunk of AOL."

Deal Reflects Shifting Goals For Microsoft & Time Warner. The Wall Street Journal (9/16, Angwin, Guth) reports that this indicates "a strategic shift for Time Warner, which had long resisted pleas from some investors to get rid of all or part of its ailing Internet arm," as well as "how Microsoft now sees Google as a major adversary."

The New York Times (9/16, Hansell) adds, "Microsoft is trying to focus its Internet operations on its developing Web search product rather than its Web portal and Internet access

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business, which it no longer sees as strategically important. Microsoft offered to sell its MSN Internet portal and dial-up subscriber business both to America Online and to Yahoo."

The Washington Post (9/16, D1, Vise) adds, "The talks, reported yesterday by the New York Post, are part of a broader set of discussions between Microsoft and Time Warner that began following an antitrust settlement between the companies two years ago

Agreement Could "Shake Up" Internet Search Landscape. USA Today (9/16, Acohido, Petrecca) reports, "Industry analysts said, if consummated, the deal could shake up the world of Internet search." Kevin Lee, chairman of search marketing firm Did-it.com said "a key driver behind a strategic alliance" could be AOL and MSN's potential to "tap into archived demographic data they already keep on subscribers."

The Washington Post (9/16, D1, Vise) adds, "One source familiar with the talks said he considered a transaction combining AOL and MSN as complicated and a long shot. But he said that if the parties can figure out how to create more value by joining forces, a deal of some kind remains possible."

The New York Times (9/16, Hansell) adds that one stumbling block may be "disentangling Microsoft's contract with NBC" as Time Warner owns the rival CNN network.

ABN Reached Tentative Agreement To Buy Antonveneta. The Wall Street Journal (9/16, Kahn, Taylor) reports, "ABN Amro Holding NV's tentative agreement to buy a 30% stake in Banca Antonveneta SpA from Banca Popolare Italiana Scarl after a bitter battle clears the path for the first-ever takeover of a large Italian bank by a foreign lender and could pave the way for more, a prospect that seemed remote just several weeks ago … The sale, which values Antonveneta at €8.2 billion ($10 billion) and was agreed to late Wednesday, still faces legal and regulatory hurdles. It would give control of Antonveneta to ABN just two months after ABN's cash offer for the bank failed," at an expected price of €26.50 a share, "the same price it made in its failed public offer this summer."

Merger Between Delta, Northwest Wouldn't Be Surprising. USA Today (9/16, Adams) reports, "The twin Chapter 11 bankruptcy filings" by Delta Air Lines and Northwest Airlines, "almost simultaneous and in the same New York courthouse, are leading many industry experts to believe the carriers may be exploring a merger within bankruptcy protection … The minimal route overlap is considered an advantage with federal regulators," who would have to be convinced that "the combination would not significantly reduce competition, or that one or both of the airlines would fail without the merger."

Legislation Would Promote Competition In Broadband Services. The House Energy and Commerce Committee has released draft legislation that would require broadband providers to allow their subscribers to view any legal online content. The Washington Post (9/16, D2, Mohammed) says the policy is "aimed at keeping big Internet companies from restricting access to competitors' Web offerings." The Post calls the measure a "victory for advocates of 'net neutrality' -- the idea that Internet providers have to stand aside and allow customers to access any Web pages as long as the content is legal. The principle is considered crucial to preserving the open nature of the Internet and preventing big broadband providers from squeezing out smaller competitors that offer voice, video or other services."

EU Probe May Lead To Banking Changes. The AP (9/16, White) reports, "A European Union antitrust inquiry into retail banking may lead to changes in the way European banks are regulated, EU Competition Commissioner Neelie Kroes said Thursday." The AP continues, "She said an ongoing investigation may be widened to see how regulation affects customer choice. … 'Do public rules that may have a legitimate objective end up making markets more rigid and limit competition and consumer choice?' she asked European regulators at a twice-yearly meeting in London. 'We want government to protect the consumer, but we also need to protect the consumer from the government.'" The AP adds, "The EU launched its investigation earlier this year, saying it wanted to look at areas where it thought competition was not functioning as well as it might. … Kroes said it was hard for consumers to get clear comparative information about products to allow them to make informed choices."

EU Court Reduces Antitrust Fine Against Daimler Chrysler. Bloomberg News (9/16) reports, "A European Union court today annulled most of a 72 million-euro ($88 million) antitrust fine against DaimlerChrysler AG, ruling that the regulator was wrong to say the automaker

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broke EU law in Germany and Spain." Bloomberg continues, "DaimlerChrysler, the world's fifth-largest carmaker, was fined in 2001 for breaking EU free-trade laws by instructing dealers in Spain, Germany, the Netherlands and Belgium not to sell to bargain hunters from other EU nations between 1985 and 1996. … The European Court of First Instance in Luxembourg cut the fine to 9.8 million euros, saying in a statement today that DaimlerChrysler acted 'unilaterally' in Germany and therefore didn't break EU rules. In Spain, the automaker acted in line with national legislation, the court said. The tribunal upheld the EU's decision about the company's Belgian operations." Bloomberg adds, "The European Commission, the EU's Brussels-based antitrust regulator, has sought to bring down car prices by dissolving the exclusive ties between carmakers and dealerships. Starting in October 2002, the EU rules broke carmakers' lock on sales networks, permitting dealers to expand and sell different brands in the same showroom."

The AP (9/16) reports, "In Spain, the EU court said DaimlerChrysler followed local law by forcing leasers to link each car with a contracted customer. The Commission had argued that this prevented local dealers from stocking up on Mercedes vehicles and created an artificial shortage. But the court said the Spanish law was 'not contrary' to any EU law and overturned the (US$18.47 million) fine."

ENVIRONMENT/INDIAN AFFAIRS:

States Due US Over Invasive Beetles. The AP (9/16, Gormley) reports, "Four states sued the Bush administration Thursday over an invasive, tree-eating beetle that has entered the U.S. as a stowaway on cargo ships." The AP continues, "The Asian long-horned beetle, along with the emerald ash borer and the pine shoot beetle, are the culprits named in the lawsuit by attorneys general from New York, California, Connecticut and Illinois." The AP adds, "The states are seeking a court order to require the Agriculture Department to examine more effective and less environmentally harmful ways to prevent the insects from entering the country, said New York Attorney General Eliot Spitzer. … State officials say the insects would cause extensive economic and environmental damage if they move from cities like New York and Chicago to working forests." The AP notes, "The pests enter the country in wooden pallets and wood-based packaging. The state officials contend that federal officials use a 'marginally effective' pesticide, which is being phased out under an international treaty as unsafe to humans. … Also, they said the USDA is following a new rule that requires wooden shipping pallets and other wood packaging material carrying imports to be treated with heat or sprayed with methyl bromide, a chemical the state officials say depletes the ozone and could be a cancer risk."

NYTimes Says Utah Site Is Good Place For Nuclear Fuel Rod Storage. The New York Times (9/16) editorializes, "While few people outside Utah were paying close attention last week, the Nuclear Regulatory Commission authorized the licensing of a private storage plant for spent nuclear fuel rods on an Indian reservation some 50 miles southwest of Salt Lake City. Utah's outraged political leaders pledged to use every legal and political trick available to block the project even though, as representatives of a very conservative state, they supposedly abhor bureaucratic or judicial interference with private corporate decisions." The Times adds, "We remain hopeful that Yucca can qualify as a permanent disposal site. But if Yucca fails to pass muster with the Nuclear Regulatory Commission, the nation will need a centralized surface site to fill the gap until a safe burial location can be found. The Indian reservation in Utah can fill that purpose."

Appeals Court Panel Postpones Lamberth Hearing. A federal appeals court panel has postponed a hearing about whether US District Judge Royce Lamberth has lost the appearance of impartiality in a case involving money the US government may owe Native Americans. The Washington Post (9/16, A29) says the panel "was scheduled to consider another dispute in the case along with the government's unusual July request to remove Lamberth as the presiding judge. … But the three-judge panel issued an order late yesterday saying they will instead refer the issue of Lamberth's perceived fairness to a later panel of judges considering another appeal dispute in the case, Cobell v. Norton . That means that the Justice Department is not likely to hold a hearing on its complaints about the judge until spring, based on the appellate court's already full schedule this year."

FBI/DEA/ATF/USMS:

Prominent Miami Lawyer To Plead Guilty Today To Drug Trafficking Charges. The

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Miami Herald (9/16, Weaver) reports, "In February, federal agents rustled a prominent lawyer out of bed to bust him at his Miami Beach waterfront home. Today, Samuel I. Burstyn is scheduled to plead guilty to scheming with his former clients to obstruct a federal grand jury's investigation into their drug-trafficking operation and himself. … He must forfeit about $200,000 and is expected to lose his law license. U.S. District Judge William J. Zloch has insisted on a 'full confession' from Burstyn at the Fort Lauderdale plea hearing, according to a court document filed Tuesday." The Herald notes Assistant US Attorney Brian McCormick "and fellow prosecutor Michael Dittoe have said Burstyn acted as 'house counsel' for marijuana smugglers Jeffrey Tobin, David Tobin and others."

U.S. Coast Guard Intercepts 2 Tons of Cocaine. The AP (9/16) reports Colombia's anti-narcotics police chief said Thursday that "the U.S. Coast Guard, acting on Colombian intelligence, intercepted a ship towing an unmanned submarine-like vessel that held more than 2 tons of cocaine." Gen. Alberto Gomez said the boat was raided Wednesday off the coast of the Ecuadorean-owned Galapagos Islands. "The underwater capsule, which was attached by a metal cable, was designed so smugglers could tow it below their boat and escape detection if drug agents searched the ship." In another incident, "2.5 tons of cocaine was discovered Wednesday hidden in the oil tanks of a ship docked in the Colombian Pacific port of Buenaventura…Eight suspects were arrested." It's believed the cocaine was heading to Central America, and from there it would have possibly been shipped to the U.S.

'Mob Associate' Doesn't Deliver On Plea Agreement. The Providence (RI) Journal (9/16, Malinowski, Stanton) reports, "Mob associate Alan Blamires was set to plead guilty Thursday to charges that he guarded a large shipment of cocaine that was passing through Rhode Island last winter." But "the plea agreement fell apart when Blamires told Chief U.S. District Court Judge Ernest C. Torres that he was 'fuzzy and blurry' from medication to control his violent tendencies and did not understand the charges against him…'I have pertinent information about Joseph Bevilacqua that I'm trying to get to the prosecutors,' said Blamires." Bevilacqua is a defense attorney and has been the target of a DEA investigation. "DEA agents have spoken to Courtney Calenda, an East Greenwich teenager, who has accused Bevilacqua of sexually assaulting her and supplying her with cocaine."

Missouri Men Enter Pleas In Drug Trafficking Case. The Standard Democrat (9/16) reports two Southeast Missouri men entered guilty pleas on drug charges in federal court. Adrian L. Lewis and Joe Lenzie Turner both pleaded guilty to the distribution of cocaine base. "With his plea, Turner admitted that on May 20, 2005, he distributed a substance containing base to a confidential informant. Specifically, Turner gave the informant 5.4 grams of cocaine base in exchange for $300." U.S. Attorney Catherine L. Hanaway commended the DEA and the Sikeston Police Department for their combined efforts to prosecute the case.

Judge Sentences Meth Convict, Blasts His Actions. The Lynchburg (VA) News and Advance (9/16, Waugh) reports, "Despite several tearful pleas from friends and family, a Lynchburg federal judge blasted a Rustburg man Thursday for his role in the selling of methamphetamines. 'You don't know how many lives were destroyed … Generations of others will be coming through this courtroom because of his actions. You're old and in pain. That's not an excuse,' U.S. District Judge Norman K. Moon said. Moon didn't believe Clayton 'Sonny' Keyes' story that he only started using meth in 2001 because his back pain had become so painful, and that he began selling the drug only to support his addiction. Keyes, 55, pleaded guilty in April 2004 to conspiracy to distribute more than 15 kilograms of methamphetamine and possession of a firearm. He has already served two years in jail since his arrest. On Thursday, Moon gave Keyes nearly 10 additional years in prison, despite calling the prosecutor-recommended sentence 'overly generous.'"

U.S. Accuses 'Prince of Pot' Of Conspiring to Distribute Marijuana. The Missoula (MT) Independent (9/16, McQuillan) reports Marc Emery, aka the "Prince of Pot," is scheduled to have his first extradition hearing on Sept. 16. At the request of the U.S. government, Emery and two of his employees were arrested July 29 by Canadian police on U.S. charges of conspiring to distribute marijuana and marijuana seeds and money laundering. The Independent continues, "though DEA agents paint Emery as a greedy drug trafficker, Emery says he's dedicated the last 15 years to the cause of marijuana legalization and has donated

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all business proceeds—$4 million—to the movement and its activists, both in Canada and the United States."

The Guardian (9/16, Campbell) reports, "One of the world's leading cannabis legislation campaigners, a magazine publisher known as the 'Prince of Pot', faces an extradition hearing today in Vancouver as American drugs agencies seek to put him on trial in the US. His supporters claim the move is a first step by US authorities to prosecute foreigners who challenge the US laws on cannabis."

U.S. Removes Venezuela From List Of Allies In War On Drugs. The Tallahassee (FL) Democrat/KRT (9/15, Dudley, Bachelet) reports, "President Bush has taken Venezuela off his list of allies in the war on drugs, saying that the government of President Hugo Chavez spurned anti-drug cooperation with U.S. officials and fired its effective law enforcement officers. But the White House waived the cuts in U.S. foreign aid usually attached to the "decertification" so that it can continue to support Venezuelan pro-democracy groups that oppose the leftist Chavez." According to the White House, Venezuela has "failed demonstrably" to reduce the flow through its territories of about 150 tons of cocaine and increasing amounts of heroin. "Only last month, Chavez ordered his government officials to stop cooperating with the U.S. Drug Enforcement Administration (DEA), accusing it of espionage and drug trafficking."

The AP (9/15, Gedda) reports, Venezuela's populist president, Hugo Chavez, "had no direct comment Thursday on Bush's action but used the occasion of his presence at the United Nations summit of world leaders to take a verbal swipe at Bush. 'Mr. Bush represents the most crude and savage imperialism that threatens the world,' Chavez said."

Plan Colombia Under Scrutiny As Expiration Date Nears. Knight Ridder (9/16, McCaffrey) reports, "The six puppies looked fine at first. But when Colombian police gave them a closer look they found fresh scars on their bellies that told a different story. … The tiny Labradors and Rottweilers had been surgically converted into drug couriers: cut open with several plastic packets of heroin stitched into their abdomens." Knight Ridder continues, "Even the hardened Colombian police, who discovered the puppies at an abandoned house in a rural area outside of Medellin, had never seen anything like it. Traffickers were apparently going to ship the dogs to the United States saying they were pets. It's almost certain they would have been discarded as soon as their valuable cargo was removed. … 'The better we get at catching them the more creative they get,' said Mark Styron, supervisor of the U.S. Drug Enforcement Administration's Heroin Group in Bogota. 'That's always the problem.'" Knight Ridder adds, "Much of the cocaine and heroin that ends up for sale on the street corners of the United States begins in the rich soil of this conflict-ridden South American country. And staying ahead of the smugglers is expensive. Since 2000, the United States has sent $4.5 billion to Colombia to help battle drug trafficking. … That six-year program, known as Plan Colombia, is set to expire at the end of this year. … Although the Bush administration and Congress have signaled a willingness to continue funding at current levels for at least another year, some are questioning whether the money has been effective in stemming the tide of drugs to the United States."

Prosecutors Seen As Out Of Step With Public On Dying Debate. In an editorial, the Los Angeles Times (9/16) says that aging and dying are more and more "in the public eye," and among "the demands being raised is better control of pain, which has caught doctors between a desire to alleviate suffering and the US war on drugs." Specific examples here usually "fall in a gray area, involving doctors who may have crossed a legal or ethical line, whether out of compassion or greed. The larger problem is the message that all doctors receive from aggressive efforts to curb opiate abuse, and their resulting reluctance to sufficiently treat severe pain and other suffering." The Times states, "Federal criminal prosecutions have usually involved…charging pain management specialists, who often handle very tough cases, with overprescription or outright sale of controlled drugs." Again, "most such cases are far from clear-cut, except perhaps in the eyes of federal prosecutors." In other words, the government's "drug policy and honesty about the blurred line between compassionate treatment and medical euthanasia" has failed to keep pace with the "debate over what constitutes a 'good death.'"

North Carolina Man Held On Pipe Bomb, Firearms Charges. The Roanoke Rapids (NC) Daily Herald (9/16) reports, "Hamming it up for the camera, Michael Thomas Carpenter was taken into federal custody Tuesday for possessing pipe bombs and a cache of guns in

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his house outside Garysburg (NC)." The Herald continues, "Led to a blue Ford Expedition by an agent with the Bureau of Alcohol, Tobacco and Firearms, the 34-year-old, upon seeing a photographer, exclaimed, 'What a wonderful justice system we have in America.' … He asked the agent escorting him if he would slow down so he could pose for the camera and at one point gave a cheesy grin." The Herald adds, "Asked if he was surprised to be federally charged for having three pipe bombs, Carpenter said, 'No, sir. The feds have to do their jobs so we're going to go with them as calmly and peacefully as we can. God bless America.'" The Herald notes, "Since his arrest on local charges in July, Carpenter was being held in the Northampton County Jail for possession with intent to sell and deliver marijuana, possession of drug paraphernalia and possession of a weapon of mass destruction. … Capt. George Reed of the Northampton County Sheriff's Office said Carpenter was trying to run the jail while he was there, first being held on $525,000 bond for the local charges and then under no bond on a federal detainer. … ATF agents Tuesday took Carpenter to Greenville, where he would appear before a federal magistrate. … ATF charged Carpenter with possession of a destructive device and possession of firearms by a convicted felon. The federal agents said anyone in possession of explosive weapons must have them registered. The three pipe bombs State Bureau of Investigation agents detonated behind Carpenter's house off Taylor Road in July were not registered."

ATF Finds Fake Explosives In Deserted New Orleans Home. The AP (9/15, Foster) reports, "National guardsmen and ATF agents patrolling the dark, deserted streets of New Orleans early Thursday found what appeared to be a bomb inside one of the homes vacated when Hurricane Katrina ripped through the city." The AP continues, "The guardsmen found what looked like six sticks of dynamite and a detonator along with a bag of ammunition and marijuana. They notified the New Orleans Police Department which, in turn, asked the Bureau of Alcohol, Tobacco and Firearms to respond because their own bomb squad equipment was flooded in the wake of the storm. … 'It had all the characteristics of a real device,' ATF explosives specialist Johnnie Green said of the suspect device." The AP adds, "His agents placed an 'interrupter' device on the one in question to try to detonate it and found out it was a hoax. 'It was a good one,' Green said, 'especially in these conditions,' referring to the blacked-out street. … Charlie Smith, an ATF special response supervisor, said finding the device should serve as a 'wake-up call for every guy going through these houses.' … Earlier in the week, he said they found a house with nine devices, 50 guns and a photo of the owner wearing a German uniform and Hitler-type mustache. 'He evidently was a collector. He had a ton of stuff,' Smith said."

Van Carrying Federal Inmates, US Marshals Struck In Florida. The AP (9/16) reports, "Nine federal inmates and two U.S. Marshals were taken to area hospitals Thursday after their van was forced off Interstate 95 and rolled at least twice — an incident allegedly caused by a hit-and-run driver." The AP continues, "Marshals were taking the inmates southbound on I-95, from the federal courthouse in Fort Lauderdale to a federal detention center in Miami when a vehicle hit a Geo Tracker, said U.S. Marshals Service spokesman Barry Golden." The AP adds, "The Geo spun out of control, hitting the Marshals' van and forcing it off the road. No one inside the van was critically injured, although one inmate was hurt more seriously than the others, Golden said. … Golden said security was never an issue."

IMMIGRATION:

Voinovich Questions ICE Nominee's Qualifications. Senators told Julie Myers, President Bush's pick to head Immigration and Customs Enforcement, that they are still considering a plan to reorganize the agency. The Washington Times (9/16, Waterman) adds that "one Republican expressed doubt that she was qualified for the job." During Myers' confirmation hearing before the Senate Committee on Homeland Security and Government Affairs, Sen. George Voinovich told the nominee, "I'm really concerned about your management experience," adding, "I think that we ought to have a meeting with [Homeland Security Secretary] Mike Chertoff...to ask him...why he thinks you're qualified for the job," because "based on your resume, I don't think you are." Sen. Susan Collins "raised the issue of merging ICE with another agency founded from the breakup of the Customs Service and INS -- Customs and Border Protection (CPB), which polices the nation's ports of entry."

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TAX:

KPMG Tax Inquiry Widening To Include Others. The New York Times (9/16, Browning) reports, "Ever since the accounting firm KPMG reached a $456 million settlement of a federal investigation into abusive tax shelters nearly three weeks ago, the question has been who may be next. Federal prosecutors have said that their criminal investigation is widening, and attention is increasingly turning to the role played by banks, financial advisers and law firms that worked with KPMG and other accounting firms to create and sell such shelters … Deutsche Bank in particular has been a target of lawsuits from wealthy investors who sought to shield millions of dollars from taxes and bought shelters that did not pass muster with the Internal Revenue Service," and "a barely noticed lawsuit indicates that Deutsche Bank had a much deeper involvement in creating and helping to sell a questionable tax shelter known as Cobra."

CONGRESS-ADMINISTRATION:

Roberts Concludes Testimony Before Senate Judiciary Committee. Chief Justice nominee John Roberts yesterday concluded his testimony before the Senate Judiciary Committee, which also heard from several witnesses for and against the nomination. The panel is scheduled to vote Thursday on Roberts' nomination. The network coverage was limited to about one-and-a-half minutes total. As in this morning's newspaper stories, TV reports focused on Roberts' assurance that he is "not an ideologue." The stories predicted he will win confirmation, and much of the coverage portrays the debate over Roberts as the precursor to an all-out battle over President Bush's next Supreme Court nominee.

ABC World News Tonight (9/15, story 6, :35, Woodruff) reported Judge Roberts "seemed determined to paint a fuller picture of himself." The CBS Evening News (9/15, story 11, 0:40, Schieffer) reported Roberts "returned to the theme of his opening statement, assuring the senators he had no political agenda for the Supreme Court." Barring "any last minute surprises, Roberts is headed toward Senate confirmation." NBC Nightly News (9/15, story 7, 0:30, Williams) reported, "Two Democrats on the committee said today they're not sure how they'll vote. One of them, New York's Senator Chuck Schumer, said he wakes up in the middle of the night wrestling with his decision."

The AP (9/16) noted Roberts told "wary Democrats that ideologues don't belong on the Supreme Court. He said his record shows he will rely on the law, not personal views." The AP adds, "Persistent grilling by Democrats on the Judiciary Committee made no apparent inroads in Roberts' support among the Senate's majority Republicans, who plan to vote the week after next to make him the nation's 17th chief justice."

Knight Ridder (9/16, Kuhnhenn) says Roberts' "performance during four days before the Senate Judiciary Committee wowed even many Democrats, who conceded they were torn between admiration for his intellect and his modest judicial demeanor versus his reluctance to reveal more about his views on legal issues." Republican strategists "predicted a near straight party-line vote next week in the Republican-run committee, which includes some of the Senate's most liberal and most conservative members. But even there, some Democrats were struggling with their votes. … In the full Senate, signs emerged of bipartisan support for Roberts, especially from so-called 'red-state Democrats.'"

The Los Angeles Times (9/16, Savage, Schmitt) quotes Roberts saying, "I'm not an ideologue," adding that "with that comment, he aptly summarized the case he made for himself during four days of hearings on his nomination as the Supreme Court's chief justice." His "approval is virtually assured." The Washington Post (9/16, A6, Goldstein, Becker) used identical language, saying Roberts' confirmation is "virtually assured." The Post adds, "Some conservatives were alarmed last month over the disclosure that he had helped gay activists win a landmark Supreme Court in 1996." But "Roberts testified yesterday that he would have been equally willing to represent the opposing side, the state of Colorado, if it had asked for his help first." Reuters (9/16, Ferraro, Cowan) also says both Democrats and Republicans are predicting Roberts "will be confirmed to head the Supreme Court."

USA Today (9/16, Biskupic) adds that "with Roberts likely to win Senate confirmation," Bush "soon will pick a successor for Sandra Day O'Connor, a more moderate justice who has been a key vote in preserving, among other things, abortion rights and affirmative action in college admissions. That's why the coming battle over her replacement likely will be more contentious than the one over Roberts."

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The Dallas Morning News (9/16, Jackson, Pusey) reports some "aides said Democrats, without such a filibuster, might seek to keep Judge Roberts' vote under 60 – sending a message to the administration that Democrats could muster the numbers for a filibuster the next time around."

A similar USA Today article (9/16, Kiely) says "the big question surrounding" Roberts is how the vote "will affect President Bush's next Supreme Court pick. … An important factor in the Democrats' strategy: how best to position themselves for the next Supreme Court debate."

The Los Angeles Times (9/16, Reynolds, Simon) says that "many Democrats had feared that Bush would nominate a judge in the mold of Justices Antonin Scalia and Clarence Thomas, but Roberts took pains during his testimony to distance himself from some of their views." Moreover, "according to Democratic calculations of the balance of liberals and conservatives on the court, Roberts' confirmation to replace the late Chief Justice William H. Rehnquist would substitute one conservative for another."

The New York Times (9/16, Liptak) reports, "At times, Judge Roberts's limited conception of the judge's role struck Democrats as evidence of a cramped approach to the law from a lawyer more taken with technicalities than with justice." Roberts "declined to second-guess positions he had taken as an advocate arguing that a student who had been sexually abused was not entitled to damages and that a death row inmate could not present new evidence of his innocence if certain deadlines had passed."

Another New York Times piece (9/16, Stolberg), headlined "Frustrated By Roberts, And Unsure How To Vote," says Roberts' "unflappable performance during three days of questioning has clearly put Democrats in a quandary." Some "say a strong vote against his nomination could prod the White House into naming a centrist to fill the vacancy created by the retirement of Justice Sandra Day O'Connor, a crucial swing vote. Others say that supporting the Roberts nomination could make Democrats appear reasonable, giving them more credibility to oppose the next nominee."

The Washington Times (9/16, Hurt) says "among those Democrats being closely watched is Sen. Dianne Feinstein of California, who has said she will not support a nominee who will undo federal abortion rights. 'I don't really know what I'm going to do with respect to voting for you or against you,' she told Judge Roberts yesterday."

The Legal Times (9/16, Goldman) reports, "After two lengthy days of interrogations, Thursday's session was essentially cleanup time for the Democrats, several of whom besides Schumer still wanted to question the witness. … It was clear, however, as had been true since the first day of questioning, that Roberts was going to remain a disciplined nominee, rarely commenting on any case or issue that might one day appear before the Court. … But as in Wednesday's hearing, in which Roberts did reveal some slivers of his legal thinking, Thursday's session also provided a few glimmers of his views, and not merely a recitation of hornbook legal principles about precedent."

The Wall Street Journal (9/16, Bravin, Cummings) notes that while Roberts "frustrated some Democrats who said he was avoiding answering their questions, he gave Republicans no assurance that he was sympathetic to their causes." He "demurred, for instance, when Sen. Sam Brownback (R., Kan.) asked 'whether the unborn child is a person or is a piece of property.'" However, "Republicans professed no doubts about…Roberts, who himself offered no objection when Sen. Lindsey Graham (R., S.C.) praised him as a 'strict constructionist.'"

Charles Krauthammer writes in his Washington Post column (9/16, A31) editorializes, "Roberts denies that he has any ideology, any 'overarching judicial philosophy,' and is nothing more than an ad hoc, bottom-up type of guy. Maybe he is. Maybe he isn't." But "he knows that if he dares to say otherwise, he gets Borked." Krauthammer goes on to predict "two things: (a) Chief Justice Roberts will vote to uphold Roe v. Wade , and (b) his replacing his former boss, Chief Justice William Rehnquist, will move the court only mildly, but most assuredly, to the left -- as measured by the only available yardstick, the percentage of concurrences with the opinions of those conservative touchstones, Scalia and Thomas."

Meanwhile, the New York Times (9/16, Toner, Kirkpatrick) reports "liberal advocates warned Thursday that confirming…Roberts Jr. as chief justice of the United States would threaten hard-won progress on civil rights and women's rights." On the final day of the hearings, "liberals were arrayed in full force before the Senate Judiciary Committee: civil rights leaders, leading feminists and reproductive rights advocates, all warning about the importance of the court in the lives of average Americans." In "one emblematic moment," Rep. John Lewis, "the Georgia Democrat severely beaten during the civil rights movement, told the committee that he feared a Roberts court would 'no longer hear the people's cries for justice,' and no longer act as 'a sympathetic referee'' because of his philosophy of

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judicial restraint." The Washington Post (9/16, C1, Davis) also notes the civil rights leaders' comments, adding "the 18 committee members are all white -- 17 men and one woman, Sen. Dianne Feinstein (D-Calif.). There have also been only a handful of people of color witnessing the proceedings, be they activists from the right or left, students or simply those who wanted to observe history."

Under the headline "Final Day Of Nomination Hearings: Yawn," the Washington Post (9/16, A6) reports, "As Democrats proceeded through their final round of questioning, the Republicans did not conceal their boredom." Sen. Tom Coburn "yawned. Brownback closed his eyes and rubbed his brow." Sen. Lindsey O. Graham "let out a big yawn and fixed his hair. Five GOP staffers shared a joke, then passed a note to Sen. Orrin G. Hatch (Utah), who read it, looked over at the Democratic side and chuckled."

However, the Washington Times (9/16, Hurt) reports, "Sen. John Cornyn turned the tables on Democrats yesterday, transforming the confirmation hearings for Judge John G. Roberts Jr. into one of the nastiest partisan conflicts the Senate Judiciary Committee has seen in recent years. Throughout the four days of hearings, Democrats called for the release of internal legal documents Judge Roberts wrote while working in the Solicitor General's Office. Republicans said those documents fall under attorney-client privilege and cannot be released." The Times adds, "Fed up with the repeated pleas, Mr. Cornyn, Texas Republican, reminded the Democrats on the panel of their stunned outrage when some of their own internal records wound up in public. … He was making reference to 14 internal memos that were downloaded from Democratic computers by two Republican staffers and were published by the Wall Street Journal and The Washington Times. The memos revealed a cozy relationship between Democrats on the Judiciary Committee and outside groups with special interests in the federal judiciary."

DNC Intensifies Attacks On Roberts. The Washington Times (9/16, Pierce) reports in its "Inside Politics" column, "The Democratic National Committee yesterday stepped up its attacks on Judge John G. Roberts Jr., with DNC Chairman Howard Dean saying that the Supreme Court nominee was 'the wrong man at the wrong time for our country.'" In an e-mail fundraising solicitation to Democrats, Dean wrote, "The skills John Roberts displays are like those of White House Deputy Chief of Staff Karl Rove or House Republican Leader Tom DeLay. Both of those men have sharp political minds — they are among the smartest in Washington. But they use those skills to push a narrow ideology and win at any costs." Dean added, "Roberts has spent a career using the law to protect corporate interests and roll back the rights that protect us all."

Hispanic Chamber Of Commerce Calls For Gonzales' Supreme Court Nomination. WDJT-TV Milwaukee (9/15, 5:05 p.m.) reported, "The Hispanic Chamber of Commerce is holding its national convention in Milwaukee this week. Today the chamber officially endorsed John Roberts as the next chief justice, and called for attorney general Alberto Gonzales to be nominated to the high court."

Bush Pledges Federal Effort To Rebuild Areas Ravaged By Katrina. President Bush addressed the nation last night from New Orleans, pledging a massive and sustained federal effort to rebuild the region devastated by Katrina, and taking responsibility for the failures in the relief effort. The AP (9/16, Pickler) says Bush "promised tonight the government will pay most of the costs of rebuilding the hurricane-ravaged Gulf Coast in one of the largest reconstruction projects the world has ever seen." The President is quoted saying, "There is no way to imagine America without New Orleans, and this great city will rise again." Knight Ridder (9/16, Hutcheson, Bolstad) adds Bush "went further than he ever had in acknowledging the missteps and accepting responsibility." Said Bush, "Americans have every right to expect a more effective response in a time of emergency. … When the federal government fails to meet such an obligation, I as president am responsible for the problem, and for the solution."

Bush received generally positive media reviews for his speech. Even the New York Times editorial page (9/16), which is often critical of the President, writes this morning that "once again, as he did after 9/11, Mr. Bush has responded to disaster with disconcerting uncertainty, then risen to the occasion later. Once again, he has delivered a speech that will reassure many Americans." Bush's address is being portrayed as a attempt to put his presidency back on track after what many considered a lackluster performance in the immediate aftermath of the storm. As the Christian Science Monitor (9/16, Feldmann) says this morning, "As New Orleans and the devastated Gulf Coast region look ahead to rebuilding and renewal, so, too, President Bush is digging out from the political damage hurricane Katrina has wreaked on his presidency."

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All three networks ran the speech live, and ran previews of if in their regular evening newscasts which included excerpts of Bush's remarks from advance copies. After Bush's message, ABC and NBC offered extensive commentary, while CBS quickly returned to regular programming.

On NBC (9/15), Tim Russert said, "I think the President demonstrated to the country he understands the magnitude of this crisis. But because we are three weeks into the crisis, one speech alone will not solve his political problems. … The remaining three years of his Presidency will be devoted to this, and he also has to deal with the problem of the racial divide and that three out of four Americans believe their government is not prepared to protect them if there is another crisis or disaster. It's a tall order. He began tonight, but it must be sustained, complicated and difficult and overseen on a steady, unrelenting way."

On ABC (9/15) after the President's speech, Ted Koppel said Bush "has just given a speech quite breathtaking in terms of the depth and breadth of its commitment." A bit later, ABC's Dean Reynolds spoke with a group of African-American Katrina evacuees in the Reliant Center in Houston. Pressed for their views of Bush's speech, all found reason for optimism and expressed hope at the thought of returning home to New Orleans. In one representative exchange, Reynolds asked Connie London, "You heard the President say repeatedly that you are not alone, that the country stands beside you. Do you believe him?" Connie London: "Yeah, I believe him, because here in Texas, they have truly been good to us. I mean…" Reynolds: "Did you get a sense of hope that you could return to your home one day in New Orleans?" London: "Yes, I did." After hearing the short "focus group" with the Katrina evacuees, Koppel remarked, "If the national response is reflected by that small group of people in the parking lot of the Astrodome, the President has made some major progress tonight." The New York Times (9/16, Saulny) runs a piece echoing the same sentiments, under the headline "Evacuees Find Comfort And Encouragement In Speech."

The Wall Street Journal (9/16, McKinnon) calls the speech "hopeful and sympathetic," adding it was "crafted at least in part to revive his political fortunes," while the Los Angeles Times (9/16, Gerstenzang, Chen) says Bush "offered a broad vision of a nation pulling together in common purpose portraying the effort in grand terms." Los Angeles Times media critic Paul Brownfield (9/16), meanwhile, praises the speech's staging. He writes, "Bush…could have given this speech from the Oval Office, but he came to stake his own version of being there. And he chose the only kind of postcard left on the racks -- the impossibly serene one."

The New York Times (9/16, Bumiller) notes "Bush delivered his speech, carried live by the major television networks, in the middle of the city's darkened French Quarter, where Army troops from the 82nd Airborne Division were on patrol. The Bush White House, well practiced in the art of presidential stagecraft, provided its own generators for the lighting and communications equipment that beamed Mr. Bush's remarks to the nation."

Local officials in areas affected by Katrina also expressed satisfaction with Bush's remarks. On ABC (9/15), Koppel spoke with Jefferson Parish President Aaron Broussard, who said, "This was a speech I waited for the President to say. It was compassionate. It was specific about relief, it gave hope. This is what we need more than anything right now, is hope. In politics, it's all about tomorrow. It's not about yesterday. The blame game can go on in Congress. It can go on in the media, but here locally we still need this relief that the President stated. I was glad to hear it. Thank you, Mr. President."

On ABC (9/15) Koppel spoke with Louisiana state Sen. Cleo Fields, who was in Baton Rouge. Fields said he thought President Bush "made it very clear tonight that, listen, we made mistakes, but that mistake won't happen again. And I would hope that the President will live up to his commitments, and I have every reason to believe that he will. And let's move forward."

Likewise, Mississippi Gov. Haley Barbour said on CNN's Larry King Live (9/15), "I thought there were three things that are really very important. First is the president saying Washington is not going to try to dictate the solutions that the people in Mississippi, in my case, the people down on the gulf coast and in south Mississippi, the damaged areas, they're going to make the decisions about how to rebuild, what they want, what their own community should be about. He did make it very plain the second crucial thing that the federal government understands that it has a major commitment here. It's going to be required to support financially what we do, particularly in areas of public infrastructure. But the last thing and I think crucially by this Gulf Opportunity Zone he recognized that really at the end of the day it's the private sector that's going to rebuild the coast, that's going to provide the jobs that it's going to be crucial to whether we're successful and what I'm committed to and

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that's building the Mississippi gulf coast bigger and better than ever before."

GOP Sen. Richard Shelby said on CNN's Larry King Live (9/15), "I thought it was a very compelling speech. I thought it was sincere. He passed the buck to no one. He accepted it in the mold of President Truman. He admitted a lot. He admitted that no one was prepared. And that means the federal government, the state and the local governments. He was very, very honest, upfront. I think this is a new beginning. It's also a big commitment on the part of the president, and he's committed to Congress, even perhaps tied us down to doing more than some people wanted to do -- not more than I wanted to do, but more than some."

Not all commentary was positive. The Wall Street Journal (9/16, McKinnon) reports that Democratic congressional leaders "criticized Mr. Bush's plan for being long on comforting words, but short on action." In an analysis piece, USA Today (9/16, Keen) says, "Unlike in the aftermath of 9/11, there are few signs now of a pause in political partisanship, and Bush's plea for unity seems unlikely to end criticism." Sen. John Kerry said after the speech, "No American doubts that New Orleans will rise again, they doubt the competence and commitment of this administration." Democrats "said it's too late for Bush to regain the aura of decisiveness that sustained him in other crises. 'The fundamental positive feelings the American people had for him are gone,' said Joe Lockhart, a former press secretary for President Clinton."

Meanwhile, some commentators said the speech lacked a defining moment to change the public's perception of Bush. Mark Whittaker of Newsweek said on CNN's Larry King Live (9/15) that Bush's speech did not contain a "bullhorn moment," adding, "First of all, I think it's too late. I think the response that probably a lot of people had is, this all sounds very good, but why are we hearing it weeks after the event rather than days? On the responsibility issue, he made it sound like this was just a problem that was so overwhelming that nobody could deal with it. And he never accounted for the days when our reporting, other people's reporting shows that things could have been done; they just weren't. I mean, he talks about how he's -- he made it clear that there was a need for broader federal authority in the use of troops."

Former presidential adviser David Gergen said on CNN's Larry King Live (9/15), "I agree with Mark Whitaker, that this was not a bullhorn moment, if that's what the White House was seeking. But it was a strong, confident speech, and I do think it will give reassurance to the people of the Gulf region, that the government -- the federal government, after its faulty beginning, is at last on their side. And it was particularly -- I think it was welcome not only that the president took personal responsibility, but that he's taking the issues of poverty more seriously."

William Schneider said on CNN's Lou Dobbs Tonight (9/15) that Bush "has one thing going for him as he tries to regain the initiative. He has kept his base. Every leader needs a base. Your base are the people who are with you when you're wrong. This president's base is not abandoning him. Eighty-five percent of Republicans stand behind President Bush. His allies defend him. … President Bush has been there for his conservative base, and they're now there for him."

Before the President's speech, NBC Nightly News (9/15, lead story, 3:15, Gregory) reported, "Tonight's speech is one critics say Mr. Bush should have made sooner." Michael Beschloss, NBC News presidential historian: "He's got the opportunity tonight to make Americans think he's the leader that took them through 9/11. Their sense of that has been often absent in the last couple of weeks." ABC World News Tonight (9/15, lead story, 2:45, Moran) reported, "What the White House aides want this speech to do is help the President do what presidents can do in crisis situation. Rally the country around them. Rise above it all. They acknowledge, he starts from a difficult position on this crisis."

That area is the subject of much analysis in this morning's newspapers. The Washington Post (9/16, A1, Balz), under the headline "A Bid To Repair A Presidency," says "the clear subtext was the rebuilding of a presidency that is now at its lowest point ever." More evidence of that, says the Washington Times (9/16, Lakely), comes from the latest Fox News/Opinion Dynamics poll, which shows "Bush's approval has slipped in the polls since the federal government's initial response to Hurricane Katrina." It is now at 41%. However, "his speech last night from the devastated Gulf Coast promised an unprecedented federal spending effort and may mark the beginning of a political turnaround."

The New York Times (9/16, Stevenson) says "it was not the president's most stirring speech, but it conveyed a sense of command far more than his off-key efforts in the days immediately after the storm, when he often seemed more interested in bucking up government officials than in addressing the dire situation confronting hundreds of thousands of displaced and desperate people." But "if the

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speech helped him clear his first hurdle by projecting the aura of a president at the controls, it probably did not, by itself, get him over a second: his need to erase or at least blur the image of a White House that was unresponsive to the plight of some of the country's most vulnerable citizens and failed to manage the government competently."

Democrats Offered "Pre-Buttal," Said Region Needs "Marshall Plan." The Washington Times (9/16, Dinan, Debose) reports, "Democrats yesterday said the Gulf Coast needs a Marshall Plan to get back on its feet and that President Bush should seek more aid. … Speaking hours before Mr. Bush's televised address last night, Sen. Harry Reid and House Minority Leader Nancy Pelosi, California Democrat, said the government must be prepared to spend on education, health care and other services to make the region whole again."

CNN's The Situation Room (9/16, Henry) reported Reid and Pelosi "stuck a finger in the collective eye of the president and congressional Republicans up here, questioning the priorities on how they're going to spend the money to rebuild the region, also Senator Reid coming out very hard and writing a strong letter to Senate Majority Leader Bill Frist saying he will not participate in this joint House-Senate investigation of what went wrong. Democrats see a political opportunity and they're playing hardball."

CNN's The Situation Room (9/16, Blitzer) noted Democrats came out with a "pre-rebuttal, if you will. They're coming up with criticism, not even knowing specifically" what Bush "is going to be announcing tonight." CNN (King) added, "They are well aware that this president is at one of the weakest points, if not the weakest point, politically, of his presidency. … So the Democrats are trying to say that now -- don't make this disaster a laboratory for ideological ventures like school vouchers for those displaced children or tax credits instead of direct money to rebuild things. So you're going to have an ideological a fight. There are some Democrats who say we should turn the volume down a little bit, step back and let this play out. The president's in trouble. Let him continue to be in trouble. Let's not push him. But especially the liberal base of the Democratic party, they see the president weak. They think in the past they have made a mistake of not challenging him immediately and loudly. This time they're going to challenge him."

Conservatives Worried About Increased Spending. The Wall Street Journal (9/16, Calmes) reports "the open-ended commitment by President Bush and congressional leaders to rebuild New Orleans and the Gulf Coast is stoking anger among conservatives over the Republican government's record of higher spending and debt." While "no Republican in Congress is opposing federal aid that already totals $62 billion and is expected to exceed $200 billion, " the party's "conservative wing, led yesterday by Oklahoma's Tom Coburn in the Senate and Rep. Mike Pence of Indiana in the House, is calling for offsetting 'sacrifices' in federal spending. And they're backed by a growing chorus of conservative activists, columnists and bloggers."

In fact, Pence, Coburn, and Sen. John McCain are proposing that the Medicare drug benefit passed by the last Congress be delayed in order to fund the hurricane relief effort. Pence said on Fox News' Big Story with John Gibson last night (9/15) that he, Coburn, and McCain are calling for cuts in government spending, specifically "pork barrel" spending. Also, he said, they are recommending to "delay the rollout of the new Medicare prescription drug entitlement for one year, saving taxpayers some $40 million that we could spend on Katrina."

Under the headline "GOP Split Over Big Plans For Storm Spending," the New York Times (9/16, Hulse) quotes Coburn saying, "I don't believe that everything that should happen in Louisiana should be paid for by the rest of the country. I believe there are certain responsibilities that are due the people of Louisiana." Meanwhile, Sen. Jim DeMint, "called for restoring 'sanity' to the federal recovery effort." The Washington Times (9/16, Dinan) quotes DeMint saying, "Our government needs to take stock of what America is already doing -- the money that has already been contributed -- and see that we have a better role supporting what America can do on its own."

USA Today (9/16, Benedetto) notes Bush "put no price tag on the overall effort or his proposals to help evacuees find jobs and give them a chance to get free federal land for new homes. So far, the government has spent more than $13.7 billion of the $62.3 billion approved by Congress. The final cost is expected to be much higher." He "proposed three initiatives requiring congressional approval: An 'opportunity zone' in Louisiana, Mississippi and Alabama to give tax incentives to businesses that create jobs and loans and loan guarantees to small businesses. Recovery accounts of up to $5,000 for job training, education and child care for each evacuee seeking a job. A lottery to give low-income citizens of the region free federal land. In return, they would pledge to build homes on the lots."

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USA Today (9/16, Drinkard) says the funds already spent by the government include "$7.2 billion for Louisiana, where flooding devastated New Orleans; $4.8 billion for Mississippi and $1.5 billion for Alabama."

Meanwhile, the Washington Post (9/16, A1, VandeHei, Baker) says Bush "committed the nation to a plan that officials and lawmakers believe could top $200 billion, roughly the cost of the Iraq war and reconstruction," and which "promises to reorient government for the balance of the Bush presidency." The Washington Times (9/16, Curl) adds Bush "did not directly address how the federal government would pay for the massive project."

More Commentary On Bush's Speech. The New York Times (9/16) writes in an editorial, "Once again, as he did after 9/11, Mr. Bush has responded to disaster with disconcerting uncertainty, then risen to the occasion later. Once again, he has delivered a speech that will reassure many Americans that he understands the enormity of the event and the demands of leadership to come." The speech, "as good as it was, marks only a moment of clarity," and it must be "followed by deeds that are as principled, disciplined and ambitious as Mr. Bush's speech."

In an editorial, the Los Angeles Times (9/16) discusses Thursday's speech. The paper says Bush's goal was ultimately "to rescue his presidency, which Katrina's storm surge tattered." The Times argues that Bush's "call for a 'Gulf Opportunity Zone' is intriguing, but he needs to make sure storm relief doesn't become a Trojan horse for every conservative ideologue's favorite pet project. Flat tax, anyone?" Bush's speech, adds the Times, "helped him regain his political footing for now. But whether he rescues his legacy from the putrid waters swirling in the streets of New Orleans will depend on whether the aspirations expressed Thursday night are translated into a truly bright future for the region."

USA Today (9/16) editorializes that last night, "Bush at last seemed to have marshaled an effective response as he addressed the nation from New Orleans." However, "whether it will prove to be effectively managed and responsibly financed, or just good public relations, remains to be seen."

Columnist Paul Krugman writes in the New York Times (9/16) reports, "Is there any way Mr. Bush could ensure an honest recovery program? Yes -- he could insulate decisions about reconstruction spending from politics by placing them in the hands of an autonomous agency headed by a political independent, or, if no such person can be found, a Democrat (as a sign of good faith)." Bush "didn't do that last night, and probably won't. There's every reason to believe the reconstruction of the Gulf Coast, like the failed reconstruction of Iraq, will be deeply marred by cronyism and corruption."

Homeland Security Taps Special Auditor Teams To Review Katrina Aid. The Washington Times (9/16, Hudson) reports that "teams of auditors and investigators from the Department of Homeland Security expect to spend three to five years at hurricane recovery field offices in an attempt to prevent fraudulent use of more than $60 billion in relief funds. 'We're going to prevent what is still going to happen, contract procurement irregularities,' said Tamara Faulkner, spokeswoman for the inspector general's office." FEMA "routinely uses inspector general auditors to monitor federal dollars that are sent to disaster zones, such as the hurricanes that hit Florida last year, but the Katrina operation and the potential for fraud is on 'an unprecedented level,' Miss Faulkner said. A team of 30 inspector general employees will hit the ground Monday at field offices in Baton Rouge, La., Montgomery, Ala., and Jackson, Miss., she said. Later next week, three auditors will be sent to Texas. Although Congress gave authority to the department's inspector general, Richard Skinner, to stop contract fraud and a $15 million budget to get started, some lawmakers want to create new watchdogs." Senate Homeland Security Chair Susan Collins "yesterday introduced a bill to expand the jurisdiction of the special inspector general for Iraq reconstruction to oversee the recovery efforts in the Gulf Coast region, with an $80 million budget."

Senate Passes Hurricane Tax Relief Bill. CNN's The Situation Room (9/15, Velshi) reported that the Senate has passed an 18-point plan "for hurricane tax relief. There are some very important provisions in this bill. … One of them is that, if you have debts that are discharged because of the hurricane, the IRS is now going to make sure that you don't have to pay tax on that debt that you now don't have to pay. If you're a victim of the hurricane, you are going to be allowed to withdraw more out of your IRA or 401(k) without the 10 percent penalty that you typically have to pay. There is also going to be greater encouragement through tax deduction for companies that want to donate food and books, because of the shortage of books as a result of schools getting flooded and destroyed. The Senate has passed a bill that is going to encourage donation of books to schools.

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There is going to be an increase in the limit, the taxable limit, for donations, cash contributions for hurricane relief."

The AP (9/16, Dalrymple) reports, "Lawmakers on Thursday worked to help solve the practical problems facing those caught in Hurricane Katrina's path who need quick access to cash, housing and medical care." The AP continues, "The House and Senate passed nearly identical bills to let victims tap retirement accounts without penalty and help working poor families and parents retain their tax credits. Senators also voted for rental housing vouchers and aid measures for small business. … The action came ahead of President Bush's prime-time speech from New Orleans about the comprehensive recovery effort he envisions for the battered Gulf Coast." The AP adds, "On Capitol Hill, Republicans and Democrats fought over plans for a special, GOP-majority committee to investigate the government's sluggish response to the emergency. The House endorsed the idea by a mostly partisan 224-188 vote. Democrats warned they would boycott. … Louisiana lawmakers outlined a reconstruction plan, called 'Project Pelican,' for their devastated state. It includes coastal restoration and economic development incentives to brings jobs and people back to New Orleans. … Help was coming from the Treasury Department, which ruled that the hurricane qualified as a hardship. That allows victims and their families tap into retirement plans, including 401(k)s, an effort aimed at people with little savings to recover from the storm."

Conservatives, Liberals Equally Critical Of FEMA Trailer Plan. The Washington Post (9/16, A18, Weisman) reports that the approximately 300,000 FEMA trailers "to be purchased with nearly $5 billion" of federal funds "have become a focal point of criticism of the Bush administration's early rebuilding efforts." Housing experts -- "conservatives and liberals alike" -- worry that FEMA "encampments will quickly become what former House Speaker Newt Gingrich called 'ghettos of despair.' Rental vouchers in a market with plenty of available housing would be cheaper and faster and provide better accommodations, they say." Rep. Jeff Flake said, "Three hundred thousand manufactured homes? People are screaming about that. I tell you, FEMA is a disaster." But "beleaguered FEMA officials yesterday counseled patience. When Katrina struck, they were criticized for moving too slowly, they said. Now, they are being second-guessed for moving too quickly." FEMA spokesman James McIntyre said, "The governors and their local officials are looking at all these issues. They're working with all the evacuees in these communities to ensure they are incorporated into the community, they're given job assistance and the help they need. We have more than 300,000 displaced households, and they have to live somewhere."

USA Today (9/16, Ritter) reports, "Hotels, private homes, churches, cruise ships, gyms and campgrounds will continue to accommodate many of the displaced in coming weeks. An estimated 1 million people fled Katrina. But disaster officials say they're moving to assemble and make livable up to 300,000 trailers and other temporary housing units in Louisiana and Mississippi as fast as they can find sites and arrange utilities, schooling and other necessities with cities and counties."

FEMA Still Has Not Delivered Tents To Mississippi Victims. CNN's The Situation Room (9/15, Feyerick) reported, "D'Iberville, Mississippi is just north of Biloxi. It's a desperate situation there. FEMA has yet to deliver six huge tents that officials were counting on to house more than 1,000 people. The city manager says people who were counting on those tents are living in homes that are still flooded."

Mississippi Residents Displaced By Katrina Feel Neglected By FEMA. NBC Nightly News (9/15, story 3, 2:45, Williams) reported Mississippi "hasn't admittedly received the coverage New Orleans has, even though only 10% of the homes along the coast were undamaged by the storm." NBC (Mott) added, "For more than two weeks, Katrina news coverage has focused on New Orleans. But across the state line, Mississippi is a mess. 52 of its 82 counties have been declared disaster areas, cities like Pass Christian, Bay St. Louis, Waveland, Long Beach, Gulfport, and Biloxi, devastated. Much of Mississippi is gone, and now, many here argue, forgotten." While Federal "rescue and recovery teams have been pouring into Louisiana and FEMA gives updates from Baton Rouge every day, many Mississippians say the agency's hard to find."

Hutchinson Says FEMA Should Remain Part Of DHS. The Springdale (AR) Daily News (9/16, Dailey) reports that Arkansas gubernatorial candidate Asa Hutchinson, "the former undersecretary for Border and Transportation Security in the Department of Homeland Security," said that FEMA should not be separated from DHS. Hutchinson said officials and the public pressures DHS "into concentrating on defending against another terrorist attack to the detriment of planning for the much-more-likely natural

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disasters, and a better balance between the two is needed, Hutchinson said." He added, "You know there are going to be hurricanes and tornadoes. You don't always have terrorist attacks every year."

Poll Finds Three In Five Americans Say FEMA Should Be Autonomous. The Wall Street Journal (9/16, Harwood) reports in its "Washington Wire" column, "By two to one, a new Wall Street Journal/NBC News poll shows, the public holds an unfavorable view of FEMA after criticism of its Katrina response. But by 61%-20%, respondents echo Democrats like Sen. Clinton who say FEMA should be autonomous, as in her husband's presidency, not part of Homeland Security; majorities of conservatives and Republicans agree." The Journal adds, "Homeland Security chief Chertoff's 17% negative rating exceeds his 13% positive, but 50% don't know him."

Low Opinion Of FEMA Has Not Hurt Overall Confidence In Government. The Wall Street Journal (9/16, Harwood) reports in its "Washington Wire" column, "Despite FEMA's woes, Katrina hasn't shifted confidence in federal government generally. Some 31% say Washington can be trusted to do the right thing at least most of the time, matching a June Gallup survey. After 9/11, confidence in Washington surged."

Pentagon Mortuary Teams Will Deploy To Gulf Coast. The Washington Times (9/16, Gertz, Scarborough) reports in its "Inside the Ring" column, "Defense Secretary Donald H. Rumsfeld has signed off on mortuary teams from the 54th Quartermaster Company at Fort Lee, Va., deploying to the Gulf Coast. The job was supposed to be handled by the Federal Emergency Management Agency. But FEMA informed the Pentagon it must first find a contractor for the gritty work."

FCC To Spend $211 Million To Rebuild Hurricane-Damaged Communications. FCC Chairman Kevin Martin said yesterday the government will spend $211 million to help rebuild communications links for people affected by Hurricane Katrina. USA Today (9/16, Davidson) reports that at a special agency meeting in Atlanta to assess the effects of the storm, Martin said, "We need to determine how we can help companies strengthen our communications infrastructure, create more robust and reliable networks, and improve the ability to quickly restore service when disaster does strike." USA adds, "The $211 million will come from the $6 billion-a-year universal service fund, which is financed by a 10.2% surcharge on every customer's long-distance bill."

The Wall Street Journal (9/16, Schatz, Rhoads) calls the move "welcome news to phone companies in the region. BellSouth estimates it could cost between $400 million and $600 million to replace ruined equipment in the three-state area hit hardest by the hurricane." The Journal adds that Martin "proposed changes that would allow it to take a larger role in coordinating emergency communications and restoring telephone services." Under Martin's proposals, "the FCC would be reorganized to include a new Public Safety/Homeland Security Bureau. The FCC also would assemble an independent panel to examine what happened to the phone networks and communications between first responders and how they might be improved."

The New York Times (9/16, Nelson) says Martin's proposal "would give evacuees cellphones and 300 free minutes and help customers reconnect their phone lines. Money would also be made available to schools, libraries, health organizations and relief agencies like the Red Cross to rebuild their phone and Internet connections."

The Washington Post (9/16, C1, Krim) adds that some "executives, academics and analysts are urging a more ambitious approach: Make New Orleans and the surrounding areas super-connected communities, with advanced services that surpass what is available anywhere in the country, if not the world." With much of the region's communications infrastructure in ruins, "these experts see the perfect opportunity to deploy new systems that otherwise might be too expensive or disruptive to build. The result, they say, could be a bonanza of higher technology at lower prices for businesses and consumers, more robust emergency-responder systems and an ability to provide high-speed Internet access to poorer segments of the population often left off of the information highway."

Mississippi AG Sues To Force Insurers To Pay Flood Claims. Mississippi Attorney General Jim Hood has filed suit against five large insurance companies yesterday seeking to force them to pay for flood damage from Hurricane Katrina. This, despite flooding exclusions that are standard in most homeowners' policies. The Wall Street Journal (9/15, Francis) reports, "The suit, filed in state court in Jackson, seeks to override the exclusions. It comes as tens of thousands of Gulf Coast property owners struggle with the

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cost of rebuilding homes damaged by the wall of water that surged with the hurricane Aug. 29." Hood's suit names State Farm, Allstate Corp., Mississippi Farm Bureau Mutual Insurance Cos., United Services Automobile Association and Nationwide Mutual insurance Co.

The New York Times (9/15, Bayot) reports that Hood's suit accuses insurers "of selling confusing policies that fell short of homeowners' reasonable expectations of coverage. Mr. Hood argued that because property owners 'purchased these policies for the primary purpose of insuring against any and all hurricane damage,' insurers should be liable for property damage caused by flooding - a hazard long excluded from traditional homeowner policies." Hood "is seeking a temporary restraining order to prevent companies from denying or reducing coverage based on water exclusions, or from asking property owners to sign documents stating that their loss was caused by water rather than wind."

USA Today (9/15, Chu) says Hood's complaint claims that the insurers' policies "'attempt to exclude coverage for storm-surge damage' caused by the hurricane. This is 'an unfair or deceptive trade practice' under state law, Hood says."

Programs Seek To Retrain Workers Displaced By Katrina. Programs stretching from Louisiana to Texas and Mississippi are retraining thousands of workers displaced in the Gulf Coast. USA Today (9/15, Swartz) reports, "The programs are designed to find jobs for those forced to relocate or whose employers suspended operations, say state officials in Louisiana and Texas. Many of the job seekers are likely to be placed in fields such as construction, health care, energy and cleanup, says Barton Smith, director of the Institute for Regional Forecasting at the University of Houston. … Community and technical colleges in Louisiana this week started a job-training program to match and prepare evacuees with jobs in construction, plumbing, welding and hazardous waste removal."

Displaced Healthcare Workers In Demand Nationwide. In a separate story, USA Today (9/15, Appleby) adds that displaced healthcare workers from New Orleans and the Gulf Coast "are being lured with signing bonuses, relocation assistance and other perks by hospitals, doctor offices and clinics nationwide. … A shortage of medical workers in many parts of the USA almost guarantees that workers who leave the hurricane-battered areas will find work. What's more difficult to know is whether the health care workers who accept new jobs will return."

Writer Says Middle Class Also Hurt By Katrina. Writer Jennifer Moses writes in the Washington Post (9/16, A31), "I keep seeing pictures of the president with his shirt-sleeves rolled up, surveying the damage to New Orleans. But I wonder if he has any idea just who the folks are who have been displaced by Hurricane Katrina. I ask because here in Baton Rouge we keep hearing about the desperately poor, and sometimes criminal, hordes Katrina has washed up on the shores of decent, hardworking, middle-class America: the (mainly black) gangs from the projects who, even during normal times, wreaked havoc on their fellow citizens, not to mention the merely poor -- teen mothers, drug addicts, the chronically unemployed. But the shelter in which I've been volunteering tells a different story. … Indeed, an aura of normality and order pervades even this bizarre community, built of rows and rows of folding canvas cots, donated bed linens and garbage bags filled with other people's castoff clothing, and peopled by the young and old, black and white, American-born and foreign-born: a United Nations of languages, a stew of stories." Moses adds, "What I'm learning in the shelters is that it's not just the poor who have no place to go and no place to fall back on; it's also ordinary working people who in better times might have been counted as part of the middle class, too. Where are my new friends going to go?"

Confirmed Death Toll In Hurricane Zone Climbs Over 700. The CBS Evening News (9/15, story 2, 0:20, Schieffer) reported, "The death toll climbed even higher. 474 are now known dead in Louisiana. The total across the five-state disaster area went past 700, and is expected to go much higher in the days ahead."

New Orleans Mayor Announces Plan For Displaced Residents To Return. New Orleans Mayor Ray Nagin yesterday announced a plan to gradually permit New Orleans evacuees to return to the city in order to jump start the city's economy and return it to a "normal rhythm of life." Nagin's announcement, rather than a preview of President Bush's primetime speech, was the lead story on CBS, while ABC and NBC both ran it second in their lineup.

The CBS Evening News (9/15, lead story, 2:35, Pitts) reported, "Despite it all, the Mayor of New Orleans was smiling today." Nagin: "The city of New Orleans starting on

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Monday, starting this weekend, will start to breath again." Pitts: "That includes the French Quarter, where wealthy entrepreneurs held a power lunch today, New Orleans style, red beans and rice included."

ABC World News Tonight (9/15, story 2, 2:55, Harris) reported Nagin is "calling it his 'bring New Orleans back' plan. Starting this Saturday, and staggered over a 10 day period, nearly 200,000 people will be allowed home." Nagin is "promising to restore the quote 'normal rhythm of life.' He even says there will be retail stores in the now-infamous convention center. But, in a news conference repeatedly interrupted by helicopters…making it clear that people will be coming clear that people will be coming home to what is essentially a military zone with poisonous water lurking nearby -- and no schools or fully operational hospitals. There are also concerns that criminals will return, concerns Nagin addressed by pointing out that there are soldiers and police here from across the country."

NBC Nightly News (9/15, story 2, 2:40, Williams) reported, "Here in this city, the Mayor surprised a lot of people when he said that soon, people can start coming back to New Orleans." NBC (Tibbles) added, "Today New Orleans took one big step towards getting back to normal, inviting some residents back. But what are they going to find when they get here? It wasn't an announcement people were expecting so soon." For "many considering that move, this is what they'll find, mile after mile of thick, dried sludge, much of it as toxic as the water."

The Wall Street Journal (9/16, Cooper, Young, McKay) reports, "Some New Orleans residents returned to their homes and businesses to begin cleaning up the damage left by Hurricane Katrina, and Mayor Ray Nagin said large swaths of the city would be reopened starting tomorrow. Yesterday's announcement by the mayor amounted to an abandonment of efforts to persuade thousands of holdouts still in the battered city to leave. A New Orleans police spokesman said no one hunkered down in a home nearly three weeks after the storm hit would be forced out despite the lack of power and drinkable water in many parts of the city."

USA Today (9/16, Parker, Levin) reports, "Most of the city has electricity. But city water is largely undrinkable, schools remain shut, and thousands of waterlogged homes need to be pulled down and rebuilt. Levees need repairs, and a nighttime curfew will be in effect to hold down crime. Those who return should not expect much, city officials said. 'Just because the electricity is going, it doesn't mean that all the gas stations are open,' mayoral executive assistant Greg Mefert said. 'The residents need to have very realistic expectations of how the city is functioning, and they can't expect complete normality and to go about their normal day.'"

The Washington Post (9/16, A13, Whoriskey) reports, "Authorities warned residents not to drink or bathe in the water in most of the city because contaminated floodwaters are seeping into waterlines through major breaks. The 911 emergency-call system is not fully operational. Even in the least affected areas, thousands of homes are without power, and the lack of traffic lights has led to accidents among some of the emergency vehicles rolling through city streets. Asked whether the reentry plan may be premature, Nagin said, 'I'm getting all kinds of push that I'm moving a little too slow.'"

The Los Angeles Times (9/16, Riccardi, Powers) reports, "As many as 180,000 residents displaced by Hurricane Katrina will eventually be allowed to move back into homes and apartments that escaped overwhelming flood and storm damage, the mayor said." But even as he "hailed his city's semi-return, Nagin also acknowledged that dwellings that housed half of the city's 450,000 residents will have to be razed. 'Most of the homes that were flooded that stayed in the water for a number of weeks will most likely be destroyed,' Nagin said."

The New York Times (9/16, Yardley) reports, "The tentative re-entry plan calls for residents to be allowed into the Algiers neighborhood by the weekend. Uptown would be accessible by the middle of next week and the French Quarter on Sept. 26. The city's downtown and the other three areas will be open to business owners over the weekend. All are areas that suffered less damage from the storm. But, city officials said, the schedules may change."

The Washington Times/AP (9/16, Martel) reports, "The re-population of the city would proceed by ZIP code, starting Monday in the Algiers section, a Creole-influenced neighborhood across the Mississippi River from the French Quarter. The city's Uptown section, which includes the Garden District's leafy streets and antebellum mansions, will open in stages next Wednesday and Friday."

New Orleans Could Be Pumped Out Sooner Than Originally Expected. CNN's Anderson Cooper 360 Degrees (9/15, Cooper) reported, "So is New Orleans ready to reopen? There are positive signs. Flood waters are fast receding. The Army Corps of Engineers says water is dropping by more than a foot a day. Some areas like Algiers and New Orleans west bank have power and running water, which the mayor says is

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suitable for drinking. Mayor Nagin also says he's speaking with Wal-Mart about opening a store in the convention center so newly returned residents will have somewhere to shop. He also says despite the violence and looting witnessed in Katrina's aftermath, the city is the safest it's been in years."

CNN's Lou Dobbs Tonight (9/15, Feyerick) reported that floodwaters "are draining much faster than expected and the Army Corps of Engineers says except for a few ponds in low lying areas, New Orleans could be pumped out by October 18th. Radio stations have been calling people home zip code by zip code, yet it may not be completely safe. If another storm hits, engineers say there is no guarantee the levees will hold."

Many Evacuees Want To Settle Permanently In Houston, Poll Finds. The Washington Post (9/16, A1, Morin, Rein) reports that "fewer than half of all New Orleans evacuees living in emergency shelters here said they will move back home, while two-thirds of those who want to relocate planned to settle permanently in the Houston area," according to a Post/Harvard School of Public Health/Kaiser Family Foundation survey. The "wide-ranging poll found that these survivors of Hurricane Katrina and its aftermath remain physically and emotionally battered but unbroken." The "overwhelming majority lack insurance to cover their losses. Few have bank checking accounts, savings accounts or credit cards that work. Still, nearly nine in 10 said they were 'hopeful' about the future. And while half said they felt depressed about what lies ahead, just a third said they were afraid."

Texas Convention Centers, Arenas Still Hold 20,000 Evacuees. The Washington Post (9/16, A1, Merida) profiles evacuees at the Dallas Convention Center, which has become "a strange but comforting replacement neighborhood for those whose real 'hoods were drowned by Katrina. Here, the miserable and the hopeful, thrown together by common circumstance, have been trying to sort out their futures." Texas officials "estimate their state has absorbed more than 200,000 Gulf Coast hurricane survivors, the majority of whom have scattered to apartments and hotels, churches and private homes. But approximately 20,000 remain in convention centers and sports arenas, the last resort for those who had nowhere else to turn or haven't yet decided where they belong."

New Orleans Suburb Defends Decision To Turn Back Those Fleeing Katrina. The Los Angeles Times (9/16, Riccardi) reports that the "mostly white suburb" of Greta, Louisiana, "became a symbol of callousness for using armed officers to seal one of the last escape routes from New Orleans -- trapping thousands of mostly black evacuees in the flooded city -- the Gretna City Council passed a resolution supporting the police chief's move." In the aftermath of Katrina, Gretna "blocked the bridge over the Mississippi River that connects their city to New Orleans." The small city's mayor said that while Gretna first "commandeered buses and moved more than 5,000 to a food station miles away," Gretna simply did not have the resources to continue. And so, "armed Gretna police, helped by local sheriff's deputies and bridge police, stood guard and turned hundreds of men, women and children back to New Orleans."

Vietnamese-Americans In Gulf Coast Region Familiar With Refugee Status. USA Today (9/16, Phan) writes that "many Vietnamese-Americans have become refugees again" in the wake of Katrina. Starting in the early 1980's, "Vietnamese refugees started settling into enclaves around New Orleans, Biloxi and Mobile, attracted by the familiar humid climate and seeking to earn livings as fishermen and shrimpers."

Concerns About Mental Health Of Evacuees Grow. ABC World News Tonight (9/15, story 3, 2:20, Woodruff) reported, "It has been 18 days now since Katrina struck. There is growing concern about the mental health of the evacuees, particularly the children. The relief group Save the Children estimates 400,000 children were forced from their homes. Many lost family members and witnessed horrible devastation. An army of therapists have been sent to schools in shelters and schools, and in Houston, where so many of them ended up, a special project is under way." ABC (Pinto) examined an effort by volunteers to have children and teens use art to express and overcome their feelings.

Katrina Brings No Widespread Illness Outbreaks To Region. USA Today (9/16, Manning) report that Katrina "hasn't brought widespread epidemics to the region, officials with the federal Centers for Disease Control and Prevention say. 'What we've seen is what we would expect,' says Ali Khan, who is directing the CDC's operation in the New Orleans area. The complaints include accidental injuries and skin or respiratory infections." Still, the "'challenge is a lot bigger than in other disasters,' Khan says. 'We don't have a lot of experience evacuating a large city with this kind of infrastructure damage.' Previous hurricanes,

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however, taught health officials the value of tetanus vaccination and careful hygiene in shelters."

Ordeal At New Orleans Hospital Recounted. USA Today (9/16, Davis) reports on the "struggle to stay alive there in the dark days after the hurricane" at the Lindy Boggs Medical Center in New Orleans. Today, "the 187-bed hospital is empty; 19 bodies have been removed."

Katrina's Negative Economic Impact Becoming Apparent. Hurricane Katrina's impact on the economy is becoming more apparent, reports the Wall Street Journal (9/16, Hilsenrath). According to the Journal, "Thousands of individuals displaced by the storm have already filed for unemployment benefits and thousands more are expected, according to a Labor Department report. Meanwhile, gauges of manufacturing activity far from the Gulf of Mexico showed softening early this month, and economists and executives expressed concerns about rising energy costs. Largely because of gasoline-price increases before Katrina, the Labor Department's latest consumer-price index rose 0.5% in August, pushing it up 3.6% from a year ago, the largest increase in four years. More than 90% of the prices used to compile the report were gathered before the storm struck, meaning steeper increases are likely to come. … Taken together, the reports underscored the economy's turbulence since the storm hit at the end of last month. Energy-price increases hadn't been feeding broader inflation before the storm, though pressures seemed to be mounting."

The New York Times (9/16, Andrews) says, "The economic data for the period before the storm suggested that consumer spending held up despite rising gas prices, that companies were still hiring and that inflation pressures remained a cause for worry. Many economists expect that trend to resume after a predictable drop in growth as a result of hurricane-related disruptions. On top of that, the Bush administration and Congress are about to rev up the economy with a staggering amount of federal money for relief and reconstruction." The Times adds, "It remains possible that the Federal Reserve will refrain from raising short-term interest rates next Tuesday, which would be the first time in 11 meetings that it held rates steady. The best reason to do that would be to wait for more evidence of the impact from the hurricane and the spike in gasoline prices in the last two weeks."

NBC Nightly News (9/15, lead story, 3:15, Williams) reported, "In another sign of this storm's economic toll, first-time unemployment claims shot up by 71,000 last week, the biggest jump in almost a decade."

The CBS Evening News (9/15, story 4, 0:15, Schieffer) reported, "Hurricane Katrina has thrown thousands of people out of work. The government said today another 68,000 of them joined the line for unemployment benefits last week. That's on top of 16,000 the week before, for a total of 84,000."

Energy Price Increases Fuel Rise In Inflation. The CBS Evening News (9/15, story 10, 0:35, Schieffer) reported, "Gasoline is doing a big number on family budgets. The government says consumer prices shot up half a percent in August. Energy is to blame for most of the increase, and that was before Katrina. So far this year, inflation is running 3.9%. It was 3.3% last year."

Government Credit Cards For Katrina Relief Under Fire. The AP (9/16, Yen) reports, "Lawmakers and watchdog groups worry that allowing federal employees to charge up to $250,000 on their government-issued credit cards for Hurricane Katrina-related expenses will lead to a repeat of past abuses." The AP continues, "Some of the cards in the past were used to pay for prostitutes, gambling activity, even breast implants, government audits have shown. … 'People are concerned this is a risk,' said Greg Kutz, managing director of special investigations at the General Accountability Office, which conducts audits at the request of Congress." The AP adds, "About 250,000 federal employees have government credit cards, which typically have a purchase limit of $2,500. At the request of the Bush administration, Congress increased the credit line to $250,000 as part of a massive Katrina recovery bill approved last week. The aim is to make it easier to speed aid to victims. … Senate Finance Committee Chairman Charles Grassley, R-Iowa, said the 'outrageous increase' was 'slipped' into the bill. He is seeking to insert language in a Katrina health bill that would reduce the limit in most cases to $50,000." The AP notes, "Responding to initial criticism, the White House issued new guidelines this week saying agencies must designate in writing which of their staff will receive the new spending privileges. Purchases of more than $50,000 must be preapproved by a senior manager. … Critics say the additional oversight is needed because the cards offer special opportunities for abuse."

Rights Group Urges Freeze On Mortgage Foreclosures For Katrina Victims. The AP (9/16,

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Gordon) reports, "As Hurricane Katrina brought into focus the financial plight of many blacks along the Gulf Coast, a leading U.S. civil rights group urged lenders to freeze mortgage foreclosures and suspend late fees on loans for people affected by the hurricane. … 'There are a few steps that can and should be taken by all financial institutions to ensure that the people of Louisiana, Mississippi, Alabama and the other areas affected by Katrina are not further victimized and do not suffer further losses,' Hilary Shelton of the National Association for the Advancement of Colored People said Wednesday." The AP continues, "Speaking to members of a House Financial Services subcommittee, the director of the NAACP's Washington bureau Shelton, said the civil rights group also was concerned about predatory lenders who "must be circling some of the worst-hit areas, salivating at the potential for abuse" of Katrina's victims. … Alabama Congressman Spencer Bachus, the panel's chairman, said federal banking regulators need to help banks in the disaster zones by relaxing some rules." The AP notes, "The storm's devastating impacts on the poorest communities in the Gulf Coast starkly illustrated the differences in how minorities and whites are treated by banks. … Many poor people lost their cash savings, much of it stashed under mattresses and in teapots. Around the country, many low-income minorities shun banks, have never used an ATM machine or applied for a home mortgage. Often, they turn to storefront payday lenders, which charge high interest."

Louisiana Frees About 1,000 Prisoners Due To Flood-Related Overcrowding. USA Today (9/16, Frank) reports Louisiana has released "about 1,000 inmates" in order to "ease crowding caused when two large prisons flooded. All the released inmates had been in a 90-day prison program -- suspended last week -- for parole- and probation-violators who get extensive counseling while incarcerated. None has a record of violent or sexual crimes."

White House Gives NASA "Thumbs Up" For Moon, Mars Shuttle Replacement Plan. The New York Times (9/16, Broad) reports, "The White House has approved NASA's plan to replace the nation's aging" shuttle fleet "with a new generation of vehicles meant to carry human explorers back to the Moon and onward to Mars and beyond, aerospace experts said yesterday. The new rockets and spaceships are a radical departure for the space program, rearranging the components of the space shuttle into a new design expected to be more powerful that the shuttle but also safer. The shuttle has had two fatal accidents in 114 missions." George Washington University Space Policy Institute director John M. Logsdon said the measure amounts to a "thumbs-up for NASA to pursue the shuttle-derived vehicle," and adds, "The question is the schedule, not the basic approach." The Times adds that "other experts, who refused to be identified because the space agency will not formally announce the proposal formally, also spoke about the plan yesterday."

Reynolds Will Urge House GOP To Shelve Social Security Reform. Aides confirmed yesterday that NRCC Chairman Tom Reynolds will recommend to the House Republican leadership that the party drop its effort to restructure Social Security at least for this year. The Washington Post (9/16, A5, Weisman) calls Reynolds's move "fresh evidence that Hurricane Katrina is having a dramatic impact on the GOP's agenda. House and Senate leaders had already pushed off consideration of cuts in taxes and entitlement spending until the end of October. President Bush's tax reform panel has delayed release of its recommendations." The Post adds, "Reynolds (R-N.Y.) made his stand in a showdown with House Ways and Means Chairman Bill Thomas (R-Calif.), according to two witnesses. At a committee luncheon Wednesday, Thomas told panel members he was pushing forward with broad retirement security legislation that would include measures to strengthen private pensions, promote personal savings and add private investment accounts to Social Security. Reynolds then stood to say he would recommend to the leadership that it do no such thing."

Federal Employee Health Insurance Premiums To Rise 6.6%. The Bush Administration announced yesterday that federal employees' health insurance premiums will increase an average of 6.6% next year. The Washington Post (9/16, A29, Lee) reports that while the increase is the lowest in nine years "an official with one federal employee union branded the increase 'outrageous,' noting that average employee contributions to their health premiums will rise faster than the portion paid by the government."

Government Releases Results Of Comprehensive Sex Survey. The New York Times

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(9/16, Lewin) reports, "The National Center for Health Statistics released the government's most comprehensive survey of American sexual practices and reproductive health yesterday, delving for the first time into such sensitive areas as the prevalence of oral sex among teenagers and same-sex activity among adults."

OTHER NEWS:

Ophelia Slowly Moves Up North Carolina Cost. USA Today (9/15, Brook) reports that Hurricane Ophelia continued its "soaking crawl" along North Carolina's coast Thursday, whipping rain and surf for house. USA adds, "A weakened Ophelia could smack Massachusetts' Cape Cod this weekend. Tropical storm watches have been issued there. And North Carolina will still feel its winds today." Damage "was significant because the storm stalled off the coast. Rather than a brief lashing, people withstood hours of a relentless 80-mph blast."

The Washington Post (9/15, A3, Cooperman) adds, "Although the Outer Banks islands of Ocracoke and Hatteras were still in danger of heavy winds and surging water, the hurricane's slow and meandering path spared most coastal areas of the severe flooding that had been predicted. By evening, its winds were blowing about 75 mph, just enough to earn Ophelia classification as a hurricane. Authorities blamed one death on the storm, from a rain-slicked traffic accident inland near the state capital of Raleigh."

ABC World News Tonight (9/15, story 4, :45, Woodruff) reported, "The unpredictable storm took days to reach the vulnerable islands in the Outer Banks, and now it has decided to stay awhile, just about stalling offshore. Peak winds are 75 miles an hour, and up to 15 inches of rain are expected before Ophelia pulls out to sea tomorrow. There has been some damage, and 80,000 utility customers are without power. Many have decided to ride out the storm at home."

The CBS Evening News (9/15, story 5, 2:00, Schieffer) reported, "Federal and state disaster teams were there to help, but many residents decided to stay put, even though some may now regret it."

Study Says Rising Sea Temperatures Increasing Hurricane Severity. A study published today in the journal Science concludes that rising sea temperatures have been accompanied by a significant increase in the most destructive hurricanes. The Washington Post (9/15, A13, Eilperin) says the study adds "fuel to an international debate over whether global warming contributed to the devastation wrought by Hurricane Katrina." According to the study by researchers at the School of Earth and Atmospheric Sciences at Georgia Tech and the National Center for Atmospheric Research, "the number of major Category 4 and 5 hurricanes worldwide has nearly doubled over the past 35 years, even though the total number of hurricanes, including weaker ones, has dropped since the 1990s."

Experts Eye Deregulation As Factor In 2003 Blackout. The Department of Energy and its Canadian counterpart held their first public meeting Thursday on the 2003 blackout which darkened cities from New York to Toronto and Detroit. The New York Times (9/16, Wald) reports, 'Engineers, government officials and executives said at the meeting that amid its restructuring the industry needed further changes to reduce the frequency of blackouts as utilities that formerly generated power, transmitted it and delivered it were broken up into separate entities of competing businesses." The Times notes that a binational report issued three months after the incident "did not list deregulation as a cause, instead citing factors like failure to trim trees, train operators and install control systems that could have kept track of the status of all power lines and generators. Much of the investigation leading to that report was managed by the Federal Energy Regulatory Commission, the architect of utility restructuring in the United States. The report called for a separate study - it did not say by whom - on the role of deregulation in the blackout, but that study has never been done."

Rising Natural Gas Prices Expected To Drive Up Electricity Prices. Soaring natural gas bills are threatening to push electricity prices to unprecedented levels. According to a front page story in the Wall Street Journal (9/16, Smith), the price of natural gas had doubled over the last two years even before Hurricane Katrina hit the Gulf Coast. Katrina's destruction "has roiled energy markets, sending natural-gas and oil prices to record levels and foreshadowing eventual rate increases for electricity in the Southeast, where utilities must rebuild heavily damaged systems. Now, as the winter heating season approaches for much of the country, consumers face a double threat. Many will see record costs on their bills for the natural gas that fuels their furnaces, stoves and clothes dryers. Consumers -- and businesses -- also will get hit with higher charges for

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electricity made by power plants that burn pricey natural gas." The Journal adds that "power generators are being quoted natural-gas prices for this fall and winter that also look extremely high -- $11.34 for contracts on the New York Mercantile Exchange for October, $11.97 for November and $12.45 for December deliveries. All surpass prices for September that were less than $10. They translate into raw power prices, not adjusted for inflation, that are high even before adding regular utility costs that would push the retail cost up substantially."

Delta, Northwest Bankruptcies Spark Fears About Pension Security. The Financial Times (9/16, Daniel) reports, "Concern about the impact of the bankruptcies of Delta and Northwest airlines on workers' pensions has led to urgent calls in Washington for immediate pension relief. Harry Reid, Senate minority leader, said: 'Congress has an immediate opportunity to pass legislation enabling both companies to keep pension plans for workers in place.' Johnny Isakson, senator from Georgia, where Delta is based, told the Financial Times on Thursday: 'We want to bring the bill to the floor as early as next week. The airlines stated they wanted to preserve their defined benefit plans and their ability to do that is tied to whether we can get pension reform passed.'" The Times adds, "The sense of urgency comes as the Pension Benefit Guaranty Corporation, the federal agency that insures defined benefit pension plans, said it could assume liabilities of $8.4bn from Delta's pension plan if it was terminated. That would mark its biggest pension termination. Northwest's liabilities were smaller, at $2.8bn, the PBGC said on Thursday.'

Former Airline CEO Urges Revision Of Bankruptcy Laws. Robert Crandall, former chairman and CEO of American Airlines, writes in the Wall Street Journal (9/16), "Delta and Northwest Airlines' bankruptcy filings are the latest consequences of the troubles afflicting the long-established, or 'legacy,' airlines. Inflexible work rules, above-market wage rates, under-funded fixed benefit pension plans, huge debt burdens, outdated business practices and high fuel costs burden the legacy carriers with enormous disadvantages relative to newer carriers who are flying by different rules. … Among the most egregious of these burdens are those imposed by the nation's bankruptcy statutes." Crandall adds, "Revising the bankruptcy laws would certainly cause hardship for the communities and employees most involved with failed airlines. On the other hand, revising the rules would offer expanded opportunities for new competitors and for legacy carriers whose managements, unions and employees are most willing to adapt to new realities. … To build a better airline industry we need bankruptcy laws designed to incentivize success and penalize failure. We need labor laws that better balance the power of unions and management. … Finally, we need administration and Congressional support for legislation to provide the FAA with the resources to build and operate an aviation infrastructure consistent with both U. S. aviation leadership and growing consumer demand."

WSJournal Urges Phasing Out Of PBGC Guarantees. An editorial in the Wall Street Journal (9/16) says, "This week's bankruptcy filings raise the possibility that Delta and Northwest will join United Airlines and US Airways in dumping their pension obligations onto taxpayers. Members of Congress will howl, but it's time for the politicians to admit their own role in co-piloting the airline industry into Chapter 11." The "root of the problem for these 'legacy' carriers is the burden of pension costs. And one tantalizing option is to use bankruptcy to pass them off to the taxpayer via the federal Pension Benefit Guaranty Corp. (PBGC). Congress created this government-run insurance system in 1974, promising to 'protect workers' when companies failed. But as always with such government guarantees, Congress only created a future 'moral hazard' that is now coming due. … If the Members really wanted to help, they'd leave the airlines alone and find a way to phase out PBGC guarantees."

Unions Facing Harsh Challenges. The Wall Street Journal (9/16, A6, Maher) reports, "Union leaders expect the bankruptcy filings of Delta Air Lines and Northwest Airlines to increase pressure on other carriers to seek further cost cutting from their workers. The troubling reality for unions: There seems to be very little they can do to stop the trend. … The latest round of airline woes has come as the labor movement's fissures have widened, raising questions as to whether some of organized labor's problems are self-inflicted. This summer's defections from the AFL-CIO by four major unions -- representing more than one-third of the labor federation's members -- highlight existing tensions among unions and unwillingness to back fellow unions during strikes." The Journal notes, "The harsh challenges confronting unions in the airline industry, while more extreme than those in other corners of the labor movement, illustrate the problems facing all of organized labor as employers press harder to lower labor costs for active and retired workers in

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the name of being globally competitive. 'Unions are in an environment of shrinking alternatives,' says Marick F. Masters, a professor of business administration at the University of Pittsburgh. 'There are just not many good options left at this time.'"

Iranian President Offers To Share Nuclear Technology With Other Islamic Countries.

USA Today (9/16) reports that after meeting the Turkish prime minister at the United Nations, Iranian President Mahmoud Ahmadinejad "said Thursday that his country is willing to provide other Islamic nations with nuclear technology." Ahmadinejad "repeated promises that Iran will not pursue nuclear weapons, the state-run Islamic Republic News Agency reported. Then he added: 'Iran is ready to transfer nuclear know-how to the Islamic countries due to their need.'"

The Washington Times (9/16, A1, Sands) reports in a front page story "repeated his denials of Iran's intent to make atomic bombs in a get-acquainted meeting with U.S. reporters and editors yesterday morning, saying such suspicions put a heavy burden on his country." But his "offer to share nuclear technology prompted a worried U.S. reaction. State Department spokesman Adam Ereli told a briefing, 'Iran, as its record demonstrates, has a long history of trying to develop weapons of mass destruction, supporting terror.'"

Rice Says US Many Not Have IAEA Votes To Refer Iran To Security Council. The Washington Times (9/16, A1, Sands) reports Secretary of State Condoleezza Rice "had been trying to rally support for a vote next week by the United Nations' Vienna, Austria-based nuclear watchdog to refer Iran's nuclear programs to the Security Council -- a first step toward possible sanctions." But Rice "conceded that the United States might not have the votes at what was supposed to be a climactic vote by the board of the U.N. International Atomic Energy Agency (IAEA) on Monday."

The Washington Post (9/16, A26, Linzer, Lynch) reports that despite "an intense lobbying effort at the most senior levels, the Bush administration failed to persuade three key countries Thursday to back the United States in pressuring Iran to give up sensitive aspects of its nuclear energy program." Russia, China and India "either publicly or privately turned down U.S. requests to help report Iran's case next week to the U.N. Security Council, which has the authority to impose economic sanctions or an oil embargo." The Administration has "the reluctant support of the European Union for the first time in more than two years, but that will not be enough. Without backing from one of the three others, U.S. officials indicated they were preparing to abandon, for now, a quest to move the matter into the council."

US Report Says Iran Intends Acquisition Of Nuclear Weapons. The Washington Times (9/16, Gertz) reports a US government report says Iran is "concealing many of its nuclear facilities from international controls and the activities show it is seeking nuclear weapons." The computer slide presentation "developed by the Energy Department for the International Atomic Energy Agency also shows that Iran's nuclear program closely resembles Pakistan's nuclear arms programs." The report says, "Iran's past history of concealment and deception and nuclear fuel cycle infrastructure are most consistent with an intent to acquire nuclear weapons."

Iran To Offer "Compromise" On Nuclear Program. Financial Times (9/16, Staff) reports Iran "is to propose international joint ventures in its nuclear programme as a means of providing an 'objective guarantee' that it cannot be diverted to weapons use, senior Iranian officials have told the Financial Times." Iranian President Ahmadi-Nejad "is set to make the new proposal on Saturday before the United Nations General Assembly." It is "not clear whether Iran's suggestion would include the more sensitive sites in the country and European diplomats were sceptical that it would be acceptable to their governments."

The New York Times (9/16) reports President Ahmadinejad said Iran "would present new proposals tomorrow to try to break the impasse over Iran's nuclear programs, but he provided no details." European diplomats "indicated that they might defer their effort to bring Iran to the United Nations Security Council for possible punitive action if sufficient progress was made in talking with Iran's leaders." Asked "repeatedly whether Iran had not discredited itself by its failure to disclose past nuclear activities, Mr. Ahmadinejad said Iran did not have nuclear weapons and 'there is absolutely no proof of a violation on the part of Iran' of its pledge to keep its nuclear program peaceful."

Ahmadinejad Criticizes US Over Iraq, Katrina Response, Foreign Policy. The Washington Post (9/16, A26, Kessler) reports President Ahmadinejad displayed "a dash of defiance at U.S. charges over Iran's nuclear program and a warning that the era of big-power dominance in international relations has ended." Ahmadinejad "blamed the Bush administration's policies for instability in Iraq. A veteran

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of Iran's war against Iraq, the president described the removal of Saddam Hussein as 'necessary' but said the task should have been left to Iraqis." On the subject of Hurricane Katrina, Ahmadinejad "poke[d] at the Bush administration's response and perhaps draw lessons about solidarity among Americans. He compared the delivery of aid to victims in the Gulf Coast unfavorably with the response to natural disasters in the Islamic republic." Ahmadinejad said, "We thought Americans would act more quickly and help their fellow Americans. We expected more." The Times adds Ahmadinejad's "visit here has been dogged by protesters asserting that, as a student leader, he played a role in the takeover of the U.S. Embassy in Tehran and seizure of U.S. hostages during the 1979 Iranian revolution."

Bush To Pressure Putin On Iran, Foreign Energy Investment. The Wall Street Journal (9/16, King, White) reports President George W. Bush "hopes to persuade Russian President Vladimir Putin to toughen his stance on Iran, to further open his country's oil and gas reserves to foreign investment and to take steps to speed Russia's entry into the World Trade Organization, when the two men meet at the White House." Bush Administration officials, "previewing Friday's one-day summit, described relations between Washington and Moscow these days as a mix of cooperation and tension, along with a dollop of indifference on the Russian side." US officials say the "first item on today's agenda, U.S. officials say, will be to urge Mr. Putin to look more favorably on European and U.S. efforts to persuade Iran to give up its alleged nuclear-weapons ambitions." Bush will "also try to get a feel from President Putin on what transpired in his private talks at the U.N. on Wednesday with Iranian President Mahmoud Ahmadinejad, the official said."

Putin Said To Be Looking For Way To Retain Power After 2008. In a The Washington Post column (9/16, A31), Martha Lipman says Russian President Vladimir Putin "looks, in fact, like a man interested in reelection. So much so that political commentators are once again guessing about whether he will stay in power beyond 2008, when his second -- and last -- term expires. To be sure, several loyal officials have suggested ways to overcome the constitutional obstacle to a third term. But with the next election still 2 1/2 years away, the Kremlin appears to remain undecided as to how to preserve the political status quo in Russia in 2008. Putin's heightened activity may just be a way of demonstrating that he is fully in charge and that he remains the ultimate decision maker on all important national issues, including the 'challenge of 2008.'"

Bush Trip To Bathroom During Security Council Meeting Creates Stir. The Washington Post (9/16, A29, Kamen) reports in its "In the Loop" column, "President Bush created a bit of a stir Wednesday when he inexplicably walked out in the middle of an important UN Security Council meeting on terrorism, right in the middle of a speech by the leader of Benin. Delegates thought it was another example of American arrogance -- US officials are notorious for leaving meetings in mid-session, especially at the General Assembly. Russia's Vladimir Putin, Britain's Tony Blair and China's Hu Jintao sat patiently through the less-than-riveting address. But it appears that Bush meant no insult, judging from a note he handed to Secretary of State Condoleezza Rice shortly before he left. Bush, after waiting while a member of his security detail swept a nearby bathroom, used the facilities and returned to the meeting a few minutes later."

North Korea Won't Drop Demand For Nuclear Reactor In Weapons Talks. The New York Times (9/16, Kahn) reports North Korea "refused to drop a new demand that the outside world build it a nuclear reactor before it dismantles its nuclear weapons, leaving six-nation negotiations here on the verge of collapse." The United States and North Korea have "identified its demand for a light-water nuclear reactor as the main sticking point in the talks, which have continued fitfully over two years and failed to produce even a joint statement of principles." Christopher Hill, the chief American negotiator, "made it clear on Thursday that the gap had widened over three days of talks." That "leaves the Bush administration with an unhappy choice - go on indefinitely with talks that have produced no result, or seek a consensus to impose international penalties on North Korea against the wishes of most countries in the region." One goal "for the United States in these talks, analysts say, is to show enough sincerity and flexibility to convince Asian nations that fault lies with North Korea and that imposing penalties is the only viable option."

The Washington Times (9/16, Sato, Kwanwoo) reports delegates said "talks on dismantling North Korea's nuclear-weapons program are deadlocked due to 'major disagreements' between the North and the United States." A

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spokesman for the North Korean delegation "agreed yesterday that the talks were 'not making progress' due to the dispute over light-water reactors."

The Washington Post (9/16, A26, Cody) reports US and North Korean diplomats "acknowledged an irreconcilable deadlock Thursday in long-stalled nuclear disarmament talks, casting doubt on the future of Chinese-sponsored six-party negotiations." The "stalemate, based on the North Korean demand that it be given a light-water nuclear reactor to produce electricity, brought the current round of discussions to a rancorous standstill after three days. Representatives of the participating countries, which also include South Korea, Japan and Russia, did not indicate they would abandon the negotiations, but none outlined a way to keep talks going."

Diversion Of Food Aid Adds To Mistrust Of North Korean Regime. The Wall Street Journal (9/16, Fairclough) reports the "widespread availability of donated food in North Korea's booming markets shows how difficult it is for relief organizations to work with a government that, frustrated aid workers and others say, is often more interested in preserving its power than in protecting its citizens. Reports of diverted aid also are deepening mistrust of the government among other nations -- including those negotiating with Pyongyang over the future of its nuclear capabilities." It is "impossible to know exactly how much aid is diverted -- to markets as well as to the military and other groups favored by the regime -- given tight North Korean restrictions on monitoring. But experts say it could be substantial."

Israeli Court Rules West Bank Security Barrier Must Be Rerouted. The New York Times (9/16, Myre) reports Israel's "highest court ruled Thursday that part of Israel's West Bank separation barrier had imposed major hardships on Palestinian villagers and must be rerouted. It was the second such decision by the court." However, the "nine judges on the High Court of Justice also said in their unanimous ruling that Israel could build the barrier inside the West Bank, provided the government did so for security needs and not political considerations." The judges also "criticized an advisory ruling last year by the International Court of Justice in The Hague that said all sections of the barrier inside the West Bank violated international law and should be torn down. The Israeli court said the international court had failed to consider security needs."

The Washington Times (9/16, Mitnick) reports even as "the 9-0 ruling opened future challenges to the two-year-old network of electronic fence and concrete walls, the judges for the first time confirmed the legality of erecting a separation barrier inside the West Bank to protect Israeli citizens." Israel's "defense ministry now must consider alternatives to the path that separates about 1,200 Palestinians in five small villages from the rest of the West Bank. According to the Association for Civil Rights in Israel, which brought the petition on behalf of the Palestinian villages of Wadi a-Rasha and Ras a-Tira, at least four more legal challenges to the fence's route in other areas are making their way to the Israeli Supreme Court."

Sharon Gets Polite Reception From UN. The New York Times (9/16, Brinkley) reports that for the first time, Israeli Prime Minister Ariel Sharon "spoke Thursday to the General Assembly, a body he has long considered a tool of the enemy, and challenged the Palestinians to demonstrate their commitment to peace now that Israel has completed its withdrawal from the Gaza Strip." Sharon said, "The State of Israel proved that it is willing to make painful concessions in order to resolve the conflict with the Palestinians. I call on the Palestinian leadership to show determination and leadership and to eliminate terror, violence and the culture of hatred from our relations." The Times adds the "audience reaction was polite, as is the custom here, but even that might have been more than Mr. Sharon would have expected in the past." Sharon said "numerous world leaders, including some from Islamic nations, have approached him in the halls of the United Nations building, asking to shake his hand and congratulating him on Israel's withdrawal from Gaza."

US Envoy To Taiwan Under Fire. The Washington Times (9/16, Gertz, Scarborough) reports in its "Inside the Ring" column, "Douglas Paal, the U.S. government representative to Taiwan, is under fire from the State Department for misrepresenting Taiwan's policies to his bosses. A State inspector general report said Mr. Paal's leadership style caused low morale among employees of the American Institute in Taiwan, the official US office in Taiwan. The most serious IG charge, however, is that Mr. Paal falsely reported on Taiwanese issues to senior State Department officials, a cardinal sin for envoys. Officials familiar with the details of the IG report said Mr. Paal refused to allow dissenting views and was guilty of suppressing reports from US officials who disagreed with his pro-China views."

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Bush Administration Again Pressing China To Revalue Yuan. The Wall Street Journal (9/16, Phillips) reports the Bush Administration is "turning up the heat on Beijing to allow the Chinese yuan to rise against the dollar, reigniting an economic dispute that had appeared settled." Treasury Department officials are "disappointed that China's eight-week-old promise to let the yuan move with market forces has resulted in only a tiny increase in its exchange value. They warn that Beijing is courting a backlash from U.S. lawmakers who say China's undervalued currency is robbing American companies of business and American workers of jobs." Treasury Secretary John Snow has "invited the Chinese finance minister, Jin Renqing, to meet during a gathering in Washington on Sept. 23-24 of senior economic officials from the Group of Seven major industrialized nations. The Chinese have indicated they plan to attend, but haven't yet formally accepted."

EU Trade Commissioner Says Bush "Playing To Gallery" On Free Trade. The Financial Times (9/16, Alden, Beattie, Blitz, Williams) reports EU trade commissioner Peter Mandelson "on Thursday accused President George W. Bush of 'playing to the gallery' by calling for the global elimination of tariffs and subsidies, saying US farmers would oppose such a sweeping measure." Mandelson's comments "came just one day after he and his counterpart Rob Portman, US trade representative, launched the most serious effort yet to agree on an agricultural liberalisation package as part of the Doha Round of global trade talks." In a Wednesday speech at the UN, Bush "said the US was 'ready to eliminate all tariffs, subsidies and other barriers to the free flow of goods and services as other nations do the same.'" Mandelson, in an interview "with BBC radio, said that, while he welcomed such ambition, 'it is easy to make these grandiose commitments. Some will say he is playing to the gallery, and some will say that he is making these sort of lavish promises in the almost certain knowledge that the rest of the world cannot or won't follow suit and therefore he will get a free pass."

US Decertifies Venezuela In War On Drugs. The Financial Times (9/16, Webb-Vidal) reports the US "struck Venezuela off its list of countries deemed to be co-operating in the war on drugs, injecting a new source of tension into deteriorating relations between Washington and Caracas." In a White House statement, President George W. Bush "said Venezuela, as well as Burma, had 'failed demonstrably' to adhere to their international counternarcotics obligations during the past year." Venezuela's "decertification", "as the measure is called, had been expected in the wake of a decision by President Hugo Chávez last month to suspend a co-operation agreement with the US Drug Enforcement Administration. While Mr Chávez has accused the DEA's officials of 'spying,' US officials have alleged elements within the Venezuelan authorities have become complicit with drugs-trafficking groups."

Merkel Shuffles Economic Advisers In Run Up To Election. The Wall Street Journal (9/16, Walker) reports that with the German elections looming this weekend, "front-runner Angela Merkel is struggling to retune her message on the economy, which is supposed to be her strongest issue but has been weakening her lead in the polls." Merkel's center-right coalition "is still firmly ahead of rivals but polling just short of an absolute majority in Parliament. Calling on her supporters to give her an outright victory and a mandate for economic change, Ms. Merkel shuffled economic advisers and attempted to refocus attention on Germany's high unemployment and low growth under incumbent Chancellor Gerhard Schroeder." German media have "focused on her tax adviser, Paul Kirchhof, whose belief in flat-rate income taxes Mr. Schroeder has criticized heavily. Under pressure from within her own Christian Democrats party, Ms. Merkel has reduced Mr. Kirchhof's importance by inviting the party's most popular finance expert, Friedrich Merz, into the campaign. Mr. Merz fell out with Ms. Merkel last year."

The New York Times (9/16, Landler) reports "three days before an election that has become unexpectedly suspenseful," Merkel delivered "a blunt message: Chancellor Gerhard Schröder has failed, and his government ought to be thrown out." Merkel's "audience of several hundred cheered often, if not quite passionately." Merkel's "sense of grim purpose may suit the moment. After spending four months with a seemingly unassailable lead in the polls, she finds herself in a dogfight with Mr. Schröder." The campaign has "been bumpy for Mrs. Merkel, with a few missteps by her and more blatant gaffes by some of her allies. But what has made the real difference, political analysts say, has been a nimble performance by Mr. Schröder down the stretch."

The Washington Post (9/16, A22, Whitlock) reports that when he "took office seven years ago, Chancellor Gerhard

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Schroeder made a big promise he didn't keep. 'My most important job is the fight against the scourge of unemployment,' he declared in his victory speech after winning the 1998 election. During the campaign, he told Germany's 4 million jobless that he would slash unemployment. Voters should kick him out of office if he failed, he added later." The Post adds Germany's "jobless rate is worse than ever; the number of people out of work hit a post-World War II high this year. German voters haven't forgotten Schroeder's pledge, and polls suggest they are ready to depose him in Sunday's national elections." Merkel "and her allies have been relentless in their reminders."

Bill Clinton Seeks To Generate Action At New York Conference. The Washington Post (9/16, A2, Kessler) reports the UN General Assembly "may have failed this week to come up with a stirring plan to combat the world's ills. But there was former president Bill Clinton -- once said to have harbored an ambition to become secretary general -- assembling his own mini-General Assembly of presidents, prime ministers, kings and other pooh-bahs on Thursday to devise specific plans for addressing poverty, global warming, religious conflict and better governance." The "inaugural meeting of what he has dubbed the Clinton Global Initiative will stretch over three days of seminars and speeches, bringing together 800 movers and shakers who paid $15,000 each for a seat. If the opening session is any guidepost, the meetings resemble the gabfests at Davos, the annual global economic summit held in Switzerland, or the Renaissance Weekends that Clinton attended as president. But Clinton added a catch -- each of the attendees is required to commit to doing something to improve the world." Every attendee is "required to make a commitment in writing. More than 50 commitments have been made, totaling more than $300 million."

Clinton Touts Global Initiative. In a Financial Times op-ed (9/16), former President Bill Clinton says, "This week, the inaugural Clinton Global Initiative (CGI), a three-day programme, is taking place in New York. More than 40 heads of state are joining me and a large number of participants from a broad swath of civil society: non-governmental organisation activists, legislators, policy experts, business leaders, journalists and writers from every continent. This will be a different kind of conference. At this conference, the activists will have access to the presidents and vice versa. And we will do a lot more than talk. International conferences always sound ambitious, but are rarely places where searching questions are answered." That is "exactly what we will try to get at CGI to address four critical challenges: poverty, religious strife, climate change and governance. All difficult – but all solvable."

Fox Expects Smooth Transition After 2006 Elections. The Wall Street Journal (9/16, O'Grady) reports the "past five years have been tough political sledding for Mexican President Vicente Fox, the first non-Institutional Revolutionary Party (PRI) president in 70 years. But his sixth and final year in the job may yet prove the most challenging." With the July, 2006 presidential elections "looming," Fox "emphasized the country's established 10-year record of fiscal stability and political reform that he predicts will guarantee a smooth transition of power." His "facts are straight. But still, there is the Democratic Revolutionary Party (PRD) and its candidate, Mexico City mayor and leftist firebrand Andres Manuel López Obrador, to worry about. This hard-charging, demagogic socialist with overt authoritarian instincts conceivably could win. Equally worrying are the stunts he might pull if he loses. He has a record of fomenting street violence when he doesn't get his way."

WSJournal Says UN Summit Accomplished Little. The Wall Street Journal (9/16) says in an editorial the United Nations world summit "seems to have done no real harm: It has not further extended the authority and reach of the U.N., it has not foisted another 'protocol' or 'convention' for the Senate to consider, and it has not established another significant seven-letter acronym -- er, agency -- for U.S. taxpayers to pronounce, and especially to fund." That "may be a negative accomplishment, but it is certainly a real one, especially as Secretary General Kofi Annan had envisioned the summit as an opportunity to expand membership in the Security Council, expand his own powers and require rich countries to pony up additional billions in foreign aid, among other brainstorms. It took new U.S. Ambassador to the U.N. John Bolton seven weeks of dogged negotiation to make sure none of that happened, and for this he deserves credit." On the other hand, "the diplomatic price the US paid for a no-harm-done outcome was a no-reform result."

US Urged To Support Grass-Roots Institutions To Achieve Goals In Mideast. Waleed Ziad, an economic consultant and a principal in the

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Truman National Security Project, in an op-ed in the New York Times (9/16) questions whether the Egyptian election "or the other recent democratic experiments in Saudi Arabia and elsewhere, really further American aims in the Muslim world?" But "the establishment of the first popularly elected governments in Iraqi and Afghan history has been followed by more suicide bombings and unabated violence. And nobody expects real change, in terms of political freedoms or human rights, any time soon in Saudi Arabia or Egypt." Ziad believes the problem is "the absence not just of democracy but also of grass-roots representative institutions like a free press and independent political, cultural and social-welfare institutions." Ziad advocates the we "foster these organizations -- along with a free press and educational and cultural institutions. At the same time, our corporations should guide local entrepreneurs to promote a free market, the backbone of democracy. If anything is going to come of the neoconservative hope of making Iraq into a beacon of our values, it will be along these lines."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Particpates in National Prayer Service, National Cathedral; meets with Russian President Putin, White House; 3 p.m. Joint press conference with Russian President Putin, White House.

VICE PRESIDENT CHENEY — No public schedule.

LAURA BUSH — Visits the National Center for Missing and Exploited Children. Charles B. Wang International Childrens Building 699 Prince Street Alexandria, Va.

LYNNE CHENEY — Hosts ``Constitution Day 2005: Telling America's Story'' with 180 fourth-grade students from Fairfax County Public Schools. George Washington's Mount Vernon Estate, 3200 Mount Vernon Memorial Highway, Mount Vernon, Va.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: PRESIDENT ALEJANDRO TOLEDO OF PERU _ Highlights: 10:30 a.m. Meets U.S. Trade Representative Rob Portman. Photo opportunity only. Photographers must contact USTR press office to clear security. USTR Offices, 600 17th St., NW. 1 p.m. ``Afternoon Newsmaker'' news conference on ``The Andean-U.S. Free Trade Agreement.'' National Press Club.

RUSSIAN PRESIDENT VLADIMIR PUTIN _ Highlights: 12 p.m. Arrives at Andrew's Air Force Base. 1:15 p.m. Meets one-on-one with President Bush at White House. 1:40 p.m. Joins Russian delegation in meeting with President Bush and U.S. Delegation. 3 p.m. Joint News Conference with President Bush at White House. East Room. 3:45 p.m. Meets with CEOs of American energy corporations. Madison Hotel. 1175 15th St. NW.

ROBERTS-PROTEST _ A coalition of groups join in protest of the confirmation hearings for Judge John Roberts to be chief justice. Groups include: National Organization for Women, Feminist Majority, People for the American Way, Human Rights Campaign, Rainbow PUSH/Coalition, and others. Highlights: 7 a.m. Protest behind Hart Senate Office Building on C Street. Location: Capitol Hill, various locations.

IRAN-NUCLEAR PROGRAM _ 9 a.m. The Nuclear Control Institute and the Iran Policy Committee co-host a news conference to present evidence that Iran has embarked on a nuclear weapons program and is denying the IAEA access to military sites where these activities are taking place. With Paul Leventhal, founding president, Nuclear Control Institute; Alireza Jafarzadeh, president, Strategic Policy Consulting Inc.; Patrick Clawson, deputy director for research, The Washington Institute for Near East Policy; Raymond Tanter, Co-chair of the Iran Policy Committee. Location: National Press Club.

SUPREME COURT FORUM _ 9 a.m. Panel discussion on the issues likely to be raised in the Senate floor debate on the nomination and issues the court is expected to decide over the next twenty years. Sarah Binder, Professor of Political Science, George Washington University; Neal Katyal, Professor of Law, Georgetown University Law Center; Charles Lane, National staff writer/U.S. Supreme Court, The Washington Post; Russell Wheeler Guest Scholar, Governance Studies, Brookings. Location: Falk Auditorium, The Brookings Institution, 1775 Massachusetts Ave., NW.

ARMS CONTROL ASSOCIATION _ 9 a.m. - 10:30 a.m. Media briefing on ``Nuclear Nonproliferation Challenges: Iran, North Korea, and the U.S.-India Nuclear Deal.'' With John S. Wolf, President of Eisenhower Fellowships; Minister Counselor Morten Aasland, Embassy of Norway; Prof. Lawrence Scheinman, Monterey County Institute for International Studies; Daryl Kimball, Executive Director of Arms Control Association. Location: Carnegie Endowment

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for International Peace, Choate Room, 1779 Massachusetts Ave, NW.

MILLENNIUM CHALLENGE-GEORGIA _ 9 a.m. - 10:30 a.m. Chairman of Senate Committee on Foreign Relations Senator Richard Lugar and the Millenium Challenge Corporation host public outreach meeting on compact with Georgia. With Gela Bezhuashvilla, Secretary of Georgia's National Security Council. Location: Room 419, Dirksen.

COMMISSION ON CIVIL RIGHTS _ 9:30 a.m. Commission meeting, with briefing: ``The Patriot Act as it Relates to Anti-Arab and Anti-Muslim Intolerance." Location: Room540, 624 9th St., NW.

WHISTLE-BLOWER HEARING _ 9:30 a.m. Senate Democratic Policy Committee to examine demotion of Pentagon official who reported contracting practices that benefited Halliburton subsidiary KBR and to explore implications for Katrina restructuring contracting. Bunnatine (Bunny) Greenhouse, formerly the highest-ranking civilian officer in Army Corps of Engineers; Christy Watts, former chief contracting officer at the Army Corps of Engineers, Prof. Chris Yukins, government contracting expert, GWU Law School. Location: Room 538, Dirksen.

AFGHANISTAN _ 10 a.m. Army Brig. Gen. James Champion, deputy commanding general, operations and intelligence, combined task force 76, briefs live from Afghanistan on update of ongoing operations in that country. Location: Pentagon briefing room.

KATRINA PRAYER _ 10 a.m. The National Clergy Council and Christian Defense Coalition will hold a special prayer service in recognition of the National Day of Prayer and Remembrance for the Victims of Hurricane Katrina. Location: On the north sidewalk of Lafayette Park and across from the gates of the White House.

US-ARAB COMMERCE REPORT _ 10 a.m. The National U.S.-Arab Chamber of Commerce releases a report on the 2006 outlook for U.S. merchandise exports to the Arab world. Location: National Press Club, 14th and F Sts. NW. West Room, 13th Floor.

CITIZENSHIP DAY CEREMONY _ 10:30 a.m. Sen. Lamar Alexander of Tennessee and Alfonso Aguilar, Chief of the U.S. Citizenship and Naturalization Service, welcome hundreds of DC-area residents as new citizens during special Citizenship Day naturalization ceremony. Location: Jefferson Memorial.

KATRINA RELIEF CONFERENCE CALL _ 11 a.m. The Center on Budget and Policy Priorities holds a conference call assessing the president's plan for Hurricane Katrina relief. Notes: Participants may register by e-mailing baziecbpp.org or calling the media team at 202-408-1080.

POW/MIA CEREMONY _ 11 a.m. Secretary of Defense Donald Rumsfeld and Chairman of the Joint Chiefs of Staff Gen. Richard Myers host Pentagon ceremony for National POW/MIA Recognition Day with troops from each of the military services. Location: River Parade Field, The Pentagon.

ARMY RESERVE CHIEF _ 12 p.m. Lt. Gen. James R.Helmly, Chief of Army Reserve, discusses U.S. Army challenges for the 21st century. Location: The Heritage Foundation, Lehrman Auditorium, 214 Massachusetts Ave., NE.

IMMIGRATION _ 12 p.m. The Cato Institute hosts a Capitol Hill luncheon briefing, ``Bordering on Failure: How to Fix Our Broken Immigration System," with Dan Griswold, director, Center for Trade Policy Studies, Cato Institute. Location: Room B-369, Rayburn House Office Building.

KATRINA-DAY OF PRAYER _ 12:30 p.m. National Clergy Council and Christian Defense Coalition conduct news conference following prayer service in recognition of National Day of Prayer and Remembrance for Victims of Hurricane Katrina. Clergy include New Orleans pastor Rev. Bill Shanks of the New Covenant Fellowship. Location: Sidewalk along Wisconsin Ave., NW, in front of National Cathedral front doors.

EURO FUTURE _ 2 p.m. The American Enterprise Institute (AEI) hosts a conference, ``Does the Euro Have a Future?" with Jeffrey Frankel, Harvard University; John Makin, AEI; Allan Meltzer, AEI; Adam Posen, Institute for International Economics; J. Onno De Beaufort Wijnholds, European Central Bank; and moderator Desmond Lachman, AEI. Location: AEI, Wohlstetter Conference Center, 12th Floor, 1150 17th St. NW.

GWU-CONSTITUTION DAY _ 2 p.m. - 3 p.m. George Washington University commemorates the 218th anniversary of the signing of the U.S. Constitution with a ``Colloquium on Constitutional Law" featuring Law School Dean Frederick M. Lawrence and legal scholar Ira C. Lupu. Location: GWU, Lerner Hall, Moot Court Room, 200 H St., NW.

BLACK CAUCUS-KATRINA _ 9:30 p.m. Rep. Melvin L. Watt, D-N.C., chairman, Congressional Black Caucus, and Bruce Gordon, President and CEO, National Association for the Advancement of Colored People will address the American people regarding President Bush's plans to rebuild

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the Gulf Coast region. Location: National Press Club, Lisagor Room.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Easing The Hard Time."
"Bush Promises A Massive Rebuilding Of Gulf Coast."
"Timing Of Gov.'s Bid A Sign Of Deep Woes."
"Routine Of A Class Replaces The Chaos Of Katrina."
"President Seeks To Revive A Region -- And His Image."
"More Iraqis Lured To Al Qaeda Group."
"After Blocking The Bridge, Gretna Circles The Wagons."

USA Today:
"Hope Turns To Anguish At Intensive-Care Unit Hope Turns To Anguish At Intensive-Care Unit."
"City's Coming Back, But Not To Normal Life."
"Plan Includes Homesteading, Jobs Programs."

New York Times:
"Bush Pledges Federal Role In Rebuilding Gulf Coast."
"G.O.P. Split Over Big Plans For Storm Spending."
"Seinfeld Who? NBC Pursuing The Heartland."
"Voting May Be Life-And-Death Choice For Afghans."
"For Athletes Left On Sideline, Welcome Mats And Questions."
"Speaking Volumes."

Washington Post:
"Bush Pledges Historic Effort To Help Gulf Coast Recover."
"A Bid To Repair A Presidency."
"Little Progress In FBI Probe Of Anthrax Attacks."
"For Evacuees At Shelter, An Uncertain Next Step."
"Some Of The Uprooted Won't Go Home Again."
"Conservatives Rise In Charles Schools."

Washington Times:
"Democrats Hit Roberts' Ambiguity."
"Tehran Offers Nuclear Expertise."
"U.S. To Pick Up Rebuilding Tab."
"Parts Of New Orleans Will Be Reopened."
"New Speed, Red-Light Cameras Added In Northeast."
"St. Bernard Fades As Rescuer In Snow."
"Married Americans Remaining Faithful."

Detroit Free Press:
"Bush: New Orleans To Rise Again."
"Race For Mayor Gets Personal."
"Financier Plans Auto Parts Giant."
"Candidates Land Verbal Punches At Cobo Debate."
"Mayor's Drug-Use Talk Ticks Off Oakland Exec."
"NWA Aims To Shrink Its Fleet Of Planes."

Atlanta Journal-Constitution:
"Delta Retirees Feel Pinch."
"In The Air, It's Business As Usual."
"Bush Vows To Rebuild Gulf Coast."
"$100 Million: It's Quite A Re-Do For I-85/Ga. 316."
"Life-Changing Gifts Of Hope."

Dallas Morning News:
"Ring Of Honor Telecast Taken By Storm."
"Bush Pledges To Rebuild."
"City Can't Count On Levees Now."
"Library Coffee Bars: The New Buzz At High Schools."
"'Everywhere I Went, I Saw People With Guns.'"

Houston Chronicle:
"Gangland Violence Invades Paradise."
"U.S. Will Pay To Rebuild From Storm."
"Roberts Tries To Reassure: 'I Am Not An Ideologue.'"
"Carters Work To End Scourge In Ethiopia."
"Nagin Gives The Go-Ahead For City To Crawl Back To Life."

Story Lineup From Last Night's Network News:
ABC: Bush-Gulf Coast Rebuilding; New Orleans Rebuilding; Katrina Evacuees-Therapists; NC-Hurricane Ophelia; Bubonic Rats Missing; Roberts Hearing; Baghdad Bombings; Adult ADHD; Wise Obit; Clemens' Mother; Katrina-Displaced Dolphins.
CBS: New Orleans Recovery; Katrina-Death Toll; Bush-Gulf Coast Rebuilding; Katrina-Unemployment Benefits; NC-Hurricane Ophelia; Baghdad Bombings; Katrina-Missing Children; Katrina-Insurance Lawsuit; New Orleans-Oil Cleanup; Consumer Price Report; Roberts Hearing; FBI-Fugitive Arrest; Katrina-Displaced Dolphins.
NBC: Bush-Gulf Coast Rebuilding; New Orleans-Resident Return; Mississippi-Aid Complaints; New Orleans-Devastation; Accurate Katrina Forecast; Baghdad Bombings; Roberts Hearing; NC-Hurricane Ophelia; Stock Market; Young Hurricane Evacuee; Katrina-Displaced Dolphins.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Bush Speech; Tropical Storm Ophelia; Bush-Base Closings; Wall Street.

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CBS: Bush Speech; Hurricane-Missing People; Mississippi-Insurance Lawsuits; Tropical Storm Ophelia; Roberts Hearings; Wall Street.
NPR: Roberts Hearings; Bush Speech; Hurricane-Mississippi Farm Damage; Wall Street; North Korea Nuke Talks; Iran Nukes; Baghdad-Drive By Shooting.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, SEPTEMBER 16, 2005 7:45 AM EDT

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TERRORISM NEWS:

Massive Anthrax Investigation Yet To Yield Results As Trail Grows Cold. In a front-page story, the Washington Post (9/16, Lengel) reports, "Four years after the deadly 2001 anthrax attacks, one of the most exhaustive investigations in FBI history has yielded no arrests and is showing signs of growing cold as officials have sharply reduced the number of agents on the case. FBI agents and postal inspectors have pursued leads on four continents, conducted more than 8,000 interviews and carried out dozens of searches of houses, laboratories and other locations." The Post adds, "FBI officials said yesterday that investigators are still working diligently to find whoever was responsible" and "said they are getting assistance from forensics experts and scientific researchers from law enforcement agencies, the intelligence community, university laboratories and private corporations."

Weldon Claims Pentagon Employee Was Ordered To Destroy Able Danger Documents. The AP (9/16, de la Cruz) reports US Rep. Curt Weldon on Thursday said that "a Pentagon employee was ordered to destroy documents that identified Mohamed Atta as a terrorist two years before the 2001 attacks." Weldon added that "the employee is prepared to testify next week before the Senate Judiciary Committee and was expected to name the person who ordered him to destroy the large volume of documents," which "Weldon described…as '2.5 terabytes' — as much as one-fourth of all the printed materials in the Library of Congress. A Senate Judiciary Committee aide said the witnesses for Wednesday hearing had not been finalized and could not confirm Weldon's comments."

Moroccan-Born Dane Denies Promoting Terrorism. The AP (9/16, Olsen) reports, "A Moroccan-born Danish citizen arrested on suspicion of promoting terrorism denied the allegations in (a Copenhagen, Denmark) court Thursday." The AP continues, "Said Mansour was arrested Sept. 8 in Copenhagen on suspicion of encouraging terrorism by calling for a Jihad, or holy war, against the West in scores of CDs, computer discs and video tapes found in his home. … In his challenge to a court order allowing police to hold him for four weeks, Mansour told the Eastern High Court that he was not a terrorist and that the material was for his personal use. The court is expected to rule Friday. … 'I have lived in this country for 23 years and I have always lived in peace,' Mansour told the court. 'I can assure you, I am no terrorist and I have nothing to do with terrorism.'" The AP adds, "In three raids on his home since November, police have seized some 3,000 CD-ROMs and roughly 500 computer disks, most containing calls for a jihad. Police also seized 161 CD-ROMs when Mansour was allegedly selling at a Copenhagen flea market in June, and 14 computer disks found in his car during a Danish-German border check in March."

Judge Denies Bail For Egyptian Student Caught With Airline Materials. The Memphis Commercial Appeal (9/16, Conley) reports, "When FBI agents walked into Mahmoud Maawad's spartan apartment…they found a desk, chair, computer and a Koran. They also found an airline pilot's uniform, a chart of Memphis International Airport, and instructional DVDs, including one called 'How an Airline Captain Should Look and Act.' A federal magistrate Thursday ordered Maawad, a 29-year-old University of Memphis student from Egypt, jailed until his trial on charges of wire fraud and fraudulent use of a Social Security number. 'The specific facts and circumstances are scary,' Asst. U.S. Atty. Steve Parker said," adding, "'we don't know either way' if Maawad is a terrorist or connected to any terror groups." The Commercial Appeal adds, "Maawad has been in the country illegally since 1999, and has used a false Social Security number to enroll in schools and open a bank account, Parker said."

Guantanamo Hunger Strike Spreads. The AP (9/16, Jacobs) reports, "A hunger strike at the U.S. prison for terror suspects in Guantanamo Bay, Cuba, has grown to its largest point since detainees began their latest protest more than a month ago, a military official said Thursday." The AP continues, "After 11 detainees joined the protest overnight, there are now 131 taking part in the hunger strike, said Maj. Jeff Weir, a spokesman for the detention center. … Twenty-one of the striking prisoners were hospitalized in stable condition at the prison medical clinic, including 20 who were being tube-fed, Weir said." The AP adds, "The military considers a hunger strike to be a form of suicide and Weir said that one prisoner was restrained after he resisted having a feeding tube inserted. … 'No facility in the U.S., and hopefully the world, is going to let someone starve to death,' Weir said. 'We're charged with keeping them in good health, and that's what we're doing.'" The AP notes, "Guantanamo officials said this latest hunger strike began Aug. 8 with 76 detainees protesting their confinement. It has since grown to more than a quarter of the approximately 500 detainees. … The military defines someone as being on a hunger strike after they have refused nine consecutive meals. There have been at least two previous hunger strikes, but military officials said they were not able to confirm whether this was the largest."

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PATRIOT ACT:

Nebraska US Attorney Says Patriot Act No Threat To Average Citizen. KNEB-AM 960, Scottsbluff, NE (9/16) reports, "U.S. Attorney Mike Heavican told Scottsbluff Kiwanians Thursday the average citizen should not fear the expanded power authorities have under the Patriot Act. Heavican, who spoke on the issue in Sidney Wednesday and will be in Chadron Friday, says the only people who should be concerned about the legislation should be those involved in terrorist activity." KNEB-AM continues, "Heavican says authorities have always had access to library, bank and medical records for cases involving criminal investigations. Heavican says with the Patriot Act, those powers now expand to cases involving international terrorism. Heavican told the group searches into personal records can only be done if probable cause is established and if the judicial system agrees it is justified." KNEB-AM adds, "Heavican says the feds have tried to use their new authority, which includes delayed notice search warrants, sparingly and only under circumstances where somebody's life is in danger, the suspect is a flight risk, or if the investigation would be compromised."

HOMELAND RESPONSE:

Romney Reiterates Call For Increased Domestic Surveillance Of Terror Suspects. On Fox News' The Big Story With John Gibson (9/15), Massachusetts Gov. Mitt Romney discussed his call for increased surveillance of mosques and international students in the US. Romney said, "I'm sure the FBI infiltrates organizations they're concerned about. If they have probable cause, they're able to do wiretapping. … What we need to do is more of that and have more resources devoted to the FBI in their effort to do intelligence work and counterintelligence work. We don't need different tools. We need to use the tools we have got under the Patriot Act and under our current laws to assure that we really are following groups that are preaching terror…that we have the resources necessary to prevent the bombs from going off, rather than just the resources to clean up afterwards."

CNN's The Situation Room (9/15, Cafferty) reported "the Republican governor, who's considering a run for the White House in 2008, said that, when it comes to homeland security, the U.S. needs to shift its focus from response to prevention. Civil rights groups are aghast at this idea, saying his ideas are misguided and ineffective. The ACLU points out, the government already collects data on foreign students."

FBI Investigating Disappearance Of Plague-Infected Mice. ABC World News Tonight (9/15, story 5, 1:55, Woodruff) reported that in New Jersey, FBI "agents have been swarming over a bioterrorism research lab for the past two weeks after three mice infected with bubonic plague went missing. They are less worried about the public health risk than how the mice could have disappeared from a high security lab." ABC (Thomas) added that the bureau is "so concerned, it sent more than a dozen agents, including experts in bioterrorism, to interview and polygraph employees." Public health officials "believe the mice probably died very quickly and pose a low risk. So far, no evidence of foul play has been discovered. Still, the incident raises troubling questions about the security at more than 300 similar labs across the country, many of them without adequate surveillance camera coverage."

WAR NEWS:

Pentagon Touts Success In Destroying Al Qaeda In Iraq As Violence Mounts. In Iraq, four suicide bombers again struck in Baghdad, killing 31 and bringing the two-day death toll to 200, as al Qaeda in Iraq leader Abu Musab al-Zarqawi sought to inflame the ethnic and religious divisions between Sunni and Shiite Arabs. However, the US military is confident its recent operations targeting Al Qaeda in Iraq have been successful despite the recent violence.

The CBS Evening News (9/15, story 6, 2:00, Martin) reported it was "gruesome evidence of Abu Musab Al-Zarqawi's declaration of all-out war against the Shiites who control the government of Iraq. Zarqawi's Website claims the carnage in Baghdad is revenge for an assault by US and Iraqi troops on the town of Tal Afar near the Syrian border, a hub for insurgent operations in northern Iraq, where the US military says it has scored dramatic successes." Col. Robert Brown, commander, 25th Infantry Division: "One of the great pieces of information we got recently is 80% of the al Qaeda network in the north has been devastated." Martin: "Col. Robert Brown says the six top leaders in the city of Mosul have all been killed or captured, including this man, Abu Zaid, who was carrying a letter to Zarqawi complaining about everything from the incompetence of local insurgency leaders to the poor training of the foreign fighters being sent into the country. But US troops have cleared out other cities before, only to withdraw and have the insurgents return, facing little or no opposition from Iraqi security forces."

ABC World News Tonight (9/15, story 7, :15, Woodruff) and NBC Nightly News (9/15, story 6, 0:15, Williams) also briefly reported the story. The New York Times/AP (9/16) notes, "The latest violence only deepened the misery in

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Baghdad, where streets on Thursday were noticeably quieter and, in the southern Dora district, where the latest bombings were concentrated, deserted." US and Iraqi soldiers "using loudspeakers roamed the district, warning residents to stay indoors because five more suicide car bombers were believed to be in the area."

Joint US-Iraqi Forces To Continue Strikes Against Insurgents Along Syrian Border. The New York Times/AP (9/16) reports Lynch said that after the Tal Afar operation, US and Iraqi forces "were fighting to regain control of the Syrian border, near the western insurgent stronghold of Qaim, on the Euphrates River and well to the south of Tal Afar. 'We believe that the terrorists and foreign fighters are entering Iraq across the Syrian border, down the Euphrates River Valley into Baghdad,' General Lynch said."

US Military Says Zarqawi "On The Ropes." The Washington Post (9/16, A27, Knickmeyer) reports, "The top U.S. military spokesman in Iraq, Maj. Gen. Rick Lynch, said the surge in bombings represented the kind of occasional spikes in attacks that the military has been expecting. Lynch told reporters, 'Zarqawi is on the ropes.'" Lynch said, "We believe we are experiencing great success against the most crucial element of the insurgency, which is the terrorists and the foreign fighters. The face of that is Zarqawi and al Qaeda in Iraq. … We've got great intelligence which tells us where he's moving to and where he's trying to establish safe havens. As soon as we see him trying to establish a safe haven, we will conduct operations. … We're using all assets under our control in conjunction with the Iraqi security forces to find him and kill him."

Zarqawi Said To Be Drawing Increasing Support From Iraqi Nationals. In contrast to the US military's public comments, the Los Angeles Times (9/16, Miller, Marshall) reports some US officials believe Al Qaeda leader Abu Musab Zarqawi's success is increasingly attracting Iraqi nationals to his cause. The three US officials' "comments reflect the government's latest attempt to come to grips with a multi-layered insurgency that has often confounded U.S. forces and intelligence agencies." They "indicated that the infusion of Iraqis, including, apparently, former members of the Iraqi intelligence service and military, represented a change in the group's makeup rather than a major expansion." The increasing presence of Iraqis "carries ominous implications, both for the Bush administration and the fledgling, popularly elected government it supports in Baghdad."

US Definition Of Victory In Iraq Has Evolved. The Christian Science Monitor (9/16, Sappenfield) reports, "Since the day in May 2003 when President Bush stood beneath a banner proclaiming 'Mission Accomplished,' the course of the conflict in Iraq has been one of optimism followed by revision." Despite earlier expectations that US troops would be able to stabilize Iraq and leave relatively quickly, the "increasingly bracing tone from the White House and Pentagon, however, points to a new calculus. The persistence of the attacks, as well as their undiminished capacity…seems to have confirmed that the insurgency will probably outlast the American occupation." The Monitor notes, "Indeed, the inability of American forces to defeat the insurgency through strikes such as the current offensive in Tal Afar raises doubts about the possibility of any clear victory for the administration. And it could leave the Iraqis with a years-long task that many planners had not anticipated."

Talabani Confident Iraqis Can Avoid Civil War. Daniel Henninger in his column in the Wall Street Journal (9/16) recounts the details of an interview with Iraqi President Jalal Talabani who stresses that most of Iraq is stable and secure. The Kurdish Talabani considers himself, Shiite cleric Ayatollah Ali al-Sistani and Ahmed Chalabi as leaders working to prevent a civil war. Talabani believes that "while the Sunnis are starting to understand where their best interests lie, they lack a political center just now. The Kurds and Shiites, Mr. Talabani explains, are relatively cohesive as political entities, but the Sunnis are divided into small, often tribal groups: 'Saddam didn't permit any kind of Sunni leadership to emerge.' Right now, he said, the Sunnis need assurance that the government can protect them, as in the current joint U.S.-Iraqi offensive against the insurgents in Tal Afar." Talabani believes the new strategy of leaving Iraqi forces to secure troubled areas will succeed.

UN To Distribute Five Million Copies Of Iraqi Draft Constitution. The New York Times/AP (9/16) notes that "the United Nations planned to print and distribute five million copies of Iraq's draft constitution before the Oct. 15 referendum, a spokesman said Thursday." Spokesman Farhan Haq "said officials hoped the Iraqi Parliament would sign off on the text by Sunday."

Saddam To Face Broader Charges. The Washington Post (9/16, A27, Knickmeyer) in an article on the latest violence in Iraq also notes that one "Western official familiar with arrangements for Saddam Hussein's trial by an Iraqi tribunal, scheduled for Oct. 19, said he expected the former president to be tried in connection with a variety of crimes, including the destruction of thousands of Kurdish villages and the disappearance and killing of their inhabitants in the 1980s. Authorities so far have announced charges in only one, smaller event, the killing of 140 Shiite Muslims after an assassination attempt against Hussein in their town."

Records Detail US Abuse Of Detainees. The Los Angeles Times (9/16, Serrano) reports, "Army officers in Iraq told their superiors last year that soldiers often lacked the training to handle detainees, did not always understand what constituted abuse and sometimes used techniques against

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prisoners that they 'remembered from movies,' according to new military records made public Thursday." In 2004, Army IG Lt. Gen. Paul T. Mikolashek "concluded that there were no systemic failures or widespread patterns of detainee abuse," yet "according to documents generated for his report…Mikolashek was told of many incidents in which poor training and inadequate facilities created an atmosphere that fostered abuse." ACLU executive director Anthony Romero "said the new documents suggested Mikolashek brushed aside evidence that there had been abuse and significant training problems."

Female Candidate In Afghan Election Attacked. Afghani election candidate Hawa Alam Nuristani was shot in the hip by attackers who also kidnapped two of her supporters. The New York Times (9/16, Gall) reports Nuristani "was treated by American troops in the region and then evacuated to Bagram Air Base, near Kabul, where she was in stable condition." Local leaders "were gathering to try to secure the release of the kidnapped men, General Baqi said. Early reports indicated that the attackers were not Taliban fighters or other antigovernment insurgents but rival candidates, he said."

Afghans Unfazed By Pre-Election Violence, Threats. The New York Times (9/16, Sengupta) reports, "Nearly four years after the Taliban government was routed from Afghanistan by American-led forces, a newly emboldened insurgency has stepped up a campaign of threats and thuggery on the eve of the country's parliamentary and provincial elections, particularly here in the badlands of the country's south. Elsewhere, the presence of former warlords on the ballot has led to charges of voter intimidation." Yet, "what is just as remarkable is the degree to which so many ordinary Afghans seem unfazed by the threats and violence, and, on occasion, are openly defiant.

Afghans Expected To Create Coalition Government. The Christian Science Monitor (9/16, Baldauf) reports that according to Afghani candidates and foreign observers the problem with the Afghan elections "is the way in which Afghanistan's parliament was created in the country's new constitution. Voters choose candidates as individuals, not as members of a party. This creates an environment where personalities are more important than ideas, coalitions struggle to stick to common agendas, and individual MPs are more easily manipulated by the palace." But, "already there are signs that some candidates are forming three main coalitions. One, led by Northern Alliance politician Younus Qanooni, will act as a sort of permanent opposition to President Karzai, and will attempt to change the system of government to give parliament more power, including a prime minister. A second faction will be a cross section of independents from around Afghanistan, who side with Karzai on most issues. A third faction of liberal and leftist parties will swing back and forth between the opposition and Karzai, supporting the president on common issues, but voting against him on others."

Election Officials Worried About Warlords, Taliban On Ballot. USA Today (9/16, Wiseman) reports, "The presence of warlords and ex-Taliban officials on the ballot when Afghans vote Sunday is raising fears that figures from the past will sabotage efforts to build a stable democracy." Sam Zarifi of Human Rights Watch said, "The Afghan people need a government that is functional and accountable. … The warlords offer neither." But former Taliban administrator Mawlavi Qalumuddin "says it would be dangerous to ban warlords from the democratic process; isolated, they might turn to violence."

WPost Praises US Decision To Foster Democracy In Afghanistan. The Washington Post (9/16, A30) editorializes, "It's easy for Westerners, and even Afghans, to lose sight of how much progress" the Afghan election represents. There has been much criticism in the West of the Afghan political progress, but although "many of these critiques are legitimate, it's worth noting the tenaciousness with which many liberal Westerners have opposed every step by Afghanistan toward freedom. Four years ago…former European Union commissioner Emma Bonino was one of those who condemned the U.S. intervention against the Taliban, which she said would 'all but doom' millions of Afghans 'to death.' Now, incredibly, she leads the E.U.'s observer mission at the elections" and remains pessimistic. The Afghan "political life isn't entirely 'healthy.' But as the world will shortly see, it is immeasurably better off than it was four years ago -- and than it would have been had the United States hesitated to act."

Observers Concerned International Community Will Abandon Afghanistan. Joanna Nathan, a senior analyst in Kabul for the International Crisis Group, and Mark Schneider, the ICG's senior vice president, in an op-ed in the Washington Times (9/16) warn about the danger of allowing warlords and former Taliban who are running for election "and now seeking the mantle of a democratic mandate." Nathan and Schneider state, "It is absolutely imperative that these elections are viewed as the beginnings of democratization, not the end." Past "lessons about the consequences of abandoning Afghanistan should be fresh in everyone's mind. … If Afghanistan is allowed to slip back into being a failed state because the international community turns away after elections, that sense of discontent will be the country's major export."

DOJ:

New Detroit US Attorney Sworn In. The Detroit News (9/16, Shepardson) reports, "If nothing else, the U.S.

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attorney is a man who can cry. …Stephen J. Murphy III, a former assistant U.S. attorney and General Motors lawyer, repeatedly fought through tears after his formal swearing-in as the top law enforcement officer in eastern Michigan." The News continues, "A Who's Who of Michigan politicians lauded Murphy Thursday and ribbed him about his performance as an assistant U.S. attorney. … Gov. Jennifer M. Granholm and Murphy were among the 'young Turks' who served in the U.S. attorney's office in the 1990s, she noted." The News adds, "In 1992, Granholm recalled seeing Murphy fall asleep at his desk with his finger on the 'Z key.' … Granholm and a colleague responded by sending Murphy a phony memorandum sternly reprimanding him for falling asleep on the job." The News notes, "Unmentioned directly but referenced by several speakers was the continuing fallout from the botched 2003 Detroit terrorism case. … A federal judge threw out the convictions of two Arab immigrants arrested shortly after Sept. 11 after a Justice Department review found evidence of prosecutorial misconduct. … The case and a separate criminal investigation into the conduct of the former lead prosecutor are pending. … Bradford A. Berenson, a former White House counsel's office lawyer, noted that Murphy was taking over 'at a time when the office has been through some serious difficulties.' … Since taking office in March, Murphy has reshuffled the leadership in the office and issued a two-sentence mission statement. Murphy said his office 'is dedicated to doing the right thing.'"

CORPORATE SCANDALS:

Eight Former Marsh Brokers & Executives Indicted. The Wall Street Journal (9/16, Mcdonald) reports, "Eight former Marsh Inc. insurance brokers and executives were indicted yesterday by New York state's attorney general, Eliot Spitzer, on criminal-fraud charges including an alleged scheme to defraud and grand larceny." William Gilman, Joseph Peiser, Edward McNenney, Greg Doherty and Thomas Green "were indicted on charges including scheme to defraud in the first degree, and grand larceny in the first, second and third degrees." Kathleen Drake, William McBurnie and Edward Keane "were indicted on the same charges, but the grand-larceny charges are in the second degree."

Interpublic Accounting Problems Include Illegal Acts. The Wall Street Journal (9/16, Steinberg, Vranica) reports that Interpublic Group, with a revelation that appeared to take its "long-running accounting problems to a new level," said "an internal investigation has turned up instances of 'misappropriation of assets' and 'falsified books and records' that violated laws, mainly occurring at operations outside the U.S.," although it says "it has fired or is in the process of firing 'culpable' employees." Still, a six-month investigation "confirmed that the company would have to restate its earnings going back to 2000 as a result of several accounting error," whose "impact on our results of operations for all periods will be material," and "past financial statements shouldn't be relied upon."

The New York Times (9/16, Elliot) adds that this is "the first time in those three years that Interpublic has said that not all the errors leading to its plight were necessarily honest ones." Interpublic "has been struggling with financial and operational difficulties for three years, mostly related to weak internal controls." Analysts who follow advertising stocks" had mixed reactions to Interpublic's news," with Credit Suisse First Boston saying in a report, "If management can execute, the risk-reward on IPG is highly favorable and this is a major turnaround story."

Growing Concern Over Hedge Funds, Credit Derivatives. The New York Times (9/16, Atlas) reports, "Yesterday, the Federal Reserve Bank of New York met with representatives of 14 banks, as well as regulators from the United States and overseas, to discuss cleaning up the processing of the contracts in the booming market for credit derivatives." As "the number and influence of hedge funds have ballooned," it has "prompted concerns that if a big bet goes wrong, regulators and banks will again be caught up in a collapse. High on the list of worries is the voracious appetite of hedge funds for arcane credit derivatives."

Long Sentences For White Collar Crime Questioned. The New York Times (9/16, Sorkin) reports, "While recent lengthy sentences for white-collar crimes have been hailed by some as desperately needed deterrents after a deluge of corporate scandals…a number of lawyers, including former prosecutors, are questioning whether such sentences are justified … No lawyer is suggesting that white-collar criminals not serve time. Rather, lawyers and jurists are asking what the appropriate sentence is for white-collar crimes relative to punishments for other crimes in a post-Enron world." Jonathan Simon, a professor of law at the University of California, Berkeley, said "he had doubts about whether an especially long sentence worked as a significantly greater deterrent to potential white-collar criminals than shorter terms."

Shareholder Suit Against ITT Dismissed. The Indianapolis Star (9/16, Wall) reports, "A federal judge in Indianapolis dismissed a shareholder lawsuit against ITT Educational Services Inc. Wednesday, saying the shareholders did not adequately demonstrate securities fraud." The Star continues, "U.S. District Court Judge David F. Hamilton gave the shareholders, who had been seeking class-action status, until Oct. 14 to file an amended

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complaint." The Star adds, "The lawsuit had accused ITT Educational, a Carmel-based for-profit educator, of inflating enrollment figures, falsifying grades, attendance and placement records, and shredding documents just before visits by government investigators. … But Hamilton found that none of the accusations were precise or strong enough under the Securities Exchange Act and the Private Securities Litigation Reform Act, which govern shareholder lawsuits." The Star notes, "The dismissal comes less than three months after the U.S. Justice Department said its investigation of ITT Educational had found no evidence of wrongdoing by the company or its executives. The Justice Department shifted its focus to 'local issues' at individual ITT campuses."

Columnist Questions If Oracle Settlement Helps Shareholders. In his column in the New York Times (9/16), Floyd Norris reports, "Lawrence J. Ellison, the chief executive of Oracle, has settled a shareholder derivative suit, without admitting he did anything wrong, for a $100 million donation in Oracle's name to a charity chosen by Mr. Ellison." Oracle will pay $24 million to the plaintiffs' lawyers, so "the company owned by the shareholders will have that much less cash. Mr. Ellison will donate $100 million to charity." The lead plaintiffs' lawyer, Joseph J. Tabacco Jr., a partner in Berman DeValerio Pease Tabacco Burt & Pucillo, said that "Oracle would benefit because its chief executive would not be distracted by having to defend the suit, something one might think could have been arranged had the suit not been filed in the first place."

CRIMINAL LAW:

DOJ Urged House GOP To Block Forced Release Of Plame Documents. Reuters (9/15) reports, "The Justice Department and the special counsel investigating the leak of a CIA operative's identity pressed Congress to block legislation that would compel the administration to turn over documents related to the case, the department said in a letter released on Thursday." Reuters continues, "The Justice Department, in a letter dated September 14, said special counsel Patrick Fitzgerald had advised that producing documents and holding hearings would interfere with his investigation. The letter was sent to the House Intelligence Committee's Republican chairman, Rep. Peter Hoekstra of Michigan." Reuters adds, "Congressional Democrats have so far failed in their attempts to pass legislation that would force President George W. Bush and the departments of state, justice and defense to provide Congress with documents relating to CIA operative Valerie Plame. … Republicans on the House Intelligence Committee on Thursday rejected the legislation on a party-line vote. Republicans on the House Judiciary Committee and International Relations Committee rejected similar resolutions on Wednesday. … Republican say Congress should await the outcome of Fitzgerald's investigation. … Democrats countered that Republicans were trying to protect Bush and his top political adviser, Karl Rove."

Senate Turns Aside Ban On Internet Gambling. Reuters (9/15) reports, "The U.S. Senate on Thursday turned aside an attempt to restrict Internet gambling in a procedural move, but Sen. Jon Kyl vowed he would try again and said he expected the legislation would become law eventually." Reuters continues, "The Arizona Republican tried to attach language restricting Internet gambling to an annual spending bill that must be passed this year, but an unnamed Democrat objected to attaching an unrelated matter to the spending measure under consideration." Reuters adds, "Kyl said his legislation would require banks and credit card companies to block payments to online Internet gambling sites. He said some firms were already voluntarily blocking money transfers. … Sen. Barbara Mikulski, a Maryland Democrat, said that a member of her party had objected to attaching Kyl's language to the spending bill but she was not sure who. Kyl urged the lawmaker to come forward so the concerns could be addressed. … The U.S. Justice Department has said the laws that prohibit interstate gambling apply to the Internet. But Americans have turned to offshore gambling Internet sites as an alternative."

Counterfeiter Convicted Of Chicago Federal Courthouse Bomb Plot. The AP (9/16) reports, "A counterfeiter who sat in prison dreaming of revenge against the judge who sent him there was convicted Thursday of planning to blow up Chicago's federal courthouse. Gale Nettles, 66, was also convicted of making a fresh batch of bogus $20 and $100 bills." The AP notes that after his release from prison, "Nettles went searching for ammonium nitrate," and "the FBI saw to it that he got urea, a substance that looks like ammonium nitrate but which would not have exploded if detonated in the way that Nettles planned. Nettles then went looking for a member of Osama bin Laden's al-Qaida terrorist network. What he found was an undercover FBI agent who was posing as a terrorist. Nettles sold a batch of the urea to the undercover agent, who made many of the recordings that were played for the jury."

The Chicago Tribune (9/16, Higgins) notes, "Nettles' defense attorney, John Theis, argued that the FBI entrapped Nettles by, among other things, having an undercover officer repeatedly offer to sell him the fertilizer. But Assistant U.S. Atty. Brandon Fox disputed that in his closing arguments Wednesday." Fox told jurors, "This was something he was going to do from the beginning. ... He was going to take down this building."

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Missing Chicago Mob Figure Again Contacts Attorney By Mail. The AP (9/16, Robinson) reports, "Missing reputed mob figure Joseph 'Joey the Clown' Lombardo has written a new letter to his attorney disputing testimony from an FBI agent, the attorney said Thursday." Rick Halprin "said the letter was postmarked Chicago and dated Aug. 25. He said two Chicago newspaper clippings were in the envelope. … Halprin said the letter takes issue with testimony before the Illinois Gaming Board by John Mallul, the head of one of the FBI's Chicago-based organized crime squads. … Mallul testified that in May 1999, Lombardo and other mob figures and mob associates met with Donald Stephens, the mayor of the tiny suburb near O'Hare International Airport. … Halprin said Lombardo denies it in his letter."

WMAQ-TV Chicago (9/15, Marin) also reports about the letter on its Web site from a story broadcast Thursday. WMAQ notes, "Lombardo has said he's willing to take truth serum or a lie detector test alongside the FBI agent to see who is telling the truth." The Chicago Sun Times (9/16, Marin, Toomey) adds, "Rosemont Mayor Donald E. Stephens adamantly denied under oath Thursday that he met with the mob in 1999 to talk about a casino for his town. And, in an ironic twist, a reputed mob boss on the lam is backing him up." The Sun Times goes on to report the details of the Lombardo letter.

Mob Informant Claims FBI, New Jersey Officials Framed Gangster. The New York Sun (9/16, Capeci) reports, "A turncoat Luchese mobster who helped authorities nail two suspects in the deadly Seton Hall arson five years ago has now turned the tables on law enforcement, claiming that a high-level FBI agent, together with New Jersey investigators, have knowingly kept an innocent man incarcerated for 12 years for a murder he didn't commit." Thomas Ricciardi, "whose cooperation has also led to convictions of mobsters and mob associates, alleged that the officials learned they had wrongly convicted the gangster," Martin Taccetta, "just four days after he was found guilty in 1993." Yale Law professor Steven Duke told the Sun, "The evidence clearly establishes an audacious, pervasive conspiracy by many New Jersey law enforcement agencies, including the FBI, that is comparable to the disgraceful conduct of FBI agents who framed innocent men for murder in Boston in the 1960s."

Bonanno Figure Sentenced To 20 Years For Mob Murder. Newsday (9/16, DeStefano) reports, "Anthony Urso, the driver for Bonanno boss Joseph Massino who briefly took over command of the crime family in 2003, was sentenced to 20 years in prison for the killing of a mob associate." Urso "pleaded guilty earlier in the year to taking part in the murder of Anthony Tomasulo. Tomasulo, a Bonanno family associate, was killed in May 1990 after he allegedly failed to pass along some of his illegal gambling proceeds from joker-poker machines to the crime family administration, officials said."

Chicago Lawyer Alleges Contracting Scheme By Blagojevich, Fundraisers. The Chicago Sun Times (9/16, Fusco, McKinney, Fornek) reports, "Gov. Blagojevich and two top fund-raisers schemed to steer lucrative state pension deals to investment firms and consultants who agreed to donate to Blagojevich's campaign, a key figure in a widening corruption probe claims he's been told. The unproved but explosive allegation surfaced Thursday in a federal plea deal by Chicago lawyer Joseph Cari," who "pleaded guilty to attempted extortion for his role in a kickback scheme the feds say was directed by former state teacher pension board member Stuart Levine." The Sun Times notes, "Cheryle Jackson, Blagojevich's communications director, downplayed the credibility of Cari's statements. 'This is speculation based on testimony from an admitted extortionist who was told this by someone twice accused of extortion himself.' Jackson said the feds have not contacted the governor." The Chicago Tribune (9/16, Pearson, O'Connor) notes Cari "said he was told that a 'high-ranking Illinois public official' was behind" the kickback scheme. Blagojevich "was peppered with questions about the plea agreements at an unrelated news conference but said he had no knowledge of them."

Former Landscaping Executive Pleads Guilty To Bribery. The Chicago Tribune (9/16, Higgins) reports former landscaping company executive John Kevin Haas "on Thursday admitted his role in a scheme to pay $137,000 in bribes to a Chicago Park District official to help win $8 million in contracts at Millennium Park and other city properties." Haas "admitted he made arrangements to send former parks official Shirley McMayon to a Wisconsin resort in 2000, bought a computer for her son and helped orchestrate other payoffs. Haas, who has agreed to cooperate with prosecutors, described bribes to McMayon that included cash, ski vacations and $22,000 to help pay off McMayon's loan on a Dodge Durango. The plea deal calls for Haas to be sentenced to 2 years, 7 months in prison, forfeit $350,000 in wrongly obtained profits and pay restitution of $49,000."

Veteran Connecticut Lawmaker Resigns Amid Corruption Probe. The New York Times (9/16, Stowe) reports veteran Connecticut state Sen. Ernest E. Newton II resigned in Bridgeport "on Thursday morning in a fiery speech on the steps of City Hall." Newton "was the target of a raid on his office in February by the Federal Bureau of Investigation in connection with an inquiry into a job training

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program here. The head of that program, Warren Keith Godbolt, pleaded guilty on Aug. 2 to charges that included offering a $5,000 bribe to an unnamed public official in exchange for securing a $100,000 state grant." The Times notes Newton "has not been charged. He said on Thursday that he was resigning from his Senate seat for the sake of his family."

Ohio County Seeks FBI Probe Of Tech Firm Loan. The Hamilton Journal News (9/16, Brooks) reports, "The Butler County Commissioners unanimously agreed Thursday to sever an agreement with a fiber optics firm," Dynus Technologies, "and request an FBI investigation into why the firm obtained multi-million-dollar loans in the county's name, allegedly without commissioners' approval." The Journal News notes Cincinnati FBI spokesman Michael Brooks said, "We have received the complaint from the commissioner. We'll make a determination if an investigation should be conducted."

Florida Town Records Subpoenaed In Federal Embezzlement Probe. The Gainesville Sun (9/16, Voyles) reports, "About two years ago," Bronson town councilman Aaron Edmondson "started asking questions about why some new lights on the mayor's property looked so much like the new lights the town had just received. Edmondson's curiosity led to a joint local and state investigation into embezzlement that ended with the mayor, James Blaine 'Jamie' Griffin, going to state prison and the town clerk, June Greenlee, being put on probation. On Thursday an FBI agent served a subpoena on the town for its financial records. … Mayor Beatrice Mongo said she expects the federal government will dig even deeper than state officials dug."

Federal Agents Raid Pennsylvania Technical School. The Philadelphia Daily News (9/16, Caparella) reports that on Thursday "agents from the FBI and the U.S. Department of Education Inspector General's office raided" Philadelphia's Harrison Career Institute "at four of its 15 locations…said FBI spokeswoman Jeri Williams. In the past month, the Department of Education accused the school of alleged fraud in its federal financial-aid program." Harrison's "programs certify students to become licensed practical nurses, dental technicians, home health assistants, among other jobs." The Daily News adds, "The agents took boxes of records and other materials from four floors at the Walnut Street site."

Attorney Testifies Gotti Threats Made Him Change Legal Strategy. The New York Law Journal (9/16, Perrotta) reports, "The former attorney for Frank LoCascio, a co-defendant of John Gotti Sr. in a 1992 murder and racketeering trial, testified Thursday that he tailored his defense strategy to suit Gotti after the now deceased mob boss threatened him. … 'He would take care of me -- and I knew what that meant,' the attorney, Anthony Cardinale, said Thursday during an evidentiary hearing in Brooklyn federal court." The Journal continues, "The alleged threat, he said, came during a break in the trial while Cardinale was cross-examining the prosecution's star witness, Salvatore 'Sammy the Bull' Gravano. … Cardinale had considered asking Gravano if he knew that LoCascio was not involved in one of the central charges of the indictment, the murder of Louis DiBono. But after Gotti spoke with him, Cardinale said, he did not ask for fear of making LoCascio look better at the expense of Gotti. … 'I was afraid, if that's what you're asking, yes,' Cardinale told LoCascio's appellate lawyer, Herald Price Fahringer of Lipsitz, Green, Fahringer, Roll, Salisbury & Cambria." The Journal adds, "Cardinale also said he did not meet with LoCascio alone after Gotti told him not to, and changed the tenor of his overall defense and his closing arguments to emphasize Gotti's innocence. … Under questioning from Assistant U.S. Attorney Thomas Firestone, however, Cardinale would not say that his actions constituted an ethical breach or ineffective assistance of counsel. … Cardinale, a Boston attorney, was testifying at a hearing that was ordered in January by the 2nd U.S. Circuit Court of Appeals. The circuit asked Eastern District Judge I. Leo Glasser to determine if LoCascio received ineffective assistance of counsel and deserved a new trial."

Woman On FBI's Most Wanted List Surrenders. The CBS Evening News (9/15, story 12, 1:35, Schieffer) reported, "One of the FBI's most wanted fugitives is in custody today, more than a decade after she stole millions of dollars from a Las Vegas casino." CBS (Hughes) added, "It appears to be a heavy conscience that brought Heather Tallchief back to Las Vegas." Twelve years ago "she was the driver of an armored car making a routine drop off at the Circus, Circus Casino, when she drove off with more than $3 million … She now claims Roberto Solis brainwashed her and planned every detail of the crime himself, from the moment she drove away from the casino."

The New York Times (9/16, Archibold) reports that Heather C. Tallchief, "walked into a federal courthouse…and surrendered." She said she "she was in Europe much of the time, out of reach of the money and working as a hotel maid." Tallchief "was ordered held on charges that included bank larceny, fraud, conspiracy and making false statements to obtain a passport." She claims she was "a victim of… brainwashing" by suspected accomplice, Roberto Solis. "Tallchief said she decided to abandon her flight for the sake of her son, who she fears will ultimately suffer consequences of her crime."

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The AP (9/16, Ritter) reports, "Attorney Robert Axelrod, her lawyer, was with Tallchief when she surrendered at U.S. District Court in Las Vegas. He said she was tired of hiding, and wanted her 10-year-old son to have a chance at living a normal life. … Axelrod said Tallchief was an impressionable 21-year-old who blindly followed a persuasive older boyfriend in the Oct. 1, 1993, theft. The boyfriend, Roberto Solis, is now 60 and is still a fugitive on the FBI's Most Wanted list. … Tallchief maintained she was only following Solis' instructions and doesn't know where Solis is now, although they have a son together."

FBI Internet Sex Solicitation Sting Snares Us Weekly Editor. The AP (9/16) reports, "An Us Weekly gossip writer found himself on the wrong side of the police blotter after being charged with trying to seduce an FBI agent posing on the Internet as a 13-year-old girl. Us Weekly suspended Timothy McDarrah, editor of the Hot Stuff column, without pay, a magazine spokesman said Thursday. McDarrah responded in June to a posting on the craigslist.com Web site offering introductions to the 'freshest, youngest' girls in New York, an FBI affidavit said. The gossip writer told an undercover FBI agent…that he would pay $200 for sex with a 13-year-old girl, the affidavit said. After McDarrah failed to show up for a meeting, the agent began sending instant messages in his guise as a 13-year-old girl. … On Wednesday, the agent wrote, McDarrah e-mailed that he was waiting at a building the agent had described as the 13-year-old girl's address. FBI agents went there and arrested McDarrah."

Convicted Massachusetts Voc-Ed Scam Artist Seeks Early Release. The AP (9/16) reports, "A former payroll clerk convicted with three others of swindling thousands of dollars from a city-run vocational school has asked a federal judge (in Springfield, MA) for early release from a halfway house." The AP continues, "Jamie Dwyer, 54, has served two months of a six-month sentence at a halfway house in Hartford, Conn., for her role in a no-show job scheme that bled about $50,000 from the Massachusetts Career Development Institute. … Dwyer was convicted of fraud, conspiracy and lying to FBI agents. U.S. District Judge Michael A. Ponsor sentenced her to the halfway house, to be followed by six months home confinement. … But she said she doesn't need the mandatory group counseling and drug-testing at the facility, The Republican of Springfield reported Friday. … 'The Hartford House's rehabilitative mission causes me to be subjected to restrictions and rules that are unnecessary and demeaning,' Dwyer wrote in an affidavit filed Tuesday in U.S. District Court. … 'I have been gainfully employed throughout my adult life,' Dwyer continued. 'I successfully raised two children. I do not have problems with alcohol or substance abuse, and I have historically respected authority and the rights of others. I do not need counseling regarding those issues.'" The AP adds, "Gerald Phillips, MCDI's former executive director, was sentenced to 21 months in prison. Luisa Cardaropoli was sentenced to 15 months in prison for pocketing thousands of dollars from a no-show job she got through Giuseppe Polimeni, who was sentenced to one year in prison. … The charges against all four sprang from an ongoing investigation into public corruption in Springfield that began about five years ago and has netted several indictments and convictions."

DNA In 450 Criminal Cases Was Tested In Lab Where Examiner Falsified An Entry. The Washington Times (9/16, Gertz, Scarborough) reports in its "Inside the Ring" column, "The Army has compiled a list of more than 450 criminal cases whose DNA was tested by a laboratory where an examiner has admitted to making a false entry in one case. The list includes defendants from military installations across the country and around the world, from the Air Force Academy to Incirlik Air Base in Turkey. The blood testing dates back to 1995. The exams are being reviewed by the U.S. Army Criminal Investigation Laboratory in Forest Park, Ga. In a memo, the laboratory is asking staff judge advocates — the military's lawyers — to contact the Army Criminal Investigative Command about any cases involving DNA."

Waiter's Assailant Sentenced In Dupont Circle Killing. The Washington Post (9/16, B2, Cauvin) reports that Kurt Williams, "the lookout as" Adrien Alstad, a waiter, "was robbed and fatally shot" near Dupont Circle, was sentenced to "the maximum 15 years that the sentencing guidelines recommend for voluntary manslaughter." Judge Judith E. Retchin said "the killing was not…a single, 'youthful act' but rather part of 'a series of crimes' … The judge acknowledged that Williams" is mildly retarded, "'had a terrible childhood' and 'suffered all types of abuse,'" but also noted that he, "in the days that followed Alstad's death," committed "another robbery" and, "when he was spotted by police, he ran."

AU Lays Off Chef As Part Of Probe Into President's Spending. The Washington Post (9/16, B9, Strauss, Kinzie) reports, As American University's Board of Trustees' "is close to completing a months-long probe of" University President Benjamin Ladner, they let go his personal chef, Rodney Scruggs, and Nancy Bullard Ladner, social secretary for the president and his wife, "has been transferred." It "was not clear why the board eliminated Scruggs's position now; he had been employed by the university since 1996. University presidents are expected to

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entertain a great deal as part of their fundraising and other duties, so many rely on caterers or, less commonly, chefs."

Search For VA Student Now Criminal Investigation. The Washington Post (9/16, B1, Smith) reports, "Although there is still no evidence that she has been harmed, the search for missing Virginia Commonwealth University freshman Taylor Marie Behl was upgraded yesterday to a criminal investigation, and an Amber Alert was issued in the case late last night." The decision was "based on three factors: The search involves a juvenile; more than a week has passed without a solid lead in the 17-year-old's disappearance; and an increasing number of tips are coming in because of national media coverage."

Diaz Photographer Gets Prison Time. The Los Angeles Times (9/16) reports that the photographer John Rutter "was sentenced Thursday to prison for trying to extort $3 million for nude pictures of superstar Cameron Diaz he had taken early in her career … Rutter's attorney, Mark Werksman, called the July trial a battle between a 'rich and famous celebrity' and a 'hardworking photographer.' Deputy District Attorney David Walgren downplayed the celebrity aspect of the case in statements to reporters, saying that, had the victim been someone other than Diaz, the case still would have been prosecuted 'in the same courts' and 'in the same manner.'"

CIVIL LAW:

Bush Endorses Base Closure Plan. President Bush has endorsed a plan for closing 22 major military bases and reconfiguring 33 others, the Washington Post/AP (9/16, A4, Riechmann) reports. The report "will become final in 45 days unless Congress acts to reject it in full. Communities probably have little hope of a reprieve for their bases, as lawmakers have never rejected such reports." The AP adds, "Bush's submission of the report comes as his administration and Congress are preoccupied with aiding the hurricane-ravaged Gulf Coast and other priorities. A GOP-led effort in the Senate to derail the base-closing process, which Republican leaders feared could embarrass them, has fizzled."

CIVIL RIGHTS:

Gonzales Says US Will Challenge Pledge Ruling. The AP (9/16, Sherman) reports, "Attorney General Alberto Gonzales said Thursday that the Justice Department will fight to overturn a federal court ruling that the Pledge of Allegiance can't be recited in public schools because it contains a reference to God." The AP continues, "Gonzales said the pledge is one of several expressions of national identity and patriotism that mention of God but don't violate the Constitution's ban on state-sponsored religion. … The high court 'has affirmed time and again that such official acknowledgments of our nation's religious heritage, foundation and character are constitutional,' Gonzales said in a statement a day after the ruling by U.S. District Judge Lawrence Karlton in Sacramento." The AP adds, "Karlton's decision could put the issue on track for another round of Supreme Court arguments. The court sidestepped the issue last year, ruling atheist Michael Newdow had no standing to bring the case on behalf of his daughter because he did not have custody of her. … The Bush administration had opposed Newdow on the same basis that Gonzales set forth Thursday. Newdow also is involved in the latest case, acting as attorney for three parents challenging the pledge because it includes the words 'under God.'" The AP notes, "Gonzales is widely viewed as a leading contender for retiring Justice Sandra Day O'Connor's seat on the Supreme Court because he is close to President Bush. Gonzales' statement of support to keep 'under God' in the pledge could appeal to religious conservatives, who have expressed concerns about him as a potential justice because he has not stated opposition to the 1973 Roe v. Wade decision legalizing abortion."

Knight Ridder (9/16, Puzzanghera) reports, "Sandra Banning, the Sacramento, Calif.-area mother of the girl who helped trigger the legal battle over the Pledge of Allegiance that flared anew this week, came to the nation's capital Thursday with a pledge of her own: … To do everything she can to keep the pledge in schools and the phrase 'under God' in the pledge." Knight Ridder continues, "The day after a Sacramento federal judge revived the controversy by ruling that reciting the pledge in public schools is an unconstitutional violation of the separation of church and state, Banning's efforts became intertwined with the Senate Judiciary Committee hearings for Supreme Court nominee John G. Roberts Jr. … Banning publicly urged his confirmation in hopes that he would rule against the case brought by her 11-year-old daughter's father, Michael Newdow, the atheist and amateur lawyer who has argued before the Supreme Court that the pledge should be kept out of public schools. And to help rally support for the Pledge of Allegiance as the case works its way again toward the high court, she's forming a grass-roots advocacy group, the 'One Nation Under God Foundation,' affiliated with the conservative Traditional Values Coalition. … Banning and other Roberts supporters said they hoped the pledge issue would give an additional boost to his nomination." Knight Ridder notes, "Thursday, the Senate condemned the ruling, and Attorney General Alberto Gonzales said the Justice Department would again 'defend the ability of American school children to pledge allegiance to the flag.'"

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Local Television. KUSA-TV Denver (9/15, 10:08 p.m.) reported, "Attorney general Alberto Gonzales says the Justice Department will fight to overturn a federal court decision banning the Pledge of Allegiance from public schools. A district judge in California yesterday ruled that teacher-led recitation of the pledge is unconstitutional because it contains a reference to God. The Senate voted today to condemn the judge's ruling. Gonzales argues the pledge is one of several expressions of national identity and patriotism that mention God but don't violate the constitution's ban on state-sponsored religion."

This story was also covered by KNSD-TV San Diego (9/15, 11:12 p.m.), WITI-TV Milwaukee (9/15, 9:17 p.m.), WBRC-TV Birmingham (9/15, 10:14 p.m.), WOI-TV Des Moines (9/15, 10:19 p.m.), KHGI-TV Lincoln (9/15, 10:11 p.m.), KSWO-TV Wichita Falls (9/15, 10:01 p.m.), KPSP-TV Palm Springs (9/15, 11:03 p.m.), and WEWS-TV Cleveland (9/15, 11:13 p.m.).

DOJ Settles Boston Voting Rights Suit. The AP (9/16) reports, "The Justice Department said Thursday it has dropped its voting rights lawsuit against Boston after city officials agreed to provide voting materials in Chinese and Vietnamese, and to allow federal observers to monitor polling places." The AP continues, "The agreement comes six weeks after the federal government filed a lawsuit — part of what it said is a national initiative — alleging that Boston's election practices discriminate against Hispanic and Asian American voters who do not speak English. … 'The city of Boston is to be congratulated for agreeing to resolve this matter in a constructive and forward-looking manner,' Bradley J. Schlozman, acting assistant attorney general for the department's civil rights division, said in a news release announcing the agreement." The AP adds, "When the suit was filed, Schlozman alleged that Boston's violations were 'deeply disturbing.' … A city lawyer at the time called the claims 'unsubstantiated.' City officials said they already provide ballots in English and Spanish. … Seth Gitell, a spokesman for Mayor Thomas Menino, said Thursday the agreement does not say the city did anything wrong. 'What the city objected to originally was to signing a consent decree and acknowledging wrongdoing,' he said."

WPost Praises State Rejections Of Anti-Gay Marriage Amendments. An editorial in the Washington Post (9/16, A20) says, "For the second time in as many weeks, a state legislature has bucked the ugly trend of writing discrimination against gays into state law. Last week, the California Assembly voted to allow same-sex marriage. This week, lawmakers in Massachusetts decisively rejected a proposed constitutional amendment to overturn the state's Supreme Judicial Court decision acknowledging gay marriage rights. … The vote shows that as people grow used to gay marriages, which have been taking place in Massachusetts for more than a year, their discomfort -- and the political impetus for banning them -- diminishes." Public opinion "is moving in the right direction, and the reason is not hard to discern: Since the high court's ruling went into effect, a lot of couples have tied the knot in Massachusetts, and, somehow, the sun has continued to rise in the east. Many people are realizing that it costs heterosexual marriage nothing for same-sex marriage also to exist. The longer people have to absorb that lesson, the more support for banning marriages between committed couples is likely to erode."

ANTITRUST:

Microsoft, Time Warner Discussing Online Partnerships. The AP (9/16, Linn) reports, "Microsoft Corp. and Time Warner Inc. have been discussing potential online partnerships that would help the two companies better compete against rivals Google Inc. and Yahoo Inc., two people familiar with the talks said Thursday." The AP continues, "They two said the discussions have been going on for months and that any possible deal is not imminent." The AP adds, "Microsoft and AOL — who just two years ago settled a bitter antitrust lawsuit over Microsoft's tactics in the Internet browser market — are discussing possible collaboration in search technology, online advertising and instant messaging, said the two sources, one of whom is an executive with Time Warner's America Online unit. … The other source, who works closely with Microsoft and has been involved in company discussions on the possible partnership, said the talks have heated up in the last couple weeks but are not advanced." The AP notes, "The AOL executive said one aspect of the talks originally centered on using Microsoft's new MSN search engine on AOL, replacing AOL's current relationship with Google. … More recently, the executive said, the two companies have been talking about the possibility of deeper relationships, such as collaborating in the lucrative market of selling advertising online. … Such a collaboration could allow the two companies to benefit from growing interest in search-based advertising, helping them better compete against search leaders Google and Yahoo. … But, the executive said, 'the discussions are not advanced.'"

Reuters (9/16, Li) reports, "Talks of a Microsoft stake in the AOL division was one of several scenarios under review, a separate source familiar with the matter said. 'There has been discussions about Microsoft investing in Time Warner,' one source said, who also said nothing was imminent." Reutes adds, "A combination would create the single largest Internet audience pool by unique visitors and forge a formidable online competitor in a field currently led by Yahoo Inc. and Google Inc. … AOL and MSN would have a

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combined unique audience of about 167.8 million, although there would likely be duplicates. This compares to Yahoo's 101.3 million unique visitors and Google's 80.4 million in August, according to Nielsen/NetRatings." Reuters adds, "Broad discussions on how the two companies could work together began two years ago after the companies settled a long-running antitrust suit that America Online, a unit of Time Warner, filed against the software giant, the source said."

Microsoft-AOL Talks Show Concern Over Google. The Wall Street Journal (9/16, Angwin, Guth) reports, "Demonstrating its growing concern about Google Inc., Microsoft Corp. has entered talks with Time Warner Inc. about taking a substantial stake in the media giant's America Online unit." The talks "centered on whether AOL would switch to using Microsoft's search engine instead of Google's," but "also included discussions of combining the advertising sales forces of AOL and Microsoft's MSN online service."

USA Today (9/16, Acohido, Petrecca) adds, "No deal is imminent."

The New York Times (9/16, Hansell) adds that the two companies "explored a variety of possible combinations of the MSN Internet portal with the America Online operation of Time Warner, including a merger of the two into a new company that would be jointly owned … Some important issues in the talks remain undecided. For example, both AOL and Microsoft want to control a combined instant messaging system, which each company sees as strategically important technology. Another question is how much traffic Microsoft would direct to the combined venture."

The Washington Post (9/16, D1, Vise) adds, "Time Warner has made it clear that it wants to continue to own a substantial chunk of AOL."

Deal Reflects Shifting Goals For Microsoft & Time Warner. The Wall Street Journal (9/16, Angwin, Guth) reports that this indicates "a strategic shift for Time Warner, which had long resisted pleas from some investors to get rid of all or part of its ailing Internet arm," as well as "how Microsoft now sees Google as a major adversary."

The New York Times (9/16, Hansell) adds, "Microsoft is trying to focus its Internet operations on its developing Web search product rather than its Web portal and Internet access business, which it no longer sees as strategically important. Microsoft offered to sell its MSN Internet portal and dial-up subscriber business both to America Online and to Yahoo."

The Washington Post (9/16, D1, Vise) adds, "The talks, reported yesterday by the New York Post, are part of a broader set of discussions between Microsoft and Time Warner that began following an antitrust settlement between the companies two years ago

Agreement Could "Shake Up" Internet Search Landscape. USA Today (9/16, Acohido, Petrecca) reports, "Industry analysts said, if consummated, the deal could shake up the world of Internet search." Kevin Lee, chairman of search marketing firm Did-it.com said "a key driver behind a strategic alliance" could be AOL and MSN's potential to "tap into archived demographic data they already keep on subscribers."

The Washington Post (9/16, D1, Vise) adds, "One source familiar with the talks said he considered a transaction combining AOL and MSN as complicated and a long shot. But he said that if the parties can figure out how to create more value by joining forces, a deal of some kind remains possible."

The New York Times (9/16, Hansell) adds that one stumbling block may be "disentangling Microsoft's contract with NBC" as Time Warner owns the rival CNN network.

ABN Reached Tentative Agreement To Buy Antonveneta. The Wall Street Journal (9/16, Kahn, Taylor) reports, "ABN Amro Holding NV's tentative agreement to buy a 30% stake in Banca Antonveneta SpA from Banca Popolare Italiana Scarl after a bitter battle clears the path for the first-ever takeover of a large Italian bank by a foreign lender and could pave the way for more, a prospect that seemed remote just several weeks ago … The sale, which values Antonveneta at €8.2 billion ($10 billion) and was agreed to late Wednesday, still faces legal and regulatory hurdles. It would give control of Antonveneta to ABN just two months after ABN's cash offer for the bank failed," at an expected price of €26.50 a share, "the same price it made in its failed public offer this summer."

Merger Between Delta, Northwest Wouldn't Be Surprising. USA Today (9/16, Adams) reports, "The twin Chapter 11 bankruptcy filings" by Delta Air Lines and Northwest Airlines, "almost simultaneous and in the same New York courthouse, are leading many industry experts to believe the carriers may be exploring a merger within bankruptcy protection … The minimal route overlap is considered an advantage with federal regulators," who would have to be convinced that "the combination would not significantly reduce competition, or that one or both of the airlines would fail without the merger."

Legislation Would Promote Competition In Broadband Services. The House Energy and Commerce Committee has released draft legislation that would require broadband providers to allow their subscribers to view any legal online content. The Washington Post (9/16, D2, Mohammed) says the policy is "aimed at keeping big Internet companies from restricting access to competitors' Web offerings." The Post calls the measure a "victory for advocates of 'net neutrality' -- the idea that Internet providers have to stand aside and allow customers to access any Web

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pages as long as the content is legal. The principle is considered crucial to preserving the open nature of the Internet and preventing big broadband providers from squeezing out smaller competitors that offer voice, video or other services."

EU Probe May Lead To Banking Changes. The AP (9/16, White) reports, "A European Union antitrust inquiry into retail banking may lead to changes in the way European banks are regulated, EU Competition Commissioner Neelie Kroes said Thursday." The AP continues, "She said an ongoing investigation may be widened to see how regulation affects customer choice. … 'Do public rules that may have a legitimate objective end up making markets more rigid and limit competition and consumer choice?' she asked European regulators at a twice-yearly meeting in London. 'We want government to protect the consumer, but we also need to protect the consumer from the government.'" The AP adds, "The EU launched its investigation earlier this year, saying it wanted to look at areas where it thought competition was not functioning as well as it might. … Kroes said it was hard for consumers to get clear comparative information about products to allow them to make informed choices."

EU Court Reduces Antitrust Fine Against Daimler Chrysler. Bloomberg News (9/16) reports, "A European Union court today annulled most of a 72 million-euro ($88 million) antitrust fine against DaimlerChrysler AG, ruling that the regulator was wrong to say the automaker broke EU law in Germany and Spain." Bloomberg continues, "DaimlerChrysler, the world's fifth-largest carmaker, was fined in 2001 for breaking EU free-trade laws by instructing dealers in Spain, Germany, the Netherlands and Belgium not to sell to bargain hunters from other EU nations between 1985 and 1996. … The European Court of First Instance in Luxembourg cut the fine to 9.8 million euros, saying in a statement today that DaimlerChrysler acted 'unilaterally' in Germany and therefore didn't break EU rules. In Spain, the automaker acted in line with national legislation, the court said. The tribunal upheld the EU's decision about the company's Belgian operations." Bloomberg adds, "The European Commission, the EU's Brussels-based antitrust regulator, has sought to bring down car prices by dissolving the exclusive ties between carmakers and dealerships. Starting in October 2002, the EU rules broke carmakers' lock on sales networks, permitting dealers to expand and sell different brands in the same showroom."

The AP (9/16) reports, "In Spain, the EU court said DaimlerChrysler followed local law by forcing leasers to link each car with a contracted customer. The Commission had argued that this prevented local dealers from stocking up on Mercedes vehicles and created an artificial shortage. But the court said the Spanish law was 'not contrary' to any EU law and overturned the (US$18.47 million) fine."

ENVIRONMENT/INDIAN AFFAIRS:

States Due US Over Invasive Beetles. The AP (9/16, Gormley) reports, "Four states sued the Bush administration Thursday over an invasive, tree-eating beetle that has entered the U.S. as a stowaway on cargo ships." The AP continues, "The Asian long-horned beetle, along with the emerald ash borer and the pine shoot beetle, are the culprits named in the lawsuit by attorneys general from New York, California, Connecticut and Illinois." The AP adds, "The states are seeking a court order to require the Agriculture Department to examine more effective and less environmentally harmful ways to prevent the insects from entering the country, said New York Attorney General Eliot Spitzer. … State officials say the insects would cause extensive economic and environmental damage if they move from cities like New York and Chicago to working forests." The AP notes, "The pests enter the country in wooden pallets and wood-based packaging. The state officials contend that federal officials use a 'marginally effective' pesticide, which is being phased out under an international treaty as unsafe to humans. … Also, they said the USDA is following a new rule that requires wooden shipping pallets and other wood packaging material carrying imports to be treated with heat or sprayed with methyl bromide, a chemical the state officials say depletes the ozone and could be a cancer risk."

NYTimes Says Utah Site Is Good Place For Nuclear Fuel Rod Storage. The New York Times (9/16) editorializes, "While few people outside Utah were paying close attention last week, the Nuclear Regulatory Commission authorized the licensing of a private storage plant for spent nuclear fuel rods on an Indian reservation some 50 miles southwest of Salt Lake City. Utah's outraged political leaders pledged to use every legal and political trick available to block the project even though, as representatives of a very conservative state, they supposedly abhor bureaucratic or judicial interference with private corporate decisions." The Times adds, "We remain hopeful that Yucca can qualify as a permanent disposal site. But if Yucca fails to pass muster with the Nuclear Regulatory Commission, the nation will need a centralized surface site to fill the gap until a safe burial location can be found. The Indian reservation in Utah can fill that purpose."

Appeals Court Panel Postpones Lamberth Hearing. A federal appeals court panel has postponed a hearing about whether US District Judge Royce Lamberth has lost the appearance of impartiality in a case involving

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money the US government may owe Native Americans. The Washington Post (9/16, A29) says the panel "was scheduled to consider another dispute in the case along with the government's unusual July request to remove Lamberth as the presiding judge. … But the three-judge panel issued an order late yesterday saying they will instead refer the issue of Lamberth's perceived fairness to a later panel of judges considering another appeal dispute in the case, Cobell v. Norton . That means that the Justice Department is not likely to hold a hearing on its complaints about the judge until spring, based on the appellate court's already full schedule this year."

FBI/DEA/ATF/USMS:

Prominent Miami Lawyer To Plead Guilty Today To Drug Trafficking Charges. The Miami Herald (9/16, Weaver) reports, "In February, federal agents rustled a prominent lawyer out of bed to bust him at his Miami Beach waterfront home. Today, Samuel I. Burstyn is scheduled to plead guilty to scheming with his former clients to obstruct a federal grand jury's investigation into their drug-trafficking operation and himself. … He must forfeit about $200,000 and is expected to lose his law license. U.S. District Judge William J. Zloch has insisted on a 'full confession' from Burstyn at the Fort Lauderdale plea hearing, according to a court document filed Tuesday." The Herald notes Assistant US Attorney Brian McCormick "and fellow prosecutor Michael Dittoe have said Burstyn acted as 'house counsel' for marijuana smugglers Jeffrey Tobin, David Tobin and others."

U.S. Coast Guard Intercepts 2 Tons of Cocaine. The AP (9/16) reports Colombia's anti-narcotics police chief said Thursday that "the U.S. Coast Guard, acting on Colombian intelligence, intercepted a ship towing an unmanned submarine-like vessel that held more than 2 tons of cocaine." Gen. Alberto Gomez said the boat was raided Wednesday off the coast of the Ecuadorean-owned Galapagos Islands. "The underwater capsule, which was attached by a metal cable, was designed so smugglers could tow it below their boat and escape detection if drug agents searched the ship." In another incident, "2.5 tons of cocaine was discovered Wednesday hidden in the oil tanks of a ship docked in the Colombian Pacific port of Buenaventura…Eight suspects were arrested." It's believed the cocaine was heading to Central America, and from there it would have possibly been shipped to the U.S.

'Mob Associate' Doesn't Deliver On Plea Agreement. The Providence (RI) Journal (9/16, Malinowski, Stanton) reports, "Mob associate Alan Blamires was set to plead guilty Thursday to charges that he guarded a large shipment of cocaine that was passing through Rhode Island last winter." But "the plea agreement fell apart when Blamires told Chief U.S. District Court Judge Ernest C. Torres that he was 'fuzzy and blurry' from medication to control his violent tendencies and did not understand the charges against him…'I have pertinent information about Joseph Bevilacqua that I'm trying to get to the prosecutors,' said Blamires." Bevilacqua is a defense attorney and has been the target of a DEA investigation. "DEA agents have spoken to Courtney Calenda, an East Greenwich teenager, who has accused Bevilacqua of sexually assaulting her and supplying her with cocaine."

Missouri Men Enter Pleas In Drug Trafficking Case. The Standard Democrat (9/16) reports two Southeast Missouri men entered guilty pleas on drug charges in federal court. Adrian L. Lewis and Joe Lenzie Turner both pleaded guilty to the distribution of cocaine base. "With his plea, Turner admitted that on May 20, 2005, he distributed a substance containing base to a confidential informant. Specifically, Turner gave the informant 5.4 grams of cocaine base in exchange for $300." U.S. Attorney Catherine L. Hanaway commended the DEA and the Sikeston Police Department for their combined efforts to prosecute the case.

Judge Sentences Meth Convict, Blasts His Actions. The Lynchburg (VA) News and Advance (9/16, Waugh) reports, "Despite several tearful pleas from friends and family, a Lynchburg federal judge blasted a Rustburg man Thursday for his role in the selling of methamphetamines. 'You don't know how many lives were destroyed … Generations of others will be coming through this courtroom because of his actions. You're old and in pain. That's not an excuse,' U.S. District Judge Norman K. Moon said. Moon didn't believe Clayton 'Sonny' Keyes' story that he only started using meth in 2001 because his back pain had become so painful, and that he began selling the drug only to support his addiction. Keyes, 55, pleaded guilty in April 2004 to conspiracy to distribute more than 15 kilograms of methamphetamine and possession of a firearm. He has already served two years in jail since his arrest. On Thursday, Moon gave Keyes nearly 10 additional years in prison, despite calling the prosecutor-recommended sentence 'overly generous.'"

U.S. Accuses 'Prince of Pot' Of Conspiring to Distribute Marijuana. The Missoula (MT) Independent (9/16, McQuillan) reports Marc Emery, aka the "Prince of Pot," is scheduled to have his first extradition hearing on Sept. 16. At the request of the U.S. government, Emery and two of his employees were arrested July 29 by Canadian police on U.S. charges of conspiring to distribute marijuana

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and marijuana seeds and money laundering. The Independent continues, "though DEA agents paint Emery as a greedy drug trafficker, Emery says he's dedicated the last 15 years to the cause of marijuana legalization and has donated all business proceeds—$4 million—to the movement and its activists, both in Canada and the United States."

The Guardian (9/16, Campbell) reports, "One of the world's leading cannabis legislation campaigners, a magazine publisher known as the 'Prince of Pot', faces an extradition hearing today in Vancouver as American drugs agencies seek to put him on trial in the US. His supporters claim the move is a first step by US authorities to prosecute foreigners who challenge the US laws on cannabis."

U.S. Removes Venezuela From List Of Allies In War On Drugs. The Tallahassee (FL) Democrat/KRT (9/15, Dudley, Bachelet) reports, "President Bush has taken Venezuela off his list of allies in the war on drugs, saying that the government of President Hugo Chavez spurned anti-drug cooperation with U.S. officials and fired its effective law enforcement officers. But the White House waived the cuts in U.S. foreign aid usually attached to the "decertification" so that it can continue to support Venezuelan pro-democracy groups that oppose the leftist Chavez." According to the White House, Venezuela has "failed demonstrably" to reduce the flow through its territories of about 150 tons of cocaine and increasing amounts of heroin. "Only last month, Chavez ordered his government officials to stop cooperating with the U.S. Drug Enforcement Administration (DEA), accusing it of espionage and drug trafficking."

The AP (9/15, Gedda) reports, Venezuela's populist president, Hugo Chavez, "had no direct comment Thursday on Bush's action but used the occasion of his presence at the United Nations summit of world leaders to take a verbal swipe at Bush. 'Mr. Bush represents the most crude and savage imperialism that threatens the world,' Chavez said."

Plan Colombia Under Scrutiny As Expiration Date Nears. Knight Ridder (9/16, McCaffrey) reports, "The six puppies looked fine at first. But when Colombian police gave them a closer look they found fresh scars on their bellies that told a different story. … The tiny Labradors and Rottweilers had been surgically converted into drug couriers: cut open with several plastic packets of heroin stitched into their abdomens." Knight Ridder continues, "Even the hardened Colombian police, who discovered the puppies at an abandoned house in a rural area outside of Medellin, had never seen anything like it. Traffickers were apparently going to ship the dogs to the United States saying they were pets. It's almost certain they would have been discarded as soon as their valuable cargo was removed. … 'The better we get at catching them the more creative they get,' said Mark Styron, supervisor of the U.S. Drug Enforcement Administration's Heroin Group in Bogota. 'That's always the problem.'" Knight Ridder adds, "Much of the cocaine and heroin that ends up for sale on the street corners of the United States begins in the rich soil of this conflict-ridden South American country. And staying ahead of the smugglers is expensive. Since 2000, the United States has sent $4.5 billion to Colombia to help battle drug trafficking. … That six-year program, known as Plan Colombia, is set to expire at the end of this year. … Although the Bush administration and Congress have signaled a willingness to continue funding at current levels for at least another year, some are questioning whether the money has been effective in stemming the tide of drugs to the United States."

Prosecutors Seen As Out Of Step With Public On Dying Debate. In an editorial, the Los Angeles Times (9/16) says that aging and dying are more and more "in the public eye," and among "the demands being raised is better control of pain, which has caught doctors between a desire to alleviate suffering and the US war on drugs." Specific examples here usually "fall in a gray area, involving doctors who may have crossed a legal or ethical line, whether out of compassion or greed. The larger problem is the message that all doctors receive from aggressive efforts to curb opiate abuse, and their resulting reluctance to sufficiently treat severe pain and other suffering." The Times states, "Federal criminal prosecutions have usually involved…charging pain management specialists, who often handle very tough cases, with overprescription or outright sale of controlled drugs." Again, "most such cases are far from clear-cut, except perhaps in the eyes of federal prosecutors." In other words, the government's "drug policy and honesty about the blurred line between compassionate treatment and medical euthanasia" has failed to keep pace with the "debate over what constitutes a 'good death.'"

North Carolina Man Held On Pipe Bomb, Firearms Charges. The Roanoke Rapids (NC) Daily Herald (9/16) reports, "Hamming it up for the camera, Michael Thomas Carpenter was taken into federal custody Tuesday for possessing pipe bombs and a cache of guns in his house outside Garysburg (NC)." The Herald continues, "Led to a blue Ford Expedition by an agent with the Bureau of Alcohol, Tobacco and Firearms, the 34-year-old, upon seeing a photographer, exclaimed, 'What a wonderful justice system we have in America.' … He asked the agent escorting him if he would slow down so he could pose for the camera and at one point gave a cheesy grin." The Herald adds, "Asked if he was surprised to be federally charged for having three pipe bombs, Carpenter said, 'No, sir. The feds have to do their jobs so we're going to go with them as calmly and peacefully

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as we can. God bless America.'" The Herald notes, "Since his arrest on local charges in July, Carpenter was being held in the Northampton County Jail for possession with intent to sell and deliver marijuana, possession of drug paraphernalia and possession of a weapon of mass destruction. … Capt. George Reed of the Northampton County Sheriff's Office said Carpenter was trying to run the jail while he was there, first being held on $525,000 bond for the local charges and then under no bond on a federal detainer. … ATF agents Tuesday took Carpenter to Greenville, where he would appear before a federal magistrate. … ATF charged Carpenter with possession of a destructive device and possession of firearms by a convicted felon. The federal agents said anyone in possession of explosive weapons must have them registered. The three pipe bombs State Bureau of Investigation agents detonated behind Carpenter's house off Taylor Road in July were not registered."

ATF Finds Fake Explosives In Deserted New Orleans Home. The AP (9/15, Foster) reports, "National guardsmen and ATF agents patrolling the dark, deserted streets of New Orleans early Thursday found what appeared to be a bomb inside one of the homes vacated when Hurricane Katrina ripped through the city." The AP continues, "The guardsmen found what looked like six sticks of dynamite and a detonator along with a bag of ammunition and marijuana. They notified the New Orleans Police Department which, in turn, asked the Bureau of Alcohol, Tobacco and Firearms to respond because their own bomb squad equipment was flooded in the wake of the storm. … 'It had all the characteristics of a real device,' ATF explosives specialist Johnnie Green said of the suspect device." The AP adds, "His agents placed an 'interrupter' device on the one in question to try to detonate it and found out it was a hoax. 'It was a good one,' Green said, 'especially in these conditions,' referring to the blacked-out street. … Charlie Smith, an ATF special response supervisor, said finding the device should serve as a 'wake-up call for every guy going through these houses.' … Earlier in the week, he said they found a house with nine devices, 50 guns and a photo of the owner wearing a German uniform and Hitler-type mustache. 'He evidently was a collector. He had a ton of stuff,' Smith said."

Van Carrying Federal Inmates, US Marshals Struck In Florida. The AP (9/16) reports, "Nine federal inmates and two U.S. Marshals were taken to area hospitals Thursday after their van was forced off Interstate 95 and rolled at least twice — an incident allegedly caused by a hit-and-run driver." The AP continues, "Marshals were taking the inmates southbound on I-95, from the federal courthouse in Fort Lauderdale to a federal detention center in Miami when a vehicle hit a Geo Tracker, said U.S. Marshals Service spokesman Barry Golden." The AP adds, "The Geo spun out of control, hitting the Marshals' van and forcing it off the road. No one inside the van was critically injured, although one inmate was hurt more seriously than the others, Golden said. … Golden said security was never an issue."

IMMIGRATION:

Voinovich Questions ICE Nominee's Qualifications. Senators told Julie Myers, President Bush's pick to head Immigration and Customs Enforcement, that they are still considering a plan to reorganize the agency. The Washington Times (9/16, Waterman) adds that "one Republican expressed doubt that she was qualified for the job." During Myers' confirmation hearing before the Senate Committee on Homeland Security and Government Affairs, Sen. George Voinovich told the nominee, "I'm really concerned about your management experience," adding, "I think that we ought to have a meeting with [Homeland Security Secretary] Mike Chertoff...to ask him...why he thinks you're qualified for the job," because "based on your resume, I don't think you are." Sen. Susan Collins "raised the issue of merging ICE with another agency founded from the breakup of the Customs Service and INS -- Customs and Border Protection (CPB), which polices the nation's ports of entry."

TAX:

KPMG Tax Inquiry Widening To Include Others. The New York Times (9/16, Browning) reports, "Ever since the accounting firm KPMG reached a $456 million settlement of a federal investigation into abusive tax shelters nearly three weeks ago, the question has been who may be next. Federal prosecutors have said that their criminal investigation is widening, and attention is increasingly turning to the role played by banks, financial advisers and law firms that worked with KPMG and other accounting firms to create and sell such shelters … Deutsche Bank in particular has been a target of lawsuits from wealthy investors who sought to shield millions of dollars from taxes and bought shelters that did not pass muster with the Internal Revenue Service," and "a barely noticed lawsuit indicates that Deutsche Bank had a much deeper involvement in creating and helping to sell a questionable tax shelter known as Cobra."

CONGRESS-ADMINISTRATION:

Roberts Concludes Testimony Before Senate Judiciary Committee. Chief Justice nominee John Roberts yesterday concluded his testimony before the Senate

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Judiciary Committee, which also heard from several witnesses for and against the nomination. The panel is scheduled to vote Thursday on Roberts' nomination. The network coverage was limited to about one-and-a-half minutes total. As in this morning's newspaper stories, TV reports focused on Roberts' assurance that he is "not an ideologue." The stories predicted he will win confirmation, and much of the coverage portrays the debate over Roberts as the precursor to an all-out battle over President Bush's next Supreme Court nominee.

ABC World News Tonight (9/15, story 6, :35, Woodruff) reported Judge Roberts "seemed determined to paint a fuller picture of himself." The CBS Evening News (9/15, story 11, 0:40, Schieffer) reported Roberts "returned to the theme of his opening statement, assuring the senators he had no political agenda for the Supreme Court." Barring "any last minute surprises, Roberts is headed toward Senate confirmation." NBC Nightly News (9/15, story 7, 0:30, Williams) reported, "Two Democrats on the committee said today they're not sure how they'll vote. One of them, New York's Senator Chuck Schumer, said he wakes up in the middle of the night wrestling with his decision."

The AP (9/16) noted Roberts told "wary Democrats that ideologues don't belong on the Supreme Court. He said his record shows he will rely on the law, not personal views." The AP adds, "Persistent grilling by Democrats on the Judiciary Committee made no apparent inroads in Roberts' support among the Senate's majority Republicans, who plan to vote the week after next to make him the nation's 17th chief justice."

Knight Ridder (9/16, Kuhnhenn) says Roberts' "performance during four days before the Senate Judiciary Committee wowed even many Democrats, who conceded they were torn between admiration for his intellect and his modest judicial demeanor versus his reluctance to reveal more about his views on legal issues." Republican strategists "predicted a near straight party-line vote next week in the Republican-run committee, which includes some of the Senate's most liberal and most conservative members. But even there, some Democrats were struggling with their votes. … In the full Senate, signs emerged of bipartisan support for Roberts, especially from so-called 'red-state Democrats.'"

The Los Angeles Times (9/16, Savage, Schmitt) quotes Roberts saying, "I'm not an ideologue," adding that "with that comment, he aptly summarized the case he made for himself during four days of hearings on his nomination as the Supreme Court's chief justice." His "approval is virtually assured." The Washington Post (9/16, A6, Goldstein, Becker) used identical language, saying Roberts' confirmation is "virtually assured." The Post adds, "Some conservatives were alarmed last month over the disclosure that he had helped gay activists win a landmark Supreme Court in 1996." But "Roberts testified yesterday that he would have been equally willing to represent the opposing side, the state of Colorado, if it had asked for his help first." Reuters (9/16, Ferraro, Cowan) also says both Democrats and Republicans are predicting Roberts "will be confirmed to head the Supreme Court."

USA Today (9/16, Biskupic) adds that "with Roberts likely to win Senate confirmation," Bush "soon will pick a successor for Sandra Day O'Connor, a more moderate justice who has been a key vote in preserving, among other things, abortion rights and affirmative action in college admissions. That's why the coming battle over her replacement likely will be more contentious than the one over Roberts."

The Dallas Morning News (9/16, Jackson, Pusey) reports some "aides said Democrats, without such a filibuster, might seek to keep Judge Roberts' vote under 60 – sending a message to the administration that Democrats could muster the numbers for a filibuster the next time around."

A similar USA Today article (9/16, Kiely) says "the big question surrounding" Roberts is how the vote "will affect President Bush's next Supreme Court pick. … An important factor in the Democrats' strategy: how best to position themselves for the next Supreme Court debate."

The Los Angeles Times (9/16, Reynolds, Simon) says that "many Democrats had feared that Bush would nominate a judge in the mold of Justices Antonin Scalia and Clarence Thomas, but Roberts took pains during his testimony to distance himself from some of their views." Moreover, "according to Democratic calculations of the balance of liberals and conservatives on the court, Roberts' confirmation to replace the late Chief Justice William H. Rehnquist would substitute one conservative for another."

The New York Times (9/16, Liptak) reports, "At times, Judge Roberts's limited conception of the judge's role struck Democrats as evidence of a cramped approach to the law from a lawyer more taken with technicalities than with justice." Roberts "declined to second-guess positions he had taken as an advocate arguing that a student who had been sexually abused was not entitled to damages and that a death row inmate could not present new evidence of his innocence if certain deadlines had passed."

Another New York Times piece (9/16, Stolberg), headlined "Frustrated By Roberts, And Unsure How To Vote," says Roberts' "unflappable performance during three days of questioning has clearly put Democrats in a quandary." Some "say a strong vote against his nomination could prod the White House into naming a centrist to fill the vacancy created by the retirement of Justice Sandra Day O'Connor, a crucial swing vote. Others say that supporting the Roberts nomination could make Democrats appear reasonable, giving them more credibility to oppose the next nominee."

The Washington Times (9/16, Hurt) says "among those Democrats being closely watched is Sen. Dianne Feinstein of California, who has said she will not support a nominee who

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will undo federal abortion rights. 'I don't really know what I'm going to do with respect to voting for you or against you,' she told Judge Roberts yesterday."

The Legal Times (9/16, Goldman) reports, "After two lengthy days of interrogations, Thursday's session was essentially cleanup time for the Democrats, several of whom besides Schumer still wanted to question the witness. … It was clear, however, as had been true since the first day of questioning, that Roberts was going to remain a disciplined nominee, rarely commenting on any case or issue that might one day appear before the Court. … But as in Wednesday's hearing, in which Roberts did reveal some slivers of his legal thinking, Thursday's session also provided a few glimmers of his views, and not merely a recitation of hornbook legal principles about precedent."

The Wall Street Journal (9/16, Bravin, Cummings) notes that while Roberts "frustrated some Democrats who said he was avoiding answering their questions, he gave Republicans no assurance that he was sympathetic to their causes." He "demurred, for instance, when Sen. Sam Brownback (R., Kan.) asked 'whether the unborn child is a person or is a piece of property.'" However, "Republicans professed no doubts about…Roberts, who himself offered no objection when Sen. Lindsey Graham (R., S.C.) praised him as a 'strict constructionist.'"

Charles Krauthammer writes in his Washington Post column (9/16, A31) editorializes, "Roberts denies that he has any ideology, any 'overarching judicial philosophy,' and is nothing more than an ad hoc, bottom-up type of guy. Maybe he is. Maybe he isn't." But "he knows that if he dares to say otherwise, he gets Borked." Krauthammer goes on to predict "two things: (a) Chief Justice Roberts will vote to uphold Roe v. Wade , and (b) his replacing his former boss, Chief Justice William Rehnquist, will move the court only mildly, but most assuredly, to the left -- as measured by the only available yardstick, the percentage of concurrences with the opinions of those conservative touchstones, Scalia and Thomas."

Meanwhile, the New York Times (9/16, Toner, Kirkpatrick) reports "liberal advocates warned Thursday that confirming…Roberts Jr. as chief justice of the United States would threaten hard-won progress on civil rights and women's rights." On the final day of the hearings, "liberals were arrayed in full force before the Senate Judiciary Committee: civil rights leaders, leading feminists and reproductive rights advocates, all warning about the importance of the court in the lives of average Americans." In "one emblematic moment," Rep. John Lewis, "the Georgia Democrat severely beaten during the civil rights movement, told the committee that he feared a Roberts court would 'no longer hear the people's cries for justice,' and no longer act as 'a sympathetic referee'' because of his philosophy of judicial restraint." The Washington Post (9/16, C1, Davis) also notes the civil rights leaders' comments, adding "the 18 committee members are all white -- 17 men and one woman, Sen. Dianne Feinstein (D-Calif.). There have also been only a handful of people of color witnessing the proceedings, be they activists from the right or left, students or simply those who wanted to observe history."

Under the headline "Final Day Of Nomination Hearings: Yawn," the Washington Post (9/16, A6) reports, "As Democrats proceeded through their final round of questioning, the Republicans did not conceal their boredom." Sen. Tom Coburn "yawned. Brownback closed his eyes and rubbed his brow." Sen. Lindsey O. Graham "let out a big yawn and fixed his hair. Five GOP staffers shared a joke, then passed a note to Sen. Orrin G. Hatch (Utah), who read it, looked over at the Democratic side and chuckled."

However, the Washington Times (9/16, Hurt) reports, "Sen. John Cornyn turned the tables on Democrats yesterday, transforming the confirmation hearings for Judge John G. Roberts Jr. into one of the nastiest partisan conflicts the Senate Judiciary Committee has seen in recent years. Throughout the four days of hearings, Democrats called for the release of internal legal documents Judge Roberts wrote while working in the Solicitor General's Office. Republicans said those documents fall under attorney-client privilege and cannot be released." The Times adds, "Fed up with the repeated pleas, Mr. Cornyn, Texas Republican, reminded the Democrats on the panel of their stunned outrage when some of their own internal records wound up in public. … He was making reference to 14 internal memos that were downloaded from Democratic computers by two Republican staffers and were published by the Wall Street Journal and The Washington Times. The memos revealed a cozy relationship between Democrats on the Judiciary Committee and outside groups with special interests in the federal judiciary."

DNC Intensifies Attacks On Roberts. The Washington Times (9/16, Pierce) reports in its "Inside Politics" column, "The Democratic National Committee yesterday stepped up its attacks on Judge John G. Roberts Jr., with DNC Chairman Howard Dean saying that the Supreme Court nominee was 'the wrong man at the wrong time for our country.'" In an e-mail fundraising solicitation to Democrats, Dean wrote, "The skills John Roberts displays are like those of White House Deputy Chief of Staff Karl Rove or House Republican Leader Tom DeLay. Both of those men have sharp political minds — they are among the smartest in Washington. But they use those skills to push a narrow ideology and win at any costs." Dean added, "Roberts has spent a career using the law to protect corporate interests and roll back the rights that protect us all."

Hispanic Chamber Of Commerce Calls For Gonzales' Supreme Court Nomination. WDJT-TV Milwaukee (9/15, 5:05 p.m.) reported, "The Hispanic Chamber of Commerce is holding its national convention in

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Milwaukee this week. Today the chamber officially endorsed John Roberts as the next chief justice, and called for attorney general Alberto Gonzales to be nominated to the high court."

Bush Pledges Federal Effort To Rebuild Areas Ravaged By Katrina. President Bush addressed the nation last night from New Orleans, pledging a massive and sustained federal effort to rebuild the region devastated by Katrina, and taking responsibility for the failures in the relief effort. The AP (9/16, Pickler) says Bush "promised tonight the government will pay most of the costs of rebuilding the hurricane-ravaged Gulf Coast in one of the largest reconstruction projects the world has ever seen." The President is quoted saying, "There is no way to imagine America without New Orleans, and this great city will rise again." Knight Ridder (9/16, Hutcheson, Bolstad) adds Bush "went further than he ever had in acknowledging the missteps and accepting responsibility." Said Bush, "Americans have every right to expect a more effective response in a time of emergency. … When the federal government fails to meet such an obligation, I as president am responsible for the problem, and for the solution."

Bush received generally positive media reviews for his speech. Even the New York Times editorial page (9/16), which is often critical of the President, writes this morning that "once again, as he did after 9/11, Mr. Bush has responded to disaster with disconcerting uncertainty, then risen to the occasion later. Once again, he has delivered a speech that will reassure many Americans." Bush's address is being portrayed as a attempt to put his presidency back on track after what many considered a lackluster performance in the immediate aftermath of the storm. As the Christian Science Monitor (9/16, Feldmann) says this morning, "As New Orleans and the devastated Gulf Coast region look ahead to rebuilding and renewal, so, too, President Bush is digging out from the political damage hurricane Katrina has wreaked on his presidency."

All three networks ran the speech live, and ran previews of if in their regular evening newscasts which included excerpts of Bush's remarks from advance copies. After Bush's message, ABC and NBC offered extensive commentary, while CBS quickly returned to regular programming.

On NBC (9/15), Tim Russert said, "I think the President demonstrated to the country he understands the magnitude of this crisis. But because we are three weeks into the crisis, one speech alone will not solve his political problems. … The remaining three years of his Presidency will be devoted to this, and he also has to deal with the problem of the racial divide and that three out of four Americans believe their government is not prepared to protect them if there is another crisis or disaster. It's a tall order. He began tonight, but it must be sustained, complicated and difficult and overseen on a steady, unrelenting way."

On ABC (9/15) after the President's speech, Ted Koppel said Bush "has just given a speech quite breathtaking in terms of the depth and breadth of its commitment." A bit later, ABC's Dean Reynolds spoke with a group of African-American Katrina evacuees in the Reliant Center in Houston. Pressed for their views of Bush's speech, all found reason for optimism and expressed hope at the thought of returning home to New Orleans. In one representative exchange, Reynolds asked Connie London, "You heard the President say repeatedly that you are not alone, that the country stands beside you. Do you believe him?" Connie London: "Yeah, I believe him, because here in Texas, they have truly been good to us. I mean…" Reynolds: "Did you get a sense of hope that you could return to your home one day in New Orleans?" London: "Yes, I did." After hearing the short "focus group" with the Katrina evacuees, Koppel remarked, "If the national response is reflected by that small group of people in the parking lot of the Astrodome, the President has made some major progress tonight." The New York Times (9/16, Saulny) runs a piece echoing the same sentiments, under the headline "Evacuees Find Comfort And Encouragement In Speech."

The Wall Street Journal (9/16, McKinnon) calls the speech "hopeful and sympathetic," adding it was "crafted at least in part to revive his political fortunes," while the Los Angeles Times (9/16, Gerstenzang, Chen) says Bush "offered a broad vision of a nation pulling together in common purpose portraying the effort in grand terms." Los Angeles Times media critic Paul Brownfield (9/16), meanwhile, praises the speech's staging. He writes, "Bush…could have given this speech from the Oval Office, but he came to stake his own version of being there. And he chose the only kind of postcard left on the racks -- the impossibly serene one."

The New York Times (9/16, Bumiller) notes "Bush delivered his speech, carried live by the major television networks, in the middle of the city's darkened French Quarter, where Army troops from the 82nd Airborne Division were on patrol. The Bush White House, well practiced in the art of presidential stagecraft, provided its own generators for the lighting and communications equipment that beamed Mr. Bush's remarks to the nation."

Local officials in areas affected by Katrina also expressed satisfaction with Bush's remarks. On ABC (9/15), Koppel spoke with Jefferson Parish President Aaron Broussard, who said, "This was a speech I waited for the President to say. It was compassionate. It was specific about relief, it gave hope. This is what we need more than anything right now, is hope. In politics, it's all about tomorrow. It's not about yesterday. The blame game can go on in Congress. It can go on in the media, but here locally we

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still need this relief that the President stated. I was glad to hear it. Thank you, Mr. President."

On ABC (9/15) Koppel spoke with Louisiana state Sen. Cleo Fields, who was in Baton Rouge. Fields said he thought President Bush "made it very clear tonight that, listen, we made mistakes, but that mistake won't happen again. And I would hope that the President will live up to his commitments, and I have every reason to believe that he will. And let's move forward."

Likewise, Mississippi Gov. Haley Barbour said on CNN's Larry King Live (9/15), "I thought there were three things that are really very important. First is the president saying Washington is not going to try to dictate the solutions that the people in Mississippi, in my case, the people down on the gulf coast and in south Mississippi, the damaged areas, they're going to make the decisions about how to rebuild, what they want, what their own community should be about. He did make it very plain the second crucial thing that the federal government understands that it has a major commitment here. It's going to be required to support financially what we do, particularly in areas of public infrastructure. But the last thing and I think crucially by this Gulf Opportunity Zone he recognized that really at the end of the day it's the private sector that's going to rebuild the coast, that's going to provide the jobs that it's going to be crucial to whether we're successful and what I'm committed to and that's building the Mississippi gulf coast bigger and better than ever before."

GOP Sen. Richard Shelby said on CNN's Larry King Live (9/15), "I thought it was a very compelling speech. I thought it was sincere. He passed the buck to no one. He accepted it in the mold of President Truman. He admitted a lot. He admitted that no one was prepared. And that means the federal government, the state and the local governments. He was very, very honest, upfront. I think this is a new beginning. It's also a big commitment on the part of the president, and he's committed to Congress, even perhaps tied us down to doing more than some people wanted to do -- not more than I wanted to do, but more than some."

Not all commentary was positive. The Wall Street Journal (9/16, McKinnon) reports that Democratic congressional leaders "criticized Mr. Bush's plan for being long on comforting words, but short on action." In an analysis piece, USA Today (9/16, Keen) says, "Unlike in the aftermath of 9/11, there are few signs now of a pause in political partisanship, and Bush's plea for unity seems unlikely to end criticism." Sen. John Kerry said after the speech, "No American doubts that New Orleans will rise again, they doubt the competence and commitment of this administration." Democrats "said it's too late for Bush to regain the aura of decisiveness that sustained him in other crises. 'The fundamental positive feelings the American people had for him are gone,' said Joe Lockhart, a former press secretary for President Clinton."

Meanwhile, some commentators said the speech lacked a defining moment to change the public's perception of Bush. Mark Whittaker of Newsweek said on CNN's Larry King Live (9/15) that Bush's speech did not contain a "bullhorn moment," adding, "First of all, I think it's too late. I think the response that probably a lot of people had is, this all sounds very good, but why are we hearing it weeks after the event rather than days? On the responsibility issue, he made it sound like this was just a problem that was so overwhelming that nobody could deal with it. And he never accounted for the days when our reporting, other people's reporting shows that things could have been done; they just weren't. I mean, he talks about how he's -- he made it clear that there was a need for broader federal authority in the use of troops."

Former presidential adviser David Gergen said on CNN's Larry King Live (9/15), "I agree with Mark Whitaker, that this was not a bullhorn moment, if that's what the White House was seeking. But it was a strong, confident speech, and I do think it will give reassurance to the people of the Gulf region, that the government -- the federal government, after its faulty beginning, is at last on their side. And it was particularly -- I think it was welcome not only that the president took personal responsibility, but that he's taking the issues of poverty more seriously."

William Schneider said on CNN's Lou Dobbs Tonight (9/15) that Bush "has one thing going for him as he tries to regain the initiative. He has kept his base. Every leader needs a base. Your base are the people who are with you when you're wrong. This president's base is not abandoning him. Eighty-five percent of Republicans stand behind President Bush. His allies defend him. … President Bush has been there for his conservative base, and they're now there for him."

Before the President's speech, NBC Nightly News (9/15, lead story, 3:15, Gregory) reported, "Tonight's speech is one critics say Mr. Bush should have made sooner." Michael Beschloss, NBC News presidential historian: "He's got the opportunity tonight to make Americans think he's the leader that took them through 9/11. Their sense of that has been often absent in the last couple of weeks." ABC World News Tonight (9/15, lead story, 2:45, Moran) reported, "What the White House aides want this speech to do is help the President do what presidents can do in crisis situation. Rally the country around them. Rise above it all. They acknowledge, he starts from a difficult position on this crisis."

That area is the subject of much analysis in this morning's newspapers. The Washington Post (9/16, A1, Balz), under the headline "A Bid To Repair A Presidency," says "the clear subtext was the rebuilding of a presidency that is now at its lowest point ever." More evidence of that, says

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the Washington Times (9/16, Lakely), comes from the latest Fox News/Opinion Dynamics poll, which shows "Bush's approval has slipped in the polls since the federal government's initial response to Hurricane Katrina." It is now at 41%. However, "his speech last night from the devastated Gulf Coast promised an unprecedented federal spending effort and may mark the beginning of a political turnaround."

The New York Times (9/16, Stevenson) says "it was not the president's most stirring speech, but it conveyed a sense of command far more than his off-key efforts in the days immediately after the storm, when he often seemed more interested in bucking up government officials than in addressing the dire situation confronting hundreds of thousands of displaced and desperate people." But "if the speech helped him clear his first hurdle by projecting the aura of a president at the controls, it probably did not, by itself, get him over a second: his need to erase or at least blur the image of a White House that was unresponsive to the plight of some of the country's most vulnerable citizens and failed to manage the government competently."

Democrats Offered "Pre-Buttal," Said Region Needs "Marshall Plan." The Washington Times (9/16, Dinan, Debose) reports, "Democrats yesterday said the Gulf Coast needs a Marshall Plan to get back on its feet and that President Bush should seek more aid. … Speaking hours before Mr. Bush's televised address last night, Sen. Harry Reid and House Minority Leader Nancy Pelosi, California Democrat, said the government must be prepared to spend on education, health care and other services to make the region whole again."

CNN's The Situation Room (9/16, Henry) reported Reid and Pelosi "stuck a finger in the collective eye of the president and congressional Republicans up here, questioning the priorities on how they're going to spend the money to rebuild the region, also Senator Reid coming out very hard and writing a strong letter to Senate Majority Leader Bill Frist saying he will not participate in this joint House-Senate investigation of what went wrong. Democrats see a political opportunity and they're playing hardball."

CNN's The Situation Room (9/16, Blitzer) noted Democrats came out with a "pre-rebuttal, if you will. They're coming up with criticism, not even knowing specifically" what Bush "is going to be announcing tonight." CNN (King) added, "They are well aware that this president is at one of the weakest points, if not the weakest point, politically, of his presidency. … So the Democrats are trying to say that now -- don't make this disaster a laboratory for ideological ventures like school vouchers for those displaced children or tax credits instead of direct money to rebuild things. So you're going to have an ideological a fight. There are some Democrats who say we should turn the volume down a little bit, step back and let this play out. The president's in trouble. Let him continue to be in trouble. Let's not push him. But especially the liberal base of the Democratic party, they see the president weak. They think in the past they have made a mistake of not challenging him immediately and loudly. This time they're going to challenge him."

Conservatives Worried About Increased Spending. The Wall Street Journal (9/16, Calmes) reports "the open-ended commitment by President Bush and congressional leaders to rebuild New Orleans and the Gulf Coast is stoking anger among conservatives over the Republican government's record of higher spending and debt." While "no Republican in Congress is opposing federal aid that already totals $62 billion and is expected to exceed $200 billion, " the party's "conservative wing, led yesterday by Oklahoma's Tom Coburn in the Senate and Rep. Mike Pence of Indiana in the House, is calling for offsetting 'sacrifices' in federal spending. And they're backed by a growing chorus of conservative activists, columnists and bloggers."

In fact, Pence, Coburn, and Sen. John McCain are proposing that the Medicare drug benefit passed by the last Congress be delayed in order to fund the hurricane relief effort. Pence said on Fox News' Big Story with John Gibson last night (9/15) that he, Coburn, and McCain are calling for cuts in government spending, specifically "pork barrel" spending. Also, he said, they are recommending to "delay the rollout of the new Medicare prescription drug entitlement for one year, saving taxpayers some $40 million that we could spend on Katrina."

Under the headline "GOP Split Over Big Plans For Storm Spending," the New York Times (9/16, Hulse) quotes Coburn saying, "I don't believe that everything that should happen in Louisiana should be paid for by the rest of the country. I believe there are certain responsibilities that are due the people of Louisiana." Meanwhile, Sen. Jim DeMint, "called for restoring 'sanity' to the federal recovery effort." The Washington Times (9/16, Dinan) quotes DeMint saying, "Our government needs to take stock of what America is already doing -- the money that has already been contributed -- and see that we have a better role supporting what America can do on its own."

USA Today (9/16, Benedetto) notes Bush "put no price tag on the overall effort or his proposals to help evacuees find jobs and give them a chance to get free federal land for new homes. So far, the government has spent more than $13.7 billion of the $62.3 billion approved by Congress. The final cost is expected to be much higher." He "proposed three initiatives requiring congressional approval: An 'opportunity zone' in Louisiana, Mississippi and Alabama to give tax incentives to businesses that create jobs and loans and loan guarantees to small businesses. Recovery accounts of up to $5,000 for job training, education and child care for each evacuee seeking a job. A lottery to give low-income citizens of the region free federal land. In return, they would pledge to build homes on the lots."

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USA Today (9/16, Drinkard) says the funds already spent by the government include "$7.2 billion for Louisiana, where flooding devastated New Orleans; $4.8 billion for Mississippi and $1.5 billion for Alabama."

Meanwhile, the Washington Post (9/16, A1, VandeHei, Baker) says Bush "committed the nation to a plan that officials and lawmakers believe could top $200 billion, roughly the cost of the Iraq war and reconstruction," and which "promises to reorient government for the balance of the Bush presidency." The Washington Times (9/16, Curl) adds Bush "did not directly address how the federal government would pay for the massive project."

More Commentary On Bush's Speech. The New York Times (9/16) writes in an editorial, "Once again, as he did after 9/11, Mr. Bush has responded to disaster with disconcerting uncertainty, then risen to the occasion later. Once again, he has delivered a speech that will reassure many Americans that he understands the enormity of the event and the demands of leadership to come." The speech, "as good as it was, marks only a moment of clarity," and it must be "followed by deeds that are as principled, disciplined and ambitious as Mr. Bush's speech."

In an editorial, the Los Angeles Times (9/16) discusses Thursday's speech. The paper says Bush's goal was ultimately "to rescue his presidency, which Katrina's storm surge tattered." The Times argues that Bush's "call for a 'Gulf Opportunity Zone' is intriguing, but he needs to make sure storm relief doesn't become a Trojan horse for every conservative ideologue's favorite pet project. Flat tax, anyone?" Bush's speech, adds the Times, "helped him regain his political footing for now. But whether he rescues his legacy from the putrid waters swirling in the streets of New Orleans will depend on whether the aspirations expressed Thursday night are translated into a truly bright future for the region."

USA Today (9/16) editorializes that last night, "Bush at last seemed to have marshaled an effective response as he addressed the nation from New Orleans." However, "whether it will prove to be effectively managed and responsibly financed, or just good public relations, remains to be seen."

Columnist Paul Krugman writes in the New York Times (9/16) reports, "Is there any way Mr. Bush could ensure an honest recovery program? Yes -- he could insulate decisions about reconstruction spending from politics by placing them in the hands of an autonomous agency headed by a political independent, or, if no such person can be found, a Democrat (as a sign of good faith)." Bush "didn't do that last night, and probably won't. There's every reason to believe the reconstruction of the Gulf Coast, like the failed reconstruction of Iraq, will be deeply marred by cronyism and corruption."

Homeland Security Taps Special Auditor Teams To Review Katrina Aid. The Washington Times (9/16, Hudson) reports that "teams of auditors and investigators from the Department of Homeland Security expect to spend three to five years at hurricane recovery field offices in an attempt to prevent fraudulent use of more than $60 billion in relief funds. 'We're going to prevent what is still going to happen, contract procurement irregularities,' said Tamara Faulkner, spokeswoman for the inspector general's office." FEMA "routinely uses inspector general auditors to monitor federal dollars that are sent to disaster zones, such as the hurricanes that hit Florida last year, but the Katrina operation and the potential for fraud is on 'an unprecedented level,' Miss Faulkner said. A team of 30 inspector general employees will hit the ground Monday at field offices in Baton Rouge, La., Montgomery, Ala., and Jackson, Miss., she said. Later next week, three auditors will be sent to Texas. Although Congress gave authority to the department's inspector general, Richard Skinner, to stop contract fraud and a $15 million budget to get started, some lawmakers want to create new watchdogs." Senate Homeland Security Chair Susan Collins "yesterday introduced a bill to expand the jurisdiction of the special inspector general for Iraq reconstruction to oversee the recovery efforts in the Gulf Coast region, with an $80 million budget."

Senate Passes Hurricane Tax Relief Bill. CNN's The Situation Room (9/15, Velshi) reported that the Senate has passed an 18-point plan "for hurricane tax relief. There are some very important provisions in this bill. … One of them is that, if you have debts that are discharged because of the hurricane, the IRS is now going to make sure that you don't have to pay tax on that debt that you now don't have to pay. If you're a victim of the hurricane, you are going to be allowed to withdraw more out of your IRA or 401(k) without the 10 percent penalty that you typically have to pay. There is also going to be greater encouragement through tax deduction for companies that want to donate food and books, because of the shortage of books as a result of schools getting flooded and destroyed. The Senate has passed a bill that is going to encourage donation of books to schools. There is going to be an increase in the limit, the taxable limit, for donations, cash contributions for hurricane relief."

The AP (9/16, Dalrymple) reports, "Lawmakers on Thursday worked to help solve the practical problems facing those caught in Hurricane Katrina's path who need quick access to cash, housing and medical care." The AP continues, "The House and Senate passed nearly identical bills to let victims tap retirement accounts without penalty and help working poor families and parents retain their tax credits. Senators also voted for rental housing vouchers and aid measures for small business. … The action came ahead of

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President Bush's prime-time speech from New Orleans about the comprehensive recovery effort he envisions for the battered Gulf Coast." The AP adds, "On Capitol Hill, Republicans and Democrats fought over plans for a special, GOP-majority committee to investigate the government's sluggish response to the emergency. The House endorsed the idea by a mostly partisan 224-188 vote. Democrats warned they would boycott. … Louisiana lawmakers outlined a reconstruction plan, called 'Project Pelican,' for their devastated state. It includes coastal restoration and economic development incentives to brings jobs and people back to New Orleans. … Help was coming from the Treasury Department, which ruled that the hurricane qualified as a hardship. That allows victims and their families tap into retirement plans, including 401(k)s, an effort aimed at people with little savings to recover from the storm."

Conservatives, Liberals Equally Critical Of FEMA Trailer Plan. The Washington Post (9/16, A18, Weisman) reports that the approximately 300,000 FEMA trailers "to be purchased with nearly $5 billion" of federal funds "have become a focal point of criticism of the Bush administration's early rebuilding efforts." Housing experts -- "conservatives and liberals alike" -- worry that FEMA "encampments will quickly become what former House Speaker Newt Gingrich called 'ghettos of despair.' Rental vouchers in a market with plenty of available housing would be cheaper and faster and provide better accommodations, they say." Rep. Jeff Flake said, "Three hundred thousand manufactured homes? People are screaming about that. I tell you, FEMA is a disaster." But "beleaguered FEMA officials yesterday counseled patience. When Katrina struck, they were criticized for moving too slowly, they said. Now, they are being second-guessed for moving too quickly." FEMA spokesman James McIntyre said, "The governors and their local officials are looking at all these issues. They're working with all the evacuees in these communities to ensure they are incorporated into the community, they're given job assistance and the help they need. We have more than 300,000 displaced households, and they have to live somewhere."

USA Today (9/16, Ritter) reports, "Hotels, private homes, churches, cruise ships, gyms and campgrounds will continue to accommodate many of the displaced in coming weeks. An estimated 1 million people fled Katrina. But disaster officials say they're moving to assemble and make livable up to 300,000 trailers and other temporary housing units in Louisiana and Mississippi as fast as they can find sites and arrange utilities, schooling and other necessities with cities and counties."

FEMA Still Has Not Delivered Tents To Mississippi Victims. CNN's The Situation Room (9/15, Feyerick) reported, "D'Iberville, Mississippi is just north of Biloxi. It's a desperate situation there. FEMA has yet to deliver six huge tents that officials were counting on to house more than 1,000 people. The city manager says people who were counting on those tents are living in homes that are still flooded."

Mississippi Residents Displaced By Katrina Feel Neglected By FEMA. NBC Nightly News (9/15, story 3, 2:45, Williams) reported Mississippi "hasn't admittedly received the coverage New Orleans has, even though only 10% of the homes along the coast were undamaged by the storm." NBC (Mott) added, "For more than two weeks, Katrina news coverage has focused on New Orleans. But across the state line, Mississippi is a mess. 52 of its 82 counties have been declared disaster areas, cities like Pass Christian, Bay St. Louis, Waveland, Long Beach, Gulfport, and Biloxi, devastated. Much of Mississippi is gone, and now, many here argue, forgotten." While Federal "rescue and recovery teams have been pouring into Louisiana and FEMA gives updates from Baton Rouge every day, many Mississippians say the agency's hard to find."

Hutchinson Says FEMA Should Remain Part Of DHS. The Springdale (AR) Daily News (9/16, Dailey) reports that Arkansas gubernatorial candidate Asa Hutchinson, "the former undersecretary for Border and Transportation Security in the Department of Homeland Security," said that FEMA should not be separated from DHS. Hutchinson said officials and the public pressures DHS "into concentrating on defending against another terrorist attack to the detriment of planning for the much-more-likely natural disasters, and a better balance between the two is needed, Hutchinson said." He added, "You know there are going to be hurricanes and tornadoes. You don't always have terrorist attacks every year."

Poll Finds Three In Five Americans Say FEMA Should Be Autonomous. The Wall Street Journal (9/16, Harwood) reports in its "Washington Wire" column, "By two to one, a new Wall Street Journal/NBC News poll shows, the public holds an unfavorable view of FEMA after criticism of its Katrina response. But by 61%-20%, respondents echo Democrats like Sen. Clinton who say FEMA should be autonomous, as in her husband's presidency, not part of Homeland Security; majorities of conservatives and Republicans agree." The Journal adds, "Homeland Security chief Chertoff's 17% negative rating exceeds his 13% positive, but 50% don't know him."

Low Opinion Of FEMA Has Not Hurt Overall Confidence In Government. The Wall Street Journal (9/16, Harwood) reports in its "Washington Wire" column, "Despite FEMA's woes, Katrina hasn't shifted confidence in federal government generally. Some 31% say Washington can be trusted to do the right thing at least most of the time,

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matching a June Gallup survey. After 9/11, confidence in Washington surged."

Pentagon Mortuary Teams Will Deploy To Gulf Coast. The Washington Times (9/16, Gertz, Scarborough) reports in its "Inside the Ring" column, "Defense Secretary Donald H. Rumsfeld has signed off on mortuary teams from the 54th Quartermaster Company at Fort Lee, Va., deploying to the Gulf Coast. The job was supposed to be handled by the Federal Emergency Management Agency. But FEMA informed the Pentagon it must first find a contractor for the gritty work."

FCC To Spend $211 Million To Rebuild Hurricane-Damaged Communications. FCC Chairman Kevin Martin said yesterday the government will spend $211 million to help rebuild communications links for people affected by Hurricane Katrina. USA Today (9/16, Davidson) reports that at a special agency meeting in Atlanta to assess the effects of the storm, Martin said, "We need to determine how we can help companies strengthen our communications infrastructure, create more robust and reliable networks, and improve the ability to quickly restore service when disaster does strike." USA adds, "The $211 million will come from the $6 billion-a-year universal service fund, which is financed by a 10.2% surcharge on every customer's long-distance bill."

The Wall Street Journal (9/16, Schatz, Rhoads) calls the move "welcome news to phone companies in the region. BellSouth estimates it could cost between $400 million and $600 million to replace ruined equipment in the three-state area hit hardest by the hurricane." The Journal adds that Martin "proposed changes that would allow it to take a larger role in coordinating emergency communications and restoring telephone services." Under Martin's proposals, "the FCC would be reorganized to include a new Public Safety/Homeland Security Bureau. The FCC also would assemble an independent panel to examine what happened to the phone networks and communications between first responders and how they might be improved."

The New York Times (9/16, Nelson) says Martin's proposal "would give evacuees cellphones and 300 free minutes and help customers reconnect their phone lines. Money would also be made available to schools, libraries, health organizations and relief agencies like the Red Cross to rebuild their phone and Internet connections."

The Washington Post (9/16, C1, Krim) adds that some "executives, academics and analysts are urging a more ambitious approach: Make New Orleans and the surrounding areas super-connected communities, with advanced services that surpass what is available anywhere in the country, if not the world." With much of the region's communications infrastructure in ruins, "these experts see the perfect opportunity to deploy new systems that otherwise might be too expensive or disruptive to build. The result, they say, could be a bonanza of higher technology at lower prices for businesses and consumers, more robust emergency-responder systems and an ability to provide high-speed Internet access to poorer segments of the population often left off of the information highway."

Mississippi AG Sues To Force Insurers To Pay Flood Claims. Mississippi Attorney General Jim Hood has filed suit against five large insurance companies yesterday seeking to force them to pay for flood damage from Hurricane Katrina. This, despite flooding exclusions that are standard in most homeowners' policies. The Wall Street Journal (9/15, Francis) reports, "The suit, filed in state court in Jackson, seeks to override the exclusions. It comes as tens of thousands of Gulf Coast property owners struggle with the cost of rebuilding homes damaged by the wall of water that surged with the hurricane Aug. 29." Hood's suit names State Farm, Allstate Corp., Mississippi Farm Bureau Mutual Insurance Cos., United Services Automobile Association and Nationwide Mutual insurance Co.

The New York Times (9/15, Bayot) reports that Hood's suit accuses insurers "of selling confusing policies that fell short of homeowners' reasonable expectations of coverage. Mr. Hood argued that because property owners 'purchased these policies for the primary purpose of insuring against any and all hurricane damage,' insurers should be liable for property damage caused by flooding - a hazard long excluded from traditional homeowner policies." Hood "is seeking a temporary restraining order to prevent companies from denying or reducing coverage based on water exclusions, or from asking property owners to sign documents stating that their loss was caused by water rather than wind."

USA Today (9/15, Chu) says Hood's complaint claims that the insurers' policies "'attempt to exclude coverage for storm-surge damage' caused by the hurricane. This is 'an unfair or deceptive trade practice' under state law, Hood says."

Programs Seek To Retrain Workers Displaced By Katrina. Programs stretching from Louisiana to Texas and Mississippi are retraining thousands of workers displaced in the Gulf Coast. USA Today (9/15, Swartz) reports, "The programs are designed to find jobs for those forced to relocate or whose employers suspended operations, say state officials in Louisiana and Texas. Many of the job seekers are likely to be placed in fields such as construction, health care, energy and cleanup, says Barton Smith, director of the Institute for Regional Forecasting at the University of

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Houston. … Community and technical colleges in Louisiana this week started a job-training program to match and prepare evacuees with jobs in construction, plumbing, welding and hazardous waste removal."

Displaced Healthcare Workers In Demand Nationwide. In a separate story, USA Today (9/15, Appleby) adds that displaced healthcare workers from New Orleans and the Gulf Coast "are being lured with signing bonuses, relocation assistance and other perks by hospitals, doctor offices and clinics nationwide. … A shortage of medical workers in many parts of the USA almost guarantees that workers who leave the hurricane-battered areas will find work. What's more difficult to know is whether the health care workers who accept new jobs will return."

Writer Says Middle Class Also Hurt By Katrina. Writer Jennifer Moses writes in the Washington Post (9/16, A31), "I keep seeing pictures of the president with his shirt-sleeves rolled up, surveying the damage to New Orleans. But I wonder if he has any idea just who the folks are who have been displaced by Hurricane Katrina. I ask because here in Baton Rouge we keep hearing about the desperately poor, and sometimes criminal, hordes Katrina has washed up on the shores of decent, hardworking, middle-class America: the (mainly black) gangs from the projects who, even during normal times, wreaked havoc on their fellow citizens, not to mention the merely poor -- teen mothers, drug addicts, the chronically unemployed. But the shelter in which I've been volunteering tells a different story. … Indeed, an aura of normality and order pervades even this bizarre community, built of rows and rows of folding canvas cots, donated bed linens and garbage bags filled with other people's castoff clothing, and peopled by the young and old, black and white, American-born and foreign-born: a United Nations of languages, a stew of stories." Moses adds, "What I'm learning in the shelters is that it's not just the poor who have no place to go and no place to fall back on; it's also ordinary working people who in better times might have been counted as part of the middle class, too. Where are my new friends going to go?"

Confirmed Death Toll In Hurricane Zone Climbs Over 700. The CBS Evening News (9/15, story 2, 0:20, Schieffer) reported, "The death toll climbed even higher. 474 are now known dead in Louisiana. The total across the five-state disaster area went past 700, and is expected to go much higher in the days ahead."

New Orleans Mayor Announces Plan For Displaced Residents To Return. New Orleans Mayor Ray Nagin yesterday announced a plan to gradually permit New Orleans evacuees to return to the city in order to jump start the city's economy and return it to a "normal rhythm of life." Nagin's announcement, rather than a preview of President Bush's primetime speech, was the lead story on CBS, while ABC and NBC both ran it second in their lineup.

The CBS Evening News (9/15, lead story, 2:35, Pitts) reported, "Despite it all, the Mayor of New Orleans was smiling today." Nagin: "The city of New Orleans starting on Monday, starting this weekend, will start to breath again." Pitts: "That includes the French Quarter, where wealthy entrepreneurs held a power lunch today, New Orleans style, red beans and rice included."

ABC World News Tonight (9/15, story 2, 2:55, Harris) reported Nagin is "calling it his 'bring New Orleans back' plan. Starting this Saturday, and staggered over a 10 day period, nearly 200,000 people will be allowed home." Nagin is "promising to restore the quote 'normal rhythm of life.' He even says there will be retail stores in the now-infamous convention center. But, in a news conference repeatedly interrupted by helicopters…making it clear that people will be coming clear that people will be coming home to what is essentially a military zone with poisonous water lurking nearby -- and no schools or fully operational hospitals. There are also concerns that criminals will return, concerns Nagin addressed by pointing out that there are soldiers and police here from across the country."

NBC Nightly News (9/15, story 2, 2:40, Williams) reported, "Here in this city, the Mayor surprised a lot of people when he said that soon, people can start coming back to New Orleans." NBC (Tibbles) added, "Today New Orleans took one big step towards getting back to normal, inviting some residents back. But what are they going to find when they get here? It wasn't an announcement people were expecting so soon." For "many considering that move, this is what they'll find, mile after mile of thick, dried sludge, much of it as toxic as the water."

The Wall Street Journal (9/16, Cooper, Young, McKay) reports, "Some New Orleans residents returned to their homes and businesses to begin cleaning up the damage left by Hurricane Katrina, and Mayor Ray Nagin said large swaths of the city would be reopened starting tomorrow. Yesterday's announcement by the mayor amounted to an abandonment of efforts to persuade thousands of holdouts still in the battered city to leave. A New Orleans police spokesman said no one hunkered down in a home nearly three weeks after the storm hit would be forced out despite the lack of power and drinkable water in many parts of the city."

USA Today (9/16, Parker, Levin) reports, "Most of the city has electricity. But city water is largely undrinkable, schools remain shut, and thousands of waterlogged homes need to be pulled down and rebuilt. Levees need repairs, and a nighttime curfew will be in effect to hold down crime. Those who return should not expect much, city officials said. 'Just because the electricity is going, it doesn't mean that all the

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gas stations are open,' mayoral executive assistant Greg Mefert said. 'The residents need to have very realistic expectations of how the city is functioning, and they can't expect complete normality and to go about their normal day.'"

The Washington Post (9/16, A13, Whoriskey) reports, "Authorities warned residents not to drink or bathe in the water in most of the city because contaminated floodwaters are seeping into waterlines through major breaks. The 911 emergency-call system is not fully operational. Even in the least affected areas, thousands of homes are without power, and the lack of traffic lights has led to accidents among some of the emergency vehicles rolling through city streets. Asked whether the reentry plan may be premature, Nagin said, 'I'm getting all kinds of push that I'm moving a little too slow.'"

The Los Angeles Times (9/16, Riccardi, Powers) reports, "As many as 180,000 residents displaced by Hurricane Katrina will eventually be allowed to move back into homes and apartments that escaped overwhelming flood and storm damage, the mayor said." But even as he "hailed his city's semi-return, Nagin also acknowledged that dwellings that housed half of the city's 450,000 residents will have to be razed. 'Most of the homes that were flooded that stayed in the water for a number of weeks will most likely be destroyed,' Nagin said."

The New York Times (9/16, Yardley) reports, "The tentative re-entry plan calls for residents to be allowed into the Algiers neighborhood by the weekend. Uptown would be accessible by the middle of next week and the French Quarter on Sept. 26. The city's downtown and the other three areas will be open to business owners over the weekend. All are areas that suffered less damage from the storm. But, city officials said, the schedules may change."

The Washington Times/AP (9/16, Martel) reports, "The re-population of the city would proceed by ZIP code, starting Monday in the Algiers section, a Creole-influenced neighborhood across the Mississippi River from the French Quarter. The city's Uptown section, which includes the Garden District's leafy streets and antebellum mansions, will open in stages next Wednesday and Friday."

New Orleans Could Be Pumped Out Sooner Than Originally Expected. CNN's Anderson Cooper 360 Degrees (9/15, Cooper) reported, "So is New Orleans ready to reopen? There are positive signs. Flood waters are fast receding. The Army Corps of Engineers says water is dropping by more than a foot a day. Some areas like Algiers and New Orleans west bank have power and running water, which the mayor says is suitable for drinking. Mayor Nagin also says he's speaking with Wal-Mart about opening a store in the convention center so newly returned residents will have somewhere to shop. He also says despite the violence and looting witnessed in Katrina's aftermath, the city is the safest it's been in years."

CNN's Lou Dobbs Tonight (9/15, Feyerick) reported that floodwaters "are draining much faster than expected and the Army Corps of Engineers says except for a few ponds in low lying areas, New Orleans could be pumped out by October 18th. Radio stations have been calling people home zip code by zip code, yet it may not be completely safe. If another storm hits, engineers say there is no guarantee the levees will hold."

Many Evacuees Want To Settle Permanently In Houston, Poll Finds. The Washington Post (9/16, A1, Morin, Rein) reports that "fewer than half of all New Orleans evacuees living in emergency shelters here said they will move back home, while two-thirds of those who want to relocate planned to settle permanently in the Houston area," according to a Post/Harvard School of Public Health/Kaiser Family Foundation survey. The "wide-ranging poll found that these survivors of Hurricane Katrina and its aftermath remain physically and emotionally battered but unbroken." The "overwhelming majority lack insurance to cover their losses. Few have bank checking accounts, savings accounts or credit cards that work. Still, nearly nine in 10 said they were 'hopeful' about the future. And while half said they felt depressed about what lies ahead, just a third said they were afraid."

Texas Convention Centers, Arenas Still Hold 20,000 Evacuees. The Washington Post (9/16, A1, Merida) profiles evacuees at the Dallas Convention Center, which has become "a strange but comforting replacement neighborhood for those whose real 'hoods were drowned by Katrina. Here, the miserable and the hopeful, thrown together by common circumstance, have been trying to sort out their futures." Texas officials "estimate their state has absorbed more than 200,000 Gulf Coast hurricane survivors, the majority of whom have scattered to apartments and hotels, churches and private homes. But approximately 20,000 remain in convention centers and sports arenas, the last resort for those who had nowhere else to turn or haven't yet decided where they belong."

New Orleans Suburb Defends Decision To Turn Back Those Fleeing Katrina. The Los Angeles Times (9/16, Riccardi) reports that the "mostly white suburb" of Greta, Louisiana, "became a symbol of callousness for using armed officers to seal one of the last escape routes from New Orleans -- trapping thousands of mostly black evacuees in the flooded city -- the Gretna City Council passed a resolution supporting the police chief's move." In the aftermath of Katrina, Gretna "blocked the bridge over the Mississippi River that connects their city to New Orleans." The small city's mayor said that while Gretna first "commandeered buses and moved more than 5,000 to a food station miles away," Gretna simply did not have the resources to continue. And so, "armed Gretna police, helped by local sheriff's deputies and

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bridge police, stood guard and turned hundreds of men, women and children back to New Orleans."

Vietnamese-Americans In Gulf Coast Region Familiar With Refugee Status. USA Today (9/16, Phan) writes that "many Vietnamese-Americans have become refugees again" in the wake of Katrina. Starting in the early 1980's, "Vietnamese refugees started settling into enclaves around New Orleans, Biloxi and Mobile, attracted by the familiar humid climate and seeking to earn livings as fishermen and shrimpers."

Concerns About Mental Health Of Evacuees Grow. ABC World News Tonight (9/15, story 3, 2:20, Woodruff) reported, "It has been 18 days now since Katrina struck. There is growing concern about the mental health of the evacuees, particularly the children. The relief group Save the Children estimates 400,000 children were forced from their homes. Many lost family members and witnessed horrible devastation. An army of therapists have been sent to schools in shelters and schools, and in Houston, where so many of them ended up, a special project is under way." ABC (Pinto) examined an effort by volunteers to have children and teens use art to express and overcome their feelings.

Katrina Brings No Widespread Illness Outbreaks To Region. USA Today (9/16, Manning) report that Katrina "hasn't brought widespread epidemics to the region, officials with the federal Centers for Disease Control and Prevention say. 'What we've seen is what we would expect,' says Ali Khan, who is directing the CDC's operation in the New Orleans area. The complaints include accidental injuries and skin or respiratory infections." Still, the "'challenge is a lot bigger than in other disasters,' Khan says. 'We don't have a lot of experience evacuating a large city with this kind of infrastructure damage.' Previous hurricanes, however, taught health officials the value of tetanus vaccination and careful hygiene in shelters."

Ordeal At New Orleans Hospital Recounted. USA Today (9/16, Davis) reports on the "struggle to stay alive there in the dark days after the hurricane" at the Lindy Boggs Medical Center in New Orleans. Today, "the 187-bed hospital is empty; 19 bodies have been removed."

Katrina's Negative Economic Impact Becoming Apparent. Hurricane Katrina's impact on the economy is becoming more apparent, reports the Wall Street Journal (9/16, Hilsenrath). According to the Journal, "Thousands of individuals displaced by the storm have already filed for unemployment benefits and thousands more are expected, according to a Labor Department report. Meanwhile, gauges of manufacturing activity far from the Gulf of Mexico showed softening early this month, and economists and executives expressed concerns about rising energy costs. Largely because of gasoline-price increases before Katrina, the Labor Department's latest consumer-price index rose 0.5% in August, pushing it up 3.6% from a year ago, the largest increase in four years. More than 90% of the prices used to compile the report were gathered before the storm struck, meaning steeper increases are likely to come. … Taken together, the reports underscored the economy's turbulence since the storm hit at the end of last month. Energy-price increases hadn't been feeding broader inflation before the storm, though pressures seemed to be mounting."

The New York Times (9/16, Andrews) says, "The economic data for the period before the storm suggested that consumer spending held up despite rising gas prices, that companies were still hiring and that inflation pressures remained a cause for worry. Many economists expect that trend to resume after a predictable drop in growth as a result of hurricane-related disruptions. On top of that, the Bush administration and Congress are about to rev up the economy with a staggering amount of federal money for relief and reconstruction." The Times adds, "It remains possible that the Federal Reserve will refrain from raising short-term interest rates next Tuesday, which would be the first time in 11 meetings that it held rates steady. The best reason to do that would be to wait for more evidence of the impact from the hurricane and the spike in gasoline prices in the last two weeks."

NBC Nightly News (9/15, lead story, 3:15, Williams) reported, "In another sign of this storm's economic toll, first-time unemployment claims shot up by 71,000 last week, the biggest jump in almost a decade."

The CBS Evening News (9/15, story 4, 0:15, Schieffer) reported, "Hurricane Katrina has thrown thousands of people out of work. The government said today another 68,000 of them joined the line for unemployment benefits last week. That's on top of 16,000 the week before, for a total of 84,000."

Energy Price Increases Fuel Rise In Inflation. The CBS Evening News (9/15, story 10, 0:35, Schieffer) reported, "Gasoline is doing a big number on family budgets. The government says consumer prices shot up half a percent in August. Energy is to blame for most of the increase, and that was before Katrina. So far this year, inflation is running 3.9%. It was 3.3% last year."

Government Credit Cards For Katrina Relief Under Fire. The AP (9/16, Yen) reports, "Lawmakers and watchdog groups worry that allowing federal employees to charge up to $250,000 on their government-issued credit cards for Hurricane Katrina-related expenses will lead to a repeat of past abuses." The AP continues, "Some of the cards in the past were used to pay for prostitutes, gambling activity, even breast implants, government audits have

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shown. … 'People are concerned this is a risk,' said Greg Kutz, managing director of special investigations at the General Accountability Office, which conducts audits at the request of Congress." The AP adds, "About 250,000 federal employees have government credit cards, which typically have a purchase limit of $2,500. At the request of the Bush administration, Congress increased the credit line to $250,000 as part of a massive Katrina recovery bill approved last week. The aim is to make it easier to speed aid to victims. … Senate Finance Committee Chairman Charles Grassley, R-Iowa, said the 'outrageous increase' was 'slipped' into the bill. He is seeking to insert language in a Katrina health bill that would reduce the limit in most cases to $50,000." The AP notes, "Responding to initial criticism, the White House issued new guidelines this week saying agencies must designate in writing which of their staff will receive the new spending privileges. Purchases of more than $50,000 must be preapproved by a senior manager. … Critics say the additional oversight is needed because the cards offer special opportunities for abuse."

Rights Group Urges Freeze On Mortgage Foreclosures For Katrina Victims. The AP (9/16, Gordon) reports, "As Hurricane Katrina brought into focus the financial plight of many blacks along the Gulf Coast, a leading U.S. civil rights group urged lenders to freeze mortgage foreclosures and suspend late fees on loans for people affected by the hurricane. … 'There are a few steps that can and should be taken by all financial institutions to ensure that the people of Louisiana, Mississippi, Alabama and the other areas affected by Katrina are not further victimized and do not suffer further losses,' Hilary Shelton of the National Association for the Advancement of Colored People said Wednesday." The AP continues, "Speaking to members of a House Financial Services subcommittee, the director of the NAACP's Washington bureau Shelton, said the civil rights group also was concerned about predatory lenders who "must be circling some of the worst-hit areas, salivating at the potential for abuse" of Katrina's victims. … Alabama Congressman Spencer Bachus, the panel's chairman, said federal banking regulators need to help banks in the disaster zones by relaxing some rules." The AP notes, "The storm's devastating impacts on the poorest communities in the Gulf Coast starkly illustrated the differences in how minorities and whites are treated by banks. … Many poor people lost their cash savings, much of it stashed under mattresses and in teapots. Around the country, many low-income minorities shun banks, have never used an ATM machine or applied for a home mortgage. Often, they turn to storefront payday lenders, which charge high interest."

Louisiana Frees About 1,000 Prisoners Due To Flood-Related Overcrowding. USA Today (9/16, Frank) reports Louisiana has released "about 1,000 inmates" in order to "ease crowding caused when two large prisons flooded. All the released inmates had been in a 90-day prison program -- suspended last week -- for parole- and probation-violators who get extensive counseling while incarcerated. None has a record of violent or sexual crimes."

White House Gives NASA "Thumbs Up" For Moon, Mars Shuttle Replacement Plan. The New York Times (9/16, Broad) reports, "The White House has approved NASA's plan to replace the nation's aging" shuttle fleet "with a new generation of vehicles meant to carry human explorers back to the Moon and onward to Mars and beyond, aerospace experts said yesterday. The new rockets and spaceships are a radical departure for the space program, rearranging the components of the space shuttle into a new design expected to be more powerful that the shuttle but also safer. The shuttle has had two fatal accidents in 114 missions." George Washington University Space Policy Institute director John M. Logsdon said the measure amounts to a "thumbs-up for NASA to pursue the shuttle-derived vehicle," and adds, "The question is the schedule, not the basic approach." The Times adds that "other experts, who refused to be identified because the space agency will not formally announce the proposal formally, also spoke about the plan yesterday."

Reynolds Will Urge House GOP To Shelve Social Security Reform. Aides confirmed yesterday that NRCC Chairman Tom Reynolds will recommend to the House Republican leadership that the party drop its effort to restructure Social Security at least for this year. The Washington Post (9/16, A5, Weisman) calls Reynolds's move "fresh evidence that Hurricane Katrina is having a dramatic impact on the GOP's agenda. House and Senate leaders had already pushed off consideration of cuts in taxes and entitlement spending until the end of October. President Bush's tax reform panel has delayed release of its recommendations." The Post adds, "Reynolds (R-N.Y.) made his stand in a showdown with House Ways and Means Chairman Bill Thomas (R-Calif.), according to two witnesses. At a committee luncheon Wednesday, Thomas told panel members he was pushing forward with broad retirement security legislation that would include measures to strengthen private pensions, promote personal savings and add private investment accounts to Social Security. Reynolds then stood to say he would recommend to the leadership that it do no such thing."

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Federal Employee Health Insurance Premiums To Rise 6.6%. The Bush Administration announced yesterday that federal employees' health insurance premiums will increase an average of 6.6% next year. The Washington Post (9/16, A29, Lee) reports that while the increase is the lowest in nine years "an official with one federal employee union branded the increase 'outrageous,' noting that average employee contributions to their health premiums will rise faster than the portion paid by the government."

Government Releases Results Of Comprehensive Sex Survey. The New York Times (9/16, Lewin) reports, "The National Center for Health Statistics released the government's most comprehensive survey of American sexual practices and reproductive health yesterday, delving for the first time into such sensitive areas as the prevalence of oral sex among teenagers and same-sex activity among adults."

OTHER NEWS:

Ophelia Slowly Moves Up North Carolina Cost. USA Today (9/15, Brook) reports that Hurricane Ophelia continued its "soaking crawl" along North Carolina's coast Thursday, whipping rain and surf for house. USA adds, "A weakened Ophelia could smack Massachusetts' Cape Cod this weekend. Tropical storm watches have been issued there. And North Carolina will still feel its winds today." Damage "was significant because the storm stalled off the coast. Rather than a brief lashing, people withstood hours of a relentless 80-mph blast."

The Washington Post (9/15, A3, Cooperman) adds, "Although the Outer Banks islands of Ocracoke and Hatteras were still in danger of heavy winds and surging water, the hurricane's slow and meandering path spared most coastal areas of the severe flooding that had been predicted. By evening, its winds were blowing about 75 mph, just enough to earn Ophelia classification as a hurricane. Authorities blamed one death on the storm, from a rain-slicked traffic accident inland near the state capital of Raleigh."

ABC World News Tonight (9/15, story 4, :45, Woodruff) reported, "The unpredictable storm took days to reach the vulnerable islands in the Outer Banks, and now it has decided to stay awhile, just about stalling offshore. Peak winds are 75 miles an hour, and up to 15 inches of rain are expected before Ophelia pulls out to sea tomorrow. There has been some damage, and 80,000 utility customers are without power. Many have decided to ride out the storm at home."

The CBS Evening News (9/15, story 5, 2:00, Schieffer) reported, "Federal and state disaster teams were there to help, but many residents decided to stay put, even though some may now regret it."

Study Says Rising Sea Temperatures Increasing Hurricane Severity. A study published today in the journal Science concludes that rising sea temperatures have been accompanied by a significant increase in the most destructive hurricanes. The Washington Post (9/15, A13, Eilperin) says the study adds "fuel to an international debate over whether global warming contributed to the devastation wrought by Hurricane Katrina." According to the study by researchers at the School of Earth and Atmospheric Sciences at Georgia Tech and the National Center for Atmospheric Research, "the number of major Category 4 and 5 hurricanes worldwide has nearly doubled over the past 35 years, even though the total number of hurricanes, including weaker ones, has dropped since the 1990s."

Experts Eye Deregulation As Factor In 2003 Blackout. The Department of Energy and its Canadian counterpart held their first public meeting Thursday on the 2003 blackout which darkened cities from New York to Toronto and Detroit. The New York Times (9/16, Wald) reports, 'Engineers, government officials and executives said at the meeting that amid its restructuring the industry needed further changes to reduce the frequency of blackouts as utilities that formerly generated power, transmitted it and delivered it were broken up into separate entities of competing businesses." The Times notes that a binational report issued three months after the incident "did not list deregulation as a cause, instead citing factors like failure to trim trees, train operators and install control systems that could have kept track of the status of all power lines and generators. Much of the investigation leading to that report was managed by the Federal Energy Regulatory Commission, the architect of utility restructuring in the United States. The report called for a separate study - it did not say by whom - on the role of deregulation in the blackout, but that study has never been done."

Rising Natural Gas Prices Expected To Drive Up Electricity Prices. Soaring natural gas bills are threatening to push electricity prices to unprecedented levels. According to a front page story in the Wall Street Journal (9/16, Smith), the price of natural gas had doubled over the last two years even before Hurricane Katrina hit the Gulf Coast. Katrina's destruction "has roiled energy markets, sending natural-gas and oil prices to record levels and foreshadowing eventual rate increases for electricity in the Southeast, where utilities must rebuild heavily damaged systems. Now, as the winter heating season approaches for much of the country, consumers face a double threat. Many will see record costs on their bills for the natural gas that fuels

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their furnaces, stoves and clothes dryers. Consumers -- and businesses -- also will get hit with higher charges for electricity made by power plants that burn pricey natural gas." The Journal adds that "power generators are being quoted natural-gas prices for this fall and winter that also look extremely high -- $11.34 for contracts on the New York Mercantile Exchange for October, $11.97 for November and $12.45 for December deliveries. All surpass prices for September that were less than $10. They translate into raw power prices, not adjusted for inflation, that are high even before adding regular utility costs that would push the retail cost up substantially."

Delta, Northwest Bankruptcies Spark Fears About Pension Security. The Financial Times (9/16, Daniel) reports, "Concern about the impact of the bankruptcies of Delta and Northwest airlines on workers' pensions has led to urgent calls in Washington for immediate pension relief. Harry Reid, Senate minority leader, said: 'Congress has an immediate opportunity to pass legislation enabling both companies to keep pension plans for workers in place.' Johnny Isakson, senator from Georgia, where Delta is based, told the Financial Times on Thursday: 'We want to bring the bill to the floor as early as next week. The airlines stated they wanted to preserve their defined benefit plans and their ability to do that is tied to whether we can get pension reform passed.'" The Times adds, "The sense of urgency comes as the Pension Benefit Guaranty Corporation, the federal agency that insures defined benefit pension plans, said it could assume liabilities of $8.4bn from Delta's pension plan if it was terminated. That would mark its biggest pension termination. Northwest's liabilities were smaller, at $2.8bn, the PBGC said on Thursday.'

Former Airline CEO Urges Revision Of Bankruptcy Laws. Robert Crandall, former chairman and CEO of American Airlines, writes in the Wall Street Journal (9/16), "Delta and Northwest Airlines' bankruptcy filings are the latest consequences of the troubles afflicting the long-established, or 'legacy,' airlines. Inflexible work rules, above-market wage rates, under-funded fixed benefit pension plans, huge debt burdens, outdated business practices and high fuel costs burden the legacy carriers with enormous disadvantages relative to newer carriers who are flying by different rules. … Among the most egregious of these burdens are those imposed by the nation's bankruptcy statutes." Crandall adds, "Revising the bankruptcy laws would certainly cause hardship for the communities and employees most involved with failed airlines. On the other hand, revising the rules would offer expanded opportunities for new competitors and for legacy carriers whose managements, unions and employees are most willing to adapt to new realities. … To build a better airline industry we need bankruptcy laws designed to incentivize success and penalize failure. We need labor laws that better balance the power of unions and management. … Finally, we need administration and Congressional support for legislation to provide the FAA with the resources to build and operate an aviation infrastructure consistent with both U. S. aviation leadership and growing consumer demand."

WSJournal Urges Phasing Out Of PBGC Guarantees. An editorial in the Wall Street Journal (9/16) says, "This week's bankruptcy filings raise the possibility that Delta and Northwest will join United Airlines and US Airways in dumping their pension obligations onto taxpayers. Members of Congress will howl, but it's time for the politicians to admit their own role in co-piloting the airline industry into Chapter 11." The "root of the problem for these 'legacy' carriers is the burden of pension costs. And one tantalizing option is to use bankruptcy to pass them off to the taxpayer via the federal Pension Benefit Guaranty Corp. (PBGC). Congress created this government-run insurance system in 1974, promising to 'protect workers' when companies failed. But as always with such government guarantees, Congress only created a future 'moral hazard' that is now coming due. … If the Members really wanted to help, they'd leave the airlines alone and find a way to phase out PBGC guarantees."

Unions Facing Harsh Challenges. The Wall Street Journal (9/16, A6, Maher) reports, "Union leaders expect the bankruptcy filings of Delta Air Lines and Northwest Airlines to increase pressure on other carriers to seek further cost cutting from their workers. The troubling reality for unions: There seems to be very little they can do to stop the trend. … The latest round of airline woes has come as the labor movement's fissures have widened, raising questions as to whether some of organized labor's problems are self-inflicted. This summer's defections from the AFL-CIO by four major unions -- representing more than one-third of the labor federation's members -- highlight existing tensions among unions and unwillingness to back fellow unions during strikes." The Journal notes, "The harsh challenges confronting unions in the airline industry, while more extreme than those in other corners of the labor movement, illustrate the problems facing all of organized labor as employers press harder to lower labor costs for active and retired workers in the name of being globally competitive. 'Unions are in an environment of shrinking alternatives,' says Marick F. Masters, a professor of business administration at the University of Pittsburgh. 'There are just not many good options left at this time.'"

Iranian President Offers To Share Nuclear Technology With Other Islamic Countries. USA Today (9/16) reports that after meeting the Turkish prime minister at the United Nations, Iranian President Mahmoud

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Ahmadinejad "said Thursday that his country is willing to provide other Islamic nations with nuclear technology." Ahmadinejad "repeated promises that Iran will not pursue nuclear weapons, the state-run Islamic Republic News Agency reported. Then he added: 'Iran is ready to transfer nuclear know-how to the Islamic countries due to their need.'"

The Washington Times (9/16, A1, Sands) reports in a front page story "repeated his denials of Iran's intent to make atomic bombs in a get-acquainted meeting with U.S. reporters and editors yesterday morning, saying such suspicions put a heavy burden on his country." But his "offer to share nuclear technology prompted a worried U.S. reaction. State Department spokesman Adam Ereli told a briefing, 'Iran, as its record demonstrates, has a long history of trying to develop weapons of mass destruction, supporting terror.'"

Rice Says US Many Not Have IAEA Votes To Refer Iran To Security Council. The Washington Times (9/16, A1, Sands) reports Secretary of State Condoleezza Rice "had been trying to rally support for a vote next week by the United Nations' Vienna, Austria-based nuclear watchdog to refer Iran's nuclear programs to the Security Council -- a first step toward possible sanctions." But Rice "conceded that the United States might not have the votes at what was supposed to be a climactic vote by the board of the U.N. International Atomic Energy Agency (IAEA) on Monday."

The Washington Post (9/16, A26, Linzer, Lynch) reports that despite "an intense lobbying effort at the most senior levels, the Bush administration failed to persuade three key countries Thursday to back the United States in pressuring Iran to give up sensitive aspects of its nuclear energy program." Russia, China and India "either publicly or privately turned down U.S. requests to help report Iran's case next week to the U.N. Security Council, which has the authority to impose economic sanctions or an oil embargo." The Administration has "the reluctant support of the European Union for the first time in more than two years, but that will not be enough. Without backing from one of the three others, U.S. officials indicated they were preparing to abandon, for now, a quest to move the matter into the council."

US Report Says Iran Intends Acquisition Of Nuclear Weapons. The Washington Times (9/16, Gertz) reports a US government report says Iran is "concealing many of its nuclear facilities from international controls and the activities show it is seeking nuclear weapons." The computer slide presentation "developed by the Energy Department for the International Atomic Energy Agency also shows that Iran's nuclear program closely resembles Pakistan's nuclear arms programs." The report says, "Iran's past history of concealment and deception and nuclear fuel cycle infrastructure are most consistent with an intent to acquire nuclear weapons."

Iran To Offer "Compromise" On Nuclear Program. Financial Times (9/16, Staff) reports Iran "is to propose international joint ventures in its nuclear programme as a means of providing an 'objective guarantee' that it cannot be diverted to weapons use, senior Iranian officials have told the Financial Times." Iranian President Ahmadi-Nejad "is set to make the new proposal on Saturday before the United Nations General Assembly." It is "not clear whether Iran's suggestion would include the more sensitive sites in the country and European diplomats were sceptical that it would be acceptable to their governments."

The New York Times (9/16) reports President Ahmadinejad said Iran "would present new proposals tomorrow to try to break the impasse over Iran's nuclear programs, but he provided no details." European diplomats "indicated that they might defer their effort to bring Iran to the United Nations Security Council for possible punitive action if sufficient progress was made in talking with Iran's leaders." Asked "repeatedly whether Iran had not discredited itself by its failure to disclose past nuclear activities, Mr. Ahmadinejad said Iran did not have nuclear weapons and 'there is absolutely no proof of a violation on the part of Iran' of its pledge to keep its nuclear program peaceful."

Ahmadinejad Criticizes US Over Iraq, Katrina Response, Foreign Policy. The Washington Post (9/16, A26, Kessler) reports President Ahmadinejad displayed "a dash of defiance at U.S. charges over Iran's nuclear program and a warning that the era of big-power dominance in international relations has ended." Ahmadinejad "blamed the Bush administration's policies for instability in Iraq. A veteran of Iran's war against Iraq, the president described the removal of Saddam Hussein as 'necessary' but said the task should have been left to Iraqis." On the subject of Hurricane Katrina, Ahmadinejad "poke[d] at the Bush administration's response and perhaps draw lessons about solidarity among Americans. He compared the delivery of aid to victims in the Gulf Coast unfavorably with the response to natural disasters in the Islamic republic." Ahmadinejad said, "We thought Americans would act more quickly and help their fellow Americans. We expected more." The Times adds Ahmadinejad's "visit here has been dogged by protesters asserting that, as a student leader, he played a role in the takeover of the U.S. Embassy in Tehran and seizure of U.S. hostages during the 1979 Iranian revolution."

Bush To Pressure Putin On Iran, Foreign Energy Investment. The Wall Street Journal (9/16, King, White) reports President George W. Bush "hopes to persuade Russian President Vladimir Putin to toughen his stance on Iran, to further open his country's oil and gas reserves to foreign investment and to take steps to speed Russia's entry into the World Trade Organization, when the two men meet at the White House." Bush Administration

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officials, "previewing Friday's one-day summit, described relations between Washington and Moscow these days as a mix of cooperation and tension, along with a dollop of indifference on the Russian side." US officials say the "first item on today's agenda, U.S. officials say, will be to urge Mr. Putin to look more favorably on European and U.S. efforts to persuade Iran to give up its alleged nuclear-weapons ambitions." Bush will "also try to get a feel from President Putin on what transpired in his private talks at the U.N. on Wednesday with Iranian President Mahmoud Ahmadinejad, the official said."

Putin Said To Be Looking For Way To Retain Power After 2008. In a The Washington Post column (9/16, A31), Martha Lipman says Russian President Vladimir Putin "looks, in fact, like a man interested in reelection. So much so that political commentators are once again guessing about whether he will stay in power beyond 2008, when his second -- and last -- term expires. To be sure, several loyal officials have suggested ways to overcome the constitutional obstacle to a third term. But with the next election still 2 1/2 years away, the Kremlin appears to remain undecided as to how to preserve the political status quo in Russia in 2008. Putin's heightened activity may just be a way of demonstrating that he is fully in charge and that he remains the ultimate decision maker on all important national issues, including the 'challenge of 2008.'"

Bush Trip To Bathroom During Security Council Meeting Creates Stir. The Washington Post (9/16, A29, Kamen) reports in its "In the Loop" column, "President Bush created a bit of a stir Wednesday when he inexplicably walked out in the middle of an important UN Security Council meeting on terrorism, right in the middle of a speech by the leader of Benin. Delegates thought it was another example of American arrogance -- US officials are notorious for leaving meetings in mid-session, especially at the General Assembly. Russia's Vladimir Putin, Britain's Tony Blair and China's Hu Jintao sat patiently through the less-than-riveting address. But it appears that Bush meant no insult, judging from a note he handed to Secretary of State Condoleezza Rice shortly before he left. Bush, after waiting while a member of his security detail swept a nearby bathroom, used the facilities and returned to the meeting a few minutes later."

North Korea Won't Drop Demand For Nuclear Reactor In Weapons Talks. The New York Times (9/16, Kahn) reports North Korea "refused to drop a new demand that the outside world build it a nuclear reactor before it dismantles its nuclear weapons, leaving six-nation negotiations here on the verge of collapse." The United States and North Korea have "identified its demand for a light-water nuclear reactor as the main sticking point in the talks, which have continued fitfully over two years and failed to produce even a joint statement of principles." Christopher Hill, the chief American negotiator, "made it clear on Thursday that the gap had widened over three days of talks." That "leaves the Bush administration with an unhappy choice - go on indefinitely with talks that have produced no result, or seek a consensus to impose international penalties on North Korea against the wishes of most countries in the region." One goal "for the United States in these talks, analysts say, is to show enough sincerity and flexibility to convince Asian nations that fault lies with North Korea and that imposing penalties is the only viable option."

The Washington Times (9/16, Sato, Kwanwoo) reports delegates said "talks on dismantling North Korea's nuclear-weapons program are deadlocked due to 'major disagreements' between the North and the United States." A spokesman for the North Korean delegation "agreed yesterday that the talks were 'not making progress' due to the dispute over light-water reactors."

The Washington Post (9/16, A26, Cody) reports US and North Korean diplomats "acknowledged an irreconcilable deadlock Thursday in long-stalled nuclear disarmament talks, casting doubt on the future of Chinese-sponsored six-party negotiations." The "stalemate, based on the North Korean demand that it be given a light-water nuclear reactor to produce electricity, brought the current round of discussions to a rancorous standstill after three days. Representatives of the participating countries, which also include South Korea, Japan and Russia, did not indicate they would abandon the negotiations, but none outlined a way to keep talks going."

Diversion Of Food Aid Adds To Mistrust Of North Korean Regime. The Wall Street Journal (9/16, Fairclough) reports the "widespread availability of donated food in North Korea's booming markets shows how difficult it is for relief organizations to work with a government that, frustrated aid workers and others say, is often more interested in preserving its power than in protecting its citizens. Reports of diverted aid also are deepening mistrust of the government among other nations -- including those negotiating with Pyongyang over the future of its nuclear capabilities." It is "impossible to know exactly how much aid is diverted -- to markets as well as to the military and other groups favored by the regime -- given tight North Korean restrictions on monitoring. But experts say it could be substantial."

Israeli Court Rules West Bank Security Barrier Must Be Rerouted. The New York Times (9/16, Myre) reports Israel's "highest court ruled Thursday that part of Israel's West Bank separation barrier had imposed major hardships on Palestinian villagers and must be rerouted. It was the second such decision by the court." However, the

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"nine judges on the High Court of Justice also said in their unanimous ruling that Israel could build the barrier inside the West Bank, provided the government did so for security needs and not political considerations." The judges also "criticized an advisory ruling last year by the International Court of Justice in The Hague that said all sections of the barrier inside the West Bank violated international law and should be torn down. The Israeli court said the international court had failed to consider security needs."

The Washington Times (9/16, Mitnick) reports even as "the 9-0 ruling opened future challenges to the two-year-old network of electronic fence and concrete walls, the judges for the first time confirmed the legality of erecting a separation barrier inside the West Bank to protect Israeli citizens." Israel's "defense ministry now must consider alternatives to the path that separates about 1,200 Palestinians in five small villages from the rest of the West Bank. According to the Association for Civil Rights in Israel, which brought the petition on behalf of the Palestinian villages of Wadi a-Rasha and Ras a-Tira, at least four more legal challenges to the fence's route in other areas are making their way to the Israeli Supreme Court."

Sharon Gets Polite Reception From UN. The New York Times (9/16, Brinkley) reports that for the first time, Israeli Prime Minister Ariel Sharon "spoke Thursday to the General Assembly, a body he has long considered a tool of the enemy, and challenged the Palestinians to demonstrate their commitment to peace now that Israel has completed its withdrawal from the Gaza Strip." Sharon said, "The State of Israel proved that it is willing to make painful concessions in order to resolve the conflict with the Palestinians. I call on the Palestinian leadership to show determination and leadership and to eliminate terror, violence and the culture of hatred from our relations." The Times adds the "audience reaction was polite, as is the custom here, but even that might have been more than Mr. Sharon would have expected in the past." Sharon said "numerous world leaders, including some from Islamic nations, have approached him in the halls of the United Nations building, asking to shake his hand and congratulating him on Israel's withdrawal from Gaza."

US Envoy To Taiwan Under Fire. The Washington Times (9/16, Gertz, Scarborough) reports in its "Inside the Ring" column, "Douglas Paal, the U.S. government representative to Taiwan, is under fire from the State Department for misrepresenting Taiwan's policies to his bosses. A State inspector general report said Mr. Paal's leadership style caused low morale among employees of the American Institute in Taiwan, the official US office in Taiwan. The most serious IG charge, however, is that Mr. Paal falsely reported on Taiwanese issues to senior State Department officials, a cardinal sin for envoys. Officials familiar with the details of the IG report said Mr. Paal refused to allow dissenting views and was guilty of suppressing reports from US officials who disagreed with his pro-China views."

Bush Administration Again Pressing China To Revalue Yuan. The Wall Street Journal (9/16, Phillips) reports the Bush Administration is "turning up the heat on Beijing to allow the Chinese yuan to rise against the dollar, reigniting an economic dispute that had appeared settled." Treasury Department officials are "disappointed that China's eight-week-old promise to let the yuan move with market forces has resulted in only a tiny increase in its exchange value. They warn that Beijing is courting a backlash from U.S. lawmakers who say China's undervalued currency is robbing American companies of business and American workers of jobs." Treasury Secretary John Snow has "invited the Chinese finance minister, Jin Renqing, to meet during a gathering in Washington on Sept. 23-24 of senior economic officials from the Group of Seven major industrialized nations. The Chinese have indicated they plan to attend, but haven't yet formally accepted."

EU Trade Commissioner Says Bush "Playing To Gallery" On Free Trade. The Financial Times (9/16, Alden, Beattie, Blitz, Williams) reports EU trade commissioner Peter Mandelson "on Thursday accused President George W. Bush of 'playing to the gallery' by calling for the global elimination of tariffs and subsidies, saying US farmers would oppose such a sweeping measure." Mandelson's comments "came just one day after he and his counterpart Rob Portman, US trade representative, launched the most serious effort yet to agree on an agricultural liberalisation package as part of the Doha Round of global trade talks." In a Wednesday speech at the UN, Bush "said the US was 'ready to eliminate all tariffs, subsidies and other barriers to the free flow of goods and services as other nations do the same.'" Mandelson, in an interview "with BBC radio, said that, while he welcomed such ambition, 'it is easy to make these grandiose commitments. Some will say he is playing to the gallery, and some will say that he is making these sort of lavish promises in the almost certain knowledge that the rest of the world cannot or won't follow suit and therefore he will get a free pass."

US Decertifies Venezuela In War On Drugs. The Financial Times (9/16, Webb-Vidal) reports the US "struck Venezuela off its list of countries deemed to be co-operating in the war on drugs, injecting a new source of tension into deteriorating relations between Washington and Caracas." In a White House statement, President George W. Bush "said Venezuela, as well as Burma, had 'failed demonstrably' to adhere to their international counternarcotics obligations during the past year." Venezuela's "decertification", "as the measure is called, had been expected in the wake of a

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decision by President Hugo Chávez last month to suspend a co-operation agreement with the US Drug Enforcement Administration. While Mr Chávez has accused the DEA's officials of 'spying,' US officials have alleged elements within the Venezuelan authorities have become complicit with drugs-trafficking groups."

Merkel Shuffles Economic Advisers In Run Up To Election. The Wall Street Journal (9/16, Walker) reports that with the German elections looming this weekend, "front-runner Angela Merkel is struggling to retune her message on the economy, which is supposed to be her strongest issue but has been weakening her lead in the polls." Merkel's center-right coalition "is still firmly ahead of rivals but polling just short of an absolute majority in Parliament. Calling on her supporters to give her an outright victory and a mandate for economic change, Ms. Merkel shuffled economic advisers and attempted to refocus attention on Germany's high unemployment and low growth under incumbent Chancellor Gerhard Schroeder." German media have "focused on her tax adviser, Paul Kirchhof, whose belief in flat-rate income taxes Mr. Schroeder has criticized heavily. Under pressure from within her own Christian Democrats party, Ms. Merkel has reduced Mr. Kirchhof's importance by inviting the party's most popular finance expert, Friedrich Merz, into the campaign. Mr. Merz fell out with Ms. Merkel last year."

The New York Times (9/16, Landler) reports "three days before an election that has become unexpectedly suspenseful," Merkel delivered "a blunt message: Chancellor Gerhard Schröder has failed, and his government ought to be thrown out." Merkel's "audience of several hundred cheered often, if not quite passionately." Merkel's "sense of grim purpose may suit the moment. After spending four months with a seemingly unassailable lead in the polls, she finds herself in a dogfight with Mr. Schröder." The campaign has "been bumpy for Mrs. Merkel, with a few missteps by her and more blatant gaffes by some of her allies. But what has made the real difference, political analysts say, has been a nimble performance by Mr. Schröder down the stretch."

The Washington Post (9/16, A22, Whitlock) reports that when he "took office seven years ago, Chancellor Gerhard Schroeder made a big promise he didn't keep. 'My most important job is the fight against the scourge of unemployment,' he declared in his victory speech after winning the 1998 election. During the campaign, he told Germany's 4 million jobless that he would slash unemployment. Voters should kick him out of office if he failed, he added later." The Post adds Germany's "jobless rate is worse than ever; the number of people out of work hit a post-World War II high this year. German voters haven't forgotten Schroeder's pledge, and polls suggest they are ready to depose him in Sunday's national elections." Merkel "and her allies have been relentless in their reminders."

Bill Clinton Seeks To Generate Action At New York Conference. The Washington Post (9/16, A2, Kessler) reports the UN General Assembly "may have failed this week to come up with a stirring plan to combat the world's ills. But there was former president Bill Clinton -- once said to have harbored an ambition to become secretary general -- assembling his own mini-General Assembly of presidents, prime ministers, kings and other pooh-bahs on Thursday to devise specific plans for addressing poverty, global warming, religious conflict and better governance." The "inaugural meeting of what he has dubbed the Clinton Global Initiative will stretch over three days of seminars and speeches, bringing together 800 movers and shakers who paid $15,000 each for a seat. If the opening session is any guidepost, the meetings resemble the gabfests at Davos, the annual global economic summit held in Switzerland, or the Renaissance Weekends that Clinton attended as president. But Clinton added a catch -- each of the attendees is required to commit to doing something to improve the world." Every attendee is "required to make a commitment in writing. More than 50 commitments have been made, totaling more than $300 million."

Clinton Touts Global Initiative. In a Financial Times op-ed (9/16), former President Bill Clinton says, "This week, the inaugural Clinton Global Initiative (CGI), a three-day programme, is taking place in New York. More than 40 heads of state are joining me and a large number of participants from a broad swath of civil society: non-governmental organisation activists, legislators, policy experts, business leaders, journalists and writers from every continent. This will be a different kind of conference. At this conference, the activists will have access to the presidents and vice versa. And we will do a lot more than talk. International conferences always sound ambitious, but are rarely places where searching questions are answered." That is "exactly what we will try to get at CGI to address four critical challenges: poverty, religious strife, climate change and governance. All difficult – but all solvable."

Fox Expects Smooth Transition After 2006 Elections. The Wall Street Journal (9/16, O'Grady) reports the "past five years have been tough political sledding for Mexican President Vicente Fox, the first non-Institutional Revolutionary Party (PRI) president in 70 years. But his sixth and final year in the job may yet prove the most challenging." With the July, 2006 presidential elections "looming," Fox "emphasized the country's established 10-year record of fiscal stability and political reform that he predicts will guarantee a smooth transition of power." His "facts are

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straight. But still, there is the Democratic Revolutionary Party (PRD) and its candidate, Mexico City mayor and leftist firebrand Andres Manuel López Obrador, to worry about. This hard-charging, demagogic socialist with overt authoritarian instincts conceivably could win. Equally worrying are the stunts he might pull if he loses. He has a record of fomenting street violence when he doesn't get his way."

WSJournal Says UN Summit Accomplished Little. The Wall Street Journal (9/16) says in an editorial the United Nations world summit "seems to have done no real harm: It has not further extended the authority and reach of the U.N., it has not foisted another 'protocol' or 'convention' for the Senate to consider, and it has not established another significant seven-letter acronym -- er, agency -- for U.S. taxpayers to pronounce, and especially to fund." That "may be a negative accomplishment, but it is certainly a real one, especially as Secretary General Kofi Annan had envisioned the summit as an opportunity to expand membership in the Security Council, expand his own powers and require rich countries to pony up additional billions in foreign aid, among other brainstorms. It took new U.S. Ambassador to the U.N. John Bolton seven weeks of dogged negotiation to make sure none of that happened, and for this he deserves credit." On the other hand, "the diplomatic price the US paid for a no-harm-done outcome was a no-reform result."

US Urged To Support Grass-Roots Institutions To Achieve Goals In Mideast. Waleed Ziad, an economic consultant and a principal in the Truman National Security Project, in an op-ed in the New York Times (9/16) questions whether the Egyptian election "or the other recent democratic experiments in Saudi Arabia and elsewhere, really further American aims in the Muslim world?" But "the establishment of the first popularly elected governments in Iraqi and Afghan history has been followed by more suicide bombings and unabated violence. And nobody expects real change, in terms of political freedoms or human rights, any time soon in Saudi Arabia or Egypt." Ziad believes the problem is "the absence not just of democracy but also of grass-roots representative institutions like a free press and independent political, cultural and social-welfare institutions." Ziad advocates the we "foster these organizations -- along with a free press and educational and cultural institutions. At the same time, our corporations should guide local entrepreneurs to promote a free market, the backbone of democracy. If anything is going to come of the neoconservative hope of making Iraq into a beacon of our values, it will be along these lines."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Particpates in National Prayer Service, National Cathedral; meets with Russian President Putin, White House; 3 p.m. Joint press conference with Russian President Putin, White House.

VICE PRESIDENT CHENEY — No public schedule.

LAURA BUSH — Visits the National Center for Missing and Exploited Children. Charles B. Wang International Childrens Building 699 Prince Street Alexandria, Va.

LYNNE CHENEY — Hosts ``Constitution Day 2005: Telling America's Story'' with 180 fourth-grade students from Fairfax County Public Schools. George Washington's Mount Vernon Estate, 3200 Mount Vernon Memorial Highway, Mount Vernon, Va.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: PRESIDENT ALEJANDRO TOLEDO OF PERU _ Highlights: 10:30 a.m. Meets U.S. Trade Representative Rob Portman. Photo opportunity only. Photographers must contact USTR press office to clear security. USTR Offices, 600 17th St., NW. 1 p.m. ``Afternoon Newsmaker'' news conference on ``The Andean-U.S. Free Trade Agreement.'' National Press Club.

RUSSIAN PRESIDENT VLADIMIR PUTIN _ Highlights: 12 p.m. Arrives at Andrew's Air Force Base. 1:15 p.m. Meets one-on-one with President Bush at White House. 1:40 p.m. Joins Russian delegation in meeting with President Bush and U.S. Delegation. 3 p.m. Joint News Conference with President Bush at White House. East Room. 3:45 p.m. Meets with CEOs of American energy corporations. Madison Hotel. 1175 15th St. NW.

ROBERTS-PROTEST _ A coalition of groups join in protest of the confirmation hearings for Judge John Roberts to be chief justice. Groups include: National Organization for Women, Feminist Majority, People for the American Way, Human Rights Campaign, Rainbow PUSH/Coalition, and others. Highlights: 7 a.m. Protest behind Hart Senate Office Building on C Street. Location: Capitol Hill, various locations.

IRAN-NUCLEAR PROGRAM _ 9 a.m. The Nuclear Control Institute and the Iran Policy Committee co-host a news conference to present evidence that Iran has embarked on a nuclear weapons program and is denying the IAEA access to military sites where these activities are taking place. With Paul Leventhal, founding president, Nuclear Control Institute; Alireza Jafarzadeh, president, Strategic Policy Consulting Inc.; Patrick Clawson, deputy director for research, The Washington Institute for Near East Policy;

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Raymond Tanter, Co-chair of the Iran Policy Committee. Location: National Press Club.

SUPREME COURT FORUM _ 9 a.m. Panel discussion on the issues likely to be raised in the Senate floor debate on the nomination and issues the court is expected to decide over the next twenty years. Sarah Binder, Professor of Political Science, George Washington University; Neal Katyal, Professor of Law, Georgetown University Law Center; Charles Lane, National staff writer/U.S. Supreme Court, The Washington Post; Russell Wheeler Guest Scholar, Governance Studies, Brookings. Location: Falk Auditorium, The Brookings Institution, 1775 Massachusetts Ave., NW.

ARMS CONTROL ASSOCIATION _ 9 a.m. - 10:30 a.m. Media briefing on ``Nuclear Nonproliferation Challenges: Iran, North Korea, and the U.S.-India Nuclear Deal." With John S. Wolf, President of Eisenhower Fellowships; Minister Counselor Morten Aasland, Embassy of Norway; Prof. Lawrence Scheinman, Monterey County Institute for International Studies; Daryl Kimball, Executive Director of Arms Control Association. Location: Carnegie Endowment for International Peace, Choate Room, 1779 Massachusetts Ave, NW.

MILLENNIUM CHALLENGE-GEORGIA _ 9 a.m. - 10:30 a.m. Chairman of Senate Committee on Foreign Relations Senator Richard Lugar and the Millenium Challenge Corporation host public outreach meeting on compact with Georgia. With Gela Bezhuashvilla, Secretary of Georgia's National Security Council. Location: Room 419, Dirksen.

COMMISSION ON CIVIL RIGHTS _ 9:30 a.m. Commission meeting, with briefing: ``The Patriot Act as it Relates to Anti-Arab and Anti-Muslim Intolerance." Location: Room540, 624 9th St., NW.

WHISTLE-BLOWER HEARING _ 9:30 a.m. Senate Democratic Policy Committee to examine demotion of Pentagon official who reported contracting practices that benefited Halliburton subsidiary KBR and to explore implications for Katrina restructuring contracting. Bunnatine (Bunny) Greenhouse, formerly the highest-ranking civilian officer in Army Corps of Engineers; Christy Watts, former chief contracting officer at the Army Corps of Engineers, Prof. Chris Yukins, government contracting expert, GWU Law School. Location: Room 538, Dirksen.

AFGHANISTAN _ 10 a.m. Army Brig. Gen. James Champion, deputy commanding general, operations and intelligence, combined task force 76, briefs live from Afghanistan on update of ongoing operations in that country. Location: Pentagon briefing room.

KATRINA PRAYER _ 10 a.m. The National Clergy Council and Christian Defense Coalition will hold a special prayer service in recognition of the National Day of Prayer and Remembrance for the Victims of Hurricane Katrina. Location: On the north sidewalk of Lafayette Park and across from the gates of the White House.

US-ARAB COMMERCE REPORT _ 10 a.m. The National U.S.-Arab Chamber of Commerce releases a report on the 2006 outlook for U.S. merchandise exports to the Arab world. Location: National Press Club, 14th and F Sts. NW. West Room, 13th Floor.

CITIZENSHIP DAY CEREMONY _ 10:30 a.m. Sen. Lamar Alexander of Tennessee and Alfonso Aguilar, Chief of the U.S. Citizenship and Naturalization Service, welcome hundreds of DC-area residents as new citizens during special Citizenship Day naturalization ceremony. Location: Jefferson Memorial.

KATRINA RELIEF CONFERENCE CALL _ 11 a.m. The Center on Budget and Policy Priorities holds a conference call assessing the president's plan for Hurricane Katrina relief. Notes: Participants may register by e-mailing baziecbpp.org or calling the media team at 202-408-1080.

POW/MIA CEREMONY _ 11 a.m. Secretary of Defense Donald Rumsfeld and Chairman of the Joint Chiefs of Staff Gen. Richard Myers host Pentagon ceremony for National POW/MIA Recognition Day with troops from each of the military services. Location: River Parade Field, The Pentagon.

ARMY RESERVE CHIEF _ 12 p.m. Lt. Gen. James R.Helmly, Chief of Army Reserve, discusses U.S. Army challenges for the 21st century. Location: The Heritage Foundation, Lehrman Auditorium, 214 Massachusetts Ave., NE.

IMMIGRATION _ 12 p.m. The Cato Institute hosts a Capitol Hill luncheon briefing, ``Bordering on Failure: How to Fix Our Broken Immigration System," with Dan Griswold, director, Center for Trade Policy Studies, Cato Institute. Location: Room B-369, Rayburn House Office Building.

KATRINA-DAY OF PRAYER _ 12:30 p.m. National Clergy Council and Christian Defense Coalition conduct news conference following prayer service in recognition of National Day of Prayer and Remembrance for Victims of Hurricane Katrina. Clergy include New Orleans pastor Rev. Bill Shanks of the New Covenant Fellowship. Location: Sidewalk along Wisconsin Ave., NW, in front of National Cathedral front doors.

EURO FUTURE _ 2 p.m. The American Enterprise Institute (AEI) hosts a conference, ``Does the Euro Have a Future?" with Jeffrey Frankel, Harvard University; John Makin, AEI; Allan Meltzer, AEI; Adam Posen, Institute for International Economics; J. Onno De Beaufort Wijnholds, European Central Bank; and moderator Desmond Lachman, AEI. Location: AEI, Wohlstetter Conference Center, 12th Floor, 1150 17th St. NW.

GWU-CONSTITUTION DAY _ 2 p.m. - 3 p.m. George Washington University commemorates the 218th anniversary of the signing of the U.S. Constitution with a ``Colloquium on

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Constitutional Law" featuring Law School Dean Frederick M. Lawrence and legal scholar Ira C. Lupu. Location: GWU, Lerner Hall, Moot Court Room, 200 H St., NW.

BLACK CAUCUS-KATRINA _ 9:30 p.m. Rep. Melvin L. Watt, D-N.C., chairman, Congressional Black Caucus, and Bruce Gordon, President and CEO, National Association for the Advancement of Colored People will address the American people regarding President Bush's plans to rebuild the Gulf Coast region. Location: National Press Club, Lisagor Room.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Easing The Hard Time."
"Bush Promises A Massive Rebuilding Of Gulf Coast."
"Timing Of Gov.'s Bid A Sign Of Deep Woes."
"Routine Of A Class Replaces The Chaos Of Katrina."
"President Seeks To Revive A Region -- And His Image."
"More Iraqis Lured To Al Qaeda Group."
"After Blocking The Bridge, Gretna Circles The Wagons."

USA Today:
"Hope Turns To Anguish At Intensive-Care Unit Hope Turns To Anguish At Intensive-Care Unit."
"City's Coming Back, But Not To Normal Life."
"Plan Includes Homesteading, Jobs Programs."

New York Times:
"Bush Pledges Federal Role In Rebuilding Gulf Coast."
"G.O.P. Split Over Big Plans For Storm Spending."
"Seinfeld Who? NBC Pursuing The Heartland."
"Voting May Be Life-And-Death Choice For Afghans."
"For Athletes Left On Sideline, Welcome Mats And Questions."
"Speaking Volumes."

Washington Post:
"Bush Pledges Historic Effort To Help Gulf Coast Recover."
"A Bid To Repair A Presidency."
"Little Progress In FBI Probe Of Anthrax Attacks."
"For Evacuees At Shelter, An Uncertain Next Step."
"Some Of The Uprooted Won't Go Home Again."
"Conservatives Rise In Charles Schools."

Washington Times:
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"Tehran Offers Nuclear Expertise."
"U.S. To Pick Up Rebuilding Tab."
"Parts Of New Orleans Will Be Reopened."
"New Speed, Red-Light Cameras Added In Northeast."
"St. Bernard Fades As Rescuer In Snow."
"Married Americans Remaining Faithful."

Detroit Free Press:
"Bush: New Orleans To Rise Again."
"Race For Mayor Gets Personal."
"Financier Plans Auto Parts Giant."
"Candidates Land Verbal Punches At Cobo Debate."
"Mayor's Drug-Use Talk Ticks Off Oakland Exec."
"NWA Aims To Shrink Its Fleet Of Planes."

Atlanta Journal-Constitution:
"Delta Retirees Feel Pinch."
"In The Air, It's Business As Usual."
"Bush Vows To Rebuild Gulf Coast."
"$100 Million: It's Quite A Re-Do For I-85/Ga. 316."
"Life-Changing Gifts Of Hope."

Dallas Morning News:
"Ring Of Honor Telecast Taken By Storm."
"Bush Pledges To Rebuild."
"City Can't Count On Levees Now."
"Library Coffee Bars: The New Buzz At High Schools."
"'Everywhere I Went, I Saw People With Guns.'"

Houston Chronicle:
"Gangland Violence Invades Paradise."
"U.S. Will Pay To Rebuild From Storm."
"Roberts Tries To Reassure: 'I Am Not An Ideologue.'"
"Carters Work To End Scourge In Ethiopia."
"Nagin Gives The Go-Ahead For City To Crawl Back To Life."

Story Lineup From Last Night's Network News:
ABC: Bush-Gulf Coast Rebuilding; New Orleans Rebuilding; Katrina Evacuees-Therapists; NC-Hurricane Ophelia; Bubonic Rats Missing; Roberts Hearing; Baghdad Bombings; Adult ADHD; Wise Obit; Clemens' Mother; Katrina-Displaced Dolphins.
CBS: New Orleans Recovery; Katrina-Death Toll; Bush-Gulf Coast Rebuilding; Katrina-Unemployment Benefits; NC-Hurricane Ophelia; Baghdad Bombings; Katrina-Missing Children; Katrina-Insurance Lawsuit; New Orleans-Oil Cleanup; Consumer Price Report; Roberts Hearing; FBI-Fugitive Arrest; Katrina-Displaced Dolphins.
NBC: Bush-Gulf Coast Rebuilding; New Orleans-Resident Return; Mississippi-Aid Complaints; New Orleans-Devastation; Accurate Katrina Forecast; Baghdad Bombings; Roberts Hearing; NC-Hurricane Ophelia; Stock Market; Young Hurricane Evacuee; Katrina-Displaced Dolphins.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Bush Speech; Tropical Storm Ophelia; Bush-Base Closings; Wall Street.
CBS: Bush Speech; Hurricane-Missing People; Mississippi-Insurance Lawsuits; Tropical Storm Ophelia; Roberts Hearings; Wall Street.

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NPR: Roberts Hearings; Bush Speech; Hurricane-Mississippi Farm Damage; Wall Street; North Korea Nuke Talks; Iran Nukes; Baghdad-Drive By Shooting.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, SEPTEMBER 16, 2005 7:45 AM EDT

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TERRORISM NEWS:

Little Progress In FBI Probe Of Anthrax Attacks (WP)

By Allan Lengel, Washington Post Staff Writer

The Washington Post, September 16, 2005

Four years after the deadly 2001 anthrax attacks, one of the most exhaustive investigations in FBI history has yielded no arrests and is showing signs of growing cold as officials have sharply reduced the number of agents on the case.

FBI agents and postal inspectors have pursued leads on four continents, conducted more than 8,000 interviews and carried out dozens of searches of houses, laboratories and other locations. They traveled to Afghanistan twice in the past 16 months to follow up on tips that proved fruitless, said law enforcement sources, who spoke on the condition of anonymity because of the sensitive nature of the issue.

Within law enforcement circles, some say the investigation, which is referred to as the Amerithrax probe, is in urgent need of a big break.

In the past year, the number of FBI agents on the case has dropped from 31 to 21, authorities said. During the same time, the number of postal inspectors has fallen from 13 to nine. The reward remains the same: $2.5 million for information leading to an arrest and conviction.

FBI officials said yesterday that investigators are still working diligently to find whoever was responsible for the anthrax-bacteria-laced mailings, which killed five people, sickened 17 others and led to the temporary shutdown of the House, Senate and Supreme Court buildings and numerous postal facilities. They said they are getting assistance from forensics experts and scientific researchers from law enforcement agencies, the intelligence community, university laboratories and private corporations.

"This globe-spanning investigation remains intensely active and broadly focused," said Debbie Weierman, a spokeswoman for the FBI's Washington field office. "The FBI and U.S. Postal Inspection Service remain steadfastly committed to the 22 victims of the attacks and to bring to justice those responsible."

The investigation has been so expansive that authorities now are in the process of taking inventory. The FBI and postal inspectors have spent months piecing together a voluminous internal report that will review the scope of the investigation and

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explore issues including what has been the prevailing theory: The culprit is a U.S. scientist who had access to the high-grade anthrax and the knowledge of how to physically manipulate it and use it as a weapon. That theory emerged early in the investigation and remains viable today, authorities said.

The report will include the names of various people deemed to be "persons of interest" over the years, as well as updates on the scientific tests. Authorities long ago narrowed down the type of anthrax to a strain called Ames but have been unable to identify the lab of origin. Much attention has focused on the U.S. Army Medical Research Institute of Infectious Diseases, housed at Fort Detrick in the Frederick area.

Authorities hope that the report, which is to be completed soon and forwarded to FBI Director Robert S. Mueller III, will provide a concise road map of the probe and help determine its future direction.

Current and former law enforcement authorities said investigators and prosecutors often prepare such reports in complex, high-profile cases that go unresolved for years.

"It doesn't sound like they're close to cracking the case," said Eric H. Holder Jr., a Washington lawyer who was deputy attorney general during the Clinton administration.

The magnitude of the anthrax investigation has parallels to another marathon FBI probe: the 18-year search for the Unabomber, who killed three people and injured 23 others in mail-bomb attacks. Agents pored over 53,000 hotline tips, bomb parts and massive computer databases, but the breakthrough did not come until the Unabomber issued a public manifesto. The document led to the 1996 arrest of Theodore Kaczynski, whose brother recognized his thinking and tipped off the FBI.

The anthrax attacks took place just after the Sept. 11, 2001, terrorist attacks on the World Trade Center and the Pentagon. Spore-laden letters were mailed in pre-stamped envelopes in September and October of 2001 to the offices of then-Senate Democratic leader Thomas A. Daschle (S.D.) and Sen. Patrick J. Leahy (D-Vt.) as well as media outlets in Florida and New York.

Two District postal workers, a Florida photojournalist, a New York hospital worker and an elderly Connecticut woman died. At least 17 post offices and public office buildings were contaminated. Including cleanup costs, an FBI document put the damage in excess of $1 billion.

Over the years, officials have publicly identified only one "person of interest," and that was in August 2002: Steven J. Hatfill, a physician and bioterrorism expert who worked at Fort Detrick from 1997 to 1999. Hatfill, who has not been charged, has denied any involvement and filed a lawsuit against the Justice Department and then-Attorney General John D. Ashcroft.

"He remains innocent today as he was four years ago," said Thomas G. Connolly, Hatfill's attorney. "They were getting enormous pressure, and a way to alleviate the pressure was to offer someone up, and that person happened to be Dr. Hatfill. That caused enormous harm to Dr. Hatfill. It didn't advance their investigation one iota."

Investigators have issued more than 5,000 subpoenas and conducted interviews and research throughout the United States as well as in Europe, Asia and Africa. Two years ago, the FBI spent about $250,000 and three weeks draining a pond in Frederick, acting on a theory that someone might have discarded materials there. The pond yielded nothing useful, authorities said.

In the past year, investigators have tried to follow up on and eliminate as many leads as possible. In case the matter ever goes to trial, they want to be able to counter any defense assertions that they failed to explore alternative scenarios or suspects, sources have said.

Authorities received information, for example, from at least one detainee at the U.S. military prison at Guantanamo Bay, Cuba, that there was an anthrax storage facility in the Kabul area, sources said. Because the deadly letters contained the Ames anthrax spores, manufactured in the United States, authorities entertained the possibility that they had been removed from a U.S. lab and transported overseas.

Agents checked the Kabul area in May 2004 but came up empty, sources said. In November, on additional information, agents spent weeks searching an area in the Kandahar mountains, several hundred miles outside of Kabul, but found nothing, sources said.

Meanwhile, in the United States, FBI agents and scientists have been working to match the gene sequence of the mailed anthrax spores to a specific laboratory. They remain particularly interested in such laboratories as Fort Detrick, Louisiana State University and Dugway Proving Ground in Utah.

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An article published in May in a journal of the American Society of Microbiology and written by a number of scientists, including Bruce Budowle of the FBI laboratory in Quantico, suggested that scientists had still not pinpointed the lab of origin. "Grand leaps in sequencing technology to increase speed, to reduce costs and to maximize efficiency for forensic analysis are needed," the article said.

Clare Fraser, president of the Institute for Genomic Research in Rockville, one of the authors of the article, said of the science: "It's breaking new ground. There's still a lot of work to be done. But I don't think it's impossible to pinpoint."

Even if the test is successful, some scientists and law enforcement authorities caution, it may be of limited benefit because the nation's labs kept poor records of anthrax stocks and of those who passed through the facilities.

In light of the obstacles facing investigators, some relatives of the victims are wondering if the anthrax case will ever be solved. "It's been out there too long. I don't think they're going to find out" who did it, said Thomas L. Morris III of Suitland, whose father, D.C. postal worker Thomas Morris Jr., died of inhalation anthrax in October 2001.

Staff researcher Bobbye Pratt contributed to this report.

Congressman Says Hijacker Documents Destroyed (USAT/AP)

USA Today, September 16, 2005

WASHINGTON (AP) — A Pentagon employee was ordered to destroy documents that identified Mohamed Atta as a terrorist two years before the 2001 attacks, a congressman said Thursday.

The employee is prepared to testify next week before the Senate Judiciary Committee and was expected to name the person who ordered him to destroy the large volume of documents, said Rep. Curt Weldon, R-Pa.

Weldon declined to name the employee, citing confidentiality matters. Weldon described the documents as "2.5 terabytes" — as much as one-fourth of all the printed materials in the Library of Congress, he added.

A Senate Judiciary Committee aide said the witnesses for Wednesday hearing had not been finalized and could not confirm Weldon's comments.

A message left Thursday with a Pentagon spokesman, Army Maj. Paul Swiergosz, was not immediately returned.

Weldon has said that Atta, the mastermind of the attacks of Sept. 11, 2001, and three other hijackers were identified in 1999 by a classified military intelligence unit known as "Able Danger," which determined they could be members of an al-Qaeda cell.

On Wednesday, former members of the Sept. 11 commission dismissed the "Able Danger" assertions. One commissioner, ex-Sen. Slade Gorton, R-Wash., said, "Bluntly, it just didn't happen and that's the conclusion of all 10 of us."

Weldon responded angrily to Gorton's assertions.

"It's absolutely unbelievable that a commission would say this program just didn't exist," Weldon said Thursday.

Pentagon officials said this month they had found three more people who recall an intelligence chart identifying Atta as a terrorist prior to the Sept. 11 attacks.

Two military officers, Army Lt. Col. Anthony Shaffer and Navy Capt. Scott Phillpott, have come forward to support Weldon's claims.

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Moroccan-born Dane Denies Promoting Terrorism In Court Hearing (FINDLAW/AP)

By Jan M. Olsen, Associated Press Writer

Find Law, September 16, 2005

(AP) - COPENHAGEN, Denmark-A Moroccan-born Danish citizen arrested on suspicion of promoting terrorism denied the allegations in court Thursday.

Said Mansour was arrested Sept. 8 in Copenhagen on suspicion of encouraging terrorism by calling for a Jihad, or holy war, against the West in scores of CDs, computer discs and video tapes found in his home.

In his challenge to a court order allowing police to hold him for four weeks, Mansour told the Eastern High Court that he was not a terrorist and that the material was for his personal use. The court is expected to rule Friday.

"I have lived in this country for 23 years and I have always lived in peace," Mansour told the court. "I can assure you, I am no terrorist and I have nothing to do with terrorism."

In three raids on his home since November, police have seized some 3,000 CD-ROMs and roughly 500 computer disks, most containing calls for a jihad. Police also seized 161 CD-ROMs when Mansour was allegedly selling at a Copenhagen flea market in June, and 14 computer disks found in his car during a Danish-German border check in March.

Jihad is Arabic for the Islamic concept of the struggle to do good. However, extremists commonly use it to refer to holy war.

Mansour's lawyer, Claus Bergsoe, said his client had a large archive of material, but did not distribute it. However, Bergsoe also said Mansour acts like a missionary because "he's a man who agitates for Islam."

Prosecutor Lone Damgaard said results of a police wiretap include a tape in which the accused promised to copy a book and a tape. Someone calling themself Mansour in an Internet chat room also claimed to distribute information about Islam, she said.

"That must be some kind of distribution activity," said Damgaard.

Some material stamped with the logo of Mansour's publishing house, Al Nur Islamic Information, was also seized in a mosque in northern Italy and in Hamburg, Germany.

Some of the digital recordings shown earlier this month in court included Chechen Muslims decapitating and shooting Russian soldiers, and the beheadings of American hostage Nicholas Berg in Iraq and Wall Street Journal reporter Daniel Pearl in Pakistan.

If charged and convicted, Mansour could face up to six years in prison.

Mansour has been under surveillance by Denmark's intelligence service for years. Police claim he is tied to the al-Qaida terror network's No. 2 leader, Ayman al-Zawahri, and the blind Sheik Omar Abdel-Rahman, who was convicted in connection with the 1993 bombing of the World Trade Center in New York.

'Scary' U Of M Student Jailed (MCA)

By Chris Conley

Memphis Commercial Appeal, September 16, 2005

When FBI agents walked into Mahmoud Maawad's spartan apartment at 3557 Mynders # 5 on Sept. 9, they found a desk, chair, computer and a Koran.

They also found an airline pilot's uniform, a chart of Memphis International Airport, and instructional DVDs, including one called "How an Airline Captain Should Look and Act."

A federal magistrate Thursday ordered Maawad, a 29-year-old University of Memphis student from Egypt, jailed until his trial on charges of wire fraud and fraudulent use of a Social Security number.

"The specific facts and circumstances are scary," Asst. U.S. Atty. Steve Parker said, arguing against Maawad's release.

Since Maawad can't get a Social Security number, "he can't get a pilot's license, and can't go to flight school," Parker said. "But he wants to get behind the wheel of an aircraft."

Parker said "we don't know either way" if Maawad is a terrorist or connected to any terror groups.

U.S. Magistrate Judge S. Thomas Anderson ruled that Maawad be held without bond.

Though it's not illegal to buy aviation material, Anderson noted, "it is hard for the court to understand why he has a large concentration of those items, and nothing else to indicate Mr. Maawad plans to stay in the community."

Maawad has been in the country illegally since 1999, and has used a false Social Security number to enroll in schools and open a bank account, Parker said.

He's been working off-the-books for cash at a North Memphis convenience store, and was arrested by Shelby County sheriff's deputies last spring for selling alcohol to a minor.

Agents are downloading information from Maawad's computer and analyzing materials from his apartment in search of a terrorism connection.

"My school is everything," said Maawad, a clean-shaven man built like a weightlifter. "I stay in this country for seven years; I stay for the school."

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Maawad said he's studying science and economics at the U of M.

Since Maawad can't work legally, he told authorities a friend would support him.

When court employees tried to reach that friend, the telephone was disconnected.

Between April and August, the penniless student ordered $3,000 in aviation materials, DVDs titled "Ups and Downs of Takeoffs and Landings," "Airplane Talk," "Mental Math for Pilots" and "Mastering GPS Flying," FBI agent Thad Gulczynski testified.

He also ordered a pilot's coat and hat, and a chart of the Memphis airport terminal area from Spotty's USA in San Diego.

When the company didn't receive payment on $2,500 worth of merchandise it had delivered, officials called the FBI, which launched an investigation, Gulczynski said.

Hunger Strike Spreads At Jail For U.S. Terror Suspects At Guantanamo (FINDLAW/AP)

By Stevenson Jacobs, Associated Press Writer

Find Law, September 16, 2005

(AP) - SAN JUAN, Puerto Rico-A hunger strike at the U.S. prison for terror suspects in Guantanamo Bay, Cuba, has grown to its largest point since detainees began their latest protest more than a month ago, a military official said Thursday.

After 11 detainees joined the protest overnight, there are now 131 taking part in the hunger strike, said Maj. Jeff Weir, a spokesman for the detention center.

Twenty-one of the striking prisoners were hospitalized in stable condition at the prison medical clinic, including 20 who were being tube-fed, Weir said.

The military considers a hunger strike to be a form of suicide and Weir said that one prisoner was restrained after he resisted having a feeding tube inserted.

"No facility in the U.S., and hopefully the world, is going to let someone starve to death," Weir said. "We're charged with keeping them in good health, and that's what we're doing."

Guantanamo officials said this latest hunger strike began Aug. 8 with 76 detainees protesting their confinement. It has since grown to more than a quarter of the approximately 500 detainees.

The military defines someone as being on a hunger strike after they have refused nine consecutive meals. There have been at least two previous hunger strikes, but military officials said they were not able to confirm whether this was the largest.

A U.S. human rights group, the New York-based Center for Constitutional Rights, has claimed that some 210 detainees are participating in the hunger strike.

The detainees are accused of ties to the al-Qaida terror network or Afghanistan's ousted Taliban regime. Most have been held for more than three years without charge.

(sj/bf)

PATRIOT ACT:

Heavican Says Patriot Act Not Threat To Average Citizen (KNEB-AM)

KNEB-AM 960, Scottsbluff, NE, September 16, 2005

U.S. Attorney Mike Heavican told Scottsbluff Kiwanians Thursday the average citizen should not fear the expanded power authorities have under the Patriot Act. Heavican, who spoke on the issue in Sidney Wednesday and will be in Chadron Friday, says the only people who should be concerned about the legislation should be those involved in terrorist activity.

Heavican says authorities have always had access to library, bank and medical records for cases involving criminal investigations. Heavican says with the Patriot Act, those powers now expand to cases involving international terrorism. Heavican told the group searches into personal records can only be done if probable cause is established and if the judicial system agrees it is justified.

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Heavican says the feds have tried to use their new authority, which includes delayed notice search warrants, sparingly and only under circumstances where somebody's life is in danger, the suspect is a flight risk, or if the investigation would be compromised.

WAR NEWS:

Insurgents Strike Baghdad Again; Two-Day Death Toll Nears 200 (NYT/AP)

By The Associated Press

The New York Times, September 16, 2005

BAGHDAD, Iraq, Sept. 15 (AP) - Suicide bombers struck the capital again on Thursday, killing at least 31 people in two attacks about a minute apart and lifting the death toll in two days of carnage to nearly 200.

A dozen bombings during a nine-hour spate of terror on Wednesday killed at least 167 people and wounded nearly 600 in Baghdad's worst day of bloodshed since the United States-led invasion in March 2003.

American officials blamed the onslaught on efforts by the Sunni Arab-dominated insurgency to answer a successful joint United States-Iraqi offensive last week in the northern city of Tal Afar and to spark sectarian strife in hopes of undermining the Oct. 15 referendum on Iraq's proposed constitution.

"These spikes of violence are predictable around certain critical events that highlight the progress of democracy," said Maj. Gen. Rick Lynch, the chief American military spokesman in Iraq.

General Lynch said the joint operation in Tal Afar killed 145 insurgents and captured 361 in the second operation in a year to rid the area of militants, including foreign fighters crossing from Syria. Now, he said, American and Iraqi forces were fighting to regain control of the Syrian border, near the western insurgent stronghold of Qaim, on the Euphrates River and well to the south of Tal Afar. "We believe that the terrorists and foreign fighters are entering Iraq across the Syrian border, down the Euphrates River Valley into Baghdad," General Lynch said.

The latest violence only deepened the misery in Baghdad, where streets on Thursday were noticeably quieter and, in the southern Dora district, where the latest bombings were concentrated, deserted.

American and Iraqi soldiers using loudspeakers roamed the district, warning residents to stay indoors because five more suicide car bombers were believed to be in the area.

[Gunmen shot dead two laborers and wounded 13 in the New Baghdad district of the Iraqi capital on Friday morning, Reuters reported. The laborers were waiting to be hired for a day's work when the gunmen opened fire, the police said.]

Clashes were reported Thursday in Ramadi, a militant stronghold on the Euphrates west of Baghdad. A police captain, Nasir Alusi, said American and Iraqi troops in Ramadi came under mortar attack as militants roamed the streets. Shops were closed and streets empty. Gunfire echoed through the area, he said.

The American military did not confirm the report, but General Lynch said operations were continuing in Anbar Province, where Ramadi is the capital.

The United Nations planned to print and distribute five million copies of Iraq's draft constitution before the Oct. 15 referendum, a spokesman said Thursday. The spokesman, Farhan Haq, said officials hoped the Iraqi Parliament would sign off on the text by Sunday. "Once the transitional National Assembly designates a final draft constitution, we stand ready to assist in printing it and distributing that draft constitution so that the Iraqi people can make an informed choice in the upcoming referendum," Mr. Haq said.

Baghdad Toll Nears 200 As Insurgent Strikes Continue (WP)

By Ellen Knickmeyer, Washington Post Foreign Service

The Washington Post, September 16, 2005

BAGHDAD, Sept. 15 -- Insurgents believed to be allied to Abu Musab Zarqawi's group al Qaeda in Iraq kept up bombings in the capital on Thursday, launching strikes that brought the two-day death toll here to more than 190.

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The top U.S. military spokesman in Iraq, Maj. Gen. Rick Lynch, said the surge in bombings represented the kind of occasional spikes in attacks that the military has been expecting. Lynch told reporters, "Zarqawi is on the ropes."

Three car bombs in a western neighborhood of the capital killed four Iraqi postal workers and 17 police commandos, police and Interior Ministry officials said. Iraqi and U.S. leaders have identified the commandos as Iraq's front line against the insurgency.

Meanwhile, one policeman was killed in a gun battle with insurgents and another officer was found handcuffed and shot in the head, news agencies said. The bodies of seven unidentified men were found in spots around the capital, blindfolded with their hands tied.

Insurgents also managed to land a single mortar round inside the Green Zone, the base for U.S. officials and Iraq's government. There were no casualties and only minimal damage, U.S. officials said.

A day earlier, at least 14 car bombs across Baghdad killed more than 160 people, the majority of them Shiite Muslim civilians -- the war's highest toll for deaths inflicted by insurgent attacks in the capital.

An audiotape released on an al Qaeda-linked Web site after Wednesday's attacks said Zarqawi's group had opened "all-out war" on Iraq's Shiite majority. The voice sounded the same as that heard in previous, authenticated statements from Zarqawi's group.

Alleged al Qaeda attacks on Thursday also hit the city of Ramadi, capital of the western province of Anbar, a stronghold of foreign-led fighters. Witnesses said al Qaeda-allied fighters rocketed and shelled two U.S. military installations at Ramadi and traded fire with U.S. patrols in the city.

The U.S. military reported one Marine killed in the fighting at Ramadi and said a would-be car bomber also was killed. Iraqi emergency medical workers said Marine snipers killed six al Qaeda fighters.

The two-day barrage of attacks attributed to al Qaeda in Iraq, and the increasing control of towns in the west along the Euphrates River being asserted by foreign-led insurgents, intensified the U.S. military's focus on Zarqawi.

American commanders often have publicly denigrated Zarqawi's role in the insurgency to little more than that of a media-fostered figurehead. On Thursday, however, Lynch discussed Zarqawi in some of the sharpest terms yet, calling him the Americans' main target and saying the United States was winning the fight against him.

"We believe we are experiencing great success against the most crucial element of the insurgency, which is the terrorists and the foreign fighters. The face of that is Zarqawi and al Qaeda in Iraq," Lynch said.

"We've got great intelligence which tells us where he's moving to and where he's trying to establish safe havens. As soon as we see him trying to establish a safe haven, we will conduct operations," such as the one still underway against northwestern insurgent strongholds in Tall Afar, Lynch said. "We're using all assets under our control in conjunction with the Iraqi security forces to find him and kill him."

Asked why he believed U.S. forces and their allies were succeeding in the fight against insurgents, Lynch pointed to accomplishments in Tall Afar and two other recent or ongoing operations in the west and northwest: 371 suspected insurgents killed and 1,163 detained.

Killings by insurgents, however, also have mounted fairly steadily since Prime Minister Ibrahim Jafari's transitional government was named on April 28. The insurgents' use of increasingly sophisticated roadside bombs and land mines helped make August the third-deadliest month of the war for U.S. troops, with corresponding increases this summer in deaths among Iraqi civilians and security forces.

Defense Minister Sadoun Dulaimi told reporters Thursday that the stepped-up Baghdad bombings were insurgent retaliation for the Iraqi military's leading role in the operation at Tall Afar. "We tell the terrorists, we will never be weak or inattentive. We will chase you wherever you are, in the cities, villages," Dulaimi said. "I think what is happening is the last breath of the terrorists."

[On Friday morning, gunmen killed two day laborers and injured 13 in an attack in the New Baghdad district of the Iraqi capital, police said, according to the Reuters news agency. The laborers were waiting to be hired for a day's work.]

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In other violence Thursday, bombs and ambushes killed a total of four policemen in the cities of Baqubah, Samarra and Kirkuk, all north of Baghdad. In southern Iraq, police told news agencies they had found the body of Mahdi Attar, a prominent Shiite cleric. Attar and three associates had been shot or stabbed to death.

Sectarian tensions have multiplied in Iraq in recent months, encouraged in part by insurgents with the avowed intent of provoking civil war. Shiite religious ceremonies have been frequent targets of attacks, and many Shiites fear attacks this weekend, coinciding with their annual pilgrimage to the holy city of Karbala, in southern Iraq.

Also Thursday, a Western official familiar with arrangements for Saddam Hussein's trial by an Iraqi tribunal, scheduled for Oct. 19, said he expected the former president to be tried in connection with a variety of crimes, including the destruction of thousands of Kurdish villages and the disappearance and killing of their inhabitants in the 1980s. Authorities so far have announced charges in only one, smaller event, the killing of 140 Shiite Muslims after an assassination attempt against Hussein in their town.

U.S. forces also released video Thursday from the Sept. 7 rescue of American contractor Roy Hallums, kidnapped from his office in Baghdad 10 months earlier. The video showed what looked to be a narrow, dark cave covered by steel bars, and a wasted but happy Hallums talking to U.S. soldiers immediately after his release.

The cage was in a hole under a farmhouse, and a rug and freezer were placed on the hatch over the hole to conceal it, said Lynch, the military spokesman. U.S. forces had detained someone they believed had information about Hallums's whereabouts and used the detainee to pinpoint the location, Lynch said.

In Najaf, south of Baghdad, police announced the recovery of 150 relics stolen from Iraq's national museums and the site of ancient Babylon, describing some as monuments that required trucks to move. Police arrested four Iraqi suspects. A fifth suspect, an Iranian, escaped, local border police commander Hussein Awais Ghazal said. Illegal trafficking of relics from Iraq's 5,000-year history erupted with the looting accompanying the U.S. invasion and collapse of Hussein's security forces.

Special correspondents Naseer Nouri in Baghdad and Saad Sarhan in Najaf contributed to this report.

More Iraqis Lured To Al Qaeda Group (LAT)

By Greg Miller And Tyler Marshall, Times Staff Writers

The Los Angeles Times, September 16, 2005

WASHINGTON — Al Qaeda's top operative in Iraq is drawing growing numbers of Iraqi nationals to his organization, increasing the reach and threat of an insurgent group that has been behind many of the most devastating attacks in the country, U.S. officials and Iraqi government leaders say.

The group, headed by Jordanian-born radical Abu Musab Zarqawi, previously was composed almost exclusively of militants from other Arab nations, and has symbolized the foreign dimension of a stubborn insurgency fighting to oust U.S. forces.

But Zarqawi "is bringing more and more Iraqi fighters into his fold," a U.S. official said, adding that Iraqis accounted for "more than half his organization."

Although Zarqawi is believed to command fewer than 1,000 fighters, the daring and lethal nature of their attacks, coupled with Zarqawi's links to the Al Qaeda terrorist network, has made him the most notorious figure in the Iraq insurgency.

The U.S. has set a $25-million bounty on Zarqawi, whose organization has been behind a series of beheadings, suicide bombings and other gruesome attacks.

Zarqawi's faction has claimed responsibility for a bombing campaign this week that has left at least 169 dead in Baghdad, apparently in reprisal for a U.S.-Iraqi campaign against insurgents in the northern city of Tall Afar. One of the car bombers reportedly lured day laborers to his vehicle by posing as an employer. It was unclear whether he was Iraqi.

Details of a growing Iraqi dimension to Zarqawi's group were provided by three U.S. officials with access to classified intelligence data and who spoke on condition of anonymity because of the sensitivity of the subject. Their comments reflect the government's latest attempt to come to grips with a multi-layered insurgency that has often confounded U.S. forces and intelligence agencies.

The U.S. officials indicated that the infusion of Iraqis, including, apparently, former members of the Iraqi intelligence service and military, represented a change in the group's makeup rather than a major expansion.

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A significant Iraqi presence in the Zarqawi group carries ominous implications, both for the Bush administration and the fledgling, popularly elected government it supports in Baghdad.

The Iraqis under Zarqawi's wing could provide him with better intelligence, and give legitimacy to a group viewed by many Iraqis as unwanted outsiders. In addition, Iraqi recruits are being exposed to the workings of a highly efficient extremist group.

The influx of Iraqis also would diminish the effect of any tightening of border controls — a key Bush administration objective — on the insurgency's strength.

U.S. intelligence in Iraq has frequently been wrong. However, two factors add credence to the reports of the shifting composition of Zarqawi's group: Several of his senior lieutenants have been captured by U.S. forces in recent months and some reportedly have talked extensively under interrogation.

Senior Iraqi officials reported seeing the same development.

Mowaffak Rubaie, Iraq's national security advisor and a former Shiite activist, said "there's no doubt" that once-nationalistic elements of the insurgency were drifting toward Zarqawi and his extremist Salafi sect, also known as Wahhabism, which seeks to establish a puritanical society modeled on early Islamic times.

"There's a tendency to religion-ize the insurgency," he said. "Religion is a strong motive. You're not going to find someone who's going to die for Baathists. But Salafists have a very strong message.

"If you use the Koran selectively, it could be a weapon of mass destruction."

Few Iraqis appear to share Zarqawi's goal of establishing a radical Islamic state, but small numbers of Iraqi hard-liners apparently are attracted by the effectiveness of Zarqawi's group.

"They're the best game in town, the most organized organization," said a U.S. official, who added that Zarqawi's network was also a "well-funded organization that is willing to pay people for their work" when many Iraqis, particularly police, have little or no income.

The officials noted that police in three cities, including Mosul, are not being paid. They declined to name the others.

Officials said it was not clear how dedicated these Iraqis were to the broader Al Qaeda cause, or whether they would be willing to travel outside the country to carry out terrorist attacks in Arab or Western nations.

Zarqawi escaped capture in February near the city of Ramadi, authorities say. He fled on foot as coalition forces at a checkpoint intercepted a truck containing a laptop and documents. Coalition forces since have killed or captured several of his lieutenants. The latest such incident was announced Sept. 9, when a U.S. military official said a high-level aide had been killed in western Iraq.

But the U.S. officials who are familiar with intelligence on Zarqawi's group said the organization had proved remarkably resilient and was organized to withstand losses of key leaders, including Zarqawi.

One of the officials noted that coalition forces thought they had delivered a major blow in January with the capture of Zarqawi's principal bomb maker in the capital. But since then, the official said, "car bombs are way up in Baghdad."

Overall, the officials said, the insurgency in Iraq is divided into three "clumps": religious extremists such as Zarqawi; former members of the Baath Party of Saddam Hussein; and disparate Iraqi groups acting out of local or national interests.

The officials described a steady flow of Saudis, Yemenis and other Arab nationals into — and, in some cases, out of — the country. But officials said foreign fighters accounted for less than 10% of the insurgents in Iraq.

Zarqawi's reported success in recruiting Iraqis to his cause comes as frustration is mounting among the minority Sunni Arabs, who fear they will be marginalized in the new Iraq and are prepared to fight its emergence.

The CIA and other agencies have resisted pressure to provide an estimate of the number of insurgents in Iraq, partly out of concern that it would foster the impression that there is a finite population that can be stamped out.

Rather, officials said intelligence analysts had noted that there were about 800,000 to 1 million Iraqi Sunni Arab men of military age who represent the pool of potential insurgents. How many might turn to violence depends on several factors, starting with the extent to which Sunnis are satisfied with their stake in any new government.

Some Sunnis have objected to the draft constitution that is to be presented to Iraqis in a national referendum next month. The community's sense of estrangement could be heightened if the document is passed, as is likely, over its objections.

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"They're going to be extremely disappointed when they fail, and they're going to believe this is the result of fraud and being cheated out of what they deserve," one of the U.S. officials said. "There's going to be some real ratcheting up of Sunni disaffection with the process."

The trial of Hussein, to begin next month, is also likely to add to a sense of victimization among Sunnis, analysts say.

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Times staff writer Borzou Daragahi in Baghdad contributed to this report.

US Tempers Its View Of Victory In Iraq (CSM)

By Mark Sappenfield, Staff Writer Of The Christian Science Monitor

The Christian Science Monitor, September 16, 2005

WASHINGTON - Since the day in May 2003 when President Bush stood beneath a banner proclaiming "Mission Accomplished," the course of the conflict in Iraq has been one of optimism followed by revision.

From the earliest battle plans, which called for the quick return home of tens of thousands of troops, to the campaign in Fallujah and national elections that followed, the Pentagon had hoped it could largely eliminate lingering unrest before turning security over to Iraqis.

The increasingly bracing tone from the White House and Pentagon, however, points to a new calculus. The persistence of the attacks, as well as their undiminished capacity - witnessed by Wednesday's bombings in Baghdad, which killed more than 150 Iraqis - seems to have confirmed that the insurgency will probably outlast the American occupation.

Indeed, the inability of American forces to defeat the insurgency through strikes such as the current offensive in Tal Afar raises doubts about the possibility of any clear victory for the administration. And it could leave the Iraqis with a years-long task that many planners had not anticipated.

"There has been a clear realization that this war is not winnable in the short term," says Seth Jones, a terrorism expert at RAND Corp. in Arlington, Va.

The change in thinking has come gradually, as pivotal moments in the maturation of the Iraqi state have come and gone - and the insurgency has remained. In the first months after Mr. Bush declared victory, Pentagon officials were loath even to use the word "insurgency" to describe the attacks that killed some two dozen troops in May and June of 2003.

In testimony before Congress that July, Gen. Tommy Franks argued that the attacks did not fit his definition of an insurgency.

A year later, however, the continuing toll of the insurgency was reshaping the Pentagon's expectations. By the spring of 2005, a spike in violence, despite the previous November's successful campaign against the insurgent stronghold of Fallujah and January's relatively peaceful elections, made it clear that political momentum was not enough.

Part of the reason for the failure to plan for uncertainties came from the ideological insistence that almost all Iraqis would see Americans as liberators. Yet it also came from a political calculation that dismissed the lessons of the Clinton years. "There was a sense that there was nothing to learn from Somalia or Haiti or Bosnia," says Dr. Jones.

Some parts of the administration have been slower to reach this point than others. In the midst of the May attacks, Vice President Dick Cheney famously said that the insurgency was in its "last throes." But less than a month later, on June 26, Defense Secretary Donald Rumsfeld said: "Insurgencies tend to go on five, six, eight, 10, 12 years. Coalition forces, foreign forces are not going to repress that insurgency. We're going to create an environment that the Iraqi people and the Iraqi security forces can win against that insurgency."

It is this attitude that has moved from post-invasion rhetoric to Pentagon doctrine. In some ways, it is the same measure of victory that the Pentagon laid out two years ago. "At an absolute minimum, we'll be here for [two years], and probably longer, to make sure that [Iraqi forces] are capable of protecting the sovereignty of Iraq," said Lt. Gen. Ricardo Sanchez in an Aug. 7, 2003, Pentagon briefing.

Administration officials have always insisted that events on the ground - and not artificial timelines - would dictate American actions in Iraq. Yet today, the finish line is no more certain than it was two years ago - and the threat that Iraqi forces will be facing when US troops leave is more dire than many military officials imagined.

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The result is that Bush's characteristic steel about Iraq still lacks any specifics or certainty. "As a practical matter, no one in the administration is going to admit this," says Anthony Cordesman, an analyst for the Center for Strategic and International Studies here. "Nobody's making military promises that are unrealistic."

There are some positive signs. The offensive to roust insurgents from Tal Afar, which began in May and intensified the past two weeks, has put more responsibility in the hands of the Iraqi military. "It's a very important step in turning over security to the Iraqis," says Rachel Bronson, an analyst for the Council on Foreign Relations in New York.

But there is a long way to go, she and others say. Significantly, when Iraqi President Jalal Talabani suggested this week that Iraqi forces would be ready to replace 50,000 US troops by the end of the year, he quickly reversed his statement and later added that US soldiers might be needed for another two years, though he set no deadline.

Amid this military uncertainty, administration officials have turned to political events as the primary marks of progress. "The referendum on the constitution and the elections at the end of December are the most important aspects of what we're doing now," Gen. George Casey told Congress in June.

Yet Wednesday's attacks in Baghdad suggest that the practical matter of adequately preparing the Iraqi military - not the grand clash of political ideas - will ultimately determine the success or failure of American hopes, analysts say. In a recent paper, Dr. Cordesman writes: "If political developments do have a positive effect, it will be ... because a substantially larger number of Iraqi Sunnis ... see the military balance shifting decisively in favor of Iraqi government forces."

Iraq's President Talks Of Saddam And Better Days (WSJ)

By Daniel Henninger

The Wall Street Journal, September 16, 2005

Jalal Talabani, the president of Iraq, is sitting at a long table set in the middle of a hotel ballroom in Manhattan. This is U.N. Week in New York, the annual opening of the General Assembly. It is 8:30 in the morning and he is talking about Saddam Hussein. The trial of Saddam will begin as scheduled Oct. 19, it will be public and "it will last months." There have been reports that the trial would be limited to a single event -- the 1982 massacre in Dujail of 150 Shiites. Mr. Talabani said the trial will extend well beyond the events in Dujail.

"At first Saddam refused to talk," Mr. Talabani said. The former dictator would not discuss the operational military details of alleged Baathist crimes elsewhere. "Then a young Iraqi judge, a very clever man, said to him, 'I'm very sorry to see the ex-president of Iraq is a coward.' Saddam said, 'I am coward? I can answer every question.' After that, he talked."

While Mr. Talabani is speaking to his interviewers -- writers and editors from The Wall Street Journal -- a man in a suit passes behind the Iraqi president and returns to quietly place a plate before him. It holds three peeled, glistening hard-boiled eggs, sauteed mushrooms and bread. The man returns with a small plate of fresh fruit. President Talabani has tucked a linen napkin into his collar. He is ready to eat.

The Iraqi president looks at his un-plated guests, and with the aplomb of a skilled politician smiles and insists that they get up from their chairs, go over to a table nearby and get some food. "I invited you to breakfast," says the president, beaming.

Mr. Talabani, a hearty man at 72, represents a country presented to the world daily on TV and in print as falling into an insurgent abyss of bombs and blood. Amid this, he conveys remarkable calm and confidence.

"Two weeks ago I was in Najaf," he says of the holy city (pop., 560,000) in the Shiite south. "I went into the streets and into the people and it was calm." He claims that 14 of Iraq's 18 provinces are quiet: "All Iraq is not Fallujah and Tal Afar."

It no doubt requires a deep reservoir of equanimity to keep the constitutional process moving forward amid events like Wednesday's mass bombings in Baghdad. Mr. Talabani, arguably the most popular political figure in fractious Iraq, brings to this project a personal history built from political stress.

At 13, he is said to have begun a secret association of Kurdish students. At 14 he joined the Kurdistan Democratic Party. Back then, in the 1940s, his opposition was the Hashemite monarchy, which denied him entry to medical school. Fortuitously, he became a lawyer, journalist and ultimately a leader of the 25-year Kurdish resistance to Saddam's Baathist dictatorship. In April he was appointed to the presidency by the popularly elected National Assembly and is now, in effect, the public face of the new Iraq.

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New Iraq's ability to get as far politically as it has turns in no small part on its major players acting responsibly, rare in any nation but noteworthy in a country widely predicted to be heading inevitably to civil war. The Kurdish Mr. Talabani is one such person. Ayatollah Ali al-Sistani, leader of the south's Shiites, is another, as Mr. Talabani explained:

"In the 1920s when British forces came to Iraq, Shiites resisted and they lost everything. This time the Shiites did not make that mistake. For example Sistani, he doesn't call the foreign forces 'occupiers'; he calls them 'guests.' Tell 'the guests' to do so and so. The Sunnis have repeated the mistake of the Shiites of the '20s. Now the Sunnis understand they made a big mistake, and they are trying to improve relations with the United States."

Mr. Talabani also singled out another of Iraq's leaders, the oft-criticized Ahmed Chalabi. "Among civilians, Dr. Chalabi especially has been active in preventing war between Sunnis and Shiites," he said.

But while the Sunnis are starting to understand where their best interests lie, they lack a political center just now. The Kurds and Shiites, Mr. Talabani explains, are relatively cohesive as political entities, but the Sunnis are divided into small, often tribal groups: "Saddam didn't permit any kind of Sunni leadership to emerge." Right now, he said, the Sunnis need assurance that the government can protect them, as in the current joint U.S.-Iraqi offensive against the insurgents in Tal Afar.

Up to now, he said, the anti-insurgent offensives in the Sunni Triangle essentially have amounted to a policy of "liberate and leave." This time with Tal Afar, they intend to stay: "We must keep some forces there or arm local people to defend their freedom."

He acknowledged that Iraq's transition poses a challenge in the region: "All Arab states are afraid of a democracy. A democratic Iraq with different nationalities -- Kurds, Arabs Turkomen, Shiites, Sunnis -- will inspire all the Middle East. The Sunnis of Saudi Arabia, the Kurds of Iran, Syria, Turkey -- when they see this, it will inspire all of them. For that reason none in the Middle East is helpful in having a democratic Iraq." When he is asked to discuss Syria and the current terror inside Iraq, he declines to stay on the record.

At the end, with the three eggs gone, one feels impelled to wish Mr. Talabani good luck. The Iraqis, by now, have earned it.

Write to Daniel Henninger at henninger@wsj.com1

Records Detail Treatment Of Iraqi Captives (LAT)

By Richard A. Serrano, Times Staff Writer

The Los Angeles Times, September 16, 2005

WASHINGTON — Army officers in Iraq told their superiors last year that soldiers often lacked the training to handle detainees, did not always understand what constituted abuse and sometimes used techniques against prisoners that they "remembered from movies," according to military records made public Thursday.

In two incidents described in the reports, bound detainees were shot and killed by soldiers. Although the circumstances were unclear, officers or Army lawyers said afterward that the killings could have been prevented with better training, facilities and understanding by soldiers of the rules of engagement.

The episodes were described last year to Lt. Gen. Paul T. Mikolashek, the Army inspector general who conducted one of more than a dozen reviews in the aftermath of the abuse scandal at the Abu Ghraib prison near Baghdad. In reporting his findings to top Army commanders in July 2004, Mikolashek concluded there were no systemic failures or widespread patterns of detainee abuse.

But according to documents generated for his report, including 1,800 pages of evidence that were obtained and released Thursday by the American Civil Liberties Union as part of a lawsuit to learn more about prisoner treatment, Mikolashek was told of many incidents in which poor training and inadequate facilities created an atmosphere that fostered abuse.

Paul Boyce, an Army spokesman, said the documents represented "Army reports and Army information, where the Army was looking into allegations and sorting out the situation about detainee mistreatment."

But he said they did not show widespread abuse. "The Army has looked carefully at each allegation and addressed it very thoroughly," he said.

Boyce added that there had been more than 400 investigations into allegations of Iraqi detainee mistreatment — many involving individual incidents — since the earliest revelations of sexual abuse and physical mistreatment at Abu Ghraib in January

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2004. Thus far, he said, allegations against more than 200 soldiers have led to court-martial proceedings, nonjudicial punishment and other administrative penalties.

Mikolashek concluded in his report that incidents of abuse did not result from deficiencies within the Army. "The Army's leaders and soldiers are effectively conducting detainee operations and providing for the care and security of detainees in an intense operational environment," he wrote. "Based on this inspection, we were unable to identify system failures that resulted in incidents of abuse."

But Anthony D. Romero, executive director of the American Civil Liberties Union, said the documents suggested that Mikolashek had brushed aside evidence that there was abuse and significant training problems.

"Our government has failed, and the blame is on Washington, not Hollywood," Romero said.

Romero was referring to an account of a platoon leader who said interpreters were often taken along on raids to pick up insurgents. But there often were not enough interrogators to go with the interpreters, and that meant other officers were thrust into the job of interviewing detainees — even though they had no training to do so.

The unidentified platoon leader, who was with the 4th Infantry Division from Ft. Hood, Texas, said they had to improvise. "Officers and [noncommissioned officers] at point of capture engaged in interrogations using techniques they literally remembered from movies," he said.

The platoon leader did not elaborate on the nature of the techniques used. But he added: "Soldiers need to be trained in basic tactical interrogation techniques. It's going to be done one way or the other. Why not the right way?"

Another report to Mikolashek described one of the fatal shooting incidents that emerged from the documents. In the report, an unnamed officer said a soldier "killed a detainee he was guarding" at a collection point, prior to the prisoner being sent to a prison.

"The detainee's hands were tied … and the soldier shot and killed the detainee," the officer said. "This incident could have been prevented if he had better training."

The officer said the soldier did not understand the Army's rules of engagement, and noted that the soldier was discharged. No other details were provided in the heavily redacted reports released Thursday.

A second incident was detailed in an account by a member of the judge advocate general's office from the 4th Infantry Division. The officer, a lawyer, described a guard who shot and killed a prisoner he believed was trying to escape. The officer said the detainee's hands were cuffed and he was standing behind a prison wire.

"The investigating officer determined the detainee was not trying to escape," the officer said. "He said the incident could have been prevented with better facilities, and training for the guard force."

It was unclear whether the soldiers involved in the two cases mentioned in the reports had been punished.

In his report last year, Mikolashek mentioned an incident in which a bound prisoner was shot and killed by a U.S. soldier, but it appeared to differ from those described in Thursday's documents in that the soldier in question had bragged about wanting to kill an Iraqi.

In other instances of potential abuse, two officers reported that a detainee was forced to sit on the floor while a bottle of water was poured over his head by a civilian U.S. interrogator who "just seemed to be having a good time, because [the] detainee was not talking and never did talk," an unnamed officer said.

Others also took part in abusing the detainee, the officer said. But the incident was not reported to superiors because it was not considered a violation. A staff sergeant interviewed for Mikolashek's investigation complained of a lack of guidance on what soldiers were allowed to do. In interviews about other incidents, officers said commanders had never explained what constituted abuse.

With soldiers overworked in dealing with a crush of detainees, one first lieutenant said that there was no requirement to report abuse, only a "moral obligation" to do so.

Afghan Candidate Wounded; 2 Backers Abducted (NYT)

By CARLOTTA GALL

The New York Times, September 16, 2005

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KABUL, Afghanistan, Sept. 15 - A candidate was shot in Nuristan Province on Wednesday morning, and two of her supporters were kidnapped, in an attack before the national election on Sunday, local officials said Thursday.

The candidate, Hawa Alam Nuristani, an anchorwoman on the state-run Afghan Television and Radio in Kabul, was traveling by car to a campaign meeting in Nuristan, her native province, in the east when she was wounded.

"They came under attack by unknown people," the provincial police chief, Gen. Abdul Baqi, said by phone. "She received four rounds from a pistol in her leg. Two others with her, supporters filming her campaign, were kidnapped."

Another woman, the representative of the Women's Affairs Ministry in Nuristan, was in the car, but was not injured, Muhammad Tamim Nuristani, the governor of the province, said.

Ms. Nuristani, the candidate, was treated by American troops in the region and then evacuated to Bagram Air Base, near Kabul, where she was in stable condition, said a United States military press officer, Sgt. Marina Evans. A spokeswoman for the election commission, Bronwyn Curran, said Ms. Nuristani had been shot three times in the hip.

Clerics and elders in the region were gathering to try to secure the release of the kidnapped men, General Baqi said. Early reports indicated that the attackers were not Taliban fighters or other antigovernment insurgents but rival candidates, he said.

Six candidates and four election workers have been killed in the period before the parliamentary and local vote. Seven police officers were killed Wednesday in Oruzgan Province in the south. Their bodies were found with their election registration cards, said the governor, Jan Muhammad.

A police checkpoint was also attacked Wednesday night in Oruzgan Province. Three people suspected of being Taliban fighters were killed and one was captured in the firefight, he said. An American soldier was wounded Wednesday in a roadside explosion in Oruzgan Province, the United States military said in a statement.

Voting May Be Life-and-Death Choice For Afghans (NYT)

By Somini Sengupta

The New York Times, September 16, 2005

QALAT, Afghanistan, Sept. 14 - Who's afraid of democracy in Afghanistan?

In the southern city of Kandahar one morning last week, a candidate for Parliament opened her front gate to find one of her campaign posters scribbled with terrifying threats. "Your children salute me every morning," said one. "Soon, I will salute them back."

Here in the capital of neighboring Zabul Province, suspected Taliban fighters offered the driver for another parliamentary candidate a huge sum of money in exchange for delivering the candidate to them. The candidate said she no longer dared to campaign outside the provincial capital.

And in Shajoy, a market town two hours up the road, some men wondered aloud how many townspeople would have the courage to travel a couple of miles through Taliban redoubts to cast their votes in Sunday's election. Never mind the women; the men said they did not expect any polling places to be open for women anyway.

Nearly four years after the Taliban government was routed from Afghanistan by American-led forces, a newly emboldened insurgency has stepped up a campaign of threats and thuggery on the eve of the country's parliamentary and provincial elections, particularly here in the badlands of the country's south. Elsewhere, the presence of former warlords on the ballot has led to charges of voter intimidation.

But what is just as remarkable is the degree to which so many ordinary Afghans seem unfazed by the threats and violence, and, on occasion, are openly defiant.

Whether Afghan men and women will be able to cast their votes freely and fairly in Sunday's election remains to be tested. For now, even candidates who have been threatened have vowed to stay in the race, even as they have had to limit their campaign activities sharply.

"The day I registered as a candidate I knew about these problems," said Rona Tarin, 34, the Kandahar candidate whose campaign poster was defiled and left in front of her home.

With 68 seats reserved for women in the new 249-member Parliament, Ms. Tarin, a preschool supervisor, is one of nine candidates competing for three seats reserved for women from Kandahar Province.

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"How long should I sit at home?" she said, fuming. "How long should I close my eyes? How long should I shut my ears? I have to take my people's problems to Parliament."

The price of running for office in this part of the country can be perilous. Since early June, six candidates and five election workers have been killed, most of them in the south. Last week, security forces turned up two dozen cooking pots filled with explosives behind a Kandahar school designated to serve as a polling place.

Taliban leaflets known as "night letters," left at markets and mosques in several southern provinces, have issued warnings against anyone who participates in elections.

In Khost, to the east, a bomb went off inside a mosque being used for voter registration. In the eastern city of Jalalabad, the convoy of a parliamentary candidate, Safia Sadiqi, was fired on, injuring two campaign workers.

In Helmand, to the west, gunmen ranged across villages threatening to kill anyone who dared go to the polls. Officials with the Afghan Independent Human Rights Commission said they suspected local officials, rather than insurgents, were responsible.

[On Thursday, officials with the rights group said they had also received reports of candidates and local officials preventing other candidates from campaigning freely.]

In parts of central and northern Afghanistan, the reason for fear is less because of the Taliban than the powerful former mujahedeen commanders, who supposedly have been disarmed and removed from public office, but who continue to wield considerable influence in their territory, especially in the countryside.

"People are afraid that those commanders and those who governed by force of weapons, will again win seats and return to power," said Abdul Azim Azimi, a local election observer in the northern town of Mazar-i-Sharif.

About 200 people with links to militias are running for office, and election observers have accused some of intimidating voters or preventing rival candidates from campaigning. To date, 47 candidates have been disqualified by the elections commission, mostly for links to armed groups.

"How much legitimacy will the new Parliament have?" said Sam Zarifi of Human Rights Watch, which released a report this week documenting election-related intimidation. "Having warlords isn't about their past abuses. It's about their inability to move the country forward."

It is unclear whether international monitors will be able to monitor rural polls, particularly in the south, on election day.

Voter turnout Sunday will signal not only the nerve of Afghan voters, but also their confidence in the still fragile government of President Hamid Karzai and his American backers. Since presidential elections last fall, life in the south increasingly has become precarious and the exercise of politics clouded by growing insecurity, voters and candidates in Zabul and Kandahar Provinces said in interviews this week.

"Slowly, slowly, morale is going down," said Talatbek Masadykov, the chief of the southern region for the United Nations Mission in Afghanistan, based in Kandahar. One reason, he said, is, "the security is not improving," adding, "the central and provincial government cannot deliver assistance to people in very remote areas."

In Shajoy, Muhammad Aziz, a shopkeeper, predicted that only men who live in the town would vote. His relatives two miles away would be unlikely to try to travel into town unless security improved.

Abdul Zahir, a farmer, said that during last year's presidential elections, the men of his village, a couple of miles away, had come to Shajoy to vote, but those farther out of town did not. "This time," he said, "God only knows."

As part of their efforts to reinforce security in the days leading up to elections, an American Army convoy pulled in to Shajoy one morning this week to donate wheat seeds to the local government and hand out radios and clothes to the children.

But to Mr. Zahir, the additional patrols, by American and Afghan soldiers alike, made little difference. "In the daytime, this government is coming to us, and in the nighttime the Taliban are coming to us," he said. "We're stuck in the middle."

Police and election officials, eager to deflect criticism about security, noted that despite intimidation, 1.6 million additional Afghans had registered to vote since the presidential election, bringing the total to 12.6 million. About 5,800 candidates had signed up to run for seats in Parliament and provincial assemblies, and 44 percent of the new registered voters this year are women.

"The people of Afghanistan have brave hearts," said Mullah Gul, a police commander in Kandahar whose men found the body of the last candidate killed in the campaign. "They don't care about death."

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Officials with the United Nations-assisted Joint Electoral Management Body Secretariat, which is running Sunday's election, also took pains to note that there was no proof that the six candidates were killed because they were running for office.

Violence may not necessarily subside after the election. For one thing, under Afghan election law, in the event of the winner's death, the runner-up takes office, which some fear could heighten the likelihood of political assassinations.

In these elections, the stakes for women are particularly high. In a society where women customarily cover themselves from head to toe, several women have boldly displayed their faces on campaign placards. But tradition and terror have also sharply curtailed their campaigns.

Torpakai, a public health worker in Qalat running to represent Zabul Province in Parliament, said she feared that there would be no outsiders to monitor the polling places and that the election would be unfair. She said she had not been so hopeless during last year's presidential election or during the earlier constitutional assembly, in which she participated. "Not just me, all the people were optimistic about democracy, optimistic about security," she said.

One of her rivals, Zarmina Pathan, 38, said she did not expect many women in the countryside to vote. She said she approached Sunday's elections with an odd mix of gloom and determination.

"Every time they threaten me, it dashes my hopes," she said. "But I'm running for Parliament. I can't just run away from the elections."

Afghan Parliament Will Have Big Visions, Few Rules Of The Road (CSM)

By Scott Baldauf, Staff Writer Of The Christian Science Monitor

The Christian Science Monitor, September 16, 2005

KABUL, AFGHANISTAN - Nobody ever accused Mullah Mohammad Khaksar, a former Taliban deputy minister, of being an Afghan Thomas Jefferson.

But his goals for Afghanistan sound remarkably like those of a founding father, and like those of the majority of the other 5,700 candidates running on Sunday in the country's parliamentary election. Mr. Khaksar wants a strong central government, improved security, faster reconstruction, and a serious effort to control drug trafficking and government corruption.

With such broad consensus, Afghanistan should be well on its way toward creating a sound, workable Afghan parliament that serves as a watchdog to the government. But even Khaksar is not so sure it's going to work that way. He fears that many parliamentarians who come to Kabul will be inexperienced, or be just as corrupt as the government they are supposed to be watching over.

"I am very disappointed about the future of this parliament," says Khaksar, a candidate from his native city of Kandahar. "Look, we are building this parliament. But if, instead of using a strong cornerstone, you build with unbaked bricks, will you be able to build a strong building?"

The problem, many candidates and foreign observers say, is the way in which Afghanistan's parliament was created in the country's new constitution. Voters choose candidates as individuals, not as members of a party. This creates an environment where personalities are more important than ideas, coalitions struggle to stick to common agendas, and individual MPs are more easily manipulated by the palace.

"This parliament will not be functional for several years," says Barnett Rubin, an expert on Afghan politics at New York University who helped organize the Bonn Conference in December 2001 that set up the post-Taliban government. Rubin says that President Hamid Karzai's habit of ruling through patronage - rewarding those who support him with better positions or development funds - has now set a precedent for many elected parliamentarians to turn to him as a kind of feudal lord with deep pockets.

"Once elected, what is their main goal? To get reelected," says Mr. Rubin. "The goal is to get benefits to a small number of people, with no notion for the benefit of society." He pauses. "I don't know how they are going to pass legislation."

Yet, already there are signs that some candidates are forming three main coalitions. One, led by Northern Alliance politician Younus Qanooni, will act as a sort of permanent opposition to President Karzai, and will attempt to change the system of government to give parliament more power, including a prime minister. A second faction will be a cross section of

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independents from around Afghanistan, who side with Karzai on most issues. A third faction of liberal and leftist parties will swing back and forth between the opposition and Karzai, supporting the president on common issues, but voting against him on others.

With many voters expressing frustration at the slow pace of reconstruction, and visible signs of corruption in their government, even Karzai's friends may find it necessary to slap the hand that feeds them from time to time.

Mohammad Iqbal, a young independent candidate from Jalalabad in the eastern province of Nangrahar, says he supports Karzai, and particularly the way he mediates local problems through local tribal elders. But if Karzai fails to clean up corruption in government, fails to rebuild the country, or strays too far from Afghanistan's Islamic traditions, Mr. Iqbal says he will vote against him.

"Friendship is friendship, but if Mr. Karzai is anti-Afghanistan, then even if His Excellency Mr. Bush asks me, I will say no," says Iqbal, with a wry smile. His supporters break out in laughter.

Experts say it will take time for Afghan parliamentarians to figure out the new process, when most of the elected officials have no experience in how to legislate and none will have researchers to help them sort out good bills from bad bills.

"With a limited role for political parties, things will be fluid, with lots of deal- making," says Paul Fishstein, director for the Afghan Research and Evaluation Unit, a think tank in Kabul. Many Afghans are optimistic that things will get sorted out in traditional Afghan ways, but Mr. Fishstein says that parliamentarians are in for a rude awakening when they confront the hard work of legislation.

"A lot of people love to talk about improving security, electricity, water systems, but that's not necessarily what parliament is intended to do," says Fishstein. "They'll be passing budgets, they'll be representing the material interests of their constituencies, and that takes a certain level of skill."

He smiles. "It's going to be an interesting parliament."

Warlords On Ballot Worry Afghan Election Observers (USAT)

By Paul Wiseman

USA Today, September 16, 2005

KABUL, Afghanistan — The presence of warlords and ex-Taliban officials on the ballot when Afghans vote Sunday is raising fears that figures from the past will sabotage efforts to build a stable democracy.

“The Afghan people need a government that is functional and accountable,” says Sam Zarifi, deputy director of the Asia division of Human Rights Watch, an activist group. “The warlords offer neither.”

Millions of Afghans will choose candidates to fill 249 seats in the lower house of the National Assembly and local council seats in 34 provinces. It's a historic step toward establishing democracy in a country riven by decades of conflict. About 30,000 coalition troops are providing security for the election. This week, female candidate Hawa Nuristani was shot and injured and seven registered voters were killed, the Associated Press reported.

The Electoral Complaints Commission disqualified 21 candidates, citing ties to illegal militias. Afghan President Hamid Karzai cautioned: “Don't vote for bad people.”

In a report released Thursday, Human Rights Watch said warlords are intimidating candidates and voters. It said Allam Khan Azadi, a candidate and commander near the northern city of Mazar-e-Sharif, for instance, threatened to cut the water supply to those who did not vote for him. “Complaints were heard in almost all regions of the country,” the group said.

Abdul Rabb al-Rasul Sayyaf, a warlord, is seeking a National Assembly seat in the capital. After the Soviet Union was driven from Afghanistan in 1989, Sayyaf's Ittihad militia battled rival factions in Kabul. Human Rights Watch says Sayyaf and his rivals are guilty of war crimes.

A former religious teacher at the University of Kabul, Sayyaf said this week that he took up arms to battle the Soviets. “The needs of the country transferred me from the classroom to the bunker,” he said. “If the mujahedin are not worthy to enter politics, who will be?”

Mawlavi Qalumuddin was deputy administrator in the Taliban's Ministry of Vice and Virtue, which enforced rules that banned girls from attending school, women from working outside the home, men from shaving and anyone from flying a kite. He's running for the National Assembly from Logar province.

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"I'm sure the people know me and my background," he says. Qalumuddin says it would be dangerous to ban warlords from the democratic process; isolated, they might turn to violence.

Afghanistan Votes (WP)

The Washington Post, September 16, 2005

FOUR YEARS AGO this weekend, the Taliban dictatorship of Afghanistan rejected a U.S. demand that it break its bond with Osama bin Laden, despite the attacks on New York and Washington one week earlier and the threat of American military action. This weekend, as many as 12 million Afghans will vote in nationwide elections for parliament and provincial councils in a historic step toward democracy. Among the 6,000 candidates are representatives of almost every faction that has contended for power in Afghanistan over the past several decades. There are tribal leaders and Western-educated liberals; communists and the mujaheddin who once fought them and, later, each other; and several former officials of the Taliban itself. Five hundred eighty-two of the candidates are women, who four years ago were banned from holding jobs, going to school or appearing on the street without covering themselves from head to foot. They will fill at least 68 of the 249 seats in the parliament.

It's easy for Westerners, and even Afghans, to lose sight of how much progress this represents. Sunday's vote is not only a breathtaking leap for a nation whose previous government was an Islamic theocracy that mixed medieval social policies with sponsorship of 21st-century terrorism. It also places Afghanistan ahead of almost all of its Central Asian neighbors, who have never held a vote as free. Much of the reporting of Western observers and human rights groups nevertheless has focused on the perceived failings of the political process. Though insurgent activity has fallen off in recent weeks in the face of aggressive operations by some 20,000 U.S. troops and 10,000 NATO peacekeepers, several southern provinces remain insecure and some voters there may be intimidated. Human rights groups protest that warlords guilty of crimes in Afghanistan's civil war are poised to collect votes. At the insistence of President Hamid Karzai, the election system is centered on individuals rather than parties; critics say this may produce a weak or conservative legislature.

While many of these critiques are legitimate, it's worth noting the tenaciousness with which many liberal Westerners have opposed every step by Afghanistan toward freedom. Four years ago, for example, former European Union commissioner Emma Bonino was one of those who condemned the U.S. intervention against the Taliban, which she said would "all but doom" millions of Afghans "to death." Now, incredibly, she leads the E.U.'s observer mission at the elections; not so surprisingly, she's again pessimistic. "I simply don't think this election is going to produce . . . a healthy political life," she told the Financial Times.

Afghanistan surely has a long way to go. Part of the Taliban is still fighting, and more U.S. soldiers (51) have died in combat this year than in any since 2001. Though Kabul is booming, Afghanistan is still one of the world's five poorest countries, and up to 60 percent of its economy comes from the production of poppies for opium. Once the elections are over, Mr. Karzai will still have the problem of edging the former warlords and communists aside and encouraging the emergence of new leaders committed to democracy and human rights. No, political life isn't entirely "healthy." But as the world will shortly see, it is immeasurably better off than it was four years ago -- and than it would have been had the United States hesitated to act.

Will U.S. Abandon Afghanistan? (WT)

By Joanna Nathan And Mark Schneider

The Washington Times, September 16, 2005

"I will not vote, these elections are not worth anything, the candidates are the same people who destroyed Afghanistan," thunders the taxi driver as we jolt down Kabul's streets. Campaign posters for the upcoming National Assembly and Provincial Council elections on Sept. 18 blanket every non-moving object.

Suddenly, a thought struck him: "If I do vote, I will vote for a woman! They do not have blood on their hands." Hopefully, such revolutionary ideas will occur to many other voters in Afghanistan. Hopefully, they will feel confident enough in the secrecy of the ballot to exercise true choice and secure enough amidst an ongoing insurgency in the south and east to make it to the polling booth in the first place.ÅA

Election preparations have been at full steam for six months now, with more than 12 million voters enrolled and 5,800 candidates, 582 of them women. Ballot papers are a vision in color, featuring a picture and symbol for each candidate to aid illiterate voters.

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Weighing more than 1,000 tons, they are now making their way by helicopter, plane, truck, donkey and camel out to 6,000 polling centers across the country.

But despite such impressive technical preparations for these $159 million polls, there are wider concerns about both the framework of the elections and the viability of the institutions they will ultimately create.

The concern most immediately apparent to Afghans, such as our taxi driver, is the lack of a robust vetting system to bar candidates implicated in years of atrocities and drug trafficking. Indeed, the failure of the Karzai administration and his international backers to tackle head-on the perpetrators of past atrocities has led to a culture of impunity, with many of the same people back in power today and now seeking the mantle of a democratic mandate.

The U.N. Office of Drug Control reported at the end of August that Afghanistan produced 87 percent of the world's opium for the second year in a row. It also urged the removal of corrupt governors and officials involved in the drug trade, barring parliamentary candidates with drug ties, and "zero tolerance" toward warlords' involvement in drug trafficking. The latter recommendation has yet to be acted upon by the administration and Coalition forces who argue they are fighting against a still virulent insurgency. Yet, the drug trade is financing Taliban insurgent operations.

The fact that, in what became a highly politicized vetting process, only 32 candidates were barred for retaining links to armed groups has added to local disillusionment.

An inappropriate voting system, the rarely used single non-transferable voting and a political framework hostile to political parties mean these elections are being fought on ethnicity and individuals rather than ideas. In turn, the democratic bodies to emerge are likely to be fractured and weak with no workable caucuses or groupings on which to build a robust political culture.

However, above all these concerns are fears the international community may see these elections widely touted as the end of the transitional process agreed to in Bonn in December 2001 as a time to downgrade commitments to Afghanistan.

It is absolutely imperative that these elections are viewed as the beginnings of democratization, not the end. Afghanistan is still at a perilously fragile stage. This vote will provide the trappings of a democratic state, but there is still little in the way of institutions or resources to exert true control.

The ongoing insurgency in the south and east has been bloodier this summer than at any time since the fall of the Taliban, including the killing of six candidates and even more election workers. Ordinary Afghans continue to suffer some of the lowest social indicators in the world: life expectancy is 45; a woman dies in childbirth every 30 minutes; and illiteracy is running at 70 percent. The Bonn process was about tight deadlines for political transition. The momentum created in this sphere now needs to be used to push forward in other areas.

Previous lessons about the consequences of abandoning Afghanistan should be fresh in everyone's mind. Now, more than three-and-a-half years after the fall of the Taliban, the growing sense of discontent on the streets of Afghanistan is palpable. If Afghanistan is allowed to slip back into being a failed state because the international community turns away after elections, that sense of discontent will be the country's major export.

Joanna Nathan is senior analyst in Kabul for the International Crisis Group, an NGO. Mark Schneider is the ICG's senior vice president and directs its Washington office.

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U.S. Attorney Faces A Lot Of Challenges (DEN)

By David Shepardson, The Detroit News

Detroit News, September 16, 2005

DETROIT -- If nothing else, the U.S. attorney is a man who can cry.

Stephen J. Murphy III, a former assistant U.S. attorney and General Motors lawyer, repeatedly fought through tears after his formal swearing-in as the top law enforcement officer in eastern Michigan.

A Who's Who of Michigan politicians lauded Murphy Thursday and ribbed him about his performance as an assistant U.S. attorney.

Gov. Jennifer M. Granholm and Murphy were among the "young Turks" who served in the U.S. attorney's office in the 1990s, she noted.

In 1992, Granholm recalled seeing Murphy fall asleep at his desk with his finger on the "Z key."

Granholm and a colleague responded by sending Murphy a phony memorandum sternly reprimanding him for falling asleep on the job.

Among those speaking were Chief U.S. District Judge Bernard A. Friedman, state Attorney General Mike Cox, General Motors general counsel Thomas Gottschalk and Michigan Supreme Court Justice Maura Corrigan.

Unmentioned directly but referenced by several speakers was the continuing fallout from the botched 2003 Detroit terrorism case.

A federal judge threw out the convictions of two Arab immigrants arrested shortly after Sept. 11 after a Justice Department review found evidence of prosecutorial misconduct.

The case and a separate criminal investigation into the conduct of the former lead prosecutor are pending.

Bradford A. Berenson, a former White House counsel's office lawyer, noted that Murphy was taking over "at a time when the office has been through some serious difficulties."

Since taking office in March, Murphy has reshuffled the leadership in the office and issued a two-sentence mission statement. Murphy said his office "is dedicated to doing the right thing."

"We've had ups and we've had downs," Murphy said. "We have a lot of challenges ahead."

And he promised not to fall asleep on the job.

"No way," he said.

CORPORATE SCANDALS:

Former Marsh Brokers, Executives Are Indicted In Bid-Rigging Case (WSJ)

By Ian Mcdonald, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

NEW YORK -- Eight former Marsh Inc. insurance brokers and executives were indicted yesterday by New York state's attorney general, Eliot Spitzer, on criminal-fraud charges including an alleged scheme to defraud and grand larceny, as his yearlong probe of insurance bid-rigging moves into final stages.

Mr. Spitzer alleged that the brokers cheated some corporate clients by rigging bids for insurance contracts in order to steer business to insurers that paid Marsh, a unit of Marsh & McLennan Cos., large commissions.

Mr. Spitzer alleged that the scheme raised clients' costs in at least 35 instances, in a few cases by $1 million or more.

The indicted individuals all formerly worked in a Marsh Inc. group that specialized in excess casualty insurance, which is big-ticket coverage typically sold to large corporations.

Early this year, Marsh & McLennan signed an $850 million settlement with New York authorities and apologized to clients for the "unlawful" and "shameful" behavior of some employees. In recent months, an additional 17 insurance executives and managers, including eight former Marsh employees, have pleaded guilty to criminal charges in the matter.

In New York state court yesterday, five former Marsh employees -- William Gilman, Joseph Peiser, Edward McNenney, Greg Doherty and Thomas Green -- were indicted on charges including scheme to defraud in the first degree, and grand larceny in the first, second and third degrees. The first-degree grand-larceny charge carries a maximum 25-year prison sentence.

Three other former Marsh executives -- Kathleen Drake, William McBurnie and Edward Keane -- were indicted on the same charges, but the grand-larceny charges are in the second degree, with a maximum 15-year prison term.

At least one of the individuals is in talks with authorities about a guilty-plea agreement, according to two people close to the matter, but it wasn't clear when or if a deal would be made.

Mr. Gilman was named repeatedly in Mr. Spitzer's civil lawsuit against Marsh. His attorney, Robert Cleary, said his client "has not violated any laws." Mr. Peiser's attorney, Jerry Bernstein of Blank Rome LLP, said his client "is innocent of these charges, and I am confident he will be found not guilty at trial."

Mr. Green's attorney, Stephen Scaring, said his client "entered a plea of not guilty and he is prepared to defend himself." An attorney representing Mr. Keane declined to comment.

Mr. Doherty's attorney, Maranda Fritz, said Mr. Spitzer's office "is trying to construct claims of criminal behavior against Marsh employees who were actually and consistently working for the benefit of the client."

Attorneys representing Mr. McNenney and Ms. Drake didn't immediately return phone messages. An attorney for Mr. McBurnie couldn't be reached.

Mr. Spitzer said Marsh "should be applauded" for changing its management and business model to avoid conflicts of interest, but added that he couldn't rule out more prosecutions of former or current Marsh employees, among others in the insurance industry.

"This indictment is about the past," Marsh Chief Executive Michael G. Cherkasky said in a statement. "MMC today is focused on the future and is committed to excellence."

Write to Ian McDonald at ian.mcdonald@wsj.com5

Interpublic Warns Of Illegal Actions (WSJ)

By Brian Steinberg And Suzanne Vranica, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

Interpublic Group, in a sign that its accounting problems are more serious than previously understood, says an internal investigation has turned up instances of "misappropriation of assets" and "falsified books and records" that violated laws, mainly occurring at operations outside the U.S.

The ad holding giant, whose agencies work for such big-spending advertisers as Microsoft, Unilever and Coca-Cola, said in a filing with the Securities and Exchange Commission that it has fired or is in the process of firing "culpable" employees.

Interpublic also said a six-month investigation had confirmed that the company would have to restate its earnings going back to 2000 as a result of several accounting errors. The size of the restatement will be revealed by Sept. 30, the company said, but it noted that the "impact on our results of operations for all periods will be material." Past financial statements shouldn't be relied upon, it added.

Interpublic had reported results ranging from a profit of $397.1 million in 2000 to a loss of $451.7 million in 2003. While investigating its accounting problems, the company hasn't filed an earnings report for 2004 or the first half of 2005.

Yesterday's filing appeared to take Interpublic's long-running accounting problems to a new level. Since late last year several big Interpublic clients, including General Motors and Bank of America, have taken at least some of their business elsewhere. Interpublic had estimated cash and cash equivalents of approximately $1.6 billion as of June 30 compared with debt of about $2.3 billion.

The company's accounting has been the subject of an SEC probe since 2002, when it restated five years of earnings after uncovering $68.5 million in charges in Europe that hadn't been properly expensed. But yesterday's filing was the first time the company had revealed that it may have uncovered possible criminal behavior.

The filing gave few details of the possible unlawful activity, including the amount of money involved, although it said it involved "accounting errors that were qualitatively material." A person close to Interpublic played down the significance of the activity, saying the possible criminal actions represented only a small portion of the company's overall accounting problems.

This person said the number of people involved could be as many as 60 at around 20 locations. Interpublic has around 43,000 employees and between 800 and 900 offices.

An Interpublic spokesman said Interpublic has contacted or will be contacting local authorities in affected areas. "Instances in which we believe there was malfeasance represent a small number of our locations," he said. "The fact we have been able to identify them demonstrates that we are making progress in enhancing our risk-management controls."

The activity Interpublic said was questionable took place primarily at Interpublic operations in Eastern Europe and Latin America, the person said. Those regions account for a relatively small portion of Interpublic's business. More significantly, however, much of the activity occurred at McCann WorldGroup, people familiar with the situation said. McCann is Interpublic's

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biggest operation and largest moneymaker and was at the center of the accounting problems disclosed in 2002. Interpublic's other agencies include Lowe, Draft and Foote Cone & Belding.

The main cause of Interpublic's accounting errors were "weak controls and our decentralized operational structure," the company said. The bulk of the restatement is owing to inappropriate accounting for lease expenses as well as problems with how Interpublic accounted for revenue and for companies that had been acquired.

In certain cases through 2001, Interpublic consolidated revenue and expenses of businesses in its financial statements before Interpublic had completed their purchase. From the mid-1990s through 2002, Interpublic acquired hundreds of advertising and marketing firms as part of a broader consolidation within the ad industry.

Interpublic said it expected its outside auditor, PricewaterhouseCoopers LLP, to issue a "disclaimer of opinion" on the effectiveness of its internal financial controls. But Interpublic said it expected the firm to sign off on its 2004 financial statements. The auditing firm said it doesn't comment on client matters.

Any talk of wrongdoing "is going to perk up the ears of the clients," says Alexia Quadrani, a Bear Stearns ad-industry analyst. Advertisers will be asking themselves whether "they can afford to expose their corporate reputation to this," says Lauren Rich Fine, who follows Interpublic for Merrill Lynch and has a "sell" rating on the company's stock. "If you can't clean up your own house, how can I trust you to come up with my company's strategy?" she asked.

Write to Brian Steinberg at brian.steinberg@wsj.com1 and Suzanne Vranica at suzanne.vranica@wsj.com2

Interpublic Group Retraces Its Accounting Missteps (NYT)

By STUART ELLIOTT

The New York Times, September 16, 2005

THE troubled Interpublic Group of Companies said yesterday that it had found evidence of "possible employee misconduct" in the course of efforts to get to the bottom of persistent accounting problems.

Since an investigation that began in March, Interpublic said in a regulatory filing, the company, its longtime accounting firm and forensic accountants have uncovered potential illegal activities that involved "falsified books and records; violations of laws, regulations and company policies; misappropriation of assets, and inappropriate customer charges and dealings with vendors."

In the regulatory filing, called an 8-K, Interpublic disclosed that the "culpable employees" had been or will be fired, "or are otherwise no longer with the company."

The announcement was the most recent in a series of unexpected disclosures by Interpublic, which has been struggling with financial and operational difficulties for three years, mostly related to weak internal controls. In a news release with the 8-K, Interpublic said it would be able, "barring unforeseen circumstances," to meet a Sept. 30 deadline it had previously set to file delayed financial reports, including results from the last six quarters.

Interpublic said that it would probably be restating earnings for 2000 to 2004 because of systemic accounting problems in revenue, acquisitions and lease expenses.

"I have been clear since assuming my current responsibilities that our top priority is to fix our financial controls and leave accounting issues behind us," Michael I. Roth, co-chairman and chief executive of Interpublic in New York, said in a statement. Mr. Roth's reference was to his assuming the duties of chief executive in January, when he became the third man with that title since Interpublic found the first of its financial problems in August 2002.

In that period, Interpublic has also had four chief financial officers.

The disclosure about the possible misconduct marks the first time in those three years that Interpublic has said that not all the errors leading to its plight were necessarily honest ones. The company's difficulties include two previous restatements of earnings, an investigation by the Securities and Exchange Commission and losses incurred by an ill-advised expansion to auto-racing tracks.

Interpublic said it would provide additional details about the potential misconduct when it reports the delayed financial data, which is to include the 2004 annual report along with results for the full year 2004 and the first two quarters of 2005.

"Instances in which we believe there was malfeasance represent a small number of our locations," said an Interpublic spokesman, Philippe Krakowsky.

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"The fact we have been able to identify them demonstrates that we're making progress in enhancing our risk-management controls," Mr. Krakowsky added.

Preliminary findings have uncovered problems involving about 50 employees at a couple of dozen offices outside the United States. Interpublic has about 43,000 employees who work in about 1,000 offices around the world.

Interpublic is the world's No. 3 agency company in revenue, behind the Omnicom Group and the WPP Group, and owns agencies like Campbell-Ewald, Deutsch, Foote Cone & Belding, Draft, Initiative and WeberShandwick. The three years of financial uncertainty, coupled with some losses of large clients and defections of senior managers, have taken a toll on Interpublic, particularly in its stock price.

For instance, an analysis last month by USA Today showed that Interpublic shares were among the worst performers in the Standard & Poor's 500-stock index since a bull market began in October 2002. Interpublic stock closed in trading yesterday at $11.31, down 2 cents, or 0.2 percent.

After the release of the Interpublic statements, Fitch Ratings said it was keeping the company's credit facility ratings at B+ and on negative watch, where they have been since March. On Aug. 31, after Interpublic agencies lost the large Bank of America account, Standard & Poor's said it would keep its outlook at negative for the Interpublic long-term credit rating, which is BB-.

Analysts who follow advertising stocks had mixed reactions to Interpublic's news.

"We believe confirmation of reporting financials is a positive step in improving visibility," Credit Suisse First Boston said in a report that maintained its rating of outperform on Interpublic stock.

"If management can execute, the risk-reward on IPG is highly favorable and this is a major turnaround story," the report concluded. The letters "IPG" are the symbol under which Interpublic shares trade on the New York Stock Exchange.

The promise to meet the Sept. 30 deadline "should allay some of the worst concerns of investors," J. P. Morgan Chase said in a report, which called the news of the possible employee misconduct "an incremental negative." The report reiterated a rating of Interpublic stock as neutral.

A report that was more downbeat came from Merrill Lynch, which last week lowered its rating of Interpublic stock to sell - a rare call on Wall Street - from neutral.

"While the bulls may find the news that IPG is going to file by the Sept. 30 deadline encouraging," said the Merrill Lynch report, which maintained the sell rating, "we take the view that there is heightened risk concerning IPG's historical profitability and more importantly, its future earnings power in the wake of recent account losses."

Those losses have included the accounts of advertisers like Bank of America and the Lowe's Companies as well as parts of accounts of longtime Interpublic clients like General Motors, Nestlé and Unilever.

Interpublic also warned in the filing that any previous estimates made about the coming restatement or financial results "should no longer be relied upon" because of the extent of the work required to get to the bottom of the accounting problems. That work by the forensic accountants and the Interpublic accounting firm of the last three decades, PricewaterhouseCoopers, has even included performing certain tasks manually that are typically automated.

Interpublic said that when the delayed data are reported, it expects to receive "an unqualified opinion" on the statements in the 2004 annual report.

The initial financial problems that Interpublic found three years ago stemmed mostly from mistakes in intracompany transactions, primarily at European units of the largest Interpublic division, the McCann Worldgroup. The disclosure in March of additional problems attributed them to the weakness in accounting procedures in areas like tracking the hundreds of agency acquisitions made by Interpublic in the 1990's.

Trying To Put Some Reins On Derivatives (NYT)

By RIVA D. ATLAS

The New York Times, September 16, 2005

Seven years ago, Wall Street's top bankers were caught off guard by the near-collapse of the Long-Term Capital Management hedge fund.

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Since then, the number and influence of hedge funds have ballooned. The hedge fund explosion has prompted concerns that if a big bet goes wrong, regulators and banks will again be caught up in a collapse. High on the list of worries is the voracious appetite of hedge funds for arcane credit derivatives.

Yesterday, the Federal Reserve Bank of New York met with representatives of 14 banks, as well as regulators from the United States and overseas, to discuss cleaning up the processing of the contracts in the booming market for credit derivatives. There were $8.4 trillion such contracts outstanding at the end of last year, up from $919 billion just three years earlier, according to the International Swaps and Derivatives Association, a trade group.

Credit derivatives and hedge funds were part of the focus of a July report by a team of Wall Street executives, led by E. Gerald Corrigan, the former head of the Federal Reserve Bank of New York and now a managing director at Goldman Sachs.

Mr. Corrigan's committee, which bears the unwieldy name of the Counterparty Risk Management Policy Group, was established at the request of the New York Fed after the Long-Term Capital turmoil. He reconvened the group in January to assess current risks in the markets.

"The report intended to air a significant number of issues in what is a pretty tranquil environment," Mr. Corrigan said in an interview last week. He ticked off a list of shocks the markets have absorbed in recent years, from terrorist attacks to the war in Iraq. The recent allegations of fraud at the $300 million Bayou fund have also had little effect.

In May, investors were briefly reminded that some traders might once again be making aggressive bets without fully understanding the risks. That month, the credit rating of General Motors was cut to junk status and the prices of G.M. bonds fell sharply, disrupting trading in certain baskets of credit derivatives that traded in ways that contradicted elaborate models upon which traders had relied.

Mr. Corrigan noted that the fears of losses on the part of hedge funds and banks alike after the downgrade turned out to be overblown.

"Anyone with half a brain knows that models are models," he said, adding that the banks and hedge funds should view the downgrade as a learning experience.

What Mr. Corrigan and bankers at the Federal Reserve are more worried about is what happens in the event of a corporate bond default.

Credit derivatives are bets on whether a company will pay its debts. In the event of a default, the party on the losing side of a trade must compensate the institution that holds the other end of the bet.

The problem is Wall Street has been overwhelmed in keeping track of these trades - and if corporate defaults, which are at an 11-year low, suddenly rise, it could have a mess on its hands.

The Federal Reserve called the meeting yesterday to address both a backlog in processing these trades as well as something called assignments, which refers to who holds the contracts at the time they are due.

Credit derivatives contracts were once arranged between banks and other large institutions like insurance companies. Now, banks are frequently entering into these contracts with hedge funds, which as frequent traders may wind up transferring the contract to another party.

The transfers of these contracts have become so frequent that there is often a lag in updating the paperwork for the contract to reflect the new owner, Mr. Corrigan said.

There is also a backlog of 13.3 business days before such trades are completed, according to a June survey by the association. Still, that was an improvement over 17.8 days last year, the organization said.

"The backlog reflects the explosion of activity, but also poses operational risks," Mr. Corrigan said.

One banker who attended and insisted on anonymity because of the confidential nature of the meeting said: "Regulators wanted to get everyone together to make sure the industry knew they were concerned. It was left to the industry to come back with solutions."

The International Swaps and Derivatives Association also issued standards this week to address these issues.

Mr. Corrigan said, "I could not be happier that the Fed and other regulators are taking the initiative to work with the private sector to come up with approaches to get the backlog issue under control."

Bankers give Mr. Corrigan credit for bringing further attention to the growing pains in the credit derivatives market.

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"Jerry has a history of paying close attention to the plumbing of the financial system," said Mark C. Brickell, who was for years a senior member of the derivatives group at J. P. Morgan, the largest bank in the derivatives business. "It may not be glamorous but it's very important."

But executives like Mr. Brickell, who now runs an electronic trading system for derivatives, note that there are limits to what Mr. Corrigan's group, or the Federal Reserve, can accomplish.

Mr. Corrigan's group was largely made up of bankers, with a smattering of executives at hedge funds and other investment firms. The Federal Reserve does not oversee hedge funds. And even with the new requirement that hedge funds register with the Securities and Exchange Commission, their trading will remain hard to monitor. The recommendations of Mr. Corrigan and the Federal Reserve do not carry the teeth of regulations, he said.

But hedge fund executives say that they welcome the suggestions.

How Long To Jail White-Collar Criminals? (NYT)

By Andrew Ross Sorkin

The New York Times, September 16, 2005

On Monday morning, L. Dennis Kozlowski, the former chief executive of Tyco International, will learn his fate. Mr. Kozlowski, who was convicted of grand larceny, falsifying business records, securities fraud and other charges, is to be sentenced in New York State Supreme Court in Manhattan and, unless he is granted bail, could be whisked off to Rikers Island to be processed. He faces a prison sentence as long as 30 years.

While recent lengthy sentences for white-collar crimes have been hailed by some as desperately needed deterrents after a deluge of corporate scandals, the sentencing of Mr. Kozlowski, 58, comes at a time when a number of lawyers, including former prosecutors, are questioning whether such sentences are justified.

Bernard J. Ebbers, the former chairman of WorldCom who was convicted of masterminding an $11 billion accounting fraud that bankrupted the company, was sentenced to 25 years in prison.

Because Mr. Ebbers is 63, some have contended that the sentence amounts to a life term. Likewise, John J. Rigas, the 80-year-old founder of Adelphia Communications, was sentenced to 15 years.

"You have to ask yourself whether the proof in these cases warrants such a sentence," said Otto G. Obermaier, a former United States attorney in Manhattan, who had been an aggressive prosecutor of white-collar crimes when he ran the office from 1989 to 1993. "Ebbers's sentence moved the goal posts pretty far back. You can describe it as a pendulum switch, but it is an overreaction."

Unlike Mr. Ebbers or Mr. Rigas - or indeed most other convicted corporate chiefs, who have been sentenced in the federal court system - Mr. Kozlowski, along with Mark H. Swartz, Tyco's former chief financial officer, who was convicted of the same set of crimes, is being sentenced in a state court. As a result, the judge in the Tyco case, Michael J. Obus, may have more latitude in his sentencing than federal judges, who have a strict set of guidelines to follow.

The convictions of Mr. Kozlowski and Mr. Swartz also differ markedly from some other recent white-collar cases. While prosecutors are asking that Mr. Kozlowski and Mr. Swartz be sentenced to 30 years, Justice Obus has the flexibility to give them as little as one to three years in prison.

Depending on the length of the sentence, both men could be incarcerated in a maximum-security prison like Attica.

No lawyer is suggesting that white-collar criminals not serve time. Rather, lawyers and jurists are asking what the appropriate sentence is for white-collar crimes relative to punishments for other crimes in a post-Enron world.

Jonathan Simon, a professor of law at the University of California, Berkeley, said: "The most obvious comparison for the emerging attitude toward white-collar criminals is the harsh punishment we give to people involved in the drug trade. But both represent increasingly irrational and inhumane levels of punishment."

Noting that he considered Mr. Ebbers's sentence "draconian," he added that "25 years is more than most people would get for rape or a nonaggravated murder."

Of course, the main argument for imposing lengthy sentences is that they serve as a powerful warning to other executives not to break the law. After Mr. Ebbers's conviction in July, Alan G. Hevesi, the New York State comptroller and court-appointed

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lead plaintiff in the WorldCom securities class action, said it was "important to send a strong message with a severe sentence" because of the billions of dollars and thousands of jobs that were lost as a result of the fraud.

Yet Professor Simon, for one, said he had doubts about whether an especially long sentence worked as a significantly greater deterrent to potential white-collar criminals than shorter terms.

"Deterrence is, in my view, highly contextual," he said. "If you live in a community where young people die all the time from stray bullets - whether they are gang-banging or going to school - it is pretty hard to deter anyone with threats of punishment.

"In contrast, white-collar workers are extraordinarily sensitive to threats since their whole socialization and environment encourage calculation of future benefit and cost."

Mr. Simon suggested that "it would be far more effective to impose a lot of short sentences on a wider group of offenders rather than the example model of harshly punishing a few celebrity cases while most potential offenders know that they are unlikely ever to be caught and punished."

Still, some prosecutors and lawyers suggest that lessons that were supposedly learned during an earlier crackdown on corporate crime in the late 1980's did not stick, in part, because the sentences were too lenient. Michael R. Milken, for instance, was sentenced to three and a half years and served less than two.

Lawyers for Mr. Kozlowski and Mr. Swartz are expected to stress on Monday how different their cases are from those at Enron, WorldCom and Adelphia, companies all forced to file for bankruptcy protection as a result of the crimes. Tyco never filed for Chapter 11 protection, and its underlying business was relatively unaffected by the crimes despite swings in its stock price. The two Tyco figures were convicted of stealing about $150 million by paying themselves unapproved bonuses and conspiring to keep the thefts secret.

In addition to determining a sentence, Justice Obus, is expected to make Mr. Kozlowski and Mr. Swartz disgorge the money they stole. Prosecutors may also seek to have them pay hundreds of millions of dollars that they say shareholders lost as a result of the two executives' falsifying business records and hiding other information from investors, as well as millions of dollars in fines.

It is unclear whether the judge will rule on how much money shareholders should be reimbursed because no definitive amount was established during the trial.

He could decide to hold a hearing to determine the amount or he may leave that to the civil courts, which are overseeing lawsuits against the two men.

Lawyers for Mr. Kozlowski and Mr. Swartz declined to comment.

A spokeswoman for the Manhattan district attorney's office did not return a call seeking comment.

Judge Tosses ITT Shareholder Lawsuit (INDYSTAR)

By J.K. Wall

The Indianapolis Star, September 16, 2005

A federal judge in Indianapolis dismissed a shareholder lawsuit against ITT Educational Services Inc. Wednesday, saying the shareholders did not adequately demonstrate securities fraud.

U.S. District Court Judge David F. Hamilton gave the shareholders, who had been seeking class-action status, until Oct. 14 to file an amended complaint.

The lawsuit had accused ITT Educational, a Carmel-based for-profit educator, of inflating enrollment figures, falsifying grades, attendance and placement records, and shredding documents just before visits by government investigators.

But Hamilton found that none of the accusations were precise or strong enough under the Securities Exchange Act and the Private Securities Litigation Reform Act, which govern shareholder lawsuits.

The dismissal comes less than three months after the U.S. Justice Department said its investigation of ITT Educational had found no evidence of wrongdoing by the company or its executives. The Justice Department shifted its focus to “local issues” at individual ITT campuses.

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The shareholder lawsuit was sparked after the Justice Department sent federal agents in February 2004 to raid ITT Educational's headquarters and 10 of its campuses. The raid sent ITT Educational's stock plunging, but they have since recovered most of their value.

ITT Educational operates 79 technical institutes in 31 states serving about 40,000 students.

When Charity Stems From A Lawsuit (NYT)

The New York Times, September 16, 2005

CHARITY, according to popular lore, begins at home. These days, however, it sometimes begins in court. Therein lies a question of propriety, as well as one of just whose interests are being represented.

Call it "settlement charity." Lawrence J. Ellison, the chief executive of Oracle, has settled a shareholder derivative suit, without admitting he did anything wrong, for a $100 million donation in Oracle's name to a charity chosen by Mr. Ellison.

The suit in question is one of three that were filed after it came out that Mr. Ellison sold some Oracle stock at an opportune time in early 2001, weeks before the company reported that it would not meet its sales goals, sending the stock down from levels it has not seen since. The suits saw those sales as insider trading.

Mr. Ellison denied he knew how bad things were getting, and a Delaware judge dismissed one suit, concluding there was no evidence to the contrary. A class-action suit filed in federal court in California is still pending, but this settlement deals with the derivative suit filed in California state court, ostensibly on behalf of Oracle. It demanded that Mr. Ellison turn over to the company the money he saved by selling Oracle shares before the fall.

Had that suit prevailed, Oracle would have received a lot of money, so it arguably was in the interests of the shareholders. But the settlement provides for something else entirely.

Oracle will pay $24 million to the plaintiffs' lawyers, with $1.5 million of that to cover their expenses and the rest for a fee. The company owned by the shareholders will have that much less cash. Mr. Ellison will donate $100 million to charity.

How does that benefit the company? The lead plaintiffs' lawyer, Joseph J. Tabacco Jr., a partner in Berman DeValerio Pease Tabacco Burt & Pucillo, told me Oracle would benefit because its chief executive would not be distracted by having to defend the suit, something one might think could have been arranged had the suit not been filed in the first place.

He also points to new rules by Oracle, not yet detailed, that are supposed to increase protections against insider trading by company officers.

BUT the real gain, to hear Mr. Tabacco tell it, is "a positive benefit for Oracle in fulfilling its obligations as a good corporate citizen." Giving that money to charity "will enhance its reputation and improve its shareholder value."

Some might think that Oracle's reputation is harmed by Mr. Ellison's decision to settle, rather than fight, a suit that called his integrity into question. Others might conclude the settlement does not fit the charge. If Mr. Ellison did harm the company by his trading, he should pay the company, not some charity.

John C. Coffee Jr., a professor of securities law at Columbia University, is not persuaded justice was served. He suggested that it "would be fairer if the plaintiffs' attorneys would take their fee in the form of a charitable contribution that Mr. Ellison would make in their name to charities of his choice." Perhaps, he mused, Mr. Ellison would choose a charity that promotes tort reform.

Mr. Tabacco, unsurprisingly, did not like that idea. "We think it is fair compensation for bringing substantial value to the company," he told me, adding that compromises are necessary in any negotiation and that he had worked hard to get his clients the best deal possible.

"Given the amount of work that went into putting the case to the point that it was ready for trial, we should be fairly compensated," he said.

One fascinating thing about the result, assuming a judge signs off on the settlement, is that the as-yet-unnamed charity could never have filed suit to get the money from Mr. Ellison. But it gets the cash, and does not even have to pay the lawyers.

There is no doubt that the lawyers, who were chosen by eight shareholders with small stakes, will do very well. It is not nearly as clear that their clients have reason to rejoice.

CRIMINAL LAW:

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CIA Leak Investigator Warns Against Document Release (REU)

Reuters, September 15, 2005

WASHINGTON (Reuters) - The Justice Department and the special counsel investigating the leak of a CIA operative's identity pressed Congress to block legislation that would compel the administration to turn over documents related to the case, the department said in a letter released on Thursday.

The Justice Department, in a letter dated September 14, said special counsel Patrick Fitzgerald had advised that producing documents and holding hearings would interfere with his investigation. The letter was sent to the House Intelligence Committee's Republican chairman, Rep. Peter Hoekstra of Michigan.

Congressional Democrats have so far failed in their attempts to pass legislation that would force President George W. Bush and the departments of state, justice and defense to provide Congress with documents relating to CIA operative Valerie Plame.

Republicans on the House Intelligence Committee on Thursday rejected the legislation on a party-line vote. Republicans on the House Judiciary Committee and International Relations Committee rejected similar resolutions on Wednesday.

Republican say Congress should await the outcome of Fitzgerald's investigation.

Democrats countered that Republicans were trying to protect Bush and his top political adviser, Karl Rove.

"We have an oversight responsibility regardless of what criminal investigations may or may not be under way," said Rep. Rush Holt, a New Jersey Democrat.

Lawyers close to the Plame investigation say there are signs that the 20-month-long inquiry could be wrapped up within weeks. The outcome could have major political implications for Bush, whose current approval ratings are the lowest of his presidency.

Plame's husband, former diplomat Joseph Wilson, said the leak was meant to discredit him for criticizing Bush's Iraq policy in 2003 after a CIA-funded trip to investigate whether Niger helped supply nuclear materials to Baghdad.

A reporter for Time magazine has said that the first person to tell him about Plame was Rove. Rove's attorney says Rove did nothing wrong and has been repeatedly assured he is not a target of Fitzgerald's investigation.

Democrats have urged Bush to fire Rove or revoke his access to classified information. It is against the law in some cases to knowingly reveal the identity of an undercover CIA officer.

US Senate Turns Aside Web Gambling Ban For Now (REU)

Reuters, September 15, 2005

WASHINGTON (Reuters) - The U.S. Senate on Thursday turned aside an attempt to restrict Internet gambling in a procedural move, but Sen. Jon Kyl vowed he would try again and said he expected the legislation would become law eventually.

The Arizona Republican tried to attach language restricting Internet gambling to an annual spending bill that must be passed this year, but an unnamed Democrat objected to attaching an unrelated matter to the spending measure under consideration.

Kyl said his legislation would require banks and credit card companies to block payments to online Internet gambling sites. He said some firms were already voluntarily blocking money transfers.

"We will proceed with this, it will become law at some point at some time," the Arizona Republican said on the Senate floor. "There should be no reason why we can't move forward on this."

Sen. Barbara Mikulski, a Maryland Democrat, said that a member of her party had objected to attaching Kyl's language to the spending bill but she was not sure who. Kyl urged the lawmaker to come forward so the concerns could be addressed.

The U.S. Justice Department has said the laws that prohibit interstate gambling apply to the Internet. But Americans have turned to offshore gambling Internet sites as an alternative.

The Senate and U.S. House of Representatives have passed similar legislation in the past but have been unable to reach agreement on a single, identical bill, Kyl said.

Shares of online gambling sites in Britain moved higher on Thursday in anticipation of the Senate action. Partygaming Plc moved up 5 percent to 105 pence while Sportingbet.com Plc moved up 11.3 percent to 321 pence on London trading.

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Man, 66, Convicted Of Chicago Courthouse Bomb Plot (AP)

AP, September 16, 2005

(AP) CHICAGO A counterfeiter who sat in prison dreaming of revenge against the judge who sent him there was convicted Thursday of planning to blow up Chicago's federal courthouse.

Gale Nettles, 66, was also convicted of making a fresh batch of bogus $20 and $100 bills.

Jurors deliberated for about a day over evidence in the two-week trial, which featured tape recordings of Nettles telling an undercover FBI agent that not enough body bags were coming home from Iraq and too many people escaped death in the terrorist attacks of Sept. 11, 2001.

Judge John Keenan of U.S. District Court in Manhattan, a visiting judge who came to Chicago to preside over the Nettles trial, set sentencing for Jan. 12.

Keenan was brought in because the judges who regularly hold court in Chicago's Everett M. Dirksen Federal Courthouse were the targets of the bomb plot federal prosecutors outlined.

Nettles could be sentenced to 70 years in prison for his conviction on two counts of attempting to destroy the building and six additional counts of counterfeiting.

Prosecutors said it was unclear what the sentence might be under federal guidelines, which are only advisory. But they said with his previous record Nettles could expect a long sentence.

Nettles claimed that he was a victim of entrapment by federal officials. But prosecutors told jurors that Nettles talked about taking revenge on court officials before he ever had contact with the agents who gathered evidence against him.

Nettles was serving time for counterfeiting in a federal prison in Mississippi when another inmate told officials that he was talking of bombing the courthouse where he was sentenced.

After he was released, Nettles went searching for ammonium nitrate -- the same fertilizer that was used by Timothy McVeigh to blow up the federal building in Oklahoma City.

The FBI saw to it that he got urea, a substance that looks like ammonium nitrate but which would not have exploded if detonated in the way that Nettles planned.

Nettles then went looking for a member of Osama bin Laden's al-Qaida terrorist network. What he found was an undercover FBI agent who was posing as a terrorist. Nettles sold a batch of the urea to the undercover agent, who made many of the recordings that were played for the jury.

Prosecutors told jurors that besides planning to blow up the courthouse, Nettles was hoping that his blast would level the Kluczynski Federal Office Building across the street.

Counterfeiter Convicted Of Plot To Blow Up Courthouse (CHIT)

By Michael Higgins, Tribune Staff Reporter

Chicago Tribune, September 16, 2005

A counterfeiter known in prison by the name "Ben Laden" was found guilty Thursday of trying to blow up Chicago's federal courthouse.

A U.S. District Court jury deliberated for about one day before finding Gale Nettles of Chicago guilty of plotting to destroy the courthouse with a bomb that was to be made out of fertilizer and diesel fuel.

Nettles' defense attorney, John Theis, argued that the FBI entrapped Nettles by, among other things, having an undercover officer repeatedly offer to sell him the fertilizer.

But Assistant U.S. Atty. Brandon Fox disputed that in his closing arguments Wednesday.

"This defendant had no reluctance at all," Fox told the jury. "This was something he was going to do from the beginning... He was going to take down this building."

Nettles , 67, was also found guilty of making counterfeit money, some of which he used to obtain the fertilizer. Nettles, who is to be sentenced Jan. 12, was acquitted on one count of providing material support for terrorism. Prosecutors said Nettles hatched the scheme in 2003 while serving a prison term in Yazoo City, Miss., for counterfeiting.

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A prison informant tipped authorities to the plan, and after Nettles was released, a sting operation was set in motion, prosecutors said.

After Nettles showed interest in pursuing the plan, undercover agents and informants approached him. They offered him computer equipment to make counterfeit bills and sold him fertilizer, prosecutors said. Although the fertilizer sold could have been dangerous if mixed with fuel, it would not have had Nettles' intended impact, prosecutors said. It was not the type needed for a bomb such as the one used to destroy the federal building in Oklahoma City, they said.

The FBI provided a fake customer, a cabdriver named "Ali," when Nettles wanted to sell some of the fertilizer at a profit, and agents recorded Nettles' conversations with Ali and others, prosecutors said.

In his closing argument, Theis disparaged the "so-called bombing plot." He said that when Nettles was living in Chicago in 2004, he had no money, no transportation and no means to engage in any such plot.

Theis said Nettles would go weeks or months without contacting the undercover agents, which forced them to call Nettles.

"They are the ones who are putting [the plan] in action," Theis said. "If they just left him alone, we wouldn't be here."

Prosecutors argued, however, that Nettles' statements in prison showed that he was "predisposed" to commit the crime, a factor that can defeat an entrapment defense.

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Attorney: 'Joey The Clown' Writes Again (CHIST)

By MIKE ROBINSON, ASSOCIATED PRESS

Chicago Sun-Times, September 16, 2005

Missing reputed mob figure Joseph "Joey the Clown" Lombardo has written a new letter to his attorney disputing testimony from an FBI agent, the attorney said Thursday.

Lombardo is among 11 alleged organized crime figures accused in a federal indictment last April of conspiring in a series of at least 18 long unsolved mob killings.

When federal agents rounded up those charged in the indictment they were unable to locate Lombardo and he has been missing ever since.

In May, Lombardo attorney Rick Halprin delivered a four page letter from his client to U.S. District Judge James Zagel offering to surrender if he could have a separate trial.

Nothing came of that.

Halprin said in a telephone interview Thursday night that he has received a new letter from the 75-year-old Lombardo, handwritten on both sides of a single page.

Halprin said the letter was postmarked Chicago and dated Aug. 25. He said two Chicago newspaper clippings were in the envelope.

Asked why he is sure that the letter is authentic, Halprin said: "Because I know his printing and I sure know his signature."

Halprin said the letter takes issue with testimony before the Illinois Gaming Board by John Mallul, the head of one of the FBI's Chicago-based organized crime squads.

The testimony came at a July 19 hearing at which the Gaming Board was trying to cancel the dormant license of the Emerald Riverboat Gambling Casino which was to be based in Rosemont.

Mallul testified that in May 1999, Lombardo and other mob figures and mob associates met with Donald Stephens, the mayor of the tiny suburb near O'Hare International Airport.

Stephens has denied that such a meeting ever took place.

Halprin said Lombardo denies it in his letter.

"He says he's willing to take a lie-detector test or take truth serum," Halprin said.

Asked how Lombardo could take a lie-detector test while on the lam, Halprin said: "There is a logistical problem with that sentiment."

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Halprin said he had not shown the letter to anyone. He said the letter was addressed to him and not to Zagel or federal prosecutors.

But he said that if prosecutors think "there is forensic value in it they can subpoena it."

A spokesman for the U.S. attorney's office, Randall Samborn, declined to comment.

Second Lombardo Letter Surfaces (WMAQ-TV)

WMAQ-TV, September 16, 2005

CHICAGO -- Joseph Lombardo, who is alleged to be one of Chicago top mobsters, sent his attorney another letter, Unit 5's Carol Marin reported exclusively on Thursday.

Lombardo, who carries the nickname "The Clown," has been on the run since April, when he was indicted on racketeering conspiracy charges. While he has not been seen, he is being heard from.

"Dear Rick," said Lombardo to his attorney, Rick Halprin, in his latest letter. "How can a person be in so much trouble without committing a crime?"

Lombardo's letter was dated Aug. 24 and postmarked Aug. 25 -- in Chicago.

"I have no idea where Mr. Lombardo is," Halprin said.

It was the second time Halprin has a received a letter from his client since his indictment. Lombardo is one of 14 reputed mobsters implicated in 18 unsolved murders. But that is not why Lombardo wrote his attorney, Marin reported. Rather, it was two Chicago Sun-Times articles Lombardo clipped and included his letter. One of the stories linked Lombard to Donald Stephens, the mayor of Rosemont.

For years, Stephens has tried to have a casino built in the town he founded 50 years ago. And also for years, Stephens has battled allegations of mob connections, including an FBI agent's testimony in July that Stephens met mobsters, including Lombardo, for dinner in 1999.

"Let me inform you it is positively a lie," Lombardo said in his letter.

Illinois Attorney General Lisa Madigan has moved to deny Rosemont a gambling license, citing Stephens' alleged involvement with the Chicago Outfit. But appearing at a hearing before the Illinois Gaming Commission, Stephens said he actually threw the outfit out of Rosemont decades ago.

When asked about whether there is definitive evidence that proves that Rosemont is mobbed up, Bob Clifford, an attorney representing the Emerald Casino that was to have been built in Rosemont, said, "we are talking about speculative evidence. We're talking about triple quadruple hearsay."

Lombardo has said he's willing to take truth serum or a lie detector test alongside the FBI agent to see who is telling the truth, Marin reported. In his other letter, written to federal Judge James Zagel, Lombardo also proclaimed his innocence. The U.S. attorney's office did not have any comment.

Stephens: I Didn't Meet With Mob (CHIST)

By CAROL MARIN AND SHAMUS TOOMEY, Staff Reporters

Chicago Sun-Times, September 16, 2005

Rosemont Mayor Donald E. Stephens adamantly denied under oath Thursday that he met with the mob in 1999 to talk about a casino for his town. And, in an ironic twist, a reputed mob boss on the lam is backing him up.

Joey "The Clown" Lombardo fired off a letter to his lawyer last month denying an FBI informant's claim that Lombardo and other alleged hoodlums met with Stephens at Armand's, an Elmwood Park restaurant, according to Rick Halprin, Lombardo's lawyer.

"Let me inform you that it is positively a lie," the hand-printed letter, which included misspellings, read. "I have never, never, ever sat down with Mayor Stephens and the rest of the names in the article. I will take truth serum or lie detector test if the agent and there reliable witness will take one. It has to be done by a private co., not the FBI."

Lombardo, 76, has been missing since a major federal indictment linking the mob to 18 unsolved murders came down in April. Shortly after the indictment, a letter from Lombardo arrived by mail at Halprin's Chicago office. That letter, postmarked in

Chicago and directed at U.S. District Court Judge James B. Zagel, proclaimed his innocence and asked for a separate trial from the others indicted.

The latest letter was dated Aug. 24 and postmarked Aug. 25 in Chicago. The letter was on three-ring notebook paper and was accompanied by two Chicago Sun-Times articles, including a July 19 clipping about Lombardo's alleged meeting with Stephens, Halprin said.

"I have no idea where Mr. Lombardo is," Halprin said. "I'm saying the same thing I've said over and over again: It's my obligation to tell Joey, I can only tell him he should surrender himself and prepare for trial."

'Ridiculous nonsense'

FBI agent John Mallul had testified on July 18 that an informant told him of the Armand's meeting. Mallul's testimony came during a state Gaming Board hearing to revoke the license of Emerald Casino, which has been trying to open a casino in Rosemont but has been bogged down by mob allegations.

Lombardo says he also sent a separate letter to Rosemont's village attorney denying the Armand's meeting. "And also if I met with these people on that date, May 29th, 1999 I would have been in violation of my parole and probation," the letter to Halprin read.

Rosemont attorney Bob Stephenson confirmed he recently received two letters, purportedly from Lombardo. One appeared to mirror the Halprin letter, the other was a brief note in which Lombardo told Stephenson he remembered him from an old Teamsters trial, Stephenson said. The letters were signed "Joseph Lombardo I'm an innocent man," wording similar to the letter sent in the spring.

The Rosemont letters were turned over to the feds, Stephenson said.

Word of the latest round of Lombardo correspondence came as Stephens testified before retired Judge Abner Mikva, who will rule whether Emerald should lose its gaming license. Stephens testified he was "absolutely not" at the Armand's meeting -- and said he had never even been to the restaurant.

Outside of the hearing, Stephens, 77, called the Armand's allegation "such ridiculous nonsense."

'I hate my son-in-law'

"The FBI agent said there was some informant. Well, at the very least, the informant's a liar," Stephens said. "As a matter of fact, I also understand that my [ex-]son-in-law was at this meeting. I've got news for you, I hate my son-in-law. I've never gone around the block with him in my car. Never."

Ex-Mobster Claims An FBI Cover-Up (NYS)

By JERRY CAPECI

New York Sun, September 16, 2005

A turncoat Luchese mobster who helped authorities nail two suspects in the deadly Seton Hall arson five years ago has now turned the tables on law enforcement, claiming that a high-level FBI agent, together with New Jersey investigators, have knowingly kept an innocent man incarcerated for 12 years for a murder he didn't commit.

In a 14-page affidavit, mob defector Thomas Ricciardi, whose cooperation has also led to convictions of mobsters and mob associates, alleged that the officials learned they had wrongly convicted the gangster just four days after he was found guilty in 1993.

Driver For The Mob Gets 20 Years (NYNSDY)

By Anthony M. Destefano, Staff Writer

New York Newsday, September 16, 2005

Anthony Urso, the driver for Bonanno boss Joseph Massino who briefly took over command of the crime family in 2003, was sentenced to 20 years in prison for the killing of a mob associate.

"I am sorry for the harm I did to my own family," Urso, 69, said before U.S. District Judge Nicholas Garaufis sentenced him in Brooklyn Thursday

Urso, known by the moniker "Tony Green," told Garaufis he earned the nickname because he once worked at a company known as "T. Green."

Urso, who had been living in East Meadow until his arrest, pleaded guilty earlier in the year to taking part in the murder of Anthony Tomasulo. Tomasulo, a Bonanno family associate, was killed in May 1990 after he allegedly failed to pass along some of his illegal gambling proceeds from joker-poker machines to the crime family administration, officials said.

Informants and trial testimony revealed that Tomasulo was shot to death.

Urso could have faced as much as 30 years in prison, his lawyer, Edward P. Jenks of Mineola, said. Jenks said his client had no legal problems until the current case.

"This guy never had a parking ticket until now," he said. "Effectively it is a life sentence."

Urso had been a driver for Massino over the years. Massino, who was convicted in July 2004, is now a cooperating witness for the government.

Blagojevich Surfaces In Pension Probe (CHIST)

By CHRIS FUSCO, DAVE MCKINNEY AND SCOTT FORNEK, Staff Reporters

Chicago Sun-Times, September 16, 2005

Gov. Blagojevich and two top fund-raisers schemed to steer lucrative state pension deals to investment firms and consultants who agreed to donate to Blagojevich's campaign, a key figure in a widening corruption probe claims he's been told.

The unproved but explosive allegation surfaced Thursday in a federal plea deal by Chicago lawyer Joseph Cari, a former finance chairman for the Democratic National Committee. Cari, 52, pleaded guilty to attempted extortion for his role in a kickback scheme the feds say was directed by former state teacher pension board member Stuart Levine.

'Fund-raising strategy'

Blagojevich said he had "no knowledge whatsoever" about any pension deals being traded for contributions to his campaign. "Absolutely not," the governor said. "I know nothing about any of that."

Cari's 17-page plea offers no indication he ever spoke directly to Blagojevich or anybody from his political fund-raising operation, but the document laid out a broad "fund-raising strategy" outlined to Cari by Levine. Levine told Cari that he and Blagojevich's two fund-raisers would "not let an Illinois public pension fund . . . invest in a private equity fund" unless that firm hired a consultant they chose, and that consultant agreed to make "certain political or charitable contributions."

Blagojevich was not specifically named in the Cari plea, which referred to him as "Public Official A." Sources confirmed to the Chicago Sun-Times that the governor is Official A. The administration said it had no idea who Official A is.

Top Blagojevich fund-raisers Antoin "Tony" Rezko and Christopher G. Kelly were referred to in the plea as "two close associates" of the governor who helped him "pick law firms, investment banking firms and consultants that would help Public Official A." The Sun-Times confirmed their identities through the same sources.

Blagojevich, Kelly and Rezko have not been charged with any wrongdoing. Attempts to reach Kelly and Rezko were unsuccessful.

Also Thursday, former teacher pension board outside counsel Steven Loren, 50, pleaded guilty to tax-related charges tied to the alleged scheme. Both Cari and Loren are cooperating with prosecutors.

The scheme outlined in Cari's plea deal is similar to allegations raised earlier this year by Blagojevich's estranged father-in-law, Chicago Ald. Richard Mell (33rd), who accused Kelly of orchestrating appointments to state boards and commissions in exchange for contributions to Blagojevich.

Under threat of lawsuit from Kelly, Mell retracted the claim. But it still triggered a probe into the administration's hiring and contracting practices by Attorney General Lisa Madigan and Cook County State's Attorney Richard Devine. To date, no charges have arisen from that investigation.

'This is speculation'

Levine, who has pleaded not guilty to defrauding the state teacher pension system, would seem an unusual source about the inner workings of Blagojevich's campaign -- he was the top fund-raiser for Blagojevich's 2002 GOP opponent, former Attorney General Jim Ryan. Still, Blagojevich reappointed Levine to two state panels, including the Teachers' Retirement System of Illinois. After Blagojevich took office, Levine contributed $4,267 worth of free air travel to his campaign.

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Levine often spoke of his ties to Rezko and openly discussed how Rezko helped reappoint him to the teacher pension board, according to one source familiar with the probe. Records involving Rezko and a consulting firm he ran were sought by a subpoena investigators sent to TRS.

Cari was familiar with the teacher pension board because he was a partner and managing director of HealthPoint LLC, a New York investment firm that secured two TRS investments worth $35 million in 2003. Cari and other principals in HealthPoint contributed $30,500 to Blagojevich's $14.3 million campaign fund, records show.

Despite his ties to top national Democrats, Cari knew Levine and backed Ryan against Blagojevich.

In his plea, Cari admitted he acted as Levine's emissary and tried to get a Virginia real estate investment firm, JER Partners, to pay an $850,000 fee to an unnamed consultant who would do no work on the deal. Cari believed that if JER "hired the consultant identified by Levine, the consultant would be required to make political or charitable contributions as directed by Levine and Public Official A's associates," according to the document.

Talking to a JER lawyer, Cari said the fee "was political and this was how Public Official A handled patronage." At Levine's insistence, he repeatedly told JER officials that if the fee agreement wasn't executed, the $85 million investment JER appeared poised to secure would be dropped from an upcoming board agenda.

A pension official, however, kept JER on the agenda. The consultant was not hired and JER won the investment deal.

Cheryle Jackson, Blagojevich's communications director, downplayed the credibility of Cari's statements. "This is speculation based on testimony from an admitted extortionist who was told this by someone twice accused of extortion himself." Jackson said the feds have not contacted the governor.

Contributing: Steve Warmbir, Lynn Sweet, Natasha Korecki

Pension Probe's Spotlight Widens (CHIT)

By Rick Pearson And Matt O'connor, Tribune Staff Reporters

Chicago Tribune, September 16, 2005

Pleading guilty Thursday to attempted extortion, a prominent Democratic fundraiser said he was told that a "high-ranking Illinois public official" was behind a kickback scheme that steered state pension-fund investments to favored businesses in exchange for campaign contributions.

The plea agreement by attorney Joseph Cari, a former finance chairman for the Democratic National Committee, launched a new and potentially far-reaching phase of the investigation into influence peddling at the state's multibillion-dollar public pension funds.

In Cari's plea agreement and a related one by a former pension board attorney, prosecutors for the first time suggested that their investigation had gone beyond the dealings of political insiders at obscure pension panels to include a prominent government official orchestrating a scheme to siphon campaign cash and reward donors.

Neither plea agreement named the high-ranking person in Illinois government. He was referred to simply as "Public Official A."

Gov. Rod Blagojevich was peppered with questions about the plea agreements at an unrelated news conference but said he had no knowledge of them. Later, asked if the governor's office knew who the high-ranking Illinois official was, Blagojevich spokeswoman Abby Ottenhoff said, "We don't know who Official A is."

"The only people who know that are the feds. You'd have to ask them," Ottenhoff said. "This is speculation based on testimony from an admitted extortionist who got his information from a person who was twice accused of extortion himself."

Asked if federal investigators had questioned the governor, Ottenhoff said, "Not on this matter."

But Ottenhoff disclosed for the first time that federal investigators had questioned Blagojevich earlier this year about allegations that his administration traded appointments to state boards and commissions for campaign contributions. Blagojevich denied any wrongdoing, she said.

In pleading guilty to one count of attempted extortion, Cari said Stuart Levine acted as a conduit between the unnamed public official and the state Teachers' Retirement System to steer pension business to people and firms that would help the public official.

Levine is a prominent campaign donor who was initially named by a Republican governor to be a trustee of the pension fund for public teachers outside Chicago. He was reappointed by Blagojevich. Levine has pleaded not guilty to earlier charges that he extorted kickbacks from investment firms seeking pension fund business.

`A fundraising strategy'

In his plea agreement, Cari acknowledged trying to participate in a kickback scheme with Levine in 2004. He said Levine told him the selection of pension fund investors and others was motivated by politics.

"Levine said that a high-ranking Illinois public official [Public Official A], acting through two close associates, was selecting consultants for the private equity funds that appeared before the state pension funds," Cari's plea agreement said.

"Levine said that this was part of a fundraising strategy. Levine said that Public Official A, and his associates, were going to pick law firms, investment banking firms, and consultants that would help Public Official A," the plea agreement said.

The plea agreement said "Levine told Cari that consultants selected by Levine and those associates would subsequently be required to make certain political or charitable contributions as directed by Levine and those associates."

When a firm balked at hiring a Levine-selected consultant, who would do no work, Cari told the firm, according to the plea agreement, "that it was political and this was how Public Official A handled patronage."

Cari had repeatedly demanded that the firm, Virginia-based JER Inc., pay an $850,000 consulting fee, equal to 1 percent of the $85 million it was seeking from the teacher pension board to invest. Cari, in the plea agreement, said Levine repeatedly threatened to pull the JER investment from the agenda of the pension board unless the consulting fee was paid.

Cari said in his plea agreement that he believed Levine wielded great power over the teacher pension board and that "if Levine did not want something to be approved by the TRS board, it would not be approved."

In a related move, Steven Loren, formerly an outside attorney for the teacher pension board, pleaded guilty to one count of obstructing the Internal Revenue Service for allegedly helping Levine work a kickback scheme involving a Levine-favored consultant paid through a sham contract. The consultant received a finder's fee by an investment firm that got pension-fund business.

In the plea agreement, Loren said it was his understanding that "Levine's associates, who were close to a high-ranking public official, would use those placement fees as an incentive or reward to those who made campaign contributions that would benefit the high-ranking public official."

The plea agreement indicates that Loren began cooperating with the federal government early in its investigation. Loren gave prosecutors what is called a proffer letter on Nov. 23, laying out his knowledge of the activities of Levine and others.

That proffer and a one in July show that Loren was cooperating not only in the pension-fund case, but also in a second investigation involving Levine's role at the state's hospital planning and construction board, where he has previously been charged with extorting bribes, according to the plea agreement.

Levine has pleaded not guilty to those charges as well.

Sentencings postponed

Cari, 52, of Chicago and Loren, 50, of Highland Park, pleaded guilty just minutes apart in U.S. District Judge Amy St. Eve's courtroom.

Both are cooperating in the continuing federal probe, according to their plea agreements with the government. Their sentencings were indefinitely postponed until after their cooperation has been completed.

Under their plea deals with prosecutors, Cari faces about 2 years in prison, while Loren faces under 12 months in prison or possibly probation.

Each remains free on bail.

Both defendants and their lawyers, former U.S. Atty. Scott Lassar and Michael Siegel, declined to comment as they left the Dirksen U.S. Courthouse. So too did Levine's attorneys.

Aides to Blagojevich said that neither the governor nor his top administrative officials had been questioned about the pension investigation.

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But Ottenhoff, the governor's spokeswoman, said Blagojevich had been interviewed by federal investigators in late February or early March about allegations, raised by the governor's father-in-law, Chicago Ald. Richard Mell (33rd), that appointments were traded for campaign cash.

"He answered the questions they had about Mell's allegations and he's never heard back," Ottenhoff said.

Mell recanted his allegations under the threat of a defamation lawsuit by top Blagojevich adviser and fundraiser Christopher Kelly. But Mell's accusations prompted Atty. Gen. Lisa Madigan and Cook County State's Atty. Richard Devine to open a joint investigation that is ongoing.

A spokesman for the U.S. attorney's office declined to comment Thursday on the plea agreements or the administration's acknowledgement that federal investigators were reviewing Mell's allegations.

Tribune staff reporters Christi Parsons, Ray Gibson, John Chase and Ray Long contributed to this report.

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Landscape Exec Admits Bribing Parks Official (CHIT)

By Michael Higgins, Tribune Staff Reporter

Chicago Tribune, September 16, 2005

A former landscaping company executive on Thursday admitted his role in a scheme to pay $137,000 in bribes to a Chicago Park District official to help win $8 million in contracts at Millennium Park and other city properties.

John Kevin Haas, the former chief operations officer at James Michael Inc., pleaded guilty to two counts of fraud in U.S. District Court in Chicago.

In a plea agreement, Haas, 57, of Gurnee, admitted he made arrangements to send former parks official Shirley McMayon to a Wisconsin resort in 2000, bought a computer for her son and helped orchestrate other payoffs.

Haas, who has agreed to cooperate with prosecutors, described bribes to McMayon that included cash, ski vacations and $22,000 to help pay off McMayon's loan on a Dodge Durango.

The plea deal calls for Haas to be sentenced to 2 years, 7 months in prison, forfeit $350,000 in wrongly obtained profits and pay restitution of $49,000.

Without cooperation, Haas would have faced a likely sentence of 37 to 46 months under federal sentencing guidelines.

U.S. District Judge David Coar must approve the deal. No date has been set for sentencing.

Prosecutors allege that Haas made payoffs along with Michael Lowecki, who owned the Mundelein landscaping company, in a scheme that ran from 2000 to 2004.

McMayon, the district's former director of natural resources, pleaded guilty two weeks ago. She agreed to cooperate in a plea deal that calls for her to receive a 34-month sentence.

Fraud and bribery charges are pending against Lowecki. He has pleaded not guilty.

According to Haas' plea agreement, he and Lowecki had concerns about how much they were paying McMayon. The two men agreed in 2001 that the company would not give McMayon more than 2 percent of the revenue the company got from the Park District, the plea deal said.

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Legislator Resigns Amid Federal Inquiry (NYT)

By Stacey Stowe

The New York Times, September 16, 2005

BRIDGEPORT, Conn., Sept. 15 - A veteran state senator who is under federal investigation resigned here on Thursday morning in a fiery speech on the steps of City Hall.

The senator, Ernest E. Newton II, a Democrat who represented Bridgeport for 17 years, was the target of a raid on his office in February by the Federal Bureau of Investigation in connection with an inquiry into a job training program here.

The head of that program, Warren Keith Godbolt, pleaded guilty on Aug. 2 to charges that included offering a $5,000 bribe to an unnamed public official in exchange for securing a $100,000 state grant. He is cooperating with the authorities, according to court papers filed by prosecutors.

Mr. Newton has not been charged. He said on Thursday that he was resigning from his Senate seat for the sake of his family. He said that his wife had multiple sclerosis and that one of his sons needed to go to college and the other "had some problems."

His voice alternately raspy and booming, Mr. Newton said, "You all can't ask me about my trial; that's not what this is about." His lawyer, Salvatore C. DePiano, also declined to comment.

"I've made some mistakes in my life," Mr. Newton, an advocate for minorities and the poor during his tenure, told about 200 supporters who murmured or shouted their support. "Charge it to my head, not my heart."

Last month, Mr. Godbolt, the executive director of Progressive Training Associates, admitted in court papers to making $5,000 in payments to an unnamed public official in exchange for the state grant. On June 4, 2004, according to those papers, that public official announced he had secured a $100,000 state grant for the job center.

Mr. Newton was the official who made the announcement that day.

Mr. Godbolt also pleaded guilty to embezzling more than $70,000 from the center, for purchases that included a $24,000 BMW. He is scheduled to be sentenced on Nov. 14.

Mr. Newton said he was proud of his record and called himself the "Moses of my people." He said he would step down rather than force an expensive legislative inquiry.

He spoke to rain-soaked reporters and camera crews from a cross-embossed lectern under an umbrella, flanked by his sons and his pastor. During his statement he chastised the press. "The media has already convicted me," he said.

For the announcement, Mr. Newton wore a cinnamon-colored chalk-stripe suit and a satin fez. A sartorial standout in the Connecticut General Assembly, he favored double-breasted suits in purple or pale pink and the occasional fedora.

A supporter, Clyde Nicholson, said afterward: "This ain't about $5,000. It's about taking a black man out, one of the most powerful black men in the state."

In a statement, Gov. M. Jodi Rell noted that Mr. Newton had not been charged, but she said, "I am disappointed by the chain of events that led to today's announcement." Many of Mr. Newton's Democratic colleagues, including Mayor John Fabrizi of Bridgeport, expressed sadness.

A special election to fill his seat will be held in November and will coincide with state mayoral contests.

County Seeks FBI Probe Into $6.4 Million Loan (HAMJN)

By Candice Brooks, Butler County Bureau

Hamilton (OH) Journal News, September 16, 2005

HAMILTON — The Butler County Commissioners unanimously agreed Thursday to sever an agreement with a fiber optics firm and request an FBI investigation into why the firm obtained multi-million-dollar loans in the county's name, allegedly without commissioners' approval.

"We are standing as a team to protect the finances and integrity of Butler County," Commission President Charles Furmon said. This was the third time that Furmon had urged his fellow commissioners to end the agreement.

Cincinnati-based Dynus Technologies, formerly CBS Technologies, obtained loans for $2.4 million Sept. 2, 2004 and $4 million Dec. 31, 2004 from National City Bank to lease equipment used in fiber optic networking.

The commissioners and Dynus began negotiating an economic development agreement in September 2004, but the agreement — now terminated — was not approved until July 28 and the county never assumed financial obligation for it, county officials insisted.

Dynus would have used four of the county fibers and, in exchange, the company agreed to attract 100 new jobs within three years and give the county 10 percent of the profit from customers using its high-speed internet, phone, and data services.

The company paid on the bank loan for nine months. However, county officials said they were surprised on Sept. 2 to receive an invoice for a $99,485.78 payment on the remaining $5.3 million in debt. County officials and the county prosecutor's

office also said they were surprised documents appeared to show that Dynus President Jim Smith signed the lease agreement and other documents as a county agent.

In addition, County Auditor Kay Rogers signed at least six documents stating that Smith was a county agent even though the county commissioners said they never approved a resolution to give Smith the authority to incur debt for the county.

Rogers said Smith misled her to believe the documents were for tax purposes and she insists she told him the commissioners' approval would be required.

Commissioner Gregory Jolivette on Thursday expressed his disappointment in Rogers and Dynus officials.

"What did she think Dynus would do with these documents — put them in a waste paper basket or in a file?" he said. "It just disturbs me that she would take these actions in so many different documents — six or seven. (I'm) extremely disappointed with Dynus Corporation for not being more up front with us regarding their dealings. As they entered into this agreement in September and all through 2005 until we signed the agreement in July, we've had meetings with them and not once did they disclose that they had a financial agreement with National City Bank with our name on it."

Commissioner Mike Fox said Dynus officials were specifically asked during a meeting in February if they expected Butler County to accept any financial obligation and the response was no.

"It appears that the county was the object of a grand scheme and a con," Fox said. "Representations were made that were obviously inaccurate."

Furmon said he contacted the FBI earlier in the week and Fox said the county prosecutor's office would cooperate with the FBI.

"We have received the complaint from the commissioner," said Michael Brooks, spokesman for the Cincinnati FBI. "We'll make a determination if an investigation should be conducted."

Jolivette also asked that County Administrator Derek Conklin check other banks for unknown loans in the county's name because the commissioners would not have know about the Dynus loan had an invoice not been sent.

"I support the Commissioners' decision to terminate the contract with Dynus," Rogers said, but insisted "I did nothing wrong.

"There is no financial obligation to the county, as I have previously stated. I am concerned that some of the forms in question appear to contain fraudulance, (sic) and do not contain my actual signature. This is also apparently true of one of our Commissioners, and one of the employees of my office.

"As far as the forms that do contain my signature, I was only verifying my knowledge of the documents and the funds available to the county, since my office was overseeing the Fiber Optics Project. I was always clear to representatives from Dynus that the Commissioners, and only the Commissioners, may act as contracting agents for Butler County. If my signature was used improperly by outside agents, it is extremely unfortunate... The Commissioners know that in 10 years I have operated a highly professional office with full integrity."

Tom Rowe, spokesman for Dynus Technologies, said there was a meeting Wednesday between Dynus officials and county administrative officials and National City Bank officials.

"Based on this meeting, we agreed to continue our discussions toward a

mutually agreeable solution to this matter," Rowe said. "We are committed to resolving this outside the courtroom.

"We anticipated the commissioners were going to take this action this

morning,"

Scott Owens, executive director of the Butler Republican Party, and West Chester Township Trustee George Lang are both executives with Dynus. State Rep. Bill Coley (R-West Chester Township) has served as legal counsel for National City Bank.

County Republican Party Chair Carlos Todd said he has "purposely stayed out" of the matter, but said when he knows the facts he would make a statement.

Butler County Democratic Party Chair Dan Gattermeyer said the Republican Party must ask Rogers to resign.

"Our county deserves better government that the activities of Republican Kay Rogers in relation to the Dynus Technologies debacle," Gattermeyer said in a statement. "One party rule results in leaders who feel insulated and not accountable for their

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actions. The first step in changing this mindset is for all, Republicans and Democrats alike, to join in calling for Kay Roger's resignation."

Contact Candice Brooks at (513) 820-2175, or e-mail her at cbrooks@coxohio.com.

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Bronson Records Seized In Federal Grand Jury Probe (GAINSUN)

By KAREN VOYLES, Sun staff writer

Gainesville (FL) Sun, September 16, 2005

BRONSON - About two years ago, town councilman Aaron Edmondson started asking questions about why some new lights on the mayor's property looked so much like the new lights the town had just received.

Edmondson's curiosity led to a joint local and state investigation into embezzlement that ended with the mayor, James Blaine "Jamie" Griffin, going to state prison and the town clerk, June Greenlee, being put on probation.

On Thursday an FBI agent served a subpoena on the town for its financial records. The subpoena ordered all the town's financial records from Jan. 1, 2000, through Wednesday be delivered to the federal grand jury in Gainesville by Oct. 25. Subpoenas for town records were also delivered to Bronson banks. Mayor Beatrice Mongo said she expects the federal government will dig even deeper than state officials dug.

"Apparently they (federal investigators) don't think justice was served," Mongo said. "They told me they are not just looking at the people who got caught last time. They are looking at everybody and everything."

Town officials and others close to the case said there are at least two situations that likely caught the attention of the federal government.

A check made out to the Internal Revenue Service during the previous mayor's tenure was allegedly used to pay more than $2,000 in personal back taxes.

The other possible factor was $1 million in the form of two Community Development Block Grants that was not spent according to the contract signed by the town.

State Attorney Bill Cervone, whose office prosecuted Griffin and Greenlee on the state charges, said having the federal government pursue the same case is rare but does happen.

"It's an occasional thing, but when there is anything involving federal money, they are much more likely to be interested," Cervone said.

Sun staff writers Deborah Ball and Janine Young Sikes contributed to this report. Karen Voyles can be reached at (352) 486-5058 or voylesk@gvillesun.com.

Lawyer Says Threats From Gotti Made Him Alter Strategy (LAW)

By Tom Perrotta, New York Law Journal

Law.com, September 16, 2005

The former attorney for Frank LoCascio, a co-defendant of John Gotti Sr. in a 1992 murder and racketeering trial, testified Thursday that he tailored his defense strategy to suit Gotti after the now deceased mob boss threatened him.

"He would take care of me -- and I knew what that meant," the attorney, Anthony Cardinale, said Thursday during an evidentiary hearing in Brooklyn federal court.

The alleged threat, he said, came during a break in the trial while Cardinale was cross-examining the prosecution's star witness, Salvatore "Sammy the Bull" Gravano.

Cardinale had considered asking Gravano if he knew that LoCascio was not involved in one of the central charges of the indictment, the murder of Louis DiBono. But after Gotti spoke with him, Cardinale said, he did not ask for fear of making LoCascio look better at the expense of Gotti.

"I was afraid, if that's what you're asking, yes," Cardinale told LoCascio's appellate lawyer, Herald Price Fahringer of Lipsitz, Green, Fahringer, Roll, Salisbury & Cambria.

Cardinale also said he did not meet with LoCascio alone after Gotti told him not to, and changed the tenor of his overall defense and his closing arguments to emphasize Gotti's innocence.

Under questioning from Assistant U.S. Attorney Thomas Firestone, however, Cardinale would not say that his actions constituted an ethical breach or ineffective assistance of counsel.

"I really don't have a feeling one way or another on that issue," Cardinale said, clearly uncomfortable on the witness stand. "That's for others to decide. I think I did the very best I could have done for Mr. LoCascio under the circumstances."

Cardinale, a Boston attorney, was testifying at a hearing that was ordered in January by the 2nd U.S. Circuit Court of Appeals. The circuit asked Eastern District Judge I. Leo Glasser to determine if LoCascio received ineffective assistance of counsel and deserved a new trial.

Cardinale did not tell LoCascio or anyone else about the threat. Only after Gotti died three years ago did he mention it to another of LoCascio's appellate attorneys, Thomas Harvey, who revealed the incident.

Cardinale refused to submit an affidavit about the alleged threat out of fear of retaliation. His testimony Thursday was compelled by subpoena.

Judge Glasser, who presided over the 1992 trial, previously rejected LoCascio's request for a new trial, ruling that Gotti's attempt to orchestrate defense attorneys -- including those of his co-defendants -- was well known. He also rejected four previous attempts to appeal.

But the 2nd Circuit in January ordered a hearing on the matter, describing it as a "close call." The court noted that Cardinale, who took the case after LoCascio's first attorney was disqualified, was not an "in-house" attorney for the Gotti organization.

Firestone tried to further blunt the attack on Cardinale's performance by pointing out that Gotti and LoCascio were tried and defended jointly before any threat was made.

Referring to transcripts from the 1992 trial, he pointed to moments when Cardinale, during his closing arguments, singled out LoCascio, not Gotti, for the jury's attention. He also noted that Cardinale continued to work for Gotti, for no pay, on his appeals in the years following the convictions.

Gotti died in June 2002 while serving a life term in prison. LoCascio, 72, is also serving a life sentence.

Glasser reserved decision to allow the parties to make supplemental arguments.

Fugitive In Armored Car Theft Gives Up After 12 Years (NYT)

By Randal C. Archibold

The New York Times, September 16, 2005

LAS VEGAS, Sept. 15 - A woman who became one of the most sought after fugitives in the United States after disappearing with an armored car and $2.5 million ended almost 12 years on the run on Thursday when she walked into a federal courthouse here and surrendered.

The woman, Heather C. Tallchief, was a driver for Loomis Armored, now Loomis Fargo, on Oct. 1, 1993, when while making a stop at the Circus Circus casino hotel she took off with her truck and its contents, leaving behind two other guards.

Over the years, the authorities have said they were baffled about how Ms. Tallchief and her suspected accomplice, Roberto Solis, who had served time in prison for killing an armored car driver in 1969, eluded capture.

The case had been repeatedly broadcast on crime programs, including "America's Most Wanted" on Fox. A spokesman for the F.B.I. said Thursday that she had been a "highly sought after fugitive."

In an interview before her surrender, she said she was in Europe much of the time, out of reach of the money and working as a hotel maid.

In a court appearance in the afternoon, Ms. Tallchief, 33, was ordered held on charges that included bank larceny, fraud, conspiracy and making false statements to obtain a passport. A hearing was set for Sept. 29.

Ms. Tallchief, dressed in a gray blazer, a pink blouse and pale olive slacks, was led away in handcuffs and leg irons.

This week, Ms. Tallchief's lawyer, Robert Axelrod, interviewed his client on videotape in Los Angeles in hopes of selling her story to Hollywood. The two people said they would use the proceeds to reimburse the stolen money.

They allowed The New York Times to observe the interview and ask follow-up questions on condition that the newspaper not publish an article until the surrender.

Contrary to previous reports, Ms. Tallchief said she was not the mastermind behind the crime, but rather a victim of Mr. Solis's brainwashing. The criminal complaint does not say who organized the scheme but describes the two people as planning and carrying it out together.

Ms. Tallchief, a Seneca born in Buffalo, N.Y., said she lived a largely unhappy life, ostracized at school as she followed the punk rock scene and becoming addicted to crack.

She eventually obtained a general equivalency diploma and a nursing assistant certificate and worked in hospitals and clinics in the San Francisco Bay area, but , she said, had trouble keeping jobs. When she had hit bottom, she met Mr. Solis, more than 20 years older, through a friend at a nightclub.

She said he kept an altar in his apartment with a goat's head, crystals and tarot cards, all of which she initially found shocking but came to accept his beliefs, particularly that their meeting and "spiritual journey" were predestined.

In the tape with Mr. Axelrod, she said Mr. Solis constantly showed her tapes in the weeks leading up to the crime that had a hypnotic effect.

"They allegedly opened your mind but made you more receptive" to suggestion, she said. "They had lots of swirling colors like a tie-dye t-shirt."

Ms. Tallchief said his sway was so powerful that she hardly questioned him, even as he steered her toward finding work at Loomis.

"He was reformed," she said in the interview. "He wrote poetry. I knew his mother. He was a very normal person. If you sat down and met him, you would probably actually enjoy him. You would laugh at his jokes. You would think he was a nice person. There was never anything about him that you would think he was a heinous, horrible murdering con."

Ms. Tallchief said she followed Mr. Solis's instructions up to and on the day of the crime "almost like a robot." She said recalled little about the planning.

After driving off her route with the truck, she said, she drove to a warehouse, but did not know what happened to the money after helping Mr. Solis load it into boxes there. "I probably asked him about it but he wouldn't ever answer," Ms. Tallchief said, adding that when the subject came up he would say things like: " 'Don't worry about it. I'm taking care of it. It's O.K. It's safe. I've got it under control.' "

She took flight, she said, at first disguised as an old woman in a wheelchair pushed by Mr. Solis. She later led a low-key life in Amsterdam as a hotel maid, affecting an English accent that she still faintly speaks with now.

She declined to discuss how she slipped out of the United States with Mr. Solis and how she returned. Mr. Axelrod said she re-entered through Los Angeles a few days ago.

Ms. Tallchief said she had seen a psychiatrist in Los Angeles in the last few days.

She added that she had no contact with Mr. Solis after she took their took their infant son and left him. The boy, now 10, is in Amsterdam with friends of Ms. Tallchief.

Mr. Solis, 60, is at large.

Mr. Axelrod said that though the notion of being brainwashed "is a hard concept to follow" he believed a jury or the authorities would find that a "mitigating factor" in her case. He would not let Ms. Tallchief answer whether she would plead guilty, though she does not deny carrying out the crime.

Joe Parris, a supervisory agent for the F.B.I. in Washington, declined to comment on her brainwashing statement. A spokeswoman for the United States attorney here said the office would have no comment.

Ms. Tallchief said she decided to abandon her flight for the sake of her son, who she fears will ultimately suffer consequences of her crime. The boy, she said, does not have a legitimate birth certificate or other documentation and is growing curious about her past and his.

"I didn't give my child a normal life, but I think I am on the way to doing that," Ms. Tallchief said in the taping of the video, which a Hollywood producer, Robert Aaronson, is trying to sell to television networks and studios.

Mark Clark, a spokesman for Loomis, Fargo, said repaying the stolen money "would be a nice gesture" but he declined to address the case in detail, saying the company would "let it take its course."

Living abroad, Ms. Tallchief said, she avoided Americans and did not socialize much, to avoid people asking about her past.

"I've learned how to not have so many close friends, so I don't get asked all the questions," she said. "It's a lonely life, being a fugitive. And I certainly don't go to, you know, book clubs and, you know, cake sales and stuff. I don't have coffee morning with the girls."

Ms. Tallchief's history is the subject of a screenplay that is being worked on. A former chairman of 20th Century Fox, Bill Mechanic, who produces films through his own company, Pandemonium, in Los Angeles, said his company was finishing a script based on the robbery.

For all its dramatic potential, Ms. Tallchief's life on the run ended in anticlimactic fashion. Accompanied by her lawyers, she entered the office of the United States marshal at 9:29 a.m., sat on a couch and tapped her foot as officers conferred and then, after about 20 minutes, led her away.

Fugitive Surrenders For Las Vegas Armored Truck Heist (FINDLAW/AP)

By Ken Ritter, Associated Press Writer

Find Law, September 16, 2005

(AP) - LAS VEGAS-A woman on the FBI Most Wanted list accused in a $3.1 million (â,¬2.5 million) armored truck heist surrendered Thursday after more than 10 years on the run.

Heather Catherine Tallchief is accused of driving an armored truck loaded with cash away from the Circus Circus casino in October 1993. Speaking to reporters before she gave herself up, Tallchief, one of a handful of women ever on the FBI list, acknowledged her role.

"I truly feel this is the right thing to do," Tallchief said. Her lawyer said her boyfriend, also accused in the heist, "brainwashed" her into participating.

Attorney Robert Axelrod, her lawyer, was with Tallchief when she surrendered at U.S. District Court in Las Vegas. He said she was tired of hiding, and wanted her 10-year-old son to have a chance at living a normal life.

A message seeking comment from the FBI office in Las Vegas was not immediately returned.

Axelrod said Tallchief was an impressionable 21-year-old who blindly followed a persuasive older boyfriend in the Oct. 1, 1993, theft. The boyfriend, Roberto Solis, is now 60 and is still a fugitive on the FBI's Most Wanted list.

Tallchief maintained she was only following Solis' instructions and doesn't know where Solis is now, although they have a son together.

"He brainwashed her, as surely as a Manson kind of character (or) a Jim Jones kind of character," Axelrod said.

Tallchief eluded authorities by living under an assumed name and working as a maid and at other cash jobs in Amsterdam, Netherlands, her lawyer said.

Police said Tallchief was employed for several months as a driver for Loomis Armored Inc. before she disappeared with a truck loaded with $100 and $20 bills while co-workers filled automatic teller machines inside the casino.

Us Weekly Writer Charged Is Sex Case (LHL)

The Lexington Herald-Leader, September 16, 2005

NEW YORK - An Us Weekly gossip writer found himself on the wrong side of the police blotter after being charged with trying to seduce an FBI agent posing on the Internet as a 13-year-old girl.

Us Weekly suspended Timothy McDarrah, editor of the Hot Stuff column, without pay, a magazine spokesman said Thursday.

McDarrah responded in June to a posting on the craigslist.com Web site offering introductions to the "freshest, youngest" girls in New York, an FBI affidavit said. The gossip writer told an undercover FBI agent, who had posted the advertisement to lure pedophiles, that he would pay $200 for sex with a 13-year-old girl, the affidavit said.

After McDarrah failed to show up for a meeting, the agent began sending instant messages in his guise as a 13-year-old girl. McDarrah offered to buy the agent clothes, compact discs and an iPod in exchange for a variety of sexual favors, the agent wrote in the complaint.

On Wednesday, the agent wrote, McDarrah e-mailed that he was waiting at a building the agent had described as the 13-year-old girl's address. FBI agents went there and arrested McDarrah, who is charged with one count of using the Internet to entice a minor into sex, which carries a minimum five-year sentence.

McDarrah was arraigned in Manhattan federal court, held on $50,000 bond and barred from using the Internet or having unsupervised contact with children. He did not enter a plea.

Felon In No-show Job Scam Asks For Early Release (AP)

AP, September 16, 2005

SPRINGFIELD, Mass. (AP) A former payroll clerk convicted with three others of swindling thousands of dollars from a city-run vocational school has asked a federal judge for early release from a halfway house.

Jamie Dwyer, 54, has served two months of a six-month sentence at a halfway house in Hartford, Conn., for her role in a no-show job scheme that bled about $50,000 from the Massachusetts Career Development Institute.

Dwyer was convicted of fraud, conspiracy and lying to FBI agents. U.S. District Judge Michael A. Ponsor sentenced her to the halfway house, to be followed by six months home confinement.

But she said she doesn't need the mandatory group counseling and drug-testing at the facility, The Republican of Springfield reported Friday.

``The Hartford House's rehabilitative mission causes me to be subjected to restrictions and rules that are unnecessary and demeaning," Dwyer wrote in an affidavit filed Tuesday in U.S. District Court.

``I have been gainfully employed throughout my adult life," Dwyer continued. ``I successfully raised two children. I do not have problems with alcohol or substance abuse, and I have historically respected authority and the rights of others. I do not need counseling regarding those issues."

Gerald Phillips, MCDI's former executive director, was sentenced to 21 months in prison. Luisa Cardaropoli was sentenced to 15 months in prison for pocketing thousands of dollars from a no-show job she got through Giuseppe Polimeni, who was sentenced to one year in prison.

The charges against all four sprang from an ongoing investigation into public corruption in Springfield that began about five years ago and has netted several indictments and convictions.

Dwyer's lawyer, John S. Ferrara, said Dwyer's sentence is ``disproportionately harsh" compared to other local white-collar felons in separate cases. He pointed to former mayoral aide Cornell Lewis and accountant Salvatore Anzalotti, convicted last year for their roles in swindling $600,000 from a city loan fund. Both received home detention.

The Republican reported that Assistant U.S. Attorney William M. Welch II did not return a call for comment. Is it unknown whether he will oppose Dwyer's motion. It's unclear is when Ponsor will rule.

Inside The Ring (WT)

By Bill Gertz And Rowan Scarborough

The Washington Times, September 16, 2005

Taiwan envoy

Douglas Paal, the U.S. government representative to Taiwan, is under fire from the State Department for misrepresenting Taiwan's policies to his bosses.

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A State inspector general report said Mr. Paal's leadership style caused low morale among employees of the American Institute in Taiwan, the official U.S. office in Taiwan.

The most serious IG charge, however, is that Mr. Paal falsely reported on Taiwanese issues to senior State Department officials, a cardinal sin for envoys.

Officials familiar with the details of the IG report said Mr. Paal refused to allow dissenting views and was guilty of suppressing reports from U.S. officials who disagreed with his pro-China views.

As a result, the IG concluded that the U.S. government had an inaccurate picture of the situation in Taiwan.

Mr. Paal also angered the Pentagon by blocking for several years the appointment of an active duty military officer to help Taiwan with arms purchases. Army Col. Al Willner, the new Pentagon liaison in Taiwan, is the first U.S. military officer posted in Taiwan since 1979, when diplomatic relations were downgraded.

The report bolsters the views of conservative critics of Mr. Paal in Washington, who have said that he has pro-China views and has not dealt fairly with Taiwan.

As we reported in this column in 2001, Mr. Paal was picked for the Taiwan post even though he gave a speech falsely asserting President Bush had "misspoke" in saying the United States would do whatever it takes to help Taiwan defend itself from a mainland attack.

The U.S. officials discussed the unpublished details in the IG report after they were first disclosed in Taiwan's China Times and Taipei Times newspapers.

Mr. Paal, who is in Washington, could not be reached for comment. A spokesman in Taiwan declined to comment on the IG report.

Detective work

The Army has compiled a list of more than 450 criminal cases whose DNA was tested by a laboratory where an examiner has admitted to making a false entry in one case.

The list includes defendants from military installations across the country and around the world, from the Air Force Academy to Incirlik Air Base in Turkey. The blood testing dates back to 1995.

The exams are being reviewed by the U.S. Army Criminal Investigation Laboratory in Forest Park, Ga.

In a memo, the laboratory is asking staff judge advocates — the military's lawyers — to contact the Army Criminal Investigative Command about any cases involving DNA.

The Aug. 25 memo, a copy of which we obtained, states that the examiner had been suspended in January 2004 after "permitting contamination in his testing process. After retraining, he was returned to casework on 13 September 2004, initially working one case at a time under supervision."

The false entry was found the following April. "The examiner was suspended from his DNA case work on 3 May 2005," the Army memo states. "In an inquiry initiated on 2 June 2005, the examiner admitted the false entry."

Morgue duty

Defense Secretary Donald H. Rumsfeld has signed off on mortuary teams from the 54th Quartermaster Company at Fort Lee, Va., deploying to the Gulf Coast.

The job was supposed to be handled by the Federal Emergency Management Agency. But FEMA informed the Pentagon it must first find a contractor for the gritty work.

Nine teams arrived in New Orleans on Tuesday. The team can process 20 remains per day, per team. Another nine teams were on the way. The death toll from Hurricane Katrina in Louisiana is nearing the 500 mark.

After peaking at 72,000, the troop strength in the Gulf Coast has dipped below 65,000.

Inhuman enemy

Army Col. H.R. McMaster is a soldier-scholar who once advised Gen. John Abizaid, the top Middle Easter commander, on how to wage war in Iraq.

Col. McMaster now is in the heat of that battle himself. For the past several weeks, he has led the campaign to retake the border town of Tal Afar.

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Col. McMaster appeared in the Pentagon this week via a video hookup to describe how his 3rd Armored Cavalry Regiment, joined by 3rd Iraqi Army Division, routed most of the extremists.

But it was his description of how the enemy occupied their safe haven that got the most attention. Col. McMaster told of beheadings, gunshot killings, a booby-trapped dead child and kidnappings. "This is the worst of the worst in terms of people in the world," he said. "To protect themselves here, what the enemy did is they waged the most brutal and murderous campaign against the people of Tal Afar. ... The enemy here did just the most horrible things you can imagine, in one case murdering a child, placing a booby trap within the child's body and waiting for the parent to come recover the body of their child and exploding it to kill the parents."

Col. McMaster said his men killed scores of the enemy in a series of firefights up and down the tight streets of the crossroads between Syria, where insurgents train, and the critical northern Iraqi city of Mosul.

"These Iraqi soldiers are brave," he said. "They're courageous. They're building capabilities every day."

Col. McMaster said soldiers captured some associates of lead terrorist Abu Musab Zarqawi.

"They are some of the worst human beings on the face of the Earth," he said. "There is no really greater pleasure for us than to kill or capture these particular individuals."

Reform movement

In its effort to reform how it detains and interrogates war-on-terror detainees, the Pentagon and Army have drafted four directives:

•The Department of Defense Directive on the Detainee Program

•The Department of Defense Directive on Intelligence Interrogations, Detainee Debriefings and Tactical Questioning

•Army Field Manual on Human Intelligence Collector Operations

•Joint Publications on Detention and Interrogation Operations.

•Bill Gertz and Rowan Scarborough are Pentagon reporters. Mr. Gertz can be reached at 202/636-3274 or by e-mail at bgertz@washingtontimes.com. Mr. Scarborough can be reached at 202/636-3208 or by e-mail at rscarborough@washingtontimes.com.

D.C. Waiter's Assailant Gets 22-Year Term (WP)

By Henri E. Cauvin, Washington Post Staff Writer

The Washington Post, September 16, 2005

All Adrien Alstad's family wanted to talk about yesterday was the brother, partner and friend he had been over his 55 years, before he was gunned down last year in an early-morning robbery near Dupont Circle.

Gathered in D.C. Superior Court to see one of Alstad's youthful killers sentenced, they were flush with grief over a life lost and with memories of a life lived.

"My heart has been crushed," said his sister, Lynnette Bock, clutching her prepared statement in one trembling hand and a tissue in the other. "There is something so empty inside me."

The pleas for punishment seemed almost angry afterthoughts. But the sentencing was, after all, why they were in the courtroom.

Kurt Williams, 20 and mildly retarded, according to presentencing examinations, had been the lookout as Alstad was robbed and fatally shot Aug. 23, 2004. Alstad, a popular waiter, had just gotten off work when Williams and an accomplice accosted him. It was a crime that struck fear in a usually safe neighborhood, and it was neither the first time Williams had robbed nor the last, said the prosecutor, Assistant U.S. Attorney Colleen Covell.

The killing was not, Judge Judith E. Retchin agreed, a single, "youthful act" but rather part of "a series of crimes," and it demanded the maximum 15 years that the sentencing guidelines recommend for voluntary manslaughter. She added a seven-year term for another robbery, for a total of 22 years.

Santha Sonenberg, Williams's attorney, had urged the judge to consider a host of mitigating factors detailed in a lengthy defense memorandum on Williams, of Northwest Washington.

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Williams was born with cognitive impairments, was sexually and physically abused as a child and has an IQ in the mildly retarded range, according to a report submitted as part of the defense memorandum.

The judge acknowledged that Williams "had a terrible childhood" and "suffered all types of abuse." But she said that what Williams did in the days that followed Alstad's death was revealing. Not only did he commit another robbery, she noted, but when he was spotted by police, he ran.

"You knew right from wrong," Retchin said.

It was that second robbery, two nights later, again on R Street NW, that led police to Williams and his 15-year-old accomplice, who has not been publicly identified because he was charged as a juvenile. The 15-year-old pleaded guilty in a closed proceeding soon after the attack, but his sentence was not announced. The maximum penalty he faced was city supervision until he is 21.

Williams, who was 19 when he was arrested, pleaded guilty in May to manslaughter in Alstad's death and to armed robbery for the holdup two nights later.

For Alstad's relatives and friends, yesterday's sentencing took them back to a shattering moment barely a year ago.

Williams and the accomplice had accosted Alstad on R Street as he walked home from his job at Annie's Paramount Steak House. The pair demanded his money. When Alstad protested that he didn't have any cash, the younger assailant fired two or three shots, killing him.

As he did on the day he pleaded guilty, Williams apologized to his victim's family. "I understand your pain, losing a great person," he said.

Outside the courthouse, Alstad's sister said she has been too sad during the past year to be angry.

Now, she hopes Williams will find his way, which is what her brother would have wanted, she said. "He would've wanted to see that he got help," she said.

And if Williams can stay out of trouble, she said, her brother's death will not have been for nothing.

Personal Chef Laid Off During Probe Of AU President's Spending (WP)

By Valerie Strauss And Susan Kinzie, Washington Post Staff Writers

The Washington Post, September 16, 2005

The personal chef employed by suspended American University President Benjamin Ladner and paid for by the school has been let go during a probe by the university's Board of Trustees into personal and travel expenses submitted by Ladner, according to sources.

In addition, the social secretary for the president and his wife, Nancy Bullard Ladner, has been transferred, said the sources, who spoke on condition of anonymity because the investigation is ongoing. Sally Ekfelt is now working in the president's office as an assistant to David E. Taylor, chief of staff to the president of the university, they said.

The actions come as the trustee board is close to completing a months-long probe of Ladner, who became president in 1994 and soon faced criticism for hiring the chef, Rodney Scruggs, and spending some $200,000 for drainage work and landscaping at the university-owned house where he lived.

Ladner was placed on administrative leave Aug. 24, and Provost Cornelius M. Kerwin was named acting president.

Neither Ladner nor Kerwin returned phone calls seeking comment. Several trustees declined to comment, as did Scruggs. Ekfelt did not return phone calls.

One source with knowledge of the investigation said the position of chef was eliminated as "an unnecessary expense," the same reason Ekfelt was transferred to another job. Ekfelt had worked out of the Ladners' on-campus home and was paid by the university to coordinate their social schedule.

It was not clear why the board eliminated Scruggs's position now; he had been employed by the university since 1996. University presidents are expected to entertain a great deal as part of their fundraising and other duties, so many rely on caterers or, less commonly, chefs.

Scruggs was known at the Northwest Washington school for whipping up multi-course meals for the Ladners, as well as for their personal and university guests in Ladner's campus home and in a house he and his wife own on Gibson Island in Maryland.

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Sources knowledgeable about the case said Scruggs would sometimes be called late at night to cook dinner for the couple. Two chauffeurs who worked for the Ladners also said they often were required to take Scruggs's dirty white uniforms to a dry cleaner.

Ladner's base salary last year was $633,000, according to Internal Revenue Service records.

Special correspondent Ed O'Keefe contributed to this report.

Va. Student's Disappearance Now A Criminal Investigation (WP)

By Leef Smith, Washington Post Staff Writer

The Washington Post, September 16, 2005

Although there is still no evidence that she has been harmed, the search for missing Virginia Commonwealth University freshman Taylor Marie Behl was upgraded yesterday to a criminal investigation, and an Amber Alert was issued in the case late last night.

Richmond police, who have taken the lead in the case from campus police, said they decided to open a criminal investigation based on three factors: The search involves a juvenile; more than a week has passed without a solid lead in the 17-year-old's disappearance; and an increasing number of tips are coming in because of national media coverage.

Law enforcement officials said the involvement of Richmond police will enhance the search for Behl, of Vienna, who was last seen by a roommate in their dorm room Sept. 5.

"They have the resources and the experience to get this investigation much further than the campus police were able to," said Behl's mother, Janet Pelasara, who welcomed the development as a fresh start. "They did their best, but they didn't have the manpower or the experience to handle this type of investigation."

In the Amber Alert, issued after 11 p.m. by the Virginia State Police, Behl was described as five-feet-six, 135 pounds, with brown eyes, light brown hair, pierced ears and a pierced nose. Police said she may be traveling in her car, a white 1997 Ford Escort with Virginia tag JPC-2848.

Amber Alerts disseminate information about missing and abducted children through the media and on highway signs.

Earlier yesterday, a task force was formed yesterday to pull together local, state and federal partners including VCU police, Virginia State Police, the FBI and the Virginia attorney general's office in the search for the Madison High School graduate.

"Whether Ms. Behl is still in Richmond, in state or out of state, we have the resources needed to locate her and bring her back to safety," said Richmond police spokeswoman Cynthia Price.

Pelasara described her daughter as a someone who obeyed her curfew "99 percent of the time" and was a friend to the Vienna police, whom she got to know while working at her hometown Starbucks.

"She didn't drink; she wasn't a partier," Pelasara said. "She didn't do drugs. She's a simply a bright, beautiful, engaging girl."

Behl was last seen about 10 p.m. Labor Day after a late dinner at a local cafe. She found her roommate in their room with a boyfriend and told her that she would leave for a while to give them privacy, police said.

Police said she was wearing jeans and a hooded black sweat shirt and took only her keys and a credit card, although Pelasara said her daughter did not have her credit card with her.

Police said Behl continues to receive e-mails but has not logged on to read them. Her credit card has not been used, and the last call on her cell phone was made the night she disappeared.

Police said dozens of tips generated in the past week have failed to provide credible information on Behl's whereabouts or the location of her car.

"It's just baffling to us that with this kind of exposure, that nothing has panned out," said VCU police spokeswoman Pam Lepley. "There always was concern, but now it's been raised to a new level."

Pelasara said her daughter had about $40 in cash with her when she disappeared. Because Behl had so little money with her, Pelasara said she believes her daughter "couldn't be involved in this on her own."

Police ask anyone with information about Behl or her car to call the Richmond police tip line at 804-514-8477 or VCU police at 804-828-1196.

Staff writer Jamie Stockwell contributed to this report.

DOJ_NMG_0006016

Photographer Gets Prison Sentence For Diaz Shots (LAT)

From A Times Staff Writer

The Los Angeles Times, September 16, 2005

A photographer was sentenced Thursday to prison for trying to extort $3 million for nude pictures of superstar Cameron Diaz he had taken early in her career.

John Rutter was sentenced to three years and eight months in prison for perjury and attempted grand theft under a sentence imposed by Los Angeles County Superior Court Judge Michael E. Pastor.

The charges against Rutter, 42, stemmed from a daylong photo shoot in 1992 in an abandoned Los Angeles-area warehouse. Diaz, then a 19-year-old unknown, posed topless, wearing fishnet stockings and leather.

In the years after the shoot, her career took off. Such films as "The Mask" and "There's Something About Mary" earned her a place on Hollywood's A-list and paychecks of up to $20 million a film. Rutter approached Diaz with the racy photos in 2003, a week before the premiere of "Charlie's Angels: Full Throttle," in which she co-starred, saying he had interested buyers.

Rutter's attorney, Mark Werksman, called the July trial a battle between a "rich and famous celebrity" and a "hardworking photographer."

Deputy District Attorney David Walgren downplayed the celebrity aspect of the case in statements to reporters, saying that, had the victim been someone other than Diaz, the case still would have been prosecuted "in the same courts" and "in the same manner."

Walgren had asked for the sentence the judge imposed.

Diaz testified that she felt no shame or embarrassment about the photo session.

"I kind of bought into thinking I would like to do images that are great images -- rather than just a model who sells clothes," Diaz testified in July. "I didn't think of them as pornographic. I didn't think of them as perverted."

CIVIL LAW:

Bush Endorses Plan To Close 22 Bases (WP/AP)

By Deb Riechmann, Associated Press

The Washington Post, September 16, 2005

President Bush yesterday endorsed a plan for closing 22 major military bases and reconfiguring 33 others, leaving their fate to Congress.

Bush had until next Friday to either accept the entire report from an independent commission and send it to Congress or return it to the commission for further work.

The report will become final in 45 days unless Congress acts to reject it in full. Communities probably have little hope of a reprieve for their bases, as lawmakers have never rejected such reports.

Bush had said that for the process to be "nonpolitical" the commission's decision would have to stand. He got the report last Friday from the nine-member Defense Base Closure and Realignment Commission.

Bush's submission of the report comes as his administration and Congress are preoccupied with aiding the hurricane-ravaged Gulf Coast and other priorities. A GOP-led effort in the Senate to derail the base-closing process, which Republican leaders feared could embarrass them, has fizzled.

The commission said its recommendations would mean annual savings of $4.2 billion, compared with $5.4 billion under the plan it received in May from Defense Secretary Donald H. Rumsfeld. Rumsfeld had recommended closing 33 major bases and reducing personnel at 29 others.

The commission largely endorsed Rumsfeld's vision to restructure the domestic network of military bases to save billions of dollars over the next two decades and streamline the Army, Navy and Air Force.

But commissioners did recommend keeping open several major bases against the Pentagon's wishes, including a shipyard in Kittery, Maine; a submarine base in Groton, Conn.; and Air Force bases in South Dakota and New Mexico.

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The commission denied politics played a role in any decisions, even as it voted to keep open bases in the home states of Sen. John Thune (R-S.D.) and other senators leading the opposition. That all but eliminated the possibility of congressional intervention.

In the House, a majority of members overwhelmingly support this round of closures and consolidations, the first in a decade.

CIVIL RIGHTS:

Gonzales Says Justice Department Will Fight To Keep Pledge In Public Schools (AP)

By MARK SHERMAN, The Associated Press

AP, September 16, 2005

WASHINGTON -- Attorney General Alberto Gonzales said Thursday that the Justice Department will fight to overturn a federal court ruling that the Pledge of Allegiance can't be recited in public schools because it contains a reference to God.

Gonzales said the pledge is one of several expressions of national identity and patriotism that mention of God but don't violate the Constitution's ban on state-sponsored religion.

The high court "has affirmed time and again that such official acknowledgments of our nation's religious heritage, foundation and character are constitutional," Gonzales said in a statement a day after the ruling by U.S. District Judge Lawrence Karlton in Sacramento.

Karlton's decision could put the issue on track for another round of Supreme Court arguments. The court sidestepped the issue last year, ruling atheist Michael Newdow had no standing to bring the case on behalf of his daughter because he did not have custody of her.

The Bush administration had opposed Newdow on the same basis that Gonzales set forth Thursday. Newdow also is involved in the latest case, acting as attorney for three parents challenging the pledge because it includes the words "under God."

Gonzales is widely viewed as a leading contender for retiring Justice Sandra Day O'Connor's seat on the Supreme Court because he is close to President Bush. Gonzales' statement of support to keep "under God" in the pledge could appeal to religious conservatives, who have expressed concerns about him as a potential justice because he has not stated opposition to the 1973 Roe v. Wade decision legalizing abortion.

The Becket Fund, a religious rights group that is a party to the pledge case, said it would appeal to the San Francisco-based 9th Circuit Court of Appeals, which held the `under God' provision of the pledge unconstitutional in 2002.

The decisions by Karlton and the appeals court conflict with an August opinion by the 4th U.S. Circuit Court of Appeals in Richmond, Va. That court upheld a Virginia law requiring public schools lead daily Pledge of Allegiance recitation, similar to the requirement in California.

Mother Of Pledge-battle Girl Vows To Fight For `under God' (KRT)

By Jim Puzzanghera

Knight Ridder, September 16, 2005

WASHINGTON - (KRT) - Sandra Banning, the Sacramento, Calif.-area mother of the girl who helped trigger the legal battle over the Pledge of Allegiance that flared anew this week, came to the nation's capital Thursday with a pledge of her own:

To do everything she can to keep the pledge in schools and the phrase "under God" in the pledge.

The day after a Sacramento federal judge revived the controversy by ruling that reciting the pledge in public schools is an unconstitutional violation of the separation of church and state, Banning's efforts became intertwined with the Senate Judiciary Committee hearings for Supreme Court nominee John G. Roberts Jr.

Banning publicly urged his confirmation in hopes that he would rule against the case brought by her 11-year-old daughter's father, Michael Newdow, the atheist and amateur lawyer who has argued before the Supreme Court that the pledge should be kept out of public schools. And to help rally support for the Pledge of Allegiance as the case works its way again toward the high

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court, she's forming a grass-roots advocacy group, the "One Nation Under God Foundation," affiliated with the conservative Traditional Values Coalition.

Banning and other Roberts supporters said they hoped the pledge issue would give an additional boost to his nomination. Roberts, a conservative who has vowed not to be a "judicial activist" who broadly interprets the Constitution, finished four days of questioning Thursday with a strong likelihood of being confirmed by the Republican-controlled Senate.

"A judge's job is to interpret the Constitution and laws, not to be a social engineer who tries to remake our culture by ridding it of traditional values that we, the citizens, hold dear," Banning, 45, said at a previously scheduled news conference with other Roberts supporters. "It is critical that judges such as Judge Roberts be on the Supreme Court bench when the case is heard."

Banning learned of the new pledge ruling when she arrived Wednesday at the airport in Washington. She said the court decision gave her new impetus to push for Roberts' confirmation.

"I've watched some of the hearings. I've watched the interviews. I have confidence in President Bush," said Banning, who later attended the confirmation hearings. During a presidential debate last fall, Bush said, "I wouldn't pick a judge who said that the Pledge of Allegiance couldn't be said in a school because it had the words `under God' in it."

Thursday, the Senate condemned the ruling, and Attorney General Alberto Gonzales said the Justice Department would again "defend the ability of American school children to pledge allegiance to the flag."

Wednesday, two Republican senators mentioned the ruling shortly after the news broke, but Roberts was not asked about his position on the case during this week's confirmation hearings because he has declined to answer questions about issues on which he may have to rule.

Several Republican senators have criticized Wednesday's ruling, saying it showed why Roberts was needed on the Supreme Court.

"I think it highlights one of those moments where the courts overstepped," Sen. Mel Martinez, R-Fla., said in an interview, "and at a time when we're trying to get consideration of this potential justice who's been so clear in his views of not imposing his will, but expressing the law."

Typical of their contentious relationship, which has involved a nasty, long-running custody battle over their 11-year old daughter, Newdow and Banning disagreed on how Roberts would rule.

"He sounds like a very intelligent, thoughtful man, and if he applies the principles underlying the Constitution ... then I have absolutely no doubt he would rule in my favor," Newdow said in a telephone interview.

The case started in 2000 when Newdow, a former Sacramento resident now living in Texas, objected to his daughter's reciting the pledge with her kindergarten class in the Elk Grove Unified School District. He argued that the government was telling her he was wrong to be an atheist because the pledge declares this is "one nation, under God."

Banning, a Christian, opposed his suit. After the San Francisco-based 9th Circuit Court of Appeals stunned the nation in 2002 by agreeing with Newdow that the pledge was unconstitutional, the Supreme Court agreed to hear the case.

Newdow, a doctor with a law degree, became a legal celebrity, a novice lawyer who received special permission to argue his case before the high court in March 2004. The justices dismissed the case three months later on a technicality, ruling Newdow did not have custody of his daughter when he filed the lawsuit and therefore did not have standing to bring it to the courts.

He re-filed the case on behalf of three unnamed parents from the same school district. After Wednesday's ruling, the case again could be headed to the Supreme Court.

"We won on a technicality. A win is a win. We'll take it," said Banning, who is self-employed provider of administrative support services for various companies. "It's given us at least another year and a half, maybe two, to educate the American public ... kind of stir the pot, if you will, on why these cases are important."

Banning, who never married Newdow, said she has tried to shield their daughter, now in the sixth grade, from the case. The girl, whose name has been kept out of the media, knew her father was in the media Wednesday and asked Banning about it.

"I've reassured her many, many, many times ... reminding her that he has the right as a citizen of this great nation to file these cases," Banning said. "But equally so, mom has the right and, I believe, really the necessity to stand up for cases of this nature."

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Justice Dept. Settles Voting Rights Suit (AP-Y2)

AP2, September 16, 2005

The Justice Department said Thursday it has dropped its voting rights lawsuit against Boston after city officials agreed to provide voting materials in Chinese and Vietnamese, and to allow federal observers to monitor polling places.

The agreement comes six weeks after the federal government filed a lawsuit — part of what it said is a national initiative — alleging that Boston's election practices discriminate against Hispanic and Asian American voters who do not speak English.

"The city of Boston is to be congratulated for agreeing to resolve this matter in a constructive and forward-looking manner," Bradley J. Schlozman, acting assistant attorney general for the department's civil rights division, said in a news release announcing the agreement.

When the suit was filed, Schlozman alleged that Boston's violations were "deeply disturbing."

A city lawyer at the time called the claims "unsubstantiated." City officials said they already provide ballots in English and Spanish.

Seth Gitell, a spokesman for Mayor Thomas Menino, said Thursday the agreement does not say the city did anything wrong. "What the city objected to originally was to signing a consent decree and acknowledging wrongdoing," he said.

The announcement Thursday said Boston agreed to provide ballots, registration notices and other forms in Spanish, Chinese and Vietnamese. Boston also agreed to provide more training to poll workers regarding the Voting Rights Act.

Also, Boston agreed to a court order appointing federal observers to monitor polling places through 2008, the announcement said.

Hispanic residents comprise 14 percent of Boston's 590,000 residents, while Chinese and Vietnamese residents make up just over 5 percent, according to 2000 Census figures.

Next, Massachusetts (WP)

The Washington Post, September 16, 2005

FOR THE SECOND time in as many weeks, a state legislature has bucked the ugly trend of writing discrimination against gays into state law. Last week, the California Assembly voted to allow same-sex marriage. This week, lawmakers in Massachusetts decisively rejected a proposed constitutional amendment to overturn the state's Supreme Judicial Court decision acknowledging gay marriage rights. The lopsided vote, 157 to 39, provides a kind of backhanded legislative validation of the court's ruling, which had been much derided for usurping the legislative function. Lawmakers have not voted to create same-sex-marriage rights, but they have decided not to take them away. The vote shows that as people grow used to gay marriages, which have been taking place in Massachusetts for more than a year, their discomfort -- and the political impetus for banning them -- diminishes.

The vote certainly overstates support for same-sex marriage in Massachusetts, for the fiercest opponents of gay marriage also opposed the specific amendment under consideration. The amendment would replace full marriage equality with civil unions, and some opponents have thrown their support instead behind a proposal not to recognize same-sex relationships at all. Still, the tide is clearly turning, and minds are changing. Only last year, after all, the Massachusetts legislature passed this amendment. This year, even excluding those who voted against it because they favor something harsher, a clear majority opposed it on the grounds that they affirmatively support marriage equality.

Work remains to be done. Under the Massachusetts constitution, lawmakers are likely to confront the more draconian version of the constitutional amendment, and, even with relatively scant legislative support, it could go before the voters in 2008. But public opinion is moving in the right direction, and the reason is not hard to discern: Since the high court's ruling went into effect, a lot of couples have tied the knot in Massachusetts, and, somehow, the sun has continued to rise in the east. Many people are realizing that it costs heterosexual marriage nothing for same-sex marriage also to exist. The longer people have to absorb that lesson, the more support for banning marriages between committed couples is likely to erode.

ANTITRUST:

DOJ_NMG_0006020

Microsoft, AOL Discuss Online Partnership (AP)

By ALLISON LINN, AP Business Writer

AP, September 16, 2005

SEATTLE — Microsoft Corp. and Time Warner Inc. have been discussing potential online partnerships that would help the two companies better compete against rivals Google Inc. and Yahoo Inc., two people familiar with the talks said Thursday.

They two said the discussions have been going on for months and that any possible deal is not imminent.

Microsoft and AOL — who just two years ago settled a bitter antitrust lawsuit over Microsoft's tactics in the Internet browser market — are discussing possible collaboration in search technology, online advertising and instant messaging, said the two sources, one of whom is an executive with Time Warner's America Online unit.

The other source, who works closely with Microsoft and has been involved in company discussions on the possible partnership, said the talks have heated up in the last couple weeks but are not advanced.

Both sources spoke on condition of anonymity.

Time Warner spokeswoman Susan Duffy and Microsoft spokesman Jim Desler declined to comment on the talks, which were first reported in Thursday's editions of the New York Post.

The AOL executive said one aspect of the talks originally centered on using Microsoft's new MSN search engine on AOL, replacing AOL's current relationship with Google.

More recently, the executive said, the two companies have been talking about the possibility of deeper relationships, such as collaborating in the lucrative market of selling advertising online.

Such a collaboration could allow the two companies to benefit from growing interest in search-based advertising, helping them better compete against search leaders Google and Yahoo.

But, the executive said, "the discussions are not advanced."

The person familiar with Microsoft's thinking said the company's MSN unit has always been interested in striking a deal that would allow it to benefit from AOL's market-leading instant messenger program.

AOL's instant-messaging product, AIM, had more than 53 million unique users in August compared to about 29 million for the competing MSN Messenger, according to Nielsen/NetRatings.

Time Warner shares rose 58 cents, or 3.2 percent, to close at $18.50 Thursday on the New York Stock Exchange. Microsoft shares were down 4 cents to close at $26.27 on the Nasdaq Stock Market.

Shares of Time Warner have traded between $15.82 and $19.90 in the past 52 weeks. Shares of Microsoft have traded between $23.82 and $30.20 during the same period.

Redmond-based Microsoft and Time Warner's AOL unit have clashed in the past.

In the spring of 2003, Microsoft agreed to pay Time Warner $750 million to settle an antitrust suit over charges it used strong-arm tactics to make Internet Explorer the dominant Web browser, displacing AOL's Netscape.

Microsoft In Talks On AOL Link: Source (REU)

By Kenneth Li

Reuters, September 16, 2005

NEW YORK (Reuters) - Time Warner Inc. (NYSE:TWX - News) and Microsoft Corp. (NasdaqNM:MSFT - News) are discussing ways they could combine their Internet assets, including the possibility of an investment by the software giant, sources familiar with the matter said on Thursday.

"There have been talks on ways Microsoft and AOL assets can be better leveraged and they've taken place over the normal course of business ...," one source said, calling reports of a joint venture "way overblown."

Time Warner declined comment. Microsoft was not immediately reachable.

Shares of the world's largest media company rose 3 percent after the New York Post reported on Thursday the two were talking about a joint venture.

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Talks of a Microsoft stake in the AOL division was one of several scenarios under review, a separate source familiar with the matter said. "There has been discussions about Microsoft investing in Time Warner," one source said, who also said nothing was imminent.

A combination would create the single largest Internet audience pool by unique visitors and forge a formidable online competitor in a field currently led by Yahoo Inc. (NasdaqNM:YHOO - News) and Google Inc. (NasdaqNM:GOOG - News)

AOL and MSN would have a combined unique audience of about 167.8 million, although there would likely be duplicates. This compares to Yahoo's 101.3 million unique visitors and Google's 80.4 million in August, according to Nielsen/NetRatings.

Discussions on search and combining advertising forces began early this year, but have evolved over the past several weeks into finding ways to combine the businesses.

While they could advance further, working out issues such as how much AOL is valued and other structural concerns have been "difficult" and nothing was imminent, a source added.

Broad discussions on how the two companies could work together began two years ago after the companies settled a long-running antitrust suit that America Online, a unit of Time Warner, filed against the software giant, the source said.

One analyst said Microsoft, which debuted its search engine late last year, was likely looking to replace Google as the underpinnings of AOL's search services. About 11 percent of Google's revenue came from AOL in the first half of 2005. "MSN may want to sell search to AOL," said Matt Rosoff, an analyst at Directions on Microsoft, an independent research firm based in Kirkland, Washington.

Meanwhile, Time Warner has been under pressure to boost its stock price, which has fallen 70 percent over the past five years. Corporate raider Carl Icahn this week said he planned to seek one or more shareholder-nominated board seats at the company to force changes.

Icahn has demanded that the company raise its stock buyback program to $20 billion from Time Warner's existing commitments of up to $5 billion and completely spin off its cable division.

One investor was cheered by the discussions and said anything that could add some $4 per share to the stock price from improvements at AOL was a good sign.

"Management is not asleep at the switch," said Larry Haverty, a portfolio manager at Gabelli Asset Management, which has a stake of about $286 million in Time Warner.

"Anything you can do to move the needle in that direction is terrific for shareholders."

Low ball estimates for AOL are about $10 billion with improvements possibly doubling that valuation, Richard Greenfield, an analyst at Fulcrum Global Partners said.

Time Warner shares closed up 58 cents at $18.50 on the New York Stock Exchange.

Trading activity in Time Warner options also spiked up on Thursday. Some 88,014 calls and 43,581 puts traded in Time Warner in the U.S. options market, above its normal volume of 23,824 contracts, according to Track Data.

Microsoft Is In Talks To Buy A Stake In AOL As Google Looms (WSJ)

By Julia Angwin And Robert A. Guth, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

Demonstrating its growing concern about Google Inc., Microsoft Corp. has entered talks with Time Warner Inc. about taking a substantial stake in the media giant's America Online unit, said people familiar with the matter.

The conversations have centered on whether AOL would switch to using Microsoft's search engine instead of Google's, these people said, as well as other areas of potential cooperation. AOL and Google shared about $380 million in revenue last year derived from displaying ads on AOL's search results.

The talks, which are described as preliminary, have also included discussions of combining the advertising sales forces of AOL and Microsoft's MSN online service, these people said.

Time Warner and Microsoft spokesmen declined to comment. The talks were reported yesterday by the New York Post.

AOL and Microsoft once were fierce rivals, and the rapprochement indicated by the talks shows how much the Internet landscape has changed. Just a few years ago, AOL and Microsoft battled over dial-up Internet customers and Web browsers.

Now the dial-up business is in decline and the big prize in the industry is advertising revenue, an area in which both AOL and Microsoft lag behind Google and Yahoo Inc.

Internet advertising now is the fastest-growing segment of the media industry, with revenue rising 21.4% to $7.4 billion last year, according to TNS Media Intelligence. Adding AOL visitors to those who use Microsoft's search service would give Microsoft a much larger potential base of people who would see the ads the service displays.

Last year, Yahoo raked in revenue of about $3.6 billion, primarily from advertising. Google was close behind with revenue of about $3.2 billion, also primarily from ads. Meanwhile, AOL garnered ad revenue of only about $1 billion and MSN eked out $1.4 billion in ad revenue in the fiscal year ended June 30.

The talks also signal a strategic shift for Time Warner, which had long resisted pleas from some investors to get rid of all or part of its ailing Internet arm, which came to the company when the old AOL bought Time Warner in 2001 in what became a disastrous merger. Time Warner Chairman Richard Parsons declared last year that the company wouldn't sell or spin off AOL "any time soon," citing the promise of capturing a greater share of the Internet ad market. "Our challenge is to articulate to Wall Street that there is a Yahoo inside of AOL ... so that some of that Internet fairy dust gets sprinkled on AOL," Mr. Parsons said then. The unit also generates a lot of cash, despite an ongoing decline in subscribers.

Since then, AOL has revamped its AOL.com Web site, offering free access to many of the features once available only to AOL's paying subscribers -- in the hopes of winning more advertising revenue. But a person close to the situation says Mr. Parsons would likely be willing to sell a stake in AOL if Time Warner could keep a "sizable" stake for itself, in order to benefit from a turnaround at AOL. A person familiar with the talks says AOL has not discussed selling a stake to other companies such as Google or Yahoo.

People close to the discussions say that the size of Microsoft's possible stake in AOL hasn't been determined and that investment bankers haven't been engaged. And the price of the stake is likely to be a sticking point. In the past, Mr. Parsons has balked at offers for AOL that fell below the price he has put at about $20 billion.

The discussions show how Microsoft now sees Google as a major adversary. Microsoft's MSN unit has built a viable search engine modeled after Google's but isn't making the advances in market share and other measures that executives had hoped for, say people familiar with MSN. These people say that the internal goal for the MSN search team by year's end is to beat Google on the "relevance" of search results. But Microsoft may not hit that goal as it struggles to learn techniques to increase the quality of results, many of which Google likely already uses, and as Google continues to expand its reach.

Google is also encroaching on Microsoft's personal-computer turf. The company last year rolled out free software that makes it quicker and easier to search and find information stored on a PC, including emails contained in Microsoft Outlook and documents in Microsoft Word. Microsoft swiftly moved to protect its flank, rolling out a similar "desktop search" feature that will have the capability to be built into versions of Windows and Office software coming next year.

At Microsoft's annual meeting with financial analysts in July, Chief Executive Steve Ballmer likened his company's pursuit of Google to Microsoft's well-chronicled battle with International Business Machines Corp. in business software more than a decade ago. Microsoft ultimately prevailed in many of those markets. Mr. Ballmer said then that the company will "do what it takes to keep coming and coming and coming and coming on this front."

Relations between Microsoft and AOL began to thaw in 2003, when Microsoft agreed to pay $750 million to settle an antitrust lawsuit brought by AOL's Netscape division. At that time, the two companies also agreed to cooperate on the development of copyright-protection technology.

Since then, the companies have worked together to fight spam and cooperate on other technology issues. In January, Microsoft briefed AOL executives about its new search engine, said a person close to the situation. At that meeting, Microsoft said it would try to make it financially beneficial for AOL to switch to its technology, this person said, adding that the discussions have been "on and off" since January and that many different proposals have been floated.

Although AOL's Internet-access business is in decline, AOL still generates a lot of traffic -- making it a rich prize for search engines that thrive on huge volumes of users. Sites that are 100% owned by AOL collectively drew 112.4 million unique visitors in July, according to comScore Media Metrix.

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Since 2002, AOL has been using Google's search engine under an agreement that calls for AOL to keep about 80% of the ad revenue generated by searches by AOL users, according to a person familiar with the deal. In 2004, AOL received about $300 million in revenue from the arrangement.

The contract hasn't expired but people close to AOL say the company has the option to walk away; Google wouldn't comment. "Google and AOL have a healthy global partnership and AOL remains a valued partner," a Google spokesman said.

--Kevin J. Delaney contributed to this article.

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Time Warner, Microsoft Talk Of Joint AOL-MSN Search Project (USAT)

By Byron Acohido And Laura Petrecca, Usa Today

USA Today, September 16, 2005

SEATTLE — Time Warner and Microsoft are discussing the possibility of combining some aspects of America Online and MSN to become a larger force in Internet search and search-based advertising.

No deal is imminent, said two executives with direct knowledge of the talks, who declined to speak for attribution because discussions are still fluid. It could evolve into a strategic alliance or joint venture, with Microsoft taking a stake in AOL.

The companies declined comment. But industry analysts said, if consummated, the deal could shake up the world of Internet search. Stakes are high in paid search, the practice of aligning topical ads with objective search results. Paid search has become a $6 billion to $10 billion a year business, with 90% of that revenue split roughly equally between Google and Yahoo, says Chris Sherman, editor of trade newsletter SearchDay. Neither company discloses paid search revenue.

If AOL and MSN join forces, AOL would likely dump Google as its behind-the-scenes supplier of search services, says Chris Winfield, president of search marketing firm 10e20. AOL and MSN would shift their combined search audiences — and the advertisers who cater to them — to MSN's fledgling search services, Winfield says.

Microsoft launched MSN Search in February. That allows MSN to stop contracting basic search from Yahoo. MSN continues to contract paid search from Yahoo.

But MSN has begun piloting a cutting-edge paid search service, called MSN AdCenter, in France and Singapore. A worldwide launch is expected by early next year, says Matt Rosoff, analyst at research firm Directions on Microsoft.

Once MSN AdCenter is launched, an AOL-MSN search partnership could be “hugely significant. It's the best way for Microsoft to suck some air out of paid search, the fastest-growing part of the Internet advertising market,” says Rosoff.

Much hinges on how well Microsoft builds a following for MSN Search, a key to persuading advertisers to patronize MSN AdCenter. Nielson/NetRatings' July ranking of search services gave Google a 46% share to Yahoo's 23%, MSN's 13% and AOL's 5.4%.

“Taking a close look at all technical options is the right thing for them (AOL and MSN) to be doing,” says Charlene Li, search analyst at Forrester Research.

At present, Google and Yahoo allow advertisers to associate their pitches with search results without any way to target specific users. But MSN AdCenter can direct ads to search engine users categorized by age and gender.

“AdCenter has been designed from the ground up to allow marketers to target ads more effectively,” says Kevin Lee, chairman of search marketing firm Did-it.com.

AOL and MSN could tap into archived demographic data they already keep on subscribers. “That could be a key driver behind a strategic alliance,” Lee says.

Microsoft Said To Be In Talks On Forming Link To AOL (NYT)

By SAUL HANSELL

The New York Times, September 16, 2005

Microsoft and Time Warner have explored a variety of possible combinations of the MSN Internet portal with the America Online operation of Time Warner, including a merger of the two into a new company that would be jointly owned, according to several people involved in the talks.

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The discussions were initiated by Microsoft, which has Google, its new archrival, clearly in its sights. Microsoft is trying to focus its Internet operations on its developing Web search product rather than its Web portal and Internet access business, which it no longer sees as strategically important.

Microsoft offered to sell its MSN Internet portal and dial-up subscriber business both to America Online and to Yahoo, according to several people with knowledge of the talks. While Yahoo considered and quickly rejected the proposal, Time Warner, the parent of America Online, expressed interest.

Top executives at the companies discussed a variety of potential transactions as recently as three weeks ago. Those talks, however, are in suspension as Microsoft considers its strategic position, people involved in the discussions said.

Representatives of Time Warner, Microsoft and Yahoo declined to comment.

The most elaborate proposal being discussed would involve combining America Online with the MSN Internet portal and dial-up Internet business, creating the world's largest Internet company. The venture's Web search would be provided by Microsoft. That combination would be a significant blow to Google, which provides the Web search on AOL's services. This year, 11 percent of Google revenue came from advertising it placed on AOL sites.

A combination of AOL and MSN would have 18 percent of the search market in the United States, according to Nielsen NetRatings, making it third after Google, with 46 percent, and Yahoo, with 23 percent.

Indeed, much of Microsoft's motivation to do such a deal is to head off a threat it sees from Google. Microsoft's worry is not so much Google's Web search business.

Microsoft sees in Google the potential to offer a variety of Internet services, using Google's vast network of servers, making it less necessary for people to buy Microsoft software or even computers with the Microsoft Windows operating system. Moreover, Google could offer free desktop software as well, supported by its network of advertisers.

"Ultimately Microsoft knows that the software landscape will shift from the desktop to the hybrid of the Internet and the desktop," said Gene Munster, an analyst with Piper Jaffray. "Google has thrown out warning shots that they will be players in many of the significant areas of software."

Time Warner, meanwhile, has been trying to figure out if AOL fits into its amalgamation of companies, especially because AOL's core dial-up Internet access business, while profitable, is shrinking as customers shift to high-speed service provided by telephone and cable companies.

AOL has been trying to build a free, advertiser-supported portal business. Combining that effort with Microsoft's large MSN portal, along with Microsoft's popular Hotmail e-mail service, could accelerate AOL's progress toward its goals.

The merged company would leap past Yahoo as the biggest Internet portal and have a more credible case to make to advertisers. Another advantage of a deal is that MSN is strong in many countries while AOL has focused mainly on the United States and a few European countries.

Being able to describe AOL as a leader and bring in the backing of Microsoft, Time Warner executives hope, may reverse investors' negative perception of AOL, which they believe has been dragging down Time Warner stock.

If such a deal were successful, the venture might eventually issue shares to the public. AOL's management has long wanted the flexibility of making acquisitions with a separate stock as well as independence from Time Warner, where many executives still resent the terms of the 2000 merger of the two companies.

Michael Nathanson, an analyst with Sanford C. Bernstein, said such a deal would probably help Time Warner's stock. "The deal will be trumpeted so much that the stock will go up," he said.

The discussions of potential deals are said to have begun early this year, when Microsoft approached AOL in hopes of persuading it to drop Google and use MSN's new Web search service. (Microsoft has been having similar talks with nearly every major company that offers Internet search.) Talks progressed and explored many options, from a combination of ad sales staff to a full merger of AOL and MSN.

The possibility of a deal by Microsoft and AOL was first reported by The New York Post.

A deal with AOL could provide widespread distribution for Microsoft's search system and a platform for developing Microsoft's own Internet-based services. An AOL merger would also provide a graceful exit from MSN's stagnant dial-up Internet service business, which still has several million subscribers.

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But Microsoft would also have to give up some control over the future of technology that could be strategically important to its future. Bill Gates, Microsoft's chairman, is not known for giving up control of anything. Indeed, MSNBC, Microsoft's 50-50 joint news venture with NBC, has been a source of friction, because Microsoft executives believe it has limited their ability to make decisions on their own. Indeed, disentangling Microsoft's contract with NBC may well be one of the most difficult parts of pursuing a deal with Time Warner, which owns the rival CNN network.

Some important issues in the talks remain undecided. For example, both AOL and Microsoft want to control a combined instant messaging system, which each company sees as strategically important technology. Another question is how much traffic Microsoft would direct to the combined venture.

Until recently Microsoft was able to use its browser and other software to direct people to MSN by default. But a combination of legal settlements and contract changes have allowed computer makers to set their own default home pages for browsers. The next version of Windows is designed to be even more neutral about Internet services, thus providing less of a boost for MSN. Indeed, that is one reason Microsoft is now interested in getting out of the Internet portal business.

The financial terms of a transaction have not been fully explored because they depend on which assets would be combined. Because AOL is bigger and more profitable than MSN, Time Warner would own a majority of a combined operation, unless Microsoft put up cash to increase its stake. Analysts value AOL at $10 billion and $20 billion.

Mr. Nathanson said he hoped the companies do not create a venture in which the owners have equal control because such arrangements typically become bogged down in wrangling. "There has to be the lead dog," he said, "and someone has to give up control to make it work."

Richard Siklos and Andrew Ross Sorkin contributed reporting for this article

AOL, Microsoft Discussing Possible Internet Joint Venture (WP)

By David A. Vise, Washington Post Staff Writer

The Washington Post, September 16, 2005

Microsoft Corp. is considering acquiring a stake in Time Warner Inc.'s America Online Inc. unit, one of a number of possible Internet joint ventures the two companies are discussing, people familiar with the talks said.

While no transaction is imminent, a broad range of options is under review, said sources who spoke on condition of anonymity because the talks are confidential. Those options include combining Microsoft's MSN online service with Dulles-based AOL, establishing a combined advertising sales force and enabling users of their separate instant messaging services to communicate with each other.

The talks, reported yesterday by the New York Post, are part of a broader set of discussions between Microsoft and Time Warner that began following an antitrust settlement between the companies two years ago. As part of that, the corporate giants have been working together closely on the development of digital rights technology that would enable computer users to download motion pictures for a fee.

The prospect of Microsoft acquiring a stake in AOL grew out of a Microsoft proposal earlier this year to make its MSN search engine the main search provider on AOL, replacing Google Inc. "Microsoft is looking to put more eyeballs in front of its search engine," said David Card, an analyst with Jupiter Research.

But AOL turned the offer down. Such a move would have given Microsoft the kind of clout it has been seeking in its fierce battle with fast-growing search engine leader Google, which earned more money from its partnership with AOL last year than from any other relationship.

After AOL rejected the MSN search proposal, the parties began examining other ways to combine forces online that would lead investors to assign greater value to their Internet operations.

"It is no big secret that Microsoft and Time Warner have gotten closer over the last couple of years," said Scott Kessler, an analyst with Standard & Poor's Corp. "The fact that there are these talks is not a surprise. The question ultimately would be how this would be structured, what the price would be and those types of things. A lot of folks observing this are taking a wait-and-see attitude."

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Google, which Wednesday raised more than $4 billion by selling fresh stock to the public, also reaffirmed its close ties to America Online. Google provides search and ads for AOL in the United States and Europe.

"Google and AOL have a healthy global partnership, and AOL remains a valued partner," Google spokesman Michael Mayzel said yesterday.

Officials from Microsoft and Time Warner declined to comment publicly on the prospects for a deal.

In its discussions with Microsoft, Time Warner has made it clear that it wants to continue to own a substantial chunk of AOL, sources said. America Online gives the New York-based media giant an Internet presence. AOL has roughly 20 million subscribers -- and generates a mountain of cash annually. Through the main AOL Internet service and other properties including Moviefone and MapQuest, the entire AOL network has a monthly audience of about 112 million computer users, according to ComScore Media Metrix.

One possible outcome would be for Time Warner and Microsoft to each own stakes in a combined AOL-MSN operation. In that event, sources said, Microsoft probably would also pay Time Warner cash, since AOL has a more robust business than MSN. Both sides are continuing to analyze exactly what businesses they might be willing to put into a combined operation and what each would seek from the other party.

The high-level discussions about a possible transaction have involved senior officials from Time Warner and Microsoft, as well as top executives of their respective AOL and MSN units. They are occurring against the backdrop of shareholder activist Carl C. Icahn pressing Time Warner to spin off its cable television division and take other steps to boost its flat stock price. But sources said the discussions predate Icahn's recent arrival on the scene and are part of Time Warner's continuing efforts to translate its far-flung media holdings, including Warner Bros. Entertainment Inc., People magazine and Home Box Office Inc., into a higher stock price.

Another possibility that has been discussed is putting AOL and MSN into a newly created entity that would sell stock to the public, with Time Warner and Microsoft continuing to be its major shareholders. This move would be aimed in part at ramping up the size of AOL and MSN to compete better with their larger rival, Yahoo Inc., and its 119 million unique users.

One source familiar with the talks said he considered a transaction combining AOL and MSN as complicated and a long shot. But he said that if the parties can figure out how to create more value by joining forces, a deal of some kind remains possible.

The main driver behind the discussions appears to be that AOL and MSN want to participate more fully in the growth in online advertising. "Google and Yahoo are growing faster in ad revenue than the other two," Jupiter's Card added.

ABN Stands Ready To Buy Antonveneta (WSJ)

By Gabriel Kahn In Rome And Edward Taylor In Frankfurt, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

ABN Amro Holding NV's tentative agreement to buy a 30% stake in Banca Antonveneta SpA from Banca Popolare Italiana Scarl after a bitter battle clears the path for the first-ever takeover of a large Italian bank by a foreign lender and could pave the way for more, a prospect that seemed remote just several weeks ago.

The sale, which values Antonveneta at €8.2 billion ($10 billion) and was agreed to late Wednesday, still faces legal and regulatory hurdles. It would give control of Antonveneta to ABN just two months after ABN's cash offer for the bank failed.

But a criminal probe involving BPI's bid dashed its takeover plans and raised serious questions about the role played by Italy's chief banking regulator, Bank of Italy governor Antonio Fazio. Evidence amassed by Italian prosecutors indicates that Mr. Fazio had a close relationship with BPI Chief Executive Gianpiero Fiorani and that the central banker acted to ensure that BPI's bid won regulatory approval.

If the Dutch bank wins control of Antonveneta, it would mark the first crack in a regulatory wall that has prevented foreign banks from taking over large Italian ones. ABN Amro has held stakes in Antonveneta and in another large Italian bank, Capitalia SpA, for years, but had been frustrated by its inability to gain control of either. Antonveneta, based in the wealthy northern city of Padua, would give ABN a broad new terrain for its retail operations.

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ABN Amro's chief executive, Rijkman Groenink, will be under pressure to convince shareholders that acquiring Antonveneta is part of a cohesive growth strategy. In the past, some have criticized him for making scattershot acquisitions with no overall goal. ABN employs 98,000 people and operates in more than 60 countries, including a large presence in retail banking in the U.S. Midwest.

The Dutch bank is expected to offer €26.50 a share -- the same price it made in its failed public offer this summer, according to people familiar with the negotiations. The bank already has raised €2.5 billion to fund the Antonveneta transaction by issuing 135 million new shares. ABN Amro already held a roughly 30% stake in Antonveneta, and should the BPI sale go through, ABN would control more than half of Antonveneta's shares. Under Italian law, ABN Amro will have to launch another all-cash offer for the remaining shares once it receives regulatory approval.

"BPI has expressed its intention to sell their shares to us. We have the intention to buy that stake, although an agreement has yet to be signed," an ABN Amro spokesman said. BPI said in a statement that it wanted to complete the deal by Wednesday.

ABN Amro would be the first foreign bank to own more than 15% of the voting shares in a large Italian bank, a precedent that could see more foreigners seeking a greater presence in Italy, one of Europe's most fragmented banking markets, analysts say. European banks have long eyed the Italian banking sector, which is potentially lucrative because of the high fees banks charge their customers. In the 1990s, Deutsche Bank AG acquired a small local lender called Banca Popolare di Lecco.

"We will see more foreigners coming back to Italy," said Marcello Zanardo, an analyst with Keefe Bruyette & Woods.

There are many foreign banks with stakes that, in time, could be expanded to controlling positions. Spain's Banco Santander Central Hispano SA has an 8.5% stake in Turin-based Sanpaolo IMI. France's Crédit Agricole SA has a 17.8% stake in Banca Intesa SpA, and Germany's Commerzbank AG has a 2.8% stake in Intesa, as well. ABN Amro's success could also hasten consolidation among banks in Italy, said Mr. Zanardo.

Hurdles remain. Many Italian banks have shareholder pacts that lock up ownership and make hostile bids problematic. ABN Amro's bid, though among the most aggressive ever by Italian standards, was endorsed by Antonveneta's board.

This year, Spain's Banco Bilbao Vizcaya Argentaria SA launched a bid for Rome-based Banca Nazionale del Lavoro SpA, but was beaten back at the last minute by a counteroffer from midsize Italian insurer Unipol Assicurazioni SpA. BBVA complained that the Bank of Italy had thrown up obstacles to its bid, and prosecutors have been looking into that deal as well.

The climate for foreign banks remains highly uncertain, said Stefano Caselli, professor of banking and finance at Milan's Bocconi University. ABN's apparent victory came only as a result of an unusual investigation, not because of a change in the regulatory environment. "The whole regulatory framework is up in the air right now," Mr. Caselli said.

Mr. Fazio's alleged role in aiding BPI has prompted calls for his resignation, but he has clung to his post. Still, if another foreign bank were to try to buy an Italian lender, Mr. Fazio's actions would be watched closely.

The widening criminal probe left BPI with little choice but to sell out. Last month, a judge impounded BPI's stake after prosecutors alleged it acquired the shares improperly. Though BPI and allies held a majority of Antonveneta, the judge's ruling effectively froze BPI's plans.

Before the sale can be completed, a judge must formally unfreeze the BPI shares. In addition, both the Bank of Italy and Italian stock-market regulator Consob must void BPI's public offer for the bank. Before its board voted to back the stake sale, BPI held informal talks with both Consob and the Bank of Italy to ensure that the sale would be allowed to proceed.

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Could Airlines Merge? Little Route Overlap For Delta, Northwest (USAT)

By Marilyn Adams, Usa Today

USA Today, September 16, 2005

Delta Air Lines and Northwest Airlines entered bankruptcy court together this week, and few will be surprised if they emerge together — as a single combined carrier.

The twin Chapter 11 bankruptcy filings Wednesday night, almost simultaneous and in the same New York courthouse, are leading many industry experts to believe the carriers may be exploring a merger within bankruptcy protection.

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"I wouldn't be at all surprised," Benchmark analyst Helane Becker said Thursday. "In the past, these two airlines have talked and they have very little route overlap."

JPMorgan Chase analyst Jamie Baker said his firm "already has coined the term 'Delta Orient,' " a play on Northwest's former brand name, Northwest Orient.

Atlanta-based Delta is concentrated in the East and launches more daily flights across the Atlantic than any other carrier. Eagan, Minn.-based Northwest is concentrated in the Midwest and has a strong route structure in Asia.

The minimal route overlap is considered an advantage with federal regulators.

Airlines proposing a major merger would have to convince government regulators that the combination would not significantly reduce competition, or that one or both of the airlines would fail without the merger.

Northwest declined comment when asked about a merger with Delta. In a conference call Wednesday, Northwest CEO Doug Steenland said the timing and location of the filings was coincidental. He added he has long believed consolidation among airlines is likely.

Delta spokeswoman Chris Kelly said Delta "expects there will be more consolidation in the industry. Right now, Delta is focused on its own restructuring efforts."

The twin filings, outrageously high fuel prices and declining hope for financial relief from the government could spark a round of merger talks as the remaining big troubled airlines scramble for partners.

A judge today is expected to approve a merger between US Airways and America West Airlines. Five big potential partners remain: United Airlines, Delta and Northwest, all of which are now in bankruptcy protection, as well as American Airlines and Continental Airlines.

A merger of No. 3 Delta and No. 4 Northwest would propel the combined airline to the front of the industry pack. It would pass American and United and become the biggest airline in terms of revenue passenger miles, according to an analysis by Back Aviation Solutions.

Draft Legislation Aims To Aid Competition In Broadband Services (WP)

By Arshad Mohammed, Washington Post Staff Writer

The Washington Post, September 16, 2005

A key House committee released draft legislation yesterday requiring broadband providers to allow their subscribers to view any legal online content, a policy aimed at keeping big Internet companies from restricting access to competitors' Web offerings.

The House Energy and Commerce Committee draft is a victory for advocates of "net neutrality" -- the idea that Internet providers have to stand aside and allow customers to access any Web pages as long as the content is legal. The principle is considered crucial to preserving the open nature of the Internet and preventing big broadband providers from squeezing out smaller competitors that offer voice, video or other services.

Another provision in the proposed law also makes it easier for telephone companies to offer television over high-speed lines. It seeks to free cable and telephone companies from having to negotiate video franchises with numerous local authorities around the country, instead giving the Federal Communications Commission more authority over the process.

That would largely benefit the major telephone companies like Verizon Communications Inc., SBC Communications Corp. and BellSouth Corp., which hope to offer television over fiber-optic lines. Yesterday, officials at those companies reacted favorably to the legislation.

Other aspects of the draft legislation are aimed at making sure cable and telephone companies get equivalent regulatory treatment as they offer broadband Internet access.

The draft is a first salvo from the committee, which is led by Texas Republican Joe Barton, in what is likely to be a lengthy battle in Congress over any rewrite of the 1996 Telecommunications Act.

Kroes: EU Inquiry May Lead To Changes (AP)

By AOIFE WHITE, The Associated Press

AP, September 15, 2005

DOJ_NMG_0006029

Sep. 15, 2005 - A European Union antitrust inquiry into retail banking may lead to changes in the way European banks are regulated, EU Competition Commissioner Neelie Kroes said Thursday.

She said an ongoing investigation may be widened to see how regulation affects customer choice.

"Do public rules that may have a legitimate objective end up making markets more rigid and limit competition and consumer choice?" she asked European regulators at a twice-yearly meeting in London. "We want government to protect the consumer, but we also need to protect the consumer from the government."

The EU launched its investigation earlier this year, saying it wanted to look at areas where it thought competition was not functioning as well as it might.

Kroes said it was hard for consumers to get clear comparative information about products to allow them to make informed choices.

The head of the Irish Competition Authority, John Fingleton, said a national investigation into problems in Ireland's banking sector showed that banks often had customers for life.

"No company ever wants to give their customers information that could help them switch," he said.

There was nothing illegal in banks or insurance companies dragging their heels when customers asked for information, he said. But such "perfectly rational competitive behavior" led to a static banking market with few new providers.

The Irish government has made changes to help customers change banks, although Fingleton said people were still slow to switch over.

Sir Callum McCarthy of Britain's Financial Services Authority warned that consumers' ability to make financial decisions is "too often inadequate" because of basic literacy and math problems.

"We live in a society where individuals are being asked to make more and more financial decisions, many of which were previously taken for us," he said.

Poor math skills pose a problem for regulators because they assume that consumers are able to make an informed choice, have access to information they can understand and are dealing with financial providers who behave responsibly.

"In the retail market for financial services, all three of these conditions pose problems, particularly for investment products," he said.

Financial companies sometimes feed the problem. McCarthy cited one example of jargon-filled mail to customers which told them about "negative retrospective augmentation."

DaimlerChrysler Wins Reduction In EU Antitrust Fine (Update3) (BLOOM)

Bloomberg News, September 16, 2005

Sept. 15 (Bloomberg) -- A European Union court today annulled most of a 72 million-euro ($88 million) antitrust fine against DaimlerChrysler AG, ruling that the regulator was wrong to say the automaker broke EU law in Germany and Spain.

DaimlerChrysler, the world's fifth-largest carmaker, was fined in 2001 for breaking EU free-trade laws by instructing dealers in Spain, Germany, the Netherlands and Belgium not to sell to bargain hunters from other EU nations between 1985 and 1996.

The European Court of First Instance in Luxembourg cut the fine to 9.8 million euros, saying in a statement today that DaimlerChrysler acted ``unilaterally'' in Germany and therefore didn't break EU rules. In Spain, the automaker acted in line with national legislation, the court said. The tribunal upheld the EU's decision about the company's Belgian operations.

The European Commission, the EU's Brussels-based antitrust regulator, has sought to bring down car prices by dissolving the exclusive ties between carmakers and dealerships. Starting in October 2002, the EU rules broke carmakers' lock on sales networks, permitting dealers to expand and sell different brands in the same showroom.

A spokeswoman for the Stuttgart, Germany-based automaker said today's decision showed that it had acted lawfully. The company may appeal the part of the ruling about Belgium, said the spokeswoman, who declined to be identified.

Appeal Considered

Either side of the case can appeal the judgment to the European Court of Justice, Europe's highest court. Such an appeal can only be made on points of law and not on the facts of the case.

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``We will see over the course of the next two months whether there are points of law where we want to go to the Court of Justice," commission spokesman Jonathan Todd told reporters at a daily briefing in Brussels. The commission welcomed the Belgian part of the ruling and will ``very carefully" study the parts of its decision that were overturned, he said.

Former Competition Commissioner Mario Monti said that during the five-year investigation, DaimlerChrysler refuted initial suspicions that it had a ``general strategy" to interfere with trade across EU borders.

The commission said the decision was based on documents seized when the company's headquarters were raided in 1996, as well as subsidiaries in Spain, Belgium and the Netherlands.

The commission highlighted three sets of violations by DaimlerChrysler. The company told dealers to require non-Germans to put a 15 percent deposit on Mercedes-Benz cars bought in Germany. Germans were exempt from this practice.

DaimlerChrysler also restricted competition between its own leasing companies and independent leasing companies by refusing to sell cars to the independents until they had found customers.

The automaker also sold fewer cars to dealers in Belgium who wouldn't comply with an order to restrict rebates to no more than 3 percent of the purchase price, according to the commission.

The case is T-325/01 DaimlerChrysler AG v Commission.

To contact the reporter on this story: Matthew Newman in Brussels at mnewman6@bloomberg.net. Last Updated: September 15, 2005 06:46 EDT

EU Court Reduces Antitrust Fine Against DaimlerChrysler On Competition Rules (FINDLAW/AP)

Find Law, September 16, 2005

(AP) - BRUSSELS, Belgium-The European Union's Court of Justice reduced an antitrust fine against automaker DaimlerChrysler AG on Thursday to â,¬9.8 million (US$12 million) from â,¬71.8 million (US$88.2 million), annulling a decision by EU regulators that it violated competition rules in Germany and Spain.

The EU judges, however, upheld a decision on DaimlerChrysler's conduct in Belgium, where they said the company participated "in an anti-price-slashing agreement with the Belgian dealers."

The European Commission found DaimlerChrysler guilty in 2001 of infringing EU rules by preventing cross-border sales of the Mercedes-Benz brand, restricting price competition between dealers.

The EU court said, however, that under EU competition rules DaimlerChrysler could not be found guilty in Germany because it acted alone there.

The Commission had considered German dealers independent. Under EU rules, two companies have to coordinate "anticompetitive conduct" for a cartel violation to occur, the court ruled.

The Court in this case scrapped the Commission's initial fine of â,¬47.025 million (US$57.9 million).

In Spain, the EU court said DaimlerChrysler followed local law by forcing leasers to link each car with a contracted customer. The Commission had argued that this prevented local dealers from stocking up on Mercedes vehicles and created an artificial shortage. But the court said the Spanish law was "not contrary" to any EU law and overturned the â,¬15 million (US$18.47 million) fine.

Thursday's ruling follows earlier EU court decisions to reduce fines against car companies. Volkswagen AG had its antitrust fine reduced in 2003, from more than â,¬100 million (US$123.14 million) to â,¬90 million (US$110.83 million).

The Commission overhauled its auto-market competition rules in 2002. Manufacturers no longer are allowed to force dealers to sell only one brand, and for the first time, they are able to sell cars outside their home country.

ENVIRONMENT/INDIAN AFFAIRS:

Spitzer's New Target: Tree-Eating Beetles (LAW/AP)

By Michael Gormley, The Associated Press

Law.com, September 16, 2005

DOJ_NMG_0006031

Four states sued the Bush administration Thursday over an invasive, tree-eating beetle that has entered the U.S. as a stowaway on cargo ships.

The Asian long-horned beetle, along with the emerald ash borer and the pine shoot beetle, are the culprits named in the lawsuit by attorneys general from New York, California, Connecticut and Illinois.

The states are seeking a court order to require the Agriculture Department to examine more effective and less environmentally harmful ways to prevent the insects from entering the country, said New York Attorney General Eliot Spitzer.

State officials say the insects would cause extensive economic and environmental damage if they move from cities like New York and Chicago to working forests.

The pests enter the country in wooden pallets and wood-based packaging. The state officials contend that federal officials use a "marginally effective" pesticide, which is being phased out under an international treaty as unsafe to humans.

Also, they said the USDA is following a new rule that requires wooden shipping pallets and other wood packaging material carrying imports to be treated with heat or sprayed with methyl bromide, a chemical the state officials say depletes the ozone and could be a cancer risk.

"It simply doesn't follow that USDA officials are proposing to ramp up its use, and endanger air quality and public health, especially when there are proven non-chemical alternatives," said California Attorney General Bill Lockyer.

One option would be to replace raw wood pallets with pallets made from plywood, processed wood or recycled plastic, a potentially expensive remedy.

The USDA is abiding by international treaties and is reviewing the lawsuit, said department spokeswoman Kristin Scuderi.

The Nuclear Waste Site In Utah (NYT)

The New York Times, September 16, 2005

While few people outside Utah were paying close attention last week, the Nuclear Regulatory Commission authorized the licensing of a private storage plant for spent nuclear fuel rods on an Indian reservation some 50 miles southwest of Salt Lake City. Utah's outraged political leaders pledged to use every legal and political trick available to block the project even though, as representatives of a very conservative state, they supposedly abhor bureaucratic or judicial interference with private corporate decisions. Their contention - that the storage site, backed by a consortium of eight utilities, would pose a safety hazard - seems overblown. If the project should clear all of the remaining regulatory, legal and commercial hurdles, it could provide a useful interim storage site while the nation seeks a more permanent burial site deep underground.

The government's long-term goal is to bury the waste in stable geologic formations that will be resistant to leaks for eons to come. Unfortunately, progress has been slow. The only site approved for evaluation - at Yucca Mountain in Nevada - has been hobbled by technical problems and legal challenges. Meanwhile, spent fuel rods have been piling up in cooling pools and in dry-storage casks at nuclear reactor sites around the country.

So far as is known, the used fuel rods can be left there safely for decades. But it becomes awkward and costly to guard and maintain the storage casks after the reactors themselves have been retired from service. Several reactors have already been shut down, and more are apt to follow. In some cases, the spent fuel rods sit on land that might have more valuable uses. Unless these used fuel rods can be sent to Yucca, a destination that has not yet been approved to receive them, it seems desirable to have a backup site.

The question of whether Utah is the best place for such a site has never been addressed. Private Fuel Storage, a company set up by the utilities, simply negotiated a deal with a small, poor Indian tribe, the Skull Valley Goshutes, for an undisclosed but presumably substantial amount of money. The site seems safe enough. The Atomic Safety and Licensing Board and the Nuclear Regulatory Commission - both charged with protecting the public from nuclear hazards - approved the project after an exhaustive eight-year process.

There are still hurdles to clear before the site can be developed. The state plans to appeal the decision in federal courts. It will also try to persuade the Bureau of Indian Affairs to withhold approval of the lease and will ask the Bureau of Land Management to deny a right of way needed for a rail spur to haul spent fuel to the site. So there is plenty of room for political interference should the Bush administration wish to do Utah a favor.

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Meanwhile, Private Fuel Storage will need to sign up enough customers to make the project financially viable. Some utilities in the consortium are reported to be in no great rush to ship fuel rods to the site only to then ship them a second time, to Yucca.

We remain hopeful that Yucca can qualify as a permanent disposal site. But if Yucca fails to pass muster with the Nuclear Regulatory Commission, the nation will need a centralized surface site to fill the gap until a safe burial location can be found. The Indian reservation in Utah can fill that purpose.

Hearing on Indian Trust Judge Delayed (WP)

The Washington Post, September 16, 2005

A federal appeals court panel has decided it will not hear arguments today about whether U.S. District Judge Royce C. Lamberth has lost the appearance of impartiality in overseeing a lawsuit involving billions of dollars the government may owe Native Americans.

The appeals court panel was scheduled to consider another dispute in the case along with the government's unusual July request to remove Lamberth as the presiding judge. Lamberth has repeatedly ruled that the Interior Department has refused to properly account for property, rent and gas and oil royalties owed to Indians, a duty the government took on when it seized management of Indian lands more than a century ago.

But the three-judge panel issued an order late yesterday saying they will instead refer the issue of Lamberth's perceived fairness to a later panel of judges considering another appeal dispute in the case, Cobell v. Norton . That means that the Justice Department is not likely to hold a hearing on its complaints about the judge until spring, based on the appellate court's already full schedule this year.

FBI/DEA/ATF/USMS:

Top Attorney To Admit Guilt In Pot Conspiracy (MH)

By JAY WEAVER

The Miami Herald, September 16, 2005

In February, federal agents rustled a prominent lawyer out of bed to bust him at his Miami Beach waterfront home.

Today, Samuel I. Burstyn is scheduled to plead guilty to scheming with his former clients to obstruct a federal grand jury's investigation into their drug-trafficking operation and himself.

Burstyn -- once a defense attorney in demand who counted bad Miami cops, tennis star Boris Becker's ex-wife and former Panamanian dictator Manuel Noriega's right-hand man among his clients -- faces five years in prison.

He must forfeit about $200,000 and is expected to lose his law license.

U.S. District Judge William J. Zloch has insisted on a "full confession" from Burstyn at the Fort Lauderdale plea hearing, according to a court document filed Tuesday. Normally, federal judges leave it up to the defendant to decide whether to say anything at such hearings.

Burstyn's lawyer, Fred Haddad, and Assistant U.S. Attorney Brian McCormick declined to comment on Thursday.

Burstyn, 52, has been held without bond in the Miami Federal Detention Center since the morning of Feb. 23, when agents from the FBI, Internal Revenue and local law enforcement arrested him at his $4.5 million Miami Beach home on Sunset Island.

He pleaded not guilty to 12 counts of conspiracy, money laundering, obstruction of justice and making a false declaration to a federal grand jury. In his deal with prosecutors, he is expected to plead guilty to one count of conspiring to obstruct justice.

The other 11 counts would be dismissed.

McCormick and fellow prosecutor Michael Dittoe have said Burstyn acted as "house counsel" for marijuana smugglers Jeffrey Tobin, David Tobin and others.

Burstyn allegedly loaned money to a Tobin business associate, advised the Tobins to invest their drug proceeds into diamonds, instructed them to lie to the grand jury and, in one case, urged Jeffrey Tobin to flee from justice.

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Prosecutors made their case against Burstyn by first targeting the Tobins, who eventually provided incriminating information about the lawyer in exchange for more lenient sentences.

In 2003, Burstyn allegedly contacted a business associate to help Jeffrey Tobin hide more than $600,000 in drug proceeds through the purchase of diamonds, according to the indictment. Tobin wired the money for the diamond purchase that October.

The following year, a Fort Lauderdale federal grand jury indicted the Tobin-led ring. David Tobin and others were arrested that January, but Jeffrey Tobin became a fugitive. FBI agents caught up with him in March 2004 in New York City, where Burstyn represented him at a bond hearing.

In less than a year, Burstyn was charged, along with the Tobin organization, with trying to obstruct justice. Prosecutors dubbed them the ``Enterprise."

Among the allegations: ``Burstyn would organize meetings with potential witnesses in order to convince them to provide false and misleading information to a federal grand jury and law enforcement officials."

Coast Guard Seizes Cocaine In Pacific (AP)

AP, September 16, 2005

BOGOTA, Colombia - The U.S. Coast Guard, acting on Colombian intelligence, intercepted a ship towing an unmanned submarine-like vessel that held more than 2 tons of cocaine, Colombia's anti-narcotics police chief said Thursday.

The boat was raided Wednesday off the coast of the Ecuadorean-owned Galapagos Islands, Gen. Alberto Gomez told reporters. The underwater capsule, which was attached by a metal cable, was designed so smugglers could tow it below their boat and escape detection if drug agents searched the ship.

Although similar capsules have been seized in the past, Gomez said that increased vigilance in the Pacific has forced drug smugglers to come up with increasingly creative ways to hide their illegal shipments.

Separately, 2.5 tons of cocaine were discovered Wednesday hidden in the oil tanks of a ship docked in the Colombian Pacific port of Buenaventura, Adm. Jairo Pena, commander of Colombia's Pacific fleet, said in a statement. Eight suspects were arrested.

He said the cocaine was likely going to be taken to Central America from where it would be shipped on to the United States.

Colombia is the world's biggest produce of cocaine and a major supplier of heroin to the United States. The Colombian navy has this year seized a record 46 tons of cocaine.

Also Thursday, authorities seized $4.5 million worth of counterfeit American currency during a raid on a clandestine printing workshop in south Bogota, police said in a statement. The network had been sending the money to Ecuador and Venezuela, where the U.S. dollar is widely accepted as legal tender.

Police have so far this year seized $20 million in counterfeit bills, compared with a total of $7.4 million in 2004.

Plea Deal Goes Awry (PROJO)

By W. Zachary Malinowski And Mike Stanton, Journal Staff Writers

The Providence Journal, September 16, 2005

PROVIDENCE -- Mob associate Alan Blamires was set to plead guilty yesterday to charges that he guarded a large shipment of cocaine that was passing through Rhode Island last winter.

At least that's what the judge, prosecutor and Blamires' defense lawyer thought.

But in an unusual and unexpected development, the plea agreement fell apart. Blamires told Chief U.S. District Court Judge Ernest C. Torres that he was "fuzzy and blurry" from medication to control his violent tendencies and did not understand the charges against him.

Suddenly, Blamires blurted out, "I have pertinent information about Joseph Bevilacqua that I'm trying to get to the prosecutors."

Torres told him that he should talk to the prosecutors.

"They won't let me," said Blamires.

Torres canceled the hearing and put Blamires' case on the trial calendar for October.

Afterward, in the hallway outside the courtroom, First U.S. Attorney Kenneth P. Madden said that he would be willing to talk to Blamires, but he would have to plead guilty, first.

"I have no idea what he wants to say," Madden said.

Last Friday, Bevilacqua, a prominent defense lawyer from a politically influential family, was sentenced to 18 months in federal prison for lying about his role in providing a surveillance videotape to TV newsman Jim Taricani.

Taricani was ordered to serve a sentence of six months of home confinement for refusing to disclose Bevilacqua as his source.

Bevilacqua also has been the target of a Drug Enforcement Administration investigation. DEA agents have spoken to Courtney Calenda, an East Greenwich teenager, who has accused Bevilacqua of sexually assaulting her and supplying her with cocaine.

Last week, Calenda and her parents sued Bevilacqua in Kent County Superior Court.

In January, Blamires, 49, was arrested with mobster Matthew L. Guglielmetti and Anthony P. Moscarelli in an FBI sting operation. Guglielmetti reached an agreement with an undercover FBI agent that he would protect 67 kilograms of cocaine that was passing through Rhode Island.

Guglielmetti, who recently was sentenced to more than 11 years in federal prison for his role in the scheme, recruited Blamires and Moscarelli to guard the cocaine in a hotel.

Moscarelli also has pleaded guilty to criminal charges and is awaiting sentencing.

Yesterday, Madden detailed for the court Blamires' role in guarding the drug shipment, which was kept in a local hotel. The prosecutor said that the government was willing to request a shorter prison term -- still a mandatory minimum of 10 years in prison -- based on Blamires' willingness to plead guilty and his "minor role" in the affair.

But when Torres quizzed Blamires about whether he was able to comprehend what he was admitting to, the defendant, who appeared disoriented, said that he couldn't, because of three different medications he was taking for "posttraumatic stress," a condition for which he has been treated at the Johnston Mental Health Center.

"It makes you fuzzy and blurry," he told Torres. "It doesn't make you sharp. They give [the medication] to me in the morning, so I don't get violent and worked up."

Blamires' lawyer, Richard K. Corley, then asked his client a series of questions in an effort to clear up the confusion.

That prompted an agitated Blamires, a large, burly man, to tell Corley: "You told me that all I was admitting to was that I went to a hotel room to guard something. That's the truth."

Madden told Torres, "I don't think the drugs are affecting him, but I think his view of how criminally culpable he is, is different from the government's."

Still, under the circumstances, Torres said that he had no choice but to refuse to allow Blamires to plead guilty.

After the hearing, marshals shackled Blamires with a chain around his waist, in addition to the usual handcuffs and leg irons. He quietly shuffled from the courtroom.

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Local Men Plead Guilty (STANDEM)

Standard Democrat, September 16, 2005

CAPE GIRARDEAU - Two Southeast Missouri men entered guilty pleas on drug charges in federal court.

Adrian L. Lewis, 25, of Charleston pled guilty to one felony count of distribution of cocaine base and one felony count of distribution of five grams or more of cocaine base. He appeared before United States District Judge Charles A. Shaw.

With the plea, Lewis admitted that on July 10, 2002, and Dec. 16, 2002, he sold a total of 9.2 grams of “crack” cocaine to a Southeast Missouri Drug Task Force officer.

Lewis now faces a maximum punishment on count one of 20 years imprisonment and a $1,00,000 fine. He faces a maximum punishment on count two of 40 years in prison and a $2,000,000 fine. Sentencing is set for Nov. 21.

Joe Lenzie Turner, a Scott County resident, entered a plea of guilty to one felony count of distribution of cocaine base. He appeared before U.S. district Judge Charles A. Shaw on Tuesday.

Turner now faces a maximum of 40 years imprisonment and a $2,000,000 fine, followed by a period of supervised release of at least four years. Sentencing is set for Nov. 22, in Cape Girardeau.

With his plea, Turner admitted that on May 20, 2005, he distributed a substance containing base (also referred to as "crack") to a confidential informant. Specifically, Turner gave the informant 5.4 grams of cocaine base in exchange for $300. The sale occurred at a location on County Road 427 in Scott County.

United States Attorney, Catherine L. Hanaway commended the Drug Enforcement Administration and the Sikeston Department of Public Safety for their combined efforts to prosecute the case.

Meth Dealer Gets Prison Time (LYNNA)

Lynchburg (VA) News & Advance, September 16, 2005

Despite several tearful pleas from friends and family, a Lynchburg federal judge blasted a Rustburg man Thursday for his role in the selling of methamphetamines.

"You don't know how many lives were destroyed … Generations of others will be coming through this courtroom because of his actions. You're old and in pain. That's not an excuse," U.S. District Judge Norman K. Moon said.

Moon didn't believe Clayton "Sonny" Keyes' story that he only started using meth in 2001 because his back pain had become so painful, and that he began selling the drug only to support his addiction.

Keyes, 55, pleaded guilty in April 2004 to conspiracy to distribute more than 15 kilograms of methamphetamine and possession of a firearm. He has already served two years in jail since his arrest.

On Thursday, Moon gave Keyes nearly 10 additional years in prison, despite calling the prosecutor-recommended sentence "overly generous."

Moon agreed with prosecutors, describing Keyes' role in the drug ring as a leader, saying it was "absurd" to say Keyes was selling only enough to support his own needs.

"Very few drug dealers are making a profit while supporting their habit," he said.

Keyes is one of dozens of Central Virginians convicted after a three-year investigation by the FBI and Central Virginia Drug Task Force, which includes federal, state and local law enforcement officials.

The investigation has resulted in more than 30 arrests, nearly $4 million in court-imposed judgments and the seizure of large amounts of cash, drugs and firearms.

More than 20 friends and family members crowded into the courtroom Thursday morning. The room echoed with muffled cries and sniffles and people shook violently as they wept, including Keyes himself.

Witnesses repeatedly smiled at Keyes as they walked by, reaching for his hand and whispering, "I love you."

"He's a wonderful husband. He always took care of me," wife Rose Keyes testified.

Keyes' daughter called her father an inspiration who worked hard to make a life for his family.

Several people said Clayton Keyes was in constant pain after falling off a dock at work several years earlier and that, even with painkillers, the pain only worsened.

Keyes, his eyes puffy and red-rimmed from crying, sobbed as he read a prepared statement on the stand.

"In 2001, my brother gave me meth. He told me it would make me forget I had a back. He was right. For the first time in years, I didn't feel any pain," Keyes said.

"I had the energy to play with my grandkids. I liked to work on cars and I could do so for hours. It really was a miracle drug for me."

Keyes said he didn't realize what he had done until his arrest.

"Jail broke me down. I'm a broken man," he said. "If you give me 10 years (in prison), you give me a death sentence. I've seen what meth did to me and my family. I will do 100 years of probation. I will do a million years of community service. I will talk to others about this evil drug."

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Defense attorney Carter Garrett called his client "a pawn" in the conspiracy and told the judge Keyes got swept up in the drug use and was as much a victim as the people he sold to.

"He just lost his mind in his addiction. He's not a criminal at heart," Garrett said.

Garrett started to ask the judge how many drug dealers come into court at his client's age with no prior record and a 30-year marriage and having worked a steady job, but the judge cut him off.

"By far, more and more people. He's not the oldest to (come before me)," Moon said.

Assistant U.S. Attorney Tim Heaphy said Keyes was fortunate to have such a supportive family, but that they only knew one side of Keyes.

He pointed out that in addition to methamphetamines, investigators found cocaine, 29 firearms, $60,000 in cash and a closed-circuit surveillance setup installed at Keyes' house.

"He was a significant methamphetamine trafficker in this area. He was a supervisor, a manager, who enriched himself by exploiting the weaknesses of others," Heaphy said, adding that Keyes received numerous meth packages from California suppliers at his house.

After court, Heaphy said the case was another example of the dangers that come with using meth.

"People who are upstanding and productive, it takes over their lives," he said. "People like Keyes, they take it a step further. They see the potential of making money and that's when we get involved."

Borderline Crime (MISSIND)

By Jessie McQuillan

Missoula Independent, September 16, 2005

Loretta Nall, founder of the U.S. Marijuana Party and Alabama gubernatorial candidate, collects donations at Missoula's Hempfest Sept. 10 in Caras Park. Nall, who spoke to the crowd about Marc Emery, a Canadian fighting extradition to the United States on marijuana charges, says the money will help fund Emery's legal defense. BC's Prince of Pot faces extradition

While 4,000 people gathered in Caras Park Sept. 10 to support industrial hemp at Missoula's Hempfest, worldwide Smoke Out America protests calling for an end to the U.S. drug war drew thousands more. One protest, at the U.S. Consulate in Vancouver, British Columbia, had special urgency and a special guest. Marc Emery, aka "the Prince of Pot" who founded the British Columbia Marijuana Party [BCMP] as well as Cannabis Culture magazine and Internet-based Pot TV, showed up to rally for his own cause.

At the request of the U.S. government, Emery and two of his employees—Greg Williams and Michelle Rainey-Fenkarek—were arrested July 29 by Canadian police on U.S. charges of conspiring to distribute marijuana and marijuana seeds and money laundering. The charges stem from Emery's marijuana seed-selling business, Mark Emery Direct Seeds, reputedly the world's largest marijuana seed business, which had been in business for nearly a decade. According to the Drug Enforcement Agency, an 18-month investigation traced Emery's seeds to busted growing operations in nine states, including Montana, and the charges seek to hold the defendants responsible for those plants. The process of extraditing the "B.C. Three" is underway and each of the three charges could carry penalties of 10 years to life in prison. While Emery and his lawyer, John Conroy, are hopeful they can fight extradition successfully, they're also nervous because Canada and the United States have a long history of granting one another's requests.

Still, many factors besides Emery's alleged crimes feed into the issue—Canadian sovereignty and political persecution, to name two. Although selling seeds is technically illegal in Canada, the government there has deliberately ignored Emery's business—and dozens of similar ones—for several years, Emery says. Since 1999 he's paid $578,000 in income taxes openly generated by the seed business, Emery claims, and the Canadian health department even referred medical marijuana patients seeking seeds to his website.

"I've been selling seeds untouched for seven years, every day of my life," says Emery, who's out on bail. "Seeds have become so acceptable here, and the last time anyone was fined it was like a $500 fine in 2000."

He says he was surprised to find that the charges came from the States. Emery hasn't left his home country in eight years because he knows the DEA might arrest him overseas, but he figured he was safe in Canada.

Conroy says the fact that Canadian citizens may be harshly punished for something their own government chooses to ignore irks Canadians. A poll by the Canadian newspaper Globe and Mail backs that claim, showing that a majority of Canadians oppose extraditing Emery, and their interviews reveal concerns about Canadian sovereignty as well as the disparity between how Canadians and Americans enforce and sentence marijuana crimes.

Conroy says the main argument in Emery's favor is that the U.S. prosecution is politically motivated. Though DEA agents paint Emery as a greedy drug trafficker, Emery says he's dedicated the last 15 years to the cause of marijuana legalization and has donated all business proceeds—$4 million—to the movement and its activists, both in Canada and the United States.

A statement issued by DEA Administrator Karen Tandy the day of Emery's arrest goes a long way toward showing the true aims of U.S. prosecutors, Emery and Conroy say.

"Today's DEA arrest of Marc Scott Emery, publisher of Cannabis Culture Magazine, and the founder of a marijuana legalization group, is a significant blow not only to the marijuana trafficking trade in the U.S. and Canada, but also to the marijuana legalization movement… Hundreds of thousands of dollars of Emery's illicit profits are known to have been channeled to marijuana legalization groups active in the United States and Canada. Drug legalization lobbyists now have one less pot of money to rely on," the statement reads.

"That's revealing," says Emery. "It mentions the movement in four places. The whole thing is about politics…There are dozens and dozens of seed distributors in Canada but I'm the only one who's a political activist."

Though the timing of Missoula's Hempfest in relation to Smoke Out America was a coincidence, according to organizer John Masterson, the Caras Park appearance of U.S. Marijuana Party founder Loretta Nall was not. Nall, who's worked with Emery, Cannabis Culture and Pot TV since 2002, spoke to the crowd about Emery's case and collected more than $200 in donations for his legal defense.

Kirk Tousaw, the BCMP general counsel who's coordinating Emery's legal team, says the extradition process will likely take at least two years, and both the British Columbia Supreme Court and Justice Minister Irwin Cotler would have to approve the surrender of the B.C. Three.

Cotler could deny approval if he believes the crime's potential punishments would "shock the conscience" or that the prosecution is politically motivated. In addition to the political persecution argument, Conroy will argue before the BC Supreme Court that the disparity between the countries' sentences is shocking: "In the States it's 10 to life without parole—up here it's a fine…The maximum for production up here is seven years for any amount," he says. "We got rid of a mandatory seven-year minimum for import/export because it was cruel and unusual."

Tousaw says both Canadians and Americans should call upon Cotler to deny extradition. Emery's first extradition hearing is Sept. 16.

"It is a unique situation in this sense: We're talking about nonviolent, nonharmful people who have not set foot in the U.S., whose alleged activities were conducted in the open for political reasons, and who were not impeded in any way by the Canadian government," Tousaw says.

US Takes The War On Drugs To Canada's Prince Of Pot (GUARD)

Guardian (UK), September 16, 2005

One of the world's leading cannabis legalisation campaigners, a magazine publisher known as the "Prince of Pot", faces an extradition hearing today in Vancouver as American drugs agencies seek to put him on trial in the US. His supporters claim the move is a first step by US authorities to prosecute foreigners who challenge the US laws on cannabis.

Marc Emery, publisher of Cannabis Culture, faces charges of trafficking in marijuana seeds and money laundering. His supporters have been demonstrating outside Canadian embassies in more than 30 countries during the past week to urge Canada's authorities not to yield to pressure from the US and hand him over, arguing he could face a lifetime in prison if they did so.

Article continues

A former bookseller, Mr Emery became a cannabis campaigner 15 years ago, angered by a ban on selling publications that promoted cannabis use. He has since become one of the best-known figures in the cannabis debate worldwide and

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operates the small television station Pot-TV. His magazine, Cannabis Culture, founded in 1994, promotes the sale of marijuana seeds.

Mr Emery has paid C$578,000 (£267,000) in personal taxes between 1999 to 2005 on income that was explicitly from the sale of such seeds. He describes himself on his tax returns as a marijuana seed vendor and sends a free copy of his magazine to every Canadian MP.

The main charges he would face in the US are for selling the seeds - considered international drug trafficking. Money laundering charges might be levelled because the profits he makes from the sales are used to promote the legalisation of cannabis.

"I have always been very, very transparent in the way I have conducted a career," Mr Emery said in a message posted about his arrest on his website. "I have often described [what I do] as 'revolutionary retail' or 'capitalist activism'." He suspected the US authorities wanted to make an example of him.

"If I were to be extradited and prosecuted in the US, [I would face] probably life imprisonment," he said. "Under 'Drug Kingpin' legislation, selling over 60,000 seeds qualifies for the death penalty. I would be the first person under this recent law who could qualify to be executed for the activity I have clearly done with the tacit approval of everyone in Canada."

When the US drug enforcement administration undercover agent "tried to get me to sell her 10lbs of pot over the phone, I refused and told her that I always assumed my cell phone was monitored, so how could she be so foolish and naive. When she asked again at a later time, I lectured her at length. Not only did I not sell pot, but she was foolish to even think about importing pot to the USA."

The US authorities say that the action is a joint venture with the Canadians.

United States Decertifies Venezuela As Ally In War On Drugs (TD/KRT)

By Steven Dudley And Pablo Bachelet

Tallahassee Democrat, September 16, 2005

WASHINGTON - (KRT) - President Bush has taken Venezuela off his list of allies in the war on drugs, saying that the government of President Hugo Chavez spurned anti-drug cooperation with U.S. officials and fired its effective law enforcement officers.

But the White House waived the cuts in U.S. foreign aid usually attached to the "decertification" so that it can continue to support Venezuelan pro-democracy groups that oppose the leftist Chavez.

Bush's decision is expected to sharply exacerbate already bitter U.S.-Venezuelan relations roiled by Washington's charges that Chavez is promoting subversion around the hemisphere and the Venezuelan president's allegations that Bush is out to kill him.

The U.S. State Department's No. 3 official, Nicholas Burns, announced the Bush administration decision Thursday in New York City around the time Chavez was arriving there for a U.N. summit gathering. The only other nation decertified this year was Myanmar, formerly known as Burma.

Accompanying Burns, U.S. drug czar John Walters said that in the past Venezuelan cooperation on drugs was "quite successful and extensive" but that now it seemed that Chavez "no longer wants a productive relationship."

Venezuelan Vice President Jose Vicente Rangel said of the annual certification process required by U.S. law, "We reject it. ... it's infantile."

The White House said Venezuela had "failed demonstrably" to stem the flow through its territory of some 150 tons of cocaine and growing amounts of heroin, mostly coming from neighboring Colombia and bound for U.S. and European streets.

Venezuela's national counternarcotics director, chief narcotics prosecutor and head of the financial intelligence unit "were fired and replaced with Chavez loyalists who lack the necessary training," the statement added.

Caracas had failed to eradicate coca and poppy fields near its border with Colombia, it continued, and did little to stop corruption in law enforcement and the military.

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Only last month, Chavez ordered his government officials to stop cooperating with the U.S. Drug Enforcement Administration (DEA), accusing it of espionage and drug trafficking. U.S. officials denied the charges, and the Venezuelan investigators continued to work with the DEA.

DEA's activities in Caracas turned particularly sensitive last year amid complaints that high-ranking officers of the Venezuelan National Guard are involved in a drug-trafficking "Sun Cartel" named after the sun insignia that Venezuelan generals use on their epaulets instead of stars.

Guard officers earlier this year withdrew from an anti-drug task force that included the DEA, and took thousands of dollars of U.S. donated surveillance equipment. The equipment was returned later at the behest of the government's principal anti-drug office, known as CONACUID. But then the head of CONACUID was fired.

The U.S. government later revoked the visas of three National Guard officers for suspected involvement in drug trafficking, including Gen. Frank Morgado, former head of the Guard's anti-drug unit.

Venezuelan Interior and Justice Minister Jesse Chacon earlier this week proposed formally renewing the partnership with the DEA, and presented a written proposal to the U.S. Embassy in Caracas. But he added that the new proposal, among other provisions, prohibits DEA agents from participating in police operations there.

The Bush administration has repeatedly expressed concern about the alleged deterioration of democratic institutions in Venezuela, citing Chavez's control of the judicial and electoral systems and threats to the independent news media. Chavez insists that he's carrying out a radical but peaceful revolution on behalf of the nation's poor.

The waiver of the decertification sanctions - officially for national security interests - will allow the U.S. government to support democratic institutions there and "strengthen Venezuela's political party system," the White House said. The two nations remain dependent on each other since Venezuela provides 12 to 15 percent of U.S. oil imports.

A State Department official said Venezuela's refusal to sign a bilateral data-sharing agreement has made it impossible for Washington to show Caracas evidence that an increasing number of aircraft suspected of carrying drugs were flying in and out of Venezuela.

Venezuela also has long banned U.S. anti-drug surveillance overflights of its territory and more recently curtailed military-to-military cooperation on drugs, the White House announcement stated.

In anticipation of the decertification decision, Chacon announced earlier this week that Venezuelan authorities had seized a record 18.7 tons of cocaine in the first eight months of 2005, compared with 19.6 tons throughout 2004. Failure to recognize the government's anti-drug efforts showed Washington was acting for political motives, he said.

But U.S. officials told The Herald in Caracas that Chacon's numbers were vastly exaggerated because they included at least four tons seized aboard Venezuelan ships - by French and Dutch authorities in the Caribbean.

Bush Assails Venezuelan Anti-drug Efforts (TSSC)

By George Gedda

The State (SC), September 16, 2005

WASHINGTON - President Bush said Thursday that Venezuela "failed demonstrably" to make a concerted effort to block shipments of illicit narcotics to the United States and Europe last year.

The designation is certain to strain further U.S. relations with Venezuela's populist president, Hugo Chavez.

Venezuela could have been subjected to a cutoff of U.S. assistance, but Bush decided to waive the provision because of national security interests.

The United States has programs to support Venezuela's democratic institutions, establish community development projects and strengthen the country's political party system.

The administration decided not to cut these programs because they promote democracy in Venezuela, a key U.S. goal in a country where, officials say, the commitment to democratic norms has been eroding under Chavez.

Myanmar was the only other country listed as having failed to meet its obligations under international counternarcotics requirements. But it has received that same designation in previous years.

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Chavez had no direct comment Thursday on Bush's action but used the occasion of his presence at the United Nations summit of world leaders to take a verbal swipe at Bush.

"Mr. Bush represents the most crude and savage imperialism that threatens the world," Chavez said.

A White House "statement of explanation" about Venezuela said 165 tons of cocaine moved through the country last year along with increasing quantities of heroin.

"Despite an increase in drug seizures during the past four years, it is our assessment that the government of Venezuela has not addressed the increasing use of Venezuelan territory to transport drugs to the United States," the statement said.

In early August, Chavez accused the U.S. Drug Enforcement Administration of using its agents in Venezuela for espionage, and said Venezuela was suspending cooperation with the agency. The Bush administration denied the espionage charge.

Venezuelan Vice President Jose Vicente Rangel said Thursday that Venezuela "doesn't recognize" Washington's authority regarding drug classification, but remains willing to cooperate with the United States in fighting drug trafficking.

He said DEA agents would be welcome back in Venezuela under certain conditions.

Chavez claims that Venezuelan authorities have been very successful in detecting shipments of illegal drugs. He has said the United States, as the world's top consumer of drugs, does little to decrease consumption.

Bush's designation on Thursday adds to the growing list of issues between the United States and Venezuela. The administration is concerned about the close ties Venezuela maintains with Cuba and Chavez's perceived efforts to expand Venezuelan influence in other Latin American countries.

The administration also has strong doubts about whether Chavez will uphold Venezuela's tradition of free and fair elections.

Venezuela was included on a White House list, issued annually, of major drug transit or drug-producing countries. The others are Afghanistan, the Bahamas, Bolivia, Brazil, Colombia, the Dominican Republic, Ecuador, Guatemala, Haiti, India, Jamaica, Laos, Mexico, Myanmar, Nigeria, Pakistan, Panama, Paraguay and Peru.

U.S. law requires that the administration issue an annual list of countries with drug production or trafficking problems. Almost all the countries named this year are repeaters.

The designation is not necessarily an adverse reflection of a country's commitment to combat drugs.

Colombia has been the world's principal source of cocaine over the years, but the United States has consistently given high marks to President Alvaro Uribe for his counternarcotics efforts.

Program To Battle Colombian Drug Trafficking Gets Fresh Scrutiny (KRT)

By Shannon Mccaffrey

Knight Ridder, September 16, 2005

BOGOTA, Colombia - (KRT) - The six puppies looked fine at first. But when Colombian police gave them a closer look they found fresh scars on their bellies that told a different story.

The tiny Labradors and Rottweilers had been surgically converted into drug couriers: cut open with several plastic packets of heroin stitched into their abdomens.

Even the hardened Colombian police, who discovered the puppies at an abandoned house in a rural area outside of Medellin, had never seen anything like it. Traffickers were apparently going to ship the dogs to the United States saying they were pets. It's almost certain they would have been discarded as soon as their valuable cargo was removed.

"The better we get at catching them the more creative they get," said Mark Styron, supervisor of the U.S. Drug Enforcement Administration's Heroin Group in Bogota. "That's always the problem."

Much of the cocaine and heroin that ends up for sale on the street corners of the United States begins in the rich soil of this conflict-ridden South American country. And staying ahead of the smugglers is expensive. Since 2000, the United States has sent $4.5 billion to Colombia to help battle drug trafficking.

That six-year program, known as Plan Colombia, is set to expire at the end of this year.

Although the Bush administration and Congress have signaled a willingness to continue funding at current levels for at least another year, some are questioning whether the money has been effective in stemming the tide of drugs to the United States.

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The Colombians point with pride to the hundreds of thousands of acres of coca and poppy fields they've destroyed and the tons of drugs seized at their airports and borders. Kidnappings and murders are down.

But a report from the United Nations showed that while coca cultivation in Colombia is down, it has risen in neighboring Peru and Bolivia.

And the efforts in Colombia seem to have had little measurable effect on the drug supply in the United States. The Justice Department's National Drug Threat Assessment for 2005 found that heroin and cocaine were still readily available throughout the United States. Data from the Drug Enforcement Administration shows that the purity of wholesale cocaine being smuggled in from South America has actually increased slightly.

But, at least with heroin, there is some evidence that a crackdown begun in 2002 is showing results. DEA tests show that purity has dipped 14.5 percent since 2000.

It is generally believed that if a drug is in short supply purity decreases, and prices increase.

Colombia remains the world's largest producer of cocaine and the nation's image remains closely linked to the drug.

Yet in America concern is running high about heroin. Although the opiate is not used with the frequency of cocaine or marijuana, it's highly addictive and leads to a disproportionately high number of overdoses and deaths, according to emergency room data.

Colombia produces only 2 percent of the world's heroin but it's generally believed to be among the best, often so pure that users can snort it, rather than injecting it. And almost all Colombian heroin flows into the United States. Ninety percent of the heroin on the East Coast is Colombian, according to the DEA.

The Justice Department reports that heroin use was up among American college students in 2003, the most recent year for which data was available, after several years of steady decline.

Evidence of the problem's reach came recently when a delegation of 10 American police officers arrived in Bogota to study the heroin problem at its source. The narcotics cops from Pennsylvania and Maryland are battling a rising heroin trade on the street corners at home.

They soon learned that, in Colombia, the war on drugs is not just a figure of speech. Hustling through Bogota in armored SUVs, they were surrounded by their Colombian counterparts, who cradled M-15s and dressed more like commandos than cops.

At a hospital in Bogota - set up by the government just for the nation's police - they met Carlos Mira. The 30-year-old had his leg shattered in an ambush by guerrillas armed with rifles and hand grenades. His doctors say he may never walk normally again. He's the lucky one. His partner was killed.

"Tell the Americans that this is what the drugs do," he said simply, no malice in his voice.

Fifteen Colombian police officers on patrol in a remote area near the border with Venezuela were killed by a bomb just days before the Americans arrived, bringing the total police deaths so far this year to 120. In the early 1990s some 600 police officers were killed each year by heavily armed guerrilla and paramilitary groups.

Plan Colombia was launched under the Clinton administration as a way to fight drugs. After the terrorist attacks of Sept. 11, 2001, Congress said the funding could be used for counterterrorism as well.

In Colombia, the two are inseparable, officials say.

"The drugs are the terrorists' juice," said William Wood, U.S. ambassador to Colombia.

The drug pipeline to the United States often begins in the camps of the leftist Revolutionary Armed Forces of Colombia. Known the by its Spanish acronym, the FARC controls swaths of rural coca and poppy growing territory. Colombian police and intelligence officials say the FARC supports itself and its insurgency against the government with millions of dollars from the drug trade.

One FARC defector, "Jose," said in an interview with Knight Ridder that he abandoned the group because of its brutality. Leaders in his front ordered his brother to kill his girlfriend after she violated the rules and killed a civilian. Jose, who declined to use his real name out of fear of retaliation, said he grew up in the FARC, and that drugs were a constant presence.

"To end the drug war you have to end the guerrillas. As long as there are guerrillas there are drugs. They exist together," he said.

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The FARC is believed to have recently executed 14 peasants who were growing coca and selling it to their right-wing paramilitary foes. The ongoing fighting in remote regions means that Colombia has the third highest number of displaced people in the world, trailing only the African nations of the Sudan and the Congo.

The Mineros Block of the United Self Defense Force - or AUC - a right-wing paramilitary group, is disbanding as part of an ongoing peace process with the government. That has helped drive down violence in Colombia.

But in Washington, some lawmakers are hesitant about funding demobilization efforts because of concerns that those who have committed human rights will escape punishment.

Everywhere in Colombia there is evidence of American money and influence: Blackhawk and Huey helicopters, twin-engine Otter police planes, fixed wing fumigation planes. At a rural training site southwest of Bogota, American Special Forces help the Colombians train for dangerous raids to destroy drug labs.

"It would be much worse without the U.S.," said Gen. Jorge Daniel Castro, chief of the Colombian National Police. "This is a long and difficult battle and the United States has been our strongest ally."

But over the last 10 years Colombia has lost 40 U.S.-supplied aircraft battling the FARC and AUC. The additional aid is needed to keep the fleet operating, the Colombians say.

Colombian and American officials agree that drug seizures reached record levels last year and the eradication of coca and poppy plants through herbicide spraying is at an all-time high.

Col. Jamil Moreno, who heads up tactical anti-drug operations for the Colombian National Police, said poppy plants, in particular, are difficult to spray because they are able to grow at high elevations, nestled into the sides of mountains. Moreno said police pilots have sustained bullet holes to the canopies on top of their planes.

"The guerrillas are above us on the mountains. It is very dangerous," he said.

Moreno's experience fighting poppy crops in Colombia has put him in demand. Negotiations are underway to have the Colombian travel to Afghanistan to help develop a strategy for battling poppy crops there.

U.S. Ambassador Wood said that more people die every year in the United States from Colombian drugs than in the Sept. 11 attacks. U.S. aid will eventually decline as the situation stabilizes, he said. But the drug problem will never go away entirely and the United States - as the primary consumer of American drugs - will likely always have a role in Colombia.

"It's like asking when is crime over. It's never going to be over," Wood said.

Still the continuing costs of the war in Iraq and the huge budget deficit have caused the aid to Colombia to come under more than the usual scrutiny this year. And the foreign policy landscape has changed since the Sept. 11 attacks so that the Middle East has consumed most of America's attention.

A telling symbol of that comes in real estate. The fortresslike U.S. Embassy in Bogota is the largest in the world. But it will eventually be surpassed by an even more massive new facility planned for Iraq.

The 'Good Death' Dilemma (LAT)

The Los Angeles Times, September 16, 2005

BABY BOOMERS FACING THEIR OWN mortality have pushed issues of aging and dying into the public eye. As with so many boomer issues, there's a certain self-centeredness to attempts at control of the most uncontrollable human event, but at least issues of infirmity and the end of life are no longer whispered, as "the C-word" — cancer — used to be. Among the demands being raised is better control of pain, which has caught doctors between a desire to alleviate suffering and the U.S. war on drugs.

A corollary and less-visible policy struggle goes on very close to death, when the opiates that relieve suffering are also likely to hasten dying. A doctor in Redlands who used a very high dose of morphine on a dying patient and may now lose his medical license is merely the latest example.

Most such cases fall in a gray area, involving doctors who may have crossed a legal or ethical line, whether out of compassion or greed. The larger problem is the message that all doctors receive from aggressive efforts to curb opiate abuse, and their resulting reluctance to sufficiently treat severe pain and other suffering.

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In Redlands, Dr. Harold Luke's terminally ill 76-year-old patient died soon after getting a very high dose of morphine in 2002. The state medical board last month voted to strip Luke of his license, and his final appeal is likely to be decided today. The patient's family still stands strongly by the doctor, as does a patient advocacy group that is supporting his appeal.

Luke's case hinges on whether he deliberately shortened the patient's life in an act of euthanasia. If he did, which he strongly denies, he would not be the only doctor to have done so. A 1998 mail survey of U.S. doctors in specialties in which patients would be most likely to request euthanasia found 11% willing to provide it. A 1997 survey found similar numbers among critical-care nurses. A report on a similar survey in Australia aptly described the more usual situation: "Doctors sometimes give large doses of potentially lethal drugs to terminally ill patients to treat symptoms, foreseeing but not necessarily intending a medically hastened death."

Federal criminal prosecutions have usually involved a different issue — charging pain management specialists, who often handle very tough cases, with overprescription or outright sale of controlled drugs, including the widely abused OxyContin. Again, most such cases are far from clear-cut, except perhaps in the eyes of federal prosecutors.

The debate over what constitutes a "good death" is ever more public. What hasn't kept pace is government drug policy and honesty about the blurred line between compassionate treatment and medical euthanasia.

Carpenter Smiles His Way To Federal Detention For Pipe Bomb Possession (RRDH)

Roanoke Rapids (NC) Daily Herald, September 16, 2005

JACKSON - Hamming it up for the camera, Michael Thomas Carpenter was taken into federal custody Tuesday for possessing pipe bombs and a cache of guns in his house outside Garysburg.

Led to a blue Ford Expedition by an agent with the Bureau of Alcohol, Tobacco and Firearms, the 34-year-old, upon seeing a photographer, exclaimed, "What a wonderful justice system we have in America."

He asked the agent escorting him if he would slow down so he could pose for the camera and at one point gave a cheesy grin.

Asked if he was surprised to be federally charged for having three pipe bombs, Carpenter said, "No, sir. The feds have to do their jobs so we're going to go with them as calmly and peacefully as we can. God bless America."

Since his arrest on local charges in July, Carpenter was being held in the Northampton County Jail for possession with intent to sell and deliver marijuana, possession of drug paraphernalia and possession of a weapon of mass destruction.

Capt. George Reed of the Northampton County Sheriff's Office said Carpenter was trying to run the jail while he was there, first being held on $525,000 bond for the local charges and then under no bond on a federal detainer.

ATF agents Tuesday took Carpenter to Greenville, where he would appear before a federal magistrate.

ATF charged Carpenter with possession of a destructive device and possession of firearms by a convicted felon. The federal agents said anyone in possession of explosive weapons must have them registered. The three pipe bombs State Bureau of Investigation agents detonated behind Carpenter's house off Taylor Road in July were not registered.

Officers also found some 25 rifles and shotguns and five handguns in the residence, one of the loaded weapons was found in a baby crib.

The pipe bombs were discovered while local officers were looking for marijuana plants at Carpenter's residence.

Federal agents Tuesday said they had uncovered no other reason why Carpenter had the pipe bombs than the reason he gave in July. Carpenter told the Daily Herald when he was arrested July 12 that he had used pipe bombs in Edenton to blow up beaver dams.

Reed said local charges against Carpenter were dropped in lieu of the federal charges.

Soldiers, ATF Find 'explosives' In Deserted New Orleans Home (AP)

By MARY FOSTER, Associated Press Writer

AP, September 15, 2005

NEW ORLEANS - National guardsmen and ATF agents patrolling the dark, deserted streets of New Orleans early Thursday found what appeared to be a bomb inside one of the homes vacated when Hurricane Katrina ripped through the city.

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The guardsmen found what looked like six sticks of dynamite and a detonator along with a bag of ammunition and marijuana. They notified the New Orleans Police Department which, in turn, asked the Bureau of Alcohol, Tobacco and Firearms to respond because their own bomb squad equipment was flooded in the wake of the storm.

"It had all the characteristics of a real device," ATF explosives specialist Johnnie Green said of the suspect device.

His agents placed an "interrupter" device on the one in question to try to detonate it and found out it was a hoax. "It was a good one," Green said, "especially in these conditions," referring to the blacked-out street.

The guardsmen were in the neighborhood as part of a routine security sweep and noticed a house with an open door. When they went inside to check it out, they found what looked like a bomb.

Todd Morrell of the New Orleans Police Department said the questionable device was found on a shelf in a bedroom. "It looked real to everybody," he said. "It was real enough for us to not want to mess with it."

Charlie Smith, an ATF special response supervisor, said finding the device should serve as a "wake-up call for every guy going through these houses."

Earlier in the week, he said they found a house with nine devices, 50 guns and a photo of the owner wearing a German uniform and Hitler-type mustache. "He evidently was a collector. He had a ton of stuff," Smith said.

Van Carrying Federal Inmates Struck On I-95 In Miami-Dade (AP)

AP, September 16, 2005

MIAMI — Nine federal inmates and two U.S. Marshals were taken to area hospitals Thursday after their van was forced off Interstate 95 and rolled at least twice — an incident allegedly caused by a hit-and-run driver.

Marshals were taking the inmates southbound on I-95, from the federal courthouse in Fort Lauderdale to a federal detention center in Miami when a vehicle hit a Geo Tracker, said U.S. Marshals Service spokesman Barry Golden.

The Geo spun out of control, hitting the Marshals' van and forcing it off the road. No one inside the van was critically injured, although one inmate was hurt more seriously than the others, Golden said.

Golden said security was never an issue.

"All the prisoners were leg-shackled with waist chains, and handcuffed," he said.

There were no escapes, Golden said no description of the vehicle that struck the Geo was available.

IMMIGRATION:

ICE Pick's Ability To Do Job Doubted (WT/UPI)

By Shaun Waterman, United Press International

The Washington Times, September 16, 2005

Senators yesterday told the president's choice to lead immigration law enforcement that they still are weighing a plan to reorganize her agency -- and one Republican expressed doubt that she was qualified for the job.

Julie Myers was nominated by President Bush to head Immigration and Customs Enforcement (ICE), the agency that is charged with hunting down money launderers, sanctions busters and human traffickers and that is the sole enforcer of U.S. immigration laws.

Yesterday, she faced a confirmation hearing before the Senate Committee on Homeland Security and Government Affairs.

"I'm really concerned about your management experience," Sen. George V. Voinovich, Ohio Republican, told her, pointing out that ICE, with 20,000 employees, is the second-largest investigative agency in the federal government.

"I think that we ought to have a meeting with [Homeland Security Secretary] Mike Chertoff ... to ask him ... why he thinks you're qualified for the job," Mr. Voinovich said. "Because based on your resume, I don't think you are."

Miss Myers has worked as an assistant U.S. attorney in Brooklyn on money laundering and export control issues at the Departments of Treasury and Commerce, and was chief of staff for Mr. Chertoff when he ran the Criminal Division at the Department of Justice.

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Miss Myers said her experience "will serve me well." She said she had worked with agents who once were part of the Customs Service and the Immigration and Naturalization Service. Parts of those agencies were melded into ICE with the formation of the Department of Homeland Security in March 2003.

Sen. Susan Collins, Maine Republican, raised the issue of merging ICE with another agency founded from the breakup of the Customs Service and INS -- Customs and Border Protection (CPB), which polices the nation's ports of entry.

Mrs. Collins said a report by the department's inspector general, which the committee commissioned last year and which would be "released shortly," would "recommend the merger."

"What I have found," she said at the hearing, "and the [inspector general's] report confirms, is that many field employees of the two agencies are very frustrated at what they see as the unnatural separation between the two organizations."

TAX:

Tax Inquiry Is Moving Past KPMG (NYT)

By LYNNLEY BROWNING

The New York Times, September 16, 2005

Ever since the accounting firm KPMG reached a $456 million settlement of a federal investigation into abusive tax shelters nearly three weeks ago, the question has been who may be next.

Federal prosecutors have said that their criminal investigation is widening, and attention is increasingly turning to the role played by banks, financial advisers and law firms that worked with KPMG and other accounting firms to create and sell such shelters.

Among those companies, Deutsche Bank in particular has been a target of lawsuits from wealthy investors who sought to shield millions of dollars from taxes and bought shelters that did not pass muster with the Internal Revenue Service.

Senate investigators have previously criticized the role of Deutsche Bank and other banks in making the loans and handling the currency trades and other transactions that made up the abusive shelters, saying that senior executives and managers at the banks knew the shelters were improper.

Now, a barely noticed lawsuit indicates that Deutsche Bank had a much deeper involvement in creating and helping to sell a questionable tax shelter known as Cobra, for "currency options bring reward alternatives."

The lawsuit, filed by 12 wealthy investors in a Texas state court in Fort Worth, contends that in late 1999 at least one Deutsche Bank employee contacted the law firm of Jenkens & Gilchrist about creating a highly aggressive tax shelter using options on foreign currencies.

The shelter, which later acquired the Cobra name, was never considered valid for deductions by the I.R.S., which issued several warnings to investors in 1999 as it became aware of its use. The agency formally banned it in fall 2000.

Many accounting firms sold similar questionable shelters in the late 1990's and early 2000. The Cobra at the heart of the Texas state lawsuit was sold by the accounting firm Ernst & Young, which had already been developing a similar shelter through an internal unit called Viper, for "value ideas produce extraordinary results." Viper was responsible for marketing aggressive tax shelters, including Cobra, to wealthy individuals who were clients of Ernst & Young, the complaint says.

Ernst & Young declined to comment on the lawsuit but said that Viper was not dissolved until early 2003. Last year, the firm said that federal prosecutors were investigating tax shelters it had promoted and that it was cooperating with the inquiry. In 2003, Ernst & Young reached a $15 million settlement with the Internal Revenue Service over its shelters. It says that it has stopped selling the shelters that the I.R.S. considers abusive.

Around 1,200 investors who bought Cobra and other similar shelters have come forward under a settlement offer with the I.R.S. and paid more than $3.7 billion in back taxes, interest and penalties.

The lead plaintiff in the Texas lawsuit, which names Deutsche Bank as a defendant, is Henry N. Camferdam Jr., an Indiana businessman who has been a vocal critic of the accounting, law and financial firms that he contends created and knowingly sold him a bogus shelter in 1999.

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The amended complaint, filed by Mr. Camferdam and 11 other wealthy investors on July 1, contends that fraud and breach of fiduciary duty occurred, and it seeks a jury trial.

There is no public indication that Deutsche Bank is a subject of the federal investigation. But prosecutors have told defense lawyers for eight former KPMG partners and a lawyer who have all been indicted that they have gathered about 300 boxes of documents from different firms, including Deutsche Bank, in the course of their investigation.

In connection with two other KPMG tax shelters, Opis and Blips, Deutsche Bank has said it did nothing improper and only carried out ordinary and routine, if complex and arcane, financial transactions for investors in those shelters. Blips and Opis are similar to the Cobra shelter at the heart of the Texas lawsuit.

But David Deary, a lawyer in Dallas who filed the complaint on behalf of Mr. Camferdam, said that those and other roles played by the bank, including setting up trading accounts, meant that "Deutsche Bank was extremely involved in every aspect of designing and implementing this tax shelter."

The allegations in the Texas lawsuit, if proved in court, suggest that Deutsche Bank could be shown to be a promoter of abusive tax shelters, which could subject it to fines and discipline from federal regulators.

Scott Schumacher, an assistant professor of tax law at the University of Washington school of law and a former trial lawyer in the criminal tax division of the Justice Department, said that in carrying out financial transactions for tax shelters, "if Deutsche Bank knew that it was bogus and what they were doing was aiding and abetting tax evasion, then they're potentially part of the conspiracy."

A spokeswoman for Deutsche Bank declined to comment yesterday on the allegations in the Texas lawsuit or on the wider federal investigation.

According to the Texas lawsuit, Mr. Camferdam bought a Cobra from Ernst & Young, his longtime accountants, in 1999, after he was told that the shelter would legitimately shelter about $70 million in income from taxes. The shelter, which cost him around $7 million in fees, did not pass muster with the I.R.S., which later sought millions of dollars in back taxes plus penalties and interest from Mr. Camferdam.

The lawsuit contends that a Deutsche Bank foreign-exchange salesman based in New York, Dan Brooks, approached a lawyer at Jenkens & Gilchrist in Chicago in the fall of 1999. Mr. Brooks flew to Chicago to explain to the senior Jenkens tax lawyer, Paul Daugerdas, complex options strategies that Deutsche Bank had developed.

According to the complaint, Mr. Brooks told Mr. Daugerdas that Deutsche Bank "had significant experience designing and implementing" such strategies, which lie at the heart of Cobra, and that "Deutsche Bank had a strong desire to design and implement a tax shelter with Jenkens using foreign currency digital options."

Mr. Daugerdas already had a close link to Deutsche Bank. David Parse, a broker-dealer with Deutsche Bank based in Chicago, was his personal stockbroker, according to the complaint, and personally requested that Mr. Brooks make the trip.

The complaint also contends that in November 1999 Mr. Parse asked Mr. Daugerdas to e-mail to an unidentified client of Deutsche Bank a legal opinion blessing Cobra and a contract for the tax shelter - moves that might appear to put the bank in the role of a promoter of questionable tax shelters.

Within Deutsche Bank there were even "turf battles" over which brokers would carry out trades for the shelters, with the brokers competing for bonuses stemming from the trades, according to the complaint.

Mr. Brooks, who left Deutsche Bank in spring 2001 to form his own trading firm and who has no training in tax or accounting matters, declined to comment.

A spokesman for Jenkens declined to comment yesterday on behalf of the firm and Mr. Daugerdas.

Ernst & Young and Jenkens & Gilchrist are not defendants in the lawsuit because the investors are in arbitration with the two firms. Another law firm, the former Brown & Wood, which is accused of issuing boilerplate opinion letters that blessed the validity of Cobra, is a defendant, as is a former lawyer there, Raymond J. Ruble, who is among nine individuals indicted in the KPMG case.

A third law firm, Scheef & Stone of Dallas, is a defendant, with the complaint stating that it introduced Ernst & Young to Jenkens & Gilchrist when the accounting firm wanted legal opinions for Cobra, earning fees for its referrals that were not disclosed to investors.

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John Scheef, a lawyer at Scheef & Stone, said yesterday that there was nothing improper about its referrals. Calls to the former Brown & Wood, now Sidley Austin Brown & Wood, were not returned. A lawyer for Mr. Ruble declined to comment.

Mr. Camferdam has also sued Deutsche Bank and Ernst & Young in other courts, and has simultaneously challenged the I.R.S.'s determination that his Cobra shelter was invalid.

While that move has led some tax lawyers to suggest that Mr. Camferdam knew what he was doing when he bought Cobra, Mr. Camferdam said that he thought Cobra was valid. "I wouldn't have bought it otherwise," he said.

His most recent lawsuit cites transcripts of conversations and internal e-mail among Ernst & Young executives. The lawsuit says that several Ernst & Young tax experts raised doubts about the validity of Cobra in fall 1999, at the time that the firm greatly relaxed the standards it had been using to approve of tax shelters before offering them for sale.

CONGRESS-ADMINISTRATION:

Roberts Pledges To Be Chief Justice Who Respects The Law, Not An Ideologue (NSDY/AP)

The Associated Press

Long Island Newsday, September 16, 2005

WASHINGTON -- Chief Justice nominee John Roberts wound up two days of sometimes-contentious Senate testimony Thursday by telling wary Democrats that ideologues don't belong on the Supreme Court. He said his record shows he will rely on the law, not personal views.

Persistent grilling by Democrats on the Judiciary Committee made no apparent inroads in Roberts' support among the Senate's majority Republicans, who plan to vote the week after next to make him the nation's 17th chief justice.

Roberts tried to reassure Democrats that he would use the "rule of law," not his personal beliefs, to judge cases that come before the high court.

"I think if you've looked at what I've done since I took the judicial oath, that should convince you that I'm not an ideologue," Roberts said after an impassioned plea by Democratic Sens. Dianne Feinstein of California and Charles Schumer of New York for him to explain what kind of chief justice he would be. As for ideologues, he said, "you and I agree that that's not the sort of person we want on the Supreme Court."

Roberts pointed to his two-year record as a federal appeals court judge in Washington and said, "Look at my briefs and you'll conclude that's a person who respects the law."

Roberts cleared one of his last hurdles when committee chairman Arlen Specter, R-Pa., and top Democrat Patrick Leahy of Vermont announced that an FBI background check had found nothing that would disqualify. The American Bar Association also confirmed its "well-qualifed" rating.

Republicans were confident that Roberts would win the committee's majority approval next week and then Senate confirmation, with the backing of some moderate Democrats, before the Supreme Court term begins Oct. 3.

Committee Democrats have yet to commit to vote for Roberts, but they know they cannot stop him and President Bush will soon follow with yet another nomination to the court.

"It's going to take some time of real careful thinking about what to do" on the vote, Schumer said after the hearing.

Bush selected Roberts to succeed the late Chief Justice William H. Rehnquist as chief justice. The conservative judge could, at age 50, shape the high court for at least a generation.

The vote to confirm him "isn't just rolling the dice it's betting the whole house," Schumer said.

"I don't know what I'm going to do," said Feinstein, who said his testimony showed "this very cautious, very precise man, young, obviously with staying power. ... I'm convinced you will be there, God willing, for 40 years. And that even concerns me more because it means that my vote means more."

Feinstein voted to confirm Roberts for the U.S. Court of Appeals for the District of Columbia Circuit; Schumer voted against him.

Frustrated Democrats tried to elicit a sense of John Roberts the man rather than the judge who was a political appointee in the Reagan and first Bush administrations and a multimillion-dollar lawyer in private practice

Sen. Richard Durbin, D-Ill., wondered whether Roberts would treat society's less fortunate the same way he would deal with the wealthy who often have better lawyers, better legal briefs and an advantage in the court system.

"If the Constitution says that the little guy should win, then the little guy's going to win in the court before me," Roberts said. "But if the Constitution says that the big guy should win, well then the big guy's going to win because my obligation is to the Constitution."

Schumer questioned whether Roberts would be "a truly modest, temperate, careful judge," one "who will impede congressional prerogatives but does not use the bench to remake society," or, as some Democrats fear, one who "will use your enormous talents to use the court to turn back a near century of progress."

Democrats have complained that Roberts avoided many of their questions by saying he couldn't comment on issues that could come before the Supreme Court.

Early on in his third -- and abbreviated -- day of testimony, Roberts said Congress has the authority to pass laws barring discrimination based on race, gender and disability, and he defended his record on minority issues.

He said he had argued cases in favor of and against affirmative action and noted that he had participated in a program to assist minority students considering law school.

"Yes, I was in an administration that was opposed to quotas," Roberts told Sen. Edward M. Kennedy, D-Mass. "Opposition to quotas is not the same thing as opposition to affirmative action."

Several Democrats have criticized Roberts for assailing the Supreme Court's 5-4 ruling in Plyler v. Doe, which struck down a Texas law and said the state had to provide free public education to illegal immigrant children.

Roberts, then working for the Reagan administration, criticized the ruling and argued that the administration should have gotten involved in the case.

Feinstein asked if Roberts, as a person, believed illegal immigrant children should be educated. Roberts offered legal responses, before saying, "My own view, every child should be educated."

As chief justice, Roberts would assign the writing of opinions in which he was with the majority. He could keep the best cases for himself, or dole them out to other justices.

Rehnquist's predecessor, Warren Burger has been accused of being manipulative in the assigning of opinions, even joining the majority, though he disagreed, so he could assign the opinion to himself and try to limit the outcome.

Roberts rejected the idea of assigning himself cases as a strategic move.

"Trying to use that assignment power in a tactical way -- it causes tension on the court and I think undermines the ability of the chief justice -- to the extent he has that ability, and it's obviously limited -- to act as a force to help bring about some cohesiveness and collegiality," he said.

Senate Judiciary Committee: http://judiciary.senate.gov

Supreme Court: http://www.supremecourtus.gov

With Roberts Hearings Complete, Democrats Wrestle With Their Votes (KRT)

By James Kuhnhenn

Knight Ridder, September 16, 2005

WASHINGTON - His grilling over, Supreme Court nominee John G. Roberts Jr. now waits for the Senate to render its verdict.

His performance during four days before the Senate Judiciary Committee wowed even many Democrats, who conceded they were torn between admiration for his intellect and his modest judicial demeanor versus his reluctance to reveal more about his views on legal issues.

In his final day of taking questions, Roberts tried to assure senators that he isn't an ideologue, describing himself instead as a strict follower of the "rule of law." He said his work as a lawyer had made him an advocate of the law no matter the cause.

He admitted, for instance, that while he helped a gay-rights group prepare for a Supreme Court case, he would just as easily have agreed to argue the opposing side.

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"To some, they may say, well, that sounds like you're a hired gun," he said. "I think that's a disparaging way to capture what is, in fact, an ennobling truth about our legal system, that lawyers serve the rule of law above and beyond representing particular clients."

Republican strategists predicted a near straight party-line vote next week in the Republican-run committee, which includes some of the Senate's most liberal and most conservative members. But even there, some Democrats were struggling with their votes.

"I don't really know what I'm going to do," said Sen. Dianne Feinstein, D-Calif. "You've gone through this in a remarkable way. I'm convinced you will be there, God willing, for 40 years. And that even concerns me more, because it means that my vote means more."

In the full Senate, signs emerged of bipartisan support for Roberts, especially from so-called "red-state Democrats."

"If you look at his performance, his education, his attainments, that is the kind of person who has the quality to be in the Supreme Court," said Sen. Kent Conrad, D-N.D., whose state voted 63 percent for President Bush last year. Conrad faces re-election next year. "This man has a mind like a jewel."

Even Roberts' most ardent opponents, such as Nan Aron of the liberal Alliance for Justice, acknowledged that he didn't seem cast from the strict-constructionist mold of Justice Antonin Scalia.

There's little question that Roberts, boosted by an unflappable presentation before the committee, will be confirmed to replace the late Chief Justice William Rehnquist. The issue is whether the Senate will confirm Roberts by an overwhelming margin, as it did Scalia in 1986 and liberal Justice Ruth Bader Ginsburg in 1993, or whether the vote will split along party lines.

While Roberts would become chief justice whether the vote is 100-0 or 51-49, the margin could be an important benchmark when Bush nominates a replacement for retiring Justice Sandra Day O'Connor.

All 55 Republicans are expected to support Roberts. Some Democrats say a close vote would signal Bush that a more conservative nominee would face a more difficult time. Others say a bipartisan vote would free Democrats from an obstructionist label and make it easier for them to stand against a more conservative replacement for O'Connor.

"What kind of justice will John Roberts be?" Schumer mused aloud. "Will you be a truly modest, temperate, careful judge? ... Will you be a very conservative judge who will impede congressional prerogatives but does not use the bench to remake society, like Justice Rehnquist? Or will you use your enormous talents to use the court to turn back a near-century of progress and create the majority that Justices Scalia and (Clarence) Thomas could not achieve?

"That's the question that we on the committee will have to grapple with this week."

Roberts Gains Respect, If Not Converts (LAT)

By David G. Savage And Richard B. Schmitt, Times Staff Writers

The Los Angeles Times, September 16, 2005

WASHINGTON — "I'm not an ideologue," John G. Roberts Jr. told the Senate Judiciary Committee on Thursday. And with that comment, he aptly summarized the case he made for himself during four days of hearings on his nomination as the Supreme Court's chief justice.

Based on his self-portrait, the Roberts court would not be the place where those in search of new legal rights and protections would find them. Nor, however, would the high court under his leadership press a conservative counter-revolution.

Roberts, in short, presented himself as a mainstream conservative, not a right-wing activist who was eager to roll back the liberal decisions of decades past on civil rights, women's rights and the environment.

He said he was devoted to precedent and stability in the law, even if that meant upholding rulings he may have disagreed with years ago.

He said he aspired to be a "modest" judge, someone who followed the law and did not promote a political agenda.

Thursday, the committee intends to vote on whether to recommend Roberts' confirmation. Its recommendation is virtually assured because Republicans hold a 10-8 advantage on the panel.

He then likely will be confirmed by the GOP-controlled Senate, perhaps during the last week of September.

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In his testimony, Roberts distanced himself from the "originalist" approach followed by Justices Antonin Scalia and Clarence Thomas, which looks back to the history of the 18th century to decide the meaning of the Constitution. Roberts said he believed the guarantees of liberty and equal protection should be interpreted broadly in light of modern times and changing conditions.

And when asked about the president's power — a concern voiced by liberals troubled by the bold moves of the Bush White House — Roberts repeatedly invoked the 20th century's most important ruling limiting the chief executive — the 1952 case involving Harry S. Truman's seizure of the steel mills during the Korean War.

His words reassured some listeners.

"What we learned generally about him is that, taken at his word, he is not somebody who is going to be a revolutionary on the bench, which I find comforting," said Douglas T. Kendall, executive director of the Community Rights Counsel, a law firm that specializes in environmental cases.

Roberts' confident performance during this week's hearings certainly did not undercut his cause. His calm manner and encyclopedic grasp of the law won him bipartisan praise.

"You have an amazing knowledge of the law," Sen. Charles E. Schumer (D-N.Y.) told him. "You may very well possess the most powerful intellect of any person to come before the Senate" for confirmation to the Supreme Court.

Schumer and other Democrats, however, voiced concerns about Roberts' heart.

Roberts refused their repeated invitations to characterize himself as a big-hearted judge who would give the benefit of the doubt to minorities or the poor. Instead, he said his duty was follow the law as he saw it.

"If the Constitution says that the little guy should win, the little guy is going to win in court before me," Roberts told Sen. Richard J. Durbin (D-Ill.) "But if the Constitution says that the big guy should win, well, then the big guy is going to win, because my obligation is to the Constitution."

Roberts' testimony did not sway the liberal groups and civil rights organizations that have opposed him. They noted he refused to state his opinion on contemporary disputes such as abortion rights, or controversial past decisions such as the ruling that stopped the vote recount in Florida in 2000 and ensured that George W. Bush would become president.

Roberts also stood behind most of the sharply worded memos he wrote as a young conservative in the Reagan administration.

The memos opposed several civil rights initiatives of the time, and sometimes did so in a mocking tone.

One memo, for example, referred to illegal immigrants as "illegal amigos."

Another memo strongly opposed an expansion of the Voting Rights Act, which allowed lawyers to challenge voting systems or electoral districts that weakened the voting power of blacks or Latinos. The 1982 law is credited with vastly increasing the number of minority officeholders.

When Democrats repeatedly broached the subject of these memos, Roberts repeatedly responded that he was a staff lawyer who was carrying out the policies of the Reagan White House.

Pressed by Sen. Edward M. Kennedy (D-Mass.) on the disputed provision in the Voting Rights Act, he said he did not now think it was "constitutionally suspect."

His cautious answers to the questions about the memos caused some to doubt he had changed his opinions.

His take on the Voting Rights Act "makes me think he likely still holds these views," said Richard L. Hasen, a voting rights expert at Loyola Law School in Los Angeles. "The tone of the memos is a tone of indignation."

At times, Roberts succeeded in turning the senators' questions back on them.

Sen. Patrick J. Leahy (D-Vt.) asked Roberts why he argued in 1991, as deputy solicitor general in the administration of George H.W. Bush, that a schoolgirl who was a victim of sexual harassment at her Atlanta-area high school could not sue the school district for damages in federal court.

Leahy told Roberts he could "actually bring justice" by allowing her and others like her to sue. He asked Roberts why he did not take that view.

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The reason, Roberts replied, was that Congress did not include in the law a provision that would allow people to sue. The law in question, Title IX of the education code, said schools and colleges that received federal money had to treat girls and boys equally. It did not say, however, whether private lawsuits were authorized.

Over and over again, Democrats cited such examples to question whether Roberts had a big heart.

Roberts said the issue was the law, not his heart.

"If Congress would simply spell it out in the legislation," he said, there would be no doubt victims could sue.

"All of those cases arose because Congress did not address the question. All Congress has to do is write one sentence" authorizing private lawsuits, he said.

"I became a lawyer because I believe in the rule of law," Roberts said in summarizing his case. "I would hope you'd look at my briefs and my arguments before the Supreme Court and conclude that's a person who respects the law, respects the court and will the approach the law in a similar way as a judge."

'I'm Not An Ideologue,' Roberts Tells Senate Panel (WP)

By Amy Goldstein And Jo Becker, Washington Post Staff Writers

The Washington Post, September 16, 2005

John G. Roberts Jr. yesterday summed up his Senate hearings to become the nation's 17th chief justice by declaring, "I'm not an ideologue," brushing aside his early years in the trenches of the conservative Reagan revolution as he portrayed himself as a lawyer and judge devoid of social agendas.

With his confirmation to the Supreme Court virtually assured by solid support among Republicans, who control the Senate, Roberts used the closing moments of his 2 1/2 days of testimony to try -- with uncertain results -- to soothe Democratic skeptics.

Saying that his loyalties are to the Constitution and "the rule of law," Roberts said that he had displayed no ideological bias during his two years as a federal appeals court judge and that he had, during 13 years in private practice, represented clients on all sides of contentious issues.

Some conservatives were alarmed last month over the disclosure that he had helped gay activists win a landmark Supreme Court in 1996. But Roberts testified yesterday that he would have been equally willing to represent the opposing side, the state of Colorado, if it had asked for his help first.

On the other hand, Roberts broke with orthodoxy among Republicans, including President Bush, who say that medical liability lawsuits are out of control. Asked whether he thinks lawyers who represent people in product-liability or medical-malpractice cases are harming the United States, Roberts replied that he did not, citing a former fellow law clerk who he said "does a wonderful job" as a personal injury lawyer.

"If you've looked at what I've done since I took the judicial oath," the nominee said, "that should convince you that I'm not an ideologue."

The careful conclusion of Roberts's 20 hours of testimony leaves one drama unresolved in the Senate role in the first Supreme Court vacancy in 11 years: How many Democrats will join Republicans in voting to give him a seat on the court?

The Judiciary Committee is scheduled to convene for a vote next Thursday, and GOP leaders plan to begin debate on Roberts's confirmation in the full Senate on Sept. 26, with a floor vote sometime that week. That timing would allow Roberts, if confirmed, to join the court when it begins its new term Oct. 3.

Bush originally nominated Roberts to succeed retiring Justice Sandra Day O'Connor but made him his choice for chief justice after the death of William H. Rehnquist on Sept. 3. Bush has not indicated when he intends to name a successor to O'Connor.

All week, Democrats on the Senate Judiciary Committee complained that Roberts was evasive about his views and values on a range of polarizing issues, including abortion, civil rights, the scope of presidential power and the right to die. Even as the hearing was ending, several Democrats urged him to reveal more of what they called his heart.

"Many of us are struggling with . . . what kind of a justice would you be, John Roberts," implored Sen. Dianne Feinstein (D-Calif.)

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The eight Democrats on the panel have not said how they plan to vote. Yesterday, Feinstein and several others vacillated openly.

Feinstein said she had expected Bush to select someone more conservative than Roberts appeared to be. "I don't see anything definitive," Feinstein said of his record and testimony. "And I do see things to believe that . . . this is a fine legal scholar who will truly look at the law."

Sen. Joseph R. Biden Jr. (D-Del.) said that he was trying to decide which Supreme Court justice Roberts would resemble most. Biden said that he would vote against Roberts if he decided the nominee were akin to Justice Antonin Scalia but probably would support Roberts if he were most like Rehnquist.

Sen. Charles E. Schumer (D-N.Y.) said, "I, for one, wake up in the middle of the night thinking about it, and have been unsure how to vote." He told Roberts: "You will in all likelihood affect every one of our lives in many ways for a whole generation. So this isn't just rolling the dice -- it's betting the whole house."

Republicans countered that many of them had supported justices chosen by President Bill Clinton, while differing with their views. Sen. Lindsey O. Graham (R-S.C.) took issue with the Democrats' efforts to discern what lies in Roberts's heart.

"There are bleeding hearts and there are hard hearts," Graham said. "And I want this committee to understand that if we go down this road of putting people's hearts in play, and the only way you can have a good heart is 'Adopt my value system,' we're doing a great disservice to the judiciary."

Before the questioning ended, Democrats made a final attempt to draw out Roberts on his views. He answered a greater portion of their questions than he had on Wednesday, when several Democrats erupted in frustration over his refusal to give substantive responses.

At one point yesterday, Roberts backtracked from a position he had advocated in an early-1980s memo concerning a Supreme Court ruling in a Texas case that gave children the right to attend public schools, even if they were illegal immigrants. Roberts had argued that the Reagan administration should have defended a Texas law that allowed schools to exclude such youngsters.

Yesterday, Roberts said: "My own view is that, if you have a child, he or she should be educated. We'll worry about status later." Nevertheless, he added: "As a personal view . . . yes. It's a separate issue as a legal question, as you know."

He also disavowed a 1981 memo on the issue of whether inmates, including those who have been sentenced to death, have a right to file habeas corpus appeals in federal courts, challenging the constitutionality of their convictions. The memo said: "The question would seem to be not what tinkering is necessary in the system, but rather why have federal habeas corpus at all?"

Yesterday, Roberts said that he had simply been endorsing reforms to eliminate a glut of frivolous appeals, as Congress eventually did: "I'm not in favor now and was not in favor then" of eliminating such appeals.

The committee's ranking Democrat, Sen. Patrick J. Leahy (Vt.), questioned Roberts about how he would handle one of the responsibilities of the chief justice: appointing judges to an unusual court, the Foreign Intelligence Surveillance Act (FISA) court, which has gained expanded powers under the USA Patriot Act. Critics have said the FISA court abridges civil liberties in the name of combating terrorism.

Leahy asked whether Roberts, if confirmed, would be willing to work with Congress "to add more transparency" to the court. Roberts replied that the court "is a surprising institution" and said that "the people appointed to it have to be of the highest quality, undoubted commitment to all the basic principles, both of the need for the court and the need to protect civil liberties." He stopped short of saying he would change the court's ground rules.

After Roberts left the witness chair, Judiciary Committee Chairman Arlen Specter (R-Pa.) and Leahy said they found nothing in a routine FBI background check on Roberts that would disqualify him from serving on the court.

For the rest of the day, the committee heard from more than 30 witnesses who sought to reinforce, sometimes in dramatic terms, the case for or against his confirmation. They included law professors and theologians, former clients and bosses of the nominee, an Alabama girls basketball coach, and a female lawyer whom Roberts had helped win a promotion.

A representative of the American Bar Association, testifying for the Republicans, explained why the organization had given Roberts its highest rating.

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Rep. John Lewis (D-Ga.), a civil rights leader who was arrested more than 40 times during protests of the 1960s, testified that he does not accept Roberts's assertion that arguments he made in memos as a high-ranking legal adviser in the administrations of Ronald Reagan and George H.W. Bush did not reflect his personal views. "The judge was on the wrong side of history," Lewis said.

Staff writer Charles Babington contributed to this report.

US High Court Nominee: 'I'm Not An Ideologue' (REU-Y2)

By Thomas Ferraro And Richard Cowan

Reuters, September 16, 2005

Declaring "I'm not an ideologue," John Roberts finished a four-day Senate committee appearance on Thursday with Democrats and Republicans predicting he will be confirmed to head the Supreme Court as the 17th U.S. chief justice.

In fact, the 100-member, Republican-led U.S. Senate appeared headed toward approving President George W. Bush's 50-year-old conservative nominee before the high court begins its new term on October 3.

Sen. Kent Conrad (news, bio, voting record), a North Dakota Democrat, said upward of half of the 45-member Democratic caucus may join Republicans in voting for Roberts, who has drawn fire from major liberal groups.

"He's highly intelligent. He has strong credentials. He is a conservative, but I think he is mainstream conservative," Conrad said in a brief interview.

Still, some frustrated Democrats took a final crack at trying to pin Roberts down on some hot-button issues such as civil rights and challenged his record based largely on memos he wrote as a young attorney two decades ago in the Reagan administration.

"What kind of justice would you be?" Sen. Dianne Feinstein (news, bio, voting record), a California Democrat, asked in posing one of the final questions to Roberts at his Judiciary Committee hearing.

Roberts replied by describing himself as a person who respects the law and would interpret the Constitution without a political tilt. He has declined to predict how he may decide specific controversial cases, including abortion.

Roberts urged committee members to examine his record the past two years as a member of the U.S. Circuit Court of Appeals for the District of Columbia.

"I think if you've looked at what I've done since I took the judicial oath, that should convince you that I'm not an ideologue," Roberts said.

"If the Constitution says that the little guy should win, the little guy's going to win in court before me. But if the Constitution says that the big guy should win, well, then the big guy's going to win, because my obligation is to the Constitution. That's the oath," he said.

POTENTIAL FOR LONG TENURE

If confirmed, Roberts would succeed the late Chief Justice William Rehnquist, who was the high court's conservative anchor for 33 years.

Roberts would become the youngest person in two centuries to hold the lifetime post and be positioned to head the federal judiciary for decades, helping shape the American way of life on matters from civil rights to voting rights to gay rights.

The committee is scheduled to vote on a recommendation to the Senate on Roberts next Thursday. The Senate plans to consider the nomination the week of September 26.

Sen. Frank Lautenberg (news, bio, voting record), a New Jersey Democrat, said: "I don't think there is any doubt he'll be confirmed. The question is how many Democrats vote for him."

Lautenberg said he was undecided but leaning toward not voting to confirm Roberts because he failed to answer too many questions.

Senate Democratic leader Harry Reid said six of the eight Democrats on the Judiciary Committee met after Roberts' testimony and all were undecided.

Easing Roberts' anticipated approval was the belief he would not greatly alter the court's conservative outlook developed by Rehnquist.

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A bigger fight was anticipated for Bush's next nominee, who would replace retiring Justice Sandra Day O'Connor, a moderate conservative who has often been the swing vote on the sharply divided nine-member court.

Sen. John Cornyn (news, bio, voting record), a Texas Republican, said: "John Roberts will be confirmed. The question is will Democrats jeopardize their credibility and vote against him, or bolster their credibility by voting for this highly qualified nominee -- and hold fire for the next one."

Sen. Charles Schumer (news, bio, voting record), a New York Democrat who led some of the most aggressive questioning of Roberts, said he was undecided.

Schumer told Roberts, "I for one wake up in the middle of the night thinking about it and have been unsure how to vote."

Roberts' Senate Testimony Comes To A Close Some Questions Still Open (USAT)

By Joan Biskupic

USA Today, September 16, 2005

WASHINGTON — Supreme Court nominee John Roberts exuded such steadiness during four days in a Senate witness chair that New York Democrat Charles Schumer on Thursday asked Roberts for advice on what questions senators should ask to try to learn more about him.

It was one of many moments this week that showed the respect that members of the Senate Judiciary Committee have for Roberts, President Bush's choice to succeed the late William Rehnquist as the nation's chief justice. The conservative Roberts' deftness in giving non-committal answers to Democrats on a range of legal issues reflected the skills that made the nominee, in Schumer's words, “one of the best litigators in America.”

For Democrats on the panel, a big question remained Thursday: John Roberts, the lawyer, may be first-rate, but what of the man? Does he bring together, as Sen. Edward Kennedy, D-Mass., put it, “the mind and the heart”? What are his “feelings as a man?” Sen. Dianne Feinstein, D-Calif., asked at one point. Feinstein also observed that Roberts was a “very cautious, very precise man … obviously with staying power.

“You've gone through this in a remarkable way,” Feinstein told Roberts, a 50-year-old federal judge. “I'm convinced you will be (chief justice), God willing, for 40 years. And that even concerns me more because it means that my vote means more.”

Democrats' concerns about Roberts stem from the possibility that he could be part of an effort by Bush to move the divided Supreme Court to the right.

With Roberts likely to win Senate confirmation to replace the conservative Rehnquist, Bush soon will pick a successor for Sandra Day O'Connor, a more moderate justice who has been a key vote in preserving, among other things, abortion rights and affirmative action in college admissions. That's why the coming battle over her replacement likely will be more contentious than the one over Roberts.

The Judiciary Committee will vote on Roberts' nomination next Thursday. Although Roberts' confirmation has seemed inevitable, Schumer, Kennedy, Feinstein and other Democrats peppered him with questions that sought to reveal just how conservative he is.

Shortly before Roberts finished his testimony Thursday, he urged senators not to view him as an “ideologue.” And perhaps to show a warmer side to Democrats, he said he realizes that legal decisions “have impact on real people and real lives.” Roberts also said the law should give the “little guy” the same chance in a legal dispute as a big corporation.

Roberts cast himself as sympathetic to the concerns of women, minorities and the disabled, but he declined to offer more precise views about specific disputes involving such groups.

Senators later heard from witnesses for and against Roberts. Among the opponents was Rep. John Lewis, D-Ga., who as a leader in the civil rights movement was beaten, arrested and jailed in the 1960s. Lewis said Roberts, who as a lawyer in the Reagan and first Bush administrations sought narrow interpretations of civil rights laws, was “on the wrong side of history.”

“We cannot afford to elevate an individual to such a powerful, lifetime position, whose record demonstrates such a strong desire to reverse the hard-won civil rights gains that so many sacrificed so much to achieve,” Lewis said.

Peter Kirsanow, a Bush appointee on the U.S. Commission on Civil Rights, countered that Roberts has shown “an unwavering commitment to equal protection under the law and a comprehensive understanding of our civil rights laws.”

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For Roberts, 1 Question Remains (DMN)

By David Jackson And Allen Pusey, The Dallas Morning News

The Dallas Morning News, September 16, 2005

WASHINGTON – Completing nearly 20 hours of Senate testimony, Judge John Roberts moved closer to confirmation Thursday amid a lingering debate over both his head and his heart.

Democrats on the Senate Judiciary Committee ended the four days of hearings with praise for Judge Roberts' intellect but remained skeptical that a former corporate lawyer understands how ordinary people are affected by the nation's highest court.

"It's important to determine not just the quality of your mind, but the fullness of your heart," said Sen. Charles Schumer, D-N.Y.

DallasNews.com/extra

The Supreme Court: Justice profiles, key decisions

Judge Roberts, for his part, assured the committee this week that he is not an ideologue, but would decide cases on the law and the Constitution.

"If the Constitution says that the little guy should win, the little guy is going to win in court before me," said the federal appeals court judge. "But if the Constitution says that the big guy should win, well, then, the big guy is going to win."

Party-line vote?

The committee scheduled a vote on Judge Roberts for Thursday. A number of aides said it could be a party-line vote, with 10 Republicans endorsing Mr. Roberts and eight Democrats opposing.

The nomination then goes to the Senate floor, where Republicans control 55 of the 100 seats. Judge Roberts' backers hope to pick up support from more conservative Democrats and expect him to formally replace the late Chief Justice William Rehnquist when the Supreme Court's next term opens Oct. 3.

Both sides are gearing up for these final debates with an eye on the next set of confirmation hearings, after President Bush announces a nominee to replace Justice Sandra Day O'Connor. The White House has suggested that the selection will not be made until after Judge Roberts is confirmed.

Curt Levey, general counsel for the pro-Roberts Committee for Justice, said the only question remaining is how the Roberts vote will affect the next nominee.

"People are saving up their budgets for the next nomination," Mr. Levey said.

Democrats have not mentioned filibustering Judge Roberts, which would require 60 Senate votes to break. Some aides said Democrats, without such a filibuster, might seek to keep Judge Roberts' vote under 60 – sending a message to the administration that Democrats could muster the numbers for a filibuster the next time around.

Republicans said some Democrats are attempting to change the standards by which nominees have been confirmed, including knowledge of the law, experience, integrity and temperament.

Sen. Lindsey Graham, R-S.C., noted that most Republicans backed Clinton nominee Ruth Bader Ginsburg despite political differences with the former American Civil Liberties Union attorney.

"If I wanted to judge Justice Ginsburg on her heart, I might take a hard-hearted view of her and say she's a bleeding heart," Mr. Graham said. "She has a different value system than I do, but that doesn't mean she doesn't have a good heart."

A right to know

Democrats said people are entitled to know more about Judge Roberts' views, especially potential litigants who are targets of discrimination and government oppression.

"All of us are trying to get down to, what are your core values?" Sen. Richard Durbin, D-Ill., told the judge.

By the end of the proceedings, the committee had heard from 33 witnesses who testified for and against Judge Roberts, including longtime colleagues, college professors and several plaintiffs whose cases have been decided by the Supreme Court.

Among them was Henrietta Wright, chairwoman of the Dallas Children's Advocacy Center and a longtime friend of Judge Roberts and his wife, Jane. Ms. Wright described him as a private man, with eclectic tastes in reading and a love of golf, and as an attentive father, capable of operating as a single parent when his wife is working.

"From my experience," she said, "John Roberts has no agenda other than to apply the law as it is written."

Critics speak up

Others were less flattering. Marcia D. Greenberger, co-president of the National Women's Law Center, accused Judge Roberts of "developing, advancing and embracing legal arguments and positions that would undermine women's most basic legal rights."

Rep. John Lewis, D-Ga., a longtime civil rights leader, told the Senate panel that he, too, views the Roberts nomination with skepticism.

"I fear that if Judge Roberts is confirmed, the Supreme Court would no longer hear the people's cries for justice. I fear the leadership of the court would promote politics over the protection of individual rights and liberties."

As he neared the end of his testimony, Sen. Patrick Leahy, D-Vt., joked to Judge Roberts: "You're going to miss doing this every day. ... You're not even going to answer that one, are you?"

"Well," replied Judge Roberts, "it's a once-in-a-lifetime experience."

Senators Save Breath For Next Court Debate (USAT)

By Kathy Kiely

USA Today, September 16, 2005

WASHINGTON — The big question surrounding John Roberts as he wrapped up testimony before a Senate committee Thursday was not whether he will become the nation's 17th chief justice, but how the vote on his nomination this month will affect President Bush's next Supreme Court pick.

Roberts, 50, seems assured of confirmation because several members of the "Gang of 14," a group of moderate Democratic and Republican senators whose support would be needed to block his nomination, say they don't think such an effort would be justified. "I can't imagine a filibuster," said Sen. Ben Nelson, a Nebraska Democrat. Neither can Sen. John Warner of Virginia, the group's senior Republican, who says he has talked with others in the group.

A filibuster is a maneuver that allows a minority of senators to block a vote. Because Republicans hold 55 of the Senate's 100 seats, Roberts' opponents say it's probably the only way to stop him. "I can count," said Eleanor Smeal, president of the Feminist Majority Foundation.

It takes 41 votes to sustain a filibuster, and there won't be enough without the support of the seven Democrats in the Gang of 14. Even some of the eight Democrats on the Senate Judiciary Committee who sparred with the nominee this week told him they were at least considering a vote in his favor.

Those committee members are among the chamber's most liberal Democrats, and several have reason to court liberal activist groups: Sens. Joseph Biden of Delaware and Russ Feingold of Wisconsin are weighing bids for the presidency in 2008; Sen. Charles Schumer of New York is trying to solicit funds for 2006 candidates as head of the Democrats' senatorial campaign committee.

An important factor in the Democrats' strategy: how best to position themselves for the next Supreme Court debate. The president has said he will act in "a timely manner" to fill the seat of retiring Justice Sandra Day O'Connor, a critical vote on the often divided nine-member court. Because O'Connor is a moderate conservative who — unlike the late Chief Justice William Rehnquist — often voted with the court's four-member liberal wing, her seat affects the court's direction.

Democrats such as Senate Minority Leader Harry Reid of Nevada want a moderate nominee like O'Connor. Some prominent women, including O'Connor, have suggested that Bush pick another woman. Bush has hinted he might make his attorney general, Alberto Gonzales, the first Hispanic justice. Conservative Republicans such as Sen. Sam Brownback of Kansas want a justice more obviously opposed to abortion and gay marriage than Roberts has appeared to be.

Bush was rebuffed this year when Republican leaders tried to end filibusters of judicial nominees, a move that would have made it easier to win approval of conservative appointees. The Gang of 14 consists of seven Democrats who promised to use a filibuster only in "extraordinary circumstances" and seven Republicans who back Democrats' right to filibuster.

Democrats in the group want what Sen. Mark Pryor of Arkansas calls "a nominee who will unite us, not divide us." They hope Bush will consult them, as he did before nominating Roberts. Sen. Mary Landrieu, D-La., said Bush aides asked her about

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Edith Clement, a judge on the U.S. appeals court that covers Louisiana, Texas and Mississippi. Clements' lack of controversial writings on abortion could make her an appealing candidate.

"She would be very high in my book," Landrieu said.

Nominee Reveals Pragmatic Approach To Constitution (NYT)

By Adam Liptak

The New York Times, September 16, 2005

WASHINGTON, Sept. 15 - For someone accused of saying very little, Judge John G. Roberts Jr. revealed a great deal about how he will approach his work if confirmed as the 17th chief justice of the United States.

Over three days of testimony, between declining to answer questions on specific cases and legal issues, Judge Roberts made clear that his approach to interpreting the Constitution is more varied and flexible than the originalism subscribed to by Justices Clarence Thomas and Antonin Scalia. President Bush has singled them out as models for the sorts of justices he planned to appoint.

"I think the framers, when they used broad language like 'liberty,' like 'due process,' like 'unreasonable' with respect to search and seizures, they were crafting a document that they intended to apply in a meaningful way down the ages," Judge Roberts said Wednesday.

He said he would consider not only how the framers of the Constitution understood those words, but also how courts have interpreted them and how they apply to evolving societal conditions.

That approach disappointed some conservative legal scholars.

"He is not in the mold of Scalia and Thomas," said Steven G. Calabresi, a law professor at Northwestern and a chairman of the Federalist Society, the conservative legal group. "They have more of a theory of how to decide cases, and they look to text and original meaning. Roberts will look at text and original meaning, but he will also look to precedent and the consequences of his decisions."

Judge Roberts, for his part, said his approach would be pragmatic and case-specific. That approach places Judge Roberts closer to Justice Sandra Day O'Connor, who has often provided the swing vote in important cases.

"I do not have an overarching judicial philosophy that I bring to every case," he said Tuesday. "I tend to look at the cases from the bottom up rather than the top down."

He would be guided, he said, by the level of generality inherent in particular constitutional provisions. "If the phrase in the Constitution says two-thirds of the Senate," he said, "everybody's a literalist when they interpret that."

But other phrases in the Constitution are broader, he added, giving as an example the Fourth Amendment's prohibition of unreasonable searches and seizures.

"You can look at that wording all day," Judge Roberts said, "and it's not going to give you much progress in deciding whether a particular search is reasonable or not."

Under the 14th Amendment, adopted after the Civil War to protect blacks, said Douglas W. Kmiec, a law professor at Pepperdine University, "Judge Roberts made it reasonably clear that gender and other categories can receive protection."

That is at odds, Professor Kmiec said, with the approach advocated by Judge Robert H. Bork, whose nomination was defeated in 1987 when Democrats controlled the Senate.

"Under the Bork version of originalism," Professor Kmiec said, applying the 14th Amendment to sexual discrimination "doesn't make any sense."

He continued: "That was probably the major tripwire that started his downhill descent at his hearings."

Judge Bork was also both more expansive and combative in answering questions than Judge Roberts was, as a matter of both necessity and temperament.

"Bork was extremely forthcoming," said Patrick J. Schiltz, a law professor at the University of St. Thomas, "but he had no choice. He had written a lot about everything. He's written about every major doctrine in constitutional law."

Judge Roberts seemed most at ease in sorting through and explaining Supreme Court precedents without offering his own views on whether the decisions were correct.

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"In terms of understanding Supreme Court case law," said Cass Sunstein, a law professor at the University of Chicago, "he's the most impressive in recent memory, even more than Bork, and Bork was pretty impressive."

But unlike Judge Bork, Professor Sunstein said, Judge Roberts appeared prepared to build on those Supreme Court decisions rather than depart starkly from them.

Judge Roberts disappointed some conservatives in the way he answered questions concerning the scope of Congressional power. In a series of decisions, the late Chief Justice William H. Rehnquist endorsed significant limitations on the ability of Congress to legislate on local matters.

"Roberts will be very deferential to Congress," Professor Calabresi said, "more so than Rehnquist."

Judge Roberts also made clear that it is not the role of the courts to interpret statutes more broadly than warranted. If Congress wants to allow certain kinds of lawsuits, he said, the legislation it passes should say so plainly and directly.

Judge Roberts provided substantial information, at least at the level of theory, about the right to privacy. He said it existed, located it in various constitutional provisions including the 14th Amendment and gave some examples of what it requires. He endorsed a 1965 decision of the Supreme Court holding that the right to privacy guarantees that married couples may use contraceptives.

But his adamant refusal to answer other questions frustrated Democratic senators and liberal scholars.

"From Bush v. Gore to the Second Amendment to separation of church and state to abortion," Erwin Chemerinsky, a law professor at Duke University, said of Judge Roberts, "he was masterful at saying a lot but avoiding answering the key questions."

Professor Chemerinsky said he took some comfort from Judge Roberts's endorsement of an aspect of Justice O'Connor's majority decision in an affirmative action case involving higher education.

Judge Roberts said that pragmatic considerations about the consequences of allowing race to play a role in admissions decisions properly played a role in her decision. Justices Scalia and Thomas dissented in the decision, saying that the Constitution forbids such preferences.

Judge Roberts also declined to state his personal views on almost every matter, on the theory that they were irrelevant to a judge's work. (He relented briefly on Thursday, saying, "My own view is that if you have a child, he or she should be educated.")

"Other nominees," Professor Schiltz said, "after making clear that they weren't talking about the law but only their personal views, were pretty willing to talk."

At times, Judge Roberts's limited conception of the judge's role struck Democrats as evidence of a cramped approach to the law from a lawyer more taken with technicalities than with justice. Judge Roberts declined to second-guess positions he had taken as an advocate arguing that a student who had been sexually abused was not entitled to damages and that a death row inmate could not present new evidence of his innocence if certain deadlines had passed.

Judge Roberts was repeatedly confronted with documents he wrote as a young lawyer in the Reagan administration. They were studded with caustic comments, uniformly took conservative positions and frequently argued for an understanding of the Constitution starkly at odds with the Supreme Court doctrine of the day.

Judge Roberts stressed that the documents represented the views of a staff lawyer setting out the views of his client, but he did not for the most part directly disavow the sentiments in them. But Professor Sunstein said that Judge Roberts's testimony was in an entirely different vein than his early writings.

"He doesn't talk like someone who believed at any level in changing the current understanding of the Constitution," Professor Sunstein said. "He's not the same person he was in his 20's."

Senator Charles E. Schumer, Democrat of New York, summed up what he called the pros and cons of the Roberts nomination on Thursday.

The pros, Mr. Schumer said, are that Judge Roberts is brilliant, is "a lawyer above all" and is devoted to "a judicial philosophy of modesty and stability" that "respects precedent, the Congress and other judges' opinions."

On the negative side, Mr. Schumer said, were the questions Judge Roberts would not answer, the White House's refusal to release documents from his years as a more senior lawyer in the first Bush administration and what Mr. Schumer called "the question of compassion and humanity."

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"We must now take the evidence we have and try to answer the fundamental question," Mr. Schumer said. "What kind of justice will John Roberts be?"

Judge Roberts, for his part, summed up his philosophy on Thursday.

"Somebody asked me, you know, 'Are you going to be on the side of the little guy?' " he said. "And you obviously want to give an immediate answer, but, as you reflect on it, if the Constitution says that the little guy should win, the little guy's going to win in court before me. But if the Constitution says that the big guy should win, well, then the big guy's going to win, because my obligation is to the Constitution. That's the oath."

Frustrated By Roberts, And Unsure How To Vote (NYT)

By Sheryl Gay Stolberg

The New York Times, September 16, 2005

WASHINGTON, Sept. 15 - Senate Democrats are deeply conflicted about how to vote on the nomination of Judge John G. Roberts Jr. to be the nation's 17th chief justice, and appear divided about how, and whether, to use their vote to send a message to President Bush as he selects a candidate to fill a second Supreme Court vacancy.

"That's a critical part of this conversation," Senator Richard J. Durbin, the Senate's No. 2 Democrat and a member of the Judiciary Committee, said Thursday, when asked if he hoped to send a message to Mr. Bush about the next nominee. "We understand that this is the first of two vacancies on a court that's so evenly divided that one bad choice could make a - from my point of view - could have an impact for a long time."

Judge Roberts's unflappable performance during three days of questioning has clearly put Democrats in a quandary. Some say a strong vote against his nomination could prod the White House into naming a centrist to fill the vacancy created by the retirement of Justice Sandra Day O'Connor, a crucial swing vote. Others say that supporting the Roberts nomination could make Democrats appear reasonable, giving them more credibility to oppose the next nominee.

Despite Mr. Durbin's remark, the Democratic leader, Senator Harry Reid of Nevada, said the vote on Judge Roberts "shouldn't be message time."

Senator Hillary Rodham Clinton, the New York Democrat whose vote will be among the most closely watched in the Senate because of her possible White House bid in 2008, agreed.

"I have found it is very difficult for Democrats to influence this White House on anything, and so I don't count on them paying attention to our legitimate concerns," Mrs. Clinton said, adding, "They will do what they think is in their interest, however they define it."

As the Judiciary Committee wrapped up its questioning of Judge Roberts on Thursday morning, Democrats, who have repeatedly assailed the nominee for not being forthcoming, expressed obvious frustration. Senator Dianne Feinstein, Democrat of California, told Judge Roberts that she had "one impression of you when we had our hour in private," and another at the hearing.

Later, in an interview, Senator Feinstein declined to elaborate. "I'm sorting out what I feel now," she said, shaking her head.

Senator Charles E. Schumer, the New York Democrat who is a Judiciary Committee member, delivered a lengthy soliloquy during the hearing in which he called Judge Roberts's performance at the hearing "a tour de force" and said he might well "possess the most powerful intellect" of any person to come before the Senate for the position of chief justice. But Mr. Schumer worried aloud that he did not have enough evidence to answer "the fundamental question" of what kind of justice Judge Roberts would be.

"I, for one, have woken up in the middle of the night, thinking about it," Mr. Schumer said, "being unsure how to vote."

That angst is spilling over into the rest of the Democratic caucus, and no Democrat interviewed Thursday would commit one way or the other on the vote. Mr. Reid said six of the eight Democrats on the judiciary panel had conferred but were still undecided.

Representatives of liberal advocacy groups, who are pressing Democrats to oppose the nomination, said they felt confident of a straight party-line vote, or close to it, when the committee takes up the nomination next Thursday.

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The vote will come as Democrats sense President Bush is vulnerable. His poll numbers are at the lowest point of his presidency amid public outrage over the federal government's response to Hurricane Katrina, and Democrats hope to turn that outrage into a powerful message to voters during the 2006 midterm elections. On Thursday, Howard Dean, the chairman of the Democratic National Committee, said he thought Judge Roberts did not deserve to be confirmed.

But Democrats are keenly aware that they risk being labeled obstructionist if they vote in a bloc against a nominee like Judge Roberts, whose legal qualifications are impeccable. And though they have complained bitterly that the White House has refused to provide them access to legal memorandums Judge Roberts wrote when he worked for the first Bush administration, Democrats appear to have little appetite to block the nomination by filibuster on the Senate floor.

"No, no," Senator Joseph R. Biden Jr. said Thursday, waving off the question of a filibuster. Mr. Biden, Democrat of Delaware, said that after voting to confirm Justice Antonin Scalia, one of the most conservative members of the court, he vowed never again to vote for "anybody who I don't have some sense of their constitutional methodology."

Asked if he had a sense of Judge Roberts's methodology, Mr. Biden replied, "No, I don't." That was why, he said, "it's such a dilemma."

Perhaps no Democrat faces as big a dilemma as Senator Clinton, who has been positioning herself as more of a centrist as she considers a possible White House bid. Republican senators are already taking pains to remind the public that many of them voted in favor of President Bill Clinton's Supreme Court nominees, Ruth Bader Ginsburg and Stephen G. Breyer.

Like other Democrats, Mrs. Clinton was circumspect Thursday, saying she would review the hearing transcript before deciding how to vote.

"There are a lot of considerations and some of them are competing, so we just have to weigh each of them," she said, "and every senator might have a slightly different weight to give."

One problem for Democrats is that Judge Roberts performed so well as a witness. Hour after hour, he delved into the minutiae of the law without referring to a single note or taking one. And while Democrats have assailed Judge Roberts for not answering enough of their questions, they are hard-pressed to argue that he did not answer any at all.

"Part of the reason people are conflicted is because Roberts has shown just enough leg to get a second date," said one Democratic strategist, speaking on the condition of anonymity so as not to give away internal party deliberations. "No magic moment has occurred where you could say, 'Oh, we can't put this guy on the bench.' "

One important question is how Democrats in Republican-leaning states will vote. Among them is Senator Reid, who said Thursday that he did not intend to insist that his colleagues vote in a bloc, and that he would not necessarily follow the recommendation of his colleagues on the judiciary panel. "It all boils down to an individual vote," he said.

Another question is what Democratic members of the "Gang of 14," a bipartisan group of senators who drafted a compromise to avoid a filibuster on several of President Bush's judicial nominees this spring, will do. One of them, Senator Ben Nelson of Nebraska, had previously said he was inclined to vote in favor of Judge Roberts. But in an interview Thursday, Mr. Nelson used a football analogy to suggest he was hedging.

"It's halftime," the senator said. "The game's not over."

Democrats Hit Roberts' Ambiguity (WT)

By Charles Hurt

The Washington Times, September 16, 2005

Democrats laid the groundwork yesterday to oppose the Supreme Court nomination of Judge John G. Roberts Jr., accusing him of withholding his personal views on political and judicial matters.

"You did speak at length on many issues and sounded like you were conveying your views to us," Sen. Charles E. Schumer, New York Democrat, told Judge Roberts yesterday. "But when one went back and read the transcript each evening, there was less than met the ear that afternoon."

As he had throughout his testimony before the Senate Judiciary Committee, Judge Roberts calmly explained that -- as with previous nominees such as Justice Ruth Bader Ginsburg -- it would be improper for him to discuss his personal views on certain issues, especially those that might come before the court.

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In addition, the chief justice nominee said, those views are irrelevant, because his goal is to merely apply the law within the confines of the Constitution.

Still, it was the overriding concern of Democrats on the panel, which will vote on the Roberts nomination next week. Senate Republicans say they don't expect to pick up a single vote from the eight committee Democrats, but several -- including Mr. Schumer -- insist that they haven't made up their minds.

Outside the Senate, a coalition of liberal interest groups released a new television commercial showing snippet after snippet of Judge Roberts explaining during his testimony that he couldn't answer certain questions, many of which had been asked repeatedly.

Yesterday marked the fourth and final day of hearings on Judge Roberts' nomination to become the nation's 17th Supreme Court chief justice. It is widely expected that the full Senate will confirm Judge Roberts by the time the high court convenes Oct. 3.

Among those Democrats being closely watched is Sen. Dianne Feinstein of California, who has said she will not support a nominee who will undo federal abortion rights.

"I don't really know what I'm going to do with respect to voting for you or against you," she told Judge Roberts yesterday.

Sen. Tom Coburn, Oklahoma Republican who is pro-life, dismissed such interest in Judge Roberts' stance on abortion. He spent two hours with the nominee and said he tried mightily to pin him down. He couldn't, but plans to vote for him based on his overall judicial philosophy and intellect.

Although no Democrats expressed support for Judge Roberts' nomination, they heaped more praise on him yesterday for his intellect and coolness under intense questioning. Throughout his 19 hours and 55 minutes of testimony, Judge Roberts never referred to or jotted down one single note with the pad and pencil supplied to him on the witness table.

Before questions began yesterday, Mr. Schumer greeted Judge Roberts, shook his hand and said, "You have done an amazing job."

Later, during the hearing, however, Mr. Schumer and other Democrats said they just weren't convinced that Judge Roberts isn't a conservative ideologue.

"I think if you've ever looked at what I've done since I took the judicial oath, that should convince you that I'm not an ideologue," the judge replied.

Sen. Richard J. Durbin, Illinois Democrat, wondered whether Judge Roberts would be sensitive to the plight of the powerless and impoverished.

"If the Constitution says that the little guy should win, then the little guy's going to win in the court before me," Judge Roberts responded. "But if the Constitution says that the big guy should win, well then the big guy's going to win because my obligation is to the Constitution."

Sen. Lindsey Graham, South Carolina Republican, said it is wrong to evaluate Judge Roberts on his political opinions.

"We're down to the heart," he said. "Well, there are all kinds of hearts. There are bleeding hearts and there are hard hearts."

Referring to Justice Ginsburg, who was nominated by President Clinton, Mr. Graham said, "She has a different value system than I do. But that doesn't mean she doesn't have a good heart. And I want this committee to understand that if we go down this road of putting people's hearts in play, and the only way you can have a good heart is, 'Adopt my value system,' we're doing a great disservice to the judiciary."

Roberts Concludes Three Days Of Testimony (LAW)

By T.r. Goldman, Legal Times

Law.com, September 16, 2005

Eliciting praise for his intellectual firepower from one of his sharpest Democratic critics, Judge John Roberts Jr. concluded his time before the Senate Judiciary Committee on Thursday by declaring that he was not an ideologue and defending his three days of testimony as both "fully expansive" and "fully responsive."

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Roberts noted that despite only two years spent as a federal appeals court judge, he has written 50 opinions, telling Sen. Charles Schumer, D-N.Y.: "I don't think you can read those opinions and say that these are the opinions of an ideologue. And you and I agree that's not the sort of person we want on the Supreme Court."

Schumer, in a third and final round of questioning, called Roberts' legal knowledge and calm and precise presentation before the committee a "tour de force."

But he said he still had questions about Roberts' ability to "truly empathize" with the less fortunate.

"It didn't seem much, for instance, to concede that the wording 'illegal amigos' was unfortunate, yet you refused to say so," Schumer told Roberts, referring to a 1983 memo Roberts wrote to White House Counsel Fred Fielding, in which he used that term while referring to an upcoming presidential interview with a Hispanic newspaper.

Schumer, like almost all of the committee's eight Democrats, criticized Roberts' refusal to comment on any issue that might come before the Court.

"You did speak at length on many issues and sounded like you were conveying your views to us, but when one went back and read the transcript each evening, there was less than met the ear that afternoon," Schumer said.

Still, Schumer, considered among the most liberal of committee Democrats, professed to being conflicted about whether to vote to confirm Roberts, and would not predict how either he or his colleagues would vote during the Sept. 22 committee meeting.

After two lengthy days of interrogations, Thursday's session was essentially cleanup time for the Democrats, several of whom besides Schumer still wanted to question the witness.

It was clear, however, as had been true since the first day of questioning, that Roberts was going to remain a disciplined nominee, rarely commenting on any case or issue that might one day appear before the Court.

But as in Wednesday's hearing, in which Roberts did reveal some slivers of his legal thinking, Thursday's session also provided a few glimmers of his views, and not merely a recitation of hornbook legal principles about precedent.

Queried by Sen. Russ Feingold, D-Wis., Roberts said he was "not in favor now and not in favor then" of eliminating federal habeas corpus for inmates. "People do succeed at that phase," he said.

The day before, Roberts had said he agreed with one part of Grutter v. Bollinger, a 2003 decision that said public universities can take race into account in order to achieve a diverse student body, as long as they don't use rigid quotas. "You do need to look at the real-world impact in this area," Roberts said, referring to the decision's assertion that there was a clear public interest in creating a diverse student body.

And Roberts has asserted a constitutional right to privacy, although he was careful to give no indication whether that right to privacy extends to a woman's right to an abortion.

After Roberts finished late Thursday morning, the committee began hearing from a series of six panels totaling 30 witnesses, 15 from each side, each of whom was to give five minutes of testimony.

The witnesses ranged from Beverly Jones, a plaintiff in a landmark ruling about the Americans for Disabilities Act, to former Environmental Protection Agency administrator Carol Browner, to civil rights pioneer Rep. John Lewis, D-Ga., to former Solicitor General Charles Fried.

"As I read some of the criticism of Judge Roberts, I wonder whether we are talking about the same man," said Fried, a Roberts supporter. "What I see is a fidelity to the law, not the pursuit of an agenda."

Other witnesses, however, were scathing in their remarks.

"Bork by accretion," said Georgetown University Law Center professor Peter Edelman, referring to Judge Robert Bork, whose Supreme Court nomination was defeated in 1987. "I think what it adds up to is far more radically conservative than Judge Bork," added Edelman, a former Clinton administration official.

"Judge Roberts has a vision of judicial restraint that really represents a retreat from the fundamental goal of protecting the rights of Americans through the federal courts," said Wade Henderson, who heads the Leadership Conference on Civil Rights, in an interview after completing his testimony.

Roberts did appear to stumble at least once Thursday, during questioning by Sen. Edward Kennedy, Mass., the committee's senior Democrat, who quizzed him over language he used in a June 7, 1983, memo to White House Counsel

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Fielding. In the memo, Roberts made what could be viewed as a disparaging comment about the Equal Opportunity Employment Commission.

"I have been unable to confirm that the President promised to abolish the EEOC," Roberts wrote Fielding, referring to a letter (the sender's name has been redacted) that noted President Ronald Reagan promised to get rid of the agency. Roberts continued: "We should ignore that assertion in any event, as well as the assertion that the EEOC is 'un-American,' the truth of the matter notwithstanding."

Roberts quickly repudiated the view that the EEOC was "un-American," noting that the expression came from the unnamed correspondent. But his explanation for the final phrase was labored, and Kennedy, for one, wasn't buying it.

Roberts, whose memos and court opinions demonstrate a punctilious writing style, told Kennedy that the phrase did not refer to the words immediately before it. Rather, they referred to the first assertion in the sentence -- the claim by the letter writer that Reagan had promised to dismantle the agency -- Roberts said.

"He hasn't made a single mistake in grammar," Kennedy said during a break in the hearing. "I think he's trying to have it both ways."

The final day of the Roberts hearings was a day of Democratic musings; Republicans, now confident that he will be confirmed, had little to say.

Besides Schumer, California's Sen. Dianne Feinstein, D, also publicly aired her indecision about how she would vote.

Sen. Richard Durbin, D-Ill., however, best summed up his party's feelings about the hearings, and Democrats' frustration at trying to figure out who Roberts is.

Noting that Roberts had provided pro bono advice to those challenging a Colorado anti-gay rights measure before the Supreme Court in 1996, Durbin wondered whether Roberts would have instead represented Colorado if he had been asked. "I think I probably would have," Roberts responded.

Durbin continued: "Where would you draw the line, if you would ever draw the line?"

Replied Roberts: "People become lawyers for all kinds of reasons. Civil rights. Environmental protection. Rights for the disabled. You won't be able to effectively vindicate those rights if you don't have a rule of law. That's why I became a lawyer, to promote and vindicate the rule of law."

Roberts Shows Some Openness (WSJ)

By Jess Bravin And Jeanne Cummings, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

WASHINGTON -- After a week of carefully parrying pointed questions from both ends of the political spectrum during closely watched hearings, Judge John Roberts concluded his Senate confirmation hearings for chief justice by declaring, "I'm not an ideologue."

But Judge Roberts did flag some significant elements of his judicial approach during questioning by the Senate Judiciary Committee this week, even as he cautiously avoided discussing matters that he said could come before the Supreme Court. Among other things, Judge Roberts, currently on the U.S. appeals court here, suggested openness to a broad view of the federal power to regulate interstate commerce, some acceptance of constitutional privacy rights -- and some distance from liberal civil-rights advocates and civil libertarians.

While he frustrated some Democrats who said he was avoiding answering their questions, he gave Republicans no assurance that he was sympathetic to their causes. He demurred, for instance, when Sen. Sam Brownback (R., Kan.) asked "whether the unborn child is a person or is a piece of property."

Still, Republicans professed no doubts about Judge Roberts, who himself offered no objection when Sen. Lindsey Graham (R., S.C.) praised him as a "strict constructionist." And by the end of the third day of hearings yesterday, his more open demeanor appeared to mend fences with some Democrats who had complained about his cooperation earlier in the week.

Here are some highlights from Judge Roberts's testimony on key areas:

Federal Power and the Commerce Clause: Judge Roberts gave Democrats some hope that he backed a broad view of the Commerce Clause, the constitutional provision giving Congress power to regulate interstate commerce. For more than 70 years,

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the clause has been the linchpin of ambitious national legislation, including the New Deal economic plan, the Civil Rights Act of 1964 and the Endangered Species Act.

Some conservative legal scholars reject the theory behind Wickard v. Filburn, the 1942 opinion that gave Congress virtually unfettered power under the Commerce Clause. But Judge Roberts suggested he might accept the reasoning in the case, which found that even an individual activity of minor economic impact could be regulated if many people doing the same thing cumulatively affects interstate commerce.

"Under the Commerce Clause, can Congress pass a law banning even non-commercial cloning?" Sen. Charles Schumer (D., N.Y.) asked yesterday.

"It would seem to me that Congress can make a determination that this is an activity, if allowed to be pursued, that is going to have effects on interstate commerce," Judge Roberts replied. "Obviously, if you were successful in cloning an animal, that's not going to be simply a local phenomenon. That's going to be something people are going to -- "

"You can leave it at that," Sen. Schumer said. "That's a good answer, as far as I'm concerned."

In a separate exchange with Sen. Schumer, though, Judge Roberts declined to give a blanket endorsement of the Wickard decision as beyond challenge. Sen. Schumer called that disturbing, warning that "if certain viewpoints became majority viewpoints," that could lead to "the dismantling of the entire apparatus to protect our rights, through the narrowing of the commerce clause."

Privacy: Judge Roberts went further than some conservative legal scholars -- and further than conservative Justices Clarence Thomas and Antonin Scalia did in their confirmation hearings -- in asserting that the Constitution accords a right to privacy -- a crucial prerequisite, though not a guarantee, for legal support of abortion rights and gay rights.

In particular, he endorsed the majority opinion in the 1965 contraception case, Griswold v. Connecticut, saying he agreed "with the Griswold court's conclusion that marital privacy extends to contraception and availability of that. The court, since Griswold, has grounded the privacy right discussed in that case in the liberty interest protected under the Due Process Clause."

At a different point in the hearings, he said liberty "does cover areas such as privacy and it's not protected only in procedural terms, but it's protected substantively as well."

At his 1991 hearing, Justice Thomas acknowledged the court had created a privacy precedent but notably didn't take a position approving it. When Justice Scalia was asked at his 1986 hearing whether he thought there was a right to privacy, he refused to give an opinion, saying, "I can tell you that that is what a number of Supreme Court opinions now say."

But Judge Roberts did leave himself some wiggle room, refusing repeatedly to say how broadly he would interpret privacy rights, and in particular whether he felt the right applied to abortion.

Civil Rights: One area in which Judge Roberts didn't significantly distance himself from the court's most conservative judges was civil rights. Despite repeated invitations by Democrats to disown his 1980s memos critical of busing and challenging congressional efforts to strengthen the Voting Rights Act, Judge Roberts didn't do so.

Sen. Edward Kennedy (D., Mass.) cited a memo in which Judge Roberts, then working in the Reagan administration, said a portion of the Voting Rights Act was "constitutionally suspect" and asked the judge whether he still felt that was so. Judge Roberts said he saw "no basis" today to think so. Some civil-rights advocates said that answer could mean that he hasn't seen a smart-enough argument to overturn it.

Judge Roberts did appear to take a more liberal view than Justices Thomas or Scalia when he said it was appropriate for Justice Sandra Day O'Connor to weigh real-life ramifications when ruling on Michigan law-school admissions affirmative-action programs. But it was left unclear how much weight he would give such information or how much real-life evidence he might consider.

Listening to Congress: Judge Roberts took pains to distinguish himself from Justice Scalia on the value of reading legislative history in interpreting statutes, a sensitive point for many lawmakers.

Justice Scalia has been critical of using legislative history, saying he reasons from the original meaning of legal texts. Critics say legislative history can help judges understand how lawmakers intended their measures to apply. Senators in both parties seemed pleased when Judge Roberts said he relied on it on his current court and would continue to do so as chief justice.

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"But I have quoted and looked to legislative history in the past to help determine the meaning of ambiguous terms, and I would expect to follow that same approach on the Supreme Court," he said.

Death Penalty: Judge Roberts seemed to defend policies speeding executions as he discussed his reasons in past years for pushing to limit the access of condemned inmates to federal courts. Despite probing by Sen. Russell Feingold (D., Wis.), he didn't endorse concerns raised more recently that wrongfully convicted prisoners may face execution.

That is a contrast to the court's senior justice John Paul Stevens. In a speech last month Justice Stevens noted that new DNA evidence demonstrates "a substantial number of death sentences have been imposed erroneously," indicating "serious flaws in our administration of criminal justice."

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Roe V. Roberts (WP)

By Charles Krauthammer

The Washington Post, September 16, 2005

In our lifetime has there been a more politically poisonous Supreme Court decision than Roe v. Wade ? Set aside for a moment your thoughts on the substance of the ruling. (I happen to be a supporter of legalized abortion.) I'm talking about the continuing damage to the republic: disenfranchising, instantly and without recourse, an enormous part of the American population; preventing, as even Ruth Bader Ginsburg once said, proper political settlement of the issue by the people and their representatives; making us the only nation in the West to have legalized abortion by judicial fiat rather than by the popular will expressed democratically.

The corruption continues 32 years later. You could see it played out hour by hour in the Senate confirmation hearings of Judge John Roberts. Question upon question that pretended to be about high constitutional principle was really about abortion in ill-concealed disguise.

Senators asked gravely about how deeply Roberts believes in upholding precedent. Do you think that any of the Democrats were concerned whether Roberts would uphold Richmond v. Croson , the precedent that outlawed racial quotas in municipal contracting? Or Boy Scouts v. Dale , which permitted the exclusion of gay Scout leaders?

This is all about Roe . Take the lines of interrogation about Roberts's belief in the right to privacy. They are not asking about search and seizure in your home. They are asking about the "right to choose" (a brilliant locution that expunges the ugly word abortion from all political debate about abortion) -- what Roberts in 1981 correctly termed the "so-called 'right to privacy,' " a skepticism he is now required to disavow.

Why? Because everyone knows what happened to Robert Bork when he forthrightly and honestly denied some kind of separate, newly hatched right to privacy.

And then there are the learned Judiciary Committee disquisitions on "originalism" -- the judicial philosophy by which Justices Antonin Scalia and Clarence Thomas try to anchor the Constitution in something real, i.e., the meaning of the words as intended and understood at the time they were written.

Originalism is itself highly problematic, the worst judicial philosophy except for all the others, because they permit unmoored and arbitrary constitutional interpretation -- and thus unmoored and arbitrary judicial power. The learned senators, however, really don't care much about originalism, except to the extent that it would, almost by definition, make Roberts a categorical opponent of Roe . Which is why Roberts denies that he has any ideology, any "overarching judicial philosophy," and is nothing more than an ad hoc, bottom-up type of guy.

Maybe he is. Maybe he isn't. But he knows that if he dares to say otherwise, he gets Borked. If, on the other hand, he pretends to have a mind so scrubbed of theory that he is at a loss to explain gravitation itself, he gets to be chief justice of the United States for 40 years.

In 2000 Al Gore declared that he would not nominate a justice who did not support Roe. Dianne Feinstein says today that if she determines that Roberts opposes Roe , she will be compelled to vote against him. For Democrats, abortion is an open litmus test. For Republicans, it is a test of agility: Can they find the nominee who might be against Roe but has been circumspect enough not to say so publicly and who will be clever enough to avoid saying so at his confirmation hearings?

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Circumspect and clever Roberts has been. No one really knows. But I predict two things: (a) Chief Justice Roberts will vote to uphold Roe v. Wade , and (b) his replacing his former boss, Chief Justice William Rehnquist, will move the court only mildly, but most assuredly, to the left -- as measured by the only available yardstick, the percentage of concurrences with the opinions of those conservative touchstones, Scalia and Thomas.

I infer this not just by what Roberts has said in his hearings -- that he supports Griswold v. Connecticut , that he deeply respects precedent and that he finds Roe itself worthy of respect. That is little beyond boilerplate. I infer it from his temperament, career and life history as an establishment conservative who prizes judicial modesty above all. Which means that while he will never repeat Roe , he will never repeal it and be the cause of the social upheaval that repeal would inevitably bring.

Not that this in any way disqualifies Roberts in my conservative eyes. He is a perfectly reasonable traditional conservative, who will be an outstanding chief justice. He is just not a judicial revolutionary. If you're a conservative looking for a return to the good old days, you'll be disappointed. And if you're a liberal who lives for the good old days because that's all that liberalism has left, tell Chuck Schumer to relax.

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Liberals And Conservatives Remain Worlds Apart On Roberts's Suitability (NYT)

By Robin Toner And David D. Kirkpatrick

The New York Times, September 16, 2005

WASHINGTON, Sept. 15 - In a sharp clash of worldviews, liberal advocates warned Thursday that confirming Judge John G. Roberts Jr. as chief justice of the United States would threaten hard-won progress on civil rights and women's rights, while conservatives countered that he was clearly committed to equal justice under law.

On the final day of Judge Roberts's confirmation hearings, liberals were arrayed in full force before the Senate Judiciary Committee: civil rights leaders, leading feminists and reproductive rights advocates, all warning about the importance of the court in the lives of average Americans.

In one emblematic moment, Representative John Lewis, the Georgia Democrat severely beaten during the civil rights movement, told the committee that he feared a Roberts court would "no longer hear the people's cries for justice," and no longer act as a "sympathetic referee" because of his philosophy of judicial restraint.

Conservatives argued that Judge Roberts was thoroughly in the mainstream of civil rights law.

Peter S. Kirsanow, a Republican member of the United States Commission on Civil Rights, applauded Judge Roberts for arguing against "unlawful racial quotas or racial set-asides untethered to a showing of discrimination." Mr. Kirsanow said Judge Roberts supported the "bedrock principle of treating people on the basis of merit, without regard to race or sex."

More generally, conservatives argued that the nominee embodied the conservative view that the law should be a neutral arbiter - an umpire, as Judge Roberts put it consistently - not an instrument for changing public policy.

Judge Roberts presented himself as committed to the law above all else in his final round of questioning Thursday morning. Trying to reassure wary Democrats, he said, "I'm not an ideologue." He added, "And you and I agree that's not the sort of person we want on the Supreme Court."

For all the intensity, conservatives were keenly aware that the debate was largely symbolic. Republicans, who control the committee and have a 10-vote majority in the Senate, are confident that the Roberts nomination is on a glide path.

The Judiciary Committee will vote on Judge Roberts's nomination next Thursday, and the full Senate will take it up the following week. The biggest political question, at the moment, is how many Democrats Mr. Roberts will get.

Several key Democrats, signaling the likelihood of a party-line vote in committee next Thursday, said Judge Roberts had yet to show his values and core commitments, beyond his commitment to the legal process.

Senators Charles E. Schumer of New York and Dianne Feinstein of California both said they were haunted by the question, "What kind of justice will John Roberts be?"

Senator Richard J. Durbin, Democrat of Illinois, pressed Mr. Roberts on whether there was any client he would not represent in his years as a lawyer. Would he have aided either side in a suit challenging a state constitutional provision on the ground that it restricted gay rights, for example?

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Mr. Roberts, who assisted gay rights advocates in such a suit, replied, "I probably would have," saying that a lawyer should not sit in judgment of his client.

Mr. Durbin responded, "If this is just a process, a legal process and you'll play for any team that asks you to play, it raises a question about where would you draw the line, if you would ever draw the line?"

He said, "All of us are trying to get down to, what are your core values?"

Republican senators responded that Democrats were simply creating a new standard for judging a nominee who was clearly more than qualified - a point driven home Thursday by the American Bar Association, which pronounced Judge Roberts "well qualified."

Senator Lindsey Graham, Republican of South Carolina, said, "Nobody can question your intellect, because it would be a question of their intellect to question yours, so we're down to the heart."

Mr. Graham added, "If we go down this road of putting people's hearts into play, and the only way you can have a good heart is, 'Adopt my value system,' we're doing a great disservice to the judiciary."

The challenge to Judge Roberts's values was perhaps most pointed in a panel on civil rights. Wade Henderson, executive director of the Leadership Conference on Civil Rights, said that a strong federal role was key to enforcing civil rights for more than a century. Judge Roberts, Mr. Henderson said, repeatedly advocated a more restricted, limited federal role on civil and voting rights during his years in the Reagan administration.

Republicans argued that Mr. Roberts was representing the views of his client - the Reagan administration - in advocating a new approach to civil rights in the early 1980's. In any event, Republicans said, that was an argument over the means to reach equality and a colorblind society, not the goal.

Mr. Lewis argued that the Reagan proposals for stricter requirements to prove voting rights violations, had they prevailed, would have resulted in fewer black elected officials. "The judge was on the wrong side of history," he said.

Judge Roberts had an army of defenders on Thursday, including friends and former colleagues who testified to his legal acumen and disinterested professionalism.

Prof. Charles Fried of Harvard, a former Republican solicitor general, applauded Judge Roberts for adhering to his views of the law, even when doing so led to outcomes his opponents have attacked. "I wonder whether the critics are not really complaining that Judge Roberts didn't start with a result - their result - and then wrestle the law around until it fitted," Professor Fried said.

"He knows the difference between law and politics," Professor Fried said. "Judge Roberts seems to understand this down to his shoes."

At the end of the hearing, as at the beginning, Judge Roberts's views on privacy, and the uncertainty over whether that would translate into support for a constitutional right to abortion, loomed large.

Karen Pearl, interim president of Planned Parenthood Federation of America, testified against Judge Roberts's nomination, citing a 1989 warning by Justice Harry A. Blackmun that "a chill wind blows" for abortion rights.

"Accepting anything less than clarity" from Judge Roberts, Ms. Pearl said, "would be irresponsible."

At the same time, conservatives were arguing that Judge Roberts had not gone too far in endorsing the right to privacy.

Leonard Leo, Jay Sekulow and Wendy Long, three conservative lawyers organizing support for the administration's judicial nominees, circulated a memorandum arguing that Judge Roberts's testimony put him firmly in line with the conservative icons Justices Antonin Scalia and Clarence Thomas.

"His testimony on the right to privacy mirrored that of Clarence Thomas during his Supreme Court confirmation hearing," the lawyers wrote. "He refused to concede that there was a general privacy right, resisting Senator Schumer's effort to force the term."

After four days of hearings, some Democrats on the committee said they remained uncertain and confused. Senator Joseph R. Biden, Democrat of Delaware, said, at day's end: "My question is, Is Justice Roberts going to be a Scalia, a Rehnquist or maybe a Kennedy? If I think he's going to be a Justice Scalia, who I like personally very much, I vote no. If I think he's going to be a Kennedy, I vote yes. If I think he's going to be a Rehnquist, I probably vote yes because it won't change anything."

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John Roberts And A Judge Of History (WP)

By Marcia Davis, Washington Post Staff Writer

The Washington Post, September 16, 2005

John Roberts is well on his way to head the nation's judiciary, or so it's widely believed. Washington knows this in the manner that it knows such things: There's little left to do now but count the votes.

But yesterday, Rep. John Lewis (D-Ga.), the longtime legislator and civil rights icon, sat at the table before the Senate Judiciary Committee anyway. He sat along with other Roberts opponents -- Wade Henderson, executive director of the Leadership Conference on Civil Rights, and retired 6th Circuit Judge Nathaniel Jones, former general counsel of the NAACP.

Others had a seat at the table, too -- Jennifer Cabranes Braceras and Peter Kirsanow, both members of the U.S. Commission on Civil Rights and supporters of Roberts, were among the day's 30 witnesses offering their views on the nominee.

The diversity before the microphones in Hart Room 216, stood in sharp contrast to the scene that's dominated the week's proceedings.

In this exercise in representative democracy, the 18 committee members are all white -- 17 men and one woman, Sen. Dianne Feinstein (D-Calif.). There have also been only a handful of people of color witnessing the proceedings, be they activists from the right or left, students or simply those who wanted to observe history.

"The nature of the Senate for most of its history has been an organization of white men," says Richard Baker of the Senate's historical office. "That's just a fact. No question about it."

Barack Obama, the newly elected Democratic senator from Illinois, is the only African American senator, the fifth in the nation's history. There have been only 18 people of color since its founding -- black, Latino, Asian or Native American. There have been only 33 women: 32 white, one African American.

"It still raises the whole issue of race and class in the very room," Lewis said later yesterday afternoon. "That we are still a society where minorities, people of color, they are not present, just not there. . . . They are not in a position to raise some of these hard and tough questions." And "that's why it is left on the shoulders of some of the progressive" whites in the Senate and other bodies, he said.

Public questioning of Roberts ended yesterday morning, leaving the ensuing testimony, pro and con, to be delivered to a dwindling audience. All of it is in the record, and the senators receive the statements. By the time the panel including Lewis was on deck, there were seven senators in the room, and few journalists.

Kirsanow and Braceras echoed Roberts's call for judicial restraint, with Braceras noting that the court "is neither the first nor the last word on civil rights."

Like Lewis, Jones and Henderson spoke of the special role the courts had played in expanding racial equality.

But it was Lewis's presence that offered the drama of history.

"When I was growing up in rural Alabama," read Lewis, 65, "I saw those signs that said, 'White Men, Colored Men,' 'White Women, Colored Women.' I used to ask my parents, my grandparents, 'Why racism? Why racial discrimination?' And they would tell me, 'Don't get in trouble. Don't get in the way.' "

"As a participant in the civil rights movement of the 1960s, I decided to get in the way. I was beaten, arrested and jailed more than 40 times for peaceful, nonviolent protests against legalized segregation in the South."

He spoke about Hurricane Katrina and how it had exposed, with its images of mostly poor African Americans facing the aftermath of the storm in New Orleans, race and class remain great dividers.

"In 1965, Judge Roberts was only 10 years old. He may be a brilliant lawyer, but I wonder whether he can really understand the depth of what it took to get the Voting Rights Act passed," Lewis continued.

Voting rights and other issues such as the right to privacy (a key element in Roe v. Wade) have been a focus of Democratic senators questioning Roberts. They have made it more than clear that they have not been happy with his responses.

Lewis knows how to count votes. He is aware of where Roberts may be heading in the coming days. And it didn't bother him at all that he was reading to an almost empty room. He also knows that the proceedings were televised.

"It is my hope that my testimony will give the senators, especially those who have not made up their mind, but even those who have made up their mind, some additional information, give them some food for thought."

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"I don't buy this idea that during the time that Judge Roberts was a young attorney in the Reagan administration he was just doing his job and working for someone who believed one thing and he believed something else."

Lewis watched Roberts's questioning closely and found himself frustrated: "People wanted to know, they wanted to know how he felt. What is your overall feeling, what is in your heart?"

Committee Chairman Arlen Specter (R-Pa.) asked Lewis how he felt about all that Roberts had said. After all, Roberts noted, at 50 he is not the man he was in his twenties.

But Lewis isn't convinced. Nor does it matter, he says, that he is not expecting to change history this time.

There have certainly been colleagues and activists who say, "Why get in the way? This wheel is already rolling. . . . Now he's going to be the chief justice. . . . You shouldn't say anything, you shouldn't get in the way."

But that just wouldn't be Lewis.

Final Day Of Nomination Hearings: Yawn. (WP)

By Dana Milbank

The Washington Post, September 16, 2005

John Lewis, legend of the civil rights movement and Democratic congressman from Georgia, was giving it his all before the Senate Judiciary Committee yesterday afternoon. "I fear that if Judge Roberts is confirmed to be chief justice of the United States, the Supreme Court would no longer hear the people's cries for justice," he pleaded.

Lewis's testimony was passionate, poignant -- and pretty much irrelevant to the outcome. Only four of the committee's 18 senators were on hand for much of his testimony; Chairman Arlen Specter (R-Pa.) could be seen consulting his wristwatch. Of the 120 seats in the press gallery, 104 were unoccupied. And dozens of seats reserved for the public went unoccupied.

Skipping the final session, committee members Sam Brownback (R-Kan.) and Mike DeWine (R-Ohio) gave a news conference outside the hearing room. The pair found themselves talking mostly to camera crews, as a couple of reporters half-listened. "Questions?" Brownback asked.

Nobody replied.

As witnesses gave their views for and against the man who will almost certainly be the next chief justice, one thing was clear: John G. Roberts has no Anita Hill. In 20 hours of questioning that ended yesterday morning, Democrats were unable to bloody the nominee significantly. With Republicans in possession of enough votes to confirm Roberts -- and no skeleton peering from the nominee's closet -- the fourth and final day of hearings into Roberts left the firm impression that senators were just going through the motions.

As Democrats proceeded through their final round of questioning, the Republicans did not conceal their boredom. Sen. Tom Coburn (Okla.) yawned. Brownback closed his eyes and rubbed his brow. Sen. Lindsey O. Graham (S.C.) let out a big yawn and fixed his hair. Five GOP staffers shared a joke, then passed a note to Sen. Orrin G. Hatch (Utah), who read it, looked over at the Democratic side and chuckled.

As Sen. Russell Feingold (D-Wis.) wrapped up his questioning of Roberts, he listed a number of documents he wanted included in the record.

"Mr. Chairman, if those items could be entered in the record?" Feingold asked of Specter.

Silence.

In the chairman's seat, Specter sat, scribbling or doodling, unaware that all eyes were on him to grant the routine request.

"Mr. Chairman?" Feingold said again.

This roused Specter from his reverie. "Yes?" he asked, looking up, and then he finally mustered "Without objection, so ordered."

Sen. John Cornyn (R-Tex.), a stalwart supporter of Roberts, skipped most of the afternoon session. Instead, this distinguished committee member distributed laminated cards labeled "Crying Wolf Bingo" with words such as "Ideologue!" "Partisan!" "Far Right!" "Zealot!" "Extremist!" An accompanying news release chronicled "the sad history of attacks against previous nominees."

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In the hallway outside the hearing room, the scene had the feel of open-microphone night at a karaoke bar, as liberal and conservative lobbyists lined up in front of two idle television cameras to give their views. It wasn't clear whether any of the footage -- filmed by C-SPAN and a pooled network camera -- would ever see the airwaves.

Among the appearances most of the senators missed:

Roberts friend and legal partner Kathryn Webb Bradley, calling herself a Democrat who didn't support President Bush in either election, said she felt "confident entrusting my own rights and those of my children and their generation to John Roberts for safekeeping."

On the other side, Roderick Jackson, a high school girls basketball coach from Alabama, spoke of how a 5 to 4 Supreme Court ruling saved his job after he was fired for complaining about unequal treatment of girls. "A shift in even one vote would have left me without any remedy," he said.

The thing that seemed to alarm Democrats was not Roberts himself or his writings but the fact that ideologues on the right love him so much. Sen. Edward M. Kennedy (Mass.) held a news conference during the afternoon hearing and waved "publications from conservative journals" assuring conservatives that they should be "secure in knowing they have a true soul spirit with this nominee."

At times yesterday, the hearing took a promising turn, as when Sen. Charles E. Schumer (D-N.Y.) pleaded with Roberts to say whether he would be a Felix Frankfurter, a William Rehnquist or an Antonin Scalia.

"I think if you've looked at what I've done since I took the judicial oath; that should convince you that I'm not an ideologue," Roberts replied. "And you and I agree that that's not the sort of person we want on the Supreme Court."

It was a powerful moment -- while it lasted. Cornyn broke in to criticize Democrats' demands for more Roberts papers. Sen. Richard J. Durbin (D-Ill.) started talking about Paris Hilton's telephone records. Graham requested time to denounce the views of Justice Ruth Bader Ginsburg's views on prostitution.

And, with that, Specter put an end to the questioning of Roberts.

Democrats On Receiving End In Flap Over Roberts (WT)

By Charles Hurt

The Washington Times, September 16, 2005

Sen. John Cornyn turned the tables on Democrats yesterday, transforming the confirmation hearings for Judge John G. Roberts Jr. into one of the nastiest partisan conflicts the Senate Judiciary Committee has seen in recent years.

Throughout the four days of hearings, Democrats called for the release of internal legal documents Judge Roberts wrote while working in the Solicitor General's Office. Republicans said those documents fall under attorney-client privilege and cannot be released.

Fed up with the repeated pleas, Mr. Cornyn, Texas Republican, reminded the Democrats on the panel of their stunned outrage when some of their own internal records wound up in public.

"It strikes me as odd, having been on the committee last year when we had an unfortunate theft of internal documents that were written by staffers of individual senators and which were published to the outside world," he said. "There was bipartisan outrage over that and we, as I recall, referred the matter for investigation and possible prosecution."

He was making reference to 14 internal memos that were downloaded from Democratic computers by two Republican staffers and were published by the Wall Street Journal and The Washington Times. The memos revealed a cozy relationship between Democrats on the Judiciary Committee and outside groups with special interests in the federal judiciary.

In one memo, staffers for Sen. Edward M. Kennedy, Massachusetts Democrat, recommend that a Bush nominee to the 6th Circuit U.S. Court of Appeals be stalled until after that appellate court had decided a landmark affirmative action case.

"The thinking is that the current 6th Circuit will sustain the affirmative action program, but if a new judge with conservative views is confirmed before the case is decided, that new judge will be able, under 6th Circuit rules, to review the case and vote on it," the staffers wrote to Mr. Kennedy.

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In another memo to Sen. Richard J. Durbin, Illinois Democrat, Washington lawyer Miguel A. Estrada was singled out as "especially dangerous" because "he is Latino." Mr. Estrada, born in Honduras, withdrew his nomination to the U.S. Court of Appeals for the D.C. Circuit after being filibustered by Democrats for eight months.

At yesterday's hearing, Mr. Durbin reminded Mr. Cornyn that a Republican staffer -- Manuel Miranda -- "was discharged" over the matter, which was turned over to the Justice Department for investigation.

Just this week, it turned out, Mr. Durbin had written Attorney General Alberto R. Gonzales to commend his department for successfully prosecuting the man who hacked into the cell phone of hotel heiress Paris Hilton and stole her telephone records. In the letter, he asked if any precedent had been created to go after Mr. Miranda.

There was no disagreement from Republicans and, in any event, that was beside the point, Mr. Cornyn said.

"Surely if the legislative branch is entitled to confidential communications between our lawyers and us so we can do our jobs and get candid advice, the executive or the president is entitled to the same sort of confidential and candid communications," he said.

Inside Politics (WT)

By Greg Pierce

The Washington Times, September 16, 2005

Drafting Condi

Americans for Rice, a group that's trying to drum up support for Secretary of State Condoleezza Rice to run for president in 2008, has put together a 60-second television ad that it hopes to air by the end of the month.

"While driving from Fargo, North Dakota, to Nashville in my Mini Cooper plastered with 'Condoleezza Rice for President' bumper stickers, numerous cars honked at me and the drivers either waved or gave a thumbs up," writes Crystal Dueker, the organization's national co-chairman.

"It set the tone for our successful fund-raising booth at the National Federation of Republican Women. Over 1,500 women from across the United States gathered to discuss politics, leadership and a vision for the future of our nation," she said.

About 190 women donated an average of $15 each toward the funds to put the ad on television. In the meantime, it can be viewed at www.americansforrice.com.

Religious test

"They should be ashamed. We should be ashamed. We have not progressed much in 45 years it seems, and we appear to be traveling in the wrong direction," Manuel Miranda writes at www.OpinionJournal.com.

"Article VI of the Constitution prohibits a religious test from being imposed on nominees to public office. The clause was motivated by the experience of Catholics in the Maryland colony and Baptists in Virginia who had been the targets of Great Britain's two Test Acts. These infamous laws of intolerance sought to prevent anyone who did not belong to the Church of England from holding public office. The Test Acts did not say that Catholics could not hold office; the bigotry was more subtle. Officials questioned would-be public servants to determine whether they believed in particular tenets of the Catholic faith," Mr. Miranda said.

"While questioning John Roberts on Tuesday, Judiciary Committee chairman Arlen Specter asked: 'Would you say that your views are the same as those expressed by John Kennedy when he was a candidate, and he spoke to the Greater Houston Ministerial Association in September of 1960: "I do not speak for my church on public matters, and the church does not speak for me." '

"Hours later, Sen. Dianne Feinstein of California made it worse: 'In 1960, there was much debate about President John F. Kennedy's faith and what role Catholicism would play in his administration. At that time, he pledged to address the issues of conscience out of a focus on the national interests, not out of adherence to the dictates of one's religion. ... My question is: Do you?'

"How insulting. How offensive. How invidiously ignorant to question someone like Judge Roberts with such apparent presumption and disdain for the religion he practices. The JFK question is not just the camel's nose of religious intolerance; it is the whole smelly camel."

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Dean screams

The Democratic National Committee yesterday stepped up its attacks on Judge John G. Roberts Jr., with DNC Chairman Howard Dean saying that the Supreme Court nominee was "the wrong man at the wrong time for our country."

Mr. Dean used similar phasing during his ill-fated 2004 presidential campaign when he condemned the U.S. war in Iraq, calling it "the wrong war in the wrong place at the wrong time."

"The skills John Roberts displays are like those of White House Deputy Chief of Staff Karl Rove or House Republican Leader Tom DeLay. Both of those men have sharp political minds — they are among the smartest in Washington. But they use those skills to push a narrow ideology and win at any costs," he said.

"Roberts has spent a career using the law to protect corporate interests and roll back the rights that protect us all," Mr. Dean said in an e-mail fundraising solicitation to Democratic Party members.

Hatch's hint

Among the witnesses who testified in support of Judge John G. Roberts Jr. during yesterday's Senate Judiciary Committee hearing was Utah District Judge Denise Posse-Blanco Lindberg. Judge Lindberg seraved as a lawyer with Judge Roberts at the Washington firm Hogan & Hartson LLP, and worked with him as a Supreme Court clerk.

Observers have suggested that President Bush would like to make a Hispanic or a woman his next Supreme Court nominee, and Judge Lindberg is both — a point that Sen. Orrin G. Hatch, Utah Republican, made sure to emphasize yesterday.

After Judge Lindberg had testified, Mr. Hatch thanked her effusively for her testimony and recited her impressive biography: The daughter of a Puerto Rican mother and a Cuban father, she was 9 years old when her family fled Cuba after communist dictator Fidel Castro came to power.

In addition to her magna cum laude law degree from Brigham Young University, Judge Lindberg also holds a master's degree and a doctorate from the University of Utah. She is a devout Mormon and the mother of two grown sons.

She was appointed to her state court position in 1998 by Gov. Michael O. Leavitt, a Republican whom Mr. Bush has since chosen as secretary of health and human services.

Praising her as having "one of the strongest backgrounds of any woman lawyer in this country," Mr. Hatch told Judge Lindberg, "I was particularly pleased to listen to your experiences as a woman, as a minority, as an able jurist. ... That means a lot to me, and I personally want to pay tribute to you as somebody who has not only excelled in the legal profession, but deserves the accolades that I've just given."

Arnold ready

The worst-kept secret in California is that Gov. Arnold Schwarzenegger will seek a second term in 2006, and he is expected to make it official today, the San Francisco Chronicle reports.

"I'm not in this just for the short term," Mr. Schwarzenegger told a friendly crowd of more than 120 people at a town-hall meeting in Clovis on Wednesday.

Mr. Schwarzenegger, who took office after the October 2003 recall of Democratic Gov. Gray Davis, left little doubt as to what he would announce during today's appearance in San Diego.

"If you start something, you have to finish it," he said. "People sent me to Sacramento to fix a broken system. I'm going to stay and fight for the people until the system is fixed once and for all."

New chairman

The House Republican Conference announced yesterday that New York Rep. Peter T. King will be the new chairman of the Homeland Security Committee.

Mr. King succeeds former Rep. Christopher Cox, California Republican, who left the House to become head of the Securities and Exchange Commission.

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'This Great City Will Rise Again' (NSDY/AP)

By Nedra Pickler, The Associated Press

Long Island Newsday, September 16, 2005

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NEW ORLEANS -- President Bush promised tonight the government will pay most of the costs of rebuilding the hurricane-ravaged Gulf Coast in one of the largest reconstruction projects the world has ever seen. "There is no way to imagine America without New Orleans, and this great city will rise again," the president said.

Standing in Jackson Square in the heart of the French Quarter, Bush acknowledged his administration had failed to respond adequately to Hurricane Katrina, which killed hundreds of people across five states. The government's costs for rebuilding could reach $200 billion or beyond.

"Four years after the frightening experience of Sept. 11, Americans have every right to expect a more effective response in a time of emergency," the president said. When the government fails to meet such an obligation, Bush said, "I as president am responsible for the problem, and for the solution."

Bush ordered his Cabinet secretaries to join in a comprehensive review of the government's faulty response. In addition, he told the Department of Homeland Security to undertake an immediate review of emergency plans in every major city in America.

He also said a disaster on the scale of Katrina requires greater federal authority and a broader role for the armed forces.

Unusual for a prime-time address, Bush stood tieless in a blue dress shirt. At his back, the famous palm tree-framed St. Louis Cathedral was brightly lit. Elsewhere in the famed city, workers were still pumping out flooded neighborhoods and collecting bodies left behind in the frantic evacuation.

Bush proposed establishment of worker recovery accounts providing up to $5,000 for job training, education and child care during victims' search for employment. He also urged legislation to provide education, small business help and health care. He proposed creation of a Gulf Opportunity Zone in Louisiana, Mississippi and Alabama offering tax breaks to encourage businesses to stay in the devastated region and new businesses to open.

In the speech, which lasted a bit over 20 minutes, he said he would ask Congress to approve an Urban Homesteading Act in which surplus federal property would be turned over to low-income citizens by means of a lottery to build homes, with mortgages or assistance from charitable organizations.

Other proposals, according to congressional officials briefed by the White House, include:

A 100 percent reimbursement to states to cover their costs of health care for treating many evacuees through the end of next year.

$1.9 billion to reimburse states for educating displaced students, including some money that could go to religious schools.

Six-month forgiveness on student loan interest for affected areas, at an estimated cost of $100 million.

Bush repeated a hotline number, 1-877-568-3317, for people to call to help reunite family members separated during the hurricane. Moments later, Sen. John Kerry, D-Mass., criticized Bush, saying "Leadership isn't a speech or a toll-free number."

"No American doubts that New Orleans will rise again," Kerry said. "They doubt the competence and commitment of this administration." House Democratic leader Nancy Pelosi and Senate Democratic leader Harry Reid, in a joint statement, said, "We are concerned by Bush administration initiatives this week waiving wage protections, environmental safeguards and protections for veterans, minorities, women and the disabled."

Bush described the hurricane's aftermath as "days of sorrow and outrage," and he said the nation had "witnessed the kind of desperation no citizen of this great and generous nation should ever have to know." He deplored scenes of victims calling out for food and water, criminals who had no mercy, and bodies of the dead lying uncovered in the street.

He said the suffering of victims was tempered by acts of courage and kindness. To the hundreds of thousands of people forced from their homes, Bush said, "You need to know that our whole nation cares about you -- and in the journey ahead you are not alone."

Promising better days ahead, Bush said, "The streets of Biloxi and Gulfport will again be filled with lovely homes and the sound of children playing. The churches of Alabama will have their broken steeples mended and their congregations whole.

"And here in New Orleans, the street cars will once again rumble down St. Charles, and the passionate soul of a great city will return."

Bush faced the nation at a vulnerable point in his presidency. Most Americans disapprove of his handling of Katrina, and his job-approval rating has been dragged down to the lowest point of his presidency also because of dissatisfaction with the Iraq war

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and rising gas prices. He has struggled to demonstrate the same take-charge leadership he displayed after the Sept. 11 terror attacks four years ago.

Across five Gulf Coast states, the death toll from Katrina climbed today to 794, led by 558 in Louisiana.

Faulting the government's response, Bush said that Katrina "was not a normal hurricane _ and the normal disaster relief system was not equal to it." State officials have blamed the federal government for failing to respond more quickly, and federal officials have pointed fingers at state and local officials.

Responding to charges that help would have been sent more quickly if most victims had not been poor and black, Bush noted that the persistent poverty, rooted deep in the Gulf region, was broadcast for all Americans to see.

"That poverty has roots in a history of racial discrimination, which cut off generations from the opportunity of America," Bush said. "We have a duty to confront this poverty with bold action."

Bush said the goal was to get evacuees out of shelters by mid-October and into apartments and other homes, with assistance from the government. He said he would work with Congress to ensure that states were reimbursed for the cost of caring for evacuees.

Bush called for new measures to protect New Orleans from flooding and said the Army Corps of Engineers would work with state and local officials. "Protecting a city that sits lower than the water around it is not easy, but it can and has been done," the president said.

"The work that has begun in the Gulf Coast region will be one of the largest reconstruction efforts the world has ever seen," Bush said. He praised Americans for giving generously for disaster relief, saying the fund led by former Presidents Bush and Clinton had received pledges of more than $100 million.

Rebuilding across the devastated region is expected to cost $200 billion or more in the near term. The final tab could approach the more than $300 billion spent thus far on U.S. wars in Iraq and Afghanistan. Congress has already approved $62 billion for the disaster, but that is expected to run out next month.

House Speaker Dennis Hastert, R-Ill., speaking after the president's address, said the recovery programs would add to the nation's debt. GOP leaders are open to suggestions from lawmakers to cut government spending elsewhere, he said.

AP Writer Nedra Pickler reported from Pascagoula, Miss., and New Orleans and Terence Hunt reported from Washington.

Bush Announces Massive Recovery Program (KRT)

By Ron Hutcheson And Erika Bolstad

Knight Ridder, September 16, 2005

NEW ORLEANS - Speaking from the center of a deserted and devastated city, President Bush on Thursday outlined one of the biggest recovery efforts in history for Hurricane Katrina and promised to overhaul the government's disaster-response plan.

"This government will learn the lessons of Hurricane Katrina," he said in a nationally televised speech from Jackson Square, in the symbolic heart of New Orleans' French Quarter. He assured Katrina's victims that they would get the help they needed to resume normal lives.

"The work that has begun in the Gulf Coast region will be one of the largest reconstruction efforts the world has ever seen," he said. "I know that when you sit on the steps of a porch where a home once stood or sleep on a cot in a crowded shelter, it is hard to imagine a bright future. But that future will come."

Bush made his fourth trip to the stricken Gulf Coast on a day of hope for New Orleans. Hours before Bush's speech, Mayor Ray Nagin announced that nearly 200,000 residents and business owners would be allowed to return starting this weekend.

"It's a good day in New Orleans," Nagin said. "We're bringing New Orleans back, and this is our first step."

The mayor's optimistic mood contrasted with the finger-pointing and ill will that followed the government's sluggish response to Hurricane Katrina, which ravaged the Gulf Coast. Bush's speech was the latest in a series of White House efforts to address concerns about the government's response and questions about the president's leadership.

Bush, whose job-approval ratings have fallen to around 40 percent in a series of recent polls - the lowest of his presidency - went further than he ever had in acknowledging the missteps and accepting responsibility.

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"It was not a normal hurricane, and the normal disaster-relief system was not equal to it," he said. "The system, at every level of government, was not well coordinated and was overwhelmed in the first few days. It is now clear that a challenge on this scale requires greater federal authority and a broader role for the armed forces.

"Americans have every right to expect a more effective response in a time of emergency," he added. "When the federal government fails to meet such an obligation, I as president am responsible for the problem, and for the solution."

The president also addressed concerns raised by televised images of suffering crowds of city residents, many of whom were low-income African-Americans. Polls indicate that most blacks believe that the slow government response was related to the race of the victims. Most whites reject that explanation.

Bush said Americans watching the disaster-relief efforts on television saw "some deep persistent poverty" that "has roots in a history of racial discrimination."

"We have a duty to confront this poverty with bold action," he said. "When the streets are rebuilt, there should be many new businesses, including minority-owned businesses, along those streets."

Bush didn't put a price on the recovery effort, but most estimates put the tab between $200 billion and $300 billion, roughly equal to the combined cost to date of the wars in Afghanistan and Iraq. The government will borrow the money, driving up the national debt. This year's deficit is already $331 billion.

The president outlined a series of steps to aid flood victims: vouchers to let displaced students attend private or parochial schools at public expense; federal reimbursements to help states deal with higher Medicaid costs for evacuees; up to $5,000 for some unemployed hurricane victims so that they can pay for training, child care or other services that might help them find work; the creation of a Gulf Opportunity Zone that would give tax breaks and loans in return for business investment; and new "worker recovery accounts" to expand unemployment benefits.

The school voucher plan is likely to be particularly controversial because Congress has blocked similar plans in the past. Democrats accused Bush of trying to use the disaster to advance an ideological agenda.

"The Gulf Coast region does not deserve to be treated as a laboratory for political opportunism or ideological experimentation," Senate Democratic Leader Harry Reid of Nevada and House Democratic Leader Nancy Pelosi of California said in a joint statement.

In New Orleans, the first significant steps toward normalcy will come on Saturday, when business owners will be allowed to return to some sections of the city. Areas set to open in stages include the central business district, the French Quarter, the section known as Uptown, and Algiers, located across the Mississippi River. Businesses on Bourbon Street will be ready to reopen their doors to greet customers on Sept. 26.

Residents will start returning on Monday, on a schedule devised by zip codes.

To return to the city, residents and business owners will be asked to verify proof of residence or business ownership with identification. About 182,000 people live in the areas to be reopened over the next two weeks, out of a city of nearly 500,000.

Despite the cleanup and plans for rebirth, nearly half of New Orleans remains flooded and uninhabitable. The Army Corps of Engineers estimates that it will take until Oct. 8 to pump all the water out of the city.

The death toll also continues to rise along the Gulf Coast. At least 794 bodies have been found so far, including 558 in Louisiana. On Thursday, government forecasters confirmed what had seemed clear for weeks: Katrina was the most destructive hurricane ever to strike the United States.

Hurricane Andrew, the previous worst storm, cost about $21 billion in today's dollars when it hit South Florida in 1992.

Bush pledged to work closely with city and state officials along the Gulf Coast during the reconstruction. He said federal funds would cover "the great majority of costs" of repairing roads, bridges, schools, hospitals and other public facilities. He said all expenditures would be closely monitored to guard against fraud and waste.

White House aides selected a setting for Bush's remarks that provided a reassuring view of one of the city's most recognizable landmarks. The square, dominated by the cream-colored spires of St. Louis Cathedral and a statue of Andrew Jackson on horseback, was spruced up Monday by a fire-fighting crew from Arizona.

The crew, part of a California-based emergency-response team, was in New Orleans to help set up accommodations, showers and meal tents for thousands of federal law enforcement workers helping with the cleanup. Sam Wilbanks, a U.S. Forest

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Service employee on the emergency-response team, said crew members weren't aware of Bush's visit when they volunteered to clean the square.

The White House kept the site of Bush's speech secret until Wednesday night, and troops from the 82nd Airborne patrolled the area. The precautions guaranteed that Bush wouldn't face the kind of heckling that Vice President Dick Cheney endured during his recent visit to the Gulf Coast, when he was loudly cursed.

(Hutcheson, of Knight Ridder's Washington bureau, reported from Washington. Bolstad of The Miami Herald reported from New Orleans. Gary Estwick, of the Akron Beacon-Journal, contributed from New Orleans.)

Mr. Bush In New Orleans (NYT)

The New York Times, September 16, 2005

President Bush said three things last night that desperately needed to be said. He forthrightly acknowledged his responsibility for the egregious mishandling of the aftermath of Hurricane Katrina. He spoke clearly and candidly about race and poverty. And finally, he was clear about what would be needed to bring back the Gulf Coast and said the federal government would have to lead and pay for that effort.

Once again, as he did after 9/11, Mr. Bush has responded to disaster with disconcerting uncertainty, then risen to the occasion later. Once again, he has delivered a speech that will reassure many Americans that he understands the enormity of the event and the demands of leadership to come.

But there are plenty of reasons for concern. After 9/11, Mr. Bush responded not only with a stirring speech at the ruins of the World Trade Center and a principled response to the Taliban in Afghanistan. He also decided to invade Iraq, and he tried to do it on the cheap - with disastrous results, for which the country continues to pay every day.

This time, Mr. Bush must come up with a more coherent and well-organized follow-through.

Clearly chastened by the outcry over his slow response to the disaster and his administration's bumbling performance, Mr. Bush said last night that he was prepared to undertake "one of the largest reconstruction efforts the world has ever seen." If he is sincere about his commitment to New Orleans and the other damaged localities, and to the displaced residents, he may have a fight on his hands in persuading Congress to support such an ambitious and necessary effort. Obviously, any official with even a minimal sense of responsibility would understand that this work will have to begin with a promise to give up on any more of the Republican Party's cherished tax cuts.

The speech, as good as it was, marks only a moment of clarity. Mr. Bush's problem in dealing with Katrina has been, at bottom, the same one that has bedeviled the administration since 9/11. The president came to office with a deep antipathy toward big government that has turned out to be utterly inappropriate for the world he inherited. The result has not been less government, but it has definitely been inept government.

We have already seen what happened to the Federal Emergency Management Agency when it was taken over by an administration that didn't like large federal agencies with sweeping mandates. For Iraq, the White House asserted that open-ended and no-bid contracts doled out to big corporations run by people known to government officials would mean swifter, more efficient operations. What we got was gross inefficiency, which has run up costs while failing in many cases to do the jobs required.

Given this history, it's impossible not to worry about what will happen to the billions of dollars being committed to New Orleans, especially since the Army Corps of Engineers' top man in the reclamation effort was once the corps' top man overseeing contracts in Iraq.

The administration is staffed several levels deep with officials who share their leader's distrust of large, expensive federal undertakings. But it is now faced with an unprecedented task: housing hundreds of thousands of homeless people, making sure their children are educated over the short term and eventually getting them a start on a new life. There is no way to do that without a focused federal effort.

Last night, the president was particularly strong when discussing the nation's shocking lack of preparedness for disaster, and the stark fact - obvious to every television viewer around the globe - that the people left homeless and endangered by Katrina were in the main poor and black.

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The entire nation, he said, saw the poverty that "has roots in a history of racial discrimination, which cut off generations from the opportunity of America." Polls show that black Americans are far angrier and more skeptical than whites about the administration's actions since the storm. Mr. Bush's words could begin a much-needed healing process. But that will happen only if they are followed by deeds that are as principled, disciplined and ambitious as Mr. Bush's speech.

Bush's Buffeted Leadership (CSM)

By Linda Feldmann, Staff Writer

The Christian Science Monitor, September 16, 2005

WASHINGTON - As New Orleans and the devastated Gulf Coast region look ahead to rebuilding and renewal, so, too, President Bush is digging out from the political damage hurricane Katrina has wreaked on his presidency.

The biggest blow to Bush, personally, may be to his image as a leader - the core quality that gave him high marks for his handling of 9/11 and, eventually, helped him win a second term.

As he ran for reelection last year, polls consistently showed a majority of the public credited him for leadership, even as they disagreed with him on many issues. Now, for the first time, less than half the public (49 percent) say he has "strong leadership qualities," down from 63 percent last year, according to a Newsweek poll last week.

Bush's planned prime-time address to the nation Thursday night, to be delivered from New Orleans, will mark the latest in a series of steps aimed at moving away from the early finger-pointing and appearance of detachment, and toward a can-do approach.

The president was to announce an unprecedented federal commitment to rebuilding the flood zone, with a price tag that aides say could top $200 billion. And Friday Bush will make remarks at Washington's National Cathedral as part of his proclaimed National Day of Prayer and Remembrance for the Victims of Hurricane Katrina.

Both speeches follow the president's "buck stops here" moment on Tuesday, when he declared, "To the extent the federal government didn't fully do its job right, I take responsibility."

One lesson for Bush, says presidential scholar Martha Joynt Kumar, is "that [you] can get it right as a leader for four years, and that doesn't guarantee you're going to continue to get it right.

"You have to be poised on your toes, and you just can't get comfortable with the system you have," says Professor Kumar, a senior fellow at the Academy of Leadership at the University of Maryland. "Different conditions can come up that test your system. [Katrina] certainly tested it in a different way."

A hallmark of Bush's system is planning, in contrast with President Clinton's more chaotic style that nevertheless lent itself to sharp pivots in focus. The day after Katrina hit, Bush stuck with his plan to deliver a speech in San Diego marking the anniversary of VJ Day - and seeking to boost support for the Iraq war - before cutting his vacation short and heading back to Washington the next day.

"This man is an incredible planner," says Carolyn Thompson, a Chicago-based training consultant and co-author of a book on Bush's leadership. "He is not a detail person, but he surrounds himself with people who gather details and feed them to him.... Once everything's in place, then they go."

She's withholding judgment on the White House's initial response to Katrina, stressing that "this is a very closed-mouthed White House" and that, with time, more may be learned about the factors that fed into a stretch that, for now, "looks ugly."

What is known is that Bush treasures his time at his ranch in Crawford, Texas, and that while he has all the access to aides and information there that he would have in Washington, the human dynamic is different. Getting information from multiperson videoconferences, the system in Crawford, is different from the way it works at 1600 Pennsylvania Avenue, where a range of people can come through and make their points in meetings.

"You can get ahead of things a little better at the White House," says Professor Kumar, who often observes White House press operations in person.

Bush is also famous for not paying close attention to media reports, another point that may have delayed a full understanding of the magnitude of Gulf Coast devastation, and the 9/11-level of leadership required.

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Even after arriving in the region, comments such as those making light of youthful time spent there and his "attaboy" gesture to Michael Brown, now resigned head as head of federal emergency management, showed he was still behind the curve.

By this week, when Bush made his qualified statement of responsibility - a rare moment for a president who has been loath to admit any failings - analysts agreed that he finally had it right. Bush's taking of responsibility "suggests he's finding his voice," says Fred Greenstein, a presidential scholar and professor emeritus at Princeton University.

Evacuees Find Comfort And Encouragement In Speech (NYT)

By Susan Saulny

The New York Times, September 16, 2005

HOUMA, La., Sept. 15 - Evacuees at a shelter here said they took comfort Thursday night from both the substance and the symbolism of the speech President Bush gave in the city many of them had fled.

When Mr. Bush talked about breaking the cycle of poverty and increasing the rate of home ownership on the Gulf Coast, one evacuee shouted, "Thank you! Thank you!" Others at the shelter, at the civic center in Houma, a small city southwest of New Orleans, nodded in approval at several points during the speech.

"I feel very encouraged because he's accepted responsibility, and in doing that, I feel that he has stepped up to the plate," said Evelyn Green, 58, a retired health care worker from the New Orleans area. "He touched me. I know now he's going to be there to help us rebuild our cities and towns. I take him at his word. I want to see everything he said tonight fulfilled."

Another evacuee, Muhammad Abdullah Ali, a 52-year-old security officer from New Orleans, said: "I feel that now he's going to take control and do the best he can. I felt good about the speech. It was a good speech. Now I want to see some action."

Others said they appreciated Mr. Bush's specific references to New Orleans culture and were glad to see the president speaking from Jackson Square, a familiar and comforting image from home.

The president's comments were greeted with praise from local officials, including Gov. Kathleen Babineaux Blanco, a Democrat.

"Louisiana's people are strong, optimistic and determined to rebuild this great region," Ms. Blanco said, "but we cannot do it without the resources of our nation and our government. I take the president at his word when he says those resources will be there when we need them."

Senator Mary L. Landrieu, Democrat of Louisiana, described Mr. Bush's proposals as "innovative and bold" and said: "The president picked a very inspiring spot to make this speech. The image is worth many words in terms of what Jackson Square and the cathedral mean to New Orleans and what New Orleans means to the nation."

But the Rev. Jesse Jackson said that even the president's nod to poverty and race issues would have to be matched by actions.

"I thought there was a sense of urgency," Mr. Jackson said about the speech. "I think he backed into the war on poverty, and touched on the issues of race and poverty and class obliquely, which is new for him."

Bush Calls For Massive Rebuilding (WSJ)

By John D. Mckinnon, Staff Reporter

The Wall Street Journal, September 16, 2005

President Bush promised a massive federal effort aimed at rebuilding lives, levees and communities on the Gulf Coast and said such large disasters call for greater federal authority, including a bigger role for the armed forces.

Mr. Bush, in a hopeful and sympathetic speech crafted at least in part to revive his political fortunes, sought to reassure Americans about the region's future in the wake of Hurricane Katrina, as well as the nation's own readiness for another disaster.

"Tonight I ... offer this pledge to the American people: Throughout the area hit by the hurricane, we will do what it takes -- we will stay as long as it takes -- to help citizens rebuild their communities and their lives," Mr. Bush said, standing before St. Louis Cathedral in the city's French Quarter. "And all who question the future of the Crescent City need to know: There is no way to imagine America without New Orleans, and this great city will rise again."

Mr. Bush also laid out a range of initiatives to start the rebuilding process. They include a Gulf Opportunity Zone to foster job creation through tax breaks and small-business loans in the affected region; Worker Recovery Accounts to provide as much

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as $5,000 to pay for job training, education and child care for evacuees who need help finding work; and an Urban Homesteading Act that would give low-income people federally owned land through a lottery, in return for their pledges to build homes on it. He also called for strengthening the system of levees that protects New Orleans, much of which sits below sea level.

The president set himself a difficult balancing act, promising that his administration will do whatever necessary to rebuild, while also seeking to reassure both those on the Gulf Coast and his conservative allies that Washington won't dictate all the details of reconstruction or simply throw money at the problem.

He pledged a "close partnership" with the affected states as well as the city of New Orleans. He said federal funds will cover the "great majority" of the cost of rebuilding public roads, bridges, schools and water systems. But he also promised "a team of inspector generals" to review all expenditures, some steps of which already have been taken.

Mr. Bush made one of his most sweeping acknowledgments that the government's disaster response was lacking, saying that "the system, at every level of government was not well coordinated, and was overwhelmed in the first few days." He said that "a challenge on this scale requires greater federal authority and a broader role for the armed forces."

That announcement could mean a bigger role for the military in homeland defense, an idea that has encountered some resistance in military circles especially at a time when active-duty troops are stretched by the wars in Iraq and Afghanistan.

The speech left open the question of whether the federal government will offer to pay for private-property owners' losses in a region where many went without flood insurance. Other details unresolved were whether the administration will appoint a rebuilding "czar" with sweeping authority to help coordinate the effort. The scope of such an enterprise will likely involve enormous expense, but Mr. Bush offered no cost estimates or steps his administration would take to pay for it.

Democratic congressional leaders criticized Mr. Bush's plan for being long on comforting words, but short on action. They called for a "Marshall Plan" to "help families get back on their feet, back into homes and back on the job," according to a statement by Senate leader Harry Reid of Nevada and House leader Nancy Pelosi of California.

Mr. Bush is hoping his long-term response to Katrina will shore up his standing with many Americans who appear to be losing confidence in his leadership. One such group is African-Americans, who have seen images of fellow blacks suffering due to poor initial emergency planning and management.

Last night Mr. Bush said he hoped his recovery initiatives would leave poor people better off than they were before the storm. "Let us restore all that we have cherished from yesterday, and let us rise above the legacy of inequality," he said. He also emphasized the need for people in the region to get preference for new jobs created by the recovery effort.

The administration hopes a well-organized and effective reconstruction effort will go a long way to re-establishing the president's diminished credibility as a leader with voters generally. In other steps aimed at improving readiness, he said cities "must have clear and up-to-date plans for responding" to disasters.

The president's speech came as Congress approved legislation advancing $6.2 billion in federal funds to ease the welfare crunch for states as homeless families from the storm are relocated. And Republicans leaders said a deal had been reached on a $6 billion to $7 billion tax-relief package for Katrina's survivors. The agreement, expected to go to the White House next week, would relax tax rules on corporate deductions to spur business donations and make it easier for households to claim tax breaks on their personal casualty losses. Families seeking to rebuild would be permitted to withdraw as much as $100,000 from retirement accounts without the customary penalties over the next year.

--David Rogers and Sarah Lueck contributed to this article.

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Bush Promises A Massive Rebuilding Of Gulf Coast (LAT)

By Edwin Chen And Mary Curtius, Times Staff Writers

The Los Angeles Times, September 16, 2005

NEW ORLEANS — President Bush, declaring that the federal government had rebounded from its early failures in responding to Hurricane Katrina, promised Thursday to lead an ambitious rebuilding program — "one of the largest reconstruction efforts the world has ever seen" — on behalf of a battered Gulf Coast region that has seen hundreds of lives lost and tens of thousands of homes and jobs washed away.

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In a prime-time address from this city's storied French Quarter, where once-bustling streets were desolate, Bush said Washington would provide most of the funding for a combined federal, state and local program to resurrect New Orleans and rebuild stricken regions of Louisiana, Mississippi and Alabama.

"Throughout the area hit by the hurricane, we will do what it takes, we will stay as long as it takes to help citizens rebuild their communities and their lives," Bush said.

Bush did not estimate a cost for reconstruction, but budget analysts predicted it would reach $200 billion — roughly the same amount spent on the wars in Iraq and Afghanistan combined, and about double the inflation-adjusted cost of the Marshall Plan, which rebuilt Europe after World War II.

He called on Congress to pass an Urban Homesteading Act to let the poor build homes on federal property that would be distributed by lottery. He proposed a Gulf Opportunity Zone offering tax incentives and loan guarantees for small businesses.

The president said evacuees should be given up to $5,000 for training, child care and transportation to find new jobs.

Bush also called for faith-based organizations to join the rebuilding effort.

Conservatives have long favored some of the proposals as alternatives to conventional government programs.

It was unclear how much of the rebuilding task Bush's proposals would address. At least 350,000 replacement housing units are estimated to be needed, for example, but municipal governments' existing homesteading programs have created only a few thousand units of housing. Habitat for Humanity, which Bush cited as one group that could help low-income people build homes on federal lots, last year put up 5,455 units.

The president addressed some of the most sensitive issues since the hurricane: doubts about the federal government's ability to respond to future disasters including terrorist attacks, and the "deep, persistent poverty" revealed by television coverage of residents, most of them black, unable to flee the floodwaters in New Orleans.

He promised to address both problems.

"Poverty has roots in a history of racial discrimination," he said, and the rebuilding effort will aim to "rise above the legacy of inequality. When the streets are rebuilt, there should be many new businesses, including minority-owned businesses, along those streets."

He said more residents should own, rather than rent, the new housing, a theme Bush has used in the past before minority audiences.

The president promised to uncover "all the facts" about the government's response to the crisis and directed cities to improve emergency plans for natural disasters, disease outbreaks and terrorist attacks.

"Four years after the frightening experience of Sept. 11, Americans have every right to expect a more effective response in a time of emergency," he said. "When the federal government fails to meet such an obligation, I as president am responsible for the problem, and for the solution."

The 22-minute nationally televised address was the president's most determined effort yet to counteract widespread criticism of the initial response by officials at all levels of government to a natural disaster that killed hundreds of people, left several hundred thousand homeless and destroyed billions of dollars' worth of property. He wore no jacket or tie and talked directly to a television camera, with the historic St. Louis Cathedral and a statue of Andrew Jackson behind him.

The speech also represented an attempt to restore the president's credibility at a time when his approval ratings had fallen to new lows. The Katrina crisis appears to have eroded support for the fight against terrorism, the Iraq war effort and the president's second-term domestic policy initiatives.

Bush's advisors cast the speech as a bold gesture that might be a turning point for both the president and the institutions of government sullied by Katrina's floodwaters.

Their hopes were buoyed by positive developments in New Orleans, including an announcement by Mayor C. Ray Nagin that businesses in some parts of the city would reopen this weekend and that evacuated residents could begin returning to their homes.

Some African American leaders said several of the president's proposals sounded good but were difficult to judge because details were missing.

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"Given that 80% of the people in the crisis were people of color, we want the proposals to be very responsive to the needs of people of color," said NAACP President Bruce S. Gordon. "That has to be precise."

Rep. Melvin Watt (D-N.C.), chairman of the Congressional Black Caucus, said he was disappointed by the lack of specifics.

Republicans praised Bush for being contrite and setting out a vision of recovery.

Rep. Mark Foley (R-Fla.), who had been sharply critical of the government's initial response to the hurricane, said Bush had provided the right response by conceding fault and accepting responsibility.

"We're taught as young kids: Acknowledge your mistakes, admit your lies," Foley said. "It's cathartic. That's what I think the speech did. He didn't just try to blame someone else."

Democratic leaders said Bush's assurances were not enough.

"The victims of Hurricane Katrina don't need just words, they need a plan that will lead the way in recovery, rebuilding and renewal," said Senate Minority Leader Harry Reid (D-Nev.) and House Minority Leader Nancy Pelosi (D-San Francisco) in a joint statement.

Bush began his address with remarks directed at Gulf Coast residents driven from their homes by Katrina. He offered America's sympathy and vowed a speedy recovery effort in which all levels of government would participate.

"You need to know that our whole nation cares about you, and in the journey ahead you are not alone," he said.

Yet even as he promised a thorough investigation of the government's initial response to the hurricane, which has been widely characterized as slow and poorly coordinated, Bush seemed somewhat defensive.

"It was not a normal hurricane, and the normal disaster relief system was not equal to it," he said. "The storm involved a massive flood, a major supply and security operation, and an evacuation order affecting more than a million people."

Speaking from historic Jackson Square in the heart of the French Quarter, Bush put to rest any doubts about the wisdom of rebuilding New Orleans, much of which lies below sea level. "Protecting a city that sits lower than the water around it is not easy, but it can and has been done," he said.

"There is no way to imagine America without New Orleans, and this great city will rise again," he said.

Bush said federal funds would "cover the majority of the cost" of repairing public infrastructure, such as roads, bridges, schools and water systems. He also assured residents that state and local officials would have the primary role in planning their futures, and he promised to deploy "a team of inspectors general" to make sure the money was spent wisely.

The president did not put a price tag on the package of housing, education, healthcare and job assistance. Analysts have said the $62 billion appropriated by Congress is likely to run out this month.

In his remarks, Bush signaled he might seek a new role in domestic emergencies for U.S. armed forces, which played a crucial role in helping supply and secure the Gulf Coast.

"It is now clear that a challenge on this scale requires greater federal authority and a broader role for the armed forces, the institution of our government most capable of massive logistical operations on a moment's notice," Bush said.

Although the president did not provide details, White House officials have said the administration would review whether to expand the president's power to send troops into disaster areas and to assign them law enforcement duties.

Others have proposed more drastic changes. Senate Armed Services Committee Chairman John W. Warner (R-Va.) asked the Pentagon this week to review the Posse Comitatus Act, which prohibits active-duty U.S. troops from carrying out law enforcement missions within the United States.

Bush's address came at a critical point in his presidency, largely a result of what Washington-based pollster Andrew Kohut called "a summer's worth of bad news" — soaring gas prices, escalating violence in Iraq and, finally, Katrina.

Bush has seen his job approval ratings plummet to the lowest level of his presidency, fueling speculation about his ability to govern effectively in his remaining 3 1/3 years. Many of Bush's key initiatives — restructuring Social Security, permanently eliminating the estate tax, restructuring the tax code — were facing declining odds even before Katrina devastated much of the Gulf Coast and distracted Republican leaders in Washington from their agenda to approve tens of billions in unanticipated spending.

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Steve Ellis of Taxpayers for Common Sense, an independent watchdog group that monitors pork-barrel spending in Congress, expressed disappointment that Bush had neither attached a price tag to his rebuilding commitment nor offered to offset the emergency spending with budget cuts.

"The lack of a spending plan makes this speech appear to be more about political damage control than disaster relief," Ellis said. "The bottom line is, we can't afford to simply hand over the keys to the Treasury."

Bush delivered his address at the conclusion of his fourth visit to the hurricane-devastated region. On his way to New Orleans, he stopped in Mississippi, where he toured a Pascagoula oil refinery knocked out of commission by Katrina.

After returning to Washington early this morning, Bush was to participate in a National Day of Prayer and Remembrance for hurricane victims at the National Cathedral.

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Chen reported from New Orleans and Curtius from Washington. Staff writers Warren Vieth, Ricardo Alonso-Zaldivar, Peter G. Gosselin, Mark Mazzetti, James Gerstenzang and Emma Vaughn in Washington contributed to this report.

President Chooses A Serene Spot To Frame His Message (LAT)

By Paul Brownfield, Times Staff Writer

The Los Angeles Times, September 16, 2005

The set piece was in sharp contrast to the backdrop that TV reporters and anchors have been using in the last few weeks, their dispatches filed from the edge of floodwaters and ruined homes, from shelters where lives had been turned upside down.

President Bush's address Thursday night, by contrast, was held in a Jackson Square lighted up like Disneyland, the president framed before the statue of Andrew Jackson and St. Louis Cathedral in the background.

It was Bush striking a new note, one that Americans could be excused for finding strange. We have been seeing only devastation on our screens, access to a fresh hell giving TV personalities and journalists instant dramatic heft.

It's where we've been seeing Diane Sawyer on "Good Morning America," Oprah on "Oprah" and Anderson Cooper on CNN. Several weeks of news organizations hunting for misery and devastation left the president searching for a counter-image.

So the spooky placidity of Jackson Square, on what conveyed an otherwise peaceful evening in New Orleans, seemed an oddly appropriate choice for a president who throughout this crisis has been unable to halt the image of a leader who has been neither here nor there.

The speech seemed to float in the same kind of limbo that the setting provided — was the point to allay our fears or take responsibility for the federal government's stumbling response?

Introducing the president, ABC News' Ted Koppel noted dryly that the White House was supplying the electricity used to light the stage. Of Bush's previous visits to the region, some via fly-overs, Koppel said: "It struck some people as literally and figuratively a little too removed from what was happening on the ground."

To be sure, "You really have to be here" has been the overarching theme of a rehabilitated television news business, anchors confessing to getting up-close-and-personal with the story, which has been another way of saying they're up-close-and-personal with Americans' pain.

"When I'm not there, I think about it. When I'm there, I'm consumed by it. I'll admit that … I plan to commute back and forth to this story for the foreseeable future," NBC "Nightly News" anchor Brian Williams told the Philadelphia Inquirer this week.

Bush, you thought, could have given this speech from the Oval Office, but he came to stake his own version of being there. And he chose the only kind of postcard left on the racks — the impossibly serene one.

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Paul Brownfield is a Times TV critic.

Bush Pledges Federal Role In Rebuilding Gulf Coast (NYT)

By Elisabeth Bumiller

The New York Times, September 16, 2005

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NEW ORLEANS, Sept. 15 - President Bush called Thursday night for the rebuilding of the devastated Gulf Coast through the creation of a Gulf Opportunity Zone, a government enterprise that he said would provide help on taxes, housing, education and job training for the victims of Hurricane Katrina.

"The work that has begun in the Gulf Coast region will be one of the largest reconstruction efforts the world has ever seen," Mr. Bush said in remarks delivered in Jackson Square against the brightly lighted backdrop of St. Louis Cathedral, a symbol of the heart and soul of New Orleans for almost three centuries.

Mr. Bush delivered his speech, carried live by the major television networks, in the middle of the city's darkened French Quarter, where Army troops from the 82nd Airborne Division were on patrol. The Bush White House, well practiced in the art of presidential stagecraft, provided its own generators for the lighting and communications equipment that beamed Mr. Bush's remarks to the nation.

"And tonight I also offer this pledge of the American people: Throughout the area hit by the hurricane, we will do what it takes, we will stay as long as it takes to help citizens rebuild their communities and their lives," Mr. Bush said.

The mayor of New Orleans announced Thursday that residents and business owners could return to some parts of the city during daylight.

Mr. Bush ordered an immediate review of emergency plans for all cities, and said there was a need for greater federal authority and a broader role for armed forces in certain emergencies. He called for a federal government assessment of his administration's response to the storm and said that he would work with both parties in Congress in an investigation of what went wrong.

"This government will learn the lessons of Hurricane Katrina," Mr. Bush said.

The president did not, however, embrace calls for an independent commission to investigate the disaster.

White House officials viewed the speech as the culmination of a pivotal week in which Mr. Bush tried to turn around his image as a chief executive slow to respond to the greatest natural disaster in American history. The speech was meant to portray Mr. Bush as a forceful leader in control of the crisis and sympathetic to the people in the region.

"Tonight, so many victims of the hurricane and flood are far from home and friends and familiar things," Mr. Bush said. "You need to know that our whole nation cares about you, and in the journey ahead you are not alone. To all who carry a burden, I extend the deepest sympathy of our country."

Mr. Bush, dressed uncharacteristically in shirt-sleeves for a formal national address, said that the Gulf Opportunity Zone, encompassing Louisiana, Mississippi and Alabama, would provide tax incentives and loans for small businesses, including, he pointed out, minority-owned enterprises. Mr. Bush also said the federal government would provide evacuees with accounts of up to $5,000 that they could use for job training and education.

In addition, he asked Congress to pass what he called an Urban Homesteading Act, which would provide building sites on federal land through a lottery to low-income citizens, free of charge. In return, Mr. Bush said, residents would promise to build on the lots, with either a mortgage or help from a charitable organization like Habitat for Humanity.

Mr. Bush spoke after he was driven through empty, pitch-black streets, where members of the 82nd Airborne stood on corners in the darkness saluting the motorcade.

"I am speaking to you from the city of New Orleans, nearly empty, still partly under water and waiting for life and hope to return," Mr. Bush said from a lectern set up in the grass and hidden behind camouflage netting in Jackson Square.

In the aftermath of the storm, Mr. Bush said, "we have seen fellow citizens left stunned and uprooted searching for loved ones, and grieving for the dead and looking for meaning in a tragedy that seems so blind and random."

In his fourth trip to the region since the storm, Mr. Bush directly addressed the suffering of the largely poor, black evacuees at the New Orleans Superdome and convention center: "We have also witnessed the kind of desperation no citizen of this great and generous nation should ever have to know - fellow Americans calling out for food and water, vulnerable people left at the mercy of criminals who had no mercy and the bodies of the dead lying uncovered and untended in the street."

The president said state and local officials would have the primary role in planning for reconstruction, and in changing zoning laws and building codes. He listed many of the relief efforts now under way, including the registration of evacuees and retraining for workers.

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Mr. Bush also tackled the tough issues of race and poverty that have been the source of enormous criticism and caused even Republicans to question the administration's commitment: "As all of us saw on television, there is also some deep, persistent poverty in this region as well. And that poverty has roots in a history of racial discrimination, which cut off generations from the opportunity of America. We have a duty to confront this poverty with bold action. So let us restore all that we have cherished from yesterday, and let us rise above the legacy of inequality."

Mr. Bush did not offer cost estimates for his proposals on Thursday night, but they were drawn from the kind of experiments - with "opportunity zones" and tax incentives - that Republicans have greatly preferred to huge federal spending efforts. The president seemed to try to balance a comprehensive government plan with an assurance that Washington would back away and allow Louisiana, Mississippi and Alabama - and the city of New Orleans - to decide how to rebuild.

"That is our vision of the future, in this city and beyond: We will not just rebuild, we will build higher and better," he promised.

Aside from the opportunity zone, Mr. Bush also proposed "worker recovery accounts" of up to $5,000 that evacuees could use for job training and education. The proposal sounds much like the kinds of accounts set up after the passage of the North America Free Trade Agreement in the early 1990's to help retrain workers displaced by foreign competition, a program that met with mixed reviews.

But in his speech, Mr. Bush also left some of the most controversial ideas unmentioned. His words seemed to imply that New Orleans neighborhoods would be rebuilt on the same sites that were flooded, rather than letting that land return to its original state, as wetlands that could provide a relief valve in the case of a future flood. Many of the most vulnerable neighborhoods were largely occupied by the city's poorest, and relocating those neighborhoods opened issues that one White House official said today "are not for us to deal with."

"Protecting a city that sits lower than the water around it is not easy," Mr. Bush said, "but it can and has been done."

He added: "And all who question the future of the Crescent City need to know: There is no way to imagine America without New Orleans, and this great city will rise again."

The federal government, Mr. Bush said, will undertake a "close partnership" with Mississippi and Louisiana, with New Orleans and other Gulf Coast cities so they can rebuild in a "sensible, well-planned way." He said the federal government will cover the majority of the costs of rebuilding the infrastructure in the disaster zone, from roads and bridges to schools and water systems.

The president said he expected the work to be done quickly, and that taxpayers would expect it to be performed "honestly and wisely." He promised to have a team of inspectors reviewing all expenditures.

But many Republicans predicted that the costs could run as high or higher than the war in Iraq, up to $200 billion, and noted that the White House had said $51.8 billion in emergency federal funds just approved by Congress, on top of an earlier $10 billion, would last for just a few weeks. Mr. Bush did not name a lead rebuilding official in the speech, as some White House officials are urging, and Scott McClellan, the White House press secretary, did not rule out the naming of such an official at a later date. Gen. Tommy Franks, who commanded forces in Afghanistan and Iraq, and John F. Welch Jr., the former chief executive of General Electric, are names often mentioned by Republicans as possibilities.

The president's proposal for an opportunity zone draws on more than a decade of federal experience with offering tax credits and other incentives for investment in economically depressed areas.

In 2002, the Bush administration selected New Orleans as a renewal community, eligible to share in billions of dollars worth of federal tax incentives intended to stimulate job growth and economic development. Last October, Gov. Kathleen Babineaux Blanco of Louisiana said the program had helped create jobs and must expand across the Delta.

Mr. Bush's proposal goes further. He would provide tax breaks, loans and loan guarantees to encourage businesses to invest in areas hit by the hurricane.

The Government Accountability Office, an investigative arm of Congress, said last year that federal agencies did not collect the data needed to assess the existing program or to show how the tax benefits had been used.

The president's comments were met with praise from local officials, including Ms. Blanco, who along with other local officials listened to Mr. Bush's speech from a bench in Jackson Square.

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"Louisiana's people are strong, optimistic and determined to rebuild this great region, but we cannot do it without the resources of our nation and our government," she said. "I take the president at his word when he says those resources will be there when we need them."

Bullhorn Or Not, Bush Aims For A Boost Speech Is Chance To Change Minds, But This Isn't 9/11 (USAT)

By Judy Keen

USA Today, September 16, 2005

WASHINGTON — President Bush and his advisers never said publicly that they thought he needed another "bullhorn moment" like his spontaneous post-9/11 rallying cry at Ground Zero, but they knew Thursday's speech about Hurricane Katrina recovery was crucial.

The dramatic backdrop, the prime-time scheduling and Bush's emphatic pledge to use all the federal government's power to rebuild signaled that a great deal was at stake. "We will do what it takes, we will stay as long as it takes," Bush said.

But his big ideas — proposals for tax and loan incentives for businesses, cash to help evacuees find jobs and free federal land for homes — were ignored in statements by Democrats in Congress after Bush spoke.

Martin Kaplan, associate dean of the Annenberg School for Communication at the University of Southern California, called the initiatives "good use of government from a guy who's demonized it these last five years."

Ken Khachigian, who worked for Richard Nixon and Ronald Reagan, called the speech a blend "of salve and solutions" that was appropriately low-key and included sympathy and "a message of hope."

Bush needed some hope himself. Since the sluggish initial response to the hurricane, polls have shown a decline of confidence in his leadership. That could undercut the U.S. mission in Iraq, sideline his domestic agenda and diminish his effectiveness through his remaining years in office.

A USA TODAY/CNN/Gallup Poll released this week found that 52% of Americans consider Bush a strong and decisive leader — the lowest rating of his presidency on those characteristics.

Bush's speech was part of a strategy that has included four trips to the region, his statement Tuesday taking responsibility for problems and unprecedented federal spending on recovery. He did not, however, name a "czar" to oversee reconstruction.

Bush has spoken in prime-time at key moments, including:

•On July 19, he said he was nominating Judge John Roberts to the Supreme Court.

•On June 28, he delivered an update on Iraq from Fort Bragg in California.

•On the first anniversary of 9/11, he spoke at Ellis Island, the Statue of Liberty behind him.

The New Orleans speech was most reminiscent of that one. In the 2002 speech, Bush spoke of pain and healing and set the stage for another defining event, the war with Iraq that began six months later. "America has entered a great struggle that tests our strength," he said then.

Thursday's speech also was intended to be a pivot point for Bush, shifting attention from mistakes to a new national challenge. "All Americans are needed in this common effort," he said.

Unlike in the aftermath of 9/11, there are few signs now of a pause in political partisanship, and Bush's plea for unity seems unlikely to end criticism. "No American doubts that New Orleans will rise again, they doubt the competence and commitment of this administration," said Sen. John Kerry, D-Mass.

Democrats said it's too late for Bush to regain the aura of decisiveness that sustained him in other crises. "The fundamental positive feelings the American people had for him are gone," said Joe Lockhart, a former press secretary for President Clinton.

Kaplan said this speech couldn't replicate the bullhorn moment, when Bush vowed payback for terrorists. "It was seen by everyone as authentic, genuine and spontaneous," Kaplan said, but on Thursday, "the subtext — please like me again — was louder than the text."

Bush can't solve his problems with one speech, said Republican pollster Steve Kinney. But Bush is again showing "his ability to connect with people's hearts."

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Khachigian said Clinton's rebound after his 1998 impeachment showed that predictions of political ruin can be wrong. “Presidents tend to get all the burden on disasters like this,” he said. “They also get all the benefit when recovery takes place.”

A Bid To Repair A Presidency (WP)

By Dan Balz, Washington Post Staff Writer

The Washington Post, September 16, 2005

The main text of President Bush's nationally televised address last night was the rebuilding of New Orleans and the Gulf Coast, but the clear subtext was the rebuilding of a presidency that is now at its lowest point ever, confronted by huge and simultaneous challenges at home and abroad -- and facing a country divided along partisan and racial lines.

Hurricane Katrina struck at the core of Bush's presidency by undermining the central assertion of his reelection campaign, that he was a strong and decisive leader who could keep the country safe in a crisis. Never again will the White House be able to point to his often-praised performance after the attacks of Sept. 11, 2001, without skeptics recalling the fumbling and slow-off-the-mark response of his administration after the hurricane and the flooding in New Orleans.

His response to these criticisms last night was a speech largely shorn of soaring rhetoric and stirring turns of phrase of the kind that marked his efforts to rally the country after the terrorist attacks. Instead, as if recognizing that his own road back will be one marked by steady but small steps, he spoke with workmanlike focus, spelling out the details of what has been done and will be done to help those displaced by the storm.

Katrina has added an enormous new burden to a presidency already bending under the stresses of public dissatisfaction with Bush's policies in Iraq and growing anger over rising gas prices. Bush's objective last night was to set out a strategy and commitment for recovery along the Gulf Coast. But the critical question is whether the damage will limit his ability to govern effectively in the remaining 40 months of his presidency and whether he will successfully rebuild the Gulf Coast and Iraq, let alone win approval for other major initiatives on taxes and Social Security.

In again taking responsibility for the federal government's failures, Bush signaled last night that the White House has decided not to contest the widespread perceptions that his administration failed in the early days of the crisis. By embracing those criticisms, they hope to make the issue a sideshow that will play out sometime in the future. Instead, after a halting start, the White House appears intently focused on demonstrating the president's capacity to manage the huge rebuilding effort ahead.

Bush's advisers believe that, despite the partisan finger-pointing over what happened, most Americans are not looking back and will judge the president on what happens going forward. But as Iraq has shown over the past two years, the facts on the ground shape public confidence in the president more than words or promises.

There is nothing certain about the success he hopes to demonstrate. The rebuilding at Ground Zero in New York has taken four years, and although the work in New Orleans and along the Gulf Coast will begin almost immediately, the scope of the reconstruction virtually guarantees debates and delays that could sap public patience. Already there are signs of a brewing battle between business and government elites and organizers working with those displaced over whose voices will be heard in shaping the reconstruction.

Second-term slumps hit every reelected president, but often they come later than this one. Bush has little time to waste to rejuvenate his governing capacity, given the reality that lame-duck status awaits him in the not-too-distant future. But just as it will take time to rebuild New Orleans and the Gulf Coast, it may take many months for Bush to rebound from what now troubles his presidency. Given the added burdens of Iraq and the economy, the president's road to recovery "will be longer and more difficult," said Ross K. Baker, a political science professor at Rutgers University.

The road back will also be contentious. Republicans and Democrats are at swords' points over who should investigate what happened -- a congressional committee as the GOP favors or an independent investigation proposed by the Democrats.

The president also may face opposition to his proposal to give the federal government and the U.S. military greater authority in a time of such disaster. There will be no hesitancy on either side to spend what it takes to rebuild -- Bush last night envisioned one of the largest reconstruction efforts in history -- but already sharp differences are emerging over the policies that animate that rebuilding.

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The policies Bush outlined last night bear the distinctive stamp of a conservative president, a hallmark of an executive who has never shrunk from seeking to implement a right-leaning agenda even in the face of a divided country. They are long on tax relief and business grants and loans, and focused on entrepreneurial ideas. Bush already has drawn fire from Democrats for suspending the law that requires contractors to pay prevailing wages on federal projects in the regions, and there will be a battle over the proposal to provide private and parochial school vouchers to children of displaced families.

At other points in his presidency, Bush was strong enough to intimidate and often defeat his Democratic opponents. Although the Democrats remain relatively weak, Bush's own problems have emboldened them to challenge him at every turn and to believe they are better equipped to deal with the challenges in housing, education, health care and urban poverty that the hurricane and flooding have produced. Competing visions of how the federal government should respond will produce a vigorous debate -- far from the united response to 9/11.

The public appears to have little patience with partisan bickering right now, which complicates the Democrats' effort to challenge Bush, but every recent poll indicates the public knows who controls both the White House and the Congress, and Republicans likely will pay a greater price in next year's midterm elections for any perceived failures by Bush or the federal government.

Among the most worrisome elements of the aftermath of Katrina to the administration is the vast racial divide that has opened up over the federal government's response, with an overwhelming majority of African Americans believing the slow reaction was racially motivated and a similarly large majority of whites saying race was not the reason.

Bush and his advisers have denied there was any racial motivation in the government's response, but they know there will be a continuing political cost if they do not turn those perceptions around. The racial gulf threatens not only the administration's hope of slowly attracting more black support at the polls, but also the fabric of an already divided society. "It is something that all leaders across the country need to engage in, and this president will," said a senior administration official.

The president directly addressed the racial divide last night, noting that the Gulf Coast is afflicted with "deep, persistent poverty" and saying that poverty "has roots in a history of racial discrimination, which has cut off generations from the opportunity of America." He pledged bold action to "rise above the legacy of inequality."

For those who doubt Bush's ability to manage multiple challenges, administration officials would point to his nomination of Judge John G. Roberts Jr. as the next chief justice of the United States, which appears to be moving easily through the Senate.

But what confronts him in the Gulf Coast and Iraq is far more complex. His speech last night was only the beginning of the effort to repair his storm-damaged presidency. He has proved in the past his commitment to stay the course once he sets it. The question is whether, in his weakened condition, he can continue to persuade the country to follow.

Bush's Approval At Lowest Level Yet (WT)

By James G. Lakely

The Washington Times, September 16, 2005

President Bush's approval has slipped in the polls since the federal government's initial response to Hurricane Katrina, but his speech last night from the devastated Gulf Coast promised an unprecedented federal spending effort and may mark the beginning of a political turnaround.

A Fox News/Opinion Dynamics poll released yesterday put Mr. Bush's job-approval rating at 41 percent, the lowest level of his presidency. It was the first time that more than half of the poll's respondents -- 51 percent -- gave Mr. Bush poor marks.

Democratic political consultant Scott Segal, however, thinks the political storm soon will blow over, and the president will be helped by performances of New Orleans Mayor C. Ray Nagin and Louisiana Gov. Kathleen Babineaux Blanco, both Democrats.

"While there is no question that the administration is doing a better job of putting a competent face on recovery activities, they have also benefited from a political windfall," Mr. Segal said. "The New Orleans mayor and the governor of Louisiana have seemed intent on criticizing each other, which leaves a clearer path for the president."

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The Fox News/Opinion Dynamics poll supports that view, showing that 42 percent of respondents thought the state and local governments were most responsible for the problems responding to the hurricane. Just 29 percent blamed the federal government, and 19 percent blamed both.

Republican political consultant Bob Moran said Hurricane Katrina "will not have a national impact 14 months from now" in midterm congressional elections, largely seen as much a referendum on the sitting president as on Congress.

"The Democrats are acting out of weakness and not strength here. They are trying to shift blame away from the failure of local Democrats," Mr. Moran said.

Nonetheless, Mr. Bush publicly took responsibility for the problems, accepted the resignation of Federal Emergency Management Agency (FEMA) Director Michael D. Brown and put new people in charge of the federal efforts on the ground.

Democrats, however, continue to exploit what they see as Mr. Bush's vulnerability on the issue, releasing critical statements almost daily and calling for an independent commission to study the administration's slow response to the disaster.

The liberal Campaign for America's Future is trying to tie the Republican majority in Congress to the performance of the Bush administration, saying the slow reaction to the hurricane proves "the failure of the radical, conservative attack on government."

"The president is claiming responsibility for the failure, but this wasn't just a failure to handle one natural disaster," said Roger Hickey, co-director of the think tank. "This debacle shows the failure of three decades of conservative, anti-government philosophy."

Mr. Segal said there are "many hard questions for administration officials to answer" about the recovery effort, but fears Democrats might be overplaying their political hand.

"The tone Democrats strike must be constructive and balanced, and not simply strident," he said.

Amid The Ruins, A President Tries To Reconstruct His Image, Too (NYT)

By Richard W. Stevenson

The New York Times, September 16, 2005

WASHINGTON, Sept. 15 - George W. Bush, whose standing for the last four years has rested primarily on issues of war and peace, introduced himself to the nation on Thursday night in an unfamiliar and somewhat uncomfortable new role: domestic president.

The violence of Hurricane Katrina and his faltering response to it have left to Mr. Bush the task not just of physically rebuilding a swath of the United States, but also of addressing issues like poverty and racial inequality that were exposed in such raw form by the storm.

The challenge would be immense for any president, but is especially so for Mr. Bush. He is scrambling to assure a shaken, angry nation not only that is he up to the task but also that he understands how much it disturbed Americans to see their fellow citizens suffering and their government responding so ineffectually.

So for nearly 30 minutes, he stood in a largely lifeless New Orleans and, to recast his presidency in response to one of the nation's most devastating disasters, sought to show that he understands the suffering. He spoke of housing and health care and job training. He reached with rhetorical confidence for the uplifting theme that out of tragedy can emerge a better society, and he groped for what he lost in the wind and water more than two weeks ago: his well-cultivated image as a strong leader.

It was not the president's most stirring speech, but it conveyed a sense of command far more than his off-key efforts in the days immediately after the storm, when he often seemed more interested in bucking up government officials than in addressing the dire situation confronting hundreds of thousands of displaced and desperate people.

But if the speech helped him clear his first hurdle by projecting the aura of a president at the controls, it probably did not, by itself, get him over a second: his need to erase or at least blur the image of a White House that was unresponsive to the plight of some of the country's most vulnerable citizens and failed to manage the government competently.

Whether he can put a floor under his falling poll numbers, restore his political authority and move ahead with his agenda will determine not just the course of his second term but the strength of his party, which by virtue of having controlled both the White House and the Congress for more than five years has trouble credibly pinning the blame elsewhere.

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"He was giving a speech as if the nation were disheartened and worried and had lost its spirit, but that's not what people were thinking," said Mickey Edwards, a former Republican congressman from Oklahoma. "They were thinking, why did the government screw up?"

To those storm victims in need of immediate help and to those who face the continued upheaval of their lives for weeks or months or longer, he offered an expansive government safety net of specific programs, from paying the costs of reuniting families to a commitment to moving everyone out of shelters into housing by mid-October. Doing so marked a distinct shift for a president whose perceived hostility or indifference to government's role in social welfare programs - manifested in budgets that have sought to cut such programs or curtail them - has long been a flash point in his relationship with poor and minority voters.

But if this was big government, it was at least in part on Mr. Bush's ideological terms: federal reimbursement to allow displaced students to attend private and parochial schools, tax-free business zones, a call for charitable and religious groups to continue with relief work. Having no choice but to open the fiscal floodgates, he sought to reassure nervous conservatives that he would guard against fraud and waste.

When it came to the issues hardest to address and most in need of sustained commitment, new ideas and risk-taking leadership - the gap between rich and poor, its causes and consequences, its racial components - he was less effective.

"We have a duty to confront this poverty with bold action," he said.

Yet he spoke of "deep, persistent poverty" as something the nation had seen on television rather than as a condition that many citizens had been living in for generations. He defined the problem as regional rather than national in scope, and offered only regional rather than national solutions.

"The reconstruction, massive as it is, is really the easy part," said Bruce Reed, president of the Democratic Leadership Council, an organization of centrist Democrats. "Rebuilding confidence, especially among the poor and vulnerable, is going to be extraordinarily difficult."

In dealing with the more concrete aspects of the job ahead, Mr. Bush slipped comfortably into the language that he has used as commander in chief to comfort and exhort the nation as it has waged war, hailing those Americans who have "served and sacrificed" and vowing that the government "will stay as long as it takes" to get the job done, an echo, almost word for word, of his formulation for how long the United States will remain in Iraq.

The president forthrightly linked the failures in response to the storm to a vulnerability to a terrorist attack and said he wanted to know "all the facts" about what had gone wrong.

Mr. Bush called for unity in tackling the problems. But with only a camera before him, and New Orleans silent around him, he could draw no strength or self-assurance from the cheers of a united nation, as he did when he addressed a joint session of Congress nine days after the Sept. 11 attacks. Not only did his own stagecraft leave him alone in the spotlight, but whatever good will flowed to him across the aisle in those moments after the terrorist attacks is long gone, a victim of a polarized political culture that he did not create but to which he has often contributed.

For Mr. Bush, this was a moment for the country to turn away from what he and his aides have dismissively labeled "the blame game" toward a hopeful vision of a rebuilt Gulf Coast and a smarter government. But it is not yet clear that his performance will stanch the political wounds he has suffered or ensure that he can avoid being hobbled through his second term, not just by what he lost in the faltering response to Hurricane Katrina but by the rising death toll in Iraq, sky-high energy prices and worrisome deficits.

Democrats Say Gulf Needs A Marshall Plan (WT)

By Stephen Dinan And Brian Debose

The Washington Times, September 16, 2005

Democrats yesterday said the Gulf Coast needs a Marshall Plan to get back on its feet and that President Bush should seek more aid.

"The families in the Gulf don't need to hear a speech from me, and frankly, they don't need to hear another speech from the president," said Senate Minority Leader Harry Reid, Nevada Democrat. "What they need is leadership."

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Speaking hours before Mr. Bush's televised address last night, Mr. Reid and House Minority Leader Nancy Pelosi, California Democrat, said the government must be prepared to spend on education, health care and other services to make the region whole again.

Hours before the Democratic leaders made their challenge to the president, members of the Congressional Black Caucus and civil rights groups proposed an eight-point plan to assist the Gulf region. The plan includes an estimated $100 billion for unemployment assistance, job training, school placement and aid to the cities providing safe haven to the displaced.

The National Association for the Advancement of Colored People and the National Urban League said they want to make sure minority contractors will have the ability to win federal reconstruction contracts.

The $51.8 billion appropriations bill Congress passed last week to fund Katrina disaster relief exempted federal contracts below $10 million from coverage under the Small Business Act, which assures contracting opportunities be provided for the economically disadvantaged. That target is $5 million higher than current law, and the groups said that would eliminate many minority contractors.

The CBC proposed a 50 percent residency hiring target for all contracts and a 40 percent minority vendor target for all reconstruction.

Meanwhile yesterday, the House, over the objection of Democrats, yesterday approved a bill that calls for the House and Senate to coordinate on an investigation into government failures in response to the hurricane.

The committee coordination passed 224-188, with seven Democrats and 217 Republicans in favor, and one Republican, one independent and 186 Democrats opposed.

Democrats had wanted an independent commission styled on the one that investigated the September 11 terrorist attacks, and said a Republican-controlled congressional investigation won't take a serious look at a Republican administration.

"After the flood comes the whitewash," said Rep. Jim McGovern, Massachusetts Democrat.

But Republicans said it was the role of Congress to conduct oversight and that it would be an abdication of duty to turn it over to a commission.

Mrs. Pelosi earlier had said she would not have Democrats participate in a bicameral committee. But yesterday she backed off, saying, "We'll see where we go from here."

Mr. Reid, though, said he will not allow Senate Democrats to participate. In that case, the Senate Homeland Security and Governmental Affairs Committee, which already is looking into matters, would become the Senate's main investigative body for Katrina.

Conservatives Balk As Spending Soars In Katrina's Wake (WSJ)

By Jackie Calmes, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

WASHINGTON -- The open-ended commitment by President Bush and congressional leaders to rebuild New Orleans and the Gulf Coast is stoking anger among conservatives over the Republican government's record of higher spending and debt.

Following the nation's worst-ever natural disaster, no Republican in Congress is opposing federal aid that already totals $62 billion and is expected to exceed $200 billion. But the party's conservative wing, led yesterday by Oklahoma's Tom Coburn in the Senate and Rep. Mike Pence of Indiana in the House, is calling for offsetting "sacrifices" in federal spending. And they're backed by a growing chorus of conservative activists, columnists and bloggers.

"It's not about taking care of the folks that need us," Mr. Coburn said in an interview. "But I wouldn't vote for another penny until we get real about the hard choices of cutting some spending." In what would be a real break for conservatives, Mr. Coburn said he is also not inclined to vote to extend the Bush tax cuts absent some fiscal restraint.

The divisions go to a broader debate over the party's identity and legacy a decade after Republicans broke Democrats' 40-year control of Congress and nearly five years after they captured the White House as well.

But conservatives' rebelliousness threatens a range of Bush initiatives before Congress. Moreover, Republican strategists worry that widespread disenchantment among the party's bedrock conservatives could lead many to stay home in next year's midterm elections.

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In a year marked by setbacks to Mr. Bush's foreign and domestic agenda, Hurricane Katrina's costs to the federal government have dashed the one boast Mr. Bush had -- that a sound economy was producing higher-than-expected tax revenue, and bringing down the deficit. Deficits are expected to be much higher than the $333 billion the White House recently projected for the year ending Sept. 30 and $341 billion for fiscal 2006.

Ben Bernanke, chairman of the president's Council of Economic Advisers, yesterday told a group of economists, "The costs of rebuilding after Katrina are, of course, substantial and will add to the budget deficit in the near term; incurring those costs is essential if we are to repair the unprecedented damage wrought by that natural disaster. This necessary spending should not, however, jeopardize the president's long-term deficit-reduction goals."

Administration officials also express frustration that conservatives in Congress are criticizing the White House even as Congress has balked at making the Medicaid cuts that Mr. Bush had called for earlier this year.

Also taking conservatives' hits is House Majority Leader Tom DeLay, after the Texas Republican this week told reporters that for all the complaints that hurricane spending must be offset by spending cuts, "nobody has been able to come up with any yet." He suggested that the government has little fat. "After 11 years of Republican majority, we've pared it down pretty good," he said.

"This comes as quite a surprise to most Americans," wrote budget analyst Brian Riedl at the conservative Heritage Foundation. He and others, including the Coburn-Pence group, gave Mr. DeLay's office their lists of proposed budget cuts, including some that Mr. Bush proposed in February. Mr. Coburn said the president's budget director, Joshua Bolten, told him there wasn't time to take up such proposals.

Mr. Bolten's spokesman, Scott Milburn, said that given the speed with which the hurricane-relief bills had to be passed, "It's just not realistic to expect that Congress could produce and also agree to offsets of that magnitude in just a few hours. It's also unrealistic to expect that cuts of such magnitude would not cause very deep disruptions in other portions of the budget."

Beyond spending, many conservatives are troubled by the prospect that a new government bureaucracy will be created to handle the Katrina response. Even before Katrina hit, they had become increasingly critical of the White House for the jump in federal spending on Mr. Bush's watch. They also cite the creation of the huge Department of Homeland Security, an expanded federal role in grade-school education and a prescription-drug benefit for Medicare recipients that is the biggest new federal entitlement program since Medicare itself.

Senate Republican leaders this week sent Mr. Bush a letter calling for "a 'Marshall Plan' for the Gulf Coast," in reference to the nation's huge post-World War II effort to rebuild Europe.

Among those who have brought ideas to the White House table is conservative Newt Gingrich, the former House speaker. His model is government-sponsored enterprises such as Fannie Mae and Freddie Mac. Mr. Gingrich proposes a Gulf States Redevelopment Corp., backed by the federal government but controlled and regulated by officials in the region, to issue bonds, make loans and grants, provide natural-disaster insurance, raise taxes and finance public works, including levee reconstruction.

"If we do not have a bold set of solutions to propose in the next week or two, the left will propose a huge government run bureaucratic rebuilding program with maximum welfare and minimum progress," Mr. Gingrich wrote in an email to conservative Republican senators.

Write to Jackie Calmes at jackie.calmes@wsj.com1

G.O.P. Split Over Big Plans For Storm Spending (NYT)

By Carl Hulse

The New York Times, September 16, 2005

WASHINGTON, Sept. 15 - The drive to pour tens of billions of federal dollars into rebuilding the hurricane-battered Gulf Coast is widening a fissure among Republicans over fiscal policy, with more of them expressing worry about unbridled spending.

On Thursday, even before President Bush promised that "federal funds will cover the great majority of the costs of repairing public infrastructure in the disaster zone," fiscal conservatives from the House and Senate joined budget watchdog groups in demanding that the administration be judicious in asking for taxpayer dollars.

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One fiscal conservative, Senator Tom Coburn, Republican of Oklahoma, said Thursday, "I don't believe that everything that should happen in Louisiana should be paid for by the rest of the country. I believe there are certain responsibilities that are due the people of Louisiana."

Senator Jim DeMint, Republican of South Carolina, called for restoring "sanity" to the federal recovery effort. Congress has approved $62 billion, mostly to cover costs already incurred, and the price tag is rising. The House and Senate approved tax relief Thursday at an estimated cost of more than $5 billion on top of $3.5 billion in housing vouchers approved by the Senate on Wednesday.

"We know we need to help, but throwing more and more money without accountability at this is not going to solve the problem," Mr. DeMint said.

Their comments were in marked contrast to the sweeping administration approach outlined by Mr. Bush in his speech from New Orleans and a call by Senate Republican leaders for a rebuilding effort similar to the Marshall Plan after World War II. Congressional Democrats advocated their own comprehensive recovery program Thursday, promoting a combination of rebuilding programs coupled with housing, health care, agriculture and education initiatives. The president also emphasized the importance of private entrepreneurship to create jobs "and help break the cycle of poverty."

Senator Harry Reid of Nevada, the Democratic leader, said he believed that providing rapid and extensive help overrode the need to cut spending elsewhere. "I think we have to understand that we have a devastation that has to be taken care of," Mr. Reid said. "And I'm not into finding where we can cut yet."

That mindset is troubling to other lawmakers who fear that in addition to a reborn Gulf Coast, something else will rise from the storm: record federal deficits.

"We know this is a huge bill," said Senator John McCain, Republican of Arizona. "We don't want to lay it on future generations." Given the fierce political backlash to the stumbling relief effort in the days after the hurricane struck, House Republican leaders have been reluctant to stand in the way of any emergency legislation. After the speech, Speaker J. Dennis Hastert acknowledged that the price tag means that "for every dollar we spend on this, it is going to take a little bit longer to balance the budget." He said he was willing to listen to ideas to pay for the aid, but, "Quite frankly, we have to get this job done."

Despite those comments, many Republicans are increasingly edgy about the White House's push for a potentially open-ended recovery budget, worried that the president - in trying to regroup politically - was making expensive promises they would have to keep.

"We are not sure he knows what he is getting into," said one senior House Republican official who requested anonymity because of the potential consequences of publicly criticizing the administration.

The fears about the costs of the storm are building on widespread dissatisfaction among conservatives about spending in recent years by the Republican-controlled Congress. That unrest was already high after Congressional approval of a transportation measure that critics denounced as bloated with marginal home-state projects.

That sore spot was rubbed raw earlier this week when Representative Tom DeLay, the House majority leader, suggested that the Republican Congress had already trimmed much of the fat from the federal budget, making it difficult to find ways to offset hurricane spending.

Mr. Coburn called such a claim ludicrous and other Republicans took exception as well.

"There has never been a time where there is more total spending and more wasteful spending in Washington than we have today," said Pat Toomey, a former Republican congressman from Pennsylvania and the head of the conservative Club for Growth. "There is ample opportunity to find the offsets we need so that this does not have to be a fiscal disaster as well as a natural disaster."

On another front, Republicans and Democrats continued their dispute over how to investigate government failures in the storm response. The House approved a select committee to oversee the inquiry despite Democratic objections that only a special commission outside of Congress could do a credible job.

The House voted 224 to 188 to establish a 20-member panel to work in concert with a similar Senate panel in studying the adequacy of local, state and federal preparations for the storm and why the relief effort was so troubled, stranding thousands in chaotic conditions without sufficient food, water or medical care.

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Representative Nancy Pelosi of California, the Democratic leader, said the special committee was an effort to "whitewash" the inquiry though she later said she would not stand in the way if Democrats want to sit on the panel. In another effort to reduce Democratic opposition, Mr. Hastert on Thursday named Representative Thomas M. Davis III, a sometimes Republican maverick from Virginia, to lead the panel.

As for paying for the recovery, Ms. Pelosi raised the possibility of 50-year bonds tied to the reconstruction.

The conservative Republicans worried about the outlays said the president and Congressional leaders need to ask the public to share in the sacrifice and suggested savings could be easily wrung from federal agencies or in Congress in ways like eliminating pet projects.

"Katrina breaks my heart," said Representative Mike Pence, Republican of Indiana and chairman of a caucus of more than 100 House Republicans who advocate conservative spending policy. "Congress must do everything the American people expect us to do to meet the needs of families and communities affected by Katrina. But we must not let Katrina break the bank for our children and grandchildren."

GOP Lawmakers Urge Cuts To Offset Storm-relief Costs (WT)

By Stephen Dinan

The Washington Times, September 16, 2005

A group of Republicans yesterday challenged President Bush to propose spending cuts to cover some of the cost of aid for Hurricane Katrina, saying now is a time for him to show leadership.

"We just can't throw money at the problem, and if we do throw money at the problem, which seems to my way of thinking some of what we're doing today, we better figure out how we're going to handle the financial difficulties that come from that," said Sen. Tom Coburn, Oklahoma Republican.

He joined Sen. John McCain of Arizona, Sen. Jim DeMint of South Carolina and leaders of the House conservative caucus in saying that the hurricane offers a chance to cut parts of the federal budget.

The lawmakers said the government should spend what is needed to aid hurricane victims, but also must be worried about a deficit that the Congressional Budget Office says would reach $331 billion this fiscal year even without including hurricane spending.

Mr. DeMint said the federal role should be re-evaluated and, in places, should take a back seat.

"Our government needs to take stock of what America is already doing -- the money that has already been contributed -- and see that we have a better role supporting what America can do on its own."

The group won't find much support among Democratic leaders.

"I'm not really into cutting right now," said Senate Minority Leader Harry Reid, Nevada Democrat. "I'm into figuring out a way that we can get the Republican majority in the Senate to care about those people down there who are still desperate."

He said that instead of cutting, Republicans should postpone Medicaid spending cuts they want as part of the budget process. He also said Republicans should put off $70 billion in further tax cuts this year.

House Minority Leader Nancy Pelosi, California Democrat, said there could be "creative funding" for rebuilding. She suggested an arrangement like the Tennessee Valley Authority or the post-September 11 New York model of a regional board with a credit guarantee from the federal government.

The spending is enraging conservative activists, and members of Congress are proposing alternatives to deficit spending.

Rep. Louie Gohmert, Texas Republican, introduced a bill yesterday that would halt all government building except when related to Hurricane Katrina efforts and national security requirements.

Mr. Coburn said it was a "ludicrous claim" House Majority Leader Tom DeLay made earlier this week that he hasn't seen ways to offset the spending with cuts elsewhere.

In his weekly briefing, Mr. DeLay said it was appropriate to borrow money to pay for hurricane relief, and that the billions of dollars in transportation earmarks should be maintained.

"My answer to those that want to offset the spending is sure, bring me the offsets, I will be glad to do it, but no one has been able to come up with any yet," he said.

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Mr. Coburn said he would "be happy to have that debate with Mr. DeLay."

He said he has identified $74 billion in cutting room and that one place to start is the $315 million the highway bill spent for a bridge in Alaska that will reach a community of several dozen people, "who have a wonderful ferry system right now."

Mr. DeLay said Republicans could declare "ongoing victory" and, asked whether the government was running at peak efficiency with little cutting room left, he said, "Yes. After 11 years of Republican majority, we pared it down pretty good."

Yesterday, DeLay spokesman Kevin Madden said his boss "made it very clear that fiscal discipline is an ongoing process -- with an emphasis on 'ongoing.' "

"The House of Representatives has, in the past, worked through the budget and reconciliation process to pare down government spending and target wasteful programs," Mr. Madden said. "We will continue to adhere to those principles as we move forward."

Plan Includes Homesteading, Jobs Programs (USAT)

By Richard Benedetto

USA Today, September 16, 2005

NEW ORLEANS — Promising "this great city will rise again," President Bush dedicated the federal government on Thursday to "one of the largest reconstruction efforts the world has ever seen" and pledged that it would pay most of the costs.

Bush put no price tag on the overall effort or his proposals to help evacuees find jobs and give them a chance to get free federal land for new homes. So far, the government has spent more than $13.7 billion of the $62.3 billion approved by Congress. The final cost is expected to be much higher.

As the area is rebuilt in the aftermath of Hurricane Katrina, Bush said, the country must confront poverty and "rise above the legacy of inequality" so people can return to jobs and houses they own.

Bush said he wants all evacuees out of shelters by mid-October. Wearing no tie or jacket, he spoke for 22 minutes from the French Quarter's Jackson Square, with St. Louis Cathedral as a backdrop.

He acknowledged that the chaotic initial response to Katrina showed that disaster planning is inadequate and again took responsibility for failures by the government. Four years after 9/11, he said, "Americans have every right to expect a more effective response in a time of emergency."

He said he has ordered every Cabinet secretary to review the flawed response but did not suggest he'll agree to Democrats' demands for an independent inquiry.

The speech was part of a White House strategy to ease criticism of the initial response to the disaster and assert Bush's leadership as attention shifts to reconstruction.

Louisiana Gov. Kathleen Blanco, a Democrat, said she was "greatly heartened" by Bush's pledge. But Sen. Harry Reid of Nevada and Rep. Nancy Pelosi of California, Democratic leaders in Congress, said "the victims … don't need just words, they need a plan that will lead the way."

Bush proposed three initiatives requiring congressional approval:

• An "opportunity zone" in Louisiana, Mississippi and Alabama to give tax incentives to businesses that create jobs and loans and loan guarantees to small businesses.

•Recovery accounts of up to $5,000 for job training, education and child care for each evacuee seeking a job.

•A lottery to give low-income citizens of the region free federal land. In return, they would pledge to build homes on the lots.

U.S. Government Has Doled Out $13.7B On Katrina Relief (USAT)

By Jim Drinkard

USA Today, September 16, 2005

WASHINGTON — The federal government has spent more than $13.7 billion on Hurricane Katrina relief, the Department of Homeland Security said Thursday in a report for Congress.

The spending includes $7.2 billion for Louisiana, where flooding devastated New Orleans; $4.8 billion for Mississippi and $1.5 billion for Alabama.

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Among the major categories of spending: $3.6 billion to purchase mobile homes and trailers and $1.8 billion for housing assistance, including $2,000 debit cards handed out to those left homeless, the report said. Costs for urban search-and-rescue teams totaled $52 million, part of $4.8 billion spent to send government workers to the region.

The report, a snapshot of spending on Katrina as of Wednesday, was the first of the weekly status reports Congress mandated last week when it passed a $51.8 billion emergency spending bill for hurricane relief. The report came amid calls on Capitol Hill for greater care in the spending of federal relief money.

House Appropriations Committee Chairman Jerry Lewis, R-Calif., asked the panel's investigative staff to focus on disaster spending, given the record $62.3 billion allocated in the past two weeks. “Congress has properly provided historic levels of assistance,” Lewis said. “Now we must fulfill our constitutional obligations to conduct vigorous oversight over those funds.” The committee also will conduct hearings to track how the money is spent, Lewis said.

In a speech in New Orleans, President Bush said, “Taxpayers expect this work to be done honestly and wisely, so we will have a team of inspector generals reviewing all expenditures.”

Lou Reigel, the former special agent in charge of the FBI's New Orleans field office and now a top official in the agency's cybercrimes unit, said the city has a long history of corruption among public officials, although the climate has improved in recent years.

“You're going to have to be cautious when dispensing these funds,” he said.

“There is certainly a big risk,” said Joshua Hochberg, chief of the Justice Department's fraud section until last week, when he left to join a private law firm. “The availability of money seems to attract the worst types of white-collar thieves.” The potential for problems rises when the government waives normal competitive-bidding rules to speed the delivery of relief services, as it has in this emergency, Hochberg said.

The FBI has set up a tip line, 1-800-CALL FBI, to collect allegations of corruption and fraud. The Homeland Security Department has sent auditors and investigators to the region to monitor the spending of relief funds.

Bush Pledges Historic Effort To Help Gulf Coast Recover (WP)

By Jim Vandehei And Peter Baker, Washington Post Staff Writers

The Washington Post, September 16, 2005

NEW ORLEANS, Sept. 15 -- President Bush, summoning the American spirit and "a faith in God no storm can take away," vowed from the heart of the Hurricane Katrina disaster zone Thursday night to rebuild this devastated city and the rest of the Gulf Coast with "one of the largest reconstruction efforts the world has ever seen."

In a prime-time address televised from the storm-battered French Quarter, the president appeared without coat and tie to mourn "a tragedy that seems so blind and random" while promising to help its victims with unprecedented federal assistance to secure homes, jobs, health care and schooling.

"You need to know," he said, directly addressing the dislocated and desperate, "that our whole nation cares about you, and in the journey ahead you're not alone. . . . And tonight I also offer this pledge of the American people: Throughout the area hit by the hurricane, we will do what it takes, we will stay as long as it takes, to help citizens rebuild their communities and their lives."

Although Bush cited no price tag, he committed the nation to a plan that officials and lawmakers believe could top $200 billion, roughly the cost of the Iraq war and reconstruction, and which promises to reorient government for the balance of the Bush presidency. It will create much larger deficits in the short term, siphon off money that would have been spent on other programs and dramatically shift the focus of the White House, Congress and many state governments for the indefinite future.

Even as he embraced a spending program the scale of which few Democratic presidents ever advanced, Bush signaled that he would shape its contours with policy ideas long sought by conservative thinkers. He proposed creation of a "Gulf Opportunity Zone" that would grant new and existing businesses tax breaks, loans and loan guarantees through 2007. And in documents released before the speech, Bush called for displaced families that send children to private schools, including religious ones, to be eligible for federal money.

Eighteen days after Katrina smashed through the levees here, flooding the city, killing hundreds and displacing more than 1 million, Bush endorsed most of the criticism of the government's stutter-start response to the storm and vowed to investigate and

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retool its emergency plans, calling in particular for "a broader role for the armed forces" in future domestic crises. He ordered his Cabinet to reexamine disaster plans for every major American city. But he seemed to embrace a Republican plan for a GOP-majority congressional inquiry rather than the independent commission sought by Democrats.

During his 26-minute speech, the president evoked the horror that Katrina wrought on the region, recalling scenes of the abandoned seeking food and water, survivors victimized a second time by looters, and "bodies of the dead lying uncovered and untended in the street." Bush likened Katrina to the worst disasters of American history, including the Chicago fire of 1871 and the 1906 San Francisco earthquake. "Every time the people of this land have come back from fire, flood and storm to build anew -- and to build better than what we had before," he said. "Americans have never left our destiny to the whims of nature, and we will not start now."

Harking back to the "compassionate conservative" rhetoric of his early presidency, Bush infused his address with religious overtones. The trials of the last few weeks, he said, "remind us of a hope beyond all pain and death, a God who welcomes the lost to a house not made with his hands." The language reflected not only Bush's own faith but also his decision to bring back Michael J. Gerson, his first-term speechwriter and now a policy adviser, to help draft perhaps his most important address since launching the Iraq war in 2003.

Biblical citations and imagery are common touchstones for the president when he tries to connect with African Americans, who polls show have been especially aggrieved by the slow federal response because the victims left behind were disproportionately poor and black. "As all of us saw on television," Bush said, "there is also some deep, persistent poverty in this region as well. That poverty has roots in a history of racial discrimination, which cut off generations from the opportunity of America. We have a duty to confront this poverty with bold action."

Bush spoke from Jackson Square, where a towering statute of Andrew Jackson is one of the few local icons left unscathed in the Big Easy. The buildings surrounding the square are boarded up and lifeless; a metal telephone pole across the street is split like small stick, a testament to Katrina's fury. The historic square commemorates the French handover of Louisiana in 1803; now, 202 years later, it marks the spot where Bush promised to rebuild the heart of Louisiana.

"There is no way to imagine America without New Orleans, and this great city will rise again," Bush said. Eventually, he added, "the streetcars will once again rumble down St. Charles and the passionate soul of a great city will return."

The speech came at perhaps the most difficult political moment of Bush's presidency, with Americans losing faith in his ability to manage crisis and lead the nation out of troubled times, according to polls. His approval ratings have dropped to new lows in the past few days as gasoline prices have soared and chaos in Iraq persists. The speech capped a week-long effort to restore Bush's standing, starting with the ousting of the Federal Emergency Management Agency director, who oversaw the initial response, and a rare public embrace of responsibility for its shortcomings.

Sensitive to fueling further criticism, the White House said it paid for the electricity and lights used for the speech, limiting the local inconvenience. But Bush emerged onto the square without an audience, speaking directly into the camera from a lectern placed so the Jackson statue would be in the picture.

Congressional Democrats did not wait for the speech to lay down markers for how they think the Gulf Coast should be rebuilt -- and to lay the blame on Bush for Washington's sluggish performance.

"The families in the Gulf . . . certainly don't need to hear another speech from President Bush," said Senate Minority Leader Harry M. Reid (D-Nev.). "What they need is leadership. . . . Let's be clear about what Katrina was: a failure of leadership." Reid called for "an American Marshall Plan" to rebuild the Gulf Coast and accused Republicans of balking at even greater spending on health, housing and education for victims.

Reid insisted on an independent commission to investigate what went wrong with Katrina. But Republicans rejected that.

The House adopted a plan for a joint investigative committee that would have a Republican majority but grant Democrats authority to call witnesses and seek subpoenas from the GOP chairman. Rep. Thomas M. Davis III (R-Va.) was tapped Thursday to serve as co-chairman along with Sen. Susan Collins (R-Maine). Davis said Thursday night that among the first witnesses he will call will be Michael D. Brown, the FEMA director who resigned this week under fire.

Moving to expand the $62 billion in relief already approved for the Gulf Coast, the House and Senate on Thursday passed similar tax bills estimated to cost at least $5 billion over five years to allow storm victims to draw funds from retirement accounts

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without penalty and to extend several housing, job and child tax credits through the disruption. The legislation also offers charitable giving incentives while easing taxes on forgiven debts and unreimbursed business losses.

In deference to local sensibilities, Bush made clear that local officials will dictate how the city is reconstructed, and that a chief aim will be to lure those who fled New Orleans and other Gulf Coast communities to return rather than relocate permanently to the places where they sought refuge. At the same time, he suggested that local authorities would have to revisit zoning laws and building codes "to avoid a repeat of what we've seen" and suggested that sections of New Orleans be rebuilt on "higher ground."

Bush called on Congress to provide property on the federal domain free of charge though a lottery. In exchange, a recipient would be obligated to build a home with a mortgage or help from a charitable organization. He also proposed creation of "worker recovery accounts" of up to $5,000 for evacuees to use for job training, education and child care.

Bush arrived here after an earlier stop in Pascagoula, Miss. The New Orleans he found is a twisted shell of its former self, a once vibrant city that never slept left lifeless by Katrina's fury. Streets remain flooded, piles of garbage line them, and a stench seems to cling to every part of the French Quarter and beyond.

Vickie Johnston, 37, a hairdresser, sneaked into the city Thursday only to learn she had lost everything -- her clothes, furniture, and irreplaceables such as correspondence and photos. She voted for Bush twice but feels betrayed by all government. "They knew New Orleans was a fishbowl. They knew," she said. "Now it's a toilet bowl. How can they do this to us? Why did they let the water get so high?"

In his speech hours later, Bush expressed understanding of such sentiments, acknowledging that the response "at every level of government was not well coordinated and was overwhelmed in the first few days." The lesson he saw was the need for "greater federal authority and a broader role for the armed forces, the institution of our government most capable of massive logistical operations on a moment's notice."

As he did on Tuesday, Bush said he accepts accountability: "Four years after the frightening experience of September 11th, Americans have every right to expect a more effective response in a time of emergency. When the federal government fails to meet such an obligation, I as president am responsible for the problem, and for the solution."

Baker reported from Washington. Staff writer Spencer S. Hsu in Washington contributed to this report.

U.S. To Pick Up Rebuilding Tab (WT)

By Joseph Curl

The Washington Times, September 16, 2005

President Bush last night said the federal government will pay most of the estimated $200 billion to rebuild the hurricane-ravaged Gulf Coast in what he called "one of the largest reconstruction projects the world has ever seen."

Standing in the heart of the historic French Quarter of New Orleans, a once-thriving city now deserted and still more than 50 percent flooded 18 days after Hurricane Katrina struck, the president also announced that he had ordered the Department of Homeland Security to conduct an immediate review of disaster-response plans in every major American city.

He acknowledged that "every level of government was not well-coordinated and was overwhelmed in the first few days" after the Category 4 storm slammed into Louisiana, Mississippi and Alabama.

"Four years after the frightening experience of September 11th, Americans have every right to expect a more effective response in a time of emergency. When the federal government fails to meet such an obligation, I, as president, am responsible for the problem, and for the solution," Mr. Bush said in a 20-minute speech.

"It is now clear that a challenge on this scale requires greater federal authority and a broader role for the armed forces [-] the institution of our government most capable of massive logistical operations on a moment's notice."

The president used most of his prime-time televised address to the nation to reassure Americans that the federal government now has the emergency response well in hand and to lay out a specific plan to rebuild New Orleans and other devastated areas on the Gulf Coast.

He said his administration will not turn a blind eye to the "persistent poverty" in the region that has led to a "legacy of inequality."

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Addressing the hundreds of thousands of evacuees forced from their homes by the hurricane, the president said, "You need to know that our whole nation cares about you -- and in the journey ahead you are not alone."

"Tonight, I also offer this pledge to the American people: Throughout the area hit by the hurricane, we will do what it takes, we will stay as long as it takes, to help citizens rebuild their communities and their lives. And all who question the future of the Crescent City need to know: There is no way to imagine America without New Orleans, and this great city will rise again."

Mr. Bush, who traveled to the hard-hit Mississippi coast before delivering his speech from New Orleans, did not directly address how the federal government would pay for the massive project.

Still, with the water level receding by the hour, the president pledged that "federal funds will cover the great majority of the costs of repairing public infrastructure in the disaster zone, from roads and bridges to schools and water systems. Our goal is to get the work done quickly."

But with some in Washington worried about the costs involved at a time of huge federal expenditures -- the wars in Iraq and Afghanistan have cost nearly $300 billion so far -- Mr. Bush said taxpayers can rest assured that the reconstruction money will be monitored closely, with "a team of inspectors general reviewing all expenditures."

Democrats continued to criticize the Bush administration's response, with Senate Minority Leader Harry Reid and House Minority Leader Nancy Pelosi deriding the speech as "just words."

"It takes more than just taking responsibility to right the many wrongs that occurred over the past two weeks. The American people need answers from independent experts outside of the political arena to learn from the past and prepare and protect our nation and our communities for the future. We can and must do better," they said in a joint statement.

Congress already has approved $62.1 billion for rescue and relief efforts, with many private analysts forecasting that the expected $200 billion price tag of Katrina will add $100 billion or more to next year's deficit.

White House officials have told Congress that the $51.8 billion approved late last week will fund the disaster relief effort only through the first week of October, and senior congressional appropriations aides have told the White House that they need to see the next request by next week. Republicans say the next bill could exceed $50 billion.

Top White House officials acknowledged that the federal government has no choice but to run up the deficit to meet the crisis in the Gulf Coast.

"The fact of the matter is when our nation faces these type of emergencies, it unfortunately requires us to deficit spend," White House counselor Dan Bartlett said before Mr. Bush's speech.

Mr. Bush proposed three specific initiatives to speed recovery in the region, calling for the creation of a Gulf Opportunity Zone to offer businesses tax breaks, provide federally owned land to "low-income citizens free of charge and pay evacuees up to $5,000 for job training, education and child care.

If Mr. Bush's plan is put into effect, it would eclipse the Marshall Plan, which helped revive Europe after World War II and cost about $100 billion in today's dollars.

Bush's Rescue Mission (LAT)

The Los Angeles Times, September 16, 2005

When President Bush stepped to the podium in front of New Orleans' St. Louis Cathedral on Thursday night, his topic was rebuilding a hurricane-ravaged region. But his goal clearly was to rescue his presidency, which Katrina's storm surge tattered as well.

Two major polls released Thursday showed that about 40% of those surveyed approved of Bush's work overall, the lowest mark of his presidency. The federal government's slow response to the crisis on the Gulf Coast has compounded growing doubts about other administration initiatives, especially the war in Iraq.

Bush, who looked like he'd dispensed with his tie and jacket just moments before appearing on camera, promised "one of the largest reconstruction efforts the world has ever seen."

"There is no way to imagine America without New Orleans," he said, pledging to pick up the tab for "the great majority" of the infrastructure repairs.

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The president listed the impressive array of initiatives undertaken to help evacuees. And he laid out a series of initiatives that would apply Republican principles to the reconstruction effort, including proposals to give away home-building lots to displaced families with low incomes and to slash taxes for entrepreneurs who create jobs in the devastated region. The president's call for a "Gulf Opportunity Zone" is intriguing, but he needs to make sure storm relief doesn't become a Trojan horse for every conservative ideologue's favorite pet project. Flat tax, anyone?

He left for another day any discussion of where the hundreds of billions of dollars to pay for reconstruction will come from, but that day can't be put off indefinitely. He praised the generosity of Americans in the wake of Katrina, but he soon may have to ask for some sacrifice to help pay the bills. The death of the "death tax," for instance, no longer looks certain.

To his credit, Bush acknowledged the government's failure to respond effectively in the aftermath of the hurricane, and he accepted responsibility for the federal share of the problem. He also prodded local leaders to do a better job preparing for what clearly is their role — evacuating, securing and provisioning their cities in the event of a disaster or terrorist attack. Yet Bush's assertion that a challenge of this scale raises new questions about coordination between federal and local officials begs the question: What has the administration been doing in the four years since the 9/11 attacks, if not preparing the country for such a catastrophic event?

Bush's speech helped him regain his political footing for now. But whether he rescues his legacy from the putrid waters swirling in the streets of New Orleans will depend on whether the aspirations expressed Thursday night are translated into a truly bright future for the region.

Bush Plan A Solid Start, But Key Is In The Execution (USAT)

USA Today, September 16, 2005

More than two weeks after Hurricane Katrina ravaged the Gulf Coast, President Bush at last seemed to have marshaled an effective response as he addressed the nation from New Orleans Thursday night.

Bush proposed a massive plan — one that comes with huge costs that he disturbingly offered no plan to pay for — but it was, finally, in proportion to the magnitude of the problem.

Most important, he got the order of march right, setting three top priorities:

First, meet the immediate needs of those endangered and uprooted by the storm. As he described the emergency response now in place — electric power restored, gas pipelines operating, levees fixed, pumps running, ships arriving to provide housing — it appeared for the first time that the government was getting a grip on the problem. Also arriving are emergency supplies for evacuees, expedited Social Security checks, unemployment benefits, mail delivery — and more.

Second, help displaced citizens rebuild their communities and lives.

Third, rebuild the communities better and safer than before the storm. This, he promised, would be led by state and local governments, but with major federal financing.

To achieve this, the president proposes a mix of traditional big government programs more commonly associated with Democrats and conservative ideas such as enterprise zones, federally-financed savings accounts for people seeking job training and incentives for home ownership, targeted largely at low-income citizens.

It's a solid start, but one that comes with three unanswered questions:

• Who's in charge? Saying states and localities will have control is sensible, but the federal government can't just dole out money without deciding how it will be spent. Bush stopped short of creating a body to coordinate decision-making among fractious federal, state and local officials.

• Who will pay? Bush ignored the subject, suggesting he will once again indulge his worst habit: expanding government spending at record rates without taking the responsibility to pay for it. With cost estimates running as high as $200 billion, some members of Congress in his own party are already chafing at the idea. Several have suggested reopening Congress' most recent pork-barrel extravaganza, the $286 billion transportation bill that included all manner of projects that could be scrapped in favor of more urgent Gulf Coast needs.

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• Will it work? On the most basic level, at least, the chances that it will work in the hurricane zone seem good, if sure to come with problems. The government, once mobilized, is good at this sort of thing, and Bush's plan is creative. He also addressed the most glaring breakdown of the post-Katrina response: its failure to address the problems of the poor.

Far less convincing, though, was Bush's broader national response. He said he has ordered a federal review of emergency response plans in all major cities, as well as instructing all federal departments to review their own response.

It sounded all too much like the initiatives Bush announced four years ago in the aftermath of the 9/11 attacks. Katrina proved those to be a near total failure in their first major test, raising deep suspicions that the administration has bungled terrorism preparations as badly as it bungled the Katrina response. It there's anything good to come from this disaster, it's that those flaws have been exposed. The president noted the need for a stronger federal role, particularly military, in a disaster of this scale. That's a start, as is the broader Bush plan.

Whether it will prove to be effectively managed and responsibly financed, or just good public relations, remains to be seen.

Not the New Deal (NYT)

By PAUL KRUGMAN

The New York Times, September 16, 2005

Now it begins: America's biggest relief and recovery program since the New Deal. And the omens aren't good.

It's a given that the Bush administration, which tried to turn Iraq into a laboratory for conservative economic policies, will try the same thing on the Gulf Coast. The Heritage Foundation, which has surely been helping Karl Rove develop the administration's recovery plan, has already published a manifesto on post-Katrina policy. It calls for waivers on environmental rules, the elimination of capital gains taxes and the private ownership of public school buildings in the disaster areas. And if any of the people killed by Katrina, most of them poor, had a net worth of more than $1.5 million, Heritage wants to exempt their heirs from the estate tax.

Still, even conservatives admit that deregulation, tax cuts and privatization won't be enough. Recovery will require a lot of federal spending. And aside from the effect on the deficit - we're about to see the spectacle of tax cuts in the face of both a war and a huge reconstruction effort - this raises another question: how can discretionary government spending take place on that scale without creating equally large-scale corruption?

It's possible to spend large sums honestly, as Franklin D. Roosevelt demonstrated in the 1930's. F.D.R. presided over a huge expansion of federal spending, including a lot of discretionary spending by the Works Progress Administration. Yet the image of public relief, widely regarded as corrupt before the New Deal, actually improved markedly.

How did that happen? The answer is that the New Deal made almost a fetish out of policing its own programs against potential corruption. In particular, F.D.R. created a powerful "division of progress investigation" to look into complaints of malfeasance in the W.P.A. That division proved so effective that a later Congressional investigation couldn't find a single serious irregularity it had missed.

This commitment to honest government wasn't a sign of Roosevelt's personal virtue; it reflected a political imperative. F.D.R.'s mission in office was to show that government activism works. To maintain that mission's credibility, he needed to keep his administration's record clean.

But George W. Bush isn't F.D.R. Indeed, in crucial respects he's the anti-F.D.R.

President Bush subscribes to a political philosophy that opposes government activism - that's why he has tried to downsize and privatize programs wherever he can. (He still hopes to privatize Social Security, F.D.R.'s biggest legacy.) So even his policy failures don't bother his strongest supporters: many conservatives view the inept response to Katrina as a vindication of their lack of faith in government, rather than as a reason to reconsider their faith in Mr. Bush.

And to date the Bush administration, which has no stake in showing that good government is possible, has been averse to investigating itself. On the contrary, it has consistently stonewalled corruption investigations and punished its own investigators if they try to do their jobs.

That's why Mr. Bush's promise last night that he will have "a team of inspectors general reviewing all expenditures" rings hollow. Whoever these inspectors general are, they'll be mindful of the fate of Bunnatine Greenhouse, a highly regarded auditor at

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the Army Corps of Engineers who suddenly got poor performance reviews after she raised questions about Halliburton's contracts in Iraq. She was demoted late last month.

Turning the funds over to state and local governments isn't the answer, either. F.D.R. actually made a point of taking control away from local politicians; then as now, patronage played a big role in local politics.

And our sympathy for the people of Mississippi and Louisiana shouldn't blind us to the realities of their states' political cultures. Last year the newsletter Corporate Crime Reporter ranked the states according to the number of federal public-corruption convictions per capita. Mississippi came in first, and Louisiana came in third.

Is there any way Mr. Bush could ensure an honest recovery program? Yes - he could insulate decisions about reconstruction spending from politics by placing them in the hands of an autonomous agency headed by a political independent, or, if no such person can be found, a Democrat (as a sign of good faith).

He didn't do that last night, and probably won't. There's every reason to believe the reconstruction of the Gulf Coast, like the failed reconstruction of Iraq, will be deeply marred by cronyism and corruption.

Auditors To Monitor Use Of Katrina Financial Aid (WT)

By Audrey Hudson

The Washington Times, September 16, 2005

Teams of auditors and investigators from the Department of Homeland Security expect to spend three to five years at hurricane recovery field offices in an attempt to prevent fraudulent use of more than $60 billion in relief funds.

"We're going to prevent what is still going to happen, contract procurement irregularities," said Tamara Faulkner, spokeswoman for the inspector general's office.

The Federal Emergency Management Agency routinely uses inspector general auditors to monitor federal dollars that are sent to disaster zones, such as the hurricanes that hit Florida last year, but the Katrina operation and the potential for fraud is on "an unprecedented level," Miss Faulkner said.

A team of 30 inspector general employees will hit the ground Monday at field offices in Baton Rouge, La., Montgomery, Ala., and Jackson, Miss., she said. Later next week, three auditors will be sent to Texas.

Although Congress gave authority to the department's inspector general, Richard Skinner, to stop contract fraud and a $15 million budget to get started, some lawmakers want to create new watchdogs.

Sen. Susan Collins, Maine Republican and chairman of the Senate Homeland Security and Governmental Affairs Committee, yesterday introduced a bill to expand the jurisdiction of the special inspector general for Iraq reconstruction to oversee the recovery efforts in the Gulf Coast region, with an $80 million budget.

"Already, some $2 billion per day is being spent on the recovery efforts. We simply cannot wait for existing structures to organize and ramp up or create a whole new bureaucracy that will take many months to get up and running," Miss Collins said. "We need controls that are visible and on the ground as soon as possible."

She and Sen. Joe Lieberman, Connecticut Democrat, said the Homeland Security Department's inspector general is limited to watching spending within its own agency.

"The problem, however, is the spending's going to cross department lines. It's going to cross jurisdictional lines. And we believe that just beefing up the I.G. in the Department of Homeland Security won't be adequate to the task," Miss Collins said.

However, Mr. Skinner established a special inspector general working group among agencies that are expected to use hurricane relief funds, including the Departments of Defense, Health and Human Services, Housing and Urban Development, and the Environmental Protection Agency.

Rep. Thomas M. Davis III, Virginia Republican and chairman of the House Government Reform Committee, and Rep. Todd R. Platts, Pennsylvania Republican and chairman of the committee's government management, finance and accountability subcommittee, asked Mr. Skinner in a letter yesterday to report by Tuesday how the various inspectors will work together.

"The inspectors general have long stood as a bulwark against such fraud and mismanagement," the congressmen said.

House, Senate OK Katrina Tax Relief (AP-Y)

By MARY DALRYMPLE, Associated Press Writer

DOJ_NMG_0006102

AP, September 16, 2005

Lawmakers on Thursday worked to help solve the practical problems facing those caught in Hurricane Katrina's path who need quick access to cash, housing and medical care.

The House and Senate passed nearly identical bills to let victims tap retirement accounts without penalty and help working poor families and parents retain their tax credits. Senators also voted for rental housing vouchers and aid measures for small business.

The action came ahead of President Bush's prime-time speech from New Orleans about the comprehensive recovery effort he envisions for the battered Gulf Coast.

On Capitol Hill, Republicans and Democrats fought over plans for a special, GOP-majority committee to investigate the government's sluggish response to the emergency. The House endorsed the idea by a mostly partisan 224-188 vote. Democrats warned they would boycott.

Republicans said it is their responsibility to scrutinize the GOP-run government. "In challenging times, our country expects its leaders to work together and not to engage in petty bickering," said Senate Majority Leader Bill Frist, R-Tenn.

Democrats contended that Republicans cannot be trusted to run an impartial investigation. "After the flood comes the whitewash," said Rep. James McGovern (news, bio, voting record), D-Mass. "The job of this Congress is not to run interference for the Bush administration."

Louisiana lawmakers outlined a reconstruction plan, called "Project Pelican," for their devastated state. It includes coastal restoration and economic development incentives to brings jobs and people back to New Orleans.

Help was coming from the Treasury Department, which ruled that the hurricane qualified as a hardship. That allows victims and their families tap into retirement plans, including 401(k)s, an effort aimed at people with little savings to recover from the storm.

In separate bills passed by the House and the Senate, lawmakers voted to waive penalties typically imposed on early withdrawals from retirement accounts. Lawmakers have to reconcile their differences and send the measure to the president before it can become law.

The measures help working poor families and parents retain tax credits and other benefits that can be disrupted when taxpayers, for example, lose their jobs or relocate.

Several House lawmakers reacted favorably by a proposal to two Illinois Democrats, Sen. Barack Obama and Rep. Rahm Emanuel (news, bio, voting record), to immediately advance earned income tax credits and child tax credits to families in the disaster area.

The tax bills would let people write off more of their unreimbursed hurricane losses. Also, taxes typically imposed when debts such as mortgages are forgiven would be waived. People who take in evacuees for two months or more would get tax breaks.

The Senate's housing voucher program would provide more than 350,000 families left homeless by Katrina with emergency housing vouchers averaging $600 a month, for up to six months. Any displaced family, regardless of income, would be eligible. The program was expected to cost $3.5 billion over six months.

The small business plan, approved by a 96-0 vote, would allow borrowers to defer repayment of Small Business Administration disaster loans for a year. The maximum size of an SBA disaster loan would rise from $1.5 million per loan to $10 million.

Both proposals were added to a spending bill for the departments of Commerce and Justice. But it may not get to Bush soon, despite the Katrina-related provisions.

Senators also worked on giving hurricane victims temporary access to Medicaid health services, including mental health care.

By the end of the day, Congress had also sent the president bills for Katrina victims that ease rules requiring that welfare recipients must work 30 hours a week for their benefits and expand the availability of education grants for students.

Overall, Congress has voted to spend more than $62 billion on immediate rescue and recovery efforts. Lawmakers promise to spend much more.

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Ben Bernanke, the president's chief economist, said the costs of rebuilding will be substantial. "This necessary spending should not, however, jeopardize the president' long-term deficit-reduction goals," he told the National Bureau of Economic Research.

The FBI opened a telephone line (1-800-225-5324) to receive reports of public corruption and government fraud related to Katrina relief efforts and cleanup.

Senate Democrats urged Homeland Security chief Michael Chertoff to reassure illegal immigrants victimized by the storm that they can seek help from relief agencies without fear of arrest. The government made such a promise after the attacks of Sept. 11, 2001.

Also Thursday, senators questioned whether Bush's nominee to run the bureau of U.S. Immigration and Customs Enforcement has enough experience for the post.

Julie L. Myers, a former Treasury official and assistant U.S. attorney, was Chertoff's chief of staff when he led the Justice Department's criminal division.

Critics Fear Trailer 'Ghettos' (WP)

By Jonathan Weisman, Washington Post Staff Writer

The Washington Post, September 16, 2005

On the sprawling, dusty grounds of Lone Star Army Ammunition Plant and Red River Army Depot in Texarkana, Tex., the recreational vehicles and mobile homes are arriving at a rate of 100 a day before being shipped out to the fringes of Hurricane Katrina's disaster zone.

Those trailers, among 300,000 to be purchased with nearly $5 billion of federal money, have become a focal point of criticism of the Bush administration's early rebuilding efforts. Some conservatives blanch at the cost. And many critics fret that mobile homes will hardly protect their residents from the next storm.

But most of all, housing experts -- conservatives and liberals alike -- worry that Federal Emergency Management Agency encampments will quickly become what former House Speaker Newt Gingrich called "ghettos of despair." Rental vouchers in a market with plenty of available housing would be cheaper and faster and provide better accommodations, they say.

"Three hundred thousand manufactured homes? People are screaming about that," fumed Rep. Jeff Flake (R-Ariz.). "I tell you, FEMA is a disaster."

Beleaguered FEMA officials yesterday counseled patience. When Katrina struck, they were criticized for moving too slowly, they said. Now, they are being second-guessed for moving too quickly.

"The governors and their local officials are looking at all these issues. They're working with all the evacuees in these communities to ensure they are incorporated into the community, they're given job assistance and the help they need," said FEMA spokesman James McIntyre. "We have more than 300,000 displaced households, and they have to live somewhere."

Besides, said Brian Sullivan, a spokesman for the Department of Housing and Urban Development, mobile homes are not the entire response. HUD will expand rental assistance, open federally insured foreclosed homes and offer up vacant public housing units to get Katrina's survivors into shelter. "The initial response now is: Get your hands on anything you can," he said.

When Katrina struck, FEMA did what it has always done in the wake of a major hurricane: turned to its standing list of contractors, including several mobile home manufacturers. Within days, the agency began discussions with the Manufactured Housing Institute, and then purchased 20,000 fully furnished mobile homes and began shipping them to staging areas in Texarkana; Purvis, Miss.; Selma, Ala.; and Baton Rouge, La.

State government then began scouring parks, government land and private sites to establish communities of evacuees. Just as quickly, housing experts of all political stripes began to howl in protest.

"If they simply put poor people in mobile homes, they would be re-creating the same troubled neighborhoods that were destroyed," said Susan J. Popkin, a housing expert at the Urban Institute. "And we know how to do this better."

Bruce Katz, a liberal housing policy expert at the Brookings Institution, rushed to draft an opinion article, urging the administration to learn from the experience of the 1994 Northridge, Calif., earthquake. Within a week of the quake, the first of

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22,000 low-income displaced families were moving into new apartments with expanded HUD housing vouchers. Within a month, a major landlord-recruitment effort was pushing low-income Angelenos into higher-income neighborhoods.

"It's not rocket science," said Katz, a HUD chief of staff in the Clinton administration. "If you turned on the voucher faucet, you'd have people in apartments in a week."

Edgar O. Olsen, a conservative housing economist at the University of Virginia, said he pestered the Federal Housing Administration and HUD with faxes, imploring them to scrap the mobile home contracts for rental vouchers.

After all, he noted, rental occupancy rates are at historic lows, as are rents. There are more than 1.1 million available units in the South, with an average rent of less than $700 a month. Houston's vacancy rate stands at 15.6 percent. But Olsen said he has received no response.

The problem, he said, may lie with HUD's organizational chart. Like many other agencies, it has been hollowed out: assistant secretary for public and Indian housing, assistant secretary for policy development and research, general deputy assistant secretary for policy, assistant secretary for fair housing, general counsel, chief financial officer and assistant secretary for administration, all vacant.

Now, HUD will be in the spotlight, Katz predicted. In his 2006 budget, the president had proposed stripping the department of virtually all of its community development functions. The White House has tried to eliminate HOPE VI, the primary housing program designed to raze and rebuild failed public housing complexes. And the administration has de-emphasized the Section 8 housing voucher program.

"The administration has spent the past five years trying to ratchet back the Section 8 voucher program," Katz said. "It's going to be fairly hard for them to turn on a dime and say, 'Oh, we were just kidding.' "

But now, they may have to do just that, housing experts and politicians say. "The whole relief effort was such an incredible screw-up that they felt they just had to throw money at the program," Olsen said, referring to buying the army of trailers. "They had to do it fast. Now, the question is whether they can undo it."

Gingrich agreed: "A key test of the administration right now is to refuse to spend one more penny on such a disastrous policy."

Staff writer Krissah Williams contributed to this report.

Evacuees Are Moving Out Of Shelters Government Helps People Settle Into Temporary Homes (USAT)

By John Ritter, Tom Weir, And Thomas Frank

USA Today, September 16, 2005

ALEXANDER CITY, Ala. — Far from Hurricane Katrina's ruin on the Gulf Coast, Mitchell and Hazel Rodgers are among the first hurricane victims to settle this week into new RV trailers at Wind Creek State Park, across a lake from million-dollar real estate.

The couple join tens of thousands of Katrina evacuees moving to the next stage of what promises to be a long process of getting back home.

The populations of hundreds of Red Cross shelters are dropping daily as families move to temporary housing, some, like the 500 trailer sites at Wind Creek, more permanent than others.

“This is the type of living my wife and I always wanted. Back to Mother Nature,” says Mitchell Rodgers, 54, a disabled shipyard worker whose Gulfport, Miss., trailer-park home tipped over and filled with water. “As soon as I can, I'm going to register to vote. I'm not going back to Mississippi.”

Hotels, private homes, churches, cruise ships, gyms and campgrounds will continue to accommodate many of the displaced in coming weeks. An estimated 1 million people fled Katrina.

But disaster officials say they're moving to assemble and make livable up to 300,000 trailers and other temporary housing units in Louisiana and Mississippi as fast as they can find sites and arrange utilities, schooling and other necessities with cities and counties.

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The federal government has stopped selling foreclosed homes in 11 states and will make as many as 5,000 available at no charge to Katrina's homeless. Public housing authorities across the country are scrounging for every vacant unit they can find to offer to evacuees who came from public housing in New Orleans and Mississippi. An estimated 5,600 units could be made available within 500 miles of New Orleans.

Many cities — Houston, Chicago, Detroit and Philadelphia — and counties — Allegheny County, Pa., and Miami-Dade — have offered housing for thousands more.

The number of people in Red Cross shelters had declined from a high of 203,917 in the days after Katrina hit to 61,610 by Wednesday. More than 550 shelters had closed, the Red Cross said.

The Red Cross has paid about $12 million in hotel bills and expects to reimburse a total of $100 million on behalf of an estimated 132,000 Katrina-displaced people who were in hotels in 46 states.

In Baton Rouge, where tens of thousands took refuge because it's just 80 miles northwest of New Orleans, shelter populations have dropped steadily. But the metro area of 450,000 is scrambling to cope with other effects of its newfound — if temporary — status as the state's most populous.

Mayor Melvin Holden is asking the Federal Emergency Management Agency for $10 billion to build schools, roads and sewers. Highway planners are trying to sort out the swollen region's traffic congestion. FEMA expects to station thousands of mobile homes in Baton Rouge for evacuees.

Mark Bielski has been staying with friends. Although his house in New Orleans' Uptown district remains intact, he's looking for a Baton Rouge teaching job. He says he'll return to New Orleans "as soon as the lights go on."

Others see Baton Rouge as their new home. Since Katrina, 1,100 houses in the area have sold, according to the local Realtors' association. Apartment vacancy rates slid from 8% to nothing.

Evacuees poured into Houston's Astrodome and other shelters, but nobody in Texas' largest city "knows for sure how many people are here or how long they intend to stay," says Frank Michel, a city spokesman. What they know is that 46,000 former Louisiana residents are living in hotels and motels and 16,000 Louisiana children have registered in Houston schools. The city has found more than 8,000 apartments and houses to accommodate 20,000 people.

Many places seemed to open their arms, then worry later about consequences. Arkansas, one of the nation's poorest states, took in more than 75,000 evacuees, second only to Texas. That amounted to more than a 2.5% jump in the state's population, but Gov. Mike Huckabee reminded residents of the help they get after frequent ice storms and tornadoes.

"By golly, we're going to be there to take care of them now," he declared. He said midweek that at least a third of the influx had left.

Other evacuees, particularly those stranded in New Orleans after the storm, ended up farther away. Oklahoma, Virginia, Kentucky, Illinois, North and South Carolina, Maryland, Ohio, Michigan, and California each sheltered 2,000 to 4,000. Florida and Georgia each took more than 1,300.

Housing and Urban Development Secretary Alphonso Jackson found that evacuees in Philadelphia "have come to realize they might not go back to New Orleans."

"Of the families I talked to, 90% of the families have no desire to go back," Jackson says. "But that's not what I'm hearing from Texas. It's a whole different perspective."

Perspective may depend on circumstances. The new arrivals at Alabama's Wind Creek State Park get trailers 28 to 32 feet long; some would cost $40,000.

Red Cross volunteers "are helping me get baby clothes," says Suzanne Hughes, 18, from Kiln, Miss. She's 81/2 months pregnant and waiting for her fiancé to arrive.

"It's a really good community … families that have kids, and the kids get attached to the atmosphere here," Hughes says.

Police officers patrol the park. Evacuees undergo background checks because the park could be home to 1,000 children. Evacuees are being hired as park workers. Sporting goods companies are donating fishing gear. South Central Bell is putting in phone banks, Dell is offering laptops. Cisco is providing Internet service.

"It would turn you into a Christian, even if you weren't," says Arthur Walker, 57, known as "Mr. A" when he worked as a palm reader in New Orleans' Jackson Square.

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Hutchinson: FEMA Should Remain With Homeland Security (SDN)

By Don Dailey

Springdale (AR) Daily News, September 16, 2005

ROGERS -- The Federal Emergency Management Agency, buffeted in recent weeks over its sluggish response to Hurricane Katrina, should not be separated from the Department of Homeland Security, said Asa Hutchinson.

Hutchinson, a gubernatorial candidate and the former undersecretary for Border and Transportation Security in the Department of Homeland Security, said in an interview before his remarks to the Arkansas Associated Builders and Contractors at the Embassy Suites in Rogers the federal government botched its response to Katrina, but breaking out the formerly independent agency would increase communication breakdowns and red tape in future disasters.

Americans and public officials pressured the Homeland Security Department into concentrating on defending against another terrorist attack to the detriment of planning for the much-more-likely natural disasters, and a better balance between the two is needed, Hutchinson said.

"You know there are going to be hurricanes and tornadoes. You don't always have terrorist attacks every year," Hutchinson said.

He also said there need to be increased roles for the federal government and the military during natural disasters.

Hutchinson commented on a recently released status report on the 9/11 Commission's recommendations to Congress. The report gave generally low marks in the areas of emergency preparedness and response, transportation security and border security.

Hutchinson said for the most part the low grades weren't due to leadership issues or poor policy, but sluggish funding from Congress.

"Our government has the right strategy and we're making progress," he said.

The Gravette native pointed to the three areas formerly under his purview the commission reported as having had "some progress," the highest grade given in any category in the status report.

The commission said "some progress" has been made in terrorist travel intelligence, developing a biometric entry-exit system and standardizing secure identifications.

The full status report can be seen at http://www.9-11pdp.org/press/2005-09-14_report.pdf.

In his remarks to the builders, Hutchinson acknowledged the fortunate timing in leaving Homeland Security earlier this year, calling it "one of those times when you didn't stay too long."

Americans Sour On FEMA (WSJ)

By John Harwood, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

Americans sour on FEMA but want to restore its independence.

By two to one, a new Wall Street Journal/NBC News poll shows, the public holds an unfavorable view of FEMA after criticism of its Katrina response. But by 61%-20%, respondents echo Democrats like Sen. Clinton who say FEMA should be autonomous, as in her husband's presidency, not part of Homeland Security; majorities of conservatives and Republicans agree. (See poll results.1)

"It took a class 4 hurricane to...[move] a polarized electorate," say Journal/NBC pollsters Peter Hart and Bill McInturff. They liken erosion in Bush's ratings to Reagan's Iran-contra dip, and say Katrina's costs and link to gas prices make the effect unlikely to fade soon.

Homeland Security chief Chertoff's 17% negative rating exceeds his 13% positive, but 50% don't know him.

BLACKS AND WHITES agree on Bush-era progress in race relations.

Despite divide in Katrina reactions, 32% of blacks and whites say race relations have improved over the past five years. Just one in 10 say relations have gotten worse; 56% of both groups say they've stayed the same.

Ten years ago, amid affirmative action fights, both races were more likely to see deterioration. Bush aides search for Roberts-style woman to succeed Supreme Court Justice O'Connor; Attorney General Gonzales, who'd be the first Hispanic pick,

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and PepsiCo lawyer Larry Thompson, an African-American, are also contenders. But pluralities of women and Hispanics say Bush should disregard diversity and consider only "the best person."

ECONOMISTS SHARE public wariness of the hurricane's impact.

The 45% of Americans who say the economy has gotten worse in the past year matches assessments in spring 2003 amid job-loss concerns. Two-thirds see a big economic hit from Katrina, tracking forecasters' expectation of diminished employment and growth in coming months.

Fed next week weighs interrupting interest-rate increases; Wall Street bets no. Members of National Association of Business Economists, by 3-to-1, hail monetary policy as just right but call the deficit -- swelling because of Katrina -- "too stimulative."

Concern over gas prices is highest among young people; 40% of those under 35 call it the top economic issue.

THOUGH BUSH has taken a softer line toward the United Nations, Americans aren't feeling conciliatory. Two-thirds say they lack confidence in the world body, up from half, a decade ago. The survey's margin of error is 3.1 percentage points.

TRULY NEEDY? After winning a $250 million FEMA contract to use three ships for Katrina relief, Carnival Cruise Lines gets skeptical initial response to request that Congress exempt the proceeds from federal taxes. Separately, a White House aide dismisses rolling back jet-fuel taxes in response to post-hurricane price jumps, saying, "Our focus is on bailing out the French Quarter, not the airlines."

RED AND BLUE: Republicans are three times as likely as Democrats to cite looting in New Orleans as a top Katrina concern; Democrats were six times as likely to cite treatment of poor people. But partisans on both sides agree city residents stuck at the Convention Center and Superdome couldn't help it and shouldn't be blamed.

SELECTIVE IMPACT: Despite FEMA's woes, Katrina hasn't shifted confidence in federal government generally. Some 31% say Washington can be trusted to do the right thing at least most of the time, matching a June Gallup survey. After 9/11, confidence in Washington surged.

REPUBLICANS HOPE to dodge disaster fallout.

The party's ratings are unchanged from July, even as Bush slips; each party draws positive ratings from 37% of Americans. But Democrats' 32% negative mark is nine percentage points lower. Minority leader Reid launches online organizing drive next week linking activists with Democratic Senate campaigns.

Congress draws weak 29% approval rating, though that's not as bad as the 15% lawmakers received amid Perot's outsider 1992 candidacy. Some House Republicans look to shelve Social Security debate, but costs of Iraq war remain a cloud over 2006 midterm elections.

"We better continue to hit our benchmarks" for stable democracy there, says ex-Republican Gov. Engler of Michigan.

MINOR MEMOS: After Roberts's strong Judiciary Committee performance, Engler jokes, "He should be the stand-in for whoever we need confirmed" for any post.....Yet Roberts's 32% positive rating pales next to 83% for the Red Cross amid Katrina.

FCC Plans $211M To Rebuild Communications Cash Will Come From Universal Service Fund (USAT)

By Paul Davidson

USA Today, September 16, 2005

Federal regulators said Thursday that the government will spend $211 million to help rebuild communications links for those affected by Hurricane Katrina and will find ways to better protect such systems.

“We need to determine how we can help companies strengthen our communications infrastructure, create more robust and reliable networks, and improve the ability to quickly restore service when disaster does strike,” Federal Communications Commission chief Kevin Martin said at a special agency meeting in Atlanta to assess the effects of the storm.

Katrina knocked out landline and cellphone service for millions in Louisiana, Mississippi and Alabama, hobbled police radio communications and wiped out 911 emergency service in many areas.

The absence of those vital links made it difficult for survivors to find relatives and for public-safety and emergency rescue officials to talk to each other, hampering their response.

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The $211 million will come from the $6 billion-a-year universal service fund, which is financed by a 10.2% surcharge on every customer's long-distance bill.

Among other things, the fund subsidizes phone service for the indigent, helps bring Internet access to schools and improves communications systems for rural health care providers. Here's how the $211 million will be spent:

•About $51 million of the $750 million low-income program will provide wireless phones and 300 free minutes for needy evacuees and others still without phone service. The program also will pay to reconnect customers' landline phones.

•About $132 million of the $2.25 billion "E-Rate" fund will help reconnect schools and libraries to the Internet.

•About $28 million of the $50 million rural health care program will help providers such as the American Red Cross better treat disaster victims. Special linkups, for example, let doctors get X-rays remotely over high-speed Internet lines.

Martin also said he will appoint a panel to recommend ways to improve communication among public-safety agencies during disasters. The FCC also will create a bureau to promote more reliable crisis communications for police, fire and national security agencies.

After the hurricane, various public-safety agencies often could not communicate because their radio systems operate on different frequencies.

At the meeting, industry officials reported dramatic progress in fixing phone lines and radio and TV stations.

About 305,000 BellSouth customers remain without phone service, many of them in the New Orleans area, down from 2.4 million. It could take months to completely restore service. About 75% of cellphone service has been restored.

Thirty-nine radio stations, seven Louisiana TV stations and 10 cable systems are still not operating.

FCC Seeks Crisis-Response Changes (WSJ)

By Amy Schatz And Christopher Rhoads, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

ATLANTA -- The Federal Communications Commission, after seeing how communications systems broke down after Hurricane Katrina despite four years of attempted improvements, proposed changes that would allow it to take a larger role in coordinating emergency communications and restoring telephone services.

The agency, which held a three-hour meeting at BellSouth Corp.'s emergency-response center here, also proposed releasing $211 million from the Universal Service Fund, which subsidizes phone services in rural areas and pays for school Internet connections. The money would be devoted to helping schools rebuild Internet connections and providing free wireless phones for hurricane evacuees. Phone companies also would be allowed to use money they normally receive from the fund to rebuild networks along the Gulf Coast.

Such a move is welcome news to phone companies in the region. BellSouth estimates it could cost between $400 million and $600 million to replace ruined equipment in the three-state area hit hardest by the hurricane.

Hurricane Katrina has raised questions about just how much more robust and secure the nation's telecommunications network has become since the Sept. 11, 2001, terrorist attacks. Many of the same problems -- no power, no phone service and first responders unable to communicate with each other -- happened again. No single federal agency has responsibility to lead the effort, but FCC Chairman Kevin Martin's proposals yesterday suggested what could become a broader move away by other agencies from relying as heavily on leadership from the Department of Homeland Security.

Under Mr. Martin's proposals -- which require full FCC approval and, in some cases, congressional backing -- the FCC would be reorganized to include a new Public Safety/Homeland Security Bureau. The FCC also would assemble an independent panel to examine what happened to the phone networks and communications between first responders and how they might be improved.

During emergencies, the FCC gathers information about outages and assists the Federal Emergency Management Agency in coordinating help. After Hurricane Katrina, FCC staff remained on call 24 hours a day so phone services could be more quickly restored.

Mr. Martin is proposing that the FCC take a greater role than just helping to free up radio frequencies for first responders -- by helping to set interoperability standards and providing guidance for communities that are upgrading two-way radio equipment.

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The responses to the Sept. 11 attacks and to Hurricane Katrina showed that the biggest problem facing emergency communications is so-called interoperability, or the capacity for responders to communicate with each other regardless of the type of equipment.

This was apparent to Laurie Feagans, the emergency-management director of Manatee County, Fla., when her team aided Hancock County, Miss. -- one of the hardest-hit areas of the storm -- after Hurricane Katrina. Not only was the Hancock County emergency-operations center without any form of communication, but even with her satellite phones, Ms. Feagans was unable to contact the Mississippi emergency-operations center, she said.

Similar talk was heard after Sept. 11 -- and scant progress has been made since then.

Write to Amy Schatz at Amy.Schatz@wsj.com6 and Christopher Rhoads at christopher.rhoads@wsj.com7

F.C.C. Chief Offers Plan to Get Phones to Hurricane Victims (NYT)

By KEN BELSON

The New York Times, September 16, 2005

ATLANTA, Sept. 15 - Kevin J. Martin, the chairman of the Federal Communications Commission, proposed on Thursday spending $211 million to provide phone and data services to consumers, schools and hospitals affected by Hurricane Katrina.

The money would come from the Universal Service Fund, which provides about $6.5 billion a year to support access to telecommunications services for rural and low-income consumers, as well as schools and libraries.

The proposal, made at an F.C.C. meeting here, would give evacuees cellphones and 300 free minutes and help customers reconnect their phone lines. Money would also be made available to schools, libraries, health organizations and relief agencies like the Red Cross to rebuild their phone and Internet connections.

Mr. Martin also proposed establishing a committee within the next two weeks to review the hurricane's impact on the region's telecommunications network, and assess what could be done to avert problems in future storms.

For instance, wireless service failed in many areas after the storm not just because 1,000 cellular towers were damaged, but also because of damage to the networks that connect the cell towers and landlines.

"The lesson from the storm is how connected all these networks are," Mr. Martin said. "No part of the network can be effective in isolation. We're all reliant on each other."

Industry executives testifying at the meeting, which was held at the office of BellSouth, the biggest phone provider in the Southeast, said that while phone companies have made steady progress repairing their networks in Louisiana, Mississippi and Alabama, much still needs to be done.

Steve Largent, the chief executive of CTIA, a wireless industry trade group, said, "As an industry, we have never seen an event like this."

As of Thursday, 305,100 phone lines of the 4.9 million that BellSouth operates in the three-state area were still out of commission. One-quarter of the cellular sites were still not functioning, said Ken Moran, the director of the F.C.C.'s Office of Homeland Security. And seven television stations in Louisiana are still off the air, he said.

BellSouth said last week that it expected to spend up to $600 million to repair offices and networks damaged by Hurricane Katrina. By comparison, the company spent $200 million last year to restore equipment and service after four hurricanes hit the Southeast.

"It will take some additional time to understand the magnitude of the damage," said Ron Odom, the president of network services at BellSouth.

BellSouth said 11,000 telephone poles and 26,000 lengths of cable were knocked down by the storm. Of the 578 switching stations that BellSouth operates in the three states, just 16 were out of service on Thursday.

Mr. Odom, like many of the industry executives who testified, said that one of the biggest impediments to restoring telecommunications services and radio and television broadcasts was the lack of electricity.

Though many companies had backup generators that took over when electricity was knocked out, refueling the generators was difficult because of flooding and people shooting at supply trucks, executives said.

New Lines Of Communication (WP)

By Jonathan Krim, Washington Post Staff Writer

The Washington Post, September 16, 2005

As crews rush to restore basic telephone and Internet services to areas ravaged by Hurricane Katrina, some executives, academics and analysts are urging a more ambitious approach: Make New Orleans and the surrounding areas super-connected communities, with advanced services that surpass what is available anywhere in the country, if not the world.

With many poles and wires reduced to sticks and spaghetti, cell towers down, miles of streets still flooded, and parts of the region uninhabitable for the near future, these experts see the perfect opportunity to deploy new systems that otherwise might be too expensive or disruptive to build.

The result, they say, could be a bonanza of higher technology at lower prices for businesses and consumers, more robust emergency-responder systems and an ability to provide high-speed Internet access to poorer segments of the population often left off of the information highway.

"The area ought to be a beacon for 21st-century communications in the United States," said Rey Ramsey, chief executive of One Economy Corp., a nonprofit organization that helps bring high-speed Internet service to inner-city communities. "We ought to go state of the art, and state of the art with a purpose."

Ramsey, who also is chairman of Habitat for Humanity International, said recreating New Orleans as a technology and communications mecca could be a key to its revival, drawing back shuttered businesses that are considering relocating and attracting new ones.

In addition, he said, "there needs to be an intentional effort to make sure that these benefits extend to poor people directly."

The Federal Communications Commission yesterday announced a series of steps and proposed funding to help get the region's system running again.

And a broad hurricane-relief bill being drafted by Sen. Mary Landrieu (D-La.) would earmark money to help low- and middle-income residents and businesses buy or lease computers and get access to high-speed Internet access at affordable prices.

But for several executives and analysts in the telecommunications world, that would be just a small beginning, though they acknowledge that their ideas are best-case and might never be enacted.

Sky Dayton, who founded Internet provider EarthLink Inc. and more recently has focused on wireless ventures, said the area need not bother reconnecting all its downed lines and should instead rely on existing cellular networks and additional systems known as WiFi and WiMax, which provide high-speed Internet access.

Dayton said the cost of such a network would be relatively low -- "a rounding error in the context of rebuilding a city." A series of small, electronic devices on top of buildings or lampposts and take signals from central towers and push them around to houses, offices or other "hot spots."

Such networks can also deliver Internet-based telephone service.

Several municipalities around the country have launched, or are considering building, government-owned or -operated wireless-Internet networks, so lower-income citizens can access the Internet more affordably. Those efforts have met with fierce opposition from the major telephone companies, which have successfully lobbied in several states for laws prohibiting governments from operating such networks if they compete with private industry.

Dayton, who heads a consortium between Earthlink and SK Telecom Co., a leading mobile-communications firm in South Korea, said municipal wireless-Internet networks should be public-private partnerships.

Jeffrey A. Citron, chief executive of Vonage Holdings Corp., a leading provider of Internet phone service, sees an opportunity built less around alternative technologies and more around opening up competition.

"I'd come up with a plan for a trenching system" for major thoroughfares in New Orleans while the city is largely empty and undergoing repairs, he said. High-speed, fiber-optic cables are hugely expensive to lay, so the dominant phone companies have typically been the only ones to do so.

Citron said the city could dig the trenches and make them available, for suitable fees to help cover construction costs, to any carrier that wanted to lay cables to provide services -- including voice, digital television and Internet access.

With more companies potentially competing, Citron said, prices would come down.

Bill Smith, chief technology officer for BellSouth Corp., the Gulf Coast's primary phone carrier, paused for several seconds when presented with this idea.

"I would say that might not make sense for us" if too many competitors meant the percentage of the pie for each was too low, he said.

Smith said BellSouth is committed to rebuilding with an eye toward providing state-of-the-art technology that is largely Internet-based.

The company hopes, for example, to one day let consumers set their home video recorders from their cell phones.

Alexander H. Good, chief executive of Mobile Satellite Ventures LP of Reston, said satellite technology, in addition to other systems, would provide a more disaster-proof communication system for emergency responders, including police, fire and medical personnel.

He said his company is readying two new satellites with new capabilities. Although the satellites service the entire country, they could be pointed to a particular area in an emergency to provided expanded service.

Anthony Townsend, research director at the Institute for the Future in California, pointed out that many of those high-flown ideas could run up against a fundamental problem: The services rely on electricity, which often goes out during such disasters. The nation must focus on finding more flexible ways of distributing power, he said.

Mississippi Sues To Make Insurers Pay Flood Claims (WSJ)

By Theo Francis, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

Mississippi Attorney General Jim Hood filed suit against five big insurers in that state yesterday, unleashing protest throughout the industry as he seeks to force the companies to pay for flood damage from Hurricane Katrina despite flooding exclusions in standard homeowners' policies.

The suit, filed in state court in Jackson, seeks to override the exclusions. It comes as tens of thousands of Gulf Coast property owners struggle with the cost of rebuilding homes damaged by the wall of water that surged with the hurricane Aug. 29. Standard homeowners' policies typically cover wind and other storm damage, but not flood damage. Flood damage is covered by a government-backed flood-insurance program, but fewer than one in four Mississippi properties in areas most at risk of flooding are insured through the federal program.

"You can't provide free flood insurance by rewriting contracts," said Jane Boisseau, a New Orleans native and co-chair of the insurance practice for law firm LeBoeuf, Lamb, Greene & MacRae LLP in New York, which represents many insurers. A spokesman for State Farm Mutual Insurance Cos., the nation's largest home and auto insurer, said the attorney general's move "threatens the foundation of the economy of the state" by attempting to undercut legal contracts. The insurers maintain they never collected any premium money from customers to cover flood damage.

Still, fighting the suit could be a public-relations problem. The U.S. insurance industry is in robust financial health, with more than $400 billion in capital. Also, the industry is legendary for lobbying clout and has a track record defending its contracts, which are approved by state regulators.

The lawsuit throws into sharp relief concerns that have increased as the extent of Katrina's destruction -- estimated at as much as $125 billion, with up to $60 billion covered by insurance -- has become clearer. Homeowners without government flood insurance typically must rebuild on their own or with low-interest government loans and limited grants. Complaints that smaller insurers are delaying and denying payments have begun mounting.

Besides State Farm, Mr. Hood's lawsuit names as defendants units of Allstate Corp., Mississippi Farm Bureau Mutual Insurance Cos., United Services Automobile Association, and Nationwide Mutual Insurance Co. The companies together last year wrote about 70% of Mississippi homeowners' policies. Companies that could be reached for comment yesterday generally said they hadn't seen the lawsuit but expected to prevail.

The suit seeks to void flood exclusions, arguing they are "unconscionable," unreasonably favorable to insurers and a "violation of the public policy of Mississippi."

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The suit argues that policyholders bought insurance to protect property against hurricanes with the "reasonable expectation" it would cover flood and other water damage. It accuses insurers of deceptive trade practices. The suit argues that Mississippi law and court precedent require insurers to pay according to the original cause of damage, and that flooding from Katrina was caused by the storm and its high winds.

The suit argues the policies deprive policyholders of "meaningful choice."

Language in policies excluding flood and water damage is typically broad. One Gulf Coast policy form excludes coverage for "water damage," defined as "flood, surface water, waves, tidal water, overflow of a body of water, or spray from any of these, whether or not driven by wind."

Allstate's general counsel, Michael J. McCabe, said the company expects Mr. Hood's challenge to fail, in part because state regulators approved the contracts, "but while it's being adjudicated, it will delay and complicate the process." He said Allstate is paying covered losses "fairly and as swiftly as humanly possibly." Of the insurers sued, only Allstate is publicly traded; the rest are owned by policyholders.

A spokesman for Mississippi Farm Bureau called the suit "amazing" and said it "will take a long time to settle." Nationwide said that it is "deeply disappointed" by the lawsuit, and that voiding flood exclusions would hurt policyholders nationally.

A spokesman for USAA said that, while sympathetic to Gulf Coast residents who didn't buy flood insurance, "we cannot compromise the interests of our members who have covered losses by being forced to pay for uncovered losses."

Mr. Hood's lawsuit seeks to prevent any insurer from requiring policyholders to sign documents acknowledging flood or water damage to receive claim payments. In its statement, Nationwide said any suggestion that it had done this was "unfounded."

Write to Theo Francis at theo.francis@wsj.com3

Mississippi Sues Insurers Over Damage From Storm (NYT)

By JENNIFER BAYOT

The New York Times, September 16, 2005

Mississippi sued the state's property-casualty insurers yesterday in an attempt to compel them to pay for a greater share of the damage wrought by Hurricane Katrina, firing a legal salvo that could drive away insurance providers even as it gives hope to homeowners displaced by the storm.

In a civil complaint filed in Chancery Court in Jackson, the Mississippi attorney general, Jim Hood, accused insurers of selling confusing policies that fell short of homeowners' reasonable expectations of coverage.

Mr. Hood argued that because property owners "purchased these policies for the primary purpose of insuring against any and all hurricane damage," insurers should be liable for property damage caused by flooding - a hazard long excluded from traditional homeowner policies.

He is seeking a temporary restraining order to prevent companies from denying or reducing coverage based on water exclusions, or from asking property owners to sign documents stating that their loss was caused by water rather than wind. He said that people were being offered $3,000 in living expenses if they signed such forms.

"If they sign this form," Mr. Hood said, "they are giving up their rights. What the insurance companies are trying to do is lock them into saying it was flood damage."

Insurers said yesterday that the lawsuit threatened the viability of insurance coverage in Mississippi because it suggested that contracts were perpetually open to revision. They also protested that they were being asked to cover damage for which they had never collected premiums.

"Basically, it's changing the rules of the game during the game - after the game has been agreed to and approved by the state itself," said Michael J. McCabe, Allstate's chief legal officer.

Richard Ludke, a spokesman at State Farm, said the lawsuit threatened "to undermine the insurance industry's financial stability, and its ability to respond not only to its obligation rising out of Katrina but its ability to respond to other claims."

He added, "In essence, the attorney general is challenging the validity of contracts in Mississippi."

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Strictly speaking, only the relatively few homeowners who bought separate flood policies from the federal government are entitled to such coverage. In Harrison County, Miss., where Gulfport and Biloxi were leveled, fewer than one in 12 homeowners did, according to federal data.

The Mississippi lawsuit seeks to turn that arrangement on its head at a time when far more policyholders appear to have been affected by flooding than after previous hurricanes. Storm surges like those that overwhelmed Gulfport and Biloxi are typically considered flooding rather than wind-driven; the flood damage in New Orleans has yet to be assessed.

Flood insurance for homeowners has been handled by the federal government since 1968, and several lawsuits since then have made arguments similar to Mr. Hood's and failed, said Mitchell L. Lathrop, of the law firm of Duane Morris, who specializes in reinsurance and insurance law.

"I think he's absolutely wrong because the flood exclusion has been a prominent part of property policies since at least the 1980's," Mr. Lathrop said.

Richard Scruggs, a Mississippi lawyer who played a leading role in a $250 billion settlement against the tobacco industry, said that he planned to file suits on behalf of thousands of Gulf Coast residents, demanding that insurance companies pay for flood damage. He said he already had 200 to 300 homeowners as clients and planned to file individual lawsuits next week.

Pension Plan Rules Relaxed

WASHINGTON, Sept. 15 (Dow Jones) - Companies that sponsor 401(k)'s and similar retirement plans can make loans and other "hardship distributions" to Hurricane Katrina victims, the Treasury Department and the Internal Revenue Service said Thursday.

The statement came as the House and the Senate passed tax-relief legislation for victims of the storm, which will allow penalty-free withdrawals from individual retirement accounts.

The Treasury and the I.R.S. said employees with 401(k) accounts as well as those at public schools and tax-exempt groups with 403(b) tax-sheltered annuities might be eligible for streamlined loan procedures and liberalized hardship distributions from their retirement plans.

These advantages may also apply to state and local government employees with certain "457 deferred-compensation plans."

The loans or hardship withdrawals must be made by March 31, 2006.

Joseph B. Treaster contributed reporting for this article.

Lawsuit Accuses Insurers Of Excluding Storm-surge Coverage Policies Unclear Sometimes (USAT)

By Kathy Chu

USA Today, September 16, 2005

Mississippi Attorney General Jim Hood sued five insurance companies Thursday to force them to pay for storm-surge damage related to Hurricane Katrina.

The complaint, filed in Hinds County Chancery Court, claims that Allstate, State Farm, Nationwide, USAA and Mississippi Farm Bureau policies “attempt to exclude coverage for storm-surge damage” caused by the hurricane.

This is “an unfair or deceptive trade practice” under state law, Hood says. Hood also asked for a temporary restraining order to prevent insurers from paying policyholders to get them to sign waivers saying they have flood damage.

Homeowners' policies typically cover wind and sometimes wind-driven rain damage. Government-issued insurance covers flood damage. What's unclear is whether hurricane-caused storm surges are covered by homeowners' policies.

Insurers are expected to pay up to $60 billion in hurricane damages, with total economic damages likely exceeding $125 billion, Risk Management Solutions says.

Insurers say storm-surge damage is the same as flood damage. “Insurers have never collected a penny in flood-insurance premiums,” says Robert Hartwig of the Insurance Information Institute, an industry trade group. “If they're forced to pay, it could quite possibly be destabilizing and lead to the insolvency of smaller insurers in the area.”

Hood's move is unusual because it is out of step with the Mississippi Insurance Department. George Dale, the state's insurance commissioner, has warned insurers that when it's unclear how the damage was caused, the decision should favor policyholders. But he stopped short of saying insurers should cover hurricane storm-surge damage.

For years, insurance companies have said flood damage isn't covered under their policies, even if it results from an insured event such as a hurricane. A typical homeowner's policy, provided by the Mississippi Insurance Department, says this is the case "regardless of any other cause or event contributing concurrently or in any sequence to the loss."

Hood says insurers don't mention storm surges. "I'm not going to allow an insurance company to bankrupt half of the families, businesses here … by pointing to the fine print that says that they should have known that our hurricane policy doesn't cover storm surge."

State Farm says the lawsuit threatens to undermine the industry's ability to meet its Katrina obligations and respond to other claims in Mississippi and elsewhere. Allstate says it's "unfortunate that a lawsuit has been filed so early in the recovery process." Nationwide says it's "deeply disappointed." USAA says it can't let its members pay for "uncovered losses."

The Louisiana attorney general's office says it's not planning a lawsuit. In Alabama, the attorney general's office says it's "premature" to talk about a lawsuit.

Programs Retrain Displaced Workers Hurricane Survivors Are Being Matched With New Jobs (USAT)

By Jon Swartz

USA Today, September 16, 2005

JACKSON, Miss. — Thousands of workers displaced in the hurricane-ravaged Gulf Coast are being retrained in new programs stretching from Louisiana to Texas and Mississippi.

The programs are designed to find jobs for those forced to relocate or whose employers suspended operations, say state officials in Louisiana and Texas.

Many of the job seekers are likely to be placed in fields such as construction, health care, energy and cleanup, says Barton Smith, director of the Institute for Regional Forecasting at the University of Houston. Because many of them previously worked at casinos, retail shops and logging companies, they need to be trained, he says.

Community and technical colleges in Louisiana this week started a job-training program to match and prepare evacuees with jobs in construction, plumbing, welding and hazardous waste removal.

"We need as many people as possible to help rebuild the New Orleans area and at the same time get them work," says Jim Henderson, senior vice president of workforce development and training at the Louisiana Community & Technical College System.

The federally funded program will probably operate out of 10 community and technical colleges, adult-education centers and mobile computer centers, Henderson says. Under the program, individuals are initially trained for a few weeks before receiving on-the-job training and apprenticeships.

"We'll work in any area that helps rebuild the city. I'll pick up the trash," says Michaela Reid, 32, a former tour guide in the French Quarter. She, husband Andrew, 36, and their two children are staying in Austin but plan to return to New Orleans next week. The couple would like to train for jobs in computer science and law enforcement.

The city of Houston, a major gathering spot for evacuees, on Monday announced a major job fair to connect hurricane victims with local employers in the health care and energy fields, among other industries. An estimated 10,000 to 20,000 of the evacuees are likely to look for jobs in Houston, says the University of Houston's Smith.

The Texas Workforce Commission says it will receive a $75 million emergency grant from the U.S. Labor Department to help fund job-training and relocation programs.

Here in Jackson, state officials are offering job-placement services through the Workforce Investment Act, a 7-year-old federal program. A partnership with local employers provides on-the-job training, says Ross Tucker, vice president of MetroJackson Chamber of Commerce.

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Many of the displaced are from storm-damaged towns on the Gulf Coast and in southern Mississippi, 150 miles to 200 miles away, and need jobs. And most of the jobs here are in government, health care and automotive — a far cry from the coast, where gaming, tourism and timber are the big industries.

Meanwhile, local businesses are hiring and training. D&D Construction in nearby Ridgeland, Miss., has hired a handful of people to build homes. Those without experience will be taught on the job, owner Daniel Phillips says. "This doesn't take a college degree."

In their haste to find work for the displaced, state officials say they must carefully balance their needs with those of the unemployed already in their regions.

"It's difficult to give one person an advantage over another because they were displaced by the hurricane," says Angela Griffin, branch director at Jackson Main Job Center, a state agency assisting the displaced. "Someone locally may have lost their job, too, because their business shut down because of the hurricane."

Displaced Health Care Workers Being Courted Areas With Shortages Advertising To Hire (USAT)

By Julie Appleby

USA Today, September 16, 2005

Displaced health care workers from New Orleans and the Gulf Coast are being lured with signing bonuses, relocation assistance and other perks by hospitals, doctor offices and clinics nationwide.

Classified ads in Gulf Coast newspapers and on websites encourage nurses, therapists, doctors and other health care workers to consider new jobs, either permanently or temporarily.

A shortage of medical workers in many parts of the USA almost guarantees that workers who leave the hurricane-battered areas will find work.

What's more difficult to know is whether the health care workers who accept new jobs will return.

"Recruiters are swooping down on Louisiana," says William Schumacher, who runs a Louisiana-based firm that provides medical staff to hospital emergency departments and is trying to keep doctors in the state. "My fear is that we are going to wake up three months from now when all the volunteers are gone, and there won't be enough staff."

The choice is tough for health care workers. Many are without jobs or income. Recruiters say they are helping, not poaching.

"Even if we didn't exist, these nurses and health professionals would go somewhere else because they have to," says Alan Braynin, CEO of Access Nurses, a San Diego-based staffing agency.

Braynin says temporary nursing positions, which generally last 13 weeks, are ideal for displaced workers.

"We can make the process simple for them to leave, but also to come back," says Braynin.

Some placement firms and companies seeking workers are offering only temp jobs; others are flexible.

San Luis Valley Regional Medical Center, a 59-bed hospital in rural Colorado, is advertising for nurses, physical therapists and radiation technicians for either permanent or temporary positions.

"This is our way we can help those people who have had so much devastation in their lives," says hospital spokesman Leonard Snow. "If they want to stay one month or four months, we'd be happy to accommodate them. If they like it here, we'll help them stay."

For some, the first question is: Should they leave? Amy Grace, an obstetrician/gynecologist who finished her residency and joined a five-doctor practice in New Orleans two months ago, is undecided. She doesn't know when she can return to the city or how many patients will come back. Yet, if she moves to another state, it could take her three to six months to get her license.

"My mind changes from hour to hour," says Grace, who is staying with family in Birmingham, Ala. "One minute I say, 'Yes, I'm going back.' And the next, I think, 'What happens when the next hurricane comes?' "

Katrina's Unsung Victims (WP)

By Jennifer Moses

DOJ_NMG_0006116

The Washington Post, September 16, 2005

BATON ROUGE, La. -- I keep seeing pictures of the president with his shirt-sleeves rolled up, surveying the damage to New Orleans. But I wonder if he has any idea just who the folks are who have been displaced by Hurricane Katrina. I ask because here in Baton Rouge we keep hearing about the desperately poor, and sometimes criminal, hordes Katrina has washed up on the shores of decent, hardworking, middle-class America: the (mainly black) gangs from the projects who, even during normal times, wreaked havoc on their fellow citizens, not to mention the merely poor -- teen mothers, drug addicts, the chronically unemployed.

But the shelter in which I've been volunteering tells a different story. At the convention center downtown, where the Red Cross is serving hundreds of evacuees, public schoolteachers sleeping in Area 2-C tutor the children of their "neighbors" in 2-B; teenage boys in high-tops and low-riding pants bring snacks to the people in wheelchairs; and, last Sunday, men whose paths had never crossed before sat huddled together watching giant television screens, rooting for the Saints and trading jokes.

Indeed, an aura of normality and order pervades even this bizarre community, built of rows and rows of folding canvas cots, donated bed linens and garbage bags filled with other people's castoff clothing, and peopled by the young and old, black and white, American-born and foreign-born: a United Nations of languages, a stew of stories.

The good news is that, aside from chronic shortages of underwear and canvas bags, people's physical needs are being taken care of, thanks largely to the thousands of Red Cross volunteers and others from all over the country and the world. We have one such volunteer, from London, staying at our house through October. Yet once the immediate crisis ends, "our" volunteer, and others like her, will be going home, as will the hundreds of journalists who, since Katrina hit, can boast that they can locate Baton Rouge on a map.

But what's Mike going to do? Mike is a fifth-generation Cajun New Orleanian. He's worked on the river barges his entire adult life. "I rode out Hugo," he said as he sat on his cot, an expression of pure bewilderment on his deeply lined face. "And I rode out Andrew, and both times we got back on our feet, but this time things is different." His house, his car and all of his belongings are gone; worse, he has virtually no savings and only the most minimal insurance.

And then there's Lydia, a middle-aged black woman who told me that just before the storm hit, the youngest of her five children graduated with honors from the University of New Orleans, joining her four older siblings in the ranks of college graduates. Lydia has worked as a special education aide in the New Orleans public schools for 25 years and two weeks, and so far this month she hasn't seen a dime from either the state or Uncle Sam. Her house? Underwater. Her savings? Nonexistent, all her extra pennies having gone toward her kids' educations.

John is a young man with striking, movie-star looks who arrived at the shelter alone, as his wife had died in the storm. He cried in my arms. Bruce is a retired professor of comparative literature. Randolph is a cook who'd worked for decades at the New Orleans fairgrounds and then at Mike Anderson's, a popular seafood restaurant. Barry and Sylvia had a landscaping business.

Not one of them has a home to go back to, investments to fall back on, or much in the way of savings or insurance. No pension funds; no IRAs; no stocks or bonds or country club memberships or family compounds in Maine or vacations in Europe or facelifts or Pilates classes or an opportunity to go back to school and finally get that doctorate in philosophy or the history of art.

What I'm learning in the shelters is that it's not just the poor who have no place to go and no place to fall back on; it's also ordinary working people who in better times might have been counted as part of the middle class, too.

Where are my new friends going to go?

Jennifer Moses is a writer who grew up in McLean and has lived in Baton Rouge for 10 years.

New Orleans Residents Return Home (WSJ)

By Christopher Cooper, Shawn Young, And Betsy Mckay, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

Some New Orleans residents returned to their homes and businesses to begin cleaning up the damage left by Hurricane Katrina, and Mayor Ray Nagin said large swaths of the city would be reopened starting tomorrow.

Yesterday's announcement by the mayor amounted to an abandonment of efforts to persuade thousands of holdouts still in the battered city to leave. A New Orleans police spokesman said no one hunkered down in a home nearly three weeks after the storm hit would be forced out despite the lack of power and drinkable water in many parts of the city.

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It isn't clear how many of the 180,000 residents -- roughly a third of the city's population -- allowed to return to their New Orleans neighborhoods will want to endure unpleasant living conditions ranging from piles of rotting food to a dearth of basic services. New Orleans public schools remain closed, and the school system has run out of money to pay teachers beyond the day before Katrina hit.

Still, Mr. Nagin's declaration showed that New Orleans is starting to recover much sooner than expected. Signs of recovery were evident yesterday throughout the French Quarter, where residents piled garbage along streets and said they were able to proceed through checkpoints without showing identification or special permits issued by city officials.

Business owners will be allowed to return to the French Quarter, central business district and other sections of New Orleans starting tomorrow. Algiers, a neighborhood of about 50,000 across the Mississippi River from the French Quarter, will reopen to residents Monday, followed later next week by areas that include the historic Garden District. French Quarter residents will be allowed to return Sept. 26.

In an interview, Mr. Nagin said he has "the final say" in deciding when it is safe for residents to return. "The health people are saying they are not seeing any significant risks."

The influx of returning residents worries some federal public-health and environmental officials, who have found high levels of lead in the water and sewage-related bacteria. Air-quality tests have found no significant levels of contaminants, according to the Environmental Protection Agency.

Write to Christopher Cooper at christopher.cooper@wsj.com3, Shawn Young at shawn.young@wsj.com4 and Betsy McKay at betsy.mckay@wsj.com5

City's Coming Back, But Not To Normal Life (USAT)

By Laura Parker And Alan Levin

USA Today, September 16, 2005

NEW ORLEANS — The city of New Orleans will reopen four unflooded neighborhoods, including the bawdy, historic French Quarter, to businesses and residents beginning this weekend.

“It is a good day in New Orleans. The sun is shining. We're bringing the city of New Orleans back. This is the first step,” Mayor Ray Nagin said. “The city of New Orleans … will start to breathe again.”

The death toll from Hurricane Katrina in five states stood at 794 people, 558 of them in Louisiana.

Although nearly half of New Orleans is still flooded, Nagin said he was allowing people to return over the coming week to large sections of the city that are dry. Nagin said about 180,000 people could return home to a city that held about 460,000 before Katrina hit.

“We will have life,” he said. “We will have commerce. We will have people getting into … the rhythm that makes this city so unique.”

The Army Corps of Engineers said that, barring rainfall, the city will be drained by Oct. 2.

Most of the city has electricity. But city water is largely undrinkable, schools remain shut, and thousands of waterlogged homes need to be pulled down and rebuilt. Levees need repairs, and a nighttime curfew will be in effect to hold down crime.

Those who return should not expect much, city officials said.

“Just because the electricity is going, it doesn't mean that all the gas stations are open,” mayoral executive assistant Greg Mefert said. “The residents need to have very realistic expectations of how the city is functioning, and they can't expect complete normality and to go about their normal day.”

Meanwhile, Mississippi was struggling to deal with the needs of hundreds of thousands of people whose homes were devastated by Katrina. FEMA said two-thirds of the homes in six coastal counties are uninhabitable. Mississippi sued insurance companies to force them to pay for storm-surge damage; many policies include provisions that exclude losses from floods.

The National Oceanic and Atmospheric Administration said Thursday that its analysis showed Katrina was the most destructive storm ever to strike the USA. Its maximum winds of 175 mph were slightly lower than Camille in 1969, but the huge size of Katrina made for much worse destruction.

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The Coast Guard said Katrina may have spilled 7 million gallons of oil from facilities in southeastern Louisiana — two-thirds the amount spilled from the Exxon Valdez in Alaska 16 years ago.

'We Will Have Life,' Mayor Promises (WP)

By Peter Whoriskey, Washington Post Staff Writer

The Washington Post, September 16, 2005

NEW ORLEANS, Sept. 15 -- The city of New Orleans will begin to reopen this weekend, Mayor C. Ray Nagin announced on Thursday, the first step toward reversing the unprecedented evacuation and closure of a modern American city.

The city has been largely shuttered, abandoned and militarized since the floods from Hurricane Katrina, but by the weekend, owners of shops, restaurants and other businesses may return to the portions of New Orleans that remained relatively dry, Nagin said. And by Monday, the first residents may begin to filter into the city neighborhood known as Algiers. Residents of Uptown and the French Quarter will follow.

The reentry plan will repopulate areas that, before the storm, were home to 182,000 people, or about a third of the city's residents.

"We will have life, we will have commerce, we will have people getting back into their normal modes of operation and the normal rhythm of the city of New Orleans that is so unique," Nagin said.

Formidable challenges remain, however, even for that third of the population that may return.

Authorities warned residents not to drink or bathe in the water in most of the city because contaminated floodwaters are seeping into waterlines through major breaks. The 911 emergency-call system is not fully operational. Even in the least affected areas, thousands of homes are without power, and the lack of traffic lights has led to accidents among some of the emergency vehicles rolling through city streets.

Asked whether the reentry plan may be premature, Nagin said, "I'm getting all kinds of push that I'm moving a little too slow."

Some residents have already begun sneaking into the city to assess the damage or retrieve clothes. A few have been pleasantly surprised.

Amanda Zirkenbach, 28, returned to her "shotgun double" home in the Mid-City section of New Orleans. With its fancy porch and balustrades, it is typical of many older homes in a city where as many as 37,000 buildings are in historic districts. It is also raised about five feet above the ground.

"The water just came up to the top of the front steps," she said of the home once occupied by her grandparents. "Those old architects knew what they were doing. They built them up higher because they didn't have the modern levees to protect us."

The news could be worse for other portions of the city, some of which may remain underwater until early October, authorities said. Of the 160,000 homes in the city, it is not known how many were destroyed by the flooding.

Nagin said he estimates that about 60,000 may be beyond repair. That could leave tens of thousands of former residents in shelters far away from home for months and possibly longer.

Viewed from the street, hundreds of homes that had been underwater and have since dried show little damage aside from the mud and a waterline. Elsewhere, old wood-frame houses apparently floated in the flood, smashed into one another and splintered. Experts say the structural integrity of many homes may have been undermined, and officials note that the worst damage may be in those homes that have been inundated for two weeks or more.

An official of the U.S. Army Corps of Engineers said on Thursday that downtown New Orleans will be clear of floodwaters by Oct. 2, and the eastern part of the city by Sept. 30 -- which is a week earlier than previous estimates. Plaquemines and St. Bernard parishes south and east of the city are also expected to be clear of floodwaters by the end of this month, earlier than predicted.

Col. Duane Gapinski said pumps are removing about 7 billion gallons of floodwater a day, although about 45 percent of the city remains inundated. Another official said the Corps has removed 240,000 cubic yards of debris.

Unsure whether businesspeople will return in large enough numbers to serve the residents, Nagin said he has contacted three major businesses about the possibility of temporarily setting up shop in the city's Convention Center and providing food and other necessities.

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Health care is another concern, with floodwaters containing dangerous amounts of bacteria.

Nagin said Children's Hospital will be open for emergencies. But Brian Landry, a hospital vice president, said it will likely be a couple of weeks before the Uptown hospital could open its doors.

Landry said staff members who had evacuated will have to be brought back.

Aside from worries that damaged homes could collapse on returnees, another key concern for city officials is law and order.

Nagin touted the fact that, with the emptying of the city, it is "crime-free and drug-free" for the first time in years. "The bad guys have been rooted out," he said.

Authorities said they will do what they can to keep out the criminals who had plagued the city for years. They said the city will initially be under a dusk-to-dawn curfew.

Even though the New Orleans police force has dwindled from 1,750 to 1,350 officers since Hurricane Katrina, Police Superintendent P. Edwin Compass III expressed confidence Thursday that the diminished force could handle the task. "We have a much smaller city to police," he said.

The National Oceanic and Atmospheric Administration said Thursday that Hurricane Katrina was the most destructive storm to strike the United States, the Associated Press reported. State and local officials said the death toll as of Thursday was 558 in Louisiana and 218 in Mississippi.

Staff writers David Brown in New Orleans and Ceci Connolly in Baton Rouge, La., contributed to this report.

Mayor Announces Plan To Allow Residents To Return (LAT)

By Nicholas Riccardi And Ashley Powers, Times Staff Writers

The Los Angeles Times, September 16, 2005

NEW ORLEANS -- Declaring that his flood-scarred, depopulated town "will breathe again," New Orleans Mayor C. Ray Nagin said Thursday that the city's historic French Quarter, downtown business district and other viable neighborhoods would reopen under a phased plan starting this weekend.

Defying predictions that the city would stagnate for months until essential services were restored, authorities decided to allow residents and businesses to begin returning to their homes under a staggered resettlement plan.

As many as 180,000 residents displaced by Hurricane Katrina will eventually be allowed to move back into homes and apartments that escaped overwhelming flood and storm damage, the mayor said.

"It is a good day in New Orleans," Nagin said during a televised news conference. "The sun is shining. We're bringing New Orleans back. This is our first step. We are opening up this city and almost 200,000 residents will be able to come back and get this city going once again."

The move will quickly revitalize many of the city's iconic, picturesque sections: the iron-gated balconies and neon-lit strip joints of the French Quarter, the whitewashed Civil War mansions of the Garden District and the hotels and office towers of the Central Business District.

But even as he hailed his city's semi-return, Nagin also acknowledged that dwellings that housed half of the city's 450,000 residents will have to be razed. "Most of the homes that were flooded that stayed in the water for a number of weeks will most likely be destroyed," Nagin said.

Under a plan approved by Nagin and by state and federal officials, business owners will re-enter this weekend. Residents will follow, returning to lightly damaged west bank and central city neighborhoods next week and then to the French Quarter a week from Monday.

"We will have life," Nagin said. "We will have commerce. We will have people getting into their normal modes of operation, and the normal rhythm of the city of New Orleans."

The decision to open large swaths of New Orleans followed the rapid retreat of floodwaters that still cover 40 percent of the city, and swift progress by repair crews in restoring electricity and water service.

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The tipping point, Nagin said, was good news that came in a recent round of government-conducted environmental tests. The results showed that remaining floodwaters still contain dangerous bacteria and chemicals, but that the city's air is safe to breathe.

The water, Nagin said, is "not good for you to drink or bathe in, just for flushing and firefighting. We're working feverishly to make sure the water quality gets better. We still have a couple of major breaks and contaminated water that is seeping in through the leaks."

Nagin gave a nod to state officials and to the Federal Emergency Management Agency, whose officials he had blasted a week before for failing to move quickly to aid the city. At his side Thursday was Coast Guard Vice Adm. Thad W. Allen, who took over the federal relief effort from former FEMA director Michael D. Brown, who resigned on Monday.

"There has been an uncommon display of unity among federal, state and local folks to put together a re-entry plan," Allen said.

Nagin acknowledged that the city's returning population will not surpass 250,000 until the city replaces thousands of flooded and water-eroded homes -- a massive project that planners and officials say could take years.

A woman who identified herself as a resident of the Lower 9th Ward stepped up and asked Nagin when she could return to her neighborhood, where floodwaters receded only in the last several days.

"Water was up to the roof (in that area) up until three days ago," Nagin replied. "That's most likely the area that will be opened up on the back end" of the city's rebuilding effort.

In Baton Rouge, New Orleans evacuee George Richardson, 40, brightened at the thought of returning home. "Like in `The Wizard of Oz,' if I could clap my heels, I'd be home. If I had three wishes, that'd be one of them," said Richardson, a pathologist who has been sheltered since the flood at the Baton Rouge River Center.

Those returning to their homes in the next several weeks will do so at the risk of new flooding, a U.S. Army Corps of Engineers director said Thursday. Multiple breaches of the levees guarding Lake Pontchartrain will not be completely repaired until next June, said Daniel Hitchings, a regional business director for the Corps' Mississippi Valley Division.

Riccardi reported from New Orleans and Powers from Baton Rouge. Times staff writers Stephen Braun in Washington, Tony Perry in Houston and Ralph Vartabedian in New Orleans contributed to this report.

New Orleans To Open Some Neighborhoods (NYT)

By William Yardley

The New York Times, September 16, 2005

NEW ORLEANS, Sept. 15 - More than two weeks after Hurricane Katrina devastated this city and prompted a mass evacuation, Mayor C. Ray Nagin announced a plan on Thursday for as many as 180,000 residents and business owners to return - at least during the daylight hours.

Mayor Nagin, emphasizing that city services are still minimal, said that residents in certain areas could return to collect belongings and assess damage to their property but that they would be asked to leave at the end of each day.

The tentative re-entry plan calls for residents to be allowed into the Algiers neighborhood by the weekend. Uptown would be accessible by the middle of next week and the French Quarter on Sept. 26. The city's downtown and the other three areas will be open to business owners over the weekend. All are areas that suffered less damage from the storm. But, city officials said, the schedules may change.

"Our strategy is to repopulate the city in the safest areas first and to get enough critical mass going so that the economics of this center city start to flow," Mayor Nagin said. "Then, simultaneously, we will be involved in probably the biggest urban reconstruction project in the country's history."

But the mayor and other officials conceded that the details of how the plan would work remained unclear.

City Attorney Sherry S. Landry acknowledged that some residents might try to stay, and she said those who were out on the streets after dusk might be escorted from the city by military personnel.

Mayor Nagin said he hoped to have a computer system at entry points to track re-entering residents by Social Security number, date of birth and address. "Everybody's going to want to come," he said.

On Thursday, as the death toll from the storm statewide rose to 558, few traffic lights were working. Most water was undrinkable. A makeshift 911 system was still being run by the military. Floodwaters and sludge remained a health risk.

Power was being restored in some areas that are part of the plan, but not in others.

Still, the tentative re-entry plan was one of several signs that conditions were improving. In Houston, the Astrodome, which on Sept. 4 housed 17,500 evacuees, was vacated on Thursday. Many of its remaining 779 inhabitants were moved a short distance across a parking lot to Reliant Arena, part of the same complex. Other evacuees were moved out of the complex to residences.

The people remaining in another part in the complex, Reliant Center, are to be moved on Friday into the Arena, officials said.

In New Orleans, Mayor Nagin said that as many as half of the city's 160,000 homes might have to be destroyed, but that electricity is being restored rapidly to areas that can be saved, and minimal hospital and emergency services will soon be available.

The re-entry announcement came as officials of the Army Corps of Engineer warned that even in a moderate storm the repaired levees might not prevent new flooding.

Daniel Hitchings, regional business director of the Mississippi Valley Division of the Corps of Engineers, said the levees would be repaired to their prestorm standard by next June - in time for the 2006 hurricane season.

Mr. Hitchings said that water might breach some levees during a new rainstorm but that the flooding would not be "life threatening." Some houses in New Orleans, he pointed out, flood even "in a two-inch storm."

Mr. Hitchings said that Mayor Nagin had been briefed about the possibility of new flooding. Rainfall has been uncommonly low since the storm, allowing the Corps of Engineers to drain floodwaters faster than it expected.

Experts have met in Vicksburg, Miss., to consider how to armor the city against any hurricanes that might head for the damaged city.

One stopgap measure mentioned by some in the Corps of Engineers would create a wall atop the earth levees by driving corrugated metal into the soil and then capping the protruding metal with concrete.

After residents move into less damaged areas, Mayor Nagin said, those from heavily damaged areas, like the Lower Ninth Ward, will be given first preference to return. The government will "make sure that there are places for them," he added.

While returning residents may find a city vastly different from the one they fled, crime is now essentially nonexistent, the mayor said. "This city for the first time that anyone can probably imagine is drug free and violence free, and we are intent on keeping that way," the mayor said.

Parts Of New Orleans Will Be Reopened (WT/AP)

By Brett Martel, Associated Press

The Washington Times, September 16, 2005

NEW ORLEANS -- Mayor C. Ray Nagin yesterday said large parts of the city will reopen in the next two weeks, including the French Quarter, a plan that would allow about 38 percent of the population to return beginning Monday.

"We will have life. We will have commerce. We will have people getting into their normal modes of operations and the normal rhythm of the city of New Orleans that is so unique," Mr. Nagin said.

The return of residents to areas that suffered little or no flooding and were among the least-damaged parts of the city will mark the beginning of what federal officials predict will be the biggest urban reconstruction project in U.S. history.

"I imagine building a city so original, so unique that everybody's going to want to come," said Mr. Nagin, who predicted that half of the city's nearly half-million population would return in the next three to six months.

President Bush, several hours later in a prime-time address from the French Quarter's Jackson Square, vowed to rebuild the Gulf Coast, primarily with federal money, estimated at $200 billion or beyond.

"This great city will rise again," Mr. Bush said.

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The re-population of the city would proceed by ZIP code, starting Monday in the Algiers section, a Creole-influenced neighborhood across the Mississippi River from the French Quarter. The city's Uptown section, which includes the Garden District's leafy streets and antebellum mansions, will open in stages next Wednesday and Friday.

The French Quarter -- the very heart and soul of the city's rollicking tourism industry -- will follow on Sept. 26.

"The French Quarter is high and dry, and we feel as though it has good electricity capabilities," the mayor said, "but since it's so historic, we want to double- and triple-check before we fire up all electricity in there to make sure that, because every building is so close, that if a fire breaks out, we won't lose a significant amount of what we cherish in this city."

The announcement came amid progress in restoring power and water service and the day after the release of government tests showing that the floodwaters still contain dangerous bacteria and industrial chemicals, but that the air is safe to breathe.

Mr. Nagin said there should be power in areas where people will be allowed back, an area where about 182,000 of the city's 485,000 residents live. But the water will be good only for flushing toilets, not for drinking and bathing, and there will be a dusk-to-dawn curfew.

Major retailers will use the city's convention center, where people fleeing floodwaters endured days of despair before help arrived, as a makeshift mall to sell returning residents food, wood and other things they will need.

Despite the good news, large sections of New Orleans remained accessible only by boat, and corpses could still be seen out in the open. In flooded streets near the University of New Orleans' campus along Lake Pontchartrain, two bodies were seen floating facedown, and the decomposed corpse of one woman was sprawled on the top step of a church, her skin wrinkled and leathery, her cane lying beside her.

Across five Gulf Coast states, the death toll from Katrina stood at 794, led by 558 in Louisiana.

In the hard-hit Ninth Ward, National Guard Col. Michael Thompson said his troops have seen the bodies of several people who had been killed.

"I've got a lot of police officers on my staff, and they recognize the signs of it. You'd see the entry wound of the bullet and the exit wound," Col. Thompson said. "So it was obvious that something had taken place other than natural death."

He said the two biggest challenges facing his troops were aggressive dogs and poor sanitation. He said pit bulls left behind by evacuating residents have formed packs and were attacking soldiers. One soldier was forced to shoot a dog that attacked him, he said.

Meanwhile, the Army Corps of Engineers said it is getting water pumped out of eastern New Orleans and nearby parishes faster than expected, and most of the area should be dry by the end of this month -- about a week earlier than estimated.

Tourism brings $10 billion to New Orleans annually and accounts for about 15 percent of the city's jobs. The city relies heavily on the dollars that tourists and conventioneers spend in the French Quarter's cafes, strip bars, jazz clubs, restaurants and stores. The dollars also feed the Quarter's cast of characters -- the street musicians, mime artists, palm readers, hot dog vendors, street artists.

Word of the reopening raised spirits in the neighborhood.

"There's no reason why this area shouldn't have been taken care of already -- it's where the money is," said Frank Redmond, who helps run a small French Quarter bar called Evelyn's Place. "If you want to get people back to work, get this area open, and the tourists, the curiosity-seekers, will want to come back and see what happened."

In other developments:

•Mr. Nagin asked mayors across the United States to take censuses of displaced New Orleans residents so the city knows where they are and can communicate with them about reconstruction.

•A total of 482 trailers have been delivered to chemical, natural gas and oil refineries in southwestern Louisiana, authorities said. Workers will live in them while they get the equipment running again.

•Thousands of hurricane survivors who took shelter in the Houston Astrodome packed their possessions yesterday and moved to the Reliant Center, a smaller building, where officials sought to consolidate the dwindling number of refugees who still don't have permanent housing.

About 3,600 remained in Houston's four main shelters, down from a high of 27,100.

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Some Of The Uprooted Won't Go Home Again (WP)

By Richard Morin And Lisa Rein, Washington Post Staff Writers

The Washington Post, September 16, 2005

HOUSTON, Sept. 15 -- Fewer than half of all New Orleans evacuees living in emergency shelters here said they will move back home, while two-thirds of those who want to relocate planned to settle permanently in the Houston area, according to a survey by The Washington Post, the Henry J. Kaiser Family Foundation and the Harvard School of Public Health.

The wide-ranging poll found that these survivors of Hurricane Katrina and its aftermath remain physically and emotionally battered but unbroken. They praised God and the U.S. Coast Guard for saving them, but two weeks after the storm, nearly half still sought word about missing loved ones or close friends who may not have been as lucky.

Most already know they have no home left to return to. The overwhelming majority lack insurance to cover their losses. Few have bank checking accounts, savings accounts or credit cards that work. Still, nearly nine in 10 said they were "hopeful" about the future. And while half said they felt depressed about what lies ahead, just a third said they were afraid.

"I'm setting goals for myself, and I'm ready to conquer them," said Lakisha Morris, 30, who was plucked from her roof and spent two nights outdoors on an interstate highway before boarding a bus for Houston. She said she wants to start her own business in this city, possibly day care for the children of fellow evacuees.

The poll vividly documents the immediate and dramatic changes that Hurricane Katrina has brought to two major American cities. It also suggests that what may be occurring is a massive -- and, perhaps, permanent -- transfer of a block of poor people from one city to another. That may have social, economic and political consequences that will be felt for decades, if not generations, in both communities.

Forty-three percent of these evacuees planned to return to New Orleans, the survey found. But just as many -- 44 percent -- said they will settle somewhere else, while the remainder were unsure. Many of those who were planning to return said they will be looking to buy or rent somewhere other than where they lived. Overall, only one in four said they plan to move back into their old homes, the poll found.

Some cannot wait. "Every morning I wake up and pray for them to say we can go back to New Orleans," said Lynette Toca, 26, a homemaker with two young sons who had never been outside her city before they drove to Houston the Saturday before the hurricane swept through on Aug. 29.

According to the poll, most of those who did not plan to go back to New Orleans are already living in their new hometown. Fully two in three of the 44 percent who will not return said they plan to permanently relocate in the Houston area, the city that now is home to about 125,000 New Orleans evacuees.

A total of 680 randomly selected evacuees living temporarily in the Astrodome, Reliant Center and George R. Brown Convention Center, as well as five Red Cross shelters in the Houston area, were interviewed Sept. 10 to 12 for this Post-Kaiser-Harvard survey. More than 8,000 evacuees were living in these facilities and awaiting transfer to other housing when the interviewing was conducted.

More than nine in 10 of these evacuees said they were residents of New Orleans, while the remainder said they were from the surrounding area or elsewhere in Louisiana. The margin of sampling error for the overall results is plus or minus four percentage points. Potential differences between these evacuees and those not living in shelters or those who lived elsewhere in the affected Gulf Coast region make it impossible to conclude that these results accurately reflect the views of all Gulf Coast residents displaced by Katrina.

The Post-Kaiser-Harvard poll suggests these evacuees will start their lives with virtually nothing. Seven in 10 currently do not have a savings or checking account. Just as many have no usable credit cards.

Missing, too, from their lives are the vital support networks of relatives and friends that have temporarily absorbed the bulk of those who fled the Gulf Coast storm zone: Eight in 10 said they have no one that they can stay with until they get back on their feet.

The poll suggests that the story of these evacuees is not merely about how little they were left with -- it is also about how fragile their lives were even before the storm hit. Together, the findings suggest the long-term challenges posed by the evacuees to local and state governments already cutting back services to their neediest citizens.

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According to the poll, six in 10 evacuees had family incomes of less than $20,000 last year. Half have children younger than 18. One in eight was unemployed when the storm hit. Seven in 10 said they have no insurance to cover their losses. Fully half have no health insurance. Four in 10 suffer from heart disease, diabetes, high blood pressure or are physically disabled.

When illness or injury strike, they were twice as likely to say they had sought care from hospitals such as the New Orleans Charity Hospital than from either a family doctor or health clinic -- needs for costly services that now will be transferred to hospitals in the Houston area or wherever these evacuees eventually settle.

This survey suggests some of these emergency shelters may be forced to shelter evacuees for weeks and months, or perhaps longer. While half expected to be relocated to an apartment, house or with a volunteer family within a few days, one in five expected to be living in an emergency shelter for at least a few more weeks. Indeed, Houston officials said this week that they have delayed their goal of emptying the temporary shelters by this coming weekend, in part because so many of the remaining evacuees lack resources to set up households on their own.

The survey also provides disquieting clues as to why so many residents remained in New Orleans to face Hurricane Katrina despite orders to evacuate. A third of those who stayed said they never heard the mandatory order to evacuate issued by the mayor the day before the storm hit. Somewhat fewer -- 28 percent -- said they heard the order but did not understand what they were to do. Thirty-six percent acknowledged they heard the order, understood it but did not leave. In hindsight, 56 percent said they could have evacuated, while 42 percent said it was impossible.

Bad decisions, bad luck or sheer stubbornness kept many in town. More than a third said the single biggest reason they did not leave was that they thought the storm would not be as bad as it was, or they decided too late to flee. One in 10 simply did not want to leave. Slightly fewer stayed behind to protect their homes from damage or theft. A handful said they did not want to leave pets.

Angie Oneal, 44, a housekeeper from the Sixth Ward, heard the warnings to leave on her radio. But she stayed to protect her belongings.

"I said to myself, if we went through Bessie, I thought we could go through Katrina," Oneal said. "I thought it was just going to pass over." She worried about the new TV, computer and bedroom set she had just bought.

The days immediately after the storm but before they were evacuated to Houston were filled with terror, pain and uncertainty.

A third of the interviewees said they had been trapped in their homes and had to be rescued; four in 10 said they spent at least a day living outdoors on the street. Four in 10 were rescued by the Coast Guard, the National Guard, police officers or firefighters. Still, half said friends or neighbors helped them to safety (25 percent) or they managed to reach safe havens on their own (24 percent).

A majority said there was a time when they were without food or water. A third were trapped in the city without their prescription drugs. One in five managed to survive the storm, only to be threatened or assaulted by other survivors in the chaos that followed Katrina.

Religious faith has sustained the respondents through their worst days in New Orleans and now during their time in Houston. Eight in 10 said their faith was very important during the past two weeks. Remarkably, 81 percent said the ordeal has strengthened their belief, while only 4 percent said it weakened it.

"We say, God did this for a reason, to clean up the shootings and murders that have become New Orleans," said Dorothy Stukes, 54, a school security officer from Jefferson Parish who said she spent "four days of hell" in the Louisiana Superdome. "Ninety-five percent of us are good people, but now God is going to take care of those that are not."

While the hurricane drew most New Orleans evacuees closer to God, it further estranged many from their government and political leaders. Three-quarters agreed that the response was too slow "and there's no excuse." Seven in 10 disapproved of the way President Bush has handled the recovery effort. But majorities were also critical of Louisiana Gov. Kathleen Babineaux Blanco (58 percent) and New Orleans Mayor C. Ray Nagin (53 percent). Overall, six in 10 said the initially sluggish government response has made them feel that "government doesn't care" about people like them, according to the poll.

Assistant polling director Claudia Deane contributed to this report.

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For Evacuees At Shelter, An Uncertain Next Step (WP)

By Kevin Merida, Washington Post Staff Writer

The Washington Post, September 16, 2005

DALLAS, Sept. 15 -- The Dallas Convention Center has been a strange but comforting replacement neighborhood for those whose real 'hoods were drowned by Katrina. Here, the miserable and the hopeful, thrown together by common circumstance, have been trying to sort out their futures.

The sorting has taken place in a gigantic parking garage-turned-shelter run by the American Red Cross. Many of the evacuees who have been living under bright fluorescent ceiling lights, their belongings stacked on cots and air mattresses, have never faced so many life choices so fast. Do I stay in the Dallas area or leave? If I take this apartment, will I be able to afford it in five months? If I take a job in the suburbs, how difficult will it be to get to work and back?

"It's like we-the-people versus an unknown," explains Melvin Hewitt, a Service Employees International Union rep from the Gentilly area of New Orleans.

The enemy is now the unfamiliar, the struggle one of the mind. Some evacuees are restless and desperate to construct new lives, and others are still processing the tragedy -- five days on an overpass, three days on a roof, alligators in the water, bodies floating by. They need a much longer respite from worry so they can heal.

Peggy Lodge, who was folding donated clothes one late afternoon, separating summer from winter garments, said she wouldn't mind staying at the convention center for a year. "See, I got flashbacks now," said Lodge, a janitor on disability.

She was rescued by helicopter from the balcony of her mid-city New Orleans home, and now the sounds of a whirring chopper spook her. A helicopter sighting outside the convention center the other day spurred her to run back inside. "I can't deal with helicopters no more," she said, her voice cracking, her mama sitting nearby. "They came too late for us, they came too late."

Texas officials estimate their state has absorbed more than 200,000 Gulf Coast hurricane survivors, the majority of whom have scattered to apartments and hotels, churches and private homes. But approximately 20,000 remain in convention centers and sports arenas, the last resort for those who had nowhere else to turn or haven't yet decided where they belong.

In Dallas, however, time is running out for shelter residents. A coalition of city, church and business leaders is working furiously to implement an ambitious plan to place all of the convention center's inhabitants in housing by Sunday, to be celebrated by a Mardi Gras-style festival downtown. As of Thursday, the convention center's shelter population had dwindled to 200, from 1,500 a week earlier. Bishop T.D. Jakes, one of the nation's most prominent ministers and a key organizer of the effort, is calling it "Project Exodus."

The plan was hatched last week over a dinner at the home of Dallas Mayor Laura Miller. Among the guests were Jakes and New Orleans Mayor C. Ray Nagin. Under the plan, shelter residents would be provided two months' free rent -- including utilities -- in an apartment or single-family home. They would be relocated close to public transportation and be given a package of basic household items -- pots and dishes, linens and towels. A host family would be assigned to ease their transition. 7-Eleven is selling Mardi Gras beads for a buck to raise money for the relocation. Kroger, the grocery chain, has agreed to donate gift cards.

But many shelter residents aren't so eager to go, as Project Exodus volunteers are discovering. The volunteers, in their hot-pink T-shirts, set up a table at the shelter but encountered some trepidation: Where exactly is Duncanville? What's it like in Pleasant Grove? Thus, some evacuees are simply being transferred to another shelter down the street. In fact, the shelter population at Reunion Arena, the city's indefinite way station, has doubled in two days -- from 300 to 600.

"They coming up with everything trying to get us out quick," said Debra Johnson of Uptown New Orleans who is traveling with two children, a husband, a sister-in-law and three nieces. "I don't know nothing about Dallas." Even though she's uneasy, she's willing to give Project Exodus a shot. "I feel like we came here from the Superdome, we've recuperated and it's time to move on," she said. "If I can survive the Superdome, I can survive anything."

What distinguishes the denizens of the shelter from other evacuees is they set up a community of their own in a building. There were hair-braiding sessions and card games, and one man even organized an outdoor barbecue. Informal leaders emerged to challenge the elected ones. When Nagin showed up at the shelter last week, it was union rep Hewitt who asked him some tough questions.

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It's a surreal little world, though, living in a space roped off by yellow police tape, the living quarters marked by numbers on pillars, the pillars serving as de facto addresses, as in: I'm staying up at pole 82. Come check me out. Showers were taken outside, by schedule, in a hazmat decontamination tent. A line the length of two city blocks sometimes formed for a grilled-chicken dinner.

A social structure formed around six big-screen television sets. One TV was reserved for news, another for cartoons and other children's programming. The shelter's teenagers and twentysomethings commandeered another set -- must keep current with their pop culture, meaning must see the new videos of Kanye West and Omarion.

Gilbert King, a teacher's aide from St. Bernard Parish who was frustrated with the programming choices, tried unsuccessfully for several days to get a cable line run to a TV that was donated to him. "A lot of these people want to watch all this foolishness," complained King, who wanted to watch more public affairs programs. Nonstop movies were shown on a couple of the other televisions. The other day a bootlegged DVD copy of the recently released "Hustle & Flow" surfaced, to the screaming delight of evacuees.

They had everything they needed in this 200,000-square-foot parking garage -- from grief counselors to computers with Internet access. Just no privacy. Public address announcements were constant, as if you were living in an airport terminal. Police officers, Texas National Guardsmen, Red Cross and Federal Emergency Management Agency officials, medics, clergy and an army of volunteers all invaded the evacuees' limited space.

And don't forget the stars. Colin Powell came and so did Jamie Foxx, who served food in the chow line. Mary Hart of "Entertainment Tonight" arrived with a truckload of kiddie surprises from Toys R Us.

Separate from the shelter is a FEMA-run disaster recovery center housed in another hall of the convention center. This is where evacuees come to do serious business. FEMA gives them a checklist with 21 services and agencies to access -- from setting up a post office box to getting free bus passes, from obtaining food stamps to applying for a low-interest federal loan.

National Travel Systems will arrange for a one-way plane or bus ticket to anywhere. The Internal Revenue Service hands out information about how to amend your 2004 tax return to claim hurricane losses and possibly get a refund.

These large shelters were never intended to be long-term solutions, merely a bridge. But in Dallas, at least, the bridge is about to shut down, forcing some instant decisions by people who are still contending with the awfulness of the past three weeks.

This internal struggle -- What to do? How to feel? Where to go? When to leave? -- was on display the other afternoon in a wandering conversation outside the men's bathroom of the shelter. The two Tyrones -- acquaintances in New Orleans, cot mates in the shelter -- took a squat in a couple of folding chairs.

They had been through the same experience but are of different minds about it.

Tyrone Horton, 39, a forklift driver back home, is focused on finding a job but is proceeding methodically. He has a work prospect in the suburban city of Irving, but he wonders how difficult it will be to get back and forth. He pulls from his pocket a business card from an AmeriSuites representative who offered a free two-week hotel stay.

It was a tempting offer, he admits, a chance to kick back in a real bed with a color television and a private shower. But then what? Without a car, Horton is hesitant to act too fast, feeling like he needs more knowledge of the city first. And yet he recognizes that he needs to get settled somewhere, for his own sanity. "Personally, I just want to get employed. I don't want an idle mind. Sometimes if you don't keep busy, that ain't too good."

The other Tyrone, Tyrone Jenkins, is in a different state -- dispirited, broken. He just sits while Horton is talking, stripping the label off a plastic bottle of Ozark water and then crushing it in his hands. Jenkins, 31, was a construction worker in New Orleans. "I lost a $15,000 car. I lost over $9,000 worth of clothes. I lost $20,000 cash. Now, I ain't got nothing." Jenkins pauses. "I want my car back. I want my clothes back. And I want my cash back."

Jenkins has a mouth full of gold teeth and no smile. He bears a slight resemblance to Mike Tyson. He is wearing Rocawear jeans and a blue-and-gold Rocawear hat, slightly tilted. Most of the clothes he lost in the storm were Rocawear, the hip-hop fashion line associated with rap powerhouses Jay Z and Damon Dash, and that's at the heart of how bummed he is.

But losing $20,000 in cash? That's the most curious of his losses. Jenkins explains that he doesn't believe in banks and had his cash stashed in a big brown grocery bag, hidden in his 2002 Buick LeSabre. Horton listens to Jenkins's story, his eyes

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conveying the look of utter disbelief. Twenty grand in a brown paper bag? Jenkins goes on: He has a brother on drugs and had to hide his money; otherwise it would've been stolen.

Horton interjects with a dose of common sense. "To say, 'I lost $20,000 and I want it back,' FEMA ain't giving you that back just because you from New Orleans and a victim of the hurricane."

Jenkins is too morose to respond. He has been wearing the same clothes for a week, and when it's suggested that free clothing from the Salvation Army is available, he just scoffs. "How I look walking around in some clothes from the '70s, looking like a hobo?"

Horton, an imposing dude clad in ordinary khaki shorts and a black pullover, has had enough of Jenkins's whining.

"Man, you fault everything," he chides. "Nothing come good from negativity. If you don't have patience, you going to end up at the Dallas County jail -- with no patience."

No response, so Horton tries humor.

"You'll be all right, brother, once you get those Rocawears back. You'll be like Superman."

But Jenkins clearly isn't in a playful mood.

"All jokes aside," Horton says, "we be thankful people. You got people who didn't make it, bro. People in the water. C'mon, man, it's bigger than that."

Jenkins concedes Horton has a point. But that's all he'll say. He just keeps crushing that Ozark water bottle.

New Orleans Neighbor Defends Closing Bridge To Evacuees (LAT)

By Nicholas Riccardi, Times Staff Writer

The Los Angeles Times, September 16, 2005

GRETNA, La. -- Little more than a week after this mostly white suburb became a symbol of callousness for using armed officers to seal one of the last escape routes from New Orleans -- trapping thousands of mostly black evacuees in the flooded city -- the Gretna City Council passed a resolution supporting the police chief's move.

"This wasn't just one man's decision," said Mayor Ronnie Harris on Thursday, as controversy continued about the move. "The whole community backs it."

In the aftermath of Hurricane Katrina, Gretna officers blocked the bridge over the Mississippi River that connects their city to New Orleans, exacerbating the sometimes troubled relationship with their neighbor.

Gretna (pop. 17,500) is a stubborn blue-collar city, two-thirds white, that prides itself on how quickly its police respond to 911 calls; it warily eyes its neighbor, a two-thirds black city that is also a perennial contender for the murder capital of the United States. .

Deprived of power, water and food for days after Katrina struck, Gretna was suddenly flooded with thousands of people fleeing New Orleans. The smaller town commandeered buses and moved more than 5,000 to a food station miles away. As number of evacuees spilling into Gretna grew, tensions rose. After arsonists set the local mall on fire, Police Chief Arthur Lawson proposed the blockade.

"I realized we couldn't continue, manpower-wise, fuel-wise," Lawson said Thursday. Armed Gretna police, helped by local sheriff's deputies and bridge police, stood guard and turned hundreds of men, women and children back to New Orleans.

Gretna is not the only community that views New Orleans with distrust. Authorities in St. Bernard Parish, to the south, stacked cars to seal the roads from the Crescent City into their parish. But Gretna's decision has become the symbol of the ultimate act of a bad neighbor, gaining notoriety partly from of an account in The Socialist Worker by two San Francisco emergency workers and labor leaders who were part of a crowd turned back by Gretna police.

Gretna officials have been deluged with angry e-mails, accusing them of racism. On Thursday, New Orleans Mayor C. Ray Nagin said Gretna officials "will have to live" with their decision.

"We allowed people to cross ... because they were dying in the convention center," Nagin said. "We made a decision to protect people. ... They made a decision to protect property."

Paul Ribaul, a 37-year-old engineer for a New Orleans television news station and Gretna native, said that residents of Gretna and other suburbs ringing New Orleans share much in common.

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"We say we're from New Orleans, but we're a suburb," he said. "The reason we don't live there is we don't like the crime, the politics."

Ribaul and many other Gretna residents praised the decision to close the bridge. "It makes you feel safe to live in a city like that," he said.

Critics have detected a racial motive, heatedly denied by most Gretna residents and city officials. Some residents say privately they're glad the city kept blacks out. Blacks in Gretna say that, though they get along with most of their white neighbors, a few harbor strong prejudices.

Still, Gretna's black residents are also wary of people from New Orleans.

"We don't have as much killing over here as in New Orleans," said Lesley Anne Williams, 42. Williams' mother, a lifelong Gretna resident, nonetheless disapproved of the Police Department's decision.

"They probably had a better chance of survival over here," she said of the refugees who were turned back, "especially with all that shooting" in New Orleans.

When Katrina hit Gretna, about 4,000 to 5,000 of the town's residents did not evacuate. Like New Orleans, Gretna lost power and water after Katrina hit. City officials pleaded for help from the state and FEMA but got no response.

Harris said Thursday he was satisfied that the refugees were turned back and that the bridge stayed closed for several more days.

"We didn't even have enough food here to feed our own residents," Harris said. "We took care of our folks. It's something we had to do."

Times staff writer James Rainey contributed to this story.

Vietnamese Lose All, This Time To Katrina (USAT)

By Aimee Phan

USA Today, September 16, 2005

After years spent working and sacrificing to build a home and community in the USA, many Vietnamese-Americans have become refugees again. For these Vietnamese, this is the second major displacement within their lifetimes. For older people who escaped in the 1954 flight from the north to the south in the war against the French, this is their third mass evacuation.

While most Americans are still grappling with the chaos in the wake of Hurricane Katrina, Vietnamese-Americans have firsthand experience with such catastrophic loss. The almost unbearable prospect of being uprooted to an unfamiliar place, living in detainment camps, starting over from nothing, is all too familiar.

In the early '80s, Vietnamese refugees started settling into enclaves around New Orleans, Biloxi and Mobile, attracted by the familiar humid climate and seeking to earn livings as fishermen and shrimpers. They learned English and passed citizenship requirements. They worked multiple jobs, put children through school and saved money to buy homes. They established businesses, temples and churches. According to the 2000 Census, more than 25,000 Vietnamese lived in Louisiana, nearly 6,000 in Mississippi and about 5,000 in Alabama. They considered these places home when Katrina destroyed everything.

One advantage in being a former refugee is understanding when help is needed. As news of Katrina's devastation spread, Vietnamese-Americans across the country rallied to contribute to relief efforts. With the help of Vietnamese-language radio stations, newspapers and religious organizations, they donated money, food, supplies and even their homes to evacuees.

About 15,000 Vietnamese have fled to Houston, but instead of heading to the Astrodome, many have sought refuge in Asian-American community centers, churches and temples, straining their resources. Thousands more are expected. There is concern the community might be trying to do too much on its own and that evacuees need government help.

The news media coverage and critique of Katrina response have largely been a black-and-white issue. But the recovery of the Vietnamese-Americans is important too, given their long history of displacement. Their experiences and successes should not be forgotten just because they need to be repeated.

The destruction of 20-30 years of work and progress is still devastating. Starting over from scratch takes time, patience and energy, which right now seems impossible to those still exhausted from Katrina. Still, in the following years, it will happen. Vietnamese-Americans have already proven it's possible.

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Aimee Phan is author of We Should Never Meetand an assistant English professor at Washington State University in Pullman, Wash.

Accidents, Infections New Worry, Clinics Say (USAT)

By Anita Manning

USA Today, September 16, 2005

CHALMETTE, La. — Hurricane Katrina hasn't brought widespread epidemics to the region, officials with the federal Centers for Disease Control and Prevention say. "What we've seen is what we would expect," says Ali Khan, who is directing the CDC's operation in the New Orleans area.

The complaints include accidental injuries and skin or respiratory infections. "Infectious disease outbreaks are not common following hurricanes," Khan says, and so far, there have been none.

Nevertheless, "The challenge is a lot bigger than in other disasters," Khan says. "We don't have a lot of experience evacuating a large city with this kind of infrastructure damage."

Previous hurricanes, however, taught health officials the value of tetanus vaccination and careful hygiene in shelters.

Immediately after Katrina, only three of the 16 hospitals in the New Orleans metropolitan area remained open. With transportation and communications wiped out, medical workers did what they could. Emergency "clinics started to pop up in elementary schools, halls, other stable locations," CDC epidemiologist Ryan Novak says.

This week, a team from the CDC in Atlanta visited a clinic here in St. Bernard Parish, which Hurricane Katrina hit hard. The clinic is one of 17 such emergency clinics and five hospitals the agency is working with to track trends.

Emergency medical specialist Ken Iserson and a Disaster Medical Assistance Team from Arizona arrived a week after the levees broke. The team of about 30 brought reinforcements to a group of local doctors who had set up a makeshift clinic in a building owned by ExxonMobil. The disaster shut down the company's refinery.

Now, in the midst of the ruined community here, they are serving 20-30 patients a day offering emergency care, immunizations and a pharmacy.

Patients who need more specialized care are airlifted out.

Doctors also care for members of the National Guard, rescue workers, police and firefighters, contractors and ExxonMobil employees.

More than 1,000 shots for hepatitis A, hepatitis B and tetanus have been administered, says Iserson, who is professor of emergency medicine at the University of Arizona Health Sciences Center in Tucson. Patients also come in for medicines for chronic diseases, such as high blood pressure or diabetes.

"We're starting to see our first wound infections," Iserson told the CDC team of Novak, Micah Milton and Dawn Tuckey.

One surprise for CDC workers, Khan says, is how quickly the city is recovering. Officials expected it would be three to six months before businesses and residents returned, but that process is starting in some areas this weekend.

Among the health concerns returnees may face are molds, which can be harmful to people with weak immune systems or lung problems, and tap water that is contaminated and shouldn't be used for drinking, cooking or bathing. Other risks include gas leaks, live electrical wires and carbon monoxide poisoning caused by improper generator use.

Just over a quarter of those who have been treated in hospitals and clinics have suffered injuries, says Carol Rubin, co-leader of the CDC response.

"For the most part, (the injuries were sustained by emergency) responders, and they're trained," she says.

When residents start to return to their homes, "we'll definitely see more injuries, with people using chain saws, falling off ladders, getting up on roofs," Rubin says.

Hope Turns To Anguish At Intensive-care Unit For Some Severely Ill, There Was No Escape (USAT)

By Robert Davis

USA Today, September 16, 2005

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The intensive-care unit at Lindy Boggs Medical Center in New Orleans was devastated. Just 48 hours after Hurricane Katrina struck, the hospital's generators had failed. There was no blood for transfusions and very little medication besides morphine.

One floor below the ICU, a plea had been written on a piece of cardboard: “Patients dying; please be respectful.”

Today, the 187-bed hospital is empty; 19 bodies have been removed. But the story of the struggle to stay alive there in the dark days after the hurricane underscores the chaos, anger and desperation that overwhelmed the city.

“You think of a hospital as a place that gives treatment. But it had become kind of a medieval nursing facility. We were just providing comfort to the dying. That's what we were doing,” says anesthesiologist James Riopelle, the last of the living to leave. “There was no good solution. There were only bad choices.”

What happened on Wednesday, Aug. 31, in the hospital's intensive-care unit — recounted to USA TODAY by the relatives of two transplant patients and two of the last doctors to leave — reveals the horrifying choices and conflicting realities faced by those who stayed, or were left, behind.

For the two critically ill transplant patients and their families, hope quickly turned to horror when they learned that the rescue boats would be evacuating others instead. Ultimately, the two patients did get out after other patients had been evacuated by firefighters. They made it out thanks to two family members who refused to leave them and to a doctor who returned to ferry them out himself with a stolen boat.

“The whole thing,” Riopelle says, “was just a big nightmare.”

Inside Lindy Boggs that day, doctors began to prepare patients for evacuation, placing cards on each one with one of three letters: “A” meant they could walk out on their own; “B” meant they had medical problems that needed attention; and “C” was condition critical.

Those who got C's — the most desperate for care — were told they would be sent out first.

That all changed, the doctors and family members say, when firefighters from Shreveport, La., arrived and gave hospital staff members new rules for the rescue. The healthiest of the hospital's 120 patients would be evacuated first, the firefighters declared. The most ill or infirm — the C's — would have to remain. For how much longer, no one knew.

“Firefighters are used to trying to save everybody,” Shreveport Fire Chief Kelvin Cochran says. “In this case, they were directed to save only those who had a chance of living. In some cases, that meant people who were breathing and had a pulse were left behind because in the assessment of their doctor, they wouldn't make it.

“That was what made it very difficult for the firefighters emotionally.”

Thiagarajan Ramcharan, a transplant surgeon, knew that two of his patients, Laticia Young, 28, and Carl LaSalle, 32, had suddenly been moved from the top to the bottom of the evacuation list.

Both were critically ill. LaSalle was recovering from a liver and kidney transplant. Young, who had suffered from an autoimmune disease since she was 12, was considered too sick at that moment to survive a transplant operation, but doctors were trying to stabilize her so she could get a new liver.

“I had to tell them what the situation” was after the evacuation orders changed. “It was the worst thing,” says Ramcharan, 35. “Both of these patients were awake. I can't imagine how I told them. I felt bad, and I didn't have an option.”

Young's mother, Elaine Bias, and LaSalle's wife, Jessie, refused to leave the patients' rooms. “I said, ‘This is wrong,' ” Bias says. She had brought her daughter to the hospital and had no intention of leaving her there to die. But Ramcharan told her, “This is out of my hands. There's nothing I can do.”

“I was going crazy because I felt that was wrong,” says Jessie LaSalle. Looking back, she says, her husband wasn't being treated like he was human.

Bias and LaSalle were connected by fate before Katrina hit. Both were in the intensive-care unit playing the role of patient advocate for their daughter and husband, respectively. Both patients were under the care of the transplant team.

As the storm battered the city on Aug. 29, emergency plans kicked in at area hospitals. Generators powered breathing machines, and plans called for the sickest of the sick to be evacuated first.

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Downstairs from the Lindy Boggs ICU, in the hospital's hospice ward, patients with cancer and other terminal diseases were already dying, most of them from heat and dehydration, according to Ramcharan. “Those patients did not have a chance for life at all,” he says. He believes the hospice patients account for the bulk of the deaths at Lindy Boggs.

The hospice patients probably died by Tuesday, Aug. 30, Ramcharan says, within 24 hours after the storm knocked out power and sent temperatures in the hospital rising to nearly 100 degrees.

“They never knew what happened, and they would not have known what was going on,” he says. “They didn't suffer.”

But when the flood walls broke and the waters continued to rise Tuesday, the staff grew alarmed. Rescue crews were busy across the city plucking people in danger of drowning from trees and rooftops. There was no way for hospital staff to call for help, and no help came.

“I don't know if people were aware that there were so many people inside (the hospital),” Ramcharan says. “Every time we stepped out, the water was rising.”

Inside Lindy Boggs, the hospital began to slowly shut down as power, water and replenishments of medical supplies were cut off. “It became a trap,” Riopelle says.

The pharmacy was locked, Ramcharan says, as part of standard evacuation procedure. So the only medication available to the doctors was a stash of morphine that Riopelle says was left available so that pets — about 45 dogs, 15 cats and a pair of guinea pigs brought by staff and patients to ride out the storm — could be euthanized if that became necessary.

Riopelle, 56, chose to care for the pets instead of putting them down, and most of them were rescued alive days later.

But by Wednesday morning, with generators failing and patients facing their third day without medication, blood or basics such as clean sheets, one of the elderly patients in the ICU died.

For Bias and LaSalle, it seemed as if death was creeping toward them. “I saw them body-bagging people,” LaSalle says.

There was one “old patient and I don't know what the problem was,” Ramcharan says. “The morgue in the basement was flooded, so we could not take the patient away. He was there for a while.”

When firefighters in boats arrived at the hospital Wednesday afternoon, the plan was to move some of the patients to a dry spot where helicopters could land. But the Shreveport firefighters said those who were likely to die anyway had to stay behind.

Worse, “they said there was a good chance they would not show up tomorrow depending on orders from higher up,” Ramcharan says.

Doctors and hospital staffers huddled and decided that several of the patients in the ICU, among them Young and LaSalle, would be left behind. LaSalle and another patient were on ventilators to help them breathe. The firefighters said they could not take anyone who could not breathe on their own. Young was bleeding internally.

At one point, Riopelle says, he offered Bias morphine for her daughter in case she was in pain. Bias refused the offer. She and LaSalle say they worried that the morphine might have killed their loved ones.

Riopelle and Ramcharan say the dosage was small and would have caused no harm. But both understand why the women might have feared otherwise. Having already been passed over and with no rescue in sight, the families believed they had been left there to die.

By Wednesday night, with the hospital largely emptied and the air heavy with what LaSalle describes as an “odor of death,” the two women clung to the hospital beds in fear.

“I didn't want to leave him because I knew something bad was going to happen,” LaSalle says of her husband. “I was scared, but I knew the Lord was with us. I kept praying and finally he answered our prayers.”

On Thursday, Sept. 1, Ramcharan and other hospital staffers “borrowed” a boat, siphoned some gasoline from abandoned cars and returned to the ICU to get the patients.

When Ramcharan walked into the intensive-care unit about 11 a.m., LaSalle says, “he told us it was time to go.” The two transplant patients were carried downstairs — with LaSalle, 24, ventilating her husband by squeezing air into his lungs with a plastic bag — and placed into the boat.

Bias realized she had left her Bible upstairs. She asked the rescuers to wait and ran back up to the ICU. As she passed the room where the remaining patient lay, the woman reached out for her.

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"It broke my heart," she says. "If my daughter had been strong enough to walk, I could have carried that old woman out. But I just couldn't. I hated to leave her."

Ramcharan and the other staffers delivered the patients and their relatives to a dry piece of ground near the local post office that was being used as a helipad.

The doctor took his sick patients to the front of the line. "In the end, he stood by us and got us out of there," LaSalle says.

The patients landed in Dallas at Baylor University Medical Center, where Carl LaSalle Jr. is now awake and breathing on his own. His condition is improving. Jessie LaSalle says her husband still thinks he's in Louisiana. She blames his disorientation on the trauma of being left to die. They have a daughter, Alicia, who turned 5 on Sept. 6.

Laticia Young is still struggling to survive. Her mother fears she won't live for long without a new liver. Her three children, ages 9, 7 and 6, are staying with other relatives.

The doctors say Elaine Bias and Jessie LaSalle saved the lives of their loved ones by refusing to abandon them.

"I hate to use the word 'abandon,' but that is what it was," Ramcharan says, still shaken. He says he has had trouble sleeping since he got out of Lindy Boggs.

"That was the worst night they ever had, and it was the worst night I had ever faced, too. I was absolutely stunned. Like Laticia's mom and the LaSalles, just like them, I was completely stunned."

Katrina's Impact On The Economy Comes Into View (WSJ)

By Jon E. Hilsenrath, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

Hurricane Katrina's broader impact on the economy is becoming more apparent.

Thousands of individuals displaced by the storm have already filed for unemployment benefits and thousands more are expected, according to a Labor Department report. Meanwhile, gauges of manufacturing activity far from the Gulf of Mexico showed softening early this month, and economists and executives expressed concerns about rising energy costs.

Largely because of gasoline-price increases before Katrina, the Labor Department's latest consumer-price index rose 0.5% in August, pushing it up 3.6% from a year ago, the largest increase in four years. More than 90% of the prices used to compile the report were gathered before the storm struck, meaning steeper increases are likely to come.

Outside of energy, however, prices were up modestly; 0.1% for the month and 2.2% from a year earlier. Excluding both food and energy, the so-called "core" rate of inflation was up a modest 0.1% in August from the month before. Medical-care prices were unchanged, the first time they hadn't risen in nearly 30 years, largely because of a puzzling drop in the price of hospital services.

Taken together, the reports underscored the economy's turbulence since the storm hit at the end of last month. Energy-price increases hadn't been feeding broader inflation before the storm, though pressures seemed to be mounting.

That leaves officials at the Federal Reserve in a challenging spot heading into their meeting next week. They can raise the short-term federal-funds rate, the rate charged on overnight bank loans, for the 11th time in 15 months when they meet on Tuesday to forestall incipient inflation. Or they can pause to further assess the damage left by the storm.

First-time jobless claims rose 71,000 to 398,000, after seasonal adjustments, in the week ended Sept. 10, the Labor Department said. It was the highest level in two years. The department estimated Katrina accounted for 68,000 claims -- and that number is likely to be an underestimate, a department statistician said.

"We know there have been much more claims filed at the state level," he said. The filings were hard to count because of the "unprecedented" volume and "unconventional methods" used by the states to collect layoff claims, he said.

The Federal Reserve Bank of Philadelphia and the Federal Reserve Bank of New York said their indexes of manufacturing activity in the Northeast softened in early September, though they still showed the sector was expanding.

The Philadelphia's Fed index dropped to 2.2 in September from 17.5 in August. In September, 24.4% of the manufacturing executives surveyed in the region said business activity was increasing while 22.2% said it was contracting; the difference of 2.2 percentage points is the basis of the index. The New York Fed's index of manufacturing activity dropped to 17 in September from

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23 in August. Projections of activity six months hence also declined, a possible sign of declining confidence, while estimates of the prices paid for materials surged.

In the Philly Fed survey, 86% of those surveyed said energy prices were having a negative effect on orders and production. Just 6% described the effect as "significantly negative." Meanwhile, economists surveyed by the National Association for Business Economics listed soaring energy prices as the nation's top short-run economic problem.

--Joseph Rebello contributed to this article.

Write to Jon E. Hilsenrath at jon.hilsenrath@wsj.com1

Storm Might Be a Factor as Fed Ponders a Rate Rise (NYT)

By EDMUND L. ANDREWS

The New York Times, September 16, 2005

WASHINGTON, Sept. 14 - At least so far, Hurricane Katrina does not appear to have blown the Federal Reserve off course.

As policy makers gear up to decide on interest rates on Tuesday, they are confronting a big short-term shock to the economy but most of the same long-term economic trends that existed before the hurricane.

The economic data for the period before the storm suggested that consumer spending held up despite rising gas prices, that companies were still hiring and that inflation pressures remained a cause for worry.

Many economists expect that trend to resume after a predictable drop in growth as a result of hurricane-related disruptions. On top of that, the Bush administration and Congress are about to rev up the economy with a staggering amount of federal money for relief and reconstruction.

Many lawmakers are now predicting that the federal cost of Katrina could hit $200 billion - more than 10 times the amount for any other natural disaster. None of that spending, or the tax cuts being rushed through Congress, is likely to be offset by reduced spending in other areas.

It remains possible that the Federal Reserve will refrain from raising short-term interest rates next Tuesday, which would be the first time in 11 meetings that it held rates steady. The best reason to do that would be to wait for more evidence of the impact from the hurricane and the spike in gasoline prices in the last two weeks.

But that would be little more than a pause. Fed officials are likely to repeat past declarations that their policy is "accommodative," meaning that interest rates are still below normal and need to go higher, and they are likely to repeat their desire to raise rates at a "measured" pace.

"The main point is that when they sit down, they will conclude that what we want to do is to continue to remove the accommodative policy," said Peter Kretzmer, senior economist at Bank of America.

Several pieces of new data on Thursday offered the Fed reasons to tread carefully.

Two surveys of manufacturers, by the Federal Reserve banks of Philadelphia and of New York, showed a big drop in new orders and expectations for the months ahead.

The surveys suggested that higher energy prices had begun to reduce expectations.

Asked by the Philadelphia Fed about the impact of energy prices, 58.1 percent of companies said they had had a slightly negative effect and 22.6 percent said they had had a moderately negative effect.

"The manufacturing executives who responded to the survey were significantly less optimistic about future growth this month," said Michael Trebing, a senior analyst at the Philadelphia Fed.

But Mr. Trebing cautioned that the surveys provided limited guidance, noting that the Philadelphia barometer plunged in June and bounced back in July and August.

In a separate report, the Labor Department reported Thursday that the underlying rate of inflation was surprisingly mild in August. Consumer prices jumped 0.5 percent, mostly because of gasoline prices.

The core rate of inflation, excluding food and energy, was only 0.1 percent in August, and those prices were up only 2.1 percent for the year.

Fed officials tend to view jumps in energy prices as one-time events rather than a source of permanent inflation, and a low rate of core inflation is normally a cause for relief.

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But many economists predicted on Thursday that high energy prices would lead to higher prices generally, and that core inflation was likely to be much higher in September.

Fed officials were already worried about other sources of inflation, like rising wages and slowing productivity growth, and several policy makers have expressed concern that high energy prices could lead to expectations of higher long-term inflation.

"Rising oil prices, like other unfavorable price shocks, can also feed through and raise underlying core inflation," Michael Moskow, president of the Federal Reserve Bank of Chicago, warned on Sept. 7. "So there is also a risk on the inflation front, and the risk is higher now than it was a year ago."

Ben S. Bernanke, chairman of the White House Council of Economic Advisers and a former Fed governor, predicted on Thursday that Hurricane Katrina would lead to only a temporary slowdown in economic growth and employment.

"Katrina's effects may reduce growth in the short run, but the longer-term growth trajectory remains in place," Mr. Bernanke said in a speech to the National Press Club.

The problem for Fed officials is that the data so far provide no conclusive evidence about the full economic impact of Katrina and the energy price shock.

If the impact on growth is small, a decision to keep interest rates low could aggravate inflation. If high energy prices pinch spending and shatter confidence, higher interest rates could add to the problem.

But as one analyst pointed out, there is nothing the Federal Reserve can do to speed the repair of oil refineries along the Gulf of Mexico or to accelerate job creation for people evacuated from New Orleans.

Gov't Credit Cards For Katrina Draw Fire (AP)

By HOPE YEN, Associated Press Writer

AP, September 16, 2005

WASHINGTON — Lawmakers and watchdog groups worry that allowing federal employees to charge up to $250,000 on their government-issued credit cards for Hurricane Katrina-related expenses will lead to a repeat of past abuses.

Some of the cards in the past were used to pay for prostitutes, gambling activity, even breast implants, government audits have shown.

"People are concerned this is a risk," said Greg Kutz, managing director of special investigations at the General Accountability Office, which conducts audits at the request of Congress.

About 250,000 federal employees have government credit cards, which typically have a purchase limit of $2,500. At the request of the Bush administration, Congress increased the credit line to $250,000 as part of a massive Katrina recovery bill approved last week. The aim is to make it easier to speed aid to victims.

Senate Finance Committee Chairman Charles Grassley, R-Iowa, said the "outrageous increase" was "slipped" into the bill. He is seeking to insert language in a Katrina health bill that would reduce the limit in most cases to $50,000.

Responding to initial criticism, the White House issued new guidelines this week saying agencies must designate in writing which of their staff will receive the new spending privileges. Purchases of more than $50,000 must be preapproved by a senior manager.

"Substantial financial controls already exist but we are currently looking at what additional protections might be useful. If in working with Congress, agencies, and state and local leaders it is determined that additional safeguards are required, then we'll put them in place," Alex Conant, spokesman for the Office of Management and Budget, said Wednesday.

Critics say the additional oversight is needed because the cards offer special opportunities for abuse.

Purchases are billed directly to the government, making it difficult to recover losses from wayward federal employees intent on fraud because of the time lag from the purchase date to subsequent billing.

Cronyism also is a danger, as officials have more leeway under the higher limit to purchase more expensive supplies from politically connected companies without the benefit of open bidding and competition. Even if they're detected, time-strapped agency directors often don't pursue disciplinary action, according to audit reports.

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In recent years, several GAO audits found hundreds of thousands of dollars of improper expenditures at the Pentagon and other agencies, from purchases of remote control helicopters and airline tickets to Palm Pilots and $2,500 flat-panel computer monitors. Someone even bought a dog.

Navy personnel also in 2002 used separate government travel cards to hire prostitutes at brothels, gamble and attend New York Yankees and Los Angeles Lakers games. One civil employee ran up nearly $35,000 in personal expenses over two years, including breast enlargement surgery for his girlfriend.

The GAO has noted improvements in agency oversight since then, including reducing the number of government cards from more than 500,000 to 250,000 to limit the potential for fraud from lower-level government employees. The Pentagon also has said it installed software to help track when potentially suspect purchases are made.

But as recently as last year, the GAO cited continuing oversight problems at the Veterans Health Administration and said it had no way of knowing - without conducting specific audits - whether improvements at other agencies are actually in effect and working.

The concerns prompted Grassley, as well as Senate Homeland Security Committee Chairwoman Susan Collins, R-Maine, and Connecticut Sen. Joe Lieberman, the top Democrat on that committee, last week to urge congressional leaders to officially lower the cap to $50,000 to ensure full compliance.

Collins has also signaled separately she might consider creating a special inspector general to monitor spending and no-bid contracts.

"Imagine the fraud we could see," said Danielle Brian, executive director of the watchdog group Project on Government Oversight, noting that recent abuses involved cards with much smaller purchase limits of $2,500.

"For bigger purchases involved in the rebuilding effort, that should involve competition and serious planning. Instead we have far too many people with far too much access to money without any organization or effective oversight," she said.

Civil Rights Group Urges Freeze On Mortgage Foreclosures For Hurricane Victims (FINDLAW/AP)

By Marcy Gordon, Ap Business Writer

Find Law, September 16, 2005

(AP) - WASHINGTON-As Hurricane Katrina brought into focus the financial plight of many blacks along the Gulf Coast, a leading U.S. civil rights group urged lenders to freeze mortgage foreclosures and suspend late fees on loans for people affected by the hurricane.

"There are a few steps that can and should be taken by all financial institutions to ensure that the people of Louisiana, Mississippi, Alabama and the other areas affected by Katrina are not further victimized and do not suffer further losses," Hilary Shelton of the National Association for the Advancement of Colored People said Wednesday.

Speaking to members of a House Financial Services subcommittee, the director of the NAACP's Washington bureau Shelton, said the civil rights group also was concerned about predatory lenders who "must be circling some of the worst-hit areas, salivating at the potential for abuse" of Katrina's victims.

Alabama Congressman Spencer Bachus, the panel's chairman, said federal banking regulators need to help banks in the disaster zones by relaxing some rules.

The storm's devastating impacts on the poorest communities in the Gulf Coast starkly illustrated the differences in how minorities and whites are treated by banks.

Many poor people lost their cash savings, much of it stashed under mattresses and in teapots. Around the country, many low-income minorities shun banks, have never used an ATM machine or applied for a home mortgage. Often, they turn to storefront payday lenders, which charge high interest.

At all income levels, blacks are far more likely to be given high-cost, "subprime" mortgages than whites, according to a Federal Reserve analysis of home lending data.

Most banks and mortgage lenders in the affected areas are letting customers postpone payments on consumer, commercial and mortgage loans.

In a related development, two key Republican lawmakers announced they had drafted a legislative change that would require some of the profits of mortgage giants Fannie Mae and Freddie Mac to go to financing housing for low-income people in areas hit by Katrina as well as in those where survivors now live. The proposal by Congressmen Michael Oxley of Ohio, and Richard Baker of Louisiana, was being included in legislation before the House to tighten government oversight of the two companies, which together finance more than three-quarters of the home mortgages in the country.

Studies in recent years have shown that a much larger share of black and Hispanic homeowners pays higher interest on their mortgages than do whites in similar circumstances.

The studies have found that disproportionate numbers of blacks and Hispanics have subprime mortgages, which are high-interest loans to homeowners deemed riskier because of tarnished credit histories or other factors. Such home loans are said to be concentrated in minority communities at far higher levels than in white neighborhoods.

The Fed report released Tuesday reviewed home lending data for 2004. It found that percent of blacks and 20 percent of Hispanics got high-interest loans, compared with 9 percent of non-Hispanic whites.

The data did not necessarily indicate widespread discrimination against minorities, the Fed analysts said. The study did not take into account borrowers' credit ratings. Still, even after adjusting for differences in income and location of homes, it found that blacks are nearly twice as likely as whites to get more expensive mortgages.

Bankers from Louisiana and Mississippi who testified at Wednesday's House hearing laid out a list of requests for action by Congress. It included a fund that would allow the government to buy loans of borrowers affected by Katrina who are unable to make payments on them.

A few banks may need direct government aid in addition to remain in business, C.R. "Rusty" Cloutier, president and chief executive officer of MidSouth Bank of Lafayette, Louisiana, told the subcommittee.

"Community banks will be essential to the survival of communities in the affected areas," Cloutier said. "Small businesses will only be able to rebuild if community banks are healthy and able to respond to their needs."

Officials of the Federal Deposit Insurance Corp. have said there could be problems for banks in the region whose customers are unable to repay loans, but the effect would be mitigated when disaster relief kicks in. The banks in the area generally were in a strong financial condition before Katrina hit, regulators and bankers say.

La. Frees Prisoners To Ease Crowding (USAT)

By Thomas Frank

USA Today, September 16, 2005

BATON ROUGE — Kevin Dunkley and Ernest McFadden waited to board a Greyhound bus to Dallas and start a new life.

The two men are among about 1,000 inmates released in the past week by the Louisiana corrections department to ease crowding caused when two large prisons flooded.

All the released inmates had been in a 90-day prison program — suspended last week — for parole- and probation-violators who get extensive counseling while incarcerated. None has a record of violent or sexual crimes, said Cecil Goudeau, program manager for the Louisiana division of probation and parole.

“These were minimum-security people,” Goudeau said. The released inmates will remain on probation or parole and be tested for drug use.

“They were just released to the streets a little earlier,” Goudeau said.

Dunkley, 26, and McFadden, 20, are cousins who have spent their lives in New Orleans. Their nearest relative is in Dallas.

The two men were released Monday from the state prison in Angola, where they had been taken after Hurricane Katrina flooded the prison in New Orleans.

About 8,200 inmates from New Orleans and nearby Jefferson Parish were moved to other state and local prisons.

McFadden and Dunkley said they began the 90-day prison program after they failed drug tests — a violation of their parole for drug dealing.

The two men rode a bus Monday to Baton Rouge with a dozen other released inmates, Dunkley said. They have form letters explaining their release “due to exigent circumstances created by Hurricane Katrina” and a $10 check from the state.

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After they spent Monday night at a Red Cross shelter, a priest bought them bus tickets. The parole office gave them approval to leave the state. If they want to stay beyond 30 days, the Texas parole office will have to agree to supervise them, Goudeau said.

Dunkley never wants to see New Orleans again: "I want to try to do something different."

White House Backs NASA Plan For Vehicles (New York Times)

By William J. Broad

New York Times, September 16, 2005

The White House has approved NASA's plan to replace the nation's aging fleet of winged spaceships with a new generation of vehicles meant to carry human explorers back to the Moon and onward to Mars and beyond, aerospace experts said yesterday.

The new rockets and spaceships are a radical departure for the space program, rearranging the components of the space shuttle into a new design expected to be more powerful that the shuttle but also safer. The shuttle has had two fatal accidents in 114 missions.

"It's a thumbs-up for NASA to pursue the shuttle-derived vehicle," said John M. Logsdon, director of the Space Policy Institute at George Washington University and an adviser to the NASA initiative. "The question is the schedule, not the basic approach."

Other experts, who refused to be identified because the space agency will not formally announce the proposal formally, also spoke about the plan yesterday.

The redesign proposal was first reported in August by agency officials and private experts. Unlike the shuttle, the new vehicles would separate the jobs of hauling people and cargo into orbit and would put the payloads atop the rockets - as far as possible from the dangers of firing engines and falling debris, which were responsible for the accidents that destroyed the Challenger in 1986 and the Columbia in 2003.

But by making the rockets from shuttle parts, the new plan would draw on the shuttle's existing network of thousands of contractors and technologies, in theory speeding its completion and lowering its cost.

The plan has been ready for unveiling for roughly six weeks but was held up because of delays in White House approval.

Yesterday, the aerospace experts said Michael D. Griffin, NASA's administrator, met with White House officials on Wednesday and won a preliminary approval for the project despite continuing questions about how to pay for it.

One problem is that the existing shuttle is still consuming a large share of the agency's budget. A complicating factor, they added, is growing fiscal pressure on Washington because of the government's unexpected need to help rebuild New Orleans in the wake of Hurricane Katrina.

The Bush administration has called for the shuttles to be retired by 2010. Dr. Griffin had wanted the first of the replacement vehicles to be ready to fly by 2011. But the experts said yesterday that the earliest conceivable date for the first flight of the replacement was now 2012.

The smaller rocket, for carrying people, would still dwarf the shuttle, which stands 184 feet high. The larger one, for lifting heavy cargoes and spaceships but not people, would rise to a height of some 350 feet, rivaling the Saturn 5 rockets that sent astronauts to the Moon.

In theory, the cargo hauler would have its first test flights in 2016 and 2017 and first hurl people toward the Moon in 2018, the experts said.

Social Security Legislation Could Be Shelved (WP)

By Jonathan Weisman, Washington Post Staff Writer

The Washington Post, September 16, 2005

National Republican Congressional Committee Chairman Thomas M. Reynolds will recommend to the House Republican leadership that the party drop its effort to restructure Social Security, at least for this year, House Republican aides confirmed yesterday.

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Reynolds's move, first reported yesterday on the Web site of the Capitol Hill newspaper Roll Call, is fresh evidence that Hurricane Katrina is having a dramatic impact on the GOP's agenda. House and Senate leaders had already pushed off consideration of cuts in taxes and entitlement spending until the end of October. President Bush's tax reform panel has delayed release of its recommendations.

Now, Social Security legislation, which already faced a steep uphill climb, might be shelved indefinitely. Senate Republican leaders had decided they could not move on Social Security until the House did. But with the Senate at a stalemate, House political strategists want to pull back as well.

"With everything else that Congress has to deal with, from Katrina to immigration to . . . who knows, there's just so much on the plate, never mind that the Senate is bogged down in [Supreme Court] confirmation hearings," said a House GOP strategist, who spoke on the condition of anonymity because the full House leadership has yet to render a final decision. "Why would you want to make vulnerable members take a vote on something that's not going anywhere? You could make the case that it would be suicide."

Reynolds (R-N.Y.) made his stand in a showdown with House Ways and Means Chairman Bill Thomas (R-Calif.), according to two witnesses. At a committee luncheon Wednesday, Thomas told panel members he was pushing forward with broad retirement security legislation that would include measures to strengthen private pensions, promote personal savings and add private investment accounts to Social Security.

Reynolds then stood to say he would recommend to the leadership that it do no such thing.

Thomas would not comment on the events. "I don't talk about closed-door meetings or what went on in closed-door meetings, and if someone who was in a closed-door meeting did, they're doing a great disservice to their colleagues," he said.

Carl Forti, a spokesman for the National Republican Congressional Committee, said he could not confirm the events either. Until Reynolds makes his agenda recommendations to the full GOP leadership, Forti said he would not discuss Reynolds's views on Social Security.

But he did not deny the report.

"It's more than just Katrina," said a different House Republican aide, pointing to sky-high gasoline prices, anger over the war in Iraq and President Bush's sagging approval ratings.

The Democratic Congressional Campaign Committee pointed out other factors: Republican lawmakers' own low approval ratings and continuing struggles with ethics questions.

David John, a proponent of Social Security private accounts at the conservative Heritage Foundation, said Reynolds's views are well known but hardly the last word. Rep. Thomas M. Davis III (R-Va.), the previous NRCC chairman, was also a vocal opponent of Social Security legislation, arguing that it could be politically disastrous.

"This is pretty much business as usual at the NRCC," he said.

Health Premiums Rise 6.6% (WP)

By Christopher Lee, Washington Post Staff Writer

The Washington Post, September 16, 2005

Health insurance premiums for federal employees and retirees will rise an average of 6.6 percent next year, the lowest increase in nine years, the Bush administration said yesterday.

Still, an official with one federal employee union branded the increase "outrageous," noting that average employee contributions to their health premiums will rise faster than the portion paid by the government.

Linda M. Springer, director of the Office of Personnel Management, which oversees the Federal Employees Health Benefits Program, said the government has consistently provided workers more health care options while doing its best to hold down costs.

"[W]e are maintaining a high-quality health-care program that provides excellent benefits at a reasonable cost," Springer said in a statement.

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Next year's increase will be the government's smallest since 1997, when average premiums rose 2.4 percent. Independent studies predict a 10 percent increase in health insurance premiums for private sector employees next year, OPM officials said. Federal employees will have 279 health care plans to choose from, up from 249 this year.

An employee with the standard family coverage under Blue Cross and Blue Shield -- the most popular plan, covering more than half of all participants -- will pay $17.53 more in premiums every two weeks, bringing the biweekly cost to $135.59. Standard coverage for an individual will rise by $7.36, to $58.07 biweekly.

Across all plans, a federal worker with family coverage will pay an average of $12.79 more in premiums every two weeks, for a total biweekly cost of $130.17. At the same time, the government will contribute $16.83 more toward that worker's health coverage, for a total biweekly cost of $306.82. The worker's portion of the premium will rise 10.9 percent, compared with a 5.8 percent boost in the government's portion -- the disparity that rankles the union.

"Federal workers are once again being short-changed," said Enid Doggett, a spokeswoman for the American Federation of Government Employees.

Similarly, for an individual, the average will rise $5.30 every two weeks, for a total biweekly payment of $57.66. The government's contribution for that individual's coverage will rise $7.71 every two weeks, for a total biweekly payment of $134.98. That is a 10.1 percent increase in what the individual pays, and a 6.1 percent increase in what the government pays.

The program provides health insurance coverage to about 8 million government workers, retirees and their family members worldwide, including many in the District, Maryland and Virginia.

Staff writers Stephen Barr and Eric Yoder contributed to this report.

Nationwide Survey Includes Data on Teenage Sex Habits (NYT)

By TAMAR LEWIN

The New York Times, September 16, 2005

The National Center for Health Statistics released the government's most comprehensive survey of American sexual practices and reproductive health yesterday, delving for the first time into such sensitive areas as the prevalence of oral sex among teenagers and same-sex activity among adults.

Oral sex among teenagers has in recent years become a topic of rampant speculation and little solid data, apart from a 1995 Urban Institute study of adolescent boys. The new statistics confirm that study's findings that oral sex is very much part of the teenage sexual repertory. According to the survey, more than half of all teenagers aged 15 to 19 have engaged in oral sex - including nearly a quarter of those who have never had intercourse.

Among the findings in the new study, "Sexual Behavior and Selected Health Measures," were the following:

¶Men age 30 to 44 have had a median of six to eight sexual partners in their lifetimes; women's median was about four.

¶Among both men and women age 15 to 44, about two-thirds have had only one sexual partner in the last year. Ten percent of the men and 7 percent of the women have had three or more partners in that time.

¶About 4 percent of men and women described themselves as homosexual or bisexual, but in a finding that surprised the researchers, 14 percent of the women aged 18 to 29 reported at least one homosexual experience, more than twice the proportion for young men.

The report offers new information about homosexuality in the United States. Among adults ages 15 to 44, almost 3 percent of men and 4 percent of women reported having a sexual experience with a member of the same sex within the past year, and over their lifetimes, 6 percent of men and 11 percent of women had such experiences. About 1 percent of men and 3 percent of women had had both male and female sexual partners in the previous 12 months.

Nearly 6 percent of all men ages 15 to 44 reported having oral sex with another man at some time in their lives, and nearly 4 percent reported having anal sex with another man.

The data comes from the 2002 National Survey of Family Growth, a survey of 12,571 men and women ages 15 to 44. The survey contractor was the University of Michigan's Institute for Social Research, which trained more than 200 women to collect the data by having the subject answer sensitive questions on a computer, without revealing the answers to the interviewer.

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Although the National Center for Health Statistics has periodically conducted that survey among women for 32 years, the 2002 version was the first to include both sexes, and to move beyond fertility and child-bearing into broader questions of sexual behavior and sexual orientation.

The new findings on teenagers and oral sex have been of special interest to health experts.

"After years of provocative headlines and breathless stories based mostly on anecdote, we finally have some solid data," said Sarah Brown, director of the National Campaign to Prevent Teen Pregnancy. "The news is probably not as bad as adults might have been led to believe, but it is likely not as good as most parents might wish."

The proportion of teenagers who have given or received oral sex was slightly higher than the proportion who have had intercourse, the survey found, with 55 percent of the boys and 54 percent of the girls having given or received oral sex, while 49 percent of the boys and 53 percent of the girls have had intercourse.

"One thing that surprised me is that we expected, based on anecdotal evidence, that girls might be more likely to give oral sex and boys more likely to receive it, but we didn't find that at all," said Dr. Jennifer Manlove, of Child Trends, which, like Ms. Brown's group, released an analysis of the data, "There's more gender equality than we expected."

The government data does not provide any indication of the age at which oral sex first occurred, how often it occurred, or how many partners a teen had had. But the survey found that nearly all teenagers who have had sexual intercourse have also had oral sex: 88 percent of the boys and 83 percent of the girls.

"A very significant proportion of teens has had experience with oral sex, even if they haven't had sexual intercourse and may think of themselves as virgins," Dr. Manlove said. "We're not sure whether these teens who have not had sexual intercourse are engaging in oral sex because they view it as a way to maintain their technical virginity or even because they regard it as an easy method of birth control."

While many of the findings in the government report parallel those of the last large-scale study of American sexual behavior, a 1992 study of 18- to 59-year-olds by the University of Chicago's National Opinion Research Center, the lead author of the new study said it found a new and unexpected increase in lesbian activity among young women. It may not be such a surprise among those of college age, who speak of LUG's - lesbians until graduation.

"There are signs of change among 15- to 29-year-old women, a group of women too young to have been be included in the 1992 study," said William Mosher, the lead author.

When asked, "Have you ever had any sexual experience of any kind with any female?" 14 percent of the 18- to 29-year-old women said yes, compared with slightly under 10 percent of the 30- to 44-year-olds. That difference was surprising, Dr. Mosher said, since on questions about lifetime experience, older people usually report more than younger ones.

The study also asked about sexual attraction. Among men 18 to 44, 90 percent said they thought of themselves as heterosexual, 2 percent as homosexual, 2 percent as bisexual and 4 percent as "something else," findings similar to those in 1992.

Among women, 86 percent said they were attracted to only men and 10 percent "mostly to males." In the 1992 survey, only 3 percent said they were "mostly" attracted to males.

OTHER NEWS:

Ophelia Inches Along The N.C. Coast Storm Pounds Outer Banks (USAT)

By Tom Vanden Brook

USA Today, September 16, 2005

ATLANTIC BEACH, N.C. — Hurricane Ophelia's soaking crawl through this state seemed unending on Thursday as it battered beach towns up and down the coast.

From Atlantic Beach north to Cape Hatteras and Nags Head, Ophelia whipped rain, wind and surf hour after hour. Even seasoned hurricane hands marveled at the storm's endurance.

A weakened Ophelia could smack Massachusetts' Cape Cod this weekend. Tropical storm watches have been issued there. And North Carolina will still feel its winds today.

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"I've been through five hurricanes, and this is the worst," said Linda Massengill, 42. "That was the longest night of my life. We're talking about high winds for 18 hours, and between 1 and 5 this morning, the whole house was shaking. I won't do this again. I'll leave."

Damage was significant because the storm stalled off the coast. Rather than a brief lashing, people withstood hours of a relentless 80-mph blast.

The storm gnawed siding from homes, pulled down power lines and peeled off the roofs and smashed signs of several businesses elsewhere in town. The surf hurled rocks the size of basketballs onto a parking lot. Traffic lights, blanked by power outages, dangled in the wind.

Ophelia spared some of the more populated tourist towns of the Outer Banks, such as Nags Head, from major damage. But the Cape Hatteras National Seashore took a pounding. Ophelia spun just off Cape Hatteras with sustained winds of 75 mph and barely moved at a speed of 3 mph.

Bad luck for Ginger Pharr and Kat Clewy. The two had come to Atlantic Beach to train for a triathlon. They spent the night with their dog, Bella, listening to Ophelia howl.

"It was such a slow mover, that made it seem a lot worse than it was," said Pharr, 48.

State Highway 12, the two-lane road that runs down the narrow spine of the Cape Hatteras Seashore, was mostly deserted late Thursday.

Squalls battered the island. Sand, blown from towering seaside dunes, covered the road like a fresh coat of gray and beige snow. In spots, it drifted several inches deep.

Not enough to deter Matt Krieger. He and Ellie, a golden retriever-Labrador mix, sloshed in the surf at Oregon Inlet. Baitfish banged their snouts on the side of a bucket at his feet.

Krieger, 43, of Virginia Beach, Va., monitored Ophelia's plodding pace and direction on The Weather Channel and decided that Thursday looked like a fine day for fishing.

"I've been through so many of these," he said. "The worst is definitely over."

Ophelia Brings N.C. Heavy Rains, Minimal Flooding (WP)

By Alan Cooperman, Washington Post Staff Writer

The Washington Post, September 16, 2005

BUXTON, N.C., Sept. 15 -- After lashing the North Carolina coast for two days and testing the post-Katrina readiness of disaster agencies, Hurricane Ophelia appeared on Thursday to be weakening and heading back out to sea.

Although the Outer Banks islands of Ocracoke and Hatteras were still in danger of heavy winds and surging water, the hurricane's slow and meandering path spared most coastal areas of the severe flooding that had been predicted.

By evening, its winds were blowing about 75 mph, just enough to earn Ophelia classification as a hurricane. Authorities blamed one death on the storm, from a rain-slicked traffic accident inland near the state capital of Raleigh.

A hurricane warning for North Carolina's coast was scaled back to a tropical storm warning, which extended north to Cape Charles Light, Va., including the mouth of Chesapeake Bay. With the storm tracking to the north, a tropical storm watch was issued for southeastern Massachusetts, including Cape Cod, Nantucket and Martha's Vineyard.

But here on the Outer Banks, residents were breathing easier: Ophelia turned out to be more like a drunken sailor than a belligerent one, bumping and bruising the coast before staggering off in circles.

Watching its movement on weather radar was like "watching someone make a funnel cake, just dripping the batter all around," said Tony Spencer, emergency management director for North Carolina's coastal Hyde County.

Determined to avoid a repeat of the response to Hurricane Katrina, federal, state and local authorities had gone into high gear early in the week.

They positioned five swift-water rescue teams, each made up of 50 National Guardsmen, a few miles inland along the state's entire coast. They ordered evacuations in dozens of low-lying areas, bringing 2,000 people into 45 shelters at schools and community centers Wednesday night, according to Bill Furney, spokesman for the state Division of Emergency Management.

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The Federal Emergency Management Agency, still under fire for its response to Katrina, stationed 250 workers along the coast and put Coast Guard Rear Adm. Brian Peterman in charge of the federal response to the hurricane.

But as Ophelia stayed off the coast and slowly moved north, parallel to the barrier islands, coastal communities began cleaning up fallen debris and counting their blessings.

"All of our roads are passable. All our shelters are closed, and people have gone home," said Rose Faucette, an emergency worker in Beaufort County, which has been pummeled by past hurricanes, including Isabel in 2003. "We were very lucky."

State officials said Ophelia knocked out electricity to 240,000 customers on Wednesday. By Thursday morning, the number without power was down to 80,000, and utility crews were quickly restoring telephone and electrical lines.

The biggest remaining concern was an expected surge of water Thursday night from the Pamlico Sound across the southern Outer Banks, which officials feared could flood beach houses and cut off roads. "That's when you'll see most of the flooding," Gov. Mike Easley (D) said at a morning briefing.

Earlier, the hurricane's sustained winds had blown the water toward the mainland, exposing as much as a mile of sand on the bay side of Hatteras Island.

Despite a mandatory evacuation on Hatteras and Ocracoke, hundreds of local residents remained in their homes. Here in Buxton, a small town on Hatteras, Keith Gray, 40, put on an orange anorak and went scavenging with his son, Aaron, 16, for valuables in the exposed sand.

The wind blew out a side window of their pickup truck, but they pulled a claw hammer and some other tools from the empty basin of the Buxton Harbor Marina, where half a dozen boats were sitting on their exposed keels. They had to shout to be heard in the 60-mph wind.

"Is that a jet?" Aaron asked, looking up as a powerful gust swirled sand against his bare legs.

"Just the wind," his father said.

Severe Hurricanes Increasing, Study Finds (WP)

By Juliet Eilperin, Washington Post Staff Writer

The Washington Post, September 16, 2005

A new study concludes that rising sea temperatures have been accompanied by a significant global increase in the most destructive hurricanes, adding fuel to an international debate over whether global warming contributed to the devastation wrought by Hurricane Katrina.

The study, published today in the journal Science, is the second in six weeks to draw this conclusion, but other climatologists dispute the findings and argue that a recent spate of severe storms reflects nothing more than normal weather variability.

Katrina's destructiveness has given a sharp new edge to the ongoing debate over whether the United States should do more to curb greenhouse gas emissions linked to global warming. Domestic and European critics have pointed to Katrina as a reason to take action, while skeptics say climate activists are capitalizing on a national disaster to further their own agenda.

According to data gathered by researchers at the School of Earth and Atmospheric Sciences at Georgia Tech and the National Center for Atmospheric Research, the number of major Category 4 and 5 hurricanes worldwide has nearly doubled over the past 35 years, even though the total number of hurricanes, including weaker ones, has dropped since the 1990s. Katrina was a Category 4 storm when it made landfall.

Using satellite data, the four researchers found that the average number of Category 4 and 5 hurricanes -- those with winds of 131 mph or higher -- rose from 10 a year in the 1970s to 18 a year since 1990. Average tropical sea surface temperatures have increased as much as 1 degree Fahrenheit during the same period, after remaining stable between 1900 and the mid-1960s.

Georgia Tech atmospheric scientist Judith A. Curry -- co-author of the study with colleagues Peter J. Webster and Hai-Ru Chang, and NCAR's Greg J. Holland -- said in an interview that their survey, coupled with computer models and scientists' understanding of how hurricanes work, has given the researchers a better sense of how rising sea temperatures are linked to more-intense storms.

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"There is increasing confidence, as the result of our study, that there's some level of greenhouse warming in what we're seeing," Curry said. "Is it the whole story? We don't know."

Higher ocean temperatures result in more water vapor in the air, which, combined with certain wind patterns, helps power stronger hurricanes, Webster said. Small increases in sea temperature, he added, can "exponentially provide more and more fuel for the hurricanes."

Other studies and computer models also have pointed to an increase in storm intensity: Massachusetts Institute of Technology atmospheric scientist Kerry A. Emanuel wrote last month in the journal Nature that the duration and maximum wind speeds of storms in the North Atlantic and North Pacific have increased about 50 percent since the mid-1970s. The storms' growing violence stemmed in part from higher ocean temperatures, he concluded.

Some researchers, however, question the connection with more severe hurricanes and cyclones. Gerry Bell, the lead seasonal hurricane forecaster at the National Oceanic and Atmospheric Administration, said the rise in strong hurricanes reflects a natural weather pattern spanning several decades. Hurricanes in the Atlantic Ocean were more powerful in the 1950s and '60s, weakened in the 1970s, '80s and early '90s, and have strengthened again since 1995.

"It's not linked to global warming or anything like that," Bell said. "This is normal climate variability. It's just that this trend lasts for decades."

Florida State University meteorology and oceanography professor James O'Brien, who writes for the online free-market journal Tech Central Station, said his survey of government data on Atlantic storms between 1850 and 2005 shows that "there's no indication of an increase in intensity."

But both Emanuel and Gavin Schmidt, a climatologist at NASA's Goddard Institute for Space Studies, said today's Science paper is important because it examines worldwide hurricane patterns.

"If you look at it on the global basis, it makes that signal of global warming easier to see," Schmidt said. "You have to be extremely conservative -- with a small 'c' -- to think [rising sea temperatures and stronger hurricanes] are not related."

And some hurricane experts who previously have questioned the influence of global warming now say the evidence is mounting that it has contributed to recent intense tropical storms.

Florida International University researcher Hugh Willoughby, who headed NOAA's hurricane research division between 1995 and 2003, said the recent two hurricane studies are "very persuasive" and helped move him "toward the climate corner" of the debate.

"It's really hard to find any holes in this, and I'm the kind of person who's inclined to look for holes," he said of the new study in Science. The arguments against the connection between climate change and more intense storms, he added, are "looking weaker and weaker as time goes by."

Katrina reanimated a transatlantic argument over global warming policy as critics of the Bush administration have seized on it to promote mandatory limits on greenhouse gas emissions.

"The American president shuts his eyes to the economic and human damage that the failure to protect the climate inflicts on his country and the world through natural catastrophes like Katrina," Germany's environmental minister, Jurgen Trittin, wrote in an opinion piece printed Aug. 30 in the Frankfurter Rundschau newspaper.

But Bill Holbrook, spokesman for Environment and Public Works Committee Chairman James M. Inhofe (R-Okla.), said the senator has no intention of pushing for new emissions curbs.

"It is reprehensible for a politician to promote an agenda by twisting a tragedy Americans feel so deeply about, particularly when there is no merit to his ideas," Holbrook said of Trittin. "Policy decisions should be based on sound science, and the notion that Katrina's intensity is somehow attributable to global warming has been widely dismissed by scientific experts."

Arguing that the science of global warming remains uncertain, President Bush in 2001 disavowed the Kyoto treaty that sets mandatory targets for reducing greenhouse gas emissions, and he has pursued policies calling for more research and voluntary efforts to limit emissions.

Experts Assess Deregulation As Factor In '03 Blackout (NYT)

By Matthew L. Wald

DOJ_NMG_0006144

The New York Times, September 16, 2005

WASHINGTON, Sept. 15 - Twenty-five months after a blackout darkened cities from New York to Toronto and Detroit, the Energy Department and its Canadian counterpart held their first public technical discussion on the episode Thursday to talk about one factor widely considered to have been behind it: the deregulation of the electric system.

Engineers, government officials and executives said at the meeting that amid its restructuring the industry needed further changes to reduce the frequency of blackouts as utilities that formerly generated power, transmitted it and delivered it were broken up into separate entities of competing businesses.

"The most serious mistake we can make is pretending that markets do things that they do not do," said Kellan Fluckiger, executive director of the electricity division at the Alberta Department of Energy. "Markets allocate risk, they allocate capital, they provide price signals. Markets do not have a conscience, they do not provide social policy, and they do not do things they are not paid to do."

For example, participants at the meeting said, utilities that once ran the system sometimes added transmission lines to increase reliability of electric power. When they did so, their costs would be reimbursed through the regulatory process; now there is less incentive to take on such efforts, and several participants pointed out that in fact investment in transmission had lagged.

The blackout of 2003 began on Aug. 14 and in some places lasted more than two days. A binational report issued three months afterward did not list deregulation as a cause, instead citing factors like failure to trim trees, train operators and install control systems that could have kept track of the status of all power lines and generators.

Much of the investigation leading to that report was managed by the Federal Energy Regulatory Commission, the architect of utility restructuring in the United States. The report called for a separate study - it did not say by whom - on the role of deregulation in the blackout, but that study has never been done.

Experts at Thursday's meeting said the changes in the industry had had several adverse effects, including a loss of experience among personnel. One member of the panel, Jack Casazza, a 60-year veteran of the industry, said the changes had brought lawyers and M.B.A.'s to the head of these competitive companies, rather than engineers.

"They may be decent people, fine bankers, fine lawyers, wonderful golfers," Mr. Casazza said, "but they don't have the background."

He also said that while the old utilities had often maintained large reserve margins of electricity, to minimize the chance of shortages, some market participants now preferred lower margins, to drive up prices.

Others pointed out that information like a power plant's maximum capacity, and its state of repair on any given day, was now considered proprietary and so was not readily available to system operators, which manage regional power grids.

The North American Electric Reliability Council, whose members come from utilities, marketers, customers and federal agencies, said in a paper submitted for the meeting that the increased demands that deregulation's wider trading had placed on the transmission system "require the grid to be operated closer to its reliability limits more of the time than was the case in the past."

That requires better training and control equipment, said the group, which was founded after a vast blackout in the Northeast in 1965.

Still, not all the industry's changes have affected reliability adversely, participants said. In a paper written for the meeting, Dave Goulding, chief executive of the Ontario Independent Electricity System Operator, said "competition leads to trade and greater interconnectedness," which could increase reliability.

The energy bill signed into law by President Bush on Aug. 8 provides a mechanism for creating mandatory reliability rules. It allows the federal government to designate a private group, probably the North American Electric Reliability Council, as an official "electric reliability organization," with authority to set the rules. But that group pointed out in its paper that while the designated organization would assess the adequacy of the system, it would not have the authority to require anybody to build a generating station or a transmission line.

Soaring Natural-Gas Prices Point To Record-High Electricity Costs (WSJ)

By Rebecca Smith, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

While many consumers have focused in recent weeks on the high price of gasoline, utilities are grappling with enormous natural-gas bills that threaten to push another form of energy, electricity, to unprecedented price levels.

Even before Hurricane Katrina, the price of natural gas had doubled during the past two years. The storm's destruction has roiled energy markets, sending natural-gas and oil prices to record levels and foreshadowing eventual rate increases for electricity in the Southeast, where utilities must rebuild heavily damaged systems.

Now, as the winter heating season approaches for much of the country, consumers face a double threat. Many will see record costs on their bills for the natural gas that fuels their furnaces, stoves and clothes dryers. Consumers -- and businesses -- also will get hit with higher charges for electricity made by power plants that burn pricey natural gas.

Regulators and utilities are adopting a variety of approaches to deal with the surge in natural-gas costs, which coincides with record demand for electricity across the nation. Texas has imposed a moratorium on electricity-rate adjustments. Other states are trying to spread utility costs over more than a year or are offering discounts to ease the squeeze or encourage conservation. The high prices are getting special attention in Texas and California, the two most populous states and also the most dependent on natural gas for power generation.

Utility regulators can try to hold the line on electricity rates for a while, but they can't do anything about commodities markets. Natural-gas prices "are ground zero for us -- the hottest issue we face," says Susan Kennedy, a member of the California Public Utilities Commission in San Francisco. Unfortunately, she adds, "it's one expense we have no control over."

California went through an energy crisis in 2000-01 that was prompted by a surge in natural-gas costs and subsequent rise in electricity prices based on those costs. Natural gas in the state often was priced at levels three times as high as those nationwide. In June 2001, for example, gas cost $11.71 per million British thermal units, or BTUs, in Southern California and $3.56 elsewhere in the country.

Currently, power generators are being quoted natural-gas prices for this fall and winter that also look extremely high -- $11.34 for contracts on the New York Mercantile Exchange for October, $11.97 for November and $12.45 for December deliveries. All surpass prices for September that were less than $10. They translate into raw power prices, not adjusted for inflation, that are high even before adding regular utility costs that would push the retail cost up substantially.

Only about 20% of the nation's electricity comes from power plants fueled by natural gas. In most states, high prices for gas-fired generation are tempered somewhat by lower costs for nuclear and coal-fired plants or hydroelectricity, but the exception is in states with deregulated markets where the highest-priced form of generation typically sets the spot-market price.

That's the case for states in the Northeast, the Midwest and the mid-Atlantic region. The only protections consumers have in those states against high prices for spot-market natural gas and electricity are long-term arrangements that lock in lower prices or other hedging provisions.

PECO Energy, the Exelon Corp. utility that serves Philadelphia, has locked in prices for its electricity through 2010 under contracts with its power-generation affiliate. But most such arrangements, made when states first deregulated their markets in the late 1990s, are expiring. Customers of Commonwealth Edison in Chicago, another Exelon company, will be exposed to greater commodity risk after contracts there expire next year.

Texas utility regulators last week extracted a promise from utilities there not to raise electricity prices in response to natural-gas costs that have surged past $10 per million BTUs, five times the levels of a few years ago. Regulators "asked everybody to volunteer" not to change their prices before Oct. 1, said Chris Schein, spokesman for TXU Corp. in Dallas, the biggest electricity generator and seller in the state. The moratorium was premised on an assumption that "current prices are an anomaly associated with Hurricane Katrina," he said.

But many people are skeptical that natural-gas prices will ease much in October, and TXU's stock recently soared above $100 a share, up 66% so far this year, based on expectations of both higher electricity rates and increased sales of electricity due to the upwelling of demand from Katrina-related arrivals.

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TXU agreed to make no change before Oct. 10, but it also has told state regulators it will implement a rate increase when the moratorium ends that will be based on a $9.74 price for gas -- around the levels before Katrina hit. Residential rates will be going up 12% in October, taking total increases to 65% since 2002.

Under Texas's deregulation law, utilities peg their power prices to the underlying cost of natural gas, the primary fuel used to make electricity there. The moratorium means that TXU's rate today is based on a natural-gas price, at $7.87 a unit, that's 31% below the prevailing market price for natural gas that the state uses, which is a 20-day rolling average. That's good for consumers. But it means that the utility's competitors, who try to keep their prices slightly below TXU's, also are suffering, in some cases finding themselves having to charge more than TXU, for the first time. That will put pressure on regulators to let costs flow through to consumers to prevent significant losses for electricity suppliers.

It takes a while for high fuel prices to work their way through the electric industry although the lag time has been getting shorter. Puget Sound Energy, in Bellevue, Wash., won the right to adjust rates quickly three years ago, and now is able to do so without going through a full-blown rate review, which usually takes a year. The company hopes to raise rates 4.4% for residential customers on Nov. 1.

Consolidated Edison, the utility serving New York City and environs, is able to reprice its electricity each month, based on fuel costs. Those costs made up 60% of its billed amount for September, versus 53% a year earlier. Overall, bills are up 8.4%, year over year.

Other states are looking for ways to soften the blow to consumers. FPL Group Inc.'s Florida Power & Light says its 2005 fuel bill, mostly for natural gas and oil, will be $770 million higher, or 19% more, than the $4.05 billion it had budgeted. Next year, it expects its fuel costs to top $6.2 billion with natural-gas costs averaging $10.09 a unit. That would represent a further 29% increase. High fuel costs will push up electric rates by 15% for many residential customers and by 20% to 36% for commercial and industrial consumers.

FPL plans to spread out some of the 2005 expense over two years, instead of collecting it all this year. It's also proposing to waive the higher fuel cost for residential customers using less than 1,000 kilowatt hours of electricity each month, hoping to encourage conservation.

Worried about the impact of high prices on industry, California regulators on Sept. 8 approved a two-tier rate structure that will give some business customers of PG&E Corp.'s Pacific Gas & Electric Co. unit and Edison International's Southern California Edison unit a 25% discount, declining to zero by the sixth year. Utilities pledged use these "economic development" rates only for new arrivals or to dissuade companies from leaving the state.

While the "economic development" rates will help some users, they may irk some existing customers who face higher costs next year. Pacific Gas & Electric said it will raise rates by about $600 million in 2006, mostly because of fuel costs, resulting in a 10.8% rate increase for residential consumers. Medium-size businesses, which bore a larger share of earlier increases, will see their cost rise more modestly, by 3.5%.

High fuel prices are straining deregulated energy markets in a way that hasn't been seen since the Western energy crisis. Until now, Texas officials have prided themselves on having market-based mechanisms that they describe as "symmetrical." That is, higher costs for fuel can be passed through to consumers fairly quickly. But the moratorium recognizes growing resistance to repeated increases.

Prohibiting utilities from passing higher costs through can present a problem, though. California did it in 2000 because it thought the costs were unfair to consumers. But the result was enormous utility losses that eventually drove Pacific Gas & Electric into bankruptcy proceedings, from which it has since emerged.

Many companies are exploring their options, too. Amy's Kitchen Inc., a natural-food maker in Santa Rosa, Calif., recently bought 50 acres near Medford, Ore., for a new processing plant. It wanted to expand in California, but couldn't get the rate relief it needed fast enough. "Short-term, our hands are tied," says controller Andy Kopral, adding that companies have to pay whatever they're billed. The quest, he added, "is to get help in the long term" -- even if that means moving.

Write to Rebecca Smith at rebecca.smith@wsj.com1

Growing Fears Over Airline Pensions (FT)

By Caroline Daniel

Financial Times, September 16, 2005

Concern about the impact of the bankruptcies of Delta and Northwest airlines on workers' pensions has led to urgent calls in Washington for immediate pension relief.

Harry Reid, Senate minority leader, said: "Congress has an immediate opportunity to pass legislation enabling both companies to keep pension plans for workers in place."

Johnny Isakson, senator from Georgia, where Delta is based, told the Financial Times on Thursday: "We want to bring the bill to the floor as early as next week. The airlines stated they wanted to preserve their defined benefit plans and their ability to do that is tied to whether we can get pension reform passed." On Thursday night Delta warned that it might miss pension payments for 3,500 retirees.

The sense of urgency comes as the Pension Benefit Guaranty Corporation, the federal agency that insures defined benefit pension plans, said it could assume liabilities of $8.4bn from Delta's pension plan if it was terminated. That would mark its biggest pension termination. Northwest's liabilities were smaller, at $2.8bn, the PBGC said on Thursday.

Lawmakers have proposed extending the time for companies with underfunded pension plans to make up the gap from four years. Mr Isakson has suggested 20 years. The Bush administration had backed seven years.

Delta has told lawmakers that the only way it can avoid an immediate termination is if the 20-year proposal is passed. That has the support of Northwest and American, but not Continental. Although support is building in the Senate, the proposals have had little backing in the House, according to one airline lobbyist.

A report from the Congressional Budget Office on Thursday underlined the risks the PBGC faces. The report estimates the PBGC's accumulated deficit could climb to $142bn over the next 20 years, if it is calculated in the way that a private insurer calculates risk.

While some analysts dispute that number, they agree with the Center On Federal Financial Institutions that without reform, such as changing the way the agency charges premiums to corporations, the PBGC will run out of money by 2022. Doug Elliott, the Center's president, said: "The real problem is a systematic imbalance for 30 years in the premiums they were allowed to charge and how Congress set up the funding and other rules. They are hitting a period when bigger companies are going under."

Claims from failed pension plans reached $14.3bn in 2000-04, 18 times larger than the $783m in claims booked between 1995 and 1999. Airline pension failures would easily top those figures. United has already dumped $6.6bn of liabilities. If Northwest and Delta do so the total airlines' liability would hit $17.8bn.

Employees could also lose out. If the PBGC takes over a plan, it typically pays pensions up to a cap of about $46,000. That is far lower than a typical pilot's pension.

Coffee, Tea … Or Bankruptcy? (WSJ)

By Robert Crandall

The Wall Street Journal, September 16, 2005

Delta and Northwest Airlines' bankruptcy filings are the latest consequences of the troubles afflicting the long-established, or "legacy," airlines. Inflexible work rules, above-market wage rates, under-funded fixed benefit pension plans, huge debt burdens, outdated business practices and high fuel costs burden the legacy carriers with enormous disadvantages relative to newer carriers who are flying by different rules.

To deal with these burdens, the legacy carriers have made dramatic changes. During the four years ending last December, they collectively reduced capital spending by 62% while simultaneously taking on $16 billion of new debt to cover losses; they cut annual labor costs by more than $6 billion and total annual expenses by more than $20 billion, and they eliminated more than 125,000 jobs. Despite these efforts, the industry recorded losses of more than $30 billion, is losing billions more in 2005, and seems poised for still more losses in 2006. Sisyphus wouldn't trade places with today's airline managers!

Sky-high fuel prices have recently made things worse, but lower fuel prices will not solve the industry's problems. In most industries, producers are able to pass on raw material price increases to their customers, as they are doing today. For a variety of

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reasons, including very intense competition which limits any one carrier's pricing power, the airline industry has consistently failed to earn adequate profits; cumulatively, the industry has lost money since its inception.

While analysts are closely focused on fuel prices -- and occasionally note the major cost differences between low-lost carriers and their legacy competitors -- little is said about the many unique burdens imposed on airlines by inappropriate laws and regulations. These include taxes and fees representing more than 25% of a typical ticket's purchase price; labor laws enabling unions to drive compensation far above the amounts paid in other industries for similar work; and continuing underinvestment in the operation and construction of the air traffic control system and aviation infrastructure.

Among the most egregious of these burdens are those imposed by the nation's bankruptcy statutes, which allow a failed carrier to use Chapter 11 to dramatically reduce its costs. In bankruptcy, airlines renegotiate aircraft and facility leases, disavow selected contractual obligations, revise or abrogate labor contracts, and even repudiate pension obligations -- all the while continuing to operate. Airlines often remain in bankruptcy for extended periods of time.

Chapter 11 also protects inefficient, unprofitable capacity, since aircraft are always worth more in the air than on the ground. Without Chapter 11, failed airlines might have to liquidate, selling off their physical and operating assets. This would remove capacity from the system and restore some measure of pricing power to the industry's remaining participants.

Chapter 11 also undermines responsible managements. In an intensely competitive industry providing a commodity product, the "dumbest competitor" -- unrestrained by fear of failure -- sets the standard. Thus, when irresponsible union demands are granted, or an improvident management adds unrewarding capacity or uneconomic service features, other managements are compelled to choose between matching the new "industry standard" and tolerating labor unrest and lost revenues. Since experience has established that matching irresponsibility is the better long-term business strategy, few managements have been able to resist the perpetual game of "follow the leader."

While few in either management or labor aspire to bankruptcy, the knowledge that liquidation is unlikely has unquestionably been a factor in encouraging excessive demands by labor and imprudent actions by management. But the probability of liquidation rather than reorganization would likely provide substantial incentives for more responsible labor-management relationships, more cost-effective labor contracts, and more carefully reasoned business plans.

Revising the bankruptcy laws would certainly cause hardship for the communities and employees most involved with failed airlines. On the other hand, revising the rules would offer expanded opportunities for new competitors and for legacy carriers whose managements, unions and employees are most willing to adapt to new realities. Since the U.S. badly needs a vibrant, growing and successful aviation industry, new policies are clearly in order.

To build a better airline industry we need bankruptcy laws designed to incentivize success and penalize failure. We need labor laws that better balance the power of unions and management. We need to recognize that travel drives economic activity of many kinds and benefits every community, and should revise the currently onerous structure of fees and taxes, which seems premised on the notion that only the airlines and their passengers benefit from the airline system. Finally, we need administration and Congressional support for legislation to provide the FAA with the resources to build and operate an aviation infrastructure consistent with both U. S. aviation leadership and growing consumer demand.

Mr. Crandall is a former chairman and CEO of American Airlines.

Come Fly With Congress (WSJ)

The Wall Street Journal, September 16, 2005

This week's bankruptcy filings raise the possibility that Delta and Northwest will join United Airlines and US Airways in dumping their pension obligations onto taxpayers. Members of Congress will howl, but it's time for the politicians to admit their own role in co-piloting the airline industry into Chapter 11.

The immediate causes of the Northwest and Delta filings are failed labor negotiations and bad luck. Northwest is struggling with striking mechanics who refused to join other unions in negotiating $1.4 billion in annual savings to prevent bankruptcy. Delta has its own high-cost union contracts and has long been bleeding cash. Hurricane Katrina and sky-high fuel costs were the tipping point.

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But the root of the problem for these "legacy" carriers is the burden of pension costs. And one tantalizing option is to use bankruptcy to pass them off to the taxpayer via the federal Pension Benefit Guaranty Corp. (PBGC). Congress created this government-run insurance system in 1974, promising to "protect workers" when companies failed. But as always with such government guarantees, Congress only created a future "moral hazard" that is now coming due.

Management and labor would agree in flush times on big pension obligations because they knew the taxpayer was their safety net. The PBGC charges paltry premiums that in no way cover the huge liabilities rolling in from steel, airline and retail industries. Its current deficit exceeds $23 billion, while pensions nationwide are underfunded by an estimated $450 billion. Delta and Northwest alone could dump another $12.4 billion in unfunded liabilities on the agency, with other airlines likely to follow.

By the way, current airline management isn't the major villain here. Northwest CEO Doug Steenland has been warning about the pension problems for years, and has suggested sensible reforms that might have saved both retirees and Northwest. (See his op-ed on this page, November 16, 2004.) But Congress typically dawdled, and bankruptcy eventually became the better part of financial triage. Some of the biggest losers could be airline employees who'd receive only a fraction of their promised pension. So the PBGC is one more case of Congress writing checks it can't cover.

The feds have also burdened airlines in other ways. The Railway Labor Act discourages union compromise, taxes are piled onto ticket prices, foreign investment is all but prohibited, and the antitrust lawyers at Justice have blocked sensible mergers. (See Robert Crandall nearby.) In a classic case of the latter, Justice barred a US Airways and United merger on the ground of unfair competitive advantage, only to see them both go bankrupt.

One hopeful bit of speculation this week is that perhaps the Delta and Northwest Chapter 11 filings were coordinated. The two airlines have compatible routes that would make them ideal merger partners, and bankruptcy is a perfect place to deal with the pilot integration issues that are the biggest reason airline mergers can fail.

In any case, the presence of four airlines in Chapter 11 at the same time suggests that something's got to give. United is already struggling to get enough capital to emerge from bankruptcy, despite its pared down pension costs. Sooner or later one of these carriers will exit not as a going concern, but stage left, via Chapter 7 liquidation. Especially compared with that alternative, a Delta-Northwest merger would make sense.

The impulse on Capitol Hill will be to provide yet another bailout, hoping that Northwest and Delta can keep their pension plans. As if the politicians haven't done enough harm already. The Senate Health, Education, Labor and Pension Committee has already passed another "reform" that would give most companies 20 more years to get their pension plans in order, meaning 20 more years to grow the PBGC's future liabilities. If the Members really wanted to help, they'd leave the airlines alone and find a way to phase out PBGC guarantees.

Unions Struggle To Retain Strength (WSJ)

By Kris Maher, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

Union leaders expect the bankruptcy filings of Delta Air Lines and Northwest Airlines to increase pressure on other carriers to seek further cost cutting from their workers. The troubling reality for unions: There seems to be very little they can do to stop the trend.

Many workers -- like the mechanics at Northwest, who refused to make concessions and went on strike -- can be supplanted by replacement workers. Those like the pilots at Delta and Northwest who agree to concessions have found they weren't enough to avoid bankruptcy proceedings, where further erosion of benefits and pay are likely.

Union leaders expect the tough times to extend to other carriers, as airlines try to get unions to accept similar concessions to avoid being at a competitive disadvantage. "It sets a pattern which many companies not in crisis emulate opportunistically," says Ron Blackwell, chief economist for the AFL-CIO.

The latest round of airline woes has come as the labor movement's fissures have widened, raising questions as to whether some of organized labor's problems are self-inflicted. This summer's defections from the AFL-CIO by four major unions -- representing more than one-third of the labor federation's members -- highlight existing tensions among unions and unwillingness to back fellow unions during strikes.

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The harsh challenges confronting unions in the airline industry, while more extreme than those in other corners of the labor movement, illustrate the problems facing all of organized labor as employers press harder to lower labor costs for active and retired workers in the name of being globally competitive. "Unions are in an environment of shrinking alternatives," says Marick F. Masters, a professor of business administration at the University of Pittsburgh. "There are just not many good options left at this time."

Strikes by some workers, especially pilots, could prove more difficult to deal with than the mechanics strike at Northwest, though such an action could only help to push an airline toward a bankruptcy filing in the current economic climate. Consumers and the public don't look as sympathetically on striking workers and are more willing to cross picket lines, making it easier for companies to withstand strikes. "You retain the right to strike on paper, but in practice what you have is the right to lose your job," says Harley Shaiken, a labor-and-economics professor at the University of California at Berkeley.

The concession option hasn't helped workers. Last year, pilots at Northwest agreed to $265 million in annual concessions for two years, while pilots at Delta agreed to $1 billion in annual givebacks for five years. Neither action was enough to offset other costs, such as rising fuel prices.

Labor leaders believe the real problem facing airline unions is the ease with which companies can seek and emerge from bankruptcy courts, free of labor-contract obligations abrogated by the court. "Most of our strategy has been trumped by bankruptcy law," says Duane Woerth, president of the Air Line Pilots Association, which represents 5,200 active pilots at Northwest and 6,500 active pilots at Delta.

Mr. Woerth, who blames management strategies for the airlines' troubles, said he believes pilots will be less willing to accept cuts in the future. "What I've heard loud and clear from workers is that they're done making concessions," he says. "When you're down to 1980s wages and you've lost your pensions, you're not willing to give any more."

AMR Corp., parent of American Airlines, which got concessions from its unions in previous years, said it will look for other ways to improve efficiency. "We can't predict the future, especially given fuel prices, but we're working hard together to do everything to increase revenues and reduce costs to better serve our customers," a spokesman said. A spokesman for Continental Airlines, another of the old-line airlines, said it doesn't intend to seek further labor givebacks after obtaining concessions earlier this year.

Some labor officials say it is important for unions to keep negotiating with management through bankruptcy proceedings. Candice Johnson, a spokeswoman for the Communications Workers of America, says the union was able to negotiate with US Airways through two recent rounds of bankruptcy proceedings. At one point, the company wanted 6,000 reservation agents represented by the union to take wage cuts of as much as 34%. The union negotiated 12.9% cuts. "Often we were up against draconian cuts," says Ms. Johnson. "It was very important to keep negotiating."

Mr. Woerth says the union will focus on organizing pilots at other airlines, such as JetBlue Airways, AirTran Airways and Spirit Airlines, in an effort to raise wages across the industry.

--Melanie Trottman contributed to this article.

Write to Kris Maher at kris.maher@wsj.com1

Iran Offers To Spread Nuclear Technology (USAT)

USA Today, September 16, 2005

Iranian President Mahmoud Ahmadinejad said Thursday that his country is willing to provide other Islamic nations with nuclear technology. Ahmadinejad made the comments after meeting Turkey's prime minister on the sidelines of a gathering of world leaders at the United Nations.

Ahmadinejad repeated promises that Iran will not pursue nuclear weapons, the state-run Islamic Republic News Agency reported. Then he added: “Iran is ready to transfer nuclear know-how to the Islamic countries due to their need.”

Iran has said it is determined to pursue its nuclear program to process uranium and produce energy, despite European attempts to limit it. The United States accuses Iran of secretly seeking to develop nuclear weapons, a charge Tehran denies.

Meanwhile, talks in Beijing on North Korea's nuclear program came to a standstill as the communist nation continued its refusal to halt atomic bomb development until it receives a nuclear reactor to generate power.

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Arrest warrant issued for Milosevic's wife

A judge ordered the arrest of the wife of former Yugoslav president Slobodan Milosevic for failing to attend her corruption trial in Belgrade. Mirjana Markovic has been in self-imposed exile in Russia since 2003. A previous arrest warrant was revoked in June after her lawyer, Zdenko Tomanovic, promised she would attend the hearing. Markovic left Serbia ahead of charges she illegally gave government-owned luxury apartments to her grandson's nanny and to officials from her JUL communist party. Milosevic has been on trial since 2002 at a United Nations war crimes tribunal in The Hague, Netherlands, for his alleged role in atrocities committed during the Balkan wars of the 1990s.

Fire sweeps fireworks stands in Mexico

A fire tore through Mexico's most famous fireworks market, setting off a chain of explosions that destroyed hundreds of open-air stands just ahead of the country's Independence Day celebrations. Mexico State Civil Defense Director Roberto Vazquez said dozens of people likely were injured in the blaze and explosions in Tultepec, a few miles northeast of Mexico City.

Vazquez said authorities were checking reports that someone had thrown a lit firecracker inside the San Pablito Market and it set off a chain of explosions. As many as 300 stands covering several acres in the market were destroyed, he said. Television images showed a tall plume of gray smoke rising from a broad, charred swath of gutted market stalls.

Tehran Offers Nuclear Expertise (WT)

By David R. Sands

The Washington Times, September 16, 2005

NEW YORK -- Iran's president said yesterday that his country is ready to share its nuclear know-how with other Islamic countries, the latest setback to a U.N.-backed effort to halt Tehran's nuclear programs.

Iranian President Mahmoud Ahmadinejad, in his first foreign trip since his election in June, again denied Bush administration charges that Iran is secretly seeking nuclear weapons.

But after a meeting with Turkish Prime Minister Recep Tayyip Erdogan on the sidelines of the U.N. summit here, Mr. Ahmadinejad, for the first time, offered to share the fruits of Iran's nuclear programs with other Muslim countries.

"The Islamic Republic never seeks such weapons of mass destruction, and with respect to the needs of Islamic countries, we are ready to transfer nuclear know-how to these countries," Mr. Ahmadinejad said, according to Iranian press accounts.

He repeated his denials of Iran's intent to make atomic bombs in a get-acquainted meeting with U.S. reporters and editors yesterday morning, saying such suspicions put a heavy burden on his country.

"How do you prove you are not a bad person?" he asked.

The offer to share nuclear technology prompted a worried U.S. reaction. State Department spokesman Adam Ereli told a briefing, "Iran, as its record demonstrates, has a long history of trying to develop weapons of mass destruction, supporting terror.

"We view with concern any suggestion that Iran would seek to contribute to very destabilizing and unhelpful international behavior."

Secretary of State Condoleezza Rice had been trying to rally support for a vote next week by the United Nations' Vienna, Austria-based nuclear watchdog to refer Iran's nuclear programs to the Security Council -- a first step toward possible sanctions.

The tougher line had been backed earlier by European Union powers Britain, France and Germany, which have taken the diplomatic lead in an unsuccessful effort to resolve the standoff.

But Miss Rice conceded that the United States might not have the votes at what was supposed to be a climactic vote by the board of the U.N. International Atomic Energy Agency (IAEA) on Monday.

"If we get a referral that will be good, but I think the issue of a referral is something we'll be working on for a while," Miss Rice said in an interview with the Fox News editorial board conducted Wednesday evening and released in full yesterday.

"I'm not so concerned about exactly when it happens, because I don't think this matter is so urgent that it has to be [held] on September 19," she added.

Top French, German and English officials met with the Iranian president late yesterday after talks with Iranian Foreign Minister Manouchehr Mottaki and also signaled that any tough action against Iran would probably be delayed.

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British Foreign Secretary Jack Straw declined to comment on the substance of a meeting between the three major European powers -- Britain, France and Germany -- and the recently elected Iranian leader.

"Our aim all the way through in this when we started these negotiations was to keep the matter out of the Security Council," Mr. Straw told reporters. "What we're going to do is to listen carefully to what the president is going to say on Saturday afternoon and we'll take it from there."

"We want to pursue the dialogue. ... We think there is still room for negotiations," said French Prime Minister Dominique de Villepin before the meeting with Mr. Ahmadinejad.

U.S. and European officials had previously expressed hope that they could win at least a strong majority of the 35-nation IAEA board to refer Iran to the Security Council in Monday's vote. But China and Russia, who have Security Council vetoes, oppose the referral, and India has been cool to the idea as well.

IAEA chief Mohamed ElBaradei also favors delaying a vote, saying Iran should be given a deadline to reverse its decision to resume steps toward enriching uranium.

Enriched uranium can be used to fuel nuclear reactors or to make atomic bombs.

The Iranian leader's offer to share nuclear technology tracked past Iranian efforts to expand the IAEA negotiations to include other Islamic and regional countries.

The IAEA has rejected that suggestion, insisting that it is Iran's record and programs that are at issue.

Diplomats in Vienna have speculated that Iran benefits from any delay in the vote, as a new group of mostly nonaligned countries will be joining the U.N. agency board soon.

Russian President Vladimir Putin, who is expected to discuss the Iranian standoff in his White House visit with President Bush today, met Mr. Ahmadinejad yesterday and praised Russia's "long-standing and very close relationship" with Iran.

With the Russian president at his side, Mr. Ahmadinejad replied, "A powerful Russia is Iran's best friend, and a powerful Iran is Russia's best friend."

U.S. Agenda On Iran Lacking Key Support (WP)

By Dafna Linzer And Colum Lynch, Washington Post Staff Writers

The Washington Post, September 16, 2005

UNITED NATIONS, Sept. 15 -- Despite an intense lobbying effort at the most senior levels, the Bush administration failed to persuade three key countries Thursday to back the United States in pressuring Iran to give up sensitive aspects of its nuclear energy program, diplomats and officials said.

Russia, China and India either publicly or privately turned down U.S. requests to help report Iran's case next week to the U.N. Security Council, which has the authority to impose economic sanctions or an oil embargo.

The administration has the reluctant support of the European Union for the first time in more than two years, but that will not be enough. Without backing from one of the three others, U.S. officials indicated they were preparing to abandon, for now, a quest to move the matter into the council.

The decision left the administration scrambling for a Plan B, and U.S. and European diplomats said there were backroom negotiations, on the margins of a U.N. summit in New York, to forge a compromise among countries with influence on the board of the International Atomic Energy Agency. Some officials said they were considering the possibility of an IAEA resolution that would set a concrete deadline for Iran to comply with a series of measures. If Iran failed, the IAEA board would automatically take the matter to the Security Council.

Secretary of State Condoleezza Rice, who met with Indian Prime Minister Manmohan Singh on Thursday and will meet with Russian Foreign Minister Sergei Lavrov on Friday, acknowledged that Washington might lack a convincing majority if the IAEA votes on whether to refer Iran's case to the council when it meets Monday in Vienna.

"If we get a referralon September 19, that will be good, but I think the issue of a referral is something that we'll be working for a while," Rice told Fox News. "I'm not so concerned about exactly when it happens, because I don't think this matter is so urgent that it has to be on September 19," she said.

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Her comments were the strongest public indication yet that the administration was reversing course after expressing confidence, as recently as last week, that it was closer than at any time in the past to taking the matter to the Security Council. U.S. and foreign diplomats said India, which recently forged a major new security and nuclear alliance with the United States, could not be persuaded to join the U.S. strategy. India, which has close economic, political and cultural ties to Iran, has said it supports Iran's right to a nuclear energy program.

India's position, which U.S. officials have said they had not anticipated, has been deeply embarrassing for the White House at a time when it is trying to win congressional support for the India deal. Some officials, who would discuss the diplomatic calculations underway only on condition of anonymity, said the administration preferred to give up the chance of winning a slim majority in the IAEA next week rather than seek a vote that India would publicly oppose.

Iran insists its nuclear efforts are aimed at producing nuclear energy, not bombs. The Bush administration has said that the energy program, built in secret over 18 years and exposed in 2002, is just a cover for a weapons program. Iran has built facilities to enrich uranium to fuel its energy program. But the facilities could produce bomb-grade uranium, and the Bush administration wants the Iranians to give them up.

While many countries appear to share U.S. suspicions about Iran's intentions, they have profound differences with the Bush administration over how to respond, and are apprehensive about the goals of a U.S. president who has said that "all options are on the table" in dealing with Tehran.

Undersecretary of State R. Nicholas Burns said the differences were tactical, rather than strategic, and that efforts were underway to "convince the Iranians to return to the talks" they started with the Europeans in the fall of 2003.

Iran bolted the talks in August after receiving European proposals that would have required Tehran to permanently give upmuch of the nuclear energy program it has already built. Burns said he would devote the next several days to working with the Russians on the Iran issue.

Even the Europeans, frustrated after two tumultuous years of negotiations with Iran over the future of its nuclear program, said they prefer to avoid going to the Security Council.

"Our aim all the way through in this when we started these negotiations was to keep the matter out of the Security Council," British Foreign Secretary Jack Straw told reporters after a half-hour meeting Thursday with Iranian President Mahmoud Ahmadinejad. "What we're going to do is to listen carefully to what [Ahmadinejad] is going to say on Saturday afternoon and we'll take it from there."

Ahmadinejad, who has been holding his own round of talks with world leaders attending the U.N. summit, met with Straw and the French and German foreign ministers. The European ministers held an earlier 90-minute meeting with Iran's foreign minister and Ahmadinejad's national security adviser.

The newly elected hard-line Iranian president has little foreign policy experience. But he told reporters Thursday he plans to present new proposals to resolve the impasse when he addresses the conference Saturday. He said Iran's aims are peaceful and that "any improper use of production for nuclear arms should be prevented."

U.S. Report Says Iran Seeks To Acquire Nuclear Weapons (WT)

By Bill Gertz

The Washington Times, September 16, 2005

Iran is concealing many of its nuclear facilities from international controls and the activities show it is seeking nuclear weapons, according to a U.S. government report.

The computer slide presentation developed by the Energy Department for the International Atomic Energy Agency also shows that Iran's nuclear program closely resembles Pakistan's nuclear arms programs.

"Iran's past history of concealment and deception and nuclear fuel cycle infrastructure are most consistent with an intent to acquire nuclear weapons," the report said.

The report, first made public Wednesday by ABC News, states that Iran has a "confirmed record of hiding sensitive nuclear fuel cycle activities from the IAEA."

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The presentation contains numerous photographs, including satellite imagery, showing that Iran built "dummy buildings" to hide an underground vehicle entrance and ventilator shafts at its Natanz facility.

Iran has violated IAEA safeguards and provided false information about centrifuge development, plutonium experiments and military involvement in nuclear activity, the 43-page report stated.

The presentation was shown recently at the U.S. mission to the IAEA in Vienna at a briefing for IAEA representatives. It was produced by the Energy Department's Los Alamos National Laboratory and Pacific Northwest National Laboratories.

Seven of Iran's 13 nuclear-related facilities were kept secret until 2002, including enrichment plants at Lashkar-Abad, Tehran, Natanz, and uranium processing at Adrekan and Gachin, the report said.

"Iran's nuclear program is well-scaled for a weapons capability, as a comparison to [Pakistan's] nuclear weapons infrastructure shows," the report said. "When one also considers Iran's concealment and deception activities, it's difficult to escape the conclusion that Iran is pursuing nuclear weapons."

The Bush administration is pressing the IAEA to refer the issue of Iran's covert nuclear program to the United Nations Security Council, after months of diplomatic efforts by the governments of Britain, France and Germany have produced few results.

The United Nations could then impose economic sanctions against Iran or possibly a future authorization for the use of force.

The report states that Iran's uranium ore resources are insufficient for Tehran to produce enough fuel for civilian electrical power generating reactors.

"However, Iran's uranium resources are more than sufficient to support a nuclear weapons capability," the report said.

For example, Iran's Gachin uranium ore mine is producing about 21 tons of ore annually, enough to produce about four nuclear bombs per year, the report said.

Satellite photographs included in the report show that Iran's gas centrifuge facility and its heavy water plants closely resemble nuclear plants in Pakistan. The report does not identify the country as Pakistan, but U.S. officials said the photographs show Pakistani nuclear infrastructure.

The report also includes a comparison of nuclear weapons delivery vehicles and shows how Iran's Shahab-3 missile closely resembles Pakistan's Ghauri missile. Both have a range of up to 930 miles. Both are based on North Korea's No-Dong missile.

The report notes that the Shahab-3 can carry a warhead weighing up to 2,200 pounds, and the Ghauri can carry a 1,540-pound warhead.

The report said that after Iran was caught with an "extensive concealment and deception record," the government in Tehran claimed that its nuclear program was for a peaceful nuclear fuel cycle.

However, the report said the lack of uranium ore reserves could not support nuclear power plants but "are well scaled to give Iran a significant number of nuclear weapons."

Iran Seeks Compromise In N-fuel Stand-off (FT)

By Our International Staff

Financial Times, September 16, 2005

Iran is to propose international joint ventures in its nuclear programme as a means of providing an “objective guarantee” that it cannot be diverted to weapons use, senior Iranian officials have told the Financial Times.

Mahmoud Ahmadi-Nejad, Iran's new president, is set to make the new proposal on Saturday before the United Nations General Assembly.

“Iran will suggest international co-operation for uranium enrichment, and invite Europe, Russia, China and South Africa to joint ventures in which Iran keeps its nuclear fuel cycle while the international community can make sure there is no diversion,” said a senior official involved in two years of talks with the European Union on Iran's nuclear programme.

“The co-operation is not necessarily for new [nuclear] sites it can be in the sites we already have,” said Ali Agha-Mohammadi, spokesman for the Supreme National Security Council.

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It is not clear whether Iran's suggestion would include the more sensitive sites in the country and European diplomats were sceptical that it would be acceptable to their governments.

Nicholas Burns, US undersecretary of state, also emphasised the US position that Iran should not be allowed to develop a nuclear fuel cycle capability.

The proposal could complicate the troubled attempt by the US and the EU to refer Iran to the UN Security Council over its nuclear programme, which Tehran insists is purely peaceful.

The US and the EU, which suspect Iran of seeking to develop nuclear weapons, have been pushing to report Tehran to the UN for concealing elements of its nuclear programme in the past.

The central disagreement in the talks with Iran over its nuclear programme has been Europe's desire that Tehran give up uranium enrichment as the only "objective guarantee" that the programme is purely civil.

The International Atomic Energy Agency, the UN's nuclear watchdog, will discuss the issue next week. But faced with opposition from China, Russia and India, diplomatic efforts have shifted to bring Iran back to the negotiating table and renew its suspension of fuel cycle development.

"We are waiting for a signal from Iran," said Mr Burns.

"The issue of a referral is something that we'll be working for a while," Condoleezza Rice, US secretary of state, told Fox News yesterday. "I don't think this matter is so urgent that it has to be on September 19."

Mohamed ElBaradei, the IAEA director-general, has already suggested giving Iran more time to meet international concerns.

"We have to think about the tactics for September 19 because the tactics we have followed so far have not borne fruit," added a European diplomat.

Reporting by Najmeh Bozorgmehr and Gareth Smyth in Tehran, Daniel Dombey in Brussels and Guy Dinmore and James Blitz at the United Nations

Iran Promises Proposals to End Nuclear Stalemate (NYT)

By STEVEN R. WEISMAN and WARREN HOGE

The New York Times, September 16, 2005

President Mahmoud Ahmadinejad of Iran said yesterday that his country would present new proposals tomorrow to try to break the impasse over Iran's nuclear programs, but he provided no details.

European diplomats indicated that they might defer their effort to bring Iran to the United Nations Security Council for possible punitive action if sufficient progress was made in talking with Iran's leaders.

At a breakfast meeting the Iranian discussed at length why his country needed nuclear power and insisted Iran would continue to pursue nuclear energy for peaceful purposes.

At the United Nations last evening, Mr. Ahmadinejad also met with Secretary General Kofi Annan and the foreign ministers of Britain, France, Germany and the European Union and told them he would be making the details public in a speech to the General Assembly tomorrow.

Emerging from the evening meeting, Jack Straw, Britain's foreign secretary, said, "What we are going to do is to listen carefully to what the president says Saturday afternoon and take it from there."

The speech is expected to outline a proposal aimed at resuscitating the stalled negotiations over Iran's nuclear program.

As part of those talks, Iran had suspended certain uranium conversion activities, which the West believes were a precursor to making a nuclear weapon, but then resumed the uranium work last month, saying a European offer of economic benefits in return for a full cessation of uranium activities was inadequate.

In the past the United States and the Europeans have said they may turn to the Security Council for possible sanctions, although Secretary of State Condoleezza Rice indicated yesterday that such action might not be imminent.

"I am not so concerned about exactly when it happens," she said, according to the Fox News Web site, "because I don't think this matter is so urgent that it has to come on Sept. 19." That is the next scheduled meeting of the board of the International

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Atomic Energy Agency, which the United States and some European nations were hoping would refer Iran to the Security Council.

Secretary Straw said the session yesterday was "useful" because it offered the Europeans the first opportunity to meet Mr. Ahmadinejad, who was elected in June. Earlier in the day, the four Europeans met with Dr. Ali A. Larijani, Iran's new chief nuclear negotiator, for the first time.

Mr. Ahmadinejad, speaking to editors, reporters and television interviewers in the morning, described atomic energy as "a blessing given by God."

He said: "It's an opportunity. It is a clean energy. It is a healthy energy." He added that Iran needed nuclear energy because it could not rely forever on its oil resources.

Asked repeatedly whether Iran had not discredited itself by its failure to disclose past nuclear activities, Mr. Ahmadinejad said Iran did not have nuclear weapons and "there is absolutely no proof of a violation on the part of Iran" of its pledge to keep its nuclear program peaceful.

He was referring to a succession of reports by the International Atomic Energy Agency citing Iran's lack of cooperation in disclosing all its programs, but also noting that inspectors had no proof of an actual nuclear weapons program. Mr. Ahmadinejad displayed impatience over what he said was the difficulty in disproving an unfounded allegation, saying, "Usually, you cannot prove that sort of thing. How can you prove that you are not a bad person?"

Britain, France and Germany, along with India and several other countries, are trying to persuade Iran to once again suspend its uranium conversion program. Asked whether he would consider such a step as a gesture, Mr. Ahmadinejad avoided answering.

Wearing a tan windbreaker and an open-collar shirt, Mr. Ahmadinejad appeared relaxed as he held court at a large table at the Hotel Intercontinental in his first broad meeting with American news media.

Western diplomats have said for several days that they understood Mr. Ahmadinejad would offer proposals, but they did not expect anything different or new.

Iran, for example, has called on the Europeans to broaden the talks to include Muslim nations also interested in nuclear energy issues. European and American officials have rejected that idea and have been cool to other proposals, like one from South Africa in which Iran would be allowed to produce nuclear fuel but would have to send it to another country for enrichment.

Joschka Fischer, Germany's foreign minister, said after last night's meeting that "Europe's position is unchanged." He said there was a need to be "realistic" and not make threats.

Mr. Ahmadinejad said that Iran would continue to work with the International Atomic Energy Agency in allowing inspections, and that Iran would observe a rule requiring it to give 180 days' notice if it processes uranium to the next step, which would be enrichment, requiring the use of centrifuges.

At present Iran is converting raw uranium in a form known as yellowcake into a gas, which it could in theory enrich to weapons grade.

Mr. Ahmadinejad seemed comfortable with some of the technical details of the nuclear controversy, but he turned to his negotiator, Dr. Larijani, for the specifics in international agreements. Over all, Mr. Ahmadinejad accused the West of a double standard, wanting nuclear power for the West but not for Iran.

"There is some kind of inequality and injustice being created," he said. Anyone asking Iran to take conciliatory steps, like suspending its uranium conversion, should recognize that this work is legal under international agreements.

Mr. Ahmadinejad, a former mayor of Tehran, has traveled little outside his country, but expressed great admiration for the American people, American diversity and its great natural resources. "The capabilities of America can be beneficial for all other nations," he said.

Thus, he said, he was surprised at the initial American response to Hurricane Katrina. "We expected more," he said.

On other subjects, Mr. Ahmadinejad said that Iranians would have close ties with the Iraqis, but that the roots of the current insurgency lay with the American military presence. "Insecurity and the control of the occupation are linked to one another," he said. "After all, Iraq is an occupied country."

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Iran's Leader Critical In First U.S. Visit (WP)

By Glenn Kessler, Washington Post Staff Writer

The Washington Post, September 16, 2005

UNITED NATIONS, Sept. 15 -- Newly elected Iranian President Mahmoud Ahmadinejad, making his first trip to the United States, introduced himself to the U.S. media Thursday morning, displaying a dash of defiance at U.S. charges over Iran's nuclear program and a warning that the era of big-power dominance in international relations has ended.

Meeting over breakfast with about a dozen journalists in a Midtown Manhattan hotel conference room, Ahmadinejad blamed the Bush administration's policies for instability in Iraq. A veteran of Iran's war against Iraq, the president described the removal of Saddam Hussein as "necessary" but said the task should have been left to Iraqis.

"It is the occupiers who have responsibility for stability in Iraq," he said, adding later, "The root of the problem is the presence of foreign troops."

Ahmadinejad, who was an obscure provincial politician when he was elected mayor of Tehran in 2003, was the surprise winner in June's presidential elections. His anonymity outside Iran has helped keep alive accusations that he was photographed with American hostages at the U.S. Embassy in 1979, a charge repeated during his visit here and categorically denied by the president over breakfast.

Seeming relaxed in a tan sports jacket and open collar but initially almost timid, Ahmadinejad, 49, opened his session with journalists expressing condolences for the victims of Hurricane Katrina. He said he was puzzled by how the storm received its name. "The letter K," offered CBS News's Mike Wallace, launching a discussion of the idiosyncratic American practice of personifying some of the nation's most destructive natural disasters.

Later, Ahmadinejad returned to the subject of Katrina to poke at the Bush administration's response and perhaps draw lessons about solidarity among Americans. He compared the delivery of aid to victims in the Gulf Coast unfavorably with the response to natural disasters in the Islamic republic.

"When this hurricane occurred we were all were extremely sad," Ahmadinejad said, speaking through a translator. "We thought Americans would act more quickly and help their fellow Americans. We expected more." He added: "During the very first day of the hurricane, people could have brought more and limited the extent of the tragedy."

Perhaps the most contentious issue Ahmadinejad faces during this visit is continuing opposition from the United States and European Union to Iran's nuclear program. Iran insists the program -- developed in secret for 18 years -- is for peaceful energy use; the Bush administration charges a crash nuclear weapons project is hidden beneath the veneer of a peaceful program.

The United States had hoped to win referral of the matter to the U.N. Security Council at next Monday's meeting of the International Atomic Energy Agency, but U.S. officials failed to win broad support for such a move during talks here this week on the sidelines of the U.N. General Assembly.

Ahmadinejad said he had arrived with new proposals to resolve the impasse but declined to reveal them in advance of their public unveiling Saturday. He said Iran had no intention of building nuclear weapons but asserted that every nation had a right to develop nuclear power.

"We believe that atomic energy is a blessing given by God; it is an opportunity given to all nations," he said, adding that "any improper use of production for nuclear arms should be prevented."

During his discussions with other leaders here, Ahmadinejad has advanced the idea of transferring "nuclear know-how to the Islamic countries due to their need," according to the state-run Islamic Republic News Agency.

During the breakfast, Ahmadinejad said there is "no proof of a violation by Iran" of the nuclear Non-Proliferation Treaty, "just an allegation." He complained: "How can you prove you are not a bad person? You can't prove that."

Ahmadinejad's visit here has been dogged by protesters asserting that, as a student leader, he played a role in the takeover of the U.S. Embassy in Tehran and seizure of U.S. hostages during the 1979 Iranian revolution. "This is an allegation that has absolutely no basis," he said. Alluding to the power of the media gathered at the breakfast, he added: "Sometimes I read rumors about the president of Iran -- and I laugh at them."

Asked his impressions of the United States, Ahmadinejad said it is a large, rich and diverse country but "the attitude of the American government has created problems with other countries." The United States "should not humiliate others, should not

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consider itself superior to others," he said. "We think the era of utilization of force and pressure in international relations has ended. Today, the will of the people will prevail, as it did in the election in Iran."

Bush To Pressure Putin On Iran (WSJ)

By Neil King Jr. In Washington And Greg White In Moscow, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

U.S. President George W. Bush hopes to persuade Russian President Vladimir Putin to toughen his stance on Iran, to further open his country's oil and gas reserves to foreign investment and to take steps to speed Russia's entry into the World Trade Organization, when the two men meet at the White House.

Bush administration officials, in previewing Friday's one-day summit, described relations between Washington and Moscow these days as a mix of cooperation and tension, along with a dollop of indifference on the Russian side.

Much has changed from two years ago, when Mr. Bush used a Camp David gathering to praise Mr. Putin's Russia as "a country in which democracy and freedom and the rule of law thrive." Since then, the Kremlin has rolled back democratic institutions, used the tax and court systems to partially nationalize the country's largest oil company and jail its billionaire owner, meddled clumsily in the politics of its neighbors and cooperated with China in efforts to reduce U.S. influence in the strategic region of Central Asia.

Despite these setbacks, President Bush still puts much stock in his rapport with Mr. Putin, with whom he has met nearly 20 times.

The first item on today's agenda, U.S. officials say, will be to urge Mr. Putin to look more favorably on European and U.S. efforts to persuade Iran to give up its alleged nuclear-weapons ambitions.

The U.S., along with Britain, France and Germany, are threatening to take Iran to the United Nations Security Council unless it agrees to rules to prevent its civilian nuclear program from being used for military aims. But Russia and China, both of which have veto power within the council, oppose that idea. "This will be a major issue" in the summit talks, said one senior administration official.

Mr. Bush will also try to get a feel from President Putin on what transpired in his private talks at the U.N. on Wednesday with Iranian President Mahmoud Ahmadinejad, the official said.

On the energy front, the White House is pleased by what appears to be increased activity among Russian oil and gas companies to move more aggressively on new exploration and pipeline projects, including some with Western partners.

"I've noticed a definite change in the Russians' attitude toward our energy relationship" in the past few months, said one U.S. diplomat.

State gas titan OAO Gazprom was expected to announce on Friday its short list of foreign partners on a long-awaited liquefied-natural-gas project that would target the U.S. market. And Russia appears to be moving ahead with plans to build a new pipeline that would carry oil to the country's arctic coast, putting it within tanker range of U.S. ports.

Bush officials say that on the trade front, both sides must resolve a number of prickly issues within U.S.-Russian negotiations on Russian WTO membership, which could happen sometime next year. The toughest problems revolve around Russian rules on energy services, bank subsidiaries, aviation and intellectual-property protections. The U.S. still hopes to wrap up the trade talks by the end of the year.

Some of the trickiest talk could focus on Moscow's influence over former Soviet republics, which Russia views as its turf. After popular revolutions brought pro-Western leaders to power in Georgia and Ukraine in the past two years, the Bush administration has come to see the region as a testing ground for its new focus on democratization around the world.

The U.S. also has begun to look with some alarm on the growing ties between Moscow and Beijing. China and Russia held joint military maneuvers last month.

Write to Neil King Jr. at neil.king@wsj.com1 and Greg White at greg.white@wsj.com2

Putin's Chosen 'Public' (WP)

By Masha Lipman

The Washington Post, September 16, 2005

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MOSCOW -- Last month President Vladimir Putin's broadly televised public activities included flying a strategic bomber, driving an old Soviet-era Volga automobile, overseeing naval maneuvers on board a nuclear missile cruiser, inaugurating a highway tunnel and visiting a children's cancer hospital, where he had a friendly meal with a sick boy and ordered that a new, state-of-the-art ward be constructed without delay. He listened to the defense minister's report on Russian-Chinese military maneuvers and presided over grand celebrations of the 1,000th anniversary of the city of Kazan, attended by Russian regional leaders and presidents of most of the former Soviet republics. Western political scholars and journalists who met with him during the first week of September were nearly unanimous in their favorable impression of the Russian leader: "Energetic" and "confident" were the most frequent assessments heard from those who attended.

He looks, in fact, like a man interested in reelection. So much so that political commentators are once again guessing about whether he will stay in power beyond 2008, when his second -- and last -- term expires. To be sure, several loyal officials have suggested ways to overcome the constitutional obstacle to a third term. But with the next election still 2 1/2 years away, the Kremlin appears to remain undecided as to how to preserve the political status quo in Russia in 2008. Putin's heightened activity may just be a way of demonstrating that he is fully in charge and that he remains the ultimate decision maker on all important national issues, including the "challenge of 2008."

With the Kremlin's control over politics and society having tightened this past year, there is little for Putin to worry about from parliamentary factions, the media or outside opponents. While public opinion polls show unrelenting discontent with government policies, Putin's own approval rating, which had dropped somewhat, popped back up to 70 percent in August.

Even the smoldering youth activism that had caused the Kremlin concern -- some of the more radical groups were harassed and even prosecuted -- doesn't seem to pose much of a threat to the ruling elite. According to an August poll, 82 percent of young people share none of the ideas of these youth groups -- an apparent indication of a widespread rejection of activism as such.

With oil revenue growing steadily, the public generally apathetic, and the elites bought or intimidated into submission, Putin and his inner circle have reason to feel confident and high-spirited. But the Kremlin is still apprehensive about autonomous civic activism and won't ease its efforts to preempt any kind of genuine public initiative.

Sometimes this leads to peculiar political innovations. Consider the newly introduced representative body known as the Public Chamber. It was described by Putin as a "channel of influence of civil societies, of the citizens of the Russian Federation on the decisions made in the country."

Under the terms of the law establishing it, the Public Chamber will consist of Russians who "have done great service to the society and state." And who is to decide which honorable citizens are to be recognized by a grateful nation? The political style of Putin's Russia suggests the answer: The members will be handpicked by Putin himself, or nearly so. He will appoint one-third of the 126 Public Chamber members, and these core members will be the dominant force in selecting the remaining 84.

Putin has said that these people should be "politically maximally unengaged." The nomination process has so far been strictly secret (like all Kremlin decisions), but leaks and rumors have brought forth about a dozen names. Their main defining features are -- not unexpectedly -- their loyalty and special favors done for the Kremlin. At least two of the rumored candidates -- a famous female gymnast and a highly popular theater director -- are signatories to a recent collective letter supporting the conviction of Mikhail Khodorkovsky, the oil tycoon and potential political rival prosecuted by Putin's government. Others include a female college student from a provincial city who's also a commissar of Nashi, a government-sponsored youth movement masterminded by the Kremlin, and an unknown functionary of a government-sponsored association of journalists.

These are only rumors, of course, but whoever is chosen for the Public Chamber, this is not a body that will be doing much to channel public influence. The Kremlin would never risk granting real authority to anyone who has not proved his or her loyalty. If it is indeed concerned about feedback from the public, the concern has been overwhelmed by a far more important priority: the urge to keep society under control. The only question is whether Putin's regained political confidence will cause him to mistake the obliging recommendations of his loyalists for the actual voice of the people.

Masha Lipman, editor of the Carnegie Moscow Center's Pro et Contra journal, writes a monthly column for The Post.

See Dubya Run To The WC (WP)

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By Al Kamen

The Washington Post, September 16, 2005

President Bush created a bit of a stir Wednesday when he inexplicably walked out in the middle of an important U.N. Security Council meeting on terrorism, right in the middle of a speech by the leader of Benin.

Delegates thought it was another example of American arrogance -- U.S. officials are notorious for leaving meetings in mid-session, especially at the General Assembly. Russia's Vladimir Putin , Britain's Tony Blair and China's Hu Jintao sat patiently through the less-than-riveting address.

But it appears that Bush meant no insult, judging from a note he handed to Secretary of State Condoleezza Rice shortly before he left.

Bush, after waiting while a member of his security detail swept a nearby bathroom, used the facilities and return to the meeting a few minutes later.The Big Picture

Some people simply can't get with the program. Take Rep. David R. Obey (D-Wis.), for example. House Speaker J. Dennis Hastert (R-Ill.) announced Wednesday that he was sending a bipartisan House Appropriations Committee trip to New Orleans to check things out.

But Obey, the committee's top Democrat, demurred. "At this point, all efforts should be focused on helping those in need and recovering the dead," Obey said in a statement. "There will be plenty of time for politicians to play visiting fireman, but right now any congressional trip can't help but end up being a dog-and-pony show," he said, attacking a congressional tradition nearly as sacred as pork itself.

"I've seen congressional trips in these situations become photo ops that take time and energy away from emergency activities," continued Obey, a three-decade veteran of the committee. "We need to give emergency responders a week or so to do their work and stabilize the situation before we divert their attention by asking them to be congressional travel guides. Photo ops can come later. We have no business posing for them now. At this point, one of the watchdogs we may need is a watchdog to keep Congress from getting in the way of people doing real work."

Turns out the committee isn't likely to be going for a while, but an assorted bipartisan group of 20 House members is taking off this weekend.

The Senate, which, fortunately, values tradition, dogs and little ponies, would not be deterred.

Senate Majority Leader Bill Frist (R-Tenn.) and Minority Leader Harry M. Reid (D-Nev.) promptly announced yesterday that they would be leading a delegation leaving today on a one-day trip "to assess Katrina rescue and recovery efforts." The delegation "will hold . . . media availabilities" at Harrah's casino in New Orleans, in Pass Christian, Miss. and at the airport in Mobile, Ala., the announcement said.

The delegation includes the two leaders and GOP Sens. Thad Cochran (Miss.), Susan Collins (Maine), Mike Enzi (Wyo.), James M. Inhofe (Okla.), Richard C. Shelby (Ala.) and John W. Warner (Va.). The Democratic senators are Max Baucus (Mont.), Richard J. Durbin (Ill.), Edward M. Kennedy (Mass.), Joseph I. Lieberman (Conn.) and Debbie Stabenow (Mich.).A Heck of a (New) Job

Reminder: Midnight Monday's the deadline for the Loop "Brownie's Next Gig" Contest. Submit your suggestions for what former FEMA director Michael D. Brown 'snext job should be. Send your entry via e-mail to intheloop@washpost.com or mail it to In the Loop, The Washington Post, 1150 15th St. NW, Washington, D.C. 20071.

North Koreans Insist On Demand For New Reactor In Nuclear Talks (NYT)

By JOSEPH KAHN

The New York Times, September 16, 2005

BEIJING, Sept. 15 - North Korea on Thursday refused to drop a new demand that the outside world build it a nuclear reactor before it dismantles its nuclear weapons, leaving six-nation negotiations here on the verge of collapse.

The United States and North Korea identified its demand for a light-water nuclear reactor as the main sticking point in the talks, which have continued fitfully over two years and failed to produce even a joint statement of principles. While this round will continue for at least another day, Christopher Hill, the chief American negotiator, made it clear on Thursday that the gap had

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widened over three days of talks. "The only thing North Korea is interested in discussing is a light-water reactor," Mr. Hill said. "No country is going to provide North Korea with a light-water reactor. So we have reached a bit of a standoff."

That leaves the Bush administration with an unhappy choice - go on indefinitely with talks that have produced no result, or seek a consensus to impose international penalties on North Korea against the wishes of most countries in the region.

One goal for the United States in these talks, analysts say, is to show enough sincerity and flexibility to convince Asian nations that fault lies with North Korea and that imposing penalties is the only viable option.

North Korea is eager to show that it wants to dismantle its nuclear arms program and would do so but for the unreasonable demands of the United States, which it accuses of having a "hostile policy" intended to overthrow its government.

Those competing agendas were on display on Thursday. The United States said the other four regional powers participating in the talks, South Korea, Russia, Japan, and the host, China, agreed that North Korea's condition that it receive a reactor before ending its arms program was impossible to meet.

North Korea said that the other parties had agreed that it was justified in requesting a light-water reactor and that only the United States had refused to discuss the matter.

Hyun Hak Bong, a spokesman for the North Korean delegation at the talks, said his government considered a new nuclear plant an essential gesture of good will from the United States. Mr. Hyun said Washington had not kept its word in the past, so the donation of the plant must precede any North Korean concessions.

"Providing a light-water reactor is a matter of principle for building trust," Mr. Hyun told reporters outside the talks in Beijing. "The United States says it cannot give us a light-water reactor no matter what."

"It is telling us to give up" the nuclear program "first without doing its part," he added.

Light-water nuclear reactors are not easily diverted to weapons use. North Korea was promised two light-water reactors to end its nuclear arms program in a 1994 deal reached with the Clinton administration. No plants were delivered and the deal failed in 2002, when the Bush administration accused North Korea of enriching uranium for atomic bombs.

Mr. Hill said North Korea's condition could not be met legally.

N. Korea Nuclear Talks Mired In 'Major Disagreements' (WT)

By Shigemi Sato And Jun Kwanwoo, Agence France-presse

The Washington Times, September 16, 2005

BEIJING -- Talks on dismantling North Korea's nuclear-weapons program are deadlocked due to "major disagreements" between the North and the United States, delegates said yesterday.

"There wasn't any progress today. ... We are in a bit of a standoff at the moment," U.S. envoy Christopher R. Hill told reporters after a day of meetings with his North Korean counterpart and other chief delegates.

Mr. Hill, an assistant secretary of state, said there were "major disagreements" between the United States and North Korea, echoing the assessments of Japan and host country China.

The dispute centers on the North's demand that the international community help it build light-water atomic reactors to generate electricity in exchange for ending its nuclear-weapons program.

The United States and Japan have refused, with Washington saying the cost and time frame are impractical and that the Stalinist state cannot be trusted to confine a reactor to civilian use.

"The differences of our positions are so great that the talks are stalemated," Japan's top envoy Kenichiro Sasae told reporters.

"North Korea's demand for a light-water reactor is strong. We are not in a position to accept it as it is. The prospect is bleak unless this question is resolved," Mr. Sasae said.

In an attempt to settle their differences, Mr. Hill and his North Korean counterpart, Kim Gye-gwan, held a 90-minute one-on-one meeting yesterday but failed to reach a compromise, with one official saying both left the session with "stiff faces."

A spokesman for the North Korean delegation agreed yesterday that the talks were "not making progress" due to the dispute over light-water reactors.

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"While other participating countries expressed understanding on this issue, the United States unreasonably vowed not to provide light-water reactors," said spokesman Hyun Hak-bong.

Mr. Hill, however, rejected the North's claims that all parties except the United States were willing.

"No delegation was prepared to offer North Korea a light-water reactor," Mr. Hill said.

He urged the North to accept "a pretty good deal" he put on the table.

"The deal consists of really a lot of what the DPRK [North Korea] should want -- security guarantees, a recognition package, access to international financial institutions, a very serious energy package," he said.

The talks involving the two Koreas, Japan, Russia, China and the United States resumed on Tuesday after a five-week recess. Still, there was no sign they have broken down, with Mr. Hill and the North Koreans indicating they will continue discussions today.

"Everybody has got an interest in solving this problem through diplomatic means. ... There will be a point at which we look at the deadline, but we are not at that point yet," Mr. Hill said.

The talks are aimed at persuading North Korea, which says it has nuclear weapons, to give them up verifiably and irreversibly in exchange for security guarantees as well as energy and economic aid.

But they have become bogged down by Pyongyang's insistence that its right to peaceful atomic energy be included in a statement of principles the six nations are trying to adopt to denuclearize the Korean Peninsula.

Differences of opinion between the six have became stark, with the United States and Japan insisting that light-water reactors were out of the question and South Korea saying they should remain an option.

China and Russia also have sided with North Korea on the nuclear-energy issue, though not as vocally as Seoul.

Mr. Hill said it would take up to a decade to build a light-water reactor and cost $2 billion to $3 billion; he urged the North to accept instead a South Korean offer to run power lines across the border.

Under a now-defunct 1994 agreement, two light-water reactors were to have been built by a U.S.-led consortium to replace North Korea's existing graphite-moderated reactors, which can produce weapons-grade plutonium.

But construction was suspended after the United States in 2002 accused the North of developing a secret uranium-enrichment program.

Failure to reach an agreement in Beijing could prompt the United States to take the issue to the U.N. Security Council and press for sanctions.

Talks Deadlock Over N. Korea's Demand For Reactor (WP)

By Edward Cody, Washington Post Foreign Service

The Washington Post, September 16, 2005

BEIJING, Sept. 15 -- U.S. and North Korean diplomats acknowledged an irreconcilable deadlock Thursday in long-stalled nuclear disarmament talks, casting doubt on the future of Chinese-sponsored six-party negotiations.

The stalemate, based on the North Korean demand that it be given a light-water nuclear reactor to produce electricity, brought the current round of discussions to a rancorous standstill after three days. Representatives of the participating countries, which also include South Korea, Japan and Russia, did not indicate they would abandon the negotiations, but none outlined a way to keep talks going.

"We're in a bit of a standoff at this point," said Christopher Hill, assistant secretary of state for East Asian and Pacific affairs and chief U.S. negotiator. "We'll have to see where this leads."

If the talks break down permanently, the Bush administration has suggested referring the issue of North Korea's nuclear weapons program to the U.N. Security Council for possible economic and other sanctions. Other participants in the talks, including China, which has veto power on the Security Council, have indicated they would not favor that course. North Korea has warned it would consider such a step tantamount to war.

Chinese diplomats, who sponsor and act as referees in the six-party talks, were meeting with their North Korean counterparts to explore salvaging the discussions.

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Hill said he planned to meet with Chinese diplomats on Friday, but he made it clear that neither side seemed ready to budge. "I think it's fair to say we have a rather major disagreement on this point," he said.

A breakdown would represent a major setback for the Beijing government, which since August 2003 has taken a prominent leadership role in seeking a diplomatic solution to one of Asia's most intractable problems. Barring a dramatic turnabout by North Korea's leader, Kim Jong Il, however, it was difficult to see how the gap could be bridged, diplomats said.

"The talks are deadlocked," said the chief Japanese delegate, Kenichiro Sasae. "The differences between positions remain large and there are no prospects of agreement."

A North Korean spokesman, Hyun Hak Bong, said in a statement that his government's demand for a light-water reactor was a litmus test of whether the United States has abandoned hostility toward Pyongyang.

"Providing a light-water reactor is a matter of principle for building trust," the statement said. "The United States says it cannot give us a light-water reactor no matter what. It is telling us to give up the nuclear first without doing its part."

The Bush administration has demanded that North Korea relinquish not only its nuclear weapons program but also its ambition to build a nuclear reactor to produce electricity. Hill said the U.S. government believes that North Korea cannot be trusted on the issue, because it converted a research reactor in the 1990s into a source of weapons-grade plutonium.

Such a plant is out of the question, Hill said, because North Korea expelled U.N. weapons inspectors at the end of 2002 and, in January 2003, withdrew from the nuclear Non-Proliferation Treaty. The nation's energy needs can be supplied by a South Korean-proposed program that is included in the Chinese-drafted plan under discussion here, he added.

North Korea Poses Aid Puzzle (WSJ)

By Gordon Fairclough, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

BEIJING -- The main market in Kang Chon Ha's hometown in North Korea is flush with illicit commodities: rice and corn donated by foreign governments to feed the impoverished country's hungriest and most vulnerable people.

"Senior officials sell it out the back door" of county warehouses, says Mr. Kang, a trader who supplied small vendors across North Korea before fleeing last year, and who uses a pseudonym because he fears retribution against relatives still there. "They'll do anything to make money."

The widespread availability of donated food in North Korea's booming markets shows how difficult it is for relief organizations to work with a government that, frustrated aid workers and others say, is often more interested in preserving its power than in protecting its citizens. Reports of diverted aid also are deepening mistrust of the government among other nations -- including those negotiating with Pyongyang over the future of its nuclear capabilities.

Yesterday, talks under way here since Tuesday remained at an impasse, the latest stumbling block being the North's demand for a light-water nuclear reactor in return for it abandoning atomic weapons. The U.S. long has said the world can't trust that Pyongyang won't convert a civilian nuclear program to military use.

It is impossible to know exactly how much aid is diverted -- to markets as well as to the military and other groups favored by the regime -- given tight North Korean restrictions on monitoring. But experts say it could be substantial.

A decade after the start of a famine that may have killed more than a million people, and despite massive deliveries of food aid, the situation remains precarious. Thirty-seven percent of all North Korean children are malnourished, as are a third of mothers, according to data from the United Nations' World Food Program. That makes it impossible to walk away, aid officials say.

"In North Korea, you have a ruthless government that is holding its own people hostage," says Marcus Noland, a Korea expert at the Institute for International Economics in Washington. "That is the basic ethical dilemma."

Now, North Korea says the crisis is easing and it wants to stop receiving emergency food shipments and instead get more extensive development assistance. Officials last week told Richard Ragan, the head of the World Food Program office in Pyongyang, that his organization -- which last year provided nearly 300,000 metric tons of grain to the North -- should make the shift by the end of the year.

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Song Se Il, a diplomat at Pyongyang's United Nations mission, said his government has decided to "discontinue" emergency aid because the "the amount received is small" and the "prospect for future humanitarian assistance is not good." He declined to comment further.

WFP officials say the North Koreans told them they feared becoming too dependent on aid. But many experts say they believe Pyongyang is chafing at the conditions attached to help from the WFP. They say Pyongyang may assume, incorrectly, that development aid would come with fewer strings attached.

North Korean officials "complain that over the past several years, aid shipments have declined while conditions have increased," says Mr. Ragan. "You've got white vehicles everywhere and people pushing on monitoring, pushing on access. They don't like it."

But even after a lot of pushing, aid experts say, oversight remains relatively weak. Despite repeated requests over 10 years, North Korea has refused to give the WFP a list of all institutions receiving the food aid it supplies. WFP officials also must give several days' advance notice of inspection visits.

WFP workers aren't allowed to interview people who aren't already receiving aid, making it difficult to verify food is going to those most in need. And, with few exceptions, they also are barred from visiting markets, an increasingly important conduit for diverted food donations.

"We believe that the vast bulk of what donors provide goes to the people it is intended for," says Gerald Bourke, the WFP spokesman in Beijing. Mr. Bourke says the WFP's ability to monitor aid flows in North Korea has "gotten a lot better over time, but there's still a long way to go."

Mr. Ragan says he doesn't believe the North Korean government has a policy of diverting WFP aid to the military or to markets. But he says that, given the sheer amount of food the agency is moving, some is going to "end up going the wrong way."

Aid officials and experts say that efforts by the WFP and others to improve monitoring have been undercut by large shipments of aid and subsidized food from South Korea and China with relatively few conditions attached. South Korea recently agreed to send 500,000 metric tons of rice to North Korea this year.

Seoul says it is planning 20 site visits to track the shipment. That compares with hundreds of site visits per month conducted by WFP officials on a smaller amount of aid. Also, South Korea is shipping rice, favored by the elite, and especially vulnerable to diversion, instead of less desirable grains more likely to be consumed by the truly needy.

South Korea's Unification Ministry says it has tried to "increase the transparency of food distribution" in the North. Han Ki Soon, director of the ministry's Cooperation Fund Division, dismissed criticism that Seoul's laxer standards could be detrimental to the WFP's efforts.

Defectors report seeing regular supplies of South Korean rice in markets, along with rice and other grains donated by the U.S., Japan and others. One man who fled North Korea this year says "aid rice is sold everywhere." In his town in the northeastern part of the country, white bags of donated food line market stalls.

Some aid officials say bags from aid deliveries are often being reused. But defectors say it is easy to tell the imported rice and other grains from those grown in North Korea, which tend to be of lower quality.

A video shot surreptitiously in July 2004 in a large market in Chongjin, a city on the northeast coast, and obtained by a Japanese nongovernmental organization, showed plentiful supplies of food in sacks from donor countries, including some marked with an American flag and others from South Korea.

Some argue that diversion of aid isn't an entirely bad thing. Lee Seung Yong, a project coordinator at Good Friends, a South Korean NGO, says, "it would be better if all the aid went to those who need it most," but that all aid helps "push the price of rice down, indirectly giving a benefit to the poor."

Flows of aid to the market clearly do help lower prices. The WFP says the mere announcement of South Korea's plans to make its large shipment of aid this year sent food prices lower. And that helps anyone who buys food in the markets, a common practice among North Koreans; government restrictions have loosened in recent years and a large amount of food goes through markets rather than the so-called public distribution system.

But, says Stephan Haggard, a professor at the University of California, San Diego, "there are serious questions in a situation like this, about whether the effects are trickling down."

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Mr. Haggard, the author of a recent paper on food aid and human rights in North Korea, says that many disadvantaged people, especially children, the elderly and the growing number of people who have lost industrial jobs as a result of economic changes, don't earn the wages necessary to be able to shop in the market. That is why aid agencies have targeted them for assistance in the first place.

"People who don't have market resources, who can't command the resources to buy food in the market" are those being hurt most by the diversion, says Mr. Haggard.

--Lina Yoon contributed to this article.

Write to Gordon Fairclough at gordon.fairclough@wsj.com2

Court Says West Bank Barrier Must Detour by 5 Arab Villages (NYT)

By GREG MYRE

The New York Times, September 16, 2005

JERUSALEM, Sept. 15 - Israel's highest court ruled Thursday that part of Israel's West Bank separation barrier had imposed major hardships on Palestinian villagers and must be rerouted. It was the second such decision by the court.

However, the nine judges on the High Court of Justice also said in their unanimous ruling that Israel could build the barrier inside the West Bank, provided the government did so for security needs and not political considerations.

They criticized an advisory ruling last year by the International Court of Justice in The Hague that said all sections of the barrier inside the West Bank violated international law and should be torn down. The Israeli court said the international court had failed to consider security needs.

The immediate impact of Thursday's ruling will be to require Israel to revise a small section of the barrier built near the Jewish settlement at Alfei Menashe, where more than 5,000 settlers live.

Five Palestinian villages in the area, with about 1,200 people, brought the petition, contending the barrier was illegal. They said it left them in a tiny enclave, making it difficult and sometimes impossible to reach jobs, schools, farm land, hospitals and commercial centers.

"The enclave creates a chokehold around the villages," the court ruled. "It seriously damages the entire fabric of life."

The villagers must have permits to live in their homes. To travel to other Palestinian areas, they go through Israeli-controlled gates that are currently open from about 6 a.m. to 6 p.m., residents said.

"With this decision, we will be connected to our brothers and relatives again," said Yassin Marabeh, 47, the mayor of one village, Ras Tira.

The court said that Israel "must, within a reasonable period, reconsider the various alternatives for the separation fence route" and explore security options that "injure the fabric of life of the residents of the villages of the enclave to a lesser extent."

The court, while not specifying a new route, ruled that Israel could build the barrier in the West Bank, which the court described as being under "belligerent occupation," as long as Israel's security concerns are balanced with Palestinian needs and human rights.

The Palestinian leadership says Israel is free to build a barrier on the West Bank boundary, its pre-1967 border, which is often referred to as the Green Line. But Palestinians object to having the barrier inside the West Bank, on land they are seeking for a future state.

Israel's deputy prime minister, Ehud Olmert, told Israel Radio on Thursday, "The importance is that the court made it legal for a fence beyond the Green Line and decided the World Court ruling is not binding."

Moshe Negbi, a prominent Israeli legal commentator, agreed that the Israeli government had won an important victory in receiving the court's blessing to build in the West Bank, even if some sections of the fence must be adjusted.

Thursday's ruling was quite similar to one handed down by the Israeli court in June 2004 in response to a petition by several West Bank Palestinian villages northwest of Jerusalem. Israel responded by rerouting that section of the barrier. It still runs inside the West Bank, though it places less land on the Israeli side than previously planned.

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Israel says the barrier is essential to defend against Palestinian suicide bombings and other attacks. The number of suicide bombings has come down dramatically since Israel began building the barrier three years ago, as other security measures have also been put into effect. A truce between the two sides was declared in February.

Along Israel's planned route, the barrier is to stretch for some 400 miles, and about one-third has been completed. Under the plan, about 10 percent of the West Bank would be on the Israeli side of the barrier.

Most of the nearly 250,000 West Bank settlers would be protected by the barrier, as well as Israelis living in East Jerusalem, which has been annexed by Israel.

In the Gaza Strip on Thursday, Palestinian and Egyptian security forces tried but largely failed to impose some order along their border, where civilians have been going back and forth freely since the Israeli troops completed their withdrawal on Monday. The security forces restricted the number of people crossing for much of the day.

But on Thursday afternoon, large numbers of Palestinians overwhelmed the security forces and hundreds poured into Egypt in scenes familiar from recent days. <NYT_AUTHOR_ID>

Khaled Abu Aker contributed reporting from Ras Tira, West Bank, for this article.

Court Orders Rerouting Of Barrier (WT)

By Joshua Mitnick

The Washington Times, September 16, 2005

TEL AVIV -- Israel's Supreme Court yesterday ordered the government to dismantle and reroute a portion of its West Bank security barrier, ruling on behalf of five Palestinian villages isolated by the obstacle.

But even as the 9-0 ruling opened future challenges to the two-year-old network of electronic fence and concrete walls, the judges for the first time confirmed the legality of erecting a separation barrier inside the West Bank to protect Israeli citizens.

The decision rejected the July 2004 opinion by the United Nations' judicial arm that the more-than 400-mile obstacle -- built to repel terrorist attacks against Israelis and one-third complete -- violates international law because it is built on territory under military occupation.

While the court criticized the International Court of Justice's sweeping rejection of building the security barrier in the West Bank, it ruled that the specific sections of the fence must not unreasonably hamper living conditions for Palestinians.

The court sided with a group of Palestinian villages near the West Bank city of Qalqilyah whose residents were cut off from relatives, mosques and social services in larger Arab towns after being closed inside an Israeli enclave created to protect the Jewish settlement of Alfei Menashe.

"The enclave creates a chokehold around the villages. It seriously damages the entire fabric of life," wrote Israeli Chief Justice Aharon Barak in the 66-page decision. "Based upon the factual basis as presented to us, the existing route of the fence seems strange ... We are by no means persuaded that there is a decisive security-military reason for setting the fence route where it presently is."

Israel's defense ministry now must consider alternatives to the path that separates about 1,200 Palestinians in five small villages from the rest of the West Bank. According to the Association for Civil Rights in Israel, which brought the petition on behalf of the Palestinian villages of Wadi a-Rasha and Ras a-Tira, at least four more legal challenges to the fence's route in other areas are making their way to the Israeli Supreme Court.

The first third of the fence already has been completed around the northern hub of the West Bank, and another 100 miles are being built. The government shifted the planned path of the fence earlier this year after a June 2004 Supreme Court ruling forced the government to reconsider blueprints for a fence route in between the village of Beit Surik and the Jerusalem suburb of Mevasseret Tziyon.

The decision yesterday marks the first time the court has instructed the government to tear down a part of the fence that already has been built.

Dana Alexander, the head of the legal department of Association for Civil Rights in Israel, said the decision marks an important precedent.

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"The court ordered the government to dismantle the existing fence," she said. "That means all the existing parts of the fence can be submitted to judicial review, and if they are found to violate Palestinian rights unjustifiably, the state can be ordered to dismantle the fence."

Sharon Tells U.N. It's Time For Palestinian Peace Steps (NYT)

By JOEL BRINKLEY

The New York Times, September 16, 2005

UNITED NATIONS, Sept. 15 - Prime Minister Ariel Sharon of Israel spoke Thursday to the General Assembly, a body he has long considered a tool of the enemy, and challenged the Palestinians to demonstrate their commitment to peace now that Israel has completed its withdrawal from the Gaza Strip.

"The State of Israel proved that it is willing to make painful concessions in order to resolve the conflict with the Palestinians," he said, his tone confident and firm. "I call on the Palestinian leadership to show determination and leadership and to eliminate terror, violence and the culture of hatred from our relations."

The audience reaction was polite, as is the custom here, but even that might have been more than Mr. Sharon would have expected in the past.

Through several decades in public life, Mr. Sharon had never before spoken to the United Nations. Just a few months ago it might have seemed unthinkable that he would stand before the world forum that has tried to pass countless resolutions criticizing Israel and precious few aimed at the Palestinians, in the Israeli view.

But this week, he said, numerous world leaders, including some from Islamic nations, have approached him in the halls of the United Nations building, asking to shake his hand and congratulating him on Israel's withdrawal from Gaza. Mr. Sharon, in an interview later, said he was pleased by that reception, though he declined to name the other leaders.

Nonetheless, in his address, Mr. Sharon could not help but refer to Israel's sorry history with the United Nations.

He said Israelis had not forgotten "dozens of harsh and unjust decisions made by the United Nations over the years." Referring to Iran, he added: "We know that, even today, there are those who sit here as representatives of a country whose leadership calls to wipe Israel off the face of the earth. And no one speaks out."

In the speech and in the interview, he described the decision to withdraw from Gaza as painful - "very hard, very hard and complicated."

But to the United Nations, he insisted, "Now it is the Palestinians' turn to prove the desire for peace."

While Mr. Sharon's speech was more conciliatory toward the Palestinians than is his custom, he said little to suggest that Israel planned any more conciliatory moves toward the Palestinians right now, though he did say that following a path toward peace was "my calling and primary mission for coming years."

His remarks brought criticism from some of his right-wing opponents in Israel. Furthermore, unless Mr. Sharon announces new concessions to coincide with any serious actions toward peace that the Palestinians may take, he could find himself in conflict with the Bush administration.

In recent weeks, Secretary of State Condoleezza Rice has said several times that she expects Israel and the Palestinians to take simultaneous steps toward peace in the months ahead.

Israel, she said in an interview last month, should withdraw from more West Bank cities and loosen roadblocks and checkpoints that restrict Palestinian travel, while Palestinian authorities should disarm Hamas and other Palestinian factions intent on continuing the uprising and should work to govern Gaza responsibly.

In the interview, Mr. Sharon's voice turned hard as he said: "The focus should be on Gaza now. It is the time now for the Palestinians to take steps to show they can rule. We left Gaza. We are not there. They will be tested now. Can they run a country? Can they stop the violence?"

Mr. Sharon did reiterate that Israel "is committed to the road map," referring to the peace plan that the United States and its allies proposed in 2003, "and the Sharm el Sheik understandings" early this year. At Sharm el Sheik, an Egyptian city on the Red Sea, Israel agreed to release some Palestinian prisoners and to withdraw from five West Bank cities.

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In his speech, Mr. Sharon made no obvious effort to tailor his remarks to curry favor with the other leaders meeting at the United Nations this week. He did not back away from positions that many here oppose. He opened his address by noting, "I arrived here from Jerusalem, the capital of the Jewish people for over 3,000 years, and the undivided and eternal capital of the State of Israel."

Palestinians hope to establish the capital of their state in part of Jerusalem, and many nations represented here are sympathetic to that goal.

Nasser al-Kidwa, the Palestinian Authority's foreign minister, sat silently through the speech and at its end folded his arms and did not join in the applause. Later, Mr. Sharon offered a long and impassioned defense of Israel's security fence, which surrounds much of the West Bank and in many places cuts into it. Israel's high court ruled Thursday that Israel must reroute part of it.

"We will continue to build it until it is completed," he said, "as would any other country defending its citizens."

But in the end the prime minister returned to the difficulties that have prevented him from appearing here before now.

"I hope," he said to the General Assembly, "that the comprehensive reforms that the United Nations is undergoing in its 60th anniversary year will include a fundamental change and improvement in the approach of the United Nations, its organizations and institutions, toward the State of Israel."

Later, he said: "It was important for people to hear it. It was important that I say it clearly."

U.S. Renews Push On China's Yuan (WSJ)

By Michael M. Phillips, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

WASHINGTON – The Bush administration is turning up the heat on Beijing to allow the Chinese yuan to rise against the dollar, reigniting an economic dispute that had appeared settled.

Treasury Department officials are disappointed that China's eight-week-old promise to let the yuan move with market forces has resulted in only a tiny increase in its exchange value. They warn that Beijing is courting a backlash from U.S. lawmakers who say China's undervalued currency is robbing American companies of business and American workers of jobs.

Treasury Secretary John Snow has invited the Chinese finance minister, Jin Renqing, to meet during a gathering in Washington on Sept. 23-24 of senior economic officials from the Group of Seven major industrialized nations. The Chinese have indicated they plan to attend, but haven't yet formally accepted.

"The secretary will emphasize the need for the Chinese to demonstrate that the regime they've put in place will allow for greater flexibility in the yuan," said a Treasury official. In essence, Mr. Snow plans to tell the Chinese that it's not enough to say that the yuan can rise; they must also allow it to do so in a significant way.

"There has to be movement," the official said, although the administration doesn't have a specific percentage figure in mind.

The yuan had been fixed at about 8.3 to the dollar for more than a decade when Chinese officials, facing intense U.S. and European pressure, announced on July 21 that the currency would be immediately revalued by 2.1% and allowed to move in a way that would reflect the dictates of supply and demand. Since then, however, the yuan has barely budged and the currency has climbed a total of just 2.37% since the announcement.

In public, Treasury officials diplomatically say they understand the Chinese need time to implement the new system. "We have been very supportive of the reforming of the exchange-rate regime, but implied in that support is taking them at their word that over time they'll achieve greater flexibility and an exchange rate that increasingly reflects underlying supply and demand," Timothy Adams, Treasury's undersecretary for international affairs, said in an interview. "We expect that to occur."

Congressional actions -- both past and prospective -- leave little time for patience. The Treasury Department is due to release on Oct. 15 a biannual report to Congress on international currencies, and Mr. Snow promised months ago that unless China implemented significant reforms the fall report would "likely" cite China for manipulating its currency to gain an edge in international trade. That would trigger a legal requirement that the U.S. initiate formal negotiations with China over the currency question.

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Mr. Snow is scheduled to travel to China in mid-October, and Treasury is likely to delay release of the report until after his return, Mr. Adams said.

The renewal of the confrontation comes at a time of tension in a spectrum of U.S.-China issues, from textile trade to copyright piracy to Chinese bids for American companies. In a meeting in New York this week, Chinese President Hu Jintao told President Bush that he would address U.S. concerns about its $162 billion trade deficit with China and about Chinese intellectual-property violations, according to Mike Green, the White House China expert.

Mr. Bush, who plans to visit China in November, also raised with Mr. Hu concerns about the yuan. "It's in China's long-term economic interests and the world's economic interest for China to make further moves toward a flexible and market-oriented exchange rate," Mr. Green told reporters after the two leaders met.

While monetary authorities rarely announce currency moves in advance, the Chinese appear to be signaling that they don't plan another revaluation soon. Yu Yongding, a member of the monetary policy-making committee of the People's Bank of China, told Dow Jones Newswires recently that the Chinese authorities "need another, say, four or five months" to evaluate the new currency regime before making any big moves.

"I don't know if there will be further revaluation in the short term," said Mr. Yu. "The authorities need time to observe the effect of the small revaluation on economic growth that itself is in the process of changing even without the revaluation."

Many U.S. manufacturers, represented by groups like the National Association of Manufacturers, are pressing their representatives in Washington to take stronger action against China. "We are very disappointed in the way the Chinese have actually put their new regime to use," said Frank Vargo, NAM's vice president for international economic affairs. "It looks a lot like the old regime, except 2% up, which is trivial."

At least two anti-China bills are looming in Congress. One, sponsored by Sens. Charles Schumer (D., N.Y.) and Lindsey Graham (R., S.C.) would impose a 27.5% tariff on all Chinese goods entering the U.S. to counterbalance the allegedly unfair advantage the yuan's weakness gives Chinese companies over their U.S. competitors.

The administration opposes that bill as far too sweeping a punishment, and after talks with Mr. Snow and Federal Reserve Chairman Alan Greenspan this summer, the sponsors agreed to hold that bill back in anticipation of what turned out to be China's July 21 announcement of its new approach to the yuan. The bill is likely to resurface, however, particularly if Sens. Schumer and Graham feel the administration isn't being tough enough on China, by, for example, failing to brand China a currency manipulator in the October report.

A separate bill, already passed by the House and awaiting action in the Senate, would allow the Commerce Department to impose import duties against Chinese goods to counter the effects of government subsidies to Chinese firms.

"Protectionist pressures are really there," said the Treasury official. "Aside from something Katrina-related, there would be no more popular bill on the Hill right now than something protectionist aimed at China."

The Chinese authorities "have to recognize that," the official said.

Write to Michael M. Phillips at michael.phillips@wsj.com1

EU Trade Chief Dismisses Bush Trade Claim (FT)

By Ft Reporters

Financial Times, September 16, 2005

Peter Mandelson, European Union trade commissioner, on Thursday accused President George W. Bush of “playing to the gallery” by calling for the global elimination of tariffs and subsidies, saying US farmers would oppose such a sweeping measure.

Mr Mandelson's comments came just one day after he and his counterpart Rob Portman, US trade representative, launched the most serious effort yet to agree on an agricultural liberalisation package as part of the Doha Round of global trade talks.

Mr Bush, speaking at the United Nations on Wednesday, said the US was “ready to eliminate all tariffs, subsidies and other barriers to the free flow of goods and services as other nations do the same”.

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US officials said the president's statement was intended only to reaffirm his strong commitment to a successful outcome of the Doha talks, which are entering a critical period in the run-up to a December meeting of trade ministers from 146 nations in Hong Kong.

But Mr Mandelson, in an interview with BBC radio, said that, while he welcomed such ambition, "it is easy to make these grandiose commitments.

"Some will say he is playing to the gallery, and some will say that he is making these sort of lavish promises in the almost certain knowledge that the rest of the world cannot or won't follow suit and therefore he will get a free pass."

He added: "There will be very, very many American farmers who will be waking up to hear his words and choking on their cornflakes."

The issue of agricultural tariffs and subsidies remains the most divisive one in the Doha talks. Mr Portman, in an interview on Wednesday with the FT, said he and Mr Mandelson were "working in a constructive way" to bridge their gaps. For instance, the two are negotiating over specific numbers for reducing tariffs on agricultural imports, rather than simply arguing over general principles.

"We were at loggerheads and now we're at the point where we're talking and talking specifics," he said.

But Mr Mandelson's comments underscored how difficult those talks will be. The EU is insisting on maintaining high tariffs for a range of sensitive products, while Mr Portman said US farmers would support only a deal that promised substantial new market access and strictly limited the number of products excluded from deep tariff cuts.

Tony Blair, the UK prime minister who holds the EU presidency, said in a speech at the UN that he would do everything possible to avoid failure at the Hong Kong ministerial. "I am not prepared to have that at least, not without the most monumental struggle," he said.

He said that too many countries were bluffing in the negotiations. "We need to start calling those bluffs and make people understand that if we do end up with failure that will echo right around the world." Pascal Lamy, director-general of the World Trade Organisation, also said yesterday he would use a "hands-on" approach to try to prevent failure at Hong Kong. Earlier this week when he said a transatlantic rapprochement on agriculture was "urgent" for the rest of the negotiations to make progress.

"That sort of finger-pointing must be done carefully," he said. "It's a bit of a risk but I came [to the WTO] with a bit of capital, a bit of trust, from the members and I think I have to spend it."

Reporting by Edward Alden and Alan Beattie in Washington, James Blitz at the United Nations and Frances Williams in Geneva

US Says Venezuela Fails To Combat Drug Trafficking (FT)

By Andy Webb-vidal

Financial Times, September 16, 2005

The US on Thursday struck Venezuela off its list of countries deemed to be co-operating in the war on drugs, injecting a new source of tension into deteriorating relations between Washington and Caracas.

In a statement released by the White House, President George W. Bush said Venezuela, as well as Burma, had "failed demonstrably" to adhere to their international counternarcotics obligations during the past year.

Venezuela's "decertification", as the measure is called, had been expected in the wake of a decision by President Hugo Chávez last month to suspend a co-operation agreement with the US Drug Enforcement Administration. While Mr Chávez has accused the DEA's officials of "spying", US officials have alleged elements within the Venezuelan authorities have become complicit with drugs-trafficking groups.

As much as a third of the cocaine smuggled from Colombia, the world's top producer, to the US and Europe passes through Venezuela, drugs experts calculate - a volume equivalent to about 165 tonnes.

Jose Vicente Rangel, vice-president, said Venezuela was unruffled by the decision. "We could also propose the decertification of the United States in its war against drugs-trafficking," he said.

Despite the decertification, unusually the Bush administration has decided to continue some assistance, much of which is likely to be aimed at opposition-linked civil groups.

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John Walters, director of US National Drug Control Policy, said: “While Venezuela will be subject to sanctions, the president determined it is in the vital national interests of the US to continue selected US assistance.”

It is possible selective sanctions might include an obligation on the US to vote against advancing loans to Venezuela in multinational lending agencies, such as the Inter-American Development Bank. But in practice some observers had suggested that economic sanctions on Venezuela as a result of decertification would have come to less than $1m, a negligible amount for oil-rich Venezuela.

Venezuela continues to maintain bilateral counter-narcotics agreements with the principal countries of Europe.

Merkel Tries To Retune Her Economic Message (WSJ)

By Marcus Walker, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

FRANKFURT -- Just days before Sunday's German election, front-runner Angela Merkel is struggling to retune her message on the economy, which is supposed to be her strongest issue but has been weakening her lead in the polls.

Ms. Merkel's center-right coalition is still firmly ahead of rivals but polling just short of an absolute majority in Parliament. Calling on her supporters to give her an outright victory and a mandate for economic change, Ms. Merkel shuffled economic advisers and attempted to refocus attention on Germany's high unemployment and low growth under incumbent Chancellor Gerhard Schroeder.

German media have focused on her tax adviser, Paul Kirchhof, whose belief in flat-rate income taxes Mr. Schroeder has criticized heavily. Under pressure from within her own Christian Democrats party, Ms. Merkel has reduced Mr. Kirchhof's importance by inviting the party's most popular finance expert, Friedrich Merz, into the campaign. Mr. Merz fell out with Ms. Merkel last year.

"Given the condition of our country we need everybody who can help," Ms. Merkel said on Wednesday when accepting Mr. Merz back into the fold. In recent weeks Ms. Merkel has struggled to explain to voters that her legislative program wouldn't go as far as Mr. Kirchhof's radical ideas.

Pollsters say most voters view Mr. Kirchhof's advocacy of a 25% flat tax on all incomes as unfair on lower earners. Ms. Merkel hasn't endorsed a flat tax, but Mr. Schroeder's attacks on it, along with his personal popularity, have helped his party narrow the Christian Democrats' once-huge lead to about eight points. Mr. Kirchhof on Tuesday acknowledged the storm by saying he should play a "tandem" role with Mr. Merz.

"The Kirchhof debate has spread a strong uncertainty among the population about what would happen. Many voters fear the cutbacks to the welfare state could be deeper than expected," said Josef Esser, political-science professor at Frankfurt University.

While voters think the Social Democrats are stronger on protecting the less affluent, they give Ms. Merkel more credit for competence on cutting unemployment, boosting economic growth and balancing public finances, according to polling institute TNS Emnid.

Mr. Schroeder has been playing up themes other than unemployment, reminding voters that he firmly opposed the war in Iraq while Ms. Merkel was more accommodating of the U.S. position.

Underlining the German election's impact across Europe, EU competition commissioner Neelie Kroes caused a stir in Brussels on Thursday by endorsing Ms. Merkel, saying a female chancellor of Germany would be "a gift for Europe."

Members of the European Union's executive arm normally don't endorse candidates in national elections. Leftwingers in the European Parliament attacked Ms. Kroes, but conservatives backed her.

Mr. Schroeder's recovery appeared to level off this week among voters who expressed a preference. Germany's electoral system awards extra seats to the main parties when minor parties don't reach a 5% support threshold, and when their strength is concentrated within regions. Both factors could help give Ms. Merkel's party a clear majority.

Write to Marcus Walker at marcus.walker@wsj.com3

The Front-Runner in Germany Runs Scared (NYT)

By MARK LANDLER

The New York Times, September 16, 2005

MAINZ, Germany, Sept. 15 - Three days before an election that has become unexpectedly suspenseful, Angela Merkel turned up on Thursday in this ancient city on the Rhine with a blunt message: Chancellor Gerhard Schröder has failed, and his government ought to be thrown out.

"A person who doesn't have the support of his own party can't put Germany on the right path," said Mrs. Merkel, who, as leader of the opposition Christian Democratic Union, is poised to achieve two firsts: the first woman to become German chancellor and the first former East German to lead the reunified country.

"He promised they would reduce unemployment by two million," Mrs. Merkel declared, recalling a target that Mr. Schröder set before his second term. "Instead it grew. That's the truth."

Her audience of several hundred cheered often, if not quite passionately. Orange placards with the name "Angie" bobbed above the crowd, as the afternoon sun dipped behind Mainz's red-stone cathedral.

Mrs. Merkel is not a feel-good politician. Her stump speeches are lengthy, serious and larded with details. She rarely smiles, and responds to hecklers with a curt tone. She does not look like an Angie.

Yet Mrs. Merkel's sense of grim purpose may suit the moment. After spending four months with a seemingly unassailable lead in the polls, she finds herself in a dogfight with Mr. Schröder.

Mrs. Merkel, 51, is still likely to become chancellor after the vote on Sunday. But her preferred coalition, with the Free Democratic Party, has been falling just short of a majority in the most recent polls. She may have to settle for leading a so-called grand coalition of her Christian Democratic Union and Mr. Schröder's Social Democratic Party.

Given the aura of political invincibility that has enveloped Mrs. Merkel since a weakened Mr. Schröder called for elections in May, that would be seen almost as a defeat.

The campaign has been bumpy for Mrs. Merkel, with a few missteps by her and more blatant gaffes by some of her allies. But what has made the real difference, political analysts say, has been a nimble performance by Mr. Schröder down the stretch.

He has achieved a sort of role reversal, putting Mrs. Merkel on the defensive for her proposals, while largely avoiding any discussion of his own government's record. "For months, the C.D.U. has been seen as representing a new government," said Gerd Langguth, the author of a biography of Mrs. Merkel. "Everybody is asking, 'What would Merkel do,' not, 'What has Schröder done?' "

Mrs. Merkel has played into that strategy, with her penchant for offering detailed policy prescriptions. On Thursday, as she began an explanation of how her party's tax proposals would affect people in various income brackets, people began drifting away from the rally.

"We're telling you before the election what we will do after the election," she said. "We don't want people to be afraid, so that's why we're telling you in clear terms what we plan to do."

In his speeches, Mr. Schröder sticks to generalities about his efforts, while cheerfully ripping into Mrs. Merkel's proposals.

The Christian Democrats have given the chancellor some easy targets, starting with a plan to raise the value-added tax to 18 percent, from 16 percent. Mrs. Merkel said it was needed to plug Germany's ballooning budget deficit; Mr. Schröder said it would hurt lower-income people.

Then Mrs. Merkel appointed Paul Kirchhof, an academic who advocates a flat tax, as her economic adviser. She was initially praised for her boldness, but she has been forced to defend Mr. Kirchhof, to whom the chancellor derisively refers as "the professor from Heidelberg."

This week, under pressure from party leaders, she welcomed back Friedrich Merz, a party authority on budget matters, who had resigned his post last year after a clash with Mrs. Merkel.

Although she has a remarkable personal story - the shy daughter of a Lutheran minister in East Germany who rose to the top of a male-dominated West German party - Mrs. Merkel rarely invokes it.

To her supporters in the crowd in this historical German town, however, Mrs. Merkel's shortcomings as a candidate are less important than her message.

"She has so much courage," said Hanna Kaltenbach, 58. "Schröder is a media star, but he is shallow."

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Andreas Baldauf, 22, a business student at the University of Mannheim, said: "Gerhard Schröder had seven years to fix the situation, and he didn't. It's time to give Angie a chance."

As Mrs. Merkel left the stage, "Angie," the 1970's song by the Rolling Stones, warbled from loudspeakers. It has become the theme song of her campaign, and the crowd did not seem bothered to hear Mick Jagger sing, "All the dreams we held so close seemed to all go up in smoke."

Germans Haven't Forgotten Schroeder's Unfulfilled Pledge (WP)

By Craig Whitlock, Washington Post Foreign Service

The Washington Post, September 16, 2005

BREMEN, Germany -- When he took office seven years ago, Chancellor Gerhard Schroeder made a big promise he didn't keep.

"My most important job is the fight against the scourge of unemployment," he declared in his victory speech after winning the 1998 election. During the campaign, he told Germany's 4 million jobless that he would slash unemployment. Voters should kick him out of office if he failed, he added later.

Today, Germany's jobless rate is worse than ever; the number of people out of work hit a post-World War II high this year. German voters haven't forgotten Schroeder's pledge, and polls suggest they are ready to depose him in Sunday's national elections.

Angela Merkel, the candidate of the Christian Democrats who wants Schroeder's job, and her allies have been relentless in their reminders. "You have spent seven years making empty promises," she said in Parliament last week, telling lawmakers that Schroeder was "a man who has had his chance."

The criticism rings familiar to Schroeder, 61, who defeated longtime German leader Helmut Kohl by harping on the same thing. He called Kohl "the chancellor of unemployment" and ripped him for not having done more to invigorate the economy.

Germany exports more goods than any other country and has the world's third-largest economy. But it has been dogged by high jobless rates and weak economic growth for the better part of two decades. An aging workforce, generous social welfare programs and a cultural resistance to change have stymied efforts by a succession of governments to fix the economic problems.

Schroeder's Social Democrats and their partner in government, the Greens party, were hobbled by large deficits stemming from the huge public investment to unify the country after the Berlin Wall collapsed. The coalition did trim social benefits and cut some taxes to encourage companies to hire more workers, but the strategy has not panned out. Many of Germany's biggest industrial companies remain profitable, but have shifted jobs to Eastern Europe and other regions where it is cheaper to operate.

"He really thought that curbing costs would improve the situation and reduce unemployment -- he really believed that," said Michael Vester, a professor at the University of Hannover, in Schroeder's home town. "But this was an error. It didn't work."

In addition to the worsening job climate, average personal incomes have stagnated on Schroeder's watch. That, in turn, has caused Germans to consume less, hurting economic growth.

Things got so bad that Schroeder decided in May to call new elections a year early. With many lawmakers in his own party abandoning him, he said German voters needed to decide whether the country should continue his policies. In public, he looked tired and beaten. Some analysts suggested that he had lost his enthusiasm for the job.

Since then, Schroeder has recovered some of his zest on the campaign trail. His coalition, known as "red-green" for the colors of its two parties, has gained in the polls by predicting that Merkel's Christian Democrats will shred Germany's social safety net and cut taxes for the rich. But he's offered few new ideas, and polls indicate he faces long odds to win another term.

At a rally in Bremen, a river port in northern Germany, about 4,000 people turned out in a drizzle Wednesday to hear Schroeder defend his record. He seemed to draw energy from the crowd as he pumped his fists in the air and thundered into the microphone.

He talked about climate change, the war in Iraq, health care, social justice, relations with Russia and automobile fuel standards. But he didn't say much about jobs or make any more promises. When he did talk about the economy, he accused the media of ignoring the good news, pointing to a World Bank study that ranked Germany fifth in business innovation.

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"I am proud of this, I am proud of this!" Schroeder said. He acknowledged that more economic changes were necessary, but didn't go into detail. "They will be done -- by us -- so that the social justice in this country remains intact."

Several voters at the party-sponsored event said they would vote for Schroeder and the Social Democrats, but only reluctantly.

Bruno Schroeder, 54, a former financial adviser, said he would support the chancellor (who is no relation), mostly because he disliked Merkel more. He said he usually votes for the Social Democrats, but complained that Schroeder's performance "could have been better."

"He needed to do a better job showing the country the direction in which we need to go," he added.

Thorben Harleng, 26, a student, was also unenthusiastic. When asked what Schroeder needed to focus on, Harleng responded simply: "Jobs." But he said he would vote to reelect the chancellor, calling him a better choice than Merkel. "I don't think she could have done any better," he said.

That Schroeder has made the race close is a testament to his political skills. Though the polls show that Germans favor the Christian Democrats over the Social Democrats, on a personal level, Schroeder tops Merkel, who tends to be reserved and dour, in voter popularity. They think he outshined her last week in a one-on-one debate.

"What is Schroeder's trick in having the contour of 5 million unemployed people disappear in a campaign puff of smoke?" the Frankfurter Allgemeine newspaper said in an editorial this week. "It is the work of a great political illusionist."

Clinton Gathers World Leaders (WP)

By Glenn Kessler, Washington Post Staff Writer

The Washington Post, September 16, 2005

NEW YORK, Sept. 15 -- The U.N. General Assembly may have failed this week to come up with a stirring plan to combat the world's ills. But there was former president Bill Clinton -- once said to have harbored an ambition to become secretary general -- assembling his own mini-General Assembly of presidents, prime ministers, kings and other pooh-bahs on Thursday to devise specific plans for addressing poverty, global warming, religious conflict and better governance.

The inaugural meeting of what he has dubbed the Clinton Global Initiative will stretch over three days of seminars and speeches, bringing together 800 movers and shakers who paid $15,000 each for a seat. If the opening session is any guidepost, the meetings resemble the gabfests at Davos, the annual global economic summit held in Switzerland, or the Renaissance Weekends that Clinton attended as president. But Clinton added a catch -- each of the attendees is required to commit to doing something to improve the world.

"This is more than a photo op, more than business as usual," Clinton said as he opened the session. "All of us come to meetings, we study issues, we say what we think, and too often we complain when the governments that we seek to influence ignore what we think is our sound advice."

So every person attending is required to make a commitment in writing. More than 50 commitments have been made, totaling more than $300 million. Clinton announced four specific commitments -- signed on the spot for the cameras -- which included a $100 million Africa investment fund and a plan to fight HIV-AIDS through micro-enterprise development. One commitment was made by the Clinton initiative itself -- a pledge that all of its activities would be "carbon neutral," promising to mitigate the effects of plane travel and conference preparation by financing renewable energy projects that replace fossil-fuel energy sources.

"What is happening here is the kind of intense dialogue between different people and cultures which should take place at the U.N. but can't anymore because of highly ritualistic structures, protocol and conflict avoidance," said Richard C. Holbrooke, a former U.N. ambassador under Clinton who made the HIV-AIDS commitment.

The initiative, which will take up three floors of a midtown hotel and promises as many motorcade tie-ups as the General Assembly, is the former president's most ambitious attempt to define his post-presidency. Along with the heads of state, former senior Clinton administration officials packed the hall Thursday afternoon.

Organizational mix-ups also gave the event a touch of Clinton nostalgia, as scores of delegates discovered that their credentials were not ready and the meeting began 20 minutes late because people ignored pleas to sit down.

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Clinton has strived to keep his project nonpartisan. He presided over an opening roundtable discussion that included King Abdullah of Jordan, British Prime Minister Tony Blair and Secretary of State Condoleezza Rice.

Sen. Hillary Rodham Clinton (D-N.Y.) participated in another panel.

Rice's attendance was noteworthy, coming after nearly 10 years of Republicans' often tough attacks on Bill Clinton's foreign policy. Her predecessor, Colin L. Powell, once told a friend that he had to cancel an appearance at an AIDS conference in Nigeria early in President Bush's first term after Clinton decided to attend. But Clinton and former president George H.W. Bush have worked closely together in the past year, raising money for victims of the Indian Ocean tsunami and Hurricane Katrina.

Clinton was clearly in his element during the roundtable discussion, as he moderated a broad-ranging and polite exchange between the young king, the seasoned British prime minister and the poised Republican secretary of state. He tossed around ideas -- such as an insurance fund for investors in the Gaza Strip -- and sprinkled a plethora of statistics and facts throughout his commentary. He steered clear of Iraq, the contentious issue that most consumes Jordan, Britain and the United States.

"I don't want to get too much in the weeds," Clinton said, but he bemoaned the expiration of something called the worldwide Multi-Fiber Arrangement , which he said hurt African nations. Lesotho, "with the third-highest AIDS rate in the world, they had 2,000 jobs [before passage of Clinton's Africa free-trade agreement] and 50,000 after, and now have lost 15,000 jobs." What, he asked, should be done about this?

Neither Blair nor Rice rushed to answer Clinton's question.

At another point, Clinton said he had not been away from politics long enough to force them to answer whether high oil prices made their lives easier, a reference to the growing attractiveness of alternative energy sources.

Thomas F. McLarty III, former Clinton White House chief of staff, said the diverse gathering was a "picture worth a thousand words," but he was especially amused that Clinton had enlisted former aide George Stephanopoulos to make a presentation. Stephanopoulos, now anchor of the ABC News program "This Week," earned Clinton's ire by writing a tell-all book. Clinton will appear on "This Week" on Sunday to promote his initiative.

This Conference Will Not Be Like So Many Before It (FT)

By Bill Clinton

Financial Times, September 16, 2005

Sixty years ago, the San Francisco Conference launched the United Nations, even before the second world war had ended. Ten years ago, after terrible bloodshed in the Balkans, the Dayton proximity talks brought long-overdue peace to Bosnia. I hope that future historians will also think of 2005 as another step forward in the not-very-advanced -science of conference-making.

This week, the inaugural Clinton Global Initiative (CGI), a three-day programme, is taking place in New York. More than 40 heads of state are joining me and a large number of participants from a broad swath of civil society: non-governmental organisation activists, legislators, policy experts, business leaders, journalists and writers from every continent. This will be a different kind of conference. At this conference, the activists will have access to the presidents and vice versa. And we will do a lot more than talk. International conferences always sound ambitious, but are rarely places where searching questions are answered. Too often, these sessions are glorified photo opportunities. Then it is business as usual the next day. That is simply not good enough. We need action.

That is exactly what we will try to get at CGI to address four critical challenges: poverty, religious strife, climate change and governance. All difficult – but all solvable. This conference is different because it asks everyone who attends to make a concrete commitment of one kind or another – a cash pledge, or a promise of service or some kind of specific executable plan.

As the conference begins, we have already received some important commitments, including a $100m (£55m) pledge from the Hunter Foundation to support holistic approaches for development; a study by McKinsey, Oxfam and Tufts University on the private sector's role in disaster response; and a public -education campaign to increase -awareness of the UN Millennium -Development Goals led by Bob Rubin and Don Evans.

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As the world moves rapidly and -inexorably towards being more and more interconnected, I think a more open conversation between the world's "haves" and "have-nots" will benefit both. We need to move forward together.

To do so, we must answer some hard, troubling questions. Why is capitalism so robust in some places and failing in others? Why are countries rich in -mineral resources often so poor in -democratic resources? How can we stimulate economies in developing nations and contain environmental damage at the same time? What simple legal and political steps can we take to harness the tremendous energies of the world's billions of poor? When we have some answers, we have to act on them to make change.

I do not claim for a second that this initiative will solve all of these -extraordinarily tough questions, but one thing is clear – the vast majority of us, from all religions and races, all political views, all walks of life, want a better world. There is more that unites us than separates us.

Getting all hese people in one place to focus on these critical problems with a commitment to what each of us can really do to change them is an important first step, and this week it is a step that hundreds of us – activists, presidents and chief executives from every political party and religious affiliation – are taking together.

The writer was the 42nd president of the US

Fox Promises Electoral Order In 2006 (WSJ)

By Mary Anastasia O'Grady

The Wall Street Journal, September 16, 2005

The past five years have been tough political sledding for Mexican President Vicente Fox, the first non-Institutional Revolutionary Party (PRI) president in 70 years. But his sixth and final year in the job may yet prove the most challenging.

The reason is the looming July 2006 presidential elections. Election year instability in Mexico was avoided in 2000 but over time it has tended to be the rule rather than the exception. In an interview Wednesday at the Mexican Mission to the United Nations in New York, Mr. Fox emphasized the country's established 10-year record of fiscal stability and political reform that he predicts will guarantee a smooth transition of power.

His facts are straight. But still, there is the Democratic Revolutionary Party (PRD) and its candidate, Mexico City mayor and leftist firebrand Andres Manuel López Obrador, to worry about. This hard-charging, demagogic socialist with overt authoritarian instincts conceivably could win. Equally worrying are the stunts he might pull if he loses. He has a record of fomenting street violence when he doesn't get his way.

In an otherwise tame environment Mr. López Obrador might not seem so menacing. But his appearance on the national scene comes at a time when there is a frightening rise in organized crime -- a consequence of fierce competition among armed gangs to fill U.S. demand for illicit drugs -- in parts of Mexico, particularly along the U.S. border. Another factor is the weakness of the Mexican economy, largely because government policies haven't responded to the pressures of global competition. Modernizers view these failings with dismay. Mr. López Obrador sees them as an opportunity for populist rebellion.

Mr. Fox's sanguine view comes in large part from his confidence in the Federal Electoral Institute (IFE) and the tribunal that watches over it. The nation, the president assured me, has "not only reached full democracy, full liberty of expression, communication and information" but also has developed the "democratic, strong institutions" necessary for a successful election. Mexico, Mr. Fox asserted, has secured these gains over the past decade under the governance of two different political parties.

In 2000 the IFE acted impressively, ensuring fairness and transparency despite pressure from the PRI to preserve the status quo. Mr. Fox's predecessor, Ernesto Zedillo, earned high marks for his commitment to an independent IFE even though it led to a victory of the National Action Party (PAN) and Mr. Fox. Now Mr. Fox is pledging to be equally impartial, recognizing that Mexico's next six years will depend heavily on confidence in the rule of law. "I don't have any doubts that the process will go as it should be expected to go," he told me.

That Mexicans yearn for a continuation of the transparent, rule-based electoral process that IFE managed in 2000 is undoubtedly true. But that doesn't mean that "AMLO" will cooperate. Mexicans recall what happened when Mr. López Obrador lost the Tabasco governor's race in 1994 by a wide margin to PRIsta Roberto Madrazo. Deciding that his loss was due to Mr.

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Madrazo's exuberant spending, he led a blockade of oil wells. His supporters also organized a massive sit-in, camping out in tents in the Tabasco capital city's main square. Mr. López Obrador called it peaceful civil disobedience but as downtown Villahermosa began to smell like a bear pit, his opponents decided to strike back. Violence erupted before the whole thing was finally put to rest.

A year later, Mr. López Obrador led another, more serious, blockade of government-owned oil operations in Tabasco. It lasted 19 days, covered 60 wells and cost millions in lost output. In Mexico City, corruption scandals have plagued his government, but he counters by painting himself as a downtrodden outsider pledging to uproot the status quo. In truth, he most resembles the career politicians whose machine kept the PRI in power for so long, except that he has a stronger-than-average instinct for the jugular. With the vote still 10 months off, AMLO is already signaling to his machine bureaucracy in Mexico City that he believes the IFE is against him and that he's prepared to make a stink if he loses in a close race.

When I asked Mr. Fox about candidates who might not respect the rule of law, he told me he didn't want to get into names of individuals or parties. But he did say that he believes Mexico has learned from the past through pain and that Mexicans know that returning to authoritarianism, corruption, impunity, populism or demagoguery are dead ends. There is "no way back to the paternalism of controlling the poor through government programs," he said, and Mexicans know that. They are for "stability, the rule of law, discipline and order in public finance and against indebting the country."

In other words, the president believes Mexicans will reject the left-wing populism of Mr. López Obrador and vote instead for a continuation of his government's fiscal stability. Yet he may be underestimating the discontent generated by a sluggish economy, a factor that could produce a tight race.

Even if a pragmatic PRI candidate like Roberto Madrazo or a more long-shot candidate like the PAN's Felipe Calderon were to win, there is the question of AMLO's regard for the rule of law. Referring to what happened in Tabasco, Mr. Fox said, "That situation will not repeat itself in Mexico today because the system has proven for 10 years in a row that elections are respected."

Mr. Fox's commitment to the process is important. But enforcing the rule of law will take more. On security, he points out that his government has pacified Chiapas, modestly reduced crime and turned back the surge in kidnapping. And he remains convinced that the organized crime due to drug trafficking can be handled providing the U.S. makes it a joint effort.

Still the odds have to be in favor of the underworld, given the demand for narcotics across the border. Mexico has already admitted that law enforcement has been seriously corrupted by drug traffickers at some levels and the problem is not likely to go away. That won't help when it comes to dealing with any political instability that arises during an election year. Forewarned is forearmed and that's something not only for Mr. Fox to think about but also for his neighbors to the north to keep in mind.

Another U.N. Charade (WSJ)

The Wall Street Journal, September 16, 2005

The United Nations world summit that has clogged Manhattan traffic arteries for the past three days has a way of clogging minds as well. So let's think carefully about exactly what, other than a commuter's nightmare, this latest exercise in global diplomacy has achieved.

On the plus side, the summit seems to have done no real harm: It has not further extended the authority and reach of the U.N., it has not foisted another "protocol" or "convention" for the Senate to consider, and it has not established another significant seven-letter acronym -- er, agency -- for U.S. taxpayers to pronounce, and especially to fund.

That may be a negative accomplishment, but it is certainly a real one, especially as Secretary General Kofi Annan had envisioned the summit as an opportunity to expand membership in the Security Council, expand his own powers and require rich countries to pony up additional billions in foreign aid, among other brainstorms. It took new U.S. Ambassador to the U.N. John Bolton seven weeks of dogged negotiation to make sure none of that happened, and for this he deserves credit.

On the other hand, the diplomatic price the U.S. paid for a no-harm-done outcome was a no-reform result. It has not been 10 days since Paul Volcker delivered the devastating conclusions of his 847-page Oil for Food inquiry and his call for the complete overhaul of U.N. management practices. Yet already his report is being treated as a historical artifact of no particular relevance. In the U.N.'s strange universe, it's as if Oil for Food never even happened.

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For example, the so-called Outcome Document to which world leaders agreed at the summit specifically "[commended] the Secretary General's previous and ongoing efforts to enhance the effective management of the United Nations." Yet Mr. Volcker's report found, among other things, that Mr. Annan and his staff knew of Saddam Hussein's kickback schemes in Oil for Food but never reported the problem, much less took steps to address it. If this is what the international community thinks is commendable behavior, imagine what sorts of management standards it believes are merely tolerable.

Equally unhelpful have been some of the comments by Secretary of State Condoleezza Rice, who recently gushed to the New York Times that "I've never had a better relationship with anyone than I've had with Kofi Annan."

Assuming (we hope) that Ms. Rice is being insincere, her calculation seems to be that American diplomatic capital should not be spent seeking Mr. Annan's departure, and that U.S. interests at the U.N. are best served by a politically wounded, and thus presumably beholden, Secretary General. She might want to rethink that assumption in light of some of Mr. Annan's recent comments, such as blaming "spoilers" and "governments that were not willing to make concessions" for the failure of the summit. Chief among the governments not willing to "make concessions" was the United States, an implication lost on nobody.

The biggest loser here is the U.N. itself. We have never accepted the view -- increasingly common in some liberal precincts -- that America should conduct no foreign policy in the absence of U.N. benediction, much less that U.N. agencies and offices ought to take the lead role in maintaining international security and promoting economic development. But as long as the U.N. exists, we'd like to think that it can, in limited circumstances, be a useful instrument of U.S. foreign policy, provided the organization is politically credible and relatively effective. This was the original hope for Oil for Food; instead, it became the emblem of the U.N.'s incompetence and corruptibility.

What the outcome of this summit makes clear is that the U.N. patient will not heal itself. On the management side, the Volcker report vividly describes the organization's implacable resistance to reform, for reasons that are both cultural and institutional. Politically, Mr. Annan's original reform proposals were both overambitious and wrongheaded, and while their demise is nothing to be regretted, the fact that the member states could not agree to anything better casts doubt on the possibility that changes will be achieved through international negotiation.

We have a modest proposal of our own. The Bush Administration should insist that the U.N. bureaucracy be placed under a five-year trusteeship to implement the management reforms suggested by the Volcker report. The trustees should be a handful of real international worthies -- Mr. Volcker and his fellow commissioners Richard Goldstone of South Africa and Mark Pieth of Switzerland would fit the bill -- whose probity and good judgment are beyond dispute. The U.S. cannot dictate such terms to the U.N., but Congress has the power to withhold American funding until such a trusteeship is established. We hope it does so.

This is tough love, we know. But the people who should like this idea the most are those who claim to be fervent believers in the U.N. and its multilateral purposes. They can't possibly be proud of the spectacle on display at Turtle Bay during the past two weeks.

Jihad's Fresh Face (NYT)

By WALEED ZIAD

The New York Times, September 16, 2005

OF the many questions surrounding Egypt's presidential elections last week - Were opposition candidates unfairly removed from the ballot? Did the ruling party of President Hosni Mubarak cheat at the polls? - a more general query has gone largely unmentioned: Did this election, or the other recent democratic experiments in Saudi Arabia and elsewhere, really further American aims in the Muslim world?

The answer is troubling. The post- 9/11 prevailing wisdom has held that military force and exporting democracy are the West's twin weapons against terrorism. Islamic fundamentalism is the product of a "medieval" mindset, we are told, and if we can deliver elections to the Arab world, our enemies will cower before the spirit of the Enlightenment.

Yet the establishment of the first popularly elected governments in Iraqi and Afghan history has been followed by more suicide bombings and unabated violence. And nobody expects real change, in terms of political freedoms or human rights, any time soon in Saudi Arabia or Egypt. What are we missing?

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While there is no doubt that elections are a worthy goal, we will not be able to change the Muslim world or dislodge the militancy until we gain a better understanding of the roots of the problem. While these conflicts are often painted as millennium-old, they are essentially modern phenomena, bred of postcolonial politics, social upheavals and territorial struggles.

And as we look at the causes of anti-Western jihadism, we tend to overlook one major contributing factor: the absence not just of democracy but also of grass-roots representative institutions like a free press and independent political, cultural and social-welfare institutions.

Today's jihadists - I call them "neo-fundamentalists," because they are a world apart from earlier fundamentalists - are not throwbacks to the crusades, nor are they, as President Bush unfortunately put it, just "a group of folks." They are a singular and recent byproduct of decades of oppressive rule.

Yes, the Muslim world had an unfortunate introduction to post-Enlightenment ideals, which came in the context of invasion, colonialism and exploitation. But the Arab philosophical and political movement that came out of that experience was not inherently anti-Western. In fact, in traditional Islamic thought the concept of violent resistance against an unjust ruler was virtually unheard of; for classical jurists, tyranny was preferable to the anarchy that accompanies revolt.

The first wave of modern Islamic fundamentalists, which crested primarily in Egypt in the late 19th century and included such figures as the Iranian-born reformer Jamal al-Din al-Afghani and his Egyptian disciple, Muhammad Abduh, opposed colonialism but saw no incompatibility between Islamic and Western philosophy, law or scientific method. These men called for political reform and the revival of free inquiry.

The big change did not occur until the middle of the 20th century. In states like Egypt, Iraq and Syria, colonial governments were replaced by military, Arab-nationalist, royalist or Soviet-sponsored socialist regimes. All deteriorated quickly into dictatorships, emracing the institutions of colonial subjugation.

A host of political parties and civic institutions were founded to challenge the autocrats; many combined Enlightenment concepts like public participation with Islamic ideals of popular consent and justice. Even Egypt's Muslim Brotherhood (founded in 1928) was not a militant revolutionary group; instead it promoted social-welfare programs, democracy and land reform on the Western model. When the mass movements became influential, however, they were answered not by reform but by persecution, ranging from the violent crackdown against the Muslim Brotherhood in Egypt in the 1950's to the massacre of more than 10,000 dissidents by the dictator Hafez al-Assad in Hama, Syria, in 1982.

The story of Sayyid Qutb, the father of neo-fundamentalism, exemplifies what happened next. Qutb was an Egyptian teacher trained in the Western system. Contrary to the conventional wisdom, it was not his trip to America in 1948 that radicalized him. While he was shocked by some aspects of American culture, like women dancing in public, he returned to write about the importance of emulating the educational, economic and scientific achievements of the West.

BUT in the 1950's, he was jailed and tortured for speaking out against Gamal Abdel Nasser's autocracy, while scores of dissidents were executed. Only then did he decide that violence could be used against an unjust government. He spoke as a Muslim, but his rhetoric was grounded in Western-nationalist and leftist revolutionary principles. His call had great resonance, and thus was neo-fundamentalism born.

As persecution continued across the Arab world, the neo-fundamentalist rhetoric became more Manichean and xenophobic. With mainstream opponents silenced, ultraradicals became the loudest voices of dissent. In Egypt, for example, those who emerged from prison in the 1970's formed militant organizations, including Al Jihad, led by Ayman al-Zawahiri, who is now chief lieutenant for Osama bin Laden. These men were not thinkers or theologians; rather, many were disillusioned Westernized professionals, former leftists and nationalists.

This new wave of fundamentalism, unlike all the others before it in the Islamic tradition, is inherently anti-intellectual and reactive; it is more reminiscent of the anarchical movements of 19th-century Russia. This "Islamism" is nihilistic, expressing a lack of faith in all political systems, in history, and in all past social developments. The jihadists justify their actions by claiming that they are returning to "pure" Islamic sources to establish a "government of God." Of course, the paradox here is that the Koran does not lay down a mode of governance. What perhaps we in the United States do not understand is that in rejecting the status quo, these groups demonize not just the West, but mainstream Islamic culture and philosophy as well; they pose perhaps the greatest existential threat to 1,400 years of Islamic tradition.

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So how does this history help us reverse the trend? It requires that we look at the jihadists not as an ancient foe, but as yet another contemporary terrorist group. Recent history - in northern India, Sri Lanka, Kurdish Turkey - has taught us that grassroots democracy and allowing the aggrieved group a public voice can be effective weapons against terrorism. A good strategy would be to support groups across the Muslim world, both secular and religious, that provide social services where the government falls short; they range from women's rights organizations like the Union for Feminine Action in Morocco to trade groups like the Lebanese Businessmen Association.

We must foster these organizations - along with a free press and educational and cultural institutions. At the same time, our corporations should guide local entrepreneurs to promote a free market, the backbone of democracy. If anything is going to come of the neoconservative hope of making Iraq into a beacon of our values, it will be along these lines.

It is vital, however, that we not be put off from helping organizations tied to Islam - faith-based parties calling for peaceful democratic reforms are emerging across the Muslim world as the main political opposition. They are the necessary counterweights to central governments, and without them, autocratic rule, and the neo-fundamentalism that it breeds, will remain the norm.

Waleed Ziad is an economic consultant and aprincipal in the Truman National Security Project.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

Little Progress In FBI Probe Of Anthrax Attacks (WP)

By Allan Lengel, Washington Post Staff Writer
The Washington Post, September 16, 2005

Four years after the deadly 2001 anthrax attacks, one of the most exhaustive investigations in FBI history has yielded no arrests and is showing signs of growing cold as officials have sharply reduced the number of agents on the case.

FBI agents and postal inspectors have pursued leads on four continents, conducted more than 8,000 interviews and carried out dozens of searches of houses, laboratories and other locations. They traveled to Afghanistan twice in the past 16

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months to follow up on tips that proved fruitless, said law enforcement sources, who spoke on the condition of anonymity because of the sensitive nature of the issue.

Within law enforcement circles, some say the investigation, which is referred to as the Amerithrax probe, is in urgent need of a big break.

In the past year, the number of FBI agents on the case has dropped from 31 to 21, authorities said. During the same time, the number of postal inspectors has fallen from 13 to nine. The reward remains the same: $2.5 million for information leading to an arrest and conviction.

FBI officials said yesterday that investigators are still working diligently to find whoever was responsible for the anthrax-bacteria-laced mailings, which killed five people, sickened 17 others and led to the temporary shutdown of the House, Senate and Supreme Court buildings and numerous postal facilities. They said they are getting assistance from forensics experts and scientific researchers from law enforcement agencies, the intelligence community, university laboratories and private corporations.

"This globe-spanning investigation remains intensely active and broadly focused," said Debbie Weierman, a spokeswoman for the FBI's Washington field office. "The FBI and U.S. Postal Inspection Service remain steadfastly committed to the 22 victims of the attacks and to bring to justice those responsible."

The investigation has been so expansive that authorities now are in the process of taking inventory. The FBI and postal inspectors have spent months piecing together a voluminous internal report that will review the scope of the investigation and explore issues including what has been the prevailing theory: The culprit is a U.S. scientist who had access to the high-grade anthrax and the knowledge of how to physically manipulate it and use it as a weapon. That theory emerged early in the investigation and remains viable today, authorities said.

The report will include the names of various people deemed to be "persons of interest" over the years, as well as updates on the scientific tests. Authorities long ago narrowed down the type of anthrax to a strain called Ames but have been unable to identify the lab of origin. Much attention has focused on the U.S. Army Medical Research Institute of Infectious Diseases, housed at Fort Detrick in the Frederick area.

Authorities hope that the report, which is to be completed soon and forwarded to FBI Director Robert S. Mueller III, will provide a concise road map of the probe and help determine its future direction.

Current and former law enforcement authorities said investigators and prosecutors often prepare such reports in complex, high-profile cases that go unresolved for years.

"It doesn't sound like they're close to cracking the case," said Eric H. Holder Jr., a Washington lawyer who was deputy attorney general during the Clinton administration.

The magnitude of the anthrax investigation has parallels to another marathon FBI probe: the 18-year search for the Unabomber, who killed three people and injured 23 others in mail-bomb attacks. Agents pored over 53,000 hotline tips, bomb parts and massive computer databases, but the breakthrough did not come until the Unabomber issued a public manifesto. The document led to the 1996 arrest of Theodore Kaczynski, whose brother recognized his thinking and tipped off the FBI.

The anthrax attacks took place just after the Sept. 11, 2001, terrorist attacks on the World Trade Center and the Pentagon. Spore-laden letters were mailed in pre-stamped envelopes in September and October of 2001 to the offices of then-Senate Democratic leader Thomas A. Daschle (S.D.) and Sen. Patrick J. Leahy (D-Vt.) as well as media outlets in Florida and New York.

Two District postal workers, a Florida photojournalist, a New York hospital worker and an elderly Connecticut woman died. At least 17 post offices and public office buildings were contaminated. Including cleanup costs, an FBI document put the damage in excess of $1 billion.

Over the years, officials have publicly identified only one "person of interest," and that was in August 2002: Steven J. Hatfill, a physician and bioterrorism expert who worked at Fort Detrick from 1997 to 1999. Hatfill, who has not been charged, has denied any involvement and filed a lawsuit against the Justice Department and then-Attorney General John D. Ashcroft.

"He remains innocent today as he was four years ago," said Thomas G. Connolly, Hatfill's attorney. "They were getting enormous pressure, and a way to alleviate the pressure was to offer someone up, and that person happened to be Dr. Hatfill. That caused enormous harm to Dr. Hatfill. It didn't advance their investigation one iota."

Investigators have issued more than 5,000 subpoenas and conducted interviews and research throughout the United States as well as in Europe, Asia and Africa. Two years ago, the FBI spent about $250,000 and three weeks draining a pond in Frederick, acting on a theory that someone might have discarded materials there. The pond yielded nothing useful, authorities said.

In the past year, investigators have tried to follow up on and eliminate as many leads as possible. In case the matter ever goes to trial, they want to be able to counter any defense assertions that they failed to explore alternative scenarios or suspects, sources have said.

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Authorities received information, for example, from at least one detainee at the U.S. military prison at Guantanamo Bay, Cuba, that there was an anthrax storage facility in the Kabul area, sources said. Because the deadly letters contained the Ames anthrax spores, manufactured in the United States, authorities entertained the possibility that they had been removed from a U.S. lab and transported overseas.

Agents checked the Kabul area in May 2004 but came up empty, sources said. In November, on additional information, agents spent weeks searching an area in the Kandahar mountains, several hundred miles outside of Kabul, but found nothing, sources said.

Meanwhile, in the United States, FBI agents and scientists have been working to match the gene sequence of the mailed anthrax spores to a specific laboratory. They remain particularly interested in such laboratories as Fort Detrick, Louisiana State University and Dugway Proving Ground in Utah.

An article published in May in a journal of the American Society of Microbiology and written by a number of scientists, including Bruce Budowle of the FBI laboratory in Quantico, suggested that scientists had still not pinpointed the lab of origin. "Grand leaps in sequencing technology to increase speed, to reduce costs and to maximize efficiency for forensic analysis are needed," the article said.

Clare Fraser, president of the Institute for Genomic Research in Rockville, one of the authors of the article, said of the science: "It's breaking new ground. There's still a lot of work to be done. But I don't think it's impossible to pinpoint."

Even if the test is successful, some scientists and law enforcement authorities caution, it may be of limited benefit because the nation's labs kept poor records of anthrax stocks and of those who passed through the facilities.

In light of the obstacles facing investigators, some relatives of the victims are wondering if the anthrax case will ever be solved. "It's been out there too long. I don't think they're going to find out" who did it, said Thomas L. Morris III of Suitland, whose father, D.C. postal worker Thomas Morris Jr., died of inhalation anthrax in October 2001.

Staff researcher Bobbye Pratt contributed to this report.

Congressman Says Hijacker Documents Destroyed (USAT/AP)

USA Today, September 16, 2005

WASHINGTON (AP) — A Pentagon employee was ordered to destroy documents that identified Mohamed Atta as a terrorist two years before the 2001 attacks, a congressman said Thursday.

The employee is prepared to testify next week before the Senate Judiciary Committee and was expected to name the person who ordered him to destroy the large volume of documents, said Rep. Curt Weldon, R-Pa.

Weldon declined to name the employee, citing confidentiality matters. Weldon described the documents as "2.5 terabytes" — as much as one-fourth of all the printed materials in the Library of Congress, he added.

A Senate Judiciary Committee aide said the witnesses for Wednesday hearing had not been finalized and could not confirm Weldon's comments.

A message left Thursday with a Pentagon spokesman, Army Maj. Paul Swiergosz, was not immediately returned.

Weldon has said that Atta, the mastermind of the attacks of Sept. 11, 2001, and three other hijackers were identified in 1999 by a classified military intelligence unit known as "Able Danger," which determined they could be members of an al-Qaeda cell.

On Wednesday, former members of the Sept. 11 commission dismissed the "Able Danger" assertions. One commissioner, ex-Sen. Slade Gorton, R-Wash., said, "Bluntly, it just didn't happen and that's the conclusion of all 10 of us."

Weldon responded angrily to Gorton's assertions.

"It's absolutely unbelievable that a commission would say this program just didn't exist," Weldon said Thursday.

Pentagon officials said this month they had found three more people who recall an intelligence chart identifying Atta as a terrorist prior to the Sept. 11 attacks.

Two military officers, Army Lt. Col. Anthony Shaffer and Navy Capt. Scott Phillpott, have come forward to support Weldon's claims.

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Moroccan-born Dane Denies Promoting Terrorism In Court Hearing (FINDLAW/AP)

By Jan M. Olsen, Associated Press Writer

Find Law, September 16, 2005

(AP) - COPENHAGEN, Denmark-A Moroccan-born Danish citizen arrested on suspicion of promoting terrorism denied the allegations in court Thursday.

Said Mansour was arrested Sept. 8 in Copenhagen on suspicion of encouraging terrorism by calling for a Jihad, or holy war, against the West in scores of CDs, computer discs and video tapes found in his home.

In his challenge to a court order allowing police to hold him for four weeks, Mansour told the Eastern High Court that he was not a terrorist and that the material was for his personal use. The court is expected to rule Friday.

"I have lived in this country for 23 years and I have always lived in peace," Mansour told the court. "I can assure you, I am no terrorist and I have nothing to do with terrorism."

In three raids on his home since November, police have seized some 3,000 CD-ROMs and roughly 500 computer disks, most containing calls for a jihad. Police also seized 161 CD-ROMs when Mansour was allegedly selling at a Copenhagen flea market in June, and 14 computer disks found in his car during a Danish-German border check in March.

Jihad is Arabic for the Islamic concept of the struggle to do good. However, extremists commonly use it to refer to holy war.

Mansour's lawyer, Claus Bergsoe, said his client had a large archive of material, but did not distribute it. However, Bergsoe also said Mansour acts like a missionary because "he's a man who agitates for Islam."

Prosecutor Lone Damgaard said results of a police wiretap include a tape in which the accused promised to copy a book and a tape. Someone calling themself Mansour in an Internet chat room also claimed to distribute information about Islam, she said.

"That must be some kind of distribution activity," said Damgaard.

Some material stamped with the logo of Mansour's publishing house, Al Nur Islamic Information, was also seized in a mosque in northern Italy and in Hamburg, Germany.

Some of the digital recordings shown earlier this month in court included Chechen Muslims decapitating and shooting Russian soldiers, and the beheadings of American hostage Nicholas Berg in Iraq and Wall Street Journal reporter Daniel Pearl in Pakistan.

If charged and convicted, Mansour could face up to six years in prison.

Mansour has been under surveillance by Denmark's intelligence service for years. Police claim he is tied to the al-Qaida terror network's No. 2 leader, Ayman al-Zawahri, and the blind Sheik Omar Abdel-Rahman, who was convicted in connection with the 1993 bombing of the World Trade Center in New York.

'Scary' U Of M Student Jailed (MCA)

By Chris Conley

Memphis Commercial Appeal, September 16, 2005

When FBI agents walked into Mahmoud Maawad's spartan apartment at 3557 Mynders # 5 on Sept. 9, they found a desk, chair, computer and a Koran.

They also found an airline pilot's uniform, a chart of Memphis International Airport, and instructional DVDs, including one called "How an Airline Captain Should Look and Act."

A federal magistrate Thursday ordered Maawad, a 29-year-old University of Memphis student from Egypt, jailed until his trial on charges of wire fraud and fraudulent use of a Social Security number.

"The specific facts and circumstances are scary," Asst. U.S. Atty. Steve Parker said, arguing against Maawad's release.

Since Maawad can't get a Social Security number, "he can't get a pilot's license, and can't go to flight school," Parker said. "But he wants to get behind the wheel of an aircraft."

Parker said "we don't know either way" if Maawad is a terrorist or connected to any terror groups.

U.S. Magistrate Judge S. Thomas Anderson ruled that Maawad be held without bond.

Though it's not illegal to buy aviation material, Anderson noted, "it is hard for the court to understand why he has a large concentration of those items, and nothing else to indicate Mr. Maawad plans to stay in the community."

Maawad has been in the country illegally since 1999, and has used a false Social Security number to enroll in schools and open a bank account, Parker said.

He's been working off-the-books for cash at a North Memphis convenience store, and was arrested by Shelby County sheriff's deputies last spring for selling alcohol to a minor.

Agents are downloading information from Maawad's computer and analyzing materials from his apartment in search of a terrorism connection.

"My school is everything," said Maawad, a clean-shaven man built like a weightlifter. "I stay in this country for seven years; I stay for the school."

Maawad said he's studying science and economics at the U of M.

Since Maawad can't work legally, he told authorities a friend would support him.

When court employees tried to reach that friend, the telephone was disconnected.

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Between April and August, the penniless student ordered $3,000 in aviation materials, DVDs titled "Ups and Downs of Takeoffs and Landings," "Airplane Talk," "Mental Math for Pilots" and "Mastering GPS Flying," FBI agent Thad Gulczynski testified.

He also ordered a pilot's coat and hat, and a chart of the Memphis airport terminal area from Spotty's USA in San Diego.

When the company didn't receive payment on $2,500 worth of merchandise it had delivered, officials called the FBI, which launched an investigation, Gulczynski said.

Hunger Strike Spreads At Jail For U.S. Terror Suspects At Guantanamo (FINDLAW/AP)

By Stevenson Jacobs, Associated Press Writer

Find Law, September 16, 2005

(AP) - SAN JUAN, Puerto Rico-A hunger strike at the U.S. prison for terror suspects in Guantanamo Bay, Cuba, has grown to its largest point since detainees began their latest protest more than a month ago, a military official said Thursday.

After 11 detainees joined the protest overnight, there are now 131 taking part in the hunger strike, said Maj. Jeff Weir, a spokesman for the detention center.

Twenty-one of the striking prisoners were hospitalized in stable condition at the prison medical clinic, including 20 who were being tube-fed, Weir said.

The military considers a hunger strike to be a form of suicide and Weir said that one prisoner was restrained after he resisted having a feeding tube inserted.

"No facility in the U.S., and hopefully the world, is going to let someone starve to death," Weir said. "We're charged with keeping them in good health, and that's what we're doing."

Guantanamo officials said this latest hunger strike began Aug. 8 with 76 detainees protesting their confinement. It has since grown to more than a quarter of the approximately 500 detainees.

The military defines someone as being on a hunger strike after they have refused nine consecutive meals. There have been at least two previous hunger strikes, but military officials said they were not able to confirm whether this was the largest.

A U.S. human rights group, the New York-based Center for Constitutional Rights, has claimed that some 210 detainees are participating in the hunger strike.

The detainees are accused of ties to the al-Qaida terror network or Afghanistan's ousted Taliban regime. Most have been held for more than three years without charge.

(sj/bf)

PATRIOT ACT:

Heavican Says Patriot Act Not Threat To Average Citizen (KNEB-AM)

KNEB-AM 960, Scottsbluff, NE, September 16, 2005

U.S. Attorney Mike Heavican told Scottsbluff Kiwanians Thursday the average citizen should not fear the expanded power authorities have under the Patriot Act. Heavican, who spoke on the issue in Sidney Wednesday and will be in Chadron Friday, says the only people who should be concerned about the legislation should be those involved in terrorist activity.

Heavican says authorities have always had access to library, bank and medical records for cases involving criminal investigations. Heavican says with the Patriot Act, those powers now expand to cases involving international terrorism. Heavican told the group searches into personal records can only be done if probable cause is established and if the judicial system agrees it is justified.

Heavican says the feds have tried to use their new authority, which includes delayed notice search warrants, sparingly and only under circumstances where somebody's life is in danger, the suspect is a flight risk, or if the investigation would be compromised.

WAR NEWS:

Insurgents Strike Baghdad Again; Two-Day Death Toll Nears 200 (NYT/AP)

By The Associated Press

The New York Times, September 16, 2005

DOJ_NMG_0006188

BAGHDAD, Iraq, Sept. 15 (AP) - Suicide bombers struck the capital again on Thursday, killing at least 31 people in two attacks about a minute apart and lifting the death toll in two days of carnage to nearly 200.

A dozen bombings during a nine-hour spate of terror on Wednesday killed at least 167 people and wounded nearly 600 in Baghdad's worst day of bloodshed since the United States-led invasion in March 2003.

American officials blamed the onslaught on efforts by the Sunni Arab-dominated insurgency to answer a successful joint United States-Iraqi offensive last week in the northern city of Tal Afar and to spark sectarian strife in hopes of undermining the Oct. 15 referendum on Iraq's proposed constitution.

"These spikes of violence are predictable around certain critical events that highlight the progress of democracy," said Maj. Gen. Rick Lynch, the chief American military spokesman in Iraq.

General Lynch said the joint operation in Tal Afar killed 145 insurgents and captured 361 in the second operation in a year to rid the area of militants, including foreign fighters crossing from Syria. Now, he said, American and Iraqi forces were fighting to regain control of the Syrian border, near the western insurgent stronghold of Qaim, on the Euphrates River and well to the south of Tal Afar. "We believe that the terrorists and foreign fighters are entering Iraq across the Syrian border, down the Euphrates River Valley into Baghdad," General Lynch said.

The latest violence only deepened the misery in Baghdad, where streets on Thursday were noticeably quieter and, in the southern Dora district, where the latest bombings were concentrated, deserted.

American and Iraqi soldiers using loudspeakers roamed the district, warning residents to stay indoors because five more suicide car bombers were believed to be in the area.

[Gunmen shot dead two laborers and wounded 13 in the New Baghdad district of the Iraqi capital on Friday morning, Reuters reported. The laborers were waiting to be hired for a day's work when the gunmen opened fire, the police said.]

Clashes were reported Thursday in Ramadi, a militant stronghold on the Euphrates west of Baghdad. A police captain, Nasir Alusi, said American and Iraqi troops in Ramadi came under mortar attack as militants roamed the streets. Shops were closed and streets empty. Gunfire echoed through the area, he said.

The American military did not confirm the report, but General Lynch said operations were continuing in Anbar Province, where Ramadi is the capital.

The United Nations planned to print and distribute five million copies of Iraq's draft constitution before the Oct. 15 referendum, a spokesman said Thursday. The spokesman, Farhan Haq, said officials hoped the Iraqi Parliament would sign off on the text by Sunday. "Once the transitional National Assembly designates a final draft constitution, we stand ready to assist in printing it and distributing that draft constitution so that the Iraqi people can make an informed choice in the upcoming referendum," Mr. Haq said.

Baghdad Toll Nears 200 As Insurgent Strikes Continue (WP)

By Ellen Knickmeyer, Washington Post Foreign Service

The Washington Post, September 16, 2005

BAGHDAD, Sept. 15 -- Insurgents believed to be allied to Abu Musab Zarqawi's group al Qaeda in Iraq kept up bombings in the capital on Thursday, launching strikes that brought the two-day death toll here to more than 190.

The top U.S. military spokesman in Iraq, Maj. Gen. Rick Lynch, said the surge in bombings represented the kind of occasional spikes in attacks that the military has been expecting. Lynch told reporters, "Zarqawi is on the ropes."

Three car bombs in a western neighborhood of the capital killed four Iraqi postal workers and 17 police commandos, police and Interior Ministry officials said. Iraqi and U.S. leaders have identified the commandos as Iraq's front line against the insurgency.

Meanwhile, one policeman was killed in a gun battle with insurgents and another officer was found handcuffed and shot in the head, news agencies said. The bodies of seven unidentified men were found in spots around the capital, blindfolded with their hands tied.

Insurgents also managed to land a single mortar round inside the Green Zone, the base for U.S. officials and Iraq's government. There were no casualties and only minimal damage, U.S. officials said.

A day earlier, at least 14 car bombs across Baghdad killed more than 160 people, the majority of them Shiite Muslim civilians -- the war's highest toll for deaths inflicted by insurgent attacks in the capital.

An audiotape released on an al Qaeda-linked Web site after Wednesday's attacks said Zarqawi's group had opened "all-out war" on Iraq's Shiite majority. The voice sounded the same as that heard in previous, authenticated statements from Zarqawi's group.

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Alleged al Qaeda attacks on Thursday also hit the city of Ramadi, capital of the western province of Anbar, a stronghold of foreign-led fighters. Witnesses said al Qaeda-allied fighters rocketed and shelled two U.S. military installations at Ramadi and traded fire with U.S. patrols in the city.

The U.S. military reported one Marine killed in the fighting at Ramadi and said a would-be car bomber also was killed. Iraqi emergency medical workers said Marine snipers killed six al Qaeda fighters.

The two-day barrage of attacks attributed to al Qaeda in Iraq, and the increasing control of towns in the west along the Euphrates River being asserted by foreign-led insurgents, intensified the U.S. military's focus on Zarqawi.

American commanders often have publicly denigrated Zarqawi's role in the insurgency to little more than that of a media-fostered figurehead. On Thursday, however, Lynch discussed Zarqawi in some of the sharpest terms yet, calling him the Americans' main target and saying the United States was winning the fight against him.

"We believe we are experiencing great success against the most crucial element of the insurgency, which is the terrorists and the foreign fighters. The face of that is Zarqawi and al Qaeda in Iraq," Lynch said.

"We've got great intelligence which tells us where he's moving to and where he's trying to establish safe havens. As soon as we see him trying to establish a safe haven, we will conduct operations," such as the one still underway against northwestern insurgent strongholds in Tall Afar, Lynch said. "We're using all assets under our control in conjunction with the Iraqi security forces to find him and kill him."

Asked why he believed U.S. forces and their allies were succeeding in the fight against insurgents, Lynch pointed to accomplishments in Tall Afar and two other recent or ongoing operations in the west and northwest: 371 suspected insurgents killed and 1,163 detained.

Killings by insurgents, however, also have mounted fairly steadily since Prime Minister Ibrahim Jafari's transitional government was named on April 28. The insurgents' use of increasingly sophisticated roadside bombs and land mines helped make August the third-deadliest month of the war for U.S. troops, with corresponding increases this summer in deaths among Iraqi civilians and security forces.

Defense Minister Sadoun Dulaimi told reporters Thursday that the stepped-up Baghdad bombings were insurgent retaliation for the Iraqi military's leading role in the operation at Tall Afar. "We tell the terrorists, we will never be weak or inattentive. We will chase you wherever you are, in the cities, villages," Dulaimi said. "I think what is happening is the last breath of the terrorists."

[On Friday morning, gunmen killed two day laborers and injured 13 in an attack in the New Baghdad district of the Iraqi capital, police said, according to the Reuters news agency. The laborers were waiting to be hired for a day's work.]

In other violence Thursday, bombs and ambushes killed a total of four policemen in the cities of Baqubah, Samarra and Kirkuk, all north of Baghdad. In southern Iraq, police told news agencies they had found the body of Mahdi Attar, a prominent Shiite cleric. Attar and three associates had been shot or stabbed to death.

Sectarian tensions have multiplied in Iraq in recent months, encouraged in part by insurgents with the avowed intent of provoking civil war. Shiite religious ceremonies have been frequent targets of attacks, and many Shiites fear attacks this weekend, coinciding with their annual pilgrimage to the holy city of Karbala, in southern Iraq.

Also Thursday, a Western official familiar with arrangements for Saddam Hussein's trial by an Iraqi tribunal, scheduled for Oct. 19, said he expected the former president to be tried in connection with a variety of crimes, including the destruction of thousands of Kurdish villages and the disappearance and killing of their inhabitants in the 1980s. Authorities so far have announced charges in only one, smaller event, the killing of 140 Shiite Muslims after an assassination attempt against Hussein in their town.

U.S. forces also released video Thursday from the Sept. 7 rescue of American contractor Roy Hallums, kidnapped from his office in Baghdad 10 months earlier. The video showed what looked to be a narrow, dark cave covered by steel bars, and a wasted but happy Hallums talking to U.S. soldiers immediately after his release.

The cage was in a hole under a farmhouse, and a rug and freezer were placed on the hatch over the hole to conceal it, said Lynch, the military spokesman. U.S. forces had detained someone they believed had information about Hallums's whereabouts and used the detainee to pinpoint the location, Lynch said.

In Najaf, south of Baghdad, police announced the recovery of 150 relics stolen from Iraq's national museums and the site of ancient Babylon, describing some as monuments that required trucks to move. Police arrested four Iraqi suspects. A fifth suspect, an Iranian, escaped, local border police commander Hussein Awais Ghazal said. Illegal trafficking of relics from Iraq's 5,000-year history erupted with the looting accompanying the U.S. invasion and collapse of Hussein's security forces.

Special correspondents Naseer Nouri in Baghdad and Saad Sarhan in Najaf contributed to this report.

More Iraqis Lured To Al Qaeda Group (LAT)

By Greg Miller And Tyler Marshall, Times Staff Writers

The Los Angeles Times, September 16, 2005

WASHINGTON — Al Qaeda's top operative in Iraq is drawing growing numbers of Iraqi nationals to his organization, increasing the reach and threat of an insurgent group that has been behind many of the most devastating attacks in the country, U.S. officials and Iraqi government leaders say.

The group, headed by Jordanian-born radical Abu Musab Zarqawi, previously was composed almost exclusively of militants from other Arab nations, and has symbolized the foreign dimension of a stubborn insurgency fighting to oust U.S. forces.

But Zarqawi "is bringing more and more Iraqi fighters into his fold," a U.S. official said, adding that Iraqis accounted for "more than half his organization."

Although Zarqawi is believed to command fewer than 1,000 fighters, the daring and lethal nature of their attacks, coupled with Zarqawi's links to the Al Qaeda terrorist network, has made him the most notorious figure in the Iraq insurgency.

The U.S. has set a $25-million bounty on Zarqawi, whose organization has been behind a series of beheadings, suicide bombings and other gruesome attacks.

Zarqawi's faction has claimed responsibility for a bombing campaign this week that has left at least 169 dead in Baghdad, apparently in reprisal for a U.S.-Iraqi campaign against insurgents in the northern city of Tall Afar. One of the car bombers reportedly lured day laborers to his vehicle by posing as an employer. It was unclear whether he was Iraqi.

Details of a growing Iraqi dimension to Zarqawi's group were provided by three U.S. officials with access to classified intelligence data and who spoke on condition of anonymity because of the sensitivity of the subject. Their comments reflect the government's latest attempt to come to grips with a multi-layered insurgency that has often confounded U.S. forces and intelligence agencies.

The U.S. officials indicated that the infusion of Iraqis, including, apparently, former members of the Iraqi intelligence service and military, represented a change in the group's makeup rather than a major expansion.

A significant Iraqi presence in the Zarqawi group carries ominous implications, both for the Bush administration and the fledgling, popularly elected government it supports in Baghdad.

The Iraqis under Zarqawi's wing could provide him with better intelligence, and give legitimacy to a group viewed by many Iraqis as unwanted outsiders. In addition, Iraqi recruits are being exposed to the workings of a highly efficient extremist group.

The influx of Iraqis also would diminish the effect of any tightening of border controls — a key Bush administration objective — on the insurgency's strength.

U.S. intelligence in Iraq has frequently been wrong. However, two factors add credence to the reports of the shifting composition of Zarqawi's group: Several of his senior lieutenants have been captured by U.S. forces in recent months and some reportedly have talked extensively under interrogation.

Senior Iraqi officials reported seeing the same development.

Mowaffak Rubaie, Iraq's national security advisor and a former Shiite activist, said "there's no doubt" that once-nationalistic elements of the insurgency were drifting toward Zarqawi and his extremist Salafi sect, also known as Wahhabism, which seeks to establish a puritanical society modeled on early Islamic times.

"There's a tendency to religion-ize the insurgency," he said. "Religion is a strong motive. You're not going to find someone who's going to die for Baathists. But Salafists have a very strong message.

"If you use the Koran selectively, it could be a weapon of mass destruction."

Few Iraqis appear to share Zarqawi's goal of establishing a radical Islamic state, but small numbers of Iraqi hard-liners apparently are attracted by the effectiveness of Zarqawi's group.

"They're the best game in town, the most organized organization," said a U.S. official, who added that Zarqawi's network was also a "well-funded organization that is willing to pay people for their work" when many Iraqis, particularly police, have little or no income.

The officials noted that police in three cities, including Mosul, are not being paid. They declined to name the others.

Officials said it was not clear how dedicated these Iraqis were to the broader Al Qaeda cause, or whether they would be willing to travel outside the country to carry out terrorist attacks in Arab or Western nations.

Zarqawi escaped capture in February near the city of Ramadi, authorities say. He fled on foot as coalition forces at a checkpoint intercepted a truck containing a laptop and documents. Coalition forces since have killed or captured several of his lieutenants. The latest such incident was announced Sept. 9, when a U.S. military official said a high-level aide had been killed in western Iraq.

But the U.S. officials who are familiar with intelligence on Zarqawi's group said the organization had proved remarkably resilient and was organized to withstand losses of key leaders, including Zarqawi.

One of the officials noted that coalition forces thought they had delivered a major blow in January with the capture of Zarqawi's principal bomb maker in the capital. But since then, the official said, "car bombs are way up in Baghdad."

Overall, the officials said, the insurgency in Iraq is divided into three "clumps": religious extremists such as Zarqawi; former members of the Baath Party of Saddam Hussein; and disparate Iraqi groups acting out of local or national interests.

The officials described a steady flow of Saudis, Yemenis and other Arab nationals into — and, in some cases, out of — the country. But officials said foreign fighters accounted for less than 10% of the insurgents in Iraq.

Zarqawi's reported success in recruiting Iraqis to his cause comes as frustration is mounting among the minority Sunni Arabs, who fear they will be marginalized in the new Iraq and are prepared to fight its emergence.

The CIA and other agencies have resisted pressure to provide an estimate of the number of insurgents in Iraq, partly out of concern that it would foster the impression that there is a finite population that can be stamped out.

Rather, officials said intelligence analysts had noted that there were about 800,000 to 1 million Iraqi Sunni Arab men of military age who represent the pool of potential insurgents. How many might turn to violence depends on several factors, starting with the extent to which Sunnis are satisfied with their stake in any new government.

Some Sunnis have objected to the draft constitution that is to be presented to Iraqis in a national referendum next month. The community's sense of estrangement could be heightened if the document is passed, as is likely, over its objections.

"They're going to be extremely disappointed when they fail, and they're going to believe this is the result of fraud and being cheated out of what they deserve," one of the U.S. officials said. "There's going to be some real ratcheting up of Sunni disaffection with the process."

The trial of Hussein, to begin next month, is also likely to add to a sense of victimization among Sunnis, analysts say.

*

Times staff writer Borzou Daragahi in Baghdad contributed to this report.

US Tempers Its View Of Victory In Iraq (CSM)

By Mark Sappenfield, Staff Writer Of The Christian Science Monitor

The Christian Science Monitor, September 16, 2005

WASHINGTON - Since the day in May 2003 when President Bush stood beneath a banner proclaiming "Mission Accomplished," the course of the conflict in Iraq has been one of optimism followed by revision.

From the earliest battle plans, which called for the quick return home of tens of thousands of troops, to the campaign in Fallujah and national elections that followed, the Pentagon had hoped it could largely eliminate lingering unrest before turning security over to Iraqis.

The increasingly bracing tone from the White House and Pentagon, however, points to a new calculus. The persistence of the attacks, as well as their undiminished capacity - witnessed by Wednesday's bombings in Baghdad, which killed more than 150 Iraqis - seems to have confirmed that the insurgency will probably outlast the American occupation.

Indeed, the inability of American forces to defeat the insurgency through strikes such as the current offensive in Tal Afar raises doubts about the possibility of any clear victory for the administration. And it could leave the Iraqis with a years-long task that many planners had not anticipated.

"There has been a clear realization that this war is not winnable in the short term," says Seth Jones, a terrorism expert at RAND Corp. in Arlington, Va.

The change in thinking has come gradually, as pivotal moments in the maturation of the Iraqi state have come and gone - and the insurgency has remained. In the first months after Mr. Bush declared victory, Pentagon officials were loath even to use the word "insurgency" to describe the attacks that killed some two dozen troops in May and June of 2003.

In testimony before Congress that July, Gen. Tommy Franks argued that the attacks did not fit his definition of an insurgency.

A year later, however, the continuing toll of the insurgency was reshaping the Pentagon's expectations. By the spring of 2005, a spike in violence, despite the previous November's successful campaign against the insurgent stronghold of Fallujah and January's relatively peaceful elections, made it clear that political momentum was not enough.

Part of the reason for the failure to plan for uncertainties came from the ideological insistence that almost all Iraqis would see Americans as liberators. Yet it also came from a political calculation that dismissed the lessons of the Clinton years. "There was a sense that there was nothing to learn from Somalia or Haiti or Bosnia," says Dr. Jones.

Some parts of the administration have been slower to reach this point than others. In the midst of the May attacks, Vice President Dick Cheney famously said that the insurgency was in its "last throes." But less than a month later, on June 26, Defense Secretary Donald Rumsfeld said: "Insurgencies tend to go on five, six, eight, 10, 12 years. Coalition forces, foreign

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forces are not going to repress that insurgency. We're going to create an environment that the Iraqi people and the Iraqi security forces can win against that insurgency."

It is this attitude that has moved from post-invasion rhetoric to Pentagon doctrine. In some ways, it is the same measure of victory that the Pentagon laid out two years ago. "At an absolute minimum, we'll be here for [two years], and probably longer, to make sure that [Iraqi forces] are capable of protecting the sovereignty of Iraq," said Lt. Gen. Ricardo Sanchez in an Aug. 7, 2003, Pentagon briefing.

Administration officials have always insisted that events on the ground - and not artificial timelines - would dictate American actions in Iraq. Yet today, the finish line is no more certain than it was two years ago - and the threat that Iraqi forces will be facing when US troops leave is more dire than many military officials imagined.

The result is that Bush's characteristic steel about Iraq still lacks any specifics or certainty. "As a practical matter, no one in the administration is going to admit this," says Anthony Cordesman, an analyst for the Center for Strategic and International Studies here. "Nobody's making military promises that are unrealistic."

There are some positive signs. The offensive to roust insurgents from Tal Afar, which began in May and intensified the past two weeks, has put more responsibility in the hands of the Iraqi military. "It's a very important step in turning over security to the Iraqis," says Rachel Bronson, an analyst for the Council on Foreign Relations in New York.

But there is a long way to go, she and others say. Significantly, when Iraqi President Jalal Talabani suggested this week that Iraqi forces would be ready to replace 50,000 US troops by the end of the year, he quickly reversed his statement and later added that US soldiers might be needed for another two years, though he set no deadline.

Amid this military uncertainty, administration officials have turned to political events as the primary marks of progress. "The referendum on the constitution and the elections at the end of December are the most important aspects of what we're doing now," Gen. George Casey told Congress in June.

Yet Wednesday's attacks in Baghdad suggest that the practical matter of adequately preparing the Iraqi military - not the grand clash of political ideas - will ultimately determine the success or failure of American hopes, analysts say. In a recent paper, Dr. Cordesman writes: "If political developments do have a positive effect, it will be ... because a substantially larger number of Iraqi Sunnis ... see the military balance shifting decisively in favor of Iraqi government forces."

Iraq's President Talks Of Saddam And Better Days (WSJ)

By Daniel Henninger

The Wall Street Journal, September 16, 2005

Jalal Talabani, the president of Iraq, is sitting at a long table set in the middle of a hotel ballroom in Manhattan. This is U.N. Week in New York, the annual opening of the General Assembly. It is 8:30 in the morning and he is talking about Saddam Hussein. The trial of Saddam will begin as scheduled Oct. 19, it will be public and "it will last months." There have been reports that the trial would be limited to a single event -- the 1982 massacre in Dujail of 150 Shiites. Mr. Talabani said the trial will extend well beyond the events in Dujail.

"At first Saddam refused to talk," Mr. Talabani said. The former dictator would not discuss the operational military details of alleged Baathist crimes elsewhere. "Then a young Iraqi judge, a very clever man, said to him, 'I'm very sorry to see the ex-president of Iraq is a coward.' Saddam said, 'I am coward? I can answer every question.' After that, he talked."

While Mr. Talabani is speaking to his interviewers -- writers and editors from The Wall Street Journal -- a man in a suit passes behind the Iraqi president and returns to quietly place a plate before him. It holds three peeled, glistening hard-boiled eggs, sauteed mushrooms and bread. The man returns with a small plate of fresh fruit. President Talabani has tucked a linen napkin into his collar. He is ready to eat.

The Iraqi president looks at his un-plated guests, and with the aplomb of a skilled politician smiles and insists that they get up from their chairs, go over to a table nearby and get some food. "I invited you to breakfast," says the president, beaming.

Mr. Talabani, a hearty man at 72, represents a country presented to the world daily on TV and in print as falling into an insurgent abyss of bombs and blood. Amid this, he conveys remarkable calm and confidence.

"Two weeks ago I was in Najaf," he says of the holy city (pop., 560,000) in the Shiite south. "I went into the streets and into the people and it was calm." He claims that 14 of Iraq's 18 provinces are quiet: "All Iraq is not Fallujah and Tal Afar."

It no doubt requires a deep reservoir of equanimity to keep the constitutional process moving forward amid events like Wednesday's mass bombings in Baghdad. Mr. Talabani, arguably the most popular political figure in fractious Iraq, brings to this project a personal history built from political stress.

At 13, he is said to have begun a secret association of Kurdish students. At 14 he joined the Kurdistan Democratic Party. Back then, in the 1940s, his opposition was the Hashemite monarchy, which denied him entry to medical school. Fortuitously, he became a lawyer, journalist and ultimately a leader of the 25-year Kurdish resistance to Saddam's Baathist dictatorship. In April

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he was appointed to the presidency by the popularly elected National Assembly and is now, in effect, the public face of the new Iraq.

New Iraq's ability to get as far politically as it has turns in no small part on its major players acting responsibly, rare in any nation but noteworthy in a country widely predicted to be heading inevitably to civil war. The Kurdish Mr. Talabani is one such person. Ayatollah Ali al-Sistani, leader of the south's Shiites, is another, as Mr. Talabani explained:

"In the 1920s when British forces came to Iraq, Shiites resisted and they lost everything. This time the Shiites did not make that mistake. For example Sistani, he doesn't call the foreign forces 'occupiers'; he calls them 'guests.' Tell 'the guests' to do so and so. The Sunnis have repeated the mistake of the Shiites of the '20s. Now the Sunnis understand they made a big mistake, and they are trying to improve relations with the United States."

Mr. Talabani also singled out another of Iraq's leaders, the oft-criticized Ahmed Chalabi. "Among civilians, Dr. Chalabi especially has been active in preventing war between Sunnis and Shiites," he said.

But while the Sunnis are starting to understand where their best interests lie, they lack a political center just now. The Kurds and Shiites, Mr. Talabani explains, are relatively cohesive as political entities, but the Sunnis are divided into small, often tribal groups: "Saddam didn't permit any kind of Sunni leadership to emerge." Right now, he said, the Sunnis need assurance that the government can protect them, as in the current joint U.S.-Iraqi offensive against the insurgents in Tal Afar.

Up to now, he said, the anti-insurgent offensives in the Sunni Triangle essentially have amounted to a policy of "liberate and leave." This time with Tal Afar, they intend to stay: "We must keep some forces there or arm local people to defend their freedom."

He acknowledged that Iraq's transition poses a challenge in the region: "All Arab states are afraid of a democracy. A democratic Iraq with different nationalities -- Kurds, Arabs Turkomen, Shiites, Sunnis -- will inspire all the Middle East. The Sunnis of Saudi Arabia, the Kurds of Iran, Syria, Turkey -- when they see this, it will inspire all of them. For that reason none in the Middle East is helpful in having a democratic Iraq." When he is asked to discuss Syria and the current terror inside Iraq, he declines to stay on the record.

At the end, with the three eggs gone, one feels impelled to wish Mr. Talabani good luck. The Iraqis, by now, have earned it.

Write to Daniel Henninger at henninger@wsj.com1

Records Detail Treatment Of Iraqi Captives (LAT)

By Richard A. Serrano, Times Staff Writer

The Los Angeles Times, September 16, 2005

WASHINGTON — Army officers in Iraq told their superiors last year that soldiers often lacked the training to handle detainees, did not always understand what constituted abuse and sometimes used techniques against prisoners that they "remembered from movies," according to military records made public Thursday.

In two incidents described in the reports, bound detainees were shot and killed by soldiers. Although the circumstances were unclear, officers or Army lawyers said afterward that the killings could have been prevented with better training, facilities and understanding by soldiers of the rules of engagement.

The episodes were described last year to Lt. Gen. Paul T. Mikolashek, the Army inspector general who conducted one of more than a dozen reviews in the aftermath of the abuse scandal at the Abu Ghraib prison near Baghdad. In reporting his findings to top Army commanders in July 2004, Mikolashek concluded there were no systemic failures or widespread patterns of detainee abuse.

But according to documents generated for his report, including 1,800 pages of evidence that were obtained and released Thursday by the American Civil Liberties Union as part of a lawsuit to learn more about prisoner treatment, Mikolashek was told of many incidents in which poor training and inadequate facilities created an atmosphere that fostered abuse.

Paul Boyce, an Army spokesman, said the documents represented "Army reports and Army information, where the Army was looking into allegations and sorting out the situation about detainee mistreatment."

But he said they did not show widespread abuse. "The Army has looked carefully at each allegation and addressed it very thoroughly," he said.

Boyce added that there had been more than 400 investigations into allegations of Iraqi detainee mistreatment — many involving individual incidents — since the earliest revelations of sexual abuse and physical mistreatment at Abu Ghraib in January 2004. Thus far, he said, allegations against more than 200 soldiers have led to court-martial proceedings, nonjudicial punishment and other administrative penalties.

Mikolashek concluded in his report that incidents of abuse did not result from deficiencies within the Army. "The Army's leaders and soldiers are effectively conducting detainee operations and providing for the care and security of detainees in an

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intense operational environment," he wrote. "Based on this inspection, we were unable to identify system failures that resulted in incidents of abuse."

But Anthony D. Romero, executive director of the American Civil Liberties Union, said the documents suggested that Mikolashek had brushed aside evidence that there was abuse and significant training problems.

"Our government has failed, and the blame is on Washington, not Hollywood," Romero said.

Romero was referring to an account of a platoon leader who said interpreters were often taken along on raids to pick up insurgents. But there often were not enough interrogators to go with the interpreters, and that meant other officers were thrust into the job of interviewing detainees — even though they had no training to do so.

The unidentified platoon leader, who was with the 4th Infantry Division from Ft. Hood, Texas, said they had to improvise. "Officers and [noncommissioned officers] at point of capture engaged in interrogations using techniques they literally remembered from movies," he said.

The platoon leader did not elaborate on the nature of the techniques used. But he added: "Soldiers need to be trained in basic tactical interrogation techniques. It's going to be done one way or the other. Why not the right way?"

Another report to Mikolashek described one of the fatal shooting incidents that emerged from the documents. In the report, an unnamed officer said a soldier "killed a detainee he was guarding" at a collection point, prior to the prisoner being sent to a prison.

"The detainee's hands were tied … and the soldier shot and killed the detainee," the officer said. "This incident could have been prevented if he had better training."

The officer said the soldier did not understand the Army's rules of engagement, and noted that the soldier was discharged. No other details were provided in the heavily redacted reports released Thursday.

A second incident was detailed in an account by a member of the judge advocate general's office from the 4th Infantry Division. The officer, a lawyer, described a guard who shot and killed a prisoner he believed was trying to escape. The officer said the detainee's hands were cuffed and he was standing behind a prison wire.

"The investigating officer determined the detainee was not trying to escape," the officer said. "He said the incident could have been prevented with better facilities, and training for the guard force."

It was unclear whether the soldiers involved in the two cases mentioned in the reports had been punished.

In his report last year, Mikolashek mentioned an incident in which a bound prisoner was shot and killed by a U.S. soldier, but it appeared to differ from those described in Thursday's documents in that the soldier in question had bragged about wanting to kill an Iraqi.

In other instances of potential abuse, two officers reported that a detainee was forced to sit on the floor while a bottle of water was poured over his head by a civilian U.S. interrogator who "just seemed to be having a good time, because [the] detainee was not talking and never did talk," an unnamed officer said.

Others also took part in abusing the detainee, the officer said. But the incident was not reported to superiors because it was not considered a violation. A staff sergeant interviewed for Mikolashek's investigation complained of a lack of guidance on what soldiers were allowed to do. In interviews about other incidents, officers said commanders had never explained what constituted abuse.

With soldiers overworked in dealing with a crush of detainees, one first lieutenant said that there was no requirement to report abuse, only a "moral obligation" to do so.

Afghan Candidate Wounded; 2 Backers Abducted (NYT)

By CARLOTTA GALL

The New York Times, September 16, 2005

KABUL, Afghanistan, Sept. 15 - A candidate was shot in Nuristan Province on Wednesday morning, and two of her supporters were kidnapped, in an attack before the national election on Sunday, local officials said Thursday.

The candidate, Hawa Alam Nuristani, an anchorwoman on the state-run Afghan Television and Radio in Kabul, was traveling by car to a campaign meeting in Nuristan, her native province, in the east when she was wounded.

"They came under attack by unknown people," the provincial police chief, Gen. Abdul Baqi, said by phone. "She received four rounds from a pistol in her leg. Two others with her, supporters filming her campaign, were kidnapped."

Another woman, the representative of the Women's Affairs Ministry in Nuristan, was in the car, but was not injured, Muhammad Tamim Nuristani, the governor of the province, said.

Ms. Nuristani, the candidate, was treated by American troops in the region and then evacuated to Bagram Air Base, near Kabul, where she was in stable condition, said a United States military press officer, Sgt. Marina Evans. A spokeswoman for the election commission, Bronwyn Curran, said Ms. Nuristani had been shot three times in the hip.

Clerics and elders in the region were gathering to try to secure the release of the kidnapped men, General Baqi said. Early reports indicated that the attackers were not Taliban fighters or other antigovernment insurgents but rival candidates, he said.

Six candidates and four election workers have been killed in the period before the parliamentary and local vote. Seven police officers were killed Wednesday in Oruzgan Province in the south. Their bodies were found with their election registration cards, said the governor, Jan Muhammad.

A police checkpoint was also attacked Wednesday night in Oruzgan Province. Three people suspected of being Taliban fighters were killed and one was captured in the firefight, he said. An American soldier was wounded Wednesday in a roadside explosion in Oruzgan Province, the United States military said in a statement.

Voting May Be Life-and-Death Choice For Afghans (NYT)

By Somini Sengupta

The New York Times, September 16, 2005

QALAT, Afghanistan, Sept. 14 - Who's afraid of democracy in Afghanistan?

In the southern city of Kandahar one morning last week, a candidate for Parliament opened her front gate to find one of her campaign posters scribbled with terrifying threats. "Your children salute me every morning," said one. "Soon, I will salute them back."

Here in the capital of neighboring Zabul Province, suspected Taliban fighters offered the driver for another parliamentary candidate a huge sum of money in exchange for delivering the candidate to them. The candidate said she no longer dared to campaign outside the provincial capital.

And in Shajoy, a market town two hours up the road, some men wondered aloud how many townspeople would have the courage to travel a couple of miles through Taliban redoubts to cast their votes in Sunday's election. Never mind the women; the men said they did not expect any polling places to be open for women anyway.

Nearly four years after the Taliban government was routed from Afghanistan by American-led forces, a newly emboldened insurgency has stepped up a campaign of threats and thuggery on the eve of the country's parliamentary and provincial elections, particularly here in the badlands of the country's south. Elsewhere, the presence of former warlords on the ballot has led to charges of voter intimidation.

But what is just as remarkable is the degree to which so many ordinary Afghans seem unfazed by the threats and violence, and, on occasion, are openly defiant.

Whether Afghan men and women will be able to cast their votes freely and fairly in Sunday's election remains to be tested. For now, even candidates who have been threatened have vowed to stay in the race, even as they have had to limit their campaign activities sharply.

"The day I registered as a candidate I knew about these problems," said Rona Tarin, 34, the Kandahar candidate whose campaign poster was defiled and left in front of her home.

With 68 seats reserved for women in the new 249-member Parliament, Ms. Tarin, a preschool supervisor, is one of nine candidates competing for three seats reserved for women from Kandahar Province.

"How long should I sit at home?" she said, fuming. "How long should I close my eyes? How long should I shut my ears? I have to take my people's problems to Parliament."

The price of running for office in this part of the country can be perilous. Since early June, six candidates and five election workers have been killed, most of them in the south. Last week, security forces turned up two dozen cooking pots filled with explosives behind a Kandahar school designated to serve as a polling place.

Taliban leaflets known as "night letters," left at markets and mosques in several southern provinces, have issued warnings against anyone who participates in elections.

In Khost, to the east, a bomb went off inside a mosque being used for voter registration. In the eastern city of Jalalabad, the convoy of a parliamentary candidate, Safia Sadiqi, was fired on, injuring two campaign workers.

In Helmand, to the west, gunmen ranged across villages threatening to kill anyone who dared go to the polls. Officials with the Afghan Independent Human Rights Commission said they suspected local officials, rather than insurgents, were responsible.

[On Thursday, officials with the rights group said they had also received reports of candidates and local officials preventing other candidates from campaigning freely.]

In parts of central and northern Afghanistan, the reason for fear is less because of the Taliban than the powerful former mujahedeen commanders, who supposedly have been disarmed and removed from public office, but who continue to wield considerable influence in their territory, especially in the countryside.

"People are afraid that those commanders and those who governed by force of weapons, will again win seats and return to power," said Abdul Azim Azimi, a local election observer in the northern town of Mazar-i-Sharif.

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About 200 people with links to militias are running for office, and election observers have accused some of intimidating voters or preventing rival candidates from campaigning. To date, 47 candidates have been disqualified by the elections commission, mostly for links to armed groups.

"How much legitimacy will the new Parliament have?" said Sam Zarifi of Human Rights Watch, which released a report this week documenting election-related intimidation. "Having warlords isn't about their past abuses. It's about their inability to move the country forward."

It is unclear whether international monitors will be able to monitor rural polls, particularly in the south, on election day.

Voter turnout Sunday will signal not only the nerve of Afghan voters, but also their confidence in the still fragile government of President Hamid Karzai and his American backers. Since presidential elections last fall, life in the south increasingly has become precarious and the exercise of politics clouded by growing insecurity, voters and candidates in Zabul and Kandahar Provinces said in interviews this week.

"Slowly, slowly, morale is going down," said Talatbek Masadykov, the chief of the southern region for the United Nations Mission in Afghanistan, based in Kandahar. One reason, he said, is, "the security is not improving," adding, "the central and provincial government cannot deliver assistance to people in very remote areas."

In Shajoy, Muhammad Aziz, a shopkeeper, predicted that only men who live in the town would vote. His relatives two miles away would be unlikely to try to travel into town unless security improved.

Abdul Zahir, a farmer, said that during last year's presidential elections, the men of his village, a couple of miles away, had come to Shajoy to vote, but those farther out of town did not. "This time," he said, "God only knows."

As part of their efforts to reinforce security in the days leading up to elections, an American Army convoy pulled in to Shajoy one morning this week to donate wheat seeds to the local government and hand out radios and clothes to the children.

But to Mr. Zahir, the additional patrols, by American and Afghan soldiers alike, made little difference. "In the daytime, this government is coming to us, and in the nighttime the Taliban are coming to us," he said. "We're stuck in the middle."

Police and election officials, eager to deflect criticism about security, noted that despite intimidation, 1.6 million additional Afghans had registered to vote since the presidential election, bringing the total to 12.6 million. About 5,800 candidates had signed up to run for seats in Parliament and provincial assemblies, and 44 percent of the new registered voters this year are women.

"The people of Afghanistan have brave hearts," said Mullah Gul, a police commander in Kandahar whose men found the body of the last candidate killed in the campaign. "They don't care about death."

Officials with the United Nations-assisted Joint Electoral Management Body Secretariat, which is running Sunday's election, also took pains to note that there was no proof that the six candidates were killed because they were running for office.

Violence may not necessarily subside after the election. For one thing, under Afghan election law, in the event of the winner's death, the runner-up takes office, which some fear could heighten the likelihood of political assassinations.

In these elections, the stakes for women are particularly high. In a society where women customarily cover themselves from head to toe, several women have boldly displayed their faces on campaign placards. But tradition and terror have also sharply curtailed their campaigns.

Torpakai, a public health worker in Qalat running to represent Zabul Province in Parliament, said she feared that there would be no outsiders to monitor the polling places and that the election would be unfair. She said she had not been so hopeless during last year's presidential election or during the earlier constitutional assembly, in which she participated. "Not just me, all the people were optimistic about democracy, optimistic about security," she said.

One of her rivals, Zarmina Pathan, 38, said she did not expect many women in the countryside to vote. She said she approached Sunday's elections with an odd mix of gloom and determination.

"Every time they threaten me, it dashes my hopes," she said. "But I'm running for Parliament. I can't just run away from the elections."

Afghan Parliament Will Have Big Visions, Few Rules Of The Road (CSM)

By Scott Baldauf, Staff Writer Of The Christian Science Monitor

The Christian Science Monitor, September 16, 2005

KABUL, AFGHANISTAN - Nobody ever accused Mullah Mohammad Khaksar, a former Taliban deputy minister, of being an Afghan Thomas Jefferson.

But his goals for Afghanistan sound remarkably like those of a founding father, and like those of the majority of the other 5,700 candidates running on Sunday in the country's parliamentary election. Mr. Khaksar wants a strong central government, improved security, faster reconstruction, and a serious effort to control drug trafficking and government corruption.

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With such broad consensus, Afghanistan should be well on its way toward creating a sound, workable Afghan parliament that serves as a watchdog to the government. But even Khaksar is not so sure it's going to work that way. He fears that many parliamentarians who come to Kabul will be inexperienced, or be just as corrupt as the government they are supposed to be watching over.

"I am very disappointed about the future of this parliament," says Khaksar, a candidate from his native city of Kandahar. "Look, we are building this parliament. But if, instead of using a strong cornerstone, you build with unbaked bricks, will you be able to build a strong building?"

The problem, many candidates and foreign observers say, is the way in which Afghanistan's parliament was created in the country's new constitution. Voters choose candidates as individuals, not as members of a party. This creates an environment where personalities are more important than ideas, coalitions struggle to stick to common agendas, and individual MPs are more easily manipulated by the palace.

"This parliament will not be functional for several years," says Barnett Rubin, an expert on Afghan politics at New York University who helped organize the Bonn Conference in December 2001 that set up the post-Taliban government. Rubin says that President Hamid Karzai's habit of ruling through patronage - rewarding those who support him with better positions or development funds - has now set a precedent for many elected parliamentarians to turn to him as a kind of feudal lord with deep pockets.

"Once elected, what is their main goal? To get reelected," says Mr. Rubin. "The goal is to get benefits to a small number of people, with no notion for the benefit of society." He pauses. "I don't know how they are going to pass legislation."

Yet, already there are signs that some candidates are forming three main coalitions. One, led by Northern Alliance politician Younus Qanooni, will act as a sort of permanent opposition to President Karzai, and will attempt to change the system of government to give parliament more power, including a prime minister. A second faction will be a cross section of independents from around Afghanistan, who side with Karzai on most issues. A third faction of liberal and leftist parties will swing back and forth between the opposition and Karzai, supporting the president on common issues, but voting against him on others.

With many voters expressing frustration at the slow pace of reconstruction, and visible signs of corruption in their government, even Karzai's friends may find it necessary to slap the hand that feeds them from time to time.

Mohammad Iqbal, a young independent candidate from Jalalabad in the eastern province of Nangrahar, says he supports Karzai, and particularly the way he mediates local problems through local tribal elders. But if Karzai fails to clean up corruption in government, fails to rebuild the country, or strays too far from Afghanistan's Islamic traditions, Mr. Iqbal says he will vote against him.

"Friendship is friendship, but if Mr. Karzai is anti-Afghanistan, then even if His Excellency Mr. Bush asks me, I will say no," says Iqbal, with a wry smile. His supporters break out in laughter.

Experts say it will take time for Afghan parliamentarians to figure out the new process, when most of the elected officials have no experience in how to legislate and none will have researchers to help them sort out good bills from bad bills.

"With a limited role for political parties, things will be fluid, with lots of deal- making," says Paul Fishstein, director for the Afghan Research and Evaluation Unit, a think tank in Kabul. Many Afghans are optimistic that things will get sorted out in traditional Afghan ways, but Mr. Fishstein says that parliamentarians are in for a rude awakening when they confront the hard work of legislation.

"A lot of people love to talk about improving security, electricity, water systems, but that's not necessarily what parliament is intended to do," says Fishstein. "They'll be passing budgets, they'll be representing the material interests of their constituencies, and that takes a certain level of skill."

He smiles. "It's going to be an interesting parliament."

Warlords On Ballot Worry Afghan Election Observers (USAT)

By Paul Wiseman

USA Today, September 16, 2005

KABUL, Afghanistan — The presence of warlords and ex-Taliban officials on the ballot when Afghans vote Sunday is raising fears that figures from the past will sabotage efforts to build a stable democracy.

“The Afghan people need a government that is functional and accountable,” says Sam Zarifi, deputy director of the Asia division of Human Rights Watch, an activist group. “The warlords offer neither.”

Millions of Afghans will choose candidates to fill 249 seats in the lower house of the National Assembly and local council seats in 34 provinces. It's a historic step toward establishing democracy in a country riven by decades of conflict. About 30,000 coalition troops are providing security for the election. This week, female candidate Hawa Nuristani was shot and injured and seven registered voters were killed, the Associated Press reported.

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The Electoral Complaints Commission disqualified 21 candidates, citing ties to illegal militias. Afghan President Hamid Karzai cautioned: “Don't vote for bad people.”

In a report released Thursday, Human Rights Watch said warlords are intimidating candidates and voters. It said Allam Khan Azadi, a candidate and commander near the northern city of Mazar-e-Sharif, for instance, threatened to cut the water supply to those who did not vote for him. “Complaints were heard in almost all regions of the country,” the group said.

Abdul Rabb al-Rasul Sayyaf, a warlord, is seeking a National Assembly seat in the capital. After the Soviet Union was driven from Afghanistan in 1989, Sayyaf's Ittihad militia battled rival factions in Kabul. Human Rights Watch says Sayyaf and his rivals are guilty of war crimes.

A former religious teacher at the University of Kabul, Sayyaf said this week that he took up arms to battle the Soviets. “The needs of the country transferred me from the classroom to the bunker,” he said. “If the mujahedin are not worthy to enter politics, who will be?”

Mawlavi Qalumuddin was deputy administrator in the Taliban's Ministry of Vice and Virtue, which enforced rules that banned girls from attending school, women from working outside the home, men from shaving and anyone from flying a kite. He's running for the National Assembly from Logar province.

“I'm sure the people know me and my background,” he says. Qalumuddin says it would be dangerous to ban warlords from the democratic process; isolated, they might turn to violence.

Afghanistan Votes (WP)

The Washington Post, September 16, 2005

FOUR YEARS AGO this weekend, the Taliban dictatorship of Afghanistan rejected a U.S. demand that it break its bond with Osama bin Laden, despite the attacks on New York and Washington one week earlier and the threat of American military action. This weekend, as many as 12 million Afghans will vote in nationwide elections for parliament and provincial councils in a historic step toward democracy. Among the 6,000 candidates are representatives of almost every faction that has contended for power in Afghanistan over the past several decades. There are tribal leaders and Western-educated liberals; communists and the mujaheddin who once fought them and, later, each other; and several former officials of the Taliban itself. Five hundred eighty-two of the candidates are women, who four years ago were banned from holding jobs, going to school or appearing on the street without covering themselves from head to foot. They will fill at least 68 of the 249 seats in the parliament.

It's easy for Westerners, and even Afghans, to lose sight of how much progress this represents. Sunday's vote is not only a breathtaking leap for a nation whose previous government was an Islamic theocracy that mixed medieval social policies with sponsorship of 21st-century terrorism. It also places Afghanistan ahead of almost all of its Central Asian neighbors, who have never held a vote as free. Much of the reporting of Western observers and human rights groups nevertheless has focused on the perceived failings of the political process. Though insurgent activity has fallen off in recent weeks in the face of aggressive operations by some 20,000 U.S. troops and 10,000 NATO peacekeepers, several southern provinces remain insecure and some voters there may be intimidated. Human rights groups protest that warlords guilty of crimes in Afghanistan's civil war are poised to collect votes. At the insistence of President Hamid Karzai, the election system is centered on individuals rather than parties; critics say this may produce a weak or conservative legislature.

While many of these critiques are legitimate, it's worth noting the tenaciousness with which many liberal Westerners have opposed every step by Afghanistan toward freedom. Four years ago, for example, former European Union commissioner Emma Bonino was one of those who condemned the U.S. intervention against the Taliban, which she said would "all but doom" millions of Afghans "to death." Now, incredibly, she leads the E.U.'s observer mission at the elections; not so surprisingly, she's again pessimistic. "I simply don't think this election is going to produce . . . a healthy political life," she told the Financial Times.

Afghanistan surely has a long way to go. Part of the Taliban is still fighting, and more U.S. soldiers (51) have died in combat this year than in any since 2001. Though Kabul is booming, Afghanistan is still one of the world's five poorest countries, and up to 60 percent of its economy comes from the production of poppies for opium. Once the elections are over, Mr. Karzai will still have the problem of edging the former warlords and communists aside and encouraging the emergence of new leaders committed to democracy and human rights. No, political life isn't entirely "healthy." But as the world will shortly see, it is immeasurably better off than it was four years ago -- and than it would have been had the United States hesitated to act.

Will U.S. Abandon Afghanistan? (WT)

By Joanna Nathan And Mark Schneider

The Washington Times, September 16, 2005

DOJ_NMG_0006199

"I will not vote, these elections are not worth anything, the candidates are the same people who destroyed Afghanistan," thunders the taxi driver as we jolt down Kabul's streets. Campaign posters for the upcoming National Assembly and Provincial Council elections on Sept. 18 blanket every non-moving object.

Suddenly, a thought struck him: "If I do vote, I will vote for a woman! They do not have blood on their hands." Hopefully, such revolutionary ideas will occur to many other voters in Afghanistan. Hopefully, they will feel confident enough in the secrecy of the ballot to exercise true choice and secure enough amidst an ongoing insurgency in the south and east to make it to the polling booth in the first place.ÅA

Election preparations have been at full steam for six months now, with more than 12 million voters enrolled and 5,800 candidates, 582 of them women. Ballot papers are a vision in color, featuring a picture and symbol for each candidate to aid illiterate voters.

Weighing more than 1,000 tons, they are now making their way by helicopter, plane, truck, donkey and camel out to 6,000 polling centers across the country.

But despite such impressive technical preparations for these $159 million polls, there are wider concerns about both the framework of the elections and the viability of the institutions they will ultimately create.

The concern most immediately apparent to Afghans, such as our taxi driver, is the lack of a robust vetting system to bar candidates implicated in years of atrocities and drug trafficking. Indeed, the failure of the Karzai administration and his international backers to tackle head-on the perpetrators of past atrocities has led to a culture of impunity, with many of the same people back in power today and now seeking the mantle of a democratic mandate.

The U.N. Office of Drug Control reported at the end of August that Afghanistan produced 87 percent of the world's opium for the second year in a row. It also urged the removal of corrupt governors and officials involved in the drug trade, barring parliamentary candidates with drug ties, and "zero tolerance" toward warlords' involvement in drug trafficking. The latter recommendation has yet to be acted upon by the administration and Coalition forces who argue they are fighting against a still virulent insurgency. Yet, the drug trade is financing Taliban insurgent operations.

The fact that, in what became a highly politicized vetting process, only 32 candidates were barred for retaining links to armed groups has added to local disillusionment.

An inappropriate voting system, the rarely used single non-transferable voting and a political framework hostile to political parties mean these elections are being fought on ethnicity and individuals rather than ideas. In turn, the democratic bodies to emerge are likely to be fractured and weak with no workable caucuses or groupings on which to build a robust political culture.

However, above all these concerns are fears the international community may see these elections widely touted as the end of the transitional process agreed to in Bonn in December 2001 as a time to downgrade commitments to Afghanistan.

It is absolutely imperative that these elections are viewed as the beginnings of democratization, not the end. Afghanistan is still at a perilously fragile stage. This vote will provide the trappings of a democratic state, but there is still little in the way of institutions or resources to exert true control.

The ongoing insurgency in the south and east has been bloodier this summer than at any time since the fall of the Taliban, including the killing of six candidates and even more election workers. Ordinary Afghans continue to suffer some of the lowest social indicators in the world: life expectancy is 45; a woman dies in childbirth every 30 minutes; and illiteracy is running at 70 percent. The Bonn process was about tight deadlines for political transition. The momentum created in this sphere now needs to be used to push forward in other areas.

Previous lessons about the consequences of abandoning Afghanistan should be fresh in everyone's mind. Now, more than three-and-a-half years after the fall of the Taliban, the growing sense of discontent on the streets of Afghanistan is palpable. If Afghanistan is allowed to slip back into being a failed state because the international community turns away after elections, that sense of discontent will be the country's major export.

Joanna Nathan is senior analyst in Kabul for the International Crisis Group, an NGO. Mark Schneider is the ICG's senior vice president and directs its Washington office.

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U.S. Attorney Faces A Lot Of Challenges (DEN)

By David Shepardson, The Detroit News

Detroit News, September 16, 2005

DETROIT -- If nothing else, the U.S. attorney is a man who can cry.

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Stephen J. Murphy III, a former assistant U.S. attorney and General Motors lawyer, repeatedly fought through tears after his formal swearing-in as the top law enforcement officer in eastern Michigan.

A Who's Who of Michigan politicians lauded Murphy Thursday and ribbed him about his performance as an assistant U.S. attorney.

Gov. Jennifer M. Granholm and Murphy were among the "young Turks" who served in the U.S. attorney's office in the 1990s, she noted.

In 1992, Granholm recalled seeing Murphy fall asleep at his desk with his finger on the "Z key."

Granholm and a colleague responded by sending Murphy a phony memorandum sternly reprimanding him for falling asleep on the job.

Among those speaking were Chief U.S. District Judge Bernard A. Friedman, state Attorney General Mike Cox, General Motors general counsel Thomas Gottschalk and Michigan Supreme Court Justice Maura Corrigan.

Unmentioned directly but referenced by several speakers was the continuing fallout from the botched 2003 Detroit terrorism case.

A federal judge threw out the convictions of two Arab immigrants arrested shortly after Sept. 11 after a Justice Department review found evidence of prosecutorial misconduct.

The case and a separate criminal investigation into the conduct of the former lead prosecutor are pending.

Bradford A. Berenson, a former White House counsel's office lawyer, noted that Murphy was taking over "at a time when the office has been through some serious difficulties."

Since taking office in March, Murphy has reshuffled the leadership in the office and issued a two-sentence mission statement. Murphy said his office "is dedicated to doing the right thing."

"We've had ups and we've had downs," Murphy said. "We have a lot of challenges ahead."

And he promised not to fall asleep on the job.

"No way," he said.

CORPORATE SCANDALS:

Former Marsh Brokers, Executives Are Indicted In Bid-Rigging Case (WSJ)

By Ian Mcdonald, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

NEW YORK -- Eight former Marsh Inc. insurance brokers and executives were indicted yesterday by New York state's attorney general, Eliot Spitzer, on criminal-fraud charges including an alleged scheme to defraud and grand larceny, as his yearlong probe of insurance bid-rigging moves into final stages.

Mr. Spitzer alleged that the brokers cheated some corporate clients by rigging bids for insurance contracts in order to steer business to insurers that paid Marsh, a unit of Marsh & McLennan Cos., large commissions.

Mr. Spitzer alleged that the scheme raised clients' costs in at least 35 instances, in a few cases by $1 million or more.

The indicted individuals all formerly worked in a Marsh Inc. group that specialized in excess casualty insurance, which is big-ticket coverage typically sold to large corporations.

Early this year, Marsh & McLennan signed an $850 million settlement with New York authorities and apologized to clients for the "unlawful" and "shameful" behavior of some employees. In recent months, an additional 17 insurance executives and managers, including eight former Marsh employees, have pleaded guilty to criminal charges in the matter.

In New York state court yesterday, five former Marsh employees -- William Gilman, Joseph Peiser, Edward McNenney, Greg Doherty and Thomas Green -- were indicted on charges including scheme to defraud in the first degree, and grand larceny in the first, second and third degrees. The first-degree grand-larceny charge carries a maximum 25-year prison sentence.

Three other former Marsh executives -- Kathleen Drake, William McBurnie and Edward Keane -- were indicted on the same charges, but the grand-larceny charges are in the second degree, with a maximum 15-year prison term.

At least one of the individuals is in talks with authorities about a guilty-plea agreement, according to two people close to the matter, but it wasn't clear when or if a deal would be made.

Mr. Gilman was named repeatedly in Mr. Spitzer's civil lawsuit against Marsh. His attorney, Robert Cleary, said his client "has not violated any laws." Mr. Peiser's attorney, Jerry Bernstein of Blank Rome LLP, said his client "is innocent of these charges, and I am confident he will be found not guilty at trial."

Mr. Green's attorney, Stephen Scaring, said his client "entered a plea of not guilty and he is prepared to defend himself." An attorney representing Mr. Keane declined to comment.

Mr. Doherty's attorney, Maranda Fritz, said Mr. Spitzer's office "is trying to construct claims of criminal behavior against Marsh employees who were actually and consistently working for the benefit of the client."

Attorneys representing Mr. McNenney and Ms. Drake didn't immediately return phone messages. An attorney for Mr. McBurnie couldn't be reached.

Mr. Spitzer said Marsh "should be applauded" for changing its management and business model to avoid conflicts of interest, but added that he couldn't rule out more prosecutions of former or current Marsh employees, among others in the insurance industry.

"This indictment is about the past," Marsh Chief Executive Michael G. Cherkasky said in a statement. "MMC today is focused on the future and is committed to excellence."

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Interpublic Warns Of Illegal Actions (WSJ)

By Brian Steinberg And Suzanne Vranica, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

Interpublic Group, in a sign that its accounting problems are more serious than previously understood, says an internal investigation has turned up instances of "misappropriation of assets" and "falsified books and records" that violated laws, mainly occurring at operations outside the U.S.

The ad holding giant, whose agencies work for such big-spending advertisers as Microsoft, Unilever and Coca-Cola, said in a filing with the Securities and Exchange Commission that it has fired or is in the process of firing "culpable" employees.

Interpublic also said a six-month investigation had confirmed that the company would have to restate its earnings going back to 2000 as a result of several accounting errors. The size of the restatement will be revealed by Sept. 30, the company said, but it noted that the "impact on our results of operations for all periods will be material." Past financial statements shouldn't be relied upon, it added.

Interpublic had reported results ranging from a profit of $397.1 million in 2000 to a loss of $451.7 million in 2003. While investigating its accounting problems, the company hasn't filed an earnings report for 2004 or the first half of 2005.

Yesterday's filing appeared to take Interpublic's long-running accounting problems to a new level. Since late last year several big Interpublic clients, including General Motors and Bank of America, have taken at least some of their business elsewhere. Interpublic had estimated cash and cash equivalents of approximately $1.6 billion as of June 30 compared with debt of about $2.3 billion.

The company's accounting has been the subject of an SEC probe since 2002, when it restated five years of earnings after uncovering $68.5 million in charges in Europe that hadn't been properly expensed. But yesterday's filing was the first time the company had revealed that it may have uncovered possible criminal behavior.

The filing gave few details of the possible unlawful activity, including the amount of money involved, although it said it involved "accounting errors that were qualitatively material." A person close to Interpublic played down the significance of the activity, saying the possible criminal actions represented only a small portion of the company's overall accounting problems.

This person said the number of people involved could be as many as 60 at around 20 locations. Interpublic has around 43,000 employees and between 800 and 900 offices.

An Interpublic spokesman said Interpublic has contacted or will be contacting local authorities in affected areas. "Instances in which we believe there was malfeasance represent a small number of our locations," he said. "The fact we have been able to identify them demonstrates that we are making progress in enhancing our risk-management controls."

The activity Interpublic said was questionable took place primarily at Interpublic operations in Eastern Europe and Latin America, the person said. Those regions account for a relatively small portion of Interpublic's business. More significantly, however, much of the activity occurred at McCann WorldGroup, people familiar with the situation said. McCann is Interpublic's biggest operation and largest moneymaker and was at the center of the accounting problems disclosed in 2002. Interpublic's other agencies include Lowe, Draft and Foote Cone & Belding.

The main cause of Interpublic's accounting errors were "weak controls and our decentralized operational structure," the company said. The bulk of the restatement is owing to inappropriate accounting for lease expenses as well as problems with how Interpublic accounted for revenue and for companies that had been acquired.

In certain cases through 2001, Interpublic consolidated revenue and expenses of businesses in its financial statements before Interpublic had completed their purchase. From the mid-1990s through 2002, Interpublic acquired hundreds of advertising and marketing firms as part of a broader consolidation within the ad industry.

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Interpublic said it expected its outside auditor, PricewaterhouseCoopers LLP, to issue a "disclaimer of opinion" on the effectiveness of its internal financial controls. But Interpublic said it expected the firm to sign off on its 2004 financial statements. The auditing firm said it doesn't comment on client matters.

Any talk of wrongdoing "is going to perk up the ears of the clients," says Alexia Quadrani, a Bear Stearns ad-industry analyst. Advertisers will be asking themselves whether "they can afford to expose their corporate reputation to this," says Lauren Rich Fine, who follows Interpublic for Merrill Lynch and has a "sell" rating on the company's stock. "If you can't clean up your own house, how can I trust you to come up with my company's strategy?" she asked.

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Interpublic Group Retraces Its Accounting Missteps (NYT)

By STUART ELLIOTT

The New York Times, September 16, 2005

THE troubled Interpublic Group of Companies said yesterday that it had found evidence of "possible employee misconduct" in the course of efforts to get to the bottom of persistent accounting problems.

Since an investigation that began in March, Interpublic said in a regulatory filing, the company, its longtime accounting firm and forensic accountants have uncovered potential illegal activities that involved "falsified books and records; violations of laws, regulations and company policies; misappropriation of assets, and inappropriate customer charges and dealings with vendors."

In the regulatory filing, called an 8-K, Interpublic disclosed that the "culpable employees" had been or will be fired, "or are otherwise no longer with the company."

The announcement was the most recent in a series of unexpected disclosures by Interpublic, which has been struggling with financial and operational difficulties for three years, mostly related to weak internal controls. In a news release with the 8-K, Interpublic said it would be able, "barring unforeseen circumstances," to meet a Sept. 30 deadline it had previously set to file delayed financial reports, including results from the last six quarters.

Interpublic said that it would probably be restating earnings for 2000 to 2004 because of systemic accounting problems in revenue, acquisitions and lease expenses.

"I have been clear since assuming my current responsibilities that our top priority is to fix our financial controls and leave accounting issues behind us," Michael I. Roth, co-chairman and chief executive of Interpublic in New York, said in a statement. Mr. Roth's reference was to his assuming the duties of chief executive in January, when he became the third man with that title since Interpublic found the first of its financial problems in August 2002.

In that period, Interpublic has also had four chief financial officers.

The disclosure about the possible misconduct marks the first time in those three years that Interpublic has said that not all the errors leading to its plight were necessarily honest ones. The company's difficulties include two previous restatements of earnings, an investigation by the Securities and Exchange Commission and losses incurred by an ill-advised expansion to auto-racing tracks.

Interpublic said it would provide additional details about the potential misconduct when it reports the delayed financial data, which is to include the 2004 annual report along with results for the full year 2004 and the first two quarters of 2005.

"Instances in which we believe there was malfeasance represent a small number of our locations," said an Interpublic spokesman, Philippe Krakowsky.

"The fact we have been able to identify them demonstrates that we're making progress in enhancing our risk-management controls," Mr. Krakowsky added.

Preliminary findings have uncovered problems involving about 50 employees at a couple of dozen offices outside the United States. Interpublic has about 43,000 employees who work in about 1,000 offices around the world.

Interpublic is the world's No. 3 agency company in revenue, behind the Omnicom Group and the WPP Group, and owns agencies like Campbell-Ewald, Deutsch, Foote Cone & Belding, Draft, Initiative and WeberShandwick. The three years of financial uncertainty, coupled with some losses of large clients and defections of senior managers, have taken a toll on Interpublic, particularly in its stock price.

For instance, an analysis last month by USA Today showed that Interpublic shares were among the worst performers in the Standard & Poor's 500-stock index since a bull market began in October 2002. Interpublic stock closed in trading yesterday at $11.31, down 2 cents, or 0.2 percent.

After the release of the Interpublic statements, Fitch Ratings said it was keeping the company's credit facility ratings at B+ and on negative watch, where they have been since March. On Aug. 31, after Interpublic agencies lost the large Bank of America account, Standard & Poor's said it would keep its outlook at negative for the Interpublic long-term credit rating, which is BB-.

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Analysts who follow advertising stocks had mixed reactions to Interpublic's news.

"We believe confirmation of reporting financials is a positive step in improving visibility," Credit Suisse First Boston said in a report that maintained its rating of outperform on Interpublic stock.

"If management can execute, the risk-reward on IPG is highly favorable and this is a major turnaround story," the report concluded. The letters "IPG" are the symbol under which Interpublic shares trade on the New York Stock Exchange.

The promise to meet the Sept. 30 deadline "should allay some of the worst concerns of investors," J. P. Morgan Chase said in a report, which called the news of the possible employee misconduct "an incremental negative." The report reiterated a rating of Interpublic stock as neutral.

A report that was more downbeat came from Merrill Lynch, which last week lowered its rating of Interpublic stock to sell - a rare call on Wall Street - from neutral.

"While the bulls may find the news that IPG is going to file by the Sept. 30 deadline encouraging," said the Merrill Lynch report, which maintained the sell rating, "we take the view that there is heightened risk concerning IPG's historical profitability and more importantly, its future earnings power in the wake of recent account losses."

Those losses have included the accounts of advertisers like Bank of America and the Lowe's Companies as well as parts of accounts of longtime Interpublic clients like General Motors, Nestlé and Unilever.

Interpublic also warned in the filing that any previous estimates made about the coming restatement or financial results "should no longer be relied upon" because of the extent of the work required to get to the bottom of the accounting problems. That work by the forensic accountants and the Interpublic accounting firm of the last three decades, PricewaterhouseCoopers, has even included performing certain tasks manually that are typically automated.

Interpublic said that when the delayed data are reported, it expects to receive "an unqualified opinion" on the statements in the 2004 annual report.

The initial financial problems that Interpublic found three years ago stemmed mostly from mistakes in intracompany transactions, primarily at European units of the largest Interpublic division, the McCann Worldgroup. The disclosure in March of additional problems attributed them to the weakness in accounting procedures in areas like tracking the hundreds of agency acquisitions made by Interpublic in the 1990's.

Trying To Put Some Reins On Derivatives (NYT)

By RIVA D. ATLAS

The New York Times, September 16, 2005

Seven years ago, Wall Street's top bankers were caught off guard by the near-collapse of the Long-Term Capital Management hedge fund.

Since then, the number and influence of hedge funds have ballooned. The hedge fund explosion has prompted concerns that if a big bet goes wrong, regulators and banks will again be caught up in a collapse. High on the list of worries is the voracious appetite of hedge funds for arcane credit derivatives.

Yesterday, the Federal Reserve Bank of New York met with representatives of 14 banks, as well as regulators from the United States and overseas, to discuss cleaning up the processing of the contracts in the booming market for credit derivatives. There were $8.4 trillion such contracts outstanding at the end of last year, up from $919 billion just three years earlier, according to the International Swaps and Derivatives Association, a trade group.

Credit derivatives and hedge funds were part of the focus of a July report by a team of Wall Street executives, led by E. Gerald Corrigan, the former head of the Federal Reserve Bank of New York and now a managing director at Goldman Sachs.

Mr. Corrigan's committee, which bears the unwieldy name of the Counterparty Risk Management Policy Group, was established at the request of the New York Fed after the Long-Term Capital turmoil. He reconvened the group in January to assess current risks in the markets.

"The report intended to air a significant number of issues in what is a pretty tranquil environment," Mr. Corrigan said in an interview last week. He ticked off a list of shocks the markets have absorbed in recent years, from terrorist attacks to the war in Iraq. The recent allegations of fraud at the $300 million Bayou fund have also had little effect.

In May, investors were briefly reminded that some traders might once again be making aggressive bets without fully understanding the risks. That month, the credit rating of General Motors was cut to junk status and the prices of G.M. bonds fell sharply, disrupting trading in certain baskets of credit derivatives that traded in ways that contradicted elaborate models upon which traders had relied.

Mr. Corrigan noted that the fears of losses on the part of hedge funds and banks alike after the downgrade turned out to be overblown.

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"Anyone with half a brain knows that models are models," he said, adding that the banks and hedge funds should view the downgrade as a learning experience.

What Mr. Corrigan and bankers at the Federal Reserve are more worried about is what happens in the event of a corporate bond default.

Credit derivatives are bets on whether a company will pay its debts. In the event of a default, the party on the losing side of a trade must compensate the institution that holds the other end of the bet.

The problem is Wall Street has been overwhelmed in keeping track of these trades - and if corporate defaults, which are at an 11-year low, suddenly rise, it could have a mess on its hands.

The Federal Reserve called the meeting yesterday to address both a backlog in processing these trades as well as something called assignments, which refers to who holds the contracts at the time they are due.

Credit derivatives contracts were once arranged between banks and other large institutions like insurance companies. Now, banks are frequently entering into these contracts with hedge funds, which as frequent traders may wind up transferring the contract to another party.

The transfers of these contracts have become so frequent that there is often a lag in updating the paperwork for the contract to reflect the new owner, Mr. Corrigan said.

There is also a backlog of 13.3 business days before such trades are completed, according to a June survey by the association. Still, that was an improvement over 17.8 days last year, the organization said.

"The backlog reflects the explosion of activity, but also poses operational risks," Mr. Corrigan said.

One banker who attended and insisted on anonymity because of the confidential nature of the meeting said: "Regulators wanted to get everyone together to make sure the industry knew they were concerned. It was left to the industry to come back with solutions."

The International Swaps and Derivatives Association also issued standards this week to address these issues.

Mr. Corrigan said, "I could not be happier that the Fed and other regulators are taking the initiative to work with the private sector to come up with approaches to get the backlog issue under control."

Bankers give Mr. Corrigan credit for bringing further attention to the growing pains in the credit derivatives market.

"Jerry has a history of paying close attention to the plumbing of the financial system," said Mark C. Brickell, who was for years a senior member of the derivatives group at J. P. Morgan, the largest bank in the derivatives business. "It may not be glamorous but it's very important."

But executives like Mr. Brickell, who now runs an electronic trading system for derivatives, note that there are limits to what Mr. Corrigan's group, or the Federal Reserve, can accomplish.

Mr. Corrigan's group was largely made up of bankers, with a smattering of executives at hedge funds and other investment firms. The Federal Reserve does not oversee hedge funds. And even with the new requirement that hedge funds register with the Securities and Exchange Commission, their trading will remain hard to monitor. The recommendations of Mr. Corrigan and the Federal Reserve do not carry the teeth of regulations, he said.

But hedge fund executives say that they welcome the suggestions.

How Long To Jail White-Collar Criminals? (NYT)

By Andrew Ross Sorkin

The New York Times, September 16, 2005

On Monday morning, L. Dennis Kozlowski, the former chief executive of Tyco International, will learn his fate. Mr. Kozlowski, who was convicted of grand larceny, falsifying business records, securities fraud and other charges, is to be sentenced in New York State Supreme Court in Manhattan and, unless he is granted bail, could be whisked off to Rikers Island to be processed. He faces a prison sentence as long as 30 years.

While recent lengthy sentences for white-collar crimes have been hailed by some as desperately needed deterrents after a deluge of corporate scandals, the sentencing of Mr. Kozlowski, 58, comes at a time when a number of lawyers, including former prosecutors, are questioning whether such sentences are justified.

Bernard J. Ebbers, the former chairman of WorldCom who was convicted of masterminding an $11 billion accounting fraud that bankrupted the company, was sentenced to 25 years in prison.

Because Mr. Ebbers is 63, some have contended that the sentence amounts to a life term. Likewise, John J. Rigas, the 80-year-old founder of Adelphia Communications, was sentenced to 15 years.

"You have to ask yourself whether the proof in these cases warrants such a sentence," said Otto G. Obermaier, a former United States attorney in Manhattan, who had been an aggressive prosecutor of white-collar crimes when he ran the office from

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1989 to 1993. "Ebbers's sentence moved the goal posts pretty far back. You can describe it as a pendulum switch, but it is an overreaction."

Unlike Mr. Ebbers or Mr. Rigas - or indeed most other convicted corporate chiefs, who have been sentenced in the federal court system - Mr. Kozlowski, along with Mark H. Swartz, Tyco's former chief financial officer, who was convicted of the same set of crimes, is being sentenced in a state court. As a result, the judge in the Tyco case, Michael J. Obus, may have more latitude in his sentencing than federal judges, who have a strict set of guidelines to follow.

The convictions of Mr. Kozlowski and Mr. Swartz also differ markedly from some other recent white-collar cases. While prosecutors are asking that Mr. Kozlowski and Mr. Swartz be sentenced to 30 years, Justice Obus has the flexibility to give them as little as one to three years in prison.

Depending on the length of the sentence, both men could be incarcerated in a maximum-security prison like Attica.

No lawyer is suggesting that white-collar criminals not serve time. Rather, lawyers and jurists are asking what the appropriate sentence is for white-collar crimes relative to punishments for other crimes in a post-Enron world.

Jonathan Simon, a professor of law at the University of California, Berkeley, said: "The most obvious comparison for the emerging attitude toward white-collar criminals is the harsh punishment we give to people involved in the drug trade. But both represent increasingly irrational and inhumane levels of punishment."

Noting that he considered Mr. Ebbers's sentence "draconian," he added that "25 years is more than most people would get for rape or a nonaggravated murder."

Of course, the main argument for imposing lengthy sentences is that they serve as a powerful warning to other executives not to break the law. After Mr. Ebbers's conviction in July, Alan G. Hevesi, the New York State comptroller and court-appointed lead plaintiff in the WorldCom securities class action, said it was "important to send a strong message with a severe sentence" because of the billions of dollars and thousands of jobs that were lost as a result of the fraud.

Yet Professor Simon, for one, said he had doubts about whether an especially long sentence worked as a significantly greater deterrent to potential white-collar criminals than shorter terms.

"Deterrence is, in my view, highly contextual," he said. "If you live in a community where young people die all the time from stray bullets - whether they are gang-banging or going to school - it is pretty hard to deter anyone with threats of punishment.

"In contrast, white-collar workers are extraordinarily sensitive to threats since their whole socialization and environment encourage calculation of future benefit and cost."

Mr. Simon suggested that "it would be far more effective to impose a lot of short sentences on a wider group of offenders rather than the example model of harshly punishing a few celebrity cases while most potential offenders know that they are unlikely ever to be caught and punished."

Still, some prosecutors and lawyers suggest that lessons that were supposedly learned during an earlier crackdown on corporate crime in the late 1980's did not stick, in part, because the sentences were too lenient. Michael R. Milken, for instance, was sentenced to three and a half years and served less than two.

Lawyers for Mr. Kozlowski and Mr. Swartz are expected to stress on Monday how different their cases are from those at Enron, WorldCom and Adelphia, companies all forced to file for bankruptcy protection as a result of the crimes. Tyco never filed for Chapter 11 protection, and its underlying business was relatively unaffected by the crimes despite swings in its stock price. The two Tyco figures were convicted of stealing about $150 million by paying themselves unapproved bonuses and conspiring to keep the thefts secret.

In addition to determining a sentence, Justice Obus, is expected to make Mr. Kozlowski and Mr. Swartz disgorge the money they stole. Prosecutors may also seek to have them pay hundreds of millions of dollars that they say shareholders lost as a result of the two executives' falsifying business records and hiding other information from investors, as well as millions of dollars in fines.

It is unclear whether the judge will rule on how much money shareholders should be reimbursed because no definitive amount was established during the trial.

He could decide to hold a hearing to determine the amount or he may leave that to the civil courts, which are overseeing lawsuits against the two men.

Lawyers for Mr. Kozlowski and Mr. Swartz declined to comment.

A spokeswoman for the Manhattan district attorney's office did not return a call seeking comment.

Judge Tosses ITT Shareholder Lawsuit (INDYSTAR)

By J.K. Wall

The Indianapolis Star, September 16, 2005

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A federal judge in Indianapolis dismissed a shareholder lawsuit against ITT Educational Services Inc. Wednesday, saying the shareholders did not adequately demonstrate securities fraud.

U.S. District Court Judge David F. Hamilton gave the shareholders, who had been seeking class-action status, until Oct. 14 to file an amended complaint.

The lawsuit had accused ITT Educational, a Carmel-based for-profit educator, of inflating enrollment figures, falsifying grades, attendance and placement records, and shredding documents just before visits by government investigators.

But Hamilton found that none of the accusations were precise or strong enough under the Securities Exchange Act and the Private Securities Litigation Reform Act, which govern shareholder lawsuits.

The dismissal comes less than three months after the U.S. Justice Department said its investigation of ITT Educational had found no evidence of wrongdoing by the company or its executives. The Justice Department shifted its focus to “local issues” at individual ITT campuses.

The shareholder lawsuit was sparked after the Justice Department sent federal agents in February 2004 to raid ITT Educational’s headquarters and 10 of its campuses. The raid sent ITT Educational’s stock plunging, but they have since recovered most of their value.

ITT Educational operates 79 technical institutes in 31 states serving about 40,000 students.

When Charity Stems From A Lawsuit (NYT)

The New York Times, September 16, 2005

CHARITY, according to popular lore, begins at home. These days, however, it sometimes begins in court. Therein lies a question of propriety, as well as one of just whose interests are being represented.

Call it "settlement charity." Lawrence J. Ellison, the chief executive of Oracle, has settled a shareholder derivative suit, without admitting he did anything wrong, for a $100 million donation in Oracle's name to a charity chosen by Mr. Ellison.

The suit in question is one of three that were filed after it came out that Mr. Ellison sold some Oracle stock at an opportune time in early 2001, weeks before the company reported that it would not meet its sales goals, sending the stock down from levels it has not seen since. The suits saw those sales as insider trading.

Mr. Ellison denied he knew how bad things were getting, and a Delaware judge dismissed one suit, concluding there was no evidence to the contrary. A class-action suit filed in federal court in California is still pending, but this settlement deals with the derivative suit filed in California state court, ostensibly on behalf of Oracle. It demanded that Mr. Ellison turn over to the company the money he saved by selling Oracle shares before the fall.

Had that suit prevailed, Oracle would have received a lot of money, so it arguably was in the interests of the shareholders. But the settlement provides for something else entirely.

Oracle will pay $24 million to the plaintiffs' lawyers, with $1.5 million of that to cover their expenses and the rest for a fee. The company owned by the shareholders will have that much less cash. Mr. Ellison will donate $100 million to charity.

How does that benefit the company? The lead plaintiffs' lawyer, Joseph J. Tabacco Jr., a partner in Berman DeValerio Pease Tabacco Burt & Pucillo, told me Oracle would benefit because its chief executive would not be distracted by having to defend the suit, something one might think could have been arranged had the suit not been filed in the first place.

He also points to new rules by Oracle, not yet detailed, that are supposed to increase protections against insider trading by company officers.

BUT the real gain, to hear Mr. Tabacco tell it, is "a positive benefit for Oracle in fulfilling its obligations as a good corporate citizen." Giving that money to charity "will enhance its reputation and improve its shareholder value."

Some might think that Oracle's reputation is harmed by Mr. Ellison's decision to settle, rather than fight, a suit that called his integrity into question. Others might conclude the settlement does not fit the charge. If Mr. Ellison did harm the company by his trading, he should pay the company, not some charity.

John C. Coffee Jr., a professor of securities law at Columbia University, is not persuaded justice was served. He suggested that it "would be fairer if the plaintiffs' attorneys would take their fee in the form of a charitable contribution that Mr. Ellison would make in their name to charities of his choice." Perhaps, he mused, Mr. Ellison would choose a charity that promotes tort reform.

Mr. Tabacco, unsurprisingly, did not like that idea. "We think it is fair compensation for bringing substantial value to the company," he told me, adding that compromises are necessary in any negotiation and that he had worked hard to get his clients the best deal possible.

"Given the amount of work that went into putting the case to the point that it was ready for trial, we should be fairly compensated," he said.

One fascinating thing about the result, assuming a judge signs off on the settlement, is that the as-yet-unnamed charity could never have filed suit to get the money from Mr. Ellison. But it gets the cash, and does not even have to pay the lawyers.

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There is no doubt that the lawyers, who were chosen by eight shareholders with small stakes, will do very well. It is not nearly as clear that their clients have reason to rejoice.

CRIMINAL LAW:

CIA Leak Investigator Warns Against Document Release (REU)

Reuters, September 15, 2005

WASHINGTON (Reuters) - The Justice Department and the special counsel investigating the leak of a CIA operative's identity pressed Congress to block legislation that would compel the administration to turn over documents related to the case, the department said in a letter released on Thursday.

The Justice Department, in a letter dated September 14, said special counsel Patrick Fitzgerald had advised that producing documents and holding hearings would interfere with his investigation. The letter was sent to the House Intelligence Committee's Republican chairman, Rep. Peter Hoekstra of Michigan.

Congressional Democrats have so far failed in their attempts to pass legislation that would force President George W. Bush and the departments of state, justice and defense to provide Congress with documents relating to CIA operative Valerie Plame.

Republicans on the House Intelligence Committee on Thursday rejected the legislation on a party-line vote. Republicans on the House Judiciary Committee and International Relations Committee rejected similar resolutions on Wednesday.

Republican say Congress should await the outcome of Fitzgerald's investigation.

Democrats countered that Republicans were trying to protect Bush and his top political adviser, Karl Rove.

"We have an oversight responsibility regardless of what criminal investigations may or may not be under way," said Rep. Rush Holt, a New Jersey Democrat.

Lawyers close to the Plame investigation say there are signs that the 20-month-long inquiry could be wrapped up within weeks. The outcome could have major political implications for Bush, whose current approval ratings are the lowest of his presidency.

Plame's husband, former diplomat Joseph Wilson, said the leak was meant to discredit him for criticizing Bush's Iraq policy in 2003 after a CIA-funded trip to investigate whether Niger helped supply nuclear materials to Baghdad.

A reporter for Time magazine has said that the first person to tell him about Plame was Rove. Rove's attorney says Rove did nothing wrong and has been repeatedly assured he is not a target of Fitzgerald's investigation.

Democrats have urged Bush to fire Rove or revoke his access to classified information. It is against the law in some cases to knowingly reveal the identity of an undercover CIA officer.

US Senate Turns Aside Web Gambling Ban For Now (REU)

Reuters, September 15, 2005

WASHINGTON (Reuters) - The U.S. Senate on Thursday turned aside an attempt to restrict Internet gambling in a procedural move, but Sen. Jon Kyl vowed he would try again and said he expected the legislation would become law eventually.

The Arizona Republican tried to attach language restricting Internet gambling to an annual spending bill that must be passed this year, but an unnamed Democrat objected to attaching an unrelated matter to the spending measure under consideration.

Kyl said his legislation would require banks and credit card companies to block payments to online Internet gambling sites. He said some firms were already voluntarily blocking money transfers.

"We will proceed with this, it will become law at some point at some time," the Arizona Republican said on the Senate floor. "There should be no reason why we can't move forward on this."

Sen. Barbara Mikulski, a Maryland Democrat, said that a member of her party had objected to attaching Kyl's language to the spending bill but she was not sure who. Kyl urged the lawmaker to come forward so the concerns could be addressed.

The U.S. Justice Department has said the laws that prohibit interstate gambling apply to the Internet. But Americans have turned to offshore gambling Internet sites as an alternative.

The Senate and U.S. House of Representatives have passed similar legislation in the past but have been unable to reach agreement on a single, identical bill, Kyl said.

Shares of online gambling sites in Britain moved higher on Thursday in anticipation of the Senate action. Partygaming Plc moved up 5 percent to 105 pence while Sportingbet.com Plc moved up 11.3 percent to 321 pence on London trading.

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Man, 66, Convicted Of Chicago Courthouse Bomb Plot (AP)

AP, September 16, 2005

(AP) CHICAGO A counterfeiter who sat in prison dreaming of revenge against the judge who sent him there was convicted Thursday of planning to blow up Chicago's federal courthouse.

Gale Nettles, 66, was also convicted of making a fresh batch of bogus $20 and $100 bills.

Jurors deliberated for about a day over evidence in the two-week trial, which featured tape recordings of Nettles telling an undercover FBI agent that not enough body bags were coming home from Iraq and too many people escaped death in the terrorist attacks of Sept. 11, 2001.

Judge John Keenan of U.S. District Court in Manhattan, a visiting judge who came to Chicago to preside over the Nettles trial, set sentencing for Jan. 12.

Keenan was brought in because the judges who regularly hold court in Chicago's Everett M. Dirksen Federal Courthouse were the targets of the bomb plot federal prosecutors outlined.

Nettles could be sentenced to 70 years in prison for his conviction on two counts of attempting to destroy the building and six additional counts of counterfeiting.

Prosecutors said it was unclear what the sentence might be under federal guidelines, which are only advisory. But they said with his previous record Nettles could expect a long sentence.

Nettles claimed that he was a victim of entrapment by federal officials. But prosecutors told jurors that Nettles talked about taking revenge on court officials before he ever had contact with the agents who gathered evidence against him.

Nettles was serving time for counterfeiting in a federal prison in Mississippi when another inmate told officials that he was talking of bombing the courthouse where he was sentenced.

After he was released, Nettles went searching for ammonium nitrate -- the same fertilizer that was used by Timothy McVeigh to blow up the federal building in Oklahoma City.

The FBI saw to it that he got urea, a substance that looks like ammonium nitrate but which would not have exploded if detonated in the way that Nettles planned.

Nettles then went looking for a member of Osama bin Laden's al-Qaida terrorist network. What he found was an undercover FBI agent who was posing as a terrorist. Nettles sold a batch of the urea to the undercover agent, who made many of the recordings that were played for the jury.

Prosecutors told jurors that besides planning to blow up the courthouse, Nettles was hoping that his blast would level the Kluczynski Federal Office Building across the street.

Counterfeiter Convicted Of Plot To Blow Up Courthouse (CHIT)

By Michael Higgins, Tribune Staff Reporter

Chicago Tribune, September 16, 2005

A counterfeiter known in prison by the name "Ben Laden" was found guilty Thursday of trying to blow up Chicago's federal courthouse.

A U.S. District Court jury deliberated for about one day before finding Gale Nettles of Chicago guilty of plotting to destroy the courthouse with a bomb that was to be made out of fertilizer and diesel fuel.

Nettles' defense attorney, John Theis, argued that the FBI entrapped Nettles by, among other things, having an undercover officer repeatedly offer to sell him the fertilizer.

But Assistant U.S. Atty. Brandon Fox disputed that in his closing arguments Wednesday.

"This defendant had no reluctance at all," Fox told the jury. "This was something he was going to do from the beginning... He was going to take down this building."

Nettles , 67, was also found guilty of making counterfeit money, some of which he used to obtain the fertilizer. Nettles, who is to be sentenced Jan. 12, was acquitted on one count of providing material support for terrorism. Prosecutors said Nettles hatched the scheme in 2003 while serving a prison term in Yazoo City, Miss., for counterfeiting.

A prison informant tipped authorities to the plan, and after Nettles was released, a sting operation was set in motion, prosecutors said.

After Nettles showed interest in pursuing the plan, undercover agents and informants approached him. They offered him computer equipment to make counterfeit bills and sold him fertilizer, prosecutors said. Although the fertilizer sold could have been dangerous if mixed with fuel, it would not have had Nettles' intended impact, prosecutors said. It was not the type needed for a bomb such as the one used to destroy the federal building in Oklahoma City, they said.

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The FBI provided a fake customer, a cabdriver named "Ali," when Nettles wanted to sell some of the fertilizer at a profit, and agents recorded Nettles' conversations with Ali and others, prosecutors said.

In his closing argument, Theis disparaged the "so-called bombing plot." He said that when Nettles was living in Chicago in 2004, he had no money, no transportation and no means to engage in any such plot.

Theis said Nettles would go weeks or months without contacting the undercover agents, which forced them to call Nettles.

"They are the ones who are putting [the plan] in action," Theis said. "If they just left him alone, we wouldn't be here."

Prosecutors argued, however, that Nettles' statements in prison showed that he was "predisposed" to commit the crime, a factor that can defeat an entrapment defense.

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Attorney: 'Joey The Clown' Writes Again (CHIST)

By MIKE ROBINSON, ASSOCIATED PRESS

Chicago Sun-Times, September 16, 2005

Missing reputed mob figure Joseph "Joey the Clown" Lombardo has written a new letter to his attorney disputing testimony from an FBI agent, the attorney said Thursday.

Lombardo is among 11 alleged organized crime figures accused in a federal indictment last April of conspiring in a series of at least 18 long unsolved mob killings.

When federal agents rounded up those charged in the indictment they were unable to locate Lombardo and he has been missing ever since.

In May, Lombardo attorney Rick Halprin delivered a four page letter from his client to U.S. District Judge James Zagel offering to surrender if he could have a separate trial.

Nothing came of that.

Halprin said in a telephone interview Thursday night that he has received a new letter from the 75-year-old Lombardo, handwritten on both sides of a single page.

Halprin said the letter was postmarked Chicago and dated Aug. 25. He said two Chicago newspaper clippings were in the envelope.

Asked why he is sure that the letter is authentic, Halprin said: "Because I know his printing and I sure know his signature."

Halprin said the letter takes issue with testimony before the Illinois Gaming Board by John Mallul, the head of one of the FBI's Chicago-based organized crime squads.

The testimony came at a July 19 hearing at which the Gaming Board was trying to cancel the dormant license of the Emerald Riverboat Gambling Casino which was to be based in Rosemont.

Mallul testified that in May 1999, Lombardo and other mob figures and mob associates met with Donald Stephens, the mayor of the tiny suburb near O'Hare International Airport.

Stephens has denied that such a meeting ever took place.

Halprin said Lombardo denies it in his letter.

"He says he's willing to take a lie-detector test or take truth serum," Halprin said.

Asked how Lombardo could take a lie-detector test while on the lam, Halprin said: "There is a logistical problem with that sentiment."

Halprin said he had not shown the letter to anyone. He said the letter was addressed to him and not to Zagel or federal prosecutors.

But he said that if prosecutors think "there is forensic value in it they can subpoena it."

A spokesman for the U.S. attorney's office, Randall Samborn, declined to comment.

Second Lombardo Letter Surfaces (WMAQ-TV)

WMAQ-TV, September 16, 2005

CHICAGO -- Joseph Lombardo, who is alleged to be one of Chicago top mobsters, sent his attorney another letter, Unit 5's Carol Marin reported exclusively on Thursday.

Lombardo, who carries the nickname "The Clown," has been on the run since April, when he was indicted on racketeering conspiracy charges. While he has not been seen, he is being heard from.

"Dear Rick," said Lombardo to his attorney, Rick Halprin, in his latest letter. "How can a person be in so much trouble without committing a crime?"

Lombardo's letter was dated Aug. 24 and postmarked Aug. 25 -- in Chicago.

"I have no idea where Mr. Lombardo is," Halprin said.

It was the second time Halprin has a received a letter from his client since his indictment. Lombardo is one of 14 reputed mobsters implicated in 18 unsolved murders. But that is not why Lombardo wrote his attorney, Marin reported. Rather, it was two Chicago Sun-Times articles Lombardo clipped and included his letter. One of the stories linked Lombard to Donald Stephens, the mayor of Rosemont.

For years, Stephens has tried to have a casino built in the town he founded 50 years ago. And also for years, Stephens has battled allegations of mob connections, including an FBI agent's testimony in July that Stephens met mobsters, including Lombardo, for dinner in 1999.

"Let me inform you it is positively a lie," Lombardo said in his letter.

Illinois Attorney General Lisa Madigan has moved to deny Rosemont a gambling license, citing Stephens' alleged involvement with the Chicago Outfit. But appearing at a hearing before the Illinois Gaming Commission, Stephens said he actually threw the outfit out of Rosemont decades ago.

When asked about whether there is definitive evidence that proves that Rosemont is mobbed up, Bob Clifford, an attorney representing the Emerald Casino that was to have been built in Rosemont, said, "we are talking about speculative evidence. We're talking about triple quadruple hearsay."

Lombardo has said he's willing to take truth serum or a lie detector test alongside the FBI agent to see who is telling the truth, Marin reported. In his other letter, written to federal Judge James Zagel, Lombardo also proclaimed his innocence. The U.S. attorney's office did not have any comment.

Stephens: I Didn't Meet With Mob (CHIST)

By CAROL MARIN AND SHAMUS TOOMEY, Staff Reporters

Chicago Sun-Times, September 16, 2005

Rosemont Mayor Donald E. Stephens adamantly denied under oath Thursday that he met with the mob in 1999 to talk about a casino for his town. And, in an ironic twist, a reputed mob boss on the lam is backing him up.

Joey "The Clown" Lombardo fired off a letter to his lawyer last month denying an FBI informant's claim that Lombardo and other alleged hoodlums met with Stephens at Armand's, an Elmwood Park restaurant, according to Rick Halprin, Lombardo's lawyer.

"Let me inform you that it is positively a lie," the hand-printed letter, which included misspellings, read. "I have never, never, ever sat down with Mayor Stephens and the rest of the names in the article. I will take truth serum or lie detector test if the agent and there reliable witness will take one. It has to be done by a private co., not the FBI."

Lombardo, 76, has been missing since a major federal indictment linking the mob to 18 unsolved murders came down in April. Shortly after the indictment, a letter from Lombardo arrived by mail at Halprin's Chicago office. That letter, postmarked in Chicago and directed at U.S. District Court Judge James B. Zagel, proclaimed his innocence and asked for a separate trial from the others indicted.

The latest letter was dated Aug. 24 and postmarked Aug. 25 in Chicago. The letter was on three-ring notebook paper and was accompanied by two Chicago Sun-Times articles, including a July 19 clipping about Lombardo's alleged meeting with Stephens, Halprin said.

"I have no idea where Mr. Lombardo is," Halprin said. "I'm saying the same thing I've said over and over again: It's my obligation to tell Joey, I can only tell him he should surrender himself and prepare for trial."

'Ridiculous nonsense'

FBI agent John Mallul had testified on July 18 that an informant told him of the Armand's meeting. Mallul's testimony came during a state Gaming Board hearing to revoke the license of Emerald Casino, which has been trying to open a casino in Rosemont but has been bogged down by mob allegations.

Lombardo says he also sent a separate letter to Rosemont's village attorney denying the Armand's meeting. "And also if I met with these people on that date, May 29th, 1999 I would have been in violation of my parole and probation," the letter to Halprin read.

Rosemont attorney Bob Stephenson confirmed he recently received two letters, purportedly from Lombardo. One appeared to mirror the Halprin letter, the other was a brief note in which Lombardo told Stephenson he remembered him from an old Teamsters trial, Stephenson said. The letters were signed "Joseph Lombardo I'm an innocent man," wording similar to the letter sent in the spring.

The Rosemont letters were turned over to the feds, Stephenson said.

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Word of the latest round of Lombardo correspondence came as Stephens testified before retired Judge Abner Mikva, who will rule whether Emerald should lose its gaming license. Stephens testified he was "absolutely not" at the Armand's meeting -- and said he had never even been to the restaurant.

Outside of the hearing, Stephens, 77, called the Armand's allegation "such ridiculous nonsense."

'I hate my son-in-law'

"The FBI agent said there was some informant. Well, at the very least, the informant's a liar," Stephens said. "As a matter of fact, I also understand that my [ex-]son-in-law was at this meeting. I've got news for you, I hate my son-in-law. I've never gone around the block with him in my car. Never."

Ex-Mobster Claims An FBI Cover-Up (NYS)

By JERRY CAPECI

New York Sun, September 16, 2005

A turncoat Luchese mobster who helped authorities nail two suspects in the deadly Seton Hall arson five years ago has now turned the tables on law enforcement, claiming that a high-level FBI agent, together with New Jersey investigators, have knowingly kept an innocent man incarcerated for 12 years for a murder he didn't commit.

In a 14-page affidavit, mob defector Thomas Ricciardi, whose cooperation has also led to convictions of mobsters and mob associates, alleged that the officials learned they had wrongly convicted the gangster just four days after he was found guilty in 1993.

Driver For The Mob Gets 20 Years (NYNSDY)

By Anthony M. Destefano, Staff Writer

New York Newsday, September 16, 2005

Anthony Urso, the driver for Bonanno boss Joseph Massino who briefly took over command of the crime family in 2003, was sentenced to 20 years in prison for the killing of a mob associate.

"I am sorry for the harm I did to my own family," Urso, 69, said before U.S. District Judge Nicholas Garaufis sentenced him in Brooklyn Thursday

Urso, known by the moniker "Tony Green," told Garaufis he earned the nickname because he once worked at a company known as "T. Green."

Urso, who had been living in East Meadow until his arrest, pleaded guilty earlier in the year to taking part in the murder of Anthony Tomasulo. Tomasulo, a Bonanno family associate, was killed in May 1990 after he allegedly failed to pass along some of his illegal gambling proceeds from joker-poker machines to the crime family administration, officials said.

Informants and trial testimony revealed that Tomasulo was shot to death.

Urso could have faced as much as 30 years in prison, his lawyer, Edward P. Jenks of Mineola, said. Jenks said his client had no legal problems until the current case.

"This guy never had a parking ticket until now," he said. "Effectively it is a life sentence."

Urso had been a driver for Massino over the years. Massino, who was convicted in July 2004, is now a cooperating witness for the government.

Blagojevich Surfaces In Pension Probe (CHIST)

By CHRIS FUSCO, DAVE MCKINNEY AND SCOTT FORNEK, Staff Reporters

Chicago Sun-Times, September 16, 2005

Gov. Blagojevich and two top fund-raisers schemed to steer lucrative state pension deals to investment firms and consultants who agreed to donate to Blagojevich's campaign, a key figure in a widening corruption probe claims he's been told.

The unproved but explosive allegation surfaced Thursday in a federal plea deal by Chicago lawyer Joseph Cari, a former finance chairman for the Democratic National Committee. Cari, 52, pleaded guilty to attempted extortion for his role in a kickback scheme the feds say was directed by former state teacher pension board member Stuart Levine.

'Fund-raising strategy'

Blagojevich said he had "no knowledge whatsoever" about any pension deals being traded for contributions to his campaign. "Absolutely not," the governor said. "I know nothing about any of that."

Cari's 17-page plea offers no indication he ever spoke directly to Blagojevich or anybody from his political fund-raising operation, but the document laid out a broad "fund-raising strategy" outlined to Cari by Levine. Levine told Cari that he and Blagojevich's two fund-raisers would "not let an Illinois public pension fund . . . invest in a private equity fund" unless that firm hired a consultant they chose, and that consultant agreed to make "certain political or charitable contributions."

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Blagojevich was not specifically named in the Cari plea, which referred to him as "Public Official A." Sources confirmed to the Chicago Sun-Times that the governor is Official A. The administration said it had no idea who Official A is.

Top Blagojevich fund-raisers Antoin "Tony" Rezko and Christopher G. Kelly were referred to in the plea as "two close associates" of the governor who helped him "pick law firms, investment banking firms and consultants that would help Public Official A." The Sun-Times confirmed their identities through the same sources.

Blagojevich, Kelly and Rezko have not been charged with any wrongdoing. Attempts to reach Kelly and Rezko were unsuccessful.

Also Thursday, former teacher pension board outside counsel Steven Loren, 50, pleaded guilty to tax-related charges tied to the alleged scheme. Both Cari and Loren are cooperating with prosecutors.

The scheme outlined in Cari's plea deal is similar to allegations raised earlier this year by Blagojevich's estranged father-in-law, Chicago Ald. Richard Mell (33rd), who accused Kelly of orchestrating appointments to state boards and commissions in exchange for contributions to Blagojevich.

Under threat of lawsuit from Kelly, Mell retracted the claim. But it still triggered a probe into the administration's hiring and contracting practices by Attorney General Lisa Madigan and Cook County State's Attorney Richard Devine. To date, no charges have arisen from that investigation.

'This is speculation'

Levine, who has pleaded not guilty to defrauding the state teacher pension system, would seem an unusual source about the inner workings of Blagojevich's campaign -- he was the top fund-raiser for Blagojevich's 2002 GOP opponent, former Attorney General Jim Ryan. Still, Blagojevich reappointed Levine to two state panels, including the Teachers' Retirement System of Illinois. After Blagojevich took office, Levine contributed $4,267 worth of free air travel to his campaign.

Levine often spoke of his ties to Rezko and openly discussed how Rezko helped reappoint him to the teacher pension board, according to one source familiar with the probe. Records involving Rezko and a consulting firm he ran were sought by a subpoena investigators sent to TRS.

Cari was familiar with the teacher pension board because he was a partner and managing director of HealthPoint LLC, a New York investment firm that secured two TRS investments worth $35 million in 2003. Cari and other principals in HealthPoint contributed $30,500 to Blagojevich's $14.3 million campaign fund, records show.

Despite his ties to top national Democrats, Cari knew Levine and backed Ryan against Blagojevich.

In his plea, Cari admitted he acted as Levine's emissary and tried to get a Virginia real estate investment firm, JER Partners, to pay an $850,000 fee to an unnamed consultant who would do no work on the deal. Cari believed that if JER "hired the consultant identified by Levine, the consultant would be required to make political or charitable contributions as directed by Levine and Public Official A's associates," according to the document.

Talking to a JER lawyer, Cari said the fee "was political and this was how Public Official A handled patronage." At Levine's insistence, he repeatedly told JER officials that if the fee agreement wasn't executed, the $85 million investment JER appeared poised to secure would be dropped from an upcoming board agenda.

A pension official, however, kept JER on the agenda. The consultant was not hired and JER won the investment deal.

Cheryle Jackson, Blagojevich's communications director, downplayed the credibility of Cari's statements. "This is speculation based on testimony from an admitted extortionist who was told this by someone twice accused of extortion himself." Jackson said the feds have not contacted the governor.

Contributing: Steve Warmbir, Lynn Sweet, Natasha Korecki

Pension Probe's Spotlight Widens (CHIT)

By Rick Pearson And Matt O'connor, Tribune Staff Reporters

Chicago Tribune, September 16, 2005

Pleading guilty Thursday to attempted extortion, a prominent Democratic fundraiser said he was told that a "high-ranking Illinois public official" was behind a kickback scheme that steered state pension-fund investments to favored businesses in exchange for campaign contributions.

The plea agreement by attorney Joseph Cari, a former finance chairman for the Democratic National Committee, launched a new and potentially far-reaching phase of the investigation into influence peddling at the state's multibillion-dollar public pension funds.

In Cari's plea agreement and a related one by a former pension board attorney, prosecutors for the first time suggested that their investigation had gone beyond the dealings of political insiders at obscure pension panels to include a prominent government official orchestrating a scheme to siphon campaign cash and reward donors.

Neither plea agreement named the high-ranking person in Illinois government. He was referred to simply as "Public Official A."

Gov. Rod Blagojevich was peppered with questions about the plea agreements at an unrelated news conference but said he had no knowledge of them. Later, asked if the governor's office knew who the high-ranking Illinois official was, Blagojevich spokeswoman Abby Ottenhoff said, "We don't know who Official A is."

"The only people who know that are the feds. You'd have to ask them," Ottenhoff said. "This is speculation based on testimony from an admitted extortionist who got his information from a person who was twice accused of extortion himself."

Asked if federal investigators had questioned the governor, Ottenhoff said, "Not on this matter."

But Ottenhoff disclosed for the first time that federal investigators had questioned Blagojevich earlier this year about allegations that his administration traded appointments to state boards and commissions for campaign contributions. Blagojevich denied any wrongdoing, she said.

In pleading guilty to one count of attempted extortion, Cari said Stuart Levine acted as a conduit between the unnamed public official and the state Teachers' Retirement System to steer pension business to people and firms that would help the public official.

Levine is a prominent campaign donor who was initially named by a Republican governor to be a trustee of the pension fund for public teachers outside Chicago. He was reappointed by Blagojevich. Levine has pleaded not guilty to earlier charges that he extorted kickbacks from investment firms seeking pension fund business.

`A fundraising strategy'

In his plea agreement, Cari acknowledged trying to participate in a kickback scheme with Levine in 2004. He said Levine told him the selection of pension fund investors and others was motivated by politics.

"Levine said that a high-ranking Illinois public official [Public Official A], acting through two close associates, was selecting consultants for the private equity funds that appeared before the state pension funds," Cari's plea agreement said.

"Levine said that this was part of a fundraising strategy. Levine said that Public Official A, and his associates, were going to pick law firms, investment banking firms, and consultants that would help Public Official A," the plea agreement said.

The plea agreement said "Levine told Cari that consultants selected by Levine and those associates would subsequently be required to make certain political or charitable contributions as directed by Levine and those associates."

When a firm balked at hiring a Levine-selected consultant, who would do no work, Cari told the firm, according to the plea agreement, "that it was political and this was how Public Official A handled patronage."

Cari had repeatedly demanded that the firm, Virginia-based JER Inc., pay an $850,000 consulting fee, equal to 1 percent of the $85 million it was seeking from the teacher pension board to invest. Cari, in the plea agreement, said Levine repeatedly threatened to pull the JER investment from the agenda of the pension board unless the consulting fee was paid.

Cari said in his plea agreement that he believed Levine wielded great power over the teacher pension board and that "if Levine did not want something to be approved by the TRS board, it would not be approved."

In a related move, Steven Loren, formerly an outside attorney for the teacher pension board, pleaded guilty to one count of obstructing the Internal Revenue Service for allegedly helping Levine work a kickback scheme involving a Levine-favored consultant paid through a sham contract. The consultant received a finder's fee by an investment firm that got pension-fund business.

In the plea agreement, Loren said it was his understanding that "Levine's associates, who were close to a high-ranking public official, would use those placement fees as an incentive or reward to those who made campaign contributions that would benefit the high-ranking public official."

The plea agreement indicates that Loren began cooperating with the federal government early in its investigation. Loren gave prosecutors what is called a proffer letter on Nov. 23, laying out his knowledge of the activities of Levine and others.

That proffer and a one in July show that Loren was cooperating not only in the pension-fund case, but also in a second investigation involving Levine's role at the state's hospital planning and construction board, where he has previously been charged with extorting bribes, according to the plea agreement.

Levine has pleaded not guilty to those charges as well.

Sentencings postponed

Cari, 52, of Chicago and Loren, 50, of Highland Park, pleaded guilty just minutes apart in U.S. District Judge Amy St. Eve's courtroom.

Both are cooperating in the continuing federal probe, according to their plea agreements with the government. Their sentencings were indefinitely postponed until after their cooperation has been completed.

Under their plea deals with prosecutors, Cari faces about 2 years in prison, while Loren faces under 12 months in prison or possibly probation.

Each remains free on bail.

Both defendants and their lawyers, former U.S. Atty. Scott Lassar and Michael Siegel, declined to comment as they left the Dirksen U.S. Courthouse. So too did Levine's attorneys.

Aides to Blagojevich said that neither the governor nor his top administrative officials had been questioned about the pension investigation.

But Ottenhoff, the governor's spokeswoman, said Blagojevich had been interviewed by federal investigators in late February or early March about allegations, raised by the governor's father-in-law, Chicago Ald. Richard Mell (33rd), that appointments were traded for campaign cash.

"He answered the questions they had about Mell's allegations and he's never heard back," Ottenhoff said.

Mell recanted his allegations under the threat of a defamation lawsuit by top Blagojevich adviser and fundraiser Christopher Kelly. But Mell's accusations prompted Atty. Gen. Lisa Madigan and Cook County State's Atty. Richard Devine to open a joint investigation that is ongoing.

A spokesman for the U.S. attorney's office declined to comment Thursday on the plea agreements or the administration's acknowledgement that federal investigators were reviewing Mell's allegations.

Tribune staff reporters Christi Parsons, Ray Gibson, John Chase and Ray Long contributed to this report.

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Landscape Exec Admits Bribing Parks Official (CHIT)

By Michael Higgins, Tribune Staff Reporter

Chicago Tribune, September 16, 2005

A former landscaping company executive on Thursday admitted his role in a scheme to pay $137,000 in bribes to a Chicago Park District official to help win $8 million in contracts at Millennium Park and other city properties.

John Kevin Haas, the former chief operations officer at James Michael Inc., pleaded guilty to two counts of fraud in U.S. District Court in Chicago.

In a plea agreement, Haas, 57, of Gurnee, admitted he made arrangements to send former parks official Shirley McMayon to a Wisconsin resort in 2000, bought a computer for her son and helped orchestrate other payoffs.

Haas, who has agreed to cooperate with prosecutors, described bribes to McMayon that included cash, ski vacations and $22,000 to help pay off McMayon's loan on a Dodge Durango.

The plea deal calls for Haas to be sentenced to 2 years, 7 months in prison, forfeit $350,000 in wrongly obtained profits and pay restitution of $49,000.

Without cooperation, Haas would have faced a likely sentence of 37 to 46 months under federal sentencing guidelines.

U.S. District Judge David Coar must approve the deal. No date has been set for sentencing.

Prosecutors allege that Haas made payoffs along with Michael Lowecki, who owned the Mundelein landscaping company, in a scheme that ran from 2000 to 2004.

McMayon, the district's former director of natural resources, pleaded guilty two weeks ago. She agreed to cooperate in a plea deal that calls for her to receive a 34-month sentence.

Fraud and bribery charges are pending against Lowecki. He has pleaded not guilty.

According to Haas' plea agreement, he and Lowecki had concerns about how much they were paying McMayon. The two men agreed in 2001 that the company would not give McMayon more than 2 percent of the revenue the company got from the Park District, the plea deal said.

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Legislator Resigns Amid Federal Inquiry (NYT)

By Stacey Stowe

The New York Times, September 16, 2005

BRIDGEPORT, Conn., Sept. 15 - A veteran state senator who is under federal investigation resigned here on Thursday morning in a fiery speech on the steps of City Hall.

The senator, Ernest E. Newton II, a Democrat who represented Bridgeport for 17 years, was the target of a raid on his office in February by the Federal Bureau of Investigation in connection with an inquiry into a job training program here.

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The head of that program, Warren Keith Godbolt, pleaded guilty on Aug. 2 to charges that included offering a $5,000 bribe to an unnamed public official in exchange for securing a $100,000 state grant. He is cooperating with the authorities, according to court papers filed by prosecutors.

Mr. Newton has not been charged. He said on Thursday that he was resigning from his Senate seat for the sake of his family. He said that his wife had multiple sclerosis and that one of his sons needed to go to college and the other "had some problems."

His voice alternately raspy and booming, Mr. Newton said, "You all can't ask me about my trial; that's not what this is about." His lawyer, Salvatore C. DePiano, also declined to comment.

"I've made some mistakes in my life," Mr. Newton, an advocate for minorities and the poor during his tenure, told about 200 supporters who murmured or shouted their support. "Charge it to my head, not my heart."

Last month, Mr. Godbolt, the executive director of Progressive Training Associates, admitted in court papers to making $5,000 in payments to an unnamed public official in exchange for the state grant. On June 4, 2004, according to those papers, that public official announced he had secured a $100,000 state grant for the job center.

Mr. Newton was the official who made the announcement that day.

Mr. Godbolt also pleaded guilty to embezzling more than $70,000 from the center, for purchases that included a $24,000 BMW. He is scheduled to be sentenced on Nov. 14.

Mr. Newton said he was proud of his record and called himself the "Moses of my people." He said he would step down rather than force an expensive legislative inquiry.

He spoke to rain-soaked reporters and camera crews from a cross-embossed lectern under an umbrella, flanked by his sons and his pastor. During his statement he chastised the press. "The media has already convicted me," he said.

For the announcement, Mr. Newton wore a cinnamon-colored chalk-stripe suit and a satin fez. A sartorial standout in the Connecticut General Assembly, he favored double-breasted suits in purple or pale pink and the occasional fedora.

A supporter, Clyde Nicholson, said afterward: "This ain't about $5,000. It's about taking a black man out, one of the most powerful black men in the state."

In a statement, Gov. M. Jodi Rell noted that Mr. Newton had not been charged, but she said, "I am disappointed by the chain of events that led to today's announcement." Many of Mr. Newton's Democratic colleagues, including Mayor John Fabrizi of Bridgeport, expressed sadness.

A special election to fill his seat will be held in November and will coincide with state mayoral contests.

County Seeks FBI Probe Into $6.4 Million Loan (HAMJN)

By Candice Brooks, Butler County Bureau

Hamilton (OH) Journal News, September 16, 2005

HAMILTON — The Butler County Commissioners unanimously agreed Thursday to sever an agreement with a fiber optics firm and request an FBI investigation into why the firm obtained multi-million-dollar loans in the county's name, allegedly without commissioners' approval.

"We are standing as a team to protect the finances and integrity of Butler County," Commission President Charles Furmon said. This was the third time that Furmon had urged his fellow commissioners to end the agreement.

Cincinnati-based Dynus Technologies, formerly CBS Technologies, obtained loans for $2.4 million Sept. 2, 2004 and $4 million Dec. 31, 2004 from National City Bank to lease equipment used in fiber optic networking.

The commissioners and Dynus began negotiating an economic development agreement in September 2004, but the agreement — now terminated — was not approved until July 28 and the county never assumed financial obligation for it, county officials insisted.

Dynus would have used four of the county fibers and, in exchange, the company agreed to attract 100 new jobs within three years and give the county 10 percent of the profit from customers using its high-speed internet, phone, and data services.

The company paid on the bank loan for nine months. However, county officials said they were surprised on Sept. 2 to receive an invoice for a $99,485.78 payment on the remaining $5.3 million in debt. County officials and the county prosecutor's office also said they were surprised documents appeared to show that Dynus President Jim Smith signed the lease agreement and other documents as a county agent.

In addition, County Auditor Kay Rogers signed at least six documents stating that Smith was a county agent even though the county commissioners said they never approved a resolution to give Smith the authority to incur debt for the county.

Rogers said Smith misled her to believe the documents were for tax purposes and she insists she told him the commissioners' approval would be required.

Commissioner Gregory Jolivette on Thursday expressed his disappointment in Rogers and Dynus officials.

"What did she think Dynus would do with these documents — put them in a waste paper basket or in a file?" he said. "It just disturbs me that she would take these actions in so many different documents — six or seven. (I'm) extremely disappointed with Dynus Corporation for not being more up front with us regarding their dealings. As they entered into this agreement in September and all through 2005 until we signed the agreement in July, we've had meetings with them and not once did they disclose that they had a financial agreement with National City Bank with our name on it."

Commissioner Mike Fox said Dynus officials were specifically asked during a meeting in February if they expected Butler County to accept any financial obligation and the response was no.

"It appears that the county was the object of a grand scheme and a con," Fox said. "Representations were made that were obviously inaccurate."

Furmon said he contacted the FBI earlier in the week and Fox said the county prosecutor's office would cooperate with the FBI.

"We have received the complaint from the commissioner," said Michael Brooks, spokesman for the Cincinnati FBI. "We'll make a determination if an investigation should be conducted."

Jolivette also asked that County Administrator Derek Conklin check other banks for unknown loans in the county's name because the commissioners would not have know about the Dynus loan had an invoice not been sent.

"I support the Commissioners' decision to terminate the contract with Dynus," Rogers said, but insisted "I did nothing wrong.

"There is no financial obligation to the county, as I have previously stated. I am concerned that some of the forms in question appear to contain fraudulance, (sic) and do not contain my actual signature. This is also apparently true of one of our Commissioners, and one of the employees of my office.

"As far as the forms that do contain my signature, I was only verifying my knowledge of the documents and the funds available to the county, since my office was overseeing the Fiber Optics Project. I was always clear to representatives from Dynus that the Commissioners, and only the Commissioners, may act as contracting agents for Butler County. If my signature was used improperly by outside agents, it is extremely unfortunate... The Commissioners know that in 10 years I have operated a highly professional office with full integrity."

Tom Rowe, spokesman for Dynus Technologies, said there was a meeting Wednesday between Dynus officials and county administrative officials and National City Bank officials.

"Based on this meeting, we agreed to continue our discussions toward a
mutually agreeable solution to this matter," Rowe said. "We are committed to resolving this outside the courtroom.

"We anticipated the commissioners were going to take this action this
morning,"

Scott Owens, executive director of the Butler Republican Party, and West Chester Township Trustee George Lang are both executives with Dynus. State Rep. Bill Coley (R-West Chester Township) has served as legal counsel for National City Bank.

County Republican Party Chair Carlos Todd said he has "purposely stayed out" of the matter, but said when he knows the facts he would make a statement.

Butler County Democratic Party Chair Dan Gattermeyer said the Republican Party must ask Rogers to resign.

"Our county deserves better government that the activities of Republican Kay Rogers in relation to the Dynus Technologies debacle," Gattermeyer said in a statement. "One party rule results in leaders who feel insulated and not accountable for their actions. The first step in changing this mindset is for all, Republicans and Democrats alike, to join in calling for Kay Roger's resignation."

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Bronson Records Seized In Federal Grand Jury Probe (GAINSUN)

By KAREN VOYLES, Sun staff writer

Gainesville (FL) Sun, September 16, 2005

BRONSON - About two years ago, town councilman Aaron Edmondson started asking questions about why some new lights on the mayor's property looked so much like the new lights the town had just received.

Edmondson's curiosity led to a joint local and state investigation into embezzlement that ended with the mayor, James Blaine "Jamie" Griffin, going to state prison and the town clerk, June Greenlee, being put on probation.

On Thursday an FBI agent served a subpoena on the town for its financial records. The subpoena ordered all the town's financial records from Jan. 1, 2000, through Wednesday be delivered to the federal grand jury in Gainesville by Oct. 25. Subpoenas for town records were also delivered to Bronson banks. Mayor Beatrice Mongo said she expects the federal government will dig even deeper than state officials dug.

"Apparently they (federal investigators) don't think justice was served," Mongo said. "They told me they are not just looking at the people who got caught last time. They are looking at everybody and everything."

Town officials and others close to the case said there are at least two situations that likely caught the attention of the federal government.

A check made out to the Internal Revenue Service during the previous mayor's tenure was allegedly used to pay more than $2,000 in personal back taxes.

The other possible factor was $1 million in the form of two Community Development Block Grants that was not spent according to the contract signed by the town.

State Attorney Bill Cervone, whose office prosecuted Griffin and Greenlee on the state charges, said having the federal government pursue the same case is rare but does happen.

"It's an occasional thing, but when there is anything involving federal money, they are much more likely to be interested," Cervone said.

Sun staff writers Deborah Ball and Janine Young Sikes contributed to this report. Karen Voyles can be reached at (352) 486-5058 or voylesk@gvillesun.com.

Lawyer Says Threats From Gotti Made Him Alter Strategy (LAW)

By Tom Perrotta, New York Law Journal

Law.com, September 16, 2005

The former attorney for Frank LoCascio, a co-defendant of John Gotti Sr. in a 1992 murder and racketeering trial, testified Thursday that he tailored his defense strategy to suit Gotti after the now deceased mob boss threatened him.

"He would take care of me -- and I knew what that meant," the attorney, Anthony Cardinale, said Thursday during an evidentiary hearing in Brooklyn federal court.

The alleged threat, he said, came during a break in the trial while Cardinale was cross-examining the prosecution's star witness, Salvatore "Sammy the Bull" Gravano.

Cardinale had considered asking Gravano if he knew that LoCascio was not involved in one of the central charges of the indictment, the murder of Louis DiBono. But after Gotti spoke with him, Cardinale said, he did not ask for fear of making LoCascio look better at the expense of Gotti.

"I was afraid, if that's what you're asking, yes," Cardinale told LoCascio's appellate lawyer, Herald Price Fahringer of Lipsitz, Green, Fahringer, Roll, Salisbury & Cambria.

Cardinale also said he did not meet with LoCascio alone after Gotti told him not to, and changed the tenor of his overall defense and his closing arguments to emphasize Gotti's innocence.

Under questioning from Assistant U.S. Attorney Thomas Firestone, however, Cardinale would not say that his actions constituted an ethical breach or ineffective assistance of counsel.

"I really don't have a feeling one way or another on that issue," Cardinale said, clearly uncomfortable on the witness stand. "That's for others to decide. I think I did the very best I could have done for Mr. LoCascio under the circumstances."

Cardinale, a Boston attorney, was testifying at a hearing that was ordered in January by the 2nd U.S. Circuit Court of Appeals. The circuit asked Eastern District Judge I. Leo Glasser to determine if LoCascio received ineffective assistance of counsel and deserved a new trial.

Cardinale did not tell LoCascio or anyone else about the threat. Only after Gotti died three years ago did he mention it to another of LoCascio's appellate attorneys, Thomas Harvey, who revealed the incident.

Cardinale refused to submit an affidavit about the alleged threat out of fear of retaliation. His testimony Thursday was compelled by subpoena.

Judge Glasser, who presided over the 1992 trial, previously rejected LoCascio's request for a new trial, ruling that Gotti's attempt to orchestrate defense attorneys -- including those of his co-defendants -- was well known. He also rejected four previous attempts to appeal.

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But the 2nd Circuit in January ordered a hearing on the matter, describing it as a "close call." The court noted that Cardinale, who took the case after LoCascio's first attorney was disqualified, was not an "in-house" attorney for the Gotti organization.

Firestone tried to further blunt the attack on Cardinale's performance by pointing out that Gotti and LoCascio were tried and defended jointly before any threat was made.

Referring to transcripts from the 1992 trial, he pointed to moments when Cardinale, during his closing arguments, singled out LoCascio, not Gotti, for the jury's attention. He also noted that Cardinale continued to work for Gotti, for no pay, on his appeals in the years following the convictions.

Gotti died in June 2002 while serving a life term in prison. LoCascio, 72, is also serving a life sentence.

Glasser reserved decision to allow the parties to make supplemental arguments.

Fugitive In Armored Car Theft Gives Up After 12 Years (NYT)

By Randal C. Archibold

The New York Times, September 16, 2005

LAS VEGAS, Sept. 15 - A woman who became one of the most sought after fugitives in the United States after disappearing with an armored car and $2.5 million ended almost 12 years on the run on Thursday when she walked into a federal courthouse here and surrendered.

The woman, Heather C. Tallchief, was a driver for Loomis Armored, now Loomis Fargo, on Oct. 1, 1993, when while making a stop at the Circus Circus casino hotel she took off with her truck and its contents, leaving behind two other guards.

Over the years, the authorities have said they were baffled about how Ms. Tallchief and her suspected accomplice, Roberto Solis, who had served time in prison for killing an armored car driver in 1969, eluded capture.

The case had been repeatedly broadcast on crime programs, including "America's Most Wanted" on Fox. A spokesman for the F.B.I. said Thursday that she had been a "highly sought after fugitive."

In an interview before her surrender, she said she was in Europe much of the time, out of reach of the money and working as a hotel maid.

In a court appearance in the afternoon, Ms. Tallchief, 33, was ordered held on charges that included bank larceny, fraud, conspiracy and making false statements to obtain a passport. A hearing was set for Sept. 29.

Ms. Tallchief, dressed in a gray blazer, a pink blouse and pale olive slacks, was led away in handcuffs and leg irons.

This week, Ms. Tallchief's lawyer, Robert Axelrod, interviewed his client on videotape in Los Angeles in hopes of selling her story to Hollywood. The two people said they would use the proceeds to reimburse the stolen money.

They allowed The New York Times to observe the interview and ask follow-up questions on condition that the newspaper not publish an article until the surrender.

Contrary to previous reports, Ms. Tallchief said she was not the mastermind behind the crime, but rather a victim of Mr. Solis's brainwashing. The criminal complaint does not say who organized the scheme but describes the two people as planning and carrying it out together.

Ms. Tallchief, a Seneca born in Buffalo, N.Y., said she lived a largely unhappy life, ostracized at school as she followed the punk rock scene and becoming addicted to crack.

She eventually obtained a general equivalency diploma and a nursing assistant certificate and worked in hospitals and clinics in the San Francisco Bay area, but , she said, had trouble keeping jobs. When she had hit bottom, she met Mr. Solis, more than 20 years older, through a friend at a nightclub.

She said he kept an altar in his apartment with a goat's head, crystals and tarot cards, all of which she initially found shocking but came to accept his beliefs, particularly that their meeting and "spiritual journey" were predestined.

In the tape with Mr. Axelrod, she said Mr. Solis constantly showed her tapes in the weeks leading up to the crime that had a hypnotic effect.

"They allegedly opened your mind but made you more receptive" to suggestion, she said. "They had lots of swirling colors like a tie-dye t-shirt."

Ms. Tallchief said his sway was so powerful that she hardly questioned him, even as he steered her toward finding work at Loomis.

"He was reformed," she said in the interview. "He wrote poetry. I knew his mother. He was a very normal person. If you sat down and met him, you would probably actually enjoy him. You would laugh at his jokes. You would think he was a nice person. There was never anything about him that you would think he was a heinous, horrible murdering con."

Ms. Tallchief said she followed Mr. Solis's instructions up to and on the day of the crime "almost like a robot." She said recalled little about the planning.

After driving off her route with the truck, she said, she drove to a warehouse, but did not know what happened to the money after helping Mr. Solis load it into boxes there. "I probably asked him about it but he wouldn't ever answer," Ms. Tallchief said, adding that when the subject came up he would say things like: " 'Don't worry about it. I'm taking care of it. It's O.K. It's safe. I've got it under control.' "

She took flight, she said, at first disguised as an old woman in a wheelchair pushed by Mr. Solis. She later led a low-key life in Amsterdam as a hotel maid, affecting an English accent that she still faintly speaks with now.

She declined to discuss how she slipped out of the United States with Mr. Solis and how she returned. Mr. Axelrod said she re-entered through Los Angeles a few days ago.

Ms. Tallchief said she had seen a psychiatrist in Los Angeles in the last few days.

She added that she had no contact with Mr. Solis after she took their took their infant son and left him. The boy, now 10, is in Amsterdam with friends of Ms. Tallchief.

Mr. Solis, 60, is at large.

Mr. Axelrod said that though the notion of being brainwashed "is a hard concept to follow" he believed a jury or the authorities would find that a "mitigating factor" in her case. He would not let Ms. Tallchief answer whether she would plead guilty, though she does not deny carrying out the crime.

Joe Parris, a supervisory agent for the F.B.I. in Washington, declined to comment on her brainwashing statement. A spokeswoman for the United States attorney here said the office would have no comment.

Ms. Tallchief said she decided to abandon her flight for the sake of her son, who she fears will ultimately suffer consequences of her crime. The boy, she said, does not have a legitimate birth certificate or other documentation and is growing curious about her past and his.

"I didn't give my child a normal life, but I think I am on the way to doing that," Ms. Tallchief said in the taping of the video, which a Hollywood producer, Robert Aaronson, is trying to sell to television networks and studios.

Mark Clark, a spokesman for Loomis, Fargo, said repaying the stolen money "would be a nice gesture" but he declined to address the case in detail, saying the company would "let it take its course."

Living abroad, Ms. Tallchief said, she avoided Americans and did not socialize much, to avoid people asking about her past.

"I've learned how to not have so many close friends, so I don't get asked all the questions," she said. "It's a lonely life, being a fugitive. And I certainly don't go to, you know, book clubs and, you know, cake sales and stuff. I don't have coffee morning with the girls."

Ms. Tallchief's history is the subject of a screenplay that is being worked on. A former chairman of 20th Century Fox, Bill Mechanic, who produces films through his own company, Pandemonium, in Los Angeles, said his company was finishing a script based on the robbery.

For all its dramatic potential, Ms. Tallchief's life on the run ended in anticlimactic fashion. Accompanied by her lawyers, she entered the office of the United States marshal at 9:29 a.m., sat on a couch and tapped her foot as officers conferred and then, after about 20 minutes, led her away.

Fugitive Surrenders For Las Vegas Armored Truck Heist (FINDLAW/AP)

By Ken Ritter, Associated Press Writer

Find Law, September 16, 2005

(AP) - LAS VEGAS-A woman on the FBI Most Wanted list accused in a $3.1 million (â,¬2.5 million) armored truck heist surrendered Thursday after more than 10 years on the run.

Heather Catherine Tallchief is accused of driving an armored truck loaded with cash away from the Circus Circus casino in October 1993. Speaking to reporters before she gave herself up, Tallchief, one of a handful of women ever on the FBI list, acknowledged her role.

"I truly feel this is the right thing to do," Tallchief said. Her lawyer said her boyfriend, also accused in the heist, "brainwashed" her into participating.

Attorney Robert Axelrod, her lawyer, was with Tallchief when she surrendered at U.S. District Court in Las Vegas. He said she was tired of hiding, and wanted her 10-year-old son to have a chance at living a normal life.

A message seeking comment from the FBI office in Las Vegas was not immediately returned.

Axelrod said Tallchief was an impressionable 21-year-old who blindly followed a persuasive older boyfriend in the Oct. 1, 1993, theft. The boyfriend, Roberto Solis, is now 60 and is still a fugitive on the FBI's Most Wanted list.

Tallchief maintained she was only following Solis' instructions and doesn't know where Solis is now, although they have a son together.

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"He brainwashed her, as surely as a Manson kind of character (or) a Jim Jones kind of character," Axelrod said.

Tallchief eluded authorities by living under an assumed name and working as a maid and at other cash jobs in Amsterdam, Netherlands, her lawyer said.

Police said Tallchief was employed for several months as a driver for Loomis Armored Inc. before she disappeared with a truck loaded with $100 and $20 bills while co-workers filled automatic teller machines inside the casino.

Us Weekly Writer Charged Is Sex Case (LHL)

The Lexington Herald-Leader, September 16, 2005

NEW YORK - An Us Weekly gossip writer found himself on the wrong side of the police blotter after being charged with trying to seduce an FBI agent posing on the Internet as a 13-year-old girl.

Us Weekly suspended Timothy McDarrah, editor of the Hot Stuff column, without pay, a magazine spokesman said Thursday.

McDarrah responded in June to a posting on the craigslist.com Web site offering introductions to the "freshest, youngest" girls in New York, an FBI affidavit said. The gossip writer told an undercover FBI agent, who had posted the advertisement to lure pedophiles, that he would pay $200 for sex with a 13-year-old girl, the affidavit said.

After McDarrah failed to show up for a meeting, the agent began sending instant messages in his guise as a 13-year-old girl. McDarrah offered to buy the agent clothes, compact discs and an iPod in exchange for a variety of sexual favors, the agent wrote in the complaint.

On Wednesday, the agent wrote, McDarrah e-mailed that he was waiting at a building the agent had described as the 13-year-old girl's address. FBI agents went there and arrested McDarrah, who is charged with one count of using the Internet to entice a minor into sex, which carries a minimum five-year sentence.

McDarrah was arraigned in Manhattan federal court, held on $50,000 bond and barred from using the Internet or having unsupervised contact with children. He did not enter a plea.

Felon In No-show Job Scam Asks For Early Release (AP)

AP, September 16, 2005

SPRINGFIELD, Mass. (AP) A former payroll clerk convicted with three others of swindling thousands of dollars from a city-run vocational school has asked a federal judge for early release from a halfway house.

Jamie Dwyer, 54, has served two months of a six-month sentence at a halfway house in Hartford, Conn., for her role in a no-show job scheme that bled about $50,000 from the Massachusetts Career Development Institute.

Dwyer was convicted of fraud, conspiracy and lying to FBI agents. U.S. District Judge Michael A. Ponsor sentenced her to the halfway house, to be followed by six months home confinement.

But she said she doesn't need the mandatory group counseling and drug-testing at the facility, The Republican of Springfield reported Friday.

``The Hartford House's rehabilitative mission causes me to be subjected to restrictions and rules that are unnecessary and demeaning," Dwyer wrote in an affidavit filed Tuesday in U.S. District Court.

``I have been gainfully employed throughout my adult life," Dwyer continued. ``I successfully raised two children. I do not have problems with alcohol or substance abuse, and I have historically respected authority and the rights of others. I do not need counseling regarding those issues."

Gerald Phillips, MCDI's former executive director, was sentenced to 21 months in prison. Luisa Cardaropoli was sentenced to 15 months in prison for pocketing thousands of dollars from a no-show job she got through Giuseppe Polimeni, who was sentenced to one year in prison.

The charges against all four sprang from an ongoing investigation into public corruption in Springfield that began about five years ago and has netted several indictments and convictions.

Dwyer's lawyer, John S. Ferrara, said Dwyer's sentence is ``disproportionately harsh" compared to other local white-collar felons in separate cases. He pointed to former mayoral aide Cornell Lewis and accountant Salvatore Anzalotti, convicted last year for their roles in swindling $600,000 from a city loan fund. Both received home detention.

The Republican reported that Assistant U.S. Attorney William M. Welch II did not return a call for comment. Is it unknown whether he will oppose Dwyer's motion. It's unclear is when Ponsor will rule.

Inside The Ring (WT)

By Bill Gertz And Rowan Scarborough

The Washington Times, September 16, 2005

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Taiwan envoy

Douglas Paal, the U.S. government representative to Taiwan, is under fire from the State Department for misrepresenting Taiwan's policies to his bosses.

A State inspector general report said Mr. Paal's leadership style caused low morale among employees of the American Institute in Taiwan, the official U.S. office in Taiwan.

The most serious IG charge, however, is that Mr. Paal falsely reported on Taiwanese issues to senior State Department officials, a cardinal sin for envoys.

Officials familiar with the details of the IG report said Mr. Paal refused to allow dissenting views and was guilty of suppressing reports from U.S. officials who disagreed with his pro-China views.

As a result, the IG concluded that the U.S. government had an inaccurate picture of the situation in Taiwan.

Mr. Paal also angered the Pentagon by blocking for several years the appointment of an active duty military officer to help Taiwan with arms purchases. Army Col. Al Willner, the new Pentagon liaison in Taiwan, is the first U.S. military officer posted in Taiwan since 1979, when diplomatic relations were downgraded.

The report bolsters the views of conservative critics of Mr. Paal in Washington, who have said that he has pro-China views and has not dealt fairly with Taiwan.

As we reported in this column in 2001, Mr. Paal was picked for the Taiwan post even though he gave a speech falsely asserting President Bush had "misspoke" in saying the United States would do whatever it takes to help Taiwan defend itself from a mainland attack.

The U.S. officials discussed the unpublished details in the IG report after they were first disclosed in Taiwan's China Times and Taipei Times newspapers.

Mr. Paal, who is in Washington, could not be reached for comment. A spokesman in Taiwan declined to comment on the IG report.

Detective work

The Army has compiled a list of more than 450 criminal cases whose DNA was tested by a laboratory where an examiner has admitted to making a false entry in one case.

The list includes defendants from military installations across the country and around the world, from the Air Force Academy to Incirlik Air Base in Turkey. The blood testing dates back to 1995.

The exams are being reviewed by the U.S. Army Criminal Investigation Laboratory in Forest Park, Ga.

In a memo, the laboratory is asking staff judge advocates — the military's lawyers — to contact the Army Criminal Investigative Command about any cases involving DNA.

The Aug. 25 memo, a copy of which we obtained, states that the examiner had been suspended in January 2004 after "permitting contamination in his testing process. After retraining, he was returned to casework on 13 September 2004, initially working one case at a time under supervision."

The false entry was found the following April. "The examiner was suspended from his DNA case work on 3 May 2005," the Army memo states. "In an inquiry initiated on 2 June 2005, the examiner admitted the false entry."

Morgue duty

Defense Secretary Donald H. Rumsfeld has signed off on mortuary teams from the 54th Quartermaster Company at Fort Lee, Va., deploying to the Gulf Coast.

The job was supposed to be handled by the Federal Emergency Management Agency. But FEMA informed the Pentagon it must first find a contractor for the gritty work.

Nine teams arrived in New Orleans on Tuesday. The team can process 20 remains per day, per team. Another nine teams were on the way. The death toll from Hurricane Katrina in Louisiana is nearing the 500 mark.

After peaking at 72,000, the troop strength in the Gulf Coast has dipped below 65,000.

Inhuman enemy

Army Col. H.R. McMaster is a soldier-scholar who once advised Gen. John Abizaid, the top Middle Easter commander, on how to wage war in Iraq.

Col. McMaster now is in the heat of that battle himself. For the past several weeks, he has led the campaign to retake the border town of Tal Afar.

Col. McMaster appeared in the Pentagon this week via a video hookup to describe how his 3rd Armored Cavalry Regiment, joined by 3rd Iraqi Army Division, routed most of the extremists.

But it was his description of how the enemy occupied their safe haven that got the most attention. Col. McMaster told of beheadings, gunshot killings, a booby-trapped dead child and kidnappings. "This is the worst of the worst in terms of people in the world," he said. "To protect themselves here, what the enemy did is they waged the most brutal and murderous campaign

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against the people of Tal Afar. ... The enemy here did just the most horrible things you can imagine, in one case murdering a child, placing a booby trap within the child's body and waiting for the parent to come recover the body of their child and exploding it to kill the parents."

Col. McMaster said his men killed scores of the enemy in a series of firefights up and down the tight streets of the crossroads between Syria, where insurgents train, and the critical northern Iraqi city of Mosul.

"These Iraqi soldiers are brave," he said. "They're courageous. They're building capabilities every day."

Col. McMaster said soldiers captured some associates of lead terrorist Abu Musab Zarqawi.

"They are some of the worst human beings on the face of the Earth," he said. "There is no really greater pleasure for us than to kill or capture these particular individuals."

Reform movement

In its effort to reform how it detains and interrogates war-on-terror detainees, the Pentagon and Army have drafted four directives:

·The Department of Defense Directive on the Detainee Program

·The Department of Defense Directive on Intelligence Interrogations, Detainee Debriefings and Tactical Questioning

·Army Field Manual on Human Intelligence Collector Operations

·Joint Publications on Detention and Interrogation Operations.

·Bill Gertz and Rowan Scarborough are Pentagon reporters. Mr. Gertz can be reached at 202/636-3274 or by e-mail at bgertz@washingtontimes.com. Mr. Scarborough can be reached at 202/636-3208 or by e-mail at rscarborough@washingtontimes.com.

D.C. Waiter's Assailant Gets 22-Year Term (WP)

By Henri E. Cauvin, Washington Post Staff Writer

The Washington Post, September 16, 2005

All Adrien Alstad's family wanted to talk about yesterday was the brother, partner and friend he had been over his 55 years, before he was gunned down last year in an early-morning robbery near Dupont Circle.

Gathered in D.C. Superior Court to see one of Alstad's youthful killers sentenced, they were flush with grief over a life lost and with memories of a life lived.

"My heart has been crushed," said his sister, Lynnette Bock, clutching her prepared statement in one trembling hand and a tissue in the other. "There is something so empty inside me."

The pleas for punishment seemed almost angry afterthoughts. But the sentencing was, after all, why they were in the courtroom.

Kurt Williams, 20 and mildly retarded, according to presentencing examinations, had been the lookout as Alstad was robbed and fatally shot Aug. 23, 2004. Alstad, a popular waiter, had just gotten off work when Williams and an accomplice accosted him. It was a crime that struck fear in a usually safe neighborhood, and it was neither the first time Williams had robbed nor the last, said the prosecutor, Assistant U.S. Attorney Colleen Covell.

The killing was not, Judge Judith E. Retchin agreed, a single, "youthful act" but rather part of "a series of crimes," and it demanded the maximum 15 years that the sentencing guidelines recommend for voluntary manslaughter. She added a seven-year term for another robbery, for a total of 22 years.

Santha Sonenberg, Williams's attorney, had urged the judge to consider a host of mitigating factors detailed in a lengthy defense memorandum on Williams, of Northwest Washington.

Williams was born with cognitive impairments, was sexually and physically abused as a child and has an IQ in the mildly retarded range, according to a report submitted as part of the defense memorandum.

The judge acknowledged that Williams "had a terrible childhood" and "suffered all types of abuse." But she said that what Williams did in the days that followed Alstad's death was revealing. Not only did he commit another robbery, she noted, but when he was spotted by police, he ran.

"You knew right from wrong," Retchin said.

It was that second robbery, two nights later, again on R Street NW, that led police to Williams and his 15-year-old accomplice, who has not been publicly identified because he was charged as a juvenile. The 15-year-old pleaded guilty in a closed proceeding soon after the attack, but his sentence was not announced. The maximum penalty he faced was city supervision until he is 21.

Williams, who was 19 when he was arrested, pleaded guilty in May to manslaughter in Alstad's death and to armed robbery for the holdup two nights later.

For Alstad's relatives and friends, yesterday's sentencing took them back to a shattering moment barely a year ago.

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Williams and the accomplice had accosted Alstad on R Street as he walked home from his job at Annie's Paramount Steak House. The pair demanded his money. When Alstad protested that he didn't have any cash, the younger assailant fired two or three shots, killing him.

As he did on the day he pleaded guilty, Williams apologized to his victim's family. "I understand your pain, losing a great person," he said.

Outside the courthouse, Alstad's sister said she has been too sad during the past year to be angry.

Now, she hopes Williams will find his way, which is what her brother would have wanted, she said. "He would've wanted to see that he got help," she said.

And if Williams can stay out of trouble, she said, her brother's death will not have been for nothing.

Personal Chef Laid Off During Probe Of AU President's Spending (WP)

By Valerie Strauss And Susan Kinzie, Washington Post Staff Writers

The Washington Post, September 16, 2005

The personal chef employed by suspended American University President Benjamin Ladner and paid for by the school has been let go during a probe by the university's Board of Trustees into personal and travel expenses submitted by Ladner, according to sources.

In addition, the social secretary for the president and his wife, Nancy Bullard Ladner, has been transferred, said the sources, who spoke on condition of anonymity because the investigation is ongoing. Sally Ekfelt is now working in the president's office as an assistant to David E. Taylor, chief of staff to the president of the university, they said.

The actions come as the trustee board is close to completing a months-long probe of Ladner, who became president in 1994 and soon faced criticism for hiring the chef, Rodney Scruggs, and spending some $200,000 for drainage work and landscaping at the university-owned house where he lived.

Ladner was placed on administrative leave Aug. 24, and Provost Cornelius M. Kerwin was named acting president.

Neither Ladner nor Kerwin returned phone calls seeking comment. Several trustees declined to comment, as did Scruggs. Ekfelt did not return phone calls.

One source with knowledge of the investigation said the position of chef was eliminated as "an unnecessary expense," the same reason Ekfelt was transferred to another job. Ekfelt had worked out of the Ladners' on-campus home and was paid by the university to coordinate their social schedule.

It was not clear why the board eliminated Scruggs's position now; he had been employed by the university since 1996. University presidents are expected to entertain a great deal as part of their fundraising and other duties, so many rely on caterers or, less commonly, chefs.

Scruggs was known at the Northwest Washington school for whipping up multi-course meals for the Ladners, as well as for their personal and university guests in Ladner's campus home and in a house he and his wife own on Gibson Island in Maryland.

Sources knowledgeable about the case said Scruggs would sometimes be called late at night to cook dinner for the couple. Two chauffeurs who worked for the Ladners also said they often were required to take Scruggs's dirty white uniforms to a dry cleaner.

Ladner's base salary last year was $633,000, according to Internal Revenue Service records.

Special correspondent Ed O'Keefe contributed to this report.

Va. Student's Disappearance Now A Criminal Investigation (WP)

By Leef Smith, Washington Post Staff Writer

The Washington Post, September 16, 2005

Although there is still no evidence that she has been harmed, the search for missing Virginia Commonwealth University freshman Taylor Marie Behl was upgraded yesterday to a criminal investigation, and an Amber Alert was issued in the case late last night.

Richmond police, who have taken the lead in the case from campus police, said they decided to open a criminal investigation based on three factors: The search involves a juvenile; more than a week has passed without a solid lead in the 17-year-old's disappearance; and an increasing number of tips are coming in because of national media coverage.

Law enforcement officials said the involvement of Richmond police will enhance the search for Behl, of Vienna, who was last seen by a roommate in their dorm room Sept. 5.

"They have the resources and the experience to get this investigation much further than the campus police were able to," said Behl's mother, Janet Pelasara, who welcomed the development as a fresh start. "They did their best, but they didn't have the manpower or the experience to handle this type of investigation."

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In the Amber Alert, issued after 11 p.m. by the Virginia State Police, Behl was described as five-feet-six, 135 pounds, with brown eyes, light brown hair, pierced ears and a pierced nose. Police said she may be traveling in her car, a white 1997 Ford Escort with Virginia tag JPC-2848.

Amber Alerts disseminate information about missing and abducted children through the media and on highway signs.

Earlier yesterday, a task force was formed yesterday to pull together local, state and federal partners including VCU police, Virginia State Police, the FBI and the Virginia attorney general's office in the search for the Madison High School graduate.

"Whether Ms. Behl is still in Richmond, in state or out of state, we have the resources needed to locate her and bring her back to safety," said Richmond police spokeswoman Cynthia Price.

Pelasara described her daughter as a someone who obeyed her curfew "99 percent of the time" and was a friend to the Vienna police, whom she got to know while working at her hometown Starbucks.

"She didn't drink; she wasn't a partier," Pelasara said. "She didn't do drugs. She's a simply a bright, beautiful, engaging girl."

Behl was last seen about 10 p.m. Labor Day after a late dinner at a local cafe. She found her roommate in their room with a boyfriend and told her that she would leave for a while to give them privacy, police said.

Police said she was wearing jeans and a hooded black sweat shirt and took only her keys and a credit card, although Pelasara said her daughter did not have her credit card with her.

Police said Behl continues to receive e-mails but has not logged on to read them. Her credit card has not been used, and the last call on her cell phone was made the night she disappeared.

Police said dozens of tips generated in the past week have failed to provide credible information on Behl's whereabouts or the location of her car.

"It's just baffling to us that with this kind of exposure, that nothing has panned out," said VCU police spokeswoman Pam Lepley. "There always was concern, but now it's been raised to a new level."

Pelasara said her daughter had about $40 in cash with her when she disappeared. Because Behl had so little money with her, Pelasara said she believes her daughter "couldn't be involved in this on her own."

Police ask anyone with information about Behl or her car to call the Richmond police tip line at 804-514-8477 or VCU police at 804-828-1196.

Staff writer Jamie Stockwell contributed to this report.

Photographer Gets Prison Sentence For Diaz Shots (LAT)

From A Times Staff Writer

The Los Angeles Times, September 16, 2005

A photographer was sentenced Thursday to prison for trying to extort $3 million for nude pictures of superstar Cameron Diaz he had taken early in her career.

John Rutter was sentenced to three years and eight months in prison for perjury and attempted grand theft under a sentence imposed by Los Angeles County Superior Court Judge Michael E. Pastor.

The charges against Rutter, 42, stemmed from a daylong photo shoot in 1992 in an abandoned Los Angeles-area warehouse. Diaz, then a 19-year-old unknown, posed topless, wearing fishnet stockings and leather.

In the years after the shoot, her career took off. Such films as "The Mask" and "There's Something About Mary" earned her a place on Hollywood's A-list and paychecks of up to $20 million a film. Rutter approached Diaz with the racy photos in 2003, a week before the premiere of "Charlie's Angels: Full Throttle," in which she co-starred, saying he had interested buyers.

Rutter's attorney, Mark Werksman, called the July trial a battle between a "rich and famous celebrity" and a "hardworking photographer."

Deputy District Attorney David Walgren downplayed the celebrity aspect of the case in statements to reporters, saying that, had the victim been someone other than Diaz, the case still would have been prosecuted "in the same courts" and "in the same manner."

Walgren had asked for the sentence the judge imposed.

Diaz testified that she felt no shame or embarrassment about the photo session.

"I kind of bought into thinking I would like to do images that are great images -- rather than just a model who sells clothes," Diaz testified in July. "I didn't think of them as pornographic. I didn't think of them as perverted."

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CIVIL LAW:

Bush Endorses Plan To Close 22 Bases (WP/AP)

By Deb Riechmann, Associated Press

The Washington Post, September 16, 2005

President Bush yesterday endorsed a plan for closing 22 major military bases and reconfiguring 33 others, leaving their fate to Congress.

Bush had until next Friday to either accept the entire report from an independent commission and send it to Congress or return it to the commission for further work.

The report will become final in 45 days unless Congress acts to reject it in full. Communities probably have little hope of a reprieve for their bases, as lawmakers have never rejected such reports.

Bush had said that for the process to be "nonpolitical" the commission's decision would have to stand. He got the report last Friday from the nine-member Defense Base Closure and Realignment Commission.

Bush's submission of the report comes as his administration and Congress are preoccupied with aiding the hurricane-ravaged Gulf Coast and other priorities. A GOP-led effort in the Senate to derail the base-closing process, which Republican leaders feared could embarrass them, has fizzled.

The commission said its recommendations would mean annual savings of $4.2 billion, compared with $5.4 billion under the plan it received in May from Defense Secretary Donald H. Rumsfeld. Rumsfeld had recommended closing 33 major bases and reducing personnel at 29 others.

The commission largely endorsed Rumsfeld's vision to restructure the domestic network of military bases to save billions of dollars over the next two decades and streamline the Army, Navy and Air Force.

But commissioners did recommend keeping open several major bases against the Pentagon's wishes, including a shipyard in Kittery, Maine; a submarine base in Groton, Conn.; and Air Force bases in South Dakota and New Mexico.

The commission denied politics played a role in any decisions, even as it voted to keep open bases in the home states of Sen. John Thune (R-S.D.) and other senators leading the opposition. That all but eliminated the possibility of congressional intervention.

In the House, a majority of members overwhelmingly support this round of closures and consolidations, the first in a decade.

CIVIL RIGHTS:

Gonzales Says Justice Department Will Fight To Keep Pledge In Public Schools (AP)

By MARK SHERMAN, The Associated Press

AP, September 16, 2005

WASHINGTON -- Attorney General Alberto Gonzales said Thursday that the Justice Department will fight to overturn a federal court ruling that the Pledge of Allegiance can't be recited in public schools because it contains a reference to God.

Gonzales said the pledge is one of several expressions of national identity and patriotism that mention of God but don't violate the Constitution's ban on state-sponsored religion.

The high court "has affirmed time and again that such official acknowledgments of our nation's religious heritage, foundation and character are constitutional," Gonzales said in a statement a day after the ruling by U.S. District Judge Lawrence Karlton in Sacramento.

Karlton's decision could put the issue on track for another round of Supreme Court arguments. The court sidestepped the issue last year, ruling atheist Michael Newdow had no standing to bring the case on behalf of his daughter because he did not have custody of her.

The Bush administration had opposed Newdow on the same basis that Gonzales set forth Thursday. Newdow also is involved in the latest case, acting as attorney for three parents challenging the pledge because it includes the words "under God."

Gonzales is widely viewed as a leading contender for retiring Justice Sandra Day O'Connor's seat on the Supreme Court because he is close to President Bush. Gonzales' statement of support to keep "under God" in the pledge could appeal to religious conservatives, who have expressed concerns about him as a potential justice because he has not stated opposition to the 1973 Roe v. Wade decision legalizing abortion.

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The Becket Fund, a religious rights group that is a party to the pledge case, said it would appeal to the San Francisco-based 9th Circuit Court of Appeals, which held the `under God' provision of the pledge unconstitutional in 2002.

The decisions by Karlton and the appeals court conflict with an August opinion by the 4th U.S. Circuit Court of Appeals in Richmond, Va. That court upheld a Virginia law requiring public schools lead daily Pledge of Allegiance recitation, similar to the requirement in California.

Mother Of Pledge-battle Girl Vows To Fight For `under God' (KRT)

By Jim Puzzanghera

Knight Ridder, September 16, 2005

WASHINGTON - (KRT) - Sandra Banning, the Sacramento, Calif.-area mother of the girl who helped trigger the legal battle over the Pledge of Allegiance that flared anew this week, came to the nation's capital Thursday with a pledge of her own:

To do everything she can to keep the pledge in schools and the phrase "under God" in the pledge.

The day after a Sacramento federal judge revived the controversy by ruling that reciting the pledge in public schools is an unconstitutional violation of the separation of church and state, Banning's efforts became intertwined with the Senate Judiciary Committee hearings for Supreme Court nominee John G. Roberts Jr.

Banning publicly urged his confirmation in hopes that he would rule against the case brought by her 11-year-old daughter's father, Michael Newdow, the atheist and amateur lawyer who has argued before the Supreme Court that the pledge should be kept out of public schools. And to help rally support for the Pledge of Allegiance as the case works its way again toward the high court, she's forming a grass-roots advocacy group, the "One Nation Under God Foundation," affiliated with the conservative Traditional Values Coalition.

Banning and other Roberts supporters said they hoped the pledge issue would give an additional boost to his nomination. Roberts, a conservative who has vowed not to be a "judicial activist" who broadly interprets the Constitution, finished four days of questioning Thursday with a strong likelihood of being confirmed by the Republican-controlled Senate.

"A judge's job is to interpret the Constitution and laws, not to be a social engineer who tries to remake our culture by ridding it of traditional values that we, the citizens, hold dear," Banning, 45, said at a previously scheduled news conference with other Roberts supporters. "It is critical that judges such as Judge Roberts be on the Supreme Court bench when the case is heard."

Banning learned of the new pledge ruling when she arrived Wednesday at the airport in Washington. She said the court decision gave her new impetus to push for Roberts' confirmation.

"I've watched some of the hearings. I've watched the interviews. I have confidence in President Bush," said Banning, who later attended the confirmation hearings. During a presidential debate last fall, Bush said, "I wouldn't pick a judge who said that the Pledge of Allegiance couldn't be said in a school because it had the words `under God' in it."

Thursday, the Senate condemned the ruling, and Attorney General Alberto Gonzales said the Justice Department would again "defend the ability of American school children to pledge allegiance to the flag."

Wednesday, two Republican senators mentioned the ruling shortly after the news broke, but Roberts was not asked about his position on the case during this week's confirmation hearings because he has declined to answer questions about issues on which he may have to rule.

Several Republican senators have criticized Wednesday's ruling, saying it showed why Roberts was needed on the Supreme Court.

"I think it highlights one of those moments where the courts overstepped," Sen. Mel Martinez, R-Fla., said in an interview, "and at a time when we're trying to get consideration of this potential justice who's been so clear in his views of not imposing his will, but expressing the law."

Typical of their contentious relationship, which has involved a nasty, long-running custody battle over their 11-year old daughter, Newdow and Banning disagreed on how Roberts would rule.

"He sounds like a very intelligent, thoughtful man, and if he applies the principles underlying the Constitution ... then I have absolutely no doubt he would rule in my favor," Newdow said in a telephone interview.

The case started in 2000 when Newdow, a former Sacramento resident now living in Texas, objected to his daughter's reciting the pledge with her kindergarten class in the Elk Grove Unified School District. He argued that the government was telling her he was wrong to be an atheist because the pledge declares this is "one nation, under God."

Banning, a Christian, opposed his suit. After the San Francisco-based 9th Circuit Court of Appeals stunned the nation in 2002 by agreeing with Newdow that the pledge was unconstitutional, the Supreme Court agreed to hear the case.

Newdow, a doctor with a law degree, became a legal celebrity, a novice lawyer who received special permission to argue his case before the high court in March 2004. The justices dismissed the case three months later on a technicality, ruling

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Newdow did not have custody of his daughter when he filed the lawsuit and therefore did not have standing to bring it to the courts.

He re-filed the case on behalf of three unnamed parents from the same school district. After Wednesday's ruling, the case again could be headed to the Supreme Court.

"We won on a technicality. A win is a win. We'll take it," said Banning, who is self-employed provider of administrative support services for various companies. "It's given us at least another year and a half, maybe two, to educate the American public ... kind of stir the pot, if you will, on why these cases are important."

Banning, who never married Newdow, said she has tried to shield their daughter, now in the sixth grade, from the case. The girl, whose name has been kept out of the media, knew her father was in the media Wednesday and asked Banning about it.

"I've reassured her many, many, many times ... reminding her that he has the right as a citizen of this great nation to file these cases," Banning said. "But equally so, mom has the right and, I believe, really the necessity to stand up for cases of this nature."

Justice Dept. Settles Voting Rights Suit (AP-Y2)

AP2, September 16, 2005

The Justice Department said Thursday it has dropped its voting rights lawsuit against Boston after city officials agreed to provide voting materials in Chinese and Vietnamese, and to allow federal observers to monitor polling places.

The agreement comes six weeks after the federal government filed a lawsuit — part of what it said is a national initiative — alleging that Boston's election practices discriminate against Hispanic and Asian American voters who do not speak English.

"The city of Boston is to be congratulated for agreeing to resolve this matter in a constructive and forward-looking manner," Bradley J. Schlozman, acting assistant attorney general for the department's civil rights division, said in a news release announcing the agreement.

When the suit was filed, Schlozman alleged that Boston's violations were "deeply disturbing."

A city lawyer at the time called the claims "unsubstantiated." City officials said they already provide ballots in English and Spanish.

Seth Gitell, a spokesman for Mayor Thomas Menino, said Thursday the agreement does not say the city did anything wrong. "What the city objected to originally was to signing a consent decree and acknowledging wrongdoing," he said.

The announcement Thursday said Boston agreed to provide ballots, registration notices and other forms in Spanish, Chinese and Vietnamese. Boston also agreed to provide more training to poll workers regarding the Voting Rights Act.

Also, Boston agreed to a court order appointing federal observers to monitor polling places through 2008, the announcement said.

Hispanic residents comprise 14 percent of Boston's 590,000 residents, while Chinese and Vietnamese residents make up just over 5 percent, according to 2000 Census figures.

Next, Massachusetts (WP)

The Washington Post, September 16, 2005

FOR THE SECOND time in as many weeks, a state legislature has bucked the ugly trend of writing discrimination against gays into state law. Last week, the California Assembly voted to allow same-sex marriage. This week, lawmakers in Massachusetts decisively rejected a proposed constitutional amendment to overturn the state's Supreme Judicial Court decision acknowledging gay marriage rights. The lopsided vote, 157 to 39, provides a kind of backhanded legislative validation of the court's ruling, which had been much derided for usurping the legislative function. Lawmakers have not voted to create same-sex-marriage rights, but they have decided not to take them away. The vote shows that as people grow used to gay marriages, which have been taking place in Massachusetts for more than a year, their discomfort -- and the political impetus for banning them -- diminishes.

The vote certainly overstates support for same-sex marriage in Massachusetts, for the fiercest opponents of gay marriage also opposed the specific amendment under consideration. The amendment would replace full marriage equality with civil unions, and some opponents have thrown their support instead behind a proposal not to recognize same-sex relationships at all. Still, the tide is clearly turning, and minds are changing. Only last year, after all, the Massachusetts legislature passed this amendment. This year, even excluding those who voted against it because they favor something harsher, a clear majority opposed it on the grounds that they affirmatively support marriage equality.

Work remains to be done. Under the Massachusetts constitution, lawmakers are likely to confront the more draconian version of the constitutional amendment, and, even with relatively scant legislative support, it could go before the voters in 2008.

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But public opinion is moving in the right direction, and the reason is not hard to discern: Since the high court's ruling went into effect, a lot of couples have tied the knot in Massachusetts, and, somehow, the sun has continued to rise in the east. Many people are realizing that it costs heterosexual marriage nothing for same-sex marriage also to exist. The longer people have to absorb that lesson, the more support for banning marriages between committed couples is likely to erode.

ANTITRUST:

Microsoft, AOL Discuss Online Partnership (AP)

By ALLISON LINN, AP Business Writer

AP, September 16, 2005

SEATTLE — Microsoft Corp. and Time Warner Inc. have been discussing potential online partnerships that would help the two companies better compete against rivals Google Inc. and Yahoo Inc., two people familiar with the talks said Thursday.

They two said the discussions have been going on for months and that any possible deal is not imminent.

Microsoft and AOL — who just two years ago settled a bitter antitrust lawsuit over Microsoft's tactics in the Internet browser market — are discussing possible collaboration in search technology, online advertising and instant messaging, said the two sources, one of whom is an executive with Time Warner's America Online unit.

The other source, who works closely with Microsoft and has been involved in company discussions on the possible partnership, said the talks have heated up in the last couple weeks but are not advanced.

Both sources spoke on condition of anonymity.

Time Warner spokeswoman Susan Duffy and Microsoft spokesman Jim Desler declined to comment on the talks, which were first reported in Thursday's editions of the New York Post.

The AOL executive said one aspect of the talks originally centered on using Microsoft's new MSN search engine on AOL, replacing AOL's current relationship with Google.

More recently, the executive said, the two companies have been talking about the possibility of deeper relationships, such as collaborating in the lucrative market of selling advertising online.

Such a collaboration could allow the two companies to benefit from growing interest in search-based advertising, helping them better compete against search leaders Google and Yahoo.

But, the executive said, "the discussions are not advanced."

The person familiar with Microsoft's thinking said the company's MSN unit has always been interested in striking a deal that would allow it to benefit from AOL's market-leading instant messenger program.

AOL's instant-messaging product, AIM, had more than 53 million unique users in August compared to about 29 million for the competing MSN Messenger, according to Nielsen/NetRatings.

Time Warner shares rose 58 cents, or 3.2 percent, to close at $18.50 Thursday on the New York Stock Exchange. Microsoft shares were down 4 cents to close at $26.27 on the Nasdaq Stock Market.

Shares of Time Warner have traded between $15.82 and $19.90 in the past 52 weeks. Shares of Microsoft have traded between $23.82 and $30.20 during the same period.

Redmond-based Microsoft and Time Warner's AOL unit have clashed in the past.

In the spring of 2003, Microsoft agreed to pay Time Warner $750 million to settle an antitrust suit over charges it used strong-arm tactics to make Internet Explorer the dominant Web browser, displacing AOL's Netscape.

Microsoft In Talks On AOL Link: Source (REU)

By Kenneth Li

Reuters, September 16, 2005

NEW YORK (Reuters) - Time Warner Inc. (NYSE:TWX - News) and Microsoft Corp. (NasdaqNM:MSFT - News) are discussing ways they could combine their Internet assets, including the possibility of an investment by the software giant, sources familiar with the matter said on Thursday.

"There have been talks on ways Microsoft and AOL assets can be better leveraged and they've taken place over the normal course of business ...," one source said, calling reports of a joint venture "way overblown."

Time Warner declined comment. Microsoft was not immediately reachable.

Shares of the world's largest media company rose 3 percent after the New York Post reported on Thursday the two were talking about a joint venture.

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Talks of a Microsoft stake in the AOL division was one of several scenarios under review, a separate source familiar with the matter said. "There has been discussions about Microsoft investing in Time Warner," one source said, who also said nothing was imminent.

A combination would create the single largest Internet audience pool by unique visitors and forge a formidable online competitor in a field currently led by Yahoo Inc. (NasdaqNM:YHOO - News) and Google Inc. (NasdaqNM:GOOG - News)

AOL and MSN would have a combined unique audience of about 167.8 million, although there would likely be duplicates. This compares to Yahoo's 101.3 million unique visitors and Google's 80.4 million in August, according to Nielsen/NetRatings.

Discussions on search and combining advertising forces began early this year, but have evolved over the past several weeks into finding ways to combine the businesses.

While they could advance further, working out issues such as how much AOL is valued and other structural concerns have been "difficult" and nothing was imminent, a source added.

Broad discussions on how the two companies could work together began two years ago after the companies settled a long-running antitrust suit that America Online, a unit of Time Warner, filed against the software giant, the source said.

One analyst said Microsoft, which debuted its search engine late last year, was likely looking to replace Google as the underpinnings of AOL's search services. About 11 percent of Google's revenue came from AOL in the first half of 2005. "MSN may want to sell search to AOL," said Matt Rosoff, an analyst at Directions on Microsoft, an independent research firm based in Kirkland, Washington.

Meanwhile, Time Warner has been under pressure to boost its stock price, which has fallen 70 percent over the past five years. Corporate raider Carl Icahn this week said he planned to seek one or more shareholder-nominated board seats at the company to force changes.

Icahn has demanded that the company raise its stock buyback program to $20 billion from Time Warner's existing commitments of up to $5 billion and completely spin off its cable division.

One investor was cheered by the discussions and said anything that could add some $4 per share to the stock price from improvements at AOL was a good sign.

"Management is not asleep at the switch," said Larry Haverty, a portfolio manager at Gabelli Asset Management, which has a stake of about $286 million in Time Warner.

"Anything you can do to move the needle in that direction is terrific for shareholders."

Low ball estimates for AOL are about $10 billion with improvements possibly doubling that valuation, Richard Greenfield, an analyst at Fulcrum Global Partners said.

Time Warner shares closed up 58 cents at $18.50 on the New York Stock Exchange.

Trading activity in Time Warner options also spiked up on Thursday. Some 88,014 calls and 43,581 puts traded in Time Warner in the U.S. options market, above its normal volume of 23,824 contracts, according to Track Data.

Microsoft Is In Talks To Buy A Stake In AOL As Google Looms (WSJ)

By Julia Angwin And Robert A. Guth, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

Demonstrating its growing concern about Google Inc., Microsoft Corp. has entered talks with Time Warner Inc. about taking a substantial stake in the media giant's America Online unit, said people familiar with the matter.

The conversations have centered on whether AOL would switch to using Microsoft's search engine instead of Google's, these people said, as well as other areas of potential cooperation. AOL and Google shared about $380 million in revenue last year derived from displaying ads on AOL's search results.

The talks, which are described as preliminary, have also included discussions of combining the advertising sales forces of AOL and Microsoft's MSN online service, these people said.

Time Warner and Microsoft spokesmen declined to comment. The talks were reported yesterday by the New York Post.

AOL and Microsoft once were fierce rivals, and the rapprochement indicated by the talks shows how much the Internet landscape has changed. Just a few years ago, AOL and Microsoft battled over dial-up Internet customers and Web browsers. Now the dial-up business is in decline and the big prize in the industry is advertising revenue, an area in which both AOL and Microsoft lag behind Google and Yahoo Inc.

Internet advertising now is the fastest-growing segment of the media industry, with revenue rising 21.4% to $7.4 billion last year, according to TNS Media Intelligence. Adding AOL visitors to those who use Microsoft's search service would give Microsoft a much larger potential base of people who would see the ads the service displays.

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Last year, Yahoo raked in revenue of about $3.6 billion, primarily from advertising. Google was close behind with revenue of about $3.2 billion, also primarily from ads. Meanwhile, AOL garnered ad revenue of only about $1 billion and MSN eked out $1.4 billion in ad revenue in the fiscal year ended June 30.

The talks also signal a strategic shift for Time Warner, which had long resisted pleas from some investors to get rid of all or part of its ailing Internet arm, which came to the company when the old AOL bought Time Warner in 2001 in what became a disastrous merger. Time Warner Chairman Richard Parsons declared last year that the company wouldn't sell or spin off AOL "any time soon," citing the promise of capturing a greater share of the Internet ad market. "Our challenge is to articulate to Wall Street that there is a Yahoo inside of AOL ... so that some of that Internet fairy dust gets sprinkled on AOL," Mr. Parsons said then. The unit also generates a lot of cash, despite an ongoing decline in subscribers.

Since then, AOL has revamped its AOL.com Web site, offering free access to many of the features once available only to AOL's paying subscribers -- in the hopes of winning more advertising revenue. But a person close to the situation says Mr. Parsons would likely be willing to sell a stake in AOL if Time Warner could keep a "sizable" stake for itself, in order to benefit from a turnaround at AOL. A person familiar with the talks says AOL has not discussed selling a stake to other companies such as Google or Yahoo.

People close to the discussions say that the size of Microsoft's possible stake in AOL hasn't been determined and that investment bankers haven't been engaged. And the price of the stake is likely to be a sticking point. In the past, Mr. Parsons has balked at offers for AOL that fell below the price he has put at about $20 billion.

The discussions show how Microsoft now sees Google as a major adversary. Microsoft's MSN unit has built a viable search engine modeled after Google's but isn't making the advances in market share and other measures that executives had hoped for, say people familiar with MSN. These people say that the internal goal for the MSN search team by year's end is to beat Google on the "relevance" of search results. But Microsoft may not hit that goal as it struggles to learn techniques to increase the quality of results, many of which Google likely already uses, and as Google continues to expand its reach.

Google is also encroaching on Microsoft's personal-computer turf. The company last year rolled out free software that makes it quicker and easier to search and find information stored on a PC, including emails contained in Microsoft Outlook and documents in Microsoft Word. Microsoft swiftly moved to protect its flank, rolling out a similar "desktop search" feature that will have the capability to be built into versions of Windows and Office software coming next year.

At Microsoft's annual meeting with financial analysts in July, Chief Executive Steve Ballmer likened his company's pursuit of Google to Microsoft's well-chronicled battle with International Business Machines Corp. in business software more than a decade ago. Microsoft ultimately prevailed in many of those markets. Mr. Ballmer said then that the company will "do what it takes to keep coming and coming and coming and coming on this front."

Relations between Microsoft and AOL began to thaw in 2003, when Microsoft agreed to pay $750 million to settle an antitrust lawsuit brought by AOL's Netscape division. At that time, the two companies also agreed to cooperate on the development of copyright-protection technology.

Since then, the companies have worked together to fight spam and cooperate on other technology issues. In January, Microsoft briefed AOL executives about its new search engine, said a person close to the situation. At that meeting, Microsoft said it would try to make it financially beneficial for AOL to switch to its technology, this person said, adding that the discussions have been "on and off" since January and that many different proposals have been floated.

Although AOL's Internet-access business is in decline, AOL still generates a lot of traffic -- making it a rich prize for search engines that thrive on huge volumes of users. Sites that are 100% owned by AOL collectively drew 112.4 million unique visitors in July, according to comScore Media Metrix.

Since 2002, AOL has been using Google's search engine under an agreement that calls for AOL to keep about 80% of the ad revenue generated by searches by AOL users, according to a person familiar with the deal. In 2004, AOL received about $300 million in revenue from the arrangement.

The contract hasn't expired but people close to AOL say the company has the option to walk away; Google wouldn't comment. "Google and AOL have a healthy global partnership and AOL remains a valued partner," a Google spokesman said.

--Kevin J. Delaney contributed to this article.

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Time Warner, Microsoft Talk Of Joint AOL-MSN Search Project (USAT)

By Byron Acohido And Laura Petrecca, Usa Today

USA Today, September 16, 2005

SEATTLE — Time Warner and Microsoft are discussing the possibility of combining some aspects of America Online and MSN to become a larger force in Internet search and search-based advertising.

No deal is imminent, said two executives with direct knowledge of the talks, who declined to speak for attribution because discussions are still fluid. It could evolve into a strategic alliance or joint venture, with Microsoft taking a stake in AOL.

The companies declined comment. But industry analysts said, if consummated, the deal could shake up the world of Internet search. Stakes are high in paid search, the practice of aligning topical ads with objective search results. Paid search has become a $6 billion to $10 billion a year business, with 90% of that revenue split roughly equally between Google and Yahoo, says Chris Sherman, editor of trade newsletter SearchDay. Neither company discloses paid search revenue.

If AOL and MSN join forces, AOL would likely dump Google as its behind-the-scenes supplier of search services, says Chris Winfield, president of search marketing firm 10e20. AOL and MSN would shift their combined search audiences — and the advertisers who cater to them — to MSN's fledgling search services, Winfield says.

Microsoft launched MSN Search in February. That allows MSN to stop contracting basic search from Yahoo. MSN continues to contract paid search from Yahoo.

But MSN has begun piloting a cutting-edge paid search service, called MSN AdCenter, in France and Singapore. A worldwide launch is expected by early next year, says Matt Rosoff, analyst at research firm Directions on Microsoft.

Once MSN AdCenter is launched, an AOL-MSN search partnership could be "hugely significant. It's the best way for Microsoft to suck some air out of paid search, the fastest-growing part of the Internet advertising market," says Rosoff.

Much hinges on how well Microsoft builds a following for MSN Search, a key to persuading advertisers to patronize MSN AdCenter. Nielson/NetRatings' July ranking of search services gave Google a 46% share to Yahoo's 23%, MSN's 13% and AOL's 5.4%.

"Taking a close look at all technical options is the right thing for them (AOL and MSN) to be doing," says Charlene Li, search analyst at Forrester Research.

At present, Google and Yahoo allow advertisers to associate their pitches with search results without any way to target specific users. But MSN AdCenter can direct ads to search engine users categorized by age and gender.

"AdCenter has been designed from the ground up to allow marketers to target ads more effectively," says Kevin Lee, chairman of search marketing firm Did-it.com.

AOL and MSN could tap into archived demographic data they already keep on subscribers. "That could be a key driver behind a strategic alliance," Lee says.

Microsoft Said To Be In Talks On Forming Link To AOL (NYT)

By SAUL HANSELL

The New York Times, September 16, 2005

Microsoft and Time Warner have explored a variety of possible combinations of the MSN Internet portal with the America Online operation of Time Warner, including a merger of the two into a new company that would be jointly owned, according to several people involved in the talks.

The discussions were initiated by Microsoft, which has Google, its new archrival, clearly in its sights. Microsoft is trying to focus its Internet operations on its developing Web search product rather than its Web portal and Internet access business, which it no longer sees as strategically important.

Microsoft offered to sell its MSN Internet portal and dial-up subscriber business both to America Online and to Yahoo, according to several people with knowledge of the talks. While Yahoo considered and quickly rejected the proposal, Time Warner, the parent of America Online, expressed interest.

Top executives at the companies discussed a variety of potential transactions as recently as three weeks ago. Those talks, however, are in suspension as Microsoft considers its strategic position, people involved in the discussions said.

Representatives of Time Warner, Microsoft and Yahoo declined to comment.

The most elaborate proposal being discussed would involve combining America Online with the MSN Internet portal and dial-up Internet business, creating the world's largest Internet company. The venture's Web search would be provided by Microsoft. That combination would be a significant blow to Google, which provides the Web search on AOL's services. This year, 11 percent of Google revenue came from advertising it placed on AOL sites.

A combination of AOL and MSN would have 18 percent of the search market in the United States, according to Nielsen NetRatings, making it third after Google, with 46 percent, and Yahoo, with 23 percent.

Indeed, much of Microsoft's motivation to do such a deal is to head off a threat it sees from Google. Microsoft's worry is not so much Google's Web search business.

Microsoft sees in Google the potential to offer a variety of Internet services, using Google's vast network of servers, making it less necessary for people to buy Microsoft software or even computers with the Microsoft Windows operating system. Moreover, Google could offer free desktop software as well, supported by its network of advertisers.

"Ultimately Microsoft knows that the software landscape will shift from the desktop to the hybrid of the Internet and the desktop," said Gene Munster, an analyst with Piper Jaffray. "Google has thrown out warning shots that they will be players in many of the significant areas of software."

Time Warner, meanwhile, has been trying to figure out if AOL fits into its amalgamation of companies, especially because AOL's core dial-up Internet access business, while profitable, is shrinking as customers shift to high-speed service provided by telephone and cable companies.

AOL has been trying to build a free, advertiser-supported portal business. Combining that effort with Microsoft's large MSN portal, along with Microsoft's popular Hotmail e-mail service, could accelerate AOL's progress toward its goals.

The merged company would leap past Yahoo as the biggest Internet portal and have a more credible case to make to advertisers. Another advantage of a deal is that MSN is strong in many countries while AOL has focused mainly on the United States and a few European countries.

Being able to describe AOL as a leader and bring in the backing of Microsoft, Time Warner executives hope, may reverse investors' negative perception of AOL, which they believe has been dragging down Time Warner stock.

If such a deal were successful, the venture might eventually issue shares to the public. AOL's management has long wanted the flexibility of making acquisitions with a separate stock as well as independence from Time Warner, where many executives still resent the terms of the 2000 merger of the two companies.

Michael Nathanson, an analyst with Sanford C. Bernstein, said such a deal would probably help Time Warner's stock. "The deal will be trumpeted so much that the stock will go up," he said.

The discussions of potential deals are said to have begun early this year, when Microsoft approached AOL in hopes of persuading it to drop Google and use MSN's new Web search service. (Microsoft has been having similar talks with nearly every major company that offers Internet search.) Talks progressed and explored many options, from a combination of ad sales staff to a full merger of AOL and MSN.

The possibility of a deal by Microsoft and AOL was first reported by The New York Post.

A deal with AOL could provide widespread distribution for Microsoft's search system and a platform for developing Microsoft's own Internet-based services. An AOL merger would also provide a graceful exit from MSN's stagnant dial-up Internet service business, which still has several million subscribers.

But Microsoft would also have to give up some control over the future of technology that could be strategically important to its future. Bill Gates, Microsoft's chairman, is not known for giving up control of anything. Indeed, MSNBC, Microsoft's 50-50 joint news venture with NBC, has been a source of friction, because Microsoft executives believe it has limited their ability to make decisions on their own. Indeed, disentangling Microsoft's contract with NBC may well be one of the most difficult parts of pursuing a deal with Time Warner, which owns the rival CNN network.

Some important issues in the talks remain undecided. For example, both AOL and Microsoft want to control a combined instant messaging system, which each company sees as strategically important technology. Another question is how much traffic Microsoft would direct to the combined venture.

Until recently Microsoft was able to use its browser and other software to direct people to MSN by default. But a combination of legal settlements and contract changes have allowed computer makers to set their own default home pages for browsers. The next version of Windows is designed to be even more neutral about Internet services, thus providing less of a boost for MSN. Indeed, that is one reason Microsoft is now interested in getting out of the Internet portal business.

The financial terms of a transaction have not been fully explored because they depend on which assets would be combined. Because AOL is bigger and more profitable than MSN, Time Warner would own a majority of a combined operation, unless Microsoft put up cash to increase its stake. Analysts value AOL at $10 billion and $20 billion.

Mr. Nathanson said he hoped the companies do not create a venture in which the owners have equal control because such arrangements typically become bogged down in wrangling. "There has to be the lead dog," he said, "and someone has to give up control to make it work."

Richard Siklos and Andrew Ross Sorkin contributed reporting for this article

AOL, Microsoft Discussing Possible Internet Joint Venture (WP)

By David A. Vise, Washington Post Staff Writer

The Washington Post, September 16, 2005

Microsoft Corp. is considering acquiring a stake in Time Warner Inc.'s America Online Inc. unit, one of a number of possible Internet joint ventures the two companies are discussing, people familiar with the talks said.

While no transaction is imminent, a broad range of options is under review, said sources who spoke on condition of anonymity because the talks are confidential. Those options include combining Microsoft's MSN online service with Dulles-based

AOL, establishing a combined advertising sales force and enabling users of their separate instant messaging services to communicate with each other.

The talks, reported yesterday by the New York Post, are part of a broader set of discussions between Microsoft and Time Warner that began following an antitrust settlement between the companies two years ago. As part of that, the corporate giants have been working together closely on the development of digital rights technology that would enable computer users to download motion pictures for a fee.

The prospect of Microsoft acquiring a stake in AOL grew out of a Microsoft proposal earlier this year to make its MSN search engine the main search provider on AOL, replacing Google Inc. "Microsoft is looking to put more eyeballs in front of its search engine," said David Card, an analyst with Jupiter Research.

But AOL turned the offer down. Such a move would have given Microsoft the kind of clout it has been seeking in its fierce battle with fast-growing search engine leader Google, which earned more money from its partnership with AOL last year than from any other relationship.

After AOL rejected the MSN search proposal, the parties began examining other ways to combine forces online that would lead investors to assign greater value to their Internet operations.

"It is no big secret that Microsoft and Time Warner have gotten closer over the last couple of years," said Scott Kessler, an analyst with Standard & Poor's Corp. "The fact that there are these talks is not a surprise. The question ultimately would be how this would be structured, what the price would be and those types of things. A lot of folks observing this are taking a wait-and-see attitude."

Google, which Wednesday raised more than $4 billion by selling fresh stock to the public, also reaffirmed its close ties to America Online. Google provides search and ads for AOL in the United States and Europe.

"Google and AOL have a healthy global partnership, and AOL remains a valued partner," Google spokesman Michael Mayzel said yesterday.

Officials from Microsoft and Time Warner declined to comment publicly on the prospects for a deal.

In its discussions with Microsoft, Time Warner has made it clear that it wants to continue to own a substantial chunk of AOL, sources said. America Online gives the New York-based media giant an Internet presence. AOL has roughly 20 million subscribers -- and generates a mountain of cash annually. Through the main AOL Internet service and other properties including Moviefone and MapQuest, the entire AOL network has a monthly audience of about 112 million computer users, according to ComScore Media Metrix.

One possible outcome would be for Time Warner and Microsoft to each own stakes in a combined AOL-MSN operation. In that event, sources said, Microsoft probably would also pay Time Warner cash, since AOL has a more robust business than MSN. Both sides are continuing to analyze exactly what businesses they might be willing to put into a combined operation and what each would seek from the other party.

The high-level discussions about a possible transaction have involved senior officials from Time Warner and Microsoft, as well as top executives of their respective AOL and MSN units. They are occurring against the backdrop of shareholder activist Carl C. Icahn pressing Time Warner to spin off its cable television division and take other steps to boost its flat stock price. But sources said the discussions predate Icahn's recent arrival on the scene and are part of Time Warner's continuing efforts to translate its far-flung media holdings, including Warner Bros. Entertainment Inc., People magazine and Home Box Office Inc., into a higher stock price.

Another possibility that has been discussed is putting AOL and MSN into a newly created entity that would sell stock to the public, with Time Warner and Microsoft continuing to be its major shareholders. This move would be aimed in part at ramping up the size of AOL and MSN to compete better with their larger rival, Yahoo Inc., and its 119 million unique users.

One source familiar with the talks said he considered a transaction combining AOL and MSN as complicated and a long shot. But he said that if the parties can figure out how to create more value by joining forces, a deal of some kind remains possible.

The main driver behind the discussions appears to be that AOL and MSN want to participate more fully in the growth in online advertising. "Google and Yahoo are growing faster in ad revenue than the other two," Jupiter's Card added.

ABN Stands Ready To Buy Antonveneta (WSJ)

By Gabriel Kahn In Rome And Edward Taylor In Frankfurt, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

ABN Amro Holding NV's tentative agreement to buy a 30% stake in Banca Antonveneta SpA from Banca Popolare Italiana Scarl after a bitter battle clears the path for the first-ever takeover of a large Italian bank by a foreign lender and could pave the way for more, a prospect that seemed remote just several weeks ago.

The sale, which values Antonveneta at €8.2 billion ($10 billion) and was agreed to late Wednesday, still faces legal and regulatory hurdles. It would give control of Antonveneta to ABN just two months after ABN's cash offer for the bank failed.

But a criminal probe involving BPI's bid dashed its takeover plans and raised serious questions about the role played by Italy's chief banking regulator, Bank of Italy governor Antonio Fazio. Evidence amassed by Italian prosecutors indicates that Mr. Fazio had a close relationship with BPI Chief Executive Gianpiero Fiorani and that the central banker acted to ensure that BPI's bid won regulatory approval.

If the Dutch bank wins control of Antonveneta, it would mark the first crack in a regulatory wall that has prevented foreign banks from taking over large Italian ones. ABN Amro has held stakes in Antonveneta and in another large Italian bank, Capitalia SpA, for years, but had been frustrated by its inability to gain control of either. Antonveneta, based in the wealthy northern city of Padua, would give ABN a broad new terrain for its retail operations.

ABN Amro's chief executive, Rijkman Groenink, will be under pressure to convince shareholders that acquiring Antonveneta is part of a cohesive growth strategy. In the past, some have criticized him for making scattershot acquisitions with no overall goal. ABN employs 98,000 people and operates in more than 60 countries, including a large presence in retail banking in the U.S. Midwest.

The Dutch bank is expected to offer €26.50 a share -- the same price it made in its failed public offer this summer, according to people familiar with the negotiations. The bank already has raised €2.5 billion to fund the Antonveneta transaction by issuing 135 million new shares. ABN Amro already held a roughly 30% stake in Antonveneta, and should the BPI sale go through, ABN would control more than half of Antonveneta's shares. Under Italian law, ABN Amro will have to launch another all-cash offer for the remaining shares once it receives regulatory approval.

"BPI has expressed its intention to sell their shares to us. We have the intention to buy that stake, although an agreement has yet to be signed," an ABN Amro spokesman said. BPI said in a statement that it wanted to complete the deal by Wednesday.

ABN Amro would be the first foreign bank to own more than 15% of the voting shares in a large Italian bank, a precedent that could see more foreigners seeking a greater presence in Italy, one of Europe's most fragmented banking markets, analysts say. European banks have long eyed the Italian banking sector, which is potentially lucrative because of the high fees banks charge their customers. In the 1990s, Deutsche Bank AG acquired a small local lender called Banca Popolare di Lecco.

"We will see more foreigners coming back to Italy," said Marcello Zanardo, an analyst with Keefe Bruyette & Woods.

There are many foreign banks with stakes that, in time, could be expanded to controlling positions. Spain's Banco Santander Central Hispano SA has an 8.5% stake in Turin-based Sanpaolo IMI. France's Crédit Agricole SA has a 17.8% stake in Banca Intesa SpA, and Germany's Commerzbank AG has a 2.8% stake in Intesa, as well. ABN Amro's success could also hasten consolidation among banks in Italy, said Mr. Zanardo.

Hurdles remain. Many Italian banks have shareholder pacts that lock up ownership and make hostile bids problematic. ABN Amro's bid, though among the most aggressive ever by Italian standards, was endorsed by Antonveneta's board.

This year, Spain's Banco Bilbao Vizcaya Argentaria SA launched a bid for Rome-based Banca Nazionale del Lavoro SpA, but was beaten back at the last minute by a counteroffer from midsize Italian insurer Unipol Assicurazioni SpA. BBVA complained that the Bank of Italy had thrown up obstacles to its bid, and prosecutors have been looking into that deal as well.

The climate for foreign banks remains highly uncertain, said Stefano Caselli, professor of banking and finance at Milan's Bocconi University. ABN's apparent victory came only as a result of an unusual investigation, not because of a change in the regulatory environment. "The whole regulatory framework is up in the air right now," Mr. Caselli said.

Mr. Fazio's alleged role in aiding BPI has prompted calls for his resignation, but he has clung to his post. Still, if another foreign bank were to try to buy an Italian lender, Mr. Fazio's actions would be watched closely.

The widening criminal probe left BPI with little choice but to sell out. Last month, a judge impounded BPI's stake after prosecutors alleged it acquired the shares improperly. Though BPI and allies held a majority of Antonveneta, the judge's ruling effectively froze BPI's plans.

Before the sale can be completed, a judge must formally unfreeze the BPI shares. In addition, both the Bank of Italy and Italian stock-market regulator Consob must void BPI's public offer for the bank. Before its board voted to back the stake sale, BPI held informal talks with both Consob and the Bank of Italy to ensure that the sale would be allowed to proceed.

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Could Airlines Merge? Little Route Overlap For Delta, Northwest (USAT)

By Marilyn Adams, Usa Today

USA Today, September 16, 2005

DOJ_NMG_0006235

Delta Air Lines and Northwest Airlines entered bankruptcy court together this week, and few will be surprised if they emerge together — as a single combined carrier.

The twin Chapter 11 bankruptcy filings Wednesday night, almost simultaneous and in the same New York courthouse, are leading many industry experts to believe the carriers may be exploring a merger within bankruptcy protection.

"I wouldn't be at all surprised," Benchmark analyst Helane Becker said Thursday. "In the past, these two airlines have talked and they have very little route overlap."

JPMorgan Chase analyst Jamie Baker said his firm "already has coined the term 'Delta Orient,' " a play on Northwest's former brand name, Northwest Orient.

Atlanta-based Delta is concentrated in the East and launches more daily flights across the Atlantic than any other carrier. Eagan, Minn.-based Northwest is concentrated in the Midwest and has a strong route structure in Asia.

The minimal route overlap is considered an advantage with federal regulators.

Airlines proposing a major merger would have to convince government regulators that the combination would not significantly reduce competition, or that one or both of the airlines would fail without the merger.

Northwest declined comment when asked about a merger with Delta. In a conference call Wednesday, Northwest CEO Doug Steenland said the timing and location of the filings was coincidental. He added he has long believed consolidation among airlines is likely.

Delta spokeswoman Chris Kelly said Delta "expects there will be more consolidation in the industry. Right now, Delta is focused on its own restructuring efforts."

The twin filings, outrageously high fuel prices and declining hope for financial relief from the government could spark a round of merger talks as the remaining big troubled airlines scramble for partners.

A judge today is expected to approve a merger between US Airways and America West Airlines. Five big potential partners remain: United Airlines, Delta and Northwest, all of which are now in bankruptcy protection, as well as American Airlines and Continental Airlines.

A merger of No. 3 Delta and No. 4 Northwest would propel the combined airline to the front of the industry pack. It would pass American and United and become the biggest airline in terms of revenue passenger miles, according to an analysis by Back Aviation Solutions.

Draft Legislation Aims To Aid Competition In Broadband Services (WP)

By Arshad Mohammed, Washington Post Staff Writer

The Washington Post, September 16, 2005

A key House committee released draft legislation yesterday requiring broadband providers to allow their subscribers to view any legal online content, a policy aimed at keeping big Internet companies from restricting access to competitors' Web offerings.

The House Energy and Commerce Committee draft is a victory for advocates of "net neutrality" -- the idea that Internet providers have to stand aside and allow customers to access any Web pages as long as the content is legal. The principle is considered crucial to preserving the open nature of the Internet and preventing big broadband providers from squeezing out smaller competitors that offer voice, video or other services.

Another provision in the proposed law also makes it easier for telephone companies to offer television over high-speed lines. It seeks to free cable and telephone companies from having to negotiate video franchises with numerous local authorities around the country, instead giving the Federal Communications Commission more authority over the process.

That would largely benefit the major telephone companies like Verizon Communications Inc., SBC Communications Corp. and BellSouth Corp., which hope to offer television over fiber-optic lines. Yesterday, officials at those companies reacted favorably to the legislation.

Other aspects of the draft legislation are aimed at making sure cable and telephone companies get equivalent regulatory treatment as they offer broadband Internet access.

The draft is a first salvo from the committee, which is led by Texas Republican Joe Barton, in what is likely to be a lengthy battle in Congress over any rewrite of the 1996 Telecommunications Act.

Kroes: EU Inquiry May Lead To Changes (AP)

By AOIFE WHITE, The Associated Press

AP, September 15, 2005

Sep. 15, 2005 - A European Union antitrust inquiry into retail banking may lead to changes in the way European banks are regulated, EU Competition Commissioner Neelie Kroes said Thursday.

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She said an ongoing investigation may be widened to see how regulation affects customer choice.

"Do public rules that may have a legitimate objective end up making markets more rigid and limit competition and consumer choice?" she asked European regulators at a twice-yearly meeting in London. "We want government to protect the consumer, but we also need to protect the consumer from the government."

The EU launched its investigation earlier this year, saying it wanted to look at areas where it thought competition was not functioning as well as it might.

Kroes said it was hard for consumers to get clear comparative information about products to allow them to make informed choices.

The head of the Irish Competition Authority, John Fingleton, said a national investigation into problems in Ireland's banking sector showed that banks often had customers for life.

"No company ever wants to give their customers information that could help them switch," he said.

There was nothing illegal in banks or insurance companies dragging their heels when customers asked for information, he said. But such "perfectly rational competitive behavior" led to a static banking market with few new providers.

The Irish government has made changes to help customers change banks, although Fingleton said people were still slow to switch over.

Sir Callum McCarthy of Britain's Financial Services Authority warned that consumers' ability to make financial decisions is "too often inadequate" because of basic literacy and math problems.

"We live in a society where individuals are being asked to make more and more financial decisions, many of which were previously taken for us," he said.

Poor math skills pose a problem for regulators because they assume that consumers are able to make an informed choice, have access to information they can understand and are dealing with financial providers who behave responsibly.

"In the retail market for financial services, all three of these conditions pose problems, particularly for investment products," he said.

Financial companies sometimes feed the problem. McCarthy cited one example of jargon-filled mail to customers which told them about "negative retrospective augmentation."

DaimlerChrysler Wins Reduction In EU Antitrust Fine (Update3) (BLOOM)

Bloomberg News, September 16, 2005

Sept. 15 (Bloomberg) -- A European Union court today annulled most of a 72 million-euro ($88 million) antitrust fine against DaimlerChrysler AG, ruling that the regulator was wrong to say the automaker broke EU law in Germany and Spain.

DaimlerChrysler, the world's fifth-largest carmaker, was fined in 2001 for breaking EU free-trade laws by instructing dealers in Spain, Germany, the Netherlands and Belgium not to sell to bargain hunters from other EU nations between 1985 and 1996.

The European Court of First Instance in Luxembourg cut the fine to 9.8 million euros, saying in a statement today that DaimlerChrysler acted ``unilaterally'' in Germany and therefore didn't break EU rules. In Spain, the automaker acted in line with national legislation, the court said. The tribunal upheld the EU's decision about the company's Belgian operations.

The European Commission, the EU's Brussels-based antitrust regulator, has sought to bring down car prices by dissolving the exclusive ties between carmakers and dealerships. Starting in October 2002, the EU rules broke carmakers' lock on sales networks, permitting dealers to expand and sell different brands in the same showroom.

A spokeswoman for the Stuttgart, Germany-based automaker said today's decision showed that it had acted lawfully. The company may appeal the part of the ruling about Belgium, said the spokeswoman, who declined to be identified.

Appeal Considered

Either side of the case can appeal the judgment to the European Court of Justice, Europe's highest court. Such an appeal can only be made on points of law and not on the facts of the case.

``We will see over the course of the next two months whether there are points of law where we want to go to the Court of Justice,'' commission spokesman Jonathan Todd told reporters at a daily briefing in Brussels. The commission welcomed the Belgian part of the ruling and will ``very carefully'' study the parts of its decision that were overturned, he said.

Former Competition Commissioner Mario Monti said that during the five-year investigation, DaimlerChrysler refuted initial suspicions that it had a ``general strategy'' to interfere with trade across EU borders.

The commission said the decision was based on documents seized when the company's headquarters were raided in 1996, as well as subsidiaries in Spain, Belgium and the Netherlands.

The commission highlighted three sets of violations by DaimlerChrysler. The company told dealers to require non-Germans to put a 15 percent deposit on Mercedes-Benz cars bought in Germany. Germans were exempt from this practice.

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DaimlerChrysler also restricted competition between its own leasing companies and independent leasing companies by refusing to sell cars to the independents until they had found customers.

The automaker also sold fewer cars to dealers in Belgium who wouldn't comply with an order to restrict rebates to no more than 3 percent of the purchase price, according to the commission.

The case is T-325/01 DaimlerChrysler AG v Commission.

To contact the reporter on this story: Matthew Newman in Brussels at mnewman6@bloomberg.net. Last Updated: September 15, 2005 06:46 EDT

EU Court Reduces Antitrust Fine Against DaimlerChrysler On Competition Rules (FINDLAW/AP)

Find Law, September 16, 2005

(AP) - BRUSSELS, Belgium-The European Union's Court of Justice reduced an antitrust fine against automaker DaimlerChrysler AG on Thursday to â,¬9.8 million (US$12 million) from â,¬71.8 million (US$88.2 million), annulling a decision by EU regulators that it violated competition rules in Germany and Spain.

The EU judges, however, upheld a decision on DaimlerChrysler's conduct in Belgium, where they said the company participated "in an anti-price-slashing agreement with the Belgian dealers."

The European Commission found DaimlerChrysler guilty in 2001 of infringing EU rules by preventing cross-border sales of the Mercedes-Benz brand, restricting price competition between dealers.

The EU court said, however, that under EU competition rules DaimlerChrysler could not be found guilty in Germany because it acted alone there.

The Commission had considered German dealers independent. Under EU rules, two companies have to coordinate "anticompetitive conduct" for a cartel violation to occur, the court ruled.

The Court in this case scrapped the Commission's initial fine of â,¬47.025 million (US$57.9 million).

In Spain, the EU court said DaimlerChrysler followed local law by forcing leasers to link each car with a contracted customer. The Commission had argued that this prevented local dealers from stocking up on Mercedes vehicles and created an artificial shortage. But the court said the Spanish law was "not contrary" to any EU law and overturned the â,¬15 million (US$18.47 million) fine.

Thursday's ruling follows earlier EU court decisions to reduce fines against car companies. Volkswagen AG had its antitrust fine reduced in 2003, from more than â,¬100 million (US$123.14 million) to â,¬90 million (US$110.83 million).

The Commission overhauled its auto-market competition rules in 2002. Manufacturers no longer are allowed to force dealers to sell only one brand, and for the first time, they are able to sell cars outside their home country.

ENVIRONMENT/INDIAN AFFAIRS:

Spitzer's New Target: Tree-Eating Beetles (LAW/AP)

By Michael Gormley, The Associated Press

Law.com, September 16, 2005

Four states sued the Bush administration Thursday over an invasive, tree-eating beetle that has entered the U.S. as a stowaway on cargo ships.

The Asian long-horned beetle, along with the emerald ash borer and the pine shoot beetle, are the culprits named in the lawsuit by attorneys general from New York, California, Connecticut and Illinois.

The states are seeking a court order to require the Agriculture Department to examine more effective and less environmentally harmful ways to prevent the insects from entering the country, said New York Attorney General Eliot Spitzer.

State officials say the insects would cause extensive economic and environmental damage if they move from cities like New York and Chicago to working forests.

The pests enter the country in wooden pallets and wood-based packaging. The state officials contend that federal officials use a "marginally effective" pesticide, which is being phased out under an international treaty as unsafe to humans.

Also, they said the USDA is following a new rule that requires wooden shipping pallets and other wood packaging material carrying imports to be treated with heat or sprayed with methyl bromide, a chemical the state officials say depletes the ozone and could be a cancer risk.

"It simply doesn't follow that USDA officials are proposing to ramp up its use, and endanger air quality and public health, especially when there are proven non-chemical alternatives," said California Attorney General Bill Lockyer.

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One option would be to replace raw wood pallets with pallets made from plywood, processed wood or recycled plastic, a potentially expensive remedy.

The USDA is abiding by international treaties and is reviewing the lawsuit, said department spokeswoman Kristin Scuderi.

The Nuclear Waste Site In Utah (NYT)

The New York Times, September 16, 2005

While few people outside Utah were paying close attention last week, the Nuclear Regulatory Commission authorized the licensing of a private storage plant for spent nuclear fuel rods on an Indian reservation some 50 miles southwest of Salt Lake City. Utah's outraged political leaders pledged to use every legal and political trick available to block the project even though, as representatives of a very conservative state, they supposedly abhor bureaucratic or judicial interference with private corporate decisions. Their contention - that the storage site, backed by a consortium of eight utilities, would pose a safety hazard - seems overblown. If the project should clear all of the remaining regulatory, legal and commercial hurdles, it could provide a useful interim storage site while the nation seeks a more permanent burial site deep underground.

The government's long-term goal is to bury the waste in stable geologic formations that will be resistant to leaks for eons to come. Unfortunately, progress has been slow. The only site approved for evaluation - at Yucca Mountain in Nevada - has been hobbled by technical problems and legal challenges. Meanwhile, spent fuel rods have been piling up in cooling pools and in dry-storage casks at nuclear reactor sites around the country.

So far as is known, the used fuel rods can be left there safely for decades. But it becomes awkward and costly to guard and maintain the storage casks after the reactors themselves have been retired from service. Several reactors have already been shut down, and more are apt to follow. In some cases, the spent fuel rods sit on land that might have more valuable uses. Unless these used fuel rods can be sent to Yucca, a destination that has not yet been approved to receive them, it seems desirable to have a backup site.

The question of whether Utah is the best place for such a site has never been addressed. Private Fuel Storage, a company set up by the utilities, simply negotiated a deal with a small, poor Indian tribe, the Skull Valley Goshutes, for an undisclosed but presumably substantial amount of money. The site seems safe enough. The Atomic Safety and Licensing Board and the Nuclear Regulatory Commission - both charged with protecting the public from nuclear hazards - approved the project after an exhaustive eight-year process.

There are still hurdles to clear before the site can be developed. The state plans to appeal the decision in federal courts. It will also try to persuade the Bureau of Indian Affairs to withhold approval of the lease and will ask the Bureau of Land Management to deny a right of way needed for a rail spur to haul spent fuel to the site. So there is plenty of room for political interference should the Bush administration wish to do Utah a favor.

Meanwhile, Private Fuel Storage will need to sign up enough customers to make the project financially viable. Some utilities in the consortium are reported to be in no great rush to ship fuel rods to the site only to then ship them a second time, to Yucca.

We remain hopeful that Yucca can qualify as a permanent disposal site. But if Yucca fails to pass muster with the Nuclear Regulatory Commission, the nation will need a centralized surface site to fill the gap until a safe burial location can be found. The Indian reservation in Utah can fill that purpose.

Hearing on Indian Trust Judge Delayed (WP)

The Washington Post, September 16, 2005

A federal appeals court panel has decided it will not hear arguments today about whether U.S. District Judge Royce C. Lamberth has lost the appearance of impartiality in overseeing a lawsuit involving billions of dollars the government may owe Native Americans.

The appeals court panel was scheduled to consider another dispute in the case along with the government's unusual July request to remove Lamberth as the presiding judge. Lamberth has repeatedly ruled that the Interior Department has refused to properly account for property, rent and gas and oil royalties owed to Indians, a duty the government took on when it seized management of Indian lands more than a century ago.

But the three-judge panel issued an order late yesterday saying they will instead refer the issue of Lamberth's perceived fairness to a later panel of judges considering another appeal dispute in the case, Cobell v. Norton . That means that the Justice Department is not likely to hold a hearing on its complaints about the judge until spring, based on the appellate court's already full schedule this year.

DOJ_NMG_0006239

FBI/DEA/ATF/USMS:

Top Attorney To Admit Guilt In Pot Conspiracy (MH)

By JAY WEAVER

The Miami Herald, September 16, 2005

In February, federal agents rustled a prominent lawyer out of bed to bust him at his Miami Beach waterfront home.

Today, Samuel I. Burstyn is scheduled to plead guilty to scheming with his former clients to obstruct a federal grand jury's investigation into their drug-trafficking operation and himself.

Burstyn -- once a defense attorney in demand who counted bad Miami cops, tennis star Boris Becker's ex-wife and former Panamanian dictator Manuel Noriega's right-hand man among his clients -- faces five years in prison.

He must forfeit about $200,000 and is expected to lose his law license.

U.S. District Judge William J. Zloch has insisted on a "full confession" from Burstyn at the Fort Lauderdale plea hearing, according to a court document filed Tuesday. Normally, federal judges leave it up to the defendant to decide whether to say anything at such hearings.

Burstyn's lawyer, Fred Haddad, and Assistant U.S. Attorney Brian McCormick declined to comment on Thursday.

Burstyn, 52, has been held without bond in the Miami Federal Detention Center since the morning of Feb. 23, when agents from the FBI, Internal Revenue and local law enforcement arrested him at his $4.5 million Miami Beach home on Sunset Island.

He pleaded not guilty to 12 counts of conspiracy, money laundering, obstruction of justice and making a false declaration to a federal grand jury. In his deal with prosecutors, he is expected to plead guilty to one count of conspiring to obstruct justice.

The other 11 counts would be dismissed.

McCormick and fellow prosecutor Michael Dittoe have said Burstyn acted as "house counsel" for marijuana smugglers Jeffrey Tobin, David Tobin and others.

Burstyn allegedly loaned money to a Tobin business associate, advised the Tobins to invest their drug proceeds into diamonds, instructed them to lie to the grand jury and, in one case, urged Jeffrey Tobin to flee from justice.

Prosecutors made their case against Burstyn by first targeting the Tobins, who eventually provided incriminating information about the lawyer in exchange for more lenient sentences.

In 2003, Burstyn allegedly contacted a business associate to help Jeffrey Tobin hide more than $600,000 in drug proceeds through the purchase of diamonds, according to the indictment. Tobin wired the money for the diamond purchase that October.

The following year, a Fort Lauderdale federal grand jury indicted the Tobin-led ring. David Tobin and others were arrested that January, but Jeffrey Tobin became a fugitive. FBI agents caught up with him in March 2004 in New York City, where Burstyn represented him at a bond hearing.

In less than a year, Burstyn was charged, along with the Tobin organization, with trying to obstruct justice. Prosecutors dubbed them the ``Enterprise."

Among the allegations: ``Burstyn would organize meetings with potential witnesses in order to convince them to provide false and misleading information to a federal grand jury and law enforcement officials."

Coast Guard Seizes Cocaine In Pacific (AP)

AP, September 16, 2005

BOGOTA, Colombia - The U.S. Coast Guard, acting on Colombian intelligence, intercepted a ship towing an unmanned submarine-like vessel that held more than 2 tons of cocaine, Colombia's anti-narcotics police chief said Thursday.

The boat was raided Wednesday off the coast of the Ecuadorean-owned Galapagos Islands, Gen. Alberto Gomez told reporters. The underwater capsule, which was attached by a metal cable, was designed so smugglers could tow it below their boat and escape detection if drug agents searched the ship.

Although similar capsules have been seized in the past, Gomez said that increased vigilance in the Pacific has forced drug smugglers to come up with increasingly creative ways to hide their illegal shipments.

Separately, 2.5 tons of cocaine were discovered Wednesday hidden in the oil tanks of a ship docked in the Colombian Pacific port of Buenaventura, Adm. Jairo Pena, commander of Colombia's Pacific fleet, said in a statement. Eight suspects were arrested.

He said the cocaine was likely going to be taken to Central America from where it would be shipped on to the United States.

Colombia is the world's biggest produce of cocaine and a major supplier of heroin to the United States. The Colombian navy has this year seized a record 46 tons of cocaine.

Also Thursday, authorities seized $4.5 million worth of counterfeit American currency during a raid on a clandestine printing workshop in south Bogota, police said in a statement. The network had been sending the money to Ecuador and Venezuela, where the U.S. dollar is widely accepted as legal tender.

Police have so far this year seized $20 million in counterfeit bills, compared with a total of $7.4 million in 2004.

Plea Deal Goes Awry (PROJO)

By W. Zachary Malinowski And Mike Stanton, Journal Staff Writers

The Providence Journal, September 16, 2005

PROVIDENCE -- Mob associate Alan Blamires was set to plead guilty yesterday to charges that he guarded a large shipment of cocaine that was passing through Rhode Island last winter.

At least that's what the judge, prosecutor and Blamires' defense lawyer thought.

But in an unusual and unexpected development, the plea agreement fell apart. Blamires told Chief U.S. District Court Judge Ernest C. Torres that he was "fuzzy and blurry" from medication to control his violent tendencies and did not understand the charges against him.

Suddenly, Blamires blurted out, "I have pertinent information about Joseph Bevilacqua that I'm trying to get to the prosecutors."

Torres told him that he should talk to the prosecutors.

"They won't let me," said Blamires.

Torres canceled the hearing and put Blamires' case on the trial calendar for October.

Afterward, in the hallway outside the courtroom, First U.S. Attorney Kenneth P. Madden said that he would be willing to talk to Blamires, but he would have to plead guilty, first.

"I have no idea what he wants to say," Madden said.

Last Friday, Bevilacqua, a prominent defense lawyer from a politically influential family, was sentenced to 18 months in federal prison for lying about his role in providing a surveillance videotape to TV newsman Jim Taricani.

Taricani was ordered to serve a sentence of six months of home confinement for refusing to disclose Bevilacqua as his source.

Bevilacqua also has been the target of a Drug Enforcement Administration investigation. DEA agents have spoken to Courtney Calenda, an East Greenwich teenager, who has accused Bevilacqua of sexually assaulting her and supplying her with cocaine.

Last week, Calenda and her parents sued Bevilacqua in Kent County Superior Court.

In January, Blamires, 49, was arrested with mobster Matthew L. Guglielmetti and Anthony P. Moscarelli in an FBI sting operation. Guglielmetti reached an agreement with an undercover FBI agent that he would protect 67 kilograms of cocaine that was passing through Rhode Island.

Guglielmetti, who recently was sentenced to more than 11 years in federal prison for his role in the scheme, recruited Blamires and Moscarelli to guard the cocaine in a hotel.

Moscarelli also has pleaded guilty to criminal charges and is awaiting sentencing.

Yesterday, Madden detailed for the court Blamires' role in guarding the drug shipment, which was kept in a local hotel. The prosecutor said that the government was willing to request a shorter prison term -- still a mandatory minimum of 10 years in prison -- based on Blamires' willingness to plead guilty and his "minor role" in the affair.

But when Torres quizzed Blamires about whether he was able to comprehend what he was admitting to, the defendant, who appeared disoriented, said that he couldn't, because of three different medications he was taking for "posttraumatic stress," a condition for which he has been treated at the Johnston Mental Health Center.

"It makes you fuzzy and blurry," he told Torres. "It doesn't make you sharp. They give [the medication] to me in the morning, so I don't get violent and worked up."

Blamires' lawyer, Richard K. Corley, then asked his client a series of questions in an effort to clear up the confusion.

That prompted an agitated Blamires, a large, burly man, to tell Corley: "You told me that all I was admitting to was that I went to a hotel room to guard something. That's the truth."

Madden told Torres, "I don't think the drugs are affecting him, but I think his view of how criminally culpable he is, is different from the government's."

Still, under the circumstances, Torres said that he had no choice but to refuse to allow Blamires to plead guilty.

After the hearing, marshals shackled Blamires with a chain around his waist, in addition to the usual handcuffs and leg irons. He quietly shuffled from the courtroom.

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Local Men Plead Guilty (STANDEM)

Standard Democrat, September 16, 2005

CAPE GIRARDEAU - Two Southeast Missouri men entered guilty pleas on drug charges in federal court.

Adrian L. Lewis, 25, of Charleston pled guilty to one felony count of distribution of cocaine base and one felony count of distribution of five grams or more of cocaine base. He appeared before United States District Judge Charles A. Shaw.

With the plea, Lewis admitted that on July 10, 2002, and Dec. 16, 2002, he sold a total of 9.2 grams of "crack" cocaine to a Southeast Missouri Drug Task Force officer.

Lewis now faces a maximum punishment on count one of 20 years imprisonment and a $1,00,000 fine. He faces a maximum punishment on count two of 40 years in prison and a $2,000,000 fine. Sentencing is set for Nov. 21.

Joe Lenzie Turner, a Scott County resident, entered a plea of guilty to one felony count of distribution of cocaine base. He appeared before U.S. district Judge Charles A. Shaw on Tuesday.

Turner now faces a maximum of 40 years imprisonment and a $2,000,000 fine, followed by a period of supervised release of at least four years. Sentencing is set for Nov. 22, in Cape Girardeau.

With his plea, Turner admitted that on May 20, 2005, he distributed a substance containing base (also referred to as "crack") to a confidential informant. Specifically, Turner gave the informant 5.4 grams of cocaine base in exchange for $300. The sale occurred at a location on County Road 427 in Scott County.

United States Attorney, Catherine L. Hanaway commended the Drug Enforcement Administration and the Sikeston Department of Public Safety for their combined efforts to prosecute the case.

Meth Dealer Gets Prison Time (LYNNA)

Lynchburg (VA) News & Advance, September 16, 2005

Despite several tearful pleas from friends and family, a Lynchburg federal judge blasted a Rustburg man Thursday for his role in the selling of methamphetamines.

"You don't know how many lives were destroyed … Generations of others will be coming through this courtroom because of his actions. You're old and in pain. That's not an excuse," U.S. District Judge Norman K. Moon said.

Moon didn't believe Clayton "Sonny" Keyes' story that he only started using meth in 2001 because his back pain had become so painful, and that he began selling the drug only to support his addiction.

Keyes, 55, pleaded guilty in April 2004 to conspiracy to distribute more than 15 kilograms of methamphetamine and possession of a firearm. He has already served two years in jail since his arrest.

On Thursday, Moon gave Keyes nearly 10 additional years in prison, despite calling the prosecutor-recommended sentence "overly generous."

Moon agreed with prosecutors, describing Keyes' role in the drug ring as a leader, saying it was "absurd" to say Keyes was selling only enough to support his own needs.

"Very few drug dealers are making a profit while supporting their habit," he said.

Keyes is one of dozens of Central Virginians convicted after a three-year investigation by the FBI and Central Virginia Drug Task Force, which includes federal, state and local law enforcement officials.

The investigation has resulted in more than 30 arrests, nearly $4 million in court-imposed judgments and the seizure of large amounts of cash, drugs and firearms.

More than 20 friends and family members crowded into the courtroom Thursday morning. The room echoed with muffled cries and sniffles and people shook violently as they wept, including Keyes himself.

Witnesses repeatedly smiled at Keyes as they walked by, reaching for his hand and whispering, "I love you."

"He's a wonderful husband. He always took care of me," wife Rose Keyes testified.

Keyes' daughter called her father an inspiration who worked hard to make a life for his family.

Several people said Clayton Keyes was in constant pain after falling off a dock at work several years earlier and that, even with painkillers, the pain only worsened.

Keyes, his eyes puffy and red-rimmed from crying, sobbed as he read a prepared statement on the stand.

"In 2001, my brother gave me meth. He told me it would make me forget I had a back. He was right. For the first time in years, I didn't feel any pain," Keyes said.

"I had the energy to play with my grandkids. I liked to work on cars and I could do so for hours. It really was a miracle drug for me."

Keyes said he didn't realize what he had done until his arrest.

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"Jail broke me down. I'm a broken man," he said. "If you give me 10 years (in prison), you give me a death sentence. I've seen what meth did to me and my family. I will do 100 years of probation. I will do a million years of community service. I will talk to others about this evil drug."

Defense attorney Carter Garrett called his client "a pawn" in the conspiracy and told the judge Keyes got swept up in the drug use and was as much a victim as the people he sold to.

"He just lost his mind in his addiction. He's not a criminal at heart," Garrett said.

Garrett started to ask the judge how many drug dealers come into court at his client's age with no prior record and a 30-year marriage and having worked a steady job, but the judge cut him off.

"By far, more and more people. He's not the oldest to (come before me)," Moon said.

Assistant U.S. Attorney Tim Heaphy said Keyes was fortunate to have such a supportive family, but that they only knew one side of Keyes.

He pointed out that in addition to methamphetamines, investigators found cocaine, 29 firearms, $60,000 in cash and a closed-circuit surveillance setup installed at Keyes' house.

"He was a significant methamphetamine trafficker in this area. He was a supervisor, a manager, who enriched himself by exploiting the weaknesses of others," Heaphy said, adding that Keyes received numerous meth packages from California suppliers at his house.

After court, Heaphy said the case was another example of the dangers that come with using meth.

"People who are upstanding and productive, it takes over their lives," he said. "People like Keyes, they take it a step further. They see the potential of making money and that's when we get involved."

Borderline Crime (MISSIND)

By Jessie McQuillan

Missoula Independent, September 16, 2005

Loretta Nall, founder of the U.S. Marijuana Party and Alabama gubernatorial candidate, collects donations at Missoula's Hempfest Sept. 10 in Caras Park. Nall, who spoke to the crowd about Marc Emery, a Canadian fighting extradition to the United States on marijuana charges, says the money will help fund Emery's legal defense. BC's Prince of Pot faces extradition

While 4,000 people gathered in Caras Park Sept. 10 to support industrial hemp at Missoula's Hempfest, worldwide Smoke Out America protests calling for an end to the U.S. drug war drew thousands more. One protest, at the U.S. Consulate in Vancouver, British Columbia, had special urgency and a special guest. Marc Emery, aka "the Prince of Pot" who founded the British Columbia Marijuana Party [BCMP] as well as Cannabis Culture magazine and Internet-based Pot TV, showed up to rally for his own cause.

At the request of the U.S. government, Emery and two of his employees—Greg Williams and Michelle Rainey-Fenkarek—were arrested July 29 by Canadian police on U.S. charges of conspiring to distribute marijuana and marijuana seeds and money laundering. The charges stem from Emery's marijuana seed-selling business, Mark Emery Direct Seeds, reputedly the world's largest marijuana seed business, which had been in business for nearly a decade. According to the Drug Enforcement Agency, an 18-month investigation traced Emery's seeds to busted growing operations in nine states, including Montana, and the charges seek to hold the defendants responsible for those plants. The process of extraditing the "B.C. Three" is underway and each of the three charges could carry penalties of 10 years to life in prison. While Emery and his lawyer, John Conroy, are hopeful they can fight extradition successfully, they're also nervous because Canada and the United States have a long history of granting one another's requests.

Still, many factors besides Emery's alleged crimes feed into the issue—Canadian sovereignty and political persecution, to name two. Although selling seeds is technically illegal in Canada, the government there has deliberately ignored Emery's business—and dozens of similar ones—for several years, Emery says. Since 1999 he's paid $578,000 in income taxes openly generated by the seed business, Emery claims, and the Canadian health department even referred medical marijuana patients seeking seeds to his website.

"I've been selling seeds untouched for seven years, every day of my life," says Emery, who's out on bail. "Seeds have become so acceptable here, and the last time anyone was fined it was like a $500 fine in 2000."

He says he was surprised to find that the charges came from the States. Emery hasn't left his home country in eight years because he knows the DEA might arrest him overseas, but he figured he was safe in Canada.

Conroy says the fact that Canadian citizens may be harshly punished for something their own government chooses to ignore irks Canadians. A poll by the Canadian newspaper Globe and Mail backs that claim, showing that a majority of Canadians oppose extraditing Emery, and their interviews reveal concerns about Canadian sovereignty as well as the disparity between how Canadians and Americans enforce and sentence marijuana crimes.

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Conroy says the main argument in Emery's favor is that the U.S. prosecution is politically motivated. Though DEA agents paint Emery as a greedy drug trafficker, Emery says he's dedicated the last 15 years to the cause of marijuana legalization and has donated all business proceeds—$4 million—to the movement and its activists, both in Canada and the United States.

A statement issued by DEA Administrator Karen Tandy the day of Emery's arrest goes a long way toward showing the true aims of U.S. prosecutors, Emery and Conroy say.

"Today's DEA arrest of Marc Scott Emery, publisher of Cannabis Culture Magazine, and the founder of a marijuana legalization group, is a significant blow not only to the marijuana trafficking trade in the U.S. and Canada, but also to the marijuana legalization movement… Hundreds of thousands of dollars of Emery's illicit profits are known to have been channeled to marijuana legalization groups active in the United States and Canada. Drug legalization lobbyists now have one less pot of money to rely on," the statement reads.

"That's revealing," says Emery. "It mentions the movement in four places. The whole thing is about politics…There are dozens and dozens of seed distributors in Canada but I'm the only one who's a political activist."

Though the timing of Missoula's Hempfest in relation to Smoke Out America was a coincidence, according to organizer John Masterson, the Caras Park appearance of U.S. Marijuana Party founder Loretta Nall was not. Nall, who's worked with Emery, Cannabis Culture and Pot TV since 2002, spoke to the crowd about Emery's case and collected more than $200 in donations for his legal defense.

Kirk Tousaw, the BCMP general counsel who's coordinating Emery's legal team, says the extradition process will likely take at least two years, and both the British Columbia Supreme Court and Justice Minister Irwin Cotler would have to approve the surrender of the B.C. Three.

Cotler could deny approval if he believes the crime's potential punishments would "shock the conscience" or that the prosecution is politically motivated. In addition to the political persecution argument, Conroy will argue before the BC Supreme Court that the disparity between the countries' sentences is shocking: "In the States it's 10 to life without parole—up here it's a fine…The maximum for production up here is seven years for any amount," he says. "We got rid of a mandatory seven-year minimum for import/export because it was cruel and unusual."

Tousaw says both Canadians and Americans should call upon Cotler to deny extradition. Emery's first extradition hearing is Sept. 16.

"It is a unique situation in this sense: We're talking about nonviolent, nonharmful people who have not set foot in the U.S., whose alleged activities were conducted in the open for political reasons, and who were not impeded in any way by the Canadian government," Tousaw says.

US Takes The War On Drugs To Canada's Prince Of Pot (GUARD)

Guardian (UK), September 16, 2005

One of the world's leading cannabis legalisation campaigners, a magazine publisher known as the "Prince of Pot", faces an extradition hearing today in Vancouver as American drugs agencies seek to put him on trial in the US. His supporters claim the move is a first step by US authorities to prosecute foreigners who challenge the US laws on cannabis.

Marc Emery, publisher of Cannabis Culture, faces charges of trafficking in marijuana seeds and money laundering. His supporters have been demonstrating outside Canadian embassies in more than 30 countries during the past week to urge Canada's authorities not to yield to pressure from the US and hand him over, arguing he could face a lifetime in prison if they did so.

Article continues

A former bookseller, Mr Emery became a cannabis campaigner 15 years ago, angered by a ban on selling publications that promoted cannabis use. He has since become one of the best-known figures in the cannabis debate worldwide and operates the small television station Pot-TV. His magazine, Cannabis Culture, founded in 1994, promotes the sale of marijuana seeds.

Mr Emery has paid C$578,000 (£267,000) in personal taxes between 1999 to 2005 on income that was explicitly from the sale of such seeds. He describes himself on his tax returns as a marijuana seed vendor and sends a free copy of his magazine to every Canadian MP.

The main charges he would face in the US are for selling the seeds - considered international drug trafficking. Money laundering charges might be levelled because the profits he makes from the sales are used to promote the legalisation of cannabis.

"I have always been very, very transparent in the way I have conducted a career," Mr Emery said in a message posted about his arrest on his website. "I have often described [what I do] as 'revolutionary retail' or 'capitalist activism'." He suspected the US authorities wanted to make an example of him.

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"If I were to be extradited and prosecuted in the US, [I would face] probably life imprisonment," he said. "Under 'Drug Kingpin' legislation, selling over 60,000 seeds qualifies for the death penalty. I would be the first person under this recent law who could qualify to be executed for the activity I have clearly done with the tacit approval of everyone in Canada."

When the US drug enforcement administration undercover agent "tried to get me to sell her 10lbs of pot over the phone, I refused and told her that I always assumed my cell phone was monitored, so how could she be so foolish and naive. When she asked again at a later time, I lectured her at length. Not only did I not sell pot, but she was foolish to even think about importing pot to the USA."

The US authorities say that the action is a joint venture with the Canadians.

United States Decertifies Venezuela As Ally In War On Drugs (TD/KRT)

By Steven Dudley And Pablo Bachelet

Tallahassee Democrat, September 16, 2005

WASHINGTON - (KRT) - President Bush has taken Venezuela off his list of allies in the war on drugs, saying that the government of President Hugo Chavez spurned anti-drug cooperation with U.S. officials and fired its effective law enforcement officers.

But the White House waived the cuts in U.S. foreign aid usually attached to the "decertification" so that it can continue to support Venezuelan pro-democracy groups that oppose the leftist Chavez.

Bush's decision is expected to sharply exacerbate already bitter U.S.-Venezuelan relations roiled by Washington's charges that Chavez is promoting subversion around the hemisphere and the Venezuelan president's allegations that Bush is out to kill him.

The U.S. State Department's No. 3 official, Nicholas Burns, announced the Bush administration decision Thursday in New York City around the time Chavez was arriving there for a U.N. summit gathering. The only other nation decertified this year was Myanmar, formerly known as Burma.

Accompanying Burns, U.S. drug czar John Walters said that in the past Venezuelan cooperation on drugs was "quite successful and extensive" but that now it seemed that Chavez "no longer wants a productive relationship."

Venezuelan Vice President Jose Vicente Rangel said of the annual certification process required by U.S. law, "We reject it. ... it's infantile."

The White House said Venezuela had "failed demonstrably" to stem the flow through its territory of some 150 tons of cocaine and growing amounts of heroin, mostly coming from neighboring Colombia and bound for U.S. and European streets.

Venezuela's national counternarcotics director, chief narcotics prosecutor and head of the financial intelligence unit "were fired and replaced with Chavez loyalists who lack the necessary training," the statement added.

Caracas had failed to eradicate coca and poppy fields near its border with Colombia, it continued, and did little to stop corruption in law enforcement and the military.

Only last month, Chavez ordered his government officials to stop cooperating with the U.S. Drug Enforcement Administration (DEA), accusing it of espionage and drug trafficking. U.S. officials denied the charges, and the Venezuelan investigators continued to work with the DEA.

DEA's activities in Caracas turned particularly sensitive last year amid complaints that high-ranking officers of the Venezuelan National Guard are involved in a drug-trafficking "Sun Cartel" named after the sun insignia that Venezuelan generals use on their epaulets instead of stars.

Guard officers earlier this year withdrew from an anti-drug task force that included the DEA, and took thousands of dollars of U.S. donated surveillance equipment. The equipment was returned later at the behest of the government's principal anti-drug office, known as CONACUID. But then the head of CONACUID was fired.

The U.S. government later revoked the visas of three National Guard officers for suspected involvement in drug trafficking, including Gen. Frank Morgado, former head of the Guard's anti-drug unit.

Venezuelan Interior and Justice Minister Jesse Chacon earlier this week proposed formally renewing the partnership with the DEA, and presented a written proposal to the U.S. Embassy in Caracas. But he added that the new proposal, among other provisions, prohibits DEA agents from participating in police operations there.

The Bush administration has repeatedly expressed concern about the alleged deterioration of democratic institutions in Venezuela, citing Chavez's control of the judicial and electoral systems and threats to the independent news media. Chavez insists that he's carrying out a radical but peaceful revolution on behalf of the nation's poor.

The waiver of the decertification sanctions - officially for national security interests - will allow the U.S. government to support democratic institutions there and "strengthen Venezuela's political party system," the White House said. The two nations remain dependent on each other since Venezuela provides 12 to 15 percent of U.S. oil imports.

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A State Department official said Venezuela's refusal to sign a bilateral data-sharing agreement has made it impossible for Washington to show Caracas evidence that an increasing number of aircraft suspected of carrying drugs were flying in and out of Venezuela.

Venezuela also has long banned U.S. anti-drug surveillance overflights of its territory and more recently curtailed military-to-military cooperation on drugs, the White House announcement stated.

In anticipation of the decertification decision, Chacon announced earlier this week that Venezuelan authorities had seized a record 18.7 tons of cocaine in the first eight months of 2005, compared with 19.6 tons throughout 2004. Failure to recognize the government's anti-drug efforts showed Washington was acting for political motives, he said.

But U.S. officials told The Herald in Caracas that Chacon's numbers were vastly exaggerated because they included at least four tons seized aboard Venezuelan ships - by French and Dutch authorities in the Caribbean.

Bush Assails Venezuelan Anti-drug Efforts (TSSC)

By George Gedda

The State (SC), September 16, 2005

WASHINGTON - President Bush said Thursday that Venezuela "failed demonstrably" to make a concerted effort to block shipments of illicit narcotics to the United States and Europe last year.

The designation is certain to strain further U.S. relations with Venezuela's populist president, Hugo Chavez.

Venezuela could have been subjected to a cutoff of U.S. assistance, but Bush decided to waive the provision because of national security interests.

The United States has programs to support Venezuela's democratic institutions, establish community development projects and strengthen the country's political party system.

The administration decided not to cut these programs because they promote democracy in Venezuela, a key U.S. goal in a country where, officials say, the commitment to democratic norms has been eroding under Chavez.

Myanmar was the only other country listed as having failed to meet its obligations under international counternarcotics requirements. But it has received that same designation in previous years.

Chavez had no direct comment Thursday on Bush's action but used the occasion of his presence at the United Nations summit of world leaders to take a verbal swipe at Bush.

"Mr. Bush represents the most crude and savage imperialism that threatens the world," Chavez said.

A White House "statement of explanation" about Venezuela said 165 tons of cocaine moved through the country last year along with increasing quantities of heroin.

"Despite an increase in drug seizures during the past four years, it is our assessment that the government of Venezuela has not addressed the increasing use of Venezuelan territory to transport drugs to the United States," the statement said.

In early August, Chavez accused the U.S. Drug Enforcement Administration of using its agents in Venezuela for espionage, and said Venezuela was suspending cooperation with the agency. The Bush administration denied the espionage charge.

Venezuelan Vice President Jose Vicente Rangel said Thursday that Venezuela "doesn't recognize" Washington's authority regarding drug classification, but remains willing to cooperate with the United States in fighting drug trafficking.

He said DEA agents would be welcome back in Venezuela under certain conditions.

Chavez claims that Venezuelan authorities have been very successful in detecting shipments of illegal drugs. He has said the United States, as the world's top consumer of drugs, does little to decrease consumption.

Bush's designation on Thursday adds to the growing list of issues between the United States and Venezuela. The administration is concerned about the close ties Venezuela maintains with Cuba and Chavez's perceived efforts to expand Venezuelan influence in other Latin American countries.

The administration also has strong doubts about whether Chavez will uphold Venezuela's tradition of free and fair elections.

Venezuela was included on a White House list, issued annually, of major drug transit or drug-producing countries. The others are Afghanistan, the Bahamas, Bolivia, Brazil, Colombia, the Dominican Republic, Ecuador, Guatemala, Haiti, India, Jamaica, Laos, Mexico, Myanmar, Nigeria, Pakistan, Panama, Paraguay and Peru.

U.S. law requires that the administration issue an annual list of countries with drug production or trafficking problems. Almost all the countries named this year are repeaters.

The designation is not necessarily an adverse reflection of a country's commitment to combat drugs.

Colombia has been the world's principal source of cocaine over the years, but the United States has consistently given high marks to President Alvaro Uribe for his counternarcotics efforts.

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Program To Battle Colombian Drug Trafficking Gets Fresh Scrutiny (KRT)

By Shannon Mccaffrey

Knight Ridder, September 16, 2005

BOGOTA, Colombia - (KRT) - The six puppies looked fine at first. But when Colombian police gave them a closer look they found fresh scars on their bellies that told a different story.

The tiny Labradors and Rottweilers had been surgically converted into drug couriers: cut open with several plastic packets of heroin stitched into their abdomens.

Even the hardened Colombian police, who discovered the puppies at an abandoned house in a rural area outside of Medellin, had never seen anything like it. Traffickers were apparently going to ship the dogs to the United States saying they were pets. It's almost certain they would have been discarded as soon as their valuable cargo was removed.

"The better we get at catching them the more creative they get," said Mark Styron, supervisor of the U.S. Drug Enforcement Administration's Heroin Group in Bogota. "That's always the problem."

Much of the cocaine and heroin that ends up for sale on the street corners of the United States begins in the rich soil of this conflict-ridden South American country. And staying ahead of the smugglers is expensive. Since 2000, the United States has sent $4.5 billion to Colombia to help battle drug trafficking.

That six-year program, known as Plan Colombia, is set to expire at the end of this year.

Although the Bush administration and Congress have signaled a willingness to continue funding at current levels for at least another year, some are questioning whether the money has been effective in stemming the tide of drugs to the United States.

The Colombians point with pride to the hundreds of thousands of acres of coca and poppy fields they've destroyed and the tons of drugs seized at their airports and borders. Kidnappings and murders are down.

But a report from the United Nations showed that while coca cultivation in Colombia is down, it has risen in neighboring Peru and Bolivia.

And the efforts in Colombia seem to have had little measurable effect on the drug supply in the United States. The Justice Department's National Drug Threat Assessment for 2005 found that heroin and cocaine were still readily available throughout the United States. Data from the Drug Enforcement Administration shows that the purity of wholesale cocaine being smuggled in from South America has actually increased slightly.

But, at least with heroin, there is some evidence that a crackdown begun in 2002 is showing results. DEA tests show that purity has dipped 14.5 percent since 2000.

It is generally believed that if a drug is in short supply purity decreases, and prices increase.

Colombia remains the world's largest producer of cocaine and the nation's image remains closely linked to the drug.

Yet in America concern is running high about heroin. Although the opiate is not used with the frequency of cocaine or marijuana, it's highly addictive and leads to a disproportionately high number of overdoses and deaths, according to emergency room data.

Colombia produces only 2 percent of the world's heroin but it's generally believed to be among the best, often so pure that users can snort it, rather than injecting it. And almost all Colombian heroin flows into the United States. Ninety percent of the heroin on the East Coast is Colombian, according to the DEA.

The Justice Department reports that heroin use was up among American college students in 2003, the most recent year for which data was available, after several years of steady decline.

Evidence of the problem's reach came recently when a delegation of 10 American police officers arrived in Bogota to study the heroin problem at its source. The narcotics cops from Pennsylvania and Maryland are battling a rising heroin trade on the street corners at home.

They soon learned that, in Colombia, the war on drugs is not just a figure of speech. Hustling through Bogota in armored SUVs, they were surrounded by their Colombian counterparts, who cradled M-15s and dressed more like commandos than cops.

At a hospital in Bogota - set up by the government just for the nation's police - they met Carlos Mira. The 30-year-old had his leg shattered in an ambush by guerrillas armed with rifles and hand grenades. His doctors say he may never walk normally again. He's the lucky one. His partner was killed.

"Tell the Americans that this is what the drugs do," he said simply, no malice in his voice.

Fifteen Colombian police officers on patrol in a remote area near the border with Venezuela were killed by a bomb just days before the Americans arrived, bringing the total police deaths so far this year to 120. In the early 1990s some 600 police officers were killed each year by heavily armed guerrilla and paramilitary groups.

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Plan Colombia was launched under the Clinton administration as a way to fight drugs. After the terrorist attacks of Sept. 11, 2001, Congress said the funding could be used for counterterrorism as well.

In Colombia, the two are inseparable, officials say.

"The drugs are the terrorists' juice," said William Wood, U.S. ambassador to Colombia.

The drug pipeline to the United States often begins in the camps of the leftist Revolutionary Armed Forces of Colombia. Known the by its Spanish acronym, the FARC controls swaths of rural coca and poppy growing territory. Colombian police and intelligence officials say the FARC supports itself and its insurgency against the government with millions of dollars from the drug trade.

One FARC defector, "Jose," said in an interview with Knight Ridder that he abandoned the group because of its brutality. Leaders in his front ordered his brother to kill his girlfriend after she violated the rules and killed a civilian. Jose, who declined to use his real name out of fear of retaliation, said he grew up in the FARC, and that drugs were a constant presence.

"To end the drug war you have to end the guerrillas. As long as there are guerrillas there are drugs. They exist together," he said.

The FARC is believed to have recently executed 14 peasants who were growing coca and selling it to their right-wing paramilitary foes. The ongoing fighting in remote regions means that Colombia has the third highest number of displaced people in the world, trailing only the African nations of the Sudan and the Congo.

The Mineros Block of the United Self Defense Force - or AUC - a right-wing paramilitary group, is disbanding as part of an ongoing peace process with the government. That has helped drive down violence in Colombia.

But in Washington, some lawmakers are hesitant about funding demobilization efforts because of concerns that those who have committed human rights will escape punishment.

Everywhere in Colombia there is evidence of American money and influence: Blackhawk and Huey helicopters, twin-engine Otter police planes, fixed wing fumigation planes. At a rural training site southwest of Bogota, American Special Forces help the Colombians train for dangerous raids to destroy drug labs.

"It would be much worse without the U.S.," said Gen. Jorge Daniel Castro, chief of the Colombian National Police. "This is a long and difficult battle and the United States has been our strongest ally."

But over the last 10 years Colombia has lost 40 U.S.-supplied aircraft battling the FARC and AUC. The additional aid is needed to keep the fleet operating, the Colombians say.

Colombian and American officials agree that drug seizures reached record levels last year and the eradication of coca and poppy plants through herbicide spraying is at an all-time high.

Col. Jamil Moreno, who heads up tactical anti-drug operations for the Colombian National Police, said poppy plants, in particular, are difficult to spray because they are able to grow at high elevations, nestled into the sides of mountains. Moreno said police pilots have sustained bullet holes to the canopies on top of their planes.

"The guerrillas are above us on the mountains. It is very dangerous," he said.

Moreno's experience fighting poppy crops in Colombia has put him in demand. Negotiations are underway to have the Colombian travel to Afghanistan to help develop a strategy for battling poppy crops there.

U.S. Ambassador Wood said that more people die every year in the United States from Colombian drugs than in the Sept. 11 attacks. U.S. aid will eventually decline as the situation stabilizes, he said. But the drug problem will never go away entirely and the United States - as the primary consumer of American drugs - will likely always have a role in Colombia.

"It's like asking when is crime over. It's never going to be over," Wood said.

Still the continuing costs of the war in Iraq and the huge budget deficit have caused the aid to Colombia to come under more than the usual scrutiny this year. And the foreign policy landscape has changed since the Sept. 11 attacks so that the Middle East has consumed most of America's attention.

A telling symbol of that comes in real estate. The fortresslike U.S. Embassy in Bogota is the largest in the world. But it will eventually be surpassed by an even more massive new facility planned for Iraq.

The 'Good Death' Dilemma (LAT)

The Los Angeles Times, September 16, 2005

BABY BOOMERS FACING THEIR OWN mortality have pushed issues of aging and dying into the public eye. As with so many boomer issues, there's a certain self-centeredness to attempts at control of the most uncontrollable human event, but at least issues of infirmity and the end of life are no longer whispered, as "the C-word" — cancer — used to be. Among the demands being raised is better control of pain, which has caught doctors between a desire to alleviate suffering and the U.S. war on drugs.

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A corollary and less-visible policy struggle goes on very close to death, when the opiates that relieve suffering are also likely to hasten dying. A doctor in Redlands who used a very high dose of morphine on a dying patient and may now lose his medical license is merely the latest example.

Most such cases fall in a gray area, involving doctors who may have crossed a legal or ethical line, whether out of compassion or greed. The larger problem is the message that all doctors receive from aggressive efforts to curb opiate abuse, and their resulting reluctance to sufficiently treat severe pain and other suffering.

In Redlands, Dr. Harold Luke's terminally ill 76-year-old patient died soon after getting a very high dose of morphine in 2002. The state medical board last month voted to strip Luke of his license, and his final appeal is likely to be decided today. The patient's family still stands strongly by the doctor, as does a patient advocacy group that is supporting his appeal.

Luke's case hinges on whether he deliberately shortened the patient's life in an act of euthanasia. If he did, which he strongly denies, he would not be the only doctor to have done so. A 1998 mail survey of U.S. doctors in specialties in which patients would be most likely to request euthanasia found 11% willing to provide it. A 1997 survey found similar numbers among critical-care nurses. A report on a similar survey in Australia aptly described the more usual situation: "Doctors sometimes give large doses of potentially lethal drugs to terminally ill patients to treat symptoms, foreseeing but not necessarily intending a medically hastened death."

Federal criminal prosecutions have usually involved a different issue — charging pain management specialists, who often handle very tough cases, with overprescription or outright sale of controlled drugs, including the widely abused OxyContin. Again, most such cases are far from clear-cut, except perhaps in the eyes of federal prosecutors.

The debate over what constitutes a "good death" is ever more public. What hasn't kept pace is government drug policy and honesty about the blurred line between compassionate treatment and medical euthanasia.

Carpenter Smiles His Way To Federal Detention For Pipe Bomb Possession (RRDH)

Roanoke Rapids (NC) Daily Herald, September 16, 2005

JACKSON - Hamming it up for the camera, Michael Thomas Carpenter was taken into federal custody Tuesday for possessing pipe bombs and a cache of guns in his house outside Garysburg.

Led to a blue Ford Expedition by an agent with the Bureau of Alcohol, Tobacco and Firearms, the 34-year-old, upon seeing a photographer, exclaimed, "What a wonderful justice system we have in America."

He asked the agent escorting him if he would slow down so he could pose for the camera and at one point gave a cheesy grin.

Asked if he was surprised to be federally charged for having three pipe bombs, Carpenter said, "No, sir. The feds have to do their jobs so we're going to go with them as calmly and peacefully as we can. God bless America."

Since his arrest on local charges in July, Carpenter was being held in the Northampton County Jail for possession with intent to sell and deliver marijuana, possession of drug paraphernalia and possession of a weapon of mass destruction.

Capt. George Reed of the Northampton County Sheriff's Office said Carpenter was trying to run the jail while he was there, first being held on $525,000 bond for the local charges and then under no bond on a federal detainer.

ATF agents Tuesday took Carpenter to Greenville, where he would appear before a federal magistrate.

ATF charged Carpenter with possession of a destructive device and possession of firearms by a convicted felon. The federal agents said anyone in possession of explosive weapons must have them registered. The three pipe bombs State Bureau of Investigation agents detonated behind Carpenter's house off Taylor Road in July were not registered.

Officers also found some 25 rifles and shotguns and five handguns in the residence, one of the loaded weapons was found in a baby crib.

The pipe bombs were discovered while local officers were looking for marijuana plants at Carpenter's residence.

Federal agents Tuesday said they had uncovered no other reason why Carpenter had the pipe bombs than the reason he gave in July. Carpenter told the Daily Herald when he was arrested July 12 that he had used pipe bombs in Edenton to blow up beaver dams.

Reed said local charges against Carpenter were dropped in lieu of the federal charges.

Soldiers, ATF Find 'explosives' In Deserted New Orleans Home (AP)

By MARY FOSTER, Associated Press Writer

AP, September 15, 2005

NEW ORLEANS - National guardsmen and ATF agents patrolling the dark, deserted streets of New Orleans early Thursday found what appeared to be a bomb inside one of the homes vacated when Hurricane Katrina ripped through the city.

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The guardsmen found what looked like six sticks of dynamite and a detonator along with a bag of ammunition and marijuana. They notified the New Orleans Police Department which, in turn, asked the Bureau of Alcohol, Tobacco and Firearms to respond because their own bomb squad equipment was flooded in the wake of the storm.

"It had all the characteristics of a real device," ATF explosives specialist Johnnie Green said of the suspect device.

His agents placed an "interrupter" device on the one in question to try to detonate it and found out it was a hoax. "It was a good one," Green said, "especially in these conditions," referring to the blacked-out street.

The guardsmen were in the neighborhood as part of a routine security sweep and noticed a house with an open door. When they went inside to check it out, they found what looked like a bomb.

Todd Morrell of the New Orleans Police Department said the questionable device was found on a shelf in a bedroom. "It looked real to everybody," he said. "It was real enough for us to not want to mess with it."

Charlie Smith, an ATF special response supervisor, said finding the device should serve as a "wake-up call for every guy going through these houses."

Earlier in the week, he said they found a house with nine devices, 50 guns and a photo of the owner wearing a German uniform and Hitler-type mustache. "He evidently was a collector. He had a ton of stuff," Smith said.

Van Carrying Federal Inmates Struck On I-95 In Miami-Dade (AP)

AP, September 16, 2005

MIAMI — Nine federal inmates and two U.S. Marshals were taken to area hospitals Thursday after their van was forced off Interstate 95 and rolled at least twice — an incident allegedly caused by a hit-and-run driver.

Marshals were taking the inmates southbound on I-95, from the federal courthouse in Fort Lauderdale to a federal detention center in Miami when a vehicle hit a Geo Tracker, said U.S. Marshals Service spokesman Barry Golden.

The Geo spun out of control, hitting the Marshals' van and forcing it off the road. No one inside the van was critically injured, although one inmate was hurt more seriously than the others, Golden said.

Golden said security was never an issue.

"All the prisoners were leg-shackled with waist chains, and handcuffed," he said.

There were no escapes, Golden said no description of the vehicle that struck the Geo was available.

IMMIGRATION:

ICE Pick's Ability To Do Job Doubted (WT/UPI)

By Shaun Waterman, United Press International

The Washington Times, September 16, 2005

Senators yesterday told the president's choice to lead immigration law enforcement that they still are weighing a plan to reorganize her agency -- and one Republican expressed doubt that she was qualified for the job.

Julie Myers was nominated by President Bush to head Immigration and Customs Enforcement (ICE), the agency that is charged with hunting down money launderers, sanctions busters and human traffickers and that is the sole enforcer of U.S. immigration laws.

Yesterday, she faced a confirmation hearing before the Senate Committee on Homeland Security and Government Affairs.

"I'm really concerned about your management experience," Sen. George V. Voinovich, Ohio Republican, told her, pointing out that ICE, with 20,000 employees, is the second-largest investigative agency in the federal government.

"I think that we ought to have a meeting with [Homeland Security Secretary] Mike Chertoff ... to ask him ... why he thinks you're qualified for the job," Mr. Voinovich said. "Because based on your resume, I don't think you are."

Miss Myers has worked as an assistant U.S. attorney in Brooklyn on money laundering and export control issues at the Departments of Treasury and Commerce, and was chief of staff for Mr. Chertoff when he ran the Criminal Division at the Department of Justice.

Miss Myers said her experience "will serve me well." She said she had worked with agents who once were part of the Customs Service and the Immigration and Naturalization Service. Parts of those agencies were melded into ICE with the formation of the Department of Homeland Security in March 2003.

Sen. Susan Collins, Maine Republican, raised the issue of merging ICE with another agency founded from the breakup of the Customs Service and INS -- Customs and Border Protection (CPB), which polices the nation's ports of entry.

Mrs. Collins said a report by the department's inspector general, which the committee commissioned last year and which would be "released shortly," would "recommend the merger."

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"What I have found," she said at the hearing, "and the [inspector general's] report confirms, is that many field employees of the two agencies are very frustrated at what they see as the unnatural separation between the two organizations."

TAX:

Tax Inquiry Is Moving Past KPMG (NYT)

By LYNNLEY BROWNING

The New York Times, September 16, 2005

Ever since the accounting firm KPMG reached a $456 million settlement of a federal investigation into abusive tax shelters nearly three weeks ago, the question has been who may be next.

Federal prosecutors have said that their criminal investigation is widening, and attention is increasingly turning to the role played by banks, financial advisers and law firms that worked with KPMG and other accounting firms to create and sell such shelters.

Among those companies, Deutsche Bank in particular has been a target of lawsuits from wealthy investors who sought to shield millions of dollars from taxes and bought shelters that did not pass muster with the Internal Revenue Service.

Senate investigators have previously criticized the role of Deutsche Bank and other banks in making the loans and handling the currency trades and other transactions that made up the abusive shelters, saying that senior executives and managers at the banks knew the shelters were improper.

Now, a barely noticed lawsuit indicates that Deutsche Bank had a much deeper involvement in creating and helping to sell a questionable tax shelter known as Cobra, for "currency options bring reward alternatives."

The lawsuit, filed by 12 wealthy investors in a Texas state court in Fort Worth, contends that in late 1999 at least one Deutsche Bank employee contacted the law firm of Jenkens & Gilchrist about creating a highly aggressive tax shelter using options on foreign currencies.

The shelter, which later acquired the Cobra name, was never considered valid for deductions by the I.R.S., which issued several warnings to investors in 1999 as it became aware of its use. The agency formally banned it in fall 2000.

Many accounting firms sold similar questionable shelters in the late 1990's and early 2000. The Cobra at the heart of the Texas state lawsuit was sold by the accounting firm Ernst & Young, which had already been developing a similar shelter through an internal unit called Viper, for "value ideas produce extraordinary results." Viper was responsible for marketing aggressive tax shelters, including Cobra, to wealthy individuals who were clients of Ernst & Young, the complaint says.

Ernst & Young declined to comment on the lawsuit but said that Viper was not dissolved until early 2003. Last year, the firm said that federal prosecutors were investigating tax shelters it had promoted and that it was cooperating with the inquiry. In 2003, Ernst & Young reached a $15 million settlement with the Internal Revenue Service over its shelters. It says that it has stopped selling the shelters that the I.R.S. considers abusive.

Around 1,200 investors who bought Cobra and other similar shelters have come forward under a settlement offer with the I.R.S. and paid more than $3.7 billion in back taxes, interest and penalties.

The lead plaintiff in the Texas lawsuit, which names Deutsche Bank as a defendant, is Henry N. Camferdam Jr., an Indiana businessman who has been a vocal critic of the accounting, law and financial firms that he contends created and knowingly sold him a bogus shelter in 1999.

The amended complaint, filed by Mr. Camferdam and 11 other wealthy investors on July 1, contends that fraud and breach of fiduciary duty occurred, and it seeks a jury trial.

There is no public indication that Deutsche Bank is a subject of the federal investigation. But prosecutors have told defense lawyers for eight former KPMG partners and a lawyer who have all been indicted that they have gathered about 300 boxes of documents from different firms, including Deutsche Bank, in the course of their investigation.

In connection with two other KPMG tax shelters, Opis and Blips, Deutsche Bank has said it did nothing improper and only carried out ordinary and routine, if complex and arcane, financial transactions for investors in those shelters. Blips and Opis are similar to the Cobra shelter at the heart of the Texas lawsuit.

But David Deary, a lawyer in Dallas who filed the complaint on behalf of Mr. Camferdam, said that those and other roles played by the bank, including setting up trading accounts, meant that "Deutsche Bank was extremely involved in every aspect of designing and implementing this tax shelter."

The allegations in the Texas lawsuit, if proved in court, suggest that Deutsche Bank could be shown to be a promoter of abusive tax shelters, which could subject it to fines and discipline from federal regulators.

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Scott Schumacher, an assistant professor of tax law at the University of Washington school of law and a former trial lawyer in the criminal tax division of the Justice Department, said that in carrying out financial transactions for tax shelters, "if Deutsche Bank knew that it was bogus and what they were doing was aiding and abetting tax evasion, then they're potentially part of the conspiracy."

A spokeswoman for Deutsche Bank declined to comment yesterday on the allegations in the Texas lawsuit or on the wider federal investigation.

According to the Texas lawsuit, Mr. Camferdam bought a Cobra from Ernst & Young, his longtime accountants, in 1999, after he was told that the shelter would legitimately shelter about $70 million in income from taxes. The shelter, which cost him around $7 million in fees, did not pass muster with the I.R.S., which later sought millions of dollars in back taxes plus penalties and interest from Mr. Camferdam.

The lawsuit contends that a Deutsche Bank foreign-exchange salesman based in New York, Dan Brooks, approached a lawyer at Jenkens & Gilchrist in Chicago in the fall of 1999. Mr. Brooks flew to Chicago to explain to the senior Jenkens tax lawyer, Paul Daugerdas, complex options strategies that Deutsche Bank had developed.

According to the complaint, Mr. Brooks told Mr. Daugerdas that Deutsche Bank "had significant experience designing and implementing" such strategies, which lie at the heart of Cobra, and that "Deutsche Bank had a strong desire to design and implement a tax shelter with Jenkens using foreign currency digital options."

Mr. Daugerdas already had a close link to Deutsche Bank. David Parse, a broker-dealer with Deutsche Bank based in Chicago, was his personal stockbroker, according to the complaint, and personally requested that Mr. Brooks make the trip.

The complaint also contends that in November 1999 Mr. Parse asked Mr. Daugerdas to e-mail to an unidentified client of Deutsche Bank a legal opinion blessing Cobra and a contract for the tax shelter - moves that might appear to put the bank in the role of a promoter of questionable tax shelters.

Within Deutsche Bank there were even "turf battles" over which brokers would carry out trades for the shelters, with the brokers competing for bonuses stemming from the trades, according to the complaint.

Mr. Brooks, who left Deutsche Bank in spring 2001 to form his own trading firm and who has no training in tax or accounting matters, declined to comment.

A spokesman for Jenkens declined to comment yesterday on behalf of the firm and Mr. Daugerdas.

Ernst & Young and Jenkens & Gilchrist are not defendants in the lawsuit because the investors are in arbitration with the two firms. Another law firm, the former Brown & Wood, which is accused of issuing boilerplate opinion letters that blessed the validity of Cobra, is a defendant, as is a former lawyer there, Raymond J. Ruble, who is among nine individuals indicted in the KPMG case.

A third law firm, Scheef & Stone of Dallas, is a defendant, with the complaint stating that it introduced Ernst & Young to Jenkens & Gilchrist when the accounting firm wanted legal opinions for Cobra, earning fees for its referrals that were not disclosed to investors.

John Scheef, a lawyer at Scheef & Stone, said yesterday that there was nothing improper about its referrals. Calls to the former Brown & Wood, now Sidley Austin Brown & Wood, were not returned. A lawyer for Mr. Ruble declined to comment.

Mr. Camferdam has also sued Deutsche Bank and Ernst & Young in other courts, and has simultaneously challenged the I.R.S.'s determination that his Cobra shelter was invalid.

While that move has led some tax lawyers to suggest that Mr. Camferdam knew what he was doing when he bought Cobra, Mr. Camferdam said that he thought Cobra was valid. "I wouldn't have bought it otherwise," he said.

His most recent lawsuit cites transcripts of conversations and internal e-mail among Ernst & Young executives. The lawsuit says that several Ernst & Young tax experts raised doubts about the validity of Cobra in fall 1999, at the time that the firm greatly relaxed the standards it had been using to approve of tax shelters before offering them for sale.

CONGRESS-ADMINISTRATION:

Roberts Pledges To Be Chief Justice Who Respects The Law, Not An Ideologue (NSDY/AP)

The Associated Press

Long Island Newsday, September 16, 2005

WASHINGTON -- Chief Justice nominee John Roberts wound up two days of sometimes-contentious Senate testimony Thursday by telling wary Democrats that ideologues don't belong on the Supreme Court. He said his record shows he will rely on the law, not personal views.

Persistent grilling by Democrats on the Judiciary Committee made no apparent inroads in Roberts' support among the Senate's majority Republicans, who plan to vote the week after next to make him the nation's 17th chief justice.

Roberts tried to reassure Democrats that he would use the "rule of law," not his personal beliefs, to judge cases that come before the high court.

"I think if you've looked at what I've done since I took the judicial oath, that should convince you that I'm not an ideologue," Roberts said after an impassioned plea by Democratic Sens. Dianne Feinstein of California and Charles Schumer of New York for him to explain what kind of chief justice he would be. As for ideologues, he said, "you and I agree that that's not the sort of person we want on the Supreme Court."

Roberts pointed to his two-year record as a federal appeals court judge in Washington and said, "Look at my briefs and you'll conclude that's a person who respects the law."

Roberts cleared one of his last hurdles when committee chairman Arlen Specter, R-Pa., and top Democrat Patrick Leahy of Vermont announced that an FBI background check had found nothing that would disqualify. The American Bar Association also confirmed its "well-qualifed" rating.

Republicans were confident that Roberts would win the committee's majority approval next week and then Senate confirmation, with the backing of some moderate Democrats, before the Supreme Court term begins Oct. 3.

Committee Democrats have yet to commit to vote for Roberts, but they know they cannot stop him and President Bush will soon follow with yet another nomination to the court.

"It's going to take some time of real careful thinking about what to do" on the vote, Schumer said after the hearing.

Bush selected Roberts to succeed the late Chief Justice William H. Rehnquist as chief justice. The conservative judge could, at age 50, shape the high court for at least a generation.

The vote to confirm him "isn't just rolling the dice it's betting the whole house," Schumer said.

"I don't know what I'm going to do," said Feinstein, who said his testimony showed "this very cautious, very precise man, young, obviously with staying power. ... I'm convinced you will be there, God willing, for 40 years. And that even concerns me more because it means that my vote means more."

Feinstein voted to confirm Roberts for the U.S. Court of Appeals for the District of Columbia Circuit; Schumer voted against him.

Frustrated Democrats tried to elicit a sense of John Roberts the man rather than the judge who was a political appointee in the Reagan and first Bush administrations and a multimillion-dollar lawyer in private practice

Sen. Richard Durbin, D-Ill., wondered whether Roberts would treat society's less fortunate the same way he would deal with the wealthy who often have better lawyers, better legal briefs and an advantage in the court system.

"If the Constitution says that the little guy should win, then the little guy's going to win in the court before me," Roberts said. "But if the Constitution says that the big guy should win, well then the big guy's going to win because my obligation is to the Constitution."

Schumer questioned whether Roberts would be "a truly modest, temperate, careful judge," one "who will impede congressional prerogatives but does not use the bench to remake society," or, as some Democrats fear, one who "will use your enormous talents to use the court to turn back a near century of progress."

Democrats have complained that Roberts avoided many of their questions by saying he couldn't comment on issues that could come before the Supreme Court.

Early on in his third -- and abbreviated -- day of testimony, Roberts said Congress has the authority to pass laws barring discrimination based on race, gender and disability, and he defended his record on minority issues.

He said he had argued cases in favor of and against affirmative action and noted that he had participated in a program to assist minority students considering law school.

"Yes, I was in an administration that was opposed to quotas," Roberts told Sen. Edward M. Kennedy, D-Mass. "Opposition to quotas is not the same thing as opposition to affirmative action."

Several Democrats have criticized Roberts for assailing the Supreme Court's 5-4 ruling in Plyler v. Doe, which struck down a Texas law and said the state had to provide free public education to illegal immigrant children.

Roberts, then working for the Reagan administration, criticized the ruling and argued that the administration should have gotten involved in the case.

Feinstein asked if Roberts, as a person, believed illegal immigrant children should be educated. Roberts offered legal responses, before saying, "My own view, every child should be educated."

As chief justice, Roberts would assign the writing of opinions in which he was with the majority. He could keep the best cases for himself, or dole them out to other justices.

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Rehnquist's predecessor, Warren Burger has been accused of being manipulative in the assigning of opinions, even joining the majority, though he disagreed, so he could assign the opinion to himself and try to limit the outcome.

Roberts rejected the idea of assigning himself cases as a strategic move.

"Trying to use that assignment power in a tactical way -- it causes tension on the court and I think undermines the ability of the chief justice -- to the extent he has that ability, and it's obviously limited -- to act as a force to help bring about some cohesiveness and collegiality," he said.

Senate Judiciary Committee: http://judiciary.senate.gov

Supreme Court: http://www.supremecourtus.gov

With Roberts Hearings Complete, Democrats Wrestle With Their Votes (KRT)

By James Kuhnhenn

Knight Ridder, September 16, 2005

WASHINGTON - His grilling over, Supreme Court nominee John G. Roberts Jr. now waits for the Senate to render its verdict.

His performance during four days before the Senate Judiciary Committee wowed even many Democrats, who conceded they were torn between admiration for his intellect and his modest judicial demeanor versus his reluctance to reveal more about his views on legal issues.

In his final day of taking questions, Roberts tried to assure senators that he isn't an ideologue, describing himself instead as a strict follower of the "rule of law." He said his work as a lawyer had made him an advocate of the law no matter the cause.

He admitted, for instance, that while he helped a gay-rights group prepare for a Supreme Court case, he would just as easily have agreed to argue the opposing side.

"To some, they may say, well, that sounds like you're a hired gun," he said. "I think that's a disparaging way to capture what is, in fact, an ennobling truth about our legal system, that lawyers serve the rule of law above and beyond representing particular clients."

Republican strategists predicted a near straight party-line vote next week in the Republican-run committee, which includes some of the Senate's most liberal and most conservative members. But even there, some Democrats were struggling with their votes.

"I don't really know what I'm going to do," said Sen. Dianne Feinstein, D-Calif. "You've gone through this in a remarkable way. I'm convinced you will be there, God willing, for 40 years. And that even concerns me more, because it means that my vote means more."

In the full Senate, signs emerged of bipartisan support for Roberts, especially from so-called "red-state Democrats."

"If you look at his performance, his education, his attainments, that is the kind of person who has the quality to be in the Supreme Court," said Sen. Kent Conrad, D-N.D., whose state voted 63 percent for President Bush last year. Conrad faces re-election next year. "This man has a mind like a jewel."

Even Roberts' most ardent opponents, such as Nan Aron of the liberal Alliance for Justice, acknowledged that he didn't seem cast from the strict-constructionist mold of Justice Antonin Scalia.

There's little question that Roberts, boosted by an unflappable presentation before the committee, will be confirmed to replace the late Chief Justice William Rehnquist. The issue is whether the Senate will confirm Roberts by an overwhelming margin, as it did Scalia in 1986 and liberal Justice Ruth Bader Ginsburg in 1993, or whether the vote will split along party lines.

While Roberts would become chief justice whether the vote is 100-0 or 51-49, the margin could be an important benchmark when Bush nominates a replacement for retiring Justice Sandra Day O'Connor.

All 55 Republicans are expected to support Roberts. Some Democrats say a close vote would signal Bush that a more conservative nominee would face a more difficult time. Others say a bipartisan vote would free Democrats from an obstructionist label and make it easier for them to stand against a more conservative replacement for O'Connor.

"What kind of justice will John Roberts be?" Schumer mused aloud. "Will you be a truly modest, temperate, careful judge? ... Will you be a very conservative judge who will impede congressional prerogatives but does not use the bench to remake society, like Justice Rehnquist? Or will you use your enormous talents to use the court to turn back a near-century of progress and create the majority that Justices Scalia and (Clarence) Thomas could not achieve?

"That's the question that we on the committee will have to grapple with this week."

Roberts Gains Respect, If Not Converts (LAT)

By David G. Savage And Richard B. Schmitt, Times Staff Writers

DOJ_NMG_0006254

The Los Angeles Times, September 16, 2005

WASHINGTON — "I'm not an ideologue," John G. Roberts Jr. told the Senate Judiciary Committee on Thursday. And with that comment, he aptly summarized the case he made for himself during four days of hearings on his nomination as the Supreme Court's chief justice.

Based on his self-portrait, the Roberts court would not be the place where those in search of new legal rights and protections would find them. Nor, however, would the high court under his leadership press a conservative counter-revolution.

Roberts, in short, presented himself as a mainstream conservative, not a right-wing activist who was eager to roll back the liberal decisions of decades past on civil rights, women's rights and the environment.

He said he was devoted to precedent and stability in the law, even if that meant upholding rulings he may have disagreed with years ago.

He said he aspired to be a "modest" judge, someone who followed the law and did not promote a political agenda.

Thursday, the committee intends to vote on whether to recommend Roberts' confirmation. Its recommendation is virtually assured because Republicans hold a 10-8 advantage on the panel.

He then likely will be confirmed by the GOP-controlled Senate, perhaps during the last week of September.

In his testimony, Roberts distanced himself from the "originalist" approach followed by Justices Antonin Scalia and Clarence Thomas, which looks back to the history of the 18th century to decide the meaning of the Constitution. Roberts said he believed the guarantees of liberty and equal protection should be interpreted broadly in light of modern times and changing conditions.

And when asked about the president's power — a concern voiced by liberals troubled by the bold moves of the Bush White House — Roberts repeatedly invoked the 20th century's most important ruling limiting the chief executive — the 1952 case involving Harry S. Truman's seizure of the steel mills during the Korean War.

His words reassured some listeners.

"What we learned generally about him is that, taken at his word, he is not somebody who is going to be a revolutionary on the bench, which I find comforting," said Douglas T. Kendall, executive director of the Community Rights Counsel, a law firm that specializes in environmental cases.

Roberts' confident performance during this week's hearings certainly did not undercut his cause. His calm manner and encyclopedic grasp of the law won him bipartisan praise.

"You have an amazing knowledge of the law," Sen. Charles E. Schumer (D-N.Y.) told him. "You may very well possess the most powerful intellect of any person to come before the Senate" for confirmation to the Supreme Court.

Schumer and other Democrats, however, voiced concerns about Roberts' heart.

Roberts refused their repeated invitations to characterize himself as a big-hearted judge who would give the benefit of the doubt to minorities or the poor. Instead, he said his duty was follow the law as he saw it.

"If the Constitution says that the little guy should win, the little guy is going to win in court before me," Roberts told Sen. Richard J. Durbin (D-Ill.) "But if the Constitution says that the big guy should win, well, then the big guy is going to win, because my obligation is to the Constitution."

Roberts' testimony did not sway the liberal groups and civil rights organizations that have opposed him. They noted he refused to state his opinion on contemporary disputes such as abortion rights, or controversial past decisions such as the ruling that stopped the vote recount in Florida in 2000 and ensured that George W. Bush would become president.

Roberts also stood behind most of the sharply worded memos he wrote as a young conservative in the Reagan administration.

The memos opposed several civil rights initiatives of the time, and sometimes did so in a mocking tone.

One memo, for example, referred to illegal immigrants as "illegal amigos."

Another memo strongly opposed an expansion of the Voting Rights Act, which allowed lawyers to challenge voting systems or electoral districts that weakened the voting power of blacks or Latinos. The 1982 law is credited with vastly increasing the number of minority officeholders.

When Democrats repeatedly broached the subject of these memos, Roberts repeatedly responded that he was a staff lawyer who was carrying out the policies of the Reagan White House.

Pressed by Sen. Edward M. Kennedy (D-Mass.) on the disputed provision in the Voting Rights Act, he said he did not now think it was "constitutionally suspect."

His cautious answers to the questions about the memos caused some to doubt he had changed his opinions.

His take on the Voting Rights Act "makes me think he likely still holds these views," said Richard L. Hasen, a voting rights expert at Loyola Law School in Los Angeles. "The tone of the memos is a tone of indignation."

At times, Roberts succeeded in turning the senators' questions back on them.

Sen. Patrick J. Leahy (D-Vt.) asked Roberts why he argued in 1991, as deputy solicitor general in the administration of George H.W. Bush, that a schoolgirl who was a victim of sexual harassment at her Atlanta-area high school could not sue the school district for damages in federal court.

Leahy told Roberts he could "actually bring justice" by allowing her and others like her to sue. He asked Roberts why he did not take that view.

The reason, Roberts replied, was that Congress did not include in the law a provision that would allow people to sue. The law in question, Title IX of the education code, said schools and colleges that received federal money had to treat girls and boys equally. It did not say, however, whether private lawsuits were authorized.

Over and over again, Democrats cited such examples to question whether Roberts had a big heart.

Roberts said the issue was the law, not his heart.

"If Congress would simply spell it out in the legislation," he said, there would be no doubt victims could sue.

"All of those cases arose because Congress did not address the question. All Congress has to do is write one sentence" authorizing private lawsuits, he said.

"I became a lawyer because I believe in the rule of law," Roberts said in summarizing his case. "I would hope you'd look at my briefs and my arguments before the Supreme Court and conclude that's a person who respects the law, respects the court and will the approach the law in a similar way as a judge."

'I'm Not An Ideologue,' Roberts Tells Senate Panel (WP)

By Amy Goldstein And Jo Becker, Washington Post Staff Writers

The Washington Post, September 16, 2005

John G. Roberts Jr. yesterday summed up his Senate hearings to become the nation's 17th chief justice by declaring, "I'm not an ideologue," brushing aside his early years in the trenches of the conservative Reagan revolution as he portrayed himself as a lawyer and judge devoid of social agendas.

With his confirmation to the Supreme Court virtually assured by solid support among Republicans, who control the Senate, Roberts used the closing moments of his 2 1/2 days of testimony to try -- with uncertain results -- to soothe Democratic skeptics.

Saying that his loyalties are to the Constitution and "the rule of law," Roberts said that he had displayed no ideological bias during his two years as a federal appeals court judge and that he had, during 13 years in private practice, represented clients on all sides of contentious issues.

Some conservatives were alarmed last month over the disclosure that he had helped gay activists win a landmark Supreme Court in 1996. But Roberts testified yesterday that he would have been equally willing to represent the opposing side, the state of Colorado, if it had asked for his help first.

On the other hand, Roberts broke with orthodoxy among Republicans, including President Bush, who say that medical liability lawsuits are out of control. Asked whether he thinks lawyers who represent people in product-liability or medical-malpractice cases are harming the United States, Roberts replied that he did not, citing a former fellow law clerk who he said "does a wonderful job" as a personal injury lawyer.

"If you've looked at what I've done since I took the judicial oath," the nominee said, "that should convince you that I'm not an ideologue."

The careful conclusion of Roberts's 20 hours of testimony leaves one drama unresolved in the Senate role in the first Supreme Court vacancy in 11 years: How many Democrats will join Republicans in voting to give him a seat on the court?

The Judiciary Committee is scheduled to convene for a vote next Thursday, and GOP leaders plan to begin debate on Roberts's confirmation in the full Senate on Sept. 26, with a floor vote sometime that week. That timing would allow Roberts, if confirmed, to join the court when it begins its new term Oct. 3.

Bush originally nominated Roberts to succeed retiring Justice Sandra Day O'Connor but made him his choice for chief justice after the death of William H. Rehnquist on Sept. 3. Bush has not indicated when he intends to name a successor to O'Connor.

All week, Democrats on the Senate Judiciary Committee complained that Roberts was evasive about his views and values on a range of polarizing issues, including abortion, civil rights, the scope of presidential power and the right to die. Even as the hearing was ending, several Democrats urged him to reveal more of what they called his heart.

"Many of us are struggling with . . . what kind of a justice would you be, John Roberts," implored Sen. Dianne Feinstein (D-Calif.)

The eight Democrats on the panel have not said how they plan to vote. Yesterday, Feinstein and several others vacillated openly.

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Feinstein said she had expected Bush to select someone more conservative than Roberts appeared to be. "I don't see anything definitive," Feinstein said of his record and testimony. "And I do see things to believe that . . . this is a fine legal scholar who will truly look at the law."

Sen. Joseph R. Biden Jr. (D-Del.) said that he was trying to decide which Supreme Court justice Roberts would resemble most. Biden said that he would vote against Roberts if he decided the nominee were akin to Justice Antonin Scalia but probably would support Roberts if he were most like Rehnquist.

Sen. Charles E. Schumer (D-N.Y.) said, "I, for one, wake up in the middle of the night thinking about it, and have been unsure how to vote." He told Roberts: "You will in all likelihood affect every one of our lives in many ways for a whole generation. So this isn't just rolling the dice -- it's betting the whole house."

Republicans countered that many of them had supported justices chosen by President Bill Clinton, while differing with their views. Sen. Lindsey O. Graham (R-S.C.) took issue with the Democrats' efforts to discern what lies in Roberts's heart.

"There are bleeding hearts and there are hard hearts," Graham said. "And I want this committee to understand that if we go down this road of putting people's hearts in play, and the only way you can have a good heart is 'Adopt my value system,' we're doing a great disservice to the judiciary."

Before the questioning ended, Democrats made a final attempt to draw out Roberts on his views. He answered a greater portion of their questions than he had on Wednesday, when several Democrats erupted in frustration over his refusal to give substantive responses.

At one point yesterday, Roberts backtracked from a position he had advocated in an early-1980s memo concerning a Supreme Court ruling in a Texas case that gave children the right to attend public schools, even if they were illegal immigrants. Roberts had argued that the Reagan administration should have defended a Texas law that allowed schools to exclude such youngsters.

Yesterday, Roberts said: "My own view is that, if you have a child, he or she should be educated. We'll worry about status later." Nevertheless, he added: "As a personal view . . . yes. It's a separate issue as a legal question, as you know."

He also disavowed a 1981 memo on the issue of whether inmates, including those who have been sentenced to death, have a right to file habeas corpus appeals in federal courts, challenging the constitutionality of their convictions. The memo said: "The question would seem to be not what tinkering is necessary in the system, but rather why have federal habeas corpus at all?"

Yesterday, Roberts said that he had simply been endorsing reforms to eliminate a glut of frivolous appeals, as Congress eventually did: "I'm not in favor now and was not in favor then" of eliminating such appeals.

The committee's ranking Democrat, Sen. Patrick J. Leahy (Vt.), questioned Roberts about how he would handle one of the responsibilities of the chief justice: appointing judges to an unusual court, the Foreign Intelligence Surveillance Act (FISA) court, which has gained expanded powers under the USA Patriot Act. Critics have said the FISA court abridges civil liberties in the name of combating terrorism.

Leahy asked whether Roberts, if confirmed, would be willing to work with Congress "to add more transparency" to the court. Roberts replied that the court "is a surprising institution" and said that "the people appointed to it have to be of the highest quality, undoubted commitment to all the basic principles, both of the need for the court and the need to protect civil liberties." He stopped short of saying he would change the court's ground rules.

After Roberts left the witness chair, Judiciary Committee Chairman Arlen Specter (R-Pa.) and Leahy said they found nothing in a routine FBI background check on Roberts that would disqualify him from serving on the court.

For the rest of the day, the committee heard from more than 30 witnesses who sought to reinforce, sometimes in dramatic terms, the case for or against his confirmation. They included law professors and theologians, former clients and bosses of the nominee, an Alabama girls basketball coach, and a female lawyer whom Roberts had helped win a promotion.

A representative of the American Bar Association, testifying for the Republicans, explained why the organization had given Roberts its highest rating.

Rep. John Lewis (D-Ga.), a civil rights leader who was arrested more than 40 times during protests of the 1960s, testified that he does not accept Roberts's assertion that arguments he made in memos as a high-ranking legal adviser in the administrations of Ronald Reagan and George H.W. Bush did not reflect his personal views. "The judge was on the wrong side of history," Lewis said.

Staff writer Charles Babington contributed to this report.

US High Court Nominee: 'I'm Not An Ideologue' (REU-Y2)

By Thomas Ferraro And Richard Cowan

Reuters, September 16, 2005

Declaring "I'm not an ideologue," John Roberts finished a four-day Senate committee appearance on Thursday with Democrats and Republicans predicting he will be confirmed to head the Supreme Court as the 17th U.S. chief justice.

In fact, the 100-member, Republican-led U.S. Senate appeared headed toward approving President George W. Bush's 50-year-old conservative nominee before the high court begins its new term on October 3.

Sen. Kent Conrad (news, bio, voting record), a North Dakota Democrat, said upward of half of the 45-member Democratic caucus may join Republicans in voting for Roberts, who has drawn fire from major liberal groups.

"He's highly intelligent. He has strong credentials. He is a conservative, but I think he is mainstream conservative," Conrad said in a brief interview.

Still, some frustrated Democrats took a final crack at trying to pin Roberts down on some hot-button issues such as civil rights and challenged his record based largely on memos he wrote as a young attorney two decades ago in the Reagan administration.

"What kind of justice would you be?" Sen. Dianne Feinstein (news, bio, voting record), a California Democrat, asked in posing one of the final questions to Roberts at his Judiciary Committee hearing.

Roberts replied by describing himself as a person who respects the law and would interpret the Constitution without a political tilt. He has declined to predict how he may decide specific controversial cases, including abortion.

Roberts urged committee members to examine his record the past two years as a member of the U.S. Circuit Court of Appeals for the District of Columbia.

"I think if you've looked at what I've done since I took the judicial oath, that should convince you that I'm not an ideologue," Roberts said.

"If the Constitution says that the little guy should win, the little guy's going to win in court before me. But if the Constitution says that the big guy should win, well, then the big guy's going to win, because my obligation is to the Constitution. That's the oath," he said.

POTENTIAL FOR LONG TENURE

If confirmed, Roberts would succeed the late Chief Justice William Rehnquist, who was the high court's conservative anchor for 33 years.

Roberts would become the youngest person in two centuries to hold the lifetime post and be positioned to head the federal judiciary for decades, helping shape the American way of life on matters from civil rights to voting rights to gay rights.

The committee is scheduled to vote on a recommendation to the Senate on Roberts next Thursday. The Senate plans to consider the nomination the week of September 26.

Sen. Frank Lautenberg (news, bio, voting record), a New Jersey Democrat, said: "I don't think there is any doubt he'll be confirmed. The question is how many Democrats vote for him."

Lautenberg said he was undecided but leaning toward not voting to confirm Roberts because he failed to answer too many questions.

Senate Democratic leader Harry Reid said six of the eight Democrats on the Judiciary Committee met after Roberts' testimony and all were undecided.

Easing Roberts' anticipated approval was the belief he would not greatly alter the court's conservative outlook developed by Rehnquist.

A bigger fight was anticipated for Bush's next nominee, who would replace retiring Justice Sandra Day O'Connor, a moderate conservative who has often been the swing vote on the sharply divided nine-member court.

Sen. John Cornyn (news, bio, voting record), a Texas Republican, said: "John Roberts will be confirmed. The question is will Democrats jeopardize their credibility and vote against him, or bolster their credibility by voting for this highly qualified nominee -- and hold fire for the next one."

Sen. Charles Schumer (news, bio, voting record), a New York Democrat who led some of the most aggressive questioning of Roberts, said he was undecided.

Schumer told Roberts, "I for one wake up in the middle of the night thinking about it and have been unsure how to vote."

Roberts' Senate Testimony Comes To A Close Some Questions Still Open (USAT)

By Joan Biskupic

USA Today, September 16, 2005

WASHINGTON — Supreme Court nominee John Roberts exuded such steadiness during four days in a Senate witness chair that New York Democrat Charles Schumer on Thursday asked Roberts for advice on what questions senators should ask to try to learn more about him.

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It was one of many moments this week that showed the respect that members of the Senate Judiciary Committee have for Roberts, President Bush's choice to succeed the late William Rehnquist as the nation's chief justice. The conservative Roberts' deftness in giving non-committal answers to Democrats on a range of legal issues reflected the skills that made the nominee, in Schumer's words, “one of the best litigators in America.”

For Democrats on the panel, a big question remained Thursday: John Roberts, the lawyer, may be first-rate, but what of the man? Does he bring together, as Sen. Edward Kennedy, D-Mass., put it, “the mind and the heart”? What are his “feelings as a man?” Sen. Dianne Feinstein, D-Calif., asked at one point. Feinstein also observed that Roberts was a “very cautious, very precise man … obviously with staying power.

“You've gone through this in a remarkable way,” Feinstein told Roberts, a 50-year-old federal judge. “I'm convinced you will be (chief justice), God willing, for 40 years. And that even concerns me more because it means that my vote means more.”

Democrats' concerns about Roberts stem from the possibility that he could be part of an effort by Bush to move the divided Supreme Court to the right.

With Roberts likely to win Senate confirmation to replace the conservative Rehnquist, Bush soon will pick a successor for Sandra Day O'Connor, a more moderate justice who has been a key vote in preserving, among other things, abortion rights and affirmative action in college admissions. That's why the coming battle over her replacement likely will be more contentious than the one over Roberts.

The Judiciary Committee will vote on Roberts' nomination next Thursday. Although Roberts' confirmation has seemed inevitable, Schumer, Kennedy, Feinstein and other Democrats peppered him with questions that sought to reveal just how conservative he is.

Shortly before Roberts finished his testimony Thursday, he urged senators not to view him as an “ideologue.” And perhaps to show a warmer side to Democrats, he said he realizes that legal decisions “have impact on real people and real lives.” Roberts also said the law should give the “little guy” the same chance in a legal dispute as a big corporation.

Roberts cast himself as sympathetic to the concerns of women, minorities and the disabled, but he declined to offer more precise views about specific disputes involving such groups.

Senators later heard from witnesses for and against Roberts. Among the opponents was Rep. John Lewis, D-Ga., who as a leader in the civil rights movement was beaten, arrested and jailed in the 1960s. Lewis said Roberts, who as a lawyer in the Reagan and first Bush administrations sought narrow interpretations of civil rights laws, was “on the wrong side of history.”

“We cannot afford to elevate an individual to such a powerful, lifetime position, whose record demonstrates such a strong desire to reverse the hard-won civil rights gains that so many sacrificed so much to achieve,” Lewis said.

Peter Kirsanow, a Bush appointee on the U.S. Commission on Civil Rights, countered that Roberts has shown “an unwavering commitment to equal protection under the law and a comprehensive understanding of our civil rights laws.”

For Roberts, 1 Question Remains (DMN)

By David Jackson And Allen Pusey, The Dallas Morning News

The Dallas Morning News, September 16, 2005

WASHINGTON – Completing nearly 20 hours of Senate testimony, Judge John Roberts moved closer to confirmation Thursday amid a lingering debate over both his head and his heart.

Democrats on the Senate Judiciary Committee ended the four days of hearings with praise for Judge Roberts' intellect but remained skeptical that a former corporate lawyer understands how ordinary people are affected by the nation's highest court.

"It's important to determine not just the quality of your mind, but the fullness of your heart," said Sen. Charles Schumer, D-N.Y.

DallasNews.com/extra

The Supreme Court: Justice profiles, key decisions

Judge Roberts, for his part, assured the committee this week that he is not an ideologue, but would decide cases on the law and the Constitution.

"If the Constitution says that the little guy should win, the little guy is going to win in court before me," said the federal appeals court judge. "But if the Constitution says that the big guy should win, well, then, the big guy is going to win."

Party-line vote?

The committee scheduled a vote on Judge Roberts for Thursday. A number of aides said it could be a party-line vote, with 10 Republicans endorsing Mr. Roberts and eight Democrats opposing.

The nomination then goes to the Senate floor, where Republicans control 55 of the 100 seats. Judge Roberts' backers hope to pick up support from more conservative Democrats and expect him to formally replace the late Chief Justice William Rehnquist when the Supreme Court's next term opens Oct. 3.

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Both sides are gearing up for these final debates with an eye on the next set of confirmation hearings, after President Bush announces a nominee to replace Justice Sandra Day O'Connor. The White House has suggested that the selection will not be made until after Judge Roberts is confirmed.

Curt Levey, general counsel for the pro-Roberts Committee for Justice, said the only question remaining is how the Roberts vote will affect the next nominee.

"People are saving up their budgets for the next nomination," Mr. Levey said.

Democrats have not mentioned filibustering Judge Roberts, which would require 60 Senate votes to break. Some aides said Democrats, without such a filibuster, might seek to keep Judge Roberts' vote under 60 – sending a message to the administration that Democrats could muster the numbers for a filibuster the next time around.

Republicans said some Democrats are attempting to change the standards by which nominees have been confirmed, including knowledge of the law, experience, integrity and temperament.

Sen. Lindsey Graham, R-S.C., noted that most Republicans backed Clinton nominee Ruth Bader Ginsburg despite political differences with the former American Civil Liberties Union attorney.

"If I wanted to judge Justice Ginsburg on her heart, I might take a hard-hearted view of her and say she's a bleeding heart," Mr. Graham said. "She has a different value system than I do, but that doesn't mean she doesn't have a good heart."

A right to know

Democrats said people are entitled to know more about Judge Roberts' views, especially potential litigants who are targets of discrimination and government oppression.

"All of us are trying to get down to, what are your core values?" Sen. Richard Durbin, D-Ill., told the judge.

By the end of the proceedings, the committee had heard from 33 witnesses who testified for and against Judge Roberts, including longtime colleagues, college professors and several plaintiffs whose cases have been decided by the Supreme Court.

Among them was Henrietta Wright, chairwoman of the Dallas Children's Advocacy Center and a longtime friend of Judge Roberts and his wife, Jane. Ms. Wright described him as a private man, with eclectic tastes in reading and a love of golf, and as an attentive father, capable of operating as a single parent when his wife is working.

"From my experience," she said, "John Roberts has no agenda other than to apply the law as it is written."

Critics speak up

Others were less flattering. Marcia D. Greenberger, co-president of the National Women's Law Center, accused Judge Roberts of "developing, advancing and embracing legal arguments and positions that would undermine women's most basic legal rights."

Rep. John Lewis, D-Ga., a longtime civil rights leader, told the Senate panel that he, too, views the Roberts nomination with skepticism.

"I fear that if Judge Roberts is confirmed, the Supreme Court would no longer hear the people's cries for justice. I fear the leadership of the court would promote politics over the protection of individual rights and liberties."

As he neared the end of his testimony, Sen. Patrick Leahy, D-Vt., joked to Judge Roberts: "You're going to miss doing this every day. ... You're not even going to answer that one, are you?"

"Well," replied Judge Roberts, "it's a once-in-a-lifetime experience."

Senators Save Breath For Next Court Debate (USAT)

By Kathy Kiely

USA Today, September 16, 2005

WASHINGTON — The big question surrounding John Roberts as he wrapped up testimony before a Senate committee Thursday was not whether he will become the nation's 17th chief justice, but how the vote on his nomination this month will affect President Bush's next Supreme Court pick.

Roberts, 50, seems assured of confirmation because several members of the “Gang of 14,” a group of moderate Democratic and Republican senators whose support would be needed to block his nomination, say they don't think such an effort would be justified. “I can't imagine a filibuster,” said Sen. Ben Nelson, a Nebraska Democrat. Neither can Sen. John Warner of Virginia, the group's senior Republican, who says he has talked with others in the group.

A filibuster is a maneuver that allows a minority of senators to block a vote. Because Republicans hold 55 of the Senate's 100 seats, Roberts' opponents say it's probably the only way to stop him. “I can count,” said Eleanor Smeal, president of the Feminist Majority Foundation.

It takes 41 votes to sustain a filibuster, and there won't be enough without the support of the seven Democrats in the Gang of 14. Even some of the eight Democrats on the Senate Judiciary Committee who sparred with the nominee this week told him they were at least considering a vote in his favor.

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Those committee members are among the chamber's most liberal Democrats, and several have reason to court liberal activist groups: Sens. Joseph Biden of Delaware and Russ Feingold of Wisconsin are weighing bids for the presidency in 2008; Sen. Charles Schumer of New York is trying to solicit funds for 2006 candidates as head of the Democrats' senatorial campaign committee.

An important factor in the Democrats' strategy: how best to position themselves for the next Supreme Court debate. The president has said he will act in “a timely manner” to fill the seat of retiring Justice Sandra Day O'Connor, a critical vote on the often divided nine-member court. Because O'Connor is a moderate conservative who — unlike the late Chief Justice William Rehnquist — often voted with the court's four-member liberal wing, her seat affects the court's direction.

Democrats such as Senate Minority Leader Harry Reid of Nevada want a moderate nominee like O'Connor. Some prominent women, including O'Connor, have suggested that Bush pick another woman. Bush has hinted he might make his attorney general, Alberto Gonzales, the first Hispanic justice. Conservative Republicans such as Sen. Sam Brownback of Kansas want a justice more obviously opposed to abortion and gay marriage than Roberts has appeared to be.

Bush was rebuffed this year when Republican leaders tried to end filibusters of judicial nominees, a move that would have made it easier to win approval of conservative appointees. The Gang of 14 consists of seven Democrats who promised to use a filibuster only in “extraordinary circumstances” and seven Republicans who back Democrats' right to filibuster.

Democrats in the group want what Sen. Mark Pryor of Arkansas calls “a nominee who will unite us, not divide us.” They hope Bush will consult them, as he did before nominating Roberts. Sen. Mary Landrieu, D-La., said Bush aides asked her about Edith Clement, a judge on the U.S. appeals court that covers Louisiana, Texas and Mississippi. Clements' lack of controversial writings on abortion could make her an appealing candidate.

“She would be very high in my book,” Landrieu said.

Nominee Reveals Pragmatic Approach To Constitution (NYT)

By Adam Liptak

The New York Times, September 16, 2005

WASHINGTON, Sept. 15 - For someone accused of saying very little, Judge John G. Roberts Jr. revealed a great deal about how he will approach his work if confirmed as the 17th chief justice of the United States.

Over three days of testimony, between declining to answer questions on specific cases and legal issues, Judge Roberts made clear that his approach to interpreting the Constitution is more varied and flexible than the originalism subscribed to by Justices Clarence Thomas and Antonin Scalia. President Bush has singled them out as models for the sorts of justices he planned to appoint.

"I think the framers, when they used broad language like 'liberty,' like 'due process,' like 'unreasonable' with respect to search and seizures, they were crafting a document that they intended to apply in a meaningful way down the ages," Judge Roberts said Wednesday.

He said he would consider not only how the framers of the Constitution understood those words, but also how courts have interpreted them and how they apply to evolving societal conditions.

That approach disappointed some conservative legal scholars.

"He is not in the mold of Scalia and Thomas," said Steven G. Calabresi, a law professor at Northwestern and a chairman of the Federalist Society, the conservative legal group. "They have more of a theory of how to decide cases, and they look to text and original meaning. Roberts will look at text and original meaning, but he will also look to precedent and the consequences of his decisions."

Judge Roberts, for his part, said his approach would be pragmatic and case-specific. That approach places Judge Roberts closer to Justice Sandra Day O'Connor, who has often provided the swing vote in important cases.

"I do not have an overarching judicial philosophy that I bring to every case," he said Tuesday. "I tend to look at the cases from the bottom up rather than the top down."

He would be guided, he said, by the level of generality inherent in particular constitutional provisions. "If the phrase in the Constitution says two-thirds of the Senate," he said, "everybody's a literalist when they interpret that."

But other phrases in the Constitution are broader, he added, giving as an example the Fourth Amendment's prohibition of unreasonable searches and seizures.

"You can look at that wording all day," Judge Roberts said, "and it's not going to give you much progress in deciding whether a particular search is reasonable or not."

Under the 14th Amendment, adopted after the Civil War to protect blacks, said Douglas W. Kmiec, a law professor at Pepperdine University, "Judge Roberts made it reasonably clear that gender and other categories can receive protection."

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That is at odds, Professor Kmiec said, with the approach advocated by Judge Robert H. Bork, whose nomination was defeated in 1987 when Democrats controlled the Senate.

"Under the Bork version of originalism," Professor Kmiec said, applying the 14th Amendment to sexual discrimination "doesn't make any sense."

He continued: "That was probably the major tripwire that started his downhill descent at his hearings."

Judge Bork was also both more expansive and combative in answering questions than Judge Roberts was, as a matter of both necessity and temperament.

"Bork was extremely forthcoming," said Patrick J. Schiltz, a law professor at the University of St. Thomas, "but he had no choice. He had written a lot about everything. He's written about every major doctrine in constitutional law."

Judge Roberts seemed most at ease in sorting through and explaining Supreme Court precedents without offering his own views on whether the decisions were correct.

"In terms of understanding Supreme Court case law," said Cass Sunstein, a law professor at the University of Chicago, "he's the most impressive in recent memory, even more than Bork, and Bork was pretty impressive."

But unlike Judge Bork, Professor Sunstein said, Judge Roberts appeared prepared to build on those Supreme Court decisions rather than depart starkly from them.

Judge Roberts disappointed some conservatives in the way he answered questions concerning the scope of Congressional power. In a series of decisions, the late Chief Justice William H. Rehnquist endorsed significant limitations on the ability of Congress to legislate on local matters.

"Roberts will be very deferential to Congress," Professor Calabresi said, "more so than Rehnquist."

Judge Roberts also made clear that it is not the role of the courts to interpret statutes more broadly than warranted. If Congress wants to allow certain kinds of lawsuits, he said, the legislation it passes should say so plainly and directly.

Judge Roberts provided substantial information, at least at the level of theory, about the right to privacy. He said it existed, located it in various constitutional provisions including the 14th Amendment and gave some examples of what it requires. He endorsed a 1965 decision of the Supreme Court holding that the right to privacy guarantees that married couples may use contraceptives.

But his adamant refusal to answer other questions frustrated Democratic senators and liberal scholars.

"From Bush v. Gore to the Second Amendment to separation of church and state to abortion," Erwin Chemerinsky, a law professor at Duke University, said of Judge Roberts, "he was masterful at saying a lot but avoiding answering the key questions."

Professor Chemerinsky said he took some comfort from Judge Roberts's endorsement of an aspect of Justice O'Connor's majority decision in an affirmative action case involving higher education.

Judge Roberts said that pragmatic considerations about the consequences of allowing race to play a role in admissions decisions properly played a role in her decision. Justices Scalia and Thomas dissented in the decision, saying that the Constitution forbids such preferences.

Judge Roberts also declined to state his personal views on almost every matter, on the theory that they were irrelevant to a judge's work. (He relented briefly on Thursday, saying, "My own view is that if you have a child, he or she should be educated.")

"Other nominees," Professor Schiltz said, "after making clear that they weren't talking about the law but only their personal views, were pretty willing to talk."

At times, Judge Roberts's limited conception of the judge's role struck Democrats as evidence of a cramped approach to the law from a lawyer more taken with technicalities than with justice. Judge Roberts declined to second-guess positions he had taken as an advocate arguing that a student who had been sexually abused was not entitled to damages and that a death row inmate could not present new evidence of his innocence if certain deadlines had passed.

Judge Roberts was repeatedly confronted with documents he wrote as a young lawyer in the Reagan administration. They were studded with caustic comments, uniformly took conservative positions and frequently argued for an understanding of the Constitution starkly at odds with the Supreme Court doctrine of the day.

Judge Roberts stressed that the documents represented the views of a staff lawyer setting out the views of his client, but he did not for the most part directly disavow the sentiments in them. But Professor Sunstein said that Judge Roberts's testimony was in an entirely different vein than his early writings.

"He doesn't talk like someone who believed at any level in changing the current understanding of the Constitution," Professor Sunstein said. "He's not the same person he was in his 20's."

Senator Charles E. Schumer, Democrat of New York, summed up what he called the pros and cons of the Roberts nomination on Thursday.

The pros, Mr. Schumer said, are that Judge Roberts is brilliant, is "a lawyer above all" and is devoted to "a judicial philosophy of modesty and stability" that "respects precedent, the Congress and other judges' opinions."

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On the negative side, Mr. Schumer said, were the questions Judge Roberts would not answer, the White House's refusal to release documents from his years as a more senior lawyer in the first Bush administration and what Mr. Schumer called "the question of compassion and humanity."

"We must now take the evidence we have and try to answer the fundamental question," Mr. Schumer said. "What kind of justice will John Roberts be?"

Judge Roberts, for his part, summed up his philosophy on Thursday.

"Somebody asked me, you know, 'Are you going to be on the side of the little guy?' " he said. "And you obviously want to give an immediate answer, but, as you reflect on it, if the Constitution says that the little guy should win, the little guy's going to win in court before me. But if the Constitution says that the big guy should win, well, then the big guy's going to win, because my obligation is to the Constitution. That's the oath."

Frustrated By Roberts, And Unsure How To Vote (NYT)

By Sheryl Gay Stolberg

The New York Times, September 16, 2005

WASHINGTON, Sept. 15 - Senate Democrats are deeply conflicted about how to vote on the nomination of Judge John G. Roberts Jr. to be the nation's 17th chief justice, and appear divided about how, and whether, to use their vote to send a message to President Bush as he selects a candidate to fill a second Supreme Court vacancy.

"That's a critical part of this conversation," Senator Richard J. Durbin, the Senate's No. 2 Democrat and a member of the Judiciary Committee, said Thursday, when asked if he hoped to send a message to Mr. Bush about the next nominee. "We understand that this is the first of two vacancies on a court that's so evenly divided that one bad choice could make a - from my point of view - could have an impact for a long time."

Judge Roberts's unflappable performance during three days of questioning has clearly put Democrats in a quandary. Some say a strong vote against his nomination could prod the White House into naming a centrist to fill the vacancy created by the retirement of Justice Sandra Day O'Connor, a crucial swing vote. Others say that supporting the Roberts nomination could make Democrats appear reasonable, giving them more credibility to oppose the next nominee.

Despite Mr. Durbin's remark, the Democratic leader, Senator Harry Reid of Nevada, said the vote on Judge Roberts "shouldn't be message time."

Senator Hillary Rodham Clinton, the New York Democrat whose vote will be among the most closely watched in the Senate because of her possible White House bid in 2008, agreed.

"I have found it is very difficult for Democrats to influence this White House on anything, and so I don't count on them paying attention to our legitimate concerns," Mrs. Clinton said, adding, "They will do what they think is in their interest, however they define it."

As the Judiciary Committee wrapped up its questioning of Judge Roberts on Thursday morning, Democrats, who have repeatedly assailed the nominee for not being forthcoming, expressed obvious frustration. Senator Dianne Feinstein, Democrat of California, told Judge Roberts that she had "one impression of you when we had our hour in private," and another at the hearing.

Later, in an interview, Senator Feinstein declined to elaborate. "I'm sorting out what I feel now," she said, shaking her head.

Senator Charles E. Schumer, the New York Democrat who is a Judiciary Committee member, delivered a lengthy soliloquy during the hearing in which he called Judge Roberts's performance at the hearing "a tour de force" and said he might well "possess the most powerful intellect" of any person to come before the Senate for the position of chief justice. But Mr. Schumer worried aloud that he did not have enough evidence to answer "the fundamental question" of what kind of justice Judge Roberts would be.

"I, for one, have woken up in the middle of the night, thinking about it," Mr. Schumer said, "being unsure how to vote."

That angst is spilling over into the rest of the Democratic caucus, and no Democrat interviewed Thursday would commit one way or the other on the vote. Mr. Reid said six of the eight Democrats on the judiciary panel had conferred but were still undecided.

Representatives of liberal advocacy groups, who are pressing Democrats to oppose the nomination, said they felt confident of a straight party-line vote, or close to it, when the committee takes up the nomination next Thursday.

The vote will come as Democrats sense President Bush is vulnerable. His poll numbers are at the lowest point of his presidency amid public outrage over the federal government's response to Hurricane Katrina, and Democrats hope to turn that outrage into a powerful message to voters during the 2006 midterm elections. On Thursday, Howard Dean, the chairman of the Democratic National Committee, said he thought Judge Roberts did not deserve to be confirmed.

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But Democrats are keenly aware that they risk being labeled obstructionist if they vote in a bloc against a nominee like Judge Roberts, whose legal qualifications are impeccable. And though they have complained bitterly that the White House has refused to provide them access to legal memorandums Judge Roberts wrote when he worked for the first Bush administration, Democrats appear to have little appetite to block the nomination by filibuster on the Senate floor.

"No, no," Senator Joseph R. Biden Jr. said Thursday, waving off the question of a filibuster. Mr. Biden, Democrat of Delaware, said that after voting to confirm Justice Antonin Scalia, one of the most conservative members of the court, he vowed never again to vote for "anybody who I don't have some sense of their constitutional methodology."

Asked if he had a sense of Judge Roberts's methodology, Mr. Biden replied, "No, I don't." That was why, he said, "it's such a dilemma."

Perhaps no Democrat faces as big a dilemma as Senator Clinton, who has been positioning herself as more of a centrist as she considers a possible White House bid. Republican senators are already taking pains to remind the public that many of them voted in favor of President Bill Clinton's Supreme Court nominees, Ruth Bader Ginsburg and Stephen G. Breyer.

Like other Democrats, Mrs. Clinton was circumspect Thursday, saying she would review the hearing transcript before deciding how to vote.

"There are a lot of considerations and some of them are competing, so we just have to weigh each of them," she said, "and every senator might have a slightly different weight to give."

One problem for Democrats is that Judge Roberts performed so well as a witness. Hour after hour, he delved into the minutiae of the law without referring to a single note or taking one. And while Democrats have assailed Judge Roberts for not answering enough of their questions, they are hard-pressed to argue that he did not answer any at all.

"Part of the reason people are conflicted is because Roberts has shown just enough leg to get a second date," said one Democratic strategist, speaking on the condition of anonymity so as not to give away internal party deliberations. "No magic moment has occurred where you could say, 'Oh, we can't put this guy on the bench.' "

One important question is how Democrats in Republican-leaning states will vote. Among them is Senator Reid, who said Thursday that he did not intend to insist that his colleagues vote in a bloc, and that he would not necessarily follow the recommendation of his colleagues on the judiciary panel. "It all boils down to an individual vote," he said.

Another question is what Democratic members of the "Gang of 14," a bipartisan group of senators who drafted a compromise to avoid a filibuster on several of President Bush's judicial nominees this spring, will do. One of them, Senator Ben Nelson of Nebraska, had previously said he was inclined to vote in favor of Judge Roberts. But in an interview Thursday, Mr. Nelson used a football analogy to suggest he was hedging.

"It's halftime," the senator said. "The game's not over."

Democrats Hit Roberts' Ambiguity (WT)

By Charles Hurt

The Washington Times, September 16, 2005

Democrats laid the groundwork yesterday to oppose the Supreme Court nomination of Judge John G. Roberts Jr., accusing him of withholding his personal views on political and judicial matters.

"You did speak at length on many issues and sounded like you were conveying your views to us," Sen. Charles E. Schumer, New York Democrat, told Judge Roberts yesterday. "But when one went back and read the transcript each evening, there was less than met the ear that afternoon."

As he had throughout his testimony before the Senate Judiciary Committee, Judge Roberts calmly explained that -- as with previous nominees such as Justice Ruth Bader Ginsburg -- it would be improper for him to discuss his personal views on certain issues, especially those that might come before the court.

In addition, the chief justice nominee said, those views are irrelevant, because his goal is to merely apply the law within the confines of the Constitution.

Still, it was the overriding concern of Democrats on the panel, which will vote on the Roberts nomination next week. Senate Republicans say they don't expect to pick up a single vote from the eight committee Democrats, but several -- including Mr. Schumer -- insist that they haven't made up their minds.

Outside the Senate, a coalition of liberal interest groups released a new television commercial showing snippet after snippet of Judge Roberts explaining during his testimony that he couldn't answer certain questions, many of which had been asked repeatedly.

Yesterday marked the fourth and final day of hearings on Judge Roberts' nomination to become the nation's 17th Supreme Court chief justice. It is widely expected that the full Senate will confirm Judge Roberts by the time the high court convenes Oct. 3.

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Among those Democrats being closely watched is Sen. Dianne Feinstein of California, who has said she will not support a nominee who will undo federal abortion rights.

"I don't really know what I'm going to do with respect to voting for you or against you," she told Judge Roberts yesterday.

Sen. Tom Coburn, Oklahoma Republican who is pro-life, dismissed such interest in Judge Roberts' stance on abortion. He spent two hours with the nominee and said he tried mightily to pin him down. He couldn't, but plans to vote for him based on his overall judicial philosophy and intellect.

Although no Democrats expressed support for Judge Roberts' nomination, they heaped more praise on him yesterday for his intellect and coolness under intense questioning. Throughout his 19 hours and 55 minutes of testimony, Judge Roberts never referred to or jotted down one single note with the pad and pencil supplied to him on the witness table.

Before questions began yesterday, Mr. Schumer greeted Judge Roberts, shook his hand and said, "You have done an amazing job."

Later, during the hearing, however, Mr. Schumer and other Democrats said they just weren't convinced that Judge Roberts isn't a conservative ideologue.

"I think if you've ever looked at what I've done since I took the judicial oath, that should convince you that I'm not an ideologue," the judge replied.

Sen. Richard J. Durbin, Illinois Democrat, wondered whether Judge Roberts would be sensitive to the plight of the powerless and impoverished.

"If the Constitution says that the little guy should win, then the little guy's going to win in the court before me," Judge Roberts responded. "But if the Constitution says that the big guy should win, well then the big guy's going to win because my obligation is to the Constitution."

Sen. Lindsey Graham, South Carolina Republican, said it is wrong to evaluate Judge Roberts on his political opinions.

"We're down to the heart," he said. "Well, there are all kinds of hearts. There are bleeding hearts and there are hard hearts."

Referring to Justice Ginsburg, who was nominated by President Clinton, Mr. Graham said, "She has a different value system than I do. But that doesn't mean she doesn't have a good heart. And I want this committee to understand that if we go down this road of putting people's hearts in play, and the only way you can have a good heart is, 'Adopt my value system,' we're doing a great disservice to the judiciary."

Roberts Concludes Three Days Of Testimony (LAW)

By T.r. Goldman, Legal Times

Law.com, September 16, 2005

Eliciting praise for his intellectual firepower from one of his sharpest Democratic critics, Judge John Roberts Jr. concluded his time before the Senate Judiciary Committee on Thursday by declaring that he was not an ideologue and defending his three days of testimony as both "fully expansive" and "fully responsive."

Roberts noted that despite only two years spent as a federal appeals court judge, he has written 50 opinions, telling Sen. Charles Schumer, D-N.Y.: "I don't think you can read those opinions and say that these are the opinions of an ideologue. And you and I agree that's not the sort of person we want on the Supreme Court."

Schumer, in a third and final round of questioning, called Roberts' legal knowledge and calm and precise presentation before the committee a "tour de force."

But he said he still had questions about Roberts' ability to "truly empathize" with the less fortunate.

"It didn't seem much, for instance, to concede that the wording 'illegal amigos' was unfortunate, yet you refused to say so," Schumer told Roberts, referring to a 1983 memo Roberts wrote to White House Counsel Fred Fielding, in which he used that term while referring to an upcoming presidential interview with a Hispanic newspaper.

Schumer, like almost all of the committee's eight Democrats, criticized Roberts' refusal to comment on any issue that might come before the Court.

"You did speak at length on many issues and sounded like you were conveying your views to us, but when one went back and read the transcript each evening, there was less than met the ear that afternoon," Schumer said.

Still, Schumer, considered among the most liberal of committee Democrats, professed to being conflicted about whether to vote to confirm Roberts, and would not predict how either he or his colleagues would vote during the Sept. 22 committee meeting.

After two lengthy days of interrogations, Thursday's session was essentially cleanup time for the Democrats, several of whom besides Schumer still wanted to question the witness.

It was clear, however, as had been true since the first day of questioning, that Roberts was going to remain a disciplined nominee, rarely commenting on any case or issue that might one day appear before the Court.

But as in Wednesday's hearing, in which Roberts did reveal some slivers of his legal thinking, Thursday's session also provided a few glimmers of his views, and not merely a recitation of hornbook legal principles about precedent.

Queried by Sen. Russ Feingold, D-Wis., Roberts said he was "not in favor now and not in favor then" of eliminating federal habeas corpus for inmates. "People do succeed at that phase," he said.

The day before, Roberts had said he agreed with one part of Grutter v. Bollinger, a 2003 decision that said public universities can take race into account in order to achieve a diverse student body, as long as they don't use rigid quotas. "You do need to look at the real-world impact in this area," Roberts said, referring to the decision's assertion that there was a clear public interest in creating a diverse student body.

And Roberts has asserted a constitutional right to privacy, although he was careful to give no indication whether that right to privacy extends to a woman's right to an abortion.

After Roberts finished late Thursday morning, the committee began hearing from a series of six panels totaling 30 witnesses, 15 from each side, each of whom was to give five minutes of testimony.

The witnesses ranged from Beverly Jones, a plaintiff in a landmark ruling about the Americans for Disabilities Act, to former Environmental Protection Agency administrator Carol Browner, to civil rights pioneer Rep. John Lewis, D-Ga., to former Solicitor General Charles Fried.

"As I read some of the criticism of Judge Roberts, I wonder whether we are talking about the same man," said Fried, a Roberts supporter. "What I see is a fidelity to the law, not the pursuit of an agenda."

Other witnesses, however, were scathing in their remarks.

"Bork by accretion," said Georgetown University Law Center professor Peter Edelman, referring to Judge Robert Bork, whose Supreme Court nomination was defeated in 1987. "I think what it adds up to is far more radically conservative than Judge Bork," added Edelman, a former Clinton administration official.

"Judge Roberts has a vision of judicial restraint that really represents a retreat from the fundamental goal of protecting the rights of Americans through the federal courts," said Wade Henderson, who heads the Leadership Conference on Civil Rights, in an interview after completing his testimony.

Roberts did appear to stumble at least once Thursday, during questioning by Sen. Edward Kennedy, Mass., the committee's senior Democrat, who quizzed him over language he used in a June 7, 1983, memo to White House Counsel Fielding. In the memo, Roberts made what could be viewed as a disparaging comment about the Equal Opportunity Employment Commission.

"I have been unable to confirm that the President promised to abolish the EEOC," Roberts wrote Fielding, referring to a letter (the sender's name has been redacted) that noted President Ronald Reagan promised to get rid of the agency. Roberts continued: "We should ignore that assertion in any event, as well as the assertion that the EEOC is 'un-American,' the truth of the matter notwithstanding."

Roberts quickly repudiated the view that the EEOC was "un-American," noting that the expression came from the unnamed correspondent. But his explanation for the final phrase was labored, and Kennedy, for one, wasn't buying it.

Roberts, whose memos and court opinions demonstrate a punctilious writing style, told Kennedy that the phrase did not refer to the words immediately before it. Rather, they referred to the first assertion in the sentence -- the claim by the letter writer that Reagan had promised to dismantle the agency -- Roberts said.

"He hasn't made a single mistake in grammar," Kennedy said during a break in the hearing. "I think he's trying to have it both ways."

The final day of the Roberts hearings was a day of Democratic musings; Republicans, now confident that he will be confirmed, had little to say.

Besides Schumer, California's Sen. Dianne Feinstein, D, also publicly aired her indecision about how she would vote.

Sen. Richard Durbin, D-Ill., however, best summed up his party's feelings about the hearings, and Democrats' frustration at trying to figure out who Roberts is.

Noting that Roberts had provided pro bono advice to those challenging a Colorado anti-gay rights measure before the Supreme Court in 1996, Durbin wondered whether Roberts would have instead represented Colorado if he had been asked. "I think I probably would have," Roberts responded.

Durbin continued: "Where would you draw the line, if you would ever draw the line?"

Replied Roberts: "People become lawyers for all kinds of reasons. Civil rights. Environmental protection. Rights for the disabled. You won't be able to effectively vindicate those rights if you don't have a rule of law. That's why I became a lawyer, to promote and vindicate the rule of law."

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Roberts Shows Some Openness (WSJ)

By Jess Bravin And Jeanne Cummings, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

WASHINGTON -- After a week of carefully parrying pointed questions from both ends of the political spectrum during closely watched hearings, Judge John Roberts concluded his Senate confirmation hearings for chief justice by declaring, "I'm not an ideologue."

But Judge Roberts did flag some significant elements of his judicial approach during questioning by the Senate Judiciary Committee this week, even as he cautiously avoided discussing matters that he said could come before the Supreme Court. Among other things, Judge Roberts, currently on the U.S. appeals court here, suggested openness to a broad view of the federal power to regulate interstate commerce, some acceptance of constitutional privacy rights -- and some distance from liberal civil-rights advocates and civil libertarians.

While he frustrated some Democrats who said he was avoiding answering their questions, he gave Republicans no assurance that he was sympathetic to their causes. He demurred, for instance, when Sen. Sam Brownback (R., Kan.) asked "whether the unborn child is a person or is a piece of property."

Still, Republicans professed no doubts about Judge Roberts, who himself offered no objection when Sen. Lindsey Graham (R., S.C.) praised him as a "strict constructionist." And by the end of the third day of hearings yesterday, his more open demeanor appeared to mend fences with some Democrats who had complained about his cooperation earlier in the week.

Here are some highlights from Judge Roberts's testimony on key areas:

Federal Power and the Commerce Clause: Judge Roberts gave Democrats some hope that he backed a broad view of the Commerce Clause, the constitutional provision giving Congress power to regulate interstate commerce. For more than 70 years, the clause has been the linchpin of ambitious national legislation, including the New Deal economic plan, the Civil Rights Act of 1964 and the Endangered Species Act.

Some conservative legal scholars reject the theory behind Wickard v. Filburn, the 1942 opinion that gave Congress virtually unfettered power under the Commerce Clause. But Judge Roberts suggested he might accept the reasoning in the case, which found that even an individual activity of minor economic impact could be regulated if many people doing the same thing cumulatively affects interstate commerce.

"Under the Commerce Clause, can Congress pass a law banning even non-commercial cloning?" Sen. Charles Schumer (D., N.Y.) asked yesterday.

"It would seem to me that Congress can make a determination that this is an activity, if allowed to be pursued, that is going to have effects on interstate commerce," Judge Roberts replied. "Obviously, if you were successful in cloning an animal, that's not going to be simply a local phenomenon. That's going to be something people are going to -- "

"You can leave it at that," Sen. Schumer said. "That's a good answer, as far as I'm concerned."

In a separate exchange with Sen. Schumer, though, Judge Roberts declined to give a blanket endorsement of the Wickard decision as beyond challenge. Sen. Schumer called that disturbing, warning that "if certain viewpoints became majority viewpoints," that could lead to "the dismantling of the entire apparatus to protect our rights, through the narrowing of the commerce clause."

Privacy: Judge Roberts went further than some conservative legal scholars -- and further than conservative Justices Clarence Thomas and Antonin Scalia did in their confirmation hearings -- in asserting that the Constitution accords a right to privacy -- a crucial prerequisite, though not a guarantee, for legal support of abortion rights and gay rights.

In particular, he endorsed the majority opinion in the 1965 contraception case, Griswold v. Connecticut, saying he agreed "with the Griswold court's conclusion that marital privacy extends to contraception and availability of that. The court, since Griswold, has grounded the privacy right discussed in that case in the liberty interest protected under the Due Process Clause."

At a different point in the hearings, he said liberty "does cover areas such as privacy and it's not protected only in procedural terms, but it's protected substantively as well."

At his 1991 hearing, Justice Thomas acknowledged the court had created a privacy precedent but notably didn't take a position approving it. When Justice Scalia was asked at his 1986 hearing whether he thought there was a right to privacy, he refused to give an opinion, saying, "I can tell you that that is what a number of Supreme Court opinions now say."

But Judge Roberts did leave himself some wiggle room, refusing repeatedly to say how broadly he would interpret privacy rights, and in particular whether he felt the right applied to abortion.

Civil Rights: One area in which Judge Roberts didn't significantly distance himself from the court's most conservative judges was civil rights. Despite repeated invitations by Democrats to disown his 1980s memos critical of busing and challenging congressional efforts to strengthen the Voting Rights Act, Judge Roberts didn't do so.

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Sen. Edward Kennedy (D., Mass.) cited a memo in which Judge Roberts, then working in the Reagan administration, said a portion of the Voting Rights Act was "constitutionally suspect" and asked the judge whether he still felt that was so. Judge Roberts said he saw "no basis" today to think so. Some civil-rights advocates said that answer could mean that he hasn't seen a smart-enough argument to overturn it.

Judge Roberts did appear to take a more liberal view than Justices Thomas or Scalia when he said it was appropriate for Justice Sandra Day O'Connor to weigh real-life ramifications when ruling on Michigan law-school admissions affirmative-action programs. But it was left unclear how much weight he would give such information or how much real-life evidence he might consider.

Listening to Congress: Judge Roberts took pains to distinguish himself from Justice Scalia on the value of reading legislative history in interpreting statutes, a sensitive point for many lawmakers.

Justice Scalia has been critical of using legislative history, saying he reasons from the original meaning of legal texts. Critics say legislative history can help judges understand how lawmakers intended their measures to apply. Senators in both parties seemed pleased when Judge Roberts said he relied on it on his current court and would continue to do so as chief justice.

"But I have quoted and looked to legislative history in the past to help determine the meaning of ambiguous terms, and I would expect to follow that same approach on the Supreme Court," he said.

Death Penalty: Judge Roberts seemed to defend policies speeding executions as he discussed his reasons in past years for pushing to limit the access of condemned inmates to federal courts. Despite probing by Sen. Russell Feingold (D., Wis.), he didn't endorse concerns raised more recently that wrongfully convicted prisoners may face execution.

That is a contrast to the court's senior justice John Paul Stevens. In a speech last month Justice Stevens noted that new DNA evidence demonstrates "a substantial number of death sentences have been imposed erroneously," indicating "serious flaws in our administration of criminal justice."

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Roe V. Roberts (WP)

By Charles Krauthammer

The Washington Post, September 16, 2005

In our lifetime has there been a more politically poisonous Supreme Court decision than Roe v. Wade ? Set aside for a moment your thoughts on the substance of the ruling. (I happen to be a supporter of legalized abortion.) I'm talking about the continuing damage to the republic: disenfranchising, instantly and without recourse, an enormous part of the American population; preventing, as even Ruth Bader Ginsburg once said, proper political settlement of the issue by the people and their representatives; making us the only nation in the West to have legalized abortion by judicial fiat rather than by the popular will expressed democratically.

The corruption continues 32 years later. You could see it played out hour by hour in the Senate confirmation hearings of Judge John Roberts. Question upon question that pretended to be about high constitutional principle was really about abortion in ill-concealed disguise.

Senators asked gravely about how deeply Roberts believes in upholding precedent. Do you think that any of the Democrats were concerned whether Roberts would uphold Richmond v. Croson , the precedent that outlawed racial quotas in municipal contracting? Or Boy Scouts v. Dale , which permitted the exclusion of gay Scout leaders?

This is all about Roe . Take the lines of interrogation about Roberts's belief in the right to privacy. They are not asking about search and seizure in your home. They are asking about the "right to choose" (a brilliant locution that expunges the ugly word abortion from all political debate about abortion) -- what Roberts in 1981 correctly termed the "so-called 'right to privacy,' " a skepticism he is now required to disavow.

Why? Because everyone knows what happened to Robert Bork when he forthrightly and honestly denied some kind of separate, newly hatched right to privacy.

And then there are the learned Judiciary Committee disquisitions on "originalism" -- the judicial philosophy by which Justices Antonin Scalia and Clarence Thomas try to anchor the Constitution in something real, i.e., the meaning of the words as intended and understood at the time they were written.

Originalism is itself highly problematic, the worst judicial philosophy except for all the others, because they permit unmoored and arbitrary constitutional interpretation -- and thus unmoored and arbitrary judicial power. The learned senators, however, really don't care much about originalism, except to the extent that it would, almost by definition, make Roberts a categorical opponent of Roe . Which is why Roberts denies that he has any ideology, any "overarching judicial philosophy," and is nothing more than an ad hoc, bottom-up type of guy.

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Maybe he is. Maybe he isn't. But he knows that if he dares to say otherwise, he gets Borked. If, on the other hand, he pretends to have a mind so scrubbed of theory that he is at a loss to explain gravitation itself, he gets to be chief justice of the United States for 40 years.

In 2000 Al Gore declared that he would not nominate a justice who did not support Roe. Dianne Feinstein says today that if she determines that Roberts opposes Roe , she will be compelled to vote against him. For Democrats, abortion is an open litmus test. For Republicans, it is a test of agility: Can they find the nominee who might be against Roe but has been circumspect enough not to say so publicly and who will be clever enough to avoid saying so at his confirmation hearings?

Circumspect and clever Roberts has been. No one really knows. But I predict two things: (a) Chief Justice Roberts will vote to uphold Roe v. Wade , and (b) his replacing his former boss, Chief Justice William Rehnquist, will move the court only mildly, but most assuredly, to the left -- as measured by the only available yardstick, the percentage of concurrences with the opinions of those conservative touchstones, Scalia and Thomas.

I infer this not just by what Roberts has said in his hearings -- that he supports Griswold v. Connecticut , that he deeply respects precedent and that he finds Roe itself worthy of respect. That is little beyond boilerplate. I infer it from his temperament, career and life history as an establishment conservative who prizes judicial modesty above all. Which means that while he will never repeat Roe , he will never repeal it and be the cause of the social upheaval that repeal would inevitably bring.

Not that this in any way disqualifies Roberts in my conservative eyes. He is a perfectly reasonable traditional conservative, who will be an outstanding chief justice. He is just not a judicial revolutionary. If you're a conservative looking for a return to the good old days, you'll be disappointed. And if you're a liberal who lives for the good old days because that's all that liberalism has left, tell Chuck Schumer to relax.

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Liberals And Conservatives Remain Worlds Apart On Roberts's Suitability (NYT)

By Robin Toner And David D. Kirkpatrick

The New York Times, September 16, 2005

WASHINGTON, Sept. 15 - In a sharp clash of worldviews, liberal advocates warned Thursday that confirming Judge John G. Roberts Jr. as chief justice of the United States would threaten hard-won progress on civil rights and women's rights, while conservatives countered that he was clearly committed to equal justice under law.

On the final day of Judge Roberts's confirmation hearings, liberals were arrayed in full force before the Senate Judiciary Committee: civil rights leaders, leading feminists and reproductive rights advocates, all warning about the importance of the court in the lives of average Americans.

In one emblematic moment, Representative John Lewis, the Georgia Democrat severely beaten during the civil rights movement, told the committee that he feared a Roberts court would "no longer hear the people's cries for justice," and no longer act as a "sympathetic referee" because of his philosophy of judicial restraint.

Conservatives argued that Judge Roberts was thoroughly in the mainstream of civil rights law.

Peter S. Kirsanow, a Republican member of the United States Commission on Civil Rights, applauded Judge Roberts for arguing against "unlawful racial quotas or racial set-asides untethered to a showing of discrimination." Mr. Kirsanow said Judge Roberts supported the "bedrock principle of treating people on the basis of merit, without regard to race or sex."

More generally, conservatives argued that the nominee embodied the conservative view that the law should be a neutral arbiter - an umpire, as Judge Roberts put it consistently - not an instrument for changing public policy.

Judge Roberts presented himself as committed to the law above all else in his final round of questioning Thursday morning. Trying to reassure wary Democrats, he said, "I'm not an ideologue." He added, "And you and I agree that's not the sort of person we want on the Supreme Court."

For all the intensity, conservatives were keenly aware that the debate was largely symbolic. Republicans, who control the committee and have a 10-vote majority in the Senate, are confident that the Roberts nomination is on a glide path.

The Judiciary Committee will vote on Judge Roberts's nomination next Thursday, and the full Senate will take it up the following week. The biggest political question, at the moment, is how many Democrats Mr. Roberts will get.

Several key Democrats, signaling the likelihood of a party-line vote in committee next Thursday, said Judge Roberts had yet to show his values and core commitments, beyond his commitment to the legal process.

Senators Charles E. Schumer of New York and Dianne Feinstein of California both said they were haunted by the question, "What kind of justice will John Roberts be?"

Senator Richard J. Durbin, Democrat of Illinois, pressed Mr. Roberts on whether there was any client he would not represent in his years as a lawyer. Would he have aided either side in a suit challenging a state constitutional provision on the ground that it restricted gay rights, for example?

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Mr. Roberts, who assisted gay rights advocates in such a suit, replied, "I probably would have," saying that a lawyer should not sit in judgment of his client.

Mr. Durbin responded, "If this is just a process, a legal process and you'll play for any team that asks you to play, it raises a question about where would you draw the line, if you would ever draw the line?"

He said, "All of us are trying to get down to, what are your core values?"

Republican senators responded that Democrats were simply creating a new standard for judging a nominee who was clearly more than qualified - a point driven home Thursday by the American Bar Association, which pronounced Judge Roberts "well qualified."

Senator Lindsey Graham, Republican of South Carolina, said, "Nobody can question your intellect, because it would be a question of their intellect to question yours, so we're down to the heart."

Mr. Graham added, "If we go down this road of putting people's hearts into play, and the only way you can have a good heart is, 'Adopt my value system,' we're doing a great disservice to the judiciary."

The challenge to Judge Roberts's values was perhaps most pointed in a panel on civil rights. Wade Henderson, executive director of the Leadership Conference on Civil Rights, said that a strong federal role was key to enforcing civil rights for more than a century. Judge Roberts, Mr. Henderson said, repeatedly advocated a more restricted, limited federal role on civil and voting rights during his years in the Reagan administration.

Republicans argued that Mr. Roberts was representing the views of his client - the Reagan administration - in advocating a new approach to civil rights in the early 1980's. In any event, Republicans said, that was an argument over the means to reach equality and a colorblind society, not the goal.

Mr. Lewis argued that the Reagan proposals for stricter requirements to prove voting rights violations, had they prevailed, would have resulted in fewer black elected officials. "The judge was on the wrong side of history," he said.

Judge Roberts had an army of defenders on Thursday, including friends and former colleagues who testified to his legal acumen and disinterested professionalism.

Prof. Charles Fried of Harvard, a former Republican solicitor general, applauded Judge Roberts for adhering to his views of the law, even when doing so led to outcomes his opponents have attacked. "I wonder whether the critics are not really complaining that Judge Roberts didn't start with a result - their result - and then wrestle the law around until it fitted," Professor Fried said.

"He knows the difference between law and politics," Professor Fried said. "Judge Roberts seems to understand this down to his shoes."

At the end of the hearing, as at the beginning, Judge Roberts's views on privacy, and the uncertainty over whether that would translate into support for a constitutional right to abortion, loomed large.

Karen Pearl, interim president of Planned Parenthood Federation of America, testified against Judge Roberts's nomination, citing a 1989 warning by Justice Harry A. Blackmun that "a chill wind blows" for abortion rights.

"Accepting anything less than clarity" from Judge Roberts, Ms. Pearl said, "would be irresponsible."

At the same time, conservatives were arguing that Judge Roberts had not gone too far in endorsing the right to privacy.

Leonard Leo, Jay Sekulow and Wendy Long, three conservative lawyers organizing support for the administration's judicial nominees, circulated a memorandum arguing that Judge Roberts's testimony put him firmly in line with the conservative icons Justices Antonin Scalia and Clarence Thomas.

"His testimony on the right to privacy mirrored that of Clarence Thomas during his Supreme Court confirmation hearing," the lawyers wrote. "He refused to concede that there was a general privacy right, resisting Senator Schumer's effort to force the term."

After four days of hearings, some Democrats on the committee said they remained uncertain and confused. Senator Joseph R. Biden, Democrat of Delaware, said, at day's end: "My question is, Is Justice Roberts going to be a Scalia, a Rehnquist or maybe a Kennedy? If I think he's going to be a Justice Scalia, who I like personally very much, I vote no. If I think he's going to be a Kennedy, I vote yes. If I think he's going to be a Rehnquist, I probably vote yes because it won't change anything."

John Roberts And A Judge Of History (WP)

By Marcia Davis, Washington Post Staff Writer

The Washington Post, September 16, 2005

John Roberts is well on his way to head the nation's judiciary, or so it's widely believed. Washington knows this in the manner that it knows such things: There's little left to do now but count the votes.

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But yesterday, Rep. John Lewis (D-Ga.), the longtime legislator and civil rights icon, sat at the table before the Senate Judiciary Committee anyway. He sat along with other Roberts opponents -- Wade Henderson, executive director of the Leadership Conference on Civil Rights, and retired 6th Circuit Judge Nathaniel Jones, former general counsel of the NAACP.

Others had a seat at the table, too -- Jennifer Cabranes Braceras and Peter Kirsanow, both members of the U.S. Commission on Civil Rights and supporters of Roberts, were among the day's 30 witnesses offering their views on the nominee.

The diversity before the microphones in Hart Room 216, stood in sharp contrast to the scene that's dominated the week's proceedings.

In this exercise in representative democracy, the 18 committee members are all white -- 17 men and one woman, Sen. Dianne Feinstein (D-Calif.). There have also been only a handful of people of color witnessing the proceedings, be they activists from the right or left, students or simply those who wanted to observe history.

"The nature of the Senate for most of its history has been an organization of white men," says Richard Baker of the Senate's historical office. "That's just a fact. No question about it."

Barack Obama, the newly elected Democratic senator from Illinois, is the only African American senator, the fifth in the nation's history. There have been only 18 people of color since its founding -- black, Latino, Asian or Native American. There have been only 33 women: 32 white, one African American.

"It still raises the whole issue of race and class in the very room," Lewis said later yesterday afternoon. "That we are still a society where minorities, people of color, they are not present, just not there. . . . They are not in a position to raise some of these hard and tough questions." And "that's why it is left on the shoulders of some of the progressive" whites in the Senate and other bodies, he said.

Public questioning of Roberts ended yesterday morning, leaving the ensuing testimony, pro and con, to be delivered to a dwindling audience. All of it is in the record, and the senators receive the statements. By the time the panel including Lewis was on deck, there were seven senators in the room, and few journalists.

Kirsanow and Braceras echoed Roberts's call for judicial restraint, with Braceras noting that the court "is neither the first nor the last word on civil rights."

Like Lewis, Jones and Henderson spoke of the special role the courts had played in expanding racial equality.

But it was Lewis's presence that offered the drama of history.

"When I was growing up in rural Alabama," read Lewis, 65, "I saw those signs that said, 'White Men, Colored Men,' 'White Women, Colored Women.' I used to ask my parents, my grandparents, 'Why racism? Why racial discrimination?' And they would tell me, 'Don't get in trouble. Don't get in the way.' "

"As a participant in the civil rights movement of the 1960s, I decided to get in the way. I was beaten, arrested and jailed more than 40 times for peaceful, nonviolent protests against legalized segregation in the South."

He spoke about Hurricane Katrina and how it had exposed, with its images of mostly poor African Americans facing the aftermath of the storm in New Orleans, race and class remain great dividers.

"In 1965, Judge Roberts was only 10 years old. He may be a brilliant lawyer, but I wonder whether he can really understand the depth of what it took to get the Voting Rights Act passed," Lewis continued.

Voting rights and other issues such as the right to privacy (a key element in Roe v. Wade) have been a focus of Democratic senators questioning Roberts. They have made it more than clear that they have not been happy with his responses.

Lewis knows how to count votes. He is aware of where Roberts may be heading in the coming days. And it didn't bother him at all that he was reading to an almost empty room. He also knows that the proceedings were televised.

"It is my hope that my testimony will give the senators, especially those who have not made up their mind, but even those who have made up their mind, some additional information, give them some food for thought."

"I don't buy this idea that during the time that Judge Roberts was a young attorney in the Reagan administration he was just doing his job and working for someone who believed one thing and he believed something else."

Lewis watched Roberts's questioning closely and found himself frustrated: "People wanted to know, they wanted to know how he felt. What is your overall feeling, what is in your heart?"

Committee Chairman Arlen Specter (R-Pa.) asked Lewis how he felt about all that Roberts had said. After all, Roberts noted, at 50 he is not the man he was in his twenties.

But Lewis isn't convinced. Nor does it matter, he says, that he is not expecting to change history this time.

There have certainly been colleagues and activists who say, "Why get in the way? This wheel is already rolling. . . . Now he's going to be the chief justice. . . . You shouldn't say anything, you shouldn't get in the way."

But that just wouldn't be Lewis.

Final Day Of Nomination Hearings: Yawn. (WP)

By Dana Milbank

The Washington Post, September 16, 2005

John Lewis, legend of the civil rights movement and Democratic congressman from Georgia, was giving it his all before the Senate Judiciary Committee yesterday afternoon. "I fear that if Judge Roberts is confirmed to be chief justice of the United States, the Supreme Court would no longer hear the people's cries for justice," he pleaded.

Lewis's testimony was passionate, poignant -- and pretty much irrelevant to the outcome. Only four of the committee's 18 senators were on hand for much of his testimony; Chairman Arlen Specter (R-Pa.) could be seen consulting his wristwatch. Of the 120 seats in the press gallery, 104 were unoccupied. And dozens of seats reserved for the public went unoccupied.

Skipping the final session, committee members Sam Brownback (R-Kan.) and Mike DeWine (R-Ohio) gave a news conference outside the hearing room. The pair found themselves talking mostly to camera crews, as a couple of reporters half-listened. "Questions?" Brownback asked.

Nobody replied.

As witnesses gave their views for and against the man who will almost certainly be the next chief justice, one thing was clear: John G. Roberts has no Anita Hill. In 20 hours of questioning that ended yesterday morning, Democrats were unable to bloody the nominee significantly. With Republicans in possession of enough votes to confirm Roberts -- and no skeleton peering from the nominee's closet -- the fourth and final day of hearings into Roberts left the firm impression that senators were just going through the motions.

As Democrats proceeded through their final round of questioning, the Republicans did not conceal their boredom. Sen. Tom Coburn (Okla.) yawned. Brownback closed his eyes and rubbed his brow. Sen. Lindsey O. Graham (S.C.) let out a big yawn and fixed his hair. Five GOP staffers shared a joke, then passed a note to Sen. Orrin G. Hatch (Utah), who read it, looked over at the Democratic side and chuckled.

As Sen. Russell Feingold (D-Wis.) wrapped up his questioning of Roberts, he listed a number of documents he wanted included in the record.

"Mr. Chairman, if those items could be entered in the record?" Feingold asked of Specter.

Silence.

In the chairman's seat, Specter sat, scribbling or doodling, unaware that all eyes were on him to grant the routine request.

"Mr. Chairman?" Feingold said again.

This roused Specter from his reverie. "Yes?" he asked, looking up, and then he finally mustered "Without objection, so ordered."

Sen. John Cornyn (R-Tex.), a stalwart supporter of Roberts, skipped most of the afternoon session. Instead, this distinguished committee member distributed laminated cards labeled "Crying Wolf Bingo" with words such as "Ideologue!" "Partisan!" "Far Right!" "Zealot!" "Extremist!" An accompanying news release chronicled "the sad history of attacks against previous nominees."

In the hallway outside the hearing room, the scene had the feel of open-microphone night at a karaoke bar, as liberal and conservative lobbyists lined up in front of two idle television cameras to give their views. It wasn't clear whether any of the footage -- filmed by C-SPAN and a pooled network camera -- would ever see the airwaves.

Among the appearances most of the senators missed:

Roberts friend and legal partner Kathryn Webb Bradley, calling herself a Democrat who didn't support President Bush in either election, said she felt "confident entrusting my own rights and those of my children and their generation to John Roberts for safekeeping."

On the other side, Roderick Jackson, a high school girls basketball coach from Alabama, spoke of how a 5 to 4 Supreme Court ruling saved his job after he was fired for complaining about unequal treatment of girls. "A shift in even one vote would have left me without any remedy," he said.

The thing that seemed to alarm Democrats was not Roberts himself or his writings but the fact that ideologues on the right love him so much. Sen. Edward M. Kennedy (Mass.) held a news conference during the afternoon hearing and waved "publications from conservative journals" assuring conservatives that they should be "secure in knowing they have a true soul spirit with this nominee."

At times yesterday, the hearing took a promising turn, as when Sen. Charles E. Schumer (D-N.Y.) pleaded with Roberts to say whether he would be a Felix Frankfurter, a William Rehnquist or an Antonin Scalia.

"I think if you've looked at what I've done since I took the judicial oath; that should convince you that I'm not an ideologue," Roberts replied. "And you and I agree that that's not the sort of person we want on the Supreme Court."

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It was a powerful moment -- while it lasted. Cornyn broke in to criticize Democrats' demands for more Roberts papers. Sen. Richard J. Durbin (D-Ill.) started talking about Paris Hilton's telephone records. Graham requested time to denounce the views of Justice Ruth Bader Ginsburg's views on prostitution.

And, with that, Specter put an end to the questioning of Roberts.

Democrats On Receiving End In Flap Over Roberts (WT)

By Charles Hurt

The Washington Times, September 16, 2005

Sen. John Cornyn turned the tables on Democrats yesterday, transforming the confirmation hearings for Judge John G. Roberts Jr. into one of the nastiest partisan conflicts the Senate Judiciary Committee has seen in recent years.

Throughout the four days of hearings, Democrats called for the release of internal legal documents Judge Roberts wrote while working in the Solicitor General's Office. Republicans said those documents fall under attorney-client privilege and cannot be released.

Fed up with the repeated pleas, Mr. Cornyn, Texas Republican, reminded the Democrats on the panel of their stunned outrage when some of their own internal records wound up in public.

"It strikes me as odd, having been on the committee last year when we had an unfortunate theft of internal documents that were written by staffers of individual senators and which were published to the outside world," he said. "There was bipartisan outrage over that and we, as I recall, referred the matter for investigation and possible prosecution."

He was making reference to 14 internal memos that were downloaded from Democratic computers by two Republican staffers and were published by the Wall Street Journal and The Washington Times. The memos revealed a cozy relationship between Democrats on the Judiciary Committee and outside groups with special interests in the federal judiciary.

In one memo, staffers for Sen. Edward M. Kennedy, Massachusetts Democrat, recommend that a Bush nominee to the 6th Circuit U.S. Court of Appeals be stalled until after that appellate court had decided a landmark affirmative action case.

"The thinking is that the current 6th Circuit will sustain the affirmative action program, but if a new judge with conservative views is confirmed before the case is decided, that new judge will be able, under 6th Circuit rules, to review the case and vote on it," the staffers wrote to Mr. Kennedy.

In another memo to Sen. Richard J. Durbin, Illinois Democrat, Washington lawyer Miguel A. Estrada was singled out as "especially dangerous" because "he is Latino." Mr. Estrada, born in Honduras, withdrew his nomination to the U.S. Court of Appeals for the D.C. Circuit after being filibustered by Democrats for eight months.

At yesterday's hearing, Mr. Durbin reminded Mr. Cornyn that a Republican staffer -- Manuel Miranda -- "was discharged" over the matter, which was turned over to the Justice Department for investigation.

Just this week, it turned out, Mr. Durbin had written Attorney General Alberto R. Gonzales to commend his department for successfully prosecuting the man who hacked into the cell phone of hotel heiress Paris Hilton and stole her telephone records. In the letter, he asked if any precedent had been created to go after Mr. Miranda.

There was no disagreement from Republicans and, in any event, that was beside the point, Mr. Cornyn said.

"Surely if the legislative branch is entitled to confidential communications between our lawyers and us so we can do our jobs and get candid advice, the executive or the president is entitled to the same sort of confidential and candid communications," he said.

Inside Politics (WT)

By Greg Pierce

The Washington Times, September 16, 2005

Drafting Condi

Americans for Rice, a group that's trying to drum up support for Secretary of State Condoleezza Rice to run for president in 2008, has put together a 60-second television ad that it hopes to air by the end of the month.

"While driving from Fargo, North Dakota, to Nashville in my Mini Cooper plastered with 'Condoleezza Rice for President' bumper stickers, numerous cars honked at me and the drivers either waved or gave a thumbs up," writes Crystal Dueker, the organization's national co-chairman.

"It set the tone for our successful fund-raising booth at the National Federation of Republican Women. Over 1,500 women from across the United States gathered to discuss politics, leadership and a vision for the future of our nation," she said.

About 190 women donated an average of $15 each toward the funds to put the ad on television. In the meantime, it can be viewed at www.americansforrice.com.

Religious test

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"They should be ashamed. We should be ashamed. We have not progressed much in 45 years it seems, and we appear to be traveling in the wrong direction," Manuel Miranda writes at www.OpinionJournal.com.

"Article VI of the Constitution prohibits a religious test from being imposed on nominees to public office. The clause was motivated by the experience of Catholics in the Maryland colony and Baptists in Virginia who had been the targets of Great Britain's two Test Acts. These infamous laws of intolerance sought to prevent anyone who did not belong to the Church of England from holding public office. The Test Acts did not say that Catholics could not hold office; the bigotry was more subtle. Officials questioned would-be public servants to determine whether they believed in particular tenets of the Catholic faith," Mr. Miranda said.

"While questioning John Roberts on Tuesday, Judiciary Committee chairman Arlen Specter asked: 'Would you say that your views are the same as those expressed by John Kennedy when he was a candidate, and he spoke to the Greater Houston Ministerial Association in September of 1960: "I do not speak for my church on public matters, and the church does not speak for me." '

"Hours later, Sen. Dianne Feinstein of California made it worse: 'In 1960, there was much debate about President John F. Kennedy's faith and what role Catholicism would play in his administration. At that time, he pledged to address the issues of conscience out of a focus on the national interests, not out of adherence to the dictates of one's religion. ... My question is: Do you?'

"How insulting. How offensive. How invidiously ignorant to question someone like Judge Roberts with such apparent presumption and disdain for the religion he practices. The JFK question is not just the camel's nose of religious intolerance; it is the whole smelly camel."

Dean screams

The Democratic National Committee yesterday stepped up its attacks on Judge John G. Roberts Jr., with DNC Chairman Howard Dean saying that the Supreme Court nominee was "the wrong man at the wrong time for our country."

Mr. Dean used similar phasing during his ill-fated 2004 presidential campaign when he condemned the U.S. war in Iraq, calling it "the wrong war in the wrong place at the wrong time."

"The skills John Roberts displays are like those of White House Deputy Chief of Staff Karl Rove or House Republican Leader Tom DeLay. Both of those men have sharp political minds — they are among the smartest in Washington. But they use those skills to push a narrow ideology and win at any costs," he said.

"Roberts has spent a career using the law to protect corporate interests and roll back the rights that protect us all," Mr. Dean said in an e-mail fundraising solicitation to Democratic Party members.

Hatch's hint

Among the witnesses who testified in support of Judge John G. Roberts Jr. during yesterday's Senate Judiciary Committee hearing was Utah District Judge Denise Posse-Blanco Lindberg. Judge Lindberg seraved as a lawyer with Judge Roberts at the Washington firm Hogan & Hartson LLP, and worked with him as a Supreme Court clerk.

Observers have suggested that President Bush would like to make a Hispanic or a woman his next Supreme Court nominee, and Judge Lindberg is both — a point that Sen. Orrin G. Hatch, Utah Republican, made sure to emphasize yesterday.

After Judge Lindberg had testified, Mr. Hatch thanked her effusively for her testimony and recited her impressive biography: The daughter of a Puerto Rican mother and a Cuban father, she was 9 years old when her family fled Cuba after communist dictator Fidel Castro came to power.

In addition to her magna cum laude law degree from Brigham Young University, Judge Lindberg also holds a master's degree and a doctorate from the University of Utah. She is a devout Mormon and the mother of two grown sons.

She was appointed to her state court position in 1998 by Gov. Michael O. Leavitt, a Republican whom Mr. Bush has since chosen as secretary of health and human services.

Praising her as having "one of the strongest backgrounds of any woman lawyer in this country," Mr. Hatch told Judge Lindberg, "I was particularly pleased to listen to your experiences as a woman, as a minority, as an able jurist. ... That means a lot to me, and I personally want to pay tribute to you as somebody who has not only excelled in the legal profession, but deserves the accolades that I've just given."

Arnold ready

The worst-kept secret in California is that Gov. Arnold Schwarzenegger will seek a second term in 2006, and he is expected to make it official today, the San Francisco Chronicle reports.

"I'm not in this just for the short term," Mr. Schwarzenegger told a friendly crowd of more than 120 people at a town-hall meeting in Clovis on Wednesday.

Mr. Schwarzenegger, who took office after the October 2003 recall of Democratic Gov. Gray Davis, left little doubt as to what he would announce during today's appearance in San Diego.

"If you start something, you have to finish it," he said. "People sent me to Sacramento to fix a broken system. I'm going to stay and fight for the people until the system is fixed once and for all."

New chairman

The House Republican Conference announced yesterday that New York Rep. Peter T. King will be the new chairman of the Homeland Security Committee.

Mr. King succeeds former Rep. Christopher Cox, California Republican, who left the House to become head of the Securities and Exchange Commission.

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'This Great City Will Rise Again' (NSDY/AP)

By Nedra Pickler, The Associated Press

Long Island Newsday, September 16, 2005

NEW ORLEANS -- President Bush promised tonight the government will pay most of the costs of rebuilding the hurricane-ravaged Gulf Coast in one of the largest reconstruction projects the world has ever seen. "There is no way to imagine America without New Orleans, and this great city will rise again," the president said.

Standing in Jackson Square in the heart of the French Quarter, Bush acknowledged his administration had failed to respond adequately to Hurricane Katrina, which killed hundreds of people across five states. The government's costs for rebuilding could reach $200 billion or beyond.

"Four years after the frightening experience of Sept. 11, Americans have every right to expect a more effective response in a time of emergency," the president said. When the government fails to meet such an obligation, Bush said, "I as president am responsible for the problem, and for the solution."

Bush ordered his Cabinet secretaries to join in a comprehensive review of the government's faulty response. In addition, he told the Department of Homeland Security to undertake an immediate review of emergency plans in every major city in America.

He also said a disaster on the scale of Katrina requires greater federal authority and a broader role for the armed forces.

Unusual for a prime-time address, Bush stood tieless in a blue dress shirt. At his back, the famous palm tree-framed St. Louis Cathedral was brightly lit. Elsewhere in the famed city, workers were still pumping out flooded neighborhoods and collecting bodies left behind in the frantic evacuation.

Bush proposed establishment of worker recovery accounts providing up to $5,000 for job training, education and child care during victims' search for employment. He also urged legislation to provide education, small business help and health care. He proposed creation of a Gulf Opportunity Zone in Louisiana, Mississippi and Alabama offering tax breaks to encourage businesses to stay in the devastated region and new businesses to open.

In the speech, which lasted a bit over 20 minutes, he said he would ask Congress to approve an Urban Homesteading Act in which surplus federal property would be turned over to low-income citizens by means of a lottery to build homes, with mortgages or assistance from charitable organizations.

Other proposals, according to congressional officials briefed by the White House, include:

A 100 percent reimbursement to states to cover their costs of health care for treating many evacuees through the end of next year.

$1.9 billion to reimburse states for educating displaced students, including some money that could go to religious schools.

Six-month forgiveness on student loan interest for affected areas, at an estimated cost of $100 million.

Bush repeated a hotline number, 1-877-568-3317, for people to call to help reunite family members separated during the hurricane. Moments later, Sen. John Kerry, D-Mass., criticized Bush, saying "Leadership isn't a speech or a toll-free number."

"No American doubts that New Orleans will rise again," Kerry said. "They doubt the competence and commitment of this administration." House Democratic leader Nancy Pelosi and Senate Democratic leader Harry Reid, in a joint statement, said, "We are concerned by Bush administration initiatives this week waiving wage protections, environmental safeguards and protections for veterans, minorities, women and the disabled."

Bush described the hurricane's aftermath as "days of sorrow and outrage," and he said the nation had "witnessed the kind of desperation no citizen of this great and generous nation should ever have to know." He deplored scenes of victims calling out for food and water, criminals who had no mercy, and bodies of the dead lying uncovered in the street.

He said the suffering of victims was tempered by acts of courage and kindness. To the hundreds of thousands of people forced from their homes, Bush said, "You need to know that our whole nation cares about you -- and in the journey ahead you are not alone."

Promising better days ahead, Bush said, "The streets of Biloxi and Gulfport will again be filled with lovely homes and the sound of children playing. The churches of Alabama will have their broken steeples mended and their congregations whole.

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"And here in New Orleans, the street cars will once again rumble down St. Charles, and the passionate soul of a great city will return."

Bush faced the nation at a vulnerable point in his presidency. Most Americans disapprove of his handling of Katrina, and his job-approval rating has been dragged down to the lowest point of his presidency also because of dissatisfaction with the Iraq war and rising gas prices. He has struggled to demonstrate the same take-charge leadership he displayed after the Sept. 11 terror attacks four years ago.

Across five Gulf Coast states, the death toll from Katrina climbed today to 794, led by 558 in Louisiana.

Faulting the government's response, Bush said that Katrina "was not a normal hurricane _ and the normal disaster relief system was not equal to it." State officials have blamed the federal government for failing to respond more quickly, and federal officials have pointed fingers at state and local officials.

Responding to charges that help would have been sent more quickly if most victims had not been poor and black, Bush noted that the persistent poverty, rooted deep in the Gulf region, was broadcast for all Americans to see.

"That poverty has roots in a history of racial discrimination, which cut off generations from the opportunity of America," Bush said. "We have a duty to confront this poverty with bold action."

Bush said the goal was to get evacuees out of shelters by mid-October and into apartments and other homes, with assistance from the government. He said he would work with Congress to ensure that states were reimbursed for the cost of caring for evacuees.

Bush called for new measures to protect New Orleans from flooding and said the Army Corps of Engineers would work with state and local officials. "Protecting a city that sits lower than the water around it is not easy, but it can and has been done," the president said.

"The work that has begun in the Gulf Coast region will be one of the largest reconstruction efforts the world has ever seen," Bush said. He praised Americans for giving generously for disaster relief, saying the fund led by former Presidents Bush and Clinton had received pledges of more than $100 million.

Rebuilding across the devastated region is expected to cost $200 billion or more in the near term. The final tab could approach the more than $300 billion spent thus far on U.S. wars in Iraq and Afghanistan. Congress has already approved $62 billion for the disaster, but that is expected to run out next month.

House Speaker Dennis Hastert, R-Ill., speaking after the president's address, said the recovery programs would add to the nation's debt. GOP leaders are open to suggestions from lawmakers to cut government spending elsewhere, he said.

AP Writer Nedra Pickler reported from Pascagoula, Miss., and New Orleans and Terence Hunt reported from Washington.

Bush Announces Massive Recovery Program (KRT)

By Ron Hutcheson And Erika Bolstad

Knight Ridder, September 16, 2005

NEW ORLEANS - Speaking from the center of a deserted and devastated city, President Bush on Thursday outlined one of the biggest recovery efforts in history for Hurricane Katrina and promised to overhaul the government's disaster-response plan.

"This government will learn the lessons of Hurricane Katrina," he said in a nationally televised speech from Jackson Square, in the symbolic heart of New Orleans' French Quarter. He assured Katrina's victims that they would get the help they needed to resume normal lives.

"The work that has begun in the Gulf Coast region will be one of the largest reconstruction efforts the world has ever seen," he said. "I know that when you sit on the steps of a porch where a home once stood or sleep on a cot in a crowded shelter, it is hard to imagine a bright future. But that future will come."

Bush made his fourth trip to the stricken Gulf Coast on a day of hope for New Orleans. Hours before Bush's speech, Mayor Ray Nagin announced that nearly 200,000 residents and business owners would be allowed to return starting this weekend.

"It's a good day in New Orleans," Nagin said. "We're bringing New Orleans back, and this is our first step."

The mayor's optimistic mood contrasted with the finger-pointing and ill will that followed the government's sluggish response to Hurricane Katrina, which ravaged the Gulf Coast. Bush's speech was the latest in a series of White House efforts to address concerns about the government's response and questions about the president's leadership.

Bush, whose job-approval ratings have fallen to around 40 percent in a series of recent polls - the lowest of his presidency - went further than he ever had in acknowledging the missteps and accepting responsibility.

"It was not a normal hurricane, and the normal disaster-relief system was not equal to it," he said. "The system, at every level of government, was not well coordinated and was overwhelmed in the first few days. It is now clear that a challenge on this scale requires greater federal authority and a broader role for the armed forces.

"Americans have every right to expect a more effective response in a time of emergency," he added. "When the federal government fails to meet such an obligation, I as president am responsible for the problem, and for the solution."

The president also addressed concerns raised by televised images of suffering crowds of city residents, many of whom were low-income African-Americans. Polls indicate that most blacks believe that the slow government response was related to the race of the victims. Most whites reject that explanation.

Bush said Americans watching the disaster-relief efforts on television saw "some deep persistent poverty" that "has roots in a history of racial discrimination."

"We have a duty to confront this poverty with bold action," he said. "When the streets are rebuilt, there should be many new businesses, including minority-owned businesses, along those streets."

Bush didn't put a price on the recovery effort, but most estimates put the tab between $200 billion and $300 billion, roughly equal to the combined cost to date of the wars in Afghanistan and Iraq. The government will borrow the money, driving up the national debt. This year's deficit is already $331 billion.

The president outlined a series of steps to aid flood victims: vouchers to let displaced students attend private or parochial schools at public expense; federal reimbursements to help states deal with higher Medicaid costs for evacuees; up to $5,000 for some unemployed hurricane victims so that they can pay for training, child care or other services that might help them find work; the creation of a Gulf Opportunity Zone that would give tax breaks and loans in return for business investment; and new "worker recovery accounts" to expand unemployment benefits.

The school voucher plan is likely to be particularly controversial because Congress has blocked similar plans in the past. Democrats accused Bush of trying to use the disaster to advance an ideological agenda.

"The Gulf Coast region does not deserve to be treated as a laboratory for political opportunism or ideological experimentation," Senate Democratic Leader Harry Reid of Nevada and House Democratic Leader Nancy Pelosi of California said in a joint statement.

In New Orleans, the first significant steps toward normalcy will come on Saturday, when business owners will be allowed to return to some sections of the city. Areas set to open in stages include the central business district, the French Quarter, the section known as Uptown, and Algiers, located across the Mississippi River. Businesses on Bourbon Street will be ready to reopen their doors to greet customers on Sept. 26.

Residents will start returning on Monday, on a schedule devised by zip codes.

To return to the city, residents and business owners will be asked to verify proof of residence or business ownership with identification. About 182,000 people live in the areas to be reopened over the next two weeks, out of a city of nearly 500,000.

Despite the cleanup and plans for rebirth, nearly half of New Orleans remains flooded and uninhabitable. The Army Corps of Engineers estimates that it will take until Oct. 8 to pump all the water out of the city.

The death toll also continues to rise along the Gulf Coast. At least 794 bodies have been found so far, including 558 in Louisiana. On Thursday, government forecasters confirmed what had seemed clear for weeks: Katrina was the most destructive hurricane ever to strike the United States.

Hurricane Andrew, the previous worst storm, cost about $21 billion in today's dollars when it hit South Florida in 1992.

Bush pledged to work closely with city and state officials along the Gulf Coast during the reconstruction. He said federal funds would cover "the great majority of costs" of repairing roads, bridges, schools, hospitals and other public facilities. He said all expenditures would be closely monitored to guard against fraud and waste.

White House aides selected a setting for Bush's remarks that provided a reassuring view of one of the city's most recognizable landmarks. The square, dominated by the cream-colored spires of St. Louis Cathedral and a statue of Andrew Jackson on horseback, was spruced up Monday by a fire-fighting crew from Arizona.

The crew, part of a California-based emergency-response team, was in New Orleans to help set up accommodations, showers and meal tents for thousands of federal law enforcement workers helping with the cleanup. Sam Wilbanks, a U.S. Forest Service employee on the emergency-response team, said crew members weren't aware of Bush's visit when they volunteered to clean the square.

The White House kept the site of Bush's speech secret until Wednesday night, and troops from the 82nd Airborne patrolled the area. The precautions guaranteed that Bush wouldn't face the kind of heckling that Vice President Dick Cheney endured during his recent visit to the Gulf Coast, when he was loudly cursed.

(Hutcheson, of Knight Ridder's Washington bureau, reported from Washington. Bolstad of The Miami Herald reported from New Orleans. Gary Estwick, of the Akron Beacon-Journal, contributed from New Orleans.)

Mr. Bush In New Orleans (NYT)

The New York Times, September 16, 2005

DOJ_NMG_0006277

President Bush said three things last night that desperately needed to be said. He forthrightly acknowledged his responsibility for the egregious mishandling of the aftermath of Hurricane Katrina. He spoke clearly and candidly about race and poverty. And finally, he was clear about what would be needed to bring back the Gulf Coast and said the federal government would have to lead and pay for that effort.

Once again, as he did after 9/11, Mr. Bush has responded to disaster with disconcerting uncertainty, then risen to the occasion later. Once again, he has delivered a speech that will reassure many Americans that he understands the enormity of the event and the demands of leadership to come.

But there are plenty of reasons for concern. After 9/11, Mr. Bush responded not only with a stirring speech at the ruins of the World Trade Center and a principled response to the Taliban in Afghanistan. He also decided to invade Iraq, and he tried to do it on the cheap - with disastrous results, for which the country continues to pay every day.

This time, Mr. Bush must come up with a more coherent and well-organized follow-through.

Clearly chastened by the outcry over his slow response to the disaster and his administration's bumbling performance, Mr. Bush said last night that he was prepared to undertake "one of the largest reconstruction efforts the world has ever seen." If he is sincere about his commitment to New Orleans and the other damaged localities, and to the displaced residents, he may have a fight on his hands in persuading Congress to support such an ambitious and necessary effort. Obviously, any official with even a minimal sense of responsibility would understand that this work will have to begin with a promise to give up on any more of the Republican Party's cherished tax cuts.

The speech, as good as it was, marks only a moment of clarity. Mr. Bush's problem in dealing with Katrina has been, at bottom, the same one that has bedeviled the administration since 9/11. The president came to office with a deep antipathy toward big government that has turned out to be utterly inappropriate for the world he inherited. The result has not been less government, but it has definitely been inept government.

We have already seen what happened to the Federal Emergency Management Agency when it was taken over by an administration that didn't like large federal agencies with sweeping mandates. For Iraq, the White House asserted that open-ended and no-bid contracts doled out to big corporations run by people known to government officials would mean swifter, more efficient operations. What we got was gross inefficiency, which has run up costs while failing in many cases to do the jobs required.

Given this history, it's impossible not to worry about what will happen to the billions of dollars being committed to New Orleans, especially since the Army Corps of Engineers' top man in the reclamation effort was once the corps' top man overseeing contracts in Iraq.

The administration is staffed several levels deep with officials who share their leader's distrust of large, expensive federal undertakings. But it is now faced with an unprecedented task: housing hundreds of thousands of homeless people, making sure their children are educated over the short term and eventually getting them a start on a new life. There is no way to do that without a focused federal effort.

Last night, the president was particularly strong when discussing the nation's shocking lack of preparedness for disaster, and the stark fact - obvious to every television viewer around the globe - that the people left homeless and endangered by Katrina were in the main poor and black.

The entire nation, he said, saw the poverty that "has roots in a history of racial discrimination, which cut off generations from the opportunity of America." Polls show that black Americans are far angrier and more skeptical than whites about the administration's actions since the storm. Mr. Bush's words could begin a much-needed healing process. But that will happen only if they are followed by deeds that are as principled, disciplined and ambitious as Mr. Bush's speech.

Bush's Buffeted Leadership (CSM)

By Linda Feldmann, Staff Writer

The Christian Science Monitor, September 16, 2005

WASHINGTON - As New Orleans and the devastated Gulf Coast region look ahead to rebuilding and renewal, so, too, President Bush is digging out from the political damage hurricane Katrina has wreaked on his presidency.

The biggest blow to Bush, personally, may be to his image as a leader - the core quality that gave him high marks for his handling of 9/11 and, eventually, helped him win a second term.

As he ran for reelection last year, polls consistently showed a majority of the public credited him for leadership, even as they disagreed with him on many issues. Now, for the first time, less than half the public (49 percent) say he has "strong leadership qualities," down from 63 percent last year, according to a Newsweek poll last week.

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Bush's planned prime-time address to the nation Thursday night, to be delivered from New Orleans, will mark the latest in a series of steps aimed at moving away from the early finger-pointing and appearance of detachment, and toward a can-do approach.

The president was to announce an unprecedented federal commitment to rebuilding the flood zone, with a price tag that aides say could top $200 billion. And Friday Bush will make remarks at Washington's National Cathedral as part of his proclaimed National Day of Prayer and Remembrance for the Victims of Hurricane Katrina.

Both speeches follow the president's "buck stops here" moment on Tuesday, when he declared, "To the extent the federal government didn't fully do its job right, I take responsibility."

One lesson for Bush, says presidential scholar Martha Joynt Kumar, is "that [you] can get it right as a leader for four years, and that doesn't guarantee you're going to continue to get it right.

"You have to be poised on your toes, and you just can't get comfortable with the system you have," says Professor Kumar, a senior fellow at the Academy of Leadership at the University of Maryland. "Different conditions can come up that test your system. [Katrina] certainly tested it in a different way."

A hallmark of Bush's system is planning, in contrast with President Clinton's more chaotic style that nevertheless lent itself to sharp pivots in focus. The day after Katrina hit, Bush stuck with his plan to deliver a speech in San Diego marking the anniversary of VJ Day - and seeking to boost support for the Iraq war - before cutting his vacation short and heading back to Washington the next day.

"This man is an incredible planner," says Carolyn Thompson, a Chicago-based training consultant and co-author of a book on Bush's leadership. "He is not a detail person, but he surrounds himself with people who gather details and feed them to him.... Once everything's in place, then they go."

She's withholding judgment on the White House's initial response to Katrina, stressing that "this is a very closed-mouthed White House" and that, with time, more may be learned about the factors that fed into a stretch that, for now, "looks ugly."

What is known is that Bush treasures his time at his ranch in Crawford, Texas, and that while he has all the access to aides and information there that he would have in Washington, the human dynamic is different. Getting information from multiperson videoconferences, the system in Crawford, is different from the way it works at 1600 Pennsylvania Avenue, where a range of people can come through and make their points in meetings.

"You can get ahead of things a little better at the White House," says Professor Kumar, who often observes White House press operations in person.

Bush is also famous for not paying close attention to media reports, another point that may have delayed a full understanding of the magnitude of Gulf Coast devastation, and the 9/11-level of leadership required.

Even after arriving in the region, comments such as those making light of youthful time spent there and his "attaboy" gesture to Michael Brown, now resigned head as head of federal emergency management, showed he was still behind the curve.

By this week, when Bush made his qualified statement of responsibility - a rare moment for a president who has been loath to admit any failings - analysts agreed that he finally had it right. Bush's taking of responsibility "suggests he's finding his voice," says Fred Greenstein, a presidential scholar and professor emeritus at Princeton University.

Evacuees Find Comfort And Encouragement In Speech (NYT)

By Susan Saulny

The New York Times, September 16, 2005

HOUMA, La., Sept. 15 - Evacuees at a shelter here said they took comfort Thursday night from both the substance and the symbolism of the speech President Bush gave in the city many of them had fled.

When Mr. Bush talked about breaking the cycle of poverty and increasing the rate of home ownership on the Gulf Coast, one evacuee shouted, "Thank you! Thank you!" Others at the shelter, at the civic center in Houma, a small city southwest of New Orleans, nodded in approval at several points during the speech.

"I feel very encouraged because he's accepted responsibility, and in doing that, I feel that he has stepped up to the plate," said Evelyn Green, 58, a retired health care worker from the New Orleans area. "He touched me. I know now he's going to be there to help us rebuild our cities and towns. I take him at his word. I want to see everything he said tonight fulfilled."

Another evacuee, Muhammad Abdullah Ali, a 52-year-old security officer from New Orleans, said: "I feel that now he's going to take control and do the best he can. I felt good about the speech. It was a good speech. Now I want to see some action."

Others said they appreciated Mr. Bush's specific references to New Orleans culture and were glad to see the president speaking from Jackson Square, a familiar and comforting image from home.

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The president's comments were greeted with praise from local officials, including Gov. Kathleen Babineaux Blanco, a Democrat.

"Louisiana's people are strong, optimistic and determined to rebuild this great region," Ms. Blanco said, "but we cannot do it without the resources of our nation and our government. I take the president at his word when he says those resources will be there when we need them."

Senator Mary L. Landrieu, Democrat of Louisiana, described Mr. Bush's proposals as "innovative and bold" and said: "The president picked a very inspiring spot to make this speech. The image is worth many words in terms of what Jackson Square and the cathedral mean to New Orleans and what New Orleans means to the nation."

But the Rev. Jesse Jackson said that even the president's nod to poverty and race issues would have to be matched by actions.

"I thought there was a sense of urgency," Mr. Jackson said about the speech. "I think he backed into the war on poverty, and touched on the issues of race and poverty and class obliquely, which is new for him."

Bush Calls For Massive Rebuilding (WSJ)

By John D. Mckinnon, Staff Reporter

The Wall Street Journal, September 16, 2005

President Bush promised a massive federal effort aimed at rebuilding lives, levees and communities on the Gulf Coast and said such large disasters call for greater federal authority, including a bigger role for the armed forces.

Mr. Bush, in a hopeful and sympathetic speech crafted at least in part to revive his political fortunes, sought to reassure Americans about the region's future in the wake of Hurricane Katrina, as well as the nation's own readiness for another disaster.

"Tonight I ... offer this pledge to the American people: Throughout the area hit by the hurricane, we will do what it takes -- we will stay as long as it takes -- to help citizens rebuild their communities and their lives," Mr. Bush said, standing before St. Louis Cathedral in the city's French Quarter. "And all who question the future of the Crescent City need to know: There is no way to imagine America without New Orleans, and this great city will rise again."

Mr. Bush also laid out a range of initiatives to start the rebuilding process. They include a Gulf Opportunity Zone to foster job creation through tax breaks and small-business loans in the affected region; Worker Recovery Accounts to provide as much as $5,000 to pay for job training, education and child care for evacuees who need help finding work; and an Urban Homesteading Act that would give low-income people federally owned land through a lottery, in return for their pledges to build homes on it. He also called for strengthening the system of levees that protects New Orleans, much of which sits below sea level.

The president set himself a difficult balancing act, promising that his administration will do whatever necessary to rebuild, while also seeking to reassure both those on the Gulf Coast and his conservative allies that Washington won't dictate all the details of reconstruction or simply throw money at the problem.

He pledged a "close partnership" with the affected states as well as the city of New Orleans. He said federal funds will cover the "great majority" of the cost of rebuilding public roads, bridges, schools and water systems. But he also promised "a team of inspector generals" to review all expenditures, some steps of which already have been taken.

Mr. Bush made one of his most sweeping acknowledgments that the government's disaster response was lacking, saying that "the system, at every level of government was not well coordinated, and was overwhelmed in the first few days." He said that "a challenge on this scale requires greater federal authority and a broader role for the armed forces."

That announcement could mean a bigger role for the military in homeland defense, an idea that has encountered some resistance in military circles especially at a time when active-duty troops are stretched by the wars in Iraq and Afghanistan.

The speech left open the question of whether the federal government will offer to pay for private-property owners' losses in a region where many went without flood insurance. Other details unresolved were whether the administration will appoint a rebuilding "czar" with sweeping authority to help coordinate the effort. The scope of such an enterprise will likely involve enormous expense, but Mr. Bush offered no cost estimates or steps his administration would take to pay for it.

Democratic congressional leaders criticized Mr. Bush's plan for being long on comforting words, but short on action. They called for a "Marshall Plan" to "help families get back on their feet, back into homes and back on the job," according to a statement by Senate leader Harry Reid of Nevada and House leader Nancy Pelosi of California.

Mr. Bush is hoping his long-term response to Katrina will shore up his standing with many Americans who appear to be losing confidence in his leadership. One such group is African-Americans, who have seen images of fellow blacks suffering due to poor initial emergency planning and management.

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Last night Mr. Bush said he hoped his recovery initiatives would leave poor people better off than they were before the storm. "Let us restore all that we have cherished from yesterday, and let us rise above the legacy of inequality," he said. He also emphasized the need for people in the region to get preference for new jobs created by the recovery effort.

The administration hopes a well-organized and effective reconstruction effort will go a long way to re-establishing the president's diminished credibility as a leader with voters generally. In other steps aimed at improving readiness, he said cities "must have clear and up-to-date plans for responding" to disasters.

The president's speech came as Congress approved legislation advancing $6.2 billion in federal funds to ease the welfare crunch for states as homeless families from the storm are relocated. And Republicans leaders said a deal had been reached on a $6 billion to $7 billion tax-relief package for Katrina's survivors. The agreement, expected to go to the White House next week, would relax tax rules on corporate deductions to spur business donations and make it easier for households to claim tax breaks on their personal casualty losses. Families seeking to rebuild would be permitted to withdraw as much as $100,000 from retirement accounts without the customary penalties over the next year.

--David Rogers and Sarah Lueck contributed to this article.

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Bush Promises A Massive Rebuilding Of Gulf Coast (LAT)

By Edwin Chen And Mary Curtius, Times Staff Writers

The Los Angeles Times, September 16, 2005

NEW ORLEANS — President Bush, declaring that the federal government had rebounded from its early failures in responding to Hurricane Katrina, promised Thursday to lead an ambitious rebuilding program — "one of the largest reconstruction efforts the world has ever seen" — on behalf of a battered Gulf Coast region that has seen hundreds of lives lost and tens of thousands of homes and jobs washed away.

In a prime-time address from this city's storied French Quarter, where once-bustling streets were desolate, Bush said Washington would provide most of the funding for a combined federal, state and local program to resurrect New Orleans and rebuild stricken regions of Louisiana, Mississippi and Alabama.

"Throughout the area hit by the hurricane, we will do what it takes, we will stay as long as it takes to help citizens rebuild their communities and their lives," Bush said.

Bush did not estimate a cost for reconstruction, but budget analysts predicted it would reach $200 billion — roughly the same amount spent on the wars in Iraq and Afghanistan combined, and about double the inflation-adjusted cost of the Marshall Plan, which rebuilt Europe after World War II.

He called on Congress to pass an Urban Homesteading Act to let the poor build homes on federal property that would be distributed by lottery. He proposed a Gulf Opportunity Zone offering tax incentives and loan guarantees for small businesses.

The president said evacuees should be given up to $5,000 for training, child care and transportation to find new jobs.

Bush also called for faith-based organizations to join the rebuilding effort.

Conservatives have long favored some of the proposals as alternatives to conventional government programs.

It was unclear how much of the rebuilding task Bush's proposals would address. At least 350,000 replacement housing units are estimated to be needed, for example, but municipal governments' existing homesteading programs have created only a few thousand units of housing. Habitat for Humanity, which Bush cited as one group that could help low-income people build homes on federal lots, last year put up 5,455 units.

The president addressed some of the most sensitive issues since the hurricane: doubts about the federal government's ability to respond to future disasters including terrorist attacks, and the "deep, persistent poverty" revealed by television coverage of residents, most of them black, unable to flee the floodwaters in New Orleans.

He promised to address both problems.

"Poverty has roots in a history of racial discrimination," he said, and the rebuilding effort will aim to "rise above the legacy of inequality. When the streets are rebuilt, there should be many new businesses, including minority-owned businesses, along those streets."

He said more residents should own, rather than rent, the new housing, a theme Bush has used in the past before minority audiences.

The president promised to uncover "all the facts" about the government's response to the crisis and directed cities to improve emergency plans for natural disasters, disease outbreaks and terrorist attacks.

"Four years after the frightening experience of Sept. 11, Americans have every right to expect a more effective response in a time of emergency," he said. "When the federal government fails to meet such an obligation, I as president am responsible for the problem, and for the solution."

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The 22-minute nationally televised address was the president's most determined effort yet to counteract widespread criticism of the initial response by officials at all levels of government to a natural disaster that killed hundreds of people, left several hundred thousand homeless and destroyed billions of dollars' worth of property. He wore no jacket or tie and talked directly to a television camera, with the historic St. Louis Cathedral and a statue of Andrew Jackson behind him.

The speech also represented an attempt to restore the president's credibility at a time when his approval ratings had fallen to new lows. The Katrina crisis appears to have eroded support for the fight against terrorism, the Iraq war effort and the president's second-term domestic policy initiatives.

Bush's advisors cast the speech as a bold gesture that might be a turning point for both the president and the institutions of government sullied by Katrina's floodwaters.

Their hopes were buoyed by positive developments in New Orleans, including an announcement by Mayor C. Ray Nagin that businesses in some parts of the city would reopen this weekend and that evacuated residents could begin returning to their homes.

Some African American leaders said several of the president's proposals sounded good but were difficult to judge because details were missing.

"Given that 80% of the people in the crisis were people of color, we want the proposals to be very responsive to the needs of people of color," said NAACP President Bruce S. Gordon. "That has to be precise."

Rep. Melvin Watt (D-N.C.), chairman of the Congressional Black Caucus, said he was disappointed by the lack of specifics.

Republicans praised Bush for being contrite and setting out a vision of recovery.

Rep. Mark Foley (R-Fla.), who had been sharply critical of the government's initial response to the hurricane, said Bush had provided the right response by conceding fault and accepting responsibility.

"We're taught as young kids: Acknowledge your mistakes, admit your lies," Foley said. "It's cathartic. That's what I think the speech did. He didn't just try to blame someone else."

Democratic leaders said Bush's assurances were not enough.

"The victims of Hurricane Katrina don't need just words, they need a plan that will lead the way in recovery, rebuilding and renewal," said Senate Minority Leader Harry Reid (D-Nev.) and House Minority Leader Nancy Pelosi (D-San Francisco) in a joint statement.

Bush began his address with remarks directed at Gulf Coast residents driven from their homes by Katrina. He offered America's sympathy and vowed a speedy recovery effort in which all levels of government would participate.

"You need to know that our whole nation cares about you, and in the journey ahead you are not alone," he said.

Yet even as he promised a thorough investigation of the government's initial response to the hurricane, which has been widely characterized as slow and poorly coordinated, Bush seemed somewhat defensive.

"It was not a normal hurricane, and the normal disaster relief system was not equal to it," he said. "The storm involved a massive flood, a major supply and security operation, and an evacuation order affecting more than a million people."

Speaking from historic Jackson Square in the heart of the French Quarter, Bush put to rest any doubts about the wisdom of rebuilding New Orleans, much of which lies below sea level. "Protecting a city that sits lower than the water around it is not easy, but it can and has been done," he said.

"There is no way to imagine America without New Orleans, and this great city will rise again," he said.

Bush said federal funds would "cover the majority of the cost" of repairing public infrastructure, such as roads, bridges, schools and water systems. He also assured residents that state and local officials would have the primary role in planning their futures, and he promised to deploy "a team of inspectors general" to make sure the money was spent wisely.

The president did not put a price tag on the package of housing, education, healthcare and job assistance. Analysts have said the $62 billion appropriated by Congress is likely to run out this month.

In his remarks, Bush signaled he might seek a new role in domestic emergencies for U.S. armed forces, which played a crucial role in helping supply and secure the Gulf Coast.

"It is now clear that a challenge on this scale requires greater federal authority and a broader role for the armed forces, the institution of our government most capable of massive logistical operations on a moment's notice," Bush said.

Although the president did not provide details, White House officials have said the administration would review whether to expand the president's power to send troops into disaster areas and to assign them law enforcement duties.

Others have proposed more drastic changes. Senate Armed Services Committee Chairman John W. Warner (R-Va.) asked the Pentagon this week to review the Posse Comitatus Act, which prohibits active-duty U.S. troops from carrying out law enforcement missions within the United States.

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Bush's address came at a critical point in his presidency, largely a result of what Washington-based pollster Andrew Kohut called "a summer's worth of bad news" — soaring gas prices, escalating violence in Iraq and, finally, Katrina.

Bush has seen his job approval ratings plummet to the lowest level of his presidency, fueling speculation about his ability to govern effectively in his remaining 3 1/3 years. Many of Bush's key initiatives — restructuring Social Security, permanently eliminating the estate tax, restructuring the tax code — were facing declining odds even before Katrina devastated much of the Gulf Coast and distracted Republican leaders in Washington from their agenda to approve tens of billions in unanticipated spending.

Steve Ellis of Taxpayers for Common Sense, an independent watchdog group that monitors pork-barrel spending in Congress, expressed disappointment that Bush had neither attached a price tag to his rebuilding commitment nor offered to offset the emergency spending with budget cuts.

"The lack of a spending plan makes this speech appear to be more about political damage control than disaster relief," Ellis said. "The bottom line is, we can't afford to simply hand over the keys to the Treasury."

Bush delivered his address at the conclusion of his fourth visit to the hurricane-devastated region. On his way to New Orleans, he stopped in Mississippi, where he toured a Pascagoula oil refinery knocked out of commission by Katrina.

After returning to Washington early this morning, Bush was to participate in a National Day of Prayer and Remembrance for hurricane victims at the National Cathedral.

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Chen reported from New Orleans and Curtius from Washington. Staff writers Warren Vieth, Ricardo Alonso-Zaldivar, Peter G. Gosselin, Mark Mazzetti, James Gerstenzang and Emma Vaughn in Washington contributed to this report.

President Chooses A Serene Spot To Frame His Message (LAT)

By Paul Brownfield, Times Staff Writer

The Los Angeles Times, September 16, 2005

The set piece was in sharp contrast to the backdrop that TV reporters and anchors have been using in the last few weeks, their dispatches filed from the edge of floodwaters and ruined homes, from shelters where lives had been turned upside down.

President Bush's address Thursday night, by contrast, was held in a Jackson Square lighted up like Disneyland, the president framed before the statue of Andrew Jackson and St. Louis Cathedral in the background.

It was Bush striking a new note, one that Americans could be excused for finding strange. We have been seeing only devastation on our screens, access to a fresh hell giving TV personalities and journalists instant dramatic heft.

It's where we've been seeing Diane Sawyer on "Good Morning America," Oprah on "Oprah" and Anderson Cooper on CNN. Several weeks of news organizations hunting for misery and devastation left the president searching for a counter-image.

So the spooky placidity of Jackson Square, on what conveyed an otherwise peaceful evening in New Orleans, seemed an oddly appropriate choice for a president who throughout this crisis has been unable to halt the image of a leader who has been neither here nor there.

The speech seemed to float in the same kind of limbo that the setting provided — was the point to allay our fears or take responsibility for the federal government's stumbling response?

Introducing the president, ABC News' Ted Koppel noted dryly that the White House was supplying the electricity used to light the stage. Of Bush's previous visits to the region, some via fly-overs, Koppel said: "It struck some people as literally and figuratively a little too removed from what was happening on the ground."

To be sure, "You really have to be here" has been the overarching theme of a rehabilitated television news business, anchors confessing to getting up-close-and-personal with the story, which has been another way of saying they're up-close-and-personal with Americans' pain.

"When I'm not there, I think about it. When I'm there, I'm consumed by it. I'll admit that … I plan to commute back and forth to this story for the foreseeable future," NBC "Nightly News" anchor Brian Williams told the Philadelphia Inquirer this week.

Bush, you thought, could have given this speech from the Oval Office, but he came to stake his own version of being there. And he chose the only kind of postcard left on the racks — the impossibly serene one.

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Paul Brownfield is a Times TV critic.

Bush Pledges Federal Role In Rebuilding Gulf Coast (NYT)

By Elisabeth Bumiller

The New York Times, September 16, 2005

DOJ_NMG_0006283

NEW ORLEANS, Sept. 15 - President Bush called Thursday night for the rebuilding of the devastated Gulf Coast through the creation of a Gulf Opportunity Zone, a government enterprise that he said would provide help on taxes, housing, education and job training for the victims of Hurricane Katrina.

"The work that has begun in the Gulf Coast region will be one of the largest reconstruction efforts the world has ever seen," Mr. Bush said in remarks delivered in Jackson Square against the brightly lighted backdrop of St. Louis Cathedral, a symbol of the heart and soul of New Orleans for almost three centuries.

Mr. Bush delivered his speech, carried live by the major television networks, in the middle of the city's darkened French Quarter, where Army troops from the 82nd Airborne Division were on patrol. The Bush White House, well practiced in the art of presidential stagecraft, provided its own generators for the lighting and communications equipment that beamed Mr. Bush's remarks to the nation.

"And tonight I also offer this pledge of the American people: Throughout the area hit by the hurricane, we will do what it takes, we will stay as long as it takes to help citizens rebuild their communities and their lives," Mr. Bush said.

The mayor of New Orleans announced Thursday that residents and business owners could return to some parts of the city during daylight.

Mr. Bush ordered an immediate review of emergency plans for all cities, and said there was a need for greater federal authority and a broader role for armed forces in certain emergencies. He called for a federal government assessment of his administration's response to the storm and said that he would work with both parties in Congress in an investigation of what went wrong.

"This government will learn the lessons of Hurricane Katrina," Mr. Bush said.

The president did not, however, embrace calls for an independent commission to investigate the disaster.

White House officials viewed the speech as the culmination of a pivotal week in which Mr. Bush tried to turn around his image as a chief executive slow to respond to the greatest natural disaster in American history. The speech was meant to portray Mr. Bush as a forceful leader in control of the crisis and sympathetic to the people in the region.

"Tonight, so many victims of the hurricane and flood are far from home and friends and familiar things," Mr. Bush said. "You need to know that our whole nation cares about you, and in the journey ahead you are not alone. To all who carry a burden, I extend the deepest sympathy of our country."

Mr. Bush, dressed uncharacteristically in shirt-sleeves for a formal national address, said that the Gulf Opportunity Zone, encompassing Louisiana, Mississippi and Alabama, would provide tax incentives and loans for small businesses, including, he pointed out, minority-owned enterprises. Mr. Bush also said the federal government would provide evacuees with accounts of up to $5,000 that they could use for job training and education.

In addition, he asked Congress to pass what he called an Urban Homesteading Act, which would provide building sites on federal land through a lottery to low-income citizens, free of charge. In return, Mr. Bush said, residents would promise to build on the lots, with either a mortgage or help from a charitable organization like Habitat for Humanity.

Mr. Bush spoke after he was driven through empty, pitch-black streets, where members of the 82nd Airborne stood on corners in the darkness saluting the motorcade.

"I am speaking to you from the city of New Orleans, nearly empty, still partly under water and waiting for life and hope to return," Mr. Bush said from a lectern set up in the grass and hidden behind camouflage netting in Jackson Square.

In the aftermath of the storm, Mr. Bush said, "we have seen fellow citizens left stunned and uprooted searching for loved ones, and grieving for the dead and looking for meaning in a tragedy that seems so blind and random."

In his fourth trip to the region since the storm, Mr. Bush directly addressed the suffering of the largely poor, black evacuees at the New Orleans Superdome and convention center: "We have also witnessed the kind of desperation no citizen of this great and generous nation should ever have to know - fellow Americans calling out for food and water, vulnerable people left at the mercy of criminals who had no mercy and the bodies of the dead lying uncovered and untended in the street."

The president said state and local officials would have the primary role in planning for reconstruction, and in changing zoning laws and building codes. He listed many of the relief efforts now under way, including the registration of evacuees and retraining for workers.

Mr. Bush also tackled the tough issues of race and poverty that have been the source of enormous criticism and caused even Republicans to question the administration's commitment: "As all of us saw on television, there is also some deep, persistent poverty in this region as well. And that poverty has roots in a history of racial discrimination, which cut off generations from the opportunity of America. We have a duty to confront this poverty with bold action. So let us restore all that we have cherished from yesterday, and let us rise above the legacy of inequality."

Mr. Bush did not offer cost estimates for his proposals on Thursday night, but they were drawn from the kind of experiments - with "opportunity zones" and tax incentives - that Republicans have greatly preferred to huge federal spending

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efforts. The president seemed to try to balance a comprehensive government plan with an assurance that Washington would back away and allow Louisiana, Mississippi and Alabama - and the city of New Orleans - to decide how to rebuild.

"That is our vision of the future, in this city and beyond: We will not just rebuild, we will build higher and better," he promised.

Aside from the opportunity zone, Mr. Bush also proposed "worker recovery accounts" of up to $5,000 that evacuees could use for job training and education. The proposal sounds much like the kinds of accounts set up after the passage of the North America Free Trade Agreement in the early 1990's to help retrain workers displaced by foreign competition, a program that met with mixed reviews.

But in his speech, Mr. Bush also left some of the most controversial ideas unmentioned. His words seemed to imply that New Orleans neighborhoods would be rebuilt on the same sites that were flooded, rather than letting that land return to its original state, as wetlands that could provide a relief valve in the case of a future flood. Many of the most vulnerable neighborhoods were largely occupied by the city's poorest, and relocating those neighborhoods opened issues that one White House official said today "are not for us to deal with."

"Protecting a city that sits lower than the water around it is not easy," Mr. Bush said, "but it can and has been done."

He added: "And all who question the future of the Crescent City need to know: There is no way to imagine America without New Orleans, and this great city will rise again."

The federal government, Mr. Bush said, will undertake a "close partnership" with Mississippi and Louisiana, with New Orleans and other Gulf Coast cities so they can rebuild in a "sensible, well-planned way." He said the federal government will cover the majority of the costs of rebuilding the infrastructure in the disaster zone, from roads and bridges to schools and water systems.

The president said he expected the work to be done quickly, and that taxpayers would expect it to be performed "honestly and wisely." He promised to have a team of inspectors reviewing all expenditures.

But many Republicans predicted that the costs could run as high or higher than the war in Iraq, up to $200 billion, and noted that the White House had said $51.8 billion in emergency federal funds just approved by Congress, on top of an earlier $10 billion, would last for just a few weeks. Mr. Bush did not name a lead rebuilding official in the speech, as some White House officials are urging, and Scott McClellan, the White House press secretary, did not rule out the naming of such an official at a later date. Gen. Tommy Franks, who commanded forces in Afghanistan and Iraq, and John F. Welch Jr., the former chief executive of General Electric, are names often mentioned by Republicans as possibilities.

The president's proposal for an opportunity zone draws on more than a decade of federal experience with offering tax credits and other incentives for investment in economically depressed areas.

In 2002, the Bush administration selected New Orleans as a renewal community, eligible to share in billions of dollars worth of federal tax incentives intended to stimulate job growth and economic development. Last October, Gov. Kathleen Babineaux Blanco of Louisiana said the program had helped create jobs and must expand across the Delta.

Mr. Bush's proposal goes further. He would provide tax breaks, loans and loan guarantees to encourage businesses to invest in areas hit by the hurricane.

The Government Accountability Office, an investigative arm of Congress, said last year that federal agencies did not collect the data needed to assess the existing program or to show how the tax benefits had been used.

The president's comments were met with praise from local officials, including Ms. Blanco, who along with other local officials listened to Mr. Bush's speech from a bench in Jackson Square.

"Louisiana's people are strong, optimistic and determined to rebuild this great region, but we cannot do it without the resources of our nation and our government," she said. "I take the president at his word when he says those resources will be there when we need them."

Bullhorn Or Not, Bush Aims For A Boost Speech Is Chance To Change Minds, But This Isn't 9/11 (USAT)

By Judy Keen

USA Today, September 16, 2005

WASHINGTON — President Bush and his advisers never said publicly that they thought he needed another “bullhorn moment” like his spontaneous post-9/11 rallying cry at Ground Zero, but they knew Thursday's speech about Hurricane Katrina recovery was crucial.

The dramatic backdrop, the prime-time scheduling and Bush's emphatic pledge to use all the federal government's power to rebuild signaled that a great deal was at stake. “We will do what it takes, we will stay as long as it takes,” Bush said.

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But his big ideas — proposals for tax and loan incentives for businesses, cash to help evacuees find jobs and free federal land for homes — were ignored in statements by Democrats in Congress after Bush spoke.

Martin Kaplan, associate dean of the Annenberg School for Communication at the University of Southern California, called the initiatives "good use of government from a guy who's demonized it these last five years."

Ken Khachigian, who worked for Richard Nixon and Ronald Reagan, called the speech a blend "of salve and solutions" that was appropriately low-key and included sympathy and "a message of hope."

Bush needed some hope himself. Since the sluggish initial response to the hurricane, polls have shown a decline of confidence in his leadership. That could undercut the U.S. mission in Iraq, sideline his domestic agenda and diminish his effectiveness through his remaining years in office.

A USA TODAY/CNN/Gallup Poll released this week found that 52% of Americans consider Bush a strong and decisive leader — the lowest rating of his presidency on those characteristics.

Bush's speech was part of a strategy that has included four trips to the region, his statement Tuesday taking responsibility for problems and unprecedented federal spending on recovery. He did not, however, name a "czar" to oversee reconstruction.

Bush has spoken in prime-time at key moments, including:

·On July 19, he said he was nominating Judge John Roberts to the Supreme Court.

·On June 28, he delivered an update on Iraq from Fort Bragg in California.

·On the first anniversary of 9/11, he spoke at Ellis Island, the Statue of Liberty behind him.

The New Orleans speech was most reminiscent of that one. In the 2002 speech, Bush spoke of pain and healing and set the stage for another defining event, the war with Iraq that began six months later. "America has entered a great struggle that tests our strength," he said then.

Thursday's speech also was intended to be a pivot point for Bush, shifting attention from mistakes to a new national challenge. "All Americans are needed in this common effort," he said.

Unlike in the aftermath of 9/11, there are few signs now of a pause in political partisanship, and Bush's plea for unity seems unlikely to end criticism. "No American doubts that New Orleans will rise again, they doubt the competence and commitment of this administration," said Sen. John Kerry, D-Mass.

Democrats said it's too late for Bush to regain the aura of decisiveness that sustained him in other crises. "The fundamental positive feelings the American people had for him are gone," said Joe Lockhart, a former press secretary for President Clinton.

Kaplan said this speech couldn't replicate the bullhorn moment, when Bush vowed payback for terrorists. "It was seen by everyone as authentic, genuine and spontaneous," Kaplan said, but on Thursday, "the subtext — please like me again — was louder than the text."

Bush can't solve his problems with one speech, said Republican pollster Steve Kinney. But Bush is again showing "his ability to connect with people's hearts."

Khachigian said Clinton's rebound after his 1998 impeachment showed that predictions of political ruin can be wrong. "Presidents tend to get all the burden on disasters like this," he said. "They also get all the benefit when recovery takes place."

A Bid To Repair A Presidency (WP)

By Dan Balz, Washington Post Staff Writer

The Washington Post, September 16, 2005

The main text of President Bush's nationally televised address last night was the rebuilding of New Orleans and the Gulf Coast, but the clear subtext was the rebuilding of a presidency that is now at its lowest point ever, confronted by huge and simultaneous challenges at home and abroad -- and facing a country divided along partisan and racial lines.

Hurricane Katrina struck at the core of Bush's presidency by undermining the central assertion of his reelection campaign, that he was a strong and decisive leader who could keep the country safe in a crisis. Never again will the White House be able to point to his often-praised performance after the attacks of Sept. 11, 2001, without skeptics recalling the fumbling and slow-off-the-mark response of his administration after the hurricane and the flooding in New Orleans.

His response to these criticisms last night was a speech largely shorn of soaring rhetoric and stirring turns of phrase of the kind that marked his efforts to rally the country after the terrorist attacks. Instead, as if recognizing that his own road back will be one marked by steady but small steps, he spoke with workmanlike focus, spelling out the details of what has been done and will be done to help those displaced by the storm.

Katrina has added an enormous new burden to a presidency already bending under the stresses of public dissatisfaction with Bush's policies in Iraq and growing anger over rising gas prices. Bush's objective last night was to set out a strategy and commitment for recovery along the Gulf Coast. But the critical question is whether the damage will limit his ability to govern

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effectively in the remaining 40 months of his presidency and whether he will successfully rebuild the Gulf Coast and Iraq, let alone win approval for other major initiatives on taxes and Social Security.

In again taking responsibility for the federal government's failures, Bush signaled last night that the White House has decided not to contest the widespread perceptions that his administration failed in the early days of the crisis. By embracing those criticisms, they hope to make the issue a sideshow that will play out sometime in the future. Instead, after a halting start, the White House appears intently focused on demonstrating the president's capacity to manage the huge rebuilding effort ahead.

Bush's advisers believe that, despite the partisan finger-pointing over what happened, most Americans are not looking back and will judge the president on what happens going forward. But as Iraq has shown over the past two years, the facts on the ground shape public confidence in the president more than words or promises.

There is nothing certain about the success he hopes to demonstrate. The rebuilding at Ground Zero in New York has taken four years, and although the work in New Orleans and along the Gulf Coast will begin almost immediately, the scope of the reconstruction virtually guarantees debates and delays that could sap public patience. Already there are signs of a brewing battle between business and government elites and organizers working with those displaced over whose voices will be heard in shaping the reconstruction.

Second-term slumps hit every reelected president, but often they come later than this one. Bush has little time to waste to rejuvenate his governing capacity, given the reality that lame-duck status awaits him in the not-too-distant future. But just as it will take time to rebuild New Orleans and the Gulf Coast, it may take many months for Bush to rebound from what now troubles his presidency. Given the added burdens of Iraq and the economy, the president's road to recovery "will be longer and more difficult," said Ross K. Baker, a political science professor at Rutgers University.

The road back will also be contentious. Republicans and Democrats are at swords' points over who should investigate what happened -- a congressional committee as the GOP favors or an independent investigation proposed by the Democrats.

The president also may face opposition to his proposal to give the federal government and the U.S. military greater authority in a time of such disaster. There will be no hesitancy on either side to spend what it takes to rebuild -- Bush last night envisioned one of the largest reconstruction efforts in history -- but already sharp differences are emerging over the policies that animate that rebuilding.

The policies Bush outlined last night bear the distinctive stamp of a conservative president, a hallmark of an executive who has never shrunk from seeking to implement a right-leaning agenda even in the face of a divided country. They are long on tax relief and business grants and loans, and focused on entrepreneurial ideas. Bush already has drawn fire from Democrats for suspending the law that requires contractors to pay prevailing wages on federal projects in the regions, and there will be a battle over the proposal to provide private and parochial school vouchers to children of displaced families.

At other points in his presidency, Bush was strong enough to intimidate and often defeat his Democratic opponents. Although the Democrats remain relatively weak, Bush's own problems have emboldened them to challenge him at every turn and to believe they are better equipped to deal with the challenges in housing, education, health care and urban poverty that the hurricane and flooding have produced. Competing visions of how the federal government should respond will produce a vigorous debate -- far from the united response to 9/11.

The public appears to have little patience with partisan bickering right now, which complicates the Democrats' effort to challenge Bush, but every recent poll indicates the public knows who controls both the White House and the Congress, and Republicans likely will pay a greater price in next year's midterm elections for any perceived failures by Bush or the federal government.

Among the most worrisome elements of the aftermath of Katrina to the administration is the vast racial divide that has opened up over the federal government's response, with an overwhelming majority of African Americans believing the slow reaction was racially motivated and a similarly large majority of whites saying race was not the reason.

Bush and his advisers have denied there was any racial motivation in the government's response, but they know there will be a continuing political cost if they do not turn those perceptions around. The racial gulf threatens not only the administration's hope of slowly attracting more black support at the polls, but also the fabric of an already divided society. "It is something that all leaders across the country need to engage in, and this president will," said a senior administration official.

The president directly addressed the racial divide last night, noting that the Gulf Coast is afflicted with "deep, persistent poverty" and saying that poverty "has roots in a history of racial discrimination, which has cut off generations from the opportunity of America." He pledged bold action to "rise above the legacy of inequality."

For those who doubt Bush's ability to manage multiple challenges, administration officials would point to his nomination of Judge John G. Roberts Jr. as the next chief justice of the United States, which appears to be moving easily through the Senate.

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But what confronts him in the Gulf Coast and Iraq is far more complex. His speech last night was only the beginning of the effort to repair his storm-damaged presidency. He has proved in the past his commitment to stay the course once he sets it. The question is whether, in his weakened condition, he can continue to persuade the country to follow.

Bush's Approval At Lowest Level Yet (WT)

By James G. Lakely

The Washington Times, September 16, 2005

President Bush's approval has slipped in the polls since the federal government's initial response to Hurricane Katrina, but his speech last night from the devastated Gulf Coast promised an unprecedented federal spending effort and may mark the beginning of a political turnaround.

A Fox News/Opinion Dynamics poll released yesterday put Mr. Bush's job-approval rating at 41 percent, the lowest level of his presidency. It was the first time that more than half of the poll's respondents -- 51 percent -- gave Mr. Bush poor marks.

Democratic political consultant Scott Segal, however, thinks the political storm soon will blow over, and the president will be helped by performances of New Orleans Mayor C. Ray Nagin and Louisiana Gov. Kathleen Babineaux Blanco, both Democrats.

"While there is no question that the administration is doing a better job of putting a competent face on recovery activities, they have also benefited from a political windfall," Mr. Segal said. "The New Orleans mayor and the governor of Louisiana have seemed intent on criticizing each other, which leaves a clearer path for the president."

The Fox News/Opinion Dynamics poll supports that view, showing that 42 percent of respondents thought the state and local governments were most responsible for the problems responding to the hurricane. Just 29 percent blamed the federal government, and 19 percent blamed both.

Republican political consultant Bob Moran said Hurricane Katrina "will not have a national impact 14 months from now" in midterm congressional elections, largely seen as much a referendum on the sitting president as on Congress.

"The Democrats are acting out of weakness and not strength here. They are trying to shift blame away from the failure of local Democrats," Mr. Moran said.

Nonetheless, Mr. Bush publicly took responsibility for the problems, accepted the resignation of Federal Emergency Management Agency (FEMA) Director Michael D. Brown and put new people in charge of the federal efforts on the ground.

Democrats, however, continue to exploit what they see as Mr. Bush's vulnerability on the issue, releasing critical statements almost daily and calling for an independent commission to study the administration's slow response to the disaster.

The liberal Campaign for America's Future is trying to tie the Republican majority in Congress to the performance of the Bush administration, saying the slow reaction to the hurricane proves "the failure of the radical, conservative attack on government."

"The president is claiming responsibility for the failure, but this wasn't just a failure to handle one natural disaster," said Roger Hickey, co-director of the think tank. "This debacle shows the failure of three decades of conservative, anti-government philosophy."

Mr. Segal said there are "many hard questions for administration officials to answer" about the recovery effort, but fears Democrats might be overplaying their political hand.

"The tone Democrats strike must be constructive and balanced, and not simply strident," he said.

Amid The Ruins, A President Tries To Reconstruct His Image, Too (NYT)

By Richard W. Stevenson

The New York Times, September 16, 2005

WASHINGTON, Sept. 15 - George W. Bush, whose standing for the last four years has rested primarily on issues of war and peace, introduced himself to the nation on Thursday night in an unfamiliar and somewhat uncomfortable new role: domestic president.

The violence of Hurricane Katrina and his faltering response to it have left to Mr. Bush the task not just of physically rebuilding a swath of the United States, but also of addressing issues like poverty and racial inequality that were exposed in such raw form by the storm.

The challenge would be immense for any president, but is especially so for Mr. Bush. He is scrambling to assure a shaken, angry nation not only that is he up to the task but also that he understands how much it disturbed Americans to see their fellow citizens suffering and their government responding so ineffectually.

So for nearly 30 minutes, he stood in a largely lifeless New Orleans and, to recast his presidency in response to one of the nation's most devastating disasters, sought to show that he understands the suffering. He spoke of housing and health care and

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job training. He reached with rhetorical confidence for the uplifting theme that out of tragedy can emerge a better society, and he groped for what he lost in the wind and water more than two weeks ago: his well-cultivated image as a strong leader.

It was not the president's most stirring speech, but it conveyed a sense of command far more than his off-key efforts in the days immediately after the storm, when he often seemed more interested in bucking up government officials than in addressing the dire situation confronting hundreds of thousands of displaced and desperate people.

But if the speech helped him clear his first hurdle by projecting the aura of a president at the controls, it probably did not, by itself, get him over a second: his need to erase or at least blur the image of a White House that was unresponsive to the plight of some of the country's most vulnerable citizens and failed to manage the government competently.

Whether he can put a floor under his falling poll numbers, restore his political authority and move ahead with his agenda will determine not just the course of his second term but the strength of his party, which by virtue of having controlled both the White House and the Congress for more than five years has trouble credibly pinning the blame elsewhere.

"He was giving a speech as if the nation were disheartened and worried and had lost its spirit, but that's not what people were thinking," said Mickey Edwards, a former Republican congressman from Oklahoma. "They were thinking, why did the government screw up?"

To those storm victims in need of immediate help and to those who face the continued upheaval of their lives for weeks or months or longer, he offered an expansive government safety net of specific programs, from paying the costs of reuniting families to a commitment to moving everyone out of shelters into housing by mid-October. Doing so marked a distinct shift for a president whose perceived hostility or indifference to government's role in social welfare programs - manifested in budgets that have sought to cut such programs or curtail them - has long been a flash point in his relationship with poor and minority voters.

But if this was big government, it was at least in part on Mr. Bush's ideological terms: federal reimbursement to allow displaced students to attend private and parochial schools, tax-free business zones, a call for charitable and religious groups to continue with relief work. Having no choice but to open the fiscal floodgates, he sought to reassure nervous conservatives that he would guard against fraud and waste.

When it came to the issues hardest to address and most in need of sustained commitment, new ideas and risk-taking leadership - the gap between rich and poor, its causes and consequences, its racial components - he was less effective.

"We have a duty to confront this poverty with bold action," he said.

Yet he spoke of "deep, persistent poverty" as something the nation had seen on television rather than as a condition that many citizens had been living in for generations. He defined the problem as regional rather than national in scope, and offered only regional rather than national solutions.

"The reconstruction, massive as it is, is really the easy part," said Bruce Reed, president of the Democratic Leadership Council, an organization of centrist Democrats. "Rebuilding confidence, especially among the poor and vulnerable, is going to be extraordinarily difficult."

In dealing with the more concrete aspects of the job ahead, Mr. Bush slipped comfortably into the language that he has used as commander in chief to comfort and exhort the nation as it has waged war, hailing those Americans who have "served and sacrificed" and vowing that the government "will stay as long as it takes" to get the job done, an echo, almost word for word, of his formulation for how long the United States will remain in Iraq.

The president forthrightly linked the failures in response to the storm to a vulnerability to a terrorist attack and said he wanted to know "all the facts" about what had gone wrong.

Mr. Bush called for unity in tackling the problems. But with only a camera before him, and New Orleans silent around him, he could draw no strength or self-assurance from the cheers of a united nation, as he did when he addressed a joint session of Congress nine days after the Sept. 11 attacks. Not only did his own stagecraft leave him alone in the spotlight, but whatever good will flowed to him across the aisle in those moments after the terrorist attacks is long gone, a victim of a polarized political culture that he did not create but to which he has often contributed.

For Mr. Bush, this was a moment for the country to turn away from what he and his aides have dismissively labeled "the blame game" toward a hopeful vision of a rebuilt Gulf Coast and a smarter government. But it is not yet clear that his performance will stanch the political wounds he has suffered or ensure that he can avoid being hobbled through his second term, not just by what he lost in the faltering response to Hurricane Katrina but by the rising death toll in Iraq, sky-high energy prices and worrisome deficits.

Democrats Say Gulf Needs A Marshall Plan (WT)

By Stephen Dinan And Brian Debose

The Washington Times, September 16, 2005

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Democrats yesterday said the Gulf Coast needs a Marshall Plan to get back on its feet and that President Bush should seek more aid.

"The families in the Gulf don't need to hear a speech from me, and frankly, they don't need to hear another speech from the president," said Senate Minority Leader Harry Reid, Nevada Democrat. "What they need is leadership."

Speaking hours before Mr. Bush's televised address last night, Mr. Reid and House Minority Leader Nancy Pelosi, California Democrat, said the government must be prepared to spend on education, health care and other services to make the region whole again.

Hours before the Democratic leaders made their challenge to the president, members of the Congressional Black Caucus and civil rights groups proposed an eight-point plan to assist the Gulf region. The plan includes an estimated $100 billion for unemployment assistance, job training, school placement and aid to the cities providing safe haven to the displaced.

The National Association for the Advancement of Colored People and the National Urban League said they want to make sure minority contractors will have the ability to win federal reconstruction contracts.

The $51.8 billion appropriations bill Congress passed last week to fund Katrina disaster relief exempted federal contracts below $10 million from coverage under the Small Business Act, which assures contracting opportunities be provided for the economically disadvantaged. That target is $5 million higher than current law, and the groups said that would eliminate many minority contractors.

The CBC proposed a 50 percent residency hiring target for all contracts and a 40 percent minority vendor target for all reconstruction.

Meanwhile yesterday, the House, over the objection of Democrats, yesterday approved a bill that calls for the House and Senate to coordinate on an investigation into government failures in response to the hurricane.

The committee coordination passed 224-188, with seven Democrats and 217 Republicans in favor, and one Republican, one independent and 186 Democrats opposed.

Democrats had wanted an independent commission styled on the one that investigated the September 11 terrorist attacks, and said a Republican-controlled congressional investigation won't take a serious look at a Republican administration.

"After the flood comes the whitewash," said Rep. Jim McGovern, Massachusetts Democrat.

But Republicans said it was the role of Congress to conduct oversight and that it would be an abdication of duty to turn it over to a commission.

Mrs. Pelosi earlier had said she would not have Democrats participate in a bicameral committee. But yesterday she backed off, saying, "We'll see where we go from here."

Mr. Reid, though, said he will not allow Senate Democrats to participate. In that case, the Senate Homeland Security and Governmental Affairs Committee, which already is looking into matters, would become the Senate's main investigative body for Katrina.

Conservatives Balk As Spending Soars In Katrina's Wake (WSJ)

By Jackie Calmes, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

WASHINGTON -- The open-ended commitment by President Bush and congressional leaders to rebuild New Orleans and the Gulf Coast is stoking anger among conservatives over the Republican government's record of higher spending and debt.

Following the nation's worst-ever natural disaster, no Republican in Congress is opposing federal aid that already totals $62 billion and is expected to exceed $200 billion. But the party's conservative wing, led yesterday by Oklahoma's Tom Coburn in the Senate and Rep. Mike Pence of Indiana in the House, is calling for offsetting "sacrifices" in federal spending. And they're backed by a growing chorus of conservative activists, columnists and bloggers.

"It's not about taking care of the folks that need us," Mr. Coburn said in an interview. "But I wouldn't vote for another penny until we get real about the hard choices of cutting some spending." In what would be a real break for conservatives, Mr. Coburn said he is also not inclined to vote to extend the Bush tax cuts absent some fiscal restraint.

The divisions go to a broader debate over the party's identity and legacy a decade after Republicans broke Democrats' 40-year control of Congress and nearly five years after they captured the White House as well.

But conservatives' rebelliousness threatens a range of Bush initiatives before Congress. Moreover, Republican strategists worry that widespread disenchantment among the party's bedrock conservatives could lead many to stay home in next year's midterm elections.

In a year marked by setbacks to Mr. Bush's foreign and domestic agenda, Hurricane Katrina's costs to the federal government have dashed the one boast Mr. Bush had -- that a sound economy was producing higher-than-expected tax

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revenue, and bringing down the deficit. Deficits are expected to be much higher than the $333 billion the White House recently projected for the year ending Sept. 30 and $341 billion for fiscal 2006.

Ben Bernanke, chairman of the president's Council of Economic Advisers, yesterday told a group of economists, "The costs of rebuilding after Katrina are, of course, substantial and will add to the budget deficit in the near term; incurring those costs is essential if we are to repair the unprecedented damage wrought by that natural disaster. This necessary spending should not, however, jeopardize the president's long-term deficit-reduction goals."

Administration officials also express frustration that conservatives in Congress are criticizing the White House even as Congress has balked at making the Medicaid cuts that Mr. Bush had called for earlier this year.

Also taking conservatives' hits is House Majority Leader Tom DeLay, after the Texas Republican this week told reporters that for all the complaints that hurricane spending must be offset by spending cuts, "nobody has been able to come up with any yet." He suggested that the government has little fat. "After 11 years of Republican majority, we've pared it down pretty good," he said.

"This comes as quite a surprise to most Americans," wrote budget analyst Brian Riedl at the conservative Heritage Foundation. He and others, including the Coburn-Pence group, gave Mr. DeLay's office their lists of proposed budget cuts, including some that Mr. Bush proposed in February. Mr. Coburn said the president's budget director, Joshua Bolten, told him there wasn't time to take up such proposals.

Mr. Bolten's spokesman, Scott Milburn, said that given the speed with which the hurricane-relief bills had to be passed, "It's just not realistic to expect that Congress could produce and also agree to offsets of that magnitude in just a few hours. It's also unrealistic to expect that cuts of such magnitude would not cause very deep disruptions in other portions of the budget."

Beyond spending, many conservatives are troubled by the prospect that a new government bureaucracy will be created to handle the Katrina response. Even before Katrina hit, they had become increasingly critical of the White House for the jump in federal spending on Mr. Bush's watch. They also cite the creation of the huge Department of Homeland Security, an expanded federal role in grade-school education and a prescription-drug benefit for Medicare recipients that is the biggest new federal entitlement program since Medicare itself.

Senate Republican leaders this week sent Mr. Bush a letter calling for "a 'Marshall Plan' for the Gulf Coast," in reference to the nation's huge post-World War II effort to rebuild Europe.

Among those who have brought ideas to the White House table is conservative Newt Gingrich, the former House speaker. His model is government-sponsored enterprises such as Fannie Mae and Freddie Mac. Mr. Gingrich proposes a Gulf States Redevelopment Corp., backed by the federal government but controlled and regulated by officials in the region, to issue bonds, make loans and grants, provide natural-disaster insurance, raise taxes and finance public works, including levee reconstruction.

"If we do not have a bold set of solutions to propose in the next week or two, the left will propose a huge government run bureaucratic rebuilding program with maximum welfare and minimum progress," Mr. Gingrich wrote in an email to conservative Republican senators.

Write to Jackie Calmes at jackie.calmes@wsj.com1

G.O.P. Split Over Big Plans For Storm Spending (NYT)

By Carl Hulse

The New York Times, September 16, 2005

WASHINGTON, Sept. 15 - The drive to pour tens of billions of federal dollars into rebuilding the hurricane-battered Gulf Coast is widening a fissure among Republicans over fiscal policy, with more of them expressing worry about unbridled spending.

On Thursday, even before President Bush promised that "federal funds will cover the great majority of the costs of repairing public infrastructure in the disaster zone," fiscal conservatives from the House and Senate joined budget watchdog groups in demanding that the administration be judicious in asking for taxpayer dollars.

One fiscal conservative, Senator Tom Coburn, Republican of Oklahoma, said Thursday, "I don't believe that everything that should happen in Louisiana should be paid for by the rest of the country. I believe there are certain responsibilities that are due the people of Louisiana."

Senator Jim DeMint, Republican of South Carolina, called for restoring "sanity" to the federal recovery effort. Congress has approved $62 billion, mostly to cover costs already incurred, and the price tag is rising. The House and Senate approved tax relief Thursday at an estimated cost of more than $5 billion on top of $3.5 billion in housing vouchers approved by the Senate on Wednesday.

"We know we need to help, but throwing more and more money without accountability at this is not going to solve the problem," Mr. DeMint said.

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Their comments were in marked contrast to the sweeping administration approach outlined by Mr. Bush in his speech from New Orleans and a call by Senate Republican leaders for a rebuilding effort similar to the Marshall Plan after World War II. Congressional Democrats advocated their own comprehensive recovery program Thursday, promoting a combination of rebuilding programs coupled with housing, health care, agriculture and education initiatives. The president also emphasized the importance of private entrepreneurship to create jobs "and help break the cycle of poverty."

Senator Harry Reid of Nevada, the Democratic leader, said he believed that providing rapid and extensive help overrode the need to cut spending elsewhere. "I think we have to understand that we have a devastation that has to be taken care of," Mr. Reid said. "And I'm not into finding where we can cut yet."

That mindset is troubling to other lawmakers who fear that in addition to a reborn Gulf Coast, something else will rise from the storm: record federal deficits.

"We know this is a huge bill," said Senator John McCain, Republican of Arizona. "We don't want to lay it on future generations." Given the fierce political backlash to the stumbling relief effort in the days after the hurricane struck, House Republican leaders have been reluctant to stand in the way of any emergency legislation. After the speech, Speaker J. Dennis Hastert acknowledged that the price tag means that "for every dollar we spend on this, it is going to take a little bit longer to balance the budget." He said he was willing to listen to ideas to pay for the aid, but, "Quite frankly, we have to get this job done."

Despite those comments, many Republicans are increasingly edgy about the White House's push for a potentially open-ended recovery budget, worried that the president - in trying to regroup politically - was making expensive promises they would have to keep.

"We are not sure he knows what he is getting into," said one senior House Republican official who requested anonymity because of the potential consequences of publicly criticizing the administration.

The fears about the costs of the storm are building on widespread dissatisfaction among conservatives about spending in recent years by the Republican-controlled Congress. That unrest was already high after Congressional approval of a transportation measure that critics denounced as bloated with marginal home-state projects.

That sore spot was rubbed raw earlier this week when Representative Tom DeLay, the House majority leader, suggested that the Republican Congress had already trimmed much of the fat from the federal budget, making it difficult to find ways to offset hurricane spending.

Mr. Coburn called such a claim ludicrous and other Republicans took exception as well.

"There has never been a time where there is more total spending and more wasteful spending in Washington than we have today," said Pat Toomey, a former Republican congressman from Pennsylvania and the head of the conservative Club for Growth. "There is ample opportunity to find the offsets we need so that this does not have to be a fiscal disaster as well as a natural disaster."

On another front, Republicans and Democrats continued their dispute over how to investigate government failures in the storm response. The House approved a select committee to oversee the inquiry despite Democratic objections that only a special commission outside of Congress could do a credible job.

The House voted 224 to 188 to establish a 20-member panel to work in concert with a similar Senate panel in studying the adequacy of local, state and federal preparations for the storm and why the relief effort was so troubled, stranding thousands in chaotic conditions without sufficient food, water or medical care.

Representative Nancy Pelosi of California, the Democratic leader, said the special committee was an effort to "whitewash" the inquiry though she later said she would not stand in the way if Democrats want to sit on the panel. In another effort to reduce Democratic opposition, Mr. Hastert on Thursday named Representative Thomas M. Davis III, a sometimes Republican maverick from Virginia, to lead the panel.

As for paying for the recovery, Ms. Pelosi raised the possibility of 50-year bonds tied to the reconstruction.

The conservative Republicans worried about the outlays said the president and Congressional leaders need to ask the public to share in the sacrifice and suggested savings could be easily wrung from federal agencies or in Congress in ways like eliminating pet projects.

"Katrina breaks my heart," said Representative Mike Pence, Republican of Indiana and chairman of a caucus of more than 100 House Republicans who advocate conservative spending policy. "Congress must do everything the American people expect us to do to meet the needs of families and communities affected by Katrina. But we must not let Katrina break the bank for our children and grandchildren."

GOP Lawmakers Urge Cuts To Offset Storm-relief Costs (WT)

By Stephen Dinan

The Washington Times, September 16, 2005

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A group of Republicans yesterday challenged President Bush to propose spending cuts to cover some of the cost of aid for Hurricane Katrina, saying now is a time for him to show leadership.

"We just can't throw money at the problem, and if we do throw money at the problem, which seems to my way of thinking some of what we're doing today, we better figure out how we're going to handle the financial difficulties that come from that," said Sen. Tom Coburn, Oklahoma Republican.

He joined Sen. John McCain of Arizona, Sen. Jim DeMint of South Carolina and leaders of the House conservative caucus in saying that the hurricane offers a chance to cut parts of the federal budget.

The lawmakers said the government should spend what is needed to aid hurricane victims, but also must be worried about a deficit that the Congressional Budget Office says would reach $331 billion this fiscal year even without including hurricane spending.

Mr. DeMint said the federal role should be re-evaluated and, in places, should take a back seat.

"Our government needs to take stock of what America is already doing -- the money that has already been contributed -- and see that we have a better role supporting what America can do on its own."

The group won't find much support among Democratic leaders.

"I'm not really into cutting right now," said Senate Minority Leader Harry Reid, Nevada Democrat. "I'm into figuring out a way that we can get the Republican majority in the Senate to care about those people down there who are still desperate."

He said that instead of cutting, Republicans should postpone Medicaid spending cuts they want as part of the budget process. He also said Republicans should put off $70 billion in further tax cuts this year.

House Minority Leader Nancy Pelosi, California Democrat, said there could be "creative funding" for rebuilding. She suggested an arrangement like the Tennessee Valley Authority or the post-September 11 New York model of a regional board with a credit guarantee from the federal government.

The spending is enraging conservative activists, and members of Congress are proposing alternatives to deficit spending.

Rep. Louie Gohmert, Texas Republican, introduced a bill yesterday that would halt all government building except when related to Hurricane Katrina efforts and national security requirements.

Mr. Coburn said it was a "ludicrous claim" House Majority Leader Tom DeLay made earlier this week that he hasn't seen ways to offset the spending with cuts elsewhere.

In his weekly briefing, Mr. DeLay said it was appropriate to borrow money to pay for hurricane relief, and that the billions of dollars in transportation earmarks should be maintained.

"My answer to those that want to offset the spending is sure, bring me the offsets, I will be glad to do it, but no one has been able to come up with any yet," he said.

Mr. Coburn said he would "be happy to have that debate with Mr. DeLay."

He said he has identified $74 billion in cutting room and that one place to start is the $315 million the highway bill spent for a bridge in Alaska that will reach a community of several dozen people, "who have a wonderful ferry system right now."

Mr. DeLay said Republicans could declare "ongoing victory" and, asked whether the government was running at peak efficiency with little cutting room left, he said, "Yes. After 11 years of Republican majority, we pared it down pretty good."

Yesterday, DeLay spokesman Kevin Madden said his boss "made it very clear that fiscal discipline is an ongoing process -- with an emphasis on 'ongoing.' "

"The House of Representatives has, in the past, worked through the budget and reconciliation process to pare down government spending and target wasteful programs," Mr. Madden said. "We will continue to adhere to those principles as we move forward."

Plan Includes Homesteading, Jobs Programs (USAT)

By Richard Benedetto

USA Today, September 16, 2005

NEW ORLEANS — Promising “this great city will rise again,” President Bush dedicated the federal government on Thursday to “one of the largest reconstruction efforts the world has ever seen” and pledged that it would pay most of the costs.

Bush put no price tag on the overall effort or his proposals to help evacuees find jobs and give them a chance to get free federal land for new homes. So far, the government has spent more than $13.7 billion of the $62.3 billion approved by Congress. The final cost is expected to be much higher.

As the area is rebuilt in the aftermath of Hurricane Katrina, Bush said, the country must confront poverty and “rise above the legacy of inequality” so people can return to jobs and houses they own.

Bush said he wants all evacuees out of shelters by mid-October. Wearing no tie or jacket, he spoke for 22 minutes from the French Quarter's Jackson Square, with St. Louis Cathedral as a backdrop.

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He acknowledged that the chaotic initial response to Katrina showed that disaster planning is inadequate and again took responsibility for failures by the government. Four years after 9/11, he said, “Americans have every right to expect a more effective response in a time of emergency.”

He said he has ordered every Cabinet secretary to review the flawed response but did not suggest he'll agree to Democrats' demands for an independent inquiry.

The speech was part of a White House strategy to ease criticism of the initial response to the disaster and assert Bush's leadership as attention shifts to reconstruction.

Louisiana Gov. Kathleen Blanco, a Democrat, said she was “greatly heartened” by Bush's pledge. But Sen. Harry Reid of Nevada and Rep. Nancy Pelosi of California, Democratic leaders in Congress, said “the victims … don't need just words, they need a plan that will lead the way. ”

Bush proposed three initiatives requiring congressional approval:

· An “opportunity zone” in Louisiana, Mississippi and Alabama to give tax incentives to businesses that create jobs and loans and loan guarantees to small businesses.

·Recovery accounts of up to $5,000 for job training, education and child care for each evacuee seeking a job.

·A lottery to give low-income citizens of the region free federal land. In return, they would pledge to build homes on the lots.

U.S. Government Has Doled Out $13.7B On Katrina Relief (USAT)

By Jim Drinkard

USA Today, September 16, 2005

WASHINGTON — The federal government has spent more than $13.7 billion on Hurricane Katrina relief, the Department of Homeland Security said Thursday in a report for Congress.

The spending includes $7.2 billion for Louisiana, where flooding devastated New Orleans; $4.8 billion for Mississippi and $1.5 billion for Alabama.

Among the major categories of spending: $3.6 billion to purchase mobile homes and trailers and $1.8 billion for housing assistance, including $2,000 debit cards handed out to those left homeless, the report said. Costs for urban search-and-rescue teams totaled $52 million, part of $4.8 billion spent to send government workers to the region.

The report, a snapshot of spending on Katrina as of Wednesday, was the first of the weekly status reports Congress mandated last week when it passed a $51.8 billion emergency spending bill for hurricane relief. The report came amid calls on Capitol Hill for greater care in the spending of federal relief money.

House Appropriations Committee Chairman Jerry Lewis, R-Calif., asked the panel's investigative staff to focus on disaster spending, given the record $62.3 billion allocated in the past two weeks. “Congress has properly provided historic levels of assistance,” Lewis said. “Now we must fulfill our constitutional obligations to conduct vigorous oversight over those funds.” The committee also will conduct hearings to track how the money is spent, Lewis said.

In a speech in New Orleans, President Bush said, “Taxpayers expect this work to be done honestly and wisely, so we will have a team of inspector generals reviewing all expenditures.”

Lou Reigel, the former special agent in charge of the FBI's New Orleans field office and now a top official in the agency's cybercrimes unit, said the city has a long history of corruption among public officials, although the climate has improved in recent years.

“You're going to have to be cautious when dispensing these funds,” he said.

“There is certainly a big risk,” said Joshua Hochberg, chief of the Justice Department's fraud section until last week, when he left to join a private law firm. “The availability of money seems to attract the worst types of white-collar thieves.” The potential for problems rises when the government waives normal competitive-bidding rules to speed the delivery of relief services, as it has in this emergency, Hochberg said.

The FBI has set up a tip line, 1-800-CALL FBI, to collect allegations of corruption and fraud. The Homeland Security Department has sent auditors and investigators to the region to monitor the spending of relief funds.

Bush Pledges Historic Effort To Help Gulf Coast Recover (WP)

By Jim Vandehei And Peter Baker, Washington Post Staff Writers

The Washington Post, September 16, 2005

NEW ORLEANS, Sept. 15 -- President Bush, summoning the American spirit and "a faith in God no storm can take away," vowed from the heart of the Hurricane Katrina disaster zone Thursday night to rebuild this devastated city and the rest of the Gulf Coast with "one of the largest reconstruction efforts the world has ever seen."

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In a prime-time address televised from the storm-battered French Quarter, the president appeared without coat and tie to mourn "a tragedy that seems so blind and random" while promising to help its victims with unprecedented federal assistance to secure homes, jobs, health care and schooling.

"You need to know," he said, directly addressing the dislocated and desperate, "that our whole nation cares about you, and in the journey ahead you're not alone. . . . And tonight I also offer this pledge of the American people: Throughout the area hit by the hurricane, we will do what it takes, we will stay as long as it takes, to help citizens rebuild their communities and their lives."

Although Bush cited no price tag, he committed the nation to a plan that officials and lawmakers believe could top $200 billion, roughly the cost of the Iraq war and reconstruction, and which promises to reorient government for the balance of the Bush presidency. It will create much larger deficits in the short term, siphon off money that would have been spent on other programs and dramatically shift the focus of the White House, Congress and many state governments for the indefinite future.

Even as he embraced a spending program the scale of which few Democratic presidents ever advanced, Bush signaled that he would shape its contours with policy ideas long sought by conservative thinkers. He proposed creation of a "Gulf Opportunity Zone" that would grant new and existing businesses tax breaks, loans and loan guarantees through 2007. And in documents released before the speech, Bush called for displaced families that send children to private schools, including religious ones, to be eligible for federal money.

Eighteen days after Katrina smashed through the levees here, flooding the city, killing hundreds and displacing more than 1 million, Bush endorsed most of the criticism of the government's stutter-start response to the storm and vowed to investigate and retool its emergency plans, calling in particular for "a broader role for the armed forces" in future domestic crises. He ordered his Cabinet to reexamine disaster plans for every major American city. But he seemed to embrace a Republican plan for a GOP-majority congressional inquiry rather than the independent commission sought by Democrats.

During his 26-minute speech, the president evoked the horror that Katrina wrought on the region, recalling scenes of the abandoned seeking food and water, survivors victimized a second time by looters, and "bodies of the dead lying uncovered and untended in the street." Bush likened Katrina to the worst disasters of American history, including the Chicago fire of 1871 and the 1906 San Francisco earthquake. "Every time the people of this land have come back from fire, flood and storm to build anew -- and to build better than what we had before," he said. "Americans have never left our destiny to the whims of nature, and we will not start now."

Harking back to the "compassionate conservative" rhetoric of his early presidency, Bush infused his address with religious overtones. The trials of the last few weeks, he said, "remind us of a hope beyond all pain and death, a God who welcomes the lost to a house not made with his hands." The language reflected not only Bush's own faith but also his decision to bring back Michael J. Gerson, his first-term speechwriter and now a policy adviser, to help draft perhaps his most important address since launching the Iraq war in 2003.

Biblical citations and imagery are common touchstones for the president when he tries to connect with African Americans, who polls show have been especially aggrieved by the slow federal response because the victims left behind were disproportionately poor and black. "As all of us saw on television," Bush said, "there is also some deep, persistent poverty in this region as well. That poverty has roots in a history of racial discrimination, which cut off generations from the opportunity of America. We have a duty to confront this poverty with bold action."

Bush spoke from Jackson Square, where a towering statute of Andrew Jackson is one of the few local icons left unscathed in the Big Easy. The buildings surrounding the square are boarded up and lifeless; a metal telephone pole across the street is split like small stick, a testament to Katrina's fury. The historic square commemorates the French handover of Louisiana in 1803; now, 202 years later, it marks the spot where Bush promised to rebuild the heart of Louisiana.

"There is no way to imagine America without New Orleans, and this great city will rise again," Bush said. Eventually, he added, "the streetcars will once again rumble down St. Charles and the passionate soul of a great city will return."

The speech came at perhaps the most difficult political moment of Bush's presidency, with Americans losing faith in his ability to manage crisis and lead the nation out of troubled times, according to polls. His approval ratings have dropped to new lows in the past few days as gasoline prices have soared and chaos in Iraq persists. The speech capped a week-long effort to restore Bush's standing, starting with the ousting of the Federal Emergency Management Agency director, who oversaw the initial response, and a rare public embrace of responsibility for its shortcomings.

Sensitive to fueling further criticism, the White House said it paid for the electricity and lights used for the speech, limiting the local inconvenience. But Bush emerged onto the square without an audience, speaking directly into the camera from a lectern placed so the Jackson statue would be in the picture.

Congressional Democrats did not wait for the speech to lay down markers for how they think the Gulf Coast should be rebuilt -- and to lay the blame on Bush for Washington's sluggish performance.

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"The families in the Gulf . . . certainly don't need to hear another speech from President Bush," said Senate Minority Leader Harry M. Reid (D-Nev.). "What they need is leadership. . . . Let's be clear about what Katrina was: a failure of leadership." Reid called for "an American Marshall Plan" to rebuild the Gulf Coast and accused Republicans of balking at even greater spending on health, housing and education for victims.

Reid insisted on an independent commission to investigate what went wrong with Katrina. But Republicans rejected that.

The House adopted a plan for a joint investigative committee that would have a Republican majority but grant Democrats authority to call witnesses and seek subpoenas from the GOP chairman. Rep. Thomas M. Davis III (R-Va.) was tapped Thursday to serve as co-chairman along with Sen. Susan Collins (R-Maine). Davis said Thursday night that among the first witnesses he will call will be Michael D. Brown, the FEMA director who resigned this week under fire.

Moving to expand the $62 billion in relief already approved for the Gulf Coast, the House and Senate on Thursday passed similar tax bills estimated to cost at least $5 billion over five years to allow storm victims to draw funds from retirement accounts without penalty and to extend several housing, job and child tax credits through the disruption. The legislation also offers charitable giving incentives while easing taxes on forgiven debts and unreimbursed business losses.

In deference to local sensibilities, Bush made clear that local officials will dictate how the city is reconstructed, and that a chief aim will be to lure those who fled New Orleans and other Gulf Coast communities to return rather than relocate permanently to the places where they sought refuge. At the same time, he suggested that local authorities would have to revisit zoning laws and building codes "to avoid a repeat of what we've seen" and suggested that sections of New Orleans be rebuilt on "higher ground."

Bush called on Congress to provide property on the federal domain free of charge though a lottery. In exchange, a recipient would be obligated to build a home with a mortgage or help from a charitable organization. He also proposed creation of "worker recovery accounts" of up to $5,000 for evacuees to use for job training, education and child care.

Bush arrived here after an earlier stop in Pascagoula, Miss. The New Orleans he found is a twisted shell of its former self, a once vibrant city that never slept left lifeless by Katrina's fury. Streets remain flooded, piles of garbage line them, and a stench seems to cling to every part of the French Quarter and beyond.

Vickie Johnston, 37, a hairdresser, sneaked into the city Thursday only to learn she had lost everything -- her clothes, furniture, and irreplaceables such as correspondence and photos. She voted for Bush twice but feels betrayed by all government. "They knew New Orleans was a fishbowl. They knew," she said. "Now it's a toilet bowl. How can they do this to us? Why did they let the water get so high?"

In his speech hours later, Bush expressed understanding of such sentiments, acknowledging that the response "at every level of government was not well coordinated and was overwhelmed in the first few days." The lesson he saw was the need for "greater federal authority and a broader role for the armed forces, the institution of our government most capable of massive logistical operations on a moment's notice."

As he did on Tuesday, Bush said he accepts accountability: "Four years after the frightening experience of September 11th, Americans have every right to expect a more effective response in a time of emergency. When the federal government fails to meet such an obligation, I as president am responsible for the problem, and for the solution."

Baker reported from Washington. Staff writer Spencer S. Hsu in Washington contributed to this report.

U.S. To Pick Up Rebuilding Tab (WT)

By Joseph Curl

The Washington Times, September 16, 2005

President Bush last night said the federal government will pay most of the estimated $200 billion to rebuild the hurricane-ravaged Gulf Coast in what he called "one of the largest reconstruction projects the world has ever seen."

Standing in the heart of the historic French Quarter of New Orleans, a once-thriving city now deserted and still more than 50 percent flooded 18 days after Hurricane Katrina struck, the president also announced that he had ordered the Department of Homeland Security to conduct an immediate review of disaster-response plans in every major American city.

He acknowledged that "every level of government was not well-coordinated and was overwhelmed in the first few days" after the Category 4 storm slammed into Louisiana, Mississippi and Alabama.

"Four years after the frightening experience of September 11th, Americans have every right to expect a more effective response in a time of emergency. When the federal government fails to meet such an obligation, I, as president, am responsible for the problem, and for the solution," Mr. Bush said in a 20-minute speech.

"It is now clear that a challenge on this scale requires greater federal authority and a broader role for the armed forces [-] the institution of our government most capable of massive logistical operations on a moment's notice."

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The president used most of his prime-time televised address to the nation to reassure Americans that the federal government now has the emergency response well in hand and to lay out a specific plan to rebuild New Orleans and other devastated areas on the Gulf Coast.

He said his administration will not turn a blind eye to the "persistent poverty" in the region that has led to a "legacy of inequality."

Addressing the hundreds of thousands of evacuees forced from their homes by the hurricane, the president said, "You need to know that our whole nation cares about you -- and in the journey ahead you are not alone."

"Tonight, I also offer this pledge to the American people: Throughout the area hit by the hurricane, we will do what it takes, we will stay as long as it takes, to help citizens rebuild their communities and their lives. And all who question the future of the Crescent City need to know: There is no way to imagine America without New Orleans, and this great city will rise again."

Mr. Bush, who traveled to the hard-hit Mississippi coast before delivering his speech from New Orleans, did not directly address how the federal government would pay for the massive project.

Still, with the water level receding by the hour, the president pledged that "federal funds will cover the great majority of the costs of repairing public infrastructure in the disaster zone, from roads and bridges to schools and water systems. Our goal is to get the work done quickly."

But with some in Washington worried about the costs involved at a time of huge federal expenditures -- the wars in Iraq and Afghanistan have cost nearly $300 billion so far -- Mr. Bush said taxpayers can rest assured that the reconstruction money will be monitored closely, with "a team of inspectors general reviewing all expenditures."

Democrats continued to criticize the Bush administration's response, with Senate Minority Leader Harry Reid and House Minority Leader Nancy Pelosi deriding the speech as "just words."

"It takes more than just taking responsibility to right the many wrongs that occurred over the past two weeks. The American people need answers from independent experts outside of the political arena to learn from the past and prepare and protect our nation and our communities for the future. We can and must do better," they said in a joint statement.

Congress already has approved $62.1 billion for rescue and relief efforts, with many private analysts forecasting that the expected $200 billion price tag of Katrina will add $100 billion or more to next year's deficit.

White House officials have told Congress that the $51.8 billion approved late last week will fund the disaster relief effort only through the first week of October, and senior congressional appropriations aides have told the White House that they need to see the next request by next week. Republicans say the next bill could exceed $50 billion.

Top White House officials acknowledged that the federal government has no choice but to run up the deficit to meet the crisis in the Gulf Coast.

"The fact of the matter is when our nation faces these type of emergencies, it unfortunately requires us to deficit spend," White House counselor Dan Bartlett said before Mr. Bush's speech.

Mr. Bush proposed three specific initiatives to speed recovery in the region, calling for the creation of a Gulf Opportunity Zone to offer businesses tax breaks, provide federally owned land to "low-income citizens free of charge and pay evacuees up to $5,000 for job training, education and child care.

If Mr. Bush's plan is put into effect, it would eclipse the Marshall Plan, which helped revive Europe after World War II and cost about $100 billion in today's dollars.

Bush's Rescue Mission (LAT)

The Los Angeles Times, September 16, 2005

When President Bush stepped to the podium in front of New Orleans' St. Louis Cathedral on Thursday night, his topic was rebuilding a hurricane-ravaged region. But his goal clearly was to rescue his presidency, which Katrina's storm surge tattered as well.

Two major polls released Thursday showed that about 40% of those surveyed approved of Bush's work overall, the lowest mark of his presidency. The federal government's slow response to the crisis on the Gulf Coast has compounded growing doubts about other administration initiatives, especially the war in Iraq.

Bush, who looked like he'd dispensed with his tie and jacket just moments before appearing on camera, promised "one of the largest reconstruction efforts the world has ever seen."

"There is no way to imagine America without New Orleans," he said, pledging to pick up the tab for "the great majority" of the infrastructure repairs.

The president listed the impressive array of initiatives undertaken to help evacuees. And he laid out a series of initiatives that would apply Republican principles to the reconstruction effort, including proposals to give away home-building lots to displaced families with low incomes and to slash taxes for entrepreneurs who create jobs in the devastated region. The

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president's call for a "Gulf Opportunity Zone" is intriguing, but he needs to make sure storm relief doesn't become a Trojan horse for every conservative ideologue's favorite pet project. Flat tax, anyone?

He left for another day any discussion of where the hundreds of billions of dollars to pay for reconstruction will come from, but that day can't be put off indefinitely. He praised the generosity of Americans in the wake of Katrina, but he soon may have to ask for some sacrifice to help pay the bills. The death of the "death tax," for instance, no longer looks certain.

To his credit, Bush acknowledged the government's failure to respond effectively in the aftermath of the hurricane, and he accepted responsibility for the federal share of the problem. He also prodded local leaders to do a better job preparing for what clearly is their role — evacuating, securing and provisioning their cities in the event of a disaster or terrorist attack. Yet Bush's assertion that a challenge of this scale raises new questions about coordination between federal and local officials begs the question: What has the administration been doing in the four years since the 9/11 attacks, if not preparing the country for such a catastrophic event?

Bush's speech helped him regain his political footing for now. But whether he rescues his legacy from the putrid waters swirling in the streets of New Orleans will depend on whether the aspirations expressed Thursday night are translated into a truly bright future for the region.

Bush Plan A Solid Start, But Key Is In The Execution (USAT)

USA Today, September 16, 2005

More than two weeks after Hurricane Katrina ravaged the Gulf Coast, President Bush at last seemed to have marshaled an effective response as he addressed the nation from New Orleans Thursday night.

Bush proposed a massive plan — one that comes with huge costs that he disturbingly offered no plan to pay for — but it was, finally, in proportion to the magnitude of the problem.

Most important, he got the order of march right, setting three top priorities:

First, meet the immediate needs of those endangered and uprooted by the storm. As he described the emergency response now in place — electric power restored, gas pipelines operating, levees fixed, pumps running, ships arriving to provide housing — it appeared for the first time that the government was getting a grip on the problem. Also arriving are emergency supplies for evacuees, expedited Social Security checks, unemployment benefits, mail delivery — and more.

Second, help displaced citizens rebuild their communities and lives.

Third, rebuild the communities better and safer than before the storm. This, he promised, would be led by state and local governments, but with major federal financing.

To achieve this, the president proposes a mix of traditional big government programs more commonly associated with Democrats and conservative ideas such as enterprise zones, federally-financed savings accounts for people seeking job training and incentives for home ownership, targeted largely at low-income citizens.

It's a solid start, but one that comes with three unanswered questions:

· Who's in charge? Saying states and localities will have control is sensible, but the federal government can't just dole out money without deciding how it will be spent. Bush stopped short of creating a body to coordinate decision-making among fractious federal, state and local officials.

· Who will pay? Bush ignored the subject, suggesting he will once again indulge his worst habit: expanding government spending at record rates without taking the responsibility to pay for it. With cost estimates running as high as $200 billion, some members of Congress in his own party are already chafing at the idea. Several have suggested reopening Congress' most recent pork-barrel extravaganza, the $286 billion transportation bill that included all manner of projects that could be scrapped in favor of more urgent Gulf Coast needs.

· Will it work? On the most basic level, at least, the chances that it will work in the hurricane zone seem good, if sure to come with problems. The government, once mobilized, is good at this sort of thing, and Bush's plan is creative. He also addressed the most glaring breakdown of the post-Katrina response: its failure to address the problems of the poor.

Far less convincing, though, was Bush's broader national response. He said he has ordered a federal review of emergency response plans in all major cities, as well as instructing all federal departments to review their own response.

It sounded all too much like the initiatives Bush announced four years ago in the aftermath of the 9/11 attacks. Katrina proved those to be a near total failure in their first major test, raising deep suspicions that the administration has bungled terrorism preparations as badly as it bungled the Katrina response. It there's anything good to come from this disaster, it's that those flaws have been exposed. The president noted the need for a stronger federal role, particularly military, in a disaster of this scale. That's a start, as is the broader Bush plan.

Whether it will prove to be effectively managed and responsibly financed, or just good public relations, remains to be seen.

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Not the New Deal (NYT)

By PAUL KRUGMAN

The New York Times, September 16, 2005

Now it begins: America's biggest relief and recovery program since the New Deal. And the omens aren't good.

It's a given that the Bush administration, which tried to turn Iraq into a laboratory for conservative economic policies, will try the same thing on the Gulf Coast. The Heritage Foundation, which has surely been helping Karl Rove develop the administration's recovery plan, has already published a manifesto on post-Katrina policy. It calls for waivers on environmental rules, the elimination of capital gains taxes and the private ownership of public school buildings in the disaster areas. And if any of the people killed by Katrina, most of them poor, had a net worth of more than $1.5 million, Heritage wants to exempt their heirs from the estate tax.

Still, even conservatives admit that deregulation, tax cuts and privatization won't be enough. Recovery will require a lot of federal spending. And aside from the effect on the deficit - we're about to see the spectacle of tax cuts in the face of both a war and a huge reconstruction effort - this raises another question: how can discretionary government spending take place on that scale without creating equally large-scale corruption?

It's possible to spend large sums honestly, as Franklin D. Roosevelt demonstrated in the 1930's. F.D.R. presided over a huge expansion of federal spending, including a lot of discretionary spending by the Works Progress Administration. Yet the image of public relief, widely regarded as corrupt before the New Deal, actually improved markedly.

How did that happen? The answer is that the New Deal made almost a fetish out of policing its own programs against potential corruption. In particular, F.D.R. created a powerful "division of progress investigation" to look into complaints of malfeasance in the W.P.A. That division proved so effective that a later Congressional investigation couldn't find a single serious irregularity it had missed.

This commitment to honest government wasn't a sign of Roosevelt's personal virtue; it reflected a political imperative. F.D.R.'s mission in office was to show that government activism works. To maintain that mission's credibility, he needed to keep his administration's record clean.

But George W. Bush isn't F.D.R. Indeed, in crucial respects he's the anti-F.D.R.

President Bush subscribes to a political philosophy that opposes government activism - that's why he has tried to downsize and privatize programs wherever he can. (He still hopes to privatize Social Security, F.D.R.'s biggest legacy.) So even his policy failures don't bother his strongest supporters: many conservatives view the inept response to Katrina as a vindication of their lack of faith in government, rather than as a reason to reconsider their faith in Mr. Bush.

And to date the Bush administration, which has no stake in showing that good government is possible, has been averse to investigating itself. On the contrary, it has consistently stonewalled corruption investigations and punished its own investigators if they try to do their jobs.

That's why Mr. Bush's promise last night that he will have "a team of inspectors general reviewing all expenditures" rings hollow. Whoever these inspectors general are, they'll be mindful of the fate of Bunnatine Greenhouse, a highly regarded auditor at the Army Corps of Engineers who suddenly got poor performance reviews after she raised questions about Halliburton's contracts in Iraq. She was demoted late last month.

Turning the funds over to state and local governments isn't the answer, either. F.D.R. actually made a point of taking control away from local politicians; then as now, patronage played a big role in local politics.

And our sympathy for the people of Mississippi and Louisiana shouldn't blind us to the realities of their states' political cultures. Last year the newsletter Corporate Crime Reporter ranked the states according to the number of federal public-corruption convictions per capita. Mississippi came in first, and Louisiana came in third.

Is there any way Mr. Bush could ensure an honest recovery program? Yes - he could insulate decisions about reconstruction spending from politics by placing them in the hands of an autonomous agency headed by a political independent, or, if no such person can be found, a Democrat (as a sign of good faith).

He didn't do that last night, and probably won't. There's every reason to believe the reconstruction of the Gulf Coast, like the failed reconstruction of Iraq, will be deeply marred by cronyism and corruption.

Auditors To Monitor Use Of Katrina Financial Aid (WT)

By Audrey Hudson

The Washington Times, September 16, 2005

Teams of auditors and investigators from the Department of Homeland Security expect to spend three to five years at hurricane recovery field offices in an attempt to prevent fraudulent use of more than $60 billion in relief funds.

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"We're going to prevent what is still going to happen, contract procurement irregularities," said Tamara Faulkner, spokeswoman for the inspector general's office.

The Federal Emergency Management Agency routinely uses inspector general auditors to monitor federal dollars that are sent to disaster zones, such as the hurricanes that hit Florida last year, but the Katrina operation and the potential for fraud is on "an unprecedented level," Miss Faulkner said.

A team of 30 inspector general employees will hit the ground Monday at field offices in Baton Rouge, La., Montgomery, Ala., and Jackson, Miss., she said. Later next week, three auditors will be sent to Texas.

Although Congress gave authority to the department's inspector general, Richard Skinner, to stop contract fraud and a $15 million budget to get started, some lawmakers want to create new watchdogs.

Sen. Susan Collins, Maine Republican and chairman of the Senate Homeland Security and Governmental Affairs Committee, yesterday introduced a bill to expand the jurisdiction of the special inspector general for Iraq reconstruction to oversee the recovery efforts in the Gulf Coast region, with an $80 million budget.

"Already, some $2 billion per day is being spent on the recovery efforts. We simply cannot wait for existing structures to organize and ramp up or create a whole new bureaucracy that will take many months to get up and running," Miss Collins said. "We need controls that are visible and on the ground as soon as possible."

She and Sen. Joe Lieberman, Connecticut Democrat, said the Homeland Security Department's inspector general is limited to watching spending within its own agency.

"The problem, however, is the spending's going to cross department lines. It's going to cross jurisdictional lines. And we believe that just beefing up the I.G. in the Department of Homeland Security won't be adequate to the task," Miss Collins said.

However, Mr. Skinner established a special inspector general working group among agencies that are expected to use hurricane relief funds, including the Departments of Defense, Health and Human Services, Housing and Urban Development, and the Environmental Protection Agency.

Rep. Thomas M. Davis III, Virginia Republican and chairman of the House Government Reform Committee, and Rep. Todd R. Platts, Pennsylvania Republican and chairman of the committee's government management, finance and accountability subcommittee, asked Mr. Skinner in a letter yesterday to report by Tuesday how the various inspectors will work together.

"The inspectors general have long stood as a bulwark against such fraud and mismanagement," the congressmen said.

House, Senate OK Katrina Tax Relief (AP-Y)

By MARY DALRYMPLE, Associated Press Writer

AP, September 16, 2005

Lawmakers on Thursday worked to help solve the practical problems facing those caught in Hurricane Katrina's path who need quick access to cash, housing and medical care.

The House and Senate passed nearly identical bills to let victims tap retirement accounts without penalty and help working poor families and parents retain their tax credits. Senators also voted for rental housing vouchers and aid measures for small business.

The action came ahead of President Bush's prime-time speech from New Orleans about the comprehensive recovery effort he envisions for the battered Gulf Coast.

On Capitol Hill, Republicans and Democrats fought over plans for a special, GOP-majority committee to investigate the government's sluggish response to the emergency. The House endorsed the idea by a mostly partisan 224-188 vote. Democrats warned they would boycott.

Republicans said it is their responsibility to scrutinize the GOP-run government. "In challenging times, our country expects its leaders to work together and not to engage in petty bickering," said Senate Majority Leader Bill Frist, R-Tenn.

Democrats contended that Republicans cannot be trusted to run an impartial investigation. "After the flood comes the whitewash," said Rep. James McGovern (news, bio, voting record), D-Mass. "The job of this Congress is not to run interference for the Bush administration."

Louisiana lawmakers outlined a reconstruction plan, called "Project Pelican," for their devastated state. It includes coastal restoration and economic development incentives to brings jobs and people back to New Orleans.

Help was coming from the Treasury Department, which ruled that the hurricane qualified as a hardship. That allows victims and their families tap into retirement plans, including 401(k)s, an effort aimed at people with little savings to recover from the storm.

In separate bills passed by the House and the Senate, lawmakers voted to waive penalties typically imposed on early withdrawals from retirement accounts. Lawmakers have to reconcile their differences and send the measure to the president before it can become law.

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The measures help working poor families and parents retain tax credits and other benefits that can be disrupted when taxpayers, for example, lose their jobs or relocate.

Several House lawmakers reacted favorably by a proposal to two Illinois Democrats, Sen. Barack Obama and Rep. Rahm Emanuel (news, bio, voting record), to immediately advance earned income tax credits and child tax credits to families in the disaster area.

The tax bills would let people write off more of their unreimbursed hurricane losses. Also, taxes typically imposed when debts such as mortgages are forgiven would be waived. People who take in evacuees for two months or more would get tax breaks.

The Senate's housing voucher program would provide more than 350,000 families left homeless by Katrina with emergency housing vouchers averaging $600 a month, for up to six months. Any displaced family, regardless of income, would be eligible. The program was expected to cost $3.5 billion over six months.

The small business plan, approved by a 96-0 vote, would allow borrowers to defer repayment of Small Business Administration disaster loans for a year. The maximum size of an SBA disaster loan would rise from $1.5 million per loan to $10 million.

Both proposals were added to a spending bill for the departments of Commerce and Justice. But it may not get to Bush soon, despite the Katrina-related provisions.

Senators also worked on giving hurricane victims temporary access to Medicaid health services, including mental health care.

By the end of the day, Congress had also sent the president bills for Katrina victims that ease rules requiring that welfare recipients must work 30 hours a week for their benefits and expand the availability of education grants for students.

Overall, Congress has voted to spend more than $62 billion on immediate rescue and recovery efforts. Lawmakers promise to spend much more.

Ben Bernanke, the president's chief economist, said the costs of rebuilding will be substantial. "This necessary spending should not, however, jeopardize the president' long-term deficit-reduction goals," he told the National Bureau of Economic Research.

The FBI opened a telephone line (1-800-225-5324) to receive reports of public corruption and government fraud related to Katrina relief efforts and cleanup.

Senate Democrats urged Homeland Security chief Michael Chertoff to reassure illegal immigrants victimized by the storm that they can seek help from relief agencies without fear of arrest. The government made such a promise after the attacks of Sept. 11, 2001.

Also Thursday, senators questioned whether Bush's nominee to run the bureau of U.S. Immigration and Customs Enforcement has enough experience for the post.

Julie L. Myers, a former Treasury official and assistant U.S. attorney, was Chertoff's chief of staff when he led the Justice Department's criminal division.

Critics Fear Trailer 'Ghettos' (WP)

By Jonathan Weisman, Washington Post Staff Writer

The Washington Post, September 16, 2005

On the sprawling, dusty grounds of Lone Star Army Ammunition Plant and Red River Army Depot in Texarkana, Tex., the recreational vehicles and mobile homes are arriving at a rate of 100 a day before being shipped out to the fringes of Hurricane Katrina's disaster zone.

Those trailers, among 300,000 to be purchased with nearly $5 billion of federal money, have become a focal point of criticism of the Bush administration's early rebuilding efforts. Some conservatives blanch at the cost. And many critics fret that mobile homes will hardly protect their residents from the next storm.

But most of all, housing experts -- conservatives and liberals alike -- worry that Federal Emergency Management Agency encampments will quickly become what former House Speaker Newt Gingrich called "ghettos of despair." Rental vouchers in a market with plenty of available housing would be cheaper and faster and provide better accommodations, they say.

"Three hundred thousand manufactured homes? People are screaming about that," fumed Rep. Jeff Flake (R-Ariz.). "I tell you, FEMA is a disaster."

Beleaguered FEMA officials yesterday counseled patience. When Katrina struck, they were criticized for moving too slowly, they said. Now, they are being second-guessed for moving too quickly.

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"The governors and their local officials are looking at all these issues. They're working with all the evacuees in these communities to ensure they are incorporated into the community, they're given job assistance and the help they need," said FEMA spokesman James McIntyre. "We have more than 300,000 displaced households, and they have to live somewhere."

Besides, said Brian Sullivan, a spokesman for the Department of Housing and Urban Development, mobile homes are not the entire response. HUD will expand rental assistance, open federally insured foreclosed homes and offer up vacant public housing units to get Katrina's survivors into shelter. "The initial response now is: Get your hands on anything you can," he said.

When Katrina struck, FEMA did what it has always done in the wake of a major hurricane: turned to its standing list of contractors, including several mobile home manufacturers. Within days, the agency began discussions with the Manufactured Housing Institute, and then purchased 20,000 fully furnished mobile homes and began shipping them to staging areas in Texarkana; Purvis, Miss.; Selma, Ala.; and Baton Rouge, La.

State government then began scouring parks, government land and private sites to establish communities of evacuees. Just as quickly, housing experts of all political stripes began to howl in protest.

"If they simply put poor people in mobile homes, they would be re-creating the same troubled neighborhoods that were destroyed," said Susan J. Popkin, a housing expert at the Urban Institute. "And we know how to do this better."

Bruce Katz, a liberal housing policy expert at the Brookings Institution, rushed to draft an opinion article, urging the administration to learn from the experience of the 1994 Northridge, Calif., earthquake. Within a week of the quake, the first of 22,000 low-income displaced families were moving into new apartments with expanded HUD housing vouchers. Within a month, a major landlord-recruitment effort was pushing low-income Angelenos into higher-income neighborhoods.

"It's not rocket science," said Katz, a HUD chief of staff in the Clinton administration. "If you turned on the voucher faucet, you'd have people in apartments in a week."

Edgar O. Olsen, a conservative housing economist at the University of Virginia, said he pestered the Federal Housing Administration and HUD with faxes, imploring them to scrap the mobile home contracts for rental vouchers.

After all, he noted, rental occupancy rates are at historic lows, as are rents. There are more than 1.1 million available units in the South, with an average rent of less than $700 a month. Houston's vacancy rate stands at 15.6 percent. But Olsen said he has received no response.

The problem, he said, may lie with HUD's organizational chart. Like many other agencies, it has been hollowed out: assistant secretary for public and Indian housing, assistant secretary for policy development and research, general deputy assistant secretary for policy, assistant secretary for fair housing, general counsel, chief financial officer and assistant secretary for administration, all vacant.

Now, HUD will be in the spotlight, Katz predicted. In his 2006 budget, the president had proposed stripping the department of virtually all of its community development functions. The White House has tried to eliminate HOPE VI, the primary housing program designed to raze and rebuild failed public housing complexes. And the administration has de-emphasized the Section 8 housing voucher program.

"The administration has spent the past five years trying to ratchet back the Section 8 voucher program," Katz said. "It's going to be fairly hard for them to turn on a dime and say, 'Oh, we were just kidding.' "

But now, they may have to do just that, housing experts and politicians say. "The whole relief effort was such an incredible screw-up that they felt they just had to throw money at the program," Olsen said, referring to buying the army of trailers. "They had to do it fast. Now, the question is whether they can undo it."

Gingrich agreed: "A key test of the administration right now is to refuse to spend one more penny on such a disastrous policy."

Staff writer Krissah Williams contributed to this report.

Evacuees Are Moving Out Of Shelters Government Helps People Settle Into Temporary Homes (USAT)

By John Ritter, Tom Weir, And Thomas Frank

USA Today, September 16, 2005

ALEXANDER CITY, Ala. — Far from Hurricane Katrina's ruin on the Gulf Coast, Mitchell and Hazel Rodgers are among the first hurricane victims to settle this week into new RV trailers at Wind Creek State Park, across a lake from million-dollar real estate.

The couple join tens of thousands of Katrina evacuees moving to the next stage of what promises to be a long process of getting back home.

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The populations of hundreds of Red Cross shelters are dropping daily as families move to temporary housing, some, like the 500 trailer sites at Wind Creek, more permanent than others.

"This is the type of living my wife and I always wanted. Back to Mother Nature," says Mitchell Rodgers, 54, a disabled shipyard worker whose Gulfport, Miss., trailer-park home tipped over and filled with water. "As soon as I can, I'm going to register to vote. I'm not going back to Mississippi."

Hotels, private homes, churches, cruise ships, gyms and campgrounds will continue to accommodate many of the displaced in coming weeks. An estimated 1 million people fled Katrina.

But disaster officials say they're moving to assemble and make livable up to 300,000 trailers and other temporary housing units in Louisiana and Mississippi as fast as they can find sites and arrange utilities, schooling and other necessities with cities and counties.

The federal government has stopped selling foreclosed homes in 11 states and will make as many as 5,000 available at no charge to Katrina's homeless. Public housing authorities across the country are scrounging for every vacant unit they can find to offer to evacuees who came from public housing in New Orleans and Mississippi. An estimated 5,600 units could be made available within 500 miles of New Orleans.

Many cities — Houston, Chicago, Detroit and Philadelphia — and counties — Allegheny County, Pa., and Miami-Dade — have offered housing for thousands more.

The number of people in Red Cross shelters had declined from a high of 203,917 in the days after Katrina hit to 61,610 by Wednesday. More than 550 shelters had closed, the Red Cross said.

The Red Cross has paid about $12 million in hotel bills and expects to reimburse a total of $100 million on behalf of an estimated 132,000 Katrina-displaced people who were in hotels in 46 states.

In Baton Rouge, where tens of thousands took refuge because it's just 80 miles northwest of New Orleans, shelter populations have dropped steadily. But the metro area of 450,000 is scrambling to cope with other effects of its newfound — if temporary — status as the state's most populous.

Mayor Melvin Holden is asking the Federal Emergency Management Agency for $10 billion to build schools, roads and sewers. Highway planners are trying to sort out the swollen region's traffic congestion. FEMA expects to station thousands of mobile homes in Baton Rouge for evacuees.

Mark Bielski has been staying with friends. Although his house in New Orleans' Uptown district remains intact, he's looking for a Baton Rouge teaching job. He says he'll return to New Orleans "as soon as the lights go on."

Others see Baton Rouge as their new home. Since Katrina, 1,100 houses in the area have sold, according to the local Realtors' association. Apartment vacancy rates slid from 8% to nothing.

Evacuees poured into Houston's Astrodome and other shelters, but nobody in Texas' largest city "knows for sure how many people are here or how long they intend to stay," says Frank Michel, a city spokesman. What they know is that 46,000 former Louisiana residents are living in hotels and motels and 16,000 Louisiana children have registered in Houston schools. The city has found more than 8,000 apartments and houses to accommodate 20,000 people.

Many places seemed to open their arms, then worry later about consequences. Arkansas, one of the nation's poorest states, took in more than 75,000 evacuees, second only to Texas. That amounted to more than a 2.5% jump in the state's population, but Gov. Mike Huckabee reminded residents of the help they get after frequent ice storms and tornadoes.

"By golly, we're going to be there to take care of them now," he declared. He said midweek that at least a third of the influx had left.

Other evacuees, particularly those stranded in New Orleans after the storm, ended up farther away. Oklahoma, Virginia, Kentucky, Illinois, North and South Carolina, Maryland, Ohio, Michigan, and California each sheltered 2,000 to 4,000. Florida and Georgia each took more than 1,300.

Housing and Urban Development Secretary Alphonso Jackson found that evacuees in Philadelphia "have come to realize they might not go back to New Orleans."

"Of the families I talked to, 90% of the families have no desire to go back," Jackson says. "But that's not what I'm hearing from Texas. It's a whole different perspective."

Perspective may depend on circumstances. The new arrivals at Alabama's Wind Creek State Park get trailers 28 to 32 feet long; some would cost $40,000.

Red Cross volunteers "are helping me get baby clothes," says Suzanne Hughes, 18, from Kiln, Miss. She's 81/2 months pregnant and waiting for her fiancé to arrive.

"It's a really good community … families that have kids, and the kids get attached to the atmosphere here," Hughes says.

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Police officers patrol the park. Evacuees undergo background checks because the park could be home to 1,000 children. Evacuees are being hired as park workers. Sporting goods companies are donating fishing gear. South Central Bell is putting in phone banks, Dell is offering laptops. Cisco is providing Internet service.

"It would turn you into a Christian, even if you weren't," says Arthur Walker, 57, known as "Mr. A" when he worked as a palm reader in New Orleans' Jackson Square.

Hutchinson: FEMA Should Remain With Homeland Security (SDN)

By Don Dailey

Springdale (AR) Daily News, September 16, 2005

ROGERS -- The Federal Emergency Management Agency, buffeted in recent weeks over its sluggish response to Hurricane Katrina, should not be separated from the Department of Homeland Security, said Asa Hutchinson.

Hutchinson, a gubernatorial candidate and the former undersecretary for Border and Transportation Security in the Department of Homeland Security, said in an interview before his remarks to the Arkansas Associated Builders and Contractors at the Embassy Suites in Rogers the federal government botched its response to Katrina, but breaking out the formerly independent agency would increase communication breakdowns and red tape in future disasters.

Americans and public officials pressured the Homeland Security Department into concentrating on defending against another terrorist attack to the detriment of planning for the much-more-likely natural disasters, and a better balance between the two is needed, Hutchinson said.

"You know there are going to be hurricanes and tornadoes. You don't always have terrorist attacks every year," Hutchinson said.

He also said there need to be increased roles for the federal government and the military during natural disasters.

Hutchinson commented on a recently released status report on the 9/11 Commission's recommendations to Congress. The report gave generally low marks in the areas of emergency preparedness and response, transportation security and border security.

Hutchinson said for the most part the low grades weren't due to leadership issues or poor policy, but sluggish funding from Congress.

"Our government has the right strategy and we're making progress," he said.

The Gravette native pointed to the three areas formerly under his purview the commission reported as having had "some progress," the highest grade given in any category in the status report.

The commission said "some progress" has been made in terrorist travel intelligence, developing a biometric entry-exit system and standardizing secure identifications.

The full status report can be seen at http://www.9-11pdp.org/press/2005-09-14_report.pdf.

In his remarks to the builders, Hutchinson acknowledged the fortunate timing in leaving Homeland Security earlier this year, calling it "one of those times when you didn't stay too long."

Americans Sour On FEMA (WSJ)

By John Harwood, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

Americans sour on FEMA but want to restore its independence.

By two to one, a new Wall Street Journal/NBC News poll shows, the public holds an unfavorable view of FEMA after criticism of its Katrina response. But by 61%-20%, respondents echo Democrats like Sen. Clinton who say FEMA should be autonomous, as in her husband's presidency, not part of Homeland Security; majorities of conservatives and Republicans agree. (See poll results.1)

"It took a class 4 hurricane to...[move] a polarized electorate," say Journal/NBC pollsters Peter Hart and Bill McInturff. They liken erosion in Bush's ratings to Reagan's Iran-contra dip, and say Katrina's costs and link to gas prices make the effect unlikely to fade soon.

Homeland Security chief Chertoff's 17% negative rating exceeds his 13% positive, but 50% don't know him.

BLACKS AND WHITES agree on Bush-era progress in race relations.

Despite divide in Katrina reactions, 32% of blacks and whites say race relations have improved over the past five years. Just one in 10 say relations have gotten worse; 56% of both groups say they've stayed the same.

Ten years ago, amid affirmative action fights, both races were more likely to see deterioration. Bush aides search for Roberts-style woman to succeed Supreme Court Justice O'Connor; Attorney General Gonzales, who'd be the first Hispanic pick,

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and PepsiCo lawyer Larry Thompson, an African-American, are also contenders. But pluralities of women and Hispanics say Bush should disregard diversity and consider only "the best person."

ECONOMISTS SHARE public wariness of the hurricane's impact.

The 45% of Americans who say the economy has gotten worse in the past year matches assessments in spring 2003 amid job-loss concerns. Two-thirds see a big economic hit from Katrina, tracking forecasters' expectation of diminished employment and growth in coming months.

Fed next week weighs interrupting interest-rate increases; Wall Street bets no. Members of National Association of Business Economists, by 3-to-1, hail monetary policy as just right but call the deficit -- swelling because of Katrina -- "too stimulative."

Concern over gas prices is highest among young people; 40% of those under 35 call it the top economic issue.

THOUGH BUSH has taken a softer line toward the United Nations, Americans aren't feeling conciliatory. Two-thirds say they lack confidence in the world body, up from half, a decade ago. The survey's margin of error is 3.1 percentage points.

TRULY NEEDY? After winning a $250 million FEMA contract to use three ships for Katrina relief, Carnival Cruise Lines gets skeptical initial response to request that Congress exempt the proceeds from federal taxes. Separately, a White House aide dismisses rolling back jet-fuel taxes in response to post-hurricane price jumps, saying, "Our focus is on bailing out the French Quarter, not the airlines."

RED AND BLUE: Republicans are three times as likely as Democrats to cite looting in New Orleans as a top Katrina concern; Democrats were six times as likely to cite treatment of poor people. But partisans on both sides agree city residents stuck at the Convention Center and Superdome couldn't help it and shouldn't be blamed.

SELECTIVE IMPACT: Despite FEMA's woes, Katrina hasn't shifted confidence in federal government generally. Some 31% say Washington can be trusted to do the right thing at least most of the time, matching a June Gallup survey. After 9/11, confidence in Washington surged.

REPUBLICANS HOPE to dodge disaster fallout.

The party's ratings are unchanged from July, even as Bush slips; each party draws positive ratings from 37% of Americans. But Democrats' 32% negative mark is nine percentage points lower. Minority leader Reid launches online organizing drive next week linking activists with Democratic Senate campaigns.

Congress draws weak 29% approval rating, though that's not as bad as the 15% lawmakers received amid Perot's outsider 1992 candidacy. Some House Republicans look to shelve Social Security debate, but costs of Iraq war remain a cloud over 2006 midterm elections.

"We better continue to hit our benchmarks" for stable democracy there, says ex-Republican Gov. Engler of Michigan.

MINOR MEMOS: After Roberts's strong Judiciary Committee performance, Engler jokes, "He should be the stand-in for whoever we need confirmed" for any post.....Yet Roberts's 32% positive rating pales next to 83% for the Red Cross amid Katrina.

FCC Plans $211M To Rebuild Communications Cash Will Come From Universal Service Fund (USAT)

By Paul Davidson

USA Today, September 16, 2005

Federal regulators said Thursday that the government will spend $211 million to help rebuild communications links for those affected by Hurricane Katrina and will find ways to better protect such systems.

“We need to determine how we can help companies strengthen our communications infrastructure, create more robust and reliable networks, and improve the ability to quickly restore service when disaster does strike,” Federal Communications Commission chief Kevin Martin said at a special agency meeting in Atlanta to assess the effects of the storm.

Katrina knocked out landline and cellphone service for millions in Louisiana, Mississippi and Alabama, hobbled police radio communications and wiped out 911 emergency service in many areas.

The absence of those vital links made it difficult for survivors to find relatives and for public-safety and emergency rescue officials to talk to each other, hampering their response.

The $211 million will come from the $6 billion-a-year universal service fund, which is financed by a 10.2% surcharge on every customer's long-distance bill.

Among other things, the fund subsidizes phone service for the indigent, helps bring Internet access to schools and improves communications systems for rural health care providers. Here's how the $211 million will be spent:

·About $51 million of the $750 million low-income program will provide wireless phones and 300 free minutes for needy evacuees and others still without phone service. The program also will pay to reconnect customers' landline phones.

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·About $132 million of the $2.25 billion "E-Rate" fund will help reconnect schools and libraries to the Internet.

·About $28 million of the $50 million rural health care program will help providers such as the American Red Cross better treat disaster victims. Special linkups, for example, let doctors get X-rays remotely over high-speed Internet lines.

Martin also said he will appoint a panel to recommend ways to improve communication among public-safety agencies during disasters. The FCC also will create a bureau to promote more reliable crisis communications for police, fire and national security agencies.

After the hurricane, various public-safety agencies often could not communicate because their radio systems operate on different frequencies.

At the meeting, industry officials reported dramatic progress in fixing phone lines and radio and TV stations.

About 305,000 BellSouth customers remain without phone service, many of them in the New Orleans area, down from 2.4 million. It could take months to completely restore service. About 75% of cellphone service has been restored.

Thirty-nine radio stations, seven Louisiana TV stations and 10 cable systems are still not operating.

FCC Seeks Crisis-Response Changes (WSJ)

By Amy Schatz And Christopher Rhoads, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

ATLANTA -- The Federal Communications Commission, after seeing how communications systems broke down after Hurricane Katrina despite four years of attempted improvements, proposed changes that would allow it to take a larger role in coordinating emergency communications and restoring telephone services.

The agency, which held a three-hour meeting at BellSouth Corp.'s emergency-response center here, also proposed releasing $211 million from the Universal Service Fund, which subsidizes phone services in rural areas and pays for school Internet connections. The money would be devoted to helping schools rebuild Internet connections and providing free wireless phones for hurricane evacuees. Phone companies also would be allowed to use money they normally receive from the fund to rebuild networks along the Gulf Coast.

Such a move is welcome news to phone companies in the region. BellSouth estimates it could cost between $400 million and $600 million to replace ruined equipment in the three-state area hit hardest by the hurricane.

Hurricane Katrina has raised questions about just how much more robust and secure the nation's telecommunications network has become since the Sept. 11, 2001, terrorist attacks. Many of the same problems -- no power, no phone service and first responders unable to communicate with each other -- happened again. No single federal agency has responsibility to lead the effort, but FCC Chairman Kevin Martin's proposals yesterday suggested what could become a broader move away by other agencies from relying as heavily on leadership from the Department of Homeland Security.

Under Mr. Martin's proposals -- which require full FCC approval and, in some cases, congressional backing -- the FCC would be reorganized to include a new Public Safety/Homeland Security Bureau. The FCC also would assemble an independent panel to examine what happened to the phone networks and communications between first responders and how they might be improved.

During emergencies, the FCC gathers information about outages and assists the Federal Emergency Management Agency in coordinating help. After Hurricane Katrina, FCC staff remained on call 24 hours a day so phone services could be more quickly restored.

Mr. Martin is proposing that the FCC take a greater role than just helping to free up radio frequencies for first responders -- by helping to set interoperability standards and providing guidance for communities that are upgrading two-way radio equipment.

The responses to the Sept. 11 attacks and to Hurricane Katrina showed that the biggest problem facing emergency communications is so-called interoperability, or the capacity for responders to communicate with each other regardless of the type of equipment.

This was apparent to Laurie Feagans, the emergency-management director of Manatee County, Fla., when her team aided Hancock County, Miss. -- one of the hardest-hit areas of the storm -- after Hurricane Katrina. Not only was the Hancock County emergency-operations center without any form of communication, but even with her satellite phones, Ms. Feagans was unable to contact the Mississippi emergency-operations center, she said.

Similar talk was heard after Sept. 11 -- and scant progress has been made since then.

Write to Amy Schatz at Amy.Schatz@wsj.com6 and Christopher Rhoads at christopher.rhoads@wsj.com7

F.C.C. Chief Offers Plan to Get Phones to Hurricane Victims (NYT)

By KEN BELSON

The New York Times, September 16, 2005

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ATLANTA, Sept. 15 - Kevin J. Martin, the chairman of the Federal Communications Commission, proposed on Thursday spending $211 million to provide phone and data services to consumers, schools and hospitals affected by Hurricane Katrina.

The money would come from the Universal Service Fund, which provides about $6.5 billion a year to support access to telecommunications services for rural and low-income consumers, as well as schools and libraries.

The proposal, made at an F.C.C. meeting here, would give evacuees cellphones and 300 free minutes and help customers reconnect their phone lines. Money would also be made available to schools, libraries, health organizations and relief agencies like the Red Cross to rebuild their phone and Internet connections.

Mr. Martin also proposed establishing a committee within the next two weeks to review the hurricane's impact on the region's telecommunications network, and assess what could be done to avert problems in future storms.

For instance, wireless service failed in many areas after the storm not just because 1,000 cellular towers were damaged, but also because of damage to the networks that connect the cell towers and landlines.

"The lesson from the storm is how connected all these networks are," Mr. Martin said. "No part of the network can be effective in isolation. We're all reliant on each other."

Industry executives testifying at the meeting, which was held at the office of BellSouth, the biggest phone provider in the Southeast, said that while phone companies have made steady progress repairing their networks in Louisiana, Mississippi and Alabama, much still needs to be done.

Steve Largent, the chief executive of CTIA, a wireless industry trade group, said, "As an industry, we have never seen an event like this."

As of Thursday, 305,100 phone lines of the 4.9 million that BellSouth operates in the three-state area were still out of commission. One-quarter of the cellular sites were still not functioning, said Ken Moran, the director of the F.C.C.'s Office of Homeland Security. And seven television stations in Louisiana are still off the air, he said.

BellSouth said last week that it expected to spend up to $600 million to repair offices and networks damaged by Hurricane Katrina. By comparison, the company spent $200 million last year to restore equipment and service after four hurricanes hit the Southeast.

"It will take some additional time to understand the magnitude of the damage," said Ron Odom, the president of network services at BellSouth.

BellSouth said 11,000 telephone poles and 26,000 lengths of cable were knocked down by the storm. Of the 578 switching stations that BellSouth operates in the three states, just 16 were out of service on Thursday.

Mr. Odom, like many of the industry executives who testified, said that one of the biggest impediments to restoring telecommunications services and radio and television broadcasts was the lack of electricity.

Though many companies had backup generators that took over when electricity was knocked out, refueling the generators was difficult because of flooding and people shooting at supply trucks, executives said.

New Lines Of Communication (WP)

By Jonathan Krim, Washington Post Staff Writer

The Washington Post, September 16, 2005

As crews rush to restore basic telephone and Internet services to areas ravaged by Hurricane Katrina, some executives, academics and analysts are urging a more ambitious approach: Make New Orleans and the surrounding areas super-connected communities, with advanced services that surpass what is available anywhere in the country, if not the world.

With many poles and wires reduced to sticks and spaghetti, cell towers down, miles of streets still flooded, and parts of the region uninhabitable for the near future, these experts see the perfect opportunity to deploy new systems that otherwise might be too expensive or disruptive to build.

The result, they say, could be a bonanza of higher technology at lower prices for businesses and consumers, more robust emergency-responder systems and an ability to provide high-speed Internet access to poorer segments of the population often left off of the information highway.

"The area ought to be a beacon for 21st-century communications in the United States," said Rey Ramsey, chief executive of One Economy Corp., a nonprofit organization that helps bring high-speed Internet service to inner-city communities. "We ought to go state of the art, and state of the art with a purpose."

Ramsey, who also is chairman of Habitat for Humanity International, said recreating New Orleans as a technology and communications mecca could be a key to its revival, drawing back shuttered businesses that are considering relocating and attracting new ones.

In addition, he said, "there needs to be an intentional effort to make sure that these benefits extend to poor people directly."

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The Federal Communications Commission yesterday announced a series of steps and proposed funding to help get the region's system running again.

And a broad hurricane-relief bill being drafted by Sen. Mary Landrieu (D-La.) would earmark money to help low- and middle-income residents and businesses buy or lease computers and get access to high-speed Internet access at affordable prices.

But for several executives and analysts in the telecommunications world, that would be just a small beginning, though they acknowledge that their ideas are best-case and might never be enacted.

Sky Dayton, who founded Internet provider EarthLink Inc. and more recently has focused on wireless ventures, said the area need not bother reconnecting all its downed lines and should instead rely on existing cellular networks and additional systems known as WiFi and WiMax, which provide high-speed Internet access.

Dayton said the cost of such a network would be relatively low -- "a rounding error in the context of rebuilding a city." A series of small, electronic devices on top of buildings or lampposts and take signals from central towers and push them around to houses, offices or other "hot spots."

Such networks can also deliver Internet-based telephone service.

Several municipalities around the country have launched, or are considering building, government-owned or -operated wireless-Internet networks, so lower-income citizens can access the Internet more affordably. Those efforts have met with fierce opposition from the major telephone companies, which have successfully lobbied in several states for laws prohibiting governments from operating such networks if they compete with private industry.

Dayton, who heads a consortium between Earthlink and SK Telecom Co., a leading mobile-communications firm in South Korea, said municipal wireless-Internet networks should be public-private partnerships.

Jeffrey A. Citron, chief executive of Vonage Holdings Corp., a leading provider of Internet phone service, sees an opportunity built less around alternative technologies and more around opening up competition.

"I'd come up with a plan for a trenching system" for major thoroughfares in New Orleans while the city is largely empty and undergoing repairs, he said. High-speed, fiber-optic cables are hugely expensive to lay, so the dominant phone companies have typically been the only ones to do so.

Citron said the city could dig the trenches and make them available, for suitable fees to help cover construction costs, to any carrier that wanted to lay cables to provide services -- including voice, digital television and Internet access.

With more companies potentially competing, Citron said, prices would come down.

Bill Smith, chief technology officer for BellSouth Corp., the Gulf Coast's primary phone carrier, paused for several seconds when presented with this idea.

"I would say that might not make sense for us" if too many competitors meant the percentage of the pie for each was too low, he said.

Smith said BellSouth is committed to rebuilding with an eye toward providing state-of-the-art technology that is largely Internet-based.

The company hopes, for example, to one day let consumers set their home video recorders from their cell phones.

Alexander H. Good, chief executive of Mobile Satellite Ventures LP of Reston, said satellite technology, in addition to other systems, would provide a more disaster-proof communication system for emergency responders, including police, fire and medical personnel.

He said his company is readying two new satellites with new capabilities. Although the satellites service the entire country, they could be pointed to a particular area in an emergency to provided expanded service.

Anthony Townsend, research director at the Institute for the Future in California, pointed out that many of those high-flown ideas could run up against a fundamental problem: The services rely on electricity, which often goes out during such disasters. The nation must focus on finding more flexible ways of distributing power, he said.

Mississippi Sues To Make Insurers Pay Flood Claims (WSJ)

By Theo Francis, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

Mississippi Attorney General Jim Hood filed suit against five big insurers in that state yesterday, unleashing protest throughout the industry as he seeks to force the companies to pay for flood damage from Hurricane Katrina despite flooding exclusions in standard homeowners' policies.

The suit, filed in state court in Jackson, seeks to override the exclusions. It comes as tens of thousands of Gulf Coast property owners struggle with the cost of rebuilding homes damaged by the wall of water that surged with the hurricane Aug. 29. Standard homeowners' policies typically cover wind and other storm damage, but not flood damage. Flood damage is covered

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by a government-backed flood-insurance program, but fewer than one in four Mississippi properties in areas most at risk of flooding are insured through the federal program.

"You can't provide free flood insurance by rewriting contracts," said Jane Boisseau, a New Orleans native and co-chair of the insurance practice for law firm LeBoeuf, Lamb, Greene & MacRae LLP in New York, which represents many insurers. A spokesman for State Farm Mutual Insurance Cos., the nation's largest home and auto insurer, said the attorney general's move "threatens the foundation of the economy of the state" by attempting to undercut legal contracts. The insurers maintain they never collected any premium money from customers to cover flood damage.

Still, fighting the suit could be a public-relations problem. The U.S. insurance industry is in robust financial health, with more than $400 billion in capital. Also, the industry is legendary for lobbying clout and has a track record defending its contracts, which are approved by state regulators.

The lawsuit throws into sharp relief concerns that have increased as the extent of Katrina's destruction -- estimated at as much as $125 billion, with up to $60 billion covered by insurance -- has become clearer. Homeowners without government flood insurance typically must rebuild on their own or with low-interest government loans and limited grants. Complaints that smaller insurers are delaying and denying payments have begun mounting.

Besides State Farm, Mr. Hood's lawsuit names as defendants units of Allstate Corp., Mississippi Farm Bureau Mutual Insurance Cos., United Services Automobile Association, and Nationwide Mutual Insurance Co. The companies together last year wrote about 70% of Mississippi homeowners' policies. Companies that could be reached for comment yesterday generally said they hadn't seen the lawsuit but expected to prevail.

The suit seeks to void flood exclusions, arguing they are "unconscionable," unreasonably favorable to insurers and a "violation of the public policy of Mississippi."

The suit argues that policyholders bought insurance to protect property against hurricanes with the "reasonable expectation" it would cover flood and other water damage. It accuses insurers of deceptive trade practices. The suit argues that Mississippi law and court precedent require insurers to pay according to the original cause of damage, and that flooding from Katrina was caused by the storm and its high winds.

The suit argues the policies deprive policyholders of "meaningful choice."

Language in policies excluding flood and water damage is typically broad. One Gulf Coast policy form excludes coverage for "water damage," defined as "flood, surface water, waves, tidal water, overflow of a body of water, or spray from any of these, whether or not driven by wind."

Allstate's general counsel, Michael J. McCabe, said the company expects Mr. Hood's challenge to fail, in part because state regulators approved the contracts, "but while it's being adjudicated, it will delay and complicate the process." He said Allstate is paying covered losses "fairly and as swiftly as humanly possibly." Of the insurers sued, only Allstate is publicly traded; the rest are owned by policyholders.

A spokesman for Mississippi Farm Bureau called the suit "amazing" and said it "will take a long time to settle." Nationwide said that it is "deeply disappointed" by the lawsuit, and that voiding flood exclusions would hurt policyholders nationally.

A spokesman for USAA said that, while sympathetic to Gulf Coast residents who didn't buy flood insurance, "we cannot compromise the interests of our members who have covered losses by being forced to pay for uncovered losses."

Mr. Hood's lawsuit seeks to prevent any insurer from requiring policyholders to sign documents acknowledging flood or water damage to receive claim payments. In its statement, Nationwide said any suggestion that it had done this was "unfounded."

Write to Theo Francis at theo.francis@wsj.com3

Mississippi Sues Insurers Over Damage From Storm (NYT)

By JENNIFER BAYOT

The New York Times, September 16, 2005

Mississippi sued the state's property-casualty insurers yesterday in an attempt to compel them to pay for a greater share of the damage wrought by Hurricane Katrina, firing a legal salvo that could drive away insurance providers even as it gives hope to homeowners displaced by the storm.

In a civil complaint filed in Chancery Court in Jackson, the Mississippi attorney general, Jim Hood, accused insurers of selling confusing policies that fell short of homeowners' reasonable expectations of coverage.

Mr. Hood argued that because property owners "purchased these policies for the primary purpose of insuring against any and all hurricane damage," insurers should be liable for property damage caused by flooding - a hazard long excluded from traditional homeowner policies.

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He is seeking a temporary restraining order to prevent companies from denying or reducing coverage based on water exclusions, or from asking property owners to sign documents stating that their loss was caused by water rather than wind. He said that people were being offered $3,000 in living expenses if they signed such forms.

"If they sign this form," Mr. Hood said, "they are giving up their rights. What the insurance companies are trying to do is lock them into saying it was flood damage."

Insurers said yesterday that the lawsuit threatened the viability of insurance coverage in Mississippi because it suggested that contracts were perpetually open to revision. They also protested that they were being asked to cover damage for which they had never collected premiums.

"Basically, it's changing the rules of the game during the game - after the game has been agreed to and approved by the state itself," said Michael J. McCabe, Allstate's chief legal officer.

Richard Ludke, a spokesman at State Farm, said the lawsuit threatened "to undermine the insurance industry's financial stability, and its ability to respond not only to its obligation rising out of Katrina but its ability to respond to other claims."

He added, "In essence, the attorney general is challenging the validity of contracts in Mississippi."

Strictly speaking, only the relatively few homeowners who bought separate flood policies from the federal government are entitled to such coverage. In Harrison County, Miss., where Gulfport and Biloxi were leveled, fewer than one in 12 homeowners did, according to federal data.

The Mississippi lawsuit seeks to turn that arrangement on its head at a time when far more policyholders appear to have been affected by flooding than after previous hurricanes. Storm surges like those that overwhelmed Gulfport and Biloxi are typically considered flooding rather than wind-driven; the flood damage in New Orleans has yet to be assessed.

Flood insurance for homeowners has been handled by the federal government since 1968, and several lawsuits since then have made arguments similar to Mr. Hood's and failed, said Mitchell L. Lathrop, of the law firm of Duane Morris, who specializes in reinsurance and insurance law.

"I think he's absolutely wrong because the flood exclusion has been a prominent part of property policies since at least the 1980's," Mr. Lathrop said.

Richard Scruggs, a Mississippi lawyer who played a leading role in a $250 billion settlement against the tobacco industry, said that he planned to file suits on behalf of thousands of Gulf Coast residents, demanding that insurance companies pay for flood damage. He said he already had 200 to 300 homeowners as clients and planned to file individual lawsuits next week.

Pension Plan Rules Relaxed

WASHINGTON, Sept. 15 (Dow Jones) - Companies that sponsor 401(k)'s and similar retirement plans can make loans and other "hardship distributions" to Hurricane Katrina victims, the Treasury Department and the Internal Revenue Service said Thursday.

The statement came as the House and the Senate passed tax-relief legislation for victims of the storm, which will allow penalty-free withdrawals from individual retirement accounts.

The Treasury and the I.R.S. said employees with 401(k) accounts as well as those at public schools and tax-exempt groups with 403(b) tax-sheltered annuities might be eligible for streamlined loan procedures and liberalized hardship distributions from their retirement plans.

These advantages may also apply to state and local government employees with certain "457 deferred-compensation plans."

The loans or hardship withdrawals must be made by March 31, 2006.

Joseph B. Treaster contributed reporting for this article.

Lawsuit Accuses Insurers Of Excluding Storm-surge Coverage Policies Unclear Sometimes (USAT)

By Kathy Chu

USA Today, September 16, 2005

Mississippi Attorney General Jim Hood sued five insurance companies Thursday to force them to pay for storm-surge damage related to Hurricane Katrina.

The complaint, filed in Hinds County Chancery Court, claims that Allstate, State Farm, Nationwide, USAA and Mississippi Farm Bureau policies “attempt to exclude coverage for storm-surge damage” caused by the hurricane.

This is “an unfair or deceptive trade practice” under state law, Hood says. Hood also asked for a temporary restraining order to prevent insurers from paying policyholders to get them to sign waivers saying they have flood damage.

Homeowners' policies typically cover wind and sometimes wind-driven rain damage. Government-issued insurance covers flood damage. What's unclear is whether hurricane-caused storm surges are covered by homeowners' policies.

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Insurers are expected to pay up to $60 billion in hurricane damages, with total economic damages likely exceeding $125 billion, Risk Management Solutions says.

Insurers say storm-surge damage is the same as flood damage. “Insurers have never collected a penny in flood-insurance premiums,” says Robert Hartwig of the Insurance Information Institute, an industry trade group. “If they're forced to pay, it could quite possibly be destabilizing and lead to the insolvency of smaller insurers in the area.”

Hood's move is unusual because it is out of step with the Mississippi Insurance Department. George Dale, the state's insurance commissioner, has warned insurers that when it's unclear how the damage was caused, the decision should favor policyholders. But he stopped short of saying insurers should cover hurricane storm-surge damage.

For years, insurance companies have said flood damage isn't covered under their policies, even if it results from an insured event such as a hurricane. A typical homeowner's policy, provided by the Mississippi Insurance Department, says this is the case “regardless of any other cause or event contributing concurrently or in any sequence to the loss.”

Hood says insurers don't mention storm surges. “I'm not going to allow an insurance company to bankrupt half of the families, businesses here … by pointing to the fine print that says that they should have known that our hurricane policy doesn't cover storm surge.”

State Farm says the lawsuit threatens to undermine the industry's ability to meet its Katrina obligations and respond to other claims in Mississippi and elsewhere. Allstate says it's “unfortunate that a lawsuit has been filed so early in the recovery process.” Nationwide says it's “deeply disappointed.” USAA says it can't let its members pay for “uncovered losses.”

The Louisiana attorney general's office says it's not planning a lawsuit. In Alabama, the attorney general's office says it's “premature” to talk about a lawsuit.

Programs Retrain Displaced Workers Hurricane Survivors Are Being Matched With New Jobs (USAT)

By Jon Swartz

USA Today, September 16, 2005

JACKSON, Miss. — Thousands of workers displaced in the hurricane-ravaged Gulf Coast are being retrained in new programs stretching from Louisiana to Texas and Mississippi.

The programs are designed to find jobs for those forced to relocate or whose employers suspended operations, say state officials in Louisiana and Texas.

Many of the job seekers are likely to be placed in fields such as construction, health care, energy and cleanup, says Barton Smith, director of the Institute for Regional Forecasting at the University of Houston. Because many of them previously worked at casinos, retail shops and logging companies, they need to be trained, he says.

Community and technical colleges in Louisiana this week started a job-training program to match and prepare evacuees with jobs in construction, plumbing, welding and hazardous waste removal.

“We need as many people as possible to help rebuild the New Orleans area and at the same time get them work,” says Jim Henderson, senior vice president of workforce development and training at the Louisiana Community & Technical College System.

The federally funded program will probably operate out of 10 community and technical colleges, adult-education centers and mobile computer centers, Henderson says. Under the program, individuals are initially trained for a few weeks before receiving on-the-job training and apprenticeships.

“We'll work in any area that helps rebuild the city. I'll pick up the trash,” says Michaela Reid, 32, a former tour guide in the French Quarter. She, husband Andrew, 36, and their two children are staying in Austin but plan to return to New Orleans next week. The couple would like to train for jobs in computer science and law enforcement.

The city of Houston, a major gathering spot for evacuees, on Monday announced a major job fair to connect hurricane victims with local employers in the health care and energy fields, among other industries. An estimated 10,000 to 20,000 of the evacuees are likely to look for jobs in Houston, says the University of Houston's Smith.

The Texas Workforce Commission says it will receive a $75 million emergency grant from the U.S. Labor Department to help fund job-training and relocation programs.

Here in Jackson, state officials are offering job-placement services through the Workforce Investment Act, a 7-year-old federal program. A partnership with local employers provides on-the-job training, says Ross Tucker, vice president of MetroJackson Chamber of Commerce.

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Many of the displaced are from storm-damaged towns on the Gulf Coast and in southern Mississippi, 150 miles to 200 miles away, and need jobs. And most of the jobs here are in government, health care and automotive — a far cry from the coast, where gaming, tourism and timber are the big industries.

Meanwhile, local businesses are hiring and training. D&D Construction in nearby Ridgeland, Miss., has hired a handful of people to build homes. Those without experience will be taught on the job, owner Daniel Phillips says. "This doesn't take a college degree."

In their haste to find work for the displaced, state officials say they must carefully balance their needs with those of the unemployed already in their regions.

"It's difficult to give one person an advantage over another because they were displaced by the hurricane," says Angela Griffin, branch director at Jackson Main Job Center, a state agency assisting the displaced. "Someone locally may have lost their job, too, because their business shut down because of the hurricane."

Displaced Health Care Workers Being Courted Areas With Shortages Advertising To Hire (USAT)

By Julie Appleby

USA Today, September 16, 2005

Displaced health care workers from New Orleans and the Gulf Coast are being lured with signing bonuses, relocation assistance and other perks by hospitals, doctor offices and clinics nationwide.

Classified ads in Gulf Coast newspapers and on websites encourage nurses, therapists, doctors and other health care workers to consider new jobs, either permanently or temporarily.

A shortage of medical workers in many parts of the USA almost guarantees that workers who leave the hurricane-battered areas will find work.

What's more difficult to know is whether the health care workers who accept new jobs will return.

"Recruiters are swooping down on Louisiana," says William Schumacher, who runs a Louisiana-based firm that provides medical staff to hospital emergency departments and is trying to keep doctors in the state. "My fear is that we are going to wake up three months from now when all the volunteers are gone, and there won't be enough staff."

The choice is tough for health care workers. Many are without jobs or income. Recruiters say they are helping, not poaching.

"Even if we didn't exist, these nurses and health professionals would go somewhere else because they have to," says Alan Braynin, CEO of Access Nurses, a San Diego-based staffing agency.

Braynin says temporary nursing positions, which generally last 13 weeks, are ideal for displaced workers.

"We can make the process simple for them to leave, but also to come back," says Braynin.

Some placement firms and companies seeking workers are offering only temp jobs; others are flexible.

San Luis Valley Regional Medical Center, a 59-bed hospital in rural Colorado, is advertising for nurses, physical therapists and radiation technicians for either permanent or temporary positions.

"This is our way we can help those people who have had so much devastation in their lives," says hospital spokesman Leonard Snow. "If they want to stay one month or four months, we'd be happy to accommodate them. If they like it here, we'll help them stay."

For some, the first question is: Should they leave? Amy Grace, an obstetrician/gynecologist who finished her residency and joined a five-doctor practice in New Orleans two months ago, is undecided. She doesn't know when she can return to the city or how many patients will come back. Yet, if she moves to another state, it could take her three to six months to get her license.

"My mind changes from hour to hour," says Grace, who is staying with family in Birmingham, Ala. "One minute I say, 'Yes, I'm going back.' And the next, I think, 'What happens when the next hurricane comes?' "

Katrina's Unsung Victims (WP)

By Jennifer Moses

The Washington Post, September 16, 2005

BATON ROUGE, La. -- I keep seeing pictures of the president with his shirt-sleeves rolled up, surveying the damage to New Orleans. But I wonder if he has any idea just who the folks are who have been displaced by Hurricane Katrina. I ask because here in Baton Rouge we keep hearing about the desperately poor, and sometimes criminal, hordes Katrina has washed up on the shores of decent, hardworking, middle-class America: the (mainly black) gangs from the projects who, even during normal times, wreaked havoc on their fellow citizens, not to mention the merely poor -- teen mothers, drug addicts, the chronically unemployed.

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But the shelter in which I've been volunteering tells a different story. At the convention center downtown, where the Red Cross is serving hundreds of evacuees, public schoolteachers sleeping in Area 2-C tutor the children of their "neighbors" in 2-B; teenage boys in high-tops and low-riding pants bring snacks to the people in wheelchairs; and, last Sunday, men whose paths had never crossed before sat huddled together watching giant television screens, rooting for the Saints and trading jokes.

Indeed, an aura of normality and order pervades even this bizarre community, built of rows and rows of folding canvas cots, donated bed linens and garbage bags filled with other people's castoff clothing, and peopled by the young and old, black and white, American-born and foreign-born: a United Nations of languages, a stew of stories.

The good news is that, aside from chronic shortages of underwear and canvas bags, people's physical needs are being taken care of, thanks largely to the thousands of Red Cross volunteers and others from all over the country and the world. We have one such volunteer, from London, staying at our house through October. Yet once the immediate crisis ends, "our" volunteer, and others like her, will be going home, as will the hundreds of journalists who, since Katrina hit, can boast that they can locate Baton Rouge on a map.

But what's Mike going to do? Mike is a fifth-generation Cajun New Orleanian. He's worked on the river barges his entire adult life. "I rode out Hugo," he said as he sat on his cot, an expression of pure bewilderment on his deeply lined face. "And I rode out Andrew, and both times we got back on our feet, but this time things is different." His house, his car and all of his belongings are gone; worse, he has virtually no savings and only the most minimal insurance.

And then there's Lydia, a middle-aged black woman who told me that just before the storm hit, the youngest of her five children graduated with honors from the University of New Orleans, joining her four older siblings in the ranks of college graduates. Lydia has worked as a special education aide in the New Orleans public schools for 25 years and two weeks, and so far this month she hasn't seen a dime from either the state or Uncle Sam. Her house? Underwater. Her savings? Nonexistent, all her extra pennies having gone toward her kids' educations.

John is a young man with striking, movie-star looks who arrived at the shelter alone, as his wife had died in the storm. He cried in my arms. Bruce is a retired professor of comparative literature. Randolph is a cook who'd worked for decades at the New Orleans fairgrounds and then at Mike Anderson's, a popular seafood restaurant. Barry and Sylvia had a landscaping business.

Not one of them has a home to go back to, investments to fall back on, or much in the way of savings or insurance. No pension funds; no IRAs; no stocks or bonds or country club memberships or family compounds in Maine or vacations in Europe or facelifts or Pilates classes or an opportunity to go back to school and finally get that doctorate in philosophy or the history of art.

What I'm learning in the shelters is that it's not just the poor who have no place to go and no place to fall back on; it's also ordinary working people who in better times might have been counted as part of the middle class, too.

Where are my new friends going to go?

Jennifer Moses is a writer who grew up in McLean and has lived in Baton Rouge for 10 years.

New Orleans Residents Return Home (WSJ)

By Christopher Cooper, Shawn Young, And Betsy Mckay, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

Some New Orleans residents returned to their homes and businesses to begin cleaning up the damage left by Hurricane Katrina, and Mayor Ray Nagin said large swaths of the city would be reopened starting tomorrow.

Yesterday's announcement by the mayor amounted to an abandonment of efforts to persuade thousands of holdouts still in the battered city to leave. A New Orleans police spokesman said no one hunkered down in a home nearly three weeks after the storm hit would be forced out despite the lack of power and drinkable water in many parts of the city.

It isn't clear how many of the 180,000 residents -- roughly a third of the city's population -- allowed to return to their New Orleans neighborhoods will want to endure unpleasant living conditions ranging from piles of rotting food to a dearth of basic services. New Orleans public schools remain closed, and the school system has run out of money to pay teachers beyond the day before Katrina hit.

Still, Mr. Nagin's declaration showed that New Orleans is starting to recover much sooner than expected. Signs of recovery were evident yesterday throughout the French Quarter, where residents piled garbage along streets and said they were able to proceed through checkpoints without showing identification or special permits issued by city officials.

Business owners will be allowed to return to the French Quarter, central business district and other sections of New Orleans starting tomorrow. Algiers, a neighborhood of about 50,000 across the Mississippi River from the French Quarter, will reopen to residents Monday, followed later next week by areas that include the historic Garden District. French Quarter residents will be allowed to return Sept. 26.

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In an interview, Mr. Nagin said he has "the final say" in deciding when it is safe for residents to return. "The health people are saying they are not seeing any significant risks."

The influx of returning residents worries some federal public-health and environmental officials, who have found high levels of lead in the water and sewage-related bacteria. Air-quality tests have found no significant levels of contaminants, according to the Environmental Protection Agency.

Write to Christopher Cooper at christopher.cooper@wsj.com3, Shawn Young at shawn.young@wsj.com4 and Betsy McKay at betsy.mckay@wsj.com5

City's Coming Back, But Not To Normal Life (USAT)

By Laura Parker And Alan Levin

USA Today, September 16, 2005

NEW ORLEANS — The city of New Orleans will reopen four unflooded neighborhoods, including the bawdy, historic French Quarter, to businesses and residents beginning this weekend.

"It is a good day in New Orleans. The sun is shining. We're bringing the city of New Orleans back. This is the first step," Mayor Ray Nagin said. "The city of New Orleans … will start to breathe again."

The death toll from Hurricane Katrina in five states stood at 794 people, 558 of them in Louisiana.

Although nearly half of New Orleans is still flooded, Nagin said he was allowing people to return over the coming week to large sections of the city that are dry. Nagin said about 180,000 people could return home to a city that held about 460,000 before Katrina hit.

"We will have life," he said. "We will have commerce. We will have people getting into … the rhythm that makes this city so unique."

The Army Corps of Engineers said that, barring rainfall, the city will be drained by Oct. 2.

Most of the city has electricity. But city water is largely undrinkable, schools remain shut, and thousands of waterlogged homes need to be pulled down and rebuilt. Levees need repairs, and a nighttime curfew will be in effect to hold down crime.

Those who return should not expect much, city officials said.

"Just because the electricity is going, it doesn't mean that all the gas stations are open," mayoral executive assistant Greg Mefert said. "The residents need to have very realistic expectations of how the city is functioning, and they can't expect complete normality and to go about their normal day."

Meanwhile, Mississippi was struggling to deal with the needs of hundreds of thousands of people whose homes were devastated by Katrina. FEMA said two-thirds of the homes in six coastal counties are uninhabitable. Mississippi sued insurance companies to force them to pay for storm-surge damage; many policies include provisions that exclude losses from floods.

The National Oceanic and Atmospheric Administration said Thursday that its analysis showed Katrina was the most destructive storm ever to strike the USA. Its maximum winds of 175 mph were slightly lower than Camille in 1969, but the huge size of Katrina made for much worse destruction.

The Coast Guard said Katrina may have spilled 7 million gallons of oil from facilities in southeastern Louisiana — two-thirds the amount spilled from the Exxon Valdez in Alaska 16 years ago.

'We Will Have Life,' Mayor Promises (WP)

By Peter Whoriskey, Washington Post Staff Writer

The Washington Post, September 16, 2005

NEW ORLEANS, Sept. 15 -- The city of New Orleans will begin to reopen this weekend, Mayor C. Ray Nagin announced on Thursday, the first step toward reversing the unprecedented evacuation and closure of a modern American city.

The city has been largely shuttered, abandoned and militarized since the floods from Hurricane Katrina, but by the weekend, owners of shops, restaurants and other businesses may return to the portions of New Orleans that remained relatively dry, Nagin said. And by Monday, the first residents may begin to filter into the city neighborhood known as Algiers. Residents of Uptown and the French Quarter will follow.

The reentry plan will repopulate areas that, before the storm, were home to 182,000 people, or about a third of the city's residents.

"We will have life, we will have commerce, we will have people getting back into their normal modes of operation and the normal rhythm of the city of New Orleans that is so unique," Nagin said.

Formidable challenges remain, however, even for that third of the population that may return.

Authorities warned residents not to drink or bathe in the water in most of the city because contaminated floodwaters are seeping into waterlines through major breaks. The 911 emergency-call system is not fully operational. Even in the least affected

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areas, thousands of homes are without power, and the lack of traffic lights has led to accidents among some of the emergency vehicles rolling through city streets.

Asked whether the reentry plan may be premature, Nagin said, "I'm getting all kinds of push that I'm moving a little too slow."

Some residents have already begun sneaking into the city to assess the damage or retrieve clothes. A few have been pleasantly surprised.

Amanda Zirkenbach, 28, returned to her "shotgun double" home in the Mid-City section of New Orleans. With its fancy porch and balustrades, it is typical of many older homes in a city where as many as 37,000 buildings are in historic districts. It is also raised about five feet above the ground.

"The water just came up to the top of the front steps," she said of the home once occupied by her grandparents. "Those old architects knew what they were doing. They built them up higher because they didn't have the modern levees to protect us."

The news could be worse for other portions of the city, some of which may remain underwater until early October, authorities said. Of the 160,000 homes in the city, it is not known how many were destroyed by the flooding.

Nagin said he estimates that about 60,000 may be beyond repair. That could leave tens of thousands of former residents in shelters far away from home for months and possibly longer.

Viewed from the street, hundreds of homes that had been underwater and have since dried show little damage aside from the mud and a waterline. Elsewhere, old wood-frame houses apparently floated in the flood, smashed into one another and splintered. Experts say the structural integrity of many homes may have been undermined, and officials note that the worst damage may be in those homes that have been inundated for two weeks or more.

An official of the U.S. Army Corps of Engineers said on Thursday that downtown New Orleans will be clear of floodwaters by Oct. 2, and the eastern part of the city by Sept. 30 -- which is a week earlier than previous estimates. Plaquemines and St. Bernard parishes south and east of the city are also expected to be clear of floodwaters by the end of this month, earlier than predicted.

Col. Duane Gapinski said pumps are removing about 7 billion gallons of floodwater a day, although about 45 percent of the city remains inundated. Another official said the Corps has removed 240,000 cubic yards of debris.

Unsure whether businesspeople will return in large enough numbers to serve the residents, Nagin said he has contacted three major businesses about the possibility of temporarily setting up shop in the city's Convention Center and providing food and other necessities.

Health care is another concern, with floodwaters containing dangerous amounts of bacteria.

Nagin said Children's Hospital will be open for emergencies. But Brian Landry, a hospital vice president, said it will likely be a couple of weeks before the Uptown hospital could open its doors.

Landry said staff members who had evacuated will have to be brought back.

Aside from worries that damaged homes could collapse on returnees, another key concern for city officials is law and order.

Nagin touted the fact that, with the emptying of the city, it is "crime-free and drug-free" for the first time in years. "The bad guys have been rooted out," he said.

Authorities said they will do what they can to keep out the criminals who had plagued the city for years. They said the city will initially be under a dusk-to-dawn curfew.

Even though the New Orleans police force has dwindled from 1,750 to 1,350 officers since Hurricane Katrina, Police Superintendent P. Edwin Compass III expressed confidence Thursday that the diminished force could handle the task. "We have a much smaller city to police," he said.

The National Oceanic and Atmospheric Administration said Thursday that Hurricane Katrina was the most destructive storm to strike the United States, the Associated Press reported. State and local officials said the death toll as of Thursday was 558 in Louisiana and 218 in Mississippi.

Staff writers David Brown in New Orleans and Ceci Connolly in Baton Rouge, La., contributed to this report.

Mayor Announces Plan To Allow Residents To Return (LAT)

By Nicholas Riccardi And Ashley Powers, Times Staff Writers

The Los Angeles Times, September 16, 2005

NEW ORLEANS -- Declaring that his flood-scarred, depopulated town "will breathe again," New Orleans Mayor C. Ray Nagin said Thursday that the city's historic French Quarter, downtown business district and other viable neighborhoods would reopen under a phased plan starting this weekend.

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Defying predictions that the city would stagnate for months until essential services were restored, authorities decided to allow residents and businesses to begin returning to their homes under a staggered resettlement plan.

As many as 180,000 residents displaced by Hurricane Katrina will eventually be allowed to move back into homes and apartments that escaped overwhelming flood and storm damage, the mayor said.

"It is a good day in New Orleans," Nagin said during a televised news conference. "The sun is shining. We're bringing New Orleans back. This is our first step. We are opening up this city and almost 200,000 residents will be able to come back and get this city going once again."

The move will quickly revitalize many of the city's iconic, picturesque sections: the iron-gated balconies and neon-lit strip joints of the French Quarter, the whitewashed Civil War mansions of the Garden District and the hotels and office towers of the Central Business District.

But even as he hailed his city's semi-return, Nagin also acknowledged that dwellings that housed half of the city's 450,000 residents will have to be razed. "Most of the homes that were flooded that stayed in the water for a number of weeks will most likely be destroyed," Nagin said.

Under a plan approved by Nagin and by state and federal officials, business owners will re-enter this weekend. Residents will follow, returning to lightly damaged west bank and central city neighborhoods next week and then to the French Quarter a week from Monday.

"We will have life," Nagin said. "We will have commerce. We will have people getting into their normal modes of operation, and the normal rhythm of the city of New Orleans."

The decision to open large swaths of New Orleans followed the rapid retreat of floodwaters that still cover 40 percent of the city, and swift progress by repair crews in restoring electricity and water service.

The tipping point, Nagin said, was good news that came in a recent round of government-conducted environmental tests. The results showed that remaining floodwaters still contain dangerous bacteria and chemicals, but that the city's air is safe to breathe.

The water, Nagin said, is "not good for you to drink or bathe in, just for flushing and firefighting. We're working feverishly to make sure the water quality gets better. We still have a couple of major breaks and contaminated water that is seeping in through the leaks."

Nagin gave a nod to state officials and to the Federal Emergency Management Agency, whose officials he had blasted a week before for failing to move quickly to aid the city. At his side Thursday was Coast Guard Vice Adm. Thad W. Allen, who took over the federal relief effort from former FEMA director Michael D. Brown, who resigned on Monday.

"There has been an uncommon display of unity among federal, state and local folks to put together a re-entry plan," Allen said.

Nagin acknowledged that the city's returning population will not surpass 250,000 until the city replaces thousands of flooded and water-eroded homes -- a massive project that planners and officials say could take years.

A woman who identified herself as a resident of the Lower 9th Ward stepped up and asked Nagin when she could return to her neighborhood, where floodwaters receded only in the last several days.

"Water was up to the roof (in that area) up until three days ago," Nagin replied. "That's most likely the area that will be opened up on the back end" of the city's rebuilding effort.

In Baton Rouge, New Orleans evacuee George Richardson, 40, brightened at the thought of returning home. "Like in `The Wizard of Oz,' if I could clap my heels, I'd be home. If I had three wishes, that'd be one of them," said Richardson, a pathologist who has been sheltered since the flood at the Baton Rouge River Center.

Those returning to their homes in the next several weeks will do so at the risk of new flooding, a U.S. Army Corps of Engineers director said Thursday. Multiple breaches of the levees guarding Lake Pontchartrain will not be completely repaired until next June, said Daniel Hitchings, a regional business director for the Corps' Mississippi Valley Division.

Riccardi reported from New Orleans and Powers from Baton Rouge. Times staff writers Stephen Braun in Washington, Tony Perry in Houston and Ralph Vartabedian in New Orleans contributed to this report.

New Orleans To Open Some Neighborhoods (NYT)

By William Yardley

The New York Times, September 16, 2005

NEW ORLEANS, Sept. 15 - More than two weeks after Hurricane Katrina devastated this city and prompted a mass evacuation, Mayor C. Ray Nagin announced a plan on Thursday for as many as 180,000 residents and business owners to return - at least during the daylight hours.

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Mayor Nagin, emphasizing that city services are still minimal, said that residents in certain areas could return to collect belongings and assess damage to their property but that they would be asked to leave at the end of each day.

The tentative re-entry plan calls for residents to be allowed into the Algiers neighborhood by the weekend. Uptown would be accessible by the middle of next week and the French Quarter on Sept. 26. The city's downtown and the other three areas will be open to business owners over the weekend. All are areas that suffered less damage from the storm. But, city officials said, the schedules may change.

"Our strategy is to repopulate the city in the safest areas first and to get enough critical mass going so that the economics of this center city start to flow," Mayor Nagin said. "Then, simultaneously, we will be involved in probably the biggest urban reconstruction project in the country's history."

But the mayor and other officials conceded that the details of how the plan would work remained unclear.

City Attorney Sherry S. Landry acknowledged that some residents might try to stay, and she said those who were out on the streets after dusk might be escorted from the city by military personnel.

Mayor Nagin said he hoped to have a computer system at entry points to track re-entering residents by Social Security number, date of birth and address. "Everybody's going to want to come," he said.

On Thursday, as the death toll from the storm statewide rose to 558, few traffic lights were working. Most water was undrinkable. A makeshift 911 system was still being run by the military. Floodwaters and sludge remained a health risk.

Power was being restored in some areas that are part of the plan, but not in others.

Still, the tentative re-entry plan was one of several signs that conditions were improving. In Houston, the Astrodome, which on Sept. 4 housed 17,500 evacuees, was vacated on Thursday. Many of its remaining 779 inhabitants were moved a short distance across a parking lot to Reliant Arena, part of the same complex. Other evacuees were moved out of the complex to residences.

The people remaining in another part in the complex, Reliant Center, are to be moved on Friday into the Arena, officials said.

In New Orleans, Mayor Nagin said that as many as half of the city's 160,000 homes might have to be destroyed, but that electricity is being restored rapidly to areas that can be saved, and minimal hospital and emergency services will soon be available.

The re-entry announcement came as officials of the Army Corps of Engineer warned that even in a moderate storm the repaired levees might not prevent new flooding.

Daniel Hitchings, regional business director of the Mississippi Valley Division of the Corps of Engineers, said the levees would be repaired to their prestorm standard by next June - in time for the 2006 hurricane season.

Mr. Hitchings said that water might breach some levees during a new rainstorm but that the flooding would not be "life threatening." Some houses in New Orleans, he pointed out, flood even "in a two-inch storm."

Mr. Hitchings said that Mayor Nagin had been briefed about the possibility of new flooding. Rainfall has been uncommonly low since the storm, allowing the Corps of Engineers to drain floodwaters faster than it expected.

Experts have met in Vicksburg, Miss., to consider how to armor the city against any hurricanes that might head for the damaged city.

One stopgap measure mentioned by some in the Corps of Engineers would create a wall atop the earth levees by driving corrugated metal into the soil and then capping the protruding metal with concrete.

After residents move into less damaged areas, Mayor Nagin said, those from heavily damaged areas, like the Lower Ninth Ward, will be given first preference to return. The government will "make sure that there are places for them," he added.

While returning residents may find a city vastly different from the one they fled, crime is now essentially nonexistent, the mayor said. "This city for the first time that anyone can probably imagine is drug free and violence free, and we are intent on keeping that way," the mayor said.

Parts Of New Orleans Will Be Reopened (WT/AP)

By Brett Martel, Associated Press

The Washington Times, September 16, 2005

NEW ORLEANS -- Mayor C. Ray Nagin yesterday said large parts of the city will reopen in the next two weeks, including the French Quarter, a plan that would allow about 38 percent of the population to return beginning Monday.

"We will have life. We will have commerce. We will have people getting into their normal modes of operations and the normal rhythm of the city of New Orleans that is so unique," Mr. Nagin said.

The return of residents to areas that suffered little or no flooding and were among the least-damaged parts of the city will mark the beginning of what federal officials predict will be the biggest urban reconstruction project in U.S. history.

"I imagine building a city so original, so unique that everybody's going to want to come," said Mr. Nagin, who predicted that half of the city's nearly half-million population would return in the next three to six months.

President Bush, several hours later in a prime-time address from the French Quarter's Jackson Square, vowed to rebuild the Gulf Coast, primarily with federal money, estimated at $200 billion or beyond.

"This great city will rise again," Mr. Bush said.

The re-population of the city would proceed by ZIP code, starting Monday in the Algiers section, a Creole-influenced neighborhood across the Mississippi River from the French Quarter. The city's Uptown section, which includes the Garden District's leafy streets and antebellum mansions, will open in stages next Wednesday and Friday.

The French Quarter -- the very heart and soul of the city's rollicking tourism industry -- will follow on Sept. 26.

"The French Quarter is high and dry, and we feel as though it has good electricity capabilities," the mayor said, "but since it's so historic, we want to double- and triple-check before we fire up all electricity in there to make sure that, because every building is so close, that if a fire breaks out, we won't lose a significant amount of what we cherish in this city."

The announcement came amid progress in restoring power and water service and the day after the release of government tests showing that the floodwaters still contain dangerous bacteria and industrial chemicals, but that the air is safe to breathe.

Mr. Nagin said there should be power in areas where people will be allowed back, an area where about 182,000 of the city's 485,000 residents live. But the water will be good only for flushing toilets, not for drinking and bathing, and there will be a dusk-to-dawn curfew.

Major retailers will use the city's convention center, where people fleeing floodwaters endured days of despair before help arrived, as a makeshift mall to sell returning residents food, wood and other things they will need.

Despite the good news, large sections of New Orleans remained accessible only by boat, and corpses could still be seen out in the open. In flooded streets near the University of New Orleans' campus along Lake Pontchartrain, two bodies were seen floating facedown, and the decomposed corpse of one woman was sprawled on the top step of a church, her skin wrinkled and leathery, her cane lying beside her.

Across five Gulf Coast states, the death toll from Katrina stood at 794, led by 558 in Louisiana.

In the hard-hit Ninth Ward, National Guard Col. Michael Thompson said his troops have seen the bodies of several people who had been killed.

"I've got a lot of police officers on my staff, and they recognize the signs of it. You'd see the entry wound of the bullet and the exit wound," Col. Thompson said. "So it was obvious that something had taken place other than natural death."

He said the two biggest challenges facing his troops were aggressive dogs and poor sanitation. He said pit bulls left behind by evacuating residents have formed packs and were attacking soldiers. One soldier was forced to shoot a dog that attacked him, he said.

Meanwhile, the Army Corps of Engineers said it is getting water pumped out of eastern New Orleans and nearby parishes faster than expected, and most of the area should be dry by the end of this month -- about a week earlier than estimated.

Tourism brings $10 billion to New Orleans annually and accounts for about 15 percent of the city's jobs. The city relies heavily on the dollars that tourists and conventioneers spend in the French Quarter's cafes, strip bars, jazz clubs, restaurants and stores. The dollars also feed the Quarter's cast of characters -- the street musicians, mime artists, palm readers, hot dog vendors, street artists.

Word of the reopening raised spirits in the neighborhood.

"There's no reason why this area shouldn't have been taken care of already -- it's where the money is," said Frank Redmond, who helps run a small French Quarter bar called Evelyn's Place. "If you want to get people back to work, get this area open, and the tourists, the curiosity-seekers, will want to come back and see what happened."

In other developments:

·Mr. Nagin asked mayors across the United States to take censuses of displaced New Orleans residents so the city knows where they are and can communicate with them about reconstruction.

·A total of 482 trailers have been delivered to chemical, natural gas and oil refineries in southwestern Louisiana, authorities said. Workers will live in them while they get the equipment running again.

·Thousands of hurricane survivors who took shelter in the Houston Astrodome packed their possessions yesterday and moved to the Reliant Center, a smaller building, where officials sought to consolidate the dwindling number of refugees who still don't have permanent housing.

About 3,600 remained in Houston's four main shelters, down from a high of 27,100.

Some Of The Uprooted Won't Go Home Again (WP)

By Richard Morin And Lisa Rein, Washington Post Staff Writers

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The Washington Post, September 16, 2005

HOUSTON, Sept. 15 -- Fewer than half of all New Orleans evacuees living in emergency shelters here said they will move back home, while two-thirds of those who want to relocate planned to settle permanently in the Houston area, according to a survey by The Washington Post, the Henry J. Kaiser Family Foundation and the Harvard School of Public Health.

The wide-ranging poll found that these survivors of Hurricane Katrina and its aftermath remain physically and emotionally battered but unbroken. They praised God and the U.S. Coast Guard for saving them, but two weeks after the storm, nearly half still sought word about missing loved ones or close friends who may not have been as lucky.

Most already know they have no home left to return to. The overwhelming majority lack insurance to cover their losses. Few have bank checking accounts, savings accounts or credit cards that work. Still, nearly nine in 10 said they were "hopeful" about the future. And while half said they felt depressed about what lies ahead, just a third said they were afraid.

"I'm setting goals for myself, and I'm ready to conquer them," said Lakisha Morris, 30, who was plucked from her roof and spent two nights outdoors on an interstate highway before boarding a bus for Houston. She said she wants to start her own business in this city, possibly day care for the children of fellow evacuees.

The poll vividly documents the immediate and dramatic changes that Hurricane Katrina has brought to two major American cities. It also suggests that what may be occurring is a massive -- and, perhaps, permanent -- transfer of a block of poor people from one city to another. That may have social, economic and political consequences that will be felt for decades, if not generations, in both communities.

Forty-three percent of these evacuees planned to return to New Orleans, the survey found. But just as many -- 44 percent -- said they will settle somewhere else, while the remainder were unsure. Many of those who were planning to return said they will be looking to buy or rent somewhere other than where they lived. Overall, only one in four said they plan to move back into their old homes, the poll found.

Some cannot wait. "Every morning I wake up and pray for them to say we can go back to New Orleans," said Lynette Toca, 26, a homemaker with two young sons who had never been outside her city before they drove to Houston the Saturday before the hurricane swept through on Aug. 29.

According to the poll, most of those who did not plan to go back to New Orleans are already living in their new hometown. Fully two in three of the 44 percent who will not return said they plan to permanently relocate in the Houston area, the city that now is home to about 125,000 New Orleans evacuees.

A total of 680 randomly selected evacuees living temporarily in the Astrodome, Reliant Center and George R. Brown Convention Center, as well as five Red Cross shelters in the Houston area, were interviewed Sept. 10 to 12 for this Post-Kaiser-Harvard survey. More than 8,000 evacuees were living in these facilities and awaiting transfer to other housing when the interviewing was conducted.

More than nine in 10 of these evacuees said they were residents of New Orleans, while the remainder said they were from the surrounding area or elsewhere in Louisiana. The margin of sampling error for the overall results is plus or minus four percentage points. Potential differences between these evacuees and those not living in shelters or those who lived elsewhere in the affected Gulf Coast region make it impossible to conclude that these results accurately reflect the views of all Gulf Coast residents displaced by Katrina.

The Post-Kaiser-Harvard poll suggests these evacuees will start their lives with virtually nothing. Seven in 10 currently do not have a savings or checking account. Just as many have no usable credit cards.

Missing, too, from their lives are the vital support networks of relatives and friends that have temporarily absorbed the bulk of those who fled the Gulf Coast storm zone: Eight in 10 said they have no one that they can stay with until they get back on their feet.

The poll suggests that the story of these evacuees is not merely about how little they were left with -- it is also about how fragile their lives were even before the storm hit. Together, the findings suggest the long-term challenges posed by the evacuees to local and state governments already cutting back services to their neediest citizens.

According to the poll, six in 10 evacuees had family incomes of less than $20,000 last year. Half have children younger than 18. One in eight was unemployed when the storm hit. Seven in 10 said they have no insurance to cover their losses. Fully half have no health insurance. Four in 10 suffer from heart disease, diabetes, high blood pressure or are physically disabled.

When illness or injury strike, they were twice as likely to say they had sought care from hospitals such as the New Orleans Charity Hospital than from either a family doctor or health clinic -- needs for costly services that now will be transferred to hospitals in the Houston area or wherever these evacuees eventually settle.

This survey suggests some of these emergency shelters may be forced to shelter evacuees for weeks and months, or perhaps longer. While half expected to be relocated to an apartment, house or with a volunteer family within a few days, one in five expected to be living in an emergency shelter for at least a few more weeks. Indeed, Houston officials said this week that

they have delayed their goal of emptying the temporary shelters by this coming weekend, in part because so many of the remaining evacuees lack resources to set up households on their own.

The survey also provides disquieting clues as to why so many residents remained in New Orleans to face Hurricane Katrina despite orders to evacuate. A third of those who stayed said they never heard the mandatory order to evacuate issued by the mayor the day before the storm hit. Somewhat fewer -- 28 percent -- said they heard the order but did not understand what they were to do. Thirty-six percent acknowledged they heard the order, understood it but did not leave. In hindsight, 56 percent said they could have evacuated, while 42 percent said it was impossible.

Bad decisions, bad luck or sheer stubbornness kept many in town. More than a third said the single biggest reason they did not leave was that they thought the storm would not be as bad as it was, or they decided too late to flee. One in 10 simply did not want to leave. Slightly fewer stayed behind to protect their homes from damage or theft. A handful said they did not want to leave pets.

Angie Oneal, 44, a housekeeper from the Sixth Ward, heard the warnings to leave on her radio. But she stayed to protect her belongings.

"I said to myself, if we went through Bessie, I thought we could go through Katrina," Oneal said. "I thought it was just going to pass over." She worried about the new TV, computer and bedroom set she had just bought.

The days immediately after the storm but before they were evacuated to Houston were filled with terror, pain and uncertainty.

A third of the interviewees said they had been trapped in their homes and had to be rescued; four in 10 said they spent at least a day living outdoors on the street. Four in 10 were rescued by the Coast Guard, the National Guard, police officers or firefighters. Still, half said friends or neighbors helped them to safety (25 percent) or they managed to reach safe havens on their own (24 percent).

A majority said there was a time when they were without food or water. A third were trapped in the city without their prescription drugs. One in five managed to survive the storm, only to be threatened or assaulted by other survivors in the chaos that followed Katrina.

Religious faith has sustained the respondents through their worst days in New Orleans and now during their time in Houston. Eight in 10 said their faith was very important during the past two weeks. Remarkably, 81 percent said the ordeal has strengthened their belief, while only 4 percent said it weakened it.

"We say, God did this for a reason, to clean up the shootings and murders that have become New Orleans," said Dorothy Stukes, 54, a school security officer from Jefferson Parish who said she spent "four days of hell" in the Louisiana Superdome. "Ninety-five percent of us are good people, but now God is going to take care of those that are not."

While the hurricane drew most New Orleans evacuees closer to God, it further estranged many from their government and political leaders. Three-quarters agreed that the response was too slow "and there's no excuse." Seven in 10 disapproved of the way President Bush has handled the recovery effort. But majorities were also critical of Louisiana Gov. Kathleen Babineaux Blanco (58 percent) and New Orleans Mayor C. Ray Nagin (53 percent). Overall, six in 10 said the initially sluggish government response has made them feel that "government doesn't care" about people like them, according to the poll.

Assistant polling director Claudia Deane contributed to this report.

For Evacuees At Shelter, An Uncertain Next Step (WP)

By Kevin Merida, Washington Post Staff Writer

The Washington Post, September 16, 2005

DALLAS, Sept. 15 -- The Dallas Convention Center has been a strange but comforting replacement neighborhood for those whose real 'hoods were drowned by Katrina. Here, the miserable and the hopeful, thrown together by common circumstance, have been trying to sort out their futures.

The sorting has taken place in a gigantic parking garage-turned-shelter run by the American Red Cross. Many of the evacuees who have been living under bright fluorescent ceiling lights, their belongings stacked on cots and air mattresses, have never faced so many life choices so fast. Do I stay in the Dallas area or leave? If I take this apartment, will I be able to afford it in five months? If I take a job in the suburbs, how difficult will it be to get to work and back?

"It's like we-the-people versus an unknown," explains Melvin Hewitt, a Service Employees International Union rep from the Gentilly area of New Orleans.

The enemy is now the unfamiliar, the struggle one of the mind. Some evacuees are restless and desperate to construct new lives, and others are still processing the tragedy -- five days on an overpass, three days on a roof, alligators in the water, bodies floating by. They need a much longer respite from worry so they can heal.

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Peggy Lodge, who was folding donated clothes one late afternoon, separating summer from winter garments, said she wouldn't mind staying at the convention center for a year. "See, I got flashbacks now," said Lodge, a janitor on disability.

She was rescued by helicopter from the balcony of her mid-city New Orleans home, and now the sounds of a whirring chopper spook her. A helicopter sighting outside the convention center the other day spurred her to run back inside. "I can't deal with helicopters no more," she said, her voice cracking, her mama sitting nearby. "They came too late for us, they came too late."

Texas officials estimate their state has absorbed more than 200,000 Gulf Coast hurricane survivors, the majority of whom have scattered to apartments and hotels, churches and private homes. But approximately 20,000 remain in convention centers and sports arenas, the last resort for those who had nowhere else to turn or haven't yet decided where they belong.

In Dallas, however, time is running out for shelter residents. A coalition of city, church and business leaders is working furiously to implement an ambitious plan to place all of the convention center's inhabitants in housing by Sunday, to be celebrated by a Mardi Gras-style festival downtown. As of Thursday, the convention center's shelter population had dwindled to 200, from 1,500 a week earlier. Bishop T.D. Jakes, one of the nation's most prominent ministers and a key organizer of the effort, is calling it "Project Exodus."

The plan was hatched last week over a dinner at the home of Dallas Mayor Laura Miller. Among the guests were Jakes and New Orleans Mayor C. Ray Nagin. Under the plan, shelter residents would be provided two months' free rent -- including utilities -- in an apartment or single-family home. They would be relocated close to public transportation and be given a package of basic household items -- pots and dishes, linens and towels. A host family would be assigned to ease their transition. 7-Eleven is selling Mardi Gras beads for a buck to raise money for the relocation. Kroger, the grocery chain, has agreed to donate gift cards.

But many shelter residents aren't so eager to go, as Project Exodus volunteers are discovering. The volunteers, in their hot-pink T-shirts, set up a table at the shelter but encountered some trepidation: Where exactly is Duncanville? What's it like in Pleasant Grove? Thus, some evacuees are simply being transferred to another shelter down the street. In fact, the shelter population at Reunion Arena, the city's indefinite way station, has doubled in two days -- from 300 to 600.

"They coming up with everything trying to get us out quick," said Debra Johnson of Uptown New Orleans who is traveling with two children, a husband, a sister-in-law and three nieces. "I don't know nothing about Dallas." Even though she's uneasy, she's willing to give Project Exodus a shot. "I feel like we came here from the Superdome, we've recuperated and it's time to move on," she said. "If I can survive the Superdome, I can survive anything."

What distinguishes the denizens of the shelter from other evacuees is they set up a community of their own in a building. There were hair-braiding sessions and card games, and one man even organized an outdoor barbecue. Informal leaders emerged to challenge the elected ones. When Nagin showed up at the shelter last week, it was union rep Hewitt who asked him some tough questions.

It's a surreal little world, though, living in a space roped off by yellow police tape, the living quarters marked by numbers on pillars, the pillars serving as de facto addresses, as in: I'm staying up at pole 82. Come check me out. Showers were taken outside, by schedule, in a hazmat decontamination tent. A line the length of two city blocks sometimes formed for a grilled-chicken dinner.

A social structure formed around six big-screen television sets. One TV was reserved for news, another for cartoons and other children's programming. The shelter's teenagers and twentysomethings commandeered another set -- must keep current with their pop culture, meaning must see the new videos of Kanye West and Omarion.

Gilbert King, a teacher's aide from St. Bernard Parish who was frustrated with the programming choices, tried unsuccessfully for several days to get a cable line run to a TV that was donated to him. "A lot of these people want to watch all this foolishness," complained King, who wanted to watch more public affairs programs. Nonstop movies were shown on a couple of the other televisions. The other day a bootlegged DVD copy of the recently released "Hustle & Flow" surfaced, to the screaming delight of evacuees.

They had everything they needed in this 200,000-square-foot parking garage -- from grief counselors to computers with Internet access. Just no privacy. Public address announcements were constant, as if you were living in an airport terminal. Police officers, Texas National Guardsmen, Red Cross and Federal Emergency Management Agency officials, medics, clergy and an army of volunteers all invaded the evacuees' limited space.

And don't forget the stars. Colin Powell came and so did Jamie Foxx, who served food in the chow line. Mary Hart of "Entertainment Tonight" arrived with a truckload of kiddie surprises from Toys R Us.

Separate from the shelter is a FEMA-run disaster recovery center housed in another hall of the convention center. This is where evacuees come to do serious business. FEMA gives them a checklist with 21 services and agencies to access -- from setting up a post office box to getting free bus passes, from obtaining food stamps to applying for a low-interest federal loan.

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National Travel Systems will arrange for a one-way plane or bus ticket to anywhere. The Internal Revenue Service hands out information about how to amend your 2004 tax return to claim hurricane losses and possibly get a refund.

These large shelters were never intended to be long-term solutions, merely a bridge. But in Dallas, at least, the bridge is about to shut down, forcing some instant decisions by people who are still contending with the awfulness of the past three weeks.

This internal struggle -- What to do? How to feel? Where to go? When to leave? -- was on display the other afternoon in a wandering conversation outside the men's bathroom of the shelter. The two Tyrones -- acquaintances in New Orleans, cot mates in the shelter -- took a squat in a couple of folding chairs.

They had been through the same experience but are of different minds about it.

Tyrone Horton, 39, a forklift driver back home, is focused on finding a job but is proceeding methodically. He has a work prospect in the suburban city of Irving, but he wonders how difficult it will be to get back and forth. He pulls from his pocket a business card from an AmeriSuites representative who offered a free two-week hotel stay.

It was a tempting offer, he admits, a chance to kick back in a real bed with a color television and a private shower. But then what? Without a car, Horton is hesitant to act too fast, feeling like he needs more knowledge of the city first. And yet he recognizes that he needs to get settled somewhere, for his own sanity. "Personally, I just want to get employed. I don't want an idle mind. Sometimes if you don't keep busy, that ain't too good."

The other Tyrone, Tyrone Jenkins, is in a different state -- dispirited, broken. He just sits while Horton is talking, stripping the label off a plastic bottle of Ozark water and then crushing it in his hands. Jenkins, 31, was a construction worker in New Orleans. "I lost a $15,000 car. I lost over $9,000 worth of clothes. I lost $20,000 cash. Now, I ain't got nothing." Jenkins pauses. "I want my car back. I want my clothes back. And I want my cash back."

Jenkins has a mouth full of gold teeth and no smile. He bears a slight resemblance to Mike Tyson. He is wearing Rocawear jeans and a blue-and-gold Rocawear hat, slightly tilted. Most of the clothes he lost in the storm were Rocawear, the hip-hop fashion line associated with rap powerhouses Jay Z and Damon Dash, and that's at the heart of how bummed he is.

But losing $20,000 in cash? That's the most curious of his losses. Jenkins explains that he doesn't believe in banks and had his cash stashed in a big brown grocery bag, hidden in his 2002 Buick LeSabre. Horton listens to Jenkins's story, his eyes conveying the look of utter disbelief. Twenty grand in a brown paper bag? Jenkins goes on: He has a brother on drugs and had to hide his money; otherwise it would've been stolen.

Horton interjects with a dose of common sense. "To say, 'I lost $20,000 and I want it back,' FEMA ain't giving you that back just because you from New Orleans and a victim of the hurricane."

Jenkins is too morose to respond. He has been wearing the same clothes for a week, and when it's suggested that free clothing from the Salvation Army is available, he just scoffs. "How I look walking around in some clothes from the '70s, looking like a hobo?"

Horton, an imposing dude clad in ordinary khaki shorts and a black pullover, has had enough of Jenkins's whining.

"Man, you fault everything," he chides. "Nothing come good from negativity. If you don't have patience, you going to end up at the Dallas County jail -- with no patience."

No response, so Horton tries humor.

"You'll be all right, brother, once you get those Rocawears back. You'll be like Superman."

But Jenkins clearly isn't in a playful mood.

"All jokes aside," Horton says, "we be thankful people. You got people who didn't make it, bro. People in the water. C'mon, man, it's bigger than that."

Jenkins concedes Horton has a point. But that's all he'll say. He just keeps crushing that Ozark water bottle.

New Orleans Neighbor Defends Closing Bridge To Evacuees (LAT)

By Nicholas Riccardi, Times Staff Writer

The Los Angeles Times, September 16, 2005

GRETNA, La. -- Little more than a week after this mostly white suburb became a symbol of callousness for using armed officers to seal one of the last escape routes from New Orleans -- trapping thousands of mostly black evacuees in the flooded city -- the Gretna City Council passed a resolution supporting the police chief's move.

"This wasn't just one man's decision," said Mayor Ronnie Harris on Thursday, as controversy continued about the move. "The whole community backs it."

In the aftermath of Hurricane Katrina, Gretna officers blocked the bridge over the Mississippi River that connects their city to New Orleans, exacerbating the sometimes troubled relationship with their neighbor.

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Gretna (pop. 17,500) is a stubborn blue-collar city, two-thirds white, that prides itself on how quickly its police respond to 911 calls; it warily eyes its neighbor, a two-thirds black city that is also a perennial contender for the murder capital of the United States. .

Deprived of power, water and food for days after Katrina struck, Gretna was suddenly flooded with thousands of people fleeing New Orleans. The smaller town commandeered buses and moved more than 5,000 to a food station miles away. As number of evacuees spilling into Gretna grew, tensions rose. After arsonists set the local mall on fire, Police Chief Arthur Lawson proposed the blockade.

"I realized we couldn't continue, manpower-wise, fuel-wise," Lawson said Thursday. Armed Gretna police, helped by local sheriff's deputies and bridge police, stood guard and turned hundreds of men, women and children back to New Orleans.

Gretna is not the only community that views New Orleans with distrust. Authorities in St. Bernard Parish, to the south, stacked cars to seal the roads from the Crescent City into their parish. But Gretna's decision has become the symbol of the ultimate act of a bad neighbor, gaining notoriety partly from of an account in The Socialist Worker by two San Francisco emergency workers and labor leaders who were part of a crowd turned back by Gretna police.

Gretna officials have been deluged with angry e-mails, accusing them of racism. On Thursday, New Orleans Mayor C. Ray Nagin said Gretna officials "will have to live" with their decision.

"We allowed people to cross ... because they were dying in the convention center," Nagin said. "We made a decision to protect people. ... They made a decision to protect property."

Paul Ribaul, a 37-year-old engineer for a New Orleans television news station and Gretna native, said that residents of Gretna and other suburbs ringing New Orleans share much in common.

"We say we're from New Orleans, but we're a suburb," he said. "The reason we don't live there is we don't like the crime, the politics."

Ribaul and many other Gretna residents praised the decision to close the bridge. "It makes you feel safe to live in a city like that," he said.

Critics have detected a racial motive, heatedly denied by most Gretna residents and city officials. Some residents say privately they're glad the city kept blacks out. Blacks in Gretna say that, though they get along with most of their white neighbors, a few harbor strong prejudices.

Still, Gretna's black residents are also wary of people from New Orleans.

"We don't have as much killing over here as in New Orleans," said Lesley Anne Williams, 42. Williams' mother, a lifelong Gretna resident, nonetheless disapproved of the Police Department's decision.

"They probably had a better chance of survival over here," she said of the refugees who were turned back, "especially with all that shooting" in New Orleans.

When Katrina hit Gretna, about 4,000 to 5,000 of the town's residents did not evacuate. Like New Orleans, Gretna lost power and water after Katrina hit. City officials pleaded for help from the state and FEMA but got no response.

Harris said Thursday he was satisfied that the refugees were turned back and that the bridge stayed closed for several more days.

"We didn't even have enough food here to feed our own residents," Harris said. "We took care of our folks. It's something we had to do."

Times staff writer James Rainey contributed to this story.

Vietnamese Lose All, This Time To Katrina (USAT)

By Aimee Phan

USA Today, September 16, 2005

After years spent working and sacrificing to build a home and community in the USA, many Vietnamese-Americans have become refugees again. For these Vietnamese, this is the second major displacement within their lifetimes. For older people who escaped in the 1954 flight from the north to the south in the war against the French, this is their third mass evacuation.

While most Americans are still grappling with the chaos in the wake of Hurricane Katrina, Vietnamese-Americans have firsthand experience with such catastrophic loss. The almost unbearable prospect of being uprooted to an unfamiliar place, living in detainment camps, starting over from nothing, is all too familiar.

In the early '80s, Vietnamese refugees started settling into enclaves around New Orleans, Biloxi and Mobile, attracted by the familiar humid climate and seeking to earn livings as fishermen and shrimpers. They learned English and passed citizenship requirements. They worked multiple jobs, put children through school and saved money to buy homes. They established businesses, temples and churches. According to the 2000 Census, more than 25,000 Vietnamese lived in Louisiana, nearly 6,000 in Mississippi and about 5,000 in Alabama. They considered these places home when Katrina destroyed everything.

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One advantage in being a former refugee is understanding when help is needed. As news of Katrina's devastation spread, Vietnamese-Americans across the country rallied to contribute to relief efforts. With the help of Vietnamese-language radio stations, newspapers and religious organizations, they donated money, food, supplies and even their homes to evacuees.

About 15,000 Vietnamese have fled to Houston, but instead of heading to the Astrodome, many have sought refuge in Asian-American community centers, churches and temples, straining their resources. Thousands more are expected. There is concern the community might be trying to do too much on its own and that evacuees need government help.

The news media coverage and critique of Katrina response have largely been a black-and-white issue. But the recovery of the Vietnamese-Americans is important too, given their long history of displacement. Their experiences and successes should not be forgotten just because they need to be repeated.

The destruction of 20-30 years of work and progress is still devastating. Starting over from scratch takes time, patience and energy, which right now seems impossible to those still exhausted from Katrina. Still, in the following years, it will happen. Vietnamese-Americans have already proven it's possible.

Aimee Phan is author of We Should Never Meetand an assistant English professor at Washington State University in Pullman, Wash.

Accidents, Infections New Worry, Clinics Say (USAT)

By Anita Manning

USA Today, September 16, 2005

CHALMETTE, La. — Hurricane Katrina hasn't brought widespread epidemics to the region, officials with the federal Centers for Disease Control and Prevention say. “What we've seen is what we would expect,” says Ali Khan, who is directing the CDC's operation in the New Orleans area.

The complaints include accidental injuries and skin or respiratory infections. “Infectious disease outbreaks are not common following hurricanes,” Khan says, and so far, there have been none.

Nevertheless, “The challenge is a lot bigger than in other disasters,” Khan says. “We don't have a lot of experience evacuating a large city with this kind of infrastructure damage.”

Previous hurricanes, however, taught health officials the value of tetanus vaccination and careful hygiene in shelters.

Immediately after Katrina, only three of the 16 hospitals in the New Orleans metropolitan area remained open. With transportation and communications wiped out, medical workers did what they could. Emergency “clinics started to pop up in elementary schools, halls, other stable locations,” CDC epidemiologist Ryan Novak says.

This week, a team from the CDC in Atlanta visited a clinic here in St. Bernard Parish, which Hurricane Katrina hit hard. The clinic is one of 17 such emergency clinics and five hospitals the agency is working with to track trends.

Emergency medical specialist Ken Iserson and a Disaster Medical Assistance Team from Arizona arrived a week after the levees broke. The team of about 30 brought reinforcements to a group of local doctors who had set up a makeshift clinic in a building owned by ExxonMobil. The disaster shut down the company's refinery.

Now, in the midst of the ruined community here, they are serving 20-30 patients a day offering emergency care, immunizations and a pharmacy.

Patients who need more specialized care are airlifted out.

Doctors also care for members of the National Guard, rescue workers, police and firefighters, contractors and ExxonMobil employees.

More than 1,000 shots for hepatitis A, hepatitis B and tetanus have been administered, says Iserson, who is professor of emergency medicine at the University of Arizona Health Sciences Center in Tucson. Patients also come in for medicines for chronic diseases, such as high blood pressure or diabetes.

“We're starting to see our first wound infections,” Iserson told the CDC team of Novak, Micah Milton and Dawn Tuckey.

One surprise for CDC workers, Khan says, is how quickly the city is recovering. Officials expected it would be three to six months before businesses and residents returned, but that process is starting in some areas this weekend.

Among the health concerns returnees may face are molds, which can be harmful to people with weak immune systems or lung problems, and tap water that is contaminated and shouldn't be used for drinking, cooking or bathing. Other risks include gas leaks, live electrical wires and carbon monoxide poisoning caused by improper generator use.

Just over a quarter of those who have been treated in hospitals and clinics have suffered injuries, says Carol Rubin, co-leader of the CDC response.

“For the most part, (the injuries were sustained by emergency) responders, and they're trained,” she says.

When residents start to return to their homes, “we'll definitely see more injuries, with people using chain saws, falling off ladders, getting up on roofs,” Rubin says.

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Hope Turns To Anguish At Intensive-care Unit For Some Severely Ill, There Was No Escape (USAT)

By Robert Davis

USA Today, September 16, 2005

The intensive-care unit at Lindy Boggs Medical Center in New Orleans was devastated. Just 48 hours after Hurricane Katrina struck, the hospital's generators had failed. There was no blood for transfusions and very little medication besides morphine.

One floor below the ICU, a plea had been written on a piece of cardboard: "Patients dying; please be respectful."

Today, the 187-bed hospital is empty; 19 bodies have been removed. But the story of the struggle to stay alive there in the dark days after the hurricane underscores the chaos, anger and desperation that overwhelmed the city.

"You think of a hospital as a place that gives treatment. But it had become kind of a medieval nursing facility. We were just providing comfort to the dying. That's what we were doing," says anesthesiologist James Riopelle, the last of the living to leave. "There was no good solution. There were only bad choices."

What happened on Wednesday, Aug. 31, in the hospital's intensive-care unit — recounted to USA TODAY by the relatives of two transplant patients and two of the last doctors to leave — reveals the horrifying choices and conflicting realities faced by those who stayed, or were left, behind.

For the two critically ill transplant patients and their families, hope quickly turned to horror when they learned that the rescue boats would be evacuating others instead. Ultimately, the two patients did get out after other patients had been evacuated by firefighters. They made it out thanks to two family members who refused to leave them and to a doctor who returned to ferry them out himself with a stolen boat.

"The whole thing," Riopelle says, "was just a big nightmare."

Inside Lindy Boggs that day, doctors began to prepare patients for evacuation, placing cards on each one with one of three letters: "A" meant they could walk out on their own; "B" meant they had medical problems that needed attention; and "C" was condition critical.

Those who got C's — the most desperate for care — were told they would be sent out first.

That all changed, the doctors and family members say, when firefighters from Shreveport, La., arrived and gave hospital staff members new rules for the rescue. The healthiest of the hospital's 120 patients would be evacuated first, the firefighters declared. The most ill or infirm — the C's — would have to remain. For how much longer, no one knew.

"Firefighters are used to trying to save everybody," Shreveport Fire Chief Kelvin Cochran says. "In this case, they were directed to save only those who had a chance of living. In some cases, that meant people who were breathing and had a pulse were left behind because in the assessment of their doctor, they wouldn't make it.

"That was what made it very difficult for the firefighters emotionally."

Thiagarajan Ramcharan, a transplant surgeon, knew that two of his patients, Laticia Young, 28, and Carl LaSalle, 32, had suddenly been moved from the top to the bottom of the evacuation list.

Both were critically ill. LaSalle was recovering from a liver and kidney transplant. Young, who had suffered from an autoimmune disease since she was 12, was considered too sick at that moment to survive a transplant operation, but doctors were trying to stabilize her so she could get a new liver.

"I had to tell them what the situation" was after the evacuation orders changed. "It was the worst thing," says Ramcharan, 35. "Both of these patients were awake. I can't imagine how I told them. I felt bad, and I didn't have an option."

Young's mother, Elaine Bias, and LaSalle's wife, Jessie, refused to leave the patients' rooms. "I said, 'This is wrong,' " Bias says. She had brought her daughter to the hospital and had no intention of leaving her there to die. But Ramcharan told her, "This is out of my hands. There's nothing I can do."

"I was going crazy because I felt that was wrong," says Jessie LaSalle. Looking back, she says, her husband wasn't being treated like he was human.

Bias and LaSalle were connected by fate before Katrina hit. Both were in the intensive-care unit playing the role of patient advocate for their daughter and husband, respectively. Both patients were under the care of the transplant team.

As the storm battered the city on Aug. 29, emergency plans kicked in at area hospitals. Generators powered breathing machines, and plans called for the sickest of the sick to be evacuated first.

Downstairs from the Lindy Boggs ICU, in the hospital's hospice ward, patients with cancer and other terminal diseases were already dying, most of them from heat and dehydration, according to Ramcharan. "Those patients did not have a chance for life at all," he says. He believes the hospice patients account for the bulk of the deaths at Lindy Boggs.

The hospice patients probably died by Tuesday, Aug. 30, Ramcharan says, within 24 hours after the storm knocked out power and sent temperatures in the hospital rising to nearly 100 degrees.

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“They never knew what happened, and they would not have known what was going on,” he says. “They didn't suffer.”

But when the flood walls broke and the waters continued to rise Tuesday, the staff grew alarmed. Rescue crews were busy across the city plucking people in danger of drowning from trees and rooftops. There was no way for hospital staff to call for help, and no help came.

“I don't know if people were aware that there were so many people inside (the hospital),” Ramcharan says. “Every time we stepped out, the water was rising.”

Inside Lindy Boggs, the hospital began to slowly shut down as power, water and replenishments of medical supplies were cut off. “It became a trap,” Riopelle says.

The pharmacy was locked, Ramcharan says, as part of standard evacuation procedure. So the only medication available to the doctors was a stash of morphine that Riopelle says was left available so that pets — about 45 dogs, 15 cats and a pair of guinea pigs brought by staff and patients to ride out the storm — could be euthanized if that became necessary.

Riopelle, 56, chose to care for the pets instead of putting them down, and most of them were rescued alive days later.

But by Wednesday morning, with generators failing and patients facing their third day without medication, blood or basics such as clean sheets, one of the elderly patients in the ICU died.

For Bias and LaSalle, it seemed as if death was creeping toward them. “I saw them body-bagging people,” LaSalle says.

There was one “old patient and I don't know what the problem was,” Ramcharan says. “The morgue in the basement was flooded, so we could not take the patient away. He was there for a while.”

When firefighters in boats arrived at the hospital Wednesday afternoon, the plan was to move some of the patients to a dry spot where helicopters could land. But the Shreveport firefighters said those who were likely to die anyway had to stay behind.

Worse, “they said there was a good chance they would not show up tomorrow depending on orders from higher up,” Ramcharan says.

Doctors and hospital staffers huddled and decided that several of the patients in the ICU, among them Young and LaSalle, would be left behind. LaSalle and another patient were on ventilators to help them breathe. The firefighters said they could not take anyone who could not breathe on their own. Young was bleeding internally.

At one point, Riopelle says, he offered Bias morphine for her daughter in case she was in pain. Bias refused the offer. She and LaSalle say they worried that the morphine might have killed their loved ones.

Riopelle and Ramcharan say the dosage was small and would have caused no harm. But both understand why the women might have feared otherwise. Having already been passed over and with no rescue in sight, the families believed they had been left there to die.

By Wednesday night, with the hospital largely emptied and the air heavy with what LaSalle describes as an “odor of death,” the two women clung to the hospital beds in fear.

“I didn't want to leave him because I knew something bad was going to happen,” LaSalle says of her husband. “I was scared, but I knew the Lord was with us. I kept praying and finally he answered our prayers.”

On Thursday, Sept. 1, Ramcharan and other hospital staffers “borrowed” a boat, siphoned some gasoline from abandoned cars and returned to the ICU to get the patients.

When Ramcharan walked into the intensive-care unit about 11 a.m., LaSalle says, “he told us it was time to go.” The two transplant patients were carried downstairs — with LaSalle, 24, ventilating her husband by squeezing air into his lungs with a plastic bag — and placed into the boat.

Bias realized she had left her Bible upstairs. She asked the rescuers to wait and ran back up to the ICU. As she passed the room where the remaining patient lay, the woman reached out for her.

“It broke my heart,” she says. “If my daughter had been strong enough to walk, I could have carried that old woman out. But I just couldn't. I hated to leave her.”

Ramcharan and the other staffers delivered the patients and their relatives to a dry piece of ground near the local post office that was being used as a helipad.

The doctor took his sick patients to the front of the line. “In the end, he stood by us and got us out of there,” LaSalle says.

The patients landed in Dallas at Baylor University Medical Center, where Carl LaSalle Jr. is now awake and breathing on his own. His condition is improving. Jessie LaSalle says her husband still thinks he's in Louisiana. She blames his disorientation on the trauma of being left to die. They have a daughter, Alicia, who turned 5 on Sept. 6.

Laticia Young is still struggling to survive. Her mother fears she won't live for long without a new liver. Her three children, ages 9, 7 and 6, are staying with other relatives.

The doctors say Elaine Bias and Jessie LaSalle saved the lives of their loved ones by refusing to abandon them.

“I hate to use the word ‘abandon,' but that is what it was,” Ramcharan says, still shaken. He says he has had trouble sleeping since he got out of Lindy Boggs.

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"That was the worst night they ever had, and it was the worst night I had ever faced, too. I was absolutely stunned. Like Laticia's mom and the LaSalles, just like them, I was completely stunned."

Katrina's Impact On The Economy Comes Into View (WSJ)

By Jon E. Hilsenrath, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

Hurricane Katrina's broader impact on the economy is becoming more apparent.

Thousands of individuals displaced by the storm have already filed for unemployment benefits and thousands more are expected, according to a Labor Department report. Meanwhile, gauges of manufacturing activity far from the Gulf of Mexico showed softening early this month, and economists and executives expressed concerns about rising energy costs.

Largely because of gasoline-price increases before Katrina, the Labor Department's latest consumer-price index rose 0.5% in August, pushing it up 3.6% from a year ago, the largest increase in four years. More than 90% of the prices used to compile the report were gathered before the storm struck, meaning steeper increases are likely to come.

Outside of energy, however, prices were up modestly; 0.1% for the month and 2.2% from a year earlier. Excluding both food and energy, the so-called "core" rate of inflation was up a modest 0.1% in August from the month before. Medical-care prices were unchanged, the first time they hadn't risen in nearly 30 years, largely because of a puzzling drop in the price of hospital services.

Taken together, the reports underscored the economy's turbulence since the storm hit at the end of last month. Energy-price increases hadn't been feeding broader inflation before the storm, though pressures seemed to be mounting.

That leaves officials at the Federal Reserve in a challenging spot heading into their meeting next week. They can raise the short-term federal-funds rate, the rate charged on overnight bank loans, for the 11th time in 15 months when they meet on Tuesday to forestall incipient inflation. Or they can pause to further assess the damage left by the storm.

First-time jobless claims rose 71,000 to 398,000, after seasonal adjustments, in the week ended Sept. 10, the Labor Department said. It was the highest level in two years. The department estimated Katrina accounted for 68,000 claims -- and that number is likely to be an underestimate, a department statistician said.

"We know there have been much more claims filed at the state level," he said. The filings were hard to count because of the "unprecedented" volume and "unconventional methods" used by the states to collect layoff claims, he said.

The Federal Reserve Bank of Philadelphia and the Federal Reserve Bank of New York said their indexes of manufacturing activity in the Northeast softened in early September, though they still showed the sector was expanding.

The Philadelphia's Fed index dropped to 2.2 in September from 17.5 in August. In September, 24.4% of the manufacturing executives surveyed in the region said business activity was increasing while 22.2% said it was contracting; the difference of 2.2 percentage points is the basis of the index. The New York Fed's index of manufacturing activity dropped to 17 in September from 23 in August. Projections of activity six months hence also declined, a possible sign of declining confidence, while estimates of the prices paid for materials surged.

In the Philly Fed survey, 86% of those surveyed said energy prices were having a negative effect on orders and production. Just 6% described the effect as "significantly negative." Meanwhile, economists surveyed by the National Association for Business Economics listed soaring energy prices as the nation's top short-run economic problem.

--Joseph Rebello contributed to this article.

Write to Jon E. Hilsenrath at jon.hilsenrath@wsj.com1

Storm Might Be a Factor as Fed Ponders a Rate Rise (NYT)

By EDMUND L. ANDREWS

The New York Times, September 16, 2005

WASHINGTON, Sept. 14 - At least so far, Hurricane Katrina does not appear to have blown the Federal Reserve off course.

As policy makers gear up to decide on interest rates on Tuesday, they are confronting a big short-term shock to the economy but most of the same long-term economic trends that existed before the hurricane.

The economic data for the period before the storm suggested that consumer spending held up despite rising gas prices, that companies were still hiring and that inflation pressures remained a cause for worry.

Many economists expect that trend to resume after a predictable drop in growth as a result of hurricane-related disruptions. On top of that, the Bush administration and Congress are about to rev up the economy with a staggering amount of federal money for relief and reconstruction.

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Many lawmakers are now predicting that the federal cost of Katrina could hit $200 billion - more than 10 times the amount for any other natural disaster. None of that spending, or the tax cuts being rushed through Congress, is likely to be offset by reduced spending in other areas.

It remains possible that the Federal Reserve will refrain from raising short-term interest rates next Tuesday, which would be the first time in 11 meetings that it held rates steady. The best reason to do that would be to wait for more evidence of the impact from the hurricane and the spike in gasoline prices in the last two weeks.

But that would be little more than a pause. Fed officials are likely to repeat past declarations that their policy is "accommodative," meaning that interest rates are still below normal and need to go higher, and they are likely to repeat their desire to raise rates at a "measured" pace.

"The main point is that when they sit down, they will conclude that what we want to do is to continue to remove the accommodative policy," said Peter Kretzmer, senior economist at Bank of America.

Several pieces of new data on Thursday offered the Fed reasons to tread carefully.

Two surveys of manufacturers, by the Federal Reserve banks of Philadelphia and of New York, showed a big drop in new orders and expectations for the months ahead.

The surveys suggested that higher energy prices had begun to reduce expectations.

Asked by the Philadelphia Fed about the impact of energy prices, 58.1 percent of companies said they had had a slightly negative effect and 22.6 percent said they had had a moderately negative effect.

"The manufacturing executives who responded to the survey were significantly less optimistic about future growth this month," said Michael Trebing, a senior analyst at the Philadelphia Fed.

But Mr. Trebing cautioned that the surveys provided limited guidance, noting that the Philadelphia barometer plunged in June and bounced back in July and August.

In a separate report, the Labor Department reported Thursday that the underlying rate of inflation was surprisingly mild in August. Consumer prices jumped 0.5 percent, mostly because of gasoline prices.

The core rate of inflation, excluding food and energy, was only 0.1 percent in August, and those prices were up only 2.1 percent for the year.

Fed officials tend to view jumps in energy prices as one-time events rather than a source of permanent inflation, and a low rate of core inflation is normally a cause for relief.

But many economists predicted on Thursday that high energy prices would lead to higher prices generally, and that core inflation was likely to be much higher in September.

Fed officials were already worried about other sources of inflation, like rising wages and slowing productivity growth, and several policy makers have expressed concern that high energy prices could lead to expectations of higher long-term inflation.

"Rising oil prices, like other unfavorable price shocks, can also feed through and raise underlying core inflation," Michael Moskow, president of the Federal Reserve Bank of Chicago, warned on Sept. 7. "So there is also a risk on the inflation front, and the risk is higher now than it was a year ago."

Ben S. Bernanke, chairman of the White House Council of Economic Advisers and a former Fed governor, predicted on Thursday that Hurricane Katrina would lead to only a temporary slowdown in economic growth and employment.

"Katrina's effects may reduce growth in the short run, but the longer-term growth trajectory remains in place," Mr. Bernanke said in a speech to the National Press Club.

The problem for Fed officials is that the data so far provide no conclusive evidence about the full economic impact of Katrina and the energy price shock.

If the impact on growth is small, a decision to keep interest rates low could aggravate inflation. If high energy prices pinch spending and shatter confidence, higher interest rates could add to the problem.

But as one analyst pointed out, there is nothing the Federal Reserve can do to speed the repair of oil refineries along the Gulf of Mexico or to accelerate job creation for people evacuated from New Orleans.

Gov't Credit Cards For Katrina Draw Fire (AP)

By HOPE YEN, Associated Press Writer

AP, September 16, 2005

WASHINGTON — Lawmakers and watchdog groups worry that allowing federal employees to charge up to $250,000 on their government-issued credit cards for Hurricane Katrina-related expenses will lead to a repeat of past abuses.

Some of the cards in the past were used to pay for prostitutes, gambling activity, even breast implants, government audits have shown.

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"People are concerned this is a risk," said Greg Kutz, managing director of special investigations at the General Accountability Office, which conducts audits at the request of Congress.

About 250,000 federal employees have government credit cards, which typically have a purchase limit of $2,500. At the request of the Bush administration, Congress increased the credit line to $250,000 as part of a massive Katrina recovery bill approved last week. The aim is to make it easier to speed aid to victims.

Senate Finance Committee Chairman Charles Grassley, R-Iowa, said the "outrageous increase" was "slipped" into the bill. He is seeking to insert language in a Katrina health bill that would reduce the limit in most cases to $50,000.

Responding to initial criticism, the White House issued new guidelines this week saying agencies must designate in writing which of their staff will receive the new spending privileges. Purchases of more than $50,000 must be preapproved by a senior manager.

"Substantial financial controls already exist but we are currently looking at what additional protections might be useful. If in working with Congress, agencies, and state and local leaders it is determined that additional safeguards are required, then we'll put them in place," Alex Conant, spokesman for the Office of Management and Budget, said Wednesday.

Critics say the additional oversight is needed because the cards offer special opportunities for abuse.

Purchases are billed directly to the government, making it difficult to recover losses from wayward federal employees intent on fraud because of the time lag from the purchase date to subsequent billing.

Cronyism also is a danger, as officials have more leeway under the higher limit to purchase more expensive supplies from politically connected companies without the benefit of open bidding and competition. Even if they're detected, time-strapped agency directors often don't pursue disciplinary action, according to audit reports.

In recent years, several GAO audits found hundreds of thousands of dollars of improper expenditures at the Pentagon and other agencies, from purchases of remote control helicopters and airline tickets to Palm Pilots and $2,500 flat-panel computer monitors. Someone even bought a dog.

Navy personnel also in 2002 used separate government travel cards to hire prostitutes at brothels, gamble and attend New York Yankees and Los Angeles Lakers games. One civil employee ran up nearly $35,000 in personal expenses over two years, including breast enlargement surgery for his girlfriend.

The GAO has noted improvements in agency oversight since then, including reducing the number of government cards from more than 500,000 to 250,000 to limit the potential for fraud from lower-level government employees. The Pentagon also has said it installed software to help track when potentially suspect purchases are made.

But as recently as last year, the GAO cited continuing oversight problems at the Veterans Health Administration and said it had no way of knowing - without conducting specific audits - whether improvements at other agencies are actually in effect and working.

The concerns prompted Grassley, as well as Senate Homeland Security Committee Chairwoman Susan Collins, R-Maine, and Connecticut Sen. Joe Lieberman, the top Democrat on that committee, last week to urge congressional leaders to officially lower the cap to $50,000 to ensure full compliance.

Collins has also signaled separately she might consider creating a special inspector general to monitor spending and no-bid contracts.

"Imagine the fraud we could see," said Danielle Brian, executive director of the watchdog group Project on Government Oversight, noting that recent abuses involved cards with much smaller purchase limits of $2,500.

"For bigger purchases involved in the rebuilding effort, that should involve competition and serious planning. Instead we have far too many people with far too much access to money without any organization or effective oversight," she said.

Civil Rights Group Urges Freeze On Mortgage Foreclosures For Hurricane Victims (FINDLAW/AP)

By Marcy Gordon, Ap Business Writer

Find Law, September 16, 2005

(AP) - WASHINGTON-As Hurricane Katrina brought into focus the financial plight of many blacks along the Gulf Coast, a leading U.S. civil rights group urged lenders to freeze mortgage foreclosures and suspend late fees on loans for people affected by the hurricane.

"There are a few steps that can and should be taken by all financial institutions to ensure that the people of Louisiana, Mississippi, Alabama and the other areas affected by Katrina are not further victimized and do not suffer further losses," Hilary Shelton of the National Association for the Advancement of Colored People said Wednesday.

Speaking to members of a House Financial Services subcommittee, the director of the NAACP's Washington bureau Shelton, said the civil rights group also was concerned about predatory lenders who "must be circling some of the worst-hit areas, salivating at the potential for abuse" of Katrina's victims.

Alabama Congressman Spencer Bachus, the panel's chairman, said federal banking regulators need to help banks in the disaster zones by relaxing some rules.

The storm's devastating impacts on the poorest communities in the Gulf Coast starkly illustrated the differences in how minorities and whites are treated by banks.

Many poor people lost their cash savings, much of it stashed under mattresses and in teapots. Around the country, many low-income minorities shun banks, have never used an ATM machine or applied for a home mortgage. Often, they turn to storefront payday lenders, which charge high interest.

At all income levels, blacks are far more likely to be given high-cost, "subprime" mortgages than whites, according to a Federal Reserve analysis of home lending data.

Most banks and mortgage lenders in the affected areas are letting customers postpone payments on consumer, commercial and mortgage loans.

In a related development, two key Republican lawmakers announced they had drafted a legislative change that would require some of the profits of mortgage giants Fannie Mae and Freddie Mac to go to financing housing for low-income people in areas hit by Katrina as well as in those where survivors now live. The proposal by Congressmen Michael Oxley of Ohio, and Richard Baker of Louisiana, was being included in legislation before the House to tighten government oversight of the two companies, which together finance more than three-quarters of the home mortgages in the country.

Studies in recent years have shown that a much larger share of black and Hispanic homeowners pays higher interest on their mortgages than do whites in similar circumstances.

The studies have found that disproportionate numbers of blacks and Hispanics have subprime mortgages, which are high-interest loans to homeowners deemed riskier because of tarnished credit histories or other factors. Such home loans are said to be concentrated in minority communities at far higher levels than in white neighborhoods.

The Fed report released Tuesday reviewed home lending data for 2004. It found that percent of blacks and 20 percent of Hispanics got high-interest loans, compared with 9 percent of non-Hispanic whites.

The data did not necessarily indicate widespread discrimination against minorities, the Fed analysts said. The study did not take into account borrowers' credit ratings. Still, even after adjusting for differences in income and location of homes, it found that blacks are nearly twice as likely as whites to get more expensive mortgages.

Bankers from Louisiana and Mississippi who testified at Wednesday's House hearing laid out a list of requests for action by Congress. It included a fund that would allow the government to buy loans of borrowers affected by Katrina who are unable to make payments on them.

A few banks may need direct government aid in addition to remain in business, C.R. "Rusty" Cloutier, president and chief executive officer of MidSouth Bank of Lafayette, Louisiana, told the subcommittee.

"Community banks will be essential to the survival of communities in the affected areas," Cloutier said. "Small businesses will only be able to rebuild if community banks are healthy and able to respond to their needs."

Officials of the Federal Deposit Insurance Corp. have said there could be problems for banks in the region whose customers are unable to repay loans, but the effect would be mitigated when disaster relief kicks in. The banks in the area generally were in a strong financial condition before Katrina hit, regulators and bankers say.

La. Frees Prisoners To Ease Crowding (USAT)

By Thomas Frank

USA Today, September 16, 2005

BATON ROUGE — Kevin Dunkley and Ernest McFadden waited to board a Greyhound bus to Dallas and start a new life.

The two men are among about 1,000 inmates released in the past week by the Louisiana corrections department to ease crowding caused when two large prisons flooded.

All the released inmates had been in a 90-day prison program — suspended last week — for parole- and probation-violators who get extensive counseling while incarcerated. None has a record of violent or sexual crimes, said Cecil Goudeau, program manager for the Louisiana division of probation and parole.

“These were minimum-security people,” Goudeau said. The released inmates will remain on probation or parole and be tested for drug use.

“They were just released to the streets a little earlier,” Goudeau said.

Dunkley, 26, and McFadden, 20, are cousins who have spent their lives in New Orleans. Their nearest relative is in Dallas.

The two men were released Monday from the state prison in Angola, where they had been taken after Hurricane Katrina flooded the prison in New Orleans.

About 8,200 inmates from New Orleans and nearby Jefferson Parish were moved to other state and local prisons.

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McFadden and Dunkley said they began the 90-day prison program after they failed drug tests — a violation of their parole for drug dealing.

The two men rode a bus Monday to Baton Rouge with a dozen other released inmates, Dunkley said. They have form letters explaining their release "due to exigent circumstances created by Hurricane Katrina" and a $10 check from the state.

After they spent Monday night at a Red Cross shelter, a priest bought them bus tickets. The parole office gave them approval to leave the state. If they want to stay beyond 30 days, the Texas parole office will have to agree to supervise them, Goudeau said.

Dunkley never wants to see New Orleans again: "I want to try to do something different."

White House Backs NASA Plan For Vehicles (New York Times)

By William J. Broad

New York Times, September 16, 2005

The White House has approved NASA's plan to replace the nation's aging fleet of winged spaceships with a new generation of vehicles meant to carry human explorers back to the Moon and onward to Mars and beyond, aerospace experts said yesterday.

The new rockets and spaceships are a radical departure for the space program, rearranging the components of the space shuttle into a new design expected to be more powerful that the shuttle but also safer. The shuttle has had two fatal accidents in 114 missions.

"It's a thumbs-up for NASA to pursue the shuttle-derived vehicle," said John M. Logsdon, director of the Space Policy Institute at George Washington University and an adviser to the NASA initiative. "The question is the schedule, not the basic approach."

Other experts, who refused to be identified because the space agency will not formally announce the proposal formally, also spoke about the plan yesterday.

The redesign proposal was first reported in August by agency officials and private experts. Unlike the shuttle, the new vehicles would separate the jobs of hauling people and cargo into orbit and would put the payloads atop the rockets - as far as possible from the dangers of firing engines and falling debris, which were responsible for the accidents that destroyed the Challenger in 1986 and the Columbia in 2003.

But by making the rockets from shuttle parts, the new plan would draw on the shuttle's existing network of thousands of contractors and technologies, in theory speeding its completion and lowering its cost.

The plan has been ready for unveiling for roughly six weeks but was held up because of delays in White House approval.

Yesterday, the aerospace experts said Michael D. Griffin, NASA's administrator, met with White House officials on Wednesday and won a preliminary approval for the project despite continuing questions about how to pay for it.

One problem is that the existing shuttle is still consuming a large share of the agency's budget. A complicating factor, they added, is growing fiscal pressure on Washington because of the government's unexpected need to help rebuild New Orleans in the wake of Hurricane Katrina.

The Bush administration has called for the shuttles to be retired by 2010. Dr. Griffin had wanted the first of the replacement vehicles to be ready to fly by 2011. But the experts said yesterday that the earliest conceivable date for the first flight of the replacement was now 2012.

The smaller rocket, for carrying people, would still dwarf the shuttle, which stands 184 feet high. The larger one, for lifting heavy cargoes and spaceships but not people, would rise to a height of some 350 feet, rivaling the Saturn 5 rockets that sent astronauts to the Moon.

In theory, the cargo hauler would have its first test flights in 2016 and 2017 and first hurl people toward the Moon in 2018, the experts said.

Social Security Legislation Could Be Shelved (WP)

By Jonathan Weisman, Washington Post Staff Writer

The Washington Post, September 16, 2005

National Republican Congressional Committee Chairman Thomas M. Reynolds will recommend to the House Republican leadership that the party drop its effort to restructure Social Security, at least for this year, House Republican aides confirmed yesterday.

Reynolds's move, first reported yesterday on the Web site of the Capitol Hill newspaper Roll Call, is fresh evidence that Hurricane Katrina is having a dramatic impact on the GOP's agenda. House and Senate leaders had already pushed off

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consideration of cuts in taxes and entitlement spending until the end of October. President Bush's tax reform panel has delayed release of its recommendations.

Now, Social Security legislation, which already faced a steep uphill climb, might be shelved indefinitely. Senate Republican leaders had decided they could not move on Social Security until the House did. But with the Senate at a stalemate, House political strategists want to pull back as well.

"With everything else that Congress has to deal with, from Katrina to immigration to . . . who knows, there's just so much on the plate, never mind that the Senate is bogged down in [Supreme Court] confirmation hearings," said a House GOP strategist, who spoke on the condition of anonymity because the full House leadership has yet to render a final decision. "Why would you want to make vulnerable members take a vote on something that's not going anywhere? You could make the case that it would be suicide."

Reynolds (R-N.Y.) made his stand in a showdown with House Ways and Means Chairman Bill Thomas (R-Calif.), according to two witnesses. At a committee luncheon Wednesday, Thomas told panel members he was pushing forward with broad retirement security legislation that would include measures to strengthen private pensions, promote personal savings and add private investment accounts to Social Security.

Reynolds then stood to say he would recommend to the leadership that it do no such thing.

Thomas would not comment on the events. "I don't talk about closed-door meetings or what went on in closed-door meetings, and if someone who was in a closed-door meeting did, they're doing a great disservice to their colleagues," he said.

Carl Forti, a spokesman for the National Republican Congressional Committee, said he could not confirm the events either. Until Reynolds makes his agenda recommendations to the full GOP leadership, Forti said he would not discuss Reynolds's views on Social Security.

But he did not deny the report.

"It's more than just Katrina," said a different House Republican aide, pointing to sky-high gasoline prices, anger over the war in Iraq and President Bush's sagging approval ratings.

The Democratic Congressional Campaign Committee pointed out other factors: Republican lawmakers' own low approval ratings and continuing struggles with ethics questions.

David John, a proponent of Social Security private accounts at the conservative Heritage Foundation, said Reynolds's views are well known but hardly the last word. Rep. Thomas M. Davis III (R-Va.), the previous NRCC chairman, was also a vocal opponent of Social Security legislation, arguing that it could be politically disastrous.

"This is pretty much business as usual at the NRCC," he said.

Health Premiums Rise 6.6% (WP)

By Christopher Lee, Washington Post Staff Writer

The Washington Post, September 16, 2005

Health insurance premiums for federal employees and retirees will rise an average of 6.6 percent next year, the lowest increase in nine years, the Bush administration said yesterday.

Still, an official with one federal employee union branded the increase "outrageous," noting that average employee contributions to their health premiums will rise faster than the portion paid by the government.

Linda M. Springer, director of the Office of Personnel Management, which oversees the Federal Employees Health Benefits Program, said the government has consistently provided workers more health care options while doing its best to hold down costs.

"[W]e are maintaining a high-quality health-care program that provides excellent benefits at a reasonable cost," Springer said in a statement.

Next year's increase will be the government's smallest since 1997, when average premiums rose 2.4 percent. Independent studies predict a 10 percent increase in health insurance premiums for private sector employees next year, OPM officials said. Federal employees will have 279 health care plans to choose from, up from 249 this year.

An employee with the standard family coverage under Blue Cross and Blue Shield -- the most popular plan, covering more than half of all participants -- will pay $17.53 more in premiums every two weeks, bringing the biweekly cost to $135.59. Standard coverage for an individual will rise by $7.36, to $58.07 biweekly.

Across all plans, a federal worker with family coverage will pay an average of $12.79 more in premiums every two weeks, for a total biweekly cost of $130.17. At the same time, the government will contribute $16.83 more toward that worker's health coverage, for a total biweekly cost of $306.82. The worker's portion of the premium will rise 10.9 percent, compared with a 5.8 percent boost in the government's portion -- the disparity that rankles the union.

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"Federal workers are once again being short-changed," said Enid Doggett, a spokeswoman for the American Federation of Government Employees.

Similarly, for an individual, the average will rise $5.30 every two weeks, for a total biweekly payment of $57.66. The government's contribution for that individual's coverage will rise $7.71 every two weeks, for a total biweekly payment of $134.98. That is a 10.1 percent increase in what the individual pays, and a 6.1 percent increase in what the government pays.

The program provides health insurance coverage to about 8 million government workers, retirees and their family members worldwide, including many in the District, Maryland and Virginia.

Staff writers Stephen Barr and Eric Yoder contributed to this report.

Nationwide Survey Includes Data on Teenage Sex Habits (NYT)

By TAMAR LEWIN

The New York Times, September 16, 2005

The National Center for Health Statistics released the government's most comprehensive survey of American sexual practices and reproductive health yesterday, delving for the first time into such sensitive areas as the prevalence of oral sex among teenagers and same-sex activity among adults.

Oral sex among teenagers has in recent years become a topic of rampant speculation and little solid data, apart from a 1995 Urban Institute study of adolescent boys. The new statistics confirm that study's findings that oral sex is very much part of the teenage sexual repertory. According to the survey, more than half of all teenagers aged 15 to 19 have engaged in oral sex - including nearly a quarter of those who have never had intercourse.

Among the findings in the new study, "Sexual Behavior and Selected Health Measures," were the following:

¶Men age 30 to 44 have had a median of six to eight sexual partners in their lifetimes; women's median was about four.

¶Among both men and women age 15 to 44, about two-thirds have had only one sexual partner in the last year. Ten percent of the men and 7 percent of the women have had three or more partners in that time.

¶About 4 percent of men and women described themselves as homosexual or bisexual, but in a finding that surprised the researchers, 14 percent of the women aged 18 to 29 reported at least one homosexual experience, more than twice the proportion for young men.

The report offers new information about homosexuality in the United States. Among adults ages 15 to 44, almost 3 percent of men and 4 percent of women reported having a sexual experience with a member of the same sex within the past year, and over their lifetimes, 6 percent of men and 11 percent of women had such experiences. About 1 percent of men and 3 percent of women had had both male and female sexual partners in the previous 12 months.

Nearly 6 percent of all men ages 15 to 44 reported having oral sex with another man at some time in their lives, and nearly 4 percent reported having anal sex with another man.

The data comes from the 2002 National Survey of Family Growth, a survey of 12,571 men and women ages 15 to 44. The survey contractor was the University of Michigan's Institute for Social Research, which trained more than 200 women to collect the data by having the subject answer sensitive questions on a computer, without revealing the answers to the interviewer.

Although the National Center for Health Statistics has periodically conducted that survey among women for 32 years, the 2002 version was the first to include both sexes, and to move beyond fertility and child-bearing into broader questions of sexual behavior and sexual orientation.

The new findings on teenagers and oral sex have been of special interest to health experts.

"After years of provocative headlines and breathless stories based mostly on anecdote, we finally have some solid data," said Sarah Brown, director of the National Campaign to Prevent Teen Pregnancy. "The news is probably not as bad as adults might have been led to believe, but it is likely not as good as most parents might wish."

The proportion of teenagers who have given or received oral sex was slightly higher than the proportion who have had intercourse, the survey found, with 55 percent of the boys and 54 percent of the girls having given or received oral sex, while 49 percent of the boys and 53 percent of the girls have had intercourse.

"One thing that surprised me is that we expected, based on anecdotal evidence, that girls might be more likely to give oral sex and boys more likely to receive it, but we didn't find that at all," said Dr. Jennifer Manlove, of Child Trends, which, like Ms. Brown's group, released an analysis of the data, "There's more gender equality than we expected."

The government data does not provide any indication of the age at which oral sex first occurred, how often it occurred, or how many partners a teen had had. But the survey found that nearly all teenagers who have had sexual intercourse have also had oral sex: 88 percent of the boys and 83 percent of the girls.

"A very significant proportion of teens has had experience with oral sex, even if they haven't had sexual intercourse and may think of themselves as virgins," Dr. Manlove said. "We're not sure whether these teens who have not had sexual intercourse

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are engaging in oral sex because they view it as a way to maintain their technical virginity or even because they regard it as an easy method of birth control."

While many of the findings in the government report parallel those of the last large-scale study of American sexual behavior, a 1992 study of 18- to 59-year-olds by the University of Chicago's National Opinion Research Center, the lead author of the new study said it found a new and unexpected increase in lesbian activity among young women. It may not be such a surprise among those of college age, who speak of LUG's - lesbians until graduation.

"There are signs of change among 15- to 29-year-old women, a group of women too young to have been be included in the 1992 study," said William Mosher, the lead author.

When asked, "Have you ever had any sexual experience of any kind with any female?" 14 percent of the 18- to 29-year-old women said yes, compared with slightly under 10 percent of the 30- to 44-year-olds. That difference was surprising, Dr. Mosher said, since on questions about lifetime experience, older people usually report more than younger ones.

The study also asked about sexual attraction. Among men 18 to 44, 90 percent said they thought of themselves as heterosexual, 2 percent as homosexual, 2 percent as bisexual and 4 percent as "something else," findings similar to those in 1992.

Among women, 86 percent said they were attracted to only men and 10 percent "mostly to males." In the 1992 survey, only 3 percent said they were "mostly" attracted to males.

OTHER NEWS:

Ophelia Inches Along The N.C. Coast Storm Pounds Outer Banks (USAT)

By Tom Vanden Brook

USA Today, September 16, 2005

ATLANTIC BEACH, N.C. — Hurricane Ophelia's soaking crawl through this state seemed unending on Thursday as it battered beach towns up and down the coast.

From Atlantic Beach north to Cape Hatteras and Nags Head, Ophelia whipped rain, wind and surf hour after hour. Even seasoned hurricane hands marveled at the storm's endurance.

A weakened Ophelia could smack Massachusetts' Cape Cod this weekend. Tropical storm watches have been issued there. And North Carolina will still feel its winds today.

“I've been through five hurricanes, and this is the worst,” said Linda Massengill, 42. “That was the longest night of my life. We're talking about high winds for 18 hours, and between 1 and 5 this morning, the whole house was shaking. I won't do this again. I'll leave.”

Damage was significant because the storm stalled off the coast. Rather than a brief lashing, people withstood hours of a relentless 80-mph blast.

The storm gnawed siding from homes, pulled down power lines and peeled off the roofs and smashed signs of several businesses elsewhere in town. The surf hurled rocks the size of basketballs onto a parking lot. Traffic lights, blanked by power outages, dangled in the wind.

Ophelia spared some of the more populated tourist towns of the Outer Banks, such as Nags Head, from major damage. But the Cape Hatteras National Seashore took a pounding. Ophelia spun just off Cape Hatteras with sustained winds of 75 mph and barely moved at a speed of 3 mph.

Bad luck for Ginger Pharr and Kat Clewy. The two had come to Atlantic Beach to train for a triathlon. They spent the night with their dog, Bella, listening to Ophelia howl.

“It was such a slow mover, that made it seem a lot worse than it was,” said Pharr, 48.

State Highway 12, the two-lane road that runs down the narrow spine of the Cape Hatteras Seashore, was mostly deserted late Thursday.

Squalls battered the island. Sand, blown from towering seaside dunes, covered the road like a fresh coat of gray and beige snow. In spots, it drifted several inches deep.

Not enough to deter Matt Krieger. He and Ellie, a golden retriever-Labrador mix, sloshed in the surf at Oregon Inlet. Baitfish banged their snouts on the side of a bucket at his feet.

Krieger, 43, of Virginia Beach, Va., monitored Ophelia's plodding pace and direction on The Weather Channel and decided that Thursday looked like a fine day for fishing.

“I've been through so many of these,” he said. “The worst is definitely over.”

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Ophelia Brings N.C. Heavy Rains, Minimal Flooding (WP)

By Alan Cooperman, Washington Post Staff Writer

The Washington Post, September 16, 2005

BUXTON, N.C., Sept. 15 -- After lashing the North Carolina coast for two days and testing the post-Katrina readiness of disaster agencies, Hurricane Ophelia appeared on Thursday to be weakening and heading back out to sea.

Although the Outer Banks islands of Ocracoke and Hatteras were still in danger of heavy winds and surging water, the hurricane's slow and meandering path spared most coastal areas of the severe flooding that had been predicted.

By evening, its winds were blowing about 75 mph, just enough to earn Ophelia classification as a hurricane. Authorities blamed one death on the storm, from a rain-slicked traffic accident inland near the state capital of Raleigh.

A hurricane warning for North Carolina's coast was scaled back to a tropical storm warning, which extended north to Cape Charles Light, Va., including the mouth of Chesapeake Bay. With the storm tracking to the north, a tropical storm watch was issued for southeastern Massachusetts, including Cape Cod, Nantucket and Martha's Vineyard.

But here on the Outer Banks, residents were breathing easier: Ophelia turned out to be more like a drunken sailor than a belligerent one, bumping and bruising the coast before staggering off in circles.

Watching its movement on weather radar was like "watching someone make a funnel cake, just dripping the batter all around," said Tony Spencer, emergency management director for North Carolina's coastal Hyde County.

Determined to avoid a repeat of the response to Hurricane Katrina, federal, state and local authorities had gone into high gear early in the week.

They positioned five swift-water rescue teams, each made up of 50 National Guardsmen, a few miles inland along the state's entire coast. They ordered evacuations in dozens of low-lying areas, bringing 2,000 people into 45 shelters at schools and community centers Wednesday night, according to Bill Furney, spokesman for the state Division of Emergency Management.

The Federal Emergency Management Agency, still under fire for its response to Katrina, stationed 250 workers along the coast and put Coast Guard Rear Adm. Brian Peterman in charge of the federal response to the hurricane.

But as Ophelia stayed off the coast and slowly moved north, parallel to the barrier islands, coastal communities began cleaning up fallen debris and counting their blessings.

"All of our roads are passable. All our shelters are closed, and people have gone home," said Rose Faucette, an emergency worker in Beaufort County, which has been pummeled by past hurricanes, including Isabel in 2003. "We were very lucky."

State officials said Ophelia knocked out electricity to 240,000 customers on Wednesday. By Thursday morning, the number without power was down to 80,000, and utility crews were quickly restoring telephone and electrical lines.

The biggest remaining concern was an expected surge of water Thursday night from the Pamlico Sound across the southern Outer Banks, which officials feared could flood beach houses and cut off roads. "That's when you'll see most of the flooding," Gov. Mike Easley (D) said at a morning briefing.

Earlier, the hurricane's sustained winds had blown the water toward the mainland, exposing as much as a mile of sand on the bay side of Hatteras Island.

Despite a mandatory evacuation on Hatteras and Ocracoke, hundreds of local residents remained in their homes. Here in Buxton, a small town on Hatteras, Keith Gray, 40, put on an orange anorak and went scavenging with his son, Aaron, 16, for valuables in the exposed sand.

The wind blew out a side window of their pickup truck, but they pulled a claw hammer and some other tools from the empty basin of the Buxton Harbor Marina, where half a dozen boats were sitting on their exposed keels. They had to shout to be heard in the 60-mph wind.

"Is that a jet?" Aaron asked, looking up as a powerful gust swirled sand against his bare legs.

"Just the wind," his father said.

Severe Hurricanes Increasing, Study Finds (WP)

By Juliet Eilperin, Washington Post Staff Writer

The Washington Post, September 16, 2005

A new study concludes that rising sea temperatures have been accompanied by a significant global increase in the most destructive hurricanes, adding fuel to an international debate over whether global warming contributed to the devastation wrought by Hurricane Katrina.

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The study, published today in the journal Science, is the second in six weeks to draw this conclusion, but other climatologists dispute the findings and argue that a recent spate of severe storms reflects nothing more than normal weather variability.

Katrina's destructiveness has given a sharp new edge to the ongoing debate over whether the United States should do more to curb greenhouse gas emissions linked to global warming. Domestic and European critics have pointed to Katrina as a reason to take action, while skeptics say climate activists are capitalizing on a national disaster to further their own agenda.

According to data gathered by researchers at the School of Earth and Atmospheric Sciences at Georgia Tech and the National Center for Atmospheric Research, the number of major Category 4 and 5 hurricanes worldwide has nearly doubled over the past 35 years, even though the total number of hurricanes, including weaker ones, has dropped since the 1990s. Katrina was a Category 4 storm when it made landfall.

Using satellite data, the four researchers found that the average number of Category 4 and 5 hurricanes -- those with winds of 131 mph or higher -- rose from 10 a year in the 1970s to 18 a year since 1990. Average tropical sea surface temperatures have increased as much as 1 degree Fahrenheit during the same period, after remaining stable between 1900 and the mid-1960s.

Georgia Tech atmospheric scientist Judith A. Curry -- co-author of the study with colleagues Peter J. Webster and Hai-Ru Chang, and NCAR's Greg J. Holland -- said in an interview that their survey, coupled with computer models and scientists' understanding of how hurricanes work, has given the researchers a better sense of how rising sea temperatures are linked to more-intense storms.

"There is increasing confidence, as the result of our study, that there's some level of greenhouse warming in what we're seeing," Curry said. "Is it the whole story? We don't know."

Higher ocean temperatures result in more water vapor in the air, which, combined with certain wind patterns, helps power stronger hurricanes, Webster said. Small increases in sea temperature, he added, can "exponentially provide more and more fuel for the hurricanes."

Other studies and computer models also have pointed to an increase in storm intensity: Massachusetts Institute of Technology atmospheric scientist Kerry A. Emanuel wrote last month in the journal Nature that the duration and maximum wind speeds of storms in the North Atlantic and North Pacific have increased about 50 percent since the mid-1970s. The storms' growing violence stemmed in part from higher ocean temperatures, he concluded.

Some researchers, however, question the connection with more severe hurricanes and cyclones. Gerry Bell, the lead seasonal hurricane forecaster at the National Oceanic and Atmospheric Administration, said the rise in strong hurricanes reflects a natural weather pattern spanning several decades. Hurricanes in the Atlantic Ocean were more powerful in the 1950s and '60s, weakened in the 1970s, '80s and early '90s, and have strengthened again since 1995.

"It's not linked to global warming or anything like that," Bell said. "This is normal climate variability. It's just that this trend lasts for decades."

Florida State University meteorology and oceanography professor James O'Brien, who writes for the online free-market journal Tech Central Station, said his survey of government data on Atlantic storms between 1850 and 2005 shows that "there's no indication of an increase in intensity."

But both Emanuel and Gavin Schmidt, a climatologist at NASA's Goddard Institute for Space Studies, said today's Science paper is important because it examines worldwide hurricane patterns.

"If you look at it on the global basis, it makes that signal of global warming easier to see," Schmidt said. "You have to be extremely conservative -- with a small 'c' -- to think [rising sea temperatures and stronger hurricanes] are not related."

And some hurricane experts who previously have questioned the influence of global warming now say the evidence is mounting that it has contributed to recent intense tropical storms.

Florida International University researcher Hugh Willoughby, who headed NOAA's hurricane research division between 1995 and 2003, said the recent two hurricane studies are "very persuasive" and helped move him "toward the climate corner" of the debate.

"It's really hard to find any holes in this, and I'm the kind of person who's inclined to look for holes," he said of the new study in Science. The arguments against the connection between climate change and more intense storms, he added, are "looking weaker and weaker as time goes by."

Katrina reanimated a transatlantic argument over global warming policy as critics of the Bush administration have seized on it to promote mandatory limits on greenhouse gas emissions.

"The American president shuts his eyes to the economic and human damage that the failure to protect the climate inflicts on his country and the world through natural catastrophes like Katrina," Germany's environmental minister, Jurgen Trittin, wrote in an opinion piece printed Aug. 30 in the Frankfurter Rundschau newspaper.

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But Bill Holbrook, spokesman for Environment and Public Works Committee Chairman James M. Inhofe (R-Okla.), said the senator has no intention of pushing for new emissions curbs.

"It is reprehensible for a politician to promote an agenda by twisting a tragedy Americans feel so deeply about, particularly when there is no merit to his ideas," Holbrook said of Trittin. "Policy decisions should be based on sound science, and the notion that Katrina's intensity is somehow attributable to global warming has been widely dismissed by scientific experts."

Arguing that the science of global warming remains uncertain, President Bush in 2001 disavowed the Kyoto treaty that sets mandatory targets for reducing greenhouse gas emissions, and he has pursued policies calling for more research and voluntary efforts to limit emissions.

Experts Assess Deregulation As Factor In '03 Blackout (NYT)

By Matthew L. Wald

The New York Times, September 16, 2005

WASHINGTON, Sept. 15 - Twenty-five months after a blackout darkened cities from New York to Toronto and Detroit, the Energy Department and its Canadian counterpart held their first public technical discussion on the episode Thursday to talk about one factor widely considered to have been behind it: the deregulation of the electric system.

Engineers, government officials and executives said at the meeting that amid its restructuring the industry needed further changes to reduce the frequency of blackouts as utilities that formerly generated power, transmitted it and delivered it were broken up into separate entities of competing businesses.

"The most serious mistake we can make is pretending that markets do things that they do not do," said Kellan Fluckiger, executive director of the electricity division at the Alberta Department of Energy. "Markets allocate risk, they allocate capital, they provide price signals. Markets do not have a conscience, they do not provide social policy, and they do not do things they are not paid to do."

For example, participants at the meeting said, utilities that once ran the system sometimes added transmission lines to increase reliability of electric power. When they did so, their costs would be reimbursed through the regulatory process; now there is less incentive to take on such efforts, and several participants pointed out that in fact investment in transmission had lagged.

The blackout of 2003 began on Aug. 14 and in some places lasted more than two days. A binational report issued three months afterward did not list deregulation as a cause, instead citing factors like failure to trim trees, train operators and install control systems that could have kept track of the status of all power lines and generators.

Much of the investigation leading to that report was managed by the Federal Energy Regulatory Commission, the architect of utility restructuring in the United States. The report called for a separate study - it did not say by whom - on the role of deregulation in the blackout, but that study has never been done.

Experts at Thursday's meeting said the changes in the industry had had several adverse effects, including a loss of experience among personnel. One member of the panel, Jack Casazza, a 60-year veteran of the industry, said the changes had brought lawyers and M.B.A.'s to the head of these competitive companies, rather than engineers.

"They may be decent people, fine bankers, fine lawyers, wonderful golfers," Mr. Casazza said, "but they don't have the background."

He also said that while the old utilities had often maintained large reserve margins of electricity, to minimize the chance of shortages, some market participants now preferred lower margins, to drive up prices.

Others pointed out that information like a power plant's maximum capacity, and its state of repair on any given day, was now considered proprietary and so was not readily available to system operators, which manage regional power grids.

The North American Electric Reliability Council, whose members come from utilities, marketers, customers and federal agencies, said in a paper submitted for the meeting that the increased demands that deregulation's wider trading had placed on the transmission system "require the grid to be operated closer to its reliability limits more of the time than was the case in the past."

That requires better training and control equipment, said the group, which was founded after a vast blackout in the Northeast in 1965.

Still, not all the industry's changes have affected reliability adversely, participants said. In a paper written for the meeting, Dave Goulding, chief executive of the Ontario Independent Electricity System Operator, said "competition leads to trade and greater interconnectedness," which could increase reliability.

The energy bill signed into law by President Bush on Aug. 8 provides a mechanism for creating mandatory reliability rules. It allows the federal government to designate a private group, probably the North American Electric Reliability Council, as an official "electric reliability organization," with authority to set the rules. But that group pointed out in its paper that while the

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designated organization would assess the adequacy of the system, it would not have the authority to require anybody to build a generating station or a transmission line.

Soaring Natural-Gas Prices Point To Record-High Electricity Costs (WSJ)

By Rebecca Smith, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

While many consumers have focused in recent weeks on the high price of gasoline, utilities are grappling with enormous natural-gas bills that threaten to push another form of energy, electricity, to unprecedented price levels.

Even before Hurricane Katrina, the price of natural gas had doubled during the past two years. The storm's destruction has roiled energy markets, sending natural-gas and oil prices to record levels and foreshadowing eventual rate increases for electricity in the Southeast, where utilities must rebuild heavily damaged systems.

Now, as the winter heating season approaches for much of the country, consumers face a double threat. Many will see record costs on their bills for the natural gas that fuels their furnaces, stoves and clothes dryers. Consumers -- and businesses -- also will get hit with higher charges for electricity made by power plants that burn pricey natural gas.

Regulators and utilities are adopting a variety of approaches to deal with the surge in natural-gas costs, which coincides with record demand for electricity across the nation. Texas has imposed a moratorium on electricity-rate adjustments. Other states are trying to spread utility costs over more than a year or are offering discounts to ease the squeeze or encourage conservation. The high prices are getting special attention in Texas and California, the two most populous states and also the most dependent on natural gas for power generation.

Utility regulators can try to hold the line on electricity rates for a while, but they can't do anything about commodities markets. Natural-gas prices "are ground zero for us -- the hottest issue we face," says Susan Kennedy, a member of the California Public Utilities Commission in San Francisco. Unfortunately, she adds, "it's one expense we have no control over."

California went through an energy crisis in 2000-01 that was prompted by a surge in natural-gas costs and subsequent rise in electricity prices based on those costs. Natural gas in the state often was priced at levels three times as high as those nationwide. In June 2001, for example, gas cost $11.71 per million British thermal units, or BTUs, in Southern California and $3.56 elsewhere in the country.

Currently, power generators are being quoted natural-gas prices for this fall and winter that also look extremely high -- $11.34 for contracts on the New York Mercantile Exchange for October, $11.97 for November and $12.45 for December deliveries. All surpass prices for September that were less than $10. They translate into raw power prices, not adjusted for inflation, that are high even before adding regular utility costs that would push the retail cost up substantially.

Only about 20% of the nation's electricity comes from power plants fueled by natural gas. In most states, high prices for gas-fired generation are tempered somewhat by lower costs for nuclear and coal-fired plants or hydroelectricity, but the exception is in states with deregulated markets where the highest-priced form of generation typically sets the spot-market price.

That's the case for states in the Northeast, the Midwest and the mid-Atlantic region. The only protections consumers have in those states against high prices for spot-market natural gas and electricity are long-term arrangements that lock in lower prices or other hedging provisions.

PECO Energy, the Exelon Corp. utility that serves Philadelphia, has locked in prices for its electricity through 2010 under contracts with its power-generation affiliate. But most such arrangements, made when states first deregulated their markets in the late 1990s, are expiring. Customers of Commonwealth Edison in Chicago, another Exelon company, will be exposed to greater commodity risk after contracts there expire next year.

Texas utility regulators last week extracted a promise from utilities there not to raise electricity prices in response to natural-gas costs that have surged past $10 per million BTUs, five times the levels of a few years ago. Regulators "asked everybody to volunteer" not to change their prices before Oct. 1, said Chris Schein, spokesman for TXU Corp. in Dallas, the biggest electricity generator and seller in the state. The moratorium was premised on an assumption that "current prices are an anomaly associated with Hurricane Katrina," he said.

But many people are skeptical that natural-gas prices will ease much in October, and TXU's stock recently soared above $100 a share, up 66% so far this year, based on expectations of both higher electricity rates and increased sales of electricity due to the upwelling of demand from Katrina-related arrivals.

TXU agreed to make no change before Oct. 10, but it also has told state regulators it will implement a rate increase when the moratorium ends that will be based on a $9.74 price for gas -- around the levels before Katrina hit. Residential rates will be going up 12% in October, taking total increases to 65% since 2002.

Under Texas's deregulation law, utilities peg their power prices to the underlying cost of natural gas, the primary fuel used to make electricity there. The moratorium means that TXU's rate today is based on a natural-gas price, at $7.87 a unit, that's

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31% below the prevailing market price for natural gas that the state uses, which is a 20-day rolling average. That's good for consumers. But it means that the utility's competitors, who try to keep their prices slightly below TXU's, also are suffering, in some cases finding themselves having to charge more than TXU, for the first time. That will put pressure on regulators to let costs flow through to consumers to prevent significant losses for electricity suppliers.

It takes a while for high fuel prices to work their way through the electric industry although the lag time has been getting shorter. Puget Sound Energy, in Bellevue, Wash., won the right to adjust rates quickly three years ago, and now is able to do so without going through a full-blown rate review, which usually takes a year. The company hopes to raise rates 4.4% for residential customers on Nov. 1.

Consolidated Edison, the utility serving New York City and environs, is able to reprice its electricity each month, based on fuel costs. Those costs made up 60% of its billed amount for September, versus 53% a year earlier. Overall, bills are up 8.4%, year over year.

Other states are looking for ways to soften the blow to consumers. FPL Group Inc.'s Florida Power & Light says its 2005 fuel bill, mostly for natural gas and oil, will be $770 million higher, or 19% more, than the $4.05 billion it had budgeted. Next year, it expects its fuel costs to top $6.2 billion with natural-gas costs averaging $10.09 a unit. That would represent a further 29% increase. High fuel costs will push up electric rates by 15% for many residential customers and by 20% to 36% for commercial and industrial consumers.

FPL plans to spread out some of the 2005 expense over two years, instead of collecting it all this year. It's also proposing to waive the higher fuel cost for residential customers using less than 1,000 kilowatt hours of electricity each month, hoping to encourage conservation.

Worried about the impact of high prices on industry, California regulators on Sept. 8 approved a two-tier rate structure that will give some business customers of PG&E Corp.'s Pacific Gas & Electric Co. unit and Edison International's Southern California Edison unit a 25% discount, declining to zero by the sixth year. Utilities pledged use these "economic development" rates only for new arrivals or to dissuade companies from leaving the state.

While the "economic development" rates will help some users, they may irk some existing customers who face higher costs next year. Pacific Gas & Electric said it will raise rates by about $600 million in 2006, mostly because of fuel costs, resulting in a 10.8% rate increase for residential consumers. Medium-size businesses, which bore a larger share of earlier increases, will see their cost rise more modestly, by 3.5%.

High fuel prices are straining deregulated energy markets in a way that hasn't been seen since the Western energy crisis. Until now, Texas officials have prided themselves on having market-based mechanisms that they describe as "symmetrical." That is, higher costs for fuel can be passed through to consumers fairly quickly. But the moratorium recognizes growing resistance to repeated increases.

Prohibiting utilities from passing higher costs through can present a problem, though. California did it in 2000 because it thought the costs were unfair to consumers. But the result was enormous utility losses that eventually drove Pacific Gas & Electric into bankruptcy proceedings, from which it has since emerged.

Many companies are exploring their options, too. Amy's Kitchen Inc., a natural-food maker in Santa Rosa, Calif., recently bought 50 acres near Medford, Ore., for a new processing plant. It wanted to expand in California, but couldn't get the rate relief it needed fast enough. "Short-term, our hands are tied," says controller Andy Kopral, adding that companies have to pay whatever they're billed. The quest, he added, "is to get help in the long term" -- even if that means moving.

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Growing Fears Over Airline Pensions (FT)

By Caroline Daniel

Financial Times, September 16, 2005

Concern about the impact of the bankruptcies of Delta and Northwest airlines on workers' pensions has led to urgent calls in Washington for immediate pension relief.

Harry Reid, Senate minority leader, said: “Congress has an immediate opportunity to pass legislation enabling both companies to keep pension plans for workers in place.”

Johnny Isakson, senator from Georgia, where Delta is based, told the Financial Times on Thursday: “We want to bring the bill to the floor as early as next week. The airlines stated they wanted to preserve their defined benefit plans and their ability to do that is tied to whether we can get pension reform passed.” On Thursday night Delta warned that it might miss pension payments for 3,500 retirees.

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The sense of urgency comes as the Pension Benefit Guaranty Corporation, the federal agency that insures defined benefit pension plans, said it could assume liabilities of $8.4bn from Delta's pension plan if it was terminated. That would mark its biggest pension termination. Northwest's liabilities were smaller, at $2.8bn, the PBGC said on Thursday.

Lawmakers have proposed extending the time for companies with underfunded pension plans to make up the gap from four years. Mr Isakson has suggested 20 years. The Bush administration had backed seven years.

Delta has told lawmakers that the only way it can avoid an immediate termination is if the 20-year proposal is passed. That has the support of Northwest and American, but not Continental. Although support is building in the Senate, the proposals have had little backing in the House, according to one airline lobbyist.

A report from the Congressional Budget Office on Thursday underlined the risks the PBGC faces. The report estimates the PBGC's accumulated deficit could climb to $142bn over the next 20 years, if it is calculated in the way that a private insurer calculates risk.

While some analysts dispute that number, they agree with the Center On Federal Financial Institutions that without reform, such as changing the way the agency charges premiums to corporations, the PBGC will run out of money by 2022. Doug Elliott, the Center's president, said: “The real problem is a systematic imbalance for 30 years in the premiums they were allowed to charge and how Congress set up the funding and other rules. They are hitting a period when bigger companies are going under.”

Claims from failed pension plans reached $14.3bn in 2000-04, 18 times larger than the $783m in claims booked between 1995 and 1999. Airline pension failures would easily top those figures. United has already dumped $6.6bn of liabilities. If Northwest and Delta do so the total airlines' liability would hit $17.8bn.

Employees could also lose out. If the PBGC takes over a plan, it typically pays pensions up to a cap of about $46,000. That is far lower than a typical pilot's pension.

Coffee, Tea … Or Bankruptcy? (WSJ)

By Robert Crandall

The Wall Street Journal, September 16, 2005

Delta and Northwest Airlines' bankruptcy filings are the latest consequences of the troubles afflicting the long-established, or "legacy," airlines. Inflexible work rules, above-market wage rates, under-funded fixed benefit pension plans, huge debt burdens, outdated business practices and high fuel costs burden the legacy carriers with enormous disadvantages relative to newer carriers who are flying by different rules.

To deal with these burdens, the legacy carriers have made dramatic changes. During the four years ending last December, they collectively reduced capital spending by 62% while simultaneously taking on $16 billion of new debt to cover losses; they cut annual labor costs by more than $6 billion and total annual expenses by more than $20 billion, and they eliminated more than 125,000 jobs. Despite these efforts, the industry recorded losses of more than $30 billion, is losing billions more in 2005, and seems poised for still more losses in 2006. Sisyphus wouldn't trade places with today's airline managers!

Sky-high fuel prices have recently made things worse, but lower fuel prices will not solve the industry's problems. In most industries, producers are able to pass on raw material price increases to their customers, as they are doing today. For a variety of reasons, including very intense competition which limits any one carrier's pricing power, the airline industry has consistently failed to earn adequate profits; cumulatively, the industry has lost money since its inception.

While analysts are closely focused on fuel prices -- and occasionally note the major cost differences between low-lost carriers and their legacy competitors -- little is said about the many unique burdens imposed on airlines by inappropriate laws and regulations. These include taxes and fees representing more than 25% of a typical ticket's purchase price; labor laws enabling unions to drive compensation far above the amounts paid in other industries for similar work; and continuing underinvestment in the operation and construction of the air traffic control system and aviation infrastructure.

Among the most egregious of these burdens are those imposed by the nation's bankruptcy statutes, which allow a failed carrier to use Chapter 11 to dramatically reduce its costs. In bankruptcy, airlines renegotiate aircraft and facility leases, disavow selected contractual obligations, revise or abrogate labor contracts, and even repudiate pension obligations -- all the while continuing to operate. Airlines often remain in bankruptcy for extended periods of time.

Chapter 11 also protects inefficient, unprofitable capacity, since aircraft are always worth more in the air than on the ground. Without Chapter 11, failed airlines might have to liquidate, selling off their physical and operating assets. This would remove capacity from the system and restore some measure of pricing power to the industry's remaining participants.

Chapter 11 also undermines responsible managements. In an intensely competitive industry providing a commodity product, the "dumbest competitor" -- unrestrained by fear of failure -- sets the standard. Thus, when irresponsible union demands are granted, or an improvident management adds unrewarding capacity or uneconomic service features, other managements are compelled to choose between matching the new "industry standard" and tolerating labor unrest and lost revenues. Since

experience has established that matching irresponsibility is the better long-term business strategy, few managements have been able to resist the perpetual game of "follow the leader."

While few in either management or labor aspire to bankruptcy, the knowledge that liquidation is unlikely has unquestionably been a factor in encouraging excessive demands by labor and imprudent actions by management. But the probability of liquidation rather than reorganization would likely provide substantial incentives for more responsible labor-management relationships, more cost-effective labor contracts, and more carefully reasoned business plans.

Revising the bankruptcy laws would certainly cause hardship for the communities and employees most involved with failed airlines. On the other hand, revising the rules would offer expanded opportunities for new competitors and for legacy carriers whose managements, unions and employees are most willing to adapt to new realities. Since the U.S. badly needs a vibrant, growing and successful aviation industry, new policies are clearly in order.

To build a better airline industry we need bankruptcy laws designed to incentivize success and penalize failure. We need labor laws that better balance the power of unions and management. We need to recognize that travel drives economic activity of many kinds and benefits every community, and should revise the currently onerous structure of fees and taxes, which seems premised on the notion that only the airlines and their passengers benefit from the airline system. Finally, we need administration and Congressional support for legislation to provide the FAA with the resources to build and operate an aviation infrastructure consistent with both U. S. aviation leadership and growing consumer demand.

Mr. Crandall is a former chairman and CEO of American Airlines.

Come Fly With Congress (WSJ)

The Wall Street Journal, September 16, 2005

This week's bankruptcy filings raise the possibility that Delta and Northwest will join United Airlines and US Airways in dumping their pension obligations onto taxpayers. Members of Congress will howl, but it's time for the politicians to admit their own role in co-piloting the airline industry into Chapter 11.

The immediate causes of the Northwest and Delta filings are failed labor negotiations and bad luck. Northwest is struggling with striking mechanics who refused to join other unions in negotiating $1.4 billion in annual savings to prevent bankruptcy. Delta has its own high-cost union contracts and has long been bleeding cash. Hurricane Katrina and sky-high fuel costs were the tipping point.

But the root of the problem for these "legacy" carriers is the burden of pension costs. And one tantalizing option is to use bankruptcy to pass them off to the taxpayer via the federal Pension Benefit Guaranty Corp. (PBGC). Congress created this government-run insurance system in 1974, promising to "protect workers" when companies failed. But as always with such government guarantees, Congress only created a future "moral hazard" that is now coming due.

Management and labor would agree in flush times on big pension obligations because they knew the taxpayer was their safety net. The PBGC charges paltry premiums that in no way cover the huge liabilities rolling in from steel, airline and retail industries. Its current deficit exceeds $23 billion, while pensions nationwide are underfunded by an estimated $450 billion. Delta and Northwest alone could dump another $12.4 billion in unfunded liabilities on the agency, with other airlines likely to follow.

By the way, current airline management isn't the major villain here. Northwest CEO Doug Steenland has been warning about the pension problems for years, and has suggested sensible reforms that might have saved both retirees and Northwest. (See his op-ed on this page, November 16, 2004.) But Congress typically dawdled, and bankruptcy eventually became the better part of financial triage. Some of the biggest losers could be airline employees who'd receive only a fraction of their promised pension. So the PBGC is one more case of Congress writing checks it can't cover.

The feds have also burdened airlines in other ways. The Railway Labor Act discourages union compromise, taxes are piled onto ticket prices, foreign investment is all but prohibited, and the antitrust lawyers at Justice have blocked sensible mergers. (See Robert Crandall nearby.) In a classic case of the latter, Justice barred a US Airways and United merger on the ground of unfair competitive advantage, only to see them both go bankrupt.

One hopeful bit of speculation this week is that perhaps the Delta and Northwest Chapter 11 filings were coordinated. The two airlines have compatible routes that would make them ideal merger partners, and bankruptcy is a perfect place to deal with the pilot integration issues that are the biggest reason airline mergers can fail.

In any case, the presence of four airlines in Chapter 11 at the same time suggests that something's got to give. United is already struggling to get enough capital to emerge from bankruptcy, despite its pared down pension costs. Sooner or later one of these carriers will exit not as a going concern, but stage left, via Chapter 7 liquidation. Especially compared with that alternative, a Delta-Northwest merger would make sense.

The impulse on Capitol Hill will be to provide yet another bailout, hoping that Northwest and Delta can keep their pension plans. As if the politicians haven't done enough harm already. The Senate Health, Education, Labor and Pension Committee has

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already passed another "reform" that would give most companies 20 more years to get their pension plans in order, meaning 20 more years to grow the PBGC's future liabilities. If the Members really wanted to help, they'd leave the airlines alone and find a way to phase out PBGC guarantees.

Unions Struggle To Retain Strength (WSJ)

By Kris Maher, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

Union leaders expect the bankruptcy filings of Delta Air Lines and Northwest Airlines to increase pressure on other carriers to seek further cost cutting from their workers. The troubling reality for unions: There seems to be very little they can do to stop the trend.

Many workers -- like the mechanics at Northwest, who refused to make concessions and went on strike -- can be supplanted by replacement workers. Those like the pilots at Delta and Northwest who agree to concessions have found they weren't enough to avoid bankruptcy proceedings, where further erosion of benefits and pay are likely.

Union leaders expect the tough times to extend to other carriers, as airlines try to get unions to accept similar concessions to avoid being at a competitive disadvantage. "It sets a pattern which many companies not in crisis emulate opportunistically," says Ron Blackwell, chief economist for the AFL-CIO.

The latest round of airline woes has come as the labor movement's fissures have widened, raising questions as to whether some of organized labor's problems are self-inflicted. This summer's defections from the AFL-CIO by four major unions -- representing more than one-third of the labor federation's members -- highlight existing tensions among unions and unwillingness to back fellow unions during strikes.

The harsh challenges confronting unions in the airline industry, while more extreme than those in other corners of the labor movement, illustrate the problems facing all of organized labor as employers press harder to lower labor costs for active and retired workers in the name of being globally competitive. "Unions are in an environment of shrinking alternatives," says Marick F. Masters, a professor of business administration at the University of Pittsburgh. "There are just not many good options left at this time."

Strikes by some workers, especially pilots, could prove more difficult to deal with than the mechanics strike at Northwest, though such an action could only help to push an airline toward a bankruptcy filing in the current economic climate. Consumers and the public don't look as sympathetically on striking workers and are more willing to cross picket lines, making it easier for companies to withstand strikes. "You retain the right to strike on paper, but in practice what you have is the right to lose your job," says Harley Shaiken, a labor-and-economics professor at the University of California at Berkeley.

The concession option hasn't helped workers. Last year, pilots at Northwest agreed to $265 million in annual concessions for two years, while pilots at Delta agreed to $1 billion in annual givebacks for five years. Neither action was enough to offset other costs, such as rising fuel prices.

Labor leaders believe the real problem facing airline unions is the ease with which companies can seek and emerge from bankruptcy courts, free of labor-contract obligations abrogated by the court. "Most of our strategy has been trumped by bankruptcy law," says Duane Woerth, president of the Air Line Pilots Association, which represents 5,200 active pilots at Northwest and 6,500 active pilots at Delta.

Mr. Woerth, who blames management strategies for the airlines' troubles, said he believes pilots will be less willing to accept cuts in the future. "What I've heard loud and clear from workers is that they're done making concessions," he says. "When you're down to 1980s wages and you've lost your pensions, you're not willing to give any more."

AMR Corp., parent of American Airlines, which got concessions from its unions in previous years, said it will look for other ways to improve efficiency. "We can't predict the future, especially given fuel prices, but we're working hard together to do everything to increase revenues and reduce costs to better serve our customers," a spokesman said. A spokesman for Continental Airlines, another of the old-line airlines, said it doesn't intend to seek further labor givebacks after obtaining concessions earlier this year.

Some labor officials say it is important for unions to keep negotiating with management through bankruptcy proceedings. Candice Johnson, a spokeswoman for the Communications Workers of America, says the union was able to negotiate with US Airways through two recent rounds of bankruptcy proceedings. At one point, the company wanted 6,000 reservation agents represented by the union to take wage cuts of as much as 34%. The union negotiated 12.9% cuts. "Often we were up against draconian cuts," says Ms. Johnson. "It was very important to keep negotiating."

Mr. Woerth says the union will focus on organizing pilots at other airlines, such as JetBlue Airways, AirTran Airways and Spirit Airlines, in an effort to raise wages across the industry.

--Melanie Trottman contributed to this article.

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Iran Offers To Spread Nuclear Technology (USAT)

USA Today, September 16, 2005

Iranian President Mahmoud Ahmadinejad said Thursday that his country is willing to provide other Islamic nations with nuclear technology. Ahmadinejad made the comments after meeting Turkey's prime minister on the sidelines of a gathering of world leaders at the United Nations.

Ahmadinejad repeated promises that Iran will not pursue nuclear weapons, the state-run Islamic Republic News Agency reported. Then he added: "Iran is ready to transfer nuclear know-how to the Islamic countries due to their need."

Iran has said it is determined to pursue its nuclear program to process uranium and produce energy, despite European attempts to limit it. The United States accuses Iran of secretly seeking to develop nuclear weapons, a charge Tehran denies.

Meanwhile, talks in Beijing on North Korea's nuclear program came to a standstill as the communist nation continued its refusal to halt atomic bomb development until it receives a nuclear reactor to generate power.

Arrest warrant issued for Milosevic's wife

A judge ordered the arrest of the wife of former Yugoslav president Slobodan Milosevic for failing to attend her corruption trial in Belgrade. Mirjana Markovic has been in self-imposed exile in Russia since 2003. A previous arrest warrant was revoked in June after her lawyer, Zdenko Tomanovic, promised she would attend the hearing. Markovic left Serbia ahead of charges she illegally gave government-owned luxury apartments to her grandson's nanny and to officials from her JUL communist party. Milosevic has been on trial since 2002 at a United Nations war crimes tribunal in The Hague, Netherlands, for his alleged role in atrocities committed during the Balkan wars of the 1990s.

Fire sweeps fireworks stands in Mexico

A fire tore through Mexico's most famous fireworks market, setting off a chain of explosions that destroyed hundreds of open-air stands just ahead of the country's Independence Day celebrations. Mexico State Civil Defense Director Roberto Vazquez said dozens of people likely were injured in the blaze and explosions in Tultepec, a few miles northeast of Mexico City.

Vazquez said authorities were checking reports that someone had thrown a lit firecracker inside the San Pablito Market and it set off a chain of explosions. As many as 300 stands covering several acres in the market were destroyed, he said. Television images showed a tall plume of gray smoke rising from a broad, charred swath of gutted market stalls.

Tehran Offers Nuclear Expertise (WT)

By David R. Sands

The Washington Times, September 16, 2005

NEW YORK -- Iran's president said yesterday that his country is ready to share its nuclear know-how with other Islamic countries, the latest setback to a U.N.-backed effort to halt Tehran's nuclear programs.

Iranian President Mahmoud Ahmadinejad, in his first foreign trip since his election in June, again denied Bush administration charges that Iran is secretly seeking nuclear weapons.

But after a meeting with Turkish Prime Minister Recep Tayyip Erdogan on the sidelines of the U.N. summit here, Mr. Ahmadinejad, for the first time, offered to share the fruits of Iran's nuclear programs with other Muslim countries.

"The Islamic Republic never seeks such weapons of mass destruction, and with respect to the needs of Islamic countries, we are ready to transfer nuclear know-how to these countries," Mr. Ahmadinejad said, according to Iranian press accounts.

He repeated his denials of Iran's intent to make atomic bombs in a get-acquainted meeting with U.S. reporters and editors yesterday morning, saying such suspicions put a heavy burden on his country.

"How do you prove you are not a bad person?" he asked.

The offer to share nuclear technology prompted a worried U.S. reaction. State Department spokesman Adam Ereli told a briefing, "Iran, as its record demonstrates, has a long history of trying to develop weapons of mass destruction, supporting terror.

"We view with concern any suggestion that Iran would seek to contribute to very destabilizing and unhelpful international behavior."

Secretary of State Condoleezza Rice had been trying to rally support for a vote next week by the United Nations' Vienna, Austria-based nuclear watchdog to refer Iran's nuclear programs to the Security Council -- a first step toward possible sanctions.

The tougher line had been backed earlier by European Union powers Britain, France and Germany, which have taken the diplomatic lead in an unsuccessful effort to resolve the standoff.

But Miss Rice conceded that the United States might not have the votes at what was supposed to be a climactic vote by the board of the U.N. International Atomic Energy Agency (IAEA) on Monday.

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"If we get a referral that will be good, but I think the issue of a referral is something we'll be working on for a while," Miss Rice said in an interview with the Fox News editorial board conducted Wednesday evening and released in full yesterday.

"I'm not so concerned about exactly when it happens, because I don't think this matter is so urgent that it has to be [held] on September 19," she added.

Top French, German and English officials met with the Iranian president late yesterday after talks with Iranian Foreign Minister Manouchehr Mottaki and also signaled that any tough action against Iran would probably be delayed.

British Foreign Secretary Jack Straw declined to comment on the substance of a meeting between the three major European powers -- Britain, France and Germany -- and the recently elected Iranian leader.

"Our aim all the way through in this when we started these negotiations was to keep the matter out of the Security Council," Mr. Straw told reporters. "What we're going to do is to listen carefully to what the president is going to say on Saturday afternoon and we'll take it from there."

"We want to pursue the dialogue. ... We think there is still room for negotiations," said French Prime Minister Dominique de Villepin before the meeting with Mr. Ahmadinejad.

U.S. and European officials had previously expressed hope that they could win at least a strong majority of the 35-nation IAEA board to refer Iran to the Security Council in Monday's vote. But China and Russia, who have Security Council vetoes, oppose the referral, and India has been cool to the idea as well.

IAEA chief Mohamed ElBaradei also favors delaying a vote, saying Iran should be given a deadline to reverse its decision to resume steps toward enriching uranium.

Enriched uranium can be used to fuel nuclear reactors or to make atomic bombs.

The Iranian leader's offer to share nuclear technology tracked past Iranian efforts to expand the IAEA negotiations to include other Islamic and regional countries.

The IAEA has rejected that suggestion, insisting that it is Iran's record and programs that are at issue.

Diplomats in Vienna have speculated that Iran benefits from any delay in the vote, as a new group of mostly nonaligned countries will be joining the U.N. agency board soon.

Russian President Vladimir Putin, who is expected to discuss the Iranian standoff in his White House visit with President Bush today, met Mr. Ahmadinejad yesterday and praised Russia's "long-standing and very close relationship" with Iran.

With the Russian president at his side, Mr. Ahmadinejad replied, "A powerful Russia is Iran's best friend, and a powerful Iran is Russia's best friend."

U.S. Agenda On Iran Lacking Key Support (WP)

By Dafna Linzer And Colum Lynch, Washington Post Staff Writers

The Washington Post, September 16, 2005

UNITED NATIONS, Sept. 15 -- Despite an intense lobbying effort at the most senior levels, the Bush administration failed to persuade three key countries Thursday to back the United States in pressuring Iran to give up sensitive aspects of its nuclear energy program, diplomats and officials said.

Russia, China and India either publicly or privately turned down U.S. requests to help report Iran's case next week to the U.N. Security Council, which has the authority to impose economic sanctions or an oil embargo.

The administration has the reluctant support of the European Union for the first time in more than two years, but that will not be enough. Without backing from one of the three others, U.S. officials indicated they were preparing to abandon, for now, a quest to move the matter into the council.

The decision left the administration scrambling for a Plan B, and U.S. and European diplomats said there were backroom negotiations, on the margins of a U.N. summit in New York, to forge a compromise among countries with influence on the board of the International Atomic Energy Agency. Some officials said they were considering the possibility of an IAEA resolution that would set a concrete deadline for Iran to comply with a series of measures. If Iran failed, the IAEA board would automatically take the matter to the Security Council.

Secretary of State Condoleezza Rice, who met with Indian Prime Minister Manmohan Singh on Thursday and will meet with Russian Foreign Minister Sergei Lavrov on Friday, acknowledged that Washington might lack a convincing majority if the IAEA votes on whether to refer Iran's case to the council when it meets Monday in Vienna.

"If we get a referralon September 19, that will be good, but I think the issue of a referral is something that we'll be working for a while," Rice told Fox News. "I'm not so concerned about exactly when it happens, because I don't think this matter is so urgent that it has to be on September 19," she said.

Her comments were the strongest public indication yet that the administration was reversing course after expressing confidence, as recently as last week, that it was closer than at any time in the past to taking the matter to the Security Council.

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U.S. and foreign diplomats said India, which recently forged a major new security and nuclear alliance with the United States, could not be persuaded to join the U.S. strategy. India, which has close economic, political and cultural ties to Iran, has said it supports Iran's right to a nuclear energy program.

India's position, which U.S. officials have said they had not anticipated, has been deeply embarrassing for the White House at a time when it is trying to win congressional support for the India deal. Some officials, who would discuss the diplomatic calculations underway only on condition of anonymity, said the administration preferred to give up the chance of winning a slim majority in the IAEA next week rather than seek a vote that India would publicly oppose.

Iran insists its nuclear efforts are aimed at producing nuclear energy, not bombs. The Bush administration has said that the energy program, built in secret over 18 years and exposed in 2002, is just a cover for a weapons program. Iran has built facilities to enrich uranium to fuel its energy program. But the facilities could produce bomb-grade uranium, and the Bush administration wants the Iranians to give them up.

While many countries appear to share U.S. suspicions about Iran's intentions, they have profound differences with the Bush administration over how to respond, and are apprehensive about the goals of a U.S. president who has said that "all options are on the table" in dealing with Tehran.

Undersecretary of State R. Nicholas Burns said the differences were tactical, rather than strategic, and that efforts were underway to "convince the Iranians to return to the talks" they started with the Europeans in the fall of 2003.

Iran bolted the talks in August after receiving European proposals that would have required Tehran to permanently give upmuch of the nuclear energy program it has already built. Burns said he would devote the next several days to working with the Russians on the Iran issue.

Even the Europeans, frustrated after two tumultuous years of negotiations with Iran over the future of its nuclear program, said they prefer to avoid going to the Security Council.

"Our aim all the way through in this when we started these negotiations was to keep the matter out of the Security Council," British Foreign Secretary Jack Straw told reporters after a half-hour meeting Thursday with Iranian President Mahmoud Ahmadinejad. "What we're going to do is to listen carefully to what [Ahmadinejad] is going to say on Saturday afternoon and we'll take it from there."

Ahmadinejad, who has been holding his own round of talks with world leaders attending the U.N. summit, met with Straw and the French and German foreign ministers. The European ministers held an earlier 90-minute meeting with Iran's foreign minister and Ahmadinejad's national security adviser.

The newly elected hard-line Iranian president has little foreign policy experience. But he told reporters Thursday he plans to present new proposals to resolve the impasse when he addresses the conference Saturday. He said Iran's aims are peaceful and that "any improper use of production for nuclear arms should be prevented."

U.S. Report Says Iran Seeks To Acquire Nuclear Weapons (WT)

By Bill Gertz

The Washington Times, September 16, 2005

Iran is concealing many of its nuclear facilities from international controls and the activities show it is seeking nuclear weapons, according to a U.S. government report.

The computer slide presentation developed by the Energy Department for the International Atomic Energy Agency also shows that Iran's nuclear program closely resembles Pakistan's nuclear arms programs.

"Iran's past history of concealment and deception and nuclear fuel cycle infrastructure are most consistent with an intent to acquire nuclear weapons," the report said.

The report, first made public Wednesday by ABC News, states that Iran has a "confirmed record of hiding sensitive nuclear fuel cycle activities from the IAEA."

The presentation contains numerous photographs, including satellite imagery, showing that Iran built "dummy buildings" to hide an underground vehicle entrance and ventilator shafts at its Natanz facility.

Iran has violated IAEA safeguards and provided false information about centrifuge development, plutonium experiments and military involvement in nuclear activity, the 43-page report stated.

The presentation was shown recently at the U.S. mission to the IAEA in Vienna at a briefing for IAEA representatives. It was produced by the Energy Department's Los Alamos National Laboratory and Pacific Northwest National Laboratories.

Seven of Iran's 13 nuclear-related facilities were kept secret until 2002, including enrichment plants at Lashkar-Abad, Tehran, Natanz, and uranium processing at Adrekan and Gachin, the report said.

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"Iran's nuclear program is well-scaled for a weapons capability, as a comparison to [Pakistan's] nuclear weapons infrastructure shows," the report said. "When one also considers Iran's concealment and deception activities, it's difficult to escape the conclusion that Iran is pursuing nuclear weapons."

The Bush administration is pressing the IAEA to refer the issue of Iran's covert nuclear program to the United Nations Security Council, after months of diplomatic efforts by the governments of Britain, France and Germany have produced few results.

The United Nations could then impose economic sanctions against Iran or possibly a future authorization for the use of force.

The report states that Iran's uranium ore resources are insufficient for Tehran to produce enough fuel for civilian electrical power generating reactors.

"However, Iran's uranium resources are more than sufficient to support a nuclear weapons capability," the report said.

For example, Iran's Gachin uranium ore mine is producing about 21 tons of ore annually, enough to produce about four nuclear bombs per year, the report said.

Satellite photographs included in the report show that Iran's gas centrifuge facility and its heavy water plants closely resemble nuclear plants in Pakistan. The report does not identify the country as Pakistan, but U.S. officials said the photographs show Pakistani nuclear infrastructure.

The report also includes a comparison of nuclear weapons delivery vehicles and shows how Iran's Shahab-3 missile closely resembles Pakistan's Ghauri missile. Both have a range of up to 930 miles. Both are based on North Korea's No-Dong missile.

The report notes that the Shahab-3 can carry a warhead weighing up to 2,200 pounds, and the Ghauri can carry a 1,540-pound warhead.

The report said that after Iran was caught with an "extensive concealment and deception record," the government in Tehran claimed that its nuclear program was for a peaceful nuclear fuel cycle.

However, the report said the lack of uranium ore reserves could not support nuclear power plants but "are well scaled to give Iran a significant number of nuclear weapons."

Iran Seeks Compromise In N-fuel Stand-off (FT)

By Our International Staff

Financial Times, September 16, 2005

Iran is to propose international joint ventures in its nuclear programme as a means of providing an “objective guarantee” that it cannot be diverted to weapons use, senior Iranian officials have told the Financial Times.

Mahmoud Ahmadi-Nejad, Iran's new president, is set to make the new proposal on Saturday before the United Nations General Assembly.

“Iran will suggest international co-operation for uranium enrichment, and invite Europe, Russia, China and South Africa to joint ventures in which Iran keeps its nuclear fuel cycle while the international community can make sure there is no diversion,” said a senior official involved in two years of talks with the European Union on Iran's nuclear programme.

“The co-operation is not necessarily for new [nuclear] sites it can be in the sites we already have,” said Ali Agha-Mohammadi, spokesman for the Supreme National Security Council.

It is not clear whether Iran's suggestion would include the more sensitive sites in the country and European diplomats were sceptical that it would be acceptable to their governments.

Nicholas Burns, US undersecretary of state, also emphasised the US position that Iran should not be allowed to develop a nuclear fuel cycle capability.

The proposal could complicate the troubled attempt by the US and the EU to refer Iran to the UN Security Council over its nuclear programme, which Tehran insists is purely peaceful.

The US and the EU, which suspect Iran of seeking to develop nuclear weapons, have been pushing to report Tehran to the UN for concealing elements of its nuclear programme in the past.

The central disagreement in the talks with Iran over its nuclear programme has been Europe's desire that Tehran give up uranium enrichment as the only “objective guarantee” that the programme is purely civil.

The International Atomic Energy Agency, the UN's nuclear watchdog, will discuss the issue next week. But faced with opposition from China, Russia and India, diplomatic efforts have shifted to bring Iran back to the negotiating table and renew its suspension of fuel cycle development.

“We are waiting for a signal from Iran,” said Mr Burns.

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"The issue of a referral is something that we'll be working for a while," Condoleezza Rice, US secretary of state, told Fox News yesterday. "I don't think this matter is so urgent that it has to be on September 19."

Mohamed ElBaradei, the IAEA director-general, has already suggested giving Iran more time to meet international concerns.

"We have to think about the tactics for September 19 because the tactics we have followed so far have not borne fruit," added a European diplomat.

Reporting by Najmeh Bozorgmehr and Gareth Smyth in Tehran, Daniel Dombey in Brussels and Guy Dinmore and James Blitz at the United Nations

Iran Promises Proposals to End Nuclear Stalemate (NYT)

By STEVEN R. WEISMAN and WARREN HOGE

The New York Times, September 16, 2005

President Mahmoud Ahmadinejad of Iran said yesterday that his country would present new proposals tomorrow to try to break the impasse over Iran's nuclear programs, but he provided no details.

European diplomats indicated that they might defer their effort to bring Iran to the United Nations Security Council for possible punitive action if sufficient progress was made in talking with Iran's leaders.

At a breakfast meeting the Iranian discussed at length why his country needed nuclear power and insisted Iran would continue to pursue nuclear energy for peaceful purposes.

At the United Nations last evening, Mr. Ahmadinejad also met with Secretary General Kofi Annan and the foreign ministers of Britain, France, Germany and the European Union and told them he would be making the details public in a speech to the General Assembly tomorrow.

Emerging from the evening meeting, Jack Straw, Britain's foreign secretary, said, "What we are going to do is to listen carefully to what the president says Saturday afternoon and take it from there."

The speech is expected to outline a proposal aimed at resuscitating the stalled negotiations over Iran's nuclear program.

As part of those talks, Iran had suspended certain uranium conversion activities, which the West believes were a precursor to making a nuclear weapon, but then resumed the uranium work last month, saying a European offer of economic benefits in return for a full cessation of uranium activities was inadequate.

In the past the United States and the Europeans have said they may turn to the Security Council for possible sanctions, although Secretary of State Condoleezza Rice indicated yesterday that such action might not be imminent.

"I am not so concerned about exactly when it happens," she said, according to the Fox News Web site, "because I don't think this matter is so urgent that it has to come on Sept. 19." That is the next scheduled meeting of the board of the International Atomic Energy Agency, which the United States and some European nations were hoping would refer Iran to the Security Council.

Secretary Straw said the session yesterday was "useful" because it offered the Europeans the first opportunity to meet Mr. Ahmadinejad, who was elected in June. Earlier in the day, the four Europeans met with Dr. Ali A. Larijani, Iran's new chief nuclear negotiator, for the first time.

Mr. Ahmadinejad, speaking to editors, reporters and television interviewers in the morning, described atomic energy as "a blessing given by God."

He said: "It's an opportunity. It is a clean energy. It is a healthy energy." He added that Iran needed nuclear energy because it could not rely forever on its oil resources.

Asked repeatedly whether Iran had not discredited itself by its failure to disclose past nuclear activities, Mr. Ahmadinejad said Iran did not have nuclear weapons and "there is absolutely no proof of a violation on the part of Iran" of its pledge to keep its nuclear program peaceful.

He was referring to a succession of reports by the International Atomic Energy Agency citing Iran's lack of cooperation in disclosing all its programs, but also noting that inspectors had no proof of an actual nuclear weapons program. Mr. Ahmadinejad displayed impatience over what he said was the difficulty in disproving an unfounded allegation, saying, "Usually, you cannot prove that sort of thing. How can you prove that you are not a bad person?"

Britain, France and Germany, along with India and several other countries, are trying to persuade Iran to once again suspend its uranium conversion program. Asked whether he would consider such a step as a gesture, Mr. Ahmadinejad avoided answering.

Wearing a tan windbreaker and an open-collar shirt, Mr. Ahmadinejad appeared relaxed as he held court at a large table at the Hotel Intercontinental in his first broad meeting with American news media.

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Western diplomats have said for several days that they understood Mr. Ahmadinejad would offer proposals, but they did not expect anything different or new.

Iran, for example, has called on the Europeans to broaden the talks to include Muslim nations also interested in nuclear energy issues. European and American officials have rejected that idea and have been cool to other proposals, like one from South Africa in which Iran would be allowed to produce nuclear fuel but would have to send it to another country for enrichment.

Joschka Fischer, Germany's foreign minister, said after last night's meeting that "Europe's position is unchanged." He said there was a need to be "realistic" and not make threats.

Mr. Ahmadinejad said that Iran would continue to work with the International Atomic Energy Agency in allowing inspections, and that Iran would observe a rule requiring it to give 180 days' notice if it processes uranium to the next step, which would be enrichment, requiring the use of centrifuges.

At present Iran is converting raw uranium in a form known as yellowcake into a gas, which it could in theory enrich to weapons grade.

Mr. Ahmadinejad seemed comfortable with some of the technical details of the nuclear controversy, but he turned to his negotiator, Dr. Larijani, for the specifics in international agreements. Over all, Mr. Ahmadinejad accused the West of a double standard, wanting nuclear power for the West but not for Iran.

"There is some kind of inequality and injustice being created," he said. Anyone asking Iran to take conciliatory steps, like suspending its uranium conversion, should recognize that this work is legal under international agreements.

Mr. Ahmadinejad, a former mayor of Tehran, has traveled little outside his country, but expressed great admiration for the American people, American diversity and its great natural resources. "The capabilities of America can be beneficial for all other nations," he said.

Thus, he said, he was surprised at the initial American response to Hurricane Katrina. "We expected more," he said.

On other subjects, Mr. Ahmadinejad said that Iranians would have close ties with the Iraqis, but that the roots of the current insurgency lay with the American military presence. "Insecurity and the control of the occupation are linked to one another," he said. "After all, Iraq is an occupied country."

Iran's Leader Critical In First U.S. Visit (WP)

By Glenn Kessler, Washington Post Staff Writer

The Washington Post, September 16, 2005

UNITED NATIONS, Sept. 15 -- Newly elected Iranian President Mahmoud Ahmadinejad, making his first trip to the United States, introduced himself to the U.S. media Thursday morning, displaying a dash of defiance at U.S. charges over Iran's nuclear program and a warning that the era of big-power dominance in international relations has ended.

Meeting over breakfast with about a dozen journalists in a Midtown Manhattan hotel conference room, Ahmadinejad blamed the Bush administration's policies for instability in Iraq. A veteran of Iran's war against Iraq, the president described the removal of Saddam Hussein as "necessary" but said the task should have been left to Iraqis.

"It is the occupiers who have responsibility for stability in Iraq," he said, adding later, "The root of the problem is the presence of foreign troops."

Ahmadinejad, who was an obscure provincial politician when he was elected mayor of Tehran in 2003, was the surprise winner in June's presidential elections. His anonymity outside Iran has helped keep alive accusations that he was photographed with American hostages at the U.S. Embassy in 1979, a charge repeated during his visit here and categorically denied by the president over breakfast.

Seeming relaxed in a tan sports jacket and open collar but initially almost timid, Ahmadinejad, 49, opened his session with journalists expressing condolences for the victims of Hurricane Katrina. He said he was puzzled by how the storm received its name. "The letter K," offered CBS News's Mike Wallace, launching a discussion of the idiosyncratic American practice of personifying some of the nation's most destructive natural disasters.

Later, Ahmadinejad returned to the subject of Katrina to poke at the Bush administration's response and perhaps draw lessons about solidarity among Americans. He compared the delivery of aid to victims in the Gulf Coast unfavorably with the response to natural disasters in the Islamic republic.

"When this hurricane occurred we were all were extremely sad," Ahmadinejad said, speaking through a translator. "We thought Americans would act more quickly and help their fellow Americans. We expected more." He added: "During the very first day of the hurricane, people could have brought more and limited the extent of the tragedy."

Perhaps the most contentious issue Ahmadinejad faces during this visit is continuing opposition from the United States and European Union to Iran's nuclear program. Iran insists the program -- developed in secret for 18 years -- is for peaceful energy use; the Bush administration charges a crash nuclear weapons project is hidden beneath the veneer of a peaceful program.

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The United States had hoped to win referral of the matter to the U.N. Security Council at next Monday's meeting of the International Atomic Energy Agency, but U.S. officials failed to win broad support for such a move during talks here this week on the sidelines of the U.N. General Assembly.

Ahmadinejad said he had arrived with new proposals to resolve the impasse but declined to reveal them in advance of their public unveiling Saturday. He said Iran had no intention of building nuclear weapons but asserted that every nation had a right to develop nuclear power.

"We believe that atomic energy is a blessing given by God; it is an opportunity given to all nations," he said, adding that "any improper use of production for nuclear arms should be prevented."

During his discussions with other leaders here, Ahmadinejad has advanced the idea of transferring "nuclear know-how to the Islamic countries due to their need," according to the state-run Islamic Republic News Agency.

During the breakfast, Ahmadinejad said there is "no proof of a violation by Iran" of the nuclear Non-Proliferation Treaty, "just an allegation." He complained: "How can you prove you are not a bad person? You can't prove that."

Ahmadinejad's visit here has been dogged by protesters asserting that, as a student leader, he played a role in the takeover of the U.S. Embassy in Tehran and seizure of U.S. hostages during the 1979 Iranian revolution. "This is an allegation that has absolutely no basis," he said. Alluding to the power of the media gathered at the breakfast, he added: "Sometimes I read rumors about the president of Iran -- and I laugh at them."

Asked his impressions of the United States, Ahmadinejad said it is a large, rich and diverse country but "the attitude of the American government has created problems with other countries." The United States "should not humiliate others, should not consider itself superior to others," he said. "We think the era of utilization of force and pressure in international relations has ended. Today, the will of the people will prevail, as it did in the election in Iran."

Bush To Pressure Putin On Iran (WSJ)

By Neil King Jr. In Washington And Greg White In Moscow, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

U.S. President George W. Bush hopes to persuade Russian President Vladimir Putin to toughen his stance on Iran, to further open his country's oil and gas reserves to foreign investment and to take steps to speed Russia's entry into the World Trade Organization, when the two men meet at the White House.

Bush administration officials, in previewing Friday's one-day summit, described relations between Washington and Moscow these days as a mix of cooperation and tension, along with a dollop of indifference on the Russian side.

Much has changed from two years ago, when Mr. Bush used a Camp David gathering to praise Mr. Putin's Russia as "a country in which democracy and freedom and the rule of law thrive." Since then, the Kremlin has rolled back democratic institutions, used the tax and court systems to partially nationalize the country's largest oil company and jail its billionaire owner, meddled clumsily in the politics of its neighbors and cooperated with China in efforts to reduce U.S. influence in the strategic region of Central Asia.

Despite these setbacks, President Bush still puts much stock in his rapport with Mr. Putin, with whom he has met nearly 20 times.

The first item on today's agenda, U.S. officials say, will be to urge Mr. Putin to look more favorably on European and U.S. efforts to persuade Iran to give up its alleged nuclear-weapons ambitions.

The U.S., along with Britain, France and Germany, are threatening to take Iran to the United Nations Security Council unless it agrees to rules to prevent its civilian nuclear program from being used for military aims. But Russia and China, both of which have veto power within the council, oppose that idea. "This will be a major issue" in the summit talks, said one senior administration official.

Mr. Bush will also try to get a feel from President Putin on what transpired in his private talks at the U.N. on Wednesday with Iranian President Mahmoud Ahmadinejad, the official said.

On the energy front, the White House is pleased by what appears to be increased activity among Russian oil and gas companies to move more aggressively on new exploration and pipeline projects, including some with Western partners.

"I've noticed a definite change in the Russians' attitude toward our energy relationship" in the past few months, said one U.S. diplomat.

State gas titan OAO Gazprom was expected to announce on Friday its short list of foreign partners on a long-awaited liquefied-natural-gas project that would target the U.S. market. And Russia appears to be moving ahead with plans to build a new pipeline that would carry oil to the country's arctic coast, putting it within tanker range of U.S. ports.

Bush officials say that on the trade front, both sides must resolve a number of prickly issues within U.S.-Russian negotiations on Russian WTO membership, which could happen sometime next year. The toughest problems revolve around

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Russian rules on energy services, bank subsidiaries, aviation and intellectual-property protections. The U.S. still hopes to wrap up the trade talks by the end of the year.

Some of the trickiest talk could focus on Moscow's influence over former Soviet republics, which Russia views as its turf. After popular revolutions brought pro-Western leaders to power in Georgia and Ukraine in the past two years, the Bush administration has come to see the region as a testing ground for its new focus on democratization around the world.

The U.S. also has begun to look with some alarm on the growing ties between Moscow and Beijing. China and Russia held joint military maneuvers last month.

Write to Neil King Jr. at neil.king@wsj.com1 and Greg White at greg.white@wsj.com2

Putin's Chosen 'Public' (WP)

By Masha Lipman

The Washington Post, September 16, 2005

MOSCOW -- Last month President Vladimir Putin's broadly televised public activities included flying a strategic bomber, driving an old Soviet-era Volga automobile, overseeing naval maneuvers on board a nuclear missile cruiser, inaugurating a highway tunnel and visiting a children's cancer hospital, where he had a friendly meal with a sick boy and ordered that a new, state-of-the-art ward be constructed without delay. He listened to the defense minister's report on Russian-Chinese military maneuvers and presided over grand celebrations of the 1,000th anniversary of the city of Kazan, attended by Russian regional leaders and presidents of most of the former Soviet republics. Western political scholars and journalists who met with him during the first week of September were nearly unanimous in their favorable impression of the Russian leader: "Energetic" and "confident" were the most frequent assessments heard from those who attended.

He looks, in fact, like a man interested in reelection. So much so that political commentators are once again guessing about whether he will stay in power beyond 2008, when his second -- and last -- term expires. To be sure, several loyal officials have suggested ways to overcome the constitutional obstacle to a third term. But with the next election still 2 1/2 years away, the Kremlin appears to remain undecided as to how to preserve the political status quo in Russia in 2008. Putin's heightened activity may just be a way of demonstrating that he is fully in charge and that he remains the ultimate decision maker on all important national issues, including the "challenge of 2008."

With the Kremlin's control over politics and society having tightened this past year, there is little for Putin to worry about from parliamentary factions, the media or outside opponents. While public opinion polls show unrelenting discontent with government policies, Putin's own approval rating, which had dropped somewhat, popped back up to 70 percent in August.

Even the smoldering youth activism that had caused the Kremlin concern -- some of the more radical groups were harassed and even prosecuted -- doesn't seem to pose much of a threat to the ruling elite. According to an August poll, 82 percent of young people share none of the ideas of these youth groups -- an apparent indication of a widespread rejection of activism as such.

With oil revenue growing steadily, the public generally apathetic, and the elites bought or intimidated into submission, Putin and his inner circle have reason to feel confident and high-spirited. But the Kremlin is still apprehensive about autonomous civic activism and won't ease its efforts to preempt any kind of genuine public initiative.

Sometimes this leads to peculiar political innovations. Consider the newly introduced representative body known as the Public Chamber. It was described by Putin as a "channel of influence of civil societies, of the citizens of the Russian Federation on the decisions made in the country."

Under the terms of the law establishing it, the Public Chamber will consist of Russians who "have done great service to the society and state." And who is to decide which honorable citizens are to be recognized by a grateful nation? The political style of Putin's Russia suggests the answer: The members will be handpicked by Putin himself, or nearly so. He will appoint one-third of the 126 Public Chamber members, and these core members will be the dominant force in selecting the remaining 84.

Putin has said that these people should be "politically maximally unengaged." The nomination process has so far been strictly secret (like all Kremlin decisions), but leaks and rumors have brought forth about a dozen names. Their main defining features are -- not unexpectedly -- their loyalty and special favors done for the Kremlin. At least two of the rumored candidates -- a famous female gymnast and a highly popular theater director -- are signatories to a recent collective letter supporting the conviction of Mikhail Khodorkovsky, the oil tycoon and potential political rival prosecuted by Putin's government. Others include a female college student from a provincial city who's also a commissar of Nashi, a government-sponsored youth movement masterminded by the Kremlin, and an unknown functionary of a government-sponsored association of journalists.

These are only rumors, of course, but whoever is chosen for the Public Chamber, this is not a body that will be doing much to channel public influence. The Kremlin would never risk granting real authority to anyone who has not proved his or her loyalty. If it is indeed concerned about feedback from the public, the concern has been overwhelmed by a far more important priority: the

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urge to keep society under control. The only question is whether Putin's regained political confidence will cause him to mistake the obliging recommendations of his loyalists for the actual voice of the people.

Masha Lipman, editor of the Carnegie Moscow Center's Pro et Contra journal, writes a monthly column for The Post.

See Dubya Run To The WC (WP)

By Al Kamen

The Washington Post, September 16, 2005

President Bush created a bit of a stir Wednesday when he inexplicably walked out in the middle of an important U.N. Security Council meeting on terrorism, right in the middle of a speech by the leader of Benin.

Delegates thought it was another example of American arrogance -- U.S. officials are notorious for leaving meetings in mid-session, especially at the General Assembly. Russia's Vladimir Putin , Britain's Tony Blair and China's Hu Jintao sat patiently through the less-than-riveting address.

But it appears that Bush meant no insult, judging from a note he handed to Secretary of State Condoleezza Rice shortly before he left.

Bush, after waiting while a member of his security detail swept a nearby bathroom, used the facilities and return to the meeting a few minutes later.The Big Picture

Some people simply can't get with the program. Take Rep. David R. Obey (D-Wis.), for example. House Speaker J. Dennis Hastert (R-Ill.) announced Wednesday that he was sending a bipartisan House Appropriations Committee trip to New Orleans to check things out.

But Obey, the committee's top Democrat, demurred. "At this point, all efforts should be focused on helping those in need and recovering the dead," Obey said in a statement. "There will be plenty of time for politicians to play visiting fireman, but right now any congressional trip can't help but end up being a dog-and-pony show," he said, attacking a congressional tradition nearly as sacred as pork itself.

"I've seen congressional trips in these situations become photo ops that take time and energy away from emergency activities," continued Obey, a three-decade veteran of the committee. "We need to give emergency responders a week or so to do their work and stabilize the situation before we divert their attention by asking them to be congressional travel guides. Photo ops can come later. We have no business posing for them now. At this point, one of the watchdogs we may need is a watchdog to keep Congress from getting in the way of people doing real work."

Turns out the committee isn't likely to be going for a while, but an assorted bipartisan group of 20 House members is taking off this weekend.

The Senate, which, fortunately, values tradition, dogs and little ponies, would not be deterred.

Senate Majority Leader Bill Frist (R-Tenn.) and Minority Leader Harry M. Reid (D-Nev.) promptly announced yesterday that they would be leading a delegation leaving today on a one-day trip "to assess Katrina rescue and recovery efforts." The delegation "will hold . . . media availabilities" at Harrah's casino in New Orleans, in Pass Christian, Miss. and at the airport in Mobile, Ala., the announcement said.

The delegation includes the two leaders and GOP Sens. Thad Cochran (Miss.), Susan Collins (Maine), Mike Enzi (Wyo.), James M. Inhofe (Okla.), Richard C. Shelby (Ala.) and John W. Warner (Va.). The Democratic senators are Max Baucus (Mont.), Richard J. Durbin (Ill.), Edward M. Kennedy (Mass.), Joseph I. Lieberman (Conn.) and Debbie Stabenow (Mich.).A Heck of a (New) Job

Reminder: Midnight Monday's the deadline for the Loop "Brownie's Next Gig" Contest. Submit your suggestions for what former FEMA director Michael D. Brown 'snext job should be. Send your entry via e-mail to intheloop@washpost.com or mail it to In the Loop, The Washington Post, 1150 15th St. NW, Washington, D.C. 20071.

North Koreans Insist On Demand For New Reactor In Nuclear Talks (NYT)

By JOSEPH KAHN

The New York Times, September 16, 2005

BEIJING, Sept. 15 - North Korea on Thursday refused to drop a new demand that the outside world build it a nuclear reactor before it dismantles its nuclear weapons, leaving six-nation negotiations here on the verge of collapse.

The United States and North Korea identified its demand for a light-water nuclear reactor as the main sticking point in the talks, which have continued fitfully over two years and failed to produce even a joint statement of principles. While this round will continue for at least another day, Christopher Hill, the chief American negotiator, made it clear on Thursday that the gap had widened over three days of talks. "The only thing North Korea is interested in discussing is a light-water reactor," Mr. Hill said. "No country is going to provide North Korea with a light-water reactor. So we have reached a bit of a standoff."

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That leaves the Bush administration with an unhappy choice - go on indefinitely with talks that have produced no result, or seek a consensus to impose international penalties on North Korea against the wishes of most countries in the region.

One goal for the United States in these talks, analysts say, is to show enough sincerity and flexibility to convince Asian nations that fault lies with North Korea and that imposing penalties is the only viable option.

North Korea is eager to show that it wants to dismantle its nuclear arms program and would do so but for the unreasonable demands of the United States, which it accuses of having a "hostile policy" intended to overthrow its government.

Those competing agendas were on display on Thursday. The United States said the other four regional powers participating in the talks, South Korea, Russia, Japan, and the host, China, agreed that North Korea's condition that it receive a reactor before ending its arms program was impossible to meet.

North Korea said that the other parties had agreed that it was justified in requesting a light-water reactor and that only the United States had refused to discuss the matter.

Hyun Hak Bong, a spokesman for the North Korean delegation at the talks, said his government considered a new nuclear plant an essential gesture of good will from the United States. Mr. Hyun said Washington had not kept its word in the past, so the donation of the plant must precede any North Korean concessions.

"Providing a light-water reactor is a matter of principle for building trust," Mr. Hyun told reporters outside the talks in Beijing. "The United States says it cannot give us a light-water reactor no matter what."

"It is telling us to give up" the nuclear program "first without doing its part," he added.

Light-water nuclear reactors are not easily diverted to weapons use. North Korea was promised two light-water reactors to end its nuclear arms program in a 1994 deal reached with the Clinton administration. No plants were delivered and the deal failed in 2002, when the Bush administration accused North Korea of enriching uranium for atomic bombs.

Mr. Hill said North Korea's condition could not be met legally.

N. Korea Nuclear Talks Mired In 'Major Disagreements' (WT)

By Shigemi Sato And Jun Kwanwoo, Agence France-presse

The Washington Times, September 16, 2005

BEIJING -- Talks on dismantling North Korea's nuclear-weapons program are deadlocked due to "major disagreements" between the North and the United States, delegates said yesterday.

"There wasn't any progress today. ... We are in a bit of a standoff at the moment," U.S. envoy Christopher R. Hill told reporters after a day of meetings with his North Korean counterpart and other chief delegates.

Mr. Hill, an assistant secretary of state, said there were "major disagreements" between the United States and North Korea, echoing the assessments of Japan and host country China.

The dispute centers on the North's demand that the international community help it build light-water atomic reactors to generate electricity in exchange for ending its nuclear-weapons program.

The United States and Japan have refused, with Washington saying the cost and time frame are impractical and that the Stalinist state cannot be trusted to confine a reactor to civilian use.

"The differences of our positions are so great that the talks are stalemated," Japan's top envoy Kenichiro Sasae told reporters.

"North Korea's demand for a light-water reactor is strong. We are not in a position to accept it as it is. The prospect is bleak unless this question is resolved," Mr. Sasae said.

In an attempt to settle their differences, Mr. Hill and his North Korean counterpart, Kim Gye-gwan, held a 90-minute one-on-one meeting yesterday but failed to reach a compromise, with one official saying both left the session with "stiff faces."

A spokesman for the North Korean delegation agreed yesterday that the talks were "not making progress" due to the dispute over light-water reactors.

"While other participating countries expressed understanding on this issue, the United States unreasonably vowed not to provide light-water reactors," said spokesman Hyun Hak-bong.

Mr. Hill, however, rejected the North's claims that all parties except the United States were willing.

"No delegation was prepared to offer North Korea a light-water reactor," Mr. Hill said.

He urged the North to accept "a pretty good deal" he put on the table.

"The deal consists of really a lot of what the DPRK [North Korea] should want -- security guarantees, a recognition package, access to international financial institutions, a very serious energy package," he said.

The talks involving the two Koreas, Japan, Russia, China and the United States resumed on Tuesday after a five-week recess. Still, there was no sign they have broken down, with Mr. Hill and the North Koreans indicating they will continue discussions today.

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"Everybody has got an interest in solving this problem through diplomatic means. ... There will be a point at which we look at the deadline, but we are not at that point yet," Mr. Hill said.

The talks are aimed at persuading North Korea, which says it has nuclear weapons, to give them up verifiably and irreversibly in exchange for security guarantees as well as energy and economic aid.

But they have become bogged down by Pyongyang's insistence that its right to peaceful atomic energy be included in a statement of principles the six nations are trying to adopt to denuclearize the Korean Peninsula.

Differences of opinion between the six have became stark, with the United States and Japan insisting that light-water reactors were out of the question and South Korea saying they should remain an option.

China and Russia also have sided with North Korea on the nuclear-energy issue, though not as vocally as Seoul.

Mr. Hill said it would take up to a decade to build a light-water reactor and cost $2 billion to $3 billion; he urged the North to accept instead a South Korean offer to run power lines across the border.

Under a now-defunct 1994 agreement, two light-water reactors were to have been built by a U.S.-led consortium to replace North Korea's existing graphite-moderated reactors, which can produce weapons-grade plutonium.

But construction was suspended after the United States in 2002 accused the North of developing a secret uranium-enrichment program.

Failure to reach an agreement in Beijing could prompt the United States to take the issue to the U.N. Security Council and press for sanctions.

Talks Deadlock Over N. Korea's Demand For Reactor (WP)

By Edward Cody, Washington Post Foreign Service

The Washington Post, September 16, 2005

BEIJING, Sept. 15 -- U.S. and North Korean diplomats acknowledged an irreconcilable deadlock Thursday in long-stalled nuclear disarmament talks, casting doubt on the future of Chinese-sponsored six-party negotiations.

The stalemate, based on the North Korean demand that it be given a light-water nuclear reactor to produce electricity, brought the current round of discussions to a rancorous standstill after three days. Representatives of the participating countries, which also include South Korea, Japan and Russia, did not indicate they would abandon the negotiations, but none outlined a way to keep talks going.

"We're in a bit of a standoff at this point," said Christopher Hill, assistant secretary of state for East Asian and Pacific affairs and chief U.S. negotiator. "We'll have to see where this leads."

If the talks break down permanently, the Bush administration has suggested referring the issue of North Korea's nuclear weapons program to the U.N. Security Council for possible economic and other sanctions. Other participants in the talks, including China, which has veto power on the Security Council, have indicated they would not favor that course. North Korea has warned it would consider such a step tantamount to war.

Chinese diplomats, who sponsor and act as referees in the six-party talks, were meeting with their North Korean counterparts to explore salvaging the discussions.

Hill said he planned to meet with Chinese diplomats on Friday, but he made it clear that neither side seemed ready to budge. "I think it's fair to say we have a rather major disagreement on this point," he said.

A breakdown would represent a major setback for the Beijing government, which since August 2003 has taken a prominent leadership role in seeking a diplomatic solution to one of Asia's most intractable problems. Barring a dramatic turnabout by North Korea's leader, Kim Jong Il, however, it was difficult to see how the gap could be bridged, diplomats said.

"The talks are deadlocked," said the chief Japanese delegate, Kenichiro Sasae. "The differences between positions remain large and there are no prospects of agreement."

A North Korean spokesman, Hyun Hak Bong, said in a statement that his government's demand for a light-water reactor was a litmus test of whether the United States has abandoned hostility toward Pyongyang.

"Providing a light-water reactor is a matter of principle for building trust," the statement said. "The United States says it cannot give us a light-water reactor no matter what. It is telling us to give up the nuclear first without doing its part."

The Bush administration has demanded that North Korea relinquish not only its nuclear weapons program but also its ambition to build a nuclear reactor to produce electricity. Hill said the U.S. government believes that North Korea cannot be trusted on the issue, because it converted a research reactor in the 1990s into a source of weapons-grade plutonium.

Such a plant is out of the question, Hill said, because North Korea expelled U.N. weapons inspectors at the end of 2002 and, in January 2003, withdrew from the nuclear Non-Proliferation Treaty. The nation's energy needs can be supplied by a South Korean-proposed program that is included in the Chinese-drafted plan under discussion here, he added.

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North Korea Poses Aid Puzzle (WSJ)

By Gordon Fairclough, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

BEIJING -- The main market in Kang Chon Ha's hometown in North Korea is flush with illicit commodities: rice and corn donated by foreign governments to feed the impoverished country's hungriest and most vulnerable people.

"Senior officials sell it out the back door" of county warehouses, says Mr. Kang, a trader who supplied small vendors across North Korea before fleeing last year, and who uses a pseudonym because he fears retribution against relatives still there. "They'll do anything to make money."

The widespread availability of donated food in North Korea's booming markets shows how difficult it is for relief organizations to work with a government that, frustrated aid workers and others say, is often more interested in preserving its power than in protecting its citizens. Reports of diverted aid also are deepening mistrust of the government among other nations -- including those negotiating with Pyongyang over the future of its nuclear capabilities.

Yesterday, talks under way here since Tuesday remained at an impasse, the latest stumbling block being the North's demand for a light-water nuclear reactor in return for it abandoning atomic weapons. The U.S. long has said the world can't trust that Pyongyang won't convert a civilian nuclear program to military use.

It is impossible to know exactly how much aid is diverted -- to markets as well as to the military and other groups favored by the regime -- given tight North Korean restrictions on monitoring. But experts say it could be substantial.

A decade after the start of a famine that may have killed more than a million people, and despite massive deliveries of food aid, the situation remains precarious. Thirty-seven percent of all North Korean children are malnourished, as are a third of mothers, according to data from the United Nations' World Food Program. That makes it impossible to walk away, aid officials say.

"In North Korea, you have a ruthless government that is holding its own people hostage," says Marcus Noland, a Korea expert at the Institute for International Economics in Washington. "That is the basic ethical dilemma."

Now, North Korea says the crisis is easing and it wants to stop receiving emergency food shipments and instead get more extensive development assistance. Officials last week told Richard Ragan, the head of the World Food Program office in Pyongyang, that his organization -- which last year provided nearly 300,000 metric tons of grain to the North -- should make the shift by the end of the year.

Song Se Il, a diplomat at Pyongyang's United Nations mission, said his government has decided to "discontinue" emergency aid because the "the amount received is small" and the "prospect for future humanitarian assistance is not good." He declined to comment further.

WFP officials say the North Koreans told them they feared becoming too dependent on aid. But many experts say they believe Pyongyang is chafing at the conditions attached to help from the WFP. They say Pyongyang may assume, incorrectly, that development aid would come with fewer strings attached.

North Korean officials "complain that over the past several years, aid shipments have declined while conditions have increased," says Mr. Ragan. "You've got white vehicles everywhere and people pushing on monitoring, pushing on access. They don't like it."

But even after a lot of pushing, aid experts say, oversight remains relatively weak. Despite repeated requests over 10 years, North Korea has refused to give the WFP a list of all institutions receiving the food aid it supplies. WFP officials also must give several days' advance notice of inspection visits.

WFP workers aren't allowed to interview people who aren't already receiving aid, making it difficult to verify food is going to those most in need. And, with few exceptions, they also are barred from visiting markets, an increasingly important conduit for diverted food donations.

"We believe that the vast bulk of what donors provide goes to the people it is intended for," says Gerald Bourke, the WFP spokesman in Beijing. Mr. Bourke says the WFP's ability to monitor aid flows in North Korea has "gotten a lot better over time, but there's still a long way to go."

Mr. Ragan says he doesn't believe the North Korean government has a policy of diverting WFP aid to the military or to markets. But he says that, given the sheer amount of food the agency is moving, some is going to "end up going the wrong way."

Aid officials and experts say that efforts by the WFP and others to improve monitoring have been undercut by large shipments of aid and subsidized food from South Korea and China with relatively few conditions attached. South Korea recently agreed to send 500,000 metric tons of rice to North Korea this year.

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Seoul says it is planning 20 site visits to track the shipment. That compares with hundreds of site visits per month conducted by WFP officials on a smaller amount of aid. Also, South Korea is shipping rice, favored by the elite, and especially vulnerable to diversion, instead of less desirable grains more likely to be consumed by the truly needy.

South Korea's Unification Ministry says it has tried to "increase the transparency of food distribution" in the North. Han Ki Soon, director of the ministry's Cooperation Fund Division, dismissed criticism that Seoul's laxer standards could be detrimental to the WFP's efforts.

Defectors report seeing regular supplies of South Korean rice in markets, along with rice and other grains donated by the U.S., Japan and others. One man who fled North Korea this year says "aid rice is sold everywhere." In his town in the northeastern part of the country, white bags of donated food line market stalls.

Some aid officials say bags from aid deliveries are often being reused. But defectors say it is easy to tell the imported rice and other grains from those grown in North Korea, which tend to be of lower quality.

A video shot surreptitiously in July 2004 in a large market in Chongjin, a city on the northeast coast, and obtained by a Japanese nongovernmental organization, showed plentiful supplies of food in sacks from donor countries, including some marked with an American flag and others from South Korea.

Some argue that diversion of aid isn't an entirely bad thing. Lee Seung Yong, a project coordinator at Good Friends, a South Korean NGO, says, "it would be better if all the aid went to those who need it most," but that all aid helps "push the price of rice down, indirectly giving a benefit to the poor."

Flows of aid to the market clearly do help lower prices. The WFP says the mere announcement of South Korea's plans to make its large shipment of aid this year sent food prices lower. And that helps anyone who buys food in the markets, a common practice among North Koreans; government restrictions have loosened in recent years and a large amount of food goes through markets rather than the so-called public distribution system.

But, says Stephan Haggard, a professor at the University of California, San Diego, "there are serious questions in a situation like this, about whether the effects are trickling down."

Mr. Haggard, the author of a recent paper on food aid and human rights in North Korea, says that many disadvantaged people, especially children, the elderly and the growing number of people who have lost industrial jobs as a result of economic changes, don't earn the wages necessary to be able to shop in the market. That is why aid agencies have targeted them for assistance in the first place.

"People who don't have market resources, who can't command the resources to buy food in the market" are those being hurt most by the diversion, says Mr. Haggard.

--Lina Yoon contributed to this article.

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Court Says West Bank Barrier Must Detour by 5 Arab Villages (NYT)

By GREG MYRE

The New York Times, September 16, 2005

JERUSALEM, Sept. 15 - Israel's highest court ruled Thursday that part of Israel's West Bank separation barrier had imposed major hardships on Palestinian villagers and must be rerouted. It was the second such decision by the court.

However, the nine judges on the High Court of Justice also said in their unanimous ruling that Israel could build the barrier inside the West Bank, provided the government did so for security needs and not political considerations.

They criticized an advisory ruling last year by the International Court of Justice in The Hague that said all sections of the barrier inside the West Bank violated international law and should be torn down. The Israeli court said the international court had failed to consider security needs.

The immediate impact of Thursday's ruling will be to require Israel to revise a small section of the barrier built near the Jewish settlement at Alfei Menashe, where more than 5,000 settlers live.

Five Palestinian villages in the area, with about 1,200 people, brought the petition, contending the barrier was illegal. They said it left them in a tiny enclave, making it difficult and sometimes impossible to reach jobs, schools, farm land, hospitals and commercial centers.

"The enclave creates a chokehold around the villages," the court ruled. "It seriously damages the entire fabric of life."

The villagers must have permits to live in their homes. To travel to other Palestinian areas, they go through Israeli-controlled gates that are currently open from about 6 a.m. to 6 p.m., residents said.

"With this decision, we will be connected to our brothers and relatives again," said Yassin Marabeh, 47, the mayor of one village, Ras Tira.

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The court said that Israel "must, within a reasonable period, reconsider the various alternatives for the separation fence route" and explore security options that "injure the fabric of life of the residents of the villages of the enclave to a lesser extent."

The court, while not specifying a new route, ruled that Israel could build the barrier in the West Bank, which the court described as being under "belligerent occupation," as long as Israel's security concerns are balanced with Palestinian needs and human rights.

The Palestinian leadership says Israel is free to build a barrier on the West Bank boundary, its pre-1967 border, which is often referred to as the Green Line. But Palestinians object to having the barrier inside the West Bank, on land they are seeking for a future state.

Israel's deputy prime minister, Ehud Olmert, told Israel Radio on Thursday, "The importance is that the court made it legal for a fence beyond the Green Line and decided the World Court ruling is not binding."

Moshe Negbi, a prominent Israeli legal commentator, agreed that the Israeli government had won an important victory in receiving the court's blessing to build in the West Bank, even if some sections of the fence must be adjusted.

Thursday's ruling was quite similar to one handed down by the Israeli court in June 2004 in response to a petition by several West Bank Palestinian villages northwest of Jerusalem. Israel responded by rerouting that section of the barrier. It still runs inside the West Bank, though it places less land on the Israeli side than previously planned.

Israel says the barrier is essential to defend against Palestinian suicide bombings and other attacks. The number of suicide bombings has come down dramatically since Israel began building the barrier three years ago, as other security measures have also been put into effect. A truce between the two sides was declared in February.

Along Israel's planned route, the barrier is to stretch for some 400 miles, and about one-third has been completed. Under the plan, about 10 percent of the West Bank would be on the Israeli side of the barrier.

Most of the nearly 250,000 West Bank settlers would be protected by the barrier, as well as Israelis living in East Jerusalem, which has been annexed by Israel.

In the Gaza Strip on Thursday, Palestinian and Egyptian security forces tried but largely failed to impose some order along their border, where civilians have been going back and forth freely since the Israeli troops completed their withdrawal on Monday. The security forces restricted the number of people crossing for much of the day.

But on Thursday afternoon, large numbers of Palestinians overwhelmed the security forces and hundreds poured into Egypt in scenes familiar from recent days. <NYT_AUTHOR_ID>

Khaled Abu Aker contributed reporting from Ras Tira, West Bank, for this article.

Court Orders Rerouting Of Barrier (WT)

By Joshua Mitnick

The Washington Times, September 16, 2005

TEL AVIV -- Israel's Supreme Court yesterday ordered the government to dismantle and reroute a portion of its West Bank security barrier, ruling on behalf of five Palestinian villages isolated by the obstacle.

But even as the 9-0 ruling opened future challenges to the two-year-old network of electronic fence and concrete walls, the judges for the first time confirmed the legality of erecting a separation barrier inside the West Bank to protect Israeli citizens.

The decision rejected the July 2004 opinion by the United Nations' judicial arm that the more-than 400-mile obstacle -- built to repel terrorist attacks against Israelis and one-third complete -- violates international law because it is built on territory under military occupation.

While the court criticized the International Court of Justice's sweeping rejection of building the security barrier in the West Bank, it ruled that the specific sections of the fence must not unreasonably hamper living conditions for Palestinians.

The court sided with a group of Palestinian villages near the West Bank city of Qalqilyah whose residents were cut off from relatives, mosques and social services in larger Arab towns after being closed inside an Israeli enclave created to protect the Jewish settlement of Alfei Menashe.

"The enclave creates a chokehold around the villages. It seriously damages the entire fabric of life," wrote Israeli Chief Justice Aharon Barak in the 66-page decision. "Based upon the factual basis as presented to us, the existing route of the fence seems strange ... We are by no means persuaded that there is a decisive security-military reason for setting the fence route where it presently is."

Israel's defense ministry now must consider alternatives to the path that separates about 1,200 Palestinians in five small villages from the rest of the West Bank. According to the Association for Civil Rights in Israel, which brought the petition on behalf of the Palestinian villages of Wadi a-Rasha and Ras a-Tira, at least four more legal challenges to the fence's route in other areas are making their way to the Israeli Supreme Court.

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The first third of the fence already has been completed around the northern hub of the West Bank, and another 100 miles are being built. The government shifted the planned path of the fence earlier this year after a June 2004 Supreme Court ruling forced the government to reconsider blueprints for a fence route in between the village of Beit Surik and the Jerusalem suburb of Mevasseret Tziyon.

The decision yesterday marks the first time the court has instructed the government to tear down a part of the fence that already has been built.

Dana Alexander, the head of the legal department of Association for Civil Rights in Israel, said the decision marks an important precedent.

"The court ordered the government to dismantle the existing fence," she said. "That means all the existing parts of the fence can be submitted to judicial review, and if they are found to violate Palestinian rights unjustifiably, the state can be ordered to dismantle the fence."

Sharon Tells U.N. It's Time For Palestinian Peace Steps (NYT)

By JOEL BRINKLEY

The New York Times, September 16, 2005

UNITED NATIONS, Sept. 15 - Prime Minister Ariel Sharon of Israel spoke Thursday to the General Assembly, a body he has long considered a tool of the enemy, and challenged the Palestinians to demonstrate their commitment to peace now that Israel has completed its withdrawal from the Gaza Strip.

"The State of Israel proved that it is willing to make painful concessions in order to resolve the conflict with the Palestinians," he said, his tone confident and firm. "I call on the Palestinian leadership to show determination and leadership and to eliminate terror, violence and the culture of hatred from our relations."

The audience reaction was polite, as is the custom here, but even that might have been more than Mr. Sharon would have expected in the past.

Through several decades in public life, Mr. Sharon had never before spoken to the United Nations. Just a few months ago it might have seemed unthinkable that he would stand before the world forum that has tried to pass countless resolutions criticizing Israel and precious few aimed at the Palestinians, in the Israeli view.

But this week, he said, numerous world leaders, including some from Islamic nations, have approached him in the halls of the United Nations building, asking to shake his hand and congratulating him on Israel's withdrawal from Gaza. Mr. Sharon, in an interview later, said he was pleased by that reception, though he declined to name the other leaders.

Nonetheless, in his address, Mr. Sharon could not help but refer to Israel's sorry history with the United Nations.

He said Israelis had not forgotten "dozens of harsh and unjust decisions made by the United Nations over the years." Referring to Iran, he added: "We know that, even today, there are those who sit here as representatives of a country whose leadership calls to wipe Israel off the face of the earth. And no one speaks out."

In the speech and in the interview, he described the decision to withdraw from Gaza as painful - "very hard, very hard and complicated."

But to the United Nations, he insisted, "Now it is the Palestinians' turn to prove the desire for peace."

While Mr. Sharon's speech was more conciliatory toward the Palestinians than is his custom, he said little to suggest that Israel planned any more conciliatory moves toward the Palestinians right now, though he did say that following a path toward peace was "my calling and primary mission for coming years."

His remarks brought criticism from some of his right-wing opponents in Israel. Furthermore, unless Mr. Sharon announces new concessions to coincide with any serious actions toward peace that the Palestinians may take, he could find himself in conflict with the Bush administration.

In recent weeks, Secretary of State Condoleezza Rice has said several times that she expects Israel and the Palestinians to take simultaneous steps toward peace in the months ahead.

Israel, she said in an interview last month, should withdraw from more West Bank cities and loosen roadblocks and checkpoints that restrict Palestinian travel, while Palestinian authorities should disarm Hamas and other Palestinian factions intent on continuing the uprising and should work to govern Gaza responsibly.

In the interview, Mr. Sharon's voice turned hard as he said: "The focus should be on Gaza now. It is the time now for the Palestinians to take steps to show they can rule. We left Gaza. We are not there. They will be tested now. Can they run a country? Can they stop the violence?"

Mr. Sharon did reiterate that Israel "is committed to the road map," referring to the peace plan that the United States and its allies proposed in 2003, "and the Sharm el Sheik understandings" early this year. At Sharm el Sheik, an Egyptian city on the Red Sea, Israel agreed to release some Palestinian prisoners and to withdraw from five West Bank cities.

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In his speech, Mr. Sharon made no obvious effort to tailor his remarks to curry favor with the other leaders meeting at the United Nations this week. He did not back away from positions that many here oppose. He opened his address by noting, "I arrived here from Jerusalem, the capital of the Jewish people for over 3,000 years, and the undivided and eternal capital of the State of Israel."

Palestinians hope to establish the capital of their state in part of Jerusalem, and many nations represented here are sympathetic to that goal.

Nasser al-Kidwa, the Palestinian Authority's foreign minister, sat silently through the speech and at its end folded his arms and did not join in the applause. Later, Mr. Sharon offered a long and impassioned defense of Israel's security fence, which surrounds much of the West Bank and in many places cuts into it. Israel's high court ruled Thursday that Israel must reroute part of it.

"We will continue to build it until it is completed," he said, "as would any other country defending its citizens."

But in the end the prime minister returned to the difficulties that have prevented him from appearing here before now.

"I hope," he said to the General Assembly, "that the comprehensive reforms that the United Nations is undergoing in its 60th anniversary year will include a fundamental change and improvement in the approach of the United Nations, its organizations and institutions, toward the State of Israel."

Later, he said: "It was important for people to hear it. It was important that I say it clearly."

U.S. Renews Push On China's Yuan (WSJ)

By Michael M. Phillips, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

WASHINGTON – The Bush administration is turning up the heat on Beijing to allow the Chinese yuan to rise against the dollar, reigniting an economic dispute that had appeared settled.

Treasury Department officials are disappointed that China's eight-week-old promise to let the yuan move with market forces has resulted in only a tiny increase in its exchange value. They warn that Beijing is courting a backlash from U.S. lawmakers who say China's undervalued currency is robbing American companies of business and American workers of jobs.

Treasury Secretary John Snow has invited the Chinese finance minister, Jin Renqing, to meet during a gathering in Washington on Sept. 23-24 of senior economic officials from the Group of Seven major industrialized nations. The Chinese have indicated they plan to attend, but haven't yet formally accepted.

"The secretary will emphasize the need for the Chinese to demonstrate that the regime they've put in place will allow for greater flexibility in the yuan," said a Treasury official. In essence, Mr. Snow plans to tell the Chinese that it's not enough to say that the yuan can rise; they must also allow it to do so in a significant way.

"There has to be movement," the official said, although the administration doesn't have a specific percentage figure in mind.

The yuan had been fixed at about 8.3 to the dollar for more than a decade when Chinese officials, facing intense U.S. and European pressure, announced on July 21 that the currency would be immediately revalued by 2.1% and allowed to move in a way that would reflect the dictates of supply and demand. Since then, however, the yuan has barely budged and the currency has climbed a total of just 2.37% since the announcement.

In public, Treasury officials diplomatically say they understand the Chinese need time to implement the new system. "We have been very supportive of the reforming of the exchange-rate regime, but implied in that support is taking them at their word that over time they'll achieve greater flexibility and an exchange rate that increasingly reflects underlying supply and demand," Timothy Adams, Treasury's undersecretary for international affairs, said in an interview. "We expect that to occur."

Congressional actions -- both past and prospective -- leave little time for patience. The Treasury Department is due to release on Oct. 15 a biannual report to Congress on international currencies, and Mr. Snow promised months ago that unless China implemented significant reforms the fall report would "likely" cite China for manipulating its currency to gain an edge in international trade. That would trigger a legal requirement that the U.S. initiate formal negotiations with China over the currency question.

Mr. Snow is scheduled to travel to China in mid-October, and Treasury is likely to delay release of the report until after his return, Mr. Adams said.

The renewal of the confrontation comes at a time of tension in a spectrum of U.S.-China issues, from textile trade to copyright piracy to Chinese bids for American companies. In a meeting in New York this week, Chinese President Hu Jintao told President Bush that he would address U.S. concerns about its $162 billion trade deficit with China and about Chinese intellectual-property violations, according to Mike Green, the White House China expert.

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Mr. Bush, who plans to visit China in November, also raised with Mr. Hu concerns about the yuan. "It's in China's long-term economic interests and the world's economic interest for China to make further moves toward a flexible and market-oriented exchange rate," Mr. Green told reporters after the two leaders met.

While monetary authorities rarely announce currency moves in advance, the Chinese appear to be signaling that they don't plan another revaluation soon. Yu Yongding, a member of the monetary policy-making committee of the People's Bank of China, told Dow Jones Newswires recently that the Chinese authorities "need another, say, four or five months" to evaluate the new currency regime before making any big moves.

"I don't know if there will be further revaluation in the short term," said Mr. Yu. "The authorities need time to observe the effect of the small revaluation on economic growth that itself is in the process of changing even without the revaluation."

Many U.S. manufacturers, represented by groups like the National Association of Manufacturers, are pressing their representatives in Washington to take stronger action against China. "We are very disappointed in the way the Chinese have actually put their new regime to use," said Frank Vargo, NAM's vice president for international economic affairs. "It looks a lot like the old regime, except 2% up, which is trivial."

At least two anti-China bills are looming in Congress. One, sponsored by Sens. Charles Schumer (D., N.Y.) and Lindsey Graham (R., S.C.) would impose a 27.5% tariff on all Chinese goods entering the U.S. to counterbalance the allegedly unfair advantage the yuan's weakness gives Chinese companies over their U.S. competitors.

The administration opposes that bill as far too sweeping a punishment, and after talks with Mr. Snow and Federal Reserve Chairman Alan Greenspan this summer, the sponsors agreed to hold that bill back in anticipation of what turned out to be China's July 21 announcement of its new approach to the yuan. The bill is likely to resurface, however, particularly if Sens. Schumer and Graham feel the administration isn't being tough enough on China, by, for example, failing to brand China a currency manipulator in the October report.

A separate bill, already passed by the House and awaiting action in the Senate, would allow the Commerce Department to impose import duties against Chinese goods to counter the effects of government subsidies to Chinese firms.

"Protectionist pressures are really there," said the Treasury official. "Aside from something Katrina-related, there would be no more popular bill on the Hill right now than something protectionist aimed at China."

The Chinese authorities "have to recognize that," the official said.

Write to Michael M. Phillips at michael.phillips@wsj.com1

EU Trade Chief Dismisses Bush Trade Claim (FT)

By Ft Reporters

Financial Times, September 16, 2005

Peter Mandelson, European Union trade commissioner, on Thursday accused President George W. Bush of “playing to the gallery” by calling for the global elimination of tariffs and subsidies, saying US farmers would oppose such a sweeping measure.

Mr Mandelson's comments came just one day after he and his counterpart Rob Portman, US trade representative, launched the most serious effort yet to agree on an agricultural liberalisation package as part of the Doha Round of global trade talks.

Mr Bush, speaking at the United Nations on Wednesday, said the US was “ready to eliminate all tariffs, subsidies and other barriers to the free flow of goods and services as other nations do the same”.

US officials said the president's statement was intended only to reaffirm his strong commitment to a successful outcome of the Doha talks, which are entering a critical period in the run-up to a December meeting of trade ministers from 146 nations in Hong Kong.

But Mr Mandelson, in an interview with BBC radio, said that, while he welcomed such ambition, “it is easy to make these grandiose commitments.

“Some will say he is playing to the gallery, and some will say that he is making these sort of lavish promises in the almost certain knowledge that the rest of the world cannot or won't follow suit and therefore he will get a free pass.”

He added: “There will be very, very many American farmers who will be waking up to hear his words and choking on their cornflakes.”

The issue of agricultural tariffs and subsidies remains the most divisive one in the Doha talks. Mr Portman, in an interview on Wednesday with the FT, said he and Mr Mandelson were "working in a constructive way" to bridge their gaps. For instance, the two are negotiating over specific numbers for reducing tariffs on agricultural imports, rather than simply arguing over general principles.

“We were at loggerheads and now we're at the point where we're talking and talking specifics," he said.

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But Mr Mandelson's comments underscored how difficult those talks will be. The EU is insisting on maintaining high tariffs for a range of sensitive products, while Mr Portman said US farmers would support only a deal that promised substantial new market access and strictly limited the number of products excluded from deep tariff cuts.

Tony Blair, the UK prime minister who holds the EU presidency, said in a speech at the UN that he would do everything possible to avoid failure at the Hong Kong ministerial. “I am not prepared to have that at least, not without the most monumental struggle,” he said.

He said that too many countries were bluffing in the negotiations. “We need to start calling those bluffs and make people understand that if we do end up with failure that will echo right around the world.” Pascal Lamy, director-general of the World Trade Organisation, also said yesterday he would use a “hands-on” approach to try to prevent failure at Hong Kong. Earlier this week when he said a transatlantic rapprochement on agriculture was "urgent" for the rest of the negotiations to make progress.

“That sort of finger-pointing must be done carefully,” he said. “It's a bit of a risk but I came [to the WTO] with a bit of capital, a bit of trust, from the members and I think I have to spend it.”

Reporting by Edward Alden and Alan Beattie in Washington, James Blitz at the United Nations and Frances Williams in Geneva

US Says Venezuela Fails To Combat Drug Trafficking (FT)

By Andy Webb-vidal

Financial Times, September 16, 2005

The US on Thursday struck Venezuela off its list of countries deemed to be co-operating in the war on drugs, injecting a new source of tension into deteriorating relations between Washington and Caracas.

In a statement released by the White House, President George W. Bush said Venezuela, as well as Burma, had “failed demonstrably” to adhere to their international counternarcotics obligations during the past year.

Venezuela’s “decertification”, as the measure is called, had been expected in the wake of a decision by President Hugo Chávez last month to suspend a co-operation agreement with the US Drug Enforcement Administration. While Mr Chávez has accused the DEA’s officials of “spying”, US officials have alleged elements within the Venezuelan authorities have become complicit with drugs-trafficking groups.

As much as a third of the cocaine smuggled from Colombia, the world’s top producer, to the US and Europe passes through Venezuela, drugs experts calculate - a volume equivalent to about 165 tonnes.

Jose Vicente Rangel, vice-president, said Venezuela was unruffled by the decision. “We could also propose the decertification of the United States in its war against drugs-trafficking,” he said.

Despite the decertification, unusually the Bush administration has decided to continue some assistance, much of which is likely to be aimed at opposition-linked civil groups.

John Walters, director of US National Drug Control Policy, said: “While Venezuela will be subject to sanctions, the president determined it is in the vital national interests of the US to continue selected US assistance.”

It is possible selective sanctions might include an obligation on the US to vote against advancing loans to Venezuela in multinational lending agencies, such as the Inter-American Development Bank. But in practice some observers had suggested that economic sanctions on Venezuela as a result of decertification would have come to less than $1m, a negligible amount for oil-rich Venezuela.

Venezuela continues to maintain bilateral counter-narcotics agreements with the principal countries of Europe.

Merkel Tries To Retune Her Economic Message (WSJ)

By Marcus Walker, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, September 16, 2005

FRANKFURT -- Just days before Sunday's German election, front-runner Angela Merkel is struggling to retune her message on the economy, which is supposed to be her strongest issue but has been weakening her lead in the polls.

Ms. Merkel's center-right coalition is still firmly ahead of rivals but polling just short of an absolute majority in Parliament. Calling on her supporters to give her an outright victory and a mandate for economic change, Ms. Merkel shuffled economic advisers and attempted to refocus attention on Germany's high unemployment and low growth under incumbent Chancellor Gerhard Schroeder.

German media have focused on her tax adviser, Paul Kirchhof, whose belief in flat-rate income taxes Mr. Schroeder has criticized heavily. Under pressure from within her own Christian Democrats party, Ms. Merkel has reduced Mr. Kirchhof's importance by inviting the party's most popular finance expert, Friedrich Merz, into the campaign. Mr. Merz fell out with Ms. Merkel last year.

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"Given the condition of our country we need everybody who can help," Ms. Merkel said on Wednesday when accepting Mr. Merz back into the fold. In recent weeks Ms. Merkel has struggled to explain to voters that her legislative program wouldn't go as far as Mr. Kirchhof's radical ideas.

Pollsters say most voters view Mr. Kirchhof's advocacy of a 25% flat tax on all incomes as unfair on lower earners. Ms. Merkel hasn't endorsed a flat tax, but Mr. Schroeder's attacks on it, along with his personal popularity, have helped his party narrow the Christian Democrats' once-huge lead to about eight points. Mr. Kirchhof on Tuesday acknowledged the storm by saying he should play a "tandem" role with Mr. Merz.

"The Kirchhof debate has spread a strong uncertainty among the population about what would happen. Many voters fear the cutbacks to the welfare state could be deeper than expected," said Josef Esser, political-science professor at Frankfurt University.

While voters think the Social Democrats are stronger on protecting the less affluent, they give Ms. Merkel more credit for competence on cutting unemployment, boosting economic growth and balancing public finances, according to polling institute TNS Emnid.

Mr. Schroeder has been playing up themes other than unemployment, reminding voters that he firmly opposed the war in Iraq while Ms. Merkel was more accommodating of the U.S. position.

Underlining the German election's impact across Europe, EU competition commissioner Neelie Kroes caused a stir in Brussels on Thursday by endorsing Ms. Merkel, saying a female chancellor of Germany would be "a gift for Europe."

Members of the European Union's executive arm normally don't endorse candidates in national elections. Leftwingers in the European Parliament attacked Ms. Kroes, but conservatives backed her.

Mr. Schroeder's recovery appeared to level off this week among voters who expressed a preference. Germany's electoral system awards extra seats to the main parties when minor parties don't reach a 5% support threshold, and when their strength is concentrated within regions. Both factors could help give Ms. Merkel's party a clear majority.

Write to Marcus Walker at marcus.walker@wsj.com3

The Front-Runner in Germany Runs Scared (NYT)

By MARK LANDLER

The New York Times, September 16, 2005

MAINZ, Germany, Sept. 15 - Three days before an election that has become unexpectedly suspenseful, Angela Merkel turned up on Thursday in this ancient city on the Rhine with a blunt message: Chancellor Gerhard Schröder has failed, and his government ought to be thrown out.

"A person who doesn't have the support of his own party can't put Germany on the right path," said Mrs. Merkel, who, as leader of the opposition Christian Democratic Union, is poised to achieve two firsts: the first woman to become German chancellor and the first former East German to lead the reunified country.

"He promised they would reduce unemployment by two million," Mrs. Merkel declared, recalling a target that Mr. Schröder set before his second term. "Instead it grew. That's the truth."

Her audience of several hundred cheered often, if not quite passionately. Orange placards with the name "Angie" bobbed above the crowd, as the afternoon sun dipped behind Mainz's red-stone cathedral.

Mrs. Merkel is not a feel-good politician. Her stump speeches are lengthy, serious and larded with details. She rarely smiles, and responds to hecklers with a curt tone. She does not look like an Angie.

Yet Mrs. Merkel's sense of grim purpose may suit the moment. After spending four months with a seemingly unassailable lead in the polls, she finds herself in a dogfight with Mr. Schröder.

Mrs. Merkel, 51, is still likely to become chancellor after the vote on Sunday. But her preferred coalition, with the Free Democratic Party, has been falling just short of a majority in the most recent polls. She may have to settle for leading a so-called grand coalition of her Christian Democratic Union and Mr. Schröder's Social Democratic Party.

Given the aura of political invincibility that has enveloped Mrs. Merkel since a weakened Mr. Schröder called for elections in May, that would be seen almost as a defeat.

The campaign has been bumpy for Mrs. Merkel, with a few missteps by her and more blatant gaffes by some of her allies. But what has made the real difference, political analysts say, has been a nimble performance by Mr. Schröder down the stretch.

He has achieved a sort of role reversal, putting Mrs. Merkel on the defensive for her proposals, while largely avoiding any discussion of his own government's record. "For months, the C.D.U. has been seen as representing a new government," said Gerd Langguth, the author of a biography of Mrs. Merkel. "Everybody is asking, 'What would Merkel do,' not, 'What has Schröder done?' "

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Mrs. Merkel has played into that strategy, with her penchant for offering detailed policy prescriptions. On Thursday, as she began an explanation of how her party's tax proposals would affect people in various income brackets, people began drifting away from the rally.

"We're telling you before the election what we will do after the election," she said. "We don't want people to be afraid, so that's why we're telling you in clear terms what we plan to do."

In his speeches, Mr. Schröder sticks to generalities about his efforts, while cheerfully ripping into Mrs. Merkel's proposals.

The Christian Democrats have given the chancellor some easy targets, starting with a plan to raise the value-added tax to 18 percent, from 16 percent. Mrs. Merkel said it was needed to plug Germany's ballooning budget deficit; Mr. Schröder said it would hurt lower-income people.

Then Mrs. Merkel appointed Paul Kirchhof, an academic who advocates a flat tax, as her economic adviser. She was initially praised for her boldness, but she has been forced to defend Mr. Kirchhof, to whom the chancellor derisively refers as "the professor from Heidelberg."

This week, under pressure from party leaders, she welcomed back Friedrich Merz, a party authority on budget matters, who had resigned his post last year after a clash with Mrs. Merkel.

Although she has a remarkable personal story - the shy daughter of a Lutheran minister in East Germany who rose to the top of a male-dominated West German party - Mrs. Merkel rarely invokes it.

To her supporters in the crowd in this historical German town, however, Mrs. Merkel's shortcomings as a candidate are less important than her message.

"She has so much courage," said Hanna Kaltenbach, 58. "Schröder is a media star, but he is shallow."

Andreas Baldauf, 22, a business student at the University of Mannheim, said: "Gerhard Schröder had seven years to fix the situation, and he didn't. It's time to give Angie a chance."

As Mrs. Merkel left the stage, "Angie," the 1970's song by the Rolling Stones, warbled from loudspeakers. It has become the theme song of her campaign, and the crowd did not seem bothered to hear Mick Jagger sing, "All the dreams we held so close seemed to all go up in smoke."

Germans Haven't Forgotten Schroeder's Unfulfilled Pledge (WP)

By Craig Whitlock, Washington Post Foreign Service

The Washington Post, September 16, 2005

BREMEN, Germany -- When he took office seven years ago, Chancellor Gerhard Schroeder made a big promise he didn't keep.

"My most important job is the fight against the scourge of unemployment," he declared in his victory speech after winning the 1998 election. During the campaign, he told Germany's 4 million jobless that he would slash unemployment. Voters should kick him out of office if he failed, he added later.

Today, Germany's jobless rate is worse than ever; the number of people out of work hit a post-World War II high this year. German voters haven't forgotten Schroeder's pledge, and polls suggest they are ready to depose him in Sunday's national elections.

Angela Merkel, the candidate of the Christian Democrats who wants Schroeder's job, and her allies have been relentless in their reminders. "You have spent seven years making empty promises," she said in Parliament last week, telling lawmakers that Schroeder was "a man who has had his chance."

The criticism rings familiar to Schroeder, 61, who defeated longtime German leader Helmut Kohl by harping on the same thing. He called Kohl "the chancellor of unemployment" and ripped him for not having done more to invigorate the economy.

Germany exports more goods than any other country and has the world's third-largest economy. But it has been dogged by high jobless rates and weak economic growth for the better part of two decades. An aging workforce, generous social welfare programs and a cultural resistance to change have stymied efforts by a succession of governments to fix the economic problems.

Schroeder's Social Democrats and their partner in government, the Greens party, were hobbled by large deficits stemming from the huge public investment to unify the country after the Berlin Wall collapsed. The coalition did trim social benefits and cut some taxes to encourage companies to hire more workers, but the strategy has not panned out. Many of Germany's biggest industrial companies remain profitable, but have shifted jobs to Eastern Europe and other regions where it is cheaper to operate.

"He really thought that curbing costs would improve the situation and reduce unemployment -- he really believed that," said Michael Vester, a professor at the University of Hannover, in Schroeder's home town. "But this was an error. It didn't work."

In addition to the worsening job climate, average personal incomes have stagnated on Schroeder's watch. That, in turn, has caused Germans to consume less, hurting economic growth.

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Things got so bad that Schroeder decided in May to call new elections a year early. With many lawmakers in his own party abandoning him, he said German voters needed to decide whether the country should continue his policies. In public, he looked tired and beaten. Some analysts suggested that he had lost his enthusiasm for the job.

Since then, Schroeder has recovered some of his zest on the campaign trail. His coalition, known as "red-green" for the colors of its two parties, has gained in the polls by predicting that Merkel's Christian Democrats will shred Germany's social safety net and cut taxes for the rich. But he's offered few new ideas, and polls indicate he faces long odds to win another term.

At a rally in Bremen, a river port in northern Germany, about 4,000 people turned out in a drizzle Wednesday to hear Schroeder defend his record. He seemed to draw energy from the crowd as he pumped his fists in the air and thundered into the microphone.

He talked about climate change, the war in Iraq, health care, social justice, relations with Russia and automobile fuel standards. But he didn't say much about jobs or make any more promises. When he did talk about the economy, he accused the media of ignoring the good news, pointing to a World Bank study that ranked Germany fifth in business innovation.

"I am proud of this, I am proud of this!" Schroeder said. He acknowledged that more economic changes were necessary, but didn't go into detail. "They will be done -- by us -- so that the social justice in this country remains intact."

Several voters at the party-sponsored event said they would vote for Schroeder and the Social Democrats, but only reluctantly.

Bruno Schroeder, 54, a former financial adviser, said he would support the chancellor (who is no relation), mostly because he disliked Merkel more. He said he usually votes for the Social Democrats, but complained that Schroeder's performance "could have been better."

"He needed to do a better job showing the country the direction in which we need to go," he added.

Thorben Harleng, 26, a student, was also unenthusiastic. When asked what Schroeder needed to focus on, Harleng responded simply: "Jobs." But he said he would vote to reelect the chancellor, calling him a better choice than Merkel. "I don't think she could have done any better," he said.

That Schroeder has made the race close is a testament to his political skills. Though the polls show that Germans favor the Christian Democrats over the Social Democrats, on a personal level, Schroeder tops Merkel, who tends to be reserved and dour, in voter popularity. They think he outshined her last week in a one-on-one debate.

"What is Schroeder's trick in having the contour of 5 million unemployed people disappear in a campaign puff of smoke?" the Frankfurter Allgemeine newspaper said in an editorial this week. "It is the work of a great political illusionist."

Clinton Gathers World Leaders (WP)

By Glenn Kessler, Washington Post Staff Writer

The Washington Post, September 16, 2005

NEW YORK, Sept. 15 -- The U.N. General Assembly may have failed this week to come up with a stirring plan to combat the world's ills. But there was former president Bill Clinton -- once said to have harbored an ambition to become secretary general -- assembling his own mini-General Assembly of presidents, prime ministers, kings and other pooh-bahs on Thursday to devise specific plans for addressing poverty, global warming, religious conflict and better governance.

The inaugural meeting of what he has dubbed the Clinton Global Initiative will stretch over three days of seminars and speeches, bringing together 800 movers and shakers who paid $15,000 each for a seat. If the opening session is any guidepost, the meetings resemble the gabfests at Davos, the annual global economic summit held in Switzerland, or the Renaissance Weekends that Clinton attended as president. But Clinton added a catch -- each of the attendees is required to commit to doing something to improve the world.

"This is more than a photo op, more than business as usual," Clinton said as he opened the session. "All of us come to meetings, we study issues, we say what we think, and too often we complain when the governments that we seek to influence ignore what we think is our sound advice."

So every person attending is required to make a commitment in writing. More than 50 commitments have been made, totaling more than $300 million. Clinton announced four specific commitments -- signed on the spot for the cameras -- which included a $100 million Africa investment fund and a plan to fight HIV-AIDS through micro-enterprise development. One commitment was made by the Clinton initiative itself -- a pledge that all of its activities would be "carbon neutral," promising to mitigate the effects of plane travel and conference preparation by financing renewable energy projects that replace fossil-fuel energy sources.

"What is happening here is the kind of intense dialogue between different people and cultures which should take place at the U.N. but can't anymore because of highly ritualistic structures, protocol and conflict avoidance," said Richard C. Holbrooke, a former U.N. ambassador under Clinton who made the HIV-AIDS commitment.

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The initiative, which will take up three floors of a midtown hotel and promises as many motorcade tie-ups as the General Assembly, is the former president's most ambitious attempt to define his post-presidency. Along with the heads of state, former senior Clinton administration officials packed the hall Thursday afternoon.

Organizational mix-ups also gave the event a touch of Clinton nostalgia, as scores of delegates discovered that their credentials were not ready and the meeting began 20 minutes late because people ignored pleas to sit down.

Clinton has strived to keep his project nonpartisan. He presided over an opening roundtable discussion that included King Abdullah of Jordan, British Prime Minister Tony Blair and Secretary of State Condoleezza Rice.

Sen. Hillary Rodham Clinton (D-N.Y.) participated in another panel.

Rice's attendance was noteworthy, coming after nearly 10 years of Republicans' often tough attacks on Bill Clinton's foreign policy. Her predecessor, Colin L. Powell, once told a friend that he had to cancel an appearance at an AIDS conference in Nigeria early in President Bush's first term after Clinton decided to attend. But Clinton and former president George H.W. Bush have worked closely together in the past year, raising money for victims of the Indian Ocean tsunami and Hurricane Katrina.

Clinton was clearly in his element during the roundtable discussion, as he moderated a broad-ranging and polite exchange between the young king, the seasoned British prime minister and the poised Republican secretary of state. He tossed around ideas -- such as an insurance fund for investors in the Gaza Strip -- and sprinkled a plethora of statistics and facts throughout his commentary. He steered clear of Iraq, the contentious issue that most consumes Jordan, Britain and the United States.

"I don't want to get too much in the weeds," Clinton said, but he bemoaned the expiration of something called the worldwide Multi-Fiber Arrangement , which he said hurt African nations. Lesotho, "with the third-highest AIDS rate in the world, they had 2,000 jobs [before passage of Clinton's Africa free-trade agreement] and 50,000 after, and now have lost 15,000 jobs." What, he asked, should be done about this?

Neither Blair nor Rice rushed to answer Clinton's question.

At another point, Clinton said he had not been away from politics long enough to force them to answer whether high oil prices made their lives easier, a reference to the growing attractiveness of alternative energy sources.

Thomas F. McLarty III, former Clinton White House chief of staff, said the diverse gathering was a "picture worth a thousand words," but he was especially amused that Clinton had enlisted former aide George Stephanopoulos to make a presentation. Stephanopoulos, now anchor of the ABC News program "This Week," earned Clinton's ire by writing a tell-all book. Clinton will appear on "This Week" on Sunday to promote his initiative.

This Conference Will Not Be Like So Many Before It (FT)

By Bill Clinton

Financial Times, September 16, 2005

Sixty years ago, the San Francisco Conference launched the United Nations, even before the second world war had ended. Ten years ago, after terrible bloodshed in the Balkans, the Dayton proximity talks brought long-overdue peace to Bosnia. I hope that future historians will also think of 2005 as another step forward in the not-very-advanced -science of conference-making.

This week, the inaugural Clinton Global Initiative (CGI), a three-day programme, is taking place in New York. More than 40 heads of state are joining me and a large number of participants from a broad swath of civil society: non-governmental organisation activists, legislators, policy experts, business leaders, journalists and writers from every continent. This will be a different kind of conference. At this conference, the activists will have access to the presidents and vice versa. And we will do a lot more than talk. International conferences always sound ambitious, but are rarely places where searching questions are answered. Too often, these sessions are glorified photo opportunities. Then it is business as usual the next day. That is simply not good enough. We need action.

That is exactly what we will try to get at CGI to address four critical challenges: poverty, religious strife, climate change and governance. All difficult – but all solvable. This conference is different because it asks everyone who attends to make a concrete commitment of one kind or another – a cash pledge, or a promise of service or some kind of specific executable plan.

As the conference begins, we have already received some important commitments, including a $100m (£55m) pledge from the Hunter Foundation to support holistic approaches for development; a study by McKinsey, Oxfam and Tufts University on the private sector's role in disaster response; and a public -education campaign to increase -awareness of the UN Millennium -Development Goals led by Bob Rubin and Don Evans.

As the world moves rapidly and -inexorably towards being more and more interconnected, I think a more open conversation between the world's "haves" and "have-nots" will benefit both. We need to move forward together.

To do so, we must answer some hard, troubling questions. Why is capitalism so robust in some places and failing in others? Why are countries rich in -mineral resources often so poor in -democratic resources? How can we stimulate economies

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in developing nations and contain environmental damage at the same time? What simple legal and political steps can we take to harness the tremendous energies of the world's billions of poor? When we have some answers, we have to act on them to make change.

I do not claim for a second that this initiative will solve all of these -extraordinarily tough questions, but one thing is clear – the vast majority of us, from all religions and races, all political views, all walks of life, want a better world. There is more that unites us than separates us.

Getting all hese people in one place to focus on these critical problems with a commitment to what each of us can really do to change them is an important first step, and this week it is a step that hundreds of us – activists, presidents and chief executives from every political party and religious affiliation – are taking together.

The writer was the 42nd president of the US

Fox Promises Electoral Order In 2006 (WSJ)

By Mary Anastasia O'Grady

The Wall Street Journal, September 16, 2005

The past five years have been tough political sledding for Mexican President Vicente Fox, the first non-Institutional Revolutionary Party (PRI) president in 70 years. But his sixth and final year in the job may yet prove the most challenging.

The reason is the looming July 2006 presidential elections. Election year instability in Mexico was avoided in 2000 but over time it has tended to be the rule rather than the exception. In an interview Wednesday at the Mexican Mission to the United Nations in New York, Mr. Fox emphasized the country's established 10-year record of fiscal stability and political reform that he predicts will guarantee a smooth transition of power.

His facts are straight. But still, there is the Democratic Revolutionary Party (PRD) and its candidate, Mexico City mayor and leftist firebrand Andres Manuel López Obrador, to worry about. This hard-charging, demagogic socialist with overt authoritarian instincts conceivably could win. Equally worrying are the stunts he might pull if he loses. He has a record of fomenting street violence when he doesn't get his way.

In an otherwise tame environment Mr. López Obrador might not seem so menacing. But his appearance on the national scene comes at a time when there is a frightening rise in organized crime -- a consequence of fierce competition among armed gangs to fill U.S. demand for illicit drugs -- in parts of Mexico, particularly along the U.S. border. Another factor is the weakness of the Mexican economy, largely because government policies haven't responded to the pressures of global competition. Modernizers view these failings with dismay. Mr. López Obrador sees them as an opportunity for populist rebellion.

Mr. Fox's sanguine view comes in large part from his confidence in the Federal Electoral Institute (IFE) and the tribunal that watches over it. The nation, the president assured me, has "not only reached full democracy, full liberty of expression, communication and information" but also has developed the "democratic, strong institutions" necessary for a successful election. Mexico, Mr. Fox asserted, has secured these gains over the past decade under the governance of two different political parties.

In 2000 the IFE acted impressively, ensuring fairness and transparency despite pressure from the PRI to preserve the status quo. Mr. Fox's predecessor, Ernesto Zedillo, earned high marks for his commitment to an independent IFE even though it led to a victory of the National Action Party (PAN) and Mr. Fox. Now Mr. Fox is pledging to be equally impartial, recognizing that Mexico's next six years will depend heavily on confidence in the rule of law. "I don't have any doubts that the process will go as it should be expected to go," he told me.

That Mexicans yearn for a continuation of the transparent, rule-based electoral process that IFE managed in 2000 is undoubtedly true. But that doesn't mean that "AMLO" will cooperate. Mexicans recall what happened when Mr. López Obrador lost the Tabasco governor's race in 1994 by a wide margin to PRIsta Roberto Madrazo. Deciding that his loss was due to Mr. Madrazo's exuberant spending, he led a blockade of oil wells. His supporters also organized a massive sit-in, camping out in tents in the Tabasco capital city's main square. Mr. López Obrador called it peaceful civil disobedience but as downtown Villahermosa began to smell like a bear pit, his opponents decided to strike back. Violence erupted before the whole thing was finally put to rest.

A year later, Mr. López Obrador led another, more serious, blockade of government-owned oil operations in Tabasco. It lasted 19 days, covered 60 wells and cost millions in lost output. In Mexico City, corruption scandals have plagued his government, but he counters by painting himself as a downtrodden outsider pledging to uproot the status quo. In truth, he most resembles the career politicians whose machine kept the PRI in power for so long, except that he has a stronger-than-average instinct for the jugular. With the vote still 10 months off, AMLO is already signaling to his machine bureaucracy in Mexico City that he believes the IFE is against him and that he's prepared to make a stink if he loses in a close race.

When I asked Mr. Fox about candidates who might not respect the rule of law, he told me he didn't want to get into names of individuals or parties. But he did say that he believes Mexico has learned from the past through pain and that Mexicans know

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that returning to authoritarianism, corruption, impunity, populism or demagoguery are dead ends. There is "no way back to the paternalism of controlling the poor through government programs," he said, and Mexicans know that. They are for "stability, the rule of law, discipline and order in public finance and against indebting the country."

In other words, the president believes Mexicans will reject the left-wing populism of Mr. López Obrador and vote instead for a continuation of his government's fiscal stability. Yet he may be underestimating the discontent generated by a sluggish economy, a factor that could produce a tight race.

Even if a pragmatic PRI candidate like Roberto Madrazo or a more long-shot candidate like the PAN's Felipe Calderon were to win, there is the question of AMLO's regard for the rule of law. Referring to what happened in Tabasco, Mr. Fox said, "That situation will not repeat itself in Mexico today because the system has proven for 10 years in a row that elections are respected."

Mr. Fox's commitment to the process is important. But enforcing the rule of law will take more. On security, he points out that his government has pacified Chiapas, modestly reduced crime and turned back the surge in kidnapping. And he remains convinced that the organized crime due to drug trafficking can be handled providing the U.S. makes it a joint effort.

Still the odds have to be in favor of the underworld, given the demand for narcotics across the border. Mexico has already admitted that law enforcement has been seriously corrupted by drug traffickers at some levels and the problem is not likely to go away. That won't help when it comes to dealing with any political instability that arises during an election year. Forewarned is forearmed and that's something not only for Mr. Fox to think about but also for his neighbors to the north to keep in mind.

Another U.N. Charade (WSJ)

The Wall Street Journal, September 16, 2005

The United Nations world summit that has clogged Manhattan traffic arteries for the past three days has a way of clogging minds as well. So let's think carefully about exactly what, other than a commuter's nightmare, this latest exercise in global diplomacy has achieved.

On the plus side, the summit seems to have done no real harm: It has not further extended the authority and reach of the U.N., it has not foisted another "protocol" or "convention" for the Senate to consider, and it has not established another significant seven-letter acronym -- er, agency -- for U.S. taxpayers to pronounce, and especially to fund.

That may be a negative accomplishment, but it is certainly a real one, especially as Secretary General Kofi Annan had envisioned the summit as an opportunity to expand membership in the Security Council, expand his own powers and require rich countries to pony up additional billions in foreign aid, among other brainstorms. It took new U.S. Ambassador to the U.N. John Bolton seven weeks of dogged negotiation to make sure none of that happened, and for this he deserves credit.

On the other hand, the diplomatic price the U.S. paid for a no-harm-done outcome was a no-reform result. It has not been 10 days since Paul Volcker delivered the devastating conclusions of his 847-page Oil for Food inquiry and his call for the complete overhaul of U.N. management practices. Yet already his report is being treated as a historical artifact of no particular relevance. In the U.N.'s strange universe, it's as if Oil for Food never even happened.

For example, the so-called Outcome Document to which world leaders agreed at the summit specifically "[commended] the Secretary General's previous and ongoing efforts to enhance the effective management of the United Nations." Yet Mr. Volcker's report found, among other things, that Mr. Annan and his staff knew of Saddam Hussein's kickback schemes in Oil for Food but never reported the problem, much less took steps to address it. If this is what the international community thinks is commendable behavior, imagine what sorts of management standards it believes are merely tolerable.

Equally unhelpful have been some of the comments by Secretary of State Condoleezza Rice, who recently gushed to the New York Times that "I've never had a better relationship with anyone than I've had with Kofi Annan."

Assuming (we hope) that Ms. Rice is being insincere, her calculation seems to be that American diplomatic capital should not be spent seeking Mr. Annan's departure, and that U.S. interests at the U.N. are best served by a politically wounded, and thus presumably beholden, Secretary General. She might want to rethink that assumption in light of some of Mr. Annan's recent comments, such as blaming "spoilers" and "governments that were not willing to make concessions" for the failure of the summit. Chief among the governments not willing to "make concessions" was the United States, an implication lost on nobody.

The biggest loser here is the U.N. itself. We have never accepted the view -- increasingly common in some liberal precincts -- that America should conduct no foreign policy in the absence of U.N. benediction, much less that U.N. agencies and offices ought to take the lead role in maintaining international security and promoting economic development. But as long as the U.N. exists, we'd like to think that it can, in limited circumstances, be a useful instrument of U.S. foreign policy, provided the organization is politically credible and relatively effective. This was the original hope for Oil for Food; instead, it became the emblem of the U.N.'s incompetence and corruptibility.

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What the outcome of this summit makes clear is that the U.N. patient will not heal itself. On the management side, the Volcker report vividly describes the organization's implacable resistance to reform, for reasons that are both cultural and institutional. Politically, Mr. Annan's original reform proposals were both overambitious and wrongheaded, and while their demise is nothing to be regretted, the fact that the member states could not agree to anything better casts doubt on the possibility that changes will be achieved through international negotiation.

We have a modest proposal of our own. The Bush Administration should insist that the U.N. bureaucracy be placed under a five-year trusteeship to implement the management reforms suggested by the Volcker report. The trustees should be a handful of real international worthies -- Mr. Volcker and his fellow commissioners Richard Goldstone of South Africa and Mark Pieth of Switzerland would fit the bill -- whose probity and good judgment are beyond dispute. The U.S. cannot dictate such terms to the U.N., but Congress has the power to withhold American funding until such a trusteeship is established. We hope it does so.

This is tough love, we know. But the people who should like this idea the most are those who claim to be fervent believers in the U.N. and its multilateral purposes. They can't possibly be proud of the spectacle on display at Turtle Bay during the past two weeks.

Jihad's Fresh Face (NYT)

By WALEED ZIAD

The New York Times, September 16, 2005

OF the many questions surrounding Egypt's presidential elections last week - Were opposition candidates unfairly removed from the ballot? Did the ruling party of President Hosni Mubarak cheat at the polls? - a more general query has gone largely unmentioned: Did this election, or the other recent democratic experiments in Saudi Arabia and elsewhere, really further American aims in the Muslim world?

The answer is troubling. The post- 9/11 prevailing wisdom has held that military force and exporting democracy are the West's twin weapons against terrorism. Islamic fundamentalism is the product of a "medieval" mindset, we are told, and if we can deliver elections to the Arab world, our enemies will cower before the spirit of the Enlightenment.

Yet the establishment of the first popularly elected governments in Iraqi and Afghan history has been followed by more suicide bombings and unabated violence. And nobody expects real change, in terms of political freedoms or human rights, any time soon in Saudi Arabia or Egypt. What are we missing?

While there is no doubt that elections are a worthy goal, we will not be able to change the Muslim world or dislodge the militancy until we gain a better understanding of the roots of the problem. While these conflicts are often painted as millennium-old, they are essentially modern phenomena, bred of postcolonial politics, social upheavals and territorial struggles.

And as we look at the causes of anti-Western jihadism, we tend to overlook one major contributing factor: the absence not just of democracy but also of grass-roots representative institutions like a free press and independent political, cultural and social-welfare institutions.

Today's jihadists - I call them "neo-fundamentalists," because they are a world apart from earlier fundamentalists - are not throwbacks to the crusades, nor are they, as President Bush unfortunately put it, just "a group of folks." They are a singular and recent byproduct of decades of oppressive rule.

Yes, the Muslim world had an unfortunate introduction to post-Enlightenment ideals, which came in the context of invasion, colonialism and exploitation. But the Arab philosophical and political movement that came out of that experience was not inherently anti-Western. In fact, in traditional Islamic thought the concept of violent resistance against an unjust ruler was virtually unheard of; for classical jurists, tyranny was preferable to the anarchy that accompanies revolt.

The first wave of modern Islamic fundamentalists, which crested primarily in Egypt in the late 19th century and included such figures as the Iranian-born reformer Jamal al-Din al-Afghani and his Egyptian disciple, Muhammad Abduh, opposed colonialism but saw no incompatibility between Islamic and Western philosophy, law or scientific method. These men called for political reform and the revival of free inquiry.

The big change did not occur until the middle of the 20th century. In states like Egypt, Iraq and Syria, colonial governments were replaced by military, Arab-nationalist, royalist or Soviet-sponsored socialist regimes. All deteriorated quickly into dictatorships, emracing the institutions of colonial subjugation.

A host of political parties and civic institutions were founded to challenge the autocrats; many combined Enlightenment concepts like public participation with Islamic ideals of popular consent and justice. Even Egypt's Muslim Brotherhood (founded in 1928) was not a militant revolutionary group; instead it promoted social-welfare programs, democracy and land reform on the Western model. When the mass movements became influential, however, they were answered not by reform but by persecution, ranging from the violent crackdown against the Muslim Brotherhood in Egypt in the 1950's to the massacre of more than 10,000 dissidents by the dictator Hafez al-Assad in Hama, Syria, in 1982.

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The story of Sayyid Qutb, the father of neo-fundamentalism, exemplifies what happened next. Qutb was an Egyptian teacher trained in the Western system. Contrary to the conventional wisdom, it was not his trip to America in 1948 that radicalized him. While he was shocked by some aspects of American culture, like women dancing in public, he returned to write about the importance of emulating the educational, economic and scientific achievements of the West.

BUT in the 1950's, he was jailed and tortured for speaking out against Gamal Abdel Nasser's autocracy, while scores of dissidents were executed. Only then did he decide that violence could be used against an unjust government. He spoke as a Muslim, but his rhetoric was grounded in Western-nationalist and leftist revolutionary principles. His call had great resonance, and thus was neo-fundamentalism born.

As persecution continued across the Arab world, the neo-fundamentalist rhetoric became more Manichean and xenophobic. With mainstream opponents silenced, ultraradicals became the loudest voices of dissent. In Egypt, for example, those who emerged from prison in the 1970's formed militant organizations, including Al Jihad, led by Ayman al-Zawahiri, who is now chief lieutenant for Osama bin Laden. These men were not thinkers or theologians; rather, many were disillusioned Westernized professionals, former leftists and nationalists.

This new wave of fundamentalism, unlike all the others before it in the Islamic tradition, is inherently anti-intellectual and reactive; it is more reminiscent of the anarchical movements of 19th-century Russia. This "Islamism" is nihilistic, expressing a lack of faith in all political systems, in history, and in all past social developments. The jihadists justify their actions by claiming that they are returning to "pure" Islamic sources to establish a "government of God." Of course, the paradox here is that the Koran does not lay down a mode of governance. What perhaps we in the United States do not understand is that in rejecting the status quo, these groups demonize not just the West, but mainstream Islamic culture and philosophy as well; they pose perhaps the greatest existential threat to 1,400 years of Islamic tradition.

So how does this history help us reverse the trend? It requires that we look at the jihadists not as an ancient foe, but as yet another contemporary terrorist group. Recent history - in northern India, Sri Lanka, Kurdish Turkey - has taught us that grassroots democracy and allowing the aggrieved group a public voice can be effective weapons against terrorism. A good strategy would be to support groups across the Muslim world, both secular and religious, that provide social services where the government falls short; they range from women's rights organizations like the Union for Feminine Action in Morocco to trade groups like the Lebanese Businessmen Association.

We must foster these organizations - along with a free press and educational and cultural institutions. At the same time, our corporations should guide local entrepreneurs to promote a free market, the backbone of democracy. If anything is going to come of the neoconservative hope of making Iraq into a beacon of our values, it will be along these lines.

It is vital, however, that we not be put off from helping organizations tied to Islam - faith-based parties calling for peaceful democratic reforms are emerging across the Muslim world as the main political opposition. They are the necessary counterweights to central governments, and without them, autocratic rule, and the neo-fundamentalism that it breeds, will remain the norm.

Waleed Ziad is an economic consultant and aprincipal in the Truman National Security Project.

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McAtamney, James A

From:	McAtamney, James A
Sent:	Friday, September 16, 2005 10:15 AM
To:	Beach, Andrew
Cc:	Gunn, Currie (SMO); Gorsuch, Neil M; Burton, Dawn (ODAG); Long, Linda E
Subject:	RE: SECOND MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

When all was said and done, Robert attended, with Neil Gorsuch as his "plus one". Most of the issues being addressed by the CMTS are unrelated to the Department's principal law enforcement mission. Jim Rubin from ENRD is our representative to the subordinate working group.

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Cc:	Gunn, Currie (SMO); Gorsuch, Neil M; Burton, Dawn (ODAG); Long, Linda E
Subject:	RE: SECOND MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)
Attachments:	FW: SECOND MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS).msg

thanks. the original email with an attachment about the next meeting is in the attachment to this email.

Currie/OASG: may we leave this with matter with you all and ask you to respond to the contact person at DOT? Her name is: Joanna Nunan - email: Joanna.Nunan@dot.gov

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Attachments:	tmp.htm; CMTS Charter.doc

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CHARTER FOR THE COMMITTEE ON THE MARINE TRANSPORTATION SYSTEM

I. Parties

The parties to this Charter are: the U.S. Department of Transportation, the U.S. Department of Commerce, the U.S. Department of Defense, the U.S. Department of Homeland Security, the U.S. Department of the Treasury, the U.S. Department of State, the U.S. Department of the Interior, the U.S. Department of Agriculture, the U.S. Department of Justice, the U.S. Department of Labor, the Environmental Protection Agency, the Office of Management and Budget, and the Federal Maritime Commission.

II. Authority

The authority to establish this Committee derives from a directive by the President in the U.S. Ocean Action Plan, issued, December 17, 2004, "Supporting Marine Transportation."

III. Purpose

A. To create a partnership of Federal agencies with responsibility for the Marine Transportation System (MTS) - waterways, ports and their intermodal connections – to ensure the development and implementation of national MTS policies consistent with national needs and report to the President its views and recommendations for improving the MTS.

B. The partnership established by this Charter, to be known as the Committee on the Marine Transportation System (CMTS), and its constituent sub-organizations described in paragraphs VI-VIII below, will be responsible for the following:

- improving Federal MTS coordination and policies;
- promoting the environmentally sound integration of marine transportation with other modes of transportation and with other ocean, coastal, and Great Lakes uses;
- developing outcome-based goals and strategic objectives for the safety, security, efficiency, economic vitality, environmental health, and reliability of the MTS for commercial and national defense requirements, as well as a method for monitoring progress towards those goals;
- coordinating budget and regulatory activities that impact the MTS; and
- recommending strategies and implement plans to maintain and improve the MTS.

IV. Organization

The CMTS is a Federal cabinet-level inter-agency organization that reports to the President and is supported by three sub-organizations: the Coordinating Board (CB), the Executive Secretariat (ES), and Integrated Action Teams (IATs).

A. The Committee on the Marine Transportation System

1. The Committee is comprised of the heads of Federal agencies, or their senior level designees. Through the Committee each member agency has a unique capacity to work collaboratively on MTS matters. The Committee will meet as appropriate, but not less than twice a year, to address nationally significant MTS issues. The Committee or any of its members can identify proposed agenda items.

2. Membership

The Committee will be chaired by the Secretary, Department of Transportation (DOT). The following Heads of Agencies, or their senior level designees, also serve as Committee members.

- Secretary of Commerce;
- Secretary of Defense;
- Secretary of Homeland Security;
- Secretary of the Treasury;
- Secretary of State;
- Secretary of the Interior;
- Secretary of Agriculture;
- Attorney General;
- Secretary of Labor;
- Chairman of the Joint Chiefs of Staff;
- Administrator of the Environmental Protection Agency;
- Chairman of the Federal Maritime Commission; and
- the head of any other Federal agency that the Committee Chair, with the approval of a majority of the voting members of the Committee, determines can further the purpose and activities of the Committee

3. Ex-officio members of the Committee, who can participate as non-voting members include the:

- Director, Office of Management and Budget;
- Chairman, Council on Environmental Quality;
- Assistant to the President for Homeland Security;
- Assistant to the President for Domestic Policy; and
- Assistant to the President for Economic Policy

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4. Consultation

In carrying out its functions and activities under this Charter, the Committee will consult with the Marine Transportation System National Advisory Council (MTSNAC), Congressional representatives and staff members, the public, and other interested parties.

B. Coordinating Board (CB)

1. The CB will be comprised of senior-level representatives designated by each Committee member. The CB will assist Committee members in exercising their duties and responsibilities in accordance with this Charter. The chair of the CB will be rotated among the Commandant of the U. S. Coast Guard, the Chief of the U. S. Army Corps of Engineers, the Maritime Administrator and the National Oceanic and Atmospheric Administration Administrator. The CB will meet periodically to assist the Committee in formulating its recommendations and will report directly to the Committee.

2. The Coordinating Board is responsible for:

- creating and implementing the joint strategic plan for improving the MTS;
- coordinating and integrating the work of each IAT;
- recommending interagency procedures and mechanisms to achieve coordination of the partnering agencies' MTS activities and programs, including budget and appropriations requests, research and development studies and projects, and acquisitions for products and services;
- selecting lead agency for each IAT; and
- overseeing data acquisition and management for the MTS to support performance metrics.

C. Executive Secretariat (ES)

1. The ES is the staff body of the CMTS, made up of Federal employees from CMTS member agencies. The ES Director will be an employee of the Department of Transportation who reports directly to the Under Secretary of Transportation for Policy. The ES serves as a technical advisory body to the CB and the IATs. The Director shall keep the CB informed of all developments, including matters to be brought before the Committee, necessary for the CB to fulfill its responsibilities. The ES Director is the Executive Secretary to the CB.

2. The Executive Secretariat is responsible for:

- ensuring liaison, coordination, collaboration, and clear communications among member agencies, other stakeholders, and the CB;
- presenting consolidated agency interests to the CB on operational and policy issues;
- providing staff support to the CMTS; and

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- preparing a work plan and operating budget for implementing its responsibilities.

D. Integrated Action Teams (IAT)

1. IATs are responsible for the execution of the strategies developed within the joint strategic plan. An IAT will be created as needed, and could be either temporary or permanent in nature depending upon the issue or challenge that the team has been formed to resolve. The members of each IAT shall include representatives from the lead agency, member agencies and other organizations required to satisfy the mission of the IAT.

2. Each IAT lead agency shall:

- prepare an IAT action plan governing its work that aligns with the joint strategic plan. Each action plan shall include, but is not limited to, the following tasks:
  - Survey each Agency's MTS-related policies and programs including inter-agency and international agreements, and identify opportunities and methodologies for collaboration;
  - Facilitate inter-agency sharing and distribution of information;
  - Propose recommendations for interagency MTS research and development coordination.
- implement and manage the action plan, including oversight of the agencies involved in the effort; and
- provide status reports to the CB and the ES Director on the performance of its action plan, including technical, financial and schedule aspects.

V. Agency Responsibilities

Each Agency shall fund the costs of its own participation in the CMTS. Specific resources and funding commitments between member agencies shall be addressed in separate interagency funding agreements executed under the Economy Act (31 U.S.C. §1535) or other appropriate authority. Nothing herein shall derogate from the authority vested in any agency or other government entity by statute, executive order, presidential directive, or any other instrument.

VI. Other Provisions

A. Nothing in this charter shall be construed to require the obligation of any budgetary resources on the part of member agencies.

B. The terms of this charter will become effective on August 11, 2005.

C. This charter may be modified upon the mutual written consent of all Parties to this Charter, as specified in Paragraph 1.

D. The terms of this charter will remain in effect until terminated by the President of the United States.

DOJ_NMG_0006381

VII. Signatures

Norman Y. Mineta, Secretary U.S. Department of Transportation	Date
Carlos M. Gutierrez, Secretary U.S. Department of Commerce	Date
Donald H. Rumsfeld, Secretary U.S. Department of Defense	Date
Michael Chertoff, Secretary U.S. Department of Homeland Security	Date
John W. Snow, Secretary U.S. Department of the Treasury	Date
Condoleeza Rice, Secretary U.S. Department of State	Date
Gale A. Norton, Secretary U.S. Department of the Interior	Date
Mike Johanns, Secretary U.S. Department of Agriculture	Date
Alberto R. Gonzales, Attorney General U.S. Department of Justice	Date

DOJ_NMG_0006382

Elaine L. Chao, Secretary U.S. Department of Labor	Date
General Richard B. Myers, Chairman Joint Chiefs of Staff	Date
Stephen L. Johnson, Administrator U.S. Environmental Protection Agency	Date
Steven R. Blust, Chairman Federal Maritime Commission	Date
Joshua B. Bolten, Director Office of Management and Budget	Date
James L. Connaughton, Chairman Council on Environmental Quality	Date
Frances Frago Townsend, Assistant to the President for Homeland Security and Counterterrorism	Date
Claude Allen, Assistant to the President for Domestic Policy	Date
Allan B. Hubbard, Assistant to the President for Economic Policy	Date

DOJ_NMG_0006383

Schedulers,

Consensus is that Monday November 14th from 2-4 PM is the best date for the meeting. Please put a hold on your pricipal's calendar. If your principal is not available please provide an appropriate surrogate and scheduler for me to follow up with. Formal invitations to follow.

v/r,
Joanna

-----Original Message-----

From: Nunan, Joanna <OST>

Sent: Monday, August 29, 2005 13:45

To: Sue Gerdelman (SGerdelman@who.eop.gov); Amy Barrera (barrera.amy@dol.gov); Andy Beach; Anna Fitzgerald (Fitzgerald.Anna@epamail.epa.gov); Cameron Cushman (CCushman@who.eop.gov); Cathy Mainardi (Cathy.Mainardi@osd.mil); Cherri Carpenter (Cherri.Carpenter@usda.gov); Cory Cinque (ccinque@fmc.gov); Denise Dick (DDick@omb.eop.gov); Douggie Simmons (LSimmons@who.eop.gov); Joanna Crain (Joanna.Crain@dhs.gov); Khary Cauthen (KCauthen@ceq.eop.gov); Leah Levy; Linda Dewan; Linda Figura (Linda.Figura@do.treas.gov); Lori Yates (Lori_Yates@ios.doi.gov); Marilyn Abel (MAbel@doc.gov); Marlene Minx (marlene.minix@usda.gov); Megan Gibson; Haugh, Judy <OST>

Subject: SECOND MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

Schedulers,

Can you please check your principal's calendar and let me know his or her availability for the next meeting of the CMTS? The revised Charter is attached for your information. An agenda and briefing book will be provided closer to the event. The meeting location will be the Cabinet Liaison Conference Room (Room 160) at the EEOB. I'd appreciate your input by COB on Monday September 5th. I'll let everyone know the following day, which date works best. In the meantime, I'd very much appreciate it if you could put a hold on both days:

Monday November 14th 2:00-4:00 PM
Thursday November 17th 10:00-12:00 PM

<<CMTS Charter.doc>>
v/r,
Joanna

Joanna Nunan
Commander, U. S. Coast Guard
Military Assistant to the Secretary of Transportation
(202) 366-5742
joanna.nunan@dot.gov

Gunn, Currie (SMO)

From:	Gunn, Currie (SMO)
Sent:	Friday, September 16, 2005 11:46 AM
To:	McAtamney, James A; Beach, Andrew
Cc:	Gorsuch, Neil M; Burton, Dawn (ODAG); Long, Linda E
Subject:	RE: SECOND MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

This was initially set up to be attended by the AG however, it was sent to Robert so he could attend. Robert was unable to attend and Neil attended in his stead. Immediately following the first mtg documentation was sent over regarding the Committee, it was addresssed to the Attorney General asking him to sign an accept the Committee's charter and also designate someone from DOJ to serve on the working group. That designee was Kelly Johnson, Acting AAG ENRD. Mr. McCallum prepared and forwarded back to OAG the response requested. Kyle Sampson in OAG would have all the particulars on this matter.

Thanks

Currie

-----Original Message-----
From: McAtamney, James A
Sent: Friday, September 16, 2005 10:15 AM
To: Beach, Andrew
Cc: Gunn, Currie (SMO); Gorsuch, Neil M; Burton, Dawn (ODAG); Long, Linda E
Subject: RE: SECOND MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

When all was said and done, Robert attended, with Neil Gorsuch as his "plus one". Most of the issues being addressed by the CMTS are unrelated to the Department's principal law enforcement mission. Jim Rubin from ENRD is our representative to the subordinate working group.

-----Original Message-----
From: Burton, Dawn (ODAG)
Sent: Friday, September 16, 2005 10:08 AM
To: McAtamney, James A; Long, Linda E
Subject: RE: SECOND MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

Linda - Perhaps now bounce to Currie to see if she can help us. thanks, dawn.

-----Original Message-----
From: McAtamney, James A

Sent: Friday, September 16, 2005 10:08 AM
To: Burton, Dawn (ODAG); Long, Linda E
Subject: RE: SECOND MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

This is a Committee Robert attends in his ASG capacity, with support from ENRD.

-----Original Message-----
From: Burton, Dawn (ODAG)
Sent: Friday, September 16, 2005 10:07 AM
To: Long, Linda E; McAtamney, James A
Subject: RE: SECOND MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

no idea.

Mac - does this ring any bells with you? thanks, dawn.

-----Original Message-----
From: Long, Linda E
Sent: Friday, September 16, 2005 9:34 AM
To: Burton, Dawn (ODAG)
Subject: FW: SECOND MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

Dawn, does this ring a bell with you? I was on vacation then, and forwarded this message to Grayson. I am not able to access his files. Linda

-----Original Message-----
From: Beach, Andrew
Sent: Friday, September 16, 2005 8:56 AM
To: Long, Linda E
Subject: FW: SECOND MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

Linda,
when the FIRST meeting of this committee back in July, I believe we asked if the DAG could attend. it looks like he was on travel that day. can you check your email archives for me to see if we know who did attend this meeting? I'm thinking it was probably either a Principal Deputy AG or maybe someone from the Associate's office.

-----Original Message-----
From: Joanna.Nunan@dot.gov [mailto:Joanna.Nunan@dot.gov]
Sent: Sunday, September 04, 2005 4:45 PM
To: Beach, Andrew; SGerdelman@who.eop.gov; barrera.amy@dol.gov; Fitzgerald.Anna@epamail.epa.gov; CCushman@who.eop.gov;

Cathy.Mainardi@osd.mil; Cherri.Carpenter@usda.gov; ccinque@fmc.gov;
DDick@omb.eop.gov; LSimmons@who.eop.gov; Joanna.Crain@dhs.gov;
KCauthen@ceq.eop.gov; levy.leah@dol.gov; Dewanll@state.gov;
Linda.Figura@do.treas.gov; Lori_Yates@ios.doi.gov; MAbel@doc.gov;
marlene.minix@usda.gov; Megan.Gibson@do.treas.gov; Judy.Haugh@dot.gov
Subject: FW: SECOND MEETING OF THE COMMITTEE OF THE MARINE
TRANSPORTATION SYSTEM (CMTS)

Schedulers,

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v/r,
Joanna

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> From: Nunan, Joanna <OST>
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> To: Sue Gerdelman (SGerdelman@who.eop.gov); Amy Barrera
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> Cherri Carpenter (Cherri.Carpenter@usda.gov); Cory Cinque
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> Cauthen (KCauthen@ceq.eop.gov); Leah Levy; Linda Dewan; Linda Figura
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> Megan Gibson; Haugh, Judy <OST>
> Subject: SECOND MEETING OF THE COMMITTEE OF THE MARINE
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>
> <<CMTS Charter.doc>>
> v/r,
> Joanna

> Joanna Nunan
> Commander, U. S. Coast Guard
> Military Assistant to the Secretary of Transportation > (202) 366-5742 > joanna.nunan@dot.gov
>

From: McDowell, Cynthia
Sent: Friday, September 16, 2005 12:14 PM
To: Andrea Bottner; Andrew Emrich; Brad Schlozman; Brent McIntosh; Bruce Mcdonald; Carl Nichols; Carl Peed; Cheri Nolan; Clifford White; Crystal Roberts; Cybele Daley; Dan Meron; Dana Boente; Deborah Rhodes; Deborah Spagnoli; Domingo Herraiz; Donald Gambatesa; Edward McNally; Elizabeth Kessler; Greg Harris; Gregory Katsas; James Clinger; Jeffrey Bucholtz; Jeffrey Taylor; John Richter; Jonathan Cohn; Joseph Bianco; Kelly Johnson; Kristi Macklin; Kyle Sampson; Laura Parsky; Lily Swenson; Luis Reyes; Matthew Friedrich; Michael Battle; Monica Goodling; Neil Gorsuch; Nicholas Tzitzon; Pat O'Brien; Patrick Hofer; Patrick Philbin; Rachel Brand; Raul Yanes; Rebecca Seidel; Richard Hertling; Richard Morrison; Robert Flores; Sean McLaughlin; Sharee Freeman; Steve Bradbury; Steven McFarland; Stuart Nash; Tasia Scolinos; Theodore Ullyot; Thomas Barnett; Tracy Henke; Uttam Dhillon; Wan Kim; Alex MacLean; Andrew Ames; Andrew Beach; Angela Williamson; Asheesh Agarwal; Ben Curtis; Beth Collins Cook; Brian Cohen; Bruce Taylor; C. Kevin Marshall; Candice Chiu; Carrie Nelson; Chris Gober; Connor Flaherty; Courtney Elwood; Cynthia Magnuson; Cynthia McKnight; Deborah Underhill; Ebony Lee; Elizabeth Apisson; Eric Akers; Eric Holland; Gordon Todd; Grant Nichols; Jaclyn Lesch; James OConnell; Jan Williams; Jana White; Janet Potter; Jason Torchinsky; Jennifer Korn; Jessica Gavora; John Irving; John Nowacki; Julie Warren; Kerri Strug; Kiahna Sellers; Kimberly Smith; Lara Reynolds; Laura Keehner; Lindsey de la Torre; Mark Metcalf; Mary Neumayr; Matt David; Matt Robinson; Matt Roper; Matthew Miranda; Michael Costigan; Miriam Moore; Molly Donlin; Natalie Voris; Neal Jungeblut; Omar Vargas; Patrick McArthur; Payson Peabody; Price Roe; Raquel Sours; Rena Comisac; Ryan Bounds; Sandra Malloy; Shane Chambers; Theodore Cooperstein; Tim Racicot; Timothy Hagle; Trent Luckinbill; Tucker McNeil; Wanda Martinson; William Otis; William Woodruff
Subject: The Appointees Friday Weekly - September 16

THE APPOINTEES FRIDAY WEEKLY

Friday, September 16, 2005

==========

Dear Appointees,

- ***Hurricane Katrina:*** DOJ Appointees Currently Deployed and Serving Locally
- ***DOJ MAIN Gate Closure:*** 10th Street Gate from September 9-19
- ***DOJ Info:*** New Additions to the DOJ/SEPS Emergency Preparedness Website
- *Theatre Offering*: At Ford's Theatre, $25 tickets for new *Leading Ladies* play

DOJ_NMG_0006389

- *Future Events*: The first Duke Ellington Jazz Festival, September 28-October 2
- *Tidbits*: New Exhibit in the Library of Congress' Great Hall, through Nov. 26
- *Quote of the Week:* Attorney General Alberto Gonzales

Have a great week!

Regards,

The DOJ Office of White House Liaison
Jan Williams and Cynthia McDowell

~

Hurricane Katrina:
DOJ APPOINTEES CURRENTLY DEPLOYED AND SERVING LOCALLY:

In response to the President's Call to Action, these DOJ non-career appointees are serving through FEMA and the Department of Homeland Security:

Jason Torchinsky, Civil Rights Division - Deployed
Cheri Nolan, Office of Justice Programs - Deployed
Sean Murphy, Office of Justice Programs - Serving at FEMA DC HQ
David Hagy, Office of Justice Programs - Deployed

Future Deployments :
Deborah Underhill

~

DOJ Main Gate Closure: Through 6:00 AM on September 19
TEMPORARY CLOSURE of the 10th Street Entrance of the RFK MAIN Justice Building

During the upcoming restoration of the exterior ornamental gates at the 10th street entrance, both the vehicular and pedestrian entrances will be closed for one week. **This week through 6:00 a.m., Monday, September 19, the entrances will be closed.**

In addition, both the north and south revolving doors along the 1200 corridor exiting into the portico from the corridor will also be closed to pedestrian traffic during this same time period. Please use the exterior doors by elevator lobbies 4 and 5 to cross the courtyard to go to the other side of the building. Foot traffic will be prohibited in the portico. **During this period, the 9th street entrance will be open for both vehicular and pedestrian traffic.**

In addition, the Attorney General's ramp on 10th street near Constitution Avenue will be open from 6:00 a.m. to 6:00 p.m. through Friday, September 16 for delivery vehicles that normally access the RFK MAIN Justice Building via the 9th street vehicular entrance.

~

DOJ Information:
NEW ADDITIONS TO THE DOJ/SEPS EMERGENCY PREPAREDNESS WEBSITE

DOJ_NMG_0006390

The purpose of the DOJ SEPS Emergency Website is to provide DOJ employees and their families with the most current and accurate information that will help in preparing for any type of emergency. Located on the DOJ Intranet (<http://10.173.2.12/jmd/seps/emergency/index.html>), the links on the left column provide detailed information regarding overall readiness at home and in the workplace, including: DOJ Occupant Emergency Plans, shelter-in-place information, and Federal Emergency Management Agency (FEMA) guidance. Listed on the right-hand side of the page are contact numbers for regional Federal Protective Service (FPS) offices around the country, as well as a real-time link to the Federal Government Operational Status website.

The recently updated aspects of the site include:

- I.C.E. (In Case of Emergency)
- Terrorism Knowledge Database
- "Soft Target" information
- Occupant Emergency Plan updates

The ultimate goal of this website is to supply an all-encompassing source of emergency preparedness information for DOJ employees, and to maintain an up-to-date news bulletin of the latest developments involving the Department and its efforts to thwart future terrorist events. If you have any comments or questions regarding the site's content or format, please feel free to reply to the "Feedback" address located at the bottom of the page, as we would appreciate any input you may have.

~

Theatre Offering:

AT FORD'S THEATRE, $25 TICKETS FOR NEW PLAY, *LEADING LADIES*

Leading Ladies *runs September 23, 2005 - October 23, 2005.*

Ford's Theatre begins their 2005-2006 season with a regional premiere by Washington's own Ken Ludwig, who took Broadway by storm 15 years ago with his hilarious farce *Lend Me a Tenor* - a play which continues to delight audiences. He's back in top form with the even more outrageous *Leading Ladies*. **As a special season opener, all Tickets are $25 for the first three shows only!**

- Friday, September 23, 2005, with a 7:30 p.m. curtain
- Saturday, September 24, 2005, with a 7:30 p.m. curtain
- Sunday, September 25, 2005, with a 7:30 p.m. curtain

For tickets call Ford's Theatre Box Office: 202-347-4833. www.fordstheatre.org <http://www.fordstheatre.org>

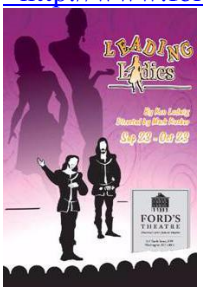

Synopsis: Leo and Jack are two down-on-their-luck Shakespearean actors touring the Moose Lodge circuit. Penniless and desperate, they hatch a wild plot that leads them to play the roles of their lives! Written by Ken Ludwig (who wrote *Lend Me A Tenor*) and directed by Mark Rucker. Filled with mistaken identities and side-splitting romantic comedy, this is a not-to-be missed show! The cast of this hilarious show includes: John Astin, Charlotte Rae, JD Cullum, Daniel Frith, Ian Kahn, Patrick Kerr, Lacey Kohl, and Karen Ziemba.

DOJ_NMG_0006391

~

Area Event:

THE MARYLAND RENAISSANCE FESTIVAL, WEEKENDS THROUGH OCTOBER 23

The 29th annual Maryland Renaissance Festival continues…

Dates: Sept. 17-18, 24-25 and October 1-2, 8-9, 15-16, and 22-23.
Times: 10:00 a.m. to 7:00 p.m.
Location: Crownsville Road in Anne Arundel County, about a 10-minute drive from Annapolis, Maryland.
Information: 800-296-7304 or see the festival's website at www.rennfest.com <http://www.rennfest.com>
Tickets: Single tickets range from $8 for children (ages 7-15) to $17 for adults, with discounts available for seniors and groups. Children 6 or younger enter for free. Two-day and "fairever" passes are also available.
Miscellaneous: No pets, no rain checks and no weapons (real or costume) allowed. Each year focuses on a year in the life of Henry VIII, and each weekend features a different activity, i.e., Oct. 15-16 is the Shakespeare Weekend.

~

Future Events:

THE FIRST DUKE ELLINGTON JAZZ FESTIVAL, SEPTEMBER 28-OCTOBER 2

The first Duke Ellington Jazz Festival, a celebration of the Washington-born composer and an attempt to put Washington on the lucrative festival circuit, will premiere at multiple sites around the city from Sept. 28 to Oct. 2. The festival will spotlight the renaissance of Washington, D.C.'s U Street and the Shaw neighborhood and join other jazz festivals held in Chicago, IL, Portland, Oregon, Newport, RI, and Monterey, CA. Washington's events will be held at Blues Alley, Bohemian Caverns, Lincoln Theatre, the Kennedy Center Millennium Stage, True Reformer Hall, the Smithsonian Jazz Café at the National Museum of Natural History, and Sylvan Theatre at the Washington Monument.

Performers will include: pianist Arturo O'Farrill (who will lead a Latin jazz tribute to Ellington with two pieces commissioned by the festival); vocalist Stacey Kent; guitarist Larry Coryell; drummer Chuck Redd; and pianist Jean Michele Pilc. A number of international artists will appear, including the Fahir Atakoglu Trio of Tureky, PaulZauner Quartet of Austria, Aquiles Baez Quintet of Venezuela, Moutin Reunion Quartet of France and Antoine Roney's African drummers.

~

Tidbits:

NEW EXHIBIT in the LIBRARY OF CONGRESS' GREAT HALL

"Bound for Glory: America in Color, 1939-1943"

"It's a startling moment, of which there are many in **"Bound for Glory: America in Color, 1939-1943," an exhibition of rare Depression-era color photographs** at the Library of Congress. The 70-image exhibit, culled from the work of some of the best photographers of the era, opened Thursday and runs **through November 26 in the Great Hall of the Thomas Jefferson Building**." When these images were taken, color film had been introduced only a few years earlier and was only just beginning to give people the idea that their world could be duplicated: not just the shapes and shadows, but the colors that filled their everyday lives. Today, the photographs are some of the earliest images of the dyes used in women's dresses in rural Mississippi, the faded red of a barn in Connecticut, or the twist of blue in a homesteader's dungarees in Pie Town, N.M. in 1940…

DOJ_NMG_0006392

The Washington Post, 9-8-05

~

Quote of the Week:

"*Our beloved America is the greatest country in the world. We must not take her for granted. There is a reason that millions of people - many of them of Hispanic origin - risk their lives to fulfill the dream of coming here. The story of America is a story of constant renewal and reaffirmation of our founding ideals and our enduring values - of faith, family, and freedom. These are values that demand the best of every American."*

Attorney General Alberto R. Gonzales
at the National Hispanic Foundation for the arts "Noche De Gala"

~

Have a great week!

Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317
Washington, D.C. 20530
Tel: (202) 514-9376, Fax: (202) 514-3546

DOJ_NMG_0006393

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Image not available for this document, ID: 0.7.10316.65731-000002

USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Tuesday, September 20, 2005 8:48 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing 9/20/05
Attachments:	agnb050920.pdf; agnb050920.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, SEPTEMBER 20, 2005 7:45 AM EDT

TODAY'S EDITION

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TERRORISM NEWS:

Virginia Man Told Saudis He Planned Bush Assassination Plot. The Washington Post (9/20, A14, Markon) reports, "A Falls Church man charged with conspiring with al Qaeda to kill President Bush told Saudi interrogators that he dreamed up the plot on his own but that it never got past the 'idea stage,' prosecutors say in court documents unsealed yesterday. 'I wanted to be the brain, the planner of the assassination, Ahmed Omar Abu Ali is quoted as saying. He likened himself to Mohamed Atta…according to the court papers, which quote from an FBI report detailing Abu Ali's interrogation by Saudi security officials while he was detained in the kingdom in June 2003." The Post notes, "The court filings were unsealed the same day as a federal judge in the District dismissed a civil lawsuit that Abu Ali's parents filed against the U.S. government last year" to press for his release from Saudi custody.

The New York Times (9/20, Lichtblau) reports DOJ said Abu Ali "represents one of the most dangerous terrorist threats that America faces in the perilous world after September 11, 2001: an Al Qaeda operative born and raised in the United States, trained and committed to carry out deadly attacks on American soil." The Times notes, "The case is a crucial test of the ability of American prosecutors to bring a case that relies heavily on intelligence gathered by foreign officials under disputed conditions."

Maryland Man Charged With Aiding Terror Group. The Washington Post (9/20, B4, Markon, Schulte) reports, "Federal prosecutors in Alexandria unveiled terrorism charges against a Maryland man yesterday, alleging that Ali Asad Chandia helped a foreign terrorist group acquire an electronic autopilot system and video equipment for use on model airplanes." Chandia "is also accused of shipping 50,000 paint balls to the group, Lashkar-i-Taiba." The Post notes, "The charges against Chandia…are an outgrowth of the 'Virginia jihad network' case, in which nine Muslim men have been convicted over the past two years of training overseas for holy war against the United States." The AP (9/20) adds, "Mohammed Ajmal Khan of Coventry, England, who prosecutors said is a senior official in Lashkar-e-Taiba, an Islamic rebel group fighting for independence in the India-controlled portion of Kashmir, is also charged. Mr. Khan is in custody in England."

The New York Times (9/20, Lichtblau) notes Chandia's lawyer, Marvin Miller, "declined to discuss the specific accusations…because he had not yet reviewed the indictment in detail, but he said the charges were groundless and amounted to 'a great case of guilt by association.' Mr. Miller said that Mr. Chandia was held as a material witness for several weeks in 2003 in connection with the Virginia jihad case but that talks to secure his cooperation lapsed when the government refused to offer him immunity."

Al Arian Defense Attorneys Fighting US Plan To Introduce New Evidence. The Tampa Tribune (9/20, Fechter) reports that at the terror-supporting trial of Sami al Arian "defense attorneys are fighting government plans to recall two computer experts to introduce evidence from an Islamic Jihad Web site called Qudsway .com. Assistant U.S. Attorney Terry Zitek said the FBI experts discovered new information after testifying in June. The evidence shows Salah Abu Hassanein, the recipient of many money transfers from" al Arian codefendant defendant Hatim Fariz, "used the Web page to communicate with Fariz and others. Agents also have determined that the Web site is based in Tehran, Iran, a country that provides the Islamic Jihad with the bulk of its funding." Fariz lawyer Allison Guagliardo "argued that the evidence is coming too late for the defense to prepare adequately. Their computer expert estimates needing four to six weeks to analyze the new material."

More Details Revealed In Possible Tennessee Terrorism Plot. WCPO-TV Cincinnati (9/19, Barry) reports on its Web site from a story broadcast Monday, "There is new information on an Egyptian college student being held under suspicions of terrorism in Tennessee. As 9News first reported on Sunday, it was a tip from a Batavia business that led the feds to" Mahmoud Maawad, "who is illegally in the country. … 9News uncovered items that seem to point to a far more extensive interest in aviation than first thought. … Besides a flight jacket and flight equipment that Maawad purchased, 9News found other items on the receipts, including aviation maps of his home

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airport in Memphis, Tennessee and cassettes on listening to control tower communications."

WLWT-TV Cincinnati (9/19, Hamrick) reports on its Web site from a story broadcast Monday, Hamilton County, Ohio, homeland security director Michael Snowden "said it's time to beef up safety measures at stores that sell pilot equipment." Snowden "said Maawad's case reveals carelessness in a system meant to protect American flyers after 9/11." Snowden noted, "Unfortunately, it's not that difficult to obtain identification, insignia badges -- those are all easily obtained."

Judge Orders Jordanian Terror Suspect Deported On Immigration Charge. WDTN-TV Dayton (9/19) reports on its Web site, an immigration judge in Monroe, Mich., on Monday ordered Jordanian Mohammed Obeid "to leave the country after being investigated for possible connections to terrorism." Obeid "was engaged to a Piqua (Ohio) woman when the FBI raided their home last summer, taking Obeid into custody. An immigration judge had ordered him jailed on accusations of marriage fraud. He'd been married to, then divorced from two different American women before meeting the Piqua woman. Authorities claimed he was marrying women just to stay in the country. The FBI claimed he was visiting terrorist related web sites at the couple's Piqua apartment."

In New Al Zawahiri Video, Al Qaeda Takes Credit For London Attack. CNN's The Situation Room (9/19, Verjee) reported, "Osama bin Laden's top lieutenant, Ayman al Zawahiri, has appeared in a previously unseen videotape. It aired moments ago on the Arab news channel al-Jazeera. And al-Jazeera basically is reporting that al-Zawahiri plays down U.S. achievements in Afghanistan and he also claims responsibility for the London bombings." In the video, "al-Zawahiri appears to be being interviewed on this video and downplaying U.S. achievements in Afghanistan and claiming responsibility for the London bombing."

The AP (9/20, Michael) reports Al-Zawahri also "challenged the legitimacy of Afghanistan's parliamentary elections Sunday, saying they were held 'under the terror of the lords of war,' an apparent reference to the country's government. The election reference suggested the tape was made recently."

PATRIOT ACT:

DOJ Appealing Terror Probe Gag Order Ruling. The Wall Street Journal (9/20, A13, Squeo) reports, "Even as Congress moves to renew much of the 2001 Patriot Act, a federal judge in Connecticut has set up a clash over one of the antiterror law's most contentious provisions. The Justice Department moved to block and is appealing a recent decision by U.S. District Judge Janet Hall that strikes down the gag orders imposed on recipients of so-called National Security Letters as part of a terrorism probe." The Journal notes, "In its appeals-court filing, the Justice Department cited the harm in 'alerting the target of the investigation that his activities are subject to scrutiny, and allowing the target to hide, move his activities to another provider, provide misinformation to the government or otherwise frustrate the FBI's investigation.'"

WAR NEWS:

Afghan Election Officials Estimate Turnout Was About 50%. USA Today (9/20, Wiseman) reports, "Turned off by the candidates, intimidated by the threat of violence and assuming a been-there, done-that attitude toward what had been the novelty of voting, hundreds of thousands of Afghans...sat out Sunday's elections. Vote counting begins today. Final results are expected in early October because some ballots are being delivered from remote regions. When the count is completed, the turnout is expected to come in well below that of last year's presidential election, in which 70% of eligible voters cast ballots. Chief electoral officer Peter Erben said Monday that early results suggest 6 million Afghans voted, about 50% of registered voters and well below expectations.

Provincial Afghans Frustrated By Lack Of International Aid. The New York Times (9/20, Gall, Sengupta) reports, "With widespread frustration over the pace by which the central government in Kabul is distributing reconstruction aid to the provinces, diplomats and election observers said, the test of credibility for the new Parliament will be its ability to deliver on the peace dividend, from roads and bridges to law and order. Speaking to reporters on Monday, the United States ambassador, Ronald E. Neumann, acknowledged that citizens' expectations for internationally financed reconstruction projects were running high, for

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everything from public works to a functional justice system. … The chief of the United Nations Assistance Mission in Afghanistan, Jean Arnault, said that to maintain their credibility, the executive and legislative branches would have to answer to a public increasingly frustrated about the lack of visible improvements."

The Washington Times (9/20, Gentile) reports, "Early returns show a lower-than-expected voter turnout for the embattled nation's widely anticipated parliamentary elections, electoral officials said yesterday. … Terrorist attacks early Sunday might have hurt turnout, even though the day passed relatively peacefully. Several polling stations visited by The Washington Times in Kabul late Sunday were devoid of the long lines seen earlier in the day. U.N. and Afghan electoral officials, working together in the elections, reported that polling stations in other provinces were packed all day and even stayed open past the 4 p.m. cutoff time to get those in line to vote."

Pakistani Crackdown On Islamists Seen As Mostly Ineffectual. USA Today (9/20, Wiseman) reports on a raid of an all-girls madrassa in Islamabad "meant to be a dramatic example of Pakistan's commitment to cracking down on Islamic extremism and religious schools that promote it. But the July 19 raid turned into a debacle. Caught without their veils, the teenage girls screamed — and then rallied. Grabbing mops, brooms, stones and knives, they drove the commandos out. … No one was arrested, and police even missed a chance to nab one of the mosque's top clerics." According to USA Today, "So goes Pakistan's campaign against homegrown religious extremism: considerable drama, few results. President Pervez Musharraf has taken huge risks…to hunt down al-Qaeda fugitives. … But his government has been reluctant to go after its former allies: the Taliban in Afghanistan and groups that have fought a proxy war against Indian troops in disputed Kashmir. It also has been slow to crack down on madrassas that teach intolerance and glorify jihad, or holy war. As a result, Pakistan is still turning out young militants burning to kill and die for their extreme interpretations of Islam."

British Troops Attack Basra Police In Bid To Free Inmates. The New York Times (9/20, Tavernise) reports, "Two British soldiers working under cover were arrested Monday in the southern city of Basra and then freed as a British armored vehicle blasted through the wall of their jail after an angry crowd began rioting outside, an Interior Ministry official said. The official said that the soldiers were undercover officers dressed as Iraqis and that Iraqi police officers had arrested them after the men fired at a traffic police officer." A British military spokesman "confirmed that 'two U.K. military personnel' had been detained early on Monday 'in a shooting incident' and that troops had used an armored fighting vehicle 'to gain entry' to the police station to release them." He "said…the police inside the station had refused to obey orders from the Interior Ministry to release the men. The incident came a day after British forces in Basra arrested three members of the Mahdi Army."

The Washington Post (9/20, A1, Knickmeyer, Finer) reports, "An Iraqi official said a half-dozen armored vehicles had smashed into the jail, the Reuters news agency reported. The provincial governor, Mohammed Walli, told news agencies that the British assault was 'barbaric, savage and irresponsible.' … In London, authorities said the two commandos were released after negotiations. But the BBC quoted British defense officials as saying a wall was demolished when British forces went to 'collect' the men." The Post adds, "Iraqi police cars circulated downtown, calling through loudspeakers for the public to help stop British forces from releasing the two. … Witnesses said they saw Basra police exchanging fire with British forces."

British Action Incites Rioters In Basra. The Los Angeles Times (9/20, Daragahi) reports, "Violent street clashes erupted Monday between Shiite militia and British soldiers in the southern city of Basra, after British tanks stormed a local jail where two of their troops were being held. The daylong violence in Iraq's second-largest city raised troubling questions about the relationship between British forces in charge of security and their Iraqi counterparts, in what once was considered a relatively safe area of the country. … Two Iraqis were reportedly killed in the clashes, and several British soldiers were wounded. Television images of the street fighting showed Iraqis firebombing a tank, and a British soldier emerging with his uniform in flames."

NYTimes Employee Killed In Basra. The New York Times (9/20, Worth) reports Fakher Haider, "an Iraqi journalist and photographer working for The New York Times in Basra was found dead early Monday after being abducted from his home by a group of armed men wearing masks and claiming to be police officers, relatives and witnesses said."

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Haider "had worked for The Times since April 2003 and had recently reported on the growing friction and violence among Basra's rival Shiite militias, which are widely believed to have infiltrated the police. He did part-time for work for other news organizations, including Merbad TV, a local Basra station, and for publications including The Guardian of London and National Geographic. But his principal affiliation was with The Times." The Times notes, "Haider is the second journalist to be killed in Basra in the past two months. In August, Steven Vincent, an American freelance reporter who was writing a book about the city, was abducted along with his Iraqi interpreter, and he was later found dead."

Lynndie England To Fight Abu Ghraib Abuse Charges. The AP (9/20, Badger) reports, "Army Pfc. Lynndie England will abandon her earlier courtroom strategy and fight charges that she was a key participant in detainee abuse by guards at Iraq's Abu Ghraib prison, her lawyer said." England "was to go on trial Tuesday at Fort Hood, Texas, on seven counts of mistreating prisoners. She will be the last of a group of junior enlisted soldiers charged with Abu Ghraib abuses to have their cases resolved. Two have been convicted at trial, while six others made plea deals and received prison sentences of up to eight years."

Bush Urged To Take Responsibility For Iraq War Mistakes. In an op-ed for the New York Times (9/20) Nathaniel Fick, former Marine captain who led infantry platoons in Afghanistan and Iraq, writes, "President Bush's speech last week accepting responsibility for the federal government's slow response to Hurricane Katrina was commendable, if overdue. … Consider the positive effects that would follow a similar presidential assumption of responsibility for American missteps in Iraq. By declaring that the buck stops at his desk, President Bush could begin a top-down rethinking of our military and political strategies since the 2003 invasion. He would also establish a standard of personal accountability for everyone in the chain of command, much as his statement last week prompted Gov. Kathleen Blanco of Louisiana to follow suit. And it just might galvanize enough bipartisan support to break the ideological gridlock that has limited changes in Iraq policy to marginal tweaks rather than a full reassessment."

National Guard Said To Lack Adequate Communications Systems. USA Today (9/20, Moniz) reports, "Hurricane Katrina exposed serious weaknesses in the National Guard's communications systems, particularly a shortage of high-tech radios and satellite communications gear, the Guard's top general said Monday. If it's going to protect the USA while also fighting overseas, the Guard needs better equipment, Lt. Gen. Steven Blum, head of the National Guard Bureau, said in an interview with USA TODAY. … Much of the Guard's best communications equipment was being used by troops fighting in Iraq and wasn't available for units helping Gulf Coast states recover from the hurricane, Blum said."

Army Halts Plan To Borrow Funds Dedicated For Improving Armor In Iraq. The Wall Street Journal (9/20, A4, Rogers) reports, "The Pentagon reversed a plan to ease the Army's year-end cash crunch by borrowing from funds dedicated to buying better armored vehicles for troops in Iraq. The $300 million-plus transfer had met strong behind-the-scenes opposition in Congress over the past week. The skirmish underscores the budget pressure on the military, given the tempo of operations in the war, rising fuel costs and competing priorities like the Hurricane Katrina recovery. … 'They're desperate. They're under tremendous pressure,' said Rep. John Murtha (D., Pa.) a Marine veteran and senior member of the House Appropriations Committee, who had a heated telephone conversation last week with Gen. Richard Cody, the Army's vice chief of staff, about the request."

CORPORATE SCANDALS:

Former Top Tyco Executives Sentenced. ABC World News Tonight (9/19, story 9, :25, Gibson) reported, "Two former top executives of Tyco International were sentenced today for their roles in one of the nation's major corporate scandals. Former CEO Dennis Koslowski and former finance chief Mark Swartz faced identical prison terms of 8 1/3 to 25 years, and a state judge ordered them to pay $422 million in fines and restitution."

The CBS Evening News (9/19, story 13, 0:30, Schieffer) reported, "Kozlowski, former CEO of Tyco, was convicted of stealing $150 million from the company to, among other things, throw lavish parties and furnish an apartment, including that infamous $6,000 shower curtain."

NBC Nightly News (9/19, story 9, 0:30, Williams) reported, "It was the extravagant spending, stealing, and lying

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to shareholders at Tyco that got former CEO Dennis Kozlowski in trouble."

The AP (9/20, Maull) reports, "L. Dennis Kozlowski, the former CEO of Tyco International, was sentenced Monday to eight and one-third years to 25 years in prison Monday for stealing hundreds of millions of dollars from the company." The AP continues, "His codefendant, former Tyco finance chief Mark Swartz, received the same sentence, which means they will be eligible for parole after eight years and four months. … The judge also ordered them to pay a total of $134 million in restitution. In addition, Kozlowski was fined $70 million and Swartz $35 million." The AP adds, "The sentences end a case that exposed the executives' extravagant lifestyle after pilfering some $600 million from the company including a $2 million toga birthday party for Kozlowski's wife on a Mediterranean island and an $18 million Manhattan apartment with a $6,000 shower curtain. … Kozlowski, 58, and Swartz, 44, were convicted in June after a four-month trial on 22 counts of grand larceny, falsifying business records, securities fraud and conspiracy. It was their second trial - the first ended in mistrial after a juror said she received threats following reports that she made an 'OK' signal to the defense team."

The New York Law Journal (9/20, Lin) reports, "In the course of their three-year-long prosecution, the two men, particularly Kozlowski, have become symbols of corporate greed and excess. But the judge put the case in straightforward terms in imposing sentence. … Despite many unusual characteristics and complications, he said, 'the heart of the case is basic larceny.'" The Journal adds, "First indicted in September 2002, the two executives were convicted in June on several counts of grand larceny, securities fraud, conspiracy and falsifying business records. The judge issued separate sentences on the other counts but said those would be served concurrently with the grand larceny sentence. … Justice Obus also ordered Kozlowski to pay $97 million in restitution to Tyco and $70 million in fines. Swartz was ordered to pay $37 million in restitution and $35 million in fines. … The restitution amounts were tied to the amounts of bonuses the two men were found to have stolen. The defense had maintained throughout the trial that the bonuses were legitimate and fully approved by Tyco's board of directors." The Journal notes, "Though tough, Obus' sentence was less than that requested by the prosecution. Assistant District Attorney Owen Heimer had asked the court to impose the maximum sentence of 15 to 30 years 'to send the signal that, here in the financial capital of the world, we will not tolerate theft ... no matter who you are.'"

The Financial Times (9/20, Bowe) reports, "After sentencing, Mr Kozlowski, 58, and Mr Swartz, 45, were led from the courtroom in handcuffs. They immediately began their sentence of eight years and four months to 25 years in state prison, depending on the decisions of parole officials." The Times adds, "Before the sentencing, Mr Kozlowski asked the judge to be 'as lenient as possible', while Mr Swartz asked to be quickly returned to his family. … But Manhattan prosecutor Owen Heimer said the men had committed theft and fraud on an 'unprecedented and staggering scale', the largest ever in the state."

The New York Times (9/20, Sorkin) reports, "The sentencing follows a parade of other substantial terms imposed on former chief executives convicted of white-collar crimes, most notably Bernard J. Ebbers of WorldCom, who received a prison term of 25 years, and John J. Rigas of the cable operator Adelphia Communications, who was sentenced to 15 years. Those sentences - in federal courts - were seen as sending a message to deter huge corporate frauds in the future. … The Tyco sentencing may be the last high-profile corporate misconduct before the most prominent one of them all: the trial next year of Kenneth L. Lay and Jeffrey K. Skilling of Enron."

USA Today (9/20, Mccoy) reports, "The former executives were taken to the jail adjoining the courthouse for initial processing, said Thomas Antenen, a spokesman for the New York City Department of Correction. … The prison terms Obus imposed fell short of the 15-year-to-30 year maximum sought by prosecutors, but far higher than the one-year-to-three-year minimum sought by the defense. John Coffee, a securities law expert at Columbia University Law School, said the two would have fared worse in federal court. … 'They will serve far less time,' Coffee said, 'but it will probably be more painful time. There is no Club Fed in the New York State Correctional system.'"

The Washington Post (9/20, D1, White) reports, "Prosecutors and many shareholder groups say long sentences are necessary to deter future abuses and restore investor confidence. But some defense lawyers question the extent to which a few high-profile cases will deter bad behavior at smaller public companies that present less tempting targets for prosecutors. 'Officers and directors of major corporations, multinational corporations, clearly get the message,' said defense attorney Jacob S. Frenkel. 'The

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question is whether the message has been conveyed thoroughly to officers and directors at small and mid-size companies.'"

The Wall Street Journal (9/20, Maremont) reports, "Both defendants have said they will appeal. Mr. Kozlowski's lead attorney, Stephen Kaufman, said immediately after the sentencing hearing that he will be applying for bail for his client pending appeal. Charles Stillman, the lead attorney for Mr. Swartz, said he will be 'pursuing appropriate remedies for Mark's situation.' In New York, defendants can choose to bring bail applications before any judge, and often try to choose judges known for their leniency."

USA Today (9/20, McCoy) reports, "Before their convictions, former Tyco executives Dennis Kozlowski and Mark Swartz were known for reaping multimillion-dollar corporate salaries. .. Within weeks, they'll have to get used to earning $1.05 a day in a maximum-security state prison. … 'They will be assigned a job, and that's what they'll earn,' said Linda Foglia, a spokeswoman for the New York State Department of Correctional Services. … 'Every prisoner must work, in the laundry, in the kitchen or somewhere else.'" USA continues, "Lawyers for Kozlowski and Swartz hope to avoid that outcome for at least a while by seeking bail pending appeals of their clients' convictions. … They have a low chance of succeeding, because New York appeals courts generally 'are less willing to let individuals stay out,' said Ronald Blum, a former Manhattan prosecutor who is now a partner at the law firm Manatt Phelps & Phillips. … Unless defense lawyers prevail, the former executives would be transferred within 10 days from city custody — where they were to spend Monday night — to the state correction system. Foglia said Kozlowski and Swartz would likely first be sent to the Downstate Correctional Facility, roughly 60 miles north of New York City, for four to six weeks of processing and classification."

Editorials Praise Kozlowski, Swartz Sentences. An editorial in the Wall Street Journal (9/20) calls the sentences imposed on "Tyco felons Dennis Kozlowski and Mark Swartz," the conclusion of "one of the sorrier chapters in U.S. business history. And while it took a while -- the first Tyco trial ended in mistrial -- the outcome strikes us as just. Not because of their greed -- there's no law against lavish living yet -- but because of their crimes."

The New York Times (9/20) says the sentences are "no cause for celebration. Their lives ruined, they face hard jail time. But that does not change one fact: they deserve it and they should serve it. … The persistent myth that a robber in a suit and tie instead of jeans and a T-shirt deserves a prison with better amenities should be put to rest for good."

AIG Shaped Corporate Haven In "Risk Capital" Bermuda. The Wall Street Journal (9/20, Simpson, Francis) reports, "When insurance tycoon Cornelius Vander Starr came ashore (in Hamilton, Bermuda) just after World War II to set up the overseas operation of the company now known as American International Group Inc., this British colony 900 miles off South Carolina was a remote trading post primarily inhabited by descendants of colonists, slaves and shipwreck survivors. … Over the next half-century, AIG executives helped island officials shape a legal landscape that made Bermuda what it boasts is 'the risk capital of world.' Some of these laws and regulations have helped AIG in particular; others have favored insurers generally. Together they transformed the 21-square-mile island into the global center of the offshore-insurance industry, claiming more than $200 billion in assets." The Journal continues, "AIG has profited handsomely in its custom-built corporate haven. Now the question is whether the company, even after helping to create a business nirvana, crossed the line of legality to obscure its activities there." The Journal adds, "In May, New York Attorney General Eliot Spitzer sued AIG and its former chairman, Maurice R. 'Hank' Greenberg, alleging that for many years, the giant insurer improperly used affiliates in Bermuda to burnish its financial results -- either by hiding losses with the affiliates or claiming their gains as its own. In some instances, the suit alleges, AIG failed to disclose its relationships with Bermuda companies, as required by American law. … AIG is in preliminary settlement talks with Mr. Spitzer's office, people familiar with the situation said. Mr. Greenberg's lawyers have said that he has done nothing wrong and will fight the civil allegations. The most prominent figure in his industry, Mr. Greenberg, 80 years old, was forced out of AIG in March amid regulatory inquiries that go far beyond the company's activities in Bermuda. … Also at the center of the Bermuda storm is a Greenberg subordinate named L. Michael Murphy. A former lawyer for the Internal Revenue Service, Mr. Murphy used to reach his AIG office in Hamilton by rowing a small boat from his elegant home across the turquoise waters of a narrow harbor. Since the 1970s, he had helped write local laws and lobbied for Bermuda in Washington -- all to AIG's advantage. … But in March, the New York-based company fired Mr.

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Murphy for allegedly refusing to cooperate with AIG lawyers gathering information for investigators from New York and the Securities and Exchange Commission. In his suit, filed in a New York state court, Attorney General Spitzer says that Mr. Murphy tried to destroy evidence in Bermuda potentially relevant to a pending investigation of the company's accounting."

CRIMINAL LAW:

Former White House Official Arrested In Abramoff Probe. A former White House budget official was arrested yesterday as part of a Federal probe involving GOP lobbyist Jack Abramoff. The story received no coverage from the networks, but is being reported widely on print media, including front page stories in this morning's New York Times (9/20, A1, Shenon, Kornblut) and Washington Post (9/20, A1, Smith, Schmidt). The Times says David H. Safavian, former head of procurement policy at the Office of Management and Budget, resigned "abruptly last week." Yesterday he "was arrested…on charges of lying to investigators and obstructing a federal inquiry involving Jack Abramoff, the Republican lobbyist who has been under scrutiny by the Justice Department for more than a year." The arrest "was the first to result from the wide-ranging corruption investigation of Mr. Abramoff, once among the most powerful and best-paid lobbyists in Washington and a close friend of Representative Tom DeLay, the House majority leader."

The Washington Post (9/20, A1, Smith, Schmidt) notes that at OMB, Safavian "set purchasing policy for the entire government." Like Abramoff, adds the Post, "Safavian is a veteran Washington player. He is a former lobbying partner of anti-tax crusader Grover Norquist and previously worked with Abramoff at another firm. Both he and Abramoff have represented gambling clients and Indian tribes with gambling interests."

The AP (9/20, Sherman) says Safavian allegedly "concealed from federal investigators that Abramoff was seeking to do business with GSA when Safavian joined him on a golf trip to Scotland in 2002, according to an FBI affidavit and the officials." At the time, FBI agent Jeffrey A. Reising said in an affidavit, "a lobbyist -- identified separately as Abramoff -- had enlisted Safavian's help in trying to gain control of 40 acres of land at the Federal Research Center at White Oak in Silver Spring, Md., for a private high school that Abramoff helped establish and supported." Safavian "edited a letter the lobbyist was preparing to send to GSA, and arranged and attended a meeting involving a GSA official, the lobbyist's wife and others to discuss leasing the property, the affidavit said." Abramoff "told his wife to use her maiden name at the meeting because Safavian sought to play down Abramoff's involvement, the affidavit said, citing an e-mail from Abramoff." The Dallas Morning News (9/20, Mittelstadt, Hillman) adds that "while the 13-page affidavit refers only to 'Lobbyist A,' a government official, speaking on condition of anonymity, confirmed that Mr. Abramoff is the lobbyist."

The Hill (9/20) says "Safavian and Abramoff worked together at Preston, Gates and the two traveled with Rep. Bob Ney (R-Ohio) and others" on the golf trip to Scotland. The Los Angeles Times (9/20, Roche Jr., Neubauer) reports "Ney has said he had been told that the trip was paid for by the National Center for Public Policy Research. That group, however, has denied financing the junket to the famous St. Andrews golf course." According to the complaint, "'Indian tribal funds' paid for the trip."

Roll Call (9/20, Bresnahan) adds "Brian Walsh, a spokesman for Ney, said the Ohio Republican had no comment on Safavian's indictment other than to say that Ney himself has not been contacted himself by any of the handful of federal agencies or grand juries that are looking into Abramoff's business dealings." House Democrats "immediately pounced on this latest indictment as further evidence that Ney needs to be voted out of office in November 2006."

The Federal Times (9/20, Gosier) reports, "Safavian was arrested Monday, the Justice Department said in a release. Deputy OFPP Administrator Robert Burton is serving as interim administrator, said Alex Conant, a spokesman for the Office of Management and Budget, OFPP's parent agency."

Government Executive (9/20, Palmer) reports, "Clay Johnson, deputy director for management at OMB, convened a meeting Monday morning to inform agency employees of Safavian's arrest, according to a government source who asked to remain anonymous. Johnson told staff members to support Safavian's family, and cautioned them against responding to him should he attempt to contact them, the source said. … During his confirmation hearings for his position as OFPP chief, Safavian said he worked as a lobbyist and consultant for a variety of organizations, including the Embassy of Pakistan, Microsoft and several Native American groups. … Safavian also has strong ties to Capitol Hill. Before

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joining GSA, he served as chief of staff to Rep. Chris Cannon, R-Utah, and also has worked for former Michigan House members William Schuette and Robert Davis, both Republicans."

FBI Recruiting Agents For Porn Squad Detail. The Washington Post (9/20, A21, Gellman) reports, "The FBI is joining the Bush administration's War on Porn. And it's looking for a few good agents." The Post continues, "Early last month, the bureau's Washington Field Office began recruiting for a new anti-obscenity squad. Attached to the job posting was a July 29 Electronic Communication from FBI headquarters to all 56 field offices, describing the initiative as "one of the top priorities" of Attorney General Alberto R. Gonzales and, by extension, of 'the Director.' That would be FBI Director Robert S. Mueller III." The Post adds, "Mischievous commentary began propagating around the water coolers at 601 Fourth St. NW and its satellites, where the FBI's second-largest field office concentrates on national security, high-technology crimes and public corruption. … The new squad will divert eight agents, a supervisor and assorted support staff to gather evidence against 'manufacturers and purveyors' of pornography -- not the kind exploiting children, but the kind that depicts, and is marketed to, consenting adults. … 'I guess this means we've won the war on terror,' said one exasperated FBI agent, speaking on the condition of anonymity because poking fun at headquarters is not regarded as career-enhancing. 'We must not need any more resources for espionage.' … Among friends and trusted colleagues, an experienced national security analyst said, 'it's a running joke for us.'" The Post notes, "Public corruption, officially, is fourth on the FBI's priority list, after protecting the United States from terrorist attack, foreign espionage and cyber-based attacks. Just below those priorities are civil rights, organized crime, white-collar crime and 'significant violent crime.' The guidance from headquarters does not mention where pornography fits in. … 'The Department of Justice and the Federal Bureau of Investigation's top priority remains fighting the war on terrorism,' said Justice Department press secretary Brian Roehrkasse. 'However, it is not our sole priority. In fact, Congress has directed the department to focus on other priorities, such as obscenity.' … At the FBI's field office, spokeswoman Debra Weierman expressed disappointment that some of her colleagues find grist for humor in the new campaign. 'The adult obscenity squad . . . stems from an attorney general mandate, funded by Congress,' she said. 'The personnel assigned to this initiative take the responsibility of this assignment very seriously and are dedicated to the success of this program.'"

Gotti Jury Signals Possible Deadlock On Racketeering Charge. The AP (9/20, Hays) reports, "A federal jury deliberating the case of John A. 'Junior' Gotti, the scion of the Gambino crime family charged with attacking a radio show host, indicated Monday that it was deadlocked on a racketeering charge against the son of the late mob boss." The AP continues, "In a note to U.S. District Judge Shira Scheindlin on the seventh day of deliberations, jurors asked what they should do if they were deadlocked over the question of Gotti's so-called withdrawal defense. … Gotti, 41, claims he quit the Gambino organized crime family before July 22, 1999, meaning the five-year statute of limitations would have expired on racketeering charges." The AP adds, "The judge told lawyers she planned to read the jurors a charge that would encourage them to keep deliberating until they reached an unanimous verdict. … Prosecutors allege Gotti ordered his Gambino crew to give radio personality Curtis Sliwa a severe beating in retaliation for Sliwa's on-air rants against his father, John Gotti."

US Charges Three In Army Kickback Scheme. The AP (9/20, Sherman) reports, "A civilian Army employee and two business owners were arrested in a kickback scheme to supply furnishings at a new Pentagon-run hotel in the Bavarian Alps that is used by troops on leave from Afghanistan and Iraq, the Justice Department said Monday." The AP continues, "Steven G. Potoski, 45, former contracting director at the Edelweiss Lodge and Resort in Garmisch, Germany, accepted more than $350,000 in bribes in cash, home renovations, trips, computers and tickets to such events as Oktoberfest and the Indianapolis 500, assistant Attorney General Alice Fisher said. … Potoski, who lives in Garmisch, was arrested Friday, along with Alvan Vance McQueen, 56, of Shelbyville, Ind., and Ellis Abramson, 39, of Merrick, N.Y." The AP adds, "McQueen, owner of Flat Rock Furniture in Waldron, Ind., paid Potoski $45,000 in cash and other items as part of an agreement to inflate the cost of furniture for the hotel and split the extra money, according to a criminal complaint filed against McQueen in U.S. District Court in Indianapolis. … Abramson, president of Bramson House Inc., had a similar arrangement with Potoski for

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draperies and guest room bedspreads, according to a criminal complaint filed against Abramson in U.S. District Court in Brooklyn, N.Y. … If convicted, the three men face up to 35 years in prison."

Three Sentenced To Prison For New Jersey Corruption Convictions. The Trenton Times (9/20, Knapp) reports US District Judge Garrett E. Brown Jr. on Monday "sentenced former MCIA Executive Director James R. Lambert Sr., 44, and Washington Township businessman Alex J. Abdalla, 52, to five months in federal prison, five months of house arrest with electronic monitoring, three years of probation and $6,000 in fines each for their guilty pleas to charges of mail fraud and conspiring to bribe former Ewing Mayor Alfred W. Bridges to use his influence to steer a private demolition contract in the township. Hamilton businessman and contractor Michael Maurio, 69, was sentenced to 23 months in federal prison and three years of probation for his part in the conspiracy to defraud the MCIA by submitting false statements in connection with the performance of a demolition project contract in Trenton." The Times notes, "U.S. Attorney Christopher J. Christie yesterday praised local FBI agents, special agents of the Internal Revenue Service criminal investigation unit and Assistant U.S. Attorneys David Bocian and Jeffrey S. Chiesa for their work in the case while deploring the corruption of defendants in the probe."

Probe Of Allegations Prosecutor Interfered With FBI Probe Cost County $107,000. The Asbury Park Press (9/20, Rizzo) reports, "The Monmouth County Board of Freeholders spent $107,000 for lawyers to represent nine members of the Prosecutor's Office in a federal grand jury investigation that went nowhere, according to the county counsel. Malcolm V. Carton said Monday that he concluded…that the grand jury probe into whether the prosecutor's office interfered with an FBI bribery sting fizzled out in June. 'It went no place,' Carton said. 'There was no indictment, just a lot of threats.'" The APP notes, "Meanwhile, state Attorney General Peter C. Harvey is conducting his own investigation into whether former Prosecutor John Kaye's office interfered with the federal probe. John Hagerty, a spokesman for the state Division of Criminal Justice, said the report has been completed and determinations are being made."

Former, Current New Mexico Treasurers Plead Not Guilty To Kickback Charges. The AP (9/20, Fonseca) reports, "The New Mexico state treasurer and his predecessor pleaded not guilty Monday to federal racketeering charges involving kickbacks of cash, cars and expensive tickets to political fundraisers. Robert Vigil and former Treasurer Michael Montoya, both Democrats, are accused of steering state business to an investment adviser in exchange for nearly $700,000. … 'Mr. Vigil, from day one, has attempted to clean up this office, and that's what he has done,' said Vigil's attorney, Sam Bregman, who blamed the allegations on disgruntled former employees." The AP notes that "an FBI affidavit describes a wider scheme and says Vigil accepted an envelope stuffed with cash as recently as last month. … On Monday, Lt. Gov. Diane Denish urged Vigil to immediately take administrative leave while the case is pending."

The Washington Post (9/20, A2) also reports on the pleas in "Nation in Brief"

New York Mayor Accused Of Internet Sex Charge Released On Bond. The AP (9/20, Kates) reports, "Although a judge accused him of having 'deviant sexual urges,' Oswego Mayor John Gosek was released Monday with a set of conditions that include electronic monitoring, a curfew and other restrictions." Gosek "was arrested Friday at a Syracuse hotel on a charge that he used a cell phone to solicit sex from a minor." US Magistrate George Lowe "ordered Gosek to post $10,000 bond" and "prohibited Gosek from using cell phones and ordered him not to have contact with any minors. Gosek also must undergo counseling a condition Gosek requested, said his attorney James Eby."

Philadelphia Imam Sentenced To Prison For Corruption Probe Conviction. The Philadelphia Inquirer (9/20, Anastasia) reports, "Imam Shamsud-din Ali, convicted earlier this year of racketeering charges that were part of a broader City Hall corruption probe, was sentenced today to 87 months in prison. … Considered one of the most influential Muslim leaders in the city, Ali declined to make any comment during the hearing or as he emerged from the courthouse later in the day. He will remain free on bail pending an appeal." The AP (9/20, Loviglio) notes that Ali's was "the latest in a string of convictions stemming from the FBI's sweeping probe of municipal corruption."

The Philadelphia Daily News (9/20, Caparella) adds that Muslim response to Ali's sentencing was mixed, with one

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"disgusted Muslim, upset that Ali is out on bail" saying, "Ali 'has one more year to con people out here." But "Ali loyalist, Asim Abdul Rashid, head of the Majlis Ash'Shura" said, "It's a travesty. If there's any fairness, he will win on appeal."

More Than 100 Gang Suspects Arrested By Florida Task Force. The Tampa Tribune (9/20, Morelli) reports, "A sustained assault on street gangs in northwest Hillsborough County by a task force made up of federal agents and county deputies resulted in the arrest of more than 100 suspected gang members and the seizure of nearly $1 million in property. They didn't get everyone, though. As Sheriff David Gee announced the results of the sweeping six-month investigation Monday afternoon, workers at Morgan Woods Elementary School scrubbed bright orange gang graffiti off the walls and sidewalks. Undaunted by the graffiti…Gee said the sweep was a big blow to the street gangs in northwest Hillsborough because many of those arrested were leaders." The Tribune notes, "The gang task force included Hillsborough sheriff's deputies, FBI agents and U.S. attorney's office investigators, as well as an undercover Pasco County sheriff's detective who infiltrated one gang."

Philadelphia FBI Agents Played Role In Art Theft Sting. The Philadelphia Daily News (9/20, Smith) reports, "It was a helluva heist -- and a helluva sting that recovered a stolen Rembrandt painting worth $36 million. But the FBI says we'll have to wait a couple weeks to learn exactly what role one of its Philadelphia-based agents may have played in the end to one of history's most sensational art thefts. … 'The Philly connection has to do with the sting,' local FBI spokeswoman Jerri Williams said yesterday, teasing an Oct. 4 press session when reporters will be able to get the whole story. 'Let's just say maybe somebody here was involved in it, and they can talk about it.' … 'The task force was able to introduce an FBI undercover agent with substantial knowledge of art to pose as the buyer/broker for the stolen Rembrandt,' the FBI's Los Angeles field office said. Federal investigators at Philly are known for expertise in stolen art and cultural artifacts. They hosted a new national FBI task force on stolen art this year."

Swedes Expect Suspects Will Be Extradited This Week. The AP (9/20, Olsen) reports that the four suspects "will soon be extradited to Sweden where they will be prosecuted, officials said Monday." The AP notes, "The arrests last week were the result of a multinational operation that included several U.S. law enforcement agencies, including the Immigration and Customs Enforcement and the U.S. Federal Bureau of Investigation. … In Sweden, Prosecutor Ronnie Jacobsson said he hoped the men would be handed over this week."

Tennessee Couple Plead Guilty To Bilking Elderly In Ponzi Scheme. The Knoxville News (9/20, Satterfield) reports, "A Morristown couple pleaded guilty Monday to bilking dozens of people, many of them elderly, in a multimillion-dollar Ponzi scheme." Gary Lee Von Oesen and Geneva Retha Houston "admitted their respective roles in a host of financial crimes spanning 1996 to 2003 at a hearing in U.S. District Court in Greeneville before federal Judge J. Ronnie Greer." The News notes, "Von Oesen and Houston were nabbed last year after a probe led by FBI Agent Lane P. Rushing into allegations including mail fraud, securities fraud and money laundering."

Texas Man Pleads Guilty To Attempted Extortion. The Tyler Morning Telegraph (9/20, Knaupp) reports Kirkpatrick Lenord Moore of Tyler "pleaded guilty in federal court Monday to attempting to extort $120,000 from a local woman." Moore "admitted to receiving proceeds of extortion on Dec. 29 after he had left several threatening notes and phone calls to the woman." The Morning Telegraph notes, "FBI officials said they believe the woman had information regarding a felony suspect wanted in Smith County. Moore threatened to inform the FBI of the woman's knowledge and to accuse her of committing an offense regarding the information, according to a FBI affidavit."

Rapper Lil' Kim Reports To Philadelphia Detention Center To Begin Perjury Sentence. The AP (9/19, Matheson) reports, "Rapper Lil' Kim began serving a 366-day prison sentence at a federal detention center Monday for perjury and conspiracy stemming from a 2001 shootout outside a Manhattan radio station." The AP continues, "The 30-year-old entertainer, whose real name is Kimberly Jones, was whisked into the center past a throng of media, fans and passers-by at about 4:45 p.m. … Earlier, she had issued a statement saying she had 'unfortunately' been assigned to the concrete, high-rise Philadelphia facility instead of to a prison camp 'as discussed,' and added, 'I am not certain that this constitutes fair and equal treatment.' … Her lawyer, L. Londell McMillan, said a celebrity of his client's

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magnitude could be in danger in such a detention center, which he said was mainly designed as a temporary holding facility for inmates awaiting permanent assignment to a prison."

Psychologist Says Hinckley Should Be Allowed Overnight Visits. Psychologist Paul Montalbano, chief of pretrial services at St. Elizabeth's Hospital, testified yesterday that John Hinckley Jr., who tried to kill President Ronald Reagan in 1981, should be allowed to visit his parents and stay overnight with them at their home in Williamsburg, Virginia. The Washington Times (9/20, Wagner) reports that Montalbano said Hinckley's "mental state has improved since he shot President Reagan," and that he now "abides by rules and regulations. His rehabilitation would be increased if he were allowed to walk through the vast community around his parents' home, which includes six golf courses, shopping centers, a school and historical sites, the hospital psychologist testified." The Washington Post (9/20, A10, Cauvin) adds that Montalbano also testified that Hinckley "is lonely and longing for a close relationship." Montalbano said, "He wants to have a girlfriend. He wants intimate contact with a female." The Post adds that the "underlying question" at yesterday's hearings "appeared to be how Hinckley would handle courtship and respond to rejection out in the world, away from the structure and support of a hospital."

Jury Selection Begins In Trial Of Former Illinois Governor. Jury selection began Monday in the trial of former Illinois Gov. George Ryan, who is charged with racketeering conspiracy, mail fraud, tax fraud and lying to investigators. Reuters (9/20, Stern) reports, "Ryan, 71, is charged with steering state contracts to friends in exchange for free gifts, vacations, cash and loans to himself and his family while governor and, before that, during eight years as Illinois' secretary of state.'

The New York Times (9/20, Wilgoren) says the trial "caps a seven-year federal investigation that has led to 79 indictments and 73 convictions and is known as Operation Safe Road because of its roots exposing a scheme in which government employees traded commercial driver's licenses for bribes. Mr. Ryan's co-defendant is Lawrence K. Warner, a longtime lobbyist and close confidant."

The AP (9/20, Robinson) reports, "Jury selection for former Gov. George Ryan's racketeering trial got off to a slow start Monday with questions from defense attorneys focusing on possible bias resulting from media coverage of the scandal that has dominated state politics for seven years. … 'Because he was governor this is a highly unusual case,' Ryan attorney Dan Webb told the court. 'We should not end up with a jury that has people on it with biases against George Ryan.'" The AP continues, "Webb urged federal Judge Rebecca R. Pallmeyer not to put time limits on the questioning and she said she would wait until noon Tuesday before doing so to see if the pace picks up. … But she said it was necessary to get going." The AP adds, "After one day of jury selection, 14 of some 300 potential jurors had been interviewed and eight were placed in a pool for later consideration. Eleven of the 300 were dismissed for reasons ranging from health problems to job conflicts to blatant bias against the former governor."

FBI New Orleans SAC Laments High Rate Of New Orleans Political Corruption. Asked on MSNBC's Hardball (9/19) about the Louisiana political corruption investigations, FBI New Orleans SAC Jim Bernazzani said, "As far from the FBI office, we have a tremendous working relationship with all government, whether it is state, federal or local, whether it is law enforcement or it's from the mayor's office or from the parish presidents. We have no problem with that. What we do have here, unfortunately, is a target-rich environment relative to select individuals who would abuse their office for personal profit. Within the FBI, New Orleans ranks 19th in size, but we are third in public corruption convictions. And the unintended consequence of public corruption is not only are they stealing from the people, but they are contributing to this violent crime landscape, in that companies from out of state will not invest in New Orleans, because they are sick and tired of the bribes and the kickbacks."

Police Say DC Dog Walker Killed in 'Face-To-Face' Encounter. The Washington Post (9/20, B3, Wilber, Henderson) reports police said yesterday that a man who was fatally shot while walking his dog in the Mount Pleasant section in Northwest Washington was killed in a "face-to-face" encounter with his assailant. The paper adds investigators said they had no motive or suspect in the slaying of Gregory C. Shipe, 34, a financial analyst for Ogilvy Public Relations. He was shot in the face about 10:40 p.m. Saturday in a crime that one top D.C. police official yesterday called

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"bizarre." Although none of Shipe's possessions, including his wallet, was missing, investigators speculated that he most likely was the victim of a botched robbery, authorities said. Police and neighbors said several robberies have taken place in the area recently. Police are offering a reward of up to $25,000 for information leading to the arrest and conviction of a suspect.

FBI Searches Missing VCU Student's Car. The Washington Times (9/20, Cella) reports that Richmond Police investigating the disappearance of a 17-year-old Virginia Commonwealth University freshman Taylor Marie Behl spent yesterday investigating leads they got from an examination of her car. Behl of Vienna, VA has been missing since Sept. 5. An off-duty police officer found Taylor's 1997 Ford Escort on Saturday in Richmond, about a mile and a half from her dorm. The Times adds Police said that there were Ohio license plates on the car and that the original Virginia tags were missing. Police said the car was turned over to the FBI for forensics processing. The Times said the Richmond Times-Dispatch reported yesterday that Taylor's scent was one of two that a police dog detected in the car and that the discovery is leading police to think that she might have been abducted.

CIVIL LAW:

DOJ Settles False Claims Charges Against Office Depot. Federal Computer Week (9/20, Hardy) reports, "Office Depot has paid a $4.75 million settlement to the United States over allegations that the company sold products to government agencies in violation of the Trade Agreements Act." FCW continues, "The Justice Department, in announcing the settlement today, said Office Depot sold products from China, Taiwan and other countries that do not have reciprocal trade agreements with the United States, in violation of a provision of the company's General Services Administration schedule contract. … 'Federal contractors will be held accountable for their billing practices,' said Peter Keisler, assistant attorney general at Justice's Civil Division, in a written statement. 'This settlement is an example of the department's determination to ensure that federal funds are protected from fraud and abuse.'"

Reuters (9/20) reports, "Earlier this year OfficeMax Inc. agreed to pay $9.8 million to settle similar allegations."

FEC Sues Club For Growth Over Campaign Finance Compliance. The Washington Post/AP (9/20, Theimer) reports, "Federal election officials on Monday sued a political group to try to force it to comply with campaign finance limits, the first lawsuit of its kind to arise from controversial big-money fundraising during the 2004 elections." The AP continues, "The Federal Election Commission filed a complaint in U.S. District Court in Washington against the Club for Growth. The pro-Republican group spent at least $21 million in the 2003-04 election cycle. … The FEC contends the Club spent enough in federal races to require it to file with the commission as a political committee and abide by contribution and spending limits. It wants the court to fine the group and to order it to comply with campaign finance rules." The AP adds, "Club for Growth President Pat Toomey called the FEC lawsuit 'a bizarre interpretation of the Club's mission, the Constitution, the laws adopted by Congress and their own regulations governing nonprofit organizations.' … 'The Club's principal purpose is to advocate for and defend pro-growth policies,' Toomey said in a written statement. 'We have consulted with counsel every step of the way and have followed the law and regulations that govern our work.'"

The New York Times (9/20, Justice) reports, "The suit is the first major enforcement case to involve a '527 committee,' the independent political organizations that both Republicans and Democrats used to raise and spend hundreds of millions of dollars in the 2004 races. Commission officials describe it as a test case that could have a major impact on how future elections are financed. … 'This is one of the most important suits the commission has brought in the last decade,' said Michael Toner, the commission's Republican vice chairman."

The Washington Times (9/20, Dinan) notes that Club for Growth President Patrick J. Toomey "said yesterday's suit was part of a 'war on the First Amendment.' He said the FEC's suit was the result of a complaint by the" DSCC "that said the Club for Growth stepped over the line when it targeted Senate Minority Leader Tom Daschle, South Dakota Democrat. 'The commission allowed it to lie inactive for nearly a year and a half and then resurrected it as a platform to seek to take away our members' rights and exact a huge civil penalty from the club,' Mr. Toomey said." The Times adds, "President Bush's campaign, key lawmakers who helped pass the 2002 changes and other political organizations sued the FEC last year for not enforcing its

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regulations on 527s. Those cases are pending in federal court."

New Georgia Law May Jeopardize Asbestos Cases. The Fulton County (GA) Daily Report (9/20, Pollak) reports, "Lawyers are gearing up for a constitutional challenge to a new state law that could remove nearly 3,000 asbestos cases from Fulton County dockets." The Report continues, "The law was designed to stem the tide of out-of-state asbestos claims being filed in Georgia, said its primary sponsor, Rep. David E. Ralston, R-Blue Ridge. … 'We were seeing a huge number of people that were nonresidents of Georgia and that had not been exposed to asbestos or silica in Georgia who were suing in Georgia courts,' said Ralston. 'That was a trend that was disturbing not only to me, but to others.'" The Report adds, "The vast majority of asbestos cases in Georgia have been filed in Fulton, with about 2,200 pending in state court before Judge Henry M. Newkirk and about 1,000 pending in superior court before Chief Judge Doris L. Downs, attorneys involved in the cases said. They estimated that out-of-state plaintiffs who were not exposed to asbestos in Georgia filed approximately 90 percent of those cases. … A lawyer defending the asbestos suits, E. Elaine Shofner of Hawkins & Parnell, noted that claims in Georgia courts have originated from Alabama, North Carolina, Wisconsin, Hawaii, Texas, Nebraska and Pennsylvania. … 'We became a dumping ground,' she said. … One plaintiffs' attorney, David P. Bevon of Motley Rice in Mount Pleasant, S.C., said out-of-state plaintiffs filed in Georgia because the law here was more favorable than in other states for injuries that occurred years or even decades ago. He also noted that some defendants, such as Georgia-Pacific, are based here."

Colorado AG Argues Against State Settlements With Tobacco Companies. Colorado State Treasurer Mark Hillman writes in the Wall Street Journal (9/20), "When politicians take campaign contributions from Big Tobacco, self-proclaimed watchdog groups yelp about impropriety. Yet for the past seven years, the industry has paid tens of billions of dollars to state governments to protect tobacco profits. Until recently, hardly anyone seemed to notice, much less care. Then, on Aug. 2, the non-profit Competitive Enterprise Institute filed a lawsuit arguing that the 1998 Master Settlement Agreement (MSA) between Big Tobacco and 46 state attorneys-general (AGs) violates the Constitution and establishes a cartel designed to circumvent antitrust law and quash competition. Hallelujah. I am a state treasurer and this suit could greatly reduce revenue to my state; and still I am enthusiastic. The billions generated by the settlement cloak the pernicious threat that activist AGs pose to the checks and balances on political power that govern our Constitutional system. Regulation and taxation policies are the rightful responsibility of the legislative and executive branches -- not the domain of states' chief law enforcement officers." Hillman adds, "The question facing the courts is not whether the MSA is good policy or whether tobacco companies are scoundrels. The larger issue is whether AGs can rightfully evolve into a law unto themselves, usurping the Constitutional roles of state legislators, governors, Congress and, ultimately, the voters themselves."

CIVIL RIGHTS:

Carter-Baker Panel Suggests 87 Election-Reform Changes. Reuters (9/20) reports, "Electronic voting machines should have paper trails to keep track of votes cast and all voters should present photo IDs, a panel recommending ways to restore confidence in the U.S. election system said on Monday. The bipartisan Commission on Federal Election Reform, led by former President Jimmy Carter and former Secretary of State James Baker, made 87 recommendations for strengthening the integrity of a process shaken by voting controversies." Reuters notes, "The call for paper verification of votes on electronic machines drew praise from election reform advocates, but the call for photo identification was criticized as an invasion of privacy and something that would discourage some voters. That recommendation would require all prospective voters by the year 2010 to produce a photo ID card at the polling place -- either a driver's license or, for those without driver's licenses, an identification card issued by the state. The commission called on states to make distribution of the card simple and widespread."

The Washington Times (9/20, DeBose) adds, "The standard of identification recommended by the" commission "is essentially the same as those established by the recently passed federal Real ID Act, which outlines strict rules and procedures for the issuance of driver's licenses by the states. 'The Real ID is a logical vehicle because the National Voter Registration Act established a connection between obtaining a driver's license and registering to vote,' said the report drafted by the commission. … 'The Real ID card adds two

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critical elements for voting -- proof of citizenship and verification by using the full Social Security number.'" Carter and Baker "yesterday defended the recommendations, saying photo-identification already is required to board airplanes, cash checks and enter federal buildings. But Commissioner Spencer Overton, a George Washington University election law professor, dissented. 'The recommendation will exclude millions of Americans, and the disproportionate numbers of citizens who will be excluded are people of color,' he said."

The Wall Street Journal (9/20, A18, Harwood) relates that Carter and Baker "presented President Bush with their recommendations, which also included information-sharing to prevent voters from registering in more than one state" and "use of mobile offices to ease registration. … They said White House support will be critical to moving some portions through the Republican-controlled Congress, and signaled it may come soon." The Journal adds, "Last night the White House released a statement from the president praising the commission's 'excellent work' and pledging to work with Congress on its recommendations."

Editorials Criticize Voter-ID Recommendation. The Washington Post (9/20, A22) editorializes, "The report released yesterday by" the Commission on Federal Election Reform "contains a number of valuable proposals. But adopting one of the commission's recommendations -- that voters be required to present a government-issued voter ID at the polls -- would, on balance, do more harm than good. … This may not sound particularly burdensome. … Yet 12 percent of the voting-age population does not have a driver's license, and those without identification tend disproportionately to be minorities, the elderly and the poor." And, "for those who don't already have identification, the hurdle of assembling the necessary documentation and obtaining the cards could prove a deterrent to voting." The Post adds that "election administrators agree that absentee ballots pose a bigger risk of fraud, and in that case the commission would guard against fraud by having election officials match a signature on file. … Allowing voters to show alternative forms of identification or to sign a sworn affidavit of eligibility could go a significant way toward deterring fraud without imposing the burden of an inflexible photo ID requirement."

The New York Times (9/20) editorializes that the "bombshell recommendation" requiring "voters to have drivers' licenses or a government-issued photo ID" wouldn't "be a great burden for people who have drivers' licenses, but it would be for those who don't, and they are disproportionately poor, elderly or members of minorities. These voters would have to get special photo ID's and keep them updated. If they didn't have the ID's, their right to vote would be taken away. The commission recommends that the cards be free. But election administration is notoriously underfinanced, and it is not hard to imagine that states would charge for them." The Times adds, "There is very little evidence of voters' claiming to be people they are not. … But the report goes on to say that even if there is just a small amount of fraud, it should be stopped. True, but if the solution risks disenfranchising hundreds of thousands, or even millions, of voters, it is a very bad reform."

Suit Challenges Georgia's Voter ID Law. The Atlanta Journal-Constitution (9/20, Campos, Salzer) reports, "Voting and civil rights groups launched a legal assault Monday on the state's requirement that Georgians show a government-issued photo ID at the polls — a law they call the most restrictive of its kind in the country." The AJC continues, "A federal lawsuit filed on behalf of two African-American voters, the American Civil Liberties Union, NAACP, League of Women Voters, black legislators and others calls the new law a 'poll tax' that will rob black, elderly and rural people of their right to vote. … Supporters of the new law condemned the suit, arguing that the law will eliminate the likelihood of fraud at the polls. House Speaker Glenn Richardson (R-Hiram) called it a 'ludicrous lawsuit.' … 'This lawsuit is nothing more than liberal special interests using unconscionable scare tactics to frighten Georgia voters,' Richardson said." The AJC adds, "While long expected, the suit raises the stakes of a debate that has raged since last winter's session of the Legislature. The suit won't affect today's special elections in Cobb County and elsewhere, but opponents hope a judge throws out the law before elections being held in November in many Georgia cities."

The AP (9/19, Pettys) reports, "The suit was filed the same day a commission co-chaired by former President Carter, a Georgia native, recommended a national requirement that voters show photo IDs. … Opponents of photo IDs for voters say such requirements would disenfranchise minorities and the poor; backers say they're a good way to combat voter fraud. … 'Photographic identification as a requirement for voting is antidemocratic and prevents people from exercising their fundamental right to vote whether proposed by the General Assembly of the

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state of Georgia or the Carter-Baker commission,' said Daniel Levitas of the American Civil Liberties Union's voting rights project." The AP adds, "Plaintiffs in the suit — including Common Cause, the League of Women Voters, the Georgia Legislative Black Caucus and the National Association for the Advancement of Colored People — contend the law violates the state and federal constitutions. … The law eliminates formerly accepted forms of voter identification, such as Social Security cards, birth certificates or utility bills."

DOJ's Florida Voting Rights Suit Divides Hispanics. The Orlando Sentinel (9/20, Sashin) reports, "The federal voting-rights lawsuit against Osceola County has become a wedge in the Hispanic community, dividing activists and candidates over the best way to gain political power." The Sentinel continues, "Some supporters of the suit, who filed a similar challenge against the city of Kissimmee, contend that single-member districts would give Hispanics a better shot at representation. … Other Hispanics say there's nothing keeping the right candidate from winning under the current at-large system, in which commissioners are elected by all the voters. Often, they say, Hispanic candidates undercut each other's campaigns, fail to get other Hispanics to vote or convey the wrong message. … 'Saying we should get this because we're Hispanic is not the answer. . . . There's a lot of people who are sick of it,' said Hector Lizasuain, a board member of several community organizations, including Give Kids Safe Shelter." The Sentinel adds, "The Justice Department filed suit against the county in July, alleging Osceola's practice of electing commissioners countywide discriminates against Hispanics because it dilutes their voting strength. The county's Hispanic population has tripled during the past decade. Although they make up 31 percent of registered voters, only one Hispanic has been elected as a county commissioner. … The federal government has suggested that Osceola could create five commission districts, with one made up of mostly Hispanic voters. … Armando Ramirez, who originally complained to the Justice Department and spearheaded the Kissimmee suit, and other activists say a single-member district system is the only way for a minority candidate with little money to get elected."

Disabled Groups Protest Congressional Spending Cuts. Roll Call (9/20, Hechinger) reports, "More than 500 disability-rights protesters from across the country, most in wheelchairs, descended on Congressional offices today to call for expanded patient rights under Medicaid and to express frustration with some Members' calls for deep cuts to social programs. Despite numerous arrests and a heavy Capitol Police presence, the protesters plan to stay on Capitol Hill throughout the week. … Most of those arrested were being held in Room 2128 in the Rayburn House Office Building to be processed, but arrests also were made in the Hart Senate and Cannon House office buildings. No official comment on the number of arrests is yet available." Roll Call notes, "In addition to general calls for enhancing disability rights, the protesters urged Members of Congress to sponsor and pass the Medicaid Community-Based Attendant Services and Supports Act, as well as the Money Follows the Person Act, both of which were proposed by ADAPT, the disability-rights organization leading Monday's protest and fight on the Hill. … 'We've tried being nice,' said Linda Anthony, an ADAPT spokeswoman. 'We've written Congressmen, we've phoned them, we've come to their offices to try to talk, but nothing works. We're done playing nice. We'd rather go to jail then go back to the nursing homes.'"

Senate Debate On Flag Burning Could Affect 2006 Races. A flag burning amendment is likely to make it to the Senate floor before next year's elections, The Hill (9/20, Cusack, Lanham) reports. Republicans "will use the proposed amendment to the Constitution as political ammunition in 2006. Several targeted Democrats in the upper chamber oppose changing the Constitution to prohibit flag burning, including Sens. Jeff Bingaman (N.M.), Maria Cantwell (Wash.), Kent Conrad (N.D.) and Robert Byrd (W.Va.)." The Hill adds, "The fate of a pending flag-burning amendment lies in the hands of a few senators. Because Sen. Orrin Hatch's (R-Utah) amendment would alter the Constitution, it needs 67 votes, two-thirds of the Senate, to pass. Including Hatch, the amendment has 58 co-sponsors. Based on previous votes, the measure has the likely support of 63 senators — if senators vote the way they have previously."

ANTITRUST:

Ohio, Wisconsin Plan Minimum-Service Real State Laws. Inman News (9/20, Roberts) reports, "Realtor associations in Wisconsin and Ohio are pushing for laws that establish new service requirements for real estate

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professionals while making room for real estate companies that offer a lesser range of services for lower fees." Inman continues, "In several other states, Realtor-backed efforts to establish a mandatory range of services for all real estate professionals – effectively banning some limited forms of real estate services – have drawn sharp criticism from antitrust officials at the U.S. Justice Department and Federal Trade Commission. … But the Realtor groups in Wisconsin and Ohio say their proposals recognize and provide some protections for real estate business models that offer fewer services than traditional firms. In both of these states, Realtor associations formed task forces to study the law changes, with representation from limited-service real estate companies." Inman adds, "The Association of Real Estate License Law Officials, a group for real estate regulators, conducted a study that found that Alabama, Illinois, Iowa, Missouri, Oklahoma, Texas and Utah have enacted some form of minimum-service legislation within the past couple of years. And other states, too, have earlier approved or are now pursuing minimum-service measures. … Federal officials opposed the Realtor-backed measures in Alabama, Missouri, Oklahoma and Texas, charging that the legislation was anticompetitive and anti-consumer. But legislators and governors in all four states passed the measures despite these objections."

MasterCard To Issue No-Touch Cards. Reuters (9/19, Kelleher) reports, "A top executive with Mastercard Inc. said on Monday the company, the world's No. 2 credit-card association, expected to have 4 million so-called 'pay pass' cards in circulation by year's end." Reuters continues, "Speaking at an industry conference here, Ruth Ann Marshall, Americas president for MasterCard, said that Citibank, HSBC and Key Bank had all begun offering the cards, which are equipped with a radio-frequency chip that allows customers to pay for purchases by simply waving their cards at readers posted near cash registers or gas pumps. … Marshall said the pay-pass cards were 'easier to use than cash' and were one of the products MasterCard was counting on to increase revenue and profits as it faces a variety of challenges in the marketplace, including new rivals and regulatory scrutiny. … 'It's just one of the ... breakthroughs in technology that we're pursuing in order to increase convenience and boost usage,' Marshall said." Reuters adds, "MasterCard, owned by more than 1,000 banks, formally revealed its plans last week to go public early next year in an initial public offering. … In addition, to raising money to bolster its balance sheet, MasterCard said it believed the IPO would help quell criticism from merchants and others, who charge that its current structure -- which foes characterize as a cartel of competing banks setting transaction fees in concert -- represents a violation of U.S. antitrust laws."

Verizon, Source Resources Settle Records Dispute. The Washington Post (9/20, D5, Krim) reports that Source Resources Inc. of Cookeville, TN has reached an agreement with Verizon to stop selling personal cell phone records of individuals over the Internet and will provide information on how it acquired the data. The paper says the firm "was among dozens of companies advertising that for fees starting under $100, they would provide records of calls placed to and from any phone user." The Post adds, "Although phone records cannot lead to the type of financial fraud that can result when other types of personal data are stolen, experts said they can be exploited by criminals, such as stalkers or abusive spouses trying to locate their victims. Wireless carriers say cases of purloined records are rare and that they take measures to safeguard the information. But the Electronic Privacy Information Center, a leading privacy rights group, last month urged the Federal Communications Commission to crack down on carriers for having inadequate security." The paper notes Verizon Wireless sued Source Resources in July, after a Verizon Wireless customer complained that his records had been obtained from Source Resources without his permission.

Regulators Near Approval Of Industry-Altering Phone Deals. The Wall Street Journal (9/20, Schatz, Wilke) reports that federal regulators "are nearing approval of two deals that would reshape the telephone industry and are in negotiations over likely divestitures and other conditions intended to preserve competition, especially in the huge market for corporate customers." The Journal adds, "Federal Communications Commission Chairman Kevin Martin is pressing the FCC staff to deliver as early as tomorrow recommendations to approve Verizon Communications Inc.'s $8.5 billion purchase of MCI Inc. and SBC Communications Inc.'s $16 billion takeover of AT&T Corp., people familiar with the situation say. FCC votes on the deals could come as early as the agency's Oct. 12 meeting." The paper continues, "At the same time, Justice Department investigators have concluded that the merging companies

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must sell some assets, moves they believe are needed to preserve competition for high-volume business customers, said lawyers close to the government review. Antitrust enforcers are negotiating with SBC and Verizon on the scope of those divestitures, these people said. That is a concern for SBC and Verizon, since a major goal of their acquisitions was to acquire lucrative corporate customers in order to sell more packages of telecom services. As a result of both the FCC and Justice Department reviews, regulators are concerned that consolidation will make it more difficult for business customers to get discounts on telecom services."

File-Sharing Firms Seek Deal With Recording Industry. The New York Times (9/20, Hansell) reports, "At least five online file-sharing companies have started trying to reach an accord with the music industry to convert the free trading of copyrighted music on their networks to paid services, according to several recording industry and file-sharing executives. The most advanced discussions are between the recording industry and Grokster, a small California company that has been sued by the entertainment industry, recording industry executives said." The Times adds, "Grokster has agreed in principle to be acquired by Mashboxx, a new company backed by Sony that is trying to start a legal file-sharing service, a person involved in the negotiations said. Mashboxx has made overtures to some file-sharing companies including eDonkey, Morpheus and LimeWire, but negotiations are not active, the person said." The paper continues, "Separately, iMesh, a file-sharing service that last year reached an accord with the music industry to convert to a legal paid service, has made overtures to acquire a number of the other file-sharing services, on the condition that they settle their claims with the recording industry, said Robert E. Summer, the executive chairman of iMesh."

Financier Ross Eyes Auto Parts Manufacturers. The Wall Street Journal (9/20, McCracken) reports, "Billionaire Wilbur L. Ross, the New York-based financier who in recent years merged five faltering steel companies to create a steelmaker he later sold for a huge profit, says he has as much as $4.5 billion in capital to bank on his next venture -- buying up troubled auto-parts makers, possibly including unprofitable operations Visteon Corp. is about to jettison. Mr. Ross's investment group and other funds he is working have already snapped up half the bank debt of automotive supplier Collins & Aikman Corp., which is under Chapter 11 bankruptcy-court protection, and stakes in smaller suppliers in Europe and Asia. Another potential target he could be interested in includes the 23 plants and other facilities that Visteon is about to transfer back to former parent Ford Motor Co." The Journal adds Visteon and Ford last week announced an agreement under which Ford will take over 17 Visteon plants, plus six offices, research centers and other facilities in the US and Mexico on Oct. 1. The assets, with combined annual sales of more than $7 billion, by themselves would make up the world's 17th largest auto supplier by sales. Ford, which will have to spend between $450 million and $650 million this year and $300 million to $500 million after that for buyouts of hourly workers, has said it hopes to sell the businesses to investors or new owners.

StarPoint To Acquire Acclaim In Energy Deal. The Wall Street Journal (9/20, Carlisle) reports, "StarPoint Energy Trust said it agreed to acquire Acclaim Energy Trust in a stock transaction, in an attempt to create one of the biggest entities in Canada's increasingly crowded energy-trust sector, with the financial clout to pursue larger acquisitions. Under the agreement, StarPoint unitholders would get 53% of the new trust, receiving one unit for each StarPoint unit held. Acclaim unitholders would receive 0.8333 of a new-trust unit for each Acclaim unit held. StarPoint and Acclaim unitholders also would receive shares in a company exploring for oil and natural gas, to be spun off from the combined entity's assets. Based on StarPoint's closing share price, Acclaim shareholders would receive equity valued at about $1.93 billion." The paper adds, "At a news conference, Acclaim President and Chief Executive J. Paul Charron, who has been named to the same post at the combined trust, said he expects the increase in size to give the trust a competitive edge in pursuing acquisitions in a heated international market for oil and natural-gas assets."

Norsk Hydro To Buy Spinnaker. The Wall Street Journal (9/20, Talley) reports that Norway's Norsk Hydro ASA said it will acquire Spinnaker Exploration Co., of the US, for $2.45 billion "substantially accelerating the Norwegian company's international production growth and making the Gulf of Mexico a future core production area." The paper adds, "Both Norsk Hydro and analysts said the price is high but that the acquisition is necessary if Norsk Hydro is going to

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increase the low rate at which it replaces reserves. The Norwegian oil, gas, power and aluminum company said it will pay $65.50 a share for Spinnaker, which has oil and gas assets primarily in the Gulf of Mexico."

Microsoft Buys Alacris. The Wall Street Journal (9/20, Guth) reports, "Microsoft Corp. said it bought privately held Alacris Inc., a small maker of software for managing employees' access to corporate computer networks, to help improve the security of Microsoft's programs. Terms weren't disclosed. Ottawa-based Alacris's software manages smart cards, or plastic cards that store a person's identification data. The purchase is an extension of joint work by the two companies on security software called idNexus for managing smart cards." The paper adds, "Alacris is part of a recent wave of companies that are developing technologies for administrating the electronic 'identities' of computer-network users by means such as granting or removing their access. The Journal continues, "By purchasing Alacris, Microsoft intends to make it easier for users of its server software to administer smart cards -- handling tasks such as setting up people with cards and retiring cards when a person leaves a company. Under increased scrutiny by its customers over the security of its software, Microsoft has bought technologies in the past two years to help it fight Internet-borne attacks such as spyware and viruses."

ENVIRONMENT/INDIAN AFFAIRS:

Pombo Offers Amendments To Endangered Species Act. House Resources Committee Chairman Richard Pombo proposed amendments to the Endangered Species Act that would make it more difficult for the federal government to set aside land deemed crucial to the heath of endangered species. The New York Times (9/20, Barringer) reports that the proposed amendments "also increase the obligation of government agencies to tell landowners quickly if the law limits their development options, and to compensate them." The Times adds, "The measure, which drew quick denunciations from groups like Environmental Defense, Defenders of Wildlife and the Natural Resources Defense Council, was proposed by the House Resources Committee chairman, Representative Richard W. Pombo, Republican of California."

Losers In Eminent Domain Case Face $300,000 In Fees. The Washington Times (9/20, Price) reports, "Seven homeowners in New London, Conn., who narrowly lost a court battle to save their homes from condemnation say the city is still demanding as much as $300,000 in 'use and occupancy' fees dating to the November 2000 condemnation order. They say the demands are being made even though an eviction order from last week has been rescinded. It had been issued by the semi-public New London Development Corp. and had told the homeowners to move out in the next 30 to 90 days and pay $600 a month in rent while they continue to occupy the premises. An attorney for NLDC, which wants to demolish the homes to make room for private development, had told the homeowners' attorney last year that the city, for which NLDC has acted as an agent, expects to collect the occupancy fees."

Native American Nation Works To Stop Arctic Drilling. The Washington Post (9/20, C1, de la Torre) reports on the efforts of the Gwich'in, "a nation of 8,000 Native Americans" who make their home in Alaska, to prevent the passage of a budget bill that includes a provision allowing for drilling in the Arctic National Wildlife Refuge. The Gwich'in "see the prospect of drilling as a sure sign of their own demise."

FBI/DEA/ATF/USMS:

U.S. Attorney: Internet Opens Doors For Drug Ring. The Philadelphia Daily News (9/19, Smith) reports, "Dr. Akhil Bansal was one of 17 people indicted by a federal grand jury in Philadelphia last April for allegedly taking part in 'an international conspiracy to import and distribute' prescription drugs, using the Internet. Five additional defendants were charged in a 'related indictment' in New York. … 'This case shows us how the Internet has opened the door to an unregulated universe from which anyone with access to a computer can purchase anything from anti-anxiety drugs to anabolic steroids,' said U.S. Attorney Patrick L. Meehan, the Philadelphia area's top federal lawman, when the cases were made public." Christine Konieczny is a Lower Merion police officer assigned to a DEA task force. "The drugs are manufactured abroad, do not bear required labels

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and warnings, and are being imported without Customs declarations or payment of duty," said Konieczny.

Report: Congress To Investigate Orioles' Palmeiro. The AP (9/20) reports, "Congressional investigators looking into whether [Baltimore Orioles first baseman] Rafael Palmeiro lied under oath are interviewing players who know him, including a Colorado outfielder suspended this year for steroids, The Associated Press has learned. Palmeiro testified to the House Government Reform Committee in March that he never had used steroids. The Baltimore Orioles slugger…was suspended by Major League Baseball for 10 days in August for failing a drug test." According to the AP, "a congressional source familiar with the committee's work, speaking to the AP on condition of anonymity because the investigation is ongoing, said Monday that 'several active players' have spoken or will speak with the committee."

Report: Drugs In Iraq Called Threat To U.S.'s National Security. The WashingtonTimes (9/19, Scarborough) reports, "Insurgents and foreign terrorists in Iraq are being financed in part by the illicit drug trade originating in Afghanistan and passing through Iraq to Europe, congressional and defense sources say. Money from Afghan-produced heroin is being used by terror cells to buy weapons and equipment, and pay Iraqi citizens to conduct attacks on U.S. troops and to plant deadly improvised explosive devices (IEDs), U.S. officials say." In a Sept. 8 letter to Secretary of State Condoleezza Rice, House International Relations Committee Chairman Henry J. Hyde is reported to have written of an "emerging and dangerous growth of the illicit drug trade in Iraq, especially with heroin, now originating and pouring out of nearby Afghanistan. We can no longer ignore the threat to our national security from drugs in Iraq," the Illinois Republican is reported to have written in the letter obtained by The Washington Times.

Former Haitian Anti-Narcotics Chief Faces Trial. The AP (9/19, Anderson) reports, "A top Haitian police official in the government of ousted President Jean-Bertrand Aristide is facing trial on charges that he accepted thousands of dollars in bribes to help Colombian drug lords move huge loads of cocaine through the impoverished Caribbean country." Jury selection is expected to begin this week in the case against Evintz Brillant, "the only one of four former senior Haitian police officials who has not pleaded guilty in the investigation of drug trafficking inside the Aristide government." According to the U.S. DEA, "Brillant used his post as head of Haiti's top anti-drug police unit from 2001 to 2004 to help drug traffickers ship thousands of pounds of cocaine through Haiti, including the airport in the capital of Port-au-Prince, to the United States, Europe and elsewhere."

Tucson Anti-Youth Violence Crackdown Yields Hundreds Of Arrests. The Tucson Citizen (9/20, Teibel, Rowley) reports, "Tucson police made 356 arrests over the summer in specialized efforts to reduce the number of juveniles involved in crimes and to put a cap on a rash of murders. … Of that number, 194 of those arrested were juveniles while the rest were adults." The Citizen continues, "Operations Division South Capt. Perry Tarrant said the summer youth deployment, which lasted from May 27 to Aug. 20, was funded by a grant from the Bureau of Alcohol, Tobacco and Firearms, and a private grant from Kino Weed and Seed. … On July 28, police and ATF agents expanded the program to target adult troublemakers after there were four homicides in three days: one on July 23, one on the 24th and two on the 25th, said Assistant police Chief Kathleen Robinson." The Citizen adds, "The expanded special patrols had officers looking for such things as illegal gatherings in business parking lots, rowdy gatherings and drinking in public, considered precursors to killings. The patrols went on until Sept. 10, Robinson said. … From July 28 to Sept. 10 there were no homicides in the South Side patrol area, said Sgt. Kerry Fuller, a police spokeswoman. During the same period last year there were two, she said. … Citywide there have been 33 homicides this year. There were 38 by this time last year, Fuller said Friday afternoon."

Judge Rules US Marshals Service Must Release Defendants' Photos. The Detroit Free Press/AP (9/20) reports, "A federal judge has ruled that the U.S. Marshals Service must comply with media requests for photos of criminal defendants, but said it can take up to 20 days to process the requests under the Federal Freedom of Information Act." The AP continues, "The ruling issued Monday by U.S. District Judge Anna Diggs Taylor also said that the requests may be processed through the Marshals Service headquarters in Washington, rather than through its office in Detroit, the Free Press reported in a story on its Web site Monday." The AP adds, "The newspaper had asked in its

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lawsuit that the photos be provided through the Detroit office. Pictures previously requested in Detroit usually were provided the same day. … The Free Press and the Akron (Ohio) Beacon Journal sued the Marshals Service earlier this year after it stopped providing the photos on the grounds that it would invade the privacy of defendants."

Deadly Kansas Rig Blast Might Have Been Arson. The AP (9/20) reports, "Evidence of possible criminal activity has been found in a natural gas drilling rig explosion (in Independence, KS) that killed two workers and injured a third, authorities said Monday." The AP continues, "The federal Bureau of Alcohol, Tobacco, Firearms and Explosives, the Kansas State Fire Marshal's office and the Montgomery County Sheriff's Department are offering a $10,000 reward for information leading to an arrest and conviction in the June 2 explosion. … 'If this tragedy was the result of a deliberate criminal act, we will not rest until whoever is responsible was brought to justice,' Sheriff Stan Veach said in a statement announcing the reward. … Paul Marquardt, an ATF spokesman in Kansas City, Mo., would not discuss the evidence in detail."

IMMIGRATION:

Nominee To Head Immigration Bureau Criticized As Inexperienced. The Washington Post (9/20, A1, Eggen, Hsu) reports, "The Bush administration is seeking to appoint a lawyer with little immigration or customs experience to head the troubled law enforcement agency that handles those issues, prompting sharp criticism from some employee groups, immigration advocates and homeland security experts. The push to appoint Julie Myers to head the U.S. Immigration and Customs Enforcement agency, part of the Department of Homeland Security, comes in the midst of intense debate over the qualifications of department political appointees involved in the sluggish response to Hurricane Katrina. Concerns over Myers, 36, were acute enough at a Senate hearing last week that lawmakers asked the nominee to detail during her testimony her postings and to account for her management experience." Sen. George Voinovich "went so far as to tell Myers that her résumé indicates she is not qualified for the job. But Voinovich has since met with Myers and is now likely to support her, his spokeswoman said yesterday. Myers, who has attracted strong support from many former colleagues, told senators that she would draw upon the experiences of ICE veterans in running the agency." Myers said, "I realize that I'm not 80 years old. I have a few gray hairs, more coming, but I will seek to work with those who are knowledgeable in this area, who know more than I do."

Conflict Looms Between White House, DeLay On Immigration Reform. The Hill (9/20, O'Connor) reports that the White House's "comprehensive immigration overhaul" laid out to congressional Republicans last week is "creating a potential conflict between the administration and House Majority Leader Tom DeLay," a supporter of "an incremental approach to reform. The comprehensive package would increase enforcement on the border, create new workplace requirements for employers and expand guest-worker programs inside and outside the United States." Rep. Jeff Flake said the White House "'insists on comprehensive reform,' putting the president at odds with DeLay and those congressional Republicans who would rather change the current immigration code one law at a time. As recently as last week, DeLay said he would prefer passing a bill to increase border security before taking up legislation to address workplace enforcement or the current guest-worker program."

TAX:

"Survivor" Winner Hatch Pleads Not Guilty To Tax Evasion. The AP (9/20) reports, "Richard Hatch, who won $1 million on the first season of the U.S. reality show 'Survivor,'" pleaded not guilty Monday "to charges that he failed to pay taxes on his winnings and other income." The AP continues, "Hatch has been charged with tax evasion, filing a false tax return, wire fraud, bank fraud and mail fraud. He entered the plea in U.S. District Court. … A grand jury indictment filed earlier this month said Hatch filed false tax returns for 2000 and 2001 that omitted his income from the CBS show, $327,000 he was paid to co-host a radio show and $28,000 in rent on a property he owns." The AP adds, "Hatch, 44, also was accused of misusing $36,500 from a nonprofit camp he set up. … The former corporate trainer said the 10-count indictment was retribution for his refusal earlier this year to follow through with a plea deal."

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CONGRESS-ADMINISTRATION:

Roberts Testimony Fuels Conservative Unease. The Hill (9/20, Bolton) reports a "rift has opened between conservatives in the nation's capital and those outside the Washington Beltway over John Roberts and his carefully worded testimony to the Senate Judiciary Committee last week." The split has "divided those on the right who communicate regularly with the White House from conservative activists whose view of Roberts was shaped by the recently completed hearings." The "conservatives who are voicing concerns about Roberts behind the scenes" are "sending a message to President Bush that his next nominee to the Supreme Court should have a clear record and be unafraid to express boldly his or her beliefs. As result, political pressure is growing on Bush to nominate an outspoken conservative to replace retiring Justice Sandra Day O'Connor." Ironically, "the aspects of Roberts's nomination that have frustrated Senate Democrats and liberal groups trying to inflict political damage on him — specifically the few writings expressing his legal views, and furthermore the reluctance to express those views in Senate hearings — have also frustrated conservatives."

Specter Says He'll Vote For Roberts. Reuters (9/20, Ferraro) reports Senate Judiciary Committee Chairman Arlen Specter "said on Monday he will vote for John Roberts to be U.S. chief justice even though it is uncertain what the conservative appeals court judge will do on the Supreme Court." Specter said, "It's my judgment that he's well qualified ... and I intend to vote aye when his nomination is called before the Senate." Reuters adds Specter "had been expected to back Roberts."

The Legal Intelligencer (9/20, Blumenthal) reports, "With U.S. Senate Judiciary Chairman Arlen Specter announcing his support Monday, the nomination of John G. Roberts Jr. as chief justice of the United States gained momentum." The Intelligencer continues, "The Pennsylvania Republican, in a speech on the Senate floor, said 'Judge Roberts' answers demonstrated that he would take a fair, non-ideological approach to the law.' In Specter's view, Roberts had not tipped his hand on whether he would vote to preserve or overturn Supreme Court precedent on a woman's right to end her pregnancy. … 'Notwithstanding his answers and my efforts to glean some realistic expectation from his words and body language, candidly it is not possible to predict or have a solid expectation of what Judge Roberts would do,' he said." The Intelligencer adds, "On Sunday, Specter -- who chaired last week's sometimes contentious confirmation hearings to generally positive reviews -- even suggested that Roberts serve as the template for President Bush's next nomination to the Supreme Court. … But local legal scholars said Bush faces a much tougher fight when he makes his choice for a new associate justice." The Intelligencer notes, "Gregory Magarian, a constitutional law professor at Villanova University School of Law and a former clerk for Justice John Paul Stevens, said Specter managed to run Roberts' hearing equitably. … 'Sen. Specter attempted to go after information but he didn't grandstand and he definitely didn't grease the wheels for him,' Magarian said. … But Magarian and Temple University's Beasley School of Law professor Mark Rahdert, a clerk for former Justice Harry A. Blackmun, both said Roberts' decision to not answer questions dealing with hot-button issues such as abortion could set a precedent for the next nominee. … 'He played that card more than any candidate I have seen in recent memory,' Rahdert said. 'And each time that happens in the future, nominees will have more room to not answer questions. It's one thing if it's an actual case that will wind up before the court. But he can answer questions about an area of the law and he chose not to do so.'"

Liberal Groups Put Spotlight On Senators With White House Aspirations. The Hill (9/20, Allen) reports a "vote for Judge John Roberts could be well within the mainstream but that may not be where Democrats with an eye on the Oval Office are looking to swim, according to some political strategists and analysts." Democratic consultant Steve McMahon said, "If you're running for president, you need to take a hard look at voting no because that's where the Democratic base is." The Hill adds Democratic senators, "particularly those who harbor presidential aspirations, have plenty of reason to watch each other closely as a floor vote on Roberts's nomination to become chief justice of the United States approaches." Support for Roberts "could burnish a senator's centrist credentials and give room to oppose President Bush's pick to fill a second Supreme Court vacancy. But influential interest groups on the left — a source of strength in Democratic primaries — are pressuring their allies in the Senate to oppose Roberts." When the Roberts "roll call starts, those senators who are viewed as possible contenders for the Democratic presidential nomination in 2008 — including

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Hillary Rodham Clinton (N.Y.), 2004 nominee John Kerry (Mass.), Joseph Biden (Del.), Evan Bayh (Ind.), Russ Feingold (Wis.) and perhaps others — will already be under a microscope. That is particularly true of Clinton, who has not publicly revealed her intentions on either Roberts or the 2008 race."

LA Times Urges Democrats To Confirm Roberts. The Los Angeles Times (9/20) editorializes, "As last week's confirmation hearings made clear," John Roberts "is an exceptionally qualified nominee, well within the mainstream of American legal thought, who deserves broad bipartisan support." He should therefore be confirmed as the next chief justice of the United States, and if "a majority of Democrats in the Senate vote against Roberts, they will reveal themselves as nothing more than self-defeating obstructionists."

White House Reportedly Changing Criteria For Second High Court Nominee. The New York Times (9/20, Kirkpatrick, Stolberg) reports the White House is "reshuffling its short list of potential Supreme Court nominees with a new emphasis on finding someone who will hold up under the pressure of what is expected to be fierce confirmation battle, several Republican allies close to the process said on Monday." The "shifting calculus reflects the increased stakes in replacing the retiring Justice Sandra Day O'Connor as the court's swing vote as well as the expectation that the new nominee will be measured against Judge John G. Roberts Jr., who was hailed by both parties for his performance during almost 20 hours of confirmation hearings for the post of chief justice." The shift also "indicates that the administration expects some Democrats' pent-up frustration with what they labeled as Judge Roberts's evasiveness to spill over into the hearings for a new nominee. Republican aides briefed on the search said the White House was looking mainly at female jurists for Justice O'Connor's seat, but it has expanded its short list and it is examining the contenders anew in the expectation of a trial by fire." The "new criteria could hurt the chances of Judge Janice Rogers Brown," because Brown, "an African-American known for her fiery speeches to conservative crowds, might try to fight back against vigorous questioning. Other conservative strategists say that she also lacks experience on the federal bench and that supporting her highly ideological oratory might strain the solidarity of the Senate Republican caucus." Strategists "say the White House is evaluating whether" Judge Priscilla R. Owen's "reticence and mild manner would be a strength or a weakness under interrogation in the Senate." Others "said to remain under consideration include the contenders for the last vacancy, Judge Edith H. Jones and Judge Edith Brown Clement of the Fifth Circuit, as well as Judge Alice M Batchelder of the Sixth Circuit, Judge Karen Williams of the Fourth Circuit and Judge Consuelo M. Callahan of the Ninth Circuit. Judge Callahan, a Republican appointee, is Hispanic, and President Bush has made clear that he would like to name a Hispanic to the court."

USA Today Says Bush Should Appoint Woman Or Minority. USA Today (9/20) says that "with the retirement of" Justice Sandra Day O'Connor, "the nation's highest court will lose more of a commodity already in very short supply — different life experiences. When President Bush nominates O'Connor's successor, he will have an opportunity to remedy that, and it should be a priority." In a "nation as diverse as America, a diversity of ideas and perspectives adds to the court's ability to wisely decide issues that change lives. If all nine justices see law and life from the same vantage point, their ideas will not be challenged, tested and honed into the best possible rulings." To those who "argue that merit and legal scholarship should be the only standards, the answer is it's easy to name a minority or female justice without compromising excellence or creating quotas."

Attorney Argues Merit Should Be Only Qualification. In a USA Today op-ed (9/20), Chicago attorney Thomas Heiden says, "The next nominee for the court should be chosen on the basis of merit (and not 'diversity,' however defined) for several important reasons: To maintain a bright line difference between law and politics. To re-emphasize that the function of the highest court is to maintain the rule of law. So that the court does not become an extension of our increasingly divided political culture, but that it stands as the independent counterweight to those influences." To "nominate a justice because he or she is a member of a group obviously signals that his or her decisions in certain cases will be influenced by membership in that group. To do so misperceives the court as a legislature and the justices as legislators."

Debate Grows Over Paying For Katrina Reconstruction. As cost estimates for Hurricane Katrina reconstruction increase, so does the volume of the debate over how to finance it. Some conservative Republicans are chafing at the prospects of a bloated

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Federal deficit, while Democrats have called for the elimination or reduction of the President's tax cuts.

NBC Nightly News (9/19, story 5, 2:05, Gregory) reported, "The true cost of Katrina is only beginning to sink in: A $200 billion estimate, at least for reconstruction, much of it to be paid by taxpayers. That's on top of the roughly $200 billion taxpayers have already spent in Iraq to date. Conservatives are getting fed up, openly complaining about the return of big government under George W. Bush." Chris Edwards, Cato Institute: "We may never see a balanced budget in our lifetimes again if the President continues spending like this." Gregory: "Again today the White House warned that Katrina will swell the $333 billion deficit but so far has not asked Americans for any sizeable sacrifice." Some Republicans in Congress "are looking to cut costs. One target, the President's $700 billion prescription drug benefit for seniors set to hit the books next year." Sen. John McCain: "Let's go back to square one. $700 billion already on a broken entitlement program isn't going to work." Gregory: "Democrats have called on the President to roll back his tax cuts, something he's said he won't do."

The CBS Evening News (9/19, story 4, 2:30, Borger) reported, "McCain never liked the expensive prescription drug benefit in the first place, and now he tells us he wants Congress to kill it to help pay for Katrina and the war." McCain: "We've got to go back and look at the Medicare prescription. It was supposed to cost $400 billion. It's now up to $700 billion. Cancel it, go back to square one, and get prescription drugs to the truly needy."

NBC Nightly News (9/19, story 6, 2:00, Taibbi) reported, "Even in 'red state' Oklahoma, Republican politicians aren't convinced that on a national level, the party's figured the specifics about how to pay for the recovery. Sen. Tom Coburn says maybe this isn't the time to make President Bush's tax cuts permanent, or to fund all those pork barrel projects costing hundreds of millions." Sen. Tom Coburn: "This is a moral question. It's not just an economic question."

The Christian Science Monitor (9/20, Chaddock) reports that the President's "call to spend 'whatever it takes' to rebuild the Gulf Coast set off alarm bells among some in his conservative base -- and stepped up a growing debate among Republicans at both ends of Pennsylvania Avenue on how to fix the battered region in ways that promote conservative values. From vouchers for education and Medicaid to the creation of a giant 'opportunity zone' where Katrina struck, the Bush reconstruction effort -- which he called 'one of the largest reconstruction efforts the world has ever seen' -- is reviving prospects for policy initiatives that GOP leaders say could make or break their party's future." But fiscal conservatives, "often outside of leadership, are calling for deep cuts in existing spending to pay the costs of reconstruction. They, too, see this as a fight for the soul of the Republican Party."

Cost Of Medicare Prescription Drug Program In Spotlight. The Washington Times (9/20, Lambro, Fagan) reports, "Some House and Senate members want President Bush to postpone his Medicare prescription-drug program to help pay for Hurricane Katrina relief as the fight over the deficit and the cost of rebuilding heats up. By targeting the Medicare program, which Congress passed in 2003 despite objections from some conservatives, the lawmakers are striking right at Mr. Bush's signature first-term domestic-policy achievement."

Roll Call (9/20, Bresnahan) reports that Republican Study Committee Chairman Rep. Mike Pence "said Congress must do something to rein in federal spending, even more now that the Gulf Coast recovery effort will add tens of billions of dollars to the federal budget. Pence vowed to continue to push for a vote on delaying implementation of the Medicare drug program, despite White House opposition." Pence said, "With all due respect to the White House and their intentions, House conservatives will vigorously pursue the one-year delay in the Medicare prescription drug entitlement."

Possible Greenspan Successor Sees "Modest" Economic Damage From Katrina. Reuters (9/20) reports that according to Glenn Hubbard, "who is cited as a possible candidate to head the U.S. Federal Reserve," economic damage from Katrina "is likely to be modest, making the case for huge government aid questionable. … In a Financial Times commentary on Monday, Hubbard said that federal fiscal aid should be used to cushion the blow to business and consumer confidence from a nasty regional shock. But overall the short-term hit to unemployment and production is likely to be modest, offset by rebuilding over the coming year, and long-term damage to energy supplies also seems unlikely."

Consultants Suggest Politicians "Tithe" For Relief From Campaign Funds. In a Los Angeles Times (9/20) op-ed, Gerald Rafshoon and Doug Bailey, the "opposing advertising consultants in the Carter-Ford presidential campaign in 1976," write, "Members of Congress have voted more than $60 billion in Hurricane Katrina disaster relief, with

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the total estimated to eventually go as high as $200 billion. But that's (mostly) your money. What about their campaign money? … Washington should call a 90-day moratorium on campaign fundraising, and both parties -- and all congressional incumbents -- should tithe from their campaign funds for Katrina relief. That means 10% of their war chests should go to hurricane relief, or they should raise that amount and donate it to the relief effort instead of collecting still more for the 2006 campaign battles. While we're at it, how about extending the moratorium to political action committees and lobbyists and asking them to take what they have budgeted for the politicians and give it to Katrina relief instead."

Bush Proposes School Vouchers For All Displaced Students. The Washington Post (9/20, A8, Goldstein) reports that President Bush is proposing school vouchers for all students displaced by Katrina. The plan would let parents "enroll their children in a private or religious school this year at federal expense, even if they had gone to public schools back home, administration officials said yesterday." As the "new fine print of the proposal emerged, White House and Education Department spokesmen confirmed that the government payment -- as much as $7,500 per child -- would be given for a year to any displaced family that now prefers an alternative to public schools."

New Orleans Students, Teachers Face Tough Transition. The CBS Evening News (9/19, story 14, 2:15, Schieffer) reported, "For the students and teachers of New Orleans' schools, it is a tough transition getting beyond the devastation and back to education." CBS (Cowan) added, "The devastation of New Orleans is already in the history books, quite literally in classrooms all across the city. The desks, chairs, the children's artwork, even their report cards, were all lost to the rising water. This is the fate suffered by more than 186,000 school kids all across Louisiana. They'll all have to be moved to a new school -- new friends, new teachers. That in and of itself would be stressful enough, but imagine that on top of everything else that they've seen."

Affirmative Action Requirement For Some Katrina Contractors Suspended. The New York Times (9/20, Glater) reports the Labor Department "has temporarily suspended government requirements that its contractors have an affirmative action plan addressing the employment of women, members of minorities, Vietnam veterans and the disabled if the companies are first-time government contractors working on reconstruction in the wake of Hurricane Katrina." While employment lawyers "said it was not clear how strong an impact the exemption would have, the move comes as President Bush has tried to address the perception of unfairness in the government's response to the hurricane." The "goal of the exemption in the case of recovery work associated with Hurricane Katrina is to reduce the burden of paperwork on government contractors and so encourage more companies to jump into assisting with rebuilding from the storm damage. The exemption is to last for three months, unless it is extended."

Black Ministers Say Bush's Outreach Since Katrina Undoing Political Damage. Under the headline "Storm Strains Bush's Ties to Black Clergy," the Los Angeles Times (9/20, Wallsten, Hamburger) reports that for "many of the black ministers who have allied themselves with President Bush and a Republican strategy to boost the party's African American support, the government's slow response to Hurricane Katrina put a severe strain on new and still-fragile bonds of trust." But "just as some ministers had begun denouncing a government recovery effort that seemed to leave many blacks in the Gulf region behind, a number of those African American clergy say an aggressive outreach campaign by Bush and senior White House aides in recent days has begun reversing what might have been lasting political damage." In addition, the ministers and the "cadre of conservative policy analysts who consult with the White House" suggest that the "Katrina relief response, while tarnishing the GOP image in the short term, could foster a Republican-led battle against poverty that would give the party a list of new selling points for African American voters."

Several columns in today's opinion pages explore issues of race and social class, and their impact on the Katrina recovery efforts. In his Washington Post (9/20, A23) column, headlined "Incompetence, Not Racism," Richard Cohen writes, "If you told me that George W. Bush is a dummy, I would argue with you but understand why you thought so: all those idiotic statements. But if you told me, as some have been implying, that Bush is a racist or that he doesn't care about black people, I would not only say that you're wrong but add, 'Not the George Bush I know.' … In his first presidential campaign, I traveled with him and tried, as he might say, to look into his heart. Conveniently enough, he sometimes wears it on his sleeve -- never more so, as I

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discovered, than when he talks about poor kids and racial and ethnic minorities. His feelings for them -- especially for poor kids -- are genuine. … In general it was incompetence, not racism, that slowed the relief effort -- incompetence on the local and state levels, too, and incompetence on the part of black as well as white public officials."

In his Washington Post (9/20, A23) column, E.J. Dionne Jr. writes, "If the rebuilding of New Orleans is to be something other than a new government disaster, a coalition of the skeptical and the visionary will have to stand together and confront the lobbyists and the corporate welfare artists. Fiscal conservatives in Congress are right to worry about the potential for -- yes -- waste, fraud and abuse if the federal government throws off tens of billions of dollars into a haphazard and ill-planned spending fest. … But because the rest of us are morally obligated to those whose lives have been damaged by natural calamity and government failure, it's a fact that the federal government will be spending a lot of money. That's why the fiscal conservatives need the visionaries."

Donna Brazile echoes that sentiment in her Roll Call (9/20) column, "One of the most difficult conversations I have endured in the aftermath of Hurricane Katrina is the discussion about race and poverty. … Katrina was an equal opportunity destroyer. She did not care whether you owned a home on the lakefront or rented an apartment in the 'projects.' This monster hurricane uprooted big elm trees and oak trees that lined our historic neighborhoods as though they were toothpicks." Brazile adds, "In the aftermath of all this destruction, Congress should hold a series of hearings that allow the victims to tell their stories to determine how to help them get a fresh start. … Based on my experience, the worst part of being a member of the chronic poor or the working poor is the uncertainty about how to maneuver the system. Add race to this equation, and you have a recipe for hopelessness."

Fueled By Katrina Aftermath, Bush Disapproval Rating Hits Record High In Gallup Poll. USA Today (9/20, Page) reports that President Bush's disapproval rating is increasing "in the wake of dismay over the government's response to Hurricane Katrina, the course of the Iraq war and the future of the economy." While Bush's overall approval rating in the latest USA Today/CNN/Gallup Poll "is 40%, equaling a previous low," his "disapproval is 58%, a new high." And by a "record 66%-31%, independents disapprove of the job Bush is doing as president. White House press secretary Scott McClellan says the president 'knows a leader must govern based on what he believes is right, not based on polls.' Bush is 'working to address the priorities that Americans are most concerned about,' he says."

CNN's Lou Dobbs Tonight (9/19, Malveaux) commented on the poll. Bush "will be back in the hurricane-damaged regions again tomorrow. That will be his fifth trip. And the latest poll shows that 58% believe that the President has been going for political reasons. They do not believe that he sincerely cares about the victims."

Government Forced To Look To Contractors With "Checkered Histories." The Wall Street Journal (9/20, Dreazen) reports on Texas ambulance provider GoldStar EMS, which "was on the ropes earlier this year, beset by legal problems." After Hurricane Katrina hit the Gulf Coast and the company won a subcontract from a government contractor to provide up to 45 ambulances a day in hurricane-damaged Louisiana. The contract "illustrates one of the unintended consequences of what is shaping up to be the largest government rebuilding effort in U.S. history. As the Bush administration rushes to rebuild Louisiana, it faces the prospect of turning to companies with checkered histories that even include disputes with other arms of the government. It's essentially a no-win situation: If officials don't get quick results, they're likely to be criticized for getting bogged down in bureaucracy. But if they push some of the contracting formalities aside, they may find themselves employing unreliable or unsavory companies."

Contractors Seek Protection From Liability. Some contractors working on the Katrina relief effort want Congress to limit their liability from lawsuits. The Washington Post (9/20, A7, Merle) reports that the contractors are "drafting legislation to seek such protection, industry officials said yesterday." The companies "have become concerned about the liability issue because of lawsuits filed against construction firms that helped clean up the World Trade Center after the Sept. 11, 2001, terrorist attacks."

Hill GOP Drops Plans For Joint Katrina Probe. The Los Angeles Times (9/20, Curtius) reports, "Congressional Republicans signaled today that they have abandoned their plan to conduct a joint House-Senate probe of the government's response to Hurricane Katrina. In announcing a joint probe this month, the Republican

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leadership had said it would be the most efficient way to investigate the administration's much-criticized initial response to the hurricane. But today, Senate Majority Leader Bill Frist (R-Tenn.) conceded that he could not overcome Democratic opposition to a joint investigation." The Democratic leadership "has refused to appoint members to a joint committee, citing the lack of equal representation of Democrats on the panel, and the lack of power to issue subpoenas that the majority opposed. Democrats also have insisted on an independent inquiry."

Partisanship, Bureaucracy Blamed For Poor Congressional Response. In a USA Today (9/20) op-ed, Rutgers University political scientist Ross K. Baker writes, "In a well-ordered world, a calamity of the magnitude of Hurricane Katrina ought to be the subject of a congressional investigation. From the earliest days of the republic, the House of Representatives and Senate had unquestioned responsibility for probing and, yes, finger-pointing in calamities' aftermath. That, sadly, is no longer true. Congress has fallen victim to a number of problems that have caused Americans to look elsewhere for answers. The first of these problems is the fractious spirit of partisanship that has so infected Capitol Hill that no conclusion Congress might reach about who was responsible for the botched response to Katrina would have much legitimacy in the eyes of Americans. … But it is more than partisanship that has impeded Congress' ability to avert or probe causes of disasters. The perverse arrangement of committees supervising agencies responsible for disaster relief also impairs the lawmakers."

With Rita Looming, New Orleans Mayor Backs Off Repopulation Effort. With Tropical Storm Rita headed into the Gulf Coast, New Orleans Mayor Ray Nagin relented in his efforts to repopulate the city amid fears that the city's weakened levee system would fail if hit by even a much weaker storm. Before Mayor Nagin changed course, President Bush weighed in on the issue, urging great caution in encouraging a return to the city. Virtually all of the media coverage notes that Mayor Nagin was under "growing political pressure from federal leaders" to halt the return, as the Washington Post (9/20, A1, Connolly) characterized the situation in a front page story.

ABC World News Tonight (9/19, story 2, 3:35, Gibson) reported, "This morning, President Bush stated what everyone is worried about, with another storm in the offing." President Bush: "There is deep concern about this storm causing more flooding in New Orleans. If it were to rain a lot, there is concern from the Army Corps of Engineers that the levees might break. And so, therefore, we're cautious about encouraging people to return at this moment of history." Gibson: "And so late today, the Mayor of New Orleans changed his mind, agreeing now with Federal authorities that it's too dangerous to let people back into the city." ABC (Woodruff) added, "With word that Rita could be approaching, the Mayor suddenly reversed course, suspending the return plan and ordering residents to leave."

The CBS Evening News (9/19, story 3, 2:30, Schieffer) reported, "Federal officials had been telling the New Orleans Mayor he was moving too quickly to reopen the city, and today's news that a new storm is headed his way apparently convinced him they were right." CBS (Alfonsi) added, "Critics called" Nagin's "aggressive timetable a political pipe dream, and today it went up in smoke." With "mounting political pressure from the President, another storm headed to the Gulf, and reports that just six inches of rain could make the city levee break again, a once-confident Mayor did a complete 180."

NBC Nightly News (9/19, story 4, 2:25, Tibbles) reported, "The advance of another storm now has everyone, including the Mayor, in agreement that people should stay out of here for a while." Mayor Ray Nagin "says if Rita hits New Orleans, the pump stations won't be able to handle the rush of water." At the White House, "the President was even more blunt, laying out a worst-case scenario." President Bush: "If it were to rain a lot, there is concern from the Army Corps of Engineers that the levees might break." Now, residents "are being told to get ready for another hurricane, and the governor insists evacuation orders will be followed." Gov. Kathleen Babineaux Blanco (D) Louisiana: "Well, there will be a mandatory evacuation, and I do believe that 100% of the people will listen this time."

USA Today (9/20, Parker, Levin) reports Mayor Nagin "reversed his call for people to return to the city and ordered most people out over worries that a new tropical storm could flood the city again." The announcement "came after President Bush and the federal government's Hurricane Katrina response team urged the mayor to reconsider his plans, saying the city was not safe." Earlier in the day, Nagin "had criticized Coast Guard Vice Adm. Thad Allen for publicly imploring him to stop people from returning. He called Allen

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a 'good man' but said, 'There's only one mayor of New Orleans, and I'm it.'"

The New York Times (9/20, Yardley) reports Nagin "called for a 'mandatory' evacuation of many of the residents who have returned or never left." The mayor "reversed himself hours after Mr. Bush had questioned whether it was safe for residents to return. The president reiterated warnings by Vice Adm. Thad W. Allen of the Coast Guard, leader of the federal recovery effort, that the levee system was weakened, that the 911 emergency telephone system was not working, that the hospitals remained closed and that pollutants were in the air and water."

The AP (9/20, Loven) reports President Bush, "criticized for weeks for failing to react aggressively enough to Hurricane Katrina," yesterday "put some muscle behind concerns that a new tropical storm could again deluge New Orleans and the people being allowed to return to the ruined city. It worked. Six hours after Bush questioned New Orleans Mayor Ray Nagin's plan to bring as many as a third of the city's population back over the next week, Nagin reversed course and said he was suspending it." Besides the President's "public words, White House chief of staff Andrew Card pressed the point on the phone with Nagin. And Coast Guard Vice Adm. Thad Allen, head of the federal government's hurricane response, delivered federal officials' concerns to Nagin later Monday — after appearing on numerous TV shows to express dismay with the city plan."

The AP (9/20, Rubinkam) reports Mayor Nagin's announcement "came after repeated warnings from top federal officials — and the president himself — that New Orleans was not safe enough to reopen. Among other things, Federal officials warned that Tropical Storm Rita could breach the city's temporarily patched-up levees and swamp the city all over again." The Washington Times (9/20) also reported the AP story.

Knight Ridder (9/20, Estwick, Nesmith, Frazier) reports that within "about an hour of" Nagin's announcement, "security tightened in several parts of the city." Nagin said "the hurricane was not providing him an excuse to follow the advice of federal officials, and pledged to resume his plan as soon as Rita's danger has passed."

The Los Angeles Times (9/20, Gold, Rosenblatt, Vartabedian) reports, "According to government forecasts Monday night, the storm could land anywhere from northern Mexico to Mississippi. But Nagin said his advisers had determined Rita most likely would strike near the island community of Galveston, Texas -- where authorities were planning evacuations starting Tuesday afternoon -- or pass to the west of New Orleans."

The Wall Street Journal (9/20, Brooks, Dade) reports yesterday's "announcement by the mayor was a major setback in efforts to bring life back to New Orleans, about 15% of which still is underwater three weeks after Katrina barreled past the city." Mr. Nagin "denied that criticism from the White House had anything to do with his reversal."

The Washington Times (9/20, Sammon) reports the "latest in a long line of disputes among local, state and federal officials over Hurricane Katrina was defused yesterday when New Orleans Mayor C. Ray Nagin called off reopening the city, although he cited another storm for his capitulation rather than federal officials' litany of concerns." The "various levels of government have disagreed over when to call in federal troops and whether the entire operation should be federalized. They also have clashed over when and how to evacuate New Orleans and when to let residents return."

USA Today (9/20, Kelley, Dorell) reports "hundreds of residents of the city's Algiers section who returned to their homes Monday only to be told by Mayor Ray Nagin to be prepared to evacuate again as early as Wednesday because of Tropical Storm Rita." The Algiers area, "across the Mississippi River from the French Quarter and downtown, never flooded during Katrina and now has electricity and water service to most homes. Nagin announced last week that Algiers residents could begin returning Monday. However, hundreds ignored pre-storm evacuation orders and never left or have already returned." For some, the mayor's "abrupt reversal was another disheartening example of what they said was a disorganized and inept local response to Katrina."

Rita is expected to strengthen to hurricane strength and move west into the Gulf, with a small potential to hit the battered Southern states. USA Today (9/20, Brook) reports "Tropical Storm Rita was expected to become a hurricane and slam the Florida Keys today, then gather strength and threaten the entire Gulf Coast." Yesterday, "Rita was still a tropical storm late Monday with winds of 70 mph, but the National Weather Service predicted it would be a Category 2 hurricane today with winds of 100 mph as it closed in on the Keys."

ABC World News Tonight (9/19, lead story, 3:05, Gibson) reported Tropical Storm Rita is "the latest in a long list of storms that have made this hurricane season

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unprecedented, cruel and relentless. In many parts of the Florida Keys, there is a mandatory evacuation order in effect tonight." ABC (Kerley) added, "Call it the Katrina effect, the hospital that serves Key West is shut down tonight. An Air Force C-130 airlifted patients to safety. As this latest storm approached, shelters were closed and those unable to flee were bussed to Miami." Ed Rappaport, National Hurricane Center Deputy Director: "We're looking at further strengthening and likely a major hurricane in the central to western Gulf of Mexico by later in the week." Kerley: "That means Louisiana, just battered by Hurricane Katrina could be hit again."

The CBS Evening News (9/19, lead story, 2:45, Schieffer) reported, "If projections hold, it could slam into a wide area of the Gulf Coast, the area that includes New Orleans and some of the heaviest-hit areas of Mississippi." CBS (Strassmann) added, "With memories of all that misery so fresh, and Rita on the way, evacuation was an easy sell for many people in the Florida Keys." NBC Nightly News (9/19, lead story, 3:15, Karins) reported, "Right now Houston is in the center of Rita's crosshairs, but everyone along the Texas and Louisiana coast should watch this one closely. As for New Orleans, a sharper northerly turn would mean at a minimum extremely heavy rain and a possible storm surge that once again could overwhelm that broken city."

The Washington Post (9/20, A3, Branigin) reports, "Rita is 'not an exact reprise' of Katrina, 'but it's probably pretty close,' said Frank Lepore, a spokesman for the National Hurricane Center in Miami. 'It's got similar characteristics, except it's just a little lower in latitude. The issue is what happens when it gets out over the very warm waters of the central Gulf.'"

Allen Says Officials Are Planning For Possibility Of Rita Touching New Orleans. Vice Admiral Thad Allen was asked on CNN's Larry King Live (9/19) about the approach of Tropical Storm Rita. Allen said, "We already had a tenuous situation in New Orleans with the infrastructure in the city being so badly damaged, and we know we have weakened levees. This storm is nothing to mess with. I had a meeting this afternoon with the governor of Louisiana, Governor Blanco and Russ Honore, who is my counterpart in DOD. And we're all actively planning contingencies right now and preparing for if this storm even brushes close to New Orleans." Allen added that "we need to keep a close watch on this and be prepared to evacuate click quickly if we need to do that."

Coast Guard Response To Katrina Lauded.

The CBS Evening News (9/19, story 11, 2:15, Schieffer) reported, "The rest of the Federal government may have fumbled on Hurricane Katrina, but if there is one true thing to say, it is that the US Coast Guard came through with flying colors, among other things rescuing 33,000 people." CBS (Orr) added, "While FEMA and local officials exchanged blame for a sluggish response, there were heroes at work," like "Coast Guard pilot Dan Taylor. In four days, his chopper crew saved 50 people." Unlike "many other Federal agencies, the Coast Guard was able to cut through bureaucratic red tape with a simple philosophy: Act first and get permission later. Crews on the scene assessed the needs and the risks in an urban danger zone." Former Coast Guard commander Stephen Flynn "says FEMA and other agencies need to build on the Coast Guard's success."

Red Cross Criticized Over Katrina Response.

The New York Times (9/20, Strom, Robertson) reports that "in New Orleans and the coastal flood plains of Mississippi, many people are complaining that the American Red Cross was missing in their worst hours of need and are worried that its billowing relief fund may bypass them entirely. The organization did not open shelters in flood-prone areas and was therefore unable to provide food and other necessities to people closest to the coast" hit by Katrina. The Times adds that "even some volunteers are disgusted. 'I will never, ever wear the Red Cross vest again,' said Betty Brunner, who started volunteering in 1969 when Hurricane Camille destroyed her house. … Time and again in past disasters, the Red Cross has raised more money than it has needed for relief. It has also been less than clear in the past about where its money goes, and it has rarely shared its money with other organizations that tackle long-term needs of victims."

Red Cross Chief To Brief Lawmakers Today. The Hill (9/20) reports American Red Cross President/CEO Marty Evans "will brief lawmakers today on the organization's recovery efforts in the Gulf Coast region."

Wal-Mart Response To Hurricane Katrina Praised.

In a New York Times column (9/20), John Tierney says, "If President Bush feels compelled to put someone in charge of rebuilding the Gulf Coast, let me suggest a name: Lee Scott." Scott is the "chief executive of Wal-Mart, one of the few institutions to improve its image here after Katrina sent a 15-foot wave across the north shore of

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Lake Pontchartrain." If you "visit the Wal-Mart and the Sam's Club stores here, you hear shoppers who have been without power for weeks marveling that there are still generators in stock (and priced at $304.04). You hear about the trucks that rolled in right after the hurricane and the stuff the stores gave away: chain saws and boots for rescue workers, sheets and clothes for shelters, water and ice for the public." That's the "same assessment you hear from public officials in Louisiana, and there's even been talk of letting Wal-Mart take over FEMA's job. The company already has its own emergency operations center, where dozens of people began preparing for the hurricane the week before it hit by moving supplies and trucks into position."

Kerry, Edwards Criticize Administration Response To Katrina. In separate speeches yesterday, Sen. John Kerry and former Sen. John Edwards criticized the Bush Administration's response to Hurricane Katrina. Reuters (9/20, Whitesides) reports that Kerry and Edwards "said the administration's inadequate response to the hurricane revealed a failure of competence and values, while the public outpouring of support for storm victims showed Americans wanted more from their government." Kerry "said the storm created 'a rare accountability moment' when not just the administration but all Americans could take stock of the country's direction." Edwards "introduced a series of proposals to build opportunities for the poorest Americans, including 'work bonds' to expand the earned income tax credit for the poor, a savings plan to help families buy a home, an increase in the minimum wage and programs to make college more affordable."

CNN's The Situation Room (9/19, Blitzer) reported that Kerry accused Republicans "of turning the rebuilding of the Gulf Coast into 'a vast laboratory for right wing ideological experiments.' And former Vice Presidential Nominee John Edwards arguing, 'the administration views every American as an island' and so he contends it left Katrina victims to fend for themselves."

The Washington Post (9/20, A4, Balz) says that while both of the former running mates offered "withering criticism" of the Administration's handling of the disaster, Kerry's speech "was harsher by far, and it drew a sharp rebuttal from the Republican National Committee's Tracey Schmitt. 'Armchair-quarterbacking on tough issues has never been a problem for Senator Kerry,' she said. 'Such tactics haven't served him well in the past, and today is no exception.'"

The Hill (9/20, Allen) calls Kerry's remarks "a furious attack on the Bush administration. … In a brief interview, Tracey Schmitt, a spokeswoman for the Republican National Committee, called Kerry's pitch for cash 'repulsive.'"

Ronald Brownstein writes in the Los Angeles Times (9/20), "Monday's speeches offered a reminder that Kerry and Edwards, rivals during the 2004 Democratic primaries, could find themselves competing for the 2008 Democratic presidential nomination."

MoveOn Ad Criticizes Federal Response To Katrina. CNN's The Situation Room (9/19, Blitzer) reported, "A new ad accusing President Bush of failing to make America safer after 9/11, and it points to the federal response to Katrina as evidence. The spot by the liberal interest group MoveOn.org begins airing tomorrow on CNN and on cable stations here in Washington and in New York. The Republican National Committee dismissing the ad as 'MoveOn's latest shameless political attack.'"

Confirmed Louisiana Death Toll Reaches 736, Number Of Missing Children Increasing. The CBS Evening News (9/19, story 2, 0:10, Schieffer) reported, "90 more victims were added to the hurricane death toll in Louisiana today, bringing it to 736."

Meanwhile, CNN's The Situation Room (9/19, Todd) reported that at the hotline set up to help hurricane victims locate missing loved ones, "for the 15th straight day…the numbers of missing children has gone up. The latest numbers that we were just handed, 2,393 at this hour, are still listed as missing. But there are many success stories, as well. Eight hundred and 83 cases have been resolved by the volunteers," who "have been working 16 hours a day. Many more yet to resolve, however."

Six Arrested For Using Internet To Lure Displaced Kids. CNN's Paula Zahn Now (9/19, Zahn) reported, "Louisiana attorney general today announced six people have been arrested for allegedly using the Internet to entice and sexually exploit Louisiana children when they were displaced by Hurricane Katrina."

Louisiana AG Begins Probe Of 14 Nursing Home Deaths. Louisiana Attorney General Charles Foti has launched an investigation into 14 deaths at a New Orleans nursing home which occurred after the elderly residents had not evacuated before Hurricane Katrina. USA Today (9/20, Frank) reports that Foti's office "has been besieged with complaints about patients being left at medical facilities

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during the hurricane or receiving shoddy treatment, said Kris Wartelle, a spokeswoman for Foti. She said state investigators are checking additional reports of patients and residents who died at 20 to 30 other hospitals and nursing homes. The nursing home under investigation was identified as Lafon Nursing Facility of the Holy Family in New Orleans. … Wartelle said Foti's office is 'close' to beginning probes into two hospitals where numerous other patients died. She identified them as Memorial Medical Center and Lindy Boggs Medical Center, both in New Orleans."

Hospital's Behavior In Wake Of Katrina Draws Fire. The Los Angeles Times (9/20, Riccardi, Barry) reports on Charlene Gonzalez, a nurse in Chalmette, Louisiana. Gonzalez "wanted to get out of town before Hurricane Katrina hit, but because she was a nurse at the only hospital in this low-lying waterside town, she would lose her job if she did not stay at her post." The Times adds that "after Gonzalez, her husband and more than 100 other employees and their families spent days trapped by rising floodwaters, the Pennsylvania-based corporation that owns Chalmette Medical Center, Universal Health Services, told its employees that they could count on only two more weeks of pay." Officials at UHS "say the anger is understandable after such a catastrophe, but they contend they did everything they could for their patients and employees. They say they tried to evacuate their hospital -- albeit at least a day after emergency officials say they urged it -- but that it was too late to get all the patients out."

Illegal Immigrants Avoid Hurricane Aid From Federal Government. The Washington Post (9/20, A6, Fears) reports, "Much has been said about the suffering of the poor in New Orleans, but Latino civil rights advocates and relief workers say those troubled Americans are better off than immigrants who live in Gulf states illegally, working in restaurants, casinos, farms and construction. Some have managed to get into shelters run by the Red Cross and Catholic Charities, which provide food and medical care, no questions asked. But when U.S. citizens in those shelters flock to cardboard tables where FEMA, Social Security and Internal Revenue Service agents sit, Latinos stay behind, watching from their cots, relief workers said. The Department of Homeland Security recently announced that information provided by illegal immigrants seeking federal aid could be used against them later in deportation proceedings."

Katrina Aftermath Said To Highlight Need For Clean Water. In a Washington Post op-ed (9/20, A23), Jan Eliasson, former Swedish ambassador to the United States and president of the United Nations General Assembly, and retired Rear Admiral Susan Blumenthal, a physician, say, "In the United States and Europe, people take it for granted that when they turn on their taps, clean water will flow out. But for those living in U.S. cities devastated by Hurricane Katrina, as in large parts of the world, obtaining safe water requires a constant struggle." Ensuring "access to safe water worldwide is imperative." But "most of all, water is a fundamental global health issue. Unsafe water and sanitation is now the single largest cause of illness worldwide, just as it has been a major threat to the health of people affected by Hurricane Katrina." If "action is not taken now, 135 million people could die of water-related diseases by the year 2020. That is a larger number than those expected to fall victim to the HIV/AIDS pandemic, a catastrophe that has already killed 23 million people worldwide."

High Court Could Have Cameras Under Grassley Bill. Roll Call (9/20, Mcardle) reports, "For the past 20 years, every time a vacancy arises in the Supreme Court, C-SPAN General Counsel Bruce Collins is teased by the possibility that new blood on the bench might mean the highest court in the land would reconsider its stance on allowing cameras into its halls. … But while Collins waits, hoping the court's two new justices will allow proceedings to be televised, the chairman of the Senate Judiciary Committee is ready to force the matter." Roll Call continues, "According to a GOP Congressional source close to the issue, Sen. Arlen Specter (R-Pa.) — who has said that Congress legally has authority over court administration issues — intends to drop new legislation, possibly as early as this week, that will push for opening the Supreme Court to television cameras. … Specter had discussed the possibility of a bill at last week's hearings on Judge John Roberts' nomination to be chief justice when the issue was brought up by Members on both sides of the aisle." Roll Call adds, "On Wednesday, Sen. Chuck Grassley (R-Iowa) pointedly asked Roberts if he was against cameras in the courtroom 'like Justice [William] Rehnquist was.' … 'Well, you know, my new best friend, [former] Sen. [Fred] Thompson [R-Tenn.], assures me that television cameras are nothing to be afraid of,' Roberts responded. 'But I don't have a set view on that. I do think it's something that I would want to listen to the views of — if I were confirmed — to my colleagues.'" Roll Call notes, "For the past four years, Grassley and several other Senate co-sponsors

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have been pushing the Sunshine in the Courtroom Act. The bill, which was reintroduced to the 109th Congress in April, would give full discretion to the presiding judge of a case as to whether cameras or recording devices would be allowed during proceedings in federal trial and appellate courts, including the Supreme Court. In appellate courts, the most senior active judge — the chief justice in the case of the Supreme Court — would have discretion on the issue."

Senate Set To Vote On Drug Reimportation. The Senate is set to vote on language that would ease access to prescription drugs imported from abroad. The Hill (9/20, Young) reports that the vote, which could occur during consideration of the agriculture-appropriations bill currently on the Senate floor, would fulfill "a promise made by Majority Leader Bill Frist (R-Tenn.) in July." Sen. David Vitter "has proposed an amendment to the agriculture spending bill that would block the Food and Drug Administration (FDA) from preventing people from importing prescription medicines. The language was introduced Thursday but had not been placed in the queue for a vote by press time yesterday. Frist hopes to wrap up the agriculture bill by the middle or end of this week, according to a spokesperson. … As part of an agreement with Vitter, Frist vowed to permit the amendment as a test vote for Senate support of relaxing restrictions on consumers' obtaining drugs at lower prices from countries such as Canada that use price controls to hold down the cost of medicines."

Social Security Reform Appears To Be Dead In Senate. Roll Call (9/20, Pierce) says that "there appear to be plenty of Republicans on Capitol Hill these days who are willing to serve as pallbearers" for President Bush's plan to overhaul Social Security. With "last week's revelation that National Republican Congressional Committee Chairman Tom Reynolds (N.Y.) thinks that voting on a Social Security overhaul would be political suicide for House Republicans in 2006, Senate leaders are doing little to quell a notion, floated by Reynolds, that any measure offering personal investment accounts under the government's retirement security program would be dead on arrival in the Senate." Roll Call adds, "Though Reynolds and others fear the repercussions of voting on Social Security at the ballot box, the crisis management in Washington over the botched recovery from Katrina is providing Republican leaders with a handy excuse for sidelining Social Security for the rest of this Congress."

Voinovich Offers Social Security Lock Box Legislation. The Washington Times (9/20, Pierce) reports in its "Inside Politics" column, "Sen. George V. Voinovich, Ohio Republican, said yesterday that Social Security personal-account proposals aren't going anywhere this year, but that Congress should pass legislation to lock away federal trust funds, including Social Security dollars, to ensure government can't spend them. Mr. Voinovich introduced a bill that would require all specially designated government revenue, including Social Security, be saved for those purposes and not spent on other programs." Voinovich "said overall Social Security reform will not happen this year with other issues, such as hurricane-relief efforts, dominating the agenda."

FDA Denies Naming Alderson Acting Director Of Women's Office. The Washington Post (9/20, A21, Kaufman) reports, "One week ago, the Office of Women's Health of the Food and Drug Administration sent an e-mail notice to women's groups and others announcing the appointment of Norris Alderson as its new acting director. … Three days after the Alderson announcement, the FDA main press office sent out a very different announcement. It said that 20-year FDA veteran Theresa A. Toigo would be the new acting director of the women's health office, and that she would be a champion for women's health inside and outside the agency. Alderson -- and the statement announcing his appointment -- was never mentioned. Asked yesterday who exactly was running the office, FDA spokeswoman Suzanne Trevino said that Alderson had never been appointed acting director. She said that Toigo would take over from the departed Wood, and that her office knew nothing about the statement regarding Alderson, who is the agency's associate commissioner for science. … The seeming mystery thickened when several women's groups said that not only did they receive e-mails announcing Alderson's appointment, but also that he was also listed on a Health and Human Services directory last week as the acting director of the office. In addition, people who have spoken with women's health office staff said that Alderson was introduced to the staff last week as the new acting director, and that he even had some one-on-one discussions with staff members about future plans."

New FDA Chief Counsel Keeps Predecessor's Industry-Friendly Policies In Place. The Legal Times (9/20, Henning) reports, "Sheldon Bradshaw arrived at the Food and Drug Administration without the baggage lugged

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around by his predecessor. … The previous chief counsel at the FDA, Daniel Troy, was pilloried by critics who slammed his close ties to the drug industry. Troy made a name for himself suing the agency on behalf of drug and tobacco companies before moving to the government agency early in the Bush administration." The Times continues, "Bradshaw, who came to the FDA as chief counsel from the Justice Department in April, has escaped that kind of scrutiny, largely because he hasn't had those corporate relationships. But that doesn't necessarily mean a new day has dawned. … In fact, despite Troy's return to the private sector, his controversial legal policies remain in force at the agency. Like Troy, Bradshaw offers one-on-one meetings with the companies regulated by the agency, has kept low the number of warnings issued to companies violating regulations, and, perhaps most notably, has continued to intervene on behalf of drug companies in private civil lawsuits." The Times adds, "Last week, Bradshaw signed off on a brief agreeing with Pfizer Inc.'s claim that three years ago the FDA would not have allowed the drug company to warn consumers about a link between suicidal behavior and the use of its best-selling antidepressant, Zoloft, by adolescents, an argument Pfizer is using to ward off liability. … That approach and a lighter regulatory hand put the public at risk, consumer and public health advocates complain. And even some in the drug and medical-device industries find the regulatory regime under Troy, and now Bradshaw, discomforting, claiming that without strong FDA oversight, companies are being hauled into court more frequently by state attorneys general and private plaintiffs."

NASA Unveils Plans For Return To Moon.

The New York Times (9/20, Leary) reports that Michael D. Griffin, NASA's "new administrator, detailed a $104 billion plan that he said would get astronauts to the Moon by 2018, serve as a steppingstone to Mars and beyond, and stay within NASA's existing budget." Coverage of Grifinn's press conference ran in print and electronic media outlets across the United States and abroad. The two most prevalent facts making headlines were the $104 billion expected cost of the effort and Griffin's language as he referred to the story as "Apollo on steroids."

ABC World News Tonight (9/19, story 10, 2:10, Gibson) said the plans "almost seem like back to the future. The goal would be to go back to the moon and then on to Mars. The vehicles to get there look a bit like the old Apollo program, abandoned decades ago for the shuttle. Indeed, NASA's chief called it Apollo on steroids." Meantime, the CBS Evening News (9/19, story 12, 2:10, Schieffer) reported, "The pressure may be on to cut Federal programs, but NASA today announced a huge new program, a $104 billion plan to go back to the moon. The question is, will it ever fly now that the Gulf Coast must be rebuilt?" CBS (Andrews) added, "It will take Americans to the moon and beyond, but it will look like it came from the '60s. … Just like in heyday of the 'Apollo' moon missions 36 years ago, astronauts will land on and take off from the moon using a separate lunar lander. But this time there will be four astronauts, not two, staying at least a week, not just two or three days. The CEV, upon return, will be able to land on the ground, and be reused up to ten times." Bill Harwood, CBS News space analyst: "It's easy to build and easy to operate. It's not a complex winged vehicle that has to fly on a runway. It's a big step forward for NASA."

The Houston Chronicle (9/20, Carreau) adds Griffin "defended the plan's $104 billion price tag, which will cover expenses through the first mission, in the face of new budget pressures to pay the soaring costs of the Hurricane Katrina recovery effort and the escalating expense of the Iraq war. 'The space program is a long-term investment in our future,' Griffin said. 'We must deal with our short-term problems while not sacrificing our long-term investments in the future. When we have a hurricane, we don't cancel the Air Force, we don't cancel the Navy. We're not going to cancel NASA.'"

The Washington Times (9/20, Chien) reports that the plan calls for the retirement of the space shuttle in 2010 and a new 14-person Crew Exploration Vehicle, which could fly as early as 2012 if additional funding becomes available or 2014 within NASA's current budget. 'This is the best mission statement NASA's had in 40 years,' NASA administrator Michael Griffin said."

The Los Angeles Times (9/20, Pae) reports that the "blueprint unveiled Monday is part of a broader initiative launched by President Bush 18 months ago, in which he called for returning humans to the moon as a steppingstone to a manned mission to Mars, perhaps as early as 2020."

The Christian Science Monitor (9/20, Spotts) reports that the "new craft would be the cosmic equivalent of the suburban minivan -- a 'crew-exploration vehicle' capable of carrying six people to the International Space Station, or four people to the moon, or roughly 3-1/2 tons of cargo."

In an analysis of the new NASA plan, the New York Times (9/20, Broad) reports that while the original Apollo

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effort "to put men on the Moon" received widespread public support, "President Bush's plan to return humans there and then voyage onward to Mars is dividing space experts and generating skepticism about its feasibility."

Griffin Says The Effort Will Not Rely On New Money. USA Today (9/20, Watson) reports that the $104 billion if adjusted for inflation, amounts to "roughly 55% of the cost of the first moon landing in 1969." Griffin "said NASA's budget would not need to grow to pay for the new effort and vowed not to raid other programs for funds. Savings would come from retiring the space shuttle in 2010. 'This is not about new money,' Griffin said. 'This is about a budget which keeps NASA … approximately where it is today.'"

Shuttle-Derived Hardware A Major Selling Point Of Plan. The Washington Post (9/20, A3, Gugliotta) notes that while "the rocket technology is 'shuttle-derived,' the new plan abandons the concept of a winged, reusable spacecraft that can fly back to Earth and land at an airport. Griffin said the new 'crew exploration vehicle' can be reused perhaps 10 times, but most of the new program's apparatus, like Apollo's before it, will be jettisoned in space or burned up in Earth's atmosphere. Griffin also acknowledged that there will be a two-year period between the last space shuttle flight in 2010 and the first flight of the exploration vehicle, anticipated in 2012, during which the United States will have no ability to put humans in space."

NYTimes Says Plan Lacking Enough "Pizzazz To Inspire Public Support." The New York Times (9/20) editorializes "The proposed new space vehicles look like a sensible way to put astronauts and cargo into space after the shuttle fleet is retired and will be built to facilitate landings on both the Moon and Mars." The Times adds that Michael Griffin, "deserves credit for putting real flesh on what had been little more than an aspiration. Unfortunately, the new plan lacks the pizzazz to inspire public support and will be operating under budget constraints that make delays or overruns likely. The new crew exploration vehicle will be built around well-known space technologies, with booster rockets and engines derived from the shuttle program and a crew capsule like the one used in the lunar program, only bigger."

Author Decries Administration "War On Science." Author Chris Mooney writes in the Los Angeles Times (9/20), "The lamentation in the forthcoming New England Journal of Medicine is typical of a growing genre: complaints about the misuse of science by the Bush administration. It is merely the latest jeremiad, from a group of distinguished experts, about the loss of reason by our leaders. This particular editorial, titled "A Sad Day for Science at the FDA," concerned so-called Plan B emergency contraception (the "morning after" pill), but it just as well could have been about the science of global warming or mercury pollution." Mooney says that the Administration's "current war on science" is "undermining our government's most central mission: to serve and protect us. This mandate cannot be fulfilled without an abiding respect for professionalism, expertise and the integrity of scientific analysis."

OTHER NEWS:

Katrina Expected To Spark Lawsuits Against Insurers. The question of whether insurers, the federal government or individuals should bear the brunt of billions of dollars in damage to homes and businesses in Louisiana, Mississippi and Alabama is likely to make Hurricane Katrina the US' most contentious disaster recovery ever. USA Today (9/20, Chu) reports, "What makes the aftermath of Katrina so ripe for dispute is a polarizing, hard-to-determine issue: Is the damage caused by wind-driven rain or flooding? And what if the hurricane causes a storm surge or flood? … The Federal Emergency Management Agency (FEMA) estimates 34% of households and 23% of businesses in the affected areas have federal flood insurance." USA adds, "Disputes over wind vs. flood damage occur after every hurricane. But 'if it's any indication by the calls we've gotten so far, then we think there are going to be many more lawsuits' this time, says [Joanne] Doroshow of the Center for Justice & Democracy."

Barbour Calls Legislature Back Into Session. Mississippi Governor Haley Barbour said yesterday the he is calling the state legislature back into session September 27 to begin addressing Mississippi's recovery from hurricane Katrina. USA Today (9/20) reports, "One item on Barbour's agenda is a proposed change in gambling laws to allow casinos to build on land rather than only over water. Another session item, Barbour said, will be a proposal to allow small businesses hurt by Katrina to apply for $25 million in local loans. Barbour said he is waiting on a recommendation from the Mississippi Gaming Commission before offering a proposal on changing gambling laws."

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Doctor Testifies To Vioxx, Heart Attack Link. The Wall Street Journal (9/20, Groeller) reports on Dr. Benedict Lucchesi's second day of testimony, where he said "several researchers had warned Merck about Vioxx's potential to cause cardiac problems…before the painkiller went on sale in 1999. 'According to the slogan, "Merck puts people first," I think they should have known,' he said."

The Bloomberg (9/19) adds Lucchesi testified that Vioxx "may cause heart attacks with just one dose."

Crude Oil Prices Spike On Fears Rita Will Disrupt Supply. Crude oil prices surged yesterday on fears that Tropical Storm Rita would disrupt supply in the Gulf of Mexico. ABC World News Tonight (9/19, story 7, :15, Gibson) reported, "The price shot up $4.39 to more than $67 a barrel, and that's the largest one-day spike in history." The CBS Evening News (9/19, story 9, 0:30, Schieffer) said it was "the biggest one-day jump ever." NBC Nightly News (9/19, story 3, 0:20, Williams) also said it was "the biggest one-day price jump ever."

The Wall Street Journal (9/20, Bahreee, Gold) adds "the storm's approach is slowing efforts to fix infrastructure damaged by Katrina." The US Mineral Management Service "reported yesterday that 44% of the daily output of oil and natural gas was still off-line, three weeks after Katrina came ashore near the Louisiana-Mississippi border. So far, the damage has prevented the output of the oil and natural-gas equivalent of about 56 million barrels, just shy of 5% of the region's annual total."

The Financial Times (9/20, Hoyos, Morrison, McNulty) says "the Port of Houston Authority, the 6th largest in the world, began gathering information with its partners about the pending storm, reviewing all plans and procedures for the hurricane." Felicia Griffin, spokeswoman, "said the port, which is ranked 1st in the US in foreign tonnage and second overall, after the port of southern Louisiana, was checking inventory to ensure it had basic equipment on hand, including flashlights and batteries."

The Washington Post (9/20, D1, Blum) reports, "The new storm 'could be coming in right exactly where Katrina didn't go,' said Michael Guido, director of commodity strategy in New York for French bank Societe Generale. 'It could be a bad situation for all the platforms that didn't get hit before.'" D. Mark Routt, an analyst with Energy Security Analysis Inc. of Wakefield, Mass., "said Houston is an 'extremely important hub' for pipelines and other oil industry operations, adding to concern about storm damage."

USA Today (9/20, Smith) reports on how Rita is affecting cleanup efforts for "15 oil spills unleashed by Hurricane Katrina." It is "the largest oil cleanup effort in state history, more than 10 times greater than the remediation of 550,000 gallons of oil spilled by the ship Westchester in the Mississippi River in November 2000. The biggest spill in U.S. history was 11 million gallons by the ship Exxon Valdez off Alaska in 1989."

Meanwhile, gasoline prices fell to $2.81 average per gallon. The CBS Evening News (9/19, story 10, 0:10, Schieffer) reported "gasoline has now given up more than half its post-Katrina gain." USA Today (9/20, Healey) says "those numbers could turn fast. … Wholesale gasoline for delivery next month zoomed nearly 25 cents to about $2.03 a gallon."

OPEC Plans To Increase Production. The New York Times (9/20, Mouawad) reports, "OPEC delegates said Monday that the group planned to allow its members to provide up to two million barrels a day of additional crude oil if the market needs it." But "oil traders brushed aside the move and instead sent oil prices higher on worries of another possible hurricane."

Katrina Badly Damaged Gulf Oil Platforms. ABC World News Tonight (9/19, story 8, 2:20, Gibson) reported, "It has been three weeks since Hurricane Katrina roared through the Gulf and today, we've obtained the first look at some of the massive damage it inflicted on the oil rigs. It is clear evidence of how defenseless the oil facilities are against the fury of a major hurricane." ABC (Kofman) added, "No one knows yet how badly Katrina damaged the underwater pipeline system, but a preliminary count has found that of 140 damaged platforms in the Gulf, many are beyond repair. 2% were destroyed by Katrina but production is off more than 50% because the damage to the oil industry goes far deeper than what you find out here at sea. All along the Mississippi, below New Orleans, you can see how Katrina has hobbled the oil industry. Oil refineries sit idle. At least four will be down for months. Storage tanks knocked off their foundations. Crews scrambling to clean up six different oil spills. The only road to the region is still underwater in parts, and blocked by those massive fishing boats in other parts."

Dow Falls 84 Points On Oil Price Spike. The CBS Evening News (9/19, story 9, 0:30, Schieffer) reported the run in oil prices yesterday "rattled Wall Street. The Dow fell 84 points [to close at 10,557.63], the NASDAQ lost 15 [to close at

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2145.26]." USA Today (9/20, Krantz) adds "the broad Standard & Poor's 500 index lost 6.89 points to 1231.02. The educational services, computer electronic retail and auto parts industries were the S&P's worst performers on Monday." Still, "the S&P 500 is alone among the three major stock market indexes in being up for the year at 1.6%." The New York Times/AP (9/20) and Wall Street Journal (9/20, Patterson) also report the stock numbers.

Meanwhile, USA Today (9/20, Shell) says "tracking violent storms is quickly emerging as a new job requirement on Wall Street. After the massive financial fallout caused by Hurricane Katrina, a growing number of traders, analysts and portfolio managers now view the weather as a major risk factor. … With Tropical Storm Rita barreling down on the Florida Keys and likely to gain strength and become a hurricane, it's no surprise that investors are just as interested in where the next hurricane will hit as they are the direction of interest rates."

Fed Expected To Raise Rates By Quarter Point. The Wall Street Journal (9/20, Whitehouse) reports, "The bond market has a message for Federal Reserve officials trying to gauge Hurricane Katrina's economic impact: Inflation probably will accelerate no matter what you do." Today, "the policy-making Federal Open Market Committee decides whether to keep raising short-term interest rates to fight inflation or pause for more data on how the economy has fared since Katrina. Most economists expect the Fed to raise its interest-rate target for the 11th time in 15 months -- by a quarter percentage point to 3.75% -- but will read the accompanying statement closely for signs of future moves."

The Wall Street Journal (9/20) editorializes that "easing up now would be exactly the wrong policy. T hose urging such an action include carry-traders who fear getting caught playing the yield curve, investors long on housing, and all kinds of well-intentioned folks who simply don't want to see the expansion end. We know how they feel. This market psychology always takes hold amid a Fed-tightening cycle -- and this time it is being exaggerated by the fallout from Katrina." The Journal also says "a rate hike now could actually have the beneficial effect of calming inflation fears and keeping long-term interest rates lower. If the Fed keeps prices stable, the animal spirits of the private sector will do the rest."

Agreement Calls For North Korea To Give Up Nuclear Weapons Program. Negotiators announced yesterday that North Korea has agreed to end its nuclear weapons program. The concession comes in exchange for American economic assistance and a US pledge not to launch a military attack against the communist regime. Most of the coverage of the deal is markedly skeptical about the North Koreans' intentions and the durability of the agreement. Comments by President Bush suggested the US government was also trying to lower expectations about it, describing it as merely as first step. As part of the reporting, some media outlets see a contradiction between the terms of the deal and previous White House positions.

ABC World News Tonight (9/19, story 3, 2:30, Karl), for example, said that for the "past four years, the White House insisted North Korea would get no rewards for stopping a nuclear weapons program the US said they shouldn't have in the first place. That, officials said, would be blackmail." The New York Times (9/20, Sanger), meanwhile, reports the accord "provided the bare minimum," but "even to get that, Mr. Bush had to blink slightly, acknowledging that at some point in the future, the United States would discuss with the North building new nuclear facilities -- something Washington has said it could never trust the North with."

USA Today (9/20, Slavin) adds "a year ago, US negotiators said energy assistance from North Korea's neighbors would come if it accounted for nuclear programs within three months and began to dismantle them. Such language is missing from the new deal, which says the United States will join other nations to provide energy." Monday's agreement "could lead to something like the 1994 deal, said Scott Snyder, a Korea expert at the Washington office of the Asia Foundation, a research group. The Bush administration had long criticized that deal."

ABC World News Tonight (9/19, story 3, 2:30, Gibson) also reported it was "perhaps, very possibly, a breakthrough," but "will the North Koreans follow through?" ABC (Karl) added, "The agreement, announced with fanfare, marks a major turnaround for both the United States and North Korea. The talks had been deadlocked, and there were fears North Korea would soon test one of its nuclear weapons. Now Kim Jong-Il's government promises to dismantle its entire nuclear weapons program and to let UN inspectors, whom he had thrown out of his country two years ago, back in." The CBS Evening News (9/19, story 5, 0:40, Schieffer) added, "Some

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doubt the North will live up to its end of the bargain, which calls for it to dismantling weapons and the programs to build them."

NBC Nightly News (9/19, story 8, 1:40, Williams) said that "at the White House today, President Bush cautioned it's not yet a done deal." Administration officials "say any new agreement will demand rigorous inspections and verification." Fox News' Special Report (9/19, Rosen) also said "Bush welcomed today's positive step, but expressed concern about the North's honoring its word."

The Financial Times (9/20, Fifield, Yeh) reports "Bush said the Korean deal was 'a step forward in making this world a more secure place' but insisted 'we've got to verify whether or not that happens.'" The "wide-ranging, though vague," agreement is "the first breakthrough in more than two years of tortuous six-party negotiations and came just as the differences between Pyongyang and Washington seemed intractable." It also "served to prove that Washington and Beijing, which hosted the talks, can co-operate on issues of mutual security interest." Bush "said he wanted to the thank the other partners in the six-party dialogue for working together. But he added: 'The question is, over time, will all parties adhere to the agreement?'" Scott McClellan, "the White House spokesman, made clear that the first step under the agreement was for North Korea to end its nuclear programmes."

The Washington Post (9/20, A1, Kessler, Cody) also says Bush "cautiously welcomed the agreement," and reports "the unexpected" deal "followed decisions by both the Pyongyang government and the Bush administration to compromise on positions they had clung to during nearly three years of crisis over North Korea's nuclear ambitions." The breakthrough accord "followed a compromise proposed by China aimed at persuading both countries to sign a document of principles." The New York Times (9/20, Kahn, Sanger) also describes Bush's reaction as "cautious."

North Korea's announcement that it will abandon its nuclear weapons programs received widespread coverage on local television yesterday. Most reports mentioned that the Bush Administration is pleased by the decision but remains "cautious." Some examples: KDKA-TV Pittsburgh (9/19, 4:43 p.m.) reported, "The White House says it is pleased with North Korea's agreement to end its nuclear weapons program. Still, at the same time there's caution about whether or not the nation will make good on its promise." The North "drove a hard bargain. In return for terminating its weapons programs, it will receive energy and oil aid and a guarantee Washington won't attack."

KARE-TV Minneapolis (9/19, 5:13 p.m.) reported, "North Korea is pledging to abandon all of its nuclear programs. … In return, North Korea will get electric power from South Korea, oil and aid from other countries and a pledge from the US to respect each other's sovereignty and right to a peaceful co-existence."

KSAZ-TV Phoenix (9/19, 5:17 p.m.) reported that "the agreement ends a 3 year standoff. In exchange for giving up its nuclear program, North Korea will receive energy assistance from other nations."

Knight Ridder (9/20, Johnson) says it was a "turnabout that came suddenly after years of failed talks." US "intelligence officials say North Korea harbors between six and nine nuclear weapons."

Accord Seen As Victory For Rice. The Christian Science Monitor (9/20, Kirk, LaFranchi) adds the deal "is seen by some analysts as a clear victory for Secretary of State Condoleezza Rice's diplomatic approach over administration forces favoring a more confrontational approach."

The New York Times (9/20) editorializes, "Diplomacy, it seems, does work after all." The deal "became possible when Washington abandoned the confrontational tactics and name-calling associated with its former top antiproliferation official, John Bolton, and gave serious negotiation a chance." Secretary of State Condoleezza Rice "deserves most of the credit for that switch, which was made with exceptional skill by America's top negotiator at the talks, Assistant Secretary of State Christopher Hill." The Times adds, "The biggest winner of all from yesterday's agreement may well be the Nuclear Nonproliferation Treaty itself."

This Morning, North Korea Demanding A Nuclear Reactor. Adding to the media skepticism is a renewed North Korean demand which reportedly was not part of the original deal. The Wall Street Journal (9/20, Fairclough, Robbins) says "a final deal ending Pyongyang's atomic ambitions is a long way off. Progress will require sweeping concessions from Pyongyang, including intrusive inspections to ensure the dismantling of its facilities." It will also "require important concessions from the Bush administration." This morning, "North Korea's foreign ministry issued a statement casting doubt on the country's willingness to act soon. A ministry spokesman said the US 'should not even dream' Pyongyang will give up its nuclear deterrent before America provides a reactor."

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The Los Angeles Times (9/20, Demick, Magnier, Efron) adds a North Korean demand "threw water on the deal" less than 24 hours "after diplomats announced a breakthrough." North Korea's demand "could be a deal breaker." Assistant Secretary of State Christopher Hill, "the chief US negotiator at the six-nation nuclear talks, made it clear at the opening of negotiations in Beijing last week that the idea of providing North Korea with a reactor before disarmament would be a 'nonstarter.'" A similar Washington Times/AP (9/20, Chang) article says the demand cast "doubt" on North Korea's commitment to the "breakthrough agreement." Both the United States and Japan "rejected the North's latest demand. 'This is not the agreement that they signed, and we'll give them some time to reflect,' State Department spokesman Sean McCormack said." Japanese Foreign Minister Nobutaka Machimura "called the reactor demand 'unacceptable.'"

Hill "Had Misgivings" About Deal Because It "Hinted" At Discussions About Reactor. Under the headline "US-Korean Deal On Arms Leaves Key Points Open," the New York Times (9/20, Kahn, Sanger) reports the top US negotiator, Christopher Hill, "had misgivings" about the deal "because the vaguely worded agreement left unaddressed the date disarmament would happen, and hinted at a concession to North Korea that President Bush and his aides had long said they would never agree to: discussing at an appropriate time providing North Korea with a civilian nuclear power plant, senior administration officials said." The Times adds, "As described by senior Bush administration officials and Asian participants in the talks, Mr. Bush agreed to eventual discussions on providing a nuclear plant only after China turned over a draft of an agreement and told the Americans they had hours to decide whether to take it or leave it." The Times adds, "Several officials, who would not allow their names to be used because they did not want to publicly discuss Mr. Bush's political challenges, noted that Mr. Bush is tied down in Iraq, consumed by Hurricane Katrina, and headed into another standoff over Iran's nuclear program. The agreement, they said, provides him with a way to forestall, at least for now, a confrontation with another member of what he once famously termed 'the axis of evil."

More Commentary. Several editorials in major newspapers this morning praise the Administration's insistence on multi-party talks. In its editorial, the Los Angeles Times (9/20) says that "though the Bush administration's handling of North Korea has hardly been a model of diplomacy, the president can claim some vindication for insisting on multilateral talks, instead of agreeing to one-on-one negotiations." In fact, "the Bush Administration wanted to involve other nations in the talks" precisely because they would "expose Pyongyang's paranoia to a wider audience" and "make it harder for North Korea to deny any agreement it did make." The Times argues that the latest developments in the negotiations "put more pressure on China to keep North Korea in line," and, in any case, the "the difficult work of applying" the original deal's principles will begin at scheduled talks in November. Those "talks just got harder. But the value of the agreement is that at least the principles are now clear."

USA Today (9/20) editorializes, "History isn't encouraging. … The trick is to avoid past pitfalls. The United States has partners because of its two-year insistence on including neighbors South Korea, China, Japan and Russia in the talks."

The Wall Street Journal (9/20) writes in an editorial that "this time there is one important reason to believe it could work, past deceptions notwithstanding: China's vital interest in a denuclearized Korean peninsula and continued good relations with the US and Japan."

The Washington Post (9/20) writes in an editorial the deal is a "surprising piece of good news." North Korea's agreement, adds the Post, "excuses it from the potential displeasure of China, which brokered the talks and supplies Pyongyang with food and energy. It allows for the continuation of rapidly improving relations with South Korea, including provision by the South of large new supplies of electricity."

North Korea Producing Counterfeit $100 Bills. The Washington Times (9/20, Gertz) reports, "North Korea's government is producing high-quality counterfeit $100 bills and is working with criminal groups in China to sell the fake US money internationally, US officials say. Some details of the production of what federal officials call 'supernotes' were disclosed after arrests last month in several US cities of people linked to a major Asian crime ring trafficking in fake money, arms, drugs and cigarettes." The Times adds, "A senior Bush administration official said one of the 10 indictments in the case contains the first disclosure of the North Korean government's role in the counterfeiting."

Russia, China Oppose US Effort To Refer Iran To Security Council. USA Today (9/20) reports, "U.S. and European diplomats resumed efforts to have Iran brought before the U.N. Security Council for sanctions, even

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as Russia called for a delay. … European Union diplomats and a U.S. official — who spoke to the Associated Press on condition of anonymity, citing the sensitive nature of the negotiations — said China also remained opposed to referral. They said the West would probably force a vote. Secretary of State Condoleezza Rice said she expects the Security Council to take up the matter 'at some point in time.'"

El Baradei Criticizes Confrontational Approach To Iranian Nuclear Development. USA Today (9/20) reports, "The United Nations' chief nuclear inspector, Mohamed ElBaradei, said Monday that talks should replace international confrontation over Iran's nuclear activities. Negotiations proved their worth in getting North Korea to renounce its nuclear arms program, ElBaradei said. … Tehran says its nuclear program is for production of electricity, not nuclear weapons. ElBaradei criticized both Tehran's intransigence and U.S.-European calls for Security Council involvement as examples of 'confrontations and political brinkmanship.''

Pentagon Official Tells Taiwanese To Boost Defense Spending. The Washington Times (9/20, Gertz) reports Edward Ross, a senior Pentagon security cooperation official, "sharply criticized Taiwan's government for not moving ahead with an arms buildup to counter a mounting threat from China. Ross "also suggested in a speech that the United States might not defend Taiwan in a conflict with China unless Taipei does more to boost its defenses and national will. 'As the lone superpower, our interests are plentiful and our attention short,' Mr. Ross said. 'We cannot help defend you if you cannot defend yourself.' … The blunt speech, a copy of which was obtained by The Washington Times, was given at the annual U.S.-Taiwan Business Council-Defense Industry meeting in San Diego. Attendees included Huo Shou-yeh, Taiwan's vice defense minister, and other officials from the island."

Activist Fighting Forced Abortions Jailed In China. The Washington Post (9/20, A17, Pan) reports, "China said Monday that it has dismissed and detained officials in the eastern city of Linyi for abuses committed while enforcing the country's one-child policy. But the government provided no details and said nothing about the arrest this month of an activist who had campaigned against the use of forced abortion and sterilization there. … Jiang Tianyong, a lawyer involved in a class-action lawsuit against the Linyi officials, cast doubt on the government's statement and accused local authorities of continuing to hold Chen Guangcheng, the activist leading the lawsuit, under house arrest without due process."

US Wants To "Come Out Blazing" On UN Reforms. The Christian Science Monitor (9/20, Regan) reports in its "Terrorism and Security" column, "After a week when most of the reforms it wanted to see initiated at the United Nations were stymied or watered down, The Sunday Times of London reports that the United States wants to 'come out blazing' on Monday and push for change. But it faces a new geopolitical world as it attempts to do this, according to a New York Times analysis; one where countries will ally with you on one issue, while at the same time strongly opposing you on other issues. What Bush faced from the well of the United Nations on Wednesday morning was a strange new geopolitical world, in which your allies on one issue are ganging up on you in the next room." The US "will get to see this week if it can still form the needed coalitions to push through its agenda, as the International Atomic Energy Agency (IAEA) takes up the issue of Iran's nuclear program."

Coleman Calls For Annan To Be Replaced. In an op-ed for the Wall Street Journal (9/20) titled, "The U.N. Must Look For a New Secretary-General, Sen. Norm Coleman writes, "Last week, world leaders met for what Kofi Annan described as a 'once-in-a-generation opportunity to take bold decisions in the areas of development, security, human rights and reform of the United Nations.' But a reading of the 'outcome document' world leaders are signing shows it to be yet another missed opportunity for UN reform. John Bolton pushed hard to improve the document and succeeded in modifying its most objectionable clauses. But what remains falls far short of 'bold.' … If the UN is to genuinely reform itself, it needs visionary and credible leadership. Mr. Annan, whose management failures are unambiguous, is simply too weak to muscle through an effective reform package. We should begin looking for new leadership now."

Schroeder, Merkel Try To Form Governing Coalitions. One day after elections, German politics remain deadlocked as both major parties continue to claim victory. USA Today (9/20, Knox) reports "competing claims" by Chancellor Gerhard Schroeder and his opponent, Angela Merkel "put Germany in a political deadlock and could stall

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efforts to revive the torpid economy." Merkel's party, the Christian Democratic Union, "won 35.2% of the vote in Sunday's elections, compared with 34.3% for Schroeder's Social Democratic Party." Merkel and Schroeder "scrambled to form alliances with other political parties that would put them in control. … Traditionally, Merkel's Christian Democrats have linked with the Free Democrats. Schroeder's Social Democrats have allied with the Greens. Merkel and Schroeder are trying to woo each other's ally." A majority coalition "must be in place by Oct. 18. The parliament has three chances to choose a chancellor. If it fails, President Horst Koehler can appoint a minority government or call new elections." The New York Times (9/20, Bernstein, Dempsey) adds "Christian Democratic officials said Monday that talks would be held with the Greens. … The chairman of the Greens, Reinhard Bütikofer, did not rule out an agreement."

The Christian Science Monitor (9/20, Tzortzis), Wall Street Journal (9/20, Walker, Crawford), Washington Post (9/20, A17, Whitlock), Knight Ridder (9/20, Schofield) and Washington Times (9/20, Kralev), run similar reports on the situation in Germany.

The Financial Times (9/20, Benoit) reports the euro "fell to a seven-week low against the dollar on Monday after Germany's election ended in a stalemate, casting doubt over the country's ability to enact the policy changes needed to bolster faltering economic growth." The New York Times (9/20, Smith) adds "Europe, weakened by the seeming collapse of its constitutional project in May, faces even more uncertainty after the election in Germany on Sunday, which left no party with a clear mandate."

In an analysis piece, the Wall Street Journal (9/20, Kempe) says "it will take some time and convoluted coalition negotiations before the world knows who won Sunday's German elections. But it's not too early to call the loser: Angela Merkel. … Political insiders say moving quickly to build a government is Angela Merkel's last chance of survival. Any delay will mean her political death, either by Chancellor Schroeder's hand or, just as likely, rivals within her own Christian Democratic party who have never been comfortable with the eastern German Protestant woman in a political leadership that is overwhelmingly male, western and Catholic."

FARC Reportedly Operating Along Venezuelan Border. The Washington Times (9/20, Behn) reports, "Colombian paramilitaries and Marxist guerrillas are running kidnapping, extortion and smuggling rackets as they infiltrate Urena and other communities near Venezuela's border, residents and officials say. 'There are more and more FARC in Apure and in Tachira [two western border states of Venezuela] present in the communities, and they are recruiting,' said Virginia Trimarco, regional representative of the U.N. High Commissioner for Refugees (UNHCR). 'That makes people inside the country, and the Venezuelans, worried about security and selective killings,' she said. … Venezuelan cattle ranchers and a local state official -- who asked not to be named -- said the government of President Hugo Chavez turns a blind eye to FARC guerrillas operating in Venezuela, pushed to the border by the success of the U.S.-backed Plan Colombia, aimed at eradicating the cocaine trade in Colombia that funds the rebels."

Uzbek Government Accused Of Intimidating Human Rights Activists. The New York Times (9/20, Chivers) reports, "The government of Uzbekistan, stung by the outcry in the West over its bloody suppression of a prison break and anti-government demonstration in May, has engaged for months in a ferocious crackdown against those who have tried to expose the brutality, says a report released Monday by a prominent human rights organization. The report, by Human Rights Watch, the New York-based organization, says the crackdown included widespread arrests, threats and harassment and was directed at witnesses, survivors, human rights defenders, journalists and political workers."

The Washington Post (9/20, A18, Finn) reports, "The first 15 people charged with organizing an armed revolt in Andijan were to go on trial Tuesday in the Uzbek capital, Tashkent. Prosecutors allege that the 15 were part of a broad conspiracy, financed from abroad, that was designed to overthrow the government and replace it with an Islamic state. Prosecutors said another 106 people may face similar charges."

US Urged To Give Pakistan Trade Deal In Return For Women's Rights Assurances. The New York Times' Nicholas Kristoff (9/20) writes, "Our close ally President Pervez Musharraf of Pakistan visited the U.S. last week and fretted aloud about a surprising problem: The 'easiest way' for Pakistani women to make money is to get raped, he said, so they're lining up to be raped and thus making him look bad. … That comment got Mr. Musharraf in

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hot water. So over the weekend, Mr. Musharraf denied that he had ever said any such thing." Kristoff continues, "The irony is that while he's a nitwit on social issues, General Musharraf has proved himself to be a good economic manager, and the 7 percent growth rates generated by his reforms will help undermine fundamentalism and sexual violence in the long run. During his visit, Mr. Musharraf pressed for a free-trade area between the U.S. and Pakistan, and that's a great idea to promote Pakistan's development. So let's give Mr. Musharraf a free-trade deal - but only on the condition that he clamp down not on Pakistani women fighting against rape, but on Osama bin Laden."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Meeting with Local Officials and Business Leaders, Gulfport, Miss.; briefing on Tropical Storm Rita, New Orleans, La.; visit to Recovering Business, New Orleans, La.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: 10 a.m. VETERANS AFFAIRS _ Senate and House Full Committees. Joint hearings on legislative presentations by veterans affairs groups: American Legion. Location: Room 345, Cannon.

10 a.m. AGRICULTURE, NUTRITION AND FORESTRY _ Full committee markup of pending legislation, including S 1582, a bill to reauthorize the U.S. Grain Standards Act. Location: Russell, room 328-A.

10 a.m. BANKING, HOUSING AND URBAN AFFAIRS _ Full Committee. Hearing on pending nominations, including Emil Henry Jr. to be assistant secretary of the Treasury for financial institutions; Scottie Theresa Neese to be director of the U.S. Mint; and Patrick O'Brien to be assistant secretary of the Treasury for terrorist financing. Location: Room 538, Dirksen.

10 a.m. ENERGY AND NATURAL RESOURCES _ Full Committee. Hearing to receive testimony regarding the current state of climate change scientific research and the economics of strategies to manage climate change. Issues to be discussed include: the relationship between energy consumption and climate change, and the potential effects on the U.S. economy of climate change and strategies to control greenhouse gas emissions. Location: Room 366, Dirksen.

10 a.m. JUDICIARY _ Full Committee. Hearing on the Supreme Court's Kelo ruling from New London, Conn. Witnesses include: Susette Kelo, of New London; Pastor Fred Jenkins of St. Luke's Pentecostal Church, North Hempstead, N.Y.; Eddie Perez, mayor of Hartford, Conn, representing National League of Cities; Hilary O. Shelton, director NAACP Washington bureau; and others. Location: Room 226, Dirksen.

10 a.m. VETERANS AFFAIRS _ Holds joint hearing on legislative presentations by veterans' affairs groups. Location: Room 345, Cannon.

2:30 p.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Disaster Prediction and Prevention Subcommittee. Hearing on ``The Lifesaving Role of Accurate Hurricane Prediction." Max Mayfield, director, National Hurricane Center; Windell Curole, general manager, South Lafourche Levee District; Mark Levitan, director, LSU Hurricane Center. Location: Room 562, Dirksen.

2:30 p.m. FOREIGN RELATIONS _ Subcommittee on Western Hemisphere, Peace Corps and Narcotics Affairs holds a hearing on ``China's Role in Latin America." Witnesses include: Charles Shapiro, principal deputy assistant secretary of State, Bureau of Western Hemisphere Affairs; Roger Pardo-Mauer, deputy assistant secretary of Defense for western hemisphere affairs; and others. Location: Dirksen, room 419.

US House: FLOOR SCHEDULE _ 12:30 p.m. The House meets for morning hour and 2 p.m. for legislative business. Votes will be postponed until 6:30 p.m. Highlights: Suspensions (10 bills): 1) H.R. 3761 - Flexibility for Displaced Workers Act. 2) H.R. 2132 - To extend the waiver authority of the Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency. 3) H.R. 3784 - To temporarily extend the programs under the Higher Education Act of 1965, and for other purposes. 4) H.R. 3765 - To extend through December 31, 2007, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities to expedite the processing of permits. 5) H.R. 3649 - Sportfishing and Recreational Boating Safety Amendments Act of 2005. 6) H.R. 409 - Sierra National Forest Land Exchange Act of 2005 . 7) S. 1340 - A bill to amend the Pittman-Robertson Wildlife Restoration Act to extend the date after which surplus funds in the wildlife restoration fund

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become available for apportionment. 8) H.R. 394 - To direct the Secretary of the Interior to conduct a boundary study to evaluate the significance of the Colonel James Barrett Farm in the Commonwealth of Massachusetts and the suitability and feasibility of its inclusion in the National Park System as part of the Minute Man National Historical Park, and for other purposes. 9) H.Res. 441 - To congratulate the National Aeronautics and Space Administration and the Discovery crew. 10) H.Res. 450 - Recognizing Space Shuttle Commander Eileen Collins, Mission Specialist Wendy Lawrence, and the contributions of all other women who have worked with NASA following the successful mission of Space Shuttle Discovery on STS-114.

10 a.m. VETERANS AFFAIRS _ Senate and House Full Committees. Joint hearings on legislative presentations by veterans affairs groups: American Legion. Location: Room 345, Cannon.

2 p.m. INTERNATIONAL RELATIONS _ Africa, Global Human Rights and International Operations Subcommittee. Oversight hearing on implementation of the Microenterprise Results and Accountability Act. Jonathan Morduch, Associate Professor of Public Policy and Economics, Robert F. Wagner Graduate School of Public Service New York University; Susy Cheston, Senior Vice President, Opportunity International; Gary Plank, President-Elect, World Council of Credit Unions; Lawrence Yanovitch, Director of Policy and Technical Assistance, The Foundation for International Community Assistance. Location: Room 2172, Rayburn.

5 p.m. RULES _ Full committee markup to consider rules for floor debate for pending legislation, including HR 250, the Manufacturing Technology Competitiveness Act, and HR 2123, the School Readiness Act. Location: Capitol, H-313.

7 p.m. ARMED SERVICES _ Full Committee. Markup of pending legislation. Location: Room 2118, Rayburn.

Other: BURUNDI PESIDENT PIERRE NKURUNZIZA _ Highlights: 11 a.m. - 12:30 p.m. Three weeks after his installation as President, the former rebel leader discusses the post-conflict reconstruction challenges confronting his country and outlines his government's prioriites and strategies. Woodrow Wilson Center, Ronald Reagan Building, 1300 Pennsylvania Ave. NW. Contact: 202-691-4000.

KING ABDULLA II OF JORDAN _ Highlights: Majority Leader Frist meets with King Abdulla II of Jordan. Room S-230.

CONTRACTORS CONFERENCE _ Associated General Contractors of America (AGC) holds its 2005 Legislative Midyear Meeting, featuring the latest information about the likely impact on the economy of Hurricane Katrina, a report from U.S. Army Corps officials on hurricane relief and reconstruction, and other matters. Highlights: 9 a.m. Charles Nottingham, Federal High Administration's associate administrator for policy discusses new highway bill, and Rep. John Mica, R-Fla., discusses transportation in the future. Location: Hyatt Regency, 400 New Jersey Ave. NW.

FEDERAL CREDIT UNIONS CAUCUS _ The National Association of Federal Credit Unions (NAFCU) holds the NAFCU 2005 Congressional Caucus. Highlights: 8:45 a.m. Rep. Patrick McHenry, R-N.C. 9:15 a.m. Debbie Matz, board member, NCUA. 10 a.m. Rep. Barney Frank, D-Mass. 10:30 a.m. Treasury Secretary John Snow. 11 a.m. Rep. Mike Oxley, R-Ohio. 11:30 a.m. Sen. Tom Carper, D-Del. Location: Grand Hyatt Washington, 1000 H St. NW.

GENERIC PHARMACEUTICAL CONFERENCE _ The Generic Pharmaceutical Asosciation (GPhA) hosts its First Annual Policy Conference, focusing on Medicare, biodefense, generic biopharmaceuticals and other issues. Highlights: 8 a.m. Keynote, Sen. Orrin Hatch, R-Utah. 12 p.m. Keynote, Rep. Henry Waxman, D-Calif. Location: Ritz-Carlton, 22nd and M Streets, NW.

AIR QUALITY CONFERENCE _ The Energy & Environmental Research Center holds the Air Quality V Conference, with keynote speakers Sen. Byron Dorgan, D-N.D., and Carl Bauer, acting director of the U.S. Department of Energy's National Energy Technology Laboratory. Others speakers include Jeffrey Holmstead, assistant administrator of air and radiation, EPA; Sen. Kent Conrad, D-N.D.; Rep. Earl Pomeroy, D-N.C.; and William Wehrum, EPA. Location: Marriott Crystal Gateway, 1700 Jefferson Davis Highway, Arlington, Va.

TRADE TALKS _ Public events by U.S. Trade Representative Rob Portman. Highlights: 8:45 a.m. Meets with Thailand's foreign minister, USTR Offices, 600 17th St. NW. 9:45 a.m. Meets with Ukrainian Foreign Minister Boris Tarasyuk., USTR Offices. 11:15 a.m. Meets with Korean trade minister. USTR Offices. 2:30 p.m. Meets with Uganda President Yoweri Museveni. USTR Offices. 7 p.m. Delivers Keynote speech to Coalition of Service Industries, St. Regis Hotel, 16th and K streets, NW.

SMALL BUSINESS-REGULATORY CONFERENCE _ 8 a.m. - 4 p.m. Over 25 national small business trade

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associations hold a conference on the Small Business and Regulatory Environment: 25 Years of the Regulatory Flexibility Act. Speakers and panelists include John Graham, OMB; Karen Kerrigan, Small Business and Entrepreneurship Council; Susan Dudley, Mercatus Center; others. Location: Room G-50, Dirksen Senate Office Building.

DRUG COUNTERFEITING _ 8:30 a.m. The Center for Medicines in the Public Interest and Pacific Research Institute hold the International Drug Counterfeiting Conference, releasing a new report saying counterfeit drug sales will reach $75 billion in 2010. Highlights: 8:30 a.m. Breakfast keynote, Scott Gottlieb, deputy commissioner, FDA. 12:30 p.m. Lunch keynote, Arif Alikhar, director, DOJ IP Task Force. Location: Hyatt Regency-Washington on Captiol Hill, 400 New Jersey Ave. NW.

AMERICAN DREAM FORUM _ Jobs for the Future forum on ``improving the path to better education and better jobs for all." Highlights: Keynote address by Patty Stonesifer, President and Chairman, Bill and Melinda Gates Foundation. A ``Town Hall Discussion with David Gergen (Moderator), Professor of Public Service, John F. Kennedy School of Government, Harvard University and high-level public officials and corporate decision-makers.

THE RISE OF CHINA _ 9:30 a.m. - 6 p.m. The Brookings Institution hosts a conference on ``China's Emergence." Location: Brookings Institution, Falk Auditorium, 1775 Massachusetts Ave. NW.

21ST CENTURY MEDICAID SYSTEM _ 10:30 a.m. - 5 p.m. The Center for Health Transformation holds a forum, ``Creating a 21st Century Medicaid System," with Newt Gingrich; Mark McClellan, Administrator for the Centers for Medicare and Medicaid Services; Gov. Mike Huckabee, R-Ark.; Gov. Mark Warner, D-Va.; Rep. Nathan Deal, R-Ga.; and Sen. Mel Martinez, F-Fla. Location: Renaissance Mayflower Hotel, 1127 Connecticut Ave. NW.

HURRICANE KATRINA-ECONOMY _ 11 a.m. The Center on Budget and Policy Priorities (CBPP) holds conference call briefings at 11 a.m. and 2:30 p.m. to examine whether Congress, which is moving forward with immediate relief and reconstruction measures in the wake of Hurricane Katrina, should enact broad-based national legislation to stimulate the economy, with Robert Reischauer, president, Urban Institute; Peter Orszag, Brookings Institute; and Robert Greenstein, executive director, CBPP. Contacts: Michelle Bazie, 202-408-1080.

RURAL BROADBAND _ 8:30 a.m. The Rural Broadband Coalition and Hughes Networks Systems host a forum with representatives from the FCC and Department of Agriculture to discuss the availability of broadband Internet access to small businesses in rural America. Location: Rayburn, Room 2105.

US-MEXICO _ 8:30 a.m. CSIS hosts Luis Ernesto Derbez Bautista, Mexico's Secretary of Foreign Relations, discussing ``The State of US-Mexico Relations, the North American Agenda, and Mexico's Current Political Situation." Location: CSIS, B-1 Conference Center, 1800 K St. NW.

NUCLEAR PROLIFERATION _ 9 a.m. Georgetown University hosts a panel discussion on ``Nuclear Proliferation in the Age of Terror," with Reps. Adam Schiff, D-Calif., and Christopher Shays, R-Conn.; Graham Allison, director of the Belfer Center for Science and International Affairs at Harvard University; Stephen Rademaker, assistant secretary of state for arms control; and moderator Robert Gallucci, dean, School of Foreign Service at Georgetown. Location: Georgetown University, Copley Formal Lounge.

ECONOMISTS-KATRINA _ 10 a.m. The ABA Economic Advisory Committee hosts economists from the nation's largest banks discussing post-Katrina economic conditions, including oil and home prices, via a telephone press conference, with Jim Chessen, ABA chief economist; Richard DeKaser, chief economist, National City Corporation; others. Contacts: Laura Fisher, 202-663-5466. Notes: Telephone press conference: 800-357-0498.

ISLAM AND TERROR _ 10 a.m. Homeland Security officer for Civil Rights and Civil Liberties Daniel Sutherland delivers remarks at a forum on ``Islam and Terror: After London, Lessons for the United States." Location: Heritage Foundation, Lehrman Auditorium, 214 Massachusetts Ave. NE.

MEDICARE _ 10 a.m. Kenneth Thorpe of Emory University discusses his new study, coauthored with Adam Atherly, titled ``Value of Medicare Advantage to Low-Income and Minority Medicare Beneficiaries." Location: Blue Cross and Blue Shield Association, 12th Floor, 1310 G St. NW.

SPELLINGS-BROAD PRIZE _ 10:30 a.m. US Secretary of Education Margaret Spellings will deliver remarks at the 2005 Broad Prize for Urban Education ceremony. Location: Library of Congress.

ARCTIC REFUGE COALITION _ 10:30 a.m. - 1 p.m. The coalition of groups working to save the Arctic National Wildlife Refuge holds a citizen action day, with thousands of

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Americans from across the country coming to the U.S. Capitol to urge lawmakers to protect America's Arctic Refuge from oil drilling. Participants include Robert Kennedy, Jr., Natural Resources Defense Council; Rt. Rev. Mark MacDonald, Episcopal Bishop for Alaska; Rabbi Richard Saperstein, Coalition on the Environment and Jewish Life, Native American leaders and drummers, others. Location: West Front, US Capitol.

DEMOCRATS-KATRINA _ 10:50 a.m. House Democratic Leader Nancy Pelosi and Senate Democratic Leader Harry Reid, along with Bishop Thomas Hoyt of the Christian Methodist Episcopal Church and President of the National Council of Churches, and Reverend Stephen John Thurston, President of the National Baptist Convention of America, Inc. will hold a brief media availability. Location: S-207, U.S. Capitol.

WINDFALL HEATING FUEL PRICES _ 11 a.m. Sens. Byron Dorgan, D-N.D., and Chris Dodd, D-Conn., hold a press conference to discuss projected record winter heating fuel costs and legislation (The Windfall Profits Rebate Act of 2005 -- S. 1631) they are advancing to provide consumer relief in the form of consumer rebates. Location: Senate Radio-TV Gallery.

ENVIRONMENTAL ATTITUDES _ 12 p.m. Environmental leaders announce the formal launch of Duke University's Nicholas Institute for Environmental Policy Solutions at a press conference, with William Reilly, former EPA administrator and chair of the Institute's Advisory Board; Sens. John McCain and Joe Lieberman; and pollsters Peter Hart and Bill McInturff. Location: Room 406, Dirksen Senate Office Building.

PROPERTY RIGHTS _ 12:30 p.m.Sen. John Cornyn, R-Texas, joins Suette Kelo, lead plaintiff in Kelo v. New London property rights case, others, for a media availability. Location: Room 226, Dirksen Building.

RELIGIOUS-ROBERTS _ 12:30 p.m. Faith and religious leaders from across the country will formally announce their opposition to the confirmation of Judge John Roberts as Chief Justice of the United States. Location: Room 512, Hart Senate Building.

DEMOCRATIC WHIP _ 1:30 p.m. House Democratic Whip Steny Hoyer holds his regular pen and pad briefing. Location: Capitol, H-306.

ENVIRONMENTAL POLICY _ 2 p.m. - 3:30 p.m. The Georgetown Environmental Law and Policy Institute holds a panel discussion on ``The National Environmental Act Under Siege." Panelists include, Robert Dreher, deputy director of the Georgetown Environmental Law and Policy Institute; Johanna Polsenberg, senior legislative assistant to Rep. Tom Udall; Vince Sampson, deputy chief counsel for the House Resources Committee; and Gary Bass, director of OMB Watch. Location: Georgetown University Law Center, McDonough Hall, Room 201, 600 New Jersey Ave. NW.

KATRINA-LONG ISLAND _ 2 p.m. - 3:30 p.m. In the wake of Hurricane Katrina, Nassau County Executive Tom Suozzi and Suffolk County Executive Steve Levy will be meeting with the Long Island Congressional Delegation in Washington, D.C. to brief the delegation on their emergency-response plans for Long Island, and to outline the assistance they need from the Federal government. A press availability will follow at the conclusion of the meeting. Location: Room 2243, Rayburn House Office Building.

VOTING _ 2:15 p.m. Senators Dodd, Obama, and Rep. Lewis news conference on the Help AmericaVote Act. Location: Senate Radio-TV Gallery Studio.

DEMOCRATS-KATRINA-FRAUD _ 3 p.m. House Democratic Leader Nancy Pelosi and Congressman Henry Waxman hold a news conference tomorrow to announce the introduction of legislation to create an anti-fraud commission to prevent fraud and abuse in the recovery and rebuilding effort in the Gulf Coast region. Location: House Radio/TV Gallery.

CHAMBLISS-ROBERTS _ 3:30 p.m. Senator Chambliss meets with Judge John Roberts. Photo-op at top of meeting. Media availability with Sen. Chambliss only following meeting. Location: Room SR-416, Russell.

IMMIGRATION REFORM _ 4:30 p.m. Leaders from the immigration communities, labor, business, and religious organizations kick off a series of rallies and town hall meetings in support of the Secure America and Orderly Immigration Act of 2005 (S. 1033/H.R. 4330) this fall. The first rally will be held today, with over 500 people expected to attend. Speakers include Reps. Jeff Flake, R-Ariz.; Luis Gutierrez, D-Ill.; Jim Kolbe, R-Ariz.; Janice Schakowsksy, D-Ill.; Karen Narasaki, executive director, NAPALC; Arturo Rodriguez, president, UFW; others. Location: Foundry United Methodist Church, 1500 16th St. NW.

PRO IMMIGRATION _ 4:30 p.m. Sen. John McCain joins Reps. Jeff Flake, Luis Gutierrez, other pro immigration rights figures, for rally calling for immigration reform. Location: Foundry United Methodist Church, 1500 16th St. NW.

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PRESS ACCESS-PUBLIC EVENTS _ 4 p.m. A panel of lawyers and professors discuss press access and changing news coverage after New York Times reporter Judith Miller was jailed for refusing to reveal her source. Panelists include, Ronald Karp, who represented Montgomery Police Chief Charles Moose in his First Amendment fight to publish a book; David Bartlett, past president of the Radio and Television News Director's Association; Ford Rowan, former NBC News correspondent; and others. Location: Washington College of Law, Room 603, 4801 Massachusetts Ave. NW.

USTR PORTMAN-KEYNOTE _ 6 p.m. United States Trade Representative Robert Portman makes the keynote address at the Coalition of Service Industries annual Gala Dinner. In addition Rep. Gregory Meeks, D-N.Y., and Rep. Pete Sessions, R-Texas, are honored for their roles in promoting U.S. trade interests. Economists Barry Bosworth and Jack Triplett will also be recognized for their work in helping to better understand the role of services in the U.S. economy. Location: St. Regis Hotel, 16th and K Streets, NW.

JESSE HELMS TRIBUTE _ 6:30 p.m. National conservative leaders mark the publication of the newly released memoirs of former Sen. Jesse Helms at a dinner event hosted by Sen. Elizabeth Dole, R-N.C., and Sen. Richard Burr, R-N.C. Speakers include Bob Novak, Phyllis Schlafly, Beverly LaHaye, Paul Weyrich, David Keane, Ambassador Jeane Kirkpatrick, Rev. Jerry Falwell, and Reed Larson. Location: Crystal Marriott Gateway, 1700 Jefferson Davis Highway, Arlington, Va.

TIPPER GORE-AWARD _ 6:30 p.m. The Sewall-Belmont House and Museum honors Tipper Gore with the Alice Award at its gala awards dinner and reception in recognition of her commitment to mental health issues, education and the plight of the homeless. Joining the celebration are Karenna Gore Schiff, author and activist; Sen. Patty Murray; Sen. Debbie Stabenow; Rep. Lincoln Davis; musician Herbie Hancock; others. Location: Sewall-Belmont House & Museum, Capitol Hill.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"N. Korea Sets Condition On Nuclear Pact."
"Telling You What You Like."
"High-Tech Systems Feed Change In Parking Meters."
"New Orleans Mayor Tells Residents To Pack Up Again."
"Storm Strains Bush's Ties To Black Clergy."
"Back To Moon Via 'Apollo On Steroids.'"

USA Today:

"Guard Relief Hurt By Obsolete Equipment."
"Is Pakistan Doing Its Part In The War On Terrorism?"
"City Clears Out Again."
"President Sinking In Ratings."

New York Times:

"Mayor Suspends Flow Of People To New Orleans."
"U.S.-Korean Deal On Arms Leaves Key Points Open."
"Ex-Tyco Officers Get 8 To 25 Years."
"Ex-White House Aide Charged In Corruption Case."
"NASA Planning Return To Moon Within 13 Years."
"Many Women At Elite Colleges Set Career Path To Motherhood."

Washington Post:

"Storm Threat Halts Returns To New Orleans."
"British Smash Into Iraqi Jail To Free 2 Detained Soldiers."
"N. Korea, U.S. Gave Ground To Make Deal."
"Immigration Nominee's Credentials Questioned."
"New Antipsychotic Drugs Criticized."
"Bush Official Arrested In Corruption Probe."

Washington Times:

"North Korea Hedges On Nuclear Deal."
"New Storm Halts Reopening Of Big Easy."
"Local Heating Costs To Jump."
"Colombian Violence Spills Over."
"In Clarksburg, They Made The Lots Too Small."

Detroit Free Press:

"Newborn Donors Give Gift Of Life."
"My Identity Was Stolen; Yours Could Be Next."
"Family Ties Draw Evacuees North."
"Michigan's $500,000 Pioneers."

Atlanta Journal-Constitution:

"Guilty."
"Suit Slams Voter ID Law."
"It's The Neighborly Thing."
"Mogul Chips In $10 Million For Cobb Arts Center."

Story Lineup From Last Night's Network News:

ABC: Tropical Storm Rita; New Orleans-Storm Dangers; North Korea-Nuclear Deal; Iraq-US Guards Killed; Afghan Election; Zawahiri Tape; Oil Prices; Tyco Execs Sentenced; NASA-New Moon Mission; Schools-Allergies.

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CBS: Tropical Storm Rita; Katrina-Death Toll; New Orleans-Storm Dangers; McCain-Katrina Costs; North Korea-Nuclear Deal; Iraq-British Commandos Jailed; Iraq-Tal Afar; Katrina-Missing Children; Oil Prices; Gas Prices; Katrina-Coast Guard; NASA-New Moon Mission; Tyco Exec Sentenced; Katrina-Students, Teachers.
NBC: Hurricane Rita; Rita-Florida Keys; Oil Prices; New Orleans-Storm Dangers; Bush-Katrina Cost; Americans-Katrina Cost; Katrina-Evacuee Family; North Korea-Nuclear Deal; Tyco Exec Sentenced; Katrina-Displaced Dolphins; Katrina Evacuees-Barber; NJ-New Orleans Saints.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Tropical Storm Rita; Oil Prices; CA-Beatty Gubernatorial Bid; North Korea Nukes.
CBS: Tropical Storm Rita; New Orleans-Repopulation Suspended; North Korea Nukes; NASA-Moon Mission.
NPR: Tropical Storm Rita; Hurricane Katrina Death Toll; Red Cross-Atlanta Hurricane Relief Center; CA-Wal Mart Lawsuit; Wall Street; North Korea Nukes; FEC-Club For Growth Suit.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, SEPTEMBER 20, 2005 7:45 AM EDT

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TERRORISM NEWS:

Virginia Man Told Saudis He Planned Bush Assassination Plot. The Washington Post (9/20, A14, Markon) reports, "A Falls Church man charged with conspiring with al Qaeda to kill President Bush told Saudi interrogators that he dreamed up the plot on his own but that it never got past the 'idea stage,' prosecutors say in court documents unsealed yesterday. 'I wanted to be the brain, the planner of the assassination, Ahmed Omar Abu Ali is quoted as saying. He likened himself to Mohamed Atta…according to the court papers, which quote from an FBI report detailing Abu Ali's interrogation by Saudi security officials while he was detained in the kingdom in June 2003." The Post notes, "The court filings were unsealed the same day as a federal judge in the District dismissed a civil lawsuit that Abu Ali's parents filed against the U.S. government last year" to press for his release from Saudi custody.

The New York Times (9/20, Lichtblau) reports DOJ said Abu Ali "represents one of the most dangerous terrorist threats that America faces in the perilous world after September 11, 2001: an Al Qaeda operative born and raised in the United States, trained and committed to carry out deadly attacks on American soil." The Times notes, "The case is a crucial test of the ability of American prosecutors to bring a case that relies heavily on intelligence gathered by foreign officials under disputed conditions."

Maryland Man Charged With Aiding Terror Group. The Washington Post (9/20, B4, Markon, Schulte) reports, "Federal prosecutors in Alexandria unveiled terrorism charges against a Maryland man yesterday, alleging that Ali Asad Chandia helped a foreign terrorist group acquire an electronic autopilot system and video equipment for use on model airplanes." Chandia "is also accused of shipping 50,000 paint balls to the group, Lashkar-i-Taiba." The Post notes, "The charges against Chandia…are an outgrowth of the 'Virginia jihad network' case, in which nine Muslim men have been convicted over the past two years of training overseas for holy war against the United States." The AP (9/20) adds, "Mohammed Ajmal Khan of Coventry, England, who prosecutors said is a senior official in Lashkar-e-Taiba, an Islamic rebel group fighting for independence in the India-controlled portion of Kashmir, is also charged. Mr. Khan is in custody in England."

The New York Times (9/20, Lichtblau) notes Chandia's lawyer, Marvin Miller, "declined to discuss the specific accusations…because he had not yet reviewed the indictment in detail, but he said the charges were groundless and amounted to 'a great case of guilt by association.' Mr. Miller said that Mr. Chandia was held as a material witness for several weeks in 2003 in connection with the Virginia jihad case but that talks to secure his cooperation lapsed when the government refused to offer him immunity."

Al Arian Defense Attorneys Fighting US Plan To Introduce New Evidence. The Tampa Tribune (9/20, Fechter) reports that at the terror-supporting trial of Sami al Arian "defense attorneys are fighting government plans to recall two computer experts to introduce evidence from an Islamic Jihad Web site called Qudsway .com. Assistant U.S. Attorney Terry Zitek said the FBI experts discovered new information after testifying in June. The evidence shows Salah Abu Hassanein, the recipient of many money transfers from" al Arian codefendant defendant Hatim Fariz, "used the Web page to communicate with Fariz and others. Agents also have determined that the Web site is based in Tehran, Iran, a country that provides the Islamic Jihad with the bulk of its funding." Fariz lawyer Allison Guagliardo "argued that the evidence is coming too late for the defense to prepare adequately. Their computer expert estimates needing four to six weeks to analyze the new material."

More Details Revealed In Possible Tennessee Terrorism Plot. WCPO-TV Cincinnati (9/19, Barry) reports on its Web site from a story broadcast Monday, "There is new information on an Egyptian college student being held under suspicions of terrorism in Tennessee. As 9News first reported on Sunday, it was a tip from a Batavia business that led the feds to" Mahmoud Maawad, "who is illegally in the country. … 9News uncovered items that seem to point to a far more extensive interest in aviation than first thought. … Besides a flight jacket and flight equipment that Maawad purchased, 9News found other items on the receipts, including aviation maps of his home airport in Memphis, Tennessee and cassettes on listening to control tower communications."

WLWT-TV Cincinnati (9/19, Hamrick) reports on its Web site from a story broadcast Monday, Hamilton County, Ohio, homeland security director Michael Snowden "said it's time to beef up safety measures at stores that sell pilot equipment." Snowden "said Maawad's case reveals carelessness in a system meant to protect American flyers after 9/11." Snowden noted, "Unfortunately, it's not that difficult to obtain identification, insignia badges -- those are all easily obtained."

Judge Orders Jordanian Terror Suspect Deported On Immigration Charge. WDTN-TV

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Dayton (9/19) reports on its Web site, an immigration judge in Monroe, Mich., on Monday ordered Jordanian Mohammed Obeid "to leave the country after being investigated for possible connections to terrorism." Obeid "was engaged to a Piqua (Ohio) woman when the FBI raided their home last summer, taking Obeid into custody. An immigration judge had ordered him jailed on accusations of marriage fraud. He'd been married to, then divorced from two different American women before meeting the Piqua woman. Authorities claimed he was marrying women just to stay in the country. The FBI claimed he was visiting terrorist related web sites at the couple's Piqua apartment."

In New Al Zawahiri Video, Al Qaeda Takes Credit For London Attack. CNN's The Situation Room (9/19, Verjee) reported, "Osama bin Laden's top lieutenant, Ayman al Zawahiri, has appeared in a previously unseen videotape. It aired moments ago on the Arab news channel al-Jazeera. And al-Jazeera basically is reporting that al-Zawahiri plays down U.S. achievements in Afghanistan and he also claims responsibility for the London bombings." In the video, "al-Zawahiri appears to be being interviewed on this video and downplaying U.S. achievements in Afghanistan and claiming responsibility for the London bombing."

The AP (9/20, Michael) reports Al-Zawahri also "challenged the legitimacy of Afghanistan's parliamentary elections Sunday, saying they were held 'under the terror of the lords of war,' an apparent reference to the country's government. The election reference suggested the tape was made recently."

PATRIOT ACT:

DOJ Appealing Terror Probe Gag Order Ruling. The Wall Street Journal (9/20, A13, Squeo) reports, "Even as Congress moves to renew much of the 2001 Patriot Act, a federal judge in Connecticut has set up a clash over one of the antiterror law's most contentious provisions. The Justice Department moved to block and is appealing a recent decision by U.S. District Judge Janet Hall that strikes down the gag orders imposed on recipients of so-called National Security Letters as part of a terrorism probe." The Journal notes, "In its appeals-court filing, the Justice Department cited the harm in 'alerting the target of the investigation that his activities are subject to scrutiny, and allowing the target to hide, move his activities to another provider, provide misinformation to the government or otherwise frustrate the FBI's investigation.'"

WAR NEWS:

Afghan Election Officials Estimate Turnout Was About 50%. USA Today (9/20, Wiseman) reports, "Turned off by the candidates, intimidated by the threat of violence and assuming a been-there, done-that attitude toward what had been the novelty of voting, hundreds of thousands of Afghans…sat out Sunday's elections. Vote counting begins today. Final results are expected in early October because some ballots are being delivered from remote regions. When the count is completed, the turnout is expected to come in well below that of last year's presidential election, in which 70% of eligible voters cast ballots. Chief electoral officer Peter Erben said Monday that early results suggest 6 million Afghans voted, about 50% of registered voters and well below expectations.

Provincial Afghans Frustrated By Lack Of International Aid. The New York Times (9/20, Gall, Sengupta) reports, "With widespread frustration over the pace by which the central government in Kabul is distributing reconstruction aid to the provinces, diplomats and election observers said, the test of credibility for the new Parliament will be its ability to deliver on the peace dividend, from roads and bridges to law and order. Speaking to reporters on Monday, the United States ambassador, Ronald E. Neumann, acknowledged that citizens' expectations for internationally financed reconstruction projects were running high, for everything from public works to a functional justice system. … The chief of the United Nations Assistance Mission in Afghanistan, Jean Arnault, said that to maintain their credibility, the executive and legislative branches would have to answer to a public increasingly frustrated about the lack of visible improvements."

The Washington Times (9/20, Gentile) reports, "Early returns show a lower-than-expected voter turnout for the embattled nation's widely anticipated parliamentary elections, electoral officials said yesterday. … Terrorist attacks early Sunday might have hurt turnout, even though the day passed relatively peacefully. Several polling stations visited by The Washington Times in Kabul late Sunday were devoid of the long lines seen earlier in the day. U.N. and Afghan electoral officials, working together in the elections, reported that polling stations in other provinces were packed all day and even stayed open past the 4 p.m. cutoff time to get those in line to vote."

Pakistani Crackdown On Islamists Seen As Mostly Ineffectual. USA Today (9/20, Wiseman) reports on a raid of an all-girls madrassa in Islamabad "meant to be a dramatic example of Pakistan's commitment to cracking down on Islamic extremism and religious schools that promote it.

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But the July 19 raid turned into a debacle. Caught without their veils, the teenage girls screamed — and then rallied. Grabbing mops, brooms, stones and knives, they drove the commandos out. … No one was arrested, and police even missed a chance to nab one of the mosque's top clerics." According to USA Today, "So goes Pakistan's campaign against homegrown religious extremism: considerable drama, few results. President Pervez Musharraf has taken huge risks…to hunt down al-Qaeda fugitives. … But his government has been reluctant to go after its former allies: the Taliban in Afghanistan and groups that have fought a proxy war against Indian troops in disputed Kashmir. It also has been slow to crack down on madrassas that teach intolerance and glorify jihad, or holy war. As a result, Pakistan is still turning out young militants burning to kill and die for their extreme interpretations of Islam."

British Troops Attack Basra Police In Bid To Free Inmates. The New York Times (9/20, Tavernise) reports, "Two British soldiers working under cover were arrested Monday in the southern city of Basra and then freed as a British armored vehicle blasted through the wall of their jail after an angry crowd began rioting outside, an Interior Ministry official said. The official said that the soldiers were undercover officers dressed as Iraqis and that Iraqi police officers had arrested them after the men fired at a traffic police officer." A British military spokesman "confirmed that 'two U.K. military personnel' had been detained early on Monday 'in a shooting incident' and that troops had used an armored fighting vehicle 'to gain entry' to the police station to release them." He "said…the police inside the station had refused to obey orders from the Interior Ministry to release the men. The incident came a day after British forces in Basra arrested three members of the Mahdi Army."

The Washington Post (9/20, A1, Knickmeyer, Finer) reports, "An Iraqi official said a half-dozen armored vehicles had smashed into the jail, the Reuters news agency reported. The provincial governor, Mohammed Walli, told news agencies that the British assault was 'barbaric, savage and irresponsible.' … In London, authorities said the two commandos were released after negotiations. But the BBC quoted British defense officials as saying a wall was demolished when British forces went to 'collect' the men." The Post adds, "Iraqi police cars circulated downtown, calling through loudspeakers for the public to help stop British forces from releasing the two. … Witnesses said they saw Basra police exchanging fire with British forces."

British Action Incites Rioters In Basra. The Los Angeles Times (9/20, Daragahi) reports, "Violent street clashes erupted Monday between Shiite militia and British soldiers in the southern city of Basra, after British tanks stormed a local jail where two of their troops were being held. The daylong violence in Iraq's second-largest city raised troubling questions about the relationship between British forces in charge of security and their Iraqi counterparts, in what once was considered a relatively safe area of the country. … Two Iraqis were reportedly killed in the clashes, and several British soldiers were wounded. Television images of the street fighting showed Iraqis firebombing a tank, and a British soldier emerging with his uniform in flames."

NYTimes Employee Killed In Basra. The New York Times (9/20, Worth) reports Fakher Haider, "an Iraqi journalist and photographer working for The New York Times in Basra was found dead early Monday after being abducted from his home by a group of armed men wearing masks and claiming to be police officers, relatives and witnesses said." Haider "had worked for The Times since April 2003 and had recently reported on the growing friction and violence among Basra's rival Shiite militias, which are widely believed to have infiltrated the police. He did part-time for work for other news organizations, including Merbad TV, a local Basra station, and for publications including The Guardian of London and National Geographic. But his principal affiliation was with The Times." The Times notes, "Haider is the second journalist to be killed in Basra in the past two months. In August, Steven Vincent, an American freelance reporter who was writing a book about the city, was abducted along with his Iraqi interpreter, and he was later found dead."

Lynndie England To Fight Abu Ghraib Abuse Charges. The AP (9/20, Badger) reports, "Army Pfc. Lynndie England will abandon her earlier courtroom strategy and fight charges that she was a key participant in detainee abuse by guards at Iraq's Abu Ghraib prison, her lawyer said." England "was to go on trial Tuesday at Fort Hood, Texas, on seven counts of mistreating prisoners. She will be the last of a group of junior enlisted soldiers charged with Abu Ghraib abuses to have their cases resolved. Two have been convicted at trial, while six others made plea deals and received prison sentences of up to eight years."

Bush Urged To Take Responsibility For Iraq War Mistakes. In an op-ed for the New York Times (9/20) Nathaniel Fick, former Marine captain who led infantry platoons in Afghanistan and Iraq, writes, "President Bush's speech last week accepting responsibility for the federal government's slow response to Hurricane Katrina was commendable, if overdue. … Consider the positive effects that would follow a similar presidential assumption of responsibility for American missteps in Iraq. By declaring that the buck stops at his desk, President Bush could begin a top-down rethinking of our military and political strategies since the 2003 invasion. He would also establish a standard of

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personal accountability for everyone in the chain of command, much as his statement last week prompted Gov. Kathleen Blanco of Louisiana to follow suit. And it just might galvanize enough bipartisan support to break the ideological gridlock that has limited changes in Iraq policy to marginal tweaks rather than a full reassessment."

National Guard Said To Lack Adequate Communications Systems. USA Today (9/20, Moniz) reports, "Hurricane Katrina exposed serious weaknesses in the National Guard's communications systems, particularly a shortage of high-tech radios and satellite communications gear, the Guard's top general said Monday. If it's going to protect the USA while also fighting overseas, the Guard needs better equipment, Lt. Gen. Steven Blum, head of the National Guard Bureau, said in an interview with USA TODAY. … Much of the Guard's best communications equipment was being used by troops fighting in Iraq and wasn't available for units helping Gulf Coast states recover from the hurricane, Blum said."

Army Halts Plan To Borrow Funds Dedicated For Improving Armor In Iraq. The Wall Street Journal (9/20, A4, Rogers) reports, "The Pentagon reversed a plan to ease the Army's year-end cash crunch by borrowing from funds dedicated to buying better armored vehicles for troops in Iraq. The $300 million-plus transfer had met strong behind-the-scenes opposition in Congress over the past week. The skirmish underscores the budget pressure on the military, given the tempo of operations in the war, rising fuel costs and competing priorities like the Hurricane Katrina recovery. … 'They're desperate. They're under tremendous pressure,' said Rep. John Murtha (D., Pa.) a Marine veteran and senior member of the House Appropriations Committee, who had a heated telephone conversation last week with Gen. Richard Cody, the Army's vice chief of staff, about the request."

CORPORATE SCANDALS:

Former Top Tyco Executives Sentenced. ABC World News Tonight (9/19, story 9, :25, Gibson) reported, "Two former top executives of Tyco International were sentenced today for their roles in one of the nation's major corporate scandals. Former CEO Dennis Koslowski and former finance chief Mark Swartz faced identical prison terms of 8 1/3 to 25 years, and a state judge ordered them to pay $422 million in fines and restitution."

The CBS Evening News (9/19, story 13, 0:30, Schieffer) reported, "Kozlowski, former CEO of Tyco, was convicted of stealing $150 million from the company to, among other things, throw lavish parties and furnish an apartment, including that infamous $6,000 shower curtain."

NBC Nightly News (9/19, story 9, 0:30, Williams) reported, "It was the extravagant spending, stealing, and lying to shareholders at Tyco that got former CEO Dennis Kozlowski in trouble."

The AP (9/20, Maull) reports, "L. Dennis Kozlowski, the former CEO of Tyco International, was sentenced Monday to eight and one-third years to 25 years in prison Monday for stealing hundreds of millions of dollars from the company." The AP continues, "His codefendant, former Tyco finance chief Mark Swartz, received the same sentence, which means they will be eligible for parole after eight years and four months. … The judge also ordered them to pay a total of $134 million in restitution. In addition, Kozlowski was fined $70 million and Swartz $35 million." The AP adds, "The sentences end a case that exposed the executives' extravagant lifestyle after pilfering some $600 million from the company including a $2 million toga birthday party for Kozlowski's wife on a Mediterranean island and an $18 million Manhattan apartment with a $6,000 shower curtain. … Kozlowski, 58, and Swartz, 44, were convicted in June after a four-month trial on 22 counts of grand larceny, falsifying business records, securities fraud and conspiracy. It was their second trial - the first ended in mistrial after a juror said she received threats following reports that she made an 'OK' signal to the defense team."

The New York Law Journal (9/20, Lin) reports, "In the course of their three-year-long prosecution, the two men, particularly Kozlowski, have become symbols of corporate greed and excess. But the judge put the case in straightforward terms in imposing sentence. … Despite many unusual characteristics and complications, he said, 'the heart of the case is basic larceny.'" The Journal adds, "First indicted in September 2002, the two executives were convicted in June on several counts of grand larceny, securities fraud, conspiracy and falsifying business records. The judge issued separate sentences on the other counts but said those would be served concurrently with the grand larceny sentence. … Justice Obus also ordered Kozlowski to pay $97 million in restitution to Tyco and $70 million in fines. Swartz was ordered to pay $37 million in restitution and $35 million in fines. … The restitution amounts were tied to the amounts of bonuses the two men were found to have stolen. The defense had maintained throughout the trial that the bonuses were legitimate and fully approved by Tyco's board of directors." The Journal notes, "Though tough, Obus' sentence was less than that requested by the prosecution. Assistant District Attorney Owen Heimer had asked the court to impose the maximum sentence of 15 to 30 years 'to send the signal that, here in the financial capital of the world, we will not tolerate theft ... no matter who you are.'"

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The Financial Times (9/20, Bowe) reports, "After sentencing, Mr Kozlowski, 58, and Mr Swartz, 45, were led from the courtroom in handcuffs. They immediately began their sentence of eight years and four months to 25 years in state prison, depending on the decisions of parole officials." The Times adds, "Before the sentencing, Mr Kozlowski asked the judge to be 'as lenient as possible', while Mr Swartz asked to be quickly returned to his family. … But Manhattan prosecutor Owen Heimer said the men had committed theft and fraud on an 'unprecedented and staggering scale', the largest ever in the state."

The New York Times (9/20, Sorkin) reports, "The sentencing follows a parade of other substantial terms imposed on former chief executives convicted of white-collar crimes, most notably Bernard J. Ebbers of WorldCom, who received a prison term of 25 years, and John J. Rigas of the cable operator Adelphia Communications, who was sentenced to 15 years. Those sentences - in federal courts - were seen as sending a message to deter huge corporate frauds in the future. … The Tyco sentencing may be the last high-profile corporate misconduct before the most prominent one of them all: the trial next year of Kenneth L. Lay and Jeffrey K. Skilling of Enron."

USA Today (9/20, Mccoy) reports, "The former executives were taken to the jail adjoining the courthouse for initial processing, said Thomas Antenen, a spokesman for the New York City Department of Correction. … The prison terms Obus imposed fell short of the 15-year-to-30 year maximum sought by prosecutors, but far higher than the one-year-to-three-year minimum sought by the defense. John Coffee, a securities law expert at Columbia University Law School, said the two would have fared worse in federal court. … 'They will serve far less time,' Coffee said, 'but it will probably be more painful time. There is no Club Fed in the New York State Correctional system.'"

The Washington Post (9/20, D1, White) reports, "Prosecutors and many shareholder groups say long sentences are necessary to deter future abuses and restore investor confidence. But some defense lawyers question the extent to which a few high-profile cases will deter bad behavior at smaller public companies that present less tempting targets for prosecutors. 'Officers and directors of major corporations, multinational corporations, clearly get the message,' said defense attorney Jacob S. Frenkel. 'The question is whether the message has been conveyed thoroughly to officers and directors at small and mid-size companies.'"

The Wall Street Journal (9/20, Maremont) reports, "Both defendants have said they will appeal. Mr. Kozlowski's lead attorney, Stephen Kaufman, said immediately after the sentencing hearing that he will be applying for bail for his client pending appeal. Charles Stillman, the lead attorney for Mr. Swartz, said he will be 'pursuing appropriate remedies for Mark's situation.' In New York, defendants can choose to bring bail applications before any judge, and often try to choose judges known for their leniency."

USA Today (9/20, McCoy) reports, "Before their convictions, former Tyco executives Dennis Kozlowski and Mark Swartz were known for reaping multimillion-dollar corporate salaries. .. Within weeks, they'll have to get used to earning $1.05 a day in a maximum-security state prison. … 'They will be assigned a job, and that's what they'll earn,' said Linda Foglia, a spokeswoman for the New York State Department of Correctional Services. … 'Every prisoner must work, in the laundry, in the kitchen or somewhere else.'" USA continues, "Lawyers for Kozlowski and Swartz hope to avoid that outcome for at least a while by seeking bail pending appeals of their clients' convictions. … They have a low chance of succeeding, because New York appeals courts generally 'are less willing to let individuals stay out,' said Ronald Blum, a former Manhattan prosecutor who is now a partner at the law firm Manatt Phelps & Phillips. … Unless defense lawyers prevail, the former executives would be transferred within 10 days from city custody — where they were to spend Monday night — to the state correction system. Foglia said Kozlowski and Swartz would likely first be sent to the Downstate Correctional Facility, roughly 60 miles north of New York City, for four to six weeks of processing and classification."

Editorials Praise Kozlowski, Swartz Sentences. An editorial in the Wall Street Journal (9/20) calls the sentences imposed on "Tyco felons Dennis Kozlowski and Mark Swartz," the conclusion of "one of the sorrier chapters in U.S. business history. And while it took a while -- the first Tyco trial ended in mistrial -- the outcome strikes us as just. Not because of their greed -- there's no law against lavish living yet -- but because of their crimes."

The New York Times (9/20) says the sentences are "no cause for celebration. Their lives ruined, they face hard jail time. But that does not change one fact: they deserve it and they should serve it. … The persistent myth that a robber in a suit and tie instead of jeans and a T-shirt deserves a prison with better amenities should be put to rest for good."

AIG Shaped Corporate Haven In "Risk Capital" Bermuda. The Wall Street Journal (9/20, Simpson, Francis) reports, "When insurance tycoon Cornelius Vander Starr came ashore (in Hamilton, Bermuda) just after World War II to set up the overseas operation of the company now known as American International Group Inc., this British colony 900 miles off South Carolina was a remote trading post primarily inhabited by descendants of colonists, slaves and shipwreck survivors. … Over the next half-century, AIG executives helped island officials shape a legal landscape that made Bermuda what it boasts is 'the risk capital of world.'

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Some of these laws and regulations have helped AIG in particular; others have favored insurers generally. Together they transformed the 21-square-mile island into the global center of the offshore-insurance industry, claiming more than $200 billion in assets." The Journal continues, "AIG has profited handsomely in its custom-built corporate haven. Now the question is whether the company, even after helping to create a business nirvana, crossed the line of legality to obscure its activities there." The Journal adds, "In May, New York Attorney General Eliot Spitzer sued AIG and its former chairman, Maurice R. 'Hank' Greenberg, alleging that for many years, the giant insurer improperly used affiliates in Bermuda to burnish its financial results -- either by hiding losses with the affiliates or claiming their gains as its own. In some instances, the suit alleges, AIG failed to disclose its relationships with Bermuda companies, as required by American law. … AIG is in preliminary settlement talks with Mr. Spitzer's office, people familiar with the situation said. Mr. Greenberg's lawyers have said that he has done nothing wrong and will fight the civil allegations. The most prominent figure in his industry, Mr. Greenberg, 80 years old, was forced out of AIG in March amid regulatory inquiries that go far beyond the company's activities in Bermuda. … Also at the center of the Bermuda storm is a Greenberg subordinate named L. Michael Murphy. A former lawyer for the Internal Revenue Service, Mr. Murphy used to reach his AIG office in Hamilton by rowing a small boat from his elegant home across the turquoise waters of a narrow harbor. Since the 1970s, he had helped write local laws and lobbied for Bermuda in Washington -- all to AIG's advantage. … But in March, the New York-based company fired Mr. Murphy for allegedly refusing to cooperate with AIG lawyers gathering information for investigators from New York and the Securities and Exchange Commission. In his suit, filed in a New York state court, Attorney General Spitzer says that Mr. Murphy tried to destroy evidence in Bermuda potentially relevant to a pending investigation of the company's accounting."

CRIMINAL LAW:

Former White House Official Arrested In Abramoff Probe. A former White House budget official was arrested yesterday as part of a Federal probe involving GOP lobbyist Jack Abramoff. The story received no coverage from the networks, but is being reported widely on print media, including front page stories in this morning's New York Times (9/20, A1, Shenon, Kornblut) and Washington Post (9/20, A1, Smith, Schmidt). The Times says David H. Safavian, former head of procurement policy at the Office of Management and Budget, resigned "abruptly last week." Yesterday he "was arrested…on charges of lying to investigators and obstructing a federal inquiry involving Jack Abramoff, the Republican lobbyist who has been under scrutiny by the Justice Department for more than a year." The arrest "was the first to result from the wide-ranging corruption investigation of Mr. Abramoff, once among the most powerful and best-paid lobbyists in Washington and a close friend of Representative Tom DeLay, the House majority leader."

The Washington Post (9/20, A1, Smith, Schmidt) notes that at OMB, Safavian "set purchasing policy for the entire government." Like Abramoff, adds the Post, "Safavian is a veteran Washington player. He is a former lobbying partner of anti-tax crusader Grover Norquist and previously worked with Abramoff at another firm. Both he and Abramoff have represented gambling clients and Indian tribes with gambling interests."

The AP (9/20, Sherman) says Safavian allegedly "concealed from federal investigators that Abramoff was seeking to do business with GSA when Safavian joined him on a golf trip to Scotland in 2002, according to an FBI affidavit and the officials." At the time, FBI agent Jeffrey A. Reising said in an affidavit, "a lobbyist -- identified separately as Abramoff -- had enlisted Safavian's help in trying to gain control of 40 acres of land at the Federal Research Center at White Oak in Silver Spring, Md., for a private high school that Abramoff helped establish and supported." Safavian "edited a letter the lobbyist was preparing to send to GSA, and arranged and attended a meeting involving a GSA official, the lobbyist's wife and others to discuss leasing the property, the affidavit said." Abramoff "told his wife to use her maiden name at the meeting because Safavian sought to play down Abramoff's involvement, the affidavit said, citing an e-mail from Abramoff." The Dallas Morning News (9/20, Mittelstadt, Hillman) adds that "while the 13-page affidavit refers only to 'Lobbyist A,' a government official, speaking on condition of anonymity, confirmed that Mr. Abramoff is the lobbyist."

The Hill (9/20) says "Safavian and Abramoff worked together at Preston, Gates and the two traveled with Rep. Bob Ney (R-Ohio) and others" on the golf trip to Scotland. The Los Angeles Times (9/20, Roche Jr., Neubauer) reports "Ney has said he had been told that the trip was paid for by the National Center for Public Policy Research. That group, however, has denied financing the junket to the famous St. Andrews golf course." According to the complaint, "'Indian tribal funds' paid for the trip."

Roll Call (9/20, Bresnahan) adds "Brian Walsh, a spokesman for Ney, said the Ohio Republican had no comment on Safavian's indictment other than to say that Ney himself has not been contacted himself by any of the handful of federal agencies or grand juries that are looking into Abramoff's business dealings." House Democrats "immediately pounced on this latest indictment as further

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evidence that Ney needs to be voted out of office in November 2006."

The Federal Times (9/20, Gosier) reports, "Safavian was arrested Monday, the Justice Department said in a release. Deputy OFPP Administrator Robert Burton is serving as interim administrator, said Alex Conant, a spokesman for the Office of Management and Budget, OFPP's parent agency."

Government Executive (9/20, Palmer) reports, "Clay Johnson, deputy director for management at OMB, convened a meeting Monday morning to inform agency employees of Safavian's arrest, according to a government source who asked to remain anonymous. Johnson told staff members to support Safavian's family, and cautioned them against responding to him should he attempt to contact them, the source said. … During his confirmation hearings for his position as OFPP chief, Safavian said he worked as a lobbyist and consultant for a variety of organizations, including the Embassy of Pakistan, Microsoft and several Native American groups. … Safavian also has strong ties to Capitol Hill. Before joining GSA, he served as chief of staff to Rep. Chris Cannon, R-Utah, and also has worked for former Michigan House members William Schuette and Robert Davis, both Republicans."

FBI Recruiting Agents For Porn Squad Detail. The Washington Post (9/20, A21, Gellman) reports, "The FBI is joining the Bush administration's War on Porn. And it's looking for a few good agents." The Post continues, "Early last month, the bureau's Washington Field Office began recruiting for a new anti-obscenity squad. Attached to the job posting was a July 29 Electronic Communication from FBI headquarters to all 56 field offices, describing the initiative as "one of the top priorities" of Attorney General Alberto R. Gonzales and, by extension, of 'the Director.' That would be FBI Director Robert S. Mueller III." The Post adds, "Mischievous commentary began propagating around the water coolers at 601 Fourth St. NW and its satellites, where the FBI's second-largest field office concentrates on national security, high-technology crimes and public corruption. … The new squad will divert eight agents, a supervisor and assorted support staff to gather evidence against 'manufacturers and purveyors' of pornography -- not the kind exploiting children, but the kind that depicts, and is marketed to, consenting adults. … 'I guess this means we've won the war on terror,' said one exasperated FBI agent, speaking on the condition of anonymity because poking fun at headquarters is not regarded as career-enhancing. 'We must not need any more resources for espionage.' … Among friends and trusted colleagues, an experienced national security analyst said, 'it's a running joke for us.'" The Post notes, "Public corruption, officially, is fourth on the FBI's priority list, after protecting the United States from terrorist attack, foreign espionage and cyber-based attacks. Just below those priorities are civil rights, organized crime, white-collar crime and 'significant violent crime.' The guidance from headquarters does not mention where pornography fits in. … 'The Department of Justice and the Federal Bureau of Investigation's top priority remains fighting the war on terrorism,' said Justice Department press secretary Brian Roehrkasse. 'However, it is not our sole priority. In fact, Congress has directed the department to focus on other priorities, such as obscenity.' … At the FBI's field office, spokeswoman Debra Weierman expressed disappointment that some of her colleagues find grist for humor in the new campaign. 'The adult obscenity squad . . . stems from an attorney general mandate, funded by Congress,' she said. 'The personnel assigned to this initiative take the responsibility of this assignment very seriously and are dedicated to the success of this program.'"

Gotti Jury Signals Possible Deadlock On Racketeering Charge. The AP (9/20, Hays) reports, "A federal jury deliberating the case of John A. 'Junior' Gotti, the scion of the Gambino crime family charged with attacking a radio show host, indicated Monday that it was deadlocked on a racketeering charge against the son of the late mob boss." The AP continues, "In a note to U.S. District Judge Shira Scheindlin on the seventh day of deliberations, jurors asked what they should do if they were deadlocked over the question of Gotti's so-called withdrawal defense. … Gotti, 41, claims he quit the Gambino organized crime family before July 22, 1999, meaning the five-year statute of limitations would have expired on racketeering charges." The AP adds, "The judge told lawyers she planned to read the jurors a charge that would encourage them to keep deliberating until they reached an unanimous verdict. … Prosecutors allege Gotti ordered his Gambino crew to give radio personality Curtis Sliwa a severe beating in retaliation for Sliwa's on-air rants against his father, John Gotti."

US Charges Three In Army Kickback Scheme. The AP (9/20, Sherman) reports, "A civilian Army employee and two business owners were arrested in a kickback scheme to supply furnishings at a new Pentagon-run hotel in the Bavarian Alps that is used by troops on leave from Afghanistan and Iraq, the Justice Department said Monday." The AP continues, "Steven G. Potoski, 45, former contracting director at the Edelweiss Lodge and Resort in Garmisch, Germany, accepted more than $350,000 in bribes in cash, home renovations, trips, computers and tickets to such events as Oktoberfest and the Indianapolis 500, assistant Attorney General Alice Fisher said. … Potoski, who lives in Garmisch, was arrested Friday, along with Alvan Vance McQueen, 56, of Shelbyville, Ind., and Ellis Abramson, 39, of Merrick, N.Y." The AP adds, "McQueen, owner of Flat Rock

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Furniture in Waldron, Ind., paid Potoski $45,000 in cash and other items as part of an agreement to inflate the cost of furniture for the hotel and split the extra money, according to a criminal complaint filed against McQueen in U.S. District Court in Indianapolis. … Abramson, president of Bramson House Inc., had a similar arrangement with Potoski for draperies and guest room bedspreads, according to a criminal complaint filed against Abramson in U.S. District Court in Brooklyn, N.Y. … If convicted, the three men face up to 35 years in prison."

Three Sentenced To Prison For New Jersey Corruption Convictions. The Trenton Times (9/20, Knapp) reports US District Judge Garrett E. Brown Jr. on Monday "sentenced former MCIA Executive Director James R. Lambert Sr., 44, and Washington Township businessman Alex J. Abdalla, 52, to five months in federal prison, five months of house arrest with electronic monitoring, three years of probation and $6,000 in fines each for their guilty pleas to charges of mail fraud and conspiring to bribe former Ewing Mayor Alfred W. Bridges to use his influence to steer a private demolition contract in the township. Hamilton businessman and contractor Michael Maurio, 69, was sentenced to 23 months in federal prison and three years of probation for his part in the conspiracy to defraud the MCIA by submitting false statements in connection with the performance of a demolition project contract in Trenton." The Times notes, "U.S. Attorney Christopher J. Christie yesterday praised local FBI agents, special agents of the Internal Revenue Service criminal investigation unit and Assistant U.S. Attorneys David Bocian and Jeffrey S. Chiesa for their work in the case while deploring the corruption of defendants in the probe."

Probe Of Allegations Prosecutor Interfered With FBI Probe Cost County $107,000. The Asbury Park Press (9/20, Rizzo) reports, "The Monmouth County Board of Freeholders spent $107,000 for lawyers to represent nine members of the Prosecutor's Office in a federal grand jury investigation that went nowhere, according to the county counsel. Malcolm V. Carton said Monday that he concluded…that the grand jury probe into whether the prosecutor's office interfered with an FBI bribery sting fizzled out in June. 'It went no place,' Carton said. 'There was no indictment, just a lot of threats.'" The APP notes, "Meanwhile, state Attorney General Peter C. Harvey is conducting his own investigation into whether former Prosecutor John Kaye's office interfered with the federal probe. John Hagerty, a spokesman for the state Division of Criminal Justice, said the report has been completed and determinations are being made."

Former, Current New Mexico Treasurers Plead Not Guilty To Kickback Charges. The AP (9/20, Fonseca) reports, "The New Mexico state treasurer and his predecessor pleaded not guilty Monday to federal racketeering charges involving kickbacks of cash, cars and expensive tickets to political fundraisers. Robert Vigil and former Treasurer Michael Montoya, both Democrats, are accused of steering state business to an investment adviser in exchange for nearly $700,000. … 'Mr. Vigil, from day one, has attempted to clean up this office, and that's what he has done,' said Vigil's attorney, Sam Bregman, who blamed the allegations on disgruntled former employees." The AP notes that "an FBI affidavit describes a wider scheme and says Vigil accepted an envelope stuffed with cash as recently as last month. … On Monday, Lt. Gov. Diane Denish urged Vigil to immediately take administrative leave while the case is pending."

The Washington Post (9/20, A2) also reports on the pleas in "Nation in Brief"

New York Mayor Accused Of Internet Sex Charge Released On Bond. The AP (9/20, Kates) reports, "Although a judge accused him of having 'deviant sexual urges,' Oswego Mayor John Gosek was released Monday with a set of conditions that include electronic monitoring, a curfew and other restrictions." Gosek "was arrested Friday at a Syracuse hotel on a charge that he used a cell phone to solicit sex from a minor." US Magistrate George Lowe "ordered Gosek to post $10,000 bond" and "prohibited Gosek from using cell phones and ordered him not to have contact with any minors. Gosek also must undergo counseling a condition Gosek requested, said his attorney James Eby."

Philadelphia Imam Sentenced To Prison For Corruption Probe Conviction. The Philadelphia Inquirer (9/20, Anastasia) reports, "Imam Shamsud-din Ali, convicted earlier this year of racketeering charges that were part of a broader City Hall corruption probe, was sentenced today to 87 months in prison. … Considered one of the most influential Muslim leaders in the city, Ali declined to make any comment during the hearing or as he emerged from the courthouse later in the day. He will remain free on bail pending an appeal." The AP (9/20, Loviglio) notes that Ali's was "the latest in a string of convictions stemming from the FBI's sweeping probe of municipal corruption."

The Philadelphia Daily News (9/20, Caparella) adds that Muslim response to Ali's sentencing was mixed, with one "disgusted Muslim, upset that Ali is out on bail" saying, "Ali 'has one more year to con people out here." But "Ali loyalist, Asim Abdul Rashid, head of the Majlis Ash'Shura" said, "It's a travesty. If there's any fairness, he will win on appeal."

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More Than 100 Gang Suspects Arrested By Florida Task Force. The Tampa Tribune (9/20, Morelli) reports, "A sustained assault on street gangs in northwest Hillsborough County by a task force made up of federal agents and county deputies resulted in the arrest of more than 100 suspected gang members and the seizure of nearly $1 million in property. They didn't get everyone, though. As Sheriff David Gee announced the results of the sweeping six-month investigation Monday afternoon, workers at Morgan Woods Elementary School scrubbed bright orange gang graffiti off the walls and sidewalks. Undaunted by the graffiti…Gee said the sweep was a big blow to the street gangs in northwest Hillsborough because many of those arrested were leaders." The Tribune notes, "The gang task force included Hillsborough sheriff's deputies, FBI agents and U.S. attorney's office investigators, as well as an undercover Pasco County sheriff's detective who infiltrated one gang."

Philadelphia FBI Agents Played Role In Art Theft Sting. The Philadelphia Daily News (9/20, Smith) reports, "It was a helluva heist -- and a helluva sting that recovered a stolen Rembrandt painting worth $36 million. But the FBI says we'll have to wait a couple weeks to learn exactly what role one of its Philadelphia-based agents may have played in the end to one of history's most sensational art thefts. … 'The Philly connection has to do with the sting,' local FBI spokeswoman Jerri Williams said yesterday, teasing an Oct. 4 press session when reporters will be able to get the whole story. 'Let's just say maybe somebody here was involved in it, and they can talk about it.' … 'The task force was able to introduce an FBI undercover agent with substantial knowledge of art to pose as the buyer/broker for the stolen Rembrandt,' the FBI's Los Angeles field office said. Federal investigators at Philly are known for expertise in stolen art and cultural artifacts. They hosted a new national FBI task force on stolen art this year."

Swedes Expect Suspects Will Be Extradited This Week. The AP (9/20, Olsen) reports that the four suspects "will soon be extradited to Sweden where they will be prosecuted, officials said Monday." The AP notes, "The arrests last week were the result of a multinational operation that included several U.S. law enforcement agencies, including the Immigration and Customs Enforcement and the U.S. Federal Bureau of Investigation. … In Sweden, Prosecutor Ronnie Jacobsson said he hoped the men would be handed over this week."

Tennessee Couple Plead Guilty To Bilking Elderly In Ponzi Scheme. The Knoxville News (9/20, Satterfield) reports, "A Morristown couple pleaded guilty Monday to bilking dozens of people, many of them elderly, in a multimillion-dollar Ponzi scheme." Gary Lee Von Oesen and Geneva Retha Houston "admitted their respective roles in a host of financial crimes spanning 1996 to 2003 at a hearing in U.S. District Court in Greeneville before federal Judge J. Ronnie Greer." The News notes, "Von Oesen and Houston were nabbed last year after a probe led by FBI Agent Lane P. Rushing into allegations including mail fraud, securities fraud and money laundering."

Texas Man Pleads Guilty To Attempted Extortion. The Tyler Morning Telegraph (9/20, Knaupp) reports Kirkpatrick Lenord Moore of Tyler "pleaded guilty in federal court Monday to attempting to extort $120,000 from a local woman." Moore "admitted to receiving proceeds of extortion on Dec. 29 after he had left several threatening notes and phone calls to the woman." The Morning Telegraph notes, "FBI officials said they believe the woman had information regarding a felony suspect wanted in Smith County. Moore threatened to inform the FBI of the woman's knowledge and to accuse her of committing an offense regarding the information, according to a FBI affidavit."

Rapper Lil' Kim Reports To Philadelphia Detention Center To Begin Perjury Sentence. The AP (9/19, Matheson) reports, "Rapper Lil' Kim began serving a 366-day prison sentence at a federal detention center Monday for perjury and conspiracy stemming from a 2001 shootout outside a Manhattan radio station." The AP continues, "The 30-year-old entertainer, whose real name is Kimberly Jones, was whisked into the center past a throng of media, fans and passers-by at about 4:45 p.m. … Earlier, she had issued a statement saying she had 'unfortunately' been assigned to the concrete, high-rise Philadelphia facility instead of to a prison camp 'as discussed,' and added, 'I am not certain that this constitutes fair and equal treatment.' … Her lawyer, L. Londell McMillan, said a celebrity of his client's magnitude could be in danger in such a detention center, which he said was mainly designed as a temporary holding facility for inmates awaiting permanent assignment to a prison."

Psychologist Says Hinckley Should Be Allowed Overnight Visits. Psychologist Paul Montalbano, chief of pretrial services at St. Elizabeth's Hospital, testified yesterday that John Hinckley Jr., who tried to kill President Ronald Reagan in 1981, should be allowed to visit his parents and stay overnight with them at their home in Williamsburg, Virginia. The Washington Times (9/20, Wagner) reports that Montalbano said Hinckley's "mental state has improved since he shot President Reagan," and that he now "abides by rules and regulations. His rehabilitation would be increased if he were allowed to walk through the vast community around his parents' home, which includes six golf courses, shopping

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centers, a school and historical sites, the hospital psychologist testified." The Washington Post (9/20, A10, Cauvin) adds that Montalbano also testified that Hinckley "is lonely and longing for a close relationship." Montalbano said, "He wants to have a girlfriend. He wants intimate contact with a female." The Post adds that the "underlying question" at yesterday's hearings "appeared to be how Hinckley would handle courtship and respond to rejection out in the world, away from the structure and support of a hospital."

Jury Selection Begins In Trial Of Former Illinois Governor. Jury selection began Monday in the trial of former Illinois Gov. George Ryan, who is charged with racketeering conspiracy, mail fraud, tax fraud and lying to investigators. Reuters (9/20, Stern) reports, "Ryan, 71, is charged with steering state contracts to friends in exchange for free gifts, vacations, cash and loans to himself and his family while governor and, before that, during eight years as Illinois' secretary of state.'

The New York Times (9/20, Wilgoren) says the trial "caps a seven-year federal investigation that has led to 79 indictments and 73 convictions and is known as Operation Safe Road because of its roots exposing a scheme in which government employees traded commercial driver's licenses for bribes. Mr. Ryan's co-defendant is Lawrence K. Warner, a longtime lobbyist and close confidant."

The AP (9/20, Robinson) reports, "Jury selection for former Gov. George Ryan's racketeering trial got off to a slow start Monday with questions from defense attorneys focusing on possible bias resulting from media coverage of the scandal that has dominated state politics for seven years. … 'Because he was governor this is a highly unusual case,' Ryan attorney Dan Webb told the court. 'We should not end up with a jury that has people on it with biases against George Ryan.'" The AP continues, "Webb urged federal Judge Rebecca R. Pallmeyer not to put time limits on the questioning and she said she would wait until noon Tuesday before doing so to see if the pace picks up. … But she said it was necessary to get going." The AP adds, "After one day of jury selection, 14 of some 300 potential jurors had been interviewed and eight were placed in a pool for later consideration. Eleven of the 300 were dismissed for reasons ranging from health problems to job conflicts to blatant bias against the former governor."

FBI New Orleans SAC Laments High Rate Of New Orleans Political Corruption. Asked on MSNBC's Hardball (9/19) about the Louisiana political corruption investigations, FBI New Orleans SAC Jim Bernazzani said, "As far from the FBI office, we have a tremendous working relationship with all government, whether it is state, federal or local, whether it is law enforcement or it's from the mayor's office or from the parish presidents. We have no problem with that. What we do have here, unfortunately, is a target-rich environment relative to select individuals who would abuse their office for personal profit. Within the FBI, New Orleans ranks 19th in size, but we are third in public corruption convictions. And the unintended consequence of public corruption is not only are they stealing from the people, but they are contributing to this violent crime landscape, in that companies from out of state will not invest in New Orleans, because they are sick and tired of the bribes and the kickbacks."

Police Say DC Dog Walker Killed in 'Face-To-Face' Encounter. The Washington Post (9/20, B3, Wilber, Henderson) reports police said yesterday that a man who was fatally shot while walking his dog in the Mount Pleasant section in Northwest Washington was killed in a "face-to-face" encounter with his assailant. The paper adds investigators said they had no motive or suspect in the slaying of Gregory C. Shipe, 34, a financial analyst for Ogilvy Public Relations. He was shot in the face about 10:40 p.m. Saturday in a crime that one top D.C. police official yesterday called "bizarre." Although none of Shipe's possessions, including his wallet, was missing, investigators speculated that he most likely was the victim of a botched robbery, authorities said. Police and neighbors said several robberies have taken place in the area recently. Police are offering a reward of up to $25,000 for information leading to the arrest and conviction of a suspect.

FBI Searches Missing VCU Student's Car. The Washington Times (9/20, Cella) reports that Richmond Police investigating the disappearance of a 17-year-old Virginia Commonwealth University freshman Taylor Marie Behl spent yesterday investigating leads they got from an examination of her car. Behl of Vienna, VA has been missing since Sept. 5. An off-duty police officer found Taylor's 1997 Ford Escort on Saturday in Richmond, about a mile and a half from her dorm. The Times adds Police said that there were Ohio license plates on the car and that the original Virginia tags were missing. Police said the car was turned over to the FBI for forensics processing. The Times said the Richmond Times-Dispatch reported yesterday that Taylor's scent was one of two that a police dog detected in the car and that the discovery is leading police to think that she might have been abducted.

CIVIL LAW:

DOJ Settles False Claims Charges Against Office Depot. Federal Computer Week (9/20, Hardy)

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reports, "Office Depot has paid a $4.75 million settlement to the United States over allegations that the company sold products to government agencies in violation of the Trade Agreements Act." FCW continues, "The Justice Department, in announcing the settlement today, said Office Depot sold products from China, Taiwan and other countries that do not have reciprocal trade agreements with the United States, in violation of a provision of the company's General Services Administration schedule contract. … 'Federal contractors will be held accountable for their billing practices,' said Peter Keisler, assistant attorney general at Justice's Civil Division, in a written statement. 'This settlement is an example of the department's determination to ensure that federal funds are protected from fraud and abuse.'"

Reuters (9/20) reports, "Earlier this year OfficeMax Inc. agreed to pay $9.8 million to settle similar allegations."

FEC Sues Club For Growth Over Campaign Finance Compliance. The Washington Post/AP (9/20, Theimer) reports, "Federal election officials on Monday sued a political group to try to force it to comply with campaign finance limits, the first lawsuit of its kind to arise from controversial big-money fundraising during the 2004 elections." The AP continues, "The Federal Election Commission filed a complaint in U.S. District Court in Washington against the Club for Growth. The pro-Republican group spent at least $21 million in the 2003-04 election cycle. … The FEC contends the Club spent enough in federal races to require it to file with the commission as a political committee and abide by contribution and spending limits. It wants the court to fine the group and to order it to comply with campaign finance rules." The AP adds, "Club for Growth President Pat Toomey called the FEC lawsuit 'a bizarre interpretation of the Club's mission, the Constitution, the laws adopted by Congress and their own regulations governing nonprofit organizations.' … 'The Club's principal purpose is to advocate for and defend pro-growth policies,' Toomey said in a written statement. 'We have consulted with counsel every step of the way and have followed the law and regulations that govern our work.'"

The New York Times (9/20, Justice) reports, "The suit is the first major enforcement case to involve a '527 committee,' the independent political organizations that both Republicans and Democrats used to raise and spend hundreds of millions of dollars in the 2004 races. Commission officials describe it as a test case that could have a major impact on how future elections are financed. … 'This is one of the most important suits the commission has brought in the last decade,' said Michael Toner, the commission's Republican vice chairman."

The Washington Times (9/20, Dinan) notes that Club for Growth President Patrick J. Toomey "said yesterday's suit was part of a 'war on the First Amendment.' He said the FEC's suit was the result of a complaint by the" DSCC "that said the Club for Growth stepped over the line when it targeted Senate Minority Leader Tom Daschle, South Dakota Democrat. 'The commission allowed it to lie inactive for nearly a year and a half and then resurrected it as a platform to seek to take away our members' rights and exact a huge civil penalty from the club,' Mr. Toomey said." The Times adds, "President Bush's campaign, key lawmakers who helped pass the 2002 changes and other political organizations sued the FEC last year for not enforcing its regulations on 527s. Those cases are pending in federal court."

New Georgia Law May Jeopardize Asbestos Cases. The Fulton County (GA) Daily Report (9/20, Pollak) reports, "Lawyers are gearing up for a constitutional challenge to a new state law that could remove nearly 3,000 asbestos cases from Fulton County dockets." The Report continues, "The law was designed to stem the tide of out-of-state asbestos claims being filed in Georgia, said its primary sponsor, Rep. David E. Ralston, R-Blue Ridge. … 'We were seeing a huge number of people that were nonresidents of Georgia and that had not been exposed to asbestos or silica in Georgia who were suing in Georgia courts,' said Ralston. 'That was a trend that was disturbing not only to me, but to others.'" The Report adds, "The vast majority of asbestos cases in Georgia have been filed in Fulton, with about 2,200 pending in state court before Judge Henry M. Newkirk and about 1,000 pending in superior court before Chief Judge Doris L. Downs, attorneys involved in the cases said. They estimated that out-of-state plaintiffs who were not exposed to asbestos in Georgia filed approximately 90 percent of those cases. … A lawyer defending the asbestos suits, E. Elaine Shofner of Hawkins & Parnell, noted that claims in Georgia courts have originated from Alabama, North Carolina, Wisconsin, Hawaii, Texas, Nebraska and Pennsylvania. … 'We became a dumping ground,' she said. … One plaintiffs' attorney, David P. Bevon of Motley Rice in Mount Pleasant, S.C., said out-of-state plaintiffs filed in Georgia because the law here was more favorable than in other states for injuries that occurred years or even decades ago. He also noted that some defendants, such as Georgia-Pacific, are based here."

Colorado AG Argues Against State Settlements With Tobacco Companies. Colorado State Treasurer Mark Hillman writes in the Wall Street Journal (9/20), "When politicians take campaign contributions from Big Tobacco, self-proclaimed watchdog groups yelp about impropriety. Yet for the past seven years, the industry has paid tens of billions of dollars to state governments to protect tobacco profits. Until recently, hardly anyone seemed to notice, much less care. Then, on Aug. 2, the non-profit Competitive Enterprise

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Institute filed a lawsuit arguing that the 1998 Master Settlement Agreement (MSA) between Big Tobacco and 46 state attorneys-general (AGs) violates the Constitution and establishes a cartel designed to circumvent antitrust law and quash competition. Hallelujah. I am a state treasurer and this suit could greatly reduce revenue to my state; and still I am enthusiastic. The billions generated by the settlement cloak the pernicious threat that activist AGs pose to the checks and balances on political power that govern our Constitutional system. Regulation and taxation policies are the rightful responsibility of the legislative and executive branches -- not the domain of states' chief law enforcement officers." Hillman adds, "The question facing the courts is not whether the MSA is good policy or whether tobacco companies are scoundrels. The larger issue is whether AGs can rightfully evolve into a law unto themselves, usurping the Constitutional roles of state legislators, governors, Congress and, ultimately, the voters themselves."

CIVIL RIGHTS:

Carter-Baker Panel Suggests 87 Election-Reform Changes. Reuters (9/20) reports, "Electronic voting machines should have paper trails to keep track of votes cast and all voters should present photo IDs, a panel recommending ways to restore confidence in the U.S. election system said on Monday. The bipartisan Commission on Federal Election Reform, led by former President Jimmy Carter and former Secretary of State James Baker, made 87 recommendations for strengthening the integrity of a process shaken by voting controversies." Reuters notes, "The call for paper verification of votes on electronic machines drew praise from election reform advocates, but the call for photo identification was criticized as an invasion of privacy and something that would discourage some voters. That recommendation would require all prospective voters by the year 2010 to produce a photo ID card at the polling place -- either a driver's license or, for those without driver's licenses, an identification card issued by the state. The commission called on states to make distribution of the card simple and widespread."

The Washington Times (9/20, DeBose) adds, "The standard of identification recommended by the" commission "is essentially the same as those established by the recently passed federal Real ID Act, which outlines strict rules and procedures for the issuance of driver's licenses by the states. 'The Real ID is a logical vehicle because the National Voter Registration Act established a connection between obtaining a driver's license and registering to vote,' said the report drafted by the commission. … 'The Real ID card adds two critical elements for voting -- proof of citizenship and verification by using the full Social Security number.'" Carter and Baker "yesterday defended the recommendations, saying photo-identification already is required to board airplanes, cash checks and enter federal buildings. But Commissioner Spencer Overton, a George Washington University election law professor, dissented. 'The recommendation will exclude millions of Americans, and the disproportionate numbers of citizens who will be excluded are people of color,' he said."

The Wall Street Journal (9/20, A18, Harwood) relates that Carter and Baker "presented President Bush with their recommendations, which also included information-sharing to prevent voters from registering in more than one state" and "use of mobile offices to ease registration. … They said White House support will be critical to moving some portions through the Republican-controlled Congress, and signaled it may come soon." The Journal adds, "Last night the White House released a statement from the president praising the commission's 'excellent work' and pledging to work with Congress on its recommendations."

Editorials Criticize Voter-ID Recommendation. The Washington Post (9/20, A22) editorializes, "The report released yesterday by" the Commission on Federal Election Reform "contains a number of valuable proposals. But adopting one of the commission's recommendations -- that voters be required to present a government-issued voter ID at the polls -- would, on balance, do more harm than good. … This may not sound particularly burdensome. … Yet 12 percent of the voting-age population does not have a driver's license, and those without identification tend disproportionately to be minorities, the elderly and the poor." And, "for those who don't already have identification, the hurdle of assembling the necessary documentation and obtaining the cards could prove a deterrent to voting." The Post adds that "election administrators agree that absentee ballots pose a bigger risk of fraud, and in that case the commission would guard against fraud by having election officials match a signature on file. … Allowing voters to show alternative forms of identification or to sign a sworn affidavit of eligibility could go a significant way toward deterring fraud without imposing the burden of an inflexible photo ID requirement."

The New York Times (9/20) editorializes that the "bombshell recommendation" requiring "voters to have drivers' licenses or a government-issued photo ID" wouldn't "be a great burden for people who have drivers' licenses, but it would be for those who don't, and they are disproportionately poor, elderly or members of minorities. These voters would have to get special photo ID's and keep them updated. If they didn't have the ID's, their right to vote would be taken away. The commission recommends that the cards be free. But election administration is notoriously underfinanced, and it is not hard to imagine that states would charge for them." The Times adds, "There is very little evidence of voters' claiming to be people they are not. … But

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the report goes on to say that even if there is just a small amount of fraud, it should be stopped. True, but if the solution risks disenfranchising hundreds of thousands, or even millions, of voters, it is a very bad reform."

Suit Challenges Georgia's Voter ID Law. The Atlanta Journal-Constitution (9/20, Campos, Salzer) reports, "Voting and civil rights groups launched a legal assault Monday on the state's requirement that Georgians show a government-issued photo ID at the polls — a law they call the most restrictive of its kind in the country." The AJC continues, "A federal lawsuit filed on behalf of two African-American voters, the American Civil Liberties Union, NAACP, League of Women Voters, black legislators and others calls the new law a 'poll tax' that will rob black, elderly and rural people of their right to vote. … Supporters of the new law condemned the suit, arguing that the law will eliminate the likelihood of fraud at the polls. House Speaker Glenn Richardson (R-Hiram) called it a 'ludicrous lawsuit.' … 'This lawsuit is nothing more than liberal special interests using unconscionable scare tactics to frighten Georgia voters,' Richardson said." The AJC adds, "While long expected, the suit raises the stakes of a debate that has raged since last winter's session of the Legislature. The suit won't affect today's special elections in Cobb County and elsewhere, but opponents hope a judge throws out the law before elections being held in November in many Georgia cities."

The AP (9/19, Pettys) reports, "The suit was filed the same day a commission co-chaired by former President Carter, a Georgia native, recommended a national requirement that voters show photo IDs. … Opponents of photo IDs for voters say such requirements would disenfranchise minorities and the poor; backers say they're a good way to combat voter fraud. … 'Photographic identification as a requirement for voting is antidemocratic and prevents people from exercising their fundamental right to vote whether proposed by the General Assembly of the state of Georgia or the Carter-Baker commission,' said Daniel Levitas of the American Civil Liberties Union's voting rights project." The AP adds, "Plaintiffs in the suit — including Common Cause, the League of Women Voters, the Georgia Legislative Black Caucus and the National Association for the Advancement of Colored People — contend the law violates the state and federal constitutions. … The law eliminates formerly accepted forms of voter identification, such as Social Security cards, birth certificates or utility bills."

DOJ's Florida Voting Rights Suit Divides Hispanics. The Orlando Sentinel (9/20, Sashin) reports, "The federal voting-rights lawsuit against Osceola County has become a wedge in the Hispanic community, dividing activists and candidates over the best way to gain political power." The Sentinel continues, "Some supporters of the suit, who filed a similar challenge against the city of Kissimmee, contend that single-member districts would give Hispanics a better shot at representation. … Other Hispanics say there's nothing keeping the right candidate from winning under the current at-large system, in which commissioners are elected by all the voters. Often, they say, Hispanic candidates undercut each other's campaigns, fail to get other Hispanics to vote or convey the wrong message. … 'Saying we should get this because we're Hispanic is not the answer. . . . There's a lot of people who are sick of it,' said Hector Lizasuain, a board member of several community organizations, including Give Kids Safe Shelter." The Sentinel adds, "The Justice Department filed suit against the county in July, alleging Osceola's practice of electing commissioners countywide discriminates against Hispanics because it dilutes their voting strength. The county's Hispanic population has tripled during the past decade. Although they make up 31 percent of registered voters, only one Hispanic has been elected as a county commissioner. … The federal government has suggested that Osceola could create five commission districts, with one made up of mostly Hispanic voters. … Armando Ramirez, who originally complained to the Justice Department and spearheaded the Kissimmee suit, and other activists say a single-member district system is the only way for a minority candidate with little money to get elected."

Disabled Groups Protest Congressional Spending Cuts. Roll Call (9/20, Hechinger) reports, "More than 500 disability-rights protesters from across the country, most in wheelchairs, descended on Congressional offices today to call for expanded patient rights under Medicaid and to express frustration with some Members' calls for deep cuts to social programs. Despite numerous arrests and a heavy Capitol Police presence, the protesters plan to stay on Capitol Hill throughout the week. … Most of those arrested were being held in Room 2128 in the Rayburn House Office Building to be processed, but arrests also were made in the Hart Senate and Cannon House office buildings. No official comment on the number of arrests is yet available." Roll Call notes, "In addition to general calls for enhancing disability rights, the protesters urged Members of Congress to sponsor and pass the Medicaid Community-Based Attendant Services and Supports Act, as well as the Money Follows the Person Act, both of which were proposed by ADAPT, the disability-rights organization leading Monday's protest and fight on the Hill. … 'We've tried being nice,' said Linda Anthony, an ADAPT spokeswoman. 'We've written Congressmen, we've phoned them, we've come to their offices to try to talk, but nothing works. We're done playing nice. We'd rather go to jail then go back to the nursing homes.'"

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Senate Debate On Flag Burning Could Affect 2006 Races. A flag burning amendment is likely to make it to the Senate floor before next year's elections, The Hill (9/20, Cusack, Lanham) reports. Republicans "will use the proposed amendment to the Constitution as political ammunition in 2006. Several targeted Democrats in the upper chamber oppose changing the Constitution to prohibit flag burning, including Sens. Jeff Bingaman (N.M.), Maria Cantwell (Wash.), Kent Conrad (N.D.) and Robert Byrd (W.Va.)." The Hill adds, "The fate of a pending flag-burning amendment lies in the hands of a few senators. Because Sen. Orrin Hatch's (R-Utah) amendment would alter the Constitution, it needs 67 votes, two-thirds of the Senate, to pass. Including Hatch, the amendment has 58 co-sponsors. Based on previous votes, the measure has the likely support of 63 senators — if senators vote the way they have previously."

ANTITRUST:

Ohio, Wisconsin Plan Minimum-Service Real State Laws. Inman News (9/20, Roberts) reports, "Realtor associations in Wisconsin and Ohio are pushing for laws that establish new service requirements for real estate professionals while making room for real estate companies that offer a lesser range of services for lower fees." Inman continues, "In several other states, Realtor-backed efforts to establish a mandatory range of services for all real estate professionals – effectively banning some limited forms of real estate services – have drawn sharp criticism from antitrust officials at the U.S. Justice Department and Federal Trade Commission. … But the Realtor groups in Wisconsin and Ohio say their proposals recognize and provide some protections for real estate business models that offer fewer services than traditional firms. In both of these states, Realtor associations formed task forces to study the law changes, with representation from limited-service real estate companies." Inman adds, "The Association of Real Estate License Law Officials, a group for real estate regulators, conducted a study that found that Alabama, Illinois, Iowa, Missouri, Oklahoma, Texas and Utah have enacted some form of minimum-service legislation within the past couple of years. And other states, too, have earlier approved or are now pursuing minimum-service measures. … Federal officials opposed the Realtor-backed measures in Alabama, Missouri, Oklahoma and Texas, charging that the legislation was anticompetitive and anti-consumer. But legislators and governors in all four states passed the measures despite these objections."

MasterCard To Issue No-Touch Cards. Reuters (9/19, Kelleher) reports, "A top executive with Mastercard Inc. said on Monday the company, the world's No. 2 credit-card association, expected to have 4 million so-called 'pay pass' cards in circulation by year's end." Reuters continues, "Speaking at an industry conference here, Ruth Ann Marshall, Americas president for MasterCard, said that Citibank, HSBC and Key Bank had all begun offering the cards, which are equipped with a radio-frequency chip that allows customers to pay for purchases by simply waving their cards at readers posted near cash registers or gas pumps. … Marshall said the pay-pass cards were 'easier to use than cash' and were one of the products MasterCard was counting on to increase revenue and profits as it faces a variety of challenges in the marketplace, including new rivals and regulatory scrutiny. … 'It's just one of the ... breakthroughs in technology that we're pursuing in order to increase convenience and boost usage,' Marshall said." Reuters adds, "MasterCard, owned by more than 1,000 banks, formally revealed its plans last week to go public early next year in an initial public offering. … In addition, to raising money to bolster its balance sheet, MasterCard said it believed the IPO would help quell criticism from merchants and others, who charge that its current structure -- which foes characterize as a cartel of competing banks setting transaction fees in concert -- represents a violation of U.S. antitrust laws."

Verizon, Source Resources Settle Records Dispute. The Washington Post (9/20, D5, Krim) reports that Source Resources Inc. of Cookeville, TN has reached an agreement with Verizon to stop selling personal cell phone records of individuals over the Internet and will provide information on how it acquired the data. The paper says the firm "was among dozens of companies advertising that for fees starting under $100, they would provide records of calls placed to and from any phone user." The Post adds, "Although phone records cannot lead to the type of financial fraud that can result when other types of personal data are stolen, experts said they can be exploited by criminals, such as stalkers or abusive spouses trying to locate their victims. Wireless carriers say cases of purloined records are rare and that they take measures to safeguard the information. But the Electronic Privacy Information Center, a leading privacy rights group, last month urged the Federal Communications Commission to crack down on carriers for having inadequate security." The paper notes Verizon Wireless sued Source Resources in July, after a Verizon Wireless customer complained that his records had been obtained from Source Resources without his permission.

Regulators Near Approval Of Industry-Altering Phone Deals. The Wall Street Journal (9/20, Schatz,

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Wilke) reports that federal regulators "are nearing approval of two deals that would reshape the telephone industry and are in negotiations over likely divestitures and other conditions intended to preserve competition, especially in the huge market for corporate customers." The Journal adds, "Federal Communications Commission Chairman Kevin Martin is pressing the FCC staff to deliver as early as tomorrow recommendations to approve Verizon Communications Inc.'s $8.5 billion purchase of MCI Inc. and SBC Communications Inc.'s $16 billion takeover of AT&T Corp., people familiar with the situation say. FCC votes on the deals could come as early as the agency's Oct. 12 meeting." The paper continues, "At the same time, Justice Department investigators have concluded that the merging companies must sell some assets, moves they believe are needed to preserve competition for high-volume business customers, said lawyers close to the government review. Antitrust enforcers are negotiating with SBC and Verizon on the scope of those divestitures, these people said. That is a concern for SBC and Verizon, since a major goal of their acquisitions was to acquire lucrative corporate customers in order to sell more packages of telecom services. As a result of both the FCC and Justice Department reviews, regulators are concerned that consolidation will make it more difficult for business customers to get discounts on telecom services."

File-Sharing Firms Seek Deal With Recording Industry. The New York Times (9/20, Hansell) reports, "At least five online file-sharing companies have started trying to reach an accord with the music industry to convert the free trading of copyrighted music on their networks to paid services, according to several recording industry and file-sharing executives. The most advanced discussions are between the recording industry and Grokster, a small California company that has been sued by the entertainment industry, recording industry executives said." The Times adds, "Grokster has agreed in principle to be acquired by Mashboxx, a new company backed by Sony that is trying to start a legal file-sharing service, a person involved in the negotiations said. Mashboxx has made overtures to some file-sharing companies including eDonkey, Morpheus and LimeWire, but negotiations are not active, the person said." The paper continues, "Separately, iMesh, a file-sharing service that last year reached an accord with the music industry to convert to a legal paid service, has made overtures to acquire a number of the other file-sharing services, on the condition that they settle their claims with the recording industry, said Robert E. Summer, the executive chairman of iMesh."

Financier Ross Eyes Auto Parts Manufacturers. The Wall Street Journal (9/20, McCracken) reports, "Billionaire Wilbur L. Ross, the New York-based financier who in recent years merged five faltering steel companies to create a steelmaker he later sold for a huge profit, says he has as much as $4.5 billion in capital to bank on his next venture -- buying up troubled auto-parts makers, possibly including unprofitable operations Visteon Corp. is about to jettison. Mr. Ross's investment group and other funds he is working have already snapped up half the bank debt of automotive supplier Collins & Aikman Corp., which is under Chapter 11 bankruptcy-court protection, and stakes in smaller suppliers in Europe and Asia. Another potential target he could be interested in includes the 23 plants and other facilities that Visteon is about to transfer back to former parent Ford Motor Co." The Journal adds Visteon and Ford last week announced an agreement under which Ford will take over 17 Visteon plants, plus six offices, research centers and other facilities in the US and Mexico on Oct. 1. The assets, with combined annual sales of more than $7 billion, by themselves would make up the world's 17th largest auto supplier by sales. Ford, which will have to spend between $450 million and $650 million this year and $300 million to $500 million after that for buyouts of hourly workers, has said it hopes to sell the businesses to investors or new owners.

StarPoint To Acquire Acclaim In Energy Deal. The Wall Street Journal (9/20, Carlisle) reports, "StarPoint Energy Trust said it agreed to acquire Acclaim Energy Trust in a stock transaction, in an attempt to create one of the biggest entities in Canada's increasingly crowded energy-trust sector, with the financial clout to pursue larger acquisitions. Under the agreement, StarPoint unitholders would get 53% of the new trust, receiving one unit for each StarPoint unit held. Acclaim unitholders would receive 0.8333 of a new-trust unit for each Acclaim unit held. StarPoint and Acclaim unitholders also would receive shares in a company exploring for oil and natural gas, to be spun off from the combined entity's assets. Based on StarPoint's closing share price, Acclaim shareholders would receive equity valued at about $1.93 billion." The paper adds, "At a news conference, Acclaim President and Chief Executive J. Paul Charron, who has been named to the same post at the combined trust, said he expects the increase in size to give the trust a competitive edge in pursuing acquisitions in a heated international market for oil and natural-gas assets."

Norsk Hydro To Buy Spinnaker. The Wall Street Journal (9/20, Talley) reports that Norway's Norsk Hydro ASA said it will acquire Spinnaker Exploration Co., of the US, for $2.45 billion "substantially accelerating the Norwegian company's international production growth and making the Gulf of Mexico a future core production area." The paper adds, "Both Norsk Hydro and analysts said the price is high but that the acquisition is necessary if Norsk Hydro is going to increase the low rate at which it replaces reserves. The

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Norwegian oil, gas, power and aluminum company said it will pay $65.50 a share for Spinnaker, which has oil and gas assets primarily in the Gulf of Mexico."

Microsoft Buys Alacris. The Wall Street Journal (9/20, Guth) reports, "Microsoft Corp. said it bought privately held Alacris Inc., a small maker of software for managing employees' access to corporate computer networks, to help improve the security of Microsoft's programs. Terms weren't disclosed. Ottawa-based Alacris's software manages smart cards, or plastic cards that store a person's identification data. The purchase is an extension of joint work by the two companies on security software called idNexus for managing smart cards." The paper adds, "Alacris is part of a recent wave of companies that are developing technologies for administrating the electronic 'identities' of computer-network users by means such as granting or removing their access. The Journal continues, "By purchasing Alacris, Microsoft intends to make it easier for users of its server software to administer smart cards -- handling tasks such as setting up people with cards and retiring cards when a person leaves a company. Under increased scrutiny by its customers over the security of its software, Microsoft has bought technologies in the past two years to help it fight Internet-borne attacks such as spyware and viruses."

ENVIRONMENT/INDIAN AFFAIRS:

Pombo Offers Amendments To Endangered Species Act. House Resources Committee Chairman Richard Pombo proposed amendments to the Endangered Species Act that would make it more difficult for the federal government to set aside land deemed crucial to the heath of endangered species. The New York Times (9/20, Barringer) reports that the proposed amendments "also increase the obligation of government agencies to tell landowners quickly if the law limits their development options, and to compensate them." The Times adds, "The measure, which drew quick denunciations from groups like Environmental Defense, Defenders of Wildlife and the Natural Resources Defense Council, was proposed by the House Resources Committee chairman, Representative Richard W. Pombo, Republican of California."

Losers In Eminent Domain Case Face $300,000 In Fees. The Washington Times (9/20, Price) reports, "Seven homeowners in New London, Conn., who narrowly lost a court battle to save their homes from condemnation say the city is still demanding as much as $300,000 in 'use and occupancy' fees dating to the November 2000 condemnation order. They say the demands are being made even though an eviction order from last week has been rescinded. It had been issued by the semi-public New London Development Corp. and had told the homeowners to move out in the next 30 to 90 days and pay $600 a month in rent while they continue to occupy the premises. An attorney for NLDC, which wants to demolish the homes to make room for private development, had told the homeowners' attorney last year that the city, for which NLDC has acted as an agent, expects to collect the occupancy fees."

Native American Nation Works To Stop Arctic Drilling. The Washington Post (9/20, C1, de la Torre) reports on the efforts of the Gwich'in, "a nation of 8,000 Native Americans" who make their home in Alaska, to prevent the passage of a budget bill that includes a provision allowing for drilling in the Arctic National Wildlife Refuge. The Gwich'in "see the prospect of drilling as a sure sign of their own demise."

FBI/DEA/ATF/USMS:

U.S. Attorney: Internet Opens Doors For Drug Ring. The Philadelphia Daily News (9/19, Smith) reports, "Dr. Akhil Bansal was one of 17 people indicted by a federal grand jury in Philadelphia last April for allegedly taking part in 'an international conspiracy to import and distribute' prescription drugs, using the Internet. Five additional defendants were charged in a 'related indictment' in New York. … 'This case shows us how the Internet has opened the door to an unregulated universe from which anyone with access to a computer can purchase anything from anti-anxiety drugs to anabolic steroids,' said U.S. Attorney Patrick L. Meehan, the Philadelphia area's top federal lawman, when the cases were made public." Christine Konieczny is a Lower Merion police officer assigned to a DEA task force. "The drugs are manufactured abroad, do not bear required labels and warnings, and are being imported without Customs declarations or payment of duty," said Konieczny.

Report: Congress To Investigate Orioles' Palmeiro. The AP (9/20) reports, "Congressional investigators looking into whether [Baltimore Orioles first baseman] Rafael Palmeiro lied under oath are interviewing players who know him, including a Colorado outfielder suspended this year for steroids, The Associated Press has learned. Palmeiro testified to the House Government Reform Committee in March that he never had used steroids. The Baltimore Orioles slugger…was suspended by Major League Baseball for 10 days in August for failing a drug test." According to the AP, "a congressional source familiar with the committee's work, speaking to the AP on condition of anonymity because the investigation is ongoing, said Monday

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that 'several active players' have spoken or will speak with the committee."

Report: Drugs In Iraq Called Threat To U.S.'s National Security. The WashingtonTimes (9/19, Scarborough) reports, "Insurgents and foreign terrorists in Iraq are being financed in part by the illicit drug trade originating in Afghanistan and passing through Iraq to Europe, congressional and defense sources say. Money from Afghan-produced heroin is being used by terror cells to buy weapons and equipment, and pay Iraqi citizens to conduct attacks on U.S. troops and to plant deadly improvised explosive devices (IEDs), U.S. officials say." In a Sept. 8 letter to Secretary of State Condoleezza Rice, House International Relations Committee Chairman Henry J. Hyde is reported to have written of an "emerging and dangerous growth of the illicit drug trade in Iraq, especially with heroin, now originating and pouring out of nearby Afghanistan. We can no longer ignore the threat to our national security from drugs in Iraq," the Illinois Republican is reported to have written in the letter obtained by The Washington Times.

Former Haitian Anti-Narcotics Chief Faces Trial. The AP (9/19, Anderson) reports, "A top Haitian police official in the government of ousted President Jean-Bertrand Aristide is facing trial on charges that he accepted thousands of dollars in bribes to help Colombian drug lords move huge loads of cocaine through the impoverished Caribbean country." Jury selection is expected to begin this week in the case against Evintz Brillant, "the only one of four former senior Haitian police officials who has not pleaded guilty in the investigation of drug trafficking inside the Aristide government." According to the U.S. DEA, "Brillant used his post as head of Haiti's top anti-drug police unit from 2001 to 2004 to help drug traffickers ship thousands of pounds of cocaine through Haiti, including the airport in the capital of Port-au-Prince, to the United States, Europe and elsewhere."

Tucson Anti-Youth Violence Crackdown Yields Hundreds Of Arrests. The Tucson Citizen (9/20, Teibel, Rowley) reports, "Tucson police made 356 arrests over the summer in specialized efforts to reduce the number of juveniles involved in crimes and to put a cap on a rash of murders. … Of that number, 194 of those arrested were juveniles while the rest were adults." The Citizen continues, "Operations Division South Capt. Perry Tarrant said the summer youth deployment, which lasted from May 27 to Aug. 20, was funded by a grant from the Bureau of Alcohol, Tobacco and Firearms, and a private grant from Kino Weed and Seed. … On July 28, police and ATF agents expanded the program to target adult troublemakers after there were four homicides in three days: one on July 23, one on the 24th and two on the 25th, said Assistant police Chief Kathleen Robinson." The Citizen adds, "The expanded special patrols had officers looking for such things as illegal gatherings in business parking lots, rowdy gatherings and drinking in public, considered precursors to killings. The patrols went on until Sept. 10, Robinson said. … From July 28 to Sept. 10 there were no homicides in the South Side patrol area, said Sgt. Kerry Fuller, a police spokeswoman. During the same period last year there were two, she said. … Citywide there have been 33 homicides this year. There were 38 by this time last year, Fuller said Friday afternoon."

Judge Rules US Marshals Service Must Release Defendants' Photos. The Detroit Free Press/AP (9/20) reports, "A federal judge has ruled that the U.S. Marshals Service must comply with media requests for photos of criminal defendants, but said it can take up to 20 days to process the requests under the Federal Freedom of Information Act." The AP continues, "The ruling issued Monday by U.S. District Judge Anna Diggs Taylor also said that the requests may be processed through the Marshals Service headquarters in Washington, rather than through its office in Detroit, the Free Press reported in a story on its Web site Monday." The AP adds, "The newspaper had asked in its lawsuit that the photos be provided through the Detroit office. Pictures previously requested in Detroit usually were provided the same day. … The Free Press and the Akron (Ohio) Beacon Journal sued the Marshals Service earlier this year after it stopped providing the photos on the grounds that it would invade the privacy of defendants."

Deadly Kansas Rig Blast Might Have Been Arson. The AP (9/20) reports, "Evidence of possible criminal activity has been found in a natural gas drilling rig explosion (in Independence, KS) that killed two workers and injured a third, authorities said Monday." The AP continues, "The federal Bureau of Alcohol, Tobacco, Firearms and Explosives, the Kansas State Fire Marshal's office and the Montgomery County Sheriff's Department are offering a $10,000 reward for information leading to an arrest and conviction in the June 2 explosion. … 'If this tragedy was the result of a deliberate criminal act, we will not rest until whoever is responsible was brought to justice,' Sheriff Stan Veach said in a statement announcing the reward. … Paul Marquardt, an ATF spokesman in Kansas City, Mo., would not discuss the evidence in detail."

IMMIGRATION:

Nominee To Head Immigration Bureau Criticized As Inexperienced. The Washington Post (9/20, A1, Eggen, Hsu) reports, "The Bush administration is

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seeking to appoint a lawyer with little immigration or customs experience to head the troubled law enforcement agency that handles those issues, prompting sharp criticism from some employee groups, immigration advocates and homeland security experts. The push to appoint Julie Myers to head the U.S. Immigration and Customs Enforcement agency, part of the Department of Homeland Security, comes in the midst of intense debate over the qualifications of department political appointees involved in the sluggish response to Hurricane Katrina. Concerns over Myers, 36, were acute enough at a Senate hearing last week that lawmakers asked the nominee to detail during her testimony her postings and to account for her management experience." Sen. George Voinovich "went so far as to tell Myers that her résumé indicates she is not qualified for the job. But Voinovich has since met with Myers and is now likely to support her, his spokeswoman said yesterday. Myers, who has attracted strong support from many former colleagues, told senators that she would draw upon the experiences of ICE veterans in running the agency." Myers said, "I realize that I'm not 80 years old. I have a few gray hairs, more coming, but I will seek to work with those who are knowledgeable in this area, who know more than I do."

Conflict Looms Between White House, DeLay On Immigration Reform. The Hill (9/20, O'Connor) reports that the White House's "comprehensive immigration overhaul" laid out to congressional Republicans last week is "creating a potential conflict between the administration and House Majority Leader Tom DeLay," a supporter of "an incremental approach to reform. The comprehensive package would increase enforcement on the border, create new workplace requirements for employers and expand guest-worker programs inside and outside the United States." Rep. Jeff Flake said the White House "'insists on comprehensive reform,' putting the president at odds with DeLay and those congressional Republicans who would rather change the current immigration code one law at a time. As recently as last week, DeLay said he would prefer passing a bill to increase border security before taking up legislation to address workplace enforcement or the current guest-worker program."

TAX:

"Survivor" Winner Hatch Pleads Not Guilty To Tax Evasion. The AP (9/20) reports, "Richard Hatch, who won $1 million on the first season of the U.S. reality show 'Survivor,'" pleaded not guilty Monday "to charges that he failed to pay taxes on his winnings and other income." The AP continues, "Hatch has been charged with tax evasion, filing a false tax return, wire fraud, bank fraud and mail fraud. He entered the plea in U.S. District Court. … A grand jury indictment filed earlier this month said Hatch filed false tax returns for 2000 and 2001 that omitted his income from the CBS show, $327,000 he was paid to co-host a radio show and $28,000 in rent on a property he owns." The AP adds, "Hatch, 44, also was accused of misusing $36,500 from a nonprofit camp he set up. … The former corporate trainer said the 10-count indictment was retribution for his refusal earlier this year to follow through with a plea deal."

CONGRESS-ADMINISTRATION:

Roberts Testimony Fuels Conservative Unease. The Hill (9/20, Bolton) reports a "rift has opened between conservatives in the nation's capital and those outside the Washington Beltway over John Roberts and his carefully worded testimony to the Senate Judiciary Committee last week." The split has "divided those on the right who communicate regularly with the White House from conservative activists whose view of Roberts was shaped by the recently completed hearings." The "conservatives who are voicing concerns about Roberts behind the scenes" are "sending a message to President Bush that his next nominee to the Supreme Court should have a clear record and be unafraid to express boldly his or her beliefs. As result, political pressure is growing on Bush to nominate an outspoken conservative to replace retiring Justice Sandra Day O'Connor." Ironically, "the aspects of Roberts's nomination that have frustrated Senate Democrats and liberal groups trying to inflict political damage on him — specifically the few writings expressing his legal views, and furthermore the reluctance to express those views in Senate hearings — have also frustrated conservatives."

Specter Says He'll Vote For Roberts. Reuters (9/20, Ferraro) reports Senate Judiciary Committee Chairman Arlen Specter "said on Monday he will vote for John Roberts to be U.S. chief justice even though it is uncertain what the conservative appeals court judge will do on the Supreme Court." Specter said, "It's my judgment that he's well qualified ... and I intend to vote aye when his nomination is called before the Senate." Reuters adds Specter "had been expected to back Roberts."

The Legal Intelligencer (9/20, Blumenthal) reports, "With U.S. Senate Judiciary Chairman Arlen Specter announcing his support Monday, the nomination of John G. Roberts Jr. as chief justice of the United States gained momentum." The Intelligencer continues, "The Pennsylvania Republican, in a speech on the Senate floor, said 'Judge Roberts' answers demonstrated that he would take a fair, non-ideological approach to the law.' In Specter's view, Roberts had not tipped his hand on whether he would vote to preserve or overturn Supreme Court precedent on a woman's

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right to end her pregnancy. … 'Notwithstanding his answers and my efforts to glean some realistic expectation from his words and body language, candidly it is not possible to predict or have a solid expectation of what Judge Roberts would do,' he said." The Intelligencer adds, "On Sunday, Specter -- who chaired last week's sometimes contentious confirmation hearings to generally positive reviews -- even suggested that Roberts serve as the template for President Bush's next nomination to the Supreme Court. … But local legal scholars said Bush faces a much tougher fight when he makes his choice for a new associate justice." The Intelligencer notes, "Gregory Magarian, a constitutional law professor at Villanova University School of Law and a former clerk for Justice John Paul Stevens, said Specter managed to run Roberts' hearing equitably. … 'Sen. Specter attempted to go after information but he didn't grandstand and he definitely didn't grease the wheels for him,' Magarian said. … But Magarian and Temple University's Beasley School of Law professor Mark Rahdert, a clerk for former Justice Harry A. Blackmun, both said Roberts' decision to not answer questions dealing with hot-button issues such as abortion could set a precedent for the next nominee. … 'He played that card more than any candidate I have seen in recent memory,' Rahdert said. 'And each time that happens in the future, nominees will have more room to not answer questions. It's one thing if it's an actual case that will wind up before the court. But he can answer questions about an area of the law and he chose not to do so.'"

Liberal Groups Put Spotlight On Senators With White House Aspirations. The Hill (9/20, Allen) reports a "vote for Judge John Roberts could be well within the mainstream but that may not be where Democrats with an eye on the Oval Office are looking to swim, according to some political strategists and analysts." Democratic consultant Steve McMahon said, "If you're running for president, you need to take a hard look at voting no because that's where the Democratic base is." The Hill adds Democratic senators, "particularly those who harbor presidential aspirations, have plenty of reason to watch each other closely as a floor vote on Roberts's nomination to become chief justice of the United States approaches." Support for Roberts "could burnish a senator's centrist credentials and give room to oppose President Bush's pick to fill a second Supreme Court vacancy. But influential interest groups on the left — a source of strength in Democratic primaries — are pressuring their allies in the Senate to oppose Roberts." When the Roberts "roll call starts, those senators who are viewed as possible contenders for the Democratic presidential nomination in 2008 — including Hillary Rodham Clinton (N.Y.), 2004 nominee John Kerry (Mass.), Joseph Biden (Del.), Evan Bayh (Ind.), Russ Feingold (Wis.) and perhaps others — will already be under a microscope. That is particularly true of Clinton, who has not publicly revealed her intentions on either Roberts or the 2008 race."

LA Times Urges Democrats To Confirm Roberts. The Los Angeles Times (9/20) editorializes, "As last week's confirmation hearings made clear," John Roberts "is an exceptionally qualified nominee, well within the mainstream of American legal thought, who deserves broad bipartisan support." He should therefore be confirmed as the next chief justice of the United States, and if "a majority of Democrats in the Senate vote against Roberts, they will reveal themselves as nothing more than self-defeating obstructionists."

White House Reportedly Changing Criteria For Second High Court Nominee. The New York Times (9/20, Kirkpatrick, Stolberg) reports the White House is "reshuffling its short list of potential Supreme Court nominees with a new emphasis on finding someone who will hold up under the pressure of what is expected to be fierce confirmation battle, several Republican allies close to the process said on Monday." The "shifting calculus reflects the increased stakes in replacing the retiring Justice Sandra Day O'Connor as the court's swing vote as well as the expectation that the new nominee will be measured against Judge John G. Roberts Jr., who was hailed by both parties for his performance during almost 20 hours of confirmation hearings for the post of chief justice." The shift also "indicates that the administration expects some Democrats' pent-up frustration with what they labeled as Judge Roberts's evasiveness to spill over into the hearings for a new nominee. Republican aides briefed on the search said the White House was looking mainly at female jurists for Justice O'Connor's seat, but it has expanded its short list and it is examining the contenders anew in the expectation of a trial by fire." The "new criteria could hurt the chances of Judge Janice Rogers Brown," because Brown, "an African-American known for her fiery speeches to conservative crowds, might try to fight back against vigorous questioning. Other conservative strategists say that she also lacks experience on the federal bench and that supporting her highly ideological oratory might strain the solidarity of the Senate Republican caucus." Strategists "say the White House is evaluating whether" Judge Priscilla R. Owen's "reticence and mild manner would be a strength or a weakness under interrogation in the Senate." Others "said to remain under consideration include the contenders for the last vacancy, Judge Edith H. Jones and Judge Edith Brown Clement of the Fifth Circuit, as well as Judge Alice M Batchelder of the Sixth Circuit, Judge Karen Williams of the Fourth Circuit and Judge Consuelo M. Callahan of the Ninth Circuit. Judge Callahan, a Republican appointee, is Hispanic, and President Bush has made clear that he would like to name a Hispanic to the court."

USA Today Says Bush Should Appoint Woman Or Minority. USA Today (9/20) says that "with the retirement of"

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Justice Sandra Day O'Connor, "the nation's highest court will lose more of a commodity already in very short supply — different life experiences. When President Bush nominates O'Connor's successor, he will have an opportunity to remedy that, and it should be a priority." In a "nation as diverse as America, a diversity of ideas and perspectives adds to the court's ability to wisely decide issues that change lives. If all nine justices see law and life from the same vantage point, their ideas will not be challenged, tested and honed into the best possible rulings." To those who "argue that merit and legal scholarship should be the only standards, the answer is it's easy to name a minority or female justice without compromising excellence or creating quotas."

Attorney Argues Merit Should Be Only Qualification. In a USA Today op-ed (9/20), Chicago attorney Thomas Heiden says, "The next nominee for the court should be chosen on the basis of merit (and not 'diversity,' however defined) for several important reasons: To maintain a bright line difference between law and politics. To re-emphasize that the function of the highest court is to maintain the rule of law. So that the court does not become an extension of our increasingly divided political culture, but that it stands as the independent counterweight to those influences." To "nominate a justice because he or she is a member of a group obviously signals that his or her decisions in certain cases will be influenced by membership in that group. To do so misperceives the court as a legislature and the justices as legislators."

Debate Grows Over Paying For Katrina Reconstruction. As cost estimates for Hurricane Katrina reconstruction increase, so does the volume of the debate over how to finance it. Some conservative Republicans are chafing at the prospects of a bloated Federal deficit, while Democrats have called for the elimination or reduction of the President's tax cuts.

NBC Nightly News (9/19, story 5, 2:05, Gregory) reported, "The true cost of Katrina is only beginning to sink in: A $200 billion estimate, at least for reconstruction, much of it to be paid by taxpayers. That's on top of the roughly $200 billion taxpayers have already spent in Iraq to date. Conservatives are getting fed up, openly complaining about the return of big government under George W. Bush." Chris Edwards, Cato Institute: "We may never see a balanced budget in our lifetimes again if the President continues spending like this." Gregory: "Again today the White House warned that Katrina will swell the $333 billion deficit but so far has not asked Americans for any sizeable sacrifice." Some Republicans in Congress "are looking to cut costs. One target, the President's $700 billion prescription drug benefit for seniors set to hit the books next year." Sen. John McCain: "Let's go back to square one. $700 billion already on a broken entitlement program isn't going to work." Gregory: "Democrats have called on the President to roll back his tax cuts, something he's said he won't do."

The CBS Evening News (9/19, story 4, 2:30, Borger) reported, "McCain never liked the expensive prescription drug benefit in the first place, and now he tells us he wants Congress to kill it to help pay for Katrina and the war." McCain: "We've got to go back and look at the Medicare prescription. It was supposed to cost $400 billion. It's now up to $700 billion. Cancel it, go back to square one, and get prescription drugs to the truly needy."

NBC Nightly News (9/19, story 6, 2:00, Taibbi) reported, "Even in 'red state' Oklahoma, Republican politicians aren't convinced that on a national level, the party's figured the specifics about how to pay for the recovery. Sen. Tom Coburn says maybe this isn't the time to make President Bush's tax cuts permanent, or to fund all those pork barrel projects costing hundreds of millions." Sen. Tom Coburn: "This is a moral question. It's not just an economic question."

The Christian Science Monitor (9/20, Chaddock) reports that the President's "call to spend 'whatever it takes' to rebuild the Gulf Coast set off alarm bells among some in his conservative base -- and stepped up a growing debate among Republicans at both ends of Pennsylvania Avenue on how to fix the battered region in ways that promote conservative values. From vouchers for education and Medicaid to the creation of a giant 'opportunity zone' where Katrina struck, the Bush reconstruction effort -- which he called 'one of the largest reconstruction efforts the world has ever seen' -- is reviving prospects for policy initiatives that GOP leaders say could make or break their party's future." But fiscal conservatives, "often outside of leadership, are calling for deep cuts in existing spending to pay the costs of reconstruction. They, too, see this as a fight for the soul of the Republican Party."

Cost Of Medicare Prescription Drug Program In Spotlight. The Washington Times (9/20, Lambro, Fagan) reports, "Some House and Senate members want President Bush to postpone his Medicare prescription-drug program to help pay for Hurricane Katrina relief as the fight over the deficit and the cost of rebuilding heats up. By targeting the Medicare program, which Congress passed in 2003 despite objections from some conservatives, the lawmakers are striking right at Mr. Bush's signature first-term domestic-policy achievement."

Roll Call (9/20, Bresnahan) reports that Republican Study Committee Chairman Rep. Mike Pence "said Congress must do something to rein in federal spending, even more now that the Gulf Coast recovery effort will add tens of billions of dollars to the federal budget. Pence vowed to continue to push for a vote on delaying implementation of the Medicare drug program, despite White House opposition." Pence said, "With all due respect to the White House and their intentions,

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House conservatives will vigorously pursue the one-year delay in the Medicare prescription drug entitlement."

Possible Greenspan Successor Sees "Modest" Economic Damage From Katrina. Reuters (9/20) reports that according to Glenn Hubbard, "who is cited as a possible candidate to head the U.S. Federal Reserve," economic damage from Katrina "is likely to be modest, making the case for huge government aid questionable. … In a Financial Times commentary on Monday, Hubbard said that federal fiscal aid should be used to cushion the blow to business and consumer confidence from a nasty regional shock. But overall the short-term hit to unemployment and production is likely to be modest, offset by rebuilding over the coming year, and long-term damage to energy supplies also seems unlikely."

Consultants Suggest Politicians "Tithe" For Relief From Campaign Funds. In a Los Angeles Times (9/20) op-ed, Gerald Rafshoon and Doug Bailey, the "opposing advertising consultants in the Carter-Ford presidential campaign in 1976," write, "Members of Congress have voted more than $60 billion in Hurricane Katrina disaster relief, with the total estimated to eventually go as high as $200 billion. But that's (mostly) your money. What about their campaign money? … Washington should call a 90-day moratorium on campaign fundraising, and both parties -- and all congressional incumbents -- should tithe from their campaign funds for Katrina relief. That means 10% of their war chests should go to hurricane relief, or they should raise that amount and donate it to the relief effort instead of collecting still more for the 2006 campaign battles. While we're at it, how about extending the moratorium to political action committees and lobbyists and asking them to take what they have budgeted for the politicians and give it to Katrina relief instead."

Bush Proposes School Vouchers For All Displaced Students. The Washington Post (9/20, A8, Goldstein) reports that President Bush is proposing school vouchers for all students displaced by Katrina. The plan would let parents "enroll their children in a private or religious school this year at federal expense, even if they had gone to public schools back home, administration officials said yesterday." As the "new fine print of the proposal emerged, White House and Education Department spokesmen confirmed that the government payment -- as much as $7,500 per child -- would be given for a year to any displaced family that now prefers an alternative to public schools."

New Orleans Students, Teachers Face Tough Transition. The CBS Evening News (9/19, story 14, 2:15, Schieffer) reported, "For the students and teachers of New Orleans' schools, it is a tough transition getting beyond the devastation and back to education." CBS (Cowan) added, "The devastation of New Orleans is already in the history books, quite literally in classrooms all across the city. The desks, chairs, the children's artwork, even their report cards, were all lost to the rising water. This is the fate suffered by more than 186,000 school kids all across Louisiana. They'll all have to be moved to a new school -- new friends, new teachers. That in and of itself would be stressful enough, but imagine that on top of everything else that they've seen."

Affirmative Action Requirement For Some Katrina Contractors Suspended. The New York Times (9/20, Glater) reports the Labor Department "has temporarily suspended government requirements that its contractors have an affirmative action plan addressing the employment of women, members of minorities, Vietnam veterans and the disabled if the companies are first-time government contractors working on reconstruction in the wake of Hurricane Katrina." While employment lawyers "said it was not clear how strong an impact the exemption would have, the move comes as President Bush has tried to address the perception of unfairness in the government's response to the hurricane." The "goal of the exemption in the case of recovery work associated with Hurricane Katrina is to reduce the burden of paperwork on government contractors and so encourage more companies to jump into assisting with rebuilding from the storm damage. The exemption is to last for three months, unless it is extended."

Black Ministers Say Bush's Outreach Since Katrina Undoing Political Damage. Under the headline "Storm Strains Bush's Ties to Black Clergy," the Los Angeles Times (9/20, Wallsten, Hamburger) reports that for "many of the black ministers who have allied themselves with President Bush and a Republican strategy to boost the party's African American support, the government's slow response to Hurricane Katrina put a severe strain on new and still-fragile bonds of trust." But "just as some ministers had begun denouncing a government recovery effort that seemed to leave many blacks in the Gulf region behind, a number of those African American clergy say an aggressive outreach campaign by Bush and senior White House aides in recent days has begun reversing what might have been lasting political damage." In addition, the ministers and the "cadre of conservative policy analysts who consult with the White House" suggest that the "Katrina relief response, while tarnishing the GOP image in the short term, could foster a Republican-led battle against poverty that would give the party a list of new selling points for African American voters."

Several columns in today's opinion pages explore issues of race and social class, and their impact on the Katrina recovery efforts. In his Washington Post (9/20, A23) column, headlined "Incompetence, Not Racism," Richard Cohen writes, "If you told me that George W. Bush is a dummy, I would argue with you but understand why you

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thought so: all those idiotic statements. But if you told me, as some have been implying, that Bush is a racist or that he doesn't care about black people, I would not only say that you're wrong but add, 'Not the George Bush I know.' … In his first presidential campaign, I traveled with him and tried, as he might say, to look into his heart. Conveniently enough, he sometimes wears it on his sleeve -- never more so, as I discovered, than when he talks about poor kids and racial and ethnic minorities. His feelings for them -- especially for poor kids -- are genuine. … In general it was incompetence, not racism, that slowed the relief effort -- incompetence on the local and state levels, too, and incompetence on the part of black as well as white public officials."

In his Washington Post (9/20, A23) column, E.J. Dionne Jr. writes, "If the rebuilding of New Orleans is to be something other than a new government disaster, a coalition of the skeptical and the visionary will have to stand together and confront the lobbyists and the corporate welfare artists. Fiscal conservatives in Congress are right to worry about the potential for -- yes -- waste, fraud and abuse if the federal government throws off tens of billions of dollars into a haphazard and ill-planned spending fest. … But because the rest of us are morally obligated to those whose lives have been damaged by natural calamity and government failure, it's a fact that the federal government will be spending a lot of money. That's why the fiscal conservatives need the visionaries."

Donna Brazile echoes that sentiment in her Roll Call (9/20) column, "One of the most difficult conversations I have endured in the aftermath of Hurricane Katrina is the discussion about race and poverty. … Katrina was an equal opportunity destroyer. She did not care whether you owned a home on the lakefront or rented an apartment in the 'projects.' This monster hurricane uprooted big elm trees and oak trees that lined our historic neighborhoods as though they were toothpicks." Brazile adds, "In the aftermath of all this destruction, Congress should hold a series of hearings that allow the victims to tell their stories to determine how to help them get a fresh start. … Based on my experience, the worst part of being a member of the chronic poor or the working poor is the uncertainty about how to maneuver the system. Add race to this equation, and you have a recipe for hopelessness."

Fueled By Katrina Aftermath, Bush Disapproval Rating Hits Record High In Gallup Poll. USA Today (9/20, Page) reports that President Bush's disapproval rating is increasing "in the wake of dismay over the government's response to Hurricane Katrina, the course of the Iraq war and the future of the economy." While Bush's overall approval rating in the latest USA Today/CNN/Gallup Poll "is 40%, equaling a previous low," his "disapproval is 58%, a new high." And by a "record 66%-31%, independents disapprove of the job Bush is doing as president. White House press secretary Scott McClellan says the president 'knows a leader must govern based on what he believes is right, not based on polls.' Bush is 'working to address the priorities that Americans are most concerned about,' he says."

CNN's Lou Dobbs Tonight (9/19, Malveaux) commented on the poll. Bush "will be back in the hurricane-damaged regions again tomorrow. That will be his fifth trip. And the latest poll shows that 58% believe that the President has been going for political reasons. They do not believe that he sincerely cares about the victims."

Government Forced To Look To Contractors With "Checkered Histories." The Wall Street Journal (9/20, Dreazen) reports on Texas ambulance provider GoldStar EMS, which "was on the ropes earlier this year, beset by legal problems." After Hurricane Katrina hit the Gulf Coast and the company won a subcontract from a government contractor to provide up to 45 ambulances a day in hurricane-damaged Louisiana. The contract "illustrates one of the unintended consequences of what is shaping up to be the largest government rebuilding effort in U.S. history. As the Bush administration rushes to rebuild Louisiana, it faces the prospect of turning to companies with checkered histories that even include disputes with other arms of the government. It's essentially a no-win situation: If officials don't get quick results, they're likely to be criticized for getting bogged down in bureaucracy. But if they push some of the contracting formalities aside, they may find themselves employing unreliable or unsavory companies."

Contractors Seek Protection From Liability. Some contractors working on the Katrina relief effort want Congress to limit their liability from lawsuits. The Washington Post (9/20, A7, Merle) reports that the contractors are "drafting legislation to seek such protection, industry officials said yesterday." The companies "have become concerned about the liability issue because of lawsuits filed against construction firms that helped clean up the World Trade Center after the Sept. 11, 2001, terrorist attacks."

Hill GOP Drops Plans For Joint Katrina Probe. The Los Angeles Times (9/20, Curtius) reports, "Congressional Republicans signaled today that they have abandoned their plan to conduct a joint House-Senate probe of the government's response to Hurricane Katrina. In announcing a joint probe this month, the Republican leadership had said it would be the most efficient way to investigate the administration's much-criticized initial response to the hurricane. But today, Senate Majority Leader Bill Frist (R-Tenn.) conceded that he could not overcome Democratic opposition to a joint investigation." The Democratic leadership "has refused to appoint members to a joint committee, citing the lack of equal representation of Democrats on the panel, and the lack of power to issue

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subpoenas that the majority opposed. Democrats also have insisted on an independent inquiry."

Partisanship, Bureaucracy Blamed For Poor Congressional Response. In a USA Today (9/20) op-ed, Rutgers University political scientist Ross K. Baker writes, "In a well-ordered world, a calamity of the magnitude of Hurricane Katrina ought to be the subject of a congressional investigation. From the earliest days of the republic, the House of Representatives and Senate had unquestioned responsibility for probing and, yes, finger-pointing in calamities' aftermath. That, sadly, is no longer true. Congress has fallen victim to a number of problems that have caused Americans to look elsewhere for answers. The first of these problems is the fractious spirit of partisanship that has so infected Capitol Hill that no conclusion Congress might reach about who was responsible for the botched response to Katrina would have much legitimacy in the eyes of Americans. … But it is more than partisanship that has impeded Congress' ability to avert or probe causes of disasters. The perverse arrangement of committees supervising agencies responsible for disaster relief also impairs the lawmakers."

With Rita Looming, New Orleans Mayor Backs Off Repopulation Effort. With Tropical Storm Rita headed into the Gulf Coast, New Orleans Mayor Ray Nagin relented in his efforts to repopulate the city amid fears that the city's weakened levee system would fail if hit by even a much weaker storm. Before Mayor Nagin changed course, President Bush weighed in on the issue, urging great caution in encouraging a return to the city. Virtually all of the media coverage notes that Mayor Nagin was under "growing political pressure from federal leaders" to halt the return, as the Washington Post (9/20, A1, Connolly) characterized the situation in a front page story.

ABC World News Tonight (9/19, story 2, 3:35, Gibson) reported, "This morning, President Bush stated what everyone is worried about, with another storm in the offing." President Bush: "There is deep concern about this storm causing more flooding in New Orleans. If it were to rain a lot, there is concern from the Army Corps of Engineers that the levees might break. And so, therefore, we're cautious about encouraging people to return at this moment of history." Gibson: "And so late today, the Mayor of New Orleans changed his mind, agreeing now with Federal authorities that it's too dangerous to let people back into the city." ABC (Woodruff) added, "With word that Rita could be approaching, the Mayor suddenly reversed course, suspending the return plan and ordering residents to leave."

The CBS Evening News (9/19, story 3, 2:30, Schieffer) reported, "Federal officials had been telling the New Orleans Mayor he was moving too quickly to reopen the city, and today's news that a new storm is headed his way apparently convinced him they were right." CBS (Alfonsi) added, "Critics called" Nagin's "aggressive timetable a political pipe dream, and today it went up in smoke." With "mounting political pressure from the President, another storm headed to the Gulf, and reports that just six inches of rain could make the city levee break again, a once-confident Mayor did a complete 180."

NBC Nightly News (9/19, story 4, 2:25, Tibbles) reported, "The advance of another storm now has everyone, including the Mayor, in agreement that people should stay out of here for a while." Mayor Ray Nagin "says if Rita hits New Orleans, the pump stations won't be able to handle the rush of water." At the White House, "the President was even more blunt, laying out a worst-case scenario." President Bush: "If it were to rain a lot, there is concern from the Army Corps of Engineers that the levees might break." Now, residents "are being told to get ready for another hurricane, and the governor insists evacuation orders will be followed." Gov. Kathleen Babineaux Blanco (D) Louisiana: "Well, there will be a mandatory evacuation, and I do believe that 100% of the people will listen this time."

USA Today (9/20, Parker, Levin) reports Mayor Nagin "reversed his call for people to return to the city and ordered most people out over worries that a new tropical storm could flood the city again." The announcement "came after President Bush and the federal government's Hurricane Katrina response team urged the mayor to reconsider his plans, saying the city was not safe." Earlier in the day, Nagin "had criticized Coast Guard Vice Adm. Thad Allen for publicly imploring him to stop people from returning. He called Allen a 'good man' but said, 'There's only one mayor of New Orleans, and I'm it.'"

The New York Times (9/20, Yardley) reports Nagin "called for a 'mandatory' evacuation of many of the residents who have returned or never left." The mayor "reversed himself hours after Mr. Bush had questioned whether it was safe for residents to return. The president reiterated warnings by Vice Adm. Thad W. Allen of the Coast Guard, leader of the federal recovery effort, that the levee system was weakened, that the 911 emergency telephone system was not working, that the hospitals remained closed and that pollutants were in the air and water."

The AP (9/20, Loven) reports President Bush, "criticized for weeks for failing to react aggressively enough to Hurricane Katrina," yesterday "put some muscle behind concerns that a new tropical storm could again deluge New Orleans and the people being allowed to return to the ruined city. It worked. Six hours after Bush questioned New Orleans Mayor Ray Nagin's plan to bring as many as a third of the city's population back over the next week, Nagin reversed course and said he was suspending it." Besides the President's "public words, White House chief of staff Andrew

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Card pressed the point on the phone with Nagin. And Coast Guard Vice Adm. Thad Allen, head of the federal government's hurricane response, delivered federal officials' concerns to Nagin later Monday — after appearing on numerous TV shows to express dismay with the city plan."

The AP (9/20, Rubinkam) reports Mayor Nagin's announcement "came after repeated warnings from top federal officials — and the president himself — that New Orleans was not safe enough to reopen. Among other things, Federal officials warned that Tropical Storm Rita could breach the city's temporarily patched-up levees and swamp the city all over again." The Washington Times (9/20) also reported the AP story.

Knight Ridder (9/20, Estwick, Nesmith, Frazier) reports that within "about an hour of" Nagin's announcement, "security tightened in several parts of the city." Nagin said "the hurricane was not providing him an excuse to follow the advice of federal officials, and pledged to resume his plan as soon as Rita's danger has passed."

The Los Angeles Times (9/20, Gold, Rosenblatt, Vartabedian) reports, "According to government forecasts Monday night, the storm could land anywhere from northern Mexico to Mississippi. But Nagin said his advisers had determined Rita most likely would strike near the island community of Galveston, Texas -- where authorities were planning evacuations starting Tuesday afternoon -- or pass to the west of New Orleans."

The Wall Street Journal (9/20, Brooks, Dade) reports yesterday's "announcement by the mayor was a major setback in efforts to bring life back to New Orleans, about 15% of which still is underwater three weeks after Katrina barreled past the city." Mr. Nagin "denied that criticism from the White House had anything to do with his reversal."

The Washington Times (9/20, Sammon) reports the "latest in a long line of disputes among local, state and federal officials over Hurricane Katrina was defused yesterday when New Orleans Mayor C. Ray Nagin called off reopening the city, although he cited another storm for his capitulation rather than federal officials' litany of concerns." The "various levels of government have disagreed over when to call in federal troops and whether the entire operation should be federalized. They also have clashed over when and how to evacuate New Orleans and when to let residents return."

USA Today (9/20, Kelley, Dorell) reports "hundreds of residents of the city's Algiers section who returned to their homes Monday only to be told by Mayor Ray Nagin to be prepared to evacuate again as early as Wednesday because of Tropical Storm Rita." The Algiers area, "across the Mississippi River from the French Quarter and downtown, never flooded during Katrina and now has electricity and water service to most homes. Nagin announced last week that Algiers residents could begin returning Monday. However, hundreds ignored pre-storm evacuation orders and never left or have already returned." For some, the mayor's "abrupt reversal was another disheartening example of what they said was a disorganized and inept local response to Katrina."

Rita is expected to strengthen to hurricane strength and move west into the Gulf, with a small potential to hit the battered Southern states. USA Today (9/20, Brook) reports "Tropical Storm Rita was expected to become a hurricane and slam the Florida Keys today, then gather strength and threaten the entire Gulf Coast." Yesterday, "Rita was still a tropical storm late Monday with winds of 70 mph, but the National Weather Service predicted it would be a Category 2 hurricane today with winds of 100 mph as it closed in on the Keys."

ABC World News Tonight (9/19, lead story, 3:05, Gibson) reported Tropical Storm Rita is "the latest in a long list of storms that have made this hurricane season unprecedented, cruel and relentless. In many parts of the Florida Keys, there is a mandatory evacuation order in effect tonight." ABC (Kerley) added, "Call it the Katrina effect, the hospital that serves Key West is shut down tonight. An Air Force C-130 airlifted patients to safety. As this latest storm approached, shelters were closed and those unable to flee were bussed to Miami." Ed Rappaport, National Hurricane Center Deputy Director: "We're looking at further strengthening and likely a major hurricane in the central to western Gulf of Mexico by later in the week." Kerley: "That means Louisiana, just battered by Hurricane Katrina could be hit again."

The CBS Evening News (9/19, lead story, 2:45, Schieffer) reported, "If projections hold, it could slam into a wide area of the Gulf Coast, the area that includes New Orleans and some of the heaviest-hit areas of Mississippi." CBS (Strassmann) added, "With memories of all that misery so fresh, and Rita on the way, evacuation was an easy sell for many people in the Florida Keys." NBC Nightly News (9/19, lead story, 3:15, Karins) reported, "Right now Houston is in the center of Rita's crosshairs, but everyone along the Texas and Louisiana coast should watch this one closely. As for New Orleans, a sharper northerly turn would mean at a minimum extremely heavy rain and a possible storm surge that once again could overwhelm that broken city."

The Washington Post (9/20, A3, Branigin) reports, "Rita is 'not an exact reprise' of Katrina, 'but it's probably pretty close,' said Frank Lepore, a spokesman for the National Hurricane Center in Miami. 'It's got similar characteristics, except it's just a little lower in latitude. The issue is what happens when it gets out over the very warm waters of the central Gulf.'"

Allen Says Officials Are Planning For Possibility Of Rita Touching New Orleans. Vice Admiral Thad Allen was asked on CNN's Larry King Live (9/19) about the approach of

Tropical Storm Rita. Allen said, "We already had a tenuous situation in New Orleans with the infrastructure in the city being so badly damaged, and we know we have weakened levees. This storm is nothing to mess with. I had a meeting this afternoon with the governor of Louisiana, Governor Blanco and Russ Honore, who is my counterpart in DOD. And we're all actively planning contingencies right now and preparing for if this storm even brushes close to New Orleans." Allen added that "we need to keep a close watch on this and be prepared to evacuate click quickly if we need to do that."

Coast Guard Response To Katrina Lauded. The CBS Evening News (9/19, story 11, 2:15, Schieffer) reported, "The rest of the Federal government may have fumbled on Hurricane Katrina, but if there is one true thing to say, it is that the US Coast Guard came through with flying colors, among other things rescuing 33,000 people." CBS (Orr) added, "While FEMA and local officials exchanged blame for a sluggish response, there were heroes at work," like "Coast Guard pilot Dan Taylor. In four days, his chopper crew saved 50 people." Unlike "many other Federal agencies, the Coast Guard was able to cut through bureaucratic red tape with a simple philosophy: Act first and get permission later. Crews on the scene assessed the needs and the risks in an urban danger zone." Former Coast Guard commander Stephen Flynn "says FEMA and other agencies need to build on the Coast Guard's success."

Red Cross Criticized Over Katrina Response. The New York Times (9/20, Strom, Robertson) reports that "in New Orleans and the coastal flood plains of Mississippi, many people are complaining that the American Red Cross was missing in their worst hours of need and are worried that its billowing relief fund may bypass them entirely. The organization did not open shelters in flood-prone areas and was therefore unable to provide food and other necessities to people closest to the coast" hit by Katrina. The Times adds that "even some volunteers are disgusted. 'I will never, ever wear the Red Cross vest again,' said Betty Brunner, who started volunteering in 1969 when Hurricane Camille destroyed her house. … Time and again in past disasters, the Red Cross has raised more money than it has needed for relief. It has also been less than clear in the past about where its money goes, and it has rarely shared its money with other organizations that tackle long-term needs of victims."

Red Cross Chief To Brief Lawmakers Today. The Hill (9/20) reports American Red Cross President/CEO Marty Evans "will brief lawmakers today on the organization's recovery efforts in the Gulf Coast region."

Wal-Mart Response To Hurricane Katrina Praised. In a New York Times column (9/20), John Tierney says, "If President Bush feels compelled to put someone in charge of rebuilding the Gulf Coast, let me suggest a name: Lee Scott." Scott is the "chief executive of Wal-Mart, one of the few institutions to improve its image here after Katrina sent a 15-foot wave across the north shore of Lake Pontchartrain." If you "visit the Wal-Mart and the Sam's Club stores here, you hear shoppers who have been without power for weeks marveling that there are still generators in stock (and priced at $304.04). You hear about the trucks that rolled in right after the hurricane and the stuff the stores gave away: chain saws and boots for rescue workers, sheets and clothes for shelters, water and ice for the public." That's the "same assessment you hear from public officials in Louisiana, and there's even been talk of letting Wal-Mart take over FEMA's job. The company already has its own emergency operations center, where dozens of people began preparing for the hurricane the week before it hit by moving supplies and trucks into position."

Kerry, Edwards Criticize Administration Response To Katrina. In separate speeches yesterday, Sen. John Kerry and former Sen. John Edwards criticized the Bush Administration's response to Hurricane Katrina. Reuters (9/20, Whitesides) reports that Kerry and Edwards "said the administration's inadequate response to the hurricane revealed a failure of competence and values, while the public outpouring of support for storm victims showed Americans wanted more from their government." Kerry "said the storm created 'a rare accountability moment' when not just the administration but all Americans could take stock of the country's direction." Edwards "introduced a series of proposals to build opportunities for the poorest Americans, including 'work bonds' to expand the earned income tax credit for the poor, a savings plan to help families buy a home, an increase in the minimum wage and programs to make college more affordable."

CNN's The Situation Room (9/19, Blitzer) reported that Kerry accused Republicans "of turning the rebuilding of the Gulf Coast into 'a vast laboratory for right wing ideological experiments.' And former Vice Presidential Nominee John Edwards arguing, 'the administration views every American as an island' and so he contends it left Katrina victims to fend for themselves."

The Washington Post (9/20, A4, Balz) says that while both of the former running mates offered "withering criticism" of the Administration's handling of the disaster, Kerry's speech "was harsher by far, and it drew a sharp rebuttal from the Republican National Committee's Tracey Schmitt. 'Armchair-quarterbacking on tough issues has never been a problem for Senator Kerry,' she said. 'Such tactics haven't served him well in the past, and today is no exception.'"

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The Hill (9/20, Allen) calls Kerry's remarks "a furious attack on the Bush administration. … In a brief interview, Tracey Schmitt, a spokeswoman for the Republican National Committee, called Kerry's pitch for cash 'repulsive.'"

Ronald Brownstein writes in the Los Angeles Times (9/20), "Monday's speeches offered a reminder that Kerry and Edwards, rivals during the 2004 Democratic primaries, could find themselves competing for the 2008 Democratic presidential nomination."

MoveOn Ad Criticizes Federal Response To Katrina. CNN's The Situation Room (9/19, Blitzer) reported, "A new ad accusing President Bush of failing to make America safer after 9/11, and it points to the federal response to Katrina as evidence. The spot by the liberal interest group MoveOn.org begins airing tomorrow on CNN and on cable stations here in Washington and in New York. The Republican National Committee dismissing the ad as 'MoveOn's latest shameless political attack.'"

Confirmed Louisiana Death Toll Reaches 736, Number Of Missing Children Increasing. The CBS Evening News (9/19, story 2, 0:10, Schieffer) reported, "90 more victims were added to the hurricane death toll in Louisiana today, bringing it to 736."

Meanwhile, CNN's The Situation Room (9/19, Todd) reported that at the hotline set up to help hurricane victims locate missing loved ones, "for the 15th straight day…the numbers of missing children has gone up. The latest numbers that we were just handed, 2,393 at this hour, are still listed as missing. But there are many success stories, as well. Eight hundred and 83 cases have been resolved by the volunteers," who "have been working 16 hours a day. Many more yet to resolve, however."

Six Arrested For Using Internet To Lure Displaced Kids. CNN's Paula Zahn Now (9/19, Zahn) reported, "Louisiana attorney general today announced six people have been arrested for allegedly using the Internet to entice and sexually exploit Louisiana children when they were displaced by Hurricane Katrina."

Louisiana AG Begins Probe Of 14 Nursing Home Deaths. Louisiana Attorney General Charles Foti has launched an investigation into 14 deaths at a New Orleans nursing home which occurred after the elderly residents had not evacuated before Hurricane Katrina. USA Today (9/20, Frank) reports that Foti's office "has been besieged with complaints about patients being left at medical facilities during the hurricane or receiving shoddy treatment, said Kris Wartelle, a spokeswoman for Foti. She said state investigators are checking additional reports of patients and residents who died at 20 to 30 other hospitals and nursing homes. The nursing home under investigation was identified as Lafon Nursing Facility of the Holy Family in New Orleans. … Wartelle said Foti's office is 'close' to beginning probes into two hospitals where numerous other patients died. She identified them as Memorial Medical Center and Lindy Boggs Medical Center, both in New Orleans."

Hospital's Behavior In Wake Of Katrina Draws Fire. The Los Angeles Times (9/20, Riccardi, Barry) reports on Charlene Gonzalez, a nurse in Chalmette, Louisiana. Gonzalez "wanted to get out of town before Hurricane Katrina hit, but because she was a nurse at the only hospital in this low-lying waterside town, she would lose her job if she did not stay at her post." The Times adds that "after Gonzalez, her husband and more than 100 other employees and their families spent days trapped by rising floodwaters, the Pennsylvania-based corporation that owns Chalmette Medical Center, Universal Health Services, told its employees that they could count on only two more weeks of pay." Officials at UHS "say the anger is understandable after such a catastrophe, but they contend they did everything they could for their patients and employees. They say they tried to evacuate their hospital -- albeit at least a day after emergency officials say they urged it -- but that it was too late to get all the patients out."

Illegal Immigrants Avoid Hurricane Aid From Federal Government. The Washington Post (9/20, A6, Fears) reports, "Much has been said about the suffering of the poor in New Orleans, but Latino civil rights advocates and relief workers say those troubled Americans are better off than immigrants who live in Gulf states illegally, working in restaurants, casinos, farms and construction. Some have managed to get into shelters run by the Red Cross and Catholic Charities, which provide food and medical care, no questions asked. But when U.S. citizens in those shelters flock to cardboard tables where FEMA, Social Security and Internal Revenue Service agents sit, Latinos stay behind, watching from their cots, relief workers said. The Department of Homeland Security recently announced that information provided by illegal immigrants seeking federal aid could be used against them later in deportation proceedings."

Katrina Aftermath Said To Highlight Need For Clean Water. In a Washington Post op-ed (9/20, A23), Jan Eliasson, former Swedish ambassador to the United States and president of the United Nations General Assembly, and retired Rear Admiral Susan Blumenthal, a physician, say, "In the United States and Europe, people take it for granted that when they turn on their taps, clean water will flow out. But for those living in U.S. cities devastated by Hurricane Katrina, as in large parts of the world, obtaining safe water requires a constant struggle." Ensuring "access to safe water worldwide is imperative." But "most of all, water is a fundamental global health issue. Unsafe water and sanitation is now the single largest cause of illness worldwide, just as it has been a major threat to the health of people affected by Hurricane Katrina." If "action is not taken now, 135 million people could die of water-related diseases by the year 2020. That is a larger

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number than those expected to fall victim to the HIV/AIDS pandemic, a catastrophe that has already killed 23 million people worldwide."

High Court Could Have Cameras Under Grassley Bill. Roll Call (9/20, Mcardle) reports, "For the past 20 years, every time a vacancy arises in the Supreme Court, C-SPAN General Counsel Bruce Collins is teased by the possibility that new blood on the bench might mean the highest court in the land would reconsider its stance on allowing cameras into its halls. … But while Collins waits, hoping the court's two new justices will allow proceedings to be televised, the chairman of the Senate Judiciary Committee is ready to force the matter." Roll Call continues, "According to a GOP Congressional source close to the issue, Sen. Arlen Specter (R-Pa.) — who has said that Congress legally has authority over court administration issues — intends to drop new legislation, possibly as early as this week, that will push for opening the Supreme Court to television cameras. … Specter had discussed the possibility of a bill at last week's hearings on Judge John Roberts' nomination to be chief justice when the issue was brought up by Members on both sides of the aisle." Roll Call adds, "On Wednesday, Sen. Chuck Grassley (R-Iowa) pointedly asked Roberts if he was against cameras in the courtroom 'like Justice [William] Rehnquist was.' … 'Well, you know, my new best friend, [former] Sen. [Fred] Thompson [R-Tenn.], assures me that television cameras are nothing to be afraid of,' Roberts responded. 'But I don't have a set view on that. I do think it's something that I would want to listen to the views of — if I were confirmed — to my colleagues.'" Roll Call notes, "For the past four years, Grassley and several other Senate co-sponsors have been pushing the Sunshine in the Courtroom Act. The bill, which was reintroduced to the 109th Congress in April, would give full discretion to the presiding judge of a case as to whether cameras or recording devices would be allowed during proceedings in federal trial and appellate courts, including the Supreme Court. In appellate courts, the most senior active judge — the chief justice in the case of the Supreme Court — would have discretion on the issue."

Senate Set To Vote On Drug Reimportation. The Senate is set to vote on language that would ease access to prescription drugs imported from abroad. The Hill (9/20, Young) reports that the vote, which could occur during consideration of the agriculture-appropriations bill currently on the Senate floor, would fulfill "a promise made by Majority Leader Bill Frist (R-Tenn.) in July." Sen. David Vitter "has proposed an amendment to the agriculture spending bill that would block the Food and Drug Administration (FDA) from preventing people from importing prescription medicines. The language was introduced Thursday but had not been placed in the queue for a vote by press time yesterday. Frist hopes to wrap up the agriculture bill by the middle or end of this week, according to a spokesperson. … As part of an agreement with Vitter, Frist vowed to permit the amendment as a test vote for Senate support of relaxing restrictions on consumers' obtaining drugs at lower prices from countries such as Canada that use price controls to hold down the cost of medicines."

Social Security Reform Appears To Be Dead In Senate. Roll Call (9/20, Pierce) says that "there appear to be plenty of Republicans on Capitol Hill these days who are willing to serve as pallbearers" for President Bush's plan to overhaul Social Security. With "last week's revelation that National Republican Congressional Committee Chairman Tom Reynolds (N.Y.) thinks that voting on a Social Security overhaul would be political suicide for House Republicans in 2006, Senate leaders are doing little to quell a notion, floated by Reynolds, that any measure offering personal investment accounts under the government's retirement security program would be dead on arrival in the Senate." Roll Call adds, "Though Reynolds and others fear the repercussions of voting on Social Security at the ballot box, the crisis management in Washington over the botched recovery from Katrina is providing Republican leaders with a handy excuse for sidelining Social Security for the rest of this Congress."

Voinovich Offers Social Security Lock Box Legislation. The Washington Times (9/20, Pierce) reports in its "Inside Politics" column, "Sen. George V. Voinovich, Ohio Republican, said yesterday that Social Security personal-account proposals aren't going anywhere this year, but that Congress should pass legislation to lock away federal trust funds, including Social Security dollars, to ensure government can't spend them. Mr. Voinovich introduced a bill that would require all specially designated government revenue, including Social Security, be saved for those purposes and not spent on other programs." Voinovich "said overall Social Security reform will not happen this year with other issues, such as hurricane-relief efforts, dominating the agenda."

FDA Denies Naming Alderson Acting Director Of Women's Office. The Washington Post (9/20, A21, Kaufman) reports, "One week ago, the Office of Women's Health of the Food and Drug Administration sent an e-mail notice to women's groups and others announcing the appointment of Norris Alderson as its new acting director. … Three days after the Alderson announcement, the FDA main press office sent out a very different announcement. It said that 20-year FDA veteran Theresa A. Toigo would be the new acting director of the women's health office, and that she would be a champion for women's health inside and outside the agency. Alderson -- and the statement announcing his appointment -- was never mentioned. Asked yesterday who

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exactly was running the office, FDA spokeswoman Suzanne Trevino said that Alderson had never been appointed acting director. She said that Toigo would take over from the departed Wood, and that her office knew nothing about the statement regarding Alderson, who is the agency's associate commissioner for science. … The seeming mystery thickened when several women's groups said that not only did they receive e-mails announcing Alderson's appointment, but also that he was also listed on a Health and Human Services directory last week as the acting director of the office. In addition, people who have spoken with women's health office staff said that Alderson was introduced to the staff last week as the new acting director, and that he even had some one-on-one discussions with staff members about future plans."

New FDA Chief Counsel Keeps Predecessor's Industry-Friendly Policies In Place. The Legal Times (9/20, Henning) reports, "Sheldon Bradshaw arrived at the Food and Drug Administration without the baggage lugged around by his predecessor. … The previous chief counsel at the FDA, Daniel Troy, was pilloried by critics who slammed his close ties to the drug industry. Troy made a name for himself suing the agency on behalf of drug and tobacco companies before moving to the government agency early in the Bush administration." The Times continues, "Bradshaw, who came to the FDA as chief counsel from the Justice Department in April, has escaped that kind of scrutiny, largely because he hasn't had those corporate relationships. But that doesn't necessarily mean a new day has dawned. … In fact, despite Troy's return to the private sector, his controversial legal policies remain in force at the agency. Like Troy, Bradshaw offers one-on-one meetings with the companies regulated by the agency, has kept low the number of warnings issued to companies violating regulations, and, perhaps most notably, has continued to intervene on behalf of drug companies in private civil lawsuits." The Times adds, "Last week, Bradshaw signed off on a brief agreeing with Pfizer Inc.'s claim that three years ago the FDA would not have allowed the drug company to warn consumers about a link between suicidal behavior and the use of its best-selling antidepressant, Zoloft, by adolescents, an argument Pfizer is using to ward off liability. … That approach and a lighter regulatory hand put the public at risk, consumer and public health advocates complain. And even some in the drug and medical-device industries find the regulatory regime under Troy, and now Bradshaw, discomforting, claiming that without strong FDA oversight, companies are being hauled into court more frequently by state attorneys general and private plaintiffs."

NASA Unveils Plans For Return To Moon. The New York Times (9/20, Leary) reports that Michael D. Griffin, NASA's "new administrator, detailed a $104 billion plan that he said would get astronauts to the Moon by 2018, serve as a steppingstone to Mars and beyond, and stay within NASA's existing budget." Coverage of Grifinn's press conference ran in print and electronic media outlets across the United States and abroad. The two most prevalent facts making headlines were the $104 billion expected cost of the effort and Griffin's language as he referred to the story as "Apollo on steroids."

ABC World News Tonight (9/19, story 10, 2:10, Gibson) said the plans "almost seem like back to the future. The goal would be to go back to the moon and then on to Mars. The vehicles to get there look a bit like the old Apollo program, abandoned decades ago for the shuttle. Indeed, NASA's chief called it Apollo on steroids." Meantime, the CBS Evening News (9/19, story 12, 2:10, Schieffer) reported, "The pressure may be on to cut Federal programs, but NASA today announced a huge new program, a $104 billion plan to go back to the moon. The question is, will it ever fly now that the Gulf Coast must be rebuilt?" CBS (Andrews) added, "It will take Americans to the moon and beyond, but it will look like it came from the '60s. … Just like in heyday of the 'Apollo' moon missions 36 years ago, astronauts will land on and take off from the moon using a separate lunar lander. But this time there will be four astronauts, not two, staying at least a week, not just two or three days. The CEV, upon return, will be able to land on the ground, and be reused up to ten times." Bill Harwood, CBS News space analyst: "It's easy to build and easy to operate. It's not a complex winged vehicle that has to fly on a runway. It's a big step forward for NASA."

The Houston Chronicle (9/20, Carreau) adds Griffin "defended the plan's $104 billion price tag, which will cover expenses through the first mission, in the face of new budget pressures to pay the soaring costs of the Hurricane Katrina recovery effort and the escalating expense of the Iraq war. 'The space program is a long-term investment in our future,' Griffin said. 'We must deal with our short-term problems while not sacrificing our long-term investments in the future. When we have a hurricane, we don't cancel the Air Force, we don't cancel the Navy. We're not going to cancel NASA.'"

The Washington Times (9/20, Chien) reports that the plan calls for the retirement of the space shuttle in 2010 and a new 14-person Crew Exploration Vehicle, which could fly as early as 2012 if additional funding becomes available or 2014 within NASA's current budget. 'This is the best mission statement NASA's had in 40 years,' NASA administrator Michael Griffin said."

The Los Angeles Times (9/20, Pae) reports that the "blueprint unveiled Monday is part of a broader initiative launched by President Bush 18 months ago, in which he called for returning humans to the moon as a steppingstone to a manned mission to Mars, perhaps as early as 2020."

The Christian Science Monitor (9/20, Spotts) reports that the "new craft would be the cosmic equivalent of the

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suburban minivan -- a 'crew-exploration vehicle' capable of carrying six people to the International Space Station, or four people to the moon, or roughly 3-1/2 tons of cargo."

In an analysis of the new NASA plan, the New York Times (9/20, Broad) reports that while the original Apollo effort "to put men on the Moon" received widespread public support, "President Bush's plan to return humans there and then voyage onward to Mars is dividing space experts and generating skepticism about its feasibility."

Griffin Says The Effort Will Not Rely On New Money. USA Today (9/20, Watson) reports that the $104 billion if adjusted for inflation, amounts to "roughly 55% of the cost of the first moon landing in 1969." Griffin "said NASA's budget would not need to grow to pay for the new effort and vowed not to raid other programs for funds. Savings would come from retiring the space shuttle in 2010. 'This is not about new money,' Griffin said. 'This is about a budget which keeps NASA … approximately where it is today.'"

Shuttle-Derived Hardware A Major Selling Point Of Plan. The Washington Post (9/20, A3, Gugliotta) notes that while "the rocket technology is 'shuttle-derived,' the new plan abandons the concept of a winged, reusable spacecraft that can fly back to Earth and land at an airport. Griffin said the new 'crew exploration vehicle' can be reused perhaps 10 times, but most of the new program's apparatus, like Apollo's before it, will be jettisoned in space or burned up in Earth's atmosphere. Griffin also acknowledged that there will be a two-year period between the last space shuttle flight in 2010 and the first flight of the exploration vehicle, anticipated in 2012, during which the United States will have no ability to put humans in space."

NYTimes Says Plan Lacking Enough "Pizzazz To Inspire Public Support." The New York Times (9/20) editorializes "The proposed new space vehicles look like a sensible way to put astronauts and cargo into space after the shuttle fleet is retired and will be built to facilitate landings on both the Moon and Mars." The Times adds that Michael Griffin, "deserves credit for putting real flesh on what had been little more than an aspiration. Unfortunately, the new plan lacks the pizzazz to inspire public support and will be operating under budget constraints that make delays or overruns likely. The new crew exploration vehicle will be built around well-known space technologies, with booster rockets and engines derived from the shuttle program and a crew capsule like the one used in the lunar program, only bigger."

Author Decries Administration "War On Science." Author Chris Mooney writes in the Los Angeles Times (9/20), "The lamentation in the forthcoming New England Journal of Medicine is typical of a growing genre: complaints about the misuse of science by the Bush administration. It is merely the latest jeremiad, from a group of distinguished experts, about the loss of reason by our leaders. This particular editorial, titled "A Sad Day for Science at the FDA," concerned so-called Plan B emergency contraception (the "morning after" pill), but it just as well could have been about the science of global warming or mercury pollution." Mooney says that the Administration's "current war on science" is "undermining our government's most central mission: to serve and protect us. This mandate cannot be fulfilled without an abiding respect for professionalism, expertise and the integrity of scientific analysis."

OTHER NEWS:

Katrina Expected To Spark Lawsuits Against Insurers. The question of whether insurers, the federal government or individuals should bear the brunt of billions of dollars in damage to homes and businesses in Louisiana, Mississippi and Alabama is likely to make Hurricane Katrina the US' most contentious disaster recovery ever. USA Today (9/20, Chu) reports, "What makes the aftermath of Katrina so ripe for dispute is a polarizing, hard-to-determine issue: Is the damage caused by wind-driven rain or flooding? And what if the hurricane causes a storm surge or flood? … The Federal Emergency Management Agency (FEMA) estimates 34% of households and 23% of businesses in the affected areas have federal flood insurance." USA adds, "Disputes over wind vs. flood damage occur after every hurricane. But 'if it's any indication by the calls we've gotten so far, then we think there are going to be many more lawsuits' this time, says [Joanne] Doroshow of the Center for Justice & Democracy."

Barbour Calls Legislature Back Into Session. Mississippi Governor Haley Barbour said yesterday the he is calling the state legislature back into session September 27 to begin addressing Mississippi's recovery from hurricane Katrina. USA Today (9/20) reports, "One item on Barbour's agenda is a proposed change in gambling laws to allow casinos to build on land rather than only over water. Another session item, Barbour said, will be a proposal to allow small businesses hurt by Katrina to apply for $25 million in local loans. Barbour said he is waiting on a recommendation from the Mississippi Gaming Commission before offering a proposal on changing gambling laws."

Doctor Testifies To Vioxx, Heart Attack Link. The Wall Street Journal (9/20, Groeller) reports on Dr. Benedict Lucchesi's second day of testimony, where he said "several researchers had warned Merck about Vioxx's potential to cause cardiac problems…before the painkiller went on sale in 1999. 'According to the slogan, "Merck puts people first," I think they should have known,' he said."

The Bloomberg (9/19) adds Lucchesi testified that Vioxx "may cause heart attacks with just one dose."

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Crude Oil Prices Spike On Fears Rita Will Disrupt Supply. Crude oil prices surged yesterday on fears that Tropical Storm Rita would disrupt supply in the Gulf of Mexico. ABC World News Tonight (9/19, story 7, :15, Gibson) reported, "The price shot up $4.39 to more than $67 a barrel, and that's the largest one-day spike in history." The CBS Evening News (9/19, story 9, 0:30, Schieffer) said it was "the biggest one-day jump ever." NBC Nightly News (9/19, story 3, 0:20, Williams) also said it was "the biggest one-day price jump ever."

The Wall Street Journal (9/20, Bahreee, Gold) adds "the storm's approach is slowing efforts to fix infrastructure damaged by Katrina." The US Mineral Management Service "reported yesterday that 44% of the daily output of oil and natural gas was still off-line, three weeks after Katrina came ashore near the Louisiana-Mississippi border. So far, the damage has prevented the output of the oil and natural-gas equivalent of about 56 million barrels, just shy of 5% of the region's annual total."

The Financial Times (9/20, Hoyos, Morrison, McNulty) says "the Port of Houston Authority, the 6th largest in the world, began gathering information with its partners about the pending storm, reviewing all plans and procedures for the hurricane." Felicia Griffin, spokeswoman, "said the port, which is ranked 1st in the US in foreign tonnage and second overall, after the port of southern Louisiana, was checking inventory to ensure it had basic equipment on hand, including flashlights and batteries."

The Washington Post (9/20, D1, Blum) reports, "The new storm 'could be coming in right exactly where Katrina didn't go,' said Michael Guido, director of commodity strategy in New York for French bank Societe Generale. 'It could be a bad situation for all the platforms that didn't get hit before.'" D. Mark Routt, an analyst with Energy Security Analysis Inc. of Wakefield, Mass., "said Houston is an 'extremely important hub' for pipelines and other oil industry operations, adding to concern about storm damage."

USA Today (9/20, Smith) reports on how Rita is affecting cleanup efforts for "15 oil spills unleashed by Hurricane Katrina." It is "the largest oil cleanup effort in state history, more than 10 times greater than the remediation of 550,000 gallons of oil spilled by the ship Westchester in the Mississippi River in November 2000. The biggest spill in U.S. history was 11 million gallons by the ship Exxon Valdez off Alaska in 1989."

Meanwhile, gasoline prices fell to $2.81 average per gallon. The CBS Evening News (9/19, story 10, 0:10, Schieffer) reported "gasoline has now given up more than half its post-Katrina gain." USA Today (9/20, Healey) says "those numbers could turn fast. … Wholesale gasoline for delivery next month zoomed nearly 25 cents to about $2.03 a gallon."

OPEC Plans To Increase Production. The New York Times (9/20, Mouawad) reports, "OPEC delegates said Monday that the group planned to allow its members to provide up to two million barrels a day of additional crude oil if the market needs it." But "oil traders brushed aside the move and instead sent oil prices higher on worries of another possible hurricane."

Katrina Badly Damaged Gulf Oil Platforms. ABC World News Tonight (9/19, story 8, 2:20, Gibson) reported, "It has been three weeks since Hurricane Katrina roared through the Gulf and today, we've obtained the first look at some of the massive damage it inflicted on the oil rigs. It is clear evidence of how defenseless the oil facilities are against the fury of a major hurricane." ABC (Kofman) added, "No one knows yet how badly Katrina damaged the underwater pipeline system, but a preliminary count has found that of 140 damaged platforms in the Gulf, many are beyond repair. 2% were destroyed by Katrina but production is off more than 50% because the damage to the oil industry goes far deeper than what you find out here at sea. All along the Mississippi, below New Orleans, you can see how Katrina has hobbled the oil industry. Oil refineries sit idle. At least four will be down for months. Storage tanks knocked off their foundations. Crews scrambling to clean up six different oil spills. The only road to the region is still underwater in parts, and blocked by those massive fishing boats in other parts."

Dow Falls 84 Points On Oil Price Spike. The CBS Evening News (9/19, story 9, 0:30, Schieffer) reported the run in oil prices yesterday "rattled Wall Street. The Dow fell 84 points [to close at 10,557.63], the NASDAQ lost 15 [to close at 2145.26]." USA Today (9/20, Krantz) adds "the broad Standard & Poor's 500 index lost 6.89 points to 1231.02. The educational services, computer electronic retail and auto parts industries were the S&P's worst performers on Monday." Still, "the S&P 500 is alone among the three major stock market indexes in being up for the year at 1.6%." The New York Times/AP (9/20) and Wall Street Journal (9/20, Patterson) also report the stock numbers.

Meanwhile, USA Today (9/20, Shell) says "tracking violent storms is quickly emerging as a new job requirement on Wall Street. After the massive financial fallout caused by Hurricane Katrina, a growing number of traders, analysts and portfolio managers now view the weather as a major risk factor. … With Tropical Storm Rita barreling down on the Florida Keys and likely to gain strength and become a hurricane, it's no surprise that investors are just as interested in where the next hurricane will hit as they are the direction of interest rates."

Fed Expected To Raise Rates By Quarter Point. The Wall Street Journal (9/20, Whitehouse) reports, "The bond market has a message for Federal Reserve officials trying to gauge Hurricane Katrina's economic impact: Inflation

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probably will accelerate no matter what you do." Today, "the policy-making Federal Open Market Committee decides whether to keep raising short-term interest rates to fight inflation or pause for more data on how the economy has fared since Katrina. Most economists expect the Fed to raise its interest-rate target for the 11th time in 15 months -- by a quarter percentage point to 3.75% -- but will read the accompanying statement closely for signs of future moves."

The Wall Street Journal (9/20) editorializes that "easing up now would be exactly the wrong policy. T hose urging such an action include carry-traders who fear getting caught playing the yield curve, investors long on housing, and all kinds of well-intentioned folks who simply don't want to see the expansion end. We know how they feel. This market psychology always takes hold amid a Fed-tightening cycle -- and this time it is being exaggerated by the fallout from Katrina." The Journal also says "a rate hike now could actually have the beneficial effect of calming inflation fears and keeping long-term interest rates lower. If the Fed keeps prices stable, the animal spirits of the private sector will do the rest."

Agreement Calls For North Korea To Give Up Nuclear Weapons Program. Negotiators announced yesterday that North Korea has agreed to end its nuclear weapons program. The concession comes in exchange for American economic assistance and a US pledge not to launch a military attack against the communist regime. Most of the coverage of the deal is markedly skeptical about the North Koreans' intentions and the durability of the agreement. Comments by President Bush suggested the US government was also trying to lower expectations about it, describing it as merely as first step. As part of the reporting, some media outlets see a contradiction between the terms of the deal and previous White House positions.

ABC World News Tonight (9/19, story 3, 2:30, Karl), for example, said that for the "past four years, the White House insisted North Korea would get no rewards for stopping a nuclear weapons program the US said they shouldn't have in the first place. That, officials said, would be blackmail." The New York Times (9/20, Sanger), meanwhile, reports the accord "provided the bare minimum," but "even to get that, Mr. Bush had to blink slightly, acknowledging that at some point in the future, the United States would discuss with the North building new nuclear facilities -- something Washington has said it could never trust the North with."

USA Today (9/20, Slavin) adds "a year ago, US negotiators said energy assistance from North Korea's neighbors would come if it accounted for nuclear programs within three months and began to dismantle them. Such language is missing from the new deal, which says the United States will join other nations to provide energy." Monday's agreement "could lead to something like the 1994 deal, said Scott Snyder, a Korea expert at the Washington office of the Asia Foundation, a research group. The Bush administration had long criticized that deal."

ABC World News Tonight (9/19, story 3, 2:30, Gibson) also reported it was "perhaps, very possibly, a breakthrough," but "will the North Koreans follow through?" ABC (Karl) added, "The agreement, announced with fanfare, marks a major turnaround for both the United States and North Korea. The talks had been deadlocked, and there were fears North Korea would soon test one of its nuclear weapons. Now Kim Jong-Il's government promises to dismantle its entire nuclear weapons program and to let UN inspectors, whom he had thrown out of his country two years ago, back in." The CBS Evening News (9/19, story 5, 0:40, Schieffer) added, "Some doubt the North will live up to its end of the bargain, which calls for it to dismantling weapons and the programs to build them."

NBC Nightly News (9/19, story 8, 1:40, Williams) said that "at the White House today, President Bush cautioned it's not yet a done deal." Administration officials "say any new agreement will demand rigorous inspections and verification." Fox News' Special Report (9/19, Rosen) also said "Bush welcomed today's positive step, but expressed concern about the North's honoring its word."

The Financial Times (9/20, Fifield, Yeh) reports "Bush said the Korean deal was 'a step forward in making this world a more secure place' but insisted 'we've got to verify whether or not that happens.'" The "wide-ranging, though vague," agreement is "the first breakthrough in more than two years of tortuous six-party negotiations and came just as the differences between Pyongyang and Washington seemed intractable." It also "served to prove that Washington and Beijing, which hosted the talks, can co-operate on issues of mutual security interest." Bush "said he wanted to the thank the other partners in the six-party dialogue for working together. But he added: 'The question is, over time, will all parties adhere to the agreement?'" Scott McClellan, "the White House spokesman, made clear that the first step under the agreement was for North Korea to end its nuclear programmes."

The Washington Post (9/20, A1, Kessler, Cody) also says Bush "cautiously welcomed the agreement," and reports "the unexpected" deal "followed decisions by both the Pyongyang government and the Bush administration to compromise on positions they had clung to during nearly three years of crisis over North Korea's nuclear ambitions." The breakthrough accord "followed a compromise proposed by China aimed at persuading both countries to sign a document of principles." The New York Times (9/20, Kahn, Sanger) also describes Bush's reaction as "cautious."

North Korea's announcement that it will abandon its nuclear weapons programs received widespread coverage on

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local television yesterday. Most reports mentioned that the Bush Administration is pleased by the decision but remains "cautious." Some examples: KDKA-TV Pittsburgh (9/19, 4:43 p.m.) reported, "The White House says it is pleased with North Korea's agreement to end its nuclear weapons program. Still, at the same time there's caution about whether or not the nation will make good on its promise." The North "drove a hard bargain. In return for terminating its weapons programs, it will receive energy and oil aid and a guarantee Washington won't attack."

KARE-TV Minneapolis (9/19, 5:13 p.m.) reported, "North Korea is pledging to abandon all of its nuclear programs. … In return, North Korea will get electric power from South Korea, oil and aid from other countries and a pledge from the US to respect each other's sovereignty and right to a peaceful co-existence."

KSAZ-TV Phoenix (9/19, 5:17 p.m.) reported that "the agreement ends a 3 year standoff. In exchange for giving up its nuclear program, North Korea will receive energy assistance from other nations."

Knight Ridder (9/20, Johnson) says it was a "turnabout that came suddenly after years of failed talks." US "intelligence officials say North Korea harbors between six and nine nuclear weapons."

Accord Seen As Victory For Rice. The Christian Science Monitor (9/20, Kirk, LaFranchi) adds the deal "is seen by some analysts as a clear victory for Secretary of State Condoleezza Rice's diplomatic approach over administration forces favoring a more confrontational approach."

The New York Times (9/20) editorializes, "Diplomacy, it seems, does work after all." The deal "became possible when Washington abandoned the confrontational tactics and name-calling associated with its former top antiproliferation official, John Bolton, and gave serious negotiation a chance." Secretary of State Condoleezza Rice "deserves most of the credit for that switch, which was made with exceptional skill by America's top negotiator at the talks, Assistant Secretary of State Christopher Hill." The Times adds, "The biggest winner of all from yesterday's agreement may well be the Nuclear Nonproliferation Treaty itself."

This Morning, North Korea Demanding A Nuclear Reactor. Adding to the media skepticism is a renewed North Korean demand which reportedly was not part of the original deal. The Wall Street Journal (9/20, Fairclough, Robbins) says "a final deal ending Pyongyang's atomic ambitions is a long way off. Progress will require sweeping concessions from Pyongyang, including intrusive inspections to ensure the dismantling of its facilities." It will also "require important concessions from the Bush administration." This morning, "North Korea's foreign ministry issued a statement casting doubt on the country's willingness to act soon. A ministry spokesman said the US 'should not even dream' Pyongyang will give up its nuclear deterrent before America provides a reactor."

The Los Angeles Times (9/20, Demick, Magnier, Efron) adds a North Korean demand "threw water on the deal" less than 24 hours "after diplomats announced a breakthrough." North Korea's demand "could be a deal breaker." Assistant Secretary of State Christopher Hill, "the chief US negotiator at the six-nation nuclear talks, made it clear at the opening of negotiations in Beijing last week that the idea of providing North Korea with a reactor before disarmament would be a 'nonstarter.'" A similar Washington Times/AP (9/20, Chang) article says the demand cast "doubt" on North Korea's commitment to the "breakthrough agreement." Both the United States and Japan "rejected the North's latest demand. 'This is not the agreement that they signed, and we'll give them some time to reflect,' State Department spokesman Sean McCormack said." Japanese Foreign Minister Nobutaka Machimura "called the reactor demand 'unacceptable.'"

Hill "Had Misgivings" About Deal Because It "Hinted" At Discussions About Reactor. Under the headline "US-Korean Deal On Arms Leaves Key Points Open," the New York Times (9/20, Kahn, Sanger) reports the top US negotiator, Christopher Hill, "had misgivings" about the deal "because the vaguely worded agreement left unaddressed the date disarmament would happen, and hinted at a concession to North Korea that President Bush and his aides had long said they would never agree to: discussing at an appropriate time providing North Korea with a civilian nuclear power plant, senior administration officials said." The Times adds, "As described by senior Bush administration officials and Asian participants in the talks, Mr. Bush agreed to eventual discussions on providing a nuclear plant only after China turned over a draft of an agreement and told the Americans they had hours to decide whether to take it or leave it." The Times adds, "Several officials, who would not allow their names to be used because they did not want to publicly discuss Mr. Bush's political challenges, noted that Mr. Bush is tied down in Iraq, consumed by Hurricane Katrina, and headed into another standoff over Iran's nuclear program. The agreement, they said, provides him with a way to forestall, at least for now, a confrontation with another member of what he once famously termed 'the axis of evil."

More Commentary. Several editorials in major newspapers this morning praise the Administration's insistence on multi-party talks. In its editorial, the Los Angeles Times (9/20) says that "though the Bush administration's handling of North Korea has hardly been a model of diplomacy, the president can claim some vindication for insisting on multilateral talks, instead of agreeing to one-on-one negotiations." In fact, "the Bush Administration wanted to involve other nations in the talks" precisely because they would "expose Pyongyang's paranoia to a

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wider audience" and "make it harder for North Korea to deny any agreement it did make." The Times argues that the latest developments in the negotiations "put more pressure on China to keep North Korea in line," and, in any case, the "the difficult work of applying" the original deal's principles will begin at scheduled talks in November. Those "talks just got harder. But the value of the agreement is that at least the principles are now clear."

USA Today (9/20) editorializes, "History isn't encouraging. … The trick is to avoid past pitfalls. The United States has partners because of its two-year insistence on including neighbors South Korea, China, Japan and Russia in the talks."

The Wall Street Journal (9/20) writes in an editorial that "this time there is one important reason to believe it could work, past deceptions notwithstanding: China's vital interest in a denuclearized Korean peninsula and continued good relations with the US and Japan."

The Washington Post (9/20) writes in an editorial the deal is a "surprising piece of good news." North Korea's agreement, adds the Post, "excuses it from the potential displeasure of China, which brokered the talks and supplies Pyongyang with food and energy. It allows for the continuation of rapidly improving relations with South Korea, including provision by the South of large new supplies of electricity."

North Korea Producing Counterfeit $100 Bills. The Washington Times (9/20, Gertz) reports, "North Korea's government is producing high-quality counterfeit $100 bills and is working with criminal groups in China to sell the fake US money internationally, US officials say. Some details of the production of what federal officials call 'supernotes' were disclosed after arrests last month in several US cities of people linked to a major Asian crime ring trafficking in fake money, arms, drugs and cigarettes." The Times adds, "A senior Bush administration official said one of the 10 indictments in the case contains the first disclosure of the North Korean government's role in the counterfeiting."

Russia, China Oppose US Effort To Refer Iran To Security Council. USA Today (9/20) reports, "U.S. and European diplomats resumed efforts to have Iran brought before the U.N. Security Council for sanctions, even as Russia called for a delay. … European Union diplomats and a U.S. official — who spoke to the Associated Press on condition of anonymity, citing the sensitive nature of the negotiations — said China also remained opposed to referral. They said the West would probably force a vote. Secretary of State Condoleezza Rice said she expects the Security Council to take up the matter 'at some point in time.'"

El Baradei Criticizes Confrontational Approach To Iranian Nuclear Development. USA Today (9/20) reports, "The United Nations' chief nuclear inspector, Mohamed ElBaradei, said Monday that talks should replace international confrontation over Iran's nuclear activities. Negotiations proved their worth in getting North Korea to renounce its nuclear arms program, ElBaradei said. … Tehran says its nuclear program is for production of electricity, not nuclear weapons. ElBaradei criticized both Tehran's intransigence and U.S.-European calls for Security Council involvement as examples of 'confrontations and political brinkmanship.''

Pentagon Official Tells Taiwanese To Boost Defense Spending. The Washington Times (9/20, Gertz) reports Edward Ross, a senior Pentagon security cooperation official, "sharply criticized Taiwan's government for not moving ahead with an arms buildup to counter a mounting threat from China. Ross "also suggested in a speech that the United States might not defend Taiwan in a conflict with China unless Taipei does more to boost its defenses and national will. 'As the lone superpower, our interests are plentiful and our attention short,' Mr. Ross said. 'We cannot help defend you if you cannot defend yourself.' … The blunt speech, a copy of which was obtained by The Washington Times, was given at the annual U.S.-Taiwan Business Council-Defense Industry meeting in San Diego. Attendees included Huo Shou-yeh, Taiwan's vice defense minister, and other officials from the island."

Activist Fighting Forced Abortions Jailed In China. The Washington Post (9/20, A17, Pan) reports, "China said Monday that it has dismissed and detained officials in the eastern city of Linyi for abuses committed while enforcing the country's one-child policy. But the government provided no details and said nothing about the arrest this month of an activist who had campaigned against the use of forced abortion and sterilization there. … Jiang Tianyong, a lawyer involved in a class-action lawsuit against the Linyi officials, cast doubt on the government's statement and accused local authorities of continuing to hold Chen Guangcheng, the activist leading the lawsuit, under house arrest without due process."

US Wants To "Come Out Blazing" On UN Reforms. The Christian Science Monitor (9/20, Regan) reports in its "Terrorism and Security" column, "After a week when most of the reforms it wanted to see initiated at the United Nations were stymied or watered down, The Sunday Times of London reports that the United States wants to 'come out blazing' on Monday and push for change. But it faces a new geopolitical world as it attempts to do this, according to a New York Times analysis; one where countries will ally with you on one issue, while at the same time strongly opposing you on other issues. What Bush faced

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from the well of the United Nations on Wednesday morning was a strange new geopolitical world, in which your allies on one issue are ganging up on you in the next room." The US "will get to see this week if it can still form the needed coalitions to push through its agenda, as the International Atomic Energy Agency (IAEA) takes up the issue of Iran's nuclear program."

Coleman Calls For Annan To Be Replaced. In an op-ed for the Wall Street Journal (9/20) titled, "The U.N. Must Look For a New Secretary-General, Sen. Norm Coleman writes, "Last week, world leaders met for what Kofi Annan described as a 'once-in-a-generation opportunity to take bold decisions in the areas of development, security, human rights and reform of the United Nations.' But a reading of the 'outcome document' world leaders are signing shows it to be yet another missed opportunity for UN reform. John Bolton pushed hard to improve the document and succeeded in modifying its most objectionable clauses. But what remains falls far short of 'bold.' … If the UN is to genuinely reform itself, it needs visionary and credible leadership. Mr. Annan, whose management failures are unambiguous, is simply too weak to muscle through an effective reform package. We should begin looking for new leadership now."

Schroeder, Merkel Try To Form Governing Coalitions. One day after elections, German politics remain deadlocked as both major parties continue to claim victory. USA Today (9/20, Knox) reports "competing claims" by Chancellor Gerhard Schroeder and his opponent, Angela Merkel "put Germany in a political deadlock and could stall efforts to revive the torpid economy." Merkel's party, the Christian Democratic Union, "won 35.2% of the vote in Sunday's elections, compared with 34.3% for Schroeder's Social Democratic Party." Merkel and Schroeder "scrambled to form alliances with other political parties that would put them in control. … Traditionally, Merkel's Christian Democrats have linked with the Free Democrats. Schroeder's Social Democrats have allied with the Greens. Merkel and Schroeder are trying to woo each other's ally." A majority coalition "must be in place by Oct. 18. The parliament has three chances to choose a chancellor. If it fails, President Horst Koehler can appoint a minority government or call new elections." The New York Times (9/20, Bernstein, Dempsey) adds "Christian Democratic officials said Monday that talks would be held with the Greens. … The chairman of the Greens, Reinhard Bütikofer, did not rule out an agreement."

The Christian Science Monitor (9/20, Tzortzis), Wall Street Journal (9/20, Walker, Crawford), Washington Post (9/20, A17, Whitlock), Knight Ridder (9/20, Schofield) and Washington Times (9/20, Kralev), run similar reports on the situation in Germany.

The Financial Times (9/20, Benoit) reports the euro "fell to a seven-week low against the dollar on Monday after Germany's election ended in a stalemate, casting doubt over the country's ability to enact the policy changes needed to bolster faltering economic growth." The New York Times (9/20, Smith) adds "Europe, weakened by the seeming collapse of its constitutional project in May, faces even more uncertainty after the election in Germany on Sunday, which left no party with a clear mandate."

In an analysis piece, the Wall Street Journal (9/20, Kempe) says "it will take some time and convoluted coalition negotiations before the world knows who won Sunday's German elections. But it's not too early to call the loser: Angela Merkel. … Political insiders say moving quickly to build a government is Angela Merkel's last chance of survival. Any delay will mean her political death, either by Chancellor Schroeder's hand or, just as likely, rivals within her own Christian Democratic party who have never been comfortable with the eastern German Protestant woman in a political leadership that is overwhelmingly male, western and Catholic."

FARC Reportedly Operating Along Venezuelan Border. The Washington Times (9/20, Behn) reports, "Colombian paramilitaries and Marxist guerrillas are running kidnapping, extortion and smuggling rackets as they infiltrate Urena and other communities near Venezuela's border, residents and officials say. 'There are more and more FARC in Apure and in Tachira [two western border states of Venezuela] present in the communities, and they are recruiting,' said Virginia Trimarco, regional representative of the U.N. High Commissioner for Refugees (UNHCR). 'That makes people inside the country, and the Venezuelans, worried about security and selective killings,' she said. … Venezuelan cattle ranchers and a local state official -- who asked not to be named -- said the government of President Hugo Chavez turns a blind eye to FARC guerrillas operating in Venezuela, pushed to the border by the success of the U.S.-backed Plan Colombia, aimed at eradicating the cocaine trade in Colombia that funds the rebels."

Uzbek Government Accused Of Intimidating Human Rights Activists. The New York Times (9/20, Chivers) reports, "The government of Uzbekistan, stung by the outcry in the West over its bloody suppression of a prison break and anti-government demonstration in May, has engaged for months in a ferocious crackdown against those who have tried to expose the brutality, says a report released Monday by a prominent human rights organization. The report, by Human Rights Watch, the New York-based organization, says the crackdown included widespread arrests, threats and harassment and was directed at

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witnesses, survivors, human rights defenders, journalists and political workers."

The Washington Post (9/20, A18, Finn) reports, "The first 15 people charged with organizing an armed revolt in Andijan were to go on trial Tuesday in the Uzbek capital, Tashkent. Prosecutors allege that the 15 were part of a broad conspiracy, financed from abroad, that was designed to overthrow the government and replace it with an Islamic state. Prosecutors said another 106 people may face similar charges."

US Urged To Give Pakistan Trade Deal In Return For Women's Rights Assurances. The New York Times' Nicholas Kristoff (9/20) writes, "Our close ally President Pervez Musharraf of Pakistan visited the U.S. last week and fretted aloud about a surprising problem: The 'easiest way' for Pakistani women to make money is to get raped, he said, so they're lining up to be raped and thus making him look bad. … That comment got Mr. Musharraf in hot water. So over the weekend, Mr. Musharraf denied that he had ever said any such thing." Kristoff continues, "The irony is that while he's a nitwit on social issues, General Musharraf has proved himself to be a good economic manager, and the 7 percent growth rates generated by his reforms will help undermine fundamentalism and sexual violence in the long run. During his visit, Mr. Musharraf pressed for a free-trade area between the U.S. and Pakistan, and that's a great idea to promote Pakistan's development. So let's give Mr. Musharraf a free-trade deal - but only on the condition that he clamp down not on Pakistani women fighting against rape, but on Osama bin Laden."

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Meeting with Local Officials and Business Leaders, Gulfport, Miss.; briefing on Tropical Storm Rita, New Orleans, La.; visit to Recovering Business, New Orleans, La.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: 10 a.m. VETERANS AFFAIRS _ Senate and House Full Committees. Joint hearings on legislative presentations by veterans affairs groups: American Legion. Location: Room 345, Cannon.

10 a.m. AGRICULTURE, NUTRITION AND FORESTRY _ Full committee markup of pending legislation, including S 1582, a bill to reauthorize the U.S. Grain Standards Act. Location: Russell, room 328-A.

10 a.m. BANKING, HOUSING AND URBAN AFFAIRS _ Full Committee. Hearing on pending nominations, including Emil Henry Jr. to be assistant secretary of the Treasury for financial institutions; Scottie Theresa Neese to be director of the U.S. Mint; and Patrick O'Brien to be assistant secretary of the Treasury for terrorist financing. Location: Room 538, Dirksen.

10 a.m. ENERGY AND NATURAL RESOURCES _ Full Committee. Hearing to receive testimony regarding the current state of climate change scientific research and the economics of strategies to manage climate change. Issues to be discussed include: the relationship between energy consumption and climate change, and the potential effects on the U.S. economy of climate change and strategies to control greenhouse gas emissions. Location: Room 366, Dirksen.

10 a.m. JUDICIARY _ Full Committee. Hearing on the Supreme Court's Kelo ruling from New London, Conn. Witnesses include: Susette Kelo, of New London; Pastor Fred Jenkins of St. Luke's Pentecostal Church, North Hempstead, N.Y.; Eddie Perez, mayor of Hartford, Conn, representing National League of Cities; Hilary O. Shelton, director NAACP Washington bureau; and others. Location: Room 226, Dirksen.

10 a.m. VETERANS AFFAIRS _ Holds joint hearing on legislative presentations by veterans' affairs groups. Location: Room 345, Cannon.

2:30 p.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Disaster Prediction and Prevention Subcommittee. Hearing on ``The Lifesaving Role of Accurate Hurricane Prediction." Max Mayfield, director, National Hurricane Center; Windell Curole, general manager, South Lafourche Levee District; Mark Levitan, director, LSU Hurricane Center. Location: Room 562, Dirksen.

2:30 p.m. FOREIGN RELATIONS _ Subcommittee on Western Hemisphere, Peace Corps and Narcotics Affairs holds a hearing on ``China's Role in Latin America." Witnesses include: Charles Shapiro, principal deputy assistant secretary of State, Bureau of Western Hemisphere Affairs; Roger Pardo-Mauer, deputy assistant secretary of Defense for western hemisphere affairs; and others. Location: Dirksen, room 419.

US House: FLOOR SCHEDULE _ 12:30 p.m. The House meets for morning hour and 2 p.m. for legislative business. Votes will be postponed until 6:30 p.m. Highlights: Suspensions (10 bills): 1) H.R. 3761 - Flexibility for Displaced Workers Act. 2) H.R. 2132 - To extend the waiver authority of the Secretary of Education with respect to student financial assistance during a war or other military operation or national emergency. 3) H.R. 3784 - To temporarily extend the programs under the Higher Education Act of 1965, and for other purposes. 4) H.R. 3765 - To extend through December 31, 2007, the authority of the Secretary of the Army to accept

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and expend funds contributed by non-Federal public entities to expedite the processing of permits. 5) H.R. 3649 - Sportfishing and Recreational Boating Safety Amendments Act of 2005. 6) H.R. 409 - Sierra National Forest Land Exchange Act of 2005 . 7) S. 1340 - A bill to amend the Pittman-Robertson Wildlife Restoration Act to extend the date after which surplus funds in the wildlife restoration fund become available for apportionment. 8) H.R. 394 - To direct the Secretary of the Interior to conduct a boundary study to evaluate the significance of the Colonel James Barrett Farm in the Commonwealth of Massachusetts and the suitability and feasibility of its inclusion in the National Park System as part of the Minute Man National Historical Park, and for other purposes. 9) H.Res. 441 - To congratulate the National Aeronautics and Space Administration and the Discovery crew. 10) H.Res. 450 - Recognizing Space Shuttle Commander Eileen Collins, Mission Specialist Wendy Lawrence, and the contributions of all other women who have worked with NASA following the successful mission of Space Shuttle Discovery on STS-114.

10 a.m. VETERANS AFFAIRS _ Senate and House Full Committees. Joint hearings on legislative presentations by veterans affairs groups: American Legion. Location: Room 345, Cannon.

2 p.m. INTERNATIONAL RELATIONS _ Africa, Global Human Rights and International Operations Subcommittee. Oversight hearing on implementation of the Microenterprise Results and Accountability Act. Jonathan Morduch, Associate Professor of Public Policy and Economics, Robert F. Wagner Graduate School of Public Service New York University; Susy Cheston, Senior Vice President, Opportunity International; Gary Plank, President-Elect, World Council of Credit Unions; Lawrence Yanovitch, Director of Policy and Technical Assistance, The Foundation for International Community Assistance. Location: Room 2172, Rayburn.

5 p.m. RULES _ Full committee markup to consider rules for floor debate for pending legislation, including HR 250, the Manufacturing Technology Competitiveness Act, and HR 2123, the School Readiness Act. Location: Capitol, H-313.

7 p.m. ARMED SERVICES _ Full Committee. Markup of pending legislation. Location: Room 2118, Rayburn.

Other: BURUNDI PESIDENT PIERRE NKURUNZIZA _ Highlights: 11 a.m. - 12:30 p.m. Three weeks after his installation as President, the former rebel leader discusses the post-conflict reconstruction challenges confronting his country and outlines his government's prioriites and strategies. Woodrow Wilson Center, Ronald Reagan Building, 1300 Pennsylvania Ave. NW. Contact: 202-691-4000.

KING ABDULLA II OF JORDAN _ Highlights: Majority Leader Frist meets with King Abdulla II of Jordan. Room S-230.

CONTRACTORS CONFERENCE _ Associated General Contractors of America (AGC) holds its 2005 Legislative Midyear Meeting, featuring the latest information about the likely impact on the economy of Hurricane Katrina, a report from U.S. Army Corps officials on hurricane relief and reconstruction, and other matters. Highlights: 9 a.m. Charles Nottingham, Federal High Administration's associate administrator for policy discusses new highway bill, and Rep. John Mica, R-Fla., discusses transportation in the future. Location: Hyatt Regency, 400 New Jersey Ave. NW.

FEDERAL CREDIT UNIONS CAUCUS _ The National Association of Federal Credit Unions (NAFCU) holds the NAFCU 2005 Congressional Caucus. Highlights: 8:45 a.m. Rep. Patrick McHenry, R-N.C. 9:15 a.m. Debbie Matz, board member, NCUA. 10 a.m. Rep. Barney Frank, D-Mass. 10:30 a.m. Treasury Secretary John Snow. 11 a.m. Rep. Mike Oxley, R-Ohio. 11:30 a.m. Sen. Tom Carper, D-Del. Location: Grand Hyatt Washington, 1000 H St. NW.

GENERIC PHARMACEUTICAL CONFERENCE _ The Generic Pharmaceutical Asosciation (GPhA) hosts its First Annual Policy Conference, focusing on Medicare, biodefense, generic biopharmaceuticals and other issues. Highlights: 8 a.m. Keynote, Sen. Orrin Hatch, R-Utah. 12 p.m. Keynote, Rep. Henry Waxman, D-Calif. Location: Ritz-Carlton, 22nd and M Streets, NW.

AIR QUALITY CONFERENCE _ The Energy & Environmental Research Center holds the Air Quality V Conference, with keynote speakers Sen. Byron Dorgan, D-N.D., and Carl Bauer, acting director of the U.S. Department of Energy's National Energy Technology Laboratory. Others speakers include Jeffrey Holmstead, assistant administrator of air and radiation, EPA; Sen. Kent Conrad, D-N.D.; Rep. Earl Pomeroy, D-N.C.; and William Wehrum, EPA. Location: Marriott Crystal Gateway, 1700 Jefferson Davis Highway, Arlington, Va.

TRADE TALKS _ Public events by U.S. Trade Representative Rob Portman. Highlights: 8:45 a.m. Meets with Thailand's foreign minister, USTR Offices, 600 17th St. NW. 9:45 a.m. Meets with Ukrainian Foreign Minister Boris Tarasyuk., USTR Offices. 11:15 a.m. Meets with Korean trade minister. USTR Offices. 2:30 p.m. Meets with Uganda President Yoweri Museveni. USTR Offices. 7 p.m. Delivers Keynote speech to Coalition of Service Industries, St. Regis Hotel, 16th and K streets, NW.

SMALL BUSINESS-REGULATORY CONFERENCE _ 8 a.m. - 4 p.m. Over 25 national small business trade associations hold a conference on the Small Business and Regulatory Environment: 25 Years of the Regulatory Flexibility Act. Speakers and panelists include John Graham, OMB; Karen Kerrigan, Small Business and Entrepreneurship Council; Susan Dudley, Mercatus Center; others. Location: Room G-50, Dirksen Senate Office Building.

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DRUG COUNTERFEITING _ 8:30 a.m. The Center for Medicines in the Public Interest and Pacific Research Institute hold the International Drug Counterfeiting Conference, releasing a new report saying counterfeit drug sales will reach $75 billion in 2010. Highlights: 8:30 a.m. Breakfast keynote, Scott Gottlieb, deputy commissioner, FDA. 12:30 p.m. Lunch keynote, Arif Alikhar, director, DOJ IP Task Force. Location: Hyatt Regency-Washington on Captiol Hill, 400 New Jersey Ave. NW.

AMERICAN DREAM FORUM _ Jobs for the Future forum on ``improving the path to better education and better jobs for all." Highlights: Keynote address by Patty Stonesifer, President and Chairman, Bill and Melinda Gates Foundation. A ``Town Hall Discussion with David Gergen (Moderator), Professor of Public Service, John F. Kennedy School of Government, Harvard University and high-level public officials and corporate decision-makers.

THE RISE OF CHINA _ 9:30 a.m. - 6 p.m. The Brookings Institution hosts a conference on ``China's Emergence." Location: Brookings Institution, Falk Auditorium, 1775 Massachusetts Ave. NW.

21ST CENTURY MEDICAID SYSTEM _ 10:30 a.m. - 5 p.m. The Center for Health Transformation holds a forum, ``Creating a 21st Century Medicaid System," with Newt Gingrich; Mark McClellan, Administrator for the Centers for Medicare and Medicaid Services; Gov. Mike Huckabee, R-Ark.; Gov. Mark Warner, D-Va.; Rep. Nathan Deal, R-Ga.; and Sen. Mel Martinez, F-Fla. Location: Renaissance Mayflower Hotel, 1127 Connecticut Ave. NW.

HURRICANE KATRINA-ECONOMY _ 11 a.m. The Center on Budget and Policy Priorities (CBPP) holds conference call briefings at 11 a.m. and 2:30 p.m. to examine whether Congress, which is moving forward with immediate relief and reconstruction measures in the wake of Hurricane Katrina, should enact broad-based national legislation to stimulate the economy, with Robert Reischauer, president, Urban Institute; Peter Orszag, Brookings Institute; and Robert Greenstein, executive director, CBPP. Contacts: Michelle Bazie, 202-408-1080.

RURAL BROADBAND _ 8:30 a.m. The Rural Broadband Coalition and Hughes Networks Systems host a forum with representatives from the FCC and Department of Agriculture to discuss the availability of broadband Internet access to small businesses in rural America. Location: Rayburn, Room 2105.

US-MEXICO _ 8:30 a.m. CSIS hosts Luis Ernesto Derbez Bautista, Mexico's Secretary of Foreign Relations, discussing ``The State of US-Mexico Relations, the North American Agenda, and Mexico's Current Political Situation." Location: CSIS, B-1 Conference Center, 1800 K St. NW.

NUCLEAR PROLIFERATION _ 9 a.m. Georgetown University hosts a panel discussion on ``Nuclear Proliferation in the Age of Terror," with Reps. Adam Schiff, D-Calif., and Christopher Shays, R-Conn.; Graham Allison, director of the Belfer Center for Science and International Affairs at Harvard University; Stephen Rademaker, assistant secretary of state for arms control; and moderator Robert Gallucci, dean, School of Foreign Service at Georgetown. Location: Georgetown University, Copley Formal Lounge.

ECONOMISTS-KATRINA _ 10 a.m. The ABA Economic Advisory Committee hosts economists from the nation's largest banks discussing post-Katrina economic conditions, including oil and home prices, via a telephone press conference, with Jim Chessen, ABA chief economist; Richard DeKaser, chief economist, National City Corporation; others. Contacts: Laura Fisher, 202-663-5466. Notes: Telephone press conference: 800-357-0498.

ISLAM AND TERROR _ 10 a.m. Homeland Security officer for Civil Rights and Civil Liberties Daniel Sutherland delivers remarks at a forum on ``Islam and Terror: After London, Lessons for the United States." Location: Heritage Foundation, Lehrman Auditorium, 214 Massachusetts Ave. NE.

MEDICARE _ 10 a.m. Kenneth Thorpe of Emory University discusses his new study, coauthored with Adam Atherly, titled ``Value of Medicare Advantage to Low-Income and Minority Medicare Beneficiaries." Location: Blue Cross and Blue Shield Association, 12th Floor, 1310 G St. NW.

SPELLINGS-BROAD PRIZE _ 10:30 a.m. US Secretary of Education Margaret Spellings will deliver remarks at the 2005 Broad Prize for Urban Education ceremony. Location: Library of Congress.

ARCTIC REFUGE COALITION _ 10:30 a.m. - 1 p.m. The coalition of groups working to save the Arctic National Wildlife Refuge holds a citizen action day, with thousands of Americans from across the country coming to the U.S. Capitol to urge lawmakers to protect America's Arctic Refuge from oil drilling. Participants include Robert Kennedy, Jr., Natural Resources Defense Council; Rt. Rev. Mark MacDonald, Episcopal Bishop for Alaska; Rabbi Richard Saperstein, Coalition on the Environment and Jewish Life, Native American leaders and drummers, others. Location: West Front, US Capitol.

DEMOCRATS-KATRINA _ 10:50 a.m. House Democratic Leader Nancy Pelosi and Senate Democratic Leader Harry Reid, along with Bishop Thomas Hoyt of the Christian Methodist Episcopal Church and President of the National Council of Churches, and Reverend Stephen John Thurston, President of the National Baptist Convention of America, Inc. will hold a brief media availability. Location: S-207, U.S. Capitol.

WINDFALL HEATING FUEL PRICES _ 11 a.m. Sens. Byron Dorgan, D-N.D., and Chris Dodd, D-Conn., hold a press conference to discuss projected record winter heating fuel costs and legislation (The Windfall Profits Rebate Act of 2005 -- S. 1631) they are advancing to provide consumer

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relief in the form of consumer rebates. Location: Senate Radio-TV Gallery.

ENVIRONMENTAL ATTITUDES _ 12 p.m. Environmental leaders announce the formal launch of Duke University's Nicholas Institute for Environmental Policy Solutions at a press conference, with William Reilly, former EPA administrator and chair of the Institute's Advisory Board; Sens. John McCain and Joe Lieberman; and pollsters Peter Hart and Bill McInturff. Location: Room 406, Dirksen Senate Office Building.

PROPERTY RIGHTS _ 12:30 p.m.Sen. John Cornyn, R-Texas, joins Suette Kelo, lead plaintiff in Kelo v. New London property rights case, others, for a media availability. Location: Room 226, Dirksen Building.

RELIGIOUS-ROBERTS _ 12:30 p.m. Faith and religious leaders from across the country will formally announce their opposition to the confirmation of Judge John Roberts as Chief Justice of the United States. Location: Room 512, Hart Senate Building.

DEMOCRATIC WHIP _ 1:30 p.m. House Democratic Whip Steny Hoyer holds his regular pen and pad briefing. Location: Capitol, H-306.

ENVIRONMENTAL POLICY _ 2 p.m. - 3:30 p.m. The Georgetown Environmental Law and Policy Institute holds a panel discussion on ``The National Environmental Act Under Siege.'' Panelists include, Robert Dreher, deputy director of the Georgetown Environmental Law and Policy Institute; Johanna Polsenberg, senior legislative assistant to Rep. Tom Udall; Vince Sampson, deputy chief counsel for the House Resources Committee; and Gary Bass, director of OMB Watch. Location: Georgetown University Law Center, McDonough Hall, Room 201, 600 New Jersey Ave. NW.

KATRINA-LONG ISLAND _ 2 p.m. - 3:30 p.m. In the wake of Hurricane Katrina, Nassau County Executive Tom Suozzi and Suffolk County Executive Steve Levy will be meeting with the Long Island Congressional Delegation in Washington, D.C. to brief the delegation on their emergency-response plans for Long Island, and to outline the assistance they need from the Federal government. A press availability will follow at the conclusion of the meeting. Location: Room 2243, Rayburn House Office Building.

VOTING _ 2:15 p.m. Senators Dodd, Obama, and Rep. Lewis news conference on the Help AmericaVote Act. Location: Senate Radio-TV Gallery Studio.

DEMOCRATS-KATRINA-FRAUD _ 3 p.m. House Democratic Leader Nancy Pelosi and Congressman Henry Waxman hold a news conference tomorrow to announce the introduction of legislation to create an anti-fraud commission to prevent fraud and abuse in the recovery and rebuilding effort in the Gulf Coast region. Location: House Radio/TV Gallery.

CHAMBLISS-ROBERTS _ 3:30 p.m. Senator Chambliss meets with Judge John Roberts. Photo-op at top of meeting. Media availability with Sen. Chambliss only following meeting. Location: Room SR-416, Russell.

IMMIGRATION REFORM _ 4:30 p.m. Leaders from the immigration communities, labor, business, and religious organizations kick off a series of rallies and town hall meetings in support of the Secure America and Orderly Immigration Act of 2005 (S. 1033/H.R. 4330) this fall. The first rally will be held today, with over 500 people expected to attend. Speakers include Reps. Jeff Flake, R-Ariz.; Luis Gutierrez, D-Ill.; Jim Kolbe, R-Ariz.; Janice Schakowsksy, D-Ill.; Karen Narasaki, executive director, NAPALC; Arturo Rodriguez, president, UFW; others. Location: Foundry United Methodist Church, 1500 16th St. NW.

PRO IMMIGRATION _ 4:30 p.m. Sen. John McCain joins Reps. Jeff Flake, Luis Gutierrez, other pro immigration rights figures, for rally calling for immigration reform. Location: Foundry United Methodist Church, 1500 16th St. NW.

PRESS ACCESS-PUBLIC EVENTS _ 4 p.m. A panel of lawyers and professors discuss press access and changing news coverage after New York Times reporter Judith Miller was jailed for refusing to reveal her source. Panelists include, Ronald Karp, who represented Montgomery Police Chief Charles Moose in his First Amendment fight to publish a book; David Bartlett, past president of the Radio and Television News Director's Association; Ford Rowan, former NBC News correspondent; and others. Location: Washington College of Law, Room 603, 4801 Massachusetts Ave. NW.

USTR PORTMAN-KEYNOTE _ 6 p.m. United States Trade Representative Robert Portman makes the keynote address at the Coalition of Service Industries annual Gala Dinner. In addition Rep. Gregory Meeks, D-N.Y., and Rep. Pete Sessions, R-Texas, are honored for their roles in promoting U.S. trade interests. Economists Barry Bosworth and Jack Triplett will also be recognized for their work in helping to better understand the role of services in the U.S. economy. Location: St. Regis Hotel, 16th and K Streets, NW.

JESSE HELMS TRIBUTE _ 6:30 p.m. National conservative leaders mark the publication of the newly released memoirs of former Sen. Jesse Helms at a dinner event hosted by Sen. Elizabeth Dole, R-N.C., and Sen. Richard Burr, R-N.C. Speakers include Bob Novak, Phyllis Schlafly, Beverly LaHaye, Paul Weyrich, David Keane, Ambassador Jeane Kirkpatrick, Rev. Jerry Falwell, and Reed Larson. Location: Crystal Marriott Gateway, 1700 Jefferson Davis Highway, Arlington, Va.

TIPPER GORE-AWARD _ 6:30 p.m. The Sewall-Belmont House and Museum honors Tipper Gore with the Alice Award at its gala awards dinner and reception in recognition of her commitment to mental health issues, education and the plight of the homeless. Joining the celebration are Karenna Gore Schiff, author and activist; Sen. Patty Murray; Sen. Debbie Stabenow; Rep. Lincoln Davis;

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musician Herbie Hancock; others. Location: Sewall-Belmont House & Museum, Capitol Hill.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"N. Korea Sets Condition On Nuclear Pact."
"Telling You What You Like."
"High-Tech Systems Feed Change In Parking Meters."
"New Orleans Mayor Tells Residents To Pack Up Again."
"Storm Strains Bush's Ties To Black Clergy."
"Back To Moon Via 'Apollo On Steroids.'"

USA Today:
"Guard Relief Hurt By Obsolete Equipment."
"Is Pakistan Doing Its Part In The War On Terrorism?"
"City Clears Out Again."
"President Sinking In Ratings."

New York Times:
"Mayor Suspends Flow Of People To New Orleans."
"U.S.-Korean Deal On Arms Leaves Key Points Open."
"Ex-Tyco Officers Get 8 To 25 Years."
"Ex-White House Aide Charged In Corruption Case."
"NASA Planning Return To Moon Within 13 Years."
"Many Women At Elite Colleges Set Career Path To Motherhood."

Washington Post:
"Storm Threat Halts Returns To New Orleans."
"British Smash Into Iraqi Jail To Free 2 Detained Soldiers."
"N. Korea, U.S. Gave Ground To Make Deal."
"Immigration Nominee's Credentials Questioned."
"New Antipsychotic Drugs Criticized."
"Bush Official Arrested In Corruption Probe."

Washington Times:
"North Korea Hedges On Nuclear Deal."
"New Storm Halts Reopening Of Big Easy."
"Local Heating Costs To Jump."
"Colombian Violence Spills Over."
"In Clarksburg, They Made The Lots Too Small."

Detroit Free Press:
"Newborn Donors Give Gift Of Life."
"My Identity Was Stolen; Yours Could Be Next."
"Family Ties Draw Evacuees North."
"Michigan's $500,000 Pioneers."

Atlanta Journal-Constitution:
"Guilty."
"Suit Slams Voter ID Law."
"It's The Neighborly Thing."
"Mogul Chips In $10 Million For Cobb Arts Center."

Story Lineup From Last Night's Network News:
ABC: Tropical Storm Rita; New Orleans-Storm Dangers; North Korea-Nuclear Deal; Iraq-US Guards Killed; Afghan Election; Zawahiri Tape; Oil Prices; Tyco Execs Sentenced; NASA-New Moon Mission; Schools-Allergies.
CBS: Tropical Storm Rita; Katrina-Death Toll; New Orleans-Storm Dangers; McCain-Katrina Costs; North Korea-Nuclear Deal; Iraq-British Commandos Jailed; Iraq-Tal Afar; Katrina-Missing Children; Oil Prices; Gas Prices; Katrina-Coast Guard; NASA-New Moon Mission; Tyco Exec Sentenced; Katrina-Students, Teachers.
NBC: Hurricane Rita; Rita-Florida Keys; Oil Prices; New Orleans-Storm Dangers; Bush-Katrina Cost; Americans-Katrina Cost; Katrina-Evacuee Family; North Korea-Nuclear Deal; Tyco Exec Sentenced; Katrina-Displaced Dolphins; Katrina Evacuees-Barber; NJ-New Orleans Saints.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Tropical Storm Rita; Oil Prices; CA-Beatty Gubernatorial Bid; North Korea Nukes.
CBS: Tropical Storm Rita; New Orleans-Repopulation Suspended; North Korea Nukes; NASA-Moon Mission.
NPR: Tropical Storm Rita; Hurricane Katrina Death Toll; Red Cross-Atlanta Hurricane Relief Center; CA-Wal Mart Lawsuit; Wall Street; North Korea Nukes; FEC-Club For Growth Suit.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, SEPTEMBER 20, 2005 7:45 AM EDT

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TERRORISM NEWS:

Al Qaeda Suspect Tells Of Bush Plot (WP)

By Jerry Markon

The Washington Post, September 20, 2005

A Falls Church man charged with conspiring with al Qaeda to kill President Bush told Saudi interrogators that he dreamed up the plot on his own but that it never got past the "idea stage," prosecutors say in court documents unsealed yesterday.

"I wanted to be the brain, the planner" of the assassination, Ahmed Omar Abu Ali is quoted as saying. He likened himself to Mohamed Atta, who led the terror cell that carried out the Sept. 11, 2001, attacks, according to the court papers, which quote from an FBI report detailing Abu Ali's interrogation by Saudi security officials while he was detained in the kingdom in June 2003.

"My idea was . . . I would walk on the street as the President walked by, and I would get close enough to shoot him, or I would use a car bomb," Abu Ali is quoted as saying.

Abu Ali, 24, also said during the same interrogation that he "wanted to be in al Qaeda so bad that I decided to go to Afghanistan for jihad." He said he was unable to get a visa to travel there but did join an al Qaeda cell in Saudi Arabia.

The court filings were unsealed the same day as a federal judge in the District dismissed a civil lawsuit that Abu Ali's parents filed against the U.S. government last year. The lawsuit was part of a highly public campaign by Abu Ali's family to win his release from Saudi custody. It asked the court to order that Abu Ali be returned to the United States and alleged that U.S. authorities were involved in his imprisonment there and expected he would be tortured.

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But U.S. District Judge John D. Bates said the issues raised by the lawsuit were moot because Abu Ali is back in the United States and in custody on the criminal charges. Bates said his ruling does not prevent the family from filing another civil suit over Abu Ali's treatment.

Morton Sklar, an attorney for Abu Ali's parents, said the civil lawsuit is not moot. "The issues of Ahmed's unlawful detention in Saudi Arabia for 20 months and his torture in Saudi Arabia are highly relevant to his criminal case," said Sklar, executive director of the World Organization for Human Rights USA, which filed the lawsuit. He would not say whether the ruling will be appealed.

Abu Ali is charged in U.S. District Court in Alexandria with conspiracy to kill Bush and other terrorism counts. Prosecutors say he has admitted to plotting with al Qaeda to conduct a Sept. 11-style terrorist attack in the United States.

Defense attorneys are also pursuing the torture allegation in the criminal case, arguing that any statements Abu Ali made while in Saudi custody were obtained through torture. Two doctors who examined Abu Ali found evidence that he was tortured in Saudi Arabia, including scars on his back consistent with having been whipped, defense attorneys have said in court papers.

Abu Ali was arrested by Saudi security officials in June 2003 while he was studying at a university in the country. He was held until he was charged in the United States in February. Prosecutors have denied that Abu Ali was tortured. The issue is critical to the case, because if a federal judge concludes that Abu Ali was tortured, much of the evidence against him could be thrown out.

In their response to Abu Ali's motion to throw out his confession and other evidence, prosecutors wrote that several Saudi security officials have already testified that Abu Ali was "treated in a respectful and humane manner while in Saudi custody." That same filing contained the additional details of Abu Ali's interrogations.

U.S. Details Charges Against Student Linked To Plot Against Bush (NYT)

By Eric Lichtblau

The New York Times, September 20, 2005

WASHINGTON, Sept. 19 - An American student in Saudi Arabia who is charged with plotting to assassinate President Bush told Saudi interrogators that "I came up with the idea on my own" because he wanted to be "the brain, the planner" for a terrorist operation, American prosecutors said in a court filing made public on Monday.

The Justice Department said the student, Ahmed Omar Abu Ali, 24, "represents one of the most dangerous terrorist threats that America faces in the perilous world after September 11, 2001: an Al Qaeda operative born and raised in the United States, trained and committed to carry out deadly attacks on American soil."

The department made the claims in opposing efforts by Mr. Abu Ali's lawyers to throw out his statements to Saudi interrogators. The defense lawyers maintain that his admissions came only after he was tortured and beaten repeatedly.

The department called the charges of torture a "fabrication." The prosecutors said that Mr. Abu Ali, after he was arrested in Saudi Arabia in 2003, was confronted with evidence of his extremist ties and "quickly launched into a prolonged and detailed confession" of his involvement with a Saudi cell linked to Al Qaeda.

Mr. Abu Ali, now in custody in Alexandria, Va., faces life in prison if convicted on charges of conspiring to assassinate Mr. Bush and attack American airliners.

Judge Gerald Bruce Lee of United States District Court also ruled Monday that the Justice Department would be allowed to offer depositions from two Saudi officials under highly unusual conditions.

The Saudi officials, who were involved in Mr. Abu Ali's interrogation, will be allowed to testify using pseudonyms via a live video feed from Saudi Arabia, with the courtroom in Alexandria closed to all but a handful of lawyers and court officials. The arrangements were necessary, Judge Lee said, because the Saudis "will not allow them to travel here to participate in judicial proceedings."

The case is a crucial test of the ability of American prosecutors to bring a case that relies heavily on intelligence gathered by foreign officials under disputed conditions.

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The Justice Department's filing says that agents of the Federal Bureau of Investigation first interviewed Mr. Abu Ali themselves in September 2003 for four days. Because the aim was to gather intelligence rather than build a criminal case, the agents did not read him Miranda warnings, nor did they stop questioning him once he requested a lawyer, prosecutors said.

Prosecutors sought to debunk claims of torture by quoting from telephone conversations Mr. Abu Ali had with his parents in Northern Virginia while he was in Saudi custody. "I am very healthy," prosecutors quoted him as saying.

John K. Zwerling, a lawyer who represented Mr. Abu Ali initially in the case before withdrawing, said in a telephone interview that the statements were meaningless.

"Would he want to worry them?" Mr. Zwerling asked. "And who's standing next to him when he's making these calls? The head of the prison. If he says anything else, what do you think is going to happen to him?"

Mr. Zwerling said the plots Mr. Abu Ali reportedly said he considered - like getting close enough to Mr. Bush to shoot him or breaking into the American detention center in Guantánamo Bay, Cuba, and freeing prisoners - were "ludicrous."

And he ridiculed the Justice Department's claims about the danger Mr. Abu Ali posed.

"If he's the most dangerous guy they have," Mr. Zwerling said, "then we're very lucky, because I don't believe he's very dangerous at all."

Md. Man Charged In Terror Case (WP)

By Jerry Markon And Brigid Schulte, Washington Post Staff Writers

The Washington Post, September 20, 2005

Federal prosecutors in Alexandria unveiled terrorism charges against a Maryland man yesterday, alleging that Ali Asad Chandia helped a foreign terrorist group acquire an electronic autopilot system and video equipment for use on model airplanes.

Chandia, 28, of College Park, is also accused of shipping 50,000 paint balls to the group, Lashkar-i-Taiba, which the U.S. government has designated as a terrorist organization. The group runs terrorist camps in Pakistan and claims to have trained thousands of Islamic "holy warrior" mujahideen to fight in Afghanistan, Kashmir, Bosnia, Chechnya, Kosovo and the Philippines.

The charges against Chandia, a legal permanent resident who emigrated from Pakistan in 1994, are an outgrowth of the "Virginia jihad network" case, in which nine Muslim men have been convicted over the past two years of training overseas for holy war against the United States. The training also included playing paint ball in the Virginia countryside.

Some of the defendants attended terrorist camps in Pakistan run by Lashkar-i-Taiba.

The indictment accuses Chandia of traveling to a Lashkar office in Lahore, Pakistan, in November 2001, shortly after resigning from his job at a Costco store. "I have to leave now due to some family emergency," Chandia is alleged to have written to his supervisor at the time.

In Pakistan, he worked with other defendants to help a top Lashkar official, Mohammed Ajmal Khan, obtain equipment for the group, prosecutors allege. Khan, a British national who is jailed there on terrorism counts, was also named in the four-count indictment unsealed yesterday in U.S. District Court in Alexandria.

The equipment allegedly included 50,000 paint balls and components of an MP1000SYS system, which the indictment describes as an "electronic automatic pilot system" that can be installed on a small, remote-controlled airplane using Global Positioning System cordinates.

Some of the equipment was sent by two California companies to Khan's address in England, but it was unclear if any was used by Lashkar -- or if any was intended for use in the United States.

Prosecutors would not comment beyond the indictment, which charges Chandia and Khan with providing, and conspiring to provide, material support to Lashkar-i-Taiba. If convicted, they each face up to 15 years in prison.

Federal officials arrested Chandia on Thursday night at his home in Maryland. Wearing an orange T-shirt, khakis and sneakers, he appeared briefly yesterday in federal court in Alexandria and was ordered jailed pending a detention hearing Tuesday.

His attorney, Marvin Miller, described him as a studious man and University of Maryland graduate who has written articles on both Islam and Jesus Christ. His mother and his wife, who both sat watching in the courtroom, said Chandia is a teacher at a Muslim school.

"This is a molehill case, and the government is going to have to make a mountain out of it," Miller said.

Miller said the remote-controlled airplanes -- which the indictment says can have military uses -- "don't have big ranges, certainly nothing like the drones with the satellite systems the U.S. military has."

But the indictment paints a different portrait of Chandia, saying that a 2003 search of his Maryland home found books, tapes and videos supporting "violent jihad," including one by a Lashkar leader titled "Jihad is the best defence for oppressed Muslims."

Court documents also describe Chandia as the former "personal assistant" of Ali Al-Timimi, the convicted spiritual leader of the men who trained for jihad. In 2000 and 2001, the indictment says, Chandia helped Timimi with speaking engagements, typing and "research on Islamic subjects."

Timimi was convicted this year by a federal jury of inciting his followers to attend terrorist camps abroad and prepare to battle U.S. troops. He was sentenced to life in prison in July.

Prosecutors said Timimi exerted a strong influence over the other defendants when he was the primary lecturer at the Center for Islamic Information and Education, also known as Dar Al-Arqam, in Falls Church.

Eleven Muslim men, all but one from the Washington area, were charged in 2003 with participating in paramilitary training -- including playing paint ball -- to prepare for "holy war" abroad. Two of the men were acquitted.

Chandia offered to cooperate against the other defendants but only in return for immunity from prosecution, Miller said yesterday. He said the government declined the offer.

College Park Man Charged In Plot To Aid Terrorist Group (WT/AP)

The Washington Times, September 20, 2005

ASSOCIATED PRESS

A College Park man has been charged with conspiracy to help a terrorist group, part of an investigation of the "Virginia jihad network" that so far has resulted in 10 convictions, U.S. law-enforcement officials said yesterday.

Ali Asad Chandia is named in a four-count indictment saying he conspired to provide material support to the Lashkar-e-Taiba group, which the U.S. designated a terrorist group in 2001.

Mr. Chandia was arrested Thursday at his home, Assistant Attorney General Alice Fisher said.

The indictment was returned Wednesday and unsealed yesterday after Mr. Chandia's arrest.

Mohammed Ajmal Khan of Coventry, England, who prosecutors said is a senior official in Lashkar-e-Taiba, an Islamic rebel group fighting for independence in the India-controlled portion of Kashmir, is also charged.

Mr. Khan is in custody in England.

Ali al-Timimi, who authorities called the spiritual leader of the Virginia jihad network, was sentenced to life in prison in July after being convicted of soliciting treason and other charges.

Prosecutors said al-Timimi wielded enormous influence among a group of young Muslim men in Northern Virginia who played paintball games in 2000 and 2001 in preparation for holy war around the globe.

Nine other members of the group have been convicted for their roles in the conspiracy, with prison terms ranging from three years to life.

U.S. Says Maryland Man Aided Pakistani Terror Group (NYT)

By Eric Lichtblau

The New York Times, September 20, 2005

WASHINGTON, Sept. 16 - A Maryland man who federal authorities say served as a research assistant to a controversial Muslim leader in the Washington area has been charged with providing equipment and support to a banned terrorist group in Pakistan.

But a lawyer for the man, Ali Asad Chandia, said the charges amounted to guilt by association.

Mr. Chandia, 28, is the latest in a string of young Muslim men charged in the so-called Virginia jihad case. Ten people have been convicted in the case in connection with what federal authorities say was a plot to wage war against Americans overseas by aiding a terrorist group in Pakistan called Lashkar-e-Taiba.

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Prosecutors say the young men convicted in the case underwent training - in part by playing paintball in rural Virginia - to provide military aid overseas in defense of Islam. Some Muslim leaders in Northern Virginia refer to the prosecution derisively as "the paintball case," insisting that the men were guilty of little more than playing games and speaking out against American foreign policy.

Mr. Chandia was arrested Thursday evening at his home in College Park, Md., the Justice Department said. A federal indictment against him says he had been a personal assistant to Ali al-Timimi, a Muslim leader and scholar in Northern Virginia who was sentenced to life in prison in July for inciting his followers to violence.

The indictment says Mr. Chandia helped Mr. Timimi schedule appearances and speaking engagements and research Islamic subjects. In a meeting on Sept. 16, 2001, at the home of another defendant in the Virginia case, Mr. Timimi reportedly told other followers that "it was compulsory to assist Afghanistan in jihad against the expected U.S. military invasion," the indictment says.

The indictment says Mr. Chandia visited Pakistan in November 2001 and, after returning to the United States, helped ship 21 boxes of paintball supplies from Virginia to Lahore, Pakistan.

The indictment also charges a man now in British custody, Mohammed Ajmal Khan, who American authorities said was a senior official with Lashkar-e-Taiba and served as a procurement officer.

Both men were charged with providing material support to Lashkar-e-Taiba, which was designated by the United States as a foreign terrorist organization in December 2001. Each of the four charges carries a maximum of 15 years in prison.

Mr. Chandia made a brief appearance Friday in federal court in Alexandria, Va., and is scheduled for a bail hearing on Tuesday.

His lawyer, Marvin D. Miller, declined to discuss the specific accusations against Mr. Chandia because he had not yet reviewed the indictment in detail, but he said the charges were groundless and amounted to "a great case of guilt by association."

Mr. Miller said that Mr. Chandia was held as a material witness for several weeks in 2003 in connection with the Virginia jihad case but that talks to secure his cooperation lapsed when the government refused to offer him immunity.

"The government doesn't have anything else to do, so now they're going back to a guy they had two years ago, and they'll say he's a flight risk," Mr. Miller said. "With their great skill in making innocent events look really dangerous, they take something that normally wouldn't pass the laugh test and turn it into an indictment."

In a separate terrorism investigation in Memphis, an Egyptian student at the University of Memphis was ordered held without bond Thursday after federal law enforcement officials said he had bogus credentials and had ordered $2,500 worth of pilot paraphernalia and flight instructional material over the Internet this summer.

The student, Mahmoud Maawad, 29, is charged with wire fraud and fraudulent use of a Social Security number. An assistant United States attorney, Steve Parker, described the accusations outlined in an affidavit and search warrant for Mr. Maawad's Memphis apartment as "scary," and said he was a flight risk.

A criminal complaint says Mr. Maawad used a debit card in June, July and August to order $3,300 worth of merchandise from Sporty's Pilot Shop in Batavia, Ohio.

An affidavit for a search warrant lists items including a private pilot course, flight simulator software, a flight gear bag, maps of the Memphis airport, a $239 leather Navy flight jacket, a DVD titled "How an Airline Captain Should Look and Act" and instructional programs on airplane terminology.

Prosecutors, Al-Arian Defense Dispute Payment (TAMPTRIB)

By MICHAEL FECHTER

Tampa Tribune, September 20, 2005

TAMPA - In a trial in which "shirts" and "magazines" are considered coded references to money, talk about "books" just may be talk about books, a defense attorney said Monday.

FBI agent Ed Ortega acknowledged a secretly recorded telephone call about a 2003 money transfer to the Middle East did reference books for defendant Sameeh Hammoudeh.

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Hammoudeh is one of four men, including former University of South Florida professor Sami Al-Arian, charged with conspiracy to commit racketeering and to provide material support to terrorists. Last week, Ortega detailed a series of money transfers defendant Hatim Fariz sent to a charity that prosecutors say is part of the Palestinian Islamic Jihad terrorist group.

Ortega's testimony showed the defendants discussing money, then arranging to send it through a Chicago financial services office.

Under questioning by defense attorney Stephen Bernstein, Ortega acknowledged he doesn't read or speak Arabic and did not check to see whether Hammoudeh or other defendants ever received books mentioned in a call with Hammoudeh's father in the West Bank. After Hammoudeh's father indicated he had not received an anticipated $1,000 transfer, the men talked about a specific author and whether Sameeh Hammoudeh needed copies of the Koran.

Later, defense attorney Kevin Beck, who represents Fariz, picked up on Bernstein's point. Ortega said he didn't know whether the conversation, in fact, was about books.

"Sir, how do you know they are not?" Beck fired back.

Other calls preceding money transfers discussed buying an ambulance for a Gaza hospital and supporting a charity for blind women.

The money was not sent directly to those outlets. Rather, most of it went to the Elehssan Society, considered an arm of the Palestinian Islamic Jihad that operates in the West Bank and Gaza. Agents found printouts of a Web page from the society when they searched Fariz's home after his 2003 arrest.

Beck emphasized the society's self description as a cultural and charitable and athletic club established in 1998. It even had a theater troupe called Al Noor, Beck said, reading from the document.

But federal prosecutor Alexis Collins twice pointed to a play performed by that troupe, called "Children rushing toward martyrdom."

She also pointed to the Elehssan Society's report that the troupe performed for Hamas leader Ahmed Yassin and an Islamic Jihad leader named Abdullah Al-Shami.

Meanwhile, defense attorneys are fighting government plans to recall two computer experts to introduce evidence from an Islamic Jihad Web site called Qudsway.com. Assistant U.S. Attorney Terry Zitek said the FBI experts discovered new information after testifying in June.

The evidence shows Salah Abu Hassanein, the recipient of many money transfers from Fariz, used the Web page to communicate with Fariz and others.

Agents also have determined that the Web site is based in Tehran, Iran, a country that provides the Islamic Jihad with the bulk of its funding.

Allison Guagliardo, another of Fariz's attorneys, argued that the evidence is coming too late for the defense to prepare adequately. Their computer expert estimates needing four to six weeks to analyze the new material.

"At this point," she said, "it's way too late in the game for us to be able to deal with this," she said.

She added that information from Web sites constitutes hearsay and cannot pass legal hurdles. Moody deferred ruling on the motion until he receives more specific information from the defense experts. WHAT HAPPENED

Prosecutors and defense attorneys offer varying interpretations of money the defendants sent to a Palestinian charity from 2001-03.

More Details: Possible Terror Plans (WCPO-TV)

By Lance Barry

WCPO-TV, September 20, 2005

There is new information on an Egyptian college student being held under suspicions of terrorism in Tennessee.

As 9News first reported on Sunday, it was a tip from a Batavia business that led the feds to the suspect who is illegally in the country.

On Monday 9News obtained the receipts for the items the suspect tried to purchase this summer from Sporty's Pilot Shop. His credit card was denied, which prompted the investigation.

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9News uncovered items that seem to point to a far more extensive interest in aviation than first thought.

At fifteen pages and more than $3,000, these receipts were enough to pique the interest of federal agents in Mahmoud Maawad.

Besides a flight jacket and flight equipment that Maawad purchased, 9News found other items on the receipts, including aviation maps of his home airport in Memphis, Tennessee and cassettes on listening to control tower communications.

9News wanted to ask Sporty's why anyone might need access to purchase those items, but their spokesperson would only give us an off camera statement, saying, "Sporty's does not make comments on matters which may involve national security."

As 9News first reported Sunday, another DVD Maawad purchased this summer from Sporty's was titled "How an Airline Captain Should Look and Act."

Sporty's tells us the DVD isn't meant for people to learn how to deceive, but rather to teach proper etiquette to new pilots.

Sporty's also offers in-flight training to prospective pilots at their Clermont County airport facility.

9News asked the company whether the suspect had come there to receive any in-person training but were told he had not.

The University of Memphis freshman was a 29-year-old economics student.

He has yet to be charged with any terrorist planning, but is facing wire fraud allegations that he stole a social security number to make the purchases online from Sporty's.

He remains in federal custody being held without bond.

There are no allegations that Sporty's did or sold anything illegal. 9News was told if someone had even a small interest in aviation it would be hard to not order something from the business as it's one of the country's leading mail order suppliers of aviation material.

SAFETY MEASURES QUESTIONED (NBC5CINN)

NBC 5 Cinncinati, September 19, 2005

CINCINNATI -- A chief Tri-State law enforcement official said it's time to beef up safety measures at stores that sell pilot equipment, News 5's Brian Hamrick reported.

Mahmoud Maawad, now the center of a federal investigation, bought almost $3,000 worth of equipment from a Sporty's Pilot Shop in Batavia over the Internet, Hamrick reported.

Sporty's sells everything a pilot could need -- uniforms, maps, even instructional DVDs.

Store managment notified the FBI when Maawad didn't pay for the items he purchased, and investigators found out he didn't have a Social Security number and isn't even in the United States legally.

Michael Snowden, director of homeland security for Hamilton County, said Maawad's case reveals carelessness in a system meant to protect American flyers after 9/11.

"Unfortunately, it's not that difficult to obtain identification, insignia badges -- those are all easily obtained," he said

In Maawad's Memphis apartment, federal agents found $2,500 worth of pilot paraphernalia, including a DVD called "How an Airline Captain Should Look and Act" and a chart of the Memphis airport.

"It's very concerning, because part of what we're trying to do with homeland security is to make sure all of our critical assets and infrastructure are all secure," Snowden said.

No one with Sporty's would speak with Hamrick. And while it's not illegal for the store to sell a pilot's uniform to someone who's not a pilot, Snowden said he thinks retailers need to be cautious.

"I would think at the very least they should be checking it out," he said.

Man With Local Ties Ordered To Leave The U. S. (WDTN-TV)

WDTN-TV, September 20, 2005

A Jordanian native who had been living in the Miami Valley was ordered to leave the country after being investigated for possible connections to terrorism.

Thirty-three year old Mohammed Obeid had been living in Piqua, and was engaged to a Piqua woman when the FBI raided their home last summer, taking Obeid into custody.

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An immigration judge had ordered him jailed on accusations of marriage fraud. He'd been married to, then divorced from two different American women before meeting the Piqua woman. Authorities claimed he was marrying women just to stay in the country.

The FBI claimed he was visiting terrorist related web sites at the couple's Piqua apartment.

On Monday, another hearing was held, this one in Monroe, Michigan. It was originally scheduled to be in Detroit, but they ended up holding it in the Monroe County jail because "security concerns."

Obeid and his attorney do have 30 days to appeal the judge's decision to remove him from the United States.

He is to be held in jail until that happens.

Al Qaeda Admits To London Bombings (WT/AP)

By Maggie Michael, Associated Press

The Washington Times, September 20, 2005

CAIRO -- Al Qaeda deputy leader Ayman al-Zawahri said in a statement broadcast yesterday that his terror network carried out the July 7 London bombings, marking the group's first direct claim of responsibility for the attacks that killed 52 persons.

"The blessed London attack was one which al Qaeda was honored to launch against the British crusader's arrogance and against the American crusader aggression on the Islamic nation for 100 years," al-Zawahri said in the tape aired on Al Jazeera TV.

"In their final testament, the heroic brothers in the London attacks ... provided great lessons to the Islamic nation and Muslims in Pakistan to oppose the infidels," said al-Zawahri, who was shown wearing a white turban.

The attacks also killed the four bombers.

A spokeswoman for London's Metropolitan Police said she had no immediate comment on the tape.

Al-Zawahri also challenged the legitimacy of Afghanistan's parliamentary elections Sunday, saying they were held "under the terror of the lords of war," an apparent reference to the country's government.

The election reference suggested the tape was made recently. Al Jazeera showed five minutes of it.

The Egyptian-born al-Zawahri also denounced U.S. demands for political reform around the world, including in Islamic countries.

"The Americans will not allow any Islamic regime to take power in the heart of the Islamic world unless it is a regime collaborating with them as happens in Iraq," he said.

PATRIOT ACT:

Gag-Rule Decree Sets Off A Clash Over Patriot Act (WSJ)

By Anne Marie Squeo

The Wall Street Journal, September 20, 2005

Even as Congress moves to renew much of the 2001 Patriot Act, a federal judge in Connecticut has set up a clash over one of the antiterror law's most contentious provisions.

The Justice Department moved to block and is appealing a recent decision by U.S. District Judge Janet Hall that strikes down the gag orders imposed on recipients of so-called National Security Letters as part of a terrorism probe. NSLs are requests for information similar to subpoenas but are issued by the Federal Bureau of Investigation, not a grand jury, and aren't reviewed by a judge.

The Patriot Act prohibits disclosure of NSLs. In its appeals-court filing, the Justice Department cited the harm in "alerting the target of the investigation that his activities are subject to scrutiny, and allowing the target to hide, move his activities to another provider, provide misinformation to the government or otherwise frustrate the FBI's investigation."

But in her Sept. 9 ruling, the judge found in favor of the recipient of a recent letter, dubbed John Doe because of the gag order, and the American Civil Liberties Union. She said that the way the law was written has "the practical effect of silencing

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individuals with a constitutionally protected interest in speech and whose voices are particularly important in an ongoing national debate about the intrusion of governmental authority into individual lives."

Congress is reviewing the Patriot Act, which was passed in the weeks following the Sept. 11, 2001, terror strikes to give federal investigators more tools to prevent attacks. Sixteen provisions of the law will expire at the end of the year if not renewed. The NSL provision, while not among those 16, has been the target of much discussion because the secrecy requirements raise concerns about abuse.

"Our point isn't that the government could never justify a limited secrecy order in an ongoing investigation," said Ann Beeson, associate legal director at the ACLU. "Our point is they are required to justify that order by showing that the disclosure of that information would undermine a compelling government interest. In this case, the district court looked at their classified evidence and decided they hadn't."

This isn't the first time a federal judge has ruled against the government on NSLs. Last September, a district judge in New York declared unconstitutional a similar letter, sent to an Internet-service provider, on the grounds that it violated free-speech rights. The Justice Department has appealed the decision.

The ACLU and other civil-rights groups have been pressing Congress and the Bush administration to rein in some of the Patriot Act. But in July, the Senate and the House both passed similar versions of the law, extending 14 of the 16 provisions due to end. Differences are expected to be hammered out in coming weeks.

WAR NEWS:

Estimate Puts Afghan Turnout At 50% For Vote (USAT)

By Paul Wiseman

USA Today, September 20, 2005

KABUL, Afghanistan — Lamia Aszada had high hopes when she cast a vote for the first time in Afghanistan's presidential election last fall. She picked a winner, too: Hamid Karzai won in a landslide.

Aszada, 40, a civil servant who earns $40 a month at Afghanistan's Education Ministry, didn't vote in equally historic legislative elections Sunday. Her enthusiasm for democracy faded when Karzai failed to come through with raises for government workers.

“He is a liar guy,” she said. She also was appalled by some of the names she saw on the ballot: warlords who plundered and destroyed Kabul in the 1990s. “They robbed my house four times, the warlords,” she said Monday. “Why should I vote for them?”

Turned off by the candidates, intimidated by the threat of violence and assuming a been-there, done-that attitude toward what had been the novelty of voting, hundreds of thousands of Afghans like Aszada sat out Sunday's elections.

Vote counting begins today. Final results are expected in early October because some ballots are being delivered from remote regions. When the count is completed, the turnout is expected to come in well below that of last year's presidential election, in which 70% of eligible voters cast ballots.

Chief electoral officer Peter Erben said Monday that early results suggest 6 million Afghans voted, about 50% of registered voters and well below expectations. Erben, a Dane who has worked on elections in Bosnia, Kosovo, East Timor, the Palestinian territories and Iraq, declared the turnout figures “satisfactory.” He said there always is great initial enthusiasm for voting in “post-conflict” countries, as in Afghanistan's presidential election. That cools, he said, usually settling at turnout rates of about 50%.

Erben said the stakes in the legislative elections were not as “tangible” as they had been in the simple choice for presidency: Nationwide, nearly 6,000 candidates contended Sunday for 249 seats in the Wolesi Jirga, or lower house of the Afghan National Assembly, and 420 provincial council seats. To make things easier in a country where 49% of men and 79% of women are illiterate, planners devised ballots that let voters identify candidates by their photographs, by a number and by a symbol.

Nevertheless, the number of candidates made for bewildering ballots: In Kabul, the National Assembly ballot had 390 candidates and required seven pages.

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Erben said the ballots were designed to be completed in 10 minutes and that "many" voters managed to complete them in three or four minutes. However, some voters in Kabul had trouble locating their candidate. "They were wasting 10 or 15 minutes, and still they couldn't find the guy," said Shahnaz Qasmi, a high school principal and election officer.

Before the vote, the Taliban warned Afghans to boycott the polls. In a statement Monday, President Bush said Afghan voters had defied the Taliban and "those who threaten their lives."

The threats did not stop the vote. What stopped many from going to the polls was the candidates. Among those running for office were former Taliban leaders and commanders such as fundamentalist warlord Abdul Rabb al-Rasul Sayyaf. His forces battled other factions in Kabul from 1992 to 1996.

"It's better not to vote for anybody," said Rasul Beg, 25. "In Afghanistan, it is too hard to find someone who will serve the people. They are all criminals."

Was his view jaded because he'd been exposed to corruption in his job as a government anti-narcotics officer? Beg smiled: "Maybe."

Afghan Electorate's Message: The Provinces Need Public Works And Restoration Of Order (NYT)

By Carlotta Gall And Somini Sengupta

The New York Times, September 20, 2005

KABUL, Afghanistan, Sept. 19 - The winners and losers of the landmark Afghan elections on Sunday will remain a mystery for another several weeks, but whoever makes it to the legislature will quickly be tested against the universal axiom of parliamentary democracy: that all politics is local.

With widespread frustration over the pace by which the central government in Kabul is distributing reconstruction aid to the provinces, diplomats and election observers said, the test of credibility for the new Parliament will be its ability to deliver on the peace dividend, from roads and bridges to law and order.

Speaking to reporters on Monday, the United States ambassador, Ronald E. Neumann, acknowledged that citizens' expectations for internationally financed reconstruction projects were running high, for everything from public works to a functional justice system.

"These expectations of the people will have to be met," Mr. Neumann said. "What the election does is give the Afghan people a new channel to voice their opinions and demands."

He took pains to offer reassurance that the United States and other foreign donors would stay the course in Afghanistan's recovery. "It's going to be long term," he said. "This job is not done. For Afghanistan to be stable and peaceful, the international community is going to have to stay involved for a long time."

In the elections on Sunday, in which Afghans voted for a 249-seat lower house of Parliament and for 34 provincial councils, an estimated six million people voted. The turnout of a little over 50 percent was far lower than expected, election officials said. Results are expected by Oct. 22.

The provincial councils and the president will in turn select members of the 51-seat upper house. Parliament is to convene in December.

Mr. Neumann, as well as European election observers and Afghan election officials, insisted that despite threats from insurgents linked to the country's former Taliban rulers, violence was scattered and lower in intensity than had been feared.

The chief of the United Nations Assistance Mission in Afghanistan, Jean Arnault, said that to maintain their credibility, the executive and legislative branches would have to answer to a public increasingly frustrated about the lack of visible improvements.

"One of the very, very widespread complaints about reconstruction process today is where is the money going," Mr. Arnault said. "There is a sense out there that resources are not fairly allocated."

An elected Parliament, he said, will prompt accountability on the part of President Hamid Karzai's administration and his international backers.

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Likewise, a preliminary assessment of the reconstruction efforts, issued last week by the Center for Strategic and International Studies, based in Washington, found that while security had improved in the nearly four years since the American-led military overthrow of the Taliban, good governance, a working criminal justice system and economic development remained dangerously lacking. The report described the Karzai government as weak.

"A broad foundation for success is being built, but too few needs have been met in Afghans' day-to-day-lives," the report said. "The formal justice system in Afghanistan remains unable to confront impunity, adjudicate land disputes, unravel criminal networks or protect citizens' rights. Economic growth has been significant but uneven."

Peter Erben, the chief of the United Nations-assisted Joint Election Management Board, said Monday that the election turnout was satisfactory, considering that post-conflict elections usually begin with high participation and then level off. He gave the example of Bosnia, where he said turnout was about 70 percent in 1996, shortly after the end of the war there, only to drop to about 55 percent by 2002.

In Afghanistan there were other explanations for the turnout beyond the threat of violence. Voters and election observers said the ballot was confusing, with voters in Kabul, for instance, having to sift through a list of roughly 400 parliamentary candidates to make their one selection. Some voters appeared not to understand the function of a Parliament, a weakness that critics attributed to weak civic education in the prelude to elections.

More worrying was a creeping sense of disillusionment with the fairness of the democratic process.

"I thought it might be again the same spaghetti and the same plate," said Zubair Ahmed, 29, who is unemployed. He said he tore up his voting card after the election for president last October. "There was no motive for voting again," he said. "We expected a change after the presidential election, but nothing happened."

Humayoun, 24, a farmer from a village in the Shomali plain, just north of Kabul, said: "Why we should bother to vote? The people in the Parliament are already selected. They come sealed and stamped from America, like Karzai."

Those who did turn out Sunday said they had come with hope that their choice for Parliament would bring their communities a greater share of reconstruction assistance.

"I'm hoping for security first, then roads, then education," said Muhammad Tahir, 45, a Kandahar shopkeeper.

Nur Alam, 54, a farmer in a village north of Kabul, said, speaking of the newly elected officials: "They should definitely do it for us, because they cannot sit on their chair and do nothing. Of course if they don't do anything, people will not vote for them the next time."

Voter Turnout At About 50 Percent (WT)

By Carmen Gentile

The Washington Times, September 20, 2005

KANDAHAR, Afghanistan -- Early returns show a lower-than-expected voter turnout for the embattled nation's widely anticipated parliamentary elections, electoral officials said yesterday.

Peter Erben, the chief electoral official for the Sunday vote, said about half of Afghanistan's 12.4 million registered voters cast ballots.

"With these early indications, I can say turnout appears just over 50 percent," said Mr. Erben yesterday at a press conference in the capital, Kabul. He made the assessment after a third of polling stations in Afghanistan's 34 provinces reported the volume of their voter traffic.

In the presidential election last year, about 70 percent of registered voters headed to the polls, and ahead of the Sunday vote, many officials had predicted that between 80 percent and 85 percent of eligible voters would head to the polls.

Officials expect the vote tally to take more than two weeks, with results likely announced in the next two weeks, although it could be mid-October before the results are announced.

Afghans went to the polls to select 249 members of the country's Wolesi Jirga, or "House of People." It is the first time since 1969 that a Wolesi Jirga was chosen by a democratic vote.

They also selected provincial leaders among the thousands of candidates vying for hundreds of local positions.

Terrorist attacks early Sunday might have hurt turnout, even though the day passed relatively peacefully.

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Several polling stations visited by The Washington Times in Kabul late Sunday were devoid of the long lines seen earlier in the day.

U.N. and Afghan electoral officials, working together in the elections, reported that polling stations in other provinces were packed all day and even stayed open past the 4 p.m. cutoff time to get those in line to vote.

The hard-line Taliban, which once ruled almost all of Afghanistan under a version of Islamic law that prohibits girls from going to school, had threatened to disrupt the voting.

In Ghazni province, lines for female voters reportedly were longer than those for men. The vote was particularly poignant for women, because 25 percent of Wolesi Jirga seats have been set aside for women.

At a ballot collection station outside Kandahar Stadium, where the Taliban used to conduct public executions and amputations for crimes such as adultery and theft, security officer Gulam Mohendeen gestured fondly toward 20 trucks loaded with ballot boxes collected from polling stations nationwide.

"Though the country still doesn't have a real government, these boxes represent the future of Afghanistan," he said.

Is Pakistan Doing Its Part In The War On Terrorism? (USAT)

By Paul Wiseman

USA Today, September 20, 2005

ISLAMABAD, Pakistan — Police commandos burst into an all-girls madrassa here in what was meant to be a dramatic example of Pakistan's commitment to cracking down on Islamic extremism and religious schools that promote it. But the July 19 raid turned into a debacle.

Caught without their veils, the teenage girls screamed — and then rallied. Grabbing mops, brooms, stones and knives, they drove the commandos out. The retreating police fired back with tear gas. The girls staggered into the street, where the melee continued; 62 students had to be hospitalized after the police beat them with batons.

The target of the raid was extremist mullahs from Islamabad's Red Mosque, which runs the school and is famous for organizing anti-American, pro-Taliban demonstrations. No one was arrested, and police even missed a chance to nab one of the mosque's top clerics: Hours before the raid, Abdul Rashid Ghazi had been in police headquarters for a routine meeting with the commissioner. “They could have arrested me there,” Ghazi says.

So goes Pakistan's campaign against homegrown religious extremism: considerable drama, few results. President Pervez Musharraf has taken huge risks — he has survived two assassination attempts — to hunt down al-Qaeda fugitives. He has sent thousands of troops to battle militants along the lawless border with Afghanistan. But his government has been reluctant to go after its former allies: the Taliban in Afghanistan and groups that have fought a proxy war against Indian troops in disputed Kashmir. It also has been slow to crack down on madrassas that teach intolerance and glorify jihad, or holy war.

As a result, Pakistan is still turning out young militants burning to kill and die for their extreme interpretations of Islam.

Pakistani forces also have been unable to find two of the world's most-wanted men — Osama bin Laden and Taliban leader Mullah Mohammed Omar — after four years of searching. The fugitives are believed to be hiding along the Afghan border.

Musharraf's pledge to eradicate extremism is coming under closer scrutiny four years after the U.S. began its military campaign to topple the Taliban. A recent upsurge in Taliban attacks on U.S. troops in Afghanistan near the Pakistani border is raising questions about the degree to which the militants are receiving sanctuary, training and supplies inside Pakistan.

There also is concern that the militants might be getting support from rogue elements of Musharraf's own security services.

“It's very obvious (the militants) are interfering in Afghanistan,” says Gen. Abdul Manan Farahi, head of counterterrorism at the Afghan Interior Ministry. “They are coming into Afghanistan from Pakistan. They are being trained in Pakistani madrassas.”

Pakistan rejects criticism

Pakistani officials reject the criticism. “We should not be accusing each other,” says Jehangir Karamat, Pakistan's ambassador to the United States.

Although Pakistan once supported the Taliban, the government insists it has no incentive to do so now. “Pakistan has absolutely nothing to gain from a destabilized Afghanistan,” Karamat says.

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Pakistan is developing its southern port of Gwadar in anticipation of increased trade with Afghanistan and central Asia. “This can happen only when Afghanistan is at peace,” says Maj. Gen. Shaukat Sultan, Pakistan's military spokesman.

Pakistan has dispatched more than 80,000 troops to hunt militants along the rugged Afghan border. They've captured 700 al-Qaeda suspects and endured heavy losses: 270 Pakistani troops killed, another 600 wounded, Sultan says.

But Pakistan has been more aggressive rounding up foreign al-Qaeda fighters than militants with origins closer to home. Musharraf “has been making a distinction between al-Qaeda, the Taliban and homegrown Pakistani groups,” says Husain Haqqani, a visiting scholar from Pakistan at the Carnegie Endowment for International Peace in Washington.

Sultan says only 46 Taliban leaders have been arrested. Pakistan's military, which overthrew an elected government in a bloodless 1999 coup that put Musharraf in power, has old ties to the Taliban and to domestic extremist groups.

The United States and Pakistan encouraged Muslims to wage a successful jihad against the Soviet occupation of Afghanistan in the 1980s. Emboldened by the Afghan triumph, Pakistan recruited militants to fight the Indian army in Kashmir, a low-budget way to bleed the Indian occupation of territory Pakistan claims as its own. Pakistan also threw its support behind the Taliban as the militia seized power in Afghanistan, convinced that a friendly, anti-Indian government in Kabul was crucial to Pakistan's security.

But Sept. 11 changed everything. Under pressure from Washington, Musharraf agreed to abandon the Taliban and support the U.S.-led war on terrorism. On Jan. 12, 2002, Musharraf delivered a much-anticipated speech in which he banned extremist groups, pledged to end support for militant attacks in Indian-controlled Kashmir and promised to crack down on madrassas. He said they would have to register with the government.

Since then, militant infiltrations into Kashmir have decreased, and Pakistan has entered into diplomatic talks with India to resolve the long-standing dispute. But inside Pakistan, nothing much came of Musharraf's pledges.

The International Crisis Group, a Brussels-based, non-profit organization that works to prevent conflict, reported that hundreds of militants were detained — but then released. Militant groups re-formed under new names, most madrassas never registered and militant leaders continued to operate openly, the report said.

In the most extreme example noted by the International Crisis Group, the government allowed Sunni extremist Maulana Azam Tariq to run successfully for parliament in 2002 even though he was facing terrorism charges. His political career ended when he was gunned down in October 2003.

In many madrassas, textbooks and teachers promote intolerance against different sects and religions. Even in public schools, textbooks glorify jihad and warn children to be ever vigilant against enemies of the state.

“Intolerance is deeply ingrained in the culture,” says Mariam Abou Zahab, a French expert on Pakistan.

Worries about Pakistan's madrassas grew after the July 7 London bombings. At least one of the four suicide bombers had visited a Pakistani madrassa before the attacks; he and two others were Britons of Pakistani ancestry.

In June, the former U.S. ambassador to Afghanistan, Zalmay Khalilzad, set off a diplomatic furor when he pointedly said he didn't believe bin Laden or Omar was hiding in Afghanistan.

The implication was clear: The fugitives had instead found sanctuary in Pakistan. Musharraf challenged skeptics to “please come and show us where he is.”

“The Pakistan government is playing a double game,” says retired U.S. diplomat Dennis Kux, author of The United States and Pakistan 1947-2000: Disenchanted Allies.

“It is a firm ally in the war on terror,” he says, “but at the same time wants to preserve its options to use the Taliban.”

‘Walking a tightrope'

Musharraf can't risk moving aggressively against homegrown extremists. “He is walking a tightrope,” Zahab says. His government has marginalized secular democratic political parties and forged a partnership with a coalition of religious parti es.

“Both Musharraf and the Islamic parties have a stake in the continuation of the current policies,” says political consultant Hasan Askari Rizvi.

“Even if the Pakistani government wished, it could not fully control the extremists,” Kux says. “For too long it coddled them or just looked the other way. Moreover, Musharraf, I assume, fears pro-Islamist elements in the military. Otherwise, he would not back down every time he says he is going to put the lid on madrassas or take other measures that offend the extremists.”

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The Pakistani public, inflamed by scenes of civilian deaths in Iraq and Afghanistan, is increasingly hostile to the U.S.-led war on terrorism and Pakistan's official support of it.

Musharraf may be taking an even greater risk by making tentative overtures to Israel, a close U.S. ally shunned in most of the Muslim world. He met briefly with Israeli Prime Minister Ariel Sharon last week at the United Nations.

"We want to try to influence Israel to establish a Palestinian state," the Pakistani president said in an interview published Saturday in the Arabic-language Asharq al-Awsat newspaper. "We won't have a role if we don't deal with them."

"There is an increasing gap between the state and society," says Muhammad Waseem, political analyst at Islamabad's Quaid-i-Azam University. "The state is supporting America. The society is increasingly anti-American. If the government ignores the public sentiment, it can't be legitimate."

After the London bombings, Musharraf repeated the pledges he'd made 3½ years earlier. Pakistani police began another roundup of extremist suspects — a campaign that included the ill-fated July 19 assault on the girls school. The government last month passed an ordinance requiring madrassas to register.

Musharraf's critics are waiting to see whether he pushes ahead this time with the registration and regulation of madrassas, something religious groups pledge to resist.

"What one looks for is evidence, not rhetoric," says Samina Ahmed of the International Crisis Group.

British Army Storms Basra Jail To Free 2 Soldiers From Arrest (NYT)

By Sabrina Tavernise

The New York Times, September 20, 2005

BAGHDAD, Iraq, Sept. 19 - Two British soldiers working under cover were arrested Monday in the southern city of Basra and then freed as a British armored vehicle blasted through the wall of their jail after an angry crowd began rioting outside, an Interior Ministry official said.

The official said that the soldiers were undercover officers dressed as Iraqis and that Iraqi police officers had arrested them after the men fired at a traffic police officer.

A British military spokesman in Basra confirmed that "two U.K. military personnel" had been detained early on Monday "in a shooting incident" and that troops had used an armored fighting vehicle "to gain entry" to the police station to release them. He said that more than one vehicle had been in the area and that the police inside the station had refused to obey orders from the Interior Ministry to release the men.

The incident came a day after British forces in Basra arrested three members of the Mahdi Army, the militia loyal to the rebellious Shiite cleric Moktada al-Sadr, on suspicion of terrorism.

The official, who spoke on the condition of anonymity because he was not authorized to speak to the press, said the riot began Monday evening when militia members converged on the police station holding the British men, apparently hoping to seize them in order to free their three colleagues in British custody. The British spokesman said there had been 100 to 200 people in the crowd.

Ali Dabagh, a Shiite member of the National Assembly who had just emerged from a briefing with Interior Minister Bayan Jabr in Baghdad on Monday night, said that militia members had begun attacking the station with assault rifles and rocket-propelled grenades, and that British troops soon responded to defend it.

The ministry official said that British armored vehicles had fired on the station, headquarters of the major crimes unit in central Basra, and broken through its outer wall. Troops then stormed in and freed the two men, he said. There were reports of prisoners escaping, but the official denied them.

A broadcast on Al Arabiya satellite television showed two men, whom the station identified as British undercover officers, one with his head bandaged and both with their hands behind their backs.

The video showed men and boys hurling stones at a burning armored fighting vehicle outside the police station. A British soldier could be seen climbing out of the hatch and jumping to the ground, as the crowd pelted him.

[Despite the graphic images, British Defense Minister John Reid said Monday that the soldiers wounded in the attack were "being treated for minor injuries only and are expected to return to duty shortly," Agence France-Presse reported.]

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Reuters reported that two Iraqis had been killed in the fighting. The Interior Ministry official said that 25 people had been wounded but that he could not confirm any deaths.

Violence continued in other parts of the country. Car bombs exploded near Iraqi police convoys in Mahmudiya and Latifiya, just south of Baghdad, just after 1:30 p.m., killing a total of nine police commandos and wounding 12, officials said.

In the northern city of Mosul, a man driving a sport utility vehicle blew himself up with a bomb near an American convoy, killing at least one civilian. The military did not report any deaths of soldiers in the attack.

In a statement on an Internet site on Monday, the terrorist group Al Qaeda in Mesopotamia modified a declaration of war made last week by its leader, Abu Musab al-Zarqawi. The statement said followers of Mr. Sadr, the Shiite cleric, who has twice ordered his group to fight against American troops, would not be directly attacked.

In an effort to persuade Iraqis that it is taking a hard line with insurgents, the Iraqi government announced that the Central Criminal Court had handed down sentences for 54 foreigners who had been convicted of crossing into Iraq illegally. A majority were from Syria and Saudi Arabia.

In another court action on Monday, Saddam Hussein's nephew Ayman Sabawi was sentenced to life in prison for supporting the insurgency. Mr. Sabawi was arrested in May in Tikrit. His father, Sabawi Ibrahim alHassan, Mr. Hussein's half brother, was arrested in February and is awaiting trial.

British Smash Into Iraqi Jail To Free 2 Detained Soldiers (WP)

By Ellen Knickmeyer And Jonathan Finer

The Washington Post, September 20, 2005

BAGHDAD, Sept. 19 -- British armored vehicles backed by helicopter gunships burst through the walls of an Iraqi jail Monday in the southern city of Basra to free two British commandos detained earlier in the day by Iraqi police, witnesses and Iraqi officials said. The incident climaxed a confrontation between the two nominal allies that had sparked hours of gun battles and rioting in Basra's streets.

An Iraqi official said a half-dozen armored vehicles had smashed into the jail, the Reuters news agency reported. The provincial governor, Mohammed Walli, told news agencies that the British assault was "barbaric, savage and irresponsible."

British officials said three soldiers were hurt in the day's violence, in which at least one armored personnel carrier was destroyed by firebombs. Iraqi officials said at least two civilians were killed.

In London, authorities said the two commandos were released after negotiations. But the BBC quoted British defense officials as saying a wall was demolished when British forces went to "collect" the men.

Monday's violence underscored the increasing volatility of Basra, a Shiite Muslim-majority city that had previously escaped much of the violence of the Sunni Muslim-led insurgency. Tension has been growing between British forces in the city and Shiite police and militias that operate there.

On Monday, an Iraqi reporter working for the New York Times was found shot dead on the outskirts of Basra with his hands bound, his family and security sources said. The reporter, Fakher Haider, had been handcuffed and taken away from his home Sunday night by four masked men who said they wanted to interrogate him, his family said.

"This murder of a respected colleague leaves us angry and horrified," Bill Keller, the newspaper's executive editor, said in a statement. "Fakher was an invaluable part of our coverage for more than two years. His depth of knowledge, his devotion to the story and his integrity were much admired by the reporters who worked with him."

Elsewhere in Iraq, anti-corruption investigators said they expected charges against the country's former defense minister, Hazim Shaalan, in the alleged embezzlement of more than $1 billion that was meant to help rebuild the country's security forces.

In Baghdad, Ayman Sabawi, a nephew of deposed president Saddam Hussein, was sentenced last week by an Iraqi court to six years in prison for financing the insurgency and making bombs, said Army Lt. Col. Guy Rudisill, a U.S. military spokesman.

Near the Shiite holy city of Karbala, bomb and mortar attacks killed at least five Shiite pilgrims as millions gathered for an annual religious festival there.

Basra, a city of 1.5 million, is heavily under the control of Shiite political parties and fighters of the Badr militia of the Supreme Council for the Islamic Revolution in Iraq, the Shiite religious party that has a leading role in Iraq's government.

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Citizens and authorities allege that Badr fighters have infiltrated police forces and are carrying out abuses under the guise of police authority. Rivalry also runs strong between those militia fighters and the militia of Moqtada Sadr, a Shiite cleric.

Attacks on Westerners -- once a rare event in Basra -- have targeted British and U.S. diplomatic convoys in recent weeks and killed at least eight Britons and Americans.

Earlier Monday, gunmen loyal to Sadr attacked the house of Basra's governor to press demands for the release of two prominent members of the cleric's militia whom British forces arrested Sunday.

The killing of the New York Times reporter took place six weeks after an American freelance journalist, Steven Vincent, was kidnapped and killed in Basra, allegedly after being taken away in a marked police car. Vincent had published numerous articles, including in the Times, alleging heavy-handedness by Basra security forces and deriding Sadr and other Shiite officials.

Britain is the second-leading contributor of foreign troops to the U.S.-led coalition in Iraq, with 8,500 troops compared with 140,000 Americans.

Iraqi security officials on Monday variously accused the two Britons they detained of shooting at Iraqi forces or trying to plant explosives. Photographs of the two men in custody showed them in civilian clothes.

When British officials apparently sought to secure their release, riots erupted. Iraqi police cars circulated downtown, calling through loudspeakers for the public to help stop British forces from releasing the two. Heavy gunfire broke out and fighting raged for hours, as crowds swarmed British forces and set at least one armored vehicle on fire.

Witnesses said they saw Basra police exchanging fire with British forces. Sadr's Mahdi Army militia joined in the fighting late in the day, witnesses said. A British military spokesman, Darren Moss, denied that British troops were fighting Basra police.

Another Western military spokesman in Basra confirmed "an ongoing disturbance" in the city on Monday but said Iraqi and British forces were working together to quell it.

In the southern city of Latifiyah, an insurgent stronghold, bombs targeted Shiite pilgrims driving and walking to Karbala for an annual rite. A car bomb hit the crowd of pilgrims first, followed 10 minutes later by mortar rounds, said police Capt. Muthanna Ahmed.

A suicide bomber killed five Iraqi policemen and two civilians Monday when he blew himself up near an Iraqi police commando patrol in Mahmudiyah, about 15 miles south of Baghdad, the Associated Press reported.

Shiite Militia, British Soldiers Clash (LAT)

By Borzou Daragahi

The Los Angeles Times, September 20, 2005

BAGHDAD, Iraq -- Violent street clashes erupted Monday between Shiite militia and British soldiers in the southern city of Basra, after British tanks stormed a local jail where two of their troops were being held.

The daylong violence in Iraq's second-largest city raised troubling questions about the relationship between British forces in charge of security and their Iraqi counterparts, in what once was considered a relatively safe area of the country.

The clashes, which involved members of cleric Muqtada al-Sadr's Al Mahdi army, apparently began when British commandos fired on Iraqi police, who took them into custody.

Tanks then bore down on the jail, knocking down a wall before the men were freed -- along with dozens of other detainees who took advantage of the chaos to escape, according to local reports and news agency accounts.

Two Iraqis were reportedly killed in the clashes, and several British soldiers were wounded.

Television images of the street fighting showed Iraqis firebombing a tank, and a British soldier emerging with his uniform in flames. The British Broadcasting Corp. reported the soldier was treated for minor injuries.

As night fell Monday, confusion and chaos dominated Basra's city center. Residents huddled in their homes reported gunfire and tank maneuvers.

Though Basra has not suffered the same level of violence as other cities in Iraq -- such as Fallouja, Samarra and the capital -- residents say peace has come at a cost. Armed militiamen rule the streets, enforcing perceived infractions of Islamic law with beatings and even killings, residents say.

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In the once cosmopolitan city, women no longer can go unveiled on the streets, and physicians have been beaten for treating female patients.

The militias have also infiltrated the police, taking orders from clerics instead of commanders. When the Basra police chief acknowledged this spring that he'd lost control of his 13,000-strong force to Shiite Muslim militiamen, he was quickly removed from his job.

"The shift in Basra's situation from calmness to disorder is because of the authorities here," said Abid Sayid Mohammed Samad, 52, a Basra auto mechanic. "All are affiliated with different entities and blocs, and this rivalry among parties has undermined the security situation."

The clashes followed the discovery Monday of the body of Fakhr Haidar al-Tamimi, 38, a journalist and father of three who worked for local TV and radio, as well as The New York Times, the Guardian in London, National Geographic and other publications, according to the New-York-based Committee to Protect Journalists.

His death brought the toll for journalists or media workers in Iraq to 68 since the conflict began in 2003 -- five more than were killed in 20 years of covering the conflict in Vietnam, according to Reporters without Borders, a Paris-based advocacy group. Two thirds of those killed were Iraqis, the group said.

The Committee to Protect Journalists put the death toll at 55.

After enjoying a brief flowering of freedom and opportunities in the wake of the 2003 U.S. invasion, Iraqi journalists live in fear for their lives and rarely admit their profession in public.

"All the media people are now targeted and vulnerable simply because they convey the truth," said Nadhem Jabari, spokesman for the Basra provincial council. "We know very well that the truth would embarrass and many people."

Because of threats to Western reporters, much of the street-level reporting has been done by local Iraqi journalists, who file reports to all major media, including the Los Angeles Times.

It was unclear if Tamimi was targeted for his work with Western or local media.

"Covering this war is a perilous assignment for all journalists, but the gravest risk falls on those whose country is the battleground and whose lives are inextricable from the society," Bill Keller, executive editor of The New York Times, said in the announcement.

"We're all in shock about Fakher's death," said Robert F. Worth, a Baghdad-based New York Times correspondent. "He was a wonderful colleague, gentle and brave and resourceful. He had a great sense of humor. We will miss him."

Elsewhere, Iraq's steady tempo of bloodshed continued, with at least 11 other Iraqis killed in politically motivated violence.

Near Baghdad on Monday, at least eight Iraqi police commandos, an Iraqi soldier and a civilian were killed and 12 others injured in car bombings at two checkpoints beyond the city's southern edge.

The attacks, in Mahmoudiya and Latifiya, were launched within the perilous cluster of small towns and palm groves south of Baghdad known as the "triangle of death." Authorities have tightened security in the area as pilgrims head on foot toward the holy city of Karbala for an annual Shiite religious ceremony.

In Baqouba, a turbulent city of Shiites, Sunnis and Kurds 40 miles north of the capital, the provincial governor escaped an assassination attempt that injured three of his guards while an explosion targeting a group of day laborers left one civilian killed. U.S. forces in the northern city of Mosul killed two suspected insurgents and detained three in early morning raids. The men were "suspected of having senior al-Qaeda in Iraq connections," the military announced.

Reporter Working For Times Abducted And Slain In Iraq (NYT)

By Robert F. Worth

The New York Times, September 20, 2005

BAGHDAD, Iraq, Sept. 19 - An Iraqi journalist and photographer working for The New York Times in Basra was found dead early Monday after being abducted from his home by a group of armed men wearing masks and claiming to be police officers, relatives and witnesses said.

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The journalist, Fakher Haider, 38, was found with his hands bound and a bag over his head in a deserted area on the outskirts of Basra, in southern Iraq, hours after being taken from his house in that city. A relative who viewed his body in the city morgue said he had at least one bullet hole in his head and bruises on his back as if he had been beaten.

Mr. Haider had worked for The Times since April 2003 and had recently reported on the growing friction and violence among Basra's rival Shiite militias, which are widely believed to have infiltrated the police.

He did part-time for work for other news organizations, including Merbad TV, a local Basra station, and for publications including The Guardian of London and National Geographic. But his principal affiliation was with The Times.

"This murder of a respected colleague leaves us angry and horrified," said Bill Keller, the executive editor of The Times. "Fakher was an invaluable part of our coverage for more than two years. His depth of knowledge, his devotion to the story and his integrity were much admired by the reporters who worked with him."

Mr. Haider is the second journalist to be killed in Basra in the past two months. In August, Steven Vincent, an American freelance reporter who was writing a book about the city, was abducted along with his Iraqi interpreter, and he was later found dead. The interpreter remains hospitalized.

Days earlier, Mr. Vincent had written an Op-Ed article for The Times in which he criticized the British security forces in the city for failing to act against the Shiite militias' growing power within the local police force.

Basra has grown increasingly violent, with a complex web of sectarian agendas playing itself out almost daily on the streets. Insurgents continue to attack Shiite civilians and military patrols, while Shiite militias fight among themselves and, recently, with British troops as well.

On Sunday, Mr. Haider filed reports about angry demonstrations that had broken out after the arrest by British forces of two high-ranking members of the Mahdi Army, the militia loyal to the renegade Shiite cleric Moktada al-Sadr.

Shortly after midnight, two cars, one of them an unmarked sedan, one a police car, were driven up to Mr. Haider's apartment building, according to witnesses who said they could not be identified without jeopardizing their lives.

Efforts to reach the Basra police on Monday were not successful. Police officials tend to rely on cellphones, which are often unreliable between Basra and Baghdad.

Three of the men, carrying AK-47 assault rifles, entered the apartment building as frightened neighbors emerged from their homes, said Mr. Haider's wife, Intisar Abbas Hamza, in a telephone interview. They then entered the apartment and ransacked it, she said.

The gunmen took Mr. Haider's telephones, his pistol and some videotapes, Ms. Hamza said. As they prepared to leave with Mr. Haider, they told her they were only going to interrogate him for a few hours and bring him back, she said.

Mr. Haider told his wife not to worry, and then quickly wrote down the phone number of a friend and fellow journalist. He told his wife to tell the friend to call the Basra governor's office. The gunmen were standing by at the time, Ms. Hamza said.

In recent months, Mr. Haider had confided to friends that he was worried about the increasingly violent atmosphere in Basra. In July, gunmen in a pickup truck chased his car and fired at him, and he narrowly escaped after driving off the road and firing his pistol into the air, he told a friend.

A lean man with a quiet voice and a shy, curious smile, Mr. Haider was a Shiite and a member of the Tamimi tribe. Although his English was limited, he was brave and resourceful in his work with reporters. His extensive tribal connections were a great advantage in his journalistic work, both in Basra and in the marshes of southeastern Iraq.

Mr. Haider, who was born in Basra, fought in the 1991 uprising against Saddam Hussein after the Persian Gulf war. He said that he later escaped to Kuwait and was lucky to avoid being killed when Mr. Hussein's forces regained control of southern Iraq.

During the uprising, Mr. Haider risked his life to help the daughter of a local Baath Party official secure a decent burial for her brother, who had been killed by rebelling Shiites. After the Baathists returned to power, the official spared his life for that reason, Mr. Haider said.

Before starting his work for The Times in 2003, Mr. Haider worked for years at a fertilizer factory in Basra, said his brother, Muhammad Haider. In addition to his wife, Mr. Haider is survived by three children, ages 5, 7 and 9.

England Now To Fight Abu Ghraib Charges (AJC/AP)

By T.a. Badger, Associated Press Writer

The Atlanta Journal-Constitution, September 20, 2005

SAN ANTONIO — Army Pfc. Lynndie England will abandon her earlier courtroom strategy and fight charges that she was a key participant in detainee abuse by guards at Iraq's Abu Ghraib prison, her lawyer said.

The 22-year-old reservist, who appears in a series of graphic photos taken inside Abu Ghraib, was to go on trial Tuesday at Fort Hood, Texas, on seven counts of mistreating prisoners.

She will be the last of a group of junior enlisted soldiers charged with Abu Ghraib abuses to have their cases resolved. Two have been convicted at trial, while six others made plea deals and received prison sentences of up to eight years.

Three months after England's attempt at a plea agreement fell apart, her lead defense lawyer, Capt. Jonathan Crisp, said "there's not going to be a deal."

Crisp said he plans to base much of his defense on England's history of mental health problems that date back to her childhood.

He said he also will focus on the influence exerted over England by Pvt. Charles Graner, the reputed abuse ringleader. Graner, who England has said fathered her young son while they were deployed, is serving a 10-year sentence after being convicted at trial in January.

"I wouldn't say it's 'Blame Graner,'" Crisp said of his trial strategy, which includes calling Graner as a witness. "But certainly Graner is involved as far as what was going on."

England pleaded guilty in May to conspiracy, maltreating detainees and committing an indecent act — the same charges she faces this week — in exchange for an undisclosed sentencing cap. The charges carry a maximum sentence of 11 years.

But judge Col. James Pohl abruptly threw out the deal and declared a mistrial during the sentencing phase when testimony by Graner contradicted England's guilty plea.

Graner, called as a defense witness, said pictures he took of England holding a prisoner on a leash were meant to be used as a training aid. But in her guilty plea, England said the pictures were being taken purely for the amusement of the guards.

Prosecutors, who declined to talk about the trial, are expected to rely on the photos that have made England the scandal's most recognizable figure.

A ruling by Pohl in July, however, tossed out a key piece of the prosecution's case — statements to Army investigators in which England implicated herself in the abuse.

The judge said that he believed England did not fully understand the consequences when she waived her rights against self-incrimination before speaking to the investigators in January 2004.

An Honest Victory (NYT)

By Nathaniel Fick

The New York Times, September 20, 2005

Cambridge, Mass.

Authority can be delegated; responsibility cannot. President Bush's speech last week accepting responsibility for the federal government's slow response to Hurricane Katrina was commendable, if overdue. Though it has been derided by some as political expediency, the president's acknowledgment was a necessary first step in rebuilding the Gulf Coast and preparing for the next disaster.

This new transparency, however, shouldn't stop with Hurricane Katrina. Consider the positive effects that would follow a similar presidential assumption of responsibility for American missteps in Iraq.

By declaring that the buck stops at his desk, President Bush could begin a top-down rethinking of our military and political strategies since the 2003 invasion. He would also establish a standard of personal accountability for everyone in the chain of command, much as his statement last week prompted Gov. Kathleen Blanco of Louisiana to follow suit. And it just might galvanize enough bipartisan support to break the ideological gridlock that has limited changes in Iraq policy to marginal tweaks rather than a full reassessment.

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Of course, many people we will depend on in our attempt to rebuild Iraq - including Iraqi civilians, nongovernmental aid organizations and our foreign allies - will respond only to results, not to rhetoric. There is, however, at least one group that would respond well to this particular piece of rhetoric: senior military leaders. The fate of Gen. Eric Shinseki, the former Army chief of staff who fell into disfavor with the White House after telling Congress in 2003 that several hundred thousand troops would be needed in postwar Iraq, has cast a long shadow across the officer corps.

Much of the military's trustworthiness derives from its culture of accountability. In 1944, Gen. Dwight D. Eisenhower prepared a speech in case the D-Day invasion failed, knowing that his continued leadership of the Army depended on taking responsibility for its shortcomings. Half a century later, my own Marine training stressed that I, as a commander, was responsible for everything my troops did, or failed to do.

Senior military officers rightly expect the same sense of responsibility from the elected government they serve. The tradition of providing apolitical advice based on sound military judgment is predicated on the willingness of civilian leaders to consider unpopular counsel, something this administration has been unwilling to do. An admission of responsibility from the top would give our commanders new freedom to analyze what has gone wrong in Iraq and to work with the Pentagon's civilians to improve it, translating presidential rhetoric into results on the ground.

While our mistakes have been many - from broad policy to specific tactics - the most frustrating are those that recur. Many of the problems I witnessed in Iraq two years ago are being repeated: the three enablers of insurgency - weapons, men and money - still flow freely from Syria and Iran; many American units are still blind to cultural nuance, largely because of a shortage of translators; and there's still too much focus on the misleading statistic of dead insurgents, as if the enemy were finite.

As things stand, American citizens - and the military - have been offered a false choice between "staying the course" in Iraq and precipitous withdrawal. The historian James Chace compared the former to a sailor who, having been blown off course in a storm, continues to sail straight ahead, but in the wrong direction. Cutting and running, on the other hand, isn't a strategy. A hasty exit would give us anarchy, civil war and maybe revenge killing on a scale unseen since Rwanda. That withdrawal is frequently advanced as the "humanitarian" option is appalling. There must be a third way.

Enter presidential leadership. Envision this: In a primetime address like last Thursday's, President Bush focuses the power of his office on Iraq. He doesn't claim that we have turned a corner or that the insurgents are fighting harder because they are weaker. He speaks honestly, acknowledges the administration's mistakes, accepts responsibility for them and explains why creating a stable Iraq is in America's national interest. Then, and this is the key, he announces a reassessment of American strategy spanning from the roles of the commander in chief to the lowliest private.

We are not talking about shifting a few thousand troops from one city to another. President Bush would have to condone a major philosophical and strategic shift away from what hasn't worked. Fortunately, there are leaders in the military who understand counterinsurgency warfare. Conventional armies have been fighting guerrillas since ancient times, and this history offers countless cautionary examples, from Masada to Malaya. The nearest thing to a universal maxim is that counterinsurgents who fail to see their mistakes and to adapt on the fly are doomed to lose.

The military has proved itself adaptable in Iraq. Robots now zap roadside bombs with jolts of electricity and microwave energy. Junior officers and noncommissioned officers now post accounts of the hard lessons they've learned on military Web sites for quick dissemination to their peers. Soldiers and marines now return for second and third tours, armed with a better sense of the landscape, geographic and cultural. But these better methods will not become standard across Iraq unless the president himself encourages the military to undergo strategic adaptation. Officers must be granted authority to change course by the person who bears ultimate responsibility for the outcome.

There's no shortage of good alternatives waiting in the wings. One that has recently garnered much attention is the military historian Andrew Krepinevich's "oil spot" strategy, which involves shifting the focus from killing insurgents to protecting civilians by pouring money and manpower into protected cantons where average Iraqis can see the tangible advantages of our system over Al Qaeda's.

The particulars of whatever strategy we decide to go with are, at this point, secondary. First, commitment to change must be made, and quickly. The federal government came under assault for a delay of days in its response to Hurricane Katrina. Each

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week's delay in Iraq costs about a dozen Americans dead, a hundred wounded and a billion dollars down the drain, plus vast harm to American prestige and the Iraqis themselves.

President Bush has the power to change the United States' prospects in Iraq. But doing so requires the courage to admit errors, and the willingness to embrace good ideas. A break with the past can be Hurricane Katrina's positive legacy.

Guard Relief Hurt By Obsolete Equipment (USAT)

By Dave Moniz

USA Today, September 20, 2005

WASHINGTON — Hurricane Katrina exposed serious weaknesses in the National Guard's communications systems, particularly a shortage of high-tech radios and satellite communications gear, the Guard's top general said Monday.

If it's going to protect the USA while also fighting overseas, the Guard needs better equipment, Lt. Gen. Steven Blum, head of the National Guard Bureau, said in an interview with USA TODAY.

"We were underequipped," Blum said. "We don't need tanks and attack helicopters and artillery, but we must have state-of-the-art radios and communications."

Much of the Guard's best communications equipment was being used by troops fighting in Iraq and wasn't available for units helping Gulf Coast states recover from the hurricane, Blum said.

Many Guard military police in New Orleans were using obsolete radios as they sought to restore order, he said. That, combined with a crippled civilian communications network, made it harder for them to communicate. Many also lacked night-vision goggles.

After Katrina struck the Gulf Coast, about 50,000 Guard troops were sent to states battered by the storm, the largest such domestic response in Guard history, said Blum, who oversees Army and Air National Guard units in all 50 states.

The active-duty Army, which helps equip the Guard, recognizes the deficiencies, said Blum, who has met with Pentagon officials to find more money for new equipment. "The leadership of the Army is committed to addressing the problem," he said.

Last week, Sens. Kit Bond, R-Mo., and Patrick Leahy, D-Vt., wrote President Bush asking for $1.3 billion to buy new equipment for the Guard.

Long-standing shortages and the stress of fighting wars in Afghanistan and Iraq have left the Guard with "a perilously low level of equipment available for natural disasters," the senators wrote.

Only 34% of the Guard's equipment is available for use in the USA, the letter said. The worst shortages are in trucks, night-vision goggles, engineering equipment and communications gear, the letter said. The Guard has historically used hand-me-down equipment from the active-duty military. For example, the Army Guard is using radios from the Vietnam War era and needs 37,000 newer radios, according to a recent Guard budget briefing paper posted on its website.

Two wars and a recruiting shortfall have taxed the 350,000-member Army National Guard this year. At one point, about 40% of the 140,000 U.S. troops in Iraq were from the Guard or Reserves.

Army Abandons Plan To Borrow From Funds For Troops' Vehicles (WSJ)

By David Rogers

The Wall Street Journal, September 20, 2005

WASHINGTON -- The Pentagon reversed a plan to ease the Army's year-end cash crunch by borrowing from funds dedicated to buying better armored vehicles for troops in Iraq.

The $300 million-plus transfer had met strong behind-the-scenes opposition in Congress over the past week. The skirmish underscores the budget pressure on the military, given the tempo of operations in the war, rising fuel costs and competing priorities like the Hurricane Katrina recovery.

"We did get some people excited. It raised the hair on the back of their necks," said Lt. Gen. Jerry Sinn, a top Army budget official, who confirmed the reversal in an interview yesterday. He said he knew in advance the appearances could be awkward but said the transfers were never intended to be more than a "temporary loan" that would be repaid before impeding production.

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Nonetheless, Gen. Sinn said defense officials had "blinked a little bit" at the proposal. And lawmakers said the fact that the Army would consider touching such sensitive funds -- after all the public attention to the armor issue -- showed the pressure to keep down the costs of the war.

"They're desperate. They're under tremendous pressure," said Rep. John Murtha (D., Pa.) a Marine veteran and senior member of the House Appropriations Committee, who had a heated telephone conversation last week with Gen. Richard Cody, the Army's vice chief of staff, about the request.

The Army accounts for the greatest share of the war costs in Iraq and Afghanistan, now estimated to be running at $6.7 billion a month. That is markedly higher that what was assumed in the spring, when Congress approved a supplemental war-spending bill that included $17.48 billion for Army operations -- more than $200 million above the Pentagon's request.

Higher fuel costs have since played havoc with these numbers. Further complicating matters, Congress has yet to complete action on the 2006 Pentagon budget. That means -- unlike most years since the war began -- the military could be subject to the vagaries of whatever interim spending resolution is agreed to in coming weeks.

Some conservatives, alarmed by the cost of the Katrina recovery, want a tightly written stopgap bill. But the Army would be squeezed unless some adjustment is made to reflect the fuller costs of the war.

"The Army's really running close; they are trying not to appear to be spending a lot of money," said Rep. Bill Young (R., Fla.), the former chairman of the Appropriations Committee who now oversees the defense budget. "I think the OMB [Office of Management and Budget] is trying to keep down the image of spending."

The proposed transfers were outlined in a 15-page budget plan to shift an estimated $1.43 billion among Army accounts to meet operations costs for the final weeks of the fiscal year, which ends Sept. 30. The documents were forwarded to Congress Sept. 7, and both Defense Daily and Inside the Army have reported on the request. Gen. Sinn's comments yesterday were the first official Army confirmation that the request would be modified.

Absent some action, Pentagon officials said the Army wouldn't be able to pay its bills. To find savings within its own budget, the Army decided to tap a number of procurement accounts important to protecting forces in Iraq and restoring damaged equipment.

These included the purchase of mortars and trucks, but none was more sensitive than those involving armored vehicles. An estimated $152.8 million was to come from funds to install armor on existing equipment. An additional $155 million would be taken from funds to purchase heavily armored Humvees.

The proposal was subject to veto by the major defense committees, which have 15 days to review the requests. From the outset, lawmakers were surprised that the office of Defense Secretary Donald Rumsfeld hadn't come forward with alternative funding sources for the Army.

That is occurring now. Gen. Sinn said the Army request has been modified to tap funds in an Air Force capital account and a second more-generic account, the Iraq Freedom Fund, which is under Mr. Rumsfeld's direct control. New papers reflecting these changes have been forwarded to Congress, and Mr. Young said he expected the changes will be cleared. "When our soldiers are involved in combat, they should get everything they need," he said.

CORPORATE SCANDALS:

Ex-Tyco Execs Receive Prison Sentences (FINDLAW/AP)

By Samuel Maull, Associated Press Writer

Find Law, September 20, 2005

(AP) - NEW YORK-L. Dennis Kozlowski, the former CEO of Tyco International, was sentenced Monday to eight and one-third years to 25 years in prison Monday for stealing hundreds of millions of dollars from the company.

His codefendant, former Tyco finance chief Mark Swartz, received the same sentence, which means they will be eligible for parole after eight years and four months.

The judge also ordered them to pay a total of $134 million in restitution. In addition, Kozlowski was fined $70 million and Swartz $35 million.

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Family members wept in the gallery as the sentences were imposed.

The sentences end a case that exposed the executives' extravagant lifestyle after pilfering some $600 million from the company including a $2 million toga birthday party for Kozlowski's wife on a Mediterranean island and an $18 million Manhattan apartment with a $6,000 shower curtain.

Kozlowski, 58, and Swartz, 44, were convicted in June after a four-month trial on 22 counts of grand larceny, falsifying business records, securities fraud and conspiracy. It was their second trial - the first ended in mistrial after a juror said she received threats following reports that she made an "OK" signal to the defense team.

Kozlowski and Swartz join a line of other executives sent off to prison in a wave of white-collar scandals that shook corporate America and outraged the public after thousands of people lost their jobs and pension nest-eggs.

WorldCom Chairman Bernard Ebbers was sentenced to 25 years in prison for the $11 billion accounting fraud that toppled the telecommunications company that emerged from bankrutpcy as MCI Inc. Adelphia Communications Corp. founder John Rigas was sentenced to 15 years in prison for his role in the looting and fraud at that cable TV company. His son and former finance chief, Timothy Rigas, got 20 years.

Former Tyco Executives Sentenced To Up To 25 Years In Prison (LAW)

By Anthony Lin, New York Law Journal

Law.com, September 20, 2005

The two former top executives of Tyco International Ltd. were each sentenced Monday to prison terms of 8 1/3 to 25 years on charges they stole more than $150 million in unauthorized loans and bonuses from the company.

L. Dennis Kozlowski, 58, Tyco's former chief executive officer, and Mark H. Swartz, 44, the former chief financial officer, were led away in handcuffs after Manhattan Supreme Court Justice Michael Obus handed down the sentence. The judge denied their request to delay incarceration while they applied to be released on bail pending appeal of their convictions.

In the course of their three-year-long prosecution, the two men, particularly Kozlowski, have become symbols of corporate greed and excess. But the judge put the case in straightforward terms in imposing sentence.

Despite many unusual characteristics and complications, he said, "the heart of the case is basic larceny."

First indicted in September 2002, the two executives were convicted in June on several counts of grand larceny, securities fraud, conspiracy and falsifying business records. The judge issued separate sentences on the other counts but said those would be served concurrently with the grand larceny sentence.

Justice Obus also ordered Kozlowski to pay $97 million in restitution to Tyco and $70 million in fines. Swartz was ordered to pay $37 million in restitution and $35 million in fines.

The restitution amounts were tied to the amounts of bonuses the two men were found to have stolen. The defense had maintained throughout the trial that the bonuses were legitimate and fully approved by Tyco's board of directors.

Though tough, Obus' sentence was less than that requested by the prosecution. Assistant District Attorney Owen Heimer had asked the court to impose the maximum sentence of 15 to 30 years "to send the signal that, here in the financial capital of the world, we will not tolerate theft ... no matter who you are."

Heimer said Kozlowski had been found guilty of the largest larceny ever prosecuted in New York state and, as such, a 15-year term would not be "unduly harsh."

In urging a tough sentence, prosecutors said Kozlowski and Swartz should not be treated more leniently than other criminal defendants because of their backgrounds. Rather, they argued, the executives should be treated more harshly because they turned to crime despite already possessing every advantage and opportunity.

The defense lawyers argued for leniency on the grounds that both defendants were fundamentally good people with close ties to family and community and histories of charitable contributions. Both men submitted to the court scores of letters by family, friends and colleagues attesting to their good character.

Stephen Kaufman, Kozlowski's chief lawyer said only "vitriolic vengeance" would be served by the sentence requested by the prosecution.

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In attacking the prosecution's attempts to have the maximum sentence imposed, Swartz's lawyer, Charles Stillman, invoked Army lawyer Joseph Welch's 1954 denunciation of Senator Joseph McCarthy.

"Have you no sense of decency?" Stillman asked rhetorically. "Have you no sense of decency at long last?"

Each of the defendants spoke briefly on his own behalf. Kozlowski said he was a different man than had been depicted by the prosecution and in the media. He said he understood he would be incarcerated but asked the judge to be as lenient as possible.

In asking for leniency, Swartz said he had always tried to live an honest life and to benefit his family and community.

"I never thought I would be in the position I'm in today nor did I ever fear it," he said.

In handing down sentence, Obus said his view of the defendants was not as "stark" as that of the prosecutors, who had mocked the defendants' claims of charity and questioned the motives of some who testified about their character.

LETTERS CONSIDERED

The judge said he had carefully considered all the letters he had received from people regarding the defendants' character. The judge said he, unlike the prosecution, believed most of the letters were genuine. He said they depicted men whose behavior towards friends and family was sharply at odds with the conduct of which they were convicted.

The long sentences recently given to white-collar criminals has spurred debate on whether such criminals, treated lightly in the past, are now being treated too harshly.

Former assistant Manhattan district attorney Ronald Blum, now a partner at Manatt, Phelps & Phillips who also teaches white-collar criminal law at Fordham School of Law, said such sentiments had some merit but he said the sentence given to Kozlowski and Swartz sounded "pretty sensible" to him.

Given the scale of the thefts, he said, "I don't think the judge could have gotten away with less than that with a straight face."

State judges have more flexibility in sentencing than federal judges, who are subject to strict sentencing guidelines. The Tyco executives' sentences are considerably lower than that recently meted out in federal court to former WorldCom CEO Bernard Ebbers, who was sentenced to 25 years in prison in July.

Kozlowski and Swartz will be eligible for parole after serving 8 1/2 years of their sentence. With good behavior, they will be able to shave one-sixth off that time as well.

On the other hand, the state prison system lacks the relatively comfortable minimum security facilities in which federal white-collar inmates are typically incarcerated. Blum said the realities of state prisons were a likely though unacknowledged influence on state judges' sentencing decisions.

Kaufman warned the judge Monday that any sentence over 72 months would likely mean his client would be placed in a maximum security lockup.

The prison at which the two men serve their sentences will be determined by the Department of Corrections. Justice Obus said he would tell the department that neither of the men should be regarded as a security risk.

Tyco's Kozlowski To Spend Up To 25 Years In Jail (FT)

By Christopher Bowe

Financial Times, September 20, 2005

Dennis Kozlowski, the former head of Tyco, and Mark Swartz, his chief financial officer, were on Monday sentenced to at least eight years in prison for stealing $150m and fraud while at the US conglomerate.

The two men were also ordered to pay about $240m in penalties and restitution. A New York state court Judge Michael Obus ordered them to repay $134m to Tyco for stealing a string of unauthorised bonuses and compensation between 1999 and 2001 - $97m from Mr Kozlowski and $37m from Mr Swartz. The court also fined Mr Kozlowski $70m and Mr Swartz $35m.

After sentencing, Mr Kozlowski, 58, and Mr Swartz, 45, were led from the courtroom in handcuffs. They immediately began their sentence of eight years and four months to 25 years in state prison, depending on the decisions of parole officials.

The two men were convicted in June in their second trial for theft and fraudulent gains of more than $650m. They were found guilty on 22 counts of grand larceny, conspiracy, securities fraud and falsifying business records. Before the sentencing, Mr Kozlowski asked the judge to be "as lenient as possible", while Mr Swartz asked to be quickly returned to his family.

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But Manhattan prosecutor Owen Heimer said the men had committed theft and fraud on an "unprecedented and staggering scale", the largest ever in the state.

They become the latest in a series of high-profile executives sentenced to significant jail time, including former WorldCom chief Bernie Ebbers' 25 years.

Monday's sentences could see Mr Kozlowski and Mr Swartz leaving prison in eight years, even potentially five years depending on good behaviour and parole.

Orin Snyder, attorney at Gibson, Dunn Crutcher LLP and a former prosecutor said: "The sentencing sends the message that the sentence is harsh, but gives flexibility for serving less time."

Lawyers for Mr Kozlowski and Mr Swartz have vowed to appeal against the guilty verdicts, and to file for release on bail while the appeal is pending. The two executives must serve time in state prison and most likely time in maximum security prison, which can be a dangerous environment.

"For these two former executives, even several years in a state prison will be a very long stretch of time," said Robert Mintz, attorney at McCarter & English, and former federal prosecutor.

Tyco also is still under Mr Kozlowski's shadow. Mr Heimer told the court he believed that SEC investigators had recommended bringing $1bn accounting fraud charges against Tyco. The company said talks continued with the SEC on settling an investigation into accounting from 1996-2002 under Mr Kozlowski's watch, but it "would not require Tyco to restate any of its financial statements".

Even in jail, Mr Kozlowski's legal troubles continue. The judge tentatively set October 21 to potentially begin a case alleging he evaded sales tax on art purchases.

Ex-Tyco Officers Get 8 To 25 Years (NYT)

By Andrew Ross Sorkin

The New York Times, September 20, 2005

L. Dennis Kozlowski, the former chief executive of Tyco International who was convicted of looting the company of $150 million, was sentenced yesterday to 81/3 to 25 years in a New York State prison, the latest corporate figure to be handed a lengthy prison term in a corruption case.

Mark H. Swartz, his chief lieutenant, received the same sentence for his role in the thefts and fraud. The two men were convicted in June after a four-month retrial.

Judge Michael J. Obus of State Supreme Court in Manhattan also ordered Mr. Kozlowski to pay $167 million in restitution and fines. Mr. Swartz was ordered to pay $72 million in fines and restitution.

The sentencing follows a parade of other substantial terms imposed on former chief executives convicted of white-collar crimes, most notably Bernard J. Ebbers of WorldCom, who received a prison term of 25 years, and John J. Rigas of the cable operator Adelphia Communications, who was sentenced to 15 years. Those sentences - in federal courts - were seen as sending a message to deter huge corporate frauds in the future.

The Tyco sentencing may be the last high-profile corporate misconduct before the most prominent one of them all: the trial next year of Kenneth L. Lay and Jeffrey K. Skilling of Enron.

Handing down the sentence in a packed courtroom, Judge Obus said yesterday: "The crimes at issue here were violations of the defendants' positions of trust and their fiduciary duty on a grand scale. They caused damage to Tyco and to others, including the shareholders who are Tyco's owners and who, like the investing public, generally should be able to rely on the integrity of the management of publicly traded companies."

Mr. Kozlowski, 58, became a symbol of corporate greed for a $6,000 shower curtain, as well as a $2 million birthday party in Sardinia for his wife that was partly paid for by the company. He stared straight ahead, overwhelmed, as the sentence was read aloud. Mr. Swartz, 45, looked down at the floor.

The two men, both dressed in gray suits and starched-white shirts, were then handcuffed behind their backs and led away by court officers. Mr. Swartz wistfully winked at his wife and parents. Mr. Kozlowski's wife, wearing sunglasses, wiped away tears that had run down her face as his two daughters, also crying, consoled each other.

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Lawyers for Mr. Kozlowski and Mr. Swartz said they planned to seek bail pending appeal from an appellate court today or tomorrow. The two men spent last night in the Bernard B. Kerik Complex near the courthouse. If their lawyers are unsuccessful, the two men will be transferred to Rikers Island by the end of the week to be processed and will most likely serve their time in a maximum-security state prison like Attica.

The State Department of Correctional Services will determine where they serve their time. Other former executives recently convicted in federal courts - including Mr. Ebbers - remain free pending their appeals.

Most legal specialists said yesterday that the sentence imposed by Judge Obus on Mr. Kozlowski and Mr. Swartz was measured but fair.

"It would be a mistake to confuse this with leniency," said Robert A. Mintz, a former federal prosecutor and now a partner at McCarter & English. "For these two former executives, even several years in a state prison will be a very long stretch of time."

The two men will be eligible for parole after eight years and four months, and could be put in a work-release program after serving at least six years, according to State Department of Correctional Services guidelines.

Still, they may yet fare worse than their white-collar counterparts in federal prisons because New York generally requires that criminals with sentences longer than six years go to maximum-security prisons, to be mixed among men convicted of murder and other violent crimes.

An assistant Manhattan district attorney, Owen E. Heimer, had asked the judge to impose the maximum of 15 to 30 years, contending that Mr. Kozlowski "should not be shown any leniency," as Mr. Heimer compared Tyco to Enron.

In perhaps the most dramatic moment of the hearing, Mr. Heimer read aloud from a letter Mr. Kozlowski had written in 1995 to a Houston judge overseeing the sentencing of a Tyco employee who had been convicted of stealing from the company; Mr. Kozlowski urged that a maximum sentence be imposed. Mr. Heimer said of Mr. Kozlowski, "What the defendant said on that occasion applies on this occasion."

But Judge Obus rejected the harshest sentence and explicitly tried to distance this case from corporate corruption cases against executives at Enron and WorldCom. Unlike Tyco, a conglomerate whose products include security systems and medical devices, those two companies were forced to file for bankruptcy as a result of the accounting frauds.

"It is worth repeating, as the jury panel was instructed at the outset, that this is not about any other case," Judge Obus said. "This is not a matter in which the fraudulent distortion of the records reflecting the financial health of the company have been shown to have been so distorted as to precipitate the company's collapse. That apparently is some other case, perhaps more than one other case, but that is not the case that was before us here."

Before being sentenced, Mr. Kozlowski asked the judge for mercy, pointing to more than 130 letters submitted on his behalf by friends and family.

In explaining why he did not give the maximum sentence, Judge Obus cited the letters and said: "I think the letters are genuinely sincere and they show aspects of the defendants' lives that are at odds with the conduct which has brought them before this court. They certainly make it all the more difficult to fully grasp, even with hindsight, how the defendants, with all they had going for them, managed to get themselves into this disastrous position, but that is what they have done."

While the two men's sentences are lower than Mr. Ebbers's, they are still much higher than those of many of the high-profile executives convicted of white-collar crimes in the 1980's. Michael R. Milken of Drexel Burnham Lambert, for instance, was sentenced to three and a half years and served less than two years for securities fraud.

"The concern that too many executives were misbehaving has caused prosecutors and judges to want to send a much stronger warning signal than they felt the need to send before," said Jennifer H. Arlen, a law professor and expert in business crime at New York University.

Mr. Kozlowski still faces charges of evading more than $1 million in state sales taxes on artwork. Judge Obus scheduled a hearing for Oct. 21. It is unclear whether prosecutors will continue to pursue that case.

The men also face a barrage of civil suits, claiming billions of dollars in damages, from Tyco and shareholders. The men made hundreds of millions of dollars while at Tyco, but it is unclear how much money either Mr. Kozlowski and Mr. Swartz will have left after paying restitution and fines.

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In the two years before his fall in 2001, Mr. Kozlowski made more than $330 million in profits from exercising stock options and selling stock grants, in addition to his salary and bonus of about $5 million a year. But his lawyers have suggested that after the civil litigation, on top of the fines and restitution ordered yesterday, he could be bankrupt.

There is also a civil dispute between Mr. Kozlowski and Tyco over whether tens of millions of dollars of deferred compensation should still be paid.

The first case against Mr. Kozlowski and Mr. Swartz was declared a mistrial in April 2004, when a juror holding out for an acquittal made what appeared to be an "O.K." signal to the defense and subsequently received a threatening letter from a stranger, upending the trial.

Yesterday, as the gallery of courtroom spectators spilled into the hallway, that juror, Ruth B. Jordan, shuffled out. She said she had come to watch the sentencing. "It's not as bad as he could have done," she said, "but I still think it's unduly harsh."

Ex-Tyco Chiefs Whisked Off To Prison (USAT)

By Kevin Mccoy

USA Today, September 20, 2005

NEW YORK — Former Tyco executives Dennis Kozlowski and Mark Swartz were sentenced to 81/3 to 25 years in prison Monday for looting nearly $600 million from their firm in a scheme that came to symbolize corporate greed during the bull market of the 1990s.

New York Supreme Court Justice Michael Obus also ordered the two to pay more than $134 million in restitution, and imposed fines of $70 million on Kozlowski and $35 million on Swartz.

Kozlowski and Swartz asked Obus for leniency. But the judge ordered them imprisoned immediately, despite arguments from defense lawyers, who said they would seek bail pending an appeal.

Kozlowski, 58, and Swartz, 45, both dressed in dark gray suits, were led away in handcuffs as some relatives cried quietly.

Swartz managed a quick, reassuring glance over his shoulder at his wife, Karen, as he was led away.

The former executives were taken to the jail adjoining the courthouse for initial processing, said Thomas Antenen, a spokesman for the New York City Department of Correction.

Obus called the grand larceny and other charges underlying the convictions “extremely serious,” but distinguished the Tyco case from other white-collar crime cases, such as WorldCom.

The prison terms Obus imposed fell short of the 15-year-to-30 year maximum sought by prosecutors, but far higher than the one-year-to-three-year minimum sought by the defense. John Coffee, a securities law expert at Columbia University Law School, said the two would have fared worse in federal court.

“They will serve far less time,” Coffee said, “but it will probably be more painful time. There is no Club Fed in the New York State Correctional system.”

Under New York law, Kozlowski, who is Tyco's former CEO, and Swartz, the company's former CFO, must serve a minimum of six years and 11 months before release, said Linda Foglia, a spokeswoman for the state Department of Correctional Services.

The sentencing capped a case etched in the national consciousness by Kozlowski's $6,000 shower curtain and $2 million birthday bash for his wife.

In a final legal twist, Assistant District Attorney Owen Heimer said that the Securities and Exchange Commission's staff is recommending an accounting fraud case against Tyco for actions taken under Kozlowski and Swartz.

Tyco spokesman David Polk said the firm recently took a $50 million charge to cover a potential SEC settlement.

Ex-Tyco Officers Sentenced (WP)

By Ben White

The Washington Post, September 20, 2005

NEW YORK, Sept. 19 -- A state judge on Monday sentenced former Tyco International Ltd. executives L. Dennis Kozlowski and Mark H. Swartz to 8 1/3 to 25 years in prison for looting the company of hundreds of millions of dollars to pay for lavish parties, luxurious homes and extravagances such as a $6,000 shower curtain.

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In a case that came to symbolize corporate greed, state Supreme Court Judge Michael J. Obus also ordered Kozlowski and Swartz to pay nearly $240 million in fines and restitution. Kozlowski and Swartz were immediately taken into custody and led from a packed courtroom in handcuffs as family members of both men sobbed. The men are likely to serve at least part of their sentences in one of New York's 16 maximum-security state prisons.

The sentences for Kozlowski and Swartz follow lengthy terms meted out to other white-collar defendants convicted in a wave of criminal cases that followed the collapse of the Internet bubble and multibillion-dollar frauds at companies such as WorldCom Inc. and Enron Corp.

Former WorldCom chairman Bernard J. Ebbers, 64, was sentenced to 25 years in prison for orchestrating an $11 billion accounting fraud at his company. Because of Ebbers's age, that could amount to a life sentence. John J. Rigas, the 80-year-old founder of Adelphia Communications Corp., received 15 years in prison for stealing millions from the cable company for personal extravagances, hiding more than $2.3 billion in debt and lying to investors. Rigas's son and former Adelphia chief financial officer Timothy J. Rigas was given 20 years in prison for his role in the scheme.

Prosecutors and many shareholder groups say long sentences are necessary to deter future abuses and restore investor confidence. But some defense lawyers question the extent to which a few high-profile cases will deter bad behavior at smaller public companies that present less tempting targets for prosecutors. "Officers and directors of major corporations, multinational corporations, clearly get the message," said defense attorney Jacob S. Frenkel. "The question is whether the message has been conveyed thoroughly to officers and directors at small and mid-size companies."

Kozlowski and Swartz will be able to cut one-sixth off of their 8 1/3 -year minimum sentence if they behave well and take part in prison programs, said Linda Foglia, a spokeswoman for the state Department of Correctional Services. That would reduce the point at which they can be paroled to six years and 11 months. Inmates are eligible to apply for work release two years before their first possible parole date, and parole officials will decide how much of the 8 1/3 to 25 years the former executives must serve. Several legal experts said it was unlikely either man would serve more than 10 years in total.

There is no parole in the federal system, under which many other white-collar defendants have been tried and sentenced.

Though their sentences may be cut shorter than other executives', the time Kozlowski and Swartz spend behind bars may be in a harsher environment. Obus did not specify where the two former executives will serve their terms. He said that decision would be made by state corrections officials. But he said he did not view either man as a security risk, indicating he would not object if they are sent to a lower-security facility.

Former prosecutor David Gourevitch, however, said there were no facilities in the state system comparable to federal minimum-security prisons such as the one where entrepreneur Martha Stewart spent her five-month sentence.

"In the federal system, outside of maximum-security places, generally people are physically safe. I don't think anybody would say that about New York state prison," Gourevitch said. "And from a state perspective, this is one of the longest sentences in a corporate fraud case that I can recall."

Foglia said that in most cases, defendants sentenced to more than six years are sent to maximum-security prisons. She said it would be several weeks before the state decides where to send Kozlowski and Swartz. In the meantime, they will stay at a holding facility known as the Tombs in Lower Manhattan and then be sent to Rikers Island, the temporary jail for New York City inmates before they are sent to state prisons.

In June, a jury found former Tyco chief executive Kozlowski, 58, and former chief financial officer Swartz, 45, guilty of criminal counts of grand larceny, conspiracy, securities fraud and eight of nine counts of falsifying business records.

Obus imposed the same prison sentence on both men. He ordered Kozlowski to pay a $70 million fine and Swartz to pay a $35 million fine. He ordered both men to repay Tyco a combined $134.4 million in restitution of illegal bonuses and other illicit payments.

Kozlowski and Swartz each made brief statements in court Monday, asking Obus to be lenient. Lawyers for each also pleaded with the court to recognize the former executives' charitable works and the scores of letters sent on their behalf by friends and family.

Prosecutors, by contrast, asked Obus to send a message that corporate theft will be treated the same as grand larceny committed with a handgun. They asked for the maximum term of 15 to 30 years for both men.

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In imposing the sentence, Obus said, "The heart of this case is basic larceny" and described the charges as "extremely serious." He expressed befuddlement at Kozlowski's and Swartz's plights, at one point asking, "how the defendants, with all they had going for them, managed to get themselves into this disastrous position."

Attorneys for Kozlowski and Swartz said they would seek to have their clients released on bail pending appeal of their convictions. At the sentencing hearing on Monday, state prosecutors said the Securities and Exchange Commission staff had recommended that the agency bring an accounting fraud case against Tyco. Tyco has said it expects to settle the SEC suit and has set aside $50 million for that purpose. The SEC often simultaneously files and settles accounting cases.

Tyco Figures Will Be Jailed At Least 7 Years (WSJ)

By Mark Maremont

The Wall Street Journal, September 20, 2005

NEW YORK -- In an ignominious end to their once-glittering careers, Tyco International Ltd.'s two former top executives were led away from a Manhattan courtroom with their hands cuffed behind their backs, after a New York state judge sentenced them to serve 8 1/3 to 25 years in prison for looting their former company.

The lengthy prison sentences, although less than the 15-to-30-year maximum that could have been imposed, are the latest example of relatively harsh punishment being meted out to top executives in the recent wave of corporate-fraud trials. The two men were ordered to pay fines and restitution totaling about $240 million.

L. Dennis Kozlowski, Tyco's former chief executive, and Mark H. Swartz, the company's former finance chief, each were convicted in June of 22 criminal charges related to looting their former employer of more than $150 million. The pair had once been among the most powerful and best-paid executives at an American company, helping build Tyco into a conglomerate with $36 billion in annual revenue. Tyco has been under new management since mid-2002.

Under New York state law, they will have to serve nearly seven years at minimum: specifically, at least six years, 11 months and nine days before being eligible for parole, subject to good behavior and other factors.

Both defendants have said they will appeal. Mr. Kozlowski's lead attorney, Stephen Kaufman, said immediately after the sentencing hearing that he will be applying for bail for his client pending appeal. Charles Stillman, the lead attorney for Mr. Swartz, said he will be "pursuing appropriate remedies for Mark's situation." In New York, defendants can choose to bring bail applications before any judge, and often try to choose judges known for their leniency.

In New York, inmates with more than six years to serve until they are eligible for parole are usually sent to one of the state's maximum-security prisons, which house 22,000 mostly violent offenders, said Linda Foglia, a spokeswoman for the New York State Department of Correctional Services. Prisoners in such facilities are housed in cells, and work six hours a day at tasks like sweeping, painting, or working in the library, she said, adding that inmates generally are paid $1.05 a day.

Separately, Tyco is close to an agreement to pay $50 million to settle Securities and Exchange Commission fraud charges related to accounting misdeeds during the period when Messrs. Kozlowski and Swartz were in charge, according to a person familiar with the matter. Lawyers at yesterday's sentencing hearing first revealed the likely SEC charges, with a prosecutor saying the SEC staff was recommending that Tyco be charged with inflating its income by about $1 billion.

During two high-profile criminal trials -- the first ended in 2004 in a mistrial -- prosecutors showed how Tyco had spent more than $30 million on a New York apartment for Mr. Kozlowski, and helped foot the bill for a lavish birthday party for the former Tyco chief's wife on the Italian island of Sardinia.

Although the defendants claimed the money taken from Tyco had been authorized by the company's board, prosecutors argued that not a single piece of paper backed up that contention, and the company's directors testified they were kept in the dark.

Mr. Kozlowski, 58 years old, briefly glanced back at his family as he was being led out of the courtroom. Mr. Swartz, 45, smiled wanly at one of the court officers as he was led out.

In imposing the sentences, Justice Michael Obus, of the trial-level New York State Supreme Court, stressed that he wasn't sending a message about corporate fraud in general, and merely was reflecting the appropriate punishment for the serious crimes for which the two former Tyco executives were convicted.

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Perhaps mindful that New York prison officials generally house those sentenced to more than six years in maximum-security facilities, Justice Obus said twice yesterday that he didn't view Messrs. Kozlowski and Swartz as security risks.

In imposing financial penalties, Justice Obus ordered that Mr. Kozlowski repay about $97 million to Tyco -- the bulk of the money he was convicted of stealing -- and pay an additional $70 million in fines. Mr. Swartz was ordered to repay about $38 million, plus $35 million in fines. He had already repaid $12.5 million to Tyco. Although Justice Obus had the option of holding additional hearings on extra penalties related to the securities-fraud convictions, he opted not to do so, suggesting that civil courts could sort out the issue.

Messrs. Kozlowski and Swartz are defendants in civil suits filed by Tyco and in a class-action securities lawsuit by the company's shareholders. The criminal convictions are likely to make it easier for the plaintiffs to win those suits. The defendants' considerable assets, which likely total much more than they were ordered to pay yesterday, have been frozen by the courts for more than three years.

The sentences were less harsh than those given to some other former chief executives by federal courts. Bernard J. Ebbers, the former chief executive of WorldCom Inc., now MCI Inc., received a 25-year sentence after being convicted of masterminding a massive accounting fraud. Adelphia Communications Corp. founder John Rigas, who is 80 years old, was sentenced to 15 years. Both are out on bail while they appeal.

Before sentencing, Mr. Kozlowski addressed the court, asking the judge to be "as lenient as possible" and to consider the more than 130 letters submitted to the court by his supporters as a more "accurate" portrait of his life. Mr. Kozlowski's attorney stressed his charitable works, among other things.

Mr. Swartz, who was derided by prosecutors before sentencing as a perjurer for his testimony during both trials, told the judge that he had "always held myself to a high standard of integrity and honesty" and said every word of his own testimony "was the complete and honest truth." He asked to be returned to his family "as soon as possible" because his family life was a matter of "vital importance."

In asking for the maximum sentence, Assistant District Attorney Owen Heimer said Mr. Kozlowski was found guilty of theft and securities fraud on an "unprecedented scale," and made Tyco into a "symbol of kleptocratic management." He quoted extensively from a letter sent some years ago by Mr. Kozlowski to a Texas court, recommending a "maximum sentence" for a low-level Tyco employee convicted of embezzling less than $1 million from the company.

Ann Donnelly, another prosecutor, urged the judge to impose a harsh sentence on Mr. Swartz, whom she said was "in large part the architect of this conspiracy" and had "lied to the investing public ... over and over again just so he could enrich himself."

Ms. Foglia said prisoners generally spend several weeks in temporary facilities, and are assigned to prisons based on a number of factors, including length of term, age, health and whether they request protective custody. She said New York has a maximum-security facility near the Canadian border that houses about 250 prisoners, including a former judge, who "are unable to be incarcerated in a general population."

A Tyco spokesman, David Polk, said the company had been discussing a proposed accounting settlement with the SEC for some time. The "proposed allegations relate to Tyco's historical accounting," Mr. Polk said. "Tyco's current financial statements are not at issue." The company restated its results in 2003 going back a number of years, and has previously taken a $50 million charge to cover penalties that might result from the SEC's investigation. The company said a further restatement wasn't part of its talks with the SEC.

Ex-Tyco Execs Face $1-a-day Pay But Could Get Bail For Appeals (USAT)

By Kevin Mccoy

USA Today, September 20, 2005

NEW YORK — Before their convictions, former Tyco executives Dennis Kozlowski and Mark Swartz were known for reaping multimillion-dollar corporate salaries.

Within weeks, they'll have to get used to earning $1.05 a day in a maximum-security state prison.

“They will be assigned a job, and that's what they'll earn,” said Linda Foglia, a spokeswoman for the New York State Department of Correctional Services.

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"Every prisoner must work, in the laundry, in the kitchen or somewhere else."

Lawyers for Kozlowski and Swartz hope to avoid that outcome for at least a while by seeking bail pending appeals of their clients' convictions.

They have a low chance of succeeding, because New York appeals courts generally "are less willing to let individuals stay out," said Ronald Blum, a former Manhattan prosecutor who is now a partner at the law firm Manatt Phelps & Phillips.

Unless defense lawyers prevail, the former executives would be transferred within 10 days from city custody — where they were to spend Monday night — to the state correction system. Foglia said Kozlowski and Swartz would likely first be sent to the Downstate Correctional Facility, roughly 60 miles north of New York City, for four to six weeks of processing and classification.

There, corrections officials would assess medical and other needs before choosing the prison where they would spend most of their sentences.

"Their notoriety is going to play a factor in this as well. We have to take into account their safety in prison," Foglia said.

One possibility, she said, would be to assign Kozlowski and Swartz to the Clinton Correctional Facility, an Upstate New York prison that has a special 250-man unit for prisoners whose personal safety could be in jeopardy behind bars. Convicted police officers, judges and similar defendants have served time in the unit, Foglia said.

Once housed in their assigned prison, Kozlowski and Swartz would be eligible for daily visits. But their days would be subject to a narrowly restricted regimen.

"You're going to be awakened. You're going to work a day, and then your evenings are your own personal time," Foglia said.

The two would be eligible for transfer to a lower-security facility within roughly two years, Foglia said. In about three years, they could seek assignment to a work-release program. Good behavior is a prerequisite for either type of transfer, Foglia said.

The sentences imposed on Kozlowski and Swartz are shorter than the 25-year term recently received by former WorldCom CEO Bernie Ebbers, another well-known white-collar convict.

But the prospect of state prison time will likely "serve as a very, very significant deterrent to anyone who would be tempted to similar actions," said Marcel Kahan, a corporate law specialist at New York University School of Law.

Charles Stillman, Swartz's lead defense lawyer, said he gave his client optimistic advice to help deal with the prospect of years behind bars.

"It's the first day of the rest of his life," Stillman said.

Tyco Endgame (WSJ)

The Wall Street Journal, September 20, 2005

There aren't any $6,000 shower curtains in New York state prisons, where Tyco felons Dennis Kozlowski and Mark Swartz will be enjoying all or part of the next 25 years. The former CEO and CFO were sentenced yesterday for their roles in looting $600 million from their company and paying off one or more directors to avert their eyes. They won't become eligible for parole until about seven years.

Thus concludes one of the sorrier chapters in U.S. business history. And while it took a while -- the first Tyco trial ended in mistrial -- the outcome strikes us as just. Not because of their greed -- there's no law against lavish living yet -- but because of their crimes. Messrs. Kozlowski and Swartz were convicted in June on 22 counts of grand larceny and conspiracy. The verdicts were a victory for Manhattan District Attorney Robert Morgenthau, who last week survived a tough primary challenge.

Of all the fin de siècle corporate scandals, the Tyco heist has always seemed the most audacious, a case of stealing money in plain sight. If you want to liven up the conversation at a business lunch, mention former Enron CEO Jeffrey Skilling and Chairman Ken Lay and whether they were complicit in the fraud for which several former executives have been convicted. There are still those who believe former WorldCom CEO Bernard Ebbers was unaware of the fraud that was taking place under his nose, despite his conviction. The Tyco scandal didn't inspire such ambiguities.

Messrs. Kozlowski and Swartz aren't headed for Club Fed by the way; under New York correctional policy, criminals with their sentences usually serve their time in maximum-security prisons. In addition, they were ordered to pay restitution and fines of $175 million. A case of justice in plain sight.

The Crime And The Time (NYT)

The New York Times, September 20, 2005

The cries for blood have certainly quieted since the recent corporate crime spree first made headlines with the disasters at Enron and WorldCom. Some cried foul when Bernard Ebbers of WorldCom and John Rigas of Adelphia Communications got sentences that meant those white-haired white-collar criminals would probably die in prison. Tomorrow night, Martha Stewart's version of the reality show "The Apprentice" will have its premiere amid her burst of postprison popularity.

In this morning-after atmosphere, when tempers have cooled, comes the news that the former Tyco chief executive, Dennis Kozlowski, and the ex-chief financial officer, Mark H. Swartz, have been sentenced to a minimum of 81/3 years and a maximum of 25 years in prison plus millions in fines and restitution. This is no cause for celebration. Their lives ruined, they face hard jail time. But that does not change one fact: they deserve it and they should serve it.

There always was a hint of buffoonery to the Kozlowski proceedings, with the $6,000 shower curtain and the $2 million birthday party for his wife, that diverted attention from very serious crimes. Mr. Kozlowski and Mr. Swartz were charged with stealing $150 million and earning $430 million in sneaky sales of falsely pumped-up stock. They were convicted on 22 counts of grand larceny, conspiracy, falsifying business records and securities fraud.

Lenient commentators were quick to point out that there are no "Club Fed"-style prisons in New York. Well, any small-time embezzler convicted in New York State faces the same horror of bunking with violent criminals. A car thief convicted of 10,000 counts of grand theft auto - and those would have to be luxury cars even to come close to the crimes committed at Tyco - would be pleased with a probable sentence of 10 to 12 years.

The persistent myth that a robber in a suit and tie instead of jeans and a T-shirt deserves a prison with better amenities should be put to rest for good.

In Bermuda, AIG Helped Shape A Legendary Corporate Haven (WSJ)

By Glenn R. Simpson and Theo Francis

The Wall Street Journal, September 20, 2005

HAMILTON, Bermuda -- When insurance tycoon Cornelius Vander Starr came ashore just after World War II to set up the overseas operation of the company now known as American International Group Inc., this British colony 900 miles off South Carolina was a remote trading post primarily inhabited by descendants of colonists, slaves and shipwreck survivors.

Over the next half-century, AIG executives helped island officials shape a legal landscape that made Bermuda what it boasts is "the risk capital of world." Some of these laws and regulations have helped AIG in particular; others have favored insurers generally. Together they transformed the 21-square-mile island into the global center of the offshore-insurance industry, claiming more than $200 billion in assets.

AIG has profited handsomely in its custom-built corporate haven. Now the question is whether the company, even after helping to create a business nirvana, crossed the line of legality to obscure its activities there.

In May, New York Attorney General Eliot Spitzer sued AIG and its former chairman, Maurice R. "Hank" Greenberg, alleging that for many years, the giant insurer improperly used affiliates in Bermuda to burnish its financial results -- either by hiding losses with the affiliates or claiming their gains as its own. In some instances, the suit alleges, AIG failed to disclose its relationships with Bermuda companies, as required by American law.

AIG is in preliminary settlement talks with Mr. Spitzer's office, people familiar with the situation said. Mr. Greenberg's lawyers have said that he has done nothing wrong and will fight the civil allegations. The most prominent figure in his industry, Mr. Greenberg, 80 years old, was forced out of AIG in March amid regulatory inquiries that go far beyond the company's activities in Bermuda.

Also at the center of the Bermuda storm is a Greenberg subordinate named L. Michael Murphy. A former lawyer for the Internal Revenue Service, Mr. Murphy used to reach his AIG office in Hamilton by rowing a small boat from his elegant home across the turquoise waters of a narrow harbor. Since the 1970s, he had helped write local laws and lobbied for Bermuda in Washington -- all to AIG's advantage.

But in March, the New York-based company fired Mr. Murphy for allegedly refusing to cooperate with AIG lawyers gathering information for investigators from New York and the Securities and Exchange Commission. In his suit, filed in a New York state

court, Attorney General Spitzer says that Mr. Murphy tried to destroy evidence in Bermuda potentially relevant to a pending investigation of the company's accounting.

Mr. Murphy, 62, wasn't named as a defendant in the New York suit. In an interview earlier this year, his attorney denied the document-destruction allegation and said Mr. Murphy has done nothing wrong.

The history of AIG's Bermuda operation illuminates how entwined the island is with the insurer's broader accounting troubles. This history also raises questions about whether the lightly regulated offshore-insurance industry facilitates abuses. Both state and federal regulators are looking at whether other insurers, as well as AIG, have misstated relationships with offshore affiliates.

An analysis by The Wall Street Journal of thousands of pages of regulatory filings shows that from 1995 through 2004, at least $2.48 billion flowed back and forth between AIG and eight of its offshore affiliates either domiciled in or run from Bermuda.

In many instances, AIG disclosed its involvement on both sides of deals. But in other cases, AIG's connections to the affiliates were obscure, potentially misleading both regulators and investors. Federal securities laws and state insurance statutes require detailed disclosure of any transactions involving "related parties." That requirement aims at preventing companies from hiding financial problems by means of contrived deals.

AIG has acknowledged that it accounted improperly for certain relationships with Bermuda affiliates. In May, in response to state and federal inquiries and investor lawsuits, the company restated five years of financial results, in part to correct this accounting.

AIG said that, beyond the items it has restated, its activity in Bermuda has been accounted for properly. Its operations in Bermuda reflect its dominant role in the world insurance market, and its transactions with the eight Bermuda companies are a small fraction of its total business, a company spokesman said in a statement. "Our offshore capabilities have helped us provide cost-effective insurance coverage to our customers and manage AIG's own risk retention efficiently," the spokesman added.

AIG Act

The arrival in Bermuda of a big U.S. company was unprecedented and required passage of a special law: the American International Co. Ltd. Act of 1947. The act created an exception to Bermuda's local-ownership requirement and exempted AIG from taxes on income that came from outside Bermuda. Two years later, Bermuda extended the benefits to other foreign companies.

AIG swiftly became one of the island's biggest employers, hiring scores of workers. In a further accommodation, Bermuda's parliament passed another law in 1951 making the insurer the first foreign company allowed to purchase island real estate.

Mr. Murphy joined AIG's Bermuda operations in 1972. A tall, athletic man who in his youth knocked around South America playing rugby, he typically wore expensive but rumpled suits, according to friends. Before coming to the insurer, he had worked at the IRS, helping to write intricate rules that sought to bolster domestic U.S. investment by imposing higher taxes on interest Americans received from foreign bonds.

Mr. Murphy put his knowledge of international tax law to use for his new employer. In 1973, he was named corporate secretary of one of AIG's oldest and most important island operations: Starr International Co. AIG's top executives have used the Panamanian corporation operated from Bermuda to control a deferred-compensation plan for the most senior company managers.

In the mid-1970s, Mr. Murphy helped island politicians draft a new insurance law for Bermuda that made the colony even more attractive to U.S. companies and insurers, according to David Gibbons, a former Bermuda premier, and Mansfield "James" Brock, a former financial secretary. "He gave us a lot of advice on not so much the insurance act itself but on how Bermuda's insurance regulation compared with and related to that of the United States," Mr. Brock said. Mr. Murphy advised the government on the standards it would need to attract business from the U.S. and avoid antagonizing American regulators, the former officials said.

The Bermuda Insurance Act of 1978 gave insurers broad discretion when investing income from premiums. It did little to regulate insurance rates or companies' conduct, and it set minimal requirements for the capital insurers had to have on hand. In all of these regards, Bermuda made itself a much less demanding host than American states, which regulate U.S. carriers.

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Still, American regulators and investors tacitly accepted the looser Bermuda standards, in part because the island did require that insurers document their solvency annually. Bermuda's use of familiar British law also reassured Americans. Insurance-industry executives point out that Bermuda's permissiveness and lack of bureaucracy allow AIG and other carriers to respond more quickly to American businesses squeezed by price increases or limited coverage -- especially after disasters such as the Sept. 11, 2001, terrorist attacks. "Bermuda has a strong, longstanding relationship and tradition of cooperation with U.S. regulatory bodies," said Cheryl-Ann Lister, chairman of the Bermuda Monetary Authority, a government agency.

Bermuda's 1978 act also created the Insurance Advisory Committee, a private-sector body that works with the government and has the effective clout to prevent any further regulation opposed by the industry. The panel was set up "to avoid government developing a bureaucracy," a former AIG executive named Brian Hall explained in a speech in 1985 quoted in the book "Held Captive: A History of International Insurance in Bermuda."

From 1980 through 2001, one member of the advisory committee was Joseph C.H. Johnson, another veteran AIG executive. The grandson of a local farmer, he joined the company in 1954 as a 17-year-old accounting trainee. For much of the 1980s, one of his duties at the committee was to help oversee which companies received government permission to form new insurers on the island -- an area of great interest to AIG, which was the sponsor of a number of new firms. Mr. Johnson, 67, received the Bermuda Insurance Institute's Lifetime Achievement Award in 2004. He couldn't be reached for comment.

Another role Mr. Murphy played beginning in the mid-1970s was shuttling to Washington to protect AIG's interests there. Longtime lawyers and lobbyists in Washington said that Mr. Murphy helped persuade members of Congress and their aides to establish a new rule for determining which jurisdiction's taxes applied to underwriting income. The old approach involved a complicated multifactor test. The new one established that premiums were taxed based on where the insured asset was. Included in tax-reform legislation in 1976, the change provided international insurers with clarity they strongly desired.

Competitive Threat

In 1986, Bermuda faced a competitive threat when Barbados signed a treaty with the U.S. exempting from American taxes all premiums paid by American companies to insurers in Barbados. Bermuda's then-premier, John Swan, recruited AIG to help secure a similar privilege. The company's Messrs. Murphy and Johnson served as official, though unpaid, representatives of the Bermuda government during negotiations in Washington that in 1988 produced the treaty Mr. Swan sought.

In behind-the-scenes lobbying, Mr. Murphy offered suggestions on treaty language, one lawyer familiar with the negotiations recalled. "Mike knows a lot of players in Washington," Mr. Swan said. "If you had to ask who was the person outside myself who really got involved, it would be Mike Murphy."

In addition to matching Barbados on the excise-tax exemption, the 1988 treaty contained a provision sought by AIG that turned out to be more important after Congress later repealed the excise exemption for both islands. The second provision laid out rules allowing Bermuda insurers to do business in the U.S. without incurring American income-tax liability. This advantage provides the economic foundation for most of the Bermuda insurance industry.

AIG began launching small affiliates in Barbados in the late 1970s, most of which Messrs. Murphy and Johnson helped run. Many of these affiliates sold reinsurance: policies that insurance companies themselves buy to lessen their potential expenditures when they have to make payments to customers.

AIG often bought reinsurance from Bermuda companies that it had helped set up. Properly disclosed, reinsurance is considered a legitimate financial arrangement. An AIG spokesman said that "as the world's largest commercial insurer, AIG is understandably the world's largest reinsurance buyer." The bulk of the Bermuda companies AIG helped set up were established to cover potential liabilities related to particular AIG clients, the spokesman said.

Operating the network of offshore affiliates sometimes entailed AIG executives flying from New York to Bermuda and Barbados for a series of airport board meetings on a single day, one former AIG official recalled.

In 1978, AIG established Inter-Hemispheric Insurance Co., a $50 million joint venture with reinsurer Munich Re AG. Inter-Hemispheric was one of the first firms to offer a form of reinsurance known as finite-risk insurance. Purchasers of these customized policies can use a favorable insurance-accounting method to record proceeds from the policies. But regulators suspect that some finite-risk policies are little more than disguised loans, which allow purchasers to prettify their books

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temporarily, without transferring real risk to the reinsurer. AIG and almost all other big insurance companies are currently under regulatory scrutiny in connection with potentially improper finite-risk policies.

In 1986, Inter-Hemispheric was rechristened Richmond Insurance Co. Ltd. AIG's Bermuda office is on Richmond Road in Hamilton. Mr. Murphy was named Richmond's corporate secretary and an alternate director; Mr. Johnson was the president. Among the company's first customers was AIG.

By 1995, AIG was paying Richmond more than $200 million a year in premiums, according to the Journal analysis of AIG's state-regulatory filings. AIG stood to collect over a period of years more than $900 million in reinsurance payments from Richmond and its subsidiaries, the analysis shows. The net effect of all these transfers was that AIG shifted hundreds of millions of dollars of liabilities to Richmond. AIG nevertheless continued to tell New York state regulators that Richmond was an independent company, according to the New York lawsuit.

AIG told New York insurance regulators in the late 1990s that it owned just 19.99% of the offshore company and didn't control it. In 1999, the company filed with the New York State Department of Insurance a form known as a disclaimer of control related to Richmond, according to department records. Mr. Murphy signed the disclaimer.

New York's Mr. Spitzer, along with the state's insurance commissioner, Howard Mills, allege in the suit that the disclaimer omitted critical facts: An AIG unit managed key Richmond operations, and Richmond's purportedly independent outside investors -- Munich Re and others -- were guaranteed against losses by an AIG unit. The AIG filing caused skeptical New York regulators to back away from inquiries about the company's relationship with Richmond, the suit claims.

Under pressure from regulators, AIG acknowledged in March that it should have accounted for Richmond as a company it could control. AIG said it would fold into its financial statements the operations of Richmond, a move AIG said would have only a small financial impact.

Unusual Twist

There is an unusual twist to the Richmond matter: According to two people familiar with the situation, Mr. Murphy drafted and signed a second version of the New York-state filing that described accurately AIG's ties to Richmond. It was AIG lawyers in New York who chose which version to file with regulators, according to the two people. AIG declined to comment.

For Mr. Murphy, a particularly sensitive aspect of the Richmond arrangement was the guarantee AIG gave outside investors that it would buy them out if necessary. That meant AIG could be on the hook for Richmond's losses -- an indication that the larger company effectively controlled the smaller one. This guarantee was among the subjects of the minutes of a March 2005 meeting of Richmond's directors. New York alleges in its suit that Mr. Murphy tried to destroy the minutes.

Another Bermuda reinsurer, Union Excess Reinsurance Co., owed AIG nearly $500 million in reinsurance obligations by 2003, according to records of state regulators. Union Excess' owners were largely protected from an investment loss, thanks to an option to sell back their shares to the reinsurer. That option was guaranteed by a subsidiary of Starr International, the closely held firm run by AIG executives. Mr. Murphy signed the Dec. 20, 1993, agreement with Union Excess' investors on behalf of Starr International and its subsidiary.

Earlier this year, AIG said it had accounted for Union Excess improperly. Because of the guarantee against losses, among other factors, AIG said it should have treated Union Excess as if AIG controlled it, consolidating the smaller company's results into its own. Union Excess accounted for the single biggest hit to AIG's net worth -- $951 million -- in a $2.26 billion restatement that the company made in May. The restatement cut its net worth, or shareholders' equity, to $80.6 billion as of Dec. 31, 2004.

Mr. Greenberg's attorneys have argued that AIG didn't control Union Excess and so shouldn't have made the restatement.

CRIMINAL LAW:

Ex-White House Aide Charged In Corruption Case (NYT)

By Philip Shenon And Anne E. Kornblut

The New York Times, September 20, 2005

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WASHINGTON, Sept. 19 - A senior White House budget official who resigned abruptly last week was arrested Monday on charges of lying to investigators and obstructing a federal inquiry involving Jack Abramoff, the Republican lobbyist who has been under scrutiny by the Justice Department for more than a year.

The arrest of the official, David H. Safavian, head of procurement policy at the Office of Management and Budget, was the first to result from the wide-ranging corruption investigation of Mr. Abramoff, once among the most powerful and best-paid lobbyists in Washington and a close friend of Representative Tom DeLay, the House majority leader.

According to court papers, Mr. Safavian, 38, is accused of lying about assistance that he gave Mr. Abramoff in his earlier work at the General Services Administration, where he was chief of staff from 2002 to 2004, and about an expensive golf trip he took with the lobbyist to Scotland in August 2002.

Mr. Abramoff, a former lobbying partner of Mr. Safavian, was indicted last month in Florida on unrelated federal fraud charges. He is not identified by name in the court papers involving Mr. Safavian's arrest. But "Lobbyist A" in an F.B.I. affidavit could only be Mr. Abramoff based on descriptive details in the documents filed in the Federal District Court here.

The Justice Department said Mr. Safavian had been specifically charged with making false statements to investigators about his efforts at the General Services Administration in 2002 to help Mr. Abramoff acquire two large pieces of government-owned property in the Washington area, including the historic Old Post Office Building on Pennsylvania Avenue.

The department said Mr. Safavian had also lied to ethics officials at the agency, which manages federal property, when he sought approval to accept free transportation from Mr. Abramoff for the golf trip to Scotland that summer. According to court documents, Mr. Safavian told the ethics office that Mr. Abramoff had no business with the agency at the time, an assertion that was repeated in a separate interview this May with the Federal Bureau of Investigation.

Mr. DeLay, who has asked the House ethics committee to review his ties to Mr. Abramoff, has come under criticism from Congressional Democrats and ethics watchdog groups for taking a similar golf trip to Scotland with Mr. Abramoff in 2000, including rounds of golf on the fabled course at St. Andrews.

The Justice Department made no accusation in its court papers of any tie between Mr. DeLay and Mr. Safavian nor of any involvement by Mr. DeLay in Mr. Abramoff's effort to buy government property. A spokesman for Mr. Abramoff had no comment on the arrest of Mr. Safavian. Phone calls to Mr. Safavian's home in the Virginia suburbs of Washington were not returned.

The White House said in a statement that Mr. Safavian had resigned on Friday and that "we, of course, will cooperate fully with the Justice Department in this investigation." A spokesman said the White House would have no further comment on the arrest.

Mr. Safavian had recently been working on developing contracting policies for the multibillion-dollar relief effort after Hurricane Katrina.

The Justice Department did not reveal details of Mr. Safavian's arrest, including where it occurred. The department also did not say why the criminal charges were brought directly by prosecutors, rather than by the Washington grand jury investigating Mr. Abramoff. The Justice Department often bypasses a grand jury when a criminal case is brought together hurriedly or when there is fear that a defendant may try to flee.

The F.B.I. affidavit, which was dated Friday and made public on Monday, said that Mr. Safavian had provided extensive, secret assistance to Mr. Abramoff in 2002, when the lobbyist wanted help on behalf of a client to arrange a lease on favorable terms for the Old Post Office Building, which was controlled by the General Services Administration. The affidavit said the client was one of several Indian tribes that Mr. Abramoff has represented.

The court papers said Mr. Abramoff had also sought Mr. Safavian's help in buying 40 acres at the Naval Surface Warfare Center in the Maryland suburbs of Washington to be the new home of a Jewish children's school that Mr. Abramoff had founded. That property was also under the control of the General Services Administration.

Local real estate records suggest that neither property was acquired by Mr. Abramoff or his clients, despite his repeated requests for help in e-mail messages sent to a private account maintained by Mr. Safavian.

The Justice Department affidavit said that even as Mr. Safavian was trying to help Mr. Abramoff in acquiring the government property in 2002, he was eagerly planning his summer golf trip with the lobbyist to Scotland. The F.B.I. affidavit also suggested

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Mr. Abramoff's motivation in inviting Mr. Safavian was clear. In an e-mail message, a lobbyist colleagues asked: "Why dave? I like him but didn't know u did as much. Business angle?"

According to the court papers, Mr. Abramoff replied with another e-mail message: "Total business angle. He is new COS of GSA."

Like Mr. Abramoff, Mr. Safavian, a former Congressional aide, has extensive ties to prominent Republicans on Capitol Hill, throughout the executive branch and among the city's lobbying firms.

He helped start Janus-Merritt Strategies, a consulting firm, with Grover G. Norquist, the head of the conservative advocacy group Americans for Tax Reform and a close political ally of the Bush administration.

Mr. Safavian worked with Mr. Abramoff in the Washington lobbying offices of Preston Gates & Ellis, a Seattle-based firm. According to lobbying records, Mr. Safavian shared at least one client with Mr. Abramoff, the Mississippi Band of Choctaw Indians, and also represented Microsoft, the Port of Seattle and the Dredging Contractors of America.

His wife, Jennifer Safavian, is chief counsel for oversight and investigations on the House Government Reform Committee, which is responsible for overseeing government procurement and is, among other things, expected to conduct the Congressional investigation into missteps after Hurricane Katrina.

Both Mr. Safavian and his wife graduated from Detroit College of Law at Michigan State University. They have a daughter.

According to his former colleagues in the Bush administration and interviews he gave, Mr. Safavian considered encouraging "competitive sourcing" or outsourcing government work to private contractors to be a primary goal in his job at the Office of Management and Budget.

He did not oversee specific contracts, but instead managed overall guidelines for government purchasing, associates said. In an interview in June with Federal Times, a newspaper that focuses on the workings of the federal government, Mr. Safavian described his work for the office and said that "the best advice I've gotten was from my grandfather and that advice is that you've got to have ethics and integrity in everything you do, especially here in D.C."

Bush Official Arrested In Corruption Probe (WP)

By R. Jeffrey Smith And Susan Schmidt

The Washington Post, September 20, 2005

The Bush administration's top federal procurement official resigned Friday and was arrested yesterday, accused of lying and obstructing a criminal investigation into Republican lobbyist Jack Abramoff's dealings with the federal government. It was the first criminal complaint filed against a government official in the ongoing corruption probe related to Abramoff's activities in Washington.

The complaint, filed by the FBI, alleges that David H. Safavian, 38, a White House procurement official involved until last week in Hurricane Katrina relief efforts, made repeated false statements to government officials and investigators about a golf trip with Abramoff to Scotland in 2002.

It also contends that he concealed his efforts to help Abramoff acquire control of two federally managed properties in the Washington area. Abramoff is the person identified as "Lobbyist A" in a 13-page affidavit unsealed in court, according to sources knowledgeable about the probe.

Until his resignation on the day the criminal complaint against him was signed, Safavian was the top administrator at the federal procurement office in the White House Office of Management and Budget, where he set purchasing policy for the entire government.

The arrest occurred at his home in Alexandria. A man who answered the phone there yesterday hung up when a reporter asked to speak to Safavian.

Abramoff was indicted by federal prosecutors in Miami last month on unrelated charges of wire fraud and conspiracy. He remains the linchpin of an 18-month probe by a federal task force that includes the Internal Revenue Service, the Interior Department and the Justice Department's fraud and public integrity units. His lawyer did not respond to phone calls seeking comment.

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Abramoff's allegedly improper dealings with Indian tribes -- which netted him and an associate at least $82 million in fees -- prompted the federal probe. But investigators have found that his documents and e-mails contain a trove of information about his aggressive efforts to seek favors for clients from members of Congress and senior bureaucrats.

Accompanying Safavian and Abramoff on the 2002 trip to Scotland, for example, were Rep. Robert W. Ney (R-Ohio), chairman of the House Administration Committee, lobbyist and former Christian Coalition leader Ralph Reed and Neil Volz, a lobbyist with Abramoff at the Washington office of Greenburg Traurig.

Like Abramoff, Safavian is a veteran Washington player. He is a former lobbying partner of anti-tax crusader Grover Norquist and previously worked with Abramoff at another firm. Both he and Abramoff have represented gambling clients and Indian tribes with gambling interests.

At the time of the golf trip, Safavian was chief of staff at the General Services Administration, where ethics rules flatly prohibited the receipt of a gift from any person seeking an official action by the agency. When Safavian asked GSA ethics officers for permission to go on the trip, he assured them in writing that Abramoff "has no business before GSA," according to the affidavit signed by FBI special agent Jeffrey A. Reising.

Reising alleged, however, that Abramoff had by then already secretly enlisted Safavian in an effort to buy 40 acres of land that GSA managed in Silver Spring for use as the campus of a Hebrew school Abramoff founded. Safavian also allegedly tried to help Abramoff lease space for Abramoff's clients in an old post office building downtown.

On July 22, 2002, Abramoff sent Safavian an e-mail with a proposed draft letter that "at least two members of Congress" could send to GSA supporting the lease, according to the affidavit. "Does this work, or do you want it to be longer?" Abramoff asked.

Three days later, Safavian forwarded Abramoff an e-mail describing how an employee at OMB was resisting Abramoff's plan to lease space at the post office. "I suspect we'll end up having to bring some Hill pressure to bear on OMB," Safavian messaged Abramoff.

On the same day Safavian discussed the golf trip with the ethics office, he sent an e-mail to Abramoff from his home computer, advising him how to "lay out a case for this lease." Abramoff subsequently wrote in an e-mail to his wife and two officials of the school that Safavian had shown him a map of the property at his GSA office but had cautioned that Abramoff should not visit again "given my high profile politically."

Safavian nonetheless arranged a meeting for Abramoff's wife and business partner with officials at GSA on the day before he departed for Scotland aboard Abramoff's chartered jet. The trip cost more than $120,000 and was paid for mostly by a charity founded and run by Abramoff, the Capital Athletic Foundation.

When Safavian was questioned by The Washington Post about the trip in January, he said he paid his share of the expenses and took unpaid leave. "The trip was exclusively personal; I did no business there. . . . Jack is an old friend of mine," Safavian said.

But the complaint alleges that Safavian lied about his contacts with Abramoff on three occasions after his initial false pledge to the GSA ethics officer. The first was during a 2003 investigation by GSA's inspector general, who was responding to an anonymous tipster's hotline complaint; the second was in a March 17, 2005, letter to the Senate Committee on Indian Affairs; and the third was during an FBI interview on May 26, 2005.

Former White House Official Arrested (AJC/AP)

By Mark Sherman, Associated Press Writer

The Atlanta Journal-Constitution, September 20, 2005

WASHINGTON — A former Bush administration official was arrested Monday on charges he made false statements and obstructed a federal investigation into his dealings with lobbyist Jack Abramoff, according to court documents and government officials.

David Safavian, then-chief of staff of the General Services Administration and a former Abramoff lobbying associate, concealed from federal investigators that Abramoff was seeking to do business with GSA when Safavian joined him on a golf trip to Scotland in 2002, according to an FBI affidavit and the officials.

At the time, FBI agent Jeffrey A. Reising said in the affidavit, a lobbyist — identified separately as Abramoff — had enlisted Safavian's help in trying to gain control of 40 acres of land at the Federal Research Center at White Oak in Silver Spring, Md., for a private high school that Abramoff helped establish and supported.

For his part, Safavian edited a letter the lobbyist was preparing to send to GSA, and arranged and attended a meeting involving a GSA official, the lobbyist's wife and others to discuss leasing the property, the affidavit said.

Abramoff told his wife to use her maiden name at the meeting because Safavian sought to play down Abramoff's involvement, the affidavit said, citing an e-mail from Abramoff.

Safavian was given clearance to go on the August 2002 golf trip after telling GSA's ethics officer that the lobbyist "has no business before GSA," the affidavit said.

Nine people, including Rep. Bob Ney, R-Ohio, made the trip and played golf on the fabled Old Course at St. Andrews. Safavian paid $3,100 for the travel, "in the exercise of discretion," he said, as quoted in the affidavit. The total cost was more than $100,000, the affidavit said.

Safavian moved to the Office of Management and Budget last year, becoming the administration's top procurement official. He resigned that post, effective Friday, OMB spokesman Alex Conant said.

No one answered the phone at a listing for Safavian in Alexandria, Va.

Safavian worked with Abramoff on the team at the Preston, Gates & Ellis law firm that was lobbying to keep the Northern Mariana Islands free from certain U.S. labor and immigration laws during the last half of the 1990s.

Abramoff is not named in the affidavit, but two government officials confirmed he is the person referred to in the affidavit as Lobbyist A. They spoke on condition of anonymity because the investigation is still under way.

In addition, Safavian was asked in February for information about the golf trip by the Senate Indian Affairs Committee. Both the Senate panel and a federal grand jury are investigating deals in which Abramoff and an associate received at least $66 million from six Indian tribes to lobby for their casinos and other interests. The tribes question whether the charges were excessive.

Congressional Democrats have raised questions about Abramoff's ties to House Majority Leader Tom DeLay, R-Texas. The congressman has asked the House Ethics Committee to review allegations that Abramoff or his clients paid some of DeLay's overseas travel expenses. DeLay has denied knowing that the expenses were paid by the lobbyist.

Separately, Abramoff has pleaded innocent to a six-count federal fraud and conspiracy indictment stemming from his role in the 2000 purchase of a fleet of gambling boats in Florida.

Former White House Budget Official Arrested (DMN)

By Michelle Mittelstadt And G. Robert Hillman

The Dallas Morning News, September 20, 2005

WASHINGTON – A former high-ranking Bush administration budget official was arrested Monday on charges of lying and obstructing a federal investigation into his business dealings with a lobbyist identified as Jack Abramoff.

David Safavian resigned Friday as top procurement officer for the White House budget office, the day the FBI filed a criminal complaint charging he made false statements to the General Services Administration's ethics office and inspector general.

An FBI affidavit alleges that Mr. Safavian, while the GSA's chief of staff, helped a lobbyist in his attempts to acquire GSA-controlled property in the Washington area. In 2002, the affidavit says, the lobbyist took Mr. Safavian and others on a golf outing to Scotland.

While the 13-page affidavit refers only to "Lobbyist A," a government official, speaking on condition of anonymity, confirmed that Mr. Abramoff is the lobbyist.

"Before and after the August 2002 golf trip, Safavian advised and assisted Lobbyist A in his efforts to conduct the aforementioned business with GSA," FBI Agent Jeffrey Reising wrote in the affidavit.

Mr. Safavian did not return a call to his home Monday.

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Mr. Abramoff, who once had close ties to House Majority Leader Tom DeLay, R-Sugar Land, has been indicted on federal fraud charges for his role in the purchase of a company that operates casino ships in Florida. He has pleaded not guilty.

Mr. Abramoff's attorney, Abbe Lowell, offered no immediate comment on the latest twist in the federal investigation of his client's dealings, which previously focused on the casino and his dealings with Indian tribes.

The filing clearly points to Mr. Abramoff – saying he represented Indian tribal clients, had worked with Mr. Safavian at a Washington law firm and established a private high school. Also, Mr. Safavian accompanied Mr. Abramoff on an August 2002 golf trip to Scotland, along with Rep. Bob Ney of Ohio, the Republican chairman of the House Administration Committee, and lobbyist Ralph Reed, among others.

In a June 15, 2002, e-mail to a colleague, according to the affidavit, the lobbyist explained why he'd invited Mr. Safavian on the golfing trip: "Total business angle. He is new [chief of staff] of GSA."

From May 2002, when Mr. Safavian was the GSA's chief of staff, through the August golf trip, the affidavit says, the lobbyist sought to acquire as a site for his high school some 40 acres at the Naval Surface Warfare Center-White Oak, which was controlled by the GSA. The FBI affidavit also says the lobbyist also sought changes in regulations for another GSA-controlled building in Washington, the Old Post Office, in ways that could have benefited his Indian tribal clients seeking to lease and develop the building.

E-mail excerpts quoted in the affidavit suggest Mr. Safavian offered advice to the lobbyist on how to approach the GSA and lobby Congress to secure the land. He forwarded internal communications to the lobbyist, the affidavit says. And Mr. Safavian counseled the lobbyist's wife not to use her marital name during a meeting with GSA officials to discuss providing land for the school.

In a July 21, 2002, e-mail to a colleague, the lobbyist wrote that Mr. Safavian was "totally supportive" of the efforts to acquire the White Oak land for his school, the affidavit said.

At the White House budget office, spokesman Alex Conant said that Mr. Safavian had resigned Friday and the office was cooperating in the investigation.

Jack Lebo, a spokesman for the GSA's inspector general, didn't immediately return phone calls.

GSA spokeswoman Mary Alice Johnson declined to comment, saying, "The matter is part of an ongoing investigation. The agency is cooperating fully, and the U.S. Department of Justice has asked us to direct all questions to them."

Mr. Safavian, who once was an Abramoff colleague at a Washington law firm, was tapped by President Bush for the White House budget post in November 2003 and was confirmed by the Senate nearly a year later.

Official, Abramoff Associate Arrested (HILL)

By Jonathan E. Kaplan

The Hill, September 20, 2005

David Hossein Safavian, the Bush administration's top federal procurement officer in the Office of Management and Budget (OMB), was arrested yesterday based on a three-count criminal complaint filed in federal court, according to a Justice Department statement.

The government alleges that Safavian, as chief of staff at the General Services Administration (GSA), helped an unnamed lobbyist acquire GSA-controlled property in and around Washington, D.C.

Sources say the lobbyist is likely Jack Abramoff, who has been indicted by a grand jury in Florida. Safavian and Abramoff worked together at Preston, Gates and the two traveled with Rep. Bob Ney (R-Ohio) and others on a golf trip to Scotland in 2002.

Safavian allegedly told a GSA ethics officer and GSA's inspector general that the lobbyist had no business with GSA before the August 2002 golf trip, the Justice Department statement said.

A spokesperson for Abramoff declined to comment.

Government Executive magazine reported that Safavian resigned last Friday as the head of the Office of Federal Procurement Policy at OMB.

Bush Appointee Is Arrested In Obstruction Case (LAT)

By Walter F. Roche Jr. And Chuck Neubauer, Times Staff Writers

The Los Angeles Times, September 20, 2005

WASHINGTON — A top federal procurement appointee of President Bush was arrested Monday on charges that he made false statements and obstructed a federal probe when he was questioned about a Scotland golfing junket arranged by lobbyist Jack Abramoff.

In a three-count criminal complaint made public Monday, David H. Safavian was accused of lying to an ethics officer in the General Services Administration regarding his dealings with the lobbyist, who flew him to Scotland in August 2002.

Safavian, former chief of staff of the GSA, also is accused of obstructing an inspector general's investigation into whether he improperly accepted favors from the lobbyist.

Safavian, 38, was with the GSA when he traveled to Scotland.

He was confirmed as the chief procurement officer for the Office of Management and Budget in November 2004.

He resigned Friday, according to Alex Conant, an OMB spokesman.

Safavian could not be reached for comment. Abramoff, through a spokesman, declined to answer questions.

Safavian, while working at the GSA, allegedly aided Abramoff's attempts to acquire GSA-controlled property for a school that the lobbyist had established in the Washington area.

Although the 14-page affidavit refers to Abramoff only as "Lobbyist A," Safavian previously named Abramoff as the person who arranged the 2002 trip.

A federal investigator, speaking on condition of anonymity, also confirmed that Abramoff was the unidentified lobbyist cited in the complaint.

According to the affidavit made public Monday, Safavian assisted the lobbyist in trying to acquire 40 acres of land controlled by the GSA for the school.

Abramoff also sought Safavian's assistance for a private client who was trying to lease a Washington office building from the GSA.

The inside help predated the golf junket and continued afterward, the document said.

Nonetheless, Safavian told an ethics official that the lobbyist "had no business before GSA and did all of his work on Capitol Hill."

The former GSA chief of staff "also omitted the fact that [Abramoff] was actively seeking assistance from the GSA and that Safavian was aiding in that effort," the affidavit said.

The affidavit, signed by an FBI agent, cites e-mails from Abramoff.

In one e-mail to Safavian, for example, Abramoff asked whether the GSA had control of property in Silver Springs, Md., that he sought for the private Jewish school he founded.

Safavian responded with his own e-mail on July 2, 2002, giving details of the property's status and suggesting that the two of them discuss the matter.

Abramoff later bragged to a colleague that Safavian was helping with the effort to secure the property.

Abramoff also sent his wife to a meeting at the GSA, according to another e-mail, because he didn't want to attract attention due to his own "high profile politically." Safavian attended the meeting, according to the complaint.

The complaint states that Safavian gave Abramoff specific advice on the drafting of a letter to the GSA regarding the property.

Abramoff has been indicted in Florida on charges of fraud relating to the purchase of a fleet of gambling boats.

Separately, he is the subject of a wide-ranging federal probe of his lobbying efforts for Indian tribes operating or seeking to operate casinos.

In his e-mail to a GSA ethics officer, Safavian described the 2002 trip that he would be taking and added that it was being arranged by a former colleague. Safavian had worked with Abramoff at a Washington law firm a decade ago.

"He is paying the cost of the aircraft regardless of whether I go or not.

"In fact, none of the other guests will be paying a proportional share of the aircraft costs," Safavian wrote.

After the trip, Safavian showed the inspector general a copy of his $3,100 check to Abramoff, indicating that he had paid his own way.

Rep. Bob Ney, an Ohio Republican, also went on the trip but a spokesman said Monday that the congressman had not been questioned about it. Ney has said he had been told that the trip was paid for by the National Center for Public Policy Research. That group, however, has denied financing the junket to the famous St. Andrews golf course.

According to the complaint, "Indian tribal funds" paid for the trip.

Ex-OMB Official Hit With Charges (RC)

By John Bresnahan

Roll Call, September 20, 2005

The Justice Department on Monday filed criminal charges against David Hossein Safavian, who until last week was a top official at the Office of Management and Budget, for making false statements and obstructing a federal investigation into efforts by former GOP lobbyist Jack Abramoff to acquire federally owned property in the Washington, D.C., area for an Orthodox Jewish school that Abramoff had founded.

Safavian also allegedly tried to help Abramoff gain control of the Old Post Office Pavilion in downtown Washington for one of his American-Indian clients.

The criminal complaint filed Monday stems from activities surrounding a now-infamous golfing junket to Scotland in August 2002 that included Abramoff, House Administration Chairman Bob Ney (R-Ohio), several Ney aides and Ralph Reed, former executive director of the Christian Coalition and an old Abramoff friend.

Safavian, a former chief of staff to Rep. Chris Cannon (R-Utah), worked with Abramoff at the law and lobbying firm Preston Gates Ellis & Rouvelas Meeds in 1995, and at the time of the golfing trip had just been promoted to chief of staff at the General Services Administration. GSA oversees thousands of buildings owned or leased by the federal government.

According to an affidavit released by the Justice Department on Monday night in support of the criminal charges against Safavian, the FBI, GSA and Interior Department have been "examining allegations concerning an August 2002 Scotland golf trip that Safavian took with a Washington, D.C., lobbyist ('Lobbyist A') and Safavian's statement regarding Lobbyist A's dealing with GSA at the time that Safavian accompanied Lobbyist A on that trip."

Abramoff is not mentioned by name in the affidavit, although his participation in the August 2002 Scotland trip has been well established by federal investigators and the news media.

Beginning in May 2002 until after the August 2002 trip, Abramoff reportedly tried to "acquire approximately 40 acres of land controlled by GSA" at the Naval Surface Warfare Center-White Oak, a federal facility located in Silver Spring, Md., for Abramoff's school, according to the affidavit.

In addition, Abramoff sought "changes in the regulations governing the development" of the Old Post Office building on Pennsylvania Avenue. "GSA controlled the building and was considering ways to develop the OPO," states the affidavit.

Abramoff reportedly sought "contracting preferences that could have given some of Lobbyist A's tribal clients a competitive advantage in efforts to lease and develop the building," the affidavit said.

Safavian, who resigned last Friday as administrator of federal procurement policy at OMB, allegedly provided Abramoff with advice on how to proceed in getting GSA approval for both projects.

Safavian was co-founder of the lobbying shop Janus-Merritt Strategies along with GOP activist Grover Norquist, an Abramoff ally who has also attracted Senate scrutiny over his financial dealings with the former lobbyist. One of the clients Safavian lobbied for at Janus-Merritt was the National Indian Gaming Association.

Abramoff and a business associate were indicted in Miami last month on wire and mail fraud charges related to his attempt to purchase a Florida-based casino cruise company in 2000.

Brian Walsh, a spokesman for Ney, said the Ohio Republican had no comment on Safavian's indictment other than to say that Ney himself has not been contacted himself by any of the handful of federal agencies or grand juries that are looking into Abramoff's business dealings.

"No federal investigators have contacted the Congressman on this or any other matter connected to Jack Abramoff," said Walsh.

In travel disclosure documents filed with the House, Ney stated that the National Center for Public Policy Research paid for the Scotland trip, although that organization has now said it did not. The Capital Athletic Foundation, a non-profit controlled by Abramoff, chartered a private jet for the trip, and overall expenses for the junket were well in excess of $100,000, according to The Washington Post.

House Democrats immediately pounced on this latest indictment as further evidence that Ney needs to be voted out of office in November 2006.

"With two of his golf partners arrested in one month's time, Congressman Bob Ney must be worried about the integrity of his four-some," said John Lapp, executive director of the Democratic Congressional Campaign Committee in a statement. "Every arrest and indictment is a reminder to the American people that this special interest Congress is more concerned with protecting their cronies than fighting for middle class families."

On July 25, 2002, Safavian sought clearance from a GSA ethics officer about taking part in the Scotland golf trip scheduled for the following month. But Justice Department documents say Safavian "omitted the fact" that Abramoff had business before GSA and that he was helping Abramoff.

On March 26, 2003, an anonymous tipster made a complaint to a hotline run by the Office of Inspector General at GSA "regarding Savafian's participation in an 'international golfing trip provided by lobbyists.'"

Safavian was questioned by a GSA official in March and April 2003, but he "falsely represented to the GSA-OIG that Lobbyist A had no business with GSA prior to the August 2002 golf trip, and Safavian omitted the fact that he was aiding Lobbyist A in Lobbyist A's attempts to do business with GSA and seek official action from GSA."

In late February 2005, the Senate Indian Affairs Committee, which has been looking into Abramoff's dealings with a half-dozen Indian tribes, contacted Safavian seeking information on the 2002 junket.

According to the Justice Department affidavit, Safavian again "falsely represented" to the Indian Affairs Committee and its chairman, Sen. John McCain (R-Ariz.), that Abramoff had no business before GSA at the time of the August 2002 trip.

The DOJ affidavit also included information gleaned from numerous e-mails between Safavian and Abramoff, including one from May 24, 2002, shortly after Safavian was invited on the Scotland trip, "asking if GSA had property available for a school."

Abramoff "solicited Safavian's assistance and guidance" on the two projects, including having Safavian review a "draft letter purportedly to be sent by at least two members of Congress to the Administrator of GSA" asking for "special consideration" for minority businesses, such as Indian tribes. The Members assisting Abramoff in this action were not named in the DOJ affidavit.

On July 30, 2002, Abramoff sent his wife and two other representatives of his school to met with GSA officials about acquiring land for his school. Abramoff, according to the Justice Department affidavit, "cautioned his wife to avoid using their marital name" during that meeting because of his "high profile politically."

In May 2005, when interviewed by the FBI at the Old Executive Office Building, Safavian again said that Abramoff did not seek to acquire property from GSA until "significantly well after" the August 2002 trip.

Safavian, whose wife serves as a top aide to Rep. Tom Davis (R-Va.), on the House Government Reform Committee, did not return several calls seeking comment at press time.

A spokesman for Abramoff's lawyer, Abbe Lowell, declined to comment on the charges against Safavian.

Top Federal Procurement Official Arrested (FEDTIMES)

By CHRIS GOSIER

Federal Times, September 20, 2005

The Bush administration's top procurement policy official was arrested Sept. 19 on charges that he made false statements to investigators examining whether he improperly aided a lobbyist trying to acquire federal property in and around Washington.

The federal investigation also is looking into whether the official, David Safavian, improperly accompanied the lobbyist on a golf trip to Scotland in August 2002. Safavian is administrator of federal procurement policy at the Office of Management and Budget. Safavian resigned his post on Friday, Sept. 16.

Safavian is accused of obstructing an investigation by the inspector general at the General Services Administration, authorities said Sept. 19. Safavian had previously served as chief of staff at GSA before taking the post at OMB.

The three-count complaint filed Sept. 16 in U.S. District Court in Washington, D.C. accuses Safavian of making false statements to a GSA ethics officer as well as the GSA inspector general while serving as the agency's chief of staff from May 2002 to January 2004.

Safavian was arrested Monday, the Justice Department said in a release. Deputy OFPP Administrator Robert Burton is serving as interim administrator, said Alex Conant, a spokesman for the Office of Management and Budget, OFPP's parent agency.

Safavian did not return a call to comment by press time.

Key OMB Official Arrested (GOVEXEC)

By Kimberly Palmer

Government Executive, September 20, 2005

David Safavian, who was chief of procurement policy in the Bush administration's Office of Management and Budget until late last week, was arrested Monday on charges of making false statements and obstructing a federal investigation.

Safavian is charged with making false statements to a General Services Administration ethics officer and the GSA inspector general's office. Safavian served as chief of staff at GSA before moving to OMB.

Safavian resigned as head of the Office of Federal Procurement Policy effective Friday, an OMB spokesman said. Robert Burton, associate administrator of OFPP, will head the office on an interim basis, the spokesman said.

The Justice Department announced that Safavian "allegedly aided a Washington, D.C., lobbyist in the lobbyist's attempts to acquire GSA-controlled property in and around Washington, D.C.," and that Safavian joined the lobbyist on a Scotland golf trip.

Safavian allegedly misled GSA officials when he said the lobbyist "had no business" with GSA prior to the golf trip, when in fact Safavian had helped the lobbyist "in his attempts to do business with GSA," Justice said.

The lobbyist, though not named in the Justice announcement, is likely Jack Abramoff, a Washington lobbyist who has been the subject of a long-running federal investigation. In August 2002, Safavian joined Abramoff, Rep. Bob Ney, R-Ohio, former Christian Coalition leader Ralph Reed and others on a trip to St. Andrews, Scotland.

The Washington Post reported last year that the expenses for the chartered jet that ferried the group to Scotland were paid by the Capital Athletic Foundation, a charity run by Abramoff and his wife.

OMB referred all questions about Safavian to Justice officials.

Clay Johnson, deputy director for management at OMB, convened a meeting Monday morning to inform agency employees of Safavian's arrest, according to a government source who asked to remain anonymous. Johnson told staff members to support Safavian's family, and cautioned them against responding to him should he attempt to contact them, the source said.

During his confirmation hearings for his position as OFPP chief, Safavian said he worked as a lobbyist and consultant for a variety of organizations, including the Embassy of Pakistan, Microsoft and several Native American groups.

Safavian also has strong ties to Capitol Hill. Before joining GSA, he served as chief of staff to Rep. Chris Cannon, R-Utah, and also has worked for former Michigan House members William Schuette and Robert Davis, both Republicans.

Amelia Gruber contributed to this report.

Recruits Sought For Porn Squad (WP)

By Barton Gellman

The Washington Post, September 20, 2005

The FBI is joining the Bush administration's War on Porn. And it's looking for a few good agents.

Early last month, the bureau's Washington Field Office began recruiting for a new anti-obscenity squad. Attached to the job posting was a July 29 Electronic Communication from FBI headquarters to all 56 field offices, describing the initiative as "one of the top priorities" of Attorney General Alberto R. Gonzales and, by extension, of "the Director." That would be FBI Director Robert S. Mueller III.

Mischievous commentary began propagating around the water coolers at 601 Fourth St. NW and its satellites, where the FBI's second-largest field office concentrates on national security, high-technology crimes and public corruption.

The new squad will divert eight agents, a supervisor and assorted support staff to gather evidence against "manufacturers and purveyors" of pornography -- not the kind exploiting children, but the kind that depicts, and is marketed to, consenting adults.

"I guess this means we've won the war on terror," said one exasperated FBI agent, speaking on the condition of anonymity because poking fun at headquarters is not regarded as career-enhancing. "We must not need any more resources for espionage."

Among friends and trusted colleagues, an experienced national security analyst said, "it's a running joke for us."

A few of the printable samples:

"Things I Don't Want On My Résumé, Volume Four."

"I already gave at home."

"Honestly, most of the guys would have to recuse themselves."

Federal obscenity prosecutions, which have been out of style since Attorney General Edwin Meese III in the Reagan administration made pornography a signature issue in the 1980s, do "encounter many legal issues, including First Amendment claims," the FBI headquarters memo noted.

Applicants for the porn squad should therefore have a stomach for the kind of material that tends to be most offensive to local juries. Community standards -- along with a prurient purpose and absence of artistic merit -- define criminal obscenity under current Supreme Court doctrine.

"Based on a review of past successful cases in a variety of jurisdictions," the memo said, the best odds of conviction come with pornography that "includes bestiality, urination, defecation, as well as sadistic and masochistic behavior." No word on the universe of other kinks that helps make porn a multibillion-dollar industry.

Popular acceptance of hard-core pornography has come a long way, with some of its stars becoming mainstream celebrities and their products -- once confined to seedy shops and theaters -- being "purveyed" by upscale hotels and most home cable and satellite television systems. Explicit sexual entertainment is a profit center for companies including General Motors Corp. and Rupert Murdoch's News Corp. (the two major owners of DirecTV), Time Warner Inc. and the Sheraton, Hilton, Marriott and Hyatt hotel chains.

But Gonzales endorses the rationale of predecessor Meese: that adult pornography is a threat to families and children. Christian conservatives, long skeptical of Gonzales, greeted the pornography initiative with what the Family Research Council called "a growing sense of confidence in our new attorney general."

Congress began funding the obscenity initiative in fiscal 2005 and specified that the FBI must devote 10 agents to adult pornography. The bureau decided to create a dedicated squad only in the Washington Field Office. "All other field offices may investigate obscenity cases pursuant to this initiative if resources are available," the directive from headquarters said. "Field offices should not, however, divert resources from higher priority matters, such as public corruption."

Public corruption, officially, is fourth on the FBI's priority list, after protecting the United States from terrorist attack, foreign espionage and cyber-based attacks. Just below those priorities are civil rights, organized crime, white-collar crime and "significant violent crime." The guidance from headquarters does not mention where pornography fits in.

"The Department of Justice and the Federal Bureau of Investigation's top priority remains fighting the war on terrorism," said Justice Department press secretary Brian Roehrkasse. "However, it is not our sole priority. In fact, Congress has directed the department to focus on other priorities, such as obscenity."

At the FBI's field office, spokeswoman Debra Weierman expressed disappointment that some of her colleagues find grist for humor in the new campaign. "The adult obscenity squad . . . stems from an attorney general mandate, funded by Congress," she said. "The personnel assigned to this initiative take the responsibility of this assignment very seriously and are dedicated to the success of this program."

U.S. Jury Signals Possible Deadlock In John A. `Junior' Gotti Mafia Case (FINDLAW/AP)

By Tom Hays, Associated Press Writer

Find Law, September 20, 2005

DOJ_NMG_0006534

(AP) - NEW YORK-A federal jury deliberating the case of John A. "Junior" Gotti, the scion of the Gambino crime family charged with attacking a radio show host, indicated Monday that it was deadlocked on a racketeering charge against the son of the late mob boss.

In a note to U.S. District Judge Shira Scheindlin on the seventh day of deliberations, jurors asked what they should do if they were deadlocked over the question of Gotti's so-called withdrawal defense.

Gotti, 41, claims he quit the Gambino organized crime family before July 22, 1999, meaning the five-year statute of limitations would have expired on racketeering charges.

The judge told lawyers she planned to read the jurors a charge that would encourage them to keep deliberating until they reached an unanimous verdict.

Prosecutors allege Gotti ordered his Gambino crew to give radio personality Curtis Sliwa a severe beating in retaliation for Sliwa's on-air rants against his father, John Gotti.

A masked hit man shot Sliwa, an outspoken founder of the Guardian Angels crime-fighting group, during a struggle in a taxi. Sliwa survived, and he testified last month against Gotti, as did admitted mobsters who pleaded guilty and became government cooperators.

The defense told jurors that Gotti had nothing to do with the Sliwa attack and said he retired from the Gambinos following an unrelated racketeering conviction in 1999. Prosecutors dismissed the claim, saying Gotti used his name to rise in the crime organization and gave orders and collected kickbacks beyond 1999.

Gotti faces a sentence of up to 30 years in prison if convicted of multiple racketeering charges. His father was sentenced to life in prison in 1992 and died there 10 years later.

Three Arrested In Army Kickback Scheme (AP-Y2)

By Mark Sherman, Associated Press Writer

AP2, September 20, 2005

A civilian Army employee and two business owners were arrested in a kickback scheme to supply furnishings at a new Pentagon-run hotel in the Bavarian Alps that is used by troops on leave from Afghanistan and Iraq, the Justice Department said Monday.

Steven G. Potoski, 45, former contracting director at the Edelweiss Lodge and Resort in Garmisch, Germany, accepted more than $350,000 in bribes in cash, home renovations, trips, computers and tickets to such events as Oktoberfest and the Indianapolis 500, assistant Attorney General Alice Fisher said.

Potoski, who lives in Garmisch, was arrested Friday, along with Alvan Vance McQueen, 56, of Shelbyville, Ind., and Ellis Abramson, 39, of Merrick, N.Y.

McQueen, owner of Flat Rock Furniture in Waldron, Ind., paid Potoski $45,000 in cash and other items as part of an agreement to inflate the cost of furniture for the hotel and split the extra money, according to a criminal complaint filed against McQueen in U.S. District Court in Indianapolis.

Abramson, president of Bramson House Inc., had a similar arrangement with Potoski for draperies and guest room bedspreads, according to a criminal complaint filed against Abramson in U.S. District Court in Brooklyn, N.Y.

Potoski also accepted bribes from 12 German and one British contractor, Fisher said.

If convicted, the three men face up to 35 years in prison.

The 330-room Edelweiss hotel opened last year, serving active-duty and retired U.S. military personnel. The hotel offers special packages for soldiers who are on leave from duty in Afghanistan and Iraq. The military has run hotel and recreation programs in the Alps since the end of World War II.

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On the Net:

Justice Department: http://www.usdoj.gov

Three More Sentenced For Corruption (TTNJ)

By KRYSTAL KNAPP, Staff Writer

DOJ_NMG_0006535

The Times (NJ), September 20, 2005

A former Mercer County official and two local businessmen were sentenced to prison terms ranging from five to 23 months by a federal judge yesterday for their roles in schemes to defraud the Mercer County Improvement Authority and bribe a local government official.

U.S. District Judge Garrett E. Brown Jr. sentenced former MCIA Executive Director James R. Lambert Sr., 44, and Washington Township businessman Alex J. Abdalla, 52, to five months in federal prison, five months of house arrest with electronic monitoring, three years of probation and $6,000 in fines each for their guilty pleas to charges of mail fraud and conspiring to bribe former Ewing Mayor Alfred W. Bridges to use his influence to steer a private demolition contract in the township.

Hamilton businessman and contractor Michael Maurio, 69, was sentenced to 23 months in federal prison and three years of probation for his part in the conspiracy to defraud the MCIA by submitting false statements in connection with the performance of a demolition project contract in Trenton. Maurio also failed to submit tax returns from 1992 to 1998 for taxes owed totaling $155,028.

Abdalla and Maurio jointly must pay a total of $100,000 in restitution to the MCIA for the overbilling on the demolition project that sources say involved the Sovereign Bank Arena.

All three men declined to talk to reporters after they were sentenced. They have 30 days to turn themselves in to authorities before they serve their time in federal prison. There is no parole in the federal prison system.

Their sentencing nearly brings to a close a federal investigation that has lasted more than three years.

U.S. Attorney Christopher J. Christie yesterday praised local FBI agents, special agents of the Internal Revenue Service criminal investigation unit and Assistant U.S. Attorneys David Bocian and Jeffrey S. Chiesa for their work in the case while deploring the corruption of defendants in the probe.

"These individuals and their co-conspirators demonstrated an appalling willingness to corruptly use government coffers for their own financial gain," Christie said.

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According to the terms of their plea agreements, Lambert, Abdalla and Maurio agreed to cooperate with the government in its investigation of Mercer County public corruption.

They are the three latest figures to be sentenced in connection with the federal probe. Harry G. Parkin, the chief of staff to former Mercer County Executive Robert D. Prunetti, was sentenced last month to 7 1/2 years in federal prison for using his position to foster a secret financial interest in the county's recycling hauler.

Two more people with ties to the probe are scheduled to be sentenced: Abdalla's business partner John Ruddy and businessman Jim Wells, who pleaded guilty Friday to charges he attempted to bribe a local official.

Lambert, Abdalla and Maurio were sentenced separately yesterday, their hearings spread throughout the day in Brown's courtroom.

Of the three, Lambert was the only one to show any emotion, his voice quavering, his comments interspersed with sniffles as he told the judge how sorry he was. "I apologize to you, the public and my family. I'm ashamed of my actions. I'm truly sorry for what I have done."

His lawyer, Paul H. Zoubek of Haddonfield, argued that Lambert's sentence should be reduced or that he should be placed under house arrest because of his cooperation in the federal probe that included the tape-recording of more than 100 conversations over a three-year period. "He fully cooperated with the FBI from the beginning," Zoubek said. "He not only talked about remorse, but he moved forward to make amends and took full responsibility for his actions."

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Lawyers for the federal government acknowledged Lambert helped tremendously from the time he was first contacted and without his help they could not have gotten to the heart of the scheme Parkin tried to keep secret.

But Brown said it was his obligation to weigh both the seriousness of the crimes and the crucial assistance Lambert gave to the government.

"He had no prior criminal record or criminal involvement, but when he got involved, he really got involved," Brown said. "He had a history of public service, but then he attacked the very structure he worked for.

"This is the sort of crime that is really very corrosive to government. . . . As I've said to a number of people who have come before me, what message do we have to send (to public officials)? If we go back 30-plus years ago, in this same courthouse we were sending the same message, but it doesn't seem to have been received yet. I will say it again and again until it is received."

As Brown sentenced Lambert, his wife Kate, a former Hamilton school board president, sat in the first row of the courtroom, her eyes welling with tears. She and Lambert left the room hand-in-hand and said nothing.

About a half-dozen family members and friends attended Abdalla's sentencing in which lawyer Lawrence S. Grossman asked that he be allowed to serve his sentence at home.

"He's been of substantial assistance to the government both in the scope and quality of the investigation," Grossman said. "He recorded hundreds of tapes. He did whatever he was asked to do. He admitted his guilt from the start and agreed to cooperate. . . . I can assure you he will never be back in this or any other courtroom."

Brown noted that Abdalla held back some of the money he was supposed to turn over from the business. Grossman said he did so because he had to support himself and later returned the money.

"I never downplayed anything, was never bitter, I tried to make right by the government, which I did," Abdalla said. "I blame no one else. I apologize to the court, county, and city for any wrongdoing and to my family, friends, and fiancee Victoria. When this earthquake hit, she gave me a foundation to lean on and turned the negative into positive."

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Abdalla's fiancee began to cry during his comments and continued to sob as Brown spoke, saying he considered both the cooperation and the offenses in determining the sentence.

"He cooperated because he himself was caught red-handed in a scheme to bribe a public official," Brown said. "Mail fraud conspiracy, falsifying federal tax returns, this conduct has a corrosive effect on government."

Maurio received the toughest sentence of all three, 23 months, for his part in jacking up the cost of the demolition project and collecting an extra $25,000 from the deal. The lawyers for the federal government said he was of no assistance to the government. He acknowledged his own conduct but did not offer any cooperation that was of any value, lawyers said.

His lawyer, Paul M. Donini of Hamilton, said he was "the least involved" in seeing the scheme to its fruition and was unaware of other schemes. "Prior to this, he was a law-abiding citizen," Donini said. "The last 2 1/2 years have been a living hell for him. He and his family have suffered."

Donini argued that Maurio did not provide other information because he had no further knowledge to give the government. He argued for house arrest in lieu of a prison term so Maurio could meet his financial obligations to his family and because Maurio has a heart problem.

"He would be a prisoner in own home," Donini said. "He used to be the man about town. That lifestyle has ended out of necessity. This is an aberration in his life. He is remorseful, and this is a hardship to the family that loves him."

Maurio, who sat quietly throughout most of the proceedings and only turned his head to gaze back at the three women family members in the courtroom every few minutes, said he took full responsibility for his actions.

"There is nothing other than that to say except that I am sorry for the county, myself and my family," he said, adding that if he were placed under house arrest he could complete several pending deals to pay his restitution and back taxes.

The judge said the sentencing guidelines were reasonable for someone who has taken part in two serious offenses - corruption and tax evasion.

He said Maurio would be sent to the a federal prison with an appropriate medical facility. "You can't whitewash political corruption," Brown said, noting that Maurio gave himself an extra commission from the demolition deal.

"The message has to be sent to people who evade taxes and take part in corruption," Brown said. "It is certainly unfortunate that Mr. Maurio has put his family in this unfortunate situation. It is not the court, not the government who has done this. Mr. Maurio has done this."

Probe Cost County $107,000 For Lawyers (APP)

By NINA RIZZO, FREEHOLD BUREAU

Asbury Park Press, September 20, 2005

Monmouth County Board of Freeholders spent $107,000 for lawyers to represent nine members of the Prosecutor's Office in a federal grand jury investigation that went nowhere, according to the county counsel.

Malcolm V. Carton said Monday that he concluded — after talking to the lawyers who were hired to represent two assistant prosecutors and seven county investigators — that the grand jury probe into whether the prosecutor's office interfered with an FBI bribery sting fizzled out in June.

"It went no place," Carton said. "There was no indictment, just a lot of threats."

The Prosecutor's Office on Feb. 28 was first served with subpoenas seeking to interview five county investigators and examine documents relating to a federal corruption probe that netted 11 local officials on Feb. 22. The subpoenas were delivered a week after sources said the office "blew" the yearlong undercover sting operation into government corruption in several Monmouth County towns.

The sting, dubbed Operation Bid Rig, also brought bribery charges down on the late Freeholder Director Harry Larrison Jr. and a local developer who allegedly paid the county's longtime Republican Party boss at least $8,500 in bribes. Two local businessmen with lucrative county contracts were accused of money laundering as well.

More subpoenas were later handed out at the Prosecutor's Office and, according to legal bills, testimony was given before the grand jury in March, April and May.

Those who were called to appear are Assistant Prosecutors Richard E. Incremona and Kenneth Keller, Chief of Detectives Edward Kirschenbaum, Deputy Chief Guy McCormick and five detectives: Lt. Thomas Wenzel, Jason C. Clark, Barry DuBrosky, Stephen A. Kondrup and Eric M. Singer.

Kirschenbaum and Keller have since retired.

Prosecutor Luis A. Valentin said he didn't know the outcome of the grand jury probe and referred questions to the U.S. Attorney's Office.

Michael Drewniak, a spokesman for U.S. Attorney Christopher J. Christie, said his office does not confirm or deny the existence of a grand jury investigation as a matter of policy.

Robert G. Stahl, the Westfield lawyer who represented Wenzel, said the grand jury investigation didn't result in any charges against his client. Stahl, who was paid more than $20,000, said Christie's office aggressively pursued the matter but the outcome was different than expected.

John C. Whipple, a Morristown lawyer who represented the Prosecutor's Office, confirmed that there has been no grand jury activity in this matter since May, but cautioned that that doesn't mean the case is concluded.

It may seem like a done deal, he said, but federal investigators may still be reviewing documents or interviewing witnesses. And even if this jury is dismissed, Christie can impanel a new one and present new evidence.

"They are always free to investigate as long as the statute of limitations allows," Whipple said. "It's a strange process."

Meanwhile, state Attorney General Peter C. Harvey is conducting his own investigation into whether former Prosecutor John Kaye's office interfered with the federal probe. John Hagerty, a spokesman for the state Division of Criminal Justice, said the report has been completed and determinations are being made.

Kaye, who retired in June after nearly 22 years in office, has maintained his office never intentionally interfered with the federal case.

The freeholder board agreed to pay the legal bills associated with grand jury testimony earlier this year even after Carton informed them that state officials said they wouldn't reimburse the county. Carton, however, insisted there was legal precedent for reimbursement and said he would fight for the money.

Earlier this month, Carton directed James J. Cleary, a special county counsel, to take action against the state to get reimbursement. Paul Loriquet, a spokesman for state Department of Law and Public Safety, reiterated Monday that the state will not pay the county's legal bills in this matter.

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Robert G. Stahl, the Westfield lawyer who represented Wenzel, said the grand jury investigation didn't result in any charges against his client. Stahl, who was paid more than $20,000, said Christie's office aggressively pursued the matter but the outcome was different than expected.

John C. Whipple, a Morristown lawyer who represented the Prosecutor's Office, confirmed that there has been no grand jury activity in this matter since May, but cautioned that that doesn't mean the case is concluded.

It may seem like a done deal, he said, but federal investigators may still be reviewing documents or interviewing witnesses. And even if this jury is dismissed, Christie can impanel a new one and present new evidence.

"They are always free to investigate as long as the statute of limitations allows," Whipple said. "It's a strange process."

Meanwhile, state Attorney General Peter C. Harvey is conducting his own investigation into whether former Prosecutor John Kaye's office interfered with the federal probe. John Hagerty, a spokesman for the state Division of Criminal Justice, said the report has been completed and determinations are being made.

Kaye, who retired in June after nearly 22 years in office, has maintained his office never intentionally interfered with the federal case.

The freeholder board agreed to pay the legal bills associated with grand jury testimony earlier this year even after Carton informed them that state officials said they wouldn't reimburse the county. Carton, however, insisted there was legal precedent for reimbursement and said he would fight for the money.

Earlier this month, Carton directed James J. Cleary, a special county counsel, to take action against the state to get reimbursement. Paul Loriquet, a spokesman for state Department of Law and Public Safety, reiterated Monday that the state will not pay the county's legal bills in this matter.

contracts were accused of money laundering as well.

More subpoenas were later handed out at the Prosecutor's Office and, according to legal bills, testimony was given before the grand jury in March, April and May.

Those who were called to appear are Assistant Prosecutors Richard E. Incremona and Kenneth Keller, Chief of Detectives Edward Kirschenbaum, Deputy Chief Guy McCormick and five detectives: Lt. Thomas Wenzel, Jason C. Clark, Barry DuBrosky, Stephen A. Kondrup and Eric M. Singer.

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New Mexico Treasurer Pleads Not Guilty (AP)

By Felicia Fonseca

AP, September 20, 2005

ALBUQUERQUE, N.M. - The New Mexico state treasurer and his predecessor pleaded not guilty Monday to federal racketeering charges involving kickbacks of cash, cars and expensive tickets to political fundraisers.

Robert Vigil and former Treasurer Michael Montoya, both Democrats, are accused of steering state business to an investment adviser in exchange for nearly $700,000.

If convicted, each faces a maximum sentence of 20 years on each of two counts.

"Mr. Vigil, from day one, has attempted to clean up this office, and that's what he has done," said Vigil's attorney, Sam Bregman, who blamed the allegations on disgruntled former employees.

Vigil, flanked by more than a dozen family members and other supporters, asked the public to be patient as the case proceeds. Montoya left the brief hearing without speaking to reporters.

Prosecutors say Montoya was paid about $632,000 while Vigil received about $54,000 from a financial adviser hired to help invest state funds.

But an FBI affidavit describes a wider scheme and says Vigil accepted an envelope stuffed with cash as recently as last month.

Kickbacks to Vigil allegedly included expensive tickets to political fund-raisers, wood and supplies and donations to charities in which Vigil's wife participates.

A witness said he bought Montoya sports memorabilia, cars and other items using proceeds from the kickbacks, the affidavit said.

Both Vigil and Montoya were arrested Friday at their homes after a two-year FBI investigation.

Vigil, elected to a four-year term in 2002, was asked to step aside Sunday by Gov. Bill Richardson.

On Monday, Lt. Gov. Diane Denish urged Vigil to immediately take administrative leave while the case is pending.

"Mr. Vigil has the right to due process, but the pending charges make it impossible for him to conduct the business of the state with full public confidence," she said.

Vigil has not made a decision on whether to step down, but Bregman said his client will consider all options. Last week, Vigil said he plans to continue to serve as state treasurer. He was not at work Monday.

Vigil served as deputy treasurer under Montoya, who was treasurer from 1995 to 2002. When Vigil was auditor, he hired Montoya in 1992 as head of the agency's Medicaid fraud unit.

Abu Ghraib Guard To Fight Abuse Charges (WP)

The Washington Post, September 20, 2005

DOJ_NMG_0006542

SAN ANTONIO -- Army Pfc. Lynndie England will abandon her earlier courtroom strategy and will fight charges that she was a key participant in detainee abuse by guards at Iraq's Abu Ghraib prison, her lawyer said.

England, 22, a reservist, appears in photos taken inside Abu Ghraib. She was to go on trial Tuesday at Fort Hood, Tex., on seven counts of mistreating prisoners.

* * *

· MONTGOMERY, Ala. -- Waste Management canceled plans to develop a landfill along a historic trail that commemorates the 1965 Selma-to-Montgomery Voting Rights March. Civil rights activists and neighbors had sued to block the landfill near where civil rights worker Viola Liuzzo was gunned down after the march.

· INEZ, Ky. -- People who live in a community deluged with more than 300 million gallons of gooey black coal sludge five years ago reached an out-of-court settlement for an undisclosed sum with Martin County Coal. Ned Pillersdorf, a Prestonsburg, Ky., attorney representing 12 of the people who lived in the sludged area, criticized the U.S. Mine Safety and Health Administration. He said federal inspectors should have known the impoundment was unsafe and should have forced the company to stop using it.

· NEW YORK -- The threat of a Democratic mayoral runoff evaporated when city election officials announced that Fernando Ferrer had captured 727 more votes than the 40 percent he needed in last week's primary to become the nominee challenging Republican Mayor Michael Bloomberg.

· ALBUQUERQUE -- New Mexico Treasurer Robert Vigil and former treasurer Michael Montoya pleaded not guilty to federal racketeering charges. They are accused of receiving kickbacks of cash, cars and expensive tickets to political fundraisers in exchange for allegedly steering state business to an investment adviser.

· DECATUR, Ga. -- Colvin "Butch" Hinton, 44, was convicted of murdering Shannon Melendi, 19, 11 years ago. Her body was never found.

· REMINGTON, Ind. -- A man shot and killed two women working at a convenience store, and police were seeking a man who also was suspected of killing a teenage girl in Ohio. Melvin M. Keeling, 43, of Deerfield Township, Ohio, was identified from images captured by a camera in the store where Liza Kendall, 29, and Kendora Furr, 38, were killed. Keeling was wanted for questioning in the shooting death of Katelind Caudill, 13, near Cincinnati earlier Monday, police said.

Oswego Mayor Allowed To Go Home, To Work While Sex Case Pending (AP)

By WILLIAM KATES, Associated Press Writer

AP, September 20, 2005

SYRACUSE, N.Y. (AP) Although a judge accused him of having ``deviant sexual urges," Oswego Mayor John Gosek was released Monday with a set of conditions that include electronic monitoring, a curfew and other restrictions.

Gosek, 58, was arrested Friday at a Syracuse hotel on a charge that he used a cell phone to solicit sex from a minor.

U.S. Magistrate George Lowe said while he was concerned Gosek was ``unable to control his deviant sexual urges, he is not irrational," and rejected a request by prosecutors to keep Gosek in jail as a threat to the community and a flight danger.

Lowe ordered Gosek to post $10,000 bond. The judge also prohibited Gosek from using cell phones and ordered him not to have contact with any minors. Gosek also must undergo counseling a condition Gosek requested, said his attorney James Eby.

Gosek appeared at Monday's hour-long hearing with his wife and two adult sons, who sat in the front row consoling each other. They left the courthouse without comment.

Eby said the mayor adamantly denies have sexual relations with a minor.

``He's somewhat in a state of shock. It's just starting to sink in now," Eby said. ``He feels he's done a good job as mayor. Obviously, he's sad that this day is here."

Gosek was ``actively reviewing" his political future and would likely make a decision within days, Eby said.

Oswego City Council President William Dunsmoor said ``it would be the right choice" for Gosek to resign after his arrest.

``I've spoken with the majority of the other councilors ... and they agree it would be in the best interests of the city," said Dunsmoor, who is serving as acting mayor.

The council scheduled an emergency meeting Monday night to discuss the scandal, Dunsmoor said.

The conditions set by Lowe allow Gosek to leave his house between 7 a.m. and 9 p.m., which would allow the mayor to continue his duties.

According to court papers, Gosek was arrested after paying a confidential informant $250 to introduce him to two 15-year-old girls at a Syracuse hotel. The federal charge carries a sentence of five to 30 years in prison, said officials with the U.S. Attorney's Office.

State police began an investigation of Gosek in November 2004, recording conversations of Gosek offering money or drugs in exchange for sex, court documents said. The FBI joined the investigation in April and put a wiretap on Gosek's city-owned cell phone.

``It's not just talk on a telephone. There's a pattern of him using the cell phone for illicit sexual activities," said Assistant U.S. Attorney John Katko.

Gosek, a Republican, is in his second term as mayor of Oswego, a city of about 17,900 along Lake Ontario, 34 miles north of Syracuse. In recent months, Gosek's administration has become a magnet for controversy.

In March, a former city employee was caught doing 88 mph on a local highway in a city-owned vehicle assigned to Gosek. The woman told state police she was Gosek's girlfriend. Gosek said she was an acquaintance 19, 2005 I am hereby resigning my office as Senator of the 23rd Senatorial District of the state of Connecticut."

A copy of the letter was to be delivered to Gov. M. Jodi Rell on Monday. Rell has 10 days to file a writ for a special election. Once that writ is filed, the election must be held in 45 days.

Bysiewicz said her office requested that Rell not to pick Nov. 8, the date of this year's municipal elections. According to state law, both elections cannot be held on the same day, she said.

``There will be too much conflict in the polling places," she said.

Officials are also barred from holding a special election on weekends and Nov. 11, which is Veterans Day. That leaves only five possible days: Nov. 4, 7, 9, 10 and 14.

George Comer, the Republican registrar of voters in Bridgeport, said he prefers Nov. 14, but has not yet discussed a date with the Democratic registrar. Comer said the city has 125 machines and will use around 95 or so during the municipal election.

Newton's district includes mostly Bridgeport and a section of Stratford.

Since the voting machines will be unavailable several days before and two weeks after the special election, Bysiewicz said municipalities may have to borrow lever voting machines from towns with May elections, use its backup machines, use paper ballots or rent optical scan machines.

Comer said mechanics are now looking at all of the city's backup machines.

``We'll do everything reasonable to avoid using paper ballots," he said.

Prominent Imam Sentenced To 87 Months (PHI)

By George Anastasia

The Philadelphia Inquirer, September 20, 2005

Imam Shamsud-din Ali, convicted earlier this year of racketeering charges that were part of a broader City Hall corruption probe, was sentenced today to 87 months in prison.

Ali, 67, showed no reaction as U.S. District Court Judge Bruce W. Kauffman leveled the sentence after a two-hour hearing attended by hundreds of the imam's supporters.

Considered one of the most influential Muslim leaders in the city, Ali declined to make any comment during the hearing or as he emerged from the courthouse later in the day. He will remain free on bail pending an appeal.

Ali was convicted of racketeering, racketeering conspiracy and assorted mail fraud, bank fraud and extortion charges by a federal district court jury in June.

During the eight-week trial, prosecutors alleged the charismatic leader of the Philadelphia Masjid used his mosque, a school he and his wife operated and a business they controlled in a series "money for nothing schemes" that generated tens of thousands of dollars in illegal income.

During the sentencing hearing, Assistant U.S. Attorney Frank Labor, the lead prosecutor in the case, said Ali had "used his standing as a civic leader to profit for himself."

Labor said Ali had shown "disdain for the law" and embodied how a system of corruption based on access and influence worked in City Hall.

Ali's lawyer, James Binns, declined to comment about specifics of the case, but reiterated earlier arguments that the jury had been prejudicially tainted by improper references to Ali's alleged ties to drug dealers.

In all, Ali was convicted of 22 of the 34 counts he faced in a racketeering indictment that grew out of a broader political corruption probe of City Hall.

Philly Cleric Sentenced For Corruption (AP)

By Joann Loviglio

AP, September 20, 2005

PHILADELPHIA - A prominent Muslim cleric on Monday was sentenced to more than seven years in prison on racketeering and other charges, the latest in a string of convictions stemming from the FBI's sweeping probe of municipal corruption.

Prosecutors said that Shamsud-din Ali, 67, used his political connections to obtain dubious loans, donations and city contracts. In addition to his 87-month sentence, Ali was ordered to pay restitution. He was released pending an appeal.

The investigation of the so-called "pay to play" culture in Philadelphia's city government has led to the convictions and guilty pleas for more than a dozen people, including a former city treasurer, two bank executives and several business owners seeking city contracts.

The probe became public when police discovered an FBI bug in Mayor John F. Street's office. The mayor has denied any wrongdoing and has not been charged.

Ali, the leader of a west Philadelphia mosque, was charged with 34 counts. After six days of deliberations, jurors convicted him in June of 22 counts, including racketeering.

According to prosecutors, he and his wife, Faridah, used the Muslim school they ran as a private piggy bank, soliciting donations and public education funds for adult education classes that were never held. The Alis had at least five family members on the payroll, including two adult children who lived out of state.

Faridah Ali was convicted and sentenced to a year of house arrest on related charges.

ALI RECEIVES 7-YEAR JAIL SENTENCE (PHI)

By Kitty Caparella

The Philadelphia Inquirer, September 20, 2005

MUSLIM CLERIC Shamsud-din Ali "has one more year to con people out here," said a disgusted Muslim, upset that Ali is out on bail.

"It's a travesty. If there's any fairness, he will win on appeal," said Ali loyalist, Asim Abdul Rashid, head of the Majlis Ash'Shura, a regional body of imams.

That was the diverse reaction in the Muslim community and elsewhere to the once prestigious imam's sentencing by U.S. District Judge Bruce Kauffman yesterday.

The judge allowed about 100 of Ali's supporters to cram into the tense courtroom. They sat on the floor and stood in the aisles.

Calling the offenses "serious," Kauffman sentenced Ali, a friend of the mayor, the governor and other pols, to an 87-month prison term on racketeering and related charges, and a 60-month concurrent term on multiple frauds and interstate travel in the aid of racketeering.

Mayor Street declined to comment.

Kauffman ordered Ali, 67, of Melrose Park, to pay restitution of $365,000 to four victims of fraud and extortion, and to forfeit $286,646, a total of more than $650,000.

He also must pay $2,600 in court costs.

The sentence was based on seven illegal moneymaking schemes, involving schools, a bank, and private companies.

On June 14, Ali was found guilty of 22 counts of racketeering, racketeering conspiracy, multiple frauds, extortion and interstate travel in the aid of racketeering. He admitted to four counts of tax evasion.

The judge, however, suspended the stiff jail term while Ali's lawyer, James Binns, appeals the use of drug dealers' testimony and their wiretapped conversations in the nearly six-week racketeering trial.

The appeal, to be filed within 10 days, could take up to a year.

Binns has passionately argued about the drug issue before, during and after the trial, even though Kauffman didn't think Binns had a prayer of a chance on appeal, and said as much yesterday and in a 14-page opinion last month.

Assistant U.S. Attorney Frank Labor has argued the drug evidence supported the racketeering count and was one of the uncharged moneymaking schemes.

The usually talkative Ali appeared stoic throughout the two-hour sentencing and did not speak.

For months, Ali predicted that he wouldn't go to jail. And yesterday, many Muslim believers said they figured "he'd walk."

"I'm relieved," said Binns later.

"Mr. Ali will remain free for the resolution of the appeal.

"The government is pleased with the sentence," said Labor, who prosecuted the federal case with Anthony Wzoreck and Zane D. Memeger, of the U.S. Organized Crime Strike Force.

"It sends a clear message that law enforcement can and will protect the citizens of Philadelphia from criminals like Shamsud-din Ali," said Labor.

"While he was posing as an upstanding member of the community, he was out in the real world making himself rich with a life of crime... defrauding public institutions, private banks and cheating on his taxes," he added.

At the same time, he added, the children at Sister Clara Muhammad School were "wearing overcoats because he hadn't paid the bills, or fixed the heat and water."

The judge ordered Ali to relinguish his position as director of the school, which the jury found he used to run his "criminal enterprise" to rip off his victims.

Labor could not persuade the judge to order an electronic monitoring device for Ali, just as his wife, Faridah, wears on her ankle during her 12-month sentence of house arrest, appealed by the government.

Last October, she was convicted of defrauding Community College of Philadelphia in an adult basic education program.

The CCP scheme was also part of her husband's trial; she faces the same federal charges, as her husband, at a Nov. 14 trial.

The four-year case was investigated by the FBI, Internal Revenue Service, and the U.S. Department of Education's inspector general's office.

Kauffman ordered the couple to repay the college $170,000.

Ali and co-defendants, who were involved in other fraud and extortion schemes, must also repay the City of Philadelphia $60,595, the amount Ali's firm, Keystone and Information Service, received for a bogus real estate tax collection scheme; a $100,000 line of credit to Commerce Bank; and $25,000 that Ali and a co-defendant extorted from Waste Management and Processors, Inc., of Pottsville.

Because Ali is out on appeal, said Labor, the government can begin collecting its $650,000 in restitution and forfeiture costs.

The judge had given Ali a $1,000-a-month payment schedule after completing his prison term.

Ali also faces five years of supervised release.

Ali remains resident imam at the Philadelphia masjid, his only source of income since AT T Communications, Inc. stopped paying the minority businessman almost $2,000 a month in August for helping to arrange for cellphone towers at the Philadelphia International airport.

"It's a disgrace that the judge left him loose like that," said a Muslim member of Ali's mosque, which is the same building as the school, at 47th Street and Wyalusing Avenue.

"He cheated the school. That money given to the school was supposed to give community people an education," he added.

"What kind of leader do you call that?"

Task Force Takes War On Gangs To County (TAMPTRIB)

By KEITH MORELLI

Tampa Tribune, September 20, 2005

TOWN - 'N COUNTRY A sustained assault on street gangs in northwest Hillsborough County by a task force made up of federal agents and county deputies resulted in the arrest of more than 100 suspected gang members and the seizure of nearly $1 million in property.

They didn't get everyone, though.

As Sheriff David Gee announced the results of the sweeping six-month investigation Monday afternoon, workers at Morgan Woods Elementary School scrubbed bright orange gang graffiti off the walls and sidewalks.

Undaunted by the graffiti -- which may have been an attempt to recruit young members or the marking of turf -- Gee said the sweep was a big blow to the street gangs in northwest Hillsborough because many of those arrested were leaders.

"This will put a significant dent in gang activities," he said during a news conference at Jackson Springs Park.

The gang task force included Hillsborough sheriff's deputies, FBI agents and U.S. attorney's office investigators, as well as an undercover Pasco County sheriff's detective who infiltrated one gang.

Information from some sources was so reliable, in one instance a planned home invasion was thwarted and waiting deputies arrested the would-be assailants as they pulled up to the home.

In all, 105 suspected gang members were arrested, 52 of whom had confirmed gang affiliations. They faced a total of 325 criminal charges, some of which are federal. Deputies seized about $700,000 in illegal drugs, $36,600 in stolen property, $85,000 in vehicles and $9,500 in firearms.

Charges included attempted murder, robbery, theft, home invasion, drug possession and trafficking, assault and battery. Some were juveniles, but most were in their mid- to late teens and 20s.

Most of those named on warrants have been arrested, the sheriff said. Some were illegal immigrants and may be deported, he added.

Gee said some larger communities across the nation have let the gang problem get out of hand and it has overtaken them.

The number of members fluctuates because of the turnover, he said. Recruitment remains a concern, he said, with gangs appealing to disaffected youths, offering them acceptance and companionship.

"We're seeing some as young as 13 years old," Gee said. "When you're seeing members this young, it's a serious problem for our country."

Gang membership is up across the country, he said.

"We've gone after it here," he said. "We're trying to get in front of the issue before it gets any worse ... before it becomes unmanageable."

Mostly, local gangs deal in illegal drugs or robbery, and many of the assaults are on members of opposing gangs, such as an incident this month when four members of the Norte 14 gang attacked a rival gang's house, abducted a pregnant woman and raped her.

That attack was motivated by revenge, Gee said.

In all, deputies suspect about 500 members of more than 35 recognized gangs are in Hillsborough County, ranging from the ultraviolent MS 13 to the Dover Locos to Norte 14.

The inclusion of the federal authorities is a welcome ally in the gang battle, Gee said, and may prove to be a deterrent for would-be gang members.

"We're seeing some as young as 13 years old.

When you're seeing members this young, it's a serious problem for our country."

European Art Thieves Busted With FBI's Help (PHI)

By Ramona Smith

The Philadelphia Inquirer, September 20, 2005

It was a helluva heist - and a helluva sting that recovered a stolen Rembrandt painting worth $36 million.

But the FBI says we'll have to wait a couple weeks to learn exactly what role one of its Philadelphia-based agents may have played in the end to one of history's most sensational art thefts.

The heist happened in Stockholm, in 2000, when three men brandishing machine guns toted off three art works, including the Rembrandt, from Sweden's National Museum. They escaped by boat while two cars exploded as a diversion nearby.

The party ended Thursday in Denmark, after an undercover agent - possibly from the Philly FBI - posed as a wannabe buyer and tricked four members of an alleged stolen art ring into a sale at a Copenhagen hotel. The suspects showed up with the Dutch master Rembrandt van Rijn's "Self Portrait," painted about 1630, and were arrested.

"The Philly connection has to do with the sting," local FBI spokeswoman Jerri Williams said yesterday, teasing an Oct. 4 press session when reporters will be able to get the whole story. "Let's just say maybe somebody here was involved in it, and they can talk about it."

The FBI in Los Angeles - where an organized crime task force this year recovered an Auguste Renoir painting taken from the Swedish museum at the same time - said the suspects had tried to peddle the stolen Rembrandt in both Sweden and L.A.

"The task force was able to introduce an FBI undercover agent with substantial knowledge of art to pose as the buyer/broker for the stolen Rembrandt," the FBI's Los Angeles field office said.

Federal investigators at Philly are known for expertise in stolen art and cultural artifacts. They hosted a new national FBI task force on stolen art this year.

Assistant U.S. Attorney Bob Goldman, one of two federal prosecutors in that FBI group, declined to comment yesterday on the sting in Copenhagen.

The sting ended with four men - a 29-year-old Swede, two Iraqi brothers aged 24 and 29, and a 24-year-old Gambian - in jail in Denmark and awaiting extradition to Sweden. All four denied handling stolen goods.

Danish police said the suspects agreed to accept only $100,000 for a hot painting worth $36 million. The Rembrandt, which was not harmed, will be returned to the museum.

In all, thieves got away with three paintings worth $45 million when they blew up parked cars, threw spikes on the road to deter police and escaped from the museum in December 2000.

Los Angeles investigators recovered the Renoir, titled "Young Parisian" earlier this year, but the FBI kept the recovery secret until Friday to aid the recovery of the Rembrandt. Police in Stockholm recovered Renoir's "Conversation" in 2001.

Four Face Extradition In Rembrandt Case (WP)

By JAN M. OLSEN, The Associated Press

The Washington Post, September 20, 2005

COPENHAGEN, Denmark -- Four suspects arrested in connection with the recovery of a stolen painting by Dutch master Rembrandt van Rijn will soon be extradited to Sweden where they will be prosecuted, officials said Monday.

Two Iraqis, a Swede and a Gambian were arrested Thursday in a downtown Copenhagen hotel when trying to sell the painting that was stolen from Sweden's National Museum nearly five years ago, police said.

"We are working on getting them extradited to Sweden as soon as possible," Copenhagen police Chief Superintendent Per Larsen said.

The Rembrandt, a self-portrait from 1630, is estimated to be worth 250 million Danish kroner (euro34 million; US$42 million). It was stolen from the museum in Stockholm by three armed robbers in December 2000, together with two other paintings by French painter Auguste Renoir.

The painting, which Larsen said was unharmed, is expected to be returned to the National Museum.

The arrests last week were the result of a multinational operation that included several U.S. law enforcement agencies, including the Immigration and Customs Enforcement and the U.S. Federal Bureau of Investigation.

Posing as an art buyer, an unnamed FBI agent met the suspects in a downtown Copenhagen hotel. They offered to sell him the stolen Rembrandt for only US$100,000 (euro82,000), police said.

DOJ_NMG_0006548

The 24-year-old Gambian, a 29-year-old Swede and two Iraqi brothers aged 24 and 29 have all pleaded innocent to preliminary charges of handling stolen goods.

In Sweden, Prosecutor Ronnie Jacobsson said he hoped the men would be handed over this week.

"All four agree to be handed over to Sweden and be prosecuted here," Jacobsson told Swedish news agency TT.

Larsen said the Copenhagen operation was linked to a probe that led to the recovery of Renoir's "Young Parisian" about six months ago in an undisclosed location in Los Angeles.

The FBI kept the recovery of that painting secret until Friday to aid the recovery of the Rembrandt.

The other Renoir was recovered in 2001.

Pair Pleads Guilty In Scams (KNOXNS)

By JAMIE SATTERFIELD

Knoxville News Sentinel (TN), September 20, 2005

GREENEVILLE - A Morristown couple pleaded guilty Monday to bilking dozens of people, many of them elderly, in a multimillion-dollar Ponzi scheme.

Gary Lee Von Oesen, 61, and girlfriend Geneva Retha Houston, 59, admitted their respective roles in a host of financial crimes spanning 1996 to 2003 at a hearing in U.S. District Court in Greeneville before federal Judge J. Ronnie Greer.

Advertisement

Von Oesen, the mastermind behind the Ponzi scheme dubbed World Money Club, struck a deal with federal prosecutors in which he confessed to two of the 97 crimes of which he was accused.

Houston, who served as the bookkeeper for Von Oesen's investment schemes and profited from them, pleaded guilty to a single charge.

As part of the deal, the couple has agreed to pay back "all victims" cited in the indictment lodged against the pair. That indictment numbered victims at more than 35.

The couple also admitted in the deal with Assistant U.S. Attorney Neil Smith that their financial crimes cost their victims "more than $2.5 million but not more than $7 million."

The actual amount of loss to investors, many of whom Smith has termed "vulnerable" because of their age, has been estimated to be as high as $12 million.

Smith wrote that the deal was struck, in part, to allow "the numerous victims, several of whom are now elderly and/or in poor health, to avoid being required to appear and testify."

Von Oesen and Houston were nabbed last year after a probe led by FBI Agent Lane P. Rushing into allegations including mail fraud, securities fraud and money laundering.

The biggest scam alleged in indictments involved a Ponzi scheme, which is an investment swindle in which early investors are paid off with money put up by later ones to encourage others to join in.

Von Oesen set up a limited partnership he called World Money Club and billed it as a firm engaging in commodity futures. He recruited some investors through First Fitness, a "multilevel marketing program for the sale of fitness products in which Houston was a dealer and participant," Smith wrote.

The scheme promised investors a payoff as large as 25 percent, but the real monetary prize went to Von Oesen and Houston, who used investors' money to line their own pockets, pay their mortgage and buy timeshare units in Florida.

Greer set a Jan. 9 sentencing date for the pair.

On that day, Houston will also be sentenced for her December conviction for lying to federal Magistrate Judge Dennis Inman when he quizzed her about her ability to hire an attorney in the fraud case.

She claimed she had no disposable cash, but the $15,000 ring she wore to her August arraignment made the judge suspicious. An investigation later showed she had more than $5,700 stashed in a bank account at the time.

Houston faces a maximum five-year prison term, but her sentence likely will be far less, court records show. Although Von Oesen faces a 10-year maximum prison term, prosecutors have agreed to a penalty range of 41 to 51 months.

MAN PLEADS GUILTY TO EXTORTION CHARGES (TMT)

By CASEY KNAUPP, Staff Writer

Tyler Morning Telegraph, September 20, 2005

A 34-year-old Tyler man pleaded guilty in federal court Monday to attempting to extort $120,000 from a local woman.

Kirkpatrick Lenord Moore admitted to receiving proceeds of extortion on Dec. 29 after he had left several threatening notes and phone calls to the woman.

Moore faces up to three years in prison and will probably be placed in the sentencing guideline range of 15 to 18 months, considering his criminal history and acceptance of responsibility, Assistant U.S. Attorney Jim Middleton told U.S. District Judge William Steger.

Moore is currently on parole for an aggravated robbery conviction in Sulphur Springs and faces additional prison time.

Defense attorney Clifton Roberson said Moore has been jailed for the federal charge since December and could be released soon after his sentencing hearing, depending on what punishment Steger assesses.

Moore admitted in court Monday that on Dec. 10, he left a note at the woman's apartment, threatening to turn information he had about her to authorities if she did not pay him $120,000. The threats, which began once Moore found out she had funds in a retirement account, continued for weeks.

FBI officials said they believe the woman had information regarding a felony suspect wanted in Smith County. Moore threatened to inform the FBI of the woman's knowledge and to accuse her of committing an offense regarding the information, according to a FBI affidavit.

After the FBI had gotten involved in the extortion case, Moore told the victim to drop off a bag of money in a trash can at a car wash on Shiloh Road. After he retrieved the cash and a short chase, authorities caught him.

In his pickup, authorities found the victim's phone number, a semi-automatic handgun and a device used to modify his voice when he called the victim. They found the paper bag containing $200 and his cell phone, which he dropped as he ran from authorities.

Casey Knaupp covers county, state and federal courts. She can be reached at 903.596.6289. e-mail: news@tylerpaper.com

Lil' Kim Reports To Detention Center In Philadelphia (AP)

By KATHY MATHESON, The Associated Press

AP, September 19, 2005

PHILADELPHIA (AP) — Rapper Lil' Kim began serving a 366-day prison sentence at a federal detention center Monday for perjury and conspiracy stemming from a 2001 shootout outside a Manhattan radio station.

The 30-year-old entertainer, whose real name is Kimberly Jones, was whisked into the center past a throng of media, fans and passers-by at about 4:45 p.m.

Earlier, she had issued a statement saying she had "unfortunately" been assigned to the concrete, high-rise Philadelphia facility instead of to a prison camp "as discussed," and added, "I am not certain that this constitutes fair and equal treatment."

Her lawyer, L. Londell McMillan, said a celebrity of his client's magnitude could be in danger in such a detention center, which he said was mainly designed as a temporary holding facility for inmates awaiting permanent assignment to a prison.

"Why should a female hip-hop artist have to spend time in an urban concrete jungle while other female prisoners are assigned to rural, suburban-type prison camps?" said McMillan, adding that he would seek to have his client reassigned.

Calls to the federal Bureau of Prisons and the U.S. Marshals Service were not returned Monday.

The 4-foot-11 rapper, who was convicted of lying about the gun battle to a federal grand jury and in the subsequent trial, brought about 20 to 25 people down to Philadelphia with her in a caravan of two RVs. Her mother, brother and lawyer were allowed to accompany her briefly into the detention center to say goodbye, McMillan said.

"She was upbeat, smiling," he said. "She told her mom not to cry and to stay strong."

Lil' Kim will be assigned to a female work cadre at the coed prison, McMillan said, noting that she could be out in nine months with good behavior.

"Today begins a new saga in my life which I expect to strengthen me and allow me time for reflection," Lil' Kim said in her statement. "I plan to write music while in prison, read and pray regularly and will come out a stronger, more confident woman."

The case stemmed from a gun battle that erupted outside WQHT-FM, known as Hot 97, when Lil' Kim's entourage crossed paths with a rival rap group, Capone-N-Noreaga.

Lil' Kim's group confronted the others about the Capone-N-Noreaga song "Bang, Bang," which contained an insult to Lil' Kim from rival Foxy Brown. One man was hurt in the shootout that followed.

Before the grand jury and at the trial, the rapper maintained that she had not noticed two of her close friends at the scene of the shootout — her manager, Daemon Butler, and Sufi Jackson. Both have pleaded guilty to gun charges.

Jurors at Lil' Kim's trial saw radio station security photos that depicted Butler opening a door for the rap star, and two witnesses who once made records with Lil' Kim said they saw her at the station with Butler and Jackson.

Though several high-profile rappers — including Beanie Siege and Tupac Shaker — have done time in jail, Lil' Kim is the first prominent female artist to serve a prison sentence.

Lil' Kim's fourth album, "The Naked Truth," is due out next week. She won a Grammy in 2001 for her part in the hit remake of "Lady Marmalade."

At last month's MTV Video Music Awards, MTV personality Sway delicately asked if she had anything to say to fans who "might not see you for a while."

"You can write me letters," Lil' Kim said.

Psychologist Endorses Overnights Visits For Hinckley (WT)

By Arlo Wagner

The Washington Times, September 20, 2005

A psychologist yesterday testified that John W. Hinckley Jr.'s mental state has improved since he shot President Reagan and that the would-be assassin should be allowed to visit his parents and stay overnight with them in their home in Williamsburg.

"I believe with a reasonable degree of psychiatric certainty ... that Mr. Hinckley poses a low risk," Paul Montalbano said during daylong testimony in federal court.

Hinckley, 50, has been confined at St. Elizabeths Hospital since he was acquitted in 1982 of wounding Mr. Reagan and four others. He showed no emotion yesterday as his attorneys sought permission for him to progressively spend up to eight days and seven nights at his parents' home and sometimes with his brother, sister and in-laws.

Hearing on whether Hinckley should be allowed to visit his parents overnight will continue today in U.S. District Court.

Hinckley's parents have visited the District several times in the past year to accompany their son on unsupervised trips to parks, museums, shopping centers and restaurants. Routinely, he is allowed to wander about the 2,900-acre grounds of the mental hospital unsupervised.

Mr. Montalbano said Hinckley abides by rules and regulations. His rehabilitation would be increased if he were allowed to walk through the vast community around his parents' home, which includes six golf courses, shopping centers, a school and historical sites, the hospital psychologist testified.

"Isolation is not a good thing," Mr. Montalbano said. "In his case, it is a potential problem. He is intensely self-absorbed."

Hinckley shot Mr. Reagan in 1981, saying he was trying to impress actress Jodie Foster.

Since entering St. Elizabeths, he has shown interest in a female chaplain, a psychiatric intern and former patient Leslie deVeau, Mr. Montalbano said. It was a good sign when Hinckley ended his relationship with Miss deVeau in January because she would not discuss their relationship with his treatment team, he said.

U.S. District Judge Paul Friedman asked about the effect of reintegrating Hinckley into society where he would have contact with women.

Mr. Montalbano said it has been many years since Hinckley has suffered from the symptoms that led him to four suicide attempts and the shooting of the president.

The Secret Service has Hinckley under surveillance during his trips.

Hinckley Wants Girlfriend, Psychologist Says In Court (WP)

DOJ_NMG_0006551

By Henri E. Cauvin

The Washington Post, September 20, 2005

Presidential assailant John W. Hinckley Jr., who is petitioning the court for more freedom, is lonely and longing for a close relationship like the one he had for many years with a former psychiatric patient, a psychologist testified yesterday.

"He wants to have a girlfriend. He wants intimate contact with a female," Paul Montalbano, chief of pretrial services at St. Elizabeths, the Southeast Washington mental hospital, testified yesterday.

The psychologist said such a desire is natural for a man who has ended a long relationship, as Hinckley did this year. Hinckley, 50, cut his ties to Leslie deVeau after the relationship came under scrutiny during hearings to decide whether he was ready for expanded freedoms.

For a time, Hinckley was escorting a young hospital intern to her car and offering to sing to her. But after his doctors became aware of his special interest in the woman, Hinckley was told that he was crossing a line between staff and patient and had to stop, which he did, Montalbano said.

The underlying question at a hearing yesterday appeared to be how Hinckley would handle courtship and respond to rejection out in the world, away from the structure and support of a hospital.

Hinckley would like to eventually be released from St. Elizabeths, where the staff has found his depression and psychotic disorder to be in remission. He has been confined to the hospital in Southeast Washington since 1982, when a federal jury found him not guilty by reason of insanity in the shootings of President Ronald Reagan and three others.

In the meantime, he wants the court's permission to make a series of overnight visits to his parents' residence in Williamsburg, and this week a federal judge is hearing his petition and the government's opposition to it.

Hinckley's interest in women, viewed as natural by the psychologist, is disconcerting to the Justice Department's attorneys, who oppose any expansion of Hinckley's freedoms and who note that it was Hinckley's obsession with actress Jodie Foster that spurred him to open fire on Reagan in 1981.

On the hearing's first day, the questions and answers centered on how Hinckley handled his breakup with deVeau and how he has acted toward women since then. Hinckley met deVeau when both were confined at St. Elizabeths. She was found not guilty by reason of insanity in the 1982 shooting death of her 10-year-old daughter and was released from the hospital eight years later.

Saddened by the breakup, Hinckley did not spiral into depression, Montalbano testified. His longing for a new female companion has been obvious to those who treat him, the psychologist said.

The intern was apparently not his only romantic interest. Smitten with a hospital chaplain, he scheduled an appointment with her. But when asked about it by his doctors, Hinckley admitted that the appointment was mostly a chance to see a "pretty lady" and agreed to cancel it, Montalbano said.

Over the past two years, U.S. District Judge Paul L. Friedman has allowed Hinckley to leave St. Elizabeths for excursions in the Washington area, including some with his parents. Initially the family was accompanied by hospital chaperons. But more recently, Friedman has permitted the family to go without such supervision and has allowed overnight visits in the area.

Even as the hospital supervisions have fallen away, the Secret Service has continued to track Hinckley.

During yesterday's hearing, Hinckley's parents sat in the first row of the gallery on the same side of the courtroom as their son, who was wearing a blue jacket, white shirt and red tie.

Seated at a table with his attorneys, Hinckley seemed to follow the testimony intently, rarely focusing his gaze anywhere but the witness stand as Montalbano answered questions from Hinckley attorney Barry Wm. Levine; the government's lawyer, Assistant U.S. Attorney Thomas E. Zeno; and Friedman.

Hinckley's parents live in a 2,900-acre gated community in Williamsburg that has golf courses, a pool, a clubhouse and a shopping center, and that is where he would stay during the proposed series of six visits -- the longest of which would last just over a week.

Montalbano said that the process needs to be gradual and must be monitored but that visits with his family have been an important part of his treatment and should continue to be.

He said that, just as many people rely on their partners for support, Hinckley could be well served by the sort of relationship he craves. But Montalbano also said that given the scrutiny such a partner would endure, Hinckley may face a hard road to romance: "Mr. Hinckley remains optimistic, but perhaps naively optimistic."

Jury Selection Begins In Ex-Illinois Gov's Trial (REU-Y2)

By Andrew Stern

Reuters, September 20, 2005

Jury selection began on Monday in the public corruption trial of former Illinois Gov. George Ryan, a Republican known for commuting the sentences of the state's death row inmates who now may have to save himself.

Ryan, 71, is charged with steering state contracts to friends in exchange for free gifts, vacations, cash and loans to himself and his family while governor and, before that, during eight years as Illinois' secretary of state.

He is accused of racketeering conspiracy, mail fraud, tax fraud and lying to investigators.

Ryan's friend, lobbyist Larry Warner, is also a defendant in what is likely to be a four-month trial, participants said.

After a 40-year career in Illinois politics, Ryan retired after a single term as governor in 2003 with a $191,300 yearly pension, with many Republicans blaming him for leaving the state party in shambles.

In recent interviews he has denied any wrong-doing.

"I feel, without question, that I'm going to be exonerated," he said on Chicagoland's Television.

Ryan, who is expected to testify, is perhaps best-known for adopting a strong stance against the death penalty, a move some critics say was a cynical attempt to distract from the gathering clouds of scandal.

Ryan speaks frequently to audiences about what brought him to declare a moratorium on executions in 2001 and to one of his final acts in office: commuting the sentences of all 167 Illinois death row inmates. He said the death penalty system was "broken," citing numerous exonerations of condemned inmates.

But Judge Rebecca Pallmeyer has ruled Ryan's actions on behalf of the condemned will not be allowed in trial. Still in question is whether the judge will allow evidence about a horrific 1994 highway crash that killed six children -- blamed on a truck driver who bought his license with a bribe -- which launched the Operation Safe Road investigation.

The decade-old probe that grew out of the licenses-for-bribes scandal cast a wider net over public corruption and has resulted in 73 convictions. Among them is Ryan's former chief of staff, Scott Fawell, who is serving a 6-1/2-year sentence and will testify for the prosecution.

"The defense is going to turn on Ryan's image as a big-picture manager who was not involved in day-to-day operations," said University of Chicago law professor Bernard Harcourt.

"It's going to turn on whether he takes the stand and how he does on direct and cross-examination," Harcourt said. "It's going to be up to him."

Racketeering And Fraud Trial Begins For Illinois Ex-Governor (NYT)

By Jodi Wilgoren

The New York Times, September 20, 2005

CHICAGO, Sept. 19 - All the potential jurors recognized the defendant - the white hair, the big glasses, the gruff face. One admired his moratorium on executions in the state. Another expressed disdain for any politician who uses a position for personal gain. A third said he found the defendant "forgetful and unprepared."

"He referred to Dick Butkus as Mike Ditka," the third juror recalled of seeing the defendant botch an award presentation at a football banquet. "The times when he would be on television, whatever I read in the newspapers, it would seem to me he was unprepared."

So went the opening day of jury selection in the criminal corruption trial of George Ryan, the former governor of Illinois who became an international star for his challenge of capital punishment even as scandal eroded his popularity at home to cause him to leave office after a single term.

Mr. Ryan, 71, faces 22 counts of racketeering, mail and tax fraud and lying to federal agents. The charges could add up to 95 years in prison for a man whose legacy as he left office in 2003 was clearing Death Row with a blanket commutation for 160

condemned inmates. Federal prosecutors contend that Mr. Ryan and his relatives received cash, luxury vacations and other gifts worth at least $167,000 in exchange for state contracts and political favors in the dozen years in which he was governor or secretary of state.

Mr. Ryan, a pharmacist from downstate Kankakee who became a deal-making moderate Republican, declined comment on Monday, and his lawyer, Dan K. Webb, said little beyond expressing confidence that his client would be acquitted. Friends of Mr. Ryan, who has spent the past two years on the lecture circuit preaching against the death penalty, say he has been looking forward to his day in court after years of being dogged by accusations and innuendo.

"George truly believes he didn't do anything wrong," said Tony Leone, a friend of 30 years who was a staple of Mr. Ryan's kitchen cabinet and said he spoke to him over the weekend. "He said, 'I want to get it over with.' He says it's time, we need to get this resolved. He's even going to testify; I mean, what does that tell you about a guy?"

The trial caps a seven-year federal investigation that has led to 79 indictments and 73 convictions and is known as Operation Safe Road because of its roots exposing a scheme in which government employees traded commercial driver's licenses for bribes. Mr. Ryan's co-defendant is Lawrence K. Warner, a longtime lobbyist and close confidant.

It comes as a cloud of corruption charges hovers over this city and state, whose political history are rife with similar scandals. Mayor Richard M. Daley of Chicago was questioned last month in a separate federal investigation into political influence on hiring at City Hall, and Gov. Rod R. Blagojevich spent last week fending off speculation that he was the mysterious "Public Official A" accused in a court document of engineering kickbacks involving state pension investments.

"To have a former governor on trial is a big deal even for Illinois," said Kent Redfield, a political scientist at the University of Illinois, noting that another former governor, Otto Kerner Jr., was on the federal bench when he was indicted - and convicted - in the 1970's of accepting bribes. "It just reinforces what is a very cynical attitude among Illinois citizens about politics and politicians. Our expectations and our standards are pretty low. Our politicians try very hard to live up to those low standards."

Perhaps it should not have been a surprise, then, when the third potential juror questioned Monday morning, a woman who works part time at a Jewel supermarket, said she was disgusted when she read about the charges against Mr. Ryan.

"No one should use their position to get favors," she said. "I was just disappointed that if it was happening, it really shouldn't, and why does it keep going on and on?"

The woman was one of 310 potential jurors who filled out 32-page questionnaires last week that asked what radio and television stations they listened to; whether they consider themselves liberal, conservative or "middle-of-the-road"; if they have ever sought the assistance of public officials; and what their impressions or opinions are of Mr. Ryan.

"Do not like him," wrote Juror No. 19, who also expressed strong negative views of politicians generally ("they steal and lie") and lobbyists ("they take money and don't do anything"). Juror No. 18 said he had heard Mr. Ryan's office "was corrupt and he should have done a better job."

Questioned one by one in the courtroom, some for as long as 40 minutes, most of the first dozen potential jurors were more circumspect, saying they had vague recollections of reading something about the case, but would nonetheless approach evidence with open minds. One said he had got his job at the city's 911 dispatch center through political connections; another said he had a vanity license plate, seemingly unaware that such coveted plates are among the items Mr. Ryan's secretary of state's office is said to have traded for political favors.

"Of course you get those feelings," one candidate said when asked whether publicity about corruption cases left him seeing all politicians as crooks. "But none of it would keep me from judging fairly as a juror."

No jurors were selected Monday, though five were dismissed because of biases revealed in the questionnaires, and four others were excused for hardships they would incur in a trial expected to stretch over four months.

Just picking the panel of 12 jurors and 6 alternates may take three days or more. That is likely to be followed by some three weeks of testimony by the prosecution's star witness, Scott Fawell, a former Ryan chief of staff who is serving a six-and-a-half-year prison sentence himself and agreed to cooperate with the government in exchange for leniency for his fiancée.

"I am hopeful that this sends some serious signals to our politicians throughout the state that business as usual is no defense for corruption," said Cindi Canary, director of the Illinois Campaign for Political Reform, a corruption watchdog. "It's been

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a really slow, kind of painful process, starting at the bottom. I think it's important that we see that it has worked its way up to the top, and Ryan is the top. It's as high as it gets here."

Ryan Trial Off To Slow Start As Potential Jurors Are Grilled About Bias (AP)

By Mike Robinson

AP, September 20, 2005

CHICAGO - Jury selection for former Gov. George Ryan's racketeering trial got off to a slow start Monday with questions from defense attorneys focusing on possible bias resulting from media coverage of the scandal that has dominated state politics for seven years.

"Because he was governor this is a highly unusual case," Ryan attorney Dan Webb told the court. "We should not end up with a jury that has people on it with biases against George Ryan."

Webb urged federal Judge Rebecca R. Pallmeyer not to put time limits on the questioning and she said she would wait until noon Tuesday before doing so to see if the pace picks up.

But she said it was necessary to get going.

After one day of jury selection, 14 of some 300 potential jurors had been interviewed and eight were placed in a pool for later consideration. Eleven of the 300 were dismissed for reasons ranging from health problems to job conflicts to blatant bias against the former governor.

Ryan, 71, is charged with racketeering, lying to federal agents and tax fraud.

The 22-count indictment says he gave lobbyist Larry Warner, now his co-defendant, free reign to steer big-money state contracts and leases to clients when Ryan was secretary of state.

He also is accused of doling out favors ranging from state leases to low-digit license plates to his friends while enjoying free vacations in Jamaica and other benefits.

Ryan and Warner insist they have done nothing wrong.

The case is an outgrowth of the government's seven-year Operation Safe Road, which began as an inquiry into bribes paid for drivers licenses and mushroomed into a full-scale investigation of corruption during Ryan's tenure as secretary of state and governor.

Ryan, who declined to comment on the trial, greeted reporters in a hearty voice as he entered the courtroom.

"Good morning, good morning," he said. "You had to get up early this morning - all of you."

He seemed as calm and confident as ever as he chatted with reporters, chortling that he has not visited a favorite Chicago eatery "for a long time, although it looks like I have."

Webb declined to comment when reporters asked him whether an unidentified woman in a striped suit who sat beside the former governor's wife, Lura Lynn Ryan, was a jury consultant.

Such consultants are sometimes used as lawyers decide which potential jurors are most likely to be emotionally sympathetic to the defense and which to the prosecution.

Pallmeyer intends to create a pool of 50 to 60 potential jurors who have survived the first round of selection. Attorneys will whittle that number down by using so-called peremptory challenges, which allow them to dismiss a certain number of jurors without giving a reason.

The defense has 18 peremptory challenges and the prosecution has 10. The panel of 12 jurors and six alternates will be selected from the survivors of that round.

Several jurors acknowledged they had heard about Ryan and corruption in the secretary of state's office. But most of them seemed fairly hazy about the details.

One woman said there were two Ryans involved in scandals. She appeared to have George Ryan mixed up with Jim Ryan, the former Illinois attorney general defeated for governor in 2002.

Jim Ryan was not involved in any scandal. But he did grumble during the campaign that voters were getting him mixed up with George Ryan and that was hurting his chances of getting elected.

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In the final hour of jury selection, Pallmeyer threw out a man who told the court that he took a dim view of sending elderly people to prison. The same man, a university computer supervisor, said he knew that political corruption was commonplace throughout state government.

Webb fought in vain to keep him in the pool, describing him as "the apex of honesty."

Webb succeeded in getting another potential juror bounced who said he was troubled by news he had heard about corruption in the secretary of state's office under Ryan.

Assistant U.S. Attorney Zachary Fardon battled to keep the man in the pool, telling Pallmeyer that "when all is said and done he indicated that he could be fair."

Pallmeyer agreed to wait until later to rule on a prosecution motion to oust a potential juror who said that his mother was an acquaintance of Webb and that he had met Webb himself.

The man testified that his mother had told him that Webb was a highly skilled lawyer.

Prosecutors argued that such a relationship would be unfair, while Webb protested that he barely knew the mother and didn't remember meeting the man.

D.C. Killing Was 'Face-to-Face,' Police Say (WP)

By Del Quentin Wilber And Nia-malika Henderson

The Washington Post, September 20, 2005

A man who was fatally shot while walking his dog in Northwest Washington was killed in a "face-to-face" encounter with his assailant, police said yesterday.

Investigators said they had no motive or suspect in the slaying of Gregory C. Shipe, 34, a financial analyst for a large public relations firm downtown. He was shot in the face about 10:40 p.m. Saturday in a crime that one top D.C. police official yesterday called "bizarre."

"There was no rhyme or reason for this," said Capt. C.V. Morris, supervisor of the department's violent crimes division. "The motive in this is a mystery. . . . This was a face-to-face confrontation. Of what type? We don't know."

Shipe was walking his dog, Otis, in the 1700 block of Irving Street NW, in the city's Mount Pleasant section, when he was approached by at least one person, police said. He was shot in the face at close range and died at the scene. His dog, a 50-pound mixed-breed, wandered back to Shipe's residence in a nearby apartment complex, where he was discovered by neighbors.

Although none of Shipe's possessions, including his wallet, was missing, investigators speculated that he most likely was the victim of a botched robbery, authorities said. Police and neighbors said several robberies have taken place in the area recently.

Shipe worked as a financial analyst in the Washington office of Ogilvy Public Relations. He started in May on a temporary basis but soon was hired full time, said Robert Mathias, managing director of the 100-employee office.

Mathias said employees were devastated by the death of a charming colleague who quickly solved problems.

"There was always just good cheer about him," Mathias said. "He was just a very positive part of our work culture. . . . Nobody deserves this. But of all the people who don't deserve this, Greg is at the front of that line."

Shipe grew up in Waynesburg, Pa., a small community about 50 miles from Pittsburgh. He graduated from the University of Kentucky with a bachelor's degree in business administration.

From 1998 through 2002, he lived in Washington and worked as an analyst for Lockheed Martin Corp. and as a consultant for Booz Allen Hamilton, according to a résumé supplied by Ogilvy.

He attended Owen Graduate School of Management at Vanderbilt University and graduated with an MBA in finance last year.

Business school classmates said that Shipe was a hard-working student and that he co-chaired the gift committee for his 2004 class. The committee raised $118,000 to help refurbish a classroom, shattering fundraising records for class gifts, said Clint Liebenberg, a friend and the former class president.

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"He was selfless," Liebenberg said. "He worked really tirelessly on his own time to make sure he achieved his own goals. . . . He was just friendly with everybody and had a really positive outlook on life."

Shipe had been living with friends in Columbia Heights until several weeks ago, when he moved into an apartment in the 1600 block of Kenyon Street NW, police and friends said.

A bouquet of red and yellow flowers and two cards were outside Shipe's apartment door yesterday. Vanessa White, a neighbor, gave Shipe the keys to his apartment about three weeks ago and said she had been looking forward to getting to know him better.

"It's tragic. He was such a nice guy," White said. "The fact that you saw someone in the hall one day and then the next day they are murdered a block away, it shakes you up. . . . When we found out, we kept on saying that could have been any of us. We're always out walking around that late or later. This will make all of us be much more cautious about returning to the building after dark."

Keisha Barkley, who lives in the 1700 block of Irving, said she was surprised to hear that someone was killed in her neighborhood.

"There's no drug activity. It's just a pretty quiet, nice residential neighborhood," she said. "There have been a couple of robberies, car break-ins, that's the only thing that happens in this neighborhood."

A candlelight vigil for Shipe is scheduled to begin at 8:45 tonight outside the Mount Pleasant Neighborhood Library at 3160 16th St. NW. Mourners will walk to the 1700 block of Irving Street NW, where Shipe was slain, organizers said.

Police urged anyone with information to call 202-727-9099. They are offering a reward of up to $25,000 for information leading to the arrest and conviction of a suspect.

Missing Girl's Car Offers Leads (WT)

By Matthew Cella

The Washington Times, September 20, 2005

Richmond Police investigating the disappearance of a 17-year-old college freshman spent yesterday investigating leads they got from an examination of the girl's car.

Taylor Marie Behl, a freshman at Virginia Commonwealth University, was last seen by her roommate in her dorm room at about 10 p.m. Sept. 5. Taylor is from Vienna, Va.

An off-duty police officer found Taylor's 1997 Ford Escort on Saturday in Richmond, about a mile and a half from her dorm.

Police said that there were Ohio license plates on the car and that the original Virginia tags were missing. The missing tags were Virginia JPC2848.

The car was turned over to the FBI for forensics processing.

The Richmond Times-Dispatch reported yesterday that Taylor's scent was one of two that a police dog detected in the car and that the discovery is leading police to think that she might have been abducted.

Police have questioned the girl's family and friends, including a 38-year-old amateur photographer who took pictures of her during a campus visit in April. He posted the pictures on a Web site that displays artwork.

The photographs have been removed since Taylor disappeared.

Police executed search warrants on the home of Taylor's mother in Vienna, Va., and the photographer's home in Richmond.

Taylor was last seen wearing a black hooded sweatshirt and blue jeans. She was thought to be carrying her student identification card, a cell phone and a small amount of cash.

Richmond Police Chief Rodney D. Monroe on Thursday upgraded the case from a missing person to a criminal investigation and convened a task force that includes VCU campus police, Virginia State Police and the FBI.

Richmond police have set up a tip line at 804/514-8477.

CIVIL LAW:

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Office Depot, Feds Settle False Claims Case (FCW)

By Michael Hardy

Federal Computer Week, September 20, 2005

Office Depot has paid a $4.75 million settlement to the United States over allegations that the company sold products to government agencies in violation of the Trade Agreements Act.

The Justice Department, in announcing the settlement today, said Office Depot sold products from China, Taiwan and other countries that do not have reciprocal trade agreements with the United States, in violation of a provision of the company's General Services Administration schedule contract.

"Federal contractors will be held accountable for their billing practices," said Peter Keisler, assistant attorney general at Justice's Civil Division, in a written statement. "This settlement is an example of the department's determination to ensure that federal funds are protected from fraud and abuse."

The case was originally filed in January 2003 under whistleblower provisions of the False Claims Act by a company called Safina Office Products and two of its executives, Edward Wilder and Robert Hsi Chou Lee. The two executives and the company will get a a total of $712,500 of the settlement as their award under the law.

In May 2005, Justice reached a $9.8 million settlement with Office Max for similar allegations.

Office Depot Pays $4.75 Mln To Settle Claims Case (REU)

Reuters, September 20, 2005

WASHINGTON, Sept 19 (Reuters) - Office Depot Inc. has paid $4.75 million to resolve allegations that it broke the law by selling office supplies from certain countries to the U.S. government, the Justice Department said on Monday.

The company was accused of violating false claims laws by selling the government supplies made in countries that do not have reciprocal trade agreements with the United States, like China and Taiwan, the Justice Department said.

"Federal contractors will be held accountable for their billing practices," Peter Keisler, assistant attorney general for the Department of Justice's Civil Division," said in a statement.

Earlier this year OfficeMax Inc. agreed to pay $9.8 million to settle similar allegations.

Office Depot shares were down 36 cents to $29.36 in morning trading on the New York Stock Exchange.

FEC Sues Pro-Republican Political Group (WP/AP)

By Sharon Theimer, The Associated Press

The Washington Post, September 20, 2005

WASHINGTON -- Federal election officials on Monday sued a political group to try to force it to comply with campaign finance limits, the first lawsuit of its kind to arise from controversial big-money fundraising during the 2004 elections.

The Federal Election Commission filed a complaint in U.S. District Court in Washington against the Club for Growth. The pro-Republican group spent at least $21 million in the 2003-04 election cycle.

The FEC contends the Club spent enough in federal races to require it to file with the commission as a political committee and abide by contribution and spending limits. It wants the court to fine the group and to order it to comply with campaign finance rules.

Club for Growth President Pat Toomey called the FEC lawsuit "a bizarre interpretation of the Club's mission, the Constitution, the laws adopted by Congress and their own regulations governing nonprofit organizations."

"The Club's principal purpose is to advocate for and defend pro-growth policies," Toomey said in a written statement. "We have consulted with counsel every step of the way and have followed the law and regulations that govern our work."

FEC Vice Chairman Michael Toner called the case "one of the most important suits the commission has brought in recent years."

"At stake is whether Club for Growth will be able to continue raising and spending millions of dollars in soft money for activities influencing federal elections," said Toner, a Republican.

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The lawsuit is the first to result from several complaints filed against pro-Republican and pro-Democratic "soft money groups," and could serve as a test case to see if the commission can rein in the groups without new congressional legislation or FEC rules.

Campaign finance watchdogs contend the groups spent millions of dollars in corporate, union and unlimited contributions in the 2004 election despite a law banning the use of such money in presidential and congressional races.

The FEC investigated Club for Growth fundraising and spending after the Democratic Senatorial Campaign Committee complained to the commission about it.

The DSCC complaint stemmed from an ad the Club ran in the 2003-04 election cycle against then-Senate Minority Leader Tom Daschle, D-S.D., over his opposition to a tax-cut proposal. Daschle lost to a Republican in last November's election.

President Bush's re-election campaign and the sponsors of the 2002 campaign finance law sued the FEC last year, accusing it of failing to enforce the law and crack down on soft money spending, particularly in the presidential race. Those cases are pending in federal court.

The 2004 election saw the emergence of several partisan groups created by political activists to continue spending five- and even six- and seven-figure contributions after the law imposed tough donation limits on national party committees and congressional and presidential candidates.

Under the law, the national parties and federal candidates can no longer raise corporate and union donations in any amount or unlimited donations from any source. Such money isn't supposed to be used by anyone trying to influence a federal race.

The commission's lawsuit accuses the Club for Growth of failing to comply with federal fundraising and spending rules as far back as 2000.

The complaint says the group told prospective donors their money would be used to help elect or defeat specific candidates, and that it raised more than $4 million last year alone from donors who exceeded the $5,000 federal contribution limit. Of that, roughly $3 million came from just 14 donors.

The group spent more than $1 million in the past three elections on ads targeting specific campaigns, often going so far as urging voters to elect or defeat candidates, and raised more than $9 million during that time that exceeded federal limits, the lawsuit says.

The lawsuit could be the first in a parade of cases brought against soft money groups by the FEC, said Larry Noble, head of the Center for Responsive Politics campaign watchdog group and a former commission general counsel.

"We've all been waiting to see what they do with those complaints, and I think it's positive that they have brought suit," Noble said.

However, the lawsuit seems to focus on spending that urged voters to elect or defeat candidates, Noble said. That leaves open the question of how the FEC will deal with partisan groups that intended to influence federal races but didn't go quite as far as the Club did, he said.

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On the Net:

FEC: http://www.fec.gov/

F.E.C. Sues Republican Group Over Political Contributions (NYT)

By Glen Justice

The New York Times, September 20, 2005

WASHINGTON, Sept. 19 - The Federal Election Commission filed suit Monday against the Club for Growth, a well-funded Republican group, in an effort to force the organization to comply with limits on political contributions.

The suit is the first major enforcement case to involve a "527 committee," the independent political organizations that both Republicans and Democrats used to raise and spend hundreds of millions of dollars in the 2004 races. Commission officials describe it as a test case that could have a major impact on how future elections are financed.

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"This is one of the most important suits the commission has brought in the last decade," said Michael Toner, the commission's Republican vice chairman.

Last year's election was the first conducted under the McCain-Feingold law of 2002, which banned political parties from accepting unlimited contributions known as soft money. However, donors continued to direct six- and seven-figure checks to 527 committees, which argued that they could still legally accept unlimited soft money contributions.

After months of legal wrangling last year, the commission declined to adopt new regulations that would specifically require 527 groups to register with the F.E.C. and submit to contribution limits and other regulations. Donors are allowed to give $5,000 to a political action committee each year.

The commission was left with a list of complaints against specific groups, which are now being investigated. The case against the Club for Growth is the first in line.

The Club for Growth, which has more than 30,000 members, advocates conservative economic policies and for years has backed candidates who share those views.

The group runs a political action committee, which raised roughly $1.9 million and forwarded another $7.5 million directly to candidates last year, all operating within federal contribution limits, said David Keating, the group's executive director.

The club also operates a 527 committee, which raised about $8.5 million, Mr. Keating said. It was this organization that was the subject of the F.E.C. suit, which was filed in United States District Court here.

The suit alleges that the organization failed to properly register with the commission as a political committee, which would subject the group to contribution limits and other regulations, and that it raised millions in excessive contributions in recent years. Officials at the club said they had done nothing improper.

The case stems from a complaint filed against the group by the Democratic Congressional Campaign Committee in connection with a television advertisement broadcast last year. The commission voted to file the suit Monday after talks between the two parties failed to reach an out-of-court agreement, according to the F.E.C.

The commission is seeking an unspecified fine and a court ruling directing the Club for Growth to submit to F.E.C. regulation. If the commission wins, it could have broad implications for other groups that are similarly structured.

Pat Toomey, a former lawmaker and the president of Club for Growth, called the commission's suit a "war on the First Amendment" that will help protect incumbent politicians.

"The F.E.C.'s claims and legal theories are a bizarre interpretation of the club's mission, the Constitution, the laws adopted by Congress and their own regulations," Mr. Toomey said in a statement.

FEC Sues GOP 527 Group For Violating Finance Laws (WT)

By Stephen Dinan

The Washington Times, September 20, 2005

The Federal Election Commission yesterday filed its first court challenge against so-called "527 groups," suing a powerhouse Republican advocacy group for violating campaign-finance laws from 2000 to 2004.

The FEC charges that the Club for Growth raised and spent at least $4 million more than the limit, and so the group should have had to register as a political committee and abide by donation and spending limits. The suit was filed in U.S. District Court in Washington.

"This litigation is an important test case on when 527 groups are required to register with the FEC and follow hard-dollar restrictions in federal law," said Michael E. Toner, the commission's vice chairman.

The 527 groups, named for the part of tax code that governs them, played a major role in the 2004 election, the first under the campaign finance rules that Congress passed in 2002. Those rules were intended to eliminate so-called "soft money," the large donations that political parties and interest groups used to flood the airwaves with issue ads.

Instead, the parties have to rely on limited "hard dollar" contributions.

Swift Boat Veterans for Truth and Progress for America from the conservative side and MoveOn.org and the Media Fund from the liberal side led a host of 527s that advertised during the presidential race.

The groups say they are on sound legal footing.

Club for Growth President Patrick J. Toomey said yesterday's suit was part of a "war on the First Amendment."

He said the FEC's suit was the result of a complaint by the Democratic Senatorial Campaign Committee that said the Club for Growth stepped over the line when it targeted Senate Minority Leader Tom Daschle, South Dakota Democrat.

"The commission allowed it to lie inactive for nearly a year and a half and then resurrected it as a platform to seek to take away our members' rights and exact a huge civil penalty from the club," Mr. Toomey said.

The Club for Growth's stated purpose is to elect pro-economic growth, limited-government conservatives, often by advertising in Republican primaries.

In the complaint, the FEC said it tried to work out an agreement with the club, but the organization would not agree to a remedy. The FEC is considering action against other 527s.

President Bush's campaign, key lawmakers who helped pass the 2002 changes and other political organizations sued the FEC last year for not enforcing its regulations on 527s. Those cases are pending in federal court.

New State Law May Nix Asbestos Cases (LAW)

By Steven H. Pollak, Fulton County Daily Report

Law.com, September 20, 2005

Lawyers are gearing up for a constitutional challenge to a new state law that could remove nearly 3,000 asbestos cases from Fulton County dockets.

The law was designed to stem the tide of out-of-state asbestos claims being filed in Georgia, said its primary sponsor, Rep. David E. Ralston, R-Blue Ridge.

"We were seeing a huge number of people that were nonresidents of Georgia and that had not been exposed to asbestos or silica in Georgia who were suing in Georgia courts," said Ralston. "That was a trend that was disturbing not only to me, but to others."

The vast majority of asbestos cases in Georgia have been filed in Fulton, with about 2,200 pending in state court before Judge Henry M. Newkirk and about 1,000 pending in superior court before Chief Judge Doris L. Downs, attorneys involved in the cases said. They estimated that out-of-state plaintiffs who were not exposed to asbestos in Georgia filed approximately 90 percent of those cases.

A lawyer defending the asbestos suits, E. Elaine Shofner of Hawkins & Parnell, noted that claims in Georgia courts have originated from Alabama, North Carolina, Wisconsin, Hawaii, Texas, Nebraska and Pennsylvania.

"We became a dumping ground," she said.

One plaintiffs' attorney, David P. Bevon of Motley Rice in Mount Pleasant, S.C., said out-of-state plaintiffs filed in Georgia because the law here was more favorable than in other states for injuries that occurred years or even decades ago. He also noted that some defendants, such as Georgia-Pacific, are based here.

The new law, signed by Gov. Sonny Perdue on April 12 and codified at chapter 51-14 of the Georgia Code, prevents future suits from out-of-state plaintiffs. But because it applies retroactively, the constitutional fight is over the impact the law could have on cases that already have been filed.

The law added a host of new requirements for asbestos claims to survive in the state's courts. Among the new rules, a plaintiff must present "prima facie evidence of physical impairment" that shows "to a reasonable degree of certainty" that exposure to asbestos was "a substantial contributing factor" to the plaintiff's injuries. Plaintiffs' attorneys have until Oct. 19 -- or 180 days from the enactment of the bill -- to file affidavits establishing the prima facie evidence.

The law requires the evidence to come from a "qualified physician," defined as a doctor who spends no more than 10 percent of his professional practice time on litigation and earns no more than 20 percent of his revenue from such work.

Bevon said plaintiffs' attorneys have had little success in establishing prima facie evidence in accordance with the new law, estimating that 98 percent of asbestos cases will not be able to meet the new standard.

"It's just part of the wave of tort reform," he said.

Bevon explained that the "qualified physician" provision of the law is most troublesome to plaintiffs' counsel.

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"It's basically limited to a treating doctor," he said. "But a treating doctor, in almost all cases, isn't qualified to give a diagnosis of an asbestos injury and then take the next step of attributing causation to asbestos exposure."

Even among the most serious cases where the plaintiffs developed mesothelioma -- a rare, terminal cancer for which asbestos is the only known cause -- the lawyers are coming up short. Bevon said he had somewhere between 100 and 150 cancer asbestos cases in Fulton, and only four can meet the prima facie requirements.

Another plaintiffs' firm, Baron & Budd of Dallas, has approximately 100 mesothelioma cases pending before Downs and has succeeded in obtaining only 20 affidavits from qualified physicians who were willing to attribute the cancer to asbestos exposure, according to a letter to the judge from Baron & Budd attorney John J. Spillane.

In addition, Baron & Budd represents about 500 clients who developed a noncancerous lung condition known as asbestosis. According to a brief submitted by the firm, "all but a scant handful of those claims will suffer dismissal."

Lawyers came before Newkirk on Sept. 7 on the plaintiffs' motion to declare the prima facie requirement "substantive in nature" -- in that it creates additional obligations for the plaintiffs with pending claims -- and therefore should be inapplicable to cases filed prior to the enactment of the statute. For cases filed by out-of-state plaintiffs, lawyers filed several motions urging the judge to use law from wherever the claims originated.

Newkirk issued his order two days later, finding the law to be "procedural" as opposed to substantive, saying that the legislation "merely sets forth the method by which plaintiffs in asbestos cases may bring or maintain their causes of action in Georgia."

Newkirk added that the law was intended to apply to all asbestos cases in Georgia -- past and future. He also said that interpreting the law differently for out-of-state plaintiffs would "grossly subvert the public policy of this state because it would provide that Georgia residents could be treated differently than non-Georgia residents."

The plaintiffs' counsel in state court and superior court now have filed constitutional challenges in their respective venues seeking to have the pending cases made immune from the new law's requirements. Downs will conduct a hearing on the motion on Sept. 30; Newkirk has not scheduled one yet.

A similar law passed in 2004 in Ohio was declared unconstitutional as it applied to pending asbestos cases, according to a motion filed by Bevon.

Unconstitutional Cartel (WSJ)

By Mark Hillman

The Wall Street Journal, September 20, 2005

When politicians take campaign contributions from Big Tobacco, self-proclaimed watchdog groups yelp about impropriety. Yet for the past seven years, the industry has paid tens of billions of dollars to state governments to protect tobacco profits. Until recently, hardly anyone seemed to notice, much less care.

Then, on Aug. 2, the non-profit Competitive Enterprise Institute filed a lawsuit arguing that the 1998 Master Settlement Agreement (MSA) between Big Tobacco and 46 state attorneys-general (AGs) violates the Constitution and establishes a cartel designed to circumvent antitrust law and quash competition. Hallelujah.

I am a state treasurer and this suit could greatly reduce revenue to my state; and still I am enthusiastic. The billions generated by the settlement cloak the pernicious threat that activist AGs pose to the checks and balances on political power that govern our Constitutional system. Regulation and taxation policies are the rightful responsibility of the legislative and executive branches -- not the domain of states' chief law enforcement officers.

* * *

The tangled history of the MSA begins in 1997. Big Tobacco and a group of AGs drafted a settlement agreement that ended the state lawsuits against the tobacco industry. It stipulated payments to states in return for liability protection. The proposal was presented to Congress for ratification, as required by the compact clause of the Constitution; but it died in the Senate, in large part because of its potential to undermine antitrust law.

By November 1998, Big Tobacco had negotiated another deal with several AGs, what became the MSA. This time, rather than seek Congressional ratification, the proposed settlement was presented to the nonparticipating AGs, who were given just

seven days to decide whether to play ball. They had little choice but to participate. The MSA enabled the tobacco companies to raise prices on cigarettes nationwide -- not just in participating states -- to finance the deal. All smokers would pay the costs; the only question for AGs was whether their state would collect its share of the benefits.

Other than four states which had negotiated earlier settlements, every state signed on. Each was required to adopt uniform state laws -- with absolutely no amendments -- to enforce the terms of the MSA, including barriers that penalized smaller cigarette companies if their sales cut into those of the Big Four that organized the deal. In short, the states would help protect the majors from competition. "All states have an interest in reducing [small manufacturer] sales in every state," Vermont Attorney-General William H. Sorrell advised his colleagues.

Next, the MSA handed over $50 million and a significant role for enforcement and administration to an unelected entity, the National Association of Attorneys-General. NAAG plays a central role in determining how state AGs interpret and enforce the MSA. States can never opt out of the MSA, which can only be modified with unanimous consent of all states and all participating cigarette manufacturers. States relinquished their right to challenge the MSA in court.

This Faustian bargain locks states into a sleazy partnership with Big Tobacco, enforced by a compact that violates antitrust law and undermines market competition. Federal appellate judge Ralph K. Winter wrote, in a separate lawsuit brought by cigarette importers, that tobacco company executives "would long ago have had depressing conversations with their attorneys about the United States Sentencing Guidelines" had they forged a similar agreement without the complicity of state AGs. To add injustice to insult, the MSA takes money from predominately low- to middle-income smokers and transfers it to wealthy trial lawyers, some of whom reaped fees in excess of $100,000 an hour for their "work." On top of these affronts, the Constitutional objections to the MSA are manifold:

• The Constitution stipulates that "No state shall … enter into any agreement or compact with another state" without the approval of Congress. The MSA has never been so approved.

• The Constitution gives Congress exclusive authority to regulate interstate commerce. The MSA clearly usurps that authority.

• Delegation of inherent state powers to the NAAG undermines the state sovereignty protected by the Tenth Amendment.

The question facing the courts is not whether the MSA is good policy or whether tobacco companies are scoundrels. The larger issue is whether AGs can rightfully evolve into a law unto themselves, usurping the Constitutional roles of state legislators, governors, Congress and, ultimately, the voters themselves.

Mr. Hillman is Colorado state treasurer.

CIVIL RIGHTS:

Bipartisan Panel Recommends U.S. Election Changes (REU-Y2)

Reuters, September 20, 2005

Electronic voting machines should have paper trails to keep track of votes cast and all voters should present photo IDs, a panel recommending ways to restore confidence in the U.S. election system said on Monday.

The bipartisan Commission on Federal Election Reform, led by former President Jimmy Carter and former Secretary of State James Baker, made 87 recommendations for strengthening the integrity of a process shaken by voting controversies, including the drawn-out 2000 recount saga in Florida.

"At a time when there is growing skepticism with our electoral system, the commission believes that a bold new approach is essential," the report said. Many of the recommendations would require approval by Congress.

The call for paper verification of votes on electronic machines drew praise from election reform advocates, but the call for photo identification was criticized as an invasion of privacy and something that would discourage some voters.

That recommendation would require all prospective voters by the year 2010 to produce a photo ID card at the polling place -- either a driver's license or, for those without driver's licenses, an identification card issued by the state.

The commission called on states to make distribution of the card simple and widespread.

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Caroline Fredrickson, director of the ACLU Washington legislative office, said the photo ID provision "will disproportionately impact the poor and the elderly, who may not have drivers' licenses or access to a location where they can obtain IDs."

INTENSE DEBATE

Carter said the 21-member commission intensely debated that provision, but he believed a national uniform requirement was better than piecemeal state voter identification laws.

"I personally had, at the beginning, some very serious reservations about this issue," Carter said. "This will be, I think, a move forward in getting more people to vote. It would not restrict people from voting. It will be uniformly applied throughout the country, and it will be nondiscriminatory."

The commission also recommended states, not local jurisdictions, be responsible for the accuracy and quality of voter lists and that state election agencies be nonpartisan.

"Every one of the recommendations in our report, whether they are recommendations to the Congress or recommendations to the states, are designed to improve confidence in our system of federal elections. And there's plenty of room for improvement," Baker, who led President George W. Bush's team during the Florida recount controversy, told reporters.

The 2004 election was also plagued by questions, involving voter fraud and intimidation, long lines at polling places in poor neighborhoods, the integrity of voter registration lists and security against fraud for electronic voting machines.

Bush issued a statement praising the work of the commission. "It is critical to maintain America's trust in our election system, and I look forward to reviewing this report and working with Congress on the recommendations," he said.

Carter said the panel hoped most of its recommendations would be passed by the 2008 presidential election.

Panel Recommends Photo ID For Voters (WT)

By Brian DeBose

The Washington Times, September 20, 2005

A commission examining national voting practices issued a report to Congress yesterday recommending a uniform photo-identification standard, but opponents say its stringency would disenfranchise millions of voters who might lack the necessary documents to obtain the IDs.

The standard of identification recommended by the Commission on Federal Election Reform is essentially the same as those established by the recently passed federal Real ID Act, which outlines strict rules and procedures for the issuance of driver's licenses by the states.

"The Real ID is a logical vehicle because the National Voter Registration Act established a connection between obtaining a driver's license and registering to vote," said the report drafted by the commission, which is chaired by former President Jimmy Carter and former Secretary of State James A. Baker III. "The Real ID card adds two critical elements for voting -- proof of citizenship and verification by using the full Social Security number."

Mr. Carter and Mr. Baker yesterday defended the recommendations, saying photo-identification already is required to board airplanes, cash checks and enter federal buildings.

But Commissioner Spencer Overton, a George Washington University election law professor, dissented.

"The recommendation will exclude millions of Americans, and the disproportionate numbers of citizens who will be excluded are people of color," he said.

He pointed out, as does the report, that there is no significant "evidence of extensive fraud in U.S. elections or of multiple voting." The report indicated that both occur in federal, state and local elections, but Mr. Overton said the majority of such fraud is related to absentee ballots, which require no identification.

It is the use of the Social Security number on the face of the Real ID card that has libertarians objecting.

"Beyond the voting rights issues, there is issue of identity fraud with thousands of cases where people are stealing another person's identity using their Social Security number; with these cards the number will be on there," said LaShawn Warren, legislative counsel for the American Civil Liberties Union.

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Jonah Goldman, an attorney for the campaign for fair elections for the Lawyer's Committee for Civil Rights under the Law, said the Real ID law creates an "enormous burden" on citizens to obtain identification. He said a person must prove who he or she is with four types of identification.

"In addition to all of that, when you put it into current context with the devastation in the Gulf Coast region, where many of those places had destruction of public records, people down there cannot even hope to prove some of these things," Mr. Goldman said.

President Bush received the report yesterday, but White House press secretary Scott McClellan said the president has not decided how to move forward.

"We will be reviewing it carefully," Mr. McClellan said. "We want to make sure that we continue to move forward on steps to protect the integrity of the voting systems and things of that nature."

Panel On Elections Proposes Changes (WSJ)

By John Harwood

The Wall Street Journal, September 20, 2005

WASHINGTON -- A commission headed by former President Jimmy Carter and Secretary of State James Baker called for nonpartisan election administration and requiring voters to have photo identification.

Messrs. Carter and Baker presented President Bush with their recommendations, which also included information-sharing to prevent voters from registering in more than one state, use of mobile offices to ease registration, and a national requirement that electronic voting machines include a paper trail that would allow people to check their votes. They said White House support will be critical to moving some portions through the Republican-controlled Congress, and signaled it may come soon.

"Stay tuned, at least through tomorrow," Mr. Baker said. Last night the White House released a statement from the president praising the commission's "excellent work" and pledging to work with Congress on its recommendations.

Congressional action would only be a start in advancing recommendations of the commission, a private body organized by American University here in Washington that seeks to build on voting-law changes enacted after the disputed 2000 election. Most recommendations require action by state legislatures.

Reforming The Vote (WP)

The Washington Post, September 20, 2005

The report released yesterday by a commission on federal election reform, headed by former president Jimmy Carter and former secretary of state James A. Baker III, contains a number of valuable proposals. But adopting one of the commission's recommendations -- that voters be required to present a government-issued voter ID at the polls -- would, on balance, do more harm than good.

The commission's most useful proposals would address both lingering and new flaws in the current voting system. Five years after the problems exposed by the 2000 presidential election, voter registration rolls remain riddled with inaccurate and outdated information. The commission sensibly called on states to take charge of assembling accurate lists that would help eliminate duplicate registrations while making it easier for citizens to vote in new jurisdictions.

The introduction in 2004 of a requirement that voters who appear at the polls be given provisional ballots if their names aren't on the registration lists created questions about how to judge the legitimacy of such ballots. The commission sensibly recommended that states adopt clear statewide procedures for considering such ballots. The advent of computerized voting systems has provoked anxiety about whether such machines are secure from fraud or malfunction; the commission -- again sensibly, and in contrast to the position of Maryland Gov. Robert L. Ehrlich Jr. -- endorsed the need for machines capable of delivering a voter-verifiable paper trail.

The problem recommendation -- which drew a dissent from three of the 20 commission members, including former senator Thomas A. Daschle (D-S.D.) -- would require voters to present a government photo identification at the polls. This may not sound particularly burdensome in an age when, as the commission noted, such IDs "are needed to board a plane, enter federal buildings, and cash a check." Yet 12 percent of the voting-age population does not have a driver's license, and those without identification tend disproportionately to be minorities, the elderly and the poor. To its credit, the commission urges states

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to ensure that such IDs are "easily available and issued free of charge." But for those who don't already have identification, the hurdle of assembling the necessary documentation and obtaining the cards could prove a deterrent to voting.

On the other side of the balance is the risk of elections tainted by fraud or the perception of fraud. The commission found that "there is no evidence of extensive fraud in U.S. elections or of multiple voting, but both occur, and it could affect the outcome of a close election." That's true -- but so could turning away otherwise eligible voters.

Indeed, election administrators agree that absentee ballots pose a bigger risk of fraud, and in that case the commission would guard against fraud by having election officials match a signature on file. As commission member Spencer Overton, an election law expert at George Washington University, asks, why wouldn't the same be sufficient for those who turn up at the polls without ID? Allowing voters to show alternative forms of identification or to sign a sworn affidavit of eligibility could go a significant way toward deterring fraud without imposing the burden of an inflexible photo ID requirement.

Denying Access To The Ballot (NYT)

The New York Times, September 20, 2005

It has been clear since 2000 that the election system is in serious need of reform. But the commission led by James Baker III and former President Jimmy Carter has come up with a plan that is worse than no reform at all. Its good ideas are outweighed by one very bad idea: a voter identification requirement that would prevent large numbers of poor, black and elderly people from voting.

The commission makes helpful recommendations. It favors requiring electronic voting machines to produce paper records, and opposes partisan activity by state election officials. It fails to address other problems, like not counting provisional ballots cast at the wrong precincts.

But the bombshell recommendation is for the states to require voters to have drivers' licenses or a government-issued photo ID. That would not be a great burden for people who have drivers' licenses, but it would be for those who don't, and they are disproportionately poor, elderly or members of minorities. These voters would have to get special photo ID's and keep them updated. If they didn't have the ID's, their right to vote would be taken away. The commission recommends that the cards be free. But election administration is notoriously underfinanced, and it is not hard to imagine that states would charge for them. Georgia is already charging $20 and more for each of its state voter cards.

There is very little evidence of voters' claiming to be people they are not, and the commission admits that its members are divided about how big a problem it is. But the report goes on to say that even if there is just a small amount of fraud, it should be stopped. True, but if the solution risks disenfranchising hundreds of thousands, or even millions, of voters, it is a very bad reform.

There are more reasonable approaches. The states could require uniform ID's, but allow each voter without one to sign an affidavit attesting to his or her identity, a system some states use now. It is little wonder that a dissent came from the former Democratic leader in the Senate, Tom Daschle, a commission member. He said that "for some, the commission's ID proposal constitutes nothing short of a modern-day poll tax."

The disappointing report made public yesterday was not a complete surprise. There have been red flags waving around the commission for some time; Mr. Baker is remembered by many for his fierce fight to stop the counting of votes in Florida in 2000. There have also been complaints about the commission's process. Spencer Overton, a George Washington University law professor and commission member, complains that he was told he had to limit a dissent on complicated voting issues to just 250 words.

The purpose of election reform should not be making it harder to vote. We all have a duty to make our election system as good as it can be - and not to disenfranchise people in the name of reform.

Suit Slams Voter ID Law Plaintiffs Assail Ga. Requirement As Illegal 'Poll Tax' (AJC)

By Carlos Campos, James Salzer, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, September 20, 2005

Voting and civil rights groups launched a legal assault Monday on the state's requirement that Georgians show a government-issued photo ID at the polls — a law they call the most restrictive of its kind in the country.

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A federal lawsuit filed on behalf of two African-American voters, the American Civil Liberties Union, NAACP, League of Women Voters, black legislators and others calls the new law a "poll tax" that will rob black, elderly and rural people of their right to vote.

Supporters of the new law condemned the suit, arguing that the law will eliminate the likelihood of fraud at the polls. House Speaker Glenn Richardson (R-Hiram) called it a "ludicrous lawsuit."

"This lawsuit is nothing more than liberal special interests using unconscionable scare tactics to frighten Georgia voters," Richardson said.

While long expected, the suit raises the stakes of a debate that has raged since last winter's session of the Legislature. The suit won't affect today's special elections in Cobb County and elsewhere, but opponents hope a judge throws out the law before elections being held in November in many Georgia cities.

"There is no place for a voter-suppression law," said Tisha Tallman, regional counsel for the Mexican-American Legal Defense and Educational Fund and an attorney for the plaintiffs. "The case against House Bill 244 is strong, and we intend to prevail in court."

The law, which went into effect earlier this year after approval by the Legislature and Gov. Sonny Perdue, requires voters to show one of six forms of government-issued photo identification, such as a driver's license. Previously, Georgians could show one of 17 forms, including a Social Security card or utility bill.

Although Georgia is one of five states requiring voters to show photo IDs, its law has been called the most restrictive because other states allow photo IDs that are not issued by the government, such as work badges.

The U.S. Justice Department, which must review changes to Georgia voting laws to ensure that minority rights are not infringed upon, approved the new law in August. But the suit argues that the law violates the federal Voting Rights Act and Civil Rights Act by placing obstacles to voting.

"The new photo ID requirement ... imposes an unnecessary and undue burden on the exercise of the fundamental right to vote on hundreds of thousands of citizens of Georgia who are fully eligible, registered and qualified to vote, but who do not have Georgia driver's licenses, passports, or employer ID cards or other forms of photographic identification issued by the state or federal government," according to the lawsuit.

The lawsuit contends the requirement's true purpose is to suppress "voting by the poor, the elderly, the infirm, African-American, Hispanic and other minority voters by increasing the difficulty of voting."

The suit cited Secretary of State Cathy Cox's testimony that during her nine years in office, she has not documented a case of voter fraud at the polls by people pretending to be someone they are not.

The lawsuit also alleges that requiring Georgians to pay for a state identification card constitutes a poll tax that is outlawed under the 24th Amendment to the U.S. Constitution. In addition to the $20 to $35 fee for an ID card, there are also travel costs associated with getting an ID card, since only 56 of Georgia's 159 counties offer them at Department of Driver Services offices.

The new law waives the ID fee charged to indigent voters, and the state is sending a bus around Georgia to issue free IDs to those who need them. But the lawsuit said the definition of indigent is vague and does not take into account travel costs.

Two African-Americans are named as plaintiffs: Tony Watkins of Rome and Clara Williams of Atlanta. The lawsuit states that both do not have a picture ID and "cannot readily obtain a photo ID card." Watkins declined to comment Monday, and Williams could not be reached.

African-American voters are disproportionately affected because census data indicate they generally earn less than whites and are three times less likely to have access to a car, the lawsuit alleges. The lawsuit also notes that the new law allows voters to cast an absentee ballot without showing photo ID.

Rep. Sue Burmeister (R-Augusta), who sponsored the bill, said Georgians have to show photo IDs all the time.

"I don't even see what their argument is," Burmeister said. "It's not about race. It's not about age."

The suit was filed as a federal commission headed by former President Jimmy Carter called for Americans to be required to show a photo ID card to vote by 2010, in part to establish a national standard. Carter called the Georgia statute a "disgrace to democracy."

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"If you read the Georgia law that was passed this year, you see that it is highly discriminatory and, in my personal experience, directly designed to deprive older people, African-Americans and poor people of a right to vote," he said.

Staff writers Bill Rankin and Eunice Moscoso contributed to this article.

Rights Groups Challenge Photo ID Law (AP)

By DICK PETTYS, The Associated Press

AP, September 19, 2005

ATLANTA (AP) — Voter and civil rights organizations filed a federal lawsuit Monday challenging Georgia's new law requiring voters to show photo identification at the polls.

The suit was filed the same day a commission co-chaired by former President Carter, a Georgia native, recommended a national requirement that voters show photo IDs.

Opponents of photo IDs for voters say such requirements would disenfranchise minorities and the poor; backers say they're a good way to combat voter fraud.

"Photographic identification as a requirement for voting is antidemocratic and prevents people from exercising their fundamental right to vote whether proposed by the General Assembly of the state of Georgia or the Carter-Baker commission," said Daniel Levitas of the American Civil Liberties Union's voting rights project.

Plaintiffs in the suit — including Common Cause, the League of Women Voters, the Georgia Legislative Black Caucus and the National Association for the Advancement of Colored People — contend the law violates the state and federal constitutions.

The law eliminates formerly accepted forms of voter identification, such as Social Security cards, birth certificates or utility bills.

Several groups filed objections with the Justice Department before it approved the law last month. Under the Voting Rights Act, Georgia and other states with a history of suppressing minority voting must get federal permission to change their voting laws.

The Republican-backed measure sparked racial tension during the state's legislative session last spring. Most of Georgia's black lawmakers walked out at the state Capitol when it was approved.

Democrats argued the idea was a political move by the GOP to depress voting among minorities, the elderly and the poor — all traditional bases for Democrats.

Dan McLagan, a spokesman for Republican Gov. Sonny Perdue, said the law is intended to deter voter fraud.

"Requiring an ID to vote is common sense and has been instituted in other states," he said. "Under the old system, you could pluck a utility bill out of somebody's trash can and cast a vote."

Nineteen states require voters to show identification, but only five request photo ID, according to the National Conference of State Legislatures. Those states — Arizona, Florida, Louisiana, South Carolina and South Dakota — allow voters without a photo ID to use other forms of ID or sign an affidavit of identity.

Carter, who chaired an election reform commission along with former Secretary of State James Baker, said in Washington Monday that requiring photo IDs was one of the most important and most difficult of his group's recommendations.

"We addressed this with a great deal of hesitancy," he said, adding that a national approach would prevent states from enacting laws that are discriminatory.

Single-member Districts Divide Osceola's Hispanics (ORS)

By Daphne Sashin, Sentinel Staff Writer

The Orlando Sentinel, September 20, 2005

KISSIMMEE -- The federal voting-rights lawsuit against Osceola County has become a wedge in the Hispanic community, dividing activists and candidates over the best way to gain political power.

Some supporters of the suit, who filed a similar challenge against the city of Kissimmee, contend that single-member districts would give Hispanics a better shot at representation.

Other Hispanics say there's nothing keeping the right candidate from winning under the current at-large system, in which commissioners are elected by all the voters. Often, they say, Hispanic candidates undercut each other's campaigns, fail to get other Hispanics to vote or convey the wrong message.

"Saying we should get this because we're Hispanic is not the answer. . . . There's a lot of people who are sick of it," said Hector Lizasuain, a board member of several community organizations, including Give Kids Safe Shelter.

The Justice Department filed suit against the county in July, alleging Osceola's practice of electing commissioners countywide discriminates against Hispanics because it dilutes their voting strength. The county's Hispanic population has tripled during the past decade. Although they make up 31 percent of registered voters, only one Hispanic has been elected as a county commissioner.

The federal government has suggested that Osceola could create five commission districts, with one made up of mostly Hispanic voters.

Armando Ramirez, who originally complained to the Justice Department and spearheaded the Kissimmee suit, and other activists say a single-member district system is the only way for a minority candidate with little money to get elected.

"It's very expensive when you try to run an election at-large," said Zulma Velez Estrada, who has worked to register Hispanic voters in Central Florida. "You have to put up signs, you have to . . . let everybody know you. You have to market yourself."

Others say the people fighting for single-member districts are a handful of disheartened candidates who want to get elected without proving themselves as leaders.

For more Hispanics to win, they must work harder to get Hispanics to the polls while reaching beyond the Hispanic community for support, said Peter Olivo, who lost two close races for County Commission and plans to run for the School Board.

"I really don't think single-member districts are going to do any good to anyone," Olivo said. "You're going to get a lot of people running who could easily win because of the number of people they know, but have no idea . . . what it takes to run government."

Domingo Toro, a Kissimmee Utility Authority board member and longtime activist, disagrees. Single-member districts, he said, would give minorities the chance to compete with Anglos on an equal footing. Toro lost a 2004 bid to become a Kissimmee commissioner in a runoff and was passed over for interim mayor in July.

"I'm on three boards right now. People know me, because the only thing I do is serve my community. And still, I did not get the vote," Toro said. "We don't want them to give us anything. We [want to] earn it. . . . We deserve to represent ourselves."

Candidate Carlos Irizarry says he admires Ramirez for challenging the system but doesn't agree with his approach. The obstacles Hispanic candidates have faced are not "the system's fault," he said.

"Example: In 2004, I ran for office. The first person to file against me was a Hispanic . . . knowing that I filed first. Obviously, the Hispanic vote was divided, and that's why I lost," Irizarry said. "I would never run against a Hispanic if he filed first."

After the Justice Department sued the county, Ramirez said he had no immediate plans to run for another election and maintained that his detractors "are afraid to ruffle the feathers of the good-old-boy system."

State Rep. John Quiñones, R-Kissimmee, has suggested that the county try to settle the suit by expanding the County Commission from five to seven members, with three or four district seats and the others elected at-large.

"This is the second-fastest-growing county in the state," Quiñones said of Osceola. "We need to address whether we're doing everything possible to make this community better represented in government."

Even some defenders of the current system say Quiñones has the right idea. They worry that a drawn-out lawsuit will fuel an anti-Hispanic backlash and send the wrong message.

"Fighting it at this point . . . it lacks progressiveness on the part of the county," said Rosa Alvarez, Quiñones' aide and the Republican committeewoman for Celebration. "Rather than spending our money and arguing . . . the time is right to move on."

Daphne Sashin can be reached at dsashin@orlandosentinel.com or 407-931-5944.

Tired Of 'Being Nice,' Disabled Group Storms Hill (RC)

By Scott Hechinger

Roll Call, September 20, 2005

More than 500 disability-rights protesters from across the country, most in wheelchairs, descended on Congressional offices today to call for expanded patient rights under Medicaid and to express frustration with some Members' calls for deep cuts to social programs.

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Despite numerous arrests and a heavy Capitol Police presence, the protesters plan to stay on Capitol Hill throughout the week.

"We have been closely monitoring the situation and are now processing those we have arrested," said Capitol Police spokesman Michael Lauer. "We are familiar with this group, however, and are sympathetic to their needs and causes."

Most of those arrested were being held in Room 2128 in the Rayburn House Office Building to be processed, but arrests also were made in the Hart Senate and Cannon House office buildings. No official comment on the number of arrests is yet available.

In addition to general calls for enhancing disability rights, the protesters urged Members of Congress to sponsor and pass the Medicaid Community-Based Attendant Services and Supports Act, as well as the Money Follows the Person Act, both of which were proposed by ADAPT, the disability-rights organization leading Monday's protest and fight on the Hill.

ADAPT argues that these bills would allow the disabled greater control over their health care options under Medicaid, which they say currently forces too many into nursing homes unnecessarily and against their will. The acts have been brought before Congress twice previously, both times unsuccessfully.

"We've tried being nice," said Linda Anthony, an ADAPT spokeswoman. "We've written Congressmen, we've phoned them, we've come to their offices to try to talk, but nothing works. We're done playing nice. We'd rather go to jail then go back to the nursing homes."

Anthony, who was in a wheelchair like most others, was flanked by more than 40 other protesters outside the office of Rep. Joe Barton (R-Texas) cheering for those either wheeled or carried out of the office by Capitol Police and chanting "No more talk, we need action."

Barton's office was just one of several Congressional offices targeted by the protesters in a coordinated effort that had been planned for months. As chairman of Energy and Commerce, Barton would play a crucial role in helping or hindering both of the acts, Anthony said.

Barton was in his district Monday, and although the protesters were able to meet with an aide in charge of health and human services, the police eventually were called. According to the Capitol Police, protesters were arrested only after Barton's office requested that they be removed.

"We tried to accommodate them, but they weren't agreeing with what we were saying," said Barton's press secretary Karen Modlin. "It kept escalating to the point where we needed to get the Capitol Police involved."

"Our job is to make Medicaid stronger for the people who need it most. I'm sorry ADAPT disagrees," she added.

Flag Issue May Burn Brightly In '06 Races (HILL)

By Bob Cusack And Kipp Lanham

The Hill, September 20, 2005

The Republican-led Senate is unlikely to vote on a flag-burning amendment this fall, but the measure will almost certainly hit the floor months before next year's elections.

Republicans will use the proposed amendment to the Constitution as political ammunition in 2006. Several targeted Democrats in the upper chamber oppose changing the Constitution to prohibit flag burning, including Sens. Jeff Bingaman (N.M.), Maria Cantwell (Wash.), Kent Conrad (N.D.) and Robert Byrd (W.Va.).

The fate of a pending flag-burning amendment lies in the hands of a few senators. Because Sen. Orrin Hatch's (R-Utah) amendment would alter the Constitution, it needs 67 votes, two-thirds of the Senate, to pass.

Including Hatch, the amendment has 58 co-sponsors. Based on previous votes, the measure has the likely support of 63 senators — if senators vote the way they have previously.

It is unclear how Sens. Tom Carper (D-Del.) and Herb Kohl (D-Wis.) would vote on the Hatch amendment. As a member of the House, Carper voted for a Hatch-like measure, while Kohl has voted against Hatch's amendment previously but is undecided on how he will vote in this Congress.

Regardless of how these senators vote, it appears that the flag-burning amendment is one or two votes shy of reaching 67.

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Democratic senators who are not co-sponsors of the measure but have indicated support for it include Minority Leader Harry Reid (Nev.) and Sens. Ben Nelson (Neb.). Bill Nelson (Fla.) and Jay Rockefeller (W.Va.).

Sen. Robert Bennett (R-Utah) has introduced legislation — not a constitutional amendment — that seeks to provide protection for the flag. Sens. Byrd, Conrad and Byron Dorgan (D-N.D.) are co-sponsors of the legislation.

Others who have expressed support for this approach in lieu of the Hatch resolution are Sens. Cantwell, Mark Pryor (D-Ark.) and Hillary Rodham Clinton (D-N.Y.).

It is "not likely," Hatch spokesman Adam Elggren said, that Hatch would seek a compromise with Bennett on his flag amendment. "They disagree on the amendment. They agree to disagree."

While the top Senate Democrat backs Hatch's amendment, Assistant Majority Leader Mitch McConnell (R-Ky.) opposes it because of First Amendment issues. McConnell is the overwhelming favorite to take over as the top Senate Republican in the 110th Congress.

All five Democratic senators who are said to be considering a presidential run in 2008 — Evan Bayh (Ind.), Joseph Biden (Del.), Clinton, Russ Feingold (Wis.) and John Kerry (Mass.) — oppose Hatch's amendment.

The House earlier this year approved a flag-burning amendment by a wide margin. If the Senate cleared the measure, it would then have to be ratified by 38 states within seven years.

Some on Capitol Hill expected the Senate to vote on the Hatch resolution after the House's vote, but Senate sources say that with the chamber's busy fall schedule, a Senate roll call will probably be pushed back into next year.

The National Republican Senatorial Committee has repeatedly seized on the flag-burning issue and this year has zeroed in on Byrd, running ads on his vote against a constitutional amendment. Byrd fired back, claiming the ad was misleading.

Democrats say that Republicans are just interested in playing politics with the flag, noting that votes on the amendment usually are brought up in election years.

In 1995 and 2000, Hatch introduced similar amendments, which were defeated 63-37 and 63-36, respectively. In 2000, 12 Democrats voted for it.

Sen. Debbie Stabenow (D-Mich.), who faces a potentially difficult reelection campaign next year, plans to vote for Hatch's measure.

The Supreme Court struck down the Flag Protection Act in 1990, ruling in defense of the First Amendment that burning a flag is free speech.

ANTITRUST:

More States Plan Minimum-service Real Estate Laws (INMAN)

By Glenn Roberts, Inman News

Inman News, September 20, 2005

Realtor associations in Wisconsin and Ohio are pushing for laws that establish new service requirements for real estate professionals while making room for real estate companies that offer a lesser range of services for lower fees.

In several other states, Realtor-backed efforts to establish a mandatory range of services for all real estate professionals – effectively banning some limited forms of real estate services – have drawn sharp criticism from antitrust officials at the U.S. Justice Department and Federal Trade Commission.

But the Realtor groups in Wisconsin and Ohio say their proposals recognize and provide some protections for real estate business models that offer fewer services than traditional firms. In both of these states, Realtor associations formed task forces to study the law changes, with representation from limited-service real estate companies.

The Association of Real Estate License Law Officials, a group for real estate regulators, conducted a study that found that Alabama, Illinois, Iowa, Missouri, Oklahoma, Texas and Utah have enacted some form of minimum-service legislation within the past couple of years. And other states, too, have earlier approved or are now pursuing minimum-service measures.

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Federal officials opposed the Realtor-backed measures in Alabama, Missouri, Oklahoma and Texas, charging that the legislation was anticompetitive and anti-consumer. But legislators and governors in all four states passed the measures despite these objections.

State Realtor associations have been driving the support for these law changes, stating that the laws aim to protect consumers from receiving less services than they expect in a real estate transaction while also preventing situations in which full-service real estate professionals may feel obligated to assist consumers on the other side of a real estate deal who are working with limited-service real estate companies.

But opponents of the measures say that consumers should be able to choose which real estate services they receive in a real estate transaction, and there are not enough complaints against limited-service companies to justify the law changes.

The Ohio Association of Realtors formed a Task Force on Minimum Services for Listings to study possible changes to state law, and the group prepared a report and recommendations. This work did not go unnoticed.

Don Freels, CEO for the state association, said, "It is interesting that the U.S. Department of Justice was very much aware of our progress in developing our report, and I have sent it to them for review." Freels said he hasn't yet received a formal response from the Justice Department on the law changes that the association is seeking, though he doesn't expect any objections.

"I'm extremely pleased with the work product we produced. I think it's going to be very salable to the Ohio Legislature and the Real Estate (Commission) here in Ohio," he said. "Our task force included brokers who offer minimum services. We made a very conscious effort to include representatives of all business models."

Sharon Jebavy, an Ohio Realtor who offers flat-fee property listing services, served on the task force. Jebavy said she would prefer there be no new minimum-services law in the state, though she does not object to the recommendations. "I think we've come up with a real workable plan. I don't really see a need for it, but if you have to have it I think this is a good bill," she said.

Among the task force's findings: "Consumers should have the right to select the level of service they want from a real estate licensee. Regardless of the level of service the consumer chooses, however, there are certain basic fiduciary duties a licensee must always perform to assure the consumer is protected in their real estate transaction. The license law should assure that consumers are making an informed decision regarding the level of service they receive...(and) should not unreasonably restrict or limit emerging business models."

The group's recommendations include a sample "Waiver of Agency Duties" form that allows sellers to waive some of their real estate representative's duties while specifying which duties are required. Among the required list of duties: exercising reasonable skill and care in representing the client; performing the terms of any written agency agreement; following any lawful instructions of the client; being loyal to the interest of the client; advising the client to obtain expert advice related to material matters when necessary or appropriate; and accounting in a timely manner for all moneys and property received in which the client has or may have an interest.

Sellers also can specify which of the following duties they allow their representative to waive: Seek a purchase offer at a price and with terms acceptable to the client; accept delivery of and present any purchase offer to the client in a timely manner; answer the client's questions and provide information to the client regarding any offers and/or counteroffers; assist the client in developing, communicating, negotiating and presenting offers and/or counteroffers; and inform the client of the steps the client must take to fulfill the terms of the contract.

The Ohio Realtor group's board of directors approved the task force report and recommendations this week, and Freels said he anticipated passage of legislation early next year. The proposed legislation will represent the most significant changes that the group has proposed to real estate law since the mid-1990s, Freels added.

Meanwhile, the Wisconsin Realtors Association has found a sponsor for its version of minimum-service legislation, and Rick Staff, senior staff attorney for the group, said he expects a final draft of the legislation within a couple of weeks.

The Wisconsin proposal is "the product of years of discussion and input," Staff said. "We have every confidence that it will go forward. Our approach on limited service has gotten a number of peoples' attention because we took a fairly unique perspective. We don't think that limited-service brokerage constitutes a risk to consumers such that it needs to be banned under the state's law."

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The legislation will be the culmination of the work of a Wisconsin Realtors Association License Law Task Force, formed in 2002. The legislation will create "a duty to provide, upon the client's request, certain types of information and advice and a duty to negotiate on behalf of a client," according to a preliminary draft. "Under the bill, a client may waive the broker's duty to negotiate, but only in writing."

A broker disclosure statement in the preliminary draft of the bill notes that brokers owe certain duties to all parties in a transaction, including: the duty to provide brokerage services fairly and honestly; the duty to exercise reasonable skill and care in providing brokerage services; and the duty to provide accurate information about market conditions within a reasonable time if requested, unless disclosure of the information is prohibited by law, among others.

And when consumers enter into an agency agreement with a broker, "a broker owes additional duties to a client," the preliminary bill states. "The broker will provide, at your request, information and advice on real estate matters that affect your transaction. The broker must provide you with all material facts affecting the transaction. The broker will negotiate for you, unless you release the broker from this duty. The broker will not, unless required by law, give information or advice to other persons who are not the broker's clients, if giving the information or advice is contrary to your interests."

Staff said that essentially the Wisconsin proposal seeks to allow consumers to opt out from receiving negotiation services from a real estate professional, while guaranteeing that they will receive certain services. The legislation defines negotiation as "acting as an intermediary by facilitating or participating in communications between parties related to the parties' interests in a transaction," and "presenting to a party the proposals of other parties to the transaction and giving the party a general explanation of the provisions of the proposal."

The State Bar of Wisconsin had opposed language in the Wisconsin Realtor Association's License Law Task Force report relating to the proposed law changes, as it "would allow brokers, who are not licensed to practice law by the Wisconsin Supreme Court, to provide legal advice (including enhanced abilities to negotiate and draft contracts and explain the consequences of actions taken during transactions," though the lawyers' group has not yet reviewed the preliminary bill text.

Corey Scholtka, BuyHomes.com

Statements in the preliminary bill text note that a "broker or salesperson can answer your questions about brokerage services, but if you need legal advice, tax advice, or a professional home inspection, contact an attorney, tax advisor, or home inspector."

Corey Scholtka, owner of BuyHomes.com, a flat-fee brokerage based in Delafield, Wis., said he is optimistic about the legislative proposal. Scholtka, who was invited to give input to the task force, has been an outspoken advocate of new real estate business models, including limited-service real estate companies.

Scholtka said that there is an important distinction in Wisconsin's minimum-service proposal compared to other states, because Wisconsin allows choices in services rather than mandating a long list of services that real estate professionals must perform.

"I've been assured that it's not going to change my business model," he said. "I'm for choices – this seems to promote choices."

MasterCard Says Millions No-touch Cards To Be Issued (REU)

By James B. Kelleher

Reuters, September 19, 2005

MEMPHIS, Sept 19 (Reuters) - A top executive with Mastercard Inc. (MA.N: Quote, Profile, Research) said on Monday the company, the world's No. 2 credit-card association, expected to have 4 million so-called "pay pass" cards in circulation by year's end.

Speaking at an industry conference here, Ruth Ann Marshall, Americas president for MasterCard, said that Citibank, HSBC and Key Bank had all begun offering the cards, which are equipped with a radio-frequency chip that allows customers to pay for purchases by simply waving their cards at readers posted near cash registers or gas pumps.

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Marshall said the pay-pass cards were "easier to use than cash" and were one of the products MasterCard was counting on to increase revenue and profits as it faces a variety of challenges in the marketplace, including new rivals and regulatory scrutiny.

"It's just one of the ... breakthroughs in technology that we're pursuing in order to increase convenience and boost usage," Marshall said.

MasterCard, owned by more than 1,000 banks, formally revealed its plans last week to go public early next year in an initial public offering.

In addition, to raising money to bolster its balance sheet, MasterCard said it believed the IPO would help quell criticism from merchants and others, who charge that its current structure -- which foes characterize as a cartel of competing banks setting transaction fees in concert -- represents a violation of U.S. antitrust laws.

Marshall said MasterCard was also working with U.S. cellular phone providers to turn mobile phones into "a high-powered payment and sales device." The program was still in the "pre-launch stage" here in the United States, she said, but added its success overseas suggested it would appeal to "young, active consumers."

She acknowledged that the Internet and other technologies were creating "substantial ripples in the personal finance industry."

"Take PayPal, for example," she said. "Ten years ago entering the payment industry from a standing start was nearly impossible. But by providing eBay (EBAY.O: Quote, Profile, Research) customers with a convenient way to move money PayPal quickly became a player in the payments industry and an acquisition target for eBay."

As a result, she said it was conceivable that others would eventually become players in the industry, including Google (GOOG.O: Quote, Profile, Research) , which has signaled it may be interested in getting into payments.

Marshall said MasterCard was taking Google's threat seriously.

"Certainly any company that can develop complex search algorithms has the technological capacity to enter the payments business. And Google certainly has the capital."

She said that Google and others, however, lacked the customer history data that MasterCard and its bank owners have -- and said that that data gave existing industry players a competitive advantage.

"Google, PayPal and other newcomers don't have years worth of data to draw on to structure offerings to particular market segments," Marshall said. "Banks do."

Verizon Wireless, Records Vendor Settle (WP)

By Jonathan Krim

The Washington Post, September 20, 2005

A Tennessee company will stop selling personal cell phone records of individuals over the Internet and will provide information on how it acquired such data under an agreement reached last week with Verizon Wireless.

The firm, Source Resources Inc. of Cookeville, Tenn., was among dozens of companies advertising that for fees starting under $100, they would provide records of calls placed to and from any phone user.

Call records frequently are used by law enforcement, which obtains them through court orders. But small data brokers and private investigators have made a business of getting and selling the information online, often acquiring the information using deceptive or illegal practices, according to experts.

Although phone records cannot lead to the type of financial fraud that can result when other types of personal data are stolen, experts said they can be exploited by criminals, such as stalkers or abusive spouses trying to locate their victims.

Wireless carriers say cases of purloined records are rare and that they take measures to safeguard the information. But the Electronic Privacy Information Center, a leading privacy rights group, last month urged the Federal Communications Commission to crack down on carriers for having inadequate security.

Verizon Wireless sued Source Resources in July, after a Verizon Wireless customer complained that his records had been obtained from Source Resources without his permission.

Officials at Source Resources did not return messages seeking comment.

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Verizon Wireless spokesman Jeffrey Nelson said that the information was obtained through a commonly used tactic known as pretexting.

The companies that sell the records impersonate actual customers, using private data provided by the people seeking to buy the information. Nelson said the company is continually updating its procedures and training of call-center employees to guard against pretexting.

And he said Verizon Wireless is looking forward to learning more about the various sources of call records and how they are acquired.

"If you are one of these companies that are stealing people's identities, you better sleep with one eye open," Nelson said.

U.S. Is Close To Approving Deals Altering The Telephone Industry (WSJ)

By Amy Schatz and John R. Wilke

The Wall Street Journal, September 20, 2005

Federal regulators are nearing approval of two deals that would reshape the telephone industry and are in negotiations over likely divestitures and other conditions intended to preserve competition, especially in the huge market for corporate customers.

Federal Communications Commission Chairman Kevin Martin is pressing the FCC staff to deliver as early as tomorrow recommendations to approve Verizon Communications Inc.'s $8.5 billion purchase of MCI Inc. and SBC Communications Inc.'s $16 billion takeover of AT&T Corp., people familiar with the situation say. FCC votes on the deals could come as early as the agency's Oct. 12 meeting.

At the same time, Justice Department investigators have concluded that the merging companies must sell some assets, moves they believe are needed to preserve competition for high-volume business customers, said lawyers close to the government review. Antitrust enforcers are negotiating with SBC and Verizon on the scope of those divestitures, these people said.

That is a concern for SBC and Verizon, since a major goal of their acquisitions was to acquire lucrative corporate customers in order to sell more packages of telecom services.

As a result of both the FCC and Justice Department reviews, regulators are concerned that consolidation will make it more difficult for business customers to get discounts on telecom services.

In particular, regulators are focusing on increasing consumer access to digital subscriber line Internet connections, which consumers are mostly barred from buying unless they also purchase local-phone service; and on so-called special access lines, essentially fiber-optic lines used to provide voice and data to high-volume business customers.

Regulators are considering requiring the merged companies to sell Internet access without requiring consumers -- mostly home users -- to subscribe to phone service. Verizon already allows some customers to do that, but SBC doesn't. Regulators don't appear to be considering price controls.

Patrick Mahoney, an analyst at Yankee Group, said that traditional phone lines are cash cows, so allowing customers buy Internet access without traditional phone service would be costly to telecom providers. Some companies, notably Qwest Communications International Inc., have decided to market DSL-only offerings as customers shed their traditional phone service in favor of Internet-based calling or wireless phones.

In the Justice Department review, SBC and Verizon have argued against the need for divestitures in the high-volume business market. Opponents say the two companies should be required to sell off nearly all local special-access business lines that AT&T or MCI now operate within the Bells' home regions. Under this approach, for example, most big local lines into corporate offices in Manhattan that AT&T operated in competition with Verizon would be sold to a third company to preserve competition.

Qwest, which had earlier bid unsuccessfully for MCI, argues that the deals would create unprecedented market concentration in the crucial business market if the two companies are allowed to buy their closest competitor. To fix this, Qwest wants the Justice Department to order substantial divestitures in SBC and Verizon's home markets -- and is eager to buy those assets, ensuring greater competition.

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The FCC is examining overlapping networks from a geographic perspective, according to people familiar with the review. That would favor the Bells' argument that there are limited competitive concerns. Justice Department officials are reviewing similar data on a building-by-building basis, which suggests they are examining possible divestitures in markets where there is significant overlap.

"If you're talking about 50 buildings, that's one thing. If you're talking about 500, that's a problem," said a Bell company executive. Other possible remedies include making some high-capacity business lines available to other carriers at AT&T or MCI pricing -- at least temporarily.

An FCC spokesman declined to comment on the deal reviews.

The Bells' desire to wrap up the deals by the end of the year has trumped their concerns that the FCC's evenly split board -- thanks to a Republican seat vacated by former Chairman Michael Powell in March that remains unfilled -- will lead to tougher conditions on the deals by regulators. The FCC's two Democrats -- Michael Copps and Jonathan Adelstein -- may extract significant concessions in approving the deals since Mr. Martin needs at least one of them to vote in favor. Neither have seen details of the staff report nor discussed what conditions they might seek.

The Bells have little choice but to move ahead: The FCC's only other Republican, Kathleen Abernathy, must leave the agency when Congress adjourns this winter and her term expires. Waiting for her successor to arrive could delay the deals.

The FCC's two Democrats "have enormous leverage," said Blair Levin, a telecom analyst with Legg Mason Wood Walker Inc. He predicts the deals will be approved "with light conditions, during the fourth quarter of the year, and then things will get really interesting."

File-Sharing Services Seek Pact With Record Studios (NYT)

By Saul Hansell

The New York Times, September 20, 2005

At least five online file-sharing companies have started trying to reach an accord with the music industry to convert the free trading of copyrighted music on their networks to paid services, according to several recording industry and file-sharing executives.

The most advanced discussions are between the recording industry and Grokster, a small California company that has been sued by the entertainment industry, recording industry executives said.

Grokster has agreed in principle to be acquired by Mashboxx, a new company backed by Sony that is trying to start a legal file-sharing service, a person involved in the negotiations said. Mashboxx has made overtures to some file-sharing companies including eDonkey, Morpheus and LimeWire, but negotiations are not active, the person said.

The tentative agreement between Grokster and Mashboxx was first reported by The Wall Street Journal. MashBoxx would make a nominal payment for Grokster, but would share future revenue, the person involved in the negotiations said.

"We are looking at a number of acquisitions," said Wayne Rosso, the founder of MashBoxx, "but they have to make sense."

Michael Page, a lawyer for Grokster, did not return calls seeking comment.

Separately, iMesh, a file-sharing service that last year reached an accord with the music industry to convert to a legal paid service, has made overtures to acquire a number of the other file-sharing services, on the condition that they settle their claims with the recording industry, said Robert E. Summer, the executive chairman of iMesh.

"We have initiated discussion with a number of well-known players," Mr. Summer said. He said it was difficult to say which, if any, of those discussions would lead to acquisitions, in part because of the complexity of potential deals with the recording industry.

Mr. Summer declined to say how much money iMesh was offering the other services, but said "I don't think anyone will get rich off these deals." Rather, he thinks that such arrangements offer the owners of those services the ability to avoid litigation.

Such acquisitions, he said, "are good for iMesh and good for the industry." Mr. Summer is the former president of Sony Music International and former president of RCA records. He was hired by the founders of iMesh, which has moved to New York from Israel, to oversee relations with the record industry.

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IMesh has agreements with all the major record labels and plans to introduce its service to consumers "imminently," Mr. Summer said.

Mashboxx announced a deal with Sony in June that would allow Mashboxx to sell Sony's music on its network. The company is in talks with other record labels, Mr. Rosso said. He hopes to introduce a public test of the service in December. He served as president of Grokster from 2001 until 2003 and remains close to Daniel Rung, the California entrepreneur who founded and owns Grokster.

The recording industry was handed more legal leverage in June when the Supreme Court ruled, in MGM v. Grokster, that the owners of file-sharing services can be held liable for contributing to the infringement of copyrights under certain circumstances. The case, which has both Grokster and Streamcast Networks, the owner of Morpheus, as defendants, was sent back to a lower court for further action. Last week, the Recording Industry Association of America sent letters to several file-sharing services, including LimeWire, eDonkey, and BearShare. The letters demanded that the companies stop allowing users to trade copyrighted files and invited them to discuss potential settlements in advance of litigation. A majority of the recipients of those letters have initiated at least preliminary settlement discussions, according to a recording industry executive.

Jenni R. Engebretsen, a spokeswoman for the recording association, confirmed that those letters were sent but declined to discuss any negotiations that have resulted.

Record industry and file-sharing executives say that the recording industry is looking for settlements that resemble its deal with iMesh, which paid $4 million in damages and promised to convert to a paid service that blocked the trading of copyrighted files without the permission of the copyright owner. None of the executives would discuss the amounts that the industry has been asking in the most recent settlement discussions.

"Ever since the Grokster decision, we have been thinking about what our next iteration should be and obviously the letter last week made that process more urgent," said Sam Yagan, the president of MetaMachine, which distributes eDonkey. He said he had talked to both iMesh and MashBoxx but had not decided whether to sell the company, to offer his own legal service, or to continue to fight the record industry.

Mark Gorton, the chief executive of LimeWire, said his company had not decided how to respond to the recording industry's letter. He declined to discuss any prospective acquisition offers. Michael Weiss, the chief executive of StreamCast, declined to comment on potential deals with iMesh or Mashboxx. BearShare executives did not return calls for comment.

While iMesh has taken nearly a year to develop its paid service - allowing free trading of files in the interim - the industry is likely to demand that other services stop free file-trading relatively quickly. That will require complex software development and business negotiations.

File-sharing services allow users to download files from each other's computers. Both iMesh and Mashboxx intend to use technology that examines files being downloaded and compares them with a master list of copyrighted files provided by record companies. If a user tries to download a copyrighted file, the download may simply be blocked or the user may be asked to pay a fee as with services like Apple's iTunes Music Store.

Both iMesh and Mashboxx have developed methods they hope will help lure users accustomed to free music into paying for songs. Mashboxx will allow users to download files free at low quality several times before being forced to pay for the song. Mr. Summer declined to detail iMesh's marketing plan, but music industry executives say it involves offering a long free trial of a subscription service, which allows users to listen to an unlimited number of songs for a fixed monthly fee.

Financier Weighs Visteon's Assets For Parts Venture (WSJ)

By Jeffrey McCracken

The Wall Street Journal, September 20, 2005

Billionaire Wilbur L. Ross, the New York-based financier who in recent years merged five faltering steel companies to create a steelmaker he later sold for a huge profit, says he has as much as $4.5 billion in capital to bank on his next venture -- buying up troubled auto-parts makers, possibly including unprofitable operations Visteon Corp. is about to jettison.

Mr. Ross's investment group and other funds he is working have already snapped up half the bank debt of automotive supplier Collins & Aikman Corp., which is under Chapter 11 bankruptcy-court protection, and stakes in smaller suppliers in

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Europe and Asia. Another potential target he could be interested in includes the 23 plants and other facilities that Visteon is about to transfer back to former parent Ford Motor Co.

"Our vision is to build a very diverse, very large, very international company, which could include potentially" the parts of Visteon that are going back to Ford, he said in an interview. "My understanding is Ford has not yet closed on that transaction, but yes they are sure the kind of thing we'd look at. Visteon is the kind of company we are looking at," said Mr. Ross.

Visteon and Ford last week announced an agreement under which Ford will take over 17 Visteon plants, plus six offices, research centers and other facilities in the U.S. and Mexico on Oct. 1.

The assets, with combined annual sales of more than $7 billion, by themselves would make up the world's 17th largest auto supplier by sales. Ford, which will have to spend between $450 million and $650 million this year and $300 million to $500 million after that for buyouts of hourly workers, has said it hopes to sell the businesses to investors or new owners.

A Visteon spokesman declined to comment on the company's restructuring plans. A Ford spokesman said he wasn't aware of any talks between Mr. Ross and Ford regarding the Visteon plants and declined to comment further.

Mr. Ross said he is interested in the auto-parts business because it is "fragmented with too many companies that are too dependent on one company. The existing companies aren't global or they aren't global enough because they don't have operations in Eastern Europe or Asia, which are two obvious places you should be," he said.

Mr. Ross, who sold International Steel Group Inc. to Mittal Steel Co. earlier this year, said his group has been evaluating the auto-parts sector as a potential investment for two years. Besides owning 50% of Collins & Aikman's bank debt, his investment group has a 25% stake in the French operations of Oxford Automotive, a Michigan supplier that was recently liquidated.

He said he is also keeping an eye on Delphi Corp., the country's largest auto supplier by revenue, to see how it resolves its three-way talks with former parent General Motors Corp. and the United Auto Workers union. His interest in Delphi was reported Friday by the Detroit Free Press.

Delphi's new chief executive is Robert S. "Steve" Miller. Mr. Miller was running Bethlehem Steel Corp. when Mr. Ross's International Steel purchased the company two years ago. Mr. Miller has threatened to take Delphi into bankruptcy by Oct. 17 unless he can get major concessions from GM and the UAW.

Mr. Ross said he hasn't talked with Mr. Miller about Delphi and feels like the last thing Delphi needs is a third party like his investment group, W.L. Ross & Co., getting involved.

"We would have potential interest in Delphi, but they are involved in complex talks with General Motors and the UAW and the last thing they need is another part. We may be more interested once we see what they can do. I think we will know a lot more by October 17," said Mr. Ross.

He said the capital he has access to is one thing that gives him a significant advantage over other financial players that have tried to make money in the auto-supplier sector. "We are not capital constrained. We have about $4.5 billion in capital equity and our partners also like to co-invest so we have even more," he said.

He said he would also avoid burdening a company's balance sheet with too much debt. He said that was one of the problems that hurt Collins & Aikman, which was built through a series of acquisitions.

"The margins aren't so high at these companies that you can afford to do that," he said.

StarPoint To Buy Acclaim In Joining Of Energy Trusts (WSJ)

By Tamsin Carlisle

The Wall Street Journal, September 20, 2005

CALGARY, Alberta -- StarPoint Energy Trust said it agreed to acquire Acclaim Energy Trust in a stock transaction, in an attempt to create one of the biggest entities in Canada's increasingly crowded energy-trust sector, with the financial clout to pursue larger acquisitions.

Under the agreement, StarPoint unitholders would get 53% of the new trust, receiving one unit for each StarPoint unit held. Acclaim unitholders would receive 0.8333 of a new-trust unit for each Acclaim unit held. StarPoint and Acclaim unitholders also would receive shares in a company exploring for oil and natural gas, to be spun off from the combined entity's assets. Based on

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StarPoint's closing share price, Acclaim shareholders would receive equity valued at about 2.28 billion Canadian dollars (US$1.93 billion).

At a news conference, Acclaim President and Chief Executive J. Paul Charron, who has been named to the same post at the combined trust, said he expects the increase in size to give the trust a competitive edge in pursuing acquisitions in a heated international market for oil and natural-gas assets. "We've been looking for U.S. or international transactions since January," he said. "We felt that was where the market was going, and we like to get ahead of the pack."

Acquisitions are the lifeblood of energy trusts. They don't explore for oil and gas, but instead develop mature properties, paying out much of their cash flow from production to unitholders through monthly distributions. With acquisition opportunities in Canada dwindling because the country's energy trusts have already snapped up most of the conventional oil and gas properties that major oil companies have sought to unload, some of the larger Canadian energy trusts are now seeking transactions in the U.S. and overseas.

Assuming unitholders and regulators approve the proposed merger, which is expected to close in early January, the combined entity would seek a listing for its units on the New York Stock Exchange, joining just a handful of Canadian energy trusts interlisted in the U.S. Mr. Charron said he expects that by joining together, the two Calgary companies will increase access to U.S. capital.

On the Toronto Stock Exchange, StarPoint's units closed at C24.84 Canadian dollars, up C$1.74. Acclaim's units closed at C$20.70, up C$1.15.

Norway's Norsk Hydro To Acquire Spinnaker Of U.S. For $2.45 Billion (WSJ/DJN)

By Ian Talley, Dow Jones Newswires

The Wall Street Journal, September 20, 2005

OSLO -- Norsk Hydro ASA said it will acquire Spinnaker Exploration Co., of the U.S., for $2.45 billion (€2 billion), substantially accelerating the Norwegian company's international production growth and making the Gulf of Mexico a future core production area.

Both Norsk Hydro and analysts said the price is high but that the acquisition is necessary if Norsk Hydro is going to increase the low rate at which it replaces reserves. The Norwegian oil, gas, power and aluminum company said it will pay $65.50 a share for Spinnaker, which has oil and gas assets primarily in the Gulf of Mexico.

"The acquisition ... will significantly raise Norsk Hydro's international oil and gas potential," said Norsk Hydro Chief Executive Eivind Reiten.

Spinnaker's stock jumped 32% to $64.19 in afternoon trading yesterday on the New York Stock Exchange. In Oslo, Norsk Hydro rose 1% to 736.50 Norwegian kroner (€94.50).

Norsk Hydro's decision is in line with its strategy and that of larger Norwegian rival Statoil ASA to look beyond the North Sea for new energy reserves as output in the North Sea slows.

Norsk Hydro, which gets most of its oil and gas at home, pumped 539,000 barrels of oil equivalent daily in the second quarter, down from 569,000 barrels a year earlier.

Norsk Hydro's international output should rise 40% from 2005 through 2008, following the purchase, Mr. Reiten said.

"It's expensive, but positive because they needed to become more aggressive," said Lars Marius Furu at Fondsfinans in Oslo.

Spinnaker's proven reserves, the amount it reports to the U.S. Securities and Exchange Commission, amount to 62 million barrels of oil equivalent, divided roughly equally between oil and natural gas.

"The main reason behind the transaction is the great potential in exploration," Mr. Reiten said.

Analysts said that, based on the SEC-reported reserves, the cost of the acquisition is higher than $40 a barrel. Based on expected reserves of 129 million barrels of oil equivalent, Norsk Hydro said the deal's cost is about $19 a barrel.

Norsk Hydro said its long-term oil-price assumption -- a measure used to determine the economic soundness of deals -- is about $35 a barrel, up from its previous price assumption of $25 a barrel.

Microsoft Acquires Alacris To Beef Up Software Security (WSJ)

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By Robert A. Guth

The Wall Street Journal, September 20, 2005

Microsoft Corp. said it bought privately held Alacris Inc., a small maker of software for managing employees' access to corporate computer networks, to help improve the security of Microsoft's programs.

Terms weren't disclosed. Ottawa-based Alacris's software manages smart cards, or plastic cards that store a person's identification data. The purchase is an extension of joint work by the two companies on security software called idNexus for managing smart cards.

Alacris is part of a recent wave of companies that are developing technologies for administrating the electronic "identities" of computer-network users by means such as granting or removing their access. In March, Oracle Corp. bought identity-management software maker Oblix Inc. Other companies in the field include ActivCard Corp. of Fremont, Calif.

By purchasing Alacris, Microsoft intends to make it easier for users of its server software to administer smart cards -- handling tasks such as setting up people with cards and retiring cards when a person leaves a company.

Under increased scrutiny by its customers over the security of its software, Microsoft has bought technologies in the past two years to help it fight Internet-borne attacks such as spyware and viruses.

The Alacris software could complement Microsoft's security plans for Windows Vista, the next version of its operating system, due for release in the second half of next year. Microsoft executives say that Windows Vista will have improved support for smart-card access to computer systems.

Microsoft Chairman Bill Gates has long criticized the use of user names and passwords as an inferior method of securing access to vital corporate computer systems. In response, Microsoft is trying increasingly to promote smart cards and biometric methods -- such as fingerprint readers -- as alternatives to passwords.

ENVIRONMENT/INDIAN AFFAIRS:

House Bill Would Limit U.S. Power To Protect Species (NYT)

By Felicity Barringer

The New York Times, September 20, 2005

WASHINGTON, Sept. 19 - The chairman of the House committee overseeing natural resources introduced a bill Monday that would make it more difficult for the federal government to set aside land it deems crucial to the health of endangered species.

The proposed amendments to the Endangered Species Act also increase the obligation of government agencies to tell landowners quickly if the law limits their development options, and to compensate them.

The measure, which drew quick denunciations from groups like Environmental Defense, Defenders of Wildlife and the Natural Resources Defense Council, was proposed by the House Resources Committee chairman, Representative Richard W. Pombo, Republican of California. It was immediately put on a fast track, which is expected to bring it before the full House early next week.

In a news conference Monday, Mr. Pombo said his legislation "will put the focus on recovery where it should be and will eliminate a lot of the conflicts we have had with private property owners."

The proposal was markedly different from draft legislation circulated earlier this summer, which put even greater restrictions on federal agencies that enforce the law, and which would have automatically taken the law off the books in 2015. The new measure abandons the latter goal but creates new hurdles for federal agencies - chiefly the Fish and Wildlife Service - as they take actions to protect species.

The Endangered Species Act has been a flashpoint for landowners, property-rights advocates and state and local governments, most in the West, who see its provisions as onerous and costly, and chafe at the ability of people not directly involved in a dispute to sue the federal government to ensure compliance with the law.

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At the same time, the law is credited with preventing the extinction of hundreds of species of insects, plants and animals in the past quarter-century, though only a handful of the more than 1,200 listed species have recovered sufficiently to be removed from the list.

Mr. Pombo's first effort to rewrite the law, in the mid 1990's, failed. Since becoming chairman of the committee, he had made this goal a priority.

An important part of the legislation is a provision that allows the Interior Department, the parent agency of the Fish and Wildlife Service, to provide "conservation grants" to property owners who are deemed to be helping conserve an endangered species. The legislation also requires that property owners be paid "fair market value" if, in the view of federal biologists, their development plans would violate the law.

The purpose of the compensation would be "to alleviate the burden of conservation measure imposed on" landowners who forgo their plans in order to help a species' survive.

Chuck Cushman, the executive director American Land Rights Association, praised this approach, saying: "We're getting away from the command-and-control penalty concept. More landowners will feel free to help species and not feel that they're going to lose their land.

Right now, Mr. Cushman added, "there's a fair amount of shoot, shovel and shut up going on," by landowners who would rather break the law and kill an endangered animal than risk facing land-use restrictions.

But Michael Bean, who heads the wildlife protection program at Environmental Defense and was an early proponent of working with landowners, criticized the new measure as a "big step backwards for endangered species conservation." He faulted a new requirement that federal scientists provide, within 90 days, an answer to any landowner's question about whether a planned activity would run afoul of the act by harming an endangered species.

Under the new law, if the government has not answered within 90 days, the landowner can proceed with the plans. Mr. Bean said "there's potentially no limit to the sorts of requests that could be made of" federal biologists "by businesses seeking to develop, build, cut trees."

The Fish and Wildlife Service and the National Marine Fisheries Service, he added, have traditionally been stretched in trying to meet deadlines in the existing law and have frequently failed to do so.

Losers In Eminent Domain Case Face Hefty Fees (WT)

By Joyce Howard Price

The Washington Times, September 20, 2005

Seven homeowners in New London, Conn., who narrowly lost a court battle to save their homes from condemnation say the city is still demanding as much as $300,000 in "use and occupancy" fees dating to the November 2000 condemnation order.

They say the demands are being made even though an eviction order from last week has been rescinded. It had been issued by the semi-public New London Development Corp. and had told the homeowners to move out in the next 30 to 90 days and pay $600 a month in rent while they continue to occupy the premises.

An attorney for NLDC, which wants to demolish the homes to make room for private development, had told the homeowners' attorney last year that the city, for which NLDC has acted as an agent, expects to collect the occupancy fees.

"We know your clients did not expect to live in city-owned property for free, or rent out the property and pocket the profits ... for three-and-a-half years and counting ... if they ultimately lose the case," the corporation wrote then.

NLDC "has not retracted that 2004 demand," said Scott Bullock, senior attorney for the Institute for Justice, which represented the homeowners in their losing U.S. Supreme Court battle to prevent the city from using its power of eminent domain to condemn their properties and give them to NLDC.

Asked yesterday whether those large debts are still owed, David Goebel, chief operating officer of NLDC, said, "I can't say what I don't know."

But Ron Angelo, deputy commissioner for the Connecticut Department of Economic and Community Development, yesterday seemed skeptical of whether NLDC would get the money.

"Those use and occupancy fees are still accruing, but accruing and collecting are two different animals," he said.

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The seven-member New London City Council was to vote last night on a motion to express no confidence in NLDC and its top leaders, Mr. Goebel and President Michael Joplin. But such action would not derail the project.

The Senate Judiciary Committee will hold a hearing today on the plight of the New London homeowners. The House Judiciary Committee plans a hearing Thursday.

The homeowners were plaintiffs in the case of Kelo v. City of New London, which the Supreme Court decided on June 23. In its 5-4 ruling, which outraged property rights advocates, the court held that government can seize property from owners and give it to a private developer who promises to use it to create jobs and generate tax revenues.

The houses in the Kelo case are near a 90-acre waterfront site in New London slated for development, intended to bolster a recently opened global research facility belonging to Pfizer Inc., the pharmaceutical giant.

When Connecticut Gov. M. Jodi Rell learned Sept. 12 of debt-warning letters sent out by NLDC, she was "incensed" that she had not been informed in advance and ordered that the letters be rescinded, her spokesman said.

"Governor Rell thought everyone had agreed to a [voluntary] moratorium" she had requested on eminent domain seizures, said Judd Everhart, a spokesman for the governor.

Mrs. Rell "feels the city of New London and NLDC can work their project around these homes, so the tenants are not forced out," Mr. Everhart said.

Some of the homeowners insist they are not leaving. They include Wilhelmina and Charles Dery, who live in a house that has been in Mrs. Dery's family for 100 years; she was born there in 1918.

NLDC has held title to the 13 homes involved in the legal dispute since November 2000. The compensation paid for those properties was put into an escrow account while the courtroom battles raged.

Alaska Natives Offer A Herd Of Reasons To Block Oil Drilling (WP)

By Vanessa De La Torre

The Washington Post, September 20, 2005

Solar-powered loudspeakers on a cloudy afternoon is about all the defense Sarah James can muster these days against the threat of government, oil companies and what she calls "cultural genocide" if they have their way.

A protest banner sways in the wind, gently imploring museum-goers, businesspeople, anyone hustling to the Capitol, to slow down for a moment and "Save Gwich'in Way of Life." The words are thickly markered in black and red; drooping toward them is a turquoise flower with a sad face. "Our culture is not for sale to balance national budget," James wrote in small bold letters.

As a Gwich'in elder, James has spent nearly two decades fighting off proposed oil drilling in her Alaskan homeland. Now comes her toughest battle yet: Congress is set to pass a budget bill that includes a provision allowing for drilling in the Arctic National Wildlife Refuge. Some environmental groups argue that a limited oil supply in the Arctic's coastal plains won't ease U.S. dependence on foreign oil, or prices at the gas pump post-Katrina, and that development would damage one of the Earth's last untouched lands.

The Gwich'in (pronounced GOO-chin), a nation of 8,000 Native Americans who subsist on roaming caribou in the North Slope, see the prospect of drilling as a sure sign of their own demise.

On this particular afternoon, the Gwich'in protest was in its third week (out of six) in a small park opposite the entrance of the National Museum of the American Indian, some days to little notice.

"Gwich'in?" muses a middle-aged woman, squinting at the banner from Independence Avenue. "I don't know what that is." She decides not to find out. Later, a dapper man, Bogdan Wojciechowski, strolls to the modest Gwich'in table and observes for a moment. "Jay! Come over here so you can learn something."

"No thank you, Dad, no thank you," replies the grade-schooler. (However, a caribou bone ultimately intrigues him.)

James, 61, of Arctic Village, has been trying to inform the public of her native land since 1988, when proposed refuge drilling first threatened the Porcupine caribou herd and the Gwich'in way of life. Eight battles and no losses later, she says, "We must be doing something right." The closest bout came in 1995, when Congress passed a bill that allowed drilling; President Clinton vetoed it after pressure from environmentalists.

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The environmental types return in the ninth showdown, says James, and "they're doing the fight as we are. But their interest is recreation, scenic, protecting animals. Us, it's our life."

The protest allows James to preach about her homeland, Vadzaih googii vi dehk'it gwanlii . "It means 'Sacred Place Where Life Begins' . . . It's not a thing of the past," she says. "It's alive, it's not in a book only." She sits on a metal folding chair, tapping a native drum, her right knee bouncing in rhythm.

"We have to live there for thousands of years . . . so we want to keep it that way. The Gwich'in people are a caribou people. It's our food, tools, clothing. It's our shelter. We have a song called 'The Caribou Skin Hut Dance.' "

A man with two kids passes the table that has a photo album, buckskin jacket, a pair of ceremonial gloves with beaver fur and beaded flowers. A blond girl lingers; she gets tugged toward the museum.

Kelvin Long, 29, a Navajo leader from Flagstaff, Ariz., follows James to the mike. He is one of the few volunteers who have traveled to Washington for the vigil, and says he is here out of solidarity and in recognition that the Arctic refuge is sacred. "It's a place where you can still drink out of the rivers -- good, clean water," he begins. "So tell Congress it's not okay, tell them no.

"Come to our little table, our humble little table. Come take a stand with us, fight the big fight with us. . . . After you go into the museum and learn about native culture, come here and find out what's going on with native people right now."

Then Long breaks into song about the Navajo "red path" and walking that path in beauty, over the beeping of a garbage truck. James sits on a white Igloo cooler, humming along while stapling protest handouts.

"Today's a little bit slow," Long acknowledges later. A security guard lounging on a park bench, smoking a cigarette, waved people toward the table. One tourist from Florida, 71-year-old Barbara Gerber, took a pamphlet and ranted at the Bush administration. "They can't stand it that there might be a place that hasn't been drilled yet," she fumed.

Others say, "Good luck on that," and every couple of hours a person might offer a dollar along with: "I'm with you a hundred percent. One hundred percent." An Alaskan family offers to call their state legislators, wink-wink, and James gets the joke. Sens. Ted Stevens and Lisa Murkowski are among the staunchest supporters of drilling in the refuge.

By 3:30 p.m., the donation vase contains $25. It clearly won't fly in another Gwich'in from the Arctic, but will reimburse Long for the McDonald's chicken sandwiches he bought for their lunch. One visitor, smiling, flashed a Sacagawea dollar before plunking it in.

The biggest crowds tend to come in the evening, says Long, reclining in a lawn chair. On most days, they hold the vigil till 6 p.m., just after the NMAI closes and a steady flow of tourists shuffle out. "I definitely wish more people would stop by," he notes. But Long, with kind eyes and a calm bearing, says he understands. "A lot of people in the museum are on a schedule."

At one point, museum volunteer Donna Brandes wanders by. She explains her native lineage, chats a while. Long informs her of the "Don't Drill, Storm Capitol Hill!" rally planned for today, which organizers from the Arctic Refuge Action coalition hope will attract tens of thousands of people.

"So, you think this will pay off," says Brandes, speaking of the pamphlets, of the native drums, of James making business calls on a park bench. Long is quiet. "Nothing stops this administration," Brandes says.

James gives another go at the microphone. "It's charged by solar panels," she reminds passersby, because that is how the Gwich'in live. But her words meet static as the battery powering the sound system loses its juice. Overcast sky. "Solar energy is clean energy. We need to learn how to use less oil ."

James pauses; her voice is no longer amplified. "I think I have to recharge batteries, so stay put and I'll be back!" And so people milled around, as the vigil drummed on.

FBI/DEA/ATF/USMS:

Feds: Internet Drugs Ring Cracked (PHDN)

By Jim Smith

Philadelphia Daily News, September 20, 2005

Dr. Akhil Bansal was one of 17 people indicted by a federal grand jury in Philadelphia last April for allegedly taking part in "an international conspiracy to import and distribute" prescription drugs, using the Internet.

Five additional defendants were charged in a "related indictment" in New York.

The major charges in the Philadelphia case include conspiracy to distribute and import controlled substances, operating a continuing criminal enterprise, and conspiracy to commit money laundering.

Federal authorities seized more than $6 million from defendants' accounts in foreign and U.S. bank accounts.

"This case shows us how the Internet has opened the door to an unregulated universe from which anyone with access to a computer can purchase anything from anti-anxiety drugs to anabolic steroids," said U.S. Attorney Patrick L. Meehan, the Philadelphia-area's top federal lawman, when the cases were made public.

Authorities contend that the drugs were smuggled into the United States from India.

"The Web site owners do not require any prescription for the purchase of these drugs, which is contrary to law.

"The drugs are manufactured abroad, do not bear required labels and warnings, and are being imported without Customs declarations or payment of duty," said Christine Konieczny, a Lower Merion police officer assigned to a DEA Task Force.

Bansal, his father, Dr. Brij Bansal; a sister, Julie Agarwal; and her husband, Yatindra Agarwal, were charged with shipping medicines manufactured in India to Internet pharmacies' customers in the United States.

The other relatives are all in India.

Congress To Probe Orioles' Palmeiro (AP)

AP, September 20, 2005

WASHINGTON Sep 19, 2005 — Congressional investigators looking into whether Rafael Palmeiro lied under oath are interviewing players who know him, including a Colorado outfielder suspended this year for steroids, The Associated Press has learned.

Palmeiro testified to the House Government Reform Committee in March that he never had used steroids. The Baltimore Orioles slugger, one of four players in history with 3,000 hits and 500 homers, was suspended by Major League Baseball for 10 days in August for failing a drug test.

A congressional source familiar with the committee's work, speaking to the AP on condition of anonymity because the investigation is ongoing, said Monday that "several active players" have spoken or will speak with the committee. That source would not identify who was interviewed.

But a baseball source, also speaking to the AP on condition of anonymity because the inquiry is ongoing, said Colorado Rockies outfielder Jorge Piedra spoke on the phone with the committee within the last week.

Piedra, who has trained with Palmeiro in the offseason, was suspended for 10 days in April for a positive steroid test, the second player to be publicly identified under the sport's new rules.

The congressional source indicated that all the players asked to talk to the committee recently were chosen because they have relationships with Palmeiro such as teammates or workout partners and could have knowledge about whether he might have used steroids before his testimony.

On March 17, Palmeiro appeared before the Government Reform Committee alongside Mark McGwire and Sammy Sosa, pointed his finger for emphasis and declared: "I have never used steroids. Period."

On Aug. 1, baseball announced his suspension. Palmeiro stood by his statements to Congress, saying he didn't know what caused the test result.

When he returned to the Orioles after his ban, Palmeiro said he would not speak about the case until Congress concludes its perjury investigation.

He had just two hits in 26 at-bats after returning and was booed by spectators at Baltimore and on the road. Palmeiro hasn't played since going home to Texas early this month to rehabilitate knee and ankle injuries.

Afghan Heroin Tied To Terror (WT)

By Rowan Scarborough, The Washington Times

Washington Times, September 20, 2005

WASHINGTON -- Insurgents and foreign terrorists in Iraq are being financed in part by the illicit drug trade originating in Afghanistan and passing through Iraq to Europe, congressional and defense sources say.

Money from Afghan-produced heroin is being used by terror cells to buy weapons and equipment, and pay Iraqi citizens to conduct attacks on U.S. troops and to plant deadly improvised explosive devices (IEDs), U.S. officials say.

In a Sept. 8 letter to Secretary of State Condoleezza Rice, House International Relations Committee Chairman Henry J. Hyde wrote of an "emerging and dangerous growth of the illicit drug trade in Iraq, especially with heroin, now originating and pouring out of nearby Afghanistan."

"We can no longer ignore the threat to our national security from drugs in Iraq," the Illinois Republican said in the letter, obtained by The Washington Times.

A senior military official, who spent more than a year in Baghdad's green zone, which houses the U.S. Embassy, said Iraqi intelligence has documented drug routes that cut through Iran, into Iraq and then to Europe via Turkey. The official said some of the heroin cash goes to insurgents.

Andre Hollis, the Pentagon's top counternarcotics official in President Bush's first term, said there is growing evidence that the insurgents are buying and selling heroin for profit.

"Iraq has become a transit route for drugs, which are sold in both Europe and in Iraq and are used to further destabilize Iraq by funding anti-coalition militant activities in Iraq," Mr. Hollis said in an interview.

He said Iran's hard-line Islamic regime, which opposes the U.S. presence in Iraq, is permitting heroin to cross its territory.

"Iran doesn't want the drugs to stop in Iran," Mr. Hollis said. "They don't care if they end up in Europe or stay in Iraq."

A U.S. military spokesman in Baghdad said he had no immediate comment on any heroin-terror link in Iraq.

Mr. Hyde urged Miss Rice to find $100,000 to fund a study of Iraq's illegal-drug networks by the United Nations Office on Drugs and Crime.

Adam Ereli, a State Department spokesman, stopped short of endorsing a study, but added, "We support and are prepared to work with the United Nations to assess Iraq's vulnerabilities and see what we can do to prevent this from being a problem."

Mr. Hyde's letter referred to the seizure earlier this month of 44 pounds of Afghan-produced heroin in the Shi'ite city of Karbala. Last year, The Washington Times quoted a Polish general in charge in southern Iraq as saying his troops seized bags of heroin during various raids in the same area.

To anti-drug advocates, such as Mr. Hyde, the Karbala seizure put the spotlight on the terror-drug connection in Iraq, just like the seizure of two drug boats in the Arabian Sea last year highlighted the al Qaeda connection in Afghanistan. The U.S. Navy said at the time that the boats were manned by al Qaeda-linked traffickers.

Congressional and defense sources say the military downplays the al Qaeda-heroin link because it does not want Congress to push the Pentagon into the counternarcotics mission. It views such work as law enforcement, not war-fighting.

The Washington Times has obtained photographs taken by American special-operations forces of bags of opium gum seized on raids of al Qaeda and Taliban hide-outs in Afghanistan.

"We know that illicit drugs fuel and finance terrorism in Afghanistan, where the opium and heroin in the region originates," Mr. Hyde said in his letter to Miss Rice. "It passes out through terrorist-controlled areas, is taxed by them, and helps finance and arm our terrorists enemies."

The U.N. drug office last did an Iraq survey two years ago, which reported that "Iraq's porous borders, an established culture of smuggling, combined with its geographic location ... suggests the strong possibility of growth in drug trafficking."

Mr. Hyde said he wants to a new U.N. study "to be especially focused on its potential impact in financing insurgent terrorists and their networks."

Drug Trial To Begin For Former Haitian Anti-narcotics Chief (BRAH)

By Curt Anderson

The Bradenton Herald, September 20, 2005

MIAMI - A top Haitian police official in the government of ousted President Jean-Bertrand Aristide is facing trial on charges that he accepted thousands of dollars in bribes to help Colombian drug lords move huge loads of cocaine through the impoverished Caribbean country.

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Jury selection is scheduled to begin later this week in the case against Evintz Brillant, the only one of four former senior Haitian police officials who has not pleaded guilty in the investigation of drug trafficking inside the Aristide government.

The three who pleaded guilty are expected to cooperate in the U.S. government's against Brillant, who has pleaded innocent and faces a life sentence if convicted. The trial's scheduled Monday start before U.S. District Judge Marcia Cooke was delayed a few days by the approach of Tropical Storm Rita.

According the U.S. Drug Enforcement Administration, Brillant used his post as head of Haiti's top anti-drug police unit from 2001 to 2004 to help drug traffickers ship thousands of pounds of cocaine through Haiti, including the airport in the capital of Port-au-Prince, to the United States, Europe and elsewhere.

Brillant and other top Haitian police officials, DEA Agent Noble Harrison said in a court affidavit, "agreed to look the other way when shipments of cocaine were in transit" in exchange for bribes, some of which he used to pay lower-level police officers to provide security and protection for the drugs.

On occasion, Brillant "stopped and arrested drug traffickers for the purpose of receiving payments and bribes," prosecutors said in court papers.

The investigation has produced no evidence implicating Aristide, even though some convicted drug dealers have insisted that the former president was intimately involved in trafficking through Haiti. Aristide was ousted in February 2004 and is now living in exile in South Africa.

"There was never any evidence and there remains no evidence of it," said attorney Ira Kurzban, who represents Aristide in Miami. "They've been trying for two years. There is no case."

Brillant is specifically accused by U.S. prosecutors of being involved in the drug network controlled by convicted Haitian drug trafficker Sergo Edouard. Brillant was paid $10,000 in one instance for agreeing to protect drug shipments and got a share of $150,000 from another trafficker to provide similar security.

Although the Haitian police arrests were trumpeted as a major success in the war on drugs by the Bush administration, a U.S. State Department report issued earlier this year says that the flow of Colombian cocaine and other drugs through Haiti continues virtually unchallenged.

The report says that Haiti, with its 1,125 miles of virtually wide open coastline, clandestine airstrips, uncontrolled seaports and police corruption make it difficult for the Haitian government to stop the drug trade.

"Haitian drug trafficking organizations continue to operate with relative impunity," says the March report. "Haiti remains an important transit country for Colombian drug traffickers."

Freighters are most often used to transport the drugs directly from Haiti to the United States, concealed in shipments of legitimate items such as cement or in hidden compartments. Aircraft are also used, and some drugs are driven over the border with the Dominican Republic to be sent to Puerto Rico and elsewhere, the report says.

The other Haitian police officials who have pleaded guilty are Jean Nesly Lucien, the former national police director; Rudy Therassan, a former commander with the police; and Romaine Lestin, former police chief at the Port-au-Prince airport.

Therassan was sentenced in July to 15 years in prison, while Lucien and Lestin are scheduled for sentencing in November.

194 Youths Arrested In Crackdown On Violence (TUCCIT)

By DAVID L. TEIBEL and HEIDI ROWLEY, Tucson Citizen

Tucson Citizen, September 20, 2005

Tucson police made 356 arrests over the summer in specialized efforts to reduce the number of juveniles involved in crimes and to put a cap on a rash of murders.

Of that number, 194 of those arrested were juveniles while the rest were adults.

Operations Division South Capt. Perry Tarrant said the summer youth deployment, which lasted from May 27 to Aug. 20, was funded by a grant from the Bureau of Alcohol, Tobacco and Firearms, and a private grant from Kino Weed and Seed.

On July 28, police and ATF agents expanded the program to target adult troublemakers after there were four homicides in three days: one on July 23, one on the 24th and two on the 25th, said Assistant police Chief Kathleen Robinson.

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The expanded special patrols had officers looking for such things as illegal gatherings in business parking lots, rowdy gatherings and drinking in public, considered precursors to killings. The patrols went on until Sept. 10, Robinson said.

From July 28 to Sept. 10 there were no homicides in the South Side patrol area, said Sgt. Kerry Fuller, a police spokeswoman. During the same period last year there were two, she said.

Citywide there have been 33 homicides this year. There were 38 by this time last year, Fuller said Friday afternoon.

Tarrant said the ATF grant provided for increased enforcement in the South Side patrol division, which covers Tucson south of 22nd Street.

Tarrant said officers focused on getting guns off the street.

In all, 166 weapons, including handguns, rifles and shotguns, were seized.

Thirty-eight firearms cases are ready for prosecution as a result of the deployments, officials said.

Tarrant said that overall, "We had the impact we were looking for."

Robinson said the department will continue violence reduction patrols throughout the year.

Federal Judge Rules That Marshals Service Must Release Photos Of Defendants (FREEP)

Detroit Free Press, September 20, 2005

DETROIT (AP) -- A federal judge has ruled that the U.S. Marshals Service must comply with media requests for photos of criminal defendants, but said it can take up to 20 days to process the requests under the Federal Freedom of Information Act.

The ruling issued Monday by U.S. District Judge Anna Diggs Taylor also said that the requests may be processed through the Marshals Service headquarters in Washington, rather than through its office in Detroit, the Free Press reported in a story on its Web site Monday.

The newspaper had asked in its lawsuit that the photos be provided through the Detroit office. Pictures previously requested in Detroit usually were provided the same day.

The Free Press and the Akron (Ohio) Beacon Journal sued the Marshals Service earlier this year after it stopped providing the photos on the grounds that it would invade the privacy of defendants.

Diggs Taylor also granted a Free Press request that the government pay its legal fees in the suit. Herschel Fink, an attorney for the newspaper, said he didn't know how much it would cost.

Deadly Rig Blast May Have Been Criminal (NYPOST/AP)

The New York Post, September 20, 2005

INDEPENDENCE, Kan. (AP) -- Evidence of possible criminal activity has been found in a natural gas drilling rig explosion that killed two workers and injured a third, authorities said Monday.

The federal Bureau of Alcohol, Tobacco, Firearms and Explosives, the Kansas State Fire Marshal's office and the Montgomery County Sheriff's Department are offering a $10,000 reward for information leading to an arrest and conviction in the June 2 explosion.

"If this tragedy was the result of a deliberate criminal act, we will not rest until whoever is responsible was brought to justice," Sheriff Stan Veach said in a statement announcing the reward.

Paul Marquardt, an ATF spokesman in Kansas City, Mo., would not discuss the evidence in detail.

The rig belonged to McPherson Drilling of Cherryvale. Shortly after the explosion, one of the owners of the company noted the unusual nature of the blast.

"You could tell the way the pipe blew that something inside the pipe blew out instead of up," Nancy McPherson said on the day of the explosion. "My husband says he has never seen anything like this before."

IMMIGRATION:

Immigration Nominee's Credentials Questioned (WP)

By Dan Eggen And Spencer S. Hsu

DOJ_NMG_0006587

The Washington Post, September 20, 2005

The Bush administration is seeking to appoint a lawyer with little immigration or customs experience to head the troubled law enforcement agency that handles those issues, prompting sharp criticism from some employee groups, immigration advocates and homeland security experts.

The push to appoint Julie Myers to head the U.S. Immigration and Customs Enforcement agency, part of the Department of Homeland Security, comes in the midst of intense debate over the qualifications of department political appointees involved in the sluggish response to Hurricane Katrina.

Concerns over Myers, 36, were acute enough at a Senate hearing last week that lawmakers asked the nominee to detail during her testimony her postings and to account for her management experience. Sen. George V. Voinovich (R-Ohio) went so far as to tell Myers that her résumé indicates she is not qualified for the job.

But Voinovich has since met with Myers and is now likely to support her, his spokeswoman said yesterday. Myers, who has attracted strong support from many former colleagues, told senators that she would draw upon the experiences of ICE veterans in running the agency.

"I realize that I'm not 80 years old," Myers testified. "I have a few gray hairs, more coming, but I will seek to work with those who are knowledgeable in this area, who know more than I do."

After working as a federal prosecutor in Brooklyn, N.Y., for two years, Myers held a variety of jobs over the past four years at the White House and at the departments of Commerce, Justice and Treasury, though none involved managing a large bureaucracy. Myers worked briefly as chief of staff to Michael Chertoff when he led the Justice Department's criminal division before he became Homeland Security secretary.

Myers also was an associate under independent counsel Kenneth W. Starr for about 16 months and has most recently served as a special assistant to President Bush handling personnel issues.

Her uncle is Air Force Gen. Richard B. Myers, the departing chairman of the Joint Chiefs of Staff. She married Chertoff's current chief of staff, John F. Wood, on Saturday.

In written answers to questions from Congress, Myers highlighted her year-long job as assistant secretary for export enforcement at Commerce, where she said she supervised 170 employees and a $25 million budget. ICE has more than 20,000 employees and a budget of approximately $4 billion. Its personnel investigate immigrant, drug and weapon smuggling, and illegal exports, among other responsibilities.

Myers was on her honeymoon and was not available to comment yesterday. Erin Healy, a White House spokeswoman, cited Myers's work with customs agents on money-laundering and drug-smuggling cases. "She's well-known and respected throughout the law enforcement community," Healy said. "She has a proven track record as an effective manager."

ICE was created from remnants of the former immigration and customs services. It is widely viewed as one of the most troubled parts of the sprawling Department of Homeland Security.

Homeland Security political appointees have come under scrutiny since Michael D. Brown resigned under fire this month as head of the Federal Emergency Management Agency, which he joined with no experience in disaster preparedness. Several other senior FEMA officials were Bush supporters who did not have crisis-management credentials.

Unlike most political appointments, the head of ICE is required by statute to have at least five years of experience in both law enforcement and management.

Many immigration advocates, ICE employee representatives and homeland security experts said they were troubled by the nomination of Myers to take over an agency with so many problems.

"It appears she's got a tremendous amount of experience in money laundering, in banking and the financial areas," said Charles Showalter, president of the National Homeland Security Council, a union that represents 7,800 ICE agents, officers and support staff. "My question is: Who the hell is going to enforce the immigration laws?"

I. Michael Greenberger, a former Clinton administration official who heads the Center for Health and Homeland Security at the University of Maryland, said the Myers appointment represents "pre-Katrina thinking, where political relationships were a very large factor."

"Post-Katrina, we now see that people need to be eminently qualified," Greenberger said.

But Jim Pasco, executive director of the Fraternal Order of Police, which represents several thousand ICE employees, lauded Myers's government experience.

"That organization . . . is on some days almost dysfunctional," Pasco said. "I think Julie may be just the person to pull people and functions together to get them working right for a change."

During a hearing Thursday of the Senate Homeland Security and Governmental Affairs Committee, Chairman Susan Collins (R-Maine) and ranking Democrat Joseph I. Lieberman (Conn.) quizzed Myers on whether her positions over the past five years qualified her for the job.

The most pointed questioning came from Voinovich, who said during the hearing that he wanted to meet with Chertoff to discuss Myers's qualifications. "I'd really like to have him spend some time with us, telling us personally why he thinks you're qualified for the job, because based on the résumé, I don't think you are," Voinovich said.

But Marcie Ridgway, Voinovich's communications director, said yesterday that the Ohio senator had resolved his concerns by talking privately with both Chertoff and Myers. Ridgway said Voinovich was not available to speak directly about the issue.

DeLay Must Bridge Gap With Bush (HILL)

By Patrick O'Connor

The Hill, September 20, 2005

The White House outlined a comprehensive immigration overhaul during a meeting last week with congressional Republicans, creating a potential conflict between the administration and House Majority Leader Tom DeLay (R-Texas), who favors an incremental approach to reform.

The comprehensive package would increase enforcement on the border, create new workplace requirements for employers and expand guest-worker programs inside and outside the United States, said Reps. Jeff Flake (R-Ariz.) and Jim Kolbe (R-Ariz.), who met last week with White House Deputy Chief of Staff Karl Rove and other senior administration officials.

Flake said the administration "insists on comprehensive reform," putting the president at odds with DeLay and those congressional Republicans who would rather change the current immigration code one law at a time. As recently as last week, DeLay said he would prefer passing a bill to increase border security before taking up legislation to address workplace enforcement or the current guest-worker program.

In the House, GOP leaders must try to find legislative language agreeable to those members advocating stronger border protections and those members pushing for an expansion of the country's guest-worker program, although there is considerable overlap.

"We're closer than people think," Flake said of the distance between competing factions within the Republican Conference. "The gulf is not as wide as people assume."

The guest-worker provisions in the White House package would require illegal immigrants employed in the United States to register with the federal government as part of a national database for employers of all sizes. Those workers would then be allowed to stay in the country for an intermediate phase as long as they remained employed.

Flake and Kolbe included a similar provision in the comprehensive immigration bill they co-wrote with Rep. Luis Gutierrez (D-Ill.) and Sens. Edward Kennedy (D-Mass.) and John McCain (R-Ariz.). Their bill would allow these workers to register for two successive three-year terms, during which they would have temporary guest-worker status and could apply for permanent residency.

In contrast, the administration plan would require these workers to return to their countries of origin after the intermediate work phase to register for permanent residency, Kolbe said.

In the Senate, John Cornyn (R-Texas) and Jon Kyl (R-Ariz.) have introduced a bill that would require illegal immigrants employed in the United States to return to their countries of origin before applying for permanent residency or guest-worker status.

Similar legislation is expected in the House, where Judiciary Committee Chairman James Sensenbrenner (R-Wis.), whose committee will mark up the eventual legislation, told the Milwaukee Journal-Sentinel last week that he expected Hurricane Katrina to postpone any bill overhauling the country's immigration policy until next year.

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Neither Flake nor Kolbe would give any details about when the administration would want to see Congress pass an immigration measure, but both members said they were confident the House could tackle legislation this year.

During a Republican Conference meeting the last week in July, President Bush told members that he wanted Congress to address immigration reform "next fall," prompting one member to shout: "We can't wait until next fall."

Bush then clarified his remarks to say he meant this fall, Flake said.

Immigration continues to be a particularly controversial issue for congressional Republicans. Flake and Kolbe both faced primary opponents last year who attacked them for advocating an expanded guest-worker program. Kolbe's challenger, state Rep. Randy Graf, has again made immigration the cornerstone of his campaign to unseat the senior member of the Arizona delegation. Graf won 43 percent of the Republican vote during last year's primary. His website features a Ronald Reagan quote about immigration: "A nation without borders is not a nation."

Flake argues that comprehensive changes to immigration policy are the best way to handle this issue politically because such a strategy would address concerns from every side of the political spectrum.

"If it's comprehensive reform … then that covers the basics for all of us, no matter what districts we're from," Flake said. In contrast, passing one component at a time would be a "recipe for disaster," he said.

A coalition of labor unions, civil-rights organizations and religious groups, including the newly independent Service Employees International Union, has scheduled a series of rallies beginning today at Foundry United Methodist Church in Washington in support of the Flake-Kolbe bill.

TAX:

American `Survivor' Winner Pleads Innocent To Tax Evasion (FINDLAW/AP)

Find Law, September 20, 2005

(AP) - PROVIDENCE, Rhode Island-Richard Hatch, who won $1 million (â,¬820,000) on the first season of the U.S. reality show "Survivor," pleaded innocent Monday to charges that he failed to pay taxes on his winnings and other income.

Hatch has been charged with tax evasion, filing a false tax return, wire fraud, bank fraud and mail fraud. He entered the plea in U.S. District Court.

A grand jury indictment filed earlier this month said Hatch filed false tax returns for 2000 and 2001 that omitted his income from the CBS show, $327,000 (â,¬269,380) he was paid to co-host a radio show and $28,000 (â,¬23,070) in rent on a property he owns.

Hatch, 44, also was accused of misusing $36,500 (â,¬30,070) from a nonprofit camp he set up.

The former corporate trainer said the 10-count indictment was retribution for his refusal earlier this year to follow through with a plea deal.

"It was absurd in the spring, and it's still absurd," he said. "They thought I was going to accept two years in jail for something I didn't do."

Hatch faces a maximum of 75 years in prison if found guilty on all charges. He also could face millions of dollars (euros) in fines.

CONGRESS-ADMINISTRATION:

Right Rift Over Roberts (HILL)

By Alexander Bolton

The Hill, September 20, 2005

A rift has opened between conservatives in the nation's capital and those outside the Washington Beltway over John Roberts and his carefully worded testimony to the Senate Judiciary Committee last week.

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The split has divided those on the right who communicate regularly with the White House from conservative activists whose view of Roberts was shaped by the recently completed hearings.

Though it is extremely unlikely that conservatives who are voicing concerns about Roberts behind the scenes would oppose his confirmation by the Senate, they are sending a message to President Bush that his next nominee to the Supreme Court should have a clear record and be unafraid to express boldly his or her beliefs.

As result, political pressure is growing on Bush to nominate an outspoken conservative to replace retiring Justice Sandra Day O'Connor.

So far, Republicans and conservatives have presented to the public unified enthusiasm for Roberts. But since the first round of questions of last week's hearings, conservatives have raised concerns behind the scenes, debating each other in private conversations and conference calls.

"I'm definitely one who has major concerns about the Roberts nomination," said Dr. Virginia Armstrong, the national chairwoman of Eagle Forum's Court Watch Project. "I had questions before the hearing. Since the hearing, those questions and concerns are much more intense than they were."

"The biggest question is what is this man's approach to the Constitution, and we were never told that," said Armstrong, who said she debated Roberts's testimony with fellow conservatives yesterday. "We were told he did not have an overarching philosophy."

She said that Roberts's answers last week indicated that he would follow Supreme Court precedent even if he thought it was not necessarily supported by the text of the Constitution.

For example, Roberts said that, when considering overturning precedent, "it is not enough that you may think the prior decision was wrongly decided."

"You do look at these other factors, like settled expectations, like the legitimacy of the court, whether a particular precedent is workable or not, whether a precedent has been eroded by subsequent developments," he said.

To some conservatives, concepts such as "workability" are alarming because they are considered vacuous and can be infused with a judge's personal views. In essence, such concepts are the building blocks of judicial activism.

Armstrong, who has a doctorate in political science and doesn't consider herself a political operative, is based in Texas. Her foils in recent debates have been conservatives based in Washington, D.C., who have more frequent contact with White House emissaries and Roberts's former colleagues who vouch for the nominee's conservative credentials in the absence of an extensive record.

Ironically, the aspects of Roberts's nomination that have frustrated Senate Democrats and liberal groups trying to inflict political damage on him — specifically the few writings expressing his legal views, and furthermore the reluctance to express those views in Senate hearings — have also frustrated conservatives.

"After four days of testimony before the Senate Judiciary Committee, there is much that we know about Judge John Roberts and yet much that we still do not know," said Dr. Rick Scarborough, president of Vision America, a Texas-based Judeo-Christian advocacy group.

"We do know that Judge Roberts says he will perform the proper duties of a judge, which is to apply the laws of the land according to the intent of the drafters, and will not legislate from the bench," he said in a statement given to The Hill that praised Roberts for being well spoken and intelligent.

But Scarborough also raised concerns: "We don't know whether he recognizes that the judiciary is subject to checks and balances by the other branches of government. We don't know whether he believes that the Roe v. Wade abortion decision was wrongly decided and should be overruled, or whether the court's homosexual 'rights' cases were wrongly decided and should be overruled."

"In short, we don't know whether a Chief Justice Roberts would be more like Justice Scalia, who is regularly faithful to the Constitution, or like Justice Souter, who regularly betrays the Constitution," he said.

But questions among conservatives have not been confined strictly to those from outside the Beltway.

"I think there is some disappointment in the way that Roberts testified," said an aide to a Republican member of the Judiciary Committee, who noted that the disappointment is not so great that GOP senators would vote against Roberts.

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"In general, people thought that he could answer the question of whether he is a conservative," the aide said.

Aside from Roberts's decision not to endorse conservative views in the hearing, some answers that seemed intended to defuse Democratic criticism have alarmed conservatives.

In particular, responding to Sen. Herb Kohl (D-Wis.) during the first round of questioning, Roberts said that he agreed with the Supreme Court's conclusion in Griswold v. Connecticut that marital privacy extends to contraception and its availability.

Roberts noted — seemingly approvingly — that the court has since grounded the right to privacy in the 14th Amendment. The statement created a firestorm among conservatives, which Roberts's handlers scrambled to quell.

Griswold and privacy are hot topics because the court has founded reproductive rights, including the right to an abortion, on the right to privacy that case helped establish.

"Once people understood and looked at the judge's answers and his comments, everyone was comfortable," said former Republican National Committee Chairman Ed Gillespie, who is overseeing the Senate confirmation for the White House.

Roberts's defenders noted that Roberts's discussion of Griswold was nearly identical to Justice Clarence Thomas's during his confirmation 14 years earlier.

Other D.C.-based conservative leaders have praised Roberts's Senate testimony.

"I think that Roberts was masterful, and he is also a solid conservative," said Manuel Miranda, who formerly handled strategy on judicial nominations for Senate Majority Leader Bill Frist (R-Tenn.).

Miranda rebutted conservatives who have criticized Roberts avowed respect for precedent.

"His answers on precedent show that he is not like Robert Bork, he is like Rehnquist," Miranda said. "Some people believe nothing overrides the written word of the Constitution, but the rule of stability in law, which is stare decisis, is part of the fabric of the Constitution because undoubtedly the Framers' primary intent was to signal a stable and written law to the people."

Specter Backs U.S. Chief Justice Nominee Roberts (REU-Y2)

By Thomas Ferraro

Reuters, September 20, 2005

The chairman of the Senate Judiciary Committee said on Monday he will vote for John Roberts to be U.S. chief justice even though it is uncertain what the conservative appeals court judge will do on the Supreme Court.

"It's my judgment that he's well qualified ... and I intend to vote aye when his nomination is called before the Senate," the Republican chairman, Arlen Specter of Pennsylvania, said in a Senate speech.

"Notwithstanding his answers and my efforts to glean some hint or realistic expectation from his words and body language, candidly it is not possible to predict or have a solid expectation of what Judge Roberts would do," Specter said.

The committee chairman had been expected to back Roberts, who seems headed toward confirmation by the full Republican-led Senate before the court begins its new term on October 3.

But Specter, a moderate, had withheld judgment until four days of hearings he led ended last week.

If confirmed, Roberts, 50, who has spent two years on the appeals bench, would be the youngest chief justice in two centuries and positioned to lead the court for decades. Some Democrats, citing documents stemming from his government work, have challenged his commitment to civil rights and women's rights.

All 55 Senate Republicans are expected to vote to confirm Roberts, and so are a large number of the 45-member Senate Democratic Caucus.

Senate Democratic leader Harry Reid intends to discuss President George W. Bush's first nomination to the Supreme Court at his party's weekly meeting on Tuesday.

While some liberal groups would like Democrats to send a message to Bush with a strong vote against Roberts, Reid "wants each member to vote his or her conscience," a party aide said.

TOUGHER FIGHT NEXT TIME

Easing Roberts' path toward confirmation is the belief he would not shift the balance of power on the nine-member court. He would succeed the late Chief Justice William Rehnquist, who had been the court's conservative anchor for three decades.

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A tougher fight is expected over Bush's next nominee, who would replace retiring Justice Sandra Day O'Connor, a moderate conservative who has often been the court's swing vote.

With that nomination expected shortly, Bush was to meet on Wednesday with Specter and his Democratic counterpart on the Judiciary Committee, Sen. Patrick Leahy (news, bio, voting record) of Vermont, as well as Reid and Senate Republican leader Bill Frist of Tennessee.

Specter hailed the "impeccable credentials" of Roberts, who received the American Bar Association's top rating for a seat on the Supreme Court.

While Democrats voiced frustration that Roberts refused to answer many specific legal questions, on issues from gender bias to abortion, Specter said, "I think that Judge Roberts went about as far as he could." Roberts said he did not want to prejudge cases that might come before him.

Specter also noted that Roberts, while declining to say whether he would reverse the Supreme Court decision that legalized abortion, declared that the U.S. Constitution gives Americans the right to privacy, which underpinned the 1973 ruling.

Specter, a veteran of many Supreme Court confirmation hearings, also pointed out that Roberts embraced the importance of legal precedent.

The Judiciary Committee is to vote on Thursday on its recommendation on Roberts to the full Senate, which is to vote on whether to confirm him during the week of September 26.

Roberts Seen As The Warm-Up In High Court Battle (LAW)

By Jeff Blumenthal, The Legal Intelligencer

Law.com, September 20, 2005

With U.S. Senate Judiciary Chairman Arlen Specter announcing his support Monday, the nomination of John G. Roberts Jr. as chief justice of the United States gained momentum.

The Pennsylvania Republican, in a speech on the Senate floor, said "Judge Roberts' answers demonstrated that he would take a fair, non-ideological approach to the law." In Specter's view, Roberts had not tipped his hand on whether he would vote to preserve or overturn Supreme Court precedent on a woman's right to end her pregnancy.

"Notwithstanding his answers and my efforts to glean some realistic expectation from his words and body language, candidly it is not possible to predict or have a solid expectation of what Judge Roberts would do," he said.

On Sunday, Specter -- who chaired last week's sometimes contentious confirmation hearings to generally positive reviews -- even suggested that Roberts serve as the template for President Bush's next nomination to the Supreme Court.

But local legal scholars said Bush faces a much tougher fight when he makes his choice for a new associate justice.

Gregory Magarian, a constitutional law professor at Villanova University School of Law and a former clerk for Justice John Paul Stevens, said Specter managed to run Roberts' hearing equitably.

"Sen. Specter attempted to go after information but he didn't grandstand and he definitely didn't grease the wheels for him," Magarian said.

But Magarian and Temple University's Beasley School of Law professor Mark Rahdert, a clerk for former Justice Harry A. Blackmun, both said Roberts' decision to not answer questions dealing with hot-button issues such as abortion could set a precedent for the next nominee.

"He played that card more than any candidate I have seen in recent memory," Rahdert said. "And each time that happens in the future, nominees will have more room to not answer questions. It's one thing if it's an actual case that will wind up before the court. But he can answer questions about an area of the law and he chose not to do so.

"I think Sen. Specter did a good job. The Democrats complained that Roberts was not answering questions and they were not given access to certain documents. But it was a very orderly hearing."

Magarian, though, said by not answering questions, a nominee gives the opposition party a legitimate reason to cast no votes. But he said Roberts has no reason to worry about the outcome of his candidacy.

"He was a great pick," Magarian said. "He has the conservative credentials but he is not obnoxious about it so he doesn't offend liberals as much as a Thomas or a Scalia."

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Rahdert said bumping Roberts' nomination up to chief justice after the death of William H. Rehnquist is fitting in more ways than one. Roberts clerked for Rehnquist and appears to possess similar ideology and temperament for the chief slot.

"I think Judge Roberts will be just as strong of a conservative vote as Rehnquist," Rahdert said. "But he won't be leading the charge in forming constitutional law in a conservative fashion, and nor did Chief Justice Rehnquist, who was a pragmatist. Now if they replace Justice [Sandra Day] O'Connor, who was not as consistent of a conservative, with another conservative, there will be a conservative block of five on the court."

Magarian, though, sees key differences between Rehnquist and Roberts. Rehnquist began his term in the early 1970s, when the high court was viewed as a font of liberal decisions on highly divisive issues such as privacy, civil rights and the rights of criminal defendants. Conservatives responded by pushing for judicial restraint. As the court grew more conservative, Magarian said, Rehnquist evolved into an exponent of "conservative judicial activism" But Magarian believes Roberts has not demonstrated the same bent toward conservative activism.

Magarian said that with Roberts' nomination as chief justice -- a conservative replacing a solid conservative -- court watchers will intensify their scrutiny of a replacement for O'Connor, viewed as a more moderate figure and one of the court's "swing votes."

"This most recent hearing was just a warm-up for the next hearing, which will be a real fight," Magarian said. "If they were able to get Roberts through in the O'Connor slot, it would have allowed Bush to go back to his list of red-meat conservatives. Ideally, the president would be able to find another Roberts -- someone with conservative credentials who isn't as divisive. But how many of them are walking around? Democrats can now vote for Roberts and say that they played ball with the president on chief justice and now want a more moderate candidate or they will filibuster."

Rahdert said Roberts is a blueprint candidate for getting a nomination through the Senate but may be too mild for much of the president's conservative base.

"This is going to be a much more bitter fight, unless Bush backs down on the type of nominee he sends to the Senate," Magarian said. "And judging from all the short lists we have seen, I don't see that happening."

For '08 Dems, A Tough Choice Lies Just Ahead (HILL)

By Jonathan Allen

The Hill, September 20, 2005

A vote for Judge John Roberts could be well within the mainstream but that may not be where Democrats with an eye on the Oval Office are looking to swim, according to some political strategists and analysts.

“If you’re running for president, you need to take a hard look at voting no because that’s where the Democratic base is,” said Steve McMahon, a Democratic political consultant who worked on Howard Dean’s 2004 presidential campaign.

Democratic senators, particularly those who harbor presidential aspirations, have plenty of reason to watch each other closely as a floor vote on Roberts’s nomination to become chief justice of the United States approaches.

Support for Roberts could burnish a senator’s centrist credentials and give room to oppose President Bush’s pick to fill a second Supreme Court vacancy. But influential interest groups on the left — a source of strength in Democratic primaries — are pressuring their allies in the Senate to oppose Roberts.

With floor consideration on Roberts slated to start no later than Monday, Democrats’ reaction to Bush’s still-unnamed second nominee could present presidential hopefuls with an opportunity to distinguish themselves from each other.

“Anybody who’s running for president is watching everybody else who’s running,” said McMahon.

Sarah Binder, a senior fellow at the Brookings Institution and a professor at George Washington University, said that there would be some value to Democratic presidential hopefuls’ rejecting Roberts because liberal activists would champion their votes.

When the Roberts roll call starts, those senators who are viewed as possible contenders for the Democratic presidential nomination in 2008 — including Hillary Rodham Clinton (N.Y.), 2004 nominee John Kerry (Mass.), Joseph Biden (Del.), Evan Bayh (Ind.), Russ Feingold (Wis.) and perhaps others — will already be under a microscope. That is particularly true of Clinton, who has not publicly revealed her intentions on either Roberts or the 2008 race.

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Political experts say Clinton has shifted toward the center this year and a vote for the Roberts nomination would be characterized that way.

"She's caught between the swing voters, who she wants and needs for reelection, and the Democratic presidential primary voters and activists who will want her to vote no," said one Democratic strategist.

The Democratic senators will get a chance to test the political waters at today's weekly caucus lunch. Senate Minority Leader Harry Reid (D-Nev.) has asked his colleagues not to make a decision on Roberts until they have had a chance to discuss the issue together. But Reid spokesman Jim Manley said Reid is still not asking his colleagues to vote as a bloc. "It's not a party position," Manley said.

Though Roberts would replace the conservative William Rehnquist, who died Sept. 3, the importance of Bush's impending selection to replace frequent swing vote Sandra Day O'Connor has not quelled the left's hopes of spurring Democratic opposition to Roberts.

Comments on the liberal website www.dailykos.com excoriated The Washington Post's editorial page for recommending that senators support Roberts. The more liberal editorial page of The New York Times called Sunday for "no" votes — a position not likely to be ignored by Clinton. "Senators should vote against Mr. Roberts not because they know he does not have the qualities to be an excellent chief justice, but because he has not met the very heavy burden of proving that he does," the Times opined.

The reasoning underscores a dilemma for Senate Democrats. They have expressed few complaints about what the 50-year-old appellate court judge actually said, but the next nominee may be inclined to reveal even less if Roberts is confirmed. Senate Democrats also remain frustrated by White House refusal to release documents from Roberts's stint as a deputy in the solicitor general's office during the presidency of George H.W. Bush.

Still, some Democrats may vote for Roberts to position themselves better to oppose the second nomination, said Jeff Peck, a former general counsel and staff director of the Senate Judiciary Committee under Biden.

"I think there's going to be a lot more peril voting for the O'Connor replacement than the Rehnquist replacement," said Peck, a partner at the lobbying firm Johnson, Madigan, Peck, Boland and Steward.

Few have raised the Senate's own "F" word — "filibuster" — in relation to Roberts, but the tactic, and Republicans' threatened "nuclear" option, could be employed depending on whom Bush picks.

Confirm Roberts (LAT)

The Los Angeles Times, September 20, 2005

IT WILL BE A DAMNING INDICTMENT of petty partisanship in Washington if an overwhelming majority of the Senate does not vote to confirm John G. Roberts Jr. to be the next chief justice of the United States. As last week's confirmation hearings made clear, Roberts is an exceptionally qualified nominee, well within the mainstream of American legal thought, who deserves broad bipartisan support. If a majority of Democrats in the Senate vote against Roberts, they will reveal themselves as nothing more than self-defeating obstructionists.

Most Democrats have not indicated how they will vote later this week in the Judiciary Committee, or subsequently on the Senate floor. The angst expressed by some senators who feel caught between the pressure of liberal interest groups and their own impression of Roberts is comically overwrought. "I for one have woken up in the middle of the night thinking about it, being unsure how to vote," said Sen. Charles E. Schumer (D-N.Y.).

One reason Democratic senators are struggling to reach a verdict on the Roberts nomination is that President Bush has yet to announce his nominee for the second vacancy on the court. They are trying to figure out how their vote on Roberts will influence Bush's next choice. This is silly; Roberts ought to be considered on his own merits. But even if one treats this vote merely as a tactical game, voting against an impressive, relatively moderate nominee hardly strengthens the Democrats' leverage. If Roberts fails to win their support, Bush may justifiably conclude that he needn't even bother trying to find a justice palatable to the center. And if Bush next nominates someone who is genuinely unacceptable to most Americans, it will be harder for Democrats to point that out if they cry wolf over Roberts.

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Roberts is, admittedly, no William Brennan. But Democrats' hopes to remake the court in his image died (or should have) the day after Bush was reelected. Senate Democrats need to exercise their advise-and-consent duty within this context.

Indeed, given Bush's own past statements about admiration for justices such as Antonin Scalia and Clarence Thomas, Roberts may be the best nominee liberals can expect out of this administration. He is in the tradition of Justices William H. Rehnquist and Anthony Kennedy, conservatives who believe in the value of stability and restraint. In his confirmation hearings, Roberts repeatedly distanced himself from an extreme "originalist" or literal approach to constitutional interpretation. He may have dodged plenty of questions, as do all judicial nominees, but he said plenty that was revealing and reassuring.

Roberts acknowledged that he believes there is a right to privacy, that many constitutional principles such as "liberty" and "due process" evolve over time and that justices must be mindful of how destabilizing it is to reverse prior decisions. He is no radical activist determined to take the court back to the early 20th century. Democrats, including California's Dianne Feinstein, should back Roberts or risk the consequences of voting against an acceptable nominee.

White House Is Said To Shift Names On List For 2nd Seat (NYT)

By David D. Kirkpatrick And Sheryl Stolberg

The New York Times, September 20, 2005

WASHINGTON, Sept. 19 - The White House is reshuffling its short list of potential Supreme Court nominees with a new emphasis on finding someone who will hold up under the pressure of what is expected to be fierce confirmation battle, several Republican allies close to the process said on Monday.

The shifting calculus reflects the increased stakes in replacing the retiring Justice Sandra Day O'Connor as the court's swing vote as well as the expectation that the new nominee will be measured against Judge John G. Roberts Jr., who was hailed by both parties for his performance during almost 20 hours of confirmation hearings for the post of chief justice.

The shift also indicates that the administration expects some Democrats' pent-up frustration with what they labeled as Judge Roberts's evasiveness to spill over into the hearings for a new nominee. Republican aides briefed on the search said the White House was looking mainly at female jurists for Justice O'Connor's seat, but it has expanded its short list and it is examining the contenders anew in the expectation of a trial by fire.

Conservative allies of the White House said the new criteria could hurt the chances of Judge Janice Rogers Brown, a 2005 Bush appointee to the United States Court of Appeals for the District of Columbia Circuit and a favorite of the president's conservative base.

Republican strategists close to the White House worry that Judge Brown, an African-American known for her fiery speeches to conservative crowds, might try to fight back against vigorous questioning. Other conservative strategists say that she also lacks experience on the federal bench and that supporting her highly ideological oratory might strain the solidarity of the Senate Republican caucus.

Another judge said to be on the list is Judge Priscilla R. Owen, a friend of the president also recently confirmed to a federal appeals court after a vigorous Senate battle. In her case, strategists say the White House is evaluating whether her reticence and mild manner would be a strength or a weakness under interrogation in the Senate.

Others said to remain under consideration include the contenders for the last vacancy, Judge Edith H. Jones and Judge Edith Brown Clement of the Fifth Circuit, as well as Judge Alice M Batchelder of the Sixth Circuit, Judge Karen Williams of the Fourth Circuit and Judge Consuelo M. Callahan of the Ninth Circuit. Judge Callahan, a Republican appointee, is Hispanic, and President Bush has made clear that he would like to name a Hispanic to the court.

Senate leaders, who will meet Mr. Bush on Wednesday to discuss the next court vacancy, said they were also bracing for a firefight over the next nominee. On Monday, the chairman of the Senate Judiciary Committee, Senator Arlen Specter, Republican of Pennsylvania, called on Mr. Bush to name someone who will promote "balance and stability" on the court - a reference that seemed aimed at prodding the White House toward nominating a moderate in the mold of Justice O'Connor.

"I think that there's been a lot frustration on this one, and it's been commented upon very broadly and I think that frustration may well be vented on the next nominee," Mr. Specter said in an interview on Monday, after announcing his support for Judge Roberts.

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Democrats, meanwhile, prepared for a meeting of their caucus on Tuesday to debate the vote on Judge Roberts. Democratic strategists said some leaders in the party were arguing that with Judge Roberts widely expected to win confirmation, members of their party should vote for him in order to appear open-minded and save their ammunition for the fight ahead.

Others, including Senator Edward M. Kennedy, Democrat of Massachusetts, are expected to push for votes against confirmation in order to send a message to the White House.

Liberal advocacy groups staged a last-ditch campaign on Monday to push Democrats to vote against Mr. Roberts. "It would be an invitation for George W. Bush to name someone as extreme as he wants to for the O'Connor vacancy," said Ralph G. Neas, president of People for the American Way.

Three labor union groups - the A.F.L.-C.I.O., the American Federation of State, County and Municipal Employees, and the Service Employees International Union - announced their opposition to confirmation on Monday, as did the Center for American Progress, a liberal research organization run by John D. Podesta, the chief of staff under former President Bill Clinton.

Diversity Changes The Way Justices See The World (USAT)

USA Today, September 20, 2005

In the 215 years since the U.S. Supreme Court first convened, 104 of the 108 justices have been white men. (Related: Opposing view)

The exceptions? Thurgood Marshall, Clarence Thomas, Ruth Bader Ginsburg and Sandra Day O'Connor.

Marshall died in 1993; the other three sit on today's court. But with the retirement of O'Connor, the nation's highest court will lose more of a commodity already in very short supply — different life experiences.

When President Bush nominates O'Connor's successor, he will have an opportunity to remedy that, and it should be a priority.

In a nation as diverse as America, a diversity of ideas and perspectives adds to the court's ability to wisely decide issues that change lives. If all nine justices see law and life from the same vantage point, their ideas will not be challenged, tested and honed into the best possible rulings.

Appellate Judge John Roberts, who appears headed for confirmation as the next chief justice, is superbly qualified as a lawyer, but he's also very much like the other overwhelmingly white, male lawyers he would join. Five graduated from Harvard or Yale law schools. Most worked in past presidential administrations, sat on lower courts or practiced at elite law firms. O'Connor is the only one from the Southwest and the only one ever elected to public office.

none of the other justices can see life as O'Connor does. She grew up on a ranch, served in the state Legislature and faced gender discrimination. She graduated near the top of her class at Stanford Law, but the only law job she was offered was as a "legal secretary" at a firm in California.

To those who argue that merit and legal scholarship should be the only standards, the answer is it's easy to name a minority or female justice without compromising excellence or creating quotas.

In law, as in other professions, minorities and women have made great strides. Nearly half of law school graduates in 2004 were women; 21% were minorities. Though the federal judiciary still doesn't look quite like America, about 10% of federal judges are African-American, nearly 7% are Hispanic and about 23% are women.

Bush might take his cue from the justice who is retiring. In a 1992 tribute to Marshall, O'Connor wrote about the value of diversity. During the court's deliberations, Marshall's life experiences informed the debates, she said. No one else had gone to segregated schools, represented African-Americans facing death sentences or been told by a gun-toting white man to get out of a small Mississippi town before dark.

After Marshall was gone, she wrote, she often longed for one of his stories that might "change the way I see the world."

Judging is about seeing the world and applying the law. The nation's highest court should not approach that job from a single, narrow perspective.

Choice Should Be Blind ... (USAT)

By Thomas Heiden

USA Today, September 20, 2005

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We are in danger of making our highest court just another part of our partisan political culture. That is bad for our nation and threatens the unique role of the Supreme Court in our system. (Related: Our view)

The next nominee for the court should be chosen on the basis of merit (and not "diversity," however defined) for several important reasons:

• To maintain a bright line difference between law and politics.

• To re-emphasize that the function of the highest court is to maintain the rule of law.

• So that the court does not become an extension of our increasingly divided political culture, but that it stands as the independent counterweight to those influences.

Our nation is wonderfully diverse, but justices do not sit as representatives of religious, ethnic or other groups. We do not allocate the 535 seats in the Senate and House of Representatives by group, much less the nine seats on the court.

The Congress should be full of the political push and pull of what the law should be. The Supreme Court is different. The justices should be pragmatic, not ideological; neutral, not representatives of groups.

To nominate a justice because he or she is a member of a group obviously signals that his or her decisions in certain cases will be influenced by membership in that group. To do so misperceives the court as a legislature and the justices as legislators. The signal sent in these times of cultural division should be the opposite. We should keep perceptions of politics and partisanship — whether in the disguise of "diversity" or otherwise — out of the independent judiciary, particularly the Supreme Court.

That is not to endorse the next nominee as a politically conservative white male. The top ranks of the legal profession today are full of women, with plenty of African-American and other "minority" lawyers right there with them. Our Supreme Court and our nation will be best served if the next nominee is selected with an eye blind to race, gender, religion and political ideology — a true focus on legal and intellectual merit.

Let's hope that she is.

Thomas Heiden is a partner in the Chicago office of the law firm Latham & Watkins. The opinions are his own.

Cost Of Katrina Relief Splits Republican Ranks (CSM)

By Gail Russell Chaddock

The Christian Science Monitor, September 20, 2005

WASHINGTON - President Bush's call to spend "whatever it takes" to rebuild the Gulf Coast set off alarm bells among some in his conservative base - and stepped up a growing debate among Republicans at both ends of Pennsylvania Avenue on how to fix the battered region in ways that promote conservative values.

From vouchers for education and Medicaid to the creation of a giant "opportunity zone" where Katrina struck, the Bush reconstruction effort - which he called "one of the largest reconstruction efforts the world has ever seen" - is reviving prospects for policy initiatives that GOP leaders say could make or break their party's future.

At the same time, fiscal conservatives, often outside of leadership, are calling for deep cuts in existing spending to pay the costs of reconstruction. They, too, see this as a fight for the soul of the Republican Party.

"It's too early to tell. It could wind up being the New Deal on steroids," says Mike Franc, vice president for governmental affairs at the Heritage Foundation, a conservative think tank.

For a president who campaigned on Ronald Reagan's legacy of limited government, the vast scope of needs in the region pose a special challenge. While President Roosevelt's New Deal and President Johnson's War on Poverty offer templates for a federal response, Republicans have campaigned for decades to roll them back.

"If people can agree that the last 40 years didn't help win the War on Poverty in New Orleans and the Gulf - and even hurt it - then the debate shifts into not replicating the last 40 years," says Mr. Franc.

But if the congressional committees bog down and can't agree on a package of reforms that can be financed without breaking the bank, "the default could be going with what we already have," he adds.

In recent weeks, Republican leaders have tasked every committee in Congress to come up quickly with new ideas that meet needs in the region.

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These range from a vast package of tax breaks to revive business and housing in the Gulf, to Education Smart cards, which give families the option of paying for education wherever it is available and suits their needs, including private and parochial schools.

But to move such a plan, Republicans will need coherence in their own ranks, especially agreement across their caucus on how to pay for it. For fiscal conservatives, the biggest issue in the Gulf cleanup is its price tag, expected to exceed $200 billion. Congress has already appropriated $62 billion in emergency spending..

"Congress must ensure that a catastrophe of nature does not become a catastrophe of debt for our children and grandchildren," says Rep. Mike Pence (R) of Indiana, who chairs the Republican Study Group, a top conservative caucus.

The Heritage Foundation estimates that such levels of spending could bump budget deficits past $500 billion in 2008 to $873 billion in 2015.

In response, some conservative lawmakers are calling on their leaders to find offsets for new spending, including delaying implementing the new Medicare drug benefit, rolling back pork projects in recently passed Highway and Energy bills, and even deferring a vote on the permanent extension of Bush tax cuts. Last week, 11 House Republicans voted against a $52 billion hurricane relief bill in protest against the failure to identify offsets.

In a comment to reporters last week, House majority leader Tom DeLay said that after 11 years of a Republican majority, there wasn't much fat to cut in the federal budget.

The comment alarmed many conservative activists outside government who see the big spending ways of the Bush administration as a betrayal of small- government ideals.

"I have to pretty strongly disagree with the majority leader," says former GOP Rep. Pat Toomey, now head of the Club for Growth, an antitax group that backs Republican candidates.

"Whatever money gets spent on this reconstruction effort really needs to be offset by reductions somewhere else," he adds. "It's not the role of the federal government to be rebuilding houses and strip malls...."

At a closed leadership meeting on Thursday, House GOP leaders tried to bridge divisions in their caucus by promising strong accountability on where new federal dollars are going "Whatever is expended by Congress, we want to make sure it is funded appropriately and that states and local communities, as well as the private sector, share the burden," said a House leadership aide.

While Republicans have stood by the president as he expanded the role of government in local schools and the war on terrorism, the new wave of post-Katrina spending could break that consensus at a time when the Bush's job rating is at record lows.

The bid to work conservative programs, such as education vouchers, into Gulf aid could help bridge those gaps.

"It's window dressing for the benefit of social conservatives," says Ross Baker, a political scientist at Rutgers University in New Brunswick, N.J.. "The president may feel that whatever support he will lose among fiscal conservatives, he will win from conservatives proud of him for bootlegging vouchers in the relief plan."

Deficit Foes: Defer New Drug Benefit To Offset Katrina Cost (WT)

By Donald Lambro And Amy Fagan

The Washington Times, September 20, 2005

Some House and Senate members want President Bush to postpone his Medicare prescription-drug program to help pay for Hurricane Katrina relief as the fight over the deficit and the cost of rebuilding heats up.

By targeting the Medicare program, which Congress passed in 2003 despite objections from some conservatives, the lawmakers are striking right at Mr. Bush's signature first-term domestic-policy achievement.

A bill to delay for a year the January 2006 start of the new drug entitlement would save $40 billion and will be "front and center" tomorrow when members of the conservative Republican Study Committee present spending cuts to offset Katrina's costs, said Rep. Mike Pence, Indiana Republican and RSC chairman.

"It is a very serious option," Mr. Pence said, adding that "a broad number of members" have privately expressed support for the idea.

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Sen. Lindsey Graham, South Carolina Republican, mentioned the delay as an option on "Fox News Sunday," and a spokesman for Sen. Tom Coburn, Oklahoma Republican, said the senator is considering sponsoring a bill or backing other senators' efforts.

Rep. Mark Steven Kirk, Illinois Republican, said he understands the sentiment, but doesn't think the proposal will go anywhere. "I just don't see formal legislative action coming on that," he said.

One Republican leadership aide said it drives home the point Republicans are serious about cutting spending.

"When you talk about someone's prescription-drug benefits, people get it," the aide said. He said the push for the delay is "probably a message to the White House" more than a policy goal.

White House spokesman Trent Duffy dismissed the delay idea.

"We've made a commitment to seniors. Their lives depend on it. ... Now is not the time to snatch medicines out of medicine cabinets," he said.

But Mr. Pence said the fact that the White House so quickly dismissed it may mean they are nervous. "If it was really going nowhere, it probably wouldn't have been ruled out," he said.

Deficit hawks both inside and outside of Congress say adding the cost of recovery and rebuilding to the deficit is a bad idea.

"Simply adding $200 billion or more to the deficit is unwise and unnecessary," said former Sen. Warren B. Rudman, New Hampshire Republican and chairman of the deficit-fighting Concord Coalition.

Some budget watchdogs say major spending cuts will be politically impossible to make as Congress approaches the midterm elections next year.

"I think this is a time when the leadership of the Congress and the White House should bury the ideological hatchet and suggest small increases in taxes and modest restraints on spending," said Robert Reischauer, former director of the Congressional Budget Office.

"Everybody has to put a few sacred cows on the chopping block for efforts like this to be acceptable, but it's highly unlikely in the climate we have now," Mr. Reischauer said.

But tax-cutters argue that any tax increases would weaken the economic recovery, lower tax revenues and thus worsen the deficit.

"Now more than ever, we need a vibrant economy which enables us to pay for things like helping New Orleans to recover," said Mallory Factor, a New York investor who heads the Free Enterprise Fund, which supports congressional candidates who favor lower taxes. "Tax increases are a nonstarter. We can't tax our way out of this spending, and it probably wouldn't reduce the deficit anyway."

One danger for Republicans is that the deficit will erode support for further tax cuts. Republicans had planned to enact about $70 billion in tax cuts under the budget process later this year, mostly by extending tax cuts from the 2001 and 2003 packages. But they now face opposition from within their own ranks.

RSC Pressing For Deep Cuts (RC)

By John Bresnahan

Roll Call, September 20, 2005

Proposals from House GOP conservatives to cut federal spending to offset the costs of Hurricane Katrina recovery efforts ran smack into political reality Monday, as the White House rejected a plan to delay implementation of a new Medicare prescription drug program for one year, an idea that conservatives said would save at least $40 billion.

Other initiatives favored by House conservatives, including re-opening the recently passed highway bill to strip out $26 billion in “add-ons” disparaged as pork projects by budget hawks, also have garnered little support on Capitol Hill, according to GOP insiders.

But Rep. Mike Pence (R-Ind.), chairman of the conservative, 90-plus member Republican Study Committee, vowed to press ahead with his initiative to find spending cuts to help pay for the Katrina reconstruction costs.

Pence, who along with President Bush and other Republican Congressional leaders objects to a tax increase to fund Katrina relief proposals, said Congress must do something to rein in federal spending, even more now that the Gulf Coast

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recovery effort will add tens of billions of dollars to the federal budget. Pence vowed to continue to push for a vote on delaying implementation of the Medicare drug program, despite White House opposition.

"With all due respect to the White House and their intentions, House conservatives will vigorously pursue the one-year delay in the Medicare prescription drug entitlement," Pence said in an interview on Monday. Pence voted against the program when it was originally approved by Congress in November 2003, and the Indiana Republican said waiting until January 2007 to roll out the drug initiative would be "a great service to future generations of Americans."

Pence and other RSC members, including Reps. Jeff Flake (Ariz.) and Jeb Hensarling (Texas), will take part in a press conference on Wednesday to unveil "Operation Offset," their plan to pay for at least some portion of the Katrina recovery through cuts in government spending.

Speaker Dennis Hastert (R-Ill.) and other House GOP leaders will meet with Pence and RSC representatives today to discuss their offset ideas, and while GOP leadership aides noted that senior lawmakers will listen to their proposals carefully, Hastert will not endorse anything that alienates other factions within the Republican Conference.

"We have been through this in the past," said a senior House GOP leadership aide of offsetting federal disaster spending. "Getting offsets is a great idea. But getting it through the House is another thing. I don't see where there are the votes" for delaying the Medicare drug rollout or retroactively cutting highway funds.

White House spokesman Scott McClellan told reporters that delaying the Medicare prescription drug program is not even being considered by Bush or his top advisers, despite calls from some within his own party to do so.

"Now, in terms of the Medicare drug benefit, that is an important benefit for our seniors that will save them significant money on their prescription drugs," McClellan told reporters on Monday. "And it's important to move forward on the prescription drug benefit and we are."

The new prescription drug program is a centerpiece of GOP efforts to appeal to older voters, and Republican leaders are counting on using the implementation of the drug initiative in the November 2006 elections.

A House Republican leadership aide said the idea of delaying the prescription drug program was a nonstarter with top GOP lawmakers, given that the government already has spent millions of dollars assuring seniors that the benefit is on the way.

"It would be like Lucy pulling the football away from Charlie Brown," the aide said.

McClellan suggested instead that Congress enact some of the cuts included in Bush's fiscal 2006 budget proposal, although many of these overtures already have been rejected by Congress this year.

Bush proposed ending or slashing more than 154 federal programs to save at least $20 billion in non-defense discretionary spending. Some of these proposed cuts provoked outrage on Capitol Hill and were immediately rejected, such as plans to slash funding for Amtrak and reductions in farm support programs.

Bush also proposed cutting $137 billion over 10 years from mandatory programs. The House and Senate Budget committees postponed work on a $35 billion reconciliation package designed to cut spending on entitlement programs last week as the GOP leadership in both chambers struggled to address the concerns of a post-Katrina Congress.

Pence and other GOP conservatives would like to see the Budget committees double or even triple the size of these mandatory cuts, arguing that past reconciliation packages were much larger. Ben Pershing contributed to this report.

Possible Fed Candidate Proposes Hurricane Relief Plan (REU-Y2)

Reuters, September 20, 2005

Economic damage inflicted on the U.S. economy by Hurricane Katrina is likely to be modest, making the case for huge government aid questionable, said Glenn Hubbard, who is cited as a possible candidate to head the U.S. Federal Reserve.

In a Financial Times commentary on Monday, Hubbard said that federal fiscal aid should be used to cushion the blow to business and consumer confidence from a nasty regional shock.

But overall the short-term hit to unemployment and production is likely to be modest, offset by rebuilding over the coming year, and long-term damage to energy supplies also seems unlikely.

"Favorable underlying economic growth trends make the need for a national 'stimulus' package -- ironic given the substantial government spending probably of about 1 pct of GDP about to occur -- questionable," Hubbard wrote.

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He is one of three names on the list of likely candidates to replace Fed Chairman Alan Greenspan, who retires on January 31, 2005. Hubbard was a former top White House economic adviser and for President George W. Bush, and now is dean of Columbia Business School in New York.

Other possible Fed candidates are Harvard economist Martin Feldstein, and former Fed Governor Ben Bernanke, who now is a White House adviser. No one has emerged as a clear front-runner.

Hubbard in the editorial argued for carefully targeting the federal aid from the hurricane that devastated New Orleans and the Gulf coast. The U.S. government already has provided $62.3 billion in special funding and some lawmakers estimate the final price tag could be $150 billion to $200 billion.

He said three economic principles should guide the relief effort for the U.S. Gulf states.

Firstly, temporary assistance should be given to those people hard hit, especially those without insurance. He suggested appointing a "red-tape tsar" to cut through bureaucracy and help people get local and federal benefits. He also recommended using vouchers for health insurance, housing and education. But long-term support should requires a national debate, Hubbard said.

Secondly, large-scale federal funding should be invested quickly in infrastructure -- draining the area, rebuilding the Port of New Orleans, the energy and transport sectors, and repairing levees. It also could be used for a redevelopment authority, which could issue long-term redevelopment bonds.

Thirdly, redevelopment should be governed by market forces once the infrastructure and city play is in place and people's immediate needs addressed, Hubbard said.

The U.S. government already has provided $62.3 billion in special funding for Hurricane Katrina relief, after the storm devastated New Orleans and the Gulf coast. Some lawmakers estimate the final price tag could be $150 billion to $200 billion.

If The Politicians Really Want To Help ... (LAT)

By Gerald Rafshoon And Doug Bailey

The Los Angeles Times, September 20, 2005

Members of Congress have voted more than $60 billion in Hurricane Katrina disaster relief, with the total estimated to eventually go as high as $200 billion. But that's (mostly) your money. What about their campaign money?

After all, shouldn't sacrifice for the vulnerable start with the powerful? So how about this unconventional idea: Washington should call a 90-day moratorium on campaign fundraising, and both parties — and all congressional incumbents — should tithe from their campaign funds for Katrina relief.

That means 10% of their war chests should go to hurricane relief, or they should raise that amount and donate it to the relief effort instead of collecting still more for the 2006 campaign battles. While we're at it, how about extending the moratorium to political action committees and lobbyists and asking them to take what they have budgeted for the politicians and give it to Katrina relief instead.

Washington's special-interest, lobbyist-loaded, incumbent-entrenched political system may be broken. But it's certainly not broke. Federal Election Commission records show that the party campaign committees and House and Senate incumbents have more than $400 million with nearly 14 months to go before the elections. Tithing would yield $40 million for Katrina aid, money that otherwise would probably just be used for attack ads.

Are we dreaming? Probably. But it's obvious that the displaced and destitute evacuees need the money — and Washington's politicos don't. In 2004, 403 House members sought reelection and on average spent just over $1 million to do it. Regardless of party. One million dollars per incumbent seat. Almost two-thirds of them outspent their opposition 10 to 1 or more. Only seven of the 403 lost (and two of those because Texas redistricting forced incumbents to run against each other).

Incumbent protection is the only nonpartisan thing in today's politics. Both parties benefit; both parties are guilty. Both use redistricting practices at the state level to draw voter-district lines to protect incumbents. Both use special-interest money to keep them in office.

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But do the incumbents really need the money? It's not as if many of their races are close. In terms of percentage of the vote, only two of those 403 incumbent races were as tight as the presidential contest between President Bush and Sen. John Kerry. And the incumbents who ran still had a total of $157 million left over on election day.

If self-protection comes first in Washington, is it any wonder politicians seem so out of touch?

But Washington's cycle of fundraising and influence-buying and access-selling is just one part of a system badly out of whack. Consider that:

• $2.2 billion was spent on the presidential race in 2004, twice what was spent in 2000, according to the Washington Post.

• Since 2000, the number of lobbyists in Washington has doubled to almost 35,000.

• We know from our own experience that the political consulting profession is increasingly peopled by mercenaries, many of whom work in campaigns just to be able to sell access to those they help elect.

• Many who come to Washington to serve the people tend to stay to serve the special interests.

So maybe rebuilding from the tragedy of Katrina is also an opportunity to rebuild a democracy of selfless public service. How can Washington's incumbents ensure that political money buys more than insider access? How can Washington's invulnerable understand the nation's vulnerable? How can the powerful earn the trust of the powerless?

One starting place is to give of themselves — donating a potful of their campaign money to people who really need it. And maybe we the voters ought to hold them accountable if they don't.

Gerald Rafshoon and Doug Bailey were the opposing advertising consultants in the Carter-Ford presidential campaign in 1976. They are working together on a documentary and book about the collapse of U.

Bush Proposes Vouchers For All Displaced Students (WP)

By Amy Goldstein

The Washington Post, September 20, 2005

Under President Bush's plan to cover most of the cost of educating students displaced by Hurricane Katrina, parents could enroll their children in a private or religious school this year at federal expense, even if they had gone to public schools back home, administration officials said yesterday.

In proposing $1.9 billion in aid for kindergartners through 12th-graders whose schools were ruined by the storm, Education Secretary Margaret Spellings originally said the administration was setting aside $488 million for private-school tuition and other help, to re-create as normal an environment as possible for the uncommonly large segment of children from New Orleans who had attended Catholic schools.

Yesterday, however, as new fine print of the proposal emerged, White House and Education Department spokesmen confirmed that the government payment -- as much as $7,500 per child -- would be given for a year to any displaced family that now prefers an alternative to public schools. "Parents may choose to send children to private schools. They may not. But this is their choice," said Susan Aspey, the Education Department's spokeswoman.

According to administration documents, the $488 million allotment is an estimate based on the fact that about 61,000 children had attended private schools in the four Louisiana parishes that were affected most heavily. Asked whether the president would be willing to spend more on private schools if additional parents asked for such help, Aspey replied, "It's far too soon to speculate. Right now, these are just concepts."

The expansive eligibility for private-school payments intensified the dispute over Bush's approach to providing federal relief to people and places harmed by the hurricane. Democrats on Capitol Hill and public education advocates had begun to complain that the president was using the catastrophe to weave into legislation a version of federal funding of vouchers for private education, which the administration has sought, unsuccessfully, since 2001.

"It makes it even worse," Paul Houston, executive director of the American Association of School Administrators, said of the idea that all displaced families could obtain money for private schools. "It is really a tone-deaf response to the crisis. It is a real grab to get an ideological position across that they haven't been able to achieve under normal circumstances."

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Sen. Edward M. Kennedy (Mass.), ranking Democrat on the Senate's Health, Education, Labor and Pensions Committee, said, "Instead of reopening ideological battles, we should be focused on reopening schools and getting people the help that they need."

Some congressional Republicans have embraced Bush's idea. A spokesman for Sen. Mike Enzi (R-Wyo.), the panel's chairman, said he has not decided whether to add money for private schools into bipartisan legislation providing educational help that the panel drafted last week.

Rep. John A. Boehner (R-Ohio), chairman of the House Education and the Workforce Committee, said in a statement, "These children are being welcomed by schools across the nation, both public and private, and we need to support all the affected students and families."

Contractors Get Affirmative Action Exemption (NYT)

By Jonathan D. Glater

The New York Times, September 20, 2005

The Labor Department has temporarily suspended government requirements that its contractors have an affirmative action plan addressing the employment of women, members of minorities, Vietnam veterans and the disabled if the companies are first-time government contractors working on reconstruction in the wake of Hurricane Katrina.

While employment lawyers said it was not clear how strong an impact the exemption would have, the move comes as President Bush has tried to address the perception of unfairness in the government's response to the hurricane.

Under the rules that normally apply to companies hired by the government, businesses with more than 50 employees working on contracts for more than $50,000 must develop an affirmative action plan. But according to a memorandum on the Labor Department's Web site, dated Sept. 9, the goal of the exemption in the case of recovery work associated with Hurricane Katrina is to reduce the burden of paperwork on government contractors and so encourage more companies to jump into assisting with rebuilding from the storm damage.

The exemption is to last for three months, unless it is extended.

"It does not waive affirmative action requirements, it does not waive job posting requirements, it does not waive their obligation not to engage in discrimination," said Charles E. James, deputy assistant secretary at the Labor Department. "It's very, very limited."

The announcement by the Labor Department came the day after President Bush announced the suspension of a law that requires employers to pay the locally prevailing wage to construction workers on federally financed projects. The order applies to parts of Louisiana, Mississippi, Alabama and Florida. In explaining the move, the proclamation stated that "the conditions caused by Hurricane Katrina constitute a 'national emergency.' "

The Labor Department affirmative action memorandum, which Mr. James signed, specifically states that laws against discrimination continue to apply to federal contractors, as do requirements that employers keep records and post notices stating that "equal opportunity is the law." The memorandum only affects the requirement that employers develop a written affirmative action program, Mr. James said.

The memorandum received little attention in the media frenzy over the aftermath of the storm and hearings on the nomination of Judge John G. Roberts Jr. to the Supreme Court. Protests against it began circulating online late last week.

"It is not simply a paperwork exercise," said Shirley J. Wilcher, deputy assistant secretary for federal contract compliance in the Clinton administration who is now the interim executive director of the American Association for Affirmative Action. "It is the basis for companies to be mindful of their obligation not to discriminate."

But it is not clear how the exemption may, in practice, affect employment practices at companies, said B. Scott Silverman, an employment lawyer at Morrison & Foerster in Los Angeles. Its impact depends on how much affirmative action plans actually affect short-term hiring, he said.

"The only companies that will end up being completely excused are those that are not doing business with the federal government now and might not otherwise try to do business with the government," Mr. Silverman said.

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He added that he thought a three-month exemption would probably not affect employment practices greatly, especially in light of the dire need for employees to rebuild.

"I don't think this exemption is going to restrict those opportunities in any way, shape or form," Mr. Silverman said.

Black Clergy Wary Of Bush's Courtship (LAT)

By Peter Wallsten And Tom Hamburger

The Los Angeles Times, September 20, 2005

WASHINGTON — For many of the black ministers who have allied themselves with President Bush and a Republican strategy to boost the party's African American support, the government's slow response to Hurricane Katrina put a severe strain on new and still-fragile bonds of trust.

But just as some ministers had begun denouncing a government recovery effort that seemed to leave many blacks in the Gulf region behind, a number of those African American clergy say an aggressive outreach campaign by Bush and senior White House aides in recent days has begun reversing what might have been lasting political damage.

Moreover, the ministers — as well as a cadre of conservative policy analysts who consult with the White House — are arguing that the Katrina relief response, while tarnishing the GOP image in the short term, could foster a Republican-led battle against poverty that would give the party a list of new selling points for African American voters who have long viewed Democrats as the best advocates for the downtrodden.

With the federal government spending tens of billions of dollars on the recovery, Republicans have a chance not only to appeal to minorities by creating jobs and other economic opportunities but to use the rebuilding effort as a real-world test of such long-discussed conservative ideas as school vouchers, enterprise zones and the use of faith-based groups to provide social services.

"The strategic question is whether or not the White House senior staff are smart enough to seize this historic and strategic opportunity," said the Rev. Eugene Rivers, pastor of Boston's Azusa Christian Community and one of about two dozen African American ministers Bush has courted heavily. "If they fail to practice the compassionate conservatism that they have preached, history may not be kind to them."

Other ministers said they took solace in Bush's sudden shift in tone last week, as he admitted making mistakes, unveiled a massive rebuilding plan and pledged a renewed look at the relationship between race and poverty.

In language that resonated with many of the black ministers, Bush during his nationally televised speech Thursday cited the "deep, persistent poverty" in the Gulf region and said it "has roots in a history of racial discrimination.... We have a duty to confront this poverty with bold action." The Republican Party chairman, in a recent appearance, even talked about a new "war on poverty."

The White House outreach to its allies among black clergy has been intense and has engaged Deputy Chief of Staff Karl Rove, chief domestic policy advisor Claude Allen and James Towey, director of the White House Office on Faith-Based and Community Initiatives.

Their efforts show how important the black electorate is to Republican efforts to maintain and build its political majority — and how threatened those plans have been by the images of deaths and destruction in New Orleans, which has a black majority.

Towey said he had spoken to some pastors "two and three times a day" since the storm's wrath became clear, and he acknowledged that some were upset during their conversations.

"I've heard their frustration, and I've heard their deep concern for the people who are suffering," Towey said. But, he added, the fact that a dialogue continues is a sign of potential progress. "I'm encouraged because they're still calling and we're still talking, and we've moved past the first week into the phase the president is talking about now," Towey said.

Interviews with key black pastors who had built alliances with Bush revealed a continued reluctance to fully trust that the administration would follow through on new promises to look fully at race and poverty and to ensure that black residents and minority-owned firms benefited from the rebuilding. But they all expressed hope that Bush was sincere in his words.

The Rev. Bill Owens of Memphis, president of the Coalition for African American Pastors and a supporter of other Bush initiatives, applauded the president's speech, saying his new tone could be redemptive after two weeks of a troubling White House response. But his praise was cautious.

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"I think he now has a golden opportunity to show that he does in his heart care for the African American community," Owens said. "With what he does from here on, he will be judged."

Vivian Berryhill of Mississippi, president of the National Coalition of Pastors Spouses and one of Bush's most vocal black supporters last year, praised the president's new words and promises. But she acknowledged that feelings were raw.

"The president can't make a 20-minute speech and think it's all over," she said. "If Republicans ever hope to appeal to African American voters, they need to come out publicly and support the citizens of American who have a great need."

Even an outspoken member of the all-Democratic Congressional Black Caucus said the Katrina reconstruction outlined last week by Bush could present a history-changing opportunity — if the president and the Republicans in charge of Congress followed through.

"I did not expect [Bush] to be so strong" in addressing race, poverty and the federal commitment to rebuild in the Gulf, said Rep. Elijah Cummings (D-Md.). While cautioning that "rhetoric is one thing and action is another," Cummings wondered whether Katrina's aftermath has been "a life-altering event for the president, making him more compassionate and more empathetic."

Cummings said his Baltimore constituents remain "very, very skeptical" of the Republicans' ability to deliver on the lofty promises of the president's speech.

Yet, the Democratic congressman added, "We have to roll up our sleeves and work with him."

In addition to enhancing the Republican appeal among African Americans, senior party strategists believe that remaking the Gulf Coast has the potential to reignite the Bush "compassion agenda" that had been shunted aside by a post-Sept. 11 focus on terrorism, and provide a laboratory for long-simmering Republican ideas for targeting urban poverty.

Bush outlined some of those ideas last week, promising tax incentives and the pledge that a portion of the relief money would flow to faith-based social service organizations.

Bush increased his share of the black vote last year by as much as 7 percentage points in key battleground states, in part because of a White House initiative that has directed millions in government funds to black churches and other faith-based social service organizations.

Republican National Committee Chairman Ken Mehlman has forged ahead with the party's minority outreach campaign.

Several worried Republicans posed questions about it during a visit last week by Mehlman to Oregon and Washington state, prompting Mehlman to assure them that the administration's response would fit comfortably with the notion of growing the GOP — putting "an effective war on poverty" on par on the administration agenda with the fight against terrorism and reshaping Social Security.

"One of the things this requires us to do is rethink how does our nation do in helping folks who are in need," Mehlman said during an appearance in suburban Seattle.

"What this president says is we need to move from a regulatory system that creates dependency to an opportunity society that creates ownership and says more folks can own their own home and poor parents can choose where their kids go to school and poor people can own a personal retirement account."

While Towey said the black pastors will have a major role in helping to devise policy, the White House has also been soliciting advice from conservative thinkers.

Former House Speaker Newt Gingrich is advocating vouchers to allow displaced children and families to make their own choices in education and a market approach to housing.

Jack Kemp, the 1996 Republican vice presidential nominee and former U.S. housing secretary, wrote last week that conservatives could turn Katrina into an opportunity just as presidents Lincoln and Franklin D. Roosevelt did during other periods of crisis.

In an essay in the online conservative journal Human Events, Kemp wrote: "In the wake of this national catastrophe we should all be imagining the unimaginable."

Incompetence, Not Racism (WP)

By Richard Cohen

The Washington Post, September 20, 2005

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If you told me that George W. Bush is a dummy, I would argue with you but understand why you thought so: all those idiotic statements. But if you told me, as some have been implying, that Bush is a racist or that he doesn't care about black people, I would not only say that you're wrong but add, "Not the George Bush I know."

Of course, I don't know George Bush personally. But in his first presidential campaign, I traveled with him and tried, as he might say, to look into his heart. Conveniently enough, he sometimes wears it on his sleeve -- never more so, as I discovered, than when he talks about poor kids and racial and ethnic minorities. His feelings for them -- especially for poor kids -- are genuine. This is what I believed then and this -- his incompetent performance regarding Hurricane Katrina notwithstanding -- is what I believe now.

Others believe differently. The most non-nuanced statements came from the rapper Kanye West. Appearing on an NBC special to raise money for flood victims, West attributed the slow recovery effort not to ineptitude but to the fact that "most of the people are black." He followed that up a moment later with: "George Bush doesn't care about black people." NBC snipped that comment from its West Coast feed, but no matter: West was clearly not speaking only for himself. National polls showed a racial divide in appraising how the government did after Katrina. Blacks by and large thought race played a role in the laggard relief effort.

The Rev. Al Sharpton, functionally unemployed all these years, put it a bit differently. Appearing Sunday on local New York television, he didn't exactly say that Bush was indifferent to the plight of New Orleans's poor blacks, but he did say this about Bush: "One has to suspect why he had such delayed compassion." Sharpton did point out, as Bill Clinton did in his Sunday TV appearances, that in New Orleans, poor and black are largely synonymous, but still the damage was done: George Bush is no friend of black people.

I have two problems with all this. The first is not just that it's unfair -- Bush, in this case, was an equal opportunity bungler -- but that it rests on a stereotype: Republicans tend to wear lime green pants in the summer and dislike black people all year round. There was more than a little truth to this at one time. The GOP, after all, became a safe haven for Southern bigots who fled the Democratic Party (as Lyndon Johnson knew they would) in the civil rights era. The fight for the rights of blacks turned Dixie as Republican as it once was Democratic. To its everlasting shame, the GOP continues to benefit from raw bigotry.

But Bush is not cut from that cloth. He is a contemporary Republican, a person of another generation who, you may have noticed, has a black woman as secretary of state and had a black man before her. Under him, the GOP began an outreach to black Americans, and unless the Democrats wake up it will ultimately succeed. As Karl Rove well knows, all he has to do is pick up a small percentage of the black vote and he ends the current 50-50 electoral split. Bush, who won an impressive 27 percent of the black vote in his reelection bid for Texas governor, could have been the man to do this. His task is a lot harder now.

My second problem is that yelling racism stops creative thinking. Questions about how reconstruction should be managed, about how relief money should be used, about who will be resettled and where -- all of them fraught with racial issues -- will not be addressed. Instead, as we have already seen, the feds will simply throw gobs and gobs of money at New Orleans and its poor -- never mind how it is spent. Bush has reacted like a conservative's stereotype of a liberal -- just spend the damn money and hope it does some good. This, more than anything, shows true contempt for the poor, regardless of race.

We owe the poor our special consideration. We especially owe the black poor an appreciation of their plight and their dolorous history. But in general it was incompetence, not racism, that slowed the relief effort -- incompetence on the local and state levels, too, and incompetence on the part of black as well as white public officials. The search for racist scapegoats does the poor no good. This relief effort ought to start, above all, with some clear thinking.

Visions Of The New New Orleans (WP)

By E. J. Dionne Jr.

The Washington Post, September 20, 2005

PORTLAND, Ore. -- If the rebuilding of New Orleans is to be something other than a new government disaster, a coalition of the skeptical and the visionary will have to stand together and confront the lobbyists and the corporate welfare artists.

Fiscal conservatives in Congress are right to worry about the potential for -- yes -- waste, fraud and abuse if the federal government throws off tens of billions of dollars into a haphazard and ill-planned spending fest. If the goal is to spend as much

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money as quickly as possible, the benefits will flow primarily to the well-connected, and the result will be a new mess built on the old.

But because the rest of us are morally obligated to those whose lives have been damaged by natural calamity and government failure, it's a fact that the federal government will be spending a lot of money. That's why the fiscal conservatives need the visionaries. The visionaries are insisting that we put in the time to make New Orleans a model for a better kind of city and the rebuilding of the Gulf Coast a model for a better approach to governing. The people of the region, not the lobbyists, need to lead in creating an environmentally sustainable, socially just and economically viable region.

These thoughts are inspired by one of Congress's rare visionaries. Rep. Earl Blumenauer not only represents his beloved city of Portland but is also evangelical in spreading Portland's gospel of "livability." That odd but increasingly popular word embodies the idea that if governments plan right (and in cooperation with local citizens), they can safeguard the environment, create more agreeable lives for families and individuals and let loose sustainable private-sector growth.

Blumenauer, a Democrat always seeking to put together left-right coalitions on behalf of his eclectic mix of ideas, is both worried and excited by the prospect of rebuilding the Gulf. Speaking for the fiscally conservative, he describes himself as "a little scared by how fast they're doing all this stuff because I don't think there's anybody in charge."

But his excitement burns through during a discussion at a restaurant in Portland's Pearl neighborhood, an old warehouse district near an abandoned rail yard that is now thriving. "I've been in Congress for nearly 10 years and I've never been so optimistic that we have a chance not just to engage in the gargantuan task of helping people in the Gulf, but also of healing the body politic." There is an opportunity, he says, for government to ask the basic questions: "How do you build a community? How do you get people involved? You've got to build a citizen infrastructure along with all the roads and bridges."

Blumenauer has more standing than most on this subject. On Jan. 26, after returning from a congressional visit to areas devastated by the Asian tsunami, he rose on the House floor to ask: "What would have happened if, last September, Hurricane Ivan had veered 40 miles to the west, devastating the city of New Orleans?"

"The city has always been at risk because of its low-lying location," Blumenauer warned, "but that risk has been increased because of rising sea levels, groundwater pumping and the erosion of coastal Louisiana . . . it is hard to imagine what would happen if a disaster of that magnitude hit the United States." Now, alas, we know.

Blumenauer is ecumenical in his criticisms of past practices, including the actions of Congress and the Army Corps of Engineers, and he even likes to think that President Bush might become an ally for the large packet of proposals he is peddling.

Why shouldn't the president want to leave a legacy of a New Orleans built on economically mixed neighborhoods and a thriving public transit system? Blumenauer sees new parks and buffer zones in areas where homes shouldn't be, and economic projects designed to put local people back to work. He wants to revisit past policies that encouraged development in dangerous places.

Above all, he wants to turn the hurricane's victims into decision makers. In the rebuilding, "people should have a role in what it should be like, rather than have it done to them." One of his biggest fears is that outsiders will simply turn New Orleans into a Disneyland.

There will be time to debate all of Blumenauer's ideas. But one thing is certain: If the fiscal conservatives and the visionaries don't come together quickly, the special-interest-lobbyist complex that doesn't care about planning and seeks only cash in the hands of its friends will dominate the reconstruction effort. That would be a disaster for all of us, and especially for the people of the Gulf.

Can You Hear Us Now? Let Poor Americans Speak For Themselves (RC)

By Donna Brazile

Roll Call, September 20, 2005

One of the most difficult conversations I have endured in the aftermath of Hurricane Katrina is the discussion about race and poverty. Oh yeah, I have read the quotes from rapper Kanye West and former first lady Barbara Bush. I saw the early news reports about the victims that made me want to throw my TV out the window. But I made a strategic decision to stay focused on

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my family and not get pulled into making this horrible tragedy a wedge issue. It's time we shut up and allow poor people to speak for themselves. They have a story to tell us all.

There's no question that I am super-sensitive and emotional about this topic because of my own background. As a child growing up, I lived right smack on the intersection where race and poverty collide. It's not a pretty corner. Unfortunately, this intersection of despair, hopelessness and turmoil is not unique to the Gulf Coast region. It exists in major cities across America and in some rural areas as well. Many poor inhabitants at this intersection are not black; whites live there, too.

Katrina was an equal opportunity destroyer. She did not care whether you owned a home on the lakefront or rented an apartment in the "projects." This monster hurricane uprooted big elm trees and oak trees that lined our historic neighborhoods as though they were toothpicks.

And Katrina was colorblind. She didn't care if you lived in a house made of brick or one of wood. She moved things out of her way and placed them somewhere else. She was a mighty big storm and from what I was able to witness, it will take time to put things back together.

In the aftermath of all this destruction, Congress should hold a series of hearings that allow the victims to tell their stories to determine how to help them get a fresh start. (We have so many of Katrina's victims stranded in this region — just invite them over.) Whatever is done, poor people must not be excluded from this conversation.

Based on my experience, the worst part of being a member of the chronic poor or the working poor is the uncertainty about how to maneuver the system. Add race to this equation, and you have a recipe for hopelessness.

The reason why so many of Katrina's victims, including some middle-class folks, are upset right now is they cannot get a straight answer. It's bad enough to lose all your material possessions, let alone figure out how to log onto a computer to file for assistance or to get an update on information to help you find housing. This expectation is just plain ludicrous.

Federal officials, working with state and local officials, should begin hiring some of the locals right away. They should get rid of the red tape that forces people to find a computer. Bring computers into the shelters or communities where they are stranded.

When I was back home over the weekend, I saw numerous ads for construction workers, builders and other professional skills. No offense, but can someone cut a radio spot and inform people where to apply? Better yet, post this information in the shelters and organize local transportation to take shelter inhabitants to job interviews. Again, think like the people you want to help. Tell them when and where to report and how they can get back and forth. They are ready to work.

If it takes a national conversation on race and poverty to get things moving, I want to start the dialogue. I want Americans to learn how people who live from paycheck to paycheck budget their time and limited resources. I want America to hear what it's like living with no health insurance and waiting for hours to see a medical professional. I want America to hear what it's like working two shifts at a minimum-wage job so everyone will understand why President Bush's decision to waive the Davis-Bacon Act, which guarantees that federal contracts pay workers prevailing wages, is an awful mistake and an insult to the people of the region.

I want America to hear from small and minority businesses about the cumbersome rules and the maze of red tape they went through to get certified only to learn that they may not qualify for the rebuilding work ahead. I am excited about some of the plans designed to help people rebuild their lives and communities, especially the plan to use excess federal land to build new homes. But, Congress should make sure that local people are involved in this process.

Congress can lead the way through public hearings to examine what went wrong and where we go from here. For God's sake, let's be honest with each other and respect our various opinions.

The people who raised me and so many others along the Gulf Coast did not sit on their behinds all day. They worked three or four jobs to make ends meet. They taught us to play by the rules, respect others, get an education and work hard. I still play by those rules, but my family and many others need support and assistance from Congress to help get back in the game.

Donna L. Brazile, the campaign manager for Democratic presidential nominee Al Gore in 2000, runs her own grass-roots political consulting firm.

President Sinking In Ratings (USAT)

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By Susan Page

USA Today, September 20, 2005

WASHINGTON — Americans' views of President Bush and his leadership have soured in the wake of dismay over the government's response to Hurricane Katrina, the course of the Iraq war and the future of the economy.

Bush's rating for handling each of those issues dropped to his lowest yet in a USA TODAY/CNN/Gallup Poll taken Friday through Sunday. Assessments of his personal qualities also fell: For the first time, a majority says he isn't a strong and decisive leader.

Bush's overall approval rating is 40%, equaling a previous low. His disapproval is 58%, a new high.

“Bush stands at a precipice,” says Carroll Doherty of the non-partisan Pew Research Center. “He's lost ground among independents. He seems to be starting to lose ground among his own party. And he lost the Democrats a long time ago.”

By a record 66%-31%, independents disapprove of the job Bush is doing as president.

White House press secretary Scott McClellan says the president “knows a leader must govern based on what he believes is right, not based on polls.” Bush is “working to address the priorities that Americans are most concerned about,” he says.

Of the poll's respondents, 30% identified themselves as Republicans, 33% as independents and 36% as Democrats.

The survey shows signs of friction between the two most pressing concerns on Bush's agenda: the Iraq war and Katrina recovery.

A 54% majority says the best way for the government to pay for hurricane relief is by cutting spending for the war. Just 6% support spending cuts in domestic programs, as Bush has suggested.

Nearly two-thirds of those polled, 63%, say some or all of the U.S. troops in Iraq should be withdrawn. A record-high 59% say it was a mistake to invade.

Bush's standing declined even though Americans, by 45%-27%, approve of the proposals he unveiled in a nationally televised address Thursday to deal with Katrina. Seven in 10 express confidence the administration can assist victims.

But assessments of Bush on the hurricane dipped after the speech: 56% say he has taken steps to help victims mostly for political reasons, not because he cares about them.

By more than 4-to-1, Americans want an independent panel — not Congress — to investigate the government's response to Katrina.

Some Firms Hired In Katrina's Wake Have Checkered Pasts (WSJ)

By Yochi J. Dreazen

The Wall Street Journal, September 20, 2005

GoldStar EMS was on the ropes earlier this year, beset by legal problems.

The Texas ambulance provider's offices had been raided by the Federal Bureau of Investigation as part of a widening investigation into alleged Medicaid fraud. It faced a $1.3 million tax lien from the Internal Revenue Service. It had been forced to file for emergency bankruptcy protection to prevent the local tax assessors who had seized its airplane from also taking its helicopters. It had closed many of its offices across the state and fired two-thirds of its work force. Dozens of its ambulances sat idle in a parking lot in preparation for a fire sale.

Then Hurricane Katrina tore through the Gulf Coast, and GoldStar's fortunes began to change. Desperate to get ambulances into flood-ravaged areas of Louisiana, the Federal Emergency Management Agency put out a call for help. C. Henderson Consulting Inc., a small East Texas firm, bid for the work and signed a federal contract to provide up to 50 ambulances a day through the end of September at a total cost of $5.2 million.

Then Henderson Consulting went looking for subcontractors capable of providing dozens of ambulances immediately. The only firm it found with that many vehicles on hand was GoldStar, which soon had a subcontract to provide up to 45 ambulances a day at a profit of $800 per vehicle per day.

"Most ambulance companies wouldn't be able to supply 45 ambulances on a dime like that. But ours were just sitting there in the lot, so it was a nice coincidence for everyone," says Edward Rothberg, GoldStar's attorney. "It would be pretty sad for the government to say that we won't use GoldStar because they're being investigated, so we'll leave people to die in the streets."

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The GoldStar contract illustrates one of the unintended consequences of what is shaping up to be the largest government rebuilding effort in U.S. history. As the Bush administration rushes to rebuild Louisiana, it faces the prospect of turning to companies with checkered histories that even include disputes with other arms of the government. It's essentially a no-win situation: If officials don't get quick results, they're likely to be criticized for getting bogged down in bureaucracy. But if they push some of the contracting formalities aside, they may find themselves employing unreliable or unsavory companies.

Companies that are involved in earlier disputes with the government are often "so clearly unreliable" that similar problems could well arise during the relief work, says Danielle Brian, executive director of the Project on Government Oversight, a government watchdog in Washington.

FEMA officials say they do have a procedure to review the background of Katrina contractors. First, they check with the General Services Administration to see if a company has been suspended or barred from government contracts. Then they check FEMA's own database to see if the agency has had problems with the contractor in the past. If problems are found, FEMA won't sign up the company.

But such checks aren't likely to disclose much about first-time contractors or about companies that haven't been formally barred from federal work but still face tax liens, criminal investigations or other disputes with other parts of the government. And FEMA doesn't investigate the backgrounds of subcontractors at all, because, as spokesman Michael Widomski says, its work is "specifically through the main contractor."

The potential problems are complicated by the sheer volume of federal money being devoted to rebuilding the Gulf Coast. Yesterday, in response to congressional concerns about potential contracting problems, the Bush administration announced it was hiring FEMA's former acting chief financial officer, Matthew Jadacki, to head a new Office for Hurricane Katrina Oversight, with offices in Louisiana, Mississippi and Alabama. But that may not assuage a bipartisan group of lawmakers that has questioned FEMA's ability to monitor spending. Last week the group proposed legislation to create an independent watchdog modeled on a similar office in Iraq.

GoldStar isn't the only company hired in the wake of Katrina that has had prior run-ins with government agencies. Last month, Illinois state police terminated a $7 million contract with Bode Technology Group Inc., a subcontractor for the company hired by the U.S. to recover and identify Katrina victims. The Springfield, Va., company, which is a division of ChoicePoint Inc., found "false negatives" on many of the samples it was testing for the state police. Bode, which was reviewing rape kits, said it had found no usable evidence in many of the samples. But the state police, which performed its own quality-control tests, found otherwise.

In a written statement, Bode expressed "regret" about the state police decision on the contract and said the dispute centered on an older type of lab work rather than DNA testing.

The Katrina contract has been a lifeline for GoldStar, whose fortunes had plummeted after a meteoric rise. GoldStar Chief Executive Ralph Crall served as the pastor of a small church he founded and funded in East Texas. He launched GoldStar in 1998, along with an associate he met when the two handled public relations for American Medical Response, then the largest private ambulance provider in Texas. The new company soon displaced AMR. At its peak it owned 90 ambulances, two helicopters and two Learjets, held contracts with cities like Galveston and Corpus Christi, and had annual revenue of more than $20 million, Mr. Rothberg says.

But GoldStar's ascent was soon shadowed by accusations of billing irregularities and poor ambulance response times. Since 2003, eleven complaints were lodged against the company with Texas regulators, far more than any other ambulance organization had. A former employee sued, claiming he was fired after reporting "a potentially serious safety concern." And an investigative article in a Houston alternative newspaper, the Houston Press, concluded that the company "maximized profits and growth at the expense of the injured."

Last April, FBI agents raided seven of GoldStar's offices, confiscating patient records and other files as part of an intensive investigation into whether the company and its top executives had committed Medicaid fraud, according to people familiar with the probe. Mr. Rothberg denied wrongdoing and blamed a competitor or disgruntled former employee for lodging the complaint that triggered the probe. Prosecutors in the U.S. attorney's office in Beaumont, Texas, said last week that the investigation is ongoing but declined further comment.

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GoldStar's problems deepened weeks later when tax collectors in Jefferson County sent constables to seize one of the company's jets over an unpaid tax bill of more than $70,000 and made plans to seize its helicopters as well, according to Miriam K. Johnson, the tax assessor there. "It's an unusual move for us to make out here," she says. "We only do it when we know a company is in trouble and we realize we need to protect the county the best we can."

The company filed for bankruptcy protection so that it could keep the helicopters but began scaling back significantly. It pulled out of Jefferson County and a half-dozen other East Texas counties and fired hundreds of workers, reducing its total work force to about 120, Mr. Rothberg says. It also closed a debt-ridden air-service subsidiary called GoldStar Angel Flight, selling off its helicopters and turning its remaining jet over to creditors, he says.

The legal and financial problems had put GoldStar on life support until Katrina hit and its unused ambulances suddenly became a valuable resource. Under the terms of its deal with FEMA, Henderson Consulting is paid $3,100 a day for each ambulance and two-person crew, Mr. Rothberg says. Under the agreement between Henderson and GoldStar, the two companies split the profit on each ambulance equally, he says, allowing each company to net about $800 a vehicle.

John C. Henderson, the owner of Henderson Consulting, says he knew about GoldStar's troubles when he struck the deal but accepted the company's assurances that they would be resolved in its bankruptcy proceedings. "Their legal and financial problems aren't any concern of ours," he says.

Mr. Rothberg, meanwhile, says the company is proud of its work in Texas and hopes its initial monthlong subcontract will be extended. He defends the company's right to win Katrina contracts. "We still live in America, and we're still innocent until proven guilty," he says.

Federal Contractors Seek Liability Shields (WP)

By Renae Merle

The Washington Post, September 20, 2005

Contractors working on Hurricane Katrina relief efforts for the federal government want Congress to limit their liability from lawsuits and are drafting legislation to seek such protection, industry officials said yesterday.

The Army Corps of Engineers and the Federal Emergency Management Agency have relied on contractors, including several who started work without a contract, to fix the levees in New Orleans and pump water out of the city. But the companies have become concerned about the liability issue because of lawsuits filed against construction firms that helped clean up the World Trade Center after the Sept. 11, 2001, terrorist attacks.

"We're asking for some reasonable limits for going into the Gulf Coast and dealing with unknowns," Michael E. Kennedy, general counsel for the Associated General Contractors of America, said after a meeting of the trade group in Washington. "A contractor goes into an unknown situation to remove debris or fix a utility line, and three years from now someone decides they did it improperly."

The Corps has already contracted with more than a dozen companies for work worth $2.8 billion during the next year. Those companies will be joined by dozens more as reconstruction of the region begins.

The bill that the trade group is drafting would limit contractors' liabilities but still hold them responsible for following government regulations, Kennedy said. It would be similar to regulations the Homeland Security Department unveiled last year that protect companies selling security technology from lawsuits triggered by a terrorist act.

Legislation was introduced in the House last week to shield volunteer contractors from liability. The general contractors' bill would extend the coverage to companies working under the government.

"You can consider these contractors as an extension of the government; they are performing a lot of public" duties, Kennedy said.

Robert S. Boh, president of Boh Bros. Construction Co. of New Orleans, said yesterday that he favors such a bill. His firm moved its New Orleans offices to Baton Rouge, La., after the hurricane hit but was soon hired by the Corps to fix the levees and pump water out of the city.

"We're simply showing up and responding to verbal direction," Boh said. "We're not adequately able to assess the request for risks."

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Also yesterday, the Homeland Security Department's inspector general appointed a National Weather Service official who once served as acting chief financial officer of FEMA to lead the office's work overseeing Katrina spending.

Matthew A. Jadacki, who worked at FEMA from 1991 to 2004, will "be responsible for overseeing the management and expenditures of all contracts, grants and governmental operations related to Hurricane Katrina relief efforts," according to a Homeland Security Department statement.

Jadacki's appointment comes as members of Congress continue to debate other ideas for how the government will monitor the flow of money for Gulf Coast reconstruction. The proposals include establishing a special inspector general's office, expanding the duties of the special inspector general for Iraq reconstruction or establishing a chief financial officer.

Some in Congress are concerned that Homeland Security's inspector general's office will not have the resources to monitor the department's regular work, as well as the tens of billions of dollars flowing into the Gulf Coast. Homeland Security Department officials, however, have said the department's IG office is up to the task.

House GOP Scraps Plan For Joint Probe On Hurricane Response (LAT)

By Mary Curtius

The Los Angeles Times, September 20, 2005

WASHINGTON — Congressional Republicans signaled today that they have abandoned their plan to conduct a joint House-Senate probe of the government's response to Hurricane Katrina.

In announcing a joint probe this month, the Republican leadership had said it would be the most efficient way to investigate the administration's much-criticized initial response to the hurricane. But today, Senate Majority Leader Bill Frist (R-Tenn.) conceded that he could not overcome Democratic opposition to a joint investigation.

The Democratic leadership has refused to appoint members to a joint committee, citing the lack of equal representation of Democrats on the panel, and the lack of power to issue subpoenas that the majority opposed. Democrats also have insisted on an independent inquiry.

Democratic opposition has left Republicans little maneuvering room for mounting a credible probe. With the joint investigation apparently off the table, Republicans can only hope that Democrats will participate in each chamber's separate investigation. It was far from clear today that Democrats would do that.

In a letter sent to Senate Minority Leader Harry Reid (D-Nev.), Frist offered that instead of a joint House-Senate probe, the Senate would conduct its own investigation and "coordinate" its efforts with the House "so as to minimize the burdens placed on those who are coming to Washington, D.C. from the gulf coast region."

Frist also said he was willing to name the members of the Homeland Security and Governmental Affairs committee as members of the Senate's special panel to probe the disaster. But a spokeswoman for Reid said the majority leader had rejected the proposal.

Meanwhile, House Speaker Dennis Hastert (R-Ill.) was having no more luck persuading House Democrats to participate in that chamber's probe.

Late last week, Hastert named Rep. Tom Davis (R-Va.), chairman of the House Governmental Reform Committee, to head the House's special panel investigating the hurricane response. Davis may name Republican members to that committee as early as Tuesday and is planning his first hearing later this week.

House Minority Leader Nancy Pelosi (D-San Francisco) remains adamant that Democrats will not participate in the House committee.

Congress — Again — Misses The Boat (USAT)

By Ross K. Baker

USA Today, September 20, 2005

The first reaction to Hurricane Katrina from members of Congress was not one to inspire confidence in our legislative branch.

House Speaker Dennis Hastert, R-Ill., when asked about the devastation in New Orleans, told a Chicago newspaper on Aug. 31 that it made little sense to spend billions of dollars to rebuild a city that is7 feet below sea level. This drew a sharp

rejoinder from Louisiana's Democratic Sen. Mary Landrieu and compelled Hastert to spend much of the day trying to soften his remarks. The episode set the tone for what was to follow — a rancorous debate over how to get to the bottom of the failure of governments at all levels to cope with the ravages of the storm.

In a well-ordered world, a calamity of the magnitude of Hurricane Katrina ought to be the subject of a congressional investigation. From the earliest days of the republic, the House of Representatives and Senate had unquestioned responsibility for probing and, yes, finger-pointing in calamities' aftermath.

That, sadly, is no longer true. Congress has fallen victim to a number of problems that have caused Americans to look elsewhere for answers.

The first of these problems is the fractious spirit of partisanship that has so infected Capitol Hill that no conclusion Congress might reach about who was responsible for the botched response to Katrina would have much legitimacy in the eyes of Americans.

A panel of one party

Republican leaders in Congress proposed the creation of a House-Senate committee to investigate the belated relief efforts. They reached this decision without the involvement of Democrats and further undercut the authority of this committee by announcing that Republican members would outnumber Democrats. Democratic leaders in both houses hastened to denounce the plan and have, thus far, declined to participate.

This kind of partisan bickering caused some lawmakers — Sen. Hillary Clinton, D-N.Y., most prominently — to call for the establishment of an independent panel modeled on the 9/11 Commission to ferret out the causes of the debacle on the Gulf Coast. A panel, along the lines of that commission, with its widely acclaimed hearings and best-selling report, would satisfy the American people that they were getting the straight story. But it is deeply troubling that only by bypassing Congress would citizens conclude that the truth is being told. In all likelihood, the public would be equally skeptical of a panel dominated by Democrats.

But it is more than partisanship that has impeded Congress' ability to avert or probe causes of disasters. The perverse arrangement of committees supervising agencies responsible for disaster relief also impairs the lawmakers. The Federal Emergency Management Agency (FEMA) and the Coast Guard have their operations monitored by two committees. Fear on the part of congressional committee chairmen of losing control over federal agencies to other committees makes a mockery of accountability.

The money Congress spends to avert disasters such as Katrina are distributed, not to those places at greatest risk, but often to those localities represented by legislators who are most influential.

Spoils go to influential

Homeland security money, for example, went to the organization that operates the ferry to fashionable Martha's Vineyard, and a rural county in Kentucky received money to fend off biological and chemical attacks.

Given the preference of terrorists for spectacular acts of violence against heavily populated places, these grants to inconspicuous rural communities is without justification, yet the heavy-hitters on Capitol Hill have resisted apportioning money to the most vulnerable cities and states and insist that all states get a decent ration of pork.

There are a few bright spots in this otherwise dismal picture of business as usual in Congress. Even before Katrina struck, the House Committee on Homeland Security was upgraded from a "select committee" with no legislative authority to a standing committee that can write and process bills. It has a new chairman, Rep. Peter King, R-N.Y., who is likely to be sensitive to the security needs of large cities.

On Friday, Sept. 16, the Republican and Democratic leaders of the Senate agreed to put aside, for the time being, the question of how the joint House-Senate committee would be organized and concentrate instead on expediting spending bills to aid the hurricane victims. This does not dispose of the issue but at least enables Congress to deal immediately with the most pressing problems of recovery.

But even these few glimmers of hope can quickly dim if relief and reconstruction after the hurricane degenerate into squabbles over pork, turf and partisan credit. It's truly an ill wind that blows no good, and perhaps one beneficial result of Katrina would be to infuse Congress with a new determination to restore itself to being the place we turn to for help — and for answers.

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Ross K. Baker is a political science professor at Rutgers University. He also is a member of USA TODAY's board of contributors.

Storm Threat Halts Returns To New Orleans (WP)

By Ceci Connolly

The Washington Post, September 20, 2005

NEW ORLEANS, Sept. 19 -- With Tropical Storm Rita bearing down on the Gulf of Mexico and growing political pressure from federal leaders, Mayor C. Ray Nagin said Monday that New Orleans residents could not return home after all and that any people already in the city should evacuate.

Nagin had been allowing business owners to return over the weekend, and on Monday residents of one dry neighborhood were to return to their homes. But Nagin reversed himself and ordered another mandatory evacuation, to begin Wednesday, just hours after President Bush questioned whether the city was safe enough for people to return.

"We are suspending all reentry into the city of New Orleans as of this moment," Nagin said. The mayor said he backed away from his earlier decision because of fresh fears about Rita, which forecasters said could become a hurricane by Tuesday.

"If we are off, I'd rather err on the side of conservatism to make sure we have everyone out," Nagin said.

The city's levees, overwhelmed by Hurricane Katrina, "are still in very weak condition" and many of the pumps used to push the mucky floodwaters back into Lake Pontchartrain are not yet operating, Nagin said. If Rita were to dump nine inches of rain on New Orleans, the result would be "three to four feet of flooding in most parts of the city," he said.

Asked if anything could be done to buttress the levee system before Rita were to strike, Nagin replied: "Just tell people to run."

Current weather projections indicate that Rita, which was threatening Key West, Fla., Monday night, could roar across the Gulf and strike the lower portions of Louisiana by the weekend. If, as some suggest, New Orleans sits on the "eastern side of the storm, we take the brunt of it," Nagin said.

As New Orleans residents faced the grim prospect of an even slower recovery, state officials put the still-rising Katrina death toll at 736 in Louisiana and the overall toll at 973.

Bush administration officials and Nagin have sparred publicly and in private in recent days over the mayor's push to demonstrate that New Orleans will be back in business soon. Last Thursday, he laid out a plan to permit up to 182,000 people to return over the course of 10 days.

Vice Adm. Thad W. Allen, the Coast Guard chief of staff tapped by Bush to lead the federal response here, said that move was "extremely problematic." Allen said it was dangerous to invite tens of thousands of people into a city with little clean water, a severely compromised sewer system, a manual 911 emergency call system and few hospitals or traffic lights.

Nagin, interviewed over the weekend in Dallas by Fox News, questioned Allen's credentials: "Since I have been away a day or two, maybe he's the new crowned federal mayor of New Orleans."

That prompted Bush to reinforce Allen's message, telling reporters he was taking the unusual step of commenting publicly to be certain the mayor got the message.

"We have made our position loud and clear," the president said Monday.

Although he defended his initial plan to reopen New Orleans, Nagin said the new decision to evacuate was based solely on long-range projections that show Rita has the potential to bring high winds and downpours to a city ill-equipped to handle another natural disaster.

"This is not a diversion," he said from his new command center in a downtown hotel. "This is a real threat."

Initially criticized for failing to move many of the city's impoverished black residents out on the weekend prior to Katrina, Nagin promised a more aggressive approach to the evacuation set to begin Wednesday.

"I don't play around with hurricanes," Nagin said. "I've seen Katrina."

Although Nagin said he would turn to active-duty soldiers and the National Guard to help the city's depleted police department enforce the new evacuation order, a Pentagon official said that is not the role of the military.

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"They have not asked us to help them take anyone out of the city at this time," said Brig. Gen. Mark A. Graham, deputy commanding general of Fifth U.S. Army, which oversees the 82nd Airborne Division and other active-duty Army forces in the region. "We don't forcibly evacuate anyone. That's a law enforcement job."

The Department of Defense was also evaluating whether to send out to sea vessels such as the warship USS Iwo Jima, which is tied up at a Mississippi River dock in downtown New Orleans and is serving as command center for the military in the region.

"I'm certain they are contemplating that" because ships "have a better chance of riding out the storm" at sea than if they are tied up to moorings, said Maj. John Thomas, a spokesman for the federal recovery effort in Baton Rouge, La.

Many emergency responders who have helped rescue survivors and locate the dead here were pondering their next move, weighing whether they ought to flee before Rita's arrival or hunker down.

Alexandria, La., Police Capt. John Henderson, who is helping run the city's command center, said aides were drawing up evacuation plans that would enable out-of-town relief workers to move to high ground if necessary later in the week.

Throughout the day, there were pockets of activity in Algiers, the neighborhood across the Mississippi River where residents were officially permitted to return. Even before Nagin's announcement, most residents said they had no intention of staying.

"I just came to clean up, salvage as much as I can," said Ramsey Washington, who drove back from his temporary home in Houston. "It's not livable. They got no jobs. No banks are open."

Sonia Badon, 35, has already rented an apartment in Baton Rouge; her employer has relocated his computer company there, too. On Monday, she and her boss and two friends were nailing a tarp onto the roof of her Halsey Avenue home.

Although her best friend has moved to Nashville in search of a job, Badon said she will return to her native New Orleans. But for now, she said with sweat rolling down her face, "It's too soon to come back."

City Clears Out Again (USAT)

By Laura Parker And Alan Levin

USA Today, September 20, 2005

NEW ORLEANS — Mayor Ray Nagin on Monday reversed his call for people to return to the city and ordered most people out over worries that a new tropical storm could flood the city again.

The announcement came after President Bush and the federal government's Hurricane Katrina response team urged the mayor to reconsider his plans, saying the city was not safe.

“The levee system is still in a weakened condition,” Nagin said at a late-afternoon news briefing. “Any type of storm will put the east bank of the city in harm's way.”

Tropical Storm Rita, which is heading toward the Gulf of Mexico, could become a major hurricane, the National Weather Service said.

Earlier in the day, Nagin had criticized Coast Guard Vice Adm. Thad Allen for publicly imploring him to stop people from returning. He called Allen a “good man” but said, “There's only one mayor of New Orleans, and I'm it.”

Allen warned that the city's water was largely undrinkable and its hospitals not working. He said there was no evacuation plan in case new floods rose from another storm, so residents should stay out.

Bush urged the mayor to heed Allen and reconsider. Nagin and Allen met later in the day.

“He's got this dream about having a city up and running, and we share that dream,” Bush said. “But we also want to be realistic about some of the hurdles and obstacles that we all confront in repopulating New Orleans.”

Nagin planned to have one-third of the city's 460,000 people return over the next week and a half. On Monday, he ordered everyone out except for people in Algiers, a neighborhood that was the first to be reopened. Thousands of people returned there Monday, but Nagin warned them to be ready to leave.

Louisiana Gov. Kathleen Blanco told coastal residents to be ready to go. “We will weather this storm as we have weathered Katrina,” she said.

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Kelly Jordan, 27, who was dispensing pizzas from a trailer to emergency workers, said Nagin erred by reopening. “If he hadn't let people back in too soon, he wouldn't be having this problem,” she said. “He should have at least waited until the boil order (for water) was lifted.”

Mayor Suspends Flow Of People To New Orleans (NYT)

By William Yardley

The New York Times, September 20, 2005

NEW ORLEANS, Sept. 19 - Under pressure from President Bush and with a new storm threatening the Gulf of Mexico, Mayor C. Ray Nagin suspended on Monday his controversial plan to allow people to return to this vulnerable city.

Instead Mr. Nagin called for a "mandatory" evacuation of many of the residents who have returned or never left.

"This is a different type of event," the mayor said of the storm, Rita. "Our levee systems are still in a very weak condition. Our pumping stations are not at full capacity, and any type of storm that heads this way and hits us will put the east bank of Orleans Parish in very significant harm's way. So I'm encouraging everyone to leave."

The mayor reversed himself hours after Mr. Bush had questioned whether it was safe for residents to return. The president reiterated warnings by Vice Adm. Thad W. Allen of the Coast Guard, leader of the federal recovery effort, that the levee system was weakened, that the 911 emergency telephone system was not working, that the hospitals remained closed and that pollutants were in the air and water.

"Admiral Allen speaks for the administration," Mr. Bush said on Monday in Washington. "We have made our position loud and clear. The mayor needs to hear, and so do the people of New Orleans, our objective.

"Listen, I went there and stood in Jackson Square to say we want this city to re-emerge. As I said, I can't imagine America without a vibrant New Orleans. It's just a matter of timing, and there's issues to be dealt with.

"If it were to rain a lot, there is concern from the Army Corps of Engineers that the levees might break. And so therefore, we're cautious about encouraging people to return at this moment of history."

The dispute over access reflected three weeks of tension, despite public reconciliations, between federal and local authorities over the response to Hurricane Katrina, which struck on Aug. 29.

Mr. Nagin said the new storm and sewer problems, but not political problems, had prompted the change.

"I understand the federal government was a little, uh, excited about the plan," he said. "They didn't feel as though conditions were quite right. But my thought has always been that if we have this many resources in the city working cooperatively, then we could correct just about any situation that was out there."

Forecasters said the new storm, which passed through the Bahamas on Monday, was expected to strengthen into a major hurricane in the Gulf of Mexico this week and potentially strike Texas, near the Louisiana border. The mayor asked people remaining in the city to leave or at least "be prepared" to evacuate as soon as Wednesday, depending on the storm track.

The terms of the evacuation were not fully clear. The mayor said the east bank of the city, which includes historic neighborhoods like the French Quarter, as well as those most devastated by flooding, was under the same mandatory evacuation he issued before Hurricane Katrina. But he said people in those areas would not yet be forced to leave.

Mr. Nagin and Gov. Kathleen Babineaux Blanco, said buses would be in place to remove people who needed transportation. In a statement after the mayor's announcement, the city said it that it had requested 200 buses and that it already had 150. If the storm threatens the city, the plan calls for residents to start boarding the buses 48 hours before the projected landfall from the Ernest M. Morial Convention Center downtown and from Behman Stadium in the Algiers section.

The governor said more details of the plan would be available on Tuesday.

In Algiers, a section of the city across the Mississippi that did not flood, Mr. Nagin asked residents to "be prepared to evacuate as early as Wednesday." He made that call hours after the city had officially begun letting residents return to that area, the first major neighborhood, with 60,000 people before the storm, to reopen.

Word of another potential evacuation was met with some acceptance, some resistance and much frustration in Algiers. After a long drive home from Pensacola, Fla., Roy McGinnis parked his Dodge Caravan on Magellan Street, home at last.

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"I can't take another evacuation," Mr. Magellan said. "I have my grandchildren with me. I have my whole family with me. The first storm to hit, we haven't gotten over that yet. We've been on the road. We can't get back on the road.

Others were less defiant. Diane Craik, a real estate broker who had stayed in San Diego during Hurricane Katrina, made a half joke about moving to California for good.

"If they say evacuate, we're going," Ms. Craik said. "It's crazy. This is just stuff. I wouldn't stay for stuff."

The death toll in Louisiana from Hurricane Katrina rose to 737 on Monday, from 646 on Sunday.

By Monday afternoon, a police officer on Interstate 10 turned away all residents going into the city because of the new storm threat. Just contractors and the news media entered, said the officer, Gus James.

Some low-lying areas close to Lake Pontchartain remain under water.

"Three inches will cause some flooding," Col. Terry J. Ebbert, homeland security director of the city, said about more rain.

"The real problem," he said, citing the weakened levees, "is storm surge."

The Army Corps of Engineers has warned for days that the repaired levee system around the city, most of which is below sea level, would not protect the area from another hurricane or even a heavy storm.

"Initially when the storm struck, we thought they might be in a little better condition," a spokesman for the corps, Eugene A. Pawlik, said. "We had not had the opportunity to go out and do a full inspection of the levees."

Now, Mr. Pawlik said, it is clear that the city "can't take much of a hit."

After inspections, the corps has found that many areas of levees that had been "overtopped" have become significantly lower than their designed heights. Some levee stretches, including those along the Mississippi River Gulf Outlet canal, have been entirely eroded away, from original heights of 17 feet "to almost ground level," Mr. Pawlik said.

In the coming months, the corps plans to work through three phases. The first one to close the gaps in the levees, the second to rebuild the levees to their former height and the third to return the levees to their pre-storm structural strength.

The corps plans to have the third phase completed by next June, when the 2006 hurricane season begins. The repairs would restore the levees only to their strength before Hurricane Katrina.

The mayor, asked whether the city could allow residents to safely return at a point in the near future, knowing that hurricane seasons does not end until Nov. 30, said the city would resume its phased in re-entries in some form after the threat from the new storm had passed.

He emphasized that the program was not intended for everyone in a city with no open schools and no public transportation.

"I think we can, as long as those are mobile residents that come back and as long as we're not encouraging children to come back and elderly," Mr. Nagin said. "I think we can do it. We need a very flexible citizen that comes back. And I think our citizens are smart enough to understand the difference."

A spokesman for the Louisiana Office of Homeland Security and Emergency Preparation, Mark Smith, said emergency personnel would also have to be evacuated if the new storm turned toward New Orleans. He said 16,000 National Guard and regular Army soldiers were in New Orleans, along with several thousand workers from contractors for the Federal Emergency Management Agency, FEMA employees and other relief workers would be affected.

Mayor Nagin has said the federal presence proves how safe the city is after widespread looting and violence in the first days after Hurricane Katrina. But he has also resisted federal intervention at times.

Noting that Admiral Allen had urged residents not to return, the mayor said: "The admiral's a good man. I respect him. But when he starts talking to the citizens of New Orleans, that's kind of out of his lane. There's only one mayor of New Orleans and I'm it."

Bush Questions Reopening Of New Orleans (AJC/AP)

By Jennifer Loven, Associated Press Writer

The Atlanta Journal-Constitution, September 20, 2005

WASHINGTON — Criticized for weeks for failing to react aggressively enough to Hurricane Katrina, President Bush on Monday put some muscle behind concerns that a new tropical storm could again deluge New Orleans and the people being allowed to return to the ruined city.

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It worked. Six hours after Bush questioned New Orleans Mayor Ray Nagin's plan to bring as many as a third of the city's population back over the next week, Nagin reversed course and said he was suspending it.

Appearing at the White House with his homeland security council, Bush said he had "deep concern" about the possibility that Tropical Storm Rita, which was headed toward the Florida Keys, could move into the Gulf of Mexico and impact New Orleans.

"If it were to rain a lot, there is concern from the Army Corps of Engineers that the levees might break," Bush said. Among the many other concerns are a lack of drinkable water and fears about contamination levels in the remaining floodwaters and the muck left behind in drained areas.

As Bush spoke, residents had begun trickling back into the city.

Besides the president's public words, White House chief of staff Andrew Card pressed the point on the phone with Nagin. And Coast Guard Vice Adm. Thad Allen, head of the federal government's hurricane response, delivered federal officials' concerns to Nagin later Monday — after appearing on numerous TV shows to express dismay with the city plan.

"The mayor needs to hear him. So do the people of New Orleans," Bush said. "We're cautious about encouraging people to return at this moment of history."

The president stressed that it's not a question of if residents return, but when — "it's just a matter of timing," he said. And the White House rebuffed any discussion of forcing the city to bend to Washington's wishes, preferring to let discussions take their course.

At a news conference in New Orleans, Nagin not only said the reopening was off, but that everyone who was in the city needed to evacuate because of Rita. "I'd rather err on the side of conservatism to make sure we have everyone out," he said.

Bush, however, continuing his effort to undo the political damage from the bumbled early response by keeping a heavy storm-related schedule, was heading into New Orleans. Making his fifth trip to the hurricane zone, the president was meeting Tuesday with local officials and business leaders in Gulfport, Miss., followed by a stop to a business trying to get back on its feet.

He planned to return south Friday and Saturday, traveling to Alabama, Texas and Arkansas. "The trip will be an opportunity for the president to personally thank some cities and states that have taken in large numbers of our fellow citizens affected by Katrina," said White House press secretary Scott McClellan.

Being away from Washington on Saturday will keep Bush far from an anti-war march that organizers hope will attract 100,000 people. The demonstration is expected to include Cindy Sheehan, the California mother of a soldier killed in Iraq.

Sheehan, who set up camp outside Bush's Texas ranch in August and drew thousands of fellow protesters, has been on a 25-state bus tour scheduled to end at the Washington march.

On another front, 21 House Republicans sent a letter demanding that Bush find offsets in the budget to defray the massive cost of rebuilding the Gulf Coast. Conservatives, worried that the deficit will balloon, have been alarmed at the pace of spending with no talk of how to pay for it.

"We find this fiscal situation troublesome and urge your administration to follow the examples of previous administrations facing fiscal difficulties in time of emergencies and exercise spending restraint," said the Sept. 15 letter by Rep. Marsha Blackburn, R-Tenn.

Sen. John McCain, R-Ariz., suggested dropping the Medicare prescription drug plan, which he has long opposed. "It was supposed to cost $400 billion dollars," he told CBS Evening News. "It's now up to $700 billion. We ought to cancel it, go back to square one."

Bush on Friday ruled out raising taxes to pay Katrina expenses and said other government spending must be cut. His aides have said, though, that no such cuts have yet been identified and that the hurricane relief effort will temporarily swell the deficit. Estimates of the final cost have reached $200 billion and more.

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Associated Press writer Jonathan M. Katz in Washington contributed to this story.

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On the Net:

White House: http://www.whitehouse.gov

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New Orleans Suspends Reopening Of City (AJC/AP)

By Michael Rubinkam, Associated Press Writer

The Atlanta Journal-Constitution, September 20, 2005

NEW ORLEANS — Under pressure from President Bush and other top federal officials, the mayor suspended the reopening of large portions of the city Monday and instead ordered nearly everyone out because of the risk of a new round of flooding from a tropical storm on the way.

"If we are off, I'd rather err on the side of conservatism to make sure we have everyone out," Mayor Ray Nagin said.

The announcement came after repeated warnings from top federal officials — and the president himself — that New Orleans was not safe enough to reopen. Among other things, federal officials warned that Tropical Storm Rita could breach the city's temporarily patched-up levees and swamp the city all over again.

The official death toll from Hurricane Katrina reached 973 across the Gulf Coast, with the number in Louisiana alone rising by 90 to 736.

The mayor reversed course even as residents began trickling back to the first neighborhood opened as part of his plan, the less damaged Algiers section.

Nagin wanted to reopen some of the city's signature neighborhoods over the coming week to reassure the people of New Orleans that "there was a city to come back to."

But "now we have conditions that have changed. We have another hurricane that is approaching us," Nagin said. He warned that the city's pumping system was not yet running at full capacity and that the levees were still in a "very weak position."

The mayor ordered residents who circumvented checkpoints and slipped back into still-closed parts of the city, including the French Quarter, to leave immediately.

Nagin also urged everyone already settled back into Algiers to be ready to evacuate as early as Wednesday. The city requested 200 buses to help if necessary.

Louisiana Gov. Kathleen Blanco, in a televised address Monday, also urged residents of coastal southwest Louisiana to be prepared to leave. More evacuees would strain the shelters in Texas, she said, so she urged people to head for central and northern Louisiana instead.

"We will pray that Rita will not devastate Louisiana, but today we do not know the answer to that question," Blanco said.

Tropical Storm Rita was headed toward the Florida Keys and was expected to become a hurricane, cross the Gulf of Mexico and reach Texas or Mexico by the weekend. But forecasters said it could veer toward Louisiana and New Orleans' weakened levees.

"We're watching Tropical Storm Rita's projected path and, depending on its strength and how much rain falls, everything could change," said Col. Duane Gapinski, of the Army Corps of Engineers task force draining New Orleans and repairing levees.

The dispute over the mayor's plan to quickly reopen New Orleans and bring back about 180,000 of the city's half-million inhabitants was just the latest example of the lack of federal-local coordination that has marked the disaster almost from the start.

Nagin saw a quick reopening as a way to get the storm-battered city back in the business of luring tourists. But federal officials warned it would be premature, pointing out much of the area does not yet have full electricity, drinkable water, 911 service or working hospitals.

Coast Guard Vice Adm. Thad Allen, who heads the federal recovery effort in the region, went on one news show after another over the weekend to warn that city services may not be able to handle an influx of people.

Allen said repeatedly that he intended to have a frank discussion with Nagin about his concerns on Monday, but the two didn't meet until after Nagin held a news conference to announce he was suspending re-entry to the city, a mayor's spokeswoman said.

Nagin had spent the weekend in Dallas, where he moved his family and has enrolled his daughter in school, and he missed an appointment with Allen because his flight home was delayed, she said.

Earlier, a clearly agitated Nagin had snapped that Allen had apparently made himself "the new crowned federal mayor of New Orleans."

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Allen tried unsuccessfully to reach the mayor by cell phone over the weekend, a Coast Guard spokesman. President Bush said White House chief of staff Andrew Card had also been pressing Nagin to pull back on the plan.

With the approach of Rita, Bush added his own voice to the mix, saying he had "deep concern" about the possibility that New Orleans' levees could be breached again.

In addition, Bush said there are significant environmental concerns. New Orleans still lacks safe drinking water, and there are fears about the contamination in the remaining floodwaters and the muck left behind in drained areas of the city.

"The mayor — you know, he's got this dream about having a city up and running, and we share that dream," the president said. "But we also want to be realistic about some of the hurdles and obstacles that we all confront in repopulating New Orleans."

About 20 percent of the city is still flooded, down from a high of about 80 percent after Katrina, and the water was expected to be pumped out by Sept. 30.

But officials with the Army Corps of Engineers said the repairs to the levees breached by Katrina are not yet strong enough to prevent flooding in a moderate storm, much less another hurricane. Brig. Gen. Robert Crear said Monday they hope to have the levees capable of handling a Category 3 storm by June, the start of hurricane season.

Nagin did not give any specifics about how he plans to enforce the renewed evacuation order.

In the raucous French Quarter, about a half-mile from where Nagin made his announcement, businesses were getting up and running, and bars were serving cold beers to National Guardsmen and passers-by.

Del Juneau, owner of a Bourbon Street lingerie shop, said it would be premature to order an evacuation based on the storm nearing Florida. "Where are you going to go? What are you going to do?" he said. "I'm not going anywhere."

Down the street at the Famous Door, bartender C.B. Dover, said: "If we have a forced evacuation, we'll go. If it's not forced, we're not going anywhere." Dover said the mayor "has been overreacting the whole time. ... He's reacting emotionally, and you can't do that."

Earlier in the day, as residents began streaming in at the mayor's invitation, cars were backed for two hours at an Interstate 10 checkpoint into the city. Tractor-trailers, emergency vehicles and National Guard trucks shared the highway with cars towing trailers full of hurricane gear and pickup trucks with their beds loaded with water, cleaning materials and coolers.

It was clear that at least some of the traffic was headed to sections of the city that had not yet officially opened.

Algiers, a neighborhood of 57,000 just across the Mississippi River from the French Quarter, is home to many of the companies that make floats for Mardi Gras parades. Unlike much of the rest of the city, it saw little damage from Hurricane Katrina three weeks ago and has electricity and drinkable water.

"Obviously we need to get businesses up and running any way we can," said Barry Kern, whose float businesses is stocked to the rafters with oversized imaginary creatures. "If we don't start somewhere, where do we start?"

Elsewhere across the city, where the damage was more severe, much of the sentiment seemed to be with the mayor and his attempts to reopen the city quickly.

"Send Bush here and we'll make him a po' boy and tell him to leave us alone," Kathleen Horn said as she cleaned up the debris piled in front of Slim Goodies Diner on Magazine Street in Uptown.

New Storm Halts Reopening Of Big Easy (WT/AP)

By Michael Rubinkam, Associated Press

The Washington Times, September 20, 2005

NEW ORLEANS -- The mayor yesterday suspended residents' re-entry into the city and ordered nearly everyone out, fearing a new round of flooding from an incoming tropical storm, just as about 90 percent of floodwaters had been pumped out.

"If we are off, I'd rather err on the side of conservatism to make sure we have everyone out," said Mayor C. Ray Nagin, who was implementing a plan to open large parts of city, including the French Quarter, over the objections of federal officials.

President Bush and other top federal officials yesterday said New Orleans was not safe to reopen, warning that, among other things, Tropical Storm Rita could breach the city's temporarily patched-up levees and swamp the city all over again.

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News of Mr. Nagin's reversal came as the death toll from Hurricane Katrina reached 973 across the Gulf Coast, with an increase in Louisiana by 90 to 736, and as U.S. Army Corps of Engineers officials predicted that they would have the floodwaters removed from the city by Sept. 30 -- about five months faster than initial estimates.

"We have another hurricane that is approaching us," Mr. Nagin said, warning that the city's pumping system was not running at full capacity and that the levees were still in a "very weak position."

He ordered residents who circumvented checkpoints and slipped back into the still officially closed parts of the city to leave immediately. Those areas include the historic French Quarter, the Garden District, Uptown and the central business district.

Mr. Nagin also urged everyone already settled back into Algiers to be ready to evacuate as early as tomorrow. The city requested 200 buses to help if necessary.

Tropical Storm Rita was headed toward the Florida Keys and was expected to become a hurricane, cross the Gulf of Mexico and reach Texas or Mexico by the weekend. But forecasters said it could also veer toward Louisiana.

"We're watching Tropical Storm Rita's projected path and, depending on its strength and how much rain falls, everything could change. Residents moving into the area may have to evacuate again," said Col. Duane Gapinski, commander of the Army Corps of Engineers task force that is draining New Orleans and repairing the levees.

Under the mayor's plan, Algiers opened yesterday, and Uptown, the Garden District and the French Quarter were supposed to reopen one ZIP code at a time between Wednesday and next Monday, bringing about 180,000 of New Orleans' half-million inhabitants back.

The dispute over reopening large parts of the city was just the latest example of the lack of federal-local coordination that has marked the disaster practically from the start.

Mr. Nagin saw a quick reopening as a way to get the storm-battered city back in the business of luring tourists. But federal officials warned that such a move could be a few weeks premature, pointing out much of the area does not have full electricity, drinkable water, 911 service or working hospitals.

With the approach of Rita, Mr. Bush added his voice, saying he had "deep concern" about the possibility that New Orleans' levees could be breached again.

Mr. Bush said White House Chief of Staff Andrew H. Card Jr. had been pressing the matter with Mr. Nagin. The concerns were also echoed by the top federal official in charge in New Orleans, Coast Guard Vice Adm. Thad W. Allen, who appeared on one news show after another to warn that city services might not be able to handle the influx of people.

Before reversing course yesterday, a clearly agitated Mr. Nagin snapped that Adm. Allen had apparently made himself "the new crowned federal mayor of New Orleans."

It was not known whether Mr. Nagin met with Adm. Allen, who said this weekend that he intended to have a frank discussion with the mayor yesterday.

About 13 percent of the city is still flooded, down from a high of about 80 percent after Katrina hit, a top Army Corps of Engineers official told the Los Angeles Times.

But officials said the repairs to the levees breached by Katrina are not strong enough to prevent flooding in a moderate storm, much less another hurricane.

Louisiana Gov. Kathleen Babineaux Blanco, in a televised address yesterday, also urged residents of coastal southwestern Louisiana to be prepared to leave. More evacuees would strain the shelters in Texas, she said, so she urged people to head for central and northern Louisiana instead.

"We will pray that Rita will not devastate Louisiana, but today we do not know the answer to that question," she said.

In the raucous French Quarter, about a half-mile from where Mr. Nagin made his announcement, businesses were getting up and running and were serving cold beers to National Guardsmen and passers-by.

Del Juneau, owner of a Bourbon Street lingerie shop, said it would be premature to order an evacuation based on the storm nearing Florida.

"Where are you going to go? What are you going to do?" he said. "I'm not going anywhere."

Reopening Of Parts Of New Orleans Delayed (KRT)

DOJ_NMG_0006622

By Gary Estwick, Susannah A. Nesmith And Eric Frazier

Knight Ridder, September 20, 2005

NEW ORLEANS - Facing the threat of another powerful storm and besieged by questions from President Bush and others, Mayor Ray Nagin on Monday halted the reopening of large sections of the city.

And anyone who is holding out on the city's east bank - the main part of the city - should evacuate, he said.

"I am urging and encouraging everyone who knows of someone who may be at their homes somewhere in Orleans Parish ... to call them and encourage them to leave the city," Nagin said.

Within about an hour of his announcement, security tightened in several parts of the city.

Flooding from Tropical Storm Rita, which is expected to develop into a hurricane, is possible because the city's levees are weak and its pumping stations are not operating at capacity, Nagin said.

He warned that residents he had invited back Monday to neighborhoods in the Algiers section of the city, across the Mississippi River from the city's east bank, might have to turn around and leave Wednesday.

Although most forecasts project Rita will hit Texas as a major hurricane, Nagin said some scenarios show it crashing into the Louisiana coast.

The Army Corps of Engineers said Monday that if Rita veers toward New Orleans, heavy rainfall could flood the northern and some central parts of the city with two to four feet of water.

The developments came on a day when the death toll from Hurricane Katrina rose to 973, with 90 more bodies reported in Louisiana.

Nagin made his decision after a weekend of questions about the city's readiness, raised first by the federal commander of relief efforts in New Orleans, Coast Guard Vice Adm. Thad Allen, and underscored on Monday by Bush.

"There is deep concern about this storm causing more flooding in New Orleans," Bush said.

Earlier in the day, Nagin had defended his plan to repopulate the city.

"The admiral is a good man. I respect him. But when he starts talking for the citizens of New Orleans, he's kind of out of his range," Nagin said. "There is only one mayor of New Orleans, and I'm it."

Nagin said the hurricane was not providing him an excuse to follow the advice of federal officials, and pledged to resume his plan as soon as Rita's danger has passed.

Forced evacuations on the east bank are being considered. Residents are not supposed to be living in that area now, but have not been forcibly removed. The city cannot estimate the number of people there now, but at least several hundred are living there.

Nagin's repopulation plan had barely begun, and the return of residents to Algiers on Monday was more a trickle than a stampede.

The mayor last week announced plans to reopen the city's Garden District later this week, followed by the historic French Quarter, but backed off a specific timetable when federal officials cautioned that he was moving too quickly.

Earlier Monday, a number of state officials also urged caution.

Bill Doran, chief of operations for the Louisiana Office of Homeland Security and Emergency Preparedness, said levees damaged by Hurricane Katrina could fail if faced with any type of tropical storm or unusual high tide. Some of the major evacuation routes used as Hurricane Katrina approached are now unusable, Doran said.

"We want to do it," he said of Nagin's repopulation plan, "but not in a hasty method that would put those people in harm's way."

Should Rita threaten the area, there would be far fewer people to evacuate because so many are still outside New Orleans. But there are more than 16,000 National Guard troops and other rescue workers in the area, said Mark Smith, a spokesman for the state homeland security office. They would have to be evacuated, and the state is already making plans to do so if Rita approaches.

Gov. Kathleen Blanco urged residents in southwestern Louisiana to begin making preparations to leave if necessary. She said FEMA has buses to help those who can't evacuate on their own, and a task force is arranging shelters.

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"We are in a very dangerous place," she said. "Because we do not know where this hurricane will end up, we are taking Rita very, very seriously."

A few people trickled back on Monday to Algiers, which escaped the city's most serious damage. Some people never left, and others had managed to get in shortly after Katrina passed.

Over the past week, they have been sustaining the rest of the city.

"We're like ground zero for the National Guard and Immigration dirty clothes," said Jim Ritchie, owner of the Spin Stop.

Algiers is where rescue workers, soldiers and journalists can get fresh laundry, gas, cigarettes, even a cold Coke or beer.

At a Red Cross assistance center set up at a high school, volunteers were having trouble giving away hot meals. There just wasn't much need in Algiers.

"I would welcome anybody. We've got a ton of food and I don't want it to go bad," said volunteer Charles Way of New Jersey. The center was the first to open anywhere in the city of New Orleans.

Pamela Gregory was glad to get the help. She had stayed through the storm, but found that neighboring Jefferson Parish wouldn't let her in to buy supplies.

"I'm so hungry," she said, laughing. "I've lost weight since this thing happened. A co-worker brought us in some supplies. She lives in Jefferson Parish so they'll let her in. But we've been getting pretty low around here."

The mayor's hope that the city would start returning Monday, beginning with Algiers, seemed dashed on this neighborhood's deserted streets.

Timothy Allen came Monday to gather his belongings, but he was headed back to Texas.

"Even though the house is OK, I'm a physician at Baptist Hospital and it's closed," he explained, a bit melancholy to be leaving a neighborhood his three little children loved. "This is a great neighborhood. We walk to the park, and I take the ferry over to the aquarium with my daughter. But because of the situation in the rest of the city, we can't come back for now."

New Orleans Mayor Halts Return Of City's Residents (LAT)

By Scott Gold, Susannah Rosenblatt And Ralph Vartabedian

The Los Angeles Times, September 20, 2005

NEW ORLEANS -- Facing pressure from Washington and with another storm system on the way, New Orleans Mayor C. Ray Nagin halted his campaign to repopulate the city Monday and ordered the few residents and business owners who had returned to leave again.

Three weeks after Hurricane Katrina devastated the Gulf Coast, flooding New Orleans, Tropical Storm Rita was expected to bear down Tuesday on the Florida Keys -- where all 80,000 residents have been told to evacuate. Rita then is likely to move over the warm waters of the Gulf of Mexico, where officials said it could strengthen into a Category 3 hurricane.

Rita could make landfall on the Gulf Coast as early as Thursday, although Friday or Saturday is more likely.

According to government forecasts Monday night, the storm could land anywhere from northern Mexico to Mississippi. But Nagin said his advisers had determined Rita most likely would strike near the island community of Galveston, Texas -- where authorities were planning evacuations starting Tuesday afternoon -- or pass to the west of New Orleans.

If Rita makes landfall anywhere near New Orleans and its damaged levee system, it could send water cascading into a city just starting to dry out after Katrina.

Nagin said a three-foot storm surge, which can be kicked up by even a moderate tropical storm, would leave as much as four feet of water in New Orleans. Rita was expected to rake the Keys with an eight-foot storm surge; authorities said that even if Rita's eye strikes in Texas, it could still send a three-foot surge to New Orleans.

"I'd rather err on the side of conservatism," Nagin said in ordering residents back out of the city. "Today there is a significant threat of this thing turning north. ... Any type of storm that heads this way and hits us will put Orleans Parish in a very vulnerable position."

Nagin said he considers the threat from Rita equal to that posed by Katrina, but called it "a different event" because there were not a significant number of people left in the city.

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As Katrina approached New Orleans, authorities had issued a mandatory evacuation. And with the city under water after the storm, they threatened to use force to remove stragglers from their homes. But many refused to leave, and the city backed down. Residents since have trickled back to the city despite roadblocks, a collapsed infrastructure and the threat of toxic sludge.

Last weekend, Nagin allowed some business owners to return. On Monday, he opened the Algiers section -- across the Mississippi River from the central business district -- to residents, and thousands of cars streamed back into the city. Then the mayor said everyone needed to be out again by Wednesday.

"I am hopeful that people have seen the threat of Katrina and that they understand the threat," he said.

Asked whether he expected that some people would refuse to leave, Nagin said: "We're all adults."

"All I can do is tell you exactly what I'm seeing," he said. "If anybody wants to sit this out ... God bless them."

Meanwhile, energy prices skyrocketed in New York futures trading Monday over worries that Rita would deliver another blow to the key Gulf Coast oil and natural gas production region.

Oil futures jumped $4.39 to close at $67.39 a barrel. Natural gas surged to a record $12.663 per million British thermal units, up $1.519.

As oil companies began evacuating workers from production platforms and drilling rigs in the Gulf on Monday, experts predicted the recent decline in retail gasoline prices could come to a halt.

Nagin had clashed with federal officials in recent days over his proposal to bring 180,000 residents back into the city by the end of the month.

Coast Guard Vice Adm. Thad Allen, head of the federal government's relief effort, had encouraged Nagin to slow down -- citing lingering environmental threats and lack of a potable water, a 911 system and operable sewer pipes, among other problems.

While calling Allen "a good man," Nagin said that he was only attempting to repopulate the safest portions of the city; he reminded Allen that "there is only one mayor of New Orleans."

President Bush jumped into the debate Monday, citing a "deep concern" about Rita. Bush said he disagreed with Nagin's efforts to allow residents to return to New Orleans, but called it "just a matter of timing."

"The mayor has got this dream about having a city up and running. And we share that dream," Bush said. "But we also want to be realistic about some of the hurdles and obstacles that we all confront in repopulating New Orleans."

White House Chief of Staff Andrew H. Card Jr. spoke with Nagin by telephone Monday before the mayor announced he was halting the effort to bring residents back.

Authorities were staging buses outside New Orleans Monday night that could be used to ferry residents to safety. Nagin said he planned to amass 200 buses, and that evacuations would begin 48 hours before projected landfall. Citizens would be loaded onto buses at the New Orleans Convention Center along the Mississippi River and at Behrman Stadium in Algiers.

Another 350 buses also are ready west of New Orleans to begin evacuations at shelters housing thousands of people who fled Katrina.

New Orleans Mayor Reverses Plan To Reopen Parts Of The City (WSJ)

By Rick Brooks And Corey Dade

The Wall Street Journal, September 20, 2005

New Orleans Mayor Ray Nagin, already under criticism from federal officials and the White House for reopening parts of the city too early, reversed his plans and ordered those returning to their homes and businesses to leave before the area is threatened by another major storm later this week.

Yesterday's announcement by the mayor was a major setback in efforts to bring life back to New Orleans, about 15% of which still is underwater three weeks after Katrina barreled past the city. The U.S. Army Corps of Engineers warned that Rita, which was expected to reach hurricane strength last night in the Bahamas and is expected today to approach the Florida Keys before entering the Gulf of Mexico, could inundate some areas with as much as four feet of additional rain and floodwaters.

While breaches of levees along three canals in New Orleans have been at least temporarily closed, more than a dozen breaches remain in neighboring St. Bernard Parish. Army Corps officials said some levees that weren't breached during the

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storm were nonetheless damaged by Katrina so badly that they could be defenseless against another storm surge. If Rita approached New Orleans, metal pilings would be used to attempt to block water from Lake Pontchartrain from flowing into two canals that flooded large parts of the city after Katrina struck. There is no guarantee of how well that would work.

Mr. Nagin denied that criticism from the White House had anything to do with his reversal. "All I can tell you is exactly what I'm seeing," he said at a news conference. "If anybody wants to sit this storm out with rain-soaked levee systems ... then God bless 'em."

The National Hurricane Center said Rita could make landfall anywhere from southern Texas to the Louisiana-Mississippi border. Galveston, Texas, officials yesterday called for a voluntary evacuation beginning today if Rita's storm track remains unchanged. Officials said they would consider calling for a mandatory evacuation by tomorrow.

In 1900, an estimated 8,000 residents of Galveston and surrounding towns died from a storm that remains the most deadly to hit the mainland U.S. The island has no coastal marshes or other natural barriers.

It isn't clear how many residents and business owners were trying to return to New Orleans. Yesterday, cars and trucks along Interstate 10 were gridlocked for more than a mile as authorities at a checkpoint allowed only one vehicle to pass at a time. Some frustrated motorists turned into the grassy median and went back the way they came.

United Parcel Service Inc. made its first deliveries in the city's central business district, sending four trucks, but found few recipients. "Nothing but soldiers and cops," said UPS driver Ricky Folse, 35 years old, his eyes darting out both sides of the truck as he looked for regular customers along Canal Street.

At one stop, David Munn, owner of Orleans Optical, emerged from his store dripping sweat and wearing a pair of latex gloves and black rubber boots up to his knees. "Who are you going to sell to?" asked Mr. Munn, who had pulled enough debris from his store to make a three-foot-high pile outside. He took the package from Mr. Folse, but didn't open it.

Officials At All Levels Butt Heads Over Hurricane Relief Operations (WT)

By Bill Sammon

The Washington Times, September 20, 2005

The latest in a long line of disputes among local, state and federal officials over Hurricane Katrina was defused yesterday when New Orleans Mayor C. Ray Nagin called off reopening the city, although he cited another storm for his capitulation rather than federal officials' litany of concerns.

The various levels of government have disagreed over when to call in federal troops and whether the entire operation should be federalized. They also have clashed over when and how to evacuate New Orleans and when to let residents return.

"We share the goal of the mayor, but we have got concerns," Mr. Bush said early yesterday, when Mr. Nagin still was allowing residents to return.

"The mayor has got this dream about having a city up and running -- and we share that dream," Mr. Bush said. "But we also want to be realistic about some of the hurdles and obstacles that we all confront in repopulating New Orleans."

The obstacles include the possibility of additional flooding from Tropical Storm Rita, which was heading toward the Gulf of Mexico yesterday, and the lack of electricity, drinking water and sewage facilities. Early yesterday, Coast Guard Vice Adm. Thad Allen said it might be as much as a week before residents could return safely.

"We just think that conditions need to be set so when people come back in, they can operate safely, and, moreover, with the weakened levee system, that there's a plan to evacuate whatever number of people are allowed back in the city," he told CNN.

"When those conditions are met and the risk has been reduced, then the population comes in," he added. "That could be two days, five days, one week."

Mr. Nagin initially criticized the remarks and insisted that up to 180,000 people -- about a third of the city's population -- be allowed to return during the next 10 days.

"I'm a little surprised the admiral came out publicly on this," Mr. Nagin told Fox News Channel in the morning. "Maybe since I've been away a day or two, maybe he's the new crowned federal mayor of New Orleans."

Mr. Nagin, who spent the weekend in Dallas, said: "If he's suggesting I'm pushing a little hard, I am. The citizens of New Orleans deserve the opportunity to see what they have left and what they can salvage."

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Later in the day, however, Mr. Nagin began reassessing the timing of his plan because of Tropical Storm Rita and other "external factors," said Nagin spokeswoman Sally Foreman.

By the end of the day, the mayor reversed himself, agreeing with Mr. Bush and Adm. Allen that it was too soon and too unsafe for residents to return.

The rift yesterday was the latest in a series of high-profile disagreements among federal, state and local officials about how to handle the hurricane and the subsequent flooding of New Orleans.

The discord began Aug. 27, when Mr. Bush asked Louisiana Gov. Kathleen Babineaux Blanco to order an evacuation of New Orleans. Mrs. Blanco did not issue the order until Aug. 28, a day before Hurricane Katrina made landfall.

Mrs. Blanco also neglected to ask the president for federal troops when she wrote him a letter on Aug. 27 and when she spoke with him on Aug. 29. She had not made the request even on Aug. 31, when she gave a series of television interviews in Baton Rouge.

"I really need to call for the military," she told her press secretary between interviews. "And I should have started that in the first call."

Later that day, she asked the White House for troops, which were dispatched to assist Louisiana National Guard forces.

Mrs. Blanco hesitated again when she met Sept. 2 with Mr. Bush, who offered to have the federal government take over the chaotic evacuation. Mrs. Blanco said she needed 24 hours to make a decision and ultimately rejected the federal offer.

Mr. Nagin later told CNN that Mrs. Blanco and Mr. Bush needed to "get in sync." But within days, Mr. Nagin and Mrs. Blanco were feuding with each other over whether New Orleans residents should be ordered to leave their homes.

"My mandatory evacuation is still in effect," Mr. Nagin said Sept. 6.

But Mrs. Blanco refused to enforce the order, saying she needed more time for scientists to test the toxicity of floodwaters, even though health officials were warning that the waters were very dangerous.

"The mayor certainly has ordered that, but the governor -- and that would be me -- will have to enforce it or implement it," Mrs. Blanco said Sept. 7.

Mr. Bush will make more trips to the storm-hit areas this week, meeting today with Mississippi business owners and civic leaders in Gulfport and visiting a recovering business in New Orleans.

On Friday and Saturday, he will travel to Alabama, Texas and Arkansas, which have absorbed thousands of refugees from the harder-hit neighboring states.

"The trip will be an opportunity for the president to personally thank some cities and states that have taken in large numbers of our fellow citizens affected by Katrina," White House spokesman Scott McClellan told reporters.

Weary, Wary Residents Trek Back Into The City (USAT)

By Matt Kelley And Oren Dorell

USA Today, September 20, 2005

NEW ORLEANS — The prospect of another fierce storm hitting wasn't going to stop Malcolm Poree from spending the first night in his home since Hurricane Katrina struck more than three weeks ago.

Poree, 38, was among hundreds of residents of the city's Algiers section who returned to their homes Monday only to be told by Mayor Ray Nagin to be prepared to evacuate again as early as Wednesday because of Tropical Storm Rita.

Poree figured another storm would do more damage to his embroidering business than to his home, which survived Katrina virtually unscathed.

“Being self-employed, I can't take much more of not having a city to sell to,” Poree said.

As for his safety, Poree said he and his wife have a car and a minivan and are ready to leave the city again with sons Malcolm, 9, and Marcus, 6.

“If we have an emergency, we know our way around,” Poree said.

The Algiers area, across the Mississippi River from the French Quarter and downtown, never flooded during Katrina and now has electricity and water service to most homes. Nagin announced last week that Algiers residents could begin returning Monday. However, hundreds ignored pre-storm evacuation orders and never left or have already returned.

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Nagin said Monday afternoon that the potential for Rita to hit the area was enough to suspend plans to reopen other high and dry parts of the city, including the French Quarter and Garden District.

For some, the mayor's abrupt reversal was another disheartening example of what they said was a disorganized and inept local response to Katrina.

Just down the street from Poree, David Gautreaux and his wife, Dolly, rode out Katrina but plan to move to Dallas or Houston at the first opportunity.

"We're ashamed to be citizens of this city," Gautreaux said. "There's no leadership. The mayor blamed the president. The governor blamed the president. This is in God's hands, not the president's."

Many other Algiers residents said they were relieved to be back home and were committed to remain as their city rebuilds. "Even though this hurricane happened to New Orleans, I'm coming back to stay. It's my home, and I'm not going to leave," said Cinder Anderson, 34.

Anderson and her family left New Orleans for Houston shortly before Katrina hit. She enrolled her children, 12-year-old Miquel and 8-year-old Michael, in schools there.

Soon, everyone was homesick.

"My son cried every day he had to go to school there," Anderson said. "He wanted to come home. I cried every day, too."

Their trip back was nerve-racking. They wondered: Had the storm thrown the huge pine tree in their front yard into their house?

"When I came in, I drove up slow. I had my hand over my heart," Anderson said. "I saw the tree didn't fall on the house, and I said, 'Thank you, God.' "

Like many of her neighbors, Anderson left her refrigerator at the side of the road to be picked up by cleanup crews. Weeks without electricity left the inside so contaminated by rotting food that even a scrubbing with bleach couldn't eliminate the stench, Anderson said.

Anderson and her husband, Elbert Bender, said they're relying on the military and aid groups for food and bottled water.

The closest place to buy food was the convenience store at the Spur Gas Station, which has been open since Saturday.

Owner Ibrahim Attamari did a brisk business Monday in liquor, beer, gasoline and cigarettes. The shelves were stocked with motor oil, candy and toiletries.

Attamari said he has been receiving deliveries and has enough gasoline to last a week, but staying open has been hard. "I have 13 employees; none of them are here," he said.

Schools are closed.

About a half-mile from Anderson's brick house is St. Andrew the Apostle Catholic Church, which has a school for about 800 students in pre-kindergarten through eighth grade. Principal Sybil Skansi said she's trying to prepare her school to reopen by Oct. 3.

"The school is one of those things that has to be here for people to come back," she said.

Anderson's son normally attends the public Alice Harte Elementary School adjacent to the church; her daughter would attend the Karr Junior High School behind their house. New Orleans school officials say they hope to have some schools in Algiers open by Nov. 5.

Poree also was waiting for Harte Elementary to open so his sons could return home. He had another reason to hope for the schools to reopen as soon as possible: The schools are the best customers for his embroidery business, which personalizes clothing such as jackets and ball caps.

"My customer base is New Orleans," Poree said. "Since there's no New Orleans, I have no business."

Rita Rages Toward Florida Keys (USAT)

By Tom Vanden Brook

USA Today, September 20, 2005

MIAMI — Tropical Storm Rita was expected to become a hurricane and slam the Florida Keys today, then gather strength and threaten the entire Gulf Coast.

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On Monday, thousands of people jammed the one highway leading out of the Keys, a string of low-lying islands that were under a mandatory evacuation order.

Rita was still a tropical storm late Monday with winds of 70 mph, but the National Weather Service predicted it would be a Category 2 hurricane today with winds of 100 mph as it closed in on the Keys.

After it passes over the Keys and heads into the Gulf of Mexico it is expected to become a Category 3 hurricane, meaning one with winds of 111 to 130 mph, the National Hurricane Center said. Rita's track has it landing anywhere from the Texas-Mexico border to Louisiana by the weekend, the center said.

Jennifer Pralgo, a meteorologist with the National Hurricane Center, said New Orleans isn't the likely target but isn't in the clear. The city hit by Katrina last month could still get heavy rain and high winds.

"Everybody on the Gulf Coast should pay attention to this," she said. "They're like ping-pong balls in the Gulf. They can bounce around, but they're going to land."

Rita's starting path is similar to Katrina's. Both sprang to life near the Bahamas, headed for South Florida and set a course for the Gulf. Strengthened by the Gulf's warm waters, Katrina was a Category 4 hurricane when it made landfall.

On the Keys, where 78,000 people live, hurricane-force winds are expected to thrash the islands overnight. Rain totals of 15 inches are possible.

A storm surge (a rise in the sea level) of as much as 9 feet is forecast. At that height, the sea could swallow the one road out of the Keys.

Holly Elomina, 33, kept close watch on the forecast as she shuttered her home on Big Coppitt Key on Monday. She has four children — ages 3 months to 16 years — and was deciding whether to leave.

"That storm surge is what scares me," Elomina said.

The last Category 2 storm to hit Key West was Hurricane Georges in 1998. That storm damaged hundreds of homes and closed the island to tourists for weeks.

In Miami-Dade County, home to more than 2.2 million people, shopkeepers and residents braced for hurricane-force winds today. Schools were ordered closed and shelters opened. Residents in mobile homes and those in low-lying areas were told to evacuate. Tourists on Miami Beach were asked to leave.

On South Beach, a stretch of trendy, art deco hotels, restaurants and shops, workers screwed corrugated metal shutters over windows.

Joe Monteiro, 35, executive chef at the Avalon Hotel, was unconcerned.

"This happens every year," he said. "People get all freaked out about it."

On the beach, a 25 mph wind whipped waves into a froth but did not chase away all swimmers. Nor did a red flag warning of hazardous conditions.

Lifeguard Vlad Sazonov, who hoisted the flag, said it was foolish to underestimate the storm.

"We had really bad preparations for Katrina," said Sazonov, 39. "People regret that now. All I can say is, 'God save us all.' "

Florida Keys Are Ordered Evacuated As Rita Nears (WP)

By William Branigin

The Washington Post, September 20, 2005

Residents of the Florida Keys were ordered to evacuate yesterday as Tropical Storm Rita approached hurricane strength on a path similar to that of Katrina, which devastated the Gulf Coast three weeks ago, and the mayor of New Orleans suspended a plan to start repopulating his flood-ravaged city.

With Rita forecast to become a Category 1 hurricane last evening and to reach Category 2 strength today, tourists streamed out of the Keys, and residents boarded up homes and shops.

But a potentially greater threat looms later in the week, when Rita is projected to intensify over the warm waters of the Gulf of Mexico, just as Katrina did late last month before slamming ashore about 60 miles southeast of New Orleans. On its current path, meteorologists said, Rita could hit the Texas coast by the weekend, bringing hurricane-force winds and torrential rains to an area that houses thousands of evacuees from flooded New Orleans.

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In view of the new storm, New Orleans Mayor C. Ray Nagin announced he was calling off his plan to allow displaced residents to return, one neighborhood at a time. (See story, A1.)

Rita is "not an exact reprise" of Katrina, "but it's probably pretty close," said Frank Lepore, a spokesman for the National Hurricane Center in Miami. "It's got similar characteristics, except it's just a little lower in latitude. The issue is what happens when it gets out over the very warm waters of the central Gulf."

The storm was packing winds of 70 mph last night and was projected to hit Key West about 6 p.m. today with winds around 105 mph, making it a Category 2 hurricane, Lepore said.

As Rita gathered strength, the hurricane center issued a hurricane warning for the southern tip of the Florida peninsula and for all of the Florida Keys. It said that at 11 p.m. Eastern time, Rita was 270 miles east-southeast of Key West and was moving west-northwest at 14 mph.

The hurricane center said the Keys could be hit with storm surge flooding of six to nine feet above normal tide levels, "along with large and dangerous battering waves."

A mandatory evacuation order issued by Monroe County, Fla., covered about 80,000 people in the Keys, including 25,000 residents of Key West. Buses were sent to Key West High School to evacuate people who needed help to leave, and a military C-130 transport plane was dispatched to Key West Hospital to evacuate patients there. In addition, about 134,000 Miami-Dade County residents who live in coastal areas were under a voluntary evacuation order.

A voluntary evacuation was set to start today in Galveston, Tex., where officials said residents who could not leave on their own could take buses -- and their caged pets -- to shelters starting tomorrow.

President Bush, after a meeting with homeland security officials to discuss Hurricane Katrina relief efforts, suggested that in view of Rita's approach, it would be a mistake for evacuees to return to New Orleans.

Rita "now looks like it's going to head out into the Gulf, and could track Katrina, or it could head further to the west," Bush told reporters. "But, nevertheless, there is deep concern about this storm causing more flooding in New Orleans."

Nagin "has got this dream about having a city up and running, and we share that dream," Bush said. "But we also want to be realistic about some of the hurdles and obstacles that we all confront in repopulating New Orleans."

He said that if Rita brought heavy rains, "there is concern from the Army Corps of Engineers that the levees might break. And so, therefore, we're cautious about encouraging people to return at this moment of history."

According to Lepore, a five-day projection shows Rita reaching Category 3 strength in the middle of the Gulf, with sustained winds of about 115 mph and gusts up to 130 mph. Although its path is difficult to predict at this point, the latest projection has Rita heading toward Houston, a major oil industry center that is now also home to thousands of Katrina evacuees.

One concern is that Rita will hit "the general area where all these folks from New Orleans have been evacuated," Lepore said. "And there is enough hardship in that area as it is without throwing another hurricane at them."

As Its Coffers Swell, Red Cross Is Criticized On Gulf Coast Response (NYT)

By Stephanie Strom And Campbell Robertson

The New York Times, September 20, 2005

In New Orleans and the coastal flood plains of Mississippi, many people are complaining that the American Red Cross was missing in their worst hours of need and are worried that its billowing relief fund may bypass them entirely.

The organization did not open shelters in flood-prone areas and was therefore unable to provide food and other necessities to people closest to the coast ravaged by Hurricane Katrina.

"The Red Cross has been my biggest disappointment," said Tim Kellar, the administrator of Hancock County, Miss. "I held it in such high esteem until we were in the time of need. It was nonexistent."

Even some volunteers are disgusted. "I will never, ever wear the Red Cross vest again," said Betty Brunner, who started volunteering in 1969 when Hurricane Camille destroyed her house but quit last week over the organization's response in Hancock County.

Two days after Hurricane Katrina struck, the Red Cross had only one shelter in the county, and it was far from some of the most populated coastal towns. It had no shelter in New Orleans.

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"It's purely a safety issue," said Armand T. Mascelli, vice president for response operations at the Red Cross. "People expect a Red Cross shelter to be safe, not to be at risk of flooding." Frustration over the early absence of the Red Cross is now compounded by the realization that the organization has collected the bulk of public contributions, money that will be spent on emergency rescue and relief, not long-term assistance, and may never get to the coastal areas.

The organization has garnered almost three-quarters of the $1 billion that Americans have donated to help the hurricane victims, with endorsements from President Bush, corporate America and many nonprofit organizations. Its duty, mandated by Congress, is to provide immediate assistance, a need that is rapidly diminishing as victims leave shelters.

Some people are asking whether the Red Cross can use all its money effectively as its role winds down. "Once we're out of the relief phase, what capacity does the Red Cross have to rebuild communities?" asked George Penick, president of the Foundation of the Mid South. "That's not their core competence."

The Red Cross says it will need every penny, and it just raised its estimated costs for Hurricane Katrina to $2 billion from $1.5 billion. "The scope of this is just so huge," said Joe Becker, the Red Cross senior vice president for preparedness and response. "If you took New Orleans out of the equation, Mississippi and Alabama would be a bigger job than we tackled in all four of the storms that hit Florida last year."

But time and again in past disasters, the Red Cross has raised more money than it has needed for relief. It has also been less than clear in the past about where its money goes, and it has rarely shared its money with other organizations that tackle long-term needs of victims.

So, at a meeting of charity officials last week in Jackson, Miss., Mr. Penick asked whether the Red Cross would share its wealth.

"Especially in rural areas and small towns, the Red Cross was either absent or overwhelmed," Mr. Penick said. "You had churches and nonprofit groups taking care of the evacuees in any way they could with whatever money they could scrape together."

Mr. Penick said that when he asked a Red Cross representative at the meeting whether it would reimburse these organizations, "he said he didn't know."

Responding to the complaints from coastal Mississippi, Winnie Romeril, a spokeswoman for the Red Cross in the disaster area, said the organization was unprepared for the scope of the disaster and initially lacked enough fuel and supplies. She added that the Red Cross had 23 shelters in three of the most affected counties in Mississippi.

The Red Cross decided in the mid-1990's that it was unsafe to maintain shelters in flood plains, a decision that piqued New Orleans officials, said Dr. Bernadine Healy, a former president of the organization.

Dr. Healy said she negotiated with Louisiana officials to support state-operated shelters until the disruptions caused by Sept. 11.

"The obligation of the Red Cross is to oversee the sheltering of people in disasters," she said. "I had been working with the governor to find a compromise so that the Red Cross would be there at the very least to provide supplies for their shelters."

The Red Cross's mission is to provide immediate shelter, medical care, sustenance and small amounts of cash, usually $800 to $900, for clothing and other necessities.

It said on Monday that $1.4 billion of the money it hopes to raise will go to financial assistance, $744 million for food and shelter, and $78 million for mental health services. As of Monday, the Red Cross had spent more than $521 million.

Some victims have complained that the Red Cross is reluctant to dispense cash; the organization maintains that tight control of cash helps foster accountability. Outside a shelter in Baton Rouge, volunteers distributed papers last Thursday with a toll-free number for assistance and pointed to a sign saying that only residents in the shelter would be helped there. Some tried to argue the point, to little avail. "We were just getting the runaround from the Red Cross," said Mia Norflin of Carrollton, La.

Through Friday, the organization had handed out roughly $225 million in cash assistance to 236,000 people. Its shelters have housed more than 2 million people for at least one night, and, together with the Southern Baptist Convention, it has served more than 12 million hot meals.

About 36,000 people remained in 232 Red Cross shelters on Monday.

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In Texas, Charlotte Toney applauded the organization for reuniting her with her husband and three foster children last week. Evacuated from New Orleans early because she had diabetes and was recovering from surgery, she ended up at a hospital in Houston.

"I was so out of it, but when the lady from the Red Cross called and said, 'I found your children,' I was screaming and hollering," Mrs. Toney said.

Mr. Becker said the Red Cross was unlikely to give money to other groups that might pick up the recovery effort after the relief stage.

"If we feel we have enough money to meet our mission, we'll tell America we have enough money and recommend giving to other organizations," he said.

On Oct. 30, 2001, the Red Cross said it had received $547 million in Sept. 11 pledges, which would be enough, but the total swelled to twice that amount as donations continued to roll in for victims of the attacks.

Devorah Goldburg, a Red Cross spokeswoman, said that it would take many organizations to address the needs of the hurricane victims and that the Red Cross had told CBS and MTV not to raise money on its behalf and to find other charities. During the broadcast of the Emmy Awards on Sunday by CBS, donations were solicited for Habitat for Humanity.

In some of the nation's biggest disasters, the Red Cross has raised more money than it has needed. As of June, the organization still had roughly $40 million of the more than $1 billion it collected for a fund it created after the Sept. 11 attacks.

It raised $55 million for the 1989 earthquake in San Francisco and spent only $12 million on direct disaster relief, angering local officials who wanted some money to build a homeless shelter.

It spent about a quarter of the money raised after the attack on the federal building in Oklahoma City in 1995, and the Minnesota attorney general held public hearings to prod it to release $4 million retained after the Red River flood in 1997.

The Red Cross and other organizations use money generated in response to giant disasters to offset the costs of other, smaller crises. But many donors are insisting that their gifts be used for a specific disaster.

The Red Cross has always pledged to honor those designations, and it created the special fund for victims of the Sept. 11 attacks. But many people became upset after laerning that some of the money would be used to prepare the Red Cross to respond to future attacks.

Dr. Healy resigned, and the Red Cross recommitted to spending all the money on the victims. The special fund swelled to more than $1 billion.

In his book "After: How America Confronted the September 12 Era," Steven Brill described livery drivers parked in fleets of cars outside a Red Cross facility in lower Manhattan to pick up checks to help make up for lost business.

Red Cross Official To Meet With Lawmakers (HILL)

By Jonathan E. Kaplan

The Hill, September 20, 2005

Marty Evans, president and CEO of the American Red Cross, will brief lawmakers today on the organization's recovery efforts in the Gulf Coast region, said congressional aides familiar with the meeting. The Red Cross, the largest nongovernmental organization operating in the hurricane- and flood-battered area, contacted House Republican Chairwoman Deborah Pryce (R-Ohio) earlier this month, asking whether lawmakers would be interested in a briefing.

Pryce passed along the Red Cross's request to Rep. Peter King (R-N.Y.) last week after he was named chairman of the Homeland Security Committee. King, along with Rep. Bennie Thompson (D-Miss.), the ranking Democrat on the panel, arranged the meeting and invited Republican and Democratic lawmakers.

The briefing is the second bipartisan event organized by King; he led a trip with more than a dozen lawmakers to New Orleans on Sunday to view the damage caused by the flooding.

From FEMA To WEMA (NYT)

By John Tierney

The New York Times, September 20, 2005

SLIDELL, La.

I don't think Washington needs any more czars. But if President Bush feels compelled to put someone in charge of rebuilding the Gulf Coast, let me suggest a name: Lee Scott.

Scott is the chief executive of Wal-Mart, one of the few institutions to improve its image here after Katrina sent a 15-foot wave across the north shore of Lake Pontchartrain. If you mention the Red Cross or FEMA to people in Slidell, you hear rants about help that didn't arrive and phone lines that are always busy. If you mention state or national politicians, you hear obscenities.

But if you visit the Wal-Mart and the Sam's Club stores here, you hear shoppers who have been without power for weeks marveling that there are still generators in stock (and priced at $304.04). You hear about the trucks that rolled in right after the hurricane and the stuff the stores gave away: chain saws and boots for rescue workers, sheets and clothes for shelters, water and ice for the public.

"This was the only place we could find water those first days," said Rashan Smith, who was shopping with her three children at Wal-Mart on Saturday. "I still haven't managed to get through to FEMA. It's hard to say, but you get more justice at Wal-Mart."

That's the same assessment you hear from public officials in Louisiana, and there's even been talk of letting Wal-Mart take over FEMA's job. The company already has its own emergency operations center, where dozens of people began preparing for the hurricane the week before it hit by moving supplies and trucks into position.

I realize that Scott would not be a popular choice with Democrats. They concede that Wal-Mart and other private companies were far better prepared for Katrina than FEMA was, but they say FEMA would work fine if it were under the control of a virtuous, compassionate public servant - someone, as Bill Clinton suggested, like himself.

Clinton looks back on the 1990's as FEMA's Age of Pericles. "I think we did a good job of disaster management," he said on ABC's "This Week." While criticizing the Bush administration for leaving poor people stranded in New Orleans, he said that he and his FEMA director, James Lee Witt, had been especially sensitive to the needs of poor people because of their own backgrounds.

But if they cared so much, why didn't New Orleans ever work out a feasible way to evacuate poor people? FEMA had a golden opportunity to plan it during the 1990's. The threat of nuclear war had receded and terrorism wasn't yet a priority, so the agency's biggest concerns should have been an earthquake in California and a flood in New Orleans.

But it was too busy dealing with the record number of other "disasters" that Clinton declared - an average of one a week, which meant FEMA was mailing out checks for every flash flood within range of a major media market. Upstate New Yorkers suddenly became incapable of coping with the cost of snow removal.

In 1997, Congress gave FEMA $500,000 and ordered it to develop a comprehensive plan to evacuate New Orleans. The agency passed on the money to Louisiana, which used it instead to study building a new bridge. As Rita Beamish of The Associated Press reported on Sunday, FEMA didn't bother making sure a plan was drawn up - an aide to Witt said its job had just been to pass on the money.

How often do you suppose someone at Wal-Mart headquarters dispenses $500,000 and doesn't bother keeping track of it? The company can tell you the precise location of every thumbtack in its inventory. It's legendary for tracking every transaction and pinching every penny.

Its executives fly coach, and they empty their own wastebaskets. When Scott, the chief executive officer, travels with the chief financial officer, they cut costs by sharing a hotel room.

That's the kind of leader we need to oversee the tens or hundreds of billions that Washington will be spending on the Gulf Coast. Scott could insist on low everyday prices while still leaving the area as well prepared for the next disaster as Wal-Mart was for Katrina.

David Vitter, the Republican senator from Louisiana, was so impressed with the rapid response of Wal-Mart and other companies that he promised to introduce a bill to abolish FEMA and contract its job out to the private sector. I'm afraid the Wal-Mart Emergency Management Agency will be a tough sell on Capitol Hill. But I'd vote for WEMA.

Kerry, Edwards See Chance For Change After Katrina (REU-Y2)

By John Whitesides, Political Correspondent

Reuters, September 20, 2005

The two Democrats who challenged President George W. Bush for the White House last year said on Monday the devastation of Hurricane Katrina provided a historic chance to reevaluate government priorities and address long-neglected issues including endemic poverty.

In separate speeches, John Kerry and John Edwards said the administration's inadequate response to the hurricane revealed a failure of competence and values, while the public outpouring of support for storm victims showed Americans wanted more from their government.

"This horrifying disaster has shown Americans at their best -- and their government at its worst," Kerry said in a speech at Brown University, in Providence, Rhode Island. "Katrina stripped away any image of competence and exposed to all the true heart and nature of this administration."

The Massachusetts senator and 2004 Democratic presidential nominee, who fell short in his bid to oust Bush from the White House, said the storm created "a rare accountability moment" when not just the administration but all Americans could take stock of the country's direction.

"That's our job -- to turn this moment from a frenzied expression of guilt into a national reversal of direction," Kerry said.

Edwards, Kerry's vice presidential running mate and a former senator from North Carolina, said in a speech in Washington that the storm offered a chance to reopen the debate about poverty.

"We do not have to live in an America that accepts poverty as a fact of life or chooses to ignore it," said Edwards, Kerry's one-time rival for the Democratic nomination.

Edwards talked frequently during the 2004 campaign of "two Americas" -- one for the struggling and one for the wealthy -- and opened an anti-poverty center in North Carolina earlier this year.

"Katrina has given us an opportunity to tap into the conscience of the American people," he said.

Edwards introduced a series of proposals to build opportunities for the poorest Americans, including "work bonds" to expand the earned income tax credit for the poor, a savings plan to help families buy a home, an increase in the minimum wage and programs to make college more affordable.

Both Kerry and Edwards are potential presidential candidates again in 2008, and both called on Bush to abandon his plan to pay for the rebuilding of the Gulf Coast without any tax increases.

They said the rush to rebuild should not distract attention from the need to address growing economic and environmental crises elsewhere in the country.

Kerry made pointed reference to the 2004 campaign several times in his speech, saying Bush's response to the hurricane was politics as usual and revealed a "betrayal of trust and abuse of power" designed to shift power to the privileged.

"The plan they are designing for the Gulf Coast turns the region into a vast laboratory for right-wing ideological experiments," Kerry said.

"They're already talking about private school vouchers, abandonment of environmental regulations, abolition of wage standards, subsidies for big industries."

Tracy Schmitt, press secretary for the Republican National Committee, said Kerry's speech was designed to politicize a tragedy.

"Armchair quarterbacking on tough issues has never been a problem for Senator Kerry," she said. "Such tactics haven't served him well in the past and today is no exception."

(Additional reporting by Jason Szep in Providence)

Kerry, Edwards Criticize Bush Over Response To Hurricane (WP)

By Dan Balz

The Washington Post, September 20, 2005

President Bush came under withering criticism for his handling of Hurricane Katrina yesterday, with Sen. John F. Kerry (D-Mass.) charging that the storm exposed the administration's incompetence and ideological blinders and former senator John

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Edwards (D-N.C.) asserting that even in its response, the administration backs policies that support the privileged over the working poor.

Kerry, the 2004 Democratic presidential nominee, said in a speech at Brown University that Michael D. Brown, who quit under fire as the Federal Emergency Management Agency's director, exemplified the administration's failures over the past five years.

Using the nickname Bush used for Brown, Kerry said, "Brownie is to Katrina what Paul Bremer is to peace in Iraq, what George Tenet is to slam-dunk intelligence, what Paul Wolfowitz is to parades paved with flowers in Baghdad, what Dick Cheney is to visionary energy policy, what Donald Rumsfeld is to basic war planning, what Tom DeLay is to ethics and what George Bush is to 'Mission Accomplished' and 'Wanted Dead or Alive.' "

Bremer was the head of the Coalition Provisional Authority in Iraq. Wolfowitz served as deputy defense secretary until becoming president of the World Bank.

Edwards, who has made poverty a signature issue, said the plight of many of those displaced by the flooding in New Orleans underscores an urgent need for the nation to attack the problem again. He offered policy initiatives aimed at ensuring that Americans who work full time do not fall below the poverty line.

The former senator -- who was tapped by Kerry to be his running mate last year and, like Kerry, is contemplating a 2008 presidential run -- said the administration has long favored wealth over work. He criticized Bush for suspending a law requiring federal contractors along the Gulf Coast to pay prevailing wages on reconstruction projects.

"I might have missed something, but I don't think the president ever talked about putting a cap on the salaries of the CEOs of Halliburton and the other companies . . . who are getting all these contracts," he said in a speech at the Center for American Progress, a liberal think tank. "This president, who never met an earmark he wouldn't approve or a millionaire's tax cut he wouldn't promote, decided to slash wages for the least of us and the most vulnerable."

The two speeches followed pointed comments along the same lines by former president Bill Clinton, who criticized the administration's response to the storm Sunday. Speaking on ABC's "This Week," Clinton said Bush should roll back tax cuts for the wealthiest Americans to offset the cost of rebuilding, and he asserted that the poverty exposed by the storm-forced exodus was caused in part by the administration's own policies.

"Whether it's race-based or not, if you give your tax cuts to the rich and hope everything works out all right, and poverty goes up, and it disproportionately affects black and brown people, that's a consequence of the action made," he said. "That's what they did in the '80s; that's what they've done in this decade. In the middle, we had a different policy."

Of the speeches delivered yesterday by the Democrats' 2004 ticket, Kerry's was harsher by far, and it drew a sharp rebuttal from the Republican National Committee's Tracey Schmitt. "Armchair-quarterbacking on tough issues has never been a problem for Senator Kerry," she said. "Such tactics haven't served him well in the past, and today is no exception."

According to a text of Kerry's speech made available in Washington, he said Katrina had provided an "accountability moment" for the administration.

"This is about the broader pattern of incompetence and negligence that Katrina exposed and beyond that a truly systemic effort to distort and disable the people's government and devote it to the interests of the privileged and the powerful," he said.

Kerry also charged that the administration is pursuing politics as usual in its prescription for rebuilding. "The plan they're designing for the Gulf Coast turns the region into a vast laboratory for right-wing ideological experiments," he said, citing private-school vouchers, subsidies to business and other proposals.

Edwards called for a restoration of community. "The administration may think every American is an island," he said. "But Americans know that Katrina's victims shouldn't have been out there on their own and that no American should be out there on their own."

Edwards used the metaphor of the flooded levees in New Orleans to describe what he called society's inadequate efforts to bolster the poor. Although he called for many new programs to help, he also said everyone, from parents and clergy to those most in need, must accept the responsibility to speak hard truths about behavior -- particularly out-of-wedlock pregnancies -- that condemn many to perpetual poverty.

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Kerry Blasts Bush On Federal Response To Hurricane Katrina (HILL)

By Jonathan Allen

The Hill, September 20, 2005

Sen. John Kerry (D-Mass.) unleashed a furious attack on the Bush administration at a Brown University speech yesterday, upbraiding the president's response to the hurricane that recently devastated the Gulf Coastand tying it to what he sees as other flaws at the White House.

"This is the Katrina administration," read prepared remarks posted on 2004 Democratic presidential nominee's website, www.johnkerry.com. "Katrina is a symbol of all this administration does and doesn't do," read Kerry's script, portions of which were included in an e-mail to supporters that ended with a fundraising appeal.

"Michael Brown [Bush's former emergency-management director] … is to Katrina what [former Iraq administrator] Paul Bremer is to peace in Iraq; what [former CIA Director] George Tenet is to slam-dunk intelligence; what [former Deputy Defense Secretary] Paul Wolfowitz is to parades paved with flowers in Baghdad; what [Vice President] Dick Cheney is to visionary energy policy; what [Defense Secretary] Donald Rumsfeld is to basic war planning; what [House Majority Leader] Tom Delay [R-Texas] is to ethics; and what George Bush is to 'Mission Accomplished' and 'Wanted Dead or Alive.'"

In a brief interview, Tracey Schmitt, a spokeswoman for the Republican National Committee, called Kerry's pitch for cash "repulsive."

In a news release, she said, "John Kerry's attacks on President Bush's efforts to assist the victims and rebuild the Gulf Coast don't come as a surprise. Armchair quarterbacking on tough issues has never been a problem for Senator Kerry. The American people have pulled together during a difficult time and Democrats' efforts to politicize this tragedy are unsavory at best."

Kerry's speech is the latest salvo in a political battle over accountability that has pitted the parties against each other in Washington and federal officials against their state and local counterparts in the Gulf region.

While Kerry's speech may play well with the Democratic base, Sarah Binder, a senior fellow at the Brookings Institution and a professor at George Washington University, said the senator has a tough challenge to pin blame on Bush.

Kerry And Edwards Say Bush's Actions Have Been A Disaster (LAT)

By Ronald Brownstein

The Los Angeles Times, September 20, 2005

WASHINGTON — Both members of the 2004 Democratic presidential ticket sharply criticized President Bush in dueling speeches Monday that highlighted the partisan conflict over Hurricane Katrina and early maneuvering for the 2008 White House race.

Speaking at Brown University in Rhode Island, Sen. John F. Kerry (D-Mass.) delivered his most sweeping indictment of Bush's priorities and performance since last year's campaign.

The crisis caused by the hurricane, Kerry said, exposed a "pattern of incompetence and negligence" in the Bush administration, as well as "a truly systemic effort to distort and disable the people's government, and devote it to the interests of the privileged and the powerful."

At a liberal think tank in Washington, former Sen. John Edwards (D-N.C.) offered more policy proposals in a speech focused on combating poverty. Echoing former President Clinton's famous campaign formulation about welfare, Kerry's 2004 running mate urged "a serious, long-term effort to end poverty as we know it."

Tracey Schmitt, press secretary for the Republican National Committee, accused the two of attempting to politicize the tragedy along the Gulf Coast.

"Armchair quarterbacking on tough issues was never a problem for the Kerry/Edwards campaign," she said. "Such overt tactics didn't serve them well in the 2004 campaign, and today is no exception."

Monday's speeches offered a reminder that Kerry and Edwards, rivals during the 2004 Democratic primaries, could find themselves competing for the 2008 Democratic presidential nomination.

"In a sense, these are two guys who have never stopped running; they have never gotten out of campaign mode," said Democratic consultant Jim Jordan, who served as Kerry's campaign manager early in the 2004 race.

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Kerry and Edwards each began their speeches with a similar argument, contending that the devastation in New Orleans revealed social and governmental problems that the administration had not sufficiently addressed. But from there, they moved in different directions.

At the Center for American Progress, Edwards portrayed the suffering among those left behind in New Orleans as a metaphor for the struggles of poor families across America.

Edwards, who last year spoke often about disparities between the "two Americas" of affluence and need, on Monday promoted elements of what he called a "Working Society."

For New Orleans and the rest of the Gulf Coast, he proposed a modern version of the Works Progress Administration that President Franklin D. Roosevelt devised to create jobs during the Great Depression.

Edwards' agenda also included an increase in the nationwide minimum wage from $5.15 to $7.50 an hour (California's minimum wage is $6.75), and new government subsidies to help working-poor families purchase a first home or build savings accounts.

Edwards said he would pay for his ideas partly by allowing tax cuts for top income brackets that Bush pushed through Congress to expire.

Far more directly than in 2004, Edwards said that reducing poverty would also require more progress in discouraging teen pregnancy and encouraging young men to take responsibility for the children they father.

Rhetorically linking such problems with the flooding, Edwards declared: "When a 13-year-old girl thinks there's nothing wrong with having a baby that will drive both her and her child into poverty, we haven't built the levees high enough."

Trent Duffy, a White House spokesman, would not comment directly on Edwards' speech. But he said Bush has focused on "the root causes of poverty" through his economic and education reform agenda.

"No. 1, the best anti-poverty program is a job," Duffy said. "And second, it is education. We are closing the achievement gap between black, Hispanic and white children."

Kerry focused his speech on broader themes, critiquing Bush on two fronts.

He charged that the administration's response to the hurricane showed a lack of competence evident in other areas, such as planning for the reconstruction of Iraq. Accusing Bush of ignoring warnings about the threat of flooding in New Orleans, Kerry declared: "This horrifying disaster has shown Americans at their best — and their government at its worst."

Kerry said the recovery agenda for the region that Bush announced last week "turns the region into a vast laboratory for right-wing ideological experiments," such as waiving requirements that federal contractors pay prevailing wages during the cleanup.

Second, he said the hurricane should show Americans the need to take collective action through the government to attack entrenched problems, such as persistent poverty and lack of access to healthcare.

"It's time we framed every question — every issue — not in terms of what's in it for 'me,' but what's in it for all of us," Kerry said.

Schmitt, the RNC press secretary, criticized Kerry for sending excerpts of the speech to supporters in an e-mail that included a box asking recipients to make a contribution to his political action committee

La. Begins Probe Into 14 Nursing Home Deaths (USAT)

By Thomas Frank

USA Today, September 20, 2005

BATON ROUGE — The Louisiana attorney general launched an investigation Monday into 14 deaths at a New Orleans nursing home that happened after the elderly patients were not evacuated for Hurricane Katrina.

Attorney General Charles Foti's office has been besieged with complaints about patients being left at medical facilities during the hurricane or receiving shoddy treatment, said Kris Wartelle, a spokeswoman for Foti. She said state investigators are checking additional reports of patients and residents who died at 20 to 30 other hospitals and nursing homes. The nursing home under investigation was identified as Lafon Nursing Facility of the Holy Family in New Orleans. The home's operators — a team

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of nuns and nurses — told The New York Times last week that patients were moved to the second floor and given care throughout the hurricane.

Wartelle said Foti's office is “close” to beginning probes into two hospitals where numerous other patients died.

She identified them as Memorial Medical Center and Lindy Boggs Medical Center, both in New Orleans.

Wartelle said there was a “pretty strong” likelihood that the two hospitals would be investigated.

Informal inquiries will be made to see whether complaints can be verified before starting a full probe and gathering documents, witnesses and other evidence that could support criminal charges, Wartelle said.

Foti is hiring additional investigators to look into the complaints made at hospitals and nursing homes.

His office disclosed the latest investigation six days after charging Salvatore and Mable Mangano, owners of St. Rita's Nursing Home near New Orleans, with negligent homicide in the deaths of 34 people who were left in the home despite evacuation orders.

Foti said he is planning to write a report when investigations are finished “on how things should be changed for a disaster in the future” and recommend possible changes in evacuation policies for medical facilities.

Foti said most of the 9,000 to 10,000 nursing home residents in the hurricane's path were evacuated without any problem.

Nurse Says Hospital Owner Left Her 'High And Dry' (LAT)

By Nicholas Riccardi And Ellen Barry

The Los Angeles Times, September 20, 2005

CHALMETTE, La. -- Charlene Gonzalez wanted to get out of town before Hurricane Katrina hit, but because she was a nurse at the only hospital in this low-lying waterside town, she would lose her job if she did not stay at her post.

Then, after Gonzalez, her husband and more than 100 other employees and their families spent days trapped by rising floodwaters, the Pennsylvania-based corporation that owns Chalmette Medical Center, Universal Health Services, told its employees that they could count on only two more weeks of pay.

"They left me to die," Gonzalez said. "And now nobody's even called to say `Thank you,' nobody's even called to say `I'm sorry.' "

In the days following Katrina, southeastern Louisiana's hospitals became isolated deathtraps as power failed, water rose and severely ill patients could no longer survive. Officials have not accounted for all the patients at the two-story Chalmette hospital, but staff members say at least four died, three of whom were critically ill and had do not resuscitate orders.

But it is UHS' behavior after the water cleared that has infuriated the residents of St. Bernard Parish, a devastated suburban region of 65,000 residents, where every neighborhood was inundated. The area remains uninhabitable, buried by mud. The hospital is severely damaged.

Officials at UHS say the anger is understandable after such a catastrophe, but they contend they did everything they could for their patients and employees. They say they tried to evacuate their hospital -- albeit at least a day after emergency officials say they urged it -- but that it was too late to get all the patients out. The company, which had $3.9 billion in revenue last year and says it is the nation's third-largest hospital management corporation, says it is trying to place employees with some of its 84 other facilities and has started a foundation to aid those who lost their homes.

But UHS says on its Web site that it is "committed" to paying through Saturday the 2,800 employees at its three New Orleans-area hospitals, including the 900 at Chalmette. It says they will receive insurance coverage through "at least" the end of October.

Marc Miller, a vice president at UHS, said the cutoff of pay on Saturday is subject to change."This is a highly unusual situation," Miller said. "No final determination has been made on salary and benefits."

Jon Sewell, the hospital's chief executive, said that as he and his employees were trapped in the hospital, the most common question people asked was: Will I have a job?

Three weeks later, he could offer his workers no reassurance.

"Everybody's very emotional about what's in our future," Sewell said.

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St. Bernard residents say the other major employer in the parish, Exxon Mobil Corp., is still paying employees even though its refineries have not come back on line. Bitterly, they say they do not expect additional help from UHS.

"It's a betrayal," Parish Councilman Kenneth Henderson said. "The people treated them good and they turned their backs on us."

For Henderson, it's personal. His daughter, Kendal Guerra, is a nurse at the hospital and is seven months pregnant. She will lose her health insurance, Henderson said, before she gives birth.

Based in King of Prussia, Penn., UHS drew 7 percent of its revenues during the first half of this year from its three New Orleans-area hospitals. All were damaged by Katrina.

Before the storm, the company had invested heavily in its 230-bed hospital in Chalmette, an oil town eight miles east of New Orleans' French Quarter. It had just opened a new 30-bed intensive care unit when Hurricane Katrina began to form.

Dr. Lee R. Domangue, the hospital's director of emergency medicine, said that late on Friday, Aug. 26, he heard the news about the storm turning toward New Orleans and made a frantic call to hospital administration.

"I said `Close the hospital,' " he recalled in an interview. "'You have a category five storm going right over you. You have a medical obligation to evacuate."

Domangue said the answer was no. "It was an administrative decision, against my better judgment," he said.

Sewell said he does not recall the conversation, but parish emergency officials said they also pleaded with the hospital before Saturday to evacuate quickly, to no avail.

"It was nothing less than depraved indifference," said Dr. Paul Verrette, medical director of the parish's emergency preparedness office.

After meeting Saturday with parish officials, Sewell said he was convinced that the hospital needed to evacuate. As in prior storms, intensive-care patients were taken out first. Sunday, less than 24 hours before Katrina hit, the hospital began evacuating other patients from its first floor.

"Our intention was to do it as long as we could," Sewell said.

But with medical facilities throughout New Orleans also scrambling to relocate their patients, Chalmette could not find any available beds in Louisiana or surrounding states. Late Sunday, the hospital moved the 50 or so remaining patients to the second floor.

With patients in the facility, employees on hand were required to remain on duty, something the hospital's officials said was standard emergency procedure in the industry. "It's like being a policeman or a fireman," Sewell said.

About 150 staffers and their families hunkered down. Gonzalez, the nurse, had her husband come along. She couldn't believe they were riding out such a storm in a two-story building, and brought the family airboat.

Several hours after the hurricane struck early Monday, Sewell lay down in his first-floor office for a nap. He felt water on his back. Water was pouring into the hospital, drowning the first-floor generators. The floodwaters that were beginning to rise in New Orleans were inundating St. Bernard Parish. Within two hours, about 16 feet of water covered the first floor, and rescue workers were launching airboats off the second floor terrace to retrieve neighbors stranded on their roofs.

For the next three days, as many as 400 evacuees took shelter on the second floor of the hospital. Food and water were tightly rationed -- meals consisted of a scoop of cottage cheese, a few slices of fruit and two pieces of ham. Staff desperately tried to keep conditions sanitary without a sewage system and attempted to break shatter-proof windows to let fresh air into the scorching building.

By Wednesday, parish officials had found a scrap of dry land to function as a triage center. Sheriff's deputies, firefighters and civilians began to shuttle patients to the parish jail, which sat on high ground. The next morning, the last of the staff was evacuated by a National Guard helicopter. Sewell was on the last flight off the hospital roof.

Most staff made their way out of the parish on Sept. 2. The following week, at a parish meeting in Baton Rouge, word began to travel among nurses that UHS would give them only two weeks' pay.

"They would always stress to their employees [that] they want to be active in their community, give to the United Way, and then they do something like that," said Brenda Ingargiola, the wife of the parish's emergency management director and a nurse at Chalmette for 29 years.

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Charlene Gonzalez's three grown children have all been promised by their employers that they will not lose their jobs, as has her husband, who works at the Port of New Orleans.

"Everybody's been taken care of," she said, "but UHS has left me high and dry."

For Illegal Immigrants, Some Aid Is Too Risky (WP)

By Darryl Fears

The Washington Post, September 20, 2005

BATON ROUGE, La. -- The man who stood with his head bowed outside a cheap motel room here said his name is Almicar of Guatemala. He crept across the Mexican border into the United States a few years ago and since that time has found work as a painter in New Orleans.

But several weeks ago, Hurricane Katrina turned his world upside down along with everyone else's. Almicar, who gave only his first name for fear of being deported, said his situation is worse because he is an illegal immigrant. Since the storm hit, he has watched his neighbors at the motel call the Federal Emergency Management Agency to get money he will never see and food stamps that are forbidden to his family of five, and to seek jobs at the Social Security office, where he dares not show his face.

Almicar didn't speak a word of English, but his body language said it all. Eyes down, arms folded, back slumped, he had the visage of a defeated man.

"I'm afraid," he said in Spanish. His family's "situation is getting harder and harder. You don't know what to think, starting from zero again."

Much has been said about the suffering of the poor in New Orleans, but Latino civil rights advocates and relief workers say those troubled Americans are better off than immigrants who live in Gulf states illegally, working in restaurants, casinos, farms and construction.

Some have managed to get into shelters run by the Red Cross and Catholic Charities, which provide food and medical care, no questions asked. But when U.S. citizens in those shelters flock to cardboard tables where FEMA, Social Security and Internal Revenue Service agents sit, Latinos stay behind, watching from their cots, relief workers said.

The Department of Homeland Security recently announced that information provided by illegal immigrants seeking federal aid could be used against them later in deportation proceedings.

"The administration's priority is to provide needed assistance: water, food, medical care, shelter," said Joanna Gonzalez, a DHS spokeswoman. "However, as we move forward with the response, we can't turn a blind eye to the law."

That point was driven home when two illegal immigrants, from Honduras and El Salvador, were taken into custody in West Virginia by state police after a military cargo plane carrying 305 evacuees arrived there Sept. 5. Immigration and Customs Enforcement officials say the two, who were friends, were taken into custody after state police received a complaint that one had been accused of a sexual assault.

"What that suggests is that the federal government is prepared to serve some victims but not others," said Cecilia Muñoz, vice president for policy at the National Council of La Raza. "That sends a terrifying message to the larger community."

In his national address Thursday, President Bush read off a list of services that the estimated 40,000 Mexicans and 150,000 Hondurans who lived in the New Orleans area cannot get: checks from Social Security, mail delivery by the Postal Service, money to rent apartments and temporary trailer homes.

Opponents of illegal immigration, such as Numbers USA, have fought giving financial aid to illegal immigrants. On the other side, a group of U.S. senators including Barack Obama (D-Ill.) and Hillary Rodham Clinton (D-N.Y.) urged DHS Secretary Michael Chertoff to issue a statement reassuring immigrants that they could come forward without fear of deportation.

"We are very concerned because they're afraid to ask for help," Brent A. Wilkes, executive director of the League of United Latin American Citizens, said of illegal immigrants. "It's difficult to get word to them. They're in the dark much more so than other folks. They have a default position: to avoid authorities at all costs."

About 65 Latinos were staying at the $30-a-night motel where Almicar stood. Some were documented; many were not. A Guatemalan woman said she is consumed by worry and fear. She would not give her name, she said, because people would come to deport her.

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What if my children get sick? she wondered. "I guess I will have to go to the hospital and take my chances," she said.

Her friend Merling Buchanan, a Tulane University master's student from Honduras who speaks English, is the eyes and ears to the world for several of the Peruvians, Guatemalans and Ecuadoreans living at the motel.

"Normally when I get up, there's always someone I need to take somewhere," said Buchanan, a naturalized citizen. On Monday, a friend from Guatemala wanted to speak with a caseworkers at Catholic Community Services.

"The lines are long, so I stay all day," she said. "There is a list, and people write their name. I was number 102."

Days before, FEMA deposited $2,000 directly into her bank account, she said. At the cheap motel, that pittance seems like an embarrassment of riches.

Mario Fletes, 31, a Honduran painter, said he's very frustrated, watching his wife and three sons worry.

"I went to get unemployment, and they said they couldn't process my Social Security number," which, he insisted, is legitimate. "I went to apply for food stamps. They told me to come back in two days. I went Thursday. I went Friday. Finally, they told me not to come back."

Wilkes said FEMA doesn't have enough Spanish-speaking officials to handle even those who work legally on farms, in hotels and in casinos.

But David Passey, a FEMA spokesman, denied that. "We have Spanish-speaking operators on our registration phone lines," he said. "We understand the need to communicate with people in several different languages. If we have areas were we're lacking, advocacy groups can tell us. We're open to input."

Rony Reyes said his friends are almost out of money for the motel. Catholic Community Services of Baton Rouge paid the motel manager about $200 to keep some under a roof for a week.

"Thank God for the church," he said. "We would be sleeping in the parking lot now, no doubt."

But others are helping.

In Mississippi, a group called Project Prep braved floodwaters in Biloxi to get aid to Latino migrant farmworkers and others who feared deportation, said John D. Arnold, the project's director and co-founder.

Jacob Prado, who is coordinating relief efforts for the Mexican Embassy, distributed cash and airline tickets in and around Biloxi to Mexican citizens wishing to return to Mexico, an embassy spokesman said.

In San Antonio, a convoy of 45 Mexican army vehicles rolled into the city with troops and mobile kitchens capable of feeding 14,000 people. Elsewhere in Texas, Catholic Charities of Galveston/Houston doled out $300,000 to immigrant families as of Friday, about $25,000 a day, said Julissa Guerrero, the communications director.

"As quickly as the donations are coming in, they are going right back out," she said. "We are worried that people who are undocumented are falling through the cracks."

In Louisiana, Diane Chisholm, the director of migration and refugee services for Catholic Community Services of Baton Rouge, said documented and undocumented Latinos have poured through the group's doors every day for a week.

"I can say it's been hundreds of people," Chisholm said Monday.

Almicar and other immigrants living at the motel in East Baton Rouge Parish were residents of Metairie, La., near the New Orleans airport.

On the Saturday before Katrina struck, Buchanan was doing the wash when the New Orleans mayor said on television, in English, "We're facing the storm most of us have feared."

She woke her sleeping husband, who snapped at her. "How are we going to go? We don't have money." He eventually agreed to go and borrowed money from a friend.

"Hispanic friends . . . followed us because they didn't know where to go," Buchanan said. "They followed us because we speak English."

They formed a caravan of five rickety cars, one of which broke down en route to Baton Rouge.

The men work where they can find it, usually in towns more than an hour away. It costs about $20 in gas per trip, eating into their pay of about $90 each.

Right now, Reyes said, work is worth the sacrifice. The motel rooms are too precious to give up.

"If you leave, there are three people waiting to take them," he said. "It's all we have right now."

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Dying For A Drink Of Clean Water (WP)

By Jan Eliasson And Susan Blumenthal

The Washington Post, September 20, 2005

In the United States and Europe, people take it for granted that when they turn on their taps, clean water will flow out. But for those living in U.S. cities devastated by Hurricane Katrina, as in large parts of the world, obtaining safe water requires a constant struggle.

Water is essential to all aspects of life, yet 99 percent of water on Earth is unsafe or unavailable to drink. About 1.2 billion people globally lack safe water to consume and 2.6 billion do not have access to adequate sanitation. There are also stark comparisons: Just one flush of a toilet in the West uses more water than most Africans have to perform an entire day's washing, cleaning, cooking and drinking.

Ensuring access to safe water worldwide is imperative. Water is an economic issue since it is essential for poverty reduction, agriculture, food and energy production, as well as recreation. It is a women's issue in the developing world because women have primary responsibility for household water gathering in many of these countries. Time spent hauling water robs women and girls of getting an education or engaging in meaningful work. It is a children's issue because water is essential for healthy development. A youngster dies every eight seconds from water-borne disease. And water is a national security issue because some of the world's conflicts today arise from disputes over arable land and water: The tragedy in Darfur, for example, was driven in no small part by tensions over access to water.

But most of all, water is a fundamental global health issue. Unsafe water and sanitation is now the single largest cause of illness worldwide, just as it has been a major threat to the health of people affected by Hurricane Katrina. A recent U.N. report has estimated that:

· At least 2 million people, most of them children, die annually from water-borne diseases such as diarrhea, cholera, dysentery, typhoid, guinea worm and hepatitis as well as such illnesses as malaria and West Nile virus carried by mosquitoes that breed in stagnant water.

· Many of the 10 million child deaths that occurred last year were linked to unsafe water and lack of sanitation. Children can't fight off infections if their bodies are weakened by water-borne diseases.

· Over half of the hospital beds in the developing world are occupied by people suffering from preventable diseases caused by unsafe water and inadequate sanitation.

If action is not taken now, 135 million people could die of water-related diseases by the year 2020. That is a larger number than those expected to fall victim to the HIV/AIDS pandemic, a catastrophe that has already killed 23 million people worldwide. Furthermore, water plays a critical role in this disease since many deaths from AIDS are linked to illnesses resulting from dehydration and diarrhea caused by unsafe water.

The United Nations has set a Millennium Development Goal -- to be reached by 2015 -- of reducing by half the percentage of people without access to safe drinking water and basic sanitation. There is a long way to go to reach this goal. That's why the U.N. General Assembly has declared the next 10 years to be the International Decade for Action on "Water for Life" to focus attention on this vital issue.

When poor people are asked what would most improve their lives, water and sanitation is repeatedly one of their highest priorities. We should heed their call. The recent decision by the leaders of the Group of Eight nations to double economic assistance for Africa has the potential to help if a significant portion of this aid goes to address the problems of water and sanitation. Developing countries should involve their citizens in decision making about how best to get improved water and sanitation services to their people. And developed nations should work with the ideas and aspirations of those countries and people they are seeking to help -- particularly women -- so that improvements can be sustained over the long term.

Nations in both the developing and developed world must share knowledge and experiences in public education, disease prevention, emergency response strategies, the application of new technologies and training. A global coalition of organizations, businesses and individuals must be mobilized across the public and private sectors for infrastructure development and innovation.

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Time is of the essence. By 2025 the world's population is projected to increase from 6.4 billion to 8.4 billion. At that time, 3.4 billion people could live in countries where water is scarce. Today we are talking about our planet as a global village. With coordinated efforts and a large influx of funding, the Gulf Coast region of the United States will, we hope, restore its water and sanitation systems within months. But unless we soon implement a global action plan for water with increased awareness, activism and resources, large numbers of people around the world will continue to suffer and die needlessly for generations to come for want of clean water.

Jan Eliasson, former Swedish ambassador to the United States, is the president of the United Nations General Assembly. Retired Rear Admiral Susan Blumenthal, a physician, served as assistant surgeon general of the United States. She is a clinical professor at the Georgetown and Tufts University schools of medicine.

Cameras Headed To Court? (RC)

By John Mcardle, Roll Call Staff

Roll Call, September 20, 2005

Bill Would Put Supremes on Air For the past 20 years, every time a vacancy arises in the Supreme Court, C-SPAN General Counsel Bruce Collins is teased by the possibility that new blood on the bench might mean the highest court in the land would reconsider its stance on allowing cameras into its halls.

But while Collins waits, hoping the court's two new justices will allow proceedings to be televised, the chairman of the Senate Judiciary Committee is ready to force the matter.

According to a GOP Congressional source close to the issue, Sen. Arlen Specter (R-Pa.) — who has said that Congress legally has authority over court administration issues — intends to drop new legislation, possibly as early as this week, that will push for opening the Supreme Court to television cameras.

Specter had discussed the possibility of a bill at last week's hearings on Judge John Roberts' nomination to be chief justice when the issue was brought up by Members on both sides of the aisle.

On Wednesday, Sen. Chuck Grassley (R-Iowa) pointedly asked Roberts if he was against cameras in the courtroom "like Justice [William] Rehnquist was."

"Well, you know, my new best friend, [former] Sen. [Fred] Thompson [R-Tenn.], assures me that television cameras are nothing to be afraid of," Roberts responded. "But I don't have a set view on that. I do think it's something that I would want to listen to the views of — if I were confirmed — to my colleagues."

On Tuesday, Sen. Russ Feingold (D-Wis.) also asked Roberts about the issue and made clear his support for cameras in the Supreme Court.

"Americans can watch virtually every significant event of national importance on television, except for oral arguments and announcement of decisions at the Supreme Court," Feingold said. "If you are confirmed, you will essentially disappear from public view ... The possibility of televising trials raises some complicated issues, because we have to consider the safety and rights of criminal defendants and witnesses and jurors, but such concerns are not so present in the case of appellate proceedings ... I think it would benefit the country and the court if all Americans had a chance to see the court conduct its work."

But with Roberts noncommittal, Collins — who first worked to get the Supreme Court to open its oral arguments to C-SPAN and other network audiences in 1985 and has continued to push for cameras in the court several times in the past two decades — continues to wait.

"We've got so much experience with these bursts of interest in this issue that never go anywhere that we're taking a 'wait and see' attitude," Collins said. "If there seems to be a serious interest this time we will definitely follow up by restating our many-year-old commitment to air every minute of every oral argument of every court term and we would be in the middle of these efforts to ensure they happen."

For the past four years, Grassley and several other Senate co-sponsors have been pushing the Sunshine in the Courtroom Act. The bill, which was reintroduced to the 109th Congress in April, would give full discretion to the presiding judge of a case as to whether cameras or recording devices would be allowed during proceedings in federal trial and appellate courts, including

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the Supreme Court. In appellate courts, the most senior active judge — the chief justice in the case of the Supreme Court — would have discretion on the issue.

It's not yet clear how Specter's new bill would differ from Grassley's, but in an interview earlier this month on C-SPAN's "Q & A" that was filmed before Rehnquist's death, Specter said that pushing for cameras in the Supreme Court was something he had been wanting to move forward with for a long time. He said he hadn't done so "out of deference to Chief Justice Rehnquist."

"I think Congress has the authority to say there ought to be television of the Supreme Court," Specter had said. "Nobody can tell them how to decide cases. But Congress decides, for example, how many justices there will be ... We established time limits. We say when they start to sit on the first Monday in October, and I think, on an administrative matter, that the Supreme Court is subject to a Congressional determination.

"Now they may disagree with this and say, 'It's an invasion of separation of powers.' I don't think it is," Specter said. "But they decide so many cases five to four on the cutting edge. And I think that it would be very helpful for the public to have a great understanding as to what they do."

While C-SPAN's Collins agreed that Congress does have the authority to pass legislation to open the Supreme Court to cameras, he said that "in the end, I can't see the Congress forcing the Supreme Court" to allow cameras in.

And even if Roberts were to come out in favor of cameras in the court and gets confirmed as chief justice, "as a new chief getting his sea legs, so to speak, I don't think he's going to cause trouble over the issue of television.

"I don't think this is a policy issue that can be won on points and authorities, it'll be a personal decision on the part of the judges. And I don't think it'll be a five-four decision, I think it'll have to be a nine-zero decision."

But Henry Schleiff, Court TV CEO, who has been looking to open federal courts to television cameras since the network's founding in 1991 and, like C-SPAN, would carry the court's oral arguments gavel to gavel, said he thought that Roberts' statements at last week's hearings exhibited a fresh sort of open-mindedness to the issue.

"We were encouraged to hear the modern thinking by what is clearly a modern jurist taking a more modern approach," Schleiff said.

Schleiff said Court TV has actively supported Grassley's bill in the past and is in the midst of preparing letters to Roberts, Specter and other Judiciary Committee members to lobby on its behalf.

But Collins said he remains skeptical.

"In 1985 when we started on this, C-SPAN and others, if you'd asked me then if we would have had cameras in the Supreme Court in the next 20 years, I would have said 'well certainly,' because the Court would change its membership and it would have new justices with new views on it," Collins said. "All I can tell you is that the generational change seems to be slower than we thought earlier. There might be a possibility that we might get them but I'm not going to put a date on it."

Senate Poised For Test Vote On Drug Reimportation (HILL)

By Jeffrey Young

The Hill, September 20, 2005

The Senate is poised to vote for the first time on language to ease access to prescription drugs imported from abroad during consideration of the agriculture-appropriations bill currently on the Senate floor, fulfilling a promise made by Majority Leader Bill Frist (R-Tenn.) in July.

Sen. David Vitter (R-La.) has proposed an amendment to the agriculture spending bill that would block the Food and Drug Administration (FDA) from preventing people from importing prescription medicines.

The language was introduced Thursday but had not been placed in the queue for a vote by press time yesterday. Frist hopes to wrap up the agriculture bill by the middle or end of this week, according to a spokesperson. Vitter is the author of a measure that would establish FDA regulation of imported drugs.

As part of an agreement with Vitter, Frist vowed to permit the amendment as a test vote for Senate support of relaxing restrictions on consumers' obtaining drugs at lower prices from countries such as Canada that use price controls to hold down the cost of medicines

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Vitter had threatened to block the confirmation of FDA Commissioner Lester Crawford but backed down when Frist promised not to stall the drug-imports amendment when the agriculture-appropriations bill came to the floor.

Prescription-drug importation, or "reimportation," as it is it is sometimes called, enjoys broad support in the Congress but is opposed by the GOP leadership in both chambers and by the White House.

On Wednesday, the Senate took action that could augur well for Vitter's amendment. It adopted legislation by unanimous consent that would prevent the U.S. trade representative from making deals that would preclude drug imports.

The House passed a bill virtually identical to Vitter's measure during the last Congress, but the Senate never took up the legislation. Sens. Byron Dorgan (D-N.D.) and Olympia Snowe (R-Maine) are the chief sponsors of a rival bill. Backers of drug importation, including Sen. John Thune (R-S.D.), are expected to vote in favor of whatever vehicle first reaches the floor.

According to the agreement with Frist, if the Vitter amendment attracts more than 60 votes, a standalone drug-imports bill would be given floor time at a later date. If the amendment is attached to the agriculture bill, it is expected to be stripped out during conference discussions.

The pharmaceutical industry repeatedly has cautioned that drug makers cannot guarantee the safety of medicines entering the U.S. market from abroad, often citing the proliferation of counterfeiting rings and other criminal enterprises linked to the cross-border trade of prescription drugs.

Social Security Appears To Be DOA In Senate (RC)

By Emily Pierce

Roll Call, September 20, 2005

Though it might be premature to say the nail is in the coffin of President Bush's push to overhaul Social Security, there appear to be plenty of Republicans on Capitol Hill these days who are willing to serve as pallbearers.

In fact, with last week's revelation that National Republican Congressional Committee Chairman Tom Reynolds (N.Y.) thinks that voting on a Social Security overhaul would be political suicide for House Republicans in 2006, Senate leaders are doing little to quell a notion, floated by Reynolds, that any measure offering personal investment accounts under the government's retirement security program would be dead on arrival in the Senate.

Asked if Reynolds was correct to assume that the Senate would be unable or unwilling to take up Social Security in this Congress, Senate Majority Whip

Mitch McConnell (R-Ky.) said, "It is my personal opinion that Social Security reform ought only to go forward on a bipartisan basis. And as of this moment ... I am unaware of any Democrat who has signed on" to negotiations over personal accounts.

Indeed, Democrats in both chamber have steadfastly refused to even consider the notion of private accounts, saying that the change would make current promised benefits to retirees subject to the whims of Wall Street, and the costs to transition to private accounts would bankrupt the system.

On Monday, Sen. George Voinovich (R-Ohio) unveiled "lockbox" legislation that would keep Social Security revenues from being used for anything other than benefits — a proposal that places the focus on the solvency of the existing program rather than on a major overhaul. Bush's plan, "in my opinion, is not going anywhere," he told reporters.

Republican backers of the president's plan, however, argue that personal investment accounts are the only way to salvage a retirement system slated to become insolvent by mid-century and that retirees stand to reap even more money from the stock market than they are guaranteed under Social Security.

Of course, the uppermost worry among Reynolds and other Republicans with cold feet on Social Security is not about whether the Bush plan will work. Rather, their concern is whether voting to create private accounts will trigger a voter backlash that significantly weakens the GOP Congressional majority — or even hands control to the Democrats.

Indeed, one aide to a Senate Finance Committee Republican said that Reynolds' concerns mirror those of many Senate Republicans who have been "privately for months ... voicing the same concerns."

"I don't think we have the time [on the Senate floor schedule], and I don't think we have the political will," the aide said.

Even one of the most vocal supporters of private accounts, Sen. Lindsey Graham (R-S.C.), acknowledged that Republicans in the Senate are skittish about taking up Social Security before the 2006 midterm elections.

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"I think the Senate, like the House, has got to get over being afraid for ourselves," Graham said. "It's a short-sighted view for our party to put off addressing this issue. There will never be a politically opportune time."

Despite admonitions like that from true believers, it isn't as if Speaker Dennis Hastert (R-Ill.) or Senate Majority Leader Bill Frist (R-Tenn.) are clearing their chambers' schedules for the debate, especially given the onslaught of legislation related to Hurricane Katrina in both chambers, plus two Supreme Court nominees for the Senate to confirm.

While the timeline for House action this fall on Social Security was vague to begin with, Hastert gave an even hazier timeline when asked about it by reporters last week. "Social Security is something very important. It's something we've talked about doing, and when we decide to move forward we'll let the press know," he said, adding that the House is focused on aiding Katrina evacuees first.

Similarly, Frist spokeswoman Amy Call said the Senator is "still interested in considering Social Security reform," but noted the loaded Senate schedule has pushed the issue off the front burner. "We'll see where we are later in the fall," she said.

Senate Finance Chairman Chuck Grassley (R-Iowa) also put Social Security at the bottom of his list recently, saying that the response to Katrina, Supreme Court nominations, a budget reconciliation bill and the 12 annual appropriations bills take precedence, according to a spokeswoman.

Still, Grassley noted that if the House takes action on Social Security, it could give the issue added momentum in the Senate.

However, Senate Finance ranking member Max Baucus (D-Mont.) said Republicans are just giving lip service about their intentions on Social Security at this point.

"It's all bluster," he said. "Private accounts have a close-to-zero chance of being enacted this year. ... I think Grassley's stock is also close to zero on this."

Though Reynolds and others fear the repercussions of voting on Social Security at the ballot box, the crisis management in Washington over the botched recovery from Katrina is providing Republican leaders with a handy excuse for sidelining Social Security for the rest of this Congress.

"Katrina is the perfect way for Republicans to bow out gracefully without making the president look bad," said an aide to a Finance Republican.

Many Republicans already have acknowledged that trying to bring up the subject during an election year would most certainly spell political death.

Of course, there are a few holdouts trying to give the issue fresh energy, notably, Senate Republican Conference Chairman Rick Santorum (Pa.). Santorum is pushing a bill that would guarantee that senior citizens 55 or older would continue to receive their promised Social Security benefits if private accounts were introduced for younger workers.

Santorum is reportedly hoping to move his bill alongside a measure by Sen. Jim DeMint (R-S.C.) that would give workers born after 1950 the option of placing part of their Social Security taxes in private investment accounts. DeMint, like Santorum, has expressed a desire to move forward with the plan as well.

Santorum has said the bill will assure seniors that Democratic scare tactics on Social Security are just that, but the introduction of the bill also appears to be a tacit acknowledgement that those Democratic tactics are working.

And, of course, Bush has shown no signs of accepting or acknowledging defeat. He's meeting this week with the very people who recommended he push private accounts in the first place — his 2001 Commission to Strengthen Social Security.

Inside Politics (WT)

By Greg Pierce

The Washington Times, September 20, 2005

Kerry's complaint

Sen. John Kerry yesterday said Hurricane Katrina exposed "a broader pattern of incompetence and negligence" in the Bush administration and showed what a bad choice Americans made in re-electing the president last year.

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"The truth is, democracy is not a game. We are living precious time each day in a different America than the one we can inhabit if we make different choices," Mr. Kerry, Massachusetts Democrat and his party's 2004 presidential nominee, said in a speech at Brown University.

Mr. Kerry used the speech as a fundraising technique, sending an advance preview to his e-mail list of supporters along with a link to click if they wanted to contribute to his political activities.

In his remarks, he said the hurricane is a watershed moment for Americans to define themselves, but that the president has failed to lead.

"Yes, they can run a good campaign -- I can attest to that -- but America needs more than a campaign," he said. "If 12-year-old Boy Scouts can be prepared, Americans have a right to expect the same from their 59-year-old president of the United States."

"Armchair quarterbacking on tough issues has never been a problem for Senator Kerry," said Republican National Committee spokeswoman Tracey Schmitt, who called his and other Democrats' recent remarks an "unsavory" attempt to politicize the hurricane.

For nonbelievers

Atheists finally have a lobbyist of their own.

She is Lori Lipman Brown, 47, a former Nevada state senator and lawyer with a background in constitutional law, who is going to work for the Secular Coalition for America, an umbrella group. She's interested in church-state separation issues and says she intends to "help us move toward the day when humanists and atheists are regarded with the same respect as the rest of society."

She began work yesterday at the D.C. headquarters of the American Humanist Association and also will be representing the concerns of the Atheist Alliance International, the Institute for Humanist Studies, the Secular Student Alliance and the Secular Web.

"For humanists, having a full-time lobbyist is a historic accomplishment," said Roy Speckhardt, AHA executive director. "It's a culmination of our efforts to establish a seat at the table for our views.

"Having a lobbyist focusing on a secular point of view is more essential now than ever before. With the three branches of government drenched in religiosity, we have to let America know that we are here, too."

Voinovich's plan

Sen. George V. Voinovich, Ohio Republican, said yesterday that Social Security personal-account proposals aren't going anywhere this year, but that Congress should pass legislation to lock away federal trust funds, including Social Security dollars, to ensure government can't spend them.

Mr. Voinovich introduced a bill that would require all specially designated government revenue, including Social Security, be saved for those purposes and not spent on other programs. The government, he said, has borrowed more than $3.5 trillion from various trust funds, including $1.9 trillion from Social Security and $695 billion from the Civil Service Retirement and Disability Fund, but that borrowing is not reported to the public as part of the overall deficit.

"What we've been doing every year is raiding those trust funds," he said, arguing that taking the money off the table will reveal the true size of the deficit and force Congress to limit spending, raise taxes or increase borrowing. "We've got to get real."

Mr. Voinovich said overall Social Security reform will not happen this year with other issues, such as hurricane-relief efforts, dominating the agenda. "The Social Security thing, in my opinion, isn't going anywhere," he said. "It may have been doomed from the beginning because it wasn't done on a bipartisan basis."

He added that since much has to be done to get the government's fiscal house in order, he hopes President Bush's tax cuts will not be made permanent, as some Republicans propose.

Flood of money

"There's an old adage that no one in Washington can tell the difference between $1 million and $1 billion. Seldom has that Beltway learning disability been more vividly demonstrated than in the weeks since Katrina," the Wall Street Journal's Stephen Moore writes.

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"When President Bush announced last Thursday that the feds would take a lead role in the reconstruction of New Orleans, he in effect established a new $200 billion federal line of credit. To put that $200 billion in perspective, we could give every one of the 500,000 families displaced by Katrina a check for $400,000, and they could each build a beachfront home virtually anywhere in America," Mr. Moore said.

"This flood of money comes on the heels of a massive domestic spending build-up in progress well before Katrina traveled its ruinous path. Federal spending, not counting the war in Iraq, was growing by 7 percent this year, which came atop the 30 percent hike over Mr. Bush's first term.

"Republicans were already being ridiculed as the Grand Old Spending Party by taxpayer groups. Their check-writing binge in response to the hurricane only confirmed, as conservative leader Paul Weyrich put it, that 'the GOP, once the party of small government, has lost its bearings and the Republican establishment doesn't seem to get the message that the grass roots of the party is enraged.' "

No run-off

Democrat Fernando Ferrer has enough votes to officially win the New York mayoral primary and will face Republican Mayor Michael R. Bloomberg on Nov. 8, officials said yesterday.

After a week of uncertainty, Mr. Ferrer edged just past the 40 percent mark as election workers finished counting thousands of absentee and other untallied votes cast in the Sept. 13 primary, Board of Elections officials said.

Officials had said a runoff would have been required by law with the second-place finisher, Rep. Anthony Weiner, if no one had reached 40 percent -- even though Mr. Weiner had conceded defeat.

A "painstaking recanvass" found Mr. Ferrer, the former Bronx borough president, received 192,243 votes of the more than 478,000 votes cast, Board of Elections Executive Director John Ravitz said yesterday. That put him about at 40.15 percent, or 720 votes over the 40 percent threshold, the Associated Press reports.

"There will not be a runoff between Fernando Ferrer and Anthony Weiner," Mr. Ravitz said.

Earlier, cheers rang out at Ferrer campaign headquarters as staff members heard the reports.

FDA Rethinks Women's Chief (WP)

By Marc Kaufman

The Washington Post, September 20, 2005

One week ago, the Office of Women's Health of the Food and Drug Administration sent an e-mail notice to women's groups and others announcing the appointment of Norris Alderson as its new acting director.

An FDA veteran trained in animal husbandry who spent much of his career in the agency's Center for Veterinary Medicine, Alderson quickly became the subject of active and largely negative comment on the Internet and elsewhere.

The Office of Women's Health serves as a liaison with women's health groups and as an advocate on women's issues; critics said that a man with a primarily veterinary background could not properly fill the role.

The last director, Susan Wood, resigned last month to protest the agency's unwillingness to make a decision on whether to make emergency contraception more easily available.

Three days after the Alderson announcement, the FDA main press office sent out a very different announcement. It said that 20-year FDA veteran Theresa A. Toigo would be the new acting director of the women's health office, and that she would be a champion for women's health inside and outside the agency. Alderson -- and the statement announcing his appointment -- was never mentioned.

Asked yesterday who exactly was running the office, FDA spokeswoman Suzanne Trevino said that Alderson had never been appointed acting director. She said that Toigo would take over from the departed Wood, and that her office knew nothing about the statement regarding Alderson, who is the agency's associate commissioner for science.

"There was no official decision made until we announced Theresa Toigo's appointment on Friday," Trevino said.

The seeming mystery thickened when several women's groups said that not only did they receive e-mails announcing Alderson's appointment, but also that he was also listed on a Health and Human Services directory last week as the acting director of the office. In addition, people who have spoken with women's health office staff said that Alderson was introduced to

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the staff last week as the new acting director, and that he even had some one-on-one discussions with staff members about future plans.

Sen. Barbara A. Mikulski (D-Md.), a longtime advocate for the FDA's women's health office, said she already had been concerned by Wood's resignation. "I was further concerned to learn last week that Dr. Norris E. Alderson, someone without women's health experience who has spent the majority of his career at the Center for Veterinary Medicine, was appointed acting director of this important office," she said in a statement yesterday.

Toigo has led the FDA's Office of Special Health Issues, which works with patient advocates on issues such as AIDS and cancer. The FDA announcement of her appointment also says that she has worked with the women's health office on agency initiatives related to the inclusion of women and minorities in clinical trials.

Former director Wood called Toigo a good choice. "She's a very capable and dedicated person who will do an excellent job," Wood said.

But many women's health groups remain unhappy with the FDA and what they consider to be the agency's questionable leadership.

"Once again, this episode shows the agency's complete tone-deafness," said Kirsten Moore, director of the Reproductive Health Technologies Project. "It underscores our concern about the degree of competence at the leadership level, and about political appointees who just don't know much" about the issues before the agency.

Is FDA's New Chief Counsel A Change In Name Only? (LEGTIMES)

By Lily Henning, Legal Times

Legal Times, September 20, 2005

Sheldon Bradshaw arrived at the Food and Drug Administration without the baggage lugged around by his predecessor.

The previous chief counsel at the FDA, Daniel Troy, was pilloried by critics who slammed his close ties to the drug industry. Troy made a name for himself suing the agency on behalf of drug and tobacco companies before moving to the government agency early in the Bush administration.

Bradshaw, who came to the FDA as chief counsel from the Justice Department in April, has escaped that kind of scrutiny, largely because he hasn't had those corporate relationships. But that doesn't necessarily mean a new day has dawned.

In fact, despite Troy's return to the private sector, his controversial legal policies remain in force at the agency. Like Troy, Bradshaw offers one-on-one meetings with the companies regulated by the agency, has kept low the number of warnings issued to companies violating regulations, and, perhaps most notably, has continued to intervene on behalf of drug companies in private civil lawsuits.

Last week, Bradshaw signed off on a brief agreeing with Pfizer Inc.'s claim that three years ago the FDA would not have allowed the drug company to warn consumers about a link between suicidal behavior and the use of its best-selling antidepressant, Zoloft, by adolescents, an argument Pfizer is using to ward off liability.

That approach and a lighter regulatory hand put the public at risk, consumer and public health advocates complain. And even some in the drug and medical-device industries find the regulatory regime under Troy, and now Bradshaw, discomforting, claiming that without strong FDA oversight, companies are being hauled into court more frequently by state attorneys general and private plaintiffs.

"One of our clients said to me a few months ago, 'I miss the FDA,'" says Arnold & Porter's Donald Beers, a food and drug attorney who served as associate chief counsel for drugs and for enforcement in the FDA's Office of Chief Counsel between 1975 and 1985. "An aggressive FDA that occupies the stage is sometimes better than having lots of different people sniping at you."

STAYING THE COURSE

Before joining the FDA in April, Bradshaw was principal deputy assistant attorney general in the Department of Justice's Civil Rights Division.

Bradshaw's move to the FDA -- generally considered a less prestigious agency for government lawyers than the Justice Department -- surprised some of his former colleagues, who describe him as being part of an ideologically conservative group of young leaders in deputy positions at the DOJ.

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He also worked in the Office of Legal Counsel, made up of an elite group of lawyers at Justice who advise the executive branch. Among the office's alumni is Troy. Both he and Bradshaw were part of the Bush administration's advance legal teams in 2001.

Bradshaw says that his lack of experience in the food and drug regulatory arena could be, in the wake of what he says was unfair criticism of Troy, a good thing.

"I think it's helped me in my transition that I wasn't seen as already having made up my mind on certain issues," Bradshaw says. "There isn't a perception that I would have a preference in any given case."

But those looking for changes to policies initiated under Troy will be disappointed. Bradshaw says he has no intention of changing the way the FDA's legal department does business.

That continuity was evident last Thursday, when the government filed an amicus brief in Utah reiterating the argument championed by Troy that the FDA's jurisdiction over prescription-drug labeling prevents plaintiffs from suing Pfizer over Zoloft's lack of a warning label.

"Wherever I go, people ask me if I am going to continue Troy's policy in pre-emption cases," Bradshaw says, adding that the FDA does not take such action by itself and must have consent from the Department of Justice and the political leadership at the Department of Health and Human Services.

Troy was a pioneer of the government's intervention on behalf of Pfizer in cases related to Zoloft and suicide, contending the FDA would not have permitted Pfizer to warn about the suicide risk because there was not enough scientific support for the warning. The government's involvement began in September 2002, when Justice, joined by the FDA, filed a friend of the court brief in the 9th U.S. Circuit Court of Appeals case Motus v. Pfizer. (The 9th Circuit, however, ultimately decided the case on different grounds, never reaching the pre-emption issue.)

The argument was based on the premise that since the FDA has sole jurisdiction over the labeling process of prescription drugs, drug companies like Pfizer should not be held liable for warnings on products if they follow FDA requirements.

The FDA's involvement in the Pfizer case sparked indignation among interest groups, which complained that Troy, who had represented Pfizer in private practice, was leaping to the defense of industry. Plaintiffs advocates complain that if the FDA's legal argument in the Zoloft case is applied broadly, then victims won't be able to sue if they are injured by any FDA-regulated product.

Pfizer has used the 2002 brief for the past three years to fend off lawsuits involving Zoloft-related suicides.

In June, Judge Paul Cassell of the U.S. District Court for the District of Utah asked the government to weigh in again, noting that the FDA's opinion was important because the agency had injected itself into the debate with the 2002 brief.

In that case -- the first in which the government has intervened since Bradshaw took over -- the family of 15-year-old Shyra Kallas sued Pfizer, claiming that Zoloft's label at the time their daughter committed suicide in 2002 did not disclose the risks of suicide and suicide-related side effects associated with the use of Zoloft in adolescents.

They also claim Pfizer failed to warn Kallas' doctor of that possibility.

Kallas, who was prescribed Zoloft by her primary-care doctor, shot and killed herself a month after starting on the drug.

Cassell asked the FDA to explain whether the 2002 brief would apply to the Kallas case, noting that the case involves a minor. The drug is not approved for treatment of depression in adolescents. And while Bradshaw calls the circumstances of the Kallas case "tragic," last week's filing didn't alter the position the government held under Troy.

Judges have had mixed responses to the FDA's position on the Zoloft cases, of which there are now more than a dozen nationwide. In a March 2005 decision in a federal court in Texas, in which Pfizer had filed the 2002 amicus brief, Judge William Steger wrote that Pfizer had relied heavily on the FDA to support its arguments. But the judge ruled that evidence before the agency did suggest that a warning about suicide risks was appropriate and that the FDA's regulations do indeed allow a manufacturer to add to or strengthen a warning without prior agency approval.

Karen Menzies, who represents plaintiffs in cases related to Zoloft, notes that Pfizer never asked the FDA if it could warn consumers about the suicide risk, adding that the FDA had information about the suicide risk associated with antidepressants like Zoloft since the early 1990s but did not analyze it.

The contention that the agency would have prevented Pfizer from issuing the warning is "pure speculation by the FDA's attorneys," says Menzies, a partner with Baum Hedlund in Los Angeles. "But the sheer weight of the FDA intervening is very persuasive."

Pfizer has consistently denied any link between suicidal behavior and the use of Zoloft by adolescents. Last fall, after a review of studies on risks of suicidal thoughts and behaviors in children taking antidepressants, the FDA directed manufacturers to add a "black box" warning -- the most severe kind of advisory -- to the medications' labels to emphasize the need for close monitoring of child patients taking those drugs.

THE OLD ORDER

Troy, 45, is, for many critics of the Bush administration's FDA, Exhibit A of the dangers of appointing a regulator who clashed with the very agency in which he would later play a pivotal role.

The first appointment to the FDA made by President George W. Bush, Troy says his was a necessarily high-profile role. As chief counsel, he gave nearly 80 speeches and met with dozens of industry groups.

Troy says the meetings sometimes helped to narrow the scope of litigation against the agency and, in some situations, to avoid it. "Sometimes when they heard our side, they said that's a good point -- or we're not going to beat you in court," Troy says. "Sometimes I ended up hearing their tale and decided that we were wrong."

Troy was slammed by a wide range of detractors, from newspaper editorial writers to Capitol Hill legislators, for what they said were brazen actions benefiting the industries he represented in private practice.

Before joining the FDA, Troy, as a partner at Wiley, Rein & Fielding, represented tobacco-maker Brown & Williamson in a successful effort to ward off FDA oversight of tobacco. He also played a key role in the 1990s campaign -- spearheaded by the Washington Legal Foundation, a conservative legal group -- that challenged advertising restrictions on prescription drugs. The lawsuits were successful, freeing drug companies to engage in "off-label" promotion of their prescription products.

As chief counsel, Troy was accused of stalling efforts to investigate complaints about the supplement ephedra and loosening the application of rules governing prescription-drug advertising.

"He in a lot of ways transformed the role of chief counsel," says James Czaban, a partner at Heller Ehrman in Washington. "He asserted himself very visibly in key decisions. Troy allowed interested companies much greater access to him and the legal staff to advocate a position or talk about issues."

In early 2004, Rep. Maurice Hinchey, D-N.Y., introduced, and Congress passed, an amendment to take $500,000 away from Troy's office and add it to the FDA's Center for Drug Evaluation Research budget. Hinchey argued that by interceding in civil suits on behalf of drug-makers like Pfizer, Troy was ignoring conflicts of interest and putting drug consumers at risk.

James O'Reilly, a food and drug law expert and adjunct professor at the University of Cincinnati School of Law, says one of the considerations in choosing Bradshaw to replace Troy was to "avoid the Hinchey scenario."

"It may be a careful tactic to appoint Sheldon," says O'Reilly. "He comes without the baggage."

THE NEW BOSS

Bradshaw maintains that he can take a fresh look at the legal questions facing the agency. Perhaps fresher, he says, than "someone who has ties to the regulated industry."

This week he is speaking at the Generic Pharmaceutical Association's policy conference in Washington about legal issues facing the generic-drug industry.

He also continues an open-door policy to the chief counsel's office that Troy initiated, meeting with drug and medical-device companies in "courtesy visits."

Over the summer, Bradshaw's visitors included Pfizer General Counsel Jeffrey Kindler, lawyers from Covington & Burling, Alston & Bird and other firms.

Sounding much like his predecessor, Bradshaw says: "I'm happy to meet with anyone who wants to come in and talk, no matter what side -- industry or citizen groups. It benefits me to hear everyone out."

By winter, Troy could be making similar visits to Bradshaw.

Now a partner at Sidley Austin Brown & Wood, Troy works for a firm that he says "represents pretty much almost every company" in the brand-name drug industry.

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This year, among Sidley's lobbying clients are pharmaceutical companies Hoffman La-Roche Inc., Bayer Corp. and Schering Plough Corp. Troy also does work for Pfizer Inc., and did so while working for Bert Rein at Wiley Rein & Fielding.

Although Troy cannot lobby or appear before the FDA until the end of November because of a one-year "quiet period" after leaving the government, his clients can still benefit from the policies he helped put in place.

Since Bradshaw arrived in April, the number of warning letters, which caution companies about violations of food and drug regulations, sent out per month stayed consistent with the dramatic drop-off that occurred during Troy's tenure. Under Troy, the agency's legal department began to review the letters, which do not represent legal action and give the offenders an opportunity to fix the problem. If it isn't remedied, the agency can sue.

So far in 2005, 23 warning letters to advertisers and seven compliance letters regarding manufacturing or compliance problems have gone out. In 2002, 28 advertising letters and 15 compliance letters were sent. By contrast, during the Clinton administration in 1999, 110 letters warning about illegal advertising claims were sent. Bradshaw says that it is not his goal to reduce the number of warnings.

"I don't have any particular agenda about how many ought to be going out or to whom," Bradshaw says of the letters. "I don't view myself as a policy-maker. Someone else decides the policy. I'm here to make sure that they are legally accurate and defensible."

NASA Planning Return To Moon Within 13 Years (NYT)

By Warren E. Leary

New York Times, September 20, 2005

WASHINGTON, Sept. 19 - Combining an old concept, existing equipment and new ideas, NASA gave shape on Monday to President Bush's promise to send humans back to the Moon by the end of the next decade.

Michael D. Griffin, the agency's new administrator, detailed a $104 billion plan that he said would get astronauts to the Moon by 2018, serve as a steppingstone to Mars and beyond, and stay within NASA's existing budget.

The plan would use a new spacecraft similar to the Apollo command capsule of the original Moon program, and new rockets made up largely of components from the space shuttle program.

"It is very Apollo-like," Dr. Griffin said, "but bigger. Think of it as Apollo on steroids."

The plan drew a mixture of praise and criticism from lawmakers and space experts. [News analysis, Page A15.]

The chairman of the House Science Committee, Representative Sherwood Boehlert, Republican of New York, said it appeared to be "the safest, least expensive and most efficient way" of moving forward in space exploration, but added that current cost overruns in other NASA programs might make it hard to develop the new vehicle on schedule.

The outlines of the plan had been disclosed informally over the last two months by NASA officials and space experts. But Dr. Griffin's announcement laid out a timetable and a budget, putting flesh on the bones of a proposal that Mr. Bush announced in January 2004 but had never described in detail.

Dr. Griffin said that after adjusting for inflation, the program would cost just 55 percent of what it cost to put a dozen men on the lunar surface from 1969 to 1972.

The pay-as-you-go plan, approved by the White House last week, would stay within NASA's $16-billion-a-year budget through a combination of retiring the space shuttle, finishing the International Space Station and reallocating money from other NASA programs. And Dr. Griffin said the nation could well afford it, despite concern about tight budgets in the wake of Hurricane Katrina.

"We're talking about returning to the Moon in 2018," he said at a news conference here in Washington. "There will be a lot more hurricanes and a lot more other natural disasters to befall the United States and the world in that time, I hope none worse than Katrina.

"But the space program is a long-term investment in our future. We must deal with our short-term problems while not sacrificing our long-term investments in our future. When we have a hurricane, we don't cancel the Air Force. We don't cancel the Navy. And we're not going to cancel NASA."

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Dr. Griffin and other space advocates, including influential members of Congress, have said the United States needs a replacement for the aging shuttle fleet as a matter of national security. Russia and China are currently capable of human spaceflight, and other countries have expressed interest in following suit. Dr. Griffin said the nation must maintain an independent capability to send people into space after the shuttle retires in 2010.

The new craft, called the crew exploration vehicle, would perch the astronauts' capsule above the rockets that power it into space, rather than alongside them as with the shuttle. NASA officials said it would be 10 times as safe as the shuttle, with a projected failure rate of 1 in 2,000, as opposed to 1 in 220 for the shuttle. The increased safety, they said, will be due in part to escape rockets that will be able to jettison the capsule away from the booster rocket in the event of an accident.

Dr. Griffin said the vehicle would be able to take as many as six astronauts to the space station, or fewer astronauts and some cargo. Or it could fly robotically without a crew, he added, carrying up some 25 tons of cargo, about as much as a shuttle can carry. The wingless craft, weighing 50 percent more than the Apollo, could carry a crew of four to the Moon.

As envisioned, the craft would resemble a larger version of the Russian spacecraft Soyuz, including solar-power panels deployed after launching. It would be carried aloft on a modified version of one of the shuttle's solid-fueled rocket boosters and a new second stage using one of the shuttle's main liquid-fueled engines. For Moon voyages, the craft would rendezvous in Earth orbit with lunar components lifted on a big new cargo rocket.

This heavy-cargo rocket, which could put 125 tons into orbit, would comprise two extended shuttle solid-fuel boosters attached to a liquid hydrogen-oxygen first stage made of an extended shuttle external fuel tank with five shuttle main engines. Atop this would be a new second stage using one or more of the shuttle main engines.

The bigger rocket, capable of lifting the payload of the Saturn V, which sent men to the Moon decades ago, would put into Earth orbit another rocket that could carry a landing craft and the crew vehicle to the Moon.

The Moon mission would be accomplished in stages. First, a vehicle with a lunar lander and a Moon rocket would be launched into Earth orbit. The crew capsule would be launched as much as a month later and would meet the first vehicle in orbit.

The joined craft would then be propelled to lunar orbit. From there, the landing craft would fly to the surface, and its crew of four would spend up to a week exploring.

Afterward, the top part of the two-piece lander would take the crew back to lunar orbit to rendezvous with the crew vehicle, which would have been left there unmanned, for the trip back to Earth. The bottom part of the lander could be left behind with equipment that might be used by future crews that land nearby, the agency said.

Nearing Earth, the crew vehicle would jettison its equipment module before the crew capsule plunged into the atmosphere. Parachutes would slow the capsule before it landed in the water or on land, possibly at Edwards Air Force Base in California. The landing would be cushioned by air bags on the craft's bottom or small rockets that fire just before touchdown.

Some of the big military contractors that stand to win multibillion-dollar contracts to launch and maintain the new mission vehicles said they were pleased by Monday's announcement.

"This is a big deal for us," said Michael Coats, chief of space exploration for the nation's largest military contractor, the Lockheed Martin Corporation, one of two teams competing to build the crew exploration vehicle. "Today's announcement means that we will have a stable program for a while. It would be great for us to compete and win a piece of the business."

Lockheed is the leader of a consortium that currently has a $28 million contract to design the crew exploration vehicle. Another team, headed by the Boeing Company and Northrop Grumman, has an identical contract to design an alternative. NASA is expected to select the winning design next spring.

John E. Pike, a space policy expert with the consulting firm GlobalSecurity.org, said NASA needed to sell more people on the value of a Moon program if it is to preserve future budgets and continue space exploration. The Moon may be a source of the rare element helium-3, for instance, which could fuel fusion reactors to provide abundant electricity on Earth, he said.

"NASA," Mr. Pike said, "needs to have reasons like this to go back to the Moon so the program has more stakeholders who see its value and want to protect it."

NASA Aims For A Return To Moon By 2018 (Houston Chronicle)

DOJ_NMG_0006653

By Mark Carreau

Houston Chronicle, September 20, 2005

The United States can return to the moon with human explorers by 2018 at a cost of $104 billion by relying on crew capsules similar to those used in the Apollo program and rocketry inherited from the space shuttle, NASA Administrator Michael Griffin said Monday.

"Think of this as Apollo on steroids," the space agency chief said.

NASA's Apollo program ended in December 1972, after a dozen American astronauts explored the lunar terrain during six missions as part of a Cold War rivalry with the former Soviet Union.

The strategy outlined by Griffin at a Washington news briefing is a response to a January 2004 directive from President Bush that tasked NASA with retiring its aging space shuttle fleet by 2010 in order to fund missions to the moon, Mars and eventually other deep-space destinations.

Houston's Johnson Space Center, where 15,000 people are employed, will lead the deep-space exploration planning and spacecraft-development efforts, if a debt-conscious Congress supports NASA's plan.

The exploration strategy relies on the development of upgraded versions of the three-man Apollo capsules capable of transporting four explorers to the moon and the continued production of space shuttle fuel tanks in Louisiana, solid rocket boosters in Utah and rocket engines in California.

Given a mandate Griffin took over the $16.1-billion-a-year space agency in mid-April with orders from the White House to quickly devise an exploration strategy carrying out Bush's directives with only modest budget increases.

On Monday, Griffin defended the plan's $104 billion price tag, which will cover expenses through the first mission, in the face of new budget pressures to pay the soaring costs of the Hurricane Katrina recovery effort and the escalating expense of the Iraq war.

"The space program is a long-term investment in our future," Griffin said. "We must deal with our short-term problems while not sacrificing our long-term investments in the future. When we have a hurricane, we don't cancel the Air Force, we don't cancel the Navy. We're not going to cancel NASA."

House Majority Leader Tom DeLay, the Sugar Land Republican whose district includes Johnson Space Center, hailed the plan during a visit to Houston, declaring it would trigger new economic development in the region. NASA's vitality is critical to the economic leadership of the United States in science and technology, said U.S. Sen. Kay Bailey Hutchison, R-Texas, who chairs a NASA oversight panel.

But other key Republicans, expecting as much as a $1 billion increase in NASA spending next year to overcome the fuel tank debris problems that triggered the 2003 shuttle Columbia tragedy and that resurfaced during this summer's Discovery mission, were not as enthusiastic.

"The question Congress and the administration will still have to grapple with most is not the nature or desirability of the exploration (plan), but rather its timing," said U.S. Rep. Sherwood Boehlert, R-N.Y., who chairs the House Science Committee. "Given the funding shortfalls in the space shuttle program, there is simply no way to accelerate the development of the Crew Exploration Vehicle unless the NASA budget increases more than anticipated."

The Crew Exploration Vehicle, which Johnson will develop to replace the winged shuttle orbiter, would lift off with a crew of astronauts as soon as 2012, two years earlier than Bush had proposed previously, according to the plan unveiled by Griffin.

The first lunar landing is planned for 2018. Initially, the space agency would launch two missions to the moon annually.

If funding permits, astronauts could begin to establish a base on the moon and develop the means to extract hydrogen and oxygen from the soil, as well as ice, to produce rocket fuel, water and breathable air.

The exploration vehicle would be launched atop a single, two-stage version of the shuttle's solid rocket booster.

The vehicle housing the astronauts would be equipped with an escape rocket and parachutes and could be ejected in a disaster. The escape system, which the Apollo spacecraft also relied upon, would lower the risk of astronaut fatalities to about one in 2,000 missions, NASA estimates.

A new "heavy-lift" rocket comprised of the shuttle fuel tank, boosters and rocket engines, would launch a larger lunar transport and lander assembly into orbit ahead of the astronauts.

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Parachute landing Once in Earth orbit, the astronauts would rendezvous and dock with the transport-lander craft and set out for the moon. After reaching lunar orbit, the astronauts would board the lunar lander and descend to the moon's surface.

When their work was finished, the astronauts would board the ascent portion of the lander and lift off to rejoin the crew exploration vehicle in lunar orbit. The exploration vehicle would bring the astronauts back to Earth.

The Apollo crews parachuted into the Pacific and Atlantic oceans.

But the new spacecraft would likely parachute to a landing at Edward Air Force Base, Calif., or another desert site in the United States.

NASA 'Vision' Sees Man On Moon, Mars (WT)

By Philip Chien

Washington Times, September 20, 2005

NASA has outlined its new "Vision for Space Exploration" plan that will culminate in the return of astronauts to the moon by 2020 and the infrastructure to send people to Mars.

The plan calls for the retirement of the space shuttle in 2010 and a new 14-person Crew Exploration Vehicle, which could fly as early as 2012 if additional funding becomes available or 2014 within NASA's current budget.

"This is the best mission statement NASA's had in 40 years," NASA administrator Michael Griffin said.

Externally, the new vehicle will look like the 1960s' Apollo spacecraft.

"Think of it as Apollo on steroids," Mr. Griffin said. "Very Apollo-like although upgraded technology."

The new vision for NASA came about primarily in response to the Columbia space shuttle accident more than two years ago. According to investigators, one of the root causes of the disaster was the lack of vision and goals. The Bush administration responded with an announcement in January 2004 to retire the shuttle and for NASA to go back to the moon and on to Mars.

To accomplish these goals, NASA will spend $104 billion over 13 years until the first new footprints are made on the moon.

"This architecture absolutely fits within the funding guidelines the administration has provided," Mr. Griffin said.

One key factor to reduce up-front costs is to reuse space shuttle components. While the space shuttle orbiter is being retired, new versions of its solid rocket boosters, external tank, and shuttle main engines will be used.

But this cost-saving measure is not without its challenges. NASA has had to find new manufacturers when existing subcontractors can no longer manufacture certain parts. Regulations change and older materials may not be easily available, often with unexpected problems and potential safety hazards. For example, an environmentally friendly putty spread between solid rocket motor segments in 1996 nearly led to the burn-through of the rocket's case.

Relying on older designs where many of the components are aging or can become obsolete has also raised the concerns of engineers.

"As NASA continues to use the solid boosters and external tank there will be more aging problems -- there's no way to avoid it," NASA engineer Robert Stevens said.

The plan promises to be a windfall for three existing aerospace contractors. Lockheed-Martin manufactures the external tanks, ATK Thiokol manufactures the solid rocket boosters and Boeing's Rocketdyne division builds the shuttle main engines. Still to be determined are the contractors who will build the Crew Exploration Vehicle.

Back To Moon Via 'Apollo On Steroids' (Los Angeles Times)

By Peter Pae

Los Angeles Times, September 20, 2005

NASA unveiled a 13-year, $104-billion blueprint Monday for sending humans back to the moon as early as 2018, using a modified space shuttle rocket to propel an Apollo-like capsule into space.

Analysts said the design was decidedly retro, harking back more than three decades to the Cold War's moon race.

But they said the new design was safer and more realistic than the current space shuttle, which is scheduled to be retired in 2010 after nearly 25 years of service and two disastrous shuttle losses.

"Think Apollo on steroids," NASA Administrator Michael D. Griffin said during a news conference at the agency headquarters in Washington.

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The blueprint unveiled Monday is part of a broader initiative launched by President Bush 18 months ago, in which he called for returning humans to the moon as a steppingstone to a manned mission to Mars, perhaps as early as 2020.

The new capsule, known as the crew exploration vehicle, would be significantly larger than the cramped Apollo capsule, with seating for up to six astronauts instead of three.

Due to launch in 2012, it would initially be used to resupply and transfer International Space Station crews after the shuttle is retired, NASA officials said.

Unlike the winged shuttle that is mounted on the side of a fuel tank attached to two rockets, the capsule would sit atop a rocket, away from falling debris and potential rocket explosions that doomed the shuttles Columbia in 2003 and Challenger in 1986.

NASA officials estimated that the new craft would be 10 times safer than the space shuttle. The agency estimated that a space shuttle would be lost about every 220 missions. The new vehicle will be designed to be used in more than 2,000 missions without a serious calamity.

In 2018, NASA would launch the first back-to-the-moon mission with a new lunar lander and other components that would allow for up to four astronauts to stay on the surface for up to seven days.

The Apollo missions, which cost $150 billion, focused primarily on landing astronauts on the moon for a day or two and then returning them to Earth.

Elliot G. Pulham, president of the nonprofit Space Foundation, a space exploration advocacy group, called the blueprint a "challenging yet realistic plan" that doesn't "break the bank."

But questions about how NASA would sustain public interest and win funding from Congress for more than a decade dogged the unveiling Monday.

Some observers worried that huge federal spending on such items as rebuilding New Orleans, which could cost up to $200 billion, could undermine funding for any major space initiatives.

"If you're not going to have a lunar landing until 2018, how are you going to keep people and Congress interested?" said John Pike, a space policy analyst for GlobalSecurity.org.

But Griffin said the nation could afford the price tag because he would not seek any new money for the agency's annual $16-billion budget.

Instead, spending within NASA's human spaceflight program would be redirected to pay for the endeavor, he said. About $4 billion to $5 billion a year is now allocated for manned spaceflight.

Measured in constant dollars, the $104-billion price tag, spread over 13 years, represents 55% of what the eight-year Apollo program cost, Griffin said. The objective, he said, was to "pay as you go and what you can afford."

"There will be a lot more hurricanes and a lot more other natural disasters to befall the United States," Griffin said. "We must deal with our short-term problems while not sacrificing our long-term investments in our future."

NASA's announcement created a buzz among enthusiasts at the International Lunar Conference in Toronto on Monday.

"We've got to go" back to the moon, said Buzz Aldrin, a former Apollo astronaut who made the first manned moon landing with Neil Armstrong in 1969. "But we don't want to stay too long....The ultimate goal is Mars."

Although the design for the new crew exploration vehicle would resemble the Apollo capsule, the spacecraft would be three times as big, NASA officials said.

On its return to Earth, it would be able to make a soft terrestrial landing by parachute, perhaps at Edwards Air Force Base in the Mojave Desert, instead of splashing down at sea. It would be reused several times.

"Much of it looks the same," Griffin said, but added, "It's a significant advancement over Apollo."

The return mission to the moon would also differ from the Apollo missions in several ways.

Unlike the Apollo program, which relied on the massive Saturn V rocket to loft both the capsule and the lunar lander, NASA plans to send up two rockets, one carrying the crew capsule and the second the lunar lander and other components.

The crew capsule rocket would be a modified solid rocket booster used on the space shuttle, while the cargo rocket carrying the lunar lander would be consist of a modified shuttle engine, external fuel tank and solid rocket boosters.

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Once in orbit, the two spacecraft would rendezvous before making the journey to the moon. The new lunar lander, to be developed later, would be able to carry four astronauts to the moon's surface, compared with two on Apollo. The capsule would stay in orbit unmanned.

For a Mars mission, the capsule would carry six people.

NASA officials said using Apollo concepts and shuttle technology with the latest materials, propulsion systems and avionics would allow the agency to meet the president's goals more efficiently and cheaply.

NASA said about 85% of the shuttle facilities were likely to be retained for work on the craft.

"We believe this venture safer and more affordable than any other spaceflight ventures that the U.S. has had," Griffin said.

The moon missions as outlined could rejuvenate Southern California's declining aerospace industry, which during the 1960s led the development of the Apollo program.

Lockheed Martin Corp. and a team from Northrop Grumman Corp. and Boeing Co. are competing to build the crew exploration vehicle. Northrop, with its headquarters in Century City, said about 200 engineers in El Segundo have been working on the design of the new craft.

Times staff writer John Johnson Jr. contributed to this report.

A Retro Look To Next US Spacecraft (CSM)

By Peter N. Spotts

The Christian Science Monitor, September 20, 2005

It's back to the future for the US manned spaceflight program.

After 25 years of spectacular successes and tragic failures using the winged space shuttles, NASA is opting for the tried and true: Just put a capsule on top of a rocket, put people or cargo into it, and launch it.

NASA's plan for replacing the shuttle, unveiled Monday, calls for launching future space vehicles in the same way that was used during the successful Apollo program of the 1960 and '70s, but borrows the shuttle's concept of a reusable craft.

That new craft would be the cosmic equivalent of the suburban minivan - a "crew-exploration vehicle" capable of carrying six people to the International Space Station, or four people to the moon, or roughly 3-1/2 tons of cargo. It's designed to ride a parachute system back to land, but must also survive an Apollo-like splashdown. Over the long term, the CEV must also be capable of handling a trip to Mars.

If all goes well, its first flight to the space station would launch in 2011. In keeping with President Bush's vision for space exploration, the first mission to the moon is slated for 2018.

The CEV's configuration - a command module, service module, and lander - has an Apollo-era look, and it's not by accident, says Michael Griffin, NASA's administrator. After NASA looked at a range of configurations, he says, it's amazing to see "how much of it all the Apollo guys got right."

If the plan has a quaint, haven't-we-done-this-before quality to some, other space enthusiasts say the blueprint represents a welcome change for human space exploration. "For the first time in 3-1/2 decades, the federal government plans to leave low-Earth orbit. That's a major shift," says George Whitesides of the National Space Society.

The effort marks a technological turning point, adds Ray Williamson, research professor at The George Washington University's Space Policy Institute in Washington. "Basically, we've recognized that it's better to get the job done than to try doing it with flashy technology," he says. "You don't need a Ferrari to take your groceries home."

That's not to say the program faces smooth sailing technologically. Though the rockets have a familiar-looking shell, they'll use state-of-the-art technologies inside, and engineers won't lack for design challenges, analysts say. Low cost, safety, and reliability are vital - features the shuttle, despite being a marvel of aerospace engineering, has not delivered.

Still, NASA seems to be taking a minimalist approach, says Keith Cowing of NASAWatch, a website that tracks the agency's developments. "This is pretty conservative. There are no plans for a big moon base. It's almost like we're trying to prove we can still do it."

The biggest risk with the new plan is financial, analysts say. Hurricane Katrina and continued problems with the debris falling from the shuttle's external fuel tank during launch have saddled NASA with unanticipated costs. The debris problem has

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forced NASA to delay shuttle launches until next year. This could postpone the orbiters' retirement and the savings the agency had hoped to gain from mothballing the fleet.

The program's overall cost is $104 billion through the first lunar mission - roughly 55 percent of what Apollo cost, Mr. Griffin says. The program is designed on a go-as-you-pay basis, he adds.

Help may come from a new generation of entrepreneurs who are sinking personal fortunes and venture capital into rockets designed to be more reliable and cheaper to build and operate than the launchers used for unmanned missions in the US today. NASA appears ready to give those fledgling companies an opportunity to show what they can do, says Mr. Whitesides, and possibly contract with them for space station missions.

NASA's track record for giving lawmakers accurate costs estimates or for controlling overruns hasn't been stellar. "I am anxious to get more information on the program's expected costs," says Rep. Bart Gordon of Tennessee, the House Science Committee's ranking Democrat.

Space Vision: The Experts Split Again (NYT)

By William J. Broad

New York Times, September 20, 2005

The nation eagerly accepted President John F. Kennedy's challenge in 1961 to put men on the Moon. But President Bush's plan to return humans there and then voyage onward to Mars is dividing space experts and generating skepticism about its feasibility.

Mr. Bush announced his initiative on Jan. 14, 2004, as he was campaigning for re-election. On Monday, 20 months later, NASA filled in some of the blanks by announcing a glossy plan to replace the aging shuttles with a new generation of space vehicles meant to rekindle the nation's exploratory fires.

Michael D. Griffin, the NASA administrator, set a tentative goal of 2018 for a return to the Moon, saying it would cost slightly more than $100 billion. He set no date for Mars.

"The pace of implementation will change to suit the funding that is made available," Dr. Griffin said at a Washington news conference. "All our goals will have to be funding driven."

Experts clash on the practicality of a space vision with a $100 billion price tag, especially given the huge costs of fighting the Iraq war and rebuilding the Gulf Coast after Hurricane Katrina.

Advocates of the plan praise the recent choice of Dr. Griffin as head of the National Aeronautics and Space Administration, saying he has the knowledge, drive and experience to make big things happen. A physicist and an engineer with wide experience in academia, industry and the federal government (as well as six advanced college degrees), he joined the agency in April with a mandate to re-energize exploration plans.

"He's outstanding," said Louis D. Friedman, executive director of the Planetary Society, a group in Pasadena, Calif., that advocates space exploration. "He's got a serious intent to do it and do it right."

Backers also say Dr. Griffin is seeking to achieve the exploration goal within a level space agency budget, at least initially. His goal is to squeeze the shuttle to pay for developing new rockets and exploration vehicles. That, the supporters say, helps make the overall aim achievable, at least in theory, despite tightening budgets.

"From my own experience, the administration is very serious," said Douglas O. Stanley, an aerospace expert at the Georgia Institute of Technology who led the NASA exploration study. But Mr. Stanley added a significant caution, noting that the plan still faced votes in Congress.

Skeptics see a huge spending gap. Even if Congress blesses the effort, they say, no real bill will come due until Mr. Bush is long out of office.

"Stick the next administration with an impossibly expensive and pointless program and let them take the blame for ending human space exploration," said Robert L. Park, a physicist at the University of Maryland and an official at the American Physical Society, which has opposed many piloted space programs as scientifically unproductive. "This is a poison pill."

Dr. Park noted that in 1961 Kennedy promised a Moon landing "before this decade is out" and that the nation did so in eight years. By contrast, he said, Mr. Bush's goal is to redo the same accomplishment in 14 years, nearly twice as long.

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"We went to Moon because of the cold war and won hands down," he said. "Now there's no political reason to do it."

Dr. Park noted that the first President Bush in 1989 proposed a space program with the same exploratory goals but failed to make any progress. Some political analysts say Mr. Bush consciously or unconsciously seeks to avoid his father's mistakes on Iraq, taxes, conservatism and other issues.

Alex Roland, a former NASA historian who teaches history at Duke University, said the new plan "might sell politically, even though it's retro" in echoing the ends and means of the Apollo Moon program.

"I don't think the public cares" about using simple rockets for advanced exploration, Professor Roland said, "as long as it gets the job done."

The main problem, he added, is that the space agency has a long history of underestimating costs and technical difficulty and that the new plan would probably fail to withstand close Congressional scrutiny.

"It's possible but very unlikely," Professor Roland added. "I doubt this plan will put any man or woman on the Moon in our lifetime."

All the initiative might produce, he said, is a low-tech successor for the space shuttle to travel to the International Space Station.

Dr. Friedman, of the Planetary Society, while praising Dr. Griffin, faulted the plan as making little room for international partners, a factor that he called critical for strong public support. He also said the plan lacked vision.

"If you don't keep the Mars mission out front, people are going to ask, 'Why are we returning to the Moon?' It's got to be because we're extending ourselves into the solar system."

NASA Details Plan For Craft That Will Fly To The Moon (USAT)

By Traci Watson

USA Today, September 20, 2005

WASHINGTON — The United States plans to send astronauts back to the moon as soon as 2018 on a mission that would be cheaper and more ambitious than man's first trip to the lunar surface nearly 40 years ago, NASA Administrator Michael Griffin said Monday.

NASA wants to send a crew of four to the moon in a spaceship that resembles the capsule developed for the Apollo program in the 1960s. But this capsule would be able to land on either solid ground or water. The Apollo capsule only splashed down at sea.

It would also be safer than its forerunner. And it would be roomier, taking a crew of four to the moon rather than Apollo's three.

“Think of it as Apollo on steroids,” Griffin said of the new ship.

Griffin said the cost of the moon program would be $104 billion. Adjusted for inflation, that's roughly 55% of the cost of the first moon landing in 1969. He said NASA's budget would not need to grow to pay for the new effort and vowed not to raid other programs for funds. Savings would come from retiring the space shuttle in 2010.

“This is not about new money,” Griffin said. “This is about a budget which keeps NASA … approximately where it is today.”

The plan fleshes out a proposal President Bush made in 2004 to return astronauts to the moon — last visited by humans on the Apollo 17 mission in 1972 — and later to send Americans to Mars, where no human has set foot.

NASA did not set a target date for the first human mission to Mars, a much more expensive and difficult trip than a moon shot.

NASA hopes to launch the new ship, the crew exploration vehicle, in 2012. At first, it would only ferry crews and cargo to the International Space Station orbiting the Earth. Later, the ship would carry astronauts to lunar orbit and wait there while another vehicle carried the crew to the moon's surface.

The timeline leaves a two-year gap in the United States' ability to send people into space. The only other ship able to drop off humans at the space station is Russia's space capsule, the Soyuz.

NASA's blueprint does not indicate whether it would build a base on the moon. The answer, Griffin said, would depend partly on whether other countries are interested in such a project.

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The spacecraft unveiled Monday could make two trips to the moon per year, but NASA has not worked out a schedule for the number or length of moon trips.

Some members of Congress, including Rep. Sherwood Boehlert, R-N.Y., praised the plan as cost-effective. But others questioned the worth of a new moon program.

"It is a terrible allocation of scarce resources," said Rep. Barney Frank, D-Mass. "The time has come to de-emphasize the manned space program."

NASA's record on holding to its original budget estimates is spotty, says space analyst Marco Caceres of the Teal Group, an aerospace and defense consulting firm.

"Whatever NASA says it will cost will be a low-balled figure so they won't scare too many people away," he said. "Their main goal is to get that (project) through."

He also noted that NASA won't save much money on the shuttle program until the vehicle is put in mothballs in 2010. But to meet its 2012 goal of launching the space capsule, NASA will need to start research and development now.

NASA aims to save money and time by recycling parts of the shuttle for use in its two new rockets:

•The crew launch vehicle would carry the capsule to orbit. It would be powered by a shuttle engine and by a stronger version of the shuttle's rocket booster.

•The heavy-lift vehicle would carry the unoccupied lunar lander into space. It would dock with the crew capsule and then power the whole package to the moon. It would rely on two shuttle boosters, each upgraded to provide extra lift, and five shuttle engines.

However, the designs also incorporate technology that could prove troublesome to develop. The engine that would lift the crew's lander off the lunar surface would burn liquid oxygen and methane, an untried combination. New engines require significant testing.

The risk of losing a crew with the new system is expected to be a third of what it was on an Apollo-era moon landing, said NASA's John Connolly, who helped lead the development effort.

For the trip to Earth orbit and back, he said, the capsule and its rocket would be 20 times safer than the shuttle, in part because the capsule would have an emergency rocket to lift the crew to safety during an aborted launch.

NASA Unveils $104 Billion Plan To Return To The Moon By 2018 (Washington Post)

By Guy Gugliotta

Washington Post, September 20, 2005

NASA yesterday released its master plan for returning humans to the moon by 2018 and eventually sending them to Mars, choosing rocketry from the space shuttle era and drawing inspiration from the Apollo program that first put humans on the lunar surface 36 years ago.

NASA Administrator Michael D. Griffin said the plan would cost $104 billion over the next 13 years, with increases for inflation, but would not require extra money beyond NASA's normal budgets. The pace of the project, he said, "will fit the funding that's available."

The plan envisions development of two new rockets, one of them almost as tall and even heavier than the Saturn V that launched the Apollo astronauts, and a new spacecraft to put four people on the moon for up to six months before bringing them back to Earth in a parachute landing.

And while the rocket technology is "shuttle-derived," the new plan abandons the concept of a winged, reusable spacecraft that can fly back to Earth and land at an airport. Griffin said the new "crew exploration vehicle" can be reused perhaps 10 times, but most of the new program's apparatus, like Apollo's before it, will be jettisoned in space or burned up in Earth's atmosphere.

Griffin also acknowledged that there will be a two-year period between the last space shuttle flight in 2010 and the first flight of the exploration vehicle, anticipated in 2012, during which the United States will have no ability to put humans in space.

This gap has been a space policy sticking point for more than a year between the Bush administration and Congress. Sen. Kay Bailey Hutchison (R-Tex.), chairman of the science and space subcommittee and an outspoken advocate of closing the

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gap, issued an enigmatic statement saying, "I will do everything possible to keep the shuttle and crew exploration vehicle programs on course."

Still, in response to several reporters' questions, Griffin sought to assure employees at NASA's shuttle program centers in the Gulf Coast states that the new program "can use 85 percent of the space shuttle work force."

"It's been pretty well coordinated among the centers," said John Logsdon, director of George Washington University's Space Policy Institute. "It appears to provide for a smooth transition."

The use of "crew" and "service" modules to orbit the moon while astronauts travel to and from the surface in a "lunar lander" called to mind the Apollo missions that put 12 men on the moon between 1969 and 1972.

"We did not set out to make it like Apollo," Griffin said at a NASA headquarters news conference to release the agency's "Exploration Systems Architecture Study." "We looked at every vehicle, but people began to realize that the Apollo guys got it right."

Still, the new plan is "a significant advance over Apollo," he added, describing it as "Apollo on steroids." Among other differences, the new lander is larger, can put twice as many people on the moon, leave them there potentially for months instead of days, land them anywhere on the lunar surface instead of just at the equatorial region and leave the orbiting spacecraft without a crew onboard.

The new spacecraft will also use different, more efficient propellants than Apollo, and substitute lighter composite structures where Apollo used metal. Most important, while Apollo was born during the waning days of vacuum tubes, the new program will benefit from 45 years of advancements in computer science.

Griffin said the choice of targets for moon landings "will be driven by science," but unlike Apollo, the program is also designed so astronauts can linger and establish permanent bases on the lunar surface to develop technologies and test techniques for a more ambitious, subsequent Mars mission.

The new propellants, for instance, will use both oxygen, which can be mined from Martian rocks, or methane, which can be extracted from components of the Martian atmosphere. "One reason to go back to the moon is to learn to live off the land to enable longer-duration space missions," said Georgia Institute of Technology research engineer Douglas Stanley, who led the "Exploration" study for NASA.

Logsdon described the project as "a good plan -- but not an elegant one" because it does not make much use of advanced technology. "It's a doable approach to getting people into space safely," he added.

But space policy and engineering consultant Charles Lurio, an advocate of innovative private-sector approaches to space travel, criticized the new proposal for being too "massive" and "unaffordable now and unsustainable later."

The moon mission will begin by putting into space a new 358-foot "cargo launch vehicle" weighing 6.4 million pounds. It lifts the moon rocket and the lunar lander into low Earth orbit to await the arrival of the crew exploration vehicle, the combined service module-crew module.

Both the heavy lifter and the "crew launch vehicle" that carries the spaceship use solid rocket boosters, like the shuttle, and fuel tanks derived from the external tanks whose foam shedding caused the loss of the shuttle Columbia in 2003. Loose foam will not be a problem for the new spacecraft, which are perched in traditional fashion atop the tanks, out of harm's way.

The exploration vehicle will mate in Earth's orbit with the lunar lander, then the moon rocket will ignite, carrying vehicle and lander on the three-day trip to lunar orbit. From then on, the mission will unreel in Apollo-like fashion, with the astronauts riding to the moon's surface aboard the lander, while the exploration vehicle orbits overhead.

Besides human space travel, the exploration vehicle can fly robotically, perhaps as a cargo carrier for a moon colony. It also could ferry crew and cargo to the international space station and dock autonomously there if necessary.

"The principal concern has always been the lunar mission," said Doug Young, program manager for the Northrop Grumman/Boeing team that is competing with Lockheed for the right to build the exploration vehicle. "But we've always known that we will ultimately have to meet the requirements" of the space station.

NASA's Back-to-the-Future Plans (NYT)

New York Times, September 20, 2005

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NASA has finally unveiled its plans for carrying out the ambitious space exploration program that was announced by President Bush in January 2004 but left vague and undefined ever since. The proposed new space vehicles look like a sensible way to put astronauts and cargo into space after the shuttle fleet is retired and will be built to facilitate landings on both the Moon and Mars. Michael Griffin, the new administrator of the National Aeronautics and Space Administration, deserves credit for putting real flesh on what had been little more than an aspiration. Unfortunately, the new plan lacks the pizzazz to inspire public support and will be operating under budget constraints that make delays or overruns likely.

The new crew exploration vehicle will be built around well-known space technologies, with booster rockets and engines derived from the shuttle program and a crew capsule like the one used in the lunar program, only bigger. That has the great advantage of letting NASA use much of its current shuttle work force on the new program and the great disadvantage of making the technology look retrograde. This approach will not excite those looking for cutting-edge hardware, but it seems reasonable at a time when reliability is the main goal.

The configuration largely eliminates the two hazards that destroyed the Columbia and the Challenger. NASA calculates that the new vehicle should be 10 times safer than the shuttle, with perhaps a 1 in 2,000 chance of a catastrophe.

The plan pays only the barest lip service to international cooperation; Europe, Japan, China and India all have lunar programs of one kind or another under way. Mr. Griffin said NASA hoped to send Americans back to the Moon by 2018 under its own program but was open to partnerships on what to do or build on the lunar surface. Given that most experts say international collaboration will be imperative on a high-cost mission to Mars, it seems desirable to enlist international partners very early.

It is hard to see how NASA can complete all the tasks on its agenda while operating on a constrained budget, which is scheduled to grow at only the rate of inflation. The agency needs to repair the damage to its facilities from Katrina, fly the shuttle safely until 2010, complete the space station by that date, fly the new crew exploration vehicle by 2012 and return to the Moon by 2018 or 2020, all the while carrying out its science, aeronautics and robotics programs. The safety valve is that NASA will carry out the exploration program on a "go as you can afford to pay" basis, without raiding money from other space programs. That means that cost overruns may stretch out the completion dates, and leave the exploration vision a more distant prospect.

Bush And The Mad Scientists (LAT)

By Chris Mooney

The Los Angeles Times, September 20, 2005

THE LAMENTATION in the forthcoming New England Journal of Medicine is typical of a growing genre: complaints about the misuse of science by the Bush administration. It is merely the latest jeremiad, from a group of distinguished experts, about the loss of reason by our leaders. This particular editorial, titled "A Sad Day for Science at the FDA," concerned so-called Plan B emergency contraception (the "morning after" pill), but it just as well could have been about the science of global warming or mercury pollution. Yawn. We've heard it all before.

There's an inherent difficulty when it comes to sustaining outrage over how science gets continually misused in the Bush administration. The complexity of scientific disputation, paired with the intricacies of bureaucratic decision-making, make for a truly soporific combination. It's tough to get past the latest scandal and see the big picture — even when, as in this case, three distinguished doctors are writing that the Food and Drug Administration has made "a mockery of the process of evaluating scientific evidence, disillusioned scientists both inside and outside the agency, squandered the public trust and tarnished the agency's image."

Still, let's try to muster whatever's left of our outrage, because the Plan B episode truly demands it. It may represent a historic low for science-based professionalism at the FDA. And it presents an instructive case study in how the political abuse of science plays out in practice.

By any stretch, this decision should have been a no-brainer. The "morning after" pill, which blocks or delays ovulation, had already been approved for prescription use; the latest move merely concerned its availability over the counter. (Six states, including California, have made it available over the counter, but women must request it from the pharmacist.)

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Given that the pill's effectiveness in preventing a pregnancy depends on how quickly it is used after unprotected sex — and that it meets the safety and ease-of-administration tests for over-the-counter products — it makes obvious sense that simplifying access would help prevent unwanted pregnancies (and thus, presumably, abortions).

Two scientific advisory committees held a joint hearing to consider the issue. Committee members voted overwhelmingly (23 to 4) in favor of approval. The FDA expert staff was of a similar mind.

And yet in an extraordinary move in May 2004, the agency second-guessed its experts and its advisors and cooked up a dubious rationale for delaying approval of over-the-counter availability. More data were needed, the FDA claimed, on the pill's safety for women under 16. Or course, no evidence existed suggesting a unique problem for this age group, and such age-based data have not been required to switch other drugs to over-the-counter availability.

The FDA suggested that the maker of Plan B could reapply for over-the-counter status with the proviso that girls 16 and younger would have to get a prescription. But when the company did that, the FDA delayed again. Early this month it said it now had to check the legality of the age rule.

As it happens, the "morning after" pill has been strongly opposed by many religiously conservative interest groups. In fact, there's some evidence in the transcript of the hearings to suggest that the rationale cooked up by the FDA may have originally sprung from a controversial advisory committee member — "As Jesus Cared for Women" author W. David Hager — who provided one of the four votes against Plan B's approval. When the agency didn't like the overwhelming opinion of the advisory committees, it seems to have gone shopping for a more convenient scientific-sounding argument: "We need more data."

In the end, the scientific data indicate that Plan B contraception is one of the safest drugs ever considered for over-the-counter sale. FDA decisions about drug approvals are supposed to be based on just such scientific data. If you want to derail such a decision, you have to undermine the science. That standard has not been met.

The abuses in the Plan B case have fundamentally called the FDA's integrity into question.

"People who've been in the agency for decades say they've never seen anything like it," Susan F. Wood, the former assistant FDA commissioner for women's health who resigned over the Plan B decision, told me. The scientists writing in the New England Journal of Medicine agree. Although the FDA may previously have been accused of having too much bureaucracy or too close a rapport with the drug industry, they argue, it had at least "resisted political pressure to reflect a particular social policy or ideology."

But not any more — and that's the really nasty thing about the current war on science. If you can get past the complicated details, you'll see that it is undermining our government's most central mission: to serve and protect us. This mandate cannot be fulfilled without an abiding respect for professionalism, expertise and the integrity of scientific analysis.

Chris Mooney is Washington correspondent for Seed Magazine and author of "The Republican War On Science" (Basic Books), which was published Sept. 9.

OTHER NEWS:

Wind Or Flood? Fights With Insurers Loom (USAT)

By Kathy Chu

USA Today, September 20, 2005

Hurricane Katrina is likely to be the costliest U.S. natural disaster. It also may be the most contentious.

The Mississippi attorney general is suing insurance companies to get them to pay for hurricane-caused storm damage typically not covered under homeowners policies. Richard Scruggs, the tough-as-nails lawyer who took on the tobacco and asbestos industries, is now taking aim at the insurance industry. Even the vice president has weighed in on the issue.

Unhappy homeowners are calling a hotline with complaints. And officials are asking insurers to give policyholders the benefit of the doubt when it's unclear whether damage was caused by wind, rain or flood so people can rebuild their homes and lives again.

For hurricane survivors who fled their homes and are relying on relatives, friends or charity to get by, haggling over insurance is the last thing they want to do. “These people are exhausted,” says Joanne Doroshow, executive director of the

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Center for Justice & Democracy, a public-interest group. “The notion of having to fight insurance companies on these claims is almost too much to bear.”

At issue is whether insurers, the federal government or individuals should bear the brunt of billions of dollars in damage to homes and businesses in Louisiana, Mississippi and Alabama. One estimate, by Risk Management Solutions, says total economic losses from Katrina likely will exceed $125 billion, with insurance companies paying $40 billion to $60 billion.

What makes the aftermath of Katrina so ripe for dispute is a polarizing, hard-to-determine issue: Is the damage caused by wind-driven rain or flooding? And what if the hurricane causes a storm surge or flood?

Flooding is usually covered by government-backed insurance, while wind and rain damage are covered by private insurance policies. But Katrina was a complicated storm in which up to 140-mile-per-hour winds leveled homes and businesses before flooding swept them away.

The insurance industry says it will do what it has to do. “You absolutely have to be sympathetic to these people, but on the same token, federal flood insurance has been available for nearly 40 years,” says Jeanne Salvatore, senior vice president at the Insurance Information Institute, an industry trade group. Private “insurance policies are quite clear that flood is excluded. We did not take in premiums for flood losses.”

Not everybody who has homeowners insurance has flood insurance. And flood insurance often isn't as generous as homeowners insurance. Flood insurance covers up to $250,000 in property damage, while a homeowners policy typically covers the value of rebuilding the home, whether that's $100,000 or $1 million. So for many hurricane victims, having damage considered caused by Katrina's winds rather than unrelated flooding is crucial.

The Federal Emergency Management Agency (FEMA) estimates 34% of households and 23% of businesses in the affected areas have federal flood insurance.

How much financial responsibility the industry ends up bearing will depend on how insurers handle the claims of people such as James Bud Ray, who is temporarily living in a motor home in Long Beach, Miss. Ray is lucky. He and his wife got out safely. But lucky is a relative term, because his Long Beach home has been reduced to rubble and his five car-wash facilities in the region were significantly damaged.

He says that after several phone calls to the insurance company, an adjuster called him back and asked: Did he think the damage was due to wind or flood? “I said to him, ‘Hold on, sir. You're not going to paint me in that corner.’ ” Ray says if he's not satisfied with the insurance payout, he may hire a lawyer to fight the decision.

Complex Katrina-related insurance claims may take longer to settle than in previous hurricanes, says Ernest Csiszar, president of the Property Casualty Insurers Association of America, although it's likely that 90% to 95% will be completed within six months of filing. Insurers will pay for what's covered under the policies but no more, he says.

Insurance payments can't come quickly enough for Portia Andrew of Hammond, La. The storm ripped the siding off her mobile home and poked a hole in the roof. It also downed trees and knocked a power line on top of her incense-and-herbal-goods shop, 100 yards from the house.

Andrew is worried about what damage is covered by insurance. But she can't find a copy of her homeowners policy and hasn't been able to reach her New Orleans insurance agent since the storm knocked out phone systems. In the meantime, she's struggling to make ends meet. For almost a week, she and her six family members lived off peanut-butter-and-jelly sandwiches and water. “I'm trying to be patient and just learning to get in line,” Andrew says. “You never know if (insurance) will come through.”

Disputes over wind vs. flood damage occur after every hurricane. But “if it's any indication by the calls we've gotten so far, then we think there are going to be many more lawsuits” this time, says Doroshow of the Center for Justice & Democracy.

The center, along with other consumer groups, has a hotline to document insurance complaints related to Katrina. Since it started Sept. 12, the hotline has received 85 calls, officials said Monday.

While touring Mississippi earlier this month, Vice President Cheney said the question of whether a hurricane-driven storm surge should be considered flooding or hurricane damage has to be addressed. Scruggs, whose house in Pascagoula, Miss., was wiped out by Katrina, says he'll sue insurance companies to get them to pay up.

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Mississippi Attorney General Jim Hood filed a lawsuit last week to invalidate a common clause in home and business policies that allows insurers to deny hurricane-caused storm-surge damage.

James Lucas, 37, says he didn't pay attention to the fine print in his homeowners policy because his Allstate agent told him that he was covered for any damage incurred during a hurricane, including storm surge. The Gautier, Miss., resident — who is living in the top floor of his house because of storm damage downstairs — says he asked about storm-caused water damage four years ago because he was concerned the canal behind his house would overflow.

After Katrina, he was surprised to hear an adjuster say that the company was covering wind but not water damage. "I'm not trying to get rich or anything; I'm just trying to get my appliances back," Lucas says.

Allstate spokesman Mike Trevino says it's hard to imagine that an agent didn't explain to a policyholder that "flood is a longstanding exclusion in the policy, which includes flooding related to a hurricane. All Allstate agents know the Allstate homeowners policy very well."

The effort to get insurers to pay for flood claims "ignores the fact that they have obligations to people in 47 other states," says Randy Maniloff, an attorney who represents insurers in coverage disputes. "If they start paying claims based on risk they weren't prepared to take on, then they're putting themselves in the situation where they may not be ready for other claims."

That's also the concern of George Dale, Mississippi insurance commissioner. Dale says that while he respects Hood's decision to file the lawsuit, he is worried about the financial hit the industry will take if it has to pay for damage not covered by policies.

Still, Dale has told insurance companies that "where there is any doubt, that doubt will be resolved in favor of finding coverage on behalf of the insured."

Insurers say that where houses and businesses are still standing, they likely will be able to tell what type of damage occurred. If water entered from the bottom of the structure, homeowners insurance may not cover it, says Elizabeth Stelzer, a spokeswoman for Nationwide. But if wind-driven rain entered through a storm-damaged roof, that may be covered.

But when a structure has drifted away or been leveled, the cause is more difficult to assess. Csiszar expects to see more of these situations than in previous storms.

"If you're going in a court of law, the burden of proof is on the plaintiff," or the policyholder, to show how the damage was caused, he says. "But if you are the defendant, you better have a darn good reason to deny the claim."

Anticipating legal disputes, policyholders are getting this piece of advice: "I've heard that when you call your insurance company, say that the water came from wind-driven rain," says Debbie Barraf, who has a house in St. Bernard Parish, La., that she believes is flooded.

The magnitude of Katrina's damage — homes and businesses along the Louisiana and Mississippi coast are still partially under water or unlivable and may be so for months if not years — means that many people also will be looking to insurers for help with living expenses.

Homeowners policies may cover food and temporary housing costs if state or local officials order an evacuation. Business policies could take care of temporary office relocation and employee pay.

But again, the hurricane vs. flood question is causing disputes. Ellie Rand, a 39-year-old New Orleans resident, fled to Wilson, N.C., where her in-laws live and has racked up $4,000 to $6,000 in expenses along the way that insurance won't pay. "They told me, 'Sorry, the official call for the evacuation was flooding,' " Rand says. "They felt that my homeowners (insurance) wasn't responsible for paying living expenses."

Vienna Abramowitz, who owns three properties in Louisiana's hard-hit Jefferson and St. Tammany parishes, has received a $2,500 check from State Farm for living expenses. The insurer initially told her it's an advance against her government-issued flood coverage. But a day after she said she had talked to USA TODAY, the company told her it will take the money out of her homeowners coverage.

State Farm says it's giving all affected policyholders the $2,500 payment. If people have coverage for wind and flood, the company will advance the money from the flood policy first and then reverse it later if living expenses are covered by homeowners insurance, spokesman Dick Luedke says. State Farm evaluates each individual circumstance and may have discovered in Abramowitz's case that living expenses are covered by the homeowners policy, he says.

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Still, “This one thing really triggered me to be worried,” Abramowitz says. “If they have this issue with $2,500, what about when it's $75,000 or more?”

Mississippi Governor Calls Special Session (USAT)

USA Today, September 20, 2005

Mississippi Gov. Haley Barbour said Monday that he is calling the state Legislature back into session Sept. 27 to help the state recover quickly from Hurricane Katrina.

One item on Barbour's agenda is a proposed change in gambling laws to allow casinos to build on land rather than only over water. Another session item, Barbour said, will be a proposal to allow small businesses hurt by Katrina to apply for $25 million in local loans.

Barbour said he is waiting on a recommendation from the Mississippi Gaming Commission before offering a proposal on changing gambling laws.

The state legalized dockside casinos in 1990, limiting them to tourist areas on the Mississippi River or the Mississippi Sound. All 13 coastal casinos were heavily damaged.

First lady dishes up food and comfort

HOUSTON — First lady Laura Bush served smothered chicken to Hurricane Katrina evacuees at Houston's convention center shelter, home to about 300 people displaced by the disaster.

“It will be a long road for us,” she told religious leaders and volunteers at the George R. Brown Convention Center. “We have to stay with (evacuees) every step as they rebuild their lives, and it is not going to be easy.”

Bush also talked with families at a center for homeless mothers and children. She joined the children in molding Play-Doh and left behind M&Ms and notepads for them.

A 10-year-old boy told Bush he couldn't believe she was the first lady. “I'm married to the president,” Bush said. She then took the hands of two children and walked through the shelter with them.

“I think it is nice because she doesn't have to come,” said evacuee Kizzy Mickens. “Just coming to see us, to see how we are doing, is like a blessing because she never knew we existed but we knew about her.”

Rural home loans to be expanded

BILOXI, Miss. — In an unprecedented move, some Gulf Coast residents will be eligible for single-family home loans backed by the U.S. Department of Agriculture Rural Development program.

The loans usually are available only to residents in rural communities of 20,000 people or fewer. But now, coastal communities of up to 75,000 residents will be eligible, said Nick Walters, state director of USDA Rural Development in Mississippi.

“I didn't want to leave people out because of some regulation in Washington,” Walters said.

Witness Says Researchers Warned Merck On Vioxx (WSJ)

By Greg Groeller

The Wall Street Journal, September 20, 2005

ATLANTIC CITY, N.J. -- Merck & Co. should have known that Vioxx could lead to heart attacks, a drug expert told a jury in a high-profile trial yesterday.

In his second day on the stand, Dr. Benedict Lucchesi said several researchers had warned Merck about Vioxx's potential to cause cardiac problems, particularly in people with histories of heart trouble, before the painkiller went on sale in 1999. "According to the slogan, 'Merck puts people first,' I think they should have known," he said.

Dr. Lucchesi, a pharmacology professor, is a witness for the plaintiff in the first trial since a Texas jury awarded $253.4 million last month to the family of a man who died after taking Vioxx. State caps in Texas are expected to reduce the amount of the verdict to about $26 million.

In the Atlantic City case, which began last week in a New Jersey state court and may run until mid-October, Frederick "Mike" Humeston, of Boise, Idaho, alleges that Vioxx caused his heart attack in 2001 after he had used the drug for two months.

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Merck maintains that Mr. Humeston's poor health and lifestyle, not Vioxx, led to his heart attack. In any case, Mr. Humeston didn't take the drug for long enough to cause heart problems, Merck lawyers have said. The drug company pulled Vioxx off the market last year after a company-funded study found the painkiller had increased the incidence of heart attacks and strokes after 18 months of usage.

Dr. Lucchesi -- questioned by Christopher Seeger, Mr. Humeston's lawyer -- testified yesterday that he believed the drug could cause a heart attack after just a single dose in certain circumstances. For a second day, Mr. Seeger, showed jurors internal Merck emails and memos that Dr. Lucchesi said appeared to show that the Whitehouse Station, N.J., company knew about Vioxx's dangers.

Later in the day, Dr. Lucchesi and a Merck lawyer, Stephen Raber, had several heated exchanges as Mr. Raber sought to show that Merck had investigated questions about dangers posed by Vioxx. Mr. Raber asked whether Dr. Lucchesi was aware of studies that Merck had performed to test the effects of Vioxx in animals, including the African green monkey.

"Sir, admit it, you don't know what Merck did" in response to warnings that Vioxx could lead to blood clots and, ultimately, heart attacks and strokes, Mr. Raber said. Dr. Lucchesi shot back that Merck never responded to his requests for data on their internal studies.

Dr. Lucchesi also testified in the Texas trial and is expected to be a witness for plaintiffs in future cases.

At Vioxx Trial, Witness Says Short-Term Use Posed A Risk (NYT/BLOOM)

By Bloomberg News

The New York Times, September 19, 2005

By Bloomberg News

Merck & Company's painkiller Vioxx may cause heart attacks with just one dose, a University of Michigan researcher said at the second product liability trial over the drug, challenging the company's assertion that only long-term users are at risk.

The researcher, Dr. Benedict R. Lucchesi, testified on behalf of Frederick Humeston, who took Vioxx intermittently for two months before his heart attack in September 2001. Merck withdrew drug last September after saying it doubled the risk of heart attacks and strokes after 18 months of daily use.

"There's every reason to believe" that a single dose "can lead to an adverse response," Dr. Lucchesi, a pharmacology professor, told jurors in Atlantic City. "I definitely think that Vioxx can cause a heart attack in the right person."

Mr. Humeston, a 60-year-old postal worker and former marine from Boise, Idaho, asserted in his lawsuit that Merck knew of Vioxx's health risks for years before withdrawing it from the market.

Merck faces about 5,000 Vioxx suits and billions of dollars in potential liability, analysts say.

Merck contends that Mr. Humeston had a heart attack because of his weight, blood pressure and work-related stress. The company says it had no scientific proof of Vioxx's dangers before last September.

Dr. Lucchesi also disputed Merck's explanation of why Vioxx caused five times as many heart attacks as a rival drug, naproxen, in a clinical trial in March 2000. Merck asserted that naproxen, used in the painkiller Aleve, protected the heart. Dr. Lucchesi said the results of the trial, known as the Vigor study, instead showed that Vioxx posed a greater risk.

"When I saw the explanation for the Vigor results, my immediate response was this is nonsense," Dr. Lucchesi said. "There is no evidence that I know of to show that" naproxen protects the heart.

Merck, the No. 3 drug maker in the nation, emphasized the Vigor finding that Vioxx caused less stomach distress than naproxen, a point that was not in dispute, Dr. Lucchesi said. Merck introduced Vioxx, which inhibits the cox-2 enzyme, in May 1999 as an alternative to pain relievers that cause stomach bleeding.

Vioxx accounted for $2.5 billion in annual sales before it was withdrawn.

Dr. Lucchesi testified for a second day that Merck ignored indications dating to 1997 that drugs like Vioxx block one of the body's natural defenses against blood clots. The company, based in Whitehouse Station, N.J., was "forewarned on multiple occasions" by researchers that Vioxx would increase clotting, he said.

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A Merck lawyer, Stephen Raber, tried to show during cross-examination that Dr. Lucchesi had disregarded studies that contradicted his conclusions about Vioxx. Dr. Lucchesi said he repeatedly asked Merck's lawyers for such data, and they did not produce it.

Oil Prices Rise As Gulf Storm Looms (WSJ)

By Bhushan Bahree and Russell Gold

The Wall Street Journal, September 20, 2005

Oil prices surged as a new storm, Rita, headed toward the Gulf of Mexico, and OPEC ministers meeting in Vienna all but admitted they have no real means to cool red-hot petroleum markets.

The looming new threat to Gulf oil facilities eclipsed efforts by ministers of the Organization of Petroleum Exporting Countries to craft a reassuring message reiterating they would produce more oil if needed. It also underscored the U.S.'s dependence on the Gulf region, home to about a quarter of the nation's oil and natural-gas production and a large number of refineries.

The price of U.S. benchmark crude-oil futures for October delivery shot up $4.39 a barrel on the New York Mercantile Exchange -- the highest one-day rise in nominal terms since it began trading oil futures in 1983 -- settling at $67.39. Gasoline and heating-oil futures also rose sharply.

Although still far from the Gulf Coast energy-producing region, Tropical Storm Rita is shaping up to be a worrisome storm for energy markets. Production platforms, pipelines and refineries spared the worst of last month's Hurricane Katrina could be in Rita's path. "This could be a huge punch in the gut for the market," said Agbeli Ameko, a partner with Enercast.com, a Denver-based energy forecasting firm.

Landfall on the Gulf Coast is expected by this weekend. Some oil companies are preparing to shut down facilities and evacuate workers. Analysts believe the storm could cause markets to gyrate all week.

The storm's approach is slowing efforts to fix infrastructure damaged by Katrina. The U.S. Mineral Management Service reported yesterday that 44% of the daily output of oil and natural gas was still off-line, three weeks after Katrina came ashore near the Louisiana-Mississippi border. So far, the damage has prevented the output of the oil and natural-gas equivalent of about 56 million barrels, just shy of 5% of the region's annual total.

Amid the storm concerns, energy markets brushed off the comments of Saudi Arabian Oil Minister Ali Naimi, who repeated his pledge to produce as much as 1.5 million barrels a day of extra oil if needed. Along with other oil ministers, Mr. Naimi sought new ways to dress up the cartel's year-old message that OPEC is willing to produce more oil if buyers could be found.

One of the options being discussed was for the cartel to state that it has two million barrels a day of spare petroleum-pumping capacity, citing projects that OPEC officials say will come on line later this year in the United Arab Emirates and Libya. The statement would say that the oil would be available on demand, regardless of the cartel's formal output ceiling of 28 million barrels a day. "The crude is available," Mr. Naimi told reporters. "If you want it, there it is."

Another option involves raising the cartel's formal output ceiling by 500,000 barrels a day or more to address concerns by major importing countries, whose economies are being hit by high oil prices. Industry analysts said oil markets would find nothing new in this sort of message from OPEC because it won't yield any actual extra crude.

"Definitely, it's a political message" from OPEC aimed at foreign governments, said Roger Diwan, an analyst at Washington consulting firm PFC Energy. "It's not intended to manage the market" because traders know that OPEC's moves here won't affect supplies, Mr. Diwan said.

OPEC is expected to formally announce its decision on output levels today. But none of the options being considered would necessarily lead to greater supplies of fuel. That is because buyers -- oil refiners who turn crude into gasoline and other fuels -- are running at full capacity and have no need currently for more oil, especially for the high-sulfur grades that Saudi Arabia can produce.

Industry analysts also said OPEC was exaggerating its spare production capacity, which was probably no more than 1.5 million barrels a day in a world market that is expected to consume more than 85 million barrels a day in the final quarter of this year. The International Energy Agency this month put OPEC's spare capacity at 1.39 million barrels a day, not counting war-

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scarred Iraq. Almost all of this extra capacity is in Saudi Arabia, the world's largest oil exporter, which is currently producing about 9.5 million barrels a day.

New US Hurricane Threat Sends Energy Prices Soaring (FT)

By Carola Hoyos, Kevin Morrison And Sheila McNulty

Financial Times, September 20, 2005

The threat of a new hurricane heading towards the Gulf of Mexico repeating the devastation caused by Hurricane Katrina sent oil, petrol and gas prices soaring on Monday and overshadowed the ministerial meeting of the Organisation of the Petroleum Exporting Countries.

Predictions that tropical storm Rita, gathering strength and expected to turn into a hurricane, might reach the Texas coast within the next week sent oil traders into panic mode: US and European benchmark crude oil prices rose by more than $3, and US natural gas prices hit new record highs.

"Rita has pushed Opec into the background, because there is great fear that we could be facing another severe supply disruption in the US," said Rob Laughlin, an oil trader with Man Financial in London.

Opec ministers said they were likely to finalise a decision to offer the market more oil when it needed it.

Kuwait's oil minister and Opec president Sheikh Ahmad Al-Sabah, insisted the group had 2m barrels a day of extra oil that it would immediately supply to the market if needed.

But traders, who see the extra volume at closer to 1.4m b/d that could take some time to get to the market, said this would do little to lower prices because Opec did not have the light, sweet oil that the market needed to make petrol.

Nevertheless, Opec hopes that its decision will reduce some of the criticism it faces from industrialised countries, which blame the current high oil price on the cartel.

In fact, the biggest impact Opec could hope to make is in the long term.

The International Monetary Fund this week will blame Opec and oil companies for not investing in new oil capacity quickly enough. Both have already begun to invest more thanks to high oil prices, but those efforts will only yield results in a few years when the projects come to fruition and can do little to reduce the current relatively high prices.

The US benchmark, WTI gained $3.30 to $66.30 a barrel in late morning New York trade. In London, IPE November Brent climbed more than $3 to $64.86. Indeed Opec has had little impact on the prices, since its spare oil capacity has shrunk as demand from the US and China outpaced the world's ability to keep up by exploring for and producing new oil.

The Centre for Global Energy Studies, the London-based consulting group, said in a report released yesterday: "Although oil demand growth slowed dramatically since the second quarter of 2004, it continues to outstrip the pace of non-Opec supply growth and Opec's capacity additions, as well as global increases in refining capacity, particularly to turn heavy, sour crudes into light sweet products that are most sought after."

The International Energy Agency, the industrialised countries' watchdog agency, estimates that oil demand growth fell from 5.3 per cent in the second quarter of 2004 to 1.2 per cent in the third quarter of this year.

The oil and gas industry, which has yet to recover from damage caused by Hurricane Katrina, scrambled for cover. Chevron, BP and Shell all pulled staff from the Gulf.

The Port of Houston Authority, the 6th largest in the world, began gathering information with its partners about the pending storm, reviewing all plans and procedures for the hurricane.

Felicia Griffin, spokeswoman, said the port, which is ranked 1st in the US in foreign tonnage and second overall, after the port of southern Louisiana, was checking inventory to ensure it had basic equipment on hand, including flashlights and batteries. If the hurricane stays on track, and is definitely targeting Houston, she said the port would tie down all cargo and equipment - ``anything that could be airborne'' - to prevent damage in the area and make shutdown decisions.

Houstonians, which saw first-hand the devastation wrecked upon their neighbors just weeks ago, raced to supermarkets to stock up on water and other necessities.

Oil Prices Spike As Storm Nears (WP)

By Justin Blum

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The Washington Post, September 20, 2005

Oil prices soared yesterday in the largest one-day gain ever as fears mounted that a developing tropical storm could damage oil operations in the Gulf of Mexico and Texas.

U.S. benchmark crude for October delivery gained $4.39 a barrel on the New York Mercantile Exchange to close at $67.39. That was the largest one-day dollar gain since oil started trading on the exchange in 1983, according to the Energy Department. The oil price closed at a record $69.81 on Aug. 30.

Futures prices for gasoline, natural gas and heating oil also rose yesterday.

The spike came as gasoline prices, which surged after Katrina, continued to fall. The national average was $2.786 a gallon for regular, down 16.9 cents from a week earlier, according to the Energy Department. The average price in the Washington area dropped under $3 for a gallon of regular, according to a AAA-sponsored survey.

The increases in futures prices of oil and gasoline reflected concerns that Tropical Storm Rita, which was strengthening off the Bahamas yesterday afternoon, could disrupt offshore oil and natural gas production and impair operations at Texas refineries that produce gasoline. Supplies already are tight because of damage from Hurricane Katrina to offshore production and Gulf Coast refineries.

The new storm "could be coming in right exactly where Katrina didn't go," said Michael Guido, director of commodity strategy in New York for French bank Societe Generale. "It could be a bad situation for all the platforms that didn't get hit before."

The price spike came as ministers from the Organization of the Petroleum Exporting Countries were considering whether to offer additional oil to the market. Traders said a move by OPEC would have little impact on the market because refineries don't have the spare capacity to process the varieties of oil that could become available.

Oil companies yesterday were evacuating hundreds of employees from platforms in the Gulf of Mexico by helicopter and boat, a standard precaution in advance of tropical storms and hurricanes. BP, for instance, said it was in the process of evacuating half of the 1,500 workers it has on platforms in the gulf.

Analysts said that pump prices should continue to fall but that yesterday's increases on Nymex mean they would not fall as much as they would have otherwise. Wholesale prices have dropped more quickly than retail prices, which have been catching up, they said.

"You may see local street prices drift lower," said Tom Kloza, chief analyst for the Oil Price Information Service of Lakewood, N.J. "That's how far behind pump prices were in catching up to the wholesale price."

Four major Gulf Coast refineries remain idle because of Katrina, according to the Energy Department. Even before that storm, analysts had said refining capacity worldwide was struggling to meet demand.

Now analysts say they are concerned that the developing tropical storm could hit Texas, home to about 27 percent of U.S. refining capacity, according to the Energy Department.

D. Mark Routt, an analyst with Energy Security Analysis Inc. of Wakefield, Mass., said Houston is an "extremely important hub" for pipelines and other oil industry operations, adding to concern about storm damage.

Analysts said that they were concerned about damage to oil production in the gulf but that those concerns were secondary to refining.

Nearly 56 percent of daily oil production in the Gulf of Mexico remained off line yesterday because of Katrina, amounting to almost 838,000 barrels a day, according to the Minerals Management Service.

The Energy Department said yesterday that it would lend more oil from the nation's Strategic Petroleum Reserve. The department said it is releasing 600,000 barrels to Total Petrochemicals USA Inc., bringing to 13.2 million barrels the amount loaned from the reserve since Katrina.

The department previously agreed to sell 11 million barrels of crude from the reserve.

Storm Makes Oil Cleanup Crews Uneasy (USAT)

By Elliot Blair Smith

USA Today, September 20, 2005

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NEW ORLEANS — In the remote marshlands of southern Louisiana, emergency cleanup crews responding to 15 oil spills unleashed by Hurricane Katrina now have another worry: Tropical Storm Rita.

About 700 private contractors who are deployed each day by riverboat and helicopter are working to contain 6.7 million gallons of spilled oil at remote production sites operated by Bass Enterprises, Chevron, Dynegy, Murphy Oil, Shell and others, says Coast Guard Chief Petty Officer Keith Alholm.

It is the largest oil cleanup effort in state history, more than 10 times greater than the remediation of 550,000 gallons of oil spilled by the ship Westchester in the Mississippi River in November 2000. The biggest spill in U.S. history was 11 million gallons by the ship Exxon Valdez off Alaska in 1989.

Except Bass, where no one could be reached for comment, the other companies said spills had been contained with little or no environmental damage.

Roland Guidry, the Louisiana governor's oil spill coordinator, said Monday that authorities are concerned Tropical Storm Rita could move from the Florida Keys to the Louisiana coast, threatening the safety of crews working in rugged drilling areas that the hurricane rendered largely inaccessible.

"We have to have an exit strategy for all the people out there working, and possibly bring in the equipment we have out there," Guidry said. He said a decision will be made "in the next couple of days."

To date, cleanup efforts have been hindered by a lack of access and accommodations for the emergency cleanup crews, Guidry says: "It took us 31/2 hours by boat to get to some of those places, with no place to stay, no roads to get there. It's been like that since Day 1, and it hasn't improved much."

Guidry, speaking from Baton Rouge, said, "The reason we don't have 1,000 or 2,000 (workers) out there is because we don't have any way to get them out there and keep them out there safely."

To provide temporary lodging on the river for several hundred emergency workers, the federal Maritime Administration, a unit of the Department of Transportation, has deployed five ships to Louisiana, the last of which arrived over the weekend. Two of those ships are anchored in oil field cleanup areas. The government is considering deploying two more ships with several hundred additional berths.

The Coast Guard, which continues to airlift water and ice to some workers on the ground, says a lack of electric power in the area also slows the cleanup. Says Alholm: "It's been a lot more difficult than a normal oil spill cleanup would be because of the (damaged) infrastructure. It's going to take us longer."

Last week, the Coast Guard reported spills at these oil company installations:

•Bass Enterprises: 3.8 million gallons spilled due to damage to two storage tanks at a remote site in southern Louisiana identified on Mississippi River navigational charts as Mile Marker 35.

•Chevron: 991,788 gallons due to a ruptured tank or transfer line at Buras, La. An additional 53,592 gallons spilled at Chevron's Port Fourchon pipeline. At a third Chevron site known as Wagon Wheel, 8,400 gallons spilled. Several birds were among the reported wildlife casualties.

•Dynegy: 70,000 gallons spilled due to two tank failures near Venice, La.

•Murphy Oil: 819,000 gallons spilled at Meraux, La., due to a ruptured tank. As a result, Murphy said, two class-action lawsuits were filed against it by local residents seeking unspecified damages.

•Shell Oil: 933,870 barrels spilled due to a tank or pipeline breach in southern Louisiana identified on Mississippi River charts as Mile Marker 3. An additional 10,500 gallons spilled at Port Sulphur.

Gas Prices Fall, But Storm Worries Push Oil Higher (USAT)

By James R. Healey

USA Today, September 20, 2005

Gasoline prices dropped Monday to their lowest since Hurricane Katrina shut refining and shipping in the energy-rich Gulf of Mexico nearly three weeks ago.

But worries about another hurricane striking later this week sent prices of crude oil and wholesale gasoline zooming as energy traders bet on another shortage.

"If it hits the Houston area and damages a whole new set of refineries and shipping and infrastructure, we'd probably see a return to $3 gasoline," AAA spokesman Geoff Sundstrom says. "We were looking forward to gasoline going back to $2.50, $2.60 a gallon, but this new storm will put a stop to that."

That's Tropical Storm Rita off the Florida Keys, expected to become a hurricane, according to the National Weather Service.

AAA's daily survey showed a nationwide average of $2.805 Monday for a gallon of unleaded, down 8.2 cents over the weekend and lowest since $2.68 Sept. 1. The government's weekly price survey showed a nationwide average of $2.786 Monday, down 16.9 cents in a week.

Those numbers could turn fast. Frenzied traders bid up the price of oil $4.39 a barrel, to $67.39 at the close of New York trading. Wholesale gasoline for delivery next month zoomed nearly 25 cents to about $2.03 a gallon.

Oil prices and, more immediately, wholesale gas prices determine what you pay at the pump.

Highs at the pump were hit Sept. 5 when AAA reported a nationwide average of $3.057 and the U.S. Energy Information Administration reported $3.069. The inflation-adjusted record is $3.118, according to EIA.

"The good news is, we have a week to get ready. The bad news is that the market has all week to react," Peter Beutel, president of energy consultant Cameron Hanover, says of Rita.

He says it's possible Rita jitters might halt a further drop in retail gas prices rather than sending them zooming again.

Natural gas, a key gulf energy product and the fuel that heats most U.S. homes, rocketed to a record $12.70 per million Btu during Monday trading, and closed at $12.663, a one-day jump of 13.6%.

Energy companies are evacuating facilities in anticipation of Rita. The U.S. Minerals Management Service said Monday that six oil rigs had been evacuated. Katrina's damage and the new evacuations mean Gulf oil production is 44% of normal, MMS said. The Gulf supplies 29% of oil used in the USA, 21% of the natural gas.

OPEC Set To Open Oil Taps Full Blast (NYT)

By Jad Mouawad

The New York Times, September 20, 2005

VIENNA, Sept. 19 - OPEC delegates said Monday that the group planned to allow its members to provide up to two million barrels a day of additional crude oil if the market needs it. But oil traders brushed aside the move and instead sent oil prices higher on worries of another possible hurricane.

Royal Dutch Shell, Chevron and other oil companies said they were evacuating some employees from offshore oil platforms in anticipation of Tropical Storm Rita. The National Hurricane Center said Monday that the storm was making its way toward the Gulf of Mexico from the Bahamas and could become a hurricane overnight.

The latest hurricane warnings helped push oil prices up on the New York Mercantile Exchange, and they closed Monday at $67.39 a barrel, up $4.39. Natural gas futures hit a record on Monday, closing at $12.663 per thousand cubic feet, up $1.519.

Forecasters issued a hurricane warning for parts of Southern Florida and said that by early Saturday, Rita, the 17th named storm of the Atlantic season, could make landfall near Houston, an area that is a major port and home to many refineries and petrochemical plants.

The mayor of Galveston, Tex., Lyda Ann Thomas, called for a voluntary evacuation. Galveston is an island city and tourist destination about 50 miles southeast of Houston.

OPEC's highly unusual decision to put on call an extra 7 percent of its production is expected to be formally announced Tuesday at the end of the group's two-day meeting in Vienna. Some oil ministers said the Organization of the Petroleum Exporting Countries wanted to show it was doing all it could to lower oil prices even as they blamed refining shortages for the current situation.

Under the proposal, which members have been discussing in meetings since Sunday, OPEC producers would provide as much oil as refiners and other buyers asked for, without regard to previous production limits or quotas. The production ceiling, now set at 28 million barrels a day and shared by all 11 members except Iraq, would theoretically remain unchanged.

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"The crude is available," Ali al-Naimi, Saudi Arabia's oil minister and OPEC's most influential voice, told reporters in Vienna. "If you want it, here it is."

OPEC's plan, proposed by Sheik Ahmad Fahad al-Ahmad al-Sabah, the group's president and the oil minister from Kuwait, has the backing of Saudi Arabia, OPEC's largest producer, which would provide 75 percent of the additional oil.

President Bush said he welcomed a release of more oil by OPEC members, particularly if it helped cut retail gas prices by increasing supply.

"I have been concerned about the price at the pump that our folks are paying," Mr. Bush said. "Part of that was caused by the disruptions of Hurricane Katrina. We dealt with that by suspending rules and regulations that enable us to import more gasoline. But part of the cost of gasoline is a result of high crude oil prices, and one way to affect those prices is to conserve and the other way is to encourage an increased supply."

OPEC's proposal is largely shaped around an earlier pledge by Saudi Arabia to fully open its taps to consumers who asked for more oil.

Saudi Arabia's commitment to increase its output to its full capacity of 11 million barrels a day, from 9.5 million barrels now, was repeated after Hurricane Katrina interrupted oil production from the Gulf of Mexico three weeks ago, sending the price of crude oil above $70 a barrel.

But the divergence between the oil market's focus and OPEC's plans illustrates the group's dilemma.

"OPEC's move today is largely for show," said Lawrence J. Goldstein, president of the Petroleum Industry Research Foundation. "They want to appear to be responsible, but the tools that they have in the bag render them largely impotent for the moment."

Many delegates here have asserted repeatedly that the shortfall in energy markets was not one of crude oil but of refining capacity - the current inability of refiners to turn oil into sufficient gasoline and other products like diesel or jet fuel.

"There is no issue with crude oil supplies," said Abdullah bin Hamad al-Attiyah, the minister from Qatar. "The real shortfall is in refineries, especially in the United States. We can do everything we can, except we can't interfere with the nature of the problem."

Still, he said OPEC hoped to send a message to oil traders, who have been bidding up oil prices over the last two years, largely on the belief that the growth in demand was outstripping the ability of suppliers to bring more oil into the market. That has contributed to a doubling in oil prices over the last two years.

OPEC has been facing mounting criticism from consuming nations, especially in Europe, which has been asking OPEC to act more forcefully, regardless of the refining constraints. Many of those nations are beginning to worry that high oil prices may slow growth and hurt the global economy.

According to OPEC's most recent statistics, the group pumps 28.2 million barrels of oil a day, about a third of global production and 40 percent of global exports.

Since 2003, OPEC producers have increased their output 10 percent to make up for a 5 percent rise in global oil demand. That increase leaves only one OPEC member, Saudi Arabia, with large amounts of untapped oil. Sheik Ahmad, the OPEC president, said that Nigeria, the United Arab Emirates and Libya could provide an extra 400,000 barrels a day by December.

At their meeting on Monday, OPEC's ministers also discussed their long-term strategy and the idea of making their future investment plans clearer. The group appears to have dropped a suggestion to raise the production ceiling by 500,000 barrels a day, an idea that was floated by some OPEC officials in the days leading to the meeting.

"We will collectively make a pledge to have the spare capacity available if needed, but I don't believe it is needed," Edmund Daukoru, Nigeria's oil minister, told reporters.

To illustrate the availability of oil on the market, many here pointed out that the United States Energy Department had recently found buyers for only 11 million barrels of crude oil from the nation's strategic reserves, just a third of the amount it had put on sale.

"It proves there is no need for oil," Mr. Attiyah of Qatar said. "There is a need for products."

Hurricane Katrina crippled the United States' main oil and gas production region, sending energy markets into a tailspin. But perhaps of greater concern for energy markets, it caused the shutdown of four major refineries along the Gulf of Mexico.

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These refineries, which can process nearly 900,000 barrels a day, or 5 percent of American capacity, are likely to be out of commission for months.

Chevron said Monday that a large refinery damaged by Hurricane Katrina in Pascagoula, Miss., would not be fully operational until mid-November. Under normal operations, the plant, which accounts for about 2 percent of the nation's capacity, processes 325,000 barrels of crude oil a day, the largest amount from the four refineries that are still recovering from Katrina damage.

The refining crunch in the United States caused gasoline supplies to dip, led to spot shortages in some parts of the country and, for a brief period, pushed gasoline prices above $3 a gallon nationwide for the first time.

As a response to that shock, consuming nations dipped into their oil reserves to make up for the production shortfall from the Gulf of Mexico. The crisis prompted the Bush administration to tap into the nation's strategic stocks, something it had been reluctant to do.

The International Energy Agency, which usually provides advice on energy policies to 26 industrialized nations, also activated its emergency oil plan, releasing oil for only the second time in its 29-year history.

Fears Of New Storm Send Oil Soaring (USAT)

By Matt Krantz

USA Today, September 20, 2005

With another storm bearing down on the Florida coast and threatening oil production there, oil prices jumped Monday and dragged stocks down.

Worried any higher uptick in oil prices would tax the economy, investors sent the Dow Jones industrial average down 84.31 points to 10,557.63. The Dow is down 2.1% this year.

Tech stocks didn't do much better, either, with the Nasdaq composite index falling 15.09 points to 2145.26. The Nasdaq is down 1.4% this year.

The broad Standard & Poor's 500 index lost 6.89 points to 1231.02. The educational services, computer electronic retail and auto parts industries were the S&P's worst performers on Monday.

Still, the S&P 500 is alone among the three major stock market indexes in being up for the year at 1.6%.

Investors also were concerned about today's Federal Reserve Board statement on the economy and decision on short-term interest rates. But stocks were under pressure mainly because of the approach of Tropical Storm Rita, just weeks after Hurricane Katrina devastated the Gulf Coast. The price of a barrel of oil jumped $4.39 to $67.39 as investors fretted about the supply of the commodity.

The day's selling was “more than anything the news of Rita coming toward the Gulf Coast,” says Andy Brooks, trader at T. Rowe Price. And that left investors to wonder what kind of disruption could be caused by the storm.

“It was a raucous session,” says A.C. Moore, strategist at Dunvegan Associates. Moore says the demand for oil continues to outstrip supply, which is a problem that only economics, not politicians, can resolve. “Commodity prices can do anything when they're out of balance. That's the problem,” he says.

Spinnaker Exploration, an oil-exploration company, soared $15.40 to $64.15 after rival Norsk Hydro offered $65.50 a share, or $2.5 billion, for the company.

•Carnival added $1.75 to $50.78 after the cruise-ship operator reported 12% higher fiscal third-quarter results because of higher ticket prices and greater passenger capacity.

•Russell, a maker of athletic apparel, fell $2.87 to $15.12. The company said it expects to earn 50 cents to 60 cents a share in the third quarter, well below the 66 cents expected by analysts, due in part to shipping problems caused by Katrina. It said 40 containers of goods were lost or damaged because of the storm.

•TBC, a marketer of tires, rose $8.24 to $34.36 after saying it is being bought by rival Sumitomo for $820 million, or $35 a share.

Shares Tumble On Worries Over New Storm And Rates (NYT/AP)

By The Associated Press

DOJ_NMG_0006674

The New York Times, September 20, 2005

Shares plummeted yesterday as heightened fears of another hurricane hitting some part of the Gulf Coast sent oil prices racing past $67 a barrel and investors grew concerned about the Federal Reserve's meeting today on interest rates.

Wall Street saw some bright spots in merger activity and strong earnings from Nike and Carnival, but the market became increasingly uneasy as surging energy prices threatened consumer spending. Investors also awaited the Fed's decision on whether to raise rates or to halt its string of increases to mitigate any economic slide after Hurricane Katrina.

With an intensifying Tropical Storm Rita nearing Florida's tip and poised to enter the Gulf of Mexico just weeks after Hurricane Katrina's devastation, the market retreated late in the day.

"Front and center would be concerns of the storm approaching tomorrow, of which you're seeing crude oil trading up $4," said Steven Goldman, chief market strategist at Weeden & Company.

Crude oil made its biggest one-day gain ever, even as the Organization of the Petroleum Exporting Countries neared a consensus on allowing sales of two million additional barrels a day to offset a potential supply shortage from recent refinery shutdowns.

On the New York Mercantile Exchange, a barrel of light crude jumped $4.39, to $67.39.

By the close of trading, the Dow Jones industrial average had dropped 84.31 points, or 0.79 percent, to 10,557.63. The Dow lost as much as 120.69 points during the session. Broader stock indicators also declined. The Standard & Poor's 500-stock index fell 6.89 points, or 0.56 percent, to 1,231.02, and the Nasdaq composite index sank 15.09, or 0.7 percent, to 2,145.26.

The 10-year Treasury note rose by 8/32 to a price of 1001/32, with the yield sliding to 4.25 percent from 4.27 percent on Friday.

Although Wall Street is uncertain what the Fed's decision is likely to be, many analysts are predicting that the central bank will continue lifting rates to stem inflation and will keep that as its main priority despite the widespread economic ripple left by the hurricane.

In corporate news, Nike, the world's biggest shoemaker, said higher sales across the board helped lift its first-quarter profit 32 percent to easily beat Wall Street expectations. Worldwide future orders for products scheduled for delivery through January 2006 grew 11 percent to $4.9 billion, the company added. Nike surged $4.99, to $83.45.

The cruise ship operator Carnival posted a 12 percent gain in third-quarter profit, as revenue swelled from increased ship capacity and ticket prices. The company also said that while the hurricane depressed results in the latest quarter, recent bookings remained strong and average prices were above those of the year before. Carnival added $1.75, to $50.78.

Sirius Satellite Radio raised its projected full-year revenue by $5 million, to $230 million, but the expanded forecast still fell short of analyst targets for $234.5 million. The company maintained estimates for three million subscribers by year-end, up from about 2.1 million as of last week. Sirius fell 35 cents, to $6.70.

Rita Fears Drag On Stocks (WSJ)

By Scott Patterson

The Wall Street Journal, September 20, 2005

Weather charts showing Tropical Storm Rita potentially slicing into the Gulf of Mexico sent a chill through the stock market three weeks after Hurricane Katrina tore through the Gulf Coast. Petroleum-futures prices surged, causing stocks to sink, though a last-minute kept the market from its lows for the day.

Uncertainty about the Federal Reserve's decision on interest rates Tuesday added to investors' anxiety. The Dow Jones Industrial Average fell 84.31 points to 10557.63. General Motors slid 3.6%. Exxon Mobil gained 1.5% amid the jump in energy prices. The Standard & Poor's 500-stock index slid 6.89 to 1231.02 and the Nasdaq Composite Index declined by 15.09 points to 2145.26.

Worries that Rita could disrupt the post-Katrina recovery pushed light, sweet crude up by $4.39, or 7%, to settle at $67.39 a barrel on the New York Mercantile Exchange. It was the biggest dollar jump in crude since trading began on the Nymex. The previous record was on Aug. 6, 1990, a few days after Iraq invaded Kuwait, when crude gained $3.56 a barrel. The biggest

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decline came several months later, as crude plunged $10.56 on Jan. 17, 1991, soon after the U.S. launched the first Gulf War to evict Iraq from Kuwait.

Gasoline and natural-gas prices surged 14% apiece, adding to worries that consumers could be unnerved by sticker shock at the pump and when home-heating bills arrive in the mail as the weather begins to cool.

Gold for December delivery also moved sharply higher, jumping $7.10, or 1.5%, to $470.40 a troy ounce on the Comex division of the Nymex, the highest level since December 1987. Gold has risen more than $10 an ounce in a week amid concerns about inflation in the wake of surging energy prices and government spending plans to rebuild in the Gulf Coast.

Rita is forecast to skirt across the southern tip of Florida and move into the middle of the Gulf by Thursday. That could deal a "potentially devastating blow to our refining capacity again," said Raymond Carbonne, an oil trader at Paramount Options in New York. Fears were heightened by the fact that "we still haven't found out the severity of the damage that Katrina caused," he said.

Selling accelerated in the stock market after Chevron and Royal Dutch Shell said they are evacuating offshore oil and gas rigs in the Gulf. The National Weather Service said Rita will likely grow into a major hurricane as it moves over the warm waters of the Gulf, with landfall likely in Texas or Louisiana.

If energy prices weren't enough, investors also were unnerved ahead of Tuesday's meeting by the Fed. Expectations for a pause in rate increases by the Fed have gone from a 50%-50% chance the week after Katrina hit the Gulf to a less than 10% chance in the days leading up to the policy meeting, according to trading in federal-funds futures. An increase Tuesday would mark the 11th since June 2004, bringing the Fed's target for overnight loans between banks to 3.75%.

Analysts said the surge in gold and oil prices raised the specter of inflation, and virtually confirmed the Fed would raise rates a quarter-point Tuesday. "You've got gold and energy sending out a message: inflation is an issue, and that's what central bankers are paid to keep their eyes on," said Michael Panzner, head of sales trading at Rabo Securities.

In major market action:

Stocks fell. On the Big Board, where 1.5 billion shares traded, 1,052 stocks rose and 2,258 fell Friday. On the Nasdaq Stock Market, where 1.6 billion shares traded, 1,021 stocks advanced and 2,003 declined.

Bonds gained. The benchmark 10-year Treasury rose 5/32, or $1.56 per $1,000 invested, to yield 4.250% early Monday. The 30-year bond added 4/32 to yield 4.550%. Yields move inversely to prices.

The dollar advanced. It was at 111.51 yen, up from 111.36 yen late Friday, while the euro slipped to $1.2137 from $1.2234.

Stock Trackers Become Master Storm Trackers (USAT)

By Adam Shell

USA Today, September 20, 2005

NEW YORK — Tracking violent storms is quickly emerging as a new job requirement on Wall Street.

After the massive financial fallout caused by Hurricane Katrina, a growing number of traders, analysts and portfolio managers now view the weather as a major risk factor. The damage to the Gulf Coast's energy infrastructure exposed a vulnerability in the nation's oil and gas supply chain, sparking a sharp rise in the price of gasoline and heating oil and natural gas used to keep homes warm in winter.

With Tropical Storm Rita barreling down on the Florida Keys and likely to gain strength and become a hurricane, it's no surprise that investors are just as interested in where the next hurricane will hit as they are the direction of interest rates. In fact, investors with billions of dollars riding on stocks now spend a good portion of their day tuning into the Weather Channel and monitoring weather-related websites.

“Bottom line is investors are becoming more cognizant of the impact the weather has on stocks,” says hedge fund manager Mort Cohen of Clarion Group. “You have to factor the weather in when picking stocks.”

Adds Peter Cardillo, chief analyst at S.W. Bach: “What happens if we have another Katrina?”

Tracking “strike probabilities” and “wind swaths” is now common practice, given the potential of natural disasters to damage the economy, spark an energy crisis and crimp profits at affected companies.

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•Traders at money management firm T. Rowe Price now tune in to the Weather Channel, says head trader Andy Brooks. “Rita is now on the radar screen,” he says. “Trading desks have got to know what is being broadcast and reported on as it happens.”

•Money manager Gary Kaltbaum of Kaltbaum & Associates checks updates every three hours on the National Hurricane Center's website and is constantly looking at satellite pictures of brewing storms. “If the oil rigs and refineries go down, the price of oil will shoot back up,” he says. A barrel of crude soared more than $4 a barrel Monday amid fears Rita would inflict more damage in the Gulf.

•Analysts at Clarion Group regularly track updates from the National Weather Service. The motivation: “We have a lot of money in energy stocks and are thinking of putting more money in shares of manufactured housing stocks,” Cohen says.

Another sign of the intense demand for weather-related insights: Ken Reeves, senior meteorologist at AccuWeather.com, says “weathermen” from his firm made more than 10 appearances Monday on the business cable channel CNBC. Says Cardillo: “You have to keep an eye on the eye of the storm.”

Bond Market Signals Little Faith In Fed To Slow March Of Inflation (WSJ)

By Mark Whitehouse

The Wall Street Journal, September 20, 2005

The bond market has a message for Federal Reserve officials trying to gauge Hurricane Katrina's economic impact: Inflation probably will accelerate no matter what you do.

Today, the policy-making Federal Open Market Committee decides whether to keep raising short-term interest rates to fight inflation or pause for more data on how the economy has fared since Katrina. Most economists expect the Fed to raise its interest-rate target for the 11th time in 15 months -- by a quarter percentage point to 3.75% -- but will read the accompanying statement closely for signs of future moves.

In the bond market, though, investors already are demanding higher returns on longer-term securities -- a sign they expect inflation to heat up as the government, companies and individuals spend billions of dollars to rebuild in New Orleans and elsewhere along the Gulf Coast. "We're about to rebuild a major U.S. metropolitan area," says David Glocke, a Treasury-bond portfolio manager at The Vanguard Group, an asset-management firm in Valley Forge, Penn. "...That's definitely inflationary."

Before Katrina hit, short-term and long-term rates had been converging, a sign that investors expected the Fed's campaign of rate increases to slow the economy or even tip it into recession, which would in turn force the central bank to bring rates back down in the future. But now that convergence -- known as a flattening yield curve -- has reversed: In afternoon trading yesterday, 10-year Treasury notes yielded 0.32 percentage point more than two-year Treasurys, compared with a difference of 0.12 percentage point on Aug. 29.

The "steepening" trend suggests that while investors' expectations for economic growth haven't necessarily changed, they are more concerned about the level of inflation associated with that growth. "If we get through this without a major hit to economic activity, then I think you'd have to be more worried about inflation than before," says Jan Hatzius, senior U.S. economist at Goldman Sachs in New York.

Since Katrina, for example, more investors have come to believe that the Fed will pause in its interest-rate increases this year. In a survey of 22 big Wall Street banks published yesterday, most expected the FOMC to pause at least once at its three remaining meetings this year. Early yesterday, the futures market was assigning a probability of more than 90% to a rate increase today, but closer to 60% for an increase at the next meeting Nov. 1, and much less to a third raise at the Dec. 13 meeting.

The hurricane -- along with Tropical Storm Rita -- has added uncertainty. Katrina's short-term effect on fuel and construction-materials prices will skew inflation data through at least October, making it difficult for the Fed and investors to understand what is happening in the economy.

But even investors who expect the Fed to keep raising its short-term interest-rate target this year believe that the risk of accelerated inflation has increased. "There's a risk that somewhere along the line inflation gets ahead" of the Fed, says Dave MacEwen, chief investment officer for fixed income at American Century Investments, an asset manager based in Mountain View, Calif.

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To mitigate the perceived inflation risk, Mr. MacEwen and other money managers have been reducing bets that would benefit from a flatter yield curve and putting on bets that would benefit from a steepening curve.

Treasury Bonds

Prices of Treasury securities firmed modestly yesterday, buoyed by soaring energy prices, though gains were limited ahead of the Fed's policy meeting.

At 4 p.m., the benchmark 10-year note was up 5/32 point, or $1.5625 per $1,000 face value, at 100. Its yield fell to 4.25% from 4.267% Friday. The 30-year bond was up 4/32 point at 112 11/32 to yield 4.550% from 4.557%.

Asset-Backed Securities

Issuers poured more than $10 billion in new supply into the asset-backed market, making up for time lost to last week's annual industry conference in Florida. Securities backed by home-equity debt accounted for about $7 billion of the new deals.

Greenspan And Katrina (WSJ)

The Wall Street Journal, September 20, 2005

Along the way in his long career, Alan Greenspan has been known to follow the price of gold. Not as a gold bug who thinks it is the lodestar of monetary policy, but as one who finds it a useful indicator of inflationary expectations. We hope he's following the barbaric metal that way now, because yesterday it pushed through $467 an ounce at the close in London, to a 17-year high.

This gold surge is probably a response to the speculation that the Federal Reserve might actually make the mistake at its meeting today of pausing in its monetary tightening in the wake of Hurricane Katrina. Yields on the 10-year note have also climbed back up from their Katrina lows, and even stripping out the Katrina energy spike, prices on steel, lumber, cement and other goods have been rising.

Which means easing up now would be exactly the wrong policy. Those urging such an action include carry-traders who fear getting caught playing the yield curve, investors long on housing, and all kinds of well-intentioned folks who simply don't want to see the expansion end. We know how they feel. This market psychology always takes hold amid a Fed-tightening cycle -- and this time it is being exaggerated by the fallout from Katrina.

But the Fed cannot fine-tune economic growth. It has only one job -- maintaining price stability. We've been writing for two years that the Fed has been providing too much liquidity, with negative real interest rates, and even its 250-basis point rise over the past 15 months has not brought rates back to neutrality. Stopping the rate increases now would run the risk of even greater increases later, as price pressures continue to build.

Our guess is that this is not the kind of policy dilemma Mr. Greenspan wants to leave his successor in 2006 and 2007. We also doubt he wants to depart in January having abandoned some of the hard-earned progress against inflation that he and his predecessor Paul Volcker earned since the last time we had an oil shock, in the 1970s. The Fed printed dollars to offset the economic damage from rising oil prices, only to create more inflation and still higher oil prices. The inflationary cycle didn't end until Ronald Reagan backed Mr. Volcker's slam on the brakes.

Katrina's blow will reduce economic output in the third quarter and maybe the fourth, but probably without inducing recession. The economy entered the eye of the hurricane with momentum built up over two years of 4% average GDP growth since the tax cuts of 2003. The rebuilding of the Gulf Coast will again lift GDP as it gains momentum later this year and into next. A rate hike now could actually have the beneficial effect of calming inflation fears and keeping long-term interest rates lower. If the Fed keeps prices stable, the animal spirits of the private sector will do the rest.

Yes, Parallel Tracks To North, But Parallel Tracks Don't Meet (NYT)

By David E. Sanger

The New York Times, September 20, 2005

WASHINGTON, Sept. 19 - After four years of bitter arguments over whether to negotiate with North Korea or try to engineer its collapse, the accord President Bush grudgingly approved Sunday evening provided the bare minimum - an agreement in principle that the North would end a five-decade pursuit of nuclear weapons, the only card the erratic nation has to play to get the world to pay attention to its demands.

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But even to get that, Mr. Bush had to blink slightly, acknowledging that at some point in the future, the United States would discuss with the North building new nuclear facilities - something Washington has said it could never trust the North with.

And the preliminary agreement, as Mr. Bush himself acknowledged, says nothing about when or under what conditions the North would give up all of its nuclear programs, re-enter the Nuclear Nonproliferation Treaty and allow inspections. "We've got to verify whether or not that happens," Mr. Bush said.

For five years now, many of his most conservative advisers have warned that deceit, distrust and broken agreements make an accord like this a hopeless task.

They blocked negotiations for the first few years of his presidency, but in the end, both Mr. Bush and his secretary of state, Condoleezza Rice, were persuaded that if a confrontation ever occurred with North Korea, they had to be prepared to show that they had made every effort to reach a diplomatic solution.

"The lesson of Iraq," said one senior American official, who is deeply skeptical about the deal, "is that we can never again confront a country about its weapons unless we show that we have tried every available alternative to disarm it."

It is too early to know if the North has made what Ms. Rice often calls a "strategic choice" to give up all its weapons. Some officials say they suspect that the North entered the talks ready to give up its plutonium program, which it "froze" under an agreement with the Clinton administration in 1994, because those facilities are out in the open, impossible to protect if a conflict with the United States erupted.

Under that theory, the North is more interested in protecting a clandestine uranium enrichment program that, the administration says, the North secretly started to evade the provisions of the 1994 agreement. After initially appearing to acknowledge the program when confronted in 2002, the North now denies it exists. It is never explicitly mentioned in the statement signed Monday, though the administration says it is covered by the commitment to "abandoning all nuclear weapons and existing nuclear programs."

To experts on North Korea, that raises a critical problem. "It's a huge hole in the agreement," said Art Brown, for years the chief Central Intelligence Agency officer in charge of watching North Korea. "If they don't acknowledge they have it - and if they have buried it in some cave - we'll say it's included in the deal and they'll say there is nothing there to give up."

Moreover, the preliminary agreement says nothing about verification. Mr. Bush's aides have insisted that the United States and other nations will conduct their own inspections, rather than rely entirely on international inspectors.

On Monday, officials at the State Department and the intelligence agencies were dusting off a detailed plan to inspect virtually every suspect site. But it is not clear that the North has agreed to this.

"We will need to travel throughout the country, and be given unhindered access," said one senior Bush administration official, who said he approved of the agreement but insisted on speaking anonymously in part because he was raising doubts about what the negotiators had accomplished. "Can you imagine the North Koreans letting us do that?"

International inspectors, who were thrown out by North Korea in 2002, never had free access beyond a few facilities at one plant, at Yongbyon.

Part of the reason Mr. Bush signed the agreement, American and foreign officials said, is that he had to close the breach among his negotiating partners: China, South Korea, Japan and Russia.

China drafted the language signed on Monday. Along with South Korea, it has been eager to do anything to forestall a crisis on the Korean peninsula. That is why China insisted that the draft include references to building a nuclear reactor, at an unspecified time, in the agreement. "They said it was the only way the North Koreans would get on board," said one senior official involved in the talks.

The accord is also unlikely to settle the behind-the-scenes administration battles about how hard to squeeze North Korea. From the moment Mr. Bush's team arrived at the White House in 2001, North Korea has been a subject of tremendous internal strife. It was the issue that first separated former Secretary of State Colin L. Powell from Ms. Rice and administration hard-liners who believed the time was ripe to choke off North Korea.

When Ms. Rice succeeded Mr. Powell, she put together her own negotiating team, led by Christopher R. Hill. Because of Ms. Rice's closeness to the president, he was empowered to discuss things his predecessor never could, including new ways to

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provide energy to North Korea. But the key has been the timing: Ms. Rice and others had complained that Mr. Clinton erred by agreeing to aid North Korea before it disarmed, and that never again would the United States "reward bad behavior."

On Monday Ms. Rice argued that the wording of the agreement implies that North Korea will disarm first."At an appropriate time we are prepared to discuss - discuss" the idea of building a nuclear reactor, she said. She said several times that the discussion would not even begin until North Korea dismantled its weapons program.

So it was a measure of the disagreements that may be on the way that just hours after she spoke North Korea issued a statement saying it demanded the reactors first.

N. Korea, U.S. Both Bend A Bit For A Deal (USAT)

By Barbara Slavin

USA Today, September 20, 2005

The United States made key concessions to reach a preliminary nuclear agreement with North Korea on Monday, and hard negotiations lie ahead before that country gives up its nuclear weapons programs.

Under the agreement reached in Beijing among six nations, North Korea pledged to abandon "all nuclear weapons and existing nuclear programs" and return to an international treaty on nuclear non-proliferation and arms inspections. In return, it would get security assurances and economic aid.

The deal, signed by the United States, North Korea, China, South Korea, Japan and Russia, doesn't mention certain U.S. positions, such as its opposition to North Korean efforts to enrich uranium. Those efforts led to the collapse of a U.S.-North Korea agreement in 2002. It refers instead to a 1992 agreement between North and South Korea that barred such activity. North Korea softened a demand for a nuclear reactor for electricity production.

"Both of them blinked," said Jack Pritchard, a former U.S. negotiator with North Korea.

President Bush called the agreement "a wonderful step forward. But now we've got to verify" it.

Representatives from the six nations will meet again in November to work out the details.

A year ago, U.S. negotiators said energy assistance from North Korea's neighbors would come if it accounted for nuclear programs within three months and began to dismantle them. Such language is missing from the new deal, which says the United States will join other nations to provide energy. The agreement also says:

•The United States has no intention of attacking North Korea, and the two countries can "exist peacefully together." Chief U.S. negotiator Christopher Hill previously rejected such language, which North Korea interprets as a sign the United States will not try to overturn its repressive government.

•The parties agreed to "discuss at an appropriate time" a light-water reactor to produce electricity. Two such reactors were promised under a 1994 agreement intended to halt nuclear weapons work by the North. Work stopped in 2002, and the United States has opposed reviving the project.

Monday's agreement could lead to something like the 1994 deal, said Scott Snyder, a Korea expert at the Washington office of the Asia Foundation, a research group. The Bush administration had long criticized that deal. "This is a very pragmatic approach which was completely absent for the last four years," Snyder said.

Michael Horowitz, a lobbyist for human rights in North Korea, warned of congressional opposition without progress on rights.

Donald Gregg, a former U.S. ambassador to South Korea, praised Hill and Secretary of State Condoleezza Rice for making "sensible concessions." U.S. negotiators had less leeway in the first Bush term because then-secretary of State Colin Powell had less influence in the White House, Gregg said.

Though North Korea has agreed to give up nuclear weapons, it's not clear how or when it would do that or how other nations would verify that it had done so, said David Albright, president of the Institute for Science and International Security, a Washington think tank. The first priority, Albright said, is removing the weapons-grade plutonium North Korea has amassed. His institute estimates that it is enough for five to 13 nuclear weapons.

"There may be less (to the deal) than meets the eye," said Albright, adding that the North Koreans signed the agreement to stave off pressure from China, its chief source of economic aid and trade.

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Bush Hails North Korea Nuclear Accord (FT)

By Anna Fifield And Andrew Yeh

Financial Times, September 20, 2005

President George W. Bush on Monday welcomed North Korea's pledge to abandon its nuclear weapons programmes and rejoin the non-proliferation treaty but expressed reservations over whether all parties would keep to their commitments.

Mr Bush said the Korean deal was “a step forward in making this world a more secure place” but insisted “we've got to verify whether or not that happens”.

Under the deal, North Korea will receive energy aid and security guarantees in return for abandoning its weapons programmes and allowing United Nations inspectors back into the country. The US and Japan, meanwhile, will start to normalise relations with the communist stronghold.

The wide-ranging, though vague, agreement is the first breakthrough in more than two years of tortuous six-party negotiations and came just as the differences between Pyongyang and Washington seemed intractable.

The deal could breathe new life into the {nuclear non-proliferation treaty and underlines Iran's isolation as it pushes ahead with its nuclear programme.

It also served to prove that Washington and Beijing, which hosted the talks, can co-operate on issues of mutual security interest.

After 20 days of talks in the fourth round of negotiations, China's fifth draft joint statement finally won approval from Japan, Russia, the US and the two Koreas. “The process that led us to this final agreement was all six parties overcoming one mountain after another, one wall after another,” said Wu Dawei, Beijing's chief envoy.

Mr Bush said he wanted to the thank the other partners in the six-party dialogue for working together. But he added: “The question is, over time, will all parties adhere to the agreement?”

Scott McClellan, the White House spokesman, made clear that the first step under the agreement was for North Korea to end its nuclear programmes.

Analysts said there were likely to be many difficulties in implementing the pact, particularly as few of the fundamental differences between Pyongyang and Washington appeared to have been bridged. Securing an agreement, given the fractious relations between the two protagonists and North Korea's defiant declaration in February that it had become a nuclear state, represents {a big diplomatic milestone.

Christopher Hill, the US's chief negotiator, said the effectiveness of the agreement, and the exact details of how North Korea would abandon its nuclear programmes, would become clear over the next few weeks.

Under the pact, North Korea vowed to abandon all nuclear weapons and existing nuclear programmes, return “at an early date” to the NPT and comply with International Atomic Energy Agency safeguards. North Korea withdrew from the NPT and ordered out IAEA inspectors in 2002 after the US accused it of developing nuclear weapons, breaching the 1994 deal forged with the Clinton administration. A fifth round of talks to iron out the details including providing oil, energy aid and security guarantees to North Korea is set to be held in Beijing in early November.

N. Korea, U.S. Gave Ground To Make Deal (WP)

By Glenn Kessler And Edward Cody

The Washington Post, September 20, 2005

The unexpected agreement by North Korea to abandon its nuclear weapons program, announced yesterday in Beijing, followed decisions by both the Pyongyang government and the Bush administration to compromise on positions they had clung to during nearly three years of crisis over North Korea's nuclear ambitions.

The document signed by North Korea, the United States and the other participants in the six-party nuclear disarmament talks opened the way for what all sides say will be lengthy negotiations on the actual dismantling of North Korea's nuclear weapons program.

The breakthrough accord followed a compromise proposed by China aimed at persuading both countries to sign a document of principles. The Bush administration dropped its opposition to North Korea receiving a light-water nuclear reactor in

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the future, a softening of its position that the demise of the North's nuclear ambitions must be "irreversible." North Korea said it would give up its nuclear weapons and all of its existing nuclear programs, would rejoin the nuclear Non-Proliferation Treaty and would allow inspections again by the U.N.'s International Atomic Energy Agency.

President Bush cautiously welcomed the agreement as "a step forward in making this world a more secure place" but warned that "we expect a verifiable process."

In an immediate demonstration of the difficulty ahead, the official North Korean news agency early today quoted an unnamed Foreign Ministry spokesman as asserting that Pyongyang would not give up its weapons program until it received nuclear reactors from the United States. A State Department official shrugged off the statement, saying the focus would remain on the Beijing declaration.

The declaration came nearly three years after the Bush administration confronted the Pyongyang government with accusations of a secret uranium enrichment program, which U.S. officials said nullified a Clinton-era agreement to freeze its nuclear activities. Since then, in a separate program, North Korea is estimated by U.S. officials to have harvested enough plutonium for at least nine nuclear weapons. The North has declared it possesses nuclear arms, but no weapons tests have been detected.

Several key issues were deferred or avoided through diplomatic sleight of hand, such as the Bush administration's demand that North Korea admit the existence of the uranium project. The agreement contained no clear timeline for when the North would give up its nuclear programs, or how.

But by finally signing an agreement, North Korea took a major step toward securing international acceptance. The move, analysts said, will allow the North Korean leader, Kim Jong Il, to hang on to power for the foreseeable future and will gradually open the nation to foreign investment and avoid a sudden collapse of one of the world's most isolated nations.

For the Bush administration, analysts said, the agreement was welcome at a time when the war in Iraq has lost support at home and negotiations with Iran over its nuclear programs have sputtered. In addition, the president's approval ratings are low in the wake of his administration's response to Hurricane Katrina.

"It's an all-front crisis for the Bush administration," said Kongdan Oh, an expert on the North Korean nuclear program at the Institute for Defense Analyses in Alexandria. "I think they thought, hey, North Korea is a small country and maybe we can handle it if we put it to the side for a while." But she said she did not believe North Korea would ever give up nuclear weapons, "its platinum trump card."

Surprisingly, diplomats said, the main sticking point in this round of negotiations was not persuading North Korea to make the paramount commitment to give up nuclear weapons and research. Rather, they explained, it was North Korea's side demand for a light-water reactor to produce electricity in return for giving up the other programs.

The United States adamantly opposed the demand, saying the North could not be trusted because it already had converted the Yongbyon reactor into a source of weapons-grade plutonium. The only possible outcome, U.S. negotiators said, was agreement to complete, verified abandonment of all nuclear programs.

China sought to bridge the gap, playing its leadership role as sponsor of the talks. Chinese diplomats proposed language according North Korea the right to a reactor for electricity production but implying that it could invoke that right only after dismantling its weapons program and rejoining the international nuclear inspection regime.

For two days, U.S. diplomats refused to embrace the Chinese suggestion. Assistant Secretary of State Christopher Hill, the chief U.S. negotiator, told reporters several times he was insisting that all ambiguity be removed, refusing to open the way for problems in interpretation.

During the standoff, Hill was in frequent telephone contact with Secretary of State Condoleezza Rice, and Rice in turn discussed what to do with other senior officials in the U.S. government, said a senior U.S. diplomat involved in the negotiations, joking that their involvement could be seen as "adult supervision." As China became increasingly firm that the compromise on the table was the best bargain possible, he said, the administration finally relented on Sunday.

"We didn't want to lose the agreement over this," he explained. The decision to make a final concession was approved at the highest level of U.S. government, he added, referring to President Bush.

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U.S. officials stressed that significant obstacles remained in securing the ultimate end of North Korea's programs, and they insisted that any concessions were relatively minor. The Bush administration's Korea policy has long been troubled by conflicts between officials skeptical that a diplomatic solution could be found and those eager to strike a deal. Those conflicts could reemerge in talks over implementation.

The administration envisions what one senior official described yesterday as a "very intrusive verification regime that will go well beyond what is required" by the IAEA. "It's going to be tough getting there," he said. "This is an important step, but I don't think anyone is overselling this" agreement as a major diplomatic achievement.

Bush administration officials are wary of any comparisons between this week's agreement and a failed pact reached with North Korea by the Clinton administration in 1994. That agreement called for the building of two light-water reactors.

Before expelling international inspectors in late 2002, the secretive North was reluctant to allow access for U.N. inspection teams assigned to monitor its nuclear programs under the 1994 accord. Kim's government has even restricted World Food Program officials from monitoring distribution of food aid.

The statement was signed by North Korea, the United States and the four other participants in the talks -- China, Russia, Japan and South Korea. The six-nation talks have been sponsored by China since August 2003. But they made little progress until Rice became secretary of state this year and assigned Hill, who played a key role in negotiating the Dayton accords that ended the Bosnia war.

Diplomats from the six nations recessed immediately after their signing session, promising to return to Beijing in early November to start talks in which Hill said verification procedures would be the priority. He indicated the next step would be determining how the United States and other nations can confirm that North Korea is shutting down its Yongbyon research reactor and dismantling its weapons program.

Hill, in a telephone interview as he was changing planes in Chicago, said, "Verification is a big deal that has yet to be worked out." He said the importance of the agreement was that "we got them on the record in an international deal. . . . I am not prepared to be cynical about it."

Specialists pointed out that North Korean diplomats were likely to seek immediate economic and energy aid in return for each step toward verification.

"At the moment, we still can't be sure of Kim's intentions," said Hajime Izumi, a professor at Japan's University of Shizuoka. "They have bought some time to consider seriously whether they will give up all their weapons and programs . . . but there are so many points along the road in which this process could again reach a stalemate that it's simply too early to celebrate."

U.S. officials say North Korea in an October 2002 meeting acknowledged the existence of a secret uranium enrichment program designed to become another source of weapons material. North Korea has since denied that.

Although that issue was not mentioned in the document, U.S. officials said it is covered by the pledge to dismantle "all nuclear weapons and existing nuclear programs" and by a separate reference to a 1992 agreement with South Korea, which prohibited uranium enrichment.

A good first step, Hill suggested, would be shutting down the Yongbyon reactor, which produces plutonium. Under the accord signed yesterday, it must be taken apart, he said, so it makes little sense to keep it running. "The time to turn it off is about now," he added.

One long-term incentive in the joint agreement was the call for the United States and Japan to "take steps to normalize relations with North Korea" if the Pyongyang government gives up its weapons program. Such a historic rapprochement could mean billions of dollars worth of economic assistance from Japan alone in belated World War II-era reparations.

U.S.-Korean Deal On Arms Leaves Key Points Open (NYT)

By Joseph Kahn And David E. Sanger

The New York Times, September 20, 2005

BEIJING, Sept. 19 - After a tense weekend of heated debate within the Bush administration, the lead American negotiator with North Korea made one last call to Washington at noon on Monday, Beijing time, and then signed a statement of principles that committed North Korea, in black and white, to give up "all nuclear weapons and existing nuclear programs."

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But the negotiator, Christopher Hill, had misgivings because the vaguely worded agreement left unaddressed the date disarmament would happen, and hinted at a concession to North Korea that President Bush and his aides had long said they would never agree to: discussing at an appropriate time providing North Korea with a civilian nuclear power plant, senior administration officials said.

The plant, a light-water reactor, cannot produce fuel for nuclear bombs as efficiently as North Korea's existing nuclear plants, but would keep the country in the nuclear business.

All day Monday, Washington time, the Bush administration said the only appropriate time would be well after North Korea dismantled all its nuclear facilities and allowed highly intrusive inspections of the country. On Monday evening, less than 24 hours after the deal was signed, North Korea declared that the United States "should not even dream" that it would dismantle its nuclear weapons before it receives a new nuclear plant.

As described by senior Bush administration officials and Asian participants in the talks, Mr. Bush agreed to eventual discussions on providing a nuclear plant only after China turned over a draft of an agreement and told the Americans they had hours to decide whether to take it or leave it.

The North Koreans, dependent on China for food and oil, were unhappy but ready to sign. "They said, 'Here's the text, and we're not going to change it, and we suggest you don't walk away,' " said one senior American official at the center of the debate.

Several officials, who would not allow their names to be used because they did not want to publicly discuss Mr. Bush's political challenges, noted that Mr. Bush is tied down in Iraq, consumed by Hurricane Katrina, and headed into another standoff over Iran's nuclear program. The agreement, they said, provides him with a way to forestall, at least for now, a confrontation with another member of what he once famously termed "the axis of evil."

So after two days of debates that reached from Mr. Bush's cabin in Camp David to Condoleezza Rice's suite at the Waldorf-Astoria in New York to Tokyo, Moscow and Seoul, Mr. Bush gave the go-ahead on Sunday evening, once he had returned to the White House, to signing a preliminary accord with Kim Jong Il, a leader he has said he detests.

Had he decided to let the deal fall through, participants in the talks from several countries said, China was prepared to blame the United States for missing a chance to bring a diplomatic end to the confrontation.

The debate over signing the agreement reflected the fact that the North Koreans drove a tough bargain. The agreement has the potential to generate good will for North Korea, increase the aid it receives and possibly reduce its incentive to dismantle its nuclear programs anytime soon.

"The risk of this agreement is exactly what many hawks in Washington had warned about," said Peter Beck of the International Crisis Group in Seoul. "You reduce the sense of urgency and let people grow comfortable with the status quo."

Proponents of the deal say such fears are misplaced. They argue that the six-nation talks, involving China, Russia, South Korea and Japan as well as North Korea and the United States, exerted heavy pressure on the North to adhere to international norms.

All the benefits North Korea was promised in the agreement, including economic aid, security commitments, a possible normalization of relations with the United States, and a large infusion of electricity from South Korea, will not flow until it rejoins the Nuclear Nonproliferation Treaty and readmits international nuclear inspectors.

In the end, participants in the discussions said, Mr. Bush decided he had little choice but to sign. He concluded several years ago that there were no acceptable military options for taking out the North's two separate nuclear programs.

Mr. Bush sounded cautious about it on Monday after a meeting in the Cabinet Room. "Now there is a way forward," he said. "They have said, in principle, that they will abandon their weapons programs. And what we have said is great, that's a wonderful step forward, but now we've got to verify whether or not that happens."

His caution may reflect the fact that the accord, the culmination of two years of difficult negotiation, still left the administration short of its goal, requiring two major concessions that will take months, maybe years, to fully resolve.

The accord makes no mention of the Bush administration's contention that North Korea has a secret, underground program to use enriched uranium to produce nuclear bomb fuel. North Korea has denied trying to produce nuclear fuel through enriched uranium, though it has acknowledged using plutonium from its nuclear reactor at Yongbyon for that purpose.

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A nuclear program that depends on enriched uranium, like the one that made Pakistan a nuclear power, is much harder to monitor than a plutonium program.

Intelligence assessments, partly based on information from Seoul, that North Korea was building a secret uranium program were the basis of the administration's declaration in 2002 that North Korea had violated the terms of a 1994 agreement with the Clinton administration to end its nuclear efforts. That began the standoff that prompted North Korea to withdraw from the nonproliferation treaty, expel international inspectors, restart its reactor at Yongbyon, and claim that it had expanded its arsenal of atomic bombs. Intelligence agencies say North Korea may now have fuel for six or eight weapons, but that is an educated guess, they concede.

Despite that history, the new agreement does not explicitly address the existence of a uranium program. North Korea still denies having one, despite growing evidence that it at least tried to develop bomb fuel that way with Pakistan's help.

A senior administration official said the uranium program was covered by the agreement because it required North Korea to dismantle all of its existing nuclear facilities, not specific plants or labs. But the accord did not require North Korea to own up to what the administration had described as its biggest deception, meaning that unless the North admits to the program in a declaration of all its nuclear facilities, inspectors would have to work to uncover the uranium program in an adversarial way down the road.

The second concession involved the North Korean demand that it receive a light-water nuclear reactor as a down payment for scrapping its weapons program.

Allowing North Korea to have a light-water reactor raises what for the Bush administration are unwelcome parallels with the 1994 Clinton administration agreement, which several administration officials, including Ms. Rice, had described as deeply flawed. The 1994 accord promised North Korea two light-water reactors in exchange for freezing its nuclear program. Construction on a site for the reactors began in the 1990's, but the reactors were never delivered. The United States said Monday that the consortium that provided those reactors would go out of business at the end of the year, meaning any new deal would have to begin from scratch.

Mr. Hill, in an interview, said that the administration "didn't want to see any mention" of providing North Korea with a light-water reactor in the statement of principles. But the Chinese included it. The United States also balked at the use of the vague term "appropriate" to describe the timing. South Korea, Russia and China were happy to accept that language, because it left open the question of when the North would receive the nuclear reactor, officials of several countries said.

To break the impasse, Ms. Rice came up with a compromise during meetings on Saturday afternoon with her South Korean and Japanese counterparts. Each country, she suggested, would issue separate statements describing their understanding of the deal, with a specificity that is not in the agreement itself. The South Koreans and Japanese went along with the idea, though South Korea, one official said, complained that it would "sour the atmosphere." Russia and China issued vaguer statements that left unclear the sequence of events.

As this unfolded over the weekend, the Chinese increased pressure on the United States to sign - or take responsibility for a breakdown in the talks.

"At one point they told us that we were totally isolated on this and that they would go to the press," and explain that the United States sank the accord, the senior administration official said.

In the end, it was not necessary. The American delegation surprised some of the other parties on Monday morning with word that it could accept the agreement, sealing a deal.

North Korea Pledges To Exchange Nukes For Other Benefits (KRT)

By Tim Johnson

Knight Ridder, September 20, 2005

BEIJING - In a turnabout that came suddenly after years of failed talks, North Korea on Monday pledged to scrap its nuclear weapons in exchange for energy, trade and security benefits and steps toward diplomatic relations with the United States and Japan.

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North Korea also said it would rejoin a global nonproliferation treaty, and let international inspectors ensure compliance. Around the region, leaders hailed the surprise agreement. South Korea's leader called it "epoch-making." A senior Chinese diplomat applauded envoys from six nations for "overcoming one mountain after another, one wall after another."

"We had a great day today," said the chief U.S. negotiator, Christopher Hill. "As you all know, it wasn't easy. But important things often don't come easily."

The pledge by North Korea, once condemned by the Bush administration as part of an "axis of evil," along with Iran and pre-war Iraq, marked an apparent turning point for the Korean Peninsula, which remains divided, heavily militarized and technically in a state of war half a century after it was engulfed in conflict.

In return for dismantling its nuclear programs, energy-starved North Korea won commitments of huge amounts of electricity from South Korea, economic cooperation from other nations and promises from Washington to "exist peacefully" with Pyongyang.

U.S. intelligence officials say North Korea harbors between six and nine nuclear weapons. As recently as last week, the North said it would build more nuclear weapons if other nations did not concede to its demand for a light-water nuclear reactor, worth $2 to $3 billion, to generate electricity. The Bush administration fears Pyongyang might sell one of its nuclear bombs to a terrorist group.

As recently as over the weekend, the talks appeared on the cusp of failure. As the clock ticked by, Hill announced that he would leave for Washington Monday afternoon. Negotiators then reached a breakthrough.

A 17-paragraph "agreement of principles" said that China, Russia, the United States, Japan and South Korea would "discuss at an appropriate time the subject of the provision of light-water reactor" to North Korea, also known as the DPRK.

"What is an appropriate time?" Hill said in a news briefing. "The appropriate time comes when the DPRK gets rid of its nuclear weapons, gets rid of its nuclear programs, comes back into the (Non-proliferation Treaty) and comes back with full (International Atomic Energy Agency) safeguards."

The breakthrough marked a major success for China, which has hosted the six-party talks since 2003, in a region that has seen growing tensions and rivalries.

Why North Korea agreed to dismantle its nuclear programs, after four failed rounds of six-party talks over two years, was not immediately clear.

A throng of journalists and cameramen waited outside the imposing North Korean Embassy in Beijing late Monday, waiting for a news conference that never materialized.

The agreement marked the first time North Korea has signed a document pledging "the verifiable denuclearization of the Korean Peninsula" since 2002, when it admitted to the United States it had broken a 1994 accord to cease development of nuclear weapons.

Acknowledging a secret weapons program, North Korea expelled International Atomic Energy Agency monitors and pulled out of a global nonproliferation regime.

In February, Pyongyang confirmed that it had developed nuclear weapons.

Envoys from China, Russia, Japan, the United States and South Korea, all parties to six-nation talks that began in 2003, signed Monday's agreement.

In exchange for North Korea agreeing to destroy its nuclear weapons and halt all nuclear programs, the other five nations promised cooperation "in the fields of energy, trade and investment." The agreement said the United States affirms it "has no nuclear weapons on the Korean Peninsula" and "has no intention to attack or invade" North Korea.

Both the United States and Japan agreed to "take steps to normalize their relations" with North Korea, but no timetable for diplomatic normalization was announced.

The six countries agreed also to discuss setting up a new multilateral security forum for Northeast Asia, separate from the six-nation talks.

Diplomats said the next round of talks, set for early November, would establish a sequence of phased actions, designed to ensure thorough action by North Korea while rewarding the nation with incentives.

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South Korean Unification Minister Chung Dong-young cited his nation's offer of two million kilowatts of electric power to the North, first made in July, along with Washington's pledge to normalize relations with Pyongyang as key to the outcome.

Washington's flexibility in moving "to normalize North Korea-U.S. relations can be viewed as an achievement of the Bush administration," Chung said in Seoul, according to the state Yonhap news agency.

In Hill's closing statement to the talks, he reaffirmed Washington's willingness to establish relations with Pyongyang but also said the United States has "serious concerns" about human rights abuses, biological and chemical weapons development, terrorism, and illicit activities by North Korea's Stalinist regime.

The U.S. signing of the agreement "should in no way be interpreted as meaning we accept all aspects of the DPRK's system, human rights situation or treatment of its people. We intend to sit down and make sure that our concerns in these areas are addressed," Hill said. Since North Korea is entering the agreement voluntarily, Hill said the United States would not push for forceful weapons inspections across the nation.

"We do not plan to go out on the landscape of the DPRK and start hunting for nuclear facilities. We expect those to be shown to us, and we expect to move quickly," Hill said. "This is absolutely in the DPRK's interest, the sooner the better, and I think they know that."

North Korea's Agreement To Scrap Its Nukes (CSM)

By Donald Kirk And Howard Lafranchi

The Christian Science Monitor, September 20, 2005

SEOUL, SOUTH KOREA; AND WASHINGTON - The most protracted talks over the standoff on the Korean peninsula since the Korean War ended in 1953 concluded Monday with a facesaving "statement of principles."

North Korea agreed to give up its "existing nuclear weapons" and return to the Nuclear Nonproliferation Treaty. The United States joined others at the six-party talks in expressing "respect" for North Korea's claim to "the right to peaceful uses of nuclear energy," and offering energy assistance and economic cooperation.

The agreement skirts key issues, such as the timing of concessions, that will be addressed when talks resume in November. But the deal is seen as a major victory for international diplomacy, with a pariah country opting for cooperation and assistance - and ultimately survival - over confrontation. The development, some say, could lead to steady change on the Korean peninsula.

"This is a Libya-style deal," says Joseph Cirincione, of the Carnegie Endowment for International Peace in Washington, referring to Libya's 2003 pledge to give up weapons of mass destruction. "North Korea realized it has more to gain economically, politically, and diplomatically by giving up its nuclear weapons program than by keeping them."

The deal is seen by some analysts as a clear victory for Secretary of State Condoleezza Rice's diplomatic approach over administration forces favoring a more confrontational approach.

Mohammed ElBaradei, director-general of the International Atomic Energy Agency in Vienna, cited the agreement as proof that "dialogue can work" - an example he indicated might apply to Iran.

The White House welcomed the accord but said Pyongyang must live up to its obligations and dismantle its nuclear programs.

President Bush, who three years ago questioned whether it was possible to verify any deal with North Korea's leader Kim Jong Il, called the North Korean commitment a "step forward" but said North Korea needed to realize "We're serious about this and that we expect there to be a verifiable process." The question, he said, is "over time, will all parties adhere to the agreement?"

Chief US negotiator Christopher Hill called on the North to shut down its main reactor complex as a sign of good faith.

The six-party agreement - coupled with a promise to discuss a suspended light-water nuclear energy project - came just a week after Mr. Hill declared that North Korea's insistence on the right to nuclear energy for peacetime purposes was "a nonstarter."

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Hill, who led the US delegation throughout the fourth round of the talks that began in Beijing in July, joined others in signing off on the statement after intense pressure from South Korea and talks with top US officials. The final statement was drafted by China, which hosted the talks beginning in February 2003.

South Korean leaders, avidly pursuing reconciliation with North Korea, were ecstatic about the statement, even as they acknowledged the need for more talks - and action - to bring about a final agreement.

The agreement comes after an extended period of softening rhetoric. Mr. Bush, in his State of the Union address in 2002, famously included North Korea in an "axis of evil," along with Iraq and Iran, and Ms. Rice in January, before she became secretary of state, identified North Korea as an "outpost of tyranny."

No such comments, however, have emanated from US officials in Washington since then, with the US making pointed statements that it respected the North's sovereignty and had no intention of attacking the country.

But contentious issues remain. In Beijing Monday, Hill expressed "serious concerns" about human rights and other issues he said must be addressed for the two countries to move beyond decades of enmity.

"The US acceptance of the joint statement should in no way be interpreted as meaning we accept all aspects of [North Korea's] system, human rights situation or treatment of its people," Hill said in a closing statement.

Still, analysts in Seoul say that Hill essentially yielded to North - and South - Korean demands in a deal that will enable North Korea to keep pressing for light water nuclear energy reactors as promised by the 1994 Geneva framework agreement under which the North gave up its program for producing nuclear warheads with plutonium.

That deal fell apart after a senior North Korean diplomat appeared to have acknowledged to Hill's predecessor, James Kelly, in 2002 the existence of a secret uranium enrichment program.

The North is expected to demand fast action on a statement of "willingness" on the part of all the parties - China, Japan, and Russia as well as South Korea and the US - to provide energy assistance.

The statement also contained another significant nod to the North - that the US and North Korea "take steps to normalize relations."

A central point of later negotiation will be the question of who does what first in terms of dismantlement or economic assistance.

Darryl Kimball, executive director of the Arms Control Association in Washington, says that while the statement does not put the issue to rest, it hints at how it will be addressed by saying "coordinated steps [will be taken] in line with commitment for commitment, action for action."

But the agreement, he adds, is only the beginning of a difficult road ahead. The accord "fails to do what the 1994 agreement framework also failed to do - and that is to really settle the issue of North Korea's insistence on light-water nuclear energy capabilities."

It essentially "kicks the issue down the road," he says. He adds that "this may be the wise way to deal with it" for now. "But it's still something - a big thing - they will need to tackle."

Diplomacy At Work (NYT)

The New York Times, September 20, 2005

For years now, foreign policy insiders have pointed to North Korea as the ultimate nightmare, the ongoing worst-case scenario for an international crisis: a closed, hostile and paranoid dictatorship with an aggressive nuclear weapons program. Very few people could envision a successful outcome. And yet North Korea agreed in principle this week to dismantle its nuclear weapons program, return to the Nuclear Nonproliferation Treaty, abide by the treaty's safeguards and admit international inspectors.

Diplomacy, it seems, does work after all.

The agreement signed yesterday, if all the details can be satisfactorily filled in and then carried out, is a huge win for the United States as well as a fair deal for North Korea. Its achievement became possible when Washington abandoned the confrontational tactics and name-calling associated with its former top antiproliferation official, John Bolton, and gave serious

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negotiation a chance. Secretary of State Condoleezza Rice deserves most of the credit for that switch, which was made with exceptional skill by America's top negotiator at the talks, Assistant Secretary of State Christopher Hill.

The agreement appears to vindicate those who argued all along that North Korea wanted to end its costly diplomatic isolation and ensure the survival of its current regime, and that it was using its nuclear weapons programs as a bargaining chip. Now North Korea must follow through on its commitments. If it does, it should be accepted as a sovereign member of the international community, although no one is obliged to keep silent about its horrific human rights violations.

The biggest winner of all from yesterday's agreement may well be the Nuclear Nonproliferation Treaty itself. If North Korea returns to the treaty, it will bind every country in the world save India, Pakistan and Israel. The Bush administration, which has spent more than four years discounting the importance of international agreements, has rediscovered the safeguards and rewards of peaceful international diplomacy in general and this vital treaty in particular.

North Korea Agrees To Give Up Nuclear Arms (WSJ)

By Gordon Fairclough and Carla Anne Robbins

The Wall Street Journal, September 20, 2005

After three years of threats and stalemate, North Korea pledged to give up its atomic weapons and abandon its existing nuclear programs in exchange for economic aid and security guarantees from the U.S. and its Asian neighbors.

A final deal ending Pyongyang's atomic ambitions is a long way off. Progress will require sweeping concessions from Pyongyang, including intrusive inspections to ensure the dismantling of its facilities. It will also require important concessions from the Bush administration. As part of yesterday's preliminary agreement, the U.S. said it would forswear hostile actions against the North, eventually move toward normalizing relations and "discuss at an appropriate time" Pyongyang's demand for a light-water nuclear reactor.

On Tuesday morning in Asia, North Korea's foreign ministry issued a statement casting doubt on the country's willingness to act soon. A ministry spokesman said the U.S. "should not even dream" Pyongyang will give up its nuclear deterrent before America provides a reactor.

Washington has said before that the only appropriate time to discuss the issue is after the North has dismantled its nuclear programs and rejoined international arms-control agreements. Even then, officials say, there is no guarantee the U.S. would fund a reactor project.

The U.S. commitment to talk about light-water reactors, brokered by the Chinese, salvaged the negotiations. Until now, Washington had argued that the North might try to divert even limited technology to weapons use.

All sides' sincerity will be severely tested. A round of talks scheduled for early November will grapple with contentious questions, including getting Pyongyang to declare the extent of its atomic activities and striking a verification deal.

Notably, yesterday's declaration made no specific mention of the North's alleged uranium-enrichment efforts. Pyongyang insists that its weapons program is solely plutonium-based. The U.S. insists it also has a secret program to manufacture weapons-grade uranium -- and that, too, will have to be dismantled.

U.S. Assistant Secretary of State Christopher Hill, left, shakes hands with North Korean chief negotiator Kim Kye Gwan yesterday, as South Korean Deputy Foreign Minister Song Min Soon, center, looks on.

Diplomats will also have to grapple with the timing of the North's steps versus the rewards it will reap and the intrusiveness of outside verification. A deal could founder on any of those questions.

Even a preliminary agreement is a remarkable turnaround for North Korea, which declared itself a nuclear-armed state earlier this year. A few months ago, U.S. officials were warning the North might test a weapon -- a move they feared could set off proliferation across Asia.

It also marked a shift for the Bush administration, which before the summer rejected nearly all concessions as appeasement. The change can be attributed in good part to Secretary of State Condoleezza Rice, who embraced the diplomatic effort and empowered negotiator Christopher Hill to consider compromises.

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The deal also is an implicit acknowledgment that the U.S. has no real military options -- especially in the midst of the war in Iraq -- and little chance of persuading China and South Korea, the North's main patrons, to impose economic sanctions. The six-party talks also include Japan and Russia.

By demonstrating Washington's diplomatic bona fides, yesterday's agreement could strengthen the U.S.-European push to refer Iran's nuclear program to the United Nations Security Council for possible punishment. Still, Washington hard-liners are likely to remain skeptical. Mr. Bush responded cautiously, telling reporters, "part of the way forward is for the North Koreans to understand we're serious about this and that we expect there to be a verifiable process."

In the joint statement, the North Koreans "committed to abandoning all nuclear weapons and existing nuclear programs" and to return "at an early date" to the Nuclear Nonproliferation Treaty. That would mean a return of U.N. nuclear monitors. But a senior U.S. official said that Washington would insist on a far more intrusive inspection regime.

In return, the U.S., China, Japan, Russia and South Korea said they are willing to provide energy assistance and promote economic cooperation with the North. The U.S. also committed to existing "peacefully" with the North and to "take steps to normalize" relations.

The White House has been extremely critical of the Clinton administration's deal to provide Pyongyang with light-water reactors in exchange for freezing and then dismantling its plutonium-weapons program. U.S. officials were quick to point out the differences in this deal. Ms. Rice insisted even a theoretical discussion would have to await a verified dismantling of the North's entire nuclear program.

In a closing statement, however, the North's top negotiator, Kim Kye Gwan, said light-water reactors were the key to any future dialogue and that Pyongyang shouldn't have to wait.

N. Korea's Reactor Demand Could Be A Deal-Breaker (LAT)

By Barbara Demick, Mark Magnier And Sonni Efron

The Los Angeles Times, September 20, 2005

SEOUL — Less than 24 hours after diplomats announced a breakthrough pact to eliminate nuclear arms in North Korea, the isolated communist state threw cold water on the deal today, saying it would not abandon its weapons program until the United States gives it a light-water nuclear reactor.

North Korea's demand could be a deal breaker. Assistant Secretary of State Christopher Hill, the chief U.S. negotiator at the six-nation nuclear talks, made it clear at the opening of negotiations in Beijing last week that the idea of providing North Korea with a reactor before disarmament would be a "nonstarter."

After four rounds of discussions spanning several years, the U.S., North and South Korea, Japan, Russia and China said Monday that they had agreed on a vaguely worded plan under which North Korea promised to dismantle its nuclear weapons in return for energy assistance, eventual U.S. and Japanese diplomatic recognition and a pledge by Washington that it would not attack the country.

The agreement also said the U.S. and other nations would discuss giving North Korea a light-water reactor for generating electricity, though it skirted the question of when. It said only that the possibility would be considered "at an appropriate time."

But the North Koreans made it clear today that they are in no mood to defer their reward.

In a blunt statement, North Korea's official KCNA news service warned that "the U.S. should not even dream of the issue of [North Korea's] dismantlement of its nuclear deterrent before providing" a light-water reactor, which it called "a physical guarantee for confidence-building."

Should the United States insist on the dismantling of North Korea's atomic weapons before the provision of light-water reactors, the statement said, "there will be no change in the nuclear issue."

Even though difficulties were expected to arise in the coming months as diplomats sought to iron out the details of Monday's pact, the speed with which the Pyongyang regime punctured the celebratory mood was surprising.

Late Monday, State Department spokesman Sean McCormack made a terse statement about the North Korean demand, telling reporters in New York, "This is not the agreement that they signed, and we'll give them some time to reflect."

Japanese Foreign Minister Nobutaka Machimura called North Korea's demand "unacceptable."

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In Washington, experts said that although North Korea's statement did not completely annul what was achieved in Beijing, it would not help the next round of talks, scheduled for November.

"I don't think it blows up the deal. What it does is underline how difficult the process remains," said Robert J. Einhorn, who was a top player in North Korean negotiations with the Clinton administration.

Einhorn pointed out that the document signed in Beijing was only the vaguest statement of shared principles. "This wasn't a big substantive reconciliation. This was an agreement to set aside a disagreement and move ahead with the talks."

Gordon L. Flake, a North Korean specialist at the Mansfield Foundation, dismissed the KCNA statement as "normal North Korean negotiating behavior." He noted that past statements carried by the official news service proved unreliable as indicators of what North Korean leader Kim Jong Il really intended.

North Korea Hedges On Nuclear Deal (WT/AP)

By Jae-soon Chang, Associated Press

The Washington Times, September 20, 2005

SEOUL -- North Korea said today that it would not dismantle its nuclear-weapons program until the United States first provides an atomic energy reactor, casting doubt on its commitment to a breakthrough agreement reached at international arms talks.

The North's Foreign Ministry made the surprise demand a day after it had agreed at six-nation talks in Beijing to give up its arms efforts.

The North insisted during arms talks that began last week in Beijing that it be given a light-water reactor, a type less easily diverted for weapons use, in exchange for abandoning nuclear weapons. The agreement reached at the talks' end yesterday in Beijing -- the first since the negotiations began in August 2003 -- said the six countries in the negotiations will discuss the reactor issue "at an appropriate time."

Both the United States and Japan, members of the six-nation disarmament talks, rejected the North's latest demand.

"This is not the agreement that they signed, and we'll give them some time to reflect," State Department spokesman Sean McCormack said.

Japanese Foreign Minister Nobutaka Machimura called the reactor demand "unacceptable."

The Beijing agreement had called for the North to abandon its arms efforts and accept inspections by the International Atomic Energy Agency (IAEA) in exchange for energy, economic and security aid.

But the North's statement today indicated that it was again raising the light-water reactor (LWR) demand as a prerequisite for disarming, rejoining the nuclear Non-Proliferation Treaty and signing safeguards agreement with the IAEA.

"The U.S. should not even dream of the issue of [North Korea's] dismantlement of its nuclear deterrent before providing LWRs," the North's Foreign Ministry said in a statement carried by the North's official Korean Central News Agency.

U.S. State Department spokesman Adam Ereli had emphasized earlier in Washington that the "appropriate time" for discussing the reactor meant only after the North came into compliance with the other conditions.

During the years of debate over its weapons program, the communist nation has sometimes given confusing or dramatic statements as it publicly maneuvers for negotiating leverage.

The North's latest position is likely to be a major sticking point in talks slated to begin in early November on implementing yesterday's agreement.

The North had demanded during the six-nation talks in Beijing -- involving China, Japan, Russia, the United States and the two Koreas -- that it be allowed to keep a civilian nuclear program for power generation after it disarms.

But the United States strongly opposed the demand, and yesterday's agreement only acknowledged that the North had "stated" its claim to that right.

The administration of President Bush has opposed anything resembling a 1994 U.S.-North Korea agreement, which promised the North two light-water reactors for power. That project stalled amid the current crisis that broke out in late 2002 over the North's resumed nuclear-weapons program.

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The deal reached in Beijing yesterday won both praise and words of caution from Mr. Bush, who questioned whether the communist state would keep its word.

Pyongyang had said it would abandon its nuclear programs and readmit international inspectors in exchange for economic aid, energy subsidies and a promise from Washington that it was not planning to attack the North.

However, the statement of "principles" -- the product of two years of intense negotiating -- had skirted the central issue of North Korea's demand for a civil nuclear program, which Washington opposes.

In Washington, a restrained Mr. Bush called the three-page accord "a formula that we all hope works."

"They have said -- in principle -- that they will abandon their weapons programs," Mr. Bush told reporters after a meeting of his Homeland Security Council. "And what we have said is, 'Great. That's a wonderful step forward.' But now we've got to verify whether that happens."

At the United Nations, U.S. Secretary of State Condoleezza Rice said, "We will have to tackle, I'm sure, quite difficult issues of verification of the dismantlement of the North Korean nuclear-weapons programs and other nuclear programs."

U.S. intelligence agencies still know very little about North Korea's covert uranium-enrichment program. It was the disclosure of the uranium program in October 2002 that triggered the most recent crisis on the Korean Peninsula.

But the Beijing deal was hailed by China and South Korea, both of whom viewed a clash between the United States and North Korea with deep unease.

South Korean President Roh Moo-hyun had called the deal "epoch-making" and "a critical opportunity to resolve the North's nuclear issue."

Assistant Secretary of State for East Asia Christopher Hill, the lead U.S. negotiator at the talks, told reporters in Beijing that any talk of a new North Korean civilian nuclear-energy program would have to wait until IAEA inspectors certified that the old programs were gone.

Until then, he said, talk of a "peaceful" North nuclear program "is really to talk theory rather than facts."

In return, the statement said that the North would be given energy aid and that a "permanent peace regime" for the Korean Peninsula would be discussed "at a separate forum."

L. Gordon Flake, executive director of the Washington-based Mansfield Center for Pacific Affairs, said that although verification would be critical, that the North had promised to abandon even "existing nuclear programs," was a far more sweeping concession than expected.

Diplomacy And Double Talk (LAT)

The Los Angeles Times, September 20, 2005

North Korea has always been one of the sternest tests of the Bush administration's diplomacy, and in the space of 24 hours on Monday it showed why. In the morning the communist state agreed to give up its nuclear program, which the president hailed as "a wonderful first step." But by nightfall Pyongyang seemed to have changed its mind, leaving the administration with a sadly familiar lament: That's not what they told us.

The confusion was not entirely unexpected, given North Korea's history of erratic behavior. And though the Bush administration's handling of North Korea has hardly been a model of diplomacy, the president can claim some vindication for insisting on multilateral talks, instead of agreeing to one-on-one negotiations.

The administration and Pyongyang have been engaged in talks for nearly three years, and the latest round of negotiations, like the rest, included four other nations with an interest in peace and stability in the region: China, South Korea, Japan and Russia. Under a pact agreed to on Monday morning, North Korea basically agreed to end its nuclear weapons programs in exchange for economic and energy assistance. Then, on Monday night, Pyongyang said "there would be no change in the nuclear issue" — meaning it would not dismantle its programs — unless the U.S. provided it with a light-water reactor. The U.S. and Japan have rightly opposed that demand, saying that North Korea cannot be trusted to use nuclear material for peaceful purposes. The morning agreement avoided the question by saying it would be discussed "at an appropriate time."

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Both the U.S. and North Korea have had their moments of intransigence in this process, but Pyongyang has been more reliably unreasonable. That is why the Bush administration wanted to involve other nations in the talks; not only would they expose Pyongyang's paranoia to a wider audience, they would make it harder for North Korea to deny any agreement it did make.

Reaction to North Korea's pronouncement proved the value of the arrangement. Japan and South Korea both said North Korea should honor its morning commitments, as did U.S. diplomats. The evening's developments put more pressure on China to keep North Korea in line. It was the Chinese who kept both the U.S. and Pyongyang involved in the negotiations when they faltered.

Even its most ardent supporters freely acknowledged that Monday morning's agreement was more a statement of principles than a set of goals; the difficult work of applying those principles would begin at the talks in November. Those talks just got harder. But the value of the agreement is that at least the principles are now clear.

'Wonderful Step' In Korea? (USAT)

USA Today, September 20, 2005

North Korea's dictator, Kim Jong Il, well deserves his caricature image as an erratic crackpot bent on developing nuclear weapons. So when, on Monday, North Korea agreed to abandon its nuclear weapons and programs, and to let inspectors from the United Nation's nuclear agency return, skepticism was in order.

Has Kim changed?

Unlikely. This first tangible progress in over two years of six-party talks was thanks to the more flexible diplomacy of President Bush's second term. That diplomacy marks a departure from the confrontational stance of the first term, when Bush branded North Korea — along with Iran and Iraq — as part of an axis of evil.

Not knowing what is going on inside North Korea, at a time when one of the world's biggest challenges is to prevent terrorists from obtaining weapons of mass destruction, is dangerous. A pre-emptive military attack on North Korea is unwise and unrealistic.

That leaves diplomacy. The risk of the latest agreement, of course, is that it will send a message to North Korea — and to Iran — that bad behavior is, eventually, rewarded. But there is ample reason to take that risk.

The agreement is an example of classic diplomacy that gets matters started by putting off the most difficult issues and producing concessions on both sides. Kim agreed to scrap his nuclear programs for guarantees the United States and its allies will not attack it, and for energy supplies. But the details aren't nailed down.

The real test is whether the administration can now parlay this promise into the real deal, beginning at November talks. Bush called Monday's agreement "a wonderful step forward," but one that must be verified.

History isn't encouraging. In 1994, Pyongyang agreed to give up nuclear weapons and let in inspectors in return for energy help. But in 2002, Washington accused it of cheating. Matters spiraled downward. North Korea expelled inspectors and declared it had built nuclear weapons for self-defense.

The trick is to avoid past pitfalls. The United States has partners because of its two-year insistence on including neighbors South Korea, China, Japan and Russia in the talks.

The 1994 agreement was hailed with great optimism. Caution is more in order this time around. But the new agreement, and diplomacy, are better than none.

Progress In Beijing (WSJ)

The Wall Street Journal, September 20, 2005

President Bush responded cautiously to North Korea's promise yesterday to give up nuclear weapons. "That's a wonderful step forward," he said, "But now we've got to verify whether or not that happens."

That's for sure. But if it does happen, it will be a triumph for U.S. policy, removing a nasty threat to the security of the U.S. and its allies. And this time there is one important reason to believe it could work, past deceptions notwithstanding: China's vital interest in a denuclearized Korean peninsula and continued good relations with the U.S. and Japan.

China has said frequently it opposes Pyongyang's nuclear program, but it has taken its time in responding to U.S. entreaties that it apply muscle to Kim Jong Il, the North Korean dictator. Although China did not feature prominently in yesterday's

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communiqué from the six-party talks in Beijing, there is reason to believe it played the major role in forcing North Korea to foreswear nukes. That would vindicate Mr. Bush's insistence on six-party talks as opposed to bilateral negotiations with the North.

In yesterday's agreement, Pyongyang "commits" to giving up its nuclear weapons program, and the U.S. expresses "respect" for Pyongyang's desire to pursue peaceful nuclear energy. The agreement leaves many important details to be worked out later. But it suggests that the signatories have more effective methods in mind for verifying compliance than relying on the International Atomic Energy Agency, which North Korea has duped in the past. China could demonstrate its sincerity by taking a major role in verification.

Yesterday's breakthrough came just a week after Mr. Bush met Chinese President Hu Jintao in New York. The U.S. has also been telling China that it could no longer tolerate the status quo and would have to start squeezing Pyongyang harder. Last week the U.S. moved against a Macau bank, Banco Delta Asia Ltd., for laundering money for North Korea, causing a bank run. We'd also note that North Korea's promise to cooperate came one week after the re-election of Japanese Prime Minister Junichiro Koizumi, who has promised a more assertive foreign policy.

China does not want Japan to become a nuclear power, which would certainly happen if North Korea kept its nukes. Beijing's leaders also have a powerful strategic interest in continued good economic relations with the U.S. and Japan, whose investment and trade have helped fuel China's rapid economic growth. While Beijing didn't want to be seen throwing an ally over the side -- and thus didn't want to sign on to an agenda of regime change in Pyongyang -- it also doesn't want a break with the U.S.

Beijing's involvement was a key component missing from the Agreed Framework that the Clinton Administration struck with Kim Jong Il in 1994. North Korea's word by itself is worthless; it has made promises hand on heart in the past and has broken nearly every one, most recently when it kicked out U.N. inspectors and withdrew from the Nuclear Nonproliferation Treaty. China is either taking on the implicit role of inspector here or this agreement will also be impossible to verify. But if China is doing so, however quietly, it will be a major victory in the battle against WMD proliferation.

The six-party negotiators will take up the many items still to be resolved later in November. One key issue is North Korea's insistence that it has "the right to peaceful uses of nuclear energy," as yesterday's statement put it. The five other parties "expressed their respect and agreed to discuss at an appropriate time the subject of the provision of light-water reactor to the DPRK." But it looks as if that help will come only at the end of process, after the North has given up its program and (we assume) its plutonium.

The chief U.S. negotiator at the talks, Assistant Secretary of State Christopher Hill, yesterday urged North Korea to close its main nuclear facility at Yongbyon, where it has boasted of producing warheads with plutonium. "What is the purpose of operating it at this point?" he said. "The time to shut it off would be about now." The North never did shut down Yongbyon as part of the 1994 Agreed Framework. Japan's chief envoy, Kenichiro Sasae, added that Pyongyang would have to fulfill all its pledges before the light-water issue was discussed.

No doubt some will describe this agreement as a triumph of diplomacy alone. But it would never have happened if Mr. Bush hadn't been willing to resist those -- John Kerry, Colin Powell -- who urged that the U.S. deal with the North one-on-one. And it wouldn't have happened without the U.S. willingness to squeeze the North out of its smuggling and proliferation money.

As a former U.S. President liked to say, "trust but verify." In this case, we are trusting that China will help verify that North Korea is fulfilling its pledges. If that's what plays out in coming months, Pyongyang could join Iraq, Pakistan's A.Q. Khan network and Libya on the list of anti-proliferation successes.

Accord With North Korea (WP)

The Washington Post, September 20, 2005

On its face, the multinational agreement on North Korea's weapons program announced yesterday is a surprising piece of good news. For the first time, Pyongyang's brutal communist dictatorship formally agreed to "abandoning all nuclear weapons and existing nuclear programs," and said it would return "at an early date" to the nuclear Non-Proliferation Treaty and its accompanying international safeguards. In return, the United States agreed to take steps to normalize relations with the North and, together with South Korea, Japan, Russia and China, provide it with aid -- including at some "appropriate time" a new light-

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water reactor for generating electricity. Fulfillment by the North of its commitment would mean an extraordinary breakthrough after more than a decade of failed efforts by the United States to contain one of the world's most serious proliferation threats.

The risk, however, is also considerable: If North Korea's new promise is not a serious one, the agreement will only forestall more concerted outside pressure on the odious regime of Kim Jong Il, while sustaining and enhancing the lifeline of food and energy it receives from its neighbors. History suggests that it is that outcome, rather than genuine nuclear disarmament, that the North is betting on. In 1994, after reaching a similar deal with the Clinton administration, it froze activity at one nuclear complex but secretly launched a program to develop a bomb by other means. It was eight years before the Bush administration discovered the deceit and suspended the "agreed framework."

To comply with its latest pledge, the Kim regime would have to reveal and disassemble the unknown number of nuclear weapons that, by its own account, it possesses. It would have to dismantle both the Yongbyon reactor, which produces plutonium, and hidden uranium-enrichment facilities. But it hasn't yet admitted the existence of the uranium plants, and it's hard to conceive of an inspections process that could fully verify the disarmament of a totalitarian state that holds untold thousands of its citizens in concentration camps, earns much of its foreign income from counterfeiting and drug trafficking, and prohibits foreigners from visiting many parts of the country.

North Korea's agreement to yesterday's statement excuses it from the potential displeasure of China, which brokered the talks and supplies Pyongyang with food and energy. It allows for the continuation of rapidly improving relations with South Korea, including provision by the South of large new supplies of electricity. In accepting Mr. Kim's pledge, the Bush administration avoids looking like the obstacle to progress and keeps the diplomatic focus on the North's disarmament. For the first time in 4 1/2 years, the administration appears to be pursuing a coherent strategy, instead of veering between confrontation and negotiation amid endless internal debates. Those diplomats and opposition Democrats who have argued strenuously that a workable deal can be struck with Pyongyang will see their theory tested. We hope that it works, but also that Mr. Kim is not given much time to deliver. If he is sincere, a concrete disarmament plan could be agreed on relatively quickly. If he is not, talks that have already lasted more than two years will drag on, to the disadvantage of U.S. and global security.

Arrest Ties Pyongyang To Counterfeit $100 Bills (WT)

By Bill Gertz

The Washington Times, September 20, 2005

North Korea's government is producing high-quality counterfeit $100 bills and is working with criminal groups in China to sell the fake U.S. money internationally, U.S. officials say.

Some details of the production of what federal officials call "supernotes" were disclosed after arrests last month in several U.S. cities of people linked to a major Asian crime ring trafficking in fake money, arms, drugs and cigarettes.

A senior Bush administration official said one of the 10 indictments in the case contains the first disclosure of the North Korean government's role in the counterfeiting.

The indictment identifies Chao Tung Wu, a Taiwanese national in custody on charges of dealing in counterfeit bills.

He told an FBI undercover agent that "the government of a foreign country," identified only as "Country 2," is "making counterfeit U.S. currency which Wu could sell to the" agent.

Mr. Wu has pleaded not guilty to the charges, said his attorney, Debra Opri, who confirmed that federal investigators have determined that the counterfeit currency came from North Korea.

Miss Opri said Mr. Wu has denied the charges and that he was entrapped in an FBI sting. A trial is scheduled to begin Oct. 18.

A spokesman for the U.S. Secret Service, which investigates counterfeit currency violations, declined to comment on the North Korean government's link to the case. He said investigations are proceeding.

Balbina Hwang, a researcher at the Heritage Foundation, says the North Korean government has been making and circulating forged $100 bills for more than a decade.

"They produce some of the best quality supernotes," she says, adding that the North Koreans make $250 million a year from the bills.

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The British Broadcasting Corp. reported last year that North Korea is producing supernotes with a high-quality printing press known as Intaglio, similar to presses used by the United States to print its currency. The BBC said it learned of the North Korean role from a defector from Pyongyang.

The counterfeiting profits support the North Korean government's drug trafficking, money laundering and gambling, Miss Hwang says. On a strategic level, the North Koreans think that circulating supernotes will help destabilize Western economies, she says, noting that the U.S. Treasury redesigned the $100 bill in part because of North Korean counterfeiting.

China is linked to the counterfeiting by North Korean use of Chinese territory and criminal gangs, she says. The Beijing government is probably aware of the official role in North Korean counterfeiting and is not doing enough to stop it.

According to the indictment, Mr. Wu told an undercover FBI agent posing as a buyer of fake bills that he could provide $1 million in high-quality counterfeit $100 bills and arranged for the agent to telegraph a payment of $25,000 to another man, who has been charged in the case in a third country.

Mr. Wu provided the undercover agent with samples of the forged currency that he said were sent through "Country 1." A senior U.S. official identified "Country 1" as China. Fifteen sample supernotes were dispatched by Federal Express courier, along with a computer chip containing a photograph of the supernotes waiting to be sent from China. On May 5, 6,998 of the supernotes were sent in a shipping container to Long Beach, Calif., and then to the FBI agent in Pomona, Calif.

The indictment states that Mr. Wu told the agent that he gave $30,000 in supernotes to a client who took them to South America. Mr. Wu then told the agent that he was returning to China to get additional forged currency.

Meanwhile, the Bush administration last week designated the Banco Delta Asia SARL in Macau, a Chinese territory, as a "primary money-laundering concern" for its role in helping North Koreans distribute counterfeit currency and engage in illegal activities. The Treasury Department ordered the bank to be cut off from all U.S. financial transactions as a result.

A U.S. electronic intercept from late May 1997 revealed that Sean Garland, president of the Dublin-based Workers' Party, a communist political party, met Cao Xiaobing, a senior member of the International Liaison Department, Beijing's official office for supporting foreign communist parties.

The intelligence report, marked "top secret," stated that Mr. Garland was the managing director of GKG Comms International Ltd., a Dublin company, and noted that Miss Cao and the Irish communist functionary discussed "unidentified business opportunities." The report said, "Garland is suspected of being involved with counterfeiting U.S. currency, specifically, the supernote, a high-quality counterfeit $100 bill."

U.N. Nuclear Inspector Calls For Talks On Iran (USAT)

USA Today, September 20, 2005

The United Nations' chief nuclear inspector, Mohamed ElBaradei, said Monday that talks should replace international confrontation over Iran's nuclear activities. Negotiations proved their worth in getting North Korea to renounce its nuclear arms program, ElBaradei said.

U.S. and European diplomats resumed efforts to have Iran brought before the U.N. Security Council for sanctions, even as Russia called for a delay. The diplomats are drawing up a draft resolution to be voted on this week by the 35 nations on the board of the International Atomic Energy Agency. European Union diplomats and a U.S. official — who spoke to the Associated Press on condition of anonymity, citing the sensitive nature of the negotiations — said China also remained opposed to referral. They said the West would probably force a vote. Secretary of State Condoleezza Rice said she expects the Security Council to take up the matter “at some point in time.”

Tehran says its nuclear program is for production of electricity, not nuclear weapons. ElBaradei criticized both Tehran's intransigence and U.S.-European calls for Security Council involvement as examples of “confrontations and political brinkmanship.”

Al-Qaeda claims responsibility for attacks

Al-Qaeda deputy Ayman al-Zawahiri said his network carried out the London bombings July 7. The televised statement was the group's first direct claim of responsibility for the attacks that killed 56 people, including the four bombers.

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"The blessed London attack was one which al-Qaeda was honored to launch against the British Crusaders' arrogance and against the American Crusader aggression on the Islamic nation for 100 years," Zawahiri, who is in hiding, said in a videotape aired on the Arabic satellite network Al-Jazeera.

Trial opens in Jordan for accused militants

Seven suspected militants accused of recruiting jihadists to fight U.S. forces in Iraq pleaded not guilty at the opening of their trial in Amman, Jordan.

The defendants, mostly Jordanians of Palestinian origin ages 23 to 33, were detained in March and May and have been charged with plotting to undermine relations with Iraq by enlisting and dispatching at least six militants there. It was unclear whether the defendants had links to Abu-Musab al-Zarqawi, the Jordanian-born leader of al-Qaeda in Iraq, which is responsible for scores of bombings, beheadings and kidnappings.

Flight attendants to stage strike in Italy

As many as 600 Alitalia flight attendants could join a one-day strike today in Italy. A 24-hour nationwide mass-transit strike set for Wednesday was called off after agreement was reached on sick pay for bus, tram and subway drivers. Alitalia said no flights to or from Milan, Rome or Naples would be canceled.

Taiwan Slammed On Lax Defense (WT)

By Bill Gertz

The Washington Times, September 20, 2005

A senior Pentagon official yesterday sharply criticized Taiwan's government for not moving ahead with an arms buildup to counter a mounting threat from China.

Edward Ross, a senior Pentagon security cooperation official, also suggested in a speech that the United States might not defend Taiwan in a conflict with China unless Taipei does more to boost its defenses and national will.

"As the lone superpower, our interests are plentiful and our attention short," Mr. Ross said. "We cannot help defend you if you cannot defend yourself."

With U.S. troops fighting and dying in Iraq and Afghanistan, "an increasing number of Americans are asking hard questions about how much we are willing to sacrifice -- for the security and democracy of others," Mr. Ross said.

The blunt speech, a copy of which was obtained by The Washington Times, was given at the annual U.S.-Taiwan Business Council-Defense Industry meeting in San Diego. Attendees included Huo Shou-yeh, Taiwan's vice defense minister, and other officials from the island, which is also known as the Republic of China.

Defense officials said the speech was aimed at pressing Taiwan's government to pass a proposed $15 billion special defense budget, which is stalled in the legislature by political differences.

The Bush administration in 2001 approved the sale to Taiwan of eight diesel electric submarines, 12 P-3C anti-submarine aircraft, along with 54 torpedoes, 44 Harpoon submarine-launched anti-ship missiles and additional arms.

The administration also wants Taiwan to purchase Patriot anti-missile systems to counter the more than 750 short-range Chinese missiles deployed within range of the island.

Mr. Ross said China has calculated that U.S. forces will assist Taiwan in any conflict and, as a result, is purchasing more submarines and anti-ship missiles.

The Pentagon is watching both China's military buildup and Taiwan's political stalemate over the defense budget and is making its own calculations, he said.

"We do not live in a world of absolutes," he said. "And the time of reckoning is upon us. In the end, the U.S. ability to contribute to Taiwan's defense in a crisis is going to be measured against Taiwan's ability to resist, defend and survive based on it own capabilities."

He called on Taiwan to unite and invest in a defense-modernization program that will protect its democracy and deter Chinese "aggression" across the Taiwan Strait.

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"It is time that the people of Taiwan and their elected officials understand that when it comes to defense, they, and not the United States nor any third party, are in the first instance accountable," said Mr. Ross, a director in the Pentagon's Defense Security Cooperation Agency.

Defense officials said differences within the Bush administration over Taiwan have added to the Taiwan defense problem.

Pro-China officials in the Bush administration have sent mixed signals to Taiwan's government about the need to boost defenses. As a result, Taiwan's government has been confused about the U.S. position.

China Terse About Action On Abuses Of One-Child Policy (WP)

By Philip P. Pan

The Washington Post, September 20, 2005

BEIJING, Sept. 19 -- China said Monday that it has dismissed and detained officials in the eastern city of Linyi for abuses committed while enforcing the country's one-child policy. But the government provided no details and said nothing about the arrest this month of an activist who had campaigned against the use of forced abortion and sterilization there.

The cabinet-level ministry responsible for managing population growth in China said in a statement that a preliminary investigation confirmed allegations that "some persons in a few counties and townships of Linyi" violated the law and the rights of local residents "while conducting family planning work.

"Currently, the responsible persons have been removed from their posts," the statement said. "Some of them are being investigated for liabilities and some have been detained."

The statement did not identify the officials or their crimes. Authorities in Linyi declined to answer questions when reached by telephone.

Jiang Tianyong, a lawyer involved in a class-action lawsuit against the Linyi officials, cast doubt on the government's statement and accused local authorities of continuing to hold Chen Guangcheng, the activist leading the lawsuit, under house arrest without due process.

Jiang said the government may have disciplined a few low-level officials but appeared to have refrained from punishing the local party leaders who ordered Chen's arrest and the population-control crackdown.

Chen, 34, had been collecting evidence that Linyi officials were requiring parents with two children to be sterilized and forcing women pregnant with a third child to have abortions. Chen, who is blind, was detained Sept. 6 in Beijing, taken back to Linyi and placed under house arrest. It is unclear if he has been charged with a crime, though police have threatened to prosecute him for "providing intelligence to foreign countries," apparently a reference to interviews he has given to The Washington Post, Time magazine and other foreign media organizations.

Last week, local police also detained two residents who helped Chen organize the lawsuit: his nephew, Chen Hua, 27, and Han Yandong, 35, a neighbor. University officials in Beijing have also threatened to fire Teng Biao, a prominent legal scholar involved in the case.

Local authorities have cut Chen's phone service, but sympathetic villagers helped him escape briefly last Wednesday. In a hurried phone interview, he accused police of roughing up his wife, and he appealed to the central government for help. But he expressed misgivings about the government's probe of his allegations, noting that investigators had not bothered to speak with him.

US Having A Hard Time Finding Allies For UN Reform (CSM)

By Tom Regan

The Christian Science Monitor, September 20, 2005

After a week when most of the reforms it wanted to see initiated at the United Nations were stymied or watered down, The Sunday Times of London reports that the United States wants to "come out blazing" on Monday and push for change. But it faces a new geopolitical world as it attempts to do this, according to a New York Times analysis; one where countries will ally with you on one issue, while at the same time strongly opposing you on other issues. What Bush faced from the well of the United Nations on Wednesday morning was a strange new geopolitical world, in which your allies on one issue are ganging up on you in the next room. When Bush started coalition-building after the Sept. 11, 2001, attacks, he expected the United States to be the

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linchpin. But now, post-Iraq, the president is increasingly facing what might be called coalitions of the unwilling, pursuing their own interests or pushing back US goals around the world, issue by issue.

Some of the new geopolitical partnerships that have stood in the way of US goals include India, China and Pakistan on the issue of referring Iran and its nuclear program to the UN Security Council; South Korea and China working together against the US and Japan on North Korea; and Russia and Europe on three key US issues - the Middle East, the war in Iraq, and global warming.

Meanwhile, many UN delegates said the US has not one to blame but itself for the lack of UN reform. The The Sunday Times reports that many blame US Ambassador John Bolton for demanding more than 400 changes to the reform plan at the last second, a demand that threw the whole process into question. And The Observer reports that senior diplomats say it was the US who "deliberately" derailed an attempt to craft an agreement to prevent terrorists from obtaining "weapons of mass destruction." Officials involved in the negotiations have confirmed that the Bush administration's refusal to countenance any form of disarmament blocked attempts to push measures that would prevent regimes seeking to develop a nuclear capability. It contradicts reports last week that the US had in fact been furious that plans to crack down on nuclear proliferation were stripped out of the final UN document.

However, diplomats speaking on condition of anonymity have revealed it was in fact President Bush who scuppered what the UN believed was a crucial move in helping make the world safer from the risk of terrorists obtaining a nuclear threat. Mr. Bolton, meanwhile, says he is ready to "make himself unpopular" in order to push some of the reform goals that the US would like to see in place. Of particular concern to the Americans is the UN Commission on Human Rights. United Press International reports that President Bush would like to see the commission disbanded and replaced with a smaller body "in which only countries with a good human rights record would be eligible for membership." The US is furious that countries with abusive human rights records could sit on the human rights commission and block condemnation of their actions. The New York Times reports that Bolton, despite charges that he helped undo the reform process, has won some respect for his knowledge, diligence, and negotiations during his short time at the UN. "People were very cautious, to say the least, because of his reputation as a tough guy who didn't like the UN" said Abdallah Baali, the ambassador of Algeria, who said he knew Bolton from working with him in Africa. "In fact, I was the only one who said that Bolton was an intelligent man who could be creative and constructive and wouldn't go around bullying delegations." But even while admiring his abilities, observers say that his focus on "what the United States would never accept" has "encouraged more active opposition to US positions." John Ruggie, a professor of international relations at Harvard and a former undersecretary general for planning, said he thought Bolton's approach had emboldened opponents of American priorities, like reforming the UN management structure to give more power and flexibility to the secretary-general.

"After Bolton's bombshell [the last minute request for 400 changes], they were able to make the case that this is why we have to stand firm, because if we give great discretionary authority to the secretary-general, there is a danger that the Americans will roll over him, and behind him always stands the Congress willing to withhold funding," he said. The US will get to see this week if it can still form the needed coalitions to push through its agenda, as the International Atomic Engergy Agency (IAEA) takes up the issue of Iran's nuclear program. Reuters reports that the US and Europe, who are working together on the Iranian issue, face "fierce resistance," with more than half a dozen of the 35 countries that make up the IAEA's board saying that "there is no cause for a referral" of Iran to the UN Security Council."

Sunday Iran's president declared at the UN that nuclear power was an "inalienable right" for Iran and accused the West of practicing "nuclear apartheid" by depriving it of nuclear know-how."

The U.N. Must Look For A New Secretary-General (WSJ)

By Norm Coleman

The Wall Street Journal, September 20, 2005

Last week, world leaders met for what Kofi Annan described as a "once-in-a-generation opportunity to take bold decisions in the areas of development, security, human rights and reform of the United Nations." But a reading of the "outcome document"

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world leaders are signing shows it to be yet another missed opportunity for U.N. reform. John Bolton pushed hard to improve the document and succeeded in modifying its most objectionable clauses. But what remains falls far short of "bold."

The document, for instance, calls for a Human Rights Council to replace the thoroughly discredited Human Rights Commission. But negotiators could not agree on the criteria for participation, leaving open the possibility that this new organ will be more of the same. In the same way, the document does not adequately address critical issues such as establishing a code of ethics, implementing sunset provisions on redundant U.N. programs or a staff buyout to eliminate the deadwood that pervades the personnel system; instead, it merely asks for a report by the secretary-general. And it leaves out entirely essential components of U.N. reform like the installation of a chief operating officer and an independent auditing board.

Instead, we have a document that advocates the implementation of the Mauritius Strategy for small island states, the Almaty Program of Action for landlocked developing countries, the Declaration and Program of Action on a Culture of Peace, and the Global Agenda for Dialogue Among Civilizations. The document, in fact, is structured around such delusions. The first half -- a full 18 pages -- is devoted to amorphous platitudes about development. The superficial treatment of reform is buried at the end. It strains credulity for an organization wracked by corruption and mismanagement to broaden the scope of its mandate when it is supposed to be engaged in self-critique. The U.N. needs to clean house, address its shortcomings and restore its ability to function efficiently and honestly before moving forward.

The problem is not a lack of awareness about the need for reform. The U.N.'s most ardent supporters and even the secretary-general himself publicly acknowledge its urgency. Of course, this is undeniable in light of the widespread abuses and scandals in activities ranging from humanitarian programs to peacekeeping. The report released by Paul Volcker's Independent Inquiry Committee, exposing the corruption in the Oil For Food program and harshly criticizing the performance of the U.N. Secretariat, only provides the latest evidence.

The problem cannot be attributed to a shortage of reform ideas. To his credit, the secretary-general commissioned a high-level panel to put together a U.N. reform proposal earlier this year. Newt Gingrich and George Mitchell produced an excellent consensus document on U.N. reform. So why is the U.N. unable to reform itself? Fundamental flaws in the structure and membership of the organization make not only management reform, but also the mission of the entire organization, highly dubious.

• First, the U.N. is dominated by countries that do not have a vested financial interest in efficient organization. Just eight countries pay almost 75% of the budget. The U.S. alone contributes 22%. Common sense dictates that those who "have skin in the game," who have invested literally billions, have a greater interest in seeing their funds spent properly than those who do not make the same commitment.

• Second, the U.N. has become a jobs program for many countries. Hiring is steeped in patronage and nepotism. This partially explains the waste that pervades U.N. operations, and means that reform that might result in a leaner organization is going to be opposed from the outset. Reforms designed to curtail corruption will face a similarly uphill battle.

• Third, there is the power of regional blocs. These shut out Israel from full membership, yet accord human rights violators such as Cuba, Zimbabwe and Sudan membership on the Human Rights Commission.

• Finally, the General Assembly offers countries that have little influence outside the U.N. a rare opportunity to run the show, as it accords the same rights and privileges to dictatorships as it does democracies. In the Assembly, which will be responsible for turning summit pledges into real action, countries such as Myanmar have the same voting power as the U.S. The taste of power otherwise marginal states get has translated into an unwillingness to delegate sufficient administrative powers to the secretary-general, who ultimately must be afforded the authority to enact U.N. reform.

* * *

If the U.N. is to genuinely reform itself, it needs visionary and credible leadership. Mr. Annan, whose management failures are unambiguous, is simply too weak to muscle through an effective reform package. We should begin looking for new leadership now.

U.N. reform carries a price tag. Those who care about the U.N. can put their money where their mouths are. Mr. Annan has proposed a buyout of some of the U.N.'s entrenched bureaucracy to make way for a new cadre of the world's best and brightest. I

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would challenge U.N.-supporters with deep pockets, such as George Soros and Ted Turner, to make an investment in reform by helping to reinvigorate the U.N. staff.

The good news is that this summit is not the end of the reform process. There is still opportunity to create a credible human rights body, to achieve transparency, and to develop meaningful oversight of operations. But it is still highly questionable whether this will come to fruition.

And if it does not? Too much of the debate in Congress is focused on whether failure to achieve reform should result in automatic or discretionary withholding of dues. The reality is that this failure may undermine Congress' willingness to appropriate any funding to the U.N. Dollars can easily be targeted to other international organizations dedicated to humanitarian and security efforts -- NATO, the OAS, the WHO, the Global Fund, or the Red Cross. President Bush put it best during his speech to the General Assembly: "If member countries want the United Nations to be respected . . . they should begin by making sure it is worthy of respect."

Sen. Coleman is chairman of the Senate Permanent Subcommittee on Investigations and a member of the Senate Foreign Relations Committee.

Germany In Limbo As 2 Stake Claim To Chancellorship (USAT)

By Noelle Knox

USA Today, September 20, 2005

BERLIN — "Chancellor War!" screamed the headline in Bild, Germany's largest tabloid newspaper, on Monday. "Who will govern Germany now?"

The answer is still days, if not weeks, away. Incumbent Chancellor Gerhard Schroeder and his opponent, Angela Merkel, both claimed victory in Sunday's parliamentary elections. Their competing claims put Germany in a political deadlock and could stall efforts to revive the torpid economy.

"An unstable government and a perpetual election campaign with an uncertain outcome is the last thing our country needs," said Hermann Franzen, the head of HDE, a retail trade association.

Merkel's party, the Christian Democratic Union, won 35.2% of the vote in Sunday's elections, compared with 34.3% for Schroeder's Social Democratic Party.

Neither side had the necessary majority in the parliament to form a government. Merkel and Schroeder scrambled to form alliances with other political parties that would put them in control.

Party leaders said they would start negotiations this week. Traditionally, Merkel's Christian Democrats have linked with the Free Democrats. Schroeder's Social Democrats have allied with the Greens. Merkel and Schroeder are trying to woo each other's ally.

A majority coalition must be in place by Oct. 18. The parliament has three chances to choose a chancellor. If it fails, President Horst Koehler can appoint a minority government or call new elections.

Merkel, a former physicist from East Germany, had held a double-digit advantage over Schroeder for months. The main editorial in the daily Sueddeutsche Zeitung called her "the woman who thought she had it all in her hands, but let it fall through her fingers."

Merkel's agenda of changes scared off many of the 5 million unemployed Germans or those worried about losing their jobs. The German economy grew 1.6% last year after two years of almost no growth.

If Merkel and Schroeder join in a "grand coalition," the resulting government would probably be too divided to push through changes to improve economic conditions. On Monday, each side said it would consider an alliance only if its candidate became chancellor.

Until the chancellor is named, little is expected to change in U.S.-German relations, which soured when Schroeder opposed the U.S.-led war in Iraq, said Jan-Friedrich Kallmorgen, founder of the Atlantic Initiative, a think tank in Berlin. If Merkel wins, "She would foster very close political and military ties with the U.S.," he said. However, Merkel said she would not send German soldiers to Iraq.

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The indecision weighed on financial markets. Germany's DAX stock index fell 1.2% at the close of trading Monday, and the euro dipped against the U.S. dollar.

"Whatever the color of Germany's new government will ultimately be, the pace of structural reforms is likely to be slow," Bank of America economist Holger Schmieding said.

After German Election, Deadlock Hardens (NYT)

By Richard Bernstein And Judy Dempsey

The New York Times, September 20, 2005

BERLIN, Sept. 19 - The stalemate in German politics deepened Monday, the day after an inconclusive national election result, as key party leaders rejected some of the coalition solutions that might otherwise lead to the formation of a new government and the selection of a chancellor.

Most important, the chairman of the Social Democratic Party, Franz Müntefering, confirmed that Chancellor Gerhard Schröder would refuse to enter into any coalition with the main opposition party that did not choose Mr. Schröder himself as chancellor.

This, for the moment at least, seemed to rule out a "grand coalition" between Mr. Schröder's Social Democrats and the Christian Democratic Union, the party of Mr. Schröder's main rival as chancellor, Angela Merkel. That option had been deemed the most likely outcome in the event that no party won a majority.

In that scenario, Mrs. Merkel, as leader of the party with the biggest bloc of seats in Parliament, would then become chancellor, while Mr. Schröder would step down. But both Mr. Schröder and Mr. Müntefering have ruled that out.

For her part on Monday, Mrs. Merkel said at a news conference that she had opened negotiations with other parties in an effort to form a coalition that would command a parliamentary majority.

Her first talks were with the leaders of her party's traditional coalition partner, the Free Democratic Party, even though the election left the two parties combined about a dozen seats short of a majority. That means that Mrs. Merkel still needs to find support from another party, and it was unclear where that support would come from.

One possibility was the Green Party, which is now Mr. Schröder's coalition partner. And Christian Democratic officials said Monday that talks would be held with the Greens.

"We need to speak to the Greens and the F.D.P. in the next few days," said Dieter Althaus, a Christian Democrat who is prime minister of the state of Thuringia. "What we need is the largest possible consensus. We have our own agenda. We need to conduct open talks."

The chairman of the Greens, Reinhard Bütikofer, did not rule out an agreement.

"It's the turn of the C.D.U.," he said. "They should say what they've got to say."

But the best-known Green politician, Foreign Minister Joschka Fischer, when asked at a news conference if he would be willing to serve in a government headed by Mrs. Merkel, said, "Mrs. Merkel will not be chancellor." He did not elaborate on his reasons for that statement.

But by Monday, Mrs. Merkel's grip on the chancellorship did seem to be slipping, even in her own party. The Christian Democrats had not expected the poor showing on Sunday, and historically they have not tolerated failed candidates.

When she stepped onto the podium in the headquarters of the Christian Democrats, she received mild applause from staff members who had remained after late-night drinking and dining.

During past regular Monday meetings of the party's presidium, senior Christian Democratic party leaders always lingered in corridors, waiting to mix with the journalists. There were always a few premiers from the states outside Berlin who would stand not too far from the podium, as if to show support for Mrs. Merkel.

But not on this Monday. As soon as the presidium was over, the black Mercedes that had brought the state premiers to Berlin disappeared into the warm September sun.

Mrs. Merkel was left to field questions, flanked only by the spokesman for the Christian Democrats. Volker Kauder, the party's secretary general, was the only senior party official in sight.

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According to Germany's Basic Law, the newly elected Parliament has 30 days to hold its first meeting, at which presumably it would elect a chancellor. Theoretically, the main candidate is nominated by the president of the Federal Republic, but customarily the president chooses the person who has already been able to get majority support through negotiations with other parties.

Parliament then votes on the candidate. If the candidate fails to win a majority, there must be a second vote. If that vote also turns up no majority, then the president can essentially select a minority candidate to be chancellor, or he can dissolve Parliament and call for new elections.

But there has never been a case in postwar German history where it came to a third vote in Parliament.

Until Parliament chooses a chancellor, or is dissolved by the president, the former government continues in power, meaning in this instance, Mr. Schröder and his partners in the Green Party.

Even for political experts, it was difficult to predict how events might unfold from here.

"It's a power game going on right now," said Peter Lösche, a professor of political science at Göttingen University. "You don't know who's bluffing and who means what they say seriously. But sometimes strange bedfellows wake up in the morning and find themselves in a coalition."

Meanwhile, a great deal of speculation was being devoted to Mr. Schröder's aim in insisting on remaining chancellor in a coalition with the Christian Democrats, even though his party trailed in the vote.

"Yesterday, he was incredible," said Klaus von Beyme, a political science professor at Heidelberg University. He was referring to a television appearance Mr. Schröder made with Mrs. Merkel and other leaders in which he first voiced his insistence that he remain as chancellor.

One interpretation of Mr. Schröder's actions is that he is aiming ultimately at a compromise in which both he and Mrs. Merkel would step down, leaving the way for a compromise chancellor, presumably a Christian Democrat.

"I can imagine a deal in which Schröder has to withdraw and, maybe in exchange for that, the Social Democrats ask the C.D.U. to give up Merkel," Mr. Beyme said.

"The Bavarians are ready to accept such a deal," he continued, referring to the leaders of the Christian Democratic Union's sister party in Bavaria, the Christian Social Union. "And some of the C.D.U. prime ministers of the states would also accept such a deal, because they are not loyal to Merkel, who committed too many blunders and has no charisma. And normally in the C.D.U., there is a rule that somebody who fails has to leave."

Who Will Take Germany's Top Office? (CSM)

By Andreas Tzortzis

The Christian Science Monitor, September 20, 2005

BERLIN - Europe's largest economy is momentarily rudderless as both incumbent Chancellor Gerhard Schröder and his challenger Angela Merkel claimed Germany's top office the morning after one of the biggest election surprises in the country's recent history.

The unexpected subpar performance of Ms. Merkel's Christian Democratic Union and its sister party, the Christian Social Union, in Sunday's election gave Mr. Schröder an outside shot at staying in office after reform-shy German voters refused to give either of the major parties a clear mandate. "I'm very pessimistic about the prospect for wholesale economic reform," says Karen Donfried, senior director of the German Marshall Fund in Washington. "It's very clear that's not what Germans want."

The conservative Union parties are less than one percent ahead of Schroeder's SPD, dooming their plans to form a coalition with the pro-business Free Democrats that aimed to aggressively liberalize Germany's social market economy.

The chancellor, emboldened by the SPD's strong showing in the election's final spurt, declared that he planned to stay on as chancellor, whether at the head of a so-called grand coalition with the CDU/CSU or in another party constellation.

The confusion over who will take over at the helm of Europe's economic motor, has unsettled financial markets and business leaders and surprised European politicians. The German capital was abuzz Monday with the political fallout of a tight race which saw the pro-business Free Democrats claim a surprising 9.9 percent share of the vote, followed tightly by the Left Party, their polar opposites in the reform discussion. The Green Party finished a disappointing fifth.

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Rumors of coalition possibilities, described using the colors assigned to Germany's parties, made the rounds rapidly as both Merkel and Schröder lay claim to the chancellery.

After seven years of rule, voters had had enough of Schröder's coalition with the Green Party, the so-called red-green government. The government's popularity has been at rock bottom after welfare, health, and labor market reforms it introduced in 2003 cut significant benefits but failed to create jobs for the more than 4.7 million out of work.

But voters also weren't ready to hand over the reins to Merkel's conservatives and Free Democrats, who were planning to strip away hiring and firing laws, reduce unemployment benefits, and push through tax cuts for wealthier Germans, all in the hope of kick-starting growth and investment.

"It's a very mixed message from the voters," says Uwe Andersen, political scientist at Ruhr University. "The majority of the population is still not ready to go through with a harder reform course. On the other hand, they know that things can't go any further with the red-green coalition government."

In the coming week, Merkel, whose party still won the largest share of the vote at 35.2 percent, will begin meeting with the Greens and Schröder's SPD to decide how to proceed. The likely coalition outcome remains a so-called grand coalition, which would put the SPD and the CDU together and Merkel as Germany's next chancellor.

But Schröder doesn't see it that way. The Chancellor appeared visibly smug during a television talk show Sunday night, and his party pointed out that the CDU only has more votes than the SPD if the performance of its sister party, Bavaria's CSU is counted. Such logic would indicate that Schröder, not Merkel, should stay on as Chancellor.

Either way, the predicted political infighting has left industry heads and other European leaders doubtful the continent's largest economy is serious about turning its fortunes around any time soon.

"We won't see any steps backwards, but the tempo of reforms will slow," Holger Schmieding, an economist at Bank of America in London told Agence France Presse. "Germany won't be able to tap into its full potential. The economy is improving, it'll simply improve more slowly."

Others were less optimistic. The head of the BDI industry federation, Juergen Thumann called the results "bitterly disappointing." European politicians expressed confidence that Germany's political class would find an appropriate coalition solution, but acknowledged Germans were obviously not ready for drastic change.

"I think the Germans have responded in a way that will certainly not allow a totally liberal [economic] model to be put in place," French Defense Minister Michèle Alliot-Marie told Europe1 radio. And it's unclear how much power Merkel will wield after leading her party to one of its worst federal electoral showings in German postwar history. Political analyst Mathias Micus said the confusion surrounding who will govern the country plays perfectly into the hands of Schröder.

"Times like this need a power player like Schröder," said Mr. Micus, at the University of Mainz. "He is someone who knows how to play with all his cards, who isn't held up by party dogma and who is Machiavellian."

Germany Faces Leadership Standoff (WSJ)

By Marcus Walker and David Crawford

The Wall Street Journal, September 20, 2005

BERLIN -- Germany's deadlocked election threatened to become the country's messiest postwar political crisis, as both the major parties' leaders insisted they should be chancellor, while small parties ruled out other possible coalitions aimed at forming a governing majority.

That likely means nobody can rule Germany at all unless either incumbent Chancellor Gerhard Schröder or challenger Angela Merkel makes a humiliating climb-down. Otherwise, the next most likely outcome could be another election, perhaps months away -- with the danger of another inconclusive result.

As business groups warned that prolonged political uncertainty could hurt investors' and consumers' confidence in the world's third-biggest national economy, a persistent standoff looked more and more likely. A mere 35% of voters backed Mr. Schröder's center-left Social Democrats on Sunday and only 36% supported Ms. Merkel's conservative Christian Democrats, leaving both of Germany's historically dominant parties with too few seats in Parliament to govern with their usual minor-party allies.

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"Never before in Germany has there been no clear way to cobble together a government," said Josef Joffe, publisher of newspaper Die Zeit and one of Germany's top political commentators. "This is not only the worst possible outcome to the election, but the worst election outcome in the history of the Federal Republic."

An election that was widely expected to give Germany a conservative-led government, likely shifting the balance of power in European politics toward freer markets and better trans-Atlantic relations, now threatens to contribute to paralysis in the European Union. Ms. Merkel's failure to win a majority with her program of far-reaching economic overhaul could slow the pace of such restructuring across the Continent.

"Without a dynamic Germany, Europe cannot recover," EU Commission President José Manuel Barroso said yesterday, trying to urge German leaders to reach a speedy agreement and avoid spreading limbo on economic policy.

Desperate to fashion a victory, each major party is trying to woo the other's minor-party coalition partners to form a government. The courtships look likely to fail. Ms. Merkel's ally, the Free Democratic Party, reiterated its refusal to defect to Mr. Schröder. The Green party, Mr. Schröder's governing partner for the past seven years, said it saw little chance of finding common ground with Ms. Merkel's conservatives.

A bipartisan government uniting Germany's two major parties in a "grand coalition" is likely the best bet for forming a majority. Still, it confronts a basic problem: Who would be the boss?

The chancellor typically comes from the party that wins the most seats in Germany's Parliament. Right now, that would mean Ms. Merkel, by a mere three-seat margin. Mr. Schröder argues that far more Germans prefer him to Ms. Merkel, a claim based on personal approval ratings in opinion polls. Social Democrats also made the claim that they were the biggest party in Parliament, by arguing that Ms. Merkel's conservatives are really two parties, a national Christian Democrat organization and a sister party in Bavaria, though they campaign together.

In claiming he won, Mr. Schröder may have overreached. Some in his party began to say yesterday that he would have to swallow his pride and accept that he no longer would be chancellor. Mr. Schröder's bravado Sunday night and yesterday, when he repeatedly proclaimed that only he could lead a stable government, must be seen as an understandable "emotional overreaction" to the election result, said Rolf Stöckel, a Social Democrat member of Parliament.

Pundits had written off Mr. Schröder's chances before the election, but he nearly pulled level with the conservatives. He wanted to "demonstrate that the Social Democrats are not on the defensive" going into negotiations with other parties, Mr. Stöckel said.

Mr. Schröder's fate may hinge on whether Ms. Merkel's conservatives are united enough to insist on his removal from office. His insistence on keeping his job may be a gamble that he can face down Ms. Merkel if support for her within her own party crumbles, after she squandered a huge lead and gave the party one of its worst-ever results. Christian Democrats had widely thought they would win the election outright.

So far, most conservatives are standing firm behind Ms. Merkel. After a meeting of top Christian Democrats in Hanover, senior party official Friedbert Pflüger said Ms. Merkel would become chancellor -- unless Mr. Schröder clings to power through a pact with ex-communists, which Mr. Schröder has denied is an option. To shore up her position, Ms. Merkel is expected to ask a meeting of Christian Democrat members of Parliament today to re-elect her as their chairwoman.

Meantime, the most controversial figure in her campaign resigned: Paul Kirchhof, an academic advocate of flat-rate income taxes. Ms. Merkel had pegged him as her finance minister, a move that won votes for Mr. Schröder amid fear the conservatives planned taxes favoring the rich over the working class.

Many analysts expect a grand coalition to emerge, if only after weeks of haggling. Amid deep differences on major policy areas from labor laws to health care, such a bipartisan administration probably would struggle to overcome Germany's chronic problems of low economic growth and mass unemployment.

"An unstable government and endless fighting is the last thing our country needs to finally get moving," said Hermann Franzen, president of Germany's association of retailers.

The prospect is likely to chill needed foreign investment, as companies look for more stable situations for their funds. "Abroad, and especially in the U.S., the process of building a coalition is difficult to comprehend," said a statement by the American Chamber of Commerce, which represents U.S. businesses that have €110 billion invested in Germany.

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Following the election, the euro sagged 0.7% to $1.21, while Germany's DAX stock-market index fell 1.2% to 4926.13.

Many economists say individual German companies will carry on improving competitiveness even if political parties are immobilized. In the latest example of corporate restructuring, engineering giant Siemens AG announced cost cuts and layoffs at its German units. "German firms are the true reformers, not the government," said Jörg Krämer, chief economist at German bank HVB Group in Munich.

"Germany is becoming like Italy, in a bad and a good sense," Mr. Joffe said. "Any possible coalition government will be unstable, but we no longer need the government to have healthy companies."

Without a deal, the German Parliament could fail to elect any chancellor at all when it meets in late October -- and the head of state, President Horst Köhler, could be forced to dissolve it and trigger another election.

Maneuvering Begins For A New German Government (WP)

By Craig Whitlock

The Washington Post, September 20, 2005

BERLIN, Sept. 19 -- Germany's major political parties both claimed the right on Monday to patch together a new government following inconclusive national elections, but were confronted with the likelihood of weeks of backroom deal-making before anyone is able to take control.

After their respective parties took a beating in Sunday's vote, Chancellor Gerhard Schroeder and his chief rival, Angela Merkel, were losing their sheen as candidates to lead the country. Lawmakers and analysts tossed around various scenarios in which the country's numerous factions could settle on someone else as a compromise.

Merkel, 51, whose Christian Democrats once had a double-digit lead in opinion polls, said she would open talks with other parties -- including Schroeder's Social Democrats -- about assembling a coalition. But she insisted that her party take the lead in forging a new government by virtue of its narrow first-place finish, with about 35 percent of the vote.

"The election campaign is over, the voters have had their say and we are the strongest party in Parliament," she said at a news conference in Berlin, the capital. "We received a clear mandate to govern."

But Schroeder, 61, and the Social Democrats were having little of that. Even though Schroeder's governing coalition was toppled, his party fared better than predicted. It polled about 34 percent, an achievement that the chancellor portrayed as a virtual victory, given how he was forced to call early elections because of widespread dissatisfaction with a weak economy and record high unemployment.

Franz Muentefering, the Social Democrats' party chairman, said Schroeder deserved a third term. "Mrs. Merkel was being cheered as if she were already the chancellor," Muentefering told reporters. "But it's quite clear that this country doesn't want Mrs. Merkel. I do think it is a personal defeat for her."

Analysts said that despite the Social Democrats' posturing, Schroeder had few realistic prospects for remaining in office. But they also said Merkel had wasted a golden opportunity during the campaign and would be hard-pressed to salvage her candidacy.

"The woman who thought she had everything in her hands now feels it all slipping through her fingers," Heribert Prantl, political editor of the influential Sueddeutsche Zeitung newspaper, wrote in a signed editorial. "Seldom has such a presumed victor looked so disgraced."

Constanze Stelzenmueller, director of the Berlin office of the German Marshall Fund of the United States, agreed. "Angela Merkel may very well be a dead woman walking," she said. "My gut instinct tells me Merkel is in a very difficult position, which is why the Social Democrats are grinning so broadly. Right now, everybody is playing chicken."

The message that the electorate delivered on Sunday was a muddled one. Exit polls showed that many voters were tired of the status quo in Germany -- with its high joblessness and flaccid economy -- but were equally skeptical of the solutions offered by either Merkel or Schroeder. The result was the most splintered vote in decades.

For now, Schroeder's ruling coalition of Social Democrats and Greens will remain in charge, but only until a new alliance emerges that can cobble together a majority of the seats in Parliament. The major parties began that work in earnest on Monday.

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Muentefering, for instance, indicated that the Social Democrats would put pressure on the Free Democrats -- an anti-taxation, pro-business party that received about 10 percent of the vote -- to abandon Merkel and join them in a coalition.

The leader of the Free Democrats, Guido Westerwelle, categorically rejected the overture on election night. But Muentefering said he would keep pushing. "Perhaps they were a little too overconfident about yesterday's result," he said.

Similarly, Merkel served notice that her party would try to persuade the Greens to change their stripes, giving them a chance to remain in power under the Christian Democrats, even though the two parties disagree sharply on some issues, such as nuclear energy.

Foreign Minister Joschka Fischer, the most prominent Green, said he could not foresee his party marching under Merkel's banner. "She will not be chancellor," he declared. But other Green officials said they were willing to listen.

While the German constitution requires that Parliament reconvene within 30 days of an election, there is no deadline for picking a chancellor or governing majority.

Christian Pestalozza, a constitutional law professor at the Free University of Berlin, dismissed suggestions that Germany was facing a political crisis. He predicted that the parties would soon lower the rhetoric and be more pragmatic in building a coalition.

"According to the constitution, they have all the time they need to take to work this out," he said. "I'm quite sure that after two or three weeks, we'll know what we'll have."

Germany's Political Impasse May Take Weeks To Solve, Observers Say (KRT)

By Matthew Schofield

Knight Ridder, September 20, 2005

BERLIN - Germany's electoral standoff moved from the inconvenient to the impossible Monday, as leaders of the country's four largest political parties spent the day primarily outlining whom they wouldn't work with in a future coalition government.

German Chancellor Gerhard Schroeder, whose Social Democratic Party came in second in Sunday's elections, with 34 percent of the vote, insisted that he should remain Germany's leader, while backers of Christian Democrat Angela Merkel, whose party won 35 percent, said she should lead a new government.

Political observers said the impasse might take weeks to resolve, a prospect that worries economists in a nation where unemployment is 11 percent and the economy has grown only marginally for years.

"Uncertainty at a time of economic crisis is our worst-case scenario," said Manuela Glaab, the head of the University of Munich-based Center for Applied Policy Research. "We need a working government to get Germany back on track. Every responsible politician has to understand that there is no time to lose."

Investors said they feared the deadlock would slow needed economic reforms, and European Commission President Jose Manuel Barrasso urged a compromise. "Without a dynamic Germany, Europe cannot recover," he said.

Others suggested that new elections are likely. If no government is agreed on by Oct. 18, when Schroeder's current term ends, new elections could be called.

The Christian Democrats had been expected to win Sunday. But missteps by Merkel and a hard campaign by Schroeder allowed the Social Democrats to close the gap, which polls had showed at one time to be as wide as 20 points.

The Christian Democrats won about 225 seats in Parliament while the Social Democrats finished with about 222.

Christian Democrat ally the Free Democrats got 10 percent of the vote, or 61 seats, while Social Democrat ally the Green Party won 8 percent, or about 51 seats.

Parliament will have at least 598 members - the number can change, based on Germany's system of proportional representation - meaning that one party must control at least 300 seats to form a government.

Leaders for the Green Party and the Liberal Party made it clear Monday that that goal was all but unattainable.

The Green Party said it wouldn't join any coalition that the Christian Democrats led. The Liberal Party said the same about any coalition that the Social Democrats led.

All sides have rejected working with a fifth group, the New Left, made up of former communists, largely from the former East Germany. It won 54 seats.

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That leaves the possibility of a so-called "grand coalition" between the Christian Democrats and the Social Democrats. But Schroeder said Monday that he'd serve in such a coalition only as chancellor. Christian Democrats responded that they'd won more votes.

Such a coalition would be fraught with problems in any case, said Lutz Erbring, professor of communications at Free University in Berlin, as the two parties positioned themselves for dominance in the next elections.

The likely losers in such political maneuvering would be serious progress on economic reform measures, especially those aimed at creating more jobs and stabilizing government social programs.

"The reform program is not about the next few years, but being able to maintain our society for the next generation," Erbring said. "We may well lose years in the reform process, and we can't afford to lose any time."

The German stock market fell about 2 percent on the news early Monday, before recovering some to close down 1.2 percent.

German economic malaise was the theme of the campaign leading up to Sunday's balloting, and until recent weeks, Merkel and the Christian Democrats were expected to win a decisive victory over Schroeder, whose coalition has led Germany for seven years of little growth.

But many analysts said Merkel frightened German voters with calls for making it easier for small businesses to fire people and for increasing the value-added tax so that payroll taxes could be reduced for employers.

"It is clear that Germans do not want Mrs. Merkel as their chancellor," Social Democratic party chief Franz Muentefering said.

It wasn't clear, however, how Schroeder would be able to form a government, and many saw the likely delay as a disaster.

"The stalemate that emerged in the election is of course the worst result that you could have wished for, the worst for the interests of Germany and for Europe," Klaus Liebscher, a European Central Bank Governing Council member who heads Austria's central bank, said in Vienna.

Tied German Rivals Try To Forge Coalitions (WT)

By Nicholas Kralev

The Washington Times, September 20, 2005

BERLIN -- Chancellor Gerhard Schroeder and conservative challenger Angela Merkel fought for their political lives yesterday after a cliffhanger election reminiscent of the Bush-Gore deadlock of 2000.

Unlike in the United States, Germany's battle over the Sunday election will be fought not in court but with backroom bargains as the rivals appeal to smaller parties in their struggle to form a government and become the next chancellor.

Failure to form a government would in effect end the political careers of Mr. Schroeder and Mrs. Merkel, said officials from their respective Social Democratic Party (SPD) and Christian Democratic Union (CDU).

The two parties yesterday issued invitations for coalition talks to each other, as well as to the pro-market Free Democratic Party (FDP) and the leftist Greens.

"I have initiated contact with [their] offices," Mrs. Merkel said, urging the center-left Social Democrats to "accept that they are not the strongest party" and to agree to a right-left "grand coalition" under her leadership.

The SPD leadership said it will talk with the CDU and its Bavarian sister party, the Christian Social Union (CSU), but it ruled out taking part in a Cabinet led by Mrs. Merkel.

"It is clear that Germans do not want Mrs. Merkel as their chancellor," SPD Chairman Franz Muentefering told reporters after a party meeting.

"We have a responsibility to make clear that we want to rule with Mr. Schroeder as chancellor and implement much of what we have undertaken to do," he said in reference to an economic and social reform package known as Agenda 2010.

But Mrs. Merkel said: "I do not rule out anybody revising their position."

SPD officials also challenged Mrs. Merkel's assertion that hers is the country's strongest party, having won 225 seats in the Bundestag, the parliament's lower house, against 222 for the SPD.

The Bundestag has 598 seats, but more may be added under the country's proportional representation electoral system.

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The Social Democrats argued that the CSU should be considered a separate party, even though it always has allied with the CDU in federal elections.

In addition, the election in a district in the eastern city of Dresden will not take place until Oct. 2 because of a candidate's death. That vote could provide up to four members and tip the balance, although it is unlikely that all the seats will go to the SPD, analysts said.

The CDU/CSU alliance won 35.2 percent of the vote compared with 34.3 percent for the SPD. FDP, Mrs. Merkel's preferred coalition partner, received 9.8 percent -- not enough for the two parties to form a government.

Mr. Schroeder's coalition partners, the Greens, received 8.1 percent. The new Left Party of former communists and a breakaway SPD fraction did slightly better with 8.7 percent.

Interior Minister Otto Schily, a leading Social Democrat, said he hoped the Free Democrats would join the center-left "red-green" coalition because "we have points in common." But FDP leader Guido Westerwelle rejected the overture.

The Greens were the most accommodating party yesterday. Foreign Minister Joschka Fischer, the party's leader, said he would not serve in a Merkel Cabinet, but neither he nor any other party leader ruled out joining a CDU-FDP government.

"We are interested in content," the Greens' co-leader Claudia Roth told ARD television. "We are not interested just in governing. We are interested in politics."

Both the CDU and the SPD ruled out a coalition with the Left Party.

The political deadlock was not to the markets' liking yesterday. German stocks tumbled, and the euro fell to its lowest level against the dollar in seven weeks.

Euro Falls As Germany Splits After Poll Stalemate (FT)

By Bertrand Benoit

Financial Times, September 20, 2005

The euro fell to a seven-week low against the dollar on Monday after Germany's election ended in a stalemate, casting doubt over the country's ability to enact the policy changes needed to bolster faltering economic growth.

Angela Merkel, Christian Democratic Union leader, and her rival Chancellor Gerhard Schröder both claimed the right to form a government after the unprecedented poll outcome left the two parties with an almost equal number of seats in parliament.

Mr Schröder's Social Democratic party and Ms Merkel's CDU now have 30 days to form a government from a number of coalition possibilities. They would then put their choice to parliament, which would elect the new chancellor.

But fears mounted on Monday that protracted coalition talks would increase uncertainty over the pace and direction of the country's economic policy.

Economists have already interpreted the outcome of the poll as a clear rejection of Ms Merkel's reform programme.

One possibility remains a grand coaltion between the SPD and CDU but Elga Bartsch, economist at Morgan Stanley, said such an alliance would probably “lead to reform gridlock”.

The Dax 30 index of German blue chip stocks initially fell 2.2 per cent on disappointment over the poll outcome. But it later rallied on hopes German companies would continue their restructuring efforts. The index finished 1.21 per cent or 60.37 points lower at 4,926.13.

The euro fell to $1.2101 against the dollar before staging a recovery to $1.2155. But analysts said it could slip below $1.20 amid continuing uncertainty.

While a grand coalition remained a likely outcome yesterday, Mr Schröder said his party would not join a cabinet led by Ms Merkel. The SPD appears to be banking on Ms Merkel's weakened authority in her party to exact a high price for its participation in a national-unity government.

Capturing the sense of crisis, Bild led its front page on Monday with an article entitled “the war of the chancellors”.

Having gained the backing of her party's top executive, Ms Merkel will first try to outmanoeuvre Mr Schröder by seeking a “Jamaica cabinet”, a three-way alliance with the Free Democratic and Green parties, named after their respective colours of green, yellow and black for the CDU.

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The CDU leads in the race to form the next government, having gained the most votes, at 35.2 per cent against 34.2 per cent for the SPD, and the largest share of seats at 225 against 222 despite scoring one of its worst results in six decades.

Manfred Güllner, head of the Forsa polling group, said it was "theoretically possible but in practice unlikely" that a by-election in Dresden on October 2 could give the SPD three additional seats, putting it on an equal footing with the CDU.

Neither the Greens nor the FDP ruled out a Jamaica alliance. Ronald Pofalla, deputy CDU parliamentary leader, said the CDU and Greens were "not that far apart" on central economic issues. However, Joschka Fischer, Green foreign minister, poured cold water on the scenario, saying "I don't see myself sporting dreadlocks."

By contrast, a three-way cabinet under Mr Schröder appeared out of reach on Monday, after the FDP rejected the SPD's invitation to talk, describing it as "a form of stalking".

Europe's Direction Is Unclear, Much As Germany's Is After Vote (NYT)

By Craig S. Smith

The New York Times, September 20, 2005

PARIS, Sept. 19 - Europe, weakened by the seeming collapse of its constitutional project in May, faces even more uncertainty after the election in Germany on Sunday, which left no party with a clear mandate.

"It's May 29 all over again," said Dominique Moïsi, a senior adviser at the French Institute for International Relations, referring to the date that France rejected the European Union's draft constitution, stalling a half-century of progress toward European unity.

Both Germany and France, the traditional engines of the European Union, are now consumed by domestic politics and are unlikely to provide the strong leadership needed to re-energize the bloc.

Germany may emerge with a weak coalition government from its split vote, while France has lost steam since May, leaving President Jacques Chirac largely sidelined while his would-be successors dominate the political stage.

Of course, it is too early to say what the real impact of the German elections will be. But the surprisingly narrow margin of the conservative, Angela Merkel, over Chancellor Gerhard Schröder brought anxious analysis across Europe.

At best, Europe will continue to idle while Germany sorts out who is in charge. But many commentators worry that the most ambitious European vision - a union speaking with one voice on international affairs and backed by a military capacity distinct from that of NATO - may evaporate in the meantime.

"You have this big, fuzzy Europe looking inward instead of discussing world affairs," said Anne-Marie Le Gloannec, a European relations specialist at the Center for International Studies and Research in France.

Hopes that Europe can salvage its constitutional project also grow more uncertain. A complicated effort to wrap the various treaties governing the union into a single document foundered on the French rejection of the draft constitution. Mr. Schröder's government had backed the idea of writing a shorter, simpler constitution, but that issue is one of many that are in limbo.

"In most questions, Germany won't be able to take a leadership role," Ms. Gloannec said.

Mr. Moïsi said the muddied European waters were bad for the United States, which more than ever needed a clear ally to deal with an increasingly despotic Russia, an increasingly assertive China and a recalcitrant Iran. Europe has played a central role in pressing Iran to give up a uranium enrichment program that both sides of the Atlantic fear is intended for nuclear weapons.

Europe could suffer in other ways, too. While changes in Germany's economy may yet proceed, many Europeans had also hoped that a clear mandate for Mrs. Merkel's ambitious pro-business plans would add momentum to much needed economic restructuring on the Continent.

"The message already is that Germany is attached to an economic model founded on social guarantees," said Guillaume Klossa, a professor focused on European economies at the École des Hautes Études Commerciales, one of the Continent's leading business schools. "It will slow reform in France."

Without competitive pressure from Germany, the region's largest economy, inertia could stymie efforts to revamp Europe's other sluggish socialist economies.

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The lack of European leadership is also expected to cloud talks about Turkey's membership in the union, scheduled to start Oct. 3. Mr. Schröder supports Turkey's membership, but Mrs. Merkel opposes it. Analysts say the talks are unlikely to make much progress without a clear German position.

Merkel Is The Big Loser In Germany's Elections (WSJ)

By Frederick Kempe

The Wall Street Journal, September 20, 2005

It will take some time and convoluted coalition negotiations before the world knows who won Sunday's German elections. But it's not too early to call the loser: Angela Merkel.

Putting on a brave face, she kept an appointment Monday night to speak at the opening banquet of the Frankfurt Auto Show. Before her talk, a dinner guest wished her congratulations. "There's not much to congratulate me for," she responded candidly, knowing she had frittered away a lead in the polls that had been as much as 18 percentage points and finished just shy of a percentage point ahead (35.2% to 34.3%) of a chancellor whose legacy is nearly the highest unemployment and lowest growth rates in Europe.

That was far short of what it would take to build a government with her coalition partners, and the party's second worst return ever. She then stood before the Frankfurt car crowd and delivered a dry speech on transportation policy, as if to confirm her failing political instinct. Very briefly, before talking about the Autobahn and articulated filters, she expressed regret that she didn't get the mandate she wanted for economic change, but promised she would push for it anyway. As to forming a government, she told the crowd of Germany's business elite, the core of her political support, "I can assure you that we are going to get this over as quickly as possible."

She has no other choice.

Political insiders say moving quickly to build a government is Angela Merkel's last chance of survival. Any delay will mean her political death, either by Chancellor Schroeder's hand or, just as likely, rivals within her own Christian Democratic party who have never been comfortable with the eastern German Protestant woman in a political leadership that is overwhelmingly male, western and Catholic. Indeed, there may have been method to the madness of Chancellor Schroeder's bellicose appearance on a post-election television show last night, leaving viewers shaking their heads in disbelief and prompting the Berliner Zeitung to interview a psychiatrist, who described Mr. Schroeder's outburst as an "infantile reaction." The chancellor loudly declared himself the winner, though he had lost, and that "his" Social Democrats would never join a grand coalition with Ms. Merkel.

A Social Democratic party insider said Mr. Schroeder's game plan is increasingly clear. He will plant so many obstacles to Ms. Merkel's ability to form a coalition that she is forced to throw up her hands and call for new elections. Having regained so much ground in the final weeks of the election, Mr. Schroeder believes the momentum would then be his. The men-in-waiting of the Christian Democratic party – leading provincial governors who have never favored Ms. Merkel – would likely take out their long knives and try to replace her before the next vote.

Yet what is behind Ms. Merkel's decline? And who, besides Ms. Merkel, will be this election's losers?

The truth is that Merkel's injuries have been largely self-inflicted. Germans were no less against change when they put her significantly ahead of Mr. Schroeder throughout most of the period after he called for early elections in May. They know the country is in trouble, but weren't sold that Ms. Merkel was its salvation.

German leaders traditionally have inspired trust (Konrad Adenauer, Helmut Kohl, Helmut Schmidt). They have also led through charisma (Willy Brandt). Yet Ms. Merkel neither inspired German voters nor charmed them during her campaign. It didn't help that she is a woman in a society where women have never held the country's highest political position nor its top chief executive jobs, and Christian Democratic pollsters to the end weren't sure what impact this would have on legendarily conservative German voters. Mr. Schroeder used comparisons of Ms. Merkel to Margaret Thatcher as a way to frighten voters – among whom the British leader isn't respected for how she remade her country economically but rather is seen as harsh and "unsozial."

Growth isn't as great an allure to most Germans as stability.

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Ms. Merkel's problem among German voters, however, wasn't that she was too strong. Rather, the criticism heard most often about her yesterday in the wake of her moral defeat was that she was "wishy-washy" (pronounced, in German, vishy-vahshy), that she was a purveyor of zigzag politics. It wasn't so much that Germans in such great numbers opposed reform, but rather she hadn't convinced them she could guide it.

The biggest misstep of the campaign came in how she managed her choice as top economic adviser, Paul Kirchhof, who during the campaign called for a flat tax of 25% on all incomes. Though Ms. Merkel had chosen him, she at first appeared to distance herself from Mr. Kirchhof, then support him, in the end leaving voters not quite sure how she felt about him. In the campaign's final days, she brought onto the team long-time party rival Friedrich Merz, an economic expert whose views are more palatable to most Germans. Mr. Kirchhof resigned yesterday from Ms. Merkel's shadow cabinet, the party's first sacrifice.

"She failed to project and convince," said Jeffrey Gedmin, director of the Aspen Institute Berlin. "She didn't convince voters she had the plan and the capability."

The other losers from Germany's political stalemate will be the European and world economy. In the wake of this month's election victory for Japanese Prime Minister Junichiro Koizumi, who ran on an economic-change agenda, investors began to speak of a potential "Angela Koizumi" impact. Their argument was that the world economy has been running on just two cylinders -- the U.S. and China -- and that the two September elections could get all four cylinders pumping, as Germany could shift Europe.

"It's going to be a very unsettling period," said John Kornblum, a former U.S. ambassador to Germany who heads the Berlin office of investment bank Lazard Freres. "Business doesn't like insecurity and uncertainty."

Yet the German stock market index fell only 1.4% yesterday, and some investors are speaking of a buying opportunity. What they understand is that Germany's failing reforms have made the country a two-speed economy. Even as the German economy overall has seen slow growth, many of its companies have responded to global competition by cutting costs and become among the world's healthiest competitors. They've also lowered labor costs as individual unions, hoping to hold onto their remaining jobs, have grown more compromising. And as those German corporations build up profits, they are buying up companies in healthier economies.

Just today Deutsche Post announced it would buy British rival Excel for 3.7 billion pounds, or $6.72 billion. Early this month, the German utility company E.on confirmed a planned 10 billion pound bid for Scottish Power. It is already the owner of Powergen, the U.K.'s second largest electricity provider. Ms. Merkel is unlikely to become Germany's Maggie Thatcher, but her country's companies are investing in the more liberal economy Ms. Thatcher helped create.

Germany's companies have learned that their challenge is global and not domestic, and they will move if their country won't. It was a message that Angela Merkel tried to carry to the German voter albeit unsuccessfully, telling The Wall Street Journal early in the campaign that her country could no longer redistribute what it didn't produce. The fact that she failed to convince German voters that she could best lead them won't change the economic forces that were at the center of her message.

Colombian Violence Spills Over (WT)

By Sharon Behn

The Washington Times, September 20, 2005

URENA, Venezuela -- Colombian paramilitaries and Marxist guerrillas are running kidnapping, extortion and smuggling rackets as they infiltrate Urena and other communities near Venezuela's border, residents and officials say.

"There are more and more FARC in Apure and in Tachira [two western border states of Venezuela] present in the communities, and they are recruiting," said Virginia Trimarco, regional representative of the U.N. High Commissioner for Refugees (UNHCR).

"That makes people inside the country, and the Venezuelans, worried about security and selective killings," she said, near the end of four years of working in Venezuela and more than 20 years in Latin America.

FARC is the acronym in Spanish of the Revolutionary Armed Forces of Colombia, a guerrilla army founded in 1964 by the Communist Party of Colombia.

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On the outskirts of this hot, dusty town several hundred yards from the border, Colombian refugees fleeing the violence take shelter in dusty shacks of paper and branches.

Mrs. Trimarco estimates there are about 1.5 million Colombian refugees now living on the Venezuelan side of the border. Government estimates are as high as 3 million, and nongovernmental organizations have put the number as low as 350,000.

Venezuelan cattle ranchers and a local state official -- who asked not to be named -- said the government of President Hugo Chavez turns a blind eye to FARC guerrillas operating in Venezuela, pushed to the border by the success of the U.S.-backed Plan Colombia, aimed at eradicating the cocaine trade in Colombia that funds the rebels.

Right-wing Colombian paramilitaries are not far behind them, running "protection" operations.

Restaurant owners, taxi drivers and even Colombian refugees are forced to pay what is locally known as a "vaccination" -- money to protect themselves from these armed groups.

The FARC's favorite fundraisers are kidnapping for ransom and cocaine trafficking. Venezuela is a major transshipment point for Colombian cocaine headed for the United States and elsewhere.

Illicit commerce rife

"There is arms trafficking, drug trafficking, people trafficking," said Mrs. Trimarco, one of the few officials ready to speak out about what many in these border towns will say only in private.

"The situation is slipping out of their control. Nobody wants confrontation or war, but the military are worried," she said.

Much of the violence is invisible. Villages of whitewashed houses with red-tiled roofs clinging to the sides of the Andean foothills appear idyllic, but cafes are guarded with shotguns at night and drivers head home after 11 p.m.

"As [Colombia's President Alvaro] Uribe pushes his war and illegal armed groups to the borders, they are moving over the borders, and moving their [cocaine] labs into neighboring countries," said Mrs. Trimarco.

"The border areas are heavy with conflict between the illegal armed groups fighting for turf," she said.

Venezuelan ranchers reportedly sometimes hire Colombian paramilitaries to protect themselves -- either from the FARC or from rural workers trying to invade their land. Even so, in towns like San Cristobal, there are daily kidnappings and assassinations; the local La Nacion newspaper even runs a daily kidnapping column.

More obvious is the daily gasoline-smuggling operation at popular border crossings like San Antonio de Tachira, which leads to the bustling shopping town of Cucuta in Colombia.

Hundreds of beat-up Dodges, Fords and Chevrolets from the 1970s -- the period of Venezuela's last oil boom -- make the crossing every day, carting as much as 100 extra gallons of gasoline in specially built tanks.

Gasoline in Venezuela costs about 18 cents per liter -- 72 cents a gallon -- but about 85 cents per liter -- $3.40 per gallon -- in Colombia. In addition to being a motor fuel, gasoline is also used in the processing of cocaine.

Moms, children hide

Colombian women who have survived the killings of their villages come straggling over the border with numerous children in tow. They settle in dusty shantytowns like El Cuji on the outskirts of Urena, and until they get Venezuelan papers, they are not allowed to travel more than 10 kilometers [about 6.2 miles] from the border.

Their shacks are not much more than mud and paper, sometimes just plastic bags and empty flour sacks glued together and held up on sticks above the dirt floor. Many of the children suffer from respiratory diseases and blisters from the unsanitary conditions.

Local government officials fill each family's drum with water, but it runs out fast, and families are forced to cope. The lucky ones, whose children or newfound husbands do underpaid work in small factories nearby, pool their money to buy extra water.

The UNHCR, along with Caritas and Jesuit Relief Services, two Roman Catholic charity groups, struggle with meager resources to integrate the asylum seekers into the Venezuelan community and process their claims. But many of the Colombians streaming across the border are too afraid to identify themselves.

"There is a great degree of insecurity, because of the high rate of murder and crime" all along the border, said Jenncy Penaranda, a UNHCR protection assistant. The husband of one woman seeking help was slain last month on the dirt track outside his home, she said.

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A 34-year-old mother of seven bathed her youngest child, who stood naked in a cement wash tub, using a small plastic pail to pour water over the crying child, trying to keep her children clean to prevent the diarrhea and skin diseases that plague many people here.

"I came from Colombia four years ago because of the violence," said the mother afterward, as she balanced one of a pair of twin girls on her knee while sitting on a broken chair. She asked that her name and those of her children not be used.

"I lived in a village far from the border, but my kids were in danger," she said, light brown hair blowing around her face. "They would cut off people's ears. I was so scared I could not even sleep."

One of her young sons added from behind his mother's shoulder: "And cut their tongues out." Life for this young mother and other families nearby is measurably better, she said. But the guerrillas and paramilitaries that tortured and killed their fathers, brothers and husbands have not disappeared with their move to Venezuela.

Her husband works in a furniture factory, earning the equivalent of $10 per week, barely enough for water and food for the family of nine. A teenage son manages to bring home about $2.50 a week in bolivars for working in a motorbike maintenance shop.

'Slow procedure'

"There is no safety," said the mother. "Anyone can come here and rip the wall," she said, gesturing at the burlap bags and tin roof beside her.

"We also pay the 'vaccination' here for protection," she added when the UNHCR representatives were out of earshot. "Someone comes to pick up the money."

Government commissions have dealt with 700 asylum requests in the past two years, and only 300 applicants were considered refugees, said Mrs. Trimarco in her office in Caracas.

"It is a very slow procedure, but they are slowly getting better. At this pace, we will not meet the needs," she said.

And the needs increase every day as the guerrillas and paramilitaries penetrate deeper into the border towns, not only of Venezuela, but also of neighboring Brazil and Ecuador, said Mrs. Trimarco.

Rights Report Details Uzbek Crackdown After Uprising In May (NYT)

By C. J. Chivers

The New York Times, September 20, 2005

MOSCOW, Sept. 19 - The government of Uzbekistan, stung by the outcry in the West over its bloody suppression of a prison break and anti-government demonstration in May, has engaged for months in a ferocious crackdown against those who have tried to expose the brutality, says a report released Monday by a prominent human rights organization.

The report, by Human Rights Watch, the New York-based organization, says the crackdown included widespread arrests, threats and harassment and was directed at witnesses, survivors, human rights defenders, journalists and political workers.

The report says that some victims have been beaten and that some have been forced to issue scripted confessions on state television, saying they were misled into attending the anti-government demonstration and begging for forgiveness from President Islam A. Karimov.

While many elements of the crackdown have previously been described, including the indefinite detention of human rights workers and intense coercion against the families of refugees who fled Uzbekistan after the demonstration, the report was the most thorough description to date of the crackdown in one of the most autocratic of the former Soviet states.

It also framed the crackdown in the larger context of the unease Uzbekistan's leadership has displayed since revolutions in Georgia, Ukraine and Kyrgyzstan have swept aside other corrupt and clannish post-Soviet leaders.

Mr. Karimov "fears he is the next domino," Kenneth Roth, the executive director of Human Rights Watch, said in a telephone interview. He said the crackdown was not merely an attempt to airbrush the ugliest event in recent Uzbek history, but also a program to stifle dissent and the development of civil society.

The uprising in the northeastern city of Andijon, which survivors said was smashed by fusillades of gunfire in the hours after it began on May 13, ended with the deaths of hundreds of civilians, according to survivors' accounts and previous investigations

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by journalists and independent organizations, including the Organization for the Security and Cooperation in Europe and Human Rights Watch.

Uzbekistan has so far resisted Western calls for an open international investigation into the origins of the uprising and the Uzbek actions to disperse it.

Instead, it has described the uprising as the work of international Islamic terrorists. It has also shifted its foreign relations, aligning more closely with Russia and China. It has issued an eviction notice to the United States for an air base near the Afghan border that the Americans have used since 2001.

Mr. Karimov, a former Soviet bureaucrat who has ruled Uzbekistan since its independence in 1991, has also suggested that Western governments have worked surreptitiously to overthrow him and even collaborated with the possible terrorists. He further said that Western journalists had advance knowledge of the uprising, as if they, too, were agents of some foreign plot.

He has offered no proof for his accusations, and his government was silent about the report on Monday.

Telephones at the Foreign Ministry's information office in Tashkent, the Uzbek capital, were not answered or were busy, as has often been the case since May 13. When a correspondent called the Uzbek Consulate in New York and inquired about the report, the employee who answered promptly hung up.

Uzbekistan Accused Of Coercion In Protest Probe (WP)

By Peter Finn

The Washington Post, September 20, 2005

MOSCOW, Sept. 19 -- The Uzbek government has detained and questioned hundreds of people in a campaign of intimidation aimed at securing testimony that backs its version of events about the killing of demonstrators in the city of Andijan in May, according to a new report by Human Rights Watch.

"Police and security agents threatened or severely beat many of those detained in order to coerce them to confess to belonging to extremist religious organizations and bearing arms while participating in the May 13 protest," the New York-based advocacy organization said in an 81-page report titled "Burying the Truth: Uzbekistan Rewrites the Story of the Andijan Massacre."

The first 15 people charged with organizing an armed revolt in Andijan were to go on trial Tuesday in the Uzbek capital, Tashkent. Prosecutors allege that the 15 were part of a broad conspiracy, financed from abroad, that was designed to overthrow the government and replace it with an Islamic state. Prosecutors said another 106 people may face similar charges.

The deputy chief prosecutor, Anvar Nabiyev, said last week that "external destructive forces" had given organizers of the revolt $300,000. He said two-thirds of it came from the Islamic Movement of Uzbekistan, a group listed as a terrorist organization by the U.S. government.

Human rights groups charge that government forces killed hundreds of unarmed civilians in Andijan after a day of protests that were largely driven by anger over poverty and government repression. The protests began when armed men freed 23 prominent businessmen from a local prison early on May 13; the men were on trial for alleged membership in a banned Islamic group.

The mass killing led to international demands for an independent investigation, but the Uzbek authorities rejected those calls, leading relations with the United States, among other Western countries, to sour. Uzbekistan ordered the U.S. government to remove its forces from an airfield the Pentagon was using to support operations in Afghanistan.

After the mass killing, Andijan was effectively closed to outsiders, and locals were warned not to talk about the incident. Many people were visited at home by neighborhood committees. The government announced that 187 people were killed and 287 wounded in the violence, and it said most of them were terrorists.

"It was in this atmosphere of fear that the authorities detained hundreds -- and perhaps thousands -- of people in Andijan with the purported aim of obtaining testimony about the crimes committed on May 13, as the government has defined them," Human Rights Watch said.

The government has also arrested human rights workers, journalists and political activists who attempted to investigate the killings. At least 11 activists have been detained and another 15 have been forced into exile, according to Human Rights Watch.

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One long-time activist, Saidjahon Zainbitdinov, who was widely quoted after the killings, has been in prison since May 21 on charges of terrorism and sowing panic among the population.

In Tashkent and other cities, human rights activists have been the target of "hate rallies and other public denunciations in which local community leaders vilify them, calling them Islamic extremists and enemies of the people, and mobs attempt to run them out of town," according to Human Rights Watch.

The organization called on the United States to freeze any remaining military and counterterrorism assistance to the Uzbek military and said the European Union should suspend assistance to the country. The United States and the E.U. should also stop issuing visas to senior members of the Uzbek government, the group said.

Lining Up To Be Raped? (NYT)

By Nichola D. Kristof

The New York Times, September 20, 2005

Our close ally President Pervez Musharraf of Pakistan visited the U.S. last week and fretted aloud about a surprising problem: The "easiest way" for Pakistani women to make money is to get raped, he said, so they're lining up to be raped and thus making him look bad.

That's right. He's nuts.

"You must understand the environment in Pakistan," The Washington Post quoted him as saying. "This has become a moneymaking concern. A lot of people say if you want to go abroad and get a visa for Canada or citizenship and be a millionaire, get yourself raped."

That comment got Mr. Musharraf in hot water. So over the weekend, Mr. Musharraf denied that he had ever said any such thing - noting that if he had, he would have been "stupid."

True.

The Washington Post reviewed its tapes and reported that it had quoted him correctly. It also added an additional quote from the same interview, in which Mr. Musharraf spoke of rape as an avenue to riches: "It is the easiest way of doing it. Every second person now wants to."

Sexual violence has become a sensitive issue for Mr. Musharraf because of the pioneering work of women like Mukhtaran Bibi, whom a tribal council sentenced to be gang-raped as a way to punish her brother - and who then used her compensation money to start schools and launch a nationwide anti-rape campaign. After I wrote about her last year, Times readers sent her a total of $160,000, which she is using to start an ambulance service, operate schools and campaign for women's rights.

Fearing that Ms. Mukhtaran's anti-rape campaign would make his country look bad, General Musharraf barred her from traveling to the U.S. to attend a conference. When she protested to me and others, the government kidnapped her to keep her from complaining, releasing her only after Condi Rice raised the issue with the Pakistani government.

Then in July and August, I wrote about Dr. Shazia Khalid, a Pakistani physician whom the authorities drugged, put in a mental hospital, threatened to kill and finally exiled to keep her from recounting her rape.

The latest victim to come forward is Sonia Naz, a 23-year-old woman whose husband disappeared. Desperate, she went to the National Assembly building in Islamabad to see if she could get help. Then, she says, the police arrested her and repeatedly stripped her, raped her and beat her.

Embarrassed by these revelations, Mr. Musharraf held a conference in Pakistan this month on women's issues. He wore a necktie with blue and pink, which he said could reflect cooperation between men and women - and then he denounced Dr. Shazia.

Here in New York on Saturday, General Musharraf held a meeting with an invited audience to show himself off as a sensitive man. The meeting started awkwardly when he tried to demonstrate his feminist credentials by saying he opposed violence against women because it's unchivalrous toward the weaker sex. Then, in response to skeptical questions, Mr. Musharraf lost his temper, shouting at audience members and threatening to "get" anyone who exposed Pakistan's problems to the world.

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"He totally lost it," said Yasmeen Hassan, a Pakistani lawyer in New York who was present. "It's so unbecoming of a president to get into shouting matches, and to say, 'I'm going to get you.' "

Meanwhile, activists in Pakistan say that the government is stepping up its harassment of women's groups. I tried to phone Ms. Mukhtaran yesterday, but the government seemed to be blocking international calls to her line. Finally I was able to interview her by a circuitous route. She said that all her mail is now intercepted and that the government had just transferred away two senior police officials who had supervised her bodyguards and tried to protect her.

"I feel insecure and controlled," she said.

The irony is that while he's a nitwit on social issues, General Musharraf has proved himself to be a good economic manager, and the 7 percent growth rates generated by his reforms will help undermine fundamentalism and sexual violence in the long run. During his visit, Mr. Musharraf pressed for a free-trade area between the U.S. and Pakistan, and that's a great idea to promote Pakistan's development.

So let's give Mr. Musharraf a free-trade deal - but only on the condition that he clamp down not on Pakistani women fighting against rape, but on Osama bin Laden.

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For more information on Mukhtaran Bibi, Shazia Khalid and other rape victims from Pakistan, visit www.4anaa.org or www.equalitynow.org.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

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TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

Al Qaeda Suspect Tells Of Bush Plot (WP)

By Jerry Markon

The Washington Post, September 20, 2005

A Falls Church man charged with conspiring with al Qaeda to kill President Bush told Saudi interrogators that he dreamed up the plot on his own but that it never got past the "idea stage," prosecutors say in court documents unsealed yesterday.

"I wanted to be the brain, the planner" of the assassination, Ahmed Omar Abu Ali is quoted as saying. He likened himself to Mohamed Atta, who led the terror cell that carried out the Sept. 11, 2001, attacks, according to the court papers, which quote from an FBI report detailing Abu Ali's interrogation by Saudi security officials while he was detained in the kingdom in June 2003.

"My idea was . . . I would walk on the street as the President walked by, and I would get close enough to shoot him, or I would use a car bomb," Abu Ali is quoted as saying.

Abu Ali, 24, also said during the same interrogation that he "wanted to be in al Qaeda so bad that I decided to go to Afghanistan for jihad." He said he was unable to get a visa to travel there but did join an al Qaeda cell in Saudi Arabia.

The court filings were unsealed the same day as a federal judge in the District dismissed a civil lawsuit that Abu Ali's parents filed against the U.S. government last year. The lawsuit was part of a highly public campaign by Abu Ali's family to win his release from Saudi custody. It asked the court to order that Abu Ali be returned to the United States and alleged that U.S. authorities were involved in his imprisonment there and expected he would be tortured.

But U.S. District Judge John D. Bates said the issues raised by the lawsuit were moot because Abu Ali is back in the United States and in custody on the criminal charges. Bates said his ruling does not prevent the family from filing another civil suit over Abu Ali's treatment.

Morton Sklar, an attorney for Abu Ali's parents, said the civil lawsuit is not moot. "The issues of Ahmed's unlawful detention in Saudi Arabia for 20 months and his torture in Saudi Arabia are highly relevant to his criminal case," said Sklar, executive director of the World Organization for Human Rights USA, which filed the lawsuit. He would not say whether the ruling will be appealed.

Abu Ali is charged in U.S. District Court in Alexandria with conspiracy to kill Bush and other terrorism counts. Prosecutors say he has admitted to plotting with al Qaeda to conduct a Sept. 11-style terrorist attack in the United States.

Defense attorneys are also pursuing the torture allegation in the criminal case, arguing that any statements Abu Ali made while in Saudi custody were obtained through torture. Two doctors who examined Abu Ali found evidence that he was tortured in Saudi Arabia, including scars on his back consistent with having been whipped, defense attorneys have said in court papers.

Abu Ali was arrested by Saudi security officials in June 2003 while he was studying at a university in the country. He was held until he was charged in the United States in February. Prosecutors have denied that Abu Ali was tortured. The issue is critical to the case, because if a federal judge concludes that Abu Ali was tortured, much of the evidence against him could be thrown out.

In their response to Abu Ali's motion to throw out his confession and other evidence, prosecutors wrote that several Saudi security officials have already testified that Abu Ali was "treated in a respectful and humane manner while in Saudi custody." That same filing contained the additional details of Abu Ali's interrogations.

U.S. Details Charges Against Student Linked To Plot Against Bush (NYT)

By Eric Lichtblau

The New York Times, September 20, 2005

WASHINGTON, Sept. 19 - An American student in Saudi Arabia who is charged with plotting to assassinate President Bush told Saudi interrogators that "I came up with the idea on my own" because he wanted to be "the brain, the planner" for a terrorist operation, American prosecutors said in a court filing made public on Monday.

The Justice Department said the student, Ahmed Omar Abu Ali, 24, "represents one of the most dangerous terrorist threats that America faces in the perilous world after September 11, 2001: an Al Qaeda operative born and raised in the United States, trained and committed to carry out deadly attacks on American soil."

The department made the claims in opposing efforts by Mr. Abu Ali's lawyers to throw out his statements to Saudi interrogators. The defense lawyers maintain that his admissions came only after he was tortured and beaten repeatedly.

The department called the charges of torture a "fabrication." The prosecutors said that Mr. Abu Ali, after he was arrested in Saudi Arabia in 2003, was confronted with evidence of his extremist ties and "quickly launched into a prolonged and detailed confession" of his involvement with a Saudi cell linked to Al Qaeda.

Mr. Abu Ali, now in custody in Alexandria, Va., faces life in prison if convicted on charges of conspiring to assassinate Mr. Bush and attack American airliners.

Judge Gerald Bruce Lee of United States District Court also ruled Monday that the Justice Department would be allowed to offer depositions from two Saudi officials under highly unusual conditions.

The Saudi officials, who were involved in Mr. Abu Ali's interrogation, will be allowed to testify using pseudonyms via a live video feed from Saudi Arabia, with the courtroom in Alexandria closed to all but a handful of lawyers and court officials. The arrangements were necessary, Judge Lee said, because the Saudis "will not allow them to travel here to participate in judicial proceedings."

The case is a crucial test of the ability of American prosecutors to bring a case that relies heavily on intelligence gathered by foreign officials under disputed conditions.

The Justice Department's filing says that agents of the Federal Bureau of Investigation first interviewed Mr. Abu Ali themselves in September 2003 for four days. Because the aim was to gather intelligence rather than build a criminal case, the agents did not read him Miranda warnings, nor did they stop questioning him once he requested a lawyer, prosecutors said.

Prosecutors sought to debunk claims of torture by quoting from telephone conversations Mr. Abu Ali had with his parents in Northern Virginia while he was in Saudi custody. "I am very healthy," prosecutors quoted him as saying.

John K. Zwerling, a lawyer who represented Mr. Abu Ali initially in the case before withdrawing, said in a telephone interview that the statements were meaningless.

"Would he want to worry them?" Mr. Zwerling asked. "And who's standing next to him when he's making these calls? The head of the prison. If he says anything else, what do you think is going to happen to him?"

Mr. Zwerling said the plots Mr. Abu Ali reportedly said he considered - like getting close enough to Mr. Bush to shoot him or breaking into the American detention center in Guantánamo Bay, Cuba, and freeing prisoners - were "ludicrous."

And he ridiculed the Justice Department's claims about the danger Mr. Abu Ali posed.

"If he's the most dangerous guy they have," Mr. Zwerling said, "then we're very lucky, because I don't believe he's very dangerous at all."

Md. Man Charged In Terror Case (WP)

By Jerry Markon And Brigid Schulte, Washington Post Staff Writers

The Washington Post, September 20, 2005

Federal prosecutors in Alexandria unveiled terrorism charges against a Maryland man yesterday, alleging that Ali Asad Chandia helped a foreign terrorist group acquire an electronic autopilot system and video equipment for use on model airplanes.

Chandia, 28, of College Park, is also accused of shipping 50,000 paint balls to the group, Lashkar-i-Taiba, which the U.S. government has designated as a terrorist organization. The group runs terrorist camps in Pakistan and claims to have trained thousands of Islamic "holy warrior" mujahideen to fight in Afghanistan, Kashmir, Bosnia, Chechnya, Kosovo and the Philippines.

The charges against Chandia, a legal permanent resident who emigrated from Pakistan in 1994, are an outgrowth of the "Virginia jihad network" case, in which nine Muslim men have been convicted over the past two years of training overseas for holy war against the United States. The training also included playing paint ball in the Virginia countryside.

Some of the defendants attended terrorist camps in Pakistan run by Lashkar-i-Taiba.

The indictment accuses Chandia of traveling to a Lashkar office in Lahore, Pakistan, in November 2001, shortly after resigning from his job at a Costco store. "I have to leave now due to some family emergency," Chandia is alleged to have written to his supervisor at the time.

In Pakistan, he worked with other defendants to help a top Lashkar official, Mohammed Ajmal Khan, obtain equipment for the group, prosecutors allege. Khan, a British national who is jailed there on terrorism counts, was also named in the four-count indictment unsealed yesterday in U.S. District Court in Alexandria.

The equipment allegedly included 50,000 paint balls and components of an MP1000SYS system, which the indictment describes as an "electronic automatic pilot system" that can be installed on a small, remote-controlled airplane using Global Positioning System cordinates.

Some of the equipment was sent by two California companies to Khan's address in England, but it was unclear if any was used by Lashkar -- or if any was intended for use in the United States.

Prosecutors would not comment beyond the indictment, which charges Chandia and Khan with providing, and conspiring to provide, material support to Lashkar-i-Taiba. If convicted, they each face up to 15 years in prison.

Federal officials arrested Chandia on Thursday night at his home in Maryland. Wearing an orange T-shirt, khakis and sneakers, he appeared briefly yesterday in federal court in Alexandria and was ordered jailed pending a detention hearing Tuesday.

His attorney, Marvin Miller, described him as a studious man and University of Maryland graduate who has written articles on both Islam and Jesus Christ. His mother and his wife, who both sat watching in the courtroom, said Chandia is a teacher at a Muslim school.

"This is a molehill case, and the government is going to have to make a mountain out of it," Miller said.

Miller said the remote-controlled airplanes -- which the indictment says can have military uses -- "don't have big ranges, certainly nothing like the drones with the satellite systems the U.S. military has."

But the indictment paints a different portrait of Chandia, saying that a 2003 search of his Maryland home found books, tapes and videos supporting "violent jihad," including one by a Lashkar leader titled "Jihad is the best defence for oppressed Muslims."

Court documents also describe Chandia as the former "personal assistant" of Ali Al-Timimi, the convicted spiritual leader of the men who trained for jihad. In 2000 and 2001, the indictment says, Chandia helped Timimi with speaking engagements, typing and "research on Islamic subjects."

Timimi was convicted this year by a federal jury of inciting his followers to attend terrorist camps abroad and prepare to battle U.S. troops. He was sentenced to life in prison in July.

Prosecutors said Timimi exerted a strong influence over the other defendants when he was the primary lecturer at the Center for Islamic Information and Education, also known as Dar Al-Arqam, in Falls Church.

Eleven Muslim men, all but one from the Washington area, were charged in 2003 with participating in paramilitary training -- including playing paint ball -- to prepare for "holy war" abroad. Two of the men were acquitted.

Chandia offered to cooperate against the other defendants but only in return for immunity from prosecution, Miller said yesterday. He said the government declined the offer.

College Park Man Charged In Plot To Aid Terrorist Group (WT/AP)

The Washington Times, September 20, 2005

ASSOCIATED PRESS

A College Park man has been charged with conspiracy to help a terrorist group, part of an investigation of the "Virginia jihad network" that so far has resulted in 10 convictions, U.S. law-enforcement officials said yesterday.

Ali Asad Chandia is named in a four-count indictment saying he conspired to provide material support to the Lashkar-e-Taiba group, which the U.S. designated a terrorist group in 2001.

Mr. Chandia was arrested Thursday at his home, Assistant Attorney General Alice Fisher said.

The indictment was returned Wednesday and unsealed yesterday after Mr. Chandia's arrest.

Mohammed Ajmal Khan of Coventry, England, who prosecutors said is a senior official in Lashkar-e-Taiba, an Islamic rebel group fighting for independence in the India-controlled portion of Kashmir, is also charged.

Mr. Khan is in custody in England.

Ali al-Timimi, who authorities called the spiritual leader of the Virginia jihad network, was sentenced to life in prison in July after being convicted of soliciting treason and other charges.

Prosecutors said al-Timimi wielded enormous influence among a group of young Muslim men in Northern Virginia who played paintball games in 2000 and 2001 in preparation for holy war around the globe.

Nine other members of the group have been convicted for their roles in the conspiracy, with prison terms ranging from three years to life.

U.S. Says Maryland Man Aided Pakistani Terror Group (NYT)

By Eric Lichtblau

The New York Times, September 20, 2005

WASHINGTON, Sept. 16 - A Maryland man who federal authorities say served as a research assistant to a controversial Muslim leader in the Washington area has been charged with providing equipment and support to a banned terrorist group in Pakistan.

But a lawyer for the man, Ali Asad Chandia, said the charges amounted to guilt by association.

Mr. Chandia, 28, is the latest in a string of young Muslim men charged in the so-called Virginia jihad case. Ten people have been convicted in the case in connection with what federal authorities say was a plot to wage war against Americans overseas by aiding a terrorist group in Pakistan called Lashkar-e-Taiba.

Prosecutors say the young men convicted in the case underwent training - in part by playing paintball in rural Virginia - to provide military aid overseas in defense of Islam. Some Muslim leaders in Northern Virginia refer to the prosecution derisively as

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"the paintball case," insisting that the men were guilty of little more than playing games and speaking out against American foreign policy.

Mr. Chandia was arrested Thursday evening at his home in College Park, Md., the Justice Department said. A federal indictment against him says he had been a personal assistant to Ali al-Timimi, a Muslim leader and scholar in Northern Virginia who was sentenced to life in prison in July for inciting his followers to violence.

The indictment says Mr. Chandia helped Mr. Timimi schedule appearances and speaking engagements and research Islamic subjects. In a meeting on Sept. 16, 2001, at the home of another defendant in the Virginia case, Mr. Timimi reportedly told other followers that "it was compulsory to assist Afghanistan in jihad against the expected U.S. military invasion," the indictment says.

The indictment says Mr. Chandia visited Pakistan in November 2001 and, after returning to the United States, helped ship 21 boxes of paintball supplies from Virginia to Lahore, Pakistan.

The indictment also charges a man now in British custody, Mohammed Ajmal Khan, who American authorities said was a senior official with Lashkar-e-Taiba and served as a procurement officer.

Both men were charged with providing material support to Lashkar-e-Taiba, which was designated by the United States as a foreign terrorist organization in December 2001. Each of the four charges carries a maximum of 15 years in prison.

Mr. Chandia made a brief appearance Friday in federal court in Alexandria, Va., and is scheduled for a bail hearing on Tuesday.

His lawyer, Marvin D. Miller, declined to discuss the specific accusations against Mr. Chandia because he had not yet reviewed the indictment in detail, but he said the charges were groundless and amounted to "a great case of guilt by association."

Mr. Miller said that Mr. Chandia was held as a material witness for several weeks in 2003 in connection with the Virginia jihad case but that talks to secure his cooperation lapsed when the government refused to offer him immunity.

"The government doesn't have anything else to do, so now they're going back to a guy they had two years ago, and they'll say he's a flight risk," Mr. Miller said. "With their great skill in making innocent events look really dangerous, they take something that normally wouldn't pass the laugh test and turn it into an indictment."

In a separate terrorism investigation in Memphis, an Egyptian student at the University of Memphis was ordered held without bond Thursday after federal law enforcement officials said he had bogus credentials and had ordered $2,500 worth of pilot paraphernalia and flight instructional material over the Internet this summer.

The student, Mahmoud Maawad, 29, is charged with wire fraud and fraudulent use of a Social Security number. An assistant United States attorney, Steve Parker, described the accusations outlined in an affidavit and search warrant for Mr. Maawad's Memphis apartment as "scary," and said he was a flight risk.

A criminal complaint says Mr. Maawad used a debit card in June, July and August to order $3,300 worth of merchandise from Sporty's Pilot Shop in Batavia, Ohio.

An affidavit for a search warrant lists items including a private pilot course, flight simulator software, a flight gear bag, maps of the Memphis airport, a $239 leather Navy flight jacket, a DVD titled "How an Airline Captain Should Look and Act" and instructional programs on airplane terminology.

Prosecutors, Al-Arian Defense Dispute Payment (TAMPTRIB)

By MICHAEL FECHTER

Tampa Tribune, September 20, 2005

TAMPA - In a trial in which "shirts" and "magazines" are considered coded references to money, talk about "books" just may be talk about books, a defense attorney said Monday.

FBI agent Ed Ortega acknowledged a secretly recorded telephone call about a 2003 money transfer to the Middle East did reference books for defendant Sameeh Hammoudeh.

Hammoudeh is one of four men, including former University of South Florida professor Sami Al-Arian, charged with conspiracy to commit racketeering and to provide material support to terrorists. Last week, Ortega detailed a series of money transfers defendant Hatim Fariz sent to a charity that prosecutors say is part of the Palestinian Islamic Jihad terrorist group.

Ortega's testimony showed the defendants discussing money, then arranging to send it through a Chicago financial services office.

Under questioning by defense attorney Stephen Bernstein, Ortega acknowledged he doesn't read or speak Arabic and did not check to see whether Hammoudeh or other defendants ever received books mentioned in a call with Hammoudeh's father in the West Bank. After Hammoudeh's father indicated he had not received an anticipated $1,000 transfer, the men talked about a specific author and whether Sameeh Hammoudeh needed copies of the Koran.

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Later, defense attorney Kevin Beck, who represents Fariz, picked up on Bernstein's point. Ortega said he didn't know whether the conversation, in fact, was about books.

"Sir, how do you know they are not?" Beck fired back.

Other calls preceding money transfers discussed buying an ambulance for a Gaza hospital and supporting a charity for blind women.

The money was not sent directly to those outlets. Rather, most of it went to the Elehssan Society, considered an arm of the Palestinian Islamic Jihad that operates in the West Bank and Gaza. Agents found printouts of a Web page from the society when they searched Fariz's home after his 2003 arrest.

Beck emphasized the society's self description as a cultural and charitable and athletic club established in 1998. It even had a theater troupe called Al Noor, Beck said, reading from the document.

But federal prosecutor Alexis Collins twice pointed to a play performed by that troupe, called "Children rushing toward martyrdom."

She also pointed to the Elehssan Society's report that the troupe performed for Hamas leader Ahmed Yassin and an Islamic Jihad leader named Abdullah Al-Shami.

Meanwhile, defense attorneys are fighting government plans to recall two computer experts to introduce evidence from an Islamic Jihad Web site called Qudsway .com. Assistant U.S. Attorney Terry Zitek said the FBI experts discovered new information after testifying in June.

The evidence shows Salah Abu Hassanein, the recipient of many money transfers from Fariz, used the Web page to communicate with Fariz and others.

Agents also have determined that the Web site is based in Tehran, Iran, a country that provides the Islamic Jihad with the bulk of its funding.

Allison Guagliardo, another of Fariz's attorneys, argued that the evidence is coming too late for the defense to prepare adequately. Their computer expert estimates needing four to six weeks to analyze the new material.

"At this point," she said, "it's way too late in the game for us to be able to deal with this," she said.

She added that information from Web sites constitutes hearsay and cannot pass legal hurdles. Moody deferred ruling on the motion until he receives more specific information from the defense experts. WHAT HAPPENED

Prosecutors and defense attorneys offer varying interpretations of money the defendants sent to a Palestinian charity from 2001-03.

More Details: Possible Terror Plans (WCPO-TV)

By Lance Barry

WCPO-TV, September 20, 2005

There is new information on an Egyptian college student being held under suspicions of terrorism in Tennessee.

As 9News first reported on Sunday, it was a tip from a Batavia business that led the feds to the suspect who is illegally in the country.

On Monday 9News obtained the receipts for the items the suspect tried to purchase this summer from Sporty's Pilot Shop. His credit card was denied, which prompted the investigation.

9News uncovered items that seem to point to a far more extensive interest in aviation than first thought.

At fifteen pages and more than $3,000, these receipts were enough to pique the interest of federal agents in Mahmoud Maawad.

Besides a flight jacket and flight equipment that Maawad purchased, 9News found other items on the receipts, including aviation maps of his home airport in Memphis, Tennessee and cassettes on listening to control tower communications.

9News wanted to ask Sporty's why anyone might need access to purchase those items, but their spokesperson would only give us an off camera statement, saying, "Sporty's does not make comments on matters which may involve national security."

As 9News first reported Sunday, another DVD Maawad purchased this summer from Sporty's was titled "How an Airline Captain Should Look and Act."

Sporty's tells us the DVD isn't meant for people to learn how to deceive, but rather to teach proper etiquette to new pilots.

Sporty's also offers in-flight training to prospective pilots at their Clermont County airport facility.

9News asked the company whether the suspect had come there to receive any in-person training but were told he had not.

The University of Memphis freshman was a 29-year-old economics student.

He has yet to be charged with any terrorist planning, but is facing wire fraud allegations that he stole a social security number to make the purchases online from Sporty's.

He remains in federal custody being held without bond.

There are no allegations that Sporty's did or sold anything illegal. 9News was told if someone had even a small interest in aviation it would be hard to not order something from the business as it's one of the country's leading mail order suppliers of aviation material.

SAFETY MEASURES QUESTIONED (NBC5CINN)

NBC 5 Cinncinati, September 19, 2005

CINCINNATI -- A chief Tri-State law enforcement official said it's time to beef up safety measures at stores that sell pilot equipment, News 5's Brian Hamrick reported.

Mahmoud Maawad, now the center of a federal investigation, bought almost $3,000 worth of equipment from a Sporty's Pilot Shop in Batavia over the Internet, Hamrick reported.

Sporty's sells everything a pilot could need -- uniforms, maps, even instructional DVDs.

Store managment notified the FBI when Maawad didn't pay for the items he purchased, and investigators found out he didn't have a Social Security number and isn't even in the United States legally.

Michael Snowden, director of homeland security for Hamilton County, said Maawad's case reveals carelessness in a system meant to protect American flyers after 9/11.

"Unfortunately, it's not that difficult to obtain identification, insignia badges -- those are all easily obtained," he said

In Maawad's Memphis apartment, federal agents found $2,500 worth of pilot paraphernalia, including a DVD called "How an Airline Captain Should Look and Act" and a chart of the Memphis airport.

"It's very concerning, because part of what we're trying to do with homeland security is to make sure all of our critical assets and infrastructure are all secure," Snowden said.

No one with Sporty's would speak with Hamrick. And while it's not illegal for the store to sell a pilot's uniform to someone who's not a pilot, Snowden said he thinks retailers need to be cautious.

"I would think at the very least they should be checking it out," he said.

Man With Local Ties Ordered To Leave The U. S. (WDTN-TV)

WDTN-TV, September 20, 2005

A Jordanian native who had been living in the Miami Valley was ordered to leave the country after being investigated for possible connections to terrorism.

Thirty-three year old Mohammed Obeid had been living in Piqua, and was engaged to a Piqua woman when the FBI raided their home last summer, taking Obeid into custody.

An immigration judge had ordered him jailed on accusations of marriage fraud. He'd been married to, then divorced from two different American women before meeting the Piqua woman. Authorities claimed he was marrying women just to stay in the country.

The FBI claimed he was visiting terrorist related web sites at the couple's Piqua apartment.

On Monday, another hearing was held, this one in Monroe, Michigan. It was originally scheduled to be in Detroit, but they ended up holding it in the Monroe County jail because "security concerns."

Obeid and his attorney do have 30 days to appeal the judge's decision to remove him from the United States.

He is to be held in jail until that happens.

Al Qaeda Admits To London Bombings (WT/AP)

By Maggie Michael, Associated Press

The Washington Times, September 20, 2005

CAIRO -- Al Qaeda deputy leader Ayman al-Zawahri said in a statement broadcast yesterday that his terror network carried out the July 7 London bombings, marking the group's first direct claim of responsibility for the attacks that killed 52 persons.

"The blessed London attack was one which al Qaeda was honored to launch against the British crusader's arrogance and against the American crusader aggression on the Islamic nation for 100 years," al-Zawahri said in the tape aired on Al Jazeera TV.

"In their final testament, the heroic brothers in the London attacks ... provided great lessons to the Islamic nation and Muslims in Pakistan to oppose the infidels," said al-Zawahri, who was shown wearing a white turban.

The attacks also killed the four bombers.

A spokeswoman for London's Metropolitan Police said she had no immediate comment on the tape.

Al-Zawahri also challenged the legitimacy of Afghanistan's parliamentary elections Sunday, saying they were held "under the terror of the lords of war," an apparent reference to the country's government.

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The election reference suggested the tape was made recently. Al Jazeera showed five minutes of it.

The Egyptian-born al-Zawahri also denounced U.S. demands for political reform around the world, including in Islamic countries.

"The Americans will not allow any Islamic regime to take power in the heart of the Islamic world unless it is a regime collaborating with them as happens in Iraq," he said.

PATRIOT ACT:

Gag-Rule Decree Sets Off A Clash Over Patriot Act (WSJ)

By Anne Marie Squeo

The Wall Street Journal, September 20, 2005

Even as Congress moves to renew much of the 2001 Patriot Act, a federal judge in Connecticut has set up a clash over one of the antiterror law's most contentious provisions.

The Justice Department moved to block and is appealing a recent decision by U.S. District Judge Janet Hall that strikes down the gag orders imposed on recipients of so-called National Security Letters as part of a terrorism probe. NSLs are requests for information similar to subpoenas but are issued by the Federal Bureau of Investigation, not a grand jury, and aren't reviewed by a judge.

The Patriot Act prohibits disclosure of NSLs. In its appeals-court filing, the Justice Department cited the harm in "alerting the target of the investigation that his activities are subject to scrutiny, and allowing the target to hide, move his activities to another provider, provide misinformation to the government or otherwise frustrate the FBI's investigation."

But in her Sept. 9 ruling, the judge found in favor of the recipient of a recent letter, dubbed John Doe because of the gag order, and the American Civil Liberties Union. She said that the way the law was written has "the practical effect of silencing individuals with a constitutionally protected interest in speech and whose voices are particularly important in an ongoing national debate about the intrusion of governmental authority into individual lives."

Congress is reviewing the Patriot Act, which was passed in the weeks following the Sept. 11, 2001, terror strikes to give federal investigators more tools to prevent attacks. Sixteen provisions of the law will expire at the end of the year if not renewed. The NSL provision, while not among those 16, has been the target of much discussion because the secrecy requirements raise concerns about abuse.

"Our point isn't that the government could never justify a limited secrecy order in an ongoing investigation," said Ann Beeson, associate legal director at the ACLU. "Our point is they are required to justify that order by showing that the disclosure of that information would undermine a compelling government interest. In this case, the district court looked at their classified evidence and decided they hadn't."

This isn't the first time a federal judge has ruled against the government on NSLs. Last September, a district judge in New York declared unconstitutional a similar letter, sent to an Internet-service provider, on the grounds that it violated free-speech rights. The Justice Department has appealed the decision.

The ACLU and other civil-rights groups have been pressing Congress and the Bush administration to rein in some of the Patriot Act. But in July, the Senate and the House both passed similar versions of the law, extending 14 of the 16 provisions due to end. Differences are expected to be hammered out in coming weeks.

WAR NEWS:

Estimate Puts Afghan Turnout At 50% For Vote (USAT)

By Paul Wiseman

USA Today, September 20, 2005

KABUL, Afghanistan — Lamia Aszada had high hopes when she cast a vote for the first time in Afghanistan's presidential election last fall. She picked a winner, too: Hamid Karzai won in a landslide.

Aszada, 40, a civil servant who earns $40 a month at Afghanistan's Education Ministry, didn't vote in equally historic legislative elections Sunday. Her enthusiasm for democracy faded when Karzai failed to come through with raises for government workers.

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"He is a liar guy," she said. She also was appalled by some of the names she saw on the ballot: warlords who plundered and destroyed Kabul in the 1990s. "They robbed my house four times, the warlords," she said Monday. "Why should I vote for them?"

Turned off by the candidates, intimidated by the threat of violence and assuming a been-there, done-that attitude toward what had been the novelty of voting, hundreds of thousands of Afghans like Aszada sat out Sunday's elections.

Vote counting begins today. Final results are expected in early October because some ballots are being delivered from remote regions. When the count is completed, the turnout is expected to come in well below that of last year's presidential election, in which 70% of eligible voters cast ballots.

Chief electoral officer Peter Erben said Monday that early results suggest 6 million Afghans voted, about 50% of registered voters and well below expectations. Erben, a Dane who has worked on elections in Bosnia, Kosovo, East Timor, the Palestinian territories and Iraq, declared the turnout figures "satisfactory." He said there always is great initial enthusiasm for voting in "post-conflict" countries, as in Afghanistan's presidential election. That cools, he said, usually settling at turnout rates of about 50%.

Erben said the stakes in the legislative elections were not as "tangible" as they had been in the simple choice for presidency: Nationwide, nearly 6,000 candidates contended Sunday for 249 seats in the Wolesi Jirga, or lower house of the Afghan National Assembly, and 420 provincial council seats. To make things easier in a country where 49% of men and 79% of women are illiterate, planners devised ballots that let voters identify candidates by their photographs, by a number and by a symbol.

Nevertheless, the number of candidates made for bewildering ballots: In Kabul, the National Assembly ballot had 390 candidates and required seven pages.

Erben said the ballots were designed to be completed in 10 minutes and that "many" voters managed to complete them in three or four minutes. However, some voters in Kabul had trouble locating their candidate. "They were wasting 10 or 15 minutes, and still they couldn't find the guy," said Shahnaz Qasmi, a high school principal and election officer.

Before the vote, the Taliban warned Afghans to boycott the polls. In a statement Monday, President Bush said Afghan voters had defied the Taliban and "those who threaten their lives."

The threats did not stop the vote. What stopped many from going to the polls was the candidates. Among those running for office were former Taliban leaders and commanders such as fundamentalist warlord Abdul Rabb al-Rasul Sayyaf. His forces battled other factions in Kabul from 1992 to 1996.

"It's better not to vote for anybody," said Rasul Beg, 25. "In Afghanistan, it is too hard to find someone who will serve the people. They are all criminals."

Was his view jaded because he'd been exposed to corruption in his job as a government anti-narcotics officer? Beg smiled: "Maybe."

Afghan Electorate's Message: The Provinces Need Public Works And Restoration Of Order (NYT)

By Carlotta Gall And Somini Sengupta

The New York Times, September 20, 2005

KABUL, Afghanistan, Sept. 19 - The winners and losers of the landmark Afghan elections on Sunday will remain a mystery for another several weeks, but whoever makes it to the legislature will quickly be tested against the universal axiom of parliamentary democracy: that all politics is local.

With widespread frustration over the pace by which the central government in Kabul is distributing reconstruction aid to the provinces, diplomats and election observers said, the test of credibility for the new Parliament will be its ability to deliver on the peace dividend, from roads and bridges to law and order.

Speaking to reporters on Monday, the United States ambassador, Ronald E. Neumann, acknowledged that citizens' expectations for internationally financed reconstruction projects were running high, for everything from public works to a functional justice system.

"These expectations of the people will have to be met," Mr. Neumann said. "What the election does is give the Afghan people a new channel to voice their opinions and demands."

He took pains to offer reassurance that the United States and other foreign donors would stay the course in Afghanistan's recovery. "It's going to be long term," he said. "This job is not done. For Afghanistan to be stable and peaceful, the international community is going to have to stay involved for a long time."

In the elections on Sunday, in which Afghans voted for a 249-seat lower house of Parliament and for 34 provincial councils, an estimated six million people voted. The turnout of a little over 50 percent was far lower than expected, election officials said. Results are expected by Oct. 22.

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The provincial councils and the president will in turn select members of the 51-seat upper house. Parliament is to convene in December.

Mr. Neumann, as well as European election observers and Afghan election officials, insisted that despite threats from insurgents linked to the country's former Taliban rulers, violence was scattered and lower in intensity than had been feared.

The chief of the United Nations Assistance Mission in Afghanistan, Jean Arnault, said that to maintain their credibility, the executive and legislative branches would have to answer to a public increasingly frustrated about the lack of visible improvements.

"One of the very, very widespread complaints about reconstruction process today is where is the money going," Mr. Arnault said. "There is a sense out there that resources are not fairly allocated."

An elected Parliament, he said, will prompt accountability on the part of President Hamid Karzai's administration and his international backers.

Likewise, a preliminary assessment of the reconstruction efforts, issued last week by the Center for Strategic and International Studies, based in Washington, found that while security had improved in the nearly four years since the American-led military overthrow of the Taliban, good governance, a working criminal justice system and economic development remained dangerously lacking. The report described the Karzai government as weak.

"A broad foundation for success is being built, but too few needs have been met in Afghans' day-to-day-lives," the report said. "The formal justice system in Afghanistan remains unable to confront impunity, adjudicate land disputes, unravel criminal networks or protect citizens' rights. Economic growth has been significant but uneven."

Peter Erben, the chief of the United Nations-assisted Joint Election Management Board, said Monday that the election turnout was satisfactory, considering that post-conflict elections usually begin with high participation and then level off. He gave the example of Bosnia, where he said turnout was about 70 percent in 1996, shortly after the end of the war there, only to drop to about 55 percent by 2002.

In Afghanistan there were other explanations for the turnout beyond the threat of violence. Voters and election observers said the ballot was confusing, with voters in Kabul, for instance, having to sift through a list of roughly 400 parliamentary candidates to make their one selection. Some voters appeared not to understand the function of a Parliament, a weakness that critics attributed to weak civic education in the prelude to elections.

More worrying was a creeping sense of disillusionment with the fairness of the democratic process.

"I thought it might be again the same spaghetti and the same plate," said Zubair Ahmed, 29, who is unemployed. He said he tore up his voting card after the election for president last October. "There was no motive for voting again," he said. "We expected a change after the presidential election, but nothing happened."

Humayoun, 24, a farmer from a village in the Shomali plain, just north of Kabul, said: "Why we should bother to vote? The people in the Parliament are already selected. They come sealed and stamped from America, like Karzai."

Those who did turn out Sunday said they had come with hope that their choice for Parliament would bring their communities a greater share of reconstruction assistance.

"I'm hoping for security first, then roads, then education," said Muhammad Tahir, 45, a Kandahar shopkeeper.

Nur Alam, 54, a farmer in a village north of Kabul, said, speaking of the newly elected officials: "They should definitely do it for us, because they cannot sit on their chair and do nothing. Of course if they don't do anything, people will not vote for them the next time."

Voter Turnout At About 50 Percent (WT)

By Carmen Gentile

The Washington Times, September 20, 2005

KANDAHAR, Afghanistan -- Early returns show a lower-than-expected voter turnout for the embattled nation's widely anticipated parliamentary elections, electoral officials said yesterday.

Peter Erben, the chief electoral official for the Sunday vote, said about half of Afghanistan's 12.4 million registered voters cast ballots.

"With these early indications, I can say turnout appears just over 50 percent," said Mr. Erben yesterday at a press conference in the capital, Kabul. He made the assessment after a third of polling stations in Afghanistan's 34 provinces reported the volume of their voter traffic.

In the presidential election last year, about 70 percent of registered voters headed to the polls, and ahead of the Sunday vote, many officials had predicted that between 80 percent and 85 percent of eligible voters would head to the polls.

Officials expect the vote tally to take more than two weeks, with results likely announced in the next two weeks, although it could be mid-October before the results are announced.

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Afghans went to the polls to select 249 members of the country's Wolesi Jirga, or "House of People." It is the first time since 1969 that a Wolesi Jirga was chosen by a democratic vote.

They also selected provincial leaders among the thousands of candidates vying for hundreds of local positions.

Terrorist attacks early Sunday might have hurt turnout, even though the day passed relatively peacefully.

Several polling stations visited by The Washington Times in Kabul late Sunday were devoid of the long lines seen earlier in the day.

U.N. and Afghan electoral officials, working together in the elections, reported that polling stations in other provinces were packed all day and even stayed open past the 4 p.m. cutoff time to get those in line to vote.

The hard-line Taliban, which once ruled almost all of Afghanistan under a version of Islamic law that prohibits girls from going to school, had threatened to disrupt the voting.

In Ghazni province, lines for female voters reportedly were longer than those for men. The vote was particularly poignant for women, because 25 percent of Wolesi Jirga seats have been set aside for women.

At a ballot collection station outside Kandahar Stadium, where the Taliban used to conduct public executions and amputations for crimes such as adultery and theft, security officer Gulam Mohendeen gestured fondly toward 20 trucks loaded with ballot boxes collected from polling stations nationwide.

"Though the country still doesn't have a real government, these boxes represent the future of Afghanistan," he said.

Is Pakistan Doing Its Part In The War On Terrorism? (USAT)

By Paul Wiseman

USA Today, September 20, 2005

ISLAMABAD, Pakistan — Police commandos burst into an all-girls madrassa here in what was meant to be a dramatic example of Pakistan's commitment to cracking down on Islamic extremism and religious schools that promote it. But the July 19 raid turned into a debacle.

Caught without their veils, the teenage girls screamed — and then rallied. Grabbing mops, brooms, stones and knives, they drove the commandos out. The retreating police fired back with tear gas. The girls staggered into the street, where the melee continued; 62 students had to be hospitalized after the police beat them with batons.

The target of the raid was extremist mullahs from Islamabad's Red Mosque, which runs the school and is famous for organizing anti-American, pro-Taliban demonstrations. No one was arrested, and police even missed a chance to nab one of the mosque's top clerics: Hours before the raid, Abdul Rashid Ghazi had been in police headquarters for a routine meeting with the commissioner. “They could have arrested me there,” Ghazi says.

So goes Pakistan's campaign against homegrown religious extremism: considerable drama, few results. President Pervez Musharraf has taken huge risks — he has survived two assassination attempts — to hunt down al-Qaeda fugitives. He has sent thousands of troops to battle militants along the lawless border with Afghanistan. But his government has been reluctant to go after its former allies: the Taliban in Afghanistan and groups that have fought a proxy war against Indian troops in disputed Kashmir. It also has been slow to crack down on madrassas that teach intolerance and glorify jihad, or holy war.

As a result, Pakistan is still turning out young militants burning to kill and die for their extreme interpretations of Islam.

Pakistani forces also have been unable to find two of the world's most-wanted men — Osama bin Laden and Taliban leader Mullah Mohammed Omar — after four years of searching. The fugitives are believed to be hiding along the Afghan border.

Musharraf's pledge to eradicate extremism is coming under closer scrutiny four years after the U.S. began its military campaign to topple the Taliban. A recent upsurge in Taliban attacks on U.S. troops in Afghanistan near the Pakistani border is raising questions about the degree to which the militants are receiving sanctuary, training and supplies inside Pakistan.

There also is concern that the militants might be getting support from rogue elements of Musharraf's own security services.

“It's very obvious (the militants) are interfering in Afghanistan,” says Gen. Abdul Manan Farahi, head of counterterrorism at the Afghan Interior Ministry. “They are coming into Afghanistan from Pakistan. They are being trained in Pakistani madrassas.”

Pakistan rejects criticism

Pakistani officials reject the criticism. “We should not be accusing each other,” says Jehangir Karamat, Pakistan's ambassador to the United States.

Although Pakistan once supported the Taliban, the government insists it has no incentive to do so now. “Pakistan has absolutely nothing to gain from a destabilized Afghanistan,” Karamat says.

Pakistan is developing its southern port of Gwadar in anticipation of increased trade with Afghanistan and central Asia. “This can happen only when Afghanistan is at peace,” says Maj. Gen. Shaukat Sultan, Pakistan's military spokesman.

Pakistan has dispatched more than 80,000 troops to hunt militants along the rugged Afghan border. They've captured 700 al-Qaeda suspects and endured heavy losses: 270 Pakistani troops killed, another 600 wounded, Sultan says.

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But Pakistan has been more aggressive rounding up foreign al-Qaeda fighters than militants with origins closer to home. Musharraf "has been making a distinction between al-Qaeda, the Taliban and homegrown Pakistani groups," says Husain Haqqani, a visiting scholar from Pakistan at the Carnegie Endowment for International Peace in Washington.

Sultan says only 46 Taliban leaders have been arrested. Pakistan's military, which overthrew an elected government in a bloodless 1999 coup that put Musharraf in power, has old ties to the Taliban and to domestic extremist groups.

The United States and Pakistan encouraged Muslims to wage a successful jihad against the Soviet occupation of Afghanistan in the 1980s. Emboldened by the Afghan triumph, Pakistan recruited militants to fight the Indian army in Kashmir, a low-budget way to bleed the Indian occupation of territory Pakistan claims as its own. Pakistan also threw its support behind the Taliban as the militia seized power in Afghanistan, convinced that a friendly, anti-Indian government in Kabul was crucial to Pakistan's security.

But Sept. 11 changed everything. Under pressure from Washington, Musharraf agreed to abandon the Taliban and support the U.S.-led war on terrorism. On Jan. 12, 2002, Musharraf delivered a much-anticipated speech in which he banned extremist groups, pledged to end support for militant attacks in Indian-controlled Kashmir and promised to crack down on madrassas. He said they would have to register with the government.

Since then, militant infiltrations into Kashmir have decreased, and Pakistan has entered into diplomatic talks with India to resolve the long-standing dispute. But inside Pakistan, nothing much came of Musharraf's pledges.

The International Crisis Group, a Brussels-based, non-profit organization that works to prevent conflict, reported that hundreds of militants were detained — but then released. Militant groups re-formed under new names, most madrassas never registered and militant leaders continued to operate openly, the report said.

In the most extreme example noted by the International Crisis Group, the government allowed Sunni extremist Maulana Azam Tariq to run successfully for parliament in 2002 even though he was facing terrorism charges. His political career ended when he was gunned down in October 2003.

In many madrassas, textbooks and teachers promote intolerance against different sects and religions. Even in public schools, textbooks glorify jihad and warn children to be ever vigilant against enemies of the state.

"Intolerance is deeply ingrained in the culture," says Mariam Abou Zahab, a French expert on Pakistan.

Worries about Pakistan's madrassas grew after the July 7 London bombings. At least one of the four suicide bombers had visited a Pakistani madrassa before the attacks; he and two others were Britons of Pakistani ancestry.

In June, the former U.S. ambassador to Afghanistan, Zalmay Khalilzad, set off a diplomatic furor when he pointedly said he didn't believe bin Laden or Omar was hiding in Afghanistan.

The implication was clear: The fugitives had instead found sanctuary in Pakistan. Musharraf challenged skeptics to "please come and show us where he is."

"The Pakistan government is playing a double game," says retired U.S. diplomat Dennis Kux, author of The United States and Pakistan 1947-2000: Disenchanted Allies.

"It is a firm ally in the war on terror," he says, "but at the same time wants to preserve its options to use the Taliban."

'Walking a tightrope'

Musharraf can't risk moving aggressively against homegrown extremists. "He is walking a tightrope," Zahab says. His government has marginalized secular democratic political parties and forged a partnership with a coalition of religious parties.

"Both Musharraf and the Islamic parties have a stake in the continuation of the current policies," says political consultant Hasan Askari Rizvi.

"Even if the Pakistani government wished, it could not fully control the extremists," Kux says. "For too long it coddled them or just looked the other way. Moreover, Musharraf, I assume, fears pro-Islamist elements in the military. Otherwise, he would not back down every time he says he is going to put the lid on madrassas or take other measures that offend the extremists."

The Pakistani public, inflamed by scenes of civilian deaths in Iraq and Afghanistan, is increasingly hostile to the U.S.-led war on terrorism and Pakistan's official support of it.

Musharraf may be taking an even greater risk by making tentative overtures to Israel, a close U.S. ally shunned in most of the Muslim world. He met briefly with Israeli Prime Minister Ariel Sharon last week at the United Nations.

"We want to try to influence Israel to establish a Palestinian state," the Pakistani president said in an interview published Saturday in the Arabic-language Asharq al-Awsat newspaper. "We won't have a role if we don't deal with them."

"There is an increasing gap between the state and society," says Muhammad Waseem, political analyst at Islamabad's Quaid-i-Azam University. "The state is supporting America. The society is increasingly anti-American. If the government ignores the public sentiment, it can't be legitimate."

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After the London bombings, Musharraf repeated the pledges he'd made 3½ years earlier. Pakistani police began another roundup of extremist suspects — a campaign that included the ill-fated July 19 assault on the girls school. The government last month passed an ordinance requiring madrassas to register.

Musharraf's critics are waiting to see whether he pushes ahead this time with the registration and regulation of madrassas, something religious groups pledge to resist.

"What one looks for is evidence, not rhetoric," says Samina Ahmed of the International Crisis Group.

British Army Storms Basra Jail To Free 2 Soldiers From Arrest (NYT)

By Sabrina Tavernise

The New York Times, September 20, 2005

BAGHDAD, Iraq, Sept. 19 - Two British soldiers working under cover were arrested Monday in the southern city of Basra and then freed as a British armored vehicle blasted through the wall of their jail after an angry crowd began rioting outside, an Interior Ministry official said.

The official said that the soldiers were undercover officers dressed as Iraqis and that Iraqi police officers had arrested them after the men fired at a traffic police officer.

A British military spokesman in Basra confirmed that "two U.K. military personnel" had been detained early on Monday "in a shooting incident" and that troops had used an armored fighting vehicle "to gain entry" to the police station to release them. He said that more than one vehicle had been in the area and that the police inside the station had refused to obey orders from the Interior Ministry to release the men.

The incident came a day after British forces in Basra arrested three members of the Mahdi Army, the militia loyal to the rebellious Shiite cleric Moktada al-Sadr, on suspicion of terrorism.

The official, who spoke on the condition of anonymity because he was not authorized to speak to the press, said the riot began Monday evening when militia members converged on the police station holding the British men, apparently hoping to seize them in order to free their three colleagues in British custody. The British spokesman said there had been 100 to 200 people in the crowd.

Ali Dabagh, a Shiite member of the National Assembly who had just emerged from a briefing with Interior Minister Bayan Jabr in Baghdad on Monday night, said that militia members had begun attacking the station with assault rifles and rocket-propelled grenades, and that British troops soon responded to defend it.

The ministry official said that British armored vehicles had fired on the station, headquarters of the major crimes unit in central Basra, and broken through its outer wall. Troops then stormed in and freed the two men, he said. There were reports of prisoners escaping, but the official denied them.

A broadcast on Al Arabiya satellite television showed two men, whom the station identified as British undercover officers, one with his head bandaged and both with their hands behind their backs.

The video showed men and boys hurling stones at a burning armored fighting vehicle outside the police station. A British soldier could be seen climbing out of the hatch and jumping to the ground, as the crowd pelted him.

[Despite the graphic images, British Defense Minister John Reid said Monday that the soldiers wounded in the attack were "being treated for minor injuries only and are expected to return to duty shortly," Agence France-Presse reported.]

Reuters reported that two Iraqis had been killed in the fighting. The Interior Ministry official said that 25 people had been wounded but that he could not confirm any deaths.

Violence continued in other parts of the country. Car bombs exploded near Iraqi police convoys in Mahmudiya and Latifiya, just south of Baghdad, just after 1:30 p.m., killing a total of nine police commandos and wounding 12, officials said.

In the northern city of Mosul, a man driving a sport utility vehicle blew himself up with a bomb near an American convoy, killing at least one civilian. The military did not report any deaths of soldiers in the attack.

In a statement on an Internet site on Monday, the terrorist group Al Qaeda in Mesopotamia modified a declaration of war made last week by its leader, Abu Musab al-Zarqawi. The statement said followers of Mr. Sadr, the Shiite cleric, who has twice ordered his group to fight against American troops, would not be directly attacked.

In an effort to persuade Iraqis that it is taking a hard line with insurgents, the Iraqi government announced that the Central Criminal Court had handed down sentences for 54 foreigners who had been convicted of crossing into Iraq illegally. A majority were from Syria and Saudi Arabia.

In another court action on Monday, Saddam Hussein's nephew Ayman Sabawi was sentenced to life in prison for supporting the insurgency. Mr. Sabawi was arrested in May in Tikrit. His father, Sabawi Ibrahim alHassan, Mr. Hussein's half brother, was arrested in February and is awaiting trial.

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British Smash Into Iraqi Jail To Free 2 Detained Soldiers (WP)

By Ellen Knickmeyer And Jonathan Finer

The Washington Post, September 20, 2005

BAGHDAD, Sept. 19 -- British armored vehicles backed by helicopter gunships burst through the walls of an Iraqi jail Monday in the southern city of Basra to free two British commandos detained earlier in the day by Iraqi police, witnesses and Iraqi officials said. The incident climaxed a confrontation between the two nominal allies that had sparked hours of gun battles and rioting in Basra's streets.

An Iraqi official said a half-dozen armored vehicles had smashed into the jail, the Reuters news agency reported. The provincial governor, Mohammed Walli, told news agencies that the British assault was "barbaric, savage and irresponsible."

British officials said three soldiers were hurt in the day's violence, in which at least one armored personnel carrier was destroyed by firebombs. Iraqi officials said at least two civilians were killed.

In London, authorities said the two commandos were released after negotiations. But the BBC quoted British defense officials as saying a wall was demolished when British forces went to "collect" the men.

Monday's violence underscored the increasing volatility of Basra, a Shiite Muslim-majority city that had previously escaped much of the violence of the Sunni Muslim-led insurgency. Tension has been growing between British forces in the city and Shiite police and militias that operate there.

On Monday, an Iraqi reporter working for the New York Times was found shot dead on the outskirts of Basra with his hands bound, his family and security sources said. The reporter, Fakher Haider, had been handcuffed and taken away from his home Sunday night by four masked men who said they wanted to interrogate him, his family said.

"This murder of a respected colleague leaves us angry and horrified," Bill Keller, the newspaper's executive editor, said in a statement. "Fakher was an invaluable part of our coverage for more than two years. His depth of knowledge, his devotion to the story and his integrity were much admired by the reporters who worked with him."

Elsewhere in Iraq, anti-corruption investigators said they expected charges against the country's former defense minister, Hazim Shaalan, in the alleged embezzlement of more than $1 billion that was meant to help rebuild the country's security forces.

In Baghdad, Ayman Sabawi, a nephew of deposed president Saddam Hussein, was sentenced last week by an Iraqi court to six years in prison for financing the insurgency and making bombs, said Army Lt. Col. Guy Rudisill, a U.S. military spokesman.

Near the Shiite holy city of Karbala, bomb and mortar attacks killed at least five Shiite pilgrims as millions gathered for an annual religious festival there.

Basra, a city of 1.5 million, is heavily under the control of Shiite political parties and fighters of the Badr militia of the Supreme Council for the Islamic Revolution in Iraq, the Shiite religious party that has a leading role in Iraq's government.

Citizens and authorities allege that Badr fighters have infiltrated police forces and are carrying out abuses under the guise of police authority. Rivalry also runs strong between those militia fighters and the militia of Moqtada Sadr, a Shiite cleric.

Attacks on Westerners -- once a rare event in Basra -- have targeted British and U.S. diplomatic convoys in recent weeks and killed at least eight Britons and Americans.

Earlier Monday, gunmen loyal to Sadr attacked the house of Basra's governor to press demands for the release of two prominent members of the cleric's militia whom British forces arrested Sunday.

The killing of the New York Times reporter took place six weeks after an American freelance journalist, Steven Vincent, was kidnapped and killed in Basra, allegedly after being taken away in a marked police car. Vincent had published numerous articles, including in the Times, alleging heavy-handedness by Basra security forces and deriding Sadr and other Shiite officials.

Britain is the second-leading contributor of foreign troops to the U.S.-led coalition in Iraq, with 8,500 troops compared with 140,000 Americans.

Iraqi security officials on Monday variously accused the two Britons they detained of shooting at Iraqi forces or trying to plant explosives. Photographs of the two men in custody showed them in civilian clothes.

When British officials apparently sought to secure their release, riots erupted. Iraqi police cars circulated downtown, calling through loudspeakers for the public to help stop British forces from releasing the two. Heavy gunfire broke out and fighting raged for hours, as crowds swarmed British forces and set at least one armored vehicle on fire.

Witnesses said they saw Basra police exchanging fire with British forces. Sadr's Mahdi Army militia joined in the fighting late in the day, witnesses said. A British military spokesman, Darren Moss, denied that British troops were fighting Basra police.

Another Western military spokesman in Basra confirmed "an ongoing disturbance" in the city on Monday but said Iraqi and British forces were working together to quell it.

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In the southern city of Latifiyah, an insurgent stronghold, bombs targeted Shiite pilgrims driving and walking to Karbala for an annual rite. A car bomb hit the crowd of pilgrims first, followed 10 minutes later by mortar rounds, said police Capt. Muthanna Ahmed.

A suicide bomber killed five Iraqi policemen and two civilians Monday when he blew himself up near an Iraqi police commando patrol in Mahmudiyah, about 15 miles south of Baghdad, the Associated Press reported.

Shiite Militia, British Soldiers Clash (LAT)

By Borzou Daragahi

The Los Angeles Times, September 20, 2005

BAGHDAD, Iraq -- Violent street clashes erupted Monday between Shiite militia and British soldiers in the southern city of Basra, after British tanks stormed a local jail where two of their troops were being held.

The daylong violence in Iraq's second-largest city raised troubling questions about the relationship between British forces in charge of security and their Iraqi counterparts, in what once was considered a relatively safe area of the country.

The clashes, which involved members of cleric Muqtada al-Sadr's Al Mahdi army, apparently began when British commandos fired on Iraqi police, who took them into custody.

Tanks then bore down on the jail, knocking down a wall before the men were freed -- along with dozens of other detainees who took advantage of the chaos to escape, according to local reports and news agency accounts.

Two Iraqis were reportedly killed in the clashes, and several British soldiers were wounded.

Television images of the street fighting showed Iraqis firebombing a tank, and a British soldier emerging with his uniform in flames. The British Broadcasting Corp. reported the soldier was treated for minor injuries.

As night fell Monday, confusion and chaos dominated Basra's city center. Residents huddled in their homes reported gunfire and tank maneuvers.

Though Basra has not suffered the same level of violence as other cities in Iraq -- such as Fallouja, Samarra and the capital -- residents say peace has come at a cost. Armed militiamen rule the streets, enforcing perceived infractions of Islamic law with beatings and even killings, residents say.

In the once cosmopolitan city, women no longer can go unveiled on the streets, and physicians have been beaten for treating female patients.

The militias have also infiltrated the police, taking orders from clerics instead of commanders. When the Basra police chief acknowledged this spring that he'd lost control of his 13,000-strong force to Shiite Muslim militiamen, he was quickly removed from his job.

"The shift in Basra's situation from calmness to disorder is because of the authorities here," said Abid Sayid Mohammed Samad, 52, a Basra auto mechanic. "All are affiliated with different entities and blocs, and this rivalry among parties has undermined the security situation."

The clashes followed the discovery Monday of the body of Fakhr Haidar al-Tamimi, 38, a journalist and father of three who worked for local TV and radio, as well as The New York Times, the Guardian in London, National Geographic and other publications, according to the New-York-based Committee to Protect Journalists.

His death brought the toll for journalists or media workers in Iraq to 68 since the conflict began in 2003 -- five more than were killed in 20 years of covering the conflict in Vietnam, according to Reporters without Borders, a Paris-based advocacy group. Two thirds of those killed were Iraqis, the group said.

The Committee to Protect Journalists put the death toll at 55.

After enjoying a brief flowering of freedom and opportunities in the wake of the 2003 U.S. invasion, Iraqi journalists live in fear for their lives and rarely admit their profession in public.

"All the media people are now targeted and vulnerable simply because they convey the truth," said Nadhem Jabari, spokesman for the Basra provincial council. "We know very well that the truth would embarrass and many people."

Because of threats to Western reporters, much of the street-level reporting has been done by local Iraqi journalists, who file reports to all major media, including the Los Angeles Times.

It was unclear if Tamimi was targeted for his work with Western or local media.

"Covering this war is a perilous assignment for all journalists, but the gravest risk falls on those whose country is the battleground and whose lives are inextricable from the society," Bill Keller, executive editor of The New York Times, said in the announcement.

"We're all in shock about Fakher's death," said Robert F. Worth, a Baghdad-based New York Times correspondent. "He was a wonderful colleague, gentle and brave and resourceful. He had a great sense of humor. We will miss him."

Elsewhere, Iraq's steady tempo of bloodshed continued, with at least 11 other Iraqis killed in politically motivated violence.

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Near Baghdad on Monday, at least eight Iraqi police commandos, an Iraqi soldier and a civilian were killed and 12 others injured in car bombings at two checkpoints beyond the city's southern edge.

The attacks, in Mahmoudiya and Latifiya, were launched within the perilous cluster of small towns and palm groves south of Baghdad known as the "triangle of death." Authorities have tightened security in the area as pilgrims head on foot toward the holy city of Karbala for an annual Shiite religious ceremony.

In Baqouba, a turbulent city of Shiites, Sunnis and Kurds 40 miles north of the capital, the provincial governor escaped an assassination attempt that injured three of his guards while an explosion targeting a group of day laborers left one civilian killed. U.S. forces in the northern city of Mosul killed two suspected insurgents and detained three in early morning raids. The men were "suspected of having senior al-Qaeda in Iraq connections," the military announced.

Reporter Working For Times Abducted And Slain In Iraq (NYT)

By Robert F. Worth

The New York Times, September 20, 2005

BAGHDAD, Iraq, Sept. 19 - An Iraqi journalist and photographer working for The New York Times in Basra was found dead early Monday after being abducted from his home by a group of armed men wearing masks and claiming to be police officers, relatives and witnesses said.

The journalist, Fakher Haider, 38, was found with his hands bound and a bag over his head in a deserted area on the outskirts of Basra, in southern Iraq, hours after being taken from his house in that city. A relative who viewed his body in the city morgue said he had at least one bullet hole in his head and bruises on his back as if he had been beaten.

Mr. Haider had worked for The Times since April 2003 and had recently reported on the growing friction and violence among Basra's rival Shiite militias, which are widely believed to have infiltrated the police.

He did part-time for work for other news organizations, including Merbad TV, a local Basra station, and for publications including The Guardian of London and National Geographic. But his principal affiliation was with The Times.

"This murder of a respected colleague leaves us angry and horrified," said Bill Keller, the executive editor of The Times. "Fakher was an invaluable part of our coverage for more than two years. His depth of knowledge, his devotion to the story and his integrity were much admired by the reporters who worked with him."

Mr. Haider is the second journalist to be killed in Basra in the past two months. In August, Steven Vincent, an American freelance reporter who was writing a book about the city, was abducted along with his Iraqi interpreter, and he was later found dead. The interpreter remains hospitalized.

Days earlier, Mr. Vincent had written an Op-Ed article for The Times in which he criticized the British security forces in the city for failing to act against the Shiite militias' growing power within the local police force.

Basra has grown increasingly violent, with a complex web of sectarian agendas playing itself out almost daily on the streets. Insurgents continue to attack Shiite civilians and military patrols, while Shiite militias fight among themselves and, recently, with British troops as well.

On Sunday, Mr. Haider filed reports about angry demonstrations that had broken out after the arrest by British forces of two high-ranking members of the Mahdi Army, the militia loyal to the renegade Shiite cleric Moktada al-Sadr.

Shortly after midnight, two cars, one of them an unmarked sedan, one a police car, were driven up to Mr. Haider's apartment building, according to witnesses who said they could not be identified without jeopardizing their lives.

Efforts to reach the Basra police on Monday were not successful. Police officials tend to rely on cellphones, which are often unreliable between Basra and Baghdad.

Three of the men, carrying AK-47 assault rifles, entered the apartment building as frightened neighbors emerged from their homes, said Mr. Haider's wife, Intisar Abbas Hamza, in a telephone interview. They then entered the apartment and ransacked it, she said.

The gunmen took Mr. Haider's telephones, his pistol and some videotapes, Ms. Hamza said. As they prepared to leave with Mr. Haider, they told her they were only going to interrogate him for a few hours and bring him back, she said.

Mr. Haider told his wife not to worry, and then quickly wrote down the phone number of a friend and fellow journalist. He told his wife to tell the friend to call the Basra governor's office. The gunmen were standing by at the time, Ms. Hamza said.

In recent months, Mr. Haider had confided to friends that he was worried about the increasingly violent atmosphere in Basra. In July, gunmen in a pickup truck chased his car and fired at him, and he narrowly escaped after driving off the road and firing his pistol into the air, he told a friend.

A lean man with a quiet voice and a shy, curious smile, Mr. Haider was a Shiite and a member of the Tamimi tribe. Although his English was limited, he was brave and resourceful in his work with reporters. His extensive tribal connections were a great advantage in his journalistic work, both in Basra and in the marshes of southeastern Iraq.

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Mr. Haider, who was born in Basra, fought in the 1991 uprising against Saddam Hussein after the Persian Gulf war. He said that he later escaped to Kuwait and was lucky to avoid being killed when Mr. Hussein's forces regained control of southern Iraq.

During the uprising, Mr. Haider risked his life to help the daughter of a local Baath Party official secure a decent burial for her brother, who had been killed by rebelling Shiites. After the Baathists returned to power, the official spared his life for that reason, Mr. Haider said.

Before starting his work for The Times in 2003, Mr. Haider worked for years at a fertilizer factory in Basra, said his brother, Muhammad Haider. In addition to his wife, Mr. Haider is survived by three children, ages 5, 7 and 9.

England Now To Fight Abu Ghraib Charges (AJC/AP)

By T.a. Badger, Associated Press Writer

The Atlanta Journal-Constitution, September 20, 2005

SAN ANTONIO — Army Pfc. Lynndie England will abandon her earlier courtroom strategy and fight charges that she was a key participant in detainee abuse by guards at Iraq's Abu Ghraib prison, her lawyer said.

The 22-year-old reservist, who appears in a series of graphic photos taken inside Abu Ghraib, was to go on trial Tuesday at Fort Hood, Texas, on seven counts of mistreating prisoners.

She will be the last of a group of junior enlisted soldiers charged with Abu Ghraib abuses to have their cases resolved. Two have been convicted at trial, while six others made plea deals and received prison sentences of up to eight years.

Three months after England's attempt at a plea agreement fell apart, her lead defense lawyer, Capt. Jonathan Crisp, said "there's not going to be a deal."

Crisp said he plans to base much of his defense on England's history of mental health problems that date back to her childhood.

He said he also will focus on the influence exerted over England by Pvt. Charles Graner, the reputed abuse ringleader. Graner, who England has said fathered her young son while they were deployed, is serving a 10-year sentence after being convicted at trial in January.

"I wouldn't say it's 'Blame Graner,'" Crisp said of his trial strategy, which includes calling Graner as a witness. "But certainly Graner is involved as far as what was going on."

England pleaded guilty in May to conspiracy, maltreating detainees and committing an indecent act — the same charges she faces this week — in exchange for an undisclosed sentencing cap. The charges carry a maximum sentence of 11 years.

But judge Col. James Pohl abruptly threw out the deal and declared a mistrial during the sentencing phase when testimony by Graner contradicted England's guilty plea.

Graner, called as a defense witness, said pictures he took of England holding a prisoner on a leash were meant to be used as a training aid. But in her guilty plea, England said the pictures were being taken purely for the amusement of the guards.

Prosecutors, who declined to talk about the trial, are expected to rely on the photos that have made England the scandal's most recognizable figure.

A ruling by Pohl in July, however, tossed out a key piece of the prosecution's case — statements to Army investigators in which England implicated herself in the abuse.

The judge said that he believed England did not fully understand the consequences when she waived her rights against self-incrimination before speaking to the investigators in January 2004.

An Honest Victory (NYT)

By Nathaniel Fick

The New York Times, September 20, 2005

Cambridge, Mass.

Authority can be delegated; responsibility cannot. President Bush's speech last week accepting responsibility for the federal government's slow response to Hurricane Katrina was commendable, if overdue. Though it has been derided by some as political expediency, the president's acknowledgment was a necessary first step in rebuilding the Gulf Coast and preparing for the next disaster.

This new transparency, however, shouldn't stop with Hurricane Katrina. Consider the positive effects that would follow a similar presidential assumption of responsibility for American missteps in Iraq.

By declaring that the buck stops at his desk, President Bush could begin a top-down rethinking of our military and political strategies since the 2003 invasion. He would also establish a standard of personal accountability for everyone in the chain of command, much as his statement last week prompted Gov. Kathleen Blanco of Louisiana to follow suit. And it just might

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galvanize enough bipartisan support to break the ideological gridlock that has limited changes in Iraq policy to marginal tweaks rather than a full reassessment.

Of course, many people we will depend on in our attempt to rebuild Iraq - including Iraqi civilians, nongovernmental aid organizations and our foreign allies - will respond only to results, not to rhetoric. There is, however, at least one group that would respond well to this particular piece of rhetoric: senior military leaders. The fate of Gen. Eric Shinseki, the former Army chief of staff who fell into disfavor with the White House after telling Congress in 2003 that several hundred thousand troops would be needed in postwar Iraq, has cast a long shadow across the officer corps.

Much of the military's trustworthiness derives from its culture of accountability. In 1944, Gen. Dwight D. Eisenhower prepared a speech in case the D-Day invasion failed, knowing that his continued leadership of the Army depended on taking responsibility for its shortcomings. Half a century later, my own Marine training stressed that I, as a commander, was responsible for everything my troops did, or failed to do.

Senior military officers rightly expect the same sense of responsibility from the elected government they serve. The tradition of providing apolitical advice based on sound military judgment is predicated on the willingness of civilian leaders to consider unpopular counsel, something this administration has been unwilling to do. An admission of responsibility from the top would give our commanders new freedom to analyze what has gone wrong in Iraq and to work with the Pentagon's civilians to improve it, translating presidential rhetoric into results on the ground.

While our mistakes have been many - from broad policy to specific tactics - the most frustrating are those that recur. Many of the problems I witnessed in Iraq two years ago are being repeated: the three enablers of insurgency - weapons, men and money - still flow freely from Syria and Iran; many American units are still blind to cultural nuance, largely because of a shortage of translators; and there's still too much focus on the misleading statistic of dead insurgents, as if the enemy were finite.

As things stand, American citizens - and the military - have been offered a false choice between "staying the course" in Iraq and precipitous withdrawal. The historian James Chace compared the former to a sailor who, having been blown off course in a storm, continues to sail straight ahead, but in the wrong direction. Cutting and running, on the other hand, isn't a strategy. A hasty exit would give us anarchy, civil war and maybe revenge killing on a scale unseen since Rwanda. That withdrawal is frequently advanced as the "humanitarian" option is appalling. There must be a third way.

Enter presidential leadership. Envision this: In a primetime address like last Thursday's, President Bush focuses the power of his office on Iraq. He doesn't claim that we have turned a corner or that the insurgents are fighting harder because they are weaker. He speaks honestly, acknowledges the administration's mistakes, accepts responsibility for them and explains why creating a stable Iraq is in America's national interest. Then, and this is the key, he announces a reassessment of American strategy spanning from the roles of the commander in chief to the lowliest private.

We are not talking about shifting a few thousand troops from one city to another. President Bush would have to condone a major philosophical and strategic shift away from what hasn't worked. Fortunately, there are leaders in the military who understand counterinsurgency warfare. Conventional armies have been fighting guerrillas since ancient times, and this history offers countless cautionary examples, from Masada to Malaya. The nearest thing to a universal maxim is that counterinsurgents who fail to see their mistakes and to adapt on the fly are doomed to lose.

The military has proved itself adaptable in Iraq. Robots now zap roadside bombs with jolts of electricity and microwave energy. Junior officers and noncommissioned officers now post accounts of the hard lessons they've learned on military Web sites for quick dissemination to their peers. Soldiers and marines now return for second and third tours, armed with a better sense of the landscape, geographic and cultural. But these better methods will not become standard across Iraq unless the president himself encourages the military to undergo strategic adaptation. Officers must be granted authority to change course by the person who bears ultimate responsibility for the outcome.

There's no shortage of good alternatives waiting in the wings. One that has recently garnered much attention is the military historian Andrew Krepinevich's "oil spot" strategy, which involves shifting the focus from killing insurgents to protecting civilians by pouring money and manpower into protected cantons where average Iraqis can see the tangible advantages of our system over Al Qaeda's.

The particulars of whatever strategy we decide to go with are, at this point, secondary. First, commitment to change must be made, and quickly. The federal government came under assault for a delay of days in its response to Hurricane Katrina. Each week's delay in Iraq costs about a dozen Americans dead, a hundred wounded and a billion dollars down the drain, plus vast harm to American prestige and the Iraqis themselves.

President Bush has the power to change the United States' prospects in Iraq. But doing so requires the courage to admit errors, and the willingness to embrace good ideas. A break with the past can be Hurricane Katrina's positive legacy.

Guard Relief Hurt By Obsolete Equipment (USAT)

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By Dave Moniz

USA Today, September 20, 2005

WASHINGTON — Hurricane Katrina exposed serious weaknesses in the National Guard's communications systems, particularly a shortage of high-tech radios and satellite communications gear, the Guard's top general said Monday.

If it's going to protect the USA while also fighting overseas, the Guard needs better equipment, Lt. Gen. Steven Blum, head of the National Guard Bureau, said in an interview with USA TODAY.

"We were underequipped," Blum said. "We don't need tanks and attack helicopters and artillery, but we must have state-of-the-art radios and communications."

Much of the Guard's best communications equipment was being used by troops fighting in Iraq and wasn't available for units helping Gulf Coast states recover from the hurricane, Blum said.

Many Guard military police in New Orleans were using obsolete radios as they sought to restore order, he said. That, combined with a crippled civilian communications network, made it harder for them to communicate. Many also lacked night-vision goggles.

After Katrina struck the Gulf Coast, about 50,000 Guard troops were sent to states battered by the storm, the largest such domestic response in Guard history, said Blum, who oversees Army and Air National Guard units in all 50 states.

The active-duty Army, which helps equip the Guard, recognizes the deficiencies, said Blum, who has met with Pentagon officials to find more money for new equipment. "The leadership of the Army is committed to addressing the problem," he said.

Last week, Sens. Kit Bond, R-Mo., and Patrick Leahy, D-Vt., wrote President Bush asking for $1.3 billion to buy new equipment for the Guard.

Long-standing shortages and the stress of fighting wars in Afghanistan and Iraq have left the Guard with "a perilously low level of equipment available for natural disasters," the senators wrote.

Only 34% of the Guard's equipment is available for use in the USA, the letter said. The worst shortages are in trucks, night-vision goggles, engineering equipment and communications gear, the letter said. The Guard has historically used hand-me-down equipment from the active-duty military. For example, the Army Guard is using radios from the Vietnam War era and needs 37,000 newer radios, according to a recent Guard budget briefing paper posted on its website.

Two wars and a recruiting shortfall have taxed the 350,000-member Army National Guard this year. At one point, about 40% of the 140,000 U.S. troops in Iraq were from the Guard or Reserves.

Army Abandons Plan To Borrow From Funds For Troops' Vehicles (WSJ)

By David Rogers

The Wall Street Journal, September 20, 2005

WASHINGTON -- The Pentagon reversed a plan to ease the Army's year-end cash crunch by borrowing from funds dedicated to buying better armored vehicles for troops in Iraq.

The $300 million-plus transfer had met strong behind-the-scenes opposition in Congress over the past week. The skirmish underscores the budget pressure on the military, given the tempo of operations in the war, rising fuel costs and competing priorities like the Hurricane Katrina recovery.

"We did get some people excited. It raised the hair on the back of their necks," said Lt. Gen. Jerry Sinn, a top Army budget official, who confirmed the reversal in an interview yesterday. He said he knew in advance the appearances could be awkward but said the transfers were never intended to be more than a "temporary loan" that would be repaid before impeding production.

Nonetheless, Gen. Sinn said defense officials had "blinked a little bit" at the proposal. And lawmakers said the fact that the Army would consider touching such sensitive funds -- after all the public attention to the armor issue -- showed the pressure to keep down the costs of the war.

"They're desperate. They're under tremendous pressure," said Rep. John Murtha (D., Pa.) a Marine veteran and senior member of the House Appropriations Committee, who had a heated telephone conversation last week with Gen. Richard Cody, the Army's vice chief of staff, about the request.

The Army accounts for the greatest share of the war costs in Iraq and Afghanistan, now estimated to be running at $6.7 billion a month. That is markedly higher that what was assumed in the spring, when Congress approved a supplemental war-spending bill that included $17.48 billion for Army operations -- more than $200 million above the Pentagon's request.

Higher fuel costs have since played havoc with these numbers. Further complicating matters, Congress has yet to complete action on the 2006 Pentagon budget. That means -- unlike most years since the war began -- the military could be subject to the vagaries of whatever interim spending resolution is agreed to in coming weeks.

Some conservatives, alarmed by the cost of the Katrina recovery, want a tightly written stopgap bill. But the Army would be squeezed unless some adjustment is made to reflect the fuller costs of the war.

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"The Army's really running close; they are trying not to appear to be spending a lot of money," said Rep. Bill Young (R., Fla.), the former chairman of the Appropriations Committee who now oversees the defense budget. "I think the OMB [Office of Management and Budget] is trying to keep down the image of spending."

The proposed transfers were outlined in a 15-page budget plan to shift an estimated $1.43 billion among Army accounts to meet operations costs for the final weeks of the fiscal year, which ends Sept. 30. The documents were forwarded to Congress Sept. 7, and both Defense Daily and Inside the Army have reported on the request. Gen. Sinn's comments yesterday were the first official Army confirmation that the request would be modified.

Absent some action, Pentagon officials said the Army wouldn't be able to pay its bills. To find savings within its own budget, the Army decided to tap a number of procurement accounts important to protecting forces in Iraq and restoring damaged equipment.

These included the purchase of mortars and trucks, but none was more sensitive than those involving armored vehicles. An estimated $152.8 million was to come from funds to install armor on existing equipment. An additional $155 million would be taken from funds to purchase heavily armored Humvees.

The proposal was subject to veto by the major defense committees, which have 15 days to review the requests. From the outset, lawmakers were surprised that the office of Defense Secretary Donald Rumsfeld hadn't come forward with alternative funding sources for the Army.

That is occurring now. Gen. Sinn said the Army request has been modified to tap funds in an Air Force capital account and a second more-generic account, the Iraq Freedom Fund, which is under Mr. Rumsfeld's direct control. New papers reflecting these changes have been forwarded to Congress, and Mr. Young said he expected the changes will be cleared. "When our soldiers are involved in combat, they should get everything they need," he said.

CORPORATE SCANDALS:

Ex-Tyco Execs Receive Prison Sentences (FINDLAW/AP)

By Samuel Maull, Associated Press Writer

Find Law, September 20, 2005

(AP) - NEW YORK-L. Dennis Kozlowski, the former CEO of Tyco International, was sentenced Monday to eight and one-third years to 25 years in prison Monday for stealing hundreds of millions of dollars from the company.

His codefendant, former Tyco finance chief Mark Swartz, received the same sentence, which means they will be eligible for parole after eight years and four months.

The judge also ordered them to pay a total of $134 million in restitution. In addition, Kozlowski was fined $70 million and Swartz $35 million.

Family members wept in the gallery as the sentences were imposed.

The sentences end a case that exposed the executives' extravagant lifestyle after pilfering some $600 million from the company including a $2 million toga birthday party for Kozlowski's wife on a Mediterranean island and an $18 million Manhattan apartment with a $6,000 shower curtain.

Kozlowski, 58, and Swartz, 44, were convicted in June after a four-month trial on 22 counts of grand larceny, falsifying business records, securities fraud and conspiracy. It was their second trial - the first ended in mistrial after a juror said she received threats following reports that she made an "OK" signal to the defense team.

Kozlowski and Swartz join a line of other executives sent off to prison in a wave of white-collar scandals that shook corporate America and outraged the public after thousands of people lost their jobs and pension nest-eggs.

WorldCom Chairman Bernard Ebbers was sentenced to 25 years in prison for the $11 billion accounting fraud that toppled the telecommunications company that emerged from bankrutpcy as MCI Inc. Adelphia Communications Corp. founder John Rigas was sentenced to 15 years in prison for his role in the looting and fraud at that cable TV company. His son and former finance chief, Timothy Rigas, got 20 years.

Former Tyco Executives Sentenced To Up To 25 Years In Prison (LAW)

By Anthony Lin, New York Law Journal

Law.com, September 20, 2005

The two former top executives of Tyco International Ltd. were each sentenced Monday to prison terms of 8 1/3 to 25 years on charges they stole more than $150 million in unauthorized loans and bonuses from the company.

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L. Dennis Kozlowski, 58, Tyco's former chief executive officer, and Mark H. Swartz, 44, the former chief financial officer, were led away in handcuffs after Manhattan Supreme Court Justice Michael Obus handed down the sentence. The judge denied their request to delay incarceration while they applied to be released on bail pending appeal of their convictions.

In the course of their three-year-long prosecution, the two men, particularly Kozlowski, have become symbols of corporate greed and excess. But the judge put the case in straightforward terms in imposing sentence.

Despite many unusual characteristics and complications, he said, "the heart of the case is basic larceny."

First indicted in September 2002, the two executives were convicted in June on several counts of grand larceny, securities fraud, conspiracy and falsifying business records. The judge issued separate sentences on the other counts but said those would be served concurrently with the grand larceny sentence.

Justice Obus also ordered Kozlowski to pay $97 million in restitution to Tyco and $70 million in fines. Swartz was ordered to pay $37 million in restitution and $35 million in fines.

The restitution amounts were tied to the amounts of bonuses the two men were found to have stolen. The defense had maintained throughout the trial that the bonuses were legitimate and fully approved by Tyco's board of directors.

Though tough, Obus' sentence was less than that requested by the prosecution. Assistant District Attorney Owen Heimer had asked the court to impose the maximum sentence of 15 to 30 years "to send the signal that, here in the financial capital of the world, we will not tolerate theft ... no matter who you are."

Heimer said Kozlowski had been found guilty of the largest larceny ever prosecuted in New York state and, as such, a 15-year term would not be "unduly harsh."

In urging a tough sentence, prosecutors said Kozlowski and Swartz should not be treated more leniently than other criminal defendants because of their backgrounds. Rather, they argued, the executives should be treated more harshly because they turned to crime despite already possessing every advantage and opportunity.

The defense lawyers argued for leniency on the grounds that both defendants were fundamentally good people with close ties to family and community and histories of charitable contributions. Both men submitted to the court scores of letters by family, friends and colleagues attesting to their good character.

Stephen Kaufman, Kozlowski's chief lawyer said only "vitriolic vengeance" would be served by the sentence requested by the prosecution.

In attacking the prosecution's attempts to have the maximum sentence imposed, Swartz's lawyer, Charles Stillman, invoked Army lawyer Joseph Welch's 1954 denunciation of Senator Joseph McCarthy.

"Have you no sense of decency?" Stillman asked rhetorically. "Have you no sense of decency at long last?"

Each of the defendants spoke briefly on his own behalf. Kozlowski said he was a different man than had been depicted by the prosecution and in the media. He said he understood he would be incarcerated but asked the judge to be as lenient as possible.

In asking for leniency, Swartz said he had always tried to live an honest life and to benefit his family and community.

"I never thought I would be in the position I'm in today nor did I ever fear it," he said.

In handing down sentence, Obus said his view of the defendants was not as "stark" as that of the prosecutors, who had mocked the defendants' claims of charity and questioned the motives of some who testified about their character.

LETTERS CONSIDERED

The judge said he had carefully considered all the letters he had received from people regarding the defendants' character. The judge said he, unlike the prosecution, believed most of the letters were genuine. He said they depicted men whose behavior towards friends and family was sharply at odds with the conduct of which they were convicted.

The long sentences recently given to white-collar criminals has spurred debate on whether such criminals, treated lightly in the past, are now being treated too harshly.

Former assistant Manhattan district attorney Ronald Blum, now a partner at Manatt, Phelps & Phillips who also teaches white-collar criminal law at Fordham School of Law, said such sentiments had some merit but he said the sentence given to Kozlowski and Swartz sounded "pretty sensible" to him.

Given the scale of the thefts, he said, "I don't think the judge could have gotten away with less than that with a straight face."

State judges have more flexibility in sentencing than federal judges, who are subject to strict sentencing guidelines. The Tyco executives' sentences are considerably lower than that recently meted out in federal court to former WorldCom CEO Bernard Ebbers, who was sentenced to 25 years in prison in July.

Kozlowski and Swartz will be eligible for parole after serving 8 1/2 years of their sentence. With good behavior, they will be able to shave one-sixth off that time as well.

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On the other hand, the state prison system lacks the relatively comfortable minimum security facilities in which federal white-collar inmates are typically incarcerated. Blum said the realities of state prisons were a likely though unacknowledged influence on state judges' sentencing decisions.

Kaufman warned the judge Monday that any sentence over 72 months would likely mean his client would be placed in a maximum security lockup.

The prison at which the two men serve their sentences will be determined by the Department of Corrections. Justice Obus said he would tell the department that neither of the men should be regarded as a security risk.

Tyco's Kozlowski To Spend Up To 25 Years In Jail (FT)

By Christopher Bowe

Financial Times, September 20, 2005

Dennis Kozlowski, the former head of Tyco, and Mark Swartz, his chief financial officer, were on Monday sentenced to at least eight years in prison for stealing $150m and fraud while at the US conglomerate.

The two men were also ordered to pay about $240m in penalties and restitution. A New York state court Judge Michael Obus ordered them to repay $134m to Tyco for stealing a string of unauthorised bonuses and compensation between 1999 and 2001 - $97m from Mr Kozlowski and $37m from Mr Swartz. The court also fined Mr Kozlowski $70m and Mr Swartz $35m.

After sentencing, Mr Kozlowski, 58, and Mr Swartz, 45, were led from the courtroom in handcuffs. They immediately began their sentence of eight years and four months to 25 years in state prison, depending on the decisions of parole officials.

The two men were convicted in June in their second trial for theft and fraudulent gains of more than $650m. They were found guilty on 22 counts of grand larceny, conspiracy, securities fraud and falsifying business records. Before the sentencing, Mr Kozlowski asked the judge to be "as lenient as possible", while Mr Swartz asked to be quickly returned to his family.

But Manhattan prosecutor Owen Heimer said the men had committed theft and fraud on an "unprecedented and staggering scale", the largest ever in the state.

They become the latest in a series of high-profile executives sentenced to significant jail time, including former WorldCom chief Bernie Ebbers' 25 years.

Monday's sentences could see Mr Kozlowski and Mr Swartz leaving prison in eight years, even potentially five years depending on good behaviour and parole.

Orin Snyder, attorney at Gibson, Dunn Crutcher LLP and a former prosecutor said: "The sentencing sends the message that the sentence is harsh, but gives flexibility for serving less time."

Lawyers for Mr Kozlowski and Mr Swartz have vowed to appeal against the guilty verdicts, and to file for release on bail while the appeal is pending. The two executives must serve time in state prison and most likely time in maximum security prison, which can be a dangerous environment.

"For these two former executives, even several years in a state prison will be a very long stretch of time," said Robert Mintz, attorney at McCarter & English, and former federal prosecutor.

Tyco also is still under Mr Kozlowski's shadow. Mr Heimer told the court he believed that SEC investigators had recommended bringing $1bn accounting fraud charges against Tyco. The company said talks continued with the SEC on settling an investigation into accounting from 1996-2002 under Mr Kozlowski's watch, but it "would not require Tyco to restate any of its financial statements".

Even in jail, Mr Kozlowski's legal troubles continue. The judge tentatively set October 21 to potentially begin a case alleging he evaded sales tax on art purchases.

Ex-Tyco Officers Get 8 To 25 Years (NYT)

By Andrew Ross Sorkin

The New York Times, September 20, 2005

L. Dennis Kozlowski, the former chief executive of Tyco International who was convicted of looting the company of $150 million, was sentenced yesterday to 81/3 to 25 years in a New York State prison, the latest corporate figure to be handed a lengthy prison term in a corruption case.

Mark H. Swartz, his chief lieutenant, received the same sentence for his role in the thefts and fraud. The two men were convicted in June after a four-month retrial.

Judge Michael J. Obus of State Supreme Court in Manhattan also ordered Mr. Kozlowski to pay $167 million in restitution and fines. Mr. Swartz was ordered to pay $72 million in fines and restitution.

The sentencing follows a parade of other substantial terms imposed on former chief executives convicted of white-collar crimes, most notably Bernard J. Ebbers of WorldCom, who received a prison term of 25 years, and John J. Rigas of the cable

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operator Adelphia Communications, who was sentenced to 15 years. Those sentences - in federal courts - were seen as sending a message to deter huge corporate frauds in the future.

The Tyco sentencing may be the last high-profile corporate misconduct before the most prominent one of them all: the trial next year of Kenneth L. Lay and Jeffrey K. Skilling of Enron.

Handing down the sentence in a packed courtroom, Judge Obus said yesterday: "The crimes at issue here were violations of the defendants' positions of trust and their fiduciary duty on a grand scale. They caused damage to Tyco and to others, including the shareholders who are Tyco's owners and who, like the investing public, generally should be able to rely on the integrity of the management of publicly traded companies."

Mr. Kozlowski, 58, became a symbol of corporate greed for a $6,000 shower curtain, as well as a $2 million birthday party in Sardinia for his wife that was partly paid for by the company. He stared straight ahead, overwhelmed, as the sentence was read aloud. Mr. Swartz, 45, looked down at the floor.

The two men, both dressed in gray suits and starched-white shirts, were then handcuffed behind their backs and led away by court officers. Mr. Swartz wistfully winked at his wife and parents. Mr. Kozlowski's wife, wearing sunglasses, wiped away tears that had run down her face as his two daughters, also crying, consoled each other.

Lawyers for Mr. Kozlowski and Mr. Swartz said they planned to seek bail pending appeal from an appellate court today or tomorrow. The two men spent last night in the Bernard B. Kerik Complex near the courthouse. If their lawyers are unsuccessful, the two men will be transferred to Rikers Island by the end of the week to be processed and will most likely serve their time in a maximum-security state prison like Attica.

The State Department of Correctional Services will determine where they serve their time. Other former executives recently convicted in federal courts - including Mr. Ebbers - remain free pending their appeals.

Most legal specialists said yesterday that the sentence imposed by Judge Obus on Mr. Kozlowski and Mr. Swartz was measured but fair.

"It would be a mistake to confuse this with leniency," said Robert A. Mintz, a former federal prosecutor and now a partner at McCarter & English. "For these two former executives, even several years in a state prison will be a very long stretch of time."

The two men will be eligible for parole after eight years and four months, and could be put in a work-release program after serving at least six years, according to State Department of Correctional Services guidelines.

Still, they may yet fare worse than their white-collar counterparts in federal prisons because New York generally requires that criminals with sentences longer than six years go to maximum-security prisons, to be mixed among men convicted of murder and other violent crimes.

An assistant Manhattan district attorney, Owen E. Heimer, had asked the judge to impose the maximum of 15 to 30 years, contending that Mr. Kozlowski "should not be shown any leniency," as Mr. Heimer compared Tyco to Enron.

In perhaps the most dramatic moment of the hearing, Mr. Heimer read aloud from a letter Mr. Kozlowski had written in 1995 to a Houston judge overseeing the sentencing of a Tyco employee who had been convicted of stealing from the company; Mr. Kozlowski urged that a maximum sentence be imposed. Mr. Heimer said of Mr. Kozlowski, "What the defendant said on that occasion applies on this occasion."

But Judge Obus rejected the harshest sentence and explicitly tried to distance this case from corporate corruption cases against executives at Enron and WorldCom. Unlike Tyco, a conglomerate whose products include security systems and medical devices, those two companies were forced to file for bankruptcy as a result of the accounting frauds.

"It is worth repeating, as the jury panel was instructed at the outset, that this is not about any other case," Judge Obus said. "This is not a matter in which the fraudulent distortion of the records reflecting the financial health of the company have been shown to have been so distorted as to precipitate the company's collapse. That apparently is some other case, perhaps more than one other case, but that is not the case that was before us here."

Before being sentenced, Mr. Kozlowski asked the judge for mercy, pointing to more than 130 letters submitted on his behalf by friends and family.

In explaining why he did not give the maximum sentence, Judge Obus cited the letters and said: "I think the letters are genuinely sincere and they show aspects of the defendants' lives that are at odds with the conduct which has brought them before this court. They certainly make it all the more difficult to fully grasp, even with hindsight, how the defendants, with all they had going for them, managed to get themselves into this disastrous position, but that is what they have done."

While the two men's sentences are lower than Mr. Ebbers's, they are still much higher than those of many of the high-profile executives convicted of white-collar crimes in the 1980's. Michael R. Milken of Drexel Burnham Lambert, for instance, was sentenced to three and a half years and served less than two years for securities fraud.

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"The concern that too many executives were misbehaving has caused prosecutors and judges to want to send a much stronger warning signal than they felt the need to send before," said Jennifer H. Arlen, a law professor and expert in business crime at New York University.

Mr. Kozlowski still faces charges of evading more than $1 million in state sales taxes on artwork. Judge Obus scheduled a hearing for Oct. 21. It is unclear whether prosecutors will continue to pursue that case.

The men also face a barrage of civil suits, claiming billions of dollars in damages, from Tyco and shareholders. The men made hundreds of millions of dollars while at Tyco, but it is unclear how much money either Mr. Kozlowski and Mr. Swartz will have left after paying restitution and fines.

In the two years before his fall in 2001, Mr. Kozlowski made more than $330 million in profits from exercising stock options and selling stock grants, in addition to his salary and bonus of about $5 million a year. But his lawyers have suggested that after the civil litigation, on top of the fines and restitution ordered yesterday, he could be bankrupt.

There is also a civil dispute between Mr. Kozlowski and Tyco over whether tens of millions of dollars of deferred compensation should still be paid.

The first case against Mr. Kozlowski and Mr. Swartz was declared a mistrial in April 2004, when a juror holding out for an acquittal made what appeared to be an "O.K." signal to the defense and subsequently received a threatening letter from a stranger, upending the trial.

Yesterday, as the gallery of courtroom spectators spilled into the hallway, that juror, Ruth B. Jordan, shuffled out. She said she had come to watch the sentencing. "It's not as bad as he could have done," she said, "but I still think it's unduly harsh."

Ex-Tyco Chiefs Whisked Off To Prison (USAT)

By Kevin Mccoy

USA Today, September 20, 2005

NEW YORK — Former Tyco executives Dennis Kozlowski and Mark Swartz were sentenced to 81/3 to 25 years in prison Monday for looting nearly $600 million from their firm in a scheme that came to symbolize corporate greed during the bull market of the 1990s.

New York Supreme Court Justice Michael Obus also ordered the two to pay more than $134 million in restitution, and imposed fines of $70 million on Kozlowski and $35 million on Swartz.

Kozlowski and Swartz asked Obus for leniency. But the judge ordered them imprisoned immediately, despite arguments from defense lawyers, who said they would seek bail pending an appeal.

Kozlowski, 58, and Swartz, 45, both dressed in dark gray suits, were led away in handcuffs as some relatives cried quietly.

Swartz managed a quick, reassuring glance over his shoulder at his wife, Karen, as he was led away.

The former executives were taken to the jail adjoining the courthouse for initial processing, said Thomas Antenen, a spokesman for the New York City Department of Correction.

Obus called the grand larceny and other charges underlying the convictions “extremely serious,” but distinguished the Tyco case from other white-collar crime cases, such as WorldCom.

The prison terms Obus imposed fell short of the 15-year-to-30 year maximum sought by prosecutors, but far higher than the one-year-to-three-year minimum sought by the defense. John Coffee, a securities law expert at Columbia University Law School, said the two would have fared worse in federal court.

“They will serve far less time,” Coffee said, “but it will probably be more painful time. There is no Club Fed in the New York State Correctional system.”

Under New York law, Kozlowski, who is Tyco's former CEO, and Swartz, the company's former CFO, must serve a minimum of six years and 11 months before release, said Linda Foglia, a spokeswoman for the state Department of Correctional Services.

The sentencing capped a case etched in the national consciousness by Kozlowski's $6,000 shower curtain and $2 million birthday bash for his wife.

In a final legal twist, Assistant District Attorney Owen Heimer said that the Securities and Exchange Commission's staff is recommending an accounting fraud case against Tyco for actions taken under Kozlowski and Swartz.

Tyco spokesman David Polk said the firm recently took a $50 million charge to cover a potential SEC settlement.

Ex-Tyco Officers Sentenced (WP)

By Ben White

The Washington Post, September 20, 2005

DOJ_NMG_0006743

NEW YORK, Sept. 19 -- A state judge on Monday sentenced former Tyco International Ltd. executives L. Dennis Kozlowski and Mark H. Swartz to 8 1/3 to 25 years in prison for looting the company of hundreds of millions of dollars to pay for lavish parties, luxurious homes and extravagances such as a $6,000 shower curtain.

In a case that came to symbolize corporate greed, state Supreme Court Judge Michael J. Obus also ordered Kozlowski and Swartz to pay nearly $240 million in fines and restitution. Kozlowski and Swartz were immediately taken into custody and led from a packed courtroom in handcuffs as family members of both men sobbed. The men are likely to serve at least part of their sentences in one of New York's 16 maximum-security state prisons.

The sentences for Kozlowski and Swartz follow lengthy terms meted out to other white-collar defendants convicted in a wave of criminal cases that followed the collapse of the Internet bubble and multibillion-dollar frauds at companies such as WorldCom Inc. and Enron Corp.

Former WorldCom chairman Bernard J. Ebbers, 64, was sentenced to 25 years in prison for orchestrating an $11 billion accounting fraud at his company. Because of Ebbers's age, that could amount to a life sentence. John J. Rigas, the 80-year-old founder of Adelphia Communications Corp., received 15 years in prison for stealing millions from the cable company for personal extravagances, hiding more than $2.3 billion in debt and lying to investors. Rigas's son and former Adelphia chief financial officer Timothy J. Rigas was given 20 years in prison for his role in the scheme.

Prosecutors and many shareholder groups say long sentences are necessary to deter future abuses and restore investor confidence. But some defense lawyers question the extent to which a few high-profile cases will deter bad behavior at smaller public companies that present less tempting targets for prosecutors. "Officers and directors of major corporations, multinational corporations, clearly get the message," said defense attorney Jacob S. Frenkel. "The question is whether the message has been conveyed thoroughly to officers and directors at small and mid-size companies."

Kozlowski and Swartz will be able to cut one-sixth off of their 8 1/3 -year minimum sentence if they behave well and take part in prison programs, said Linda Foglia, a spokeswoman for the state Department of Correctional Services. That would reduce the point at which they can be paroled to six years and 11 months. Inmates are eligible to apply for work release two years before their first possible parole date, and parole officials will decide how much of the 8 1/3 to 25 years the former executives must serve. Several legal experts said it was unlikely either man would serve more than 10 years in total.

There is no parole in the federal system, under which many other white-collar defendants have been tried and sentenced.

Though their sentences may be cut shorter than other executives', the time Kozlowski and Swartz spend behind bars may be in a harsher environment. Obus did not specify where the two former executives will serve their terms. He said that decision would be made by state corrections officials. But he said he did not view either man as a security risk, indicating he would not object if they are sent to a lower-security facility.

Former prosecutor David Gourevitch, however, said there were no facilities in the state system comparable to federal minimum-security prisons such as the one where entrepreneur Martha Stewart spent her five-month sentence.

"In the federal system, outside of maximum-security places, generally people are physically safe. I don't think anybody would say that about New York state prison," Gourevitch said. "And from a state perspective, this is one of the longest sentences in a corporate fraud case that I can recall."

Foglia said that in most cases, defendants sentenced to more than six years are sent to maximum-security prisons. She said it would be several weeks before the state decides where to send Kozlowski and Swartz. In the meantime, they will stay at a holding facility known as the Tombs in Lower Manhattan and then be sent to Rikers Island, the temporary jail for New York City inmates before they are sent to state prisons.

In June, a jury found former Tyco chief executive Kozlowski, 58, and former chief financial officer Swartz, 45, guilty of criminal counts of grand larceny, conspiracy, securities fraud and eight of nine counts of falsifying business records.

Obus imposed the same prison sentence on both men. He ordered Kozlowski to pay a $70 million fine and Swartz to pay a $35 million fine. He ordered both men to repay Tyco a combined $134.4 million in restitution of illegal bonuses and other illicit payments.

Kozlowski and Swartz each made brief statements in court Monday, asking Obus to be lenient. Lawyers for each also pleaded with the court to recognize the former executives' charitable works and the scores of letters sent on their behalf by friends and family.

Prosecutors, by contrast, asked Obus to send a message that corporate theft will be treated the same as grand larceny committed with a handgun. They asked for the maximum term of 15 to 30 years for both men.

In imposing the sentence, Obus said, "The heart of this case is basic larceny" and described the charges as "extremely serious." He expressed befuddlement at Kozlowski's and Swartz's plights, at one point asking, "how the defendants, with all they had going for them, managed to get themselves into this disastrous position."

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Attorneys for Kozlowski and Swartz said they would seek to have their clients released on bail pending appeal of their convictions. At the sentencing hearing on Monday, state prosecutors said the Securities and Exchange Commission staff had recommended that the agency bring an accounting fraud case against Tyco. Tyco has said it expects to settle the SEC suit and has set aside $50 million for that purpose. The SEC often simultaneously files and settles accounting cases.

Tyco Figures Will Be Jailed At Least 7 Years (WSJ)

By Mark Maremont

The Wall Street Journal, September 20, 2005

NEW YORK -- In an ignominious end to their once-glittering careers, Tyco International Ltd.'s two former top executives were led away from a Manhattan courtroom with their hands cuffed behind their backs, after a New York state judge sentenced them to serve 8 1/3 to 25 years in prison for looting their former company.

The lengthy prison sentences, although less than the 15-to-30-year maximum that could have been imposed, are the latest example of relatively harsh punishment being meted out to top executives in the recent wave of corporate-fraud trials. The two men were ordered to pay fines and restitution totaling about $240 million.

L. Dennis Kozlowski, Tyco's former chief executive, and Mark H. Swartz, the company's former finance chief, each were convicted in June of 22 criminal charges related to looting their former employer of more than $150 million. The pair had once been among the most powerful and best-paid executives at an American company, helping build Tyco into a conglomerate with $36 billion in annual revenue. Tyco has been under new management since mid-2002.

Under New York state law, they will have to serve nearly seven years at minimum: specifically, at least six years, 11 months and nine days before being eligible for parole, subject to good behavior and other factors.

Both defendants have said they will appeal. Mr. Kozlowski's lead attorney, Stephen Kaufman, said immediately after the sentencing hearing that he will be applying for bail for his client pending appeal. Charles Stillman, the lead attorney for Mr. Swartz, said he will be "pursuing appropriate remedies for Mark's situation." In New York, defendants can choose to bring bail applications before any judge, and often try to choose judges known for their leniency.

In New York, inmates with more than six years to serve until they are eligible for parole are usually sent to one of the state's maximum-security prisons, which house 22,000 mostly violent offenders, said Linda Foglia, a spokeswoman for the New York State Department of Correctional Services. Prisoners in such facilities are housed in cells, and work six hours a day at tasks like sweeping, painting, or working in the library, she said, adding that inmates generally are paid $1.05 a day.

Separately, Tyco is close to an agreement to pay $50 million to settle Securities and Exchange Commission fraud charges related to accounting misdeeds during the period when Messrs. Kozlowski and Swartz were in charge, according to a person familiar with the matter. Lawyers at yesterday's sentencing hearing first revealed the likely SEC charges, with a prosecutor saying the SEC staff was recommending that Tyco be charged with inflating its income by about $1 billion.

During two high-profile criminal trials -- the first ended in 2004 in a mistrial -- prosecutors showed how Tyco had spent more than $30 million on a New York apartment for Mr. Kozlowski, and helped foot the bill for a lavish birthday party for the former Tyco chief's wife on the Italian island of Sardinia.

Although the defendants claimed the money taken from Tyco had been authorized by the company's board, prosecutors argued that not a single piece of paper backed up that contention, and the company's directors testified they were kept in the dark.

Mr. Kozlowski, 58 years old, briefly glanced back at his family as he was being led out of the courtroom. Mr. Swartz, 45, smiled wanly at one of the court officers as he was led out.

In imposing the sentences, Justice Michael Obus, of the trial-level New York State Supreme Court, stressed that he wasn't sending a message about corporate fraud in general, and merely was reflecting the appropriate punishment for the serious crimes for which the two former Tyco executives were convicted.

Perhaps mindful that New York prison officials generally house those sentenced to more than six years in maximum-security facilities, Justice Obus said twice yesterday that he didn't view Messrs. Kozlowski and Swartz as security risks.

In imposing financial penalties, Justice Obus ordered that Mr. Kozlowski repay about $97 million to Tyco -- the bulk of the money he was convicted of stealing -- and pay an additional $70 million in fines. Mr. Swartz was ordered to repay about $38 million, plus $35 million in fines. He had already repaid $12.5 million to Tyco. Although Justice Obus had the option of holding additional hearings on extra penalties related to the securities-fraud convictions, he opted not to do so, suggesting that civil courts could sort out the issue.

Messrs. Kozlowski and Swartz are defendants in civil suits filed by Tyco and in a class-action securities lawsuit by the company's shareholders. The criminal convictions are likely to make it easier for the plaintiffs to win those suits. The defendants'

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considerable assets, which likely total much more than they were ordered to pay yesterday, have been frozen by the courts for more than three years.

The sentences were less harsh than those given to some other former chief executives by federal courts. Bernard J. Ebbers, the former chief executive of WorldCom Inc., now MCI Inc., received a 25-year sentence after being convicted of masterminding a massive accounting fraud. Adelphia Communications Corp. founder John Rigas, who is 80 years old, was sentenced to 15 years. Both are out on bail while they appeal.

Before sentencing, Mr. Kozlowski addressed the court, asking the judge to be "as lenient as possible" and to consider the more than 130 letters submitted to the court by his supporters as a more "accurate" portrait of his life. Mr. Kozlowski's attorney stressed his charitable works, among other things.

Mr. Swartz, who was derided by prosecutors before sentencing as a perjurer for his testimony during both trials, told the judge that he had "always held myself to a high standard of integrity and honesty" and said every word of his own testimony "was the complete and honest truth." He asked to be returned to his family "as soon as possible" because his family life was a matter of "vital importance."

In asking for the maximum sentence, Assistant District Attorney Owen Heimer said Mr. Kozlowski was found guilty of theft and securities fraud on an "unprecedented scale," and made Tyco into a "symbol of kleptocratic management." He quoted extensively from a letter sent some years ago by Mr. Kozlowski to a Texas court, recommending a "maximum sentence" for a low-level Tyco employee convicted of embezzling less than $1 million from the company.

Ann Donnelly, another prosecutor, urged the judge to impose a harsh sentence on Mr. Swartz, whom she said was "in large part the architect of this conspiracy" and had "lied to the investing public ... over and over again just so he could enrich himself."

Ms. Foglia said prisoners generally spend several weeks in temporary facilities, and are assigned to prisons based on a number of factors, including length of term, age, health and whether they request protective custody. She said New York has a maximum-security facility near the Canadian border that houses about 250 prisoners, including a former judge, who "are unable to be incarcerated in a general population."

A Tyco spokesman, David Polk, said the company had been discussing a proposed accounting settlement with the SEC for some time. The "proposed allegations relate to Tyco's historical accounting," Mr. Polk said. "Tyco's current financial statements are not at issue." The company restated its results in 2003 going back a number of years, and has previously taken a $50 million charge to cover penalties that might result from the SEC's investigation. The company said a further restatement wasn't part of its talks with the SEC.

Ex-Tyco Execs Face $1-a-day Pay But Could Get Bail For Appeals (USAT)

By Kevin Mccoy

USA Today, September 20, 2005

NEW YORK — Before their convictions, former Tyco executives Dennis Kozlowski and Mark Swartz were known for reaping multimillion-dollar corporate salaries.

Within weeks, they'll have to get used to earning $1.05 a day in a maximum-security state prison.

“They will be assigned a job, and that's what they'll earn,” said Linda Foglia, a spokeswoman for the New York State Department of Correctional Services.

“Every prisoner must work, in the laundry, in the kitchen or somewhere else.”

Lawyers for Kozlowski and Swartz hope to avoid that outcome for at least a while by seeking bail pending appeals of their clients' convictions.

They have a low chance of succeeding, because New York appeals courts generally “are less willing to let individuals stay out,” said Ronald Blum, a former Manhattan prosecutor who is now a partner at the law firm Manatt Phelps & Phillips.

Unless defense lawyers prevail, the former executives would be transferred within 10 days from city custody — where they were to spend Monday night — to the state correction system. Foglia said Kozlowski and Swartz would likely first be sent to the Downstate Correctional Facility, roughly 60 miles north of New York City, for four to six weeks of processing and classification.

There, corrections officials would assess medical and other needs before choosing the prison where they would spend most of their sentences.

“Their notoriety is going to play a factor in this as well. We have to take into account their safety in prison,” Foglia said.

One possibility, she said, would be to assign Kozlowski and Swartz to the Clinton Correctional Facility, an Upstate New York prison that has a special 250-man unit for prisoners whose personal safety could be in jeopardy behind bars. Convicted police officers, judges and similar defendants have served time in the unit, Foglia said.

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Once housed in their assigned prison, Kozlowski and Swartz would be eligible for daily visits. But their days would be subject to a narrowly restricted regimen.

"You're going to be awakened. You're going to work a day, and then your evenings are your own personal time," Foglia said.

The two would be eligible for transfer to a lower-security facility within roughly two years, Foglia said. In about three years, they could seek assignment to a work-release program. Good behavior is a prerequisite for either type of transfer, Foglia said.

The sentences imposed on Kozlowski and Swartz are shorter than the 25-year term recently received by former WorldCom CEO Bernie Ebbers, another well-known white-collar convict.

But the prospect of state prison time will likely "serve as a very, very significant deterrent to anyone who would be tempted to similar actions," said Marcel Kahan, a corporate law specialist at New York University School of Law.

Charles Stillman, Swartz's lead defense lawyer, said he gave his client optimistic advice to help deal with the prospect of years behind bars.

"It's the first day of the rest of his life," Stillman said.

Tyco Endgame (WSJ)

The Wall Street Journal, September 20, 2005

There aren't any $6,000 shower curtains in New York state prisons, where Tyco felons Dennis Kozlowski and Mark Swartz will be enjoying all or part of the next 25 years. The former CEO and CFO were sentenced yesterday for their roles in looting $600 million from their company and paying off one or more directors to avert their eyes. They won't become eligible for parole until about seven years.

Thus concludes one of the sorrier chapters in U.S. business history. And while it took a while -- the first Tyco trial ended in mistrial -- the outcome strikes us as just. Not because of their greed -- there's no law against lavish living yet -- but because of their crimes. Messrs. Kozlowski and Swartz were convicted in June on 22 counts of grand larceny and conspiracy. The verdicts were a victory for Manhattan District Attorney Robert Morgenthau, who last week survived a tough primary challenge.

Of all the fin de siècle corporate scandals, the Tyco heist has always seemed the most audacious, a case of stealing money in plain sight. If you want to liven up the conversation at a business lunch, mention former Enron CEO Jeffrey Skilling and Chairman Ken Lay and whether they were complicit in the fraud for which several former executives have been convicted. There are still those who believe former WorldCom CEO Bernard Ebbers was unaware of the fraud that was taking place under his nose, despite his conviction. The Tyco scandal didn't inspire such ambiguities.

Messrs. Kozlowski and Swartz aren't headed for Club Fed by the way; under New York correctional policy, criminals with their sentences usually serve their time in maximum-security prisons. In addition, they were ordered to pay restitution and fines of $175 million. A case of justice in plain sight.

The Crime And The Time (NYT)

The New York Times, September 20, 2005

The cries for blood have certainly quieted since the recent corporate crime spree first made headlines with the disasters at Enron and WorldCom. Some cried foul when Bernard Ebbers of WorldCom and John Rigas of Adelphia Communications got sentences that meant those white-haired white-collar criminals would probably die in prison. Tomorrow night, Martha Stewart's version of the reality show "The Apprentice" will have its premiere amid her burst of postprison popularity.

In this morning-after atmosphere, when tempers have cooled, comes the news that the former Tyco chief executive, Dennis Kozlowski, and the ex-chief financial officer, Mark H. Swartz, have been sentenced to a minimum of 81/3 years and a maximum of 25 years in prison plus millions in fines and restitution. This is no cause for celebration. Their lives ruined, they face hard jail time. But that does not change one fact: they deserve it and they should serve it.

There always was a hint of buffoonery to the Kozlowski proceedings, with the $6,000 shower curtain and the $2 million birthday party for his wife, that diverted attention from very serious crimes. Mr. Kozlowski and Mr. Swartz were charged with stealing $150 million and earning $430 million in sneaky sales of falsely pumped-up stock. They were convicted on 22 counts of grand larceny, conspiracy, falsifying business records and securities fraud.

Lenient commentators were quick to point out that there are no "Club Fed"-style prisons in New York. Well, any small-time embezzler convicted in New York State faces the same horror of bunking with violent criminals. A car thief convicted of 10,000 counts of grand theft auto - and those would have to be luxury cars even to come close to the crimes committed at Tyco - would be pleased with a probable sentence of 10 to 12 years.

The persistent myth that a robber in a suit and tie instead of jeans and a T-shirt deserves a prison with better amenities should be put to rest for good.

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In Bermuda, AIG Helped Shape A Legendary Corporate Haven (WSJ)

By Glenn R. Simpson and Theo Francis

The Wall Street Journal, September 20, 2005

HAMILTON, Bermuda -- When insurance tycoon Cornelius Vander Starr came ashore just after World War II to set up the overseas operation of the company now known as American International Group Inc., this British colony 900 miles off South Carolina was a remote trading post primarily inhabited by descendants of colonists, slaves and shipwreck survivors.

Over the next half-century, AIG executives helped island officials shape a legal landscape that made Bermuda what it boasts is "the risk capital of world." Some of these laws and regulations have helped AIG in particular; others have favored insurers generally. Together they transformed the 21-square-mile island into the global center of the offshore-insurance industry, claiming more than $200 billion in assets.

AIG has profited handsomely in its custom-built corporate haven. Now the question is whether the company, even after helping to create a business nirvana, crossed the line of legality to obscure its activities there.

In May, New York Attorney General Eliot Spitzer sued AIG and its former chairman, Maurice R. "Hank" Greenberg, alleging that for many years, the giant insurer improperly used affiliates in Bermuda to burnish its financial results -- either by hiding losses with the affiliates or claiming their gains as its own. In some instances, the suit alleges, AIG failed to disclose its relationships with Bermuda companies, as required by American law.

AIG is in preliminary settlement talks with Mr. Spitzer's office, people familiar with the situation said. Mr. Greenberg's lawyers have said that he has done nothing wrong and will fight the civil allegations. The most prominent figure in his industry, Mr. Greenberg, 80 years old, was forced out of AIG in March amid regulatory inquiries that go far beyond the company's activities in Bermuda.

Also at the center of the Bermuda storm is a Greenberg subordinate named L. Michael Murphy. A former lawyer for the Internal Revenue Service, Mr. Murphy used to reach his AIG office in Hamilton by rowing a small boat from his elegant home across the turquoise waters of a narrow harbor. Since the 1970s, he had helped write local laws and lobbied for Bermuda in Washington -- all to AIG's advantage.

But in March, the New York-based company fired Mr. Murphy for allegedly refusing to cooperate with AIG lawyers gathering information for investigators from New York and the Securities and Exchange Commission. In his suit, filed in a New York state court, Attorney General Spitzer says that Mr. Murphy tried to destroy evidence in Bermuda potentially relevant to a pending investigation of the company's accounting.

Mr. Murphy, 62, wasn't named as a defendant in the New York suit. In an interview earlier this year, his attorney denied the document-destruction allegation and said Mr. Murphy has done nothing wrong.

The history of AIG's Bermuda operation illuminates how entwined the island is with the insurer's broader accounting troubles. This history also raises questions about whether the lightly regulated offshore-insurance industry facilitates abuses. Both state and federal regulators are looking at whether other insurers, as well as AIG, have misstated relationships with offshore affiliates.

An analysis by The Wall Street Journal of thousands of pages of regulatory filings shows that from 1995 through 2004, at least $2.48 billion flowed back and forth between AIG and eight of its offshore affiliates either domiciled in or run from Bermuda.

In many instances, AIG disclosed its involvement on both sides of deals. But in other cases, AIG's connections to the affiliates were obscure, potentially misleading both regulators and investors. Federal securities laws and state insurance statutes require detailed disclosure of any transactions involving "related parties." That requirement aims at preventing companies from hiding financial problems by means of contrived deals.

AIG has acknowledged that it accounted improperly for certain relationships with Bermuda affiliates. In May, in response to state and federal inquiries and investor lawsuits, the company restated five years of financial results, in part to correct this accounting.

AIG said that, beyond the items it has restated, its activity in Bermuda has been accounted for properly. Its operations in Bermuda reflect its dominant role in the world insurance market, and its transactions with the eight Bermuda companies are a small fraction of its total business, a company spokesman said in a statement. "Our offshore capabilities have helped us provide cost-effective insurance coverage to our customers and manage AIG's own risk retention efficiently," the spokesman added.

AIG Act

The arrival in Bermuda of a big U.S. company was unprecedented and required passage of a special law: the American International Co. Ltd. Act of 1947. The act created an exception to Bermuda's local-ownership requirement and exempted AIG from taxes on income that came from outside Bermuda. Two years later, Bermuda extended the benefits to other foreign companies.

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AIG swiftly became one of the island's biggest employers, hiring scores of workers. In a further accommodation, Bermuda's parliament passed another law in 1951 making the insurer the first foreign company allowed to purchase island real estate.

Mr. Murphy joined AIG's Bermuda operations in 1972. A tall, athletic man who in his youth knocked around South America playing rugby, he typically wore expensive but rumpled suits, according to friends. Before coming to the insurer, he had worked at the IRS, helping to write intricate rules that sought to bolster domestic U.S. investment by imposing higher taxes on interest Americans received from foreign bonds.

Mr. Murphy put his knowledge of international tax law to use for his new employer. In 1973, he was named corporate secretary of one of AIG's oldest and most important island operations: Starr International Co. AIG's top executives have used the Panamanian corporation operated from Bermuda to control a deferred-compensation plan for the most senior company managers.

In the mid-1970s, Mr. Murphy helped island politicians draft a new insurance law for Bermuda that made the colony even more attractive to U.S. companies and insurers, according to David Gibbons, a former Bermuda premier, and Mansfield "James" Brock, a former financial secretary. "He gave us a lot of advice on not so much the insurance act itself but on how Bermuda's insurance regulation compared with and related to that of the United States," Mr. Brock said. Mr. Murphy advised the government on the standards it would need to attract business from the U.S. and avoid antagonizing American regulators, the former officials said.

The Bermuda Insurance Act of 1978 gave insurers broad discretion when investing income from premiums. It did little to regulate insurance rates or companies' conduct, and it set minimal requirements for the capital insurers had to have on hand. In all of these regards, Bermuda made itself a much less demanding host than American states, which regulate U.S. carriers.

Still, American regulators and investors tacitly accepted the looser Bermuda standards, in part because the island did require that insurers document their solvency annually. Bermuda's use of familiar British law also reassured Americans. Insurance-industry executives point out that Bermuda's permissiveness and lack of bureaucracy allow AIG and other carriers to respond more quickly to American businesses squeezed by price increases or limited coverage -- especially after disasters such as the Sept. 11, 2001, terrorist attacks. "Bermuda has a strong, longstanding relationship and tradition of cooperation with U.S. regulatory bodies," said Cheryl-Ann Lister, chairman of the Bermuda Monetary Authority, a government agency.

Bermuda's 1978 act also created the Insurance Advisory Committee, a private-sector body that works with the government and has the effective clout to prevent any further regulation opposed by the industry. The panel was set up "to avoid government developing a bureaucracy," a former AIG executive named Brian Hall explained in a speech in 1985 quoted in the book "Held Captive: A History of International Insurance in Bermuda."

From 1980 through 2001, one member of the advisory committee was Joseph C.H. Johnson, another veteran AIG executive. The grandson of a local farmer, he joined the company in 1954 as a 17-year-old accounting trainee. For much of the 1980s, one of his duties at the committee was to help oversee which companies received government permission to form new insurers on the island -- an area of great interest to AIG, which was the sponsor of a number of new firms. Mr. Johnson, 67, received the Bermuda Insurance Institute's Lifetime Achievement Award in 2004. He couldn't be reached for comment.

Another role Mr. Murphy played beginning in the mid-1970s was shuttling to Washington to protect AIG's interests there. Longtime lawyers and lobbyists in Washington said that Mr. Murphy helped persuade members of Congress and their aides to establish a new rule for determining which jurisdiction's taxes applied to underwriting income. The old approach involved a complicated multifactor test. The new one established that premiums were taxed based on where the insured asset was. Included in tax-reform legislation in 1976, the change provided international insurers with clarity they strongly desired.

Competitive Threat

In 1986, Bermuda faced a competitive threat when Barbados signed a treaty with the U.S. exempting from American taxes all premiums paid by American companies to insurers in Barbados. Bermuda's then-premier, John Swan, recruited AIG to help secure a similar privilege. The company's Messrs. Murphy and Johnson served as official, though unpaid, representatives of the Bermuda government during negotiations in Washington that in 1988 produced the treaty Mr. Swan sought.

In behind-the-scenes lobbying, Mr. Murphy offered suggestions on treaty language, one lawyer familiar with the negotiations recalled. "Mike knows a lot of players in Washington," Mr. Swan said. "If you had to ask who was the person outside myself who really got involved, it would be Mike Murphy."

In addition to matching Barbados on the excise-tax exemption, the 1988 treaty contained a provision sought by AIG that turned out to be more important after Congress later repealed the excise exemption for both islands. The second provision laid out rules allowing Bermuda insurers to do business in the U.S. without incurring American income-tax liability. This advantage provides the economic foundation for most of the Bermuda insurance industry.

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AIG began launching small affiliates in Barbados in the late 1970s, most of which Messrs. Murphy and Johnson helped run. Many of these affiliates sold reinsurance: policies that insurance companies themselves buy to lessen their potential expenditures when they have to make payments to customers.

AIG often bought reinsurance from Bermuda companies that it had helped set up. Properly disclosed, reinsurance is considered a legitimate financial arrangement. An AIG spokesman said that "as the world's largest commercial insurer, AIG is understandably the world's largest reinsurance buyer." The bulk of the Bermuda companies AIG helped set up were established to cover potential liabilities related to particular AIG clients, the spokesman said.

Operating the network of offshore affiliates sometimes entailed AIG executives flying from New York to Bermuda and Barbados for a series of airport board meetings on a single day, one former AIG official recalled.

In 1978, AIG established Inter-Hemispheric Insurance Co., a $50 million joint venture with reinsurer Munich Re AG. Inter-Hemispheric was one of the first firms to offer a form of reinsurance known as finite-risk insurance. Purchasers of these customized policies can use a favorable insurance-accounting method to record proceeds from the policies. But regulators suspect that some finite-risk policies are little more than disguised loans, which allow purchasers to prettify their books temporarily, without transferring real risk to the reinsurer. AIG and almost all other big insurance companies are currently under regulatory scrutiny in connection with potentially improper finite-risk policies.

In 1986, Inter-Hemispheric was rechristened Richmond Insurance Co. Ltd. AIG's Bermuda office is on Richmond Road in Hamilton. Mr. Murphy was named Richmond's corporate secretary and an alternate director; Mr. Johnson was the president. Among the company's first customers was AIG.

By 1995, AIG was paying Richmond more than $200 million a year in premiums, according to the Journal analysis of AIG's state-regulatory filings. AIG stood to collect over a period of years more than $900 million in reinsurance payments from Richmond and its subsidiaries, the analysis shows. The net effect of all these transfers was that AIG shifted hundreds of millions of dollars of liabilities to Richmond. AIG nevertheless continued to tell New York state regulators that Richmond was an independent company, according to the New York lawsuit.

AIG told New York insurance regulators in the late 1990s that it owned just 19.99% of the offshore company and didn't control it. In 1999, the company filed with the New York State Department of Insurance a form known as a disclaimer of control related to Richmond, according to department records. Mr. Murphy signed the disclaimer.

New York's Mr. Spitzer, along with the state's insurance commissioner, Howard Mills, allege in the suit that the disclaimer omitted critical facts: An AIG unit managed key Richmond operations, and Richmond's purportedly independent outside investors -- Munich Re and others -- were guaranteed against losses by an AIG unit. The AIG filing caused skeptical New York regulators to back away from inquiries about the company's relationship with Richmond, the suit claims.

Under pressure from regulators, AIG acknowledged in March that it should have accounted for Richmond as a company it could control. AIG said it would fold into its financial statements the operations of Richmond, a move AIG said would have only a small financial impact.

Unusual Twist

There is an unusual twist to the Richmond matter: According to two people familiar with the situation, Mr. Murphy drafted and signed a second version of the New York-state filing that described accurately AIG's ties to Richmond. It was AIG lawyers in New York who chose which version to file with regulators, according to the two people. AIG declined to comment.

For Mr. Murphy, a particularly sensitive aspect of the Richmond arrangement was the guarantee AIG gave outside investors that it would buy them out if necessary. That meant AIG could be on the hook for Richmond's losses -- an indication that the larger company effectively controlled the smaller one. This guarantee was among the subjects of the minutes of a March 2005 meeting of Richmond's directors. New York alleges in its suit that Mr. Murphy tried to destroy the minutes.

Another Bermuda reinsurer, Union Excess Reinsurance Co., owed AIG nearly $500 million in reinsurance obligations by 2003, according to records of state regulators. Union Excess' owners were largely protected from an investment loss, thanks to an option to sell back their shares to the reinsurer. That option was guaranteed by a subsidiary of Starr International, the closely held firm run by AIG executives. Mr. Murphy signed the Dec. 20, 1993, agreement with Union Excess' investors on behalf of Starr International and its subsidiary.

Earlier this year, AIG said it had accounted for Union Excess improperly. Because of the guarantee against losses, among other factors, AIG said it should have treated Union Excess as if AIG controlled it, consolidating the smaller company's results into its own. Union Excess accounted for the single biggest hit to AIG's net worth -- $951 million -- in a $2.26 billion restatement that the company made in May. The restatement cut its net worth, or shareholders' equity, to $80.6 billion as of Dec. 31, 2004.

Mr. Greenberg's attorneys have argued that AIG didn't control Union Excess and so shouldn't have made the restatement.

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CRIMINAL LAW:

Ex-White House Aide Charged In Corruption Case (NYT)

By Philip Shenon And Anne E. Kornblut

The New York Times, September 20, 2005

WASHINGTON, Sept. 19 - A senior White House budget official who resigned abruptly last week was arrested Monday on charges of lying to investigators and obstructing a federal inquiry involving Jack Abramoff, the Republican lobbyist who has been under scrutiny by the Justice Department for more than a year.

The arrest of the official, David H. Safavian, head of procurement policy at the Office of Management and Budget, was the first to result from the wide-ranging corruption investigation of Mr. Abramoff, once among the most powerful and best-paid lobbyists in Washington and a close friend of Representative Tom DeLay, the House majority leader.

According to court papers, Mr. Safavian, 38, is accused of lying about assistance that he gave Mr. Abramoff in his earlier work at the General Services Administration, where he was chief of staff from 2002 to 2004, and about an expensive golf trip he took with the lobbyist to Scotland in August 2002.

Mr. Abramoff, a former lobbying partner of Mr. Safavian, was indicted last month in Florida on unrelated federal fraud charges. He is not identified by name in the court papers involving Mr. Safavian's arrest. But "Lobbyist A" in an F.B.I. affidavit could only be Mr. Abramoff based on descriptive details in the documents filed in the Federal District Court here.

The Justice Department said Mr. Safavian had been specifically charged with making false statements to investigators about his efforts at the General Services Administration in 2002 to help Mr. Abramoff acquire two large pieces of government-owned property in the Washington area, including the historic Old Post Office Building on Pennsylvania Avenue.

The department said Mr. Safavian had also lied to ethics officials at the agency, which manages federal property, when he sought approval to accept free transportation from Mr. Abramoff for the golf trip to Scotland that summer. According to court documents, Mr. Safavian told the ethics office that Mr. Abramoff had no business with the agency at the time, an assertion that was repeated in a separate interview this May with the Federal Bureau of Investigation.

Mr. DeLay, who has asked the House ethics committee to review his ties to Mr. Abramoff, has come under criticism from Congressional Democrats and ethics watchdog groups for taking a similar golf trip to Scotland with Mr. Abramoff in 2000, including rounds of golf on the fabled course at St. Andrews.

The Justice Department made no accusation in its court papers of any tie between Mr. DeLay and Mr. Safavian nor of any involvement by Mr. DeLay in Mr. Abramoff's effort to buy government property. A spokesman for Mr. Abramoff had no comment on the arrest of Mr. Safavian. Phone calls to Mr. Safavian's home in the Virginia suburbs of Washington were not returned.

The White House said in a statement that Mr. Safavian had resigned on Friday and that "we, of course, will cooperate fully with the Justice Department in this investigation." A spokesman said the White House would have no further comment on the arrest.

Mr. Safavian had recently been working on developing contracting policies for the multibillion-dollar relief effort after Hurricane Katrina.

The Justice Department did not reveal details of Mr. Safavian's arrest, including where it occurred. The department also did not say why the criminal charges were brought directly by prosecutors, rather than by the Washington grand jury investigating Mr. Abramoff. The Justice Department often bypasses a grand jury when a criminal case is brought together hurriedly or when there is fear that a defendant may try to flee.

The F.B.I. affidavit, which was dated Friday and made public on Monday, said that Mr. Safavian had provided extensive, secret assistance to Mr. Abramoff in 2002, when the lobbyist wanted help on behalf of a client to arrange a lease on favorable terms for the Old Post Office Building, which was controlled by the General Services Administration. The affidavit said the client was one of several Indian tribes that Mr. Abramoff has represented.

The court papers said Mr. Abramoff had also sought Mr. Safavian's help in buying 40 acres at the Naval Surface Warfare Center in the Maryland suburbs of Washington to be the new home of a Jewish children's school that Mr. Abramoff had founded. That property was also under the control of the General Services Administration.

Local real estate records suggest that neither property was acquired by Mr. Abramoff or his clients, despite his repeated requests for help in e-mail messages sent to a private account maintained by Mr. Safavian.

The Justice Department affidavit said that even as Mr. Safavian was trying to help Mr. Abramoff in acquiring the government property in 2002, he was eagerly planning his summer golf trip with the lobbyist to Scotland. The F.B.I. affidavit also

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suggested Mr. Abramoff's motivation in inviting Mr. Safavian was clear. In an e-mail message, a lobbyist colleagues asked: "Why dave? I like him but didn't know u did as much. Business angle?"

According to the court papers, Mr. Abramoff replied with another e-mail message: "Total business angle. He is new COS of GSA."

Like Mr. Abramoff, Mr. Safavian, a former Congressional aide, has extensive ties to prominent Republicans on Capitol Hill, throughout the executive branch and among the city's lobbying firms.

He helped start Janus-Merritt Strategies, a consulting firm, with Grover G. Norquist, the head of the conservative advocacy group Americans for Tax Reform and a close political ally of the Bush administration.

Mr. Safavian worked with Mr. Abramoff in the Washington lobbying offices of Preston Gates & Ellis, a Seattle-based firm. According to lobbying records, Mr. Safavian shared at least one client with Mr. Abramoff, the Mississippi Band of Choctaw Indians, and also represented Microsoft, the Port of Seattle and the Dredging Contractors of America.

His wife, Jennifer Safavian, is chief counsel for oversight and investigations on the House Government Reform Committee, which is responsible for overseeing government procurement and is, among other things, expected to conduct the Congressional investigation into missteps after Hurricane Katrina.

Both Mr. Safavian and his wife graduated from Detroit College of Law at Michigan State University. They have a daughter.

According to his former colleagues in the Bush administration and interviews he gave, Mr. Safavian considered encouraging "competitive sourcing" or outsourcing government work to private contractors to be a primary goal in his job at the Office of Management and Budget.

He did not oversee specific contracts, but instead managed overall guidelines for government purchasing, associates said. In an interview in June with Federal Times, a newspaper that focuses on the workings of the federal government, Mr. Safavian described his work for the office and said that "the best advice I've gotten was from my grandfather and that advice is that you've got to have ethics and integrity in everything you do, especially here in D.C."

Bush Official Arrested In Corruption Probe (WP)

By R. Jeffrey Smith And Susan Schmidt

The Washington Post, September 20, 2005

The Bush administration's top federal procurement official resigned Friday and was arrested yesterday, accused of lying and obstructing a criminal investigation into Republican lobbyist Jack Abramoff's dealings with the federal government. It was the first criminal complaint filed against a government official in the ongoing corruption probe related to Abramoff's activities in Washington.

The complaint, filed by the FBI, alleges that David H. Safavian, 38, a White House procurement official involved until last week in Hurricane Katrina relief efforts, made repeated false statements to government officials and investigators about a golf trip with Abramoff to Scotland in 2002.

It also contends that he concealed his efforts to help Abramoff acquire control of two federally managed properties in the Washington area. Abramoff is the person identified as "Lobbyist A" in a 13-page affidavit unsealed in court, according to sources knowledgeable about the probe.

Until his resignation on the day the criminal complaint against him was signed, Safavian was the top administrator at the federal procurement office in the White House Office of Management and Budget, where he set purchasing policy for the entire government.

The arrest occurred at his home in Alexandria. A man who answered the phone there yesterday hung up when a reporter asked to speak to Safavian.

Abramoff was indicted by federal prosecutors in Miami last month on unrelated charges of wire fraud and conspiracy. He remains the linchpin of an 18-month probe by a federal task force that includes the Internal Revenue Service, the Interior Department and the Justice Department's fraud and public integrity units. His lawyer did not respond to phone calls seeking comment.

Abramoff's allegedly improper dealings with Indian tribes -- which netted him and an associate at least $82 million in fees -- prompted the federal probe. But investigators have found that his documents and e-mails contain a trove of information about his aggressive efforts to seek favors for clients from members of Congress and senior bureaucrats.

Accompanying Safavian and Abramoff on the 2002 trip to Scotland, for example, were Rep. Robert W. Ney (R-Ohio), chairman of the House Administration Committee, lobbyist and former Christian Coalition leader Ralph Reed and Neil Volz, a lobbyist with Abramoff at the Washington office of Greenburg Traurig.

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Like Abramoff, Safavian is a veteran Washington player. He is a former lobbying partner of anti-tax crusader Grover Norquist and previously worked with Abramoff at another firm. Both he and Abramoff have represented gambling clients and Indian tribes with gambling interests.

At the time of the golf trip, Safavian was chief of staff at the General Services Administration, where ethics rules flatly prohibited the receipt of a gift from any person seeking an official action by the agency. When Safavian asked GSA ethics officers for permission to go on the trip, he assured them in writing that Abramoff "has no business before GSA," according to the affidavit signed by FBI special agent Jeffrey A. Reising.

Reising alleged, however, that Abramoff had by then already secretly enlisted Safavian in an effort to buy 40 acres of land that GSA managed in Silver Spring for use as the campus of a Hebrew school Abramoff founded. Safavian also allegedly tried to help Abramoff lease space for Abramoff's clients in an old post office building downtown.

On July 22, 2002, Abramoff sent Safavian an e-mail with a proposed draft letter that "at least two members of Congress" could send to GSA supporting the lease, according to the affidavit. "Does this work, or do you want it to be longer?" Abramoff asked.

Three days later, Safavian forwarded Abramoff an e-mail describing how an employee at OMB was resisting Abramoff's plan to lease space at the post office. "I suspect we'll end up having to bring some Hill pressure to bear on OMB," Safavian messaged Abramoff.

On the same day Safavian discussed the golf trip with the ethics office, he sent an e-mail to Abramoff from his home computer, advising him how to "lay out a case for this lease." Abramoff subsequently wrote in an e-mail to his wife and two officials of the school that Safavian had shown him a map of the property at his GSA office but had cautioned that Abramoff should not visit again "given my high profile politically."

Safavian nonetheless arranged a meeting for Abramoff's wife and business partner with officials at GSA on the day before he departed for Scotland aboard Abramoff's chartered jet. The trip cost more than $120,000 and was paid for mostly by a charity founded and run by Abramoff, the Capital Athletic Foundation.

When Safavian was questioned by The Washington Post about the trip in January, he said he paid his share of the expenses and took unpaid leave. "The trip was exclusively personal; I did no business there. . . . Jack is an old friend of mine," Safavian said.

But the complaint alleges that Safavian lied about his contacts with Abramoff on three occasions after his initial false pledge to the GSA ethics officer. The first was during a 2003 investigation by GSA's inspector general, who was responding to an anonymous tipster's hotline complaint; the second was in a March 17, 2005, letter to the Senate Committee on Indian Affairs; and the third was during an FBI interview on May 26, 2005.

Former White House Official Arrested (AJC/AP)

By Mark Sherman, Associated Press Writer

The Atlanta Journal-Constitution, September 20, 2005

WASHINGTON — A former Bush administration official was arrested Monday on charges he made false statements and obstructed a federal investigation into his dealings with lobbyist Jack Abramoff, according to court documents and government officials.

David Safavian, then-chief of staff of the General Services Administration and a former Abramoff lobbying associate, concealed from federal investigators that Abramoff was seeking to do business with GSA when Safavian joined him on a golf trip to Scotland in 2002, according to an FBI affidavit and the officials.

At the time, FBI agent Jeffrey A. Reising said in the affidavit, a lobbyist — identified separately as Abramoff — had enlisted Safavian's help in trying to gain control of 40 acres of land at the Federal Research Center at White Oak in Silver Spring, Md., for a private high school that Abramoff helped establish and supported.

For his part, Safavian edited a letter the lobbyist was preparing to send to GSA, and arranged and attended a meeting involving a GSA official, the lobbyist's wife and others to discuss leasing the property, the affidavit said.

Abramoff told his wife to use her maiden name at the meeting because Safavian sought to play down Abramoff's involvement, the affidavit said, citing an e-mail from Abramoff.

Safavian was given clearance to go on the August 2002 golf trip after telling GSA's ethics officer that the lobbyist "has no business before GSA," the affidavit said.

Nine people, including Rep. Bob Ney, R-Ohio, made the trip and played golf on the fabled Old Course at St. Andrews. Safavian paid $3,100 for the travel, "in the exercise of discretion," he said, as quoted in the affidavit. The total cost was more than $100,000, the affidavit said.

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Safavian moved to the Office of Management and Budget last year, becoming the administration's top procurement official. He resigned that post, effective Friday, OMB spokesman Alex Conant said.

No one answered the phone at a listing for Safavian in Alexandria, Va.

Safavian worked with Abramoff on the team at the Preston, Gates & Ellis law firm that was lobbying to keep the Northern Mariana Islands free from certain U.S. labor and immigration laws during the last half of the 1990s.

Abramoff is not named in the affidavit, but two government officials confirmed he is the person referred to in the affidavit as Lobbyist A. They spoke on condition of anonymity because the investigation is still under way.

In addition, Safavian was asked in February for information about the golf trip by the Senate Indian Affairs Committee. Both the Senate panel and a federal grand jury are investigating deals in which Abramoff and an associate received at least $66 million from six Indian tribes to lobby for their casinos and other interests. The tribes question whether the charges were excessive.

Congressional Democrats have raised questions about Abramoff's ties to House Majority Leader Tom DeLay, R-Texas. The congressman has asked the House Ethics Committee to review allegations that Abramoff or his clients paid some of DeLay's overseas travel expenses. DeLay has denied knowing that the expenses were paid by the lobbyist.

Separately, Abramoff has pleaded innocent to a six-count federal fraud and conspiracy indictment stemming from his role in the 2000 purchase of a fleet of gambling boats in Florida.

Former White House Budget Official Arrested (DMN)

By Michelle Mittelstadt And G. Robert Hillman

The Dallas Morning News, September 20, 2005

WASHINGTON – A former high-ranking Bush administration budget official was arrested Monday on charges of lying and obstructing a federal investigation into his business dealings with a lobbyist identified as Jack Abramoff.

David Safavian resigned Friday as top procurement officer for the White House budget office, the day the FBI filed a criminal complaint charging he made false statements to the General Services Administration's ethics office and inspector general.

An FBI affidavit alleges that Mr. Safavian, while the GSA's chief of staff, helped a lobbyist in his attempts to acquire GSA-controlled property in the Washington area. In 2002, the affidavit says, the lobbyist took Mr. Safavian and others on a golf outing to Scotland.

While the 13-page affidavit refers only to "Lobbyist A," a government official, speaking on condition of anonymity, confirmed that Mr. Abramoff is the lobbyist.

"Before and after the August 2002 golf trip, Safavian advised and assisted Lobbyist A in his efforts to conduct the aforementioned business with GSA," FBI Agent Jeffrey Reising wrote in the affidavit.

Mr. Safavian did not return a call to his home Monday.

Mr. Abramoff, who once had close ties to House Majority Leader Tom DeLay, R-Sugar Land, has been indicted on federal fraud charges for his role in the purchase of a company that operates casino ships in Florida. He has pleaded not guilty.

Mr. Abramoff's attorney, Abbe Lowell, offered no immediate comment on the latest twist in the federal investigation of his client's dealings, which previously focused on the casino and his dealings with Indian tribes.

The filing clearly points to Mr. Abramoff – saying he represented Indian tribal clients, had worked with Mr. Safavian at a Washington law firm and established a private high school. Also, Mr. Safavian accompanied Mr. Abramoff on an August 2002 golf trip to Scotland, along with Rep. Bob Ney of Ohio, the Republican chairman of the House Administration Committee, and lobbyist Ralph Reed, among others.

In a June 15, 2002, e-mail to a colleague, according to the affidavit, the lobbyist explained why he'd invited Mr. Safavian on the golfing trip: "Total business angle. He is new [chief of staff] of GSA."

From May 2002, when Mr. Safavian was the GSA's chief of staff, through the August golf trip, the affidavit says, the lobbyist sought to acquire as a site for his high school some 40 acres at the Naval Surface Warfare Center-White Oak, which was controlled by the GSA. The FBI affidavit also says the lobbyist also sought changes in regulations for another GSA-controlled building in Washington, the Old Post Office, in ways that could have benefited his Indian tribal clients seeking to lease and develop the building.

E-mail excerpts quoted in the affidavit suggest Mr. Safavian offered advice to the lobbyist on how to approach the GSA and lobby Congress to secure the land. He forwarded internal communications to the lobbyist, the affidavit says. And Mr. Safavian counseled the lobbyist's wife not to use her marital name during a meeting with GSA officials to discuss providing land for the school.

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In a July 21, 2002, e-mail to a colleague, the lobbyist wrote that Mr. Safavian was "totally supportive" of the efforts to acquire the White Oak land for his school, the affidavit said.

At the White House budget office, spokesman Alex Conant said that Mr. Safavian had resigned Friday and the office was cooperating in the investigation.

Jack Lebo, a spokesman for the GSA's inspector general, didn't immediately return phone calls.

GSA spokeswoman Mary Alice Johnson declined to comment, saying, "The matter is part of an ongoing investigation. The agency is cooperating fully, and the U.S. Department of Justice has asked us to direct all questions to them."

Mr. Safavian, who once was an Abramoff colleague at a Washington law firm, was tapped by President Bush for the White House budget post in November 2003 and was confirmed by the Senate nearly a year later.

Official, Abramoff Associate Arrested (HILL)

By Jonathan E. Kaplan

The Hill, September 20, 2005

David Hossein Safavian, the Bush administration's top federal procurement officer in the Office of Management and Budget (OMB), was arrested yesterday based on a three-count criminal complaint filed in federal court, according to a Justice Department statement.

The government alleges that Safavian, as chief of staff at the General Services Administration (GSA), helped an unnamed lobbyist acquire GSA-controlled property in and around Washington, D.C.

Sources say the lobbyist is likely Jack Abramoff, who has been indicted by a grand jury in Florida. Safavian and Abramoff worked together at Preston, Gates and the two traveled with Rep. Bob Ney (R-Ohio) and others on a golf trip to Scotland in 2002.

Safavian allegedly told a GSA ethics officer and GSA's inspector general that the lobbyist had no business with GSA before the August 2002 golf trip, the Justice Department statement said.

A spokesperson for Abramoff declined to comment.

Government Executive magazine reported that Safavian resigned last Friday as the head of the Office of Federal Procurement Policy at OMB.

Bush Appointee Is Arrested In Obstruction Case (LAT)

By Walter F. Roche Jr. And Chuck Neubauer, Times Staff Writers

The Los Angeles Times, September 20, 2005

WASHINGTON — A top federal procurement appointee of President Bush was arrested Monday on charges that he made false statements and obstructed a federal probe when he was questioned about a Scotland golfing junket arranged by lobbyist Jack Abramoff.

In a three-count criminal complaint made public Monday, David H. Safavian was accused of lying to an ethics officer in the General Services Administration regarding his dealings with the lobbyist, who flew him to Scotland in August 2002.

Safavian, former chief of staff of the GSA, also is accused of obstructing an inspector general's investigation into whether he improperly accepted favors from the lobbyist.

Safavian, 38, was with the GSA when he traveled to Scotland.

He was confirmed as the chief procurement officer for the Office of Management and Budget in November 2004.

He resigned Friday, according to Alex Conant, an OMB spokesman.

Safavian could not be reached for comment. Abramoff, through a spokesman, declined to answer questions.

Safavian, while working at the GSA, allegedly aided Abramoff's attempts to acquire GSA-controlled property for a school that the lobbyist had established in the Washington area.

Although the 14-page affidavit refers to Abramoff only as "Lobbyist A," Safavian previously named Abramoff as the person who arranged the 2002 trip.

A federal investigator, speaking on condition of anonymity, also confirmed that Abramoff was the unidentified lobbyist cited in the complaint.

According to the affidavit made public Monday, Safavian assisted the lobbyist in trying to acquire 40 acres of land controlled by the GSA for the school.

Abramoff also sought Safavian's assistance for a private client who was trying to lease a Washington office building from the GSA.

The inside help predated the golf junket and continued afterward, the document said.

Nonetheless, Safavian told an ethics official that the lobbyist "had no business before GSA and did all of his work on Capitol Hill."

The former GSA chief of staff "also omitted the fact that [Abramoff] was actively seeking assistance from the GSA and that Safavian was aiding in that effort," the affidavit said.

The affidavit, signed by an FBI agent, cites e-mails from Abramoff.

In one e-mail to Safavian, for example, Abramoff asked whether the GSA had control of property in Silver Springs, Md., that he sought for the private Jewish school he founded.

Safavian responded with his own e-mail on July 2, 2002, giving details of the property's status and suggesting that the two of them discuss the matter.

Abramoff later bragged to a colleague that Safavian was helping with the effort to secure the property.

Abramoff also sent his wife to a meeting at the GSA, according to another e-mail, because he didn't want to attract attention due to his own "high profile politically." Safavian attended the meeting, according to the complaint.

The complaint states that Safavian gave Abramoff specific advice on the drafting of a letter to the GSA regarding the property.

Abramoff has been indicted in Florida on charges of fraud relating to the purchase of a fleet of gambling boats.

Separately, he is the subject of a wide-ranging federal probe of his lobbying efforts for Indian tribes operating or seeking to operate casinos.

In his e-mail to a GSA ethics officer, Safavian described the 2002 trip that he would be taking and added that it was being arranged by a former colleague. Safavian had worked with Abramoff at a Washington law firm a decade ago.

"He is paying the cost of the aircraft regardless of whether I go or not.

"In fact, none of the other guests will be paying a proportional share of the aircraft costs," Safavian wrote.

After the trip, Safavian showed the inspector general a copy of his $3,100 check to Abramoff, indicating that he had paid his own way.

Rep. Bob Ney, an Ohio Republican, also went on the trip but a spokesman said Monday that the congressman had not been questioned about it. Ney has said he had been told that the trip was paid for by the National Center for Public Policy Research. That group, however, has denied financing the junket to the famous St. Andrews golf course.

According to the complaint, "Indian tribal funds" paid for the trip.

Ex-OMB Official Hit With Charges (RC)

By John Bresnahan

Roll Call, September 20, 2005

The Justice Department on Monday filed criminal charges against David Hossein Safavian, who until last week was a top official at the Office of Management and Budget, for making false statements and obstructing a federal investigation into efforts by former GOP lobbyist Jack Abramoff to acquire federally owned property in the Washington, D.C., area for an Orthodox Jewish school that Abramoff had founded.

Safavian also allegedly tried to help Abramoff gain control of the Old Post Office Pavilion in downtown Washington for one of his American-Indian clients.

The criminal complaint filed Monday stems from activities surrounding a now-infamous golfing junket to Scotland in August 2002 that included Abramoff, House Administration Chairman Bob Ney (R-Ohio), several Ney aides and Ralph Reed, former executive director of the Christian Coalition and an old Abramoff friend.

Safavian, a former chief of staff to Rep. Chris Cannon (R-Utah), worked with Abramoff at the law and lobbying firm Preston Gates Ellis & Rouvelas Meeds in 1995, and at the time of the golfing trip had just been promoted to chief of staff at the General Services Administration. GSA oversees thousands of buildings owned or leased by the federal government.

According to an affidavit released by the Justice Department on Monday night in support of the criminal charges against Safavian, the FBI, GSA and Interior Department have been “examining allegations concerning an August 2002 Scotland golf trip that Safavian took with a Washington, D.C., lobbyist (‘Lobbyist A’) and Safavian’s statement regarding Lobbyist A’s dealing with GSA at the time that Safavian accompanied Lobbyist A on that trip.”

Abramoff is not mentioned by name in the affidavit, although his participation in the August 2002 Scotland trip has been well established by federal investigators and the news media.

Beginning in May 2002 until after the August 2002 trip, Abramoff reportedly tried to “acquire approximately 40 acres of land controlled by GSA” at the Naval Surface Warfare Center-White Oak, a federal facility located in Silver Spring, Md., for Abramoff’s school, according to the affidavit.

In addition, Abramoff sought "changes in the regulations governing the development" of the Old Post Office building on Pennsylvania Avenue. "GSA controlled the building and was considering ways to develop the OPO," states the affidavit.

Abramoff reportedly sought "contracting preferences that could have given some of Lobbyist A's tribal clients a competitive advantage in efforts to lease and develop the building," the affidavit said.

Safavian, who resigned last Friday as administrator of federal procurement policy at OMB, allegedly provided Abramoff with advice on how to proceed in getting GSA approval for both projects.

Safavian was co-founder of the lobbying shop Janus-Merritt Strategies along with GOP activist Grover Norquist, an Abramoff ally who has also attracted Senate scrutiny over his financial dealings with the former lobbyist. One of the clients Safavian lobbied for at Janus-Merritt was the National Indian Gaming Association.

Abramoff and a business associate were indicted in Miami last month on wire and mail fraud charges related to his attempt to purchase a Florida-based casino cruise company in 2000.

Brian Walsh, a spokesman for Ney, said the Ohio Republican had no comment on Safavian's indictment other than to say that Ney himself has not been contacted himself by any of the handful of federal agencies or grand juries that are looking into Abramoff's business dealings.

"No federal investigators have contacted the Congressman on this or any other matter connected to Jack Abramoff," said Walsh.

In travel disclosure documents filed with the House, Ney stated that the National Center for Public Policy Research paid for the Scotland trip, although that organization has now said it did not. The Capital Athletic Foundation, a non-profit controlled by Abramoff, chartered a private jet for the trip, and overall expenses for the junket were well in excess of $100,000, according to The Washington Post.

House Democrats immediately pounced on this latest indictment as further evidence that Ney needs to be voted out of office in November 2006.

"With two of his golf partners arrested in one month's time, Congressman Bob Ney must be worried about the integrity of his four-some," said John Lapp, executive director of the Democratic Congressional Campaign Committee in a statement. "Every arrest and indictment is a reminder to the American people that this special interest Congress is more concerned with protecting their cronies than fighting for middle class families."

On July 25, 2002, Safavian sought clearance from a GSA ethics officer about taking part in the Scotland golf trip scheduled for the following month. But Justice Department documents say Safavian "omitted the fact" that Abramoff had business before GSA and that he was helping Abramoff.

On March 26, 2003, an anonymous tipster made a complaint to a hotline run by the Office of Inspector General at GSA "regarding Savafian's participation in an 'international golfing trip provided by lobbyists.'"

Safavian was questioned by a GSA official in March and April 2003, but he "falsely represented to the GSA-OIG that Lobbyist A had no business with GSA prior to the August 2002 golf trip, and Safavian omitted the fact that he was aiding Lobbyist A in Lobbyist A's attempts to do business with GSA and seek official action from GSA."

In late February 2005, the Senate Indian Affairs Committee, which has been looking into Abramoff's dealings with a half-dozen Indian tribes, contacted Safavian seeking information on the 2002 junket.

According to the Justice Department affidavit, Safavian again "falsely represented" to the Indian Affairs Committee and its chairman, Sen. John McCain (R-Ariz.), that Abramoff had no business before GSA at the time of the August 2002 trip.

The DOJ affidavit also included information gleaned from numerous e-mails between Safavian and Abramoff, including one from May 24, 2002, shortly after Safavian was invited on the Scotland trip, "asking if GSA had property available for a school."

Abramoff "solicited Safavian's assistance and guidance" on the two projects, including having Safavian review a "draft letter purportedly to be sent by at least two members of Congress to the Administrator of GSA" asking for "special consideration" for minority businesses, such as Indian tribes. The Members assisting Abramoff in this action were not named in the DOJ affidavit.

On July 30, 2002, Abramoff sent his wife and two other representatives of his school to met with GSA officials about acquiring land for his school. Abramoff, according to the Justice Department affidavit, "cautioned his wife to avoid using their marital name" during that meeting because of his "high profile politically."

In May 2005, when interviewed by the FBI at the Old Executive Office Building, Safavian again said that Abramoff did not seek to acquire property from GSA until "significantly well after" the August 2002 trip.

Safavian, whose wife serves as a top aide to Rep. Tom Davis (R-Va.), on the House Government Reform Committee, did not return several calls seeking comment at press time.

A spokesman for Abramoff's lawyer, Abbe Lowell, declined to comment on the charges against Safavian.

Top Federal Procurement Official Arrested (FEDTIMES)

By CHRIS GOSIER

Federal Times, September 20, 2005

The Bush administration's top procurement policy official was arrested Sept. 19 on charges that he made false statements to investigators examining whether he improperly aided a lobbyist trying to acquire federal property in and around Washington.

The federal investigation also is looking into whether the official, David Safavian, improperly accompanied the lobbyist on a golf trip to Scotland in August 2002. Safavian is administrator of federal procurement policy at the Office of Management and Budget. Safavian resigned his post on Friday, Sept. 16.

Safavian is accused of obstructing an investigation by the inspector general at the General Services Administration, authorities said Sept. 19. Safavian had previously served as chief of staff at GSA before taking the post at OMB.

The three-count complaint filed Sept. 16 in U.S. District Court in Washington, D.C. accuses Safavian of making false statements to a GSA ethics officer as well as the GSA inspector general while serving as the agency's chief of staff from May 2002 to January 2004.

Safavian was arrested Monday, the Justice Department said in a release. Deputy OFPP Administrator Robert Burton is serving as interim administrator, said Alex Conant, a spokesman for the Office of Management and Budget, OFPP's parent agency.

Safavian did not return a call to comment by press time.

Key OMB Official Arrested (GOVEXEC)

By Kimberly Palmer

Government Executive, September 20, 2005

David Safavian, who was chief of procurement policy in the Bush administration's Office of Management and Budget until late last week, was arrested Monday on charges of making false statements and obstructing a federal investigation.

Safavian is charged with making false statements to a General Services Administration ethics officer and the GSA inspector general's office. Safavian served as chief of staff at GSA before moving to OMB.

Safavian resigned as head of the Office of Federal Procurement Policy effective Friday, an OMB spokesman said. Robert Burton, associate administrator of OFPP, will head the office on an interim basis, the spokesman said.

The Justice Department announced that Safavian "allegedly aided a Washington, D.C., lobbyist in the lobbyist's attempts to acquire GSA-controlled property in and around Washington, D.C.," and that Safavian joined the lobbyist on a Scotland golf trip.

Safavian allegedly misled GSA officials when he said the lobbyist "had no business" with GSA prior to the golf trip, when in fact Safavian had helped the lobbyist "in his attempts to do business with GSA," Justice said.

The lobbyist, though not named in the Justice announcement, is likely Jack Abramoff, a Washington lobbyist who has been the subject of a long-running federal investigation. In August 2002, Safavian joined Abramoff, Rep. Bob Ney, R-Ohio, former Christian Coalition leader Ralph Reed and others on a trip to St. Andrews, Scotland.

The Washington Post reported last year that the expenses for the chartered jet that ferried the group to Scotland were paid by the Capital Athletic Foundation, a charity run by Abramoff and his wife.

OMB referred all questions about Safavian to Justice officials.

Clay Johnson, deputy director for management at OMB, convened a meeting Monday morning to inform agency employees of Safavian's arrest, according to a government source who asked to remain anonymous. Johnson told staff members to support Safavian's family, and cautioned them against responding to him should he attempt to contact them, the source said.

During his confirmation hearings for his position as OFPP chief, Safavian said he worked as a lobbyist and consultant for a variety of organizations, including the Embassy of Pakistan, Microsoft and several Native American groups.

Safavian also has strong ties to Capitol Hill. Before joining GSA, he served as chief of staff to Rep. Chris Cannon, R-Utah, and also has worked for former Michigan House members William Schuette and Robert Davis, both Republicans.

Amelia Gruber contributed to this report.

Recruits Sought For Porn Squad (WP)

By Barton Gellman

The Washington Post, September 20, 2005

The FBI is joining the Bush administration's War on Porn. And it's looking for a few good agents.

Early last month, the bureau's Washington Field Office began recruiting for a new anti-obscenity squad. Attached to the job posting was a July 29 Electronic Communication from FBI headquarters to all 56 field offices, describing the initiative as "one of

the top priorities" of Attorney General Alberto R. Gonzales and, by extension, of "the Director." That would be FBI Director Robert S. Mueller III.

Mischievous commentary began propagating around the water coolers at 601 Fourth St. NW and its satellites, where the FBI's second-largest field office concentrates on national security, high-technology crimes and public corruption.

The new squad will divert eight agents, a supervisor and assorted support staff to gather evidence against "manufacturers and purveyors" of pornography -- not the kind exploiting children, but the kind that depicts, and is marketed to, consenting adults.

"I guess this means we've won the war on terror," said one exasperated FBI agent, speaking on the condition of anonymity because poking fun at headquarters is not regarded as career-enhancing. "We must not need any more resources for espionage."

Among friends and trusted colleagues, an experienced national security analyst said, "it's a running joke for us."

A few of the printable samples:

"Things I Don't Want On My Résumé, Volume Four."

"I already gave at home."

"Honestly, most of the guys would have to recuse themselves."

Federal obscenity prosecutions, which have been out of style since Attorney General Edwin Meese III in the Reagan administration made pornography a signature issue in the 1980s, do "encounter many legal issues, including First Amendment claims," the FBI headquarters memo noted.

Applicants for the porn squad should therefore have a stomach for the kind of material that tends to be most offensive to local juries. Community standards -- along with a prurient purpose and absence of artistic merit -- define criminal obscenity under current Supreme Court doctrine.

"Based on a review of past successful cases in a variety of jurisdictions," the memo said, the best odds of conviction come with pornography that "includes bestiality, urination, defecation, as well as sadistic and masochistic behavior." No word on the universe of other kinks that helps make porn a multibillion-dollar industry.

Popular acceptance of hard-core pornography has come a long way, with some of its stars becoming mainstream celebrities and their products -- once confined to seedy shops and theaters -- being "purveyed" by upscale hotels and most home cable and satellite television systems. Explicit sexual entertainment is a profit center for companies including General Motors Corp. and Rupert Murdoch's News Corp. (the two major owners of DirecTV), Time Warner Inc. and the Sheraton, Hilton, Marriott and Hyatt hotel chains.

But Gonzales endorses the rationale of predecessor Meese: that adult pornography is a threat to families and children. Christian conservatives, long skeptical of Gonzales, greeted the pornography initiative with what the Family Research Council called "a growing sense of confidence in our new attorney general."

Congress began funding the obscenity initiative in fiscal 2005 and specified that the FBI must devote 10 agents to adult pornography. The bureau decided to create a dedicated squad only in the Washington Field Office. "All other field offices may investigate obscenity cases pursuant to this initiative if resources are available," the directive from headquarters said. "Field offices should not, however, divert resources from higher priority matters, such as public corruption."

Public corruption, officially, is fourth on the FBI's priority list, after protecting the United States from terrorist attack, foreign espionage and cyber-based attacks. Just below those priorities are civil rights, organized crime, white-collar crime and "significant violent crime." The guidance from headquarters does not mention where pornography fits in.

"The Department of Justice and the Federal Bureau of Investigation's top priority remains fighting the war on terrorism," said Justice Department press secretary Brian Roehrkasse. "However, it is not our sole priority. In fact, Congress has directed the department to focus on other priorities, such as obscenity."

At the FBI's field office, spokeswoman Debra Weierman expressed disappointment that some of her colleagues find grist for humor in the new campaign. "The adult obscenity squad . . . stems from an attorney general mandate, funded by Congress," she said. "The personnel assigned to this initiative take the responsibility of this assignment very seriously and are dedicated to the success of this program."

U.S. Jury Signals Possible Deadlock In John A. `Junior' Gotti Mafia Case (FINDLAW/AP)

By Tom Hays, Associated Press Writer

Find Law, September 20, 2005

(AP) - NEW YORK-A federal jury deliberating the case of John A. "Junior" Gotti, the scion of the Gambino crime family charged with attacking a radio show host, indicated Monday that it was deadlocked on a racketeering charge against the son of the late mob boss.

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In a note to U.S. District Judge Shira Scheindlin on the seventh day of deliberations, jurors asked what they should do if they were deadlocked over the question of Gotti's so-called withdrawal defense.

Gotti, 41, claims he quit the Gambino organized crime family before July 22, 1999, meaning the five-year statute of limitations would have expired on racketeering charges.

The judge told lawyers she planned to read the jurors a charge that would encourage them to keep deliberating until they reached an unanimous verdict.

Prosecutors allege Gotti ordered his Gambino crew to give radio personality Curtis Sliwa a severe beating in retaliation for Sliwa's on-air rants against his father, John Gotti.

A masked hit man shot Sliwa, an outspoken founder of the Guardian Angels crime-fighting group, during a struggle in a taxi. Sliwa survived, and he testified last month against Gotti, as did admitted mobsters who pleaded guilty and became government cooperators.

The defense told jurors that Gotti had nothing to do with the Sliwa attack and said he retired from the Gambinos following an unrelated racketeering conviction in 1999. Prosecutors dismissed the claim, saying Gotti used his name to rise in the crime organization and gave orders and collected kickbacks beyond 1999.

Gotti faces a sentence of up to 30 years in prison if convicted of multiple racketeering charges. His father was sentenced to life in prison in 1992 and died there 10 years later.

Three Arrested In Army Kickback Scheme (AP-Y2)

By Mark Sherman, Associated Press Writer

AP2, September 20, 2005

A civilian Army employee and two business owners were arrested in a kickback scheme to supply furnishings at a new Pentagon-run hotel in the Bavarian Alps that is used by troops on leave from Afghanistan and Iraq, the Justice Department said Monday.

Steven G. Potoski, 45, former contracting director at the Edelweiss Lodge and Resort in Garmisch, Germany, accepted more than $350,000 in bribes in cash, home renovations, trips, computers and tickets to such events as Oktoberfest and the Indianapolis 500, assistant Attorney General Alice Fisher said.

Potoski, who lives in Garmisch, was arrested Friday, along with Alvan Vance McQueen, 56, of Shelbyville, Ind., and Ellis Abramson, 39, of Merrick, N.Y.

McQueen, owner of Flat Rock Furniture in Waldron, Ind., paid Potoski $45,000 in cash and other items as part of an agreement to inflate the cost of furniture for the hotel and split the extra money, according to a criminal complaint filed against McQueen in U.S. District Court in Indianapolis.

Abramson, president of Bramson House Inc., had a similar arrangement with Potoski for draperies and guest room bedspreads, according to a criminal complaint filed against Abramson in U.S. District Court in Brooklyn, N.Y.

Potoski also accepted bribes from 12 German and one British contractor, Fisher said.

If convicted, the three men face up to 35 years in prison.

The 330-room Edelweiss hotel opened last year, serving active-duty and retired U.S. military personnel. The hotel offers special packages for soldiers who are on leave from duty in Afghanistan and Iraq. The military has run hotel and recreation programs in the Alps since the end of World War II.

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On the Net:

Justice Department: http://www.usdoj.gov

Three More Sentenced For Corruption (TTNJ)

By KRYSTAL KNAPP, Staff Writer

The Times (NJ), September 20, 2005

A former Mercer County official and two local businessmen were sentenced to prison terms ranging from five to 23 months by a federal judge yesterday for their roles in schemes to defraud the Mercer County Improvement Authority and bribe a local government official.

U.S. District Judge Garrett E. Brown Jr. sentenced former MCIA Executive Director James R. Lambert Sr., 44, and Washington Township businessman Alex J. Abdalla, 52, to five months in federal prison, five months of house arrest with electronic monitoring, three years of probation and $6,000 in fines each for their guilty pleas to charges of mail fraud and conspiring to bribe former Ewing Mayor Alfred W. Bridges to use his influence to steer a private demolition contract in the township.

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Hamilton businessman and contractor Michael Maurio, 69, was sentenced to 23 months in federal prison and three years of probation for his part in the conspiracy to defraud the MCIA by submitting false statements in connection with the performance of a demolition project contract in Trenton. Maurio also failed to submit tax returns from 1992 to 1998 for taxes owed totaling $155,028.

Abdalla and Maurio jointly must pay a total of $100,000 in restitution to the MCIA for the overbilling on the demolition project that sources say involved the Sovereign Bank Arena.

All three men declined to talk to reporters after they were sentenced. They have 30 days to turn themselves in to authorities before they serve their time in federal prison. There is no parole in the federal prison system.

Their sentencing nearly brings to a close a federal investigation that has lasted more than three years.

U.S. Attorney Christopher J. Christie yesterday praised local FBI agents, special agents of the Internal Revenue Service criminal investigation unit and Assistant U.S. Attorneys David Bocian and Jeffrey S. Chiesa for their work in the case while deploring the corruption of defendants in the probe.

"These individuals and their co-conspirators demonstrated an appalling willingness to corruptly use government coffers for their own financial gain," Christie said.

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According to the terms of their plea agreements, Lambert, Abdalla and Maurio agreed to cooperate with the government in its investigation of Mercer County public corruption.

They are the three latest figures to be sentenced in connection with the federal probe. Harry G. Parkin, the chief of staff to former Mercer County Executive Robert D. Prunetti, was sentenced last month to 7 1/2 years in federal prison for using his position to foster a secret financial interest in the county's recycling hauler.

Two more people with ties to the probe are scheduled to be sentenced: Abdalla's business partner John Ruddy and businessman Jim Wells, who pleaded guilty Friday to charges he attempted to bribe a local official.

Lambert, Abdalla and Maurio were sentenced separately yesterday, their hearings spread throughout the day in Brown's courtroom.

Of the three, Lambert was the only one to show any emotion, his voice quavering, his comments interspersed with sniffles as he told the judge how sorry he was. "I apologize to you, the public and my family. I'm ashamed of my actions. I'm truly sorry for what I have done."

His lawyer, Paul H. Zoubek of Haddonfield, argued that Lambert's sentence should be reduced or that he should be placed under house arrest because of his cooperation in the federal probe that included the tape-recording of more than 100 conversations over a three-year period. "He fully cooperated with the FBI from the beginning," Zoubek said. "He not only talked about remorse, but he moved forward to make amends and took full responsibility for his actions."

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Lawyers for the federal government acknowledged Lambert helped tremendously from the time he was first contacted and without his help they could not have gotten to the heart of the scheme Parkin tried to keep secret.

But Brown said it was his obligation to weigh both the seriousness of the crimes and the crucial assistance Lambert gave to the government.

"He had no prior criminal record or criminal involvement, but when he got involved, he really got involved," Brown said. "He had a history of public service, but then he attacked the very structure he worked for.

"This is the sort of crime that is really very corrosive to government. . . . As I've said to a number of people who have come before me, what message do we have to send (to public officials)? If we go back 30-plus years ago, in this same courthouse we were sending the same message, but it doesn't seem to have been received yet. I will say it again and again until it is received."

As Brown sentenced Lambert, his wife Kate, a former Hamilton school board president, sat in the first row of the courtroom, her eyes welling with tears. She and Lambert left the room hand-in-hand and said nothing.

About a half-dozen family members and friends attended Abdalla's sentencing in which lawyer Lawrence S. Grossman asked that he be allowed to serve his sentence at home.

"He's been of substantial assistance to the government both in the scope and quality of the investigation," Grossman said. "He recorded hundreds of tapes. He did whatever he was asked to do. He admitted his guilt from the start and agreed to cooperate. . . . I can assure you he will never be back in this or any other courtroom."

Brown noted that Abdalla held back some of the money he was supposed to turn over from the business. Grossman said he did so because he had to support himself and later returned the money.

"I never downplayed anything, was never bitter, I tried to make right by the government, which I did," Abdalla said. "I blame no one else. I apologize to the court, county, and city for any wrongdoing and to my family, friends, and fiancee Victoria. When this earthquake hit, she gave me a foundation to lean on and turned the negative into positive."

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Abdalla's fiancee began to cry during his comments and continued to sob as Brown spoke, saying he considered both the cooperation and the offenses in determining the sentence.

"He cooperated because he himself was caught red-handed in a scheme to bribe a public official," Brown said. "Mail fraud conspiracy, falsifying federal tax returns, this conduct has a corrosive effect on government."

Maurio received the toughest sentence of all three, 23 months, for his part in jacking up the cost of the demolition project and collecting an extra $25,000 from the deal. The lawyers for the federal government said he was of no assistance to the government. He acknowledged his own conduct but did not offer any cooperation that was of any value, lawyers said.

His lawyer, Paul M. Donini of Hamilton, said he was "the least involved" in seeing the scheme to its fruition and was unaware of other schemes. "Prior to this, he was a law-abiding citizen," Donini said. "The last 2 1/2 years have been a living hell for him. He and his family have suffered."

Donini argued that Maurio did not provide other information because he had no further knowledge to give the government. He argued for house arrest in lieu of a prison term so Maurio could meet his financial obligations to his family and because Maurio has a heart problem.

"He would be a prisoner in own home," Donini said. "He used to be the man about town. That lifestyle has ended out of necessity. This is an aberration in his life. He is remorseful, and this is a hardship to the family that loves him."

Maurio, who sat quietly throughout most of the proceedings and only turned his head to gaze back at the three women family members in the courtroom every few minutes, said he took full responsibility for his actions.

"There is nothing other than that to say except that I am sorry for the county, myself and my family," he said, adding that if he were placed under house arrest he could complete several pending deals to pay his restitution and back taxes.

The judge said the sentencing guidelines were reasonable for someone who has taken part in two serious offenses - corruption and tax evasion.

He said Maurio would be sent to the a federal prison with an appropriate medical facility. "You can't whitewash political corruption," Brown said, noting that Maurio gave himself an extra commission from the demolition deal.

"The message has to be sent to people who evade taxes and take part in corruption," Brown said. "It is certainly unfortunate that Mr. Maurio has put his family in this unfortunate situation. It is not the court, not the government who has done this. Mr. Maurio has done this."

Probe Cost County $107,000 For Lawyers (APP)

By NINA RIZZO, FREEHOLD BUREAU

Asbury Park Press, September 20, 2005

Monmouth County Board of Freeholders spent $107,000 for lawyers to represent nine members of the Prosecutor's Office in a federal grand jury investigation that went nowhere, according to the county counsel.

Malcolm V. Carton said Monday that he concluded — after talking to the lawyers who were hired to represent two assistant prosecutors and seven county investigators — that the grand jury probe into whether the prosecutor's office interfered with an FBI bribery sting fizzled out in June.

"It went no place," Carton said. "There was no indictment, just a lot of threats."

The Prosecutor's Office on Feb. 28 was first served with subpoenas seeking to interview five county investigators and examine documents relating to a federal corruption probe that netted 11 local officials on Feb. 22. The subpoenas were delivered a week after sources said the office "blew" the yearlong undercover sting operation into government corruption in several Monmouth County towns.

The sting, dubbed Operation Bid Rig, also brought bribery charges down on the late Freeholder Director Harry Larrison Jr. and a local developer who allegedly paid the county's longtime Republican Party boss at least $8,500 in bribes. Two local businessmen with lucrative county contracts were accused of money laundering as well.

More subpoenas were later handed out at the Prosecutor's Office and, according to legal bills, testimony was given before the grand jury in March, April and May.

Those who were called to appear are Assistant Prosecutors Richard E. Incremona and Kenneth Keller, Chief of Detectives Edward Kirschenbaum, Deputy Chief Guy McCormick and five detectives: Lt. Thomas Wenzel, Jason C. Clark, Barry DuBrosky, Stephen A. Kondrup and Eric M. Singer.

Kirschenbaum and Keller have since retired.

Prosecutor Luis A. Valentin said he didn't know the outcome of the grand jury probe and referred questions to the U.S. Attorney's Office.

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Michael Drewniak, a spokesman for U.S. Attorney Christopher J. Christie, said his office does not confirm or deny the existence of a grand jury investigation as a matter of policy.

Robert G. Stahl, the Westfield lawyer who represented Wenzel, said the grand jury investigation didn't result in any charges against his client. Stahl, who was paid more than $20,000, said Christie's office aggressively pursued the matter but the outcome was different than expected.

John C. Whipple, a Morristown lawyer who represented the Prosecutor's Office, confirmed that there has been no grand jury activity in this matter since May, but cautioned that that doesn't mean the case is concluded.

It may seem like a done deal, he said, but federal investigators may still be reviewing documents or interviewing witnesses. And even if this jury is dismissed, Christie can impanel a new one and present new evidence.

"They are always free to investigate as long as the statute of limitations allows," Whipple said. "It's a strange process."

Meanwhile, state Attorney General Peter C. Harvey is conducting his own investigation into whether former Prosecutor John Kaye's office interfered with the federal probe. John Hagerty, a spokesman for the state Division of Criminal Justice, said the report has been completed and determinations are being made.

Kaye, who retired in June after nearly 22 years in office, has maintained his office never intentionally interfered with the federal case.

The freeholder board agreed to pay the legal bills associated with grand jury testimony earlier this year even after Carton informed them that state officials said they wouldn't reimburse the county. Carton, however, insisted there was legal precedent for reimbursement and said he would fight for the money.

Earlier this month, Carton directed James J. Cleary, a special county counsel, to take action against the state to get reimbursement. Paul Loriquet, a spokesman for state Department of Law and Public Safety, reiterated Monday that the state will not pay the county's legal bills in this matter.

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Michael Drewniak, a spokesman for U.S. Attorney Christopher J. Christie, said his office does not confirm or deny the existence of a grand jury investigation as a matter of policy.

Robert G. Stahl, the Westfield lawyer who represented Wenzel, said the grand jury investigation didn't result in any charges against his client. Stahl, who was paid more than $20,000, said Christie's office aggressively pursued the matter but the outcome was different than expected.

John C. Whipple, a Morristown lawyer who represented the Prosecutor's Office, confirmed that there has been no grand jury activity in this matter since May, but cautioned that that doesn't mean the case is concluded.

It may seem like a done deal, he said, but federal investigators may still be reviewing documents or interviewing witnesses. And even if this jury is dismissed, Christie can impanel a new one and present new evidence.

"They are always free to investigate as long as the statute of limitations allows," Whipple said. "It's a strange process."

Meanwhile, state Attorney General Peter C. Harvey is conducting his own investigation into whether former Prosecutor John Kaye's office interfered with the federal probe. John Hagerty, a spokesman for the state Division of Criminal Justice, said the report has been completed and determinations are being made.

Kaye, who retired in June after nearly 22 years in office, has maintained his office never intentionally interfered with the federal case.

The freeholder board agreed to pay the legal bills associated with grand jury testimony earlier this year even after Carton informed them that state officials said they wouldn't reimburse the county. Carton, however, insisted there was legal precedent for reimbursement and said he would fight for the money.

Earlier this month, Carton directed James J. Cleary, a special county counsel, to take action against the state to get reimbursement. Paul Loriquet, a spokesman for state Department of Law and Public Safety, reiterated Monday that the state will not pay the county's legal bills in this matter.

contracts were accused of money laundering as well.

More subpoenas were later handed out at the Prosecutor's Office and, according to legal bills, testimony was given before the grand jury in March, April and May.

Those who were called to appear are Assistant Prosecutors Richard E. Incremona and Kenneth Keller, Chief of Detectives Edward Kirschenbaum, Deputy Chief Guy McCormick and five detectives: Lt. Thomas Wenzel, Jason C. Clark, Barry DuBrosky, Stephen A. Kondrup and Eric M. Singer.

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New Mexico Treasurer Pleads Not Guilty (AP)

By Felicia Fonseca

AP, September 20, 2005

ALBUQUERQUE, N.M. - The New Mexico state treasurer and his predecessor pleaded not guilty Monday to federal racketeering charges involving kickbacks of cash, cars and expensive tickets to political fundraisers.

Robert Vigil and former Treasurer Michael Montoya, both Democrats, are accused of steering state business to an investment adviser in exchange for nearly $700,000.

If convicted, each faces a maximum sentence of 20 years on each of two counts.

"Mr. Vigil, from day one, has attempted to clean up this office, and that's what he has done," said Vigil's attorney, Sam Bregman, who blamed the allegations on disgruntled former employees.

Vigil, flanked by more than a dozen family members and other supporters, asked the public to be patient as the case proceeds. Montoya left the brief hearing without speaking to reporters.

Prosecutors say Montoya was paid about $632,000 while Vigil received about $54,000 from a financial adviser hired to help invest state funds.

But an FBI affidavit describes a wider scheme and says Vigil accepted an envelope stuffed with cash as recently as last month.

Kickbacks to Vigil allegedly included expensive tickets to political fund-raisers, wood and supplies and donations to charities in which Vigil's wife participates.

A witness said he bought Montoya sports memorabilia, cars and other items using proceeds from the kickbacks, the affidavit said.

Both Vigil and Montoya were arrested Friday at their homes after a two-year FBI investigation.

Vigil, elected to a four-year term in 2002, was asked to step aside Sunday by Gov. Bill Richardson.

On Monday, Lt. Gov. Diane Denish urged Vigil to immediately take administrative leave while the case is pending.

"Mr. Vigil has the right to due process, but the pending charges make it impossible for him to conduct the business of the state with full public confidence," she said.

Vigil has not made a decision on whether to step down, but Bregman said his client will consider all options. Last week, Vigil said he plans to continue to serve as state treasurer. He was not at work Monday.

Vigil served as deputy treasurer under Montoya, who was treasurer from 1995 to 2002. When Vigil was auditor, he hired Montoya in 1992 as head of the agency's Medicaid fraud unit.

Abu Ghraib Guard To Fight Abuse Charges (WP)

The Washington Post, September 20, 2005

SAN ANTONIO -- Army Pfc. Lynndie England will abandon her earlier courtroom strategy and will fight charges that she was a key participant in detainee abuse by guards at Iraq's Abu Ghraib prison, her lawyer said.

England, 22, a reservist, appears in photos taken inside Abu Ghraib. She was to go on trial Tuesday at Fort Hood, Tex., on seven counts of mistreating prisoners.

* * *

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· MONTGOMERY, Ala. -- Waste Management canceled plans to develop a landfill along a historic trail that commemorates the 1965 Selma-to-Montgomery Voting Rights March. Civil rights activists and neighbors had sued to block the landfill near where civil rights worker Viola Liuzzo was gunned down after the march.

· INEZ, Ky. -- People who live in a community deluged with more than 300 million gallons of gooey black coal sludge five years ago reached an out-of-court settlement for an undisclosed sum with Martin County Coal. Ned Pillersdorf, a Prestonsburg, Ky., attorney representing 12 of the people who lived in the sludged area, criticized the U.S. Mine Safety and Health Administration. He said federal inspectors should have known the impoundment was unsafe and should have forced the company to stop using it.

· NEW YORK -- The threat of a Democratic mayoral runoff evaporated when city election officials announced that Fernando Ferrer had captured 727 more votes than the 40 percent he needed in last week's primary to become the nominee challenging Republican Mayor Michael Bloomberg.

· ALBUQUERQUE -- New Mexico Treasurer Robert Vigil and former treasurer Michael Montoya pleaded not guilty to federal racketeering charges. They are accused of receiving kickbacks of cash, cars and expensive tickets to political fundraisers in exchange for allegedly steering state business to an investment adviser.

· DECATUR, Ga. -- Colvin "Butch" Hinton, 44, was convicted of murdering Shannon Melendi, 19, 11 years ago. Her body was never found.

· REMINGTON, Ind. -- A man shot and killed two women working at a convenience store, and police were seeking a man who also was suspected of killing a teenage girl in Ohio. Melvin M. Keeling, 43, of Deerfield Township, Ohio, was identified from images captured by a camera in the store where Liza Kendall, 29, and Kendora Furr, 38, were killed. Keeling was wanted for questioning in the shooting death of Katelind Caudill, 13, near Cincinnati earlier Monday, police said.

Oswego Mayor Allowed To Go Home, To Work While Sex Case Pending (AP)

By WILLIAM KATES, Associated Press Writer

AP, September 20, 2005

SYRACUSE, N.Y. (AP) Although a judge accused him of having ``deviant sexual urges," Oswego Mayor John Gosek was released Monday with a set of conditions that include electronic monitoring, a curfew and other restrictions.

Gosek, 58, was arrested Friday at a Syracuse hotel on a charge that he used a cell phone to solicit sex from a minor.

U.S. Magistrate George Lowe said while he was concerned Gosek was ``unable to control his deviant sexual urges, he is not irrational," and rejected a request by prosecutors to keep Gosek in jail as a threat to the community and a flight danger.

Lowe ordered Gosek to post $10,000 bond. The judge also prohibited Gosek from using cell phones and ordered him not to have contact with any minors. Gosek also must undergo counseling a condition Gosek requested, said his attorney James Eby.

Gosek appeared at Monday's hour-long hearing with his wife and two adult sons, who sat in the front row consoling each other. They left the courthouse without comment.

Eby said the mayor adamantly denies have sexual relations with a minor.

``He's somewhat in a state of shock. It's just starting to sink in now," Eby said. ``He feels he's done a good job as mayor. Obviously, he's sad that this day is here."

Gosek was ``actively reviewing" his political future and would likely make a decision within days, Eby said.

Oswego City Council President William Dunsmoor said ``it would be the right choice" for Gosek to resign after his arrest.

``I've spoken with the majority of the other councilors ... and they agree it would be in the best interests of the city," said Dunsmoor, who is serving as acting mayor.

The council scheduled an emergency meeting Monday night to discuss the scandal, Dunsmoor said.

The conditions set by Lowe allow Gosek to leave his house between 7 a.m. and 9 p.m., which would allow the mayor to continue his duties.

According to court papers, Gosek was arrested after paying a confidential informant $250 to introduce him to two 15-year-old girls at a Syracuse hotel. The federal charge carries a sentence of five to 30 years in prison, said officials with the U.S. Attorney's Office.

State police began an investigation of Gosek in November 2004, recording conversations of Gosek offering money or drugs in exchange for sex, court documents said. The FBI joined the investigation in April and put a wiretap on Gosek's city-owned cell phone.

``It's not just talk on a telephone. There's a pattern of him using the cell phone for illicit sexual activities," said Assistant U.S. Attorney John Katko.

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Gosek, a Republican, is in his second term as mayor of Oswego, a city of about 17,900 along Lake Ontario, 34 miles north of Syracuse. In recent months, Gosek's administration has become a magnet for controversy.

In March, a former city employee was caught doing 88 mph on a local highway in a city-owned vehicle assigned to Gosek. The woman told state police she was Gosek's girlfriend. Gosek said she was an acquaintance 19, 2005 I am hereby resigning my office as Senator of the 23rd Senatorial District of the state of Connecticut."

A copy of the letter was to be delivered to Gov. M. Jodi Rell on Monday. Rell has 10 days to file a writ for a special election. Once that writ is filed, the election must be held in 45 days.

Bysiewicz said her office requested that Rell not to pick Nov. 8, the date of this year's municipal elections. According to state law, both elections cannot be held on the same day, she said.

``There will be too much conflict in the polling places," she said.

Officials are also barred from holding a special election on weekends and Nov. 11, which is Veterans Day. That leaves only five possible days: Nov. 4, 7, 9, 10 and 14.

George Comer, the Republican registrar of voters in Bridgeport, said he prefers Nov. 14, but has not yet discussed a date with the Democratic registrar. Comer said the city has 125 machines and will use around 95 or so during the municipal election.

Newton's district includes mostly Bridgeport and a section of Stratford.

Since the voting machines will be unavailable several days before and two weeks after the special election, Bysiewicz said municipalities may have to borrow lever voting machines from towns with May elections, use its backup machines, use paper ballots or rent optical scan machines.

Comer said mechanics are now looking at all of the city's backup machines.

``We'll do everything reasonable to avoid using paper ballots," he said.

Prominent Imam Sentenced To 87 Months (PHI)

By George Anastasia

The Philadelphia Inquirer, September 20, 2005

Imam Shamsud-din Ali, convicted earlier this year of racketeering charges that were part of a broader City Hall corruption probe, was sentenced today to 87 months in prison.

Ali, 67, showed no reaction as U.S. District Court Judge Bruce W. Kauffman leveled the sentence after a two-hour hearing attended by hundreds of the imam's supporters.

Considered one of the most influential Muslim leaders in the city, Ali declined to make any comment during the hearing or as he emerged from the courthouse later in the day. He will remain free on bail pending an appeal.

Ali was convicted of racketeering, racketeering conspiracy and assorted mail fraud, bank fraud and extortion charges by a federal district court jury in June.

During the eight-week trial, prosecutors alleged the charismatic leader of the Philadelphia Masjid used his mosque, a school he and his wife operated and a business they controlled in a series "money for nothing schemes" that generated tens of thousands of dollars in illegal income.

During the sentencing hearing, Assistant U.S. Attorney Frank Labor, the lead prosecutor in the case, said Ali had "used his standing as a civic leader to profit for himself."

Labor said Ali had shown "disdain for the law" and embodied how a system of corruption based on access and influence worked in City Hall.

Ali's lawyer, James Binns, declined to comment about specifics of the case, but reiterated earlier arguments that the jury had been prejudicially tainted by improper references to Ali's alleged ties to drug dealers.

In all, Ali was convicted of 22 of the 34 counts he faced in a racketeering indictment that grew out of a broader political corruption probe of City Hall.

Philly Cleric Sentenced For Corruption (AP)

By Joann Loviglio

AP, September 20, 2005

PHILADELPHIA - A prominent Muslim cleric on Monday was sentenced to more than seven years in prison on racketeering and other charges, the latest in a string of convictions stemming from the FBI's sweeping probe of municipal corruption.

Prosecutors said that Shamsud-din Ali, 67, used his political connections to obtain dubious loans, donations and city contracts. In addition to his 87-month sentence, Ali was ordered to pay restitution. He was released pending an appeal.

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The investigation of the so-called "pay to play" culture in Philadelphia's city government has led to the convictions and guilty pleas for more than a dozen people, including a former city treasurer, two bank executives and several business owners seeking city contracts.

The probe became public when police discovered an FBI bug in Mayor John F. Street's office. The mayor has denied any wrongdoing and has not been charged.

Ali, the leader of a west Philadelphia mosque, was charged with 34 counts. After six days of deliberations, jurors convicted him in June of 22 counts, including racketeering.

According to prosecutors, he and his wife, Faridah, used the Muslim school they ran as a private piggy bank, soliciting donations and public education funds for adult education classes that were never held. The Alis had at least five family members on the payroll, including two adult children who lived out of state.

Faridah Ali was convicted and sentenced to a year of house arrest on related charges.

ALI RECEIVES 7-YEAR JAIL SENTENCE (PHI)

By Kitty Caparella

The Philadelphia Inquirer, September 20, 2005

MUSLIM CLERIC Shamsud-din Ali "has one more year to con people out here," said a disgusted Muslim, upset that Ali is out on bail.

"It's a travesty. If there's any fairness, he will win on appeal," said Ali loyalist, Asim Abdul Rashid, head of the Majlis Ash'Shura, a regional body of imams.

That was the diverse reaction in the Muslim community and elsewhere to the once prestigious imam's sentencing by U.S. District Judge Bruce Kauffman yesterday.

The judge allowed about 100 of Ali's supporters to cram into the tense courtroom. They sat on the floor and stood in the aisles.

Calling the offenses "serious," Kauffman sentenced Ali, a friend of the mayor, the governor and other pols, to an 87-month prison term on racketeering and related charges, and a 60-month concurrent term on multiple frauds and interstate travel in the aid of racketeering.

Mayor Street declined to comment.

Kauffman ordered Ali, 67, of Melrose Park, to pay restitution of $365,000 to four victims of fraud and extortion, and to forfeit $286,646, a total of more than $650,000.

He also must pay $2,600 in court costs.

The sentence was based on seven illegal moneymaking schemes, involving schools, a bank, and private companies.

On June 14, Ali was found guilty of 22 counts of racketeering, racketeering conspiracy, multiple frauds, extortion and interstate travel in the aid of racketeering. He admitted to four counts of tax evasion.

The judge, however, suspended the stiff jail term while Ali's lawyer, James Binns, appeals the use of drug dealers' testimony and their wiretapped conversations in the nearly six-week racketeering trial.

The appeal, to be filed within 10 days, could take up to a year.

Binns has passionately argued about the drug issue before, during and after the trial, even though Kauffman didn't think Binns had a prayer of a chance on appeal, and said as much yesterday and in a 14-page opinion last month.

Assistant U.S. Attorney Frank Labor has argued the drug evidence supported the racketeering count and was one of the uncharged moneymaking schemes.

The usually talkative Ali appeared stoic throughout the two-hour sentencing and did not speak.

For months, Ali predicted that he wouldn't go to jail. And yesterday, many Muslim believers said they figured "he'd walk."

"I'm relieved," said Binns later.

"Mr. Ali will remain free for the resolution of the appeal.

"The government is pleased with the sentence," said Labor, who prosecuted the federal case with Anthony Wzoreck and Zane D. Memeger, of the U.S. Organized Crime Strike Force.

"It sends a clear message that law enforcement can and will protect the citizens of Philadelphia from criminals like Shamsud-din Ali," said Labor.

"While he was posing as an upstanding member of the community, he was out in the real world making himself rich with a life of crime... defrauding public institutions, private banks and cheating on his taxes," he added.

At the same time, he added, the children at Sister Clara Muhammad School were "wearing overcoats because he hadn't paid the bills, or fixed the heat and water."

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The judge ordered Ali to relinguish his position as director of the school, which the jury found he used to run his "criminal enterprise" to rip off his victims.

Labor could not persuade the judge to order an electronic monitoring device for Ali, just as his wife, Faridah, wears on her ankle during her 12-month sentence of house arrest, appealed by the government.

Last October, she was convicted of defrauding Community College of Philadelphia in an adult basic education program.

The CCP scheme was also part of her husband's trial; she faces the same federal charges, as her husband, at a Nov. 14 trial.

The four-year case was investigated by the FBI, Internal Revenue Service, and the U.S. Department of Education's inspector general's office.

Kauffman ordered the couple to repay the college $170,000.

Ali and co-defendants, who were involved in other fraud and extortion schemes, must also repay the City of Philadelphia $60,595, the amount Ali's firm, Keystone and Information Service, received for a bogus real estate tax collection scheme; a $100,000 line of credit to Commerce Bank; and $25,000 that Ali and a co-defendant extorted from Waste Management and Processors, Inc., of Pottsville.

Because Ali is out on appeal, said Labor, the government can begin collecting its $650,000 in restitution and forfeiture costs.

The judge had given Ali a $1,000-a-month payment schedule after completing his prison term.

Ali also faces five years of supervised release.

Ali remains resident imam at the Philadelphia masjid, his only source of income since ATT Communications, Inc. stopped paying the minority businessman almost $2,000 a month in August for helping to arrange for cellphone towers at the Philadelphia International airport.

"It's a disgrace that the judge left him loose like that," said a Muslim member of Ali's mosque, which is the same building as the school, at 47th Street and Wyalusing Avenue.

"He cheated the school. That money given to the school was supposed to give community people an education," he added.

"What kind of leader do you call that?"

Task Force Takes War On Gangs To County (TAMPTRIB)

By KEITH MORELLI

Tampa Tribune, September 20, 2005

TOWN - 'N COUNTRY A sustained assault on street gangs in northwest Hillsborough County by a task force made up of federal agents and county deputies resulted in the arrest of more than 100 suspected gang members and the seizure of nearly $1 million in property.

They didn't get everyone, though.

As Sheriff David Gee announced the results of the sweeping six-month investigation Monday afternoon, workers at Morgan Woods Elementary School scrubbed bright orange gang graffiti off the walls and sidewalks.

Undaunted by the graffiti -- which may have been an attempt to recruit young members or the marking of turf -- Gee said the sweep was a big blow to the street gangs in northwest Hillsborough because many of those arrested were leaders.

"This will put a significant dent in gang activities," he said during a news conference at Jackson Springs Park.

The gang task force included Hillsborough sheriff's deputies, FBI agents and U.S. attorney's office investigators, as well as an undercover Pasco County sheriff's detective who infiltrated one gang.

Information from some sources was so reliable, in one instance a planned home invasion was thwarted and waiting deputies arrested the would-be assailants as they pulled up to the home.

In all, 105 suspected gang members were arrested, 52 of whom had confirmed gang affiliations. They faced a total of 325 criminal charges, some of which are federal. Deputies seized about $700,000 in illegal drugs, $36,600 in stolen property, $85,000 in vehicles and $9,500 in firearms.

Charges included attempted murder, robbery, theft, home invasion, drug possession and trafficking, assault and battery. Some were juveniles, but most were in their mid- to late teens and 20s.

Most of those named on warrants have been arrested, the sheriff said. Some were illegal immigrants and may be deported, he added.

Gee said some larger communities across the nation have let the gang problem get out of hand and it has overtaken them.

The number of members fluctuates because of the turnover, he said. Recruitment remains a concern, he said, with gangs appealing to disaffected youths, offering them acceptance and companionship.

"We're seeing some as young as 13 years old," Gee said. "When you're seeing members this young, it's a serious problem for our country."

Gang membership is up across the country, he said.

"We've gone after it here," he said. "We're trying to get in front of the issue before it gets any worse ... before it becomes unmanageable."

Mostly, local gangs deal in illegal drugs or robbery, and many of the assaults are on members of opposing gangs, such as an incident this month when four members of the Norte 14 gang attacked a rival gang's house, abducted a pregnant woman and raped her.

That attack was motivated by revenge, Gee said.

In all, deputies suspect about 500 members of more than 35 recognized gangs are in Hillsborough County, ranging from the ultraviolent MS 13 to the Dover Locos to Norte 14.

The inclusion of the federal authorities is a welcome ally in the gang battle, Gee said, and may prove to be a deterrent for would-be gang members.

"We're seeing some as young as 13 years old.

When you're seeing members this young, it's a serious problem for our country."

European Art Thieves Busted With FBI's Help (PHI)

By Ramona Smith

The Philadelphia Inquirer, September 20, 2005

It was a helluva heist - and a helluva sting that recovered a stolen Rembrandt painting worth $36 million.

But the FBI says we'll have to wait a couple weeks to learn exactly what role one of its Philadelphia-based agents may have played in the end to one of history's most sensational art thefts.

The heist happened in Stockholm, in 2000, when three men brandishing machine guns toted off three art works, including the Rembrandt, from Sweden's National Museum. They escaped by boat while two cars exploded as a diversion nearby.

The party ended Thursday in Denmark, after an undercover agent - possibly from the Philly FBI - posed as a wannabe buyer and tricked four members of an alleged stolen art ring into a sale at a Copenhagen hotel. The suspects showed up with the Dutch master Rembrandt van Rijn's "Self Portrait," painted about 1630, and were arrested.

"The Philly connection has to do with the sting," local FBI spokeswoman Jerri Williams said yesterday, teasing an Oct. 4 press session when reporters will be able to get the whole story. "Let's just say maybe somebody here was involved in it, and they can talk about it."

The FBI in Los Angeles - where an organized crime task force this year recovered an Auguste Renoir painting taken from the Swedish museum at the same time - said the suspects had tried to peddle the stolen Rembrandt in both Sweden and L.A.

"The task force was able to introduce an FBI undercover agent with substantial knowledge of art to pose as the buyer/broker for the stolen Rembrandt," the FBI's Los Angeles field office said.

Federal investigators at Philly are known for expertise in stolen art and cultural artifacts. They hosted a new national FBI task force on stolen art this year.

Assistant U.S. Attorney Bob Goldman, one of two federal prosecutors in that FBI group, declined to comment yesterday on the sting in Copenhagen.

The sting ended with four men - a 29-year-old Swede, two Iraqi brothers aged 24 and 29, and a 24-year-old Gambian - in jail in Denmark and awaiting extradition to Sweden. All four denied handling stolen goods.

Danish police said the suspects agreed to accept only $100,000 for a hot painting worth $36 million. The Rembrandt, which was not harmed, will be returned to the museum.

In all, thieves got away with three paintings worth $45 million when they blew up parked cars, threw spikes on the road to deter police and escaped from the museum in December 2000.

Los Angeles investigators recovered the Renoir, titled "Young Parisian" earlier this year, but the FBI kept the recovery secret until Friday to aid the recovery of the Rembrandt. Police in Stockholm recovered Renoir's "Conversation" in 2001.

Four Face Extradition In Rembrandt Case (WP)

By JAN M. OLSEN, The Associated Press

The Washington Post, September 20, 2005

COPENHAGEN, Denmark -- Four suspects arrested in connection with the recovery of a stolen painting by Dutch master Rembrandt van Rijn will soon be extradited to Sweden where they will be prosecuted, officials said Monday.

DOJ_NMG_0006771

Two Iraqis, a Swede and a Gambian were arrested Thursday in a downtown Copenhagen hotel when trying to sell the painting that was stolen from Sweden's National Museum nearly five years ago, police said.

"We are working on getting them extradited to Sweden as soon as possible," Copenhagen police Chief Superintendent Per Larsen said.

The Rembrandt, a self-portrait from 1630, is estimated to be worth 250 million Danish kroner (euro34 million; US$42 million). It was stolen from the museum in Stockholm by three armed robbers in December 2000, together with two other paintings by French painter Auguste Renoir.

The painting, which Larsen said was unharmed, is expected to be returned to the National Museum.

The arrests last week were the result of a multinational operation that included several U.S. law enforcement agencies, including the Immigration and Customs Enforcement and the U.S. Federal Bureau of Investigation.

Posing as an art buyer, an unnamed FBI agent met the suspects in a downtown Copenhagen hotel. They offered to sell him the stolen Rembrandt for only US$100,000 (euro82,000), police said.

The 24-year-old Gambian, a 29-year-old Swede and two Iraqi brothers aged 24 and 29 have all pleaded innocent to preliminary charges of handling stolen goods.

In Sweden, Prosecutor Ronnie Jacobsson said he hoped the men would be handed over this week.

"All four agree to be handed over to Sweden and be prosecuted here," Jacobsson told Swedish news agency TT.

Larsen said the Copenhagen operation was linked to a probe that led to the recovery of Renoir's "Young Parisian" about six months ago in an undisclosed location in Los Angeles.

The FBI kept the recovery of that painting secret until Friday to aid the recovery of the Rembrandt.

The other Renoir was recovered in 2001.

Pair Pleads Guilty In Scams (KNOXNS)

By JAMIE SATTERFIELD

Knoxville News Sentinel (TN), September 20, 2005

GREENEVILLE - A Morristown couple pleaded guilty Monday to bilking dozens of people, many of them elderly, in a multimillion-dollar Ponzi scheme.

Gary Lee Von Oesen, 61, and girlfriend Geneva Retha Houston, 59, admitted their respective roles in a host of financial crimes spanning 1996 to 2003 at a hearing in U.S. District Court in Greeneville before federal Judge J. Ronnie Greer.

Advertisement

Von Oesen, the mastermind behind the Ponzi scheme dubbed World Money Club, struck a deal with federal prosecutors in which he confessed to two of the 97 crimes of which he was accused.

Houston, who served as the bookkeeper for Von Oesen's investment schemes and profited from them, pleaded guilty to a single charge.

As part of the deal, the couple has agreed to pay back "all victims" cited in the indictment lodged against the pair. That indictment numbered victims at more than 35.

The couple also admitted in the deal with Assistant U.S. Attorney Neil Smith that their financial crimes cost their victims "more than $2.5 million but not more than $7 million."

The actual amount of loss to investors, many of whom Smith has termed "vulnerable" because of their age, has been estimated to be as high as $12 million.

Smith wrote that the deal was struck, in part, to allow "the numerous victims, several of whom are now elderly and/or in poor health, to avoid being required to appear and testify."

Von Oesen and Houston were nabbed last year after a probe led by FBI Agent Lane P. Rushing into allegations including mail fraud, securities fraud and money laundering.

The biggest scam alleged in indictments involved a Ponzi scheme, which is an investment swindle in which early investors are paid off with money put up by later ones to encourage others to join in.

Von Oesen set up a limited partnership he called World Money Club and billed it as a firm engaging in commodity futures. He recruited some investors through First Fitness, a "multilevel marketing program for the sale of fitness products in which Houston was a dealer and participant," Smith wrote.

The scheme promised investors a payoff as large as 25 percent, but the real monetary prize went to Von Oesen and Houston, who used investors' money to line their own pockets, pay their mortgage and buy timeshare units in Florida.

Greer set a Jan. 9 sentencing date for the pair.

On that day, Houston will also be sentenced for her December conviction for lying to federal Magistrate Judge Dennis Inman when he quizzed her about her ability to hire an attorney in the fraud case.

She claimed she had no disposable cash, but the $15,000 ring she wore to her August arraignment made the judge suspicious. An investigation later showed she had more than $5,700 stashed in a bank account at the time.

Houston faces a maximum five-year prison term, but her sentence likely will be far less, court records show. Although Von Oesen faces a 10-year maximum prison term, prosecutors have agreed to a penalty range of 41 to 51 months.

MAN PLEADS GUILTY TO EXTORTION CHARGES (TMT)

By CASEY KNAUPP, Staff Writer

Tyler Morning Telegraph, September 20, 2005

A 34-year-old Tyler man pleaded guilty in federal court Monday to attempting to extort $120,000 from a local woman.

Kirkpatrick Lenord Moore admitted to receiving proceeds of extortion on Dec. 29 after he had left several threatening notes and phone calls to the woman.

Moore faces up to three years in prison and will probably be placed in the sentencing guideline range of 15 to 18 months, considering his criminal history and acceptance of responsibility, Assistant U.S. Attorney Jim Middleton told U.S. District Judge William Steger.

Moore is currently on parole for an aggravated robbery conviction in Sulphur Springs and faces additional prison time.

Defense attorney Clifton Roberson said Moore has been jailed for the federal charge since December and could be released soon after his sentencing hearing, depending on what punishment Steger assesses.

Moore admitted in court Monday that on Dec. 10, he left a note at the woman's apartment, threatening to turn information he had about her to authorities if she did not pay him $120,000. The threats, which began once Moore found out she had funds in a retirement account, continued for weeks.

FBI officials said they believe the woman had information regarding a felony suspect wanted in Smith County. Moore threatened to inform the FBI of the woman's knowledge and to accuse her of committing an offense regarding the information, according to a FBI affidavit.

After the FBI had gotten involved in the extortion case, Moore told the victim to drop off a bag of money in a trash can at a car wash on Shiloh Road. After he retrieved the cash and a short chase, authorities caught him.

In his pickup, authorities found the victim's phone number, a semi-automatic handgun and a device used to modify his voice when he called the victim. They found the paper bag containing $200 and his cell phone, which he dropped as he ran from authorities.

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Lil' Kim Reports To Detention Center In Philadelphia (AP)

By KATHY MATHESON, The Associated Press

AP, September 19, 2005

PHILADELPHIA (AP) — Rapper Lil' Kim began serving a 366-day prison sentence at a federal detention center Monday for perjury and conspiracy stemming from a 2001 shootout outside a Manhattan radio station.

The 30-year-old entertainer, whose real name is Kimberly Jones, was whisked into the center past a throng of media, fans and passers-by at about 4:45 p.m.

Earlier, she had issued a statement saying she had "unfortunately" been assigned to the concrete, high-rise Philadelphia facility instead of to a prison camp "as discussed," and added, "I am not certain that this constitutes fair and equal treatment."

Her lawyer, L. Londell McMillan, said a celebrity of his client's magnitude could be in danger in such a detention center, which he said was mainly designed as a temporary holding facility for inmates awaiting permanent assignment to a prison.

"Why should a female hip-hop artist have to spend time in an urban concrete jungle while other female prisoners are assigned to rural, suburban-type prison camps?" said McMillan, adding that he would seek to have his client reassigned.

Calls to the federal Bureau of Prisons and the U.S. Marshals Service were not returned Monday.

The 4-foot-11 rapper, who was convicted of lying about the gun battle to a federal grand jury and in the subsequent trial, brought about 20 to 25 people down to Philadelphia with her in a caravan of two RVs. Her mother, brother and lawyer were allowed to accompany her briefly into the detention center to say goodbye, McMillan said.

"She was upbeat, smiling," he said. "She told her mom not to cry and to stay strong."

Lil' Kim will be assigned to a female work cadre at the coed prison, McMillan said, noting that she could be out in nine months with good behavior.

"Today begins a new saga in my life which I expect to strengthen me and allow me time for reflection," Lil' Kim said in her statement. "I plan to write music while in prison, read and pray regularly and will come out a stronger, more confident woman."

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The case stemmed from a gun battle that erupted outside WQHT-FM, known as Hot 97, when Lil' Kim's entourage crossed paths with a rival rap group, Capone-N-Noreaga.

Lil' Kim's group confronted the others about the Capone-N-Noreaga song "Bang, Bang," which contained an insult to Lil' Kim from rival Foxy Brown. One man was hurt in the shootout that followed.

Before the grand jury and at the trial, the rapper maintained that she had not noticed two of her close friends at the scene of the shootout — her manager, Daemon Butler, and Sufi Jackson. Both have pleaded guilty to gun charges.

Jurors at Lil' Kim's trial saw radio station security photos that depicted Butler opening a door for the rap star, and two witnesses who once made records with Lil' Kim said they saw her at the station with Butler and Jackson.

Though several high-profile rappers — including Beanie Siege and Tupac Shaker — have done time in jail, Lil' Kim is the first prominent female artist to serve a prison sentence.

Lil' Kim's fourth album, "The Naked Truth," is due out next week. She won a Grammy in 2001 for her part in the hit remake of "Lady Marmalade."

At last month's MTV Video Music Awards, MTV personality Sway delicately asked if she had anything to say to fans who "might not see you for a while."

"You can write me letters," Lil' Kim said.

Psychologist Endorses Overnights Visits For Hinckley (WT)

By Arlo Wagner

The Washington Times, September 20, 2005

A psychologist yesterday testified that John W. Hinckley Jr.'s mental state has improved since he shot President Reagan and that the would-be assassin should be allowed to visit his parents and stay overnight with them in their home in Williamsburg.

"I believe with a reasonable degree of psychiatric certainty ... that Mr. Hinckley poses a low risk," Paul Montalbano said during daylong testimony in federal court.

Hinckley, 50, has been confined at St. Elizabeths Hospital since he was acquitted in 1982 of wounding Mr. Reagan and four others. He showed no emotion yesterday as his attorneys sought permission for him to progressively spend up to eight days and seven nights at his parents' home and sometimes with his brother, sister and in-laws.

Hearing on whether Hinckley should be allowed to visit his parents overnight will continue today in U.S. District Court.

Hinckley's parents have visited the District several times in the past year to accompany their son on unsupervised trips to parks, museums, shopping centers and restaurants. Routinely, he is allowed to wander about the 2,900-acre grounds of the mental hospital unsupervised.

Mr. Montalbano said Hinckley abides by rules and regulations. His rehabilitation would be increased if he were allowed to walk through the vast community around his parents' home, which includes six golf courses, shopping centers, a school and historical sites, the hospital psychologist testified.

"Isolation is not a good thing," Mr. Montalbano said. "In his case, it is a potential problem. He is intensely self-absorbed."

Hinckley shot Mr. Reagan in 1981, saying he was trying to impress actress Jodie Foster.

Since entering St. Elizabeths, he has shown interest in a female chaplain, a psychiatric intern and former patient Leslie deVeau, Mr. Montalbano said. It was a good sign when Hinckley ended his relationship with Miss deVeau in January because she would not discuss their relationship with his treatment team, he said.

U.S. District Judge Paul Friedman asked about the effect of reintegrating Hinckley into society where he would have contact with women.

Mr. Montalbano said it has been many years since Hinckley has suffered from the symptoms that led him to four suicide attempts and the shooting of the president.

The Secret Service has Hinckley under surveillance during his trips.

Hinckley Wants Girlfriend, Psychologist Says In Court (WP)

By Henri E. Cauvin

The Washington Post, September 20, 2005

Presidential assailant John W. Hinckley Jr., who is petitioning the court for more freedom, is lonely and longing for a close relationship like the one he had for many years with a former psychiatric patient, a psychologist testified yesterday.

"He wants to have a girlfriend. He wants intimate contact with a female," Paul Montalbano, chief of pretrial services at St. Elizabeths, the Southeast Washington mental hospital, testified yesterday.

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The psychologist said such a desire is natural for a man who has ended a long relationship, as Hinckley did this year. Hinckley, 50, cut his ties to Leslie deVeau after the relationship came under scrutiny during hearings to decide whether he was ready for expanded freedoms.

For a time, Hinckley was escorting a young hospital intern to her car and offering to sing to her. But after his doctors became aware of his special interest in the woman, Hinckley was told that he was crossing a line between staff and patient and had to stop, which he did, Montalbano said.

The underlying question at a hearing yesterday appeared to be how Hinckley would handle courtship and respond to rejection out in the world, away from the structure and support of a hospital.

Hinckley would like to eventually be released from St. Elizabeths, where the staff has found his depression and psychotic disorder to be in remission. He has been confined to the hospital in Southeast Washington since 1982, when a federal jury found him not guilty by reason of insanity in the shootings of President Ronald Reagan and three others.

In the meantime, he wants the court's permission to make a series of overnight visits to his parents' residence in Williamsburg, and this week a federal judge is hearing his petition and the government's opposition to it.

Hinckley's interest in women, viewed as natural by the psychologist, is disconcerting to the Justice Department's attorneys, who oppose any expansion of Hinckley's freedoms and who note that it was Hinckley's obsession with actress Jodie Foster that spurred him to open fire on Reagan in 1981.

On the hearing's first day, the questions and answers centered on how Hinckley handled his breakup with deVeau and how he has acted toward women since then. Hinckley met deVeau when both were confined at St. Elizabeths. She was found not guilty by reason of insanity in the 1982 shooting death of her 10-year-old daughter and was released from the hospital eight years later.

Saddened by the breakup, Hinckley did not spiral into depression, Montalbano testified. His longing for a new female companion has been obvious to those who treat him, the psychologist said.

The intern was apparently not his only romantic interest. Smitten with a hospital chaplain, he scheduled an appointment with her. But when asked about it by his doctors, Hinckley admitted that the appointment was mostly a chance to see a "pretty lady" and agreed to cancel it, Montalbano said.

Over the past two years, U.S. District Judge Paul L. Friedman has allowed Hinckley to leave St. Elizabeths for excursions in the Washington area, including some with his parents. Initially the family was accompanied by hospital chaperons. But more recently, Friedman has permitted the family to go without such supervision and has allowed overnight visits in the area.

Even as the hospital supervisions have fallen away, the Secret Service has continued to track Hinckley.

During yesterday's hearing, Hinckley's parents sat in the first row of the gallery on the same side of the courtroom as their son, who was wearing a blue jacket, white shirt and red tie.

Seated at a table with his attorneys, Hinckley seemed to follow the testimony intently, rarely focusing his gaze anywhere but the witness stand as Montalbano answered questions from Hinckley attorney Barry Wm. Levine; the government's lawyer, Assistant U.S. Attorney Thomas E. Zeno; and Friedman.

Hinckley's parents live in a 2,900-acre gated community in Williamsburg that has golf courses, a pool, a clubhouse and a shopping center, and that is where he would stay during the proposed series of six visits -- the longest of which would last just over a week.

Montalbano said that the process needs to be gradual and must be monitored but that visits with his family have been an important part of his treatment and should continue to be.

He said that, just as many people rely on their partners for support, Hinckley could be well served by the sort of relationship he craves. But Montalbano also said that given the scrutiny such a partner would endure, Hinckley may face a hard road to romance: "Mr. Hinckley remains optimistic, but perhaps naively optimistic."

Jury Selection Begins In Ex-Illinois Gov's Trial (REU-Y2)

By Andrew Stern

Reuters, September 20, 2005

Jury selection began on Monday in the public corruption trial of former Illinois Gov. George Ryan, a Republican known for commuting the sentences of the state's death row inmates who now may have to save himself.

Ryan, 71, is charged with steering state contracts to friends in exchange for free gifts, vacations, cash and loans to himself and his family while governor and, before that, during eight years as Illinois' secretary of state.

He is accused of racketeering conspiracy, mail fraud, tax fraud and lying to investigators.

Ryan's friend, lobbyist Larry Warner, is also a defendant in what is likely to be a four-month trial, participants said.

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After a 40-year career in Illinois politics, Ryan retired after a single term as governor in 2003 with a $191,300 yearly pension, with many Republicans blaming him for leaving the state party in shambles.

In recent interviews he has denied any wrong-doing.

"I feel, without question, that I'm going to be exonerated," he said on Chicagoland's Television.

Ryan, who is expected to testify, is perhaps best-known for adopting a strong stance against the death penalty, a move some critics say was a cynical attempt to distract from the gathering clouds of scandal.

Ryan speaks frequently to audiences about what brought him to declare a moratorium on executions in 2001 and to one of his final acts in office: commuting the sentences of all 167 Illinois death row inmates. He said the death penalty system was "broken," citing numerous exonerations of condemned inmates.

But Judge Rebecca Pallmeyer has ruled Ryan's actions on behalf of the condemned will not be allowed in trial. Still in question is whether the judge will allow evidence about a horrific 1994 highway crash that killed six children -- blamed on a truck driver who bought his license with a bribe -- which launched the Operation Safe Road investigation.

The decade-old probe that grew out of the licenses-for-bribes scandal cast a wider net over public corruption and has resulted in 73 convictions. Among them is Ryan's former chief of staff, Scott Fawell, who is serving a 6-1/2-year sentence and will testify for the prosecution.

"The defense is going to turn on Ryan's image as a big-picture manager who was not involved in day-to-day operations," said University of Chicago law professor Bernard Harcourt.

"It's going to turn on whether he takes the stand and how he does on direct and cross-examination," Harcourt said. "It's going to be up to him."

Racketeering And Fraud Trial Begins For Illinois Ex-Governor (NYT)

By Jodi Wilgoren

The New York Times, September 20, 2005

CHICAGO, Sept. 19 - All the potential jurors recognized the defendant - the white hair, the big glasses, the gruff face. One admired his moratorium on executions in the state. Another expressed disdain for any politician who uses a position for personal gain. A third said he found the defendant "forgetful and unprepared."

"He referred to Dick Butkus as Mike Ditka," the third juror recalled of seeing the defendant botch an award presentation at a football banquet. "The times when he would be on television, whatever I read in the newspapers, it would seem to me he was unprepared."

So went the opening day of jury selection in the criminal corruption trial of George Ryan, the former governor of Illinois who became an international star for his challenge of capital punishment even as scandal eroded his popularity at home to cause him to leave office after a single term.

Mr. Ryan, 71, faces 22 counts of racketeering, mail and tax fraud and lying to federal agents. The charges could add up to 95 years in prison for a man whose legacy as he left office in 2003 was clearing Death Row with a blanket commutation for 160 condemned inmates. Federal prosecutors contend that Mr. Ryan and his relatives received cash, luxury vacations and other gifts worth at least $167,000 in exchange for state contracts and political favors in the dozen years in which he was governor or secretary of state.

Mr. Ryan, a pharmacist from downstate Kankakee who became a deal-making moderate Republican, declined comment on Monday, and his lawyer, Dan K. Webb, said little beyond expressing confidence that his client would be acquitted. Friends of Mr. Ryan, who has spent the past two years on the lecture circuit preaching against the death penalty, say he has been looking forward to his day in court after years of being dogged by accusations and innuendo.

"George truly believes he didn't do anything wrong," said Tony Leone, a friend of 30 years who was a staple of Mr. Ryan's kitchen cabinet and said he spoke to him over the weekend. "He said, 'I want to get it over with.' He says it's time, we need to get this resolved. He's even going to testify; I mean, what does that tell you about a guy?"

The trial caps a seven-year federal investigation that has led to 79 indictments and 73 convictions and is known as Operation Safe Road because of its roots exposing a scheme in which government employees traded commercial driver's licenses for bribes. Mr. Ryan's co-defendant is Lawrence K. Warner, a longtime lobbyist and close confidant.

It comes as a cloud of corruption charges hovers over this city and state, whose political history are rife with similar scandals. Mayor Richard M. Daley of Chicago was questioned last month in a separate federal investigation into political influence on hiring at City Hall, and Gov. Rod R. Blagojevich spent last week fending off speculation that he was the mysterious "Public Official A" accused in a court document of engineering kickbacks involving state pension investments.

"To have a former governor on trial is a big deal even for Illinois," said Kent Redfield, a political scientist at the University of Illinois, noting that another former governor, Otto Kerner Jr., was on the federal bench when he was indicted - and convicted - in

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the 1970's of accepting bribes. "It just reinforces what is a very cynical attitude among Illinois citizens about politics and politicians. Our expectations and our standards are pretty low. Our politicians try very hard to live up to those low standards."

Perhaps it should not have been a surprise, then, when the third potential juror questioned Monday morning, a woman who works part time at a Jewel supermarket, said she was disgusted when she read about the charges against Mr. Ryan.

"No one should use their position to get favors," she said. "I was just disappointed that if it was happening, it really shouldn't, and why does it keep going on and on?"

The woman was one of 310 potential jurors who filled out 32-page questionnaires last week that asked what radio and television stations they listened to; whether they consider themselves liberal, conservative or "middle-of-the-road"; if they have ever sought the assistance of public officials; and what their impressions or opinions are of Mr. Ryan.

"Do not like him," wrote Juror No. 19, who also expressed strong negative views of politicians generally ("they steal and lie") and lobbyists ("they take money and don't do anything"). Juror No. 18 said he had heard Mr. Ryan's office "was corrupt and he should have done a better job."

Questioned one by one in the courtroom, some for as long as 40 minutes, most of the first dozen potential jurors were more circumspect, saying they had vague recollections of reading something about the case, but would nonetheless approach evidence with open minds. One said he had got his job at the city's 911 dispatch center through political connections; another said he had a vanity license plate, seemingly unaware that such coveted plates are among the items Mr. Ryan's secretary of state's office is said to have traded for political favors.

"Of course you get those feelings," one candidate said when asked whether publicity about corruption cases left him seeing all politicians as crooks. "But none of it would keep me from judging fairly as a juror."

No jurors were selected Monday, though five were dismissed because of biases revealed in the questionnaires, and four others were excused for hardships they would incur in a trial expected to stretch over four months.

Just picking the panel of 12 jurors and 6 alternates may take three days or more. That is likely to be followed by some three weeks of testimony by the prosecution's star witness, Scott Fawell, a former Ryan chief of staff who is serving a six-and- a-half-year prison sentence himself and agreed to cooperate with the government in exchange for leniency for his fiancée.

"I am hopeful that this sends some serious signals to our politicians throughout the state that business as usual is no defense for corruption," said Cindi Canary, director of the Illinois Campaign for Political Reform, a corruption watchdog. "It's been a really slow, kind of painful process, starting at the bottom. I think it's important that we see that it has worked its way up to the top, and Ryan is the top. It's as high as it gets here."

Ryan Trial Off To Slow Start As Potential Jurors Are Grilled About Bias (AP)

By Mike Robinson

AP, September 20, 2005

CHICAGO - Jury selection for former Gov. George Ryan's racketeering trial got off to a slow start Monday with questions from defense attorneys focusing on possible bias resulting from media coverage of the scandal that has dominated state politics for seven years.

"Because he was governor this is a highly unusual case," Ryan attorney Dan Webb told the court. "We should not end up with a jury that has people on it with biases against George Ryan."

Webb urged federal Judge Rebecca R. Pallmeyer not to put time limits on the questioning and she said she would wait until noon Tuesday before doing so to see if the pace picks up.

But she said it was necessary to get going.

After one day of jury selection, 14 of some 300 potential jurors had been interviewed and eight were placed in a pool for later consideration. Eleven of the 300 were dismissed for reasons ranging from health problems to job conflicts to blatant bias against the former governor.

Ryan, 71, is charged with racketeering, lying to federal agents and tax fraud.

The 22-count indictment says he gave lobbyist Larry Warner, now his co-defendant, free reign to steer big-money state contracts and leases to clients when Ryan was secretary of state.

He also is accused of doling out favors ranging from state leases to low-digit license plates to his friends while enjoying free vacations in Jamaica and other benefits.

Ryan and Warner insist they have done nothing wrong.

The case is an outgrowth of the government's seven-year Operation Safe Road, which began as an inquiry into bribes paid for drivers licenses and mushroomed into a full-scale investigation of corruption during Ryan's tenure as secretary of state and governor.

Ryan, who declined to comment on the trial, greeted reporters in a hearty voice as he entered the courtroom.

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"Good morning, good morning," he said. "You had to get up early this morning - all of you."

He seemed as calm and confident as ever as he chatted with reporters, chortling that he has not visited a favorite Chicago eatery "for a long time, although it looks like I have."

Webb declined to comment when reporters asked him whether an unidentified woman in a striped suit who sat beside the former governor's wife, Lura Lynn Ryan, was a jury consultant.

Such consultants are sometimes used as lawyers decide which potential jurors are most likely to be emotionally sympathetic to the defense and which to the prosecution.

Pallmeyer intends to create a pool of 50 to 60 potential jurors who have survived the first round of selection. Attorneys will whittle that number down by using so-called peremptory challenges, which allow them to dismiss a certain number of jurors without giving a reason.

The defense has 18 peremptory challenges and the prosecution has 10. The panel of 12 jurors and six alternates will be selected from the survivors of that round.

Several jurors acknowledged they had heard about Ryan and corruption in the secretary of state's office. But most of them seemed fairly hazy about the details.

One woman said there were two Ryans involved in scandals. She appeared to have George Ryan mixed up with Jim Ryan, the former Illinois attorney general defeated for governor in 2002.

Jim Ryan was not involved in any scandal. But he did grumble during the campaign that voters were getting him mixed up with George Ryan and that was hurting his chances of getting elected.

In the final hour of jury selection, Pallmeyer threw out a man who told the court that he took a dim view of sending elderly people to prison. The same man, a university computer supervisor, said he knew that political corruption was commonplace throughout state government.

Webb fought in vain to keep him in the pool, describing him as "the apex of honesty."

Webb succeeded in getting another potential juror bounced who said he was troubled by news he had heard about corruption in the secretary of state's office under Ryan.

Assistant U.S. Attorney Zachary Fardon battled to keep the man in the pool, telling Pallmeyer that "when all is said and done he indicated that he could be fair."

Pallmeyer agreed to wait until later to rule on a prosecution motion to oust a potential juror who said that his mother was an acquaintance of Webb and that he had met Webb himself.

The man testified that his mother had told him that Webb was a highly skilled lawyer.

Prosecutors argued that such a relationship would be unfair, while Webb protested that he barely knew the mother and didn't remember meeting the man.

D.C. Killing Was 'Face-to-Face,' Police Say (WP)

By Del Quentin Wilber And Nia-malika Henderson

The Washington Post, September 20, 2005

A man who was fatally shot while walking his dog in Northwest Washington was killed in a "face-to-face" encounter with his assailant, police said yesterday.

Investigators said they had no motive or suspect in the slaying of Gregory C. Shipe, 34, a financial analyst for a large public relations firm downtown. He was shot in the face about 10:40 p.m. Saturday in a crime that one top D.C. police official yesterday called "bizarre."

"There was no rhyme or reason for this," said Capt. C.V. Morris, supervisor of the department's violent crimes division. "The motive in this is a mystery. . . . This was a face-to-face confrontation. Of what type? We don't know."

Shipe was walking his dog, Otis, in the 1700 block of Irving Street NW, in the city's Mount Pleasant section, when he was approached by at least one person, police said. He was shot in the face at close range and died at the scene. His dog, a 50-pound mixed-breed, wandered back to Shipe's residence in a nearby apartment complex, where he was discovered by neighbors.

Although none of Shipe's possessions, including his wallet, was missing, investigators speculated that he most likely was the victim of a botched robbery, authorities said. Police and neighbors said several robberies have taken place in the area recently.

Shipe worked as a financial analyst in the Washington office of Ogilvy Public Relations. He started in May on a temporary basis but soon was hired full time, said Robert Mathias, managing director of the 100-employee office.

Mathias said employees were devastated by the death of a charming colleague who quickly solved problems.

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"There was always just good cheer about him," Mathias said. "He was just a very positive part of our work culture. . . . Nobody deserves this. But of all the people who don't deserve this, Greg is at the front of that line."

Shipe grew up in Waynesburg, Pa., a small community about 50 miles from Pittsburgh. He graduated from the University of Kentucky with a bachelor's degree in business administration.

From 1998 through 2002, he lived in Washington and worked as an analyst for Lockheed Martin Corp. and as a consultant for Booz Allen Hamilton, according to a résumé supplied by Ogilvy.

He attended Owen Graduate School of Management at Vanderbilt University and graduated with an MBA in finance last year.

Business school classmates said that Shipe was a hard-working student and that he co-chaired the gift committee for his 2004 class. The committee raised $118,000 to help refurbish a classroom, shattering fundraising records for class gifts, said Clint Liebenberg, a friend and the former class president.

"He was selfless," Liebenberg said. "He worked really tirelessly on his own time to make sure he achieved his own goals. . . . He was just friendly with everybody and had a really positive outlook on life."

Shipe had been living with friends in Columbia Heights until several weeks ago, when he moved into an apartment in the 1600 block of Kenyon Street NW, police and friends said.

A bouquet of red and yellow flowers and two cards were outside Shipe's apartment door yesterday. Vanessa White, a neighbor, gave Shipe the keys to his apartment about three weeks ago and said she had been looking forward to getting to know him better.

"It's tragic. He was such a nice guy," White said. "The fact that you saw someone in the hall one day and then the next day they are murdered a block away, it shakes you up. . . . When we found out, we kept on saying that could have been any of us. We're always out walking around that late or later. This will make all of us be much more cautious about returning to the building after dark."

Keisha Barkley, who lives in the 1700 block of Irving, said she was surprised to hear that someone was killed in her neighborhood.

"There's no drug activity. It's just a pretty quiet, nice residential neighborhood," she said. "There have been a couple of robberies, car break-ins, that's the only thing that happens in this neighborhood."

A candlelight vigil for Shipe is scheduled to begin at 8:45 tonight outside the Mount Pleasant Neighborhood Library at 3160 16th St. NW. Mourners will walk to the 1700 block of Irving Street NW, where Shipe was slain, organizers said.

Police urged anyone with information to call 202-727-9099. They are offering a reward of up to $25,000 for information leading to the arrest and conviction of a suspect.

Missing Girl's Car Offers Leads (WT)

By Matthew Cella

The Washington Times, September 20, 2005

Richmond Police investigating the disappearance of a 17-year-old college freshman spent yesterday investigating leads they got from an examination of the girl's car.

Taylor Marie Behl, a freshman at Virginia Commonwealth University, was last seen by her roommate in her dorm room at about 10 p.m. Sept. 5. Taylor is from Vienna, Va.

An off-duty police officer found Taylor's 1997 Ford Escort on Saturday in Richmond, about a mile and a half from her dorm.

Police said that there were Ohio license plates on the car and that the original Virginia tags were missing. The missing tags were Virginia JPC2848.

The car was turned over to the FBI for forensics processing.

The Richmond Times-Dispatch reported yesterday that Taylor's scent was one of two that a police dog detected in the car and that the discovery is leading police to think that she might have been abducted.

Police have questioned the girl's family and friends, including a 38-year-old amateur photographer who took pictures of her during a campus visit in April. He posted the pictures on a Web site that displays artwork.

The photographs have been removed since Taylor disappeared.

Police executed search warrants on the home of Taylor's mother in Vienna, Va., and the photographer's home in Richmond.

Taylor was last seen wearing a black hooded sweatshirt and blue jeans. She was thought to be carrying her student identification card, a cell phone and a small amount of cash.

Richmond Police Chief Rodney D. Monroe on Thursday upgraded the case from a missing person to a criminal investigation and convened a task force that includes VCU campus police, Virginia State Police and the FBI.

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Richmond police have set up a tip line at 804/514-8477.

CIVIL LAW:

Office Depot, Feds Settle False Claims Case (FCW)

By Michael Hardy

Federal Computer Week, September 20, 2005

Office Depot has paid a $4.75 million settlement to the United States over allegations that the company sold products to government agencies in violation of the Trade Agreements Act.

The Justice Department, in announcing the settlement today, said Office Depot sold products from China, Taiwan and other countries that do not have reciprocal trade agreements with the United States, in violation of a provision of the company's General Services Administration schedule contract.

"Federal contractors will be held accountable for their billing practices," said Peter Keisler, assistant attorney general at Justice's Civil Division, in a written statement. "This settlement is an example of the department's determination to ensure that federal funds are protected from fraud and abuse."

The case was originally filed in January 2003 under whistleblower provisions of the False Claims Act by a company called Safina Office Products and two of its executives, Edward Wilder and Robert Hsi Chou Lee. The two executives and the company will get a a total of $712,500 of the settlement as their award under the law.

In May 2005, Justice reached a $9.8 million settlement with Office Max for similar allegations.

Office Depot Pays $4.75 Mln To Settle Claims Case (REU)

Reuters, September 20, 2005

WASHINGTON, Sept 19 (Reuters) - Office Depot Inc. has paid $4.75 million to resolve allegations that it broke the law by selling office supplies from certain countries to the U.S. government, the Justice Department said on Monday.

The company was accused of violating false claims laws by selling the government supplies made in countries that do not have reciprocal trade agreements with the United States, like China and Taiwan, the Justice Department said.

"Federal contractors will be held accountable for their billing practices," Peter Keisler, assistant attorney general for the Department of Justice's Civil Division," said in a statement.

Earlier this year OfficeMax Inc. agreed to pay $9.8 million to settle similar allegations.

Office Depot shares were down 36 cents to $29.36 in morning trading on the New York Stock Exchange.

FEC Sues Pro-Republican Political Group (WP/AP)

By Sharon Theimer, The Associated Press

The Washington Post, September 20, 2005

WASHINGTON -- Federal election officials on Monday sued a political group to try to force it to comply with campaign finance limits, the first lawsuit of its kind to arise from controversial big-money fundraising during the 2004 elections.

The Federal Election Commission filed a complaint in U.S. District Court in Washington against the Club for Growth. The pro-Republican group spent at least $21 million in the 2003-04 election cycle.

The FEC contends the Club spent enough in federal races to require it to file with the commission as a political committee and abide by contribution and spending limits. It wants the court to fine the group and to order it to comply with campaign finance rules.

Club for Growth President Pat Toomey called the FEC lawsuit "a bizarre interpretation of the Club's mission, the Constitution, the laws adopted by Congress and their own regulations governing nonprofit organizations."

"The Club's principal purpose is to advocate for and defend pro-growth policies," Toomey said in a written statement. "We have consulted with counsel every step of the way and have followed the law and regulations that govern our work."

FEC Vice Chairman Michael Toner called the case "one of the most important suits the commission has brought in recent years."

"At stake is whether Club for Growth will be able to continue raising and spending millions of dollars in soft money for activities influencing federal elections," said Toner, a Republican.

The lawsuit is the first to result from several complaints filed against pro-Republican and pro-Democratic "soft money groups," and could serve as a test case to see if the commission can rein in the groups without new congressional legislation or FEC rules.

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Campaign finance watchdogs contend the groups spent millions of dollars in corporate, union and unlimited contributions in the 2004 election despite a law banning the use of such money in presidential and congressional races.

The FEC investigated Club for Growth fundraising and spending after the Democratic Senatorial Campaign Committee complained to the commission about it.

The DSCC complaint stemmed from an ad the Club ran in the 2003-04 election cycle against then-Senate Minority Leader Tom Daschle, D-S.D., over his opposition to a tax-cut proposal. Daschle lost to a Republican in last November's election.

President Bush's re-election campaign and the sponsors of the 2002 campaign finance law sued the FEC last year, accusing it of failing to enforce the law and crack down on soft money spending, particularly in the presidential race. Those cases are pending in federal court.

The 2004 election saw the emergence of several partisan groups created by political activists to continue spending five- and even six- and seven-figure contributions after the law imposed tough donation limits on national party committees and congressional and presidential candidates.

Under the law, the national parties and federal candidates can no longer raise corporate and union donations in any amount or unlimited donations from any source. Such money isn't supposed to be used by anyone trying to influence a federal race.

The commission's lawsuit accuses the Club for Growth of failing to comply with federal fundraising and spending rules as far back as 2000.

The complaint says the group told prospective donors their money would be used to help elect or defeat specific candidates, and that it raised more than $4 million last year alone from donors who exceeded the $5,000 federal contribution limit. Of that, roughly $3 million came from just 14 donors.

The group spent more than $1 million in the past three elections on ads targeting specific campaigns, often going so far as urging voters to elect or defeat candidates, and raised more than $9 million during that time that exceeded federal limits, the lawsuit says.

The lawsuit could be the first in a parade of cases brought against soft money groups by the FEC, said Larry Noble, head of the Center for Responsive Politics campaign watchdog group and a former commission general counsel.

"We've all been waiting to see what they do with those complaints, and I think it's positive that they have brought suit," Noble said.

However, the lawsuit seems to focus on spending that urged voters to elect or defeat candidates, Noble said. That leaves open the question of how the FEC will deal with partisan groups that intended to influence federal races but didn't go quite as far as the Club did, he said.

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On the Net:

FEC: http://www.fec.gov/

F.E.C. Sues Republican Group Over Political Contributions (NYT)

By Glen Justice

The New York Times, September 20, 2005

WASHINGTON, Sept. 19 - The Federal Election Commission filed suit Monday against the Club for Growth, a well-funded Republican group, in an effort to force the organization to comply with limits on political contributions.

The suit is the first major enforcement case to involve a "527 committee," the independent political organizations that both Republicans and Democrats used to raise and spend hundreds of millions of dollars in the 2004 races. Commission officials describe it as a test case that could have a major impact on how future elections are financed.

"This is one of the most important suits the commission has brought in the last decade," said Michael Toner, the commission's Republican vice chairman.

Last year's election was the first conducted under the McCain-Feingold law of 2002, which banned political parties from accepting unlimited contributions known as soft money. However, donors continued to direct six- and seven-figure checks to 527 committees, which argued that they could still legally accept unlimited soft money contributions.

After months of legal wrangling last year, the commission declined to adopt new regulations that would specifically require 527 groups to register with the F.E.C. and submit to contribution limits and other regulations. Donors are allowed to give $5,000 to a political action committee each year.

The commission was left with a list of complaints against specific groups, which are now being investigated. The case against the Club for Growth is the first in line.

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The Club for Growth, which has more than 30,000 members, advocates conservative economic policies and for years has backed candidates who share those views.

The group runs a political action committee, which raised roughly $1.9 million and forwarded another $7.5 million directly to candidates last year, all operating within federal contribution limits, said David Keating, the group's executive director.

The club also operates a 527 committee, which raised about $8.5 million, Mr. Keating said. It was this organization that was the subject of the F.E.C. suit, which was filed in United States District Court here.

The suit alleges that the organization failed to properly register with the commission as a political committee, which would subject the group to contribution limits and other regulations, and that it raised millions in excessive contributions in recent years. Officials at the club said they had done nothing improper.

The case stems from a complaint filed against the group by the Democratic Congressional Campaign Committee in connection with a television advertisement broadcast last year. The commission voted to file the suit Monday after talks between the two parties failed to reach an out-of-court agreement, according to the F.E.C.

The commission is seeking an unspecified fine and a court ruling directing the Club for Growth to submit to F.E.C. regulation. If the commission wins, it could have broad implications for other groups that are similarly structured.

Pat Toomey, a former lawmaker and the president of Club for Growth, called the commission's suit a "war on the First Amendment" that will help protect incumbent politicians.

"The F.E.C.'s claims and legal theories are a bizarre interpretation of the club's mission, the Constitution, the laws adopted by Congress and their own regulations," Mr. Toomey said in a statement.

FEC Sues GOP 527 Group For Violating Finance Laws (WT)

By Stephen Dinan

The Washington Times, September 20, 2005

The Federal Election Commission yesterday filed its first court challenge against so-called "527 groups," suing a powerhouse Republican advocacy group for violating campaign-finance laws from 2000 to 2004.

The FEC charges that the Club for Growth raised and spent at least $4 million more than the limit, and so the group should have had to register as a political committee and abide by donation and spending limits. The suit was filed in U.S. District Court in Washington.

"This litigation is an important test case on when 527 groups are required to register with the FEC and follow hard-dollar restrictions in federal law," said Michael E. Toner, the commission's vice chairman.

The 527 groups, named for the part of tax code that governs them, played a major role in the 2004 election, the first under the campaign finance rules that Congress passed in 2002. Those rules were intended to eliminate so-called "soft money," the large donations that political parties and interest groups used to flood the airwaves with issue ads.

Instead, the parties have to rely on limited "hard dollar" contributions.

Swift Boat Veterans for Truth and Progress for America from the conservative side and MoveOn.org and the Media Fund from the liberal side led a host of 527s that advertised during the presidential race.

The groups say they are on sound legal footing.

Club for Growth President Patrick J. Toomey said yesterday's suit was part of a "war on the First Amendment."

He said the FEC's suit was the result of a complaint by the Democratic Senatorial Campaign Committee that said the Club for Growth stepped over the line when it targeted Senate Minority Leader Tom Daschle, South Dakota Democrat.

"The commission allowed it to lie inactive for nearly a year and a half and then resurrected it as a platform to seek to take away our members' rights and exact a huge civil penalty from the club," Mr. Toomey said.

The Club for Growth's stated purpose is to elect pro-economic growth, limited-government conservatives, often by advertising in Republican primaries.

In the complaint, the FEC said it tried to work out an agreement with the club, but the organization would not agree to a remedy. The FEC is considering action against other 527s.

President Bush's campaign, key lawmakers who helped pass the 2002 changes and other political organizations sued the FEC last year for not enforcing its regulations on 527s. Those cases are pending in federal court.

New State Law May Nix Asbestos Cases (LAW)

By Steven H. Pollak, Fulton County Daily Report

Law.com, September 20, 2005

Lawyers are gearing up for a constitutional challenge to a new state law that could remove nearly 3,000 asbestos cases from Fulton County dockets.

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The law was designed to stem the tide of out-of-state asbestos claims being filed in Georgia, said its primary sponsor, Rep. David E. Ralston, R-Blue Ridge.

"We were seeing a huge number of people that were nonresidents of Georgia and that had not been exposed to asbestos or silica in Georgia who were suing in Georgia courts," said Ralston. "That was a trend that was disturbing not only to me, but to others."

The vast majority of asbestos cases in Georgia have been filed in Fulton, with about 2,200 pending in state court before Judge Henry M. Newkirk and about 1,000 pending in superior court before Chief Judge Doris L. Downs, attorneys involved in the cases said. They estimated that out-of-state plaintiffs who were not exposed to asbestos in Georgia filed approximately 90 percent of those cases.

A lawyer defending the asbestos suits, E. Elaine Shofner of Hawkins & Parnell, noted that claims in Georgia courts have originated from Alabama, North Carolina, Wisconsin, Hawaii, Texas, Nebraska and Pennsylvania.

"We became a dumping ground," she said.

One plaintiffs' attorney, David P. Bevon of Motley Rice in Mount Pleasant, S.C., said out-of-state plaintiffs filed in Georgia because the law here was more favorable than in other states for injuries that occurred years or even decades ago. He also noted that some defendants, such as Georgia-Pacific, are based here.

The new law, signed by Gov. Sonny Perdue on April 12 and codified at chapter 51-14 of the Georgia Code, prevents future suits from out-of-state plaintiffs. But because it applies retroactively, the constitutional fight is over the impact the law could have on cases that already have been filed.

The law added a host of new requirements for asbestos claims to survive in the state's courts. Among the new rules, a plaintiff must present "prima facie evidence of physical impairment" that shows "to a reasonable degree of certainty" that exposure to asbestos was "a substantial contributing factor" to the plaintiff's injuries. Plaintiffs' attorneys have until Oct. 19 -- or 180 days from the enactment of the bill -- to file affidavits establishing the prima facie evidence.

The law requires the evidence to come from a "qualified physician," defined as a doctor who spends no more than 10 percent of his professional practice time on litigation and earns no more than 20 percent of his revenue from such work.

Bevon said plaintiffs' attorneys have had little success in establishing prima facie evidence in accordance with the new law, estimating that 98 percent of asbestos cases will not be able to meet the new standard.

"It's just part of the wave of tort reform," he said.

Bevon explained that the "qualified physician" provision of the law is most troublesome to plaintiffs' counsel.

"It's basically limited to a treating doctor," he said. "But a treating doctor, in almost all cases, isn't qualified to give a diagnosis of an asbestos injury and then take the next step of attributing causation to asbestos exposure."

Even among the most serious cases where the plaintiffs developed mesothelioma -- a rare, terminal cancer for which asbestos is the only known cause -- the lawyers are coming up short. Bevon said he had somewhere between 100 and 150 cancer asbestos cases in Fulton, and only four can meet the prima facie requirements.

Another plaintiffs' firm, Baron & Budd of Dallas, has approximately 100 mesothelioma cases pending before Downs and has succeeded in obtaining only 20 affidavits from qualified physicians who were willing to attribute the cancer to asbestos exposure, according to a letter to the judge from Baron & Budd attorney John J. Spillane.

In addition, Baron & Budd represents about 500 clients who developed a noncancerous lung condition known as asbestosis. According to a brief submitted by the firm, "all but a scant handful of those claims will suffer dismissal."

Lawyers came before Newkirk on Sept. 7 on the plaintiffs' motion to declare the prima facie requirement "substantive in nature" -- in that it creates additional obligations for the plaintiffs with pending claims -- and therefore should be inapplicable to cases filed prior to the enactment of the statute. For cases filed by out-of-state plaintiffs, lawyers filed several motions urging the judge to use law from wherever the claims originated.

Newkirk issued his order two days later, finding the law to be "procedural" as opposed to substantive, saying that the legislation "merely sets forth the method by which plaintiffs in asbestos cases may bring or maintain their causes of action in Georgia."

Newkirk added that the law was intended to apply to all asbestos cases in Georgia -- past and future. He also said that interpreting the law differently for out-of-state plaintiffs would "grossly subvert the public policy of this state because it would provide that Georgia residents could be treated differently than non-Georgia residents."

The plaintiffs' counsel in state court and superior court now have filed constitutional challenges in their respective venues seeking to have the pending cases made immune from the new law's requirements. Downs will conduct a hearing on the motion on Sept. 30; Newkirk has not scheduled one yet.

A similar law passed in 2004 in Ohio was declared unconstitutional as it applied to pending asbestos cases, according to a motion filed by Bevon.

Unconstitutional Cartel (WSJ)

By Mark Hillman

The Wall Street Journal, September 20, 2005

When politicians take campaign contributions from Big Tobacco, self-proclaimed watchdog groups yelp about impropriety. Yet for the past seven years, the industry has paid tens of billions of dollars to state governments to protect tobacco profits. Until recently, hardly anyone seemed to notice, much less care.

Then, on Aug. 2, the non-profit Competitive Enterprise Institute filed a lawsuit arguing that the 1998 Master Settlement Agreement (MSA) between Big Tobacco and 46 state attorneys-general (AGs) violates the Constitution and establishes a cartel designed to circumvent antitrust law and quash competition. Hallelujah.

I am a state treasurer and this suit could greatly reduce revenue to my state; and still I am enthusiastic. The billions generated by the settlement cloak the pernicious threat that activist AGs pose to the checks and balances on political power that govern our Constitutional system. Regulation and taxation policies are the rightful responsibility of the legislative and executive branches -- not the domain of states' chief law enforcement officers.

* * *

The tangled history of the MSA begins in 1997. Big Tobacco and a group of AGs drafted a settlement agreement that ended the state lawsuits against the tobacco industry. It stipulated payments to states in return for liability protection. The proposal was presented to Congress for ratification, as required by the compact clause of the Constitution; but it died in the Senate, in large part because of its potential to undermine antitrust law.

By November 1998, Big Tobacco had negotiated another deal with several AGs, what became the MSA. This time, rather than seek Congressional ratification, the proposed settlement was presented to the nonparticipating AGs, who were given just seven days to decide whether to play ball. They had little choice but to participate. The MSA enabled the tobacco companies to raise prices on cigarettes nationwide -- not just in participating states -- to finance the deal. All smokers would pay the costs; the only question for AGs was whether their state would collect its share of the benefits.

Other than four states which had negotiated earlier settlements, every state signed on. Each was required to adopt uniform state laws -- with absolutely no amendments -- to enforce the terms of the MSA, including barriers that penalized smaller cigarette companies if their sales cut into those of the Big Four that organized the deal. In short, the states would help protect the majors from competition. "All states have an interest in reducing [small manufacturer] sales in every state," Vermont Attorney-General William H. Sorrell advised his colleagues.

Next, the MSA handed over $50 million and a significant role for enforcement and administration to an unelected entity, the National Association of Attorneys-General. NAAG plays a central role in determining how state AGs interpret and enforce the MSA. States can never opt out of the MSA, which can only be modified with unanimous consent of all states and all participating cigarette manufacturers. States relinquished their right to challenge the MSA in court.

This Faustian bargain locks states into a sleazy partnership with Big Tobacco, enforced by a compact that violates antitrust law and undermines market competition. Federal appellate judge Ralph K. Winter wrote, in a separate lawsuit brought by cigarette importers, that tobacco company executives "would long ago have had depressing conversations with their attorneys about the United States Sentencing Guidelines" had they forged a similar agreement without the complicity of state AGs. To add injustice to insult, the MSA takes money from predominately low- to middle-income smokers and transfers it to wealthy trial lawyers, some of whom reaped fees in excess of $100,000 an hour for their "work." On top of these affronts, the Constitutional objections to the MSA are manifold:

· The Constitution stipulates that "No state shall … enter into any agreement or compact with another state" without the approval of Congress. The MSA has never been so approved.

· The Constitution gives Congress exclusive authority to regulate interstate commerce. The MSA clearly usurps that authority.

· Delegation of inherent state powers to the NAAG undermines the state sovereignty protected by the Tenth Amendment.

The question facing the courts is not whether the MSA is good policy or whether tobacco companies are scoundrels. The larger issue is whether AGs can rightfully evolve into a law unto themselves, usurping the Constitutional roles of state legislators, governors, Congress and, ultimately, the voters themselves.

Mr. Hillman is Colorado state treasurer.

CIVIL RIGHTS:

Bipartisan Panel Recommends U.S. Election Changes (REU-Y2)

Reuters, September 20, 2005

Electronic voting machines should have paper trails to keep track of votes cast and all voters should present photo IDs, a panel recommending ways to restore confidence in the U.S. election system said on Monday.

The bipartisan Commission on Federal Election Reform, led by former President Jimmy Carter and former Secretary of State James Baker, made 87 recommendations for strengthening the integrity of a process shaken by voting controversies, including the drawn-out 2000 recount saga in Florida.

"At a time when there is growing skepticism with our electoral system, the commission believes that a bold new approach is essential," the report said. Many of the recommendations would require approval by Congress.

The call for paper verification of votes on electronic machines drew praise from election reform advocates, but the call for photo identification was criticized as an invasion of privacy and something that would discourage some voters.

That recommendation would require all prospective voters by the year 2010 to produce a photo ID card at the polling place -- either a driver's license or, for those without driver's licenses, an identification card issued by the state.

The commission called on states to make distribution of the card simple and widespread.

Caroline Fredrickson, director of the ACLU Washington legislative office, said the photo ID provision "will disproportionately impact the poor and the elderly, who may not have drivers' licenses or access to a location where they can obtain IDs."

INTENSE DEBATE

Carter said the 21-member commission intensely debated that provision, but he believed a national uniform requirement was better than piecemeal state voter identification laws.

"I personally had, at the beginning, some very serious reservations about this issue," Carter said. "This will be, I think, a move forward in getting more people to vote. It would not restrict people from voting. It will be uniformly applied throughout the country, and it will be nondiscriminatory."

The commission also recommended states, not local jurisdictions, be responsible for the accuracy and quality of voter lists and that state election agencies be nonpartisan.

"Every one of the recommendations in our report, whether they are recommendations to the Congress or recommendations to the states, are designed to improve confidence in our system of federal elections. And there's plenty of room for improvement," Baker, who led President George W. Bush's team during the Florida recount controversy, told reporters.

The 2004 election was also plagued by questions, involving voter fraud and intimidation, long lines at polling places in poor neighborhoods, the integrity of voter registration lists and security against fraud for electronic voting machines.

Bush issued a statement praising the work of the commission. "It is critical to maintain America's trust in our election system, and I look forward to reviewing this report and working with Congress on the recommendations," he said.

Carter said the panel hoped most of its recommendations would be passed by the 2008 presidential election.

Panel Recommends Photo ID For Voters (WT)

By Brian DeBose

The Washington Times, September 20, 2005

A commission examining national voting practices issued a report to Congress yesterday recommending a uniform photo-identification standard, but opponents say its stringency would disenfranchise millions of voters who might lack the necessary documents to obtain the IDs.

The standard of identification recommended by the Commission on Federal Election Reform is essentially the same as those established by the recently passed federal Real ID Act, which outlines strict rules and procedures for the issuance of driver's licenses by the states.

"The Real ID is a logical vehicle because the National Voter Registration Act established a connection between obtaining a driver's license and registering to vote," said the report drafted by the commission, which is chaired by former President Jimmy Carter and former Secretary of State James A. Baker III. "The Real ID card adds two critical elements for voting -- proof of citizenship and verification by using the full Social Security number."

Mr. Carter and Mr. Baker yesterday defended the recommendations, saying photo-identification already is required to board airplanes, cash checks and enter federal buildings.

But Commissioner Spencer Overton, a George Washington University election law professor, dissented.

"The recommendation will exclude millions of Americans, and the disproportionate numbers of citizens who will be excluded are people of color," he said.

He pointed out, as does the report, that there is no significant "evidence of extensive fraud in U.S. elections or of multiple voting." The report indicated that both occur in federal, state and local elections, but Mr. Overton said the majority of such fraud is related to absentee ballots, which require no identification.

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It is the use of the Social Security number on the face of the Real ID card that has libertarians objecting.

"Beyond the voting rights issues, there is issue of identity fraud with thousands of cases where people are stealing another person's identity using their Social Security number; with these cards the number will be on there," said LaShawn Warren, legislative counsel for the American Civil Liberties Union.

Jonah Goldman, an attorney for the campaign for fair elections for the Lawyer's Committee for Civil Rights under the Law, said the Real ID law creates an "enormous burden" on citizens to obtain identification. He said a person must prove who he or she is with four types of identification.

"In addition to all of that, when you put it into current context with the devastation in the Gulf Coast region, where many of those places had destruction of public records, people down there cannot even hope to prove some of these things," Mr. Goldman said.

President Bush received the report yesterday, but White House press secretary Scott McClellan said the president has not decided how to move forward.

"We will be reviewing it carefully," Mr. McClellan said. "We want to make sure that we continue to move forward on steps to protect the integrity of the voting systems and things of that nature."

Panel On Elections Proposes Changes (WSJ)

By John Harwood

The Wall Street Journal, September 20, 2005

WASHINGTON -- A commission headed by former President Jimmy Carter and Secretary of State James Baker called for nonpartisan election administration and requiring voters to have photo identification.

Messrs. Carter and Baker presented President Bush with their recommendations, which also included information-sharing to prevent voters from registering in more than one state, use of mobile offices to ease registration, and a national requirement that electronic voting machines include a paper trail that would allow people to check their votes. They said White House support will be critical to moving some portions through the Republican-controlled Congress, and signaled it may come soon.

"Stay tuned, at least through tomorrow," Mr. Baker said. Last night the White House released a statement from the president praising the commission's "excellent work" and pledging to work with Congress on its recommendations.

Congressional action would only be a start in advancing recommendations of the commission, a private body organized by American University here in Washington that seeks to build on voting-law changes enacted after the disputed 2000 election. Most recommendations require action by state legislatures.

Reforming The Vote (WP)

The Washington Post, September 20, 2005

The report released yesterday by a commission on federal election reform, headed by former president Jimmy Carter and former secretary of state James A. Baker III, contains a number of valuable proposals. But adopting one of the commission's recommendations -- that voters be required to present a government-issued voter ID at the polls -- would, on balance, do more harm than good.

The commission's most useful proposals would address both lingering and new flaws in the current voting system. Five years after the problems exposed by the 2000 presidential election, voter registration rolls remain riddled with inaccurate and outdated information. The commission sensibly called on states to take charge of assembling accurate lists that would help eliminate duplicate registrations while making it easier for citizens to vote in new jurisdictions.

The introduction in 2004 of a requirement that voters who appear at the polls be given provisional ballots if their names aren't on the registration lists created questions about how to judge the legitimacy of such ballots. The commission sensibly recommended that states adopt clear statewide procedures for considering such ballots. The advent of computerized voting systems has provoked anxiety about whether such machines are secure from fraud or malfunction; the commission -- again sensibly, and in contrast to the position of Maryland Gov. Robert L. Ehrlich Jr. -- endorsed the need for machines capable of delivering a voter-verifiable paper trail.

The problem recommendation -- which drew a dissent from three of the 20 commission members, including former senator Thomas A. Daschle (D-S.D.) -- would require voters to present a government photo identification at the polls. This may not sound particularly burdensome in an age when, as the commission noted, such IDs "are needed to board a plane, enter federal buildings, and cash a check." Yet 12 percent of the voting-age population does not have a driver's license, and those without identification tend disproportionately to be minorities, the elderly and the poor. To its credit, the commission urges states to ensure that such IDs are "easily available and issued free of charge." But for those who don't already have identification, the hurdle of assembling the necessary documentation and obtaining the cards could prove a deterrent to voting.

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On the other side of the balance is the risk of elections tainted by fraud or the perception of fraud. The commission found that "there is no evidence of extensive fraud in U.S. elections or of multiple voting, but both occur, and it could affect the outcome of a close election." That's true -- but so could turning away otherwise eligible voters.

Indeed, election administrators agree that absentee ballots pose a bigger risk of fraud, and in that case the commission would guard against fraud by having election officials match a signature on file. As commission member Spencer Overton, an election law expert at George Washington University, asks, why wouldn't the same be sufficient for those who turn up at the polls without ID? Allowing voters to show alternative forms of identification or to sign a sworn affidavit of eligibility could go a significant way toward deterring fraud without imposing the burden of an inflexible photo ID requirement.

Denying Access To The Ballot (NYT)

The New York Times, September 20, 2005

It has been clear since 2000 that the election system is in serious need of reform. But the commission led by James Baker III and former President Jimmy Carter has come up with a plan that is worse than no reform at all. Its good ideas are outweighed by one very bad idea: a voter identification requirement that would prevent large numbers of poor, black and elderly people from voting.

The commission makes helpful recommendations. It favors requiring electronic voting machines to produce paper records, and opposes partisan activity by state election officials. It fails to address other problems, like not counting provisional ballots cast at the wrong precincts.

But the bombshell recommendation is for the states to require voters to have drivers' licenses or a government-issued photo ID. That would not be a great burden for people who have drivers' licenses, but it would be for those who don't, and they are disproportionately poor, elderly or members of minorities. These voters would have to get special photo ID's and keep them updated. If they didn't have the ID's, their right to vote would be taken away. The commission recommends that the cards be free. But election administration is notoriously underfinanced, and it is not hard to imagine that states would charge for them. Georgia is already charging $20 and more for each of its state voter cards.

There is very little evidence of voters' claiming to be people they are not, and the commission admits that its members are divided about how big a problem it is. But the report goes on to say that even if there is just a small amount of fraud, it should be stopped. True, but if the solution risks disenfranchising hundreds of thousands, or even millions, of voters, it is a very bad reform.

There are more reasonable approaches. The states could require uniform ID's, but allow each voter without one to sign an affidavit attesting to his or her identity, a system some states use now. It is little wonder that a dissent came from the former Democratic leader in the Senate, Tom Daschle, a commission member. He said that "for some, the commission's ID proposal constitutes nothing short of a modern-day poll tax."

The disappointing report made public yesterday was not a complete surprise. There have been red flags waving around the commission for some time; Mr. Baker is remembered by many for his fierce fight to stop the counting of votes in Florida in 2000. There have also been complaints about the commission's process. Spencer Overton, a George Washington University law professor and commission member, complains that he was told he had to limit a dissent on complicated voting issues to just 250 words.

The purpose of election reform should not be making it harder to vote. We all have a duty to make our election system as good as it can be - and not to disenfranchise people in the name of reform.

Suit Slams Voter ID Law Plaintiffs Assail Ga. Requirement As Illegal 'Poll Tax' (AJC)

By Carlos Campos, James Salzer, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, September 20, 2005

Voting and civil rights groups launched a legal assault Monday on the state's requirement that Georgians show a government-issued photo ID at the polls — a law they call the most restrictive of its kind in the country.

A federal lawsuit filed on behalf of two African-American voters, the American Civil Liberties Union, NAACP, League of Women Voters, black legislators and others calls the new law a "poll tax" that will rob black, elderly and rural people of their right to vote.

Supporters of the new law condemned the suit, arguing that the law will eliminate the likelihood of fraud at the polls. House Speaker Glenn Richardson (R-Hiram) called it a "ludicrous lawsuit."

"This lawsuit is nothing more than liberal special interests using unconscionable scare tactics to frighten Georgia voters," Richardson said.

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While long expected, the suit raises the stakes of a debate that has raged since last winter's session of the Legislature. The suit won't affect today's special elections in Cobb County and elsewhere, but opponents hope a judge throws out the law before elections being held in November in many Georgia cities.

"There is no place for a voter-suppression law," said Tisha Tallman, regional counsel for the Mexican-American Legal Defense and Educational Fund and an attorney for the plaintiffs. "The case against House Bill 244 is strong, and we intend to prevail in court."

The law, which went into effect earlier this year after approval by the Legislature and Gov. Sonny Perdue, requires voters to show one of six forms of government-issued photo identification, such as a driver's license. Previously, Georgians could show one of 17 forms, including a Social Security card or utility bill.

Although Georgia is one of five states requiring voters to show photo IDs, its law has been called the most restrictive because other states allow photo IDs that are not issued by the government, such as work badges.

The U.S. Justice Department, which must review changes to Georgia voting laws to ensure that minority rights are not infringed upon, approved the new law in August. But the suit argues that the law violates the federal Voting Rights Act and Civil Rights Act by placing obstacles to voting.

"The new photo ID requirement ... imposes an unnecessary and undue burden on the exercise of the fundamental right to vote on hundreds of thousands of citizens of Georgia who are fully eligible, registered and qualified to vote, but who do not have Georgia driver's licenses, passports, or employer ID cards or other forms of photographic identification issued by the state or federal government," according to the lawsuit.

The lawsuit contends the requirement's true purpose is to suppress "voting by the poor, the elderly, the infirm, African-American, Hispanic and other minority voters by increasing the difficulty of voting."

The suit cited Secretary of State Cathy Cox's testimony that during her nine years in office, she has not documented a case of voter fraud at the polls by people pretending to be someone they are not.

The lawsuit also alleges that requiring Georgians to pay for a state identification card constitutes a poll tax that is outlawed under the 24th Amendment to the U.S. Constitution. In addition to the $20 to $35 fee for an ID card, there are also travel costs associated with getting an ID card, since only 56 of Georgia's 159 counties offer them at Department of Driver Services offices.

The new law waives the ID fee charged to indigent voters, and the state is sending a bus around Georgia to issue free IDs to those who need them. But the lawsuit said the definition of indigent is vague and does not take into account travel costs.

Two African-Americans are named as plaintiffs: Tony Watkins of Rome and Clara Williams of Atlanta. The lawsuit states that both do not have a picture ID and "cannot readily obtain a photo ID card." Watkins declined to comment Monday, and Williams could not be reached.

African-American voters are disproportionately affected because census data indicate they generally earn less than whites and are three times less likely to have access to a car, the lawsuit alleges. The lawsuit also notes that the new law allows voters to cast an absentee ballot without showing photo ID.

Rep. Sue Burmeister (R-Augusta), who sponsored the bill, said Georgians have to show photo IDs all the time.

"I don't even see what their argument is," Burmeister said. "It's not about race. It's not about age."

The suit was filed as a federal commission headed by former President Jimmy Carter called for Americans to be required to show a photo ID card to vote by 2010, in part to establish a national standard. Carter called the Georgia statute a "disgrace to democracy."

"If you read the Georgia law that was passed this year, you see that it is highly discriminatory and, in my personal experience, directly designed to deprive older people, African-Americans and poor people of a right to vote," he said.

Staff writers Bill Rankin and Eunice Moscoso contributed to this article.

Rights Groups Challenge Photo ID Law (AP)

By DICK PETTYS, The Associated Press

AP, September 19, 2005

ATLANTA (AP) — Voter and civil rights organizations filed a federal lawsuit Monday challenging Georgia's new law requiring voters to show photo identification at the polls.

The suit was filed the same day a commission co-chaired by former President Carter, a Georgia native, recommended a national requirement that voters show photo IDs.

Opponents of photo IDs for voters say such requirements would disenfranchise minorities and the poor; backers say they're a good way to combat voter fraud.

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"Photographic identification as a requirement for voting is antidemocratic and prevents people from exercising their fundamental right to vote whether proposed by the General Assembly of the state of Georgia or the Carter-Baker commission," said Daniel Levitas of the American Civil Liberties Union's voting rights project.

Plaintiffs in the suit — including Common Cause, the League of Women Voters, the Georgia Legislative Black Caucus and the National Association for the Advancement of Colored People — contend the law violates the state and federal constitutions.

The law eliminates formerly accepted forms of voter identification, such as Social Security cards, birth certificates or utility bills.

Several groups filed objections with the Justice Department before it approved the law last month. Under the Voting Rights Act, Georgia and other states with a history of suppressing minority voting must get federal permission to change their voting laws.

The Republican-backed measure sparked racial tension during the state's legislative session last spring. Most of Georgia's black lawmakers walked out at the state Capitol when it was approved.

Democrats argued the idea was a political move by the GOP to depress voting among minorities, the elderly and the poor — all traditional bases for Democrats.

Dan McLagan, a spokesman for Republican Gov. Sonny Perdue, said the law is intended to deter voter fraud.

"Requiring an ID to vote is common sense and has been instituted in other states," he said. "Under the old system, you could pluck a utility bill out of somebody's trash can and cast a vote."

Nineteen states require voters to show identification, but only five request photo ID, according to the National Conference of State Legislatures. Those states — Arizona, Florida, Louisiana, South Carolina and South Dakota — allow voters without a photo ID to use other forms of ID or sign an affidavit of identity.

Carter, who chaired an election reform commission along with former Secretary of State James Baker, said in Washington Monday that requiring photo IDs was one of the most important and most difficult of his group's recommendations.

"We addressed this with a great deal of hesitancy," he said, adding that a national approach would prevent states from enacting laws that are discriminatory.

Single-member Districts Divide Osceola's Hispanics (ORS)

By Daphne Sashin, Sentinel Staff Writer

The Orlando Sentinel, September 20, 2005

KISSIMMEE -- The federal voting-rights lawsuit against Osceola County has become a wedge in the Hispanic community, dividing activists and candidates over the best way to gain political power.

Some supporters of the suit, who filed a similar challenge against the city of Kissimmee, contend that single-member districts would give Hispanics a better shot at representation.

Other Hispanics say there's nothing keeping the right candidate from winning under the current at-large system, in which commissioners are elected by all the voters. Often, they say, Hispanic candidates undercut each other's campaigns, fail to get other Hispanics to vote or convey the wrong message.

"Saying we should get this because we're Hispanic is not the answer. . . . There's a lot of people who are sick of it," said Hector Lizasuain, a board member of several community organizations, including Give Kids Safe Shelter.

The Justice Department filed suit against the county in July, alleging Osceola's practice of electing commissioners countywide discriminates against Hispanics because it dilutes their voting strength. The county's Hispanic population has tripled during the past decade. Although they make up 31 percent of registered voters, only one Hispanic has been elected as a county commissioner.

The federal government has suggested that Osceola could create five commission districts, with one made up of mostly Hispanic voters.

Armando Ramirez, who originally complained to the Justice Department and spearheaded the Kissimmee suit, and other activists say a single-member district system is the only way for a minority candidate with little money to get elected.

"It's very expensive when you try to run an election at-large," said Zulma Velez Estrada, who has worked to register Hispanic voters in Central Florida. "You have to put up signs, you have to . . . let everybody know you. You have to market yourself."

Others say the people fighting for single-member districts are a handful of disheartened candidates who want to get elected without proving themselves as leaders.

For more Hispanics to win, they must work harder to get Hispanics to the polls while reaching beyond the Hispanic community for support, said Peter Olivo, who lost two close races for County Commission and plans to run for the School Board.

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"I really don't think single-member districts are going to do any good to anyone," Olivo said. "You're going to get a lot of people running who could easily win because of the number of people they know, but have no idea . . . what it takes to run government."

Domingo Toro, a Kissimmee Utility Authority board member and longtime activist, disagrees. Single-member districts, he said, would give minorities the chance to compete with Anglos on an equal footing. Toro lost a 2004 bid to become a Kissimmee commissioner in a runoff and was passed over for interim mayor in July.

"I'm on three boards right now. People know me, because the only thing I do is serve my community. And still, I did not get the vote," Toro said. "We don't want them to give us anything. We [want to] earn it. . . . We deserve to represent ourselves."

Candidate Carlos Irizarry says he admires Ramirez for challenging the system but doesn't agree with his approach. The obstacles Hispanic candidates have faced are not "the system's fault," he said.

"Example: In 2004, I ran for office. The first person to file against me was a Hispanic . . . knowing that I filed first. Obviously, the Hispanic vote was divided, and that's why I lost," Irizarry said. "I would never run against a Hispanic if he filed first."

After the Justice Department sued the county, Ramirez said he had no immediate plans to run for another election and maintained that his detractors "are afraid to ruffle the feathers of the good-old-boy system."

State Rep. John Quiñones, R-Kissimmee, has suggested that the county try to settle the suit by expanding the County Commission from five to seven members, with three or four district seats and the others elected at-large.

"This is the second-fastest-growing county in the state," Quiñones said of Osceola. "We need to address whether we're doing everything possible to make this community better represented in government."

Even some defenders of the current system say Quiñones has the right idea. They worry that a drawn-out lawsuit will fuel an anti-Hispanic backlash and send the wrong message.

"Fighting it at this point . . . it lacks progressiveness on the part of the county," said Rosa Alvarez, Quiñones' aide and the Republican committeewoman for Celebration. "Rather than spending our money and arguing . . . the time is right to move on."

Daphne Sashin can be reached at dsashin@orlandosentinel.com or 407-931-5944.

Tired Of 'Being Nice,' Disabled Group Storms Hill (RC)

By Scott Hechinger

Roll Call, September 20, 2005

More than 500 disability-rights protesters from across the country, most in wheelchairs, descended on Congressional offices today to call for expanded patient rights under Medicaid and to express frustration with some Members' calls for deep cuts to social programs.

Despite numerous arrests and a heavy Capitol Police presence, the protesters plan to stay on Capitol Hill throughout the week.

"We have been closely monitoring the situation and are now processing those we have arrested," said Capitol Police spokesman Michael Lauer. "We are familiar with this group, however, and are sympathetic to their needs and causes."

Most of those arrested were being held in Room 2128 in the Rayburn House Office Building to be processed, but arrests also were made in the Hart Senate and Cannon House office buildings. No official comment on the number of arrests is yet available.

In addition to general calls for enhancing disability rights, the protesters urged Members of Congress to sponsor and pass the Medicaid Community-Based Attendant Services and Supports Act, as well as the Money Follows the Person Act, both of which were proposed by ADAPT, the disability-rights organization leading Monday's protest and fight on the Hill.

ADAPT argues that these bills would allow the disabled greater control over their health care options under Medicaid, which they say currently forces too many into nursing homes unnecessarily and against their will. The acts have been brought before Congress twice previously, both times unsuccessfully.

"We've tried being nice," said Linda Anthony, an ADAPT spokeswoman. "We've written Congressmen, we've phoned them, we've come to their offices to try to talk, but nothing works. We're done playing nice. We'd rather go to jail then go back to the nursing homes."

Anthony, who was in a wheelchair like most others, was flanked by more than 40 other protesters outside the office of Rep. Joe Barton (R-Texas) cheering for those either wheeled or carried out of the office by Capitol Police and chanting "No more talk, we need action."

Barton's office was just one of several Congressional offices targeted by the protesters in a coordinated effort that had been planned for months. As chairman of Energy and Commerce, Barton would play a crucial role in helping or hindering both of the acts, Anthony said.

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Barton was in his district Monday, and although the protesters were able to meet with an aide in charge of health and human services, the police eventually were called. According to the Capitol Police, protesters were arrested only after Barton's office requested that they be removed.

"We tried to accommodate them, but they weren't agreeing with what we were saying," said Barton's press secretary Karen Modlin. "It kept escalating to the point where we needed to get the Capitol Police involved."

"Our job is to make Medicaid stronger for the people who need it most. I'm sorry ADAPT disagrees," she added.

Flag Issue May Burn Brightly In '06 Races (HILL)

By Bob Cusack And Kipp Lanham

The Hill, September 20, 2005

The Republican-led Senate is unlikely to vote on a flag-burning amendment this fall, but the measure will almost certainly hit the floor months before next year's elections.

Republicans will use the proposed amendment to the Constitution as political ammunition in 2006. Several targeted Democrats in the upper chamber oppose changing the Constitution to prohibit flag burning, including Sens. Jeff Bingaman (N.M.), Maria Cantwell (Wash.), Kent Conrad (N.D.) and Robert Byrd (W.Va.).

The fate of a pending flag-burning amendment lies in the hands of a few senators. Because Sen. Orrin Hatch's (R-Utah) amendment would alter the Constitution, it needs 67 votes, two-thirds of the Senate, to pass.

Including Hatch, the amendment has 58 co-sponsors. Based on previous votes, the measure has the likely support of 63 senators — if senators vote the way they have previously.

It is unclear how Sens. Tom Carper (D-Del.) and Herb Kohl (D-Wis.) would vote on the Hatch amendment. As a member of the House, Carper voted for a Hatch-like measure, while Kohl has voted against Hatch's amendment previously but is undecided on how he will vote in this Congress.

Regardless of how these senators vote, it appears that the flag-burning amendment is one or two votes shy of reaching 67.

Democratic senators who are not co-sponsors of the measure but have indicated support for it include Minority Leader Harry Reid (Nev.) and Sens. Ben Nelson (Neb.). Bill Nelson (Fla.) and Jay Rockefeller (W.Va.).

Sen. Robert Bennett (R-Utah) has introduced legislation — not a constitutional amendment — that seeks to provide protection for the flag. Sens. Byrd, Conrad and Byron Dorgan (D-N.D.) are co-sponsors of the legislation.

Others who have expressed support for this approach in lieu of the Hatch resolution are Sens. Cantwell, Mark Pryor (D-Ark.) and Hillary Rodham Clinton (D-N.Y.).

It is "not likely," Hatch spokesman Adam Elggren said, that Hatch would seek a compromise with Bennett on his flag amendment. "They disagree on the amendment. They agree to disagree."

While the top Senate Democrat backs Hatch's amendment, Assistant Majority Leader Mitch McConnell (R-Ky.) opposes it because of First Amendment issues. McConnell is the overwhelming favorite to take over as the top Senate Republican in the 110th Congress.

All five Democratic senators who are said to be considering a presidential run in 2008 — Evan Bayh (Ind.), Joseph Biden (Del.), Clinton, Russ Feingold (Wis.) and John Kerry (Mass.) — oppose Hatch's amendment.

The House earlier this year approved a flag-burning amendment by a wide margin. If the Senate cleared the measure, it would then have to be ratified by 38 states within seven years.

Some on Capitol Hill expected the Senate to vote on the Hatch resolution after the House's vote, but Senate sources say that with the chamber's busy fall schedule, a Senate roll call will probably be pushed back into next year.

The National Republican Senatorial Committee has repeatedly seized on the flag-burning issue and this year has zeroed in on Byrd, running ads on his vote against a constitutional amendment. Byrd fired back, claiming the ad was misleading.

Democrats say that Republicans are just interested in playing politics with the flag, noting that votes on the amendment usually are brought up in election years.

In 1995 and 2000, Hatch introduced similar amendments, which were defeated 63-37 and 63-36, respectively. In 2000, 12 Democrats voted for it.

Sen. Debbie Stabenow (D-Mich.), who faces a potentially difficult reelection campaign next year, plans to vote for Hatch's measure.

The Supreme Court struck down the Flag Protection Act in 1990, ruling in defense of the First Amendment that burning a flag is free speech.

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ANTITRUST:

More States Plan Minimum-service Real Estate Laws (INMAN)

By Glenn Roberts, Inman News

Inman News, September 20, 2005

Realtor associations in Wisconsin and Ohio are pushing for laws that establish new service requirements for real estate professionals while making room for real estate companies that offer a lesser range of services for lower fees.

In several other states, Realtor-backed efforts to establish a mandatory range of services for all real estate professionals – effectively banning some limited forms of real estate services – have drawn sharp criticism from antitrust officials at the U.S. Justice Department and Federal Trade Commission.

But the Realtor groups in Wisconsin and Ohio say their proposals recognize and provide some protections for real estate business models that offer fewer services than traditional firms. In both of these states, Realtor associations formed task forces to study the law changes, with representation from limited-service real estate companies.

The Association of Real Estate License Law Officials, a group for real estate regulators, conducted a study that found that Alabama, Illinois, Iowa, Missouri, Oklahoma, Texas and Utah have enacted some form of minimum-service legislation within the past couple of years. And other states, too, have earlier approved or are now pursuing minimum-service measures.

Federal officials opposed the Realtor-backed measures in Alabama, Missouri, Oklahoma and Texas, charging that the legislation was anticompetitive and anti-consumer. But legislators and governors in all four states passed the measures despite these objections.

State Realtor associations have been driving the support for these law changes, stating that the laws aim to protect consumers from receiving less services than they expect in a real estate transaction while also preventing situations in which full-service real estate professionals may feel obligated to assist consumers on the other side of a real estate deal who are working with limited-service real estate companies.

But opponents of the measures say that consumers should be able to choose which real estate services they receive in a real estate transaction, and there are not enough complaints against limited-service companies to justify the law changes.

The Ohio Association of Realtors formed a Task Force on Minimum Services for Listings to study possible changes to state law, and the group prepared a report and recommendations. This work did not go unnoticed.

Don Freels, CEO for the state association, said, "It is interesting that the U.S. Department of Justice was very much aware of our progress in developing our report, and I have sent it to them for review." Freels said he hasn't yet received a formal response from the Justice Department on the law changes that the association is seeking, though he doesn't expect any objections.

"I'm extremely pleased with the work product we produced. I think it's going to be very salable to the Ohio Legislature and the Real Estate (Commission) here in Ohio," he said. "Our task force included brokers who offer minimum services. We made a very conscious effort to include representatives of all business models."

Sharon Jebavy, an Ohio Realtor who offers flat-fee property listing services, served on the task force. Jebavy said she would prefer there be no new minimum-services law in the state, though she does not object to the recommendations. "I think we've come up with a real workable plan. I don't really see a need for it, but if you have to have it I think this is a good bill," she said.

Among the task force's findings: "Consumers should have the right to select the level of service they want from a real estate licensee. Regardless of the level of service the consumer chooses, however, there are certain basic fiduciary duties a licensee must always perform to assure the consumer is protected in their real estate transaction. The license law should assure that consumers are making an informed decision regarding the level of service they receive...(and) should not unreasonably restrict or limit emerging business models."

The group's recommendations include a sample "Waiver of Agency Duties" form that allows sellers to waive some of their real estate representative's duties while specifying which duties are required. Among the required list of duties: exercising reasonable skill and care in representing the client; performing the terms of any written agency agreement; following any lawful instructions of the client; being loyal to the interest of the client; advising the client to obtain expert advice related to material matters when necessary or appropriate; and accounting in a timely manner for all moneys and property received in which the client has or may have an interest.

Sellers also can specify which of the following duties they allow their representative to waive: Seek a purchase offer at a price and with terms acceptable to the client; accept delivery of and present any purchase offer to the client in a timely manner;

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answer the client's questions and provide information to the client regarding any offers and/or counteroffers; assist the client in developing, communicating, negotiating and presenting offers and/or counteroffers; and inform the client of the steps the client must take to fulfill the terms of the contract.

The Ohio Realtor group's board of directors approved the task force report and recommendations this week, and Freels said he anticipated passage of legislation early next year. The proposed legislation will represent the most significant changes that the group has proposed to real estate law since the mid-1990s, Freels added.

Meanwhile, the Wisconsin Realtors Association has found a sponsor for its version of minimum-service legislation, and Rick Staff, senior staff attorney for the group, said he expects a final draft of the legislation within a couple of weeks.

The Wisconsin proposal is "the product of years of discussion and input," Staff said. "We have every confidence that it will go forward. Our approach on limited service has gotten a number of peoples' attention because we took a fairly unique perspective. We don't think that limited-service brokerage constitutes a risk to consumers such that it needs to be banned under the state's law."

The legislation will be the culmination of the work of a Wisconsin Realtors Association License Law Task Force, formed in 2002. The legislation will create "a duty to provide, upon the client's request, certain types of information and advice and a duty to negotiate on behalf of a client," according to a preliminary draft. "Under the bill, a client may waive the broker's duty to negotiate, but only in writing."

A broker disclosure statement in the preliminary draft of the bill notes that brokers owe certain duties to all parties in a transaction, including: the duty to provide brokerage services fairly and honestly; the duty to exercise reasonable skill and care in providing brokerage services; and the duty to provide accurate information about market conditions within a reasonable time if requested, unless disclosure of the information is prohibited by law, among others.

And when consumers enter into an agency agreement with a broker, "a broker owes additional duties to a client," the preliminary bill states. "The broker will provide, at your request, information and advice on real estate matters that affect your transaction. The broker must provide you with all material facts affecting the transaction. The broker will negotiate for you, unless you release the broker from this duty. The broker will not, unless required by law, give information or advice to other persons who are not the broker's clients, if giving the information or advice is contrary to your interests."

Staff said that essentially the Wisconsin proposal seeks to allow consumers to opt out from receiving negotiation services from a real estate professional, while guaranteeing that they will receive certain services. The legislation defines negotiation as "acting as an intermediary by facilitating or participating in communications between parties related to the parties' interests in a transaction," and "presenting to a party the proposals of other parties to the transaction and giving the party a general explanation of the provisions of the proposal."

The State Bar of Wisconsin had opposed language in the Wisconsin Realtor Association's License Law Task Force report relating to the proposed law changes, as it "would allow brokers, who are not licensed to practice law by the Wisconsin Supreme Court, to provide legal advice (including enhanced abilities to negotiate and draft contracts and explain the consequences of actions taken during transactions," though the lawyers' group has not yet reviewed the preliminary bill text.

Corey Scholtka, BuyHomes.com

Statements in the preliminary bill text note that a "broker or salesperson can answer your questions about brokerage services, but if you need legal advice, tax advice, or a professional home inspection, contact an attorney, tax advisor, or home inspector."

Corey Scholtka, owner of BuyHomes.com, a flat-fee brokerage based in Delafield, Wis., said he is optimistic about the legislative proposal. Scholtka, who was invited to give input to the task force, has been an outspoken advocate of new real estate business models, including limited-service real estate companies.

Scholtka said that there is an important distinction in Wisconsin's minimum-service proposal compared to other states, because Wisconsin allows choices in services rather than mandating a long list of services that real estate professionals must perform.

"I've been assured that it's not going to change my business model," he said. "I'm for choices – this seems to promote choices."

MasterCard Says Millions No-touch Cards To Be Issued (REU)

By James B. Kelleher

Reuters, September 19, 2005

MEMPHIS, Sept 19 (Reuters) - A top executive with Mastercard Inc. (MA.N: Quote, Profile, Research) said on Monday the company, the world's No. 2 credit-card association, expected to have 4 million so-called "pay pass" cards in circulation by year's end.

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Speaking at an industry conference here, Ruth Ann Marshall, Americas president for MasterCard, said that Citibank, HSBC and Key Bank had all begun offering the cards, which are equipped with a radio-frequency chip that allows customers to pay for purchases by simply waving their cards at readers posted near cash registers or gas pumps.

Marshall said the pay-pass cards were "easier to use than cash" and were one of the products MasterCard was counting on to increase revenue and profits as it faces a variety of challenges in the marketplace, including new rivals and regulatory scrutiny.

"It's just one of the ... breakthroughs in technology that we're pursuing in order to increase convenience and boost usage," Marshall said.

MasterCard, owned by more than 1,000 banks, formally revealed its plans last week to go public early next year in an initial public offering.

In addition, to raising money to bolster its balance sheet, MasterCard said it believed the IPO would help quell criticism from merchants and others, who charge that its current structure -- which foes characterize as a cartel of competing banks setting transaction fees in concert -- represents a violation of U.S. antitrust laws.

Marshall said MasterCard was also working with U.S. cellular phone providers to turn mobile phones into "a high-powered payment and sales device." The program was still in the "pre-launch stage" here in the United States, she said, but added its success overseas suggested it would appeal to "young, active consumers."

She acknowledged that the Internet and other technologies were creating "substantial ripples in the personal finance industry."

"Take PayPal, for example," she said. "Ten years ago entering the payment industry from a standing start was nearly impossible. But by providing eBay (EBAY.O: Quote, Profile, Research) customers with a convenient way to move money PayPal quickly became a player in the payments industry and an acquisition target for eBay."

As a result, she said it was conceivable that others would eventually become players in the industry, including Google (GOOG.O: Quote, Profile, Research) , which has signaled it may be interested in getting into payments.

Marshall said MasterCard was taking Google's threat seriously.

"Certainly any company that can develop complex search algorithms has the technological capacity to enter the payments business. And Google certainly has the capital."

She said that Google and others, however, lacked the customer history data that MasterCard and its bank owners have -- and said that that data gave existing industry players a competitive advantage.

"Google, PayPal and other newcomers don't have years worth of data to draw on to structure offerings to particular market segments," Marshall said. "Banks do."

Verizon Wireless, Records Vendor Settle (WP)

By Jonathan Krim

The Washington Post, September 20, 2005

A Tennessee company will stop selling personal cell phone records of individuals over the Internet and will provide information on how it acquired such data under an agreement reached last week with Verizon Wireless.

The firm, Source Resources Inc. of Cookeville, Tenn., was among dozens of companies advertising that for fees starting under $100, they would provide records of calls placed to and from any phone user.

Call records frequently are used by law enforcement, which obtains them through court orders. But small data brokers and private investigators have made a business of getting and selling the information online, often acquiring the information using deceptive or illegal practices, according to experts.

Although phone records cannot lead to the type of financial fraud that can result when other types of personal data are stolen, experts said they can be exploited by criminals, such as stalkers or abusive spouses trying to locate their victims.

Wireless carriers say cases of purloined records are rare and that they take measures to safeguard the information. But the Electronic Privacy Information Center, a leading privacy rights group, last month urged the Federal Communications Commission to crack down on carriers for having inadequate security.

Verizon Wireless sued Source Resources in July, after a Verizon Wireless customer complained that his records had been obtained from Source Resources without his permission.

Officials at Source Resources did not return messages seeking comment.

Verizon Wireless spokesman Jeffrey Nelson said that the information was obtained through a commonly used tactic known as pretexting.

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The companies that sell the records impersonate actual customers, using private data provided by the people seeking to buy the information. Nelson said the company is continually updating its procedures and training of call-center employees to guard against pretexting.

And he said Verizon Wireless is looking forward to learning more about the various sources of call records and how they are acquired.

"If you are one of these companies that are stealing people's identities, you better sleep with one eye open," Nelson said.

U.S. Is Close To Approving Deals Altering The Telephone Industry (WSJ)

By Amy Schatz and John R. Wilke

The Wall Street Journal, September 20, 2005

Federal regulators are nearing approval of two deals that would reshape the telephone industry and are in negotiations over likely divestitures and other conditions intended to preserve competition, especially in the huge market for corporate customers.

Federal Communications Commission Chairman Kevin Martin is pressing the FCC staff to deliver as early as tomorrow recommendations to approve Verizon Communications Inc.'s $8.5 billion purchase of MCI Inc. and SBC Communications Inc.'s $16 billion takeover of AT&T Corp., people familiar with the situation say. FCC votes on the deals could come as early as the agency's Oct. 12 meeting.

At the same time, Justice Department investigators have concluded that the merging companies must sell some assets, moves they believe are needed to preserve competition for high-volume business customers, said lawyers close to the government review. Antitrust enforcers are negotiating with SBC and Verizon on the scope of those divestitures, these people said.

That is a concern for SBC and Verizon, since a major goal of their acquisitions was to acquire lucrative corporate customers in order to sell more packages of telecom services.

As a result of both the FCC and Justice Department reviews, regulators are concerned that consolidation will make it more difficult for business customers to get discounts on telecom services.

In particular, regulators are focusing on increasing consumer access to digital subscriber line Internet connections, which consumers are mostly barred from buying unless they also purchase local-phone service; and on so-called special access lines, essentially fiber-optic lines used to provide voice and data to high-volume business customers.

Regulators are considering requiring the merged companies to sell Internet access without requiring consumers -- mostly home users -- to subscribe to phone service. Verizon already allows some customers to do that, but SBC doesn't. Regulators don't appear to be considering price controls.

Patrick Mahoney, an analyst at Yankee Group, said that traditional phone lines are cash cows, so allowing customers buy Internet access without traditional phone service would be costly to telecom providers. Some companies, notably Qwest Communications International Inc., have decided to market DSL-only offerings as customers shed their traditional phone service in favor of Internet-based calling or wireless phones.

In the Justice Department review, SBC and Verizon have argued against the need for divestitures in the high-volume business market. Opponents say the two companies should be required to sell off nearly all local special-access business lines that AT&T or MCI now operate within the Bells' home regions. Under this approach, for example, most big local lines into corporate offices in Manhattan that AT&T operated in competition with Verizon would be sold to a third company to preserve competition.

Qwest, which had earlier bid unsuccessfully for MCI, argues that the deals would create unprecedented market concentration in the crucial business market if the two companies are allowed to buy their closest competitor. To fix this, Qwest wants the Justice Department to order substantial divestitures in SBC and Verizon's home markets -- and is eager to buy those assets, ensuring greater competition.

The FCC is examining overlapping networks from a geographic perspective, according to people familiar with the review. That would favor the Bells' argument that there are limited competitive concerns. Justice Department officials are reviewing similar data on a building-by-building basis, which suggests they are examining possible divestitures in markets where there is significant overlap.

"If you're talking about 50 buildings, that's one thing. If you're talking about 500, that's a problem," said a Bell company executive. Other possible remedies include making some high-capacity business lines available to other carriers at AT&T or MCI pricing -- at least temporarily.

An FCC spokesman declined to comment on the deal reviews.

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The Bells' desire to wrap up the deals by the end of the year has trumped their concerns that the FCC's evenly split board -- thanks to a Republican seat vacated by former Chairman Michael Powell in March that remains unfilled -- will lead to tougher conditions on the deals by regulators. The FCC's two Democrats -- Michael Copps and Jonathan Adelstein -- may extract significant concessions in approving the deals since Mr. Martin needs at least one of them to vote in favor. Neither have seen details of the staff report nor discussed what conditions they might seek.

The Bells have little choice but to move ahead: The FCC's only other Republican, Kathleen Abernathy, must leave the agency when Congress adjourns this winter and her term expires. Waiting for her successor to arrive could delay the deals.

The FCC's two Democrats "have enormous leverage," said Blair Levin, a telecom analyst with Legg Mason Wood Walker Inc. He predicts the deals will be approved "with light conditions, during the fourth quarter of the year, and then things will get really interesting."

File-Sharing Services Seek Pact With Record Studios (NYT)

By Saul Hansell

The New York Times, September 20, 2005

At least five online file-sharing companies have started trying to reach an accord with the music industry to convert the free trading of copyrighted music on their networks to paid services, according to several recording industry and file-sharing executives.

The most advanced discussions are between the recording industry and Grokster, a small California company that has been sued by the entertainment industry, recording industry executives said.

Grokster has agreed in principle to be acquired by Mashboxx, a new company backed by Sony that is trying to start a legal file-sharing service, a person involved in the negotiations said. Mashboxx has made overtures to some file-sharing companies including eDonkey, Morpheus and LimeWire, but negotiations are not active, the person said.

The tentative agreement between Grokster and Mashboxx was first reported by The Wall Street Journal. MashBoxx would make a nominal payment for Grokster, but would share future revenue, the person involved in the negotiations said.

"We are looking at a number of acquisitions," said Wayne Rosso, the founder of MashBoxx, "but they have to make sense."

Michael Page, a lawyer for Grokster, did not return calls seeking comment.

Separately, iMesh, a file-sharing service that last year reached an accord with the music industry to convert to a legal paid service, has made overtures to acquire a number of the other file-sharing services, on the condition that they settle their claims with the recording industry, said Robert E. Summer, the executive chairman of iMesh.

"We have initiated discussion with a number of well-known players," Mr. Summer said. He said it was difficult to say which, if any, of those discussions would lead to acquisitions, in part because of the complexity of potential deals with the recording industry.

Mr. Summer declined to say how much money iMesh was offering the other services, but said "I don't think anyone will get rich off these deals." Rather, he thinks that such arrangements offer the owners of those services the ability to avoid litigation.

Such acquisitions, he said, "are good for iMesh and good for the industry." Mr. Summer is the former president of Sony Music International and former president of RCA records. He was hired by the founders of iMesh, which has moved to New York from Israel, to oversee relations with the record industry.

IMesh has agreements with all the major record labels and plans to introduce its service to consumers "imminently," Mr. Summer said.

Mashboxx announced a deal with Sony in June that would allow Mashboxx to sell Sony's music on its network. The company is in talks with other record labels, Mr. Rosso said. He hopes to introduce a public test of the service in December. He served as president of Grokster from 2001 until 2003 and remains close to Daniel Rung, the California entrepreneur who founded and owns Grokster.

The recording industry was handed more legal leverage in June when the Supreme Court ruled, in MGM v. Grokster, that the owners of file-sharing services can be held liable for contributing to the infringement of copyrights under certain circumstances. The case, which has both Grokster and Streamcast Networks, the owner of Morpheus, as defendants, was sent back to a lower court for further action. Last week, the Recording Industry Association of America sent letters to several file-sharing services, including LimeWire, eDonkey, and BearShare. The letters demanded that the companies stop allowing users to trade copyrighted files and invited them to discuss potential settlements in advance of litigation. A majority of the recipients of those letters have initiated at least preliminary settlement discussions, according to a recording industry executive.

Jenni R. Engebretsen, a spokeswoman for the recording association, confirmed that those letters were sent but declined to discuss any negotiations that have resulted.

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Record industry and file-sharing executives say that the recording industry is looking for settlements that resemble its deal with iMesh, which paid $4 million in damages and promised to convert to a paid service that blocked the trading of copyrighted files without the permission of the copyright owner. None of the executives would discuss the amounts that the industry has been asking in the most recent settlement discussions.

"Ever since the Grokster decision, we have been thinking about what our next iteration should be and obviously the letter last week made that process more urgent," said Sam Yagan, the president of MetaMachine, which distributes eDonkey. He said he had talked to both iMesh and MashBoxx but had not decided whether to sell the company, to offer his own legal service, or to continue to fight the record industry.

Mark Gorton, the chief executive of LimeWire, said his company had not decided how to respond to the recording industry's letter. He declined to discuss any prospective acquisition offers. Michael Weiss, the chief executive of StreamCast, declined to comment on potential deals with iMesh or Mashboxx. BearShare executives did not return calls for comment.

While iMesh has taken nearly a year to develop its paid service - allowing free trading of files in the interim - the industry is likely to demand that other services stop free file-trading relatively quickly. That will require complex software development and business negotiations.

File-sharing services allow users to download files from each other's computers. Both iMesh and Mashboxx intend to use technology that examines files being downloaded and compares them with a master list of copyrighted files provided by record companies. If a user tries to download a copyrighted file, the download may simply be blocked or the user may be asked to pay a fee as with services like Apple's iTunes Music Store.

Both iMesh and Mashboxx have developed methods they hope will help lure users accustomed to free music into paying for songs. Mashboxx will allow users to download files free at low quality several times before being forced to pay for the song. Mr. Summer declined to detail iMesh's marketing plan, but music industry executives say it involves offering a long free trial of a subscription service, which allows users to listen to an unlimited number of songs for a fixed monthly fee.

Financier Weighs Visteon's Assets For Parts Venture (WSJ)

By Jeffrey McCracken

The Wall Street Journal, September 20, 2005

Billionaire Wilbur L. Ross, the New York-based financier who in recent years merged five faltering steel companies to create a steelmaker he later sold for a huge profit, says he has as much as $4.5 billion in capital to bank on his next venture -- buying up troubled auto-parts makers, possibly including unprofitable operations Visteon Corp. is about to jettison.

Mr. Ross's investment group and other funds he is working have already snapped up half the bank debt of automotive supplier Collins & Aikman Corp., which is under Chapter 11 bankruptcy-court protection, and stakes in smaller suppliers in Europe and Asia. Another potential target he could be interested in includes the 23 plants and other facilities that Visteon is about to transfer back to former parent Ford Motor Co.

"Our vision is to build a very diverse, very large, very international company, which could include potentially" the parts of Visteon that are going back to Ford, he said in an interview. "My understanding is Ford has not yet closed on that transaction, but yes they are sure the kind of thing we'd look at. Visteon is the kind of company we are looking at," said Mr. Ross.

Visteon and Ford last week announced an agreement under which Ford will take over 17 Visteon plants, plus six offices, research centers and other facilities in the U.S. and Mexico on Oct. 1.

The assets, with combined annual sales of more than $7 billion, by themselves would make up the world's 17th largest auto supplier by sales. Ford, which will have to spend between $450 million and $650 million this year and $300 million to $500 million after that for buyouts of hourly workers, has said it hopes to sell the businesses to investors or new owners.

A Visteon spokesman declined to comment on the company's restructuring plans. A Ford spokesman said he wasn't aware of any talks between Mr. Ross and Ford regarding the Visteon plants and declined to comment further.

Mr. Ross said he is interested in the auto-parts business because it is "fragmented with too many companies that are too dependent on one company. The existing companies aren't global or they aren't global enough because they don't have operations in Eastern Europe or Asia, which are two obvious places you should be," he said.

Mr. Ross, who sold International Steel Group Inc. to Mittal Steel Co. earlier this year, said his group has been evaluating the auto-parts sector as a potential investment for two years. Besides owning 50% of Collins & Aikman's bank debt, his investment group has a 25% stake in the French operations of Oxford Automotive, a Michigan supplier that was recently liquidated.

He said he is also keeping an eye on Delphi Corp., the country's largest auto supplier by revenue, to see how it resolves its three-way talks with former parent General Motors Corp. and the United Auto Workers union. His interest in Delphi was reported Friday by the Detroit Free Press.

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Delphi's new chief executive is Robert S. "Steve" Miller. Mr. Miller was running Bethlehem Steel Corp. when Mr. Ross's International Steel purchased the company two years ago. Mr. Miller has threatened to take Delphi into bankruptcy by Oct. 17 unless he can get major concessions from GM and the UAW.

Mr. Ross said he hasn't talked with Mr. Miller about Delphi and feels like the last thing Delphi needs is a third party like his investment group, W.L. Ross & Co., getting involved.

"We would have potential interest in Delphi, but they are involved in complex talks with General Motors and the UAW and the last thing they need is another part. We may be more interested once we see what they can do. I think we will know a lot more by October 17," said Mr. Ross.

He said the capital he has access to is one thing that gives him a significant advantage over other financial players that have tried to make money in the auto-supplier sector. "We are not capital constrained. We have about $4.5 billion in capital equity and our partners also like to co-invest so we have even more," he said.

He said he would also avoid burdening a company's balance sheet with too much debt. He said that was one of the problems that hurt Collins & Aikman, which was built through a series of acquisitions.

"The margins aren't so high at these companies that you can afford to do that," he said.

StarPoint To Buy Acclaim In Joining Of Energy Trusts (WSJ)

By Tamsin Carlisle

The Wall Street Journal, September 20, 2005

CALGARY, Alberta -- StarPoint Energy Trust said it agreed to acquire Acclaim Energy Trust in a stock transaction, in an attempt to create one of the biggest entities in Canada's increasingly crowded energy-trust sector, with the financial clout to pursue larger acquisitions.

Under the agreement, StarPoint unitholders would get 53% of the new trust, receiving one unit for each StarPoint unit held. Acclaim unitholders would receive 0.8333 of a new-trust unit for each Acclaim unit held. StarPoint and Acclaim unitholders also would receive shares in a company exploring for oil and natural gas, to be spun off from the combined entity's assets. Based on StarPoint's closing share price, Acclaim shareholders would receive equity valued at about 2.28 billion Canadian dollars (US$1.93 billion).

At a news conference, Acclaim President and Chief Executive J. Paul Charron, who has been named to the same post at the combined trust, said he expects the increase in size to give the trust a competitive edge in pursuing acquisitions in a heated international market for oil and natural-gas assets. "We've been looking for U.S. or international transactions since January," he said. "We felt that was where the market was going, and we like to get ahead of the pack."

Acquisitions are the lifeblood of energy trusts. They don't explore for oil and gas, but instead develop mature properties, paying out much of their cash flow from production to unitholders through monthly distributions. With acquisition opportunities in Canada dwindling because the country's energy trusts have already snapped up most of the conventional oil and gas properties that major oil companies have sought to unload, some of the larger Canadian energy trusts are now seeking transactions in the U.S. and overseas.

Assuming unitholders and regulators approve the proposed merger, which is expected to close in early January, the combined entity would seek a listing for its units on the New York Stock Exchange, joining just a handful of Canadian energy trusts interlisted in the U.S. Mr. Charron said he expects that by joining together, the two Calgary companies will increase access to U.S. capital.

On the Toronto Stock Exchange, StarPoint's units closed at C24.84 Canadian dollars, up C$1.74. Acclaim's units closed at C$20.70, up C$1.15.

Norway's Norsk Hydro To Acquire Spinnaker Of U.S. For $2.45 Billion (WSJ/DJN)

By Ian Talley, Dow Jones Newswires

The Wall Street Journal, September 20, 2005

OSLO -- Norsk Hydro ASA said it will acquire Spinnaker Exploration Co., of the U.S., for $2.45 billion (€2 billion), substantially accelerating the Norwegian company's international production growth and making the Gulf of Mexico a future core production area.

Both Norsk Hydro and analysts said the price is high but that the acquisition is necessary if Norsk Hydro is going to increase the low rate at which it replaces reserves. The Norwegian oil, gas, power and aluminum company said it will pay $65.50 a share for Spinnaker, which has oil and gas assets primarily in the Gulf of Mexico.

"The acquisition ... will significantly raise Norsk Hydro's international oil and gas potential," said Norsk Hydro Chief Executive Eivind Reiten.

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Spinnaker's stock jumped 32% to $64.19 in afternoon trading yesterday on the New York Stock Exchange. In Oslo, Norsk Hydro rose 1% to 736.50 Norwegian kroner (€94.50).

Norsk Hydro's decision is in line with its strategy and that of larger Norwegian rival Statoil ASA to look beyond the North Sea for new energy reserves as output in the North Sea slows.

Norsk Hydro, which gets most of its oil and gas at home, pumped 539,000 barrels of oil equivalent daily in the second quarter, down from 569,000 barrels a year earlier.

Norsk Hydro's international output should rise 40% from 2005 through 2008, following the purchase, Mr. Reiten said.

"It's expensive, but positive because they needed to become more aggressive," said Lars Marius Furu at Fondsfinans in Oslo.

Spinnaker's proven reserves, the amount it reports to the U.S. Securities and Exchange Commission, amount to 62 million barrels of oil equivalent, divided roughly equally between oil and natural gas.

"The main reason behind the transaction is the great potential in exploration," Mr. Reiten said.

Analysts said that, based on the SEC-reported reserves, the cost of the acquisition is higher than $40 a barrel. Based on expected reserves of 129 million barrels of oil equivalent, Norsk Hydro said the deal's cost is about $19 a barrel.

Norsk Hydro said its long-term oil-price assumption -- a measure used to determine the economic soundness of deals -- is about $35 a barrel, up from its previous price assumption of $25 a barrel.

Microsoft Acquires Alacris To Beef Up Software Security (WSJ)

By Robert A. Guth

The Wall Street Journal, September 20, 2005

Microsoft Corp. said it bought privately held Alacris Inc., a small maker of software for managing employees' access to corporate computer networks, to help improve the security of Microsoft's programs.

Terms weren't disclosed. Ottawa-based Alacris's software manages smart cards, or plastic cards that store a person's identification data. The purchase is an extension of joint work by the two companies on security software called idNexus for managing smart cards.

Alacris is part of a recent wave of companies that are developing technologies for administrating the electronic "identities" of computer-network users by means such as granting or removing their access. In March, Oracle Corp. bought identity-management software maker Oblix Inc. Other companies in the field include ActivCard Corp. of Fremont, Calif.

By purchasing Alacris, Microsoft intends to make it easier for users of its server software to administer smart cards -- handling tasks such as setting up people with cards and retiring cards when a person leaves a company.

Under increased scrutiny by its customers over the security of its software, Microsoft has bought technologies in the past two years to help it fight Internet-borne attacks such as spyware and viruses.

The Alacris software could complement Microsoft's security plans for Windows Vista, the next version of its operating system, due for release in the second half of next year. Microsoft executives say that Windows Vista will have improved support for smart-card access to computer systems.

Microsoft Chairman Bill Gates has long criticized the use of user names and passwords as an inferior method of securing access to vital corporate computer systems. In response, Microsoft is trying increasingly to promote smart cards and biometric methods -- such as fingerprint readers -- as alternatives to passwords.

ENVIRONMENT/INDIAN AFFAIRS:

House Bill Would Limit U.S. Power To Protect Species (NYT)

By Felicity Barringer

The New York Times, September 20, 2005

WASHINGTON, Sept. 19 - The chairman of the House committee overseeing natural resources introduced a bill Monday that would make it more difficult for the federal government to set aside land it deems crucial to the health of endangered species.

The proposed amendments to the Endangered Species Act also increase the obligation of government agencies to tell landowners quickly if the law limits their development options, and to compensate them.

The measure, which drew quick denunciations from groups like Environmental Defense, Defenders of Wildlife and the Natural Resources Defense Council, was proposed by the House Resources Committee chairman, Representative Richard W.

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Pombo, Republican of California. It was immediately put on a fast track, which is expected to bring it before the full House early next week.

In a news conference Monday, Mr. Pombo said his legislation "will put the focus on recovery where it should be and will eliminate a lot of the conflicts we have had with private property owners."

The proposal was markedly different from draft legislation circulated earlier this summer, which put even greater restrictions on federal agencies that enforce the law, and which would have automatically taken the law off the books in 2015. The new measure abandons the latter goal but creates new hurdles for federal agencies - chiefly the Fish and Wildlife Service - as they take actions to protect species.

The Endangered Species Act has been a flashpoint for landowners, property-rights advocates and state and local governments, most in the West, who see its provisions as onerous and costly, and chafe at the ability of people not directly involved in a dispute to sue the federal government to ensure compliance with the law.

At the same time, the law is credited with preventing the extinction of hundreds of species of insects, plants and animals in the past quarter-century, though only a handful of the more than 1,200 listed species have recovered sufficiently to be removed from the list.

Mr. Pombo's first effort to rewrite the law, in the mid 1990's, failed. Since becoming chairman of the committee, he had made this goal a priority.

An important part of the legislation is a provision that allows the Interior Department, the parent agency of the Fish and Wildlife Service, to provide "conservation grants" to property owners who are deemed to be helping conserve an endangered species. The legislation also requires that property owners be paid "fair market value" if, in the view of federal biologists, their development plans would violate the law.

The purpose of the compensation would be "to alleviate the burden of conservation measure imposed on" landowners who forgo their plans in order to help a species' survive.

Chuck Cushman, the executive director American Land Rights Association, praised this approach, saying: "We're getting away from the command-and-control penalty concept. More landowners will feel free to help species and not feel that they're going to lose their land.

Right now, Mr. Cushman added, "there's a fair amount of shoot, shovel and shut up going on," by landowners who would rather break the law and kill an endangered animal than risk facing land-use restrictions.

But Michael Bean, who heads the wildlife protection program at Environmental Defense and was an early proponent of working with landowners, criticized the new measure as a "big step backwards for endangered species conservation." He faulted a new requirement that federal scientists provide, within 90 days, an answer to any landowner's question about whether a planned activity would run afoul of the act by harming an endangered species.

Under the new law, if the government has not answered within 90 days, the landowner can proceed with the plans. Mr. Bean said "there's potentially no limit to the sorts of requests that could be made of" federal biologists "by businesses seeking to develop, build, cut trees."

The Fish and Wildlife Service and the National Marine Fisheries Service, he added, have traditionally been stretched in trying to meet deadlines in the existing law and have frequently failed to do so.

Losers In Eminent Domain Case Face Hefty Fees (WT)

By Joyce Howard Price

The Washington Times, September 20, 2005

Seven homeowners in New London, Conn., who narrowly lost a court battle to save their homes from condemnation say the city is still demanding as much as $300,000 in "use and occupancy" fees dating to the November 2000 condemnation order.

They say the demands are being made even though an eviction order from last week has been rescinded. It had been issued by the semi-public New London Development Corp. and had told the homeowners to move out in the next 30 to 90 days and pay $600 a month in rent while they continue to occupy the premises.

An attorney for NLDC, which wants to demolish the homes to make room for private development, had told the homeowners' attorney last year that the city, for which NLDC has acted as an agent, expects to collect the occupancy fees.

"We know your clients did not expect to live in city-owned property for free, or rent out the property and pocket the profits ... for three-and-a-half years and counting ... if they ultimately lose the case," the corporation wrote then.

NLDC "has not retracted that 2004 demand," said Scott Bullock, senior attorney for the Institute for Justice, which represented the homeowners in their losing U.S. Supreme Court battle to prevent the city from using its power of eminent domain to condemn their properties and give them to NLDC.

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Asked yesterday whether those large debts are still owed, David Goebel, chief operating officer of NLDC, said, "I can't say what I don't know."

But Ron Angelo, deputy commissioner for the Connecticut Department of Economic and Community Development, yesterday seemed skeptical of whether NLDC would get the money.

"Those use and occupancy fees are still accruing, but accruing and collecting are two different animals," he said.

The seven-member New London City Council was to vote last night on a motion to express no confidence in NLDC and its top leaders, Mr. Goebel and President Michael Joplin. But such action would not derail the project.

The Senate Judiciary Committee will hold a hearing today on the plight of the New London homeowners. The House Judiciary Committee plans a hearing Thursday.

The homeowners were plaintiffs in the case of Kelo v. City of New London, which the Supreme Court decided on June 23. In its 5-4 ruling, which outraged property rights advocates, the court held that government can seize property from owners and give it to a private developer who promises to use it to create jobs and generate tax revenues.

The houses in the Kelo case are near a 90-acre waterfront site in New London slated for development, intended to bolster a recently opened global research facility belonging to Pfizer Inc., the pharmaceutical giant.

When Connecticut Gov. M. Jodi Rell learned Sept. 12 of debt-warning letters sent out by NLDC, she was "incensed" that she had not been informed in advance and ordered that the letters be rescinded, her spokesman said.

"Governor Rell thought everyone had agreed to a [voluntary] moratorium" she had requested on eminent domain seizures, said Judd Everhart, a spokesman for the governor.

Mrs. Rell "feels the city of New London and NLDC can work their project around these homes, so the tenants are not forced out," Mr. Everhart said.

Some of the homeowners insist they are not leaving. They include Wilhelmina and Charles Dery, who live in a house that has been in Mrs. Dery's family for 100 years; she was born there in 1918.

NLDC has held title to the 13 homes involved in the legal dispute since November 2000. The compensation paid for those properties was put into an escrow account while the courtroom battles raged.

Alaska Natives Offer A Herd Of Reasons To Block Oil Drilling (WP)

By Vanessa De La Torre

The Washington Post, September 20, 2005

Solar-powered loudspeakers on a cloudy afternoon is about all the defense Sarah James can muster these days against the threat of government, oil companies and what she calls "cultural genocide" if they have their way.

A protest banner sways in the wind, gently imploring museum-goers, businesspeople, anyone hustling to the Capitol, to slow down for a moment and "Save Gwich'in Way of Life." The words are thickly markered in black and red; drooping toward them is a turquoise flower with a sad face. "Our culture is not for sale to balance national budget," James wrote in small bold letters.

As a Gwich'in elder, James has spent nearly two decades fighting off proposed oil drilling in her Alaskan homeland. Now comes her toughest battle yet: Congress is set to pass a budget bill that includes a provision allowing for drilling in the Arctic National Wildlife Refuge. Some environmental groups argue that a limited oil supply in the Arctic's coastal plains won't ease U.S. dependence on foreign oil, or prices at the gas pump post-Katrina, and that development would damage one of the Earth's last untouched lands.

The Gwich'in (pronounced GOO-chin), a nation of 8,000 Native Americans who subsist on roaming caribou in the North Slope, see the prospect of drilling as a sure sign of their own demise.

On this particular afternoon, the Gwich'in protest was in its third week (out of six) in a small park opposite the entrance of the National Museum of the American Indian, some days to little notice.

"Gwich'in?" muses a middle-aged woman, squinting at the banner from Independence Avenue. "I don't know what that is." She decides not to find out. Later, a dapper man, Bogdan Wojciechowski, strolls to the modest Gwich'in table and observes for a moment. "Jay! Come over here so you can learn something."

"No thank you, Dad, no thank you," replies the grade-schooler. (However, a caribou bone ultimately intrigues him.)

James, 61, of Arctic Village, has been trying to inform the public of her native land since 1988, when proposed refuge drilling first threatened the Porcupine caribou herd and the Gwich'in way of life. Eight battles and no losses later, she says, "We must be doing something right." The closest bout came in 1995, when Congress passed a bill that allowed drilling; President Clinton vetoed it after pressure from environmentalists.

The environmental types return in the ninth showdown, says James, and "they're doing the fight as we are. But their interest is recreation, scenic, protecting animals. Us, it's our life."

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The protest allows James to preach about her homeland, Vadzaih googii vi dehk'it gwanlii . "It means 'Sacred Place Where Life Begins' . . . It's not a thing of the past," she says. "It's alive, it's not in a book only." She sits on a metal folding chair, tapping a native drum, her right knee bouncing in rhythm.

"We have to live there for thousands of years . . . so we want to keep it that way. The Gwich'in people are a caribou people. It's our food, tools, clothing. It's our shelter. We have a song called 'The Caribou Skin Hut Dance.' "

A man with two kids passes the table that has a photo album, buckskin jacket, a pair of ceremonial gloves with beaver fur and beaded flowers. A blond girl lingers; she gets tugged toward the museum.

Kelvin Long, 29, a Navajo leader from Flagstaff, Ariz., follows James to the mike. He is one of the few volunteers who have traveled to Washington for the vigil, and says he is here out of solidarity and in recognition that the Arctic refuge is sacred. "It's a place where you can still drink out of the rivers -- good, clean water," he begins. "So tell Congress it's not okay, tell them no.

"Come to our little table, our humble little table. Come take a stand with us, fight the big fight with us. . . . After you go into the museum and learn about native culture, come here and find out what's going on with native people right now."

Then Long breaks into song about the Navajo "red path" and walking that path in beauty, over the beeping of a garbage truck. James sits on a white Igloo cooler, humming along while stapling protest handouts.

"Today's a little bit slow," Long acknowledges later. A security guard lounging on a park bench, smoking a cigarette, waved people toward the table. One tourist from Florida, 71-year-old Barbara Gerber, took a pamphlet and ranted at the Bush administration. "They can't stand it that there might be a place that hasn't been drilled yet," she fumed.

Others say, "Good luck on that," and every couple of hours a person might offer a dollar along with: "I'm with you a hundred percent. One hundred percent." An Alaskan family offers to call their state legislators, wink-wink, and James gets the joke. Sens. Ted Stevens and Lisa Murkowski are among the staunchest supporters of drilling in the refuge.

By 3:30 p.m., the donation vase contains $25. It clearly won't fly in another Gwich'in from the Arctic, but will reimburse Long for the McDonald's chicken sandwiches he bought for their lunch. One visitor, smiling, flashed a Sacagawea dollar before plunking it in.

The biggest crowds tend to come in the evening, says Long, reclining in a lawn chair. On most days, they hold the vigil till 6 p.m., just after the NMAI closes and a steady flow of tourists shuffle out. "I definitely wish more people would stop by," he notes. But Long, with kind eyes and a calm bearing, says he understands. "A lot of people in the museum are on a schedule."

At one point, museum volunteer Donna Brandes wanders by. She explains her native lineage, chats a while. Long informs her of the "Don't Drill, Storm Capitol Hill!" rally planned for today, which organizers from the Arctic Refuge Action coalition hope will attract tens of thousands of people.

"So, you think this will pay off," says Brandes, speaking of the pamphlets, of the native drums, of James making business calls on a park bench. Long is quiet. "Nothing stops this administration," Brandes says.

James gives another go at the microphone. "It's charged by solar panels," she reminds passersby, because that is how the Gwich'in live. But her words meet static as the battery powering the sound system loses its juice. Overcast sky. "Solar energy is clean energy. We need to learn how to use less oil ."

James pauses; her voice is no longer amplified. "I think I have to recharge batteries, so stay put and I'll be back!" And so people milled around, as the vigil drummed on.

FBI/DEA/ATF/USMS:

Feds: Internet Drugs Ring Cracked (PHDN)

By Jim Smith

Philadelphia Daily News, September 20, 2005

Dr. Akhil Bansal was one of 17 people indicted by a federal grand jury in Philadelphia last April for allegedly taking part in "an international conspiracy to import and distribute" prescription drugs, using the Internet.

Five additional defendants were charged in a "related indictment" in New York.

The major charges in the Philadelphia case include conspiracy to distribute and import controlled substances, operating a continuing criminal enterprise, and conspiracy to commit money laundering.

Federal authorities seized more than $6 million from defendants' accounts in foreign and U.S. bank accounts.

"This case shows us how the Internet has opened the door to an unregulated universe from which anyone with access to a computer can purchase anything from anti-anxiety drugs to anabolic steroids," said U.S. Attorney Patrick L. Meehan, the Philadelphia-area's top federal lawman, when the cases were made public.

Authorities contend that the drugs were smuggled into the United States from India.

"The Web site owners do not require any prescription for the purchase of these drugs, which is contrary to law.

"The drugs are manufactured abroad, do not bear required labels and warnings, and are being imported without Customs declarations or payment of duty," said Christine Konieczny, a Lower Merion police officer assigned to a DEA Task Force.

Bansal, his father, Dr. Brij Bansal; a sister, Julie Agarwal; and her husband, Yatindra Agarwal, were charged with shipping medicines manufactured in India to Internet pharmacies' customers in the United States.

The other relatives are all in India.

Congress To Probe Orioles' Palmeiro (AP)

AP, September 20, 2005

WASHINGTON Sep 19, 2005 — Congressional investigators looking into whether Rafael Palmeiro lied under oath are interviewing players who know him, including a Colorado outfielder suspended this year for steroids, The Associated Press has learned.

Palmeiro testified to the House Government Reform Committee in March that he never had used steroids. The Baltimore Orioles slugger, one of four players in history with 3,000 hits and 500 homers, was suspended by Major League Baseball for 10 days in August for failing a drug test.

A congressional source familiar with the committee's work, speaking to the AP on condition of anonymity because the investigation is ongoing, said Monday that "several active players" have spoken or will speak with the committee. That source would not identify who was interviewed.

But a baseball source, also speaking to the AP on condition of anonymity because the inquiry is ongoing, said Colorado Rockies outfielder Jorge Piedra spoke on the phone with the committee within the last week.

Piedra, who has trained with Palmeiro in the offseason, was suspended for 10 days in April for a positive steroid test, the second player to be publicly identified under the sport's new rules.

The congressional source indicated that all the players asked to talk to the committee recently were chosen because they have relationships with Palmeiro such as teammates or workout partners and could have knowledge about whether he might have used steroids before his testimony.

On March 17, Palmeiro appeared before the Government Reform Committee alongside Mark McGwire and Sammy Sosa, pointed his finger for emphasis and declared: "I have never used steroids. Period."

On Aug. 1, baseball announced his suspension. Palmeiro stood by his statements to Congress, saying he didn't know what caused the test result.

When he returned to the Orioles after his ban, Palmeiro said he would not speak about the case until Congress concludes its perjury investigation.

He had just two hits in 26 at-bats after returning and was booed by spectators at Baltimore and on the road. Palmeiro hasn't played since going home to Texas early this month to rehabilitate knee and ankle injuries.

Afghan Heroin Tied To Terror (WT)

By Rowan Scarborough, The Washington Times

Washington Times, September 20, 2005

WASHINGTON -- Insurgents and foreign terrorists in Iraq are being financed in part by the illicit drug trade originating in Afghanistan and passing through Iraq to Europe, congressional and defense sources say.

Money from Afghan-produced heroin is being used by terror cells to buy weapons and equipment, and pay Iraqi citizens to conduct attacks on U.S. troops and to plant deadly improvised explosive devices (IEDs), U.S. officials say.

In a Sept. 8 letter to Secretary of State Condoleezza Rice, House International Relations Committee Chairman Henry J. Hyde wrote of an "emerging and dangerous growth of the illicit drug trade in Iraq, especially with heroin, now originating and pouring out of nearby Afghanistan."

"We can no longer ignore the threat to our national security from drugs in Iraq," the Illinois Republican said in the letter, obtained by The Washington Times.

A senior military official, who spent more than a year in Baghdad's green zone, which houses the U.S. Embassy, said Iraqi intelligence has documented drug routes that cut through Iran, into Iraq and then to Europe via Turkey. The official said some of the heroin cash goes to insurgents.

Andre Hollis, the Pentagon's top counternarcotics official in President Bush's first term, said there is growing evidence that the insurgents are buying and selling heroin for profit.

"Iraq has become a transit route for drugs, which are sold in both Europe and in Iraq and are used to further destabilize Iraq by funding anti-coalition militant activities in Iraq," Mr. Hollis said in an interview.

He said Iran's hard-line Islamic regime, which opposes the U.S. presence in Iraq, is permitting heroin to cross its territory.

"Iran doesn't want the drugs to stop in Iran," Mr. Hollis said. "They don't care if they end up in Europe or stay in Iraq."

A U.S. military spokesman in Baghdad said he had no immediate comment on any heroin-terror link in Iraq.

Mr. Hyde urged Miss Rice to find $100,000 to fund a study of Iraq's illegal-drug networks by the United Nations Office on Drugs and Crime.

Adam Ereli, a State Department spokesman, stopped short of endorsing a study, but added, "We support and are prepared to work with the United Nations to assess Iraq's vulnerabilities and see what we can do to prevent this from being a problem."

Mr. Hyde's letter referred to the seizure earlier this month of 44 pounds of Afghan-produced heroin in the Shi'ite city of Karbala. Last year, The Washington Times quoted a Polish general in charge in southern Iraq as saying his troops seized bags of heroin during various raids in the same area.

To anti-drug advocates, such as Mr. Hyde, the Karbala seizure put the spotlight on the terror-drug connection in Iraq, just like the seizure of two drug boats in the Arabian Sea last year highlighted the al Qaeda connection in Afghanistan. The U.S. Navy said at the time that the boats were manned by al Qaeda-linked traffickers.

Congressional and defense sources say the military downplays the al Qaeda-heroin link because it does not want Congress to push the Pentagon into the counternarcotics mission. It views such work as law enforcement, not war-fighting.

The Washington Times has obtained photographs taken by American special-operations forces of bags of opium gum seized on raids of al Qaeda and Taliban hide-outs in Afghanistan.

"We know that illicit drugs fuel and finance terrorism in Afghanistan, where the opium and heroin in the region originates," Mr. Hyde said in his letter to Miss Rice. "It passes out through terrorist-controlled areas, is taxed by them, and helps finance and arm our terrorists enemies."

The U.N. drug office last did an Iraq survey two years ago, which reported that "Iraq's porous borders, an established culture of smuggling, combined with its geographic location ... suggests the strong possibility of growth in drug trafficking."

Mr. Hyde said he wants to a new U.N. study "to be especially focused on its potential impact in financing insurgent terrorists and their networks."

Drug Trial To Begin For Former Haitian Anti-narcotics Chief (BRAH)

By Curt Anderson

The Bradenton Herald, September 20, 2005

MIAMI - A top Haitian police official in the government of ousted President Jean-Bertrand Aristide is facing trial on charges that he accepted thousands of dollars in bribes to help Colombian drug lords move huge loads of cocaine through the impoverished Caribbean country.

Jury selection is scheduled to begin later this week in the case against Evintz Brillant, the only one of four former senior Haitian police officials who has not pleaded guilty in the investigation of drug trafficking inside the Aristide government.

The three who pleaded guilty are expected to cooperate in the U.S. government's against Brillant, who has pleaded innocent and faces a life sentence if convicted. The trial's scheduled Monday start before U.S. District Judge Marcia Cooke was delayed a few days by the approach of Tropical Storm Rita.

According the U.S. Drug Enforcement Administration, Brillant used his post as head of Haiti's top anti-drug police unit from 2001 to 2004 to help drug traffickers ship thousands of pounds of cocaine through Haiti, including the airport in the capital of Port-au-Prince, to the United States, Europe and elsewhere.

Brillant and other top Haitian police officials, DEA Agent Noble Harrison said in a court affidavit, "agreed to look the other way when shipments of cocaine were in transit" in exchange for bribes, some of which he used to pay lower-level police officers to provide security and protection for the drugs.

On occasion, Brillant "stopped and arrested drug traffickers for the purpose of receiving payments and bribes," prosecutors said in court papers.

The investigation has produced no evidence implicating Aristide, even though some convicted drug dealers have insisted that the former president was intimately involved in trafficking through Haiti. Aristide was ousted in February 2004 and is now living in exile in South Africa.

"There was never any evidence and there remains no evidence of it," said attorney Ira Kurzban, who represents Aristide in Miami. "They've been trying for two years. There is no case."

Brillant is specifically accused by U.S. prosecutors of being involved in the drug network controlled by convicted Haitian drug trafficker Sergo Edouard. Brillant was paid $10,000 in one instance for agreeing to protect drug shipments and got a share of $150,000 from another trafficker to provide similar security.

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Although the Haitian police arrests were trumpeted as a major success in the war on drugs by the Bush administration, a U.S. State Department report issued earlier this year says that the flow of Colombian cocaine and other drugs through Haiti continues virtually unchallenged.

The report says that Haiti, with its 1,125 miles of virtually wide open coastline, clandestine airstrips, uncontrolled seaports and police corruption make it difficult for the Haitian government to stop the drug trade.

"Haitian drug trafficking organizations continue to operate with relative impunity," says the March report. "Haiti remains an important transit country for Colombian drug traffickers."

Freighters are most often used to transport the drugs directly from Haiti to the United States, concealed in shipments of legitimate items such as cement or in hidden compartments. Aircraft are also used, and some drugs are driven over the border with the Dominican Republic to be sent to Puerto Rico and elsewhere, the report says.

The other Haitian police officials who have pleaded guilty are Jean Nesly Lucien, the former national police director; Rudy Therassan, a former commander with the police; and Romaine Lestin, former police chief at the Port-au-Prince airport.

Therassan was sentenced in July to 15 years in prison, while Lucien and Lestin are scheduled for sentencing in November.

194 Youths Arrested In Crackdown On Violence (TUCCIT)

By DAVID L. TEIBEL and HEIDI ROWLEY, Tucson Citizen

Tucson Citizen, September 20, 2005

Tucson police made 356 arrests over the summer in specialized efforts to reduce the number of juveniles involved in crimes and to put a cap on a rash of murders.

Of that number, 194 of those arrested were juveniles while the rest were adults.

Operations Division South Capt. Perry Tarrant said the summer youth deployment, which lasted from May 27 to Aug. 20, was funded by a grant from the Bureau of Alcohol, Tobacco and Firearms, and a private grant from Kino Weed and Seed.

On July 28, police and ATF agents expanded the program to target adult troublemakers after there were four homicides in three days: one on July 23, one on the 24th and two on the 25th, said Assistant police Chief Kathleen Robinson.

The expanded special patrols had officers looking for such things as illegal gatherings in business parking lots, rowdy gatherings and drinking in public, considered precursors to killings. The patrols went on until Sept. 10, Robinson said.

From July 28 to Sept. 10 there were no homicides in the South Side patrol area, said Sgt. Kerry Fuller, a police spokeswoman. During the same period last year there were two, she said.

Citywide there have been 33 homicides this year. There were 38 by this time last year, Fuller said Friday afternoon.

Tarrant said the ATF grant provided for increased enforcement in the South Side patrol division, which covers Tucson south of 22nd Street.

Tarrant said officers focused on getting guns off the street.

In all, 166 weapons, including handguns, rifles and shotguns, were seized.

Thirty-eight firearms cases are ready for prosecution as a result of the deployments, officials said.

Tarrant said that overall, "We had the impact we were looking for."

Robinson said the department will continue violence reduction patrols throughout the year.

Federal Judge Rules That Marshals Service Must Release Photos Of Defendants (FREEP)

Detroit Free Press, September 20, 2005

DETROIT (AP) -- A federal judge has ruled that the U.S. Marshals Service must comply with media requests for photos of criminal defendants, but said it can take up to 20 days to process the requests under the Federal Freedom of Information Act.

The ruling issued Monday by U.S. District Judge Anna Diggs Taylor also said that the requests may be processed through the Marshals Service headquarters in Washington, rather than through its office in Detroit, the Free Press reported in a story on its Web site Monday.

The newspaper had asked in its lawsuit that the photos be provided through the Detroit office. Pictures previously requested in Detroit usually were provided the same day.

The Free Press and the Akron (Ohio) Beacon Journal sued the Marshals Service earlier this year after it stopped providing the photos on the grounds that it would invade the privacy of defendants.

Diggs Taylor also granted a Free Press request that the government pay its legal fees in the suit. Herschel Fink, an attorney for the newspaper, said he didn't know how much it would cost.

Deadly Rig Blast May Have Been Criminal (NYPOST/AP)

The New York Post, September 20, 2005

DOJ_NMG_0006805

INDEPENDENCE, Kan. (AP) -- Evidence of possible criminal activity has been found in a natural gas drilling rig explosion that killed two workers and injured a third, authorities said Monday.

The federal Bureau of Alcohol, Tobacco, Firearms and Explosives, the Kansas State Fire Marshal's office and the Montgomery County Sheriff's Department are offering a $10,000 reward for information leading to an arrest and conviction in the June 2 explosion.

"If this tragedy was the result of a deliberate criminal act, we will not rest until whoever is responsible was brought to justice," Sheriff Stan Veach said in a statement announcing the reward.

Paul Marquardt, an ATF spokesman in Kansas City, Mo., would not discuss the evidence in detail.

The rig belonged to McPherson Drilling of Cherryvale. Shortly after the explosion, one of the owners of the company noted the unusual nature of the blast.

"You could tell the way the pipe blew that something inside the pipe blew out instead of up," Nancy McPherson said on the day of the explosion. "My husband says he has never seen anything like this before."

IMMIGRATION:

Immigration Nominee's Credentials Questioned (WP)

By Dan Eggen And Spencer S. Hsu

The Washington Post, September 20, 2005

The Bush administration is seeking to appoint a lawyer with little immigration or customs experience to head the troubled law enforcement agency that handles those issues, prompting sharp criticism from some employee groups, immigration advocates and homeland security experts.

The push to appoint Julie Myers to head the U.S. Immigration and Customs Enforcement agency, part of the Department of Homeland Security, comes in the midst of intense debate over the qualifications of department political appointees involved in the sluggish response to Hurricane Katrina.

Concerns over Myers, 36, were acute enough at a Senate hearing last week that lawmakers asked the nominee to detail during her testimony her postings and to account for her management experience. Sen. George V. Voinovich (R-Ohio) went so far as to tell Myers that her résumé indicates she is not qualified for the job.

But Voinovich has since met with Myers and is now likely to support her, his spokeswoman said yesterday. Myers, who has attracted strong support from many former colleagues, told senators that she would draw upon the experiences of ICE veterans in running the agency.

"I realize that I'm not 80 years old," Myers testified. "I have a few gray hairs, more coming, but I will seek to work with those who are knowledgeable in this area, who know more than I do."

After working as a federal prosecutor in Brooklyn, N.Y., for two years, Myers held a variety of jobs over the past four years at the White House and at the departments of Commerce, Justice and Treasury, though none involved managing a large bureaucracy. Myers worked briefly as chief of staff to Michael Chertoff when he led the Justice Department's criminal division before he became Homeland Security secretary.

Myers also was an associate under independent counsel Kenneth W. Starr for about 16 months and has most recently served as a special assistant to President Bush handling personnel issues.

Her uncle is Air Force Gen. Richard B. Myers, the departing chairman of the Joint Chiefs of Staff. She married Chertoff's current chief of staff, John F. Wood, on Saturday.

In written answers to questions from Congress, Myers highlighted her year-long job as assistant secretary for export enforcement at Commerce, where she said she supervised 170 employees and a $25 million budget. ICE has more than 20,000 employees and a budget of approximately $4 billion. Its personnel investigate immigrant, drug and weapon smuggling, and illegal exports, among other responsibilities.

Myers was on her honeymoon and was not available to comment yesterday. Erin Healy, a White House spokeswoman, cited Myers's work with customs agents on money-laundering and drug-smuggling cases. "She's well-known and respected throughout the law enforcement community," Healy said. "She has a proven track record as an effective manager."

ICE was created from remnants of the former immigration and customs services. It is widely viewed as one of the most troubled parts of the sprawling Department of Homeland Security.

Homeland Security political appointees have come under scrutiny since Michael D. Brown resigned under fire this month as head of the Federal Emergency Management Agency, which he joined with no experience in disaster preparedness. Several other senior FEMA officials were Bush supporters who did not have crisis-management credentials.

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Unlike most political appointments, the head of ICE is required by statute to have at least five years of experience in both law enforcement and management.

Many immigration advocates, ICE employee representatives and homeland security experts said they were troubled by the nomination of Myers to take over an agency with so many problems.

"It appears she's got a tremendous amount of experience in money laundering, in banking and the financial areas," said Charles Showalter, president of the National Homeland Security Council, a union that represents 7,800 ICE agents, officers and support staff. "My question is: Who the hell is going to enforce the immigration laws?"

I. Michael Greenberger, a former Clinton administration official who heads the Center for Health and Homeland Security at the University of Maryland, said the Myers appointment represents "pre-Katrina thinking, where political relationships were a very large factor."

"Post-Katrina, we now see that people need to be eminently qualified," Greenberger said.

But Jim Pasco, executive director of the Fraternal Order of Police, which represents several thousand ICE employees, lauded Myers's government experience.

"That organization . . . is on some days almost dysfunctional," Pasco said. "I think Julie may be just the person to pull people and functions together to get them working right for a change."

During a hearing Thursday of the Senate Homeland Security and Governmental Affairs Committee, Chairman Susan Collins (R-Maine) and ranking Democrat Joseph I. Lieberman (Conn.) quizzed Myers on whether her positions over the past five years qualified her for the job.

The most pointed questioning came from Voinovich, who said during the hearing that he wanted to meet with Chertoff to discuss Myers's qualifications. "I'd really like to have him spend some time with us, telling us personally why he thinks you're qualified for the job, because based on the résumé, I don't think you are," Voinovich said.

But Marcie Ridgway, Voinovich's communications director, said yesterday that the Ohio senator had resolved his concerns by talking privately with both Chertoff and Myers. Ridgway said Voinovich was not available to speak directly about the issue.

DeLay Must Bridge Gap With Bush (HILL)

By Patrick O'Connor

The Hill, September 20, 2005

The White House outlined a comprehensive immigration overhaul during a meeting last week with congressional Republicans, creating a potential conflict between the administration and House Majority Leader Tom DeLay (R-Texas), who favors an incremental approach to reform.

The comprehensive package would increase enforcement on the border, create new workplace requirements for employers and expand guest-worker programs inside and outside the United States, said Reps. Jeff Flake (R-Ariz.) and Jim Kolbe (R-Ariz.), who met last week with White House Deputy Chief of Staff Karl Rove and other senior administration officials.

Flake said the administration “insists on comprehensive reform,” putting the president at odds with DeLay and those congressional Republicans who would rather change the current immigration code one law at a time. As recently as last week, DeLay said he would prefer passing a bill to increase border security before taking up legislation to address workplace enforcement or the current guest-worker program.

In the House, GOP leaders must try to find legislative language agreeable to those members advocating stronger border protections and those members pushing for an expansion of the country’s guest-worker program, although there is considerable overlap.

“We’re closer than people think,” Flake said of the distance between competing factions within the Republican Conference. “The gulf is not as wide as people assume.”

The guest-worker provisions in the White House package would require illegal immigrants employed in the United States to register with the federal government as part of a national database for employers of all sizes. Those workers would then be allowed to stay in the country for an intermediate phase as long as they remained employed.

Flake and Kolbe included a similar provision in the comprehensive immigration bill they co-wrote with Rep. Luis Gutierrez (D-Ill.) and Sens. Edward Kennedy (D-Mass.) and John McCain (R-Ariz.). Their bill would allow these workers to register for two successive three-year terms, during which they would have temporary guest-worker status and could apply for permanent residency.

In contrast, the administration plan would require these workers to return to their countries of origin after the intermediate work phase to register for permanent residency, Kolbe said.

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In the Senate, John Cornyn (R-Texas) and Jon Kyl (R-Ariz.) have introduced a bill that would require illegal immigrants employed in the United States to return to their countries of origin before applying for permanent residency or guest-worker status.

Similar legislation is expected in the House, where Judiciary Committee Chairman James Sensenbrenner (R-Wis.), whose committee will mark up the eventual legislation, told the Milwaukee Journal-Sentinel last week that he expected Hurricane Katrina to postpone any bill overhauling the country's immigration policy until next year.

Neither Flake nor Kolbe would give any details about when the administration would want to see Congress pass an immigration measure, but both members said they were confident the House could tackle legislation this year.

During a Republican Conference meeting the last week in July, President Bush told members that he wanted Congress to address immigration reform "next fall," prompting one member to shout: "We can't wait until next fall."

Bush then clarified his remarks to say he meant this fall, Flake said.

Immigration continues to be a particularly controversial issue for congressional Republicans. Flake and Kolbe both faced primary opponents last year who attacked them for advocating an expanded guest-worker program. Kolbe's challenger, state Rep. Randy Graf, has again made immigration the cornerstone of his campaign to unseat the senior member of the Arizona delegation. Graf won 43 percent of the Republican vote during last year's primary. His website features a Ronald Reagan quote about immigration: "A nation without borders is not a nation."

Flake argues that comprehensive changes to immigration policy are the best way to handle this issue politically because such a strategy would address concerns from every side of the political spectrum.

"If it's comprehensive reform … then that covers the basics for all of us, no matter what districts we're from," Flake said. In contrast, passing one component at a time would be a "recipe for disaster," he said.

A coalition of labor unions, civil-rights organizations and religious groups, including the newly independent Service Employees International Union, has scheduled a series of rallies beginning today at Foundry United Methodist Church in Washington in support of the Flake-Kolbe bill.

TAX:

American `Survivor' Winner Pleads Innocent To Tax Evasion (FINDLAW/AP)

Find Law, September 20, 2005

(AP) - PROVIDENCE, Rhode Island-Richard Hatch, who won $1 million (â,¬820,000) on the first season of the U.S. reality show "Survivor," pleaded innocent Monday to charges that he failed to pay taxes on his winnings and other income.

Hatch has been charged with tax evasion, filing a false tax return, wire fraud, bank fraud and mail fraud. He entered the plea in U.S. District Court.

A grand jury indictment filed earlier this month said Hatch filed false tax returns for 2000 and 2001 that omitted his income from the CBS show, $327,000 (â,¬269,380) he was paid to co-host a radio show and $28,000 (â,¬23,070) in rent on a property he owns.

Hatch, 44, also was accused of misusing $36,500 (â,¬30,070) from a nonprofit camp he set up.

The former corporate trainer said the 10-count indictment was retribution for his refusal earlier this year to follow through with a plea deal.

"It was absurd in the spring, and it's still absurd," he said. "They thought I was going to accept two years in jail for something I didn't do."

Hatch faces a maximum of 75 years in prison if found guilty on all charges. He also could face millions of dollars (euros) in fines.

CONGRESS-ADMINISTRATION:

Right Rift Over Roberts (HILL)

By Alexander Bolton

The Hill, September 20, 2005

A rift has opened between conservatives in the nation's capital and those outside the Washington Beltway over John Roberts and his carefully worded testimony to the Senate Judiciary Committee last week.

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The split has divided those on the right who communicate regularly with the White House from conservative activists whose view of Roberts was shaped by the recently completed hearings.

Though it is extremely unlikely that conservatives who are voicing concerns about Roberts behind the scenes would oppose his confirmation by the Senate, they are sending a message to President Bush that his next nominee to the Supreme Court should have a clear record and be unafraid to express boldly his or her beliefs.

As result, political pressure is growing on Bush to nominate an outspoken conservative to replace retiring Justice Sandra Day O'Connor.

So far, Republicans and conservatives have presented to the public unified enthusiasm for Roberts. But since the first round of questions of last week's hearings, conservatives have raised concerns behind the scenes, debating each other in private conversations and conference calls.

"I'm definitely one who has major concerns about the Roberts nomination," said Dr. Virginia Armstrong, the national chairwoman of Eagle Forum's Court Watch Project. "I had questions before the hearing. Since the hearing, those questions and concerns are much more intense than they were."

"The biggest question is what is this man's approach to the Constitution, and we were never told that," said Armstrong, who said she debated Roberts's testimony with fellow conservatives yesterday. "We were told he did not have an overarching philosophy."

She said that Roberts's answers last week indicated that he would follow Supreme Court precedent even if he thought it was not necessarily supported by the text of the Constitution.

For example, Roberts said that, when considering overturning precedent, "it is not enough that you may think the prior decision was wrongly decided."

"You do look at these other factors, like settled expectations, like the legitimacy of the court, whether a particular precedent is workable or not, whether a precedent has been eroded by subsequent developments," he said.

To some conservatives, concepts such as "workability" are alarming because they are considered vacuous and can be infused with a judge's personal views. In essence, such concepts are the building blocks of judicial activism.

Armstrong, who has a doctorate in political science and doesn't consider herself a political operative, is based in Texas. Her foils in recent debates have been conservatives based in Washington, D.C., who have more frequent contact with White House emissaries and Roberts's former colleagues who vouch for the nominee's conservative credentials in the absence of an extensive record.

Ironically, the aspects of Roberts's nomination that have frustrated Senate Democrats and liberal groups trying to inflict political damage on him — specifically the few writings expressing his legal views, and furthermore the reluctance to express those views in Senate hearings — have also frustrated conservatives.

"After four days of testimony before the Senate Judiciary Committee, there is much that we know about Judge John Roberts and yet much that we still do not know," said Dr. Rick Scarborough, president of Vision America, a Texas-based Judeo-Christian advocacy group.

"We do know that Judge Roberts says he will perform the proper duties of a judge, which is to apply the laws of the land according to the intent of the drafters, and will not legislate from the bench," he said in a statement given to The Hill that praised Roberts for being well spoken and intelligent.

But Scarborough also raised concerns: "We don't know whether he recognizes that the judiciary is subject to checks and balances by the other branches of government. We don't know whether he believes that the Roe v. Wade abortion decision was wrongly decided and should be overruled, or whether the court's homosexual 'rights' cases were wrongly decided and should be overruled."

"In short, we don't know whether a Chief Justice Roberts would be more like Justice Scalia, who is regularly faithful to the Constitution, or like Justice Souter, who regularly betrays the Constitution," he said.

But questions among conservatives have not been confined strictly to those from outside the Beltway.

"I think there is some disappointment in the way that Roberts testified," said an aide to a Republican member of the Judiciary Committee, who noted that the disappointment is not so great that GOP senators would vote against Roberts.

"In general, people thought that he could answer the question of whether he is a conservative," the aide said.

Aside from Roberts's decision not to endorse conservative views in the hearing, some answers that seemed intended to defuse Democratic criticism have alarmed conservatives.

In particular, responding to Sen. Herb Kohl (D-Wis.) during the first round of questioning, Roberts said that he agreed with the Supreme Court's conclusion in Griswold v. Connecticut that marital privacy extends to contraception and its availability.

Roberts noted — seemingly approvingly — that the court has since grounded the right to privacy in the 14th Amendment. The statement created a firestorm among conservatives, which Roberts's handlers scrambled to quell.

Griswold and privacy are hot topics because the court has founded reproductive rights, including the right to an abortion, on the right to privacy that case helped establish.

"Once people understood and looked at the judge's answers and his comments, everyone was comfortable," said former Republican National Committee Chairman Ed Gillespie, who is overseeing the Senate confirmation for the White House.

Roberts's defenders noted that Roberts's discussion of Griswold was nearly identical to Justice Clarence Thomas's during his confirmation 14 years earlier.

Other D.C.-based conservative leaders have praised Roberts's Senate testimony.

"I think that Roberts was masterful, and he is also a solid conservative," said Manuel Miranda, who formerly handled strategy on judicial nominations for Senate Majority Leader Bill Frist (R-Tenn.).

Miranda rebutted conservatives who have criticized Roberts avowed respect for precedent.

"His answers on precedent show that he is not like Robert Bork, he is like Rehnquist," Miranda said. "Some people believe nothing overrides the written word of the Constitution, but the rule of stability in law, which is stare decisis, is part of the fabric of the Constitution because undoubtedly the Framers' primary intent was to signal a stable and written law to the people."

Specter Backs U.S. Chief Justice Nominee Roberts (REU-Y2)

By Thomas Ferraro

Reuters, September 20, 2005

The chairman of the Senate Judiciary Committee said on Monday he will vote for John Roberts to be U.S. chief justice even though it is uncertain what the conservative appeals court judge will do on the Supreme Court.

"It's my judgment that he's well qualified ... and I intend to vote aye when his nomination is called before the Senate," the Republican chairman, Arlen Specter of Pennsylvania, said in a Senate speech.

"Notwithstanding his answers and my efforts to glean some hint or realistic expectation from his words and body language, candidly it is not possible to predict or have a solid expectation of what Judge Roberts would do," Specter said.

The committee chairman had been expected to back Roberts, who seems headed toward confirmation by the full Republican-led Senate before the court begins its new term on October 3.

But Specter, a moderate, had withheld judgment until four days of hearings he led ended last week.

If confirmed, Roberts, 50, who has spent two years on the appeals bench, would be the youngest chief justice in two centuries and positioned to lead the court for decades. Some Democrats, citing documents stemming from his government work, have challenged his commitment to civil rights and women's rights.

All 55 Senate Republicans are expected to vote to confirm Roberts, and so are a large number of the 45-member Senate Democratic Caucus.

Senate Democratic leader Harry Reid intends to discuss President George W. Bush's first nomination to the Supreme Court at his party's weekly meeting on Tuesday.

While some liberal groups would like Democrats to send a message to Bush with a strong vote against Roberts, Reid "wants each member to vote his or her conscience," a party aide said.

TOUGHER FIGHT NEXT TIME

Easing Roberts' path toward confirmation is the belief he would not shift the balance of power on the nine-member court. He would succeed the late Chief Justice William Rehnquist, who had been the court's conservative anchor for three decades.

A tougher fight is expected over Bush's next nominee, who would replace retiring Justice Sandra Day O'Connor, a moderate conservative who has often been the court's swing vote.

With that nomination expected shortly, Bush was to meet on Wednesday with Specter and his Democratic counterpart on the Judiciary Committee, Sen. Patrick Leahy (news, bio, voting record) of Vermont, as well as Reid and Senate Republican leader Bill Frist of Tennessee.

Specter hailed the "impeccable credentials" of Roberts, who received the American Bar Association's top rating for a seat on the Supreme Court.

While Democrats voiced frustration that Roberts refused to answer many specific legal questions, on issues from gender bias to abortion, Specter said, "I think that Judge Roberts went about as far as he could." Roberts said he did not want to prejudge cases that might come before him.

Specter also noted that Roberts, while declining to say whether he would reverse the Supreme Court decision that legalized abortion, declared that the U.S. Constitution gives Americans the right to privacy, which underpinned the 1973 ruling.

Specter, a veteran of many Supreme Court confirmation hearings, also pointed out that Roberts embraced the importance of legal precedent.

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The Judiciary Committee is to vote on Thursday on its recommendation on Roberts to the full Senate, which is to vote on whether to confirm him during the week of September 26.

Roberts Seen As The Warm-Up In High Court Battle (LAW)

By Jeff Blumenthal, The Legal Intelligencer

Law.com, September 20, 2005

With U.S. Senate Judiciary Chairman Arlen Specter announcing his support Monday, the nomination of John G. Roberts Jr. as chief justice of the United States gained momentum.

The Pennsylvania Republican, in a speech on the Senate floor, said "Judge Roberts' answers demonstrated that he would take a fair, non-ideological approach to the law." In Specter's view, Roberts had not tipped his hand on whether he would vote to preserve or overturn Supreme Court precedent on a woman's right to end her pregnancy.

"Notwithstanding his answers and my efforts to glean some realistic expectation from his words and body language, candidly it is not possible to predict or have a solid expectation of what Judge Roberts would do," he said.

On Sunday, Specter -- who chaired last week's sometimes contentious confirmation hearings to generally positive reviews -- even suggested that Roberts serve as the template for President Bush's next nomination to the Supreme Court.

But local legal scholars said Bush faces a much tougher fight when he makes his choice for a new associate justice.

Gregory Magarian, a constitutional law professor at Villanova University School of Law and a former clerk for Justice John Paul Stevens, said Specter managed to run Roberts' hearing equitably.

"Sen. Specter attempted to go after information but he didn't grandstand and he definitely didn't grease the wheels for him," Magarian said.

But Magarian and Temple University's Beasley School of Law professor Mark Rahdert, a clerk for former Justice Harry A. Blackmun, both said Roberts' decision to not answer questions dealing with hot-button issues such as abortion could set a precedent for the next nominee.

"He played that card more than any candidate I have seen in recent memory," Rahdert said. "And each time that happens in the future, nominees will have more room to not answer questions. It's one thing if it's an actual case that will wind up before the court. But he can answer questions about an area of the law and he chose not to do so.

"I think Sen. Specter did a good job. The Democrats complained that Roberts was not answering questions and they were not given access to certain documents. But it was a very orderly hearing."

Magarian, though, said by not answering questions, a nominee gives the opposition party a legitimate reason to cast no votes. But he said Roberts has no reason to worry about the outcome of his candidacy.

"He was a great pick," Magarian said. "He has the conservative credentials but he is not obnoxious about it so he doesn't offend liberals as much as a Thomas or a Scalia."

Rahdert said bumping Roberts' nomination up to chief justice after the death of William H. Rehnquist is fitting in more ways than one. Roberts clerked for Rehnquist and appears to possess similar ideology and temperament for the chief slot.

"I think Judge Roberts will be just as strong of a conservative vote as Rehnquist," Rahdert said. "But he won't be leading the charge in forming constitutional law in a conservative fashion, and nor did Chief Justice Rehnquist, who was a pragmatist. Now if they replace Justice [Sandra Day] O'Connor, who was not as consistent of a conservative, with another conservative, there will be a conservative block of five on the court."

Magarian, though, sees key differences between Rehnquist and Roberts. Rehnquist began his term in the early 1970s, when the high court was viewed as a font of liberal decisions on highly divisive issues such as privacy, civil rights and the rights of criminal defendants. Conservatives responded by pushing for judicial restraint. As the court grew more conservative, Magarian said, Rehnquist evolved into an exponent of "conservative judicial activism" But Magarian believes Roberts has not demonstrated the same bent toward conservative activism.

Magarian said that with Roberts' nomination as chief justice -- a conservative replacing a solid conservative -- court watchers will intensify their scrutiny of a replacement for O'Connor, viewed as a more moderate figure and one of the court's "swing votes."

"This most recent hearing was just a warm-up for the next hearing, which will be a real fight," Magarian said. "If they were able to get Roberts through in the O'Connor slot, it would have allowed Bush to go back to his list of red-meat conservatives. Ideally, the president would be able to find another Roberts -- someone with conservative credentials who isn't as divisive. But how many of them are walking around? Democrats can now vote for Roberts and say that they played ball with the president on chief justice and now want a more moderate candidate or they will filibuster."

Rahdert said Roberts is a blueprint candidate for getting a nomination through the Senate but may be too mild for much of the president's conservative base.

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"This is going to be a much more bitter fight, unless Bush backs down on the type of nominee he sends to the Senate," Magarian said. "And judging from all the short lists we have seen, I don't see that happening."

For '08 Dems, A Tough Choice Lies Just Ahead (HILL)

By Jonathan Allen

The Hill, September 20, 2005

A vote for Judge John Roberts could be well within the mainstream but that may not be where Democrats with an eye on the Oval Office are looking to swim, according to some political strategists and analysts.

"If you're running for president, you need to take a hard look at voting no because that's where the Democratic base is," said Steve McMahon, a Democratic political consultant who worked on Howard Dean's 2004 presidential campaign.

Democratic senators, particularly those who harbor presidential aspirations, have plenty of reason to watch each other closely as a floor vote on Roberts's nomination to become chief justice of the United States approaches.

Support for Roberts could burnish a senator's centrist credentials and give room to oppose President Bush's pick to fill a second Supreme Court vacancy. But influential interest groups on the left — a source of strength in Democratic primaries — are pressuring their allies in the Senate to oppose Roberts.

With floor consideration on Roberts slated to start no later than Monday, Democrats' reaction to Bush's still-unnamed second nominee could present presidential hopefuls with an opportunity to distinguish themselves from each other.

"Anybody who's running for president is watching everybody else who's running," said McMahon.

Sarah Binder, a senior fellow at the Brookings Institution and a professor at George Washington University, said that there would be some value to Democratic presidential hopefuls' rejecting Roberts because liberal activists would champion their votes.

When the Roberts roll call starts, those senators who are viewed as possible contenders for the Democratic presidential nomination in 2008 — including Hillary Rodham Clinton (N.Y.), 2004 nominee John Kerry (Mass.), Joseph Biden (Del.), Evan Bayh (Ind.), Russ Feingold (Wis.) and perhaps others — will already be under a microscope. That is particularly true of Clinton, who has not publicly revealed her intentions on either Roberts or the 2008 race.

Political experts say Clinton has shifted toward the center this year and a vote for the Roberts nomination would be characterized that way.

"She's caught between the swing voters, who she wants and needs for reelection, and the Democratic presidential primary voters and activists who will want her to vote no," said one Democratic strategist.

The Democratic senators will get a chance to test the political waters at today's weekly caucus lunch. Senate Minority Leader Harry Reid (D-Nev.) has asked his colleagues not to make a decision on Roberts until they have had a chance to discuss the issue together. But Reid spokesman Jim Manley said Reid is still not asking his colleagues to vote as a bloc. "It's not a party position," Manley said.

Though Roberts would replace the conservative William Rehnquist, who died Sept. 3, the importance of Bush's impending selection to replace frequent swing vote Sandra Day O'Connor has not quelled the left's hopes of spurring Democratic opposition to Roberts.

Comments on the liberal website www.dailykos.com excoriated The Washington Post's editorial page for recommending that senators support Roberts. The more liberal editorial page of The New York Times called Sunday for "no" votes — a position not likely to be ignored by Clinton. "Senators should vote against Mr. Roberts not because they know he does not have the qualities to be an excellent chief justice, but because he has not met the very heavy burden of proving that he does," the Times opined.

The reasoning underscores a dilemma for Senate Democrats. They have expressed few complaints about what the 50-year-old appellate court judge actually said, but the next nominee may be inclined to reveal even less if Roberts is confirmed. Senate Democrats also remain frustrated by White House refusal to release documents from Roberts's stint as a deputy in the solicitor general's office during the presidency of George H.W. Bush.

Still, some Democrats may vote for Roberts to position themselves better to oppose the second nomination, said Jeff Peck, a former general counsel and staff director of the Senate Judiciary Committee under Biden.

"I think there's going to be a lot more peril voting for the O'Connor replacement than the Rehnquist replacement," said Peck, a partner at the lobbying firm Johnson, Madigan, Peck, Boland and Steward.

Few have raised the Senate's own "F" word — "filibuster" — in relation to Roberts, but the tactic, and Republicans' threatened "nuclear" option, could be employed depending on whom Bush picks.

Confirm Roberts (LAT)

The Los Angeles Times, September 20, 2005

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IT WILL BE A DAMNING INDICTMENT of petty partisanship in Washington if an overwhelming majority of the Senate does not vote to confirm John G. Roberts Jr. to be the next chief justice of the United States. As last week's confirmation hearings made clear, Roberts is an exceptionally qualified nominee, well within the mainstream of American legal thought, who deserves broad bipartisan support. If a majority of Democrats in the Senate vote against Roberts, they will reveal themselves as nothing more than self-defeating obstructionists.

Most Democrats have not indicated how they will vote later this week in the Judiciary Committee, or subsequently on the Senate floor. The angst expressed by some senators who feel caught between the pressure of liberal interest groups and their own impression of Roberts is comically overwrought. "I for one have woken up in the middle of the night thinking about it, being unsure how to vote," said Sen. Charles E. Schumer (D-N.Y.).

One reason Democratic senators are struggling to reach a verdict on the Roberts nomination is that President Bush has yet to announce his nominee for the second vacancy on the court. They are trying to figure out how their vote on Roberts will influence Bush's next choice. This is silly; Roberts ought to be considered on his own merits. But even if one treats this vote merely as a tactical game, voting against an impressive, relatively moderate nominee hardly strengthens the Democrats' leverage. If Roberts fails to win their support, Bush may justifiably conclude that he needn't even bother trying to find a justice palatable to the center. And if Bush next nominates someone who is genuinely unacceptable to most Americans, it will be harder for Democrats to point that out if they cry wolf over Roberts.

Roberts is, admittedly, no William Brennan. But Democrats' hopes to remake the court in his image died (or should have) the day after Bush was reelected. Senate Democrats need to exercise their advise-and-consent duty within this context.

Indeed, given Bush's own past statements about admiration for justices such as Antonin Scalia and Clarence Thomas, Roberts may be the best nominee liberals can expect out of this administration. He is in the tradition of Justices William H. Rehnquist and Anthony Kennedy, conservatives who believe in the value of stability and restraint. In his confirmation hearings, Roberts repeatedly distanced himself from an extreme "originalist" or literal approach to constitutional interpretation. He may have dodged plenty of questions, as do all judicial nominees, but he said plenty that was revealing and reassuring.

Roberts acknowledged that he believes there is a right to privacy, that many constitutional principles such as "liberty" and "due process" evolve over time and that justices must be mindful of how destabilizing it is to reverse prior decisions. He is no radical activist determined to take the court back to the early 20th century. Democrats, including California's Dianne Feinstein, should back Roberts or risk the consequences of voting against an acceptable nominee.

White House Is Said To Shift Names On List For 2nd Seat (NYT)

By David D. Kirkpatrick And Sheryl Stolberg

The New York Times, September 20, 2005

WASHINGTON, Sept. 19 - The White House is reshuffling its short list of potential Supreme Court nominees with a new emphasis on finding someone who will hold up under the pressure of what is expected to be fierce confirmation battle, several Republican allies close to the process said on Monday.

The shifting calculus reflects the increased stakes in replacing the retiring Justice Sandra Day O'Connor as the court's swing vote as well as the expectation that the new nominee will be measured against Judge John G. Roberts Jr., who was hailed by both parties for his performance during almost 20 hours of confirmation hearings for the post of chief justice.

The shift also indicates that the administration expects some Democrats' pent-up frustration with what they labeled as Judge Roberts's evasiveness to spill over into the hearings for a new nominee. Republican aides briefed on the search said the White House was looking mainly at female jurists for Justice O'Connor's seat, but it has expanded its short list and it is examining the contenders anew in the expectation of a trial by fire.

Conservative allies of the White House said the new criteria could hurt the chances of Judge Janice Rogers Brown, a 2005 Bush appointee to the United States Court of Appeals for the District of Columbia Circuit and a favorite of the president's conservative base.

Republican strategists close to the White House worry that Judge Brown, an African-American known for her fiery speeches to conservative crowds, might try to fight back against vigorous questioning. Other conservative strategists say that she also lacks experience on the federal bench and that supporting her highly ideological oratory might strain the solidarity of the Senate Republican caucus.

Another judge said to be on the list is Judge Priscilla R. Owen, a friend of the president also recently confirmed to a federal appeals court after a vigorous Senate battle. In her case, strategists say the White House is evaluating whether her reticence and mild manner would be a strength or a weakness under interrogation in the Senate.

Others said to remain under consideration include the contenders for the last vacancy, Judge Edith H. Jones and Judge Edith Brown Clement of the Fifth Circuit, as well as Judge Alice M Batchelder of the Sixth Circuit, Judge Karen Williams of the

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Fourth Circuit and Judge Consuelo M. Callahan of the Ninth Circuit. Judge Callahan, a Republican appointee, is Hispanic, and President Bush has made clear that he would like to name a Hispanic to the court.

Senate leaders, who will meet Mr. Bush on Wednesday to discuss the next court vacancy, said they were also bracing for a firefight over the next nominee. On Monday, the chairman of the Senate Judiciary Committee, Senator Arlen Specter, Republican of Pennsylvania, called on Mr. Bush to name someone who will promote "balance and stability" on the court - a reference that seemed aimed at prodding the White House toward nominating a moderate in the mold of Justice O'Connor.

"I think that there's been a lot frustration on this one, and it's been commented upon very broadly and I think that frustration may well be vented on the next nominee," Mr. Specter said in an interview on Monday, after announcing his support for Judge Roberts.

Democrats, meanwhile, prepared for a meeting of their caucus on Tuesday to debate the vote on Judge Roberts. Democratic strategists said some leaders in the party were arguing that with Judge Roberts widely expected to win confirmation, members of their party should vote for him in order to appear open-minded and save their ammunition for the fight ahead.

Others, including Senator Edward M. Kennedy, Democrat of Massachusetts, are expected to push for votes against confirmation in order to send a message to the White House.

Liberal advocacy groups staged a last-ditch campaign on Monday to push Democrats to vote against Mr. Roberts. "It would be an invitation for George W. Bush to name someone as extreme as he wants to for the O'Connor vacancy," said Ralph G. Neas, president of People for the American Way.

Three labor union groups - the A.F.L.-C.I.O., the American Federation of State, County and Municipal Employees, and the Service Employees International Union - announced their opposition to confirmation on Monday, as did the Center for American Progress, a liberal research organization run by John D. Podesta, the chief of staff under former President Bill Clinton.

Diversity Changes The Way Justices See The World (USAT)

USA Today, September 20, 2005

In the 215 years since the U.S. Supreme Court first convened, 104 of the 108 justices have been white men. (Related: Opposing view)

The exceptions? Thurgood Marshall, Clarence Thomas, Ruth Bader Ginsburg and Sandra Day O'Connor.

Marshall died in 1993; the other three sit on today's court. But with the retirement of O'Connor, the nation's highest court will lose more of a commodity already in very short supply — different life experiences.

When President Bush nominates O'Connor's successor, he will have an opportunity to remedy that, and it should be a priority.

In a nation as diverse as America, a diversity of ideas and perspectives adds to the court's ability to wisely decide issues that change lives. If all nine justices see law and life from the same vantage point, their ideas will not be challenged, tested and honed into the best possible rulings.

Appellate Judge John Roberts, who appears headed for confirmation as the next chief justice, is superbly qualified as a lawyer, but he's also very much like the other overwhelmingly white, male lawyers he would join. Five graduated from Harvard or Yale law schools. Most worked in past presidential administrations, sat on lower courts or practiced at elite law firms. O'Connor is the only one from the Southwest and the only one ever elected to public office.

none of the other justices can see life as O'Connor does. She grew up on a ranch, served in the state Legislature and faced gender discrimination. She graduated near the top of her class at Stanford Law, but the only law job she was offered was as a "legal secretary" at a firm in California.

To those who argue that merit and legal scholarship should be the only standards, the answer is it's easy to name a minority or female justice without compromising excellence or creating quotas.

In law, as in other professions, minorities and women have made great strides. Nearly half of law school graduates in 2004 were women; 21% were minorities. Though the federal judiciary still doesn't look quite like America, about 10% of federal judges are African-American, nearly 7% are Hispanic and about 23% are women.

Bush might take his cue from the justice who is retiring. In a 1992 tribute to Marshall, O'Connor wrote about the value of diversity. During the court's deliberations, Marshall's life experiences informed the debates, she said. No one else had gone to segregated schools, represented African-Americans facing death sentences or been told by a gun-toting white man to get out of a small Mississippi town before dark.

After Marshall was gone, she wrote, she often longed for one of his stories that might "change the way I see the world."

Judging is about seeing the world and applying the law. The nation's highest court should not approach that job from a single, narrow perspective.

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Choice Should Be Blind ... (USAT)

By Thomas Heiden

USA Today, September 20, 2005

We are in danger of making our highest court just another part of our partisan political culture. That is bad for our nation and threatens the unique role of the Supreme Court in our system. (Related: Our view)

The next nominee for the court should be chosen on the basis of merit (and not "diversity," however defined) for several important reasons:

· To maintain a bright line difference between law and politics.

· To re-emphasize that the function of the highest court is to maintain the rule of law.

· So that the court does not become an extension of our increasingly divided political culture, but that it stands as the independent counterweight to those influences.

Our nation is wonderfully diverse, but justices do not sit as representatives of religious, ethnic or other groups. We do not allocate the 535 seats in the Senate and House of Representatives by group, much less the nine seats on the court.

The Congress should be full of the political push and pull of what the law should be. The Supreme Court is different. The justices should be pragmatic, not ideological; neutral, not representatives of groups.

To nominate a justice because he or she is a member of a group obviously signals that his or her decisions in certain cases will be influenced by membership in that group. To do so misperceives the court as a legislature and the justices as legislators. The signal sent in these times of cultural division should be the opposite. We should keep perceptions of politics and partisanship — whether in the disguise of "diversity" or otherwise — out of the independent judiciary, particularly the Supreme Court.

That is not to endorse the next nominee as a politically conservative white male. The top ranks of the legal profession today are full of women, with plenty of African-American and other "minority" lawyers right there with them. Our Supreme Court and our nation will be best served if the next nominee is selected with an eye blind to race, gender, religion and political ideology — a true focus on legal and intellectual merit.

Let's hope that she is.

Thomas Heiden is a partner in the Chicago office of the law firm Latham & Watkins. The opinions are his own.

Cost Of Katrina Relief Splits Republican Ranks (CSM)

By Gail Russell Chaddock

The Christian Science Monitor, September 20, 2005

WASHINGTON - President Bush's call to spend "whatever it takes" to rebuild the Gulf Coast set off alarm bells among some in his conservative base - and stepped up a growing debate among Republicans at both ends of Pennsylvania Avenue on how to fix the battered region in ways that promote conservative values.

From vouchers for education and Medicaid to the creation of a giant "opportunity zone" where Katrina struck, the Bush reconstruction effort - which he called "one of the largest reconstruction efforts the world has ever seen" - is reviving prospects for policy initiatives that GOP leaders say could make or break their party's future.

At the same time, fiscal conservatives, often outside of leadership, are calling for deep cuts in existing spending to pay the costs of reconstruction. They, too, see this as a fight for the soul of the Republican Party.

"It's too early to tell. It could wind up being the New Deal on steroids," says Mike Franc, vice president for governmental affairs at the Heritage Foundation, a conservative think tank.

For a president who campaigned on Ronald Reagan's legacy of limited government, the vast scope of needs in the region pose a special challenge. While President Roosevelt's New Deal and President Johnson's War on Poverty offer templates for a federal response, Republicans have campaigned for decades to roll them back.

"If people can agree that the last 40 years didn't help win the War on Poverty in New Orleans and the Gulf - and even hurt it - then the debate shifts into not replicating the last 40 years," says Mr. Franc.

But if the congressional committees bog down and can't agree on a package of reforms that can be financed without breaking the bank, "the default could be going with what we already have," he adds.

In recent weeks, Republican leaders have tasked every committee in Congress to come up quickly with new ideas that meet needs in the region.

These range from a vast package of tax breaks to revive business and housing in the Gulf, to Education Smart cards, which give families the option of paying for education wherever it is available and suits their needs, including private and parochial schools.

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But to move such a plan, Republicans will need coherence in their own ranks, especially agreement across their caucus on how to pay for it. For fiscal conservatives, the biggest issue in the Gulf cleanup is its price tag, expected to exceed $200 billion. Congress has already appropriated $62 billion in emergency spending..

"Congress must ensure that a catastrophe of nature does not become a catastrophe of debt for our children and grandchildren," says Rep. Mike Pence (R) of Indiana, who chairs the Republican Study Group, a top conservative caucus.

The Heritage Foundation estimates that such levels of spending could bump budget deficits past $500 billion in 2008 to $873 billion in 2015.

In response, some conservative lawmakers are calling on their leaders to find offsets for new spending, including delaying implementing the new Medicare drug benefit, rolling back pork projects in recently passed Highway and Energy bills, and even deferring a vote on the permanent extension of Bush tax cuts. Last week, 11 House Republicans voted against a $52 billion hurricane relief bill in protest against the failure to identify offsets.

In a comment to reporters last week, House majority leader Tom DeLay said that after 11 years of a Republican majority, there wasn't much fat to cut in the federal budget.

The comment alarmed many conservative activists outside government who see the big spending ways of the Bush administration as a betrayal of small- government ideals.

"I have to pretty strongly disagree with the majority leader," says former GOP Rep. Pat Toomey, now head of the Club for Growth, an antitax group that backs Republican candidates.

"Whatever money gets spent on this reconstruction effort really needs to be offset by reductions somewhere else," he adds. "It's not the role of the federal government to be rebuilding houses and strip malls...."

At a closed leadership meeting on Thursday, House GOP leaders tried to bridge divisions in their caucus by promising strong accountability on where new federal dollars are going "Whatever is expended by Congress, we want to make sure it is funded appropriately and that states and local communities, as well as the private sector, share the burden," said a House leadership aide.

While Republicans have stood by the president as he expanded the role of government in local schools and the war on terrorism, the new wave of post-Katrina spending could break that consensus at a time when the Bush's job rating is at record lows.

The bid to work conservative programs, such as education vouchers, into Gulf aid could help bridge those gaps.

"It's window dressing for the benefit of social conservatives," says Ross Baker, a political scientist at Rutgers University in New Brunswick, N.J.. "The president may feel that whatever support he will lose among fiscal conservatives, he will win from conservatives proud of him for bootlegging vouchers in the relief plan."

Deficit Foes: Defer New Drug Benefit To Offset Katrina Cost (WT)

By Donald Lambro And Amy Fagan

The Washington Times, September 20, 2005

Some House and Senate members want President Bush to postpone his Medicare prescription-drug program to help pay for Hurricane Katrina relief as the fight over the deficit and the cost of rebuilding heats up.

By targeting the Medicare program, which Congress passed in 2003 despite objections from some conservatives, the lawmakers are striking right at Mr. Bush's signature first-term domestic-policy achievement.

A bill to delay for a year the January 2006 start of the new drug entitlement would save $40 billion and will be "front and center" tomorrow when members of the conservative Republican Study Committee present spending cuts to offset Katrina's costs, said Rep. Mike Pence, Indiana Republican and RSC chairman.

"It is a very serious option," Mr. Pence said, adding that "a broad number of members" have privately expressed support for the idea.

Sen. Lindsey Graham, South Carolina Republican, mentioned the delay as an option on "Fox News Sunday," and a spokesman for Sen. Tom Coburn, Oklahoma Republican, said the senator is considering sponsoring a bill or backing other senators' efforts.

Rep. Mark Steven Kirk, Illinois Republican, said he understands the sentiment, but doesn't think the proposal will go anywhere. "I just don't see formal legislative action coming on that," he said.

One Republican leadership aide said it drives home the point Republicans are serious about cutting spending.

"When you talk about someone's prescription-drug benefits, people get it," the aide said. He said the push for the delay is "probably a message to the White House" more than a policy goal.

White House spokesman Trent Duffy dismissed the delay idea.

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"We've made a commitment to seniors. Their lives depend on it. ... Now is not the time to snatch medicines out of medicine cabinets," he said.

But Mr. Pence said the fact that the White House so quickly dismissed it may mean they are nervous. "If it was really going nowhere, it probably wouldn't have been ruled out," he said.

Deficit hawks both inside and outside of Congress say adding the cost of recovery and rebuilding to the deficit is a bad idea.

"Simply adding $200 billion or more to the deficit is unwise and unnecessary," said former Sen. Warren B. Rudman, New Hampshire Republican and chairman of the deficit-fighting Concord Coalition.

Some budget watchdogs say major spending cuts will be politically impossible to make as Congress approaches the midterm elections next year.

"I think this is a time when the leadership of the Congress and the White House should bury the ideological hatchet and suggest small increases in taxes and modest restraints on spending," said Robert Reischauer, former director of the Congressional Budget Office.

"Everybody has to put a few sacred cows on the chopping block for efforts like this to be acceptable, but it's highly unlikely in the climate we have now," Mr. Reischauer said.

But tax-cutters argue that any tax increases would weaken the economic recovery, lower tax revenues and thus worsen the deficit.

"Now more than ever, we need a vibrant economy which enables us to pay for things like helping New Orleans to recover," said Mallory Factor, a New York investor who heads the Free Enterprise Fund, which supports congressional candidates who favor lower taxes. "Tax increases are a nonstarter. We can't tax our way out of this spending, and it probably wouldn't reduce the deficit anyway."

One danger for Republicans is that the deficit will erode support for further tax cuts. Republicans had planned to enact about $70 billion in tax cuts under the budget process later this year, mostly by extending tax cuts from the 2001 and 2003 packages. But they now face opposition from within their own ranks.

RSC Pressing For Deep Cuts (RC)

By John Bresnahan

Roll Call, September 20, 2005

Proposals from House GOP conservatives to cut federal spending to offset the costs of Hurricane Katrina recovery efforts ran smack into political reality Monday, as the White House rejected a plan to delay implementation of a new Medicare prescription drug program for one year, an idea that conservatives said would save at least $40 billion.

Other initiatives favored by House conservatives, including re-opening the recently passed highway bill to strip out $26 billion in “add-ons” disparaged as pork projects by budget hawks, also have garnered little support on Capitol Hill, according to GOP insiders.

But Rep. Mike Pence (R-Ind.), chairman of the conservative, 90-plus member Republican Study Committee, vowed to press ahead with his initiative to find spending cuts to help pay for the Katrina reconstruction costs.

Pence, who along with President Bush and other Republican Congressional leaders objects to a tax increase to fund Katrina relief proposals, said Congress must do something to rein in federal spending, even more now that the Gulf Coast recovery effort will add tens of billions of dollars to the federal budget. Pence vowed to continue to push for a vote on delaying implementation of the Medicare drug program, despite White House opposition.

“With all due respect to the White House and their intentions, House conservatives will vigorously pursue the one-year delay in the Medicare prescription drug entitlement,” Pence said in an interview on Monday. Pence voted against the program when it was originally approved by Congress in November 2003, and the Indiana Republican said waiting until January 2007 to roll out the drug initiative would be “a great service to future generations of Americans.”

Pence and other RSC members, including Reps. Jeff Flake (Ariz.) and Jeb Hensarling (Texas), will take part in a press conference on Wednesday to unveil “Operation Offset,” their plan to pay for at least some portion of the Katrina recovery through cuts in government spending.

Speaker Dennis Hastert (R-Ill.) and other House GOP leaders will meet with Pence and RSC representatives today to discuss their offset ideas, and while GOP leadership aides noted that senior lawmakers will listen to their proposals carefully, Hastert will not endorse anything that alienates other factions within the Republican Conference.

“We have been through this in the past,” said a senior House GOP leadership aide of offsetting federal disaster spending. “Getting offsets is a great idea. But getting it through the House is another thing. I don’t see where there are the votes” for delaying the Medicare drug rollout or retroactively cutting highway funds.

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White House spokesman Scott McClellan told reporters that delaying the Medicare prescription drug program is not even being considered by Bush or his top advisers, despite calls from some within his own party to do so.

"Now, in terms of the Medicare drug benefit, that is an important benefit for our seniors that will save them significant money on their prescription drugs," McClellan told reporters on Monday. "And it's important to move forward on the prescription drug benefit and we are."

The new prescription drug program is a centerpiece of GOP efforts to appeal to older voters, and Republican leaders are counting on using the implementation of the drug initiative in the November 2006 elections.

A House Republican leadership aide said the idea of delaying the prescription drug program was a nonstarter with top GOP lawmakers, given that the government already has spent millions of dollars assuring seniors that the benefit is on the way.

"It would be like Lucy pulling the football away from Charlie Brown," the aide said.

McClellan suggested instead that Congress enact some of the cuts included in Bush's fiscal 2006 budget proposal, although many of these overtures already have been rejected by Congress this year.

Bush proposed ending or slashing more than 154 federal programs to save at least $20 billion in non-defense discretionary spending. Some of these proposed cuts provoked outrage on Capitol Hill and were immediately rejected, such as plans to slash funding for Amtrak and reductions in farm support programs.

Bush also proposed cutting $137 billion over 10 years from mandatory programs. The House and Senate Budget committees postponed work on a $35 billion reconciliation package designed to cut spending on entitlement programs last week as the GOP leadership in both chambers struggled to address the concerns of a post-Katrina Congress.

Pence and other GOP conservatives would like to see the Budget committees double or even triple the size of these mandatory cuts, arguing that past reconciliation packages were much larger. Ben Pershing contributed to this report.

Possible Fed Candidate Proposes Hurricane Relief Plan (REU-Y2)

Reuters, September 20, 2005

Economic damage inflicted on the U.S. economy by Hurricane Katrina is likely to be modest, making the case for huge government aid questionable, said Glenn Hubbard, who is cited as a possible candidate to head the U.S. Federal Reserve.

In a Financial Times commentary on Monday, Hubbard said that federal fiscal aid should be used to cushion the blow to business and consumer confidence from a nasty regional shock.

But overall the short-term hit to unemployment and production is likely to be modest, offset by rebuilding over the coming year, and long-term damage to energy supplies also seems unlikely.

"Favorable underlying economic growth trends make the need for a national 'stimulus' package -- ironic given the substantial government spending probably of about 1 pct of GDP about to occur -- questionable," Hubbard wrote.

He is one of three names on the list of likely candidates to replace Fed Chairman Alan Greenspan, who retires on January 31, 2005. Hubbard was a former top White House economic adviser and for President George W. Bush, and now is dean of Columbia Business School in New York.

Other possible Fed candidates are Harvard economist Martin Feldstein, and former Fed Governor Ben Bernanke, who now is a White House adviser. No one has emerged as a clear front-runner.

Hubbard in the editorial argued for carefully targeting the federal aid from the hurricane that devastated New Orleans and the Gulf coast. The U.S. government already has provided $62.3 billion in special funding and some lawmakers estimate the final price tag could be $150 billion to $200 billion.

He said three economic principles should guide the relief effort for the U.S. Gulf states.

Firstly, temporary assistance should be given to those people hard hit, especially those without insurance. He suggested appointing a "red-tape tsar" to cut through bureaucracy and help people get local and federal benefits. He also recommended using vouchers for health insurance, housing and education. But long-term support should requires a national debate, Hubbard said.

Secondly, large-scale federal funding should be invested quickly in infrastructure -- draining the area, rebuilding the Port of New Orleans, the energy and transport sectors, and repairing levees. It also could be used for a redevelopment authority, which could issue long-term redevelopment bonds.

Thirdly, redevelopment should be governed by market forces once the infrastructure and city play is in place and people's immediate needs addressed, Hubbard said.

The U.S. government already has provided $62.3 billion in special funding for Hurricane Katrina relief, after the storm devastated New Orleans and the Gulf coast. Some lawmakers estimate the final price tag could be $150 billion to $200 billion.

If The Politicians Really Want To Help ... (LAT)

DOJ_NMG_0006818

By Gerald Rafshoon And Doug Bailey

The Los Angeles Times, September 20, 2005

Members of Congress have voted more than $60 billion in Hurricane Katrina disaster relief, with the total estimated to eventually go as high as $200 billion. But that's (mostly) your money. What about their campaign money?

After all, shouldn't sacrifice for the vulnerable start with the powerful? So how about this unconventional idea: Washington should call a 90-day moratorium on campaign fundraising, and both parties — and all congressional incumbents — should tithe from their campaign funds for Katrina relief.

That means 10% of their war chests should go to hurricane relief, or they should raise that amount and donate it to the relief effort instead of collecting still more for the 2006 campaign battles. While we're at it, how about extending the moratorium to political action committees and lobbyists and asking them to take what they have budgeted for the politicians and give it to Katrina relief instead.

Washington's special-interest, lobbyist-loaded, incumbent-entrenched political system may be broken. But it's certainly not broke. Federal Election Commission records show that the party campaign committees and House and Senate incumbents have more than $400 million with nearly 14 months to go before the elections. Tithing would yield $40 million for Katrina aid, money that otherwise would probably just be used for attack ads.

Are we dreaming? Probably. But it's obvious that the displaced and destitute evacuees need the money — and Washington's politicos don't. In 2004, 403 House members sought reelection and on average spent just over $1 million to do it. Regardless of party. One million dollars per incumbent seat. Almost two-thirds of them outspent their opposition 10 to 1 or more. Only seven of the 403 lost (and two of those because Texas redistricting forced incumbents to run against each other).

Incumbent protection is the only nonpartisan thing in today's politics. Both parties benefit; both parties are guilty. Both use redistricting practices at the state level to draw voter-district lines to protect incumbents. Both use special-interest money to keep them in office.

But do the incumbents really need the money? It's not as if many of their races are close. In terms of percentage of the vote, only two of those 403 incumbent races were as tight as the presidential contest between President Bush and Sen. John Kerry. And the incumbents who ran still had a total of $157 million left over on election day.

If self-protection comes first in Washington, is it any wonder politicians seem so out of touch?

But Washington's cycle of fundraising and influence-buying and access-selling is just one part of a system badly out of whack. Consider that:

· $2.2 billion was spent on the presidential race in 2004, twice what was spent in 2000, according to the Washington Post.

· Since 2000, the number of lobbyists in Washington has doubled to almost 35,000.

· We know from our own experience that the political consulting profession is increasingly peopled by mercenaries, many of whom work in campaigns just to be able to sell access to those they help elect.

· Many who come to Washington to serve the people tend to stay to serve the special interests.

So maybe rebuilding from the tragedy of Katrina is also an opportunity to rebuild a democracy of selfless public service. How can Washington's incumbents ensure that political money buys more than insider access? How can Washington's invulnerable understand the nation's vulnerable? How can the powerful earn the trust of the powerless?

One starting place is to give of themselves — donating a potful of their campaign money to people who really need it. And maybe we the voters ought to hold them accountable if they don't.

Gerald Rafshoon and Doug Bailey were the opposing advertising consultants in the Carter-Ford presidential campaign in 1976. They are working together on a documentary and book about the collapse of U.

Bush Proposes Vouchers For All Displaced Students (WP)

By Amy Goldstein

The Washington Post, September 20, 2005

Under President Bush's plan to cover most of the cost of educating students displaced by Hurricane Katrina, parents could enroll their children in a private or religious school this year at federal expense, even if they had gone to public schools back home, administration officials said yesterday.

In proposing $1.9 billion in aid for kindergartners through 12th-graders whose schools were ruined by the storm, Education Secretary Margaret Spellings originally said the administration was setting aside $488 million for private-school tuition and other help, to re-create as normal an environment as possible for the uncommonly large segment of children from New Orleans who had attended Catholic schools.

Yesterday, however, as new fine print of the proposal emerged, White House and Education Department spokesmen confirmed that the government payment -- as much as $7,500 per child -- would be given for a year to any displaced family that

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now prefers an alternative to public schools. "Parents may choose to send children to private schools. They may not. But this is their choice," said Susan Aspey, the Education Department's spokeswoman.

According to administration documents, the $488 million allotment is an estimate based on the fact that about 61,000 children had attended private schools in the four Louisiana parishes that were affected most heavily. Asked whether the president would be willing to spend more on private schools if additional parents asked for such help, Aspey replied, "It's far too soon to speculate. Right now, these are just concepts."

The expansive eligibility for private-school payments intensified the dispute over Bush's approach to providing federal relief to people and places harmed by the hurricane. Democrats on Capitol Hill and public education advocates had begun to complain that the president was using the catastrophe to weave into legislation a version of federal funding of vouchers for private education, which the administration has sought, unsuccessfully, since 2001.

"It makes it even worse," Paul Houston, executive director of the American Association of School Administrators, said of the idea that all displaced families could obtain money for private schools. "It is really a tone-deaf response to the crisis. It is a real grab to get an ideological position across that they haven't been able to achieve under normal circumstances."

Sen. Edward M. Kennedy (Mass.), ranking Democrat on the Senate's Health, Education, Labor and Pensions Committee, said, "Instead of reopening ideological battles, we should be focused on reopening schools and getting people the help that they need."

Some congressional Republicans have embraced Bush's idea. A spokesman for Sen. Mike Enzi (R-Wyo.), the panel's chairman, said he has not decided whether to add money for private schools into bipartisan legislation providing educational help that the panel drafted last week.

Rep. John A. Boehner (R-Ohio), chairman of the House Education and the Workforce Committee, said in a statement, "These children are being welcomed by schools across the nation, both public and private, and we need to support all the affected students and families."

Contractors Get Affirmative Action Exemption (NYT)

By Jonathan D. Glater

The New York Times, September 20, 2005

The Labor Department has temporarily suspended government requirements that its contractors have an affirmative action plan addressing the employment of women, members of minorities, Vietnam veterans and the disabled if the companies are first-time government contractors working on reconstruction in the wake of Hurricane Katrina.

While employment lawyers said it was not clear how strong an impact the exemption would have, the move comes as President Bush has tried to address the perception of unfairness in the government's response to the hurricane.

Under the rules that normally apply to companies hired by the government, businesses with more than 50 employees working on contracts for more than $50,000 must develop an affirmative action plan. But according to a memorandum on the Labor Department's Web site, dated Sept. 9, the goal of the exemption in the case of recovery work associated with Hurricane Katrina is to reduce the burden of paperwork on government contractors and so encourage more companies to jump into assisting with rebuilding from the storm damage.

The exemption is to last for three months, unless it is extended.

"It does not waive affirmative action requirements, it does not waive job posting requirements, it does not waive their obligation not to engage in discrimination," said Charles E. James, deputy assistant secretary at the Labor Department. "It's very, very limited."

The announcement by the Labor Department came the day after President Bush announced the suspension of a law that requires employers to pay the locally prevailing wage to construction workers on federally financed projects. The order applies to parts of Louisiana, Mississippi, Alabama and Florida. In explaining the move, the proclamation stated that "the conditions caused by Hurricane Katrina constitute a 'national emergency.' "

The Labor Department affirmative action memorandum, which Mr. James signed, specifically states that laws against discrimination continue to apply to federal contractors, as do requirements that employers keep records and post notices stating that "equal opportunity is the law." The memorandum only affects the requirement that employers develop a written affirmative action program, Mr. James said.

The memorandum received little attention in the media frenzy over the aftermath of the storm and hearings on the nomination of Judge John G. Roberts Jr. to the Supreme Court. Protests against it began circulating online late last week.

"It is not simply a paperwork exercise," said Shirley J. Wilcher, deputy assistant secretary for federal contract compliance in the Clinton administration who is now the interim executive director of the American Association for Affirmative Action. "It is the basis for companies to be mindful of their obligation not to discriminate."

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But it is not clear how the exemption may, in practice, affect employment practices at companies, said B. Scott Silverman, an employment lawyer at Morrison & Foerster in Los Angeles. Its impact depends on how much affirmative action plans actually affect short-term hiring, he said.

"The only companies that will end up being completely excused are those that are not doing business with the federal government now and might not otherwise try to do business with the government," Mr. Silverman said.

He added that he thought a three-month exemption would probably not affect employment practices greatly, especially in light of the dire need for employees to rebuild.

"I don't think this exemption is going to restrict those opportunities in any way, shape or form," Mr. Silverman said.

Black Clergy Wary Of Bush's Courtship (LAT)

By Peter Wallsten And Tom Hamburger

The Los Angeles Times, September 20, 2005

WASHINGTON — For many of the black ministers who have allied themselves with President Bush and a Republican strategy to boost the party's African American support, the government's slow response to Hurricane Katrina put a severe strain on new and still-fragile bonds of trust.

But just as some ministers had begun denouncing a government recovery effort that seemed to leave many blacks in the Gulf region behind, a number of those African American clergy say an aggressive outreach campaign by Bush and senior White House aides in recent days has begun reversing what might have been lasting political damage.

Moreover, the ministers — as well as a cadre of conservative policy analysts who consult with the White House — are arguing that the Katrina relief response, while tarnishing the GOP image in the short term, could foster a Republican-led battle against poverty that would give the party a list of new selling points for African American voters who have long viewed Democrats as the best advocates for the downtrodden.

With the federal government spending tens of billions of dollars on the recovery, Republicans have a chance not only to appeal to minorities by creating jobs and other economic opportunities but to use the rebuilding effort as a real-world test of such long-discussed conservative ideas as school vouchers, enterprise zones and the use of faith-based groups to provide social services.

"The strategic question is whether or not the White House senior staff are smart enough to seize this historic and strategic opportunity," said the Rev. Eugene Rivers, pastor of Boston's Azusa Christian Community and one of about two dozen African American ministers Bush has courted heavily. "If they fail to practice the compassionate conservatism that they have preached, history may not be kind to them."

Other ministers said they took solace in Bush's sudden shift in tone last week, as he admitted making mistakes, unveiled a massive rebuilding plan and pledged a renewed look at the relationship between race and poverty.

In language that resonated with many of the black ministers, Bush during his nationally televised speech Thursday cited the "deep, persistent poverty" in the Gulf region and said it "has roots in a history of racial discrimination.... We have a duty to confront this poverty with bold action." The Republican Party chairman, in a recent appearance, even talked about a new "war on poverty."

The White House outreach to its allies among black clergy has been intense and has engaged Deputy Chief of Staff Karl Rove, chief domestic policy advisor Claude Allen and James Towey, director of the White House Office on Faith-Based and Community Initiatives.

Their efforts show how important the black electorate is to Republican efforts to maintain and build its political majority — and how threatened those plans have been by the images of deaths and destruction in New Orleans, which has a black majority.

Towey said he had spoken to some pastors "two and three times a day" since the storm's wrath became clear, and he acknowledged that some were upset during their conversations.

"I've heard their frustration, and I've heard their deep concern for the people who are suffering," Towey said. But, he added, the fact that a dialogue continues is a sign of potential progress. "I'm encouraged because they're still calling and we're still talking, and we've moved past the first week into the phase the president is talking about now," Towey said.

Interviews with key black pastors who had built alliances with Bush revealed a continued reluctance to fully trust that the administration would follow through on new promises to look fully at race and poverty and to ensure that black residents and minority-owned firms benefited from the rebuilding. But they all expressed hope that Bush was sincere in his words.

The Rev. Bill Owens of Memphis, president of the Coalition for African American Pastors and a supporter of other Bush initiatives, applauded the president's speech, saying his new tone could be redemptive after two weeks of a troubling White House response. But his praise was cautious.

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"I think he now has a golden opportunity to show that he does in his heart care for the African American community," Owens said. "With what he does from here on, he will be judged."

Vivian Berryhill of Mississippi, president of the National Coalition of Pastors Spouses and one of Bush's most vocal black supporters last year, praised the president's new words and promises. But she acknowledged that feelings were raw.

"The president can't make a 20-minute speech and think it's all over," she said. "If Republicans ever hope to appeal to African American voters, they need to come out publicly and support the citizens of American who have a great need."

Even an outspoken member of the all-Democratic Congressional Black Caucus said the Katrina reconstruction outlined last week by Bush could present a history-changing opportunity — if the president and the Republicans in charge of Congress followed through.

"I did not expect [Bush] to be so strong" in addressing race, poverty and the federal commitment to rebuild in the Gulf, said Rep. Elijah Cummings (D-Md.). While cautioning that "rhetoric is one thing and action is another," Cummings wondered whether Katrina's aftermath has been "a life-altering event for the president, making him more compassionate and more empathetic."

Cummings said his Baltimore constituents remain "very, very skeptical" of the Republicans' ability to deliver on the lofty promises of the president's speech.

Yet, the Democratic congressman added, "We have to roll up our sleeves and work with him."

In addition to enhancing the Republican appeal among African Americans, senior party strategists believe that remaking the Gulf Coast has the potential to reignite the Bush "compassion agenda" that had been shunted aside by a post-Sept. 11 focus on terrorism, and provide a laboratory for long-simmering Republican ideas for targeting urban poverty.

Bush outlined some of those ideas last week, promising tax incentives and the pledge that a portion of the relief money would flow to faith-based social service organizations.

Bush increased his share of the black vote last year by as much as 7 percentage points in key battleground states, in part because of a White House initiative that has directed millions in government funds to black churches and other faith-based social service organizations.

Republican National Committee Chairman Ken Mehlman has forged ahead with the party's minority outreach campaign.

Several worried Republicans posed questions about it during a visit last week by Mehlman to Oregon and Washington state, prompting Mehlman to assure them that the administration's response would fit comfortably with the notion of growing the GOP — putting "an effective war on poverty" on par on the administration agenda with the fight against terrorism and reshaping Social Security.

"One of the things this requires us to do is rethink how does our nation do in helping folks who are in need," Mehlman said during an appearance in suburban Seattle.

"What this president says is we need to move from a regulatory system that creates dependency to an opportunity society that creates ownership and says more folks can own their own home and poor parents can choose where their kids go to school and poor people can own a personal retirement account."

While Towey said the black pastors will have a major role in helping to devise policy, the White House has also been soliciting advice from conservative thinkers.

Former House Speaker Newt Gingrich is advocating vouchers to allow displaced children and families to make their own choices in education and a market approach to housing.

Jack Kemp, the 1996 Republican vice presidential nominee and former U.S. housing secretary, wrote last week that conservatives could turn Katrina into an opportunity just as presidents Lincoln and Franklin D. Roosevelt did during other periods of crisis.

In an essay in the online conservative journal Human Events, Kemp wrote: "In the wake of this national catastrophe we should all be imagining the unimaginable."

Incompetence, Not Racism (WP)

By Richard Cohen

The Washington Post, September 20, 2005

If you told me that George W. Bush is a dummy, I would argue with you but understand why you thought so: all those idiotic statements. But if you told me, as some have been implying, that Bush is a racist or that he doesn't care about black people, I would not only say that you're wrong but add, "Not the George Bush I know."

Of course, I don't know George Bush personally. But in his first presidential campaign, I traveled with him and tried, as he might say, to look into his heart. Conveniently enough, he sometimes wears it on his sleeve -- never more so, as I discovered, than when he talks about poor kids and racial and ethnic minorities. His feelings for them -- especially for poor kids -- are

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genuine. This is what I believed then and this -- his incompetent performance regarding Hurricane Katrina notwithstanding -- is what I believe now.

Others believe differently. The most non-nuanced statements came from the rapper Kanye West. Appearing on an NBC special to raise money for flood victims, West attributed the slow recovery effort not to ineptitude but to the fact that "most of the people are black." He followed that up a moment later with: "George Bush doesn't care about black people." NBC snipped that comment from its West Coast feed, but no matter: West was clearly not speaking only for himself. National polls showed a racial divide in appraising how the government did after Katrina. Blacks by and large thought race played a role in the laggard relief effort.

The Rev. Al Sharpton, functionally unemployed all these years, put it a bit differently. Appearing Sunday on local New York television, he didn't exactly say that Bush was indifferent to the plight of New Orleans's poor blacks, but he did say this about Bush: "One has to suspect why he had such delayed compassion." Sharpton did point out, as Bill Clinton did in his Sunday TV appearances, that in New Orleans, poor and black are largely synonymous, but still the damage was done: George Bush is no friend of black people.

I have two problems with all this. The first is not just that it's unfair -- Bush, in this case, was an equal opportunity bungler -- but that it rests on a stereotype: Republicans tend to wear lime green pants in the summer and dislike black people all year round. There was more than a little truth to this at one time. The GOP, after all, became a safe haven for Southern bigots who fled the Democratic Party (as Lyndon Johnson knew they would) in the civil rights era. The fight for the rights of blacks turned Dixie as Republican as it once was Democratic. To its everlasting shame, the GOP continues to benefit from raw bigotry.

But Bush is not cut from that cloth. He is a contemporary Republican, a person of another generation who, you may have noticed, has a black woman as secretary of state and had a black man before her. Under him, the GOP began an outreach to black Americans, and unless the Democrats wake up it will ultimately succeed. As Karl Rove well knows, all he has to do is pick up a small percentage of the black vote and he ends the current 50-50 electoral split. Bush, who won an impressive 27 percent of the black vote in his reelection bid for Texas governor, could have been the man to do this. His task is a lot harder now.

My second problem is that yelling racism stops creative thinking. Questions about how reconstruction should be managed, about how relief money should be used, about who will be resettled and where -- all of them fraught with racial issues -- will not be addressed. Instead, as we have already seen, the feds will simply throw gobs and gobs of money at New Orleans and its poor -- never mind how it is spent. Bush has reacted like a conservative's stereotype of a liberal -- just spend the damn money and hope it does some good. This, more than anything, shows true contempt for the poor, regardless of race.

We owe the poor our special consideration. We especially owe the black poor an appreciation of their plight and their dolorous history. But in general it was incompetence, not racism, that slowed the relief effort -- incompetence on the local and state levels, too, and incompetence on the part of black as well as white public officials. The search for racist scapegoats does the poor no good. This relief effort ought to start, above all, with some clear thinking.

Visions Of The New New Orleans (WP)

By E. J. Dionne Jr.

The Washington Post, September 20, 2005

PORTLAND, Ore. -- If the rebuilding of New Orleans is to be something other than a new government disaster, a coalition of the skeptical and the visionary will have to stand together and confront the lobbyists and the corporate welfare artists.

Fiscal conservatives in Congress are right to worry about the potential for -- yes -- waste, fraud and abuse if the federal government throws off tens of billions of dollars into a haphazard and ill-planned spending fest. If the goal is to spend as much money as quickly as possible, the benefits will flow primarily to the well-connected, and the result will be a new mess built on the old.

But because the rest of us are morally obligated to those whose lives have been damaged by natural calamity and government failure, it's a fact that the federal government will be spending a lot of money. That's why the fiscal conservatives need the visionaries. The visionaries are insisting that we put in the time to make New Orleans a model for a better kind of city and the rebuilding of the Gulf Coast a model for a better approach to governing. The people of the region, not the lobbyists, need to lead in creating an environmentally sustainable, socially just and economically viable region.

These thoughts are inspired by one of Congress's rare visionaries. Rep. Earl Blumenauer not only represents his beloved city of Portland but is also evangelical in spreading Portland's gospel of "livability." That odd but increasingly popular word embodies the idea that if governments plan right (and in cooperation with local citizens), they can safeguard the environment, create more agreeable lives for families and individuals and let loose sustainable private-sector growth.

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Blumenauer, a Democrat always seeking to put together left-right coalitions on behalf of his eclectic mix of ideas, is both worried and excited by the prospect of rebuilding the Gulf. Speaking for the fiscally conservative, he describes himself as "a little scared by how fast they're doing all this stuff because I don't think there's anybody in charge."

But his excitement burns through during a discussion at a restaurant in Portland's Pearl neighborhood, an old warehouse district near an abandoned rail yard that is now thriving. "I've been in Congress for nearly 10 years and I've never been so optimistic that we have a chance not just to engage in the gargantuan task of helping people in the Gulf, but also of healing the body politic." There is an opportunity, he says, for government to ask the basic questions: "How do you build a community? How do you get people involved? You've got to build a citizen infrastructure along with all the roads and bridges."

Blumenauer has more standing than most on this subject. On Jan. 26, after returning from a congressional visit to areas devastated by the Asian tsunami, he rose on the House floor to ask: "What would have happened if, last September, Hurricane Ivan had veered 40 miles to the west, devastating the city of New Orleans?"

"The city has always been at risk because of its low-lying location," Blumenauer warned, "but that risk has been increased because of rising sea levels, groundwater pumping and the erosion of coastal Louisiana . . . it is hard to imagine what would happen if a disaster of that magnitude hit the United States." Now, alas, we know.

Blumenauer is ecumenical in his criticisms of past practices, including the actions of Congress and the Army Corps of Engineers, and he even likes to think that President Bush might become an ally for the large packet of proposals he is peddling.

Why shouldn't the president want to leave a legacy of a New Orleans built on economically mixed neighborhoods and a thriving public transit system? Blumenauer sees new parks and buffer zones in areas where homes shouldn't be, and economic projects designed to put local people back to work. He wants to revisit past policies that encouraged development in dangerous places.

Above all, he wants to turn the hurricane's victims into decision makers. In the rebuilding, "people should have a role in what it should be like, rather than have it done to them." One of his biggest fears is that outsiders will simply turn New Orleans into a Disneyland.

There will be time to debate all of Blumenauer's ideas. But one thing is certain: If the fiscal conservatives and the visionaries don't come together quickly, the special-interest-lobbyist complex that doesn't care about planning and seeks only cash in the hands of its friends will dominate the reconstruction effort. That would be a disaster for all of us, and especially for the people of the Gulf.

Can You Hear Us Now? Let Poor Americans Speak For Themselves (RC)

By Donna Brazile

Roll Call, September 20, 2005

One of the most difficult conversations I have endured in the aftermath of Hurricane Katrina is the discussion about race and poverty. Oh yeah, I have read the quotes from rapper Kanye West and former first lady Barbara Bush. I saw the early news reports about the victims that made me want to throw my TV out the window. But I made a strategic decision to stay focused on my family and not get pulled into making this horrible tragedy a wedge issue. It’s time we shut up and allow poor people to speak for themselves. They have a story to tell us all.

There’s no question that I am super-sensitive and emotional about this topic because of my own background. As a child growing up, I lived right smack on the intersection where race and poverty collide. It’s not a pretty corner. Unfortunately, this intersection of despair, hopelessness and turmoil is not unique to the Gulf Coast region. It exists in major cities across America and in some rural areas as well. Many poor inhabitants at this intersection are not black; whites live there, too.

Katrina was an equal opportunity destroyer. She did not care whether you owned a home on the lakefront or rented an apartment in the “projects.” This monster hurricane uprooted big elm trees and oak trees that lined our historic neighborhoods as though they were toothpicks.

And Katrina was colorblind. She didn’t care if you lived in a house made of brick or one of wood. She moved things out of her way and placed them somewhere else. She was a mighty big storm and from what I was able to witness, it will take time to put things back together.

In the aftermath of all this destruction, Congress should hold a series of hearings that allow the victims to tell their stories to determine how to help them get a fresh start. (We have so many of Katrina’s victims stranded in this region — just invite them over.) Whatever is done, poor people must not be excluded from this conversation.

Based on my experience, the worst part of being a member of the chronic poor or the working poor is the uncertainty about how to maneuver the system. Add race to this equation, and you have a recipe for hopelessness.

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The reason why so many of Katrina's victims, including some middle-class folks, are upset right now is they cannot get a straight answer. It's bad enough to lose all your material possessions, let alone figure out how to log onto a computer to file for assistance or to get an update on information to help you find housing. This expectation is just plain ludicrous.

Federal officials, working with state and local officials, should begin hiring some of the locals right away. They should get rid of the red tape that forces people to find a computer. Bring computers into the shelters or communities where they are stranded.

When I was back home over the weekend, I saw numerous ads for construction workers, builders and other professional skills. No offense, but can someone cut a radio spot and inform people where to apply? Better yet, post this information in the shelters and organize local transportation to take shelter inhabitants to job interviews. Again, think like the people you want to help. Tell them when and where to report and how they can get back and forth. They are ready to work.

If it takes a national conversation on race and poverty to get things moving, I want to start the dialogue. I want Americans to learn how people who live from paycheck to paycheck budget their time and limited resources. I want America to hear what it's like living with no health insurance and waiting for hours to see a medical professional. I want America to hear what it's like working two shifts at a minimum-wage job so everyone will understand why President Bush's decision to waive the Davis-Bacon Act, which guarantees that federal contracts pay workers prevailing wages, is an awful mistake and an insult to the people of the region.

I want America to hear from small and minority businesses about the cumbersome rules and the maze of red tape they went through to get certified only to learn that they may not qualify for the rebuilding work ahead. I am excited about some of the plans designed to help people rebuild their lives and communities, especially the plan to use excess federal land to build new homes. But, Congress should make sure that local people are involved in this process.

Congress can lead the way through public hearings to examine what went wrong and where we go from here. For God's sake, let's be honest with each other and respect our various opinions.

The people who raised me and so many others along the Gulf Coast did not sit on their behinds all day. They worked three or four jobs to make ends meet. They taught us to play by the rules, respect others, get an education and work hard. I still play by those rules, but my family and many others need support and assistance from Congress to help get back in the game.

Donna L. Brazile, the campaign manager for Democratic presidential nominee Al Gore in 2000, runs her own grass-roots political consulting firm.

President Sinking In Ratings (USAT)

By Susan Page

USA Today, September 20, 2005

WASHINGTON — Americans' views of President Bush and his leadership have soured in the wake of dismay over the government's response to Hurricane Katrina, the course of the Iraq war and the future of the economy.

Bush's rating for handling each of those issues dropped to his lowest yet in a USA TODAY/CNN/Gallup Poll taken Friday through Sunday. Assessments of his personal qualities also fell: For the first time, a majority says he isn't a strong and decisive leader.

Bush's overall approval rating is 40%, equaling a previous low. His disapproval is 58%, a new high.

"Bush stands at a precipice," says Carroll Doherty of the non-partisan Pew Research Center. "He's lost ground among independents. He seems to be starting to lose ground among his own party. And he lost the Democrats a long time ago."

By a record 66%-31%, independents disapprove of the job Bush is doing as president.

White House press secretary Scott McClellan says the president "knows a leader must govern based on what he believes is right, not based on polls." Bush is "working to address the priorities that Americans are most concerned about," he says.

Of the poll's respondents, 30% identified themselves as Republicans, 33% as independents and 36% as Democrats.

The survey shows signs of friction between the two most pressing concerns on Bush's agenda: the Iraq war and Katrina recovery.

A 54% majority says the best way for the government to pay for hurricane relief is by cutting spending for the war. Just 6% support spending cuts in domestic programs, as Bush has suggested.

Nearly two-thirds of those polled, 63%, say some or all of the U.S. troops in Iraq should be withdrawn. A record-high 59% say it was a mistake to invade.

Bush's standing declined even though Americans, by 45%-27%, approve of the proposals he unveiled in a nationally televised address Thursday to deal with Katrina. Seven in 10 express confidence the administration can assist victims.

But assessments of Bush on the hurricane dipped after the speech: 56% say he has taken steps to help victims mostly for political reasons, not because he cares about them.

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By more than 4-to-1, Americans want an independent panel — not Congress — to investigate the government's response to Katrina.

Some Firms Hired In Katrina's Wake Have Checkered Pasts (WSJ)

By Yochi J. Dreazen

The Wall Street Journal, September 20, 2005

GoldStar EMS was on the ropes earlier this year, beset by legal problems.

The Texas ambulance provider's offices had been raided by the Federal Bureau of Investigation as part of a widening investigation into alleged Medicaid fraud. It faced a $1.3 million tax lien from the Internal Revenue Service. It had been forced to file for emergency bankruptcy protection to prevent the local tax assessors who had seized its airplane from also taking its helicopters. It had closed many of its offices across the state and fired two-thirds of its work force. Dozens of its ambulances sat idle in a parking lot in preparation for a fire sale.

Then Hurricane Katrina tore through the Gulf Coast, and GoldStar's fortunes began to change. Desperate to get ambulances into flood-ravaged areas of Louisiana, the Federal Emergency Management Agency put out a call for help. C. Henderson Consulting Inc., a small East Texas firm, bid for the work and signed a federal contract to provide up to 50 ambulances a day through the end of September at a total cost of $5.2 million.

Then Henderson Consulting went looking for subcontractors capable of providing dozens of ambulances immediately. The only firm it found with that many vehicles on hand was GoldStar, which soon had a subcontract to provide up to 45 ambulances a day at a profit of $800 per vehicle per day.

"Most ambulance companies wouldn't be able to supply 45 ambulances on a dime like that. But ours were just sitting there in the lot, so it was a nice coincidence for everyone," says Edward Rothberg, GoldStar's attorney. "It would be pretty sad for the government to say that we won't use GoldStar because they're being investigated, so we'll leave people to die in the streets."

The GoldStar contract illustrates one of the unintended consequences of what is shaping up to be the largest government rebuilding effort in U.S. history. As the Bush administration rushes to rebuild Louisiana, it faces the prospect of turning to companies with checkered histories that even include disputes with other arms of the government. It's essentially a no-win situation: If officials don't get quick results, they're likely to be criticized for getting bogged down in bureaucracy. But if they push some of the contracting formalities aside, they may find themselves employing unreliable or unsavory companies.

Companies that are involved in earlier disputes with the government are often "so clearly unreliable" that similar problems could well arise during the relief work, says Danielle Brian, executive director of the Project on Government Oversight, a government watchdog in Washington.

FEMA officials say they do have a procedure to review the background of Katrina contractors. First, they check with the General Services Administration to see if a company has been suspended or barred from government contracts. Then they check FEMA's own database to see if the agency has had problems with the contractor in the past. If problems are found, FEMA won't sign up the company.

But such checks aren't likely to disclose much about first-time contractors or about companies that haven't been formally barred from federal work but still face tax liens, criminal investigations or other disputes with other parts of the government. And FEMA doesn't investigate the backgrounds of subcontractors at all, because, as spokesman Michael Widomski says, its work is "specifically through the main contractor."

The potential problems are complicated by the sheer volume of federal money being devoted to rebuilding the Gulf Coast. Yesterday, in response to congressional concerns about potential contracting problems, the Bush administration announced it was hiring FEMA's former acting chief financial officer, Matthew Jadacki, to head a new Office for Hurricane Katrina Oversight, with offices in Louisiana, Mississippi and Alabama. But that may not assuage a bipartisan group of lawmakers that has questioned FEMA's ability to monitor spending. Last week the group proposed legislation to create an independent watchdog modeled on a similar office in Iraq.

GoldStar isn't the only company hired in the wake of Katrina that has had prior run-ins with government agencies. Last month, Illinois state police terminated a $7 million contract with Bode Technology Group Inc., a subcontractor for the company hired by the U.S. to recover and identify Katrina victims. The Springfield, Va., company, which is a division of ChoicePoint Inc., found "false negatives" on many of the samples it was testing for the state police. Bode, which was reviewing rape kits, said it had found no usable evidence in many of the samples. But the state police, which performed its own quality-control tests, found otherwise.

In a written statement, Bode expressed "regret" about the state police decision on the contract and said the dispute centered on an older type of lab work rather than DNA testing.

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The Katrina contract has been a lifeline for GoldStar, whose fortunes had plummeted after a meteoric rise. GoldStar Chief Executive Ralph Crall served as the pastor of a small church he founded and funded in East Texas. He launched GoldStar in 1998, along with an associate he met when the two handled public relations for American Medical Response, then the largest private ambulance provider in Texas. The new company soon displaced AMR. At its peak it owned 90 ambulances, two helicopters and two Learjets, held contracts with cities like Galveston and Corpus Christi, and had annual revenue of more than $20 million, Mr. Rothberg says.

But GoldStar's ascent was soon shadowed by accusations of billing irregularities and poor ambulance response times. Since 2003, eleven complaints were lodged against the company with Texas regulators, far more than any other ambulance organization had. A former employee sued, claiming he was fired after reporting "a potentially serious safety concern." And an investigative article in a Houston alternative newspaper, the Houston Press, concluded that the company "maximized profits and growth at the expense of the injured."

Last April, FBI agents raided seven of GoldStar's offices, confiscating patient records and other files as part of an intensive investigation into whether the company and its top executives had committed Medicaid fraud, according to people familiar with the probe. Mr. Rothberg denied wrongdoing and blamed a competitor or disgruntled former employee for lodging the complaint that triggered the probe. Prosecutors in the U.S. attorney's office in Beaumont, Texas, said last week that the investigation is ongoing but declined further comment.

GoldStar's problems deepened weeks later when tax collectors in Jefferson County sent constables to seize one of the company's jets over an unpaid tax bill of more than $70,000 and made plans to seize its helicopters as well, according to Miriam K. Johnson, the tax assessor there. "It's an unusual move for us to make out here," she says. "We only do it when we know a company is in trouble and we realize we need to protect the county the best we can."

The company filed for bankruptcy protection so that it could keep the helicopters but began scaling back significantly. It pulled out of Jefferson County and a half-dozen other East Texas counties and fired hundreds of workers, reducing its total work force to about 120, Mr. Rothberg says. It also closed a debt-ridden air-service subsidiary called GoldStar Angel Flight, selling off its helicopters and turning its remaining jet over to creditors, he says.

The legal and financial problems had put GoldStar on life support until Katrina hit and its unused ambulances suddenly became a valuable resource. Under the terms of its deal with FEMA, Henderson Consulting is paid $3,100 a day for each ambulance and two-person crew, Mr. Rothberg says. Under the agreement between Henderson and GoldStar, the two companies split the profit on each ambulance equally, he says, allowing each company to net about $800 a vehicle.

John C. Henderson, the owner of Henderson Consulting, says he knew about GoldStar's troubles when he struck the deal but accepted the company's assurances that they would be resolved in its bankruptcy proceedings. "Their legal and financial problems aren't any concern of ours," he says.

Mr. Rothberg, meanwhile, says the company is proud of its work in Texas and hopes its initial monthlong subcontract will be extended. He defends the company's right to win Katrina contracts. "We still live in America, and we're still innocent until proven guilty," he says.

Federal Contractors Seek Liability Shields (WP)

By Renae Merle

The Washington Post, September 20, 2005

Contractors working on Hurricane Katrina relief efforts for the federal government want Congress to limit their liability from lawsuits and are drafting legislation to seek such protection, industry officials said yesterday.

The Army Corps of Engineers and the Federal Emergency Management Agency have relied on contractors, including several who started work without a contract, to fix the levees in New Orleans and pump water out of the city. But the companies have become concerned about the liability issue because of lawsuits filed against construction firms that helped clean up the World Trade Center after the Sept. 11, 2001, terrorist attacks.

"We're asking for some reasonable limits for going into the Gulf Coast and dealing with unknowns," Michael E. Kennedy, general counsel for the Associated General Contractors of America, said after a meeting of the trade group in Washington. "A contractor goes into an unknown situation to remove debris or fix a utility line, and three years from now someone decides they did it improperly."

The Corps has already contracted with more than a dozen companies for work worth $2.8 billion during the next year. Those companies will be joined by dozens more as reconstruction of the region begins.

The bill that the trade group is drafting would limit contractors' liabilities but still hold them responsible for following government regulations, Kennedy said. It would be similar to regulations the Homeland Security Department unveiled last year that protect companies selling security technology from lawsuits triggered by a terrorist act.

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Legislation was introduced in the House last week to shield volunteer contractors from liability. The general contractors' bill would extend the coverage to companies working under the government.

"You can consider these contractors as an extension of the government; they are performing a lot of public" duties, Kennedy said.

Robert S. Boh, president of Boh Bros. Construction Co. of New Orleans, said yesterday that he favors such a bill. His firm moved its New Orleans offices to Baton Rouge, La., after the hurricane hit but was soon hired by the Corps to fix the levees and pump water out of the city.

"We're simply showing up and responding to verbal direction," Boh said. "We're not adequately able to assess the request for risks."

Also yesterday, the Homeland Security Department's inspector general appointed a National Weather Service official who once served as acting chief financial officer of FEMA to lead the office's work overseeing Katrina spending.

Matthew A. Jadacki, who worked at FEMA from 1991 to 2004, will "be responsible for overseeing the management and expenditures of all contracts, grants and governmental operations related to Hurricane Katrina relief efforts," according to a Homeland Security Department statement.

Jadacki's appointment comes as members of Congress continue to debate other ideas for how the government will monitor the flow of money for Gulf Coast reconstruction. The proposals include establishing a special inspector general's office, expanding the duties of the special inspector general for Iraq reconstruction or establishing a chief financial officer.

Some in Congress are concerned that Homeland Security's inspector general's office will not have the resources to monitor the department's regular work, as well as the tens of billions of dollars flowing into the Gulf Coast. Homeland Security Department officials, however, have said the department's IG office is up to the task.

House GOP Scraps Plan For Joint Probe On Hurricane Response (LAT)

By Mary Curtius

The Los Angeles Times, September 20, 2005

WASHINGTON — Congressional Republicans signaled today that they have abandoned their plan to conduct a joint House-Senate probe of the government's response to Hurricane Katrina.

In announcing a joint probe this month, the Republican leadership had said it would be the most efficient way to investigate the administration's much-criticized initial response to the hurricane. But today, Senate Majority Leader Bill Frist (R-Tenn.) conceded that he could not overcome Democratic opposition to a joint investigation.

The Democratic leadership has refused to appoint members to a joint committee, citing the lack of equal representation of Democrats on the panel, and the lack of power to issue subpoenas that the majority opposed. Democrats also have insisted on an independent inquiry.

Democratic opposition has left Republicans little maneuvering room for mounting a credible probe. With the joint investigation apparently off the table, Republicans can only hope that Democrats will participate in each chamber's separate investigation. It was far from clear today that Democrats would do that.

In a letter sent to Senate Minority Leader Harry Reid (D-Nev.), Frist offered that instead of a joint House-Senate probe, the Senate would conduct its own investigation and "coordinate" its efforts with the House "so as to minimize the burdens placed on those who are coming to Washington, D.C. from the gulf coast region."

Frist also said he was willing to name the members of the Homeland Security and Governmental Affairs committee as members of the Senate's special panel to probe the disaster. But a spokeswoman for Reid said the majority leader had rejected the proposal.

Meanwhile, House Speaker Dennis Hastert (R-Ill.) was having no more luck persuading House Democrats to participate in that chamber's probe.

Late last week, Hastert named Rep. Tom Davis (R-Va.), chairman of the House Governmental Reform Committee, to head the House's special panel investigating the hurricane response. Davis may name Republican members to that committee as early as Tuesday and is planning his first hearing later this week.

House Minority Leader Nancy Pelosi (D-San Francisco) remains adamant that Democrats will not participate in the House committee.

Congress — Again — Misses The Boat (USAT)

By Ross K. Baker

USA Today, September 20, 2005

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The first reaction to Hurricane Katrina from members of Congress was not one to inspire confidence in our legislative branch.

House Speaker Dennis Hastert, R-Ill., when asked about the devastation in New Orleans, told a Chicago newspaper on Aug. 31 that it made little sense to spend billions of dollars to rebuild a city that is7 feet below sea level. This drew a sharp rejoinder from Louisiana's Democratic Sen. Mary Landrieu and compelled Hastert to spend much of the day trying to soften his remarks. The episode set the tone for what was to follow — a rancorous debate over how to get to the bottom of the failure of governments at all levels to cope with the ravages of the storm.

In a well-ordered world, a calamity of the magnitude of Hurricane Katrina ought to be the subject of a congressional investigation. From the earliest days of the republic, the House of Representatives and Senate had unquestioned responsibility for probing and, yes, finger-pointing in calamities' aftermath.

That, sadly, is no longer true. Congress has fallen victim to a number of problems that have caused Americans to look elsewhere for answers.

The first of these problems is the fractious spirit of partisanship that has so infected Capitol Hill that no conclusion Congress might reach about who was responsible for the botched response to Katrina would have much legitimacy in the eyes of Americans.

A panel of one party

Republican leaders in Congress proposed the creation of a House-Senate committee to investigate the belated relief efforts. They reached this decision without the involvement of Democrats and further undercut the authority of this committee by announcing that Republican members would outnumber Democrats. Democratic leaders in both houses hastened to denounce the plan and have, thus far, declined to participate.

This kind of partisan bickering caused some lawmakers — Sen. Hillary Clinton, D-N.Y., most prominently — to call for the establishment of an independent panel modeled on the 9/11 Commission to ferret out the causes of the debacle on the Gulf Coast. A panel, along the lines of that commission, with its widely acclaimed hearings and best-selling report, would satisfy the American people that they were getting the straight story. But it is deeply troubling that only by bypassing Congress would citizens conclude that the truth is being told. In all likelihood, the public would be equally skeptical of a panel dominated by Democrats.

But it is more than partisanship that has impeded Congress' ability to avert or probe causes of disasters. The perverse arrangement of committees supervising agencies responsible for disaster relief also impairs the lawmakers. The Federal Emergency Management Agency (FEMA) and the Coast Guard have their operations monitored by two committees. Fear on the part of congressional committee chairmen of losing control over federal agencies to other committees makes a mockery of accountability.

The money Congress spends to avert disasters such as Katrina are distributed, not to those places at greatest risk, but often to those localities represented by legislators who are most influential.

Spoils go to influential

Homeland security money, for example, went to the organization that operates the ferry to fashionable Martha's Vineyard, and a rural county in Kentucky received money to fend off biological and chemical attacks.

Given the preference of terrorists for spectacular acts of violence against heavily populated places, these grants to inconspicuous rural communities is without justification, yet the heavy-hitters on Capitol Hill have resisted apportioning money to the most vulnerable cities and states and insist that all states get a decent ration of pork.

There are a few bright spots in this otherwise dismal picture of business as usual in Congress. Even before Katrina struck, the House Committee on Homeland Security was upgraded from a "select committee" with no legislative authority to a standing committee that can write and process bills. It has a new chairman, Rep. Peter King, R-N.Y., who is likely to be sensitive to the security needs of large cities.

On Friday, Sept. 16, the Republican and Democratic leaders of the Senate agreed to put aside, for the time being, the question of how the joint House-Senate committee would be organized and concentrate instead on expediting spending bills to aid the hurricane victims. This does not dispose of the issue but at least enables Congress to deal immediately with the most pressing problems of recovery.

But even these few glimmers of hope can quickly dim if relief and reconstruction after the hurricane degenerate into squabbles over pork, turf and partisan credit. It's truly an ill wind that blows no good, and perhaps one beneficial result of Katrina would be to infuse Congress with a new determination to restore itself to being the place we turn to for help — and for answers.

Ross K. Baker is a political science professor at Rutgers University. He also is a member of USA TODAY's board of contributors.

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Storm Threat Halts Returns To New Orleans (WP)

By Ceci Connolly

The Washington Post, September 20, 2005

NEW ORLEANS, Sept. 19 -- With Tropical Storm Rita bearing down on the Gulf of Mexico and growing political pressure from federal leaders, Mayor C. Ray Nagin said Monday that New Orleans residents could not return home after all and that any people already in the city should evacuate.

Nagin had been allowing business owners to return over the weekend, and on Monday residents of one dry neighborhood were to return to their homes. But Nagin reversed himself and ordered another mandatory evacuation, to begin Wednesday, just hours after President Bush questioned whether the city was safe enough for people to return.

"We are suspending all reentry into the city of New Orleans as of this moment," Nagin said. The mayor said he backed away from his earlier decision because of fresh fears about Rita, which forecasters said could become a hurricane by Tuesday.

"If we are off, I'd rather err on the side of conservatism to make sure we have everyone out," Nagin said.

The city's levees, overwhelmed by Hurricane Katrina, "are still in very weak condition" and many of the pumps used to push the mucky floodwaters back into Lake Pontchartrain are not yet operating, Nagin said. If Rita were to dump nine inches of rain on New Orleans, the result would be "three to four feet of flooding in most parts of the city," he said.

Asked if anything could be done to buttress the levee system before Rita were to strike, Nagin replied: "Just tell people to run."

Current weather projections indicate that Rita, which was threatening Key West, Fla., Monday night, could roar across the Gulf and strike the lower portions of Louisiana by the weekend. If, as some suggest, New Orleans sits on the "eastern side of the storm, we take the brunt of it," Nagin said.

As New Orleans residents faced the grim prospect of an even slower recovery, state officials put the still-rising Katrina death toll at 736 in Louisiana and the overall toll at 973.

Bush administration officials and Nagin have sparred publicly and in private in recent days over the mayor's push to demonstrate that New Orleans will be back in business soon. Last Thursday, he laid out a plan to permit up to 182,000 people to return over the course of 10 days.

Vice Adm. Thad W. Allen, the Coast Guard chief of staff tapped by Bush to lead the federal response here, said that move was "extremely problematic." Allen said it was dangerous to invite tens of thousands of people into a city with little clean water, a severely compromised sewer system, a manual 911 emergency call system and few hospitals or traffic lights.

Nagin, interviewed over the weekend in Dallas by Fox News, questioned Allen's credentials: "Since I have been away a day or two, maybe he's the new crowned federal mayor of New Orleans."

That prompted Bush to reinforce Allen's message, telling reporters he was taking the unusual step of commenting publicly to be certain the mayor got the message.

"We have made our position loud and clear," the president said Monday.

Although he defended his initial plan to reopen New Orleans, Nagin said the new decision to evacuate was based solely on long-range projections that show Rita has the potential to bring high winds and downpours to a city ill-equipped to handle another natural disaster.

"This is not a diversion," he said from his new command center in a downtown hotel. "This is a real threat."

Initially criticized for failing to move many of the city's impoverished black residents out on the weekend prior to Katrina, Nagin promised a more aggressive approach to the evacuation set to begin Wednesday.

"I don't play around with hurricanes," Nagin said. "I've seen Katrina."

Although Nagin said he would turn to active-duty soldiers and the National Guard to help the city's depleted police department enforce the new evacuation order, a Pentagon official said that is not the role of the military.

"They have not asked us to help them take anyone out of the city at this time," said Brig. Gen. Mark A. Graham, deputy commanding general of Fifth U.S. Army, which oversees the 82nd Airborne Division and other active-duty Army forces in the region. "We don't forcibly evacuate anyone. That's a law enforcement job."

The Department of Defense was also evaluating whether to send out to sea vessels such as the warship USS Iwo Jima, which is tied up at a Mississippi River dock in downtown New Orleans and is serving as command center for the military in the region.

"I'm certain they are contemplating that" because ships "have a better chance of riding out the storm" at sea than if they are tied up to moorings, said Maj. John Thomas, a spokesman for the federal recovery effort in Baton Rouge, La.

Many emergency responders who have helped rescue survivors and locate the dead here were pondering their next move, weighing whether they ought to flee before Rita's arrival or hunker down.

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Alexandria, La., Police Capt. John Henderson, who is helping run the city's command center, said aides were drawing up evacuation plans that would enable out-of-town relief workers to move to high ground if necessary later in the week.

Throughout the day, there were pockets of activity in Algiers, the neighborhood across the Mississippi River where residents were officially permitted to return. Even before Nagin's announcement, most residents said they had no intention of staying.

"I just came to clean up, salvage as much as I can," said Ramsey Washington, who drove back from his temporary home in Houston. "It's not livable. They got no jobs. No banks are open."

Sonia Badon, 35, has already rented an apartment in Baton Rouge; her employer has relocated his computer company there, too. On Monday, she and her boss and two friends were nailing a tarp onto the roof of her Halsey Avenue home.

Although her best friend has moved to Nashville in search of a job, Badon said she will return to her native New Orleans. But for now, she said with sweat rolling down her face, "It's too soon to come back."

City Clears Out Again (USAT)

By Laura Parker And Alan Levin

USA Today, September 20, 2005

NEW ORLEANS — Mayor Ray Nagin on Monday reversed his call for people to return to the city and ordered most people out over worries that a new tropical storm could flood the city again.

The announcement came after President Bush and the federal government's Hurricane Katrina response team urged the mayor to reconsider his plans, saying the city was not safe.

“The levee system is still in a weakened condition,” Nagin said at a late-afternoon news briefing. “Any type of storm will put the east bank of the city in harm's way.”

Tropical Storm Rita, which is heading toward the Gulf of Mexico, could become a major hurricane, the National Weather Service said.

Earlier in the day, Nagin had criticized Coast Guard Vice Adm. Thad Allen for publicly imploring him to stop people from returning. He called Allen a “good man” but said, “There's only one mayor of New Orleans, and I'm it.”

Allen warned that the city's water was largely undrinkable and its hospitals not working. He said there was no evacuation plan in case new floods rose from another storm, so residents should stay out.

Bush urged the mayor to heed Allen and reconsider. Nagin and Allen met later in the day.

“He's got this dream about having a city up and running, and we share that dream,” Bush said. “But we also want to be realistic about some of the hurdles and obstacles that we all confront in repopulating New Orleans.”

Nagin planned to have one-third of the city's 460,000 people return over the next week and a half. On Monday, he ordered everyone out except for people in Algiers, a neighborhood that was the first to be reopened. Thousands of people returned there Monday, but Nagin warned them to be ready to leave.

Louisiana Gov. Kathleen Blanco told coastal residents to be ready to go. “We will weather this storm as we have weathered Katrina,” she said.

Kelly Jordan, 27, who was dispensing pizzas from a trailer to emergency workers, said Nagin erred by reopening. “If he hadn't let people back in too soon, he wouldn't be having this problem,” she said. “He should have at least waited until the boil order (for water) was lifted.”

Mayor Suspends Flow Of People To New Orleans (NYT)

By William Yardley

The New York Times, September 20, 2005

NEW ORLEANS, Sept. 19 - Under pressure from President Bush and with a new storm threatening the Gulf of Mexico, Mayor C. Ray Nagin suspended on Monday his controversial plan to allow people to return to this vulnerable city.

Instead Mr. Nagin called for a "mandatory" evacuation of many of the residents who have returned or never left.

"This is a different type of event," the mayor said of the storm, Rita. "Our levee systems are still in a very weak condition. Our pumping stations are not at full capacity, and any type of storm that heads this way and hits us will put the east bank of Orleans Parish in very significant harm's way. So I'm encouraging everyone to leave."

The mayor reversed himself hours after Mr. Bush had questioned whether it was safe for residents to return. The president reiterated warnings by Vice Adm. Thad W. Allen of the Coast Guard, leader of the federal recovery effort, that the levee system was weakened, that the 911 emergency telephone system was not working, that the hospitals remained closed and that pollutants were in the air and water.

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"Admiral Allen speaks for the administration," Mr. Bush said on Monday in Washington. "We have made our position loud and clear. The mayor needs to hear, and so do the people of New Orleans, our objective.

"Listen, I went there and stood in Jackson Square to say we want this city to re-emerge. As I said, I can't imagine America without a vibrant New Orleans. It's just a matter of timing, and there's issues to be dealt with.

"If it were to rain a lot, there is concern from the Army Corps of Engineers that the levees might break. And so therefore, we're cautious about encouraging people to return at this moment of history."

The dispute over access reflected three weeks of tension, despite public reconciliations, between federal and local authorities over the response to Hurricane Katrina, which struck on Aug. 29.

Mr. Nagin said the new storm and sewer problems, but not political problems, had prompted the change.

"I understand the federal government was a little, uh, excited about the plan," he said. "They didn't feel as though conditions were quite right. But my thought has always been that if we have this many resources in the city working cooperatively, then we could correct just about any situation that was out there."

Forecasters said the new storm, which passed through the Bahamas on Monday, was expected to strengthen into a major hurricane in the Gulf of Mexico this week and potentially strike Texas, near the Louisiana border. The mayor asked people remaining in the city to leave or at least "be prepared" to evacuate as soon as Wednesday, depending on the storm track.

The terms of the evacuation were not fully clear. The mayor said the east bank of the city, which includes historic neighborhoods like the French Quarter, as well as those most devastated by flooding, was under the same mandatory evacuation he issued before Hurricane Katrina. But he said people in those areas would not yet be forced to leave.

Mr. Nagin and Gov. Kathleen Babineaux Blanco, said buses would be in place to remove people who needed transportation. In a statement after the mayor's announcement, the city said it that it had requested 200 buses and that it already had 150. If the storm threatens the city, the plan calls for residents to start boarding the buses 48 hours before the projected landfall from the Ernest M. Morial Convention Center downtown and from Behman Stadium in the Algiers section.

The governor said more details of the plan would be available on Tuesday.

In Algiers, a section of the city across the Mississippi that did not flood, Mr. Nagin asked residents to "be prepared to evacuate as early as Wednesday." He made that call hours after the city had officially begun letting residents return to that area, the first major neighborhood, with 60,000 people before the storm, to reopen.

Word of another potential evacuation was met with some acceptance, some resistance and much frustration in Algiers. After a long drive home from Pensacola, Fla., Roy McGinnis parked his Dodge Caravan on Magellan Street, home at last.

"I can't take another evacuation," Mr. Magellan said. "I have my grandchildren with me. I have my whole family with me. The first storm to hit, we haven't gotten over that yet. We've been on the road. We can't get back on the road.

Others were less defiant. Diane Craik, a real estate broker who had stayed in San Diego during Hurricane Katrina, made a half joke about moving to California for good.

"If they say evacuate, we're going," Ms. Craik said. "It's crazy. This is just stuff. I wouldn't stay for stuff."

The death toll in Louisiana from Hurricane Katrina rose to 737 on Monday, from 646 on Sunday.

By Monday afternoon, a police officer on Interstate 10 turned away all residents going into the city because of the new storm threat. Just contractors and the news media entered, said the officer, Gus James.

Some low-lying areas close to Lake Pontchartain remain under water.

"Three inches will cause some flooding," Col. Terry J. Ebbert, homeland security director of the city, said about more rain.

"The real problem," he said, citing the weakened levees, "is storm surge."

The Army Corps of Engineers has warned for days that the repaired levee system around the city, most of which is below sea level, would not protect the area from another hurricane or even a heavy storm.

"Initially when the storm struck, we thought they might be in a little better condition," a spokesman for the corps, Eugene A. Pawlik, said. "We had not had the opportunity to go out and do a full inspection of the levees."

Now, Mr. Pawlik said, it is clear that the city "can't take much of a hit."

After inspections, the corps has found that many areas of levees that had been "overtopped" have become significantly lower than their designed heights. Some levee stretches, including those along the Mississippi River Gulf Outlet canal, have been entirely eroded away, from original heights of 17 feet "to almost ground level," Mr. Pawlik said.

In the coming months, the corps plans to work through three phases. The first one to close the gaps in the levees, the second to rebuild the levees to their former height and the third to return the levees to their pre-storm structural strength.

The corps plans to have the third phase completed by next June, when the 2006 hurricane season begins. The repairs would restore the levees only to their strength before Hurricane Katrina.

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The mayor, asked whether the city could allow residents to safely return at a point in the near future, knowing that hurricane seasons does not end until Nov. 30, said the city would resume its phased in re-entries in some form after the threat from the new storm had passed.

He emphasized that the program was not intended for everyone in a city with no open schools and no public transportation.

"I think we can, as long as those are mobile residents that come back and as long as we're not encouraging children to come back and elderly," Mr. Nagin said. "I think we can do it. We need a very flexible citizen that comes back. And I think our citizens are smart enough to understand the difference."

A spokesman for the Louisiana Office of Homeland Security and Emergency Preparation, Mark Smith, said emergency personnel would also have to be evacuated if the new storm turned toward New Orleans. He said 16,000 National Guard and regular Army soldiers were in New Orleans, along with several thousand workers from contractors for the Federal Emergency Management Agency, FEMA employees and other relief workers would be affected.

Mayor Nagin has said the federal presence proves how safe the city is after widespread looting and violence in the first days after Hurricane Katrina. But he has also resisted federal intervention at times.

Noting that Admiral Allen had urged residents not to return, the mayor said: "The admiral's a good man. I respect him. But when he starts talking to the citizens of New Orleans, that's kind of out of his lane. There's only one mayor of New Orleans and I'm it."

Bush Questions Reopening Of New Orleans (AJC/AP)

By Jennifer Loven, Associated Press Writer

The Atlanta Journal-Constitution, September 20, 2005

WASHINGTON — Criticized for weeks for failing to react aggressively enough to Hurricane Katrina, President Bush on Monday put some muscle behind concerns that a new tropical storm could again deluge New Orleans and the people being allowed to return to the ruined city.

It worked. Six hours after Bush questioned New Orleans Mayor Ray Nagin's plan to bring as many as a third of the city's population back over the next week, Nagin reversed course and said he was suspending it.

Appearing at the White House with his homeland security council, Bush said he had "deep concern" about the possibility that Tropical Storm Rita, which was headed toward the Florida Keys, could move into the Gulf of Mexico and impact New Orleans.

"If it were to rain a lot, there is concern from the Army Corps of Engineers that the levees might break," Bush said. Among the many other concerns are a lack of drinkable water and fears about contamination levels in the remaining floodwaters and the muck left behind in drained areas.

As Bush spoke, residents had begun trickling back into the city.

Besides the president's public words, White House chief of staff Andrew Card pressed the point on the phone with Nagin. And Coast Guard Vice Adm. Thad Allen, head of the federal government's hurricane response, delivered federal officials' concerns to Nagin later Monday — after appearing on numerous TV shows to express dismay with the city plan.

"The mayor needs to hear him. So do the people of New Orleans," Bush said. "We're cautious about encouraging people to return at this moment of history."

The president stressed that it's not a question of if residents return, but when — "it's just a matter of timing," he said. And the White House rebuffed any discussion of forcing the city to bend to Washington's wishes, preferring to let discussions take their course.

At a news conference in New Orleans, Nagin not only said the reopening was off, but that everyone who was in the city needed to evacuate because of Rita. "I'd rather err on the side of conservatism to make sure we have everyone out," he said.

Bush, however, continuing his effort to undo the political damage from the bumbled early response by keeping a heavy storm-related schedule, was heading into New Orleans. Making his fifth trip to the hurricane zone, the president was meeting Tuesday with local officials and business leaders in Gulfport, Miss., followed by a stop to a business trying to get back on its feet.

He planned to return south Friday and Saturday, traveling to Alabama, Texas and Arkansas. "The trip will be an opportunity for the president to personally thank some cities and states that have taken in large numbers of our fellow citizens affected by Katrina," said White House press secretary Scott McClellan.

Being away from Washington on Saturday will keep Bush far from an anti-war march that organizers hope will attract 100,000 people. The demonstration is expected to include Cindy Sheehan, the California mother of a soldier killed in Iraq.

Sheehan, who set up camp outside Bush's Texas ranch in August and drew thousands of fellow protesters, has been on a 25-state bus tour scheduled to end at the Washington march.

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On another front, 21 House Republicans sent a letter demanding that Bush find offsets in the budget to defray the massive cost of rebuilding the Gulf Coast. Conservatives, worried that the deficit will balloon, have been alarmed at the pace of spending with no talk of how to pay for it.

"We find this fiscal situation troublesome and urge your administration to follow the examples of previous administrations facing fiscal difficulties in time of emergencies and exercise spending restraint," said the Sept. 15 letter by Rep. Marsha Blackburn, R-Tenn.

Sen. John McCain, R-Ariz., suggested dropping the Medicare prescription drug plan, which he has long opposed. "It was supposed to cost $400 billion dollars," he told CBS Evening News. "It's now up to $700 billion. We ought to cancel it, go back to square one."

Bush on Friday ruled out raising taxes to pay Katrina expenses and said other government spending must be cut. His aides have said, though, that no such cuts have yet been identified and that the hurricane relief effort will temporarily swell the deficit. Estimates of the final cost have reached $200 billion and more.

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Associated Press writer Jonathan M. Katz in Washington contributed to this story.

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On the Net:

White House: http://www.whitehouse.gov

New Orleans Suspends Reopening Of City (AJC/AP)

By Michael Rubinkam, Associated Press Writer

The Atlanta Journal-Constitution, September 20, 2005

NEW ORLEANS — Under pressure from President Bush and other top federal officials, the mayor suspended the reopening of large portions of the city Monday and instead ordered nearly everyone out because of the risk of a new round of flooding from a tropical storm on the way.

"If we are off, I'd rather err on the side of conservatism to make sure we have everyone out," Mayor Ray Nagin said.

The announcement came after repeated warnings from top federal officials — and the president himself — that New Orleans was not safe enough to reopen. Among other things, federal officials warned that Tropical Storm Rita could breach the city's temporarily patched-up levees and swamp the city all over again.

The official death toll from Hurricane Katrina reached 973 across the Gulf Coast, with the number in Louisiana alone rising by 90 to 736.

The mayor reversed course even as residents began trickling back to the first neighborhood opened as part of his plan, the less damaged Algiers section.

Nagin wanted to reopen some of the city's signature neighborhoods over the coming week to reassure the people of New Orleans that "there was a city to come back to."

But "now we have conditions that have changed. We have another hurricane that is approaching us," Nagin said. He warned that the city's pumping system was not yet running at full capacity and that the levees were still in a "very weak position."

The mayor ordered residents who circumvented checkpoints and slipped back into still-closed parts of the city, including the French Quarter, to leave immediately.

Nagin also urged everyone already settled back into Algiers to be ready to evacuate as early as Wednesday. The city requested 200 buses to help if necessary.

Louisiana Gov. Kathleen Blanco, in a televised address Monday, also urged residents of coastal southwest Louisiana to be prepared to leave. More evacuees would strain the shelters in Texas, she said, so she urged people to head for central and northern Louisiana instead.

"We will pray that Rita will not devastate Louisiana, but today we do not know the answer to that question," Blanco said.

Tropical Storm Rita was headed toward the Florida Keys and was expected to become a hurricane, cross the Gulf of Mexico and reach Texas or Mexico by the weekend. But forecasters said it could veer toward Louisiana and New Orleans' weakened levees.

"We're watching Tropical Storm Rita's projected path and, depending on its strength and how much rain falls, everything could change," said Col. Duane Gapinski, of the Army Corps of Engineers task force draining New Orleans and repairing levees.

The dispute over the mayor's plan to quickly reopen New Orleans and bring back about 180,000 of the city's half-million inhabitants was just the latest example of the lack of federal-local coordination that has marked the disaster almost from the start.

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Nagin saw a quick reopening as a way to get the storm-battered city back in the business of luring tourists. But federal officials warned it would be premature, pointing out much of the area does not yet have full electricity, drinkable water, 911 service or working hospitals.

Coast Guard Vice Adm. Thad Allen, who heads the federal recovery effort in the region, went on one news show after another over the weekend to warn that city services may not be able to handle an influx of people.

Allen said repeatedly that he intended to have a frank discussion with Nagin about his concerns on Monday, but the two didn't meet until after Nagin held a news conference to announce he was suspending re-entry to the city, a mayor's spokeswoman said.

Nagin had spent the weekend in Dallas, where he moved his family and has enrolled his daughter in school, and he missed an appointment with Allen because his flight home was delayed, she said.

Earlier, a clearly agitated Nagin had snapped that Allen had apparently made himself "the new crowned federal mayor of New Orleans."

Allen tried unsuccessfully to reach the mayor by cell phone over the weekend, a Coast Guard spokesman. President Bush said White House chief of staff Andrew Card had also been pressing Nagin to pull back on the plan.

With the approach of Rita, Bush added his own voice to the mix, saying he had "deep concern" about the possibility that New Orleans' levees could be breached again.

In addition, Bush said there are significant environmental concerns. New Orleans still lacks safe drinking water, and there are fears about the contamination in the remaining floodwaters and the muck left behind in drained areas of the city.

"The mayor — you know, he's got this dream about having a city up and running, and we share that dream," the president said. "But we also want to be realistic about some of the hurdles and obstacles that we all confront in repopulating New Orleans."

About 20 percent of the city is still flooded, down from a high of about 80 percent after Katrina, and the water was expected to be pumped out by Sept. 30.

But officials with the Army Corps of Engineers said the repairs to the levees breached by Katrina are not yet strong enough to prevent flooding in a moderate storm, much less another hurricane. Brig. Gen. Robert Crear said Monday they hope to have the levees capable of handling a Category 3 storm by June, the start of hurricane season.

Nagin did not give any specifics about how he plans to enforce the renewed evacuation order.

In the raucous French Quarter, about a half-mile from where Nagin made his announcement, businesses were getting up and running, and bars were serving cold beers to National Guardsmen and passers-by.

Del Juneau, owner of a Bourbon Street lingerie shop, said it would be premature to order an evacuation based on the storm nearing Florida. "Where are you going to go? What are you going to do?" he said. "I'm not going anywhere."

Down the street at the Famous Door, bartender C.B. Dover, said: "If we have a forced evacuation, we'll go. If it's not forced, we're not going anywhere." Dover said the mayor "has been overreacting the whole time. ... He's reacting emotionally, and you can't do that."

Earlier in the day, as residents began streaming in at the mayor's invitation, cars were backed for two hours at an Interstate 10 checkpoint into the city. Tractor-trailers, emergency vehicles and National Guard trucks shared the highway with cars towing trailers full of hurricane gear and pickup trucks with their beds loaded with water, cleaning materials and coolers.

It was clear that at least some of the traffic was headed to sections of the city that had not yet officially opened.

Algiers, a neighborhood of 57,000 just across the Mississippi River from the French Quarter, is home to many of the companies that make floats for Mardi Gras parades. Unlike much of the rest of the city, it saw little damage from Hurricane Katrina three weeks ago and has electricity and drinkable water.

"Obviously we need to get businesses up and running any way we can," said Barry Kern, whose float businesses is stocked to the rafters with oversized imaginary creatures. "If we don't start somewhere, where do we start?"

Elsewhere across the city, where the damage was more severe, much of the sentiment seemed to be with the mayor and his attempts to reopen the city quickly.

"Send Bush here and we'll make him a po' boy and tell him to leave us alone," Kathleen Horn said as she cleaned up the debris piled in front of Slim Goodies Diner on Magazine Street in Uptown.

New Storm Halts Reopening Of Big Easy (WT/AP)

By Michael Rubinkam, Associated Press

The Washington Times, September 20, 2005

NEW ORLEANS -- The mayor yesterday suspended residents' re-entry into the city and ordered nearly everyone out, fearing a new round of flooding from an incoming tropical storm, just as about 90 percent of floodwaters had been pumped out.

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"If we are off, I'd rather err on the side of conservatism to make sure we have everyone out," said Mayor C. Ray Nagin, who was implementing a plan to open large parts of city, including the French Quarter, over the objections of federal officials.

President Bush and other top federal officials yesterday said New Orleans was not safe to reopen, warning that, among other things, Tropical Storm Rita could breach the city's temporarily patched-up levees and swamp the city all over again.

News of Mr. Nagin's reversal came as the death toll from Hurricane Katrina reached 973 across the Gulf Coast, with an increase in Louisiana by 90 to 736, and as U.S. Army Corps of Engineers officials predicted that they would have the floodwaters removed from the city by Sept. 30 -- about five months faster than initial estimates.

"We have another hurricane that is approaching us," Mr. Nagin said, warning that the city's pumping system was not running at full capacity and that the levees were still in a "very weak position."

He ordered residents who circumvented checkpoints and slipped back into the still officially closed parts of the city to leave immediately. Those areas include the historic French Quarter, the Garden District, Uptown and the central business district.

Mr. Nagin also urged everyone already settled back into Algiers to be ready to evacuate as early as tomorrow. The city requested 200 buses to help if necessary.

Tropical Storm Rita was headed toward the Florida Keys and was expected to become a hurricane, cross the Gulf of Mexico and reach Texas or Mexico by the weekend. But forecasters said it could also veer toward Louisiana.

"We're watching Tropical Storm Rita's projected path and, depending on its strength and how much rain falls, everything could change. Residents moving into the area may have to evacuate again," said Col. Duane Gapinski, commander of the Army Corps of Engineers task force that is draining New Orleans and repairing the levees.

Under the mayor's plan, Algiers opened yesterday, and Uptown, the Garden District and the French Quarter were supposed to reopen one ZIP code at a time between Wednesday and next Monday, bringing about 180,000 of New Orleans' half-million inhabitants back.

The dispute over reopening large parts of the city was just the latest example of the lack of federal-local coordination that has marked the disaster practically from the start.

Mr. Nagin saw a quick reopening as a way to get the storm-battered city back in the business of luring tourists. But federal officials warned that such a move could be a few weeks premature, pointing out much of the area does not have full electricity, drinkable water, 911 service or working hospitals.

With the approach of Rita, Mr. Bush added his voice, saying he had "deep concern" about the possibility that New Orleans' levees could be breached again.

Mr. Bush said White House Chief of Staff Andrew H. Card Jr. had been pressing the matter with Mr. Nagin. The concerns were also echoed by the top federal official in charge in New Orleans, Coast Guard Vice Adm. Thad W. Allen, who appeared on one news show after another to warn that city services might not be able to handle the influx of people.

Before reversing course yesterday, a clearly agitated Mr. Nagin snapped that Adm. Allen had apparently made himself "the new crowned federal mayor of New Orleans."

It was not known whether Mr. Nagin met with Adm. Allen, who said this weekend that he intended to have a frank discussion with the mayor yesterday.

About 13 percent of the city is still flooded, down from a high of about 80 percent after Katrina hit, a top Army Corps of Engineers official told the Los Angeles Times.

But officials said the repairs to the levees breached by Katrina are not strong enough to prevent flooding in a moderate storm, much less another hurricane.

Louisiana Gov. Kathleen Babineaux Blanco, in a televised address yesterday, also urged residents of coastal southwestern Louisiana to be prepared to leave. More evacuees would strain the shelters in Texas, she said, so she urged people to head for central and northern Louisiana instead.

"We will pray that Rita will not devastate Louisiana, but today we do not know the answer to that question," she said.

In the raucous French Quarter, about a half-mile from where Mr. Nagin made his announcement, businesses were getting up and running and were serving cold beers to National Guardsmen and passers-by.

Del Juneau, owner of a Bourbon Street lingerie shop, said it would be premature to order an evacuation based on the storm nearing Florida.

"Where are you going to go? What are you going to do?" he said. "I'm not going anywhere."

Reopening Of Parts Of New Orleans Delayed (KRT)

By Gary Estwick, Susannah A. Nesmith And Eric Frazier
Knight Ridder, September 20, 2005

DOJ_NMG_0006836

NEW ORLEANS - Facing the threat of another powerful storm and besieged by questions from President Bush and others, Mayor Ray Nagin on Monday halted the reopening of large sections of the city.

And anyone who is holding out on the city's east bank - the main part of the city - should evacuate, he said.

"I am urging and encouraging everyone who knows of someone who may be at their homes somewhere in Orleans Parish ... to call them and encourage them to leave the city," Nagin said.

Within about an hour of his announcement, security tightened in several parts of the city.

Flooding from Tropical Storm Rita, which is expected to develop into a hurricane, is possible because the city's levees are weak and its pumping stations are not operating at capacity, Nagin said.

He warned that residents he had invited back Monday to neighborhoods in the Algiers section of the city, across the Mississippi River from the city's east bank, might have to turn around and leave Wednesday.

Although most forecasts project Rita will hit Texas as a major hurricane, Nagin said some scenarios show it crashing into the Louisiana coast.

The Army Corps of Engineers said Monday that if Rita veers toward New Orleans, heavy rainfall could flood the northern and some central parts of the city with two to four feet of water.

The developments came on a day when the death toll from Hurricane Katrina rose to 973, with 90 more bodies reported in Louisiana.

Nagin made his decision after a weekend of questions about the city's readiness, raised first by the federal commander of relief efforts in New Orleans, Coast Guard Vice Adm. Thad Allen, and underscored on Monday by Bush.

"There is deep concern about this storm causing more flooding in New Orleans," Bush said.

Earlier in the day, Nagin had defended his plan to repopulate the city.

"The admiral is a good man. I respect him. But when he starts talking for the citizens of New Orleans, he's kind of out of his range," Nagin said. "There is only one mayor of New Orleans, and I'm it."

Nagin said the hurricane was not providing him an excuse to follow the advice of federal officials, and pledged to resume his plan as soon as Rita's danger has passed.

Forced evacuations on the east bank are being considered. Residents are not supposed to be living in that area now, but have not been forcibly removed. The city cannot estimate the number of people there now, but at least several hundred are living there.

Nagin's repopulation plan had barely begun, and the return of residents to Algiers on Monday was more a trickle than a stampede.

The mayor last week announced plans to reopen the city's Garden District later this week, followed by the historic French Quarter, but backed off a specific timetable when federal officials cautioned that he was moving too quickly.

Earlier Monday, a number of state officials also urged caution.

Bill Doran, chief of operations for the Louisiana Office of Homeland Security and Emergency Preparedness, said levees damaged by Hurricane Katrina could fail if faced with any type of tropical storm or unusual high tide. Some of the major evacuation routes used as Hurricane Katrina approached are now unusable, Doran said.

"We want to do it," he said of Nagin's repopulation plan, "but not in a hasty method that would put those people in harm's way."

Should Rita threaten the area, there would be far fewer people to evacuate because so many are still outside New Orleans. But there are more than 16,000 National Guard troops and other rescue workers in the area, said Mark Smith, a spokesman for the state homeland security office. They would have to be evacuated, and the state is already making plans to do so if Rita approaches.

Gov. Kathleen Blanco urged residents in southwestern Louisiana to begin making preparations to leave if necessary. She said FEMA has buses to help those who can't evacuate on their own, and a task force is arranging shelters.

"We are in a very dangerous place," she said. "Because we do not know where this hurricane will end up, we are taking Rita very, very seriously."

A few people trickled back on Monday to Algiers, which escaped the city's most serious damage. Some people never left, and others had managed to get in shortly after Katrina passed.

Over the past week, they have been sustaining the rest of the city.

"We're like ground zero for the National Guard and Immigration dirty clothes," said Jim Ritchie, owner of the Spin Stop.

Algiers is where rescue workers, soldiers and journalists can get fresh laundry, gas, cigarettes, even a cold Coke or beer.

At a Red Cross assistance center set up at a high school, volunteers were having trouble giving away hot meals. There just wasn't much need in Algiers.

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"I would welcome anybody. We've got a ton of food and I don't want it to go bad," said volunteer Charles Way of New Jersey. The center was the first to open anywhere in the city of New Orleans.

Pamela Gregory was glad to get the help. She had stayed through the storm, but found that neighboring Jefferson Parish wouldn't let her in to buy supplies.

"I'm so hungry," she said, laughing. "I've lost weight since this thing happened. A co-worker brought us in some supplies. She lives in Jefferson Parish so they'll let her in. But we've been getting pretty low around here."

The mayor's hope that the city would start returning Monday, beginning with Algiers, seemed dashed on this neighborhood's deserted streets.

Timothy Allen came Monday to gather his belongings, but he was headed back to Texas.

"Even though the house is OK, I'm a physician at Baptist Hospital and it's closed," he explained, a bit melancholy to be leaving a neighborhood his three little children loved. "This is a great neighborhood. We walk to the park, and I take the ferry over to the aquarium with my daughter. But because of the situation in the rest of the city, we can't come back for now."

New Orleans Mayor Halts Return Of City's Residents (LAT)

By Scott Gold, Susannah Rosenblatt And Ralph Vartabedian

The Los Angeles Times, September 20, 2005

NEW ORLEANS -- Facing pressure from Washington and with another storm system on the way, New Orleans Mayor C. Ray Nagin halted his campaign to repopulate the city Monday and ordered the few residents and business owners who had returned to leave again.

Three weeks after Hurricane Katrina devastated the Gulf Coast, flooding New Orleans, Tropical Storm Rita was expected to bear down Tuesday on the Florida Keys -- where all 80,000 residents have been told to evacuate. Rita then is likely to move over the warm waters of the Gulf of Mexico, where officials said it could strengthen into a Category 3 hurricane.

Rita could make landfall on the Gulf Coast as early as Thursday, although Friday or Saturday is more likely.

According to government forecasts Monday night, the storm could land anywhere from northern Mexico to Mississippi. But Nagin said his advisers had determined Rita most likely would strike near the island community of Galveston, Texas -- where authorities were planning evacuations starting Tuesday afternoon -- or pass to the west of New Orleans.

If Rita makes landfall anywhere near New Orleans and its damaged levee system, it could send water cascading into a city just starting to dry out after Katrina.

Nagin said a three-foot storm surge, which can be kicked up by even a moderate tropical storm, would leave as much as four feet of water in New Orleans. Rita was expected to rake the Keys with an eight-foot storm surge; authorities said that even if Rita's eye strikes in Texas, it could still send a three-foot surge to New Orleans.

"I'd rather err on the side of conservatism," Nagin said in ordering residents back out of the city. "Today there is a significant threat of this thing turning north. ... Any type of storm that heads this way and hits us will put Orleans Parish in a very vulnerable position."

Nagin said he considers the threat from Rita equal to that posed by Katrina, but called it "a different event" because there were not a significant number of people left in the city.

As Katrina approached New Orleans, authorities had issued a mandatory evacuation. And with the city under water after the storm, they threatened to use force to remove stragglers from their homes. But many refused to leave, and the city backed down. Residents since have trickled back to the city despite roadblocks, a collapsed infrastructure and the threat of toxic sludge.

Last weekend, Nagin allowed some business owners to return. On Monday, he opened the Algiers section -- across the Mississippi River from the central business district -- to residents, and thousands of cars streamed back into the city. Then the mayor said everyone needed to be out again by Wednesday.

"I am hopeful that people have seen the threat of Katrina and that they understand the threat," he said.

Asked whether he expected that some people would refuse to leave, Nagin said: "We're all adults."

"All I can do is tell you exactly what I'm seeing," he said. "If anybody wants to sit this out ... God bless them."

Meanwhile, energy prices skyrocketed in New York futures trading Monday over worries that Rita would deliver another blow to the key Gulf Coast oil and natural gas production region.

Oil futures jumped $4.39 to close at $67.39 a barrel. Natural gas surged to a record $12.663 per million British thermal units, up $1.519.

As oil companies began evacuating workers from production platforms and drilling rigs in the Gulf on Monday, experts predicted the recent decline in retail gasoline prices could come to a halt.

Nagin had clashed with federal officials in recent days over his proposal to bring 180,000 residents back into the city by the end of the month.

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Coast Guard Vice Adm. Thad Allen, head of the federal government's relief effort, had encouraged Nagin to slow down -- citing lingering environmental threats and lack of a potable water, a 911 system and operable sewer pipes, among other problems.

While calling Allen "a good man," Nagin said that he was only attempting to repopulate the safest portions of the city; he reminded Allen that "there is only one mayor of New Orleans."

President Bush jumped into the debate Monday, citing a "deep concern" about Rita. Bush said he disagreed with Nagin's efforts to allow residents to return to New Orleans, but called it "just a matter of timing."

"The mayor has got this dream about having a city up and running. And we share that dream," Bush said. "But we also want to be realistic about some of the hurdles and obstacles that we all confront in repopulating New Orleans."

White House Chief of Staff Andrew H. Card Jr. spoke with Nagin by telephone Monday before the mayor announced he was halting the effort to bring residents back.

Authorities were staging buses outside New Orleans Monday night that could be used to ferry residents to safety. Nagin said he planned to amass 200 buses, and that evacuations would begin 48 hours before projected landfall. Citizens would be loaded onto buses at the New Orleans Convention Center along the Mississippi River and at Behrman Stadium in Algiers.

Another 350 buses also are ready west of New Orleans to begin evacuations at shelters housing thousands of people who fled Katrina.

New Orleans Mayor Reverses Plan To Reopen Parts Of The City (WSJ)

By Rick Brooks And Corey Dade

The Wall Street Journal, September 20, 2005

New Orleans Mayor Ray Nagin, already under criticism from federal officials and the White House for reopening parts of the city too early, reversed his plans and ordered those returning to their homes and businesses to leave before the area is threatened by another major storm later this week.

Yesterday's announcement by the mayor was a major setback in efforts to bring life back to New Orleans, about 15% of which still is underwater three weeks after Katrina barreled past the city. The U.S. Army Corps of Engineers warned that Rita, which was expected to reach hurricane strength last night in the Bahamas and is expected today to approach the Florida Keys before entering the Gulf of Mexico, could inundate some areas with as much as four feet of additional rain and floodwaters.

While breaches of levees along three canals in New Orleans have been at least temporarily closed, more than a dozen breaches remain in neighboring St. Bernard Parish. Army Corps officials said some levees that weren't breached during the storm were nonetheless damaged by Katrina so badly that they could be defenseless against another storm surge. If Rita approached New Orleans, metal pilings would be used to attempt to block water from Lake Pontchartrain from flowing into two canals that flooded large parts of the city after Katrina struck. There is no guarantee of how well that would work.

Mr. Nagin denied that criticism from the White House had anything to do with his reversal. "All I can tell you is exactly what I'm seeing," he said at a news conference. "If anybody wants to sit this storm out with rain-soaked levee systems ... then God bless 'em."

The National Hurricane Center said Rita could make landfall anywhere from southern Texas to the Louisiana-Mississippi border. Galveston, Texas, officials yesterday called for a voluntary evacuation beginning today if Rita's storm track remains unchanged. Officials said they would consider calling for a mandatory evacuation by tomorrow.

In 1900, an estimated 8,000 residents of Galveston and surrounding towns died from a storm that remains the most deadly to hit the mainland U.S. The island has no coastal marshes or other natural barriers.

It isn't clear how many residents and business owners were trying to return to New Orleans. Yesterday, cars and trucks along Interstate 10 were gridlocked for more than a mile as authorities at a checkpoint allowed only one vehicle to pass at a time. Some frustrated motorists turned into the grassy median and went back the way they came.

United Parcel Service Inc. made its first deliveries in the city's central business district, sending four trucks, but found few recipients. "Nothing but soldiers and cops," said UPS driver Ricky Folse, 35 years old, his eyes darting out both sides of the truck as he looked for regular customers along Canal Street.

At one stop, David Munn, owner of Orleans Optical, emerged from his store dripping sweat and wearing a pair of latex gloves and black rubber boots up to his knees. "Who are you going to sell to?" asked Mr. Munn, who had pulled enough debris from his store to make a three-foot-high pile outside. He took the package from Mr. Folse, but didn't open it.

Officials At All Levels Butt Heads Over Hurricane Relief Operations (WT)

By Bill Sammon

The Washington Times, September 20, 2005

DOJ_NMG_0006839

The latest in a long line of disputes among local, state and federal officials over Hurricane Katrina was defused yesterday when New Orleans Mayor C. Ray Nagin called off reopening the city, although he cited another storm for his capitulation rather than federal officials' litany of concerns.

The various levels of government have disagreed over when to call in federal troops and whether the entire operation should be federalized. They also have clashed over when and how to evacuate New Orleans and when to let residents return.

"We share the goal of the mayor, but we have got concerns," Mr. Bush said early yesterday, when Mr. Nagin still was allowing residents to return.

"The mayor has got this dream about having a city up and running -- and we share that dream," Mr. Bush said. "But we also want to be realistic about some of the hurdles and obstacles that we all confront in repopulating New Orleans."

The obstacles include the possibility of additional flooding from Tropical Storm Rita, which was heading toward the Gulf of Mexico yesterday, and the lack of electricity, drinking water and sewage facilities. Early yesterday, Coast Guard Vice Adm. Thad Allen said it might be as much as a week before residents could return safely.

"We just think that conditions need to be set so when people come back in, they can operate safely, and, moreover, with the weakened levee system, that there's a plan to evacuate whatever number of people are allowed back in the city," he told CNN.

"When those conditions are met and the risk has been reduced, then the population comes in," he added. "That could be two days, five days, one week."

Mr. Nagin initially criticized the remarks and insisted that up to 180,000 people -- about a third of the city's population -- be allowed to return during the next 10 days.

"I'm a little surprised the admiral came out publicly on this," Mr. Nagin told Fox News Channel in the morning. "Maybe since I've been away a day or two, maybe he's the new crowned federal mayor of New Orleans."

Mr. Nagin, who spent the weekend in Dallas, said: "If he's suggesting I'm pushing a little hard, I am. The citizens of New Orleans deserve the opportunity to see what they have left and what they can salvage."

Later in the day, however, Mr. Nagin began reassessing the timing of his plan because of Tropical Storm Rita and other "external factors," said Nagin spokeswoman Sally Foreman.

By the end of the day, the mayor reversed himself, agreeing with Mr. Bush and Adm. Allen that it was too soon and too unsafe for residents to return.

The rift yesterday was the latest in a series of high-profile disagreements among federal, state and local officials about how to handle the hurricane and the subsequent flooding of New Orleans.

The discord began Aug. 27, when Mr. Bush asked Louisiana Gov. Kathleen Babineaux Blanco to order an evacuation of New Orleans. Mrs. Blanco did not issue the order until Aug. 28, a day before Hurricane Katrina made landfall.

Mrs. Blanco also neglected to ask the president for federal troops when she wrote him a letter on Aug. 27 and when she spoke with him on Aug. 29. She had not made the request even on Aug. 31, when she gave a series of television interviews in Baton Rouge.

"I really need to call for the military," she told her press secretary between interviews. "And I should have started that in the first call."

Later that day, she asked the White House for troops, which were dispatched to assist Louisiana National Guard forces.

Mrs. Blanco hesitated again when she met Sept. 2 with Mr. Bush, who offered to have the federal government take over the chaotic evacuation. Mrs. Blanco said she needed 24 hours to make a decision and ultimately rejected the federal offer.

Mr. Nagin later told CNN that Mrs. Blanco and Mr. Bush needed to "get in sync." But within days, Mr. Nagin and Mrs. Blanco were feuding with each other over whether New Orleans residents should be ordered to leave their homes.

"My mandatory evacuation is still in effect," Mr. Nagin said Sept. 6.

But Mrs. Blanco refused to enforce the order, saying she needed more time for scientists to test the toxicity of floodwaters, even though health officials were warning that the waters were very dangerous.

"The mayor certainly has ordered that, but the governor -- and that would be me -- will have to enforce it or implement it," Mrs. Blanco said Sept. 7.

Mr. Bush will make more trips to the storm-hit areas this week, meeting today with Mississippi business owners and civic leaders in Gulfport and visiting a recovering business in New Orleans.

On Friday and Saturday, he will travel to Alabama, Texas and Arkansas, which have absorbed thousands of refugees from the harder-hit neighboring states.

"The trip will be an opportunity for the president to personally thank some cities and states that have taken in large numbers of our fellow citizens affected by Katrina," White House spokesman Scott McClellan told reporters.

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Weary, Wary Residents Trek Back Into The City (USAT)

By Matt Kelley And Oren Dorell

USA Today, September 20, 2005

NEW ORLEANS — The prospect of another fierce storm hitting wasn't going to stop Malcolm Poree from spending the first night in his home since Hurricane Katrina struck more than three weeks ago.

Poree, 38, was among hundreds of residents of the city's Algiers section who returned to their homes Monday only to be told by Mayor Ray Nagin to be prepared to evacuate again as early as Wednesday because of Tropical Storm Rita.

Poree figured another storm would do more damage to his embroidering business than to his home, which survived Katrina virtually unscathed.

"Being self-employed, I can't take much more of not having a city to sell to," Poree said.

As for his safety, Poree said he and his wife have a car and a minivan and are ready to leave the city again with sons Malcolm, 9, and Marcus, 6.

"If we have an emergency, we know our way around," Poree said.

The Algiers area, across the Mississippi River from the French Quarter and downtown, never flooded during Katrina and now has electricity and water service to most homes. Nagin announced last week that Algiers residents could begin returning Monday. However, hundreds ignored pre-storm evacuation orders and never left or have already returned.

Nagin said Monday afternoon that the potential for Rita to hit the area was enough to suspend plans to reopen other high and dry parts of the city, including the French Quarter and Garden District.

For some, the mayor's abrupt reversal was another disheartening example of what they said was a disorganized and inept local response to Katrina.

Just down the street from Poree, David Gautreaux and his wife, Dolly, rode out Katrina but plan to move to Dallas or Houston at the first opportunity.

"We're ashamed to be citizens of this city," Gautreaux said. "There's no leadership. The mayor blamed the president. The governor blamed the president. This is in God's hands, not the president's."

Many other Algiers residents said they were relieved to be back home and were committed to remain as their city rebuilds. "Even though this hurricane happened to New Orleans, I'm coming back to stay. It's my home, and I'm not going to leave," said Cinder Anderson, 34.

Anderson and her family left New Orleans for Houston shortly before Katrina hit. She enrolled her children, 12-year-old Miquel and 8-year-old Michael, in schools there.

Soon, everyone was homesick.

"My son cried every day he had to go to school there," Anderson said. "He wanted to come home. I cried every day, too."

Their trip back was nerve-racking. They wondered: Had the storm thrown the huge pine tree in their front yard into their house?

"When I came in, I drove up slow. I had my hand over my heart," Anderson said. "I saw the tree didn't fall on the house, and I said, 'Thank you, God.' "

Like many of her neighbors, Anderson left her refrigerator at the side of the road to be picked up by cleanup crews. Weeks without electricity left the inside so contaminated by rotting food that even a scrubbing with bleach couldn't eliminate the stench, Anderson said.

Anderson and her husband, Elbert Bender, said they're relying on the military and aid groups for food and bottled water.

The closest place to buy food was the convenience store at the Spur Gas Station, which has been open since Saturday.

Owner Ibrahim Attamari did a brisk business Monday in liquor, beer, gasoline and cigarettes. The shelves were stocked with motor oil, candy and toiletries.

Attamari said he has been receiving deliveries and has enough gasoline to last a week, but staying open has been hard. "I have 13 employees; none of them are here," he said.

Schools are closed.

About a half-mile from Anderson's brick house is St. Andrew the Apostle Catholic Church, which has a school for about 800 students in pre-kindergarten through eighth grade. Principal Sybil Skansi said she's trying to prepare her school to reopen by Oct. 3.

"The school is one of those things that has to be here for people to come back," she said.

Anderson's son normally attends the public Alice Harte Elementary School adjacent to the church; her daughter would attend the Karr Junior High School behind their house. New Orleans school officials say they hope to have some schools in Algiers open by Nov. 5.

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Poree also was waiting for Harte Elementary to open so his sons could return home. He had another reason to hope for the schools to reopen as soon as possible: The schools are the best customers for his embroidery business, which personalizes clothing such as jackets and ball caps.

"My customer base is New Orleans," Poree said. "Since there's no New Orleans, I have no business."

Rita Rages Toward Florida Keys (USAT)

By Tom Vanden Brook

USA Today, September 20, 2005

MIAMI — Tropical Storm Rita was expected to become a hurricane and slam the Florida Keys today, then gather strength and threaten the entire Gulf Coast.

On Monday, thousands of people jammed the one highway leading out of the Keys, a string of low-lying islands that were under a mandatory evacuation order.

Rita was still a tropical storm late Monday with winds of 70 mph, but the National Weather Service predicted it would be a Category 2 hurricane today with winds of 100 mph as it closed in on the Keys.

After it passes over the Keys and heads into the Gulf of Mexico it is expected to become a Category 3 hurricane, meaning one with winds of 111 to 130 mph, the National Hurricane Center said. Rita's track has it landing anywhere from the Texas-Mexico border to Louisiana by the weekend, the center said.

Jennifer Pralgo, a meteorologist with the National Hurricane Center, said New Orleans isn't the likely target but isn't in the clear. The city hit by Katrina last month could still get heavy rain and high winds.

"Everybody on the Gulf Coast should pay attention to this," she said. "They're like ping-pong balls in the Gulf. They can bounce around, but they're going to land."

Rita's starting path is similar to Katrina's. Both sprang to life near the Bahamas, headed for South Florida and set a course for the Gulf. Strengthened by the Gulf's warm waters, Katrina was a Category 4 hurricane when it made landfall.

On the Keys, where 78,000 people live, hurricane-force winds are expected to thrash the islands overnight. Rain totals of 15 inches are possible.

A storm surge (a rise in the sea level) of as much as 9 feet is forecast. At that height, the sea could swallow the one road out of the Keys.

Holly Elomina, 33, kept close watch on the forecast as she shuttered her home on Big Coppitt Key on Monday. She has four children — ages 3 months to 16 years — and was deciding whether to leave.

"That storm surge is what scares me," Elomina said.

The last Category 2 storm to hit Key West was Hurricane Georges in 1998. That storm damaged hundreds of homes and closed the island to tourists for weeks.

In Miami-Dade County, home to more than 2.2 million people, shopkeepers and residents braced for hurricane-force winds today. Schools were ordered closed and shelters opened. Residents in mobile homes and those in low-lying areas were told to evacuate. Tourists on Miami Beach were asked to leave.

On South Beach, a stretch of trendy, art deco hotels, restaurants and shops, workers screwed corrugated metal shutters over windows.

Joe Monteiro, 35, executive chef at the Avalon Hotel, was unconcerned.

"This happens every year," he said. "People get all freaked out about it."

On the beach, a 25 mph wind whipped waves into a froth but did not chase away all swimmers. Nor did a red flag warning of hazardous conditions.

Lifeguard Vlad Sazonov, who hoisted the flag, said it was foolish to underestimate the storm.

"We had really bad preparations for Katrina," said Sazonov, 39. "People regret that now. All I can say is, 'God save us all.' "

Florida Keys Are Ordered Evacuated As Rita Nears (WP)

By William Branigin

The Washington Post, September 20, 2005

Residents of the Florida Keys were ordered to evacuate yesterday as Tropical Storm Rita approached hurricane strength on a path similar to that of Katrina, which devastated the Gulf Coast three weeks ago, and the mayor of New Orleans suspended a plan to start repopulating his flood-ravaged city.

With Rita forecast to become a Category 1 hurricane last evening and to reach Category 2 strength today, tourists streamed out of the Keys, and residents boarded up homes and shops.

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But a potentially greater threat looms later in the week, when Rita is projected to intensify over the warm waters of the Gulf of Mexico, just as Katrina did late last month before slamming ashore about 60 miles southeast of New Orleans. On its current path, meteorologists said, Rita could hit the Texas coast by the weekend, bringing hurricane-force winds and torrential rains to an area that houses thousands of evacuees from flooded New Orleans.

In view of the new storm, New Orleans Mayor C. Ray Nagin announced he was calling off his plan to allow displaced residents to return, one neighborhood at a time. (See story, A1.)

Rita is "not an exact reprise" of Katrina, "but it's probably pretty close," said Frank Lepore, a spokesman for the National Hurricane Center in Miami. "It's got similar characteristics, except it's just a little lower in latitude. The issue is what happens when it gets out over the very warm waters of the central Gulf."

The storm was packing winds of 70 mph last night and was projected to hit Key West about 6 p.m. today with winds around 105 mph, making it a Category 2 hurricane, Lepore said.

As Rita gathered strength, the hurricane center issued a hurricane warning for the southern tip of the Florida peninsula and for all of the Florida Keys. It said that at 11 p.m. Eastern time, Rita was 270 miles east-southeast of Key West and was moving west-northwest at 14 mph.

The hurricane center said the Keys could be hit with storm surge flooding of six to nine feet above normal tide levels, "along with large and dangerous battering waves."

A mandatory evacuation order issued by Monroe County, Fla., covered about 80,000 people in the Keys, including 25,000 residents of Key West. Buses were sent to Key West High School to evacuate people who needed help to leave, and a military C-130 transport plane was dispatched to Key West Hospital to evacuate patients there. In addition, about 134,000 Miami-Dade County residents who live in coastal areas were under a voluntary evacuation order.

A voluntary evacuation was set to start today in Galveston, Tex., where officials said residents who could not leave on their own could take buses -- and their caged pets -- to shelters starting tomorrow.

President Bush, after a meeting with homeland security officials to discuss Hurricane Katrina relief efforts, suggested that in view of Rita's approach, it would be a mistake for evacuees to return to New Orleans.

Rita "now looks like it's going to head out into the Gulf, and could track Katrina, or it could head further to the west," Bush told reporters. "But, nevertheless, there is deep concern about this storm causing more flooding in New Orleans."

Nagin "has got this dream about having a city up and running, and we share that dream," Bush said. "But we also want to be realistic about some of the hurdles and obstacles that we all confront in repopulating New Orleans."

He said that if Rita brought heavy rains, "there is concern from the Army Corps of Engineers that the levees might break. And so, therefore, we're cautious about encouraging people to return at this moment of history."

According to Lepore, a five-day projection shows Rita reaching Category 3 strength in the middle of the Gulf, with sustained winds of about 115 mph and gusts up to 130 mph. Although its path is difficult to predict at this point, the latest projection has Rita heading toward Houston, a major oil industry center that is now also home to thousands of Katrina evacuees.

One concern is that Rita will hit "the general area where all these folks from New Orleans have been evacuated," Lepore said. "And there is enough hardship in that area as it is without throwing another hurricane at them."

As Its Coffers Swell, Red Cross Is Criticized On Gulf Coast Response (NYT)

By Stephanie Strom And Campbell Robertson

The New York Times, September 20, 2005

In New Orleans and the coastal flood plains of Mississippi, many people are complaining that the American Red Cross was missing in their worst hours of need and are worried that its billowing relief fund may bypass them entirely.

The organization did not open shelters in flood-prone areas and was therefore unable to provide food and other necessities to people closest to the coast ravaged by Hurricane Katrina.

"The Red Cross has been my biggest disappointment," said Tim Kellar, the administrator of Hancock County, Miss. "I held it in such high esteem until we were in the time of need. It was nonexistent."

Even some volunteers are disgusted. "I will never, ever wear the Red Cross vest again," said Betty Brunner, who started volunteering in 1969 when Hurricane Camille destroyed her house but quit last week over the organization's response in Hancock County.

Two days after Hurricane Katrina struck, the Red Cross had only one shelter in the county, and it was far from some of the most populated coastal towns. It had no shelter in New Orleans.

"It's purely a safety issue," said Armand T. Mascelli, vice president for response operations at the Red Cross. "People expect a Red Cross shelter to be safe, not to be at risk of flooding." Frustration over the early absence of the Red Cross is now

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compounded by the realization that the organization has collected the bulk of public contributions, money that will be spent on emergency rescue and relief, not long-term assistance, and may never get to the coastal areas.

The organization has garnered almost three-quarters of the $1 billion that Americans have donated to help the hurricane victims, with endorsements from President Bush, corporate America and many nonprofit organizations. Its duty, mandated by Congress, is to provide immediate assistance, a need that is rapidly diminishing as victims leave shelters.

Some people are asking whether the Red Cross can use all its money effectively as its role winds down. "Once we're out of the relief phase, what capacity does the Red Cross have to rebuild communities?" asked George Penick, president of the Foundation of the Mid South. "That's not their core competence."

The Red Cross says it will need every penny, and it just raised its estimated costs for Hurricane Katrina to $2 billion from $1.5 billion. "The scope of this is just so huge," said Joe Becker, the Red Cross senior vice president for preparedness and response. "If you took New Orleans out of the equation, Mississippi and Alabama would be a bigger job than we tackled in all four of the storms that hit Florida last year."

But time and again in past disasters, the Red Cross has raised more money than it has needed for relief. It has also been less than clear in the past about where its money goes, and it has rarely shared its money with other organizations that tackle long-term needs of victims.

So, at a meeting of charity officials last week in Jackson, Miss., Mr. Penick asked whether the Red Cross would share its wealth.

"Especially in rural areas and small towns, the Red Cross was either absent or overwhelmed," Mr. Penick said. "You had churches and nonprofit groups taking care of the evacuees in any way they could with whatever money they could scrape together."

Mr. Penick said that when he asked a Red Cross representative at the meeting whether it would reimburse these organizations, "he said he didn't know."

Responding to the complaints from coastal Mississippi, Winnie Romeril, a spokeswoman for the Red Cross in the disaster area, said the organization was unprepared for the scope of the disaster and initially lacked enough fuel and supplies. She added that the Red Cross had 23 shelters in three of the most affected counties in Mississippi.

The Red Cross decided in the mid-1990's that it was unsafe to maintain shelters in flood plains, a decision that piqued New Orleans officials, said Dr. Bernadine Healy, a former president of the organization.

Dr. Healy said she negotiated with Louisiana officials to support state-operated shelters until the disruptions caused by Sept. 11.

"The obligation of the Red Cross is to oversee the sheltering of people in disasters," she said. "I had been working with the governor to find a compromise so that the Red Cross would be there at the very least to provide supplies for their shelters."

The Red Cross's mission is to provide immediate shelter, medical care, sustenance and small amounts of cash, usually $800 to $900, for clothing and other necessities.

It said on Monday that $1.4 billion of the money it hopes to raise will go to financial assistance, $744 million for food and shelter, and $78 million for mental health services. As of Monday, the Red Cross had spent more than $521 million.

Some victims have complained that the Red Cross is reluctant to dispense cash; the organization maintains that tight control of cash helps foster accountability. Outside a shelter in Baton Rouge, volunteers distributed papers last Thursday with a toll-free number for assistance and pointed to a sign saying that only residents in the shelter would be helped there. Some tried to argue the point, to little avail. "We were just getting the runaround from the Red Cross," said Mia Norflin of Carrollton, La.

Through Friday, the organization had handed out roughly $225 million in cash assistance to 236,000 people. Its shelters have housed more than 2 million people for at least one night, and, together with the Southern Baptist Convention, it has served more than 12 million hot meals.

About 36,000 people remained in 232 Red Cross shelters on Monday.

In Texas, Charlotte Toney applauded the organization for reuniting her with her husband and three foster children last week. Evacuated from New Orleans early because she had diabetes and was recovering from surgery, she ended up at a hospital in Houston.

"I was so out of it, but when the lady from the Red Cross called and said, 'I found your children,' I was screaming and hollering," Mrs. Toney said.

Mr. Becker said the Red Cross was unlikely to give money to other groups that might pick up the recovery effort after the relief stage.

"If we feel we have enough money to meet our mission, we'll tell America we have enough money and recommend giving to other organizations," he said.

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On Oct. 30, 2001, the Red Cross said it had received $547 million in Sept. 11 pledges, which would be enough, but the total swelled to twice that amount as donations continued to roll in for victims of the attacks.

Devorah Goldburg, a Red Cross spokeswoman, said that it would take many organizations to address the needs of the hurricane victims and that the Red Cross had told CBS and MTV not to raise money on its behalf and to find other charities. During the broadcast of the Emmy Awards on Sunday by CBS, donations were solicited for Habitat for Humanity.

In some of the nation's biggest disasters, the Red Cross has raised more money than it has needed. As of June, the organization still had roughly $40 million of the more than $1 billion it collected for a fund it created after the Sept. 11 attacks.

It raised $55 million for the 1989 earthquake in San Francisco and spent only $12 million on direct disaster relief, angering local officials who wanted some money to build a homeless shelter.

It spent about a quarter of the money raised after the attack on the federal building in Oklahoma City in 1995, and the Minnesota attorney general held public hearings to prod it to release $4 million retained after the Red River flood in 1997.

The Red Cross and other organizations use money generated in response to giant disasters to offset the costs of other, smaller crises. But many donors are insisting that their gifts be used for a specific disaster.

The Red Cross has always pledged to honor those designations, and it created the special fund for victims of the Sept. 11 attacks. But many people became upset after laerning that some of the money would be used to prepare the Red Cross to respond to future attacks.

Dr. Healy resigned, and the Red Cross recommitted to spending all the money on the victims. The special fund swelled to more than $1 billion.

In his book "After: How America Confronted the September 12 Era," Steven Brill described livery drivers parked in fleets of cars outside a Red Cross facility in lower Manhattan to pick up checks to help make up for lost business.

Red Cross Official To Meet With Lawmakers (HILL)

By Jonathan E. Kaplan

The Hill, September 20, 2005

Marty Evans, president and CEO of the American Red Cross, will brief lawmakers today on the organization's recovery efforts in the Gulf Coast region, said congressional aides familiar with the meeting. The Red Cross, the largest nongovernmental organization operating in the hurricane- and flood-battered area, contacted House Republican Chairwoman Deborah Pryce (R-Ohio) earlier this month, asking whether lawmakers would be interested in a briefing.

Pryce passed along the Red Cross's request to Rep. Peter King (R-N.Y.) last week after he was named chairman of the Homeland Security Committee. King, along with Rep. Bennie Thompson (D-Miss.), the ranking Democrat on the panel, arranged the meeting and invited Republican and Democratic lawmakers.

The briefing is the second bipartisan event organized by King; he led a trip with more than a dozen lawmakers to New Orleans on Sunday to view the damage caused by the flooding.

From FEMA To WEMA (NYT)

By John Tierney

The New York Times, September 20, 2005

SLIDELL, La.

I don't think Washington needs any more czars. But if President Bush feels compelled to put someone in charge of rebuilding the Gulf Coast, let me suggest a name: Lee Scott.

Scott is the chief executive of Wal-Mart, one of the few institutions to improve its image here after Katrina sent a 15-foot wave across the north shore of Lake Pontchartrain. If you mention the Red Cross or FEMA to people in Slidell, you hear rants about help that didn't arrive and phone lines that are always busy. If you mention state or national politicians, you hear obscenities.

But if you visit the Wal-Mart and the Sam's Club stores here, you hear shoppers who have been without power for weeks marveling that there are still generators in stock (and priced at $304.04). You hear about the trucks that rolled in right after the hurricane and the stuff the stores gave away: chain saws and boots for rescue workers, sheets and clothes for shelters, water and ice for the public.

"This was the only place we could find water those first days," said Rashan Smith, who was shopping with her three children at Wal-Mart on Saturday. "I still haven't managed to get through to FEMA. It's hard to say, but you get more justice at Wal-Mart."

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That's the same assessment you hear from public officials in Louisiana, and there's even been talk of letting Wal-Mart take over FEMA's job. The company already has its own emergency operations center, where dozens of people began preparing for the hurricane the week before it hit by moving supplies and trucks into position.

I realize that Scott would not be a popular choice with Democrats. They concede that Wal-Mart and other private companies were far better prepared for Katrina than FEMA was, but they say FEMA would work fine if it were under the control of a virtuous, compassionate public servant - someone, as Bill Clinton suggested, like himself.

Clinton looks back on the 1990's as FEMA's Age of Pericles. "I think we did a good job of disaster management," he said on ABC's "This Week." While criticizing the Bush administration for leaving poor people stranded in New Orleans, he said that he and his FEMA director, James Lee Witt, had been especially sensitive to the needs of poor people because of their own backgrounds.

But if they cared so much, why didn't New Orleans ever work out a feasible way to evacuate poor people? FEMA had a golden opportunity to plan it during the 1990's. The threat of nuclear war had receded and terrorism wasn't yet a priority, so the agency's biggest concerns should have been an earthquake in California and a flood in New Orleans.

But it was too busy dealing with the record number of other "disasters" that Clinton declared - an average of one a week, which meant FEMA was mailing out checks for every flash flood within range of a major media market. Upstate New Yorkers suddenly became incapable of coping with the cost of snow removal.

In 1997, Congress gave FEMA $500,000 and ordered it to develop a comprehensive plan to evacuate New Orleans. The agency passed on the money to Louisiana, which used it instead to study building a new bridge. As Rita Beamish of The Associated Press reported on Sunday, FEMA didn't bother making sure a plan was drawn up - an aide to Witt said its job had just been to pass on the money.

How often do you suppose someone at Wal-Mart headquarters dispenses $500,000 and doesn't bother keeping track of it? The company can tell you the precise location of every thumbtack in its inventory. It's legendary for tracking every transaction and pinching every penny.

Its executives fly coach, and they empty their own wastebaskets. When Scott, the chief executive officer, travels with the chief financial officer, they cut costs by sharing a hotel room.

That's the kind of leader we need to oversee the tens or hundreds of billions that Washington will be spending on the Gulf Coast. Scott could insist on low everyday prices while still leaving the area as well prepared for the next disaster as Wal-Mart was for Katrina.

David Vitter, the Republican senator from Louisiana, was so impressed with the rapid response of Wal-Mart and other companies that he promised to introduce a bill to abolish FEMA and contract its job out to the private sector. I'm afraid the Wal-Mart Emergency Management Agency will be a tough sell on Capitol Hill. But I'd vote for WEMA.

Kerry, Edwards See Chance For Change After Katrina (REU-Y2)

By John Whitesides, Political Correspondent

Reuters, September 20, 2005

The two Democrats who challenged President George W. Bush for the White House last year said on Monday the devastation of Hurricane Katrina provided a historic chance to reevaluate government priorities and address long-neglected issues including endemic poverty.

In separate speeches, John Kerry and John Edwards said the administration's inadequate response to the hurricane revealed a failure of competence and values, while the public outpouring of support for storm victims showed Americans wanted more from their government.

"This horrifying disaster has shown Americans at their best -- and their government at its worst," Kerry said in a speech at Brown University, in Providence, Rhode Island. "Katrina stripped away any image of competence and exposed to all the true heart and nature of this administration."

The Massachusetts senator and 2004 Democratic presidential nominee, who fell short in his bid to oust Bush from the White House, said the storm created "a rare accountability moment" when not just the administration but all Americans could take stock of the country's direction.

"That's our job -- to turn this moment from a frenzied expression of guilt into a national reversal of direction," Kerry said.

Edwards, Kerry's vice presidential running mate and a former senator from North Carolina, said in a speech in Washington that the storm offered a chance to reopen the debate about poverty.

"We do not have to live in an America that accepts poverty as a fact of life or chooses to ignore it," said Edwards, Kerry's one-time rival for the Democratic nomination.

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Edwards talked frequently during the 2004 campaign of "two Americas" -- one for the struggling and one for the wealthy -- and opened an anti-poverty center in North Carolina earlier this year.

"Katrina has given us an opportunity to tap into the conscience of the American people," he said.

Edwards introduced a series of proposals to build opportunities for the poorest Americans, including "work bonds" to expand the earned income tax credit for the poor, a savings plan to help families buy a home, an increase in the minimum wage and programs to make college more affordable.

Both Kerry and Edwards are potential presidential candidates again in 2008, and both called on Bush to abandon his plan to pay for the rebuilding of the Gulf Coast without any tax increases.

They said the rush to rebuild should not distract attention from the need to address growing economic and environmental crises elsewhere in the country.

Kerry made pointed reference to the 2004 campaign several times in his speech, saying Bush's response to the hurricane was politics as usual and revealed a "betrayal of trust and abuse of power" designed to shift power to the privileged.

"The plan they are designing for the Gulf Coast turns the region into a vast laboratory for right-wing ideological experiments," Kerry said.

"They're already talking about private school vouchers, abandonment of environmental regulations, abolition of wage standards, subsidies for big industries."

Tracy Schmitt, press secretary for the Republican National Committee, said Kerry's speech was designed to politicize a tragedy.

"Armchair quarterbacking on tough issues has never been a problem for Senator Kerry," she said. "Such tactics haven't served him well in the past and today is no exception."

(Additional reporting by Jason Szep in Providence)

Kerry, Edwards Criticize Bush Over Response To Hurricane (WP)

By Dan Balz

The Washington Post, September 20, 2005

President Bush came under withering criticism for his handling of Hurricane Katrina yesterday, with Sen. John F. Kerry (D-Mass.) charging that the storm exposed the administration's incompetence and ideological blinders and former senator John Edwards (D-N.C.) asserting that even in its response, the administration backs policies that support the privileged over the working poor.

Kerry, the 2004 Democratic presidential nominee, said in a speech at Brown University that Michael D. Brown, who quit under fire as the Federal Emergency Management Agency's director, exemplified the administration's failures over the past five years.

Using the nickname Bush used for Brown, Kerry said, "Brownie is to Katrina what Paul Bremer is to peace in Iraq, what George Tenet is to slam-dunk intelligence, what Paul Wolfowitz is to parades paved with flowers in Baghdad, what Dick Cheney is to visionary energy policy, what Donald Rumsfeld is to basic war planning, what Tom DeLay is to ethics and what George Bush is to 'Mission Accomplished' and 'Wanted Dead or Alive.' "

Bremer was the head of the Coalition Provisional Authority in Iraq. Wolfowitz served as deputy defense secretary until becoming president of the World Bank.

Edwards, who has made poverty a signature issue, said the plight of many of those displaced by the flooding in New Orleans underscores an urgent need for the nation to attack the problem again. He offered policy initiatives aimed at ensuring that Americans who work full time do not fall below the poverty line.

The former senator -- who was tapped by Kerry to be his running mate last year and, like Kerry, is contemplating a 2008 presidential run -- said the administration has long favored wealth over work. He criticized Bush for suspending a law requiring federal contractors along the Gulf Coast to pay prevailing wages on reconstruction projects.

"I might have missed something, but I don't think the president ever talked about putting a cap on the salaries of the CEOs of Halliburton and the other companies . . . who are getting all these contracts," he said in a speech at the Center for American Progress, a liberal think tank. "This president, who never met an earmark he wouldn't approve or a millionaire's tax cut he wouldn't promote, decided to slash wages for the least of us and the most vulnerable."

The two speeches followed pointed comments along the same lines by former president Bill Clinton, who criticized the administration's response to the storm Sunday. Speaking on ABC's "This Week," Clinton said Bush should roll back tax cuts for the wealthiest Americans to offset the cost of rebuilding, and he asserted that the poverty exposed by the storm-forced exodus was caused in part by the administration's own policies.

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"Whether it's race-based or not, if you give your tax cuts to the rich and hope everything works out all right, and poverty goes up, and it disproportionately affects black and brown people, that's a consequence of the action made," he said. "That's what they did in the '80s; that's what they've done in this decade. In the middle, we had a different policy."

Of the speeches delivered yesterday by the Democrats' 2004 ticket, Kerry's was harsher by far, and it drew a sharp rebuttal from the Republican National Committee's Tracey Schmitt. "Armchair-quarterbacking on tough issues has never been a problem for Senator Kerry," she said. "Such tactics haven't served him well in the past, and today is no exception."

According to a text of Kerry's speech made available in Washington, he said Katrina had provided an "accountability moment" for the administration.

"This is about the broader pattern of incompetence and negligence that Katrina exposed and beyond that a truly systemic effort to distort and disable the people's government and devote it to the interests of the privileged and the powerful," he said.

Kerry also charged that the administration is pursuing politics as usual in its prescription for rebuilding. "The plan they're designing for the Gulf Coast turns the region into a vast laboratory for right-wing ideological experiments," he said, citing private-school vouchers, subsidies to business and other proposals.

Edwards called for a restoration of community. "The administration may think every American is an island," he said. "But Americans know that Katrina's victims shouldn't have been out there on their own and that no American should be out there on their own."

Edwards used the metaphor of the flooded levees in New Orleans to describe what he called society's inadequate efforts to bolster the poor. Although he called for many new programs to help, he also said everyone, from parents and clergy to those most in need, must accept the responsibility to speak hard truths about behavior -- particularly out-of-wedlock pregnancies -- that condemn many to perpetual poverty.

Kerry Blasts Bush On Federal Response To Hurricane Katrina (HILL)

By Jonathan Allen

The Hill, September 20, 2005

Sen. John Kerry (D-Mass.) unleashed a furious attack on the Bush administration at a Brown University speech yesterday, upbraiding the president's response to the hurricane that recently devastated the Gulf Coastand tying it to what he sees as other flaws at the White House.

"This is the Katrina administration," read prepared remarks posted on 2004 Democratic presidential nominee's website, www.johnkerry.com. "Katrina is a symbol of all this administration does and doesn't do," read Kerry's script, portions of which were included in an e-mail to supporters that ended with a fundraising appeal.

"Michael Brown [Bush's former emergency-management director] … is to Katrina what [former Iraq administrator] Paul Bremer is to peace in Iraq; what [former CIA Director] George Tenet is to slam-dunk intelligence; what [former Deputy Defense Secretary] Paul Wolfowitz is to parades paved with flowers in Baghdad; what [Vice President] Dick Cheney is to visionary energy policy; what [Defense Secretary] Donald Rumsfeld is to basic war planning; what [House Majority Leader] Tom Delay [R-Texas] is to ethics; and what George Bush is to 'Mission Accomplished' and 'Wanted Dead or Alive.'"

In a brief interview, Tracey Schmitt, a spokeswoman for the Republican National Committee, called Kerry's pitch for cash "repulsive."

In a news release, she said, "John Kerry's attacks on President Bush's efforts to assist the victims and rebuild the Gulf Coast don't come as a surprise. Armchair quarterbacking on tough issues has never been a problem for Senator Kerry. The American people have pulled together during a difficult time and Democrats' efforts to politicize this tragedy are unsavory at best."

Kerry's speech is the latest salvo in a political battle over accountability that has pitted the parties against each other in Washington and federal officials against their state and local counterparts in the Gulf region.

While Kerry's speech may play well with the Democratic base, Sarah Binder, a senior fellow at the Brookings Institution and a professor at George Washington University, said the senator has a tough challenge to pin blame on Bush.

Kerry And Edwards Say Bush's Actions Have Been A Disaster (LAT)

By Ronald Brownstein

The Los Angeles Times, September 20, 2005

WASHINGTON — Both members of the 2004 Democratic presidential ticket sharply criticized President Bush in dueling speeches Monday that highlighted the partisan conflict over Hurricane Katrina and early maneuvering for the 2008 White House race.

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Speaking at Brown University in Rhode Island, Sen. John F. Kerry (D-Mass.) delivered his most sweeping indictment of Bush's priorities and performance since last year's campaign.

The crisis caused by the hurricane, Kerry said, exposed a "pattern of incompetence and negligence" in the Bush administration, as well as "a truly systemic effort to distort and disable the people's government, and devote it to the interests of the privileged and the powerful."

At a liberal think tank in Washington, former Sen. John Edwards (D-N.C.) offered more policy proposals in a speech focused on combating poverty. Echoing former President Clinton's famous campaign formulation about welfare, Kerry's 2004 running mate urged "a serious, long-term effort to end poverty as we know it."

Tracey Schmitt, press secretary for the Republican National Committee, accused the two of attempting to politicize the tragedy along the Gulf Coast.

"Armchair quarterbacking on tough issues was never a problem for the Kerry/Edwards campaign," she said. "Such overt tactics didn't serve them well in the 2004 campaign, and today is no exception."

Monday's speeches offered a reminder that Kerry and Edwards, rivals during the 2004 Democratic primaries, could find themselves competing for the 2008 Democratic presidential nomination.

"In a sense, these are two guys who have never stopped running; they have never gotten out of campaign mode," said Democratic consultant Jim Jordan, who served as Kerry's campaign manager early in the 2004 race.

Kerry and Edwards each began their speeches with a similar argument, contending that the devastation in New Orleans revealed social and governmental problems that the administration had not sufficiently addressed. But from there, they moved in different directions.

At the Center for American Progress, Edwards portrayed the suffering among those left behind in New Orleans as a metaphor for the struggles of poor families across America.

Edwards, who last year spoke often about disparities between the "two Americas" of affluence and need, on Monday promoted elements of what he called a "Working Society."

For New Orleans and the rest of the Gulf Coast, he proposed a modern version of the Works Progress Administration that President Franklin D. Roosevelt devised to create jobs during the Great Depression.

Edwards' agenda also included an increase in the nationwide minimum wage from $5.15 to $7.50 an hour (California's minimum wage is $6.75), and new government subsidies to help working-poor families purchase a first home or build savings accounts.

Edwards said he would pay for his ideas partly by allowing tax cuts for top income brackets that Bush pushed through Congress to expire.

Far more directly than in 2004, Edwards said that reducing poverty would also require more progress in discouraging teen pregnancy and encouraging young men to take responsibility for the children they father.

Rhetorically linking such problems with the flooding, Edwards declared: "When a 13-year-old girl thinks there's nothing wrong with having a baby that will drive both her and her child into poverty, we haven't built the levees high enough."

Trent Duffy, a White House spokesman, would not comment directly on Edwards' speech. But he said Bush has focused on "the root causes of poverty" through his economic and education reform agenda.

"No. 1, the best anti-poverty program is a job," Duffy said. "And second, it is education. We are closing the achievement gap between black, Hispanic and white children."

Kerry focused his speech on broader themes, critiquing Bush on two fronts.

He charged that the administration's response to the hurricane showed a lack of competence evident in other areas, such as planning for the reconstruction of Iraq. Accusing Bush of ignoring warnings about the threat of flooding in New Orleans, Kerry declared: "This horrifying disaster has shown Americans at their best — and their government at its worst."

Kerry said the recovery agenda for the region that Bush announced last week "turns the region into a vast laboratory for right-wing ideological experiments," such as waiving requirements that federal contractors pay prevailing wages during the cleanup.

Second, he said the hurricane should show Americans the need to take collective action through the government to attack entrenched problems, such as persistent poverty and lack of access to healthcare.

"It's time we framed every question — every issue — not in terms of what's in it for 'me,' but what's in it for all of us," Kerry said.

Schmitt, the RNC press secretary, criticized Kerry for sending excerpts of the speech to supporters in an e-mail that included a box asking recipients to make a contribution to his political action committee

La. Begins Probe Into 14 Nursing Home Deaths (USAT)

DOJ_NMG_0006849

By Thomas Frank

USA Today, September 20, 2005

BATON ROUGE — The Louisiana attorney general launched an investigation Monday into 14 deaths at a New Orleans nursing home that happened after the elderly patients were not evacuated for Hurricane Katrina.

Attorney General Charles Foti's office has been besieged with complaints about patients being left at medical facilities during the hurricane or receiving shoddy treatment, said Kris Wartelle, a spokeswoman for Foti. She said state investigators are checking additional reports of patients and residents who died at 20 to 30 other hospitals and nursing homes. The nursing home under investigation was identified as Lafon Nursing Facility of the Holy Family in New Orleans. The home's operators — a team of nuns and nurses — told The New York Times last week that patients were moved to the second floor and given care throughout the hurricane.

Wartelle said Foti's office is “close” to beginning probes into two hospitals where numerous other patients died.

She identified them as Memorial Medical Center and Lindy Boggs Medical Center, both in New Orleans.

Wartelle said there was a “pretty strong” likelihood that the two hospitals would be investigated.

Informal inquiries will be made to see whether complaints can be verified before starting a full probe and gathering documents, witnesses and other evidence that could support criminal charges, Wartelle said.

Foti is hiring additional investigators to look into the complaints made at hospitals and nursing homes.

His office disclosed the latest investigation six days after charging Salvatore and Mable Mangano, owners of St. Rita's Nursing Home near New Orleans, with negligent homicide in the deaths of 34 people who were left in the home despite evacuation orders.

Foti said he is planning to write a report when investigations are finished “on how things should be changed for a disaster in the future” and recommend possible changes in evacuation policies for medical facilities.

Foti said most of the 9,000 to 10,000 nursing home residents in the hurricane's path were evacuated without any problem.

Nurse Says Hospital Owner Left Her 'High And Dry' (LAT)

By Nicholas Riccardi And Ellen Barry

The Los Angeles Times, September 20, 2005

CHALMETTE, La. -- Charlene Gonzalez wanted to get out of town before Hurricane Katrina hit, but because she was a nurse at the only hospital in this low-lying waterside town, she would lose her job if she did not stay at her post.

Then, after Gonzalez, her husband and more than 100 other employees and their families spent days trapped by rising floodwaters, the Pennsylvania-based corporation that owns Chalmette Medical Center, Universal Health Services, told its employees that they could count on only two more weeks of pay.

"They left me to die," Gonzalez said. "And now nobody's even called to say `Thank you,' nobody's even called to say `I'm sorry.' "

In the days following Katrina, southeastern Louisiana's hospitals became isolated deathtraps as power failed, water rose and severely ill patients could no longer survive. Officials have not accounted for all the patients at the two-story Chalmette hospital, but staff members say at least four died, three of whom were critically ill and had do not resuscitate orders.

But it is UHS' behavior after the water cleared that has infuriated the residents of St. Bernard Parish, a devastated suburban region of 65,000 residents, where every neighborhood was inundated. The area remains uninhabitable, buried by mud. The hospital is severely damaged.

Officials at UHS say the anger is understandable after such a catastrophe, but they contend they did everything they could for their patients and employees. They say they tried to evacuate their hospital -- albeit at least a day after emergency officials say they urged it -- but that it was too late to get all the patients out. The company, which had $3.9 billion in revenue last year and says it is the nation's third-largest hospital management corporation, says it is trying to place employees with some of its 84 other facilities and has started a foundation to aid those who lost their homes.

But UHS says on its Web site that it is "committed" to paying through Saturday the 2,800 employees at its three New Orleans-area hospitals, including the 900 at Chalmette. It says they will receive insurance coverage through "at least" the end of October.

Marc Miller, a vice president at UHS, said the cutoff of pay on Saturday is subject to change."This is a highly unusual situation," Miller said. "No final determination has been made on salary and benefits."

Jon Sewell, the hospital's chief executive, said that as he and his employees were trapped in the hospital, the most common question people asked was: Will I have a job?

Three weeks later, he could offer his workers no reassurance.

"Everybody's very emotional about what's in our future," Sewell said.

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St. Bernard residents say the other major employer in the parish, Exxon Mobil Corp., is still paying employees even though its refineries have not come back on line. Bitterly, they say they do not expect additional help from UHS.

"It's a betrayal," Parish Councilman Kenneth Henderson said. "The people treated them good and they turned their backs on us."

For Henderson, it's personal. His daughter, Kendal Guerra, is a nurse at the hospital and is seven months pregnant. She will lose her health insurance, Henderson said, before she gives birth.

Based in King of Prussia, Penn., UHS drew 7 percent of its revenues during the first half of this year from its three New Orleans-area hospitals. All were damaged by Katrina.

Before the storm, the company had invested heavily in its 230-bed hospital in Chalmette, an oil town eight miles east of New Orleans' French Quarter. It had just opened a new 30-bed intensive care unit when Hurricane Katrina began to form.

Dr. Lee R. Domangue, the hospital's director of emergency medicine, said that late on Friday, Aug. 26, he heard the news about the storm turning toward New Orleans and made a frantic call to hospital administration.

"I said `Close the hospital,' " he recalled in an interview. "'You have a category five storm going right over you. You have a medical obligation to evacuate."

Domangue said the answer was no. "It was an administrative decision, against my better judgment," he said.

Sewell said he does not recall the conversation, but parish emergency officials said they also pleaded with the hospital before Saturday to evacuate quickly, to no avail.

"It was nothing less than depraved indifference," said Dr. Paul Verrette, medical director of the parish's emergency preparedness office.

After meeting Saturday with parish officials, Sewell said he was convinced that the hospital needed to evacuate. As in prior storms, intensive-care patients were taken out first. Sunday, less than 24 hours before Katrina hit, the hospital began evacuating other patients from its first floor.

"Our intention was to do it as long as we could," Sewell said.

But with medical facilities throughout New Orleans also scrambling to relocate their patients, Chalmette could not find any available beds in Louisiana or surrounding states. Late Sunday, the hospital moved the 50 or so remaining patients to the second floor.

With patients in the facility, employees on hand were required to remain on duty, something the hospital's officials said was standard emergency procedure in the industry. "It's like being a policeman or a fireman," Sewell said.

About 150 staffers and their families hunkered down. Gonzalez, the nurse, had her husband come along. She couldn't believe they were riding out such a storm in a two-story building, and brought the family airboat.

Several hours after the hurricane struck early Monday, Sewell lay down in his first-floor office for a nap. He felt water on his back. Water was pouring into the hospital, drowning the first-floor generators. The floodwaters that were beginning to rise in New Orleans were inundating St. Bernard Parish. Within two hours, about 16 feet of water covered the first floor, and rescue workers were launching airboats off the second floor terrace to retrieve neighbors stranded on their roofs.

For the next three days, as many as 400 evacuees took shelter on the second floor of the hospital. Food and water were tightly rationed -- meals consisted of a scoop of cottage cheese, a few slices of fruit and two pieces of ham. Staff desperately tried to keep conditions sanitary without a sewage system and attempted to break shatter-proof windows to let fresh air into the scorching building.

By Wednesday, parish officials had found a scrap of dry land to function as a triage center. Sheriff's deputies, firefighters and civilians began to shuttle patients to the parish jail, which sat on high ground. The next morning, the last of the staff was evacuated by a National Guard helicopter. Sewell was on the last flight off the hospital roof.

Most staff made their way out of the parish on Sept. 2. The following week, at a parish meeting in Baton Rouge, word began to travel among nurses that UHS would give them only two weeks' pay.

"They would always stress to their employees [that] they want to be active in their community, give to the United Way, and then they do something like that," said Brenda Ingargiola, the wife of the parish's emergency management director and a nurse at Chalmette for 29 years.

Charlene Gonzalez's three grown children have all been promised by their employers that they will not lose their jobs, as has her husband, who works at the Port of New Orleans.

"Everybody's been taken care of," she said, "but UHS has left me high and dry."

For Illegal Immigrants, Some Aid Is Too Risky (WP)

By Darryl Fears

The Washington Post, September 20, 2005

BATON ROUGE, La. -- The man who stood with his head bowed outside a cheap motel room here said his name is Almicar of Guatemala. He crept across the Mexican border into the United States a few years ago and since that time has found work as a painter in New Orleans.

But several weeks ago, Hurricane Katrina turned his world upside down along with everyone else's. Almicar, who gave only his first name for fear of being deported, said his situation is worse because he is an illegal immigrant. Since the storm hit, he has watched his neighbors at the motel call the Federal Emergency Management Agency to get money he will never see and food stamps that are forbidden to his family of five, and to seek jobs at the Social Security office, where he dares not show his face.

Almicar didn't speak a word of English, but his body language said it all. Eyes down, arms folded, back slumped, he had the visage of a defeated man.

"I'm afraid," he said in Spanish. His family's "situation is getting harder and harder. You don't know what to think, starting from zero again."

Much has been said about the suffering of the poor in New Orleans, but Latino civil rights advocates and relief workers say those troubled Americans are better off than immigrants who live in Gulf states illegally, working in restaurants, casinos, farms and construction.

Some have managed to get into shelters run by the Red Cross and Catholic Charities, which provide food and medical care, no questions asked. But when U.S. citizens in those shelters flock to cardboard tables where FEMA, Social Security and Internal Revenue Service agents sit, Latinos stay behind, watching from their cots, relief workers said.

The Department of Homeland Security recently announced that information provided by illegal immigrants seeking federal aid could be used against them later in deportation proceedings.

"The administration's priority is to provide needed assistance: water, food, medical care, shelter," said Joanna Gonzalez, a DHS spokeswoman. "However, as we move forward with the response, we can't turn a blind eye to the law."

That point was driven home when two illegal immigrants, from Honduras and El Salvador, were taken into custody in West Virginia by state police after a military cargo plane carrying 305 evacuees arrived there Sept. 5. Immigration and Customs Enforcement officials say the two, who were friends, were taken into custody after state police received a complaint that one had been accused of a sexual assault.

"What that suggests is that the federal government is prepared to serve some victims but not others," said Cecilia Muñoz, vice president for policy at the National Council of La Raza. "That sends a terrifying message to the larger community."

In his national address Thursday, President Bush read off a list of services that the estimated 40,000 Mexicans and 150,000 Hondurans who lived in the New Orleans area cannot get: checks from Social Security, mail delivery by the Postal Service, money to rent apartments and temporary trailer homes.

Opponents of illegal immigration, such as Numbers USA, have fought giving financial aid to illegal immigrants. On the other side, a group of U.S. senators including Barack Obama (D-Ill.) and Hillary Rodham Clinton (D-N.Y.) urged DHS Secretary Michael Chertoff to issue a statement reassuring immigrants that they could come forward without fear of deportation.

"We are very concerned because they're afraid to ask for help," Brent A. Wilkes, executive director of the League of United Latin American Citizens, said of illegal immigrants. "It's difficult to get word to them. They're in the dark much more so than other folks. They have a default position: to avoid authorities at all costs."

About 65 Latinos were staying at the $30-a-night motel where Almicar stood. Some were documented; many were not. A Guatemalan woman said she is consumed by worry and fear. She would not give her name, she said, because people would come to deport her.

What if my children get sick? she wondered. "I guess I will have to go to the hospital and take my chances," she said.

Her friend Merling Buchanan, a Tulane University master's student from Honduras who speaks English, is the eyes and ears to the world for several of the Peruvians, Guatemalans and Ecuadoreans living at the motel.

"Normally when I get up, there's always someone I need to take somewhere," said Buchanan, a naturalized citizen. On Monday, a friend from Guatemala wanted to speak with a caseworkers at Catholic Community Services.

"The lines are long, so I stay all day," she said. "There is a list, and people write their name. I was number 102."

Days before, FEMA deposited $2,000 directly into her bank account, she said. At the cheap motel, that pittance seems like an embarrassment of riches.

Mario Fletes, 31, a Honduran painter, said he's very frustrated, watching his wife and three sons worry.

"I went to get unemployment, and they said they couldn't process my Social Security number," which, he insisted, is legitimate. "I went to apply for food stamps. They told me to come back in two days. I went Thursday. I went Friday. Finally, they told me not to come back."

Wilkes said FEMA doesn't have enough Spanish-speaking officials to handle even those who work legally on farms, in hotels and in casinos.

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But David Passey, a FEMA spokesman, denied that. "We have Spanish-speaking operators on our registration phone lines," he said. "We understand the need to communicate with people in several different languages. If we have areas were we're lacking, advocacy groups can tell us. We're open to input."

Rony Reyes said his friends are almost out of money for the motel. Catholic Community Services of Baton Rouge paid the motel manager about $200 to keep some under a roof for a week.

"Thank God for the church," he said. "We would be sleeping in the parking lot now, no doubt."

But others are helping.

In Mississippi, a group called Project Prep braved floodwaters in Biloxi to get aid to Latino migrant farmworkers and others who feared deportation, said John D. Arnold, the project's director and co-founder.

Jacob Prado, who is coordinating relief efforts for the Mexican Embassy, distributed cash and airline tickets in and around Biloxi to Mexican citizens wishing to return to Mexico, an embassy spokesman said.

In San Antonio, a convoy of 45 Mexican army vehicles rolled into the city with troops and mobile kitchens capable of feeding 14,000 people. Elsewhere in Texas, Catholic Charities of Galveston/Houston doled out $300,000 to immigrant families as of Friday, about $25,000 a day, said Julissa Guerrero, the communications director.

"As quickly as the donations are coming in, they are going right back out," she said. "We are worried that people who are undocumented are falling through the cracks."

In Louisiana, Diane Chisholm, the director of migration and refugee services for Catholic Community Services of Baton Rouge, said documented and undocumented Latinos have poured through the group's doors every day for a week.

"I can say it's been hundreds of people," Chisholm said Monday.

Almicar and other immigrants living at the motel in East Baton Rouge Parish were residents of Metairie, La., near the New Orleans airport.

On the Saturday before Katrina struck, Buchanan was doing the wash when the New Orleans mayor said on television, in English, "We're facing the storm most of us have feared."

She woke her sleeping husband, who snapped at her. "How are we going to go? We don't have money." He eventually agreed to go and borrowed money from a friend.

"Hispanic friends . . . followed us because they didn't know where to go," Buchanan said. "They followed us because we speak English."

They formed a caravan of five rickety cars, one of which broke down en route to Baton Rouge.

The men work where they can find it, usually in towns more than an hour away. It costs about $20 in gas per trip, eating into their pay of about $90 each.

Right now, Reyes said, work is worth the sacrifice. The motel rooms are too precious to give up.

"If you leave, there are three people waiting to take them," he said. "It's all we have right now."

Dying For A Drink Of Clean Water (WP)

By Jan Eliasson And Susan Blumenthal

The Washington Post, September 20, 2005

In the United States and Europe, people take it for granted that when they turn on their taps, clean water will flow out. But for those living in U.S. cities devastated by Hurricane Katrina, as in large parts of the world, obtaining safe water requires a constant struggle.

Water is essential to all aspects of life, yet 99 percent of water on Earth is unsafe or unavailable to drink. About 1.2 billion people globally lack safe water to consume and 2.6 billion do not have access to adequate sanitation. There are also stark comparisons: Just one flush of a toilet in the West uses more water than most Africans have to perform an entire day's washing, cleaning, cooking and drinking.

Ensuring access to safe water worldwide is imperative. Water is an economic issue since it is essential for poverty reduction, agriculture, food and energy production, as well as recreation. It is a women's issue in the developing world because women have primary responsibility for household water gathering in many of these countries. Time spent hauling water robs women and girls of getting an education or engaging in meaningful work. It is a children's issue because water is essential for healthy development. A youngster dies every eight seconds from water-borne disease. And water is a national security issue because some of the world's conflicts today arise from disputes over arable land and water: The tragedy in Darfur, for example, was driven in no small part by tensions over access to water.

But most of all, water is a fundamental global health issue. Unsafe water and sanitation is now the single largest cause of illness worldwide, just as it has been a major threat to the health of people affected by Hurricane Katrina. A recent U.N. report has estimated that:

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· At least 2 million people, most of them children, die annually from water-borne diseases such as diarrhea, cholera, dysentery, typhoid, guinea worm and hepatitis as well as such illnesses as malaria and West Nile virus carried by mosquitoes that breed in stagnant water.

· Many of the 10 million child deaths that occurred last year were linked to unsafe water and lack of sanitation. Children can't fight off infections if their bodies are weakened by water-borne diseases.

· Over half of the hospital beds in the developing world are occupied by people suffering from preventable diseases caused by unsafe water and inadequate sanitation.

If action is not taken now, 135 million people could die of water-related diseases by the year 2020. That is a larger number than those expected to fall victim to the HIV/AIDS pandemic, a catastrophe that has already killed 23 million people worldwide. Furthermore, water plays a critical role in this disease since many deaths from AIDS are linked to illnesses resulting from dehydration and diarrhea caused by unsafe water.

The United Nations has set a Millennium Development Goal -- to be reached by 2015 -- of reducing by half the percentage of people without access to safe drinking water and basic sanitation. There is a long way to go to reach this goal. That's why the U.N. General Assembly has declared the next 10 years to be the International Decade for Action on "Water for Life" to focus attention on this vital issue.

When poor people are asked what would most improve their lives, water and sanitation is repeatedly one of their highest priorities. We should heed their call. The recent decision by the leaders of the Group of Eight nations to double economic assistance for Africa has the potential to help if a significant portion of this aid goes to address the problems of water and sanitation. Developing countries should involve their citizens in decision making about how best to get improved water and sanitation services to their people. And developed nations should work with the ideas and aspirations of those countries and people they are seeking to help -- particularly women -- so that improvements can be sustained over the long term.

Nations in both the developing and developed world must share knowledge and experiences in public education, disease prevention, emergency response strategies, the application of new technologies and training. A global coalition of organizations, businesses and individuals must be mobilized across the public and private sectors for infrastructure development and innovation.

Time is of the essence. By 2025 the world's population is projected to increase from 6.4 billion to 8.4 billion. At that time, 3.4 billion people could live in countries where water is scarce. Today we are talking about our planet as a global village. With coordinated efforts and a large influx of funding, the Gulf Coast region of the United States will, we hope, restore its water and sanitation systems within months. But unless we soon implement a global action plan for water with increased awareness, activism and resources, large numbers of people around the world will continue to suffer and die needlessly for generations to come for want of clean water.

Jan Eliasson, former Swedish ambassador to the United States, is the president of the United Nations General Assembly. Retired Rear Admiral Susan Blumenthal, a physician, served as assistant surgeon general of the United States. She is a clinical professor at the Georgetown and Tufts University schools of medicine.

Cameras Headed To Court? (RC)

By John Mcardle, Roll Call Staff

Roll Call, September 20, 2005

Bill Would Put Supremes on Air For the past 20 years, every time a vacancy arises in the Supreme Court, C-SPAN General Counsel Bruce Collins is teased by the possibility that new blood on the bench might mean the highest court in the land would reconsider its stance on allowing cameras into its halls.

But while Collins waits, hoping the court's two new justices will allow proceedings to be televised, the chairman of the Senate Judiciary Committee is ready to force the matter.

According to a GOP Congressional source close to the issue, Sen. Arlen Specter (R-Pa.) — who has said that Congress legally has authority over court administration issues — intends to drop new legislation, possibly as early as this week, that will push for opening the Supreme Court to television cameras.

Specter had discussed the possibility of a bill at last week's hearings on Judge John Roberts' nomination to be chief justice when the issue was brought up by Members on both sides of the aisle.

On Wednesday, Sen. Chuck Grassley (R-Iowa) pointedly asked Roberts if he was against cameras in the courtroom "like Justice [William] Rehnquist was."

"Well, you know, my new best friend, [former] Sen. [Fred] Thompson [R-Tenn.], assures me that television cameras are nothing to be afraid of," Roberts responded. "But I don't have a set view on that. I do think it's something that I would want to listen to the views of — if I were confirmed — to my colleagues."

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On Tuesday, Sen. Russ Feingold (D-Wis.) also asked Roberts about the issue and made clear his support for cameras in the Supreme Court.

"Americans can watch virtually every significant event of national importance on television, except for oral arguments and announcement of decisions at the Supreme Court," Feingold said. "If you are confirmed, you will essentially disappear from public view ... The possibility of televising trials raises some complicated issues, because we have to consider the safety and rights of criminal defendants and witnesses and jurors, but such concerns are not so present in the case of appellate proceedings ... I think it would benefit the country and the court if all Americans had a chance to see the court conduct its work."

But with Roberts noncommittal, Collins — who first worked to get the Supreme Court to open its oral arguments to C-SPAN and other network audiences in 1985 and has continued to push for cameras in the court several times in the past two decades — continues to wait.

"We've got so much experience with these bursts of interest in this issue that never go anywhere that we're taking a 'wait and see' attitude," Collins said. "If there seems to be a serious interest this time we will definitely follow up by restating our many-year-old commitment to air every minute of every oral argument of every court term and we would be in the middle of these efforts to ensure they happen."

For the past four years, Grassley and several other Senate co-sponsors have been pushing the Sunshine in the Courtroom Act. The bill, which was reintroduced to the 109th Congress in April, would give full discretion to the presiding judge of a case as to whether cameras or recording devices would be allowed during proceedings in federal trial and appellate courts, including the Supreme Court. In appellate courts, the most senior active judge — the chief justice in the case of the Supreme Court — would have discretion on the issue.

It's not yet clear how Specter's new bill would differ from Grassley's, but in an interview earlier this month on C-SPAN's "Q & A" that was filmed before Rehnquist's death, Specter said that pushing for cameras in the Supreme Court was something he had been wanting to move forward with for a long time. He said he hadn't done so "out of deference to Chief Justice Rehnquist."

"I think Congress has the authority to say there ought to be television of the Supreme Court," Specter had said. "Nobody can tell them how to decide cases. But Congress decides, for example, how many justices there will be ... We established time limits. We say when they start to sit on the first Monday in October, and I think, on an administrative matter, that the Supreme Court is subject to a Congressional determination.

"Now they may disagree with this and say, 'It's an invasion of separation of powers.' I don't think it is," Specter said. "But they decide so many cases five to four on the cutting edge. And I think that it would be very helpful for the public to have a great understanding as to what they do."

While C-SPAN's Collins agreed that Congress does have the authority to pass legislation to open the Supreme Court to cameras, he said that "in the end, I can't see the Congress forcing the Supreme Court" to allow cameras in.

And even if Roberts were to come out in favor of cameras in the court and gets confirmed as chief justice, "as a new chief getting his sea legs, so to speak, I don't think he's going to cause trouble over the issue of television.

"I don't think this is a policy issue that can be won on points and authorities, it'll be a personal decision on the part of the judges. And I don't think it'll be a five-four decision, I think it'll have to be a nine-zero decision."

But Henry Schleiff, Court TV CEO, who has been looking to open federal courts to television cameras since the network's founding in 1991 and, like C-SPAN, would carry the court's oral arguments gavel to gavel, said he thought that Roberts' statements at last week's hearings exhibited a fresh sort of open-mindedness to the issue.

"We were encouraged to hear the modern thinking by what is clearly a modern jurist taking a more modern approach," Schleiff said.

Schleiff said Court TV has actively supported Grassley's bill in the past and is in the midst of preparing letters to Roberts, Specter and other Judiciary Committee members to lobby on its behalf.

But Collins said he remains skeptical.

"In 1985 when we started on this, C-SPAN and others, if you'd asked me then if we would have had cameras in the Supreme Court in the next 20 years, I would have said 'well certainly,' because the Court would change its membership and it would have new justices with new views on it," Collins said. "All I can tell you is that the generational change seems to be slower than we thought earlier. There might be a possibility that we might get them but I'm not going to put a date on it."

Senate Poised For Test Vote On Drug Reimportation (HILL)

By Jeffrey Young

The Hill, September 20, 2005

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The Senate is poised to vote for the first time on language to ease access to prescription drugs imported from abroad during consideration of the agriculture-appropriations bill currently on the Senate floor, fulfilling a promise made by Majority Leader Bill Frist (R-Tenn.) in July.

Sen. David Vitter (R-La.) has proposed an amendment to the agriculture spending bill that would block the Food and Drug Administration (FDA) from preventing people from importing prescription medicines.

The language was introduced Thursday but had not been placed in the queue for a vote by press time yesterday. Frist hopes to wrap up the agriculture bill by the middle or end of this week, according to a spokesperson. Vitter is the author of a measure that would establish FDA regulation of imported drugs.

As part of an agreement with Vitter, Frist vowed to permit the amendment as a test vote for Senate support of relaxing restrictions on consumers' obtaining drugs at lower prices from countries such as Canada that use price controls to hold down the cost of medicines

Vitter had threatened to block the confirmation of FDA Commissioner Lester Crawford but backed down when Frist promised not to stall the drug-imports amendment when the agriculture-appropriations bill came to the floor.

Prescription-drug importation, or "reimportation," as it is it is sometimes called, enjoys broad support in the Congress but is opposed by the GOP leadership in both chambers and by the White House.

On Wednesday, the Senate took action that could augur well for Vitter's amendment. It adopted legislation by unanimous consent that would prevent the U.S. trade representative from making deals that would preclude drug imports.

The House passed a bill virtually identical to Vitter's measure during the last Congress, but the Senate never took up the legislation. Sens. Byron Dorgan (D-N.D.) and Olympia Snowe (R-Maine) are the chief sponsors of a rival bill. Backers of drug importation, including Sen. John Thune (R-S.D.), are expected to vote in favor of whatever vehicle first reaches the floor.

According to the agreement with Frist, if the Vitter amendment attracts more than 60 votes, a standalone drug-imports bill would be given floor time at a later date. If the amendment is attached to the agriculture bill, it is expected to be stripped out during conference discussions.

The pharmaceutical industry repeatedly has cautioned that drug makers cannot guarantee the safety of medicines entering the U.S. market from abroad, often citing the proliferation of counterfeiting rings and other criminal enterprises linked to the cross-border trade of prescription drugs.

Social Security Appears To Be DOA In Senate (RC)

By Emily Pierce

Roll Call, September 20, 2005

Though it might be premature to say the nail is in the coffin of President Bush's push to overhaul Social Security, there appear to be plenty of Republicans on Capitol Hill these days who are willing to serve as pallbearers.

In fact, with last week's revelation that National Republican Congressional Committee Chairman Tom Reynolds (N.Y.) thinks that voting on a Social Security overhaul would be political suicide for House Republicans in 2006, Senate leaders are doing little to quell a notion, floated by Reynolds, that any measure offering personal investment accounts under the government's retirement security program would be dead on arrival in the Senate.

Asked if Reynolds was correct to assume that the Senate would be unable or unwilling to take up Social Security in this Congress, Senate Majority Whip

Mitch McConnell (R-Ky.) said, "It is my personal opinion that Social Security reform ought only to go forward on a bipartisan basis. And as of this moment ... I am unaware of any Democrat who has signed on" to negotiations over personal accounts.

Indeed, Democrats in both chamber have steadfastly refused to even consider the notion of private accounts, saying that the change would make current promised benefits to retirees subject to the whims of Wall Street, and the costs to transition to private accounts would bankrupt the system.

On Monday, Sen. George Voinovich (R-Ohio) unveiled "lockbox" legislation that would keep Social Security revenues from being used for anything other than benefits — a proposal that places the focus on the solvency of the existing program rather than on a major overhaul. Bush's plan, "in my opinion, is not going anywhere," he told reporters.

Republican backers of the president's plan, however, argue that personal investment accounts are the only way to salvage a retirement system slated to become insolvent by mid-century and that retirees stand to reap even more money from the stock market than they are guaranteed under Social Security.

Of course, the uppermost worry among Reynolds and other Republicans with cold feet on Social Security is not about whether the Bush plan will work. Rather, their concern is whether voting to create private accounts will trigger a voter backlash that significantly weakens the GOP Congressional majority — or even hands control to the Democrats.

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Indeed, one aide to a Senate Finance Committee Republican said that Reynolds' concerns mirror those of many Senate Republicans who have been "privately for months ... voicing the same concerns."

"I don't think we have the time [on the Senate floor schedule], and I don't think we have the political will," the aide said.

Even one of the most vocal supporters of private accounts, Sen. Lindsey Graham (R-S.C.), acknowledged that Republicans in the Senate are skittish about taking up Social Security before the 2006 midterm elections.

"I think the Senate, like the House, has got to get over being afraid for ourselves," Graham said. "It's a short-sighted view for our party to put off addressing this issue. There will never be a politically opportune time."

Despite admonitions like that from true believers, it isn't as if Speaker Dennis Hastert (R-Ill.) or Senate Majority Leader Bill Frist (R-Tenn.) are clearing their chambers' schedules for the debate, especially given the onslaught of legislation related to Hurricane Katrina in both chambers, plus two Supreme Court nominees for the Senate to confirm.

While the timeline for House action this fall on Social Security was vague to begin with, Hastert gave an even hazier timeline when asked about it by reporters last week. "Social Security is something very important. It's something we've talked about doing, and when we decide to move forward we'll let the press know," he said, adding that the House is focused on aiding Katrina evacuees first.

Similarly, Frist spokeswoman Amy Call said the Senator is "still interested in considering Social Security reform," but noted the loaded Senate schedule has pushed the issue off the front burner. "We'll see where we are later in the fall," she said.

Senate Finance Chairman Chuck Grassley (R-Iowa) also put Social Security at the bottom of his list recently, saying that the response to Katrina, Supreme Court nominations, a budget reconciliation bill and the 12 annual appropriations bills take precedence, according to a spokeswoman.

Still, Grassley noted that if the House takes action on Social Security, it could give the issue added momentum in the Senate.

However, Senate Finance ranking member Max Baucus (D-Mont.) said Republicans are just giving lip service about their intentions on Social Security at this point.

"It's all bluster," he said. "Private accounts have a close-to-zero chance of being enacted this year. ... I think Grassley's stock is also close to zero on this."

Though Reynolds and others fear the repercussions of voting on Social Security at the ballot box, the crisis management in Washington over the botched recovery from Katrina is providing Republican leaders with a handy excuse for sidelining Social Security for the rest of this Congress.

"Katrina is the perfect way for Republicans to bow out gracefully without making the president look bad," said an aide to a Finance Republican.

Many Republicans already have acknowledged that trying to bring up the subject during an election year would most certainly spell political death.

Of course, there are a few holdouts trying to give the issue fresh energy, notably, Senate Republican Conference Chairman Rick Santorum (Pa.). Santorum is pushing a bill that would guarantee that senior citizens 55 or older would continue to receive their promised Social Security benefits if private accounts were introduced for younger workers.

Santorum is reportedly hoping to move his bill alongside a measure by Sen. Jim DeMint (R-S.C.) that would give workers born after 1950 the option of placing part of their Social Security taxes in private investment accounts. DeMint, like Santorum, has expressed a desire to move forward with the plan as well.

Santorum has said the bill will assure seniors that Democratic scare tactics on Social Security are just that, but the introduction of the bill also appears to be a tacit acknowledgement that those Democratic tactics are working.

And, of course, Bush has shown no signs of accepting or acknowledging defeat. He's meeting this week with the very people who recommended he push private accounts in the first place — his 2001 Commission to Strengthen Social Security.

Inside Politics (WT)

By Greg Pierce

The Washington Times, September 20, 2005

Kerry's complaint

Sen. John Kerry yesterday said Hurricane Katrina exposed "a broader pattern of incompetence and negligence" in the Bush administration and showed what a bad choice Americans made in re-electing the president last year.

"The truth is, democracy is not a game. We are living precious time each day in a different America than the one we can inhabit if we make different choices," Mr. Kerry, Massachusetts Democrat and his party's 2004 presidential nominee, said in a speech at Brown University.

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Mr. Kerry used the speech as a fundraising technique, sending an advance preview to his e-mail list of supporters along with a link to click if they wanted to contribute to his political activities.

In his remarks, he said the hurricane is a watershed moment for Americans to define themselves, but that the president has failed to lead.

"Yes, they can run a good campaign -- I can attest to that -- but America needs more than a campaign," he said. "If 12-year-old Boy Scouts can be prepared, Americans have a right to expect the same from their 59-year-old president of the United States."

"Armchair quarterbacking on tough issues has never been a problem for Senator Kerry," said Republican National Committee spokeswoman Tracey Schmitt, who called his and other Democrats' recent remarks an "unsavory" attempt to politicize the hurricane.

For nonbelievers

Atheists finally have a lobbyist of their own.

She is Lori Lipman Brown, 47, a former Nevada state senator and lawyer with a background in constitutional law, who is going to work for the Secular Coalition for America, an umbrella group. She's interested in church-state separation issues and says she intends to "help us move toward the day when humanists and atheists are regarded with the same respect as the rest of society."

She began work yesterday at the D.C. headquarters of the American Humanist Association and also will be representing the concerns of the Atheist Alliance International, the Institute for Humanist Studies, the Secular Student Alliance and the Secular Web.

"For humanists, having a full-time lobbyist is a historic accomplishment," said Roy Speckhardt, AHA executive director. "It's a culmination of our efforts to establish a seat at the table for our views.

"Having a lobbyist focusing on a secular point of view is more essential now than ever before. With the three branches of government drenched in religiosity, we have to let America know that we are here, too."

Voinovich's plan

Sen. George V. Voinovich, Ohio Republican, said yesterday that Social Security personal-account proposals aren't going anywhere this year, but that Congress should pass legislation to lock away federal trust funds, including Social Security dollars, to ensure government can't spend them.

Mr. Voinovich introduced a bill that would require all specially designated government revenue, including Social Security, be saved for those purposes and not spent on other programs. The government, he said, has borrowed more than $3.5 trillion from various trust funds, including $1.9 trillion from Social Security and $695 billion from the Civil Service Retirement and Disability Fund, but that borrowing is not reported to the public as part of the overall deficit.

"What we've been doing every year is raiding those trust funds," he said, arguing that taking the money off the table will reveal the true size of the deficit and force Congress to limit spending, raise taxes or increase borrowing. "We've got to get real."

Mr. Voinovich said overall Social Security reform will not happen this year with other issues, such as hurricane-relief efforts, dominating the agenda. "The Social Security thing, in my opinion, isn't going anywhere," he said. "It may have been doomed from the beginning because it wasn't done on a bipartisan basis."

He added that since much has to be done to get the government's fiscal house in order, he hopes President Bush's tax cuts will not be made permanent, as some Republicans propose.

Flood of money

"There's an old adage that no one in Washington can tell the difference between $1 million and $1 billion. Seldom has that Beltway learning disability been more vividly demonstrated than in the weeks since Katrina," the Wall Street Journal's Stephen Moore writes.

"When President Bush announced last Thursday that the feds would take a lead role in the reconstruction of New Orleans, he in effect established a new $200 billion federal line of credit. To put that $200 billion in perspective, we could give every one of the 500,000 families displaced by Katrina a check for $400,000, and they could each build a beachfront home virtually anywhere in America," Mr. Moore said.

"This flood of money comes on the heels of a massive domestic spending build-up in progress well before Katrina traveled its ruinous path. Federal spending, not counting the war in Iraq, was growing by 7 percent this year, which came atop the 30 percent hike over Mr. Bush's first term.

"Republicans were already being ridiculed as the Grand Old Spending Party by taxpayer groups. Their check-writing binge in response to the hurricane only confirmed, as conservative leader Paul Weyrich put it, that 'the GOP, once the party of small government, has lost its bearings and the Republican establishment doesn't seem to get the message that the grass roots of the party is enraged.' "

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No run-off

Democrat Fernando Ferrer has enough votes to officially win the New York mayoral primary and will face Republican Mayor Michael R. Bloomberg on Nov. 8, officials said yesterday.

After a week of uncertainty, Mr. Ferrer edged just past the 40 percent mark as election workers finished counting thousands of absentee and other untallied votes cast in the Sept. 13 primary, Board of Elections officials said.

Officials had said a runoff would have been required by law with the second-place finisher, Rep. Anthony Weiner, if no one had reached 40 percent -- even though Mr. Weiner had conceded defeat.

A "painstaking recanvass" found Mr. Ferrer, the former Bronx borough president, received 192,243 votes of the more than 478,000 votes cast, Board of Elections Executive Director John Ravitz said yesterday. That put him about at 40.15 percent, or 720 votes over the 40 percent threshold, the Associated Press reports.

"There will not be a runoff between Fernando Ferrer and Anthony Weiner," Mr. Ravitz said.

Earlier, cheers rang out at Ferrer campaign headquarters as staff members heard the reports.

FDA Rethinks Women's Chief (WP)

By Marc Kaufman

The Washington Post, September 20, 2005

One week ago, the Office of Women's Health of the Food and Drug Administration sent an e-mail notice to women's groups and others announcing the appointment of Norris Alderson as its new acting director.

An FDA veteran trained in animal husbandry who spent much of his career in the agency's Center for Veterinary Medicine, Alderson quickly became the subject of active and largely negative comment on the Internet and elsewhere.

The Office of Women's Health serves as a liaison with women's health groups and as an advocate on women's issues; critics said that a man with a primarily veterinary background could not properly fill the role.

The last director, Susan Wood, resigned last month to protest the agency's unwillingness to make a decision on whether to make emergency contraception more easily available.

Three days after the Alderson announcement, the FDA main press office sent out a very different announcement. It said that 20-year FDA veteran Theresa A. Toigo would be the new acting director of the women's health office, and that she would be a champion for women's health inside and outside the agency. Alderson -- and the statement announcing his appointment -- was never mentioned.

Asked yesterday who exactly was running the office, FDA spokeswoman Suzanne Trevino said that Alderson had never been appointed acting director. She said that Toigo would take over from the departed Wood, and that her office knew nothing about the statement regarding Alderson, who is the agency's associate commissioner for science.

"There was no official decision made until we announced Theresa Toigo's appointment on Friday," Trevino said.

The seeming mystery thickened when several women's groups said that not only did they receive e-mails announcing Alderson's appointment, but also that he was also listed on a Health and Human Services directory last week as the acting director of the office. In addition, people who have spoken with women's health office staff said that Alderson was introduced to the staff last week as the new acting director, and that he even had some one-on-one discussions with staff members about future plans.

Sen. Barbara A. Mikulski (D-Md.), a longtime advocate for the FDA's women's health office, said she already had been concerned by Wood's resignation. "I was further concerned to learn last week that Dr. Norris E. Alderson, someone without women's health experience who has spent the majority of his career at the Center for Veterinary Medicine, was appointed acting director of this important office," she said in a statement yesterday.

Toigo has led the FDA's Office of Special Health Issues, which works with patient advocates on issues such as AIDS and cancer. The FDA announcement of her appointment also says that she has worked with the women's health office on agency initiatives related to the inclusion of women and minorities in clinical trials.

Former director Wood called Toigo a good choice. "She's a very capable and dedicated person who will do an excellent job," Wood said.

But many women's health groups remain unhappy with the FDA and what they consider to be the agency's questionable leadership.

"Once again, this episode shows the agency's complete tone-deafness," said Kirsten Moore, director of the Reproductive Health Technologies Project. "It underscores our concern about the degree of competence at the leadership level, and about political appointees who just don't know much" about the issues before the agency.

Is FDA's New Chief Counsel A Change In Name Only? (LEGTIMES)

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By Lily Henning, Legal Times

Legal Times, September 20, 2005

Sheldon Bradshaw arrived at the Food and Drug Administration without the baggage lugged around by his predecessor.

The previous chief counsel at the FDA, Daniel Troy, was pilloried by critics who slammed his close ties to the drug industry. Troy made a name for himself suing the agency on behalf of drug and tobacco companies before moving to the government agency early in the Bush administration.

Bradshaw, who came to the FDA as chief counsel from the Justice Department in April, has escaped that kind of scrutiny, largely because he hasn't had those corporate relationships. But that doesn't necessarily mean a new day has dawned.

In fact, despite Troy's return to the private sector, his controversial legal policies remain in force at the agency. Like Troy, Bradshaw offers one-on-one meetings with the companies regulated by the agency, has kept low the number of warnings issued to companies violating regulations, and, perhaps most notably, has continued to intervene on behalf of drug companies in private civil lawsuits.

Last week, Bradshaw signed off on a brief agreeing with Pfizer Inc.'s claim that three years ago the FDA would not have allowed the drug company to warn consumers about a link between suicidal behavior and the use of its best-selling antidepressant, Zoloft, by adolescents, an argument Pfizer is using to ward off liability.

That approach and a lighter regulatory hand put the public at risk, consumer and public health advocates complain. And even some in the drug and medical-device industries find the regulatory regime under Troy, and now Bradshaw, discomforting, claiming that without strong FDA oversight, companies are being hauled into court more frequently by state attorneys general and private plaintiffs.

"One of our clients said to me a few months ago, 'I miss the FDA,'" says Arnold & Porter's Donald Beers, a food and drug attorney who served as associate chief counsel for drugs and for enforcement in the FDA's Office of Chief Counsel between 1975 and 1985. "An aggressive FDA that occupies the stage is sometimes better than having lots of different people sniping at you."

STAYING THE COURSE

Before joining the FDA in April, Bradshaw was principal deputy assistant attorney general in the Department of Justice's Civil Rights Division.

Bradshaw's move to the FDA -- generally considered a less prestigious agency for government lawyers than the Justice Department -- surprised some of his former colleagues, who describe him as being part of an ideologically conservative group of young leaders in deputy positions at the DOJ.

He also worked in the Office of Legal Counsel, made up of an elite group of lawyers at Justice who advise the executive branch. Among the office's alumni is Troy. Both he and Bradshaw were part of the Bush administration's advance legal teams in 2001.

Bradshaw says that his lack of experience in the food and drug regulatory arena could be, in the wake of what he says was unfair criticism of Troy, a good thing.

"I think it's helped me in my transition that I wasn't seen as already having made up my mind on certain issues," Bradshaw says. "There isn't a perception that I would have a preference in any given case."

But those looking for changes to policies initiated under Troy will be disappointed. Bradshaw says he has no intention of changing the way the FDA's legal department does business.

That continuity was evident last Thursday, when the government filed an amicus brief in Utah reiterating the argument championed by Troy that the FDA's jurisdiction over prescription-drug labeling prevents plaintiffs from suing Pfizer over Zoloft's lack of a warning label.

"Wherever I go, people ask me if I am going to continue Troy's policy in pre-emption cases," Bradshaw says, adding that the FDA does not take such action by itself and must have consent from the Department of Justice and the political leadership at the Department of Health and Human Services.

Troy was a pioneer of the government's intervention on behalf of Pfizer in cases related to Zoloft and suicide, contending the FDA would not have permitted Pfizer to warn about the suicide risk because there was not enough scientific support for the warning. The government's involvement began in September 2002, when Justice, joined by the FDA, filed a friend of the court brief in the 9th U.S. Circuit Court of Appeals case Motus v. Pfizer. (The 9th Circuit, however, ultimately decided the case on different grounds, never reaching the pre-emption issue.)

The argument was based on the premise that since the FDA has sole jurisdiction over the labeling process of prescription drugs, drug companies like Pfizer should not be held liable for warnings on products if they follow FDA requirements.

The FDA's involvement in the Pfizer case sparked indignation among interest groups, which complained that Troy, who had represented Pfizer in private practice, was leaping to the defense of industry. Plaintiffs advocates complain that if the FDA's

legal argument in the Zoloft case is applied broadly, then victims won't be able to sue if they are injured by any FDA-regulated product.

Pfizer has used the 2002 brief for the past three years to fend off lawsuits involving Zoloft-related suicides.

In June, Judge Paul Cassell of the U.S. District Court for the District of Utah asked the government to weigh in again, noting that the FDA's opinion was important because the agency had injected itself into the debate with the 2002 brief.

In that case -- the first in which the government has intervened since Bradshaw took over -- the family of 15-year-old Shyra Kallas sued Pfizer, claiming that Zoloft's label at the time their daughter committed suicide in 2002 did not disclose the risks of suicide and suicide-related side effects associated with the use of Zoloft in adolescents.

They also claim Pfizer failed to warn Kallas' doctor of that possibility.

Kallas, who was prescribed Zoloft by her primary-care doctor, shot and killed herself a month after starting on the drug.

Cassell asked the FDA to explain whether the 2002 brief would apply to the Kallas case, noting that the case involves a minor. The drug is not approved for treatment of depression in adolescents. And while Bradshaw calls the circumstances of the Kallas case "tragic," last week's filing didn't alter the position the government held under Troy.

Judges have had mixed responses to the FDA's position on the Zoloft cases, of which there are now more than a dozen nationwide. In a March 2005 decision in a federal court in Texas, in which Pfizer had filed the 2002 amicus brief, Judge William Steger wrote that Pfizer had relied heavily on the FDA to support its arguments. But the judge ruled that evidence before the agency did suggest that a warning about suicide risks was appropriate and that the FDA's regulations do indeed allow a manufacturer to add to or strengthen a warning without prior agency approval.

Karen Menzies, who represents plaintiffs in cases related to Zoloft, notes that Pfizer never asked the FDA if it could warn consumers about the suicide risk, adding that the FDA had information about the suicide risk associated with antidepressants like Zoloft since the early 1990s but did not analyze it.

The contention that the agency would have prevented Pfizer from issuing the warning is "pure speculation by the FDA's attorneys," says Menzies, a partner with Baum Hedlund in Los Angeles. "But the sheer weight of the FDA intervening is very persuasive."

Pfizer has consistently denied any link between suicidal behavior and the use of Zoloft by adolescents. Last fall, after a review of studies on risks of suicidal thoughts and behaviors in children taking antidepressants, the FDA directed manufacturers to add a "black box" warning -- the most severe kind of advisory -- to the medications' labels to emphasize the need for close monitoring of child patients taking those drugs.

THE OLD ORDER

Troy, 45, is, for many critics of the Bush administration's FDA, Exhibit A of the dangers of appointing a regulator who clashed with the very agency in which he would later play a pivotal role.

The first appointment to the FDA made by President George W. Bush, Troy says his was a necessarily high-profile role. As chief counsel, he gave nearly 80 speeches and met with dozens of industry groups.

Troy says the meetings sometimes helped to narrow the scope of litigation against the agency and, in some situations, to avoid it. "Sometimes when they heard our side, they said that's a good point -- or we're not going to beat you in court," Troy says. "Sometimes I ended up hearing their tale and decided that we were wrong."

Troy was slammed by a wide range of detractors, from newspaper editorial writers to Capitol Hill legislators, for what they said were brazen actions benefiting the industries he represented in private practice.

Before joining the FDA, Troy, as a partner at Wiley, Rein & Fielding, represented tobacco-maker Brown & Williamson in a successful effort to ward off FDA oversight of tobacco. He also played a key role in the 1990s campaign -- spearheaded by the Washington Legal Foundation, a conservative legal group -- that challenged advertising restrictions on prescription drugs. The lawsuits were successful, freeing drug companies to engage in "off-label" promotion of their prescription products.

As chief counsel, Troy was accused of stalling efforts to investigate complaints about the supplement ephedra and loosening the application of rules governing prescription-drug advertising.

"He in a lot of ways transformed the role of chief counsel," says James Czaban, a partner at Heller Ehrman in Washington. "He asserted himself very visibly in key decisions. Troy allowed interested companies much greater access to him and the legal staff to advocate a position or talk about issues."

In early 2004, Rep. Maurice Hinchey, D-N.Y., introduced, and Congress passed, an amendment to take $500,000 away from Troy's office and add it to the FDA's Center for Drug Evaluation Research budget. Hinchey argued that by interceding in civil suits on behalf of drug-makers like Pfizer, Troy was ignoring conflicts of interest and putting drug consumers at risk.

James O'Reilly, a food and drug law expert and adjunct professor at the University of Cincinnati School of Law, says one of the considerations in choosing Bradshaw to replace Troy was to "avoid the Hinchey scenario."

"It may be a careful tactic to appoint Sheldon," says O'Reilly. "He comes without the baggage."

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THE NEW BOSS

Bradshaw maintains that he can take a fresh look at the legal questions facing the agency. Perhaps fresher, he says, than "someone who has ties to the regulated industry."

This week he is speaking at the Generic Pharmaceutical Association's policy conference in Washington about legal issues facing the generic-drug industry.

He also continues an open-door policy to the chief counsel's office that Troy initiated, meeting with drug and medical-device companies in "courtesy visits."

Over the summer, Bradshaw's visitors included Pfizer General Counsel Jeffrey Kindler, lawyers from Covington & Burling, Alston & Bird and other firms.

Sounding much like his predecessor, Bradshaw says: "I'm happy to meet with anyone who wants to come in and talk, no matter what side -- industry or citizen groups. It benefits me to hear everyone out."

By winter, Troy could be making similar visits to Bradshaw.

Now a partner at Sidley Austin Brown & Wood, Troy works for a firm that he says "represents pretty much almost every company" in the brand-name drug industry.

This year, among Sidley's lobbying clients are pharmaceutical companies Hoffman La-Roche Inc., Bayer Corp. and Schering Plough Corp. Troy also does work for Pfizer Inc., and did so while working for Bert Rein at Wiley Rein & Fielding.

Although Troy cannot lobby or appear before the FDA until the end of November because of a one-year "quiet period" after leaving the government, his clients can still benefit from the policies he helped put in place.

Since Bradshaw arrived in April, the number of warning letters, which caution companies about violations of food and drug regulations, sent out per month stayed consistent with the dramatic drop-off that occurred during Troy's tenure. Under Troy, the agency's legal department began to review the letters, which do not represent legal action and give the offenders an opportunity to fix the problem. If it isn't remedied, the agency can sue.

So far in 2005, 23 warning letters to advertisers and seven compliance letters regarding manufacturing or compliance problems have gone out. In 2002, 28 advertising letters and 15 compliance letters were sent. By contrast, during the Clinton administration in 1999, 110 letters warning about illegal advertising claims were sent. Bradshaw says that it is not his goal to reduce the number of warnings.

"I don't have any particular agenda about how many ought to be going out or to whom," Bradshaw says of the letters. "I don't view myself as a policy-maker. Someone else decides the policy. I'm here to make sure that they are legally accurate and defensible."

NASA Planning Return To Moon Within 13 Years (NYT)

By Warren E. Leary

New York Times, September 20, 2005

WASHINGTON, Sept. 19 - Combining an old concept, existing equipment and new ideas, NASA gave shape on Monday to President Bush's promise to send humans back to the Moon by the end of the next decade.

Michael D. Griffin, the agency's new administrator, detailed a $104 billion plan that he said would get astronauts to the Moon by 2018, serve as a steppingstone to Mars and beyond, and stay within NASA's existing budget.

The plan would use a new spacecraft similar to the Apollo command capsule of the original Moon program, and new rockets made up largely of components from the space shuttle program.

"It is very Apollo-like," Dr. Griffin said, "but bigger. Think of it as Apollo on steroids."

The plan drew a mixture of praise and criticism from lawmakers and space experts. [News analysis, Page A15.]

The chairman of the House Science Committee, Representative Sherwood Boehlert, Republican of New York, said it appeared to be "the safest, least expensive and most efficient way" of moving forward in space exploration, but added that current cost overruns in other NASA programs might make it hard to develop the new vehicle on schedule.

The outlines of the plan had been disclosed informally over the last two months by NASA officials and space experts. But Dr. Griffin's announcement laid out a timetable and a budget, putting flesh on the bones of a proposal that Mr. Bush announced in January 2004 but had never described in detail.

Dr. Griffin said that after adjusting for inflation, the program would cost just 55 percent of what it cost to put a dozen men on the lunar surface from 1969 to 1972.

The pay-as-you-go plan, approved by the White House last week, would stay within NASA's $16-billion-a-year budget through a combination of retiring the space shuttle, finishing the International Space Station and reallocating money from other NASA programs. And Dr. Griffin said the nation could well afford it, despite concern about tight budgets in the wake of Hurricane Katrina.

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"We're talking about returning to the Moon in 2018," he said at a news conference here in Washington. "There will be a lot more hurricanes and a lot more other natural disasters to befall the United States and the world in that time, I hope none worse than Katrina.

"But the space program is a long-term investment in our future. We must deal with our short-term problems while not sacrificing our long-term investments in our future. When we have a hurricane, we don't cancel the Air Force. We don't cancel the Navy. And we're not going to cancel NASA."

Dr. Griffin and other space advocates, including influential members of Congress, have said the United States needs a replacement for the aging shuttle fleet as a matter of national security. Russia and China are currently capable of human spaceflight, and other countries have expressed interest in following suit. Dr. Griffin said the nation must maintain an independent capability to send people into space after the shuttle retires in 2010.

The new craft, called the crew exploration vehicle, would perch the astronauts' capsule above the rockets that power it into space, rather than alongside them as with the shuttle. NASA officials said it would be 10 times as safe as the shuttle, with a projected failure rate of 1 in 2,000, as opposed to 1 in 220 for the shuttle. The increased safety, they said, will be due in part to escape rockets that will be able to jettison the capsule away from the booster rocket in the event of an accident.

Dr. Griffin said the vehicle would be able to take as many as six astronauts to the space station, or fewer astronauts and some cargo. Or it could fly robotically without a crew, he added, carrying up some 25 tons of cargo, about as much as a shuttle can carry. The wingless craft, weighing 50 percent more than the Apollo, could carry a crew of four to the Moon.

As envisioned, the craft would resemble a larger version of the Russian spacecraft Soyuz, including solar-power panels deployed after launching. It would be carried aloft on a modified version of one of the shuttle's solid-fueled rocket boosters and a new second stage using one of the shuttle's main liquid-fueled engines. For Moon voyages, the craft would rendezvous in Earth orbit with lunar components lifted on a big new cargo rocket.

This heavy-cargo rocket, which could put 125 tons into orbit, would comprise two extended shuttle solid-fuel boosters attached to a liquid hydrogen-oxygen first stage made of an extended shuttle external fuel tank with five shuttle main engines. Atop this would be a new second stage using one or more of the shuttle main engines.

The bigger rocket, capable of lifting the payload of the Saturn V, which sent men to the Moon decades ago, would put into Earth orbit another rocket that could carry a landing craft and the crew vehicle to the Moon.

The Moon mission would be accomplished in stages. First, a vehicle with a lunar lander and a Moon rocket would be launched into Earth orbit. The crew capsule would be launched as much as a month later and would meet the first vehicle in orbit.

The joined craft would then be propelled to lunar orbit. From there, the landing craft would fly to the surface, and its crew of four would spend up to a week exploring.

Afterward, the top part of the two-piece lander would take the crew back to lunar orbit to rendezvous with the crew vehicle, which would have been left there unmanned, for the trip back to Earth. The bottom part of the lander could be left behind with equipment that might be used by future crews that land nearby, the agency said.

Nearing Earth, the crew vehicle would jettison its equipment module before the crew capsule plunged into the atmosphere. Parachutes would slow the capsule before it landed in the water or on land, possibly at Edwards Air Force Base in California. The landing would be cushioned by air bags on the craft's bottom or small rockets that fire just before touchdown.

Some of the big military contractors that stand to win multibillion-dollar contracts to launch and maintain the new mission vehicles said they were pleased by Monday's announcement.

"This is a big deal for us," said Michael Coats, chief of space exploration for the nation's largest military contractor, the Lockheed Martin Corporation, one of two teams competing to build the crew exploration vehicle. "Today's announcement means that we will have a stable program for a while. It would be great for us to compete and win a piece of the business."

Lockheed is the leader of a consortium that currently has a $28 million contract to design the crew exploration vehicle. Another team, headed by the Boeing Company and Northrop Grumman, has an identical contract to design an alternative. NASA is expected to select the winning design next spring.

John E. Pike, a space policy expert with the consulting firm GlobalSecurity.org, said NASA needed to sell more people on the value of a Moon program if it is to preserve future budgets and continue space exploration. The Moon may be a source of the rare element helium-3, for instance, which could fuel fusion reactors to provide abundant electricity on Earth, he said.

"NASA," Mr. Pike said, "needs to have reasons like this to go back to the Moon so the program has more stakeholders who see its value and want to protect it."

NASA Aims For A Return To Moon By 2018 (Houston Chronicle)

By Mark Carreau

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Houston Chronicle, September 20, 2005

The United States can return to the moon with human explorers by 2018 at a cost of $104 billion by relying on crew capsules similar to those used in the Apollo program and rocketry inherited from the space shuttle, NASA Administrator Michael Griffin said Monday.

"Think of this as Apollo on steroids," the space agency chief said.

NASA's Apollo program ended in December 1972, after a dozen American astronauts explored the lunar terrain during six missions as part of a Cold War rivalry with the former Soviet Union.

The strategy outlined by Griffin at a Washington news briefing is a response to a January 2004 directive from President Bush that tasked NASA with retiring its aging space shuttle fleet by 2010 in order to fund missions to the moon, Mars and eventually other deep-space destinations.

Houston's Johnson Space Center, where 15,000 people are employed, will lead the deep-space exploration planning and spacecraft-development efforts, if a debt-conscious Congress supports NASA's plan.

The exploration strategy relies on the development of upgraded versions of the three-man Apollo capsules capable of transporting four explorers to the moon and the continued production of space shuttle fuel tanks in Louisiana, solid rocket boosters in Utah and rocket engines in California.

Given a mandate Griffin took over the $16.1-billion-a-year space agency in mid-April with orders from the White House to quickly devise an exploration strategy carrying out Bush's directives with only modest budget increases.

On Monday, Griffin defended the plan's $104 billion price tag, which will cover expenses through the first mission, in the face of new budget pressures to pay the soaring costs of the Hurricane Katrina recovery effort and the escalating expense of the Iraq war.

"The space program is a long-term investment in our future," Griffin said. "We must deal with our short-term problems while not sacrificing our long-term investments in the future. When we have a hurricane, we don't cancel the Air Force, we don't cancel the Navy. We're not going to cancel NASA."

House Majority Leader Tom DeLay, the Sugar Land Republican whose district includes Johnson Space Center, hailed the plan during a visit to Houston, declaring it would trigger new economic development in the region. NASA's vitality is critical to the economic leadership of the United States in science and technology, said U.S. Sen. Kay Bailey Hutchison, R-Texas, who chairs a NASA oversight panel.

But other key Republicans, expecting as much as a $1 billion increase in NASA spending next year to overcome the fuel tank debris problems that triggered the 2003 shuttle Columbia tragedy and that resurfaced during this summer's Discovery mission, were not as enthusiastic.

"The question Congress and the administration will still have to grapple with most is not the nature or desirability of the exploration (plan), but rather its timing," said U.S. Rep. Sherwood Boehlert, R-N.Y., who chairs the House Science Committee. "Given the funding shortfalls in the space shuttle program, there is simply no way to accelerate the development of the Crew Exploration Vehicle unless the NASA budget increases more than anticipated."

The Crew Exploration Vehicle, which Johnson will develop to replace the winged shuttle orbiter, would lift off with a crew of astronauts as soon as 2012, two years earlier than Bush had proposed previously, according to the plan unveiled by Griffin.

The first lunar landing is planned for 2018. Initially, the space agency would launch two missions to the moon annually.

If funding permits, astronauts could begin to establish a base on the moon and develop the means to extract hydrogen and oxygen from the soil, as well as ice, to produce rocket fuel, water and breathable air.

The exploration vehicle would be launched atop a single, two-stage version of the shuttle's solid rocket booster.

The vehicle housing the astronauts would be equipped with an escape rocket and parachutes and could be ejected in a disaster. The escape system, which the Apollo spacecraft also relied upon, would lower the risk of astronaut fatalities to about one in 2,000 missions, NASA estimates.

A new "heavy-lift" rocket comprised of the shuttle fuel tank, boosters and rocket engines, would launch a larger lunar transport and lander assembly into orbit ahead of the astronauts.

Parachute landing Once in Earth orbit, the astronauts would rendezvous and dock with the transport-lander craft and set out for the moon. After reaching lunar orbit, the astronauts would board the lunar lander and descend to the moon's surface.

When their work was finished, the astronauts would board the ascent portion of the lander and lift off to rejoin the crew exploration vehicle in lunar orbit. The exploration vehicle would bring the astronauts back to Earth.

The Apollo crews parachuted into the Pacific and Atlantic oceans.

But the new spacecraft would likely parachute to a landing at Edward Air Force Base, Calif., or another desert site in the United States.

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NASA 'Vision' Sees Man On Moon, Mars (WT)

By Philip Chien

Washington Times, September 20, 2005

NASA has outlined its new "Vision for Space Exploration" plan that will culminate in the return of astronauts to the moon by 2020 and the infrastructure to send people to Mars.

The plan calls for the retirement of the space shuttle in 2010 and a new 14-person Crew Exploration Vehicle, which could fly as early as 2012 if additional funding becomes available or 2014 within NASA's current budget.

"This is the best mission statement NASA's had in 40 years," NASA administrator Michael Griffin said.

Externally, the new vehicle will look like the 1960s' Apollo spacecraft.

"Think of it as Apollo on steroids," Mr. Griffin said. "Very Apollo-like although upgraded technology."

The new vision for NASA came about primarily in response to the Columbia space shuttle accident more than two years ago. According to investigators, one of the root causes of the disaster was the lack of vision and goals. The Bush administration responded with an announcement in January 2004 to retire the shuttle and for NASA to go back to the moon and on to Mars.

To accomplish these goals, NASA will spend $104 billion over 13 years until the first new footprints are made on the moon.

"This architecture absolutely fits within the funding guidelines the administration has provided," Mr. Griffin said.

One key factor to reduce up-front costs is to reuse space shuttle components. While the space shuttle orbiter is being retired, new versions of its solid rocket boosters, external tank, and shuttle main engines will be used.

But this cost-saving measure is not without its challenges. NASA has had to find new manufacturers when existing subcontractors can no longer manufacture certain parts. Regulations change and older materials may not be easily available, often with unexpected problems and potential safety hazards. For example, an environmentally friendly putty spread between solid rocket motor segments in 1996 nearly led to the burn-through of the rocket's case.

Relying on older designs where many of the components are aging or can become obsolete has also raised the concerns of engineers.

"As NASA continues to use the solid boosters and external tank there will be more aging problems -- there's no way to avoid it," NASA engineer Robert Stevens said.

The plan promises to be a windfall for three existing aerospace contractors. Lockheed-Martin manufactures the external tanks, ATK Thiokol manufactures the solid rocket boosters and Boeing's Rocketdyne division builds the shuttle main engines. Still to be determined are the contractors who will build the Crew Exploration Vehicle.

Back To Moon Via 'Apollo On Steroids' (Los Angeles Times)

By Peter Pae

Los Angeles Times, September 20, 2005

NASA unveiled a 13-year, $104-billion blueprint Monday for sending humans back to the moon as early as 2018, using a modified space shuttle rocket to propel an Apollo-like capsule into space.

Analysts said the design was decidedly retro, harking back more than three decades to the Cold War's moon race.

But they said the new design was safer and more realistic than the current space shuttle, which is scheduled to be retired in 2010 after nearly 25 years of service and two disastrous shuttle losses.

"Think Apollo on steroids," NASA Administrator Michael D. Griffin said during a news conference at the agency headquarters in Washington.

The blueprint unveiled Monday is part of a broader initiative launched by President Bush 18 months ago, in which he called for returning humans to the moon as a steppingstone to a manned mission to Mars, perhaps as early as 2020.

The new capsule, known as the crew exploration vehicle, would be significantly larger than the cramped Apollo capsule, with seating for up to six astronauts instead of three.

Due to launch in 2012, it would initially be used to resupply and transfer International Space Station crews after the shuttle is retired, NASA officials said.

Unlike the winged shuttle that is mounted on the side of a fuel tank attached to two rockets, the capsule would sit atop a rocket, away from falling debris and potential rocket explosions that doomed the shuttles Columbia in 2003 and Challenger in 1986.

NASA officials estimated that the new craft would be 10 times safer than the space shuttle. The agency estimated that a space shuttle would be lost about every 220 missions. The new vehicle will be designed to be used in more than 2,000 missions without a serious calamity.

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In 2018, NASA would launch the first back-to-the-moon mission with a new lunar lander and other components that would allow for up to four astronauts to stay on the surface for up to seven days.

The Apollo missions, which cost $150 billion, focused primarily on landing astronauts on the moon for a day or two and then returning them to Earth.

Elliot G. Pulham, president of the nonprofit Space Foundation, a space exploration advocacy group, called the blueprint a "challenging yet realistic plan" that doesn't "break the bank."

But questions about how NASA would sustain public interest and win funding from Congress for more than a decade dogged the unveiling Monday.

Some observers worried that huge federal spending on such items as rebuilding New Orleans, which could cost up to $200 billion, could undermine funding for any major space initiatives.

"If you're not going to have a lunar landing until 2018, how are you going to keep people and Congress interested?" said John Pike, a space policy analyst for GlobalSecurity.org.

But Griffin said the nation could afford the price tag because he would not seek any new money for the agency's annual $16-billion budget.

Instead, spending within NASA's human spaceflight program would be redirected to pay for the endeavor, he said. About $4 billion to $5 billion a year is now allocated for manned spaceflight.

Measured in constant dollars, the $104-billion price tag, spread over 13 years, represents 55% of what the eight-year Apollo program cost, Griffin said. The objective, he said, was to "pay as you go and what you can afford."

"There will be a lot more hurricanes and a lot more other natural disasters to befall the United States," Griffin said. "We must deal with our short-term problems while not sacrificing our long-term investments in our future."

NASA's announcement created a buzz among enthusiasts at the International Lunar Conference in Toronto on Monday.

"We've got to go" back to the moon, said Buzz Aldrin, a former Apollo astronaut who made the first manned moon landing with Neil Armstrong in 1969. "But we don't want to stay too long....The ultimate goal is Mars."

Although the design for the new crew exploration vehicle would resemble the Apollo capsule, the spacecraft would be three times as big, NASA officials said.

On its return to Earth, it would be able to make a soft terrestrial landing by parachute, perhaps at Edwards Air Force Base in the Mojave Desert, instead of splashing down at sea. It would be reused several times.

"Much of it looks the same," Griffin said, but added, "It's a significant advancement over Apollo."

The return mission to the moon would also differ from the Apollo missions in several ways.

Unlike the Apollo program, which relied on the massive Saturn V rocket to loft both the capsule and the lunar lander, NASA plans to send up two rockets, one carrying the crew capsule and the second the lunar lander and other components.

The crew capsule rocket would be a modified solid rocket booster used on the space shuttle, while the cargo rocket carrying the lunar lander would be consist of a modified shuttle engine, external fuel tank and solid rocket boosters.

Once in orbit, the two spacecraft would rendezvous before making the journey to the moon. The new lunar lander, to be developed later, would be able to carry four astronauts to the moon's surface, compared with two on Apollo. The capsule would stay in orbit unmanned.

For a Mars mission, the capsule would carry six people.

NASA officials said using Apollo concepts and shuttle technology with the latest materials, propulsion systems and avionics would allow the agency to meet the president's goals more efficiently and cheaply.

NASA said about 85% of the shuttle facilities were likely to be retained for work on the craft.

"We believe this venture safer and more affordable than any other spaceflight ventures that the U.S. has had," Griffin said.

The moon missions as outlined could rejuvenate Southern California's declining aerospace industry, which during the 1960s led the development of the Apollo program.

Lockheed Martin Corp. and a team from Northrop Grumman Corp. and Boeing Co. are competing to build the crew exploration vehicle. Northrop, with its headquarters in Century City, said about 200 engineers in El Segundo have been working on the design of the new craft.

Times staff writer John Johnson Jr. contributed to this report.

A Retro Look To Next US Spacecraft (CSM)

By Peter N. Spotts

The Christian Science Monitor, September 20, 2005

It's back to the future for the US manned spaceflight program.

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After 25 years of spectacular successes and tragic failures using the winged space shuttles, NASA is opting for the tried and true: Just put a capsule on top of a rocket, put people or cargo into it, and launch it.

NASA's plan for replacing the shuttle, unveiled Monday, calls for launching future space vehicles in the same way that was used during the successful Apollo program of the 1960 and '70s, but borrows the shuttle's concept of a reusable craft.

That new craft would be the cosmic equivalent of the suburban minivan - a "crew-exploration vehicle" capable of carrying six people to the International Space Station, or four people to the moon, or roughly 3-1/2 tons of cargo. It's designed to ride a parachute system back to land, but must also survive an Apollo-like splashdown. Over the long term, the CEV must also be capable of handling a trip to Mars.

If all goes well, its first flight to the space station would launch in 2011. In keeping with President Bush's vision for space exploration, the first mission to the moon is slated for 2018.

The CEV's configuration - a command module, service module, and lander - has an Apollo-era look, and it's not by accident, says Michael Griffin, NASA's administrator. After NASA looked at a range of configurations, he says, it's amazing to see "how much of it all the Apollo guys got right."

If the plan has a quaint, haven't-we-done-this-before quality to some, other space enthusiasts say the blueprint represents a welcome change for human space exploration. "For the first time in 3-1/2 decades, the federal government plans to leave low-Earth orbit. That's a major shift," says George Whitesides of the National Space Society.

The effort marks a technological turning point, adds Ray Williamson, research professor at The George Washington University's Space Policy Institute in Washington. "Basically, we've recognized that it's better to get the job done than to try doing it with flashy technology," he says. "You don't need a Ferrari to take your groceries home."

That's not to say the program faces smooth sailing technologically. Though the rockets have a familiar-looking shell, they'll use state-of-the-art technologies inside, and engineers won't lack for design challenges, analysts say. Low cost, safety, and reliability are vital - features the shuttle, despite being a marvel of aerospace engineering, has not delivered.

Still, NASA seems to be taking a minimalist approach, says Keith Cowing of NASAWatch, a website that tracks the agency's developments. "This is pretty conservative. There are no plans for a big moon base. It's almost like we're trying to prove we can still do it."

The biggest risk with the new plan is financial, analysts say. Hurricane Katrina and continued problems with the debris falling from the shuttle's external fuel tank during launch have saddled NASA with unanticipated costs. The debris problem has forced NASA to delay shuttle launches until next year. This could postpone the orbiters' retirement and the savings the agency had hoped to gain from mothballing the fleet.

The program's overall cost is $104 billion through the first lunar mission - roughly 55 percent of what Apollo cost, Mr. Griffin says. The program is designed on a go-as-you-pay basis, he adds.

Help may come from a new generation of entrepreneurs who are sinking personal fortunes and venture capital into rockets designed to be more reliable and cheaper to build and operate than the launchers used for unmanned missions in the US today. NASA appears ready to give those fledgling companies an opportunity to show what they can do, says Mr. Whitesides, and possibly contract with them for space station missions.

NASA's track record for giving lawmakers accurate costs estimates or for controlling overruns hasn't been stellar. "I am anxious to get more information on the program's expected costs," says Rep. Bart Gordon of Tennessee, the House Science Committee's ranking Democrat.

Space Vision: The Experts Split Again (NYT)

By William J. Broad

New York Times, September 20, 2005

The nation eagerly accepted President John F. Kennedy's challenge in 1961 to put men on the Moon. But President Bush's plan to return humans there and then voyage onward to Mars is dividing space experts and generating skepticism about its feasibility.

Mr. Bush announced his initiative on Jan. 14, 2004, as he was campaigning for re-election. On Monday, 20 months later, NASA filled in some of the blanks by announcing a glossy plan to replace the aging shuttles with a new generation of space vehicles meant to rekindle the nation's exploratory fires.

Michael D. Griffin, the NASA administrator, set a tentative goal of 2018 for a return to the Moon, saying it would cost slightly more than $100 billion. He set no date for Mars.

"The pace of implementation will change to suit the funding that is made available," Dr. Griffin said at a Washington news conference. "All our goals will have to be funding driven."

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Experts clash on the practicality of a space vision with a $100 billion price tag, especially given the huge costs of fighting the Iraq war and rebuilding the Gulf Coast after Hurricane Katrina.

Advocates of the plan praise the recent choice of Dr. Griffin as head of the National Aeronautics and Space Administration, saying he has the knowledge, drive and experience to make big things happen. A physicist and an engineer with wide experience in academia, industry and the federal government (as well as six advanced college degrees), he joined the agency in April with a mandate to re-energize exploration plans.

"He's outstanding," said Louis D. Friedman, executive director of the Planetary Society, a group in Pasadena, Calif., that advocates space exploration. "He's got a serious intent to do it and do it right."

Backers also say Dr. Griffin is seeking to achieve the exploration goal within a level space agency budget, at least initially. His goal is to squeeze the shuttle to pay for developing new rockets and exploration vehicles. That, the supporters say, helps make the overall aim achievable, at least in theory, despite tightening budgets.

"From my own experience, the administration is very serious," said Douglas O. Stanley, an aerospace expert at the Georgia Institute of Technology who led the NASA exploration study. But Mr. Stanley added a significant caution, noting that the plan still faced votes in Congress.

Skeptics see a huge spending gap. Even if Congress blesses the effort, they say, no real bill will come due until Mr. Bush is long out of office.

"Stick the next administration with an impossibly expensive and pointless program and let them take the blame for ending human space exploration," said Robert L. Park, a physicist at the University of Maryland and an official at the American Physical Society, which has opposed many piloted space programs as scientifically unproductive. "This is a poison pill."

Dr. Park noted that in 1961 Kennedy promised a Moon landing "before this decade is out" and that the nation did so in eight years. By contrast, he said, Mr. Bush's goal is to redo the same accomplishment in 14 years, nearly twice as long.

"We went to Moon because of the cold war and won hands down," he said. "Now there's no political reason to do it."

Dr. Park noted that the first President Bush in 1989 proposed a space program with the same exploratory goals but failed to make any progress. Some political analysts say Mr. Bush consciously or unconsciously seeks to avoid his father's mistakes on Iraq, taxes, conservatism and other issues.

Alex Roland, a former NASA historian who teaches history at Duke University, said the new plan "might sell politically, even though it's retro" in echoing the ends and means of the Apollo Moon program.

"I don't think the public cares" about using simple rockets for advanced exploration, Professor Roland said, "as long as it gets the job done."

The main problem, he added, is that the space agency has a long history of underestimating costs and technical difficulty and that the new plan would probably fail to withstand close Congressional scrutiny.

"It's possible but very unlikely," Professor Roland added. "I doubt this plan will put any man or woman on the Moon in our lifetime."

All the initiative might produce, he said, is a low-tech successor for the space shuttle to travel to the International Space Station.

Dr. Friedman, of the Planetary Society, while praising Dr. Griffin, faulted the plan as making little room for international partners, a factor that he called critical for strong public support. He also said the plan lacked vision.

"If you don't keep the Mars mission out front, people are going to ask, 'Why are we returning to the Moon?' It's got to be because we're extending ourselves into the solar system."

NASA Details Plan For Craft That Will Fly To The Moon (USAT)

By Traci Watson

USA Today, September 20, 2005

WASHINGTON — The United States plans to send astronauts back to the moon as soon as 2018 on a mission that would be cheaper and more ambitious than man's first trip to the lunar surface nearly 40 years ago, NASA Administrator Michael Griffin said Monday.

NASA wants to send a crew of four to the moon in a spaceship that resembles the capsule developed for the Apollo program in the 1960s. But this capsule would be able to land on either solid ground or water. The Apollo capsule only splashed down at sea.

It would also be safer than its forerunner. And it would be roomier, taking a crew of four to the moon rather than Apollo's three.

“Think of it as Apollo on steroids,” Griffin said of the new ship.

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Griffin said the cost of the moon program would be $104 billion. Adjusted for inflation, that's roughly 55% of the cost of the first moon landing in 1969. He said NASA's budget would not need to grow to pay for the new effort and vowed not to raid other programs for funds. Savings would come from retiring the space shuttle in 2010.

"This is not about new money," Griffin said. "This is about a budget which keeps NASA … approximately where it is today."

The plan fleshes out a proposal President Bush made in 2004 to return astronauts to the moon — last visited by humans on the Apollo 17 mission in 1972 — and later to send Americans to Mars, where no human has set foot.

NASA did not set a target date for the first human mission to Mars, a much more expensive and difficult trip than a moon shot.

NASA hopes to launch the new ship, the crew exploration vehicle, in 2012. At first, it would only ferry crews and cargo to the International Space Station orbiting the Earth. Later, the ship would carry astronauts to lunar orbit and wait there while another vehicle carried the crew to the moon's surface.

The timeline leaves a two-year gap in the United States' ability to send people into space. The only other ship able to drop off humans at the space station is Russia's space capsule, the Soyuz.

NASA's blueprint does not indicate whether it would build a base on the moon. The answer, Griffin said, would depend partly on whether other countries are interested in such a project.

The spacecraft unveiled Monday could make two trips to the moon per year, but NASA has not worked out a schedule for the number or length of moon trips.

Some members of Congress, including Rep. Sherwood Boehlert, R-N.Y., praised the plan as cost-effective. But others questioned the worth of a new moon program.

"It is a terrible allocation of scarce resources," said Rep. Barney Frank, D-Mass. "The time has come to de-emphasize the manned space program."

NASA's record on holding to its original budget estimates is spotty, says space analyst Marco Caceres of the Teal Group, an aerospace and defense consulting firm.

"Whatever NASA says it will cost will be a low-balled figure so they won't scare too many people away," he said. "Their main goal is to get that (project) through."

He also noted that NASA won't save much money on the shuttle program until the vehicle is put in mothballs in 2010. But to meet its 2012 goal of launching the space capsule, NASA will need to start research and development now.

NASA aims to save money and time by recycling parts of the shuttle for use in its two new rockets:

·The crew launch vehicle would carry the capsule to orbit. It would be powered by a shuttle engine and by a stronger version of the shuttle's rocket booster.

·The heavy-lift vehicle would carry the unoccupied lunar lander into space. It would dock with the crew capsule and then power the whole package to the moon. It would rely on two shuttle boosters, each upgraded to provide extra lift, and five shuttle engines.

However, the designs also incorporate technology that could prove troublesome to develop. The engine that would lift the crew's lander off the lunar surface would burn liquid oxygen and methane, an untried combination. New engines require significant testing.

The risk of losing a crew with the new system is expected to be a third of what it was on an Apollo-era moon landing, said NASA's John Connolly, who helped lead the development effort.

For the trip to Earth orbit and back, he said, the capsule and its rocket would be 20 times safer than the shuttle, in part because the capsule would have an emergency rocket to lift the crew to safety during an aborted launch.

NASA Unveils $104 Billion Plan To Return To The Moon By 2018 (Washington Post)

By Guy Gugliotta

Washington Post, September 20, 2005

NASA yesterday released its master plan for returning humans to the moon by 2018 and eventually sending them to Mars, choosing rocketry from the space shuttle era and drawing inspiration from the Apollo program that first put humans on the lunar surface 36 years ago.

NASA Administrator Michael D. Griffin said the plan would cost $104 billion over the next 13 years, with increases for inflation, but would not require extra money beyond NASA's normal budgets. The pace of the project, he said, "will fit the funding that's available."

The plan envisions development of two new rockets, one of them almost as tall and even heavier than the Saturn V that launched the Apollo astronauts, and a new spacecraft to put four people on the moon for up to six months before bringing them back to Earth in a parachute landing.

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And while the rocket technology is "shuttle-derived," the new plan abandons the concept of a winged, reusable spacecraft that can fly back to Earth and land at an airport. Griffin said the new "crew exploration vehicle" can be reused perhaps 10 times, but most of the new program's apparatus, like Apollo's before it, will be jettisoned in space or burned up in Earth's atmosphere.

Griffin also acknowledged that there will be a two-year period between the last space shuttle flight in 2010 and the first flight of the exploration vehicle, anticipated in 2012, during which the United States will have no ability to put humans in space.

This gap has been a space policy sticking point for more than a year between the Bush administration and Congress. Sen. Kay Bailey Hutchison (R-Tex.), chairman of the science and space subcommittee and an outspoken advocate of closing the gap, issued an enigmatic statement saying, "I will do everything possible to keep the shuttle and crew exploration vehicle programs on course."

Still, in response to several reporters' questions, Griffin sought to assure employees at NASA's shuttle program centers in the Gulf Coast states that the new program "can use 85 percent of the space shuttle work force."

"It's been pretty well coordinated among the centers," said John Logsdon, director of George Washington University's Space Policy Institute. "It appears to provide for a smooth transition."

The use of "crew" and "service" modules to orbit the moon while astronauts travel to and from the surface in a "lunar lander" called to mind the Apollo missions that put 12 men on the moon between 1969 and 1972.

"We did not set out to make it like Apollo," Griffin said at a NASA headquarters news conference to release the agency's "Exploration Systems Architecture Study." "We looked at every vehicle, but people began to realize that the Apollo guys got it right."

Still, the new plan is "a significant advance over Apollo," he added, describing it as "Apollo on steroids." Among other differences, the new lander is larger, can put twice as many people on the moon, leave them there potentially for months instead of days, land them anywhere on the lunar surface instead of just at the equatorial region and leave the orbiting spacecraft without a crew onboard.

The new spacecraft will also use different, more efficient propellants than Apollo, and substitute lighter composite structures where Apollo used metal. Most important, while Apollo was born during the waning days of vacuum tubes, the new program will benefit from 45 years of advancements in computer science.

Griffin said the choice of targets for moon landings "will be driven by science," but unlike Apollo, the program is also designed so astronauts can linger and establish permanent bases on the lunar surface to develop technologies and test techniques for a more ambitious, subsequent Mars mission.

The new propellants, for instance, will use both oxygen, which can be mined from Martian rocks, or methane, which can be extracted from components of the Martian atmosphere. "One reason to go back to the moon is to learn to live off the land to enable longer-duration space missions," said Georgia Institute of Technology research engineer Douglas Stanley, who led the "Exploration" study for NASA.

Logsdon described the project as "a good plan -- but not an elegant one" because it does not make much use of advanced technology. "It's a doable approach to getting people into space safely," he added.

But space policy and engineering consultant Charles Lurio, an advocate of innovative private-sector approaches to space travel, criticized the new proposal for being too "massive" and "unaffordable now and unsustainable later."

The moon mission will begin by putting into space a new 358-foot "cargo launch vehicle" weighing 6.4 million pounds. It lifts the moon rocket and the lunar lander into low Earth orbit to await the arrival of the crew exploration vehicle, the combined service module-crew module.

Both the heavy lifter and the "crew launch vehicle" that carries the spaceship use solid rocket boosters, like the shuttle, and fuel tanks derived from the external tanks whose foam shedding caused the loss of the shuttle Columbia in 2003. Loose foam will not be a problem for the new spacecraft, which are perched in traditional fashion atop the tanks, out of harm's way.

The exploration vehicle will mate in Earth's orbit with the lunar lander, then the moon rocket will ignite, carrying vehicle and lander on the three-day trip to lunar orbit. From then on, the mission will unreel in Apollo-like fashion, with the astronauts riding to the moon's surface aboard the lander, while the exploration vehicle orbits overhead.

Besides human space travel, the exploration vehicle can fly robotically, perhaps as a cargo carrier for a moon colony. It also could ferry crew and cargo to the international space station and dock autonomously there if necessary.

"The principal concern has always been the lunar mission," said Doug Young, program manager for the Northrop Grumman/Boeing team that is competing with Lockheed for the right to build the exploration vehicle. "But we've always known that we will ultimately have to meet the requirements" of the space station.

NASA's Back-to-the-Future Plans (NYT)

New York Times, September 20, 2005

DOJ_NMG_0006870

NASA has finally unveiled its plans for carrying out the ambitious space exploration program that was announced by President Bush in January 2004 but left vague and undefined ever since. The proposed new space vehicles look like a sensible way to put astronauts and cargo into space after the shuttle fleet is retired and will be built to facilitate landings on both the Moon and Mars. Michael Griffin, the new administrator of the National Aeronautics and Space Administration, deserves credit for putting real flesh on what had been little more than an aspiration. Unfortunately, the new plan lacks the pizzazz to inspire public support and will be operating under budget constraints that make delays or overruns likely.

The new crew exploration vehicle will be built around well-known space technologies, with booster rockets and engines derived from the shuttle program and a crew capsule like the one used in the lunar program, only bigger. That has the great advantage of letting NASA use much of its current shuttle work force on the new program and the great disadvantage of making the technology look retrograde. This approach will not excite those looking for cutting-edge hardware, but it seems reasonable at a time when reliability is the main goal.

The configuration largely eliminates the two hazards that destroyed the Columbia and the Challenger. NASA calculates that the new vehicle should be 10 times safer than the shuttle, with perhaps a 1 in 2,000 chance of a catastrophe.

The plan pays only the barest lip service to international cooperation; Europe, Japan, China and India all have lunar programs of one kind or another under way. Mr. Griffin said NASA hoped to send Americans back to the Moon by 2018 under its own program but was open to partnerships on what to do or build on the lunar surface. Given that most experts say international collaboration will be imperative on a high-cost mission to Mars, it seems desirable to enlist international partners very early.

It is hard to see how NASA can complete all the tasks on its agenda while operating on a constrained budget, which is scheduled to grow at only the rate of inflation. The agency needs to repair the damage to its facilities from Katrina, fly the shuttle safely until 2010, complete the space station by that date, fly the new crew exploration vehicle by 2012 and return to the Moon by 2018 or 2020, all the while carrying out its science, aeronautics and robotics programs. The safety valve is that NASA will carry out the exploration program on a "go as you can afford to pay" basis, without raiding money from other space programs. That means that cost overruns may stretch out the completion dates, and leave the exploration vision a more distant prospect.

Bush And The Mad Scientists (LAT)

By Chris Mooney

The Los Angeles Times, September 20, 2005

THE LAMENTATION in the forthcoming New England Journal of Medicine is typical of a growing genre: complaints about the misuse of science by the Bush administration. It is merely the latest jeremiad, from a group of distinguished experts, about the loss of reason by our leaders. This particular editorial, titled "A Sad Day for Science at the FDA," concerned so-called Plan B emergency contraception (the "morning after" pill), but it just as well could have been about the science of global warming or mercury pollution. Yawn. We've heard it all before.

There's an inherent difficulty when it comes to sustaining outrage over how science gets continually misused in the Bush administration. The complexity of scientific disputation, paired with the intricacies of bureaucratic decision-making, make for a truly soporific combination. It's tough to get past the latest scandal and see the big picture — even when, as in this case, three distinguished doctors are writing that the Food and Drug Administration has made "a mockery of the process of evaluating scientific evidence, disillusioned scientists both inside and outside the agency, squandered the public trust and tarnished the agency's image."

Still, let's try to muster whatever's left of our outrage, because the Plan B episode truly demands it. It may represent a historic low for science-based professionalism at the FDA. And it presents an instructive case study in how the political abuse of science plays out in practice.

By any stretch, this decision should have been a no-brainer. The "morning after" pill, which blocks or delays ovulation, had already been approved for prescription use; the latest move merely concerned its availability over the counter. (Six states, including California, have made it available over the counter, but women must request it from the pharmacist.)

Given that the pill's effectiveness in preventing a pregnancy depends on how quickly it is used after unprotected sex — and that it meets the safety and ease-of-administration tests for over-the-counter products — it makes obvious sense that simplifying access would help prevent unwanted pregnancies (and thus, presumably, abortions).

Two scientific advisory committees held a joint hearing to consider the issue. Committee members voted overwhelmingly (23 to 4) in favor of approval. The FDA expert staff was of a similar mind.

And yet in an extraordinary move in May 2004, the agency second-guessed its experts and its advisors and cooked up a dubious rationale for delaying approval of over-the-counter availability. More data were needed, the FDA claimed, on the pill's safety for women under 16. Or course, no evidence existed suggesting a unique problem for this age group, and such age-based data have not been required to switch other drugs to over-the-counter availability.

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The FDA suggested that the maker of Plan B could reapply for over-the-counter status with the proviso that girls 16 and younger would have to get a prescription. But when the company did that, the FDA delayed again. Early this month it said it now had to check the legality of the age rule.

As it happens, the "morning after" pill has been strongly opposed by many religiously conservative interest groups. In fact, there's some evidence in the transcript of the hearings to suggest that the rationale cooked up by the FDA may have originally sprung from a controversial advisory committee member — "As Jesus Cared for Women" author W. David Hager — who provided one of the four votes against Plan B's approval. When the agency didn't like the overwhelming opinion of the advisory committees, it seems to have gone shopping for a more convenient scientific-sounding argument: "We need more data."

In the end, the scientific data indicate that Plan B contraception is one of the safest drugs ever considered for over-the-counter sale. FDA decisions about drug approvals are supposed to be based on just such scientific data. If you want to derail such a decision, you have to undermine the science. That standard has not been met.

The abuses in the Plan B case have fundamentally called the FDA's integrity into question.

"People who've been in the agency for decades say they've never seen anything like it," Susan F. Wood, the former assistant FDA commissioner for women's health who resigned over the Plan B decision, told me. The scientists writing in the New England Journal of Medicine agree. Although the FDA may previously have been accused of having too much bureaucracy or too close a rapport with the drug industry, they argue, it had at least "resisted political pressure to reflect a particular social policy or ideology."

But not any more — and that's the really nasty thing about the current war on science. If you can get past the complicated details, you'll see that it is undermining our government's most central mission: to serve and protect us. This mandate cannot be fulfilled without an abiding respect for professionalism, expertise and the integrity of scientific analysis.

Chris Mooney is Washington correspondent for Seed Magazine and author of "The Republican War On Science" (Basic Books), which was published Sept. 9.

OTHER NEWS:

Wind Or Flood? Fights With Insurers Loom (USAT)

By Kathy Chu

USA Today, September 20, 2005

Hurricane Katrina is likely to be the costliest U.S. natural disaster. It also may be the most contentious.

The Mississippi attorney general is suing insurance companies to get them to pay for hurricane-caused storm damage typically not covered under homeowners policies. Richard Scruggs, the tough-as-nails lawyer who took on the tobacco and asbestos industries, is now taking aim at the insurance industry. Even the vice president has weighed in on the issue.

Unhappy homeowners are calling a hotline with complaints. And officials are asking insurers to give policyholders the benefit of the doubt when it's unclear whether damage was caused by wind, rain or flood so people can rebuild their homes and lives again.

For hurricane survivors who fled their homes and are relying on relatives, friends or charity to get by, haggling over insurance is the last thing they want to do. “These people are exhausted,” says Joanne Doroshow, executive director of the Center for Justice & Democracy, a public-interest group. “The notion of having to fight insurance companies on these claims is almost too much to bear.”

At issue is whether insurers, the federal government or individuals should bear the brunt of billions of dollars in damage to homes and businesses in Louisiana, Mississippi and Alabama. One estimate, by Risk Management Solutions, says total economic losses from Katrina likely will exceed $125 billion, with insurance companies paying $40 billion to $60 billion.

What makes the aftermath of Katrina so ripe for dispute is a polarizing, hard-to-determine issue: Is the damage caused by wind-driven rain or flooding? And what if the hurricane causes a storm surge or flood?

Flooding is usually covered by government-backed insurance, while wind and rain damage are covered by private insurance policies. But Katrina was a complicated storm in which up to 140-mile-per-hour winds leveled homes and businesses before flooding swept them away.

The insurance industry says it will do what it has to do. “You absolutely have to be sympathetic to these people, but on the same token, federal flood insurance has been available for nearly 40 years,” says Jeanne Salvatore, senior vice president at the Insurance Information Institute, an industry trade group. Private “insurance policies are quite clear that flood is excluded. We did not take in premiums for flood losses.”

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Not everybody who has homeowners insurance has flood insurance. And flood insurance often isn't as generous as homeowners insurance. Flood insurance covers up to $250,000 in property damage, while a homeowners policy typically covers the value of rebuilding the home, whether that's $100,000 or $1 million. So for many hurricane victims, having damage considered caused by Katrina's winds rather than unrelated flooding is crucial.

The Federal Emergency Management Agency (FEMA) estimates 34% of households and 23% of businesses in the affected areas have federal flood insurance.

How much financial responsibility the industry ends up bearing will depend on how insurers handle the claims of people such as James Bud Ray, who is temporarily living in a motor home in Long Beach, Miss. Ray is lucky. He and his wife got out safely. But lucky is a relative term, because his Long Beach home has been reduced to rubble and his five car-wash facilities in the region were significantly damaged.

He says that after several phone calls to the insurance company, an adjuster called him back and asked: Did he think the damage was due to wind or flood? “I said to him, ‘Hold on, sir. You're not going to paint me in that corner.' ” Ray says if he's not satisfied with the insurance payout, he may hire a lawyer to fight the decision.

Complex Katrina-related insurance claims may take longer to settle than in previous hurricanes, says Ernest Csiszar, president of the Property Casualty Insurers Association of America, although it's likely that 90% to 95% will be completed within six months of filing. Insurers will pay for what's covered under the policies but no more, he says.

Insurance payments can't come quickly enough for Portia Andrew of Hammond, La. The storm ripped the siding off her mobile home and poked a hole in the roof. It also downed trees and knocked a power line on top of her incense-and-herbal-goods shop, 100 yards from the house.

Andrew is worried about what damage is covered by insurance. But she can't find a copy of her homeowners policy and hasn't been able to reach her New Orleans insurance agent since the storm knocked out phone systems. In the meantime, she's struggling to make ends meet. For almost a week, she and her six family members lived off peanut-butter-and-jelly sandwiches and water. “I'm trying to be patient and just learning to get in line,” Andrew says. “You never know if (insurance) will come through.”

Disputes over wind vs. flood damage occur after every hurricane. But “if it's any indication by the calls we've gotten so far, then we think there are going to be many more lawsuits” this time, says Doroshow of the Center for Justice & Democracy.

The center, along with other consumer groups, has a hotline to document insurance complaints related to Katrina. Since it started Sept. 12, the hotline has received 85 calls, officials said Monday.

While touring Mississippi earlier this month, Vice President Cheney said the question of whether a hurricane-driven storm surge should be considered flooding or hurricane damage has to be addressed. Scruggs, whose house in Pascagoula, Miss., was wiped out by Katrina, says he'll sue insurance companies to get them to pay up.

Mississippi Attorney General Jim Hood filed a lawsuit last week to invalidate a common clause in home and business policies that allows insurers to deny hurricane-caused storm-surge damage.

James Lucas, 37, says he didn't pay attention to the fine print in his homeowners policy because his Allstate agent told him that he was covered for any damage incurred during a hurricane, including storm surge. The Gautier, Miss., resident — who is living in the top floor of his house because of storm damage downstairs — says he asked about storm-caused water damage four years ago because he was concerned the canal behind his house would overflow.

After Katrina, he was surprised to hear an adjuster say that the company was covering wind but not water damage. “I'm not trying to get rich or anything; I'm just trying to get my appliances back,” Lucas says.

Allstate spokesman Mike Trevino says it's hard to imagine that an agent didn't explain to a policyholder that “flood is a longstanding exclusion in the policy, which includes flooding related to a hurricane. All Allstate agents know the Allstate homeowners policy very well.”

The effort to get insurers to pay for flood claims “ignores the fact that they have obligations to people in 47 other states,” says Randy Maniloff, an attorney who represents insurers in coverage disputes. “If they start paying claims based on risk they weren't prepared to take on, then they're putting themselves in the situation where they may not be ready for other claims.”

That's also the concern of George Dale, Mississippi insurance commissioner. Dale says that while he respects Hood's decision to file the lawsuit, he is worried about the financial hit the industry will take if it has to pay for damage not covered by policies.

Still, Dale has told insurance companies that “where there is any doubt, that doubt will be resolved in favor of finding coverage on behalf of the insured.”

Insurers say that where houses and businesses are still standing, they likely will be able to tell what type of damage occurred. If water entered from the bottom of the structure, homeowners insurance may not cover it, says Elizabeth Stelzer, a spokeswoman for Nationwide. But if wind-driven rain entered through a storm-damaged roof, that may be covered.

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But when a structure has drifted away or been leveled, the cause is more difficult to assess. Csiszar expects to see more of these situations than in previous storms.

"If you're going in a court of law, the burden of proof is on the plaintiff," or the policyholder, to show how the damage was caused, he says. "But if you are the defendant, you better have a darn good reason to deny the claim."

Anticipating legal disputes, policyholders are getting this piece of advice: "I've heard that when you call your insurance company, say that the water came from wind-driven rain," says Debbie Barraf, who has a house in St. Bernard Parish, La., that she believes is flooded.

The magnitude of Katrina's damage — homes and businesses along the Louisiana and Mississippi coast are still partially under water or unlivable and may be so for months if not years — means that many people also will be looking to insurers for help with living expenses.

Homeowners policies may cover food and temporary housing costs if state or local officials order an evacuation. Business policies could take care of temporary office relocation and employee pay.

But again, the hurricane vs. flood question is causing disputes. Ellie Rand, a 39-year-old New Orleans resident, fled to Wilson, N.C., where her in-laws live and has racked up $4,000 to $6,000 in expenses along the way that insurance won't pay. "They told me, 'Sorry, the official call for the evacuation was flooding,' " Rand says. "They felt that my homeowners (insurance) wasn't responsible for paying living expenses."

Vienna Abramowitz, who owns three properties in Louisiana's hard-hit Jefferson and St. Tammany parishes, has received a $2,500 check from State Farm for living expenses. The insurer initially told her it's an advance against her government-issued flood coverage. But a day after she said she had talked to USA TODAY, the company told her it will take the money out of her homeowners coverage.

State Farm says it's giving all affected policyholders the $2,500 payment. If people have coverage for wind and flood, the company will advance the money from the flood policy first and then reverse it later if living expenses are covered by homeowners insurance, spokesman Dick Luedke says. State Farm evaluates each individual circumstance and may have discovered in Abramowitz's case that living expenses are covered by the homeowners policy, he says.

Still, "This one thing really triggered me to be worried," Abramowitz says. "If they have this issue with $2,500, what about when it's $75,000 or more?"

Mississippi Governor Calls Special Session (USAT)

USA Today, September 20, 2005

Mississippi Gov. Haley Barbour said Monday that he is calling the state Legislature back into session Sept. 27 to help the state recover quickly from Hurricane Katrina.

One item on Barbour's agenda is a proposed change in gambling laws to allow casinos to build on land rather than only over water. Another session item, Barbour said, will be a proposal to allow small businesses hurt by Katrina to apply for $25 million in local loans.

Barbour said he is waiting on a recommendation from the Mississippi Gaming Commission before offering a proposal on changing gambling laws.

The state legalized dockside casinos in 1990, limiting them to tourist areas on the Mississippi River or the Mississippi Sound. All 13 coastal casinos were heavily damaged.

First lady dishes up food and comfort

HOUSTON — First lady Laura Bush served smothered chicken to Hurricane Katrina evacuees at Houston's convention center shelter, home to about 300 people displaced by the disaster.

"It will be a long road for us," she told religious leaders and volunteers at the George R. Brown Convention Center. "We have to stay with (evacuees) every step as they rebuild their lives, and it is not going to be easy."

Bush also talked with families at a center for homeless mothers and children. She joined the children in molding Play-Doh and left behind M&Ms and notepads for them.

A 10-year-old boy told Bush he couldn't believe she was the first lady. "I'm married to the president," Bush said. She then took the hands of two children and walked through the shelter with them.

"I think it is nice because she doesn't have to come," said evacuee Kizzy Mickens. "Just coming to see us, to see how we are doing, is like a blessing because she never knew we existed but we knew about her."

Rural home loans to be expanded

BILOXI, Miss. — In an unprecedented move, some Gulf Coast residents will be eligible for single-family home loans backed by the U.S. Department of Agriculture Rural Development program.

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The loans usually are available only to residents in rural communities of 20,000 people or fewer. But now, coastal communities of up to 75,000 residents will be eligible, said Nick Walters, state director of USDA Rural Development in Mississippi.

"I didn't want to leave people out because of some regulation in Washington," Walters said.

Witness Says Researchers Warned Merck On Vioxx (WSJ)

By Greg Groeller

The Wall Street Journal, September 20, 2005

ATLANTIC CITY, N.J. -- Merck & Co. should have known that Vioxx could lead to heart attacks, a drug expert told a jury in a high-profile trial yesterday.

In his second day on the stand, Dr. Benedict Lucchesi said several researchers had warned Merck about Vioxx's potential to cause cardiac problems, particularly in people with histories of heart trouble, before the painkiller went on sale in 1999. "According to the slogan, 'Merck puts people first,' I think they should have known," he said.

Dr. Lucchesi, a pharmacology professor, is a witness for the plaintiff in the first trial since a Texas jury awarded $253.4 million last month to the family of a man who died after taking Vioxx. State caps in Texas are expected to reduce the amount of the verdict to about $26 million.

In the Atlantic City case, which began last week in a New Jersey state court and may run until mid-October, Frederick "Mike" Humeston, of Boise, Idaho, alleges that Vioxx caused his heart attack in 2001 after he had used the drug for two months.

Merck maintains that Mr. Humeston's poor health and lifestyle, not Vioxx, led to his heart attack. In any case, Mr. Humeston didn't take the drug for long enough to cause heart problems, Merck lawyers have said. The drug company pulled Vioxx off the market last year after a company-funded study found the painkiller had increased the incidence of heart attacks and strokes after 18 months of usage.

Dr. Lucchesi -- questioned by Christopher Seeger, Mr. Humeston's lawyer -- testified yesterday that he believed the drug could cause a heart attack after just a single dose in certain circumstances. For a second day, Mr. Seeger, showed jurors internal Merck emails and memos that Dr. Lucchesi said appeared to show that the Whitehouse Station, N.J., company knew about Vioxx's dangers.

Later in the day, Dr. Lucchesi and a Merck lawyer, Stephen Raber, had several heated exchanges as Mr. Raber sought to show that Merck had investigated questions about dangers posed by Vioxx. Mr. Raber asked whether Dr. Lucchesi was aware of studies that Merck had performed to test the effects of Vioxx in animals, including the African green monkey.

"Sir, admit it, you don't know what Merck did" in response to warnings that Vioxx could lead to blood clots and, ultimately, heart attacks and strokes, Mr. Raber said. Dr. Lucchesi shot back that Merck never responded to his requests for data on their internal studies.

Dr. Lucchesi also testified in the Texas trial and is expected to be a witness for plaintiffs in future cases.

At Vioxx Trial, Witness Says Short-Term Use Posed A Risk (NYT/BLOOM)

By Bloomberg News

The New York Times, September 19, 2005

By Bloomberg News

Merck & Company's painkiller Vioxx may cause heart attacks with just one dose, a University of Michigan researcher said at the second product liability trial over the drug, challenging the company's assertion that only long-term users are at risk.

The researcher, Dr. Benedict R. Lucchesi, testified on behalf of Frederick Humeston, who took Vioxx intermittently for two months before his heart attack in September 2001. Merck withdrew drug last September after saying it doubled the risk of heart attacks and strokes after 18 months of daily use.

"There's every reason to believe" that a single dose "can lead to an adverse response," Dr. Lucchesi, a pharmacology professor, told jurors in Atlantic City. "I definitely think that Vioxx can cause a heart attack in the right person."

Mr. Humeston, a 60-year-old postal worker and former marine from Boise, Idaho, asserted in his lawsuit that Merck knew of Vioxx's health risks for years before withdrawing it from the market.

Merck faces about 5,000 Vioxx suits and billions of dollars in potential liability, analysts say.

Merck contends that Mr. Humeston had a heart attack because of his weight, blood pressure and work-related stress. The company says it had no scientific proof of Vioxx's dangers before last September.

Dr. Lucchesi also disputed Merck's explanation of why Vioxx caused five times as many heart attacks as a rival drug, naproxen, in a clinical trial in March 2000. Merck asserted that naproxen, used in the painkiller Aleve, protected the heart. Dr. Lucchesi said the results of the trial, known as the Vigor study, instead showed that Vioxx posed a greater risk.

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"When I saw the explanation for the Vigor results, my immediate response was this is nonsense," Dr. Lucchesi said. "There is no evidence that I know of to show that" naproxen protects the heart.

Merck, the No. 3 drug maker in the nation, emphasized the Vigor finding that Vioxx caused less stomach distress than naproxen, a point that was not in dispute, Dr. Lucchesi said. Merck introduced Vioxx, which inhibits the cox-2 enzyme, in May 1999 as an alternative to pain relievers that cause stomach bleeding.

Vioxx accounted for $2.5 billion in annual sales before it was withdrawn.

Dr. Lucchesi testified for a second day that Merck ignored indications dating to 1997 that drugs like Vioxx block one of the body's natural defenses against blood clots. The company, based in Whitehouse Station, N.J., was "forewarned on multiple occasions" by researchers that Vioxx would increase clotting, he said.

A Merck lawyer, Stephen Raber, tried to show during cross-examination that Dr. Lucchesi had disregarded studies that contradicted his conclusions about Vioxx. Dr. Lucchesi said he repeatedly asked Merck's lawyers for such data, and they did not produce it.

Oil Prices Rise As Gulf Storm Looms (WSJ)

By Bhushan Bahree and Russell Gold

The Wall Street Journal, September 20, 2005

Oil prices surged as a new storm, Rita, headed toward the Gulf of Mexico, and OPEC ministers meeting in Vienna all but admitted they have no real means to cool red-hot petroleum markets.

The looming new threat to Gulf oil facilities eclipsed efforts by ministers of the Organization of Petroleum Exporting Countries to craft a reassuring message reiterating they would produce more oil if needed. It also underscored the U.S.'s dependence on the Gulf region, home to about a quarter of the nation's oil and natural-gas production and a large number of refineries.

The price of U.S. benchmark crude-oil futures for October delivery shot up $4.39 a barrel on the New York Mercantile Exchange -- the highest one-day rise in nominal terms since it began trading oil futures in 1983 -- settling at $67.39. Gasoline and heating-oil futures also rose sharply.

Although still far from the Gulf Coast energy-producing region, Tropical Storm Rita is shaping up to be a worrisome storm for energy markets. Production platforms, pipelines and refineries spared the worst of last month's Hurricane Katrina could be in Rita's path. "This could be a huge punch in the gut for the market," said Agbeli Ameko, a partner with Enercast.com, a Denver-based energy forecasting firm.

Landfall on the Gulf Coast is expected by this weekend. Some oil companies are preparing to shut down facilities and evacuate workers. Analysts believe the storm could cause markets to gyrate all week.

The storm's approach is slowing efforts to fix infrastructure damaged by Katrina. The U.S. Mineral Management Service reported yesterday that 44% of the daily output of oil and natural gas was still off-line, three weeks after Katrina came ashore near the Louisiana-Mississippi border. So far, the damage has prevented the output of the oil and natural-gas equivalent of about 56 million barrels, just shy of 5% of the region's annual total.

Amid the storm concerns, energy markets brushed off the comments of Saudi Arabian Oil Minister Ali Naimi, who repeated his pledge to produce as much as 1.5 million barrels a day of extra oil if needed. Along with other oil ministers, Mr. Naimi sought new ways to dress up the cartel's year-old message that OPEC is willing to produce more oil if buyers could be found.

One of the options being discussed was for the cartel to state that it has two million barrels a day of spare petroleum-pumping capacity, citing projects that OPEC officials say will come on line later this year in the United Arab Emirates and Libya. The statement would say that the oil would be available on demand, regardless of the cartel's formal output ceiling of 28 million barrels a day. "The crude is available," Mr. Naimi told reporters. "If you want it, there it is."

Another option involves raising the cartel's formal output ceiling by 500,000 barrels a day or more to address concerns by major importing countries, whose economies are being hit by high oil prices. Industry analysts said oil markets would find nothing new in this sort of message from OPEC because it won't yield any actual extra crude.

"Definitely, it's a political message" from OPEC aimed at foreign governments, said Roger Diwan, an analyst at Washington consulting firm PFC Energy. "It's not intended to manage the market" because traders know that OPEC's moves here won't affect supplies, Mr. Diwan said.

OPEC is expected to formally announce its decision on output levels today. But none of the options being considered would necessarily lead to greater supplies of fuel. That is because buyers -- oil refiners who turn crude into gasoline and other fuels -- are running at full capacity and have no need currently for more oil, especially for the high-sulfur grades that Saudi Arabia can produce.

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Industry analysts also said OPEC was exaggerating its spare production capacity, which was probably no more than 1.5 million barrels a day in a world market that is expected to consume more than 85 million barrels a day in the final quarter of this year. The International Energy Agency this month put OPEC's spare capacity at 1.39 million barrels a day, not counting war-scarred Iraq. Almost all of this extra capacity is in Saudi Arabia, the world's largest oil exporter, which is currently producing about 9.5 million barrels a day.

New US Hurricane Threat Sends Energy Prices Soaring (FT)

By Carola Hoyos, Kevin Morrison And Sheila McNulty

Financial Times, September 20, 2005

The threat of a new hurricane heading towards the Gulf of Mexico repeating the devastation caused by Hurricane Katrina sent oil, petrol and gas prices soaring on Monday and overshadowed the ministerial meeting of the Organisation of the Petroleum Exporting Countries.

Predictions that tropical storm Rita, gathering strength and expected to turn into a hurricane, might reach the Texas coast within the next week sent oil traders into panic mode: US and European benchmark crude oil prices rose by more than $3, and US natural gas prices hit new record highs.

"Rita has pushed Opec into the background, because there is great fear that we could be facing another severe supply disruption in the US," said Rob Laughlin, an oil trader with Man Financial in London.

Opec ministers said they were likely to finalise a decision to offer the market more oil when it needed it.

Kuwait's oil minister and Opec president Sheikh Ahmad Al-Sabah, insisted the group had 2m barrels a day of extra oil that it would immediately supply to the market if needed.

But traders, who see the extra volume at closer to 1.4m b/d that could take some time to get to the market, said this would do little to lower prices because Opec did not have the light, sweet oil that the market needed to make petrol.

Nevertheless, Opec hopes that its decision will reduce some of the criticism it faces from industrialised countries, which blame the current high oil price on the cartel.

In fact, the biggest impact Opec could hope to make is in the long term.

The International Monetary Fund this week will blame Opec and oil companies for not investing in new oil capacity quickly enough. Both have already begun to invest more thanks to high oil prices, but those efforts will only yield results in a few years when the projects come to fruition and can do little to reduce the current relatively high prices.

The US benchmark, WTI gained $3.30 to $66.30 a barrel in late morning New York trade. In London, IPE November Brent climbed more than $3 to $64.86. Indeed Opec has had little impact on the prices, since its spare oil capacity has shrunk as demand from the US and China outpaced the world's ability to keep up by exploring for and producing new oil.

The Centre for Global Energy Studies, the London-based consulting group, said in a report released yesterday: "Although oil demand growth slowed dramatically since the second quarter of 2004, it continues to outstrip the pace of non-Opec supply growth and Opec's capacity additions, as well as global increases in refining capacity, particularly to turn heavy, sour crudes into light sweet products that are most sought after."

The International Energy Agency, the industrialised countries' watchdog agency, estimates that oil demand growth fell from 5.3 per cent in the second quarter of 2004 to 1.2 per cent in the third quarter of this year.

The oil and gas industry, which has yet to recover from damage caused by Hurricane Katrina, scrambled for cover. Chevron, BP and Shell all pulled staff from the Gulf.

The Port of Houston Authority, the 6th largest in the world, began gathering information with its partners about the pending storm, reviewing all plans and procedures for the hurricane.

Felicia Griffin, spokeswoman, said the port, which is ranked 1st in the US in foreign tonnage and second overall, after the port of southern Louisiana, was checking inventory to ensure it had basic equipment on hand, including flashlights and batteries. If the hurricane stays on track, and is definitely targeting Houston, she said the port would tie down all cargo and equipment - ``anything that could be airborne'' - to prevent damage in the area and make shutdown decisions.

Houstonians, which saw first-hand the devastation wrecked upon their neighbors just weeks ago, raced to supermarkets to stock up on water and other necessities.

Oil Prices Spike As Storm Nears (WP)

By Justin Blum

The Washington Post, September 20, 2005

Oil prices soared yesterday in the largest one-day gain ever as fears mounted that a developing tropical storm could damage oil operations in the Gulf of Mexico and Texas.

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U.S. benchmark crude for October delivery gained $4.39 a barrel on the New York Mercantile Exchange to close at $67.39. That was the largest one-day dollar gain since oil started trading on the exchange in 1983, according to the Energy Department. The oil price closed at a record $69.81 on Aug. 30.

Futures prices for gasoline, natural gas and heating oil also rose yesterday.

The spike came as gasoline prices, which surged after Katrina, continued to fall. The national average was $2.786 a gallon for regular, down 16.9 cents from a week earlier, according to the Energy Department. The average price in the Washington area dropped under $3 for a gallon of regular, according to a AAA-sponsored survey.

The increases in futures prices of oil and gasoline reflected concerns that Tropical Storm Rita, which was strengthening off the Bahamas yesterday afternoon, could disrupt offshore oil and natural gas production and impair operations at Texas refineries that produce gasoline. Supplies already are tight because of damage from Hurricane Katrina to offshore production and Gulf Coast refineries.

The new storm "could be coming in right exactly where Katrina didn't go," said Michael Guido, director of commodity strategy in New York for French bank Societe Generale. "It could be a bad situation for all the platforms that didn't get hit before."

The price spike came as ministers from the Organization of the Petroleum Exporting Countries were considering whether to offer additional oil to the market. Traders said a move by OPEC would have little impact on the market because refineries don't have the spare capacity to process the varieties of oil that could become available.

Oil companies yesterday were evacuating hundreds of employees from platforms in the Gulf of Mexico by helicopter and boat, a standard precaution in advance of tropical storms and hurricanes. BP, for instance, said it was in the process of evacuating half of the 1,500 workers it has on platforms in the gulf.

Analysts said that pump prices should continue to fall but that yesterday's increases on Nymex mean they would not fall as much as they would have otherwise. Wholesale prices have dropped more quickly than retail prices, which have been catching up, they said.

"You may see local street prices drift lower," said Tom Kloza, chief analyst for the Oil Price Information Service of Lakewood, N.J. "That's how far behind pump prices were in catching up to the wholesale price."

Four major Gulf Coast refineries remain idle because of Katrina, according to the Energy Department. Even before that storm, analysts had said refining capacity worldwide was struggling to meet demand.

Now analysts say they are concerned that the developing tropical storm could hit Texas, home to about 27 percent of U.S. refining capacity, according to the Energy Department.

D. Mark Routt, an analyst with Energy Security Analysis Inc. of Wakefield, Mass., said Houston is an "extremely important hub" for pipelines and other oil industry operations, adding to concern about storm damage.

Analysts said that they were concerned about damage to oil production in the gulf but that those concerns were secondary to refining.

Nearly 56 percent of daily oil production in the Gulf of Mexico remained off line yesterday because of Katrina, amounting to almost 838,000 barrels a day, according to the Minerals Management Service.

The Energy Department said yesterday that it would lend more oil from the nation's Strategic Petroleum Reserve. The department said it is releasing 600,000 barrels to Total Petrochemicals USA Inc., bringing to 13.2 million barrels the amount loaned from the reserve since Katrina.

The department previously agreed to sell 11 million barrels of crude from the reserve.

Storm Makes Oil Cleanup Crews Uneasy (USAT)

By Elliot Blair Smith

USA Today, September 20, 2005

NEW ORLEANS — In the remote marshlands of southern Louisiana, emergency cleanup crews responding to 15 oil spills unleashed by Hurricane Katrina now have another worry: Tropical Storm Rita.

About 700 private contractors who are deployed each day by riverboat and helicopter are working to contain 6.7 million gallons of spilled oil at remote production sites operated by Bass Enterprises, Chevron, Dynegy, Murphy Oil, Shell and others, says Coast Guard Chief Petty Officer Keith Alholm.

It is the largest oil cleanup effort in state history, more than 10 times greater than the remediation of 550,000 gallons of oil spilled by the ship Westchester in the Mississippi River in November 2000. The biggest spill in U.S. history was 11 million gallons by the ship Exxon Valdez off Alaska in 1989.

Except Bass, where no one could be reached for comment, the other companies said spills had been contained with little or no environmental damage.

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Roland Guidry, the Louisiana governor's oil spill coordinator, said Monday that authorities are concerned Tropical Storm Rita could move from the Florida Keys to the Louisiana coast, threatening the safety of crews working in rugged drilling areas that the hurricane rendered largely inaccessible.

"We have to have an exit strategy for all the people out there working, and possibly bring in the equipment we have out there," Guidry said. He said a decision will be made "in the next couple of days."

To date, cleanup efforts have been hindered by a lack of access and accommodations for the emergency cleanup crews, Guidry says: "It took us 31/2 hours by boat to get to some of those places, with no place to stay, no roads to get there. It's been like that since Day 1, and it hasn't improved much."

Guidry, speaking from Baton Rouge, said, "The reason we don't have 1,000 or 2,000 (workers) out there is because we don't have any way to get them out there and keep them out there safely."

To provide temporary lodging on the river for several hundred emergency workers, the federal Maritime Administration, a unit of the Department of Transportation, has deployed five ships to Louisiana, the last of which arrived over the weekend. Two of those ships are anchored in oil field cleanup areas. The government is considering deploying two more ships with several hundred additional berths.

The Coast Guard, which continues to airlift water and ice to some workers on the ground, says a lack of electric power in the area also slows the cleanup. Says Alholm: "It's been a lot more difficult than a normal oil spill cleanup would be because of the (damaged) infrastructure. It's going to take us longer."

Last week, the Coast Guard reported spills at these oil company installations:

·Bass Enterprises: 3.8 million gallons spilled due to damage to two storage tanks at a remote site in southern Louisiana identified on Mississippi River navigational charts as Mile Marker 35.

·Chevron: 991,788 gallons due to a ruptured tank or transfer line at Buras, La. An additional 53,592 gallons spilled at Chevron's Port Fourchon pipeline. At a third Chevron site known as Wagon Wheel, 8,400 gallons spilled. Several birds were among the reported wildlife casualties.

·Dynegy: 70,000 gallons spilled due to two tank failures near Venice, La.

·Murphy Oil: 819,000 gallons spilled at Meraux, La., due to a ruptured tank. As a result, Murphy said, two class-action lawsuits were filed against it by local residents seeking unspecified damages.

·Shell Oil: 933,870 barrels spilled due to a tank or pipeline breach in southern Louisiana identified on Mississippi River charts as Mile Marker 3. An additional 10,500 gallons spilled at Port Sulphur.

Gas Prices Fall, But Storm Worries Push Oil Higher (USAT)

By James R. Healey

USA Today, September 20, 2005

Gasoline prices dropped Monday to their lowest since Hurricane Katrina shut refining and shipping in the energy-rich Gulf of Mexico nearly three weeks ago.

But worries about another hurricane striking later this week sent prices of crude oil and wholesale gasoline zooming as energy traders bet on another shortage.

"If it hits the Houston area and damages a whole new set of refineries and shipping and infrastructure, we'd probably see a return to $3 gasoline," AAA spokesman Geoff Sundstrom says. "We were looking forward to gasoline going back to $2.50, $2.60 a gallon, but this new storm will put a stop to that."

That's Tropical Storm Rita off the Florida Keys, expected to become a hurricane, according to the National Weather Service.

AAA's daily survey showed a nationwide average of $2.805 Monday for a gallon of unleaded, down 8.2 cents over the weekend and lowest since $2.68 Sept. 1. The government's weekly price survey showed a nationwide average of $2.786 Monday, down 16.9 cents in a week.

Those numbers could turn fast. Frenzied traders bid up the price of oil $4.39 a barrel, to $67.39 at the close of New York trading. Wholesale gasoline for delivery next month zoomed nearly 25 cents to about $2.03 a gallon.

Oil prices and, more immediately, wholesale gas prices determine what you pay at the pump.

Highs at the pump were hit Sept. 5 when AAA reported a nationwide average of $3.057 and the U.S. Energy Information Administration reported $3.069. The inflation-adjusted record is $3.118, according to EIA.

"The good news is, we have a week to get ready. The bad news is that the market has all week to react," Peter Beutel, president of energy consultant Cameron Hanover, says of Rita.

He says it's possible Rita jitters might halt a further drop in retail gas prices rather than sending them zooming again.

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Natural gas, a key gulf energy product and the fuel that heats most U.S. homes, rocketed to a record $12.70 per million Btu during Monday trading, and closed at $12.663, a one-day jump of 13.6%.

Energy companies are evacuating facilities in anticipation of Rita. The U.S. Minerals Management Service said Monday that six oil rigs had been evacuated. Katrina's damage and the new evacuations mean Gulf oil production is 44% of normal, MMS said. The Gulf supplies 29% of oil used in the USA, 21% of the natural gas.

OPEC Set To Open Oil Taps Full Blast (NYT)

By Jad Mouawad

The New York Times, September 20, 2005

VIENNA, Sept. 19 - OPEC delegates said Monday that the group planned to allow its members to provide up to two million barrels a day of additional crude oil if the market needs it. But oil traders brushed aside the move and instead sent oil prices higher on worries of another possible hurricane.

Royal Dutch Shell, Chevron and other oil companies said they were evacuating some employees from offshore oil platforms in anticipation of Tropical Storm Rita. The National Hurricane Center said Monday that the storm was making its way toward the Gulf of Mexico from the Bahamas and could become a hurricane overnight.

The latest hurricane warnings helped push oil prices up on the New York Mercantile Exchange, and they closed Monday at $67.39 a barrel, up $4.39. Natural gas futures hit a record on Monday, closing at $12.663 per thousand cubic feet, up $1.519.

Forecasters issued a hurricane warning for parts of Southern Florida and said that by early Saturday, Rita, the 17th named storm of the Atlantic season, could make landfall near Houston, an area that is a major port and home to many refineries and petrochemical plants.

The mayor of Galveston, Tex., Lyda Ann Thomas, called for a voluntary evacuation. Galveston is an island city and tourist destination about 50 miles southeast of Houston.

OPEC's highly unusual decision to put on call an extra 7 percent of its production is expected to be formally announced Tuesday at the end of the group's two-day meeting in Vienna. Some oil ministers said the Organization of the Petroleum Exporting Countries wanted to show it was doing all it could to lower oil prices even as they blamed refining shortages for the current situation.

Under the proposal, which members have been discussing in meetings since Sunday, OPEC producers would provide as much oil as refiners and other buyers asked for, without regard to previous production limits or quotas. The production ceiling, now set at 28 million barrels a day and shared by all 11 members except Iraq, would theoretically remain unchanged.

"The crude is available," Ali al-Naimi, Saudi Arabia's oil minister and OPEC's most influential voice, told reporters in Vienna. "If you want it, here it is."

OPEC's plan, proposed by Sheik Ahmad Fahad al-Ahmad al-Sabah, the group's president and the oil minister from Kuwait, has the backing of Saudi Arabia, OPEC's largest producer, which would provide 75 percent of the additional oil.

President Bush said he welcomed a release of more oil by OPEC members, particularly if it helped cut retail gas prices by increasing supply.

"I have been concerned about the price at the pump that our folks are paying," Mr. Bush said. "Part of that was caused by the disruptions of Hurricane Katrina. We dealt with that by suspending rules and regulations that enable us to import more gasoline. But part of the cost of gasoline is a result of high crude oil prices, and one way to affect those prices is to conserve and the other way is to encourage an increased supply."

OPEC's proposal is largely shaped around an earlier pledge by Saudi Arabia to fully open its taps to consumers who asked for more oil.

Saudi Arabia's commitment to increase its output to its full capacity of 11 million barrels a day, from 9.5 million barrels now, was repeated after Hurricane Katrina interrupted oil production from the Gulf of Mexico three weeks ago, sending the price of crude oil above $70 a barrel.

But the divergence between the oil market's focus and OPEC's plans illustrates the group's dilemma.

"OPEC's move today is largely for show," said Lawrence J. Goldstein, president of the Petroleum Industry Research Foundation. "They want to appear to be responsible, but the tools that they have in the bag render them largely impotent for the moment."

Many delegates here have asserted repeatedly that the shortfall in energy markets was not one of crude oil but of refining capacity - the current inability of refiners to turn oil into sufficient gasoline and other products like diesel or jet fuel.

"There is no issue with crude oil supplies," said Abdullah bin Hamad al-Attiyah, the minister from Qatar. "The real shortfall is in refineries, especially in the United States. We can do everything we can, except we can't interfere with the nature of the problem."

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Still, he said OPEC hoped to send a message to oil traders, who have been bidding up oil prices over the last two years, largely on the belief that the growth in demand was outstripping the ability of suppliers to bring more oil into the market. That has contributed to a doubling in oil prices over the last two years.

OPEC has been facing mounting criticism from consuming nations, especially in Europe, which has been asking OPEC to act more forcefully, regardless of the refining constraints. Many of those nations are beginning to worry that high oil prices may slow growth and hurt the global economy.

According to OPEC's most recent statistics, the group pumps 28.2 million barrels of oil a day, about a third of global production and 40 percent of global exports.

Since 2003, OPEC producers have increased their output 10 percent to make up for a 5 percent rise in global oil demand. That increase leaves only one OPEC member, Saudi Arabia, with large amounts of untapped oil. Sheik Ahmad, the OPEC president, said that Nigeria, the United Arab Emirates and Libya could provide an extra 400,000 barrels a day by December.

At their meeting on Monday, OPEC's ministers also discussed their long-term strategy and the idea of making their future investment plans clearer. The group appears to have dropped a suggestion to raise the production ceiling by 500,000 barrels a day, an idea that was floated by some OPEC officials in the days leading to the meeting.

"We will collectively make a pledge to have the spare capacity available if needed, but I don't believe it is needed," Edmund Daukoru, Nigeria's oil minister, told reporters.

To illustrate the availability of oil on the market, many here pointed out that the United States Energy Department had recently found buyers for only 11 million barrels of crude oil from the nation's strategic reserves, just a third of the amount it had put on sale.

"It proves there is no need for oil," Mr. Attiyah of Qatar said. "There is a need for products."

Hurricane Katrina crippled the United States' main oil and gas production region, sending energy markets into a tailspin. But perhaps of greater concern for energy markets, it caused the shutdown of four major refineries along the Gulf of Mexico. These refineries, which can process nearly 900,000 barrels a day, or 5 percent of American capacity, are likely to be out of commission for months.

Chevron said Monday that a large refinery damaged by Hurricane Katrina in Pascagoula, Miss., would not be fully operational until mid-November. Under normal operations, the plant, which accounts for about 2 percent of the nation's capacity, processes 325,000 barrels of crude oil a day, the largest amount from the four refineries that are still recovering from Katrina damage.

The refining crunch in the United States caused gasoline supplies to dip, led to spot shortages in some parts of the country and, for a brief period, pushed gasoline prices above $3 a gallon nationwide for the first time.

As a response to that shock, consuming nations dipped into their oil reserves to make up for the production shortfall from the Gulf of Mexico. The crisis prompted the Bush administration to tap into the nation's strategic stocks, something it had been reluctant to do.

The International Energy Agency, which usually provides advice on energy policies to 26 industrialized nations, also activated its emergency oil plan, releasing oil for only the second time in its 29-year history.

Fears Of New Storm Send Oil Soaring (USAT)

By Matt Krantz

USA Today, September 20, 2005

With another storm bearing down on the Florida coast and threatening oil production there, oil prices jumped Monday and dragged stocks down.

Worried any higher uptick in oil prices would tax the economy, investors sent the Dow Jones industrial average down 84.31 points to 10,557.63. The Dow is down 2.1% this year.

Tech stocks didn't do much better, either, with the Nasdaq composite index falling 15.09 points to 2145.26. The Nasdaq is down 1.4% this year.

The broad Standard & Poor's 500 index lost 6.89 points to 1231.02. The educational services, computer electronic retail and auto parts industries were the S&P's worst performers on Monday.

Still, the S&P 500 is alone among the three major stock market indexes in being up for the year at 1.6%.

Investors also were concerned about today's Federal Reserve Board statement on the economy and decision on short-term interest rates. But stocks were under pressure mainly because of the approach of Tropical Storm Rita, just weeks after Hurricane Katrina devastated the Gulf Coast. The price of a barrel of oil jumped $4.39 to $67.39 as investors fretted about the supply of the commodity.

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The day's selling was “more than anything the news of Rita coming toward the Gulf Coast,” says Andy Brooks, trader at T. Rowe Price. And that left investors to wonder what kind of disruption could be caused by the storm.

“It was a raucous session,” says A.C. Moore, strategist at Dunvegan Associates. Moore says the demand for oil continues to outstrip supply, which is a problem that only economics, not politicians, can resolve. “Commodity prices can do anything when they're out of balance. That's the problem,” he says.

Spinnaker Exploration, an oil-exploration company, soared $15.40 to $64.15 after rival Norsk Hydro offered $65.50 a share, or $2.5 billion, for the company.

·Carnival added $1.75 to $50.78 after the cruise-ship operator reported 12% higher fiscal third-quarter results because of higher ticket prices and greater passenger capacity.

·Russell, a maker of athletic apparel, fell $2.87 to $15.12. The company said it expects to earn 50 cents to 60 cents a share in the third quarter, well below the 66 cents expected by analysts, due in part to shipping problems caused by Katrina. It said 40 containers of goods were lost or damaged because of the storm.

·TBC, a marketer of tires, rose $8.24 to $34.36 after saying it is being bought by rival Sumitomo for $820 million, or $35 a share.

Shares Tumble On Worries Over New Storm And Rates (NYT/AP)

By The Associated Press

The New York Times, September 20, 2005

Shares plummeted yesterday as heightened fears of another hurricane hitting some part of the Gulf Coast sent oil prices racing past $67 a barrel and investors grew concerned about the Federal Reserve's meeting today on interest rates.

Wall Street saw some bright spots in merger activity and strong earnings from Nike and Carnival, but the market became increasingly uneasy as surging energy prices threatened consumer spending. Investors also awaited the Fed's decision on whether to raise rates or to halt its string of increases to mitigate any economic slide after Hurricane Katrina.

With an intensifying Tropical Storm Rita nearing Florida's tip and poised to enter the Gulf of Mexico just weeks after Hurricane Katrina's devastation, the market retreated late in the day.

"Front and center would be concerns of the storm approaching tomorrow, of which you're seeing crude oil trading up $4," said Steven Goldman, chief market strategist at Weeden & Company.

Crude oil made its biggest one-day gain ever, even as the Organization of the Petroleum Exporting Countries neared a consensus on allowing sales of two million additional barrels a day to offset a potential supply shortage from recent refinery shutdowns.

On the New York Mercantile Exchange, a barrel of light crude jumped $4.39, to $67.39.

By the close of trading, the Dow Jones industrial average had dropped 84.31 points, or 0.79 percent, to 10,557.63. The Dow lost as much as 120.69 points during the session. Broader stock indicators also declined. The Standard & Poor's 500-stock index fell 6.89 points, or 0.56 percent, to 1,231.02, and the Nasdaq composite index sank 15.09, or 0.7 percent, to 2,145.26.

The 10-year Treasury note rose by 8/32 to a price of 1001/32, with the yield sliding to 4.25 percent from 4.27 percent on Friday.

Although Wall Street is uncertain what the Fed's decision is likely to be, many analysts are predicting that the central bank will continue lifting rates to stem inflation and will keep that as its main priority despite the widespread economic ripple left by the hurricane.

In corporate news, Nike, the world's biggest shoemaker, said higher sales across the board helped lift its first-quarter profit 32 percent to easily beat Wall Street expectations. Worldwide future orders for products scheduled for delivery through January 2006 grew 11 percent to $4.9 billion, the company added. Nike surged $4.99, to $83.45.

The cruise ship operator Carnival posted a 12 percent gain in third-quarter profit, as revenue swelled from increased ship capacity and ticket prices. The company also said that while the hurricane depressed results in the latest quarter, recent bookings remained strong and average prices were above those of the year before. Carnival added $1.75, to $50.78.

Sirius Satellite Radio raised its projected full-year revenue by $5 million, to $230 million, but the expanded forecast still fell short of analyst targets for $234.5 million. The company maintained estimates for three million subscribers by year-end, up from about 2.1 million as of last week. Sirius fell 35 cents, to $6.70.

Rita Fears Drag On Stocks (WSJ)

By Scott Patterson

The Wall Street Journal, September 20, 2005

DOJ_NMG_0006882

Weather charts showing Tropical Storm Rita potentially slicing into the Gulf of Mexico sent a chill through the stock market three weeks after Hurricane Katrina tore through the Gulf Coast. Petroleum-futures prices surged, causing stocks to sink, though a last-minute kept the market from its lows for the day.

Uncertainty about the Federal Reserve's decision on interest rates Tuesday added to investors' anxiety. The Dow Jones Industrial Average fell 84.31 points to 10557.63. General Motors slid 3.6%. Exxon Mobil gained 1.5% amid the jump in energy prices. The Standard & Poor's 500-stock index slid 6.89 to 1231.02 and the Nasdaq Composite Index declined by 15.09 points to 2145.26.

Worries that Rita could disrupt the post-Katrina recovery pushed light, sweet crude up by $4.39, or 7%, to settle at $67.39 a barrel on the New York Mercantile Exchange. It was the biggest dollar jump in crude since trading began on the Nymex. The previous record was on Aug. 6, 1990, a few days after Iraq invaded Kuwait, when crude gained $3.56 a barrel. The biggest decline came several months later, as crude plunged $10.56 on Jan. 17, 1991, soon after the U.S. launched the first Gulf War to evict Iraq from Kuwait.

Gasoline and natural-gas prices surged 14% apiece, adding to worries that consumers could be unnerved by sticker shock at the pump and when home-heating bills arrive in the mail as the weather begins to cool.

Gold for December delivery also moved sharply higher, jumping $7.10, or 1.5%, to $470.40 a troy ounce on the Comex division of the Nymex, the highest level since December 1987. Gold has risen more than $10 an ounce in a week amid concerns about inflation in the wake of surging energy prices and government spending plans to rebuild in the Gulf Coast.

Rita is forecast to skirt across the southern tip of Florida and move into the middle of the Gulf by Thursday. That could deal a "potentially devastating blow to our refining capacity again," said Raymond Carbonne, an oil trader at Paramount Options in New York. Fears were heightened by the fact that "we still haven't found out the severity of the damage that Katrina caused," he said.

Selling accelerated in the stock market after Chevron and Royal Dutch Shell said they are evacuating offshore oil and gas rigs in the Gulf. The National Weather Service said Rita will likely grow into a major hurricane as it moves over the warm waters of the Gulf, with landfall likely in Texas or Louisiana.

If energy prices weren't enough, investors also were unnerved ahead of Tuesday's meeting by the Fed. Expectations for a pause in rate increases by the Fed have gone from a 50%-50% chance the week after Katrina hit the Gulf to a less than 10% chance in the days leading up to the policy meeting, according to trading in federal-funds futures. An increase Tuesday would mark the 11th since June 2004, bringing the Fed's target for overnight loans between banks to 3.75%.

Analysts said the surge in gold and oil prices raised the specter of inflation, and virtually confirmed the Fed would raise rates a quarter-point Tuesday. "You've got gold and energy sending out a message: inflation is an issue, and that's what central bankers are paid to keep their eyes on," said Michael Panzner, head of sales trading at Rabo Securities.

In major market action:

Stocks fell. On the Big Board, where 1.5 billion shares traded, 1,052 stocks rose and 2,258 fell Friday. On the Nasdaq Stock Market, where 1.6 billion shares traded, 1,021 stocks advanced and 2,003 declined.

Bonds gained. The benchmark 10-year Treasury rose 5/32, or $1.56 per $1,000 invested, to yield 4.250% early Monday. The 30-year bond added 4/32 to yield 4.550%. Yields move inversely to prices.

The dollar advanced. It was at 111.51 yen, up from 111.36 yen late Friday, while the euro slipped to $1.2137 from $1.2234.

Stock Trackers Become Master Storm Trackers (USAT)

By Adam Shell

USA Today, September 20, 2005

NEW YORK — Tracking violent storms is quickly emerging as a new job requirement on Wall Street.

After the massive financial fallout caused by Hurricane Katrina, a growing number of traders, analysts and portfolio managers now view the weather as a major risk factor. The damage to the Gulf Coast's energy infrastructure exposed a vulnerability in the nation's oil and gas supply chain, sparking a sharp rise in the price of gasoline and heating oil and natural gas used to keep homes warm in winter.

With Tropical Storm Rita barreling down on the Florida Keys and likely to gain strength and become a hurricane, it's no surprise that investors are just as interested in where the next hurricane will hit as they are the direction of interest rates. In fact, investors with billions of dollars riding on stocks now spend a good portion of their day tuning into the Weather Channel and monitoring weather-related websites.

“Bottom line is investors are becoming more cognizant of the impact the weather has on stocks,” says hedge fund manager Mort Cohen of Clarion Group. “You have to factor the weather in when picking stocks.”

Adds Peter Cardillo, chief analyst at S.W. Bach: “What happens if we have another Katrina?”

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Tracking “strike probabilities” and “wind swaths” is now common practice, given the potential of natural disasters to damage the economy, spark an energy crisis and crimp profits at affected companies.

·Traders at money management firm T. Rowe Price now tune in to the Weather Channel, says head trader Andy Brooks. “Rita is now on the radar screen,” he says. “Trading desks have got to know what is being broadcast and reported on as it happens.”

·Money manager Gary Kaltbaum of Kaltbaum & Associates checks updates every three hours on the National Hurricane Center's website and is constantly looking at satellite pictures of brewing storms. “If the oil rigs and refineries go down, the price of oil will shoot back up,” he says. A barrel of crude soared more than $4 a barrel Monday amid fears Rita would inflict more damage in the Gulf.

·Analysts at Clarion Group regularly track updates from the National Weather Service. The motivation: “We have a lot of money in energy stocks and are thinking of putting more money in shares of manufactured housing stocks,” Cohen says.

Another sign of the intense demand for weather-related insights: Ken Reeves, senior meteorologist at AccuWeather.com, says “weathermen” from his firm made more than 10 appearances Monday on the business cable channel CNBC. Says Cardillo: “You have to keep an eye on the eye of the storm.”

Bond Market Signals Little Faith In Fed To Slow March Of Inflation (WSJ)

By Mark Whitehouse

The Wall Street Journal, September 20, 2005

The bond market has a message for Federal Reserve officials trying to gauge Hurricane Katrina's economic impact: Inflation probably will accelerate no matter what you do.

Today, the policy-making Federal Open Market Committee decides whether to keep raising short-term interest rates to fight inflation or pause for more data on how the economy has fared since Katrina. Most economists expect the Fed to raise its interest-rate target for the 11th time in 15 months -- by a quarter percentage point to 3.75% -- but will read the accompanying statement closely for signs of future moves.

In the bond market, though, investors already are demanding higher returns on longer-term securities -- a sign they expect inflation to heat up as the government, companies and individuals spend billions of dollars to rebuild in New Orleans and elsewhere along the Gulf Coast. "We're about to rebuild a major U.S. metropolitan area," says David Glocke, a Treasury-bond portfolio manager at The Vanguard Group, an asset-management firm in Valley Forge, Penn. "...That's definitely inflationary."

Before Katrina hit, short-term and long-term rates had been converging, a sign that investors expected the Fed's campaign of rate increases to slow the economy or even tip it into recession, which would in turn force the central bank to bring rates back down in the future. But now that convergence -- known as a flattening yield curve -- has reversed: In afternoon trading yesterday, 10-year Treasury notes yielded 0.32 percentage point more than two-year Treasurys, compared with a difference of 0.12 percentage point on Aug. 29.

The "steepening" trend suggests that while investors' expectations for economic growth haven't necessarily changed, they are more concerned about the level of inflation associated with that growth. "If we get through this without a major hit to economic activity, then I think you'd have to be more worried about inflation than before," says Jan Hatzius, senior U.S. economist at Goldman Sachs in New York.

Since Katrina, for example, more investors have come to believe that the Fed will pause in its interest-rate increases this year. In a survey of 22 big Wall Street banks published yesterday, most expected the FOMC to pause at least once at its three remaining meetings this year. Early yesterday, the futures market was assigning a probability of more than 90% to a rate increase today, but closer to 60% for an increase at the next meeting Nov. 1, and much less to a third raise at the Dec. 13 meeting.

The hurricane -- along with Tropical Storm Rita -- has added uncertainty. Katrina's short-term effect on fuel and construction-materials prices will skew inflation data through at least October, making it difficult for the Fed and investors to understand what is happening in the economy.

But even investors who expect the Fed to keep raising its short-term interest-rate target this year believe that the risk of accelerated inflation has increased. "There's a risk that somewhere along the line inflation gets ahead" of the Fed, says Dave MacEwen, chief investment officer for fixed income at American Century Investments, an asset manager based in Mountain View, Calif.

To mitigate the perceived inflation risk, Mr. MacEwen and other money managers have been reducing bets that would benefit from a flatter yield curve and putting on bets that would benefit from a steepening curve.

Treasury Bonds

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Prices of Treasury securities firmed modestly yesterday, buoyed by soaring energy prices, though gains were limited ahead of the Fed's policy meeting.

At 4 p.m., the benchmark 10-year note was up 5/32 point, or $1.5625 per $1,000 face value, at 100. Its yield fell to 4.25% from 4.267% Friday. The 30-year bond was up 4/32 point at 112 11/32 to yield 4.550% from 4.557%.

Asset-Backed Securities

Issuers poured more than $10 billion in new supply into the asset-backed market, making up for time lost to last week's annual industry conference in Florida. Securities backed by home-equity debt accounted for about $7 billion of the new deals.

Greenspan And Katrina (WSJ)

The Wall Street Journal, September 20, 2005

Along the way in his long career, Alan Greenspan has been known to follow the price of gold. Not as a gold bug who thinks it is the lodestar of monetary policy, but as one who finds it a useful indicator of inflationary expectations. We hope he's following the barbaric metal that way now, because yesterday it pushed through $467 an ounce at the close in London, to a 17-year high.

This gold surge is probably a response to the speculation that the Federal Reserve might actually make the mistake at its meeting today of pausing in its monetary tightening in the wake of Hurricane Katrina. Yields on the 10-year note have also climbed back up from their Katrina lows, and even stripping out the Katrina energy spike, prices on steel, lumber, cement and other goods have been rising.

Which means easing up now would be exactly the wrong policy. Those urging such an action include carry-traders who fear getting caught playing the yield curve, investors long on housing, and all kinds of well-intentioned folks who simply don't want to see the expansion end. We know how they feel. This market psychology always takes hold amid a Fed-tightening cycle -- and this time it is being exaggerated by the fallout from Katrina.

But the Fed cannot fine-tune economic growth. It has only one job -- maintaining price stability. We've been writing for two years that the Fed has been providing too much liquidity, with negative real interest rates, and even its 250-basis point rise over the past 15 months has not brought rates back to neutrality. Stopping the rate increases now would run the risk of even greater increases later, as price pressures continue to build.

Our guess is that this is not the kind of policy dilemma Mr. Greenspan wants to leave his successor in 2006 and 2007. We also doubt he wants to depart in January having abandoned some of the hard-earned progress against inflation that he and his predecessor Paul Volcker earned since the last time we had an oil shock, in the 1970s. The Fed printed dollars to offset the economic damage from rising oil prices, only to create more inflation and still higher oil prices. The inflationary cycle didn't end until Ronald Reagan backed Mr. Volcker's slam on the brakes.

Katrina's blow will reduce economic output in the third quarter and maybe the fourth, but probably without inducing recession. The economy entered the eye of the hurricane with momentum built up over two years of 4% average GDP growth since the tax cuts of 2003. The rebuilding of the Gulf Coast will again lift GDP as it gains momentum later this year and into next. A rate hike now could actually have the beneficial effect of calming inflation fears and keeping long-term interest rates lower. If the Fed keeps prices stable, the animal spirits of the private sector will do the rest.

Yes, Parallel Tracks To North, But Parallel Tracks Don't Meet (NYT)

By David E. Sanger

The New York Times, September 20, 2005

WASHINGTON, Sept. 19 - After four years of bitter arguments over whether to negotiate with North Korea or try to engineer its collapse, the accord President Bush grudgingly approved Sunday evening provided the bare minimum - an agreement in principle that the North would end a five-decade pursuit of nuclear weapons, the only card the erratic nation has to play to get the world to pay attention to its demands.

But even to get that, Mr. Bush had to blink slightly, acknowledging that at some point in the future, the United States would discuss with the North building new nuclear facilities - something Washington has said it could never trust the North with.

And the preliminary agreement, as Mr. Bush himself acknowledged, says nothing about when or under what conditions the North would give up all of its nuclear programs, re-enter the Nuclear Nonproliferation Treaty and allow inspections. "We've got to verify whether or not that happens," Mr. Bush said.

For five years now, many of his most conservative advisers have warned that deceit, distrust and broken agreements make an accord like this a hopeless task.

They blocked negotiations for the first few years of his presidency, but in the end, both Mr. Bush and his secretary of state, Condoleezza Rice, were persuaded that if a confrontation ever occurred with North Korea, they had to be prepared to show that they had made every effort to reach a diplomatic solution.

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"The lesson of Iraq," said one senior American official, who is deeply skeptical about the deal, "is that we can never again confront a country about its weapons unless we show that we have tried every available alternative to disarm it."

It is too early to know if the North has made what Ms. Rice often calls a "strategic choice" to give up all its weapons. Some officials say they suspect that the North entered the talks ready to give up its plutonium program, which it "froze" under an agreement with the Clinton administration in 1994, because those facilities are out in the open, impossible to protect if a conflict with the United States erupted.

Under that theory, the North is more interested in protecting a clandestine uranium enrichment program that, the administration says, the North secretly started to evade the provisions of the 1994 agreement. After initially appearing to acknowledge the program when confronted in 2002, the North now denies it exists. It is never explicitly mentioned in the statement signed Monday, though the administration says it is covered by the commitment to "abandoning all nuclear weapons and existing nuclear programs."

To experts on North Korea, that raises a critical problem. "It's a huge hole in the agreement," said Art Brown, for years the chief Central Intelligence Agency officer in charge of watching North Korea. "If they don't acknowledge they have it - and if they have buried it in some cave - we'll say it's included in the deal and they'll say there is nothing there to give up."

Moreover, the preliminary agreement says nothing about verification. Mr. Bush's aides have insisted that the United States and other nations will conduct their own inspections, rather than rely entirely on international inspectors.

On Monday, officials at the State Department and the intelligence agencies were dusting off a detailed plan to inspect virtually every suspect site. But it is not clear that the North has agreed to this.

"We will need to travel throughout the country, and be given unhindered access," said one senior Bush administration official, who said he approved of the agreement but insisted on speaking anonymously in part because he was raising doubts about what the negotiators had accomplished. "Can you imagine the North Koreans letting us do that?"

International inspectors, who were thrown out by North Korea in 2002, never had free access beyond a few facilities at one plant, at Yongbyon.

Part of the reason Mr. Bush signed the agreement, American and foreign officials said, is that he had to close the breach among his negotiating partners: China, South Korea, Japan and Russia.

China drafted the language signed on Monday. Along with South Korea, it has been eager to do anything to forestall a crisis on the Korean peninsula. That is why China insisted that the draft include references to building a nuclear reactor, at an unspecified time, in the agreement. "They said it was the only way the North Koreans would get on board," said one senior official involved in the talks.

The accord is also unlikely to settle the behind-the-scenes administration battles about how hard to squeeze North Korea. From the moment Mr. Bush's team arrived at the White House in 2001, North Korea has been a subject of tremendous internal strife. It was the issue that first separated former Secretary of State Colin L. Powell from Ms. Rice and administration hard-liners who believed the time was ripe to choke off North Korea.

When Ms. Rice succeeded Mr. Powell, she put together her own negotiating team, led by Christopher R. Hill. Because of Ms. Rice's closeness to the president, he was empowered to discuss things his predecessor never could, including new ways to provide energy to North Korea. But the key has been the timing: Ms. Rice and others had complained that Mr. Clinton erred by agreeing to aid North Korea before it disarmed, and that never again would the United States "reward bad behavior."

On Monday Ms. Rice argued that the wording of the agreement implies that North Korea will disarm first."At an appropriate time we are prepared to discuss - discuss" the idea of building a nuclear reactor, she said. She said several times that the discussion would not even begin until North Korea dismantled its weapons program.

So it was a measure of the disagreements that may be on the way that just hours after she spoke North Korea issued a statement saying it demanded the reactors first.

N. Korea, U.S. Both Bend A Bit For A Deal (USAT)

By Barbara Slavin

USA Today, September 20, 2005

The United States made key concessions to reach a preliminary nuclear agreement with North Korea on Monday, and hard negotiations lie ahead before that country gives up its nuclear weapons programs.

Under the agreement reached in Beijing among six nations, North Korea pledged to abandon “all nuclear weapons and existing nuclear programs” and return to an international treaty on nuclear non-proliferation and arms inspections. In return, it would get security assurances and economic aid.

The deal, signed by the United States, North Korea, China, South Korea, Japan and Russia, doesn't mention certain U.S. positions, such as its opposition to North Korean efforts to enrich uranium. Those efforts led to the collapse of a U.S.-North Korea

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agreement in 2002. It refers instead to a 1992 agreement between North and South Korea that barred such activity. North Korea softened a demand for a nuclear reactor for electricity production.

"Both of them blinked," said Jack Pritchard, a former U.S. negotiator with North Korea.

President Bush called the agreement "a wonderful step forward. But now we've got to verify" it.

Representatives from the six nations will meet again in November to work out the details.

A year ago, U.S. negotiators said energy assistance from North Korea's neighbors would come if it accounted for nuclear programs within three months and began to dismantle them. Such language is missing from the new deal, which says the United States will join other nations to provide energy. The agreement also says:

·The United States has no intention of attacking North Korea, and the two countries can "exist peacefully together." Chief U.S. negotiator Christopher Hill previously rejected such language, which North Korea interprets as a sign the United States will not try to overturn its repressive government.

·The parties agreed to "discuss at an appropriate time" a light-water reactor to produce electricity. Two such reactors were promised under a 1994 agreement intended to halt nuclear weapons work by the North. Work stopped in 2002, and the United States has opposed reviving the project.

Monday's agreement could lead to something like the 1994 deal, said Scott Snyder, a Korea expert at the Washington office of the Asia Foundation, a research group. The Bush administration had long criticized that deal. "This is a very pragmatic approach which was completely absent for the last four years," Snyder said.

Michael Horowitz, a lobbyist for human rights in North Korea, warned of congressional opposition without progress on rights.

Donald Gregg, a former U.S. ambassador to South Korea, praised Hill and Secretary of State Condoleezza Rice for making "sensible concessions." U.S. negotiators had less leeway in the first Bush term because then-secretary of State Colin Powell had less influence in the White House, Gregg said.

Though North Korea has agreed to give up nuclear weapons, it's not clear how or when it would do that or how other nations would verify that it had done so, said David Albright, president of the Institute for Science and International Security, a Washington think tank. The first priority, Albright said, is removing the weapons-grade plutonium North Korea has amassed. His institute estimates that it is enough for five to 13 nuclear weapons.

"There may be less (to the deal) than meets the eye," said Albright, adding that the North Koreans signed the agreement to stave off pressure from China, its chief source of economic aid and trade.

Bush Hails North Korea Nuclear Accord (FT)

By Anna Fifield And Andrew Yeh

Financial Times, September 20, 2005

President George W. Bush on Monday welcomed North Korea's pledge to abandon its nuclear weapons programmes and rejoin the non-proliferation treaty but expressed reservations over whether all parties would keep to their commitments.

Mr Bush said the Korean deal was "a step forward in making this world a more secure place" but insisted "we've got to verify whether or not that happens".

Under the deal, North Korea will receive energy aid and security guarantees in return for abandoning its weapons programmes and allowing United Nations inspectors back into the country. The US and Japan, meanwhile, will start to normalise relations with the communist stronghold.

The wide-ranging, though vague, agreement is the first breakthrough in more than two years of tortuous six-party negotiations and came just as the differences between Pyongyang and Washington seemed intractable.

The deal could breathe new life into the {nuclear non-proliferation treaty and underlines Iran's isolation as it pushes ahead with its nuclear programme.

It also served to prove that Washington and Beijing, which hosted the talks, can co-operate on issues of mutual security interest.

After 20 days of talks in the fourth round of negotiations, China's fifth draft joint statement finally won approval from Japan, Russia, the US and the two Koreas. "The process that led us to this final agreement was all six parties overcoming one mountain after another, one wall after another," said Wu Dawei, Beijing's chief envoy.

Mr Bush said he wanted to the thank the other partners in the six-party dialogue for working together. But he added: "The question is, over time, will all parties adhere to the agreement?"

Scott McClellan, the White House spokesman, made clear that the first step under the agreement was for North Korea to end its nuclear programmes.

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Analysts said there were likely to be many difficulties in implementing the pact, particularly as few of the fundamental differences between Pyongyang and Washington appeared to have been bridged. Securing an agreement, given the fractious relations between the two protagonists and North Korea's defiant declaration in February that it had become a nuclear state, represents {a big diplomatic milestone.

Christopher Hill, the US's chief negotiator, said the effectiveness of the agreement, and the exact details of how North Korea would abandon its nuclear programmes, would become clear over the next few weeks.

Under the pact, North Korea vowed to abandon all nuclear weapons and existing nuclear programmes, return “at an early date” to the NPT and comply with International Atomic Energy Agency safeguards. North Korea withdrew from the NPT and ordered out IAEA inspectors in 2002 after the US accused it of developing nuclear weapons, breaching the 1994 deal forged with the Clinton administration. A fifth round of talks to iron out the details including providing oil, energy aid and security guarantees to North Korea is set to be held in Beijing in early November.

N. Korea, U.S. Gave Ground To Make Deal (WP)

By Glenn Kessler And Edward Cody

The Washington Post, September 20, 2005

The unexpected agreement by North Korea to abandon its nuclear weapons program, announced yesterday in Beijing, followed decisions by both the Pyongyang government and the Bush administration to compromise on positions they had clung to during nearly three years of crisis over North Korea's nuclear ambitions.

The document signed by North Korea, the United States and the other participants in the six-party nuclear disarmament talks opened the way for what all sides say will be lengthy negotiations on the actual dismantling of North Korea's nuclear weapons program.

The breakthrough accord followed a compromise proposed by China aimed at persuading both countries to sign a document of principles. The Bush administration dropped its opposition to North Korea receiving a light-water nuclear reactor in the future, a softening of its position that the demise of the North's nuclear ambitions must be "irreversible." North Korea said it would give up its nuclear weapons and all of its existing nuclear programs, would rejoin the nuclear Non-Proliferation Treaty and would allow inspections again by the U.N.'s International Atomic Energy Agency.

President Bush cautiously welcomed the agreement as "a step forward in making this world a more secure place" but warned that "we expect a verifiable process."

In an immediate demonstration of the difficulty ahead, the official North Korean news agency early today quoted an unnamed Foreign Ministry spokesman as asserting that Pyongyang would not give up its weapons program until it received nuclear reactors from the United States. A State Department official shrugged off the statement, saying the focus would remain on the Beijing declaration.

The declaration came nearly three years after the Bush administration confronted the Pyongyang government with accusations of a secret uranium enrichment program, which U.S. officials said nullified a Clinton-era agreement to freeze its nuclear activities. Since then, in a separate program, North Korea is estimated by U.S. officials to have harvested enough plutonium for at least nine nuclear weapons. The North has declared it possesses nuclear arms, but no weapons tests have been detected.

Several key issues were deferred or avoided through diplomatic sleight of hand, such as the Bush administration's demand that North Korea admit the existence of the uranium project. The agreement contained no clear timeline for when the North would give up its nuclear programs, or how.

But by finally signing an agreement, North Korea took a major step toward securing international acceptance. The move, analysts said, will allow the North Korean leader, Kim Jong Il, to hang on to power for the foreseeable future and will gradually open the nation to foreign investment and avoid a sudden collapse of one of the world's most isolated nations.

For the Bush administration, analysts said, the agreement was welcome at a time when the war in Iraq has lost support at home and negotiations with Iran over its nuclear programs have sputtered. In addition, the president's approval ratings are low in the wake of his administration's response to Hurricane Katrina.

"It's an all-front crisis for the Bush administration," said Kongdan Oh, an expert on the North Korean nuclear program at the Institute for Defense Analyses in Alexandria. "I think they thought, hey, North Korea is a small country and maybe we can handle it if we put it to the side for a while." But she said she did not believe North Korea would ever give up nuclear weapons, "its platinum trump card."

Surprisingly, diplomats said, the main sticking point in this round of negotiations was not persuading North Korea to make the paramount commitment to give up nuclear weapons and research. Rather, they explained, it was North Korea's side demand for a light-water reactor to produce electricity in return for giving up the other programs.

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The United States adamantly opposed the demand, saying the North could not be trusted because it already had converted the Yongbyon reactor into a source of weapons-grade plutonium. The only possible outcome, U.S. negotiators said, was agreement to complete, verified abandonment of all nuclear programs.

China sought to bridge the gap, playing its leadership role as sponsor of the talks. Chinese diplomats proposed language according North Korea the right to a reactor for electricity production but implying that it could invoke that right only after dismantling its weapons program and rejoining the international nuclear inspection regime.

For two days, U.S. diplomats refused to embrace the Chinese suggestion. Assistant Secretary of State Christopher Hill, the chief U.S. negotiator, told reporters several times he was insisting that all ambiguity be removed, refusing to open the way for problems in interpretation.

During the standoff, Hill was in frequent telephone contact with Secretary of State Condoleezza Rice, and Rice in turn discussed what to do with other senior officials in the U.S. government, said a senior U.S. diplomat involved in the negotiations, joking that their involvement could be seen as "adult supervision." As China became increasingly firm that the compromise on the table was the best bargain possible, he said, the administration finally relented on Sunday.

"We didn't want to lose the agreement over this," he explained. The decision to make a final concession was approved at the highest level of U.S. government, he added, referring to President Bush.

U.S. officials stressed that significant obstacles remained in securing the ultimate end of North Korea's programs, and they insisted that any concessions were relatively minor. The Bush administration's Korea policy has long been troubled by conflicts between officials skeptical that a diplomatic solution could be found and those eager to strike a deal. Those conflicts could reemerge in talks over implementation.

The administration envisions what one senior official described yesterday as a "very intrusive verification regime that will go well beyond what is required" by the IAEA. "It's going to be tough getting there," he said. "This is an important step, but I don't think anyone is overselling this" agreement as a major diplomatic achievement.

Bush administration officials are wary of any comparisons between this week's agreement and a failed pact reached with North Korea by the Clinton administration in 1994. That agreement called for the building of two light-water reactors.

Before expelling international inspectors in late 2002, the secretive North was reluctant to allow access for U.N. inspection teams assigned to monitor its nuclear programs under the 1994 accord. Kim's government has even restricted World Food Program officials from monitoring distribution of food aid.

The statement was signed by North Korea, the United States and the four other participants in the talks -- China, Russia, Japan and South Korea. The six-nation talks have been sponsored by China since August 2003. But they made little progress until Rice became secretary of state this year and assigned Hill, who played a key role in negotiating the Dayton accords that ended the Bosnia war.

Diplomats from the six nations recessed immediately after their signing session, promising to return to Beijing in early November to start talks in which Hill said verification procedures would be the priority. He indicated the next step would be determining how the United States and other nations can confirm that North Korea is shutting down its Yongbyon research reactor and dismantling its weapons program.

Hill, in a telephone interview as he was changing planes in Chicago, said, "Verification is a big deal that has yet to be worked out." He said the importance of the agreement was that "we got them on the record in an international deal. . . . I am not prepared to be cynical about it."

Specialists pointed out that North Korean diplomats were likely to seek immediate economic and energy aid in return for each step toward verification.

"At the moment, we still can't be sure of Kim's intentions," said Hajime Izumi, a professor at Japan's University of Shizuoka. "They have bought some time to consider seriously whether they will give up all their weapons and programs . . . but there are so many points along the road in which this process could again reach a stalemate that it's simply too early to celebrate."

U.S. officials say North Korea in an October 2002 meeting acknowledged the existence of a secret uranium enrichment program designed to become another source of weapons material. North Korea has since denied that.

Although that issue was not mentioned in the document, U.S. officials said it is covered by the pledge to dismantle "all nuclear weapons and existing nuclear programs" and by a separate reference to a 1992 agreement with South Korea, which prohibited uranium enrichment.

A good first step, Hill suggested, would be shutting down the Yongbyon reactor, which produces plutonium. Under the accord signed yesterday, it must be taken apart, he said, so it makes little sense to keep it running. "The time to turn it off is about now," he added.

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One long-term incentive in the joint agreement was the call for the United States and Japan to "take steps to normalize relations with North Korea" if the Pyongyang government gives up its weapons program. Such a historic rapprochement could mean billions of dollars worth of economic assistance from Japan alone in belated World War II-era reparations.

U.S.-Korean Deal On Arms Leaves Key Points Open (NYT)

By Joseph Kahn And David E. Sanger

The New York Times, September 20, 2005

BEIJING, Sept. 19 - After a tense weekend of heated debate within the Bush administration, the lead American negotiator with North Korea made one last call to Washington at noon on Monday, Beijing time, and then signed a statement of principles that committed North Korea, in black and white, to give up "all nuclear weapons and existing nuclear programs."

But the negotiator, Christopher Hill, had misgivings because the vaguely worded agreement left unaddressed the date disarmament would happen, and hinted at a concession to North Korea that President Bush and his aides had long said they would never agree to: discussing at an appropriate time providing North Korea with a civilian nuclear power plant, senior administration officials said.

The plant, a light-water reactor, cannot produce fuel for nuclear bombs as efficiently as North Korea's existing nuclear plants, but would keep the country in the nuclear business.

All day Monday, Washington time, the Bush administration said the only appropriate time would be well after North Korea dismantled all its nuclear facilities and allowed highly intrusive inspections of the country. On Monday evening, less than 24 hours after the deal was signed, North Korea declared that the United States "should not even dream" that it would dismantle its nuclear weapons before it receives a new nuclear plant.

As described by senior Bush administration officials and Asian participants in the talks, Mr. Bush agreed to eventual discussions on providing a nuclear plant only after China turned over a draft of an agreement and told the Americans they had hours to decide whether to take it or leave it.

The North Koreans, dependent on China for food and oil, were unhappy but ready to sign. "They said, 'Here's the text, and we're not going to change it, and we suggest you don't walk away,' " said one senior American official at the center of the debate.

Several officials, who would not allow their names to be used because they did not want to publicly discuss Mr. Bush's political challenges, noted that Mr. Bush is tied down in Iraq, consumed by Hurricane Katrina, and headed into another standoff over Iran's nuclear program. The agreement, they said, provides him with a way to forestall, at least for now, a confrontation with another member of what he once famously termed "the axis of evil."

So after two days of debates that reached from Mr. Bush's cabin in Camp David to Condoleezza Rice's suite at the Waldorf-Astoria in New York to Tokyo, Moscow and Seoul, Mr. Bush gave the go-ahead on Sunday evening, once he had returned to the White House, to signing a preliminary accord with Kim Jong Il, a leader he has said he detests.

Had he decided to let the deal fall through, participants in the talks from several countries said, China was prepared to blame the United States for missing a chance to bring a diplomatic end to the confrontation.

The debate over signing the agreement reflected the fact that the North Koreans drove a tough bargain. The agreement has the potential to generate good will for North Korea, increase the aid it receives and possibly reduce its incentive to dismantle its nuclear programs anytime soon.

"The risk of this agreement is exactly what many hawks in Washington had warned about," said Peter Beck of the International Crisis Group in Seoul. "You reduce the sense of urgency and let people grow comfortable with the status quo."

Proponents of the deal say such fears are misplaced. They argue that the six-nation talks, involving China, Russia, South Korea and Japan as well as North Korea and the United States, exerted heavy pressure on the North to adhere to international norms.

All the benefits North Korea was promised in the agreement, including economic aid, security commitments, a possible normalization of relations with the United States, and a large infusion of electricity from South Korea, will not flow until it rejoins the Nuclear Nonproliferation Treaty and readmits international nuclear inspectors.

In the end, participants in the discussions said, Mr. Bush decided he had little choice but to sign. He concluded several years ago that there were no acceptable military options for taking out the North's two separate nuclear programs.

Mr. Bush sounded cautious about it on Monday after a meeting in the Cabinet Room. "Now there is a way forward," he said. "They have said, in principle, that they will abandon their weapons programs. And what we have said is great, that's a wonderful step forward, but now we've got to verify whether or not that happens."

His caution may reflect the fact that the accord, the culmination of two years of difficult negotiation, still left the administration short of its goal, requiring two major concessions that will take months, maybe years, to fully resolve.

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The accord makes no mention of the Bush administration's contention that North Korea has a secret, underground program to use enriched uranium to produce nuclear bomb fuel. North Korea has denied trying to produce nuclear fuel through enriched uranium, though it has acknowledged using plutonium from its nuclear reactor at Yongbyon for that purpose.

A nuclear program that depends on enriched uranium, like the one that made Pakistan a nuclear power, is much harder to monitor than a plutonium program.

Intelligence assessments, partly based on information from Seoul, that North Korea was building a secret uranium program were the basis of the administration's declaration in 2002 that North Korea had violated the terms of a 1994 agreement with the Clinton administration to end its nuclear efforts. That began the standoff that prompted North Korea to withdraw from the nonproliferation treaty, expel international inspectors, restart its reactor at Yongbyon, and claim that it had expanded its arsenal of atomic bombs. Intelligence agencies say North Korea may now have fuel for six or eight weapons, but that is an educated guess, they concede.

Despite that history, the new agreement does not explicitly address the existence of a uranium program. North Korea still denies having one, despite growing evidence that it at least tried to develop bomb fuel that way with Pakistan's help.

A senior administration official said the uranium program was covered by the agreement because it required North Korea to dismantle all of its existing nuclear facilities, not specific plants or labs. But the accord did not require North Korea to own up to what the administration had described as its biggest deception, meaning that unless the North admits to the program in a declaration of all its nuclear facilities, inspectors would have to work to uncover the uranium program in an adversarial way down the road.

The second concession involved the North Korean demand that it receive a light-water nuclear reactor as a down payment for scrapping its weapons program.

Allowing North Korea to have a light-water reactor raises what for the Bush administration are unwelcome parallels with the 1994 Clinton administration agreement, which several administration officials, including Ms. Rice, had described as deeply flawed. The 1994 accord promised North Korea two light-water reactors in exchange for freezing its nuclear program. Construction on a site for the reactors began in the 1990's, but the reactors were never delivered. The United States said Monday that the consortium that provided those reactors would go out of business at the end of the year, meaning any new deal would have to begin from scratch.

Mr. Hill, in an interview, said that the administration "didn't want to see any mention" of providing North Korea with a light-water reactor in the statement of principles. But the Chinese included it. The United States also balked at the use of the vague term "appropriate" to describe the timing. South Korea, Russia and China were happy to accept that language, because it left open the question of when the North would receive the nuclear reactor, officials of several countries said.

To break the impasse, Ms. Rice came up with a compromise during meetings on Saturday afternoon with her South Korean and Japanese counterparts. Each country, she suggested, would issue separate statements describing their understanding of the deal, with a specificity that is not in the agreement itself. The South Koreans and Japanese went along with the idea, though South Korea, one official said, complained that it would "sour the atmosphere." Russia and China issued vaguer statements that left unclear the sequence of events.

As this unfolded over the weekend, the Chinese increased pressure on the United States to sign - or take responsibility for a breakdown in the talks.

"At one point they told us that we were totally isolated on this and that they would go to the press," and explain that the United States sank the accord, the senior administration official said.

In the end, it was not necessary. The American delegation surprised some of the other parties on Monday morning with word that it could accept the agreement, sealing a deal.

North Korea Pledges To Exchange Nukes For Other Benefits (KRT)

By Tim Johnson

Knight Ridder, September 20, 2005

BEIJING - In a turnabout that came suddenly after years of failed talks, North Korea on Monday pledged to scrap its nuclear weapons in exchange for energy, trade and security benefits and steps toward diplomatic relations with the United States and Japan.

North Korea also said it would rejoin a global nonproliferation treaty, and let international inspectors ensure compliance. Around the region, leaders hailed the surprise agreement. South Korea's leader called it "epoch-making." A senior Chinese diplomat applauded envoys from six nations for "overcoming one mountain after another, one wall after another."

"We had a great day today," said the chief U.S. negotiator, Christopher Hill. "As you all know, it wasn't easy. But important things often don't come easily."

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The pledge by North Korea, once condemned by the Bush administration as part of an "axis of evil," along with Iran and pre-war Iraq, marked an apparent turning point for the Korean Peninsula, which remains divided, heavily militarized and technically in a state of war half a century after it was engulfed in conflict.

In return for dismantling its nuclear programs, energy-starved North Korea won commitments of huge amounts of electricity from South Korea, economic cooperation from other nations and promises from Washington to "exist peacefully" with Pyongyang.

U.S. intelligence officials say North Korea harbors between six and nine nuclear weapons. As recently as last week, the North said it would build more nuclear weapons if other nations did not concede to its demand for a light-water nuclear reactor, worth $2 to $3 billion, to generate electricity. The Bush administration fears Pyongyang might sell one of its nuclear bombs to a terrorist group.

As recently as over the weekend, the talks appeared on the cusp of failure. As the clock ticked by, Hill announced that he would leave for Washington Monday afternoon. Negotiators then reached a breakthrough.

A 17-paragraph "agreement of principles" said that China, Russia, the United States, Japan and South Korea would "discuss at an appropriate time the subject of the provision of light-water reactor" to North Korea, also known as the DPRK.

"What is an appropriate time?" Hill said in a news briefing. "The appropriate time comes when the DPRK gets rid of its nuclear weapons, gets rid of its nuclear programs, comes back into the (Non-proliferation Treaty) and comes back with full (International Atomic Energy Agency) safeguards."

The breakthrough marked a major success for China, which has hosted the six-party talks since 2003, in a region that has seen growing tensions and rivalries.

Why North Korea agreed to dismantle its nuclear programs, after four failed rounds of six-party talks over two years, was not immediately clear.

A throng of journalists and cameramen waited outside the imposing North Korean Embassy in Beijing late Monday, waiting for a news conference that never materialized.

The agreement marked the first time North Korea has signed a document pledging "the verifiable denuclearization of the Korean Peninsula" since 2002, when it admitted to the United States it had broken a 1994 accord to cease development of nuclear weapons.

Acknowledging a secret weapons program, North Korea expelled International Atomic Energy Agency monitors and pulled out of a global nonproliferation regime.

In February, Pyongyang confirmed that it had developed nuclear weapons.

Envoys from China, Russia, Japan, the United States and South Korea, all parties to six-nation talks that began in 2003, signed Monday's agreement.

In exchange for North Korea agreeing to destroy its nuclear weapons and halt all nuclear programs, the other five nations promised cooperation "in the fields of energy, trade and investment." The agreement said the United States affirms it "has no nuclear weapons on the Korean Peninsula" and "has no intention to attack or invade" North Korea.

Both the United States and Japan agreed to "take steps to normalize their relations" with North Korea, but no timetable for diplomatic normalization was announced.

The six countries agreed also to discuss setting up a new multilateral security forum for Northeast Asia, separate from the six-nation talks.

Diplomats said the next round of talks, set for early November, would establish a sequence of phased actions, designed to ensure thorough action by North Korea while rewarding the nation with incentives.

South Korean Unification Minister Chung Dong-young cited his nation's offer of two million kilowatts of electric power to the North, first made in July, along with Washington's pledge to normalize relations with Pyongyang as key to the outcome.

Washington's flexibility in moving "to normalize North Korea-U.S. relations can be viewed as an achievement of the Bush administration," Chung said in Seoul, according to the state Yonhap news agency.

In Hill's closing statement to the talks, he reaffirmed Washington's willingness to establish relations with Pyongyang but also said the United States has "serious concerns" about human rights abuses, biological and chemical weapons development, terrorism, and illicit activities by North Korea's Stalinist regime.

The U.S. signing of the agreement "should in no way be interpreted as meaning we accept all aspects of the DPRK's system, human rights situation or treatment of its people. We intend to sit down and make sure that our concerns in these areas are addressed," Hill said. Since North Korea is entering the agreement voluntarily, Hill said the United States would not push for forceful weapons inspections across the nation.

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"We do not plan to go out on the landscape of the DPRK and start hunting for nuclear facilities. We expect those to be shown to us, and we expect to move quickly," Hill said. "This is absolutely in the DPRK's interest, the sooner the better, and I think they know that."

North Korea's Agreement To Scrap Its Nukes (CSM)

By Donald Kirk And Howard Lafranchi

The Christian Science Monitor, September 20, 2005

SEOUL, SOUTH KOREA; AND WASHINGTON - The most protracted talks over the standoff on the Korean peninsula since the Korean War ended in 1953 concluded Monday with a facesaving "statement of principles."

North Korea agreed to give up its "existing nuclear weapons" and return to the Nuclear Nonproliferation Treaty. The United States joined others at the six-party talks in expressing "respect" for North Korea's claim to "the right to peaceful uses of nuclear energy," and offering energy assistance and economic cooperation.

The agreement skirts key issues, such as the timing of concessions, that will be addressed when talks resume in November. But the deal is seen as a major victory for international diplomacy, with a pariah country opting for cooperation and assistance - and ultimately survival - over confrontation. The development, some say, could lead to steady change on the Korean peninsula.

"This is a Libya-style deal," says Joseph Cirincione, of the Carnegie Endowment for International Peace in Washington, referring to Libya's 2003 pledge to give up weapons of mass destruction. "North Korea realized it has more to gain economically, politically, and diplomatically by giving up its nuclear weapons program than by keeping them."

The deal is seen by some analysts as a clear victory for Secretary of State Condoleezza Rice's diplomatic approach over administration forces favoring a more confrontational approach.

Mohammed ElBaradei, director-general of the International Atomic Energy Agency in Vienna, cited the agreement as proof that "dialogue can work" - an example he indicated might apply to Iran.

The White House welcomed the accord but said Pyongyang must live up to its obligations and dismantle its nuclear programs.

President Bush, who three years ago questioned whether it was possible to verify any deal with North Korea's leader Kim Jong Il, called the North Korean commitment a "step forward" but said North Korea needed to realize "We're serious about this and that we expect there to be a verifiable process." The question, he said, is "over time, will all parties adhere to the agreement?"

Chief US negotiator Christopher Hill called on the North to shut down its main reactor complex as a sign of good faith.

The six-party agreement - coupled with a promise to discuss a suspended light-water nuclear energy project - came just a week after Mr. Hill declared that North Korea's insistence on the right to nuclear energy for peacetime purposes was "a nonstarter."

Hill, who led the US delegation throughout the fourth round of the talks that began in Beijing in July, joined others in signing off on the statement after intense pressure from South Korea and talks with top US officials. The final statement was drafted by China, which hosted the talks beginning in February 2003.

South Korean leaders, avidly pursuing reconciliation with North Korea, were ecstatic about the statement, even as they acknowledged the need for more talks - and action - to bring about a final agreement.

The agreement comes after an extended period of softening rhetoric. Mr. Bush, in his State of the Union address in 2002, famously included North Korea in an "axis of evil," along with Iraq and Iran, and Ms. Rice in January, before she became secretary of state, identified North Korea as an "outpost of tyranny."

No such comments, however, have emanated from US officials in Washington since then, with the US making pointed statements that it respected the North's sovereignty and had no intention of attacking the country.

But contentious issues remain. In Beijing Monday, Hill expressed "serious concerns" about human rights and other issues he said must be addressed for the two countries to move beyond decades of enmity.

"The US acceptance of the joint statement should in no way be interpreted as meaning we accept all aspects of [North Korea's] system, human rights situation or treatment of its people," Hill said in a closing statement.

Still, analysts in Seoul say that Hill essentially yielded to North - and South - Korean demands in a deal that will enable North Korea to keep pressing for light water nuclear energy reactors as promised by the 1994 Geneva framework agreement under which the North gave up its program for producing nuclear warheads with plutonium.

That deal fell apart after a senior North Korean diplomat appeared to have acknowledged to Hill's predecessor, James Kelly, in 2002 the existence of a secret uranium enrichment program.

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The North is expected to demand fast action on a statement of "willingness" on the part of all the parties - China, Japan, and Russia as well as South Korea and the US - to provide energy assistance.

The statement also contained another significant nod to the North - that the US and North Korea "take steps to normalize relations."

A central point of later negotiation will be the question of who does what first in terms of dismantlement or economic assistance.

Darryl Kimball, executive director of the Arms Control Association in Washington, says that while the statement does not put the issue to rest, it hints at how it will be addressed by saying "coordinated steps [will be taken] in line with commitment for commitment, action for action."

But the agreement, he adds, is only the beginning of a difficult road ahead. The accord "fails to do what the 1994 agreement framework also failed to do - and that is to really settle the issue of North Korea's insistence on light-water nuclear energy capabilities."

It essentially "kicks the issue down the road," he says. He adds that "this may be the wise way to deal with it" for now. "But it's still something - a big thing - they will need to tackle."

Diplomacy At Work (NYT)

The New York Times, September 20, 2005

For years now, foreign policy insiders have pointed to North Korea as the ultimate nightmare, the ongoing worst-case scenario for an international crisis: a closed, hostile and paranoid dictatorship with an aggressive nuclear weapons program. Very few people could envision a successful outcome. And yet North Korea agreed in principle this week to dismantle its nuclear weapons program, return to the Nuclear Nonproliferation Treaty, abide by the treaty's safeguards and admit international inspectors.

Diplomacy, it seems, does work after all.

The agreement signed yesterday, if all the details can be satisfactorily filled in and then carried out, is a huge win for the United States as well as a fair deal for North Korea. Its achievement became possible when Washington abandoned the confrontational tactics and name-calling associated with its former top antiproliferation official, John Bolton, and gave serious negotiation a chance. Secretary of State Condoleezza Rice deserves most of the credit for that switch, which was made with exceptional skill by America's top negotiator at the talks, Assistant Secretary of State Christopher Hill.

The agreement appears to vindicate those who argued all along that North Korea wanted to end its costly diplomatic isolation and ensure the survival of its current regime, and that it was using its nuclear weapons programs as a bargaining chip. Now North Korea must follow through on its commitments. If it does, it should be accepted as a sovereign member of the international community, although no one is obliged to keep silent about its horrific human rights violations.

The biggest winner of all from yesterday's agreement may well be the Nuclear Nonproliferation Treaty itself. If North Korea returns to the treaty, it will bind every country in the world save India, Pakistan and Israel. The Bush administration, which has spent more than four years discounting the importance of international agreements, has rediscovered the safeguards and rewards of peaceful international diplomacy in general and this vital treaty in particular.

North Korea Agrees To Give Up Nuclear Arms (WSJ)

By Gordon Fairclough and Carla Anne Robbins

The Wall Street Journal, September 20, 2005

After three years of threats and stalemate, North Korea pledged to give up its atomic weapons and abandon its existing nuclear programs in exchange for economic aid and security guarantees from the U.S. and its Asian neighbors.

A final deal ending Pyongyang's atomic ambitions is a long way off. Progress will require sweeping concessions from Pyongyang, including intrusive inspections to ensure the dismantling of its facilities. It will also require important concessions from the Bush administration. As part of yesterday's preliminary agreement, the U.S. said it would forswear hostile actions against the North, eventually move toward normalizing relations and "discuss at an appropriate time" Pyongyang's demand for a light-water nuclear reactor.

On Tuesday morning in Asia, North Korea's foreign ministry issued a statement casting doubt on the country's willingness to act soon. A ministry spokesman said the U.S. "should not even dream" Pyongyang will give up its nuclear deterrent before America provides a reactor.

Washington has said before that the only appropriate time to discuss the issue is after the North has dismantled its nuclear programs and rejoined international arms-control agreements. Even then, officials say, there is no guarantee the U.S. would fund a reactor project.

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The U.S. commitment to talk about light-water reactors, brokered by the Chinese, salvaged the negotiations. Until now, Washington had argued that the North might try to divert even limited technology to weapons use.

All sides' sincerity will be severely tested. A round of talks scheduled for early November will grapple with contentious questions, including getting Pyongyang to declare the extent of its atomic activities and striking a verification deal.

Notably, yesterday's declaration made no specific mention of the North's alleged uranium-enrichment efforts. Pyongyang insists that its weapons program is solely plutonium-based. The U.S. insists it also has a secret program to manufacture weapons-grade uranium -- and that, too, will have to be dismantled.

U.S. Assistant Secretary of State Christopher Hill, left, shakes hands with North Korean chief negotiator Kim Kye Gwan yesterday, as South Korean Deputy Foreign Minister Song Min Soon, center, looks on.

Diplomats will also have to grapple with the timing of the North's steps versus the rewards it will reap and the intrusiveness of outside verification. A deal could founder on any of those questions.

Even a preliminary agreement is a remarkable turnaround for North Korea, which declared itself a nuclear-armed state earlier this year. A few months ago, U.S. officials were warning the North might test a weapon -- a move they feared could set off proliferation across Asia.

It also marked a shift for the Bush administration, which before the summer rejected nearly all concessions as appeasement. The change can be attributed in good part to Secretary of State Condoleezza Rice, who embraced the diplomatic effort and empowered negotiator Christopher Hill to consider compromises.

The deal also is an implicit acknowledgment that the U.S. has no real military options -- especially in the midst of the war in Iraq -- and little chance of persuading China and South Korea, the North's main patrons, to impose economic sanctions. The six-party talks also include Japan and Russia.

By demonstrating Washington's diplomatic bona fides, yesterday's agreement could strengthen the U.S.-European push to refer Iran's nuclear program to the United Nations Security Council for possible punishment. Still, Washington hard-liners are likely to remain skeptical. Mr. Bush responded cautiously, telling reporters, "part of the way forward is for the North Koreans to understand we're serious about this and that we expect there to be a verifiable process."

In the joint statement, the North Koreans "committed to abandoning all nuclear weapons and existing nuclear programs" and to return "at an early date" to the Nuclear Nonproliferation Treaty. That would mean a return of U.N. nuclear monitors. But a senior U.S. official said that Washington would insist on a far more intrusive inspection regime.

In return, the U.S., China, Japan, Russia and South Korea said they are willing to provide energy assistance and promote economic cooperation with the North. The U.S. also committed to existing "peacefully" with the North and to "take steps to normalize" relations.

The White House has been extremely critical of the Clinton administration's deal to provide Pyongyang with light-water reactors in exchange for freezing and then dismantling its plutonium-weapons program. U.S. officials were quick to point out the differences in this deal. Ms. Rice insisted even a theoretical discussion would have to await a verified dismantling of the North's entire nuclear program.

In a closing statement, however, the North's top negotiator, Kim Kye Gwan, said light-water reactors were the key to any future dialogue and that Pyongyang shouldn't have to wait.

N. Korea's Reactor Demand Could Be A Deal-Breaker (LAT)

By Barbara Demick, Mark Magnier And Sonni Efron

The Los Angeles Times, September 20, 2005

SEOUL — Less than 24 hours after diplomats announced a breakthrough pact to eliminate nuclear arms in North Korea, the isolated communist state threw cold water on the deal today, saying it would not abandon its weapons program until the United States gives it a light-water nuclear reactor.

North Korea's demand could be a deal breaker. Assistant Secretary of State Christopher Hill, the chief U.S. negotiator at the six-nation nuclear talks, made it clear at the opening of negotiations in Beijing last week that the idea of providing North Korea with a reactor before disarmament would be a "nonstarter."

After four rounds of discussions spanning several years, the U.S., North and South Korea, Japan, Russia and China said Monday that they had agreed on a vaguely worded plan under which North Korea promised to dismantle its nuclear weapons in return for energy assistance, eventual U.S. and Japanese diplomatic recognition and a pledge by Washington that it would not attack the country.

The agreement also said the U.S. and other nations would discuss giving North Korea a light-water reactor for generating electricity, though it skirted the question of when. It said only that the possibility would be considered "at an appropriate time."

But the North Koreans made it clear today that they are in no mood to defer their reward.

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In a blunt statement, North Korea's official KCNA news service warned that "the U.S. should not even dream of the issue of [North Korea's] dismantlement of its nuclear deterrent before providing" a light-water reactor, which it called "a physical guarantee for confidence-building."

Should the United States insist on the dismantling of North Korea's atomic weapons before the provision of light-water reactors, the statement said, "there will be no change in the nuclear issue."

Even though difficulties were expected to arise in the coming months as diplomats sought to iron out the details of Monday's pact, the speed with which the Pyongyang regime punctured the celebratory mood was surprising.

Late Monday, State Department spokesman Sean McCormack made a terse statement about the North Korean demand, telling reporters in New York, "This is not the agreement that they signed, and we'll give them some time to reflect."

Japanese Foreign Minister Nobutaka Machimura called North Korea's demand "unacceptable."

In Washington, experts said that although North Korea's statement did not completely annul what was achieved in Beijing, it would not help the next round of talks, scheduled for November.

"I don't think it blows up the deal. What it does is underline how difficult the process remains," said Robert J. Einhorn, who was a top player in North Korean negotiations with the Clinton administration.

Einhorn pointed out that the document signed in Beijing was only the vaguest statement of shared principles. "This wasn't a big substantive reconciliation. This was an agreement to set aside a disagreement and move ahead with the talks."

Gordon L. Flake, a North Korean specialist at the Mansfield Foundation, dismissed the KCNA statement as "normal North Korean negotiating behavior." He noted that past statements carried by the official news service proved unreliable as indicators of what North Korean leader Kim Jong Il really intended.

North Korea Hedges On Nuclear Deal (WT/AP)

By Jae-soon Chang, Associated Press

The Washington Times, September 20, 2005

SEOUL -- North Korea said today that it would not dismantle its nuclear-weapons program until the United States first provides an atomic energy reactor, casting doubt on its commitment to a breakthrough agreement reached at international arms talks.

The North's Foreign Ministry made the surprise demand a day after it had agreed at six-nation talks in Beijing to give up its arms efforts.

The North insisted during arms talks that began last week in Beijing that it be given a light-water reactor, a type less easily diverted for weapons use, in exchange for abandoning nuclear weapons. The agreement reached at the talks' end yesterday in Beijing -- the first since the negotiations began in August 2003 -- said the six countries in the negotiations will discuss the reactor issue "at an appropriate time."

Both the United States and Japan, members of the six-nation disarmament talks, rejected the North's latest demand.

"This is not the agreement that they signed, and we'll give them some time to reflect," State Department spokesman Sean McCormack said.

Japanese Foreign Minister Nobutaka Machimura called the reactor demand "unacceptable."

The Beijing agreement had called for the North to abandon its arms efforts and accept inspections by the International Atomic Energy Agency (IAEA) in exchange for energy, economic and security aid.

But the North's statement today indicated that it was again raising the light-water reactor (LWR) demand as a prerequisite for disarming, rejoining the nuclear Non-Proliferation Treaty and signing safeguards agreement with the IAEA.

"The U.S. should not even dream of the issue of [North Korea's] dismantlement of its nuclear deterrent before providing LWRs," the North's Foreign Ministry said in a statement carried by the North's official Korean Central News Agency.

U.S. State Department spokesman Adam Ereli had emphasized earlier in Washington that the "appropriate time" for discussing the reactor meant only after the North came into compliance with the other conditions.

During the years of debate over its weapons program, the communist nation has sometimes given confusing or dramatic statements as it publicly maneuvers for negotiating leverage.

The North's latest position is likely to be a major sticking point in talks slated to begin in early November on implementing yesterday's agreement.

The North had demanded during the six-nation talks in Beijing -- involving China, Japan, Russia, the United States and the two Koreas -- that it be allowed to keep a civilian nuclear program for power generation after it disarms.

But the United States strongly opposed the demand, and yesterday's agreement only acknowledged that the North had "stated" its claim to that right.

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The administration of President Bush has opposed anything resembling a 1994 U.S.-North Korea agreement, which promised the North two light-water reactors for power. That project stalled amid the current crisis that broke out in late 2002 over the North's resumed nuclear-weapons program.

The deal reached in Beijing yesterday won both praise and words of caution from Mr. Bush, who questioned whether the communist state would keep its word.

Pyongyang had said it would abandon its nuclear programs and readmit international inspectors in exchange for economic aid, energy subsidies and a promise from Washington that it was not planning to attack the North.

However, the statement of "principles" -- the product of two years of intense negotiating -- had skirted the central issue of North Korea's demand for a civil nuclear program, which Washington opposes.

In Washington, a restrained Mr. Bush called the three-page accord "a formula that we all hope works."

"They have said -- in principle -- that they will abandon their weapons programs," Mr. Bush told reporters after a meeting of his Homeland Security Council. "And what we have said is, 'Great. That's a wonderful step forward.' But now we've got to verify whether that happens."

At the United Nations, U.S. Secretary of State Condoleezza Rice said, "We will have to tackle, I'm sure, quite difficult issues of verification of the dismantlement of the North Korean nuclear-weapons programs and other nuclear programs."

U.S. intelligence agencies still know very little about North Korea's covert uranium-enrichment program. It was the disclosure of the uranium program in October 2002 that triggered the most recent crisis on the Korean Peninsula.

But the Beijing deal was hailed by China and South Korea, both of whom viewed a clash between the United States and North Korea with deep unease.

South Korean President Roh Moo-hyun had called the deal "epoch-making" and "a critical opportunity to resolve the North's nuclear issue."

Assistant Secretary of State for East Asia Christopher Hill, the lead U.S. negotiator at the talks, told reporters in Beijing that any talk of a new North Korean civilian nuclear-energy program would have to wait until IAEA inspectors certified that the old programs were gone.

Until then, he said, talk of a "peaceful" North nuclear program "is really to talk theory rather than facts."

In return, the statement said that the North would be given energy aid and that a "permanent peace regime" for the Korean Peninsula would be discussed "at a separate forum."

L. Gordon Flake, executive director of the Washington-based Mansfield Center for Pacific Affairs, said that although verification would be critical, that the North had promised to abandon even "existing nuclear programs," was a far more sweeping concession than expected.

Diplomacy And Double Talk (LAT)

The Los Angeles Times, September 20, 2005

North Korea has always been one of the sternest tests of the Bush administration's diplomacy, and in the space of 24 hours on Monday it showed why. In the morning the communist state agreed to give up its nuclear program, which the president hailed as "a wonderful first step." But by nightfall Pyongyang seemed to have changed its mind, leaving the administration with a sadly familiar lament: That's not what they told us.

The confusion was not entirely unexpected, given North Korea's history of erratic behavior. And though the Bush administration's handling of North Korea has hardly been a model of diplomacy, the president can claim some vindication for insisting on multilateral talks, instead of agreeing to one-on-one negotiations.

The administration and Pyongyang have been engaged in talks for nearly three years, and the latest round of negotiations, like the rest, included four other nations with an interest in peace and stability in the region: China, South Korea, Japan and Russia. Under a pact agreed to on Monday morning, North Korea basically agreed to end its nuclear weapons programs in exchange for economic and energy assistance. Then, on Monday night, Pyongyang said "there would be no change in the nuclear issue" — meaning it would not dismantle its programs — unless the U.S. provided it with a light-water reactor. The U.S. and Japan have rightly opposed that demand, saying that North Korea cannot be trusted to use nuclear material for peaceful purposes. The morning agreement avoided the question by saying it would be discussed "at an appropriate time."

Both the U.S. and North Korea have had their moments of intransigence in this process, but Pyongyang has been more reliably unreasonable. That is why the Bush administration wanted to involve other nations in the talks; not only would they expose Pyongyang's paranoia to a wider audience, they would make it harder for North Korea to deny any agreement it did make.

Reaction to North Korea's pronouncement proved the value of the arrangement. Japan and South Korea both said North Korea should honor its morning commitments, as did U.S. diplomats. The evening's developments put more pressure on China

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to keep North Korea in line. It was the Chinese who kept both the U.S. and Pyongyang involved in the negotiations when they faltered.

Even its most ardent supporters freely acknowledged that Monday morning's agreement was more a statement of principles than a set of goals; the difficult work of applying those principles would begin at the talks in November. Those talks just got harder. But the value of the agreement is that at least the principles are now clear.

'Wonderful Step' In Korea? (USAT)

USA Today, September 20, 2005

North Korea's dictator, Kim Jong Il, well deserves his caricature image as an erratic crackpot bent on developing nuclear weapons. So when, on Monday, North Korea agreed to abandon its nuclear weapons and programs, and to let inspectors from the United Nation's nuclear agency return, skepticism was in order.

Has Kim changed?

Unlikely. This first tangible progress in over two years of six-party talks was thanks to the more flexible diplomacy of President Bush's second term. That diplomacy marks a departure from the confrontational stance of the first term, when Bush branded North Korea — along with Iran and Iraq — as part of an axis of evil.

Not knowing what is going on inside North Korea, at a time when one of the world's biggest challenges is to prevent terrorists from obtaining weapons of mass destruction, is dangerous. A pre-emptive military attack on North Korea is unwise and unrealistic.

That leaves diplomacy. The risk of the latest agreement, of course, is that it will send a message to North Korea — and to Iran — that bad behavior is, eventually, rewarded. But there is ample reason to take that risk.

The agreement is an example of classic diplomacy that gets matters started by putting off the most difficult issues and producing concessions on both sides. Kim agreed to scrap his nuclear programs for guarantees the United States and its allies will not attack it, and for energy supplies. But the details aren't nailed down.

The real test is whether the administration can now parlay this promise into the real deal, beginning at November talks. Bush called Monday's agreement "a wonderful step forward," but one that must be verified.

History isn't encouraging. In 1994, Pyongyang agreed to give up nuclear weapons and let in inspectors in return for energy help. But in 2002, Washington accused it of cheating. Matters spiraled downward. North Korea expelled inspectors and declared it had built nuclear weapons for self-defense.

The trick is to avoid past pitfalls. The United States has partners because of its two-year insistence on including neighbors South Korea, China, Japan and Russia in the talks.

The 1994 agreement was hailed with great optimism. Caution is more in order this time around. But the new agreement, and diplomacy, are better than none.

Progress In Beijing (WSJ)

The Wall Street Journal, September 20, 2005

President Bush responded cautiously to North Korea's promise yesterday to give up nuclear weapons. "That's a wonderful step forward," he said, "But now we've got to verify whether or not that happens."

That's for sure. But if it does happen, it will be a triumph for U.S. policy, removing a nasty threat to the security of the U.S. and its allies. And this time there is one important reason to believe it could work, past deceptions notwithstanding: China's vital interest in a denuclearized Korean peninsula and continued good relations with the U.S. and Japan.

China has said frequently it opposes Pyongyang's nuclear program, but it has taken its time in responding to U.S. entreaties that it apply muscle to Kim Jong Il, the North Korean dictator. Although China did not feature prominently in yesterday's communiqué from the six-party talks in Beijing, there is reason to believe it played the major role in forcing North Korea to foreswear nukes. That would vindicate Mr. Bush's insistence on six-party talks as opposed to bilateral negotiations with the North.

In yesterday's agreement, Pyongyang "commits" to giving up its nuclear weapons program, and the U.S. expresses "respect" for Pyongyang's desire to pursue peaceful nuclear energy. The agreement leaves many important details to be worked out later. But it suggests that the signatories have more effective methods in mind for verifying compliance than relying on the International Atomic Energy Agency, which North Korea has duped in the past. China could demonstrate its sincerity by taking a major role in verification.

Yesterday's breakthrough came just a week after Mr. Bush met Chinese President Hu Jintao in New York. The U.S. has also been telling China that it could no longer tolerate the status quo and would have to start squeezing Pyongyang harder. Last week the U.S. moved against a Macau bank, Banco Delta Asia Ltd., for laundering money for North Korea, causing a bank run.

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We'd also note that North Korea's promise to cooperate came one week after the re-election of Japanese Prime Minister Junichiro Koizumi, who has promised a more assertive foreign policy.

China does not want Japan to become a nuclear power, which would certainly happen if North Korea kept its nukes. Beijing's leaders also have a powerful strategic interest in continued good economic relations with the U.S. and Japan, whose investment and trade have helped fuel China's rapid economic growth. While Beijing didn't want to be seen throwing an ally over the side -- and thus didn't want to sign on to an agenda of regime change in Pyongyang -- it also doesn't want a break with the U.S.

Beijing's involvement was a key component missing from the Agreed Framework that the Clinton Administration struck with Kim Jong Il in 1994. North Korea's word by itself is worthless; it has made promises hand on heart in the past and has broken nearly every one, most recently when it kicked out U.N. inspectors and withdrew from the Nuclear Nonproliferation Treaty. China is either taking on the implicit role of inspector here or this agreement will also be impossible to verify. But if China is doing so, however quietly, it will be a major victory in the battle against WMD proliferation.

The six-party negotiators will take up the many items still to be resolved later in November. One key issue is North Korea's insistence that it has "the right to peaceful uses of nuclear energy," as yesterday's statement put it. The five other parties "expressed their respect and agreed to discuss at an appropriate time the subject of the provision of light-water reactor to the DPRK." But it looks as if that help will come only at the end of process, after the North has given up its program and (we assume) its plutonium.

The chief U.S. negotiator at the talks, Assistant Secretary of State Christopher Hill, yesterday urged North Korea to close its main nuclear facility at Yongbyon, where it has boasted of producing warheads with plutonium. "What is the purpose of operating it at this point?" he said. "The time to shut it off would be about now." The North never did shut down Yongbyon as part of the 1994 Agreed Framework. Japan's chief envoy, Kenichiro Sasae, added that Pyongyang would have to fulfill all its pledges before the light-water issue was discussed.

No doubt some will describe this agreement as a triumph of diplomacy alone. But it would never have happened if Mr. Bush hadn't been willing to resist those -- John Kerry, Colin Powell -- who urged that the U.S. deal with the North one-on-one. And it wouldn't have happened without the U.S. willingness to squeeze the North out of its smuggling and proliferation money.

As a former U.S. President liked to say, "trust but verify." In this case, we are trusting that China will help verify that North Korea is fulfilling its pledges. If that's what plays out in coming months, Pyongyang could join Iraq, Pakistan's A.Q. Khan network and Libya on the list of anti-proliferation successes.

Accord With North Korea (WP)

The Washington Post, September 20, 2005

On its face, the multinational agreement on North Korea's weapons program announced yesterday is a surprising piece of good news. For the first time, Pyongyang's brutal communist dictatorship formally agreed to "abandoning all nuclear weapons and existing nuclear programs," and said it would return "at an early date" to the nuclear Non-Proliferation Treaty and its accompanying international safeguards. In return, the United States agreed to take steps to normalize relations with the North and, together with South Korea, Japan, Russia and China, provide it with aid -- including at some "appropriate time" a new light-water reactor for generating electricity. Fulfillment by the North of its commitment would mean an extraordinary breakthrough after more than a decade of failed efforts by the United States to contain one of the world's most serious proliferation threats.

The risk, however, is also considerable: If North Korea's new promise is not a serious one, the agreement will only forestall more concerted outside pressure on the odious regime of Kim Jong Il, while sustaining and enhancing the lifeline of food and energy it receives from its neighbors. History suggests that it is that outcome, rather than genuine nuclear disarmament, that the North is betting on. In 1994, after reaching a similar deal with the Clinton administration, it froze activity at one nuclear complex but secretly launched a program to develop a bomb by other means. It was eight years before the Bush administration discovered the deceit and suspended the "agreed framework."

To comply with its latest pledge, the Kim regime would have to reveal and disassemble the unknown number of nuclear weapons that, by its own account, it possesses. It would have to dismantle both the Yongbyon reactor, which produces plutonium, and hidden uranium-enrichment facilities. But it hasn't yet admitted the existence of the uranium plants, and it's hard to conceive of an inspections process that could fully verify the disarmament of a totalitarian state that holds untold thousands of its citizens in concentration camps, earns much of its foreign income from counterfeiting and drug trafficking, and prohibits foreigners from visiting many parts of the country.

North Korea's agreement to yesterday's statement excuses it from the potential displeasure of China, which brokered the talks and supplies Pyongyang with food and energy. It allows for the continuation of rapidly improving relations with South Korea, including provision by the South of large new supplies of electricity. In accepting Mr. Kim's pledge, the Bush administration

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avoids looking like the obstacle to progress and keeps the diplomatic focus on the North's disarmament. For the first time in 4 1/2 years, the administration appears to be pursuing a coherent strategy, instead of veering between confrontation and negotiation amid endless internal debates. Those diplomats and opposition Democrats who have argued strenuously that a workable deal can be struck with Pyongyang will see their theory tested. We hope that it works, but also that Mr. Kim is not given much time to deliver. If he is sincere, a concrete disarmament plan could be agreed on relatively quickly. If he is not, talks that have already lasted more than two years will drag on, to the disadvantage of U.S. and global security.

Arrest Ties Pyongyang To Counterfeit $100 Bills (WT)

By Bill Gertz

The Washington Times, September 20, 2005

North Korea's government is producing high-quality counterfeit $100 bills and is working with criminal groups in China to sell the fake U.S. money internationally, U.S. officials say.

Some details of the production of what federal officials call "supernotes" were disclosed after arrests last month in several U.S. cities of people linked to a major Asian crime ring trafficking in fake money, arms, drugs and cigarettes.

A senior Bush administration official said one of the 10 indictments in the case contains the first disclosure of the North Korean government's role in the counterfeiting.

The indictment identifies Chao Tung Wu, a Taiwanese national in custody on charges of dealing in counterfeit bills.

He told an FBI undercover agent that "the government of a foreign country," identified only as "Country 2," is "making counterfeit U.S. currency which Wu could sell to the" agent.

Mr. Wu has pleaded not guilty to the charges, said his attorney, Debra Opri, who confirmed that federal investigators have determined that the counterfeit currency came from North Korea.

Miss Opri said Mr. Wu has denied the charges and that he was entrapped in an FBI sting. A trial is scheduled to begin Oct. 18.

A spokesman for the U.S. Secret Service, which investigates counterfeit currency violations, declined to comment on the North Korean government's link to the case. He said investigations are proceeding.

Balbina Hwang, a researcher at the Heritage Foundation, says the North Korean government has been making and circulating forged $100 bills for more than a decade.

"They produce some of the best quality supernotes," she says, adding that the North Koreans make $250 million a year from the bills.

The British Broadcasting Corp. reported last year that North Korea is producing supernotes with a high-quality printing press known as Intaglio, similar to presses used by the United States to print its currency. The BBC said it learned of the North Korean role from a defector from Pyongyang.

The counterfeiting profits support the North Korean government's drug trafficking, money laundering and gambling, Miss Hwang says. On a strategic level, the North Koreans think that circulating supernotes will help destabilize Western economies, she says, noting that the U.S. Treasury redesigned the $100 bill in part because of North Korean counterfeiting.

China is linked to the counterfeiting by North Korean use of Chinese territory and criminal gangs, she says. The Beijing government is probably aware of the official role in North Korean counterfeiting and is not doing enough to stop it.

According to the indictment, Mr. Wu told an undercover FBI agent posing as a buyer of fake bills that he could provide $1 million in high-quality counterfeit $100 bills and arranged for the agent to telegraph a payment of $25,000 to another man, who has been charged in the case in a third country.

Mr. Wu provided the undercover agent with samples of the forged currency that he said were sent through "Country 1." A senior U.S. official identified "Country 1" as China. Fifteen sample supernotes were dispatched by Federal Express courier, along with a computer chip containing a photograph of the supernotes waiting to be sent from China. On May 5, 6,998 of the supernotes were sent in a shipping container to Long Beach, Calif., and then to the FBI agent in Pomona, Calif.

The indictment states that Mr. Wu told the agent that he gave $30,000 in supernotes to a client who took them to South America. Mr. Wu then told the agent that he was returning to China to get additional forged currency.

Meanwhile, the Bush administration last week designated the Banco Delta Asia SARL in Macau, a Chinese territory, as a "primary money-laundering concern" for its role in helping North Koreans distribute counterfeit currency and engage in illegal activities. The Treasury Department ordered the bank to be cut off from all U.S. financial transactions as a result.

A U.S. electronic intercept from late May 1997 revealed that Sean Garland, president of the Dublin-based Workers' Party, a communist political party, met Cao Xiaobing, a senior member of the International Liaison Department, Beijing's official office for supporting foreign communist parties.

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The intelligence report, marked "top secret," stated that Mr. Garland was the managing director of GKG Comms International Ltd., a Dublin company, and noted that Miss Cao and the Irish communist functionary discussed "unidentified business opportunities." The report said, "Garland is suspected of being involved with counterfeiting U.S. currency, specifically, the supernote, a high-quality counterfeit $100 bill."

U.N. Nuclear Inspector Calls For Talks On Iran (USAT)

USA Today, September 20, 2005

The United Nations' chief nuclear inspector, Mohamed ElBaradei, said Monday that talks should replace international confrontation over Iran's nuclear activities. Negotiations proved their worth in getting North Korea to renounce its nuclear arms program, ElBaradei said.

U.S. and European diplomats resumed efforts to have Iran brought before the U.N. Security Council for sanctions, even as Russia called for a delay. The diplomats are drawing up a draft resolution to be voted on this week by the 35 nations on the board of the International Atomic Energy Agency. European Union diplomats and a U.S. official — who spoke to the Associated Press on condition of anonymity, citing the sensitive nature of the negotiations — said China also remained opposed to referral. They said the West would probably force a vote. Secretary of State Condoleezza Rice said she expects the Security Council to take up the matter “at some point in time.”

Tehran says its nuclear program is for production of electricity, not nuclear weapons. ElBaradei criticized both Tehran's intransigence and U.S.-European calls for Security Council involvement as examples of “confrontations and political brinkmanship.”

Al-Qaeda claims responsibility for attacks

Al-Qaeda deputy Ayman al-Zawahiri said his network carried out the London bombings July 7. The televised statement was the group's first direct claim of responsibility for the attacks that killed 56 people, including the four bombers.

“The blessed London attack was one which al-Qaeda was honored to launch against the British Crusaders' arrogance and against the American Crusader aggression on the Islamic nation for 100 years,” Zawahiri, who is in hiding, said in a videotape aired on the Arabic satellite network Al-Jazeera.

Trial opens in Jordan for accused militants

Seven suspected militants accused of recruiting jihadists to fight U.S. forces in Iraq pleaded not guilty at the opening of their trial in Amman, Jordan.

The defendants, mostly Jordanians of Palestinian origin ages 23 to 33, were detained in March and May and have been charged with plotting to undermine relations with Iraq by enlisting and dispatching at least six militants there. It was unclear whether the defendants had links to Abu-Musab al-Zarqawi, the Jordanian-born leader of al-Qaeda in Iraq, which is responsible for scores of bombings, beheadings and kidnappings.

Flight attendants to stage strike in Italy

As many as 600 Alitalia flight attendants could join a one-day strike today in Italy. A 24-hour nationwide mass-transit strike set for Wednesday was called off after agreement was reached on sick pay for bus, tram and subway drivers. Alitalia said no flights to or from Milan, Rome or Naples would be canceled.

Taiwan Slammed On Lax Defense (WT)

By Bill Gertz

The Washington Times, September 20, 2005

A senior Pentagon official yesterday sharply criticized Taiwan's government for not moving ahead with an arms buildup to counter a mounting threat from China.

Edward Ross, a senior Pentagon security cooperation official, also suggested in a speech that the United States might not defend Taiwan in a conflict with China unless Taipei does more to boost its defenses and national will.

"As the lone superpower, our interests are plentiful and our attention short," Mr. Ross said. "We cannot help defend you if you cannot defend yourself."

With U.S. troops fighting and dying in Iraq and Afghanistan, "an increasing number of Americans are asking hard questions about how much we are willing to sacrifice -- for the security and democracy of others," Mr. Ross said.

The blunt speech, a copy of which was obtained by The Washington Times, was given at the annual U.S.-Taiwan Business Council-Defense Industry meeting in San Diego. Attendees included Huo Shou-yeh, Taiwan's vice defense minister, and other officials from the island, which is also known as the Republic of China.

Defense officials said the speech was aimed at pressing Taiwan's government to pass a proposed $15 billion special defense budget, which is stalled in the legislature by political differences.

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The Bush administration in 2001 approved the sale to Taiwan of eight diesel electric submarines, 12 P-3C anti-submarine aircraft, along with 54 torpedoes, 44 Harpoon submarine-launched anti-ship missiles and additional arms.

The administration also wants Taiwan to purchase Patriot anti-missile systems to counter the more than 750 short-range Chinese missiles deployed within range of the island.

Mr. Ross said China has calculated that U.S. forces will assist Taiwan in any conflict and, as a result, is purchasing more submarines and anti-ship missiles.

The Pentagon is watching both China's military buildup and Taiwan's political stalemate over the defense budget and is making its own calculations, he said.

"We do not live in a world of absolutes," he said. "And the time of reckoning is upon us. In the end, the U.S. ability to contribute to Taiwan's defense in a crisis is going to be measured against Taiwan's ability to resist, defend and survive based on it own capabilities."

He called on Taiwan to unite and invest in a defense-modernization program that will protect its democracy and deter Chinese "aggression" across the Taiwan Strait.

"It is time that the people of Taiwan and their elected officials understand that when it comes to defense, they, and not the United States nor any third party, are in the first instance accountable," said Mr. Ross, a director in the Pentagon's Defense Security Cooperation Agency.

Defense officials said differences within the Bush administration over Taiwan have added to the Taiwan defense problem.

Pro-China officials in the Bush administration have sent mixed signals to Taiwan's government about the need to boost defenses. As a result, Taiwan's government has been confused about the U.S. position.

China Terse About Action On Abuses Of One-Child Policy (WP)

By Philip P. Pan

The Washington Post, September 20, 2005

BEIJING, Sept. 19 -- China said Monday that it has dismissed and detained officials in the eastern city of Linyi for abuses committed while enforcing the country's one-child policy. But the government provided no details and said nothing about the arrest this month of an activist who had campaigned against the use of forced abortion and sterilization there.

The cabinet-level ministry responsible for managing population growth in China said in a statement that a preliminary investigation confirmed allegations that "some persons in a few counties and townships of Linyi" violated the law and the rights of local residents "while conducting family planning work.

"Currently, the responsible persons have been removed from their posts," the statement said. "Some of them are being investigated for liabilities and some have been detained."

The statement did not identify the officials or their crimes. Authorities in Linyi declined to answer questions when reached by telephone.

Jiang Tianyong, a lawyer involved in a class-action lawsuit against the Linyi officials, cast doubt on the government's statement and accused local authorities of continuing to hold Chen Guangcheng, the activist leading the lawsuit, under house arrest without due process.

Jiang said the government may have disciplined a few low-level officials but appeared to have refrained from punishing the local party leaders who ordered Chen's arrest and the population-control crackdown.

Chen, 34, had been collecting evidence that Linyi officials were requiring parents with two children to be sterilized and forcing women pregnant with a third child to have abortions. Chen, who is blind, was detained Sept. 6 in Beijing, taken back to Linyi and placed under house arrest. It is unclear if he has been charged with a crime, though police have threatened to prosecute him for "providing intelligence to foreign countries," apparently a reference to interviews he has given to The Washington Post, Time magazine and other foreign media organizations.

Last week, local police also detained two residents who helped Chen organize the lawsuit: his nephew, Chen Hua, 27, and Han Yandong, 35, a neighbor. University officials in Beijing have also threatened to fire Teng Biao, a prominent legal scholar involved in the case.

Local authorities have cut Chen's phone service, but sympathetic villagers helped him escape briefly last Wednesday. In a hurried phone interview, he accused police of roughing up his wife, and he appealed to the central government for help. But he expressed misgivings about the government's probe of his allegations, noting that investigators had not bothered to speak with him.

US Having A Hard Time Finding Allies For UN Reform (CSM)

By Tom Regan

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The Christian Science Monitor, September 20, 2005

After a week when most of the reforms it wanted to see initiated at the United Nations were stymied or watered down, The Sunday Times of London reports that the United States wants to "come out blazing" on Monday and push for change. But it faces a new geopolitical world as it attempts to do this, according to a New York Times analysis; one where countries will ally with you on one issue, while at the same time strongly opposing you on other issues. What Bush faced from the well of the United Nations on Wednesday morning was a strange new geopolitical world, in which your allies on one issue are ganging up on you in the next room. When Bush started coalition-building after the Sept. 11, 2001, attacks, he expected the United States to be the linchpin. But now, post-Iraq, the president is increasingly facing what might be called coalitions of the unwilling, pursuing their own interests or pushing back US goals around the world, issue by issue.

Some of the new geopolitical partnerships that have stood in the way of US goals include India, China and Pakistan on the issue of referring Iran and its nuclear program to the UN Security Council; South Korea and China working together against the US and Japan on North Korea; and Russia and Europe on three key US issues - the Middle East, the war in Iraq, and global warming.

Meanwhile, many UN delegates said the US has not one to blame but itself for the lack of UN reform. The The Sunday Times reports that many blame US Ambassador John Bolton for demanding more than 400 changes to the reform plan at the last second, a demand that threw the whole process into question. And The Observer reports that senior diplomats say it was the US who "deliberately" derailed an attempt to craft an agreement to prevent terrorists from obtaining "weapons of mass destruction." Officials involved in the negotiations have confirmed that the Bush administration's refusal to countenance any form of disarmament blocked attempts to push measures that would prevent regimes seeking to develop a nuclear capability. It contradicts reports last week that the US had in fact been furious that plans to crack down on nuclear proliferation were stripped out of the final UN document.

However, diplomats speaking on condition of anonymity have revealed it was in fact President Bush who scuppered what the UN believed was a crucial move in helping make the world safer from the risk of terrorists obtaining a nuclear threat. Mr. Bolton, meanwhile, says he is ready to "make himself unpopular" in order to push some of the reform goals that the US would like to see in place. Of particular concern to the Americans is the UN Commission on Human Rights. United Press International reports that President Bush would like to see the commission disbanded and replaced with a smaller body "in which only countries with a good human rights record would be eligible for membership." The US is furious that countries with abusive human rights records could sit on the human rights commission and block condemnation of their actions. The New York Times reports that Bolton, despite charges that he helped undo the reform process, has won some respect for his knowledge, diligence, and negotiations during his short time at the UN. "People were very cautious, to say the least, because of his reputation as a tough guy who didn't like the UN" said Abdallah Baali, the ambassador of Algeria, who said he knew Bolton from working with him in Africa. "In fact, I was the only one who said that Bolton was an intelligent man who could be creative and constructive and wouldn't go around bullying delegations." But even while admiring his abilities, observers say that his focus on "what the United States would never accept" has "encouraged more active opposition to US positions." John Ruggie, a professor of international relations at Harvard and a former undersecretary general for planning, said he thought Bolton's approach had emboldened opponents of American priorities, like reforming the UN management structure to give more power and flexibility to the secretary-general.

"After Bolton's bombshell [the last minute request for 400 changes], they were able to make the case that this is why we have to stand firm, because if we give great discretionary authority to the secretary-general, there is a danger that the Americans will roll over him, and behind him always stands the Congress willing to withhold funding," he said. The US will get to see this week if it can still form the needed coalitions to push through its agenda, as the International Atomic Engergy Agency (IAEA) takes up the issue of Iran's nuclear program. Reuters reports that the US and Europe, who are working together on the Iranian issue, face "fierce resistance," with more than half a dozen of the 35 countries that make up the IAEA's board saying that "there is no cause for a referral" of Iran to the UN Security Council."

Sunday Iran's president declared at the UN that nuclear power was an "inalienable right" for Iran and accused the West of practicing "nuclear apartheid" by depriving it of nuclear know-how."

The U.N. Must Look For A New Secretary-General (WSJ)

By Norm Coleman

The Wall Street Journal, September 20, 2005

Last week, world leaders met for what Kofi Annan described as a "once-in-a-generation opportunity to take bold decisions in the areas of development, security, human rights and reform of the United Nations." But a reading of the "outcome document"

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world leaders are signing shows it to be yet another missed opportunity for U.N. reform. John Bolton pushed hard to improve the document and succeeded in modifying its most objectionable clauses. But what remains falls far short of "bold."

The document, for instance, calls for a Human Rights Council to replace the thoroughly discredited Human Rights Commission. But negotiators could not agree on the criteria for participation, leaving open the possibility that this new organ will be more of the same. In the same way, the document does not adequately address critical issues such as establishing a code of ethics, implementing sunset provisions on redundant U.N. programs or a staff buyout to eliminate the deadwood that pervades the personnel system; instead, it merely asks for a report by the secretary-general. And it leaves out entirely essential components of U.N. reform like the installation of a chief operating officer and an independent auditing board.

Instead, we have a document that advocates the implementation of the Mauritius Strategy for small island states, the Almaty Program of Action for landlocked developing countries, the Declaration and Program of Action on a Culture of Peace, and the Global Agenda for Dialogue Among Civilizations. The document, in fact, is structured around such delusions. The first half -- a full 18 pages -- is devoted to amorphous platitudes about development. The superficial treatment of reform is buried at the end. It strains credulity for an organization wracked by corruption and mismanagement to broaden the scope of its mandate when it is supposed to be engaged in self-critique. The U.N. needs to clean house, address its shortcomings and restore its ability to function efficiently and honestly before moving forward.

The problem is not a lack of awareness about the need for reform. The U.N.'s most ardent supporters and even the secretary-general himself publicly acknowledge its urgency. Of course, this is undeniable in light of the widespread abuses and scandals in activities ranging from humanitarian programs to peacekeeping. The report released by Paul Volcker's Independent Inquiry Committee, exposing the corruption in the Oil For Food program and harshly criticizing the performance of the U.N. Secretariat, only provides the latest evidence.

The problem cannot be attributed to a shortage of reform ideas. To his credit, the secretary-general commissioned a high-level panel to put together a U.N. reform proposal earlier this year. Newt Gingrich and George Mitchell produced an excellent consensus document on U.N. reform. So why is the U.N. unable to reform itself? Fundamental flaws in the structure and membership of the organization make not only management reform, but also the mission of the entire organization, highly dubious.

· First, the U.N. is dominated by countries that do not have a vested financial interest in efficient organization. Just eight countries pay almost 75% of the budget. The U.S. alone contributes 22%. Common sense dictates that those who "have skin in the game," who have invested literally billions, have a greater interest in seeing their funds spent properly than those who do not make the same commitment.

· Second, the U.N. has become a jobs program for many countries. Hiring is steeped in patronage and nepotism. This partially explains the waste that pervades U.N. operations, and means that reform that might result in a leaner organization is going to be opposed from the outset. Reforms designed to curtail corruption will face a similarly uphill battle.

· Third, there is the power of regional blocs. These shut out Israel from full membership, yet accord human rights violators such as Cuba, Zimbabwe and Sudan membership on the Human Rights Commission.

· Finally, the General Assembly offers countries that have little influence outside the U.N. a rare opportunity to run the show, as it accords the same rights and privileges to dictatorships as it does democracies. In the Assembly, which will be responsible for turning summit pledges into real action, countries such as Myanmar have the same voting power as the U.S. The taste of power otherwise marginal states get has translated into an unwillingness to delegate sufficient administrative powers to the secretary-general, who ultimately must be afforded the authority to enact U.N. reform.

* * *

If the U.N. is to genuinely reform itself, it needs visionary and credible leadership. Mr. Annan, whose management failures are unambiguous, is simply too weak to muscle through an effective reform package. We should begin looking for new leadership now.

U.N. reform carries a price tag. Those who care about the U.N. can put their money where their mouths are. Mr. Annan has proposed a buyout of some of the U.N.'s entrenched bureaucracy to make way for a new cadre of the world's best and brightest. I would challenge U.N.-supporters with deep pockets, such as George Soros and Ted Turner, to make an investment in reform by helping to reinvigorate the U.N. staff.

The good news is that this summit is not the end of the reform process. There is still opportunity to create a credible human rights body, to achieve transparency, and to develop meaningful oversight of operations. But it is still highly questionable whether this will come to fruition.

And if it does not? Too much of the debate in Congress is focused on whether failure to achieve reform should result in automatic or discretionary withholding of dues. The reality is that this failure may undermine Congress' willingness to appropriate any funding to the U.N. Dollars can easily be targeted to other international organizations dedicated to humanitarian and security

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efforts -- NATO, the OAS, the WHO, the Global Fund, or the Red Cross. President Bush put it best during his speech to the General Assembly: "If member countries want the United Nations to be respected . . . they should begin by making sure it is worthy of respect."

Sen. Coleman is chairman of the Senate Permanent Subcommittee on Investigations and a member of the Senate Foreign Relations Committee.

Germany In Limbo As 2 Stake Claim To Chancellorship (USAT)

By Noelle Knox

USA Today, September 20, 2005

BERLIN — "Chancellor War!" screamed the headline in Bild, Germany's largest tabloid newspaper, on Monday. "Who will govern Germany now?"

The answer is still days, if not weeks, away. Incumbent Chancellor Gerhard Schroeder and his opponent, Angela Merkel, both claimed victory in Sunday's parliamentary elections. Their competing claims put Germany in a political deadlock and could stall efforts to revive the torpid economy.

"An unstable government and a perpetual election campaign with an uncertain outcome is the last thing our country needs," said Hermann Franzen, the head of HDE, a retail trade association.

Merkel's party, the Christian Democratic Union, won 35.2% of the vote in Sunday's elections, compared with 34.3% for Schroeder's Social Democratic Party.

Neither side had the necessary majority in the parliament to form a government. Merkel and Schroeder scrambled to form alliances with other political parties that would put them in control.

Party leaders said they would start negotiations this week. Traditionally, Merkel's Christian Democrats have linked with the Free Democrats. Schroeder's Social Democrats have allied with the Greens. Merkel and Schroeder are trying to woo each other's ally.

A majority coalition must be in place by Oct. 18. The parliament has three chances to choose a chancellor. If it fails, President Horst Koehler can appoint a minority government or call new elections.

Merkel, a former physicist from East Germany, had held a double-digit advantage over Schroeder for months. The main editorial in the daily Sueddeutsche Zeitung called her "the woman who thought she had it all in her hands, but let it fall through her fingers."

Merkel's agenda of changes scared off many of the 5 million unemployed Germans or those worried about losing their jobs. The German economy grew 1.6% last year after two years of almost no growth.

If Merkel and Schroeder join in a "grand coalition," the resulting government would probably be too divided to push through changes to improve economic conditions. On Monday, each side said it would consider an alliance only if its candidate became chancellor.

Until the chancellor is named, little is expected to change in U.S.-German relations, which soured when Schroeder opposed the U.S.-led war in Iraq, said Jan-Friedrich Kallmorgen, founder of the Atlantic Initiative, a think tank in Berlin. If Merkel wins, "She would foster very close political and military ties with the U.S.," he said. However, Merkel said she would not send German soldiers to Iraq.

The indecision weighed on financial markets. Germany's DAX stock index fell 1.2% at the close of trading Monday, and the euro dipped against the U.S. dollar.

"Whatever the color of Germany's new government will ultimately be, the pace of structural reforms is likely to be slow," Bank of America economist Holger Schmieding said.

After German Election, Deadlock Hardens (NYT)

By Richard Bernstein And Judy Dempsey

The New York Times, September 20, 2005

BERLIN, Sept. 19 - The stalemate in German politics deepened Monday, the day after an inconclusive national election result, as key party leaders rejected some of the coalition solutions that might otherwise lead to the formation of a new government and the selection of a chancellor.

Most important, the chairman of the Social Democratic Party, Franz Müntefering, confirmed that Chancellor Gerhard Schröder would refuse to enter into any coalition with the main opposition party that did not choose Mr. Schröder himself as chancellor.

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This, for the moment at least, seemed to rule out a "grand coalition" between Mr. Schröder's Social Democrats and the Christian Democratic Union, the party of Mr. Schröder's main rival as chancellor, Angela Merkel. That option had been deemed the most likely outcome in the event that no party won a majority.

In that scenario, Mrs. Merkel, as leader of the party with the biggest bloc of seats in Parliament, would then become chancellor, while Mr. Schröder would step down. But both Mr. Schröder and Mr. Müntefering have ruled that out.

For her part on Monday, Mrs. Merkel said at a news conference that she had opened negotiations with other parties in an effort to form a coalition that would command a parliamentary majority.

Her first talks were with the leaders of her party's traditional coalition partner, the Free Democratic Party, even though the election left the two parties combined about a dozen seats short of a majority. That means that Mrs. Merkel still needs to find support from another party, and it was unclear where that support would come from.

One possibility was the Green Party, which is now Mr. Schröder's coalition partner. And Christian Democratic officials said Monday that talks would be held with the Greens.

"We need to speak to the Greens and the F.D.P. in the next few days," said Dieter Althaus, a Christian Democrat who is prime minister of the state of Thuringia. "What we need is the largest possible consensus. We have our own agenda. We need to conduct open talks."

The chairman of the Greens, Reinhard Bütikofer, did not rule out an agreement.

"It's the turn of the C.D.U.," he said. "They should say what they've got to say."

But the best-known Green politician, Foreign Minister Joschka Fischer, when asked at a news conference if he would be willing to serve in a government headed by Mrs. Merkel, said, "Mrs. Merkel will not be chancellor." He did not elaborate on his reasons for that statement.

But by Monday, Mrs. Merkel's grip on the chancellorship did seem to be slipping, even in her own party. The Christian Democrats had not expected the poor showing on Sunday, and historically they have not tolerated failed candidates.

When she stepped onto the podium in the headquarters of the Christian Democrats, she received mild applause from staff members who had remained after late-night drinking and dining.

During past regular Monday meetings of the party's presidium, senior Christian Democratic party leaders always lingered in corridors, waiting to mix with the journalists. There were always a few premiers from the states outside Berlin who would stand not too far from the podium, as if to show support for Mrs. Merkel.

But not on this Monday. As soon as the presidium was over, the black Mercedes that had brought the state premiers to Berlin disappeared into the warm September sun.

Mrs. Merkel was left to field questions, flanked only by the spokesman for the Christian Democrats. Volker Kauder, the party's secretary general, was the only senior party official in sight.

According to Germany's Basic Law, the newly elected Parliament has 30 days to hold its first meeting, at which presumably it would elect a chancellor. Theoretically, the main candidate is nominated by the president of the Federal Republic, but customarily the president chooses the person who has already been able to get majority support through negotiations with other parties.

Parliament then votes on the candidate. If the candidate fails to win a majority, there must be a second vote. If that vote also turns up no majority, then the president can essentially select a minority candidate to be chancellor, or he can dissolve Parliament and call for new elections.

But there has never been a case in postwar German history where it came to a third vote in Parliament.

Until Parliament chooses a chancellor, or is dissolved by the president, the former government continues in power, meaning in this instance, Mr. Schröder and his partners in the Green Party.

Even for political experts, it was difficult to predict how events might unfold from here.

"It's a power game going on right now," said Peter Lösche, a professor of political science at Göttingen University. "You don't know who's bluffing and who means what they say seriously. But sometimes strange bedfellows wake up in the morning and find themselves in a coalition."

Meanwhile, a great deal of speculation was being devoted to Mr. Schröder's aim in insisting on remaining chancellor in a coalition with the Christian Democrats, even though his party trailed in the vote.

"Yesterday, he was incredible," said Klaus von Beyme, a political science professor at Heidelberg University. He was referring to a television appearance Mr. Schröder made with Mrs. Merkel and other leaders in which he first voiced his insistence that he remain as chancellor.

One interpretation of Mr. Schröder's actions is that he is aiming ultimately at a compromise in which both he and Mrs. Merkel would step down, leaving the way for a compromise chancellor, presumably a Christian Democrat.

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"I can imagine a deal in which Schröder has to withdraw and, maybe in exchange for that, the Social Democrats ask the C.D.U. to give up Merkel," Mr. Beyme said.

"The Bavarians are ready to accept such a deal," he continued, referring to the leaders of the Christian Democratic Union's sister party in Bavaria, the Christian Social Union. "And some of the C.D.U. prime ministers of the states would also accept such a deal, because they are not loyal to Merkel, who committed too many blunders and has no charisma. And normally in the C.D.U., there is a rule that somebody who fails has to leave."

Who Will Take Germany's Top Office? (CSM)

By Andreas Tzortzis

The Christian Science Monitor, September 20, 2005

BERLIN - Europe's largest economy is momentarily rudderless as both incumbent Chancellor Gerhard Schröder and his challenger Angela Merkel claimed Germany's top office the morning after one of the biggest election surprises in the country's recent history.

The unexpected subpar performance of Ms. Merkel's Christian Democratic Union and its sister party, the Christian Social Union, in Sunday's election gave Mr. Schröder an outside shot at staying in office after reform-shy German voters refused to give either of the major parties a clear mandate. "I'm very pessimistic about the prospect for wholesale economic reform," says Karen Donfried, senior director of the German Marshall Fund in Washington. "It's very clear that's not what Germans want."

The conservative Union parties are less than one percent ahead of Schroeder's SPD, dooming their plans to form a coalition with the pro-business Free Democrats that aimed to aggressively liberalize Germany's social market economy.

The chancellor, emboldened by the SPD's strong showing in the election's final spurt, declared that he planned to stay on as chancellor, whether at the head of a so-called grand coalition with the CDU/CSU or in another party constellation.

The confusion over who will take over at the helm of Europe's economic motor, has unsettled financial markets and business leaders and surprised European politicians. The German capital was abuzz Monday with the political fallout of a tight race which saw the pro-business Free Democrats claim a surprising 9.9 percent share of the vote, followed tightly by the Left Party, their polar opposites in the reform discussion. The Green Party finished a disappointing fifth.

Rumors of coalition possibilities, described using the colors assigned to Germany's parties, made the rounds rapidly as both Merkel and Schröder lay claim to the chancellery.

After seven years of rule, voters had had enough of Schröder's coalition with the Green Party, the so-called red-green government. The government's popularity has been at rock bottom after welfare, health, and labor market reforms it introduced in 2003 cut significant benefits but failed to create jobs for the more than 4.7 million out of work.

But voters also weren't ready to hand over the reins to Merkel's conservatives and Free Democrats, who were planning to strip away hiring and firing laws, reduce unemployment benefits, and push through tax cuts for wealthier Germans, all in the hope of kick-starting growth and investment.

"It's a very mixed message from the voters," says Uwe Andersen, political scientist at Ruhr University. "The majority of the population is still not ready to go through with a harder reform course. On the other hand, they know that things can't go any further with the red-green coalition government."

In the coming week, Merkel, whose party still won the largest share of the vote at 35.2 percent, will begin meeting with the Greens and Schröder's SPD to decide how to proceed. The likely coalition outcome remains a so-called grand coalition, which would put the SPD and the CDU together and Merkel as Germany's next chancellor.

But Schröder doesn't see it that way. The Chancellor appeared visibly smug during a television talk show Sunday night, and his party pointed out that the CDU only has more votes than the SPD if the performance of its sister party, Bavaria's CSU is counted. Such logic would indicate that Schröder, not Merkel, should stay on as Chancellor.

Either way, the predicted political infighting has left industry heads and other European leaders doubtful the continent's largest economy is serious about turning its fortunes around any time soon.

"We won't see any steps backwards, but the tempo of reforms will slow," Holger Schmieding, an economist at Bank of America in London told Agence France Presse. "Germany won't be able to tap into its full potential. The economy is improving, it'll simply improve more slowly."

Others were less optimistic. The head of the BDI industry federation, Juergen Thumann called the results "bitterly disappointing." European politicians expressed confidence that Germany's political class would find an appropriate coalition solution, but acknowledged Germans were obviously not ready for drastic change.

"I think the Germans have responded in a way that will certainly not allow a totally liberal [economic] model to be put in place," French Defense Minister Michèle Alliot-Marie told Europe1 radio. And it's unclear how much power Merkel will wield after

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leading her party to one of its worst federal electoral showings in German postwar history. Political analyst Mathias Micus said the confusion surrounding who will govern the country plays perfectly into the hands of Schröder.

"Times like this need a power player like Schröder," said Mr. Micus, at the University of Mainz. "He is someone who knows how to play with all his cards, who isn't held up by party dogma and who is Machiavellian."

Germany Faces Leadership Standoff (WSJ)

By Marcus Walker and David Crawford

The Wall Street Journal, September 20, 2005

BERLIN -- Germany's deadlocked election threatened to become the country's messiest postwar political crisis, as both the major parties' leaders insisted they should be chancellor, while small parties ruled out other possible coalitions aimed at forming a governing majority.

That likely means nobody can rule Germany at all unless either incumbent Chancellor Gerhard Schröder or challenger Angela Merkel makes a humiliating climb-down. Otherwise, the next most likely outcome could be another election, perhaps months away -- with the danger of another inconclusive result.

As business groups warned that prolonged political uncertainty could hurt investors' and consumers' confidence in the world's third-biggest national economy, a persistent standoff looked more and more likely. A mere 35% of voters backed Mr. Schröder's center-left Social Democrats on Sunday and only 36% supported Ms. Merkel's conservative Christian Democrats, leaving both of Germany's historically dominant parties with too few seats in Parliament to govern with their usual minor-party allies.

"Never before in Germany has there been no clear way to cobble together a government," said Josef Joffe, publisher of newspaper Die Zeit and one of Germany's top political commentators. "This is not only the worst possible outcome to the election, but the worst election outcome in the history of the Federal Republic."

An election that was widely expected to give Germany a conservative-led government, likely shifting the balance of power in European politics toward freer markets and better trans-Atlantic relations, now threatens to contribute to paralysis in the European Union. Ms. Merkel's failure to win a majority with her program of far-reaching economic overhaul could slow the pace of such restructuring across the Continent.

"Without a dynamic Germany, Europe cannot recover," EU Commission President José Manuel Barroso said yesterday, trying to urge German leaders to reach a speedy agreement and avoid spreading limbo on economic policy.

Desperate to fashion a victory, each major party is trying to woo the other's minor-party coalition partners to form a government. The courtships look likely to fail. Ms. Merkel's ally, the Free Democratic Party, reiterated its refusal to defect to Mr. Schröder. The Green party, Mr. Schröder's governing partner for the past seven years, said it saw little chance of finding common ground with Ms. Merkel's conservatives.

A bipartisan government uniting Germany's two major parties in a "grand coalition" is likely the best bet for forming a majority. Still, it confronts a basic problem: Who would be the boss?

The chancellor typically comes from the party that wins the most seats in Germany's Parliament. Right now, that would mean Ms. Merkel, by a mere three-seat margin. Mr. Schröder argues that far more Germans prefer him to Ms. Merkel, a claim based on personal approval ratings in opinion polls. Social Democrats also made the claim that they were the biggest party in Parliament, by arguing that Ms. Merkel's conservatives are really two parties, a national Christian Democrat organization and a sister party in Bavaria, though they campaign together.

In claiming he won, Mr. Schröder may have overreached. Some in his party began to say yesterday that he would have to swallow his pride and accept that he no longer would be chancellor. Mr. Schröder's bravado Sunday night and yesterday, when he repeatedly proclaimed that only he could lead a stable government, must be seen as an understandable "emotional overreaction" to the election result, said Rolf Stöckel, a Social Democrat member of Parliament.

Pundits had written off Mr. Schröder's chances before the election, but he nearly pulled level with the conservatives. He wanted to "demonstrate that the Social Democrats are not on the defensive" going into negotiations with other parties, Mr. Stöckel said.

Mr. Schröder's fate may hinge on whether Ms. Merkel's conservatives are united enough to insist on his removal from office. His insistence on keeping his job may be a gamble that he can face down Ms. Merkel if support for her within her own party crumbles, after she squandered a huge lead and gave the party one of its worst-ever results. Christian Democrats had widely thought they would win the election outright.

So far, most conservatives are standing firm behind Ms. Merkel. After a meeting of top Christian Democrats in Hanover, senior party official Friedbert Pflüger said Ms. Merkel would become chancellor -- unless Mr. Schröder clings to power through a

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pact with ex-communists, which Mr. Schröder has denied is an option. To shore up her position, Ms. Merkel is expected to ask a meeting of Christian Democrat members of Parliament today to re-elect her as their chairwoman.

Meantime, the most controversial figure in her campaign resigned: Paul Kirchhof, an academic advocate of flat-rate income taxes. Ms. Merkel had pegged him as her finance minister, a move that won votes for Mr. Schröder amid fear the conservatives planned taxes favoring the rich over the working class.

Many analysts expect a grand coalition to emerge, if only after weeks of haggling. Amid deep differences on major policy areas from labor laws to health care, such a bipartisan administration probably would struggle to overcome Germany's chronic problems of low economic growth and mass unemployment.

"An unstable government and endless fighting is the last thing our country needs to finally get moving," said Hermann Franzen, president of Germany's association of retailers.

The prospect is likely to chill needed foreign investment, as companies look for more stable situations for their funds. "Abroad, and especially in the U.S., the process of building a coalition is difficult to comprehend," said a statement by the American Chamber of Commerce, which represents U.S. businesses that have €110 billion invested in Germany.

Following the election, the euro sagged 0.7% to $1.21, while Germany's DAX stock-market index fell 1.2% to 4926.13.

Many economists say individual German companies will carry on improving competitiveness even if political parties are immobilized. In the latest example of corporate restructuring, engineering giant Siemens AG announced cost cuts and layoffs at its German units. "German firms are the true reformers, not the government," said Jörg Krämer, chief economist at German bank HVB Group in Munich.

"Germany is becoming like Italy, in a bad and a good sense," Mr. Joffe said. "Any possible coalition government will be unstable, but we no longer need the government to have healthy companies."

Without a deal, the German Parliament could fail to elect any chancellor at all when it meets in late October -- and the head of state, President Horst Köhler, could be forced to dissolve it and trigger another election.

Maneuvering Begins For A New German Government (WP)

By Craig Whitlock

The Washington Post, September 20, 2005

BERLIN, Sept. 19 -- Germany's major political parties both claimed the right on Monday to patch together a new government following inconclusive national elections, but were confronted with the likelihood of weeks of backroom deal-making before anyone is able to take control.

After their respective parties took a beating in Sunday's vote, Chancellor Gerhard Schroeder and his chief rival, Angela Merkel, were losing their sheen as candidates to lead the country. Lawmakers and analysts tossed around various scenarios in which the country's numerous factions could settle on someone else as a compromise.

Merkel, 51, whose Christian Democrats once had a double-digit lead in opinion polls, said she would open talks with other parties -- including Schroeder's Social Democrats -- about assembling a coalition. But she insisted that her party take the lead in forging a new government by virtue of its narrow first-place finish, with about 35 percent of the vote.

"The election campaign is over, the voters have had their say and we are the strongest party in Parliament," she said at a news conference in Berlin, the capital. "We received a clear mandate to govern."

But Schroeder, 61, and the Social Democrats were having little of that. Even though Schroeder's governing coalition was toppled, his party fared better than predicted. It polled about 34 percent, an achievement that the chancellor portrayed as a virtual victory, given how he was forced to call early elections because of widespread dissatisfaction with a weak economy and record high unemployment.

Franz Muentefering, the Social Democrats' party chairman, said Schroeder deserved a third term. "Mrs. Merkel was being cheered as if she were already the chancellor," Muentefering told reporters. "But it's quite clear that this country doesn't want Mrs. Merkel. I do think it is a personal defeat for her."

Analysts said that despite the Social Democrats' posturing, Schroeder had few realistic prospects for remaining in office. But they also said Merkel had wasted a golden opportunity during the campaign and would be hard-pressed to salvage her candidacy.

"The woman who thought she had everything in her hands now feels it all slipping through her fingers," Heribert Prantl, political editor of the influential Sueddeutsche Zeitung newspaper, wrote in a signed editorial. "Seldom has such a presumed victor looked so disgraced."

Constanze Stelzenmueller, director of the Berlin office of the German Marshall Fund of the United States, agreed. "Angela Merkel may very well be a dead woman walking," she said. "My gut instinct tells me Merkel is in a very difficult position, which is why the Social Democrats are grinning so broadly. Right now, everybody is playing chicken."

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The message that the electorate delivered on Sunday was a muddled one. Exit polls showed that many voters were tired of the status quo in Germany -- with its high joblessness and flaccid economy -- but were equally skeptical of the solutions offered by either Merkel or Schroeder. The result was the most splintered vote in decades.

For now, Schroeder's ruling coalition of Social Democrats and Greens will remain in charge, but only until a new alliance emerges that can cobble together a majority of the seats in Parliament. The major parties began that work in earnest on Monday.

Muentefering, for instance, indicated that the Social Democrats would put pressure on the Free Democrats -- an anti-taxation, pro-business party that received about 10 percent of the vote -- to abandon Merkel and join them in a coalition.

The leader of the Free Democrats, Guido Westerwelle, categorically rejected the overture on election night. But Muentefering said he would keep pushing. "Perhaps they were a little too overconfident about yesterday's result," he said.

Similarly, Merkel served notice that her party would try to persuade the Greens to change their stripes, giving them a chance to remain in power under the Christian Democrats, even though the two parties disagree sharply on some issues, such as nuclear energy.

Foreign Minister Joschka Fischer, the most prominent Green, said he could not foresee his party marching under Merkel's banner. "She will not be chancellor," he declared. But other Green officials said they were willing to listen.

While the German constitution requires that Parliament reconvene within 30 days of an election, there is no deadline for picking a chancellor or governing majority.

Christian Pestalozza, a constitutional law professor at the Free University of Berlin, dismissed suggestions that Germany was facing a political crisis. He predicted that the parties would soon lower the rhetoric and be more pragmatic in building a coalition.

"According to the constitution, they have all the time they need to take to work this out," he said. "I'm quite sure that after two or three weeks, we'll know what we'll have."

Germany's Political Impasse May Take Weeks To Solve, Observers Say (KRT)

By Matthew Schofield

Knight Ridder, September 20, 2005

BERLIN - Germany's electoral standoff moved from the inconvenient to the impossible Monday, as leaders of the country's four largest political parties spent the day primarily outlining whom they wouldn't work with in a future coalition government.

German Chancellor Gerhard Schroeder, whose Social Democratic Party came in second in Sunday's elections, with 34 percent of the vote, insisted that he should remain Germany's leader, while backers of Christian Democrat Angela Merkel, whose party won 35 percent, said she should lead a new government.

Political observers said the impasse might take weeks to resolve, a prospect that worries economists in a nation where unemployment is 11 percent and the economy has grown only marginally for years.

"Uncertainty at a time of economic crisis is our worst-case scenario," said Manuela Glaab, the head of the University of Munich-based Center for Applied Policy Research. "We need a working government to get Germany back on track. Every responsible politician has to understand that there is no time to lose."

Investors said they feared the deadlock would slow needed economic reforms, and European Commission President Jose Manuel Barrasso urged a compromise. "Without a dynamic Germany, Europe cannot recover," he said.

Others suggested that new elections are likely. If no government is agreed on by Oct. 18, when Schroeder's current term ends, new elections could be called.

The Christian Democrats had been expected to win Sunday. But missteps by Merkel and a hard campaign by Schroeder allowed the Social Democrats to close the gap, which polls had showed at one time to be as wide as 20 points.

The Christian Democrats won about 225 seats in Parliament while the Social Democrats finished with about 222.

Christian Democrat ally the Free Democrats got 10 percent of the vote, or 61 seats, while Social Democrat ally the Green Party won 8 percent, or about 51 seats.

Parliament will have at least 598 members - the number can change, based on Germany's system of proportional representation - meaning that one party must control at least 300 seats to form a government.

Leaders for the Green Party and the Liberal Party made it clear Monday that that goal was all but unattainable.

The Green Party said it wouldn't join any coalition that the Christian Democrats led. The Liberal Party said the same about any coalition that the Social Democrats led.

All sides have rejected working with a fifth group, the New Left, made up of former communists, largely from the former East Germany. It won 54 seats.

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That leaves the possibility of a so-called "grand coalition" between the Christian Democrats and the Social Democrats. But Schroeder said Monday that he'd serve in such a coalition only as chancellor. Christian Democrats responded that they'd won more votes.

Such a coalition would be fraught with problems in any case, said Lutz Erbring, professor of communications at Free University in Berlin, as the two parties positioned themselves for dominance in the next elections.

The likely losers in such political maneuvering would be serious progress on economic reform measures, especially those aimed at creating more jobs and stabilizing government social programs.

"The reform program is not about the next few years, but being able to maintain our society for the next generation," Erbring said. "We may well lose years in the reform process, and we can't afford to lose any time."

The German stock market fell about 2 percent on the news early Monday, before recovering some to close down 1.2 percent.

German economic malaise was the theme of the campaign leading up to Sunday's balloting, and until recent weeks, Merkel and the Christian Democrats were expected to win a decisive victory over Schroeder, whose coalition has led Germany for seven years of little growth.

But many analysts said Merkel frightened German voters with calls for making it easier for small businesses to fire people and for increasing the value-added tax so that payroll taxes could be reduced for employers.

"It is clear that Germans do not want Mrs. Merkel as their chancellor," Social Democratic party chief Franz Muentefering said.

It wasn't clear, however, how Schroeder would be able to form a government, and many saw the likely delay as a disaster.

"The stalemate that emerged in the election is of course the worst result that you could have wished for, the worst for the interests of Germany and for Europe," Klaus Liebscher, a European Central Bank Governing Council member who heads Austria's central bank, said in Vienna.

Tied German Rivals Try To Forge Coalitions (WT)

By Nicholas Kralev

The Washington Times, September 20, 2005

BERLIN -- Chancellor Gerhard Schroeder and conservative challenger Angela Merkel fought for their political lives yesterday after a cliffhanger election reminiscent of the Bush-Gore deadlock of 2000.

Unlike in the United States, Germany's battle over the Sunday election will be fought not in court but with backroom bargains as the rivals appeal to smaller parties in their struggle to form a government and become the next chancellor.

Failure to form a government would in effect end the political careers of Mr. Schroeder and Mrs. Merkel, said officials from their respective Social Democratic Party (SPD) and Christian Democratic Union (CDU).

The two parties yesterday issued invitations for coalition talks to each other, as well as to the pro-market Free Democratic Party (FDP) and the leftist Greens.

"I have initiated contact with [their] offices," Mrs. Merkel said, urging the center-left Social Democrats to "accept that they are not the strongest party" and to agree to a right-left "grand coalition" under her leadership.

The SPD leadership said it will talk with the CDU and its Bavarian sister party, the Christian Social Union (CSU), but it ruled out taking part in a Cabinet led by Mrs. Merkel.

"It is clear that Germans do not want Mrs. Merkel as their chancellor," SPD Chairman Franz Muentefering told reporters after a party meeting.

"We have a responsibility to make clear that we want to rule with Mr. Schroeder as chancellor and implement much of what we have undertaken to do," he said in reference to an economic and social reform package known as Agenda 2010.

But Mrs. Merkel said: "I do not rule out anybody revising their position."

SPD officials also challenged Mrs. Merkel's assertion that hers is the country's strongest party, having won 225 seats in the Bundestag, the parliament's lower house, against 222 for the SPD.

The Bundestag has 598 seats, but more may be added under the country's proportional representation electoral system.

The Social Democrats argued that the CSU should be considered a separate party, even though it always has allied with the CDU in federal elections.

In addition, the election in a district in the eastern city of Dresden will not take place until Oct. 2 because of a candidate's death. That vote could provide up to four members and tip the balance, although it is unlikely that all the seats will go to the SPD, analysts said.

The CDU/CSU alliance won 35.2 percent of the vote compared with 34.3 percent for the SPD. FDP, Mrs. Merkel's preferred coalition partner, received 9.8 percent -- not enough for the two parties to form a government.

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Mr. Schroeder's coalition partners, the Greens, received 8.1 percent. The new Left Party of former communists and a breakaway SPD fraction did slightly better with 8.7 percent.

Interior Minister Otto Schily, a leading Social Democrat, said he hoped the Free Democrats would join the center-left "red-green" coalition because "we have points in common." But FDP leader Guido Westerwelle rejected the overture.

The Greens were the most accommodating party yesterday. Foreign Minister Joschka Fischer, the party's leader, said he would not serve in a Merkel Cabinet, but neither he nor any other party leader ruled out joining a CDU-FDP government.

"We are interested in content," the Greens' co-leader Claudia Roth told ARD television. "We are not interested just in governing. We are interested in politics."

Both the CDU and the SPD ruled out a coalition with the Left Party.

The political deadlock was not to the markets' liking yesterday. German stocks tumbled, and the euro fell to its lowest level against the dollar in seven weeks.

Euro Falls As Germany Splits After Poll Stalemate (FT)

By Bertrand Benoit

Financial Times, September 20, 2005

The euro fell to a seven-week low against the dollar on Monday after Germany's election ended in a stalemate, casting doubt over the country's ability to enact the policy changes needed to bolster faltering economic growth.

Angela Merkel, Christian Democratic Union leader, and her rival Chancellor Gerhard Schröder both claimed the right to form a government after the unprecedented poll outcome left the two parties with an almost equal number of seats in parliament.

Mr Schröder's Social Democratic party and Ms Merkel's CDU now have 30 days to form a government from a number of coalition possibilities. They would then put their choice to parliament, which would elect the new chancellor.

But fears mounted on Monday that protracted coalition talks would increase uncertainty over the pace and direction of the country's economic policy.

Economists have already interpreted the outcome of the poll as a clear rejection of Ms Merkel's reform programme.

One possibility remains a grand coaltion between the SPD and CDU but Elga Bartsch, economist at Morgan Stanley, said such an alliance would probably “lead to reform gridlock”.

The Dax 30 index of German blue chip stocks initially fell 2.2 per cent on disappointment over the poll outcome. But it later rallied on hopes German companies would continue their restructuring efforts. The index finished 1.21 per cent or 60.37 points lower at 4,926.13.

The euro fell to $1.2101 against the dollar before staging a recovery to $1.2155. But analysts said it could slip below $1.20 amid continuing uncertainty.

While a grand coalition remained a likely outcome yesterday, Mr Schröder said his party would not join a cabinet led by Ms Merkel. The SPD appears to be banking on Ms Merkel's weakened authority in her party to exact a high price for its participation in a national-unity government.

Capturing the sense of crisis, Bild led its front page on Monday with an article entitled “the war of the chancellors”.

Having gained the backing of her party's top executive, Ms Merkel will first try to outmanoeuvre Mr Schröder by seeking a “Jamaica cabinet”, a three-way alliance with the Free Democratic and Green parties, named after their respective colours of green, yellow and black for the CDU.

The CDU leads in the race to form the next government, having gained the most votes, at 35.2 per cent against 34.2 per cent for the SPD, and the largest share of seats at 225 against 222 despite scoring one of its worst results in six decades.

Manfred Güllner, head of the Forsa polling group, said it was “theoretically possible but in practice unlikely” that a by-election in Dresden on October 2 could give the SPD three additional seats, putting it on an equal footing with the CDU.

Neither the Greens nor the FDP ruled out a Jamaica alliance. Ronald Pofalla, deputy CDU parliamentary leader, said the CDU and Greens were “not that far apart” on central economic issues. However, Joschka Fischer, Green foreign minister, poured cold water on the scenario, saying “I don't see myself sporting dreadlocks.”

By contrast, a three-way cabinet under Mr Schröder appeared out of reach on Monday, after the FDP rejected the SPD's invitation to talk, describing it as “a form of stalking”.

Europe's Direction Is Unclear, Much As Germany's Is After Vote (NYT)

By Craig S. Smith

The New York Times, September 20, 2005

PARIS, Sept. 19 - Europe, weakened by the seeming collapse of its constitutional project in May, faces even more uncertainty after the election in Germany on Sunday, which left no party with a clear mandate.

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"It's May 29 all over again," said Dominique Moïsi, a senior adviser at the French Institute for International Relations, referring to the date that France rejected the European Union's draft constitution, stalling a half-century of progress toward European unity.

Both Germany and France, the traditional engines of the European Union, are now consumed by domestic politics and are unlikely to provide the strong leadership needed to re-energize the bloc.

Germany may emerge with a weak coalition government from its split vote, while France has lost steam since May, leaving President Jacques Chirac largely sidelined while his would-be successors dominate the political stage.

Of course, it is too early to say what the real impact of the German elections will be. But the surprisingly narrow margin of the conservative, Angela Merkel, over Chancellor Gerhard Schröder brought anxious analysis across Europe.

At best, Europe will continue to idle while Germany sorts out who is in charge. But many commentators worry that the most ambitious European vision - a union speaking with one voice on international affairs and backed by a military capacity distinct from that of NATO - may evaporate in the meantime.

"You have this big, fuzzy Europe looking inward instead of discussing world affairs," said Anne-Marie Le Gloannec, a European relations specialist at the Center for International Studies and Research in France.

Hopes that Europe can salvage its constitutional project also grow more uncertain. A complicated effort to wrap the various treaties governing the union into a single document foundered on the French rejection of the draft constitution. Mr. Schröder's government had backed the idea of writing a shorter, simpler constitution, but that issue is one of many that are in limbo.

"In most questions, Germany won't be able to take a leadership role," Ms. Gloannec said.

Mr. Moïsi said the muddied European waters were bad for the United States, which more than ever needed a clear ally to deal with an increasingly despotic Russia, an increasingly assertive China and a recalcitrant Iran. Europe has played a central role in pressing Iran to give up a uranium enrichment program that both sides of the Atlantic fear is intended for nuclear weapons.

Europe could suffer in other ways, too. While changes in Germany's economy may yet proceed, many Europeans had also hoped that a clear mandate for Mrs. Merkel's ambitious pro-business plans would add momentum to much needed economic restructuring on the Continent.

"The message already is that Germany is attached to an economic model founded on social guarantees," said Guillaume Klossa, a professor focused on European economies at the École des Hautes Études Commerciales, one of the Continent's leading business schools. "It will slow reform in France."

Without competitive pressure from Germany, the region's largest economy, inertia could stymie efforts to revamp Europe's other sluggish socialist economies.

The lack of European leadership is also expected to cloud talks about Turkey's membership in the union, scheduled to start Oct. 3. Mr. Schröder supports Turkey's membership, but Mrs. Merkel opposes it. Analysts say the talks are unlikely to make much progress without a clear German position.

Merkel Is The Big Loser In Germany's Elections (WSJ)

By Frederick Kempe

The Wall Street Journal, September 20, 2005

It will take some time and convoluted coalition negotiations before the world knows who won Sunday's German elections. But it's not too early to call the loser: Angela Merkel.

Putting on a brave face, she kept an appointment Monday night to speak at the opening banquet of the Frankfurt Auto Show. Before her talk, a dinner guest wished her congratulations. "There's not much to congratulate me for," she responded candidly, knowing she had frittered away a lead in the polls that had been as much as 18 percentage points and finished just shy of a percentage point ahead (35.2% to 34.3%) of a chancellor whose legacy is nearly the highest unemployment and lowest growth rates in Europe.

That was far short of what it would take to build a government with her coalition partners, and the party's second worst return ever. She then stood before the Frankfurt car crowd and delivered a dry speech on transportation policy, as if to confirm her failing political instinct. Very briefly, before talking about the Autobahn and articulated filters, she expressed regret that she didn't get the mandate she wanted for economic change, but promised she would push for it anyway. As to forming a government, she told the crowd of Germany's business elite, the core of her political support, "I can assure you that we are going to get this over as quickly as possible."

She has no other choice.

Political insiders say moving quickly to build a government is Angela Merkel's last chance of survival. Any delay will mean her political death, either by Chancellor Schroeder's hand or, just as likely, rivals within her own Christian Democratic party who

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have never been comfortable with the eastern German Protestant woman in a political leadership that is overwhelmingly male, western and Catholic. Indeed, there may have been method to the madness of Chancellor Schroeder's bellicose appearance on a post-election television show last night, leaving viewers shaking their heads in disbelief and prompting the Berliner Zeitung to interview a psychiatrist, who described Mr. Schroeder's outburst as an "infantile reaction." The chancellor loudly declared himself the winner, though he had lost, and that "his" Social Democrats would never join a grand coalition with Ms. Merkel.

A Social Democratic party insider said Mr. Schroeder's game plan is increasingly clear. He will plant so many obstacles to Ms. Merkel's ability to form a coalition that she is forced to throw up her hands and call for new elections. Having regained so much ground in the final weeks of the election, Mr. Schroeder believes the momentum would then be his. The men-in-waiting of the Christian Democratic party – leading provincial governors who have never favored Ms. Merkel – would likely take out their long knives and try to replace her before the next vote.

Yet what is behind Ms. Merkel's decline? And who, besides Ms. Merkel, will be this election's losers?

The truth is that Merkel's injuries have been largely self-inflicted. Germans were no less against change when they put her significantly ahead of Mr. Schroeder throughout most of the period after he called for early elections in May. They know the country is in trouble, but weren't sold that Ms. Merkel was its salvation.

German leaders traditionally have inspired trust (Konrad Adenauer, Helmut Kohl, Helmut Schmidt). They have also led through charisma (Willy Brandt). Yet Ms. Merkel neither inspired German voters nor charmed them during her campaign. It didn't help that she is a woman in a society where women have never held the country's highest political position nor its top chief executive jobs, and Christian Democratic pollsters to the end weren't sure what impact this would have on legendarily conservative German voters. Mr. Schroeder used comparisons of Ms. Merkel to Margaret Thatcher as a way to frighten voters – among whom the British leader isn't respected for how she remade her country economically but rather is seen as harsh and "unsozial."

Growth isn't as great an allure to most Germans as stability.

Ms. Merkel's problem among German voters, however, wasn't that she was too strong. Rather, the criticism heard most often about her yesterday in the wake of her moral defeat was that she was "wishy-washy" (pronounced, in German, vishy-vahshy), that she was a purveyor of zigzag politics. It wasn't so much that Germans in such great numbers opposed reform, but rather she hadn't convinced them she could guide it.

The biggest misstep of the campaign came in how she managed her choice as top economic adviser, Paul Kirchhof, who during the campaign called for a flat tax of 25% on all incomes. Though Ms. Merkel had chosen him, she at first appeared to distance herself from Mr. Kirchhof, then support him, in the end leaving voters not quite sure how she felt about him. In the campaign's final days, she brought onto the team long-time party rival Friedrich Merz, an economic expert whose views are more palatable to most Germans. Mr. Kirchhof resigned yesterday from Ms. Merkel's shadow cabinet, the party's first sacrifice.

"She failed to project and convince," said Jeffrey Gedmin, director of the Aspen Institute Berlin. "She didn't convince voters she had the plan and the capability."

The other losers from Germany's political stalemate will be the European and world economy. In the wake of this month's election victory for Japanese Prime Minister Junichiro Koizumi, who ran on an economic-change agenda, investors began to speak of a potential "Angela Koizumi" impact. Their argument was that the world economy has been running on just two cylinders -- the U.S. and China -- and that the two September elections could get all four cylinders pumping, as Germany could shift Europe.

"It's going to be a very unsettling period," said John Kornblum, a former U.S. ambassador to Germany who heads the Berlin office of investment bank Lazard Freres. "Business doesn't like insecurity and uncertainty."

Yet the German stock market index fell only 1.4% yesterday, and some investors are speaking of a buying opportunity. What they understand is that Germany's failing reforms have made the country a two-speed economy. Even as the German economy overall has seen slow growth, many of its companies have responded to global competition by cutting costs and become among the world's healthiest competitors. They've also lowered labor costs as individual unions, hoping to hold onto their remaining jobs, have grown more compromising. And as those German corporations build up profits, they are buying up companies in healthier economies.

Just today Deutsche Post announced it would buy British rival Excel for 3.7 billion pounds, or $6.72 billion. Early this month, the German utility company E.on confirmed a planned 10 billion pound bid for Scottish Power. It is already the owner of Powergen, the U.K.'s second largest electricity provider. Ms. Merkel is unlikely to become Germany's Maggie Thatcher, but her country's companies are investing in the more liberal economy Ms. Thatcher helped create.

Germany's companies have learned that their challenge is global and not domestic, and they will move if their country won't. It was a message that Angela Merkel tried to carry to the German voter albeit unsuccessfully, telling The Wall Street Journal early in the campaign that her country could no longer redistribute what it didn't produce. The fact that she failed to

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convince German voters that she could best lead them won't change the economic forces that were at the center of her message.

Colombian Violence Spills Over (WT)

By Sharon Behn

The Washington Times, September 20, 2005

URENA, Venezuela -- Colombian paramilitaries and Marxist guerrillas are running kidnapping, extortion and smuggling rackets as they infiltrate Urena and other communities near Venezuela's border, residents and officials say.

"There are more and more FARC in Apure and in Tachira [two western border states of Venezuela] present in the communities, and they are recruiting," said Virginia Trimarco, regional representative of the U.N. High Commissioner for Refugees (UNHCR).

"That makes people inside the country, and the Venezuelans, worried about security and selective killings," she said, near the end of four years of working in Venezuela and more than 20 years in Latin America.

FARC is the acronym in Spanish of the Revolutionary Armed Forces of Colombia, a guerrilla army founded in 1964 by the Communist Party of Colombia.

On the outskirts of this hot, dusty town several hundred yards from the border, Colombian refugees fleeing the violence take shelter in dusty shacks of paper and branches.

Mrs. Trimarco estimates there are about 1.5 million Colombian refugees now living on the Venezuelan side of the border. Government estimates are as high as 3 million, and nongovernmental organizations have put the number as low as 350,000.

Venezuelan cattle ranchers and a local state official -- who asked not to be named -- said the government of President Hugo Chavez turns a blind eye to FARC guerrillas operating in Venezuela, pushed to the border by the success of the U.S.-backed Plan Colombia, aimed at eradicating the cocaine trade in Colombia that funds the rebels.

Right-wing Colombian paramilitaries are not far behind them, running "protection" operations.

Restaurant owners, taxi drivers and even Colombian refugees are forced to pay what is locally known as a "vaccination" -- money to protect themselves from these armed groups.

The FARC's favorite fundraisers are kidnapping for ransom and cocaine trafficking. Venezuela is a major transshipment point for Colombian cocaine headed for the United States and elsewhere.

Illicit commerce rife

"There is arms trafficking, drug trafficking, people trafficking," said Mrs. Trimarco, one of the few officials ready to speak out about what many in these border towns will say only in private.

"The situation is slipping out of their control. Nobody wants confrontation or war, but the military are worried," she said.

Much of the violence is invisible. Villages of whitewashed houses with red-tiled roofs clinging to the sides of the Andean foothills appear idyllic, but cafes are guarded with shotguns at night and drivers head home after 11 p.m.

"As [Colombia's President Alvaro] Uribe pushes his war and illegal armed groups to the borders, they are moving over the borders, and moving their [cocaine] labs into neighboring countries," said Mrs. Trimarco.

"The border areas are heavy with conflict between the illegal armed groups fighting for turf," she said.

Venezuelan ranchers reportedly sometimes hire Colombian paramilitaries to protect themselves -- either from the FARC or from rural workers trying to invade their land. Even so, in towns like San Cristobal, there are daily kidnappings and assassinations; the local La Nacion newspaper even runs a daily kidnapping column.

More obvious is the daily gasoline-smuggling operation at popular border crossings like San Antonio de Tachira, which leads to the bustling shopping town of Cucuta in Colombia.

Hundreds of beat-up Dodges, Fords and Chevrolets from the 1970s -- the period of Venezuela's last oil boom -- make the crossing every day, carting as much as 100 extra gallons of gasoline in specially built tanks.

Gasoline in Venezuela costs about 18 cents per liter -- 72 cents a gallon -- but about 85 cents per liter -- $3.40 per gallon -- in Colombia. In addition to being a motor fuel, gasoline is also used in the processing of cocaine.

Moms, children hide

Colombian women who have survived the killings of their villages come straggling over the border with numerous children in tow. They settle in dusty shantytowns like El Cuji on the outskirts of Urena, and until they get Venezuelan papers, they are not allowed to travel more than 10 kilometers [about 6.2 miles] from the border.

Their shacks are not much more than mud and paper, sometimes just plastic bags and empty flour sacks glued together and held up on sticks above the dirt floor. Many of the children suffer from respiratory diseases and blisters from the unsanitary conditions.

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Local government officials fill each family's drum with water, but it runs out fast, and families are forced to cope. The lucky ones, whose children or newfound husbands do underpaid work in small factories nearby, pool their money to buy extra water.

The UNHCR, along with Caritas and Jesuit Relief Services, two Roman Catholic charity groups, struggle with meager resources to integrate the asylum seekers into the Venezuelan community and process their claims. But many of the Colombians streaming across the border are too afraid to identify themselves.

"There is a great degree of insecurity, because of the high rate of murder and crime" all along the border, said Jenncy Penaranda, a UNHCR protection assistant. The husband of one woman seeking help was slain last month on the dirt track outside his home, she said.

A 34-year-old mother of seven bathed her youngest child, who stood naked in a cement wash tub, using a small plastic pail to pour water over the crying child, trying to keep her children clean to prevent the diarrhea and skin diseases that plague many people here.

"I came from Colombia four years ago because of the violence," said the mother afterward, as she balanced one of a pair of twin girls on her knee while sitting on a broken chair. She asked that her name and those of her children not be used.

"I lived in a village far from the border, but my kids were in danger," she said, light brown hair blowing around her face. "They would cut off people's ears. I was so scared I could not even sleep."

One of her young sons added from behind his mother's shoulder: "And cut their tongues out." Life for this young mother and other families nearby is measurably better, she said. But the guerrillas and paramilitaries that tortured and killed their fathers, brothers and husbands have not disappeared with their move to Venezuela.

Her husband works in a furniture factory, earning the equivalent of $10 per week, barely enough for water and food for the family of nine. A teenage son manages to bring home about $2.50 a week in bolivars for working in a motorbike maintenance shop.

'Slow procedure'

"There is no safety," said the mother. "Anyone can come here and rip the wall," she said, gesturing at the burlap bags and tin roof beside her.

"We also pay the 'vaccination' here for protection," she added when the UNHCR representatives were out of earshot. "Someone comes to pick up the money."

Government commissions have dealt with 700 asylum requests in the past two years, and only 300 applicants were considered refugees, said Mrs. Trimarco in her office in Caracas.

"It is a very slow procedure, but they are slowly getting better. At this pace, we will not meet the needs," she said.

And the needs increase every day as the guerrillas and paramilitaries penetrate deeper into the border towns, not only of Venezuela, but also of neighboring Brazil and Ecuador, said Mrs. Trimarco.

Rights Report Details Uzbek Crackdown After Uprising In May (NYT)

By C. J. Chivers

The New York Times, September 20, 2005

MOSCOW, Sept. 19 - The government of Uzbekistan, stung by the outcry in the West over its bloody suppression of a prison break and anti-government demonstration in May, has engaged for months in a ferocious crackdown against those who have tried to expose the brutality, says a report released Monday by a prominent human rights organization.

The report, by Human Rights Watch, the New York-based organization, says the crackdown included widespread arrests, threats and harassment and was directed at witnesses, survivors, human rights defenders, journalists and political workers.

The report says that some victims have been beaten and that some have been forced to issue scripted confessions on state television, saying they were misled into attending the anti-government demonstration and begging for forgiveness from President Islam A. Karimov.

While many elements of the crackdown have previously been described, including the indefinite detention of human rights workers and intense coercion against the families of refugees who fled Uzbekistan after the demonstration, the report was the most thorough description to date of the crackdown in one of the most autocratic of the former Soviet states.

It also framed the crackdown in the larger context of the unease Uzbekistan's leadership has displayed since revolutions in Georgia, Ukraine and Kyrgyzstan have swept aside other corrupt and clannish post-Soviet leaders.

Mr. Karimov "fears he is the next domino," Kenneth Roth, the executive director of Human Rights Watch, said in a telephone interview. He said the crackdown was not merely an attempt to airbrush the ugliest event in recent Uzbek history, but also a program to stifle dissent and the development of civil society.

The uprising in the northeastern city of Andijon, which survivors said was smashed by fusillades of gunfire in the hours after it began on May 13, ended with the deaths of hundreds of civilians, according to survivors' accounts and previous

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investigations by journalists and independent organizations, including the Organization for the Security and Cooperation in Europe and Human Rights Watch.

Uzbekistan has so far resisted Western calls for an open international investigation into the origins of the uprising and the Uzbek actions to disperse it.

Instead, it has described the uprising as the work of international Islamic terrorists. It has also shifted its foreign relations, aligning more closely with Russia and China. It has issued an eviction notice to the United States for an air base near the Afghan border that the Americans have used since 2001.

Mr. Karimov, a former Soviet bureaucrat who has ruled Uzbekistan since its independence in 1991, has also suggested that Western governments have worked surreptitiously to overthrow him and even collaborated with the possible terrorists. He further said that Western journalists had advance knowledge of the uprising, as if they, too, were agents of some foreign plot.

He has offered no proof for his accusations, and his government was silent about the report on Monday.

Telephones at the Foreign Ministry's information office in Tashkent, the Uzbek capital, were not answered or were busy, as has often been the case since May 13. When a correspondent called the Uzbek Consulate in New York and inquired about the report, the employee who answered promptly hung up.

Uzbekistan Accused Of Coercion In Protest Probe (WP)

By Peter Finn

The Washington Post, September 20, 2005

MOSCOW, Sept. 19 -- The Uzbek government has detained and questioned hundreds of people in a campaign of intimidation aimed at securing testimony that backs its version of events about the killing of demonstrators in the city of Andijan in May, according to a new report by Human Rights Watch.

"Police and security agents threatened or severely beat many of those detained in order to coerce them to confess to belonging to extremist religious organizations and bearing arms while participating in the May 13 protest," the New York-based advocacy organization said in an 81-page report titled "Burying the Truth: Uzbekistan Rewrites the Story of the Andijan Massacre."

The first 15 people charged with organizing an armed revolt in Andijan were to go on trial Tuesday in the Uzbek capital, Tashkent. Prosecutors allege that the 15 were part of a broad conspiracy, financed from abroad, that was designed to overthrow the government and replace it with an Islamic state. Prosecutors said another 106 people may face similar charges.

The deputy chief prosecutor, Anvar Nabiyev, said last week that "external destructive forces" had given organizers of the revolt $300,000. He said two-thirds of it came from the Islamic Movement of Uzbekistan, a group listed as a terrorist organization by the U.S. government.

Human rights groups charge that government forces killed hundreds of unarmed civilians in Andijan after a day of protests that were largely driven by anger over poverty and government repression. The protests began when armed men freed 23 prominent businessmen from a local prison early on May 13; the men were on trial for alleged membership in a banned Islamic group.

The mass killing led to international demands for an independent investigation, but the Uzbek authorities rejected those calls, leading relations with the United States, among other Western countries, to sour. Uzbekistan ordered the U.S. government to remove its forces from an airfield the Pentagon was using to support operations in Afghanistan.

After the mass killing, Andijan was effectively closed to outsiders, and locals were warned not to talk about the incident. Many people were visited at home by neighborhood committees. The government announced that 187 people were killed and 287 wounded in the violence, and it said most of them were terrorists.

"It was in this atmosphere of fear that the authorities detained hundreds -- and perhaps thousands -- of people in Andijan with the purported aim of obtaining testimony about the crimes committed on May 13, as the government has defined them," Human Rights Watch said.

The government has also arrested human rights workers, journalists and political activists who attempted to investigate the killings. At least 11 activists have been detained and another 15 have been forced into exile, according to Human Rights Watch. One long-time activist, Saidjahon Zainbitdinov, who was widely quoted after the killings, has been in prison since May 21 on charges of terrorism and sowing panic among the population.

In Tashkent and other cities, human rights activists have been the target of "hate rallies and other public denunciations in which local community leaders vilify them, calling them Islamic extremists and enemies of the people, and mobs attempt to run them out of town," according to Human Rights Watch.

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The organization called on the United States to freeze any remaining military and counterterrorism assistance to the Uzbek military and said the European Union should suspend assistance to the country. The United States and the E.U. should also stop issuing visas to senior members of the Uzbek government, the group said.

Lining Up To Be Raped? (NYT)

By Nichola D. Kristof

The New York Times, September 20, 2005

Our close ally President Pervez Musharraf of Pakistan visited the U.S. last week and fretted aloud about a surprising problem: The "easiest way" for Pakistani women to make money is to get raped, he said, so they're lining up to be raped and thus making him look bad.

That's right. He's nuts.

"You must understand the environment in Pakistan," The Washington Post quoted him as saying. "This has become a moneymaking concern. A lot of people say if you want to go abroad and get a visa for Canada or citizenship and be a millionaire, get yourself raped."

That comment got Mr. Musharraf in hot water. So over the weekend, Mr. Musharraf denied that he had ever said any such thing - noting that if he had, he would have been "stupid."

True.

The Washington Post reviewed its tapes and reported that it had quoted him correctly. It also added an additional quote from the same interview, in which Mr. Musharraf spoke of rape as an avenue to riches: "It is the easiest way of doing it. Every second person now wants to."

Sexual violence has become a sensitive issue for Mr. Musharraf because of the pioneering work of women like Mukhtaran Bibi, whom a tribal council sentenced to be gang-raped as a way to punish her brother - and who then used her compensation money to start schools and launch a nationwide anti-rape campaign. After I wrote about her last year, Times readers sent her a total of $160,000, which she is using to start an ambulance service, operate schools and campaign for women's rights.

Fearing that Ms. Mukhtaran's anti-rape campaign would make his country look bad, General Musharraf barred her from traveling to the U.S. to attend a conference. When she protested to me and others, the government kidnapped her to keep her from complaining, releasing her only after Condi Rice raised the issue with the Pakistani government.

Then in July and August, I wrote about Dr. Shazia Khalid, a Pakistani physician whom the authorities drugged, put in a mental hospital, threatened to kill and finally exiled to keep her from recounting her rape.

The latest victim to come forward is Sonia Naz, a 23-year-old woman whose husband disappeared. Desperate, she went to the National Assembly building in Islamabad to see if she could get help. Then, she says, the police arrested her and repeatedly stripped her, raped her and beat her.

Embarrassed by these revelations, Mr. Musharraf held a conference in Pakistan this month on women's issues. He wore a necktie with blue and pink, which he said could reflect cooperation between men and women - and then he denounced Dr. Shazia.

Here in New York on Saturday, General Musharraf held a meeting with an invited audience to show himself off as a sensitive man. The meeting started awkwardly when he tried to demonstrate his feminist credentials by saying he opposed violence against women because it's unchivalrous toward the weaker sex. Then, in response to skeptical questions, Mr. Musharraf lost his temper, shouting at audience members and threatening to "get" anyone who exposed Pakistan's problems to the world.

"He totally lost it," said Yasmeen Hassan, a Pakistani lawyer in New York who was present. "It's so unbecoming of a president to get into shouting matches, and to say, 'I'm going to get you.' "

Meanwhile, activists in Pakistan say that the government is stepping up its harassment of women's groups. I tried to phone Ms. Mukhtaran yesterday, but the government seemed to be blocking international calls to her line. Finally I was able to interview her by a circuitous route. She said that all her mail is now intercepted and that the government had just transferred away two senior police officials who had supervised her bodyguards and tried to protect her.

"I feel insecure and controlled," she said.

The irony is that while he's a nitwit on social issues, General Musharraf has proved himself to be a good economic manager, and the 7 percent growth rates generated by his reforms will help undermine fundamentalism and sexual violence in the long run. During his visit, Mr. Musharraf pressed for a free-trade area between the U.S. and Pakistan, and that's a great idea to promote Pakistan's development.

So let's give Mr. Musharraf a free-trade deal - but only on the condition that he clamp down not on Pakistani women fighting against rape, but on Osama bin Laden.

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For more information on Mukhtaran Bibi, Shazia Khalid and other rape victims from Pakistan, visit www.4anaa.org or www.equalitynow.org.

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McKenzie, Peggy (CIV)

From:	McKenzie, Peggy (CIV)
Sent:	Tuesday, September 20, 2005 11:13 AM
To:	/o=USDOJ/ou=CIVIL/cn=Recipients/cn=Mailboxes/cn=CLynch; Agarwal, Asheesh; Allen, Gary (CIV); Bahr, Dorothy (CIV); Baxter, Felix (CIV); Bordeaux, JoAnn (CIV); Bucholtz, Jeffrey (CIV); Calvert, Chris (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davis, Deborah J; Eubanks, Sharon (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Fishback, David (CIV); Fisher, Barbara (CIV); Flentje, August (CIV); Fowler, Liane (SMO); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Goldberg, Arthur (CIV); Gorsuch, Neil M; Gray, Towanda (CIV); Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jennings, Geraldine (CIV); Katsas, Gregory (CIV); Keener, Donald (CIV); Kent, Alexander (CIV); Kohl, Christine (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Liner, Linda (CIV); Lloyd, Shirley (CIV); Lucas, Regina (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Schiffer, Stuart (CIV); Shaw, Aloma A; Swenson, Lily F; Thirolf, Eugene; Williams, Angela (CIV); Williams, Toni (CIV); Willis, Kerry (CIV); Zwick, Ken (CIV)
Subject:	9/20 CIV Weekly Report to the AG
Attachments:	CivDivWkly0920.wpd

U.S. Department of Justice

Civil Division

Assistant Attorney General *Washington, D.C. 20530*

September 20, 2005

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE ACTING DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Peter D. Keisler
Assistant Attorney General
Civil Division

SUBJECT: Civil Division Weekly Report to the Attorney General

A. NEXT WEEK

- ***Government's Brief Due in Case Challenging Defense of Marriage Act***
  Smelt v. County of Orange [9th Cir.]. Plaintiffs Arthur Smelt and Christopher Hammer filed this suit against California state government entities and officials seeking to enter into a same sex marriage, and also challenged provisions of the federal Defense of Marriage Act. The United States intervened to defend the federal law, and the district court upheld the definition of marriage included in the Act. Plaintiffs appealed, and on September 28, the United States will file its brief in the Ninth Circuit defending the constitutionality of the Act.

B. THIS WEEK

- ***Court Sets Schedule for Resolution of Remaining Claims in Energy Task Force Freedom of Information Act Case***
  Judicial Watch v. Department of Energy, et al., *Natural Resources Defense Council v. Department of Energy*, and *Natural Resources Defense Council v. Department of Interior, et al.* [District of Columbia]. On September 13, Judge Paul Friedman

convened a status conference in these consolidated Freedom of Information Act cases seeking documents relating to the work of the National Energy Policy Development Group. At the status hearing, Judge Friedman accepted the parties' joint proposal for resolving all remaining claims. On September 20, the Department of the Interior will complete its re-processing of a group of 29 documents designated by the Plaintiffs. On October 3, the Department of the Interior and the Council on Environmental Quality will complete processing of all documents created by Bureau of Land Management employee Ronald Montagna while he served on the White House Task Force on Energy Project Streamlining. On November 3, the parties will file a joint status report with an agreed-upon briefing schedule for attorneys' fees.

C. LAST WEEK

- ***Fifth Circuit Holds that the Unauthorized Disclosure of a Document Prepared by the National Drug Intelligence Center Implicates the Privacy Act***
  Jacobs v. National Drug Intelligence Center, et al. [5th Cir.; Southern District of Texas]. On August 25, the Fifth Circuit (Reavley, Jolly, Prado) reversed the grant of summary judgment to the government in this action under the Privacy Act and remanded for further proceedings. Plaintiff seeks damages for the unauthorized disclosure of an Executive Summary prepared by the National Drug Intelligence Center in connection with a report concerning an alleged drug trafficking organization. The Executive Summary was not itself stored in a "system of records" within the meaning of the Privacy Act, but the court of appeals nonetheless concluded that the statute was triggered because information about the plaintiff that formed part of the Executive Summary had been retrieved from a system of records.

- ***D.C. Circuit Dismisses as Moot Appeal from Order Granting Writs of Execution Against Iranian Consular Bank Accounts***
  Rubin v. Islamic Republic of Iran [D.C. Cir.; District Court for the District of Columbia]. In a per curiam order issued on September 1, the D.C. Circuit (Sentelle, Henderson, Garland) granted a motion filed jointly by the parties and dismissed as moot the cross-appeals in this case. The Government appealed from a district court's order denying the Government's motion to quash writs of execution issued to judgment-creditors of Iran against two Iranian consular bank accounts that the United States was protecting under its international obligations. After plaintiffs disavowed any interest in pursuing their interest in the writs, the parties filed a joint motion seeking to dismiss the appeals and to vacate the writs of execution as moot. Although the court of appeals dismissed the appeals as moot, it remanded to the district court for consideration whether to vacate the writs.

- ***$1,108,852 Collected For Transtechnology Corp. Fraud Settlement***
  United States of America ex rel. Lorenzo Marrero v. Transtechnology Corporation and Breeze-Eastern, Inc.[D.N.J.]. On September 6, Transtechnology agreed to make installment payments of $1,108,852 to the United States in final settlement of the United States' fraud claims against Transtechnology Coroporation and its sole division, Breeze-Eastern, Inc., to settle allegations raised in a *qui tam* action that Breeze-Eastern failed to properly perform helicopter hook and rescue hoist repairs for the United States.

- **Seventh Circuit Determines That Wealthy Colombian Landowners Constitute A "Particular Social Group"**
  Orejuela v. Gonzales [7th Cir.]. On September 8, the Seventh Circuit reversed the Board's denial of asylum and withholding of removal to Colombian alien. The Immigration Judge determined that death threats from a Colombian guerilla group were based on the aliens' wealth, which was insufficient to show persecution on account of a statutory ground, and the Board affirmed without opinion. The Court held that the aliens' status as "wealthy landowners" constituted a "particular social group" in the context of the Colombian class- and wealth-based internal conflict, and remanded to the Board for further proceedings consistent with its opinion.

- ***Sixth Circuit Reverses District Court Order Setting Aside Attorney General's Scope of Employment Certification and Remanding Suit to State Court***
  Osborn v. Haley; Gaye Luber; Land Between the Lakes Association, InCorporation [6th Cir.; Western District of Kentucky]. In a decision issued on September 8, involving the Westfall Act, the Sixth Circuit (Cook, Moore, Gwin, D.J.) reversed a district court order rejecting the Attorney General's certification that a federal employee acted within the scope of his office or employment at the time of the incident out of which a plaintiff's tort claim arose and remanding the suit to state court for further proceedings. Initially, the court concluded that the Westfall Act does not require a district court to accept as true a plaintiff's claim that some harm-inducing incident occurred. Second, it held that, even if the district court rejects the certification as a substantive matter, the action must still remain in district court because the certification under the Westfall Act shall conclusively establish scope of office or employment for purposes of removal.

- ***Settlement of United States' Medicare Secondary Payer Claims Arising Out Of Exposure to PCB's Approved***
  Tolbert v. Monsanto [Northern District of Alabama]. On September 8, 2005, Judge Clemon approved a settlement between the administrator of the Tolbert Qualified Settlement Fund and the Department of Health and Human Services that will resolve the United States' Medicare Secondary Payer claims against approximately 1,800 Medicare beneficiaries who are receiving settlements in two cases against Monsanto Company and Pharmacia Corporation. The plaintiffs asserted in their litigation that the companies' release of PCB's over a fifty-year period had caused a variety of medical ailments. Pursuant to the settlement agreement, the United States will receive approximately $2,000,000, which is 10 percent of the amount awarded to most Medicare beneficiaries.

- ***Federal Circuit Affirms Trial Court's Decision Awarding No Damages To Spent Nuclear Fuel Plaintiff***
  Indiana Michigan Power Co. v. United States [5th Cir.] (Mayer, Lourie, Bryson). On September 9, 2005, the court affirmed the trial court's decision awarding the plaintiff no damages for the Department of Energy's delay in beginning spent nuclear fuel acceptance under a standardized contract. The plaintiff claimed that, because Energy had not begun spent fuel acceptance by the statutory and contractual deadline of January 31, 1998, Energy has partially, but not totally, breached the contract. On appeal, the appellate court found that, although plaintiffs in the spent nuclear fuel cases are entitled to pursue damages claims for mitigation costs pre-dating Energy's partial breach, the trial court had

properly found that the plaintiff here had not established causation for any pre-breach costs. The appellate court also found that, in a partial breach case, the plaintiff is only entitled to recover damages that have been actually incurred by the date that it filed its suit and that any future costs incurred because of partial breaches may only be sought in future suits after the costs are incurred. Accordingly, it affirmed the trial court's decision to award no future damages.

- ***Merit Systems Protection Board Upholds Removal of Immigration Judge***
Levinsky v. Department of Justice [Merit Systems Protection Board]. On September 9, the Board granted the Department of Justice's petition for review. The Executive Office for Immigration Review had charged Mr. Levinsky, an Immigration Judge, with repeatedly using ethnically insensitive generalizations and profanity in the courtroom, and had removed him from his position. Mr. Levsinky appealed the removal. In June 2004, after a four-day evidentiary hearing, an Administrative Judge upheld the agency's charges against Mr. Levinsky but mitigated the penalty to a 60-day suspension. The Department of Justice filed a petition for review, and in its September 9 decision, the Merit Systems Protection Board sustained the penalty of removal. The Board found that the agency reasonably doubted Mr. Levinsky's potential for rehabilitation, given his history of responding to informal warnings by co-workers with only temporary improvements in behavior. The Board emphasized the nature and seriousness of Mr. Levinsky's offense, given that his position as an Immigration Judge required him to avoid even the appearance of any ethnic bias.

- ***En Banc Ninth Circuit To Hear Case Striking Down Regulation Authorizing Summary Reinstatement Of Prior Removal Orders***
Morales-Izquierdo v. Ashcroft [9th Cir.]. On September 12, the Ninth Circuit granted the government's petition for rehearing en banc in this case, in which a panel of the Court, in a published decision struck down as *ultra vires* a regulation prescribing procedures for an immigration officer to summarily reinstate a prior removal order against a recidivist alien who has illegally reentered the country after previously having been removed or voluntarily departed under a removal order. That decision also required reinstatements to take place in full removal hearings before immigration judges.

- ***Sixth Circuit Holds that Section 3 of the Religious Land Use and Institutionalized Persons Act of 2000 is Permissible Spending Clause Legislation***
Cutter v. Wilkinson [6th Cir.; Southern District Ohio]. On September 13, the Sixth Circuit (Moore, Gilman, Tarnow) held that section 3 of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) is a permissible exercise of Congress's Spending Clause powers and is not barred by the Tenth Amendment. Section 3 (42 U.S.C. § 2000cc-1) provides that no state or local government may impose a substantial burden on the religious exercise of an institutionalized person unless the government can show that the burden furthers a compelling governmental interest by the least restrictive means. The court of appeals' decision is consistent with prior rulings of the Seventh and Ninth Circuits.

- ***Second Circuit Affirms Dismissal of an Americans With Disabilities Act Claim Seeking to Compel Medicaid Reimbursement for Costs of Care at a Specific "Assisted Living" Facility***

Leocata v. Department of Social Services [2d Cir.; District of Connecticut]. On September 13, in an unpublished order, the Second Circuit (Walker, Jacobs, Hall) affirmed the dismissal of plaintiff's claim that the "reasonable accommodation" requirements of the Americans With Disabilities Act, as interpreted in *Olmstead v. L.C. by Zimring*, 527 U.S. 581 (1999), compelled the State of Connecticut to cover all costs necessary for her to remain in a specific assisted living facility, even though Medicaid generally covers such costs only in nursing facilities. Accepting our arguments, the court held that the plaintiff could not obtain the relief she sought (Medicaid coverage for room and board at a specific assisted living facility) because (1) applicable Medicaid waiver provisions do not allow coverage of "room and board" costs, and (2) the facility where she sought to remain was not a participant in the Medicaid waiver program and thus could not accept Medicaid funding in any event.

- ***District Court Strikes Down Pledge of Allegiance on Establishment Clause Grounds***
Newdow v. The Congress of the United States et al. [Eastern District of California]. On September 14, Senior Judge Lawrence Karlton held unconstitutional the practice of several California school districts of reciting the Pledge of Allegiance in public schools. Plaintiff Michael Newdow had challenged the Pledge's recitation in previous litigation, and, in February 2003, the Ninth Circuit had held unconstitutional, under the Establishment Clause, the policy of Elk Grove School District of reciting the Pledge. The Supreme Court, however, reversed that ruling in June 2004, holding that Newdow lacked standing to pursue the case -- he did not have custody of his daughter who attended public school. In this case, however, Newdow has been joined by other parent-plaintiffs. Judge Karlton found that those other plaintiffs had standing to challenge the various school districts' Pledge recitation policies. Judge Karlton then found that he was "bound" by the Ninth Circuit's prior ruling, reasoning that the Supreme Court's reversal of that ruling had been based on "prudential standing" grounds, not on Article III jurisdictional grounds. Judge Karlton did not reach the separate issue of plaintiffs' challenge to the Pledge of Allegiance statute; because he held that the school districts' practices are unconstitutional and must be enjoined, Judge Karlton stated that once an injunction enjoining the school districts' recitation practices is entered, any claims relating to the federal statute will be moot.

- ***District Court Dismisses Establishment Clause Challenge to Inaugural Prayer***
Newdow v. Bush, et al. [District of Columbia]. On September 14, Judge John D. Bates granted defendants' motion to dismiss plaintiff Michael Newdow's complaint. Mr. Newdow, a professed atheist, sought to prevent President Bush from having prayers recited by invited clergy at the 2005 Presidential Inauguration. In dismissing Newdow's complaint, the Court found that Newdow was precluded from relitigating his standing to assert his claim due to the Ninth Circuit's rejection of Newdow's prior challenge to inaugural prayer in connection with President Bush's 2001 Inauguration. Judge Bates also determined that, aside from preclusion, Newdow did not have standing to assert his claims in the present case because he did not have a personal connection to the Inauguration, and thus lacked a sufficient injury in fact.

- ***District Court Awards Both Record Civil Penalties and Disgorgement for Telemarketer's Violations of a Consent Decree and the Telemarketing Sales Rule***

United States v. Richard L. Prochnow [Northern District of Georgia] (Forrester). On September 14, 2005, the court awarded the United States $4,911,730.00 in civil penalties and $2,461,305.00 disgorgement plus interest for Prochnow's violations of a Consent Decree and the Telemarketing Sales Rule. This is a record civil penalty award for the Federal Trade Commission's Bureau of Consumer Protection. In assessing civil penalties, the court rejected Prochnow's efforts to portray himself as an absentee business owner and specifically found that Prochnow indeed directed the company's telemarketing activities. The court awarded disgorgement because the evidence established that Prochnow used misleading and deceptive practices to get consumers to purchase the magazines and to prevent them, unless they filed a complaint with the Better Business Bureau or law enforcement authorities, from cancelling them

- ***Eleventh Circuit Grants Petition for Permission to Appeal in Anthrax Tort Case***
Stevens v. United States [11th Cir.; Southern District of Florida]. On September 14, the Eleventh Circuit (per *curiam*: Birch, Black, Pryor), granted the government's petition for permission to appeal under 28 U.S.C. § 1292(b), allowing interlocutory review of a district court decision denying the government's motion to dismiss a case brought under the Federal Tort Claims Act under Florida law. The claim seeks to hold the United States liable for the death of Robert Stevens, a photo editor in Florida who was one of the first victims of the anthrax attacks in Fall 2001; the case is extremely sensitive because the investigation into the attacks is ongoing and could be disrupted by discovery and trial in this civil lawsuit. The court of appeals will consider the government's argument that Florida law imposes no duty of care on a laboratory operator to prevent a third party attacker from obtaining a dangerous substance from the laboratory and then using it as a weapon in a criminal activity.

- ***District Court Upholds Asset Freeze Against Islamic Charity Designated as Terrorist Organization***
Islamic American Relief Agency v. Unidentified Federal Bureau of Investigation Agents, et al. [District of Columbia]. On September 15, Judge Reggie B. Walton ruled in favor of the government on all pending motions, including the government's motion for summary judgment. The Treasury Department's Office of Foreign Assets Control (OFAC) had designated plaintiff, a purported charity based in Columbia, Missouri, as a "Specially Designated Global Terrorist" under the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-1707, and Executive Order No. 13,224. On the same day as Office of Foreign Assets Control's designation, the Federal Bureau of Investigation and other law enforcement agencies executed a criminal search warrant against the Missouri organization. Plaintiff challenged both the Office of Foreign Assets Control and Federal Bureau of Investigation actions on a variety of statutory and constitutional grounds. Judge Walton had previously denied plaintiff's motion for a preliminary injunction to unblock its assets, and with this most recent opinion, Judge Walton: (1) granted the government's motion for summary judgment, finding that "the agency's decision to block the Islamic American Relief Agency-United States of America's assets was not arbitrary and capricious, but is in fact supported by substantial evidence in the record and warranted by the facts contained therein," as well as finding no constitutional violations; (2) granted the government's motion to dismiss the individually named defendant, finding lack of personal jurisdiction; (3) denied plaintiff's motion for reconsideration of the Court's denial of its motion for preliminary injunction; and (4) denied plaintiff's motion for attorney's fees from blocked funds, finding that the claim had not been properly pled.

- ***Court of Federal Claims Awards $436 Million In* Winstar-*Related* Case**
  Long Island Savings Bank, FSB v. United States [Federal Claims]. On September 15, 2005, following a five-week trial, the Judge Lettow awarded cost-of-replacement damages in the amount of $252 million and incidental damages in the amount of $17.7 million. Plaintiffs had originally sought expectancy damages of $696.3 million. The court also awarded a $165.5 million tax "gross-up" on the cost-of-replacement claim, concluding that the award would be taxed and that the "gross up" therefore was necessary to place the plaintiffs in the position they would have occupied but for the breach. The court rejected plaintiffs' additional claim for lost profits in the amount of $78 million and plaintiffs' claim for so-called "reduced initial public offering proceeds" in the amount of $97.4 million. Prior to trial, the court granted our motions for summary judgment with respect to plaintiffs' restitution claim of $548.4 million and reliance damages claim of $233 million.

- ***United States Settles Upcoding Case Against Georgia Hospital for a Recovery of $800,000***
  United States ex rel. Health Outcomes Technologies v. Candler Hospital [Southern District of Georgia]. The United States reached a settlement with a Georgia hospital in July concerning claims that the hospital assigned false codes to pneumonia patient hospitalizations in order to increase its reimbursement from Medicare; Judge Edenfield recently entered an order unsealing the matter.

Contact: August Flentje, Counsel, 514-3309

USDOJ- Office of Public Affairs

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, SEPTEMBER 21, 2005 7:45 AM EDT

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TERRORISM NEWS:

Pentagon Bars Military Officers And Analysts From Testifying (NYT)

By Philip Shenon

The New York Times, September 21, 2005

WASHINGTON, Sept. 20 - The Pentagon said Tuesday that it had blocked several military officers and intelligence analysts from testifying at an open Congressional hearing about a highly classified intelligence program that, the officers have said, identified a ringleader of the Sept. 11 attacks as a potential terrorist a year before the attacks.

The officers and intelligence analysts had been scheduled to testify on Wednesday about the program, known as Able Danger, at a hearing of the Senate Judiciary Committee.

Bryan Whitman, a Defense Department spokesman, said in a statement that open testimony "would not be appropriate."

"We have expressed our security concerns and believe it is simply not possible to discuss Able Danger in any great detail in an open public forum," Mr. Whitman said.

He offered no other explanation of the Pentagon's reasoning.

Senator Arlen Specter, Republican of Pennsylvania and chairman of the committee, said he was surprised by the Pentagon's decision because "so much of this has already been in the public domain, and I think that the American people need to know what happened here."

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Mr. Specter said in a telephone interview that he intended to go ahead with the hearing on Wednesday and hoped that it "may produce a change of heart by the Department of Defense in answering some very basic questions."

Two military officers - an active-duty captain in the Navy and a lieutenant colonel in the Army Reserve - have recently said publicly that they were involved with Able Danger and that the program's analysts identified Mohamed Atta, the Egyptian-born ringleader of the Sept. 11 attacks, by name as a potential terrorist by early 2000.

They said they tried to share the information with the Federal Bureau of Investigation in the summer of 2000, more than a year before the attacks, but were blocked by Defense Department lawyers. F.B.I. officials, who answer to the jurisdiction of Mr. Specter's committee, have confirmed that the Defense Department abruptly canceled meetings in 2000 between the bureau's Washington field office and representatives of the Able Danger team.

The Pentagon had said that it interviewed three other people who were involved with Able Danger and who said that they, too, recalled the identification of Mr. Atta as a terrorist suspect. Mr. Specter said his staff had talked to all five of the potential witnesses and found that "credibility has been established" for all of them.

Intelligence Team Members Ordered Silent In 9/11 Probe (WT/UPI)

By Shaun Waterman, United Press International

The Washington Times, September 21, 2005

Defense Department lawyers have blocked members of a data-mining intelligence team from testifying today before a congressional panel probing their claims that they identified the September 11 ringleaders as terrorists more than a year before the attacks.

The Senate Judiciary Committee sought testimony from several members of the team -- code-named Able Danger -- as part of an investigation into claims that the project identified Mohamed Atta and three of the other 18 hijackers as tied to al Qaeda in early 2000.

Mark Zaid, an attorney for Army Reserve Col. Tony Shaffer, said his client, a Defense Intelligence Agency liaison to the Able Danger team, was told in a letter not to testify.

The letter, which gave no reason for the order, was signed by the principal deputy general counsel for the Defense Intelligence Agency, Robert Berry.

Mr. Zaid said the team members "were told verbally that they would not be allowed to testify" and that the order was put in writing only with regard to his client at his request.

He said that the team leader, Navy Capt. Scott Philpott, civilian analyst James Smith and other members of the team had been denied permission to testify. A Judiciary Committee aide said panel staff members already have interviewed Capt. Philpott and Col. Shaffer.

No one at the Department of Defense or the Defense Intelligence Agency returned calls for comment yesterday.

Rep. Curt Weldon, the Pennsylvania Republican who first put the Able Danger team in contact with journalists, was concerned about the order, his staff said.

"It is unfortunate that we're trying to get answers ... and the people who could help us get them are not going to testify," said Russ Caso, the congressman's chief of staff.

At the center of the Senate committee's investigation is a computer-generated chart listing the names and connections of about 60 people thought to be linked to al Qaeda.

Capt. Philpott said that chart, produced in January or February 2000, bore the name and likeness of Atta and linked him to a Brooklyn mosque that has been a center of Islamic extremism for more than 20 years.

Capt. Philpott was the special operations officer who ran the effort, an intelligence-led initiative to use data mining on massive amounts of "open source" information culled from the Internet, purchased from credit rating bureaus or other data brokers, or by other means that remain classified.

Detainee Hunger Strike Prompts Request For Health Records Access (WP)

By Carol D. Leonnig, Washington Post Staff Writer

The Washington Post, September 21, 2005

Attorneys for several detainees at the U.S. military prison at Guantanamo Bay, Cuba, asked a federal judge for immediate access to their clients' medical records, saying they fear an eight-week-long hunger strike is growing more serious, according to court papers declassified yesterday.

Lawyers for a group of 17 Yemeni detainees told the court yesterday that, during an early August visit, some captives looked "gaunt and unwell" and that they fear their conditions have deteriorated. They complained to U.S. District Judge Henry H. Kennedy Jr. that the military and the Justice Department have refused to tell them or other lawyers about their clients' health status.

"Many participants . . . have stated their expectation of death and a growing number of detainees are now hospitalized and in grave condition," attorneys David Remes and Marc Falkoff wrote.

Military officials disputed that description, saying the number of detainees participating in the strike has recently declined. As of Sept. 12, the military said, 128 detainees were involved in the strike, which the Pentagon defines as refusing food or water for at least three consecutive days.

At that time, 18 were hospitalized, and were either having intravenous fluids forcibly administered or were being force-fed through nasal-gastric tubes. Yesterday, a military spokesman said, just 45 detainees had been refusing food or water for three or more days.

In a Sept. 12 e-mail, Justice Department attorney Andrew Warden wrote that the government is "not in a position" to provide health updates on hundreds of detainees.

Detainees on hunger strike are protesting what they describe as beatings at the prison and their indefinite detentions, their attorneys have said.

Inside Politics (WT)

By Greg Pierce

The Washington Times, September 21, 2005

Disaster strikes

"In the presidential campaign last year, Democrats were said to be counting on some misfortune -- terrorists attacking on American soil, the Iraq War taking a turn for the worse, the economy going south -- to help them beat George W. Bush," Brendan Miniter writes at www.OpinionJournal.com.

"That didn't happen, of course. But now disaster has struck, and it's becoming increasingly clear that Democrats are better off for it. In ripping through the Gulf Coast, Hurricane Katrina has peeled back the lid on Republican rule, and many Americans aren't happy with what they see," Mr. Miniter said.

"This isn't about a slow response anymore. ... And unless they change course, Republicans will pay a steep price in next year's midterm elections and leave Democrats in the driver's seat for 2008.

"What President Bush, House Majority Leader Tom DeLay and other Republicans haven't figured out yet is that deficit spending isn't a problem for them unless it endangers the broader conservative agenda. If it does, it will become the electoral issue.

"And what we're seeing is that Katrina is swamping every goal conservatives have, from limiting government to cutting taxes to reforming entitlement programs. Katrina spending has already imperiled plans to repeal the death tax, and Congress is already $60 billion into a spending binge.

"Handing out $2,000 debit cards was just the beginning. The conservative Congress has brought back the welfare state."

Back and forth

Rep. Rahm Emanuel of Illinois, chairman of the Democratic Congressional Campaign Committee, crows in a note to supporters that the DCCC "has already started with hard-hitting campaign ads and accelerated candidate recruitment."

"That claim is goofy," says Jonathan Collegio, who works for Mr. Emanuel's opposite number, Rep. Thomas M. Reynolds of New York, the National Republican Congressional Committee chairman.

"The DCCC is over $3 million in debt, and Emanuel lost five of his highest-profile challengers in the last week," Mr. Collegio told Ralph Z. Hallow of The Washington Times.

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DCCC chief spokesman Bill Burton fired back: "After another week of Republican indictments and arrests, I'm surprised that the NRCC has time to comment on anything besides the efficiency of their bail bondsmen."

Weepy Dan

Former CBS News anchor Dan Rather said Monday that there is a climate of fear running through newsrooms stronger than he has ever seen in his more than four-decade career, according to a Hollywood Reporter article by Paul J. Gough.

Mr. Rather famously tangled with President Nixon and his aides during the Watergate years while Mr. Rather was a hard-charging White House correspondent.

Addressing the Fordham University School of Law in Manhattan, occasionally forcing back tears, he said that in the intervening years, politicians "of every persuasion" had gotten better at applying pressure on the conglomerates that own the broadcast networks. He called it a "new journalism order."

He said this pressure -- along with the "dumbed-down, tarted-up" coverage, the advent of 24-hour cable competition and the chase for ratings and demographics -- has taken its toll on the news business.

"All of this creates a bigger atmosphere of fear in newsrooms," Mr. Rather said.

Mr. Rather was accompanied by HBO Documentary and Family President Sheila Nevins, both of whom received lifetime achievement awards at the News and Documentary Emmy Awards on Monday evening.

Miss Nevin asked Mr. Rather whether he felt the same type of repressive forces in the Nixon administration as in the current Bush administration.

"No, I do not," Mr. Rather said.

Courting trouble

"It will be a damning indictment of petty partisanship in Washington if an overwhelming majority of the Senate does not vote to confirm John G. Roberts Jr. to be the next chief justice of the United States," the Los Angeles Times said yesterday in an editorial.

"As last week's confirmation hearings made clear, Roberts is an exceptionally qualified nominee, well within the mainstream of American legal thought, who deserves broad bipartisan support. If a majority of Democrats in the Senate vote against Roberts, they will reveal themselves as nothing more than self-defeating obstructionists. ...

"Even if one treats this vote merely as a tactical game, voting against an impressive, relatively moderate nominee hardly strengthens the Democrats' leverage" on the upcoming second nomination, the newspaper said.

"If Roberts fails to win their support, Bush may justifiably conclude that he needn't even bother trying to find a justice palatable to the center. And if Bush next nominates someone who is genuinely unacceptable to most Americans, it will be harder for Democrats to point that out if they cry wolf over Roberts."

Gitmo inmates

The number of detainees on a hunger strike at the prison at U.S. Naval Base Guantanamo Bay, Cuba, has fallen by almost two-thirds since last week, a military official told the Associated Press yesterday.

Forty-five detainees are currently on the hunger strike, down from 131 last week, Guantanamo spokeswoman Lt. Angela King-Sweigart said in an e-mail message.

No explanation was given for the sharp decrease, and calls to military officials at Guantanamo went unanswered last night.

Fifteen of the 45 detainees on the hunger strike have been hospitalized, Lt. King-Sweigart said. She could not immediately say if any were being tube-fed. Several detainees have been tube-fed during the hunger strike, either through their noses or intravenously.

Mexico bulldozes

Mexican officials bulldozed 31 abandoned buildings yesterday along the U.S. border in a village that has been a staging ground for illegal aliens and drug smugglers.

New Mexico Gov. Bill Richardson and Chihuahua Gov. Jose Reyes Baeza agreed last month that the demolition was needed to help end lawlessness in the village of Las Chepas, which has only about 35 full-time residents.

"Bulldozing abandoned buildings in Las Chepas is a major step that sends a strong signal to anyone involved in illegal criminal activity on the border that it will not be tolerated," Mr. Richardson said.

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The operation was monitored from the U.S. side by Border Patrol agents, the Associated Press reports. Mr. Richardson declared a state of emergency last month in four New Mexico counties along or near the Mexican border.

Judge Holds Closed Hearing In Case Of Former CIA Contractor (AP)

By ESTES THOMPSON, Associated Press Writer

AP, September 20, 2005

In one of the final hearings before the scheduled start of the trial of a former CIA contractor accused of beating an Afghan detainee who later died, a federal judge closed his courtroom Tuesday to allow attorneys to discuss classified material.

Defense lawyers for David A. Passaro have said they want to review classified messages from the Central Intelligence Agency, Army Special Forces and military intelligence in Afghanistan for possible use in Passaro's case.

It wasn't clear what the lawyers discussed Tuesday, but federal law allows closed sessions to deal with classified information.

U.S. District Court Judge Terrence Boyle said his interest was in "making sure that when we close, we restrict the closed hearing to those things that can only be heard in a closed hearing."

Attorney Amanda Martin said her media clients wouldn't object to a proceeding that dealt with classified information privately and other material in public. Martin represented The Associated Press, The News & Observer of Raleigh and The Washington Post.

"We have not objected to closing the courtroom to deal with classified information," Martin said after the hearing. "We were here to repeat our request that the court rein in and limit the closed portion of the hearing so that it deals only with classified information."

A special room has been created in the courthouse to allow lawyers to read the classified information and remain secure from eavesdropping.

Passaro, 38, arrived at the hearing in the custody of marshals. He wore a prison uniform and had a full beard and shaggy hair. The former Special Forces soldier has been jailed since June, when his bail was revoked after he was accused of assaulting his girlfriend.

Boyle has denied motions by Passaro's lawyers to dismiss the four assault charges against him, claiming the judge lacked jurisdiction because the alleged beating occurred in a foreign country.

Passaro could face 40 years in prison and $1 million in fines if convicted.

He is the first civilian to face prosecution on prisoner abuse charges since the start of the wars in Iraq and Afghanistan. He has denied the charges and contends he was a scapegoat for the government after the Abu Ghraib prison scandal erupted.

The Afghan prisoner, Abdul Wali, was being questioned about a series of rocket attacks on a remote U.S. outpost in the mountainous northeast of Afghanistan, about five miles from the country's border with Pakistan.

The federal indictment against Passaro said Wali died in a cell at the outpost after two days of beatings by Passaro, who used "his hands and feet and a large flashlight." A witness list includes a fingerprint expert who would identify Passaro's prints on batteries in the flashlight.

Trial had been scheduled for the first week of October, but court officials said the date may be delayed because defense lawyers want to file more motions.

Government: Man Wanted Bush Assassinated (FINDLAW/AP)

By Matthew Barakat, Associated Press Writer

Find Law, September 21, 2005

(AP) - ALEXANDRIA, Va.-A suspected terrorist accused of conspiring to assassinate President Bush said he proposed the plot but it wasn't pursued, and he was frustrated that other members of his al-Qaida cell lacked initiative, according to prosecutors.

A government motion unsealed this week by a federal judge reveals new details in the case against Ahmed Omar Abu Ali, 24, who is scheduled to go on trial next month.

DOJ_NMG_0006936

Prosecutors say the Falls Church resident has admitted joining al-Qaida while attending college in Saudi Arabia and that he discussed numerous terrorist plots, including plans to assassinate Bush and hijack airplanes. Abu Ali says he was tortured into giving a false confession by Saudi authorities and that U.S. officials aided the torture. His lawyers are asking to have the confession tossed out.

The motion says that Abu Ali was asked to research the location of U.S. nuclear power sites for possible attack. The request was made by the second-highest ranking al-Qaida operative in Saudi Arabia, Sultan Jubran Sultan al-Qahtani, according to the motion.

Also, Assistant U.S. Attorney David Laufman writes in the motion that Abu Ali was frustrated and bored during a stay at an al-Qaida safe house "because his fellow al-Qaida cell members did not appear sufficiently motivated to suit the defendant's terrorist zeal."

Abu Ali's lawyers did not return calls seeking comment Tuesday.

In an initial interrogation by Saudi authorities, Abu Ali said that after a May 2003 al-Qaida attack in Riyadh he organized the cell into a more structured daily regimen at the safe house "because, as I said to the guys, we were wasting our time sleeping and engaging in idle chit chat." The attack killed 39 people, including nine Americans.

Prosecutors said Abu Ali's admission that he proposed the Bush assassination plot came in response to a question posed by Saudi authorities at the request of the FBI.

When Abu Ali was asked, "Were you tasked to assassinate the President?" he replied, "I came up with the idea on my own, but it did not get beyond the idea stage. I wanted to be the brain, the planner, just like (reputed Sept. 11 attack masterminds) Mohammed Atta and Khalid Sheikh Mohammad."

The government motion was in response to defense claims that the case against Abu Ali should be thrown out because the confession was obtained through torture and that U.S. authorities acted in concert with the Saudis. The government contends that Abu Ali's June 2003 arrest, interrogation and confession resulted from an independent Saudi crackdown on al-Qaida following the Riyadh bombings and that FBI requests to question Abu Ali directly were rejected.

Abu Ali's Saudi interrogators have already given depositions in which they testified that Abu Ali was relaxed and well cared for when he confessed. Defense lawyers objected to the depositions, saying the interrogators would be under pressure to lie about Abu Ali's treatment.

The government denies that Abu Ali was mistreated and says he invented the torture allegation to escape justice.

"The defendant in this case represents one of the most dangerous terrorist threats that America faces in the perilous world after Sept. 11, 2001: an al-Qaida operative born and raised in the United States, trained and committed to carry out deadly attacks on American soil," Laufman wrote.

Guantanamo Trial To Resume (WP/REU)

By Reuters

The Washington Post, September 21, 2005

The Pentagon cleared the way yesterday for the resumption of the long-delayed military trial of Guantanamo Bay prisoner David Hicks.

The Defense Department had put the case on hold last year after an unfavorable court ruling. Officials said the hearings in the Hicks trial will resume sometime between Oct. 3 and Oct. 20.

Hicks, an Australian held for 3 1/2 years at the military prison, has pleaded not guilty to charges of aiding the enemy, attempted murder by an unprivileged belligerent and conspiracy to commit war crimes. Captured in Afghanistan in late 2001, Hicks is accused of fighting for the al Qaeda network.

Of about 505 men held at Guantanamo Bay, four have been charged. Only the Hicks case is being resumed.

The announcement of the resumption of Hicks's trial came two months after a federal appeals court reversed a ruling in the case of another Guantanamo Bay prisoner, Yemeni Salim Ahmed Hamdan. The appeals court ruled that the military commission trials are lawful.

Attorney In U.S. Publishes Full Translations Of Bin Laden's Statements (FINDLAW/AP)

DOJ_NMG_0006937

By Laura Wides, Associated Press Writer

Find Law, September 21, 2005

(AP) - LOS ANGELES-The only way to defeat the enemy is to know the enemy. But in the case of Osama bin Laden, the U.S. public doesn't know enough, says the author of a new book on America's No. 1 nemesis.

In "Osama Bin Laden: America's Enemy In His Own Words," San Diego civil rights attorney Randy Hamud tries to shed light on bin Laden by translating 20 of his statements and letters from 1994 to 2004.

The book, released Monday, is the first comprehensive compilation of statements that are rarely presented in full by the English-language media. It's also the first of several works on bin Laden due out in the coming months.

Hamud said the translations are critical to defeating bin Laden.

"What I mean by defeat is the complete discrediting of his message," he wrote in the book.

The third-generation Lebanese-American spent the past two years working with Arab scholars on the translations. His self-published book also offers an annotated biography of bin Laden and a history of Islam.

It sparked concerns among academics - none of whom has seen the book - because it does not disclose the names of his collaborators and only says they are mostly Middle East immigrants who fear repercussions for their involvement.

"In order for me to trust a text, I need to know who the translator is," said Khaled Abou El Fadl, a University of California, Los Angeles law professor.

Abou El Fadl, who focuses on Islamic law, said he was surprised to learn about Hamud's book because the lawyer is not known as a specialist or scholar in Middle Eastern affairs or Islamic studies.

"In my perspective bin Laden is a criminal," Abou El Fadl said. "Is there value in publishing the diaries of a serial killer? Yes there's a value, and there's a danger."

Richard Dekmejian, a professor of political science at the University of Southern California, also said he would prefer such translations be done by recognized Arab scholars, then reviewed by peers.

"It's very essential to do the translation correctly and reflect the context in which these things are said," Dekmejian said.

Still, Dekmejian is interested in using Hamud's text in his classes as a way to understand bin Laden's anger at the West and how he gained traction among Muslims worldwide.

Hamud defended his decision to withhold the names.

"Sadly, in today's America, Muslim immigrants do not enjoy the freedom of speech that those of us who are native-born enjoy in discussing subjects like Mr. bin Laden, political Islam and the subject of terrorism," wrote Hamud, who has represented a number of Muslims and Arabs detained by federal authorities since Sept. 11, 2001.

In November, Verso Books in England will publish "Messages to the World: The Statements of Osama bin Laden," a compilation 24 bin Laden speeches dating back to 1994. It was edited by Duke University political science professor Bruce Lawrence.

In January, Simon & Schuster's Free Press will publish former CNN analyst Peter Bergen's "The Osama bin Laden I Know: An Oral History of the Making of a Global Terrorist," with interviews from people who know bin Laden.

Lawrence, who had not seen Hamud's book, applauded his effort to make bin Laden's words more accessible. He said finding some of bin Laden's speeches, which are often blocked on Internet sites or reproduced only in snippets, involved major detective work.

"It's an aspect of Osama bin Laden that has not only been neglected, it has been totally overlooked in the war on terror," Lawrence said.

The speeches and letters show bin Laden's evolution from political attacks against corruption in the Saudi Arabian government to a declaration of war on the United States. There's also a critique of U.S. military contractors.

"The Iraq war generates billions of dollars for big corporations, either munitions makers or those working reconstruction, such as Haliburton and its sister companies," bin Laden said in an April 15, 2004 address originally broadcast by Al-Jazeera in which he offered a truce with European nations that agreed not to attack Muslims.

Throughout his speeches, bin Laden also returns to Israel's treatment of the Palestinians and what he calls the "Jewish enemy."

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According to Hamud's translation, bin Laden's anger at the West stems mostly from its support of the repressive Saudi Arabian regime and the idea of a Christian military occupying Muslim lands.

"It is unconscionable to allow the country to become an American colony," bin Laden wrote in 1994 to King Fahd of Saudi Arabia, "for no other reason than to protect your throne and the oil resources."

Police Believe London Bombers Scouted Route Prior To Attacks (WP)

By Kevin Sullivan

The Washington Post, September 21, 2005

LONDON, Sept. 20 -- Three of the four bombers who killed themselves and 52 other people in a July 7 attack on the London transit system apparently scouted their route on a trip to the city 10 days earlier, police said Tuesday.

Officials at Scotland Yard said the three men -- Mohammed Sidique Khan, Shehzad Tanweer and Germaine Lindsay -- were spotted by officers as they reviewed thousands of hours of video surveillance tapes from train stations in London and the central English city of Luton.

Police released photos of the men, casually dressed, arriving at the Luton station the morning of June 28, with two of them carrying backpacks. Later in the day, they are seen at the King's Cross and Baker Street stations in London, apparently following the same route they took to stage the deadliest attack on British soil since World War II.

Hasib Hussain, who police believe detonated a bomb on a double-decker bus on that day, was not seen in the surveillance photos released Tuesday.

Khan, Tanweer and Hussain were British citizens of Pakistani descent; Lindsay was a Jamaican-born British resident. Police have said they believe all four were young Muslims who had become radicalized.

Earlier this month, the Arabic television network al-Jazeera aired a videotape of a man identifying himself as Khan who called the bombings a response to British policies in Iraq and the Middle East. "We are at war, and I am a soldier," he said.

In another videotaped message aired on al-Jazeera Monday, Ayman Zawahiri, al Qaeda's second-ranking leader, said the group was responsible for the attacks and had the "honor" of carrying them out. Earlier messages from Zawahiri had praised the attack but stopped short of asserting direct responsibility.

British Prime Minister Tony Blair has said he believes British foreign policy did not inspire the attacks.

In a statement issued Tuesday, police said Khan, Tanweer and Lindsay spent about three hours in London on June 28. Their visit, the statement said, "might suggest the suspects were carrying out reconnaissance of potential targets on the London transport system and checking the time of the journey they intended to take on the day of the attack."

Police said "other cases here and abroad" suggest that terrorists sometimes visit their targets before an attack.

Police said they reviewed tapes from June 28 after finding train tickets and receipts during searches of addresses linked to some of the suspects.

The Scotland Yard statement offered the most extensive assessment in weeks of the status of the police investigation into the bombings. It said police have reviewed more than 80,000 surveillance tapes, taken statements from more than 3,000 witnesses and searched 15 locations.

It said more than 1,000 pieces of evidence had been taken from a single apartment in Leeds, a city about 200 miles north of London where several of the presumed bombers lived. Police said the search of that apartment, where they believe the explosives used in the attacks were made, took longer than six weeks.

Police have charged four men in a failed second series of attacks on July 21 in which no one was injured. A fifth suspect is in custody in Rome, and the British government is seeking his extradition. Police are still investigating possible links between the attacks.

London Bombers Visited Earlier, Apparently On Practice Run (NYT)

By Sarah Lyall

The New York Times, September 21, 2005

LONDON, Sept. 20 - Less than two weeks before they attacked London on July 7, three of the four suicide bombers traveled to the city for what appears to have been a practice run, the police said Tuesday.

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The new information came a day after Osama bin Laden's chief lieutenant, Ayman al-Zawahiri, appeared in a videotaped message claiming that Al Qaeda was responsible for the attacks. Three weeks ago, Mr. Zawahiri was shown in a different tape praising the bombings. British and European antiterrorism officials said that they were investigating the claims but had reached no conclusions about who was responsible.

American intelligence and counterterrorism officials said Tuesday that they had no reason to doubt the authenticity of the latest tape, which was broadcast on Al Jazeera, the Arab satellite network. But they said it remained unclear what role Al Qaeda played in the London attack.

"Al Qaeda is quite content to take responsibility for any number of terrorist attacks, regardless of the nature or extent of their role, including whether they had an inspirational role or a more significant one," said an American counterterrorism official, who requested anonymity because he was discussing sensitive intelligence assessments.

An American intelligence official noted that the tape of Mr. Zawahiri had been released by the Sahab media office, the usual outlet for such statements. Some recent tapes have included English-language subtitles, a departure from past practice, in what American officials said was an indication that they were aimed at American and British audiences.

Whatever group was the mastermind, officials are coming to understand more clearly the events leading to the attacks, which killed 56 people, including the four bombers, and injured 700. On Tuesday, they released closed-circuit television images showing that three of the bombers - Mohammad Sidique Khan, Shehzad Tanweer and Germaine Lindsay - met at Luton station at 8:10 a.m. on June 28 before traveling to King's Cross station in London.

They arrived at King's Cross at 8:55 a.m., were captured again on camera at the Baker Street station at noon and were seen on yet more cameras leaving King's Cross at 12:50 p.m. and arriving back in Luton at 1:40 p.m. "The implication is that they were possibly conducting reconnaissance on that day," Deputy Assistant Commissioner Peter Clarke, head of Scotland Yard's antiterrorism unit, told reporters. "We know that is part of a terrorist's methodology: to check timings, layout and security precautions."

Mr. Clarke said the police, who have seized some 80,000 closed-circuit tapes since July 7, still do not know what the men did between 8:55 a.m. and noon. He appealed to the public for help in reconstructing their movements. "What we want to know is where else they went, and did they meet anybody else while they were in London?"

The police have also disclosed further details about what the bombers - the three who made the earlier trip to London, as well as a fourth man, Hasib Hussain - did on July 7. Mr. Lindsay arrived at Luton station at 5 a.m.; the other three drove from Leeds in a silver Nissan Micra, arriving at Luton at 6:51 a.m. The four then traveled to King's Cross station, where they split up and set off their bombs, three on the London Underground and one on a bus.

The police found a trove of bombing materials in the Nissan Micra, which the men left parked at Luton. Two more "viable devices" - bombs that contained peroxide-based explosives, were surrounded by nails and were ready to go off - were found under the front passenger seat, Mr. Clarke said. There were also coolers in the back of the car, which may have been used to carry the bombs used in the attacks, he said. Peroxide-based bombs need to be kept cool when transported.

Asked whether the presence of the two bombs in the front seat implied that two other suicide bombers were meant to join the four on July 7, Mr. Clarke said the question was "interesting but unhelpful." But, he said, "it is of real concern that there were more explosives in the possession of these people on that day."

U.N. Report Warns Of More Terrorists (AJC/AP)

By Kim Gamel, Associated Press Writer

The Atlanta Journal-Constitution, September 21, 2005

UNITED NATIONS — Al-Qaida has spawned a so-called "third generation" of followers skilled in urban warfare and suicide bombings and U.N. sanctions need to be updated to keep up with the changing tactics, a report warned Tuesday.

The committee monitoring sanctions against the terror network and the Taliban said the arms embargo, travel ban and assets freeze have been effective but "the combination of sanctions has still not achieved its full potential."

"Al-Qaida continues to evolve and adapt to the pressures and opportunities of the world around it and the threat of a significant attack remains real in all areas," the group said in a report to the U.N. Security Council.

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"At the same time, there has been a revival of the threat from the Taliban," it said, adding that recent evidence suggests the remnants of Afghanistan's ousted hard-line regime have access to more money.

The report, which was dated Sept. 9 and contained recommendations that will be considered by the U.N. Security Council, was released as Afghanistan faced the fiercest fighting in Afghanistan since U.S.-led forces invaded in late 2001, with more than 1,200 people killed in the six months leading up to Sunday's historic legislative elections.

Sanctions currently require all 191 U.N. member states to impose a travel ban and arms embargo against Afghanistan's former Taliban leaders, Osama bin Laden and his terror network and those "associated with" them, and to freeze their financial assets.

The committee recommended more measures to clamp down on terror financing and said the Security Council should consider broadening the arms embargo to keep the groups from obtaining military-quality materials or using chemical, biological or nuclear weapons.

It said al-Qaida is seeking to stage more massive attacks to gain media exposure and an effective embargo would force militants to use less efficient equipment or risk discovery trying to procure more effective means.

"Terrorist tactics have evolved over the past several years and the (monitoring) team believes the arms embargo should change with the times," the report said.

It said no state had reported an attempt to breach the arms embargo but it noted implementation often was complicated in some post-conflict regions or areas beyond government control, such as in Somalia and Afghanistan.

The committee's report said al-Qaida's message remains the same but its operations have expanded to comprise three groups — bin Laden and his deputies, fighters who trained in Afghanistan and new recruits alienated by world events who form cells locally.

It described the new recruits as a third "new and growing generation of supporters who may never have left their countries of residence but have embraced the core elements of the al-Qaida message."

"These cells are emerging as the main threat posed by al-Qaida terrorism today," the report said. "They are bound to the al-Qaida leadership by an overall unity of purpose but remain independent, anonymous and largely invisible until they strike."

They often receive training from "the veterans of Afghanistan or other areas of conflict" or travel to Iraq to gain skills in urban warfare, bombmaking, assassination and suicide attacks, then return home where they pose an increased threat.

The report came more than a month after the Security Council adopted a resolution expanding the sanctions to spell out for the first time who is included among associates of al-Qaida and the Taliban.

It also stated that people who finance or plan acts to support the outlawed groups and who recruit or provide weapons for bin Laden, al-Qaida, the Taliban "or any cell, affiliate, splinter group or derivative thereof" will face sanctions.

PATRIOT ACT:

Librarians Must Stay Silent In Patriot Act Suit, Court Says (NYT)

By Alison Leigh Cowan

The New York Times, September 21, 2005

The librarians who challenged the nation's antiterrorism act must continue to keep quiet about their role in the case while a federal appeals court reviews the order of confidentiality that bars them from speaking out, the court ruled yesterday.

A three-judge panel of the United States Court of Appeals for the Second Circuit in Manhattan handed the federal government a partial victory yesterday in agreeing to a temporary stay of a lower court ruling that would have allowed the plaintiffs, as of today, to discuss the case. Government lawyers had argued that they needed the stay to give them time to appeal the lower court decision.

At least two members of the appellate panel echoed those arguments. "Absent a stay, this appeal is moot," Judge Sonia Sotomayor commented during the questioning.

In the case involved in the dispute, the F.B.I. sent a library consortium in Connecticut a demand, known as a national security letter, that it turn over patron information and not disclose the request publicly.

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Lawyers for the American Civil Liberties Union have argued that the consortium's constitutional right to free speech was violated because the confidentiality order prevented it from participating in the debate over the USA Patriot Act while Congress was considering whether to reauthorize the law.

Emerging from the courthouse yesterday, Ann Beeson, the lead lawyer for the civil liberties group, called the appeals court ruling "extremely frustrating." She said it was unfair that "the government can say all they want about the Patriot Act," but not people like the plaintiffs who have firsthand knowledge of its reach. She said she took some comfort from the appellate court's promise to expedite the appeal.

The case landed in Federal District Court in Bridgeport this summer, with government lawyers citing national security as the grounds for sealing large parts of the record.

On Sept. 9, Judge Janet C. Hall ruled in Bridgeport that the nondisclosure provision in the national security letter violated the plaintiffs' First Amendment rights. She said she would allow the plaintiffs to identify themselves, but gave the government until yesterday to appeal.

Though the plaintiffs' organization has not been named in the various proceedings, a close reading of the court record suggests that it is Library Connection in Windsor, Conn.

A search of a court-operated Web site offered a pointer to the plaintiffs' identity. There, a case numbered 3:2005cv01256 is listed under the caption, "Library Connection Inc. v. Attorney General."

HOMELAND RESPONSE:

FBI, Industry Offer Anti-ecoterror Award (KCS)

By Elizabeth M. Gillespie

The Kansas City Star, September 21, 2005

SEATTLE - The FBI and a building industry group said Tuesday they will begin offering $100,000 rewards for information leading to the arrest and conviction of ecoterrorists.

The main target is the Earth Liberation Front, a group that has claimed responsibility for setting fires at construction sites in housing developments, calling attention to what it sees as the growing problem of suburban sprawl.

"While ELF used to spike trees and sabotage logging equipment, they're now firebombing neighborhoods and burning down apartment complexes," Lyle Fox, president of the Building Industry Association of Washington, said in a news release.

The "increasingly brazen" attacks raise the likelihood that someone will be hurt or killed, he said.

ELF is an underground movement with no public leadership, membership or spokesperson. E-mails seeking comment were not immediately returned.

The FBI estimates that ecoterrorist groups have committed more than 1,100 crimes in the United States since 1976, causing about $110 million in property damage.

The builders group claims ecoterrorists have caused nearly $8 million in property damage since 1996 in Washington state, much of it in housing developments. California has taken a $53 million hit, and Oregon has had more than $3 million in damage, according to the group's estimates.

In a statement Tuesday, the Seattle FBI office said it was investigating several arsons and attempted arsons in Washington state over the past year and a half that seem to have ties to ELF.

Builders Want To Catch Ecoterrorists (SEAPI)

By TRACY JOHNSON, SEATTLE POST-INTELLIGENCER REPORTER

Seattle Post-Intelligencer, September 21, 2005

They've used crude incendiary devices made from milk jugs to torch new homes and construction sites in Western Washington, signing their work "ELF."

Now the Seattle FBI has made catching so-called ecoterrorists such as the Earth Liberation Front a top priority, and a powerful state builders' group is throwing in cash to help.

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On Tuesday, the Building Industry Association of Washington announced a reward of up to $100,000 for information leading to the arrest and conviction of activists who damage homes and construction sites in Washington and claim to be part of ELF.

"It's only a matter of time before someone is hurt or killed by ELF terrorists," association president Lyle Fox said.

He said housing "is a basic necessity of life" and that arson is only hurting families.

The group has claimed responsibility for increasingly frequent acts of vandalism against new housing, sport utility vehicles and the genetic-engineering industry in the name of defending the environment.

ELF "has emerged as a serious terrorist threat," said FBI Special Agent in Charge Laura Laughlin, and "arson, which has resulted in millions of dollars in damage, is the crime of choice."

Arson has caused nearly $8 million in damage in Washington since 1996, according to the builders association. In the past two years, two under-construction homes in Snohomish County were burned down and 13 incendiary devices were found at three nearby developments. A sign advertising lots for sale near Bellingham also was burned.

Two attempts were made earlier this year at home-construction sites in Redmond and Sammamish, where investigators found incendiary devices. At the Sammamish site, someone left a spray-painted sheet that read in part, "Wheres (sic) all the trees? ... ELF."

On an ELF Web site, someone claiming to live in the Sammamish area condemned the group's acts for endangering and frightening people, particularly children. In an anonymous response, someone explained, "you people dont even realize the magnificence of what you are bulldozing to erect some stupid shopping mall. I for one, refuse to go quietly."

The FBI and other agencies have arrested 19 people in connection with crimes of environmental- or animal-rights-activism since early 2004.

P-I reporter Tracy Johnson can be reached at 206-448-8169 or tracyjohnson@seattlepi.com.

FBI, Building Industry Offer Reward For Capturing Ecoterrorists (SEATIMES)

The Seattle Times, September 21, 2005

The Building Industry Association of Washington, the state's homebuilders lobby, yesterday offered a $100,000 reward for information leading to the arrest and conviction of Earth Liberation Front (ELF) members suspected of arsons and attempted arsons in Washington state.

The FBI has linked ELF, a loosely knit group that has taken aim at what it regards as "urban sprawl," to four arsons and attempted arsons in Western Washington over the past 18 months. Those include the torching of two homes under construction in Snohomish County in April 2004.

In some cases, ELF claimed responsibility for the crimes, the FBI said.

"ELF's increasingly brazen attacks on urban targets have BIAW and the FBI worried that it is only a matter of time before someone is hurt or killed by ELF terrorists," said BIAW President Lyle Fox. In Washington alone, ELF members have been responsible for nearly $8 million in property damage since 1996, he said.

Appearing at a news conference with Fox, Laura Laughlin, FBI special agent in charge of the Seattle office, said such "special-interest extremism" linked to ELF and the Animal Liberation Front (ALF), has emerged as a serious domestic-terrorist threat.

The FBI released the following list of arsons and attempted arsons that targeted new housing construction in Washington in the past 18 months:

• April 10, 2004: Two homes under construction in Snohomish County were destroyed. A total of 13 incendiary devices were found at three different housing developments nearby. ELF claimed responsibility in a note left at the scene.

• July 6, 2004: A sign advertising lots for sale at a home-construction site near Bellingham was burned. ELF claimed responsibility.

• March 3, 2005: Two incendiary devices were found at a housing-construction site in Redmond. There was no claim of responsibility, but the devices were similar to those ELF previously used.

• April 13, 2005: Someone tried to burn down a home under construction in Sammamish but an incendiary device didn't ignite. ELF claimed responsibility on a large banner at the scene.

Halted Listing Pulls NYSE Into Eco-terror Inquiry (TIMES)

By James Doran, Wall Street Correspondent

The Times (UK), September 21, 2005

THE New York Stock Exchange has been drawn into a United States Government inquiry into eco-terrorism, after the market postponed listing shares in Huntingdon Life Sciences, the research company, which is under attack from extremists because of its links to animal experimentation.

The Senate Committee on Environment and Public Works has launched an investigation into Stop Huntingdon Animal Cruelty (SHAC), the activist organisation that has waged several animal rights campaigns in Britain, including a high-profile crusade against Huntingdon.

The committee will hold its first hearing on the group next month, which is expected to focus on the recent decision by the NYSE to delay a listing of Huntingdon's shares.

John Thain, the NYSE chief executive, and Catherine Kinney, its president, are expected to be asked to testify before the committee and to explain their reasons for not going ahead with the Huntingdon listing as scheduled.

"We will hold a hearing next month on SHAC and its tactics against Huntingdon Life Sciences," Bill Holbrook, a spokesman for the committee, said.

The committee launched a wider investigation into eco- terror in May by examining the activities of the Animal Liberation Front (ALF) and the Earth Liberation Front (ELF). The hearing in October will mark the first time that the committee has investigated the activities of SHAC — which aims to stop all companies from doing business with Huntingdon or trading in its shares in an attempt to force the drug-testing group out of business.

The NYSE has failed to explain why it pulled out of the listing at the last minute — a move that angered Huntingdon directors, who had gathered at the NYSE for a celebratory breakfast when the decision to stop their listing was announced by Ms Kinney.

Senator James Inhofe, of Oklahoma, chairman of the committee on the environment, wrote to Mr Thain and Ms Kinney two weeks ago to demand an explanation for the postponement. "It seems to me unimaginable that this country's worldwide symbol of the integrity of the capital markets, the NYSE, would capitulate to threats, or even the mere threat of threats, from a single issue extremist group," he wrote. He added that the NYSE's decision set a dangerous precedent.

Coast Guard Commandant Cites Security Risk (AJC/AP)

By Pat Milton, Associated Press Writer

The Atlanta Journal-Constitution, September 21, 2005

NEW YORK — The Coast Guard says millions of pleasure craft, fishing boats and ferries fall outside its security nets, hampering its ability to safeguard thousands of miles of coastline against terrorist attack.

"How do we include recreational boats — some 58 million in this country — into our security regime without infringing upon the liberty of boaters?" Admiral Thomas Collins, commandant of the Coast Guard, said Tuesday.

Boaters are proud people who "toot around on the water" and don't want the government to tell them where they can go, Collins said following an address at the U.S. Maritime Security Expo, a conference on protecting ports, harbors, ships and cargo against terrorists, thieves and other threats.

"But some of those yachts are big," he said, "and can hold lots of good stuff and bad stuff."

The Coast Guard has identified 50 areas in which the maritime system is vulnerable to a terrorist attack, Collins said. It is working on solutions to blend everyone's needs: to close the gaps and mitigate the risks while not impinging on boaters' rights or interfering with the flow of commerce.

Specific initiatives will be presented to President Bush as part of a National Maritime Security Plan.

Among the Coast Guard's targets are recreational boats, an estimated 110,000 fishing vessels, and ferries that carry tourists and commuters, Collins said.

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"How do we screen for explosive devices on a ferry system that moves millions of people, particularly commuters, without constipating the whole system?" Collins asked.

Better technology for detection of explosives on ferries and cargo ships is needed, he said.

"Right now the most capable technology we have," Collins said, "is dogs."

At least 95 percent of the goods coming into the country arrive on ships, according to Collins, and cargo security is crucial.

But Collins said he believes it is "illogical" to screen each cargo container, and inspecting millions of containers would be impossible.

"The issue is inspecting the right one," he said.

That goal can be reached by targeting those ships that have been identified through intelligence reports as having anomalies in the crews, cargo or containers, he said.

"You want to inspect the highest risk," he said, "not every ship that comes into our port."

Alerts Sought In Many Tongues (WT)

By Chris Baker

The Washington Times, September 21, 2005

Television and radio stations should be required to air emergency disaster and security warnings in multiple languages, according to a petition that several trade and activist groups filed with the Federal Communications Commission yesterday.

The Independent Spanish Broadcasters Association, the Minority Media and Telecommunications Council and the United Church of Christ urged the FCC to require broadcasters to air multilingual warnings during emergencies.

Broadcasting & Cable, an industry publication, reported the petition on its Web site.

The petition cited Hurricane Katrina, which knocked the only Spanish-language TV station in New Orleans off the air for more than a week, robbing residents who speak only Spanish of "vital information concerning the path of the storm, where and how to seek shelter, and how to remain healthy and safe in the aftermath of the storm."

The FCC began considering new requirements for emergency broadcasts last year. No matter what the agency decides, the groups behind the petition said the FCC should make multilingual warnings mandatory during the interim.

"After Katrina, everyone is hoping there won't be a next time. Unfortunately, with Mother Nature, there always is," said Gloria Tristani, managing director of the United Church of Christ's Office of Communications and a Democrat who served as an FCC commissioner during the Clinton administration.

Frank Montero, acting executive director of the Independent Spanish Broadcasters Association, said that if the FCC adopts a requirement for multilingual warnings, "it must be feasible. My group doesn't want to do anything that wants to make non-Spanish station opponents to this. This really has to be a collaborative effort."

Katrina response

Speaking of the FCC: The agency's chairman, Kevin J. Martin, a Republican, announced plans last week to spend $211 million to begin rebuilding the communications infrastructure in the Gulf Coast states.

Mr. Martin also said the FCC will create a bureau to coordinate the agency's future disaster management work, and that he will appoint a blue-ribbon panel to study the FCC's response to Katrina.

Nielsen touchdown

ABC affiliate WJLA-TV (Channel 7) drew an average 587,900 households during the Washington Redskins' triumph over the Dallas Cowboys on "Monday Night Football" this week, according to Nielsen Media Research Inc.

The game delivered about 244,500 households to WJLA's late news.

Mr. Plotkin responds

Last week, this column reported on the swipe D.C. Mayor Anthony A. Williams took at the news media on his new blog. Hizzoner even took a jab at Mark Plotkin, political commentator at WTOP (1500 AM and 107.7 FM).

"Obviously, the mayor has too much free time. I'm glad to provide any momentary relief from the rigors of office and extensive world travel," Mr. Plotkin said.

Emmy time

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A few local television operations picked up honors at the News and Documentary Emmy Awards Monday in New York, including the Silver Spring-based Discovery Channel and "Nightline," which is produced here but soon may be relocated to New York, according to the chatter around ABC News' Washington bureau.

WAR NEWS:

Clash In Basra Brings Iraq War Home For Britain (BSUN)

By Todd Richissin

The Baltimore Sun, September 21, 2005

LONDON -- Great Britain was reminded Tuesday it was in a war in Iraq, the fighting arriving in TV broadcasts and newspaper front pages, showing a British soldier engulfed in flames pulling himself out of his tank in the southern city of Basra.

As American officials announced that insurgents had killed 10 American troops and security officers in attacks across Iraq since Friday, the British found themselves consumed in Basra, which had been one of the most stable parts of the country.

On Monday British soldiers there fought not insurgents but Iraqi police whom the British had helped train.

Television showed the British soldier escaping his tank, the soldier on fire, jumping to the ground and limping out of camera range as Iraqi civilians threw rocks and gasoline bombs. They attacked British forces and rioted in the streets after an armored vehicle was used in an effort to rescue two commandos.

The incident began when British military officials accused Iraqi police of arresting the commandos and then handing them over to Iraqi militias. According to varying accounts by Iraqi authorities, the commandos, wearing civilian clothes, had fired on a police patrol, or they were detained for behaving suspiciously and being seen to collect information.

British forces used armored vehicles to knock down the walls of the Iraqi police station where the commandos were believed to be held, and the violence soon involved hundreds of Iraqis and the burning British tank. The two commandos were later found at a house in the city, British authorities said.

"We don't actually know the details of why these people were handed over -- whether it was under threats or by collusion, or whatever," the British defense secretary, John Reid, told the BBC. "What we do know is that under the law they should have been handed back to the British forces themselves."

"It is a very unfortunate development that the British forces should try to release their forces the way it happened," Haider al-Ebadi, an adviser to Prime Minister Ibrahim al-Jaafari, told a news conference in Baghdad. The prime minister's office then is sued a statement saying Iraq's interior ministry was investigating.

"We will await the outcome of that inquiry," the statement said. "In the meantime we urge all sides to remain calm."

The governor of Basra said the commandos had indeed been handed over to the al-Mahdi Army, the militia controlled by radical Shiite cleric Muqtada al- Sadr. "Police who are members of the militia group took them to a nearby house after jail authorities learned the facility was about to be stormed," said the governor, Mohammed al-Waili.

Meanwhile, an attack Monday in Mosul killed a State Department security officer along with three private security guards as their convoy left the U.S. embassy's regional office there, while two bombings Tuesday near Ramadi in Anbar province each killed two soldiers. Tuesday afternoon, an American military policeman was killed by a home made bomb.

Another American soldier was killed Friday when a bomb went off near his tank during patrol operations. Those latest deaths raised to more than 1,900 the number of U.S. service members who have died in Iraq since the 2003 invasion.

In London, the pictures of the violence made the war seem very real.

Video of the burning soldier in Basra was shown repeatedly Tuesday on the BBC and other news stations but the photographs in newspapers seemed more haunting, showing a man frozen in flames.

The pictures were certainly among the most gripping and disturbing of the war, the spectacle of a man on fire, somehow isolated further by the height of the tank he stands upon, looking for escape as children who looked to be 12 or 13 years old aimed to stone him.

In one photograph, distributed by Reuters, the soldier is standing atop the tank, bent over, with his hands apparently on his knees as if he is trying to catch his breath.

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His face cannot be seen. He is wearing a helmet which appears to be on fire, but the flames are blowing backward, over his shoulders and to the middle of his back and not forward.

In the background, fires ignited by other thrown gas bombs can be seen rising high above the tank's height.

More than 70 percent of the British public opposed involvement before the war began. Polls since then show more than half of the country is in favor of pulling British troops out now. And if little progress was evident in Iraq before the images of the soldier afire, the photos seemed to show a country going backward.

Tension has reportedly been growing between British troops and the Shiite police and militias that operate in Basra. Iraqi authorities say the police force has been infiltrated by Shiite militiamen from three groups: the Mahdi Army; the Badr Brigade, the armed wing of the Supreme Council of the Islamic Revolution; and Hezbollah in Iraq, a small group based in the marshlands in the south.

Basra, with 1.5 million residents, was considered one of Iraq's safer big cities, escaping the Sunni-led violence in the north. But in the last two months there have been dozens of murders and at least eight people in U.S. and British diplomatic convoys have been killed.

General Defends Basra Mission (USAT)

By Steven Komarow And César G. Soriano

USA Today, September 21, 2005

BAGHDAD — A British commander, defending the actions of his troops during violence in Basra, said Tuesday that he ordered an armored rescue of two soldiers arrested by Iraqi police only after learning they had been handed over to a radical Muslim militia.

Efforts to rescue the two British soldiers touched off a melee in which a mob attacked British armored vehicles with rockets and firebombs.

“From an early stage, I had good reason to believe that the lives of the two soldiers were at risk, and troops were sent to the area of Basra near the police station to help ensure their safety by providing a cordon,” Brig. John Lorimer said in a statement.

Lorimer said authorities in Basra appeared to ignore orders from Iraq's central government to transfer the two soldiers to British authority.

Three British servicemembers were injured during the melee, though none of their injuries was life-threatening. The two rescued soldiers are in good health.

The images of a mob attacking British forces in Basra resonated in Britain, fueling anti-war sentiment. “A significant portion of the population of Basra will now see the British as a hostile occupation force,” said Paul Ingram, an analyst at the British American Security Information Council, a think tank.

The picture of a British soldier on fire jumping out of an armored vehicle was plastered on the front page of many newspapers Tuesday. The conservative Daily Mail, which had backed the war, suggested in an editorial that it was time for the British government to rethink its position.

Most of Britain's 8,500 troops are in southern Iraq, a heavily Shiite area that had been relatively peaceful. But there have been recent signs of unrest around Basra, one of Iraq's largest cities.

Three British soldiers have been killed by roadside bombs this month. Monday, an Iraqi reporter working for The New York Times in Basra was found shot to death.

Shiite groups have been vying for control in the city. The “religious parties and their militias” are filling a power vacuum created by an ill-equipped and understaffed government police force, said Muhammed Al-Askari, a military and political analyst in Baghdad.

The standoff Monday suggested local police have been infiltrated by members of the militias.

“It is of deep concern that British soldiers held by the police should end up being held by militia,” Lorimer said.

The incident has also raised tensions between British forces and their Iraqi government allies.

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Haidar al-Abadi, a spokesman for Iraqi Prime Minister Ibrahim al-Jaafari, questioned British claims that the Iraqi government in Baghdad ordered local police to turn the two soldiers over to British control. "The matter was not treated centrally from Baghdad," he said.

The British action was condemned by Basra's provincial governor, Mohammed al-Waili, who called it "barbaric, savage and irresponsible."

The standoff began Monday when Iraqi police arrested two members of Britain's elite Special Air Service, who were on an intelligence mission, according to a British defense source.

British officials asked that the soldiers be turned over to British authority but were rebuffed, Lorimer said. An armored patrol was then dispatched to a police station where the men were believed to be held, Lorimer said. British forces entered the station, during which time "minor damage" was done to a prison compound, he said.

Once the troops confirmed the men were not held there, they went to a home in Basra where the men were being held by militia members. No one was arrested in connection with the rescue mission.

Lorimer said calm had returned to Basra and the incident would not poison relations between British and Iraqi security forces.

"It was a difficult day yesterday, but we have put this behind us and will move on," he said.

Attacks In Iraq Kill 9 Americans, Including State Dept. Aide (NYT)

By Richard A. Oppel Jr. And Sabrina Tavernise

The New York Times, September 21, 2005

BAGHDAD, Iraq, Sept. 20 - In one of the most lethal stretches for Americans in Iraq in recent months, nine soldiers and security officers were killed in four attacks in the past two days.

British military officials in Basra, in the south, also faced harsh criticism from the Iraqi government on Tuesday over their siege of a police station there.

Among the attacks on Americans was a suicide bombing on Monday morning that killed a State Department security official and three security contractors as their convoy left the regional American Embassy office in Mosul.

A lone attacker driving an explosives-packed car struck the second of three armored sport-utility vehicles in the convoy as it left the compound, killing the official and contractors instantly, and wounding two more in the other vehicles, a diplomatic official in Baghdad said.

A statement by Secretary of State Condoleezza Rice identified the State Department employee as Stephen Eric Sullivan, an assistant regional security officer.

In Basra, the bizarre fight on Monday between some police officers and British soldiers threatened to further destabilize the region, a Shiite-dominated area that had been relatively calm but has had a surge of skirmishes among rival Shiite militias that control much of the Iraqi police and military forces there. The fight broke out when British forces attacked a police station after the detention of two British soldiers apparently disguised in local dress.

Offering new details about the incident, the British military accused the Basra police of turning over the soldiers to hostile Shiite militiamen. That action was a crucial factor in the decision to begin a rescue attempt and knock down the police station's walls with armored vehicles, British officials said.

Pictures of the fighting included images of a British soldier aflame as he scrambled from his burning armored vehicle, and of hundreds of Iraqis throwing rocks and Molotov cocktails at the troops. The British military said no soldiers were seriously wounded.

Ultimately, the two soldiers were not at the jail but were later rescued from a home in Basra, the British military said.

The governor of Basra Province, Muhammad al-Waili, was quoted by The Associated Press as saying militiamen loyal to the rebel Shiite cleric Moktada al-Sadr had taken custody of the soldiers because of the looming British attack on the police station. He also called for the soldiers to be handed back to the Basra authorities for trial.

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The militiamen have been furious with the British military for detaining two senior officials in Mr. Sadr's organization in Basra this week. And Shiite militias have either claimed responsibility or have been suspected in several attacks against British forces in recent months.

In London, a senior British military official interviewed by telephone refused to say how the troops eventually found the home where the two soldiers were held or who the military believed was ultimately behind their detention. British officials also said they did not know whether the Iraqi police who turned the soldiers over to the militia did so because they were in league with the group or because of fear.

"We don't actually know the details of why these people were handed over - whether it was under threats or by collusion, or whatever," the BBC quoted Defense Minister John Reid as saying. "What we do know is that under the law they should have been handed back to the British forces themselves."

The British military said joint British-Iraqi police patrols continued Tuesday. But as coalition forces promote gains in training Iraqi security forces, the skirmish on Monday and the warring statements that followed suggested a breakdown of trust.

In a statement on Tuesday, the commander of the British 12th Mechanized Brigade in Basra, Brig. John Lorimer, said the Iraqi interior minister had personally ordered the release of the British soldiers on Monday but that his order "seems to have been ignored."

However, Haidar al-Ebadi, spokesman for Prime Minister Ibrahim al-Jaafari, said the police had been right to arrest the soldiers and denied that the Interior Ministry had ordered their release. The soldiers were arrested, he added, because they "had been acting suspiciously in civilian clothes without adequate papers."

"For two guys to be collecting information in civilian clothes in the current tense situation in Iraq and in Basra, the reaction of the Iraqi police is understandable," he said. "It was a very unfortunate development that British soldiers should try to release their soldiers the way it happened."

Hours after those comments, Mr. Jaafari's office issued a statement saying there was no "crisis" between Iraq and the British military.

Reuters reported that video of the soldiers taken while they were in jail showed them "unshaven and looking nervous as police looked over wigs, Arab headdresses, antitank missiles and electronic equipment, all apparently used in their mission."

In addition to the bombing in Mosul, the United States military reported that four Army soldiers assigned to the Second Marine Division were killed in two bombings on Monday during fighting in Ramadi, in Anbar Province.

A homemade bomb also killed a military policeman on Tuesday afternoon 75 miles north of Baghdad.

Embassy Aide Among 9 Americans Killed In Insurgent Attacks In Iraq (WP)

By Jonathan Finer And Omar Fekeiki

The Washington Post, September 21, 2005

BAGHDAD, Sept. 20 -- Nine Americans were killed in insurgent attacks across Iraq in the last two days, military and diplomatic sources said Tuesday. The dead included an embassy official and three security contractors killed Monday morning in a suicide car bombing in the northern city of Mosul.

Witnesses in Mosul said a lone driver smashed his red sedan into the second vehicle in a convoy of three sport-utility vehicles, triggering a fiery explosion. Security forces immediately cordoned the area and administered first aid, but the contractors and an assistant regional security officer, Stephen Eric Sullivan, had died instantly, according to a U.S. official in Baghdad who spoke on the condition of anonymity.

Two others riding in the diplomatic convoy, which was leaving a U.S. Embassy satellite office, suffered minor injuries.

"Steve was a brave American, dedicated to his country and to a brighter future for the people of Iraq," Secretary of State Condoleezza Rice said in a written statement. "Our thoughts and prayers are with Steve's family."

Sullivan, whose job involved coordinating security and overseeing contractors, was the third American diplomat killed since the 2003 U.S.-led invasion of Iraq. Diplomatic security agent Edward J. Seitz died in October in a mortar attack on a U.S. base near Baghdad International Airport. The following month, James Mollen, an American special adviser to Iraq's Higher Education and Scientific Research Ministry, was shot to death near the capital's fortified Green Zone.

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Also Tuesday, the U.S. military announced the deaths of four soldiers in two roadside bombings in the city of Ramadi, 60 miles west of Baghdad, and the death of another soldier whose vehicle was hit by a roadside bomb 75 miles north of the capital. The soldiers' names were not released.

According to the Pentagon, 1,902 U.S. service members, including civilian employees of the Defense Department, have been killed in Iraq since the March 2003 invasion.

The recent rash of violence against Americans came as British and Iraqi officials offered widely contrasting public accounts of the circumstances that led to clashes Monday between British soldiers and Iraqi police in Basra, Iraq's second-largest city. A British armored vehicle smashed into a police station in an attempt to force the release of two British soldiers who had been detained.

Haider Abadi, a spokesman for Prime Minister Ibrahim Jafari, called the British actions "very unfortunate" and said police had acted correctly in detaining the men, who were behaving "very suspiciously." They were wearing civilian clothes and asking for information in the streets, he said, but would not elaborate.

"We hoped they would solve this problem with the central government," Abadi said. "But the British forces decided to act individually, and the military operation to release the detainees happened the way we saw it. This is wrong, and it is not a healthy way to deal with problems."

Throughout the day, Iraqi and other Arab television stations broadcast images of the two British men, clad in dark pants and T-shirts, seated in front of a table bearing what appeared to be a large quantity of weapons and ammunition purportedly discovered in their possession. One man had scrapes and small cuts on his head and the side of his face.

Brig. John Lorimer said in a written statement that under Iraqi law, the police were required to hand over the men to coalition forces, an outcome he said he and the British consul general had sought to negotiate.

Lorimer said that the Iraqi interior minister had personally ordered the British personnel released and that the order was ignored. Instead, he said, the two were handed over to a local Shiite Muslim militia.

"I became concerned about the safety of the soldiers after we received information that they had been handed over to militia elements," Lorimer said. "As a result, I took the difficult decision to order entry to the Jamiat police station."

British troops set a cordon around the station and were attacked with "firebombs and rockets by a violent and determined crowd," Lorimer said. An armored vehicle plowed through one wall of a building, but the men were not found inside. They were later discovered in a house elsewhere in the city.

"It is of deep concern that British soldiers held by the police should end up being held by militia," Lorimer said. "This is unacceptable, and I should stress that we won't hesitate to take action against those involved in planning and conducting attacks against coalition forces."

Police officials in Basra have said publicly that the primary loyalty of many of their officers is to Shiite militias such as the Badr Organization, which is affiliated with the Supreme Council for the Islamic Revolution in Iraq, the country's dominant Shiite political party. Unrest erupted in Basra this week after the arrest of two members of the Mahdi Army, a militia loyal to the outspoken Shiite cleric Moqtada Sadr and a rival of the Badr group.

Lorimer did not specify which militia he believed was involved in the British detentions.

Elsewhere in Iraq on Tuesday, government officials said that residents of the northwestern city of Tall Afar who fled during a large U.S.-Iraqi offensive against insurgents this month had been invited to return to their homes and that about $50 million would soon be spent to help rebuild the city.

Abadi, the prime minister's spokesman, said more than 800 suspected insurgents were killed or captured during the operation -- the largest urban assault since the offensive in Fallujah in November.

"The terrorists have received a deadly blow in Tall Afar," Abadi said. He cautioned, however, that intelligence indicated some insurgents were attempting to slip back into the city among returning residents.

Fourteen civilians were killed and 25 wounded during the fighting, he said, adding that residents whose homes and property were damaged would be compensated. The government is also establishing five police stations in a city largely devoid of police presence for much of the past year, he said.

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"We have information that some of the terrorists infiltrated the refugee camps," said Brig. Gen. Abdul Aziz Muhammed-Jassim, commander of the Defense Ministry operations room. "Thus, the process of checking people at the entrances to the city is very important to make sure they don't enter the city again."

Abadi said Tall Afar would be secure enough for citizens to vote in the Oct. 15 referendum on Iraq's draft constitution. In Baghdad on Tuesday, the Iraqi Islamic Party, the country's largest Sunni Muslim political organization, announced in a written statement its "total rejection" of the constitution and urged followers to vote against it. Party leaders had previously suggested they might remain neutral.

Sunnis are widely expected to oppose the constitution, which will fail if two-thirds of voters in at least three provinces vote against it. Among several aspects of the document opposed by many Sunnis is the devolution of power from the central government to regions, a process some fear could lead to Iraq's dissolution.

"We appeal to the people's will represented by the patriotic forces, the civil society institutions and individuals to exercise their rights in rejecting this draft," the party's statement said.

Also Tuesday, the U.S. military announced the arrest of two men with medical training who are suspected of being senior members of al Qaeda in Iraq, the country's main insurgent group. Anis Abdul Razaq Ali Muhammad and Mazen Mahdi Salih Mahdi Khudayr are alleged to have established facilities to treat wounded insurgent fighters and were apprehended in raids in Baghdad in late August, the military said.

Basra Violence Challenges U.S. Strategy (WSJ)

By Yochi J. Dreazen

The Wall Street Journal, September 21, 2005

A surge of violence in Basra, Iraq's second-biggest city, has raised new doubts about the U.S.-led coalition's strategy for pacifying southern Iraq by giving free rein to Shiite religious militias with ties to neighboring Iran.

Backed by the U.S., the British forces in southern Iraq have effectively looked the other way as Shiite Muslim religious parties solidified their control over the city's government and as militia members joined the local police force while maintaining loyalty to militia leaders. The policy choice rested on an unspoken trade-off, with the British banking on the militias' ability to prevent insurgents from sowing instability or endangering Basra's ports and oil fields.

The coalition strategy for Basra has left militiamen in control of Basra's police force and Shiite fighters in plain clothes circulating openly in the city. A combination of the two forces has been blamed for the abduction and murder of two journalists, including one American. The forces are also at the center of the growing international dispute with Britain that erupted this week after British tanks crashed through a Basra prison and British forces raided a private house to free a pair of undercover commandos who had been arrested by Iraqi police and then handed over to militiamen.

The new violence has sparked fears that the Shiite militias aren't under the control of either the British forces in the city or the central government in Baghdad. In the case of the British soldiers, the Interior Ministry in Baghdad ordered officials in Basra to release the two men, but the demands were ignored.

"The British policy was the triumph of short-term stability over long-term success: The Shiite militias metastasize like cancer when they find out they can get away with things," said Michael Rubin, a former adviser to the American occupation authority in Iraq now at the American Enterprise Institute. "We always think we're playing the Iraqis, but they always end up playing us."

The uptick of violence in southern Iraq comes amid unrelenting insurgent attacks throughout the country. Eight American soldiers were killed in roadside attacks yesterday, while a suicide car bombing near the northern city of Mosul killed a State Department security officer and three American security contractors.

It is also happening as Shiites ratchet up their demands for far-reaching regional autonomy in southern Iraq ahead of a key referendum next month on the country's draft constitution. Shiite leaders are pressing for the creation of an oil-rich quasistate comprising Basra and eight neighboring provinces, a step fiercely opposed by Sunni Muslim Arabs, who complain that Shiite leaders are using militias and government forces to intimidate them through mass arrests and targeted killings.

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The new tensions in Basra stem from the Shiite religious parties' growing impatience to impose strict religious law across the region and establish a largely independent regional government, said Kenneth Katzman, an Iraq expert at the Congressional Research Service, which provides analysis to U.S. lawmakers. He noted that Shiite militias in Basra have already begun effectively segregating the city's schools, beating up or arresting alcohol sellers and forcing men to wear beards.

"The militias and the parties want Islamic law and a form of Islamic government in Basra, and they're increasingly impatient with anyone trying to restrain them," he said. "What we're seeing is the creeping Islamization of that entire region."

The Shiite parties' main instrument for expanding their power over Basra has come from their ability to place militiamen in the city's police force. In an interview with a British newspaper this summer, Basra's police chief, Gen. Hassan al-Sade, admitted that three-quarters of his force of 13,600 men were openly loyal to the religious parties. Western visitors to the city say police cars there are emblazoned with posters of the Shiite parties.

"You have fighters from the different militias in the police force who don't give their allegiance to the police commander or the governor," said Peter Khalil, a former security adviser to the occupation authorities who now works for the Eurasia Group, a consulting company in New York. "These guys have just seeped in for months, with no transparency in their recruitment and no vetting of their backgrounds."

Sunni residents of Basra have complained for months that Shiites are using government security forces to conduct mass arrests and targeted killings designed to intimidate them. Shiite leaders have denied the accusations, but tensions between the two groups continue to rise.

Three British soldiers have been killed so far this month in roadside bombings that London attributed to Sunni militants who infiltrated the region from the restive central province of al-Anbar. The Sunni fighters' ability to carry out the attacks in a predominantly Shiite region suggested that embittered Sunni residents of the Basra area have begun offering shelter and other logistical support to militants from other parts of the country, Mr. Katzman said.

"The fact that Sunnis there are now welcoming insurgents from the rest of Iraq is obviously very worrisome," he said.

Sadr Militia's New Muscle In South (CSM)

By Jill Carroll

The Christian Science Monitor, September 21, 2005

BAGHDAD - Moqtada al-Sadr, the young Shiite cleric who promised to disband his militia after clashing with US forces last April, proved this week that he remains a potent threat to both coalition troops and Iraq's fledgling government.

In a dramatic battle against British forces in Basra, Mr. Sadr quickly mobilized scores of supporters to descend on tanks, setting at least one alight and injuring three British soldiers on Monday.

While the British Army's strategy of appeasement has brought quiet to the Shiite-dominated south for some time, it has allowed militias such as Sadr's Mahdi Army to quietly regroup and flourish. Consequently, Sadr's followers - who have close ties to the city police - have more control of Basra's streets than British troops.

This control has also created a climate of fear among many residents not unlike that under Saddam Hussein. There are whispers that Sadr has established his own sharia courts, which issue rulings based on Islamic law. The Mahdi Army enforces its decisions, Basra residents say.

To build his network of loyal followers, Sadr offers payments to the families of his militia members who died in the fighting in August. Some 3,000 families are dependent on money or other help from the Sadr movement.

When an Iraqi is in poor health in Baghdad, more often than not it's a Sadr movement member who provides aid. Sadr movement officials run the Health Ministry, extending influence from the hospitals to the ambulance service. Posters, stickers, and other memorabilia of Sadr are plastered on Ministry of Health checkpoints, hospitals, and the walls of Baghdad's main ambulance center.

Despite years of community outreach, British forces had no better recourse Monday to free two soldiers arrested by police loyal to Sadr than to ram the jail where they were initially held with tanks. When the British discovered the soldiers were not there, they raided a nearby house where the two were being kept by militia members, according to the British.

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"I have no doubt that there was an institutional desire on the part of the British military to have good relations with as many Iraqis as possible," says Robert Springborg, director of the London Middle East Institute that gave Iraq-bound British solders cultural sensitivity training. "It's much less a military problem than a political problem. [But] the resolution of the problems is beyond the control of the British government ... no one really is in control of this [political] process now and that's worrying."

The spark that caused the violence in Basra was the arrest Sunday of leading Sadr cleric Ahmed al-Fertusi and his assistant by British troops. The British claimed they were responsible for planning attacks on their forces. With tension already high between Sadr followers and British troops, Sadr demonstrators poured into the streets to demand Mr. Fertusi's release.

The next day, two British military personnel disguised as Iraqis engaged in a gun battle with Iraqi police, killing one police officer, according to varying accounts. The police eventually captured the two men. When British tanks arrived to free the detainees, crowds attacked them.

Top Sadr official Abbas Rubaie has charged the two undercover British officers with planting roadside bombs in order to justify a longer military presence in the country.

"What the British are doing in Basra is terrorism. They are attacking [British] troops so they can say 'someone attacked us and we need to stay as long as possible,' " Rubaie said.

A statement from the Sadr movement claimed that the two British undercover officers had also been firing into a crowd of pilgrims Monday going to a local shrine to mark the birth of the Imam Mehdi, the 12th and last Imam, or Shiite saint.

They also charged that when "the people of Basra demonstrated" to stop British tanks from freeing the two officers from jail, the troops fired on the crowd "killing and wounding many of them." They said the British tanks crashed into the jail allowing "150 terrorists" to escape.

Iraqi officials Tuesday condemned the British operation. "It is a very unfortunate development that the British forces should try to release their forces the way it happened," Haider al-Ebadi, an adviser to Prime Minister Ibrahim Jaafari, said at a news conference in Baghdad.

While one of Iraq's major cities, Basra is more like a small town, residents say, where everyone knows everyone. People could once play music outside, unmarried couples could once walk together. But as several Shiite groups vie for power, many worry the militias, particularly Sadr's, have forever changed the mood of their city.

These days saying anything against the Mahdi Army or its rival, the Badr Organization backed by ruling Shiite Islamist party Supreme Council of the Islamic Revolution in Iraq (SCIRI), can be deadly.

"No one trusts anyone," says Ali Abdel Zahara one of few Basra residents willing to discuss the situation and who gave a false name for fear of retribution from the militias. "You can't talk about this, even at home."

He says Sadr has emerged as the most powerful force among the many groups that are controlling different sections of the town and police. "The ones that are in control are the tribes and the parties. Each one in the police is a representative of his party or his tribe," says Zahara. "Sadr is the biggest because they always solve the problems they face with violence."

In further evidence of the violence that has gripped Basra, Fakher Haider, an Iraqi journalist working with The New York Times was killed Sunday after being abducted by men who witnesses said claimed to be police officers. He was found dead outside the city early Monday. Early last month, Monitor contributor Steven Vincent was abducted by men who, according to witnesses, drove police vehicles. Like Mr. Haider, he was discovered dead not long after being abducted.

Militias Supplant Basra Police, Inflict Chaos (WT)

By Adrian Blomfield, London Daily Telegraph

The Washington Times, September 21, 2005

BAGHDAD -- They wear police uniforms and drive official police vehicles, but the main priority of the rival militias that have usurped Basra's police force is not to maintain law and order.

Instead, they have turned Iraq's third-largest city into a patchwork of rival fiefdoms, where competing militias run corruption scams and kill their rivals, dumping the bodies into a garbage dump known as the Lot on the outskirts of the city.

Although British troops have earned plaudits for avoiding the sledgehammer tactics of American troops in Sunni Arab areas to the north, questions are being asked about the wisdom of Britain's "softly, softly" policy.

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British officers, however, say they have little choice in the matter, insisting that troop strength has been insufficient to deal with the problem.

"Quite frankly, we have one brigade here and we've worked bloody miracles," said an officer in Basra who asked not to be identified. "We have had to let the Iraqis get on with it."

There was a sense of inevitability about the chaotic scenes in Basra on Monday, when British tanks smashed the walls of an Iraqi prison to free two undercover British soldiers seized earlier by Iraqi forces.

British officials had been keen to emphasize the relative tranquillity of the city in comparison with Baghdad and other towns to the north.

But behind the scenes is growing unease at Basra's descent into lawlessness and on the increasing influence of Iran on the city's main political factions.

Troops were ordered not to stop if challenged by police officers in case they were militiamen linked to attacks that, this month alone, have resulted in the deaths of three British soldiers and eight Americans in the Basra region.

The raid to rescue two Special Air Service commandos held by a militia that operated as part of Basra's police force has destroyed the pretense of a normal relationship with Basra's authorities.

The group holding the two soldiers blithely ignored instructions from the government in Baghdad to release them, leading many observers to ask who really controls the city.

In May, Basra's police chief, Hassan al-Sade, acknowledged that he had lost control of 75 percent of his 13,750-strong force, saying they either worked for political factions or were involved in attacks on coalition forces.

For his honesty, Basra's governor, Mohammed al-Waili -- who condemned the British raid to free the commandos as "barbaric, savage and irresponsible" -- fired him.

Since the United States handed over sovereignty to an Iraqi government in June 2004, Basra has become one of the country's most conservative Shi'ite bastions.

The city is essentially divided among three factions, although even they are riven by internal squabbles.

The Mahdi's Army of Sheik Muqtada al-Sadr, the cleric who twice last year led bloody confrontations against U.S. forces, is the smallest but is gaining ground in two of Basra's largest suburbs.

The Supreme Council for Islamic Revolution in Iraq (SCIRI), the largest party in the ruling coalition, is officially the largest faction and its Badr Brigade militia is accused of many of the assassinations.

SCIRI, however, often is outmaneuvered by the Fudala party, which fell out with Sheik al-Sadr but follows the radical strictures of his father, Mohammed Sadiq al-Sadr.

It is led by Mohammed Yaqubi, who has close ties to grand ayatollahs in the Iranian holy city of Qom. All three groups are determined to some extent to turn Iraq into an Islamic republic modeled on Iran.

"Iran has a very strong influence across Basra," said respected Iraqi member of parliament Ali al-Dabbagh. "It's not just the Sadrists. Individuals in each and every party are receiving financial backing from Iran."

Iraq's People Need American Troops (WSJ)

By Jalal Talabani

The Wall Street Journal, September 21, 2005

BAGHDAD -- There is no more important international issue today than the need to defeat the curse of terrorism. And as the first democratically elected president of Iraq, I have a responsibility to ensure that the world's youngest democracy survives the inherently difficult transition from totalitarianism to pluralism. A transformation of the Iraqi state and Iraqi society is impossible without a sustained commitment of soldiers from the U.S. and other democracies.

To understand why, let us recall how we reached this juncture in history. How is it that Iraq today has a democratically elected head of state, government and Parliament? How it is that members of the most repressed ethnic groups now hold the highest offices of state? All these welcome developments are a result of the courage and vision of President Bush and his allies, British Prime Minister Tony Blair and Australian Prime Minister John Howard, leaders whose commitment of troops to enforce U.N. Security Council resolutions liberated Iraq.

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Without foreign intervention, the transition in Iraq would have been from Saddam's bloodstained hands to his psychopathic offspring. Instead, thanks to American leadership, Iraqis have been given an opportunity of peaceful, participatory politics. Contrary to the new conventional wisdom, Iraq and the history of 20th-century Europe demonstrate that force of arms can implant democracy in the most arid soil.

The rapidity of the democratization and reform of Iraq is staggering. There was no German state for four years after the Second World War. By contrast, Iraq has moved from a centralized, one-man dictatorship to a decentralized, federal republic in half that time.

Inevitably, there have been stresses and strains. In Iraq these have been amplified by the terrorism of the remnants of the fascist Baathist dictatorship and our interfering neighbors. To contain these tensions, and to defend our young democracy, requires the support of American and other troops. Foreign forces are needed to train and equip the new Iraqi armed forces and to give Iraq its own counterterrorism capability. Only the United States and its closest allies are able to provide such assistance.

Creating these Iraqi forces has not been easy, but Iraqis have been undaunted by the difficulties. Every terrorist attack on Iraqi forces leads to a surge in military recruitment -- the opposite of the appeasers' myth that resisting terrorism causes more terrorism. For all the short-term problems, the soundness of the long-term strategy of building up Iraqi forces was demonstrated in recent days when Iraqis took over sole control of security in the holy city of Najaf.

As Iraqi forces gain in confidence and capability, so the need for foreign troops will diminish. The number of foreign troops will be determined in consultations between the Iraqi government and its foreign allies on the basis of operational requirements.

American forces are in Iraq at the invitation of the democratically elected government of Iraq, and with the backing of a United Nations Security Council resolution. Your soldiers are in my country because of your commitment to democracy. Moreover, during my visit to Washington, Mr. Bush reaffirmed the United States' complete support for the Iraqi political process toward sustainable democracy, and for the fight to defeat fascist and jihadist terrorism in Iraq.

That commitment to liberty has shaped our opposition to any timetable for withdrawal. There are also two practical, policy reasons to avoid such a scheduled reduction in foreign troop numbers. First, a timetable will aid the terrorists and tell them that all they have to do is wait. Second, military plans must be flexible. We should have the suppleness to respond to the often-changing level of terrorist threat. Indeed, we will require ongoing security assistance in many forms for many years to come.

If we keep progressing at the present rate, Iraqis may be able to take over many security functions from foreign forces by the end of 2006. That is not a deadline, but it is reasonable aspiration. During my visit to the United States, I was fortunate to meet relatives of some of the brave troops serving in Iraq. They were staunch, and I want their loved ones to have to serve in Iraq not a moment longer than is necessary.

* * *

Americans should be proud of what its soldiers have achieved. The presence of foreign forces has prevented a renewed civil war in Iraq -- renewed because there has already been a civil war in Iraq. For 35 years, Saddam and his Baath Party made war on the Iraqi people. The liberation of Iraq ended that civil war.

Above all, American forces provide Iraq with a much-needed deterrence capability. In the past, Iraq sought an illusory security through the follies of aggression, terrorism and weapons of mass destruction. Today, our external security comes from our alliance with the United States. Our neighbors can thereby be assured that we will settle all of our differences with them peacefully.

Sadly, some of our neighbors have chosen not to understand this. They seem either unwilling or unable to shut off the pipeline of terrorists crossing into Iraq. And in addition to what is at least passive support for the terrorists, some of them are providing financial and material support to them, too. They must desist from this behavior now.

While the problem of some of our neighbors supporting terrorism is bad enough, we can only imagine what our neighbors might have done if American troops had not been present. Most likely, Iraq would have been transformed into a regional battlefield, with disastrous consequences for Middle Eastern and global security.

Without American forces, the vision of American leadership and the quiet fortitude of the American people, Iraqis would be almost alone in the world. With its allies, the United States has provided Iraqis with an unprecedented opportunity. Iraqis have

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responded by enthusiastically embracing democracy and volunteering to fight for their country. By giving us the tools, your troops help us to defend Iraqi democracy and to finish the job of uprooting Baathist fascism.

Mr. Talabani is president of Iraq..

Forces Bolstered In Western Iraq (WP)

By Bradley Graham

The Washington Post, September 21, 2005

BAGHDAD, Sept. 20 -- U.S. and Iraqi commanders have begun bolstering forces in western Iraq's Euphrates River valley, hoping to choke the flow of foreign fighters along what intelligence officers say has become the primary infiltration route from Syria toward Baghdad.

The buildup, called Operation Sayaid, is aimed at securing the border area around the restive town of Qaim and suppressing other insurgent activity in the villages that hug the winding banks of the Euphrates west of Baghdad.

In recent public remarks, Iraqi Defense Minister Sadoun Dulaimi signaled plans to step up military operations in the valley. Gen. George W. Casey, the senior U.S. commander in Iraq, said in an interview that his forces were intent on "restoring Iraqi control of its border by the end of November, before the December elections." Iraqis are expected to vote for a new parliament by Dec. 15, following a referendum Oct. 15 on the country's draft constitution.

The effort follows months of growing concern, both inside and outside U.S. military ranks, that not enough forces had been committed to the western reaches of Anbar province, a stronghold of Iraq's Sunni Arab resistance and of Abu Musab Zarqawi's foreign-dominated insurgent group, al Qaeda in Iraq. Although U.S. Marines have conducted a series of raids in the far west, most lasting about a week, the longer-term presence of U.S. and Iraqi troops there has been relatively small.

Out of 32,000 U.S. service members in the province, only one Marine regimental combat team -- fewer than 5,000 troops -- and some Special Operations forces have operated in the far western region.

Consequently, insurgent fighters have continued to move freely in many places, according to U.S. officers. Zarqawi's network, in particular, is said to have established safe houses throughout the valley to shelter foreign fighters who enter from Syria before moving on to stage attacks in Baghdad and elsewhere.

"It's not something we haven't known about," said a senior U.S. officer involved in overseeing military operations. "It's just something we're now in position to do something about."

Plans call for adding several more battalions to the area, drawn from the U.S. Army and the Iraqi Intervention Force, one of the most seasoned of the country's military units. Commanders requested that specific troop numbers not be published.

These troops will back up a freshly trained contingent of several hundred Iraqi border guards. In time, the plan calls for thousands of soldiers belonging to Iraq's 7th Army Division, which is still being formed, to provide a permanent military presence in several towns along the river.

Success in quelling insurgent activity elsewhere in Iraq has freed some U.S. troops for reassignment to the river valley, and more Iraqi forces also have become available for duty there, U.S. officers said. In the meantime, the insurgent threat in the area has intensified, the officers added.

Until earlier this year, the main infiltration route for foreign fighters had been along a corridor in northwestern Iraq running from the border with Syria through the city of Mosul, U.S. military intelligence officers said. In May, the Army's 3rd Armored Cavalry Regiment was reassigned from south of Baghdad to take back the region from insurgents.

The regiment's operations west of Mosul, culminating in the assault this month on Tall Afar, plus the killing or capturing of at least 20 leading Zarqawi network operatives in Mosul since the spring by the 25th Infantry Division's 1st Brigade, have halted much of the northwestern infiltration. The traffic then shifted south through the Euphrates River valley, the intelligence officers said.

"Right now, this is the key," said Army Maj. Gen. Richard Zahner, the top U.S. military intelligence officer in Iraq.

The first phase of Operation Sayaid came in July when an Army squadron of Stryker vehicles, augmented for intelligence gathering, rolled south from Mosul to set up an outpost near the Euphrates River town of Rawah. The contingent of more than

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1,000 troops established an American presence on the north side of the river; the Marines had been operating on the south side. Also arriving in Rawah was an Iraqi Intervention Force battalion.

The troops have imposed tight controls on traffic that now must use the single bridge in Rawah. U.S. warplanes this month blew up two smaller pontoon bridges farther west in the towns of Karabilah and New Ubaydi, making the Rawah river crossing even more critical.

Bolstering forces as far west as Qaim, the offensive is designed to restore Iraqi control in the area rather than completely shut the border. Still, the operation is considered key to reducing insurgent activity before the December elections.

"There's no expectation that the border will be sealed," said another senior U.S. military officer. "But the presence of Iraqi border forces and Iraqi army forces, backed up by coalition forces -- that's what we're going to achieve by November 30. So you'll have a lot more people who can dominate the area, which means you will certainly have denied sanctuary for insurgents."

U.S. military estimates of the number of insurgents in the area range from 1,500 to 2,500, with 100 to 150 foreign fighters entering Iraq from Syria each month, one or two at a time. The insurgents intimidate residents and exert control in villages where U.S. and Iraqi forces have no permanent presence, U.S. officers said. Even where troops do patrol, in such towns as Hit, Haditha and Qaim, the insurgents operate in small cells, U.S. intelligence officers said.

About 250,000 people live in the area between Qaim and Rawah, their small houses and villages closely spaced through the valley. Apart from a narrow belt of cultivated land about a mile wide on each side of the river, most of the territory to the north and south is barren and inhospitable.

Although it represents a significant expansion of the U.S. military campaign in Iraq, the new push into the Euphrates valley could fall short of a decisive turn in the conflict -- particularly if, as in previous U.S. offensives in the country, insurgents duck away from the fight hoping to return after U.S. forces withdraw.

One factor raising the chances that the valley, if secured this time, will remain that way is the Iraqi government's intention to keep several Iraqi brigades stationed there, U.S. officers said.

"We can't afford to let the enemy get dug into another safe haven," Casey said.

Army Col. Robert B. Brown, the 1st Brigade commander whose forces set up the outpost at Rawah, agreed. "I think it's smart to focus on the west because that's where your martyrs are coming from," he said. "I don't know if you can ever stop it totally, but you can clearly disrupt the heck out of them."

Saudi Fighters In Iraq Bring Money (AJC/AP)

By Lee Keath, Associated Press Writer

The Atlanta Journal-Constitution, September 21, 2005

CAIRO, Egypt — Saudi fighters make up only about 1 percent of Iraq's insurgency, but each contributes thousands of dollars to the cause — and they make sure their roles as "martyrs" are known when they carry out suicide attacks, helping draw more recruits, a new report said.

About 30,000 fighters are believed to be involved in the insurgency, approximately 90 percent of them Sunni Arab Iraqis motivated by fear of Shiite domination or anger over lost power, said the report by the Washington-based Center for Strategic and International Studies.

Of the estimated 3,000 foreign fighters, the largest number — about 20 percent — comes from Algeria, followed by Syria and Yemen with about 18 percent and 17 percent, respectively, said the report issued Monday. About 15 percent come from Sudan, 12 percent from Saudi Arabia, 5 percent from Egypt, and the rest from other countries.

Of about 350 Saudis who entered Iraq by August 2005, about 130 are believed to have been killed or captured, it said.

The report, written by Nawaf Obaid and Anthony Cordesman, was a contrast to accounts contending that Saudis make up a large proportion of foreign fighters in the insurgency that has persisted since the fall of Saddam Hussein's regime in March 2003.

The study by the CSIS, an independent think tank, said its information was compiled from estimates provided by Saudi intelligence services based on interrogations of captured militants and other sources, and by intelligence agencies of other, unidentified governments in the region.

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The "main pillar" of the insurgency is not former Saddam loyalists, though they do contribute expertise, the report said. Instead the bulk of fighters are members of Sunni Arab Iraqi tribes. "Although they do not support a return to Saddam Hussein's regime, most are Sunnis wary of a Shiite-led government," it said.

Most of the Saudis who join the insurgency "were motivated by revulsion at the idea of an Arab land being occupied by a non-Arab country" and anger over allegations of U.S. abuses at the Abu Ghraib or Guantanamo Bay prisons, it said. They average in age between 17-25.

Notably, most of those caught by Saudi authorities trying to enter Iraq "were not militants before the Iraq war," it said. Eighty-five percent were not on any government watch list or known to be al-Qaida members. Instead, they were "radicalized almost exclusively by the coalition invasion," the report said.

The Saudis provide money and propaganda for the insurgents, it said. Unlike fighters from poor Arab nations, Saudis sometimes bring in "personal funds between $10,000 and $15,000" to contribute, the report said.

There also is a system for spreading the news of suicide bombings carried out by Saudis, unlike suicide bombers from Algeria or Egypt, whose families may never be notified, the report said. Saudi bombers leave their colleagues a contact number to notify next of kin.

"The media attention their deaths as 'martyrs' bring to the cause ... is a powerful recruiting tool," the report said.

And Saudi exploits are exaggerated in Internet statements issued by insurgent groups. It noted that analysis of some lists of "martyrs" posted on Islamic militant Web sites found that some said to have carried out suicide attacks were living in Saudi Arabia.

Many of the Saudi fighters were inspired to go to Iraq by militant clerics, who also helped the young men get there, often through Syria.

In one case cited by the report, a 24-year-old Saudi angered by the U.S. invasion of Iraq was introduced by a cleric to a Yemeni al-Qaida operative. The operative indoctrinated him and three of his friends, bought them plane tickets to Damascus in July 2003 and gave them a Syrian contact.

The Syrian took the men to the border and Iraqi handlers brought them to Tikrit, where they joined an insurgent "battalion" made up mostly of Saudis. The Saudi's friends agreed to become suicide bombers, but he declined and returned to Saudi Arabia, where he was arrested.

Contractor Charged In Baghdad Badge Scam (WP)

By Jerry Markon And Josh White

The Washington Post, September 21, 2005

A military contractor returning from Iraq was charged yesterday with distributing identity badges that control access to Baghdad's heavily fortified Green Zone to people not allowed to receive them, including an Iraqi woman he was dating.

Thomas Nelson Barnes III, who worked for DynCorp International, was arrested by federal agents as he arrived at Dulles International Airport. He is accused of defrauding the U.S. government by issuing the high-security badges to other Iraqi civilians and a DynCorp executive.

Security in Baghdad's International Zone -- commonly referred to as the Green Zone -- has been extremely tight since U.S. forces took control of Baghdad during the invasion of Iraq in 2003. The zone, surrounded by blast walls and heavily guarded entry checkpoints, encompasses much of central Baghdad and houses the U.S. Embassy, Iraq's interim government and many coalition and civilian military personnel.

Although law enforcement sources said they knew of no specific security problem resulting from Barnes's alleged actions, federal and military officials warned that any breach could have dire consequences. The Green Zone's entry checkpoints have been the scene of numerous car bombings and are guarded by heavily armed coalition soldiers.

"A free pass to the International Zone is something that an insurgent would love to get his hands on," said Lt. Col. Barry Venable, a Pentagon spokesman. "A compromised badge represents a potential avenue of approach into the zone for folks who would want to commit violence."

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The badges allegedly passed out by Barnes have different colors indicating level of access to the Green Zone. The highest access is blue. An FBI affidavit, filed in federal court in Alexandria, said Barnes gave a blue badge to an Iraqi woman he was dating, when she was allowed only a purple badge -- a lower clearance.

He allegedly gave various badges to other Iraqi friends, along with a blue badge to a DynCorp vice president who was not entitled to receive it. Barnes, 48, of Fort Worth appeared in U.S. District Court in Alexandria yesterday and was released on a personal recognizance bond pending another hearing Thursday. He could not be found later for comment, and a defense attorney had not been appointed for him.

Barnes is charged with conspiracy to defraud the United States and use and possession of military passes with the intent to defraud. If convicted, he faces up to five years in prison.

Gregory Lagana, a spokesman for Irving, Tex.-based DynCorp, said Barnes had worked for the company for just over a year and was fired recently because of the investigation. The company was awarded a $7.7 million Pentagon contract in March 2004 to establish a program to centralize ID badges being given out for the Green Zone by a variety of government agencies.

Barnes, a supervisor, was one of fewer than 50 DynCorp employees on the project. "We are disturbed by this," Lagana said. "We do a lot of work for the U.S. government, and we have a very good record. We are cooperating fully and absolutely."

Stan Soloway, president of the Professional Services Council, a trade association for government contractors, said the case should not be viewed as an indictment of the tens of thousands of military contractors in Iraq. "There is absolutely no evidence that there have been any more security problems with contractors than with federal government employees or anyone else."

The case is among the first brought by federal prosecutors in Alexandria since February, when U.S. Attorney Paul J. McNulty announced a crackdown on fraud in government programs. Law enforcement sources familiar with the case said the allegations against Barnes arose from that initiative.

England Statement OK'd (WT/AP)

By The Associated Press

The Washington Times, September 21, 2005

FORT HOOD, Texas (AP) -- A military judge reversed himself yesterday and decided to let prosecutors use a statement Army Pfc. Lynndie England gave to investigators implicating herself in the abuse of prisoners at the Abu Ghraib prison in Iraq.

Pfc. England's court-martial trial on seven counts of conspiracy and prisoner abuse will begin today with jury selection and opening statements. The 22-year-old reservist from rural West Virginia, who is shown in several graphic photos taken by Abu Ghraib guards in 2003, faces up to 11 years in a military prison if convicted.

Pfc. England broke with the pattern of her co-defendants yesterday by opting for an all-officer jury. Two of the others were convicted by juries made up of officers and enlisted personnel, and the other six made plea deals. Most were members of the Maryland-based 372nd Military Police Company.

The judge presiding over Pfc. England's case, Col. James Pohl, had ruled in July that neither of two statements Pfc. England made in January 2004, when she implicated herself in the abuse, would be admissible. He said he thought she did not fully understand the consequences when she waived her rights against self-incrimination before speaking to the investigators.

Yesterday, however, the judge said he now thinks Pfc. England knew what she was doing when she signed a waiver before making the second statement. Her first statement remains inadmissible.

In May, Pfc. England made a plea agreement that eventually collapsed, but this time "there's not going to be a deal," said Capt. Jonathan Crisp, her lead defense attorney.

Capt. Crisp said he plans to base much of his defense on Pfc. England's history of mental health problems that date to her early childhood.

He said he also will focus on the influence exerted over her by Pvt. Charles Graner, the reputed ringleader of the abuse.

Graner, who Pfc. England has said fathered her young son, was convicted in January and sentenced to 10 years in prison.

In her attempted plea deal, Pfc. England pleaded guilty to all of the same counts she faces this week in exchange for an undisclosed sentencing cap. The charges carry a maximum sentence of 11 years.

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Col. Pohl threw out the plea deal and declared a mistrial during the sentencing phase because Graner's testimony contradicted Pfc. England's guilty plea.

Graner, testifying as a defense witness, had said pictures he took of Pfc. England holding a prisoner on a leash were meant to be used as a training aid. But in her guilty plea, Pfc. England said the pictures were being taken purely for the amusement of the Abu Ghraib guards.

Prosecutors have refused to discuss the trial.

Battle Lines Behind The Battle Lines (WP)

By Petula Dvorak

The Washington Post, September 21, 2005

FAYETTEVILLE, N.C. -- In military communities across the United States, a debate over the Iraq war is being waged by reluctant, neophyte activists. Their microphones chirp and squeak, or don't pick up their quiet voices at all. Their signs are too small. They forget the banners.

"This is my community. I don't want to offend people here. But my husband is a soldier; he can't say anything. So it's my duty as a citizen to speak up," Kara Hollingsworth, a D.C. native and Army wife at Fort Bragg whose husband served two tours in Iraq, said as she took a seat on a panel of antiwar activists last week.

A few hours earlier, another Army spouse stood in the red-brick village square near the base and held up a handmade sign supporting the war. She threw it together after she heard that an antiwar caravan was coming to town.

"I've never done this before. I'm usually a quiet military wife. But I can't take this anymore," said Marlene Lowrey, whose husband also served in Iraq. "This isn't right, coming into a town like this with that antiwar stuff. Those people don't realize this brings down morale."

Military families, stoic and tight-lipped during most of the nation's wars, have become a powerful voice on both sides of the bitter argument over U.S. involvement in Iraq. And their growing prominence will add a poignant note to Saturday's antiwar march and rally near the White House.

Organizers of the protest, who anticipate a crowd of about 100,000, estimate that thousands of military families and veterans will join in the demonstration. Three busloads of military families have been touring the country since Aug. 31 and will converge on Washington today to promote Saturday's rally.

In recent weeks, war supporters have been countering those bus stops, rallies and vigils with demonstrations of their own. They've got their own bus touring the country and are planning three days of counter-protests in Washington this weekend.

Both sides embrace the slogan "Support our troops." They just disagree on how to do it. They also were inspired by the same person: Cindy Sheehan, who lost her son in combat and kept a vigil near President Bush's ranch in Crawford, Tex., through most of August.

Because of Sheehan, "military families across the country are stepping forward to speak out" in support of U.S. policy, said Iowa state Sen. Charles W. Larson Jr., who recently served a year in Iraq with the Army. "You don't normally see people like this do that. They are angry and frustrated, and that is why they have become engaged in the debate."

Sheehan also galvanized Phil and Linda Waste, who were riding one of the "Bring Them Home Now" buses through the hills of North Carolina last week. Their three sons, grandson and granddaughter are all in the military and have served a total of 58 months in Iraq, and the Wastes have white-knuckled their way through each of those tours of duty.

They sat in their Hinesville, Ga., living room for months, cursing at the television reports from Iraq.

"Then we saw Cindy in Texas," said Linda Waste, holding tight to the table's edge on the bumping bus. Her husband picked up her thought: "And then we heard people call her unpatriotic. And that was it."

The Wastes finish each other's sentences and kiss each time they say "bring them home now" in unison. The people on the bus have started to call them Philinda.

"It's something I've got to do. Otherwise, I can't live with the guilt of what I did to my sons," Phil Waste said. He served in the Navy and has the blurry, sagging tattoos to prove it. He never fought in a war and used the mechanical skills he learned in the

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military to earn a decent living repairing elevators. "I told them the military was a good place to start out, a good place to learn a skill." He shakes his head and begins to cry.

The three buses have stopped in small towns and state capitals, the riders helping one another step onto makeshift stages to tell their stories and assure other folks that being antiwar doesn't mean being anti-soldier.

"You wouldn't believe how many people in the military are relieved to hear us speak. It's like they have permission to be angry now," said Julie Cuniglio of Dallas, who comes from a large military family. She joined the bus tour in Crawford, mourning the death of her nephew, Staff Sgt. Aaron Dean White, who was killed in May 2003 in Iraq.

The antiwar tours have hit 51 cities in 28 states, covering the South, Midwest and North.

Sheehan has met up with each tour at various times, flying from one city to the next, making quick speaking appearances and signing a few autographs.

Some families have joined the tour for a few days. Others, such as Philinda, are in it for the long haul -- from Crawford to Washington in 24 days.

Last week, the riders on the southern tour had been wearing the same clothes for days and were begging their chain-smoking, ex-Navy driver, who goes only by "Chito," to stop for a bite to eat. In some cities, like-minded families served them fried chicken and potato salad dinners and sometimes put them up for the night. Other nights, they slept on the bus or occasionally splurged for a cheap hotel.

Sometimes, the mere threat of the tour barreling through town spurred people on the other side into action. In downtown Raleigh, N.C., a group of veterans quickly assembled a small rally to counter Sheehan's message. The antiwar tour never showed up at that spot, but Matthew Delk did.

"I'm really not into going to protests. That's not me," said Delk, a beefy Iraq war veteran who spent weeks recovering at Walter Reed Army Medical Center from burns on his hands and chest. A National Guardsman, he is the manager for Halifax County in North Carolina, and he was sweating in a charcoal suit far different from his desert fatigues. "As a soldier, I'm not supposed to get involved in this stuff. But I believe that our mission is a noble mission. And I feel like I had to come here and say my piece."

Carolyn Culbreth, whose father is a retired Special Forces soldier, came to downtown Fayetteville on her lunch hour to meet the antiwar bus. "What they're doing is unpatriotic," Culbreth said, spangled head to toe in red, white and blue. "And in a place like this, it's just like a slap in the face."

When Chito parked the Bring Them Home Now bus in the center of Fayetteville the next day, cars whizzing by it honked and drivers barked at the slogans all over the windows and sides.

A woman in a silver Mercedes leaned out and shouted, "Go home!" A man in a red muscle car gave members of the group an obscene gesture. A soldier in a beat-up Olds Cutlass gave them a peace sign.

Protests Will Test Police Strategy (WT)

By Matthew Cella

The Washington Times, September 21, 2005

Police in the District are preparing for a weekend of demonstrations that could bring as many as 100,000 protesters and test new procedures on handling them.

The demonstrations are scheduled from tomorrow through Monday, but police officials anticipate the biggest turnout Saturday at an anti-war and anti-racism rally on the Ellipse, immediately south of the White House.

The event is scheduled to include a speech by anti-war activist Cindy Sheehan, whose enlisted son was killed while fighting in Iraq.

"It's possible that this will be the largest anti-war demonstration since the war in Iraq began in March 2003," said Caneisha Miller, a spokeswoman for event organizer Act Now to Stop War and End Racism, or ANSWER.

Miss Miller said the group has permits from the Metropolitan Police Department that allows it to start a march at 11:30 a.m. that will go from the Ellipse, north on 15th Street Northwest to the front of the White House, west on Pennsylvania Avenue Northwest, north on 17th Street Northwest, east on H Street Northwest, then back to the starting point.

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U.S. Park Police spokesman Sgt. Scott Fear said the agency has canceled vacations and other leaves and that officers will be out in force. However, he did not expect problems.

"The majority of these groups meet with us regularly," he said. "They want to be able to come back so we believe what they tell us. It's the splinter groups that we worry about."

In the past, such groups have used the demonstrations as cover to set fires, break windows and destroy private property.

Such violence during a 2002 protest resulted in Metropolitan Police Department officers herding demonstrators without permits into Pershing Park in Northwest. Among those arrested were onlookers and reporters who were restrained, taken by Metro bus to a police station, then made to wait several hours while their paperwork was processed.

An investigation concluded that police failed to give demonstrators enough warning to disperse, which resulted in new laws that took effect in April.

The laws limit officers' use of police lines to entrap demonstrators and their use of wrist-to-ankle restraints. They also require officers to wear identifiable badge numbers.

The Metropolitan Police Department has yet to release details on street closures and other plans such as canceling leave time for officers, help from other jurisdictions and activating the city's network of surveillance cameras.

The most disruptive event could be on Sunday when the group Mobilization for Global Justice is scheduled to join the group Adopt an Intersection to block streets to keep International Monetary Fund and World Bank officers from getting to their semiannual meetings.

At about the same time, the group Operation Iraqi Hope will hold a rally in support of the war in Iraq that will include parents and family members of soldiers who gave their lives in support of the effort. The rally is scheduled to take place from noon until 3 p.m. on the Mall at Fourth Street Northwest.

Inside The Beltway (WT)

By John McCaslin

The Washington Times, September 21, 2005

Folk renewal

It was nearly 40 years ago, during the height of the Vietnam War, that a young folk singer by the name of Joan Baez got arrested during a "sit-in" at a military induction center in Oakland, Calif.

One year later, in 1968, she would marry outspoken anti-Vietnam War protester David Harris, who eventually got locked up himself for dodging the draft. The marriage didn't last.

During Christmas week in 1972, Ms. Baez traveled to North Vietnam, only to hunker down with the enemy during Uncle Sam's 11-day "Christmas bombing" of Hanoi.

This Saturday, with the backdrop of a new war being fought by a commander in chief, the folk singer is picking up her guitar where she left off -- performing within view of the White House at what is being promoted as a "massive" anti-war concert, "Operation Ceasefire," on the National Mall.

Also appearing on stage: punk-rock bands Le Tigre, Bouncing Souls and the Machtres; hip-hop groups the Coup and Head-Roc; Wayne Kramer of the MC5 with the Bellrays; country music artist Steve Earle; independent artists Ted Leo and the Pharmacists; the Evens and Sweet Honey in the Rock; and last, but not least, prominent peace mom Cindy Sheehan.

The lineup is sponsored by United for Peace & Justice and was pulled together by Thievery Corporation's Rob Garza and Eric Hilton, with the latter remarking: "As a private citizen, I want to do something because I am very much against all of the post-9/11 wars and occupation."

Before the music begins, a march will get under way at the Ellipse at 11:30 a.m., proceed through downtown Washington, and end at the Washington Monument.

Go figure

Trying to deflect the uncomfortable exposure that their 30 years of pressure campaigns and lawsuits blocked work on Louisiana's levees, environmental activists convened outside the U.S. Capitol yesterday for what has become a bit of an annual rite: protesting the very idea that America would extract petroleum from its own reserves.

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Surely the organizers could use the same fiscal shot in the arm as the rest of the country, what with gas prices still taking a bite out of the budgets of working Americans. And, argued one observer of yesterday's protest, couldn't these groups have chosen a better topic, or at least a better time to chant that America should not reduce dependence on foreign sources of oil by using its domestic sources?

As he put it: "Given current circumstances, one has to question the chances of success for an argument that, distilled, insists that starving people should consider going on a diet."

Tale of two lives

These past few months have been the best of times and worst of times for our favorite political pollster Frank Luntz, or so we learned when finally tracking him down yesterday.

He's just sold his polling and communication company to Omnicom, owners of such venerable PR firms as Fleischman Hillard and Ketchum. And that, he explains, has kept him on the road for 26 days in August and 17 days so far in September.

Otherwise, he was seen deep in conversation with Gov. Arnold Schwarzenegger at Boston's Fenway Park for the opening of the Rolling Stones global tour, but his poll recommending alternative language for the upcoming reform (Mr. Luntz says call them "accountability") measures on the California ballot were panned by the governor's political adviser.

He had front-row balcony seats for the Emmys on Sunday, but spent the rest of the day at the Santa Monica, Calif., Police Department failing to recover his stolen Corvette. He appeared as himself on "The Daily Show" with Jon Stewart, but his consulting work for "Real Time with Bill Maher" wasn't enough: The show ended up with two coveted nominations, but no statue.

We've also learned that the pollster has received a large advance from Hyperion for a book entitled "Killer Words: The New American Lexicon," but rumor has it he's barely beyond 10,000 words and it's due in less than a hundred days. That advance paid for an 8-foot-tall Bob from Bob's Big Boy, but his latest collector's item arrived the day after his annual baseball All-Star party.

Speaking of which, Mr. Luntz is the only pollster ever invited to throw out the first pitch at a Colorado Rockies game. (He was high and outside.) And none of the three baseball teams for which he has season-ticket plans -- the Washington Nationals, Baltimore Orioles and Los Angeles Dodgers -- will make the playoffs.

Life's tough at the top.

Here she comes

Whether Sen. Hillary Rodham Clinton is ready or not, her bumper sticker is.

Let us be the first to announce that CafePress, a leading purveyor of political campaign products, has begun selling for $3.99 a red-white-and-blue bumper sticker that reads "Hillary Clinton for President."

War Opponents Target Military Recruiters In High Schools (USAT)

By Mary Beth Marklein

USA Today, September 21, 2005

High schools are the latest anti-war battleground, with parents, students, educators and activists around the country stepping up campaigns to prevent military recruiters from reaching students.

Many of the efforts focus on a provision in President Bush's 2002 No Child Left Behind law that requires federally funded secondary schools to give military recruiters the same access to students as they do college or job recruiters.

The exceptions: Private schools that have a religious objection to military service don't have to comply. And parents can “opt out” of providing details, including names, addresses and phone numbers, to military recruiters.

Among recent activity:

•“Opt-out” events planned through November in 321 communities are giving parents and students 18 or older forms asking school officials to not release personal information or school records to military officials. They can send similar requests to the Pentagon. By Tuesday, more than 24,000 opt-outs had been requested, says Leave My Child Alone, a national coalition coordinating the events. Meanwhile, a bill introduced by U.S. Rep. Mike Honda, D-Calif., would prevent schools from releasing private information to military recruiters unless families request it.

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•Seattle's school board this month voted to tighten districtwide military recruitment policies, and made clear that conscientious objectors can have equal access to students. Other districts, including Toledo (Ohio) Public Schools, this year highlighted the opt-out option in brochures sent to families.

•Grass-roots groups last month launched a series of "Not Your Soldier" camps that teach students ages 13 to 22 how to counter military recruiters. Topics include non-violent campaigns and the ROTC.

The efforts come at a time when some military branches, especially the Army, are struggling to meet recruitment goals.

Unlike anti-war marches, "counter-recruitment" campaigns represent "one of the ways pressure is being put directly on the military," says Bill Dobbs of United for Peace and Justice, a New York group sponsoring a counter-recruitment conference Sunday in Washington as part of a Peace and Justice Festival. "It's the next big thing for the anti-war movement."

But many "opt-out" supporters cite privacy issues. Many were alarmed to learn that a database being created this year for the Pentagon would include students' personal information, such as Social Security numbers, e-mail addresses and grade-point averages.

"It's so insidious," says Kim-Shree Maufas, a San Francisco mother involved in local opt-out efforts. "You figure if anyone wants to get to your kid they have to go through you. Not in this case."

Douglas Smith, spokesman for the Army Recruiting Command, says high schools are an important venue because "it's the last time we'll have them all in one place."

He says most recruiters move on if they get a "hard no" from a student. But "If we get a soft no … I think that's an (invitation) for recruiters to call again," he says.

Karzai: Ease Up On U.S.-led Operations (USAT)

USA Today, September 21, 2005

Afghan President Hamid Karzai on Tuesday challenged the need for major military operations in Afghanistan. Karzai said airstrikes are no longer effective and U.S.-led coalition forces should focus on rooting out terrorist bases and support networks.

"I don't think there is a big need for military activity in Afghanistan anymore," Karzai said. "The nature of the war on terrorism in Afghanistan has changed now."

Karzai also wants foreign troops to stop searching people's homes without his government's permission. He said foreign governments should "concentrate on where terrorists are trained, on their bases, on the supply to them, on the money coming to them."

Afghan officials have repeatedly accused Pakistan of aiding Taliban militants, a charge Pakistan denies.

Coalition commander Lt. Gen. Karl Eikenberry said he expected more fighting in the weeks ahead. "We are staying on the offensive against the enemies of Afghanistan," he said.

Israel pulls last troops from 2 West Bank settlements

Israel withdrew the last of its troops out of two isolated West Bank settlements, completing the final phase of the withdrawal it began in Gaza last month.

As Israeli soldiers left the empty settlements of Ganim and Kadim, next to the town of Jenin, thousands of Palestinians streamed in, setting fires as gunmen fired in the air. Two other West Bank settlements were vacated earlier.

Unlike Gaza, Israeli forces will continue to patrol the area, the military said, as it has not turned over control of the northern West Bank to the Palestinians.

More than 1,000 missingafter storm in South Asia

At least 1,000 people were missing in southern India on Wednesday and hundreds of fishermen were unaccounted for in Bangladesh after a severe storm in the Bay of Bengal killed 50 people.

Praveen Prakash, a state government official, said about 100,000 people were homeless after heavy rains caused flooding in coastal districts of the southern Andhra Pradesh state on Monday and Tuesday, with strong winds uprooting thousands of trees and electricity poles.

"Over 1,000 people have been reported missing in the three coastal districts," Prakash said.

Most of the victims were either electrocuted or died in house collapses, he said.

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Storms and cyclones that form in the Bay of Bengal in September and October slam into India's eastern coast and neighboring Bangladesh almost annually.

Asia scrambles to curtail dengue fever outbreak

An unusually severe outbreak of dengue fever has caused alarm across Asia and baffled Singapore with a record 10,000 cases this year. The U.S. Centers for Disease Control and Prevention considers dengue the "most important mosquito-borne viral disease affecting humans" this year — ahead of malaria and encephalitis. An estimated 2.5 billion people are at risk worldwide.

Across Asia, governments are scrambling to curtail the spread, mainly by educating the public about the potentially fatal illness and controlling mosquito-breeding areas such as stagnant pools of water. Symptoms include severe joint pain, high fever and a rash. There is no known cure or vaccine.

Kevin Palmer, a diseases expert at the World Health Organization, said Vietnam, Malaysia, Thailand and the Philippines have had a large number of cases this year.

Fischer to step down as leader of German Greens

Outgoing German Foreign Minister Joschka Fischer, 57, said he's giving up his leading role in the Green Party. A former radical and high school dropout who became Germany's top diplomat, Fischer told reporters in Berlin: "Now is the moment for a new lineup."

Karzai Urges Shift In Strategy (WP)

By N.c. Aizenman

The Washington Post, September 21, 2005

KABUL, Afghanistan, Sept. 20 -- President Hamid Karzai on Tuesday questioned the need for further international military operations within Afghanistan, while the top U.S. military commander here predicted more fighting in the weeks ahead as Taliban guerrillas continue to mount attacks and U.S.-led forces respond.

Karzai, speaking at a news conference two days after landmark parliamentary elections were held with minimal disruption, called instead for a "stronger political approach," focused on shutting down guerrilla training camps and financial support outside the country.

Although he declined to specify any locations of foreign support, aides to Karzai have previously expressed his concern that neighboring Pakistan is serving as a haven for fighters linked to the ousted Taliban regime.

The president repeated past demands that foreign troops stop searching Afghan homes without authorization from his government. He also suggested that airstrikes, which are still sporadically employed by the U.S. military and have resulted in some civilian casualties, were not effective. "The nature of the war on terrorism has changed now," Karzai said. "We do not think there is a serious terrorist challenge emanating from Afghanistan."

Among the reasons he listed was a growing sense among Afghans that they are in control of their political destiny with the adoption of a constitution in January 2004, the country's first democratic presidential election last October, and the first parliamentary elections in three decades, held Sunday.

Taliban fighters failed to follow through on a vow to derail the latest voting. However, the Taliban militia has recently reasserted itself. Hundreds of civilians, government workers, Afghan police officers and soldiers have been killed in bombings and ambushes in the south and east.

U.S. and Afghan forces have responded with an aggressive campaign to root Taliban guerrillas out of their mountain redoubts, killing hundreds, but also losing 51 U.S. troops in combat since March.

At a separate news conference Tuesday, Army Lt. Gen. Karl W. Eikenberry, who commands the approximately 17,000 U.S. troops in Afghanistan, suggested that pattern would continue. "We can expect more fighting in the weeks ahead, as the enemy attempts to return Afghanistan to the dark days of the past in an effort to impose the will of a very few over the democratically stated choice of many," he said, according to the Reuters news agency. "We are staying on the offensive."

In Washington, Defense Secretary Donald H. Rumsfeld praised Afghanistan's elections as "an amazing accomplishment." He acknowledged that lethal attacks continue, but suggested that airstrikes are a less useful tactic in the counterinsurgency

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campaign being waged today by U.S. and Afghan troops. "When you don't have a massed army on the ground or large puddles of enemies, then airstrikes are less effective," he said.

Eikenberry and Karzai also said the elections -- the results of which will be available next month -- were a resounding success.

Asked why turnout, estimated at 50 percent, appeared to have been so much lower than the 70 percent turnout for the presidential election, Karzai suggested that many citizens may have felt overwhelmed by the sheer number of candidates. More than 2,700 candidates competed for 249 seats in the lower house of parliament, and more than 3,000 for seats on 34 provincial councils.

The message sent by voters was "great," Karzai said. "Look at the threats, look at the bombing, look at the terrorism, and despite that, the Afghan people came out and voted."

He also dismissed concerns by rights activists that only a few dozen candidates were disqualified for links to illegal militias, though many more were former militia commanders and warlords, widely alleged to have committed war crimes.

"Our country needs stability," Karzai said, adding that "a system of participation" is important to improve national life. "Certain aspirations for us at this moment may sound like too much of a luxury. So I'm very happy with what we have."

Attack Source Of Militancy, Karzai Urges U.S. Coalition (NYT)

By Carlotta Gall

The New York Times, September 21, 2005

KABUL, Afghanistan, Sept. 20 - President Hamid Karzai questioned Tuesday the need for major military operations in Afghanistan, saying that airstrikes were no longer effective and that the United States-led coalition should focus more on shutting off the flow of militants.

In what seemed to be a reference to Pakistan, Mr. Karzai said the fight against terrorism should "concentrate on where terrorists are trained, on their bases, on the supply to them, on the money coming to them." Afghan officials have complained in recent months that Taliban insurgents are using Pakistan as a sanctuary where they recruit and train militants and obtain financing.

He added that the United States should refrain from raiding houses without authorization from the Afghan government. Both the airstrikes, which can lead to civilian casualties, and the house searches have grown increasingly unpopular.

It was not the first time the president has complained about the American military presence. In May his request for more authority over military operations by the 20,000-member force was rebuffed by President Bush.

Defense Secretary Donald H. Rumsfeld, asked at a Washington news conference about Mr. Karzai's remarks, conceded that airstrikes were less effective "when you don't have a massed army on the ground or large puddles of enemies." But he said the United States was already coordinating closely with the Afghan government on counterterrorism activities.

In his first comments to journalists since Afghanistan's parliamentary elections on Sunday, Mr. Karzai expressed "relief and satisfaction" that they had come off without any major incidents. He said the fact that Afghans had voted in spite of all the threats against them and the killings in the weeks before the elections was proof that Al Qaeda had been defeated in Afghanistan.

The holding of parliamentary and provincial elections completes the international program for Afghanistan's transition laid down in the Bonn accords of 2001, but Mr. Karzai warned that it did not mean Afghanistan was now capable of standing on its own.

"We have just begun the foundations," he said. "Institutionally we are very weak." The country lacks the resources and human capital to run an effective civil service, is struggling to raise $350 million in revenues annually and cannot yet pay for its own army, police service and administration, he said.

Mr. Karzai said he was appealing to foreign governments to direct assistance away from reflief organizations and toward investment in trade and industry. He said he had specifically requested help from international backers, including the United States, in building reservoirs and electric power plants.

"I would like to concentrate on that," he said. "Roads and electricity are what the Afghan people ask for."

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He also said Pakistan had formally proposed to build a fence to stem the flow of insurgents but said he had rejected the idea.

The 1,500-mile border between Pakistan and Afghanistan has never been officially determined, and both countries continue to use the administrative division, known as the Durrand Line, that was drawn by the British more than 100 years ago.

Mr. Karzai said building a wall would be extremely difficult because the Durrand Line divides tribes and families, adding "It is separating people, not preventing terrorism."

Pakistan's idea for a fence, first suggested by President Pervez Musharraf last week, was formally proposed in a letter to the Afghan government. But Afghan officials, who asked not to be identified because they did not want to be seen as criticizing Pakistan, have suggested that the proposal is an effort to divert international pressure on Islamabad to crack down on insurgents' networks.

Europe Ships War Refugees Back Home (CSM)

By Isabelle De Pommereau

The Christian Science Monitor, September 21, 2005

FRANKFURT - Aferdite Hasanaj looks like any of her high school friends. But there's a difference: Every three months for the past 13 years, since her family fled Kosovo on the eve of the Yugoslavia war, she's had to ask permission to remain in Germany.

As a refugee whose asylum claim was rejected, she was subject to expulsion any time. In April, the government told her to go back "home" to Kosovo, squashing her dreams of going to college in Frankfurt.

"I've never been to Kosovo, I can't speak the language, don't know the culture," the 17-year-old said at a recent rally held to protest her expulsion. "The feeling of not having the right to belong fills me with despair."

Across Germany, 220,000 war refugees denied asylum have shared Aferdite's plight. But in a backdrop of public wariness about their perceived drain on the social system and an improved political situation in their countries, the government is speeding their return.

"How can a country expel a child who's been here for 13 years, who is good in school?" says Volker Ludwig of the GRISP Theater in Berlin, which staged a play about the deportation of a family. "Such a practice is unique in Europe, and it's outrageous."

This summer, Germany's 16 state interior ministers voted to hasten the return of hundreds of thousands of refugees to Kosovo, Iraq, and Afghanistan. And in May, the state of Hamburg began repatriating Afghans, saying that stability there had returned.

The trend is spreading across Europe, especially in countries with former liberal asylum policies such as Holland, Norway, Denmark, and England. Governments are implementing plans for faster and more efficient returns of refugees.

"There is a new intensity in the harshness of the repatriation," says Karl Kopp, European representative of Pro Asyl, a Frankfurt-based advocacy group for refugees.

There's a boom, says Mr. Kopp, in so-called "departure institutions," where refugees with failed asylum claims receive counseling meant to prepare them to leave voluntarily in exchange for receiving a stipend and food.

"The thinking in these institutions is: 'what can I do when I can't expel somebody?' " says Kopp. "The only way is to make life more difficult - to limit the people's freedom of movement, to go as far as possible so that the people have no choice but want to leave."

Government officials stress that those denied asylum know from the beginning that they will not receive legal status. Doing so "would send a signal to those who want to come to Germany: to stay here permanently, all you have to do is postpone getting your permit," says Wilfried Schmaeing of the Interior Ministry.

Germany's asylum regulations are considered among Europe's toughest. Until recently, only victims of state persecutions could receive asylum. Those fleeing civil wars like in Kosovo received a "tolerated status" because the persecution they had suffered did not come directly from the state. The new immigration act that went into effect this year loosened the regulations,

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recognizing persecutions by nonstate agents such as those suffered in Kosovo. At the same time, Germany has become more efficient and less human in sending home those denied asylum, critics say.

"The issue is becoming very politicized," says Patricia Coelho of the European Council on Refugees and Exiles in London. "Politicians are concerned about sharing with their public that they are being tough on asylum."

In England, "uncooperative" asylum seekers with rejected claims, with the exception of those with families, now see their welfare benefits withdrawn. In Holland, refugees denied asylum can now be denied social support after 28 days. Last year, Norway started charging hundreds of special officers with returning asylum seekers. Refugees denied asylum can also be denied access to the labor market or social protection.

"There is a tendency for industrialized nations to develop a policy to help induce or force people who've not been granted any kind of status to repatriate," says Ms. Coelho. Those asylum seekers, she says "form a growing segment of vulnerable, poor and marginalized people in European societies."

Although there are fewer and fewer asylum seekers in Europe, those asking for asylum are seeing their claims denied in greater number, says Ms. Coelho.

In Frankfurt, Europe's most multiethnic city, Aferdite's classmates rallied to her side. And Aferdite will most likely be able to stay at least until she finishes high school because a German family has committed to support her financially here. But her mother and two siblings are most likely going to be expelled next year.

DOJ:

Tyco Lobbyist Urges Senators To Support Tyco Lawyer Nomination (LAT)

By Walter F. Roche Jr.

The Los Angeles Times, September 21, 2005

WASHINGTON — A lobbyist for Tyco International Ltd. is urging the Senate to support a top Tyco executive nominated by the president to the second-highest post in the Justice Department.

Edward P. Ayoob acknowledged Tuesday that he had been lobbying senators to approve the president's choice of Timothy E. Flanigan as deputy U.S. attorney general. The lobbyist said he was acting on his own, not as an agent of Tyco.

Flanigan, 52, has been chief counsel at Tyco since 2002, when he resigned as deputy counsel at the White House to take the job at the industrial conglomerate.

Ayoob is a former top aide to Senate Minority Leader Harry Reid (D-Nev.). The lobbyist also formerly worked with Jack Abramoff at the Washington law firm Greenberg Traurig.

Ayoob, who called Flanigan a friend, said, "He is a man of the highest integrity, and I wanted my colleagues to know it."

Flanigan's selection as top aide to Atty. Gen. Alberto R. Gonzales has provoked controversy. Some senators questioned his role supervising a Tyco lobbying campaign two years ago conducted by Abramoff, now the subject of congressional and criminal investigations.

In 2003, Flanigan engaged Abramoff to help Tyco fight a bill that would have imposed higher taxes on the firm, which had moved its corporate headquarters offshore, to Bermuda.

In a written response to questions from Senate Judiciary Committee members, Flanigan said that at Tyco, he engaged Abramoff after Greenberg Traurig partners advised that "Mr. Abramoff had good relationships with members of Congress, including Rep. Tom DeLay."

Flanigan also told the committee that sometime after Abramoff was involved, he "told us that he had contact with Mr. Karl Rove," a top political advisor to President Bush.

Tyco's lobbying effort against the tax bill and other legislation aimed at offshore-based firms was successful.

In his written response to questions, Flanigan said that while supervising the Greenberg lobbying effort, he had regular contact with Ayoob "and, less frequently, with Mr. Abramoff."

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The nominee also wrote that Tyco discovered after an internal investigation that payments it made to a consulting firm recommended by Abramoff, GrassRoots Interactive, had been diverted to "entities controlled by Mr. Abramoff and were not used in furtherance of lobbying efforts on behalf of Tyco."

He said Tyco had concluded that the diversion was "in violation of Mr. Abramoff's ethical, fiduciary and contractual obligations to Tyco." The payments totaled $1.5 million.

Abramoff, through a spokesman, declined to comment.

Flanigan also responded to a series of questions about his role as a White House counsel in the review of policies for the handling of detainees and whether detainees could be subjected to "cruel, inhuman or degrading treatment."

He said he would not advise the attorney general or others "that U.S. personnel are permitted to engage in cruel, inhuman or degrading treatment."

Joe Shoemaker, a spokesman for Sen. Richard Durbin (D-Ill.), said other questions posed to Flanigan had yet to be answered.

Flanigan's nomination is expected to be delayed until the Judiciary Committee acts next week on the Supreme Court chief justice nomination of John G. Roberts Jr.

CORPORATE SCANDALS:

Radler Plea Deal Vows Cooperation In Hollinger Probe (WSJ)

By Elena Cherney

The Wall Street Journal, September 21, 2005

CHICAGO -- The longtime lieutenant of press baron Conrad Black entered a plea-bargain agreement with federal prosecutors, agreeing to cooperate with probes into dealings by Hollinger International Inc. executives, including Mr. Black, in exchange for a 29-month prison sentence and a $250,000 fine.

David Radler, who served as president and chief operating officer of the Chicago-based publisher, pleaded guilty to a mail-fraud charge and will cooperate with probes by federal prosecutors and the Securities and Exchange Commission.

Prosecutors for the U.S. attorney's office in Chicago said in the plea agreement that Mr. Radler and "the Chairman and Chief Executive Officer" -- titles held at Hollinger International by Mr. Black until 2003 -- schemed from 1999 until 2001 with others to cheat shareholders of $32 million.

Mr. Radler faced a possible maximum prison sentence under the mail-fraud charge of five years.

The fraud, according to the plea agreement entered in U.S. District Court for the Northern District of Illinois, related to Hollinger International's sales of its small community newspapers in the U.S. and took the form of noncompete payments set up by Mr. Radler, according to a "template" that he understood was approved by "the Chairman." The executives never sought approval of the payments by Hollinger's board.

While the plea agreement doesn't identify "the Chairman" as Mr. Black, its language hints at the direction prosecutors could take against the embattled press baron, based on Mr. Radler's testimony. Hollinger International at one time published London's Daily Telegraph, most of Canada's major papers and a stable of small U.S. papers. The company's flagship is now the Chicago Sun-Times.

"Radler, the chairman and others repeatedly abused their authority and fiduciary obligations as managers of International in order to fraudulently benefit themselves at the expense of International and its public shareholders," the plea agreement states.

Eric Sussman, the assistant U.S. attorney who presented the plea agreement to judge Amy St. Eve, wouldn't comment on the investigation. A spokesman for Mr. Black, who hasn't been charged with any criminal acts but faces SEC charges, declined to comment.

The transactions outlined in Mr. Radler's plea agreement are the same ones that set off the unraveling of Mr. Black's trans-Atlantic newspaper empire when they were uncovered two years ago by a special committee of the board advised by former SEC Chairman Richard Breeden. The deals had been shielded from shareholder scrutiny in part because of the complex structure through which Mr. Black and his close associates, including Mr. Radler, controlled the company.

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Mr. Black's closely held holding company, Ravelston Corp., owns a majority stake in Hollinger Inc., a publicly traded Toronto company that controls Hollinger International through supervoting shares.

Mr. Radler's plea is likely to help shareholders, who are seeking more than $400 million in funds that the internal company probe found had been diverted by executives, "get the money back through the civil system," said Eugene Fox, a principal with shareholder Cardinal Capital Management LLC. "David has admitted guilt. It's going to be hard for that not to have some weight in the civil process."

Final sentencing for Mr. Radler, who appeared in court sporting his trademark dark tan sports jacket, is to take place after criminal proceedings against other potential defendants are complete, unless those proceedings take too long, according to the agreement.

"This is the first step in making amends for what has taken place," said Anton Valukas, a lawyer for Mr. Radler.

A Top Lieutenant Of Lord Black Pleads Guilty To Fraud Charge (NYT/BLOOM)

By Bloomberg News

The New York Times, September 21, 2005

A former Chicago Sun-Times publisher pleaded guilty to a federal fraud charge yesterday and agreed to cooperate with a Justice Department investigation of Conrad M. Black, his former boss at Hollinger International.

Prosecutors will recommend that the former publisher, F. David Radler, 63, serve 29 months in prison and pay a fine of $250,000 for his role in the $32 million fraud. He will remain free on $500,000 bond until all proceedings in the case are concluded.

Lord Black, who founded Hollinger and built it into what once was the world's No. 3 publisher of English-language newspapers, is contesting a lawsuit by the Securities and Exchange Commission and a $425 million civil lawsuit by Hollinger contending that he looted the company through excessive, undisclosed payments to himself and associates. Lord Black has not been charged with a crime.

Mr. Radler, a native of Montreal who now lives in Vancouver, British Columbia, may be permitted under the proposed agreement to serve the prison sentence in Canada. The United States government agreed not to take a position if Mr. Radler filed an application for the International Prisoner Transfer Program.

Mr. Radler made his plea before Judge Amy St. Eve of United States District Court in Chicago.

In a statement, Mr. Radler said, "I regret the obvious pain this whole affair has caused for my family, friends and business colleagues, and I am relieved that I can now begin the process of making amends and moving on with my life."

Lord Black's lawyer, Enid Litt, did not return a telephone message seeking comment.

Mark Kipnis, 58, Hollinger International's former internal lawyer, and the Ravelston Corporation, a closely held company that Lord Black controlled, have also been charged. Mr. Kipnis pleaded not guilty in August. Ravelston is to be arraigned today.

Mr. Kipnis faces a maximum of five years in prison for each count and a $250,000 fine, or a fine of twice either his or Mr. Radler's profit or any victim's loss, prosecutors said. Ravelston faces penalties of $500,000 on each count or the alternative fine if convicted.

Lord Black, 61, has fought a 21-month effort by Hollinger International to neutralize his voting control and influence over the company and over Hollinger Inc. of Toronto. Ravelston in turn controlled Hollinger Inc.

Ex-Hollinger Executive Radler Pleads Guilty To Fraud (Update5) (BLOOM)

Bloomberg News, September 20, 2005

Sept. 20 (Bloomberg) -- Former Chicago Sun-Times publisher David Radler pleaded guilty to a federal fraud charge and agreed to cooperate with a Justice Department probe of Conrad Black, his ex-boss at Hollinger International Inc.

Prosecutors will recommend that Radler, 63, serve 29 months in jail and pay a fine of $250,000 for his role in the $32 million fraud. He'll remain free on a $500,000 bond until all proceedings in the case are concluded.

``From what appears to be going on, the government is using the cooperation of the person who pled guilty today to work up a case against Mr. Black," said Bradford Lewis, a former federal prosecutor who is now a partner at Fenwick & West on Palo Alto, California.

Black, who founded Hollinger and built it into what once was the world's No. 3 publisher of English-language newspapers, is fighting a lawsuit from the U.S. Securities and Exchange Commission and a $425 million civil lawsuit by Hollinger that claims he looted the company through excessive, undisclosed payments to himself and associates. Black hasn't been charged by federal prosecutors.

Radler, a native of Montreal who now lives in Vancouver, may be permitted to serve his prison sentence in Canada. The U.S. government agreed not to take a position if Radler files an application for the International Prisoner Transfer Program. Radler made his plea in U.S. District Judge Amy St. Eve's courtroom in Chicago.

Making Amends

``I regret the obvious pain this whole affair has caused for my family, friends and business colleagues, and I am relieved that I can now begin the process of making amends and moving on with my life," Radler said in a statement.

Black's lawyer, Enid Litt, didn't return a voicemail message seeking comment.

Hollinger shares fell 32 cents to $10.10 in composite trading today on the New York Stock Exchange.

Mark Kipnis, 58, Hollinger International's former in-house lawyer, and Ravelston Corp., a closely held company Black controlled, also have been charged. Kipnis pleaded not guilty in August. Ravelston is to be arraigned tomorrow.

Kipnis faces the same maximum penalties as Radler: five years in prison for each count and a $250,000 fine, or a fine of twice either man's profit or any victim's loss, the government said. Ravelston faces penalties of $500,000 per count or the alternative fine if convicted.

Black, 61, has fought a 21-month effort by Hollinger International to neutralize his voting control and influence over the company and Hollinger Inc., its Canadian parent. Ravelston in turn controlled Toronto-based Hollinger Inc.

The board ousted Black as CEO in November 2003, sued him and stripped him of the chairman's title the following January.

Countersuit

Black has countersued and said if he's found liable, former Illinois Governor James Thompson and other members of the company's audit committee should pay part of the damages because they breached their fiduciary duties.

Hollinger International had spent more than $50 million in the past 18 months on lawsuits relating to the allegations that Black looted the company, Hollinger International's lawyer Eric Hoaken said in a Toronto court in July.

U.S. Attorney Patrick Fitzgerald's office has been investigating Black and Radler to determine whether they ``fraudulently diverted corporate assets," according to court papers. Federal prosecutors were examining Hollinger International's sale of newspapers to companies Black and Radler controlled.

In one 1999 transaction detailed in the federal indictment, Hollinger sold several newspapers to a closely held firm called Horizon Publications Inc., which was owned by Radler, Kipnis and other unidentified Hollinger executives. Horizon paid a $5 million non-compete fee in the agreement, with $1.2 million of that going to Hollinger Inc., according to the indictment.

The SEC's suit, filed in November in federal court in Chicago, contends that between 1999 and 2003 Black and Radler diverted $85 million from the publisher in bogus non-competition payments and concealed ``self-dealing" transactions from shareholders, regulators and the company's board.

The case is U.S. v. Radler, 05-CR-727, U.S. District Court for the Northern District of Illinois, Eastern Division.

To contact the reporter on this story: Kevin Orland in Chicago at korland@bloomberg.net. Last Updated: September 20, 2005 16:08 EDT

Ebbers Centers New-Trial Bid On Ex-Deputy (WSJ)

By Nathan Koppel

The Wall Street Journal, September 21, 2005

Bernard Ebbers, WorldCom's former chief executive, faces 25 years in prison for participating in the largest accounting fraud in U.S. history. Former Chief Financial Officer Scott Sullivan got five years, two other middle-level executives got a year and a day, and a third got five months.

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Yet WorldCom's erstwhile second-in-command remains in legal limbo. In court papers, federal prosecutors say former Chief Operating Officer Ronald Beaumont was a "co-conspirator" in the $11 billion fraud, but they haven't had him indicted for reasons they decline to discuss. He also hasn't had to pay penalties in civil cases by the Securities and Exchange Commission or shareholders of WorldCom, which is now known as MCI Inc.

Now Mr. Ebbers, who remains free while appealing his conviction, is hanging his bid for a new trial in part on Mr. Beaumont, along with two lower-level former executives also named by prosecutors as "unindicted co-conspirators." Mr. Ebbers's lawyers argued in April in federal court in New York that the government's refusal to grant Mr. Beaumont and the others immunity from prosecution effectively barred them from calling the ex-CEO's former lieutenants to testify for the defense.

The Ebbers team is focusing much of its appeal for a new trial on Mr. Beaumont as it prepares to send briefs to the Second U.S. Circuit Court of Appeals in New York this month. The Ebbers team says Mr. Beaumont's attorney had indicated that his client, if called, would invoke his Fifth Amendment right to remain silent and avoid possible self-incrimination. That's not a surprising stance, given that prosecutors could decide at any time to indict him, especially if he had said something they deemed incriminating on the stand.

With immunity, there would have been no danger that his testimony would be used against him, so he could have been compelled to answer questions.

Reid Weingarten, Mr. Ebbers's lead trial lawyer, says memos summarizing government interviews with Mr. Beaumont suggest he would have backed Mr. Ebbers's testimony that Mr. Sullivan hid the accounting fraud from the CEO. Mr. Beaumont "was more sophisticated and closer to the numbers than Bernie," Mr. Weingarten says, contending that prosecutors purposely left him in legal limbo to prevent him from helping exculpate his former boss.

The Ebbers lawyers say their inability to call Mr. Beaumont made the first trial unfair. They want the appeals court to order a new trial and to force prosecutors to grant Mr. Beaumont immunity so the defense could call him to the witness stand, where the trial judge could order him to answer questions.

In legal briefs, prosecutors say there is no reason to believe Mr. Beaumont's testimony would have helped Mr. Ebbers because the defendant's "hands-on management style" rendered him well-situated to know about the fraud. At the trial, U.S. District Judge Barbara Jones refused to order prosecutors to grant Mr. Beaumont immunity, ruling that his expected testimony -- denying knowledge of any fraud -- would at most exculpate himself, not Mr. Ebbers. The Ebbers lawyers say Mr. Beaumont's denial would have bolstered their argument that Mr. Sullivan kept senior management in the dark.

Lawyers uninvolved in the case say the appellate argument about Mr. Beaumont is a long shot. "The government always has a reasonable argument that it doesn't want to immunize a person because that person may have committed a crime," says Robert Morvillo, a white-collar attorney who represented homemaking entrepreneur Martha Stewart.

Mr. Beaumont's lawyer, Carey Dunne, says his client has "cooperated fully" in all WorldCom probes, and there is no reason to believe the government "is contemplating any action" against him. Mr. Beaumont previously has maintained he did nothing wrong.

Federal prosecutors in New York City who oversaw the WorldCom case decline to comment on Mr. Beaumont, as does the SEC. Lawyers pursuing WorldCom shareholder suits say they didn't name him as a defendant because he didn't formally endorse the company's fraudulent books, such as by signing SEC filings.

"The universe of people who had a hand in disasters like WorldCom is bigger than the universe of people you can bring a sustainable lawsuit against," says John "Sean" Coffey, the lead plaintiffs' lawyer in a federal class-action WorldCom suit.

Mr. Beaumont, 57 years old, arrived at WorldCom in 1997 and became its chief operating officer in late 2000. In 2001, he got a salary and bonus of $3 million and use of a Gulfstream III jet, according to a report by a special committee of WorldCom's former board. The board report doesn't address whether Mr. Beaumont knew that WorldCom artificially inflated revenue, but it says he participated in decisions that resulted in improper accounting.

The report says Mr. Beaumont held meetings every two to three months in 2001 to stress to sales leaders the "importance of achieving revenue targets." Searching for "revenue opportunities" to bridge gaps, the report says, a group headed by Mr. Beaumont decided to count $30 million in penalties from customers who terminated service agreements before they were due to expire. The report concluded that because WorldCom rarely imposed such penalties, it was improper to count the $30 million.

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Mr. Beaumont told board lawyers he relied on others to make accounting judgments, according to a lawyer's notes of the interview.

At Mr. Ebbers's trial, prosecutors' designation of Mr. Beaumont as an unindicted co-conspirator allowed them to use testimony about his conversations with alleged co-conspirators. Normally, such testimony would be barred as hearsay, but there's an exception for hearsay about actions taken to advance a criminal conspiracy.

Testifying for the government, Mr. Sullivan, the former chief financial officer, recalled that Mr. Beaumont agreed to Mr. Ebbers's request that slides on bridging a revenue gap be removed from a board presentation the boss was going to make -- suggesting that Mr. Ebbers was hiding something.

Though Mr. Beaumont technically remains in legal limbo, the Ebbers team said in its motion for a new trial that the former No. 2 is unlikely to be charged because doing so would fly "in the face of reality and common sense." Mr. Weingarten adds, "You don't routinely prosecute subordinates after you prosecute the big guy."

Kozlowski And Swartz Ask For Release On Bail (WSJ/DJN)

By Chad Bray, Dow Jones Newswires

The Wall Street Journal, September 21, 2005

Lawyers for former Tyco International Ltd. executives L. Dennis Kozlowski and Mark H. Swartz asked a New York state appellate judge to release their clients on bail pending their appeal.

Prosecutors and lawyers for the former executives made arguments on whether the men should be released at a hearing in chambers at the New York State Supreme Court's Appellate Division yesterday afternoon.

Mr. Kozlowski, Tyco's former chief executive, and Mr. Swartz, the conglomerate's former chief financial officer, were remanded to state custody on Monday after they were sentenced to 8 1/3 years to 25 years in prison and ordered to pay $240 million in fines and restitution. Their sentencings came after one of the high-profile trials in the wave of corporate-scandal prosecutions.

With good behavior and other factors, the earliest the two men could finish their prison terms is after nearly seven years.

Prosecutors are expected to file a response to the defense application for bail by tomorrow. Defense attorneys are expected to respond by Monday. A decision is expected soon after that.

Lawyers for Messrs. Kozlowski and Swartz declined to comment after the hearing.

In June, a jury of six men and six women convicted Messrs. Kozlowski and Swartz of 22 of 23 counts each, including grand larceny, conspiracy and securities fraud. They were each acquitted of one charge of falsifying documents related to the company's 1998 relocation to Florida.

Their convictions followed a mistrial in the case last year. Tyco, which has its headquarters in Bermuda, operates out of West Windsor, N.J.

CRIMINAL LAW:

Judge Declares Mistrial In Gotti Case (FINDLAW/AP)

By Tom Hays, Associated Press Writer

Find Law, September 21, 2005

(AP) - NEW YORK-The judge in the John A. "Junior" Gotti racketeering case declared a mistrial Tuesday on the most serious charges in the case after the jury came back deadlocked.

The jury found Gotti not guilty of a lesser count of conspiracy to commit securities fraud. That verdict will stand.

The partial verdict came on the eighth day of deliberations in Gotti's trial on charges that included an allegation that he plotted the kidnapping of Curtis Sliwa, the founder of the Guardian Angels crime-fighting group.

U.S. District Judge Shira Scheindlin declared a mistrial on the remaining counts and discharged the jury after it indicated for the second straight day that it was unable to reach a decision about the bulk of the case.

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Gotti Is Released After Judge Declares Mistrial (NYT)

By Julia Preston

The New York Times, September 21, 2005

In a startling setback to federal prosecutors, John A. Gotti, the Gambino crime family prince who said he wanted to leave the mob life behind and drive a minivan with his family, avoided conviction today in his racketeering trial, as the jury returned hung verdicts on three charges against him and voted to acquit him on a fourth.

After deliberating almost eight days in the six-week trial, the deeply divided jury reached no verdict on the most serious charge against Mr. Gotti, the accusation that he ordered the June 19, 1992, kidnapping of Curtis Sliwa, the Guardian Angels founder and WABC radio talk show host. He was abducted in a taxicab in lower Manhattan and shot several times at point-blank range.

The jury of seven women and five men had sharply mixed reactions to a case the prosecutors built primarily on the contradictory and often chilling testimony of two high-profile Gambino turncoat witnesses, both of whom confessed coolly in court to crimes more bloody than any Mr. Gotti was accused of.

Judge Shira A. Scheindlin said in Federal District Court in Manhattan that she would allow Mr. Gotti to go free once he posted bail, rejecting a request from a prosecutor, Michael McGovern, that he remain in prison pending a possible retrial.

"The time has come" for Mr. Gotti to be released, Judge Scheindlin said, and applause erupted from the many Gotti clan members in the courtroom.

"God hears a mother's prayer," said a happily tearful Victoria Gotti, Mr. Gotti's normally reclusive mother, who sat in the courtroom throughout the deliberations. Mr. Gotti's lawyers, Jeffrey Lichtman and Marc Fernich, requested that his bail be reduced from property worth $5 million to $2 million in property.

It was a notable change of fortune for the son the late John J. Gotti, the fearsome Gambino boss known as the Dapper Don who ran the Gambino family when it was New York's most powerful Costa Nostra organization. Mr. Gotti's father died in federal prison in 2002, and three other senior members of the Gotti family are behind bars for mob crimes.

Mr. Sliwa said prosecutors told him after the trial that they would try Mr. Gotti again on the three counts that ended in hung verdicts: the kidnapping charges for the attack on him, and racketeering and extortion conspiracy charges. Mr. Gotti was acquitted of securities fraud.

The office of Michael J. Garcia, the United States Attorney for the Southern District of New York, had no comment today.

Mr. Sliwa, dressed in the Guardian Angels uniform of a red sateen jacket and red beret, said he was stunned and disappointed and saw "a page out of O.J." in the hung verdicts, referring to the murder acquittal of O.J. Simpson.

"This jury was out to lunch," Mr. Sliwa said. "So let's make it round two. I can't wait." He predicted that Mr. Gotti and the Gambino family would continue "a reign of terror" once he was released from jail.

"John Gotti Junior is still down to the marrow of his bone an enemy of society, a thug," Mr. Sliwa said.

One juror, as she arrived today at her apartment on the Upper West Side of Manhattan, said the jury's debate "was exhausting." The jurors served anonymously in the trial, and she declined to give her name.

"Have you ever tried to get three people to agree on anything?" the juror asked. "Try 12."

The juror, who told the court during jury selection she was a retired actress, 67, recalled what defense lawyers had said of the government's cooperating Gambino defector witnesses: that they were "people who never told the truth in their lives."

She said, "I think we were all surprised," that Mr. Gotti was not convicted of any charge. In the most surprising verdict in the trial, the jurors acquitted another defendant, Michael Yannotti, 42, of two shooting executions on Jan. 27, 1996, in the Mill Basin section of Brooklyn. Mr. Yannotti was accused of shooting Robert Arena, a Cosa Nostra rival, and Thomas Maranga, who prosecutors said was a bystander in the wrong place at the wrong time. Mr. Yannotti's pager was found by police on the pavement among the spent cartridges of the murder bullets.

The jury delivered a hung verdict on the role of Mr. Yannotti, a Gambino associate, in the Sliwa attack. The prosecutors - Mr. McGovern, Victor Hou and Joon Kim - had sought to prove that he was the gunman who shot Mr. Sliwa in the legs and abdomen in the back seat of a taxi. Mr. Yannotti was convicted of one lesser racketeering conspiracy count.

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Louis Mariani, 49, another Gambino associate, was convicted of three counts of securities fraud. Mr. Mariani's aunt, Antoinette Laboccetta, gave an anguished cry of "No!" when the guilty verdicts were read, and then fainted. She was carried from the courtroom by marshals.

As a sign of the intense dissent in the jury room, the jurors' verdict on the main racketeering count against Mr. Gotti and the other defendants was so divided that Judge Scheindlin and the lawyers puzzled over it for half an hour before deciding what it meant.

Gotti Set For Bail After Hung Jury, Acquittal (REU)

By Christine Kearney

Reuters, September 20, 2005

NEW YORK (Reuters) - A New York jury deadlocked over racketeering charges against the son of late mob boss John Gotti on Tuesday and acquitted him of securities fraud charges, paving the way for his release from prison on bail.

U.S. District Judge Shira Scheindlin dismissed the hung jury, saying John A. "Junior" Gotti, 41, could face some of the racketeering charges in a new trial.

She also said Gotti was entitled to bail and asked defense lawyers to submit a bail package. If granted bail, Gotti could be released within a week.

Gotti was imprisoned on other racketeering charges and was due to be released last year before the latest charges were brought against him.

The remaining charges against him included extortion, loan sharking conspiracy and ordering the attempted kidnapping of the Guardian Angels anti-crime patrol leader, Curtis Sliwa. Gotti faced up to 30 years in prison.

The verdict came after seven days of deliberations. A visibly relieved Gotti, wearing a crisp white shirt and black suit, hugged his lawyers, while family members in the Manhattan federal courtroom cried.

During the trial, prosecutors said Gotti became "street boss" of the Gambino crime family in the 1990s after his infamous father, known as the "Dapper Don," went to prison, where he died of cancer in 2002.

The jury sent a note to the judge on Monday, saying they could not agree on whether Gotti withdrew from the Mafia in 1999 after being sent to prison for pleading guilty to other racketeering charges, as his defense team had maintained.

The charges against Gotti are bound by a five-year statute of limitations, which means the prosecution had to prove Gotti was involved in at least one conspiracy after July 1999 -- five years before his indictment was handed down.

Outside the courtroom, Gotti's lawyer, Jeffrey Lichtman, said he was pleased with the result because "just the name Gotti" was usually enough to get a conviction. He said he plans to ask the court to dismiss the remaining counts against his client.

"This case, what is left of it, is a limping wreck," Lichtman said.

Curtis Sliwa, who testified during the trial that he was shot in the back of a taxi in 1992 after making derogatory comments about Gotti's father, said he couldn't wait for "round two."

"I am disappointed. I've been waiting 13 years, but I can still wait a little longer for justice," he said. "I feel in my heart I am alive today simply so that justice can be done for John Gotti Junior."

An array of mob turncoats testified during the monthlong trial, including the taxi driver in the Sliwa shooting, Joseph D'Angelo, who said Gotti ordered the attack.

But Gotti's defense lawyers said the prosecution's case was based on witnesses who were liars and murderers who testified to get lighter prison terms.

At The Gotti Trial, A Mob Scene (WP)

By David Segal, Washington Post Staff Writer

The Washington Post, September 21, 2005

NEW YORK, Sept. 20 -- In a scene that seemed scripted by a Hollywood hack, the federal trial of John A. "Junior" Gotti ended Tuesday with tears, applause, fainting and a mixed verdict that soon could spring the onetime Mafia boss from prison.

On its eighth day of deliberation, a weary panel of seven women and five men acquitted Gotti, 41, of securities fraud and hung on the three other counts, including loan-sharking and the alleged kidnapping of Guardian Angels founder Curtis Sliwa.

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U.S. District Judge Shira Scheindlin declared a mistrial on those charges and said that she's inclined to approve a request by Gotti's lawyers that he be freed on $2 million bail. Odds are good that one of the country's most notorious gangsters -- or ex-gangsters, as his defense team argued -- will be restricted only to house arrest starting sometime next week.

The coda to this seven-week trial was weird, baffling and at moments very noisy. The aunt of Louis Mariani, one of Gotti's two co-defendants, screamed "Noooooooooo!" as she heard the forewoman declare her nephew guilty of securities fraud. Antoinette Laboccetta then slipped off her seat and onto the floor, her eyes rolling, a copy of a pamphlet called "The Promises of Our Lord" clutched to her chest.

Two marshals in the courtroom rushed to aid her. "Do you need an ambulance?" shouted one of Scheindlin's clerks, sitting directly in front of the judge, as Laboccetta was carried out of the room. All the while, the judge tried to go through the formality of polling the jury, which wasn't easy because jurors, too, were fixated on the drama in the audience. "Pay attention to me," she said, as cheerfully as possible. Adding to the upheaval, the clerk who'd asked about the ambulance started to cry.

Other members of the crowd -- the Gotti side, at any rate -- clapped wildly when the last "not guilty" was read. Angel Gotti, a sister of the accused, praised her favorite psychic, who she said had predicted this very outcome on this very day. "I told you, didn't I?" she said, nudging her mother as the two of them wiped tears from their eyes. "God listens to a mother's prayers," said Gotti's mother, Victoria, who leaped to her feet and left the courtroom as the verdict was read.

Gotti shook his head, hugged his lawyer and eventually turned to give a thumbs-up to assorted friends and family. But for a while he looked baffled by the proceedings. And the proceedings, in truth, were pretty baffling.

There was some confusion about the law -- for a good half-hour, the judge and lawyers puzzled over the verdict sheet, parsed the complicated rules of racketeering statutes and debated whether the jury had actually acquitted Gotti of all counts or just had failed to reach a unanimous decision. (It had deadlocked, it was decided, leaving Gotti open to a retrial.)

Gotti is hardly out of legal jeopardy -- prosecutors will almost certainly retry him -- but he and his attorneys clearly won over a juror or two by arguing that he'd quit the mob in 1999, when he pleaded guilty to a handful of racketeering charges. Gotti, son of the "Dapper Don," the late John J. Gotti, had contended that his charismatic and murder-prone dad led him astray, and that after six years in prison, a variety of slights by former associates in the Gambino crime family, and maybe a little moral clarity, he had had enough of crime.

The verdict left Gotti's attorneys, Jeffrey Lichtman and Marc Fernich, beaming.

"The fact is they built a case on the backs of psychotics," Lichtman said, referring to the parade of ex-mobsters who provided the juiciest part of the prosecution's presentation. "Altogether they committed about 30 murders, these guys, and some of them are walking among us. The jury rejected that approach."

Lichtman also said it was time to leave the Gottis alone. "Enough already," he said. "Let's find Osama bin Laden."

The sidewalk outside the Daniel Patrick Moynihan courthouse in Lower Manhattan was jammed with television cameras as Lichtman and other players in the case left the building. Sliwa, who the government alleged had been shot on Gotti's orders in a 1992 kidnapping attempt, fumed in the middle of the scrum.

"There's a Round 2," he said. "This doesn't mean Gotti is innocent. I've waited 13 years for this. I can wait a little longer."

Mariani, who is free pending sentencing, shrugged off the guilty verdict against him and told the assembled media that he was ready to do his time.

"It'll be a lot like a fat farm," he said of prison, grinning widely, his hands on his expansive belly.

"I could stand to lose 60 pounds."

His aunt stood nearby, looking a little dazed but under the circumstances rather steady.

Gotti Mistrial Leaves Some Elated, Others Stunned (NYNSDY)

By Patricia Hurtado, Staff Writer

New York Newsday, September 21, 2005

The verdict in the month-long trial of John "Junior" Gotti was met with tears, applause and near-pandemonium.

Gotti's sister Angela gasped and began to weep, while his mother and other siblings applauded as the jury announced it had cleared him of a securities fraud charge and were hung on the remaining racketeering and conspiracy counts.

When the audience heard that Gotti's co-defendant Louis Mariani, a reputed Gambino crime family associate, was convicted of securities fraud and other charges, Mariani's aunt let out a groan and fainted.

Lawyers tried to get U.S. District Judge Shira Scheindlin to stop, but she continued to read the verdict as a team of U.S. Marshals and courtroom security officers carried the unconscious woman out.

Later, as the courtroom was emptying, Gotti's mother, Victoria, of Howard Beach, beamed triumphantly as she waved at her son.

"I'm feeling great. God hears a mother's prayers. I have no doubt though that they'll be back at it in a couple of months. We've gotta get him out of the country. He's always going to be catnip to these people," she said of prosecutors and the FBI.

Gotti's sister Victoria, star of her own reality TV show, "Growing Up Gotti," left the courtroom alone, leaned against the courthouse's white marble wall and began to weep. "He's just coming home," she said. "I think it means a lot for the men in my family, my boys. I just think this sends a message that you just can't prosecute someone because of their last name."

Asked what Gotti had said after the verdict, defense lawyer Jeffrey Lichtman said his client was elated.

"He said 'Thank you, you did everything you said you would do,'" Lictman said.

Lichtman, who apparently did not know the jury had come close to convicting his client (it voted 11-to-1 for conviction on a variety of crimes) sounded a triumphant note.

"This case, what's left of it, is a limping wreck," he said. Noting that the judge said she would likely release Gotti on bail, Litchman said: "John's very pleased he's going to be home very shortly with his children, which is all that he's talked about for the last year."

Meanwhile, Curtis Sliwa, who testified about how he was kidnapped and shot -- allegedly at Gotti's behest in June 1992 -- emerged from the courthouse looking grim.

Asked how he felt about the acquittal of Gotti co-defendant Michael Yannotti, Sliwa shook his head.

"I'm stunned," he said. "This is a page out of the O.J. Simpson case. Next thing you know, they will believe it was the Colombians who shot me.

"I feel that I am alive today simply to make sure that justice is done in this case ... I think it's time to have 12 fresh jurors."

Louisiana Reports ID Fraud Post-Katrina (REU)

Reuters, September 20, 2005

BATON ROUGE, Louisiana (Reuters) - Identity thieves are preying on Louisiana residents forced from their homes by Hurricane Katrina, the state attorney general's office said on Tuesday.

Consumer protection officials said complaints were coming in from hurricane victims who discovered the thefts when they applied for financial aid from the Federal Emergency Management Agency.

"When they (hurricane victims) go into apply, they'll find that somebody has already done it in their name," said Isabel Wingerter, director of the Louisiana Attorney General's public protection division.

Thieves were able to apply for the aid using the victim's social security numbers.

Experts had warned that identity theft could become a problem in the wake of the storm with thieves taking birth certificates, banking and other sensitive documents left among the waterlogged debris.

Wingerter said Louisiana officials had received about 50 complaints of identity fraud in the past day, but she expected the number to grow as more storm victim apply for federal assistance.

Displaced hurricane victims were also being urged to file for changes of addresses with the U.S. Post Office to prevent sensitive materials from being delivered to their wrecked homes before they return.

The Justice Department in Washington has set up a task force to investigate identity theft and other types of fraud related to the Katrina.

Federal Officials Scrutinize Ladner (WP)

By Valerie Strauss And Susan Kinzie, Washington Post Staff Writers

The Washington Post, September 21, 2005

DOJ_NMG_0006977

Federal law enforcement officers are reviewing documents regarding suspended American University President Benjamin A. Ladner, whose personal and travel expenses are being investigated by the school's trustees.

Officials from the U.S. attorney's office in Washington, working with the FBI, requested documents from American University, which turned them over to comply with a subpoena, according to two sources with knowledge of the probe.

In addition, the Internal Revenue Service has contacted the university about issues involving the Ladner case, but the IRS is not actively involved, according to the sources, who spoke on condition of anonymity because the probe is ongoing.

The case could have tax implications not only for Ladner but also for AU, which is bound by laws governing how much charities and universities pay their executives.

The board of trustees placed Ladner on administrative leave Aug. 24, and Provost Cornelius M. Kerwin stepped in to serve as acting president. Ladner would not comment for this article. The chairman of the board, Leslie E. Bains, did not return a phone call yesterday.

Channing Phillips, a spokesman for the U.S. attorney's office, said last night that grand jury secrecy rules and Justice Department policy prevent his office from commenting.

The trustee board is close to completing its probe of Ladner, who became president in 1994. He has been credited with raising academic standards and the national profile of the university, which is in Northwest Washington .

There is a split on the board about the severity of the issues reviewed in its audit, according to several sources familiar with the board's discussions. Some trustees view Ladner's expenses as justified by the constant fundraising and entertaining required of today's university presidents, while others believe that the spending was out of line for a school of AU's size, the sources said.

Those sources and others with knowledge of the board probe said it involved a number of complicated issues and hundreds of thousands of dollars in travel and personal expenses over the past three years. The board has not determined whether Ladner should be asked to repay the university for any of the spending, a source said.

The board also has been wrangling with Ladner over compensation -- his salary, benefits and allowances -- which has more than tripled since he came in 1994, according to one source with detailed knowledge of Ladner's pay. In 2004, his base salary was $633,000, but his total compensation was well over $800,000, according to forms the university filed with the IRS.

Last year, some board members became concerned that Ladner's pay was too high for the president of a 10,000-student private, nonprofit school and that they could be liable under laws intended to avoid excessive compensation to executives of charities, sources knowledgeable about board activities said.

Any payment of an executive's personal expenses by the organization generally must be repaid or reported as income, said LaVerne Woods, chair of the tax-exempt organizations committee of the American Bar Association.

The board decided to reduce Ladner's overall compensation by an undisclosed amount, according to the sources. The trustees, meanwhile, continued to investigate his personal and travel expenses, including an engagement party for his son that he allegedly charged to the university, the sources said.

Because his contract required Ladner to spend a certain amount of time at a university-owned house, sources said, Ladner's attorneys argued that the cost of all food and services required while living there should be paid by the school.

A preliminary report by Arnold & Porter LLP, a law firm helping the trustees, has been completed and sent to Ladner. The report includes records of several chauffeurs employed by Ladner and his wife, Nancy Bullard Ladner. Chauffeurs kept a log of their duties, including taking Ladner to such events as an athletic awards banquet, dropping off dry cleaning and taking Nancy Ladner to an appointment at a hair salon.

A final report has not been completed but is expected to be within a few weeks, the sources said. The board, however, already has eliminated the position of personal chef to the Ladners and transferred the social secretary for the Ladners to another department.

Staff writer Allan Lengel and researcher Bobbye Pratt contributed to this report.

FBI Investigates Democrats On Steele's Credit Report (WP)

By John Wagner And Matthew Mosk

The Washington Post, September 21, 2005

Federal prosecutors are investigating whether two Democratic Party researchers in Washington illegally obtained the credit report of Maryland Lt. Gov. Michael S. Steele as they conducted opposition research on the likely Republican Senate candidate.

Phil Singer, a spokesman for the Democratic Senatorial Campaign Committee, acknowledged yesterday that two of his organization's employees had resigned as a result of the episode, which he said was subsequently referred to the U.S. attorney's office by the Democratic committee.

Under federal law, it is illegal to knowingly and willfully obtain a credit report under false pretenses. A spokeswoman for the U.S. attorney's office for the District of Columbia confirmed last night that an investigation by its fraud and public corruption section is proceeding with the assistance of the FBI.

The July episode came as both parties started digging into the backgrounds of opposing candidates for Maryland's two marquee races next year, for governor and an open U.S. Senate seat.

Steele's chief of staff, Paul Ellington, said FBI agents interviewed the lieutenant governor about the matter last week.

Ellington said Steele learned of the possible impropriety when agents approached him. "He didn't have any idea this was going on," Ellington said. Personal finances could be fertile territory for researchers looking into Steele, who acknowledged financial difficulties when he ran for statewide office three years ago.

The DSCC, the arm of the Democratic Party tasked with promoting Senate candidates, declined to disclose the names of the employees involved. But sources with knowledge of the episode identified them as Katie Barge, the committee's former research director, and Lauren Weiner, an employee who had been researching Steele even before he formed an exploratory committee for Senate in June.

Bill Lawler, an attorney representing Barge, said she had brought the matter to her superiors' attention. "She resigned because she didn't want this episode to negatively reflect on the committee," Lawler said.

An attorney said to be representing Weiner did not return a phone call yesterday.

Singer said the two employees acted without the committee's authorization but later told their superiors, who "immediately ensured that Mr. Steele's credit report was not used or disseminated to anyone."

Singer added that the former employees were cooperating with authorities and that the DSCC had launched an internal review of the matter. He said the DSCC is not a target of the federal inquiry.

Sources familiar with the episode said Steele's credit report was obtained with the use of his Social Security number, which was found on a public court document.

Shortly after being named by Robert L. Ehrlich Jr. (R) as his running mate in 2002, Steele disclosed to reporters that he owed more than $35,000 in personal debts and had an unpaid political loan of $25,000 from a previous race.

Steele, a former corporate lawyer who started his own consulting firm in 1998, said at the time that his "tight" financial situation should not detract from his political message. "At least my report reflects a blue-collar man, an entrepreneur out there trying to start a business in Maryland," Steele said in July 2002. "I don't have trusts that are going to cover me."

Steele is paid $120,833 a year as lieutenant governor. According to the most recent financial disclosure he submitted to the Maryland State Ethics Commission, which covers 2004, he has paid off some of his debts.

Steele has been heavily courted to run for Senate by national GOP leaders and is expected to give the party its best shot at a Senate seat in years.

Democrats Got Steele's Credit Report (WT)

By Matthew Cella

The Washington Times, September 21, 2005

Two members of the Democratic Senatorial Campaign Committee have resigned after admitting they obtained Maryland Lt. Gov. Michael S. Steele's credit report.

Phil Singer, a spokesman for the Democratic Senatorial Campaign Committee (DSCC), said the two staffers told committee officials in July what they had done. He said the committee began an internal investigation and determined it was an isolated incident.

"The DSCC immediately ensured that Mr. Steele's credit report was not used or disseminated to anyone," Mr. Singer said, "It also reported this incident to the U.S. attorney in Washington, D.C."

He said the employees, who were not identified, were cooperating with authorities.

A source familiar with the investigation said the employees were "senior staff" members in the research department of the DSCC.

"While the DSCC did not authorize the employees to access Mr. Steele's credit report, we regret that this incident occurred and apologize to Mr. Steele," Mr. Singer said.

Mr. Steele's chief of staff, Paul Ellington, said the lieutenant governor had been made aware of the incident.

"This is a serious legal issue, and a criminal investigation is under way," Mr. Ellington said last night. "We have been advised by the FBI to not comment and will honor their request."

Mr. Steele, a Republican, in June announced the formation of an exploratory committee for his run for the U.S. Senate after Sen. Paul S. Sarbanes in March announced he would not seek a sixth term.

State and national Republican Party leaders, including President Bush and Sen. Elizabeth Dole, North Carolina Republican and chairman of the National Republican Senatorial Committee, have pressured him to run.

Audra Miller, spokesperson for the Maryland Republican Party, would not comment on the credit-report incident, referring a request to the National Republican Senatorial Committee. A spokesman for the committee said it is a "serious legal issue" and he was unable to comment until the committee receives more information.

Gov. Robert L. Ehrlich Jr.'s election as governor with Mr. Steele as lieutenant governor in 2002 made the two men the first Republicans to hold those offices in Maryland in more than 30 years. The state has not had a Republican senator since 1987.

Mr. Steele, the first black person elected to statewide office in Maryland, achieved national prominence after his prime-time speech at the 2004 Republican National Convention.

His political rise, from a post on the Prince George's County Republican Central Committee to lieutenant governor, took less than 10 years. Mr. Steele said he did not plan his political trajectory but seized the opportunities presented to him.

Democrats who have announced their candidacies are U.S. Rep. Benjamin L. Cardin; socialist activist A. Robert Kaufman; Kweisi Mfume, former president of the National Association for the Advancement of Colored People; and Dr. Lise Van Susteren, a Montgomery County psychiatrist, and the sister of Greta Van Susteren, who hosts the Fox News Channel's "On the Record" interview program.

Evidence In Mob Murders Surfaces In Casino Battle (CBS2CHI)

CBS 2 Chicago, September 21, 2005

(CBS) CHICAGO The first piece of evidence in the Operation Family Secrets mob murder case surfaced Tuesday during a battle over a casino license.

As CBS 2's John Drummond reports, a top FBI agent believes the undercover videotape shows a link between the mob and Rosemont Mayor Don Stephens.

James Marcello is identified by the FBI as the boss of the Chicago mob.

In March 2004, the FBI videotaped a conversation between Marcello and his brother, Michael, at the federal prison at Milan, Michigan.

Stephens, the long-time mayor of Rosemont, had lobbied hard for the Emerald Casino Inc., to be granted a license to operate in Rosemont. But the Illinois Gaming Board rejected the Emerald bid, citing alleged mob ties.

At a special hearing Tuesday on the Emerald license, the gaming board watched an undercover videotape from the Operation Family Secrets investigation. On the tape, the Marcello brothers discussed whether the mob would have a piece of any casino in Rosemont.

The two men did not use proper names when discussing the matter. The FBI said "he" referred to Stephens.

James Marcello: “Are we gonna be in there at all?”

Michael Marcello: “I don’t ... MGM or one of them companies will wind up with it. I mean he ain't going to get it like he wanted it before but...”

James Marcello: “They'll pay him so much a month and that'll be it.”

James Marcello: “You gotta say it. This guy really knew what he was doing, Mickey. They could say what they want about him.”

Attorney Robert Cliffford, who represents Emerald Casino, was skeptical of the meaning of the tape.

“When I first saw this my reaction was you have a couple of sideways talking about stuff they don't know an awful lot about,” Clifford said.

But top FBI organized crime agent John Mallul said that Stephens had a special interest in Emerald getting a license since he could exercise some control over it.

A spokesman for the Rosemont mayor ripped the FBI tape, calling it "meaningless."

He said it proves nothing and suggests the gaming board has a "vendetta against Mayor Stephens."

As far as the videotape itself, this is the first time we've seen some of the mountain of evidence expected to be used against James Marcello and other alleged mobsters in the Family Secrets case.

The video portion clearly showed the Marcello brothers having a chat in a day room at the Michigan prison. But the audio was difficult to make out. We had to read from a transcript provided by an FBI agent.

FBI Agent: Mob Ties To Casino Discussed (CHIST/AP)

By MAURA KELLY LANNAN, ASSOCIATED PRESS

Chicago Sun-Times, September 21, 2005

The reputed head of the Chicago mob and his half brother were caught two years ago on surveillance videotape talking about organized crime's involvement and control of a proposed casino in Rosemont, an FBI agent testified Tuesday.

A two-and-a-half-minute segment of the grainy and muffled videotape was played during a hearing in which the Illinois Gaming Board is trying to revoke Emerald Casino Inc.'s gambling license. State regulators want to revoke Emerald's license because they say some of the casino's investors had alleged mob ties.

Emerald had hoped to relocate to Rosemont. Attorney General Lisa Madigan has questioned the suitability of Rosemont as a casino location and said she had concerns about possible mob ties in the Chicago suburb.

A written transcript of the videotape, which the FBI agent said is about five hours long, includes vague references and does not name a person or town.

However, FBI special agent John Mallul testified he believed portions of the taped conversation referred to Rosemont Mayor Donald Stephens and his quest to have a casino open in Rosemont as well as organized crime's influence at such a casino.

Attorneys for Rosemont and Emerald questioned how Mallul could draw those conclusions from the videotape.

Mallul said the tape, made March 24, 2003 by Chicago FBI agents, shows James and Michael Marcello talking in the visiting room at a federal prison in Michigan where James Marcello was incarcerated.

The Marcello brothers are now both in jail. A June federal indictment accuses James Marcello in three slayings, including the killing of Las Vegas mobster Tony "The Ant" Spilotro and his brother. Michael Marcello is accused of helping his imprisoned brother by keeping him informed of the mob's activities, delivering messages and carrying out illegal activities, including operating an illegal video gambling business.

On the videotape James Marcello asked Michael Marcello: "How are you guys doin' with that, okay? Everything okay?"

"So far, yeah. Things workin' out good," replied Michael Marcello, whom the FBI has identified as an associate of organized crime.

"Good," James Marcello said.

When asked what that exchange meant, Mallul testified, "It's my opinion that they're referring to organized crime involvement and control of a casino in Rosemont."

However, on cross examination Mallul said he never asked the Marcello brothers what they discussed.

Robert Stephenson, attorney for Rosemont, dismissed the videotape and transcript as "absolute nonsense" that "reflects nothing."

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"If anybody would fairly read it, they would come away with the same conclusion," Stephenson said.

Emerald attorney, Robert Clifford, argued against the use of the videotape during the hearing because he said he had not seen the entire tape. He also said it was irrelevant to Emerald's case.

According to the transcript, James Marcello later asks, "Are we gonna be in there at all?"

Michael Marcello replied, "I don't ... MGM or one of them companies will wind up with it. I mean, he ain't gonna get it like he wanted it before."

Mallul said he thought that exchange meant James Marcello asked if organized crime would be involved with the Rosemont casino, and Michael Marcello replied that Stephens was not going to get the type of casino he wanted. Mallul did not elaborate.

"It's my opinion, based on this conversation, Donald Stephens had a special interest in having Emerald itself be a casino in Rosemont," Mallul said.

Mallul declined to comment after the hearing.

The videotape also includes an exchange in which the Marcello brothers discuss Wayne Johnson, a former chief investigator of the Chicago Crime Commission, and his settlement of a defamation lawsuit filed against him by Stephens, Mallul said.

Stephens filed the lawsuit after Johnson accused him of having connections to organized crime. As part of a settlement, Johnson withdrew his claim. He later became police chief in Cicero.

"The V guy put his arm around him (the videotape shows Michael Marcello making a fist and hitting his stomach). Alright? Put 'em over there in that town. He backed off the other guy out there. Now they're goin' for the thing again," Michael Marcello said, according to the transcript.

Mallul testified that "the V guy" was former Chicago alderman and Cicero attorney Edward Vrdolyak, and the town mentioned was Cicero. Mallul said Marcello meant Johnson backed off his comments about Stephens, and that Stephens and Rosemont were seeking a casino again.

"It's essentially Edward Vrdolyak pressing Wayne Johnson into ... clarifying his statements," Mallul said.

Vrdolyak denied that claim Tuesday and said he did not know the Marcello brothers.

"I wasn't involved in any negotiations with Don Stephens or anybody involving the casino in Rosemont," he said. "I don't know anything. It's absolutely insane."

Johnson could not be reached for comment. Attempts to reach several public listings for a Wayne Johnson were not successful. Attorneys for the Marcellos did not return telephone messages left at their offices.

Ex-Conn. Sen. Pleads Guilty In Bribe Case (KCS)

By Matt Apuzzo

The Kansas City Star, September 21, 2005

BRIDGEPORT, Conn. - In the latest in a string of corruption cases in Connecticut, a former state senator pleaded guilty Tuesday to felony charges of receiving a bribe, mail fraud and tax evasion.

Sen. Ernest Newton II acknowledged in federal court that he accepted a $5,000 bribe in exchange for helping the director of a job training agency secure a $100,000 grant.

As part of a plea agreement, Newton also admitted filing false tax returns and diverting $40,000 in campaign contributions for personal use over five years.

Asked as he left court what he had done with the money, Newton said, "I don't know nothing about that." Reminded that he had just pleaded guilty, he said, "I didn't buy a new house, a new car, nothing like that."

Newton, 49, will remain free until his sentencing Dec. 19. Newton faces a maximum of 35 years in prison, but prosecutors have said they will ask for less time because he accepted responsibility.

Last month, Warren K. Godbolt, executive director of the nonprofit Progressive Training Associates in Bridgeport, pleaded guilty to paying the bribe.

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Newton announced his resignation last week and submitted it Monday. Gov. M. Jodi Rell has scheduled a special election for Nov. 14 to fill Newton's Senate seat.

Other recent federal corruption probes led to prison sentences for Connecticut officials including former Gov. John G. Rowland and former Bridgeport Mayor Joseph Ganim.

Newton was elected to the Senate in 2003 after serving in the House for 14 years.

Though Newton's constituents stood by him through ups and downs - including his seeking treatment in the mid-'90s for cocaine addiction - U.S. Attorney Kevin O'Connor said it was constituents who provided some of the information used in the probe.

Correction Officer Arrested For Extortion (NYNSDY)

By Robert E. Kessler, Staff Writer

New York Newsday, September 21, 2005

A veteran New York City correction officer Tuesday was accused of being the "muscle" who collected debts for a Long Island businessman at the point of his .38-caliber service revolver, federal officials said.

Byron Christopher Chavis, 38, of Brooklyn, who worked in the city court system at 100 Centre St. in Manhattan, was arrested by FBI agents and charged with conspiracy to commit extortion, extortion, attempted extortion and use of a firearm in a crime of violence.

Chavis worked for businessman Michael Pescatore, 41, of Old Brookville, according to sources familiar with the case.

Pescatore was also charged with conspiracy, extortion and attempted extortion in the case and has been held without bail since February in two cases, one of which accuses him of masterminding a car theft ring.

Chavis, who worked mainly at Rikers Island for the past 15 years, was immediately suspended without pay, according to city officials.

Chavis pleaded not guilty in U.S. District Court in Central Islip. His attorney, Joey Jackson of Manhattan, declined to comment. Arraignment for Pescatore on the new charges is scheduled later in the week.

Assistant U.S. Attorney Lara Treinis Gatz said Chavis had extorted money from five business associates of Pescatore.

She asked that Chavis be held without bail as a danger to the community, noting the use of his service revolver and threats to kill or break legs while collecting debts.

Judge Thomas Platt ordered Chavis held pending future hearings. If convicted, he faces a mandatory sentence of 5 years on the gun charge, and up to 20 years on the conspiracy and extortion charges.

A.C Tax Official And Wife Convicted In Robbery Plot (PHI)

By Troy Graham

The Philadelphia Inquirer, September 21, 2005

A federal jury found a former Atlantic City tax collector and his wife guilty today of attempting to rob a tax office courier of $100,000 in cash and checks.

Clinton Van Berry, 61, and his wife, Nadine Homick-Van Berry, 55, could both face a maximum of 20 years in prison when they are sentenced.

They also face a separate trial in a scheme to bribe the West Cape May mayor for insider information on a federally-funded sewer and water-main project. A date for that trial has not been set.

In that case, prosecutors said, the Van Berrys hoped to use the information to secure work for Charles Varvaro, an Atlantic County contractor, then collect a cut from him. Varvaro, however, has been an FBI informant since 1978.

Nadine Homick-Van Berry also went to Varvaro, a friend since the 1980s, to enlist his help in robbing the tax courier. Varvaro tape recorded many of their conversations about the robbery and testified at the beginning of the two-week trial in U.S. District Court in Camden.

Varvaro was supposed to find someone to physically rob the courier on his way from the Atlantic City tax office to a nearby Commerce Bank. The robbery was set for Dec. 16, 2003, the day after a tax sale that left the office flush with cash.

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The courier had $100,000 in cash and checks in a lockbag. When he left the tax office, Clinton Van Berry signaled his wife by calling her and asking about an aching tooth, according to testimony.

Homick-Van Berry then used a disposable cell phone to call the person she thought would rob the courier. The person on the other line was a police officer, and the robbery never took place.

Ryan Trial Lawyers Squabble Over Potential Jurors (CBS2CHI/AP)

CBS 2 Chicago, September 21, 2005

(AP) CHICAGO George Ryan's lawyers and federal prosecutors interviewed a fresh batch of potential jurors Tuesday including one man with "strong negative views about politicians" and another who announced he was an admirer of 19th Century German statesman Otto von Bismarck.

A woman who was a potential juror for the former governor's racketeering trial said her truck driver-boyfriend had been interviewed by FBI agents investigating bribes paid in exchange for work in Chicago's scandal-plagued Hired Truck Program -- but was cleared of any wrongdoing.

Still another potential juror said her ex-husband served two months in jail.

"I think he got what he deserved," she told Assistant U.S. Attorney Zachary Fardon, who said he wanted to make sure that episode would not leave her biased against law enforcement.

Ryan, 71, is charged with racketeering, mail fraud, lying to FBI agents and tax fraud when he was secretary of state from 1991 through 1998 and later governor. A 22-count indictment accuses him of giving lobbyist Larry Warner, now his co-defendant, free rein to dole out contracts and leases to his clients while getting loans for his relatives and gifts from Warner.

Ryan and Warner both deny that anything they did was illegal.

Over two days of jury selection, attorneys have succeeded in finding at least 16 and possibly 18 potential jurors. They hope to come up with a pool of at least 46 and then whittle that number down by using their so-called peremptory challenges -- challenges that the lawyer's don't have to explain and which automatically strike potential jurors from the list.

The process is designed to yield 12 jurors and six alternates.

One by one, a cross section of humanity was questioned by attorneys on Tuesday.

U.S. District Judge Rebecca R. Pallmeyer asked one man why on a questionnaire, filled out by about 300 potential jurors last week, he had cited Bismarck as someone he admired greatly.

He said he was something of a scholar and admired Bismarck for uniting Germany. Pallmeyer later dismissed him from the pool of potential jurors.

Despite protests from Ryan attorney Dan Webb, she refused to dismiss a man who admitted he had "strong negative views about politicians." On a questionnaire filled out by potential jurors last week, he said that "too often campaign promises are forgotten."

Asked on the questionnaire about Ryan, he said: "If he allowed abuses to occur he is to blame and should be punished." Webb said he was obviously biased against the former governor.

Prosecutors said they were sure the man would be fair if chosen for the jury.

But they grumbled when Pallmeyer for the second day refused to bump a man who said both he and his mother know Webb and the mother is in awe of his brilliance as an attorney.

Chief prosecutor Patrick M. Collins told Pallmeyer the man "should be long gone."

But Webb has succeeded in keeping the potential juror's hopes alive by saying that he doesn't remember meeting the man, did meet the mother years ago but had no relationship with her.

There will be 18 potential jurors in the pool if Pallmeyer keeps that man along with another man who said he works 16-hour days and will have to go to his night job after court.

If those two are dismissed the number of potential jurors surviving will be 16.

Pallmeyer had hoped to pick a jury by the close of business Wednesday and start the trial on Thursday. But hope of that has faded as jury selection has gone slowly.

The trial promises to take a lot longer.

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When one female candidate for the jury said she enjoyed watching Judge Judy on TV, Warner defense attorney Marc Martin asked: "You do know that this trial is going to last four months? It isn't going to be half an hour."

Inmate Pleads Guilty To Threatening Supreme Court Justices (LAW)

By R. Robin Mcdonald, Fulton County Daily Report

Law.com, September 21, 2005

A Florida inmate has pleaded guilty to charges of mailing threatening letters to public officials, including the clerk of the 11th U.S. Circuit Court of Appeals, the U.S. Supreme Court, and President Bush and his family.

Federal prosecutors in Atlanta said that letters from Anthony Scott Simboli, who is serving time in Clearwater, Fla., for theft and forgery, contained a white powder that authorities said was purported to be anthrax but later was identified as detergent. Simboli put his name, inmate number and return address on the letters, which threatened Judges Edward E. Carnes and Frank M. Hull, President Bush and his family, and unspecified Supreme Court justices.

The first letter was discovered at the 11th Circuit in December when a scanning machine in the court's in-house mail-sorting facility opened one and detergent spilled out. A hazardous materials team came to collect the letter and deal with any potential threat.

Two subsequent detergent-laced threats were recovered at mail-handling facilities near Washington.

Simboli's threatening letters followed a failed pro se appeal to overturn his eight-year Florida sentence for grand theft and burglary, according to court records. He filed the appeal while he was incarcerated in a Florida prison housing inmates who require psychiatric treatment.

In 2001 Carnes denied both Simboli's certificate of appealability and his motion seeking permission to waive all court costs associated with the appeal, according to court records.

Prosecutors said that Simboli also was attempting to help his brother, an inmate at another Florida prison, with an appeal of a life sentence for carjacking and robbery. Both Carnes and Hull were on the 11th Circuit panel that in 2002 dismissed Robert Francis Simboli's appeal, according to court records.

THREATS TO THE 11TH CIRCUIT

Threats by mail have been a particular concern at the 11th Circuit. On Dec. 16, 1989, Judge Robert S. Vance was killed and his wife seriously injured when a package bomb exploded after being delivered to their suburban home in Birmingham, Ala. Two days later a second bomb killed Savannah, Ga., attorney Robert E. Robinson.

That same day, federal law enforcement agents intercepted a third bomb at the 11th Circuit's Atlanta complex. On Dec. 19, 1989, a fourth bomb was intercepted at the Jacksonville, Fla., office of the National Association for the Advancement of Colored People.

Walter Leroy Moody, who previously had filed unsuccessful pro se appeals at the 11th Circuit, eventually was convicted and sentenced to seven life sentences for the murders.

LETTERS FROM PRISON

Simboli's plea agreement for sending the threatening letters includes a 10-year sentence in federal prison, the maximum term for the offense.

The agreement does not prohibit Simboli from mailing letters to public officials or to state and federal courts.

A spokesman for the Pinellas County Sheriff's Office, Mac McMullin, said that because Simboli's letters to the 11th Circuit, the Supreme Court and the president were considered privileged correspondence, the letters were not opened before the jail forwarded them to the U.S. Postal Service to mail.

"We don't search outgoing mail that has official correspondence," McMullin explained, referring to the department's written mail policy. As a result, he said, "it's clear how something like that could occur."

The policy states that "under no circumstance" are sheriff's staff members to read privileged communications from inmates, including correspondence to lawyers, the courts and public officials. If privileged mail is opened, it must be in the inmate's presence and only to confirm the privileged status.

The policy also states that outgoing privileged correspondence shall be mailed without charge to the inmate.

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Neither 11th Circuit Chief Judge J.L. Edmondson nor court executive Norman E. Zoller could be reached to discuss the plea agreement and court security.

In February, while under investigation for mailing the letters to the 11th Circuit and the Supreme Court, Simboli mailed the third letter from the Pinellas County jail to "George W., 1600 Pennsylvania Ave., Washington D.C." It contained detergent as well as graphic threats against the president, the first lady and one of their twin daughters, court records said.

A Mother's Too-Familiar Role (WP)

By Paul Duggan And Jamie Stockwell

The Washington Post, September 21, 2005

RICHMOND -- Janet Pelasara answered the phone in her hotel room at 8 a.m. Monday and said she had a busy day ahead: bookings on Fox News Channel, CNN and Court TV. She said she could spare only a few minutes in the lobby for a newspaper reporter.

"Greta's here; I'm going to meet with her," Pelasara said a short time later, seated on a couch near the front desk of a downtown Marriott. She was referring to Greta Van Susteren, host of a crime and legal affairs program on Fox.

"I have Nancy Grace tonight," said Pelesara, 44, of Vienna, mother of college student Taylor Marie Behl, who disappeared in Richmond two weeks ago. Grace is the host of shows similar to Van Susteren's on Court TV and CNN Headline News.

"And I have something at 2-ish. . . . National, not local."

Since Sept. 7, two nights after Behl vanished, Pelasara has been staying in the Marriott with friends while police search for her 17-year-old daughter, a freshman at Virginia Commonwealth University. Pelasara has waited patiently -- but not silently.

"There was 'The Early Show,' " she said, listing some of her recent network and syndicated TV appearances. "There was 'Good Morning America,' 'Inside Edition' . . ."

The shows that have put Pelasara on screens from coast to coast have a seemingly bottomless appetite for dramas like hers. Stories of missing young women who are thought to have been abducted are a particular staple of the 24-hour cable news channels.

Critics complain that such coverage is devoted disproportionately to suburban white women, such as Behl, while victims of color who are poor are often overlooked. But Pelasara can't afford to consider that debate at the moment. She said her goal is to get on as many programs as possible, to keep her daughter's face in front of the nation.

"After so many days, the interviews really become tiring," said a friend, Ann Martin, who is staying at the Marriott and coordinating Pelasara's TV appearances. While Pelasara sat in the lobby, Martin was in her room, awaiting a phone call about a car that would take Pelasara to meet Van Susteren at Behl's dormitory.

"It's really hectic, but we welcome it," said Martin, who works for the American Association of Pastoral Counselors. "We have to keep this out there."

Behl, who graduated from James Madison High School in Vienna, disappeared after leaving her dorm room Labor Day evening, two weeks into her freshman year. Her 1997 Ford Escort was found Saturday parked on a residential street about two miles from the campus. Its Virginia license plates were gone, replaced by stolen Ohio tags.

Besides trying to determine how the car wound up in that neighborhood with stolen plates, police have been looking into Behl's relationship with a 38-year-old photographer who has an apartment near the campus. The man took pictures of Behl last spring, fully clothed and posing on Belle Isle in Richmond, and posted them on his Web site.

Chris Collins, an attorney for the photographer, said yesterday that his client had a "romantic relationship" with Behl. He said Behl visited him at his apartment twice Sept. 5, once during the day and again about 9:30 p.m., not long before she vanished.

Collins said the photographer -- who maintains several Web sites featuring his work, including collages of short-skirted teenage girls in suggestive poses -- has asserted that he has no knowledge of Behl's whereabouts. "He's very worried about her," the lawyer said. "He liked her very much. . . . He's distraught over all of this."

Collins said his client has cooperated with investigators in several interviews. "He was one of the last persons to have seen her," Collins said.

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The photographer is a former VCU student, according to his profile on MySpace.com, a popular dating and social networking Web site. He photographed Behl in April while she was visiting his roommate, a high school friend of hers from Vienna. He recently removed the photos from his site.

Now Behl is the latest young American woman in highly publicized peril -- after Chandra Levy, the Washington intern whose disappearance scandalized a politician; Laci Peterson, the pregnant California woman whose husband landed on death row; Jennifer Wilbanks, the runaway bride from Georgia; and Natalee Holloway of Alabama, who vanished in Aruba during her high school senior class trip.

And Pelasara is the latest anxious parent, even if she doesn't always come across that way. In interviews, her demeanor is often so calm that she seems almost detached from what's happening.

It's a coping strategy, said Pelasura, who works as an administrator for a Northern Virginia computer firm.

"Did you watch any of the Natalee Holloway disappearance?" Van Susteren asked her on Fox. "The tracking of her this summer?"

"I did some," replied Pelasara, who is divorced from her only child's father. "But I was busy with Taylor with her graduation . . . and getting her ready for college."

Van Susteren said, "Do you have any idea -- of the little you did see of the disappearance of Natalee -- any sort of idea, you know, of the pain a mother can go through?"

Pelasara said she has not allowed herself to feel pain.

"Until I get her back safe and sound, or if we find out the worst, I think then I'll be able to feel and be able to appreciate that," she said, referring to the other mothers. "But no, everything is buried so deep. . . . That's the only way I can get through this."

Earlier Monday, in the Marriott lobby, she said: "Yes, I can sleep. I have to sleep. And I can think. I can think enough to get through all these interviews, because I have to do that. And then I don't have to think anymore."

Mornings are the worst times for her, she said, as she faces yet another round of interviews, of questions and answers she doesn't like to think about.

"Yes, mornings," she said. "Because I know what I have to face for the rest of the day."

Past Of Democrat In Forrester Ad Is Attacked (NYT)

By Josh Benson

The New York Times, September 21, 2005

TRENTON, Sept. 20 - State Democratic officials said on Tuesday that one of the Democrats appearing in an anticorruption commercial for the Republican candidate for governor, Douglas R. Forrester, was fired as a court clerk in Essex County after being accused of stealing money from court deposits and was, for a time, a Republican.

The commercial, titled "Democrats for Doug," features interviews with several people identified as Democrats who say they are angry at the corruption in their party and in state government.

One of them, identified as Dave McGraw, says, "The corruption is out of control," and urges, "It's time to take back New Jersey."

The man, David P. McGraw, 71, formerly a clerk in Essex County District Court, was indicted in the mid-1980's on charges of embezzling tens of thousands of dollars in court money over nearly three years, but was acquitted by a jury. He was a Democrat at the time. He lost his job in 1986, according to a January 2000 article in The Star-Ledger, after a disciplinary hearing determined that he had taken cash from court deposit envelopes for his personal use, had court employees cash his personal checks knowing they would bounce and had lied to the county prosecutor. The assignment judge fired him based on those findings, the newspaper said.

In an interview on Tuesday, Mr. McGraw did not dispute the sequence of events that led to his firing, but denied the charges.

In 2000, he brought a whistle-blower suit against Essex County after being removed from another public job, for the county parks department. He alleged that the county was losing money by giving away free rounds at a public golf course to "individuals with personal relationships" to county officials. He said he eventually settled the suit for $175,000.

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Voting records show that Mr. McGraw voted in several Republican primary elections in the late 1990's through 2000.

Mr. McGraw said the embezzlement charges and his firing from the court job were results of a feud with Essex County officials at the time.

He expressed puzzlement that he had become a campaign issue. "They asked me if I could get some people to be in the commercial," said Mr. McGraw, who said he had done work for the Forrester campaign as a volunteer. "Lo and behold, I went over there and I was in the commercial. Quite frankly, if I knew there was going to be repercussions I wouldn't have done it. I don't want to hurt Doug Forrester's chances."

Mr. McGraw said he was registered as a Republican in recent years, but registered as a Democrat again in 2002 to vote in a primary election for Essex County executive.

Richard McGrath, a Democratic Party spokesman, said "the Forrester spot essentially 'advertises' the candidate's hypocrisy." Ivette Mendez, a spokeswoman for Senator Jon S. Corzine, Mr. Forrester's Democratic opponent, said only, "The party's statement speaks for itself."

Sherry Sylvester, a Forrester spokeswoman, said: "For Jon Corzine to attack a 71-year-old whistle-blower is a new low even for him. Dave McGraw illustrated what's wrong with New Jersey: politicians using intimidation and wrongful allegations to abuse their power."

CIVIL LAW:

U.S. Says Pope Immune From Abuse Suits (AP)

By NICOLE WINFIELD, Associated Press Writer

AP, September 20, 2005

ROME -- The U.S. Justice Department has told a Texas court that a lawsuit accusing Pope Benedict XVI of conspiring to cover up the sexual molestation of three boys by a seminarian should be dismissed because the pontiff enjoys immunity as head of state of the Holy See.

Assistant U.S. Attorney General Peter Keisler said in Monday's filing that allowing the lawsuit to proceed would be "incompatible with the United States' foreign policy interests."

There was no immediate ruling from Judge Lee Rosenthal of the U.S. District Court for the southern district of Texas in Houston. However, U.S. courts have been bound by such "suggestion of immunity" motions submitted by the government, Keisler's filing says.

A 1994 lawsuit against Pope John Paul II, also filed in Texas, was dismissed after the U.S. government filed a similar motion.

Keisler's motion was not unexpected, as the Vatican Embassy in Washington had asked the U.S. government to issue the immunity suggestion and do everything it could to get the case dismissed.

The former Cardinal Joseph Ratzinger was named as a defendant in a civil lawsuit by three plaintiffs who allege that Juan Carlos Patino-Arango, a Colombian-born seminarian on assignment at St. Francis de Sales church in Houston, molested them during counseling sessions in the church in the mid-1990s.

Patino-Arango has been indicted in a criminal case by a grand jury in Harris County, Texas, and is a fugitive from justice.

The lawsuit alleges Ratzinger, who headed the Vatican's Congregation for the Doctrine of the Faith before becoming pope, was involved in a conspiracy to hide Patino-Arango's crimes and help him escape prosecution.

The lawsuit cites a May 18, 2001, letter from Ratzinger written in Latin to bishops around the world, explaining that "grave" crimes such as the sexual abuse of minors would be handled by his congregation and that the proceedings of special church tribunals handling the cases were subject to "pontifical secret."

Daniel Shea, attorney for one of the plaintiffs, has said such secret proceedings amounted to a conspiracy to cover up the crimes.

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The Vatican and the U.S. Conference of Catholic Bishops have insisted the secret church procedures in the sex abuse case were not designed to cover up abuse nor to prevent victims from reporting crimes to law enforcement authorities. The document deals with church law -- not keeping secrets from secular authorities, they say.

The pope's lawyer, Jeffrey Lena, said Tuesday it was "appropriate" the Justice Department had determined the pope was "the sitting head of state of the Holy See."

In a telephone interview, Lena said the motion would now be considered by the Texas court, "which should be bound by the executive's determination" and rule accordingly.

Many lawsuits stemming from the U.S. church sex abuse crisis have named the pope, the Vatican and other high-ranking church officials, but they failed because the officials could never be served with the papers. This case got further than most because Ratzinger was actually served with the documents.

Shea said Tuesday he would challenge the constitutionality of the U.S. diplomatic recognition of the Holy See on the grounds that it goes against the First Amendment's "establishment clause" that bars any laws respecting the establishment of religion.

Shea noted that in trying to have the case dismissed, Ratzinger's lawyers have already admitted in court papers that the Holy See is a church. A May 26 motion to dismiss the suit, citing the First Amendment, says the case should be thrown out because it would "invite court intrusion into the internal affairs of the Roman Catholic Church."

However, legal experts said such a challenge would be difficult to win, partly because previous challenges have failed and because the U.S. has maintained diplomatic relations with the Vatican since 1984.

"The courts have become a lot less interested in the establishment clause in the last few years," said Kent Greenawalt, a professor of First Amendment and legal philosophy at Columbia Law School.

Officials at the U.S. Embassy to the Holy See said they were familiar with the case but had no other immediate comment. The Vatican said it had no comment.

Along with the pope, the lawsuit names as defendants Patino-Arango, the Diocese of Galveston-Houston, Archbishop Joseph Fiorenza and the Rev. William Pickhard, Patino-Arango's vocational director.

GlaxoSmithKline Agrees To Pay $150 Million To Settle Drug Price Fraud Case (AP)

By Mark Sherman, ASSOCIATED PRESS

AP, September 20, 2005

WASHINGTON – GlaxoSmithKline PLC will pay $150 million to settle claims it overcharged the government for two anti-nausea drugs, and prosecutors say they're looking into 150 cases of drug price fraud.

Scrutiny of the pharmaceutical industry has increased along with the portion of health care costs attributable to prescription drugs. That attention is likely to grow as the government prepares to begin a drug insurance program for older Americans under Medicare that is expected to increase sharply government spending on medicines.

The Glaxo settlement is the latest in a series of whistleblower claims that have resulted in $2.4 billion in payments from drug companies in recent years.

Glaxo engaged in a scheme to inflate the price of Zofran and Kytril for the Medicare and Medicaid programs, which reimburse health care providers based on the manufacturers' prices, the government said. The drugs, typically administered in doctors' offices or hospitals, are used mainly to counter nausea brought on by chemotherapy and radiation.

The company charged health care providers less for the drugs, knowing the providers would get to pocket the difference and would be more likely to prescribe them again, the Justice Department said.

Glaxo admitted no wrongdoing as part of the settlement. "We believe that our price reporting was lawful and was done in good faith, but we've agreed to this settlement to avoid the delay, expense and uncertainty of litigation," said Mary Anne Rhyne, a company spokeswoman.

The settlement covers claims submitted from 1994 to 2002.

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The case resulted from a whistleblower lawsuit filed by Ven-A-Care of the Florida Keys, Inc., a small home-infusion company that has won several suits that made similar allegations against other drug makers. The company and its principals will receive $26 million from the settlement, as allowed under the federal False Claims Act, the Justice Department said.

James Moorman, president of the advocacy group Taxpayers Against Fraud, said the scheme alleged by Ven-A-Care and the Justice Department represents "a perverse competition, where you don't compete with a low price but with a high price."

The Medicare law that created prescription drug coverage beginning in January also was designed to eliminate the huge spread between what manufacturers reported as their average wholesale price and what health care providers actually paid.

Moorman said no similar fix has yet been put in place for Medicaid, the federal-state health program for the poor.

Sen. Charles Grassley, R-Iowa, Congress' leading advocate for whistleblower protection, said the "importance of whistleblowers will only increase as the new Medicare prescription drug benefit takes effect. Bad actors in the industry should know that these good guys are on the case."

Glaxo has faced fraudulent billing charges before. In 1997, its forerunner, SmithKline Beecham Clinical Laboratories Inc., was ordered to pay $325 million for filing false claims relating to laboratory tests that were paid for in whole or in part by the federal government. The company added tests not requested by doctors and not medically necessary, billed for tests not actually performed and gave kickbacks to doctors.

Peter Keisler, assistant attorney general in charge of the Justice Department's Civil Division, said federal and state officials are looking into 150 price and marketing fraud cases involving more than 500 drugs.

The Glaxo settlement is the first announced this year. However, another may be coming soon: Serono Laboratories of Switzerland has set aside $725 million for a settlement of allegations it offered kickbacks to doctors for writing prescriptions for an AIDS treatment drug with sagging sales.

Four former executives have been indicted by a federal grand jury for their alleged roles in the kickback scheme.

California regulators have sued 41 pharmaceutical companies, accusing them of inflating drug prices for the state's version of the Medicaid program and costing state taxpayers hundreds of millions of dollars. Glaxo is a defendant in that suit as well.

In one example, the state said Abbott Laboratories Inc. reported the average wholesale price of a vial of the antibiotic vancomycin as $58.37 to Medi-Cal but charged pharmacies just $6.29. The company has denied any improprieties.

GSK Pays $150m To Settle US Court Case (LONDTIMES)

By Richard Irving

London (UK) Daily Times, September 21, 2005

GLAXOSMITHKLINE has agreed to pay more than $150 million (£83 million) to settle US government charges that the company fraudulently inflated the price of two anti-nausea drugs available under the federal healthcare programme.

Peter Keisler, assistant attorney-general at the Justice Department, said yesterday that government prosecutors would continue to crack down on abuses. “We will not tolerate fraudulent pricing practices designed to reap profits for drug companies and doctors at the expense of healthcare programmes for the poor and elderly,” he said.

Prosecutors alleged that GlaxoSmithKline (GSK) had engaged in a scheme deliberately to set inflated prices for Zofran and Kytril, knowing that federal healthcare programmes used the prices to establish reimbursement rates.

The Justice Department claimed that the company actually had charged doctors less than the official rates, knowing that they would be able to pocket the difference.

The two drugs are used to alleviate sickness among patients undergoing chemo and radiation therapy.

GSK said that it had decided to settle the case without admitting any wrongdoing to put an end to litigation that has been continuing for more than a decade. The company added that the settlement, which includes a $149 million payment as well as additional interest of $1.8 million, is covered by additional legal reserves.

A spokesman said: “The company fully co-operated with the government over the course of this investigation (and) understands that the federal government’s inquiries concerning pricing issues is now completed and closed.”

Glaxo Settles U.S. Drug Pricing Complaint (REU)

Reuters, September 20, 2005

WASHINGTON (Reuters) - GlaxoSmithKline has paid more than $150 million to settle government charges that the company fraudulently inflated the price of drugs purchased by federal health-care programs, the U.S. Justice Department said on Tuesday.

The settlement stems from allegations that the British company violated the U.S. False Claims Act in the sale and marketing of Zofran and Kytril, two nausea drugs prescribed to patients undergoing cancer treatment, the department said.

GlaxoSmithKline issued a statement saying it did nothing wrong, but agreed to settle the case to avoid litigation.

According to the department, Glaxo engaged in a scheme to deliberately set and maintain inflated prices for the two drugs, knowing that federal health care programs used those prices to establish their reimbursement rates.

The Justice Department "will not tolerate fraudulent pricing practices designed to reap profits for drug companies and doctors at the expense of health care programs for the poor and the elderly," an official said in a statement.

Of the amount paid by GlaxoSmithKline, $26 million will go to whistle-blowers who prompted the investigation and another $10 million will go to state governments.

GlaxoSmithKline Pays $150 Million To Settle Charges (WSJ/DJN)

By Brian Blackstone, Dow Jones Newswires

The Wall Street Journal, September 21, 2005

WASHINGTON -- GlaxoSmithKline PLC paid $150 million (€123 million) to settle fraud allegations over the pricing and marketing of two antinausea drugs, the Justice Department said.

The government alleges that the United Kingdom-based pharmaceutical maker engaged in a scheme to inflate the price of Zofran and Kytril for the federal Medicare and Medicaid programs, which reimburse health-care providers based on the manufacturers' prices. The drugs are used mainly to counter nausea brought on by chemotherapy and radiation.

But the company charged health-care providers less for the drugs, knowing that the providers would get to pocket the difference, the Justice Department said.

GlaxoSmithKline admitted no wrongdoing as part of the settlement. Company spokeswoman Mary Anne Rhyne said the firm "believes its price reporting was lawful and in good faith."

The government opened an investigation into the drugs' pricing after Ven-A-Care of the Florida Keys Inc., a small home-infusion company, filed a whistle-blower lawsuit. Ven-A-Care will receive $26 million of the government's settlement.

The Justice Department "will continue to pursue these types of fraud schemes vigorously to make clear that we will not tolerate fraudulent pricing practices designed to reap profits for drug companies and doctors at the expense of healthcare programs for the poor and the elderly," Assistant Attorney General Peter D. Keisler said in a statement.

GOP Rep. Tries To Kill Base Closings (NSDY/AP)

By Liz Sidoti, Associated Press Writer

Long Island Newsday, September 21, 2005

WASHINGTON -- A House Republican set the wheels in motion Tuesday to try to kill the Pentagon's proposal to close or downsize hundreds of U.S. military bases, a move that is largely symbolic and has little chance of succeeding.

Rep. Ray LaHood of Illinois introduced a joint resolution in the House to reject the plan to restructure the U.S. network of military bases. It is the first effort to close bases since 1995.

LaHood said the base-closing commission and the Pentagon ignored a significant fact: The country is at war.

"Now is not the time to be closing bases around the country," he said. "Now we as a Congress have the opportunity, I think, to have our say."

President Bush endorsed the commission report last week. It calls for closing 22 major military bases and reconfiguring another 33. Hundreds more from coast to coast also will be affected.

The president sent the report to Congress, where it will become law after 45 legislative days unless the House and Senate pass a joint resolution rejecting it.

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LaHood, whose district includes a base in Springfield, Ill., that is to lose 15 National Guard fighter jets, became the first lawmaker to introduce such a resolution.

The House overwhelmingly supports the fifth round of base restructuring, and Republican leaders -- who also back the closures -- control whether lawmakers vote on LaHood's measure.

"I'm going to encourage the speaker and the majority leader to let us have our prerogative, have a debate and see what happens," he said.

No lawmaker in the Senate has introduced a joint resolution. A GOP-led effort in the Senate to derail the plan fizzled last month after the commission reviewing the plan spared several bases in the home states of lawmakers who opposed it.

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On the Net:

Base-closing commission: http://www.brac.gov

CIVIL RIGHTS:

Tentative Deal Set Over ADA Violations (LVS)

By Brian Wargo, LAS VEGAS SUN

Las Vegas Sun, September 21, 2005

North Las Vegas has reached a tentative agreement with the Justice Department that will cost the city about $2 million over the next two to three years to address violations of the Americans with Disability Act.

The 1990 federal law requires local governments improve access for the disabled to government facilities and programs.

The agreement, which the city's staff has recommended the City Council ratify, has already cost the city $80,000. North Las Vegas has budgeted $655,000 in the current budget and projects a similar amount will be needed in the next two years to comply with the disabilities act.

North Las Vegas City Manager Gregory Rose said the city doesn't know what the total cost will be because it plans to go beyond the minimum requirements in providing for the needs of the disabled. Rose, who became city manager in October 2003, said the city didn't do anything blatant but is to blame for not placing a high enough emphasis on complying with the law.

"If we live long enough, all of us will be disabled at some point," Rose said. "This is the right thing to do."

North Las Vegas came under fire from the Justice Department after federal officials conducted a January 2004 review of 75 percent of the city's parks and facilities and found 182 violations of the Americans with Disabilities Act.

The violations included the absence of an accessible drinking fountain at City Hall, a need for restroom improvements and for fixing sidewalks where street lights or signage hindered the mobility by wheelchair users. Sidewalks will have to be expanded or signs moved.

Rose said it will be costly, but the city can afford the upgrades by spreading out the improvements rather than doing them all at once. He said the city is making a good-faith effort to correct the violations in the next two to three years, and if that can't be done, an extension will be requested from the federal government.

A spokesman for the Justice Department declined to comment on the tentative settlement agreement.

The Justice Department can file lawsuits in federal court to enforce the ADA requirements and can seek fines of up to $55,000 for the first violation and $110,000 for subsequent violations.

Las Vegas attorney Marina Kolias has sued North Las Vegas, alleging the city violated her two clients' civil rights when its Police Department failed to provide a sign language interpreter during an arrest. She said the city still needs to do more and do it more quickly, but she is glad that North Las Vegas finally is taking some remedial steps.

"What North Las Vegas is doing is too little, but it is never too late for any steps or efforts to advance assistance to persons with disabilities. It is appreciated and a step in the right direction," Kolias said.

The agreement calls on the city to implement a policy for police officers communicating with those who are deaf and hiring a sign-language interpreter who is available 24 hours a day. It also requires the city to equip its police and detention facilities with a telecommunciations device for the deaf.

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Kolias said the city should move faster than six months and she fears the city will use an outdated technology that won't help the deaf communicate with family members.

Facilities constructed after Jan. 26, 1992, must comply with the ADA standards. That includes improving access for wheelchair users to a counter, drinking fountains, bathrooms, corridors and parking lots. During the construction of its new justice facility that opened in May, North Las Vegas had to make changes in its construction plans to comply with the ADA.

When streets are resurfaced, cities are required to reconfigure sidewalks and curbs to accommodate wheelchairs. During the last decade, city officials said they have spent more than $1.4 million for ramp improvements.

Under the ADA, all government activities, services and programs are covered. That includes employment, public meetings, court activities and programs of police, fire, voting, parks and recreation departments.

Sticking Point Of Voting-reform Bid: Photo IDs (CSM)

By Linda Feldmann

The Christian Science Monitor, September 21, 2005

WASHINGTON - Since the disputed election of 2000, some Americans have lost faith that their votes count.

The federal reforms of 2002 were a start, say voting experts, but more is needed. Problems in the 2004 elections - from long lines at polling stations to inconsistent handling of provisional ballots - have exacerbated the sense that US elections are flawed.

Now, a bipartisan commission headed by former President Carter, a Democrat, and former Secretary of State James Baker, a Republican, has recommended additional changes - including a call for all voters to show photo IDs, paper trails for electronic voting machines, and a shift toward nonpartisan administration of elections.

But a backlash over the photo ID recommendation, in particular, threatens to overtake any attention to the 86 other recommendations. Additional election reform was already a low priority on Congress's agenda, the commission itself acknowledges, and now the controversy may have complicated matters.

"The real divide [over election reform] boils down to the voter-fraud side for conservatives and voter-access issues for liberals," says Rob Richie, executive director of the group Fair Vote, which seeks to increase participation in elections.

The report's recommendation that, by 2010, all states require voters to show a government-issued photo ID card to vote goes right to the question of how poverty and race affect the ability to vote.

About 12 percent of the voting-age population does not have a driver's license, a group that skews toward minorities and low-income workers.

Former Senate Democratic leader Tom Daschle, a member of the commission, dissented on that part of the report, comparing the requirement of an ID to a " modern-day poll tax."

Ironically, the voter-ID issue is already in the headlines in Mr. Carter's home state of Georgia. On Monday, voting and civil-rights groups filed a federal lawsuit challenging the state's requirement that voters show a government-issued photo ID at the polls - a new law the litigants call the most restrictive of its kind in the US.

Anticipating criticism over voter IDs, the Carter-Baker commission recommended that states provide free ID cards to those who don't already have one, and take measures to ensure privacy.

Still, critics say, there remains the challenge for elderly, infirm, low-income, and rural citizens to travel to a location and obtain the ID. Further, they add, there is no such requirement for photo IDs with absentee ballots, only a requirement that signatures match.

Richard L. Hasen, an election law expert at Loyola School of Law in Los Angeles, bemoans the siphoning of attention away from what he sees as a significant recommendation: the removal of control of elections from partisan politicians and into the hands of impartial election administrators. Once implemented, that step would go far toward restoring Americans' confidence in elections, he says.

"We cannot build confidence in elections if secretaries of State responsible for certifying votes are simultaneously chairing political campaigns," the report said.

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That statement was a veiled reference to recent examples in states that proved critical to the outcome of presidential races: Florida Rep. Katherine Harris (R), secretary of State for Florida during the 2000 election, was also co-chair of President Bush's Florida campaign. In Ohio in 2004, Secretary of State J. Kenneth Blackwell performed the same role for Bush.

"It took the debacle in Florida 2000 and further problems in 2004 to illustrate what the problems are; public confidence has shot way down," says Professor Hasen. He notes that in Washington State, where the Democratic gubernatorial candidate squeaked by the Republican in the 2004 race, the problem is reversed: Republicans there are more cynical than Democrats over the fairness of the outcome.

"The hope was that the Carter-Baker commission would move beyond politics, and move into consensus recommendations, which are desperately needed," Hasen says. "I think they've squandered their political capital. In 2004, my phone was ringing off the hook with reporters asking why things haven't been fixed. It will happen in 2008."

The commission recommended that a state's chief election officer be an appointed position, with two-thirds approval by the state legislature. At the federal level, the commission recommended that a nonpartisan chairperson be added to the four-person US Election Assistance Commission. This person would be nominated by the president to a 10-year term and confirmed by the Senate.

Other commission proposals include:

• A new system of presidential primaries, in which four regional primaries are held, one per month beginning in March of an election. Every election, a different region would hold its primaries first, after the Iowa caucuses and New Hampshire primary.

• Maintenance of voter lists by states, and not localities, allowing for greater "interoperability" among states. Such a system is aimed at eliminating the potential for voters to cast ballots in more than one state and also could allow voters to register once in their lives and then make it easier to update registration information when they move.

• Passage by Congress of a law that would require all voting machines to have a "voter-verifiable paper audit trail."

Voting For Reform (LAT)

The Los Angeles Times, September 21, 2005

If it is true, as former President Jimmy Carter said, that Americans have lost faith in their voting system, then he and former Secretary of State James A. Baker III have lost a significant opportunity to help them restore it. A bipartisan commission led by Carter and Baker released a report Monday that proposes many reasonable ways to make voting a smoother and more trustworthy process — but stops far short of addressing what really keeps people from the polls.

For that, the report would have to have recommended abolishing the Electoral College, the cornerstone of a winner-take-all system that leads presidential candidates to lavish their attention on a few key states. It might also have at least alluded to reforms of campaign finance laws and conflict-of-interest rules for elected officials, especially because many voters see politics as a parade of special-interest pandering in which their interests seldom count for much.

Such reforms would take tremendous political will. But that is lacking these days, so the commission limited itself to pragmatic, incremental reforms designed to boost public faith in the ballot system. With some adjustments, many of these should be adopted.

One recommendation that should become reality is a rescheduling of the presidential primaries. The report suggests holding them on a mostly regional basis and rotating the first regional primary regularly. This system would put an end to the electoral arms race in which states vie for the earliest possible primary. It's also smart to encourage mobile registration vans and electronic voting machines that produce a paper trail that can be audited. Better tracking of voters who move is another wise idea.

Civil rights advocates, though, complain about the commission's recommendation that authorities require photo ID to vote in order to cut down on voter fraud. Usually photo ID means a driver's license, but the report recommends that states provide free cards to non-drivers. The idea's critics point out, rightly, that African Americans and the elderly are less likely to drive or have the documents to prove citizenship, and they say these groups would be disenfranchised.

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But most everyone, excepting Hurricane Katrina victims, should be able to get a birth certificate easily. And there will be plenty of get-out-the-vote workers to help them with the process. The photo ID can also be viewed as a protection for voters because it sets a single standard for voting eligibility and reduces local discretion to question or intimidate voters.

The key is to not create excessive demands for proof of citizenship and for the federal government to insist that the cards be free. That last item might sound foolishly obvious, but the state of Georgia recently won U.S. Justice Department approval to charge voters a fee for a five-year card. (The fee, which varies and which the state says will be waived for the poor, is being challenged in court.)

There should be no financial impediment to the most basic democratic right. That such an un-American idea could win the approval of a state legislature and be signed by a governor shows better than anything why so many people consider politics, and voting, such a waste of time.

ANTITRUST:

Federal Courts May Face Flood Of Price-Fixing Actions (LAW)

By Pamela A. Maclean, The National Law Journal

Law.com, September 21, 2005

An unlikely marriage between the Department of Justice's amnesty program in price-fixing cases and the recent reform of federal class action law has had an unexpected but profound effect on civil antitrust actions.

Indirect victims of price-fixing, those who buy items produced from a part that was subject to price-fixing, have been barred since 1977 from recovering damages in federal court after Illinois Brick Co. v. Illinois, 431 U.S. 720 (1977).

Many state courts rushed to fill that void with their own state antitrust protections, giving indirect purchasers a forum to bring class actions against cartel participants but leaving those plaintiffs to wage state-by-state battles for recovery.

That created a two-tier system of direct purchasers -- such as companies buying computer chips -- suing in federal courts, while indirect purchasers -- companies that bought the finished computers containing the overpriced chips -- sued in state courts.

Then came this year's Class Action Fairness Act, an effort by Congress to move mass tort class actions out of what it saw as plaintiff-friendly state courts and into less-sympathetic federal courts. It opened the federal court door for indirect buyers.

FLOODING INTO FEDERAL COURTS

Indirect-purchaser antitrust cases have flooded back to federal court using pendent state law antitrust claims. It has put federal judges in the position of interpreting, for example, 20 separate state antitrust laws in order to decide 20 separate motions to dismiss in a single case.

Or a single federal judge may have to sort out the intricacies of how damages will be apportioned if a direct purchaser passed on the increased price from a fixed-price product to downstream consumers.

"Congress couldn't have been intending this to happen," said Daniel G. Swanson, a defense attorney with Gibson, Dunn & Crutcher's Washington office. Swanson represents Dutch chemical giant Akzo Nobel N.V., one of several companies sued for allegedly fixing the price of hydrogen peroxide, a bleaching agent.

"I think [indirect purchasers] will be an issue in virtually all treble damage suits going forward," warned Donald Klawiter, chair of the American Bar Association Section of Antitrust Law and a partner with Morgan, Lewis & Bockius.

"The question is: Can a court sort out all the damages and get it right so [defendants] are not paying six times damages? It is an important issue for the legislature and judiciary to work out," said Klawiter, who is based in Washington.

A 12-member Antitrust Modernization Commission, created by Congress in 2002, began looking at some of the indirect purchaser issues during its July meeting and has some legislative reform ideas under consideration. The American Bar Association antitrust section plans to conduct a special program for commissioners and the bar focusing on some of these questions in June 2006.

Two of the first major courtroom battlegrounds for indirect purchaser disputes are shaping up at opposite ends of the country. In San Francisco federal court, direct- and indirect-purchaser suits have been filed against major computer memory

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chip companies, known as the DRAM case. Meanwhile, in Philadelphia, plaintiffs have gone after hydrogen peroxide producers for alleged price-fixing.

Both cases stem from the Justice Department's intense enforcement efforts against price-fixing that encourages companies to confess their role. The first company in the door gets the biggest break from prosecutors, while those who dally face criminal prosecution and severe penalties, followed by private civil suits with treble damages.

In its latest permutation, federal antitrust lawyers have offered early cooperators the chance to avoid treble damages as well, something most plaintiffs lawyers have welcomed.

"The program has been a good thing for the antitrust world," according to Bruce Simon, a plaintiffs lawyer with Cotchett, Pitre, Simon & McCarthy in San Francisco. "We understand we have to be careful," he said of companies who cooperate with investigations. "Part of the government's job of getting them to roll over [on other price-fixers] is not to throw them to the wolves," Simon said.

In the DRAM case, revenue for the memory chips exceeds $20 billion a year, with the six top chipmakers controlling 96 percent of the market, among them Samsung Corp., The Micron Group, Hynix Semiconductor Inc. and Toshiba Corp., according to the complaint, In re Dynamic Random Access Memory Antitrust Litigation, No. MDL1486.

Infineon Technologies A.G. pleaded guilty in 2004 and agreed to pay a $160 million fine for its role in the international price-fixing scheme that affected companies such as Dell Computer Corp., Hewlett-Packard Co. and Apple Computer Inc.

The companies that bought the chips to install in their computers may recover damages as direct purchasers of the chips, even if they passed on the cost to consumers who bought the computers. But millions of consumers, the indirect purchasers, have a much tougher time in state courts and now in federal court actions.

In the hydrogen peroxide case, In re Hydrogen Peroxide Antitrust Litigation, No. C05-0666SD, the suit alleges a global conspiracy began in 1994 among the chemical makers to sell at agreed prices, reduce production capacity and share sales information. The chemical is used in the pulp and paper industry and for textiles as a bleaching agent.

The French firm Elf Atochem, and a British company, Degussa U.K. Holdings, pleaded guilty to price-fixing in federal court and agreed to pay a total of $5 million in fines for their roles in a conspiracy, according to a 2004 Justice Department statement.

Both the DRAM and chemical cases have indirect purchasers who have joined the direct-purchaser suits, but the fight over their place in the litigation is still unfolding.

While some defendants may want to send the indirect-purchaser cases back to state court, the new reform act now stands in the way. The CAFA statute has a number of tests that hamper remand to state court. The tests were intended to make it tough on plaintiffs. Few thought that defendants might want to get the cases out of federal court.

And plaintiffs lawyers with indirect-purchaser claims have often been only too happy to leave state courts. State court judges frequently look for ways to dump the indirect-buyer claims, according to Daniel Karon, a plaintiffs lawyer and law professor at Cleveland-Marshall College of Law who has written about the issue.

"State court judges ought to know their state law ... but they often say, 'Indirect purchasers can sue, but not you,'" Karon said. "They totally screw it up. The people who have losses are the consumers at the end" of the buying chain, he said.

"The theoretical flaw in state reasoning [in dismissing cases] is that not one state antitrust law requires a consumer to purchase a price-fixed item. There is no purchase requirement. That has been read into the statutes by courts," he said.

In a sign of the willingness of state courts to throw out indirect-purchaser claims, Gibson Dunn's Swanson said that in roughly 20 state court cases involving indirect purchase of rubber chemicals around the country, he successfully got state court judges to throw out all but about five cases.

If they had been gathered into a single federal suit, "How many federal judges will parse through all that? I have enormous confidence in federal judges doing a good job dealing with it, but it would stagger any individual human being," he said.

Some states still struggle with standing for indirect purchasers to sue. Just last week, the Tennessee Supreme Court overruled a lower court to hold that indirect purchasers do have the right to bring an action under the state's Trade Practices Act. Freeman Industries v. Eastman Chemical Co., No. E2003-00527-SC-S09-CV.

In addition, the plaintiffs in that case successfully brought unjust enrichment claims. "That is something we throw into antitrust cases now," Karon said.

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He is awaiting the outcome of a similar state appeal in Ohio for a case argued in February.

DILEMMA FOR DEFENSE

During the July testimony before Congress' Antitrust Modernization Commission, a lawyer for Microsoft Corp., David Tulchin of New York's Sullivan & Cromwell, explained the dilemma for the defense. Indirect-purchaser cases against Microsoft Corp. were filed in nearly 38 states. With matters in so many states, "the process of adjudicating what really is a national claim on behalf of indirect purchasers becomes extremely complex, extremely expensive," Tulchin said.

"There are lawyers, in some cases dozens of lawyers, in each state on each side working on what really is the same matter," Tulchin said.

It can become coercive to defendants, he said. It's one thing to go to trial where a victory means something, "but it's another thing where if you win you have just one victory but if you lose you have the domino effect of collateral estoppel," Tulchin said.

A defendant with pending cases in numerous states risks incurring a loss that will have the collateral estoppel effect with potential treble damages in dozens of pending cases, he said.

Yet the federal courts create a different dilemma. Said Swanson: "The fight turns into whether you get federal judges to do something they are generally not asked to do: to construe individual state antitrust laws on a very detailed and granular basis."

FCC Extends Review Of Verizon-MCI Merger To Oct. 13 (DOWJONES)

Dow Jones, September 21, 2005

WASHINGTON -(Dow Jones)- The Federal Communications Commission on Tuesday extended its review period of Verizon Communications Inc. (VZ)'s (VZ) proposed acquisition of MCI Inc. (MCIP) (MCIP) until Oct. 13.

The agency's internal and nonbinding 180-day target for merger reviews expired Tuesday. On Monday, Verizon (VZ) and MCI asked the FCC to extend it until Oct. 13.

The FCC said in a public notice that the extension is "in the interest of ensuring sound analysis of the record" and noted that Verizon (VZ) and MCI have in recent days filed "substantial additional relevant information."

Verizon (VZ) has agreed to acquire MCI for $8.5 billion. MCI shareholders are slated to vote on the deal Oct. 6.

Opponents of the deal say the merged company would reduce competition, particularly in the business-services market, leading to higher prices.

Earlier this month, the FCC agreed to stop the clock on its review of the proposed $16 billion acquisition of AT&T Corp. (T) (T) by SBC Communications Inc. (SBC) (SBC) until October 13.

The Wall Street Journal reported Tuesday that FCC Chairman Kevin Martin wants agency staff to deliver recommendations to approve the two mergers.

Such an order could be on commissioners' desks for consideration as early as Wednesday. The next public FCC meeting is scheduled for Oct. 12, one day before the newly extended review clocks expire.

Under agency rules, commissioners should receive orders that are up for a vote three weeks before public meetings.

The Justice Department must also sign off on the mergers.

-By Brian Blackstone; Dow Jones Newswires; 202-828-3397; brian.blackstone@ dowjones.com

Antitrust Lawyers Expect Realtor-DOJ Case To Settle (INMAN)

By Glenn Roberts Jr., Inman News

Inman News, September 20, 2005

It's not surprising that the federal government sued the National Association of Realtors over alleged antitrust violations – trade groups can be a breeding ground for anticompetitive activities, and Realtors have clashed with regulators before on antitrust issues, say legal experts, adding that it won't be surprising if an agreement is reached before the lawsuit goes to trial.

On Sept. 7, the U.S. Justice Department's Antitrust Division filed a lawsuit against the 1.2 million-member Realtor trade group to try to bar it from enforcing rules that antitrust officials say restrain competition. The suit specifically challenges NAR's policies related to the display of property listings on the Internet.

An earlier policy adopted by the trade group enabled brokers to pick and choose which competitors could display their property listings online.

DOJ_NMG_0006997

While the Realtor group, in response to a Justice Department investigation over its earlier policy, enacted a new Internet listings policy on Aug. 31 for all Realtor-owned MLSs, this new policy continues "to discriminate against brokers who use the Internet to more efficiently and cost effectively serve home sellers and buyers," the Justice Department alleges. Realtor-owned MLSs must adopt and implement the trade group's new policy by July 1, 2006, and some provisions of the new policy are optional.

Earlier lawsuits, dating back to the 1950s, have alleged that Realtor groups have conspired to fix commission rates. Industry research has found that real estate commission rates have dropped slightly over the past several years from the historic average of 6 percent, though home-price increases have risen more than enough to offset this drop in many markets.

In addition to this latest lawsuit against the Realtor trade group, the Justice Department and Federal Trade Commission this year issued letters opposing Realtor-backed legislation in several states that would impose new real estate service requirements and essentially ban some discount business models.

Also, the Justice Department filed a lawsuit in March over real estate rebate restrictions in Kentucky, which led that state to lift its rebate ban. And South Dakota also loosened its rebate restrictions this year in response to a separate Justice Department investigation.

Robert Cohan, Jackson Walker

Trade groups "are kind of a hotbed of antitrust activity – they are by their nature a gathering of competitors," said Robert M. Cohan, a lawyer who is chairman of the antitrust group and a partner in the Jackson Walker law firm's Dallas office. "There are many good things that trade associations do but there is always a danger that when you get competitors together they're going to do things they shouldn't do, such as agree on price."

He added, "There is certainly a history of challenges to real estate multiple listing services and the way Realtor associations operate. There has been some history of tension between the industry and the regulators. What the Justice Department seems to be suggesting is that the Realtor association is protecting Realtors who may still be doing business the old-fashioned way."

Federal antitrust cases can be "tremendously expensive to litigate" and can be drawn out for years if groups aggressively fight the charges, and Cohan said it's fairly common for the parties in such cases to settle before the cases reach trial.

Sutton Keany, Pillsbury Winthrop Shaw Pittman

Sutton Keany, a partner and antitrust lawyer who works in the New York office of the Pillsbury Winthrop Shaw Pittman law firm, said the Justice Department has already had some success in prompting the Realtor group to rethink its Internet listings policy. The lawsuit may have provided inspiration for NAR to move more quickly in its adoption of new rules, he said, adding that "(The Justice Department) has had success at least on one point - if the purpose of the complaint is to shake up practices in the area."

He added, "It is generally thought that most markets operate more efficiently as the availability of information is increased. If participants in that market get together to try to exclude certain brokers or to restrict the flow of information or to reward non-technological advances, it raises questions. In the end that's what is motivating the Department of Justice."

Tim Greaney, a law professor at Saint Louis University in Missouriwho worked in the Justice Department's Antitrust Division for 10 years during the 1980s, said the lawsuit against the Realtors appears to be "really a classic case of changing market conditions and innovation having a major potential impact on an industry, and an industry's reaction being to resist it because it certainly has the potential to disrupt the way business has been conducted in the past."

While property information continues to be vital for the business of real estate brokerage, "nothing cheapens information quite as much as the Internet," Greaney said, which poses challenges for companies that have relied on brick-and-mortar investments.

MLSs can benefit consumers by providing widespread property listings information, but such joint ventures can be anticompetitive if they serve as devices for exclusion, he said. If the lawsuit is settled, Greaney expects it would be in the form of a court-enforced consent decree, which could lessen the chances for extensive future litigation related to this case.

Legal experts say that federal antitrust cases can be the basis for private litigation, and if the Justice Department prevails in the case there may be a trailing wave of class-action or individual lawsuits by real estate companies or groups.

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The federal government is not seeking any damages in the lawsuit, but aims to restrain and enjoin the Realtor association from requiring rules that restrict how a broker interacts with customers, competitors or others, according to the Justice Department complaint.

The lawsuit also seeks to prevent the trade group from requiring affiliated boards and MLSs to adopt specific Internet listings policies – such as the ability for brokers to selectively withhold listings from some competing brokers – that the Justice Department considers to be anticompetitive.

Theodore "Ted" Bolema, a lawyer in the Finance and Law Department at Central Michigan University who served in the Justice Department's Antitrust Division from 1992-2000, said the lawsuit against the Realtor group appears to be at the "intersection of antitrust laws and (intellectual) property rights," as it relates to the ownership control of property listings information.

Theodore Bolema, Central Michigan University

"It strikes me as one of the most interesting antitrust cases we've seen in some time because of the rather unique issues in it," he said.

Antitrust cases can take longer to resolve than average court cases, Bolema said, and the Justice Department must present a very detailed factual analysis to support its case. "(These cases) are very fact specific. Courts have held that it's really the economic impact that is critical in determining whether there is a violation or not." While some antitrust cases seek damages for past violations, the case against the Realtor trade group does not.

The American Antitrust Institute, an independent, non-profit research and advocacy group that promotes fair competition, has commended the Justice Department for bringing the lawsuit against the Realtor association. Albert Foer, president of the institute, said, "I think that the Realtors are going to have a very difficult time in prevailing. There is a context of an industry in which commissions appear to have been stable for a long time, even as the price of housing has escalated. That tips us off that something is wrong in terms of how competition is working."

But, he also said, "At this stage it's hard to prejudge the outcome. We supported the idea that (the Justice Department) brought the case because we think this is a really important issue for consumers and it ought to get the fullest possible airing."

Legal experts have said that Washington politics should not have a major bearing on this case – despite the Realtor group's powerful presence in congressional lobbying and financial support for federal elections.

But Justice Department officials, Foer said, "are clearly aware of the political power of the Realtors. And nonetheless they put forward the case – one assumes they've done a lot of thinking and a lot of preparation and have a lot to offer."

Governors Ask Probe Into Possible Gasoline Price Gouging (AP)

By JOSEPH B. FRAZIER, Associated Press

AP, September 21, 2005

Eight Democratic governors, including Gov. Ted Kulongoski, have written the Bush Administration requesting a probe into possible gasoline price gouging in the wake of Hurricane Katrina.

"We urge Congress to immediately commence an investigation into the excessive profits being made by oil companies who are taking advantage of this national crisis," the letter said.

It urged legislation refunding any excessive profits to consumers and was signed by the governors of Oregon, Wisconsin, Michigan, Illinois, New Mexico, Iowa, Montana and Washington.

The letter cites a report by Don Nichols, an economist and director of the Robert M. LaFollett School of Public Affairs at the University of Wisconsin as saying there is a disproportionate increase in the rise of pump prices and crude oil prices.

Historically, Nichols said, the markup between the price of a gallon of crude and a gallon of gasoline is about 85 to 90 cents a gallon including refining, distribution and taxes.

At $50 for a 44-gallon barrel of crude, he said, the pump price should be about $2 a gallon, a little more or less in some states depending on taxes. At $65 a barrel — nearly identical to the price in Tuesday afternoon trading — a gallon should be about $2.30.

But as of Monday, the average cost of a gallon of regular was $2.78 nationwide. A week ago, it was $2.95 a gallon.

DOJ_NMG_0006999

For gasoline to be $3 a gallon, he said, crude should be selling for about $95 a barrel.

Ten refineries were knocked out by Katrina but Nichols said windfall profits are still involved.

"There is supply and demand," he said. "That's the market."

"But somebody is sitting on money they didn't earn," he said, "because they were in the right place at the right time."

He said he has seen no explanation for why the markup should be nearly triple. "The disconnect between gasoline and crude oil prices is quite remarkable," he said.

"How can gasoline prices soar if crude prices don't?" he asked in the study, which was contained in a broader look at economic impacts of Katrina.

Officials of major petroleum industry groups asked for comment did not immediately return calls Tuesday.

Last week in Washington the Senate passed an amendment that requires the Federal Trade Commission to conduct an immediate investigation into possible gasoline price-gouging in the wake of the devastating hurricane.

Wisconsin Gov. Jim Doyle wrote that Wisconsin consumers have been overcharged by an estimated $88 million just this month and called for refunds.

Oregon Attorney General Hardy Myers wrote in Tuesday's Oregonian newspaper that Oregon, unlike 21 other states, has no law banning price gouging during emergencies.

Instead, Oregon law limits gouging to the prohibiting of taking advantage of a customer with a physical infirmity.

"The sky's the limit is the rule here even in a declared emergency," he wrote.

He said he has been seeking a law for years to let his office deal with gouging.

Nationally, gasoline prices have been slowly dropping in recent days amid predictions that they could rise again as Hurricane Rita moves toward the Gulf of Mexico.

"Just yesterday, we saw oil set the new record for a one-day spike in prices," Sen. Maria Cantwell, D-Wash., a member of the Senate Energy and Commerce committees, said Tuesday.

"The oil companies know we don't have a plan to protect American consumers. We need a federal law that's going to prohibit profiteering at the gas pump — especially during national emergencies," she said.

New Mexico Gov. Bill Richardson will call a special legislative session next month to propose a $100 million gasoline and home heating relief package.

Spokesman Gilbert Gallegos said Tuesday that the one-time package would include rebates for taxpayers. He said Richardson will seek a bill that will allow the state to investigate and punish companies that engage in price gouging.

White House spokesman Allen Abney said no one has seen the governors' letter Tuesday, but that Bush won't stand for price gouging. He also said Bush has asked Attorney General Alberto Gonzales to handle any such allegations.

U.S. Plans Deployment Of Antipiracy Attachés (WSJ)

By Greg Hitt

The Wall Street Journal, September 21, 2005

WASHINGTON -- The Bush administration is stepping up efforts to protect the patent rights of American businesses overseas, amid growing concern over the piracy of U.S. intellectual property.

Commerce Secretary Carlos Gutierrez today is expected to announce that his department has set up a team of intellectual-property specialists who will be assigned to several nations to help fight piracy there.

The initiative, which builds on a strategy the Commerce Department is following in China, is part of an effort by Washington to gain control of an issue roiling U.S. trade relations around the globe, particularly with developing countries.

Last week, Chinese President Hu Jintao assured President Bush that Beijing is willing to strengthen antipiracy rules, as part of an effort to increase imports of U.S. goods into China and ease the trade gap -- on pace to break last year's record of $162 billion -- between the two economic powers. Past Chinese promises to deal with the issue have yielded few tangible results.

Together with the diplomatic dialogue, the Bush administration is scrambling to provide support for American business. Critics complain tens of billions of dollars in revenue are lost annually as a result of the piracy of intellectual property.

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In addition to beefing up the antipiracy effort in China, the administration plans to deploy intellectual-property specialists to Brazil, India, Russia, Thailand and the Middle East -- all regions that concern U.S. trade officials tracking patent issues. The new team of attachés will provide in-country assistance to U.S. businesses facing piracy problems, and work with local officials on efforts to curb theft.

"We're going to have a presence on the ground," Mr. Gutierrez said. He is scheduled to outline the plan on a two-day swing this week through California, where he is to discuss trade issues with technology and movie-industry executives. "It's all part of an overall effort to combat" violations of intellectual-property rights, the secretary said.

The initiative is the work of Chris Israel, a Commerce official tapped over the summer to coordinate antipiracy efforts across the administration. The Commerce Department also is creating an academy, based at the U.S. Patent and Trademark Office, to train foreign judges, enforcement officials and program administrators on international-patent obligations, as well as how to establish and maintain a system of intellectual-property protections.

Among the countries expected to participate are Brazil and China. Creation of the academy would double the size of an existing program through which the Patent and Trademark Office conducts education and enforcement training programs around the world.

At home, the department is also convening a series of grass-roots seminars around the country to educate small-business owners on protecting their intellectual property overseas.

EU Regulators Eyes Microsoft Complaints (WP/AP)

The Associated Press

The Washington Post, September 21, 2005

BRUSSELS, Belgium -- EU antitrust officials are again analyzing complaints that software giant Microsoft Corp. broke European rules, European Commission spokesman Jonathan Todd said Tuesday.

Todd refused to say who made the complaints, what they were and whether they contained new information.

"We are currently in the throes of analyzing these informal complaints. And a decision as to whether or not we will open up a new case against Microsoft _ any such decision will only be taken once we have completed our scrutiny of the information we have received," he told reporters.

He said the EU head office did not need to wait for complaints to take action against any company it suspected of breaking EU law.

The EU executive Commission is currently waiting for a court date to defend its March 2004 antitrust ruling against Microsoft. In that case, the company is challenging a $620 million fine and a ruling that it abusively wielded its Windows software domination to lock competitors out of the market.

Microsoft was also ordered to sell a version of its Windows software without its Media Player and required to share technology with competitors that make server software so their products can better communicate with Windows computers.

Microsoft Could Face Fresh European Antitrust Charges (MRKTWTCH)

By Michael Paige, MarketWatch

MarketWatch, September 21, 2005

LOS ANGELES (MarketWatch) - Microsoft Corp. could face new charges by European antitrust regulators that its business practices are anticompetitive as officials weigh fresh complaints the world's largest software company violated European rules, reports said Tuesday.

Since taking office last year, Neelie Kroes, the European competition commissioner, said she has received informal complaints focusing on Microsoft's (MSFT: news) bundling of its existing software programs and upcoming applications, according to an interview published by the New York Times.

"We have had informal complaints and we are using our time now to look at them," she said. "We're not going to wait and do nothing."

Kroes refused to provide further details on the complaints, the paper said. Microsoft, the world's largest software company, responded by saying it was keeping regulators apprised of its new products, according to the report.

European regulators early last year found that Redmond, Wash., Microsoft abused its dominant position with its Windows software to unfairly shut competitors out of the market. The company was ordered to pay a landmark fine and make sweeping changes to its business practices.

Microsoft and regulators are awaiting a court date for the company's challenge of the fine and ruling. See earlier related story.

Meanwhile, a spokesman for the European Commission said there are no imminent plans to open a new antitrust investigation into Microsoft, Dow Jones Newswires reported from Brussels.

A spokesman for the regulatory body was quoted by the Associated Press as saying, "We are currently in the throes of analyzing these informal complaints. And a decision as to whether or not we will open up a new case against Microsoft -- any such decision will only be taken once we have completed our scrutiny of the information we have received."

In March of last year, Microsoft was fined a record 497 million euros, or over $600 million, and ordered by the regulators to change the way it does business.

Under the ruling, Microsoft was ordered to divulge some of its trade secrets for server software to competitors. It was also ordered to offer to consumers a version of its ubiquitous Windows operating system stripped of its Media Player software.

In Tuesday trading, Microsoft's stock eased 16 cents, or 0.6%, to close at $25.84. Shares have ranged from $23.82 to $30.20 over the last 52 weeks.

Michael Paige is a reporter for MarketWatch in Los Angeles.

UPDATE: Microsoft Could Face Fresh European Antitrust Charges (DOWJONES)

Dow Jones, September 21, 2005

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In Tuesday trading, Microsoft's (MSFT) stock gained 12 cents, or 0.5%, to $26.12. Shares have ranged from $23.82 to $30.20 over the last 52 weeks.

Mergers May Vex Regulators (USAT)

By Paul Davidson

USA Today, September 21, 2005

As federal regulators weigh what, if any, conditions to impose on two mammoth phone company mergers, they face a vexing Rubik's cube of possibilities.

Any requirements they attach to SBC Communications' acquisition of AT&T and Verizon's purchase of MCI could force some customers to do business with a telecom company they didn't choose.

The Justice Department is largely focused on the effects of the megadeals on corporate customers, say people with direct knowledge of the situation. In exchange for the deals' approval, they say, Justice is considering forcing the combined company to shed up to several thousand lines that serve big business. The rub: Most corporate customers are under contract and will likely balk at switching providers.

Both Justice and the Federal Communications Commission could approve both deals by next month, though Justice is further along in its review than the FCC, say the people who are involved. These people asked to remain anonymous because the talks with Justice are sensitive and confidential. Justice and the FCC declined to comment.

The mergers would marry SBC and Verizon, the two biggest regional Bells, with AT&T and MCI, the top two long-distance carriers.

The FCC could impose conditions aimed at preserving consumer choice. Until recently, AT&T and MCI each have competed head-on with SBC and Verizon for consumers' home-phone service. Regulators are less concerned about that segment because the long-distance companies stopped marketing residential service after adverse regulatory rulings last year.

Still, to promote competition, the FCC could require SBC and Verizon to offer consumers DSL broadband service without also requiring them to use the Bells' local voice service. That would allow consumers to replace the Bells' voice service with an Internet-based phone service, such as Vonage, that could travel over the DSL line.

With the FCC split evenly between Republicans and Democrats until a third Republican is appointed, the Democrats could push for such a condition.

In the business market, AT&T and MCI are leaders in linking the nationwide offices of big businesses with voice and data services. Typically, however, they must lease the local fiber-optic lines of the Bells, then resell them to businesses along with other services.

But in recent years, AT&T, MCI and other Bell rivals have built their own fiber lines to customers, undercutting the Bells' prices by 15% to 35%, says Brian Moir, a lawyer for large business customers. While AT&T and MCI control less than 5% of all business lines in the USA, they serve many of the largest business customers in the biggest cities.

They also wholesale, at sharp discounts, both their lines and those they lease from the Bells to smaller phone companies, which in turn, sell them to small and midsize businesses. All told, AT&T and MCI each serve about 2,000 buildings in SBC's and Verizon's regions, respectively, with their own fiber-optic lines. Both the large businesses and smaller phone companies worry they will lose those discounts once AT&T and MCI are swallowed by the Bells.

To prevent that, Justice could force SBC and Verizon to sell the lines, but not customers, of AT&T and MCI. Reason: Supplying data services to businesses is highly specialized and customers with nationwide contracts would resist being tossed to a new provider in one region. “They're not going to want their contracts torn up by government fiat,” says Legg Mason analyst David Kaut.

At the same time, several phone companies say they would have little interest in buying the wires if there is no customer revenue to offset the purchase price. As a result, Level 3 Communications has proposed that Justice allow it or other phone providers to buy the lines, and force AT&T and MCI to lease them back. As units of SBC and Verizon, they would still use the lines to serve their existing customers. The buyers eventually would develop their own customer bases.

Moir says business customers would still bristle at a new phone company controlling the lines.

Yet in a report, Legg Mason says it expects Justice to require just that — a divestiture with a lease-back mandate. To ensure that the Bells don't scrap discount prices, the FCC also could regulate their prices, Legg Mason says.

The Bells argue no divestitures or conditions are needed. They say many of the buildings served by AT&T and MCI are also served, or easily could be, by others.

Authors Slap Google With Copyright Suit (WSJ)

By Kevin J. Delaney

The Wall Street Journal, September 21, 2005

A group of authors Tuesday filed suit against Google Inc., accusing the search engine company of copyright infringement under its controversial program to scan millions of books in university and public libraries and to make the texts searchable on the Web.

The Authors Guild, a New York non-profit with over 8,000 members who are published authors, alleged in its complaint that Google's plan to create digital copies of books represented "massive copyright infringement." Authors Herbert Mitgang, Betty Miles, and former U.S. Poet Laureate Daniel Hoffman, are co-plaintiffs in the suit. The plaintiffs have requested the suit be granted class action status. The complaint was filed in U.S. District Court in New York.

In a statement, Google said that its respects copyright and added that it "regrets" the course of action the Authors Guild has chosen. "Google Print directly benefits authors and publishers by increasing awareness of and sales of the books in the program," the company said. "Only small portions of the books are shown [to consumers conducting searches] unless the content owner gives permission to show more," it added, saying that authors and publishers can request their books not be scanned at all.

The complaint is the latest reminder of how Google's attempts to search information beyond simple Web pages -- such as books, television programs and scholarly works -- are proving to be more controversial and time-consuming for the company than the Web searches that have driven its growth to date. Since late last year, Google has been slapped with separate suits, including from a news agency and an adult-entertainment company, alleging copyright infringement in areas such as news reports and images it displays on the Web.

The Mountain View, Calif. company has already faced some backlash from publisher groups since announcing its book-scanning program last December. In a May letter, the Association of American University Presses, a trade group of 125 publishers, warned Google that its plan to digitize millions of books in libraries represented "a fundamental, broad-sweeping violation of the Copyright Act." Individual publishers, including Bertelsmann AG's Random House Inc. unit, and other publisher associations have also contacted Google expressing their concern. Some European officials also oppose the scanning project, arguing it would help English-language sources and an American view of history to dominate the Web.

Google last month suspended its scanning of copyrighted books in libraries until November, saying the delay would give publishers time to specify which books they don't want Google to scan. Google had initially said it planned to scan the entire library of the University of Michigan, which includes seven million volumes, along with books from the libraries of Stanford University, the University of Oxford, and Harvard University and the New York Public Library.

Authors Guild Executive Director Paul Aiken said that Google's move to allow publishers to request their works not be scanned was insufficient. "Opting out is not the way copyright works," said Mr. Aiken.

The complaint alleges Google's scanning of copyrighted works in itself represents a copyright infringement, and that Google's inclusion of any works in its commercial services represents additional infringement. Mr. Aiken said that book publishers typically don't have the contractual right to grant Google permission to use published books in its book search service without the authors' agreement. The complaint requested unspecified damages and an injunction barring Google from further alleged copyright infringement under the program.

Nymex Board Votes To Sell 10% Stake To General Atlantic (WSJ/DJN)

By Leah McGrath Goodman, Dow Jones Newswires

The Wall Street Journal, September 21, 2005

The board of the New York Mercantile Exchange voted in favor of selling a 10% stake to private-equity firm General Atlantic LLC at a meeting last night, according to a person close to Nymex.

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The deal, which remains subject to a seatholder vote, values the exchange at $1.35 billion and seeks to help the nation's biggest energy and metals market go public, the person said.

By voting for a deal with General Atlantic, the Nymex board closed the door on a joint bid by private-equity firms Blackstone Group and Battery Ventures VI LLP that valued the exchange at $1.3 billion, people close to Nymex said.

The board also rejected an eleventh-hour bid by Michel Marks, a former Nymex chairman, who teamed up with private-equity firm Hellman & Friedman LLC seeking a Nymex stake that valued total exchange equity at $1.4 billion, several people close to Nymex said.

Nymex plans to recommend the proposed deal with General Atlantic to seatholders at a meeting Sept. 29, where it plans to discuss the exchange's strategic options. Seatholders will vote on the deal at a later date, according to Nymex spokeswoman Anu Ahluwalia.

While minority stake bids from private-equity firms initially targeted the purchase of a 20% equity stake in the exchange, people close to Nymex said board members wary of giving up control reduced the size of the stake for sale.

Under the terms of the General Atlantic offer, the firm would buy a 10% stake in Nymex representing preferred equity that would allow it to seize control of the exchange if it fails to achieve certain revenue and net capital milestones, people close to Nymex said. General Atlantic, Greenwich, Conn., is the largest shareholder of Chicago's Archipelago Holdings Inc., an electronic-trading firm that has made clear its interest in derivatives and is slated to merge with the New York Stock Exchange.

The proposal also seeks to reduce the exchange's 25-member board, with one-third of the remaining directors to be handpicked by General Atlantic, people close to Nymex said. The other board members -- either representatives of Nymex seatholders or public directors -- likely would be approved by a Nymex member vote, they said.

The deal includes provisions that let General Atlantic liquidate its minority stake if Nymex backs out of an IPO, said one of the people close to Nymex.

Qwest To Try To Sway FCC Review Of SBC-AT& T Merger (WP)

By Arshad Mohammed, Washington Post Staff Writer

The Washington Post, September 21, 2005

Qwest Communications International Inc. yesterday raised questions about the pending merger of two major rivals, accusing SBC Communications Inc. of anti-competitive practices as the government considers SBC's purchase of AT&T Corp.

Denver-based Qwest said SBC was making it harder for competitors to serve lucrative medium to large companies and was limiting the ability of rivals to lease SBC lines at cheaper government-regulated rates. It also said SBC appeared to be pressuring smaller phone companies not to merge with unspecified "blacklisted" rivals.

San Antonio-based SBC dismissed Qwest's claims and said it expected the Federal Communications Commission and Justice Department to approve its $16 billion acquisition of AT&T.

Qwest is trying to influence the FCC as the agency weighs both the SBC-AT&T merger and Verizon Communications Inc.'s planned $8.46 billion purchase of MCI Inc.

Qwest was rebuffed in its own effort to buy Ashburn-based MCI this year, and the two mergers leave Qwest -- the fourth-largest U.S. telephone company -- at a competitive disadvantage to the remaining regional telephone giants.

"SBC already is using its increased market power arising from its acquisition of AT&T to create new barriers to the development of competition," Qwest said in a letter it said it would send today to the FCC. The company provided a copy of the letter to The Washington Post.

"These actions underscore why the merger should be conditioned on full divestiture of overlapping AT&T operations and related restrictions on terms and conditions under which SBC provides special access," the letter added.

Special-access customers are usually medium to large companies that, because they buy large amounts of voice and data service, are provided dedicated lines to connect directly to long-distance networks. Long-distance companies typically pay the local telephone company special-access fees for these dedicated lines.

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"We are confident that the FCC and the DOJ, after an exhaustive and careful review of the facts, will determine that the merger of SBC and AT&T will benefit consumers -- and many customers have gone on record in support of the merger for this reason," said an SBC spokesman.

"This filing is a sad, desperate act by one of our competitors who is afraid of having a vigorous competitor in their own back yard," he added.

In its letter, Qwest said SBC was capping the number of circuits it would transfer to competitors in a given year, limiting Qwest's ability to serve special-access customers.

It did not disclose the cap but said it was below what SBC transferred for Qwest in the first half of 2005.

ENVIRONMENT/INDIAN AFFAIRS:

Senator Proposes Property Rights Ombudsman (REU-Y2)

By David Lawder

Reuters, September 21, 2005

A senior Senate Republican proposed creating a federal official for arbitration in eminent domain cases on Tuesday as witnesses urged lawmakers to restrict the taking of private property for development.

Utah Sen. Orrin Hatch (news, bio, voting record) announced the bill to create such an ombudsman during a Senate Judiciary Committee hearing on a separate measure to withhold federal funding from private development projects that rely on government appropriation to obtain property.

"What is happening to me should not happen to anyone else," said Susette Kelo, namesake plaintiff in the landmark Kelo v. New London case the U.S. Supreme Court decided in June.

"Congress and state legislatures need to send a message to local governments that this kind of abuse of power will not be funded or tolerated," she told the hearing.

The court ruled 5-4 that New London, Connecticut, could take Kelo's waterfront home and 14 other properties to make way for a hotel and condominium project, saying economic development and creation of jobs were sanctioned as public use of land under the U.S. Constitution's Fifth Amendment.

The decision enraged property rights advocates and conservatives in Congress, who say it gave local governments the right to give any home in the United States to a wealthy developer, as long as he says he will upgrade the property.

Such projects often involve federal Community Development Block Grants and are backed by tax-exempt bond financing. The project in the Kelo case received a $2 million subsidy.

Under Hatch's bill, an independent property rights ombudsman would have the power to order arbitration to resolve eminent domain disputes. The bill is based on a property ombudsman successfully established in Utah.

Cornyn said his fellow Republican Hatch's idea was "intriguing" and worth considering as the bill progresses.

Cornyn said he has 28 co-sponsors for the legislation, but acknowledged that only two so far are Democrats.

The House of Representatives passed a similar measure as an amendment to a spending bill, but the 231-189 vote was split largely along party lines, with many Democrats opposing it.

The National Association for the Advancement of Colored People's Washington bureau director Hilary Shelton spoke in favor of the legislation, saying eminent domain-driven urban renewal projects too often displace blacks and other minorities with too little compensation.

But Hartford, Connecticut, Mayor Eddie Perez said the Kelo decision did nothing more than confirm the status quo of cities to use eminent domain judiciously as a tool to create jobs and benefit residents.

Senators, Property Owners Review Kelo (WT)

By Charles Hurt

The Washington Times, September 21, 2005

DOJ_NMG_0007006

Private-property owners and government officials squared off yesterday in a Senate hearing over what makes up the American dream.

Mayor Eddie A. Perez of Hartford, Conn., said the American dream means letting city governments seize property under newly expanded eminent-domain powers so they can give it to private developers who promise to generate greater tax revenue with it.

Susette Kelo -- whose restored pink home in New London, Conn., faces such a seizure -- said the American dream means owning a home without fear that the government will take it to give to the highest bidder.

In June, the Supreme Court ruled in favor of government use of eminent-domain powers to take property and give it to private developers. The 5-4 Kelo v. City of New London decision stunned lawmakers on both sides of the aisle, many of whom noted it as another reason to push the court in a more conservative direction.

Sen. John Cornyn, Texas Republican and member of the Senate Judiciary Committee, has introduced a bill that would prohibit federal funds from being used in cases in which the expanded authority is used. Ms. Kelo applauded that bill.

"What we have now at the local, state and federal level amounts to government by the highest bidder," she said. "That has got to stop."

Though criticism of the Kelo decision has come from both conservatives suspicious of big government and liberals who fear the impact on the poor and minorities, only one Democrat -- Sen. Patrick J. Leahy of Vermont -- showed up for part of yesterday's hearing. Most Republicans on the panel attended.

At the start of the hearing, Senate Judiciary Committee Chairman Arlen Specter, Pennsylvania Republican, said that he'd just come from a meeting at the Supreme Court attended by the author of the decision, Justice John Paul Stevens.

"I told Justice Stevens that we were having this Kelo hearing and if he has some spare time later this morning, to come on over. We'd be glad to hear from him," Mr. Specter said. "He didn't think that was very funny, but all the other judges laughed."

Mr. Perez, speaking on behalf of the National League of Cities, said: "Eminent domain is a powerful economic-development tool that helps cities create jobs, grow businesses, and, most importantly, strengthen neighborhoods."

And despite the near-universal outrage from minority groups, the Hartford mayor said eminent domain is good for blacks.

"For urban America and communities of color, in particular, homeownership is the ticket to the American dream," Mr. Perez said. "If Congress were to pass legislation to hamstring state and local governments from using eminent domain in some of our poorest communities, I believe that we would have fewer people becoming homeowners."

And property-rights advocates have nothing to worry about, he said.

"From [an] owner's position, it seems to me that eminent domain ... is, in a way, the most attractive way in which to have your property rearranged," he said, noting that the owner is compensated.

Ms. Kelo said she just wants to keep her house and be left alone.

"None of us asked for any of this," she said. "We were simply living our lives, working, taking care of our families and paying our taxes."

U.S. To Inspect Small Leak From Fuel Pool At Indian Point (NYT)

By By Lisa W. Foderaro

The New York Times, September 21, 2005

The Nuclear Regulatory Commission announced yesterday that it was inspecting a small radioactive leak from a spent-fuel pool at the Indian Point nuclear power plant in northern Westchester County.

The federal agency said the leak, which was discovered earlier this month during excavation work, was minimal and "does not pose any immediate health or safety concern" for the public or the plant's workers.

But the commission said it would initiate a special inspection to review plans to fix the leak by the company that owns the plant, Entergy Nuclear Northeast. The inspection will also assess the potential environmental impact from the leakage.

Still, elected officials expressed anger that they were notified only yesterday about the leak from one of three spent-fuel pools on the site. C. Scott Vanderhoef, the Rockland County executive, said the leak also raised questions about Entergy's monitoring of the other pools on the site. "The degree of confidence is certainly not improved," he said.

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Mr. Vanderhoef also said that emergency officials from Rockland, Westchester and Orange Counties decided yesterday to ask Entergy to conduct another test of its siren system, following the failures and glitches that marked a test last Wednesday. Among other things, a backup activation system that relies on radio signals failed in Rockland County.

Andrew J. Spano, the Westchester County executive, said in a statement yesterday that it was "absolutely unbelievable that the Nuclear Regulatory Commission and Entergy would keep us in the dark about a radioactive leak" in the pools.

A spokesman for Entergy, Jim Steets, said that the company would have notified county officials immediately had there been any potential for a threat to public safety.

In a statement, the Nuclear Regulatory Commission said the leak was found during excavation work being done in conjunction with a project to store spent fuel rods without immersing them in a pool. It said that workers had identified several hairline cracks on concrete walls surrounding the pool for Indian Point 2, one of the plant's two active reactors. "Slight se epage was collected," the statement said. "It is not yet clear whether the seepage is from a current or prior leak."

Entergy said that the leak may have stemmed from a leak in the pool that was repaired in 1992. Engineers and chemists reported that trace amounts of radioactive cesium and cobalt were present in samples taken from the wall; both are present in the spent-fuel pool. Soil samples three feet from the wall showed normal background levels of radiation, according to the company.

Interior Dept. Defends Its Keeping Of Indian Books (WP/AP)

By The Associated Press

The Washington Post, September 21, 2005

The Interior Department says its audits of accounts it manages for thousands of Native Americans have found few errors and little evidence that anyone tampered with the records.

The agency's position, in a report sent to Congress on Monday, runs contrary to that of Native Americans who filed a 1996 class-action lawsuit saying that they were cheated out of more than $100 billion because of mismanagement of oil, gas, grazing, timber and other royalties from their lands.

A federal judge has ordered that Interior Department officials account for every dollar received and paid to Native Americans since 1887.

In a glossy 24-page brochure, the department says the audit the judge ordered would cost $12 billion and efforts so far have found that errors make up less than 1 percent of the dollars reconciled. "This picture is significantly different from that o ffered by Interior's critics," Interior Secretary Gale A. Norton states in a letter opening the brochure.

Lawyers for the plaintiffs immediately criticized the report. The plaintiffs have argued the department is using inaccurate and, in some cases, incomplete data.

FBI/DEA/ATF/USMS:

Gossip Meets The G-men In Vast FBI Files (TLPA)

By Randy Herschaft And Larry Mcshane

Times Leader (NE PA), September 21, 2005

NEW YORK - The Beach Boys. Frank Sinatra. Liberace. Sonically, the trio shared little - from the California group's soaring harmonies to Sinatra's saloon singing to Liberace's marshmallow soft vocals. But their offstage antics were music to the ears of the FBI, where all three became the subject of muckraking files in the agency's Washington headquarters.

The portfolios contain innuendo and allegations, with the occasional revelation thrown in. The Beach Boys' penchant for psychedelic drugs and Sinatra's alleged sex parties with President John F. Kennedy are old news.

But who knew of Liberace's reputed fondness for gambling? The file on Wladziu Valentino Liberace reports that the rhinestone-worshipping Las Vegas entertainer was betting with a bookie in blue-collar Buffalo for years.

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Celebrities and criminals, rock stars and mob stars, athletes and artists - scores of high-profile Americans have their very own FBI file, a bold-faced universe rife with dirt and scandal. It's no surprise that gossip columnists such as Walter Winchell turn up as sources.

The files chronicle mass marketer Walt Disney and mass murderer Ted Bundy, comic genius Groucho Marx and cosmic genius Albert Einstein. There are reports of canoodling (although the FBI prefers "extramarital affairs"), heavy boozing, mob ties, drug use and the rest of the requisite dish.

The sheer volume became clear in response to a Freedom Of Information Act request by The Associated Press for every FBI "High Visibility Memorandum" filed between 1974 and 2005, allowing a lengthy traipse through the lives of celebrities from A (Louis Armstrong) to Kaye (Danny) to Z (Efrem Zimbalist). The AP's request produced more than 500 redacted memos totaling nearly 1,500 pages - a stack of documents six inches high.

Tucked inside the pile of paperwork were FBI memos on spouses/stars Desi Arnaz and Lucille Ball; football stars Dexter Manley and Walter Payton; Mayors Marion Barry and Frank Rizzo; mobsters Carlo Gambino and Mickey Cohen.

The memos even contain information never made public. The February 2001 paperwork on film director Otto Preminger's file mentioned "all of the information on Preminger's desire to be a source for the FBI is being withheld."

Until now.

In the FBI's files, Andy Warhol's 15 minutes of fame never expire. Instead, as his memo noted, the 38 pages about the artist's film company and a 1968-69 investigation are there for eternity.

Jimmy Hoffa's daughter asked for the files regarding her long-missing dad - 69 volumes of documents and memorandums. James Earl Ray, the assassin who killed Martin Luther King Jr., filed more than 50 FOIA requests from 1977 to '95 on a variety of subjects - including one seeking records about the FBI's electronic surveillance of King's widow.

The FBI also kept a file on "The FBI" - the long-running television show starring Zimbalist as Inspector Lewis Erskine. The real FBI, according to memos, had casting control over its video incarnation: both Bette Davis and Robert Blake were banned from appearing.

Davis was bumped as an alleged communist sympathizer. Blake, recently acquitted of killing his wife, was brushed off after expressing his opinion that "killers aren't at fault, society is," according to a memo.

Sinatra's file generated national headlines upon its 1998 release, as much for its lack of headline-making material as for anything it contained. But tons of other material is out there, some of it barely noticed in the vast verbal ocean of Web sites, books, newspapers and other publications.

The presence of a file or a memo doesn't necessarily mean the subject was targeted for an investigation.

"Celebrity files can be tricky to understand," said FBI historian John Fox. "They can be collections of information gathered from other files. ... Louis Armstrong is a good example of that. It would be incorrect to say the FBI investigated him."

The FBI won't divulge its exact number of files, but estimates are that it could total more than 6 million. The agency has long maintained that its era of surveillance for political purposes is over, reflecting changes that followed FBI Director J. Edgar Hoover's death in 1972 - but there remain plenty of nuggets tucked away on FBI letterhead:

_ Actor Victor Mature once contacted the FBI about a stalker, but was "probably intoxicated" when agents met with him about the problem. "I know Mature," wrote FBI Deputy Director Clyde Tolson. "He is a little nuts."

_ Former Ohio State football coach Woody Hayes once recruited the son of an agent in the Cleveland office to play for the Buckeyes, prompting a letter to FBI headquarters. Hoover and Hayes were pals.

_ Comedian Jackie Gleason launched a 1956 attempt to track down his alcoholic father, who had disappeared when "The Great One" was a child. The FBI aided by checking its fingerprint files.

The high visibility memorandums are generated for a number of reasons: the notoriety of the requester, whether it's a high-ranking government official (ex-President Gerald Ford) or a high-profile Hollywood type (Sinatra); if the request could reveal improper FBI activities; and if the request comes from a story-seeking journalist.

While it might seem the last group would make the most requests, journalists lagged far behind in their filings, according to FBI records. Both prisoners and private citizens outpaced the requests from the news media.

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While the subjects are alive, the FBI only releases public source information: news clippings and other items already available. The full files, for both celebrities and common citizens, are not made public until after death due to privacy issues.

One of the files' more entertaining aspects is the failure to distinguish between legitimate and slanderous sources. Gossip column clips sit side by side with anonymous letters like the one ripping Gleason and Hoover for hanging around with Sinatra, who - as his file showed - had once volunteered to work as an FBI undercover in 1950.

The memos abound with unsubstantiated stories of adultery, addiction and various other excesses. Not all the stories are as riveting - as the file for former U.S. Sen. Edmund Muskie indicated.

The memo mentioned that he was turned down for a job with the FBI, and chronicled an assassination threat against the one-time presidential candidate. And it mentioned one other incident: a 1965 charge of "hunting migratory waterfowl over a baited field."

The incident wound up costing Muskie $27.50 in forfeited bond money, the memo said.

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On the Net:

http://foia.fbi.gov/room.htm

Man Convicted Of Threatening Agent (PTR)

By Karen Roebuck, TRIBUNE-REVIEW

Pittsburgh Tribune Review, September 21, 2005

A South Hills man was convicted Tuesday of threatening to kill an FBI agent who was investigating him for fraud.

Regonaldo Demelio, 36, also known as Ronald Cooley, was in the Allegheny County Jail awaiting trial on two state assault charges Jan. 5 when he placed three telephone calls to his wife in which he threatened to "whack" FBI Special Agent Robert Zalno.

Demelio, a self-employed contractor, said he knew the agent would be listening to his phone calls and told his wife to "pipe down" so he could speak directly to the agent.

Demelio also threatened to file a lawsuit and complain to Zalno's supervisor, a review board and the American Civil Liberties Union that the agent was harassing his wife, Terri Demelio, by visiting her at work as part of the fraud investigation.

Demelio did not testify, but his attorney, Robert L. Downey Jr., argued that his defendant was a "hothead" and was threatening only to take civil action against Zalno.

After the jury's verdict was announced in U.S. District Court, Downtown, Downey complained that the federal law under which his client was convicted "is so vague. Almost anything could be a threat."

Assistant U.S. Attorney James Love told jurors Zalno should have taken the threats seriously because Demelio had assaulted three men -- smashing one of them in the face with a cinderblock -- and was taking psychiatric medication because of his violent past.

Terri Demelio, his wife of two years, previously had filed a protection-of-abuse order against him, saying her husband had pulled a knife on her, hit her in the face, threw a potted plant at her and threatened to kill her, Love argued.

Demelio, who was not charged in the fraud investigation, shook his head when the verdict was read, and his wife sobbed.

He could face up to 10 years in prison and a $250,000 fine when he is sentenced by U.S. District Judge Arthur J. Schwab. A sentencing date has not been set.

Man Convicted Of Threatening FBI Agent (AP)

AP, September 21, 2005

PITTSBURGH (AP) — A man was convicted Tuesday of threatening an FBI agent in a call from jail last year, his lawyer said.

Federal prosecutors said Regonaldo Demelio, 36, of Pittsburgh, knew that his phone calls from the Allegheny County Jail were being recorded and that the federal agent, who was investigating Demelio and his wife, would be listening.

Demelio's lawyer, Robert Downey Jr., said Tuesday night that he was considering an appeal.

Advertisement

Downey said he had listened to the recordings of his client "ad nauseum" and believed that Demelio didn't really intend to hurt Special Agent Robert Zalno. He said his client was just frustrated and felt that agents were baiting him and harassing his wife in a bank and mortgage fraud investigation.

"That apparently is not how the jury perceived it, and that's the rub," Downey said.

No sentencing date was set for Demelio, who was convicted after a two-day trial of a charge of threatening a federal official.

When he spoke about the agent, Demelio had been jailed on an aggravated assault charge. No charges have resulted from the fraud investigation.

Drug Dealer Admits Scams To DEA In Hopes Of Leniency (PHDN)

By Jim Smith

Philadelphia Daily News, September 21, 2005

Admitted drug kingpin Benjamin Ton was facing life in prison for smuggling 11 tons of marijuana and over 300,000 ecstasy pills from Canada into Philadelphia and other areas.

So Ton, 34, a former copy machine repairman who lived in Folcroft, Delaware County, and later in a $300,000 home in Sicklerville, N.J., did the fashionable thing.

A naturalized U.S. citizen from Vietnam who has lived here since 1991, Ton began telling U.S. Drug Enforcement Administration agents all he knew about his operation, his underlings and drug customers, most of whom are Vietnamese refugees, in hopes of earning some leniency.

Ton yesterday pleaded guilty in U.S. District Court in Philadelphia to engaging in a continuing criminal enterprise and other related drug trafficking and money laundering activities.

His public admissions of guilt came several hours after authorities announced that drug charges have been lodged against more than two dozen reputed members of Ton's old network, many of them his top customers.

"The Ton organization is shut down," U.S. Attorney Patrick L. Meehan told reporters at a press conference.

Ton and other members of his network had been secretly recorded on wiretaps for six months and followed by DEA agents during the course of a two-year investigation.

A number of his co-conspirators were ready to testify against Ton, court records show.

The Daily News reported last Nov. 11 that DEA agents had arrested Ton and five codefendants after seizing a shipment of some 55,000 ecstasy pills worth about $1 million on the black market.

Court-authorized wiretaps led to the arrests and seizures, Assistant U.S. Attorney David E. Fritchey said.

Ton has been in jail since his arrest.

Between December 2002 and Nov. 7, 2004, large quantities of drugs were smuggled out of Canada by truck or in secret compartments of cars and vans.

Ton "personally" negotiated prices, recruited workers, supervised drug deliveries, and approved places, including his Folcroft home, where drugs were stashed.

Ton paid his Canadian suppliers more than $25,000,000 for the drugs.

Prosecutors say ecstasy "is a particularly popular drug of abuse at rave clubs" that may cause damage to the central nervous system, including Parkinson's disease.

Bonds: Congress Should Drop Steroids Probe (MERCN)

By Howard Fendrich

The San Jose Mercury News, September 21, 2005

WASHINGTON - In the nation's capital on his first road trip of 2005, Barry Bonds questioned why Congress, the media and fans continue to talk about steroids.

"I think we have other issues in this country to worry about that are a lot more serious. I think you guys should direct your efforts into taking care of that," the San Francisco Giants slugger said Tuesday before facing the Washington Nationals. "Talk about the athletes that are helping Katrina. Ask yourselves how much money y'all personally donated and have helped."

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Asked whether Congress was wasting time by looking into steroid use in sports, Bonds responded: "Pretty much, I think so. Yeah."

Several congressional committees have held hearings on drug testing in pro sports, and legislation has been proposed to standardize leagues' drug policies.

"You know what? There are still other issues that are more important," Bonds said. "Right now, people are losing lives, don't have homes, I think that's a little more serious. A lot more serious."

Told of Bonds' comments, Dave Marin, a spokesman for House Government Reform Committee chairman Tom Davis, R-Va., said: "Members of Congress, particularly Tom Davis, can walk and chew gum at the same time."

Congressional investigators from that committee are looking into whether Baltimore Orioles slugger Rafael Palmeiro lied under oath about steroid use and are interviewing other players who know Palmeiro.

Bonds has not been contacted.

"Raffy Palmeiro and I are good friends and we will stay continually good friends. Period. And I will always have respect for him as a person and a player, regardless," Bonds said.

Bonds, booed throughout Tuesday's game, hit his 706th homer in the fourth inning.

As the ball arched toward the stands, fans who moments earlier were booing rose to cheer. Bonds was booed when his name was announced during pregame introductions, booed when he stepped into the on-deck circle, and booed when he went out to play left field.

"I've been tarnished for being in baseball for years and years. There's nothing you guys can write or people can say that's going to fix that. It doesn't matter any more. I go out there and enjoy the game," he said.

It was Bonds' third homer of 2005, and it came in his 18th at-bat. Out all season after three knee operations, he returned to the Giants on Sept. 12.

U.N. Reports First Drop In Afghan Opium Cultivation Since Taliban (AP)

Associated Press

AP, September 21, 2005

MOSCOW - The United Nations has recorded the first notable decline in opium cultivation in Afghanistan since the fall of the Taliban, but drug production remains high due to favorable weather, the head of the U.N. Drug Control Agency said Tuesday.

Antonio Maria Costa, who on Tuesday presented a new U.N. report on the drug situation in Afghanistan, called the decline "the best drug-related news" since the Taliban ouster in 2001.

He said that opium cultivation nonetheless had more than tripled in some Afghan provinces governed by warlords suspected of involvement in drug trade, and called for their removal.

"Corruption is the wild card, and we have got to remove it from the deck," he said.

Costa also called for greater NATO involvement in fighting drugs, noting that the northwestern Afghan provinces where opium cultivation has grown were places where NATO forces operate.

According to the U.N. report, Afghan opium cultivation dropped by 21 percent in 2005 compared to the previous year, but production dropped only slightly from 4,200 tons in 2004 to 4,100 tons.

Costa said Afghanistan remained the world's largest opium supplier, with 87 percent of the world market coming from Afghanistan. The opium economy makes up 52 percent of Afghanistan's gross domestic product, and 11 million drug addicts worldwide use Afghan heroin, he said.

One-third of the Afghan drug traffic reaches Western markets through the so-called northern route, via the ex-Soviet Central Asia and Russia, and another two-thirds arrives via Pakistan and Iran, he said.

Costa, who met reporters in Moscow alongside Viktor Cherkesov, the head of Russia's Federal Drug Control Service, said that the flow of Afghan heroin seriously aggravated the HIV/AIDS problem in Russia and Ukraine, where drugs are largely taken through injection.

Cherkesov said that in summer his agency recorded a sharp increase in the amount of illegal Afghan drugs coming into Russia.

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Colombian Army Discovers Huge Cocaine Lab (NYNSDY/AP)

By Fernando Vergara, Associated Press Writer

New York Newsday, September 21, 2005

MARIPI, Colombia -- Colombian troops raided a sprawling clandestine drug laboratory run by a paramilitary group that was capable of producing 10 tons of cocaine a month, officials said Tuesday.

"This is the biggest cocaine processing factory we've found this year, it contained a large quantity of chemicals used to process the drugs," Gen. Gustavo Matamoros, commander of the army's 5th Division, told The Associated Press.

In a separate operation, the military announced Tuesday that it had seized six tons of marijuana allegedly belonging to the Revolutionary Armed Forces of Colombia, or FARC, the country's main leftist rebel group.

The drugs were discovered Monday wrapped in hundreds of red packages in southwestern Cauca state and later shown to reporters at a military base in the nearby city of Cali.

Workers at the cocaine factory escaped and no arrests were made during the raid Monday in a remote area near the town of Maripi, 50 miles north of Bogota, Matamoros said.

The drug lab, built about four months ago, was concealed under a roof made of sugar cane stalks and plastic sheeting and had enough beds to sleep at least 35 workers.

Matamoros said the lab belonged to paramilitary faction, but did not provide details.

Outlawed paramilitary groups were created two decades ago as a vigilante force to attack leftist rebels that have been waging war on the Colombian government. Both the paramilitaries and leftist rebels use drug trafficking to finance their campaigns.

The paramilitary umbrella group, the United Self Defense Forces of Colombia, or AUC, is involved in a two-year-old peace process, but the organization remains active in illegal activities in various parts of the country.

State Asks For Federal Help In Smoke Shop Tax Case (AP)

AP, September 21, 2005

OKLAHOMA CITY (AP) - The Oklahoma Tax Commission has asked for federal intervention as the state agency continues to grapple with tribal smoke shops allegedly skirting a new tobacco tax.

The Tax Commission has asked for help from the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, according to records obtained through the state Open Records Act.

In a letter dated Aug. 27, the Tax Commission claimed that it "has received reports that the lower-tax-rate smoke shops are selling contraband cigarettes to the higher-tax-rate smoke shops in massive quantities."

In the letter, the Tax Commission said it doesn't have jurisdiction on "trust land" but states that Oklahoma believes the federal authorities could "investigate instances of trafficking of contraband cigarettes on trust land."

The Tax Commission asked ATF for help in March and was denied, records show. The commission asked again in August but has not received a reply.

State Treasurer Scott Meacham said the cigarette tax problem already has cost the state $15 million, with the loss rising by nearly $2 million each succeeding month.

The new tobacco tax took effect Jan. 1.

Tax commissioners broke their silence Sept. 9 on the issue. Commissioner Jerry Johnson said everything is being done that is possible to detect offenders, and the commission is getting "fairly close" to figuring out what wholesalers and tribal shops are doing.

Investigations by the Tulsa World show that numerous smoke shops in the Tulsa area are selling cigarettes carrying 6 cent tax stamps, which are intended for smoke shops next to the state border.

Smoke shop operators allege they are purchasing cigarettes with the cheap stamps from their border stores and reselling them in the Tulsa area.

Tax Commission records reveal that wholesalers may be selling cigarettes to the border stores with the cheap stamps affixed but delivering those cigarettes to non-border stores in Tulsa and elsewhere.

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"Our problem has arisen because some of the lowest-tax-rate smoke shops are selling cigarettes directly to the highest-tax-rate smoke shops in violation of their compacts," according to a March 18 memo from Tax Commission employee Kay Burkhalter.

"I have also received information that a wholesaler who sells to the tribal smoke shops is invoicing cigarettes to a lowest-tax-rate smoke shop but delivering those cigarettes to higher-tax-rate smoke shops."

Gov. Brad Henry said Sept. 9 that he is working closely with the Tax Commission to see that wholesalers are complying with the law.

"We can crack down, and we will; in fact, we are in the process of doing that."

Johnson confirmed that the Tax Commission is going back 2 1/2 years and auditing unnamed wholesalers' records to see whether there has been an upsurge in sales to some border stores, but the cigarettes are possibly being delivered to non-border stores.

The Tax Commission hopes to have results of its audit by early October, Johnson said.

Meanwhile, Cherokee Nation officials have asked for a 30-day extension to further discuss renegotiating their compact with the state. The extension would delay the beginning of formal arbitration proceedings, said Cherokee Nation spokesman Mike Miller.

Miller said the tribe has also reviewed tax and revenue records of Cherokee smoke shops. Miller said it is against tribal law for smoke shops to funnel cheaper cigarettes to Tulsa-area stores requiring the higher tax stamp.

No Cherokee stores have been accused of this practice.

ATF Agents Find Hundreds Of Guns In North Charlotte Grocery Store (WSOC-TV)

WSOC-TV, ABC 9, Charlotte, NC, September 21, 2005

CHARLOTTE, N.C. -- Federal agents raided a neighborhood store in north Charlotte and found about 90 guns and thousands of rounds of ammunition.

A little boy and several small children come in and out of L.K. Farrar's Self-Serve Market in north Charlotte several times a week.

Inside, it looks like any other little grocery store. But outside, some employees wear guns in plain view.

Neighbors said in their neighborhood, they need it for protection

"Man needs to carry a gun in a store because you don't know who is going to rob you," said one neighbor.

Just a few days ago, police and federal agents served a search warrant there -- seizing nearly 60 handguns and more than 30 shotguns and rifles and thousands of rounds of ammunition.

Kiki Gooden said she's been shopping there since she was a little girl.

"I ain't never seen no guns like that. I don't think they'll be showing stuff like that in there," she said.

The federal Bureau of Alcohol, Tobacco and Firearms requested the warrant against the owner of the store, 52-year-old Lawrence Farrar.

He is a convicted felon who was arrested in May for possession of a firearm by a felon.

An undercover ATF agent asked for the warrant after visiting the store and seeing Farrar wearing a chrome pistol on his side with a shotgun sitting in a nearby refrigerator.

"I saw all the police come in with their guns drawn and stuff. I didn't know what that was about," said a local resident Curly Wilson.

IMMIGRATION:

DHS Lets Go 'Other' Illegals (WT)

By Jerry Seper

The Washington Times, September 21, 2005

The Department of Homeland Security, facing a flood of illegal aliens from countries other than Mexico, has increased efforts to remove non-Mexican foreign nationals now being released back onto the streets of America because of a lack of detention space.

Homeland Security Secretary Michael Chertoff has ordered that expedited removal proceedings for non-Mexican foreign nationals caught illegally entering the United States be expanded from three to all nine U.S. Border Patrol sectors along the Southwest border.

Mexican nationals caught in the United States illegally are bused back within a few hours, but illegals known as "other than Mexican," or OTMs, must be flown to their home countries, a process that often takes months.

The new process is aimed at reducing the number of OTMs who have spent less than 14 days in the United States and who are apprehended within 100 miles of the border.

"The use of this authority will allow DHS the ability to gain greater control of our borders and to protect our country against the terrorist threat," Mr. Chertoff said.

Nearly 70 percent, or 68,000, of the more than 98,000 OTMs detained so far this year were released almost immediately because of the government's inability to return them to their home country and a lack of detention facilities to hold them while here, federal authorities said.

Federal law-enforcement authorities said thousands of foreign nationals, including a rising number of Brazilians facing high unemployment at home and having access to a growing number of sophisticated alien smuggling rings, are coming into the United States to seek work -- then surrendering to authorities after they cross the border because of this country's inability to detain or deport them.

Border Patrol Chief David V. Aguilar recently told a Senate subcommittee that agents in Texas alone are experiencing a near-threefold increase in the number of OTMs, and there is no place to put them.

"We interdict them, process them and then hand them off," Chief Aguilar said, noting that detention is the responsibility of U.S. Immigration and Customs Enforcement (ICE), and not his agency. He called the "exponential growth" in the number of OTMs and their subsequent release "a major source of clogging and friction for the removal process."

Chief Aguilar told the subcommittee that because of a lack of intelligence data, some OTMs released may have been criminals.

The OTMs detained are sent to detention centers, where they are released if they do not have a felony conviction or pose no national security threat. Given a "notice to appear" at a future immigration hearing, only about 13 percent ever show.

Since Sept. 30, nearly 25,000 Brazilian nationals have been detained at the border, mostly in Texas and Arizona. ICE spokesman Dean Boyd said the agency is working with Brazilian authorities to identify and disrupt alien smuggling operations, noting that last week, the two countries arrested 48 persons linked to a Brazil-based smuggling ring -- including corrupt Brazilian police and customs officers, and airline employees.

Levin Threatens To Block Homeland Nominee (AP-Y2)

By Lara Jakes Jordan, Associated Press Writer

AP2, September 21, 2005

A Democratic senator threatened Tuesday to block approval of a Homeland Security Department nominee until he receives a secret FBI memo about terror suspect interrogations that he's been seeking for months.

The threat against Julie L. Myers, tapped to head the department's bureau of Immigration and Customs Enforcement, came amid lawmakers' concerns that she lacked the experience to head the federal government's second-largest investigative force.

Asked if he planned to use legislative delaying tactics against Myers nomination, Sen. Carl Levin (news, bio, voting record), D-Mich., said: "Oh yeah. If we don't get the documents, sure."

At issue is a heavily edited May 2004 e-mail from FBI agents seeking guidance about questioning terror suspects held at Guantanamo Bay.

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In February, Democratic senators began asking for an unedited version of the memo to see if it mentioned or involved Homeland Security Secretary Michael Chertoff, who headed the Justice Department's criminal division from 2001 to 2003. The Justice Department denied the request, saying the memos contain "information covered by the Privacy Act," and had nothing to do with Chertoff.

Myers was Chertoff's chief of staff at the time, said Levin, who also delayed Chertoff's nomination in February for a week to protest being denied the names of people who sent and received the e-mail. Jim Pasco, executive director of the National Fraternal Order of Police, said Levin's tactic holds "the safety of the American public hostage to the pursuit of a political agenda."

The White House on Tuesday expressed support for Myers.

"Julie Myers is well-respected within the law enforcement community and highly qualified to lead the Immigration and Customs Enforcement," said White House spokeswoman Erin Healy. "We will work with the Senate to ensure her confirmation."

Questions by senators last week about whether Myers has enough experience for the ICE post came on the heels of former Federal Emergency Management Agency Director Michael Brown's resignation after widespread criticism that he had little previous emergency management experience. Myers is a former Treasury official and assistant U.S. attorney.

Bush To Press Congress For Guest-Worker Program, Tancredo Says (BLOOM)

By Nicholas Johnston

Bloomberg, September 21, 2005

Sept. 20 (Bloomberg) -- President George W. Bush will push this year for legislation overhauling immigration laws, including creating a new guest-worker program, said U.S. Representative Tom Tancredo, chairman of the House Immigration Reform Caucus.

The Bush administration has met with Republican lawmakers to press the issue and will likely urge party leaders such as House Speaker Dennis Hastert to hold votes on immigration measures before the end of the congressional session, Tancredo said.

``Certainly there will be a tremendous amount of pressure to do something before Thanksgiving," Tancredo, a Colorado Republican who opposes Bush's guest-worker plan, said in an interview. ``The president wants it. They're not going to tell him no."

Bush has made an overhaul of immigration laws, including a new program to allow immigrants to temporarily work in the U.S., a priority for his second term. The legislative fight on the issue is likely to split Republicans, Tancredo said.

``It will be a terribly divisive thing in the party," he said. Tancredo said he opposes any guest-worker program that allows those in the U.S. illegally to stay and would delay any such program until the borders are deemed secure.

White House Deputy Chief of Staff Karl Rove met with House Republicans last week to reiterate the administration's desire to pass a comprehensive bill this year.

``It was very encouraging," Arizona Republican Jeff Flake, an attendee at the meeting, said in an interview. ``I don't think it's a sure thing. I think it's likely. And it's more likely than most people thought."

Comprehensive

Flake said the administration will push for comprehensive legislation that includes border security, workplace enforcement and a new guest-worker program. Tancredo said two measures introduced in the Senate creating a guest-worker program would face opposition in the House.

Legislation in the Senate backed by Massachusetts Democrat Ted Kennedy and Arizona Republican John McCain would let undocumented immigrants work legally in the country after paying a fine. A competing measure sponsored by Republicans John Cornyn of Texas and Jon Kyl of Arizona creates a guest-worker program that requires undocumented immigrants to return home before applying to work in the U.S. legally.

Proposals put forward by Rove last week closely tracked the Kennedy/McCain measure, said Flake, who has introduced the legislation in the House.

`Hell of a Battle'

``It's going to be one hell of a battle," Tancredo said.

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It's ``possible" the measure backed by Cornyn and Kyl could garner support from a majority of Republicans in the House, while the McCain/Kennedy bill could not, he said.

The Kyl/Cornyn bill, he said ``certainly has a better chance than McCain. I think that one is DOA," for dead on arrival.

Flake said there is limited House support for Tancredo's immigration position.

``The Tancredo caucus, in terms of wanting the Tancredo approach, is pretty small,'' Flake said.

Tancredo also said the U.S. Congress should delay a prescription drug benefit for seniors enrolled in Medicare as a way to offset relief costs for Hurricane Katrina.

``That would save significant dollars," Tancredo said.

The benefit is scheduled to begin in January. He said lawmakers also should consider reducing farm subsidies and selling off federal land to offset costs for Katrina, which hit Louisiana, Alabama and Mississippi on Aug. 29. Other lawmakers, including McCain, also have called for delaying or canceling the prescription drug benefit.

White House press secretary Scott McClellan indicated yesterday that the administration would oppose delaying the drug benefit.

``It's important to move forward, and we are" with the prescription drug plan, McClellan said at a news briefing.

TAX:

Payments To IRS Lost In Accident: Check's In The Bay (WSJ)

By Joi Preciphs

The Wall Street Journal, September 21, 2005

WASHINGTON -- A highway accident caused some 30,000 quarterly estimated-tax payments to the Internal Revenue Service to be dumped into San Francisco Bay, but IRS officials say affected taxpayers will suffer no collateral damage.

A truck carrying about 45,000 forms and tax payments overturned on the San Mateo Bridge on Sept. 11. IRS officials said that the checks, due Sept. 15, were being transported from a post office to an IRS lockbox. No related information about the incident has been posted on the IRS's Web site, www.irs.gov.

IRS spokesman John Lipold said the agency will issue a formal statement once its investigation is complete. He said the agency will waive all interest and penalties for taxpayers who discover that their payments failed to arrive.

"We're going to work with people on good faith," Mr. Lipold said. However, the IRS is asking those who paid estimated taxes in the affected states to wait until Sept. 30 before contacting the agency on its national information line, 1-800-829-1040, to determine the status of their payments. By then, he said most of the checks that were retrieved by the agency will have cleared.

Payments from the following states were affected: Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Ohio, Oregon, Virginia, Utah, Washington and Wyoming.

CONGRESS-ADMINISTRATION:

Top Democrat Says He'll Vote No On Roberts (NYT)

By Sheryl Gay Stolberg And David D. Kirkpatrick

The New York Times, September 21, 2005

WASHINGTON, Sept. 20 - The Senate Democratic leader, Harry Reid of Nevada, said Tuesday that he would oppose the confirmation of Judge John G. Roberts Jr. as chief justice, surprising both the White House and fellow Democrats still conflicted about how to vote.

In becoming the first Democrat to declare formally how he intended to vote, Mr. Reid may have made it more difficult for fellow Democrats to support Judge Roberts. Many Senate observers expected Mr. Reid, who comes from a Republican-leaning state and is opposed to abortion, to support Judge Roberts.

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And the Democratic leader himself said Tuesday that he had earlier given the White House a list of nominees who would be objectionable and that Judge Roberts was not on it.

In announcing his decision in a lengthy speech on the Senate floor, Mr. Reid questioned Judge Roberts's commitment to civil rights and said he was "very swayed" by the civil rights and women's rights leaders who testified Thursday in opposition to the nomination - and with whom Mr. Reid met privately that same day. Liberal advocacy groups, who raise millions of dollars to support Democratic candidates and who have been putting intense pressure on Democrats to oppose the nomination, were elated.

With the White House considering how to fill a second Supreme Court vacancy, Mr. Reid could be using his vote on Judge Roberts to send a message to President Bush to fill that position with a moderate, in the mold of Justice Sandra Day O'Connor, a critical swing vote, who is retiring. Along with three other senior senators, Mr. Reid is expected to meet Mr. Bush for breakfast Wednesday to discuss the vacancy.

Explaining his decision on Judge Roberts, Mr. Reid said in his Senate speech that he simply had "too many unanswered questions" about the nominee, who he complained had refused to distance himself from seemingly callous writings while a lawyer for the Reagan administration, including a memorandum in which he used the term "illegal amigos" to refer to illegal immigrants.

"I'm not too sure," Mr. Reid later told reporters, "if his heart is as big as his head."

How much influence Mr. Reid will have over his fellow Democrats is unclear; he has said repeatedly that each senator is free to vote his conscience on the nomination, and several Democrats, including those on the Judiciary Committee, said Tuesday that they were still torn.

One centrist Democrat, Senator Ben Nelson of Nebraska, said Tuesday that he had "not seen anything that would cause me to vote against" confirmation of Judge Roberts to be the nation's 17th chief justice.

Last Thursday, as Mr. Reid was weighing his decision, representatives of about 40 advocacy groups met with him in the Capitol; the reason, they said, was to underscore the threat they believe Judge Roberts poses to Democrats' core causes, racial and gender equality. Hovering in the background was a political argument, that if Democrats vote in favor of Judge Roberts, they will be held liable by voters for the decisions he makes on the court.

"He got the message loud and clear, didn't he?" Kim Gandy, president of the National Organization for Women, said of Mr. Reid on Tuesday.

One of the most memorable presentations, those in attendance said, came from Theodore M. Shaw, general counsel of the NAACP Legal Defense and Educational Fund, who told Mr. Reid that his group rarely took a position on nominations.

"We appear before the Supreme Court - who in their right mind would want to poke their finger in the eye of the next chief justice?" Mr. Shaw recalled saying. But, he added, "Based on what we know, this is not a nominee that we can let go by unopposed."

Those who attended the meeting said they came away not knowing what Mr. Reid would decide.

"He listened carefully, he listened thoughtfully," said Wade Henderson, executive director of the Leadership Council on Civil Rights and an organizer of the session. "He did not respond to challenges or views that were presented. I do think he felt this should be a vote of conscience and I think in the end he voted his conscience, and I think at the end of the day that speaks volumes about his leadership."

Mr. Reid and his Republican counterpart, Senator Bill Frist of Tennessee, have been invited to meet with President Bush on Wednesday morning to discuss the second vacancy. The Republican chairman of the Judiciary Committee, Senator Arlen Specter of Pennsylvania, and the committee's senior Democrat, Senator Patrick J. Leahy of Vermont, have also been invited.

With a vote in committee scheduled for Thursday, the eight Democrats on the judiciary panel met Tuesday to discuss the nomination. They emerged tight-lipped, saying they wanted to speak to the entire Democratic caucus before announcing their votes. Several, including Mr. Leahy, said they had not yet reached a decision.

"I'm close," Mr. Leahy said. Asked if he would know by the end of the day, he said, "I may. You won't."

By day's end, only one of the panel's eight Democratic members, Senator Edward M. Kennedy of Massachusetts, had announced his position. As expected, he will vote no.

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"This is really a leap of faith, isn't it?" Mr. Kennedy told reporters. "I mean, I think there are those that took the leap in terms of the war, there were those that took the leap in terms of taxes and now they're being invited to take the leap again in terms of Judge Roberts, and" - here, Mr. Kennedy paused for effect - "I don't think I'm going to be among them."

The White House reacted coolly to Mr. Reid's announcement. A spokeswoman, Dana Perino, said it departed from Senate tradition in which members have "based their decisions on the qualifications of the nominee, not on whether or not the person doing the nominating was in their same party."

Mr. Reid said there was no single reason he decided to vote against the nomination, and in his speech he described the decision as "a very close question." But he made plain that an important factor was the White House's refusal to release legal memorandums written by Judge Roberts when he was deputy solicitor general in the first Bush administration. "The administration cannot treat the Senate with such disrespect without some consequences," he said.

The records issues is a matter of principle to many Democrats. Senator Ken Salazar, Democrat of Colorado and a member of the so-called Gang of 14 who struck a bipartisan compromise to avoid a showdown over President Bush's judicial nominees, said Tuesday that he had recently called Harriet Miers, the White House counsel, to tell her that disclosing the documents could make the difference in his vote and that of his colleagues.

"I think it is the right of the American people to get that information," Mr. Salazar said. "She said she would consider my request. I don't think they are going to do it."

While Mr. Reid said the records fight does not warrant a filibuster, the parliamentary tactic Democrats have used to block other judicial nominees, he suggested he might not be inclined to avoid that fight with the next nominee. He said he planned to present Mr. Bush with a list of acceptable candidates on Wednesday and said Democrats would consider it "a real poke in the eye with a sharp stick" if Mr. Bush were to name any one of 10 federal appeals court judges who had been blocked by filibuster in the past, including some who are on President Bush's short list as Supreme Court candidates.

Asked if that would warrant a filibuster, Mr. Reid said, "That would warrant my being real upset."

Reid 'No' Vote On Roberts Could Be Dem Green Light (HILL)

By Elana Schor

The Hill, September 21, 2005

Senate Minority Leader Harry Reid (D-Nev.) declared yesterday that he will vote against chief-justice nominee John Roberts and pointedly warned President Bush about his next choice for the Supreme Court in anticipation of today's White House meeting to discuss it.

Reid had asked Senate Democrats to avoid openly discussing their position on Roberts until he came to a decision, which he announced on the Senate floor. He later called the decision to oppose Roberts "not easy, but not the most difficult" of his tenure in the Senate.

Reid's no vote could serve as a green light for swing votes in the caucus to oppose Roberts, although Reid repeatedly stressed that senators would vote their conscience.

Ralph Neas, head of the liberal People for the American Way, said, "On the merits, it's very important that there be significant opposition" to Roberts.

"If there is a significant number opposed, that could have an impact on who the president would nominate for the second vacancy," Neas said.

The minority leader is opposed to abortion rights, which agrees with Roberts's personal views on the issue, and many from the Hill to K Street had predicted Reid would eventually support Roberts.

"I'm not too sure if his heart is as big as his head," Reid said of Roberts, echoing recent statements from several Senate Judiciary Democrats during the three days of questioning. "In the years to come, the decades to come, my vision of what kind of judge he will be will be proven."

Asked to explain his comments about Roberts's heart, Reid mentioned the nominee's description of illegal immigrants as "illegal amigos" in a memo from 1983. Reid also concurred with the conclusion of many in Congress that Roberts will eventually be confirmed.

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"There was never any doubt," he acknowledged.

Reid will meet with Bush today to discuss possible replacements for retiring Justice Sandra Day O'Connor. Senate Majority Leader Bill Frist (R-Tenn.), Senate Judiciary Chairman Arlen Specter (R-Pa.) and Sen. Patrick Leahy, ranking Democrat on the Judiciary Committee have also been invited to the White House consultation.

Reid also issued a stern warning to Bush about appointing any judge Democrats have opposed in the past.

"One thing I think would be a poke in the eye with a sharp stick" on the part of the president, Reid said, would be "to give us one of the 10 we've opposed before."

Reid was referring to the 10 appellate-court nominees previously filibustered by Democrats, two of whom — Judges Priscilla Owen and Janice Rogers Brown — have shown up on lists of potential nominees for O'Connor's seat.

Reid declined to tip his hand on any nominations he would suggest to the president. But when reporters asked whether he would deem Attorney General Alberto Gonzales unacceptable, Reid quietly answered no, then backpedaled and declined to answer.

"The president would be making a terrible mistake" in nominating Owen or Brown, Reid said, without saying outright whether it would presage a Democratic filibuster.

Reid referred to his desire for Senate Democrats to vote their conscience on Roberts, though he implied that there would be no such leeway should the president's second nominee be more controversial than the first. O'Connor's offer to continue serving on the court until her replacement is confirmed, Reid said, means the president can take his time consulting with senators from both parties before selecting the second nominee.

"[Bush] should understand, there is no vacancy on that court," Reid said. "This court could go on for next year or the year after as it's now constituted."

Moreover, Reid added, the Senate's already crowded calendar would be heavily burdened by the need to confirm a second nominee before the year's end. Leaders of both houses have already discussed keeping lawmakers in session until Thanksgiving or beyond to pass separate appropriations bills, budget reconciliation and more relief for hurricane victims.

"The appropriations process has been a complete flop," Reid said. "I would think you'd want to get a little legislating done."

Before Roberts's confirmation hearing began Sept. 12, Democrats had called on the White House to release a block of memos Roberts wrote while serving as deputy solicitor general in the first Bush administration. The White House withheld the memos because of concerns that disclosure would prevent an open exchange of views by future presidential advisers, a decision that Reid said left him "gravely disappointed."

Even before Reid's announcement, centrist Senate Democrats began to hint that they would vote to confirm.

"I can't imagine anything that would come about that would cause me not to vote for him," said Sen. Ben Nelson (D-Neb.), adding that he had spoken to the White House as recently as yesterday about the next nominee.

Still, other Democratic senators said they would not indicate publicly how they will vote until after the committee finishes its deliberations.

"Everybody's going to vote their conscience on this one," said Sen. Carl Levin (Mich.).

"People are very mindful that there will be a second nominee," he said.

Nelson is one of seven Democrats who signed the so-called "Gang of 14" agreement to filibuster a judicial nominee only under "extraordinary circumstances."

Sen. Mark Pryor (D-Ark.), another Gang of 14 member, said senators were aware of the circumstances.

Reid said he felt no pressure from within the caucus to consider filibustering Roberts but recalled that Democratic National Committee Chairman Howard Dean had called him to urge strong and public opposition.

Reid said he told Dean, "Governor, you've got to do what you think is right." As for liberal advocacy groups that have worked to foment resistance to Roberts, Reid said, many are "really hard to satisfy."

Democratic Leader Says He Will Vote Against Roberts (LAT)

By Maura Reynolds

The Los Angeles Times, September 21, 2005

WASHINGTON — Citing concerns that "his heart is not as big as his head," Minority Leader Harry Reid, the Senate's top Democrat, announced today that he would vote against John G. Roberts Jr., President Bush's choice to serve as the next chief justice of the United States.

Reid was the first Democrat to formally state his position on Roberts' nomination. But Reid, of Nevada, insisted that his decision should not be seen as a party position and other Democrats should vote as they see fit.

However, because Reid is a centrist Democrat who opposes abortion, his opposition was seen as a signal that many, and perhaps most Democrats, were likely to come out against the 50-year-old appeals court judge.

"No one disputes his academic prowess, his mental power. He's a very smart man," Reid told reporters, explaining his decision. "But through all this I came to the realization that I'm not too sure his heart is as big as his head."

Roberts faces two Senate votes — one by the Judiciary Committee on Thursday, and one on the floor of the Senate next week. With Republicans in the majority, Democrats have only one tool to stop a nomination, the filibuster, but they have indicated that they will not use it to halt this nomination.

Reid acknowledged that Roberts would be confirmed no matter how many Democrats voted against him.

"The question is close, and the arguments against him do not warrant extraordinary procedural tactics to block the nomination," Reid said on the floor of the Senate, referring to the filibuster. "Nonetheless, I intend to cast my vote against this nominee."

Reid was to meet Wednesday morning with Bush, with other Democratic and Republican leaders, to discuss the upcoming appointment to fill the second vacancy on the Supreme Court.

Some Democrats said the White House should see Reid's opposition as a message that Democrats would not capitulate if they considered the president's next pick for the court unacceptable.

"At the end of the day, the president should know if he sends someone who is an ideologue or somebody who is an extremist right winger, that person is going to have a very, very difficult time getting through the Senate," said Sen. Ken Salazar (D-Colo.), one of the seven Democrats who joined with seven Republicans this year to preserve the minority party's right to filibuster judicial nominees. "I think you'll find unity among the Democratic caucus in opposing someone like that."

The White House expressed disappointment with Reid's decision.

"In confirming recent nominees like [Ruth Bader] Ginsberg, [Stephen] Breyer and [Antonin] Scalia, senators based their decisions on the qualifications of the nominee, not on whether or not the person doing the nominating was in their same party," said White House spokeswoman Dana Perino. "The public does not want to see the Supreme Court become an extension of partisan politics."

Senate Democratic Leader Opposes Roberts (REU-Y2)

By Thomas Ferraro

Reuters, September 21, 2005

Senate Democratic leader Harry Reid said on Tuesday John Roberts would be confirmed as chief justice of the United States but that he would oppose the conservative Supreme Court nominee because "I'm not too sure if his heart is as big as his head."

"I have too many unanswered questions about the nominee to justify a vote confirming him to this enormously important lifetime position," Reid said of President George W. Bush's first nomination to the high court.

"This is a very close question for me," Reid added. "But I must resolve my doubts in favor of the American people whose rights would be in jeopardy if John Roberts turns out to be the wrong person for the job."

Reid, however, said the case against Roberts did not warrant Democrats raising a procedural hurdle known as a filibuster to block Roberts' nomination when it comes up for a vote in the U.S. Senate next week. It seemed likely Reid would be unable to muster the needed 41 votes in the 100-member Senate to sustain it in any event.

Democrats and Republicans have predicted Roberts will win bipartisan confirmation and be sworn in before the high court begins its new term on October 3.

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White House spokeswoman Dana Perino, responding to Reid's comments, said, "Judge Roberts is clearly qualified in terms of intellect, ethics and temperament. ... The public does not want to see the Supreme Court become an extension of partisan politics."

"He is going to be confirmed," Reid told reporters after his Senate speech. Reid said Roberts is a smart man, but "I'm not too sure if his heart is as big as his head."

Members of both parties have praised the credentials of Roberts, a federal appeals court judge the past two years who received the American Bar Association's top rating for a seat on the Supreme Court.

But major liberal groups, along with a number of Senate Democrats, have raised concerns about Roberts' commitment to civil rights and women's rights, based largely on memos he wrote two decades ago in the conservative Reagan administration.

Noting Roberts wrote to oppose legislative and judicial efforts to remedy race and gender discrimination, Reid said he was prepared to dismiss the writings as "the folly of youth" and expected Roberts to repudiate them "in some fashion."

"Instead, the nominee adopted what I consider a disingenuous strategy of suggesting that the views expressed in the memos were not his views, even at the time the memos were written," Reid said.

At Roberts' hearing last week, Democrats complained that Roberts refused to respond to many questions about specific legal issues, from abortion to right-to-die legislative efforts. Roberts said he did not want to prejudge cases that could come before him on the nation's highest court.

Sen. Kent Conrad (news, bio, voting record), a North Dakota Democrat, has predicted that upwards of one-half of the 45-member Senate Democratic caucus would vote to confirm Roberts.

But other Senate Democrats said on Tuesday that caucus support for Roberts may shrink as a result of Reid's decision to oppose him. "I think we may get as many as 30 votes against him," a Democratic aide said.

If confirmed. Roberts would succeed the late Chief Justice William Rehnquist and be positioned to lead the federal judiciary for decades, shaping the American way of life on matters from voters rights to gay rights.

Reid was to meet at the White House with Bush on Wednesday about the president's pending Supreme Court nomination to replace retiring Justice Sandra Day O'Connor. A bigger fight is expected over this nominee since O'Connor was often the swing vote on the nine-member court.

Roberts Poses Calculus Test For Democrats (WSJ)

By Jeanne Cummings

The Wall Street Journal, September 21, 2005

WASHINGTON -- Chief Justice nominee John Roberts is all but certain to be approved by the Senate Judiciary Committee Wednesday and the full Senate next week. But the vote involves a host of political calculations for Democrats struggling to satisfy their liberal base and reach out to moderate voters.

"I literally have not made up my mind. I really don't want to talk about it anymore," Sen. Dianne Feinstein (D., Calif.) said Tuesday in the Capitol as she backed away from a crowd of reporters into an elevator.

For President Bush, whose approval rating has dropped in recent polls, the vote tallies also matter as he moves to fill a second vacancy on the Supreme Court. Many Democratic votes against Judge Roberts -- who is widely seen as conservative but has kept his political leanings to himself -- would suggest a tougher fight against a nominee with a clear stance against abortion rights. But that is just what the president's base is demanding.

Mr. Bush meets at the White House this morning with Senate leaders to discuss how to proceed in picking a successor for retiring Justice Sandra Day O'Connor. Among the group will be Senate Minority Leader Harry Reid of Nevada, who Tuesday took to the Senate floor to announce his opposition to Judge Roberts. "This is a very close question for me," Mr. Reid said in his speech. "But I must resolve my doubts in favor of the American people whose rights would be in jeopardy if John Roberts turns out to be the wrong person for the job."

Judge Roberts's intellectual strength is obvious, Mr. Reid said later, but the senator wasn't "too sure if his heart was as big as his head."

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Yet earlier in the day, at the Senate Democrats' weekly caucus lunch, Mr. Reid made clear that his fellow partisans were free to follow their own consciences on the matter, a move that he said will likely lead to "plenty of votes" for the nominee, who is currently on the District of Columbia Court of Appeals. "You can only go to the well so many times," Mr. Reid told reporters. "This just wasn't one of the times I wanted to."

New York Sen. Charles Schumer has told colleagues that Judge Roberts overall acquitted himself well before the committee. But a yes vote could undermine Mr. Schumer's ability to raise money from anti-Roberts donors for the Democratic Senatorial Campaign Committee, which he now heads. When asked Tuesday if he had made up his mind, Mr. Schumer answered, "Nope."

Similar battles are bedeviling Democrats not on the committee. Some moderates, such as Florida's Sen. Bill Nelson and Nebraska's Ben Nelson, face re-election next year in Republican-leaning states and are eager to pocket some centrist credentials by voting for Judge Roberts. Mr. Nelson of Nebraska said Tuesday he has "not seen anything that would cause me to vote against" the nominee. Another red-state Democrat, Max Baucus of Montana, said, "I'm inclined to vote for him."

By backing Judge Roberts, some Democrats argue, the party will have more credibility if it takes on the president's nominee for Justice O'Connor's seat, one that arguably is more important because she has played a critical role in rulings on issues such as affirmative action and abortion rights.

"It makes the case that they are mindless obstructionists much weaker," says Ross K. Baker, a professor of political science at Rutgers University in New Jersey.

But liberal activists are near unanimous in opposing Judge Roberts, who they say echoed the pre-appointment positioning of conservative Justices Antonin Scalia and Clarence Thomas. They are pressing Democrats to vote against Judge Roberts to send a message about the party's priorities. Those arguments likely will weigh heavily on Indiana Sen. Evan Bayh and New York Sen. Hillary Clinton, who both have presidential ambitions and are trying to juggle the left-leaning voters in the party's primaries with general-election voters, who might favor a more centrist approach. "I have not" decided, Sen. Clinton said Tuesday.

Whatever the Democrats decide, they should do so based on their own political calculations, because it is unlikely to sway the White House's thinking, says David Gergen, a former adviser to four presidents. If they oppose Judge Roberts, the White House will conclude "there's no way to please them, so why even consider sending a moderate," Mr. Gergen said. If they vote for him, White House advisers could argue "those guys are patsies. We can roll over them."

The politics of the next high-court appointment are complicated by President Bush's decision to switch Judge Roberts's nomination from the O'Connor seat to that held by Chief Justice William Rehnquist, who died of thyroid cancer earlier this month. Democrats had signaled that filling the Rehnquist seat with another conservative wouldn't spark a major fight, since it wouldn't tip the court's balance significantly. The O'Connor seat is another matter, and Democrats vow to give that nominee closer scrutiny, because that justice could represent a swing vote on the landmark abortion-rights case, Roe v. Wade. That also is why social conservatives have stepped up their lobbying of the White House.

People familiar with the administration's efforts say the White House is scouring the federal-court benches for a female judge who could hold up under committee questioning. These people also say the administration is looking for a nominee whose record is conservative enough to appeal to the party base but not so sharp as to give ammunition to Democrats, who note that public polls show that most Americans don't want to see Roe v. Wade overturned.

White House Chief of Staff Andrew Card has been calling senators seeking recommendations. Mr. Reid said that at this morning's meeting, he will urge the president not to rush the next nomination, so that the Senate can work on other matters. He also warned that not all confirmations "are going to be easy like this one" -- referring to Judge Roberts -- and that he would consider it a "sharp poke in the eye" if the president sent up the name of a judge whose nomination had been the target of a Democratic filibuster.

That caution would rule out such candidates as Fifth Circuit Judge Priscilla Owen and D.C. Circuit Judge Janice Rogers Brown, who secured their court seats this spring after a bipartisan Senate compromise. Among the names circulating are Fourth Circuit Judge Karen Williams, Ninth Circuit Judge Consuelo M. Callahan and Fifth Circuit Judge Alice M. Batchelder.

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Many Bush associates think the president is determined to pick his friend and loyal aide, Attorney General Alberto Gonzales. But some conservatives would be cool to that choice, saying Mr. Gonzales isn't sufficiently opposed to affirmative action and abortion rights.

Scott Reed, who ran Republican Bob Dole's 1996 presidential bid, says Mr. Bush's weak position leaves him few options. "Bush has got to go right on this choice or his base will totally implode," Mr. Reed says.

Reid Will Oppose Roberts For Chief Justice (WP)

By Charles Babington And Dan Balz

The Washington Post, September 21, 2005

The Senate Democratic leader, pressed by several allies to build as much opposition as possible to Supreme Court nominee John G. Roberts Jr., said yesterday he will vote against President Bush's choice for chief justice. But Sen. Harry M. Reid of Nevada conceded that Roberts will be confirmed easily next week and "will get plenty of votes" from his fellow Democrats.

Reid's announcement, made in a closed party caucus luncheon and then a Senate speech, came as Democratic senators are struggling with the first chief justice confirmation in 19 years. Many party activists want them to show as much solidarity against Roberts as they can muster. Not only does Roberts's conservative philosophy deserve it, they argue, but it also would serve as a warning to Bush that Democrats will fight vigorously if Bush names someone even further to the right to succeed centrist Justice Sandra Day O'Connor this fall.

An opposing strategy, which Senate insiders described as less persuasive, argues that the party should show a willingness to accept Roberts while saving energy for an all-out battle in case Bush's next nominee is notably more conservative. Reid, Majority Leader Bill Frist (R-Tenn.) and two other senators will meet with the president today to begin discussing how to replace O'Connor.

Reid said he decided to oppose Roberts because the nominee withheld too much information from senators and because government memos he wrote in the 1980s raised troubling questions about his views, especially on civil rights.

"I was prepared to look past these memos, and chalk them up to the folly of youth," Reid said in his speech. But in last week's Judiciary Committee hearing, he said, Roberts adopted "what I consider a disingenuous strategy of suggesting that the views expressed in those memos were not his views. . . . We should only vote to confirm this nominee if we are absolutely positive that he is the right person" for a lifetime appointment on the nation's highest court.

Reid, an antiabortion lawmaker from a state that Bush carried in 2000 and 2004, said he made clear to colleagues that he was speaking as an individual, not as a minority leader trying to steer his caucus. "This is something people have to vote their conscience on," he told reporters.

Roberts's confirmation is a foregone conclusion in the Senate, where Republicans hold 55 of the 100 seats. The only question is how many Democrats will support him, and what political signal it will send. Party liberals hope no more than 15 Democrats, mostly from states Bush carried, will vote yes. That would result in a 70 to 30 confirmation vote. But Sen. Kent Conrad (D-N.D.) recently told reporters: "I think he can get from 75 to 80 votes."

Members of both parties said partisanship and interest-group politics have sharpened over the past decade to the point that a unanimous Supreme Court confirmation vote -- such as the one Justice Antonin Scalia received in 1986 -- is a thing of the past.

The Senate Judiciary Committee will vote tomorrow on recommending Roberts's confirmation, and most of the eight Democratic members appeared torn after meeting privately yesterday morning. The only member who has clearly signaled that he plans to oppose Roberts is Edward M. Kennedy (D-Mass.).

The committee's ranking Democrat, Patrick J. Leahy (Vt.), said Sunday he had drafted a "for" speech and an "against" speech. Aides yesterday said it was unclear which he will deliver today on the Senate floor.

Some Democratic activists said the party risks alienating its contributors by not uniting against Roberts. "Many, many people in the donor base are feeling discouraged and want to see the Democrats fight back," said Ellen Malcolm, president of Emily's List. "If they see Democrats falling in line with Republicans, they're going to say, 'There's no need for me to support them.' "

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Malcolm said prospective 2008 presidential candidates face the wrath of party activists if they support Roberts, and then he and the majority of the court rule against abortion rights.

Perhaps no Democrat is being watched more closely than Sen. Hillary Rodham Clinton (N.Y.), who has been trying to emphasize her centrist credentials. When asked for her thoughts on Roberts yesterday, she playfully mimed with nods, shrugs and an enigmatic smile.

Both of her husband's high court nominees -- Ruth Bader Ginsburg and Stephen G. Breyer -- won strong Republican support. But on Sunday, former president Bill Clinton drew a clear distinction between those battles and the fight over Roberts's nomination, suggesting reasons Democrats might oppose Roberts that may provide cover to his wife.

The former president said there were no partisan disputes over the withholding of documents in the case of his nominees, as there have been with Roberts. He also noted that, with two vacancies to fill, Bush has the ability to shift the balance on the court and that without knowing who his second choice is, Democrats may be more cautious about backing Roberts.

"The only question is whether the Senate has an extra burden here because it's likely to have a significant impact on the balance of court decisions, depending on who the next nominee is," Clinton said on ABC's "This Week" on Sunday. "I think if President Bush nominated a clear moderate before the vote happened in the Roberts case, he would sail through."

With no suspense but the final vote count left in the Roberts contest, senators from both parties are focused on Bush's next nomination. Reid said Democrats will consider it "a sharp poke in the eye" if Bush taps any of the 10 appellate court nominees who were blocked -- permanently or temporarily -- by Democratic-led filibusters in Bush's first term. That would include Judges Priscilla R. Owen and Janice Rogers Brown, who have been mentioned as possible nominees.

Would he try another filibuster? a reporter asked. "I'm just saying I would be terribly upset," Reid replied.

Reid: Roberts Will Join Court (RC)

By Paul Kane

Roll Call, September 21, 2005

Despite announcing his own opposition to confirmation, Senate Minority Leader Harry Reid (D-Nev.) declared Tuesday that Judge John Roberts would be approved as chief justice of the United States, ending any suspense to the surprisingly smooth nomination process for President Bush's first Supreme Court choice.

While he said too many "unanswered questions" remained about the nominee for Roberts to win his vote, Reid told reporters that he specifically instructed his Caucus to vote their "conscience." He also said flatly that there would be no filibuster of the Roberts nomination.

"He's going to be confirmed, that's never been in doubt," Reid told reporters in a briefing after delivering his floor statement opposing Roberts.

Reid's pronouncements provided a mixed bag of results to liberal activists who have been trying to ratchet up pressure on Democrats to oppose Bush's first selection for the Supreme Court. While Reid's opposition leaves open the possibility that the new chief justice will carry the stigma of an unusually high number of 'no' votes — seven of the eight current justices received 87 or more votes — there is now little internal pressure on Democrats to reject the nominee.

"There are things that I ask the Caucus to follow, this isn't one of them," Reid said, adding later, "You can only go to the well so many times."

However, on the eve of his meeting today with Bush regarding the pick to replace retiring Associate Justice Sandra Day O'Connor, Reid signaled Bush would face a far stronger fight if he picked any of those nominees previously filibustered by Democrats in the 108th Congress — a potentially bad omen for lawyer Miguel Estrada and federal appellate Judges Priscilla Owens and Janice Rogers Brown, all of whom have been mentioned as potential nominees.

"I just think the president would be making a terrible mistake," Reid said when asked about the possibility of nominating previously filibustered candidates.

Mindful that he was disappointing many of the liberal activist groups, Reid suggested those organizations would never be satisfied with the level of fight that Democrats put up against Roberts.

"A lot of these special-interest groups are very hard to satisfy," he said.

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This after two of Reid's top lieutenants, Sens. Dick Durbin (D-Ill.) and Charles Schumer (D-N.Y.), received a sharp rebuke at a weekend meeting in Los Angeles from wealthy activists such as television producer Norman Lear over Roberts' glide path to confirmation.

At an event on behalf of People For the American Way, the first of the major liberal groups to announce opposition to Roberts, Lear lashed out at the Democrats for not mounting more determined resistance to the nomination, according to several sources familiar with the event.

Schumer, chairman of the Democratic Senatorial Campaign Committee, confirmed that the event included a "frank discussion" between activists and the Senators. He added that Lear, founder of PFAW, did not hear what he wanted from either he or Durbin, the Minority Whip.

"We gave the pros and cons," Schumer recounted of their discussion about Roberts. "They wanted us to come out against."

Schumer and Durbin are both on the Judiciary Committee and were among the most aggressive questioners of Roberts at last week's nomination hearings. But each Senator remains publicly undeclared on Roberts, despite voting against his nomination to U.S. Circuit Court of Appeals for the D.C. Circuit in 2003.

Durbin declined to talk about the discussion with Lear.

"I'm not going to get into it," he said Tuesday.

Ralph Neas, PFAW's president, likewise declined to comment on the meeting, which was ostensibly a celebration of the group's new West Coast director, Jeff Berman, a former counsel to Schumer. "When it comes to meetings with Senators, I'm very close-mouthed," said Neas, who was not on hand for the meeting but acknowledged he was aware of the exchange.

Sen. Debbie Stabenow (D-Mich.), also a member of the Democratic leadership, was on hand at the PFAW event and also declined to discuss the matter, calling the gathering a "legislative update" for the group's members on the West Coast.

Reid, who has been requesting that no one in his Caucus announce his or her position on Roberts, said he thought it was important that he make his decision first as leader — a post he's now held for little more than eight months.

"I wanted to be the first to make a decision," he said when asked if he had a "special obligation" to oppose the nominee because of his position.

"I wanted this to be my decision," he added.

Most Democrats are holding to Reid's mantra of waiting until the Judiciary Committee makes its formal recommendation on the nomination. It is a given that will occur Thursday when Roberts will be sent to the floor with a positive vote.

But enough Democrats, particularly those in conservative-leaning states, have sent signals that they will approve the nominee so there is little drama to the final stage of this fight beyond the expectations game involving how many votes Roberts will receive.

Sen. Ben Nelson (D-Neb.), who along with Sen. Kent Conrad (D-N.D.) has been an outspoken backer of Roberts, reiterated his support again Tuesday.

"I've not seen anything that would cause me to vote against [Roberts] at this time. ... And I don't expect anything to come out of the woodwork," he said.

Top Senate Dem Opposes Roberts' Bid (USAT)

USA Today, September 21, 2005

Senate Democratic leader Harry Reid said Tuesday that he will vote against Supreme Court nominee John Roberts but will not press other Democratic senators to follow his lead.

The Nevada senator predicted Roberts will be confirmed next week as the nation's 17th chief justice, succeeding the late William Rehnquist.

Reid also urged President Bush to hold off on naming a replacement for retiring Justice Sandra Day O'Connor. He said he would view the nomination of federal judges Priscilla Owen or Janice Rogers Brown, who have been mentioned as possible replacements for O'Connor's seat, as "a real poke in the eye with a sharp stick" and hinted that it could provoke a Democratic filibuster. The Senate confirmed Owen and Brown this year over opposition from Reid and other Democrats.

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Reid said he was impressed by Roberts' intellect but concerned that he did not repudiate "hurtful" language about women and minorities in memos he wrote as a lawyer for the Reagan administration. Some Democrats, such as Sen. Ben Nelson of Nebraska, say they are leaning in favor of Roberts. — Kathy Kiely

Senate takes on eminent domain ruling

The Connecticut woman whose case led to the Supreme Court decision allowing local governments to take homes for private development asked senators to end federal involvement in such seizures.

"I sincerely hope that Congress will do what judges and local legislators so far have refused to do … protect our homes," Susette Kelo told the Senate Judiciary Committee. The Supreme Court, ruling for the city of New London, said municipalities have broad power to seize homes in favor of private development to generate tax revenue. The House has already passed a bill that would bar federal transportation funds from being used to make improvements on land seized via eminent domain for private development. The Senate has not yet taken up that bill. The panel is considering proposals from Sen. John Cornyn, R-Texas, and others that would bar federal money from being used in construction projects that benefit from the ruling.

Frist's shares in hospital chain sold

Senate Majority Leader Bill Frist no longer holds stock in HCA Inc., the Nashville-based hospital chain his family founded. Frist, his wife and their three sons had owned an undisclosed amount of HCA stock in blind trusts. A California-based watchdog group had complained to the Senate ethics committee last year that Frist's holdings posed a conflict because of his support for legislation limiting medical malpractice lawsuits — which could benefit HCA if it passed. The ethics panel dismissed that complaint.

HCA shares hit a 52-week high of $58.60 in June, not long before Frist was told his stock had been liquidated. The stock lost about 10% of its value on July 13 after a weak earnings report. The sale was reported Monday by Congressional Quarterly. Frist is considering a run for the GOP's 2008 presidential nomination.

Senate Democratic Leader Will Oppose Roberts' Confirmation (KRT)

By Steven Thomma

Knight Ridder, September 21, 2005

WASHINGTON - Senate Democratic Leader Harry Reid will vote against confirmation of John G. Roberts Jr. as chief justice of the Supreme Court, he announced Tuesday.

Reid's opposition will not change the outcome. The Republican-controlled Senate is still expected to confirm Roberts as the nation's next chief justice, probably next week.

But it could increase pressure on other fence-sitting Democrats like Sen. Hillary Rodham Clinton of New York to vote no. It also could embolden President Bush to pick a more controversial nominee for the remaining court vacancy, thus increasing the chances of a more contentious fight.

Reid's opposition to Roberts came as he prepared to meet with Bush on Wednesday to discuss whom Bush might pick to fill the seat being vacated by Justice Sandra Day O'Connor. Joining Reid at that meeting will be Senate Majority Leader Bill Frist, R-Tenn., and the Senate Judiciary Committee's leaders - Sen. Arlen Specter, R-Pa., the chairman, and Sen. Patrick Leahy, D-Vt., the senior Democrat.

In a Senate floor speech, Reid said he decided to oppose Roberts based on memos Roberts wrote early in his career challenging affirmative action, civil rights and women's rights. The Nevada Democrat said Roberts' two years as an appeals court judge left too short a record to signal how he might rule on such issues in the future.

Reid told his fellow Democrats that he did not expect them to follow him out of party loyalty. Rather, he told them, he would leave it to them to make up their own minds, said Sen. Carl Levin, D-Mich., who added that he has not decided.

One senator who did signal he would join Reid in opposition was Sen. Edward Kennedy, D-Mass.

"This is really a leap of faith, isn't it?" Kennedy said Tuesday. "There are those that took the leap in terms of the war, there were those who took the leap in terms of taxes and now they are being invited to take the leap again in terms of Judge Roberts. And I don't think I'm going to be among them."

Two other Democrats signaled they would vote for Roberts.

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"I'm inclined to vote for Roberts unless something else comes up," said Sen. Max Baucus, D-Mont.

"I've not seen anything that would cause me to vote against" Roberts, said Sen. Ben Nelson, D-Neb.

Several other leading Senate Democrats have refused to say how they will vote, notably including those who might run for president in 2008. They include Clinton, Evan Bayh of Indiana, Joseph Biden of Delaware and Russ Feingold of Wisconsin.

Asked if she had decided, Clinton only shrugged as she entered a Capitol elevator Tuesday.

"We hope that Senator Reid's colleagues will reach the same conclusion and take the same strong stand," said Ralph Neas, president of the People for the American Way, a liberal group.

Opposing Roberts might anger some independents but could appeal to liberal party activists.

A majority of Americans, 58 percent, want the Senate to confirm Roberts, according to a recent Gallup Poll. But just 41 percent of Democrats want Roberts confirmed. That suggests Democrats who oppose Roberts face little political risk among their base.

"They're just shoring up their base," said Betty Glad, a political scientist at the University of South Carolina.

Reid is pressing his case at a time when Bush is at his weakest politically, with the lowest approval ratings of his presidency. But Democratic opposition to Roberts - who emerged politically unscathed by his appearances before the Senate Judiciary Committee - could signal to Bush that he cannot win Democratic support anyway and therefore should go ahead with a more confrontational nomination.

That could lead Democrats to filibuster, possibly prompting Republicans to invoke the "nuclear option" of ending the right of a minority to block Senate action.

"It's likely the next nominee will not be as bulletproof as Roberts," said Steven Schier, a political scientist at Carleton College in Minnesota. "Bush is going to do what he wants to do. If he has to fight for it, he's still going to get what he wants. This is not an administration that blinks."

The Gallup Poll of 1,005 adults was conducted Sept. 8-11 and had a margin of error of plus or minus 3 percentage points.

Next High Court Pick Anyone's Guess (WT)

By Joseph Curl

The Washington Times, September 21, 2005

As President Bush weighs viable candidates for a second Supreme Court vacancy, Republican allies close to the process agree on one thing: Expect the unexpected selection.

Top Republicans say liberals are playing politics by warning that a fierce Senate fight will erupt if the president nominates a conservative to replace the high court's moderate female, and that Mr. Bush won't be pigeonholed by Washington pundits' calls for a woman or a Hispanic.

"The idea that he has to move left is a ludicrous, inside-the-Beltway type of thinking, coming from people who want to do him harm," said Gary Bauer, chairman of the Campaign for Working Families. "I'm confident the administration will ignore that advice."

"Nobody ever contemplated that Bill Clinton, with all of his troubles, would be expected to nominate a conservative. The unspoken message here is that the left is telling the president that you have no right to make the court more conservative, only liberal presidents have the right to make the court more liberal," he said.

Still, Democrats and liberals, frustrated by what they say was Judge John G. Roberts Jr.'s proclivity to evade tough questions during 20 hours of Senate hearings on his nomination to replace Chief Justice William H. Rehnquist, are advising the president to nominate a moderate to avoid a battle in the Senate.

Some Republicans close to the White House say top Bush aides are looking mainly at female jurists to fill Justice Sandra Day O'Connor's seat. Democrats vow a fight if Mr. Bush nominates a hard-core conservative.

But GOP strategist Charlie Black said the threat does not send shivers down the president's spine.

"It's naive all of a sudden to say that the White House just realized that there's going to be a tough confirmation fight in the Senate," Mr. Black said. "Of course there's pressure from both sides, but he's not going to cave to pressure from the left or the right."

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Mr. Bush will feel some of that pressure today when he meets at the White House with top senators from both parties about who should be picked for the lifetime appointment.

Republicans note that Democrats advised the president in July to chose a moderate or a woman -- or both -- to replace Justice O'Connor, but he instead chose a white, male conservative.

Mr. Black acknowledged that "there's only a handful of people who know" the president's top candidates. Two conservatives in legal organizations say top Bush aides are interviewing new prospects.

Some prominent candidates, however, made it into the final stages of the last search and are considered front-runners this time around. Judges Edith H. Jones and Edith Brown Clement, both of the Fifth Circuit in New Orleans, were on the shortlist. Also at the top of the list is Attorney General Alberto R. Gonzales, who irks Democrats and conservatives alike but is known as a loyal friend of the president.

"If the president decides he would be the best choice, he's going to pick him. That's it," Mr. Black said. If that occurs, he would be the first Hispanic on the high court.

A new name has emerged on the longer list of candidates -- Judge Consuelo M. Callahan of the Ninth Circuit, the liberal San Francisco court, one of whose judges recently ruled that the phrase "under God" in the Pledge of Allegiance violates the Constitution.

"That would kill two birds with one stone," said David Schultz, a professor at Minnesota's Hamline University law school and author of a new book, "The Encyclopedia of the Supreme Court."

Democrats, he said, "would have a hard time opposing a Hispanic woman," and Mr. Bush already knows her: He appointed her to the federal bench in 2003.

Words That Will Haunt (WP)

The Washington Post, September 21, 2005

In announcing his opposition yesterday to the nomination of Judge John G. Roberts Jr. to be chief justice of the United States, Senate Minority Leader Harry M. Reid (D-Nev.) made a remarkable statement: "The president is not entitled to very much deference in staffing the third branch of government, the judiciary." Leave aside the merits of the Roberts nomination, which we support; if Mr. Reid regards Judge Roberts as unworthy, he is duty-bound to vote against him. But these are dangerous words that Democrats will come to regret.

This country has only one president at a time. That president, right now President Bush, is tasked with naming judges. The Senate has the role of providing advice and consent on the president's choices, which is a significant constitutional task. But if the presidential election means anything in this arena, it must mean that the president's choice has a heavy presumption of confirmation. That is the way the system works. Why else would Justices Sandra Day O'Connor, Antonin Scalia, Stephen G. Breyer and Ruth Bader Ginsburg have received only a handful of no-votes among them? During the Clinton administration, we deplored the way that the Senate treated the president's judicial nominees during six years of Republican control over the Senate. Yet during those six years, the Senate confirmed 245 of President Bill Clinton's judges. If Republicans had been applying Mr. Reid's standard, they would have been within their rights to reject them all.

Do Democrats really want the American confirmation system to move in that direction? Republicans may still be in the majority the next time a Democratic president nominates a justice. Is it now okay for them to vote against a person who -- as Mr. Reid put it of Judge Roberts -- is "an excellent lawyer" and "a thoughtful, mainstream judge" who may make "a fine Supreme Court justice" simply because the nominee doesn't represent their ideal? When that day comes, and Democrats cry foul, remember what Mr. Reid said about how little deference he believes he owes Mr. Bush concerning Judge Roberts.

Sen. Reid Says He'll Vote Against Roberts (AJC/AP)

By David Espo, Ap Special Correspondent

The Atlanta Journal-Constitution, September 21, 2005

WASHINGTON — Senate Democratic leader Harry Reid said Tuesday he would oppose confirmation of Chief Justice-nominee John Roberts, questioning Roberts' commitment to civil rights and accusing the Bush administration of stonewalling requests for documents that might shed light on his views.

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At the same time, Reid readily predicted Roberts will win Senate confirmation, coupling the forecast with a warning of sorts to President Bush as he considers candidates for a second vacancy on the Supreme Court. "No one should think that just automatically they're all going to be easy like this one," he said.

Reid is one of four senators invited to a White House meeting with Bush on Wednesday to discuss the vacancy created by Justice Sandra Day O'Connor's decision to retire.

The Nevada senator made his comments as Democrats began taking sides in advance of next week's confirmation vote. President Bush named Roberts, a 50-year-old appeals court judge and former lawyer in two Republican administrations, to succeed the late William H. Rehnquist.

Sen. Max Baucus, D-Mont., announced he will vote for confirmation, and Sen. Ben Nelson, D-Neb., edged toward an endorsement, as well. Roberts also commands overwhelming if not unanimous support among the Senate's 55 Republicans.

"After reviewing Judge John Roberts' credentials and meeting with him privately, I have found that he meets my criteria for judges. And that is: only the brightest, most objective minds shall serve on the bench," said Baucus," who added the decision was not an easy one.

"I've not seen anything that would cause me to vote against" Roberts, said Nelson, who is seeking re-election next year in Republican Nebraska and often crosses party lines to support Bush's legislative proposals.

Reid had successfully urged fellow Democrats to refrain from taking positions on the appointment until after the completion of last week's confirmation hearings and the regular Tuesday closed-door meeting of the rank-and-file.

"This is a very close question for me. But I must resolve my doubts in favor of the American people whose rights would be in jeopardy if John Roberts turned out to be the wrong person for the job," he said.

Referring to publicly released memos that date to Robert's tenure as a Reagan administration lawyer, Reid said they showed the young attorney "played a significant role in shaping and advancing the Republican agenda to roll back civil rights protections."

"No one suggests that John Roberts was motivated by bigotry or animosity toward minorities or women," Reid added. "But these memos lead one to question whether he truly appreciated the history of the civil rights struggle. He wrote about discrimination as an abstract concept, not as a flesh and blood reality for countless of his fellow citizens."

Reid also said Roberts followed a "disingenuous strategy" at the confirmation hearings of suggesting that the views in the memos were not his own.

Democrats have tried without success to persuade the administration to release documents from Roberts' tenure as principal deputy solicitor general, a senior Justice Department job he held in the administration of the first President Bush.

"The failure of the White House to produce relevant documents is reason enough for any senator to oppose this nomination. The administration cannot treat the Senate with such disrespect without some consequences," Reid said.

Reid's remarks pleased leaders of women's organizations and civil rights groups who outlined the case against Roberts at a closed door meeting with the Democratic leader last week. According to participants in the meeting, they also said they wanted to run up as many votes against Roberts as possible, in part to try and show Bush he would be risking a fierce fight if he named a more conservative nominee than Roberts to replace Sandra Day O'Connor.

For his part, Reid urged the president to proceed slowly on filling O'Connor's seat, adding, "I don't think he needs to do it in the next couple of weeks, that's for sure."

Beyond that, Reid said he would view it as a "poke in the eye with a sharp stick" if Bush were to nominate any of the 10 appeals court nominees that Democrats blocked in recent years, including some who were later confirmed. He declined to say whether Attorney General Alberto Gonzales falls into the same category.

One White House official, speaking on condition of anonymity, said at least some of the contenders on the president's list fall into the category that would draw Reid's ire.

Dana Perino, White House deputy press secretary, suggested Reid was changing the standard for judging nominees to the Supreme Court.

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"In confirming recent nominees like Ginsburg, Breyer and Scalia, senators based their decisions on the qualifications of the nominee, not on whether or not the person doing the nominating was in their same party. The public does not want to see the Supreme Court become an extension of partisan politics," Perino said.

Justice Ruth Bader Ginsburg was confirmed on a vote of 96-3 in 1993; the 1994 vote on Stephen Breyer was 87-9 and Antonin Scalia was confirmed 98-0 in 1987. Rehnquist was confirmed as chief justice in 1986 on a vote of 65-33.

Roberts Will 'Get Plenty Of Votes' (WT)

By Charles Hurt

The Washington Times, September 21, 2005

Federal Judge John G. Roberts Jr. will be confirmed as the 17th chief justice of the United States without a filibuster, the Senate's top Democrat said yesterday.

"He's going to be confirmed," Minority Leader Harry Reid of Nevada told reporters yesterday. "Roberts will get plenty of votes."

Mr. Reid announced that he will vote against Judge Roberts' nomination on the Senate floor but said, "The arguments against him do not warrant extraordinary procedural tactics to block the nomination."

"No one doubts that John Roberts is an excellent lawyer and an affable person," Mr. Reid said. "But at the end of this process, I have too many unanswered questions about the nominee to justify a vote confirming him to this enormously important lifetime position."

The senator made the announcements after a lunch meeting with his caucus, during which Democrats discussed their strategy for dealing with the nomination.

The Senate Judiciary Committee is scheduled to vote on the nomination tomorrow. The entire Senate will vote on the nomination later in the month.

Mr. Reid's remarks about not filibustering Judge Roberts echoed the sentiments of several key Democrats that they don't know whether they will vote to confirm his nomination to the Supreme Court but that they are certain he won't be blocked from getting a final vote.

Sen. Ben Nelson, Nebraska Democrat and a key member of the "Gang of 14" senators who can determine whether a filibuster will succeed, said none of the 14 is talking of a filibuster.

"I don't expect anything extraordinary to come about," said Mr. Nelson, adding that he hasn't decided whether he'll support the Roberts nomination on the floor.

Sen. Ken Salazar, Colorado Democrat and a Gang of 14 member, said he couldn't imagine a filibuster being employed against Judge Roberts.

Sen. Evan Bayh, the Indiana Democrat who introduced the nominee at his confirmation hearing but withheld endorsement, said yesterday that he has not made his mind up. He called Judge Roberts "brilliant" and "affable," but said there are "a lot of unresolved questions."

Sen. Hillary Rodham Clinton, New York Democrat, also is being closely watched for her vote on the nomination, especially given widespread speculation that she will run for president in 2008. But she gave no signals yesterday as she dashed past reporters to the elevator.

Mr. Reid said yesterday that he told his caucus members to vote their conscience. Although he complimented Judge Roberts for his intellect, Mr. Reid said he couldn't support the nominee.

"I'm not too sure his heart was as big as his head," he said.

But that's not to say that Mr. Reid was in any hurry to have President Bush fill a second opening on the court.

"I just don't see any rush," he said, noting the Senate's busy schedule right now. Mr. Reid and other Senate leaders will meet with Mr. Bush this morning to discuss that vacancy, filling the seat of Justice Sandra Day O'Connor.

Republicans also are privately urging the White House to hold off on nominating a replacement. With the Roberts confirmation virtually sewn up, they worry that Democrats will spend all their Roberts debate time on a second nominee if one is named.

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Unlike many Democrats, however, Mr. Reid said he was pleased by how much Mr. Bush consulted with him and others before nominating Judge Roberts.

"I'm sure it could be improved upon, but I don't think the Roberts consultation process was a total failure," he told reporters. "I didn't think it was a failure at all."

Mr. Reid declined to discuss names of potential nominees, except to say that naming any of the 10 previously filibustered candidates would be a "poke in the eye with a sharp stick." That could spell trouble for a nomination of Judge Priscilla Owen of the 5th U.S. Circuit Court of Appeals, who is often mentioned as an O'Connor replacement.

After Chafee Backs Roberts, Foes Await NARAL's Response (HILL)

By Jackie Kucinich

The Hill, September 21, 2005

Sen. Lincoln Chafee (R-R.I) has said that he will vote for John Roberts's nomination to the Supreme Court, a move that could jeopardize his endorsement from NARAL Pro-Choice America.

"Absent anything unforeseen," Chafee told The Hill last week, he would vote for Roberts to succeed the late William Rehnquist as chief justice of the United States. The senator reaffirmed his support of Roberts yesterday.

Although Chafee voted against the nomination of U.S. Circuit Court Judge Priscilla Owen, NARAL President Nancy Keenan blasted him June 8 for voting to confirm Janice Rogers Brown's nomination to the U.S. Circuit Court of Appeals for the District of Columbia.

"Given our recent conversations with Senator Chafee, this vote is surprising and extremely disappointing," Keegan said in the release. "We'd like to know what pressure the Republican leadership put on him. We will be watching closely his future votes on judicial nominees, including William Pryor and those for the Supreme Court."

Owen, Pryor and Brown were included in the "Gang of 14" deal that averted a floor vote on the so-called "nuclear option." Chafee voted no on Pryor's confirmation.

NARAL, an abortion-rights organization, endorsed Chafee on May 20, stating, "We stand by our friends." Chafee received a 100 percent rating on issues important to NARAL last year.

Asked if he was worried that NARAL would withdraw its endorsement, Chafee said he did not promise the group that he would oppose the president's nominees to the high court.

He added, "I'm reliably pro-choice."

Should NARAL pull its support, it could have implications on the 2006 race.

Darrell West, a professor of political science at Brown University, said what NARAL represents to Chafee carries more weight than the actual endorsement.

"Chafee's strong suit is his support in the center of the political spectrum," he said. "It would undermine his ability to make the case as a moderate in the Senate."

NARAL did not return several calls for comment.

Maureen Moakley, professor of political science at the University of Rhode Island, contended that while NARAL's endorsement might matter in a close, low-turnout Republican primary it probably would not play a deciding factor in the general election.

Chafee faces a challenge from the right from Cranston, Rhode Island Mayor Steve Laffey.

If confirmed, Roberts would replace Rehnquist, a steadfast conservative who died earlier this month. Most political experts believe Roberts's filling Rehnquist's seat would cause little change to the ideological makeup of the court.

However, the nomination of a successor to centrist Justice Sandra Day O'Connor still looms. NARAL could opt to see how Chafee votes on that nomination before reaffirming or withdrawing its support of his reelection bid.

Former Rhode Island Attorney General Sheldon Whitehouse (D), one of the two Democrats vying to challenge Chafee in 2006, issued a statement last week opposing the Roberts nomination:

"I believe that nominees who go before the Senate for an appointment to the Supreme Court in this environment have an obligation to tell the American people where they stand on fundamental issues. John Roberts has not fulfilled this obligation."

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Matt Burgess, a spokesman for Rhode Island Secretary of State Matt Brown (D), who is also running, said that if NARAL decides to buck Chafee then Brown would court its endorsement.

"Matt has a strong record of standing up for a woman's right to choose," he said

Brown has indicated he would apply a litmus test to judicial appointments, vowing to oppose nominees who oppose abortion rights.

Asked by The Providence Journal in May why NARAL opted not to back Brown, Keenan said noted that Chafee has a record of tough votes, while Brown has no congressional voting record.

A recent Brown University poll has Chafee leading Whitehouse, his closest opponent, by 13 points.

Chafee has often sided with the administration on confirmation votes, approving of the nominations of Secretary of State Condoleezza Rice and Attorney General Albert Gonzales and voting for cloture on John Bolton, the U.S. ambassador to the United Nations.

Bush Under Pressure Over Supreme Court Nomination (SAEN)

By Gary Martin, Express-News Washington Bureau

San Antonio Express-News, September 21, 2005

WASHINGTON - As John Roberts heads toward expected confirmation as chief justice, President Bush is under mounting pressure to nominate a woman or minority with conservative credentials to fill a second vacancy on the Supreme Court.

Bush will meet with Senate leaders today to discuss the Roberts confirmation vote, which is expected next week, and the process to select a judge to replace Sandra Day O'Connor.

Bush has pledged a "wide open" search for a nominee, including consideration of minority candidates.

Many Republicans and interest groups want Bush to choose a woman, preferably one aligned ideologically with religious conservatives.

"I have great faith in the president that he will look at all qualified persons, and I'd like to see him nominate another woman to the Supreme Court," said Sen. Kay Bailey Hutchison, R-Texas.

Hutchison said there are qualified women with academic qualifications and life experience eligible for selection.

"I do want to see the next nominee be a woman," Hutchison said.

O'Connor " one of two women on the high court, along with the liberal-leaning Justice Ruth Ginsberg " has agreed to serve until her replacement is confirmed. Sen. Arlen Specter, R-Pa., chairman of the Senate Judiciary Committee, said the number of women on the court should not be reduced. Others have pointedly urged the president to nominate a woman.

David Keene, with the American Conservative Union, wants the president to pick a strict constitutionalist, regardless of race or gender, "who believes in the doctrine of original intent of the framers, thus protecting the freedom and liberty of the American people."

Among the names being mentioned prominently around Washington is Priscilla Owen of Austin, a judge on the New Orleans-based 5th Circuit Court of Appeals that serves Texas, Mississippi and Louisiana.

Owen, who served on the conservative Texas Supreme Court, is politically tied to the president, who campaigned hard to win her appointment to the appellate court earlier this year.

Owen has the backing of friends with political clout, namely Karl Rove, the White House senior presidential adviser, Hutchison and Sen. John Cornyn, R-Texas, who serves on the Senate Judiciary Committee.

O'Connor, considered a moderate, was a swing vote on social issues like abortion and capital punishment.

Democrats and liberal-leaning groups have promised a bruising confirmation battle if the president chooses anyone who might alter the idealogical balance of the court.

Sen. Patrick Leahy, D-Vt., the ranking Democrat on the Judiciary Committee, in an interview on CBS's "Face the Nation," called on the president to honor a campaign promise and select "a nominee that would unite both Democrats and Republicans."

Bush is expected to announce his nomination to the Supreme Court after the Senate vote on Roberts is final.

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Leahy said he expected to hear names of potential court nominees when he meets with the president today for a White House breakfast with Senate leaders. Senate aides said if Bush selects a nominee in October, confirmation hearings and a vote could be held before December.

Owen's nomination to the appellate court sparked a bitter partisan battle and filibuster threat that ended in an historic compromise brokered by Sen. John McCain, R-Ariz., and moderates from both parties.

She was confirmed in May, 55-43, after Democrats delayed the vote for four years.

Bush could also consider Judge Edith Brown Clement, who also serves on the 5th Circuit Court of Appeals. She was reportedly a finalist to Roberts in the last go-round.

A conservative, Clement was a district judge in New Orleans before Bush named her to the appellate bench.

Another judge on the 5th Circuit Court of Appeals, Edith Jones, a Terrell Hills native and Houston resident, also is considered a possible choice, as is Janice Rogers Brown, a former California Supreme Court justice that Bush appointed to the District of Columbia Circuit Court of Appeals.

Brown, an African-American, would allow Bush to name a minority to the high court. Bush has openly considered naming a Hispanic to the court and announced his consideration of Attorney General Alberto Gonzales, a San Antonio native, as a possible justice.

But the likelihood of a Gonzales nomination waned this week as conservative groups launched an effort to squelch the nomination, questioning his stance on affirmative action and abortion.

Republican aides said the president has a long list of potential minority candidates, including Emilo Garza of San Antonio, who sits on the 5th Circuit Court of Appeals, and Larry Thompson, an African-American and former deputy attorney general. > gmartin@express-news.net

Roberts Battle Highlights Vast Gulf Between Parties (USAT)

By Robert Bork And David Rivkin Jr.

USA Today, September 21, 2005

With the John Roberts confirmation hearings over, there is every reason to believe that he will be a worthy successor to the late Supreme Court chief justice William Rehnquist. Roberts performed ably, embracing a modest judicial role, striking a sound balance between respect for stare decisis and the need to "revisit" flawed precedents, and rejecting the use of constitutionally irrelevant foreign law.

Roberts also properly refused to indicate how he would rule in future Supreme Court cases. While he will almost certainly be confirmed, the next confirmation battle, over Justice Sandra Day O'Connor's successor, is likely to be tough.

nonetheless, President Bush can win this battle, provided that he wages it within the proper philosophical context, by arguing that, in our constitutional system, the courts should remain judicial institutions and that most of the policy calls should be made by the political branches.

Senate Democrats have accused Roberts of hiding his views, claiming the American people are entitled to know where he stands on key constitutional issues, including abortion, end-of-life matters and the separation of church and state.

Withholding judgment

Yet nobody, including Roberts himself, can or should know how he would rule in a specific case, until that case comes before him. Having judges behave as politicians, seeking political support from public commitments concerning their future votes, is utterly incompatible with the proper judicial role. Going down this path would fatally undermine judicial independence and legitimacy.

In fact, far from being about Roberts or any future nominee, the pyrotechnics of the Senate hearings are attributable to the fact that the philosophic gulf between our two political parties has grown vast — and nowhere more so than with respect to the federal judiciary. Most Republicans want courts that are legal institutions, not political bodies. Democrats, on the other hand, insist on courts devoted to specific policy outcomes (invariably items on the liberal agenda).

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Not content with helping transform the judiciary into the most important player in domestic affairs, and most certainly in cultural trends, Democrats push for courts that are activist in foreign and defense policy, micromanaging, for example, the treatment of captured enemy combatants.

Lost confidence

The hysteria of the Democratic Left is understandable. It has lost confidence in its ability to compete in the political arena and sees a politicized judiciary as its only hope to advance its agenda. The policies it desires, and the Supreme Court has so far advanced, are ones that encourage radical personal autonomy in moral and cultural matters. Activist judges announce principles and reach results that have no plausible connection to the Constitution. Thus, it is increasingly obvious that activist judges are issuing decisions that have no basis other than the judges' personal preferences. There is more than a grain of truth in the statement that the court represents the blue states in their contest with the red states.

The process of confirming Roberts, and choosing O'Connor's successor, has triggered a serious national debate about the judiciary's proper role.

This debate will have long-term benefits, provided that the president decisively wins it.

The presidency is, as Theodore Roosevelt put it, a "bully pulpit." Now is the time to use it. The president can remind us that the greatest transformations in American political life, from the development of the Bill of Rights to the enfranchisement of former slaves and women, were all accomplished democratically through constitutionally proper procedures, and that placing on the court justices who would take judicial shortcuts, often in defiance of the Constitution and the electorate, shows nothing but disdain for American voters.

Robert Bork, a former U.S. Supreme Court nominee and U.S. Court of Appeals judge, is a fellow at the Hudson Institute. David Rivkin served in the Reagan and George H.W. Bush administrations and is a law partner at Baker and Hostetler.

Bush Sees 'Progress' On Fifth Visit To Gulf Coast (LAT)

By Scott Gold And Michael Muskal

The Los Angeles Times, September 21, 2005

NEW ORLEANS — President Bush came to the Gulf Coast today to praise the recovery effort after Hurricane Katrina devastated this region, but he found himself hoping that all of the good work will not be undone by another storm racing into the Gulf of Mexico.

During a visit to a coffee plant that is limping back to life after sustaining $20 million worth of damage, Bush praised the progress of recovery since Katrina dealt the coast a killer blow on Aug. 29. Bush was accompanied by Mayor C. Ray Nagin.

"Progress is being made toward meeting the mayor's vision of a — and my vision, and everybody's vision involved with this — of a vibrant New Orleans and surrounding parishes," Bush said.

But the president warned that Hurricane Rita was heading toward the gulf, carrying winds of more than 100 mph and was expected to gather energy from the warm waters.

"All up and down this coastline people are now preparing for what is anticipated to be yet another significant storm," Bush said. "I've been briefed on the planning for what we pray is not a devastating storm — but there's one coming."

Rita stormed through the Florida Straits today, dropping torrential rains on the Keys and Cuba. It is a Category 2 storm, but could reach Category 3 and perhaps more when it makes landfall by week's end.

Current projections have it hitting Texas sometime Friday or Saturday, but it is expected to affect Louisiana by Thursday. New Orleans, which has been recovering from severe flooding, is in an especially sensitive position because its levee system was weakened by Katrina.

Nagin had allowed some residents of New Orleans to return over the weekend, but he suspended that program when federal officials, led by Bush, objected. The city is still without drinking water, the air quality is questionable and the impact of Rita is a potential hazard.

"I appreciate the mayor recognizing that, and he made a wise decision to say to people, be cautious about returning here, because a rain of any amount could cause these levees to break again," Bush said.

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Nagin has at times been critical of the federal relief effort, but went out of his way to praise the principal federal official in New Orleans, Coast Guard Vice Adm. Thad Allen.

We're "one leadership team," Nagin said. "We may not always agree, but we have one mission: To bring New Orleans back."

He then handed Allen a T-shirt boasting "I ©N.O."

Nagin then spoke to the hundreds of thousands of residents who were forced to flee the storm and broken levees that made this city uninhabitable.

"I know it has been three weeks plus that you haven't been able to come back," he said. "Just hold on for a little longer. As soon as we get comfortable that Rita" won't be a problem, "we will get to our reentry program. We fully intend to follow through."

"Be prepared," Nagin warned. "You may not recognize the place.… Come prepared with your eyes wide open as it relates to what you might see."

Despite the successes, including emptying more than half the city of the floodwaters, there are still water and supply problems. Municipal services are spotty at best and schools remain closed.

To bring attention to the progress that has been made, Bush paid his fifth trip to the region. He praised the recovery of the Folger's coffee plant, which roasts, packages and ships coffee nationwide and to parts of Mexico.

The factory, the size of several football fields, has one of its 10 production lines back in operation. About 150 of the 500 employees are working, many living on the grounds in the 110 trailers supplied by the Federal Emergency Management Agency.

"I want to thank the folks here at the Folgers plant for inviting us to come to say hello," Bush said. "The reason I've come with the mayor and Admiral Allen is because I want the people to know that there's progress being made in this part of the world."

Earlier, in Gulfport, Miss., Bush met with local officials on the governor's commission on the recovery. He praised their efforts and promised that the federal government would move faster to help with the reconstruction.

"Every time I come back here, I see progress," Bush said, establishing the theme for the day. "But this part of the country's changing. And you're moving forward. I don't know if you know that or not, but flying in or driving in, there's something different than the first time I was here.

"There is a can-do attitude. In the midst of all the trauma and pain, one thing I noticed on my first trip was, 'We can do this.' And now I'm seeing it being done," the president said.

"We'll get the debris removed. We'll get your water systems up and running as quickly as possible. We'll get your bridges built," he told the appreciative audience in a white tent set up in the parking lot of an outlet mall.

"There's no doubt in my mind that, out of the rubble and out of the huge heaps of timber that used to be homes, a better Mississippi will emerge," he said.

Before leaving Washington, the White House announced that Bush had named Frances Fragos Townsend, his homeland security adviser, to lead an administration investigation into the sluggish federal response to Katrina.

Bush had promised to investigate "what went wrong and what went right" in the response that has already cost Michael Brown his post as director of the Federal Emergency Management Agency. Congress has been holding hearings, but Democrats are still seeking the creation of an independent commission to investigate the disaster.

Press Secretary Scott McClellan told reporters that the administration would search the federal budget to find cuts to pay the bill for reconstruction after Katrina. Congress has appropriated almost $63 billion in emergency aid and Bush has pledged to rebuild the region.

Though the White House has not placed a price tag on the project, experts have said it could cost $200 billion. Bush has ruled out a tax increase. There have been calls to use some of the funds earmarked for Iraq to rebuild New Orleans, while conservatives have urged that some programs be cut.

McClellan today rejected a call to roll back the new prescription drug benefit.

Rita remains a concern for state officials as well.

More than 7,000 Hurricane Katrina evacuees staying in shelters near the Texas Gulf Coast are being evacuated in buses and planes, said David Passey, a FEMA spokesman, in Baton Rouge.

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About 4,000 will be moved from Ellington Field in Houston to Ft. Chaffee in Fort Smith, Ark. Three thousand people displaced by Katrina will be moved from Lackland Air Force Base in San Antonio to somewhere in Tennessee, Passey said.

"Safety, of course, is our top priority," Passey said.

Federal employees will coordinate with the city of New Orleans to comply with any mandatory evacuation.

Passey estimated that 11,000 civilian federal employees and 14,000 active military personnel — not including National Guard — are working in the area.

FEMA housing officials continue to grapple with the largest-scale need for temporary housing the agency has ever encountered, said Ron Sherman, head of FEMA's area housing command.

"Being displaced and losing your home is one of the worst things that can happen to you," Sherman said.

The agency is considering a variety of housing options for evacuees, primarily travel trailers, but also including cruise ships and apartments.

The Louisiana governor's office announced a plan to move the 55,000 people who remain in shelters into hotels and motels for up to 90 days, said Jerry Jones, director of facilities and planning for the state of Louisiana.

State officials had briefed FEMA on the proposal, which Sherman agreed with "in principle," although financial and logistical details of the plan had not been determined.

"We need to do something quicker," Jones said. Evacuees "need to know we're working for them."

State officials hope that the proposal will offer evacuees an alternative to shelters while FEMA works to establish adequate interim housing.

"Our citizens have been waiting and waiting for relief from their shelter environment," Gov. Kathleen Babineaux Blanco said in a statement Tuesday.

"While shelters have provided a safe respite, moving our citizens out of harms way immediately following Hurricane Katrina, it is past time to move all of them into the next housing option," she said.

Bush Praises Progress In Rebuilding Efforts (WP)

By Michael A. Fletcher

The Washington Post, September 21, 2005

NEW ORLEANS, Sept. 20 -- President Bush returned to the storm-battered Gulf Coast on Tuesday, telling local leaders that amid the rampant devastation caused by Hurricane Katrina there are promising signs of recovery.

Bush, who has faced harsh criticism for a confused and sluggish federal response to the deadly hurricane, said he was "pleased to see the progress being made on the ground" in the difficult task of rebuilding the region.

The president's trip marked his fifth visit to the area since Katrina flattened much of the Mississippi Gulf Coast and unleashed a flood that submerged most of New Orleans. Now, as the floodwaters are being pumped away, much of city and surrounding area remain uninhabitable and crusted in dried mud.

As the region struggles to dry out and lay plans for rebuilding, officials were concerned about Hurricane Rita, which Tuesday was making its way toward the Gulf of Mexico. Bush attended a briefing about the storm aboard the USS Iwo Jima, an amphibious assault ship docked near downtown New Orleans, where it serves as a recovery command center.

With Louisiana Gov. Kathleen Babineaux Blanco (D) and New Orleans Mayor C. Ray Nagin (D) seated to his right, Bush watched three huge video screens and listened as federal forecasters attempted to project the path of the hurricane.

The visible federal preparations for Rita stand in contrast to the delayed response that followed Katrina. Although Bush signed emergency orders to ready federal help in anticipation of Katrina, precious days passed before the Federal Emergency Management Agency was able to mount an all-out response. Hundreds of people were killed in the hurricane; others were trapped on rooftops or in hellish shelters for days.

The ineffective federal response has shaken public confidence in an administration that prides itself on its cool efficiency. In Katrina's aftermath, Bush's approval ratings have plummeted to new lows, and polls have found that a dwindling share of Americans give him high marks for leadership.

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Since the early confusion, Bush has moved to recover the initiative, vowing to lead one of the largest rebuilding efforts ever seen. Already, more than $62 billion has been appropriated, and some members of Congress have estimated that the rebuilding tab could go as high as $200 billion.

Using FEMA data, the National Low Income Housing Coalition yesterday estimated that Katrina destroyed or heavily damaged 302,000 homes. About 142,000 homes were lost in New Orleans alone. The housing advocacy group said that apartments accounted for 47 percent of units lost or damaged overall, and 55 percent in New Orleans.

In his visit here, Bush said local officials and businesses are making impressive progress in rebuilding and bringing economic life back to the stricken region.

Bush toured a Folgers coffee plant, where 110 trailers are lined up to house workers who have returned to the job. Plant officials said 150 of the facility's 500 workers are back to work and that one of the plant's 10 lines is working to package and ship coffee throughout the country.

"We've got some people working here because of the ingenuity of the plant managers," Bush said. ". . . This company has provided housing for the folks who work here."

Earlier in the day, Bush stopped in Gulfport, Miss., where he met with members of a state commission appointed to lead the storm recovery effort. The meeting was held in a white tent set up in the parking lot of a still-shuttered outlet mall that until a week ago served as a staging area for utility crews working to restore power.

As Bush entered the tent, the business leaders and others inside erupted in applause. "W, we still love ya," someone cried out, causing Bush to crack a smile.

Bush listened quietly as Gov. Haley Barbour (R) pledged to rebuild Mississippi's Gulf Coast and make it better than ever. "Creating a renaissance in this area is what I'm going do the rest of the time I'm in office," Barbour said.

Bush also heard testimonials from business leaders who pledged their efforts to help rebuild the Mississippi coastline.

"Every time I come back here, I see progress," Bush said. ". . . This part of the country is changing. You're moving forward."

A Storm Survivor, Political Reputation Intact (NYT)

By Joyce Purnick

The New York Times, September 21, 2005

BATON ROUGE, La., Sept. 20 - Hurricane Katrina has given the nation a new political celebrity, the mayor of beleaguered New Orleans. And like they say with pride here about most everything, Mayor C. Ray Nagin is just plain different.

A former business executive, Mr. Nagin is a Democrat who lashed out at Republican Washington, likes to cuss, has begun treating the president whose administration he lambasted as a buddy and makes no secret of his differences with the state's governor, Kathleen Babineaux Blanco, also a Democrat. Mostly, he seems to be unapologetically making it up as he goes along, as he did on Monday when he (temporarily) defied official advice to slow the reopening of his city.

After Vice Adm. Thad W. Allen of the Coast Guard and President Bush very publicly advised caution, Mr. Nagin backed down and reversed his order to have people return gradually. He retreated with sword raised. "There's only one mayor of New Orleans and I'm it," he said, attributing his reversal to a "new event" - the prospect that Hurricane Rita might head for the Gulf Coast.

That kind of bravado is classic Nagin, an unorthodox politician of 49 who was a top cable executive before he ran for mayor three years ago. His pre-storm, tenure was seen as a little bumpy as he learned on the job, but not fatally so. Post-storm, Mr. Nagin has made a virtue of being consistently inconsistent. Why fast-track the return of people to a city short on power and potable water, even as he talks about putting safety first?

Those who know Mr. Nagin and know New Orleans attribute his rush to three factors: Nagin chemistry, politics and race, with a dash of civic pride thrown in.

"There's a lot of pressure to get business going again in New Orleans, and he got ahead of himself," said James W. Nickel, a lobbyist here and former state Democratic chairman.

Mr. Nagin, who declined to be interviewed for this article, maintains that politics was not his motive in trying to reopen his city quickly.

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Few who know the politics of New Orleans, a predominantly black city with a powerful white business core, harbor any doubt that he was responding to pressure from the entrenched white business community, and perhaps, too, from black elected officials worried that their constituents would not return unless assured their city was up and running.

Mr. Nagin needed the votes of both constituencies to win election, but white voters held the margin of victory. When he ran for mayor, business executives embraced him as a reformer. He got into the runoff after the black vote split and then went on to a slim victory.

"Candidates running for other offices got more votes than he did," the City Council president, Oliver M. Thomas Jr., said on Tuesday. Mr. Thomas has viewed the mayor's conduct post-storm with some skepticism, including his latest flip-flop. "You can't keep jerking people's chains," Mr. Thomas said.

Others cite mistakes. Mr. Nagin did not get everyone out, did not fire up the school buses for evacuees, did not have enough food or water for them in the Superdome or the convention center, did not protect people adequately and let the looters loot so he could make rescues the priority.

He had to answer for flying to Dallas the second weekend after Hurricane Katrina to visit his evacuated family and for meeting there with white businessmen from New Orleans. This infuriated many of the city's black lawmakers and businessmen, worried about being left out of the rebuilding loop, despite Mr. Nagin's assurances to the contrary.

And of course there was the famous flash of Nagin temper on the Thursday after the storm, when he railed at the federal authorities, "Now get off your asses and do something." In most cities, the public would say, Sure, but why didn't you do it first? But in New Orleans, Mr. Nagin was seen as putting the blame squarely on Washington and as alerting the world to his city's emergency.

Instead of facing political oblivion, Mr. Nagin has emerged as something of a folk hero, a familiar figure with his distinctive shirts and shaved head.

In some places in the country, mayors pay for big mistakes at election time. Mr. Nagin faces a primary election in February, and for now, the talk here is that he is not in big trouble, that he, like his city, was a victim of Washington and Ms. Blanco, whose reputation has suffered while his seems to be holding.

"You experience accountability in other places," said Roy W. Fletcher, a political consultant in Baton Rouge. "Here, while everybody wants something from government, nobody expects something from government."

Some New Orleanians are furious at Mr. Nagin. Others attribute his stumbles to an unfamiliarity with practical politics that pre-dated Hurricane Katrina. "He truly thought he could go into government and run it like a business," said Mr. Nickel, the former Democratic chairman. "If any government can't run like a business, it is the government of New Orleans."

But the mayor, a native of the city from a working-class family, is considered honest and strongly opposed to the old, often corrupt ways, yet limited by his city's poverty and its people's low expectations.

"If he had gotten those people out, it would have been shocking," said Alvin Gauthier, a science teacher and basketball coach at a New Orleans high school, as he waited in line here on Monday at the Federal Emergency Management Agency's disaster relief center.

In fact, as early as July, the mayor and emergency officials were warning that the city did not have the resources to evacuate everyone if a major hurricane hit, The Times-Picayune reported.

Yet nothing significant changed, which was not a surprise.

"This isn't the United States, darling; this is a colony of the powers that be," a rug dealer named Bob Rue said on Saturday in New Orleans, where he was protecting his shop on St. Charles Avenue with a revolver and a claw hammer.

"There's no tax base," Mr. Rue said. Too many people, he added, are too poor.

He was asked why not demand more from the state, more from the wealthy?

Mr. Rue, looking as though he wanted to use his claw hammer, sighed. Listen, he seemed to be saying, he survived. And so, it would seem, did Mr. Nagin. - survived a storm that damaged almost everything and everyone in its path, including a president.

But somehow there is a sense of tolerance from his constituents for their mayor, because, they say, at least he tried - considered an accomplishment in their hometown.

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U.S. 'Must Pay' To Rebuild (WT)

By Bill Sammon

The Washington Times, September 21, 2005

President Bush, accused of embarking on a discretionary spending spree to rebuild the Gulf Coast, yesterday said the federal government is required by law to shoulder most of the cost.

"We have a responsibility by law to help rebuild the infrastructure," Mr. Bush said on his fifth visit to the Gulf Coast since Hurricane Katrina struck three weeks ago. He said the federal government is "the principal party responsible for rebuilding infrastructure."

White House officials pointed out that the 1988 Stafford Act, which is triggered by disasters such as Katrina, requires that the federal government pay at least 75 percent of the cost of rebuilding public infrastructure.

The federal government's share can jump to more than 90 percent in certain extraordinary circumstances, such as Hurricane Andrew in 1992, the Oklahoma City bombing in 1995 and the September 11 attacks.

Yet the Associated Press suggested Friday that White House plans to rebuild the Gulf Coast are discretionary.

"President Bush is presiding over the most expensive government relief and reconstruction operation in U.S. history, casting aside budget discipline," wrote reporter Tom Raum in a story headlined "The new New Deal?"

The next day, conservative John Podhoretz expressed alarm about the president's post-Katrina spending plans in a New York Post column.

"In ignoring the small-government sensitivities of conservatives," he wrote, "Bush may have done something politically catastrophic to his own presidency."

White House spokesman Trent Duffy countered that Mr. Bush has no choice.

"I guess you could make a discretionary decision not to rebuild this part of the United States, but it would be totally counterproductive," he said. "I mean, it's critical to the economy."

He pointed out that most of the money will be spent on indispensable items such as military and transportation facilities.

"A lot of the big-ticket items are roads -- those are a national asset," he added. "I mean, the farmers in Ohio use the roads in Louisiana and use the navigable waterways of the Mississippi River to ship their agriculture exports to the rest of the world.

"The other big-ticket items are military bases and Veterans Affairs hospitals," he added. "Does any self-described conservative want to not rebuild our military bases or VA hospitals?"

Still, such conservatives as OpinionJournal.com assistant editor Brendan Miniter are urging the White House to exercise restraint.

"Katrina is swamping every goal conservatives have, from limiting government to cutting taxes to reforming entitlement programs," he wrote yesterday on the site, published by the Wall Street Journal. "Katrina spending has already imperiled plans to repeal the death tax."

Yesterday, Treasury Secretary John W. Snow acknowledged the president's push to repeal the death tax and make other tax cuts permanent has been placed on the "back burner" because of Katrina.

"It's taken over the national agenda, and I think it will for a while," Mr. Snow told the National Association of Federal Credit Unions. "I think it will push to the back burner some issues that otherwise would have been on the agenda now -- the estate tax, tax [cut] permanency."

But the White House said yesterday that the president has every intention of making his tax cuts permanent and repealing the death tax.

"Keeping taxes low is the foundation of the president's economic program," Mr. Duffy said. "The president will block any attempt by Democrats to raise taxes."

Message: I Can't (NYT)

By Maureen Dowd

The New York Times, September 21, 2005

WASHINGTON

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The president won't be happy until he dons a yellow slicker and actually takes the place of Anderson Cooper, violently blown about by Rita as he talks into a camera lens lashed with water, hanging onto a mailbox as he's hit by a flying pig in a squall, sucked up by a waterspout in the eye of the storm over the Dry Tortugas.

Then maybe he'll go back to the White House and do his job instead of running down to the Gulf Coast for silly disaster-ops every other day.

There's nothing more pathetic than watching someone who's out of touch feign being in touch. On his fifth sodden pilgrimage of penitence to the devastation he took so long to comprehend, W. desperately tried to show concern. He said he had spent some "quality time" at a Chevron plant in Pascagoula and nattered about trash removal, infrastructure assessment teams and the "can-do spirit."

"We look forward to hearing your vision so we can more better do our job," he said at a briefing in Gulfport, Miss., urging local officials to "think bold," while they still need to think mold.

Mr. Bush should stop posing in shirtsleeves and get back to the Oval Office. He has more hacks and cronies he's trying to put into important jobs, and he needs to ride herd on that.

The announcement that a veterinarian, Norris Alderson, who has no experience on women's health issues, would head the F.D.A.'s Office of Women's Health ran into so much flak from appalled women that the F.D.A. may have already reneged on it. No morning-after pill, thanks to the antediluvian administration, but there may be hope for a morning-after horse pill.

Mr. Bush made a frownie over Brownie, but didn't learn much. He's once more trying to appoint a nothingburger to a position of real consequence in homeland security. The choice of Julie Myers, a 36-year-old lawyer with virtually no immigration, customs or law enforcement experience, to head the roiling Immigration and Customs Enforcement Agency with its $4 billion budget and 22,000 staffers, has caused some alarm, according to The Washington Post.

Ms. Myers's main credentials seem to be that she worked briefly for the semidisgraced homeland security director, Michael Chertoff, when he was at the Justice Department. She just married Mr. Chertoff's chief of staff, John Wood, and she's the niece of Gen. Richard Myers, the chairman of the Joint Chiefs of Staff.

As a former associate for Ken Starr, the young woman does have impeachment experience, in case the forensic war on terrorism requires the analysis of stains on dresses.

Julie makes Brownie look like Giuliani. I'll sleep better tonight, knowing that when she gets back from her honeymoon, Julie will be patrolling the frontier.

As if the Veterinarian and the Niece were not bad enough, there was also the Accused. David Safavian, the White House procurement official involved in Katrina relief efforts, was arrested on Monday, accused by the F.B.I. of lying and obstructing a criminal investigation into the seamy case of "Casino Jack" Abramoff, the Republican operative who has broken new ground in giving lobbying a bad name. Democrats say the fact that Mr. Safavian's wife is a top lawyer for the Republican congressman who's leading the whitewash of the White House blundering on Katrina does not give them confidence.

Just as he has stonewalled other inquiries, Mr. Bush is trying to paper over his Katrina mistakes by appointing his homeland security adviser, Frances Townsend, to investigate how the feds fumbled the response.

Mr. Bush's "Who's Your Daddy?" bravura - blowing off the world on global warming and the allies on the Iraq invasion - has been slapped back by Mother Nature, which refuses to be fooled by spin.

When Donald Rumsfeld came out yesterday to castigate the gloom-and-doomers and talk about the inroads American forces had made against terrorists in Afghanistan and Iraq, he could not so easily recast reality.

In Afghanistan, the U.S.'s handpicked puppet president is still battling warlords and a revivified Taliban, and the export of poppies for the heroin trade is once more thriving.

Iraq is worse, with more than 1,900 American troops killed. Five more died yesterday, as well as four security men connected to the U.S. embassy office in Mosul, all to fashion a theocratic-leaning regime aligned with Iran. In Basra, two journalists who have done work for The Times have been killed in the last two months.

The more the president echoes his dad's "Message: I care," the more the world hears "Message: I can't."

Bush: Townsend To Lead Katrina Inquiry (REU-Y2)

DOJ_NMG_0007041

Reuters, September 21, 2005

U.S. President George W. Bush has named his homeland security adviser, Fran Townsend, to lead an internal inquiry into the much-criticized federal response to Hurricane Katrina, the White House said on Tuesday.

Townsend will look at "what went right, what went wrong and lessons learned from the federal response to Hurricane Katrina," said spokesman Trent Duffy, who spoke as Bush prepared to make his fifth trip to the disaster zone.

Bush has come under heavy fire for his handling of the hurricane and its aftermath. A CNN/USA Today/Gallup poll released on Monday said 41 percent of Americans approved of his handling of the ordeal, compared to 57 percent who disapproved.

A separate congressional inquiry will also investigate what went wrong with the federal response. But Bush so far has refused to back calls from Democrats for an independent commission to look at the disaster response.

A memo from White House chief of staff Andrew Card directed government departments and agencies to designate by Tuesday one senior official to be the coordinator to work with Townsend for their specific agency.

The memo directed agencies to give this effort "their full attention and highest priority," Duffy said.

The goal is to apply lessons learned to future emergencies.

"The president said he wanted to hold people accountable. This is one of the many ways in which he will do that," the spokesman said.

Katrina slammed into Louisiana and Mississippi on August 29 with 140 mile-per-hour (224 kph) winds and a 30-foot (nine-metre) storm surge. Levees in New Orleans collapsed, flooding the city and leaving thousands of people stranded without any way to leave.

The Louisiana death toll had risen to 736 as of Monday, bringing the total dead from Katrina to 973, including 218 in Mississippi and 19 combined in Florida, Georgia, Alabama and Tennessee.

What We Know So Far - And What We Don't (CSM)

By Peter Grier

The Christian Science Monitor, September 21, 2005

WASHINGTON - Why did it take so long? Why was government at almost all levels sluggish in providing aid to the victims of hurricane Katrina?

That's an issue that will preoccupy Washington for months to come. This week, President Bush appointed domestic security adviser Frances Townsend to lead an internal White House inquiry. And Congress will almost certainly authorize a full-scale investigation into the Katrina response, though its form and timing are still disputed.

Individual congressional panels have already begun to hold hearings, but testimony so far has dealt with preparation for future disasters, not the havoc wrought by Katrina's fury.

That said, some lines of questioning are already obvious. From unread plans to unmobilized troops, to a command structure that at times seemed less organized than a soccer team of 7-year-olds, the Katrina response was a case study in confusion. Official briefings, after-action reports, and media accounts have begun to sketch in some crucial details about why this might have been so. Plan? What plan?

Disaster plans were either incomplete, or ignored. Take the Louisiana State Emergency Operations Plan, drawn up in 2000. It has an extensive section on the evacuation of southeast Louisiana, and subsequent sheltering of evacuees, in the event of a hurricane. According to the plan, those not able to drive away from New Orleans were to be transported on locally obtained buses.

Yet New Orleans city officials had long known that those buses would not be forthcoming. From Mayor Ray Nagin (D) on down, they have said that they knew they didn't have the resources to empty out the city as the plan said. As Mr. Nagin told The Wall Street Journal, his own plan was "get people to higher ground and have the Feds and the state airlift supplies to them."

An unanswered question is why the city did not use the resources it did have, even if those might not have been enough to fully transport the estimated 20 percent of the city that didn't leave by car. New Orleans had upwards of 300 buses, plus hundreds of school buses and other municipal vehicles.

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Similarly, the relevance of the Department of Homeland Security's National Response Plan (NRP) to the effort that evolved now seems in question.

Released in December 2004, the NRP is an attempt to reorient national disaster preparedness. The Federal Emergency Management Agency (FEMA), formerly an independent agency, is now part of the larger Homeland Security bureaucracy. Its main stated mission is to support state and local responders.

Thus FEMA waited for state and local officials to provide it with detailed lists of needs. As former director Michael Brown told The New York Times last week, "I never received specific requests for specific things that needed doing."

State and local officials, for their part, were perhaps still thinking about the old, independent FEMA. They were quickly overwhelmed by the disaster, and felt they had neither the time nor information to provided request spreadsheets.

As Congress furthers its Katrina inquiries, it will surely weigh whether FEMA should be plucked out of the larger Department of Homeland Security and made separate once again.

"We would have expected a sharp, crisp response to this terrible tragedy," said Sen. Susan Collins (R) of Maine, chairman of the Senate Homeland Security Committee, at a kickoff hearing on Katrina last week. "Instead, we witnessed what appeared to be a sluggish initial response." Who's in charge?

Perhaps no single issue contributed to the slow-footedness of the initial Katrina response more than lack of leadership structure. As is now well-documented, top officials had little idea of who was in charge of what, when.

On Aug. 29, for instance, FEMA director Mr. Brown was in Baton Rouge, La. He has said he repeatedly warned his superiors in Washington that state and local officials were at odds, or not communicating, and that he was struggling to establish a "unified command."

The next day, 36 hours after the storm first hit, Department of Homeland Security (DHS) Secretary Michael Chertoff finally issued a memo that declared FEMA's Brown the "principal federal official" to coordinate Katrina response. He also declared the storm an "incident of national significance," invoking the full powers of the National Response Plan.

Yet Mr. Bush had already declared the area a disaster zone on Aug. 27, prior to the storm making landfall. Some DHS officials believe that that declaration had already involved the NRP, making Mr. Chertoff's later move irrelevant.

Not that state and local officials were looking for the feds to provide an on-site hurricane czar, they say. In one instance, Louisiana Gov. Kathleen Blanco (D) turned down an attempt by Washington to assert more authority. On Sept. 2, she refused to sign over her 13,000 National Guard troops to federal control. She worried that the request was political, allowing Washington to depict prior failures as her fault. Send in the Marines

There is one national resource over which the White House has unquestioned command: the active-duty military. And in the wake of Katrina, some in Washington think the Pentagon should be more involved in the immediate response to disasters, whether they be storms or terrorist attacks.

Sen. John Warner (R) of Virginia, chairman of the Senate Armed Services Committee, sent President Bush a letter last week saying it may be time to rethink long-standing laws that hinder the ability of active-duty troops to operate in the US.

These laws, such as the Posse Comitatus Act of 1878, generally prohibit the military from being used for domestic law enforcement. They were originally enacted to protect the nation against even a hint of military tyranny.

In part, this may be a reaction to reports that frustrated military units were held up prior to deployment to the Gulf, or never deployed at all. Units of the 82nd Airborne were reportedly put on alert on Aug. 30, for example, but then not immediately sent. Some military helicopter units in the Gulf felt they could have easily flown rescue missions, but were not tapped soon enough.

Specialized active-duty military personnel did begin racing toward the Gulf in Katrina's immediate wake. Air Force search-and-rescue teams, which include active, reserve, and Guard airmen, were at work in the region within 36 hours. But it was not until six days after the hurricane had hit land that Bush announced deployment of a large number of active-duty troops: 7,200, including Marines.

This is a separate issue from that of the strength of local National Guards. Louisiana has 3,000 Guard troops serving in Iraq, and it's not yet clear whether this had any effect on the ability of state guard commanders to respond to the storm.

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As Katrina's lessons are sorted, sober conclusions are already being drawn. "The Katrina disaster and the failure of leadership at so many levels ... has had to have encouraged terrorists," said former Secretary of the Navy John Lehman, a member of the 9/11 commission, last week.

Local, state, and federal officials all need to take action, said Lehman, "before it's too late."

Democrats Say Relief Effort Needs Independent Inquiry (NYT)

By Philip Shenon And Anne E. Kornblut

The New York Times, September 21, 2005

WASHINGTON, Sept. 20 - Congressional Democrats said on Tuesday that the arrest of a former senior White House budget official involved in organizing the federal response to Hurricane Katrina demonstrated the need for an independent investigation of the government's reaction to the disaster, especially since the official is married to a leading Republican Congressional aide.

The official, David H. Safavian, 38, a lawyer who was chief of procurement policy in the Office of Management and Budget until he resigned on Friday, was arrested Monday on charges of lying to federal investigators about his relationship with Jack Abramoff, a Washington lobbyist at the center of a corruption investigation at the Justice Department.

Mr. Safavian, who is free without bail, was also accused of lying about a 2002 golfing trip he took with Mr. Abramoff, a former lobbying partner, when Mr. Safavian worked at the General Services Administration.

Representative Nancy Pelosi of California, the House Democratic leader, said the arrest of Mr. Safavian undermined the credibility of a House Republican plan to investigate the troubled hurricane-relief effort through a committee to be led by Representative Thomas M. Davis III, Republican of Virginia. Mr. Safavian's wife, Jennifer, is chief counsel for oversight and investigations on the House Government Reform Committee, which Mr. Davis leads.

"Spouses are not responsible for their counterpart's activities," Ms. Pelosi said at a news conference. "But I do say when there is a direct link to the White House and procurement and the investigation that this committee is supposed to conduct, then I think that really shatters all sense of confidence."

Her criticism was echoed on Capitol Hill, with Democrats saying that beyond the criminal charges, Mr. Safavian had lacked the background for an important federal procurement post. They also said he was one of several senior Bush administration officials involved in the sluggish hurricane-relief effort who had been chosen for their jobs because of political connections.

Michael D. Brown, who was chosen by President Bush to direct the Federal Emergency Management Agency, resigned last week after widespread criticism that he and many of his top aides had had little emergency management experience.

Democrats have also been critical of the recent nomination of a lawyer with little immigration experience to lead the Immigration and Customs Enforcement agency within the Department of Homeland Security. The lawyer, Julie L. Myers, is the niece of Gen. Richard B. Myers of the Air Force, the chairman of the Joint Chiefs of Staff.

"I'd be interested in how Mr. Safavian got his job," Ms. Pelosi said. "Mr. Safavian doesn't have the credentials that would justify his being the top procurement person for the White House. Did any influential members of Congress recommend him to that job? Is there a connection between his wife and that recommendation?"

The General Services Administration, which manages government buildings and other property, refused to answer questions Tuesday about how Mr. Safavian got his job as the agency's chief of staff from 2002 until last year.

Clay Johnson III, deputy director of management for the Office of Management and Budget, said in a statement that he had urged that Mr. Safavian be hired at the budget office last year because "I was impressed with his knowledge of the issues, agencies and the Hill."

"No one interfered or pressured me to do it," Mr. Johnson said.

Mr. Safavian was involved in developing broad policies for federal contracting in the hurricane-relief effort along the Gulf Coast, but Mr. Johnson said Mr. Safavian had nothing to do with awarding individual contracts for emergency relief work.

"No one at O.M.B.," he said, "including Mr. Safavian, is authorized to be involved in any contracting decisions, and I'm not aware of that happening. It's not part of our mission."

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Mr. Davis said through a spokesman that he had done nothing to help Mr. Safavian obtain his jobs in the administration.

Mr. Safavian and his wife did not respond to telephone messages left at their home in Alexandria, Va. The Justice Department did not notify news organizations of the arrest until after Mr. Safavian had made his first court appearance, which prevented reporters from observing the hearing. His lawyer also did not return phone calls for comment.

The White House and the Department of Homeland Security stepped up their efforts on Tuesday to rescue the nomination of Ms. Myers, a former federal prosecutor in Brooklyn, to the immigration post.

"Julie Myers is well-respected within the law enforcement community and highly qualified to lead the Immigration and Customs Enforcement," said Erin Healy, a White House spokeswoman. "We will work with the Senate to ensure her confirmation."

But the nomination faced new challenges, some not directly related to Ms. Myers's qualifications.

Senator Carl Levin, Democrat of Michigan, threatened Tuesday to block the nomination unless he received a secret F.B.I. memo about interrogations of terror suspects that he has been seeking for months; the May 2004 memorandum details the concerns of F.B.I. agents about the interrogation of suspected members of Al Qaeda held at the Navy base at Guantánamo Bay, Cuba.

Democrats have questioned whether the memorandum mentions Michael Chertoff, who directed the Justice Department's criminal division in Mr. Bush's first term and who is now the secretary of homeland security. Ms. Myers, whose nomination to the Homeland Security job was the subject of an article in the Tuesday editions of The Washington Post, had been Mr. Chertoff's chief of staff at the Justice Department. She married Mr. Chertoff's current chief of staff last weekend.

Aide Was Reticent On Lobbying For Foreign Clients (WP)

By Susan Schmidt And R. Jeffrey Smith

The Washington Post, September 21, 2005

David H. Safavian, the Bush administration official arrested Monday, initially failed to disclose lobbying work he had done for several controversial foreign clients when he went before a Senate panel last year to be confirmed as chief of the White House's federal procurement office.

The Senate Governmental Affairs Committee held up Safavian's nomination for more than a year, in part because of lawmakers' concerns about lobbying work for two men later accused of links to suspected terrorist organizations, according to committee documents. Safavian did not disclose his firm's representation of the men until questioned in writing by the committee's staff, and initially failed to tell the panel he had registered as a foreign agent for two controversial African regimes.

The Senate panel nevertheless approved him unanimously and the Senate followed suit on Nov. 21, 2004.

Safavian was arrested Monday on charges of lying and obstructing an investigation into former powerhouse lobbyist Jack Abramoff's dealings with the federal government. Safavian resigned his government post Friday. Yesterday, his attorney, Barbara Van Gelder, did not return telephone calls seeking comment.

Senate approval of Safavian occurred two months after The Washington Post disclosed Safavian's participation in an August 2002 Scotland golf trip with Abramoff. That trip was central to the criminal complaint against Safavian unsealed on Monday.

Yesterday, a spokeswoman for committee chairwoman Susan Collins (R-Maine) said the review of Safavian's background had been thorough.

"Based on our extensive review of his qualifications and background, we had no reason to believe that Mr. Safavian had engaged in any wrongdoing," said a spokeswoman for Sen. Joseph I. Lieberman (Conn.), the committee's senior Democrat at the time of the vote.

The record of Safavian's confirmation shows extensive questioning by the committee staff about his alleged lobbying for local Muslim leader Abdurahman Alamoudi, who in October 2000 made widely publicized comments supporting Hezbollah and the Islamic Resistance Movement, or Hamas, at a rally in Lafayette Park.

Lobby disclosure forms originally filed by Safavian's firm, Janus-Merritt Strategies, show that it represented Alamoudi, a prominent Muslim activist, until 2001. Alamoudi has since been convicted and imprisoned for accepting money from the Libyan government as part of an alleged plot to assassinate the crown prince of Saudi Arabia.

Janus-Merritt Strategies changed its lobby disclosure forms in 2001 to indicate that its client was not Alamoudi but Jamal Barzinji. In March 2002, Barzinji was named in a search warrant affidavit filed by a Customs Service official as "the officer or director" of a group of entities in Northern Virginia "controlled by individuals who have shown support for terrorists or terrorist fronts." No charges have been filed against Barzinji, and he has denied any wrongdoing.

Safavian told the committee in an April 16, 2004, letter that he and his firm never did any work for Alamoudi. He said the firm lobbied at Barzinji's request to gain U.S. support to free the former deputy prime minister of Malaysia, Anwar Ibrahim, who was imprisoned for six years.

Safavian also told the committee that he had "overlooked" two other clients while preparing his initial submissions for the OMB position. He did not initially mention work as a registered foreign agent for Gabon, a country persistently rated by the United States as having a "poor" human rights record, or his work as a registered foreign agent for Pascal Lissouba, the former president of the Republic of Congo who has been tried in absentia for treason and embezzlement.

Safavian, former chief of staff at the General Services Administration, is charged with three counts of making false statements and obstructing a GSA investigation into his ties with Abramoff. Before joining the government, Safavian worked as a lobbyist with Abramoff, then founded Janus-Merritt Strategies with conservative antitax crusader Grover Norquist.

As a lobbyist, he represented the government of Pakistan on military sales matters and the Islamic Institute in an effort to promote a U.S. postage stamp commemorating Ramadan. With Abramoff, he also represented the Commonwealth of Northern Mariana Islands, a U.S. protectorate, to try to block the imposition of minimum wage rules.

In its probe, the Senate committee also raised questions about a potential conflict of interest between Safavian and his wife, Jennifer, the chief counsel for oversight and investigations at the House Committee of Government Reform, which oversees federal procurement policy matters.

Safavian said his wife had pledged to recuse herself from "any matters where the conduct of officials and employees" at the Office of Management and Budget the principal issue, "as well as matters relating specifically to procurement policy, competitive sourcing, or information technology."

Ex-GSA Official Charged With Hindering Probe (WT/AP)

By Associated Press

The Washington Times, September 21, 2005

A former Bush administration official is charged with making false statements and obstructing a federal investigation into his dealings with lobbyist Jack Abramoff.

David Safavian, a former chief of staff of the General Services Administration (GSA) and Abramoff lobbying associate, concealed from federal investigators that Mr. Abramoff was seeking to do business with the government when Mr. Safavian, a GSA official at the time, joined him on a golf trip to Scotland in 2002, according to an FBI affidavit and government officials.

FBI agent Jeffrey A. Reising said in the affidavit that a lobbyist -- identified elsewhere as Mr. Abramoff -- had enlisted Mr. Safavian's help in trying to gain control of 40 acres of land at the Federal Research Center at White Oak in Silver Spring for a private high school that Mr. Abramoff helped establish.

Mr. Safavian edited a letter that the lobbyist was preparing to send to the GSA and arranged and attended a meeting involving a GSA official, the lobbyist's wife and others to discuss leasing the property, according to the affidavit.

Mr. Abramoff told his wife to use her maiden name at the meeting because Mr. Safavian sought to play down Mr. Abramoff's involvement, according to the affidavit.

Mr. Safavian was given clearance to go on the August 2002 golf trip after telling the GSA's ethics officer that the lobbyist "has no business before GSA," according to the affidavit.

Nine persons, including Rep. Bob Ney, Ohio Republican, made the trip and played golf on the fabled Old Course at St. Andrews in Scotland. Mr. Safavian paid $3,100 for the travel, "in the exercise of discretion," he said, as quoted in the affidavit.

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Mr. Safavian moved to the Office of Management and Budget last year, becoming the administration's top procurement official. He resigned from that post, effective Friday, OMB spokesman Alex Conant said.

No one answered the phone at a listing for Mr. Safavian in Alexandria.

Mr. Safavian worked with Mr. Abramoff on the team at the Preston, Gates & Ellis law firm that was lobbying to keep the Northern Mariana Islands free from certain U.S. labor and immigration laws during the last half of the 1990s.

Mr. Abramoff is not named in the affidavit, but two government officials confirmed he is the person referred to in the affidavit as Lobbyist A. They spoke on the condition of anonymity because the investigation is still under way.

In addition, Mr. Safavian was asked in February for information about the golf trip by the Senate Indian Affairs Committee. Both the Senate panel and a federal grand jury are investigating deals in which Mr. Abramoff and an associate received at least $66 million from six Indian tribes to lobby for their casinos and other interests.

Separately, Mr. Abramoff has pleaded not guilty to a six-count federal fraud and conspiracy indictment stemming from his role in the 2000 purchase of a fleet of gambling boats in Florida.

No Progress In Fight Over Hurricane Panel (RC)

By Erin P. Billings And Ben Pershing

Roll Call, September 21, 2005

Democrats and Republicans in both chambers remained unwilling Tuesday to cede ground on the terms of the joint bicameral committee tasked with investigating the federal government's response to Hurricane Katrina, leaving the select panel's future in question.

While some talks appeared to be under way in the Senate, the House remained deadlocked on the composition of the panel. House Democrats continued to press their call for an independent panel modeled after the 9/11 Commission, while the GOP leadership was poised to move forward and appoint its members to the joint committee today.

House Republicans vowed to forge ahead with the panel regardless of whether Democrats decide to participate.

"I would just once again call on the Democrats, in the interest of the truth and the victims of Hurricane Katrina, to set aside any partisan hostilities and join the Republicans and the bipartisan, bicameral joint select committee to review the preparations in response to the devastating hurricane," Majority Leader Tom DeLay (R-Texas) said during his regular press briefing.

DeLay declined to speculate on whether Speaker Dennis Hastert (R-Ill.) might choose to appoint Democrats to the panel himself if House Minority Leader Nancy Pelosi (D-Calif.) declines to do so. He also pointed out that Katrina committee Chairman Tom Davis (R-Va.) already has announced plans to call former Federal Emergency Management Agency Director Michael Brown as a witness and said that it would be "pretty irresponsible of the Democrats to miss that opportunity" to question him.

Pelosi, for her part, reiterated her position Tuesday, saying Democrats will not come to the table and participate unless Republicans give them equal representation on the committee as well as full subpoena power. The 20-person panel would be made up of 11 Republicans and nine Democrats under the GOP proposal.

Brendan Daly, spokesman to Pelosi, said: "As it stands now, it's a sham. There's been no change in her position on that."

Daly added that Democrats will not participate with Republicans on the joint committee unless concessions are made, and at this point, "there's been no attempt [by Republicans] to compromise."

House Minority Whip Steny Hoyer (D-Md.) said Tuesday that a 9/11-style commission is the best and only way to ensure Americans get the answers they deserve about the Katrina response. He added that it is critical to find out why — four years after 9/11 — "we were still so ill prepared to respond effectively."

"The public saw the 9/11 Commission, they thought the 9/11 Commission did a good job," Hoyer said.

As the hard-line jockeying continued between party leaders, the political stakes in the battle continued to escalate. New opinion polls released Tuesday showed the American public panning the White House response to Katrina, and when coupled with the continued military problems in Iraq and soaring gasoline prices, President Bush remains mired at the lowest approval ratings of his presidency.

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But Congressional Democrats also face a risk in appearing to obstruct any investigation, despite the fact that polling showed a huge majority of respondents favoring an independent commission. One House Democratic leadership aide suggested that it is politically tenuous for either party to keep up the stalemate indefinitely.

"Who is going to give any credibility to an investigation that is led by a Republican and only involves Republicans?" this source said. "I think that it behooves both sides to come to a compromise, but that doesn't mean that a compromise is going to occur."

Across the Capitol, Senate Majority Leader Bill Frist (R-Tenn.) and Minority Leader Harry Reid (D-Nev.) were expected to meet today to discuss the select committee controversy.

Reid has been under heavy pressure from Pelosi and other Democrats not to go along with Frist's plan to use the Homeland Security and Governmental Affairs Committee, chaired by Sen. Susan Collins (R-Maine), as the main vehicle to lead the Senate's investigation into the Bush administration handling of the Katrina crisis.

Senate GOP leadership aides said it was vital for Congress to discharge its oversight role in probing the Katrina disaster immediately, adding that there was time for an independent commission to be appointed after the present crisis has been resolved.

"This is no time for Congress to give up its oversight role," said a Republican staffer. "This is a time for action, and this is what standing committees are designed for. A select committee could also be helpful, but Congress needs to act, and an independent commission releasing some report in a year is not going to help anything."

Reid, though, has objected to Frist's proposal for a select committee. Democrats believe the proposal, as drafted, does not cover a long enough time period to investigate and also gives too much weight to the House in deciding what direction the panel should take. "As it is currently drafted, Sen. Reid will oppose" the Frist select-committee proposal, said Rebecca Kirsner, a Reid aide.

Without a plan for a joint committee in place, GOP leaders are striving to show that their party is actively moving ahead in addressing the humanitarian crisis wrought by Katrina.

Senate Republicans were briefed Tuesday by Office of Management and Budget Director Josh Bolton on the status of the Katrina recovery effort. Bolton's briefing included a detailed breakdown of how and where the Bush administration has spent the $62 billion in emergency funds appropriated by lawmakers so far.

Bolton told the GOP Senators that the administration has disbursed roughly $16 billion so far, and some Republican insiders are now beginning to question whether an additional emergency supplemental will even be necessary, especially if tight controls are implemented on funding recovery programs for Katrina victims.

Sen. Trent Lott (R-Miss.), whose home state was hit hard by Katrina, cautioned his colleagues in an emotional appeal to be careful about appearing insensitive to the plight of those whose lives were disrupted by Katrina. "It's not all about the money," the Mississippi Republican said on Tuesday of his closed-door speech to the Senate GOP Conference. "We have to make sure we are aware that a lot of people have lost everything. Nobody is saying don't worry about how we spend federal funds. Be we need to get people back on their feet first."

Katrina's Cost May Test GOP Harmony (WP)

By Shailagh Murray And Jim Vandehei

The Washington Post, September 21, 2005

Congressional Republicans from across the ideological spectrum yesterday rejected the White House's open-wallet approach to rebuilding the Gulf Coast, a sign that the lockstep GOP discipline that George W. Bush has enjoyed for most of his presidency is eroding on Capitol Hill.

Trying to allay mounting concerns, White House budget director Joshua B. Bolten met with Republican senators for an hour after their regular Tuesday lunch. Senators emerged to say they were annoyed by the lack of concrete ideas for paying the Hurricane Katrina bill.

"Very entertaining," Sen. John McCain (R-Ariz.) said sarcastically as he left the session. "I haven't heard any specifics from the administration."

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"At least give us some idea" of how to cover the cost, said Sen. Conrad Burns (R-Mont.), who is facing reelection in 2006. "We owe that to the American taxpayer."

The pushback on Katrina aid, which the White House is also confronting among House Republicans, represents the loudest and most widespread dissent Bush has faced from his own party since it took full control of Congress in 2002. As polls show the president's approval numbers falling, there is growing concern among lawmakers that GOP margins in Congress could shrink next year, and even rank-and-file Republicans are complaining that Bush is shirking the difficult budget decisions that must accompany the rebuilding bonanza.

Rep. Tom Feeney (R-Fla.) said he and other fiscal conservatives are feeling "genuine concern [which] could easily turn into frustration and anger."

Congressional Republicans are not arguing with Bush's pledge that the federal government will lead the Louisiana and Mississippi recovery. But they are insisting that the massive cost -- as much as $200 billion -- be paid for. Conservatives are calling for spending cuts to existing programs, a few GOP moderates are entertaining the possibility of a tax increase, and many in the middle want to freeze Bush tax cuts that have yet to take effect.

The resistance suggests that Bush's second term could turn out far rockier and more contentious than his first. One indicator many Republicans are watching to gauge whether Bush is becoming a liability for the party is in Pennsylvania, where Rick Santorum, the No. 3 Republican in the Senate, is trailing state treasurer Bob Casey Jr. by double digits.

"My caucus would do anything for Senator Santorum," Sen. Lincoln D. Chafee (R-R.I.) said of his colleague. Chafee, who himself faces a tough reelection battle next year, predicted Republicans will increasingly be faced with the choice of propping up Bush or protecting their own. "I think they're going to collide," Chafee said of the two options.

Asked whether Bush's problems were a factor in his slump, Santorum responded, "That may be."

The White House is aware of the growing political problem and has moved on several fronts to pacify Republicans -- with decidedly uneven results. Treasury Secretary John W. Snow, in a speech yesterday, said the White House will be forced to put several plans on the "back burner," including changes to the estate tax and permanently extending first-term tax cuts. "It's taken over the national agenda, and I think it will for a while," he said.

This prompted protests from one of the White House's closest allies, House Majority Leader Tom DeLay (R-Tex.), who said waiting on taxes was unacceptable. But White House officials said Snow was accurately reflecting Bush's intentions.

Amid this friction, top White House officials told Republicans the relief and recovery package could come in much lower than widely quoted projections of $200 billion. Some House GOP leaders also are urging their colleagues to cool off, reminding them that the true cost of the relief effort is not yet known.

"There are tough choices that are going to have to be made," said White House spokesman Scott McClellan. "We're going to have to cut unnecessary spending elsewhere in the budget to offset some of the cost with Katrina."

House conservatives are particularly riled. Unhappy about spending growth during Bush's first term, they thought they had slowed the pace when Congress passed a relatively austere fiscal 2006 budget this spring.

A group of these conservatives, including Feeney, plans today to present to the White House a proposal to cover the cost of the entire Katrina relief and reconstruction package. Dubbed "Operation Offset," it will include repealing many of the pork-barrel projects stuffed into the $286 billion highway bill that Bush signed into law a few weeks before Katrina struck.

McCain called on Bush to undo the Medicare prescription drug law, while a number of lawmakers said the costly benefit should at least be postponed from its January starting date. Republicans are pressing ahead with the Medicare changes, even as the White House spreads the word it is opposed to such a move.

In one of the most unexpected proposals to cover the reconstruction costs, Rep. Vernon Ehlers (R-Mich.) raised the possibility of raising taxes. Other Republicans say that while a tax increase is unlikely, Bush tax cuts that are scheduled to take effect in coming years may be in serious jeopardy.

Sen. George V. Voinovich (R-Ohio) said he will even comb through the Pentagon budget for cost savings. "Many of us think that we need to step back and look at what we're doing and reevaluate it," Voinovich said. But he added that "someone has to look at the big picture" -- and that someone should be the president. "The vision is missing," Voinovich said.

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A new Gallup poll shows a majority of Americans believe the mission in Iraq should be cut to cover the recovery costs, while only a small fraction support slashing other domestic programs, raising taxes or increasing the deficit to finance it. New Orleans also has emerged as the chief target of angst. "The question is do we really want to flood New Orleans with money," said Rep. Jack Kingston (R-Ga.).

Kingston said he has detected a building hostility toward New Orleans among his constituents, based on reports that local officials mismanaged the crisis, along with federal dollars that had previously flowed the region's way. "What we are hearing from constituents is: 'Wait a minute, slow down on this,' " Kingston said.

Deficits have rarely emerged as a potent political issue, with the exception of Ross Perot's independent bid for the presidency in 1992, but some worried Republicans believe the deficit may soon reach an untenable level, especially if Democrats can link it to Republican mismanagement.

"I don't know that anyone ever lost a race because of the deficit, but there is concern" that it could happen this time around, said Rep. Thomas M. Davis III (R-Va.), the former head of the National Republican Congressional Committee. "You can't just keep piling up debt."

Message Chaos Afflicts Both Parties As Katrina Aftermath Washes Discipline Away (WP)

By Dana Milbank

The Washington Post, September 21, 2005

For about an hour and a half yesterday, Republicans had a new tax-cut policy.

Addressing a group of credit-union officials in the morning, Treasury Secretary John W. Snow said that hurricane recovery spending would "push to the back burner" the GOP's plans to extend the tax cuts this year.

But about 90 minutes later, House Majority Leader Tom DeLay (R-Tex.) held a news conference in his office and asserted that "we're not reexamining" the commitment to extend the tax cuts. "That's not an option," DeLay said, then, for emphasis, added: "Not an option."

Across the aisle and on the other side of the Capitol, Democrats were having similar difficulty staying on message. Senate Minority Leader Harry M. Reid (D-Nev.) went to the Senate floor to announce his opposition to Supreme Court nominee John G. Roberts Jr., and to say that "senators should take notice" of the civil rights objections to the nominee.

But as those words were ringing through the chamber, the ranking Democrat on the Senate Judiciary Committee, Sen. Patrick J. Leahy (Vt.), was outside the cloakroom telling reporters that Reid "is speaking as an individual and as the senior senator from Nevada." The leader of the Democrats, Leahy said, is "not speaking for the caucus."

Katrina has washed away party discipline in Washington. With President Bush submerged -- a Gallup poll released yesterday showed that his support has actually fallen to 40 percent since his prime-time speech from Louisiana last week -- Republicans decided to stake out their own positions. And Democrats, with no obvious party leader, are quarreling over message and messenger.

The result: It's every man for himself in Washington. Nature may abhor a vacuum, but politics loves one.

The chairman of the House Republicans' campaign effort, Rep. Thomas M. Reynolds (N.Y.), told colleagues that they should drop plans for Social Security legislation this year. House Speaker J. Dennis Hastert (Ill.) said Reynolds spoke only for himself.

Vice President Cheney said he sees no need for a "czar" to oversee the Katrina response. But Sen. John McCain (R-Ariz.) said after meeting with administration figures yesterday: "I feel we need a czar, an administrator."

The message chaos in the governing party would seem to present an opportunity for the Democrats. But the opposition party is itself divided. Oppose Roberts? Pull out of Iraq? Repeal tax cuts? Democrats are split -- and leaderless.

Democratic National Committee Chairman Howard Dean took a turn as party leader last week, comparing Roberts to DeLay and Bush aide Karl Rove. House Minority Leader Nancy Pelosi (Calif.) has also vied to speak for the party, calling Bush "oblivious, in denial, dangerous."

On Sunday, former president Bill Clinton took his turn as party leader, attacking the Bush tax cuts. Sen. John F. Kerry (Mass.) and John Edwards, his former running mate, gave dueling auditions for party leader on Monday.

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Yesterday, Reid took the party's reins. Apparently unable to settle on a theme for a morning news conference with Pelosi, the two leaders' news bulletin promised a smorgasbord: Katrina, the federal budget, judicial nominations and the Voting Rights Act.

In the afternoon, Reid held a session with reporters in which he acknowledged that his status as the party's Senate leader only goes so far. "Roberts will get plenty of votes" from Democrats, he said. Reid said he did not ask other Democrats to vote no because "you can only go to the well so many times."

As Reid abandoned hope of a party line on Roberts, Republicans down the hall were openly rebelling against the administration. After meeting with White House budget director Joshua B. Bolten, the GOP senators emerged decidedly off-message, demanding a recovery "czar" and criticizing Bush's spending habits.

Sen. Sam Brownback (R-Kan.) speculated that money will be saved because "we're going to be pulling troops out" of Iraq next year. Sen. Conrad Burns (R-Mont.) demanded "some idea" from the administration on Katrina spending, saying: "You'll spill more on the ground than you'll get to the trough."

DeLay, for his part, seemed to be paying the administration no attention at all. A week ago, at a time when Bush was saying "we're going to have to cut unnecessary spending" to pay for the Katrina response, DeLay said the House Republicans had cut just about everything there was to cut.

At his weekly news conference yesterday, when a reporter asked about future supplemental spending for Katrina, DeLay interrupted. "We don't know that there's going to be another supplemental," he said.

This seemed odd because Bolten had said two weeks earlier that he expected "a need for additional supplemental spending."

The reporter pressed, saying "we assume there is" going to be more Katrina spending.

"No," DeLay said, "we don't."

Katrina Clean-up Will 'hurt Bush Agenda' (FT)

By Caroline Daniel

Financial Times, September 21, 2005

The need to focus on the damage and clean-up from Hurricane Katrina will delay other parts of the administration's economic agenda, John Snow, US Treasury secretary, admitted on Tuesday.

"It's taken over the national agenda and I think it will for a while," said Mr Snow said during remarks to the National Association of Federal Credit Unions in Washington. "I think it will push to the back burner some issues that otherwise would have been on the agenda now the estate tax, tax cut permanence, GSEs [government-sponsored enterprises] and other things."

Mr Snow also played down estimates that reconstruction work following Katrina, which struck the Gulf coast on August 29, would eventually cost taxpayers $200bn (£110bn, €165bn).

"Will the relief and reconstruction by costly? Of course it will," he said. "But I want to assure you that this administration. . . will not stray from our course of federal deficit reduction."

White House officials denied that Mr Snow's remarks meant Mr Bush was re-thinking his agenda. "The president has said the Katrina recovery effort will be the top priority," said Trent Duffy, White House spokesman. "The rest of his agenda is still important. A lot of tax relief does not expire this year, so there is no tremendous urgency. He will not raise taxes."

Scott Milburn, spokesman at the Office of Management and Budget, added: "We think tax cuts still need to be made permanent. That is key to preserving our economic expansion."

The comments come amid fierce political skirmishing over tax cuts, and concern from both Democrats and Republicans about how to pay for post-Katrina reconstruction. There are also continued concerns about the $62bn in immediate hurricane relief approved in two separate bills by Congress.

Newt Gingrich, former House speaker, said: "Congress has granted $61,000 per person [to hurricane victims] in the Gulf Coast from the two panic bills. Before they go charging off a cliff, they need to look at that."

Democrats have used the battle over hurricane spending to resist efforts to make the tax cuts permanent. Those concerns were echoed on Monday by a prominent Republican senator, George Voinovich of Ohio.

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Yet many Republicans are eager to press ahead. When asked whether he would reconsider his stance on permanent tax cuts, Tom DeLay, House majority leader, said, “That is raising taxes and. . . that is not an option.” Mr DeLay also warned that failing to make the tax cuts permanent could “pour cold water” on economic growth.

Conservative members of the House Republican Study Committee are also expected on Wednesday to launch “Operation Offset” a push designed to outline ideas for spending cuts and to reduce the federal debt “so that the reconstruction costs aren't passed on to our nation's children and grandchildren in an enormous debt burden”, the group said.

Lawmakers Prepare Plans To Finance Storm Relief (New York Times)

By Carl Hulse

New York Times, September 21, 2005

WASHINGTON, Sept. 20 - Conservative House Republicans plan to recommend on Wednesday more than $500 billion in savings over 10 years to compensate for the costs of Hurricane Katrina as lawmakers continue to struggle to develop a consensus on the fiscal approach to the disaster.

At the top of a partial list of the potential cuts being circulated on Tuesday were previously suggested ideas like delaying the start of the new Medicare prescription drug coverage for one year to save $31 billion and eliminating $25 billion in projects from the newly enacted transportation measure.

The list also proposed eliminating the Moon-Mars initiative that NASA announced on Monday, for $44 billion in savings; ending support for the Corporation for Public Broadcasting, $4 billion; cutting taxpayer payments for the national political conventions and the presidential election campaign fund, $600 million; and charging federal employees for parking, $1.54 billion.

"What House conservatives will demonstrate through Operation Offset is that there is more than enough room in the federal budget to provide for the needs of the families affected by Katrina without raising taxes," said a House Republican aide who is working with lawmakers on the proposals and who insisted on anonymity because the package would not be made public until Wednesday.

The suggestions are certain to draw serious opposition from other lawmakers who consider those programs essential, illustrating the difficulty faced by the majority Republicans in finding acceptable ways to offset the hurricane costs.

Before the list was made public, Representative Tom DeLay of Texas, the House majority leader, declared that delaying the Medicare plan was a nonstarter. Mr. DeLay also expressed skepticism that most lawmakers would want to revisit the transportation bill, saying he would be reluctant to sacrifice the projects that he won for his district in the Houston area.

"My earmarks are pretty important to building an economy in that region," Mr. DeLay said of the local projects he backed in the bill. A watchdog group said those items totaled more than $114 million.

Mr. DeLay said Republicans would press ahead this year with their planned tax cuts, though Treasury Secretary John W. Snow told a trade association on Tuesday that some tax measures might have to be delayed, including a repeal of the estate tax and the effort to make permanent some cuts instituted earlier in the Bush administration.

"I think it will push to the back burner some issues that otherwise would have been on the agenda now," Mr. Snow said in a speech to the National Association of Federal Credit Unions.

Senate Republicans met for more than an hour on Tuesday with Joshua B. Bolten, director of the Office of Management and Budget, to try to hash out an approach to hurricane-related spending, a problem that lawmakers acknowledge is among the most difficult they have faced.

Senators said they continued to press the White House to name a prominent individual to oversee the relief effort, creating a central contact point for the flow of money, as well as many legislative proposals.

In the House, Democratic leaders called for establishing a special commission to try to prevent fraud and abuse in spending on the recovery.

"We need to make sure that federal contracts are awarded based on confidence and integrity instead of cronyism and greed," Representative Henry A. Waxman, Democrat of California, said. "And at long last, we need to start putting the interests of the taxpayers ahead of the private contractor."

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Senate Republican leaders promised to be diligent in overseeing the money, which they said was being spent more slowly than immediately after the storm. They said they would keep the deficit in mind.

Senator Bill Frist of Tennessee, the majority leader, said Congress needed "to make sure that that money is spent wisely, that it is spent with full accountability, that it is spent with fiscal responsibility and transparency."

There was a sharp split among Republicans. Some were more insistent on clearly defined cuts than others.

"There is no agreement to pay for this at all," Senator Judd Gregg, Republican of New Hampshire, said. "Those of us who would like to pay for it are very much a minority within our caucus."

Mr. DeLay said estimates that the recovery and rebuilding effort could cost $200 billion or more were unfounded. Other lawmakers disputed that, saying none of the rebuilding costs have been considered, as the Louisiana delegation is preparing a multibillion-dollar aid request.

Republicans Split Over Paying For Hurricane Aid (REU-Y2)

By Richard Cowan

Reuters, September 21, 2005

Republicans in Congress are deeply split over whether to pay for the burgeoning costs of hurricane relief by cutting domestic programs or to simply add billions of dollars to the growing U.S. national debt, top lawmakers and congressional aides said on Tuesday.

"There's no agreement to pay for this at all. Those of us who would like to pay for it are very much a minority within our caucus," said Senate Budget Committee Chairman Judd Gregg, a New Hampshire Republican.

A Senate leadership aide concurred, saying, "Judd's comment is probably accurate."

Congress has approved $62.3 billion in emergency aid following the death and destruction suffered along the Gulf Coast after Hurricane Katrina slammed ashore last month.

Some early estimates pegged the ultimate federal cost of repairing infrastructure, homes, businesses and farms in Louisiana, Mississippi and Alabama at around $200 billion.

Last week, House Majority Leader Tom DeLay told reporters that "it is right to borrow to pay for it."

But with the Bush administration expected to ask for another round of emergency funds in coming weeks, conservative Republicans in the House and Senate are increasingly vocal about the need to offset costs with domestic spending cuts.

Revisiting the issue on Tuesday, DeLay said, "We are in the process of looking" at spending cuts that might help pay for the biggest federal disaster relief effort in history.

He added that tax increases "are not an option."

In the Senate, Gregg refused to rule out tax hikes, saying Congress must "look at all functions of the budget, including the revenue side."

He refused to say whether a revenue review could include consideration of tax increases, putting off extensions of Republican tax cuts already enacted or raising the wide range of government fees on businesses and individuals.

"I'm willing to look at a revenue solution and I'm not going to get too specific about it," Gregg said after leaving a meeting of Senate Republicans also attended by Vice President Dick Cheney.

If Republicans choose the spending-cut route, a tough fight is anticipated. Prominent Republicans, including Sen. John McCain (news, bio, voting record) of Arizona, called for delaying next year's start of a Medicare prescription drug benefit for the elderly and cutting highway projects approved this summer.

DeLay called the Medicare postponement a "nonstarter" and noted President Bush had ruled out the idea. He said it would be difficult to reopen the highway legislation, which took two years to pass.

Also on Tuesday, the Federal Reserve raised key interest rates for the 11th straight time and signaled more increases to come, saying Hurricane Katrina will provide only a temporary setback to economic growth.

That conclusion is at odds with the views of some House Republicans, including Speaker Dennis Hastert, who have voiced support for an economic stimulus they say is needed to counter any hits the economy could take because of the storm.

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The liberal Center on Budget and Policy Priorities on Tuesday said such a package of tax cuts, which would likely help businesses and individuals not hit by the hurricane, would be "costly" and "ill-advised."

(Additional reporting by Joanne Kenen)

GOP Factions Vie Over Offset Plans (RC)

By Ben Pershing

Roll Call, September 21, 2005

The debate over paying for the recovery from Hurricane Katrina continued Tuesday as various factions within the House GOP floated ideas for spending offsets and jockeyed for position.

Majority Leader Tom DeLay (R-Texas) embraced the idea of finding spending offsets but declined to endorse any specific proposals, while the conservative Republican Study Committee met with GOP leaders to discuss their own plans and Republican moderates focused on strengthening oversight of the massive federal outlays that are already under way.

The RSC's meeting with the leadership Tuesday came as some leaders had grown concerned that the conservative group's high-profile push for spending offsets were making the party look bad.

In classic Washington, D.C., fashion, one leadership aide described the meeting as a "frank" discussion, during which the RSC lawmakers were told that the total costs for Katrina were still unclear and that it was a useless exercise to try to find offsets for more than the $62 billion Congress has already appropriated.

"We don't have a $200 billion supplemental request from the president," said the leadership aide, who noted that the meeting ended with a spirit of cooperation. "We need to take a hard look at the RSC's list [of offsets]. ... If we have the votes to pass them, we'll do them."

While the RSC's hand would be strengthened if the group could attract some moderate lawmakers to its cause, such outreach appears unlikely in this case.

Though the RSC and the centrist Tuesday Group have been able to work together occasionally in the past, particularly on budget process reform, the two GOP factions are singing from different songbooks on Katrina.

"A lot of the things the RSC wants to do, to the moderates, are unrealistic," said Rep. Mike Castle (R-Del.), a leading Tuesday Group member.

Specifically, Castle and other moderate Members and aides said they would be unlikely to support the RSC proposal to delay implementation of the Medicare prescription drug bill for a year.

"I think that's more posturing than it is reality at this point," Castle said of the idea.

Instead, the Tuesday Group is primarily focused on implementing stringent oversight over the money Congress appropriates for Katrina. Many moderate lawmakers were in Chicago this past weekend to attend a Republican Main Street Partnership retreat, and those Members agreed to endorse a proposal by Rep. Jim Kolbe (R-Ariz.) to create a special inspector general to scrutinize Katrina spending.

But while the RSC has been vocal in staking out ground on the offsets issue, the Tuesday Group has been relatively quiet about its plans.

"We don't copy the RSC. We do our own thing," said Rep. Mark Kirk (R-Ill.), the co-chairman of the Tuesday Group.

Kirk suggested that the main difference between the two groups was stylistic, with the Tuesday Group preferring to work behind the scenes.

"The difference between us and the RSC is a lot less press releases," Kirk said. "I'm less interested in getting a lot of attention and more interested in getting the special IG."

The RSC will hold a press conference today to unveil the list of specific offset ideas the group shared with leadership Tuesday. Yet even within that conservative faction, the possibility remains that not every member will support all of the proposed spending cuts.

In an e-mail sent Monday to all RSC press secretaries, the office of the group's chairman, Rep. Mike Pence (R-Ind.), wrote: "We are coming up with a list of federal savings ... and are NOT asking all those who come to the press conference to endorse

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all the savings, but ARE SEEKING about 10 Members to specifically take ownership over one offset idea and speak to that at the press conference."

As the RSC trumpets its plan, DeLay has spent this week sharpening his own message about how to deal with the budgetary consequences of Katrina.

At his press briefing last week, DeLay sparked controversy by lauding the GOP's record of fiscal discipline and declaring an "ongoing victory" against government waste.

Following an outcry from his fellow conservatives, DeLay sought to clarify his remarks Tuesday as a he faced a barrage of questions from reporters seeking specific details on how the billions of dollars spent on Katrina might be offset.

While conceding that he spoke "inartfully" last week, DeLay reiterated his praise for the party's overall record of fiscal accomplishment, saying that "this Republican House has been focussed on fiscal responsibility and fiscal restraint" since the GOP took power in 1995.

And after saying last week that he was waiting for someone to bring him a list of realistic spending offsets, DeLay reiterated Tuesday his desire to find spending cuts, though he declined to address many specific ideas.

"There are programs all over the federal budget that are bloated or wasteful or inefficiently using the funds we provide them, and I'm very interested in identifying them," DeLay said.

While DeLay agrees in principle with his fellow conservatives about the importance of finding offsets, the Majority Leader was dismissive of the idea to delay the Medicare bill by a year.

"The president has already spoken on that, and it's a non-starter," DeLay said. Arguing that the Medicare bill was actually designed to save money in the long run anyway, DeLay said that "postponing a reform that is going to implement fiscal restraint doesn't make a whole lot of sense."

He was less clear in his views on another potential spending fix: reopening the highway bill to remove Member earmarks.

"It's still an option, and we're going to look at that [and] many others," DeLay said, though he later emphasized the economic importance of the highway bill and political difficulties that would be associated with revisiting it.

After Minority Leader Nancy Pelosi (D-Calif.) said that she would be willing to forgo her highway bill earmarks to help pay for Katrina, DeLay was asked if he would do the same.

"I don't know about that," DeLay said. "I would take a look at it. My earmarks are pretty important to building an economy in that region."

DeLay also criticized the idea of putting off extending President Bush's tax cuts and said that they remained on the agenda, saying that not extending the cuts would be the equivalent of raising taxes.

"Katrina tax hikes are not about Katrina; they're about tax hikes, and they are not an option," he said.

Recovery's Cost Forces Lawmakers To Reassess Pet Spending Projects (KRT)

By James Kuhnhenn

Knight Ridder, September 21, 2005

WASHINGTON - Pressure is growing to help pay for Hurricane Katrina's costs by getting members of Congress to give up the pet spending projects they've inserted into legislation for their states or districts.

But some top lawmakers are decidedly unenthusiastic.

"Kiss my ear!" Rep. Don Young, R-Alaska, told a Fairbanks newspaper reporter when asked whether he'd return the $223 million he'd "earmarked" for a bridge in the Alaskan outback. Young is chairman of the House Transportation and Infrastructure Committee.

Earmarks are projects that have neither been requested by the administration nor deemed worthy by a congressional committee. Over the years they've become as prevalent as grease on a machine's gears. The 1991 transportation bill contained 538 earmarks. This year's had 4,373. Last year's catchall appropriations bill, which wrapped together seven of the 13 annual spending bills, contained 8,000 earmarks totaling $10 billion.

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House Majority Leader Tom DeLay, R-Texas, scoffed at the suggestion that he give up his earmarks, saying highway projects in his district contributed to economic growth. One watchdog group estimated DeLay's total earmarks at $114.4 million over five years.

"My earmarks are pretty important to building an economy in that region," DeLay said. "What's good about the highway bill ... is it creates hundreds of thousands of jobs. It is an economic engine that drives the economy."

Still, as pressure grows to reduce Katrina's bite from the federal budget, many lawmakers are being forced to take a second look at their appetites for federal money.

In Bozeman, Mont., a citizens' group petitioned its congressional delegation to rescind the $4 million the city obtained for a parking garage and direct the money instead to Katrina's victims. Rep. Mike Pence, R-Ind., a leading conservative in the House of Representatives, said he'd give up his $16 million in highway-bill earmarks to help pay Katrina's costs.

But the usual refrain in Congress is that "one congressman's `pork' is another's bacon."

House Democratic leader Nancy Pelosi, D-Calif., who guided $130 million in special projects into the highway bill, said Tuesday that she'd give up her own earmarks to help the devastated region. Later, however, she amended her stance, saying she wouldn't give up a $50 million retrofitting project for the Golden Gate Bridge to protect the span from earthquakes.

Rep. Henry Waxman, D-Calif., railed against Republicans for inserting special spending projects that he said were "out of control." But when he was asked whether he'd give up his own $16 million in pet projects, Waxman replied: "How about everybody's earmarks? ... If you want to get rid of all the pork barrel projects, I'm for that."

Getting rid of earmarks alone would hardly make up for Katrina spending, however, which may total $200 billion before it's done. Highway bill earmarks total only $24.2 billion over five years. Even if they all were rescinded, that would save only $9.8 billion over five years because much of the money would go to states anyway under complicated allocation formulas.

Katrina's costs, however, clearly are fraying congressional relations, particularly within Republican ranks. Vice President Dick Cheney and White House Budget Director Joshua Bolten told Senate Republicans on Tuesday that the administration will seek more money for Katrina relief and reconstruction in mid-October. Congress already has approved almost $62 billion.

The Katrina discussion, held during a closed-door luncheon in the Capitol, prompted many Republicans to complain that the administration was too eager to spend money on the devastated region without providing adequate financial safeguards and recommending ways to pay the expense.

But several senators said no one recommended giving back his or her earmarks. And when Sen. Judd Gregg, R-N.H., recommended a balanced package of spending cuts and revenue increases, he was met with stony silence.

Asked whether there were any alternative options worth pursuing to pay for Katrina, Sen. Pete Domenici, R-N.M., replied: "There aren't any. Everybody's mad."

A list of top earmarks, or "pork" projects, in this year's highway-spending bill compiled by Taxpayers for Common Sense, a budget watchdog group, is on the group's Web site at www.taxpayer.net/Transportation/safetealu/states.htm.

Highway Bill Earmarks Eyed For Storm Relief (WT)

By Stephen Dinan

The Washington Times, September 21, 2005

The top House Democrat said yesterday she would give up some specific transportation projects in her San Francisco district to help pay for Hurricane Katrina, but Majority Leader Tom DeLay said he doesn't think cutting projects in his district is a good idea.

"The highway bill is an important part of building our economy," Mr. DeLay said. "You cannot have a strong economy unless you have a strong infrastructure."

Earmarks -- the specific spending projects members of Congress write into bills, which critics call "pork" -- have become a major focus of conservatives who want to cut spending to help pay for hurricane relief.

The highway bill contains about $24 billion in earmarks, and House Minority Leader Nancy Pelosi, California Democrat, put other lawmakers on the spot yesterday morning when she said she would give hers up.

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"I certainly would give up earmarks to help the people in the region," Mrs. Pelosi said, adding that her constituents would be "proud" to sacrifice.

But by the afternoon she had backtracked, saying she wouldn't give up all of the $128.6 million going to her district. She said the $58.8 million slated to retrofit the Golden Gate Bridge to protect it from earthquakes is a safety issue too important to forgo.

"You have to judge what are your priorities. And the priority for us, I think, is clearly about we want to help the people of the region," Mrs. Pelosi said, adding that Congress should first stop tax cuts planned for later this year.

Hurricane spending has become a dominant issue in Washington with lawmakers promising to spend whatever is necessary to rebuild the Gulf Coast. Some Republicans have called for deep cuts to pay for the spending, but they appear to be a minority.

Members of Congress have estimated Katrina's costs to be between $150 billion and $225 billion, but Mr. DeLay said nobody knows for sure.

"Anybody throwing around this $200 billion figure, it would be nice for one of you all to ask them where they get it, because there is no such a figure," he said. Mr. DeLay said that's why Republicans have not presented a comprehensive plan to pay for Katrina.

"The point is that if you don't know the figure, you don't have a plan," he said.

Mr. DeLay took heat from conservatives after telling reporters last week that the government should borrow money and add to the deficit to pay for Katrina. He specifically rejected cuts to the transportation bill, saying he hadn't seen any that would work.

Asked if that meant the government was running at peak efficiency, Mr. DeLay said, "Yes, after 11 years of Republican majority, we've pared it down pretty good."

But this week, he embraced cutting and said all options should be on the table.

"We are looking at every opportunity to save money and provide offsets for that that has already been authorized to be spent," Mr. DeLay said. "And we are continuing to look, while we are having oversight of how things are being spent."

He also said he did not mean to say there is no cutting room left in the budget.

"What I said was, fiscal restraint -- and I said it inartfully, I know -- I said it is an 'ongoing victory.' Ongoing is the operative word," Mr. DeLay said. "We are always involved in fiscal restraint and fiscal responsibility ever since we have been in the majority."

He at one point defended higher highway spending, arguing it creates jobs. But he also took credit for a two-year fight that cut about $90 billion out of the bill the Senate wanted.

"That was an incredible effort -- I think a laudable effort -- to keep the bank account as closed as possible in the highways," Mr. DeLay said.

He ruled out some conservatives' proposal to delay the Medicare prescription-drug benefit, set to kick in next year at a cost of $40 billion.

"That is a nonstarter," the Texas Republican said. "Medicare is a reform to save spending."

Gregg Open To Katrina Tax Increase (HILL)

By Jonathan Allen

The Hill, September 21, 2005

The chairman of the Senate Budget Committee refused to rule out increasing taxes yesterday as he and many of his GOP colleagues called for offsets to temper the effect of the next round of federal spending for disaster relief in the Gulf Coast.

"We've got two sides to the ledger," said Sen. Judd Gregg (R-N.H.). "I'm willing to look at a revenue solution … as part of a package."

Though Gregg declined to specify or rule out any solution, there are limited options for generating revenue, many of which involve deferring expected tax cuts or increasing taxes in a targeted or across-the-board fashion.

Conservatives demanded accountability and offsets in the next package of spending for the recovery from Hurricane Katrina, but many of them, including House Majority Leader Tom DeLay (R-Texas), scoffed at tax increases.

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"The so-called Katrina tax hikes are not about Katrina; they're about tax hikes and will only serve to balloon the oversized, under-responsive emergency-management system that broke down three weeks ago in the wake of the hurricane," DeLay said in a House floor speech, according to prepared remarks provided by his office.

Like DeLay, most Republicans who called for offsets focused solely on spending.

Many said they would like to see offsets in the form of reductions in government "waste, fraud and abuse." Others called for increasing the amount Congress plans to cut from mandatory programs through budget reconciliation — currently $35 billion over five years — later in the year.

That could lead to funding Katrina recovery through more severe cuts to programs aimed at the poor and elderly. Medicare, Medicaid and food stamps are among the programs on the chopping block in a reconciliation process that was already pushed back after Katrina hit.

House Minority Leader Nancy Pelosi (D-Calif.) and others sharply criticized Republican budget priorities. "Even though Katrina took a price, and even though a mirror was placed in front of America that shows a face that we sometimes choose to ignore, the majority here in the Congress has still said that they will go forth with a budget that will give $70 billion in tax cuts to the wealthiest people in America," she said.

Sen. Sam Brownback (R-Kan.) repeated his call for a commission to review government programs, similar to the one that closes and realigns military bases. Brownback introduced legislation in 2002 that would create such a panel, called the Commission on the Accountability and Review of Federal Agencies.

Sen. John Sununu (R-N.H.) said tax increases could slow the economy, but he said he might support "rethinking" business incentives in the recently enacted energy law, a position he has long advocated. Sen. Pete Domenici (R-N.M.), chairman of the Energy Committee, said there should have been more, not fewer, industry incentives.

There have also been many calls from both sides of the aisle to reopen the recently passed highway bill and cut some of the earmarks after congressional passage of $62.3 billion in emergency relief.

DeLay was ambiguous about whether or not he favors reopening the bill. "Everything is an option if it makes sense," he said.

He did say he would not request the repeal of highway projects in his own district after Pelosi volunteered cutting her own transportation projects to help foot the cleanup costs.

One Senate Republican aide pointed out that many of the suggestions for offsets are either unrealistic or would hardly make a dent in the spending. "It's going to be very difficult to pay for this because of the size," the aide said.

The White House on Monday rejected suggestions that implementation of the landmark Medicare prescription-drug law enacted in 2003 should be delayed to offset Katrina spending. Already, Congress has spent $62.3 billion on the recovery effort. But lawmakers are concerned that there has been little scrutiny in the first two relief packages.

All across the Capitol yesterday, lawmakers and aides discussed how to handle the next round of Katrina-related spending, which GOP aides say is not likely to be doled out until after an October recess.

Josh Bolten, the director of the White House Office of Management and Budget, met with Republican senators yesterday afternoon.

Republican leaders in the Senate are assessing how to arrive at a budget for future spending, the question of possible offsets and means of ensuring accountability for the money that they send to the Gulf Coast, according to a senior Senate Republican aide.

Only $14 billion of the money appropriated so far had been spent as of Monday night, the aide said.

House conservatives, led by Republican Study Committee Chairman Mike Pence (R-Ind.) and Rep. Jeff Flake (R-Ariz.), were expected to unveil a plan for offsetting Katrina spending today.

Foreign Investment Aids Cleanup, Despite Adding To U.S. Deficit (WP)

By Jonathan Weisman

The Washington Post, September 21, 2005

On Friday, as official Washington fretted over the potential fiscal calamity of Hurricane Katrina, the Treasury Department let Americans know where the money would come from to rebuild the Gulf Coast: foreign investors.

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The latest Treasury report on foreign lending showed that investors abroad poured $101.4 billion into the United States in July alone -- a voracious clip -- to snap up stocks, bonds and everything else available. So while the federal government keeps spending and while tax cuts remain politically sacrosanct, continued foreign investment should help pick up the estimated $200 billion cleanup tab for Katrina and further postpone a final reckoning on the budget deficit.

"We know [Katrina] is an extraordinarily consequential event for the people and the region, but it's one the economy can weather," said Douglas Holtz-Eakin, director of the nonpartisan Congressional Budget Office. "The evidence is, we can finance this with borrowing. I don't see any evidence we couldn't do that."

Any debt must be paid back, with interest, so running up the deficit to reconstruct the Gulf region carries a cost, at least to future generations. Foreign holdings of U.S. government debt exceeded $2.03 trillion in July, meaning that every man, woman and child in the United States owes foreign investors $6,846.

Holtz-Eakin said Congress and President Bush face a choice on how to finance the recovery: raise taxes, cut spending or let foreigners pay. The decision will reveal much about the government's ability to set priorities in the face of far larger challenges, such as the baby boom's nearing retirement, Holtz-Eakin said.

Ever since record budget surpluses turned to yawning deficits, some economists have issued warnings of pending doom that have yet to come true. They predicted that foreign lenders would sour on U.S. government debt as the Treasury Department sold billions of bonds and notes each day. To keep those buyers happy, interest rates would have to rise substantially. Housing, cars and other items bought on credit would turn expensive, and the U.S. economy would slide into recession.

Despite such warnings, Congress and Bush cut taxes every year since 2001, and spending soared, largely to finance the war in Iraq but also to fund the largest expansion of Medicare since President Lyndon Johnson created the program in 1965, the most expensive transportation and public works bill in history, and now, the biggest domestic reconstruction effort ever.

Compared with the size of the economy, federal tax revenue has plunged, to 16.3 percent of the gross domestic product last year from 20.9 percent in 2000, before recovering to 17.5 percent of the GDP this year. Meanwhile, spending has climbed steadily, to an estimated 20.2 percent of the economy this year from 18.4 percent in 2000, and that CBO estimate came out before Katrina struck.

But economic disaster has not hit.

"These long-run worries, there's an element of truth to them, but I think frankly the fears are exaggerated," said James Glassman, senior U.S. economist at J.P. Morgan Chase.

On the contrary, tax receipts, buoyed by a thriving corporate sector, set a single-day record last Thursday. The Treasury pulled in $71 billion that day, shattering the $61 billion record set June 15. And corporate tax receipts on Thursday -- $63 billion -- surpassed the total for any previous month on record. At 4.9 percent, the unemployment rate is the lowest since August 2001.

And interest rates have shrugged off Katrina. The small increase in rates in recent days stems mainly from inflation fears that predated the hurricane, said Steven Englander, chief currency strategist for North America at Barclays Capital in New York.

That seeming contradiction can be solved by looking abroad. Foreign holdings of U.S. government debt reached slightly more than $1 trillion in 2000 and have more than doubled since. Japan, long the nation's largest creditor, now holds $683 billion in U.S. government debt. China, which recently surpassed Britain as the United States' second largest lender, has seen its stake in the U.S. government more than triple, to $242 billion this summer from $71.4 billion in 2000.

And there does not seem to be much lessening of appetite. Foreign purchases of U.S. stocks and bonds have nearly doubled in the past four months. Asian nations appear intent on buying U.S. assets to prop up the value of the dollar and keep U.S. interest rates low, thus helping U.S. consumers buy their goods. And that Asian buying spree is financed by U.S. consumers who continue their spending on Asian goods. On top of the bill for that new flat-screen television, add the interest owed to Chinese and Japanese lenders.

The United States also remains blessed by its competition: Foreign investors, looking for a stable place to park their money, still see U.S. assets as far more attractive then European or Asian investment options.

Katrina will do nothing to shake that arrangement, said Michael P. Dooley, a senior adviser at Deutsche Bank in New York and an expert on currency markets.

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And Katrina just is not as big as it sounds, most budget analysts agree. Currently, about $4.1 trillion in U.S. government debt is traded worldwide. So far, Congress has enacted $64.6 billion on Katrina-related legislation, and the Senate has approved additional legislation worth nearly $11 billion. Without doubt, $75.6 billion is a large amount, larger than the budgets of the Justice, Homeland Security and Energy departments combined. But borrowing $76 billion tomorrow would add a little more than 1 percent to the amount of federal debt already on the market.

Nevertheless, economists who have warned for years of the dangers of the deficit are not about to give up yet, "not on your life," said Stephen S. Roach, chief economist at Morgan Stanley and a leading deficit hawk. "Here we are taking on $150 [billion], $200 [billion], $300 billion in debt for Katrina at a time when we're doing Iraq, we're doing Afghanistan, and the national savings rate is at a record low for any leading nation in the history of the world," he said. "It will come back to haunt us."

House, Senate Agree On Hurricane Tax-Relief Bill (WSJ)

By David Rogers

The Wall Street Journal, September 21, 2005

WASHINGTON -- House-Senate negotiators agreed on an estimated $6 billion tax-relief bill to expand deductions this year for Hurricane Katrina survivors and spur employment of low-income workers on the Gulf Coast.

The measure, expected to be sent to President Bush this week, would temporarily relax tax rules to encourage corporate cash donations and make it easier for displaced families to deduct storm losses and claim refunds on past taxes.

While the precise costs weren't available last night, estimates are that it could provide about $6.2 billion in tax relief for the next 24 months. Republicans are promising a second round of hurricane-related tax relief, but a Congressional Research Service report warned that such an approach often provides less help for low-income families with lower tax liability.

The final talks centered on two employer tax credits to encourage companies to hire hurricane survivors or keep employees on the payroll during this period of business interruption. House tax writers preferred to target these credits -- valued at as much as $2,400 a year -- at workers in the disaster area. The Senate approach was more to track survivors and help them find new jobs -- or temporary assignments with their old employers -- regardless of location.

The compromise gives preference to the hard-hit areas, such as New Orleans, but recognizes the need to help evacuees stabilize their lives as well. The existing Work Opportunity Tax Credit would be extended to Katrina survivors for two years if hired inside the disaster area and just through the end of 2005, if hired outside.

Similarly, the House agreed to a three-month experiment with a new Senate-backed employer credit intended to help distressed companies keep workers on their payrolls. The credit is limited to employers in the disaster area with fewer than 200 employees -- which would appear to exclude many of the larger casino operators along the Gulf. The House agreed to reconsider the idea as part of future tax legislation.

Wealthy small-business owners will benefit from a provision lifting the limit on how much a corporation can deduct -- as a percentage of taxable income -- for cash contributions to Katrina relief. Beyond Katrina, there is a short-term improvement in deductions for contributions of food and book inventories, and the bill opens the door for noncorporate taxpayers, such as a farm partnership, to participate in food deductions. The publishing industry failed to get one of its top priorities, allowing an inflated adjustment in the value of books donated.

Property owners stand to benefit most from provisions that make it easier to claim deductions on storm losses and that extend the time period for buying a replacement home or building before being subject to taxes. Casualty losses attributable to Katrina are made fully deductible regardless of whether the loss exceeds 10% of a taxpayer's adjusted gross income. Moreover, a taxpayer can carry back these deductions to apply them to 2004 taxes, yielding a refund on taxes paid.

For example, under current law, a person with an adjusted gross income of $40,000, who has lost a car valued at $5,000, can only deduct $1,000. A Katrina survivor could claim the full $5,000.

Tax writers say this will help persons of all incomes. A second provision allowing families to take money from retirement accounts without penalty would most benefit those with large holdings.

In The Gulf Zone (WSJ)

The Wall Street Journal, September 21, 2005

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If we had our druthers, all of America would be an "opportunity zone," with low and flat-rate taxes and little of the regulation that can strangle economic development. But the battered Gulf Coast is a good place to start with these investment-friendly reconstruction incentives, and so Congress could (and probably will) do much worse than enact President Bush's Gulf Opportunity Zone.

The idea is to lure businesses back to the region through lower tax rates, incentives for new capital investment, and low-cost business loans and loan guarantees. So far the details are sketchy. But one promising magnet for capital is the small-business expensing plan, which allows firms to immediately deduct from their federal tax bill the first $100,000 of the cost of a new office, plant or equipment. We're typically against temporary tax incentives, but if anything warrants such a lift, the aftermath of Katrina does -- and especially as an alternative to the "Marshall Plan" for new federal spending via FEMA or a bureaucratic cousin that is already being proposed in Washington.

We only wish the tax incentives went further than what Mr. Bush has proposed. Why not allow the Gulf to operate as a laboratory for a flat tax, with an 18% rate and no taxes whatsoever on capital investment for businesses -- small and large? And if this works for New Orleans, as it has for so many of the former economically ravaged nations of East Europe, then make it the law of the land.

The Bush plan also provides an "urban homesteading" feature, whereby low-income families would be given a free plot of federal land in the ruined areas in exchange for a commitment to build a home there. It's a truism that people better maintain homes that are their own property. The plan also contains what amounts to a voucher for students uprooted by Katrina. They'd be able to use up to $7,500 for public, but also for private or religious, schools -- which has the teachers unions up in arms. Leave it to the National Educational Association to let its own monopoly interests trump the welfare of kids, even in the wake of a disaster.

The Office of Management and Budget is also compiling a list of onerous and anti-growth federal regulations that would be suspended in the hurricane region. This should include environmental rules and mandates that have closed down the oil refinery business in this critical national oil, gas and energy hub. And we're glad to see Transportation Secretary Norman Mineta reporting, in a letter to us on Monday, that highway reconstruction is already under way using bonus incentives to reward faster work.

The price tag for these proposals would be a tiny fraction of the cost of a federally directed welfare state/public works effort, which seems to be the choice of Democrats -- and too many Republicans. Congress has already appropriated $62 billion in federal aid and another $100 billion is in the works. That's all new spending, by the way; a better option would be to divert money from pork-barrel projects to Katrina relief. (See below.)

It was through a combination of local civic organizations and business investment that other proud American cities were rebuilt after other disasters. At least one-half of the structures in San Francisco were toppled or burned to the ground, and a quarter million Californians left homeless, by the Great Earthquake of 1906. Within three years the city was rebuilt without any FEMA aid, Small Business Administration loans or federal housing assistance.

Similarly the Chicago Fire of 1871 razed virtually every building in the entire downtown business district (save for the famous Water Tower), while scores of outlying neighborhoods were destroyed. As a recent report from the Foundation for Economic Education details: "Within two years this burned city had been almost completely rebuilt through private aid and initiative." The group that so heroically coordinated the entire relief effort, including housing 157,000 suddenly homeless people and employing tens of thousands of others, was the Chicago Relief and Aid Society.

It is precisely in this spirit of compassion, enterprise and business acumen that New Orleans should be restored to its past glory. Congressman Bobby Jindal, who represents a large slice of New Orleans and whose own home has been nearly destroyed, warns that now is not the time for a bidding war of spending between the two parties. Rather, he says, "We now have a once-in-a-lifetime opportunity to let the free market policies that we know will work for New Orleans flourish." And if it works there, why not everywhere?

Sleight Of Budgeting (NYT)

The New York Times, September 21, 2005

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The decision by Congressional leaders to delay action on their tax-and-spending bills was most welcome. The bills' broad outlines were drawn up pre-Katrina, and were objectionable even then: spending cuts totaling $35 billion over five years in programs for low- and moderate-income families, and $70 billion in new tax breaks, mostly for the most affluent families. Counting interest, the bills would increase the deficit by $40 billion over five years.

Post-Katrina, those plans would be scandalous, highlighting the skewed priorities that have put the country into a tight financial spot as it copes both with hurricane damage, and with the social and economic rifts that Katrina has exposed.

Unfortunately, it's increasingly unclear why Congress imposed the delay. (The deadlines were shifted into October and early November.) Initially, it appeared that lawmakers needed time to recast their priorities - away from budget cuts that would reduce the aid for hurricane victims and other needy Americans, and away from high-end tax cuts that would needlessly starve the Treasury at a time of mounting rebuilding costs.

Now, however, it appears that postponement may be only a tactical move to recast Katrina as the event that requires Congress to hack away at existing programs to pre-empt unacceptably large deficits from reconstruction spending. That's false.

Katrina cannot and should not be paid for by cutting government programs, unless the goal is to end up with a government that's even less effective than it was before Katrina. True, there's fat that Congress should trim. But even if members of Congress were willing to rescind the porkiest of the pork spending they approved in the highway bill passed last summer, doing that would raise about $24 billion.

That would be a nice offset for the estimated $200 billion price tag for Katrina, but hardly enough. Bigger cuts that have been suggested, like delaying the start of the Medicare drug coverage plan, are not workable, not to mention political nonstarters for President Bush and for Republican leaders.

What is needed most is more revenue, and that requires Congress to stop cutting taxes.

But Congress appears to be angling to proceed with business as usual while disguising what it is doing. If all goes according to plan, Congress will take up the spending-cut bill weeks before the tax-cut bill.

That would be the first time lawmakers had split such deficit-bloating legislation into two separate bills, raising the suspicion that they're trying to hide the fact that $35 billion in spending cuts, heartless and misguided as they are, would be used to help pay for the $70 billion in new tax breaks - not for deficit reduction and certainly not for Katrina.

The lawmakers' only responsible course of action is to give up on tax cuts, but they are balking. Wedded to tax cuts himself, President Bush cannot lead them where they need to go. It's up to the American people to push their representatives in the right direction.

To Rebuild New Orleans (LAT)

The Los Angeles Times, September 21, 2005

After Hurricane Katrina flooded New Orleans, federal officials warned that the city could be underwater for three months or more. Instead, aided by hot sun and clear skies, the Army Corps of Engineers expects to have the streets of New Orleans pumped dry by the end of this week — provided, of course, that Hurricane Rita doesn't send the water right back over the city's weakened levees.

The pumps' progress led Mayor C. Ray Nagin to start the city's revival too early. On Sunday, Nagin invited residents of the Algiers neighborhood to return home, then rescinded the invitation the next day as Rita bore down on the Gulf of Mexico.

As this episode illustrates, it's time for officials on the Gulf Coast to shift from the pedal-to-the-metal urgency of the rescue efforts to the more deliberate pace of reconstruction. As important as it is to rebuild New Orleans and let evacuees return to their homes and jobs, it's even more critical to ensure that the rebuilt version of the Big Easy does not simply mimic the one Katrina laid to waste — a city ridden by poverty and unemployment, with the poorest residents living in the areas most vulnerable to flooding.

That kind of economic resuscitation will require both a willingness to try new approaches and an attention to history. This country has learned much in the last 40 years about how to revive a city (and, sadly, how not to). New Orleans, more than any city in the nation, can be the beneficiary of those lessons.

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Government has three basic, interrelated tasks: rebuilding the city's infrastructure, reviving its economy and resettling its population.

President Bush has pledged that Washington will cover the bulk of the cost of rebuilding New Orleans' roads, bridges, sewers and other public works. Because these are expensive projects that will consume most of Washington's Katrina relief budget, federal and state officials should look for ways to put private dollars to work — for example, by joining forces with private companies to share the cost of toll roads and bridges, then splitting the revenue.

The city's human infrastructure is badly in need of repairs too. Although the investment will take years to yield dividends, the city needs better schools to help residents climb out of poverty and make the city more attractive to employers. The private sector could play an important role here too, through efforts such as charter schools.

To revive New Orleans' economy, Bush has proposed creating "Gulf Opportunity Zones." Similar to the "enterprise zones" that have been declared across the country since the 1980s, these would offer about $2 billion worth of tax breaks and loan subsidies to businesses that build and equip offices in Katrina's wake.

Although some analysts are enthusiastic about enterprise zones, they may not be the best way to encourage New Orleans' recovery. In general, most new jobs emanate from new, small businesses, which don't benefit much from tax breaks because they don't have much taxable income. By contrast, the beneficiaries of enterprise zones often are established businesses that move their offices into the zone to lower their tax burden.

If the goal is to help the economy of New Orleans without siphoning jobs from other cities, policymakers need to find ways to help entrepreneurs create jobs there that residents can and want to fill. That means making it easier and more profitable for companies to create jobs for local residents, and making it easier for residents to do the work.

Education is obviously key to that effort, and so is housing. On the housing front, the administration plans to spend $5 billion to place evacuees in 300,000 mobile homes, trailers and other temporary structures. This plan has drawn flak from both sides of the political spectrum, and rightly so. The "temporary" enclaves isolate evacuees, rather than letting them resettle close to where they can find work. The better approach is to stick with vouchers that evacuees can use to rent housing in the communities of their choice.

Hundreds of thousands of homes were damaged by Katrina and subsequent flooding, and roughly half of the homeowners in New Orleans carried flood insurance. The rest, along with many of Katrina's other victims along the Gulf Coast, are left to haggle with their insurance companies over how much of their loss was caused by Katrina's winds, which would be covered by homeowner's insurance. The federal government can help both groups by offering adjusters assistance in calculating losses and mediators assistance in determining their cause.

For the city's poorest residents, the government should follow Baltimore's example and build low-rise, mixed-income developments that are proving more resistant to crime than the projects they replaced. Planners now have a better understanding of how to design low-income housing to discourage crime. They will have an opportunity in New Orleans to use what they've learned from the successes and failures of numerous American urban renewal projects.

Finally, as Congress and the administration open the federal spigot to aid the Gulf Coast, the public has the right to know exactly where its money is going — and the obligation to share the pain.

Taxpayers have put up more than $60 billion for the rescue and recovery effort so far, and may be asked to spend three times that amount on the Gulf Coast. The best protections against waste and misuse are to ensure that contractors compete for all the projects and publicly account for their spending.

At the same time, Congress should plan to pay off the massive spending on Katrina over the next few years rather than adding to the already burgeoning deficit. The burden should be spread broadly by cutting or postponing far-reaching programs; a good place to start would be the $25 billion that Congress recently authorized for lawmakers' pet highway projects across the country.

And it almost goes without saying that new tax cuts are simply unthinkable — at least until the federal budget has joined New Orleans in recovering from Katrina.

Cuts For Katrina (WSJ)

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The Wall Street Journal, September 21, 2005

Last week we suggested that cancellation of $25 billion in pork projects -- euphemistically known as "earmarks" -- in the recently passed Highway Bill would be a good first step to offset some of the cost of rebuilding the infrastructure in New Orleans and along the Gulf Coast.

The idea of a pork-for-reconstruction swap had already been denounced as "moronic" by a spokesman for Don Young of Alaska, Chairman of the House Transportation Committee and proud father of the now-infamous $223 million "bridge to nowhere" near Ketchikan. Since then the White House and Congressional Republican leadership have been acting as if the cost of Katrina relief should have no impact on the course of an administration that has presided over the fastest growth in discretionary spending since Lyndon Johnson.

But thankfully, a grassroots Internet campaign and a handful of House GOP conservatives have refused to give up on the idea that spending cuts should be found to defray the estimated $200 billion federal price tag for hurricane relief. In the Senate, John McCain is proposing a similar pork-for-Katrina swap.

The Internet campaign picks up on the idea of revisiting the earmarks in the Highway Bill. A Web site called Porkbusters (www.truthlaidbear.com/porkbusters.php) helpfully lists these projects by state and directs readers to the appropriate Representatives and Senators to ask what they would cut. Around the country a flood of letters to local newspapers has echoed the theme.

And if revisiting the Highway Bill is too much to ask, how about a one-year moratorium on all non-defense earmarks for fiscal 2006? Rep. Ron Lewis (R., Kentucky) proposes just that in a "Dear Colleague" letter dated Monday. Other suggestions include across-the-board spending cuts at federal agencies of 2.5 cents on the dollar and delaying the introduction of the Medicare drug benefit by a year. We should be hearing more today when members of the House Republican Study Committee -- led by consistent spending hawks such as Mike Pence, Jeb Hensarling and Jeff Flake -- announce "Operation Offset" and a list of specific options to find savings in the budget.

White House flaks have been sending out emails claiming the new spending is mandated by a 1988 law called the Stafford Act. But the idea that somehow the government is on automatic pilot and that expenditures cannot be restrained by Congress or the President is irresponsible and even insidious. It is a basic principle of Constitutional law that no Congress can mandate expenditures by a future one. And while the Stafford Act does suggest that temporary infrastructure repair after major disasters is a federal responsibility, it does not justify why 41 states should receive Katrina aid and it certainly doesn't relieve Republicans of their fiscal duty to identify offsetting cuts.

The startling bottom line on Bush administration profligacy is this: At $22,000 per household, federal spending is at an inflation-adjusted post-World War II high and set to go still higher soon as the Baby Boomers start drawing Medicare and Social Security. Reforming those entitlements will be tough enough. And voters will have good reason not to want to entrust that task to a party that can't even admit the wastefulness of bridges to nowhere in the wake of the new century's worst hurricane.

Governors Ask For Inquiry On Oil Prices (NYT)

By The New York Times

The New York Times, September 21, 2005

CHICAGO, Sept. 20 - The governors of eight states sent a letter on Tuesday to President Bush and Congress calling for an investigation into profits made by oil companies after Hurricane Katrina and asking for legislation that would require the companies to refund to customers any profits deemed excess.

"When the wholesale price of gas went up by 60 cents almost overnight, oil companies were obviously using the most devastating natural disaster in our nation's history to reap a windfall at the expense of American consumers," said the letter, which was initiated by Gov. James E. Doyle of Wisconsin and was signed by governors from Illinois, Iowa, Michigan, Montana, New Mexico, Oregon and Washington.

"To price-gouge consumers under normal circumstances is dishonest enough," the letter stated, "but to make money off the severe misfortune of others is downright immoral."

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The letter cited an analysis by Donald A. Nichols, an economics professor at the University of Wisconsin at Madison, who reported that gas prices surged disproportionately compared with crude oil price increases. The price markup from crude oil to gasoline has almost tripled since the hurricane, the report said.

OPEC Drops Cartel Role And Says Pump All You Can (NYT)

By Jad Mouawad

The New York Times, September 21, 2005

VIENNA, Sept. 20 - Oil prices slipped Tuesday on signs that the direction of Hurricane Rita was shifting away from America's energy heartland and OPEC formally agreed to lift all restrictions on its oil sales for the next three months, in a move aimed at further reassuring markets still on edge over the security of energy supplies.

On Monday, energy prices surged 7 percent, to $67 a barrel, on worries that Hurricane Rita was headed for the main oil-producing areas of the Gulf of Mexico. The latest predictions somewhat eased those fears but still suggested that the hurricane could affect offshore facilities and refineries along the coast of Texas. Another shift in the storm late Tuesday night pushed oil prices up in after-hours trading.

After OPEC's two-day meeting, Saudi Arabia, the largest and most influential member, rallied the oil-producing group to support its 18-month-long campaign to sell as much oil as consumers ask for.

Saudi Arabia, which always keeps some idle capacity to compensate for unexpected production shortages, has been pumping above its official production ceiling since May 2004.

OPEC's decision effectively freezes the group's two-decade quota system originally intended to prevent prices from dropping too low and instead legitimizes - at least temporarily - a production free-for-all intended to bring prices down. Even so, because of shortages in refining capacity in the United States, Ali al-Naimi, oil minister of Saudi Arabia, admitted there might be few takers for the oil, but he stressed the decision's psychological impact.

"OPEC went out of its way and offered all the spare capacity that it has, recognizing that maybe there is no demand, but offering it so that consumers can feel comfortable that the supply is there," said Mr. Naimi, the group's most influential representative.

OPEC has so far seemed powerless to rein in soaring prices, which have doubled since the beginning of 2004. Even so, some members like Iran and Venezuela, were reluctant to back the Saudi strategy. Both countries produce below their quota levels, but do not want to give the Saudis a freer hand.

Still, members of the Organization of the Petroleum Exporting Countries agreed to pledge all their remaining extra capacity to the market, saying they could supply an additional two million barrels of oil a day - amounting to 7 percent of the group's current output.

Mr. Naimi said OPEC's extra oil would be made available immediately - and without any discounts. "If the people don't want the crude, it is better for it to stay underground," he said during a 15-minutes interview with a handful of reporters after the meeting. Though they are now reaping record revenue, oil producers also recognize that excessively high prices could crimp demand. The foreign minister of Saudi Arabia, Prince Saud al-Faisal, said in New York on Tuesday that he would be happy to see oil prices fall to a level of $35 to $40 a barrel, but he cautioned that this "would not happen right now."

Crude oil for October delivery on the New York Mercantile Exchange fell 2 percent, to $66.23 a barrel on Tuesday.

Hurricane Katrina, which struck the gulf's energy hub three weeks ago, curbed production from the offshore region and idled four major refineries along the coast, which amount to 5 percent of domestic capacity. Flooded after the storm, these plants will be out of commission until November at the earliest.

Saudi Arabia, which pumped 9.6 million barrels a day in September, has about 1.5 million barrels a day of extra capacity on call. It plans to increase its capacity by an additional 300,000 barrels a day, to a total of 11.3 million barrels, by next spring. More additions are planned through 2010 to bring the country's total capacity to 12.5 million barrels a day.

Other OPEC producers, like Kuwait, the United Arab Emirates and Nigeria, have 500,000 barrels a day of idle capacity. The group currently pumps 28.3 million barrels a day, excluding Iraq, or about a third of world production. With Iraq, whose exports are constrained by the insurgency, OPEC's 11 nations produce 30.2 million barrels a day.Facing criticism that it was not

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investing enough to add capacity, OPEC also outlined some long-term plans. These call for expanding capacity to 38 million barrels a day by 2010.

Mr. Naimi said he would be happy if buyers called for more supplies - and called OPEC's hand.

"Yes, yes, I hope they do," he said. "We'll make more money. All they have to do is test. We want to move this crude and sell it, if the price is right. We are businessmen after all."

Western governments coordinated the release of 60 million barrels of oil to make up for shortfalls after Hurricane Katrina. But only a fraction of that oil was actually bought by refiners who are struggling to make up for their losses. This makes it unlikely that OPEC will actually sell any more oil than it currently does. "OPEC has done the perfect P.R. move," said Roger Diwan, a managing director at PFC Energy. "It's a hands-down victory for OPEC in the political battle. No barrel of oil is actually involved here."

OPEC Suspends Its Output Quotas (WSJ)

By Bhushan Bahree

The Wall Street Journal, September 21, 2005

VIENNA -- In a bid to reassure markets that its members are free to pump all the crude oil they can, the Organization of Petroleum Exporting Countries yesterday suspended its output quotas for the fourth quarter.

Still, at a time when every oil producer except Saudi Arabia is producing flat-out, the move is unlikely to have much effect on world oil prices. OPEC ministers said the cartel could produce as much as two million barrels a day more of crude for consumers at market prices, but industry observers doubt that OPEC has anywhere near that much unused pumping capacity.

Observers instead watched Hurricane Rita, which is moving toward offshore oil and natural-gas production assets in the Gulf of Mexico that last month's Hurricane Katrina missed. The U.S. government reported that 58% of oil production and 35% of gas were shut off in the Gulf yesterday.

Industry watchers also worry about the potential for Rita to damage Houston-area refineries. The regions around Houston and New Orleans are the two biggest refinery centers in the U.S.; combined, the areas pump out one-third of the nation's gasoline. On New York futures markets, oil, natural gas and gasoline fell, but remained at elevated levels. (See related article.)

Saudi Arabia for more than a year has promised to produce extra oil to tame gyrating petroleum markets. But the International Energy Agency's chief, Claude Mandil, yesterday estimated that all of OPEC could pump between half and three-quarters of the two million barrels extra that the cartel's members claim.

Nor is this extra crude capacity likely to be tapped to any significant degree by refineries, unless there are new supply disruptions. Refineries already are working flat-out to meet rising world demand and can't process any more oil, especially the heavy-sulfur kind that OPEC has left.

"What OPEC has offered is short-term insurance to consumers on the crude-oil front," said Vera de Ladoucette, an analyst at Cambridge Energy Research Associates in Paris. "It removes any remaining doubt about OPEC's willingness to produce to its maximum capacity."

The cartel's members, including Saudi Arabia, the world's largest oil exporter, haven't in fact been constrained by output quotas since May of last year. During this time, Saudi Arabia's oil minister repeatedly has pledged to produce as much as the kingdom's capacity of 11 million barrels a day if customers want the oil. Yesterday, Saudi Oil Minister Ali Naimi said the kingdom was producing about 9.6 million barrels a day this month, well in excess of its current quota of 9.1 million barrels a day.

As for discounting oil to push more supplies onto world markets to drive down the price, Mr. Naimi said: "Absolutely not. I don't want to bring it on the market unless the consumer wants it at the commercial rate."

Mr. Naimi also said the kingdom's oil-output capacity was likely to rise by 300,000 barrels a day to 11.3 million barrels next spring, when the kingdom brings on line a field called Haradh. Further output-capacity increases are scheduled for 2007, when more of Saudi Arabia's fast-track field developments are completed.

The Paris-based IEA has forecast that, after 2010, oil output outside OPEC will have peaked, leaving the world totally reliant on extra supplies from the cartel to fuel economic growth. In Russia, President Vladimir Putin has backed plans to offer tax

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holidays to companies developing new oil fields, after a top government official warned that the recent slowdown in oil-production growth could worsen next year.

In the early years of this decade, Russia was the main source of new crude oil on world markets, delivering annual production increases of more than 10% and rivaling Saudi Arabia as the world's largest producer. But the Kremlin's dismantling and partial nationalization last year of OAO Yukos, once the country's most dynamic producer, have combined with higher tax rates to cast a pall over the industry, and production so far this year is up only 1.3% from last year. Industry officials don't expect any significant recovery in output in the near future, since proposed tax changes are still months away from final approval, and new oil projects take years to develop.

Oil Price Drops $1.16 A Barrel; Offshore Evacuations Quicken (WSJ)

By Masood Farivar and Katya Kazakina

The Wall Street Journal, September 21, 2005

Oil prices dropped more than $1 a barrel but held on to most of Monday's sharp advance, as Hurricane Rita headed toward the Gulf Coast.

Projections made early yesterday that Rita would miss the Houston area refineries triggered a drop of more than $2 a barrel in oil prices. But prices recovered much of those losses as Rita strengthened to a Category 2 hurricane, with winds of 100 miles per hour and the pace of evacuations from offshore rigs picked up.

"The way this is going to enter, it's going to impact most of the Gulf," said Ted Falgout, the director of Port Fourchon, a major port servicing the offshore oil and gas industry. "You can't be leaving people in the path of the storm just because it's predicted to go to Texas."

Mr. Falgout's job as director of a port that handles workers and equipment moving to and from offshore rigs gives him a good perspective on the breadth of activity in the Gulf. Fourchon's significance has been augmented since Hurricane Katrina all but wiped out another important offshore services port in Venice, La.

Companies, including such oil majors Royal Dutch Shell PLC, BP PLC and Chevron Corp., began evacuating staff Monday. Murphy Oil Corp., Marathon Oil Corp. and Apache Corp. are also bringing workers back ashore.

Refineries in the Houston area, representing about 13% of total U.S. processing capacity, continued to operate normally as they began to respond to the storm threat by securing their facilities and developing operating plans.

At the New York Mercantile Exchange, the October crude contract ended $1.16 lower at $66.23. Petroleum products, which advanced more than 10% Monday, posted bigger losses but ended well off their intraday lows by 4 p.m.

October gasoline, up nearly 25 cents at one point Monday, closed at $1.9766 a gallon, down 6.61 cents on the day. October heating oil, up more than 20 cents Monday, ended at $2.0113, down 2.71 cents.

While worries about disruptions to energy infrastructure have eased a bit, forecasters and analysts warned that Rita's track and strength could change as it moves westward.

The pullback in prices came as the Organization of Petroleum Exporting Countries, meeting in Vienna, decided to leave its official output target unchanged but to make some two million barrels a day in unused production capacity available as of Oct. 1.

Officials, expressing concern about the latest price rise, said the move to make all of the cartel's extra capacity available was meant to reassure consumers on supplies.

In other commodity markets:

COFFEE: Futures on the New York Board of Trade rose as funds exited previously established short positions amid rumors that some coffee stored in New Orleans will be decertified by Nybot officials after damage from Katrina. Buying interest was also fueled by concerns Rita could either inflict more damage to coffee stockpiles located in New Orleans or damage coffee stockpiles located in Houston. Coffee for September delivery rose 7.3 cents a pound, to 91.75 cents.

Bush Signs Katrina-related Flood Insurance Bill (REU-Y2)

Reuters, September 21, 2005

President George W. Bush on Tuesday signed legislation to increase the borrowing authority of the government's flood insurance program to $3.5 billion from $1.5 billion to pay claims from Hurricane Katrina.

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The legislation increases the borrowing authority of the National Flood Insurance Program that is administered by the Federal Emergency Management Agency.

The program offers low-cost flood insurance to homeowners and small business owners in high-risk areas where it might otherwise not be available.

The program does not use government funds, but is allowed to borrow from the Treasury if necessary to pay claims.

Some analysts have expressed concern that the new borrowing authority was not enough and would have to be increased again to handle Katrina-related claims.

The National Flood Insurance Program pays up to $250,000 for residential buildings, and another $100,000 for contents that are lost. It also pays up to $500,000 for nonresidential buildings and $500,000 for their contents.

Bush also signed into law a bill to exclude federal financial assistance for flooding from being considered income, so that the recipient's eligibility for other government benefits would not be affected.

Flooding Victims To Get Funds Quicker (USAT)

By Kathy Chu

USA Today, September 21, 2005

The Federal Emergency Management Agency is loosening the claims process for its flood-insurance program so Hurricane Katrina victims can get paid even if insurance adjusters can't get to the area.

The move comes as thousands of displaced homeowners and businesses cope with an impaired banking system and try to figure out how to pay for food, shelter and relocation.

“A lot of people don't even have homes,” says Michael Buckley, a FEMA deputy division director. “Rather than trying to agonize over the details” in clear cases of flood damage to homes and businesses, people will be able to get the temporary financial assistance they need, he says.

FEMA is urging the 100 private insurers that handle federal flood claims to advance $3,000 to policyholders from their coverage. FEMA also wants them to ease the requirement that policyholders provide flood loss proof through pictures or other documentation.

Insurance companies typically cover wind and wind-driven rain damage, but not flood losses. Insurers do, however, sell federal flood policies and service the claims for the federal government.

The majority of home and business owners don't have federal flood coverage. Only 34% of homeowners and 23% of businesses in the affected areas have it, FEMA estimates. The policies pay a maximum of $250,000 for damage to a home and $100,000 for damage to contents. Businesses get up to $500,000 each for property and content damage.

FEMA expects to shell out significantly more in Katrina-related flood losses than the record $2 billion payout for 2004's four hurricanes, Buckley says.

FEMA is not mandating the $3,000 payments, but many insurers are expected to provide them. Companies are “doing everything they can to get rid of red tape and bureaucracy,” says Julie Rochman, spokeswoman for the American Insurance Association.

Travelers started advancing policyholders $3,000 from their flood-content coverage a few days after Katrina hit.

“We took a bit of a chance” because FEMA hadn't given guidance at that time, says Ed Charlebois, a Travelers vice president. But, “obviously, these folks had been devastated by what happened.”

State Farm and Allstate also have been advancing funds if policyholders have coverage for flood damage to contents. Separately, many insurers are providing two weeks' worth of living expenses under homeowner policies to those who have been evacuated.

Homeowners insurance typically pays for expenses, including food and lodging, if the government calls for an evacuation due to hurricane winds or if wind damage makes a house unlivable.

Flood insurance, however, does not pay for those costs, so money doled out on those policies will be deducted from the total coverage amount.

Rethinking Flood Insurance (WP)

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The Washington Post, September 21, 2005

Like a rickety house that was already falling down, the federal flood insurance program has been destroyed by Hurricane Katrina. The theory of the program is that people who choose to live in areas prone to flooding should pay for that risk by buying insurance; they should not expect taxpayers around the country to rescue them from their own recklessness. But the truth is that, after a disaster like Katrina, the federal government will bail everybody out whether they are insured or not; it's humanly and politically unthinkable to do otherwise. Because the likelihood of a federal rescue is so strong, there never was much incentive to buy insurance. The huge federal effort after Katrina will undermine the program further.

The first response must be to make flood insurance compulsory, as auto insurance is. Currently, homeowners have to buy flood insurance if they live in a flood-prone area and they have a mortgage through a federally regulated or insured lender. But other mortgage providers escape this requirement; besides, people who own their homes outright are free to go uninsured, and many who buy insurance as a condition of their mortgage let the coverage lapse later. As a result, fewer than half of the homes in New Orleans had coverage, and the rate in Mississippi was much lower. To improve this situation, Congress needs to mandate coverage for everyone and then come up with a mechanism to enforce compliance. Regulators could oblige insurers that offer homeowners' policies to bundle flood insurance into their protection against fire, theft and so on. Or public authorities could collect flood insurance premiums at the same time they collect property taxes.

The second response must be to price flood insurance properly. In a vain attempt to persuade homeowners to buy coverage, the current system is subsidized; this allows people to build houses in exposed locations and then collect a federal check when the inevitable occurs, sometimes repeatedly. By pricing flood insurance accurately, the government would create price signals that would drive housing development to higher, drier land. Those who remain determined to live below sea level or on the beach -- or developers who put up low-income rental units in these places -- would pay the full cost of their preference. In some areas that have acute shortages of safe land -- New Orleans being one -- this may inflict hardship on the poor. But the best way to address that is to offer means-tested subsidies in a few jurisdictions, not to offer subsidies to rich and poor alike all over the nation.

Compulsory, fully priced insurance would in theory achieve the best of all worlds: It would ensure flood victims of compensation, it would protect taxpayers and it would deter risky construction. But in the real world the purchase of insurance policies will be less than complete, and accurate pricing of insurance risks would require inspecting every beach house to determine the quality of its flood precautions -- which is not likely to be practical. It may therefore be necessary to reinforce the federal construction standards in areas prone to flooding. If the feds are expected to come to the rescue in the event of a flood, it's reasonable to ask that zoning rules limit this liability.

How You Pay For People To Build In Flood Zones (USAT)

USA Today, September 21, 2005

Katrina was a devastating storm; Rita may well become one. But it is misleading to call such hurricanes natural disasters. (Related: Opposing view)

Storms become disasters only if they hit population centers. Otherwise, they're of interest mainly to scientists and weather buffs but are like the proverbial tree that falls in the forest to the rest of us.

These days, however, there isn't much chance a major hurricane could come ashore in the USA and not become a disaster: 54% of Americans live within 50 miles of a shoreline, according to the National Oceanic and Atmospheric Administration. By 2025, three-quarters of the country is projected to live in such communities.

This unprecedented march to the sea has been abetted by unwise government policies that encourage living along the coast. Principal among them: the National Flood Insurance Program.

Started in 1968, federal flood insurance subsidizes development in coastal areas and other regions subject to flooding by offering insurance at bargain rates underwritten by the government.

As of last year, about 4.6 million policies were in effect with an average annual premium of $438. These premiums are nowhere near enough to cover the program's losses. Earlier this month, Congress authorized the program to borrow $3.5 billion

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for Katrina-related payments, an amount most experts believe is just the beginning and few believe will be repaid by property owners.

The program not only brings big government into an area better left to private enterprise, it also achieves the opposite of its goal. By lowering the cost of maintaining a home on flood-prone lands, it increases the populations in these areas. That in turn leads to more, and more costly, disasters.

According to the Heinz Center for Science, Economics and the Environment, a non-partisan think tank, development density in flood-prone areas has grown dramatically since the advent of federal flood insurance. Before its enactment, lands subject to flooding were 25% less densely developed on average than comparable land not subject to flooding. Since then, the figure has closed to 15%.

Other problems with the program:

•Passing the buck. Private insurers have an incentive to claim that most hurricane damage is caused by storm surges (which are covered by the federal flood insurance) rather than by winds (which private insurers cover). Mississippi is investigating claims that some adjusters pressured homeowners in Katrina's path to sign waivers saying that their homes were destroyed by water.

• Lack of long-term planning. The government makes little or no attempt to quantify the financial risk it is exposed to through its insurance program, which provides more than three-quarters of a trillion dollars in coverage. That makes it difficult for the public to debate what should be done to protect coastal communities.

The government does, to be sure, have a vital role to play in identifying flood-prone areas. But the actual issuance of policies should be left to the private sector.

True, that would lead to higher premiums because private insurers can't run to Congress for money to cover their losses. But then why should taxpayers in Kansas subsidize insurance for people who live in Florida? And why should those Kansans — or anyone, for that matter — want to underwrite a system that each year helps put more people and property in harm's way?

After 37 years, it's time to recognize federal flood insurance for what it is: a disaster.

Premiums Offset Costs (USAT)

By Richard Baker

USA Today, September 21, 2005

In response to Hurricane Katrina, Congress has unanimously passed legislation I helped introduce, which will allow the National Flood Insurance Program (NFIP) to borrow up to $3.5 billion a year from the U.S. Treasury, up from the current ceiling of $1.5 billion. If this sounds like part of a massive federal taxpayer-funded recovery of the Gulf Coast region, it's not. On the contrary, this is one of the few expenditures in which the taxpayers will not have to contribute. (Related: Our view)

All claims under the NFIP are paid using premiums of policyholders, not taxpayer revenue, and the funds the NFIP borrows from the Treasury must be repaid, with interest. Far from being a subsidy, the NFIP is just about the only federal disaster program in which the victims pay in advance to pick up the tab for the recovery of their losses.

To give an example, in 2001 Tropical Storm Allison, the costliest at the time, produced damages estimated at $5 billion, nearly all of it from flooding in the Houston area. As a result, 2001 saw the highest expenditure in the NFIP's history, with claims exceeding $1.4 billion — or, put another way, about a third of the damages were met not by taxpayers but by NFIP premiums. These losses were more than covered because premiums collected that year exceeded $1.7 billion.

Given this history, and knowing the federal expenditures for disaster relief mandated by law, does anyone doubt that taxpayer resources will pour into Katrina-stricken communities? Why, then, would anyone complain about a program that reduces the taxpayer burden, and actually works according to an old-fashioned concept whereby those who might be impacted pay a premium to fund recovery from the next disaster?

Before the creation of the NFIP, flood-plain management never existed. Today, every community that participates must develop flood-control plans and take steps to mitigate repetitive-loss properties. The more a community does, the better its residents' premiums. According to NFIP's statistics, flood damage is reduced by nearly $1 billion a year through partnerships with

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communities, the insurance industry and lenders. Every $3 paid in claims saves $1 in disaster assistance payments. And finally, buildings constructed to NFIP standards suffer approximately 80% less damage annually than those that are not.

The question isn't why we need the NFIP. The real question is why it's not used more.

Rep. Richard Baker, R-La., chairsa House panel that oversees the insurance industry.

Back To Trent Lott's House (WP)

By Anne Applebaum

The Washington Post, September 21, 2005

"Out of the rubbles of Trent Lott's house -- he's lost his entire house -- there's going to be a fantastic house. And I'm looking forward to sitting on the porch."

-- George W. Bush, Sept. 2

Now that a suitable interval has passed, perhaps it's time to return to the question of Sen. Trent Lott's house. What interests me is not the now-tired question of whether the president ought to have promised to rebuild the Mississippi senator's family home on the Pascagoula beachfront before mentioning the lost homes of thousands of much poorer, less notorious people. What interests me is why his house was built on the beach in the first place.

At first glance, the answer appears simple. Although I haven't had the pleasure of visiting the senator's home, it's pretty safe to guess that he wanted to live by the water because it's psychologically soothing and aesthetically pleasing. It's quieter too, having seagulls instead of neighbors. It's nicer to sit on the porch.

But it's also true that many people build houses along the water because it makes economic sense to do so. Houses or apartments with ocean views command higher prices. Beachfront property owners can demand higher rents. Beachside businesses -- casinos, hotels, restaurants -- spin money. And, best of all, the risks of owning beachfront property -- risks from floods, hurricanes and erosion -- are covered by other people. Federally subsidized flood insurance programs and state-subsidized beach "re-nourishment" programs ensure that taxpayers -- rich, poor, local, national -- pay for damage to property built close to the water. To put it differently, Lott's house was on the beach because you and I paid for it.

Barring an unforeseen dose of political sanity, we're about to subsidize the reconstruction and even the expansion of more susceptible beachfront communities too. Leave aside New Orleans for a moment, with its special history and its peculiar geography. Focus instead on the rest of the Gulf Coast, much of which was wiped out no less thoroughly. Just like other hurricane-prone, flood-prone, erosion-prone parts of the country -- the Florida Keys, the Outer Banks, the Texas and California coasts -- the Gulf Coast recently has experienced an extraordinary building boom. In 2003 approximately 153 million people lived in U.S. coastal counties, an increase of 33 million people since 1980. By 2008, 7 million more will probably have moved there, too.

As a result of this success, beach developers tend to be disproportionately wealthy and politically influential, and therefore unusually good at fighting zoning laws and grabbing subsidies. Even after Hurricane Andrew forced Florida to establish stricter building codes, the owners of hot Florida Panhandle real estate managed to get a raft of exemptions for their region. One North Carolina beach community, Emerald Isle, has collected millions of dollars in state and federal money to combat erosion -- even though some 80 percent of Emerald Isle's new artificial beach is privately owned and inaccessible to the public, which paid for it. As The Post's Michael Grunwald recently pointed out, Lott himself used his political clout to force an Army engineer out of his job after the man had the temerity to suggest that Mississippi stop building casinos along the flood-prone coast. Twenty of those casinos were destroyed by Hurricane Katrina, and the 16,000 people who worked in them have lost their jobs and probably their homes as well.

The pattern doesn't hold across the country, away from the ocean: Entire towns happily moved uphill after catastrophic flooding in the Midwest in the 1990s, when the government paid them to leave. But with a few exceptions, coastal victims of hurricanes and floods have not only refused to move inland, they've also used post-disaster government funding to build more and higher buildings, with fewer restrictions then ever before.

To reverse this trend, politicians would have to do a lot more than write checks and come up with neat new names for old housing programs. Instead, they would have to force coastal property owners to pay the real cost of the risk they incur by building

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in dangerous places. They would not only have to stop subsidizing flood insurance, they also would have to require developers to pay heavier taxes and higher insurance premiums. They would have to alter incentives in order to encourage building farther inland. They would have to enforce stricter building codes. In barrier islands and other truly unstable places, zoning laws should prevent any new construction at all.

Such proposals would, of course, be the kiss of death for almost any politician. After all, they go against two important American principles: property owners' right to build what they want, and the government's obligation to bail them out afterward. Those are the principles supported by the rugged inhabitants of Denver and Los Angeles, who build houses ever closer to forests that periodically burn, and those are the principles supported by the denizens of seaside Pascagoula. At least when President Bush finally gets around to drinking his alcohol-free mint julep on Lott's new porch, we can hope that he raises a glass to those of us who made it all possible.

First Lady Tackles Poverty, Race Issues (AJC/AP)

By Jennifer Loven, Associated Press Writer

The Atlanta Journal-Constitution, September 21, 2005

WASHINGTON — Laura Bush, former inner-city teacher, says Hurricane Katrina could have a silver lining if it forces the nation to respond "in a different way" to difficult poverty and racial problems.

"A large percentage of our population probably doesn't realize what inner cities are really like and has looked away from that," Bush told The Associated Press in an interview Tuesday.

The first lady sat down in the White House's Map Room to promote this weekend's National Book Festival, a daylong event on the National Mall that she has put on in concert with the Library of Congress for five years — a tradition she started as first lady of Texas.

But she readily allowed the brief interview to range beyond books to more difficult issues like Katrina and the Supreme Court vacancy now before President Bush. With her popularity in polls twice that of her husband's, which is stuck at a record-low level, Mrs. Bush often plays the president's chief defender and puts a smiling, trusted face on administration policies.

Mrs. Bush has been to the Gulf Coast four times, once alongside her husband, and has held events around Washington devoted to the hurricane response. Her husband, beset with criticism about the government's initial response to Katrina, traveled to the region for a fifth time Tuesday and is returning again this weekend.

"He has to. That's his job," Mrs. Bush said matter-of-factly. "That's what happens when you run for president. You don't know what might happen like this."

Then, in a wifely endorsement, she said, "Fortunately he is really strong and so I'm confident that he'll be able to sustain the level of attention that he'll have to — and not just to that, also to the war in Iraq, to foreign policy and to all the other issues that are on the desk of the president of the United States."

With her husband called upon — and promising — to take bold new action on racial inequities in the wake of the storm, Mrs. Bush held up the 2002 No Child Left Behind education law as the signature example of how the Bush administration has been fighting poverty from the start. White House aides say the law is fueling higher achievement levels, particularly for poor and minority students — though there is little data yet to prove that such a new law deserves all the credit for recent gains in narrowing the achievement gap between younger whites and minorities.

But she said she also hopes for a broader national discussion of poverty and race. "I think it's really important for us to talk about it in a different way," said Mrs. Bush, who over three decades ago taught elementary students at an inner-city school in Houston and was a school librarian in a poor Austin neighborhood.

Without offering specifics, she urged policymakers to tackle not only improving education so that poor and minority children have a leg up in life, but increasing the amount of affordable housing stock and the jobs available to those who most need them. She pressed for job training programs, whether through the government or unions or corporations.

"Because of the devastation on the coast, there will be a neighborhood and a housing discussion that'll be possible that really was not possible before," she said. "And then the employment piece of it is also very, very important. ... If a large number of people can come out with skills that they didn't have before, that will be one silver lining."

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She pleaded with Americans who have been so generous and focused not to turn away from the staggering need in the Gulf Coast before the job is done.

"That's going to be the hard part for everyone, and that is to sustain the amount of help that evacuees are getting to do the long, long hard work that's going to be required," Mrs. Bush said. "It's particularly hard for Americans, because we're so im patient and we think that everything ought to be fixed yesterday."

As for the book festival, it has added a Katrina focus this year by prominently featuring "Book Relief," a joint project between the Library of Congress and the nonprofit First Book that hopes to deliver 5 million books — up from 100,000 gathered so far — to storm evacuees, libraries and schools whose collections were wiped out.

The first lady repeated her desire to see her husband nominate a woman to replace Justice Sandra Day O'Connor, whose retirement will leave Ruth Bader Ginsburg as the Supreme Court's sole female, and said "there are qualified women that are in the pool" of potential nominees being considered.

"It's important to have women in those jobs, just like I think it's important for women to be in every field in our country," she said.

But she hedged on whether the president would heed her wishes.

"Whether it's a woman or a man, I know they'll be highly qualified," she said.

Politics, Priorities Stand In Way Of National War On Poverty (USAT)

By Jill Lawrence

USA Today, September 21, 2005

WASHINGTON — Hurricane Katrina brought poor people directly into American living rooms. Then, amid the images of hardship, the Census Bureau said poverty had risen for the fourth straight year.

Is the nation at a crossroads, about to experience a dramatic shift in its politics and priorities?

Hurricane Katrina has sparked hopes and calls for a new national resolve to end poverty. But the public may not be mobilized for such a crusade.

Two-thirds of those in a USA TODAY/CNN/Gallup Poll this month said the country is not spending enough to fight poverty. Yet such sentiment cannot be attributed to Katrina; 69% said the same thing more than a year ago in a University of Chicago Poll.

Glen Bolger, a Republican pollster, says his pre- and post-Katrina surveys show voter priorities are unchanged. Asked what would most influence their vote for Congress next year, their top issues are Iraq, terrorism and jobs.

Even assuming the public would support a national war on poverty, many analysts say it's not likely to happen. One reason is the cost of Gulf Coast recovery, combined with the expense of the Iraq war and President Bush's drive for more tax cuts. "Yes, Katrina has shined a light on poverty," says Sheila Zedlewski, director of the Income and Benefits Policy Center at the Urban Institute. "But we have a competing problem and that is the federal deficit," which the White House estimated to be $333 billion this year.

Another problem is the divide between liberals and conservatives on how to fight poverty. More government programs or more run by churches? Direct help or tax cuts?

"We all want to solve poverty," says Donald Devine, vice chairman of the American Conservative Union. "The question is, will we do it the way we did it in 1932, or have we learned something since then?"

The New Deal looks pretty good to some Democrats. Former vice presidential nominee John Edwards, director of the Center on Poverty, Work and Opportunity at the University of North Carolina, praised three Depression-era programs this week and proposed a job creation program for the Gulf Coast. Sen. Edward Kennedy, D-Mass., wants a Gulf Coast Redevelopment Authority modeled on the Tennessee Valley Authority.

Bush's plan includes tax incentives for business, vouchers to help displaced parents pay for private and parochial schools, relaxed environmental regulations and suspension of a requirement that federal contractors pay workers prevailing local wages. All are part of a long-standing GOP agenda.

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Calls for a more expansive fight against poverty are coming from many quarters. First lady Laura Bush told the Associated Press she hopes Katrina helps the country respond "in a different way" to poverty and racial problems. "A large percentage of our population probably doesn't realize what inner cities are really like and has looked away from that," she said Tuesday.

Most of those calling for broad-based action are Democrats or clergy. "We can no longer be a nation that overlooks the poor and the suffering," T.D. Jakes, pastor of a Dallas megachurch, said at a memorial service for Katrina victims.

Edwards, Illinois Sen. Barack Obama and Massachusetts Sen. John Kerry are among the Democrats pressing to turn Katrina into a pivotal moment. "Will we be satisfied to only do the immediate: care for the victims and rebuild the city?" Kerry, his party's 2004 presidential nominee, asked Monday in a speech at Brown University. "Or will we be inspired to tackle … the societal injustice that left so many of the least fortunate waiting and praying on those rooftops?"

Charlie Cook, publisher of a political report, says Republicans "need to soften some of their hard edges or run the risk of losing their majorities" in the House and Senate. They would be smart, he says, to talk broadly about fighting poverty.

Are there any steps that could bridge the gap between parties? Rich Lowry, editor of the conservative National Review, suggests "a grand right-left bargain" in which liberals focus on preventing illegitimate births and conservatives support more urban spending.

Zedlewski says Katrina has revealed "a fragmented safety net" with many separate programs and sets of rules. It's so difficult to navigate that there may be bipartisan support for streamlining, she says: "People on both sides of the aisle would like to see this support system work better than it does."

Such consequences would be modest compared with those from the 1911 Triangle Shirtwaist factory fire that led to workplace reforms and the modern labor movement, and the 1927 Mississippi River flood that prompted a government response foreshadowing the New Deal.

But some leaders say even a discussion with no immediate results would be better than the pre-Katrina silence. Los Angeles Mayor Antonio Villaraigosa says his city has the highest poverty rate in the country. "I'm amazed at how little the issue of poverty is raised in the Congress," he says. "Hurricane Katrina is an opportunity for us to engage in that debate."

Rita Nears Category 4 (USAT)

By Tom Vanden Brook

USA Today, September 21, 2005

MIAMI — Hurricane Rita was forecast to strengthen tonight into a major storm as powerful as Hurricane Katrina, after brushing past the Florida Keys on Tuesday.

Rita's growing strength and its westward track prompted evacuations in Texas, the scrambling of National Guard troops and a dash in Louisiana to shore up levees.

The National Hurricane Center said Rita, with winds above 100 mph, is likely to become a Category 3 hurricane this morning with winds of at least 111 mph. It is then predicted to quickly become a Category 4 with winds of at least 131 mph as it gains strength from the warm waters of the Gulf of Mexico, hurricane center specialist Stacy Stewart said. Katrina was a Category 4 storm with winds of 145 mph when it hit the Gulf Coast on Aug. 29.

"If Rita goes on to become a Category 4 and remains a Category 4 when it makes landfall, you could have a similar disaster to Katrina," Stewart said. "People need to take this storm very, very, very seriously."

Rita was on track to hit Texas by Friday. Galveston County, Texas, ordered an evacuation starting tonight of tens of thousands of residents in coastal island communities. School buses were lined up to ferry those without cars. Gov. Rick Perry ordered 1,200 Texas National Guardsmen on relief duty in Louisiana to return home.

In New Orleans, the Army Corps of Engineers raced to patch levees damaged by Katrina. There was a small chance Rita could swerve toward Louisiana, according to the hurricane center.

"The protection is very tenuous at best," corps official Dave Wurtzel said of the levees.

The federal government was pouring resources into the region to ensure a rapid response. Helicopters were on standby to carry in water, food and other supplies. The Federal Emergency Management Agency readied aircraft and buses for evacuations. Rescue teams and truckloads of ice, water and prepared meals were being sent to areas in Rita's path.

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The warship USS Bataan, laden with hospital supplies and doctors, was shadowing the storm. President Bush received a briefing aboard the USS Iwo Jima, docked in New Orleans. He discussed plans for "what we pray is not a devastating storm."

Rita ran just south of the Florida Keys on Tuesday. Water and sand washed over some roads.

Gulf Coast Braces As Hurricane Rita Gains Strength (LAT)

By John-thor Dahlburg And Maria L. Laganga

The Los Angeles Times, September 21, 2005

FLORIDA KEYS — An intensifying Hurricane Rita gave people here a soaking and a scare today, as the storm roared through this group of isles and islets toward the Gulf Coast.

Though it was unlikely that Rita would directly hit the Keys, there was concern that it would pick up energy and become a serious threat to the Gulf Coast, which is still recovering from Hurricane Katrina.

"If this is all it is, we have been lucky again," said Monroe County Sheriff Richard Roth. "We've dodged another bullet."

Rita, a Category 2 hurricane with winds of more than 100 mph, is about 50 miles south of Key West and about 65 miles northeast of Havana, Cuba, according to the National Hurricane Center. It was moving toward the Gulf of Mexico, where it was expected to pick up energy from the warm waters and most likely hit Texas by the end of the week.

Some of the storm's effects could be felt as soon as Thursday in New Orleans, slammed when Katrina hit the Gulf Coast on Aug. 29.

According to the Hurricane Center, Rita was moving west at 15 mph, with rainfall in the Keys between 6 to 8 inches. A storm surge of 2 to 4 feet could bring flooding along the Florida coast.

As it moved south of Key West, the archipelago's largest city, the storm whipped up a chocolate-colored surf that poured onto the Overseas Highway, which is only foot above sea level in places, and is the only road link to the mainland United States. The surf left a thick matt of brownish seaweed on the road, along with coconuts and the occasional float torn from a lobster pot.

Sheriff Roth said his deputies and firefighters had been called in to evacuate 12 people who had hunkered down in their trailer park in Islamorada.

Roth estimated that 40,000 people, about half of the year-round population in this popular tourist and fishing destination, had heeded the wish of authorities that they evacuate.

Though proverbially relaxed about the vagaries of tropical weather, many Conchs, as Keys natives are known, had been spooked by the images of flooding and other devastation caused by Katrina, Roth said

"They were quick to leave this time," Roth said, though they had only one day to evacuate.

One factor in the Key's favor was Rita's brisk forward motion, which gave it less time to linger and cause harm with its waves, wind and rain.

"The more it sits here and stalls, the more damage it does," said Sharon Harrold, a director at the Monroe County sheriff's office. "We like them to move fast. In and out."

As Rita, the third hurricane to strike the United States this year, began to batter the keys, authorities warned residents to stay off the road and hole up in a safe place.

By midday, officials said Highway 1 was flooded in at least eight locations and for all practical purposes cut off from the rest of the county. "The whole Keys, US 1 is impassible," Harrold said, at the county emergency operation center in Marathon, about 45 miles northeast of Key West.

At fire stations throughout the Keys, the red and black flags heralding the coming of the hurricane snapped in the increasingly fierce winds.

The seas around the islands were whipped into a brownish jade color, in places seawater and tossing waves slopped onto roads carrying crabs that then scampered across the asphalt. Palm trees flailed their fronds against a battleship grey sky and the air carried a strong smell of brine.

Though Florida faced four hurricanes last year and three so far in 2005, Roth, the sheriff for the Keys, said the response by authorities was becoming more finally honed with each ordeal.

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Florida authorities, he said, had already stockpiled water, ice, gasoline, diesel fuel and other relief supplies at staging areas from Homestead north to Palm Beach. They were just waiting for Rita's winds to die down to bring in whatever was needed.

"I have never seen staging like I have seen in this storm," Roth said. "It's amazing what's available to us — helicopters, Humvees, the National Guard."

On Ohio Key, a trailer park lay partially under water. Further to the south on Big Pine Key, which is home to a federally protected species of deer, no bigger than dogs, the deer preserve was partially flooded. On Big Pine Key Rita's gust were powerful enough to push an SUV around on the road.

Elsewhere in the lower Keys, residents worried about storm surge parked their cars on the highest ground available — the shoulder of US 1, turning the berms of the Overseas Highway into what looked like a large used car lot.

On Big Coppitt Key Rita's winds were powerful enough to tear one of the hurricane warning flags from the fire station's flagpole and carry it away.

In Key West, the southernmost city in the continental United States, closer to Havana than Miami, Rita pushed the foaming surf over the beachfront road on the south side of the island, inundating the road with 4 inches of water and depositing scores of natural sponges, wrested from the seabed.

The raging surf foamed with plumes 6 feet high as it dashed against the sea wall. In Key West's business and tourists district many traffic lights were knocked out, neighborhoods reported power losses and streets were littered with downed palm fronds, tree branches and green coconuts. Duvall Street, the main drag for cruise ship passenger and other tourists, was practically deserted, its storefronts covered with plywood sheets or steel storm shutters.

"We are tired of hurricanes. We are moving to Alaska," was the message painted on the boards protecting one trattoria.

Florida Gov. Jeb Bush ordered 2,400 Florida National Guard Troops to active duty, and alerted 2,000 for possible activation.

Homestead Air Force Base and Patrick Air Force Base have been designated as FEMA mobilization centers, from which supplies and equipment will be ferried to the areas affected by the storm. The Pentagon has also put eight helicopters from Patrick Air Force Base on alert to conduct search and rescue missions.

With the storm moving into the Gulf of Mexico, the Pentagon has decided to move the five ships deployed for Joint Task Force Katrina out of Rita's path. The ships that will sail east are the Tortuga, the Comfort, the Iwo Jima, the Shreveport and the Grapple.

In expectation of Rita making landfall in Texas, Gov. Rick Perry today ordered 1,100 Texas National Guard troops aiding relief efforts in Louisiana back to their home state. Perry has authorized the activation of up to 5,000 Texas Guardsmen.

Officials of Galveston, Texas — nearly 900 miles from Key West — have already asked residents to leave voluntarily. Louisiana Gov. Kathleen Babineaux Blanco urged everyone in the southwest part of her state to prepare to evacuate.

Officials said Rita might reach Category 3, or even Category 4, status before it hits coastal Texas.

In coastal Galveston, officials made plans to evacuate the city's 58,000 residents. In 1900, a hurricane with estimated winds of 135 mph made landfall at Galveston, inundating the Texas resort city with a 20-foot storm surge and killing at least 6,000 people.

Since then, a 17-foot-high seawall has been erected at Galveston, but officials still worried about a tidal surge.

As Texas braced for Hurricane Rita, men, women and children who had been evacuated from Louisiana to shelters in Houston after Hurricane Katrina began to pack their belongings for yet another move.

Officials plan to close down the shelter at the Reliant Center -- Houston's largest temporary facility for Katrina evacuees -- and transfer people to Ft. Chaffee, Ark., in advance of Rita.

The center this morning was a buzz of stress and activity, as reluctant evacuees prepared to leave yet again, heading to their fourth shelter in three states since surviving Katrina.

Many of the 976 evacuees who remained at the Reliant Center began their journeys at the Superdome in New Orleans, were airlifted to Houston's Astrodome, then shifted to the Reliant Center shelter when the Astrodome closed.

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"I'm tired, I'm tired," said Darrell Lewis, 41, as he waited, resigned, on a folding chair outside the shelter for a bus to Ellington Field and an eventual plane to Arkansas. "I just want to settle down, go someplace and stay there and get my life back together. I been in three places already, and now I'm going to Arkansas."

Some of remaining evacuees at the Reliant Center have balked at being airlifted to yet another state and have made plans to move in with relatives or find other housing.

Carol Ben, 62, waited outside of the massive shelter with a friend for "somebody to come and get me. I'm going to Dallas, hopefully to my son or daughter's house.

"We were going to leave Saturday, but we have to leave early," Ben said. "It's a problem all the way around. It looks like it's following us."

FEMA Rushes To Help After Rita (WT)

By Audrey Hudson

The Washington Times, September 21, 2005

The Federal Emergency Management Agency (FEMA), already stretched thin from recovery efforts for Hurricane Katrina, is scrambling to prepare for an equally disastrous hurricane forecast to reach Category 4 strength by this afternoon.

FEMA and state officials began preparation efforts Monday for the first impact of Hurricane Rita in the Florida Keys, racing hundred of trucks with ice, water and military Meals Ready to Eat (MREs) rations to pre-staging sites, and dispatched multiple emergency teams to provide medical care and search and rescue services.

Florida Gov. Jeb Bush mobilized 2,400 National Guardsmen and put another 2,000 guardsmen on alert Sunday, evacuated all hospitals and nursing-home patients in Monroe County and issued a mandatory evacuation of Key West before closing the bridge to the island at midnight Monday.

Six Black Hawk helicopters and one Chinook were on standby in West Palm Beach, and out-of-state choppers were staged to respond to Hurricane Rita victims.

"The great work being done locally and with support from the state and federal officials, we've responded to this storm, I think, in a way that Floridians can be proud," Mr. Bush said at a press conference yesterday.

R. David Paulison, acting FEMA director, said state evacuation efforts were thorough, and he expects the same cooperation with Texas.

"I've been on the phone with [Mr. Bush] on a regular basis. He is very pleased with the job we've done. Florida, like Texas, has an outstanding emergency management system, and they're easy to work with," Mr. Paulison said.

As Rita grew from a tropical storm to a Category 2 hurricane on a path toward Texas and Louisiana, FEMA began relocating more than 8,000 Katrina evacuees who were sheltered in Texas to other locations, while rounding up water and food for new shelters.

Meanwhile, FEMA officials set up staging areas in Texas with 90 truckloads of water and ice and eight trucks full of MREs, and dispatched 18 urban search-and-rescue task forces and disaster medical assistance teams.

"Texas also has an outstanding emergency management system. They are well prepared," Mr. Paulison said. "They are ready for the hurricane. They know it's not going to be easy, but they're ready to go."

Texas Gov. Rick Perry will begin mandatory evacuations today in Galveston, Corpus Christi, Houston and San Antonio and has recalled the Texas National Guard from Louisiana along with other emergency personnel and equipment. Forecasters currently predict Rita will make landfall near Galveston, a city that was leveled by a hurricane 105 years ago this month.

"For the past three weeks, our emergency personnel have been assisting our neighbors devastated by Hurricane Katrina, and over the last year our state has heightened preparations for dealing with a catastrophic storm. While we continue to hope that day never comes, Texas must be ready if it does," Mr. Perry said.

FEMA officials are in place at Texas' operation center, which went on full-alert status today with 34 state agencies on site round-the-clock, a spokeswoman for the governor told the Houston Chronicle.

"FEMA has already been part of this. They have offered whatever support we need," Perry spokeswoman Kathy Walt said. Texas is not Louisiana. You won't see that breakdown occurring here."

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Texas Pulls Katrina Relief Crews To Aid In New Storm (WSJ)

By Gary McWilliams

The Wall Street Journal, September 21, 2005

Texas state officials pulled back emergency workers from Hurricane Katrina relief operations, and businesses and residents began battening down in advance of the second hurricane in a month to take aim at the Gulf Coast.

The National Hurricane Center predicted Hurricane Rita, which strengthened yesterday to a Category 2 with winds of about 100 miles an hour, will make landfall along the Texas coast, though the storm also could turn toward Louisiana. Forecasters expect Rita to continue strengthening before striking Texas as early as Friday night. (See the hurricane center's strike-probability map.)

Texas Gov. Rick Perry recalled a contingent of 1,000 Texas National Guard members from Louisiana and announced plans to redeploy them alongside 5,000 state emergency workers for possible water rescue operations.

In Houston, officials were emptying two huge shelters that were set up four weeks ago to house New Orleans residents fleeing Hurricane Katrina. The two shelters harbored about 30,000 people at the height of the Katrina evacuations, but only 1,200 remained yesterday morning.

The Federal Emergency Management Agency arranged for 10 chartered jets to fly as many as 1,700 people out of the region. Shelter occupants were requested to relocate to Fort Chaffee, Ark. Those who didn't want to leave Texas were being asked to find temporary housing elsewhere.

"Our major concern is to get them out of harm's way," said Gloria Roemer, a spokesman for Harris County Judge Robert Eckels. "We cannot have them here in this arena; it's not safe here," she said. Once the two shelters are closed, personnel will be directed to prepare for Hurricane Rita.

In Louisiana, federal, state and local officials said they are prepared to evacuate residents quickly if Rita threatens the battered state. New Orleans Mayor Ray Nagin said the federal government has provided 500 buses to empty the city of holdouts still there. Starting today, residents and business owners trying to return to assess the damage to their property will be turned back at checkpoints into New Orleans.

Brigadier General Robert Crear of the U.S. Army Corps of Engineers warned that the city's levee system was "almost completely destroyed" by Katrina and likely could withstand a storm surge of only five to 10 feet in some locations. Louisiana Governor Kathleen Blanco said officials are "praying that it dissipates. ... This state can barely stand what happened after Katrina."

In Galveston, an island city 50 miles south of Houston that is no stranger to hurricanes, officials called for nearly 60,000 residents to evacuate inland and closed schools for the week. Galveston hotels and rental cottages were asking visitors to leave the island, and residents were boarding up vacation homes.

Evacuees were directed to Red Cross shelters in Huntsville, Texas, 115 miles north. University of Texas Medical Branch at Galveston, the island's largest hospital, said it was drawing up plans for an orderly evacuation of patients, if needed, today or tomorrow.

Rita Is Gaining Force In The Gulf (WP)

By Sam Coates And Manuel Roig-franzia

The Washington Post, September 21, 2005

KEY WEST, Fla., Sept. 20 -- Hurricane Rita slapped at Key West on Tuesday before strengthening in the Gulf of Mexico, where it appeared to be veering away from New Orleans, but still forced the evacuation of 7,000 of Louisiana's Katrina evacuees from Texas.

Forecasters expect Rita to swell on Wednesday into a Category 4 monster, carrying 131-mph winds, as it gains strength from the warm Gulf waters and spins westward toward an anticipated landfall early Saturday near Galveston, Tex. The storm's sudden burst of power after it passed 50 miles south of Key West, and the possibility that its track could change, sent ripples of anxiety across hundreds of miles of the Gulf Coast, much of it still in the early stages of recovery from Katrina three weeks ago.

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President Bush signed an emergency declaration for Florida, which allowed federal relief help to be prepositioned. He also said that he had spoken with Texas Gov. Rick Perry (R) about storm preparations.

"All up and down this coastline, people are now preparing for what is anticipated to be yet another significant storm," Bush said.

Perry activated 5,000 members of the Texas National Guard. Military leaders prepared to rush the USS Iwo Jima, which has served as a floating command post in New Orleans, and several other naval vessels out to sea to better ride out the storm. Emergency workers began plans to open shelters in central Texas, and the mayor of Galveston issued a voluntary evacuation order, which could be followed by a mandatory order on Wednesday.

The scramble to prepare for Rita's next landfall swung into motion even before the storm toppled trees and electrical lines with 90-mph gusts in Key West. But there were no reports of injuries, only isolated flooding. The damage was far less than feared from a storm so fearsome that nearly half of Key West's residents evacuated -- far more than the usual 25 percent on an island famous for its nonchalance in the face of hurricane threats.

"We are very fortunate," Key West Mayor Jimmy Weekley said.

Key West's apparent fortune did little to ease anxiety as the storm grew more powerful Tuesday. New Orleans Mayor C. Ray Nagin, who has delayed plans to let residents return, urged those who are still in the city to leave once again. Two busloads of residents followed his advice. But hundreds ignored him.

In the Gentilly neighborhood of New Orleans, where neck-high floodwaters from Hurricane Katrina have now receded, the National Guard was warning a handful of homeowners who had sneaked into the city to check on their houses that it was time to get out again.

"We are not forcing them, but we will do anything to convince them to get out of here," said Sgt. Timothy Eagle of the Oregon National Guard, who cruised the neighborhood in a Humvee. "We don't want to come back for the body."

Perhaps the worst off, at least psychologically, are the thousands of Katrina evacuees in Texas who are now being "re-traumatized" by a second evacuation.

"You can imagine what's going on in people's minds who lost virtually everything," said Howard B. Smith, associate dean of the College of Education and Counseling at South Dakota State University and coordinator of Red Cross mental health services.

A few evacuees began boarding planes bound for Fort Chaffee in Arkansas, a state that will accept 4,000 displaced residents, while an additional 3,000 will be going to Tennessee. One thousand may be going to Nebraska. But some evacuees were unwilling to be uprooted again.

"It's a natural and well-expected reluctance," Perry spokeswoman Kathy Walt said.

Perry urged residents to fill their vehicles with gasoline, gather personal and financial records, stock up on a three-month supply of needed medications and emergency provisions such as flashlights, water and nonperishable food; and find places to stay inland.

Advance work in Louisiana, where levees are still being repaired and 40 percent of the pumps in New Orleans still do not work, included the staging of 500 buses in case the storm edged toward the city, addressing a lack of transportation that left the city with no choice but to house tens of thousands of people in squalor at the Louisiana Superdome and the convention center in the days after Katrina.

"We're learning as we go," Nagin said.

Nagin, whose plan to let residents return to the city was sternly criticized by Bush and by the administration's point man for New Orleans recovery, Vice Adm. Thad W. Allen, went for a show of unity at a news briefing on Tuesday, presenting Allen with a T-shirt that read "I love New Orleans." He also hugged Gov. Kathleen Babineaux Blanco (D), who declared a state of emergency as Rita entered the Gulf.

Nagin said he might begin reconsidering when to restart his plan to repopulate the city on Friday if Rita does not hit Louisiana. But he refused to discuss a timetable after meeting with Bush, who made his fifth trip to New Orleans on Tuesday, and Allen, who has cautioned that the city is still unsafe.

Now that the storm is deep into the gulf, the party can continue in Key West, where Bill Piercenall, who works in a restaurant and lives downtown, spent the hours before the storm "feet up" drinking beer.

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"I'm just surprised there aren't more drag queens," said L.A. Meyers, working in the 801 bar, the only drinking establishment open on Duval Street, the main road in downtown Key West. "They love to come out during hurricanes."

The arrival of Rita on Key West is getting forecasters closer to the possibility of a notable quirk. An international committee of the World Meteorological Organization has preselected storm names for decades, first using only female names, then alternating male and female names since 1979.

But there is a finite number of preselected names -- 21 -- each summer, and after Rita, only four are left this year: Stan, Tammy, Vince and Wilma. If that list is exhausted, the meteorological group will have to revert to a backup plan: naming storms using the Greek alphabet, beginning with alpha, beta and gamma.

Bush Concerned Rita May Hit Damaged Gulf (KCS)

By Nedra Pickler

The Kansas City Star, September 21, 2005

NEW ORLEANS - President Bush kept a worried watch Tuesday on "what we pray is not a devastating storm" - Hurricane Rita - as he flew over miles of flattened homes and mud-caked neighborhoods hit by Hurricane Katrina.

Bush received a briefing about Rita aboard the USS Iwo Jima, which is docked near downtown New Orleans, as the hurricane lashed the Florida Keys and caused new anxiety among Katrina victims in Mississippi, Louisiana and Alabama.

In a ship mess hall, the president held a videoconference with three federal officials: Homeland Security Secretary Michael Chertoff, the National Hurricane Center's deputy director, Ed Rappaport, and a Federal Emergency Management Agency official.

The officials said Rita was projected to strengthen to a Category 3 hurricane that would hit the upper to middle part of the Texas coast by the weekend and could create tropical storm conditions - or, much less likely, hurricane-force winds - in southeastern Louisiana.

"We're watching very closely, of course, its track," Bush said later at a Folgers coffee plant in Louisiana that recently restarted operations. "All up and down the coastline people are now preparing for what is anticipated to be yet another significant storm."

Eager to show hands-on leadership after being criticized for a slow response to Katrina, Bush signed an emergency declaration for Florida, spoke with Texas Gov. Rick Perry about planning for the storm's landfall, and said military outfits are being removed from New Orleans to be out of Rita's path and ready to help with recovery.

The White House said Bush had named Frances Fragos Townsend, his in-house homeland security adviser, to lead an administration investigation of "what went wrong and what went right" in the sluggish federal response to Katrina. The appointment of Townsend, a former federal prosecutor with a reputation as a tough adversary, is unlikely to satisfy Democrats on Capitol Hill who are demanding a fully independent investigation.

Bush said he was pleased that New Orleans Mayor Ray Nagin suspended his plan to allow as many as a third of the city's residents to return. He said positive steps are being taken.

"What you're beginning to see is a revitalized economy," Bush said, standing before 110 trailers set up for Folgers employees who lost their homes. "Progress is being made."

Bush began the day in Gulfport, Miss., where he dropped in on the first meeting of Gov. Haley Barbour's Commission on Recovery, Rebuilding and Renewal, applauding their "can-do spirit" and pledging to help clean up the devastated Gulf Coast. He flew along the coast over mile after mile of destroyed homes.

"There is no doubt in my mind that out of the rubble and out of the huge heaps of timber that used to be homes, a better Mississippi will emerge," Bush told the local government and business leaders gathered in an air-conditioned tent set up in a hurricane-damaged outlet shopping center.

The president told them he had heard their complaints about bureaucratic hurdles for trash removal, saying he was personally making calls to cut through red tape and people in the area will soon see results.

"There was a level of frustration, as there should have been," he said. "We'll get the debris removed."

Barbour told Bush that local officials need the federal government's help to rebuild the area's infrastructure and make Mississippi's hurricane zone "the most attractive place in America for private investment."

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"I'm confident that we'll get the resources because y'all have been so generous and good to us. But we want you to know that we're going to try to help you know what to give us," Barbour said to laughter.

Jim Barksdale, chairman of Barbour's commission, told the president and other attendees that they only have themselves to blame if reconstruction isn't successful. "You folks are like the pig at a ham and egg breakfast," he said. "You are committed."

White House press secretary Scott McClellan acknowledged that some of Mississippi's more rural areas still are waiting for federal help that has been focused in New Orleans and other larger population centers.

After Bush returned to Washington, the White House issued a statement saying Bush had signed into law legislation that allows the National Flood Insurance Program to borrow up to $3.5 billion a year from the Treasury, up from the current ceiling of $1.5 billion. He also signed into law a measure that excludes federal assistance for mitigating flood damage from being considered income when determining a person's eligibility for other federal benefit programs.

Another Storm Could Renew Flooding (USAT)

By Alan Levin

USA Today, September 21, 2005

NEW ORLEANS — The Army Corps of Engineers sped repairs to the pumps and levees guarding this crippled city Tuesday, but another hurricane or heavy rains almost certainly would cause new flooding, according to corps officials and engineering and storm experts.

Three weeks after Hurricane Katrina breached levees and flood barriers and inundated large sections of New Orleans, the corps is closely watching the path of Hurricane Rita, which buffeted the Florida Keys Tuesday and moved into the Gulf of Mexico.

“We're not in a position to go through a tropical storm without reflooding a lot of areas that were just drained,” says Paul Kemp, a professor at Louisiana State University's Hurricane Center.

Rita's projected path takes it toward possible landfall Friday on the Texas coast. If that happens, Rita's high winds and storm surge will largely skirt New Orleans, said Lee Butler, an engineering consultant and former corps engineer who has studied New Orleans' levees. “There shouldn't be that much pressure on New Orleans if the storm stays to the west of Galveston,” Butler said.

As Rita strengthens, the corps is filling hundreds of sandbags, moving pumps into vulnerable areas and adding dirt and rock to low spots on levees to strengthen New Orleans' defenses against flooding, said Col. Duane Gapinski, who commands the agency's effort to rebuild the levees.

That combination should protect the city against a storm surge of 5 feet or higher, Gapinski said.

The corps also plans to build temporary steel dams across two canals near Lake Pontchartrain where breaches occurred after Katrina struck.

But parts of New Orleans lie below sea level and almost certainly would flood again if Rita shifts course and hits the region. Here are the area's major flood weaknesses, according to the corps:

•The city's system of pumps, which was knocked out by Katrina, is operating at less than half normal capacity. A preliminary corps study predicted a storm that dumped 9 inches of rain would produce pools of water 2 to 4 feet deep in the lowest lying areas. Even 3 inches would flood some areas again, said Brig. Gen. Robert Crear of the corps.

•Five major breaches that led to flooding in New Orleans during Katrina have been repaired, but the protective barriers are 5 to 10 feet lower than they were before Katrina. The corps plans to dam two canals near Lake Pontchartrain to protect levees there. But there is no such protection near the city's Ninth Ward, which was heavily flooded by Katrina.

•St. Bernard Parish, a community east of New Orleans that was severely flooded by Katrina, could be vulnerable if Rita pushes water toward it from the Gulf. Much of a 10-mile stretch of levees designed to protect the parish was leveled by Katrina's storm surge.

Rita Threatens New Orleans' Damaged Levees (WT/AP)

By Michael Rubinkam, Associated Press

The Washington Times, September 21, 2005

DOJ_NMG_0007081

NEW ORLEANS -- The Army Corps of Engineers raced to mend New Orleans' fractured levee system yesterday, and residents were forced to decide yet again whether to stay or go as a new hurricane threatened the city.

Mayor C. Ray Nagin, Louisiana Gov. Kathleen Babineaux Blanco and other officials strongly urged people along the Louisiana coast to be prepared to evacuate and said nearly 500 buses stood ready.

"The protection is very tenuous at best," said Dave Wurtzel, the Army Corps official responsible for repairing the 17th Street Canal levee, whose huge breach during Hurricane Katrina caused the worst of the floods that soaked the city.

The new threat was Hurricane Rita, which strengthened into a 100-mph Category 2 storm as it barreled past the Florida Keys into the Gulf of Mexico.

"We are praying that the hurricane dissipates or that it weakens," said Mrs. Blanco, who declared a state of emergency. "This state can barely stand what happened to it."

The storm was projected to cross the Gulf and hit Texas by the end of the week. But a slight turn to the right was possible, and engineers warned that even a glancing blow to New Orleans and as little as 3 inches of rain could swamp the city's levees as early as tomorrow.

In anticipation of Rita, the Corps drove a massive metal barrier across the 17th Street Canal bed to prevent a storm surge from Lake Pontchartrain from swamping New Orleans again. Although engineers have left a large opening in the wall to allow floodwater to continue to be pumped back into the lake, it will have to be closed quickly if the storm threatens.

"This is what we're going to have to rely on to protect this canal and this part of the city," Mr. Wurtzel said.

Government engineers and private contractors also worked round-the-clock across New Orleans to repair the damage to the system of pumps, concrete flood walls, earthen berms and canals that protect the city.

In addition, the Corps had 800 giant sandbags weighing 6,000 to 15,000 pounds on hand, and had ordered 2,500 more to shore up low spots and plug any new breaches. It was also putting pumps and other materials where they might be needed.

"If New Orleans was directly affected by a Category 1, I would be concerned -- I would pull my people out," said David Pezza, the top geotechnical engineer for the Army Corps. "These levees are greatly compromised."

Mixed Signals Add New Level Of Aggravation (USAT)

By Matt Kelley

USA Today, September 21, 2005

NEW ORLEANS — Frazzled and frustrated residents prepared Tuesday for the possibility of another hurricane, saying they're sick of mixed signals from federal, state and local leaders about whether to stay or go.

“I'm just tired,” Shandried Baxter, 30, said as she waited for her clothes to dry at one of the few operating coin laundries in the city. “If we have to leave, we have to leave,” she added with a shrug.

Mayor Ray Nagin and Louisiana Gov. Kathleen Blanco said they would like to see everyone evacuate: the residents who stayed in the city after Hurricane Katrina hit three weeks ago, as well as those who returned at the mayor's suggestion on Monday to the Algiers section of the city.

The National Hurricane Center projected that Rita would strike Texas at the end of the week, which gave Louisiana officials hope that their state would be bypassed.

“Today I feel better about Rita, and I'm not as prone to do a hard, mandatory evacuation,” Nagin told reporters after meeting with President Bush and other federal officials. “But I want to leave that open as an option.”

Nagin said he will “start to shut the city down” today if Rita remains a serious threat. He estimated that about 500 residents remained in the city, as well as hundreds of emergency, relief and reconstruction workers. The estimate seemed low, as hundreds, if not thousands, of people could be seen in the Algiers area on Tuesday.

Some of the military forces in New Orleans moved out of the city to be ready for action if Rita hits.

Police, meanwhile, turned away many residents trying to return. Nagin said authorities would begin strict enforcement today of a dusk-to-dawn curfew. Buses were provided at the city's convention center for anyone who wanted to leave, and two buses of evacuees left Tuesday, Nagin said.

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Lt. Gen. Russel Honore, commander of the military's Joint Task Force Katrina, bristled at reporters' questions about where those evacuees would be taken.

"That's not your business," he said, adding later: "Don't start panic here. … Let's not get stuck on the last storm. Don't get stuck on stupid, reporters."

Blanco said state officials were working to find housing for people still staying in shelters after Katrina. All of the shelters in the state south of Interstate 10, which runs through New Orleans, would be closed, she said.

"We want people to move out of shelters, because shelter life is not a good way of life," she said.

Many residents of the Algiers neighborhood, which Nagin had urged residents to return to Monday, said they didn't know what to believe. "It doesn't make sense. First he orders us back, then he tells us to leave," Arthur Lawrence Brown Sr., 73, said of the mayor.

Brown sat in a folding chair on his stoop. Like many residents, he vowed not to leave. "I didn't go the first time. I won't go the second time," said Brown, an Army veteran of the Korean War. "If the Lord wants me, I'll be right here."

Others said they will leave if Rita does threaten New Orleans. One was Marcia Toca, 36, who said she would flee if necessary. But she said she didn't want to leave her neighborhood too quickly because authorities were not letting people re-enter the Algiers area.

"We're stuck here," Toca said. "It's like a prison. It's very frustrating. We came back in to get started rebuilding, and then they stopped us again."

Residents Leave Gulf Coast Area As Storm Grows (NYT)

By William Yardley And Abby Goodnough

The New York Times, September 21, 2005

NEW ORLEANS, Sept. 20 - Hurricane Rita brushed past Key West on Tuesday and was forecast to strengthen into a major hurricane later in the week, prompting residents and rescuers to begin evacuating this feeble city, as well as parts of Louisiana and Texas.

From the tip of the Florida peninsula to Galveston, Tex., thousands left their homes or made plans to, including many who had already fled once, from Hurricane Katrina, and were living in shelters and temporary housing. In Houston, officials moved evacuees from New Orleans out of the Reliant Arena and sent many of them on to Arkansas.

In Louisiana, Gov. Kathleen Babineaux Blanco asked President Bush on Tuesday to declare a state of emergency for her battered state as it prepares for Hurricane Rita. She requested $10 million in assistance.

Churning undiminished toward the warm and wide Gulf of Mexico, Hurricane Rita could strengthen to Category 4 intensity as it approaches Texas later this week, said Colin McAdie, a meteorologist at the National Hurricane Center in Miami. Hurricane Katrina was a Category 4 storm when it devastated parts of the coasts of Louisiana, Mississippi and Alabama on Aug. 29.

Mr. McAdie said western Louisiana could also bear the brunt of the storm depending on changes in steering currents.

"It's better not to nail it down too precisely," he said. "Over the next day or so we'll have a better idea."

The threat of a new storm aligned federal and local authorities in Louisiana, at least publicly, after weeks of tension over the response to Hurricane Katrina.

President Bush, who had visited Mississippi earlier, attended a briefing in New Orleans. Later in the day, Mr. Bush signed legislation to increase the borrowing authority of the government's flood insurance program to $3.5 billion from $1.5 billion to pay claims from Hurricane Katrina.

"All up and down this coastline people are now preparing for what is anticipated to be yet another significant storm," the president said. He said Vice Adm. Thad W. Allen would remain in charge of the federal effort in Louisiana and Mississippi and that "we've got another admiral who is now being stationed in Texas, to coordinate the relief response."

Mr. Bush also praised the New Orleans mayor, C. Ray Nagin, who decided Monday to suspend a staggered reopening of parts of the city.

"He made a wise decision to say to people, be cautious about returning here, because a rain of any amount could cause these levees to break again," the president said.

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The mayor, prickly a day earlier under pressure from the president and Admiral Allen to delay the return of residents into parts of the city, gave the admiral a T-shirt at a news conference on Tuesday outside City Hall, where generators still supply power and most key operations have moved across the street to the battered Hyatt Hotel.

Mr. Nagin said the words on the T-shirt read: "I love New Orleans."

The official death toll in Louisiana remained at 736. In Mississippi, 219 people died from the storm.

The Associated Press reported that a 72-year-old man, John Lyons, had been found alive in his home in New Orleans. Mr. Lyons's wife, Leola, also 72, was found dead.

In the city, mostly empty of residents but with its physical core still vulnerable, the possibility of heavy rain and a storm surge prompted officials to make emergency efforts to bolster its weakened levee system, station 500 buses on its outskirts to evacuate remaining residents and establish a military hospital at the convention center, which just weeks ago was the scene of violence and desperation for thousands of trapped evacuees from Hurricane Katrina.

In Florida, Hurricane Rita lashed Key West as it passed about 50 miles south of the island on Tuesday afternoon, flooding roads, yards and beaches through much of the Keys but not inflicting the severe damage many had feared. Late Tuesday night, it bordered on Category 3 strength as it moved into the Gulf of Mexico, with sustained winds near 110 miles per hour.

The Lower and Middle Keys were cut off from the rest of Florida for most of the day after Route 1 closed because of flooding. A quarter-mile section of the highway on Lower Matecumbe Key was closed because of a storm surge. Law enforcement officials said the roads were strewn with debris, although that did not stop the curious from driving. A few bars and restaurants stayed opened and drew restless crowds.

"We were not asked to close, and we won't close until we are," said Michael Pastore, a bartender at Don's Place, a Key West bar that opened at 7 a.m. on Tuesday.

By late afternoon, about 24,000 homes and businesses in Monroe, Miami-Dade, Broward and Palm Beach counties had no electricity far fewer than when Hurricane Katrina hit South Florida on Aug. 26, killing 11. In Miami, which suffered only rain squalls, tame winds and minor flooding, officials said government offices and schools would reopen Wednesday.

Gov. Jeb Bush said that 2,400 National Guard troops had been mobilized and 2,000 more were on alert in case the storm the seventh to hit Florida in 13 months - proved devastating. Hospitals and nursing homes in the Keys, eager to avoid the mistakes of New Orleans, evacuated their patients on Monday.

In New Orleans, Mr. Nagin said perhaps as few several hundred people were still living in the city's most vulnerable areas, in addition to the thousands of military and emergency workers who had come to help it recover. Lt. Gen. Russel L. Honoré, who is leading military efforts in the recovery, emphasized that evacuees taken to the convention center would be quickly transported out of town.

"We're not going back into that convention center and Superdome business," he said, alluding to the days of televised despair when tens of thousands of mostly poor black residents were trapped by floodwaters in the two buildings.

Two busloads of residents were evacuated from the convention center on Tuesday, the mayor said.

The mayor said officials would be more aggressive in pushing for evacuation on Wednesday if the storm turns toward the city, but he said they would not force people from their homes. General Honoré said about 14,000 troops in the region would move into shelters capable of withstanding Category 5 storms, the strongest measured on the Saffir-Simpson scale.

The city's weakened levee system could be breached by a storm surge as low as five feet, said Brig. Gen. Robert Crear of the Army Corps of Engineers. The Corps, which has used sandbags, stones and concrete to seal breaches in several levees, does not expect the levees to be fully repaired until June 1, the start of the 2006 hurricane season.

General Crear said canals with repaired levees were being blocked at Lake Pontchartrain, to prevent pressure from building on the levees. In addition to storm damage, he said that the levees may have been damaged by barges that broke lose during Hurricane Katrina but that he was not certain.

"We had barges sitting on top of levees," he said. "We had barges sitting on the other side of levees. We don't know yet. We have not done the forensics yet."

The state continued to grapple with the costs of the destruction from Hurricane Katrina. The governor announced that she had signed an order freezing the state budget in anticipation of a loss of $750 million to $1 billion in state revenues from the

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effects of thee hurricanes. That order, signed Monday night, includes a hiring freeze for state agencies and is intended to save $30 million to $50 million in spending, she said, adding that it "will be the first of many."

Officials in Galveston called for a voluntary evacuation before Hurricane Rita emerged into the gulf.

Mr. Bush said Tuesday that he had also spoken to Gov. Rick Perry of Texas "on the planning for what we pray is not a devastating storm - but there's one coming."

R. David Paulison, the acting director of the Federal Emergency Management Agency, said in Washington on Tuesday that 45 truckloads of water, 45 truckloads of ice and 8 truckloads of ready-to-eat meals were being staged in Texas in advance of the storm. Nine urban search and rescue teams and nine disaster medical assistance teams also are to arrive.

The agency, still facing criticism for its response to Hurricane Katrina, has more search and rescue teams available in Texas than it did along the Gulf Coast in the advance of Hurricane Katrina.

The Texas National Guard has also started withdrawing troops from Louisiana to prepare for landfall by Hurricane Rita, Louisiana National Guard officials said.

About 1,000 Texas troops were recalled, Lt. Michael Odie said. Along Interstate 10, convoys of military trucks drove west, some with handwritten signs with "Katrina" crossed out and "Rita" written beside the words "Texas Bound."

Evacuees Of One Storm Flee Another In Texas (NYT)

By Ralph Blumenthal

The New York Times, September 21, 2005

HOUSTON, Sept. 20 - Hurricane Rita prompted a mandatory evacuation of this city's public shelters on Tuesday, emptying them as quickly as they had filled just three weeks ago and sending still-dazed survivors of Hurricane Katrina packing off to Arkansas, to the bus terminal, to the airport and, for some who considered themselves lucky, to paid and furnished apartments here in the Houston area.

Clustered in the hot sun and with all they had salvaged spilling from black garbage bags, shopping carts and suitcases tied with cords, evacuees set to leave one of the shelters, at Reliant Arena, seemed largely resigned to this new flight, although there were some flashes of temper.

Leading a circle of 10 with hands clasped in prayer as buses and taxicabs filled around them, Johnny Jeremiah, minister of the Pleasant Grove Missionary Baptist Church here, intoned, "God, this day, right now, this place, with this foolishness going on, we need you."

City and county officials, who had moved a vast bureaucracy to house more than 27,000 survivors in four public shelters quickly after the New Orleans disaster, said none of those now leaving the shelters would be put in housing that could be at risk from the approaching storm. But they said they might have to relocate people who had earlier been placed at hotels and motels in low-lying areas.

With the new storm's path uncertain, Galveston, which still bears scars from the great hurricane of September 1900 - the nation's deadliest disaster, with at least 6,000 killed - ordered a mandatory evacuation to begin at 6 p.m. Wednesday. Mayor Bill White of Houston said that this city of two million would make its own decision Wednesday and that as much as half the population could be called upon to evacuate.

In recent days, the dwindling thousands of storm survivors who had been sheltered in the Astrodome and Reliant Arena, as well as the adjacent Reliant Center exhibition hall and the George R. Brown Convention Center, were concentrated largely in the arena, which was finally emptied Tuesday night.

For the last hundreds in the arena, the day was particularly trying. Families sat on bundles of possessions like war refugees. Pregnant women and the injured waited in wheelchairs. Red Cross volunteers weaved through the throngs, passing out cold water and pastries.

With her month-old daughter asleep in a stroller, Monique Davis scooped up diapers that had spilled over the ground. Nearby lay a trash bag with stuffed animals poking out. A boy rocked solemnly on a wooden hobbyhorse.

About 500 people who had applied for apartments and been promised them lined up for buses and taxicabs to get there. Others boarded tour buses to Ellington Field for flights to new shelter at Fort Chaffee, Ark. - some chose to make the entire trip by

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bus - or to George Bush Intercontinental Airport, where Continental Airlines was offering free tickets out. Still others got rides to the Greyhound terminal, where free tickets also awaited.

Steve Freeman, an oyster shucker with an injured leg infected from walking through floodwaters, said he planned to take up Continental on the free flight to reach Norfolk, Va., where he heard there were lots of oysters. But he was suspicious of the official motives for the evacuation.

"They've been trying to get us out early," Mr. Freeman said. "We're the working people. They don't want us here."

Paul Horton, driver of a produce truck, said he would use his airline ticket to fly to Atlanta to join his wife and two children, who had evacuated there with a neighbor. He has been separated from them since the hurricane, Mr. Horton said, when they got out after the water reached chest-high. He was later rescued and evacuated by bus to Dallas, then Arizona, Arkansas and finally the Reliant sports and entertainment complex in Houston.

Rohonor R. Randall, in a wheelchair with a bandaged foot ailing from exposure to polluted water, said she was bound for Fort Chaffee, but by bus.

"I'm not afraid of planes, I just like to be on the ground," Ms. Randall said.

She called for her newfound friend, the Rev. Hugh Hairston, pastor of Loveland Church in Ontario, Calif., a leader of a group of volunteer clerics called Operation Compassion. He offered a prayer for her foot.

Ms. Randall gripped his hand and said: "You never know where life leads you. Life changes in an instant, like God is showing you life is valuable."

Rita Evacuees From Keys Play It Safe (USAT)

By Kelly Whiteside

USA Today, September 21, 2005

Some longtime residents leave path of a storm for the 1st time

MIAMI — About 350 evacuees from the Florida Keys spread sleeping bags, blankets and flattened cardboard boxes across the hallways of Florida International University on Tuesday as they sought haven from Hurricane Rita.

Many of them boarded city buses in Key West on Monday evening and arrived three hours later at this makeshift Red Cross shelter to wait out the storm. They left home because of the images of Hurricane Katrina and the fear that Rita might do the same.

“I didn't want to get caught in what those people got caught in with Katrina,” said Yvonne Dixon-Mahoney, a corrections officer from Big Pine Key. “Seeing people on their roofs, with the water rising and all the chaos in New Orleans, I thought we'd better go.”

Dixon-Mahoney, her husband Phillip and their four children, including a 6-month-old daughter, left behind their two dogs and cat with plenty of food and lots of concern.

Longtime residents of the Keys said it was the first time they had evacuated their homes for a hurricane. Tourists and all 78,000 residents in the low-lying Keys were ordered to leave on Monday.

Mary Smyth from Austin was visiting friends in Key West. Now she was worried if Rita, headed into the Gulf of Mexico for the Texas coast, would allow her to get home.

William Laney, visiting from Fort Lauderdale, learned about the storm while watching pro football on Sunday and a scroll about the mandatory evacuation spread across the TV screen in his hotel room. Unable to drive because of two recent knee replacement surgeries, he took the bus and went to the shelter.

At the earth sciences department at FIU, the scene was a stark contrast to the experiences of those who weathered Hurricane Katrina. Though Rita developed into a Category 2 storm with winds of 100 mph as it passed the Keys on Tuesday afternoon, there was only a light rain and a firm breeze here in west Miami-Dade County.

The greater Miami area, home to more than 2.2 million people, was under a hurricane warning Tuesday. That was lifted after the storm passed.

Wind and rain buffeted the northern Keys, but Isis Majeska has seen worse.

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"If I go out onto my porch, I don't even see leaves down," said Majeska, 46, who works for the Monroe County court system. "It's just not that bad a storm."

Those who took shelter on the third floor of the Charles E. Perry Building on FIU's campus included homeless people, vacationers, office workers, store managers and retirees.

Evacuees slept on tile floors in the hallways or upright in classroom desks. One mother of five swept the floor of an opened classroom that had become a play area for children.

A television without reception was suspended in a corner. "We asked for DVDs, but there weren't any," said Dominique Atkins, who then walked to the Walgreens and bought bingo games and coloring books for her two children.

There was air conditioning and electricity, and the mood was generally upbeat. The Red Cross delivered a steady supply of water and three meals a day.

Judy Garmas cradled her 3-week-old son, Rene, already a veteran of two hurricanes, in her right arm as she sat beneath a map of "Tectonic Lithofacies of Appalachian Orogen" and talked about a different type of earth science. "We live in a trailer, and I didn't want to get caught, not with the baby," she said. "He was only 2 days old when Katrina hit."

The Garmas family lives in Sweetwater, southwest of Miami, but drove to the shelter to join her sister's family, who evacuated from Key West. By 3 p.m., they were packing their blue stroller, diaper bag and blankets once they received word there was no damage to their trailer. An hour later, they were gone.

As Rita Picks Up Steam, It's Deja Vu All Over Again For U.S. Energy Industry (KRT)

By Kevin G. Hall

Knight Ridder, September 21, 2005

WASHINGTON - Hurricane Rita threatens serious damage this week to the energy infrastructure in and around the Gulf of Mexico and could send fuel prices skyrocketing anew.

Oil companies battened down offshore oil rigs and platforms Tuesday in the central and western Gulf and evacuated offshore personnel.

"All of the operators and drilling contractors are taking extra precautions for Rita because they've seen what can happen after Katrina," said David Kent, an owner and editor of the Houston-based Web site Rigzone.com, focused on the offshore oil industry. "I think it's a matter of getting out of Dodge right now."

On Tuesday the Web site, a favorite of energy analysts, warned that Rita threatens the most productive area of deepwater oil rigs and platforms.

Rita was upgraded to a Category 2 hurricane Tuesday and is forecast to become Category 4 on Wednesday - with winds from 131 to 155 mph - as it heads toward the Texas coastline. It could make landfall Friday.

Texas is the country's largest oil producer, accounting for 20 percent of national production. Much of it comes from offshore activities coordinated through Houston, America's energy capital.

The state boasts 26 refineries, or about a quarter of the nation's refining. At least 14 are located on or near the Gulf Coast. They turn oil into gasoline or distillates for home heating. Most are built on higher ground in and around Houston, and most are further inland than refineries damaged by Katrina. Even if Houston dodges a direct hit, Rita could force precautionary shutdowns that could severely impact the availability of gasoline.

That could drive gasoline prices up sharply. Most U.S. refineries have been running full throttle to make up for the four major refineries idled by Katrina. Those refineries, three in Louisiana and one in Mississippi, have a combined capacity to convert 659,000 barrels of crude oil per day.

If Rita crosses the Houston area, all eyes will be on ExxonMobil's refinery in Baytown, the nation's largest, with a production capacity of 557,000 barrels a day. Baytown's city manager, Gary Jackson, said he's in close contact with the industry.

"We know they are monitoring just as we are. There will be some critical times with decisions ahead," he said. "Those final calls will be their calls, each on an individual plant-by-plant basis."

Rita's uncertain path drove global oil prices up by more than $4 a barrel Monday, the largest one-day jump ever. Oil prices tapered off Tuesday, closing down a dollar at $66.23 on the New York Mercantile Exchange.

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"Judging by what the market has done and speaking for myself, I am very nervous indeed," said Bart Melek, a senior economist and energy analyst at BMO Nesbitt Burns in Toronto, a division of the Bank of Montreal.

The world's oil supply is stretched to near capacity. Katrina knocked out almost 5 percent of U.S. oil production, and Rita threatens more damage. Add to that volatile mix growing civil unrest in Nigeria, the fifth-largest oil supplier to the United States, and it all adds up to more fuel-price volatility in the days ahead.

"It's not going to take very much to move it up. God forbid that something happened in the Middle East," Melek said. "There isn't physical spare capacity, there just isn't."

Colonial Pipeline Co. operates the nation's largest pipeline, which originates in Houston. Katrina knocked out the utilities that provide the power to push gasoline through pipes that supply much of the U.S. East Coast. At company headquarters in Alpharetta, Ga., there is understandable concern.

"We're still in a wait-and-watch mode. We're monitoring it carefully," said Steve Baker, a company spokesman.

A lesson from Katrina: Colonial will pre-position portable diesel generators on tractor-trailer rigs if necessary to try to keep its pipelines flowing in case of power outages.

"If the storm goes west of Houston, there's likely to be no impact on us or the power grid," Baker said hopefully.

Chevron, Royal Dutch Shell, ExxonMobil and British Petroleum all announced evacuations of manned oil platforms and rigs days before projected landfall. Some energy analysts believe that's an ominous admission that Rita threatens more destruction.

"They're pretty good about predicting these things," said Craig Smith, an energy expert and author of the forthcoming book "Black Gold Stranglehold," which examines fuel prices. "We hope it peters out, but if it has any strength and hits platforms or turns toward New Orleans, we cannot afford another hurricane right now. We just can't afford it. You're seeing that nervousness in the markets."

Gulf Oil Platforms Hunker Down For Rita (USAT)

By David J. Lynch

USA Today, September 21, 2005

Still reeling from Hurricane Katrina, the battered Gulf of Mexico energy industry girded Tuesday for its second potentially devastating storm in a month.

Crews evacuated offshore oil platforms ahead of the approaching Hurricane Rita and its 100-mile-per-hour winds. The storm is expected to intensify as it crosses the Gulf of Mexico, home to 29% of domestic U.S. oil production, and could batter energy facilities Katrina left untouched.

“What wasn't hit by Katrina is being targeted by Rita. The market is taking the storm very seriously,” says Agbeli Ameko of First Enercast Financial, an energy forecasting firm in Denver.

After rising $4 a barrel Monday, the biggest one-day jump ever, oil markets calmed Tuesday. Light, sweet crude for October delivery fell $1.16 to $66.23 a barrel in New York trading.

The latest storm could jolt prices if it slams into critical refineries on the Texas coast. Thanks to Katrina, four refineries representing about 5% of U.S. capacity already are closed for “an extended period,” the Energy Department says.

With oil and gas markets already stretched tight, any further loss of capacity from Rita could send prices at the pump back up.

Texas is home to 26 refineries, which account for 27% of domestic refining capacity. Major refineries belonging to BP, Valero, Marathon Oil, Citgo, ExxonMobil, Royal Dutch Shell and ConocoPhillips lie in a coastal arc stretching north and south from Houston.

Some experts say the industry could rebound faster from Rita than it has from Katrina. Coastal refineries in Texas are guarded by barrier islands and thus are not as vulnerable to heavy flood damage as those in Louisiana and Mississippi.

“I'm not convinced it's going to have the lasting effect Katrina has,” says Mark Routt, an analyst at Energy Security Analysis of Wakefield, Mass. “… A lot more capacity could go down, but it'll come back sooner. It's better protected.”

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Across the Gulf Tuesday, workers headed for dry land. Transocean, a major offshore drilling contractor, was expected by the end of Tuesday to have evacuated 500 workers from three moored rigs. About 725 workers remain on seven maneuvering rigs. "They move like ships. As the storm dictates, they'll move out of the way," says spokesman Guy Cantwell.

Katrina's legacy, however, continues to be felt. Offshore Logistics' Venice, La., helicopter facility was heavily damaged and left submerged after a protective levee failed under Katrina's assault.

This week, operating from the firm's other sites, Offshore's roughly 150 helicopters have been busy shuttling crews to safety from installations far from land.

With relief workers and evacuees filling hotels in the region, it's hard to find lodging for oil crews. Later this week, Offshore will start flying its choppers out of danger.

"We're going to be battening down our hatches," spokesman Joe Baj says.

Utility Tallies Fiscal Toll (NYT/AP)

By The Associated Press

The New York Times, September 21, 2005

BATON ROUGE, La., Sept. 21 (AP) - Faced with the costs of rebuilding its Gulf Coast utility systems devastated by Hurricane Katrina, Entergy said Tuesday that it would consider bankruptcy protection for its New Orleans unit.

Entergy, whose Entergy New Orleans unit has lost up to an estimated 130,000 customers because of the hurricane, estimates the unit's storm-related costs at $325 million to $475 million.

Entergy also said Tuesday that it planned to pursue various avenues for recovering costs from the storm, including insurance reimbursements, potential federal relief and "existing or new rate mechanisms."

Blanco Pushes FEMA For Hotel Rooms (USAT)

By Thomas Frank

USA Today, September 21, 2005

Louisiana's governor asked the federal government Tuesday to move tens of thousands of Hurricane Katrina evacuees out of shelters and into hotels.

Gov. Kathleen Blanco's request comes after state officials said it could take months to prepare trailers and other temporary housing for evacuees. Blanco wants the Federal Emergency Management Agency to pay for hotel rooms for 90 days for each individual or family.

"It's just not moving fast enough," said Jerry Jones, the governor's director of facility planning. "We don't want to just warehouse these people. We want them to be in a place where they can thrive and get back to normalcy."

Ron Sherman, FEMA's housing coordinator in Louisiana, said the idea could work and vowed to review it. FEMA currently pays for thousands of evacuees to stay in hotels for up to 60 days. The American Red Cross is paying hotel bills for thousands of others.

If accepted, Blanco's recommendation would allow displaced Louisianians living in shelters in their state or elsewhere to move to hotels identified by FEMA. It is unclear how many people would be eligible for hotel stays. Nearly 100,000 people are staying in 1,042 shelters in 26 states and the District of Columbia, according to FEMA.

Montine McNulty, executive director of the Arkansas Hospitality Association, called the plan "workable" and said many local hotels had rented rooms to evacuees for six months. "This is an especially good time because for many of the resort areas; it's sort of a down period," McNulty said.

Arkansas has 7,992 evacuees in shelters, the most of any state not damaged by Katrina. Texas had 13,182 shelter residents Monday but was planning to move 7,000 to Arkansas and Tennessee to keep them safe from Hurricane Rita.

Blanco's hotel request reflects the state's growing concern that Louisianians staying in out-of-state shelters will find permanent housing in the communities where they are sheltered.

People would be more likely to move back to Louisiana if they could stay in hotels for 90 days and then be able to occupy a trailer in their home state, said Jones, the governor's aide. "This buys us some time. … We want to entice them to come back home," he said.

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Sherren Bartheleny, 49, sitting on a plastic chair outside a shelter in downtown Baton Rouge, said she was skeptical of the governor's plan because she fears it will take much longer than 90 days for the government to find appropriate housing for evacuees.

"If [Blanco] can put me in a trailer back in Plaquemines Parish after 90 days, I'll go to a hotel," said Bartheleny, whose home was destroyed. "I want a written statement from the governor."

Experts Say Faulty Levees Caused Much Of Flooding (WP)

By Michael Grunwald And Susan B. Glasser

The Washington Post, September 21, 2005

NEW ORLEANS, Sept. 20 -- Louisiana's top hurricane experts have rejected the official explanations for the floodwall collapses that inundated much of New Orleans, concluding that Hurricane Katrina's storm surges were much smaller than authorities have suggested and that the city's flood- protection system should have kept most of the city dry.

The Army Corps of Engineers has said that Katrina was just too massive for a system that was not intended to protect the city from a storm greater than a Category 3 hurricane, and that the floodwall failures near Lake Pontchartrain were caused by extraordinary surges that overtopped the walls.

But with the help of complex computer models and stark visual evidence, scientists and engineers at Louisiana State University's Hurricane Center have concluded that Katrina's surges did not come close to overtopping those barriers. That would make faulty design, inadequate construction or some combination of the two the likely cause of the breaching of the floodwalls along the 17th Street and London Avenue canals -- and the flooding of most of New Orleans.

In the weeks since Katrina drowned this low-lying city, there has been an intense focus on the chaotic government response to the flood. But Ivor van Heerden, the Hurricane Center's deputy director, said the real scandal of Katrina is the "catastrophic structural failure" of barriers that should have handled the hurricane with relative ease.

"We are absolutely convinced that those floodwalls were never overtopped," said van Heerden, who also runs LSU's Center for the Study of Public Health Impacts of Hurricanes.

In an interview Tuesday, Corps spokesman Paul Johnston said the agency still believes that storm surges overtopped the concrete floodwalls near the lake, then undermined the earthen levees on which they were perched, setting the stage for the breaches that emptied the lake into the city.

Johnston said the Corps intends to launch an investigation to make sure it is correct about that scenario. But he emphasized that Katrina was a Category 4 hurricane when it smashed into the Gulf Coast, whereas Congress authorized the Corps to protect New Orleans against a storm only up to Category 3. "The event exceeded the design," Johnston said.

The center's researchers agree that Katrina's initial surge from the southeast overwhelmed floodwalls along the New Orleans Industrial Canal, flooding the city's Lower Ninth Ward as well as St. Bernard Parish. They believe that a little-used Army Corps navigation canal known as the Mississippi River Gulf Outlet helped amplify that surge, although they acknowledge that this surge was larger than the system was designed to control.

But the researchers have strong evidence that Katrina's subsequent surge from the north was several feet shy of the height that would have been necessary to overtop the 17th Street and London Avenue floodwalls. It was the failures of those floodwalls that emptied the lake into the rest of the city, filling most of New Orleans like a soup bowl.

On a tour Tuesday, researchers showed numerous indications that Katrina's surge was not as tall as the lakefront's protections. They showed a "debris line" that indicates the top height of Katrina's waves was at least four feet below the crest of Lake Pontchartrain's levees. They also pointed out how the breached floodwalls near the lake showed no signs of overtopping -- no splattering of mud, no drip lines and no erosion at their bases. They contended that the pattern of destruction behind the breaches was consistent with a localized "pressure burst," rather than widespread overtopping.

The center has also completed a computerized "hindcast" of Katrina, which has confirmed the evidence before their eyes. Their model indicates that most of the surge around the lake and its nearby canals was less than 11 feet above sea level, and that none of it should have been greater than 13 feet. The Army Corps's flood-protection system for New Orleans was designed to handle surges of more than 14 feet above sea level.

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"This should not have been a big deal for these floodwalls," said oceanographer G. Paul Kemp, a hurricane expert who runs LSU's Natural Systems Modeling Laboratory. "It should have been a modest challenge. There's no way this should have exceeded the capacity."

The center's researchers said it is too early to say whether the breaches were caused by poor design, faulty construction or some combination. But van Heerden said the floodwalls at issue -- massive concrete slabs mounted on steel sheet pilings -- looked more like the sound barriers found on major highways. He also suggested that the slabs should have been interlocked, and that the canals they were supposed to protect should have had floodgates to keep out water from the lake.

Former representative Bob Livingston (R-La.), who helped lead the charge for Corps projects in Louisiana when he chaired the House Appropriations Committee, noted that the earthen levees along Lake Pontchartrain had all held, while the concrete floodwalls had failed. He was especially concerned about the 17th Street barrier, saying it "shouldn't have broken."

"I don't know if it's bad construction or bad design, but whoever the contractor is has a problem," said Livingston, now a lobbyist on Capitol Hill.

Former senator J. Bennett Johnston (D-La.) said he remembers numerous briefings from Corps officials about the danger of a hurricane overtopping the New Orleans levees. But he said he never envisioned a scenario like this one. "This came as a surprise," he said.

The Corps has not identified the contractors who built the floodgates that failed; Paul Johnston said there will be a full investigation into the breaches.

Congress authorizes flood- control projects -- after receiving recommendations from the Corps -- and the Corps oversees their design and construction.

John M. Barry -- who criticized the Corps in "Rising Tide," a history of the Mississippi River flood of 1927 -- said that if Katrina did not exceed the design capacity of the New Orleans levees, the federal government may bear ultimate responsibility for this disaster.

"If this is true, then the loss of life and the devastation in much of New Orleans is no more a natural disaster than a surgeon killing a patient by failing to suture an artery would be a natural death," Barry said. "And that surgeon would be culpable."

Design Flaws Seen In New Orleans Flood Walls (NYT)

By Christopher Drew And Andrew C. Revkin

The New York Times, September 21, 2005

NEW ORLEANS, Sept. 20 - Along the Mississippi River and Lake Pontchartrain, great earthen levees were ample to hold off much of the surging water propelled by Hurricane Katrina.

But concrete flood walls installed over the last several decades along the drainage and barge canals cutting into New Orleans were built in a way that by Army Corps of Engineers standards left them potentially unstable in a flood, according to government documents and interviews. The walls collapsed in several places during the storm.

A corps engineering manual cautions that such flood walls "rarely exceed" seven feet because they can lose stability as waters rise. But some of the New Orleans canal walls rose as high as 11 feet above dirt berms in which they were anchored.

As a result of federal budget constraints, the walls were never tested for their ability to withstand the cascades of lake water that rushed up to, or over, their tops as storm waves pulsed through the canals on Aug. 29, corps and local officials say.

Hurricane Katrina was the first serious test of the flood walls, said Stevan Spencer, chief engineer for the Orleans Levee District, and it "just overwhelmed the system."

Since the storm, corps officials have said that there is a simple explanation for the devastation: Hurricane Katrina was a Category 4 storm and Congress authorized a flood control system to handle only a Category 3 storm. "Anything above that, all bets are off," said Al Naomi, a senior project manager in the corps's New Orleans district.

But federal meteorologists say that New Orleans did not get the full brunt of the storm, because its strongest winds passed dozens of miles east of the city. While a formal analysis of the storm's strength and surges will take months, the National Hurricane Center said the sustained winds over Lake Pontchartrain reached only 95 miles per hour, while Category 3 storms are defined by sustained winds of 111 to 130 m.p.h.

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This raises a series of questions about how the walls that failed were designed and constructed, as well as whether the soil in some spots was too weak to hold them. Investigations by federal engineers and outside experts are just now beginning.

One factor could be height, said Robert G. Bea, a former corps engineer and professor at the University of California, Berkeley, who is part of a National Science Foundation inquiry into the flood controls failures. The higher the wall, Professor Bea said, the greater the risk it could tip under the ever greater pressure of rising waters.

The 2000 edition of the Army Corps of Engineers manual "Design and Construction of Levees" says that the height of flood walls built on levees is an important factor in their ability to withstand a flood. For that reason, the manual says walls like those used in New Orleans "rarely exceed" seven feet. But on two of the three canals where breaks occurred - the 17th Street and London Avenue canals - the concrete sections rise 11 feet above the dirt berms.

Each wall resembles a row of teeth set in a jaw. Individual slabs are anchored to a continuous steel sheet buried in the dirt, giving the wall its strength. Above a short foundation, the slabs are linked only by rubbery gaskets that allow the concrete to expand and contract without cracking.

Hassan S. Mashriqui, an engineering professor at Louisiana State University and an expert on storm surges, said the segmented nature of the walls could be an additional problem, since any weak point could cause a catastrophic failure.

"Since they're not tied together you get a little bit of a gap and that's what water needs to make it fail," Dr. Mashriqui said.

Other questions surround the walls' design, known as an "I-wall" for its slim cross section that fits easily into densely developed areas.

The corps manual for flood control construction suggests a different design for walls higher than seven feet - walls shaped like an inverted T, with the horizontal section buried in the dirt for extra stability.

But that option was never considered, corps engineers said, because "T walls" were more expensive, required a broad base of dense soil for support and were not necessarily stronger.

The corps and local levee authorities also never tested whether the chosen I-wall design could survive if water flowed over the top and cascaded onto dirt embankments below.

Corps officials said they were proscribed from considering stronger wall designs for the canals both by the tight quarters and by federal law, which requires that they seek and study only the level of flood control authorized by Congress.

"Our hands are tied as to looking at higher-level events," Mr. Naomi said.

Mr. Naomi said that the recommendations in the flood control engineering manual were "general guidance," and that conditions at a particular site could justify deviations.

He defended the walls, saying: "The flood walls have functioned over the years very successfully and without incident. The design works. It has worked in other locales. And will likely continue to be used as long as you do not subject it to pressures that it was not designed to handle."

The broken walls, which were long seen as a second choice to earthen levees, are testament to 40 years of fiscal and political compromises made by elected officials, from local levee boards to Congress and several presidential administrations, as they balanced costs and environmental concerns with the need to protect a city that lies largely below sea level and is still subsiding.

Ever since Hurricane Betsy flooded parts of New Orleans in 1965, the federal government has financed a hurricane defense system designed to guard against an equivalent storm.

But as the threat of a more intense hurricane became better understood in recent years, government financing for flood prevention in New Orleans did not keep pace with a growing alarm among many local residents, scientists and even the corps's own engineers.

Standing next to the shattered remains of one of the concrete walls last week, Cynthia Hedge-Morrell, a New Orleans councilwoman, said, "In my opinion, they were playing Russian roulette with people's lives."

"Do you realize that if those walls had held, we'd have just had a little cleaning job?" said Ms. Hedge-Morrell, whose district between downtown and the lakefront was covered with 10 feet of water from the breaks of flood walls. "We would not have this massive loss of life and destruction."

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On Tuesday, streams of dump trucks hurriedly dumped loads of gravel into the breaches in New Orleans's flood defenses, in case Hurricane Rita shifts toward here later this week.

In the wake of Hurricane Katrina, a surge from Lake Pontchartrain poured into the main parts of the city through breaks on the walls lining the 17th Street and London Avenue canals, which normally carry runoff pumped out of the city into the lake. A separate surge from the Gulf of Mexico overwhelmed the walls along the Industrial Canal, inundating the Lower Ninth Ward. Officials say that break may have been caused by a barge that broke loose from its moorings.

When the hurricane hit, the only earthen levees that failed in a way that produced substantial flooding were on the Mississippi River Gulf Outlet, a man-made ship canal east of the city. These levees, which were not as high as those on the river or Lake Pontchartrain, let in the floodwaters that ravaged eastern New Orleans and St. Bernard Parish.

A surge from Lake Pontchartrain was the catastrophic situation that the corps had been guarding against since Hurricane Betsy 40 years ago. Initially, the corps wanted to build a giant barrier to keep water from the Gulf of Mexico from reaching Lake Pontchartrain and flooding the canals.

That project was delayed by lawsuits from environmental groups that contended the corps had failed to study ecological effects. By the late 1970's, the corps abandoned that approach and began raising levees along the lake and the Mississippi and adding flood walls on the canals.

In the mid-1990's, engineering professors at Louisiana State began publicizing computer models that showed how a Category 5 storm could kill tens of thousands of people and flood the French Quarter. Corps officials in Louisiana pushed local officials to help seek more money from Congress, both to finish existing upgrades and to start bolstering the city against bigger threats.

Joseph Suhayda, who was one of the Louisiana State professors, said corps officials privately urged him to "raise the consciousness" about the dire threats.

But upgrading the flood control system never became a major priority for corps officials in Washington, local and federal officials say.

Corps veterans said it was not surprising that federal engineers did not issue more vocal warnings.

"I don't think it was culturally in the system for the corps to say 'this is crazy,' " said William F. Marcuson III, the former director of the Waterways Experiment Station for the corps in Vicksburg, Miss., and president-elect of the American Society of Civil Engineers.

"The corps works for Congress," Mr. Marcuson said, "and when the boss says design for a Category 3 storm, culturally the corps is not going to go back and say this is wrong."

Investigations into how the walls failed are just now beginning. Col. Richard Wagenaar, commander of the corps district in New Orleans, said the soil behind the flood walls could have been weakened after they were topped by the storm surge, or the walls could have simply given way as the water - and the pressure - mounted against them.

Indeed, as several engineers said, while a dirt levee of similar height might eventually be topped as well, and possibly eroded, only the walls were vulnerable to a sudden collapse.

The determination of how the walls fell will bear on how officials decide to remake the flood control system.

Max Hearn, executive director of the Orleans Levee District, said that if the federal government was now ready to pay for Category 5 protection, it seemed unlikely that the flood wall system could be upgraded to that level.

But Mr. Hearn said the only answer might be the construction of flood gates designed to limit a hurricane surge in Lake Pontchartrain - the same idea that was considered and dropped in the 1970's.

Damaged Levees Offer New Orleans Little Flood Protection, Corps Says (KRT)

By Pete Carey

Knight Ridder, September 21, 2005

Hurricane Katrina so weakened New Orleans' 350-mile levee system that it probably can't protect the city from flooding even in a relatively minor storm, officials with the Army Corps of Engineers said.

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While workers have closed most of the breaches that allowed the city to flood after Katrina, none of the burst levees has been returned to its pre-flood height, corps officials said. Many other sections of the levee have washed away or have eroded enough that even a small rise in the surrounding waters would spill into the city.

The damage to the levees is particularly worrisome as Hurricane Rita approaches the Gulf Coast. Engineers were working feverishly Tuesday to close gaps.

One break remains open on the 17th Street Canal and two are still open along the London Avenue canals, spokeswoman Dana Finney said. Corps engineers dropped 80 10,000-pound sandbags into the breaches Tuesday in an effort to close them.

Walls along both canals are so damaged, however, that corps officials decided to prepare to seal the canals' entrances to Lake Pontchartrain temporarily - even though such a move would render them useless in carrying out their designated purpose, draining water from the city into the lake. A decision on whether to take the final steps to close the canals will be made at noon Wednesday.

"London Avenue has got significant structural problems, we know that," said Col. Richard P. Wagenaar, the corps's New Orleans district commander. "That's why we're closing it off."

Corps officials said recovery efforts were likely to be delayed in St. Bernard and Plaquemines parishes by a decision to close levee breaks there that had been made to help drain those areas. St. Bernard Parish has been pumped nearly dry.

Computer modeling suggests that parts of the city and nearby parishes could be endangered even without a direct hit from Rita, Finney said.

In a statement Sunday, Brig Gen. Robert Crear, the commander of the corps's Katrina recovery task force, said the system in its current state "does not ensure that the city will be protected against storms or hurricanes." He warned that people in the city would be at risk.

Tuesday, Crear said he thought the levees might be able to handle a storm surge of up to 5 feet, far less than the 17 feet that Katrina brought. He said there was no way the levee system could be repaired before Rita hits and that the goal was to make repairs in time for next year's hurricane season, which begins June 1.

Any new flooding probably would slow down repair operations, said David Pezza, a corps engineering-construction specialist. "I have to say we would have to anticipate a delay," Pezza said, "but our goals are still June 2006."

Officials have noted that new flooding would primarily threaten areas that already were damaged in the floods from Katrina.

In its statement Sunday, corps officials offered a grim assessment of the levee system: Only one of six levees cited was deemed in good shape; the others were likely to flood in a storm.

Joseph Suhayada, retired director of the Louisiana Water Resources Research Institute at Louisiana State University, said some breaches had been filled only to 3 or 4 feet above the level of Lake Pontchartrain, although they were still being built up. They might reach 5 feet of protection soon, "which is not much of a storm."

The corps has stocked 800 huge sandbags to close any new levee breaches and has ordered 2,500 more.

Even heavy rain would be a threat. "With anywhere from 2 to 3 inches of rain, we will get some locations that could have potentially 2 to 3 feet of water," Wagenaar said.

"Hopefully, there won't be too much rain," Wagenaar said.

Supersizing The Levees (WSJ)

By Michael Corkery and Ann Carrns

The Wall Street Journal, September 21, 2005

NEW ORLEANS -- Three weeks after Hurricane Katrina ripped siding off the three-story building where Ben White owns a hair salon, he was still sweeping away a mess of brown leaves and hair-spritzer nozzles. But one of the battered building's best features was intact: a panoramic view of Lake Pontchartrain.

Even that could change as federal and state officials dust off dormant plans to fortify the system of levees and flood walls in and around New Orleans that proved too weak to withstand Katrina. While none of the options being considered is anywhere close to approval, the floodwaters that inundated the city have boosted the odds that between five and 10 feet could eventually be added to the height of the levees that now generally rise 13 to 18 feet.

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Floodwaters are receding in New Orleans, but larger levees may threaten land and homes near the 17th Street Canal.

Besides costing billions of dollars, bolstering the line of defense against future hurricanes would likely send swarms of bulldozers into swank neighborhoods, threaten environmentally vulnerable marshes and trigger lawsuits from homeowners whose property would have to be seized to make room for the supersize levees. Raising the height of the levees to 25 feet or higher could also block views of the lake and require engineers to widen the base of the dirt structures by 100 feet or more.

"It would be disappointing to lose the view," says Mr. White, whose salon is in the Bucktown section of Metairie, just west of New Orleans. But he adds that he "wouldn't be against something that was good for the community."

The city's current flood-control system was designed to handle up to a Category 3 hurricane. Katrina, with winds as strong as 145 miles an hour, was a Category 4. Officials with the U.S. Army Corps of Engineers, which builds most levees and other flood-control systems, say that, from a scientific and engineering standpoint, a levee system can be built that would safeguard the city from even the most powerful hurricanes. "There's no question...we could build to protect against a Category 5 storm," says Don Basham, chief of engineering at Army Corps headquarters in Washington.

A 2002 preliminary study by the Army Corps' New Orleans district of whether the hurricane-protection system around New Orleans should be upgraded included the option of raising levees, and engineers say some could approach 30 feet. It would require protective gates to be built where the canals empty into Lake Pontchartrain, but no changes are likely to be needed in the concrete flood walls along the canals.

Another option drawing renewed attention would steer an estimated $3 billion to the Army Corps to build and reinforce a 35-mile section of levees east of New Orleans, including massive gates in two channels linking Lake Pontchartrain with Lake Borgne and the Gulf of Mexico, plus a third gate at the junction of two man-made waterways that are popular shipping lanes. The gates would be closed as hurricanes approach to block storm surges from flooding the city and neighboring communities, as they did when Katrina barreled through.

It can take decades to study and fund major flood-control projects, partly because state and local governments are required to share the costs. Louisiana officials now contend that protecting New Orleans is so urgent that the federal government should pay for the entire job and that the process for reviewing, designing and constructing stronger levees should be streamlined.

The Louisiana Department of Natural Resources has asked the state's members of Congress to request $18.2 billion in federal funds for a variety of hurricane-protection projects and $14 billion to help restore wetlands that serve as a buffer zone against hurricanes.

So far, state officials are studying a version of the so-called barrier plan east of New Orleans, which would extend levees beyond Slidell, a city on the northern shore of Lake Pontchartrain that was also devastated. But that could harm marshy areas by restricting the natural movement of water. A plan with similar elements was abandoned in the 1970s after environmentalists and fishermen launched a legal attack, and fierce opposition could resurface regardless of how well the new levees would shield New Orleans from floods. The earlier plan also was designed to protect from a Category 3 storm, the corps says.

Randy Hanchey, Louisiana's deputy secretary of natural resources, says state officials are urgently studying the barrier option but haven't decided exactly where the levees and gates would be located. Army Corps officials haven't recommended a specific plan yet. "We'll be looking to the Corps for guidance and working with state and local officials on rebuilding not only New Orleans but its flood-control protection," said Scott Milburn, a spokesman for the White House Office of Management and Budget.

Raising the city's levees, typically grassy mounds where residents used to stroll and enjoy the view of Lake Pontchartrain, could consume precious real estate. One neighborhood that could be affected by new flood control measures is Lakeview, a mostly middle class and upper middle class enclave where housing prices were rising fast before Katrina. Some homes in a nearby neighborhood closer to the lake were valued at as much as $1 million.

The Lakefront Campus of the University of New Orleans on the London Street Canal is still threatened.

It's impossible to tell how much anything is worth now. Along the 17th Street Canal wall, which separates New Orleans from Jefferson Parish and was breached during the hurricane, military vehicles and heavy trucks are kicking up clouds of dust as they repair the flood wall. The homes of families that lived along the canal are strewn with debris from floodwaters that rose near the top of their front doors.

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The destruction could make it easier for government officials to use eminent domain to buy out homeowners on sites needed for levee-enlargement projects. But under most eminent-domain laws, compensation is based on assessed value when the purchase is proposed, meaning that New Orleans homeowners would likely get far less than they would have before the storm.

"The whole question of fair market value is going to be very murky," says John McIlwain, a senior resident fellow at the Urban Land Institute in Washington, adding that he expects "a significant amount of litigation."

Jim Wright, who lives in the Lakeshore neighborhood, doubts that many of those who lived on the canals will ever move back now that they know protective flood walls can be breached. "I can't imagine anyone would want to have that time bomb in their backyard," he says.

But Arthur Sterbcow, president of Latter & Blum, a large residential real-estate firm in Louisiana, predicts that affected residents will welcome the added protection -- and that property values will rise as a result.

Katrina's Children Find New Schools, And Fears (NYT)

By Michael Winerip

The New York Times, September 21, 2005

HOUSTON

DAVE SCHRANDT is in charge of registering homeless children for the Cypress-Fairbanks school district, and when he really gets cranked up, he can fill out the six forms to enroll a hurricane evacuee in 15 minutes.

"O.K., Tyrone, you get free breakfast, free lunch, free school supplies, and you'll start tomorrow," he said, madly checking off boxes one day last week. Tyrone Edwards, 16, and Emma Collins, his grandmother, from St. Bernard Parish, La., barely had time to nod before another box was checked.

"Address?" Mr. Schrandt asked, and not waiting, he wrote "8350 Highway 6N," the address of the shelter at Copperfield Church.

Mr. Schrandt asked what kind of math Tyrone was taking back home, and when all the boy could answer was "Math 3," Mr. Schrandt guessed it was probably Algebra II, wrote that in, then put a question mark beside "science," since Tyrone knew he was taking a science, but not which one.

"Special ed?" Mr. Schrandt said, jumping to the next question.

"He had both special ed and the regular," Mrs. Collins said.

"Almost done," said Mr. Schrandt, who asked if Tyrone needed clothes. Mrs. Collins said Tyrone's bag was left behind when they were helicoptered out of the flood, so Mr. Schrandt made notes on Tyrone's pants size (28-30 waist), shirt size (large) and shoe size (11).

"Biggest shoes I've had so far were 18's," Mr. Schrandt said. "So that's it. We're done." And the next morning, before 7, a bus pulled up to the church for Tyrone, one of 1,910 Katrina kids who have enrolled in this suburban district, which includes a small part of Houston and northwest Harris County.

While much of the federal response to Katrina has been its own epic disaster, a rare bright light is the McKinney-Vento Act, federal legislation passed in 2002 to ensure that homeless children are quickly enrolled in school. The law requires that every school district in America have a homeless liaison worker like Mr. Schrandt; that children are registered immediately, even those without records; and that transportation is provided.

Barbara Duffield, policy director of the National Association for the Education of Homeless Children, said she was hearing from as far away as Alaska that the enrollment of the 370,000 displaced children has generally been swift and good hearted.

"It's almost like the three years since the law was passed were a rehearsal for Katrina," she said. "Districts were ready. We're seeing school officials take, not just the letter of the law, but the spirit of the law to heart." And Texas, which has enrolled the most evacuees, 44,812, "gets the gold star," she said.

At Owens Elementary here there is a room called the Closet, stocked with clothing donations that are organized by size, so flood families can shop free for what they need. Each new child is assigned a classroom buddy, a playground buddy, a cafeteria buddy and a bus buddy, so instantly they have four new friends.

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In the teachers' lunchroom at Danish Elementary there is a Star of Hope Tree. The stars list evacuee families' needs; teachers pick off a star and shop for the items. "My 15-year-old got three pairs of pants, four to five brand- new shirts," said Judith Howard, a mother of five, who is living doubled up with her sister's family.

There was so little red tape enrolling that New Orleans parents like Barbara Varnado and Latanya Hawkins did not even know the name of their children's new district; they thought they were in Houston city schools.

That is the good news. The hard news on relocation is just emerging. From visits to several schools and shelters in this district of 85,000, the third largest in the state, it is clear that a major task lies ahead, teaching and counseling the newcomers. Principals and teachers say many seem to be behind local students academically and to be traumatized.

At Owens (41 evacuees) and Danish (31), teachers have just begun assessing the new students, and are finding many with significant academic gaps. This is not surprising. The schools here are in their sixth week; New Orleans children had been in school a week when the hurricane hit and are beginning here just as the local students finish midterm exams.

They have been transplanted to a state with an intensive test-driven curriculum that they have not been prepared for. And they have come from an urban district considered one of the worst and poorest in the nation to a middle- to upper-class high-achieving suburban district. "We're recommending a lot for extra tutoring," said Laura Barrett, the Owens principal.

Add to that the effect of the horrors that many have seen. Sadie Woodard, head of counseling for the district, is having every new child interviewed individually and using retired counselors to run weekly support groups. "I have five or six - they have this look, it just breaks your heart, the fear in their eyes," Ms. Barrett said.

At Owens, several have fallen asleep during reading and music and on the soft pillows in the library. A lot still live in church shelters, crowded hotel rooms and doubled up in homes with relatives. The other day, Ms. Barrett carried out a 4-year old prekindergarten girl who was snoring and being sent home for rest. "We tell them it's O.K., they're not in trouble, they can put their heads down," Ms. Barrett said. "They just need a nap."

Aisha Brown's first-grade daughter, India, was sent "home" from Adam Elementary to the Cypress Bible Church shelter to get some sleep. "She hasn't been right since the storm," Ms. Brown said. "India saw everything."

Ms. Brown's three children were saved from the rising waters when the parents emptied their refrigerator, broke off the door and floated them six blocks to a bridge. "India saw people falling off the bridge and drowning, screaming for help. She saw shooting at the Superdome." The mother said that when they finally got on an evacuation bus, "India asked me, 'Is there going to be shooting on the bus, too?' "

At the church shelter, the mother said, people have been extraordinarily kind, but India remains fearful. "She sleepwalks and cries, hollering for me," she said. As parishioners filed into the church hall last week, India was briefly separated from her parents. "I found her under a table crying," said the mother.

LAST week, at 7:30 Monday morning, Brandon Hart paced the lobby of the Hampton Inn where he was living, eager for the school bus to arrive. He said he loved his new middle school, Labay; it was better than his New Orleans school. "I want to stay here," he said. "I used to live in a bad neighborhood. It's better out here. It's quiet. And I'm on the football team. I'm going to my first practice today. They told me I was going to start at tight end. They seen me play on the playground. I'm pretty good."

The next morning, back in the lobby he looked miserable. "I couldn't practice," he said. "They're getting ready for the game. They said it would be too confusing for everyone. They said I had to wait a few days." By Saturday night, the family had checked out and was heading to Baton Rouge, La., to try resettling there. The volatility is reflected in the numbers. Last week, there were 1,910 Katrina children enrolled in Cypress-Fairbanks district; Monday, it was 1,632.

At Cypress Falls High, the principal gathered the 95 Katrina children to welcome them and urged that they join clubs to integrate more quickly into the school. But Reyna Turcios, 16, who came from New Orleans with her aunt and three cousins after their apartment was destroyed, said she did not think she would join anything. "I don't want to get in there and do all the stuff and get so happy and then leave again," she said. "I don't like being here in Houston. I miss my friends, my school, my teachers. It seems impossible, but I wish we could go back and have our own life."

Her aunt, Maria Duarte, said that the children had been treated kindly here, but that they did not feel they belonged. "I see they feel like an ugly duck," she said. "My little one, he tells me I'm a bad mother. He doesn't want to get on the bus in the morning. I have to drag him. I say, 'If you don't go to school, I'll go to jail.' He says, 'Good, we'll go together, who cares.' "

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Officials Lower Tally Of 'Missing' Children (WP)

By Evelyn Nieves

The Washington Post, September 21, 2005

Authorities trying to track down more than 2,600 children in Louisiana, Mississippi, Georgia and Alabama still missing three weeks after Hurricane Katrina believe that most of them are not really "missing."

Rather, authorities said, the vast majority of these children are "lost" -- separated from a parent or guardian during the rush to rescue hurricane victims from rooftops and shelters, when families were divided because of lack of space on a bus or helicopter.

"They're not missing in the traditional sense," said Ernie Allen, president and CEO of the National Center for Missing and Exploited Children, which has taken on the task of finding the children and reuniting families.

The Alexandria-based center is working with sheriffs, police officers and FBI agents from across the country who have volunteered to help with the enormous caseload, and is partnering with CNN, which has been airing photos of missing children. As of yesterday, the center had resolved 966 out of 3,600 Hurricane Katrina cases, Allen said.

The number of cases continues to grow, Allen said, as more families learn where they can report missing children. The center has logged about 17,000 calls to a Katrina victim toll-free hotline (1-888-544-5475) and receives an average of 1 million hits a day from around the world on its Web site (http://www.missingkids.com). The site includes links to sites and numbers for those looking to locate adults among the hundreds still unaccounted for in Louisiana and Mississippi.

"The vast majority of the cases in our judgment are what we would call 'fractured families,' " said Allen, including instances in which evacuees ended up in one state and their children in another. He cited several examples of people reporting children missing, only to discover they were safe with a relative who did not know how to find the parents.

"We got a call from parents of a 7-year-old separated from her mother in the storm," Allen said. "We put the photos on the air and on our Web site, and the child's grandmother called and said, 'I have her.' That is a pretty good illustration of the kind of situation we're seeing."

Allen added that there is likely a relatively small number of cases in which children reported missing did not survive the storm.

There are also probably some children in the custody of people with whom they do not belong, Allen said.

In some cases, children whose parents have not been located have ended up in foster care. The state of Louisiana, as of last week, had placed in foster care 50 children whose parents had not been located, with 35 of the children found in shelters in Texas and the remainder in shelters in Mississippi, Arkansas and Louisiana.

"We're working on these one case at a time, doing old-fashioned gumshoe detective work," Allen said. "Every report we get, we have to treat as if it's potentially serious and the child is at risk."

The center has specialized in helping police across the country find children who were abducted by family members or strangers.

"This is more about reunification and repairing," Allen said. "But it's extremely urgent. If you're separated from your child in a supermarket or department store for 10 minutes, it's something you never forget. Here are parents who are separated from their children for three weeks and don't know where they are."

Was It Wind Or Water? Gulf Coast Lawyer Is Taking On Insurers (NYT)

By Jeremy Alford And Joseph B. Treaster

The New York Times, September 21, 2005

PASCAGOULA, Miss., Sept. 18 - Richard Scruggs picked his way through the ruins of his once-handsome four-bedroom home, no more than 50 yards from the edge of the Gulf of Mexico.

A wall of water flung by Hurricane Katrina tore through the home a little more than three weeks ago, blowing out the sides of the house and leaving only a pair of brick chimneys and exposed studs tenuously holding up the upper floor.

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To the left of Mr. Scruggs's home lies a bare concrete slab where another elegant home stood until the storm's assault on New Orleans and the coasts of Louisiana, Mississippi and Alabama. To the right, a peaked roof sits at a twisted angle on a waterlogged lawn, all that remains of another big house.

"The whole street is torn up," Mr. Scruggs said. "Very few houses are even standing."

Mr. Scruggs, a wealthy plaintiffs' lawyer who played a leading role in wrenching a $250 billion settlement from the tobacco industry a few years back, is furious about the hurricane - not simply that it happened, but that insurance companies might escape what he sees as their responsibility for a huge portion of the losses from the storm, those resulting from flooding.

The insurers say homeowners' policies cover wind and rain damage, but do not cover flood damage caused by hurricanes or anything else. A federal program provides up to $250,000 in flood insurance, but most people do not have that coverage.

"I'm not going to sit still for this," said Mr. Scruggs, who grew up in Pascagoula and has practiced law here for decades. "I'm going to bring every organizational and legal skill I possess to make these guys do the right thing under their policies."

At stake is a potential $15 billion worth of insurance payments. That explains why the insurance companies, which have never been successfully challenged on the "wind vs. water" issue, are equally adamant.

They have contract law in their favor, they say. Their longstanding practice of not covering flood losses resulted years ago in a federal program being specifically created to provide such coverage. Still, they worry about going to court in Mississippi, which has a reputation for being tough on corporate defendants despite recent changes in the state's legal system.

At the very least, Mr. Scruggs contended that the extent of coverage is ambiguous and that courts have ruled that it is the responsibility of the writer of the policy - the insurance company - to make the provisions clear.

Much of the damage, he said, came from storm surge, which he said was gulf water driven inland by the wind. If the insurers wanted to exclude coverage for storm surge "they certainly know how to do it," he said. "And that term does not appear."

Fred Levin, a Pensacola lawyer who specializes in suing insurance companies, said his first reaction was that Mr. Scruggs had no chance of winning. "What the hell are they trying to do?" he said. "Contract law is contract law."

But Mr. Levin said policies on the Gulf Coast, unlike those in Florida, do not appear to include large, bold-type warnings that flood damage is not covered. He added that any lawsuit by Mr. Scruggs could hinge on whether insurance agents fully explained to homeowners that their hurricane coverage applied only to wind and rain.

"You go to the agent and tell him you want full coverage," Mr. Levin said, "and he tells you, 'Yes, you've got full coverage.' I think that's the best claim they've got."

There is no disputing that Hurricane Katrina caused enormous damage, much of it from flooding. Robert P. Hartwig, the chief economist of the Insurance Information Institute, a trade group in New York, estimates that 200,000 homes were destroyed or damaged beyond repair in Louisiana, Mississippi and Alabama. Estimates of the insured losses run as high as $60 billion, nearly twice as much in today's dollars as the losses in the Sept. 11 attacks and nearly three times the insurers' costs from Hurricane Andrew, the worst previous storm, in 1992.

Should the Mississippi challenge go against the insurers, Mr. Hartwig said, costs could rise to more than $75 billion. If forced to pay for damage they never anticipated and for which they never collected premiums, Mr. Hartwig said, insurers would face severe strains; some might even go bankrupt.

Most people, even in low-lying areas, do not buy federal flood insurance. But even fewer people bought flood insurance on the Mississippi Coast than in New Orleans and nearby parishes or counties. In New Orleans, Mr. Hartwig said, 40 percent bought it. Nearly 60 percent did so in the two flanking parishes. But in the three Mississippi counties facing the Gulf of Mexico, 23.4 percent bought it in Hancock County, 11.7 percent in Harrison County and 10.4 percent in Jackson County.

Jim Hood, the attorney general of Mississippi, filed a civil lawsuit in a state court last Thursday to force the insurers to pay for storm surge losses. "I'm not going to allow insurance companies to bankrupt the entire Gulf Coast by using the fine print and saying that people should have known that they didn't have coverage for water damage," he said.

Mr. Scruggs, 59, said that he and his neighbors, like thousands of owners of homes and small businesses along the coast, bought hurricane insurance for which they paid an extra premium and agreed to a higher- than-usual deductible. He said he bought the maximum of $250,000 in federal flood insurance for his $800,000 home because it sits on the waterfront. But he and some insurance executives said the flooding from Katrina extended much farther inland than in previous storms.

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Mr. Scruggs said storm surges were part and parcel of hurricanes along the Gulf Coast. "Everyone knows, as does the insurance industry, that the major risk to life and property from a hurricane is storm surge," he said. "So having a hurricane policy that excluded storm surge is preposterous. No one believed that. When you pay an additional premium for a hurricane endorsement you would naturally think, 'O.K., I've got that covered.' "

The insurance companies say the cost of hurricane coverage was intended to pay for extraordinary expenses resulting from hurricane winds and rain.

"The flood exclusions are very broad and cover rising waters regardless of the cause or circumstance," Mr. Hartwig said. "Homeowners' contracts are pretty cut and dry. They've been tested by time."

Mr. Scruggs said he planned to file lawsuits in a few days on behalf of several hundred Gulf Coast residents against State Farm, Allstate and Nationwide - the three largest insurers in the region - as well as others.

With a bank of operators responding to a toll-free number, Mr. Scruggs said his list of clients could easily run into the thousands. To make space for the anticipated jump in business, Mr. Scruggs has gutted a conference room in his office in an antebellum home on the main street of Moss Point, a village adjacent to Pascagoula, and set up rows of interview cubicles with a waiting room filled with dozens of neatly aligned metal folding chairs.

Mr. Scruggs said he did not see the insurance battle as a personal gold mine. He said he was prepared to take as little as 1 percent of any settlement or jury award - far less than the typical contingency fee of one-third or more - and that he would try to get the insurers to pay for his services separately from any payments to policyholders.

State Farm, Allstate and Nationwide declined to comment on the planned lawsuits. But all of the companies contended that any effort to force payment would be against the public interest. "In essence," said Richard Luedke, a spokesman for State Farm, "the attorney general is challenging the validity of contracts in the state of Mississippi and that threatens the foundation of the economy and state and has ramifications for the residents of Mississippi." Paul Leonard, a police lieutenant in Pascagoula, said he turned to Mr. Scruggs after surging gulf waters gutted his home a few blocks back from the waterfront and his insurer, Nationwide, denied his claim.

"They said all my damage was from water and they weren't paying," Mr. Leonard said. "If it was from wind, they said they would have paid."

Mr. Scruggs has shifted much of his daily work to an office in Oxford, Miss., in the last year or so. Since the hurricane, he has been commuting between Oxford and Pascagoula in his private twin-engine corporate jet, sometimes ferrying generators, food, water and other relief supplies. He said he expected to be spending more time on the coast as he battles the insurance companies.

Mr. Scruggs said he has not yet learned how his insurer, USAA, plans to respond to his claim.

In any event, Mr. Scruggs, who said his taxable income last year was $8 million to $9 million, said that if he had to, he could certainly cover his own losses. Most other people, he said, "will have no way to rebuild or do anything."

Cities' New Job 1: Disaster Plans (CSM)

By Peter N. Spotts

The Christian Science Monitor, September 21, 2005

Hurricane Katrina has sent a stark message to other regions of the United States that face the potential for natural disasters: Throw out plans that call for citizens to be self-sufficient for three days. It may take longer for the cavalry to arrive.

The slow, confused initial responses to Katrina are among many elements of the disaster now prompting state and local emergency management officials around the country to take a hard look at disaster-response plans.

In many cases, these reviews were already under way as part of National Preparedness Month. But Katrina - followed in short order by hurricane Ophelia's sweep over North Carolina and now Rita's charge into the Gulf of Mexico - has emphasized the need to have effective plans ready at a moment's notice.

"We've seen what happens when the federal government hasn't done much of anything in advance," says Eric Holdeman, director of emergency planning for Washington State's King County, which includes Seattle and could be prone to an

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earthquake. "If you want to be prepared for the maximum credible catastrophic event, you should be thinking seven days, not just the minimum of three days."

In Florida, which has emerged as a model for hurricane planning, officials ordered all 80,000 residents of the Keys to evacuate ahead of Rita's arrival. Some, however, stayed behind in boarded-up homes. Military cargo planes evacuated three hospitals.

Whether for this hurricane season or for future situations, learning and applying the lessons from Katrina are crucial, analysts say, because despite its devastation, the hurricane actually wasn't a worst-case event. For example, researchers for years have had their eyes fixed on Los Angeles. Some studies suggest that if the Puente Hills Fault underneath the city ruptures, the temblor could leave hundreds of thousands of people homeless, inflict $250 billion in damage, and kill 20,000.

The Eastern US faces significant - and underappreciated - earthquake risks of its own. While large earthquakes occur there far less frequently, many of the buildings are older, unreinforced brick. And Eastern cities have been slower to change building codes to reduce earthquake fatalities, despite warnings of the hazards.

Some studies suggest that New York, for example, should be as prepared for an earthquake as San Francisco. The potential damage, death toll, and fallout on the US economy could rival that of a major quake in the Bay Area.

In Boston, which has earthquake risks as well, city officials have seen Katrina's handwriting on the wall. They are beefing up evacuation plans, gearing up to withstand more-intense hurricanes, and looking to establish well-stocked shelters for poor or disabled residents who may not be able to leave the city.

Even cities whose hazards may not reach Katrina's proportions are reviewing their plans. In Tulsa, Okla., for example, the public-works department is reexamining how it would respond to worst-case floods that involve a breach of levees that channel the Arkansas River.

"It's probably been 15 years or more since we've looked at that," says Charles Hardt, the city's public-works director. Katrina has been "a wake-up call."

Los Angeles and New York are among the cities acknowledged to have some of the most advanced response plans. Officials in these places say they have honed their plans through repeated reviews and rehearsals. Watching the response to Katrina hasn't altered their plans much, although they're keeping in mind a checklist of practices that would reduce the chance of major missteps.

When it comes to ensuring that the poor or infirm are evacuated to well-stocked shelters in an emergency, Florida is a state that has largely gotten it right, planners say.

"Our lessons learned came from hurricane Andrew," says Kristy Campbell, a spokeswoman for the state's emergency operations center. Storm-specific coordination between state, county, and local agencies begins two to three days before a hurricane strikes. Relief supplies are squirreled away in safe locations. During the year, local officials keep track of the people who may need help evacuating.

Yet disaster response is only half the equation, researchers and planners say. To reduce the effects of an earthquake, storm, or flood, more emphasis must be placed on helping cities build disaster resilience, they argue. Yet such mitigation is not getting the support it needs, they say.

Experts point to the success of programs such as the Federal Emergency Management Agency's Project Impact. During the 1990s, this initiative provided seed money for a range of mitigation projects, from improving earthquake resistance in structures in the Pacific Northwest to developing economical "safe rooms" for homes and offices in tornado-prone areas. The program ended shortly after President Bush took office.

Stocks Slide After Rate Increase (WSJ)

By Scott Patterson

The Wall Street Journal, September 21, 2005

A hawkish Federal Reserve spooked Wall Street Tuesday. Stocks dipped sharply as investors bolted for the exits amid fears heightened by the specter of Hurricane Rita.

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The Dow Jones Industrial Average fell 76.11 points to 10481.52, nearing levels seen at the beginning of September. The Standard & Poor's 500-stock index declined 9.68 to 1221.34 and the Nasdaq Composite Index fell 13.93 to 2131.33.

Rate-sensitive stocks such as banks, consumer cyclicals and home-builders were punished. Technology stocks fared somewhat better, though there were few places to hide amid the broad thumping.

The Federal Open Market Committee increased the target on the federal-funds rate by a quarter-percentage point to 3.75% and said it planned to continue to remove accommodation at a "pace that is likely to be measured."

The increase was widely expected. Investors had hoped for hints that the rate-tightening cycle, which has lasted since June 2004, could be drawing to a close soon in light of the economic damage wrought by Hurricane Katrina. The Fed provided no such clues, however.

The policy statement indicated that "the hurricane didn't matter in the long term," said Stephen Sachs, director of trading at Rydex Investments. "The Fed is getting more and more concerned about energy prices translating into inflation," he said.

Some economists had expected the Fed to pause due to uncertainty over Katrina's impact, but policy makers downplayed the hurricane's effects. The hurricane's damage doesn't pose a "persistent threat," the Fed said in the statement. The more lasting threat: "Higher energy and other costs have the potential to add to inflation pressures."

FOMC director Mark Olsen dissented, arguing for a pause in rate increases, an unusual stray voice in the typically unified Fed.

Expectations for more increases this year rose, according to federal-funds futures contracts. Futures jumped to pricing in a full 4% year-end federal funds rate after the announcement, compared was a 3.975% year-end rate earlier.

A prime example of the headwinds companies are facing -- as well as issues facing the broader economy and the Fed -- is Leggett & Platt, a builder of industrial products. After Monday's close, the company guided earnings and sales lower, citing "higher costs for raw materials and energy," among a range of other issues.

Leggett's solution: price increases. Since "raw material and energy costs are not going to abate, we will have no choice but to pass along these increases," the company said in a news release. Its shares fell 13%.

Leggett hasn't been alone in pegging the blame for earnings shortfall on high energy prices. Beauty-products maker Estee Lauder, which posted disappointing earnings late Monday, fingered higher oil and gas prices, as well as softness in the South due to the impact of Katrina, among other factors. Shares of the beauty-products maker fell nearly 10%.

Investors took some solace in a decrease in oil prices. Light, sweet crude fell $1.16, or 1.7%, to $66.23 a barrel a day after it surged 7%, or $4.39 -- the biggest one-day gain in dollar terms on record, as then-Tropical Storm Rita threatened to disrupt the recovery effort under way after Katrina. The Organization of Petroleum Exporting Countries agreed to offer its remaining spare capacity, about two million extra barrels of oil a day, to reassure markets about energy supply.

Meanwhile, investment bank Goldman Sachs gained a fraction of a point after it posted record third-quarter earnings of $3.25 a share, surpassing forecasts for a gain of $2.38 a share. The strong performance of the investment bank comes on the heels of similar market-beating results from Lehman Brothers and Bear Stearns. Morgan Stanley reports earnings Wednesday.

Circuit City Stores gained 5.9% after it swung to a one-cent gain in the second quarter on strong sales of digital televisions and portable digital audio players, beating forecasts for a loss of three cents a share. The company also boosted revenue guidance for 2006 to a gain of 5% to 8%, higher than the previous range of 3% to 6%.

In major market action:

Stocks fell. On the Big Board, where 1.7 billion shares traded, 1,031 stocks rose and 2,259 fell. On the Nasdaq Stock Market, where 1.8 billion shares traded, 1,225 stocks advanced and 1,795 declined.

Bonds were mixed. The benchmark 10-year Treasury lost 2/32, or 63 cents per $1,000 invested, to yield 4.255% Tuesday. The 30-year bond gained 11/32 to yield 4.529%. Yields move inversely to prices.

The dollar advanced. It was at 111.91 yen Tuesday, off from 111.48 yen late Monday, while the euro rose to $1.2127 from $1.2151.

Fed Raises Interest Rate To Highest In 4 Years (USAT)

By Sue Kirchhoff

DOJ_NMG_0007102

USA Today, September 21, 2005

WASHINGTON — The Federal Reserve raised short-term interest rates an 11th consecutive time Tuesday, saying that while Hurricane Katrina could dampen near-term growth, the storm damage did not pose a "more persistent threat" to the economy.

In a statement announcing it had boosted its target for short-term rates by a quarter-percentage point to 3.75% — the highest level in four years — the policymaking Federal Open Market Committee also made clear that its measured campaign of rate moves was likely to continue.

Further, in the first dissent since June 2003, Fed Governor Mark Olson voted against the move, preferring to hold rates steady. The vote was 9-1.

"The widespread devastation in the Gulf region, the associated dislocation of economic activity and the boost to energy prices imply that spending, production and employment will be set back in the near term," the Fed said.

"While these unfortunate developments have increased uncertainty about near-term economic performance … they do not pose a more persistent threat," it said.

Following the Fed announcement, a number of banks raised their prime interest rates, the basis for many consumer and business loans, by a quarter-point to 6.75%. Though the move was expected in financial markets, the Dow Jones industrial average ended Tuesday down 76.11 points, or 0.7%, to 10,481.52. Short-term bond prices fell while yields rose.

Hurricane Katrina disrupted oil, gasoline and natural gas operations in the Gulf, sending prices sharply higher. Energy price increases are a double-edged sword, with the potential to fuel inflation and slow growth as consumers reassess their budgets.

Economists said the Fed is clearly signaling that price pressures are the larger risk now.

The central bank, which has been raising rates in quarter-point increments since June 2004, noted the economy was moving at a "good pace" before Katrina, bolstered by high worker output and low interest rates.

It said Katrina could add to inflation pressures and energy price volatility, though noting core inflation, which excludes food and energy, has been relatively low.

"The Fed is, if anything, more concerned about inflation than they are about a growth slowdown," says Stephen Stanley of Greenwich Capital Markets.

He and other economists expect short-term rates to top 4% by the end of the year, while Stanley also expects rate increases to continue into next year.

Unswayed By Storm, Fed Raises Key Rate (NYT)

By Edmund L. Andrews

The New York Times, September 21, 2005

WASHINGTON, Sept. 20 - Saying that Hurricane Katrina was unlikely to pose a "persistent threat" to the economy, the Federal Reserve raised interest rates on Tuesday for the 11th time in a row and signaled that more increases were on the way.

In an unusually long statement, the central bank acknowledged that the hurricane's devastation was likely to cause higher energy prices, higher joblessness and greater uncertainty in the months ahead.

But it said the hurricane had not shaken its confidence about longer-term growth, and it left little doubt that its top priority was still to head off inflationary pressures.

The decision lifted the federal funds rate on overnight loans between banks by a quarter-point, to 3.75 percent, the 11th rate increase since the central bank began raising rates in June 2004.

"The widespread devastation in the gulf region, the associated dislocation of economic activity and the boost to energy prices imply that spending, production and employment will be set back in the near term," the central bank's Federal Open Market Committee said in a statement.

But it continued: "While these unfortunate developments have increased uncertainty about the near-term economic performance, it is the committee's view that they do not pose a more persistent threat."

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In an important hint about its desire to keep raising rates for a while longer, the central bank repeated its long-held expectation that "policy accommodation" - meaning low interest rates - could be reversed at a "measured" pace.

In response, the stock market fell yesterday. The Dow Jones industrial average went down 76.11 points, to 10,481.52; the Standard & Poor's 500-stock index fell 0.8 percent.

In a rare departure from the Fed's normal unity, one member of the policy committee, Mark W. Olson, voted against the rate increase.

It was the first dissent since June 2003, and a sign that Tuesday's decision was unusually difficult.

But it did not necessarily portend a serious rift within the Fed. Mr. Olson, a commercial banker by profession, has focused primarily on bank regulation and has rarely taken strong stands on macroeconomic policy.

Edward McKelvey, a senior economist at Goldman Sachs, said policy makers were taking a much harder line about inflation than investors had been assuming.

"In our view, the financial markets are much too complacent about what a decision to keep tightening means at this juncture," Mr. McKelvey wrote before the Fed decision came out. "If under these circumstances the F.O.M.C. is prepared to keep going, then this means that the committee is more worried about the longer-term risk of higher inflation than the shorter-term risk of a collapse in growth."

In the first two weeks after Hurricane Katrina, many Wall Street analysts speculated that the Fed would either pause in raising rates or signal that the process would end fairly soon.

Historically, the central bank has taken a dim view of changing policy in response to a natural disaster, even a big one. Fed officials, and many economists, contend that the economic impact of such calamities is usually local and usually temporary.

The normal pattern is for the economy to slow and for unemployment to rise in the immediate aftermath. But any slowdown is usually followed by an even bigger jump in economic activity as rebuilding begins.

The big uncertainty this month is whether Hurricane Katrina, which disabled major oil refineries and offshore drilling platforms, will cause a more enduring downturn.

But the Fed, which has been raising the cost of borrowing since June 2004, showed little appetite for a "wait and see" approach.

It noted that the economy had been expanding "at a good pace" before the hurricane. It also noted that "higher energy prices and other costs have the potential to add to inflation pressures."

Most important, it repeated phrases suggesting that money remains too cheap for comfort. It said the prospects for inflation and growth are "roughly equal." It implied that monetary policy is still "accommodative," meaning that interest rates are not yet back to a "neutral" level that allows growth without inflation. And it repeated its expectation about raising rates at a "pace that is likely to be measured."

Ethan Harris, chief United States economist at Lehman Brothers, said that neither the hurricane nor the surge in oil prices constituted a good reason to relax monetary policy.

Both the hurricane damage and higher energy prices amount to a "supply shock" that leads to higher costs. By keeping interest rates low, the Fed would be stoking consumer demand and possibly driving prices up even higher.

"There's not really anything you can do about a supply shock, other than repair the damage," Mr. Harris said. "As a policy maker you have to be very careful about putting a lot of stimulus into the economy at a time when capacity has been impaired."

Analysts continue to debate among themselves about how much more the Fed will raise rates. Most now predict that it will raise them a quarter-point at each of its two remaining meetings this year, in October and December, which would take the federal funds rate to 4.25 percent.

In its statement, the Fed conceded that inflation remains mild and that higher energy prices have yet to drive other prices higher.

But Fed officials are increasingly concerned that low interest rates have fueled too much speculation in housing and too much complacency among investors toward risk.

Fed Raises Key Interest Rate For 11th Straight Time (LAT)

By Jesus Sanchez

The Los Angeles Times, September 21, 2005

The Federal Reserve today raised interest rates by another quarter percentage point and gave no sign that it was going to postpone rate hikes despite evidence that Hurricane Katrina would likely weaken the economy and labor market in the near term .

The central bank's Federal Open Market Committee, headed by Fed Chairman Alan Greenspan, raised the benchmark federal funds rate — what banks charge each other for short-term loans — to 3.75% from 3.50%. It was the 11th consecutive quarter-point increase since mid-2004.

However, in a dissent, committee member Mark W. Olson voted against the rate increase, preferring no change in the federal funds rate.

The Dow Jones industrial average, which had been in positive territory for most of the day, slumped after the Fed's announcement, closing down 76.11 points to 10,481.52. Nasdaq and the S&P 500 were also lower today.

A recent spike in gasoline and energy prices and a plunge in consumer confidence since Hurricane Katrina had increased speculation that the Fed might leave rates unchanged or indicate that it would back away from future increases.

In the widely read remarks that accompanied the rate announcement, the Fed did acknowledge growing concerns about the hurricane's economic impact on the economy.

"The widespread devastation in the gulf region, the associated dislocation of economic activity, and the boost to energy prices imply that spending, production, and employment will be set back in the near term," the Fed said in a statement. "In addition to elevating premiums for some energy products, the disruption to the production and refining infrastructure may add to energy price volatility."

However, in the long run, the policymakers said that increased economic uncertainties do "not pose a more persistent threat" to the economy.

Notably, the Fed continued to telegraph its intention to raise rates "at a measured pace," meaning in small increments, as the economy continues to recover and demand for goods and services increases. The central bank had been compelled to keep pushing rates higher in an effort to keep price inflation in check.

"Higher energy and other costs have the potential to add to inflation pressures," the Fed said. "However, core inflation has been relatively low in recent months and longer-term inflation expectations remain contained."

Changes in the federal funds rate eventually reverberate throughout the economy because many lending rates, on everything from credit cards, home equity loans and adjustable-rate mortgages, are in some way linked to changes in the Fed's benchmark rate. While higher rates will make borrowing money more expensive, it also means that consumers can expect to earn more from savings accounts.

Most analysts have said that the economy is strong enough to continue expanding on its own without the help of rock-bottom lending rates. However, raising rates too quickly could weaken consumer spending — the largest driver of economic growth — and undermine the housing market, which has been a huge source of economic growth in places like California.

Under Greenspan's leadership, the Federal Reserve had steadily cut its rate from 6.5% in 2000 to 1% by last June to prop up an economy hit by tumbling stock prices, the 2001 terrorist attacks, corporate scandals and the Iraq war.

In other economic news today, U.S. new home construction in August weakened for the second consecutive month, according to the Commerce Department.

Housing starts, a measure of construction activity, fell 1.3% to a seasonally adjusted annual rate of 2.01 million homes. The August results, which were slightly weaker than many analysts had forecast, came after housing starts in July dropped 1.5%.

Fed Lifts Key Rate, Confident In Growth (WP)

By Nell Henderson

The Washington Post, September 21, 2005

Federal Reserve officials expressed confidence yesterday that Hurricane Katrina has caused no more than a temporary setback to the U.S. economy, allowing them to raise their key short-term interest rate another notch to make sure inflation stays under control.

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As the federal government and insurance companies begin to put tens of billions of dollars into Gulf Coast reconstruction, Fed policymakers expressed more worry about rising inflation pressures than slower economic growth and indicated that they will probably keep raising interest rates in the months ahead.

Private economists are forecasting that the economy will gain more from the reconstruction spending than it has lost because of the storm.

In an unusually long and sympathetic statement released after their meeting, Fed officials noted "the widespread devastation in the Gulf region . . . and the boost to energy prices" resulting from the storm, which displaced thousands of area residents, wiped out hundreds of thousands of jobs, disrupted shipping systems throughout the Mississippi Valley and shut down much of the nation's oil and gasoline production.

In the first week after Katrina hit, economists worried that consumers and businesses might react to soaring energy prices by sharply pulling back on spending plans, triggering a sudden slump. Some Fed officials were open then to the possibility of leaving interest rates unchanged for a while because of the uncertainty of the economic outlook.

But since then, energy production has recovered somewhat, while oil and gasoline prices have come down from their post-Katrina peaks.

By yesterday, Fed officials had concluded that national consumer spending, employment and overall economic growth "will be set back in the near term" because of the storm.

Looking out over the months ahead, they added, "while these unfortunate developments have increased uncertainty about near-term economic performance, it is the [Fed's] view that they do not pose a more persistent threat."

Rather, Fed officials said, low interest rates continue to stimulate economic growth, while "higher energy and other costs have the potential to add to inflation pressures."

Already, prices have climbed for building materials and transportation services. Economists are watching closely to see how successful other businesses are at raising consumer prices to cover their higher energy costs. That may become easier at a time when consumers say they are expecting higher inflation than they did before Katrina.

The central bank's top policymaking group, the Federal Open Market Committee, was more divided yesterday than it has been in more than two years. Nine of the 10 voting members, including Chairman Alan Greenspan, agreed to raise their benchmark federal funds rate to 3.75 percent from 3.5 percent.

Fed board member Mark W. Olson voted against the move, saying he preferred to leave the rate unchanged -- the first dissent on the committee since June 2003.

Some other committee members came to the meeting open to Olson's position; only seven of the 12 regional Fed banks had requested a similar quarter-percentage-point increase in the largely symbolic discount rate to 4.75 percent-- a sign that five Fed banks might have been content with no increase in the funds rate either. The discount rate is charged to commercial banks when they borrow directly from the Fed.

The federal funds rate influences many other borrowing costs throughout the economy. Major banks followed the Fed's action by lifting their prime rate on business loans by a similar quarter percentage point, to 6.75 percent from 6.5 percent. Many consumer rates, such as on credit cards and home equity loans, may rise as well. Banks and other financial institutions may increase the rates they pay on savers' certificates of deposit and money market funds.

However, long-term rates, such as those charged on 30-year mortgages, are determined by global markets. Those rates have remained low over the past 15 months, even as the Fed hiked short-term rates. For example, the fixed rate on a 30-year mortgage averaged 5.74 percent nationally last week, about where it was a year ago at 5.75 percent, according to mortgage finance company Freddie Mac.

The Fed committee made it clear that it plans to keep raising the federal funds rate in the months to come, repeating that it believes it can do so gradually, "at a pace that is likely to be measured."

Stock prices fell on concern that higher interest rates will dampen economic growth and profits.

Fed officials stressed their belief that the economy was in solid shape before the storm hit.

Consumers and businesses increased spending rapidly during the summer, while unemployment fell to a low 4.9 percent in August, and price inflation outside of the energy sector was tame.

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The economy "appeared poised to continue growing at a good pace before the tragic toll of Hurricane Katrina," the Fed statement said.

Fed officials did not mention it, but they are also well aware that the post-hurricane reconstruction will provide a strong stimulus to national economic growth. Insurance companies are preparing to pay about $50 billion in claims. Congress has appropriated more than $60 billion in assistance, and President Bush has proposed a federal response that could cost up to $200 billion by some estimates.

The result will be a net plus for the economy, according to estimates by Macroeconomic Advisers LLC, a St. Louis forecasting firm. The economy will grow by a healthy 3.4 percent in 2005, or roughly 0.2 percentage points slower than it would have without Katrina; the economy will then expand by a robust 3.8 percent next year, or 0.5 percent more than without the post-hurricane spending burst, the firm said yesterday.

The Fed's action was its 11th consecutive quarter-percentage-point increase in the federal funds rate, the overnight rate charged on loans between banks, since June 2004, when it was at a four-decade low of 1 percent.

Many investors and analysts have come to expect a "measured" pace to mean a quarter-percentage-point increase at every scheduled Fed meeting. But Fed officials have stressed that they could pause or increase the rate by as much as a half percentage point at a time, depending on the behavior of the economy.

Thus Fed policymakers might leave the fed funds rate unchanged at their next meeting Nov. 1 if the economy slows more than they expect. Or they could raise the rate by half a point if inflation takes off.

Several analysts predicted that Fed meetings will include more debate and possibly more dissents as the rate goes higher and as Greenspan prepares to step down early next year.

"Greenspan certainly has the intention of raising rates" higher, said Anthony Chan, senior economist for J.P. Morgan Asset Management. But, he said, "moving forward, there will be more challenges to that."

Fed Keeps Focus On Inflation And Raises Rate (WSJ)

By Greg Ip

The Wall Street Journal, September 21, 2005

WASHINGTON -- The Federal Reserve raised interest rates for the 11th consecutive time, concluding that Hurricane Katrina's impact on inflation is more worrisome than its effect on growth.

The Fed raised its short-term interest-rate target to 3.75%, from 3.5%. It indicated that it expects to raise the rate further at a "measured" pace, which has come to mean an increase of one-quarter percentage point at each meeting of Fed policy makers. (The Fed's statement)

The decision to raise rates and to signal more ahead amid the uncertainty created by Katrina as well as some political pressure to take a break attests to the Fed's mounting concern over inflation. Fed Chairman Alan Greenspan appears more willing to risk slowing the economy down by raising rates too much, then to risk letting inflation rise further by raising them too little.

Tuesday's increase wasn't wholly expected: A minority of economists thought the Fed would pause to assess Katrina's impact. And some Fed officials wanted to do so. Fed Governor Mark Olson cast the lone dissent Tuesday, breaking a two-year stretch of unanimous votes.

In a statement, the Fed acknowledged Katrina's "tragic toll," but predicted it wouldn't derail the economy's expansion, and may aggravate inflation. "The widespread devastation in the Gulf region, the associated dislocation of economic activity, and the boost to energy prices imply that spending, production, and employment will be set back in the near term," the Fed said.

"While these unfortunate developments have increased uncertainty about near-term economic performance, it is the [Fed's] view that they do not pose a more persistent threat." Economic growth, it said, would be supported by still-low interest rates and brisk productivity growth, while "higher energy and other costs have the potential to add to inflation pressures."

It did say that underlying inflation is "relatively low" and longer-term inflation expectations are "contained," but this was less sanguine than the statement following its Aug. 9 meeting, which called such expectations "well contained."

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In June of last year, the federal funds rate, charged on overnight loans between banks, stood at a 46-year low of 1%. The Fed's goal since then has been to return rates to a "neutral" level that neither fuels inflation nor restrains growth. Estimates of neutral range from 3% to 5.5%.

Financial markets now expect only one more quarter-point rate increase during the three remaining meetings before Mr. Greenspan's term ends Jan. 31 -- and possibly one more by next summer.

In response to the Fed move, commercial banks raised their prime lending rate, a benchmark for many short-term business and consumer loans, to 6.75% from 6.5%. Longer-term lending rates will be little affected, however, as bond markets, where long-term rates are set, had anticipated Tuesday's action and showed little response.

With the economy growing steadily, unemployment falling and underlying inflation low, Fed officials had been comfortable with a steady diet of small, well-telegraphed rate increases for the past several months.

But in the weeks prior to Katrina, the Fed had increasingly fretted that rising energy prices in an economy with little spare capacity were a growing threat to inflation. The unemployment rate in August fell to 4.9%, a level many economists, including those on the Fed's staff, consider indicative of an economy operating at capacity.

Consumer prices rose 3.6% in the 12 months through August, matching the largest such increase in four years, and Morgan Stanley expects them to hit 4.3% in September. Excluding food and energy prices, inflation has hovered around 2%, but Fed officials worry other prices may creep higher as energy costs work their way through the pipeline. Several cities, for instance, recently have permitted taxi companies to boost fares because of higher gasoline prices.

"I'm concerned about core inflation running at the upper end of the range that I feel is consistent with price stability," Federal Reserve Bank of Chicago President Michael Moskow, who voted in favor of Tuesday's rate increase, said earlier this month.

Katrina has aggravated those concerns. Ken Simonson, chief economist for Associated General Contractors of America, recently predicted construction-materials prices would rise 10% next year, up from his previous forecast of 6% to 8%. He blames higher fuel and transportation costs, disruptions and shortages related to Katrina.

The University of Michigan found consumers expect inflation in the coming year of 4.6%, a near-15-year high, and expect average inflation of 3.1% over the next five years, a four-year high. Richard Berner, chief U.S. economist at Morgan Stanley, said federal reconstruction spending could boost growth so much next year that the Fed may have to raise rates even further than it previously anticipated.

Still, there is a risk Tuesday's increase will prove to be a mistake. The University of Michigan said consumer confidence experienced its largest two-month drop on record from July to September, a development that often foreshadowed recession. Oil and gasoline prices have rebounded this week as Hurricane Rita threatens the Gulf coast. "There is a risk the energy shock is going to be bigger and have more damaging effects on the economy than realized," said Bill Dudley, chief U.S. economist at Goldman Sachs. "They could look bad with the benefit of hindsight."

Mr. Greenspan has in the past altered course in the face of a shock, though not a natural disaster. In 1997, the Fed moved to a neutral from a tightening stance because of the Asian financial crisis. In December 1999, it paused rather than raise rates because of uncertainty over how computers at banks and elsewhere would handle the century date change. And it cut rates rapidly after the terrorist attacks of Sept. 11, 2001.

Its decision not to pause this time drew some political flak. "Chairman Greenspan is insensitive to America's working families," Senator Jim Bunning, a Kentucky Republican and longtime Greenspan critic, said in a statement. "Americans simply don't need another rate hike in the middle of a crisis."

Mr. Greenspan has been praised for bringing down both unemployment and inflation in his 18 years as Fed chairman. But as that tenure draws to a close, he appears clearly more willing to risk a rise in unemployment than a jump in inflation, while aiming to avoid both. Richard DeKaser, chief economist at National City Corp. in Cleveland, said the Fed might welcome a slowdown because it would maintain some slack in the economy. That would make it harder for firms and workers to build higher energy prices into prices and wages. As in 1995, a "soft patch...would provide a firmer basis for extending the expansion into the...rest of the decade," Mr. DeKaser said.

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Mr. Olson, a former banking consultant and Congressional staffer, who cast the lone dissent, primarily works on regulatory and consumer affairs, and his views on the economy and monetary policy seldom make news. A spokeswoman said he declined to comment on the reason for his dissent. The reasons are to be given in minutes to the meeting, to be released in three weeks. Mr. Berner said his dissent probably reflected a desire to await more information, rather than a belief that the time had come for the Fed to stop raising rates.

Other officials may also have had misgivings, but these won't be known until the minutes of this meeting are issued. The Fed's policy-making committee comprises 19 officials, of which 12 may cast a vote on rate moves: the seven members of the Fed board of governors in Washington and presidents of five of the 12 regional Fed banks. With two vacancies on the Fed board, Tuesday's vote was 9-1.

In a sign of possible unease among other Fed officials, only seven of the Fed's 12 regional banks asked for a quarter-point increase in the discount rate, to 4.75% from 4.5%, prior to Tuesday's meeting. The little-used discount rate is charged on Fed loans to member banks and usually moves in lockstep with the federal funds rate. Regional banks' discount requests can reflect the rate views of either the bank's president, or its private-sector board, or both.

Among those absent from the request were the Atlanta and Dallas Feds, whose districts bore the brunt of Katrina. Dallas Fed President Richard Fisher, however, voted for the increase in the federal funds target. Two more banks asked for the discount-rate requests late Tuesday.

Those absent may have asked for no increase or, less likely, a larger increase. It's also possible their boards met in the immediate aftermath of Katrina when the economic outlook was much dicier.

US Raises Interest Rates Despite Oil Crisis (FT)

By Carola Hoyos And Sheila McNulty

Financial Times, September 21, 2005

The Federal Reserve on Tuesday voted 9-1 to raise US interest rates by another quarter point and signalled that it expected to continue tightening policy.

The move came in spite of the devastation caused by Hurricane Katrina and as Hurricane Rita approached the Gulf, posing a fresh threat to oil production.

But the Organisation of the Petroleum Exporting Countries responded to concerns about the rising oil price pushed up in part by hurricane damage by offering the world all its extra crude.

Opec delegates agreed to offer consumers 2m barrels a day of extra oil, though Iran, the traditional price hawk of the group, insisted the offer would be reviewed at the group's meeting in Kuwait in December.

US crude futures on Tuesday retreated $1.16 to $66.23, after gaining $4.17 on Monday as fears of Hurricane Rita grew. October gasoline futures trading on the New York Mercantile exchange fell 4.77 cents to $2 a gallon.

While the Fed acknowledged the economic dislocation caused by Katrina and the rise in energy prices that has hit spending, production and employment in the near term, policymakers rejected calls for a “compassionate pause” in raising interest rates.

The Fed said the disruption to the production and refining infrastructure in the region might add to energy price volatility, but added: “While these unfortunate developments have increased uncertainty about near-term economic performance, it is the committee's view that they do not pose a more persistent threat.”

Before Katrina struck, it said, the US economy had been growing well. Core inflation had been “relatively low” in recent months and longer-term inflation expectations remained contained.

“Policy accommodation can be removed at a pace that is likely to be measured,” it said. However, Mark Olson, a member of the board of governors, voted against a quarter-point rise to 3.75 per cent, instead preferring no change in rates.

Opec's negotiations in Vienna were overshadowed by Rita as delegates and traders tried to forecast how much damage it would do to the Texas oil industry. “We are worried,” said Sheikh Ahmed Fahd Al-Ahmed Al-Sabah, Kuwait's oil minister. “We are following the hurricane to see what will be the effect, especially in Texas.”

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Panic buying seized Houston on Tuesday, with housewives filling trolleys with cases of bottled water at supermarkets such as Wal-Mart and Target.

Thousands of people fled Florida as Rita swept into the Keys, but the storm was expected to do more damage along the Gulf coast this weekend.

Gulf coast energy companies evacuated offshore facilities and tested emergency equipment and procedures.

Analysts agree the US energy industry, already strained after Hurricane Katrina, could see further fuel price rises if bad weather strikes again.

More than a quarter of the US refining industry, processing 4.5m barrels a day of crude oil, stands in the path of Rita, including three of the country's five largest refineries.

Fed Increases Interest Rate Despite Storm (WT)

By Patrice Hill

The Washington Times, September 21, 2005

The Federal Reserve, in an unusual non-unanimous decision criticized as "insensitive," yesterday voted to raise interest rates despite the economic disruptions caused by Hurricane Katrina.

The Fed said it does not expect the immediate rise in joblessness and decline in growth from the storm to pose a "persistent threat" to the economy, and that it must address the possibility that the soaring energy prices triggered by Katrina will fan inflation.

Mark Olsen, a Fed governor, dissented in the 9-1 vote, saying he thought a pause in the Fed's string of quarter-point rate increases since June 2004 was warranted. Many agreed on Wall Street, where stocks and bonds tumbled in response to the Fed's move.

Lawmakers on Capitol Hill and some economists said the central bank was being "insensitive" by increasing the cost of rebuilding from the storm by raising the interest rates on construction loans, while adding to the burden on consumers already hard-pressed by skyrocketing gasoline prices.

The Fed acknowledged the extraordinarily broad devastation from the hurricane, which killed almost 1,000 people and put nearly 1 million out of their homes and work -- some temporarily, some indefinitely.

It also acknowledged that the disaster, which caused consumer confidence to plunge to a 13-year low earlier this month, has "increased uncertainty" about the economy's performance.

But the central bank noted that the economy was growing solidly "before the tragic toll" and should be able to withstand the shock.

Even with the nearly three percentage point boost in interest rates since the Fed started its campaign, it said the level of rates remains low by historical standards and is still stimulating the economy.

The board raised the federal funds rate, which is the rate it targets on overnight loans among banks, to 3.75 percent. Commercial banks raised their prime lending rates by a corresponding amount, to 6.75 percent.

Richard Yamarone, an economist with Argus Research Corp., said the Fed ignored "a chorus of congressional leaders, business figures and investors" because it fears the sharp rise in energy prices this year will push the inflation rate over the psychological threshold of 4 percent.

Although many economists -- and even the Fed -- note that inflation excluding volatile energy prices remains tame at about 2 percent, persistently higher energy costs nevertheless will stoke inflation by prompting higher cost-of-living increases and a push for higher wages, he said.

Katrina fueled inflation not only by shutting down 5 percent of U.S. energy production and driving up energy prices, but also by boosting the costs of transportation and building materials, Mr. Yamarone noted.

"A Fed pause, or even a rate cut, would have done nothing to help the Gulf Coast area," he said. "It is more important to address the drag of inflation than to pause out of compassion for a region that was closed to business for a week."

But Sen. Jim Bunning, Kentucky Republican, said Fed Chairman Alan Greenspan was "insensitive" and out of touch with the plight of working families.

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"Maybe if he didn't have a government car and driver and had to pay for his own gas like ordinary folks, or if he lost everything he owned in a hurricane, he would be a bit more compassionate," the senator said.

Peter Morici, a business professor at the University of Maryland, said the Fed and many economists consistently have underestimated the severity of the storm and its effect on the economy, initially dismissing it as little worse than previous storms.

The central bank may be making a mistake like it did in 1990, when Mr. Greenspan led a campaign to raise rates in the face of a weakening economy, he said. Many economists blame the Fed's unresponsiveness for precipitating the 1990-91 recession.

"Falling retail sales and consumer confidence indicate the mood of the country is turning sour," and the Fed's move yesterday contributes to the pessimism, Mr. Morici said.

"By raising interest rates in an economy already slowing and buffeted by Hurricane Katrina, Mr. Greenspan needlessly risks driving the economy into recession, something he did accomplish for the first President Bush," he said.

Richard Berner, an economist with Morgan Stanley, said the Fed's task is particularly challenging now because of the explosion in energy costs, inflation and federal spending -- which also is inflationary -- prompted by Katrina.

Although the decision to raise rates may be a good one aimed at quelling an inflation threat, communicating that strategy is difficult in light of the public outcry over federal unresponsiveness to the storm.

Home Construction Declined In August (NYT/AP)

By The Associated Press

The New York Times, September 21, 2005

WASHINGTON, Sept. 20 (AP) - Construction of new homes slipped for a second month in August, providing fresh evidence that the housing boom may be cooling.

The Commerce Department reported Tuesday that construction of new homes and apartments dropped 1.3 percent last month after a decline of 1.5 percent in July. The two declines are the first consecutive ones since early 2004.

Even with the drops, housing construction totaled 2.01 million units in August, seasonally adjusted and annualized. It was the eighth month in the last nine that construction exceeded the two million rate.

Hurricane Katrina, which hit late in the month, had little impact on the data, but analysts predicted a more adverse effect in September.

David Seiders, chief economist at the National Association of Home Builders, predicted that for all of 2005 housing construction would total 2.02 million units, up 3.6 percent from the pace in 2004 and the best showing in more than two decades.

For 2006, Mr. Seiders forecast housing construction would drop 4.8 percent, to around 1.92 million starts. He said he had added just 25,000 starts to that figure for rebuilding from the hurricane, expecting that the recovery effort will be stretched out perhaps as long as five years.

For August, construction of new single-family homes fell by 0.5 percent, to 1.71 million units, while construction of multifamily units was down 6 percent, to 328,000 units.

By region, construction rose 13.3 percent in the West, to an annual rate of 561,000 units. All other regions posted declines in August from July.

The biggest drop occurred in the South, where construction fell 6.6 percent, to an annual rate of 915,000 units. Analysts said unusually wet weather accounted for the decline.

Construction was down 5.2 percent in the Midwest, to an annual rate of 346,000 units, and down 4.1 percent in the Northeast, to an annual rate of 187,000 units.

Housing Starts Fell In August On Drop In Multifamily Units (WSJ)

By Rafael Gerena-Morales

The Wall Street Journal, September 21, 2005

Residential construction fell for a second straight month in August as construction of condominiums and apartments tumbled, suggesting that rising concerns about overbuilding in the condo market may have prompted developers to pull back.

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The Commerce Department reported Tuesday that construction starts of new homes declined 1.3% last month to a seasonally adjusted annual rate of 2.009 million units. In July, starts were down 1.5% to 2.035 million. The government said the effect from Hurricane Katrina was minimal in August because it disrupted construction activity for only the last few days of the month.

The drop was attributed exclusively to declines in multifamily housing. Construction starts of single-family homes edged up 0.1% to 1.709 million. Starts of housing with two or more units dropped 8.5% to 300,000 units while construction of homes with five or more units fell 12% to 256,000 units.

Read the complete text of the Commerce Department's report on August housing starts and analysis from Briefing.com.

Although statistics for multifamily homes tend to be volatile month to month, economists said the August decline was the second straight drop and the level of starts in August was below the average for the past year. Joel Naroff, chief economist at Commerce Bancorp., said it may be too early to discern a clear trend, but two consecutive months of downward movement may indicate that "builders are starting to throttle back."

David Seiders, chief economist at the National Association of Homebuilders, said that while the recent declines in multifamily starts could be an "early sign of an oversupply" in the condo market, he cautioned that the declines also could be weather-related since multifamily starts in the South fell sharply last month. "If this is weather-related, these declines will be temporary," Mr. Seiders said.

Despite the possible slowing in the multifamily market, the single-family-home market remains strong. Some economists say the rebuilding efforts along the Gulf Coast in the aftermath of Hurricane Katrina will increase housing starts. Even if certain segments of the housing market cool, the overall "residential housing sector is going to be OK for a while," Mr. Naroff said.

Treasury Secretary John Snow Tuesday also dismissed the idea that the overall housing market is in trouble or that there is a bubble in the market. Speaking to credit-union executives in Washington, Mr. Snow said that predictions of a nationwide collapse of the housing market were improbable at best. "There's some easing off going on and that's expected," he said, but added, "I think the bubble is a gross misnomer."

The Commerce Department also reported Tuesday that permits for future building declined 2.2% to a seasonally adjusted annual rate of 2.124 million units. In July, permits rose 1.8% -- revised from a previously reported 1.6% increase.

The Commerce report showed that residential construction fell 4.1% in the Northeast, 6.6% in the South, and 5.2% in the Midwest; starts climbed 13% in the West. Nationwide, an estimated 184,600 houses were started in August, based on figures unadjusted for seasonal factors. An estimated 199,600 building permits were issued last month, also based on unadjusted figures.

Barbour Steers Mississippi Toward Recovery (WT)

By Guy Taylor

The Washington Times, September 21, 2005

GULFPORT, Miss. -- Flood-ravaged New Orleans has dominated press coverage and political debate in the wake of Hurricane Katrina, though neighboring Mississippi took the full brunt of the storm's fury, leaving more than 10,000 residents homeless.

"We're not into whining or moping around or victimhood," said Mississippi Gov. Haley Barbour, who has avoided the blame game that started in Louisiana as soon as Katrina made landfall.

The Republican governor remains optimistic, insisting that somewhere in the hurricane's devastation is "an opportunity to build the Gulf Coast back bigger and better than ever before."

His can-do attitude has drawn praise from, among others, former Reagan speechwriter Peggy Noonan, who compared Mr. Barbour's post-Katrina leadership to that of former New York Mayor Rudolph W. Giuliani after the September 11 attacks.

Mr. Barbour, former chairman of the Republican National Committee, says he's not bothered by the comparatively scant national press coverage given to his state's suffering.

"I would rather [have made] the progress that we've made than get a lot of press attention by not making progress, so it doesn't bother me that we're not on the front page of the news," he said in an interview with The Washington Times.

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Though he describes his job dealing with the hurricane's aftermath in Mississippi as "a little bit like getting a drink of water out of a fire hydrant," Mr. Barbour says he's not complaining.

"I'm a heck of a lot better off than the people [on the coast] that don't have homes, that can't take a shower, that have to rely on somebody to bring them a meal," he said. "If they can deal with it, I can deal with it."

But while some observers say his leadership in Katrina's aftermath have made him a possible White House contender for 2008, Mr. Barbour, 57, insists politics is the last thing on his mind.

"I'm not focused or particularly interested in the politics of it, which is one reason I have disdained all the people who want to point fingers and play the blame game," he said.

"We'll have the opportunity to improve many areas of South Mississippi that were severely damaged and that puts a responsibility on me that makes this more than a full-time job, which is why I'm not very interested in politics, even re-election politics."

While neighboring Louisiana under Democratic Gov. Kathleen Babineaux Blanco continues to be entangled in post-Katrina political wrangling, Mississippi appears on a faster track to recovery -- partly due to Mr. Barbour's experience as a high-powered Washington dealmaker.

Mr. Barbour, who left here last night for a week-long trip to Washington, has been working closely on a federal aid proposal with Mississippi Sens. Trent Lott and Thad Cochran, both of whom are also Republicans and close to the Bush administration.

"Our staffs have been working together to develop the right package that's consistent with good policy for the country and that would meet our needs," he said.

President Bush yesterday made Gulfport the first stop on his fifth tour of the region, appearing with Mr. Barbour in a makeshift tent to inaugurate the governor's "Commission on Rebuilding, Recovery and Renewal," headed by former Netscape CEO James Barksdale.

Mississippi's recovery will be driven private investors sinking cash into the crushed ports and coastal cities, Mr. Barbour said. "Twenty years from now, how we rebuild is going to be determined by the private sector."

But some Mississippi residents have called the state and federal recovery efforts too slow and disorganized. Last week, the state's attorney general filed a lawsuit against five major insurance companies, saying they tried to trick thousands of homeowners out of insurance claims.

Mr. Barbour is taking the bumps in stride. He appeared nonchalant at a press conference Monday in Jackson, the state capital. Flanked by emergency managers, he wore a short-sleeved shirt with no tie and joked with reporters.

Asked how the state is preparing for the possibility of being hit in coming days by Hurricane Rita, he said flatly: "We're praying a lot, and we hope that the same hand that put Katrina right into the coast will put Rita somewhere else."

Afterward, Mr. Barbour acknowledged the stress of dealing with the disaster.

"Sure I get tired," he said. "I'm just human, but I'll tell you what, when you see people who were poor before the storm and who have lost what little they ever had and they're helping their neighbors, it gives you energy."

He said he spends time praying and that "people pray for us and we need it and appreciate it, and they don't make any mulls about it. The Supreme Court ain't outlawed that yet."

GOP Split On Social Security (HILL)

By Bob Cusack And Patrick O'Connor

The Hill, September 21, 2005

A lack of communication between House Speaker Dennis Hastert (R-Ill.) and Ways and Means Committee Chairman Bill Thomas (R-Calif.) over the past several months has clouded the prospects for Social Security reform this year.

Thomas has kept Hastert in the dark on his yet-to-be-introduced broad retirement bill, which would include major changes to the Social Security system. Meanwhile, Hastert has not committed to a floor vote on revamping the entitlement program, leaving Thomas unsure of how to proceed.

When pressed on a timetable over the last couple of weeks, Hastert cited talking points on the need to reform the program.

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Throughout the spring and summer, leadership aides complained that they could not educate members about Thomas's plan because the powerful chairman was playing it close to the vest.

In May, a House GOP leadership aide said, "It's hard to react to what Thomas is doing because we're not sure what he's up to. … It's very confusing right now."

But other Republicans say that leadership has postponed making difficult decisions on moving a bill and that the delay has triggered confusion and frustration in the GOP conference.

After Bush made his case for Social Security reform, Thomas held a news conference the next morning without alerting leadership. Infuriated, GOP leadership aides criticized Thomas in the media.

Days later, sources close to Thomas reveled in a Bush speech to the Latino Coalition in which the president said, "I have worked closely with Chairman Thomas on a lot of crucial issues. When he says he can get the job done, he means he can get the job done and has proven over the past five years that he can get the job done."

The crux of the problem for Republicans, congressional sources say, is that House Republicans lack the votes to pass a bill and have been struggling on an exit strategy. Some wanted to cite the devastation caused by Hurricane Katrina as a reason to abandon a reform bill, but leadership officials have not taken that approach.

Conservatives have long made Social Security reform a legislative priority. Members of the conservative Republican Study Committee (RSC) were a driving force behind the most recent House reform option, a plan developed by Sen. Jim DeMint (R-S.C.), a former House and RSC member, and amended by Rep. Jim McCrery (R-La.) and other members of the Ways and Means Committee.

The legislation has 46 co-sponsors, and only two lawmakers, Reps. Chris Cannon (R-Utah) and Lee Terry (R-Neb.), have endorsed the bill since the August recess.

Asked yesterday if he is committed to the DeMint-McCrery bill, Thomas said, "I am committed to a retirement-security package."

Most political experts on and off Capitol Hill say Social Security reform is dead in this Congress. They say the only remaining questions are whether Thomas will pass a bill out of his committee and whether the House will pass the legislation.

In April, McCrery said, "I'm confident that we're going to develop, under the chairman's leadership, a plan that can pass the House."

But with dozens of Republicans uncommitted, it is doubtful that the House can approve of any legislation with private accounts in it.

National Republican Congressional Committee Chairman Tom Reynolds, a Ways and Means Committee member, told Thomas during a panel meeting last week that he would recommend that leadership table Social Security reform this year.

"I think Tom Reynolds may have been talking about what his feelings are," Hastert said during a press briefing Thursday night. "Social Security is something very important. It's something we've talked about doing, and when we decide to move forward we'll let the press know."

Reynolds had dinner with Hastert last Wednesday, the day he told his fellow Ways and Means Republicans that he was recommending leadership postpone the legislation instead of forcing vulnerable members to take a tough vote.

Reynolds declined to say how he would vote on a Social Security bill, saying he does not answer hypothetical questions.

As Democrats aligned against the private-accounts bill, it has proved to be a tough sell for Republican House leaders. During the winter and spring, congressional Republicans met with vocal opposition during a series of town-hall meetings held in member districts across the country.

Bush and his Cabinet secretaries made "100 stops in 100 days," which seemingly did more to incite the opposition than motivate his base, even though the White House initially hoped to have a reform bill passed by late spring, according to lobbyists working closely with the administration.

In July, deputy White House Chief of Staff Karl Rove told a group of college students and lobbyists that the House would move a bill in September and the Senate would act soon thereafter.

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House Majority Leader Tom DeLay (R-Texas) has insisted for much of the summer that the House vote on reform legislation at some point this year. Other leaders, Reynolds among them, were reluctant to sign off on a vote that could haunt congressional Republicans during the contentious midterm elections in 2006.

DeLay's public comments on the need to pass Social Security reform have been much stronger than Hastert's.

Blunt and his whip operation, fresh off a bruising battle to pass the Central America Free Trade Agreement, are in no hurry to press members on Social Security reform.

"I think the leaders do need to take into consideration where the Senate may be," House Majority Whip Roy Blunt (R-Mo.) said last week. "We need to make absolutely sure this is the right way to protect and reform Social Security."

Blunt said last week that his whip operation would continue to listen to member concerns on this issue and to keep providing them with information about the various options for reform.

Asked about whether or not it could pass the House, Blunt said, "This is a step that a majority of House members would be willing to take."

Senate Finance Committee Chairman Chuck Grassley (R-Iowa) has been unable to move any reform out of his panel, and the prospects are grim because Sen. Olympia Snowe (R-Maine) opposes private accounts. Without Democratic support, Grassley needs Snowe's vote.

Grassley told The Hill last spring that Congress had to pass a reform bill in 2005 or it would not happen for the next "eight or nine years."

In Bush's Trail, Scarred Ground (NYT)

By Matthew L. Wald

The New York Times, September 21, 2005

WASHINGTON, Sept. 20 - When people refer to battlegrounds in presidential races, they are usually not thinking of airport runways. But those people probably have not heard of Runway 4/22 at the airport in Las Cruces, N.M.

The runway, the airport's longest, has been closed since President Bush made a campaign stop in August 2004. It has gouges six inches deep and a hundred yards long, which the city says were put there by two Air Force cargo planes accompanying the president. Las Cruces put the damage at $2.1 million.

The city said airport officials warned the Air Force that the planes, a giant C-17 and a military version of the 757, were too heavy, and that the hot asphalt would be too soft for landing that day.

When Bill Clinton paid a presidential visit, he landed at Holloman Air Force Base nearby, said Terence J. Kelly, a spokesman for Las Cruces. When Senator John Kerry and former Senator John Edwards, the Democratic candidates for president and vice president, visited, "they landed elsewhere," Mr. Kelly said.

After a year of discussions, the Air Force has offered $600,000 for repairs.

"It's open to dispute whether it was nice and pretty to begin with," said Maj. Ann Stefanek of the Air Force.

Major Stefanek said the Air Force was acknowledging the damage but denying that it was warned before the landing.

The Las Cruces City Council may discuss the settlement offer next month.

Frist Sold Stock Before Price Drop (LAT/AP)

By From Associated Press

The Los Angeles Times, September 21, 2005

WASHINGTON — Senate Majority Leader Bill Frist, a potential presidential candidate in 2008, sold all his stock in his family's hospital company about two weeks before it issued a disappointing earnings report and the price fell 9%.

Frist held an undisclosed amount of stock in HCA Inc., the nation's largest for-profit hospital chain. On June 13, he instructed the trustee managing the assets to sell his HCA shares and those of his wife and children, said Amy Call, a spokeswoman for Frist.

Frist's shares in the Nashville company were sold by July 1 and those of his wife and children by July 8, Call said. The trustee decided when to sell the shares, and the Tennessee Republican had no control over the exact time they were sold, she said.

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HCA shares peaked at $58.40 a share June 22. After slipping for two weeks, the price fell $4.86 to $50.05 on July 13 after the firm announced that quarterly earnings would not meet analysts' expectations.

The value of Frist's stock at the time of the sale was not disclosed. Earlier this year, he reported holding blind trusts valued at $7 million to $35 million.

Blind trusts are used to avoid conflicts of interest. Assets are turned over to a trustee who reports to the owner only the total value and income earned.

The sale of the shares was first reported by Congressional Quarterly.

OTHER NEWS:

Judicial Conference Supports Citing Unpublished Opinions (LAW)

By Tony Mauro, Legal Times

Law.com, September 21, 2005

The policy-making body of the federal judiciary on Tuesday endorsed a sweeping rule change that will allow lawyers to cite unpublished opinions in federal appeals courts nationwide beginning in 2007.

The Judicial Conference also voted not to take a position on the controversial question of whether the sprawling 9th U.S. Circuit Court of Appeals should be split in two. Members did, however, agree that they would oppose any circuit-splitting bill that does not provide adequate funding for the costs involved. The issue has been debated by Congress for years without resolution.

The citation rule change, if ratified by the Supreme Court and untouched by Congress, would end a practice that brought charges of a hidden, unaccountable system of justice against some of the nation's largest and most important appellate courts. The 2nd, 7th, 9th and federal circuits ban citation of unpublished opinions outright, while six other circuits discourage it.

Passage of the resolution by voice vote followed "a great deal of debate," said Judge Carolyn Dineen King, chair of the executive committee, at a post-meeting news conference.

She said passage was eased by an amendment introduced at the meeting that would make the change prospective only, meaning that lawyers will be able to cite only those unpublished opinions issued after Jan. 1, 2007. King also stressed that individual circuit courts will be able to set their own rules about the precedential value unpublished opinions can be given.

The conference vote is something of a bouquet tossed to its likely next chairman, chief justice nominee John Roberts Jr. As a private practitioner and then as a judge on the U.S. Court of Appeals for the D.C. Circuit, Roberts served on the advisory committee that recommended the new rule, 32.1. "A lawyer ought to be able to tell a court what it has done," Roberts said at the April 2004 meeting at which the advisory committee first endorsed the rule.

At his Senate Judiciary Committee confirmation hearings last week, Roberts said he was in line to chair the advisory committee in October -- now unlikely, since as chief justice he would chair the entire Judicial Conference. The conference's standing committee on rules of practice and procedure approved the citation rule in June of this year.

"This is one of the things John Roberts took a personal interest in," said Mark Levy, who heads the appellate advocacy group at Kilpatrick Stockton and was another member of the advisory committee along with Roberts. "It will be a terrific change that will make the process fairer and more transparent."

Michael Schmier of the California-based Committee for the Rule of Law said: "We have worked for 10 years to see this day. We are gratified that the mechanism by which the rule of law is imposed upon the judiciary is restored." Schmier said that the federal rule change could have a ripple effect on California and other states that have their own non-citation rules.

The meeting of the Judicial Conference was presided over by Justice John Paul Stevens in the wake of the death Sept. 3 of Chief Justice William Rehnquist.

Stevens "did a fine job," King said. "He has a great deal of charm." The conference -- composed of the chief judges of all 13 circuits as well as one district judge from each circuit and the chief judge of the Court of International Trade -- passed a resolution mourning the loss of Rehnquist, who presided over the conference for nearly two decades.

As many as 80 percent of all appeals court opinions are designated "unpublished," though most are available on electronic databases or from the courts themselves. The practice of issuing uncitable, unpublished opinions -- many of them brief

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dispositions drafted by law clerks or staff attorneys -- developed over the past 30 years as a time-saving device for overburdened appeals judges. Critics say the practice produced a body of often conflicting opinions that did not need to be harmonized and could not be cited or reversed.

A significant faction of appeals judges, led by 9th Circuit Judge Alex Kozinski, resisted the rule change, complaining that it would exponentially increase their workload by forcing them to polish and beef up the unpublished opinions.

After Tuesday's vote, Kozinski said, "I don't have any comment. I think it's a bad idea, but that's what it is. Maybe the Supreme Court will overrule it."

Kozinski, who encouraged other 9th Circuit judges and practitioners to write letters in opposition to the rule change, also asserted the change would increase litigation costs by expanding the universe of cases lawyers must search on behalf of clients. But a study by the Federal Judicial Center, issued in April, found that in circuits that had decided in recent years to allow unpublished opinions to be cited, neither problem had materialized to a significant degree.

But another leading opponent of the rule change said that survey was misleading because it takes a long time for lawyers and judges to change their practices. "In years to come, you are going to see briefs loaded up with this junk law," said Sanford Svetcov of Lerach Coughlin Stoia Geller Rudman & Robbins in San Francisco, who voted against the move in the advisory committee. But Svetcov acknowledged that the momentum was strongly in favor of the rule change. "There was a freight train running downhill, with only me and Judge Kozinski standing in the way."

Stephen Barnett, emeritus law professor at the University of California, Berkeley, a leading proponent of the citation rule change, said that the Judicial Conference deserved credit for "refusing to be swayed by an elaborate letter-writing campaign from the 9th Circuit." The conference, he added, "has followed an extensive process of deliberation, research, and reason to a courageous and laudable result."

Reporter Justin Scheck of The Recorder contributed to this report.

Lawyer Presses Expert Witness To Apologize During Vioxx Trial (WSJ)

By Paul Davies

The Wall Street Journal, September 21, 2005

ATLANTIC CITY, N.J. -- A lawyer representing Merck & Co. in the second Vioxx trial pressed an expert witness for the plaintiff to apologize for earlier testimony in which he said the company put "profits before patients" and that executives "don't mind killing patients."

Stephen D. Raber, an attorney at Williams & Connolly LLP, of Washington, said pharmacology professor Benedict Lucchesi misinterpreted internal emails by Merck executives on which he based inflammatory comments during testimony on Friday.

"You owe them an apology," said Mr. Raber, who sometimes seemed frustrated and angered throughout his tense cross-examination of Dr. Lucchesi. "I don't think I offended them," responded Dr. Lucchesi, who didn't yield much ground to any of Mr. Raber's questioning.

The state-court trial began here last week. Frederick "Mike" Humeston, a postal worker from Boise, Idaho, is suing Merck, alleging Vioxx caused his heart attack in 2001 after he took the painkiller for two months.

Merck lost the first Vioxx trial in Texas state court last month. The Whitehouse Station, N.J., drug maker faces about 5,000 Vioxx lawsuits and could be liable for as much as $50 billion, analysts estimate.

Dr. Lucchesi spent much of the day on the stand yesterday deflecting Mr. Raber's questions. In several instances, Mr. Raber pleaded with Dr. Lucchesi to give a "straight answer" to his questions.

Later, Dr. Lucchesi reiterated his earlier opinion that Vioxx can cause heart attacks and strokes in some patients. Mr. Raber did establish that Dr. Lucchesi didn't read through all of the clinical studies Merck did on animals and humans before Vioxx was approved.

Mr. Raber used an easel and marker to write down the date of the Food and Drug Administration's initial approval of Vioxx and the three subsequent approval dates for additional uses that were received from May 1999 through August 2004. Next to each date he wrote "safe & effective."

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Mr. Raber tried to defuse damaging internal emails from Merck scientists, including one from former executive Edward M. Scolnick, who wrote in March 2000 after reviewing data from a study that "the CV events are clearly there," referring to increased cardiovascular issues in some patients taking Vioxx. Mr. Raber presented a subsequent email from Dr. Scolnick from February 2001 that showed his view had changed. "We all worried to death about the CV events last spring," Dr. Scolnick wrote. "With all the data now available I am no longer worried."

When presented with this email, Dr. Lucchesi said, "I don't know what data he looked at. I don't know what convinced him."

North Korea Throws Nuclear Deal Into Doubt (FT)

By Anna Fifield, Guy Dinmore And Andrew Yeh

Financial Times, September 21, 2005

North Korea and the US on Tuesday disputed crucial details of their landmark six-party agreement reached just a day earlier, with Pyongyang declaring it would only give up its nuclear weapons after it received light-water reactors.

China, host to the talks, immediately played down the differences. President Roh Moo-hyun of South Korea said his government, which has pledged to double North Korea's electricity supply, would mediate over the issue of timing.

North Korea's foreign ministry released a statement saying: "The US should not even dream of the issue of [North Korea's] dismantlement of its nuclear deterrent before providing light-water reactors, a physical guarantee for confidence-building."

The Bush administration immediately rejected the demand, and said the issue would be discussed at the next round of six-party talks in November.

"This was obviously not the agreement they signed and we will see what the coming weeks bring," the state department's Sean McCormack said.

But Christopher Hill, the chief US negotiator, told the Associated Press in Washington: "Life is too short to overreact to every statement coming out of Pyongyang. It obviously was not a helpful statement. But it was not unexpected, either."

Monday's joint statement of principles set out commitments by the six parties but did not address the crucial issues of verification and timing. Diplomats expect further disputes. North Korea pledged to "abandon" its nuclear weapons programmes, return soon to the nuclear non-proliferation treaty and allow in UN inspectors.

The US affirmed it had no intention to attack North Korea, and said it would take steps to normalise relations. The US agreed, along with the other parties, to "discuss at an appropriate time" the provision of a light-water nuclear reactor to North Korea.

The Bush administration made clear that its interpretation of "an appropriate time" followed the complete dismantling of all North Korea's nuclear weapons and facilities.

Washington has been highly critical of the 1994 deal between the Clinton administration and Pyongyang which provided for construction of two reactors in return for a nuclear freeze.

"This has reinforced everything we feared about North Korea's promises, but no one expected them to shove it in everyone's faces within 24 hours," said Peter Beck of the International Crisis Group think-tank. "It doesn't mean they're ripping up the piece of paper, they just like to keep everyone guessing," he added.

US officials suggested that North Korea's demand could be directed at a domestic audience, to avoid suggestions that their leader, Kim Jong-il, was showing weakness by agreeing to disarm. They said Washington did not intend to become drawn into public wrangling over the agreement.

Nations Seek To Hold North Korea To Text Of Agreement (WP)

By Glenn Kessler

The Washington Post, September 21, 2005

The United States, Russia and other nations urged North Korea yesterday to abide by a six-nation deal to dismantle its nuclear programs after the government in Pyongyang issued a statement that cast doubt on the agreement it had signed with great fanfare in Beijing on Monday.

North Korea, in a statement issued by an unnamed foreign ministry spokesman, said it would not begin to dismantle its nuclear programs until after it received a civilian nuclear reactor. That statement ran counter to the interpretation U.S. officials

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had offered of the agreement -- that a civilian nuclear reactor was only a distant possibility after North Korea had dismantled its programs and demonstrated its compliance.

"We will stick to the text of the Beijing [agreement], and I believe we can make progress if everybody sticks to what we agreed to," Secretary of State Condoleezza Rice told reporters at the United Nations. At the same news conference, Russian Foreign Minister Sergei Lavrov agreed, saying, "I also think we have to stick to the text of the agreement." Officials in Japan and China echoed those sentiments.

In its statement, North Korea asserted that the United States had been isolated on the issue of whether North Korea could pursue peaceful nuclear power, leaving it no choice but to withdraw its objection. Once the United States provides North Korea with a light-water reactor, the statement said, North Korea will return to the nuclear Non-Proliferation Treaty.

Christopher R. Hill, the chief U.S. negotiator, had predicted before he left Beijing that North Korea would issue such a statement, if only for face-saving domestic purposes. Other U.S. officials also said they were not alarmed, calling it a predictable propaganda stunt and saying North Korea's true intentions would be apparent when the talks resume in November.

Still, analysts and some U.S. officials privately said the North Korea statement demonstrated some of the pitfalls in the long-sought statement of principles. The statement outlined a series of goals -- such as North Korea abandoning its nuclear programs, normalizing relations, providing North Korea with energy aid -- but left unstated the sequence and timing of steps needed to achieve those goals.

The final stumbling block was North Korea's demand for a civilian nuclear reactor. The idea was anathema to the Bush administration, which came into office deeply skeptical of a 1994 agreement freezing North Korea's programs in exchange for two light-water reactors. The concrete had been poured for the $4 billion project, but it was terminated after the Bush administration accused North Korea in 2002 of violating the accord by conducting a clandestine nuclear program.

During the final round of talks, China proposed text that said North Korea "stated that it has the right to peaceful uses of nuclear energy. The other parties expressed their respect and agreed to discuss at an appropriate time the subject of the provision of light-water reactor" to North Korea.

Rice, working primarily with South Korean Foreign Minister Ban Ki Moon, then came up with a solution over the weekend -- that the text was acceptable as long as each party could offer its own interpretation of the sequencing. Hill, in his statement, made clear "appropriate time" would come at the end of the process -- if ever.

One senior U.S. official, asked if he believed North Korea really intended to give up its nuclear programs, paused and then said: "We'll see . . . we'll see."

U.S. Says North Korean Demand For Reactor Won't Derail Accord (NYT)

By Steven R. Weisman

The New York Times, September 21, 2005

WASHINGTON, Sept. 20 - The Bush administration on Tuesday brushed off a demand from North Korea for a light-water nuclear reactor, saying that the accord announced Monday in Beijing left it clear that the North must abandon its nuclear weapons program before such a matter can be discussed.

"I think we will not get hung up on this statement," said Secretary of State Condoleezza Rice, referring to a comment from North Korea that it would continue to insist on getting a reactor up front, as a price for agreeing to the Beijing deal. "We will stick to the text of the Beijing statement, and I believe we can make progress if everybody sticks to what was actually agreed to," Ms. Rice added at a news briefing with the Russian foreign minister, Sergey Lavrov. Mr. Lavrov said that "we shouldn't rely on oral statements" from North Korea or others.

The Beijing agreement laid out a set of principles to guide discussions, which are scheduled to resume in November. The United States hailed the part of the accord in which North Korea agreed to abandon "all nuclear weapons and existing nuclear programs" and submit to international inspections.

In return, the United States agreed to join its four partners - Russia, Japan, South Korea and China - in providing security guarantees and economic incentives over time, according to the principle of "commitment for commitment, action for action."

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Despite the efforts of American and other top officials to be positive about the Beijing agreement, the exchange about the nuclear reactor appeared to show that a wide gap remained between North Korea and, on the other side, the United States and its partners, on the very question that had stymied the talks for weeks.

In recent talks, North Korea had demanded, for its energy needs, a light-water reactor, of the sort promised in 1994 in return for an earlier agreement to freeze its nuclear programs. In 2002 the United States discovered that the North had reneged on that deal, and the Bush administration refused to supply such a reactor in any future arrangement.

The stalemate was resolved at the last minute over the weekend by China, which called on the United States to agree to discuss providing the North with a light-water reactor "at an appropriate time." Such a reactor is less efficient in producing weapons-grade fuel than a regular reactor.

Christopher R. Hill, the chief negotiator in the talks, said Tuesday that he was not surprised by North Korea's continued insistence on getting the reactor up front, but that the North understood that the American timetable for discussing the reactor was shared by the other countries in the talks.

"The North Koreans will make odd statements at their leisure, but they know precisely what the deal is," Mr. Hill said in an interview. "The deal with five other countries is that they have to get out of the nuclear business, and at an appropriate time to have discussions on a light-water reactor."

Mr. Hill said that he was untroubled by North Korea's statement and that work would begin soon on the next phase, which is a proposal for a way to verify that it is abandoning its nuclear ambitions.

But some experts who examined the Beijing accord said Tuesday that the problem of the light-water reactor would come back to haunt the negotiators.

"I never believed that the administration would ever, as a matter of principle, provide a light-water reactor," said Charles L. Pritchard, who negotiated with North Korea in President Bush's first term. "In this agreement, we've kept the door open in a false matter."

Mr. Pritchard said he now feared that the North Koreans might not come back to the negotiating table in November without assurances on the reactor.

But Mr. Hill said he fully expected North Korea to return to the talks and discuss how to implement the latest accord. That was also the view of the South Koreans and the Japanese.

"The light-water reactor was the major sticking point, and it remains the one sticking point still," said an Asian diplomat, asking that his country not be identified because of its rules barring discussions of negotiations. "These differences of opinion are somewhat worrisome."

He said he expected that North Korea would not agree immediately to resume talks in November, but that eventually China would persuade them to return.

U.S., Russia Tell Pyongyang To Stick To DealPublished (WT/REU)

By Reuters

The Washington Times, September 21, 2005

NEW YORK (Reuters) -- The United States and Russia told North Korea yesterday to stick to an agreement to dismantle its nuclear-weapons program reached in six-party talks in Beijing and not insist on a light-water reactor first.

"I think that we will not get hung up on this statement" by Pyongyang, Secretary of State Condoleezza Rice told reporters at the United Nations. "We will stick to the text of the Beijing [agreement], and I believe we can make progress if everybody sticks to what we agreed to."

Russian Foreign Minister Sergei Lavrov agreed, saying, "I also think we have to stick to the text of the agreement. ... The most important thing is to see that the agreement is carried out."

North Korea jeopardized a six-country deal on giving up its nuclear arms less than 24 hours after the pact was announced by vowing yesterday to keep the weapons until Washington provides the communist state with a civilian nuclear power plant.

In the agreement signed Monday in Beijing, North Korea agreed to scrap its nuclear programs in return for aid and recognition of its right to a civilian nuclear program.

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The six countries -- China, the United States, North Korea, Russia, South Korea and Japan -- agreed to discuss providing a light-water reactor (LWR) "at an appropriate time."

But the North took a different stance yesterday.

"The U.S. should not even dream of the issue of the DPRK's dismantlement of its nuclear deterrent before providing LWRs," it said in a statement published by the Korean Central News Agency. "This is our just and consistent stand as solid as a deeply rooted rock."

DPRK is short for the North's official name, the Democratic People's Republic of Korea. Light-water reactors are used to make electricity that experts say are more proliferation-resistant than other reactors.

China asked all sides to fulfill their promises. Seoul said it would take the lead role in bridging the gap between the United States and North Korea.

President Bush spoke with South Korean President Roh Moo-hyun yesterday and both agreed that verification that North Korea has abandoned its nuclear weapons program is "critical" for implementing the recent agreement, White House spokesman Scott McClellan said.

The United States and others were following the sequencing as specified in the accord, Mr. McClellan said.

"Now, if North Korea needs some time to reflect on that agreement, we'll give it to them. But all the parties are operating off the agreement that was signed by North Korea and all the others," he said.

Japan saw a possible negotiating ploy in North Korea's assertions.

"We must watch North Korea closely to see if there is really a fundamental difference on that point," Japanese Chief Cabinet spokesman Hiroyuki Hosoda told reporters. "If we are completely at odds, that will mean going back to the beginning. But we do not believe that is the case."

Meanwhile Japanese Foreign Minister Nobutaka Machimura said yesterday that Japan and North Korea will resume bilateral talks soon on Pyongyang's nuclear weapons, missile program and abductions of Japanese citizens. The meeting would restart negotiations that have been stalled for nearly a year.

Japan has been eager to reopen the talks in hopes of resolving the cases of Japanese citizens kidnapped by North Korea in the 1970s and '80s. North Korea, meanwhile, could benefit from Japanese aid, investment and trade.

The United States, backed by Japan, had long argued that North Korea could not be trusted with atomic energy because it had broken a previous deal to halt weapons development.

But China, South Korea and Russia said that if Pyongyang scrapped its nuclear weapons and agreed to strict safeguards, it should have such an energy program in the future.

Longtime Statesman Puts Best Face Forward For U.S. (WP)

By Glenn Kessler

The Washington Post, September 21, 2005

Assistant Secretary of State Christopher R. Hill, who over the weekend as chief U.S. negotiator reached a tentative agreement with North Korea on ending its nuclear programs, was a fresh-faced 21-year-old Peace Corps volunteer in Cameroon when he learned his first lesson in diplomacy.

Hill's job in 1973 was to ride around on a Suzuki dirt bike and audit the books of credit unions in 28 villages and plantations. He discovered one board of directors had taken 60 percent of the money, so he gave an impassioned speech denouncing the malfeasance to hundreds of villagers sitting on a mountainside. His presentation was met with applause and gratitude -- and then the assembled group immediately reelected everyone he had just condemned.

"I realized I didn't know beans about what was going on in this tea plantation," Hill recalled over breakfast recently. It turned out the board reflected a careful amalgam of tribal interests, and it didn't matter whether it ran a good credit union or not.

The lesson, according to Hill: "When something's happened, it's happened for a reason and you do your best to understand that reason. But don't necessarily think you can change it."

Hill, with a dry wit and easy manner, has taken that adage to heart during more than two decades of difficult diplomatic assignments in the foreign service, shuttling back and forth between Asia and Europe.

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During the Clinton administration, Hill was a key negotiator in the Dayton Peace Accords that ended the Bosnian war, and he played an important role in the crisis over Kosovo. He was ambassador to Macedonia when protesters attacked the U.S. Embassy in 1999 over NATO airstrikes in Yugoslavia.

The embassy in Macedonia, unlike most overseas missions, had never been given Marine guards. The protesters quickly overran the guard posts and began to use the embassy flagpole as a battering ram. When a top State Department official called Hill during the crisis to ask where his Marines were, Hill sardonically noted he didn't have any -- but there were Marines at the embassy in Luxembourg.

Former U.N. ambassador Richard C. Holbrooke, who described Hill as "brilliant, fearless and argumentative" in his book on the Dayton negotiations, said that Hill manages to be both "very cool and very passionate." This unique combination, he said, enhances Hill's "extremely good negotiating skills."

Hill also has an easy familiarity with the media. In a city where scores of officials hide behind the cloak of anonymity in speaking to journalists, Hill prefers to speak on the record. He conducted two or three news conferences a day during the talks in Beijing.

The son of a foreign service officer, Hill's first posting was in Belgrade. He had lived there as a child and remembers playing with the daughter of the U.S. ambassador, the legendary George F. Kennan.

Hill has a knack for attracting high-profile sponsors. He was a rising star during the Clinton administration, winning his first ambassadorship on the recommendation of the president of Macedonia. Then he came to President Bush's attention when the president of Poland lavishly praised Hill's performance as ambassador there and requested that Hill stay on.

Some former Clinton administration officials say that Hill sometimes appeared to exceed his negotiating instructions, or at least have a creative interpretation of them. And some conservative officials in the current administration are not happy with the deal he reached in Beijing with North Korea -- and were openly gleeful yesterday when Pyongyang appeared to try to wiggle out of the deal.

Hill had long sought to be ambassador to South Korea, and he finally got there last year. But then Secretary of State Condoleezza Rice plucked him for his current job after he had been there just eight months.

In Seoul, Hill broke with diplomatic precedent -- and charmed the South Korean public -- by repeatedly visiting universities and other hotbeds of anti-Americanism to give speeches and have debates. He established a cyber chat room and personally answered questions from Koreans under the name "ambassador." He caused a stir by paying respects at a memorial for thousands of civilians who were fired upon by the then-military government in a 1980 massacre. Many Koreans has suspected that the U.S. government had backed the attack, and no senior U.S. official had ever before visited the cemetery in Gwangju.

"He was here the shortest term among the six ambassadors that I've seen here in my 18 years, but had the most impact," said Tami Overby, a senior official with the American Chamber of Commerce in South Korea. "He was a rule-breaker, always willing to challenge."

Hill jokes that he feels like "assistant secretary for North Korea," but his current post gives him responsibility for U.S. policy toward countries across the Pacific region, including China, Japan and Indonesia. Much as he hated to leave Seoul, he said, Rice's offer was "truly an offer I couldn't refuse."

Hill's experience brings him connections across the globe. While ambassador to Poland, Hill got to know the South Korean ambassador at the time -- Song Min Soon -- who then became the chief South Korean negotiator at the North Korean disarmament talks. The two have joked to Rice that they formed a "Warsaw pact" during the talks.

"He's really a man who wants to do something, not just managing things," Song said in an telephone interview from Seoul. "We jointly determined we would make history, rather than sitting idle on the floor of history."

Rice has given Hill significant negotiating authority, and he said he worked closely with her in structuring the compromise that resulted in this week's agreement. Essentially, it allowed both sides to offer its own interpretation of a crucial clause, allowing a deal to be announced -- but with the essential dispute fundamentally unresolved.

Hill said his years in diplomacy had convinced him that "people are neither as bad as they look nor as good as they look." So, as a negotiator, he tries to suspend value judgments as he analytically tries to figure out the other side's goals -- and whether you can "allow that other side to fulfill its objectives in a way that is consistent with your interests."

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The Bush administration has long been bitterly divided over North Korea policy, but Hill shrugs off any difficulties over managing the competing demands of the State Department, Pentagon and White House.

"Your best diplomacy should start at home," he said. "As a professional diplomat, if I can't deal with that, then what am I doing talking to foreigners?"

A Skeptical View (WSJ)

By Nicholas Eberstadt

The Wall Street Journal, September 21, 2005

Contrary to conventional wisdom, which holds the North Korean state to be an unremittingly hostile "negotiating partner," history actually demonstrates that Pyongyang can be a highly obliging interlocutor under certain very specific conditions. All that is necessary to "get to yes" with the Democratic People's Republic of Korea is to concede every important point demanded by the North Korean side while sacrificing vital interests of one's own.

Monday's "breakthrough" at the six-party talks in Beijing would appear to conform precisely to this long-established pattern. The vaunted outcome -- a long-desired "consensus statement" inked by North Korea and the other five governments engaged in protracted discussions over North Korean denuclearization -- is being celebrated by diplomatic sophisticates in Seoul, Beijing, Moscow, Tokyo and Washington.

Enthusiasts contend that the North Korean regime, after two years of tough talks with five other countries united in the desire to force it to dismantle its nuclear weapons program, has at last agreed to a step-by-step process that will eventually resolve the crisis. In reality, nothing of the sort has taken place. A careful reading of the Sept. 19 joint statement suggests instead that North Korean negotiators have just achieved a stunning advance in their government's quest to "normalize" its nuclear weapons program. There's also been equally momentous progress in Pyongyang's longstanding campaign to sunder the U.S.-South Korean military alliance. Wittingly or otherwise, the U.S. negotiating team has executed an apparent cave-in -- embracing precepts crucial to North Korean objectives but inimical to Washington's own.

To appreciate the full significance of this joint statement, one need only dwell on two of its precepts: The first is North Korea's now-internationally ratified "peaceful right to the uses of nuclear energy," and the second is the purportedly common "goal of … verifiable denuclearization of the Korean Peninsula." According to the joint statement, North Korea "stated that it has the right to peaceful uses of nuclear energy. The other parties expressed their respect and agreed to discuss at an appropriate time the subject of the provision of [a] light-water reactor to the DPRK." There is a problem with this declaration, though. Pyongyang's "peaceful nuclear energy program" is, as almost everyone knows, an entirely imaginary animal -- akin to the unicorn.

Although North Korea's nuclear program extends back decades, and entailed terrible expense for its people (it continued through the great famine of the '90s, despite international agreements to "freeze" it), there is no evidence whatever to suggest that North Korea attempted to harness the atom for civilian purposes. The reactors at Yongbyon -- the site that initially attracted world concern about Pyongyang's nuclear intentions -- were never hooked up to the country's electrical energy grid, nor are they today. They have been exclusively used for harvesting weapons-grade plutonium.

Moreover, North Korea has been caught out (through classified intelligence reports, but also via acknowledgments from Pakistan's Pervez Musharraf, whose country's scientists collaborated with Pyongyang) in an illicit program to manufacture highly enriched uranium. This was the trigger to the latest round of the DPRK nuclear crisis, commencing in October 2002.

North Korea's nuclear record is unique. Not only is it the only state ever to withdraw from the Nuclear Nonproliferation Treaty, but North Korea's is also without doubt the contemporary government that has striven hardest and most consistently to mislead the international community about its nuclear capabilities. Under such circumstances, "respecting" its right to pursue a "peaceful" nuclear program in effect offers Pyongyang carte blanche to continue stockpiling an atomic arsenal.

Washington initially resisted the DPRK's surreal proposal for an international acceptance of "peaceful North Korean nuclear power." Once the Chinese and South Korean governments indicated that they were prepared to endorse this fiction, however, the U.S. government signed on, too. As to the endorsed "goal of … verifiable denuclearization of the Korean Peninsula," this formula conjoins the objective of dismantling the North's nukes with the notion of making South Korea nuke-free. But since

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the latter has never made nuclear weapons -- and since all U.S. nuclear weapons were removed from there 15 years ago -- how is the corollary to work?

Pyongyang's rhetorical syllogism depends entirely upon the existence of the U.S.-Seoul military alliance. So long as the U.S. is treaty-bound to South Korea's defense, Pyongyang maintains that any and all means of American security protections -- including nuclear guarantees -- naturally cover the South. In this logic, the only way by which the southern portion of the Korean peninsula can be "denuclearized" is by severing the U.S.-South Korean military alliance; by withdrawing all U.S. forces from South Korea; and by leaving South Korea outside the U.S. security perimeter (as it seemed to be in early 1950).

The Beijing joint statement of "common understanding" is being described as a defeat for Bush administration hardliners (who favor regime-change in North Korea) and a victory for administration moderates (who prefer diplomatic engagement). In fact, it is a loss for both camps. After all, the cause of engagement with North Korea is undermined -- not promoted -- by uncritically embracing a flawed schema for a diplomatic resolution of the nuclear crisis.

The future of the six-party talks, as always, remains uncertain. But negotiations between the U.S. and North Korea -- whether in bilateral or multilateral forums -- have always been zero-sum deals. At present Pyongyang seems to be reaping tremendous gains. North Korea can therefore rightly view Monday's joint statement as a diplomatic triumph -- a multilateral broadening, and political deepening, of the gains from the Clinton-era "Agreed Framework." This joint statement affirms all of the "rewards-for-freeze" precepts that helped to finance the survival of the state -- and the development of nuclear weaponry -- in the earlier 1994 accord. But not only has the world now seen the failure of the earlier North Korean nonproliferation accords; it has also witnessed a new administration in Washington -- purportedly cognizant of all the earlier U.S. mistakes -- make those mistakes all over again.

Mr. Eberstadt holds the Wendt Chair in Political Economy at the American Enterprise Institute.

Sanction Call Provokes A New Threat From Iran (WP/AP)

By Ali Akbar Darein, Associated Press

The Washington Post, September 21, 2005

TEHRAN, Sept. 20 -- Iran on Tuesday threatened to resume enriching uranium and barring open inspections of its nuclear facilities if a meeting of the U.N. atomic watchdog agency decides to refer Iran to the Security Council for possible sanctions.

However, Iran's top nuclear negotiator, Ali Larijani, offered European negotiators a new round of talks, saying the world should give Tehran's new government a chance to reach a political understanding.

At the International Atomic Energy Agency board meeting in Vienna, European officials prepared a draft resolution that would refer Iran to the Security Council for alleged "failures and breaches of its obligations to comply" with the nuclear Non-Proliferation Treaty.

But opposition by Russia could delay the vote until a later meeting of the 35-member board, diplomats in Vienna said.

Larijani criticized the discussion in Vienna, saying that nuclear technology has become a matter of national pride and that the Iranian government would not compromise over its right to enrich uranium.

"If they want to speak with Iran with the language of force, Iran will have no choice, in order to preserve its technological achievements, to get out of the framework" of the Non-Proliferation Treaty, Larijani said at a news conference.

Larijani did not appear to be calling for Iran to pull out of the treaty completely but rather to suspend the protocol that allows unfettered, short-notice inspections of nuclear facilities.

He warned that Iran's response would be the same if the IAEA tried to impose deadlines.

"If they set a deadline, it will, from Iran's point of view, make no difference from being referred to the U.N. Security Council, and Iran will react in the same manner," Larijani said.

Britain, Germany and France, negotiating on behalf of the European Union, have drafted a resolution demanding Iran be referred to the council. China and Russia -- both Security Council members with veto power -- oppose hauling Iran before the U.N.'s top decision-making body. The Europeans also face opposition from other members of the IAEA board of governors, which convened Monday to discuss Iran's nuclear program.

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The IAEA has been trying to determine whether gaps in Iranian reporting on more than 18 years of clandestine nuclear activity constitute attempts to hide ambitions to produce weapons in what Iran insists is a purely civilian program to generate electricity. Establishing such intent would bolster arguments by U.S. officials for a tougher international stance against Iran.

Iran Warns Against Referral Of Nuclear Issue To The U.N. (NYT)

By Nazila Fathi And David E. Sanger

The New York Times, September 21, 2005

TEHRAN, Sept. 20 - Iran's chief nuclear negotiator warned Tuesday that the country would resume enriching uranium and restrict United Nations inspectors from critical information if the United States and its allies used the "language of threat" by referring Iran to the Security Council.

The negotiator's threat, which appeared to be backed by Iran's supreme religious leader, Ayatollah Ali Khamenei, came as a confidential draft resolution circulating at the governing board of the International Atomic Energy Agency included a call for the Security Council to take up "Iran's many failures and breaches of its obligations." But the draft makes no specific reference to sanctions, which are still opposed by China and Russia, both of which hold veto power in the Council. A copy of the resolution was provided to The New York Times by an official involved in the behind-the-scenes diplomacy over how the board should deal with Iran at its meeting this week.

The comments by the Iranian negotiator, Ali Larijani, in a news conference here on Tuesday were the first time that Iran had explicitly threatened to cut off inspections and resume enriching uranium - which it insists will be used for civilian reactor fuel, not nuclear weapons - if the atomic agency's board acts.

Mr. Larijani, who is also secretary of Iran's Supreme National Security Council, is newly appointed to his post as negotiator on nuclear issues, and the news conference was his first since President Mahmoud Ahmadinejad took office last month. In a fiery speech on Saturday in front of the United Nations General Assembly, Mr. Ahmadinejad criticized the United States and its allies and vowed to press ahead with Iran's nuclear program, noting that it had a right under the Nuclear Nonproliferation Treaty to produce nuclear fuel. The Bush administration maintains that Iran gave up that right by hiding, for more than 17 years, a range of nuclear activities that United Nations inspectors only discovered with the help of intelligence agencies and Iranian dissidents.

Last week in New York, the senior State Department official on nonproliferation, Robert Joseph, briefed seven nations on the I.A.E.A.'s board about evidence that the United States has collected that it says shows that Iran's missiles could be used to launch nuclear warheads, according to a senior administration official, who insisted on anonymity because he was discussing intelligence matters. Among the countries that received the briefing were Ghana, Argentina and India. But American officials insist that the briefings were classified, and they have declined to make public the details of their suspicions.

Iran's threat came only 24 hours after the United States and North Korea reached an agreement in principle for the North to give up its nuclear weapons and all other nuclear facilities. But that accord seemed in jeopardy within hours of its signing, and it is being closely watched by Iranian officials.

Mr. Larijani said the world should learn a lesson from the case of North Korea, which American intelligence officials believe has produced fuel enough for six or eight weapons. He said the Bush administration's efforts to isolate the North had failed. "What was the result of such tough policies?" he asked. "After two years they ended up accepting its program, so you should accept ours right now," he said.

American officials say they have never accepted the North's weapons program; Mr. Larijani may have been referring to President Bush's decision to discuss allowing the North to keep a light-water reactor.

What was striking to several American experts interviewed Tuesday was that Iran's threats seemed to be drawn from the strategy that North Korea pursued three years ago, when it was confronted by American allegations that it had started a second, clandestine nuclear program to evade a freeze on nuclear activities that it had negotiated with the Clinton administration in 1994. At the end of 2002, the North threw out international inspectors and withdrew from the nonproliferation treaty, though Iran has not threatened to go that far.

"The North Koreans were using the Iranian example as well, saying that if they are allowed to keep a reactor, why can't we?" said Jack Pritchard, a former State Department official who dealt with the North and left the department in disagreement

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with the Bush administration's strategy. "Having these negotiations with North Korea and Iran take place simultaneously means that both countries use the other's tactics, and I'm sure the administration wished that was not happening."

Ayatollah Khamenei, Iran's religious leader, said in a statement read on state television on Tuesday, "The great Iranian nation today, stronger than before and with a determined will to reach its aims and goals, stands solidly and will not surrender to any sort of pressure and threat."

Mr. Larijani emphasized that the ability to enrich uranium was Iran's right under the nonproliferation treaty. The United States and Iran's three European negotiating partners, Germany, Britain and France, have insisted that Iran not be allowed to do so, however, because the enrichment process can also be used to produce weapons.

"If they want to use the language of force against Iran, Iran will definitely review its relations with the nuclear agency and its commitments to N.P.T.," he said. "If they want to use the language of threat, or send Iran's case to the Security Council, Iran will think twice about implementing the Additional Protocol and will resume uranium enrichment."

The Additional Protocol is an addendum to the treaty that allows the I.A.E.A. to conduct intrusive inspections of sites that a country has not declared are part of its nuclear program. Iran adopted it in 2003 and started carrying out its procedures, but the Parliament has not ratified it.

Mr. Larijani also rejected calls for a deadline for the country to stop work at the fuel-conversion facility at Isfahan, saying that setting a deadline was equal to sending Iran's case to the Security Council. "Pressuring a country like this is resisting a country's national pride," he said, referring to the country's achievements in nuclear science and compared it with nationalization of oil in the 1950's. "Two years of negotiations and hiding intentions has made Iran frustrated and it seems that the three European countries have humiliated Iranian people," he said.

To reach a compromise, the three European countries have insisted that Iran freeze its enrichment of uranium fuel, but have promised to provide the country with fuel for its plants. Control would remain in European hands.

Mr. Larijani said Tuesday that that was not acceptable. "There is no international guarantee that governments would provide us with nuclear fuel," he said. "We cannot lay the fate of this nation in the hands of other governments."

Both President Bush and Secretary of State Condoleezza Rice have said in recent days that they think a referral of Iran to the United Nations Security Council for possible sanctions is nearly certain but its timing is not.

"I am quite certain that at some point in time Iran is going to be referred to the Security Council, particularly if Iran continues to demonstrate that it is not prepared to give the international community assurances that is not going to try to build nuclear weapons under cover of civil power," Ms. Rice said.

Rice Urges Israel To Aid Palestinian Election (NYT)

By Joel Brinkley

The New York Times, September 21, 2005

UNITED NATIONS, Sept. 20 - Secretary of State Condoleezza Rice urged Israel on Tuesday to allow Palestinians to carry out their legislative elections in January without Israeli interference, implicitly criticizing Ariel Sharon, the Israeli prime minister.

During a visit to New York last week, Mr. Sharon said he would withhold cooperation with the Palestinian legislative elections if candidates from the militant group Hamas took part. Both he and Palestinian leaders said elections could not be held without Israeli cooperation.

"This is going to be a Palestinian process," Ms. Rice said after a meeting here to discuss the Middle East, "and I think we have to give the Palestinians some room for the evolution of their political process.

"We hope that the elections can go forward and that everyone will work to make those elections go forward."

Mr. Sharon's assertion puts the Bush administration in the awkward position of having to choose between its two most important foreign policy goals: fighting terrorism and spreading democracy in the Arab world. Ms. Rice met with representatives from the United Nations, the European Union and Russia, a group known as the quartet that is focused on settling the Israeli-Palestinian conflict.

The meeting was called with the idea that it would be used to congratulate Mr. Sharon for the Israeli withdrawal from Gaza and to discuss moving the Middle East peace effort forward. And while the officials did congratulate Israel, much of their final

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statement and individual remarks at a news conference afterward came in response to several provocative statements Mr. Sharon made last week.

American officials widely saw the statements as potential setbacks for the peace effort. Israeli officials seized upon one line in the quartet's final statement, saying it supported Mr. Sharon's position on the Palestinian elections.

"We also agreed that, ultimately, those who want to be part of the political process should not engage in armed group or militia activities," the statement said.

But a senior Bush administration official who is involved in the issue said, "The word 'ultimately' was chosen carefully." Israel should allow the election take place, he added, and the Palestinians ultimately should disarm Hamas. American officials seized on a different statement in Mr. Sharon's speech to the United Nations General Assembly last week. Mr. Sharon said Israel would pursue the peace effort "in accordance with the sequence of the road map," as the peace plan that the United States and its allies proposed in 2003 is called.

But the day after Mr. Sharon gave that speech, he seemed to belie that pledge when he made a new pronouncement on West Bank settlements. He declared that Israel would not freeze growth in any of those settlements until the very end of the peace effort, years from now. The road map calls on Israel to freeze growth in the settlements as one of the first Israeli actions in its sequence of prescribed steps.

The Palestinians have still to take the first step outlined for them in the road map: ending violence and disarming militant groups. The quartet urged them "to maintain law and order and dismantle terrorist capabilities and infrastructure."

Mahmoud Abbas, the Palestinian president, has invited Hamas and Islamic Jihad, a similar group, to take part in the elections, saying participation in the political process could serve to moderate their behavior. Hamas is fielding candidates in the election, but there seems to be little evidence yet that the group has moderated its behavior.

In a speech to the General Assembly on Tuesday, Silvan Shalom, the Israeli foreign minister, noted that "two days ago in Gaza, the terrorist organization Hamas held a rally of 10,000 armed men dedicated to a holy war against Israel."

Hamas has claimed responsibility for some of the deadliest suicide bombings in Israel that have killed hundreds of civilians over the last few years, and its charter calls for the elimination of Israel.

With all these conflicts in the air, diplomats and American officials said they would wait before making any decisions about how to move forward. Later this month, Mr. Sharon's party, Likud, will hold a central committee meeting to determine whether it is time to choose a new leader. That could lead to new elections.

"There is a political development on the Israeli side," Kofi Annan, the United Nations secretary general, said during the quartet news conference, adding that "we are not sure whether it leads to elections or not," and "want to see that settled before one takes any other bold initiatives."

At U.N., Sharon Is Praised For Gaza Pullout (WP)

By Colum Lynch

The Washington Post, September 21, 2005

UNITED NATIONS, Sept. 20 -- The United States, the United Nations, Russia and the European Union on Tuesday praised Israeli leader Ariel Sharon for showing what they called "political courage" by ending Israel's 38-year occupation of Gaza with the peaceful withdrawal of Israeli troops and settlers.

The high-level coordinating group on Middle East peace -- known as the quartet -- also voiced "appreciation" to the Palestinian Authority for keeping the peace during the withdrawal, but in the same statement pressed the authority to crack down on Palestinian militants. U.N. Secretary General Kofi Annan appealed to Palestinians seeking to participate in the political process not to participate in "armed group or militia activities."

But Annan and the quartet stopped short of supporting an Israeli demand that the Islamic Resistance Movement, a militant group also known as Hamas, be excluded from legislative elections scheduled for January.

The quartet meeting -- which included Secretary of State Condoleezza Rice, Russian Foreign Minister Sergei Lavrov and British Foreign Secretary Jack Straw -- met on the sidelines of the U.N. General Assembly in an effort to reinvigorate the Palestinian and Israeli peace process.

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The group urged Palestinian and Israeli leaders to resume negotiations on the U.S.-backed "road map," a political blueprint outlining a path toward a final and comprehensive settlement of the Israeli-Palestinian conflict. The group also applauded the role of the U.S. security adviser, Lt. Gen. William Ward, in coordinating the Israeli and Palestinian security agencies to ensure Israel's bloodless evacuation from Gaza.

"This meeting was very focused on how to move ahead, how to take the momentum of what has been a successful disengagement from the Gaza to build institutions that will form the foundation of a Palestinian state," Rice said after the meeting.

Rice said the group discussed a proposal by former World Bank president James D. Wolfensohn, President Bush's envoy on aid to the Palestinian territories, to invest "substantial sums of money" into public works projects that "improve the economic prospects of the Palestinian people."

Rice joined other quartet partners in voicing concern over Israel's construction of a security barrier separating the Israeli and Palestinian populations, and she urged Sharon's government to halt the establishment of new Israeli settlements on Palestinian lands.

Today's meeting capped a rare week of diplomatic plaudits at the United Nations for Israel, which is traditionally the subject of censure by its European critics and Arab adversaries in the General Assembly and the Security Council.

Sharon was greeted last week with a handshake at the United Nations by Gen. Pervez Musharraf, president of Pakistan, a tough critic of Israel. The exchange followed an unusual high-level meeting between the two countries' foreign ministers in Istanbul. The meeting was brokered by Turkey, one of Israel's closest allies in the Muslim world.

Pakistan and other Muslim countries previously shunned Israel, and some of Israel's Arab adversaries have portrayed Sharon as a warmonger and war criminal.

Israeli Foreign Minister Silvan Shalom sought to parlay Israel's Gaza withdrawal into broader diplomatic recognition in the Muslim world. He also announced Israel's intention to seek a Security Council seat, although the first opportunity will not arise until 2017.

Shalom said Tuesday in an address to the General Assembly that he has met with more than 10 foreign ministers from the Muslim world, including publicly announced sessions with Tunisia's and Qatar's foreign ministers. The contacts, he noted, are growing "at a rate never seen before."

"Unfortunately, many of our ties with the Arab and Muslim world are still deep in the shadows, away from the public eye," he said. "Today, I call on my Arab and Muslim colleagues to bring our contacts into the light of day."

Although several Arab leaders and ministers publicly welcomed Israel's Gaza pullout, they also demanded that Israel complete its withdrawal from all the Arab lands it has captured since the 1967 Arab-Israeli war.

Kuwait's foreign minister, Sabah Salem Sabah, said Tuesday that Israel's action should be viewed as a "first step" leading to an end of Israel's occupation of all Arab lands and to the establishment of a Palestinian capital in East Jerusalem.

U.S. Pressures Syria To Fall In Line On Lebanon, Iraq (USAT)

By Barbara Slavin

USA Today, September 21, 2005

WASHINGTON — The United States is increasing pressure on Syria, using harsher words and pointed diplomacy to get President Bashar Assad's government to stop aiding Iraqi insurgents.

Recently, Bush administration officials met for the second time with a Syrian opposition leader who favors Assad's replacement by a democratic government.

At the United Nations on Monday, Secretary of State Condoleezza Rice chaired a meeting on shoring up Lebanese democracy that excluded Syria, long the power broker there, and Emile Lahoud, Lebanon's Syrian-backed president.

Last week, President Bush said the United States would work with allies to further isolate Syria, already subject to U.S. trade and investment sanctions. The U.S. ambassador to Iraq, Zalmay Khalilzad, accused Syria of harboring training camps for insurgents and said U.S. patience was running out.

Several Syria experts say the Bush administration has started to plan for a Syria without Assad at its helm, but some warn that the alternatives could be even worse.

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"The administration is scouting," says Kenneth Katzman, a Middle East expert at the Congressional Research Service in Washington. "There's no Chalabi out there," he adds, referring to Ahmad Chalabi, an Iraqi exile leader who promoted the overthrow of Saddam Hussein and is now a deputy prime minister in Iraq.

Last month, Farid Ghadry, a Syrian-American who heads an opposition group called the Reform Party of Syria, met for an hour with the head of the National Security Council's Middle East section.

Ghadry says he and Michael Scott Doran discussed the "transition from an autocracy to a democracy and why a transitional parliament is an important element" of that change. It was his second meeting with U.S. officials; in March, he went to the State Department to discuss Syria's future.

His party claims to have offices in 18 countries, including an underground office in Syria, and operates a Cyprus-based radio station that broadcasts into Syria.

U.S. officials began anticipating the fall of Assad when Syrian troops were forced to withdraw from Lebanon in April after the Feb. 14 assassination of former Lebanese prime minister Rafik Hariri, Katzman says.

Hariri supporters charge that Syria was behind the murder. A U.N. investigation has led to the arrest of four pro-Syrian Lebanese security officials. Investigators led by German Judge Detlev Mehlis went to Damascus on Tuesday to interview Syrian officials about the crime.

The meetings with Ghadry and the administration's decision to grant visas to two Syrian reformers to attend a May conference in Washington show the administration is in "the very early stages" of planning for regime change in Syria, Katzman says.

Appropriations bills for the fiscal year that begins in October promote democracy in Syria, he says. A House version allocates as much as $1.5 million; the Senate version does not specify an amount.

U.S. officials want Assad out of power because they don't believe he will stop the flow of fighters from Syria to Iraq, says Flynt Leverett, a former member of the National Security Council in the Clinton and current Bush administrations.

Administration officials declined repeated requests for comment. In the New York Post on Thursday, Rice said the U.S. intention was still to change Syria's behavior. "But we'll see whether or not the Syrian government is smart enough to take that course," she said.

Monday, she told reporters at the U.N. that "Syria needs to get on the right side of events" by stopping interference in Lebanon and ending support for Palestinian militants and Iraqi insurgents.

Syria denies it is helping Iraqi insurgents. The United States is not patrolling the border, while Syria has stationed 10,000 troops there, says Buthaina Shabaan, Syria's minister of expatriates and an adviser to Assad. Instead of pushing for Assad's removal, Americans should ask whether "promoting violence and war is the right way to change countries and bring freedom and democracy," she says. "Are they satisfied with the results in Iraq?"

Several Syria experts say Assad's removal could pose new problems.

Theodore Kattouf, U.S. ambassador to Syria until September 2003, warns of a power vacuum, leading to chaos, or a worse leader, such as Assad's uncle Rifaat.

Exiled by Assad's late father, Rifaat Assad has long sought power but would be an unlikely ally for the Bush administration. In 1982, he led a brutal crackdown on Islamic fundamentalists in the Syrian city of Hama. An estimated 20,000 people were killed.

Murhaf Jouejati, a Syrian-American professor of political science at George Washington University, says Rifaat Assad is extremely unpopular in Syria and that the secular opposition is weak. Jouejati calls Ghadry a "Chalabi mini-me." The fundamentalist Muslim Brotherhood would take advantage of any instability, he says. "The Bush administration wants regime change but cannot find a viable alternative."

Frustration with Assad has been building since the United States invaded Iraq in March 2003. Edward Djerejian, U.S. ambassador to Syria under the first Bush administration, met with Assad in January and urged him to cooperate, just as his father did during the Gulf War in 1991. "He has not made a strategic decision to do so," says Djerejian, director of the Baker Institute for Public Policy at Rice University.

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US Uses 'Libya Model' To Boost Pressure On Syria (CSM)

By Nicholas Blanford

The Christian Science Monitor, September 21, 2005

BEIRUT - Once considered key to Middle East stability, Syria is facing growing marginalization as the United States maintains a policy of unrelenting pressure against the Baathist regime.

American and Iraqi officials have stepped up their criticism of Syria in recent days in what some analysts believe is the beginning of an attempt by Washington to repeat the "Libya model" - total political and economic isolation to compel a U-turn in regime behavior.

"They are going to grab Syria by the throat and squeeze and shake, and see what kind of change falls out of the Syrian pockets.... It's going to be the harshest isolation they can manufacture," says Joshua Landis, a professor of Middle Eastern studies at the University of Oklahoma, presently based in Damascus and author of Syriacomment.com.

These are lonely times for Syrian President Bashar al-Assad. His planned trip to attend the United Nations summit in New York last week was cancelled at the last minute amid clear indications that he would not be welcome in the United States.

By contrast, leading Lebanese officials, who a few months ago were at the forefront of the anti-Syrian opposition in Lebanon, were feted in New York.

On Monday, Secretary of State Condoleezza Rice hosted a multilateral gathering in support of Lebanon that brought together UN Secretary-General Kofi Annan and the foreign ministers of Britain, France, and Russia, among others. They agreed to sponsor an international donor conference for Lebanon in November and encourage Lebanese domestic reforms while furthering Syria's international isolation.

US and Iraqi officials have accused Damascus of failing to prevent militants from crossing into neighboring Iraq to join the insurgency. President Bush warned last week that President Assad must understand that the US "takes his lack of action [on stopping insurgents] seriously."

If persistent US pressure is not enough, Assad also faces the disagreeable prospect that some of his closest regime colleagues could be implicated in a UN report into the assassination of Rafik Hariri, a former Lebanese prime minister who was killed in February. Tuesday, Detlev Mehlis, a German prosecutor who heads the UN investigation commission, traveled to Damascus to interview several senior Syrian military intelligence officers who were serving in Lebanon when Mr. Hariri was killed.

Four senior pro-Syrian Lebanese intelligence and security chiefs were arrested last month on suspicion of involvement in the assassination. The release of Mr. Mehlis's conclusions are expected at the end of October. If the report implicates senior Syrian officials, it could lead to UN sanctions and the severing of diplomatic relations with the US and European countries.

The effect, according to analysts, would be to recreate the economic and diplomatic embargo slapped on Libya in the 1990s. Isolating the pariah state eventually persuaded Libyan leader Col. Muammar Qaddafi to seek a return to the international fold.

US officials often refer to Syria as "low-hanging fruit" - requiring little effort to pick off. Yet, perhaps the Syrian regime's greatest defense is the lack of an organized and credible opposition that could ease into power if the ruling Baath Party was overthrown. Syria's sectarian and ethnic mix is as potentially turbulent as Iraq's, and many analysts say it's only the Baath Party's ruthless grip on society that has ensured stability.

Still, a weak opposition may have resulted in a false sense of confidence.

"They still act with the mentality of the Clinton era, when they were treated like the strongest regional power," says Sami Moubayed, a Syrian political analyst. "That is why they are reacting somewhat passively to the crisis with Washington, saying to themselves and to those around them: This won't last. They won't hit us. The neighboring scenario in Iraq just strengthens their argument" that there is no alternative to the Baath Party, he says.

Senate Votes To Retain Ban On Japanese Beef (WSJ/AP)

By The Associated Press

The Wall Street Journal, September 21, 2005

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Angry with Japan for refusing to lift a mad cow-related ban on U.S. beef, senators retaliated by voting to retain a ban on Japanese beef.

Once the biggest customer of American beef, importing more than $1.5 billion in 2003, Japan has refused to allow the purchase of U.S. beef since the nation's first case of mad-cow disease was confirmed in Washington state almost two years ago. Last fall, Japan agreed to remove the ban but still hasn't done so.

In June, U.S. authorities confirmed a second domestic case in a Texas-born cow. Japan, in contrast, has found 20 cases of mad-cow disease. U.S. regulators proposed last month to partially lift the ban on Japanese beef.

Senators adopted, on a 72-26 vote, an amendment by Sen. Ben Nelson (D., Neb.) prohibiting importation of Japanese beef until Japan lifts its ban. They adopted a similar, nonbinding measure by Sen. Wayne Allard (R., Colo.) on a voice vote.

Opponents of the amendment said trade decisions about food safety should be based on science, not on restrictions in Japan or other countries.

"And when we expect trading partners to respect science, we should be willing to do the same," said Sen. Charles Grassley (R., Iowa). "So I don't support depriving the Department of Agriculture with the funding it needs to make decisions based on sound science even while we need to send a loud and clear message to Japan."

Japan's food safety panel issued a draft report last week saying U.S. cows faced higher risk of exposure to mad-cow disease than Japanese cows because of insufficient feed controls in the 1980s and 1990s, the Kyodo News agency reported.

Eating infected beef is believed to cause variant Creutzfeldt-Jakob disease, a fatal brain disorder that has killed more than 150 people, mostly in Britain in the 1990s.

Bush's Trade Talks Enthusiasm Welcomed (FT)

By Peter Mandelson

Financial Times, September 21, 2005

From Mr Peter Mandelson.

Sir, With reference to your report of Thabo Mbeki's comments on the Doha round ("Mbeki tells rich world to end farm subsidies", September 17) and comments of mine on President George W. Bush's pledge to end all US tariffs, subsidies and trade barriers if others did the same: I suggested some would regard such a proposition as playing to the gallery, but I did not say this was my view.

On the contrary, I welcome President Bush's personal engagement and bold ambition for the current World Trade Organisation trade talks.

There is no alternative if this round is to deliver what we set out to achieve. My message to President Bush and other leaders is: yes to ambitious goals, but then let us take practical steps to deliver.

I suggest two ways to do just that. In the area of tariffs, let us agree at the WTO ministerial meeting in Hong Kong to eliminate all tariffs and quotas on imports from the poorer countries of the world.

In the area of subsidies, the European Union's Common Agricultural Policy reform will allow us to lower trade-distorting payouts significantly as well as eliminate agricultural export subsidies altogether.

Let the EU and the US demonstrate joint leadership on this and table some real numbers for cuts. To succeed, we need to offer both the bold vision and the concrete steps the world is waiting for.

Peter Mandelson,
EU Trade Commissioner,
Brussels,
Belgium

Europe Is Closer To Talks With Turkey (NYT)

By The International Herald Tribune, International Herald Tribune

The New York Times, September 21, 2005

BRUSSELS, Sept. 20 - The European Union on Tuesday appeared closer than ever to beginning membership talks with Turkey on Oct. 3, despite last-minute objections from the Greek Cypriots.

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Union ambassadors reached a tentative agreement on a declaration dealing with Turkey's failure to recognize Cyprus during talks in Brussels late Monday. But in a turnaround, Cyprus withdrew its support on Tuesday, demanding a clause that would allow Cypriot leaders to revisit the declaration, diplomats said.

However, Tassos Papadopoulos, the president of Cyprus, said he was still broadly satisfied with the terms of the statement, holding out the prospect that a deal could be reached soon.

Since July, when Turkey declared again that it refused to recognize Cyprus, a union country since 2004, European governments have been debating how they can allow Turkey to start membership talks.

Reforms To Forge Ahead Amid Feud (WT)

By David R. Sands

The Washington Times, September 21, 2005

Ukraine will stick to its pro-Western, pro-market reform program despite an escalating political feud between the leaders of the Orange Revolution, acting Foreign Minister Borys Tarasyuk said in an interview yesterday at the Ukrainian Embassy.

Mr. Tarasyuk, in Washington for talks with Vice President Dick Cheney and senior administration and congressional officials, said the basic thrust of Ukraine's foreign policy has not been an issue in the recent upheaval in Kiev.

"Naturally, it is a question that has come up in all my meetings, but what you are really seeing is a democracy working through its problems," Mr. Tarasyuk said.

"There will be no changes in our foreign policy. We want good relations with our major partners, with the United States, with Europe, with Russia, and we still have a goal of joining the European Union and NATO. These policies are not being held hostage to our internal differences."

But even as Mr. Tarasyuk was speaking, Ukraine's sharply divided parliament rejected President Viktor Yushchenko's choice to replace as prime minister his former Orange Revolution ally Yulia Tymoshenko.

With Mrs. Tymoshenko's faction abstaining, nominee and acting Prime Minister Yuri Yekhanurov, an ally of the president, fell three votes short of the 226 needed in the 450-seat assembly, despite heavy lobbying from the president against what he called "a cynical plot to destroy" his government.

Ukraine plunged into crisis and gridlock earlier this month when Mr. Yushchenko abruptly fired the charismatic Mrs. Tymoshenko amid intense governmental infighting. Adding to the embarrassing feud were charges of corruption, a halting reform program and a slowing economy.

Mr. Yekhanurov remains in charge of a caretaker Cabinet, and the president's options include seeking another parliamentary vote on the nomination.

Mr. Tarasyuk, a close ally of the president, called the upheavals in Kiev a "catharsis" for Ukraine.

"There was a necessary self-cleaning among the government team in order to come back to the principles of the Orange Revolution and to regain the trust of the public," he said.

He expressed confidence that the government would be able to push through the remaining parts of a major economic reform package strongly supported by the Bush administration and the European Union.

"I expect that as soon as the new prime minister is appointed, the drafts will be considered and passed" in parliament, he said.

Full approval of the reform measures is seen as critical to Ukraine's hopes of winning U.S. and European backing for its bid to join the World Trade Organization by the end of the year.

The foreign minister said Ukraine's longer-term hopes of joining the European Union and NATO remain on track despite the political standoff.

The Bush administration strongly backed Mr. Yushchenko in the Orange Revolution standoff late last year over a fraudulent election that originally favored a pro-Moscow rival. U.S. officials said they stand by the new government as it works through the political crisis.

Party Gives Merkel A Vote Of Confidence (WT)

By Nicholas Kralev

DOJ_NMG_0007132

The Washington Times, September 21, 2005

BERLIN -- Angela Merkel, Chancellor Gerhard Schroeder's conservative challenger, won her party's overwhelming backing to continue at the helm yesterday, raising her chances to become the first woman to lead Germany following last Sunday's inconclusive election.

In another boost for Mrs. Merkel, who is trying to form a coalition government with other parties, Mr. Schroeder said he was ready for talks without preconditions, dropping his previous demand that Mrs. Merkel not become chancellor.

The vote of confidence in Mrs. Merkel cemented her position after two days of intense speculation that she had lost the broad support of her Christian Democratic Union (CDU) because of its poor election performance.

"It was a good day for the union's parliamentary faction, which is once again ready to work," Mrs. Merkel said after the vote she had requested. "We have underlined the fact that we, as the strongest group in parliament, lay claim to forming the government."

Edmund Stoiber, leader of the Christian Social Union (CSU), the CDU's Bavarian sister party, said the alliance's parliamentary group had given Mrs. Merkel "clear support." She won 98.6 percent, with only three members voting against her.

The result was higher than the first time she was elected group leader in 2002, with 92.2 percent, as well as the 93.7 percent she received a year later.

"Germany needs a stable government that is capable of acting, and under Angela Merkel's leadership," Mr. Stoiber said.

Doubt in Mrs. Merkel's continued leadership was the buzz of Berlin since Sunday, when the election results came as a huge disappointment for the CDU.

Having started the campaign with a 20-point lead over the SPD, the CDU/CSU and preferred coalition partner, the Free Democratic Party (FDP), won a majority of less than 1 percent -- or three parliamentary seats -- over the SPD and its partner, the Greens.

Some politicians and analysts said the CDU's ambitious economic and social reform package had scared voters, while others blamed the outcome on the country's lack of acceptance of a divorced, Protestant woman from the former East Germany as their leader.

The CDU/CSU alliance won 35.2 percent on Sunday against 34.3 percent for the SPD. The FDP received 9.8 percent -- not enough for the two parties to form a government.

The Greens, whom Mrs. Merkel hopes to woo in a coalition Cabinet with the FDP, received 8.1 percent. The new Left Party of former Communists and a breakaway SPD fraction did slightly better with 8.7 percent, but both Mrs. Merkel and Mr. Schroeder have ruled out partnering with them.

Mr. Schroeder, who said his party had begun coalition talks, sounded much more accommodating about a CDU-SPD "grand coalition" led by Mrs. Merkel yesterday.

"It's about exploratory talks, a phase in which we must talk to one another about how one will bring about a stable government, which we need at this time," he said.

Frau Schröder And Herr Merkel (WSJ)

By Mathias Doepfner

The Wall Street Journal, September 21, 2005

BERLIN -- After Sunday's election, one feels like shrieking: "And the loser is … Germany!"

Yet everyone is behaving like winners: the Christian Democratic CDU because, despite everything, it is the largest party and will try to form a government; the Social Democratic SPD, especially Gerhard Schröder, who, in a hormone-induced rush brought on by the CDU's unexpected losses, asserted brassily that the chancellorship was his; the Greens, since the left-right shift had such little effect on their vote that it was as if they hadn't been a part of the unsuccessful Red-Green government; the Left Party, which in its first time out secured more than 8% of the vote with a program of nationalist, socialist populism and a front man, Oskar Lafontaine, known to knock the mike out of the hands of journalists who ask awkward questions; and finally, and most surprisingly, the Free Democrats (FDP), who got almost double the expected votes with a radical reform program that was crystal clear from day one.

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What can we learn from this? And what happens next? It is clear that Germans do not want to be governed by Angela Merkel. There is no other way to explain the CDU's collapse to 35.2% in the election after reaching 49% only a couple of months ago in opinion polls. The internationally popular interpretation blames German aversion to reform, as well as Ms. Merkel for being much too honest in announcing changes that were much too harsh. The flat tax promoted by Paul Kirchhof, her finance minister-designate, has been faulted particularly.

This thesis is too simple. Mr. Kirchhof was first taken to task by his own party before the SPD took up the issue. The Union's lack of unity was a mark of Ms. Merkel's unfortunate campaign from the beginning. She failed not because she communicated too clearly, but because she was not clear enough. While Mr. Schröder offered imprecise promises, she offered imprecise demands. While Mr. Schröder -- an instinctive genius and excellent campaigner -- unscrupulously stoked the fear of losing social protections and publicly declared his love for his wife, his challenger showed no emotion at all. While Mr. Schröder staged a sentimental campaign, Ms. Merkel was a candidate of the mind; while the man acted with a feminine touch, the woman's touch was too masculine.

What the conservatives lacked above all was a vision: What do we want to do with this country? Angela Merkel wanted the right things. But it was never clear enough, never concrete, never tangible. The hearts of voters, even those well-disposed, remained remarkably cold. This absence of all pathos, this lack of emotion, was perhaps the most distinctive feature of the CDU campaign and the most important reason for its failure. The FDP, by contrast, proved that it doesn't have to be that way. They were the determined voice of reform, never making a secret of their clear, economically oriented program, bravely defending the Kirchhof flat tax, and earning points with this clarity and honesty -- even among people who actually wanted the CDU, but in the end voted FDP instead.

The Germans' desire for clarity and honesty is apparent not only from this example. Their wish for reform is more pronounced than politicians believe. People simply want to know what they are getting into, and to be convinced that those who lead know where they are going. The "German Disease" is not a crisis of the German mentality, but one of political leadership.

The coming months hold risks and opportunities. The risks lie in the formation of a government, which Ms. Merkel can unfortunately advance with only limited backing from her party. Too many former opponents who had put down their weapons over the past weeks are taking out their knives again -- even though yesterday 98.6% of CDU/CSU lawmakers re-elected her as their parliamentary leader. A further question remains: Will there be a CDU-FDP-Green coalition or a grand coalition, possibly even led by Mr. Schröder, who could keep insisting on this role until the CDU surrenders from a lack of alternatives? Or maybe even another round of elections?

But more important than these nuts-and-bolts political questions is the larger picture and its international consequences. What road will Germany take? Will it continue on the path of Franco-German social protectionism, driving Germany (and thus Europe) into permanent economic crisis and foreign-policy isolationism? Or the path of Anglo-American deregulated economies, which will finally free up Germany's enormous growth potential -- and thus inspire all of Europe and tie it more strongly to a Western alliance? The election in Germany has set things in motion. Nothing is clear and anything is possible: Weimar or "Wirtschaftswunder."

The socialist Left had as much success with class hatreds and social fears as the FDP did with its concept of greater personal responsibility and less bureaucracy. Where will the next government's compass point? Who will find the words to tell people the truth and excite their enthusiasm for change? Things are in motion, and the forces of freedom need one thing above all: faithful international friends who retain their interest in Germany. There is no alternative to the European-American relationship: Germany must not lose. It must win.

Mr. Döpfner is chief executive and chairman of Axel Springer AG, publishers of Bild Zeitung, Europe's largest-circulation newspaper. (Belinda Cooper translated this essay from the German.)

Germany's Political Crisis Has U.S. Roots (WSJ)

By Marcus Walker And David Crawford

The Wall Street Journal, September 21, 2005

BERLIN -- In some ways, Germany's post-election political mess is the fault of the Americans.

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Germany's disarray partly stems from the country's unique political system. No part of the government is strong enough to push through controversial measures, such as economic overhaul, without wide consensus. That is the way the U.S. deliberately set things up after World War II, to prevent the rise of another Hitler.

Tomorrow, the leaders of Germany's two major parties, ideological rivals, plan to meet to discuss forming a "grand coalition" government, after no one won a majority in Sunday's national election.

Such a division of power would come on top of Germany's unusual distribution of influence to its state governors, who regularly veto the plans of the executive branch and lower house of parliament.

That veto is largely why Germany was forced into an election on Sunday that had no conclusive result. Chancellor Gerhard Schroeder disbanded his own governing majority in parliament in May to force the vote, because the balance of power among state governors had turned firmly against him after his party lost a key regional election. Now, Germany has no effective government at all.

Germany's own version of federalism, in which the states and central government have largely overlapping responsibilities and regularly thwart each other, stems from the way the U.S. occupation army chose to build democracy.

Lt. Gen. Lucius D. Clay, America's viceroy in Germany after the Nazi surrender, was charged with shaping the new government. He got little guidance from Washington beyond a U.S. Treasury paper titled "Program to Prevent Germany from Starting a World War III." It proposed reducing the whole German economy to farming.

Lt. Gen. Clay didn't go that far, but to make life difficult for any future dictators he exploited Germany's history of rival local principalities. He oversaw the creation of Germany's regional governments -- some of them based on historical kingdoms and others made up -- and handed powers to them, rather than to national parties.

Then the state representatives, when writing the constitution, made sure a majority of them could veto moves by the federal government.

Parliamentary democracy and coalition governments are common in Europe, but Germany's system does more to weaken the center. It is as if in the U.S. Republican state governors could systematically block a Democratic Congress and president.

That is the difficulty Mr. Schroeder faced in pushing through his own version of economic overhaul.

Germany's more immediate problem after the election is that there is no working majority in the lower house of parliament among the usual party coalitions. So a new one will have to be formed, or yet another election called.

Ahead of talks with other parties, Mr. Schroeder said yesterday that he was open to different coalition possibilities. He sounded more flexible than immediately after the election, when he declared the outcome a personal vindication and a disaster for the opposition conservatives led by Angela Merkel. Both sides were still claiming the right to name the chancellor and lead the government.

The conservatives made a public show of support for Ms. Merkel by re-electing her as their parliamentary leader yesterday, with 219 deputies backing her, but three voting against her in the secret ballot.

Ms. Merkel has faced criticism from colleagues at the state level for a campaign that brought the third-worst result in the party's history.

German business leaders continued to fret about the deadlock, as data from a leading economic-research institute showed falling investor confidence. The ZEW institute, of Mannheim, said its index of analysts' and investors' sentiment fell from 50 in August to just 38.6 after the election.

Deutsche Bank AG's chief executive, Josef Ackermann, told a business conference in Berlin: "The challenges we face, in particular globalization and the demographic changes, won't get smaller because there is a political stalemate in parliament."

To some degree, stalemate is built into the German system. If Ms. Merkel had held on to her lead in polls and won Sunday's election, as expected, she still would have faced a fight against state governors -- even though most of them are in her party. She wanted to raise the value-added tax to fund a reduction in employers' social-security contributions. Christian Democrat state governors -- who are entitled to half of VAT revenue -- wanted to use it to plug holes in their own budgets.

Because the next national government will be less conservative-dominated than Ms. Merkel had hoped, the disputes can only get worse.

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"This constitution is becoming outdated in many ways," says Konrad Jarausch, a history professor at the University of North Carolina.

Overhauling the federal system to get the states and the government out of each other's hair has been on the agenda since the 1960s. "It's one of those things you can't resolve, because someone has to give up something," Prof. Jarausch says. The last attempt at overhaul fell apart a year ago, when a compromise was vetoed -- by state governors.

Those governors owe their power to Lt. Gen. Clay, who helped their predecessors in the states, starting with the self-styled Free State of Bavaria, the independent-minded region in Germany's south.

Bavaria always has been considered the state most likely to secede. Bavaria's present-day premier, Edmund Stoiber, lost votes for his fellow conservative Ms. Merkel during the election campaign by ranting against eastern Germans who voted for neo-communists and lamenting that "the voters are not everywhere as intelligent as in Bavaria." Ms. Merkel is from eastern Germany.

To make a central government palatable to Bavarians at all, the talks about a federal constitution in 1949 -- Germany's Philadelphia Convention -- were held in a Bavarian lakeside castle. Bavaria voted against the constitution anyway.

Over the decades, the states have expanded their power in national affairs. Now, almost any move on the economy, finance or the welfare state needs states' permission.

Mr. Schroeder had to fight his way past obstruction from governors even when both major parties agreed in principle about an overhaul. Shortly after his latest proposal for cutting business taxes foundered on resistance by the states, Mr. Schroeder gave up and asked his own party to vote him down to force Sunday's election.

Germany And The Battle For Reform (NYT)

The New York Times, September 21, 2005

The big news from Germany's elections on Sunday was what did not happen: Angela Merkel, the right-wing candidate who had a free fall from a 20-point lead, did not become the first woman chancellor. The incumbent, Gerhard Schröder, was not driven into retirement, as his opponents had hoped. And Germans did not give either a governing majority. Still, they delivered a message: economic reform should move forward. The three parties that support reforms got 80 percent of the vote. All they have to do is agree on how to govern.

Given Germany's dismal economic health, there is no alternative to reforms for Germany and for Europe as a whole. Ms. Merkel seemed to be doing well against Mr. Schröder, a highly skilled candidate, until she blundered by picking Paul Kirchhof, a professor who advocates a flat tax, as her economic spokesman. The idea fell, well, flat. As for Mr. Schröder, drawing even with Ms. Merkel's party was a vindication of the risk he took in calling the election to gain a mandate for reforms.

The arithmetic now makes for some complicated possibilities. The most likely outcome seems to be a coalition of Mr. Schröder's party and Ms. Merkel's party. Such a "grand coalition" is widely discredited outside Germany as inherently unstable and incapable of agreeing on policy. But coalitions between the two major parties have worked well in the German states.

If the two major parties look beyond their rivalries, they could find that they agree on the basics of critically needed economic reforms like lowering employment costs, making labor markets more flexible and simplifying the tax code. And they would certainly have the clout to push a joint program through the Parliament and past the unions. Mr. Schröder called the elections because there was a big job to be done, and the voters agreed.

A Mess In Germany (WP)

The Washington Post, September 21, 2005

The most important German election in decades has produced a dismal result for Germany, the European Union and the transatlantic alliance. As expected, Chancellor Gerhard Schroeder of the Social Democrats failed in his attempt to win a new mandate, but his principal opponent, Angela Merkel of the Christian Democratic Party, also did not win enough support to form a government. The two big German parties combined received the lowest percentage of votes in 50 years, and the balance of power in Parliament will be held by three smaller factions -- one of which, the new Left Party, is a noxious mix of anti-globalization populists and former East Bloc communists.

Mr. Schroeder has further fouled this messy situation with arrogant and undemocratic behavior. Though he finished in second place with 34 percent of the vote, and his coalition lost 33 of the 306 seats it held in the Bundestag, the chancellor loudly

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claimed victory and is trying to bully his way back into office. German commentators are calling his power play "delusional" and "grotesque," but the political situation is so unsettled that its success cannot be ruled out.

It's difficult to imagine a worse outcome to the election than a new term for Mr. Schroeder, whose habitual demagoguery and opportunism have poisoned not only German politics but also the European Union and U.S.-German relations. Yet the other possibilities aren't much better. The most likely is a "grand coalition" between the Christian Democrats and Social Democrats that would exclude Mr. Schroeder, and possibly also Ms. Merkel, who is trying to be the first woman and the first citizen of the former East Germany to become chancellor. Alternatively, one of the large parties could create a coalition including a small party on the opposite side of the political spectrum, alignments as bizarre as the nicknames -- "stoplight" and "Jamaica" -- they have been given.

Whatever the final result, the chances that Germany will continue the economic reforms that Mr. Schroeder cautiously began don't seem great. Both major candidates seem to have been punished by voters for advocating change: Mr. Schroeder for his half-steps and Ms. Merkel for promising more. The two parties together might agree to force through the further reforms they know the country needs, but it is just as likely they will compromise by doing nothing. It also seems unlikely that a weak German government will support needed reforms for the European Union, which itself is reeling from French voters' rejection of a new constitution in May.

American conservatives and internationalists might be tempted to take quiet satisfaction from the political disarray in the two big European states that have worked hardest in the past five years to thwart U.S. policies and establish Europe as a rival power to the United States. That would be shortsighted. In fact, Mr. Schroeder and his French ally, Jacques Chirac, were never likely to succeed in creating a European counterweight, and the weakness of Germany and France will only make them less able to support the United States in key strategic matters on which there is a transatlantic consensus, such as preventing Iran from developing nuclear weapons. About the best that Americans, and Germans, can hope for is that the tenure of the new government will be relatively brief -- and that the next election will produce a more decisive result.

A French Lesson: Taunts About Race Can Boomerang (NYT)

By John Tagliabue

The New York Times, September 21, 2005

PARIS, Sept. 20 - The French news media were captivated by Hurricane Katrina, pointing out how the American government's faltering response brought into plain view the sad lot of black Americans. But this time the French, who have long criticized America's racism, could not overlook the parallels at home.

"It is true that the devastations of Katrina have cruelly shed light on the wounds of America, ghettoization, poverty, criminality, racial and territorial tensions," Le Figaro, the conservative daily, said in an editorial on Sept. 8. "In France, those in disagreement ran to pelt the 'American model' and the neoconservative president. But have they just looked at the state of their own country?"

Only four days before, a fire had swept an apartment in south Paris, killing 12 people, most of them black. And just days before that, 17 black people died in a single blaze. Since April, 48 people, most of them children and all of them black, have died in four separate fires in Paris.

In neighborhoods like Château Rouge, filled with the hundreds of thousands of nonwhite immigrants, some Arabs but mainly blacks, whom France has absorbed over the years from former colonies in Africa and the Caribbean, you feel the anger.

"It could be a coincidence," said Sissouo Cheickh, bitterly, "but one question the French have to answer is: of 48 people who died, why were 48 black?"

Mr. Cheickh, 28, got a university degree in France, but rather than working for someone else and running into what he and other young blacks say is France's low glass ceiling, he decided to start his own business. Six months ago he scraped together some money and opened a store.

"You see these fabrics? All from Africa, from my family," said Mr. Cheickh, who came from Mali, as he gestured toward colorful rolls of cloth.

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France has long boasted of itself as the cradle of human rights and a bulwark against racism. It regularly denounced racism in the United States, and the road from Harlem to Paris was wide, inviting talented American blacks like the dancer Josephine Baker, musicians like Sidney Bechet and writers like Richard Wright and James Baldwin.

But French insistence on the equality of man leaves them in a bind, their black critics say, perpetuating the fiction of a society without minorities.

The census in France does not list people by race. Hence, while blacks are thought to number about 1.5 million, of a total population of 59 million, no one really knows the exact number, which is estimated to be far higher.

There are virtually no black people in corporate France, and blacks have almost no political representation. No black person sits in the National Assembly or in a regional parliament, and only a smattering are found in city councils. The European Union finances programs for minorities but not in France, because of its refusal to recognize minorities.

So, today, blacks are not much on the French agenda. After the recent fires, the interior minister, Nicolas Sarkozy, proposed a program of affirmative action and a requirement that résumés conceal a person's ethnic or racial identity. But the rest of the cabinet, including the minister for equal opportunity, rejected the ideas, saying they offended the fundamental principle of equality.

"The French like to say, 'Blacks are a social problem, not racial,' " said Gaston Kelman, 52, a native of Cameroon who has written widely on France's black population. "So our institutions have no means to overcome it."

Until recently, virtually all blacks were on the lowest rung of the social ladder. Gradually, however, a younger generation is, like Mr. Cheickh, gaining education, starting businesses and gradually giving birth to a black middle class. They feel the discrimination they say is rampant in French society and are beginning to resist.

After graduating with a degree in economics and data processing, Claude Vuaki tried his hand at several jobs before deciding to start his own business. Together with his wife, Kibé, he opened a beauty salon in central Paris. But Mr. Vuaki's search for start-up capital was typical of the black experience. "They said right off, no loan, no money," said Mr. Vuaki, 52. He and his wife managed to gather some family savings and self-financed their shop.

Now the business is so successful that they plan a second shop, in Nice or Cannes. Mrs. Vuaki travels regularly to the United States to study African-American hairstyles.

Still, Mr. Vuaki remains one of a relatively small minority. Most blacks are employed in menial jobs, in construction or transportation. What encourages people like Mr. Vuaki is that the glass ceiling often felt by young blacks who get an education is not discouraging them, but increasingly prompting them to strike out on their own.

"A lot of people I know want to create something of their own," he said, often in landscaping, construction and delivery services.

Still, Mr. Kelman said this slight opening is not inhibiting many young Africans with an education to strike off for Britain, Canada and the United States, where they think they will find greater opportunities.

Asked whether the French people are racist, Mr. Kelman replied: "It's a racism of nuance. Every Frenchman would immediately say, 'One of my closest friends is black.' "

Mr. Kelman said government housing and employment policies create an "institutionalized ghetto-building." He described with a laugh a typical job interview for a black candidate. When the boss realizes the candidate is black, he begins praising the sights and sounds of Africa he discovered on his last vacation there: the broad beaches, beautiful greenery, vast sky. Needless to say, the candidate doesn't get the job.

In the schools, white pupils are typically encouraged to continue studying while black children are often steered toward vocational studies. The influence of African-Americans, through television, films and sports, is everywhere. Some young blacks turn to Afrocentrism, Mr. Kelman said, others to rappers and others to black Muslim groups. What they don't turn to is mainstream French society.

"We're at an impasse," Mr. Kelman said.

No 'Turning Back' In Egypt (WP)

By David Ignatius

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The Washington Post, September 21, 2005

CAIRO -- It's hard to imagine Egyptian President Hosni Mubarak as a change agent. During the 24 years he has ruled this country, he has displayed a military man's passion for stability and a corresponding wariness of democracy. His Egypt has often symbolized the political stasis of the Arab world.

But unlikely as it sounds, the 77-year-old Mubarak won reelection this month on a platform of political and economic reform. The fact that even the pharaonic Mubarak is running as a democrat illustrates the power of the reform movement in the Arab world today. The movement is potent because it's coming from the Arab societies themselves and not just from democracy enthusiasts in Washington.

I can't predict whether Mubarak will deliver on the promises he made during his campaign. I can see all the reasons why he should and all the reasons why he won't. But what's unmistakably clear in the aftermath of Egypt's first semblance of a multi-candidate presidential election is that the country's old authoritarian system has broken apart. I doubt Mubarak could put it back together even if he tried.

This used to be a country where people were very careful about what they said in public. It was basically a one-party state, and the price of keeping your job -- and sometimes of staying out of prison -- was to stay safely within the unwritten but universally recognized red lines. The state-run Egyptian press was often the worst offender -- pretending to be independent but maintaining an almost Stalinist sycophancy toward the ruler. Happily, those old habits of deference are changing.

During several days of conversations here, I found people remarkably frank in their comments. Just as interesting, political activists across the spectrum described the situation in Egypt in similar terms. Though many see the one-sided election as a joke (Mubarak won with 88 percent of the vote), they all see Egypt as changing, and they all agree it will be hard to stop the momentum of change.

Let's start with the most extreme critics of the regime, the Muslim Brotherhood. I met Ali Abdel Fatah, one of the Brotherhood's leaders, over coffee at the Syndicate of Journalists, which has become a haven for activists in recent months. While he denounces Mubarak's election victory as fraudulent, Abdel Fatah thinks the democratic movement in Egypt is real. "We appreciate pluralism and we insist on it," he says.

Abdel Fatah says he has been imprisoned 11 times for his views, and the Brotherhood is still banned from running openly as a political party -- but he wants to play in the new game. He plans to field about 150 "independent" candidates in November's parliamentary elections and expects that about 30 of them will win, roughly doubling the group's unofficial representation in parliament.

Puffing a hookah pipe in a coffeehouse on Imad El-Din Street is Amin Soliman Eskander, one of the co-founders of the protest group known as Kifaya. Even though the election is over, the group (whose Arabic name means "Enough!") is still organizing demonstrations. "The national atmosphere no longer allows oppression," he explains. Eskander has been imprisoned seven times because of his dissent. Asked whether he thinks political change can come peacefully in Egypt, he says, "Yes, of course."

In a cafe on the bank of the Nile, Hisham Kassem, who runs a fiery new independent newspaper, explains that the old days of docility are over. The newspapers are running headlines denouncing Mubarak and his family that would have been unthinkable a year ago. "I'm sure he grits his teeth that we're out there criticizing him, but we can't turn back," Kassem says.

The Mubarak camp doesn't disagree with the view that the rules of the game have changed. Mohamed Kamal, a key political adviser, says the old insistence on stability has given way to a realization that Egypt needs change. That's the importance of Mubarak's agreement to a multi-candidate election this year, he argues. "The president was always up on the mountain, surrounded by people who wanted to protect him. He came down from the mountain to ask people for their vote."

One of the brightest lights in Mubarak's government, Industry Minister Rachid Mohammed Rachid, agrees that the election symbolized the idea of accountability. "When Mubarak ran, he took it seriously, put together a program and a list of deliverables. This has never been done before."

The Mubarak regime is certainly capable of reneging on its promises. But there's so much pressure for change, from so many different directions (including the Bush administration), that it won't be easy. "I don't think there is any turning back," the president's son, Gamal Mubarak, tells me. And for the moment, I'm inclined to take him at his word.

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Nazi Hunter (WSJ)

The Wall Street Journal, September 21, 2005

In taking note of the life of Simon Wiesenthal, the great Nazi hunter who died yesterday at 96 after surviving the Soviet NKVD, numerous German death camps and a 1982 assassination attempt, we are reminded of Andrew Jackson's famous aphorism: "One man with courage makes a majority."

From today's perspective, it is difficult to remember that when Mr. Wiesenthal began tracking Nazis from a tiny "Documentation Center" in the Austrian city of Linz, his work was hardly popular. Much of Europe wanted to put its collaborationist chapters behind it; some of the most prominent Nazis had fled to distant corners and assumed new identities; the world's attention was otherwise engaged.

Yet working off the leads of informers -- some of them ex-Nazis out to settle old scores -- Mr. Wiesenthal was able to track down many of those he called "the murderers among us." Among them: Franz Stangl, commandant of the Treblinka and Sobibor death camps, who had fled to Brazil; Valerian Trifa, a Romanian fascist and pogrom-instigator, who later became an Orthodox Archbishop in Michigan; and Karl Silberbauer, the Gestapo agent who arrested Anne Frank and later found work as a Vienna police officer. These arrests, along with Israel's capture and trial of Adolf Eichmann (in which Mr. Wiesenthal played a secondary role), did as much as anything to put the memory of the Holocaust at the center of every civilized conscience.

Equally remarkable was Mr. Wiesenthal's insistence on backing up his allegations with voluminous documentary evidence. This could get him into scraps, as when he refused to denounce Kurt Waldheim, the one-time SS officer and later U.N. Secretary General and President of Austria, as a war criminal. Some Jewish leaders accused him of a cover-up; Mr. Wiesenthal replied that "accusations from Jewish sources must be able to stand up to all tests of credibility." Such evidentiary standards stand in stark contrast with those of groups such as Amnesty International, with their loose and incendiary accusations of "torture" at Guantanamo or "war crimes" in Jenin.

Toward the end of his life, Mr. Wiesenthal lent his name to a number of centers dedicated to advancing the cause of tolerance world-wide. With the resurgence of virulent anti-Semitism, particularly in Europe and the Muslim world, the cause has only grown in importance. Yet there is a risk that a specious and open-ended form of "tolerance" might obscure more fundamental objectives: justice for the perpetrators of atrocities, and remembrance for their victims. Simon Wiesenthal delivered both, and we owe it to his memory to carry on that work.

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TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

Pentagon Bars Military Officers And Analysts From Testifying (NYT)

By Philip Shenon

The New York Times, September 21, 2005

WASHINGTON, Sept. 20 - The Pentagon said Tuesday that it had blocked several military officers and intelligence analysts from testifying at an open Congressional hearing about a highly classified intelligence program that, the officers have said, identified a ringleader of the Sept. 11 attacks as a potential terrorist a year before the attacks.

The officers and intelligence analysts had been scheduled to testify on Wednesday about the program, known as Able Danger, at a hearing of the Senate Judiciary Committee.

Bryan Whitman, a Defense Department spokesman, said in a statement that open testimony "would not be appropriate."

"We have expressed our security concerns and believe it is simply not possible to discuss Able Danger in any great detail in an open public forum," Mr. Whitman said.

He offered no other explanation of the Pentagon's reasoning.

Senator Arlen Specter, Republican of Pennsylvania and chairman of the committee, said he was surprised by the Pentagon's decision because "so much of this has already been in the public domain, and I think that the American people need to know what happened here."

Mr. Specter said in a telephone interview that he intended to go ahead with the hearing on Wednesday and hoped that it "may produce a change of heart by the Department of Defense in answering some very basic questions."

Two military officers - an active-duty captain in the Navy and a lieutenant colonel in the Army Reserve - have recently said publicly that they were involved with Able Danger and that the program's analysts identified Mohamed Atta, the Egyptian-born ringleader of the Sept. 11 attacks, by name as a potential terrorist by early 2000.

They said they tried to share the information with the Federal Bureau of Investigation in the summer of 2000, more than a year before the attacks, but were blocked by Defense Department lawyers. F.B.I. officials, who answer to the jurisdiction of Mr. Specter's committee, have confirmed that the Defense Department abruptly canceled meetings in 2000 between the bureau's Washington field office and representatives of the Able Danger team.

The Pentagon had said that it interviewed three other people who were involved with Able Danger and who said that they, too, recalled the identification of Mr. Atta as a terrorist suspect. Mr. Specter said his staff had talked to all five of the potential witnesses and found that "credibility has been established" for all of them.

Intelligence Team Members Ordered Silent In 9/11 Probe (WT/UPI)

By Shaun Waterman, United Press International

The Washington Times, September 21, 2005

Defense Department lawyers have blocked members of a data-mining intelligence team from testifying today before a congressional panel probing their claims that they identified the September 11 ringleaders as terrorists more than a year before the attacks.

The Senate Judiciary Committee sought testimony from several members of the team -- code-named Able Danger -- as part of an investigation into claims that the project identified Mohamed Atta and three of the other 18 hijackers as tied to al Qaeda in early 2000.

Mark Zaid, an attorney for Army Reserve Col. Tony Shaffer, said his client, a Defense Intelligence Agency liaison to the Able Danger team, was told in a letter not to testify.

The letter, which gave no reason for the order, was signed by the principal deputy general counsel for the Defense Intelligence Agency, Robert Berry.

Mr. Zaid said the team members "were told verbally that they would not be allowed to testify" and that the order was put in writing only with regard to his client at his request.

He said that the team leader, Navy Capt. Scott Philpott, civilian analyst James Smith and other members of the team had been denied permission to testify. A Judiciary Committee aide said panel staff members already have interviewed Capt. Philpott and Col. Shaffer.

No one at the Department of Defense or the Defense Intelligence Agency returned calls for comment yesterday.

Rep. Curt Weldon, the Pennsylvania Republican who first put the Able Danger team in contact with journalists, was concerned about the order, his staff said.

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"It is unfortunate that we're trying to get answers ... and the people who could help us get them are not going to testify," said Russ Caso, the congressman's chief of staff.

At the center of the Senate committee's investigation is a computer-generated chart listing the names and connections of about 60 people thought to be linked to al Qaeda.

Capt. Philpott said that chart, produced in January or February 2000, bore the name and likeness of Atta and linked him to a Brooklyn mosque that has been a center of Islamic extremism for more than 20 years.

Capt. Philpott was the special operations officer who ran the effort, an intelligence-led initiative to use data mining on massive amounts of "open source" information culled from the Internet, purchased from credit rating bureaus or other data brokers, or by other means that remain classified.

Detainee Hunger Strike Prompts Request For Health Records Access (WP)

By Carol D. Leonnig, Washington Post Staff Writer

The Washington Post, September 21, 2005

Attorneys for several detainees at the U.S. military prison at Guantanamo Bay, Cuba, asked a federal judge for immediate access to their clients' medical records, saying they fear an eight-week-long hunger strike is growing more serious, according to court papers declassified yesterday.

Lawyers for a group of 17 Yemeni detainees told the court yesterday that, during an early August visit, some captives looked "gaunt and unwell" and that they fear their conditions have deteriorated. They complained to U.S. District Judge Henry H. Kennedy Jr. that the military and the Justice Department have refused to tell them or other lawyers about their clients' health status.

"Many participants . . . have stated their expectation of death and a growing number of detainees are now hospitalized and in grave condition," attorneys David Remes and Marc Falkoff wrote.

Military officials disputed that description, saying the number of detainees participating in the strike has recently declined. As of Sept. 12, the military said, 128 detainees were involved in the strike, which the Pentagon defines as refusing food or water for at least three consecutive days.

At that time, 18 were hospitalized, and were either having intravenous fluids forcibly administered or were being force-fed through nasal-gastric tubes. Yesterday, a military spokesman said, just 45 detainees had been refusing food or water for three or more days.

In a Sept. 12 e-mail, Justice Department attorney Andrew Warden wrote that the government is "not in a position" to provide health updates on hundreds of detainees.

Detainees on hunger strike are protesting what they describe as beatings at the prison and their indefinite detentions, their attorneys have said.

Inside Politics (WT)

By Greg Pierce

The Washington Times, September 21, 2005

Disaster strikes

"In the presidential campaign last year, Democrats were said to be counting on some misfortune -- terrorists attacking on American soil, the Iraq War taking a turn for the worse, the economy going south -- to help them beat George W. Bush," Brendan Miniter writes at www.OpinionJournal.com.

"That didn't happen, of course. But now disaster has struck, and it's becoming increasingly clear that Democrats are better off for it. In ripping through the Gulf Coast, Hurricane Katrina has peeled back the lid on Republican rule, and many Americans aren't happy with what they see," Mr. Miniter said.

"This isn't about a slow response anymore. ... And unless they change course, Republicans will pay a steep price in next year's midterm elections and leave Democrats in the driver's seat for 2008.

"What President Bush, House Majority Leader Tom DeLay and other Republicans haven't figured out yet is that deficit spending isn't a problem for them unless it endangers the broader conservative agenda. If it does, it will become the electoral issue.

"And what we're seeing is that Katrina is swamping every goal conservatives have, from limiting government to cutting taxes to reforming entitlement programs. Katrina spending has already imperiled plans to repeal the death tax, and Congress is already $60 billion into a spending binge.

"Handing out $2,000 debit cards was just the beginning. The conservative Congress has brought back the welfare state."

Back and forth

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Rep. Rahm Emanuel of Illinois, chairman of the Democratic Congressional Campaign Committee, crows in a note to supporters that the DCCC "has already started with hard-hitting campaign ads and accelerated candidate recruitment."

"That claim is goofy," says Jonathan Collegio, who works for Mr. Emanuel's opposite number, Rep. Thomas M. Reynolds of New York, the National Republican Congressional Committee chairman.

"The DCCC is over $3 million in debt, and Emanuel lost five of his highest-profile challengers in the last week," Mr. Collegio told Ralph Z. Hallow of The Washington Times.

DCCC chief spokesman Bill Burton fired back: "After another week of Republican indictments and arrests, I'm surprised that the NRCC has time to comment on anything besides the efficiency of their bail bondsmen."

Weepy Dan

Former CBS News anchor Dan Rather said Monday that there is a climate of fear running through newsrooms stronger than he has ever seen in his more than four-decade career, according to a Hollywood Reporter article by Paul J. Gough.

Mr. Rather famously tangled with President Nixon and his aides during the Watergate years while Mr. Rather was a hard-charging White House correspondent.

Addressing the Fordham University School of Law in Manhattan, occasionally forcing back tears, he said that in the intervening years, politicians "of every persuasion" had gotten better at applying pressure on the conglomerates that own the broadcast networks. He called it a "new journalism order."

He said this pressure -- along with the "dumbed-down, tarted-up" coverage, the advent of 24-hour cable competition and the chase for ratings and demographics -- has taken its toll on the news business.

"All of this creates a bigger atmosphere of fear in newsrooms," Mr. Rather said.

Mr. Rather was accompanied by HBO Documentary and Family President Sheila Nevins, both of whom received lifetime achievement awards at the News and Documentary Emmy Awards on Monday evening.

Miss Nevin asked Mr. Rather whether he felt the same type of repressive forces in the Nixon administration as in the current Bush administration.

"No, I do not," Mr. Rather said.

Courting trouble

"It will be a damning indictment of petty partisanship in Washington if an overwhelming majority of the Senate does not vote to confirm John G. Roberts Jr. to be the next chief justice of the United States," the Los Angeles Times said yesterday in an editorial.

"As last week's confirmation hearings made clear, Roberts is an exceptionally qualified nominee, well within the mainstream of American legal thought, who deserves broad bipartisan support. If a majority of Democrats in the Senate vote against Roberts, they will reveal themselves as nothing more than self-defeating obstructionists. ...

"Even if one treats this vote merely as a tactical game, voting against an impressive, relatively moderate nominee hardly strengthens the Democrats' leverage" on the upcoming second nomination, the newspaper said.

"If Roberts fails to win their support, Bush may justifiably conclude that he needn't even bother trying to find a justice palatable to the center. And if Bush next nominates someone who is genuinely unacceptable to most Americans, it will be harder for Democrats to point that out if they cry wolf over Roberts."

Gitmo inmates

The number of detainees on a hunger strike at the prison at U.S. Naval Base Guantanamo Bay, Cuba, has fallen by almost two-thirds since last week, a military official told the Associated Press yesterday.

Forty-five detainees are currently on the hunger strike, down from 131 last week, Guantanamo spokeswoman Lt. Angela King-Sweigart said in an e-mail message.

No explanation was given for the sharp decrease, and calls to military officials at Guantanamo went unanswered last night.

Fifteen of the 45 detainees on the hunger strike have been hospitalized, Lt. King-Sweigart said. She could not immediately say if any were being tube-fed. Several detainees have been tube-fed during the hunger strike, either through their noses or intravenously.

Mexico bulldozes

Mexican officials bulldozed 31 abandoned buildings yesterday along the U.S. border in a village that has been a staging ground for illegal aliens and drug smugglers.

New Mexico Gov. Bill Richardson and Chihuahua Gov. Jose Reyes Baeza agreed last month that the demolition was needed to help end lawlessness in the village of Las Chepas, which has only about 35 full-time residents.

"Bulldozing abandoned buildings in Las Chepas is a major step that sends a strong signal to anyone involved in illegal criminal activity on the border that it will not be tolerated," Mr. Richardson said.

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The operation was monitored from the U.S. side by Border Patrol agents, the Associated Press reports. Mr. Richardson declared a state of emergency last month in four New Mexico counties along or near the Mexican border.

Judge Holds Closed Hearing In Case Of Former CIA Contractor (AP)

By ESTES THOMPSON, Associated Press Writer

AP, September 20, 2005

In one of the final hearings before the scheduled start of the trial of a former CIA contractor accused of beating an Afghan detainee who later died, a federal judge closed his courtroom Tuesday to allow attorneys to discuss classified material.

Defense lawyers for David A. Passaro have said they want to review classified messages from the Central Intelligence Agency, Army Special Forces and military intelligence in Afghanistan for possible use in Passaro's case.

It wasn't clear what the lawyers discussed Tuesday, but federal law allows closed sessions to deal with classified information.

U.S. District Court Judge Terrence Boyle said his interest was in "making sure that when we close, we restrict the closed hearing to those things that can only be heard in a closed hearing."

Attorney Amanda Martin said her media clients wouldn't object to a proceeding that dealt with classified information privately and other material in public. Martin represented The Associated Press, The News & Observer of Raleigh and The Washington Post.

"We have not objected to closing the courtroom to deal with classified information," Martin said after the hearing. "We were here to repeat our request that the court rein in and limit the closed portion of the hearing so that it deals only with classified information."

A special room has been created in the courthouse to allow lawyers to read the classified information and remain secure from eavesdropping.

Passaro, 38, arrived at the hearing in the custody of marshals. He wore a prison uniform and had a full beard and shaggy hair. The former Special Forces soldier has been jailed since June, when his bail was revoked after he was accused of assaulting his girlfriend.

Boyle has denied motions by Passaro's lawyers to dismiss the four assault charges against him, claiming the judge lacked jurisdiction because the alleged beating occurred in a foreign country.

Passaro could face 40 years in prison and $1 million in fines if convicted.

He is the first civilian to face prosecution on prisoner abuse charges since the start of the wars in Iraq and Afghanistan. He has denied the charges and contends he was a scapegoat for the government after the Abu Ghraib prison scandal erupted.

The Afghan prisoner, Abdul Wali, was being questioned about a series of rocket attacks on a remote U.S. outpost in the mountainous northeast of Afghanistan, about five miles from the country's border with Pakistan.

The federal indictment against Passaro said Wali died in a cell at the outpost after two days of beatings by Passaro, who used "his hands and feet and a large flashlight." A witness list includes a fingerprint expert who would identify Passaro's prints on batteries in the flashlight.

Trial had been scheduled for the first week of October, but court officials said the date may be delayed because defense lawyers want to file more motions.

Government: Man Wanted Bush Assassinated (FINDLAW/AP)

By Matthew Barakat, Associated Press Writer

Find Law, September 21, 2005

(AP) - ALEXANDRIA, Va.-A suspected terrorist accused of conspiring to assassinate President Bush said he proposed the plot but it wasn't pursued, and he was frustrated that other members of his al-Qaida cell lacked initiative, according to prosecutors.

A government motion unsealed this week by a federal judge reveals new details in the case against Ahmed Omar Abu Ali, 24, who is scheduled to go on trial next month.

Prosecutors say the Falls Church resident has admitted joining al-Qaida while attending college in Saudi Arabia and that he discussed numerous terrorist plots, including plans to assassinate Bush and hijack airplanes. Abu Ali says he was tortured into giving a false confession by Saudi authorities and that U.S. officials aided the torture. His lawyers are asking to have the confession tossed out.

The motion says that Abu Ali was asked to research the location of U.S. nuclear power sites for possible attack. The request was made by the second-highest ranking al-Qaida operative in Saudi Arabia, Sultan Jubran Sultan al-Qahtani, according to the motion.

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Also, Assistant U.S. Attorney David Laufman writes in the motion that Abu Ali was frustrated and bored during a stay at an al-Qaida safe house "because his fellow al-Qaida cell members did not appear sufficiently motivated to suit the defendant's terrorist zeal."

Abu Ali's lawyers did not return calls seeking comment Tuesday.

In an initial interrogation by Saudi authorities, Abu Ali said that after a May 2003 al-Qaida attack in Riyadh he organized the cell into a more structured daily regimen at the safe house "because, as I said to the guys, we were wasting our time sleeping and engaging in idle chit chat." The attack killed 39 people, including nine Americans.

Prosecutors said Abu Ali's admission that he proposed the Bush assassination plot came in response to a question posed by Saudi authorities at the request of the FBI.

When Abu Ali was asked, "Were you tasked to assassinate the President?" he replied, "I came up with the idea on my own, but it did not get beyond the idea stage. I wanted to be the brain, the planner, just like (reputed Sept. 11 attack masterminds) Mohammed Atta and Khalid Sheikh Mohammad."

The government motion was in response to defense claims that the case against Abu Ali should be thrown out because the confession was obtained through torture and that U.S. authorities acted in concert with the Saudis. The government contends that Abu Ali's June 2003 arrest, interrogation and confession resulted from an independent Saudi crackdown on al-Qaida following the Riyadh bombings and that FBI requests to question Abu Ali directly were rejected.

Abu Ali's Saudi interrogators have already given depositions in which they testified that Abu Ali was relaxed and well cared for when he confessed. Defense lawyers objected to the depositions, saying the interrogators would be under pressure to lie about Abu Ali's treatment.

The government denies that Abu Ali was mistreated and says he invented the torture allegation to escape justice.

"The defendant in this case represents one of the most dangerous terrorist threats that America faces in the perilous world after Sept. 11, 2001: an al-Qaida operative born and raised in the United States, trained and committed to carry out deadly attacks on American soil," Laufman wrote.

Guantanamo Trial To Resume (WP/REU)

By Reuters

The Washington Post, September 21, 2005

The Pentagon cleared the way yesterday for the resumption of the long-delayed military trial of Guantanamo Bay prisoner David Hicks.

The Defense Department had put the case on hold last year after an unfavorable court ruling. Officials said the hearings in the Hicks trial will resume sometime between Oct. 3 and Oct. 20.

Hicks, an Australian held for 3 1/2 years at the military prison, has pleaded not guilty to charges of aiding the enemy, attempted murder by an unprivileged belligerent and conspiracy to commit war crimes. Captured in Afghanistan in late 2001, Hicks is accused of fighting for the al Qaeda network.

Of about 505 men held at Guantanamo Bay, four have been charged. Only the Hicks case is being resumed.

The announcement of the resumption of Hicks's trial came two months after a federal appeals court reversed a ruling in the case of another Guantanamo Bay prisoner, Yemeni Salim Ahmed Hamdan. The appeals court ruled that the military commission trials are lawful.

Attorney In U.S. Publishes Full Translations Of Bin Laden's Statements (FINDLAW/AP)

By Laura Wides, Associated Press Writer

Find Law, September 21, 2005

(AP) - LOS ANGELES-The only way to defeat the enemy is to know the enemy. But in the case of Osama bin Laden, the U.S. public doesn't know enough, says the author of a new book on America's No. 1 nemesis.

In "Osama Bin Laden: America's Enemy In His Own Words," San Diego civil rights attorney Randy Hamud tries to shed light on bin Laden by translating 20 of his statements and letters from 1994 to 2004.

The book, released Monday, is the first comprehensive compilation of statements that are rarely presented in full by the English-language media. It's also the first of several works on bin Laden due out in the coming months.

Hamud said the translations are critical to defeating bin Laden.

"What I mean by defeat is the complete discrediting of his message," he wrote in the book.

The third-generation Lebanese-American spent the past two years working with Arab scholars on the translations. His self-published book also offers an annotated biography of bin Laden and a history of Islam.

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It sparked concerns among academics - none of whom has seen the book - because it does not disclose the names of his collaborators and only says they are mostly Middle East immigrants who fear repercussions for their involvement.

"In order for me to trust a text, I need to know who the translator is," said Khaled Abou El Fadl, a University of California, Los Angeles law professor.

Abou El Fadl, who focuses on Islamic law, said he was surprised to learn about Hamud's book because the lawyer is not known as a specialist or scholar in Middle Eastern affairs or Islamic studies.

"In my perspective bin Laden is a criminal," Abou El Fadl said. "Is there value in publishing the diaries of a serial killer? Yes there's a value, and there's a danger."

Richard Dekmejian, a professor of political science at the University of Southern California, also said he would prefer such translations be done by recognized Arab scholars, then reviewed by peers.

"It's very essential to do the translation correctly and reflect the context in which these things are said," Dekmejian said.

Still, Dekmejian is interested in using Hamud's text in his classes as a way to understand bin Laden's anger at the West and how he gained traction among Muslims worldwide.

Hamud defended his decision to withhold the names.

"Sadly, in today's America, Muslim immigrants do not enjoy the freedom of speech that those of us who are native-born enjoy in discussing subjects like Mr. bin Laden, political Islam and the subject of terrorism," wrote Hamud, who has represented a number of Muslims and Arabs detained by federal authorities since Sept. 11, 2001.

In November, Verso Books in England will publish "Messages to the World: The Statements of Osama bin Laden," a compilation 24 bin Laden speeches dating back to 1994. It was edited by Duke University political science professor Bruce Lawrence.

In January, Simon & Schuster's Free Press will publish former CNN analyst Peter Bergen's "The Osama bin Laden I Know: An Oral History of the Making of a Global Terrorist," with interviews from people who know bin Laden.

Lawrence, who had not seen Hamud's book, applauded his effort to make bin Laden's words more accessible. He said finding some of bin Laden's speeches, which are often blocked on Internet sites or reproduced only in snippets, involved major detective work.

"It's an aspect of Osama bin Laden that has not only been neglected, it has been totally overlooked in the war on terror," Lawrence said.

The speeches and letters show bin Laden's evolution from political attacks against corruption in the Saudi Arabian government to a declaration of war on the United States. There's also a critique of U.S. military contractors.

"The Iraq war generates billions of dollars for big corporations, either munitions makers or those working reconstruction, such as Haliburton and its sister companies," bin Laden said in an April 15, 2004 address originally broadcast by Al-Jazeera in which he offered a truce with European nations that agreed not to attack Muslims.

Throughout his speeches, bin Laden also returns to Israel's treatment of the Palestinians and what he calls the "Jewish enemy."

According to Hamud's translation, bin Laden's anger at the West stems mostly from its support of the repressive Saudi Arabian regime and the idea of a Christian military occupying Muslim lands.

"It is unconscionable to allow the country to become an American colony," bin Laden wrote in 1994 to King Fahd of Saudi Arabia, "for no other reason than to protect your throne and the oil resources."

Police Believe London Bombers Scouted Route Prior To Attacks (WP)

By Kevin Sullivan

The Washington Post, September 21, 2005

LONDON, Sept. 20 -- Three of the four bombers who killed themselves and 52 other people in a July 7 attack on the London transit system apparently scouted their route on a trip to the city 10 days earlier, police said Tuesday.

Officials at Scotland Yard said the three men -- Mohammed Sidique Khan, Shehzad Tanweer and Germaine Lindsay -- were spotted by officers as they reviewed thousands of hours of video surveillance tapes from train stations in London and the central English city of Luton.

Police released photos of the men, casually dressed, arriving at the Luton station the morning of June 28, with two of them carrying backpacks. Later in the day, they are seen at the King's Cross and Baker Street stations in London, apparently following the same route they took to stage the deadliest attack on British soil since World War II.

Hasib Hussain, who police believe detonated a bomb on a double-decker bus on that day, was not seen in the surveillance photos released Tuesday.

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Khan, Tanweer and Hussain were British citizens of Pakistani descent; Lindsay was a Jamaican-born British resident. Police have said they believe all four were young Muslims who had become radicalized.

Earlier this month, the Arabic television network al-Jazeera aired a videotape of a man identifying himself as Khan who called the bombings a response to British policies in Iraq and the Middle East. "We are at war, and I am a soldier," he said.

In another videotaped message aired on al-Jazeera Monday, Ayman Zawahiri, al Qaeda's second-ranking leader, said the group was responsible for the attacks and had the "honor" of carrying them out. Earlier messages from Zawahiri had praised the attack but stopped short of asserting direct responsibility.

British Prime Minister Tony Blair has said he believes British foreign policy did not inspire the attacks.

In a statement issued Tuesday, police said Khan, Tanweer and Lindsay spent about three hours in London on June 28. Their visit, the statement said, "might suggest the suspects were carrying out reconnaissance of potential targets on the London transport system and checking the time of the journey they intended to take on the day of the attack."

Police said "other cases here and abroad" suggest that terrorists sometimes visit their targets before an attack.

Police said they reviewed tapes from June 28 after finding train tickets and receipts during searches of addresses linked to some of the suspects.

The Scotland Yard statement offered the most extensive assessment in weeks of the status of the police investigation into the bombings. It said police have reviewed more than 80,000 surveillance tapes, taken statements from more than 3,000 witnesses and searched 15 locations.

It said more than 1,000 pieces of evidence had been taken from a single apartment in Leeds, a city about 200 miles north of London where several of the presumed bombers lived. Police said the search of that apartment, where they believe the explosives used in the attacks were made, took longer than six weeks.

Police have charged four men in a failed second series of attacks on July 21 in which no one was injured. A fifth suspect is in custody in Rome, and the British government is seeking his extradition. Police are still investigating possible links between the attacks.

London Bombers Visited Earlier, Apparently On Practice Run (NYT)

By Sarah Lyall

The New York Times, September 21, 2005

LONDON, Sept. 20 - Less than two weeks before they attacked London on July 7, three of the four suicide bombers traveled to the city for what appears to have been a practice run, the police said Tuesday.

The new information came a day after Osama bin Laden's chief lieutenant, Ayman al-Zawahiri, appeared in a videotaped message claiming that Al Qaeda was responsible for the attacks. Three weeks ago, Mr. Zawahiri was shown in a different tape praising the bombings. British and European antiterrorism officials said that they were investigating the claims but had reached no conclusions about who was responsible.

American intelligence and counterterrorism officials said Tuesday that they had no reason to doubt the authenticity of the latest tape, which was broadcast on Al Jazeera, the Arab satellite network. But they said it remained unclear what role Al Qaeda played in the London attack.

"Al Qaeda is quite content to take responsibility for any number of terrorist attacks, regardless of the nature or extent of their role, including whether they had an inspirational role or a more significant one," said an American counterterrorism official, who requested anonymity because he was discussing sensitive intelligence assessments.

An American intelligence official noted that the tape of Mr. Zawahiri had been released by the Sahab media office, the usual outlet for such statements. Some recent tapes have included English-language subtitles, a departure from past practice, in what American officials said was an indication that they were aimed at American and British audiences.

Whatever group was the mastermind, officials are coming to understand more clearly the events leading to the attacks, which killed 56 people, including the four bombers, and injured 700. On Tuesday, they released closed-circuit television images showing that three of the bombers - Mohammad Sidique Khan, Shehzad Tanweer and Germaine Lindsay - met at Luton station at 8:10 a.m. on June 28 before traveling to King's Cross station in London.

They arrived at King's Cross at 8:55 a.m., were captured again on camera at the Baker Street station at noon and were seen on yet more cameras leaving King's Cross at 12:50 p.m. and arriving back in Luton at 1:40 p.m. "The implication is that they were possibly conducting reconnaissance on that day," Deputy Assistant Commissioner Peter Clarke, head of Scotland Yard's antiterrorism unit, told reporters. "We know that is part of a terrorist's methodology: to check timings, layout and security precautions."

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Mr. Clarke said the police, who have seized some 80,000 closed-circuit tapes since July 7, still do not know what the men did between 8:55 a.m. and noon. He appealed to the public for help in reconstructing their movements. "What we want to know is where else they went, and did they meet anybody else while they were in London?"

The police have also disclosed further details about what the bombers - the three who made the earlier trip to London, as well as a fourth man, Hasib Hussain - did on July 7. Mr. Lindsay arrived at Luton station at 5 a.m.; the other three drove from Leeds in a silver Nissan Micra, arriving at Luton at 6:51 a.m. The four then traveled to King's Cross station, where they split up and set off their bombs, three on the London Underground and one on a bus.

The police found a trove of bombing materials in the Nissan Micra, which the men left parked at Luton. Two more "viable devices" - bombs that contained peroxide-based explosives, were surrounded by nails and were ready to go off - were found under the front passenger seat, Mr. Clarke said. There were also coolers in the back of the car, which may have been used to carry the bombs used in the attacks, he said. Peroxide-based bombs need to be kept cool when transported.

Asked whether the presence of the two bombs in the front seat implied that two other suicide bombers were meant to join the four on July 7, Mr. Clarke said the question was "interesting but unhelpful." But, he said, "it is of real concern that there were more explosives in the possession of these people on that day."

U.N. Report Warns Of More Terrorists (AJC/AP)

By Kim Gamel, Associated Press Writer

The Atlanta Journal-Constitution, September 21, 2005

UNITED NATIONS — Al-Qaida has spawned a so-called "third generation" of followers skilled in urban warfare and suicide bombings and U.N. sanctions need to be updated to keep up with the changing tactics, a report warned Tuesday.

The committee monitoring sanctions against the terror network and the Taliban said the arms embargo, travel ban and assets freeze have been effective but "the combination of sanctions has still not achieved its full potential."

"Al-Qaida continues to evolve and adapt to the pressures and opportunities of the world around it and the threat of a significant attack remains real in all areas," the group said in a report to the U.N. Security Council.

"At the same time, there has been a revival of the threat from the Taliban," it said, adding that recent evidence suggests the remnants of Afghanistan's ousted hard-line regime have access to more money.

The report, which was dated Sept. 9 and contained recommendations that will be considered by the U.N. Security Council, was released as Afghanistan faced the fiercest fighting in Afghanistan since U.S.-led forces invaded in late 2001, with more than 1,200 people killed in the six months leading up to Sunday's historic legislative elections.

Sanctions currently require all 191 U.N. member states to impose a travel ban and arms embargo against Afghanistan's former Taliban leaders, Osama bin Laden and his terror network and those "associated with" them, and to freeze their financial assets.

The committee recommended more measures to clamp down on terror financing and said the Security Council should consider broadening the arms embargo to keep the groups from obtaining military-quality materials or using chemical, biological or nuclear weapons.

It said al-Qaida is seeking to stage more massive attacks to gain media exposure and an effective embargo would force militants to use less efficient equipment or risk discovery trying to procure more effective means.

"Terrorist tactics have evolved over the past several years and the (monitoring) team believes the arms embargo should change with the times," the report said.

It said no state had reported an attempt to breach the arms embargo but it noted implementation often was complicated in some post-conflict regions or areas beyond government control, such as in Somalia and Afghanistan.

The committee's report said al-Qaida's message remains the same but its operations have expanded to comprise three groups — bin Laden and his deputies, fighters who trained in Afghanistan and new recruits alienated by world events who form cells locally.

It described the new recruits as a third "new and growing generation of supporters who may never have left their countries of residence but have embraced the core elements of the al-Qaida message."

"These cells are emerging as the main threat posed by al-Qaida terrorism today," the report said. "They are bound to the al-Qaida leadership by an overall unity of purpose but remain independent, anonymous and largely invisible until they strike."

They often receive training from "the veterans of Afghanistan or other areas of conflict" or travel to Iraq to gain skills in urban warfare, bombmaking, assassination and suicide attacks, then return home where they pose an increased threat.

The report came more than a month after the Security Council adopted a resolution expanding the sanctions to spell out for the first time who is included among associates of al-Qaida and the Taliban.

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It also stated that people who finance or plan acts to support the outlawed groups and who recruit or provide weapons for bin Laden, al-Qaida, the Taliban "or any cell, affiliate, splinter group or derivative thereof" will face sanctions.

PATRIOT ACT:

Librarians Must Stay Silent In Patriot Act Suit, Court Says (NYT)

By Alison Leigh Cowan

The New York Times, September 21, 2005

The librarians who challenged the nation's antiterrorism act must continue to keep quiet about their role in the case while a federal appeals court reviews the order of confidentiality that bars them from speaking out, the court ruled yesterday.

A three-judge panel of the United States Court of Appeals for the Second Circuit in Manhattan handed the federal government a partial victory yesterday in agreeing to a temporary stay of a lower court ruling that would have allowed the plaintiffs, as of today, to discuss the case. Government lawyers had argued that they needed the stay to give them time to appeal the lower court decision.

At least two members of the appellate panel echoed those arguments. "Absent a stay, this appeal is moot," Judge Sonia Sotomayor commented during the questioning.

In the case involved in the dispute, the F.B.I. sent a library consortium in Connecticut a demand, known as a national security letter, that it turn over patron information and not disclose the request publicly.

Lawyers for the American Civil Liberties Union have argued that the consortium's constitutional right to free speech was violated because the confidentiality order prevented it from participating in the debate over the USA Patriot Act while Congress was considering whether to reauthorize the law.

Emerging from the courthouse yesterday, Ann Beeson, the lead lawyer for the civil liberties group, called the appeals court ruling "extremely frustrating." She said it was unfair that "the government can say all they want about the Patriot Act," but not people like the plaintiffs who have firsthand knowledge of its reach. She said she took some comfort from the appellate court's promise to expedite the appeal.

The case landed in Federal District Court in Bridgeport this summer, with government lawyers citing national security as the grounds for sealing large parts of the record.

On Sept. 9, Judge Janet C. Hall ruled in Bridgeport that the nondisclosure provision in the national security letter violated the plaintiffs' First Amendment rights. She said she would allow the plaintiffs to identify themselves, but gave the government until yesterday to appeal.

Though the plaintiffs' organization has not been named in the various proceedings, a close reading of the court record suggests that it is Library Connection in Windsor, Conn.

A search of a court-operated Web site offered a pointer to the plaintiffs' identity. There, a case numbered 3:2005cv01256 is listed under the caption, "Library Connection Inc. v. Attorney General."

HOMELAND RESPONSE:

FBI, Industry Offer Anti-ecoterror Award (KCS)

By Elizabeth M. Gillespie

The Kansas City Star, September 21, 2005

SEATTLE - The FBI and a building industry group said Tuesday they will begin offering $100,000 rewards for information leading to the arrest and conviction of ecoterrorists.

The main target is the Earth Liberation Front, a group that has claimed responsibility for setting fires at construction sites in housing developments, calling attention to what it sees as the growing problem of suburban sprawl.

"While ELF used to spike trees and sabotage logging equipment, they're now firebombing neighborhoods and burning down apartment complexes," Lyle Fox, president of the Building Industry Association of Washington, said in a news release.

The "increasingly brazen" attacks raise the likelihood that someone will be hurt or killed, he said.

ELF is an underground movement with no public leadership, membership or spokesperson. E-mails seeking comment were not immediately returned.

The FBI estimates that ecoterrorist groups have committed more than 1,100 crimes in the United States since 1976, causing about $110 million in property damage.

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The builders group claims ecoterrorists have caused nearly $8 million in property damage since 1996 in Washington state, much of it in housing developments. California has taken a $53 million hit, and Oregon has had more than $3 million in damage, according to the group's estimates.

In a statement Tuesday, the Seattle FBI office said it was investigating several arsons and attempted arsons in Washington state over the past year and a half that seem to have ties to ELF.

Builders Want To Catch Ecoterrorists (SEAPI)

By TRACY JOHNSON, SEATTLE POST-INTELLIGENCER REPORTER

Seattle Post-Intelligencer, September 21, 2005

They've used crude incendiary devices made from milk jugs to torch new homes and construction sites in Western Washington, signing their work "ELF."

Now the Seattle FBI has made catching so-called ecoterrorists such as the Earth Liberation Front a top priority, and a powerful state builders' group is throwing in cash to help.

On Tuesday, the Building Industry Association of Washington announced a reward of up to $100,000 for information leading to the arrest and conviction of activists who damage homes and construction sites in Washington and claim to be part of ELF.

"It's only a matter of time before someone is hurt or killed by ELF terrorists," association president Lyle Fox said.

He said housing "is a basic necessity of life" and that arson is only hurting families.

The group has claimed responsibility for increasingly frequent acts of vandalism against new housing, sport utility vehicles and the genetic-engineering industry in the name of defending the environment.

ELF "has emerged as a serious terrorist threat," said FBI Special Agent in Charge Laura Laughlin, and "arson, which has resulted in millions of dollars in damage, is the crime of choice."

Arson has caused nearly $8 million in damage in Washington since 1996, according to the builders association. In the past two years, two under-construction homes in Snohomish County were burned down and 13 incendiary devices were found at three nearby developments. A sign advertising lots for sale near Bellingham also was burned.

Two attempts were made earlier this year at home-construction sites in Redmond and Sammamish, where investigators found incendiary devices. At the Sammamish site, someone left a spray-painted sheet that read in part, "Wheres (sic) all the trees? ... ELF."

On an ELF Web site, someone claiming to live in the Sammamish area condemned the group's acts for endangering and frightening people, particularly children. In an anonymous response, someone explained, "you people dont even realize the magnificence of what you are bulldozing to erect some stupid shopping mall. I for one, refuse to go quietly."

The FBI and other agencies have arrested 19 people in connection with crimes of environmental- or animal-rights-activism since early 2004.

P-I reporter Tracy Johnson can be reached at 206-448-8169 or tracyjohnson@seattlepi.com.

FBI, Building Industry Offer Reward For Capturing Ecoterrorists (SEATIMES)

The Seattle Times, September 21, 2005

The Building Industry Association of Washington, the state's homebuilders lobby, yesterday offered a $100,000 reward for information leading to the arrest and conviction of Earth Liberation Front (ELF) members suspected of arsons and attempted arsons in Washington state.

The FBI has linked ELF, a loosely knit group that has taken aim at what it regards as "urban sprawl," to four arsons and attempted arsons in Western Washington over the past 18 months. Those include the torching of two homes under construction in Snohomish County in April 2004.

In some cases, ELF claimed responsibility for the crimes, the FBI said.

"ELF's increasingly brazen attacks on urban targets have BIAW and the FBI worried that it is only a matter of time before someone is hurt or killed by ELF terrorists," said BIAW President Lyle Fox. In Washington alone, ELF members have been responsible for nearly $8 million in property damage since 1996, he said.

Appearing at a news conference with Fox, Laura Laughlin, FBI special agent in charge of the Seattle office, said such "special-interest extremism" linked to ELF and the Animal Liberation Front (ALF), has emerged as a serious domestic-terrorist threat.

The FBI released the following list of arsons and attempted arsons that targeted new housing construction in Washington in the past 18 months:

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· April 10, 2004: Two homes under construction in Snohomish County were destroyed. A total of 13 incendiary devices were found at three different housing developments nearby. ELF claimed responsibility in a note left at the scene.

· July 6, 2004: A sign advertising lots for sale at a home-construction site near Bellingham was burned. ELF claimed responsibility.

· March 3, 2005: Two incendiary devices were found at a housing-construction site in Redmond. There was no claim of responsibility, but the devices were similar to those ELF previously used.

· April 13, 2005: Someone tried to burn down a home under construction in Sammamish but an incendiary device didn't ignite. ELF claimed responsibility on a large banner at the scene.

Halted Listing Pulls NYSE Into Eco-terror Inquiry (TIMES)

By James Doran, Wall Street Correspondent

The Times (UK), September 21, 2005

THE New York Stock Exchange has been drawn into a United States Government inquiry into eco-terrorism, after the market postponed listing shares in Huntingdon Life Sciences, the research company, which is under attack from extremists because of its links to animal experimentation.

The Senate Committee on Environment and Public Works has launched an investigation into Stop Huntingdon Animal Cruelty (SHAC), the activist organisation that has waged several animal rights campaigns in Britain, including a high-profile crusade against Huntingdon.

The committee will hold its first hearing on the group next month, which is expected to focus on the recent decision by the NYSE to delay a listing of Huntingdon's shares.

John Thain, the NYSE chief executive, and Catherine Kinney, its president, are expected to be asked to testify before the committee and to explain their reasons for not going ahead with the Huntingdon listing as scheduled.

"We will hold a hearing next month on SHAC and its tactics against Huntingdon Life Sciences," Bill Holbrook, a spokesman for the committee, said.

The committee launched a wider investigation into eco- terror in May by examining the activities of the Animal Liberation Front (ALF) and the Earth Liberation Front (ELF). The hearing in October will mark the first time that the committee has investigated the activities of SHAC — which aims to stop all companies from doing business with Huntingdon or trading in its shares in an attempt to force the drug-testing group out of business.

The NYSE has failed to explain why it pulled out of the listing at the last minute — a move that angered Huntingdon directors, who had gathered at the NYSE for a celebratory breakfast when the decision to stop their listing was announced by Ms Kinney.

Senator James Inhofe, of Oklahoma, chairman of the committee on the environment, wrote to Mr Thain and Ms Kinney two weeks ago to demand an explanation for the postponement. "It seems to me unimaginable that this country's worldwide symbol of the integrity of the capital markets, the NYSE, would capitulate to threats, or even the mere threat of threats, from a single issue extremist group," he wrote. He added that the NYSE's decision set a dangerous precedent.

Coast Guard Commandant Cites Security Risk (AJC/AP)

By Pat Milton, Associated Press Writer

The Atlanta Journal-Constitution, September 21, 2005

NEW YORK — The Coast Guard says millions of pleasure craft, fishing boats and ferries fall outside its security nets, hampering its ability to safeguard thousands of miles of coastline against terrorist attack.

"How do we include recreational boats — some 58 million in this country — into our security regime without infringing upon the liberty of boaters?" Admiral Thomas Collins, commandant of the Coast Guard, said Tuesday.

Boaters are proud people who "toot around on the water" and don't want the government to tell them where they can go, Collins said following an address at the U.S. Maritime Security Expo, a conference on protecting ports, harbors, ships and cargo against terrorists, thieves and other threats.

"But some of those yachts are big," he said, "and can hold lots of good stuff and bad stuff."

The Coast Guard has identified 50 areas in which the maritime system is vulnerable to a terrorist attack, Collins said. It is working on solutions to blend everyone's needs: to close the gaps and mitigate the risks while not impinging on boaters' rights or interfering with the flow of commerce.

Specific initiatives will be presented to President Bush as part of a National Maritime Security Plan.

Among the Coast Guard's targets are recreational boats, an estimated 110,000 fishing vessels, and ferries that carry tourists and commuters, Collins said.

"How do we screen for explosive devices on a ferry system that moves millions of people, particularly commuters, without constipating the whole system?" Collins asked.

Better technology for detection of explosives on ferries and cargo ships is needed, he said.

"Right now the most capable technology we have," Collins said, "is dogs."

At least 95 percent of the goods coming into the country arrive on ships, according to Collins, and cargo security is crucial.

But Collins said he believes it is "illogical" to screen each cargo container, and inspecting millions of containers would be impossible.

"The issue is inspecting the right one," he said.

That goal can be reached by targeting those ships that have been identified through intelligence reports as having anomalies in the crews, cargo or containers, he said.

"You want to inspect the highest risk," he said, "not every ship that comes into our port."

Alerts Sought In Many Tongues (WT)

By Chris Baker

The Washington Times, September 21, 2005

Television and radio stations should be required to air emergency disaster and security warnings in multiple languages, according to a petition that several trade and activist groups filed with the Federal Communications Commission yesterday.

The Independent Spanish Broadcasters Association, the Minority Media and Telecommunications Council and the United Church of Christ urged the FCC to require broadcasters to air multilingual warnings during emergencies.

Broadcasting & Cable, an industry publication, reported the petition on its Web site.

The petition cited Hurricane Katrina, which knocked the only Spanish-language TV station in New Orleans off the air for more than a week, robbing residents who speak only Spanish of "vital information concerning the path of the storm, where and how to seek shelter, and how to remain healthy and safe in the aftermath of the storm."

The FCC began considering new requirements for emergency broadcasts last year. No matter what the agency decides, the groups behind the petition said the FCC should make multilingual warnings mandatory during the interim.

"After Katrina, everyone is hoping there won't be a next time. Unfortunately, with Mother Nature, there always is," said Gloria Tristani, managing director of the United Church of Christ's Office of Communications and a Democrat who served as an FCC commissioner during the Clinton administration.

Frank Montero, acting executive director of the Independent Spanish Broadcasters Association, said that if the FCC adopts a requirement for multilingual warnings, "it must be feasible. My group doesn't want to do anything that wants to make non-Spanish station opponents to this. This really has to be a collaborative effort."

Katrina response

Speaking of the FCC: The agency's chairman, Kevin J. Martin, a Republican, announced plans last week to spend $211 million to begin rebuilding the communications infrastructure in the Gulf Coast states.

Mr. Martin also said the FCC will create a bureau to coordinate the agency's future disaster management work, and that he will appoint a blue-ribbon panel to study the FCC's response to Katrina.

Nielsen touchdown

ABC affiliate WJLA-TV (Channel 7) drew an average 587,900 households during the Washington Redskins' triumph over the Dallas Cowboys on "Monday Night Football" this week, according to Nielsen Media Research Inc.

The game delivered about 244,500 households to WJLA's late news.

Mr. Plotkin responds

Last week, this column reported on the swipe D.C. Mayor Anthony A. Williams took at the news media on his new blog. Hizzoner even took a jab at Mark Plotkin, political commentator at WTOP (1500 AM and 107.7 FM).

"Obviously, the mayor has too much free time. I'm glad to provide any momentary relief from the rigors of office and extensive world travel," Mr. Plotkin said.

Emmy time

A few local television operations picked up honors at the News and Documentary Emmy Awards Monday in New York, including the Silver Spring-based Discovery Channel and "Nightline," which is produced here but soon may be relocated to New York, according to the chatter around ABC News' Washington bureau.

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WAR NEWS:

Clash In Basra Brings Iraq War Home For Britain (BSUN)

By Todd Richissin

The Baltimore Sun, September 21, 2005

LONDON -- Great Britain was reminded Tuesday it was in a war in Iraq, the fighting arriving in TV broadcasts and newspaper front pages, showing a British soldier engulfed in flames pulling himself out of his tank in the southern city of Basra.

As American officials announced that insurgents had killed 10 American troops and security officers in attacks across Iraq since Friday, the British found themselves consumed in Basra, which had been one of the most stable parts of the country.

On Monday British soldiers there fought not insurgents but Iraqi police whom the British had helped train.

Television showed the British soldier escaping his tank, the soldier on fire, jumping to the ground and limping out of camera range as Iraqi civilians threw rocks and gasoline bombs. They attacked British forces and rioted in the streets after an armored vehicle was used in an effort to rescue two commandos.

The incident began when British military officials accused Iraqi police of arresting the commandos and then handing them over to Iraqi militias. According to varying accounts by Iraqi authorities, the commandos, wearing civilian clothes, had fired on a police patrol, or they were detained for behaving suspiciously and being seen to collect information.

British forces used armored vehicles to knock down the walls of the Iraqi police station where the commandos were believed to be held, and the violence soon involved hundreds of Iraqis and the burning British tank. The two commandos were later found at a house in the city, British authorities said.

"We don't actually know the details of why these people were handed over -- whether it was under threats or by collusion, or whatever," the British defense secretary, John Reid, told the BBC. "What we do know is that under the law they should have been handed back to the British forces themselves."

"It is a very unfortunate development that the British forces should try to release their forces the way it happened," Haider al- Ebadi, an adviser to Prime Minister Ibrahim al-Jaafari, told a news conference in Baghdad. The prime minister's office then is sued a statement saying Iraq's interior ministry was investigating.

"We will await the outcome of that inquiry," the statement said. "In the meantime we urge all sides to remain calm."

The governor of Basra said the commandos had indeed been handed over to the al-Mahdi Army, the militia controlled by radical Shiite cleric Muqtada al- Sadr. "Police who are members of the militia group took them to a nearby house after jail authorities learned the facility was about to be stormed," said the governor, Mohammed al-Waili.

Meanwhile, an attack Monday in Mosul killed a State Department security officer along with three private security guards as their convoy left the U.S. embassy's regional office there, while two bombings Tuesday near Ramadi in Anbar province each killed two soldiers. Tuesday afternoon, an American military policeman was killed by a home made bomb.

Another American soldier was killed Friday when a bomb went off near his tank during patrol operations. Those latest deaths raised to more than 1,900 the number of U.S. service members who have died in Iraq since the 2003 invasion.

In London, the pictures of the violence made the war seem very real.

Video of the burning soldier in Basra was shown repeatedly Tuesday on the BBC and other news stations but the photographs in newspapers seemed more haunting, showing a man frozen in flames.

The pictures were certainly among the most gripping and disturbing of the war, the spectacle of a man on fire, somehow isolated further by the height of the tank he stands upon, looking for escape as children who looked to be 12 or 13 years old aimed to stone him.

In one photograph, distributed by Reuters, the soldier is standing atop the tank, bent over, with his hands apparently on his knees as if he is trying to catch his breath.

His face cannot be seen. He is wearing a helmet which appears to be on fire, but the flames are blowing backward, over his shoulders and to the middle of his back and not forward.

In the background, fires ignited by other thrown gas bombs can be seen rising high above the tank's height.

More than 70 percent of the British public opposed involvement before the war began. Polls since then show more than half of the country is in favor of pulling British troops out now. And if little progress was evident in Iraq before the images of the soldier afire, the photos seemed to show a country going backward.

Tension has reportedly been growing between British troops and the Shiite police and militias that operate in Basra. Iraqi authorities say the police force has been infiltrated by Shiite militiamen from three groups: the Mahdi Army; the Badr Brigade, the

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armed wing of the Supreme Council of the Islamic Revolution; and Hezbollah in Iraq, a small group based in the marshlands in the south.

Basra, with 1.5 million residents, was considered one of Iraq's safer big cities, escaping the Sunni-led violence in the north. But in the last two months there have been dozens of murders and at least eight people in U.S. and British diplomatic convoys have been killed.

General Defends Basra Mission (USAT)

By Steven Komarow And César G. Soriano

USA Today, September 21, 2005

BAGHDAD — A British commander, defending the actions of his troops during violence in Basra, said Tuesday that he ordered an armored rescue of two soldiers arrested by Iraqi police only after learning they had been handed over to a radical Muslim militia.

Efforts to rescue the two British soldiers touched off a melee in which a mob attacked British armored vehicles with rockets and firebombs.

"From an early stage, I had good reason to believe that the lives of the two soldiers were at risk, and troops were sent to the area of Basra near the police station to help ensure their safety by providing a cordon," Brig. John Lorimer said in a statement.

Lorimer said authorities in Basra appeared to ignore orders from Iraq's central government to transfer the two soldiers to British authority.

Three British servicemembers were injured during the melee, though none of their injuries was life-threatening. The two rescued soldiers are in good health.

The images of a mob attacking British forces in Basra resonated in Britain, fueling anti-war sentiment. "A significant portion of the population of Basra will now see the British as a hostile occupation force," said Paul Ingram, an analyst at the British American Security Information Council, a think tank.

The picture of a British soldier on fire jumping out of an armored vehicle was plastered on the front page of many newspapers Tuesday. The conservative Daily Mail, which had backed the war, suggested in an editorial that it was time for the British government to rethink its position.

Most of Britain's 8,500 troops are in southern Iraq, a heavily Shiite area that had been relatively peaceful. But there have been recent signs of unrest around Basra, one of Iraq's largest cities.

Three British soldiers have been killed by roadside bombs this month. Monday, an Iraqi reporter working for The New York Times in Basra was found shot to death.

Shiite groups have been vying for control in the city. The "religious parties and their militias" are filling a power vacuum created by an ill-equipped and understaffed government police force, said Muhammed Al-Askari, a military and political analyst in Baghdad.

The standoff Monday suggested local police have been infiltrated by members of the militias.

"It is of deep concern that British soldiers held by the police should end up being held by militia," Lorimer said.

The incident has also raised tensions between British forces and their Iraqi government allies.

Haidar al-Abadi, a spokesman for Iraqi Prime Minister Ibrahim al-Jaafari, questioned British claims that the Iraqi government in Baghdad ordered local police to turn the two soldiers over to British control. "The matter was not treated centrally from Baghdad," he said.

The British action was condemned by Basra's provincial governor, Mohammed al-Waili, who called it "barbaric, savage and irresponsible."

The standoff began Monday when Iraqi police arrested two members of Britain's elite Special Air Service, who were on an intelligence mission, according to a British defense source.

British officials asked that the soldiers be turned over to British authority but were rebuffed, Lorimer said. An armored patrol was then dispatched to a police station where the men were believed to be held, Lorimer said. British forces entered the station, during which time "minor damage" was done to a prison compound, he said.

Once the troops confirmed the men were not held there, they went to a home in Basra where the men were being held by militia members. No one was arrested in connection with the rescue mission.

Lorimer said calm had returned to Basra and the incident would not poison relations between British and Iraqi security forces.

"It was a difficult day yesterday, but we have put this behind us and will move on," he said.

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Attacks In Iraq Kill 9 Americans, Including State Dept. Aide (NYT)

By Richard A. Oppel Jr. And Sabrina Tavernise

The New York Times, September 21, 2005

BAGHDAD, Iraq, Sept. 20 - In one of the most lethal stretches for Americans in Iraq in recent months, nine soldiers and security officers were killed in four attacks in the past two days.

British military officials in Basra, in the south, also faced harsh criticism from the Iraqi government on Tuesday over their siege of a police station there.

Among the attacks on Americans was a suicide bombing on Monday morning that killed a State Department security official and three security contractors as their convoy left the regional American Embassy office in Mosul.

A lone attacker driving an explosives-packed car struck the second of three armored sport-utility vehicles in the convoy as it left the compound, killing the official and contractors instantly, and wounding two more in the other vehicles, a diplomatic official in Baghdad said.

A statement by Secretary of State Condoleezza Rice identified the State Department employee as Stephen Eric Sullivan, an assistant regional security officer.

In Basra, the bizarre fight on Monday between some police officers and British soldiers threatened to further destabilize the region, a Shiite-dominated area that had been relatively calm but has had a surge of skirmishes among rival Shiite militias that control much of the Iraqi police and military forces there. The fight broke out when British forces attacked a police station after the detention of two British soldiers apparently disguised in local dress.

Offering new details about the incident, the British military accused the Basra police of turning over the soldiers to hostile Shiite militiamen. That action was a crucial factor in the decision to begin a rescue attempt and knock down the police station's walls with armored vehicles, British officials said.

Pictures of the fighting included images of a British soldier aflame as he scrambled from his burning armored vehicle, and of hundreds of Iraqis throwing rocks and Molotov cocktails at the troops. The British military said no soldiers were seriously wounded.

Ultimately, the two soldiers were not at the jail but were later rescued from a home in Basra, the British military said.

The governor of Basra Province, Muhammad al-Waili, was quoted by The Associated Press as saying militiamen loyal to the rebel Shiite cleric Moktada al-Sadr had taken custody of the soldiers because of the looming British attack on the police station. He also called for the soldiers to be handed back to the Basra authorities for trial.

The militiamen have been furious with the British military for detaining two senior officials in Mr. Sadr's organization in Basra this week. And Shiite militias have either claimed responsibility or have been suspected in several attacks against British forces in recent months.

In London, a senior British military official interviewed by telephone refused to say how the troops eventually found the home where the two soldiers were held or who the military believed was ultimately behind their detention. British officials also said they did not know whether the Iraqi police who turned the soldiers over to the militia did so because they were in league with the group or because of fear.

"We don't actually know the details of why these people were handed over - whether it was under threats or by collusion, or whatever," the BBC quoted Defense Minister John Reid as saying. "What we do know is that under the law they should have been handed back to the British forces themselves."

The British military said joint British-Iraqi police patrols continued Tuesday. But as coalition forces promote gains in training Iraqi security forces, the skirmish on Monday and the warring statements that followed suggested a breakdown of trust.

In a statement on Tuesday, the commander of the British 12th Mechanized Brigade in Basra, Brig. John Lorimer, said the Iraqi interior minister had personally ordered the release of the British soldiers on Monday but that his order "seems to have been ignored."

However, Haidar al-Ebadi, spokesman for Prime Minister Ibrahim al-Jaafari, said the police had been right to arrest the soldiers and denied that the Interior Ministry had ordered their release. The soldiers were arrested, he added, because they "had been acting suspiciously in civilian clothes without adequate papers."

"For two guys to be collecting information in civilian clothes in the current tense situation in Iraq and in Basra, the reaction of the Iraqi police is understandable," he said. "It was a very unfortunate development that British soldiers should try to release their soldiers the way it happened."

Hours after those comments, Mr. Jaafari's office issued a statement saying there was no "crisis" between Iraq and the British military.

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Reuters reported that video of the soldiers taken while they were in jail showed them "unshaven and looking nervous as police looked over wigs, Arab headdresses, antitank missiles and electronic equipment, all apparently used in their mission."

In addition to the bombing in Mosul, the United States military reported that four Army soldiers assigned to the Second Marine Division were killed in two bombings on Monday during fighting in Ramadi, in Anbar Province.

A homemade bomb also killed a military policeman on Tuesday afternoon 75 miles north of Baghdad.

Embassy Aide Among 9 Americans Killed In Insurgent Attacks In Iraq (WP)

By Jonathan Finer And Omar Fekeiki

The Washington Post, September 21, 2005

BAGHDAD, Sept. 20 -- Nine Americans were killed in insurgent attacks across Iraq in the last two days, military and diplomatic sources said Tuesday. The dead included an embassy official and three security contractors killed Monday morning in a suicide car bombing in the northern city of Mosul.

Witnesses in Mosul said a lone driver smashed his red sedan into the second vehicle in a convoy of three sport-utility vehicles, triggering a fiery explosion. Security forces immediately cordoned the area and administered first aid, but the contractors and an assistant regional security officer, Stephen Eric Sullivan, had died instantly, according to a U.S. official in Baghdad who spoke on the condition of anonymity.

Two others riding in the diplomatic convoy, which was leaving a U.S. Embassy satellite office, suffered minor injuries.

"Steve was a brave American, dedicated to his country and to a brighter future for the people of Iraq," Secretary of State Condoleezza Rice said in a written statement. "Our thoughts and prayers are with Steve's family."

Sullivan, whose job involved coordinating security and overseeing contractors, was the third American diplomat killed since the 2003 U.S.-led invasion of Iraq. Diplomatic security agent Edward J. Seitz died in October in a mortar attack on a U.S. base near Baghdad International Airport. The following month, James Mollen, an American special adviser to Iraq's Higher Education and Scientific Research Ministry, was shot to death near the capital's fortified Green Zone.

Also Tuesday, the U.S. military announced the deaths of four soldiers in two roadside bombings in the city of Ramadi, 60 miles west of Baghdad, and the death of another soldier whose vehicle was hit by a roadside bomb 75 miles north of the capital. The soldiers' names were not released.

According to the Pentagon, 1,902 U.S. service members, including civilian employees of the Defense Department, have been killed in Iraq since the March 2003 invasion.

The recent rash of violence against Americans came as British and Iraqi officials offered widely contrasting public accounts of the circumstances that led to clashes Monday between British soldiers and Iraqi police in Basra, Iraq's second-largest city. A British armored vehicle smashed into a police station in an attempt to force the release of two British soldiers who had been detained.

Haider Abadi, a spokesman for Prime Minister Ibrahim Jafari, called the British actions "very unfortunate" and said police had acted correctly in detaining the men, who were behaving "very suspiciously." They were wearing civilian clothes and asking for information in the streets, he said, but would not elaborate.

"We hoped they would solve this problem with the central government," Abadi said. "But the British forces decided to act individually, and the military operation to release the detainees happened the way we saw it. This is wrong, and it is not a healthy way to deal with problems."

Throughout the day, Iraqi and other Arab television stations broadcast images of the two British men, clad in dark pants and T-shirts, seated in front of a table bearing what appeared to be a large quantity of weapons and ammunition purportedly discovered in their possession. One man had scrapes and small cuts on his head and the side of his face.

Brig. John Lorimer said in a written statement that under Iraqi law, the police were required to hand over the men to coalition forces, an outcome he said he and the British consul general had sought to negotiate.

Lorimer said that the Iraqi interior minister had personally ordered the British personnel released and that the order was ignored. Instead, he said, the two were handed over to a local Shiite Muslim militia.

"I became concerned about the safety of the soldiers after we received information that they had been handed over to militia elements," Lorimer said. "As a result, I took the difficult decision to order entry to the Jamiat police station."

British troops set a cordon around the station and were attacked with "firebombs and rockets by a violent and determined crowd," Lorimer said. An armored vehicle plowed through one wall of a building, but the men were not found inside. They were later discovered in a house elsewhere in the city.

"It is of deep concern that British soldiers held by the police should end up being held by militia," Lorimer said. "This is unacceptable, and I should stress that we won't hesitate to take action against those involved in planning and conducting attacks against coalition forces."

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Police officials in Basra have said publicly that the primary loyalty of many of their officers is to Shiite militias such as the Badr Organization, which is affiliated with the Supreme Council for the Islamic Revolution in Iraq, the country's dominant Shiite political party. Unrest erupted in Basra this week after the arrest of two members of the Mahdi Army, a militia loyal to the outspoken Shiite cleric Moqtada Sadr and a rival of the Badr group.

Lorimer did not specify which militia he believed was involved in the British detentions.

Elsewhere in Iraq on Tuesday, government officials said that residents of the northwestern city of Tall Afar who fled during a large U.S.-Iraqi offensive against insurgents this month had been invited to return to their homes and that about $50 million would soon be spent to help rebuild the city.

Abadi, the prime minister's spokesman, said more than 800 suspected insurgents were killed or captured during the operation -- the largest urban assault since the offensive in Fallujah in November.

"The terrorists have received a deadly blow in Tall Afar," Abadi said. He cautioned, however, that intelligence indicated some insurgents were attempting to slip back into the city among returning residents.

Fourteen civilians were killed and 25 wounded during the fighting, he said, adding that residents whose homes and property were damaged would be compensated. The government is also establishing five police stations in a city largely devoid of police presence for much of the past year, he said.

"We have information that some of the terrorists infiltrated the refugee camps," said Brig. Gen. Abdul Aziz Muhammed-Jassim, commander of the Defense Ministry operations room. "Thus, the process of checking people at the entrances to the city is very important to make sure they don't enter the city again."

Abadi said Tall Afar would be secure enough for citizens to vote in the Oct. 15 referendum on Iraq's draft constitution. In Baghdad on Tuesday, the Iraqi Islamic Party, the country's largest Sunni Muslim political organization, announced in a written statement its "total rejection" of the constitution and urged followers to vote against it. Party leaders had previously suggested they might remain neutral.

Sunnis are widely expected to oppose the constitution, which will fail if two-thirds of voters in at least three provinces vote against it. Among several aspects of the document opposed by many Sunnis is the devolution of power from the central government to regions, a process some fear could lead to Iraq's dissolution.

"We appeal to the people's will represented by the patriotic forces, the civil society institutions and individuals to exercise their rights in rejecting this draft," the party's statement said.

Also Tuesday, the U.S. military announced the arrest of two men with medical training who are suspected of being senior members of al Qaeda in Iraq, the country's main insurgent group. Anis Abdul Razaq Ali Muhammad and Mazen Mahdi Salih Mahdi Khudayr are alleged to have established facilities to treat wounded insurgent fighters and were apprehended in raids in Baghdad in late August, the military said.

Basra Violence Challenges U.S. Strategy (WSJ)

By Yochi J. Dreazen

The Wall Street Journal, September 21, 2005

A surge of violence in Basra, Iraq's second-biggest city, has raised new doubts about the U.S.-led coalition's strategy for pacifying southern Iraq by giving free rein to Shiite religious militias with ties to neighboring Iran.

Backed by the U.S., the British forces in southern Iraq have effectively looked the other way as Shiite Muslim religious parties solidified their control over the city's government and as militia members joined the local police force while maintaining loyalty to militia leaders. The policy choice rested on an unspoken trade-off, with the British banking on the militias' ability to prevent insurgents from sowing instability or endangering Basra's ports and oil fields.

The coalition strategy for Basra has left militiamen in control of Basra's police force and Shiite fighters in plain clothes circulating openly in the city. A combination of the two forces has been blamed for the abduction and murder of two journalists, including one American. The forces are also at the center of the growing international dispute with Britain that erupted this week after British tanks crashed through a Basra prison and British forces raided a private house to free a pair of undercover commandos who had been arrested by Iraqi police and then handed over to militiamen.

The new violence has sparked fears that the Shiite militias aren't under the control of either the British forces in the city or the central government in Baghdad. In the case of the British soldiers, the Interior Ministry in Baghdad ordered officials in Basra to release the two men, but the demands were ignored.

"The British policy was the triumph of short-term stability over long-term success: The Shiite militias metastasize like cancer when they find out they can get away with things," said Michael Rubin, a former adviser to the American occupation authority in Iraq now at the American Enterprise Institute. "We always think we're playing the Iraqis, but they always end up playing us."

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The uptick of violence in southern Iraq comes amid unrelenting insurgent attacks throughout the country. Eight American soldiers were killed in roadside attacks yesterday, while a suicide car bombing near the northern city of Mosul killed a State Department security officer and three American security contractors.

It is also happening as Shiites ratchet up their demands for far-reaching regional autonomy in southern Iraq ahead of a key referendum next month on the country's draft constitution. Shiite leaders are pressing for the creation of an oil-rich quasistate comprising Basra and eight neighboring provinces, a step fiercely opposed by Sunni Muslim Arabs, who complain that Shiite leaders are using militias and government forces to intimidate them through mass arrests and targeted killings.

The new tensions in Basra stem from the Shiite religious parties' growing impatience to impose strict religious law across the region and establish a largely independent regional government, said Kenneth Katzman, an Iraq expert at the Congressional Research Service, which provides analysis to U.S. lawmakers. He noted that Shiite militias in Basra have already begun effectively segregating the city's schools, beating up or arresting alcohol sellers and forcing men to wear beards.

"The militias and the parties want Islamic law and a form of Islamic government in Basra, and they're increasingly impatient with anyone trying to restrain them," he said. "What we're seeing is the creeping Islamization of that entire region."

The Shiite parties' main instrument for expanding their power over Basra has come from their ability to place militiamen in the city's police force. In an interview with a British newspaper this summer, Basra's police chief, Gen. Hassan al-Sade, admitted that three-quarters of his force of 13,600 men were openly loyal to the religious parties. Western visitors to the city say police cars there are emblazoned with posters of the Shiite parties.

"You have fighters from the different militias in the police force who don't give their allegiance to the police commander or the governor," said Peter Khalil, a former security adviser to the occupation authorities who now works for the Eurasia Group, a consulting company in New York. "These guys have just seeped in for months, with no transparency in their recruitment and no vetting of their backgrounds."

Sunni residents of Basra have complained for months that Shiites are using government security forces to conduct mass arrests and targeted killings designed to intimidate them. Shiite leaders have denied the accusations, but tensions between the two groups continue to rise.

Three British soldiers have been killed so far this month in roadside bombings that London attributed to Sunni militants who infiltrated the region from the restive central province of al-Anbar. The Sunni fighters' ability to carry out the attacks in a predominantly Shiite region suggested that embittered Sunni residents of the Basra area have begun offering shelter and other logistical support to militants from other parts of the country, Mr. Katzman said.

"The fact that Sunnis there are now welcoming insurgents from the rest of Iraq is obviously very worrisome," he said.

Sadr Militia's New Muscle In South (CSM)

By Jill Carroll

The Christian Science Monitor, September 21, 2005

BAGHDAD - Moqtada al-Sadr, the young Shiite cleric who promised to disband his militia after clashing with US forces last April, proved this week that he remains a potent threat to both coalition troops and Iraq's fledgling government.

In a dramatic battle against British forces in Basra, Mr. Sadr quickly mobilized scores of supporters to descend on tanks, setting at least one alight and injuring three British soldiers on Monday.

While the British Army's strategy of appeasement has brought quiet to the Shiite-dominated south for some time, it has allowed militias such as Sadr's Mahdi Army to quietly regroup and flourish. Consequently, Sadr's followers - who have close ties to the city police - have more control of Basra's streets than British troops.

This control has also created a climate of fear among many residents not unlike that under Saddam Hussein. There are whispers that Sadr has established his own sharia courts, which issue rulings based on Islamic law. The Mahdi Army enforces its decisions, Basra residents say.

To build his network of loyal followers, Sadr offers payments to the families of his militia members who died in the fighting in August. Some 3,000 families are dependent on money or other help from the Sadr movement.

When an Iraqi is in poor health in Baghdad, more often than not it's a Sadr movement member who provides aid. Sadr movement officials run the Health Ministry, extending influence from the hospitals to the ambulance service. Posters, stickers, and other memorabilia of Sadr are plastered on Ministry of Health checkpoints, hospitals, and the walls of Baghdad's main ambulance center.

Despite years of community outreach, British forces had no better recourse Monday to free two soldiers arrested by police loyal to Sadr than to ram the jail where they were initially held with tanks. When the British discovered the soldiers were not there, they raided a nearby house where the two were being kept by militia members, according to the British.

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"I have no doubt that there was an institutional desire on the part of the British military to have good relations with as many Iraqis as possible," says Robert Springborg, director of the London Middle East Institute that gave Iraq-bound British solders cultural sensitivity training. "It's much less a military problem than a political problem. [But] the resolution of the problems is beyond the control of the British government ... no one really is in control of this [political] process now and that's worrying."

The spark that caused the violence in Basra was the arrest Sunday of leading Sadr cleric Ahmed al-Fertusi and his assistant by British troops. The British claimed they were responsible for planning attacks on their forces. With tension already high between Sadr followers and British troops, Sadr demonstrators poured into the streets to demand Mr. Fertusi's release.

The next day, two British military personnel disguised as Iraqis engaged in a gun battle with Iraqi police, killing one police officer, according to varying accounts. The police eventually captured the two men. When British tanks arrived to free the detainees, crowds attacked them.

Top Sadr official Abbas Rubaie has charged the two undercover British officers with planting roadside bombs in order to justify a longer military presence in the country.

"What the British are doing in Basra is terrorism. They are attacking [British] troops so they can say 'someone attacked us and we need to stay as long as possible,' " Rubaie said.

A statement from the Sadr movement claimed that the two British undercover officers had also been firing into a crowd of pilgrims Monday going to a local shrine to mark the birth of the Imam Mehdi, the 12th and last Imam, or Shiite saint.

They also charged that when "the people of Basra demonstrated" to stop British tanks from freeing the two officers from jail, the troops fired on the crowd "killing and wounding many of them." They said the British tanks crashed into the jail allowing "150 terrorists" to escape.

Iraqi officials Tuesday condemned the British operation. "It is a very unfortunate development that the British forces should try to release their forces the way it happened," Haider al-Ebadi, an adviser to Prime Minister Ibrahim Jaafari, said at a news conference in Baghdad.

While one of Iraq's major cities, Basra is more like a small town, residents say, where everyone knows everyone. People could once play music outside, unmarried couples could once walk together. But as several Shiite groups vie for power, many worry the militias, particularly Sadr's, have forever changed the mood of their city.

These days saying anything against the Mahdi Army or its rival, the Badr Organization backed by ruling Shiite Islamist party Supreme Council of the Islamic Revolution in Iraq (SCIRI), can be deadly.

"No one trusts anyone," says Ali Abdel Zahara one of few Basra residents willing to discuss the situation and who gave a false name for fear of retribution from the militias. "You can't talk about this, even at home."

He says Sadr has emerged as the most powerful force among the many groups that are controlling different sections of the town and police. "The ones that are in control are the tribes and the parties. Each one in the police is a representative of his party or his tribe," says Zahara. "Sadr is the biggest because they always solve the problems they face with violence."

In further evidence of the violence that has gripped Basra, Fakher Haider, an Iraqi journalist working with The New York Times was killed Sunday after being abducted by men who witnesses said claimed to be police officers. He was found dead outside the city early Monday. Early last month, Monitor contributor Steven Vincent was abducted by men who, according to witnesses, drove police vehicles. Like Mr. Haider, he was discovered dead not long after being abducted.

Militias Supplant Basra Police, Inflict Chaos (WT)

By Adrian Blomfield, London Daily Telegraph

The Washington Times, September 21, 2005

BAGHDAD -- They wear police uniforms and drive official police vehicles, but the main priority of the rival militias that have usurped Basra's police force is not to maintain law and order.

Instead, they have turned Iraq's third-largest city into a patchwork of rival fiefdoms, where competing militias run corruption scams and kill their rivals, dumping the bodies into a garbage dump known as the Lot on the outskirts of the city.

Although British troops have earned plaudits for avoiding the sledgehammer tactics of American troops in Sunni Arab areas to the north, questions are being asked about the wisdom of Britain's "softly, softly" policy.

British officers, however, say they have little choice in the matter, insisting that troop strength has been insufficient to deal with the problem.

"Quite frankly, we have one brigade here and we've worked bloody miracles," said an officer in Basra who asked not to be identified. "We have had to let the Iraqis get on with it."

There was a sense of inevitability about the chaotic scenes in Basra on Monday, when British tanks smashed the walls of an Iraqi prison to free two undercover British soldiers seized earlier by Iraqi forces.

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British officials had been keen to emphasize the relative tranquillity of the city in comparison with Baghdad and other towns to the north.

But behind the scenes is growing unease at Basra's descent into lawlessness and on the increasing influence of Iran on the city's main political factions.

Troops were ordered not to stop if challenged by police officers in case they were militiamen linked to attacks that, this month alone, have resulted in the deaths of three British soldiers and eight Americans in the Basra region.

The raid to rescue two Special Air Service commandos held by a militia that operated as part of Basra's police force has destroyed the pretense of a normal relationship with Basra's authorities.

The group holding the two soldiers blithely ignored instructions from the government in Baghdad to release them, leading many observers to ask who really controls the city.

In May, Basra's police chief, Hassan al-Sade, acknowledged that he had lost control of 75 percent of his 13,750-strong force, saying they either worked for political factions or were involved in attacks on coalition forces.

For his honesty, Basra's governor, Mohammed al-Waili -- who condemned the British raid to free the commandos as "barbaric, savage and irresponsible" -- fired him.

Since the United States handed over sovereignty to an Iraqi government in June 2004, Basra has become one of the country's most conservative Shi'ite bastions.

The city is essentially divided among three factions, although even they are riven by internal squabbles.

The Mahdi's Army of Sheik Muqtada al-Sadr, the cleric who twice last year led bloody confrontations against U.S. forces, is the smallest but is gaining ground in two of Basra's largest suburbs.

The Supreme Council for Islamic Revolution in Iraq (SCIRI), the largest party in the ruling coalition, is officially the largest faction and its Badr Brigade militia is accused of many of the assassinations.

SCIRI, however, often is outmaneuvered by the Fudala party, which fell out with Sheik al-Sadr but follows the radical strictures of his father, Mohammed Sadiq al-Sadr.

It is led by Mohammed Yaqubi, who has close ties to grand ayatollahs in the Iranian holy city of Qom. All three groups are determined to some extent to turn Iraq into an Islamic republic modeled on Iran.

"Iran has a very strong influence across Basra," said respected Iraqi member of parliament Ali al-Dabbagh. "It's not just the Sadrists. Individuals in each and every party are receiving financial backing from Iran."

Iraq's People Need American Troops (WSJ)

By Jalal Talabani

The Wall Street Journal, September 21, 2005

BAGHDAD -- There is no more important international issue today than the need to defeat the curse of terrorism. And as the first democratically elected president of Iraq, I have a responsibility to ensure that the world's youngest democracy survives the inherently difficult transition from totalitarianism to pluralism. A transformation of the Iraqi state and Iraqi society is impossible without a sustained commitment of soldiers from the U.S. and other democracies.

To understand why, let us recall how we reached this juncture in history. How is it that Iraq today has a democratically elected head of state, government and Parliament? How it is that members of the most repressed ethnic groups now hold the highest offices of state? All these welcome developments are a result of the courage and vision of President Bush and his allies, British Prime Minister Tony Blair and Australian Prime Minister John Howard, leaders whose commitment of troops to enforce U.N. Security Council resolutions liberated Iraq.

Without foreign intervention, the transition in Iraq would have been from Saddam's bloodstained hands to his psychopathic offspring. Instead, thanks to American leadership, Iraqis have been given an opportunity of peaceful, participatory politics. Contrary to the new conventional wisdom, Iraq and the history of 20th-century Europe demonstrate that force of arms can implant democracy in the most arid soil.

The rapidity of the democratization and reform of Iraq is staggering. There was no German state for four years after the Second World War. By contrast, Iraq has moved from a centralized, one-man dictatorship to a decentralized, federal republic in half that time.

Inevitably, there have been stresses and strains. In Iraq these have been amplified by the terrorism of the remnants of the fascist Baathist dictatorship and our interfering neighbors. To contain these tensions, and to defend our young democracy, requires the support of American and other troops. Foreign forces are needed to train and equip the new Iraqi armed forces and to give Iraq its own counterterrorism capability. Only the United States and its closest allies are able to provide such assistance.

Creating these Iraqi forces has not been easy, but Iraqis have been undaunted by the difficulties. Every terrorist attack on Iraqi forces leads to a surge in military recruitment -- the opposite of the appeasers' myth that resisting terrorism causes more

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terrorism. For all the short-term problems, the soundness of the long-term strategy of building up Iraqi forces was demonstrated in recent days when Iraqis took over sole control of security in the holy city of Najaf.

As Iraqi forces gain in confidence and capability, so the need for foreign troops will diminish. The number of foreign troops will be determined in consultations between the Iraqi government and its foreign allies on the basis of operational requirements.

American forces are in Iraq at the invitation of the democratically elected government of Iraq, and with the backing of a United Nations Security Council resolution. Your soldiers are in my country because of your commitment to democracy. Moreover, during my visit to Washington, Mr. Bush reaffirmed the United States' complete support for the Iraqi political process toward sustainable democracy, and for the fight to defeat fascist and jihadist terrorism in Iraq.

That commitment to liberty has shaped our opposition to any timetable for withdrawal. There are also two practical, policy reasons to avoid such a scheduled reduction in foreign troop numbers. First, a timetable will aid the terrorists and tell them that all they have to do is wait. Second, military plans must be flexible. We should have the suppleness to respond to the often-changing level of terrorist threat. Indeed, we will require ongoing security assistance in many forms for many years to come.

If we keep progressing at the present rate, Iraqis may be able to take over many security functions from foreign forces by the end of 2006. That is not a deadline, but it is reasonable aspiration. During my visit to the United States, I was fortunate to meet relatives of some of the brave troops serving in Iraq. They were staunch, and I want their loved ones to have to serve in Iraq not a moment longer than is necessary.

* * *

Americans should be proud of what its soldiers have achieved. The presence of foreign forces has prevented a renewed civil war in Iraq -- renewed because there has already been a civil war in Iraq. For 35 years, Saddam and his Baath Party made war on the Iraqi people. The liberation of Iraq ended that civil war.

Above all, American forces provide Iraq with a much-needed deterrence capability. In the past, Iraq sought an illusory security through the follies of aggression, terrorism and weapons of mass destruction. Today, our external security comes from our alliance with the United States. Our neighbors can thereby be assured that we will settle all of our differences with them peacefully.

Sadly, some of our neighbors have chosen not to understand this. They seem either unwilling or unable to shut off the pipeline of terrorists crossing into Iraq. And in addition to what is at least passive support for the terrorists, some of them are providing financial and material support to them, too. They must desist from this behavior now.

While the problem of some of our neighbors supporting terrorism is bad enough, we can only imagine what our neighbors might have done if American troops had not been present. Most likely, Iraq would have been transformed into a regional battlefield, with disastrous consequences for Middle Eastern and global security.

Without American forces, the vision of American leadership and the quiet fortitude of the American people, Iraqis would be almost alone in the world. With its allies, the United States has provided Iraqis with an unprecedented opportunity. Iraqis have responded by enthusiastically embracing democracy and volunteering to fight for their country. By giving us the tools, your troops help us to defend Iraqi democracy and to finish the job of uprooting Baathist fascism.

Mr. Talabani is president of Iraq..

Forces Bolstered In Western Iraq (WP)

By Bradley Graham

The Washington Post, September 21, 2005

BAGHDAD, Sept. 20 -- U.S. and Iraqi commanders have begun bolstering forces in western Iraq's Euphrates River valley, hoping to choke the flow of foreign fighters along what intelligence officers say has become the primary infiltration route from Syria toward Baghdad.

The buildup, called Operation Sayaid, is aimed at securing the border area around the restive town of Qaim and suppressing other insurgent activity in the villages that hug the winding banks of the Euphrates west of Baghdad.

In recent public remarks, Iraqi Defense Minister Sadoun Dulaimi signaled plans to step up military operations in the valley. Gen. George W. Casey, the senior U.S. commander in Iraq, said in an interview that his forces were intent on "restoring Iraqi control of its border by the end of November, before the December elections." Iraqis are expected to vote for a new parliament by Dec. 15, following a referendum Oct. 15 on the country's draft constitution.

The effort follows months of growing concern, both inside and outside U.S. military ranks, that not enough forces had been committed to the western reaches of Anbar province, a stronghold of Iraq's Sunni Arab resistance and of Abu Musab Zarqawi's foreign-dominated insurgent group, al Qaeda in Iraq. Although U.S. Marines have conducted a series of raids in the far west, most lasting about a week, the longer-term presence of U.S. and Iraqi troops there has been relatively small.

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Out of 32,000 U.S. service members in the province, only one Marine regimental combat team -- fewer than 5,000 troops -- and some Special Operations forces have operated in the far western region.

Consequently, insurgent fighters have continued to move freely in many places, according to U.S. officers. Zarqawi's network, in particular, is said to have established safe houses throughout the valley to shelter foreign fighters who enter from Syria before moving on to stage attacks in Baghdad and elsewhere.

"It's not something we haven't known about," said a senior U.S. officer involved in overseeing military operations. "It's just something we're now in position to do something about."

Plans call for adding several more battalions to the area, drawn from the U.S. Army and the Iraqi Intervention Force, one of the most seasoned of the country's military units. Commanders requested that specific troop numbers not be published.

These troops will back up a freshly trained contingent of several hundred Iraqi border guards. In time, the plan calls for thousands of soldiers belonging to Iraq's 7th Army Division, which is still being formed, to provide a permanent military presence in several towns along the river.

Success in quelling insurgent activity elsewhere in Iraq has freed some U.S. troops for reassignment to the river valley, and more Iraqi forces also have become available for duty there, U.S. officers said. In the meantime, the insurgent threat in the area has intensified, the officers added.

Until earlier this year, the main infiltration route for foreign fighters had been along a corridor in northwestern Iraq running from the border with Syria through the city of Mosul, U.S. military intelligence officers said. In May, the Army's 3rd Armored Cavalry Regiment was reassigned from south of Baghdad to take back the region from insurgents.

The regiment's operations west of Mosul, culminating in the assault this month on Tall Afar, plus the killing or capturing of at least 20 leading Zarqawi network operatives in Mosul since the spring by the 25th Infantry Division's 1st Brigade, have halted much of the northwestern infiltration. The traffic then shifted south through the Euphrates River valley, the intelligence officers said.

"Right now, this is the key," said Army Maj. Gen. Richard Zahner, the top U.S. military intelligence officer in Iraq.

The first phase of Operation Sayaid came in July when an Army squadron of Stryker vehicles, augmented for intelligence gathering, rolled south from Mosul to set up an outpost near the Euphrates River town of Rawah. The contingent of more than 1,000 troops established an American presence on the north side of the river; the Marines had been operating on the south side. Also arriving in Rawah was an Iraqi Intervention Force battalion.

The troops have imposed tight controls on traffic that now must use the single bridge in Rawah. U.S. warplanes this month blew up two smaller pontoon bridges farther west in the towns of Karabilah and New Ubaydi, making the Rawah river crossing even more critical.

Bolstering forces as far west as Qaim, the offensive is designed to restore Iraqi control in the area rather than completely shut the border. Still, the operation is considered key to reducing insurgent activity before the December elections.

"There's no expectation that the border will be sealed," said another senior U.S. military officer. "But the presence of Iraqi border forces and Iraqi army forces, backed up by coalition forces -- that's what we're going to achieve by November 30. So you'll have a lot more people who can dominate the area, which means you will certainly have denied sanctuary for insurgents."

U.S. military estimates of the number of insurgents in the area range from 1,500 to 2,500, with 100 to 150 foreign fighters entering Iraq from Syria each month, one or two at a time. The insurgents intimidate residents and exert control in villages where U.S. and Iraqi forces have no permanent presence, U.S. officers said. Even where troops do patrol, in such towns as Hit, Haditha and Qaim, the insurgents operate in small cells, U.S. intelligence officers said.

About 250,000 people live in the area between Qaim and Rawah, their small houses and villages closely spaced through the valley. Apart from a narrow belt of cultivated land about a mile wide on each side of the river, most of the territory to the north and south is barren and inhospitable.

Although it represents a significant expansion of the U.S. military campaign in Iraq, the new push into the Euphrates valley could fall short of a decisive turn in the conflict -- particularly if, as in previous U.S. offensives in the country, insurgents duck away from the fight hoping to return after U.S. forces withdraw.

One factor raising the chances that the valley, if secured this time, will remain that way is the Iraqi government's intention to keep several Iraqi brigades stationed there, U.S. officers said.

"We can't afford to let the enemy get dug into another safe haven," Casey said.

Army Col. Robert B. Brown, the 1st Brigade commander whose forces set up the outpost at Rawah, agreed. "I think it's smart to focus on the west because that's where your martyrs are coming from," he said. "I don't know if you can ever stop it totally, but you can clearly disrupt the heck out of them."

Saudi Fighters In Iraq Bring Money (AJC/AP)

By Lee Keath, Associated Press Writer

The Atlanta Journal-Constitution, September 21, 2005

CAIRO, Egypt — Saudi fighters make up only about 1 percent of Iraq's insurgency, but each contributes thousands of dollars to the cause — and they make sure their roles as "martyrs" are known when they carry out suicide attacks, helping draw more recruits, a new report said.

About 30,000 fighters are believed to be involved in the insurgency, approximately 90 percent of them Sunni Arab Iraqis motivated by fear of Shiite domination or anger over lost power, said the report by the Washington-based Center for Strategic and International Studies.

Of the estimated 3,000 foreign fighters, the largest number — about 20 percent — comes from Algeria, followed by Syria and Yemen with about 18 percent and 17 percent, respectively, said the report issued Monday. About 15 percent come from Sudan, 12 percent from Saudi Arabia, 5 percent from Egypt, and the rest from other countries.

Of about 350 Saudis who entered Iraq by August 2005, about 130 are believed to have been killed or captured, it said.

The report, written by Nawaf Obaid and Anthony Cordesman, was a contrast to accounts contending that Saudis make up a large proportion of foreign fighters in the insurgency that has persisted since the fall of Saddam Hussein's regime in March 2003.

The study by the CSIS, an independent think tank, said its information was compiled from estimates provided by Saudi intelligence services based on interrogations of captured militants and other sources, and by intelligence agencies of other, unidentified governments in the region.

The "main pillar" of the insurgency is not former Saddam loyalists, though they do contribute expertise, the report said. Instead the bulk of fighters are members of Sunni Arab Iraqi tribes. "Although they do not support a return to Saddam Hussein's regime, most are Sunnis wary of a Shiite-led government," it said.

Most of the Saudis who join the insurgency "were motivated by revulsion at the idea of an Arab land being occupied by a non-Arab country" and anger over allegations of U.S. abuses at the Abu Ghraib or Guantanamo Bay prisons, it said. They average in age between 17-25.

Notably, most of those caught by Saudi authorities trying to enter Iraq "were not militants before the Iraq war," it said. Eighty-five percent were not on any government watch list or known to be al-Qaida members. Instead, they were "radicalized almost exclusively by the coalition invasion," the report said.

The Saudis provide money and propaganda for the insurgents, it said. Unlike fighters from poor Arab nations, Saudis sometimes bring in "personal funds between $10,000 and $15,000" to contribute, the report said.

There also is a system for spreading the news of suicide bombings carried out by Saudis, unlike suicide bombers from Algeria or Egypt, whose families may never be notified, the report said. Saudi bombers leave their colleagues a contact number to notify next of kin.

"The media attention their deaths as 'martyrs' bring to the cause ... is a powerful recruiting tool," the report said.

And Saudi exploits are exaggerated in Internet statements issued by insurgent groups. It noted that analysis of some lists of "martyrs" posted on Islamic militant Web sites found that some said to have carried out suicide attacks were living in Saudi Arabia.

Many of the Saudi fighters were inspired to go to Iraq by militant clerics, who also helped the young men get there, often through Syria.

In one case cited by the report, a 24-year-old Saudi angered by the U.S. invasion of Iraq was introduced by a cleric to a Yemeni al-Qaida operative. The operative indoctrinated him and three of his friends, bought them plane tickets to Damascus in July 2003 and gave them a Syrian contact.

The Syrian took the men to the border and Iraqi handlers brought them to Tikrit, where they joined an insurgent "battalion" made up mostly of Saudis. The Saudi's friends agreed to become suicide bombers, but he declined and returned to Saudi Arabia, where he was arrested.

Contractor Charged In Baghdad Badge Scam (WP)

By Jerry Markon And Josh White

The Washington Post, September 21, 2005

A military contractor returning from Iraq was charged yesterday with distributing identity badges that control access to Baghdad's heavily fortified Green Zone to people not allowed to receive them, including an Iraqi woman he was dating.

Thomas Nelson Barnes III, who worked for DynCorp International, was arrested by federal agents as he arrived at Dulles International Airport. He is accused of defrauding the U.S. government by issuing the high-security badges to other Iraqi civilians and a DynCorp executive.

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Security in Baghdad's International Zone -- commonly referred to as the Green Zone -- has been extremely tight since U.S. forces took control of Baghdad during the invasion of Iraq in 2003. The zone, surrounded by blast walls and heavily guarded entry checkpoints, encompasses much of central Baghdad and houses the U.S. Embassy, Iraq's interim government and many coalition and civilian military personnel.

Although law enforcement sources said they knew of no specific security problem resulting from Barnes's alleged actions, federal and military officials warned that any breach could have dire consequences. The Green Zone's entry checkpoints have been the scene of numerous car bombings and are guarded by heavily armed coalition soldiers.

"A free pass to the International Zone is something that an insurgent would love to get his hands on," said Lt. Col. Barry Venable, a Pentagon spokesman. "A compromised badge represents a potential avenue of approach into the zone for folks who would want to commit violence."

The badges allegedly passed out by Barnes have different colors indicating level of access to the Green Zone. The highest access is blue. An FBI affidavit, filed in federal court in Alexandria, said Barnes gave a blue badge to an Iraqi woman he was dating, when she was allowed only a purple badge -- a lower clearance.

He allegedly gave various badges to other Iraqi friends, along with a blue badge to a DynCorp vice president who was not entitled to receive it. Barnes, 48, of Fort Worth appeared in U.S. District Court in Alexandria yesterday and was released on a personal recognizance bond pending another hearing Thursday. He could not be found later for comment, and a defense attorney had not been appointed for him.

Barnes is charged with conspiracy to defraud the United States and use and possession of military passes with the intent to defraud. If convicted, he faces up to five years in prison.

Gregory Lagana, a spokesman for Irving, Tex.-based DynCorp, said Barnes had worked for the company for just over a year and was fired recently because of the investigation. The company was awarded a $7.7 million Pentagon contract in March 2004 to establish a program to centralize ID badges being given out for the Green Zone by a variety of government agencies.

Barnes, a supervisor, was one of fewer than 50 DynCorp employees on the project. "We are disturbed by this," Lagana said. "We do a lot of work for the U.S. government, and we have a very good record. We are cooperating fully and absolutely."

Stan Soloway, president of the Professional Services Council, a trade association for government contractors, said the case should not be viewed as an indictment of the tens of thousands of military contractors in Iraq. "There is absolutely no evidence that there have been any more security problems with contractors than with federal government employees or anyone else."

The case is among the first brought by federal prosecutors in Alexandria since February, when U.S. Attorney Paul J. McNulty announced a crackdown on fraud in government programs. Law enforcement sources familiar with the case said the allegations against Barnes arose from that initiative.

England Statement OK'd (WT/AP)

By The Associated Press

The Washington Times, September 21, 2005

FORT HOOD, Texas (AP) -- A military judge reversed himself yesterday and decided to let prosecutors use a statement Army Pfc. Lynndie England gave to investigators implicating herself in the abuse of prisoners at the Abu Ghraib prison in Iraq.

Pfc. England's court-martial trial on seven counts of conspiracy and prisoner abuse will begin today with jury selection and opening statements. The 22-year-old reservist from rural West Virginia, who is shown in several graphic photos taken by Abu Ghraib guards in 2003, faces up to 11 years in a military prison if convicted.

Pfc. England broke with the pattern of her co-defendants yesterday by opting for an all-officer jury. Two of the others were convicted by juries made up of officers and enlisted personnel, and the other six made plea deals. Most were members of the Maryland-based 372nd Military Police Company.

The judge presiding over Pfc. England's case, Col. James Pohl, had ruled in July that neither of two statements Pfc. England made in January 2004, when she implicated herself in the abuse, would be admissible. He said he thought she did not fully understand the consequences when she waived her rights against self-incrimination before speaking to the investigators.

Yesterday, however, the judge said he now thinks Pfc. England knew what she was doing when she signed a waiver before making the second statement. Her first statement remains inadmissible.

In May, Pfc. England made a plea agreement that eventually collapsed, but this time "there's not going to be a deal," said Capt. Jonathan Crisp, her lead defense attorney.

Capt. Crisp said he plans to base much of his defense on Pfc. England's history of mental health problems that date to her early childhood.

He said he also will focus on the influence exerted over her by Pvt. Charles Graner, the reputed ringleader of the abuse.

Graner, who Pfc. England has said fathered her young son, was convicted in January and sentenced to 10 years in prison.

In her attempted plea deal, Pfc. England pleaded guilty to all of the same counts she faces this week in exchange for an undisclosed sentencing cap. The charges carry a maximum sentence of 11 years.

Col. Pohl threw out the plea deal and declared a mistrial during the sentencing phase because Graner's testimony contradicted Pfc. England's guilty plea.

Graner, testifying as a defense witness, had said pictures he took of Pfc. England holding a prisoner on a leash were meant to be used as a training aid. But in her guilty plea, Pfc. England said the pictures were being taken purely for the amusement of the Abu Ghraib guards.

Prosecutors have refused to discuss the trial.

Battle Lines Behind The Battle Lines (WP)

By Petula Dvorak

The Washington Post, September 21, 2005

FAYETTEVILLE, N.C. -- In military communities across the United States, a debate over the Iraq war is being waged by reluctant, neophyte activists. Their microphones chirp and squeak, or don't pick up their quiet voices at all. Their signs are too small. They forget the banners.

"This is my community. I don't want to offend people here. But my husband is a soldier; he can't say anything. So it's my duty as a citizen to speak up," Kara Hollingsworth, a D.C. native and Army wife at Fort Bragg whose husband served two tours in Iraq, said as she took a seat on a panel of antiwar activists last week.

A few hours earlier, another Army spouse stood in the red-brick village square near the base and held up a handmade sign supporting the war. She threw it together after she heard that an antiwar caravan was coming to town.

"I've never done this before. I'm usually a quiet military wife. But I can't take this anymore," said Marlene Lowrey, whose husband also served in Iraq. "This isn't right, coming into a town like this with that antiwar stuff. Those people don't realize this brings down morale."

Military families, stoic and tight-lipped during most of the nation's wars, have become a powerful voice on both sides of the bitter argument over U.S. involvement in Iraq. And their growing prominence will add a poignant note to Saturday's antiwar march and rally near the White House.

Organizers of the protest, who anticipate a crowd of about 100,000, estimate that thousands of military families and veterans will join in the demonstration. Three busloads of military families have been touring the country since Aug. 31 and will converge on Washington today to promote Saturday's rally.

In recent weeks, war supporters have been countering those bus stops, rallies and vigils with demonstrations of their own. They've got their own bus touring the country and are planning three days of counter-protests in Washington this weekend.

Both sides embrace the slogan "Support our troops." They just disagree on how to do it. They also were inspired by the same person: Cindy Sheehan, who lost her son in combat and kept a vigil near President Bush's ranch in Crawford, Tex., through most of August.

Because of Sheehan, "military families across the country are stepping forward to speak out" in support of U.S. policy, said Iowa state Sen. Charles W. Larson Jr., who recently served a year in Iraq with the Army. "You don't normally see people like this do that. They are angry and frustrated, and that is why they have become engaged in the debate."

Sheehan also galvanized Phil and Linda Waste, who were riding one of the "Bring Them Home Now" buses through the hills of North Carolina last week. Their three sons, grandson and granddaughter are all in the military and have served a total of 58 months in Iraq, and the Wastes have white-knuckled their way through each of those tours of duty.

They sat in their Hinesville, Ga., living room for months, cursing at the television reports from Iraq.

"Then we saw Cindy in Texas," said Linda Waste, holding tight to the table's edge on the bumping bus. Her husband picked up her thought: "And then we heard people call her unpatriotic. And that was it."

The Wastes finish each other's sentences and kiss each time they say "bring them home now" in unison. The people on the bus have started to call them Philinda.

"It's something I've got to do. Otherwise, I can't live with the guilt of what I did to my sons," Phil Waste said. He served in the Navy and has the blurry, sagging tattoos to prove it. He never fought in a war and used the mechanical skills he learned in the military to earn a decent living repairing elevators. "I told them the military was a good place to start out, a good place to learn a skill." He shakes his head and begins to cry.

The three buses have stopped in small towns and state capitals, the riders helping one another step onto makeshift stages to tell their stories and assure other folks that being antiwar doesn't mean being anti-soldier.

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"You wouldn't believe how many people in the military are relieved to hear us speak. It's like they have permission to be angry now," said Julie Cuniglio of Dallas, who comes from a large military family. She joined the bus tour in Crawford, mourning the death of her nephew, Staff Sgt. Aaron Dean White, who was killed in May 2003 in Iraq.

The antiwar tours have hit 51 cities in 28 states, covering the South, Midwest and North.

Sheehan has met up with each tour at various times, flying from one city to the next, making quick speaking appearances and signing a few autographs.

Some families have joined the tour for a few days. Others, such as Philinda, are in it for the long haul -- from Crawford to Washington in 24 days.

Last week, the riders on the southern tour had been wearing the same clothes for days and were begging their chain-smoking, ex-Navy driver, who goes only by "Chito," to stop for a bite to eat. In some cities, like-minded families served them fried chicken and potato salad dinners and sometimes put them up for the night. Other nights, they slept on the bus or occasionally splurged for a cheap hotel.

Sometimes, the mere threat of the tour barreling through town spurred people on the other side into action. In downtown Raleigh, N.C., a group of veterans quickly assembled a small rally to counter Sheehan's message. The antiwar tour never showed up at that spot, but Matthew Delk did.

"I'm really not into going to protests. That's not me," said Delk, a beefy Iraq war veteran who spent weeks recovering at Walter Reed Army Medical Center from burns on his hands and chest. A National Guardsman, he is the manager for Halifax County in North Carolina, and he was sweating in a charcoal suit far different from his desert fatigues. "As a soldier, I'm not supposed to get involved in this stuff. But I believe that our mission is a noble mission. And I feel like I had to come here and say my piece."

Carolyn Culbreth, whose father is a retired Special Forces soldier, came to downtown Fayetteville on her lunch hour to meet the antiwar bus. "What they're doing is unpatriotic," Culbreth said, spangled head to toe in red, white and blue. "And in a place like this, it's just like a slap in the face."

When Chito parked the Bring Them Home Now bus in the center of Fayetteville the next day, cars whizzing by it honked and drivers barked at the slogans all over the windows and sides.

A woman in a silver Mercedes leaned out and shouted, "Go home!" A man in a red muscle car gave members of the group an obscene gesture. A soldier in a beat-up Olds Cutlass gave them a peace sign.

Protests Will Test Police Strategy (WT)

By Matthew Cella

The Washington Times, September 21, 2005

Police in the District are preparing for a weekend of demonstrations that could bring as many as 100,000 protesters and test new procedures on handling them.

The demonstrations are scheduled from tomorrow through Monday, but police officials anticipate the biggest turnout Saturday at an anti-war and anti-racism rally on the Ellipse, immediately south of the White House.

The event is scheduled to include a speech by anti-war activist Cindy Sheehan, whose enlisted son was killed while fighting in Iraq.

"It's possible that this will be the largest anti-war demonstration since the war in Iraq began in March 2003," said Caneisha Miller, a spokeswoman for event organizer Act Now to Stop War and End Racism, or ANSWER.

Miss Miller said the group has permits from the Metropolitan Police Department that allows it to start a march at 11:30 a.m. that will go from the Ellipse, north on 15th Street Northwest to the front of the White House, west on Pennsylvania Avenue Northwest, north on 17th Street Northwest, east on H Street Northwest, then back to the starting point.

U.S. Park Police spokesman Sgt. Scott Fear said the agency has canceled vacations and other leaves and that officers will be out in force. However, he did not expect problems.

"The majority of these groups meet with us regularly," he said. "They want to be able to come back so we believe what they tell us. It's the splinter groups that we worry about."

In the past, such groups have used the demonstrations as cover to set fires, break windows and destroy private property.

Such violence during a 2002 protest resulted in Metropolitan Police Department officers herding demonstrators without permits into Pershing Park in Northwest. Among those arrested were onlookers and reporters who were restrained, taken by Metro bus to a police station, then made to wait several hours while their paperwork was processed.

An investigation concluded that police failed to give demonstrators enough warning to disperse, which resulted in new laws that took effect in April.

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The laws limit officers' use of police lines to entrap demonstrators and their use of wrist-to-ankle restraints. They also require officers to wear identifiable badge numbers.

The Metropolitan Police Department has yet to release details on street closures and other plans such as canceling leave time for officers, help from other jurisdictions and activating the city's network of surveillance cameras.

The most disruptive event could be on Sunday when the group Mobilization for Global Justice is scheduled to join the group Adopt an Intersection to block streets to keep International Monetary Fund and World Bank officers from getting to their semiannual meetings.

At about the same time, the group Operation Iraqi Hope will hold a rally in support of the war in Iraq that will include parents and family members of soldiers who gave their lives in support of the effort. The rally is scheduled to take place from noon until 3 p.m. on the Mall at Fourth Street Northwest.

Inside The Beltway (WT)

By John McCaslin

The Washington Times, September 21, 2005

Folk renewal

It was nearly 40 years ago, during the height of the Vietnam War, that a young folk singer by the name of Joan Baez got arrested during a "sit-in" at a military induction center in Oakland, Calif.

One year later, in 1968, she would marry outspoken anti-Vietnam War protester David Harris, who eventually got locked up himself for dodging the draft. The marriage didn't last.

During Christmas week in 1972, Ms. Baez traveled to North Vietnam, only to hunker down with the enemy during Uncle Sam's 11-day "Christmas bombing" of Hanoi.

This Saturday, with the backdrop of a new war being fought by a commander in chief, the folk singer is picking up her guitar where she left off -- performing within view of the White House at what is being promoted as a "massive" anti-war concert, "Operation Ceasefire," on the National Mall.

Also appearing on stage: punk-rock bands Le Tigre, Bouncing Souls and the Machtres; hip-hop groups the Coup and Head-Roc; Wayne Kramer of the MC5 with the Bellrays; country music artist Steve Earle; independent artists Ted Leo and the Pharmacists; the Evens and Sweet Honey in the Rock; and last, but not least, prominent peace mom Cindy Sheehan.

The lineup is sponsored by United for Peace & Justice and was pulled together by Thievery Corporation's Rob Garza and Eric Hilton, with the latter remarking: "As a private citizen, I want to do something because I am very much against all of the post-9/11 wars and occupation."

Before the music begins, a march will get under way at the Ellipse at 11:30 a.m., proceed through downtown Washington, and end at the Washington Monument.

Go figure

Trying to deflect the uncomfortable exposure that their 30 years of pressure campaigns and lawsuits blocked work on Louisiana's levees, environmental activists convened outside the U.S. Capitol yesterday for what has become a bit of an annual rite: protesting the very idea that America would extract petroleum from its own reserves.

Surely the organizers could use the same fiscal shot in the arm as the rest of the country, what with gas prices still taking a bite out of the budgets of working Americans. And, argued one observer of yesterday's protest, couldn't these groups have chosen a better topic, or at least a better time to chant that America should not reduce dependence on foreign sources of oil by using its domestic sources?

As he put it: "Given current circumstances, one has to question the chances of success for an argument that, distilled, insists that starving people should consider going on a diet."

Tale of two lives

These past few months have been the best of times and worst of times for our favorite political pollster Frank Luntz, or so we learned when finally tracking him down yesterday.

He's just sold his polling and communication company to Omnicom, owners of such venerable PR firms as Fleischman Hillard and Ketchum. And that, he explains, has kept him on the road for 26 days in August and 17 days so far in September.

Otherwise, he was seen deep in conversation with Gov. Arnold Schwarzenegger at Boston's Fenway Park for the opening of the Rolling Stones global tour, but his poll recommending alternative language for the upcoming reform (Mr. Luntz says call them "accountability") measures on the California ballot were panned by the governor's political adviser.

He had front-row balcony seats for the Emmys on Sunday, but spent the rest of the day at the Santa Monica, Calif., Police Department failing to recover his stolen Corvette. He appeared as himself on "The Daily Show" with Jon Stewart, but his consulting work for "Real Time with Bill Maher" wasn't enough: The show ended up with two coveted nominations, but no statue.

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We've also learned that the pollster has received a large advance from Hyperion for a book entitled "Killer Words: The New American Lexicon," but rumor has it he's barely beyond 10,000 words and it's due in less than a hundred days. That advance paid for an 8-foot-tall Bob from Bob's Big Boy, but his latest collector's item arrived the day after his annual baseball All-Star party.

Speaking of which, Mr. Luntz is the only pollster ever invited to throw out the first pitch at a Colorado Rockies game. (He was high and outside.) And none of the three baseball teams for which he has season-ticket plans -- the Washington Nationals, Baltimore Orioles and Los Angeles Dodgers -- will make the playoffs.

Life's tough at the top.

Here she comes

Whether Sen. Hillary Rodham Clinton is ready or not, her bumper sticker is.

Let us be the first to announce that CafePress, a leading purveyor of political campaign products, has begun selling for $3.99 a red-white-and-blue bumper sticker that reads "Hillary Clinton for President."

War Opponents Target Military Recruiters In High Schools (USAT)

By Mary Beth Marklein

USA Today, September 21, 2005

High schools are the latest anti-war battleground, with parents, students, educators and activists around the country stepping up campaigns to prevent military recruiters from reaching students.

Many of the efforts focus on a provision in President Bush's 2002 No Child Left Behind law that requires federally funded secondary schools to give military recruiters the same access to students as they do college or job recruiters.

The exceptions: Private schools that have a religious objection to military service don't have to comply. And parents can “opt out” of providing details, including names, addresses and phone numbers, to military recruiters.

Among recent activity:

·“Opt-out” events planned through November in 321 communities are giving parents and students 18 or older forms asking school officials to not release personal information or school records to military officials. They can send similar requests to the Pentagon. By Tuesday, more than 24,000 opt-outs had been requested, says Leave My Child Alone, a national coalition coordinating the events. Meanwhile, a bill introduced by U.S. Rep. Mike Honda, D-Calif., would prevent schools from releasing private information to military recruiters unless families request it.

·Seattle's school board this month voted to tighten districtwide military recruitment policies, and made clear that conscientious objectors can have equal access to students. Other districts, including Toledo (Ohio) Public Schools, this year highlighted the opt-out option in brochures sent to families.

·Grass-roots groups last month launched a series of “Not Your Soldier” camps that teach students ages 13 to 22 how to counter military recruiters. Topics include non-violent campaigns and the ROTC.

The efforts come at a time when some military branches, especially the Army, are struggling to meet recruitment goals.

Unlike anti-war marches, “counter-recruitment” campaigns represent “one of the ways pressure is being put directly on the military,” says Bill Dobbs of United for Peace and Justice, a New York group sponsoring a counter-recruitment conference Sunday in Washington as part of a Peace and Justice Festival. “It's the next big thing for the anti-war movement.”

But many “opt-out” supporters cite privacy issues. Many were alarmed to learn that a database being created this year for the Pentagon would include students' personal information, such as Social Security numbers, e-mail addresses and grade-point averages.

“It's so insidious,” says Kim-Shree Maufas, a San Francisco mother involved in local opt-out efforts. “You figure if anyone wants to get to your kid they have to go through you. Not in this case.”

Douglas Smith, spokesman for the Army Recruiting Command, says high schools are an important venue because “it's the last time we'll have them all in one place.”

He says most recruiters move on if they get a “hard no” from a student. But “If we get a soft no … I think that's an (invitation) for recruiters to call again,” he says.

Karzai: Ease Up On U.S.-led Operations (USAT)

USA Today, September 21, 2005

Afghan President Hamid Karzai on Tuesday challenged the need for major military operations in Afghanistan. Karzai said airstrikes are no longer effective and U.S.-led coalition forces should focus on rooting out terrorist bases and support networks.

“I don't think there is a big need for military activity in Afghanistan anymore,” Karzai said. “The nature of the war on terrorism in Afghanistan has changed now.”

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Karzai also wants foreign troops to stop searching people's homes without his government's permission. He said foreign governments should “concentrate on where terrorists are trained, on their bases, on the supply to them, on the money coming to them.”

Afghan officials have repeatedly accused Pakistan of aiding Taliban militants, a charge Pakistan denies.

Coalition commander Lt. Gen. Karl Eikenberry said he expected more fighting in the weeks ahead. “We are staying on the offensive against the enemies of Afghanistan,” he said.

Israel pulls last troops from 2 West Bank settlements

Israel withdrew the last of its troops out of two isolated West Bank settlements, completing the final phase of the withdrawal it began in Gaza last month.

As Israeli soldiers left the empty settlements of Ganim and Kadim, next to the town of Jenin, thousands of Palestinians streamed in, setting fires as gunmen fired in the air. Two other West Bank settlements were vacated earlier.

Unlike Gaza, Israeli forces will continue to patrol the area, the military said, as it has not turned over control of the northern West Bank to the Palestinians.

More than 1,000 missingafter storm in South Asia

At least 1,000 people were missing in southern India on Wednesday and hundreds of fishermen were unaccounted for in Bangladesh after a severe storm in the Bay of Bengal killed 50 people.

Praveen Prakash, a state government official, said about 100,000 people were homeless after heavy rains caused flooding in coastal districts of the southern Andhra Pradesh state on Monday and Tuesday, with strong winds uprooting thousands of trees and electricity poles.

“Over 1,000 people have been reported missing in the three coastal districts,” Prakash said.

Most of the victims were either electrocuted or died in house collapses, he said.

Storms and cyclones that form in the Bay of Bengal in September and October slam into India's eastern coast and neighboring Bangladesh almost annually.

Asia scrambles to curtail dengue fever outbreak

An unusually severe outbreak of dengue fever has caused alarm across Asia and baffled Singapore with a record 10,000 cases this year. The U.S. Centers for Disease Control and Prevention considers dengue the “most important mosquito-borne viral disease affecting humans” this year — ahead of malaria and encephalitis. An estimated 2.5 billion people are at risk worldwide.

Across Asia, governments are scrambling to curtail the spread, mainly by educating the public about the potentially fatal illness and controlling mosquito-breeding areas such as stagnant pools of water. Symptoms include severe joint pain, high fever and a rash. There is no known cure or vaccine.

Kevin Palmer, a diseases expert at the World Health Organization, said Vietnam, Malaysia, Thailand and the Philippines have had a large number of cases this year.

Fischer to step down as leader of German Greens

Outgoing German Foreign Minister Joschka Fischer, 57, said he's giving up his leading role in the Green Party. A former radical and high school dropout who became Germany's top diplomat, Fischer told reporters in Berlin: “Now is the moment for a new lineup.”

Karzai Urges Shift In Strategy (WP)

By N.c. Aizenman

The Washington Post, September 21, 2005

KABUL, Afghanistan, Sept. 20 -- President Hamid Karzai on Tuesday questioned the need for further international military operations within Afghanistan, while the top U.S. military commander here predicted more fighting in the weeks ahead as Taliban guerrillas continue to mount attacks and U.S.-led forces respond.

Karzai, speaking at a news conference two days after landmark parliamentary elections were held with minimal disruption, called instead for a "stronger political approach," focused on shutting down guerrilla training camps and financial support outside the country.

Although he declined to specify any locations of foreign support, aides to Karzai have previously expressed his concern that neighboring Pakistan is serving as a haven for fighters linked to the ousted Taliban regime.

The president repeated past demands that foreign troops stop searching Afghan homes without authorization from his government. He also suggested that airstrikes, which are still sporadically employed by the U.S. military and have resulted in some civilian casualties, were not effective. "The nature of the war on terrorism has changed now," Karzai said. "We do not think there is a serious terrorist challenge emanating from Afghanistan."

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Among the reasons he listed was a growing sense among Afghans that they are in control of their political destiny with the adoption of a constitution in January 2004, the country's first democratic presidential election last October, and the first parliamentary elections in three decades, held Sunday.

Taliban fighters failed to follow through on a vow to derail the latest voting. However, the Taliban militia has recently reasserted itself. Hundreds of civilians, government workers, Afghan police officers and soldiers have been killed in bombings and ambushes in the south and east.

U.S. and Afghan forces have responded with an aggressive campaign to root Taliban guerrillas out of their mountain redoubts, killing hundreds, but also losing 51 U.S. troops in combat since March.

At a separate news conference Tuesday, Army Lt. Gen. Karl W. Eikenberry, who commands the approximately 17,000 U.S. troops in Afghanistan, suggested that pattern would continue. "We can expect more fighting in the weeks ahead, as the enemy attempts to return Afghanistan to the dark days of the past in an effort to impose the will of a very few over the democratically stated choice of many," he said, according to the Reuters news agency. "We are staying on the offensive."

In Washington, Defense Secretary Donald H. Rumsfeld praised Afghanistan's elections as "an amazing accomplishment." He acknowledged that lethal attacks continue, but suggested that airstrikes are a less useful tactic in the counterinsurgency campaign being waged today by U.S. and Afghan troops. "When you don't have a massed army on the ground or large puddles of enemies, then airstrikes are less effective," he said.

Eikenberry and Karzai also said the elections -- the results of which will be available next month -- were a resounding success.

Asked why turnout, estimated at 50 percent, appeared to have been so much lower than the 70 percent turnout for the presidential election, Karzai suggested that many citizens may have felt overwhelmed by the sheer number of candidates. More than 2,700 candidates competed for 249 seats in the lower house of parliament, and more than 3,000 for seats on 34 provincial councils.

The message sent by voters was "great," Karzai said. "Look at the threats, look at the bombing, look at the terrorism, and despite that, the Afghan people came out and voted."

He also dismissed concerns by rights activists that only a few dozen candidates were disqualified for links to illegal militias, though many more were former militia commanders and warlords, widely alleged to have committed war crimes.

"Our country needs stability," Karzai said, adding that "a system of participation" is important to improve national life. "Certain aspirations for us at this moment may sound like too much of a luxury. So I'm very happy with what we have."

Attack Source Of Militancy, Karzai Urges U.S. Coalition (NYT)

By Carlotta Gall

The New York Times, September 21, 2005

KABUL, Afghanistan, Sept. 20 - President Hamid Karzai questioned Tuesday the need for major military operations in Afghanistan, saying that airstrikes were no longer effective and that the United States-led coalition should focus more on shutting off the flow of militants.

In what seemed to be a reference to Pakistan, Mr. Karzai said the fight against terrorism should "concentrate on where terrorists are trained, on their bases, on the supply to them, on the money coming to them." Afghan officials have complained in recent months that Taliban insurgents are using Pakistan as a sanctuary where they recruit and train militants and obtain financing.

He added that the United States should refrain from raiding houses without authorization from the Afghan government. Both the airstrikes, which can lead to civilian casualties, and the house searches have grown increasingly unpopular.

It was not the first time the president has complained about the American military presence. In May his request for more authority over military operations by the 20,000-member force was rebuffed by President Bush.

Defense Secretary Donald H. Rumsfeld, asked at a Washington news conference about Mr. Karzai's remarks, conceded that airstrikes were less effective "when you don't have a massed army on the ground or large puddles of enemies." But he said the United States was already coordinating closely with the Afghan government on counterterrorism activities.

In his first comments to journalists since Afghanistan's parliamentary elections on Sunday, Mr. Karzai expressed "relief and satisfaction" that they had come off without any major incidents. He said the fact that Afghans had voted in spite of all the threats against them and the killings in the weeks before the elections was proof that Al Qaeda had been defeated in Afghanistan.

The holding of parliamentary and provincial elections completes the international program for Afghanistan's transition laid down in the Bonn accords of 2001, but Mr. Karzai warned that it did not mean Afghanistan was now capable of standing on its own.

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"We have just begun the foundations," he said. "Institutionally we are very weak." The country lacks the resources and human capital to run an effective civil service, is struggling to raise $350 million in revenues annually and cannot yet pay for its own army, police service and administration, he said.

Mr. Karzai said he was appealing to foreign governments to direct assistance away from reflief organizations and toward investment in trade and industry. He said he had specifically requested help from international backers, including the United States, in building reservoirs and electric power plants.

"I would like to concentrate on that," he said. "Roads and electricity are what the Afghan people ask for."

He also said Pakistan had formally proposed to build a fence to stem the flow of insurgents but said he had rejected the idea.

The 1,500-mile border between Pakistan and Afghanistan has never been officially determined, and both countries continue to use the administrative division, known as the Durrand Line, that was drawn by the British more than 100 years ago.

Mr. Karzai said building a wall would be extremely difficult because the Durrand Line divides tribes and families, adding "It is separating people, not preventing terrorism."

Pakistan's idea for a fence, first suggested by President Pervez Musharraf last week, was formally proposed in a letter to the Afghan government. But Afghan officials, who asked not to be identified because they did not want to be seen as criticizing Pakistan, have suggested that the proposal is an effort to divert international pressure on Islamabad to crack down on insurgents' networks.

Europe Ships War Refugees Back Home (CSM)

By Isabelle De Pommereau

The Christian Science Monitor, September 21, 2005

FRANKFURT - Aferdite Hasanaj looks like any of her high school friends. But there's a difference: Every three months for the past 13 years, since her family fled Kosovo on the eve of the Yugoslavia war, she's had to ask permission to remain in Germany.

As a refugee whose asylum claim was rejected, she was subject to expulsion any time. In April, the government told her to go back "home" to Kosovo, squashing her dreams of going to college in Frankfurt.

"I've never been to Kosovo, I can't speak the language, don't know the culture," the 17- year-old said at a recent rally held to protest her expulsion. "The feeling of not having the right to belong fills me with despair."

Across Germany, 220,000 war refugees denied asylum have shared Aferdite's plight. But in a backdrop of public wariness about their perceived drain on the social system and an improved political situation in their countries, the government is speeding their return.

"How can a country expel a child who's been here for 13 years, who is good in school?" says Volker Ludwig of the GRISP Theater in Berlin, which staged a play about the deportation of a family. "Such a practice is unique in Europe, and it's outrageous."

This summer, Germany's 16 state interior ministers voted to hasten the return of hundreds of thousands of refugees to Kosovo, Iraq, and Afghanistan. And in May, the state of Hamburg began repatriating Afghans, saying that stability there had returned.

The trend is spreading across Europe, especially in countries with former liberal asylum policies such as Holland, Norway, Denmark, and England. Governments are implementing plans for faster and more efficient returns of refugees.

"There is a new intensity in the harshness of the repatriation," says Karl Kopp, European representative of Pro Asyl, a Frankfurt-based advocacy group for refugees.

There's a boom, says Mr. Kopp, in so-called "departure institutions," where refugees with failed asylum claims receive counseling meant to prepare them to leave voluntarily in exchange for receiving a stipend and food.

"The thinking in these institutions is: 'what can I do when I can't expel somebody?' " says Kopp. "The only way is to make life more difficult - to limit the people's freedom of movement, to go as far as possible so that the people have no choice but want to leave."

Government officials stress that those denied asylum know from the beginning that they will not receive legal status. Doing so "would send a signal to those who want to come to Germany: to stay here permanently, all you have to do is postpone getting your permit," says Wilfried Schmaeing of the Interior Ministry.

Germany's asylum regulations are considered among Europe's toughest. Until recently, only victims of state persecutions could receive asylum. Those fleeing civil wars like in Kosovo received a "tolerated status" because the persecution they had suffered did not come directly from the state. The new immigration act that went into effect this year loosened the regulations,

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recognizing persecutions by nonstate agents such as those suffered in Kosovo. At the same time, Germany has become more efficient and less human in sending home those denied asylum, critics say.

"The issue is becoming very politicized," says Patricia Coelho of the European Council on Refugees and Exiles in London. "Politicians are concerned about sharing with their public that they are being tough on asylum."

In England, "uncooperative" asylum seekers with rejected claims, with the exception of those with families, now see their welfare benefits withdrawn. In Holland, refugees denied asylum can now be denied social support after 28 days. Last year, Norway started charging hundreds of special officers with returning asylum seekers. Refugees denied asylum can also be denied access to the labor market or social protection.

"There is a tendency for industrialized nations to develop a policy to help induce or force people who've not been granted any kind of status to repatriate," says Ms. Coelho. Those asylum seekers, she says "form a growing segment of vulnerable, poor and marginalized people in European societies."

Although there are fewer and fewer asylum seekers in Europe, those asking for asylum are seeing their claims denied in greater number, says Ms. Coelho.

In Frankfurt, Europe's most multiethnic city, Aferdite's classmates rallied to her side. And Aferdite will most likely be able to stay at least until she finishes high school because a German family has committed to support her financially here. But her mother and two siblings are most likely going to be expelled next year.

DOJ:

Tyco Lobbyist Urges Senators To Support Tyco Lawyer Nomination (LAT)

By Walter F. Roche Jr.

The Los Angeles Times, September 21, 2005

WASHINGTON — A lobbyist for Tyco International Ltd. is urging the Senate to support a top Tyco executive nominated by the president to the second-highest post in the Justice Department.

Edward P. Ayoob acknowledged Tuesday that he had been lobbying senators to approve the president's choice of Timothy E. Flanigan as deputy U.S. attorney general. The lobbyist said he was acting on his own, not as an agent of Tyco.

Flanigan, 52, has been chief counsel at Tyco since 2002, when he resigned as deputy counsel at the White House to take the job at the industrial conglomerate.

Ayoob is a former top aide to Senate Minority Leader Harry Reid (D-Nev.). The lobbyist also formerly worked with Jack Abramoff at the Washington law firm Greenberg Traurig.

Ayoob, who called Flanigan a friend, said, "He is a man of the highest integrity, and I wanted my colleagues to know it."

Flanigan's selection as top aide to Atty. Gen. Alberto R. Gonzales has provoked controversy. Some senators questioned his role supervising a Tyco lobbying campaign two years ago conducted by Abramoff, now the subject of congressional and criminal investigations.

In 2003, Flanigan engaged Abramoff to help Tyco fight a bill that would have imposed higher taxes on the firm, which had moved its corporate headquarters offshore, to Bermuda.

In a written response to questions from Senate Judiciary Committee members, Flanigan said that at Tyco, he engaged Abramoff after Greenberg Traurig partners advised that "Mr. Abramoff had good relationships with members of Congress, including Rep. Tom DeLay."

Flanigan also told the committee that sometime after Abramoff was involved, he "told us that he had contact with Mr. Karl Rove," a top political advisor to President Bush.

Tyco's lobbying effort against the tax bill and other legislation aimed at offshore-based firms was successful.

In his written response to questions, Flanigan said that while supervising the Greenberg lobbying effort, he had regular contact with Ayoob "and, less frequently, with Mr. Abramoff."

The nominee also wrote that Tyco discovered after an internal investigation that payments it made to a consulting firm recommended by Abramoff, GrassRoots Interactive, had been diverted to "entities controlled by Mr. Abramoff and were not used in furtherance of lobbying efforts on behalf of Tyco."

He said Tyco had concluded that the diversion was "in violation of Mr. Abramoff's ethical, fiduciary and contractual obligations to Tyco." The payments totaled $1.5 million.

Abramoff, through a spokesman, declined to comment.

Flanigan also responded to a series of questions about his role as a White House counsel in the review of policies for the handling of detainees and whether detainees could be subjected to "cruel, inhuman or degrading treatment."

He said he would not advise the attorney general or others "that U.S. personnel are permitted to engage in cruel, inhuman or degrading treatment."

Joe Shoemaker, a spokesman for Sen. Richard Durbin (D-Ill.), said other questions posed to Flanigan had yet to be answered.

Flanigan's nomination is expected to be delayed until the Judiciary Committee acts next week on the Supreme Court chief justice nomination of John G. Roberts Jr.

CORPORATE SCANDALS:

Radler Plea Deal Vows Cooperation In Hollinger Probe (WSJ)

By Elena Cherney

The Wall Street Journal, September 21, 2005

CHICAGO -- The longtime lieutenant of press baron Conrad Black entered a plea-bargain agreement with federal prosecutors, agreeing to cooperate with probes into dealings by Hollinger International Inc. executives, including Mr. Black, in exchange for a 29-month prison sentence and a $250,000 fine.

David Radler, who served as president and chief operating officer of the Chicago-based publisher, pleaded guilty to a mail-fraud charge and will cooperate with probes by federal prosecutors and the Securities and Exchange Commission.

Prosecutors for the U.S. attorney's office in Chicago said in the plea agreement that Mr. Radler and "the Chairman and Chief Executive Officer" -- titles held at Hollinger International by Mr. Black until 2003 -- schemed from 1999 until 2001 with others to cheat shareholders of $32 million.

Mr. Radler faced a possible maximum prison sentence under the mail-fraud charge of five years.

The fraud, according to the plea agreement entered in U.S. District Court for the Northern District of Illinois, related to Hollinger International's sales of its small community newspapers in the U.S. and took the form of noncompete payments set up by Mr. Radler, according to a "template" that he understood was approved by "the Chairman." The executives never sought approval of the payments by Hollinger's board.

While the plea agreement doesn't identify "the Chairman" as Mr. Black, its language hints at the direction prosecutors could take against the embattled press baron, based on Mr. Radler's testimony. Hollinger International at one time published London's Daily Telegraph, most of Canada's major papers and a stable of small U.S. papers. The company's flagship is now the Chicago Sun-Times.

"Radler, the chairman and others repeatedly abused their authority and fiduciary obligations as managers of International in order to fraudulently benefit themselves at the expense of International and its public shareholders," the plea agreement states.

Eric Sussman, the assistant U.S. attorney who presented the plea agreement to judge Amy St. Eve, wouldn't comment on the investigation. A spokesman for Mr. Black, who hasn't been charged with any criminal acts but faces SEC charges, declined to comment.

The transactions outlined in Mr. Radler's plea agreement are the same ones that set off the unraveling of Mr. Black's trans-Atlantic newspaper empire when they were uncovered two years ago by a special committee of the board advised by former SEC Chairman Richard Breeden. The deals had been shielded from shareholder scrutiny in part because of the complex structure through which Mr. Black and his close associates, including Mr. Radler, controlled the company.

Mr. Black's closely held holding company, Ravelston Corp., owns a majority stake in Hollinger Inc., a publicly traded Toronto company that controls Hollinger International through supervoting shares.

Mr. Radler's plea is likely to help shareholders, who are seeking more than $400 million in funds that the internal company probe found had been diverted by executives, "get the money back through the civil system," said Eugene Fox, a principal with shareholder Cardinal Capital Management LLC. "David has admitted guilt. It's going to be hard for that not to have some weight in the civil process."

Final sentencing for Mr. Radler, who appeared in court sporting his trademark dark tan sports jacket, is to take place after criminal proceedings against other potential defendants are complete, unless those proceedings take too long, according to the agreement.

"This is the first step in making amends for what has taken place," said Anton Valukas, a lawyer for Mr. Radler.

A Top Lieutenant Of Lord Black Pleads Guilty To Fraud Charge (NYT/BLOOM)

By Bloomberg News

DOJ_NMG_0007176

The New York Times, September 21, 2005

A former Chicago Sun-Times publisher pleaded guilty to a federal fraud charge yesterday and agreed to cooperate with a Justice Department investigation of Conrad M. Black, his former boss at Hollinger International.

Prosecutors will recommend that the former publisher, F. David Radler, 63, serve 29 months in prison and pay a fine of $250,000 for his role in the $32 million fraud. He will remain free on $500,000 bond until all proceedings in the case are concluded.

Lord Black, who founded Hollinger and built it into what once was the world's No. 3 publisher of English-language newspapers, is contesting a lawsuit by the Securities and Exchange Commission and a $425 million civil lawsuit by Hollinger contending that he looted the company through excessive, undisclosed payments to himself and associates. Lord Black has not been charged with a crime.

Mr. Radler, a native of Montreal who now lives in Vancouver, British Columbia, may be permitted under the proposed agreement to serve the prison sentence in Canada. The United States government agreed not to take a position if Mr. Radler filed an application for the International Prisoner Transfer Program.

Mr. Radler made his plea before Judge Amy St. Eve of United States District Court in Chicago.

In a statement, Mr. Radler said, "I regret the obvious pain this whole affair has caused for my family, friends and business colleagues, and I am relieved that I can now begin the process of making amends and moving on with my life."

Lord Black's lawyer, Enid Litt, did not return a telephone message seeking comment.

Mark Kipnis, 58, Hollinger International's former internal lawyer, and the Ravelston Corporation, a closely held company that Lord Black controlled, have also been charged. Mr. Kipnis pleaded not guilty in August. Ravelston is to be arraigned today.

Mr. Kipnis faces a maximum of five years in prison for each count and a $250,000 fine, or a fine of twice either his or Mr. Radler's profit or any victim's loss, prosecutors said. Ravelston faces penalties of $500,000 on each count or the alternative fine if convicted.

Lord Black, 61, has fought a 21-month effort by Hollinger International to neutralize his voting control and influence over the company and over Hollinger Inc. of Toronto. Ravelston in turn controlled Hollinger Inc.

Ex-Hollinger Executive Radler Pleads Guilty To Fraud (Update5) (BLOOM)

Bloomberg News, September 20, 2005

Sept. 20 (Bloomberg) -- Former Chicago Sun-Times publisher David Radler pleaded guilty to a federal fraud charge and agreed to cooperate with a Justice Department probe of Conrad Black, his ex-boss at Hollinger International Inc.

Prosecutors will recommend that Radler, 63, serve 29 months in jail and pay a fine of $250,000 for his role in the $32 million fraud. He'll remain free on a $500,000 bond until all proceedings in the case are concluded.

``From what appears to be going on, the government is using the cooperation of the person who pled guilty today to work up a case against Mr. Black," said Bradford Lewis, a former federal prosecutor who is now a partner at Fenwick & West on Palo Alto, California.

Black, who founded Hollinger and built it into what once was the world's No. 3 publisher of English-language newspapers, is fighting a lawsuit from the U.S. Securities and Exchange Commission and a $425 million civil lawsuit by Hollinger that claims he looted the company through excessive, undisclosed payments to himself and associates. Black hasn't been charged by federal prosecutors.

Radler, a native of Montreal who now lives in Vancouver, may be permitted to serve his prison sentence in Canada. The U.S. government agreed not to take a position if Radler files an application for the International Prisoner Transfer Program. Radler made his plea in U.S. District Judge Amy St. Eve's courtroom in Chicago.

Making Amends

``I regret the obvious pain this whole affair has caused for my family, friends and business colleagues, and I am relieved that I can now begin the process of making amends and moving on with my life," Radler said in a statement.

Black's lawyer, Enid Litt, didn't return a voicemail message seeking comment.

Hollinger shares fell 32 cents to $10.10 in composite trading today on the New York Stock Exchange.

Mark Kipnis, 58, Hollinger International's former in-house lawyer, and Ravelston Corp., a closely held company Black controlled, also have been charged. Kipnis pleaded not guilty in August. Ravelston is to be arraigned tomorrow.

Kipnis faces the same maximum penalties as Radler: five years in prison for each count and a $250,000 fine, or a fine of twice either man's profit or any victim's loss, the government said. Ravelston faces penalties of $500,000 per count or the alternative fine if convicted.

Black, 61, has fought a 21-month effort by Hollinger International to neutralize his voting control and influence over the company and Hollinger Inc., its Canadian parent. Ravelston in turn controlled Toronto-based Hollinger Inc.

The board ousted Black as CEO in November 2003, sued him and stripped him of the chairman's title the following January.

Countersuit

Black has countersued and said if he's found liable, former Illinois Governor James Thompson and other members of the company's audit committee should pay part of the damages because they breached their fiduciary duties.

Hollinger International had spent more than $50 million in the past 18 months on lawsuits relating to the allegations that Black looted the company, Hollinger International's lawyer Eric Hoaken said in a Toronto court in July.

U.S. Attorney Patrick Fitzgerald's office has been investigating Black and Radler to determine whether they ``fraudulently diverted corporate assets," according to court papers. Federal prosecutors were examining Hollinger International's sale of newspapers to companies Black and Radler controlled.

In one 1999 transaction detailed in the federal indictment, Hollinger sold several newspapers to a closely held firm called Horizon Publications Inc., which was owned by Radler, Kipnis and other unidentified Hollinger executives. Horizon paid a $5 million non-compete fee in the agreement, with $1.2 million of that going to Hollinger Inc., according to the indictment.

The SEC's suit, filed in November in federal court in Chicago, contends that between 1999 and 2003 Black and Radler diverted $85 million from the publisher in bogus non-competition payments and concealed ``self-dealing" transactions from shareholders, regulators and the company's board.

The case is U.S. v. Radler, 05-CR-727, U.S. District Court for the Northern District of Illinois, Eastern Division.

To contact the reporter on this story: Kevin Orland in Chicago at korland@bloomberg.net. Last Updated: September 20, 2005 16:08 EDT

Ebbers Centers New-Trial Bid On Ex-Deputy (WSJ)

By Nathan Koppel

The Wall Street Journal, September 21, 2005

Bernard Ebbers, WorldCom's former chief executive, faces 25 years in prison for participating in the largest accounting fraud in U.S. history. Former Chief Financial Officer Scott Sullivan got five years, two other middle-level executives got a year and a day, and a third got five months.

Yet WorldCom's erstwhile second-in-command remains in legal limbo. In court papers, federal prosecutors say former Chief Operating Officer Ronald Beaumont was a "co-conspirator" in the $11 billion fraud, but they haven't had him indicted for reasons they decline to discuss. He also hasn't had to pay penalties in civil cases by the Securities and Exchange Commission or shareholders of WorldCom, which is now known as MCI Inc.

Now Mr. Ebbers, who remains free while appealing his conviction, is hanging his bid for a new trial in part on Mr. Beaumont, along with two lower-level former executives also named by prosecutors as "unindicted co-conspirators." Mr. Ebbers's lawyers argued in April in federal court in New York that the government's refusal to grant Mr. Beaumont and the others immunity from prosecution effectively barred them from calling the ex-CEO's former lieutenants to testify for the defense.

The Ebbers team is focusing much of its appeal for a new trial on Mr. Beaumont as it prepares to send briefs to the Second U.S. Circuit Court of Appeals in New York this month. The Ebbers team says Mr. Beaumont's attorney had indicated that his client, if called, would invoke his Fifth Amendment right to remain silent and avoid possible self-incrimination. That's not a surprising stance, given that prosecutors could decide at any time to indict him, especially if he had said something they deemed incriminating on the stand.

With immunity, there would have been no danger that his testimony would be used against him, so he could have been compelled to answer questions.

Reid Weingarten, Mr. Ebbers's lead trial lawyer, says memos summarizing government interviews with Mr. Beaumont suggest he would have backed Mr. Ebbers's testimony that Mr. Sullivan hid the accounting fraud from the CEO. Mr. Beaumont "was more sophisticated and closer to the numbers than Bernie," Mr. Weingarten says, contending that prosecutors purposely left him in legal limbo to prevent him from helping exculpate his former boss.

The Ebbers lawyers say their inability to call Mr. Beaumont made the first trial unfair. They want the appeals court to order a new trial and to force prosecutors to grant Mr. Beaumont immunity so the defense could call him to the witness stand, where the trial judge could order him to answer questions.

In legal briefs, prosecutors say there is no reason to believe Mr. Beaumont's testimony would have helped Mr. Ebbers because the defendant's "hands-on management style" rendered him well-situated to know about the fraud. At the trial, U.S. District Judge Barbara Jones refused to order prosecutors to grant Mr. Beaumont immunity, ruling that his expected testimony -- denying knowledge of any fraud -- would at most exculpate himself, not Mr. Ebbers. The Ebbers lawyers say Mr. Beaumont's denial would have bolstered their argument that Mr. Sullivan kept senior management in the dark.

Lawyers uninvolved in the case say the appellate argument about Mr. Beaumont is a long shot. "The government always has a reasonable argument that it doesn't want to immunize a person because that person may have committed a crime," says Robert Morvillo, a white-collar attorney who represented homemaking entrepreneur Martha Stewart.

Mr. Beaumont's lawyer, Carey Dunne, says his client has "cooperated fully" in all WorldCom probes, and there is no reason to believe the government "is contemplating any action" against him. Mr. Beaumont previously has maintained he did nothing wrong.

Federal prosecutors in New York City who oversaw the WorldCom case decline to comment on Mr. Beaumont, as does the SEC. Lawyers pursuing WorldCom shareholder suits say they didn't name him as a defendant because he didn't formally endorse the company's fraudulent books, such as by signing SEC filings.

"The universe of people who had a hand in disasters like WorldCom is bigger than the universe of people you can bring a sustainable lawsuit against," says John "Sean" Coffey, the lead plaintiffs' lawyer in a federal class-action WorldCom suit.

Mr. Beaumont, 57 years old, arrived at WorldCom in 1997 and became its chief operating officer in late 2000. In 2001, he got a salary and bonus of $3 million and use of a Gulfstream III jet, according to a report by a special committee of WorldCom's former board. The board report doesn't address whether Mr. Beaumont knew that WorldCom artificially inflated revenue, but it says he participated in decisions that resulted in improper accounting.

The report says Mr. Beaumont held meetings every two to three months in 2001 to stress to sales leaders the "importance of achieving revenue targets." Searching for "revenue opportunities" to bridge gaps, the report says, a group headed by Mr. Beaumont decided to count $30 million in penalties from customers who terminated service agreements before they were due to expire. The report concluded that because WorldCom rarely imposed such penalties, it was improper to count the $30 million. Mr. Beaumont told board lawyers he relied on others to make accounting judgments, according to a lawyer's notes of the interview.

At Mr. Ebbers's trial, prosecutors' designation of Mr. Beaumont as an unindicted co-conspirator allowed them to use testimony about his conversations with alleged co-conspirators. Normally, such testimony would be barred as hearsay, but there's an exception for hearsay about actions taken to advance a criminal conspiracy.

Testifying for the government, Mr. Sullivan, the former chief financial officer, recalled that Mr. Beaumont agreed to Mr. Ebbers's request that slides on bridging a revenue gap be removed from a board presentation the boss was going to make -- suggesting that Mr. Ebbers was hiding something.

Though Mr. Beaumont technically remains in legal limbo, the Ebbers team said in its motion for a new trial that the former No. 2 is unlikely to be charged because doing so would fly "in the face of reality and common sense." Mr. Weingarten adds, "You don't routinely prosecute subordinates after you prosecute the big guy."

Kozlowski And Swartz Ask For Release On Bail (WSJ/DJN)

By Chad Bray, Dow Jones Newswires

The Wall Street Journal, September 21, 2005

Lawyers for former Tyco International Ltd. executives L. Dennis Kozlowski and Mark H. Swartz asked a New York state appellate judge to release their clients on bail pending their appeal.

Prosecutors and lawyers for the former executives made arguments on whether the men should be released at a hearing in chambers at the New York State Supreme Court's Appellate Division yesterday afternoon.

Mr. Kozlowski, Tyco's former chief executive, and Mr. Swartz, the conglomerate's former chief financial officer, were remanded to state custody on Monday after they were sentenced to 8 1/3 years to 25 years in prison and ordered to pay $240 million in fines and restitution. Their sentencings came after one of the high-profile trials in the wave of corporate-scandal prosecutions.

With good behavior and other factors, the earliest the two men could finish their prison terms is after nearly seven years.

Prosecutors are expected to file a response to the defense application for bail by tomorrow. Defense attorneys are expected to respond by Monday. A decision is expected soon after that.

Lawyers for Messrs. Kozlowski and Swartz declined to comment after the hearing.

In June, a jury of six men and six women convicted Messrs. Kozlowski and Swartz of 22 of 23 counts each, including grand larceny, conspiracy and securities fraud. They were each acquitted of one charge of falsifying documents related to the company's 1998 relocation to Florida.

Their convictions followed a mistrial in the case last year. Tyco, which has its headquarters in Bermuda, operates out of West Windsor, N.J.

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CRIMINAL LAW:

Judge Declares Mistrial In Gotti Case (FINDLAW/AP)

By Tom Hays, Associated Press Writer

Find Law, September 21, 2005

(AP) - NEW YORK-The judge in the John A. "Junior" Gotti racketeering case declared a mistrial Tuesday on the most serious charges in the case after the jury came back deadlocked.

The jury found Gotti not guilty of a lesser count of conspiracy to commit securities fraud. That verdict will stand.

The partial verdict came on the eighth day of deliberations in Gotti's trial on charges that included an allegation that he plotted the kidnapping of Curtis Sliwa, the founder of the Guardian Angels crime-fighting group.

U.S. District Judge Shira Scheindlin declared a mistrial on the remaining counts and discharged the jury after it indicated for the second straight day that it was unable to reach a decision about the bulk of the case.

Gotti Is Released After Judge Declares Mistrial (NYT)

By Julia Preston

The New York Times, September 21, 2005

In a startling setback to federal prosecutors, John A. Gotti, the Gambino crime family prince who said he wanted to leave the mob life behind and drive a minivan with his family, avoided conviction today in his racketeering trial, as the jury returned hung verdicts on three charges against him and voted to acquit him on a fourth.

After deliberating almost eight days in the six-week trial, the deeply divided jury reached no verdict on the most serious charge against Mr. Gotti, the accusation that he ordered the June 19, 1992, kidnapping of Curtis Sliwa, the Guardian Angels founder and WABC radio talk show host. He was abducted in a taxicab in lower Manhattan and shot several times at point-blank range.

The jury of seven women and five men had sharply mixed reactions to a case the prosecutors built primarily on the contradictory and often chilling testimony of two high-profile Gambino turncoat witnesses, both of whom confessed coolly in court to crimes more bloody than any Mr. Gotti was accused of.

Judge Shira A. Scheindlin said in Federal District Court in Manhattan that she would allow Mr. Gotti to go free once he posted bail, rejecting a request from a prosecutor, Michael McGovern, that he remain in prison pending a possible retrial.

"The time has come" for Mr. Gotti to be released, Judge Scheindlin said, and applause erupted from the many Gotti clan members in the courtroom.

"God hears a mother's prayer," said a happily tearful Victoria Gotti, Mr. Gotti's normally reclusive mother, who sat in the courtroom throughout the deliberations. Mr. Gotti's lawyers, Jeffrey Lichtman and Marc Fernich, requested that his bail be reduced from property worth $5 million to $2 million in property.

It was a notable change of fortune for the son the late John J. Gotti, the fearsome Gambino boss known as the Dapper Don who ran the Gambino family when it was New York's most powerful Costa Nostra organization. Mr. Gotti's father died in federal prison in 2002, and three other senior members of the Gotti family are behind bars for mob crimes.

Mr. Sliwa said prosecutors told him after the trial that they would try Mr. Gotti again on the three counts that ended in hung verdicts: the kidnapping charges for the attack on him, and racketeering and extortion conspiracy charges. Mr. Gotti was acquitted of securities fraud.

The office of Michael J. Garcia, the United States Attorney for the Southern District of New York, had no comment today.

Mr. Sliwa, dressed in the Guardian Angels uniform of a red sateen jacket and red beret, said he was stunned and disappointed and saw "a page out of O.J." in the hung verdicts, referring to the murder acquittal of O.J. Simpson.

"This jury was out to lunch," Mr. Sliwa said. "So let's make it round two. I can't wait." He predicted that Mr. Gotti and the Gambino family would continue "a reign of terror" once he was released from jail.

"John Gotti Junior is still down to the marrow of his bone an enemy of society, a thug," Mr. Sliwa said.

One juror, as she arrived today at her apartment on the Upper West Side of Manhattan, said the jury's debate "was exhausting." The jurors served anonymously in the trial, and she declined to give her name.

"Have you ever tried to get three people to agree on anything?" the juror asked. "Try 12."

The juror, who told the court during jury selection she was a retired actress, 67, recalled what defense lawyers had said of the government's cooperating Gambino defector witnesses: that they were "people who never told the truth in their lives."

She said, "I think we were all surprised," that Mr. Gotti was not convicted of any charge. In the most surprising verdict in the trial, the jurors acquitted another defendant, Michael Yannotti, 42, of two shooting executions on Jan. 27, 1996, in the Mill Basin

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section of Brooklyn. Mr. Yannotti was accused of shooting Robert Arena, a Cosa Nostra rival, and Thomas Maranga, who prosecutors said was a bystander in the wrong place at the wrong time. Mr. Yannotti's pager was found by police on the pavement among the spent cartridges of the murder bullets.

The jury delivered a hung verdict on the role of Mr. Yannotti, a Gambino associate, in the Sliwa attack. The prosecutors - Mr. McGovern, Victor Hou and Joon Kim - had sought to prove that he was the gunman who shot Mr. Sliwa in the legs and abdomen in the back seat of a taxi. Mr. Yannotti was convicted of one lesser racketeering conspiracy count.

Louis Mariani, 49, another Gambino associate, was convicted of three counts of securities fraud. Mr. Mariani's aunt, Antoinette Laboccetta, gave an anguished cry of "No!" when the guilty verdicts were read, and then fainted. She was carried from the courtroom by marshals.

As a sign of the intense dissent in the jury room, the jurors' verdict on the main racketeering count against Mr. Gotti and the other defendants was so divided that Judge Scheindlin and the lawyers puzzled over it for half an hour before deciding what it meant.

Gotti Set For Bail After Hung Jury, Acquittal (REU)

By Christine Kearney

Reuters, September 20, 2005

NEW YORK (Reuters) - A New York jury deadlocked over racketeering charges against the son of late mob boss John Gotti on Tuesday and acquitted him of securities fraud charges, paving the way for his release from prison on bail.

U.S. District Judge Shira Scheindlin dismissed the hung jury, saying John A. "Junior" Gotti, 41, could face some of the racketeering charges in a new trial.

She also said Gotti was entitled to bail and asked defense lawyers to submit a bail package. If granted bail, Gotti could be released within a week.

Gotti was imprisoned on other racketeering charges and was due to be released last year before the latest charges were brought against him.

The remaining charges against him included extortion, loan sharking conspiracy and ordering the attempted kidnapping of the Guardian Angels anti-crime patrol leader, Curtis Sliwa. Gotti faced up to 30 years in prison.

The verdict came after seven days of deliberations. A visibly relieved Gotti, wearing a crisp white shirt and black suit, hugged his lawyers, while family members in the Manhattan federal courtroom cried.

During the trial, prosecutors said Gotti became "street boss" of the Gambino crime family in the 1990s after his infamous father, known as the "Dapper Don," went to prison, where he died of cancer in 2002.

The jury sent a note to the judge on Monday, saying they could not agree on whether Gotti withdrew from the Mafia in 1999 after being sent to prison for pleading guilty to other racketeering charges, as his defense team had maintained.

The charges against Gotti are bound by a five-year statute of limitations, which means the prosecution had to prove Gotti was involved in at least one conspiracy after July 1999 -- five years before his indictment was handed down.

Outside the courtroom, Gotti's lawyer, Jeffrey Lichtman, said he was pleased with the result because "just the name Gotti" was usually enough to get a conviction. He said he plans to ask the court to dismiss the remaining counts against his client.

"This case, what is left of it, is a limping wreck," Lichtman said.

Curtis Sliwa, who testified during the trial that he was shot in the back of a taxi in 1992 after making derogatory comments about Gotti's father, said he couldn't wait for "round two."

"I am disappointed. I've been waiting 13 years, but I can still wait a little longer for justice," he said. "I feel in my heart I am alive today simply so that justice can be done for John Gotti Junior."

An array of mob turncoats testified during the monthlong trial, including the taxi driver in the Sliwa shooting, Joseph D'Angelo, who said Gotti ordered the attack.

But Gotti's defense lawyers said the prosecution's case was based on witnesses who were liars and murderers who testified to get lighter prison terms.

At The Gotti Trial, A Mob Scene (WP)

By David Segal, Washington Post Staff Writer

The Washington Post, September 21, 2005

NEW YORK, Sept. 20 -- In a scene that seemed scripted by a Hollywood hack, the federal trial of John A. "Junior" Gotti ended Tuesday with tears, applause, fainting and a mixed verdict that soon could spring the onetime Mafia boss from prison.

On its eighth day of deliberation, a weary panel of seven women and five men acquitted Gotti, 41, of securities fraud and hung on the three other counts, including loan-sharking and the alleged kidnapping of Guardian Angels founder Curtis Sliwa.

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U.S. District Judge Shira Scheindlin declared a mistrial on those charges and said that she's inclined to approve a request by Gotti's lawyers that he be freed on $2 million bail. Odds are good that one of the country's most notorious gangsters -- or ex-gangsters, as his defense team argued -- will be restricted only to house arrest starting sometime next week.

The coda to this seven-week trial was weird, baffling and at moments very noisy. The aunt of Louis Mariani, one of Gotti's two co-defendants, screamed "Noooooooooo!" as she heard the forewoman declare her nephew guilty of securities fraud. Antoinette Laboccetta then slipped off her seat and onto the floor, her eyes rolling, a copy of a pamphlet called "The Promises of Our Lord" clutched to her chest.

Two marshals in the courtroom rushed to aid her. "Do you need an ambulance?" shouted one of Scheindlin's clerks, sitting directly in front of the judge, as Laboccetta was carried out of the room. All the while, the judge tried to go through the formality of polling the jury, which wasn't easy because jurors, too, were fixated on the drama in the audience. "Pay attention to me," she said, as cheerfully as possible. Adding to the upheaval, the clerk who'd asked about the ambulance started to cry.

Other members of the crowd -- the Gotti side, at any rate -- clapped wildly when the last "not guilty" was read. Angel Gotti, a sister of the accused, praised her favorite psychic, who she said had predicted this very outcome on this very day. "I told you, didn't I?" she said, nudging her mother as the two of them wiped tears from their eyes. "God listens to a mother's prayers," said Gotti's mother, Victoria, who leaped to her feet and left the courtroom as the verdict was read.

Gotti shook his head, hugged his lawyer and eventually turned to give a thumbs-up to assorted friends and family. But for a while he looked baffled by the proceedings. And the proceedings, in truth, were pretty baffling.

There was some confusion about the law -- for a good half-hour, the judge and lawyers puzzled over the verdict sheet, parsed the complicated rules of racketeering statutes and debated whether the jury had actually acquitted Gotti of all counts or just had failed to reach a unanimous decision. (It had deadlocked, it was decided, leaving Gotti open to a retrial.)

Gotti is hardly out of legal jeopardy -- prosecutors will almost certainly retry him -- but he and his attorneys clearly won over a juror or two by arguing that he'd quit the mob in 1999, when he pleaded guilty to a handful of racketeering charges. Gotti, son of the "Dapper Don," the late John J. Gotti, had contended that his charismatic and murder-prone dad led him astray, and that after six years in prison, a variety of slights by former associates in the Gambino crime family, and maybe a little moral clarity, he had had enough of crime.

The verdict left Gotti's attorneys, Jeffrey Lichtman and Marc Fernich, beaming.

"The fact is they built a case on the backs of psychotics," Lichtman said, referring to the parade of ex-mobsters who provided the juiciest part of the prosecution's presentation. "Altogether they committed about 30 murders, these guys, and some of them are walking among us. The jury rejected that approach."

Lichtman also said it was time to leave the Gottis alone. "Enough already," he said. "Let's find Osama bin Laden."

The sidewalk outside the Daniel Patrick Moynihan courthouse in Lower Manhattan was jammed with television cameras as Lichtman and other players in the case left the building. Sliwa, who the government alleged had been shot on Gotti's orders in a 1992 kidnapping attempt, fumed in the middle of the scrum.

"There's a Round 2," he said. "This doesn't mean Gotti is innocent. I've waited 13 years for this. I can wait a little longer."

Mariani, who is free pending sentencing, shrugged off the guilty verdict against him and told the assembled media that he was ready to do his time.

"It'll be a lot like a fat farm," he said of prison, grinning widely, his hands on his expansive belly.

"I could stand to lose 60 pounds."

His aunt stood nearby, looking a little dazed but under the circumstances rather steady.

Gotti Mistrial Leaves Some Elated, Others Stunned (NYNSDY)

By Patricia Hurtado, Staff Writer

New York Newsday, September 21, 2005

The verdict in the month-long trial of John "Junior" Gotti was met with tears, applause and near-pandemonium.

Gotti's sister Angela gasped and began to weep, while his mother and other siblings applauded as the jury announced it had cleared him of a securities fraud charge and were hung on the remaining racketeering and conspiracy counts.

When the audience heard that Gotti's co-defendant Louis Mariani, a reputed Gambino crime family associate, was convicted of securities fraud and other charges, Mariani's aunt let out a groan and fainted.

Lawyers tried to get U.S. District Judge Shira Scheindlin to stop, but she continued to read the verdict as a team of U.S. Marshals and courtroom security officers carried the unconscious woman out.

Later, as the courtroom was emptying, Gotti's mother, Victoria, of Howard Beach, beamed triumphantly as she waved at her son.

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"I'm feeling great. God hears a mother's prayers. I have no doubt though that they'll be back at it in a couple of months. We've gotta get him out of the country. He's always going to be catnip to these people," she said of prosecutors and the FBI.

Gotti's sister Victoria, star of her own reality TV show, "Growing Up Gotti," left the courtroom alone, leaned against the courthouse's white marble wall and began to weep. "He's just coming home," she said. "I think it means a lot for the men in my family, my boys. I just think this sends a message that you just can't prosecute someone because of their last name."

Asked what Gotti had said after the verdict, defense lawyer Jeffrey Lichtman said his client was elated.

"He said 'Thank you, you did everything you said you would do,'" Lictman said.

Lichtman, who apparently did not know the jury had come close to convicting his client (it voted 11-to-1 for conviction on a variety of crimes) sounded a triumphant note.

"This case, what's left of it, is a limping wreck," he said. Noting that the judge said she would likely release Gotti on bail, Litchman said: "John's very pleased he's going to be home very shortly with his children, which is all that he's talked about for the last year."

Meanwhile, Curtis Sliwa, who testified about how he was kidnapped and shot -- allegedly at Gotti's behest in June 1992 -- emerged from the courthouse looking grim.

Asked how he felt about the acquittal of Gotti co-defendant Michael Yannotti, Sliwa shook his head.

"I'm stunned," he said. "This is a page out of the O.J. Simpson case. Next thing you know, they will believe it was the Colombians who shot me.

"I feel that I am alive today simply to make sure that justice is done in this case ... I think it's time to have 12 fresh jurors."

Louisiana Reports ID Fraud Post-Katrina (REU)

Reuters, September 20, 2005

BATON ROUGE, Louisiana (Reuters) - Identity thieves are preying on Louisiana residents forced from their homes by Hurricane Katrina, the state attorney general's office said on Tuesday.

Consumer protection officials said complaints were coming in from hurricane victims who discovered the thefts when they applied for financial aid from the Federal Emergency Management Agency.

"When they (hurricane victims) go into apply, they'll find that somebody has already done it in their name," said Isabel Wingerter, director of the Louisiana Attorney General's public protection division.

Thieves were able to apply for the aid using the victim's social security numbers.

Experts had warned that identity theft could become a problem in the wake of the storm with thieves taking birth certificates, banking and other sensitive documents left among the waterlogged debris.

Wingerter said Louisiana officials had received about 50 complaints of identity fraud in the past day, but she expected the number to grow as more storm victim apply for federal assistance.

Displaced hurricane victims were also being urged to file for changes of addresses with the U.S. Post Office to prevent sensitive materials from being delivered to their wrecked homes before they return.

The Justice Department in Washington has set up a task force to investigate identity theft and other types of fraud related to the Katrina.

Federal Officials Scrutinize Ladner (WP)

By Valerie Strauss And Susan Kinzie, Washington Post Staff Writers

The Washington Post, September 21, 2005

Federal law enforcement officers are reviewing documents regarding suspended American University President Benjamin A. Ladner, whose personal and travel expenses are being investigated by the school's trustees.

Officials from the U.S. attorney's office in Washington, working with the FBI, requested documents from American University, which turned them over to comply with a subpoena, according to two sources with knowledge of the probe.

In addition, the Internal Revenue Service has contacted the university about issues involving the Ladner case, but the IRS is not actively involved, according to the sources, who spoke on condition of anonymity because the probe is ongoing.

The case could have tax implications not only for Ladner but also for AU, which is bound by laws governing how much charities and universities pay their executives.

The board of trustees placed Ladner on administrative leave Aug. 24, and Provost Cornelius M. Kerwin stepped in to serve as acting president. Ladner would not comment for this article. The chairman of the board, Leslie E. Bains, did not return a phone call yesterday.

Channing Phillips, a spokesman for the U.S. attorney's office, said last night that grand jury secrecy rules and Justice Department policy prevent his office from commenting.

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The trustee board is close to completing its probe of Ladner, who became president in 1994. He has been credited with raising academic standards and the national profile of the university, which is in Northwest Washington .

There is a split on the board about the severity of the issues reviewed in its audit, according to several sources familiar with the board's discussions. Some trustees view Ladner's expenses as justified by the constant fundraising and entertaining required of today's university presidents, while others believe that the spending was out of line for a school of AU's size, the sources said.

Those sources and others with knowledge of the board probe said it involved a number of complicated issues and hundreds of thousands of dollars in travel and personal expenses over the past three years. The board has not determined whether Ladner should be asked to repay the university for any of the spending, a source said.

The board also has been wrangling with Ladner over compensation -- his salary, benefits and allowances -- which has more than tripled since he came in 1994, according to one source with detailed knowledge of Ladner's pay. In 2004, his base salary was $633,000, but his total compensation was well over $800,000, according to forms the university filed with the IRS.

Last year, some board members became concerned that Ladner's pay was too high for the president of a 10,000-student private, nonprofit school and that they could be liable under laws intended to avoid excessive compensation to executives of charities, sources knowledgeable about board activities said.

Any payment of an executive's personal expenses by the organization generally must be repaid or reported as income, said LaVerne Woods, chair of the tax-exempt organizations committee of the American Bar Association.

The board decided to reduce Ladner's overall compensation by an undisclosed amount, according to the sources. The trustees, meanwhile, continued to investigate his personal and travel expenses, including an engagement party for his son that he allegedly charged to the university, the sources said.

Because his contract required Ladner to spend a certain amount of time at a university-owned house, sources said, Ladner's attorneys argued that the cost of all food and services required while living there should be paid by the school.

A preliminary report by Arnold & Porter LLP, a law firm helping the trustees, has been completed and sent to Ladner. The report includes records of several chauffeurs employed by Ladner and his wife, Nancy Bullard Ladner. Chauffeurs kept a log of their duties, including taking Ladner to such events as an athletic awards banquet, dropping off dry cleaning and taking Nancy Ladner to an appointment at a hair salon.

A final report has not been completed but is expected to be within a few weeks, the sources said. The board, however, already has eliminated the position of personal chef to the Ladners and transferred the social secretary for the Ladners to another department.

Staff writer Allan Lengel and researcher Bobbye Pratt contributed to this report.

FBI Investigates Democrats On Steele's Credit Report (WP)

By John Wagner And Matthew Mosk

The Washington Post, September 21, 2005

Federal prosecutors are investigating whether two Democratic Party researchers in Washington illegally obtained the credit report of Maryland Lt. Gov. Michael S. Steele as they conducted opposition research on the likely Republican Senate candidate.

Phil Singer, a spokesman for the Democratic Senatorial Campaign Committee, acknowledged yesterday that two of his organization's employees had resigned as a result of the episode, which he said was subsequently referred to the U.S. attorney's office by the Democratic committee.

Under federal law, it is illegal to knowingly and willfully obtain a credit report under false pretenses. A spokeswoman for the U.S. attorney's office for the District of Columbia confirmed last night that an investigation by its fraud and public corruption section is proceeding with the assistance of the FBI.

The July episode came as both parties started digging into the backgrounds of opposing candidates for Maryland's two marquee races next year, for governor and an open U.S. Senate seat.

Steele's chief of staff, Paul Ellington, said FBI agents interviewed the lieutenant governor about the matter last week.

Ellington said Steele learned of the possible impropriety when agents approached him. "He didn't have any idea this was going on," Ellington said. Personal finances could be fertile territory for researchers looking into Steele, who acknowledged financial difficulties when he ran for statewide office three years ago.

The DSCC, the arm of the Democratic Party tasked with promoting Senate candidates, declined to disclose the names of the employees involved. But sources with knowledge of the episode identified them as Katie Barge, the committee's former research director, and Lauren Weiner, an employee who had been researching Steele even before he formed an exploratory committee for Senate in June.

Bill Lawler, an attorney representing Barge, said she had brought the matter to her superiors' attention. "She resigned because she didn't want this episode to negatively reflect on the committee," Lawler said.

An attorney said to be representing Weiner did not return a phone call yesterday.

Singer said the two employees acted without the committee's authorization but later told their superiors, who "immediately ensured that Mr. Steele's credit report was not used or disseminated to anyone."

Singer added that the former employees were cooperating with authorities and that the DSCC had launched an internal review of the matter. He said the DSCC is not a target of the federal inquiry.

Sources familiar with the episode said Steele's credit report was obtained with the use of his Social Security number, which was found on a public court document.

Shortly after being named by Robert L. Ehrlich Jr. (R) as his running mate in 2002, Steele disclosed to reporters that he owed more than $35,000 in personal debts and had an unpaid political loan of $25,000 from a previous race.

Steele, a former corporate lawyer who started his own consulting firm in 1998, said at the time that his "tight" financial situation should not detract from his political message. "At least my report reflects a blue-collar man, an entrepreneur out there trying to start a business in Maryland," Steele said in July 2002. "I don't have trusts that are going to cover me."

Steele is paid $120,833 a year as lieutenant governor. According to the most recent financial disclosure he submitted to the Maryland State Ethics Commission, which covers 2004, he has paid off some of his debts.

Steele has been heavily courted to run for Senate by national GOP leaders and is expected to give the party its best shot at a Senate seat in years.

Democrats Got Steele's Credit Report (WT)

By Matthew Cella

The Washington Times, September 21, 2005

Two members of the Democratic Senatorial Campaign Committee have resigned after admitting they obtained Maryland Lt. Gov. Michael S. Steele's credit report.

Phil Singer, a spokesman for the Democratic Senatorial Campaign Committee (DSCC), said the two staffers told committee officials in July what they had done. He said the committee began an internal investigation and determined it was an isolated incident.

"The DSCC immediately ensured that Mr. Steele's credit report was not used or disseminated to anyone," Mr. Singer said, "It also reported this incident to the U.S. attorney in Washington, D.C."

He said the employees, who were not identified, were cooperating with authorities.

A source familiar with the investigation said the employees were "senior staff" members in the research department of the DSCC.

"While the DSCC did not authorize the employees to access Mr. Steele's credit report, we regret that this incident occurred and apologize to Mr. Steele," Mr. Singer said.

Mr. Steele's chief of staff, Paul Ellington, said the lieutenant governor had been made aware of the incident.

"This is a serious legal issue, and a criminal investigation is under way," Mr. Ellington said last night. "We have been advised by the FBI to not comment and will honor their request."

Mr. Steele, a Republican, in June announced the formation of an exploratory committee for his run for the U.S. Senate after Sen. Paul S. Sarbanes in March announced he would not seek a sixth term.

State and national Republican Party leaders, including President Bush and Sen. Elizabeth Dole, North Carolina Republican and chairman of the National Republican Senatorial Committee, have pressured him to run.

Audra Miller, spokesperson for the Maryland Republican Party, would not comment on the credit-report incident, referring a request to the National Republican Senatorial Committee. A spokesman for the committee said it is a "serious legal issue" and he was unable to comment until the committee receives more information.

Gov. Robert L. Ehrlich Jr.'s election as governor with Mr. Steele as lieutenant governor in 2002 made the two men the first Republicans to hold those offices in Maryland in more than 30 years. The state has not had a Republican senator since 1987.

Mr. Steele, the first black person elected to statewide office in Maryland, achieved national prominence after his prime-time speech at the 2004 Republican National Convention.

His political rise, from a post on the Prince George's County Republican Central Committee to lieutenant governor, took less than 10 years. Mr. Steele said he did not plan his political trajectory but seized the opportunities presented to him.

Democrats who have announced their candidacies are U.S. Rep. Benjamin L. Cardin; socialist activist A. Robert Kaufman; Kweisi Mfume, former president of the National Association for the Advancement of Colored People; and Dr. Lise Van Susteren, a Montgomery County psychiatrist, and the sister of Greta Van Susteren, who hosts the Fox News Channel's "On the Record" interview program.

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Evidence In Mob Murders Surfaces In Casino Battle (CBS2CHI)

CBS 2 Chicago, September 21, 2005

(CBS) CHICAGO The first piece of evidence in the Operation Family Secrets mob murder case surfaced Tuesday during a battle over a casino license.

As CBS 2's John Drummond reports, a top FBI agent believes the undercover videotape shows a link between the mob and Rosemont Mayor Don Stephens.

James Marcello is identified by the FBI as the boss of the Chicago mob.

In March 2004, the FBI videotaped a conversation between Marcello and his brother, Michael, at the federal prison at Milan, Michigan.

Stephens, the long-time mayor of Rosemont, had lobbied hard for the Emerald Casino Inc., to be granted a license to operate in Rosemont. But the Illinois Gaming Board rejected the Emerald bid, citing alleged mob ties.

At a special hearing Tuesday on the Emerald license, the gaming board watched an undercover videotape from the Operation Family Secrets investigation. On the tape, the Marcello brothers discussed whether the mob would have a piece of any casino in Rosemont.

The two men did not use proper names when discussing the matter. The FBI said "he" referred to Stephens.

James Marcello: “Are we gonna be in there at all?”

Michael Marcello: “I don’t ... MGM or one of them companies will wind up with it. I mean he ain't going to get it like he wanted it before but...”

James Marcello: “They'll pay him so much a month and that'll be it.”

James Marcello: “You gotta say it. This guy really knew what he was doing, Mickey. They could say what they want about him.”

Attorney Robert Cliffford, who represents Emerald Casino, was skeptical of the meaning of the tape.

“When I first saw this my reaction was you have a couple of sideways talking about stuff they don't know an awful lot about,” Clifford said.

But top FBI organized crime agent John Mallul said that Stephens had a special interest in Emerald getting a license since he could exercise some control over it.

A spokesman for the Rosemont mayor ripped the FBI tape, calling it "meaningless."

He said it proves nothing and suggests the gaming board has a "vendetta against Mayor Stephens."

As far as the videotape itself, this is the first time we've seen some of the mountain of evidence expected to be used against James Marcello and other alleged mobsters in the Family Secrets case.

The video portion clearly showed the Marcello brothers having a chat in a day room at the Michigan prison. But the audio was difficult to make out. We had to read from a transcript provided by an FBI agent.

FBI Agent: Mob Ties To Casino Discussed (CHIST/AP)

By MAURA KELLY LANNAN, ASSOCIATED PRESS

Chicago Sun-Times, September 21, 2005

The reputed head of the Chicago mob and his half brother were caught two years ago on surveillance videotape talking about organized crime's involvement and control of a proposed casino in Rosemont, an FBI agent testified Tuesday.

A two-and-a-half-minute segment of the grainy and muffled videotape was played during a hearing in which the Illinois Gaming Board is trying to revoke Emerald Casino Inc.'s gambling license. State regulators want to revoke Emerald's license because they say some of the casino's investors had alleged mob ties.

Emerald had hoped to relocate to Rosemont. Attorney General Lisa Madigan has questioned the suitability of Rosemont as a casino location and said she had concerns about possible mob ties in the Chicago suburb.

A written transcript of the videotape, which the FBI agent said is about five hours long, includes vague references and does not name a person or town.

However, FBI special agent John Mallul testified he believed portions of the taped conversation referred to Rosemont Mayor Donald Stephens and his quest to have a casino open in Rosemont as well as organized crime's influence at such a casino.

Attorneys for Rosemont and Emerald questioned how Mallul could draw those conclusions from the videotape.

Mallul said the tape, made March 24, 2003 by Chicago FBI agents, shows James and Michael Marcello talking in the visiting room at a federal prison in Michigan where James Marcello was incarcerated.

The Marcello brothers are now both in jail. A June federal indictment accuses James Marcello in three slayings, including the killing of Las Vegas mobster Tony "The Ant" Spilotro and his brother. Michael Marcello is accused of helping his imprisoned brother by keeping him informed of the mob's activities, delivering messages and carrying out illegal activities, including operating an illegal video gambling business.

On the videotape James Marcello asked Michael Marcello: "How are you guys doin' with that, okay? Everything okay?"

"So far, yeah. Things workin' out good," replied Michael Marcello, whom the FBI has identified as an associate of organized crime.

"Good," James Marcello said.

When asked what that exchange meant, Mallul testified, "It's my opinion that they're referring to organized crime involvement and control of a casino in Rosemont."

However, on cross examination Mallul said he never asked the Marcello brothers what they discussed.

Robert Stephenson, attorney for Rosemont, dismissed the videotape and transcript as "absolute nonsense" that "reflects nothing."

"If anybody would fairly read it, they would come away with the same conclusion," Stephenson said.

Emerald attorney, Robert Clifford, argued against the use of the videotape during the hearing because he said he had not seen the entire tape. He also said it was irrelevant to Emerald's case.

According to the transcript, James Marcello later asks, "Are we gonna be in there at all?"

Michael Marcello replied, "I don't ... MGM or one of them companies will wind up with it. I mean, he ain't gonna get it like he wanted it before."

Mallul said he thought that exchange meant James Marcello asked if organized crime would be involved with the Rosemont casino, and Michael Marcello replied that Stephens was not going to get the type of casino he wanted. Mallul did not elaborate.

"It's my opinion, based on this conversation, Donald Stephens had a special interest in having Emerald itself be a casino in Rosemont," Mallul said.

Mallul declined to comment after the hearing.

The videotape also includes an exchange in which the Marcello brothers discuss Wayne Johnson, a former chief investigator of the Chicago Crime Commission, and his settlement of a defamation lawsuit filed against him by Stephens, Mallul said.

Stephens filed the lawsuit after Johnson accused him of having connections to organized crime. As part of a settlement, Johnson withdrew his claim. He later became police chief in Cicero.

"The V guy put his arm around him (the videotape shows Michael Marcello making a fist and hitting his stomach). Alright? Put 'em over there in that town. He backed off the other guy out there. Now they're goin' for the thing again," Michael Marcello said, according to the transcript.

Mallul testified that "the V guy" was former Chicago alderman and Cicero attorney Edward Vrdolyak, and the town mentioned was Cicero. Mallul said Marcello meant Johnson backed off his comments about Stephens, and that Stephens and Rosemont were seeking a casino again.

"It's essentially Edward Vrdolyak pressing Wayne Johnson into ... clarifying his statements," Mallul said.

Vrdolyak denied that claim Tuesday and said he did not know the Marcello brothers.

"I wasn't involved in any negotiations with Don Stephens or anybody involving the casino in Rosemont," he said. "I don't know anything. It's absolutely insane."

Johnson could not be reached for comment. Attempts to reach several public listings for a Wayne Johnson were not successful. Attorneys for the Marcellos did not return telephone messages left at their offices.

Ex-Conn. Sen. Pleads Guilty In Bribe Case (KCS)

By Matt Apuzzo

The Kansas City Star, September 21, 2005

BRIDGEPORT, Conn. - In the latest in a string of corruption cases in Connecticut, a former state senator pleaded guilty Tuesday to felony charges of receiving a bribe, mail fraud and tax evasion.

Sen. Ernest Newton II acknowledged in federal court that he accepted a $5,000 bribe in exchange for helping the director of a job training agency secure a $100,000 grant.

As part of a plea agreement, Newton also admitted filing false tax returns and diverting $40,000 in campaign contributions for personal use over five years.

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Asked as he left court what he had done with the money, Newton said, "I don't know nothing about that." Reminded that he had just pleaded guilty, he said, "I didn't buy a new house, a new car, nothing like that."

Newton, 49, will remain free until his sentencing Dec. 19. Newton faces a maximum of 35 years in prison, but prosecutors have said they will ask for less time because he accepted responsibility.

Last month, Warren K. Godbolt, executive director of the nonprofit Progressive Training Associates in Bridgeport, pleaded guilty to paying the bribe.

Newton announced his resignation last week and submitted it Monday. Gov. M. Jodi Rell has scheduled a special election for Nov. 14 to fill Newton's Senate seat.

Other recent federal corruption probes led to prison sentences for Connecticut officials including former Gov. John G. Rowland and former Bridgeport Mayor Joseph Ganim.

Newton was elected to the Senate in 2003 after serving in the House for 14 years.

Though Newton's constituents stood by him through ups and downs - including his seeking treatment in the mid-'90s for cocaine addiction - U.S. Attorney Kevin O'Connor said it was constituents who provided some of the information used in the probe.

Correction Officer Arrested For Extortion (NYNSDY)

By Robert E. Kessler, Staff Writer

New York Newsday, September 21, 2005

A veteran New York City correction officer Tuesday was accused of being the "muscle" who collected debts for a Long Island businessman at the point of his .38-caliber service revolver, federal officials said.

Byron Christopher Chavis, 38, of Brooklyn, who worked in the city court system at 100 Centre St. in Manhattan, was arrested by FBI agents and charged with conspiracy to commit extortion, extortion, attempted extortion and use of a firearm in a crime of violence.

Chavis worked for businessman Michael Pescatore, 41, of Old Brookville, according to sources familiar with the case.

Pescatore was also charged with conspiracy, extortion and attempted extortion in the case and has been held without bail since February in two cases, one of which accuses him of masterminding a car theft ring.

Chavis, who worked mainly at Rikers Island for the past 15 years, was immediately suspended without pay, according to city officials.

Chavis pleaded not guilty in U.S. District Court in Central Islip. His attorney, Joey Jackson of Manhattan, declined to comment. Arraignment for Pescatore on the new charges is scheduled later in the week.

Assistant U.S. Attorney Lara Treinis Gatz said Chavis had extorted money from five business associates of Pescatore.

She asked that Chavis be held without bail as a danger to the community, noting the use of his service revolver and threats to kill or break legs while collecting debts.

Judge Thomas Platt ordered Chavis held pending future hearings. If convicted, he faces a mandatory sentence of 5 years on the gun charge, and up to 20 years on the conspiracy and extortion charges.

A.C Tax Official And Wife Convicted In Robbery Plot (PHI)

By Troy Graham

The Philadelphia Inquirer, September 21, 2005

A federal jury found a former Atlantic City tax collector and his wife guilty today of attempting to rob a tax office courier of $100,000 in cash and checks.

Clinton Van Berry, 61, and his wife, Nadine Homick-Van Berry, 55, could both face a maximum of 20 years in prison when they are sentenced.

They also face a separate trial in a scheme to bribe the West Cape May mayor for insider information on a federally-funded sewer and water-main project. A date for that trial has not been set.

In that case, prosecutors said, the Van Berrys hoped to use the information to secure work for Charles Varvaro, an Atlantic County contractor, then collect a cut from him. Varvaro, however, has been an FBI informant since 1978.

Nadine Homick-Van Berry also went to Varvaro, a friend since the 1980s, to enlist his help in robbing the tax courier. Varvaro tape recorded many of their conversations about the robbery and testified at the beginning of the two-week trial in U.S. District Court in Camden.

Varvaro was supposed to find someone to physically rob the courier on his way from the Atlantic City tax office to a nearby Commerce Bank. The robbery was set for Dec. 16, 2003, the day after a tax sale that left the office flush with cash.

The courier had $100,000 in cash and checks in a lockbag. When he left the tax office, Clinton Van Berry signaled his wife by calling her and asking about an aching tooth, according to testimony.

Homick-Van Berry then used a disposable cell phone to call the person she thought would rob the courier. The person on the other line was a police officer, and the robbery never took place.

Ryan Trial Lawyers Squabble Over Potential Jurors (CBS2CHI/AP)

CBS 2 Chicago, September 21, 2005

(AP) CHICAGO George Ryan's lawyers and federal prosecutors interviewed a fresh batch of potential jurors Tuesday including one man with "strong negative views about politicians" and another who announced he was an admirer of 19th Century German statesman Otto von Bismarck.

A woman who was a potential juror for the former governor's racketeering trial said her truck driver-boyfriend had been interviewed by FBI agents investigating bribes paid in exchange for work in Chicago's scandal-plagued Hired Truck Program -- but was cleared of any wrongdoing.

Still another potential juror said her ex-husband served two months in jail.

"I think he got what he deserved," she told Assistant U.S. Attorney Zachary Fardon, who said he wanted to make sure that episode would not leave her biased against law enforcement.

Ryan, 71, is charged with racketeering, mail fraud, lying to FBI agents and tax fraud when he was secretary of state from 1991 through 1998 and later governor. A 22-count indictment accuses him of giving lobbyist Larry Warner, now his co-defendant, free rein to dole out contracts and leases to his clients while getting loans for his relatives and gifts from Warner.

Ryan and Warner both deny that anything they did was illegal.

Over two days of jury selection, attorneys have succeeded in finding at least 16 and possibly 18 potential jurors. They hope to come up with a pool of at least 46 and then whittle that number down by using their so-called peremptory challenges -- challenges that the lawyer's don't have to explain and which automatically strike potential jurors from the list.

The process is designed to yield 12 jurors and six alternates.

One by one, a cross section of humanity was questioned by attorneys on Tuesday.

U.S. District Judge Rebecca R. Pallmeyer asked one man why on a questionnaire, filled out by about 300 potential jurors last week, he had cited Bismarck as someone he admired greatly.

He said he was something of a scholar and admired Bismarck for uniting Germany. Pallmeyer later dismissed him from the pool of potential jurors.

Despite protests from Ryan attorney Dan Webb, she refused to dismiss a man who admitted he had "strong negative views about politicians." On a questionnaire filled out by potential jurors last week, he said that "too often campaign promises are forgotten."

Asked on the questionnaire about Ryan, he said: "If he allowed abuses to occur he is to blame and should be punished." Webb said he was obviously biased against the former governor.

Prosecutors said they were sure the man would be fair if chosen for the jury.

But they grumbled when Pallmeyer for the second day refused to bump a man who said both he and his mother know Webb and the mother is in awe of his brilliance as an attorney.

Chief prosecutor Patrick M. Collins told Pallmeyer the man "should be long gone."

But Webb has succeeded in keeping the potential juror's hopes alive by saying that he doesn't remember meeting the man, did meet the mother years ago but had no relationship with her.

There will be 18 potential jurors in the pool if Pallmeyer keeps that man along with another man who said he works 16-hour days and will have to go to his night job after court.

If those two are dismissed the number of potential jurors surviving will be 16.

Pallmeyer had hoped to pick a jury by the close of business Wednesday and start the trial on Thursday. But hope of that has faded as jury selection has gone slowly.

The trial promises to take a lot longer.

When one female candidate for the jury said she enjoyed watching Judge Judy on TV, Warner defense attorney Marc Martin asked: "You do know that this trial is going to last four months? It isn't going to be half an hour."

Inmate Pleads Guilty To Threatening Supreme Court Justices (LAW)

By R. Robin Mcdonald, Fulton County Daily Report

Law.com, September 21, 2005

DOJ_NMG_0007189

A Florida inmate has pleaded guilty to charges of mailing threatening letters to public officials, including the clerk of the 11th U.S. Circuit Court of Appeals, the U.S. Supreme Court, and President Bush and his family.

Federal prosecutors in Atlanta said that letters from Anthony Scott Simboli, who is serving time in Clearwater, Fla., for theft and forgery, contained a white powder that authorities said was purported to be anthrax but later was identified as detergent. Simboli put his name, inmate number and return address on the letters, which threatened Judges Edward E. Carnes and Frank M. Hull, President Bush and his family, and unspecified Supreme Court justices.

The first letter was discovered at the 11th Circuit in December when a scanning machine in the court's in-house mail-sorting facility opened one and detergent spilled out. A hazardous materials team came to collect the letter and deal with any potential threat.

Two subsequent detergent-laced threats were recovered at mail-handling facilities near Washington.

Simboli's threatening letters followed a failed pro se appeal to overturn his eight-year Florida sentence for grand theft and burglary, according to court records. He filed the appeal while he was incarcerated in a Florida prison housing inmates who require psychiatric treatment.

In 2001 Carnes denied both Simboli's certificate of appealability and his motion seeking permission to waive all court costs associated with the appeal, according to court records.

Prosecutors said that Simboli also was attempting to help his brother, an inmate at another Florida prison, with an appeal of a life sentence for carjacking and robbery. Both Carnes and Hull were on the 11th Circuit panel that in 2002 dismissed Robert Francis Simboli's appeal, according to court records.

THREATS TO THE 11TH CIRCUIT

Threats by mail have been a particular concern at the 11th Circuit. On Dec. 16, 1989, Judge Robert S. Vance was killed and his wife seriously injured when a package bomb exploded after being delivered to their suburban home in Birmingham, Ala. Two days later a second bomb killed Savannah, Ga., attorney Robert E. Robinson.

That same day, federal law enforcement agents intercepted a third bomb at the 11th Circuit's Atlanta complex. On Dec. 19, 1989, a fourth bomb was intercepted at the Jacksonville, Fla., office of the National Association for the Advancement of Colored People.

Walter Leroy Moody, who previously had filed unsuccessful pro se appeals at the 11th Circuit, eventually was convicted and sentenced to seven life sentences for the murders.

LETTERS FROM PRISON

Simboli's plea agreement for sending the threatening letters includes a 10-year sentence in federal prison, the maximum term for the offense.

The agreement does not prohibit Simboli from mailing letters to public officials or to state and federal courts.

A spokesman for the Pinellas County Sheriff's Office, Mac McMullin, said that because Simboli's letters to the 11th Circuit, the Supreme Court and the president were considered privileged correspondence, the letters were not opened before the jail forwarded them to the U.S. Postal Service to mail.

"We don't search outgoing mail that has official correspondence," McMullin explained, referring to the department's written mail policy. As a result, he said, "it's clear how something like that could occur."

The policy states that "under no circumstance" are sheriff's staff members to read privileged communications from inmates, including correspondence to lawyers, the courts and public officials. If privileged mail is opened, it must be in the inmate's presence and only to confirm the privileged status.

The policy also states that outgoing privileged correspondence shall be mailed without charge to the inmate.

Neither 11th Circuit Chief Judge J.L. Edmondson nor court executive Norman E. Zoller could be reached to discuss the plea agreement and court security.

In February, while under investigation for mailing the letters to the 11th Circuit and the Supreme Court, Simboli mailed the third letter from the Pinellas County jail to "George W., 1600 Pennsylvania Ave., Washington D.C." It contained detergent as well as graphic threats against the president, the first lady and one of their twin daughters, court records said.

A Mother's Too-Familiar Role (WP)

By Paul Duggan And Jamie Stockwell

The Washington Post, September 21, 2005

RICHMOND -- Janet Pelasara answered the phone in her hotel room at 8 a.m. Monday and said she had a busy day ahead: bookings on Fox News Channel, CNN and Court TV. She said she could spare only a few minutes in the lobby for a newspaper reporter.

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"Greta's here; I'm going to meet with her," Pelasara said a short time later, seated on a couch near the front desk of a downtown Marriott. She was referring to Greta Van Susteren, host of a crime and legal affairs program on Fox.

"I have Nancy Grace tonight," said Pelesara, 44, of Vienna, mother of college student Taylor Marie Behl, who disappeared in Richmond two weeks ago. Grace is the host of shows similar to Van Susteren's on Court TV and CNN Headline News.

"And I have something at 2-ish. . . . National, not local."

Since Sept. 7, two nights after Behl vanished, Pelasara has been staying in the Marriott with friends while police search for her 17-year-old daughter, a freshman at Virginia Commonwealth University. Pelasara has waited patiently -- but not silently.

"There was 'The Early Show,' " she said, listing some of her recent network and syndicated TV appearances. "There was 'Good Morning America,' 'Inside Edition' . . ."

The shows that have put Pelasara on screens from coast to coast have a seemingly bottomless appetite for dramas like hers. Stories of missing young women who are thought to have been abducted are a particular staple of the 24-hour cable news channels.

Critics complain that such coverage is devoted disproportionately to suburban white women, such as Behl, while victims of color who are poor are often overlooked. But Pelasara can't afford to consider that debate at the moment. She said her goal is to get on as many programs as possible, to keep her daughter's face in front of the nation.

"After so many days, the interviews really become tiring," said a friend, Ann Martin, who is staying at the Marriott and coordinating Pelasara's TV appearances. While Pelasara sat in the lobby, Martin was in her room, awaiting a phone call about a car that would take Pelasara to meet Van Susteren at Behl's dormitory.

"It's really hectic, but we welcome it," said Martin, who works for the American Association of Pastoral Counselors. "We have to keep this out there."

Behl, who graduated from James Madison High School in Vienna, disappeared after leaving her dorm room Labor Day evening, two weeks into her freshman year. Her 1997 Ford Escort was found Saturday parked on a residential street about two miles from the campus. Its Virginia license plates were gone, replaced by stolen Ohio tags.

Besides trying to determine how the car wound up in that neighborhood with stolen plates, police have been looking into Behl's relationship with a 38-year-old photographer who has an apartment near the campus. The man took pictures of Behl last spring, fully clothed and posing on Belle Isle in Richmond, and posted them on his Web site.

Chris Collins, an attorney for the photographer, said yesterday that his client had a "romantic relationship" with Behl. He said Behl visited him at his apartment twice Sept. 5, once during the day and again about 9:30 p.m., not long before she vanished.

Collins said the photographer -- who maintains several Web sites featuring his work, including collages of short-skirted teenage girls in suggestive poses -- has asserted that he has no knowledge of Behl's whereabouts. "He's very worried about her," the lawyer said. "He liked her very much. . . . He's distraught over all of this."

Collins said his client has cooperated with investigators in several interviews. "He was one of the last persons to have seen her," Collins said.

The photographer is a former VCU student, according to his profile on MySpace.com, a popular dating and social networking Web site. He photographed Behl in April while she was visiting his roommate, a high school friend of hers from Vienna. He recently removed the photos from his site.

Now Behl is the latest young American woman in highly publicized peril -- after Chandra Levy, the Washington intern whose disappearance scandalized a politician; Laci Peterson, the pregnant California woman whose husband landed on death row; Jennifer Wilbanks, the runaway bride from Georgia; and Natalee Holloway of Alabama, who vanished in Aruba during her high school senior class trip.

And Pelasara is the latest anxious parent, even if she doesn't always come across that way. In interviews, her demeanor is often so calm that she seems almost detached from what's happening.

It's a coping strategy, said Pelasura, who works as an administrator for a Northern Virginia computer firm.

"Did you watch any of the Natalee Holloway disappearance?" Van Susteren asked her on Fox. "The tracking of her this summer?"

"I did some," replied Pelasara, who is divorced from her only child's father. "But I was busy with Taylor with her graduation . . . and getting her ready for college."

Van Susteren said, "Do you have any idea -- of the little you did see of the disappearance of Natalee -- any sort of idea, you know, of the pain a mother can go through?"

Pelasara said she has not allowed herself to feel pain.

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"Until I get her back safe and sound, or if we find out the worst, I think then I'll be able to feel and be able to appreciate that," she said, referring to the other mothers. "But no, everything is buried so deep. . . . That's the only way I can get through this."

Earlier Monday, in the Marriott lobby, she said: "Yes, I can sleep. I have to sleep. And I can think. I can think enough to get through all these interviews, because I have to do that. And then I don't have to think anymore."

Mornings are the worst times for her, she said, as she faces yet another round of interviews, of questions and answers she doesn't like to think about.

"Yes, mornings," she said. "Because I know what I have to face for the rest of the day."

Past Of Democrat In Forrester Ad Is Attacked (NYT)

By Josh Benson

The New York Times, September 21, 2005

TRENTON, Sept. 20 - State Democratic officials said on Tuesday that one of the Democrats appearing in an anticorruption commercial for the Republican candidate for governor, Douglas R. Forrester, was fired as a court clerk in Essex County after being accused of stealing money from court deposits and was, for a time, a Republican.

The commercial, titled "Democrats for Doug," features interviews with several people identified as Democrats who say they are angry at the corruption in their party and in state government.

One of them, identified as Dave McGraw, says, "The corruption is out of control," and urges, "It's time to take back New Jersey."

The man, David P. McGraw, 71, formerly a clerk in Essex County District Court, was indicted in the mid-1980's on charges of embezzling tens of thousands of dollars in court money over nearly three years, but was acquitted by a jury. He was a Democrat at the time. He lost his job in 1986, according to a January 2000 article in The Star-Ledger, after a disciplinary hearing determined that he had taken cash from court deposit envelopes for his personal use, had court employees cash his personal checks knowing they would bounce and had lied to the county prosecutor. The assignment judge fired him based on those findings, the newspaper said.

In an interview on Tuesday, Mr. McGraw did not dispute the sequence of events that led to his firing, but denied the charges.

In 2000, he brought a whistle-blower suit against Essex County after being removed from another public job, for the county parks department. He alleged that the county was losing money by giving away free rounds at a public golf course to "individuals with personal relationships" to county officials. He said he eventually settled the suit for $175,000.

Voting records show that Mr. McGraw voted in several Republican primary elections in the late 1990's through 2000.

Mr. McGraw said the embezzlement charges and his firing from the court job were results of a feud with Essex County officials at the time.

He expressed puzzlement that he had become a campaign issue. "They asked me if I could get some people to be in the commercial," said Mr. McGraw, who said he had done work for the Forrester campaign as a volunteer. "Lo and behold, I went over there and I was in the commercial. Quite frankly, if I knew there was going to be repercussions I wouldn't have done it. I don't want to hurt Doug Forrester's chances."

Mr. McGraw said he was registered as a Republican in recent years, but registered as a Democrat again in 2002 to vote in a primary election for Essex County executive.

Richard McGrath, a Democratic Party spokesman, said "the Forrester spot essentially 'advertises' the candidate's hypocrisy." Ivette Mendez, a spokeswoman for Senator Jon S. Corzine, Mr. Forrester's Democratic opponent, said only, "The party's statement speaks for itself."

Sherry Sylvester, a Forrester spokeswoman, said: "For Jon Corzine to attack a 71-year-old whistle-blower is a new low even for him. Dave McGraw illustrated what's wrong with New Jersey: politicians using intimidation and wrongful allegations to abuse their power."

CIVIL LAW:

U.S. Says Pope Immune From Abuse Suits (AP)

By NICOLE WINFIELD, Associated Press Writer

AP, September 20, 2005

DOJ_NMG_0007192

ROME -- The U.S. Justice Department has told a Texas court that a lawsuit accusing Pope Benedict XVI of conspiring to cover up the sexual molestation of three boys by a seminarian should be dismissed because the pontiff enjoys immunity as head of state of the Holy See.

Assistant U.S. Attorney General Peter Keisler said in Monday's filing that allowing the lawsuit to proceed would be "incompatible with the United States' foreign policy interests."

There was no immediate ruling from Judge Lee Rosenthal of the U.S. District Court for the southern district of Texas in Houston. However, U.S. courts have been bound by such "suggestion of immunity" motions submitted by the government, Keisler's filing says.

A 1994 lawsuit against Pope John Paul II, also filed in Texas, was dismissed after the U.S. government filed a similar motion.

Keisler's motion was not unexpected, as the Vatican Embassy in Washington had asked the U.S. government to issue the immunity suggestion and do everything it could to get the case dismissed.

The former Cardinal Joseph Ratzinger was named as a defendant in a civil lawsuit by three plaintiffs who allege that Juan Carlos Patino-Arango, a Colombian-born seminarian on assignment at St. Francis de Sales church in Houston, molested them during counseling sessions in the church in the mid-1990s.

Patino-Arango has been indicted in a criminal case by a grand jury in Harris County, Texas, and is a fugitive from justice.

The lawsuit alleges Ratzinger, who headed the Vatican's Congregation for the Doctrine of the Faith before becoming pope, was involved in a conspiracy to hide Patino-Arango's crimes and help him escape prosecution.

The lawsuit cites a May 18, 2001, letter from Ratzinger written in Latin to bishops around the world, explaining that "grave" crimes such as the sexual abuse of minors would be handled by his congregation and that the proceedings of special church tribunals handling the cases were subject to "pontifical secret."

Daniel Shea, attorney for one of the plaintiffs, has said such secret proceedings amounted to a conspiracy to cover up the crimes.

The Vatican and the U.S. Conference of Catholic Bishops have insisted the secret church procedures in the sex abuse case were not designed to cover up abuse nor to prevent victims from reporting crimes to law enforcement authorities. The document deals with church law -- not keeping secrets from secular authorities, they say.

The pope's lawyer, Jeffrey Lena, said Tuesday it was "appropriate" the Justice Department had determined the pope was "the sitting head of state of the Holy See."

In a telephone interview, Lena said the motion would now be considered by the Texas court, "which should be bound by the executive's determination" and rule accordingly.

Many lawsuits stemming from the U.S. church sex abuse crisis have named the pope, the Vatican and other high-ranking church officials, but they failed because the officials could never be served with the papers. This case got further than most because Ratzinger was actually served with the documents.

Shea said Tuesday he would challenge the constitutionality of the U.S. diplomatic recognition of the Holy See on the grounds that it goes against the First Amendment's "establishment clause" that bars any laws respecting the establishment of religion.

Shea noted that in trying to have the case dismissed, Ratzinger's lawyers have already admitted in court papers that the Holy See is a church. A May 26 motion to dismiss the suit, citing the First Amendment, says the case should be thrown out because it would "invite court intrusion into the internal affairs of the Roman Catholic Church."

However, legal experts said such a challenge would be difficult to win, partly because previous challenges have failed and because the U.S. has maintained diplomatic relations with the Vatican since 1984.

"The courts have become a lot less interested in the establishment clause in the last few years," said Kent Greenawalt, a professor of First Amendment and legal philosophy at Columbia Law School.

Officials at the U.S. Embassy to the Holy See said they were familiar with the case but had no other immediate comment. The Vatican said it had no comment.

Along with the pope, the lawsuit names as defendants Patino-Arango, the Diocese of Galveston-Houston, Archbishop Joseph Fiorenza and the Rev. William Pickhard, Patino-Arango's vocational director.

GlaxoSmithKline Agrees To Pay $150 Million To Settle Drug Price Fraud Case (AP)

By Mark Sherman, ASSOCIATED PRESS

AP, September 20, 2005

WASHINGTON – GlaxoSmithKline PLC will pay $150 million to settle claims it overcharged the government for two anti-nausea drugs, and prosecutors say they're looking into 150 cases of drug price fraud.

Scrutiny of the pharmaceutical industry has increased along with the portion of health care costs attributable to prescription drugs. That attention is likely to grow as the government prepares to begin a drug insurance program for older Americans under Medicare that is expected to increase sharply government spending on medicines.

The Glaxo settlement is the latest in a series of whistleblower claims that have resulted in $2.4 billion in payments from drug companies in recent years.

Glaxo engaged in a scheme to inflate the price of Zofran and Kytril for the Medicare and Medicaid programs, which reimburse health care providers based on the manufacturers' prices, the government said. The drugs, typically administered in doctors' offices or hospitals, are used mainly to counter nausea brought on by chemotherapy and radiation.

The company charged health care providers less for the drugs, knowing the providers would get to pocket the difference and would be more likely to prescribe them again, the Justice Department said.

Glaxo admitted no wrongdoing as part of the settlement. "We believe that our price reporting was lawful and was done in good faith, but we've agreed to this settlement to avoid the delay, expense and uncertainty of litigation," said Mary Anne Rhyne, a company spokeswoman.

The settlement covers claims submitted from 1994 to 2002.

The case resulted from a whistleblower lawsuit filed by Ven-A-Care of the Florida Keys, Inc., a small home-infusion company that has won several suits that made similar allegations against other drug makers. The company and its principals will receive $26 million from the settlement, as allowed under the federal False Claims Act, the Justice Department said.

James Moorman, president of the advocacy group Taxpayers Against Fraud, said the scheme alleged by Ven-A-Care and the Justice Department represents "a perverse competition, where you don't compete with a low price but with a high price."

The Medicare law that created prescription drug coverage beginning in January also was designed to eliminate the huge spread between what manufacturers reported as their average wholesale price and what health care providers actually paid.

Moorman said no similar fix has yet been put in place for Medicaid, the federal-state health program for the poor.

Sen. Charles Grassley, R-Iowa, Congress' leading advocate for whistleblower protection, said the "importance of whistleblowers will only increase as the new Medicare prescription drug benefit takes effect. Bad actors in the industry should know that these good guys are on the case."

Glaxo has faced fraudulent billing charges before. In 1997, its forerunner, SmithKline Beecham Clinical Laboratories Inc., was ordered to pay $325 million for filing false claims relating to laboratory tests that were paid for in whole or in part by the federal government. The company added tests not requested by doctors and not medically necessary, billed for tests not actually performed and gave kickbacks to doctors.

Peter Keisler, assistant attorney general in charge of the Justice Department's Civil Division, said federal and state officials are looking into 150 price and marketing fraud cases involving more than 500 drugs.

The Glaxo settlement is the first announced this year. However, another may be coming soon: Serono Laboratories of Switzerland has set aside $725 million for a settlement of allegations it offered kickbacks to doctors for writing prescriptions for an AIDS treatment drug with sagging sales.

Four former executives have been indicted by a federal grand jury for their alleged roles in the kickback scheme.

California regulators have sued 41 pharmaceutical companies, accusing them of inflating drug prices for the state's version of the Medicaid program and costing state taxpayers hundreds of millions of dollars. Glaxo is a defendant in that suit as well.

In one example, the state said Abbott Laboratories Inc. reported the average wholesale price of a vial of the antibiotic vancomycin as $58.37 to Medi-Cal but charged pharmacies just $6.29. The company has denied any improprieties.

GSK Pays $150m To Settle US Court Case (LONDTIMES)

By Richard Irving

London (UK) Daily Times, September 21, 2005

GLAXOSMITHKLINE has agreed to pay more than $150 million (£83 million) to settle US government charges that the company fraudulently inflated the price of two anti-nausea drugs available under the federal healthcare programme.

Peter Keisler, assistant attorney-general at the Justice Department, said yesterday that government prosecutors would continue to crack down on abuses. “We will not tolerate fraudulent pricing practices designed to reap profits for drug companies and doctors at the expense of healthcare programmes for the poor and elderly,” he said.

Prosecutors alleged that GlaxoSmithKline (GSK) had engaged in a scheme deliberately to set inflated prices for Zofran and Kytril, knowing that federal healthcare programmes used the prices to establish reimbursement rates.

The Justice Department claimed that the company actually had charged doctors less than the official rates, knowing that they would be able to pocket the difference.

The two drugs are used to alleviate sickness among patients undergoing chemo and radiation therapy.

GSK said that it had decided to settle the case without admitting any wrongdoing to put an end to litigation that has been continuing for more than a decade. The company added that the settlement, which includes a $149 million payment as well as additional interest of $1.8 million, is covered by additional legal reserves.

A spokesman said: "The company fully co-operated with the government over the course of this investigation (and) understands that the federal government's inquiries concerning pricing issues is now completed and closed."

Glaxo Settles U.S. Drug Pricing Complaint (REU)

Reuters, September 20, 2005

WASHINGTON (Reuters) - GlaxoSmithKline has paid more than $150 million to settle government charges that the company fraudulently inflated the price of drugs purchased by federal health-care programs, the U.S. Justice Department said on Tuesday.

The settlement stems from allegations that the British company violated the U.S. False Claims Act in the sale and marketing of Zofran and Kytril, two nausea drugs prescribed to patients undergoing cancer treatment, the department said.

GlaxoSmithKline issued a statement saying it did nothing wrong, but agreed to settle the case to avoid litigation.

According to the department, Glaxo engaged in a scheme to deliberately set and maintain inflated prices for the two drugs, knowing that federal health care programs used those prices to establish their reimbursement rates.

The Justice Department "will not tolerate fraudulent pricing practices designed to reap profits for drug companies and doctors at the expense of health care programs for the poor and the elderly," an official said in a statement.

Of the amount paid by GlaxoSmithKline, $26 million will go to whistle-blowers who prompted the investigation and another $10 million will go to state governments.

GlaxoSmithKline Pays $150 Million To Settle Charges (WSJ/DJN)

By Brian Blackstone, Dow Jones Newswires

The Wall Street Journal, September 21, 2005

WASHINGTON -- GlaxoSmithKline PLC paid $150 million (€123 million) to settle fraud allegations over the pricing and marketing of two antinausea drugs, the Justice Department said.

The government alleges that the United Kingdom-based pharmaceutical maker engaged in a scheme to inflate the price of Zofran and Kytril for the federal Medicare and Medicaid programs, which reimburse health-care providers based on the manufacturers' prices. The drugs are used mainly to counter nausea brought on by chemotherapy and radiation.

But the company charged health-care providers less for the drugs, knowing that the providers would get to pocket the difference, the Justice Department said.

GlaxoSmithKline admitted no wrongdoing as part of the settlement. Company spokeswoman Mary Anne Rhyne said the firm "believes its price reporting was lawful and in good faith."

The government opened an investigation into the drugs' pricing after Ven-A-Care of the Florida Keys Inc., a small home-infusion company, filed a whistle-blower lawsuit. Ven-A-Care will receive $26 million of the government's settlement.

The Justice Department "will continue to pursue these types of fraud schemes vigorously to make clear that we will not tolerate fraudulent pricing practices designed to reap profits for drug companies and doctors at the expense of healthcare programs for the poor and the elderly," Assistant Attorney General Peter D. Keisler said in a statement.

GOP Rep. Tries To Kill Base Closings (NSDY/AP)

By Liz Sidoti, Associated Press Writer

Long Island Newsday, September 21, 2005

WASHINGTON -- A House Republican set the wheels in motion Tuesday to try to kill the Pentagon's proposal to close or downsize hundreds of U.S. military bases, a move that is largely symbolic and has little chance of succeeding.

Rep. Ray LaHood of Illinois introduced a joint resolution in the House to reject the plan to restructure the U.S. network of military bases. It is the first effort to close bases since 1995.

LaHood said the base-closing commission and the Pentagon ignored a significant fact: The country is at war.

"Now is not the time to be closing bases around the country," he said. "Now we as a Congress have the opportunity, I think, to have our say."

President Bush endorsed the commission report last week. It calls for closing 22 major military bases and reconfiguring another 33. Hundreds more from coast to coast also will be affected.

The president sent the report to Congress, where it will become law after 45 legislative days unless the House and Senate pass a joint resolution rejecting it.

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LaHood, whose district includes a base in Springfield, Ill., that is to lose 15 National Guard fighter jets, became the first lawmaker to introduce such a resolution.

The House overwhelmingly supports the fifth round of base restructuring, and Republican leaders -- who also back the closures -- control whether lawmakers vote on LaHood's measure.

"I'm going to encourage the speaker and the majority leader to let us have our prerogative, have a debate and see what happens," he said.

No lawmaker in the Senate has introduced a joint resolution. A GOP-led effort in the Senate to derail the plan fizzled last month after the commission reviewing the plan spared several bases in the home states of lawmakers who opposed it.

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On the Net:

Base-closing commission: http://www.brac.gov

CIVIL RIGHTS:

Tentative Deal Set Over ADA Violations (LVS)

By Brian Wargo, LAS VEGAS SUN

Las Vegas Sun, September 21, 2005

North Las Vegas has reached a tentative agreement with the Justice Department that will cost the city about $2 million over the next two to three years to address violations of the Americans with Disability Act.

The 1990 federal law requires local governments improve access for the disabled to government facilities and programs.

The agreement, which the city's staff has recommended the City Council ratify, has already cost the city $80,000. North Las Vegas has budgeted $655,000 in the current budget and projects a similar amount will be needed in the next two years to comply with the disabilities act.

North Las Vegas City Manager Gregory Rose said the city doesn't know what the total cost will be because it plans to go beyond the minimum requirements in providing for the needs of the disabled. Rose, who became city manager in October 2003, said the city didn't do anything blatant but is to blame for not placing a high enough emphasis on complying with the law.

"If we live long enough, all of us will be disabled at some point," Rose said. "This is the right thing to do."

North Las Vegas came under fire from the Justice Department after federal officials conducted a January 2004 review of 75 percent of the city's parks and facilities and found 182 violations of the Americans with Disabilities Act.

The violations included the absence of an accessible drinking fountain at City Hall, a need for restroom improvements and for fixing sidewalks where street lights or signage hindered the mobility by wheelchair users. Sidewalks will have to be expanded or signs moved.

Rose said it will be costly, but the city can afford the upgrades by spreading out the improvements rather than doing them all at once. He said the city is making a good-faith effort to correct the violations in the next two to three years, and if that can't be done, an extension will be requested from the federal government.

A spokesman for the Justice Department declined to comment on the tentative settlement agreement.

The Justice Department can file lawsuits in federal court to enforce the ADA requirements and can seek fines of up to $55,000 for the first violation and $110,000 for subsequent violations.

Las Vegas attorney Marina Kolias has sued North Las Vegas, alleging the city violated her two clients' civil rights when its Police Department failed to provide a sign language interpreter during an arrest. She said the city still needs to do more and do it more quickly, but she is glad that North Las Vegas finally is taking some remedial steps.

"What North Las Vegas is doing is too little, but it is never too late for any steps or efforts to advance assistance to persons with disabilities. It is appreciated and a step in the right direction," Kolias said.

The agreement calls on the city to implement a policy for police officers communicating with those who are deaf and hiring a sign-language interpreter who is available 24 hours a day. It also requires the city to equip its police and detention facilities with a telecommunciations device for the deaf.

Kolias said the city should move faster than six months and she fears the city will use an outdated technology that won't help the deaf communicate with family members.

Facilities constructed after Jan. 26, 1992, must comply with the ADA standards. That includes improving access for wheelchair users to a counter, drinking fountains, bathrooms, corridors and parking lots. During the construction of its new justice facility that opened in May, North Las Vegas had to make changes in its construction plans to comply with the ADA.

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When streets are resurfaced, cities are required to reconfigure sidewalks and curbs to accommodate wheelchairs. During the last decade, city officials said they have spent more than $1.4 million for ramp improvements.

Under the ADA, all government activities, services and programs are covered. That includes employment, public meetings, court activities and programs of police, fire, voting, parks and recreation departments.

Sticking Point Of Voting-reform Bid: Photo IDs (CSM)

By Linda Feldmann

The Christian Science Monitor, September 21, 2005

WASHINGTON - Since the disputed election of 2000, some Americans have lost faith that their votes count.

The federal reforms of 2002 were a start, say voting experts, but more is needed. Problems in the 2004 elections - from long lines at polling stations to inconsistent handling of provisional ballots - have exacerbated the sense that US elections are flawed.

Now, a bipartisan commission headed by former President Carter, a Democrat, and former Secretary of State James Baker, a Republican, has recommended additional changes - including a call for all voters to show photo IDs, paper trails for electronic voting machines, and a shift toward nonpartisan administration of elections.

But a backlash over the photo ID recommendation, in particular, threatens to overtake any attention to the 86 other recommendations. Additional election reform was already a low priority on Congress's agenda, the commission itself acknowledges, and now the controversy may have complicated matters.

"The real divide [over election reform] boils down to the voter-fraud side for conservatives and voter-access issues for liberals," says Rob Richie, executive director of the group Fair Vote, which seeks to increase participation in elections.

The report's recommendation that, by 2010, all states require voters to show a government-issued photo ID card to vote goes right to the question of how poverty and race affect the ability to vote.

About 12 percent of the voting-age population does not have a driver's license, a group that skews toward minorities and low-income workers.

Former Senate Democratic leader Tom Daschle, a member of the commission, dissented on that part of the report, comparing the requirement of an ID to a " modern-day poll tax."

Ironically, the voter-ID issue is already in the headlines in Mr. Carter's home state of Georgia. On Monday, voting and civil-rights groups filed a federal lawsuit challenging the state's requirement that voters show a government-issued photo ID at the polls - a new law the litigants call the most restrictive of its kind in the US.

Anticipating criticism over voter IDs, the Carter-Baker commission recommended that states provide free ID cards to those who don't already have one, and take measures to ensure privacy.

Still, critics say, there remains the challenge for elderly, infirm, low-income, and rural citizens to travel to a location and obtain the ID. Further, they add, there is no such requirement for photo IDs with absentee ballots, only a requirement that signatures match.

Richard L. Hasen, an election law expert at Loyola School of Law in Los Angeles, bemoans the siphoning of attention away from what he sees as a significant recommendation: the removal of control of elections from partisan politicians and into the hands of impartial election administrators. Once implemented, that step would go far toward restoring Americans' confidence in elections, he says.

"We cannot build confidence in elections if secretaries of State responsible for certifying votes are simultaneously chairing political campaigns," the report said.

That statement was a veiled reference to recent examples in states that proved critical to the outcome of presidential races: Florida Rep. Katherine Harris (R), secretary of State for Florida during the 2000 election, was also co-chair of President Bush's Florida campaign. In Ohio in 2004, Secretary of State J. Kenneth Blackwell performed the same role for Bush.

"It took the debacle in Florida 2000 and further problems in 2004 to illustrate what the problems are; public confidence has shot way down," says Professor Hasen. He notes that in Washington State, where the Democratic gubernatorial candidate squeaked by the Republican in the 2004 race, the problem is reversed: Republicans there are more cynical than Democrats over the fairness of the outcome.

"The hope was that the Carter-Baker commission would move beyond politics, and move into consensus recommendations, which are desperately needed," Hasen says. "I think they've squandered their political capital. In 2004, my phone was ringing off the hook with reporters asking why things haven't been fixed. It will happen in 2008."

The commission recommended that a state's chief election officer be an appointed position, with two-thirds approval by the state legislature. At the federal level, the commission recommended that a nonpartisan chairperson be added to the four-person

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US Election Assistance Commission. This person would be nominated by the president to a 10-year term and confirmed by the Senate.

Other commission proposals include:

· A new system of presidential primaries, in which four regional primaries are held, one per month beginning in March of an election. Every election, a different region would hold its primaries first, after the Iowa caucuses and New Hampshire primary.

· Maintenance of voter lists by states, and not localities, allowing for greater "interoperability" among states. Such a system is aimed at eliminating the potential for voters to cast ballots in more than one state and also could allow voters to register once in their lives and then make it easier to update registration information when they move.

· Passage by Congress of a law that would require all voting machines to have a "voter-verifiable paper audit trail."

Voting For Reform (LAT)

The Los Angeles Times, September 21, 2005

If it is true, as former President Jimmy Carter said, that Americans have lost faith in their voting system, then he and former Secretary of State James A. Baker III have lost a significant opportunity to help them restore it. A bipartisan commission led by Carter and Baker released a report Monday that proposes many reasonable ways to make voting a smoother and more trustworthy process — but stops far short of addressing what really keeps people from the polls.

For that, the report would have to have recommended abolishing the Electoral College, the cornerstone of a winner-take-all system that leads presidential candidates to lavish their attention on a few key states. It might also have at least alluded to reforms of campaign finance laws and conflict-of-interest rules for elected officials, especially because many voters see politics as a parade of special-interest pandering in which their interests seldom count for much.

Such reforms would take tremendous political will. But that is lacking these days, so the commission limited itself to pragmatic, incremental reforms designed to boost public faith in the ballot system. With some adjustments, many of these should be adopted.

One recommendation that should become reality is a rescheduling of the presidential primaries. The report suggests holding them on a mostly regional basis and rotating the first regional primary regularly. This system would put an end to the electoral arms race in which states vie for the earliest possible primary. It's also smart to encourage mobile registration vans and electronic voting machines that produce a paper trail that can be audited. Better tracking of voters who move is another wise idea.

Civil rights advocates, though, complain about the commission's recommendation that authorities require photo ID to vote in order to cut down on voter fraud. Usually photo ID means a driver's license, but the report recommends that states provide free cards to non-drivers. The idea's critics point out, rightly, that African Americans and the elderly are less likely to drive or have the documents to prove citizenship, and they say these groups would be disenfranchised.

But most everyone, excepting Hurricane Katrina victims, should be able to get a birth certificate easily. And there will be plenty of get-out-the-vote workers to help them with the process. The photo ID can also be viewed as a protection for voters because it sets a single standard for voting eligibility and reduces local discretion to question or intimidate voters.

The key is to not create excessive demands for proof of citizenship and for the federal government to insist that the cards be free. That last item might sound foolishly obvious, but the state of Georgia recently won U.S. Justice Department approval to charge voters a fee for a five-year card. (The fee, which varies and which the state says will be waived for the poor, is being challenged in court.)

There should be no financial impediment to the most basic democratic right. That such an un-American idea could win the approval of a state legislature and be signed by a governor shows better than anything why so many people consider politics, and voting, such a waste of time.

ANTITRUST:

Federal Courts May Face Flood Of Price-Fixing Actions (LAW)

By Pamela A. Maclean, The National Law Journal

Law.com, September 21, 2005

An unlikely marriage between the Department of Justice's amnesty program in price-fixing cases and the recent reform of federal class action law has had an unexpected but profound effect on civil antitrust actions.

Indirect victims of price-fixing, those who buy items produced from a part that was subject to price-fixing, have been barred since 1977 from recovering damages in federal court after Illinois Brick Co. v. Illinois, 431 U.S. 720 (1977).

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Many state courts rushed to fill that void with their own state antitrust protections, giving indirect purchasers a forum to bring class actions against cartel participants but leaving those plaintiffs to wage state-by-state battles for recovery.

That created a two-tier system of direct purchasers -- such as companies buying computer chips -- suing in federal courts, while indirect purchasers -- companies that bought the finished computers containing the overpriced chips -- sued in state courts.

Then came this year's Class Action Fairness Act, an effort by Congress to move mass tort class actions out of what it saw as plaintiff-friendly state courts and into less-sympathetic federal courts. It opened the federal court door for indirect buyers.

FLOODING INTO FEDERAL COURTS

Indirect-purchaser antitrust cases have flooded back to federal court using pendent state law antitrust claims. It has put federal judges in the position of interpreting, for example, 20 separate state antitrust laws in order to decide 20 separate motions to dismiss in a single case.

Or a single federal judge may have to sort out the intricacies of how damages will be apportioned if a direct purchaser passed on the increased price from a fixed-price product to downstream consumers.

"Congress couldn't have been intending this to happen," said Daniel G. Swanson, a defense attorney with Gibson, Dunn & Crutcher's Washington office. Swanson represents Dutch chemical giant Akzo Nobel N.V., one of several companies sued for allegedly fixing the price of hydrogen peroxide, a bleaching agent.

"I think [indirect purchasers] will be an issue in virtually all treble damage suits going forward," warned Donald Klawiter, chair of the American Bar Association Section of Antitrust Law and a partner with Morgan, Lewis & Bockius.

"The question is: Can a court sort out all the damages and get it right so [defendants] are not paying six times damages? It is an important issue for the legislature and judiciary to work out," said Klawiter, who is based in Washington.

A 12-member Antitrust Modernization Commission, created by Congress in 2002, began looking at some of the indirect purchaser issues during its July meeting and has some legislative reform ideas under consideration. The American Bar Association antitrust section plans to conduct a special program for commissioners and the bar focusing on some of these questions in June 2006.

Two of the first major courtroom battlegrounds for indirect purchaser disputes are shaping up at opposite ends of the country. In San Francisco federal court, direct- and indirect-purchaser suits have been filed against major computer memory chip companies, known as the DRAM case. Meanwhile, in Philadelphia, plaintiffs have gone after hydrogen peroxide producers for alleged price-fixing.

Both cases stem from the Justice Department's intense enforcement efforts against price-fixing that encourages companies to confess their role. The first company in the door gets the biggest break from prosecutors, while those who dally face criminal prosecution and severe penalties, followed by private civil suits with treble damages.

In its latest permutation, federal antitrust lawyers have offered early cooperators the chance to avoid treble damages as well, something most plaintiffs lawyers have welcomed.

"The program has been a good thing for the antitrust world," according to Bruce Simon, a plaintiffs lawyer with Cotchett, Pitre, Simon & McCarthy in San Francisco. "We understand we have to be careful," he said of companies who cooperate with investigations. "Part of the government's job of getting them to roll over [on other price-fixers] is not to throw them to the wolves," Simon said.

In the DRAM case, revenue for the memory chips exceeds $20 billion a year, with the six top chipmakers controlling 96 percent of the market, among them Samsung Corp., The Micron Group, Hynix Semiconductor Inc. and Toshiba Corp., according to the complaint, In re Dynamic Random Access Memory Antitrust Litigation, No. MDL1486.

Infineon Technologies A.G. pleaded guilty in 2004 and agreed to pay a $160 million fine for its role in the international price-fixing scheme that affected companies such as Dell Computer Corp., Hewlett-Packard Co. and Apple Computer Inc.

The companies that bought the chips to install in their computers may recover damages as direct purchasers of the chips, even if they passed on the cost to consumers who bought the computers. But millions of consumers, the indirect purchasers, have a much tougher time in state courts and now in federal court actions.

In the hydrogen peroxide case, In re Hydrogen Peroxide Antitrust Litigation, No. C05-0666SD, the suit alleges a global conspiracy began in 1994 among the chemical makers to sell at agreed prices, reduce production capacity and share sales information. The chemical is used in the pulp and paper industry and for textiles as a bleaching agent.

The French firm Elf Atochem, and a British company, Degussa U.K. Holdings, pleaded guilty to price-fixing in federal court and agreed to pay a total of $5 million in fines for their roles in a conspiracy, according to a 2004 Justice Department statement.

Both the DRAM and chemical cases have indirect purchasers who have joined the direct-purchaser suits, but the fight over their place in the litigation is still unfolding.

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While some defendants may want to send the indirect-purchaser cases back to state court, the new reform act now stands in the way. The CAFA statute has a number of tests that hamper remand to state court. The tests were intended to make it tough on plaintiffs. Few thought that defendants might want to get the cases out of federal court.

And plaintiffs lawyers with indirect-purchaser claims have often been only too happy to leave state courts. State court judges frequently look for ways to dump the indirect-buyer claims, according to Daniel Karon, a plaintiffs lawyer and law professor at Cleveland-Marshall College of Law who has written about the issue.

"State court judges ought to know their state law ... but they often say, 'Indirect purchasers can sue, but not you,'" Karon said. "They totally screw it up. The people who have losses are the consumers at the end" of the buying chain, he said.

"The theoretical flaw in state reasoning [in dismissing cases] is that not one state antitrust law requires a consumer to purchase a price-fixed item. There is no purchase requirement. That has been read into the statutes by courts," he said.

In a sign of the willingness of state courts to throw out indirect-purchaser claims, Gibson Dunn's Swanson said that in roughly 20 state court cases involving indirect purchase of rubber chemicals around the country, he successfully got state court judges to throw out all but about five cases.

If they had been gathered into a single federal suit, "How many federal judges will parse through all that? I have enormous confidence in federal judges doing a good job dealing with it, but it would stagger any individual human being," he said.

Some states still struggle with standing for indirect purchasers to sue. Just last week, the Tennessee Supreme Court overruled a lower court to hold that indirect purchasers do have the right to bring an action under the state's Trade Practices Act. Freeman Industries v. Eastman Chemical Co., No. E2003-00527-SC-S09-CV.

In addition, the plaintiffs in that case successfully brought unjust enrichment claims. "That is something we throw into antitrust cases now," Karon said.

He is awaiting the outcome of a similar state appeal in Ohio for a case argued in February.

DILEMMA FOR DEFENSE

During the July testimony before Congress' Antitrust Modernization Commission, a lawyer for Microsoft Corp., David Tulchin of New York's Sullivan & Cromwell, explained the dilemma for the defense. Indirect-purchaser cases against Microsoft Corp. were filed in nearly 38 states. With matters in so many states, "the process of adjudicating what really is a national claim on behalf of indirect purchasers becomes extremely complex, extremely expensive," Tulchin said.

"There are lawyers, in some cases dozens of lawyers, in each state on each side working on what really is the same matter," Tulchin said.

It can become coercive to defendants, he said. It's one thing to go to trial where a victory means something, "but it's another thing where if you win you have just one victory but if you lose you have the domino effect of collateral estoppel," Tulchin said.

A defendant with pending cases in numerous states risks incurring a loss that will have the collateral estoppel effect with potential treble damages in dozens of pending cases, he said.

Yet the federal courts create a different dilemma. Said Swanson: "The fight turns into whether you get federal judges to do something they are generally not asked to do: to construe individual state antitrust laws on a very detailed and granular basis."

FCC Extends Review Of Verizon-MCI Merger To Oct. 13 (DOWJONES)

Dow Jones, September 21, 2005

WASHINGTON -(Dow Jones)- The Federal Communications Commission on Tuesday extended its review period of Verizon Communications Inc. (VZ)'s (VZ) proposed acquisition of MCI Inc. (MCIP) (MCIP) until Oct. 13.

The agency's internal and nonbinding 180-day target for merger reviews expired Tuesday. On Monday, Verizon (VZ) and MCI asked the FCC to extend it until Oct. 13.

The FCC said in a public notice that the extension is "in the interest of ensuring sound analysis of the record" and noted that Verizon (VZ) and MCI have in recent days filed "substantial additional relevant information."

Verizon (VZ) has agreed to acquire MCI for $8.5 billion. MCI shareholders are slated to vote on the deal Oct. 6.

Opponents of the deal say the merged company would reduce competition, particularly in the business-services market, leading to higher prices.

Earlier this month, the FCC agreed to stop the clock on its review of the proposed $16 billion acquisition of AT&T Corp. (T) (T) by SBC Communications Inc. (SBC) (SBC) until October 13.

The Wall Street Journal reported Tuesday that FCC Chairman Kevin Martin wants agency staff to deliver recommendations to approve the two mergers.

Such an order could be on commissioners' desks for consideration as early as Wednesday. The next public FCC meeting is scheduled for Oct. 12, one day before the newly extended review clocks expire.

Under agency rules, commissioners should receive orders that are up for a vote three weeks before public meetings.
The Justice Department must also sign off on the mergers.
-By Brian Blackstone; Dow Jones Newswires; 202-828-3397; brian.blackstone@ dowjones.com

Antitrust Lawyers Expect Realtor-DOJ Case To Settle (INMAN)

By Glenn Roberts Jr., Inman News
Inman News, September 20, 2005

It's not surprising that the federal government sued the National Association of Realtors over alleged antitrust violations – trade groups can be a breeding ground for anticompetitive activities, and Realtors have clashed with regulators before on antitrust issues, say legal experts, adding that it won't be surprising if an agreement is reached before the lawsuit goes to trial.

On Sept. 7, the U.S. Justice Department's Antitrust Division filed a lawsuit against the 1.2 million-member Realtor trade group to try to bar it from enforcing rules that antitrust officials say restrain competition. The suit specifically challenges NAR's policies related to the display of property listings on the Internet.

An earlier policy adopted by the trade group enabled brokers to pick and choose which competitors could display their property listings online.

While the Realtor group, in response to a Justice Department investigation over its earlier policy, enacted a new Internet listings policy on Aug. 31 for all Realtor-owned MLSs, this new policy continues "to discriminate against brokers who use the Internet to more efficiently and cost effectively serve home sellers and buyers," the Justice Department alleges. Realtor-owned MLSs must adopt and implement the trade group's new policy by July 1, 2006, and some provisions of the new policy are optional.

Earlier lawsuits, dating back to the 1950s, have alleged that Realtor groups have conspired to fix commission rates. Industry research has found that real estate commission rates have dropped slightly over the past several years from the historic average of 6 percent, though home-price increases have risen more than enough to offset this drop in many markets.

In addition to this latest lawsuit against the Realtor trade group, the Justice Department and Federal Trade Commission this year issued letters opposing Realtor-backed legislation in several states that would impose new real estate service requirements and essentially ban some discount business models.

Also, the Justice Department filed a lawsuit in March over real estate rebate restrictions in Kentucky, which led that state to lift its rebate ban. And South Dakota also loosened its rebate restrictions this year in response to a separate Justice Department investigation.

Robert Cohan, Jackson Walker

Trade groups "are kind of a hotbed of antitrust activity – they are by their nature a gathering of competitors," said Robert M. Cohan, a lawyer who is chairman of the antitrust group and a partner in the Jackson Walker law firm's Dallas office. "There are many good things that trade associations do but there is always a danger that when you get competitors together they're going to do things they shouldn't do, such as agree on price."

He added, "There is certainly a history of challenges to real estate multiple listing services and the way Realtor associations operate. There has been some history of tension between the industry and the regulators. What the Justice Department seems to be suggesting is that the Realtor association is protecting Realtors who may still be doing business the old-fashioned way."

Federal antitrust cases can be "tremendously expensive to litigate" and can be drawn out for years if groups aggressively fight the charges, and Cohan said it's fairly common for the parties in such cases to settle before the cases reach trial.

Sutton Keany, Pillsbury Winthrop Shaw Pittman

Sutton Keany, a partner and antitrust lawyer who works in the New York office of the Pillsbury Winthrop Shaw Pittman law firm, said the Justice Department has already had some success in prompting the Realtor group to rethink its Internet listings policy. The lawsuit may have provided inspiration for NAR to move more quickly in its adoption of new rules, he said, adding that "(The Justice Department) has had success at least on one point - if the purpose of the complaint is to shake up practices in the area."

He added, "It is generally thought that most markets operate more efficiently as the availability of information is increased. If participants in that market get together to try to exclude certain brokers or to restrict the flow of information or to reward non-technological advances, it raises questions. In the end that's what is motivating the Department of Justice."

Tim Greaney, a law professor at Saint Louis University in Missouriwho worked in the Justice Department's Antitrust Division for 10 years during the 1980s, said the lawsuit against the Realtors appears to be "really a classic case of changing market conditions and innovation having a major potential impact on an industry, and an industry's reaction being to resist it because it certainly has the potential to disrupt the way business has been conducted in the past."

While property information continues to be vital for the business of real estate brokerage, "nothing cheapens information quite as much as the Internet," Greaney said, which poses challenges for companies that have relied on brick-and-mortar investments.

MLSs can benefit consumers by providing widespread property listings information, but such joint ventures can be anticompetitive if they serve as devices for exclusion, he said. If the lawsuit is settled, Greaney expects it would be in the form of a court-enforced consent decree, which could lessen the chances for extensive future litigation related to this case.

Legal experts say that federal antitrust cases can be the basis for private litigation, and if the Justice Department prevails in the case there may be a trailing wave of class-action or individual lawsuits by real estate companies or groups.

The federal government is not seeking any damages in the lawsuit, but aims to restrain and enjoin the Realtor association from requiring rules that restrict how a broker interacts with customers, competitors or others, according to the Justice Department complaint.

The lawsuit also seeks to prevent the trade group from requiring affiliated boards and MLSs to adopt specific Internet listings policies – such as the ability for brokers to selectively withhold listings from some competing brokers – that the Justice Department considers to be anticompetitive.

Theodore "Ted" Bolema, a lawyer in the Finance and Law Department at Central Michigan University who served in the Justice Department's Antitrust Division from 1992-2000, said the lawsuit against the Realtor group appears to be at the "intersection of antitrust laws and (intellectual) property rights," as it relates to the ownership control of property listings information.

Theodore Bolema, Central Michigan University

"It strikes me as one of the most interesting antitrust cases we've seen in some time because of the rather unique issues in it," he said.

Antitrust cases can take longer to resolve than average court cases, Bolema said, and the Justice Department must present a very detailed factual analysis to support its case. "(These cases) are very fact specific. Courts have held that it's really the economic impact that is critical in determining whether there is a violation or not." While some antitrust cases seek damages for past violations, the case against the Realtor trade group does not.

The American Antitrust Institute, an independent, non-profit research and advocacy group that promotes fair competition, has commended the Justice Department for bringing the lawsuit against the Realtor association. Albert Foer, president of the institute, said, "I think that the Realtors are going to have a very difficult time in prevailing. There is a context of an industry in which commissions appear to have been stable for a long time, even as the price of housing has escalated. That tips us off that something is wrong in terms of how competition is working."

But, he also said, "At this stage it's hard to prejudge the outcome. We supported the idea that (the Justice Department) brought the case because we think this is a really important issue for consumers and it ought to get the fullest possible airing."

Legal experts have said that Washington politics should not have a major bearing on this case – despite the Realtor group's powerful presence in congressional lobbying and financial support for federal elections.

But Justice Department officials, Foer said, "are clearly aware of the political power of the Realtors. And nonetheless they put forward the case – one assumes they've done a lot of thinking and a lot of preparation and have a lot to offer."

Governors Ask Probe Into Possible Gasoline Price Gouging (AP)

By JOSEPH B. FRAZIER, Associated Press

AP, September 21, 2005

Eight Democratic governors, including Gov. Ted Kulongoski, have written the Bush Administration requesting a probe into possible gasoline price gouging in the wake of Hurricane Katrina.

"We urge Congress to immediately commence an investigation into the excessive profits being made by oil companies who are taking advantage of this national crisis," the letter said.

It urged legislation refunding any excessive profits to consumers and was signed by the governors of Oregon, Wisconsin, Michigan, Illinois, New Mexico, Iowa, Montana and Washington.

The letter cites a report by Don Nichols, an economist and director of the Robert M. LaFollett School of Public Affairs at the University of Wisconsin as saying there is a disproportionate increase in the rise of pump prices and crude oil prices.

Historically, Nichols said, the markup between the price of a gallon of crude and a gallon of gasoline is about 85 to 90 cents a gallon including refining, distribution and taxes.

At $50 for a 44-gallon barrel of crude, he said, the pump price should be about $2 a gallon, a little more or less in some states depending on taxes. At $65 a barrel — nearly identical to the price in Tuesday afternoon trading — a gallon should be about $2.30.

But as of Monday, the average cost of a gallon of regular was $2.78 nationwide. A week ago, it was $2.95 a gallon.

For gasoline to be $3 a gallon, he said, crude should be selling for about $95 a barrel.

Ten refineries were knocked out by Katrina but Nichols said windfall profits are still involved.

"There is supply and demand," he said. "That's the market."

"But somebody is sitting on money they didn't earn," he said, "because they were in the right place at the right time."

He said he has seen no explanation for why the markup should be nearly triple. "The disconnect between gasoline and crude oil prices is quite remarkable," he said.

"How can gasoline prices soar if crude prices don't?" he asked in the study, which was contained in a broader look at economic impacts of Katrina.

Officials of major petroleum industry groups asked for comment did not immediately return calls Tuesday.

Last week in Washington the Senate passed an amendment that requires the Federal Trade Commission to conduct an immediate investigation into possible gasoline price-gouging in the wake of the devastating hurricane.

Wisconsin Gov. Jim Doyle wrote that Wisconsin consumers have been overcharged by an estimated $88 million just this month and called for refunds.

Oregon Attorney General Hardy Myers wrote in Tuesday's Oregonian newspaper that Oregon, unlike 21 other states, has no law banning price gouging during emergencies.

Instead, Oregon law limits gouging to the prohibiting of taking advantage of a customer with a physical infirmity.

"The sky's the limit is the rule here even in a declared emergency," he wrote.

He said he has been seeking a law for years to let his office deal with gouging.

Nationally, gasoline prices have been slowly dropping in recent days amid predictions that they could rise again as Hurricane Rita moves toward the Gulf of Mexico.

"Just yesterday, we saw oil set the new record for a one-day spike in prices," Sen. Maria Cantwell, D-Wash., a member of the Senate Energy and Commerce committees, said Tuesday.

"The oil companies know we don't have a plan to protect American consumers. We need a federal law that's going to prohibit profiteering at the gas pump — especially during national emergencies," she said.

New Mexico Gov. Bill Richardson will call a special legislative session next month to propose a $100 million gasoline and home heating relief package.

Spokesman Gilbert Gallegos said Tuesday that the one-time package would include rebates for taxpayers. He said Richardson will seek a bill that will allow the state to investigate and punish companies that engage in price gouging.

White House spokesman Allen Abney said no one has seen the governors' letter Tuesday, but that Bush won't stand for price gouging. He also said Bush has asked Attorney General Alberto Gonzales to handle any such allegations.

U.S. Plans Deployment Of Antipiracy Attachés (WSJ)

By Greg Hitt

The Wall Street Journal, September 21, 2005

WASHINGTON -- The Bush administration is stepping up efforts to protect the patent rights of American businesses overseas, amid growing concern over the piracy of U.S. intellectual property.

Commerce Secretary Carlos Gutierrez today is expected to announce that his department has set up a team of intellectual-property specialists who will be assigned to several nations to help fight piracy there.

The initiative, which builds on a strategy the Commerce Department is following in China, is part of an effort by Washington to gain control of an issue roiling U.S. trade relations around the globe, particularly with developing countries.

Last week, Chinese President Hu Jintao assured President Bush that Beijing is willing to strengthen antipiracy rules, as part of an effort to increase imports of U.S. goods into China and ease the trade gap -- on pace to break last year's record of $162 billion -- between the two economic powers. Past Chinese promises to deal with the issue have yielded few tangible results.

Together with the diplomatic dialogue, the Bush administration is scrambling to provide support for American business. Critics complain tens of billions of dollars in revenue are lost annually as a result of the piracy of intellectual property.

In addition to beefing up the antipiracy effort in China, the administration plans to deploy intellectual-property specialists to Brazil, India, Russia, Thailand and the Middle East -- all regions that concern U.S. trade officials tracking patent issues. The new team of attachés will provide in-country assistance to U.S. businesses facing piracy problems, and work with local officials on efforts to curb theft.

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"We're going to have a presence on the ground," Mr. Gutierrez said. He is scheduled to outline the plan on a two-day swing this week through California, where he is to discuss trade issues with technology and movie-industry executives. "It's all part of an overall effort to combat" violations of intellectual-property rights, the secretary said.

The initiative is the work of Chris Israel, a Commerce official tapped over the summer to coordinate antipiracy efforts across the administration. The Commerce Department also is creating an academy, based at the U.S. Patent and Trademark Office, to train foreign judges, enforcement officials and program administrators on international-patent obligations, as well as how to establish and maintain a system of intellectual-property protections.

Among the countries expected to participate are Brazil and China. Creation of the academy would double the size of an existing program through which the Patent and Trademark Office conducts education and enforcement training programs around the world.

At home, the department is also convening a series of grass-roots seminars around the country to educate small-business owners on protecting their intellectual property overseas.

EU Regulators Eyes Microsoft Complaints (WP/AP)

The Associated Press

The Washington Post, September 21, 2005

BRUSSELS, Belgium -- EU antitrust officials are again analyzing complaints that software giant Microsoft Corp. broke European rules, European Commission spokesman Jonathan Todd said Tuesday.

Todd refused to say who made the complaints, what they were and whether they contained new information.

"We are currently in the throes of analyzing these informal complaints. And a decision as to whether or not we will open up a new case against Microsoft _ any such decision will only be taken once we have completed our scrutiny of the information we have received," he told reporters.

He said the EU head office did not need to wait for complaints to take action against any company it suspected of breaking EU law.

The EU executive Commission is currently waiting for a court date to defend its March 2004 antitrust ruling against Microsoft. In that case, the company is challenging a $620 million fine and a ruling that it abusively wielded its Windows software domination to lock competitors out of the market.

Microsoft was also ordered to sell a version of its Windows software without its Media Player and required to share technology with competitors that make server software so their products can better communicate with Windows computers.

Microsoft Could Face Fresh European Antitrust Charges (MRKTWTCH)

By Michael Paige, MarketWatch

MarketWatch, September 21, 2005

LOS ANGELES (MarketWatch) - Microsoft Corp. could face new charges by European antitrust regulators that its business practices are anticompetitive as officials weigh fresh complaints the world's largest software company violated European rules, reports said Tuesday.

Since taking office last year, Neelie Kroes, the European competition commissioner, said she has received informal complaints focusing on Microsoft's (MSFT: news) bundling of its existing software programs and upcoming applications, according to an interview published by the New York Times.

"We have had informal complaints and we are using our time now to look at them," she said. "We're not going to wait and do nothing."

Kroes refused to provide further details on the complaints, the paper said. Microsoft, the world's largest software company, responded by saying it was keeping regulators apprised of its new products, according to the report.

European regulators early last year found that Redmond, Wash., Microsoft abused its dominant position with its Windows software to unfairly shut competitors out of the market. The company was ordered to pay a landmark fine and make sweeping changes to its business practices.

Microsoft and regulators are awaiting a court date for the company's challenge of the fine and ruling. See earlier related story.

Meanwhile, a spokesman for the European Commission said there are no imminent plans to open a new antitrust investigation into Microsoft, Dow Jones Newswires reported from Brussels.

A spokesman for the regulatory body was quoted by the Associated Press as saying, "We are currently in the throes of analyzing these informal complaints. And a decision as to whether or not we will open up a new case against Microsoft -- any such decision will only be taken once we have completed our scrutiny of the information we have received."

In March of last year, Microsoft was fined a record 497 million euros, or over $600 million, and ordered by the regulators to change the way it does business.

Under the ruling, Microsoft was ordered to divulge some of its trade secrets for server software to competitors. It was also ordered to offer to consumers a version of its ubiquitous Windows operating system stripped of its Media Player software.

In Tuesday trading, Microsoft's stock eased 16 cents, or 0.6%, to close at $25.84. Shares have ranged from $23.82 to $30.20 over the last 52 weeks.

Michael Paige is a reporter for MarketWatch in Los Angeles.

UPDATE: Microsoft Could Face Fresh European Antitrust Charges (DOWJONES)

Dow Jones, September 21, 2005

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In Tuesday trading, Microsoft's (MSFT) stock gained 12 cents, or 0.5%, to $26.12. Shares have ranged from $23.82 to $30.20 over the last 52 weeks.

Mergers May Vex Regulators (USAT)

By Paul Davidson

USA Today, September 21, 2005

As federal regulators weigh what, if any, conditions to impose on two mammoth phone company mergers, they face a vexing Rubik's cube of possibilities.

Any requirements they attach to SBC Communications' acquisition of AT&T and Verizon's purchase of MCI could force some customers to do business with a telecom company they didn't choose.

The Justice Department is largely focused on the effects of the megadeals on corporate customers, say people with direct knowledge of the situation. In exchange for the deals' approval, they say, Justice is considering forcing the combined company to shed up to several thousand lines that serve big business. The rub: Most corporate customers are under contract and will likely balk at switching providers.

Both Justice and the Federal Communications Commission could approve both deals by next month, though Justice is further along in its review than the FCC, say the people who are involved. These people asked to remain anonymous because the talks with Justice are sensitive and confidential. Justice and the FCC declined to comment.

The mergers would marry SBC and Verizon, the two biggest regional Bells, with AT&T and MCI, the top two long-distance carriers.

The FCC could impose conditions aimed at preserving consumer choice. Until recently, AT&T and MCI each have competed head-on with SBC and Verizon for consumers' home-phone service. Regulators are less concerned about that segment because the long-distance companies stopped marketing residential service after adverse regulatory rulings last year.

Still, to promote competition, the FCC could require SBC and Verizon to offer consumers DSL broadband service without also requiring them to use the Bells' local voice service. That would allow consumers to replace the Bells' voice service with an Internet-based phone service, such as Vonage, that could travel over the DSL line.

With the FCC split evenly between Republicans and Democrats until a third Republican is appointed, the Democrats could push for such a condition.

In the business market, AT&T and MCI are leaders in linking the nationwide offices of big businesses with voice and data services. Typically, however, they must lease the local fiber-optic lines of the Bells, then resell them to businesses along with other services.

But in recent years, AT&T, MCI and other Bell rivals have built their own fiber lines to customers, undercutting the Bells' prices by 15% to 35%, says Brian Moir, a lawyer for large business customers. While AT&T and MCI control less than 5% of all business lines in the USA, they serve many of the largest business customers in the biggest cities.

They also wholesale, at sharp discounts, both their lines and those they lease from the Bells to smaller phone companies, which in turn, sell them to small and midsize businesses. All told, AT&T and MCI each serve about 2,000 buildings in SBC's and Verizon's regions, respectively, with their own fiber-optic lines. Both the large businesses and smaller phone companies worry they will lose those discounts once AT&T and MCI are swallowed by the Bells.

To prevent that, Justice could force SBC and Verizon to sell the lines, but not customers, of AT&T and MCI. Reason: Supplying data services to businesses is highly specialized and customers with nationwide contracts would resist being tossed to a new provider in one region. “They're not going to want their contracts torn up by government fiat,” says Legg Mason analyst David Kaut.

At the same time, several phone companies say they would have little interest in buying the wires if there is no customer revenue to offset the purchase price. As a result, Level 3 Communications has proposed that Justice allow it or other phone providers to buy the lines, and force AT&T and MCI to lease them back. As units of SBC and Verizon, they would still use the lines to serve their existing customers. The buyers eventually would develop their own customer bases.

Moir says business customers would still bristle at a new phone company controlling the lines.

Yet in a report, Legg Mason says it expects Justice to require just that — a divestiture with a lease-back mandate. To ensure that the Bells don't scrap discount prices, the FCC also could regulate their prices, Legg Mason says.

The Bells argue no divestitures or conditions are needed. They say many of the buildings served by AT&T and MCI are also served, or easily could be, by others.

Authors Slap Google With Copyright Suit (WSJ)

By Kevin J. Delaney

The Wall Street Journal, September 21, 2005

A group of authors Tuesday filed suit against Google Inc., accusing the search engine company of copyright infringement under its controversial program to scan millions of books in university and public libraries and to make the texts searchable on the Web.

The Authors Guild, a New York non-profit with over 8,000 members who are published authors, alleged in its complaint that Google's plan to create digital copies of books represented "massive copyright infringement." Authors Herbert Mitgang, Betty Miles, and former U.S. Poet Laureate Daniel Hoffman, are co-plaintiffs in the suit. The plaintiffs have requested the suit be granted class action status. The complaint was filed in U.S. District Court in New York.

In a statement, Google said that its respects copyright and added that it "regrets" the course of action the Authors Guild has chosen. "Google Print directly benefits authors and publishers by increasing awareness of and sales of the books in the program," the company said. "Only small portions of the books are shown [to consumers conducting searches] unless the content owner gives permission to show more," it added, saying that authors and publishers can request their books not be scanned at all.

The complaint is the latest reminder of how Google's attempts to search information beyond simple Web pages -- such as books, television programs and scholarly works -- are proving to be more controversial and time-consuming for the company than the Web searches that have driven its growth to date. Since late last year, Google has been slapped with separate suits, including from a news agency and an adult-entertainment company, alleging copyright infringement in areas such as news reports and images it displays on the Web.

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The Mountain View, Calif. company has already faced some backlash from publisher groups since announcing its book-scanning program last December. In a May letter, the Association of American University Presses, a trade group of 125 publishers, warned Google that its plan to digitize millions of books in libraries represented "a fundamental, broad-sweeping violation of the Copyright Act." Individual publishers, including Bertelsmann AG's Random House Inc. unit, and other publisher associations have also contacted Google expressing their concern. Some European officials also oppose the scanning project, arguing it would help English-language sources and an American view of history to dominate the Web.

Google last month suspended its scanning of copyrighted books in libraries until November, saying the delay would give publishers time to specify which books they don't want Google to scan. Google had initially said it planned to scan the entire library of the University of Michigan, which includes seven million volumes, along with books from the libraries of Stanford University, the University of Oxford, and Harvard University and the New York Public Library.

Authors Guild Executive Director Paul Aiken said that Google's move to allow publishers to request their works not be scanned was insufficient. "Opting out is not the way copyright works," said Mr. Aiken.

The complaint alleges Google's scanning of copyrighted works in itself represents a copyright infringement, and that Google's inclusion of any works in its commercial services represents additional infringement. Mr. Aiken said that book publishers typically don't have the contractual right to grant Google permission to use published books in its book search service without the authors' agreement. The complaint requested unspecified damages and an injunction barring Google from further alleged copyright infringement under the program.

Nymex Board Votes To Sell 10% Stake To General Atlantic (WSJ/DJN)

By Leah McGrath Goodman, Dow Jones Newswires

The Wall Street Journal, September 21, 2005

The board of the New York Mercantile Exchange voted in favor of selling a 10% stake to private-equity firm General Atlantic LLC at a meeting last night, according to a person close to Nymex.

The deal, which remains subject to a seatholder vote, values the exchange at $1.35 billion and seeks to help the nation's biggest energy and metals market go public, the person said.

By voting for a deal with General Atlantic, the Nymex board closed the door on a joint bid by private-equity firms Blackstone Group and Battery Ventures VI LLP that valued the exchange at $1.3 billion, people close to Nymex said.

The board also rejected an eleventh-hour bid by Michel Marks, a former Nymex chairman, who teamed up with private-equity firm Hellman & Friedman LLC seeking a Nymex stake that valued total exchange equity at $1.4 billion, several people close to Nymex said.

Nymex plans to recommend the proposed deal with General Atlantic to seatholders at a meeting Sept. 29, where it plans to discuss the exchange's strategic options. Seatholders will vote on the deal at a later date, according to Nymex spokeswoman Anu Ahluwalia.

While minority stake bids from private-equity firms initially targeted the purchase of a 20% equity stake in the exchange, people close to Nymex said board members wary of giving up control reduced the size of the stake for sale.

Under the terms of the General Atlantic offer, the firm would buy a 10% stake in Nymex representing preferred equity that would allow it to seize control of the exchange if it fails to achieve certain revenue and net capital milestones, people close to Nymex said. General Atlantic, Greenwich, Conn., is the largest shareholder of Chicago's Archipelago Holdings Inc., an electronic-trading firm that has made clear its interest in derivatives and is slated to merge with the New York Stock Exchange.

The proposal also seeks to reduce the exchange's 25-member board, with one-third of the remaining directors to be handpicked by General Atlantic, people close to Nymex said. The other board members -- either representatives of Nymex seatholders or public directors -- likely would be approved by a Nymex member vote, they said.

The deal includes provisions that let General Atlantic liquidate its minority stake if Nymex backs out of an IPO, said one of the people close to Nymex.

Qwest To Try To Sway FCC Review Of SBC-AT& T Merger (WP)

By Arshad Mohammed, Washington Post Staff Writer

The Washington Post, September 21, 2005

Qwest Communications International Inc. yesterday raised questions about the pending merger of two major rivals, accusing SBC Communications Inc. of anti-competitive practices as the government considers SBC's purchase of AT&T Corp.

Denver-based Qwest said SBC was making it harder for competitors to serve lucrative medium to large companies and was limiting the ability of rivals to lease SBC lines at cheaper government-regulated rates. It also said SBC appeared to be pressuring smaller phone companies not to merge with unspecified "blacklisted" rivals.

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San Antonio-based SBC dismissed Qwest's claims and said it expected the Federal Communications Commission and Justice Department to approve its $16 billion acquisition of AT&T.

Qwest is trying to influence the FCC as the agency weighs both the SBC-AT&T merger and Verizon Communications Inc.'s planned $8.46 billion purchase of MCI Inc.

Qwest was rebuffed in its own effort to buy Ashburn-based MCI this year, and the two mergers leave Qwest -- the fourth-largest U.S. telephone company -- at a competitive disadvantage to the remaining regional telephone giants.

"SBC already is using its increased market power arising from its acquisition of AT&T to create new barriers to the development of competition," Qwest said in a letter it said it would send today to the FCC. The company provided a copy of the letter to The Washington Post.

"These actions underscore why the merger should be conditioned on full divestiture of overlapping AT&T operations and related restrictions on terms and conditions under which SBC provides special access," the letter added.

Special-access customers are usually medium to large companies that, because they buy large amounts of voice and data service, are provided dedicated lines to connect directly to long-distance networks. Long-distance companies typically pay the local telephone company special-access fees for these dedicated lines.

"We are confident that the FCC and the DOJ, after an exhaustive and careful review of the facts, will determine that the merger of SBC and AT&T will benefit consumers -- and many customers have gone on record in support of the merger for this reason," said an SBC spokesman.

"This filing is a sad, desperate act by one of our competitors who is afraid of having a vigorous competitor in their own back yard," he added.

In its letter, Qwest said SBC was capping the number of circuits it would transfer to competitors in a given year, limiting Qwest's ability to serve special-access customers.

It did not disclose the cap but said it was below what SBC transferred for Qwest in the first half of 2005.

ENVIRONMENT/INDIAN AFFAIRS:

Senator Proposes Property Rights Ombudsman (REU-Y2)

By David Lawder

Reuters, September 21, 2005

A senior Senate Republican proposed creating a federal official for arbitration in eminent domain cases on Tuesday as witnesses urged lawmakers to restrict the taking of private property for development.

Utah Sen. Orrin Hatch (news, bio, voting record) announced the bill to create such an ombudsman during a Senate Judiciary Committee hearing on a separate measure to withhold federal funding from private development projects that rely on government appropriation to obtain property.

"What is happening to me should not happen to anyone else," said Susette Kelo, namesake plaintiff in the landmark Kelo v. New London case the U.S. Supreme Court decided in June.

"Congress and state legislatures need to send a message to local governments that this kind of abuse of power will not be funded or tolerated," she told the hearing.

The court ruled 5-4 that New London, Connecticut, could take Kelo's waterfront home and 14 other properties to make way for a hotel and condominium project, saying economic development and creation of jobs were sanctioned as public use of land under the U.S. Constitution's Fifth Amendment.

The decision enraged property rights advocates and conservatives in Congress, who say it gave local governments the right to give any home in the United States to a wealthy developer, as long as he says he will upgrade the property.

Such projects often involve federal Community Development Block Grants and are backed by tax-exempt bond financing. The project in the Kelo case received a $2 million subsidy.

Under Hatch's bill, an independent property rights ombudsman would have the power to order arbitration to resolve eminent domain disputes. The bill is based on a property ombudsman successfully established in Utah.

Cornyn said his fellow Republican Hatch's idea was "intriguing" and worth considering as the bill progresses.

Cornyn said he has 28 co-sponsors for the legislation, but acknowledged that only two so far are Democrats.

The House of Representatives passed a similar measure as an amendment to a spending bill, but the 231-189 vote was split largely along party lines, with many Democrats opposing it.

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The National Association for the Advancement of Colored People's Washington bureau director Hilary Shelton spoke in favor of the legislation, saying eminent domain-driven urban renewal projects too often displace blacks and other minorities with too little compensation.

But Hartford, Connecticut, Mayor Eddie Perez said the Kelo decision did nothing more than confirm the status quo of cities to use eminent domain judiciously as a tool to create jobs and benefit residents.

Senators, Property Owners Review Kelo (WT)

By Charles Hurt

The Washington Times, September 21, 2005

Private-property owners and government officials squared off yesterday in a Senate hearing over what makes up the American dream.

Mayor Eddie A. Perez of Hartford, Conn., said the American dream means letting city governments seize property under newly expanded eminent-domain powers so they can give it to private developers who promise to generate greater tax revenue with it.

Susette Kelo -- whose restored pink home in New London, Conn., faces such a seizure -- said the American dream means owning a home without fear that the government will take it to give to the highest bidder.

In June, the Supreme Court ruled in favor of government use of eminent-domain powers to take property and give it to private developers. The 5-4 Kelo v. City of New London decision stunned lawmakers on both sides of the aisle, many of whom noted it as another reason to push the court in a more conservative direction.

Sen. John Cornyn, Texas Republican and member of the Senate Judiciary Committee, has introduced a bill that would prohibit federal funds from being used in cases in which the expanded authority is used. Ms. Kelo applauded that bill.

"What we have now at the local, state and federal level amounts to government by the highest bidder," she said. "That has got to stop."

Though criticism of the Kelo decision has come from both conservatives suspicious of big government and liberals who fear the impact on the poor and minorities, only one Democrat -- Sen. Patrick J. Leahy of Vermont -- showed up for part of yesterday's hearing. Most Republicans on the panel attended.

At the start of the hearing, Senate Judiciary Committee Chairman Arlen Specter, Pennsylvania Republican, said that he'd just come from a meeting at the Supreme Court attended by the author of the decision, Justice John Paul Stevens.

"I told Justice Stevens that we were having this Kelo hearing and if he has some spare time later this morning, to come on over. We'd be glad to hear from him," Mr. Specter said. "He didn't think that was very funny, but all the other judges laughed."

Mr. Perez, speaking on behalf of the National League of Cities, said: "Eminent domain is a powerful economic-development tool that helps cities create jobs, grow businesses, and, most importantly, strengthen neighborhoods."

And despite the near-universal outrage from minority groups, the Hartford mayor said eminent domain is good for blacks.

"For urban America and communities of color, in particular, homeownership is the ticket to the American dream," Mr. Perez said. "If Congress were to pass legislation to hamstring state and local governments from using eminent domain in some of our poorest communities, I believe that we would have fewer people becoming homeowners."

And property-rights advocates have nothing to worry about, he said.

"From [an] owner's position, it seems to me that eminent domain ... is, in a way, the most attractive way in which to have your property rearranged," he said, noting that the owner is compensated.

Ms. Kelo said she just wants to keep her house and be left alone.

"None of us asked for any of this," she said. "We were simply living our lives, working, taking care of our families and paying our taxes."

U.S. To Inspect Small Leak From Fuel Pool At Indian Point (NYT)

By By Lisa W. Foderaro

The New York Times, September 21, 2005

The Nuclear Regulatory Commission announced yesterday that it was inspecting a small radioactive leak from a spent-fuel pool at the Indian Point nuclear power plant in northern Westchester County.

The federal agency said the leak, which was discovered earlier this month during excavation work, was minimal and "does not pose any immediate health or safety concern" for the public or the plant's workers.

But the commission said it would initiate a special inspection to review plans to fix the leak by the company that owns the plant, Entergy Nuclear Northeast. The inspection will also assess the potential environmental impact from the leakage.

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Still, elected officials expressed anger that they were notified only yesterday about the leak from one of three spent-fuel pools on the site. C. Scott Vanderhoef, the Rockland County executive, said the leak also raised questions about Entergy's monitoring of the other pools on the site. "The degree of confidence is certainly not improved," he said.

Mr. Vanderhoef also said that emergency officials from Rockland, Westchester and Orange Counties decided yesterday to ask Entergy to conduct another test of its siren system, following the failures and glitches that marked a test last Wednesday. Among other things, a backup activation system that relies on radio signals failed in Rockland County.

Andrew J. Spano, the Westchester County executive, said in a statement yesterday that it was "absolutely unbelievable that the Nuclear Regulatory Commission and Entergy would keep us in the dark about a radioactive leak" in the pools.

A spokesman for Entergy, Jim Steets, said that the company would have notified county officials immediately had there been any potential for a threat to public safety.

In a statement, the Nuclear Regulatory Commission said the leak was found during excavation work being done in conjunction with a project to store spent fuel rods without immersing them in a pool. It said that workers had identified several hairline cracks on concrete walls surrounding the pool for Indian Point 2, one of the plant's two active reactors. "Slight seepage was collected," the statement said. "It is not yet clear whether the seepage is from a current or prior leak."

Entergy said that the leak may have stemmed from a leak in the pool that was repaired in 1992. Engineers and chemists reported that trace amounts of radioactive cesium and cobalt were present in samples taken from the wall; both are present in the spent-fuel pool. Soil samples three feet from the wall showed normal background levels of radiation, according to the company.

Interior Dept. Defends Its Keeping Of Indian Books (WP/AP)

By The Associated Press

The Washington Post, September 21, 2005

The Interior Department says its audits of accounts it manages for thousands of Native Americans have found few errors and little evidence that anyone tampered with the records.

The agency's position, in a report sent to Congress on Monday, runs contrary to that of Native Americans who filed a 1996 class-action lawsuit saying that they were cheated out of more than $100 billion because of mismanagement of oil, gas, grazing, timber and other royalties from their lands.

A federal judge has ordered that Interior Department officials account for every dollar received and paid to Native Americans since 1887.

In a glossy 24-page brochure, the department says the audit the judge ordered would cost $12 billion and efforts so far have found that errors make up less than 1 percent of the dollars reconciled. "This picture is significantly different from that offered by Interior's critics," Interior Secretary Gale A. Norton states in a letter opening the brochure.

Lawyers for the plaintiffs immediately criticized the report. The plaintiffs have argued the department is using inaccurate and, in some cases, incomplete data.

FBI/DEA/ATF/USMS:

Gossip Meets The G-men In Vast FBI Files (TLPA)

By Randy Herschaft And Larry Mcshane

Times Leader (NE PA), September 21, 2005

NEW YORK - The Beach Boys. Frank Sinatra. Liberace. Sonically, the trio shared little - from the California group's soaring harmonies to Sinatra's saloon singing to Liberace's marshmallow soft vocals. But their offstage antics were music to the ears of the FBI, where all three became the subject of muckraking files in the agency's Washington headquarters.

The portfolios contain innuendo and allegations, with the occasional revelation thrown in. The Beach Boys' penchant for psychedelic drugs and Sinatra's alleged sex parties with President John F. Kennedy are old news.

But who knew of Liberace's reputed fondness for gambling? The file on Wladziu Valentino Liberace reports that the rhinestone-worshipping Las Vegas entertainer was betting with a bookie in blue-collar Buffalo for years.

Celebrities and criminals, rock stars and mob stars, athletes and artists - scores of high-profile Americans have their very own FBI file, a bold-faced universe rife with dirt and scandal. It's no surprise that gossip columnists such as Walter Winchell turn up as sources.

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The files chronicle mass marketer Walt Disney and mass murderer Ted Bundy, comic genius Groucho Marx and cosmic genius Albert Einstein. There are reports of canoodling (although the FBI prefers "extramarital affairs"), heavy boozing, mob ties, drug use and the rest of the requisite dish.

The sheer volume became clear in response to a Freedom Of Information Act request by The Associated Press for every FBI "High Visibility Memorandum" filed between 1974 and 2005, allowing a lengthy traipse through the lives of celebrities from A (Louis Armstrong) to Kaye (Danny) to Z (Efrem Zimbalist). The AP's request produced more than 500 redacted memos totaling nearly 1,500 pages - a stack of documents six inches high.

Tucked inside the pile of paperwork were FBI memos on spouses/stars Desi Arnaz and Lucille Ball; football stars Dexter Manley and Walter Payton; Mayors Marion Barry and Frank Rizzo; mobsters Carlo Gambino and Mickey Cohen.

The memos even contain information never made public. The February 2001 paperwork on film director Otto Preminger's file mentioned "all of the information on Preminger's desire to be a source for the FBI is being withheld."

Until now.

In the FBI's files, Andy Warhol's 15 minutes of fame never expire. Instead, as his memo noted, the 38 pages about the artist's film company and a 1968-69 investigation are there for eternity.

Jimmy Hoffa's daughter asked for the files regarding her long-missing dad - 69 volumes of documents and memorandums. James Earl Ray, the assassin who killed Martin Luther King Jr., filed more than 50 FOIA requests from 1977 to '95 on a variety of subjects - including one seeking records about the FBI's electronic surveillance of King's widow.

The FBI also kept a file on "The FBI" - the long-running television show starring Zimbalist as Inspector Lewis Erskine. The real FBI, according to memos, had casting control over its video incarnation: both Bette Davis and Robert Blake were banned from appearing.

Davis was bumped as an alleged communist sympathizer. Blake, recently acquitted of killing his wife, was brushed off after expressing his opinion that "killers aren't at fault, society is," according to a memo.

Sinatra's file generated national headlines upon its 1998 release, as much for its lack of headline-making material as for anything it contained. But tons of other material is out there, some of it barely noticed in the vast verbal ocean of Web sites, books, newspapers and other publications.

The presence of a file or a memo doesn't necessarily mean the subject was targeted for an investigation.

"Celebrity files can be tricky to understand," said FBI historian John Fox. "They can be collections of information gathered from other files. ... Louis Armstrong is a good example of that. It would be incorrect to say the FBI investigated him."

The FBI won't divulge its exact number of files, but estimates are that it could total more than 6 million. The agency has long maintained that its era of surveillance for political purposes is over, reflecting changes that followed FBI Director J. Edgar Hoover's death in 1972 - but there remain plenty of nuggets tucked away on FBI letterhead:

_ Actor Victor Mature once contacted the FBI about a stalker, but was "probably intoxicated" when agents met with him about the problem. "I know Mature," wrote FBI Deputy Director Clyde Tolson. "He is a little nuts."

_ Former Ohio State football coach Woody Hayes once recruited the son of an agent in the Cleveland office to play for the Buckeyes, prompting a letter to FBI headquarters. Hoover and Hayes were pals.

_ Comedian Jackie Gleason launched a 1956 attempt to track down his alcoholic father, who had disappeared when "The Great One" was a child. The FBI aided by checking its fingerprint files.

The high visibility memorandums are generated for a number of reasons: the notoriety of the requester, whether it's a high-ranking government official (ex-President Gerald Ford) or a high-profile Hollywood type (Sinatra); if the request could reveal improper FBI activities; and if the request comes from a story-seeking journalist.

While it might seem the last group would make the most requests, journalists lagged far behind in their filings, according to FBI records. Both prisoners and private citizens outpaced the requests from the news media.

While the subjects are alive, the FBI only releases public source information: news clippings and other items already available. The full files, for both celebrities and common citizens, are not made public until after death due to privacy issues.

One of the files' more entertaining aspects is the failure to distinguish between legitimate and slanderous sources. Gossip column clips sit side by side with anonymous letters like the one ripping Gleason and Hoover for hanging around with Sinatra, who - as his file showed - had once volunteered to work as an FBI undercover in 1950.

The memos abound with unsubstantiated stories of adultery, addiction and various other excesses. Not all the stories are as riveting - as the file for former U.S. Sen. Edmund Muskie indicated.

The memo mentioned that he was turned down for a job with the FBI, and chronicled an assassination threat against the one-time presidential candidate. And it mentioned one other incident: a 1965 charge of "hunting migratory waterfowl over a baited field."

The incident wound up costing Muskie $27.50 in forfeited bond money, the memo said.

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On the Net:
http://foia.fbi.gov/room.htm

Man Convicted Of Threatening Agent (PTR)

By Karen Roebuck, TRIBUNE-REVIEW
Pittsburgh Tribune Review, September 21, 2005

A South Hills man was convicted Tuesday of threatening to kill an FBI agent who was investigating him for fraud.

Regonaldo Demelio, 36, also known as Ronald Cooley, was in the Allegheny County Jail awaiting trial on two state assault charges Jan. 5 when he placed three telephone calls to his wife in which he threatened to "whack" FBI Special Agent Robert Zalno.

Demelio, a self-employed contractor, said he knew the agent would be listening to his phone calls and told his wife to "pipe down" so he could speak directly to the agent.

Demelio also threatened to file a lawsuit and complain to Zalno's supervisor, a review board and the American Civil Liberties Union that the agent was harassing his wife, Terri Demelio, by visiting her at work as part of the fraud investigation.

Demelio did not testify, but his attorney, Robert L. Downey Jr., argued that his defendant was a "hothead" and was threatening only to take civil action against Zalno.

After the jury's verdict was announced in U.S. District Court, Downtown, Downey complained that the federal law under which his client was convicted "is so vague. Almost anything could be a threat."

Assistant U.S. Attorney James Love told jurors Zalno should have taken the threats seriously because Demelio had assaulted three men -- smashing one of them in the face with a cinderblock -- and was taking psychiatric medication because of his violent past.

Terri Demelio, his wife of two years, previously had filed a protection-of-abuse order against him, saying her husband had pulled a knife on her, hit her in the face, threw a potted plant at her and threatened to kill her, Love argued.

Demelio, who was not charged in the fraud investigation, shook his head when the verdict was read, and his wife sobbed.

He could face up to 10 years in prison and a $250,000 fine when he is sentenced by U.S. District Judge Arthur J. Schwab. A sentencing date has not been set.

Man Convicted Of Threatening FBI Agent (AP)

AP, September 21, 2005

PITTSBURGH (AP) — A man was convicted Tuesday of threatening an FBI agent in a call from jail last year, his lawyer said.

Federal prosecutors said Regonaldo Demelio, 36, of Pittsburgh, knew that his phone calls from the Allegheny County Jail were being recorded and that the federal agent, who was investigating Demelio and his wife, would be listening.

Demelio's lawyer, Robert Downey Jr., said Tuesday night that he was considering an appeal.

Advertisement

Downey said he had listened to the recordings of his client "ad nauseum" and believed that Demelio didn't really intend to hurt Special Agent Robert Zalno. He said his client was just frustrated and felt that agents were baiting him and harassing his wife in a bank and mortgage fraud investigation.

"That apparently is not how the jury perceived it, and that's the rub," Downey said.

No sentencing date was set for Demelio, who was convicted after a two-day trial of a charge of threatening a federal official.

When he spoke about the agent, Demelio had been jailed on an aggravated assault charge. No charges have resulted from the fraud investigation.

Drug Dealer Admits Scams To DEA In Hopes Of Leniency (PHDN)

By Jim Smith
Philadelphia Daily News, September 21, 2005

Admitted drug kingpin Benjamin Ton was facing life in prison for smuggling 11 tons of marijuana and over 300,000 ecstasy pills from Canada into Philadelphia and other areas.

So Ton, 34, a former copy machine repairman who lived in Folcroft, Delaware County, and later in a $300,000 home in Sicklerville, N.J., did the fashionable thing.

A naturalized U.S. citizen from Vietnam who has lived here since 1991, Ton began telling U.S. Drug Enforcement Administration agents all he knew about his operation, his underlings and drug customers, most of whom are Vietnamese refugees, in hopes of earning some leniency.

Ton yesterday pleaded guilty in U.S. District Court in Philadelphia to engaging in a continuing criminal enterprise and other related drug trafficking and money laundering activities.

His public admissions of guilt came several hours after authorities announced that drug charges have been lodged against more than two dozen reputed members of Ton's old network, many of them his top customers.

"The Ton organization is shut down," U.S. Attorney Patrick L. Meehan told reporters at a press conference.

Ton and other members of his network had been secretly recorded on wiretaps for six months and followed by DEA agents during the course of a two-year investigation.

A number of his co-conspirators were ready to testify against Ton, court records show.

The Daily News reported last Nov. 11 that DEA agents had arrested Ton and five codefendants after seizing a shipment of some 55,000 ecstasy pills worth about $1 million on the black market.

Court-authorized wiretaps led to the arrests and seizures, Assistant U.S. Attorney David E. Fritchey said.

Ton has been in jail since his arrest.

Between December 2002 and Nov. 7, 2004, large quantities of drugs were smuggled out of Canada by truck or in secret compartments of cars and vans.

Ton "personally" negotiated prices, recruited workers, supervised drug deliveries, and approved places, including his Folcroft home, where drugs were stashed.

Ton paid his Canadian suppliers more than $25,000,000 for the drugs.

Prosecutors say ecstasy "is a particularly popular drug of abuse at rave clubs" that may cause damage to the central nervous system, including Parkinson's disease.

Bonds: Congress Should Drop Steroids Probe (MERCN)

By Howard Fendrich

The San Jose Mercury News, September 21, 2005

WASHINGTON - In the nation's capital on his first road trip of 2005, Barry Bonds questioned why Congress, the media and fans continue to talk about steroids.

"I think we have other issues in this country to worry about that are a lot more serious. I think you guys should direct your efforts into taking care of that," the San Francisco Giants slugger said Tuesday before facing the Washington Nationals. "Talk about the athletes that are helping Katrina. Ask yourselves how much money y'all personally donated and have helped."

Asked whether Congress was wasting time by looking into steroid use in sports, Bonds responded: "Pretty much, I think so. Yeah."

Several congressional committees have held hearings on drug testing in pro sports, and legislation has been proposed to standardize leagues' drug policies.

"You know what? There are still other issues that are more important," Bonds said. "Right now, people are losing lives, don't have homes, I think that's a little more serious. A lot more serious."

Told of Bonds' comments, Dave Marin, a spokesman for House Government Reform Committee chairman Tom Davis, R-Va., said: "Members of Congress, particularly Tom Davis, can walk and chew gum at the same time."

Congressional investigators from that committee are looking into whether Baltimore Orioles slugger Rafael Palmeiro lied under oath about steroid use and are interviewing other players who know Palmeiro.

Bonds has not been contacted.

"Raffy Palmeiro and I are good friends and we will stay continually good friends. Period. And I will always have respect for him as a person and a player, regardless," Bonds said.

Bonds, booed throughout Tuesday's game, hit his 706th homer in the fourth inning.

As the ball arched toward the stands, fans who moments earlier were booing rose to cheer. Bonds was booed when his name was announced during pregame introductions, booed when he stepped into the on-deck circle, and booed when he went out to play left field.

"I've been tarnished for being in baseball for years and years. There's nothing you guys can write or people can say that's going to fix that. It doesn't matter any more. I go out there and enjoy the game," he said.

It was Bonds' third homer of 2005, and it came in his 18th at-bat. Out all season after three knee operations, he returned to the Giants on Sept. 12.

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U.N. Reports First Drop In Afghan Opium Cultivation Since Taliban (AP)

Associated Press

AP, September 21, 2005

MOSCOW - The United Nations has recorded the first notable decline in opium cultivation in Afghanistan since the fall of the Taliban, but drug production remains high due to favorable weather, the head of the U.N. Drug Control Agency said Tuesday.

Antonio Maria Costa, who on Tuesday presented a new U.N. report on the drug situation in Afghanistan, called the decline "the best drug-related news" since the Taliban ouster in 2001.

He said that opium cultivation nonetheless had more than tripled in some Afghan provinces governed by warlords suspected of involvement in drug trade, and called for their removal.

"Corruption is the wild card, and we have got to remove it from the deck," he said.

Costa also called for greater NATO involvement in fighting drugs, noting that the northwestern Afghan provinces where opium cultivation has grown were places where NATO forces operate.

According to the U.N. report, Afghan opium cultivation dropped by 21 percent in 2005 compared to the previous year, but production dropped only slightly from 4,200 tons in 2004 to 4,100 tons.

Costa said Afghanistan remained the world's largest opium supplier, with 87 percent of the world market coming from Afghanistan. The opium economy makes up 52 percent of Afghanistan's gross domestic product, and 11 million drug addicts worldwide use Afghan heroin, he said.

One-third of the Afghan drug traffic reaches Western markets through the so-called northern route, via the ex-Soviet Central Asia and Russia, and another two-thirds arrives via Pakistan and Iran, he said.

Costa, who met reporters in Moscow alongside Viktor Cherkesov, the head of Russia's Federal Drug Control Service, said that the flow of Afghan heroin seriously aggravated the HIV/AIDS problem in Russia and Ukraine, where drugs are largely taken through injection.

Cherkesov said that in summer his agency recorded a sharp increase in the amount of illegal Afghan drugs coming into Russia.

Colombian Army Discovers Huge Cocaine Lab (NYNSDY/AP)

By Fernando Vergara, Associated Press Writer

New York Newsday, September 21, 2005

MARIPI, Colombia -- Colombian troops raided a sprawling clandestine drug laboratory run by a paramilitary group that was capable of producing 10 tons of cocaine a month, officials said Tuesday.

"This is the biggest cocaine processing factory we've found this year, it contained a large quantity of chemicals used to process the drugs," Gen. Gustavo Matamoros, commander of the army's 5th Division, told The Associated Press.

In a separate operation, the military announced Tuesday that it had seized six tons of marijuana allegedly belonging to the Revolutionary Armed Forces of Colombia, or FARC, the country's main leftist rebel group.

The drugs were discovered Monday wrapped in hundreds of red packages in southwestern Cauca state and later shown to reporters at a military base in the nearby city of Cali.

Workers at the cocaine factory escaped and no arrests were made during the raid Monday in a remote area near the town of Maripi, 50 miles north of Bogota, Matamoros said.

The drug lab, built about four months ago, was concealed under a roof made of sugar cane stalks and plastic sheeting and had enough beds to sleep at least 35 workers.

Matamoros said the lab belonged to paramilitary faction, but did not provide details.

Outlawed paramilitary groups were created two decades ago as a vigilante force to attack leftist rebels that have been waging war on the Colombian government. Both the paramilitaries and leftist rebels use drug trafficking to finance their campaigns.

The paramilitary umbrella group, the United Self Defense Forces of Colombia, or AUC, is involved in a two-year-old peace process, but the organization remains active in illegal activities in various parts of the country.

State Asks For Federal Help In Smoke Shop Tax Case (AP)

AP, September 21, 2005

OKLAHOMA CITY (AP) - The Oklahoma Tax Commission has asked for federal intervention as the state agency continues to grapple with tribal smoke shops allegedly skirting a new tobacco tax.

The Tax Commission has asked for help from the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, according to records obtained through the state Open Records Act.

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In a letter dated Aug. 27, the Tax Commission claimed that it "has received reports that the lower-tax-rate smoke shops are selling contraband cigarettes to the higher-tax-rate smoke shops in massive quantities."

In the letter, the Tax Commission said it doesn't have jurisdiction on "trust land" but states that Oklahoma believes the federal authorities could "investigate instances of trafficking of contraband cigarettes on trust land."

The Tax Commission asked ATF for help in March and was denied, records show. The commission asked again in August but has not received a reply.

State Treasurer Scott Meacham said the cigarette tax problem already has cost the state $15 million, with the loss rising by nearly $2 million each succeeding month.

The new tobacco tax took effect Jan. 1.

Tax commissioners broke their silence Sept. 9 on the issue. Commissioner Jerry Johnson said everything is being done that is possible to detect offenders, and the commission is getting "fairly close" to figuring out what wholesalers and tribal shops are doing.

Investigations by the Tulsa World show that numerous smoke shops in the Tulsa area are selling cigarettes carrying 6 cent tax stamps, which are intended for smoke shops next to the state border.

Smoke shop operators allege they are purchasing cigarettes with the cheap stamps from their border stores and reselling them in the Tulsa area.

Tax Commission records reveal that wholesalers may be selling cigarettes to the border stores with the cheap stamps affixed but delivering those cigarettes to non-border stores in Tulsa and elsewhere.

"Our problem has arisen because some of the lowest-tax-rate smoke shops are selling cigarettes directly to the highest-tax-rate smoke shops in violation of their compacts," according to a March 18 memo from Tax Commission employee Kay Burkhalter.

"I have also received information that a wholesaler who sells to the tribal smoke shops is invoicing cigarettes to a lowest-tax-rate smoke shop but delivering those cigarettes to higher-tax-rate smoke shops."

Gov. Brad Henry said Sept. 9 that he is working closely with the Tax Commission to see that wholesalers are complying with the law.

"We can crack down, and we will; in fact, we are in the process of doing that."

Johnson confirmed that the Tax Commission is going back 2 1/2 years and auditing unnamed wholesalers' records to see whether there has been an upsurge in sales to some border stores, but the cigarettes are possibly being delivered to non-border stores.

The Tax Commission hopes to have results of its audit by early October, Johnson said.

Meanwhile, Cherokee Nation officials have asked for a 30-day extension to further discuss renegotiating their compact with the state. The extension would delay the beginning of formal arbitration proceedings, said Cherokee Nation spokesman Mike Miller.

Miller said the tribe has also reviewed tax and revenue records of Cherokee smoke shops. Miller said it is against tribal law for smoke shops to funnel cheaper cigarettes to Tulsa-area stores requiring the higher tax stamp.

No Cherokee stores have been accused of this practice.

ATF Agents Find Hundreds Of Guns In North Charlotte Grocery Store (WSOC-TV)

WSOC-TV, ABC 9, Charlotte, NC, September 21, 2005

CHARLOTTE, N.C. -- Federal agents raided a neighborhood store in north Charlotte and found about 90 guns and thousands of rounds of ammunition.

A little boy and several small children come in and out of L.K. Farrar's Self-Serve Market in north Charlotte several times a week.

Inside, it looks like any other little grocery store. But outside, some employees wear guns in plain view.

Neighbors said in their neighborhood, they need it for protection

"Man needs to carry a gun in a store because you don't know who is going to rob you," said one neighbor.

Just a few days ago, police and federal agents served a search warrant there -- seizing nearly 60 handguns and more than 30 shotguns and rifles and thousands of rounds of ammunition.

Kiki Gooden said she's been shopping there since she was a little girl.

"I ain't never seen no guns like that. I don't think they'll be showing stuff like that in there," she said.

The federal Bureau of Alcohol, Tobacco and Firearms requested the warrant against the owner of the store, 52-year-old Lawrence Farrar.

He is a convicted felon who was arrested in May for possession of a firearm by a felon.

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An undercover ATF agent asked for the warrant after visiting the store and seeing Farrar wearing a chrome pistol on his side with a shotgun sitting in a nearby refrigerator.

"I saw all the police come in with their guns drawn and stuff. I didn't know what that was about," said a local resident Curly Wilson.

IMMIGRATION:

DHS Lets Go 'Other' Illegals (WT)

By Jerry Seper

The Washington Times, September 21, 2005

The Department of Homeland Security, facing a flood of illegal aliens from countries other than Mexico, has increased efforts to remove non-Mexican foreign nationals now being released back onto the streets of America because of a lack of detention space.

Homeland Security Secretary Michael Chertoff has ordered that expedited removal proceedings for non-Mexican foreign nationals caught illegally entering the United States be expanded from three to all nine U.S. Border Patrol sectors along the Southwest border.

Mexican nationals caught in the United States illegally are bused back within a few hours, but illegals known as "other than Mexican," or OTMs, must be flown to their home countries, a process that often takes months.

The new process is aimed at reducing the number of OTMs who have spent less than 14 days in the United States and who are apprehended within 100 miles of the border.

"The use of this authority will allow DHS the ability to gain greater control of our borders and to protect our country against the terrorist threat," Mr. Chertoff said.

Nearly 70 percent, or 68,000, of the more than 98,000 OTMs detained so far this year were released almost immediately because of the government's inability to return them to their home country and a lack of detention facilities to hold them while here, federal authorities said.

Federal law-enforcement authorities said thousands of foreign nationals, including a rising number of Brazilians facing high unemployment at home and having access to a growing number of sophisticated alien smuggling rings, are coming into the United States to seek work -- then surrendering to authorities after they cross the border because of this country's inability to detain or deport them.

Border Patrol Chief David V. Aguilar recently told a Senate subcommittee that agents in Texas alone are experiencing a near-threefold increase in the number of OTMs, and there is no place to put them.

"We interdict them, process them and then hand them off," Chief Aguilar said, noting that detention is the responsibility of U.S. Immigration and Customs Enforcement (ICE), and not his agency. He called the "exponential growth" in the number of OTMs and their subsequent release "a major source of clogging and friction for the removal process."

Chief Aguilar told the subcommittee that because of a lack of intelligence data, some OTMs released may have been criminals.

The OTMs detained are sent to detention centers, where they are released if they do not have a felony conviction or pose no national security threat. Given a "notice to appear" at a future immigration hearing, only about 13 percent ever show.

Since Sept. 30, nearly 25,000 Brazilian nationals have been detained at the border, mostly in Texas and Arizona. ICE spokesman Dean Boyd said the agency is working with Brazilian authorities to identify and disrupt alien smuggling operations, noting that last week, the two countries arrested 48 persons linked to a Brazil-based smuggling ring -- including corrupt Brazilian police and customs officers, and airline employees.

Levin Threatens To Block Homeland Nominee (AP-Y2)

By Lara Jakes Jordan, Associated Press Writer

AP2, September 21, 2005

A Democratic senator threatened Tuesday to block approval of a Homeland Security Department nominee until he receives a secret FBI memo about terror suspect interrogations that he's been seeking for months.

The threat against Julie L. Myers, tapped to head the department's bureau of Immigration and Customs Enforcement, came amid lawmakers' concerns that she lacked the experience to head the federal government's second-largest investigative force.

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Asked if he planned to use legislative delaying tactics against Myers nomination, Sen. Carl Levin (news, bio, voting record), D-Mich., said: "Oh yeah. If we don't get the documents, sure."

At issue is a heavily edited May 2004 e-mail from FBI agents seeking guidance about questioning terror suspects held at Guantanamo Bay.

In February, Democratic senators began asking for an unedited version of the memo to see if it mentioned or involved Homeland Security Secretary Michael Chertoff, who headed the Justice Department's criminal division from 2001 to 2003. The Justice Department denied the request, saying the memos contain "information covered by the Privacy Act," and had nothing to do with Chertoff.

Myers was Chertoff's chief of staff at the time, said Levin, who also delayed Chertoff's nomination in February for a week to protest being denied the names of people who sent and received the e-mail. Jim Pasco, executive director of the National Fraternal Order of Police, said Levin's tactic holds "the safety of the American public hostage to the pursuit of a political agenda."

The White House on Tuesday expressed support for Myers.

"Julie Myers is well-respected within the law enforcement community and highly qualified to lead the Immigration and Customs Enforcement," said White House spokeswoman Erin Healy. "We will work with the Senate to ensure her confirmation."

Questions by senators last week about whether Myers has enough experience for the ICE post came on the heels of former Federal Emergency Management Agency Director Michael Brown's resignation after widespread criticism that he had little previous emergency management experience. Myers is a former Treasury official and assistant U.S. attorney.

Bush To Press Congress For Guest-Worker Program, Tancredo Says (BLOOM)

By Nicholas Johnston

Bloomberg, September 21, 2005

Sept. 20 (Bloomberg) -- President George W. Bush will push this year for legislation overhauling immigration laws, including creating a new guest-worker program, said U.S. Representative Tom Tancredo, chairman of the House Immigration Reform Caucus.

The Bush administration has met with Republican lawmakers to press the issue and will likely urge party leaders such as House Speaker Dennis Hastert to hold votes on immigration measures before the end of the congressional session, Tancredo said.

``Certainly there will be a tremendous amount of pressure to do something before Thanksgiving," Tancredo, a Colorado Republican who opposes Bush's guest-worker plan, said in an interview. ``The president wants it. They're not going to tell him no."

Bush has made an overhaul of immigration laws, including a new program to allow immigrants to temporarily work in the U.S., a priority for his second term. The legislative fight on the issue is likely to split Republicans, Tancredo said.

``It will be a terribly divisive thing in the party," he said. Tancredo said he opposes any guest-worker program that allows those in the U.S. illegally to stay and would delay any such program until the borders are deemed secure.

White House Deputy Chief of Staff Karl Rove met with House Republicans last week to reiterate the administration's desire to pass a comprehensive bill this year.

``It was very encouraging," Arizona Republican Jeff Flake, an attendee at the meeting, said in an interview. ``I don't think it's a sure thing. I think it's likely. And it's more likely than most people thought."

Comprehensive

Flake said the administration will push for comprehensive legislation that includes border security, workplace enforcement and a new guest-worker program. Tancredo said two measures introduced in the Senate creating a guest-worker program would face opposition in the House.

Legislation in the Senate backed by Massachusetts Democrat Ted Kennedy and Arizona Republican John McCain would let undocumented immigrants work legally in the country after paying a fine. A competing measure sponsored by Republicans John Cornyn of Texas and Jon Kyl of Arizona creates a guest-worker program that requires undocumented immigrants to return home before applying to work in the U.S. legally.

Proposals put forward by Rove last week closely tracked the Kennedy/McCain measure, said Flake, who has introduced the legislation in the House.

`Hell of a Battle'

``It's going to be one hell of a battle," Tancredo said.

It's ``possible" the measure backed by Cornyn and Kyl could garner support from a majority of Republicans in the House, while the McCain/Kennedy bill could not, he said.

The Kyl/Cornyn bill, he said ``certainly has a better chance than McCain. I think that one is DOA," for dead on arrival.

Flake said there is limited House support for Tancredo's immigration position.

``The Tancredo caucus, in terms of wanting the Tancredo approach, is pretty small," Flake said.

Tancredo also said the U.S. Congress should delay a prescription drug benefit for seniors enrolled in Medicare as a way to offset relief costs for Hurricane Katrina.

``That would save significant dollars," Tancredo said.

The benefit is scheduled to begin in January. He said lawmakers also should consider reducing farm subsidies and selling off federal land to offset costs for Katrina, which hit Louisiana, Alabama and Mississippi on Aug. 29. Other lawmakers, including McCain, also have called for delaying or canceling the prescription drug benefit.

White House press secretary Scott McClellan indicated yesterday that the administration would oppose delaying the drug benefit.

``It's important to move forward, and we are" with the prescription drug plan, McClellan said at a news briefing.

TAX:

Payments To IRS Lost In Accident: Check's In The Bay (WSJ)

By Joi Preciphs

The Wall Street Journal, September 21, 2005

WASHINGTON -- A highway accident caused some 30,000 quarterly estimated-tax payments to the Internal Revenue Service to be dumped into San Francisco Bay, but IRS officials say affected taxpayers will suffer no collateral damage.

A truck carrying about 45,000 forms and tax payments overturned on the San Mateo Bridge on Sept. 11. IRS officials said that the checks, due Sept. 15, were being transported from a post office to an IRS lockbox. No related information about the incident has been posted on the IRS's Web site, www.irs.gov.

IRS spokesman John Lipold said the agency will issue a formal statement once its investigation is complete. He said the agency will waive all interest and penalties for taxpayers who discover that their payments failed to arrive.

"We're going to work with people on good faith," Mr. Lipold said. However, the IRS is asking those who paid estimated taxes in the affected states to wait until Sept. 30 before contacting the agency on its national information line, 1-800-829-1040, to determine the status of their payments. By then, he said most of the checks that were retrieved by the agency will have cleared.

Payments from the following states were affected: Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Ohio, Oregon, Virginia, Utah, Washington and Wyoming.

CONGRESS-ADMINISTRATION:

Top Democrat Says He'll Vote No On Roberts (NYT)

By Sheryl Gay Stolberg And David D. Kirkpatrick

The New York Times, September 21, 2005

WASHINGTON, Sept. 20 - The Senate Democratic leader, Harry Reid of Nevada, said Tuesday that he would oppose the confirmation of Judge John G. Roberts Jr. as chief justice, surprising both the White House and fellow Democrats still conflicted about how to vote.

In becoming the first Democrat to declare formally how he intended to vote, Mr. Reid may have made it more difficult for fellow Democrats to support Judge Roberts. Many Senate observers expected Mr. Reid, who comes from a Republican-leaning state and is opposed to abortion, to support Judge Roberts.

And the Democratic leader himself said Tuesday that he had earlier given the White House a list of nominees who would be objectionable and that Judge Roberts was not on it.

In announcing his decision in a lengthy speech on the Senate floor, Mr. Reid questioned Judge Roberts's commitment to civil rights and said he was "very swayed" by the civil rights and women's rights leaders who testified Thursday in opposition to the nomination - and with whom Mr. Reid met privately that same day. Liberal advocacy groups, who raise millions of dollars to support Democratic candidates and who have been putting intense pressure on Democrats to oppose the nomination, were elated.

With the White House considering how to fill a second Supreme Court vacancy, Mr. Reid could be using his vote on Judge Roberts to send a message to President Bush to fill that position with a moderate, in the mold of Justice Sandra Day O'Connor, a

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critical swing vote, who is retiring. Along with three other senior senators, Mr. Reid is expected to meet Mr. Bush for breakfast Wednesday to discuss the vacancy.

Explaining his decision on Judge Roberts, Mr. Reid said in his Senate speech that he simply had "too many unanswered questions" about the nominee, who he complained had refused to distance himself from seemingly callous writings while a lawyer for the Reagan administration, including a memorandum in which he used the term "illegal amigos" to refer to illegal immigrants.

"I'm not too sure," Mr. Reid later told reporters, "if his heart is as big as his head."

How much influence Mr. Reid will have over his fellow Democrats is unclear; he has said repeatedly that each senator is free to vote his conscience on the nomination, and several Democrats, including those on the Judiciary Committee, said Tuesday that they were still torn.

One centrist Democrat, Senator Ben Nelson of Nebraska, said Tuesday that he had "not seen anything that would cause me to vote against" confirmation of Judge Roberts to be the nation's 17th chief justice.

Last Thursday, as Mr. Reid was weighing his decision, representatives of about 40 advocacy groups met with him in the Capitol; the reason, they said, was to underscore the threat they believe Judge Roberts poses to Democrats' core causes, racial and gender equality. Hovering in the background was a political argument, that if Democrats vote in favor of Judge Roberts, they will be held liable by voters for the decisions he makes on the court.

"He got the message loud and clear, didn't he?" Kim Gandy, president of the National Organization for Women, said of Mr. Reid on Tuesday.

One of the most memorable presentations, those in attendance said, came from Theodore M. Shaw, general counsel of the NAACP Legal Defense and Educational Fund, who told Mr. Reid that his group rarely took a position on nominations.

"We appear before the Supreme Court - who in their right mind would want to poke their finger in the eye of the next chief justice?" Mr. Shaw recalled saying. But, he added, "Based on what we know, this is not a nominee that we can let go by unopposed."

Those who attended the meeting said they came away not knowing what Mr. Reid would decide.

"He listened carefully, he listened thoughtfully," said Wade Henderson, executive director of the Leadership Council on Civil Rights and an organizer of the session. "He did not respond to challenges or views that were presented. I do think he felt this should be a vote of conscience and I think in the end he voted his conscience, and I think at the end of the day that speaks volumes about his leadership."

Mr. Reid and his Republican counterpart, Senator Bill Frist of Tennessee, have been invited to meet with President Bush on Wednesday morning to discuss the second vacancy. The Republican chairman of the Judiciary Committee, Senator Arlen Specter of Pennsylvania, and the committee's senior Democrat, Senator Patrick J. Leahy of Vermont, have also been invited.

With a vote in committee scheduled for Thursday, the eight Democrats on the judiciary panel met Tuesday to discuss the nomination. They emerged tight-lipped, saying they wanted to speak to the entire Democratic caucus before announcing their votes. Several, including Mr. Leahy, said they had not yet reached a decision.

"I'm close," Mr. Leahy said. Asked if he would know by the end of the day, he said, "I may. You won't."

By day's end, only one of the panel's eight Democratic members, Senator Edward M. Kennedy of Massachusetts, had announced his position. As expected, he will vote no.

"This is really a leap of faith, isn't it?" Mr. Kennedy told reporters. "I mean, I think there are those that took the leap in terms of the war, there were those that took the leap in terms of taxes and now they're being invited to take the leap again in terms of Judge Roberts, and" - here, Mr. Kennedy paused for effect - "I don't think I'm going to be among them."

The White House reacted coolly to Mr. Reid's announcement. A spokeswoman, Dana Perino, said it departed from Senate tradition in which members have "based their decisions on the qualifications of the nominee, not on whether or not the person doing the nominating was in their same party."

Mr. Reid said there was no single reason he decided to vote against the nomination, and in his speech he described the decision as "a very close question." But he made plain that an important factor was the White House's refusal to release legal memorandums written by Judge Roberts when he was deputy solicitor general in the first Bush administration. "The administration cannot treat the Senate with such disrespect without some consequences," he said.

The records issues is a matter of principle to many Democrats. Senator Ken Salazar, Democrat of Colorado and a member of the so-called Gang of 14 who struck a bipartisan compromise to avoid a showdown over President Bush's judicial nominees, said Tuesday that he had recently called Harriet Miers, the White House counsel, to tell her that disclosing the documents could make the difference in his vote and that of his colleagues.

"I think it is the right of the American people to get that information," Mr. Salazar said. "She said she would consider my request. I don't think they are going to do it."

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While Mr. Reid said the records fight does not warrant a filibuster, the parliamentary tactic Democrats have used to block other judicial nominees, he suggested he might not be inclined to avoid that fight with the next nominee. He said he planned to present Mr. Bush with a list of acceptable candidates on Wednesday and said Democrats would consider it "a real poke in the eye with a sharp stick" if Mr. Bush were to name any one of 10 federal appeals court judges who had been blocked by filibuster in the past, including some who are on President Bush's short list as Supreme Court candidates.

Asked if that would warrant a filibuster, Mr. Reid said, "That would warrant my being real upset."

Reid 'No' Vote On Roberts Could Be Dem Green Light (HILL)

By Elana Schor

The Hill, September 21, 2005

Senate Minority Leader Harry Reid (D-Nev.) declared yesterday that he will vote against chief-justice nominee John Roberts and pointedly warned President Bush about his next choice for the Supreme Court in anticipation of today's White House meeting to discuss it.

Reid had asked Senate Democrats to avoid openly discussing their position on Roberts until he came to a decision, which he announced on the Senate floor. He later called the decision to oppose Roberts "not easy, but not the most difficult" of his tenure in the Senate.

Reid's no vote could serve as a green light for swing votes in the caucus to oppose Roberts, although Reid repeatedly stressed that senators would vote their conscience.

Ralph Neas, head of the liberal People for the American Way, said, "On the merits, it's very important that there be significant opposition" to Roberts.

"If there is a significant number opposed, that could have an impact on who the president would nominate for the second vacancy," Neas said.

The minority leader is opposed to abortion rights, which agrees with Roberts's personal views on the issue, and many from the Hill to K Street had predicted Reid would eventually support Roberts.

"I'm not too sure if his heart is as big as his head," Reid said of Roberts, echoing recent statements from several Senate Judiciary Democrats during the three days of questioning. "In the years to come, the decades to come, my vision of what kind of judge he will be will be proven."

Asked to explain his comments about Roberts's heart, Reid mentioned the nominee's description of illegal immigrants as "illegal amigos" in a memo from 1983. Reid also concurred with the conclusion of many in Congress that Roberts will eventually be confirmed.

"There was never any doubt," he acknowledged.

Reid will meet with Bush today to discuss possible replacements for retiring Justice Sandra Day O'Connor. Senate Majority Leader Bill Frist (R-Tenn.), Senate Judiciary Chairman Arlen Specter (R-Pa.) and Sen. Patrick Leahy, ranking Democrat on the Judiciary Committee have also been invited to the White House consultation.

Reid also issued a stern warning to Bush about appointing any judge Democrats have opposed in the past.

"One thing I think would be a poke in the eye with a sharp stick" on the part of the president, Reid said, would be "to give us one of the 10 we've opposed before."

Reid was referring to the 10 appellate-court nominees previously filibustered by Democrats, two of whom — Judges Priscilla Owen and Janice Rogers Brown — have shown up on lists of potential nominees for O'Connor's seat.

Reid declined to tip his hand on any nominations he would suggest to the president. But when reporters asked whether he would deem Attorney General Alberto Gonzales unacceptable, Reid quietly answered no, then backpedaled and declined to answer.

"The president would be making a terrible mistake" in nominating Owen or Brown, Reid said, without saying outright whether it would presage a Democratic filibuster.

Reid referred to his desire for Senate Democrats to vote their conscience on Roberts, though he implied that there would be no such leeway should the president's second nominee be more controversial than the first. O'Connor's offer to continue serving on the court until her replacement is confirmed, Reid said, means the president can take his time consulting with senators from both parties before selecting the second nominee.

"[Bush] should understand, there is no vacancy on that court," Reid said. "This court could go on for next year or the year after as it's now constituted."

Moreover, Reid added, the Senate's already crowded calendar would be heavily burdened by the need to confirm a second nominee before the year's end. Leaders of both houses have already discussed keeping lawmakers in session until Thanksgiving or beyond to pass separate appropriations bills, budget reconciliation and more relief for hurricane victims.

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"The appropriations process has been a complete flop," Reid said. "I would think you'd want to get a little legislating done."

Before Roberts's confirmation hearing began Sept. 12, Democrats had called on the White House to release a block of memos Roberts wrote while serving as deputy solicitor general in the first Bush administration. The White House withheld the memos because of concerns that disclosure would prevent an open exchange of views by future presidential advisers, a decision that Reid said left him "gravely disappointed."

Even before Reid's announcement, centrist Senate Democrats began to hint that they would vote to confirm.

"I can't imagine anything that would come about that would cause me not to vote for him," said Sen. Ben Nelson (D-Neb.), adding that he had spoken to the White House as recently as yesterday about the next nominee.

Still, other Democratic senators said they would not indicate publicly how they will vote until after the committee finishes its deliberations.

"Everybody's going to vote their conscience on this one," said Sen. Carl Levin (Mich.).

"People are very mindful that there will be a second nominee," he said.

Nelson is one of seven Democrats who signed the so-called "Gang of 14" agreement to filibuster a judicial nominee only under "extraordinary circumstances."

Sen. Mark Pryor (D-Ark.), another Gang of 14 member, said senators were aware of the circumstances.

Reid said he felt no pressure from within the caucus to consider filibustering Roberts but recalled that Democratic National Committee Chairman Howard Dean had called him to urge strong and public opposition.

Reid said he told Dean, "Governor, you've got to do what you think is right." As for liberal advocacy groups that have worked to foment resistance to Roberts, Reid said, many are "really hard to satisfy."

Democratic Leader Says He Will Vote Against Roberts (LAT)

By Maura Reynolds

The Los Angeles Times, September 21, 2005

WASHINGTON — Citing concerns that "his heart is not as big as his head," Minority Leader Harry Reid, the Senate's top Democrat, announced today that he would vote against John G. Roberts Jr., President Bush's choice to serve as the next chief justice of the United States.

Reid was the first Democrat to formally state his position on Roberts' nomination. But Reid, of Nevada, insisted that his decision should not be seen as a party position and other Democrats should vote as they see fit.

However, because Reid is a centrist Democrat who opposes abortion, his opposition was seen as a signal that many, and perhaps most Democrats, were likely to come out against the 50-year-old appeals court judge.

"No one disputes his academic prowess, his mental power. He's a very smart man," Reid told reporters, explaining his decision. "But through all this I came to the realization that I'm not too sure his heart is as big as his head."

Roberts faces two Senate votes — one by the Judiciary Committee on Thursday, and one on the floor of the Senate next week. With Republicans in the majority, Democrats have only one tool to stop a nomination, the filibuster, but they have indicated that they will not use it to halt this nomination.

Reid acknowledged that Roberts would be confirmed no matter how many Democrats voted against him.

"The question is close, and the arguments against him do not warrant extraordinary procedural tactics to block the nomination," Reid said on the floor of the Senate, referring to the filibuster. "Nonetheless, I intend to cast my vote against this nominee."

Reid was to meet Wednesday morning with Bush, with other Democratic and Republican leaders, to discuss the upcoming appointment to fill the second vacancy on the Supreme Court.

Some Democrats said the White House should see Reid's opposition as a message that Democrats would not capitulate if they considered the president's next pick for the court unacceptable.

"At the end of the day, the president should know if he sends someone who is an ideologue or somebody who is an extremist right winger, that person is going to have a very, very difficult time getting through the Senate," said Sen. Ken Salazar (D-Colo.), one of the seven Democrats who joined with seven Republicans this year to preserve the minority party's right to filibuster judicial nominees. "I think you'll find unity among the Democratic caucus in opposing someone like that."

The White House expressed disappointment with Reid's decision.

"In confirming recent nominees like [Ruth Bader] Ginsberg, [Stephen] Breyer and [Antonin] Scalia, senators based their decisions on the qualifications of the nominee, not on whether or not the person doing the nominating was in their same party," said White House spokeswoman Dana Perino. "The public does not want to see the Supreme Court become an extension of partisan politics."

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Senate Democratic Leader Opposes Roberts (REU-Y2)

By Thomas Ferraro

Reuters, September 21, 2005

Senate Democratic leader Harry Reid said on Tuesday John Roberts would be confirmed as chief justice of the United States but that he would oppose the conservative Supreme Court nominee because "I'm not too sure if his heart is as big as his head."

"I have too many unanswered questions about the nominee to justify a vote confirming him to this enormously important lifetime position," Reid said of President George W. Bush's first nomination to the high court.

"This is a very close question for me," Reid added. "But I must resolve my doubts in favor of the American people whose rights would be in jeopardy if John Roberts turns out to be the wrong person for the job."

Reid, however, said the case against Roberts did not warrant Democrats raising a procedural hurdle known as a filibuster to block Roberts' nomination when it comes up for a vote in the U.S. Senate next week. It seemed likely Reid would be unable to muster the needed 41 votes in the 100-member Senate to sustain it in any event.

Democrats and Republicans have predicted Roberts will win bipartisan confirmation and be sworn in before the high court begins its new term on October 3.

White House spokeswoman Dana Perino, responding to Reid's comments, said, "Judge Roberts is clearly qualified in terms of intellect, ethics and temperament. ... The public does not want to see the Supreme Court become an extension of partisan politics."

"He is going to be confirmed," Reid told reporters after his Senate speech. Reid said Roberts is a smart man, but "I'm not too sure if his heart is as big as his head."

Members of both parties have praised the credentials of Roberts, a federal appeals court judge the past two years who received the American Bar Association's top rating for a seat on the Supreme Court.

But major liberal groups, along with a number of Senate Democrats, have raised concerns about Roberts' commitment to civil rights and women's rights, based largely on memos he wrote two decades ago in the conservative Reagan administration.

Noting Roberts wrote to oppose legislative and judicial efforts to remedy race and gender discrimination, Reid said he was prepared to dismiss the writings as "the folly of youth" and expected Roberts to repudiate them "in some fashion."

"Instead, the nominee adopted what I consider a disingenuous strategy of suggesting that the views expressed in the memos were not his views, even at the time the memos were written," Reid said.

At Roberts' hearing last week, Democrats complained that Roberts refused to respond to many questions about specific legal issues, from abortion to right-to-die legislative efforts. Roberts said he did not want to prejudge cases that could come before him on the nation's highest court.

Sen. Kent Conrad (news, bio, voting record), a North Dakota Democrat, has predicted that upwards of one-half of the 45-member Senate Democratic caucus would vote to confirm Roberts.

But other Senate Democrats said on Tuesday that caucus support for Roberts may shrink as a result of Reid's decision to oppose him. "I think we may get as many as 30 votes against him," a Democratic aide said.

If confirmed. Roberts would succeed the late Chief Justice William Rehnquist and be positioned to lead the federal judiciary for decades, shaping the American way of life on matters from voters rights to gay rights.

Reid was to meet at the White House with Bush on Wednesday about the president's pending Supreme Court nomination to replace retiring Justice Sandra Day O'Connor. A bigger fight is expected over this nominee since O'Connor was often the swing vote on the nine-member court.

Roberts Poses Calculus Test For Democrats (WSJ)

By Jeanne Cummings

The Wall Street Journal, September 21, 2005

WASHINGTON -- Chief Justice nominee John Roberts is all but certain to be approved by the Senate Judiciary Committee Wednesday and the full Senate next week. But the vote involves a host of political calculations for Democrats struggling to satisfy their liberal base and reach out to moderate voters.

"I literally have not made up my mind. I really don't want to talk about it anymore," Sen. Dianne Feinstein (D., Calif.) said Tuesday in the Capitol as she backed away from a crowd of reporters into an elevator.

For President Bush, whose approval rating has dropped in recent polls, the vote tallies also matter as he moves to fill a second vacancy on the Supreme Court. Many Democratic votes against Judge Roberts -- who is widely seen as conservative

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but has kept his political leanings to himself -- would suggest a tougher fight against a nominee with a clear stance against abortion rights. But that is just what the president's base is demanding.

Mr. Bush meets at the White House this morning with Senate leaders to discuss how to proceed in picking a successor for retiring Justice Sandra Day O'Connor. Among the group will be Senate Minority Leader Harry Reid of Nevada, who Tuesday took to the Senate floor to announce his opposition to Judge Roberts. "This is a very close question for me," Mr. Reid said in his speech. "But I must resolve my doubts in favor of the American people whose rights would be in jeopardy if John Roberts turns out to be the wrong person for the job."

Judge Roberts's intellectual strength is obvious, Mr. Reid said later, but the senator wasn't "too sure if his heart was as big as his head."

Yet earlier in the day, at the Senate Democrats' weekly caucus lunch, Mr. Reid made clear that his fellow partisans were free to follow their own consciences on the matter, a move that he said will likely lead to "plenty of votes" for the nominee, who is currently on the District of Columbia Court of Appeals. "You can only go to the well so many times," Mr. Reid told reporters. "This just wasn't one of the times I wanted to."

New York Sen. Charles Schumer has told colleagues that Judge Roberts overall acquitted himself well before the committee. But a yes vote could undermine Mr. Schumer's ability to raise money from anti-Roberts donors for the Democratic Senatorial Campaign Committee, which he now heads. When asked Tuesday if he had made up his mind, Mr. Schumer answered, "Nope."

Similar battles are bedeviling Democrats not on the committee. Some moderates, such as Florida's Sen. Bill Nelson and Nebraska's Ben Nelson, face re-election next year in Republican-leaning states and are eager to pocket some centrist credentials by voting for Judge Roberts. Mr. Nelson of Nebraska said Tuesday he has "not seen anything that would cause me to vote against" the nominee. Another red-state Democrat, Max Baucus of Montana, said, "I'm inclined to vote for him."

By backing Judge Roberts, some Democrats argue, the party will have more credibility if it takes on the president's nominee for Justice O'Connor's seat, one that arguably is more important because she has played a critical role in rulings on issues such as affirmative action and abortion rights.

"It makes the case that they are mindless obstructionists much weaker," says Ross K. Baker, a professor of political science at Rutgers University in New Jersey.

But liberal activists are near unanimous in opposing Judge Roberts, who they say echoed the pre-appointment positioning of conservative Justices Antonin Scalia and Clarence Thomas. They are pressing Democrats to vote against Judge Roberts to send a message about the party's priorities. Those arguments likely will weigh heavily on Indiana Sen. Evan Bayh and New York Sen. Hillary Clinton, who both have presidential ambitions and are trying to juggle the left-leaning voters in the party's primaries with general-election voters, who might favor a more centrist approach. "I have not" decided, Sen. Clinton said Tuesday.

Whatever the Democrats decide, they should do so based on their own political calculations, because it is unlikely to sway the White House's thinking, says David Gergen, a former adviser to four presidents. If they oppose Judge Roberts, the White House will conclude "there's no way to please them, so why even consider sending a moderate," Mr. Gergen said. If they vote for him, White House advisers could argue "those guys are patsies. We can roll over them."

The politics of the next high-court appointment are complicated by President Bush's decision to switch Judge Roberts's nomination from the O'Connor seat to that held by Chief Justice William Rehnquist, who died of thyroid cancer earlier this month. Democrats had signaled that filling the Rehnquist seat with another conservative wouldn't spark a major fight, since it wouldn't tip the court's balance significantly. The O'Connor seat is another matter, and Democrats vow to give that nominee closer scrutiny, because that justice could represent a swing vote on the landmark abortion-rights case, Roe v. Wade. That also is why social conservatives have stepped up their lobbying of the White House.

People familiar with the administration's efforts say the White House is scouring the federal-court benches for a female judge who could hold up under committee questioning. These people also say the administration is looking for a nominee whose record is conservative enough to appeal to the party base but not so sharp as to give ammunition to Democrats, who note that public polls show that most Americans don't want to see Roe v. Wade overturned.

White House Chief of Staff Andrew Card has been calling senators seeking recommendations. Mr. Reid said that at this morning's meeting, he will urge the president not to rush the next nomination, so that the Senate can work on other matters. He also warned that not all confirmations "are going to be easy like this one" -- referring to Judge Roberts -- and that he would consider it a "sharp poke in the eye" if the president sent up the name of a judge whose nomination had been the target of a Democratic filibuster.

That caution would rule out such candidates as Fifth Circuit Judge Priscilla Owen and D.C. Circuit Judge Janice Rogers Brown, who secured their court seats this spring after a bipartisan Senate compromise. Among the names circulating are Fourth Circuit Judge Karen Williams, Ninth Circuit Judge Consuelo M. Callahan and Fifth Circuit Judge Alice M. Batchelder.

Many Bush associates think the president is determined to pick his friend and loyal aide, Attorney General Alberto Gonzales. But some conservatives would be cool to that choice, saying Mr. Gonzales isn't sufficiently opposed to affirmative action and abortion rights.

Scott Reed, who ran Republican Bob Dole's 1996 presidential bid, says Mr. Bush's weak position leaves him few options. "Bush has got to go right on this choice or his base will totally implode," Mr. Reed says.

Reid Will Oppose Roberts For Chief Justice (WP)

By Charles Babington And Dan Balz

The Washington Post, September 21, 2005

The Senate Democratic leader, pressed by several allies to build as much opposition as possible to Supreme Court nominee John G. Roberts Jr., said yesterday he will vote against President Bush's choice for chief justice. But Sen. Harry M. Reid of Nevada conceded that Roberts will be confirmed easily next week and "will get plenty of votes" from his fellow Democrats.

Reid's announcement, made in a closed party caucus luncheon and then a Senate speech, came as Democratic senators are struggling with the first chief justice confirmation in 19 years. Many party activists want them to show as much solidarity against Roberts as they can muster. Not only does Roberts's conservative philosophy deserve it, they argue, but it also would serve as a warning to Bush that Democrats will fight vigorously if Bush names someone even further to the right to succeed centrist Justice Sandra Day O'Connor this fall.

An opposing strategy, which Senate insiders described as less persuasive, argues that the party should show a willingness to accept Roberts while saving energy for an all-out battle in case Bush's next nominee is notably more conservative. Reid, Majority Leader Bill Frist (R-Tenn.) and two other senators will meet with the president today to begin discussing how to replace O'Connor.

Reid said he decided to oppose Roberts because the nominee withheld too much information from senators and because government memos he wrote in the 1980s raised troubling questions about his views, especially on civil rights.

"I was prepared to look past these memos, and chalk them up to the folly of youth," Reid said in his speech. But in last week's Judiciary Committee hearing, he said, Roberts adopted "what I consider a disingenuous strategy of suggesting that the views expressed in those memos were not his views. . . . We should only vote to confirm this nominee if we are absolutely positive that he is the right person" for a lifetime appointment on the nation's highest court.

Reid, an antiabortion lawmaker from a state that Bush carried in 2000 and 2004, said he made clear to colleagues that he was speaking as an individual, not as a minority leader trying to steer his caucus. "This is something people have to vote their conscience on," he told reporters.

Roberts's confirmation is a foregone conclusion in the Senate, where Republicans hold 55 of the 100 seats. The only question is how many Democrats will support him, and what political signal it will send. Party liberals hope no more than 15 Democrats, mostly from states Bush carried, will vote yes. That would result in a 70 to 30 confirmation vote. But Sen. Kent Conrad (D-N.D.) recently told reporters: "I think he can get from 75 to 80 votes."

Members of both parties said partisanship and interest-group politics have sharpened over the past decade to the point that a unanimous Supreme Court confirmation vote -- such as the one Justice Antonin Scalia received in 1986 -- is a thing of the past.

The Senate Judiciary Committee will vote tomorrow on recommending Roberts's confirmation, and most of the eight Democratic members appeared torn after meeting privately yesterday morning. The only member who has clearly signaled that he plans to oppose Roberts is Edward M. Kennedy (D-Mass.).

The committee's ranking Democrat, Patrick J. Leahy (Vt.), said Sunday he had drafted a "for" speech and an "against" speech. Aides yesterday said it was unclear which he will deliver today on the Senate floor.

Some Democratic activists said the party risks alienating its contributors by not uniting against Roberts. "Many, many people in the donor base are feeling discouraged and want to see the Democrats fight back," said Ellen Malcolm, president of Emily's List. "If they see Democrats falling in line with Republicans, they're going to say, 'There's no need for me to support them.' "

Malcolm said prospective 2008 presidential candidates face the wrath of party activists if they support Roberts, and then he and the majority of the court rule against abortion rights.

Perhaps no Democrat is being watched more closely than Sen. Hillary Rodham Clinton (N.Y.), who has been trying to emphasize her centrist credentials. When asked for her thoughts on Roberts yesterday, she playfully mimed with nods, shrugs and an enigmatic smile.

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Both of her husband's high court nominees -- Ruth Bader Ginsburg and Stephen G. Breyer -- won strong Republican support. But on Sunday, former president Bill Clinton drew a clear distinction between those battles and the fight over Roberts's nomination, suggesting reasons Democrats might oppose Roberts that may provide cover to his wife.

The former president said there were no partisan disputes over the withholding of documents in the case of his nominees, as there have been with Roberts. He also noted that, with two vacancies to fill, Bush has the ability to shift the balance on the court and that without knowing who his second choice is, Democrats may be more cautious about backing Roberts.

"The only question is whether the Senate has an extra burden here because it's likely to have a significant impact on the balance of court decisions, depending on who the next nominee is," Clinton said on ABC's "This Week" on Sunday. "I think if President Bush nominated a clear moderate before the vote happened in the Roberts case, he would sail through."

With no suspense but the final vote count left in the Roberts contest, senators from both parties are focused on Bush's next nomination. Reid said Democrats will consider it "a sharp poke in the eye" if Bush taps any of the 10 appellate court nominees who were blocked -- permanently or temporarily -- by Democratic-led filibusters in Bush's first term. That would include Judges Priscilla R. Owen and Janice Rogers Brown, who have been mentioned as possible nominees.

Would he try another filibuster? a reporter asked. "I'm just saying I would be terribly upset," Reid replied.

Reid: Roberts Will Join Court (RC)

By Paul Kane

Roll Call, September 21, 2005

Despite announcing his own opposition to confirmation, Senate Minority Leader Harry Reid (D-Nev.) declared Tuesday that Judge John Roberts would be approved as chief justice of the United States, ending any suspense to the surprisingly smooth nomination process for President Bush's first Supreme Court choice.

While he said too many "unanswered questions" remained about the nominee for Roberts to win his vote, Reid told reporters that he specifically instructed his Caucus to vote their "conscience." He also said flatly that there would be no filibuster of the Roberts nomination.

"He's going to be confirmed, that's never been in doubt," Reid told reporters in a briefing after delivering his floor statement opposing Roberts.

Reid's pronouncements provided a mixed bag of results to liberal activists who have been trying to ratchet up pressure on Democrats to oppose Bush's first selection for the Supreme Court. While Reid's opposition leaves open the possibility that the new chief justice will carry the stigma of an unusually high number of 'no' votes — seven of the eight current justices received 87 or more votes — there is now little internal pressure on Democrats to reject the nominee.

"There are things that I ask the Caucus to follow, this isn't one of them," Reid said, adding later, "You can only go to the well so many times."

However, on the eve of his meeting today with Bush regarding the pick to replace retiring Associate Justice Sandra Day O'Connor, Reid signaled Bush would face a far stronger fight if he picked any of those nominees previously filibustered by Democrats in the 108th Congress — a potentially bad omen for lawyer Miguel Estrada and federal appellate Judges Priscilla Owens and Janice Rogers Brown, all of whom have been mentioned as potential nominees.

"I just think the president would be making a terrible mistake," Reid said when asked about the possibility of nominating previously filibustered candidates.

Mindful that he was disappointing many of the liberal activist groups, Reid suggested those organizations would never be satisfied with the level of fight that Democrats put up against Roberts.

"A lot of these special-interest groups are very hard to satisfy," he said.

This after two of Reid's top lieutenants, Sens. Dick Durbin (D-Ill.) and Charles Schumer (D-N.Y.), received a sharp rebuke at a weekend meeting in Los Angeles from wealthy activists such as television producer Norman Lear over Roberts' glide path to confirmation.

At an event on behalf of People For the American Way, the first of the major liberal groups to announce opposition to Roberts, Lear lashed out at the Democrats for not mounting more determined resistance to the nomination, according to several sources familiar with the event.

Schumer, chairman of the Democratic Senatorial Campaign Committee, confirmed that the event included a "frank discussion" between activists and the Senators. He added that Lear, founder of PFAW, did not hear what he wanted from either he or Durbin, the Minority Whip.

"We gave the pros and cons," Schumer recounted of their discussion about Roberts. "They wanted us to come out against."

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Schumer and Durbin are both on the Judiciary Committee and were among the most aggressive questioners of Roberts at last week's nomination hearings. But each Senator remains publicly undeclared on Roberts, despite voting against his nomination to U.S. Circuit Court of Appeals for the D.C. Circuit in 2003.

Durbin declined to talk about the discussion with Lear.

"I'm not going to get into it," he said Tuesday.

Ralph Neas, PFAW's president, likewise declined to comment on the meeting, which was ostensibly a celebration of the group's new West Coast director, Jeff Berman, a former counsel to Schumer. "When it comes to meetings with Senators, I'm very close-mouthed," said Neas, who was not on hand for the meeting but acknowledged he was aware of the exchange.

Sen. Debbie Stabenow (D-Mich.), also a member of the Democratic leadership, was on hand at the PFAW event and also declined to discuss the matter, calling the gathering a "legislative update" for the group's members on the West Coast.

Reid, who has been requesting that no one in his Caucus announce his or her position on Roberts, said he thought it was important that he make his decision first as leader — a post he's now held for little more than eight months.

"I wanted to be the first to make a decision," he said when asked if he had a "special obligation" to oppose the nominee because of his position.

"I wanted this to be my decision," he added.

Most Democrats are holding to Reid's mantra of waiting until the Judiciary Committee makes its formal recommendation on the nomination. It is a given that will occur Thursday when Roberts will be sent to the floor with a positive vote.

But enough Democrats, particularly those in conservative-leaning states, have sent signals that they will approve the nominee so there is little drama to the final stage of this fight beyond the expectations game involving how many votes Roberts will receive.

Sen. Ben Nelson (D-Neb.), who along with Sen. Kent Conrad (D-N.D.) has been an outspoken backer of Roberts, reiterated his support again Tuesday.

"I've not seen anything that would cause me to vote against [Roberts] at this time. ... And I don't expect anything to come out of the woodwork," he said.

Top Senate Dem Opposes Roberts' Bid (USAT)

USA Today, September 21, 2005

Senate Democratic leader Harry Reid said Tuesday that he will vote against Supreme Court nominee John Roberts but will not press other Democratic senators to follow his lead.

The Nevada senator predicted Roberts will be confirmed next week as the nation's 17th chief justice, succeeding the late William Rehnquist.

Reid also urged President Bush to hold off on naming a replacement for retiring Justice Sandra Day O'Connor. He said he would view the nomination of federal judges Priscilla Owen or Janice Rogers Brown, who have been mentioned as possible replacements for O'Connor's seat, as "a real poke in the eye with a sharp stick" and hinted that it could provoke a Democratic filibuster. The Senate confirmed Owen and Brown this year over opposition from Reid and other Democrats.

Reid said he was impressed by Roberts' intellect but concerned that he did not repudiate "hurtful" language about women and minorities in memos he wrote as a lawyer for the Reagan administration. Some Democrats, such as Sen. Ben Nelson of Nebraska, say they are leaning in favor of Roberts. — Kathy Kiely

Senate takes on eminent domain ruling

The Connecticut woman whose case led to the Supreme Court decision allowing local governments to take homes for private development asked senators to end federal involvement in such seizures.

"I sincerely hope that Congress will do what judges and local legislators so far have refused to do … protect our homes," Susette Kelo told the Senate Judiciary Committee. The Supreme Court, ruling for the city of New London, said municipalities have broad power to seize homes in favor of private development to generate tax revenue. The House has already passed a bill that would bar federal transportation funds from being used to make improvements on land seized via eminent domain for private development. The Senate has not yet taken up that bill. The panel is considering proposals from Sen. John Cornyn, R-Texas, and others that would bar federal money from being used in construction projects that benefit from the ruling.

Frist's shares in hospital chain sold

Senate Majority Leader Bill Frist no longer holds stock in HCA Inc., the Nashville-based hospital chain his family founded. Frist, his wife and their three sons had owned an undisclosed amount of HCA stock in blind trusts. A California-based watchdog group had complained to the Senate ethics committee last year that Frist's holdings posed a conflict because of his support for legislation limiting medical malpractice lawsuits — which could benefit HCA if it passed. The ethics panel dismissed that complaint.

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HCA shares hit a 52-week high of $58.60 in June, not long before Frist was told his stock had been liquidated. The stock lost about 10% of its value on July 13 after a weak earnings report. The sale was reported Monday by Congressional Quarterly. Frist is considering a run for the GOP's 2008 presidential nomination.

Senate Democratic Leader Will Oppose Roberts' Confirmation (KRT)

By Steven Thomma

Knight Ridder, September 21, 2005

WASHINGTON - Senate Democratic Leader Harry Reid will vote against confirmation of John G. Roberts Jr. as chief justice of the Supreme Court, he announced Tuesday.

Reid's opposition will not change the outcome. The Republican-controlled Senate is still expected to confirm Roberts as the nation's next chief justice, probably next week.

But it could increase pressure on other fence-sitting Democrats like Sen. Hillary Rodham Clinton of New York to vote no. It also could embolden President Bush to pick a more controversial nominee for the remaining court vacancy, thus increasing the chances of a more contentious fight.

Reid's opposition to Roberts came as he prepared to meet with Bush on Wednesday to discuss whom Bush might pick to fill the seat being vacated by Justice Sandra Day O'Connor. Joining Reid at that meeting will be Senate Majority Leader Bill Frist, R-Tenn., and the Senate Judiciary Committee's leaders - Sen. Arlen Specter, R-Pa., the chairman, and Sen. Patrick Leahy, D-Vt., the senior Democrat.

In a Senate floor speech, Reid said he decided to oppose Roberts based on memos Roberts wrote early in his career challenging affirmative action, civil rights and women's rights. The Nevada Democrat said Roberts' two years as an appeals court judge left too short a record to signal how he might rule on such issues in the future.

Reid told his fellow Democrats that he did not expect them to follow him out of party loyalty. Rather, he told them, he would leave it to them to make up their own minds, said Sen. Carl Levin, D-Mich., who added that he has not decided.

One senator who did signal he would join Reid in opposition was Sen. Edward Kennedy, D-Mass.

"This is really a leap of faith, isn't it?" Kennedy said Tuesday. "There are those that took the leap in terms of the war, there were those who took the leap in terms of taxes and now they are being invited to take the leap again in terms of Judge Roberts. And I don't think I'm going to be among them."

Two other Democrats signaled they would vote for Roberts.

"I'm inclined to vote for Roberts unless something else comes up," said Sen. Max Baucus, D-Mont.

"I've not seen anything that would cause me to vote against" Roberts, said Sen. Ben Nelson, D-Neb.

Several other leading Senate Democrats have refused to say how they will vote, notably including those who might run for president in 2008. They include Clinton, Evan Bayh of Indiana, Joseph Biden of Delaware and Russ Feingold of Wisconsin.

Asked if she had decided, Clinton only shrugged as she entered a Capitol elevator Tuesday.

"We hope that Senator Reid's colleagues will reach the same conclusion and take the same strong stand," said Ralph Neas, president of the People for the American Way, a liberal group.

Opposing Roberts might anger some independents but could appeal to liberal party activists.

A majority of Americans, 58 percent, want the Senate to confirm Roberts, according to a recent Gallup Poll. But just 41 percent of Democrats want Roberts confirmed. That suggests Democrats who oppose Roberts face little political risk among their base.

"They're just shoring up their base," said Betty Glad, a political scientist at the University of South Carolina.

Reid is pressing his case at a time when Bush is at his weakest politically, with the lowest approval ratings of his presidency. But Democratic opposition to Roberts - who emerged politically unscathed by his appearances before the Senate Judiciary Committee - could signal to Bush that he cannot win Democratic support anyway and therefore should go ahead with a more confrontational nomination.

That could lead Democrats to filibuster, possibly prompting Republicans to invoke the "nuclear option" of ending the right of a minority to block Senate action.

"It's likely the next nominee will not be as bulletproof as Roberts," said Steven Schier, a political scientist at Carleton College in Minnesota. "Bush is going to do what he wants to do. If he has to fight for it, he's still going to get what he wants. This is not an administration that blinks."

The Gallup Poll of 1,005 adults was conducted Sept. 8-11 and had a margin of error of plus or minus 3 percentage points.

Next High Court Pick Anyone's Guess (WT)

By Joseph Curl

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The Washington Times, September 21, 2005

As President Bush weighs viable candidates for a second Supreme Court vacancy, Republican allies close to the process agree on one thing: Expect the unexpected selection.

Top Republicans say liberals are playing politics by warning that a fierce Senate fight will erupt if the president nominates a conservative to replace the high court's moderate female, and that Mr. Bush won't be pigeonholed by Washington pundits' calls for a woman or a Hispanic.

"The idea that he has to move left is a ludicrous, inside-the-Beltway type of thinking, coming from people who want to do him harm," said Gary Bauer, chairman of the Campaign for Working Families. "I'm confident the administration will ignore that advice."

"Nobody ever contemplated that Bill Clinton, with all of his troubles, would be expected to nominate a conservative. The unspoken message here is that the left is telling the president that you have no right to make the court more conservative, only liberal presidents have the right to make the court more liberal," he said.

Still, Democrats and liberals, frustrated by what they say was Judge John G. Roberts Jr.'s proclivity to evade tough questions during 20 hours of Senate hearings on his nomination to replace Chief Justice William H. Rehnquist, are advising the president to nominate a moderate to avoid a battle in the Senate.

Some Republicans close to the White House say top Bush aides are looking mainly at female jurists to fill Justice Sandra Day O'Connor's seat. Democrats vow a fight if Mr. Bush nominates a hard-core conservative.

But GOP strategist Charlie Black said the threat does not send shivers down the president's spine.

"It's naive all of a sudden to say that the White House just realized that there's going to be a tough confirmation fight in the Senate," Mr. Black said. "Of course there's pressure from both sides, but he's not going to cave to pressure from the left or the right."

Mr. Bush will feel some of that pressure today when he meets at the White House with top senators from both parties about who should be picked for the lifetime appointment.

Republicans note that Democrats advised the president in July to chose a moderate or a woman -- or both -- to replace Justice O'Connor, but he instead chose a white, male conservative.

Mr. Black acknowledged that "there's only a handful of people who know" the president's top candidates. Two conservatives in legal organizations say top Bush aides are interviewing new prospects.

Some prominent candidates, however, made it into the final stages of the last search and are considered front-runners this time around. Judges Edith H. Jones and Edith Brown Clement, both of the Fifth Circuit in New Orleans, were on the shortlist. Also at the top of the list is Attorney General Alberto R. Gonzales, who irks Democrats and conservatives alike but is known as a loyal friend of the president.

"If the president decides he would be the best choice, he's going to pick him. That's it," Mr. Black said. If that occurs, he would be the first Hispanic on the high court.

A new name has emerged on the longer list of candidates -- Judge Consuelo M. Callahan of the Ninth Circuit, the liberal San Francisco court, one of whose judges recently ruled that the phrase "under God" in the Pledge of Allegiance violates the Constitution.

"That would kill two birds with one stone," said David Schultz, a professor at Minnesota's Hamline University law school and author of a new book, "The Encyclopedia of the Supreme Court."

Democrats, he said, "would have a hard time opposing a Hispanic woman," and Mr. Bush already knows her: He appointed her to the federal bench in 2003.

Words That Will Haunt (WP)

The Washington Post, September 21, 2005

In announcing his opposition yesterday to the nomination of Judge John G. Roberts Jr. to be chief justice of the United States, Senate Minority Leader Harry M. Reid (D-Nev.) made a remarkable statement: "The president is not entitled to very much deference in staffing the third branch of government, the judiciary." Leave aside the merits of the Roberts nomination, which we support; if Mr. Reid regards Judge Roberts as unworthy, he is duty-bound to vote against him. But these are dangerous words that Democrats will come to regret.

This country has only one president at a time. That president, right now President Bush, is tasked with naming judges. The Senate has the role of providing advice and consent on the president's choices, which is a significant constitutional task. But if the presidential election means anything in this arena, it must mean that the president's choice has a heavy presumption of confirmation. That is the way the system works. Why else would Justices Sandra Day O'Connor, Antonin Scalia, Stephen G. Breyer and Ruth Bader Ginsburg have received only a handful of no-votes among them? During the Clinton administration, we

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deplored the way that the Senate treated the president's judicial nominees during six years of Republican control over the Senate. Yet during those six years, the Senate confirmed 245 of President Bill Clinton's judges. If Republicans had been applying Mr. Reid's standard, they would have been within their rights to reject them all.

Do Democrats really want the American confirmation system to move in that direction? Republicans may still be in the majority the next time a Democratic president nominates a justice. Is it now okay for them to vote against a person who -- as Mr. Reid put it of Judge Roberts -- is "an excellent lawyer" and "a thoughtful, mainstream judge" who may make "a fine Supreme Court justice" simply because the nominee doesn't represent their ideal? When that day comes, and Democrats cry foul, remember what Mr. Reid said about how little deference he believes he owes Mr. Bush concerning Judge Roberts.

Sen. Reid Says He'll Vote Against Roberts (AJC/AP)

By David Espo, Ap Special Correspondent

The Atlanta Journal-Constitution, September 21, 2005

WASHINGTON — Senate Democratic leader Harry Reid said Tuesday he would oppose confirmation of Chief Justice-nominee John Roberts, questioning Roberts' commitment to civil rights and accusing the Bush administration of stonewalling requests for documents that might shed light on his views.

At the same time, Reid readily predicted Roberts will win Senate confirmation, coupling the forecast with a warning of sorts to President Bush as he considers candidates for a second vacancy on the Supreme Court. "No one should think that just automatically they're all going to be easy like this one," he said.

Reid is one of four senators invited to a White House meeting with Bush on Wednesday to discuss the vacancy created by Justice Sandra Day O'Connor's decision to retire.

The Nevada senator made his comments as Democrats began taking sides in advance of next week's confirmation vote. President Bush named Roberts, a 50-year-old appeals court judge and former lawyer in two Republican administrations, to succeed the late William H. Rehnquist.

Sen. Max Baucus, D-Mont., announced he will vote for confirmation, and Sen. Ben Nelson, D-Neb., edged toward an endorsement, as well. Roberts also commands overwhelming if not unanimous support among the Senate's 55 Republicans.

"After reviewing Judge John Roberts' credentials and meeting with him privately, I have found that he meets my criteria for judges. And that is: only the brightest, most objective minds shall serve on the bench," said Baucus," who added the decision was not an easy one.

"I've not seen anything that would cause me to vote against" Roberts, said Nelson, who is seeking re-election next year in Republican Nebraska and often crosses party lines to support Bush's legislative proposals.

Reid had successfully urged fellow Democrats to refrain from taking positions on the appointment until after the completion of last week's confirmation hearings and the regular Tuesday closed-door meeting of the rank-and-file.

"This is a very close question for me. But I must resolve my doubts in favor of the American people whose rights would be in jeopardy if John Roberts turned out to be the wrong person for the job," he said.

Referring to publicly released memos that date to Robert's tenure as a Reagan administration lawyer, Reid said they showed the young attorney "played a significant role in shaping and advancing the Republican agenda to roll back civil rights protections."

"No one suggests that John Roberts was motivated by bigotry or animosity toward minorities or women," Reid added. "But these memos lead one to question whether he truly appreciated the history of the civil rights struggle. He wrote about discrimination as an abstract concept, not as a flesh and blood reality for countless of his fellow citizens."

Reid also said Roberts followed a "disingenuous strategy" at the confirmation hearings of suggesting that the views in the memos were not his own.

Democrats have tried without success to persuade the administration to release documents from Roberts' tenure as principal deputy solicitor general, a senior Justice Department job he held in the administration of the first President Bush.

"The failure of the White House to produce relevant documents is reason enough for any senator to oppose this nomination. The administration cannot treat the Senate with such disrespect without some consequences," Reid said.

Reid's remarks pleased leaders of women's organizations and civil rights groups who outlined the case against Roberts at a closed door meeting with the Democratic leader last week. According to participants in the meeting, they also said they wanted to run up as many votes against Roberts as possible, in part to try and show Bush he would be risking a fierce fight if he named a more conservative nominee than Roberts to replace Sandra Day O'Connor.

For his part, Reid urged the president to proceed slowly on filling O'Connor's seat, adding, "I don't think he needs to do it in the next couple of weeks, that's for sure."

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Beyond that, Reid said he would view it as a "poke in the eye with a sharp stick" if Bush were to nominate any of the 10 appeals court nominees that Democrats blocked in recent years, including some who were later confirmed. He declined to say whether Attorney General Alberto Gonzales falls into the same category.

One White House official, speaking on condition of anonymity, said at least some of the contenders on the president's list fall into the category that would draw Reid's ire.

Dana Perino, White House deputy press secretary, suggested Reid was changing the standard for judging nominees to the Supreme Court.

"In confirming recent nominees like Ginsburg, Breyer and Scalia, senators based their decisions on the qualifications of the nominee, not on whether or not the person doing the nominating was in their same party. The public does not want to see the Supreme Court become an extension of partisan politics," Perino said.

Justice Ruth Bader Ginsburg was confirmed on a vote of 96-3 in 1993; the 1994 vote on Stephen Breyer was 87-9 and Antonin Scalia was confirmed 98-0 in 1987. Rehnquist was confirmed as chief justice in 1986 on a vote of 65-33.

Roberts Will 'Get Plenty Of Votes' (WT)

By Charles Hurt

The Washington Times, September 21, 2005

Federal Judge John G. Roberts Jr. will be confirmed as the 17th chief justice of the United States without a filibuster, the Senate's top Democrat said yesterday.

"He's going to be confirmed," Minority Leader Harry Reid of Nevada told reporters yesterday. "Roberts will get plenty of votes."

Mr. Reid announced that he will vote against Judge Roberts' nomination on the Senate floor but said, "The arguments against him do not warrant extraordinary procedural tactics to block the nomination."

"No one doubts that John Roberts is an excellent lawyer and an affable person," Mr. Reid said. "But at the end of this process, I have too many unanswered questions about the nominee to justify a vote confirming him to this enormously important lifetime position."

The senator made the announcements after a lunch meeting with his caucus, during which Democrats discussed their strategy for dealing with the nomination.

The Senate Judiciary Committee is scheduled to vote on the nomination tomorrow. The entire Senate will vote on the nomination later in the month.

Mr. Reid's remarks about not filibustering Judge Roberts echoed the sentiments of several key Democrats that they don't know whether they will vote to confirm his nomination to the Supreme Court but that they are certain he won't be blocked from getting a final vote.

Sen. Ben Nelson, Nebraska Democrat and a key member of the "Gang of 14" senators who can determine whether a filibuster will succeed, said none of the 14 is talking of a filibuster.

"I don't expect anything extraordinary to come about," said Mr. Nelson, adding that he hasn't decided whether he'll support the Roberts nomination on the floor.

Sen. Ken Salazar, Colorado Democrat and a Gang of 14 member, said he couldn't imagine a filibuster being employed against Judge Roberts.

Sen. Evan Bayh, the Indiana Democrat who introduced the nominee at his confirmation hearing but withheld endorsement, said yesterday that he has not made his mind up. He called Judge Roberts "brilliant" and "affable," but said there are "a lot of unresolved questions."

Sen. Hillary Rodham Clinton, New York Democrat, also is being closely watched for her vote on the nomination, especially given widespread speculation that she will run for president in 2008. But she gave no signals yesterday as she dashed past reporters to the elevator.

Mr. Reid said yesterday that he told his caucus members to vote their conscience. Although he complimented Judge Roberts for his intellect, Mr. Reid said he couldn't support the nominee.

"I'm not too sure his heart was as big as his head," he said.

But that's not to say that Mr. Reid was in any hurry to have President Bush fill a second opening on the court.

"I just don't see any rush," he said, noting the Senate's busy schedule right now. Mr. Reid and other Senate leaders will meet with Mr. Bush this morning to discuss that vacancy, filling the seat of Justice Sandra Day O'Connor.

Republicans also are privately urging the White House to hold off on nominating a replacement. With the Roberts confirmation virtually sewn up, they worry that Democrats will spend all their Roberts debate time on a second nominee if one is named.

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Unlike many Democrats, however, Mr. Reid said he was pleased by how much Mr. Bush consulted with him and others before nominating Judge Roberts.

"I'm sure it could be improved upon, but I don't think the Roberts consultation process was a total failure," he told reporters. "I didn't think it was a failure at all."

Mr. Reid declined to discuss names of potential nominees, except to say that naming any of the 10 previously filibustered candidates would be a "poke in the eye with a sharp stick." That could spell trouble for a nomination of Judge Priscilla Owen of the 5th U.S. Circuit Court of Appeals, who is often mentioned as an O'Connor replacement.

After Chafee Backs Roberts, Foes Await NARAL's Response (HILL)

By Jackie Kucinich

The Hill, September 21, 2005

Sen. Lincoln Chafee (R-R.I) has said that he will vote for John Roberts's nomination to the Supreme Court, a move that could jeopardize his endorsement from NARAL Pro-Choice America.

"Absent anything unforeseen," Chafee told The Hill last week, he would vote for Roberts to succeed the late William Rehnquist as chief justice of the United States. The senator reaffirmed his support of Roberts yesterday.

Although Chafee voted against the nomination of U.S. Circuit Court Judge Priscilla Owen, NARAL President Nancy Keenan blasted him June 8 for voting to confirm Janice Rogers Brown's nomination to the U.S. Circuit Court of Appeals for the District of Columbia.

"Given our recent conversations with Senator Chafee, this vote is surprising and extremely disappointing," Keegan said in the release. "We'd like to know what pressure the Republican leadership put on him. We will be watching closely his future votes on judicial nominees, including William Pryor and those for the Supreme Court."

Owen, Pryor and Brown were included in the "Gang of 14" deal that averted a floor vote on the so-called "nuclear option." Chafee voted no on Pryor's confirmation.

NARAL, an abortion-rights organization, endorsed Chafee on May 20, stating, "We stand by our friends." Chafee received a 100 percent rating on issues important to NARAL last year.

Asked if he was worried that NARAL would withdraw its endorsement, Chafee said he did not promise the group that he would oppose the president's nominees to the high court.

He added, "I'm reliably pro-choice."

Should NARAL pull its support, it could have implications on the 2006 race.

Darrell West, a professor of political science at Brown University, said what NARAL represents to Chafee carries more weight than the actual endorsement.

"Chafee's strong suit is his support in the center of the political spectrum," he said. "It would undermine his ability to make the case as a moderate in the Senate."

NARAL did not return several calls for comment.

Maureen Moakley, professor of political science at the University of Rhode Island, contended that while NARAL's endorsement might matter in a close, low-turnout Republican primary it probably would not play a deciding factor in the general election.

Chafee faces a challenge from the right from Cranston, Rhode Island Mayor Steve Laffey.

If confirmed, Roberts would replace Rehnquist, a steadfast conservative who died earlier this month. Most political experts believe Roberts's filling Rehnquist's seat would cause little change to the ideological makeup of the court.

However, the nomination of a successor to centrist Justice Sandra Day O'Connor still looms. NARAL could opt to see how Chafee votes on that nomination before reaffirming or withdrawing its support of his reelection bid.

Former Rhode Island Attorney General Sheldon Whitehouse (D), one of the two Democrats vying to challenge Chafee in 2006, issued a statement last week opposing the Roberts nomination:

"I believe that nominees who go before the Senate for an appointment to the Supreme Court in this environment have an obligation to tell the American people where they stand on fundamental issues. John Roberts has not fulfilled this obligation."

Matt Burgess, a spokesman for Rhode Island Secretary of State Matt Brown (D), who is also running, said that if NARAL decides to buck Chafee then Brown would court its endorsement.

"Matt has a strong record of standing up for a woman's right to choose," he said

Brown has indicated he would apply a litmus test to judicial appointments, vowing to oppose nominees who oppose abortion rights.

Asked by The Providence Journal in May why NARAL opted not to back Brown, Keenan said noted that Chafee has a record of tough votes, while Brown has no congressional voting record.

A recent Brown University poll has Chafee leading Whitehouse, his closest opponent, by 13 points.

Chafee has often sided with the administration on confirmation votes, approving of the nominations of Secretary of State Condoleezza Rice and Attorney General Albert Gonzales and voting for cloture on John Bolton, the U.S. ambassador to the United Nations.

Bush Under Pressure Over Supreme Court Nomination (SAEN)

By Gary Martin, Express-News Washington Bureau

San Antonio Express-News, September 21, 2005

WASHINGTON - As John Roberts heads toward expected confirmation as chief justice, President Bush is under mounting pressure to nominate a woman or minority with conservative credentials to fill a second vacancy on the Supreme Court.

Bush will meet with Senate leaders today to discuss the Roberts confirmation vote, which is expected next week, and the process to select a judge to replace Sandra Day O'Connor.

Bush has pledged a "wide open" search for a nominee, including consideration of minority candidates.

Many Republicans and interest groups want Bush to choose a woman, preferably one aligned ideologically with religious conservatives.

"I have great faith in the president that he will look at all qualified persons, and I'd like to see him nominate another woman to the Supreme Court," said Sen. Kay Bailey Hutchison, R-Texas.

Hutchison said there are qualified women with academic qualifications and life experience eligible for selection.

"I do want to see the next nominee be a woman," Hutchison said.

O'Connor " one of two women on the high court, along with the liberal-leaning Justice Ruth Ginsberg " has agreed to serve until her replacement is confirmed. Sen. Arlen Specter, R-Pa., chairman of the Senate Judiciary Committee, said the number of women on the court should not be reduced. Others have pointedly urged the president to nominate a woman.

David Keene, with the American Conservative Union, wants the president to pick a strict constitutionalist, regardless of race or gender, "who believes in the doctrine of original intent of the framers, thus protecting the freedom and liberty of the American people."

Among the names being mentioned prominently around Washington is Priscilla Owen of Austin, a judge on the New Orleans-based 5th Circuit Court of Appeals that serves Texas, Mississippi and Louisiana.

Owen, who served on the conservative Texas Supreme Court, is politically tied to the president, who campaigned hard to win her appointment to the appellate court earlier this year.

Owen has the backing of friends with political clout, namely Karl Rove, the White House senior presidential adviser, Hutchison and Sen. John Cornyn, R-Texas, who serves on the Senate Judiciary Committee.

O'Connor, considered a moderate, was a swing vote on social issues like abortion and capital punishment.

Democrats and liberal-leaning groups have promised a bruising confirmation battle if the president chooses anyone who might alter the idealogical balance of the court.

Sen. Patrick Leahy, D-Vt., the ranking Democrat on the Judiciary Committee, in an interview on CBS's "Face the Nation," called on the president to honor a campaign promise and select "a nominee that would unite both Democrats and Republicans."

Bush is expected to announce his nomination to the Supreme Court after the Senate vote on Roberts is final.

Leahy said he expected to hear names of potential court nominees when he meets with the president today for a White House breakfast with Senate leaders. Senate aides said if Bush selects a nominee in October, confirmation hearings and a vote could be held before December.

Owen's nomination to the appellate court sparked a bitter partisan battle and filibuster threat that ended in an historic compromise brokered by Sen. John McCain, R-Ariz., and moderates from both parties.

She was confirmed in May, 55-43, after Democrats delayed the vote for four years.

Bush could also consider Judge Edith Brown Clement, who also serves on the 5th Circuit Court of Appeals. She was reportedly a finalist to Roberts in the last go-round.

A conservative, Clement was a district judge in New Orleans before Bush named her to the appellate bench.

Another judge on the 5th Circuit Court of Appeals, Edith Jones, a Terrell Hills native and Houston resident, also is considered a possible choice, as is Janice Rogers Brown, a former California Supreme Court justice that Bush appointed to the District of Columbia Circuit Court of Appeals.

Brown, an African-American, would allow Bush to name a minority to the high court. Bush has openly considered naming a Hispanic to the court and announced his consideration of Attorney General Alberto Gonzales, a San Antonio native, as a possible justice.

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But the likelihood of a Gonzales nomination waned this week as conservative groups launched an effort to squelch the nomination, questioning his stance on affirmative action and abortion.

Republican aides said the president has a long list of potential minority candidates, including Emilo Garza of San Antonio, who sits on the 5th Circuit Court of Appeals, and Larry Thompson, an African-American and former deputy attorney general. > gmartin@express-news.net

Roberts Battle Highlights Vast Gulf Between Parties (USAT)

By Robert Bork And David Rivkin Jr.

USA Today, September 21, 2005

With the John Roberts confirmation hearings over, there is every reason to believe that he will be a worthy successor to the late Supreme Court chief justice William Rehnquist. Roberts performed ably, embracing a modest judicial role, striking a sound balance between respect for stare decisis and the need to "revisit" flawed precedents, and rejecting the use of constitutionally irrelevant foreign law.

Roberts also properly refused to indicate how he would rule in future Supreme Court cases. While he will almost certainly be confirmed, the next confirmation battle, over Justice Sandra Day O'Connor's successor, is likely to be tough.

nonetheless, President Bush can win this battle, provided that he wages it within the proper philosophical context, by arguing that, in our constitutional system, the courts should remain judicial institutions and that most of the policy calls should be made by the political branches.

Senate Democrats have accused Roberts of hiding his views, claiming the American people are entitled to know where he stands on key constitutional issues, including abortion, end-of-life matters and the separation of church and state.

Withholding judgment

Yet nobody, including Roberts himself, can or should know how he would rule in a specific case, until that case comes before him. Having judges behave as politicians, seeking political support from public commitments concerning their future votes, is utterly incompatible with the proper judicial role. Going down this path would fatally undermine judicial independence and legitimacy.

In fact, far from being about Roberts or any future nominee, the pyrotechnics of the Senate hearings are attributable to the fact that the philosophic gulf between our two political parties has grown vast — and nowhere more so than with respect to the federal judiciary. Most Republicans want courts that are legal institutions, not political bodies. Democrats, on the other hand, insist on courts devoted to specific policy outcomes (invariably items on the liberal agenda).

Not content with helping transform the judiciary into the most important player in domestic affairs, and most certainly in cultural trends, Democrats push for courts that are activist in foreign and defense policy, micromanaging, for example, the treatment of captured enemy combatants.

Lost confidence

The hysteria of the Democratic Left is understandable. It has lost confidence in its ability to compete in the political arena and sees a politicized judiciary as its only hope to advance its agenda. The policies it desires, and the Supreme Court has so far advanced, are ones that encourage radical personal autonomy in moral and cultural matters. Activist judges announce principles and reach results that have no plausible connection to the Constitution. Thus, it is increasingly obvious that activist judges are issuing decisions that have no basis other than the judges' personal preferences. There is more than a grain of truth in the statement that the court represents the blue states in their contest with the red states.

The process of confirming Roberts, and choosing O'Connor's successor, has triggered a serious national debate about the judiciary's proper role.

This debate will have long-term benefits, provided that the president decisively wins it.

The presidency is, as Theodore Roosevelt put it, a "bully pulpit." Now is the time to use it. The president can remind us that the greatest transformations in American political life, from the development of the Bill of Rights to the enfranchisement of former slaves and women, were all accomplished democratically through constitutionally proper procedures, and that placing on the court justices who would take judicial shortcuts, often in defiance of the Constitution and the electorate, shows nothing but disdain for American voters.

Robert Bork, a former U.S. Supreme Court nominee and U.S. Court of Appeals judge, is a fellow at the Hudson Institute. David Rivkin served in the Reagan and George H.W. Bush administrations and is a law partner at Baker and Hostetler.

Bush Sees 'Progress' On Fifth Visit To Gulf Coast (LAT)

By Scott Gold And Michael Muskal

The Los Angeles Times, September 21, 2005

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NEW ORLEANS — President Bush came to the Gulf Coast today to praise the recovery effort after Hurricane Katrina devastated this region, but he found himself hoping that all of the good work will not be undone by another storm racing into the Gulf of Mexico.

During a visit to a coffee plant that is limping back to life after sustaining $20 million worth of damage, Bush praised the progress of recovery since Katrina dealt the coast a killer blow on Aug. 29. Bush was accompanied by Mayor C. Ray Nagin.

"Progress is being made toward meeting the mayor's vision of a — and my vision, and everybody's vision involved with this — of a vibrant New Orleans and surrounding parishes," Bush said.

But the president warned that Hurricane Rita was heading toward the gulf, carrying winds of more than 100 mph and was expected to gather energy from the warm waters.

"All up and down this coastline people are now preparing for what is anticipated to be yet another significant storm," Bush said. "I've been briefed on the planning for what we pray is not a devastating storm — but there's one coming."

Rita stormed through the Florida Straits today, dropping torrential rains on the Keys and Cuba. It is a Category 2 storm, but could reach Category 3 and perhaps more when it makes landfall by week's end.

Current projections have it hitting Texas sometime Friday or Saturday, but it is expected to affect Louisiana by Thursday. New Orleans, which has been recovering from severe flooding, is in an especially sensitive position because its levee system was weakened by Katrina.

Nagin had allowed some residents of New Orleans to return over the weekend, but he suspended that program when federal officials, led by Bush, objected. The city is still without drinking water, the air quality is questionable and the impact of Rita is a potential hazard.

"I appreciate the mayor recognizing that, and he made a wise decision to say to people, be cautious about returning here, because a rain of any amount could cause these levees to break again," Bush said.

Nagin has at times been critical of the federal relief effort, but went out of his way to praise the principal federal official in New Orleans, Coast Guard Vice Adm. Thad Allen.

We're "one leadership team," Nagin said. "We may not always agree, but we have one mission: To bring New Orleans back."

He then handed Allen a T-shirt boasting "I ©N.O."

Nagin then spoke to the hundreds of thousands of residents who were forced to flee the storm and broken levees that made this city uninhabitable.

"I know it has been three weeks plus that you haven't been able to come back," he said. "Just hold on for a little longer. As soon as we get comfortable that Rita" won't be a problem, "we will get to our reentry program. We fully intend to follow through."

"Be prepared," Nagin warned. "You may not recognize the place.… Come prepared with your eyes wide open as it relates to what you might see."

Despite the successes, including emptying more than half the city of the floodwaters, there are still water and supply problems. Municipal services are spotty at best and schools remain closed.

To bring attention to the progress that has been made, Bush paid his fifth trip to the region. He praised the recovery of the Folger's coffee plant, which roasts, packages and ships coffee nationwide and to parts of Mexico.

The factory, the size of several football fields, has one of its 10 production lines back in operation. About 150 of the 500 employees are working, many living on the grounds in the 110 trailers supplied by the Federal Emergency Management Agency.

"I want to thank the folks here at the Folgers plant for inviting us to come to say hello," Bush said. "The reason I've come with the mayor and Admiral Allen is because I want the people to know that there's progress being made in this part of the world."

Earlier, in Gulfport, Miss., Bush met with local officials on the governor's commission on the recovery. He praised their efforts and promised that the federal government would move faster to help with the reconstruction.

"Every time I come back here, I see progress," Bush said, establishing the theme for the day. "But this part of the country's changing. And you're moving forward. I don't know if you know that or not, but flying in or driving in, there's something different than the first time I was here.

"There is a can-do attitude. In the midst of all the trauma and pain, one thing I noticed on my first trip was, 'We can do this.' And now I'm seeing it being done," the president said.

"We'll get the debris removed. We'll get your water systems up and running as quickly as possible. We'll get your bridges built," he told the appreciative audience in a white tent set up in the parking lot of an outlet mall.

"There's no doubt in my mind that, out of the rubble and out of the huge heaps of timber that used to be homes, a better Mississippi will emerge," he said.

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Before leaving Washington, the White House announced that Bush had named Frances Fragos Townsend, his homeland security adviser, to lead an administration investigation into the sluggish federal response to Katrina.

Bush had promised to investigate "what went wrong and what went right" in the response that has already cost Michael Brown his post as director of the Federal Emergency Management Agency. Congress has been holding hearings, but Democrats are still seeking the creation of an independent commission to investigate the disaster.

Press Secretary Scott McClellan told reporters that the administration would search the federal budget to find cuts to pay the bill for reconstruction after Katrina. Congress has appropriated almost $63 billion in emergency aid and Bush has pledged to rebuild the region.

Though the White House has not placed a price tag on the project, experts have said it could cost $200 billion. Bush has ruled out a tax increase. There have been calls to use some of the funds earmarked for Iraq to rebuild New Orleans, while conservatives have urged that some programs be cut.

McClellan today rejected a call to roll back the new prescription drug benefit.

Rita remains a concern for state officials as well.

More than 7,000 Hurricane Katrina evacuees staying in shelters near the Texas Gulf Coast are being evacuated in buses and planes, said David Passey, a FEMA spokesman, in Baton Rouge.

About 4,000 will be moved from Ellington Field in Houston to Ft. Chaffee in Fort Smith, Ark. Three thousand people displaced by Katrina will be moved from Lackland Air Force Base in San Antonio to somewhere in Tennessee, Passey said.

"Safety, of course, is our top priority," Passey said.

Federal employees will coordinate with the city of New Orleans to comply with any mandatory evacuation.

Passey estimated that 11,000 civilian federal employees and 14,000 active military personnel — not including National Guard — are working in the area.

FEMA housing officials continue to grapple with the largest-scale need for temporary housing the agency has ever encountered, said Ron Sherman, head of FEMA's area housing command.

"Being displaced and losing your home is one of the worst things that can happen to you," Sherman said.

The agency is considering a variety of housing options for evacuees, primarily travel trailers, but also including cruise ships and apartments.

The Louisiana governor's office announced a plan to move the 55,000 people who remain in shelters into hotels and motels for up to 90 days, said Jerry Jones, director of facilities and planning for the state of Louisiana.

State officials had briefed FEMA on the proposal, which Sherman agreed with "in principle," although financial and logistical details of the plan had not been determined.

"We need to do something quicker," Jones said. Evacuees "need to know we're working for them."

State officials hope that the proposal will offer evacuees an alternative to shelters while FEMA works to establish adequate interim housing.

"Our citizens have been waiting and waiting for relief from their shelter environment," Gov. Kathleen Babineaux Blanco said in a statement Tuesday.

"While shelters have provided a safe respite, moving our citizens out of harms way immediately following Hurricane Katrina, it is past time to move all of them into the next housing option," she said.

Bush Praises Progress In Rebuilding Efforts (WP)

By Michael A. Fletcher

The Washington Post, September 21, 2005

NEW ORLEANS, Sept. 20 -- President Bush returned to the storm-battered Gulf Coast on Tuesday, telling local leaders that amid the rampant devastation caused by Hurricane Katrina there are promising signs of recovery.

Bush, who has faced harsh criticism for a confused and sluggish federal response to the deadly hurricane, said he was "pleased to see the progress being made on the ground" in the difficult task of rebuilding the region.

The president's trip marked his fifth visit to the area since Katrina flattened much of the Mississippi Gulf Coast and unleashed a flood that submerged most of New Orleans. Now, as the floodwaters are being pumped away, much of city and surrounding area remain uninhabitable and crusted in dried mud.

As the region struggles to dry out and lay plans for rebuilding, officials were concerned about Hurricane Rita, which Tuesday was making its way toward the Gulf of Mexico. Bush attended a briefing about the storm aboard the USS Iwo Jima, an amphibious assault ship docked near downtown New Orleans, where it serves as a recovery command center.

With Louisiana Gov. Kathleen Babineaux Blanco (D) and New Orleans Mayor C. Ray Nagin (D) seated to his right, Bush watched three huge video screens and listened as federal forecasters attempted to project the path of the hurricane.

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The visible federal preparations for Rita stand in contrast to the delayed response that followed Katrina. Although Bush signed emergency orders to ready federal help in anticipation of Katrina, precious days passed before the Federal Emergency Management Agency was able to mount an all-out response. Hundreds of people were killed in the hurricane; others were trapped on rooftops or in hellish shelters for days.

The ineffective federal response has shaken public confidence in an administration that prides itself on its cool efficiency. In Katrina's aftermath, Bush's approval ratings have plummeted to new lows, and polls have found that a dwindling share of Americans give him high marks for leadership.

Since the early confusion, Bush has moved to recover the initiative, vowing to lead one of the largest rebuilding efforts ever seen. Already, more than $62 billion has been appropriated, and some members of Congress have estimated that the rebuilding tab could go as high as $200 billion.

Using FEMA data, the National Low Income Housing Coalition yesterday estimated that Katrina destroyed or heavily damaged 302,000 homes. About 142,000 homes were lost in New Orleans alone. The housing advocacy group said that apartments accounted for 47 percent of units lost or damaged overall, and 55 percent in New Orleans.

In his visit here, Bush said local officials and businesses are making impressive progress in rebuilding and bringing economic life back to the stricken region.

Bush toured a Folgers coffee plant, where 110 trailers are lined up to house workers who have returned to the job. Plant officials said 150 of the facility's 500 workers are back to work and that one of the plant's 10 lines is working to package and ship coffee throughout the country.

"We've got some people working here because of the ingenuity of the plant managers," Bush said. ". . . This company has provided housing for the folks who work here."

Earlier in the day, Bush stopped in Gulfport, Miss., where he met with members of a state commission appointed to lead the storm recovery effort. The meeting was held in a white tent set up in the parking lot of a still-shuttered outlet mall that until a week ago served as a staging area for utility crews working to restore power.

As Bush entered the tent, the business leaders and others inside erupted in applause. "W, we still love ya," someone cried out, causing Bush to crack a smile.

Bush listened quietly as Gov. Haley Barbour (R) pledged to rebuild Mississippi's Gulf Coast and make it better than ever. "Creating a renaissance in this area is what I'm going do the rest of the time I'm in office," Barbour said.

Bush also heard testimonials from business leaders who pledged their efforts to help rebuild the Mississippi coastline.

"Every time I come back here, I see progress," Bush said. ". . . This part of the country is changing. You're moving forward."

A Storm Survivor, Political Reputation Intact (NYT)

By Joyce Purnick

The New York Times, September 21, 2005

BATON ROUGE, La., Sept. 20 - Hurricane Katrina has given the nation a new political celebrity, the mayor of beleaguered New Orleans. And like they say with pride here about most everything, Mayor C. Ray Nagin is just plain different.

A former business executive, Mr. Nagin is a Democrat who lashed out at Republican Washington, likes to cuss, has begun treating the president whose administration he lambasted as a buddy and makes no secret of his differences with the state's governor, Kathleen Babineaux Blanco, also a Democrat. Mostly, he seems to be unapologetically making it up as he goes along, as he did on Monday when he (temporarily) defied official advice to slow the reopening of his city.

After Vice Adm. Thad W. Allen of the Coast Guard and President Bush very publicly advised caution, Mr. Nagin backed down and reversed his order to have people return gradually. He retreated with sword raised. "There's only one mayor of New Orleans and I'm it," he said, attributing his reversal to a "new event" - the prospect that Hurricane Rita might head for the Gulf Coast.

That kind of bravado is classic Nagin, an unorthodox politician of 49 who was a top cable executive before he ran for mayor three years ago. His pre-storm, tenure was seen as a little bumpy as he learned on the job, but not fatally so. Post-storm, Mr. Nagin has made a virtue of being consistently inconsistent. Why fast-track the return of people to a city short on power and potable water, even as he talks about putting safety first?

Those who know Mr. Nagin and know New Orleans attribute his rush to three factors: Nagin chemistry, politics and race, with a dash of civic pride thrown in.

"There's a lot of pressure to get business going again in New Orleans, and he got ahead of himself," said James W. Nickel, a lobbyist here and former state Democratic chairman.

Mr. Nagin, who declined to be interviewed for this article, maintains that politics was not his motive in trying to reopen his city quickly.

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Few who know the politics of New Orleans, a predominantly black city with a powerful white business core, harbor any doubt that he was responding to pressure from the entrenched white business community, and perhaps, too, from black elected officials worried that their constituents would not return unless assured their city was up and running.

Mr. Nagin needed the votes of both constituencies to win election, but white voters held the margin of victory. When he ran for mayor, business executives embraced him as a reformer. He got into the runoff after the black vote split and then went on to a slim victory.

"Candidates running for other offices got more votes than he did," the City Council president, Oliver M. Thomas Jr., said on Tuesday. Mr. Thomas has viewed the mayor's conduct post-storm with some skepticism, including his latest flip-flop. "You can't keep jerking people's chains," Mr. Thomas said.

Others cite mistakes. Mr. Nagin did not get everyone out, did not fire up the school buses for evacuees, did not have enough food or water for them in the Superdome or the convention center, did not protect people adequately and let the looters loot so he could make rescues the priority.

He had to answer for flying to Dallas the second weekend after Hurricane Katrina to visit his evacuated family and for meeting there with white businessmen from New Orleans. This infuriated many of the city's black lawmakers and businessmen, worried about being left out of the rebuilding loop, despite Mr. Nagin's assurances to the contrary.

And of course there was the famous flash of Nagin temper on the Thursday after the storm, when he railed at the federal authorities, "Now get off your asses and do something." In most cities, the public would say, Sure, but why didn't you do it first? But in New Orleans, Mr. Nagin was seen as putting the blame squarely on Washington and as alerting the world to his city's emergency.

Instead of facing political oblivion, Mr. Nagin has emerged as something of a folk hero, a familiar figure with his distinctive shirts and shaved head.

In some places in the country, mayors pay for big mistakes at election time. Mr. Nagin faces a primary election in February, and for now, the talk here is that he is not in big trouble, that he, like his city, was a victim of Washington and Ms. Blanco, whose reputation has suffered while his seems to be holding.

"You experience accountability in other places," said Roy W. Fletcher, a political consultant in Baton Rouge. "Here, while everybody wants something from government, nobody expects something from government."

Some New Orleanians are furious at Mr. Nagin. Others attribute his stumbles to an unfamiliarity with practical politics that pre-dated Hurricane Katrina. "He truly thought he could go into government and run it like a business," said Mr. Nickel, the former Democratic chairman. "If any government can't run like a business, it is the government of New Orleans."

But the mayor, a native of the city from a working-class family, is considered honest and strongly opposed to the old, often corrupt ways, yet limited by his city's poverty and its people's low expectations.

"If he had gotten those people out, it would have been shocking," said Alvin Gauthier, a science teacher and basketball coach at a New Orleans high school, as he waited in line here on Monday at the Federal Emergency Management Agency's disaster relief center.

In fact, as early as July, the mayor and emergency officials were warning that the city did not have the resources to evacuate everyone if a major hurricane hit, The Times-Picayune reported.

Yet nothing significant changed, which was not a surprise.

"This isn't the United States, darling; this is a colony of the powers that be," a rug dealer named Bob Rue said on Saturday in New Orleans, where he was protecting his shop on St. Charles Avenue with a revolver and a claw hammer.

"There's no tax base," Mr. Rue said. Too many people, he added, are too poor.

He was asked why not demand more from the state, more from the wealthy?

Mr. Rue, looking as though he wanted to use his claw hammer, sighed. Listen, he seemed to be saying, he survived. And so, it would seem, did Mr. Nagin. - survived a storm that damaged almost everything and everyone in its path, including a president.

But somehow there is a sense of tolerance from his constituents for their mayor, because, they say, at least he tried - considered an accomplishment in their hometown.

U.S. 'Must Pay' To Rebuild (WT)

By Bill Sammon

The Washington Times, September 21, 2005

President Bush, accused of embarking on a discretionary spending spree to rebuild the Gulf Coast, yesterday said the federal government is required by law to shoulder most of the cost.

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"We have a responsibility by law to help rebuild the infrastructure," Mr. Bush said on his fifth visit to the Gulf Coast since Hurricane Katrina struck three weeks ago. He said the federal government is "the principal party responsible for rebuilding infrastructure."

White House officials pointed out that the 1988 Stafford Act, which is triggered by disasters such as Katrina, requires that the federal government pay at least 75 percent of the cost of rebuilding public infrastructure.

The federal government's share can jump to more than 90 percent in certain extraordinary circumstances, such as Hurricane Andrew in 1992, the Oklahoma City bombing in 1995 and the September 11 attacks.

Yet the Associated Press suggested Friday that White House plans to rebuild the Gulf Coast are discretionary.

"President Bush is presiding over the most expensive government relief and reconstruc tion operation in U.S. history, casting aside budget discipline," wrote reporter Tom Raum in a story headlined "The new New Deal?"

The next day, conservative John Podhoretz expressed alarm about the president's post-Katrina spending plans in a New York Post column.

"In ignoring the small-government sensitivities of conservatives," he wrote, "Bush may have done something politically catastrophic to his own presidency."

White House spokesman Trent Duffy countered that Mr. Bush has no choice.

"I guess you could make a discretionary decision not to rebuild this part of the United States, but it would be totally counterproductive," he said. "I mean, it's critical to the economy."

He pointed out that most of the money will be spent on indispensable items such as military and transportation facilities.

"A lot of the big-ticket items are roads -- those are a national asset," he added. "I mean, the farmers in Ohio use the roads in Louisiana and use the navigable waterways of the Mississippi River to ship their agriculture exports to the rest of the world.

"The other big-ticket items are military bases and Veterans Affairs hospitals," he added. "Does any self-described conservative want to not rebuild our military bases or VA hospitals?"

Still, such conservatives as OpinionJournal.com assistant editor Brendan Miniter are urging the White House to exercise restraint.

"Katrina is swamping every goal conservatives have, from limiting government to cutting taxes to reforming entitlement programs," he wrote yesterday on the site, published by the Wall Street Journal. "Katrina spending has already imperiled plans to repeal the death tax."

Yesterday, Treasury Secretary John W. Snow acknowledged the president's push to repeal the death tax and make other tax cuts permanent has been placed on the "back burner" because of Katrina.

"It's taken over the national agenda, and I think it will for a while," Mr. Snow told the National Association of Federal Credit Unions. "I think it will push to the back burner some issues that otherwise would have been on the agenda now -- the estate tax, tax [cut] permanency."

But the White House said yesterday that the president has every intention of making his tax cuts permanent and repealing the death tax.

"Keeping taxes low is the foundation of the president's economic program," Mr. Duffy said. "The president will block any attempt by Democrats to raise taxes."

Message: I Can't (NYT)

By Maureen Dowd

The New York Times, September 21, 2005

WASHINGTON

The president won't be happy until he dons a yellow slicker and actually takes the place of Anderson Cooper, violently blown about by Rita as he talks into a camera lens lashed with water, hanging onto a mailbox as he's hit by a flying pig in a squall, sucked up by a waterspout in the eye of the storm over the Dry Tortugas.

Then maybe he'll go back to the White House and do his job instead of running down to the Gulf Coast for silly disaster-ops every other day.

There's nothing more pathetic than watching someone who's out of touch feign being in touch. On his fifth sodden pilgrimage of penitence to the devastation he took so long to comprehend, W. desperately tried to show concern. He said he had spent some "quality time" at a Chevron plant in Pascagoula and nattered about trash removal, infrastructure assessment teams and the "can-do spirit."

"We look forward to hearing your vision so we can more better do our job," he said at a briefing in Gulfport, Miss., urging local officials to "think bold," while they still need to think mold.

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Mr. Bush should stop posing in shirtsleeves and get back to the Oval Office. He has more hacks and cronies he's trying to put into important jobs, and he needs to ride herd on that.

The announcement that a veterinarian, Norris Alderson, who has no experience on women's health issues, would head the F.D.A.'s Office of Women's Health ran into so much flak from appalled women that the F.D.A. may have already reneged on it. No morning-after pill, thanks to the antediluvian administration, but there may be hope for a morning-after horse pill.

Mr. Bush made a frownie over Brownie, but didn't learn much. He's once more trying to appoint a nothingburger to a position of real consequence in homeland security. The choice of Julie Myers, a 36-year-old lawyer with virtually no immigration, customs or law enforcement experience, to head the roiling Immigration and Customs Enforcement Agency with its $4 billion budget and 22,000 staffers, has caused some alarm, according to The Washington Post.

Ms. Myers's main credentials seem to be that she worked briefly for the semidisgraced homeland security director, Michael Chertoff, when he was at the Justice Department. She just married Mr. Chertoff's chief of staff, John Wood, and she's the niece of Gen. Richard Myers, the chairman of the Joint Chiefs of Staff.

As a former associate for Ken Starr, the young woman does have impeachment experience, in case the forensic war on terrorism requires the analysis of stains on dresses.

Julie makes Brownie look like Giuliani. I'll sleep better tonight, knowing that when she gets back from her honeymoon, Julie will be patrolling the frontier.

As if the Veterinarian and the Niece were not bad enough, there was also the Accused. David Safavian, the White House procurement official involved in Katrina relief efforts, was arrested on Monday, accused by the F.B.I. of lying and obstructing a criminal investigation into the seamy case of "Casino Jack" Abramoff, the Republican operative who has broken new ground in giving lobbying a bad name. Democrats say the fact that Mr. Safavian's wife is a top lawyer for the Republican congressman who's leading the whitewash of the White House blundering on Katrina does not give them confidence.

Just as he has stonewalled other inquiries, Mr. Bush is trying to paper over his Katrina mistakes by appointing his homeland security adviser, Frances Townsend, to investigate how the feds fumbled the response.

Mr. Bush's "Who's Your Daddy?" bravura - blowing off the world on global warming and the allies on the Iraq invasion - has been slapped back by Mother Nature, which refuses to be fooled by spin.

When Donald Rumsfeld came out yesterday to castigate the gloom-and-doomers and talk about the inroads American forces had made against terrorists in Afghanistan and Iraq, he could not so easily recast reality.

In Afghanistan, the U.S.'s handpicked puppet president is still battling warlords and a revivified Taliban, and the export of poppies for the heroin trade is once more thriving.

Iraq is worse, with more than 1,900 American troops killed. Five more died yesterday, as well as four security men connected to the U.S. embassy office in Mosul, all to fashion a theocratic-leaning regime aligned with Iran. In Basra, two journalists who have done work for The Times have been killed in the last two months.

The more the president echoes his dad's "Message: I care," the more the world hears "Message: I can't."

Bush: Townsend To Lead Katrina Inquiry (REU-Y2)

Reuters, September 21, 2005

U.S. President George W. Bush has named his homeland security adviser, Fran Townsend, to lead an internal inquiry into the much-criticized federal response to Hurricane Katrina, the White House said on Tuesday.

Townsend will look at "what went right, what went wrong and lessons learned from the federal response to Hurricane Katrina," said spokesman Trent Duffy, who spoke as Bush prepared to make his fifth trip to the disaster zone.

Bush has come under heavy fire for his handling of the hurricane and its aftermath. A CNN/USA Today/Gallup poll released on Monday said 41 percent of Americans approved of his handling of the ordeal, compared to 57 percent who disapproved.

A separate congressional inquiry will also investigate what went wrong with the federal response. But Bush so far has refused to back calls from Democrats for an independent commission to look at the disaster response.

A memo from White House chief of staff Andrew Card directed government departments and agencies to designate by Tuesday one senior official to be the coordinator to work with Townsend for their specific agency.

The memo directed agencies to give this effort "their full attention and highest priority," Duffy said.

The goal is to apply lessons learned to future emergencies.

"The president said he wanted to hold people accountable. This is one of the many ways in which he will do that," the spokesman said.

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Katrina slammed into Louisiana and Mississippi on August 29 with 140 mile-per-hour (224 kph) winds and a 30-foot (nine-metre) storm surge. Levees in New Orleans collapsed, flooding the city and leaving thousands of people stranded without any way to leave.

The Louisiana death toll had risen to 736 as of Monday, bringing the total dead from Katrina to 973, including 218 in Mississippi and 19 combined in Florida, Georgia, Alabama and Tennessee.

What We Know So Far - And What We Don't (CSM)

By Peter Grier

The Christian Science Monitor, September 21, 2005

WASHINGTON - Why did it take so long? Why was government at almost all levels sluggish in providing aid to the victims of hurricane Katrina?

That's an issue that will preoccupy Washington for months to come. This week, President Bush appointed domestic security adviser Frances Townsend to lead an internal White House inquiry. And Congress will almost certainly authorize a full-scale investigation into the Katrina response, though its form and timing are still disputed.

Individual congressional panels have already begun to hold hearings, but testimony so far has dealt with preparation for future disasters, not the havoc wrought by Katrina's fury.

That said, some lines of questioning are already obvious. From unread plans to unmobilized troops, to a command structure that at times seemed less organized than a soccer team of 7-year-olds, the Katrina response was a case study in confusion. Official briefings, after-action reports, and media accounts have begun to sketch in some crucial details about why this might have been so. Plan? What plan?

Disaster plans were either incomplete, or ignored. Take the Louisiana State Emergency Operations Plan, drawn up in 2000. It has an extensive section on the evacuation of southeast Louisiana, and subsequent sheltering of evacuees, in the event of a hurricane. According to the plan, those not able to drive away from New Orleans were to be transported on locally obtained buses.

Yet New Orleans city officials had long known that those buses would not be forthcoming. From Mayor Ray Nagin (D) on down, they have said that they knew they didn't have the resources to empty out the city as the plan said. As Mr. Nagin told The Wall Street Journal, his own plan was "get people to higher ground and have the Feds and the state airlift supplies to them."

An unanswered question is why the city did not use the resources it did have, even if those might not have been enough to fully transport the estimated 20 percent of the city that didn't leave by car. New Orleans had upwards of 300 buses, plus hundreds of school buses and other municipal vehicles.

Similarly, the relevance of the Department of Homeland Security's National Response Plan (NRP) to the effort that evolved now seems in question.

Released in December 2004, the NRP is an attempt to reorient national disaster preparedness. The Federal Emergency Management Agency (FEMA), formerly an independent agency, is now part of the larger Homeland Security bureaucracy. Its main stated mission is to support state and local responders.

Thus FEMA waited for state and local officials to provide it with detailed lists of needs. As former director Michael Brown told The New York Times last week, "I never received specific requests for specific things that needed doing."

State and local officials, for their part, were perhaps still thinking about the old, independent FEMA. They were quickly overwhelmed by the disaster, and felt they had neither the time nor information to provided request spreadsheets.

As Congress furthers its Katrina inquiries, it will surely weigh whether FEMA should be plucked out of the larger Department of Homeland Security and made separate once again.

"We would have expected a sharp, crisp response to this terrible tragedy," said Sen. Susan Collins (R) of Maine, chairman of the Senate Homeland Security Committee, at a kickoff hearing on Katrina last week. "Instead, we witnessed what appeared to be a sluggish initial response." Who's in charge?

Perhaps no single issue contributed to the slow-footedness of the initial Katrina response more than lack of leadership structure. As is now well-documented, top officials had little idea of who was in charge of what, when.

On Aug. 29, for instance, FEMA director Mr. Brown was in Baton Rouge, La. He has said he repeatedly warned his superiors in Washington that state and local officials were at odds, or not communicating, and that he was struggling to establish a "unified command."

The next day, 36 hours after the storm first hit, Department of Homeland Security (DHS) Secretary Michael Chertoff finally issued a memo that declared FEMA's Brown the "principal federal official" to coordinate Katrina response. He also declared the storm an "incident of national significance," invoking the full powers of the National Response Plan.

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Yet Mr. Bush had already declared the area a disaster zone on Aug. 27, prior to the storm making landfall. Some DHS officials believe that that declaration had already involved the NRP, making Mr. Chertoff's later move irrelevant.

Not that state and local officials were looking for the feds to provide an on-site hurricane czar, they say. In one instance, Louisiana Gov. Kathleen Blanco (D) turned down an attempt by Washington to assert more authority. On Sept. 2, she refused to sign over her 13,000 National Guard troops to federal control. She worried that the request was political, allowing Washington to depict prior failures as her fault. Send in the Marines

There is one national resource over which the White House has unquestioned command: the active-duty military. And in the wake of Katrina, some in Washington think the Pentagon should be more involved in the immediate response to disasters, whether they be storms or terrorist attacks.

Sen. John Warner (R) of Virginia, chairman of the Senate Armed Services Committee, sent President Bush a letter last week saying it may be time to rethink long-standing laws that hinder the ability of active-duty troops to operate in the US.

These laws, such as the Posse Comitatus Act of 1878, generally prohibit the military from being used for domestic law enforcement. They were originally enacted to protect the nation against even a hint of military tyranny.

In part, this may be a reaction to reports that frustrated military units were held up prior to deployment to the Gulf, or never deployed at all. Units of the 82nd Airborne were reportedly put on alert on Aug. 30, for example, but then not immediately sent. Some military helicopter units in the Gulf felt they could have easily flown rescue missions, but were not tapped soon enough.

Specialized active-duty military personnel did begin racing toward the Gulf in Katrina's immediate wake. Air Force search-and-rescue teams, which include active, reserve, and Guard airmen, were at work in the region within 36 hours. But it was not until six days after the hurricane had hit land that Bush announced deployment of a large number of active-duty troops: 7,200, including Marines.

This is a separate issue from that of the strength of local National Guards. Louisiana has 3,000 Guard troops serving in Iraq, and it's not yet clear whether this had any effect on the ability of state guard commanders to respond to the storm.

As Katrina's lessons are sorted, sober conclusions are already being drawn. "The Katrina disaster and the failure of leadership at so many levels ... has had to have encouraged terrorists," said former Secretary of the Navy John Lehman, a member of the 9/11 commission, last week.

Local, state, and federal officials all need to take action, said Lehman, "before it's too late."

Democrats Say Relief Effort Needs Independent Inquiry (NYT)

By Philip Shenon And Anne E. Kornblut

The New York Times, September 21, 2005

WASHINGTON, Sept. 20 - Congressional Democrats said on Tuesday that the arrest of a former senior White House budget official involved in organizing the federal response to Hurricane Katrina demonstrated the need for an independent investigation of the government's reaction to the disaster, especially since the official is married to a leading Republican Congressional aide.

The official, David H. Safavian, 38, a lawyer who was chief of procurement policy in the Office of Management and Budget until he resigned on Friday, was arrested Monday on charges of lying to federal investigators about his relationship with Jack Abramoff, a Washington lobbyist at the center of a corruption investigation at the Justice Department.

Mr. Safavian, who is free without bail, was also accused of lying about a 2002 golfing trip he took with Mr. Abramoff, a former lobbying partner, when Mr. Safavian worked at the General Services Administration.

Representative Nancy Pelosi of California, the House Democratic leader, said the arrest of Mr. Safavian undermined the credibility of a House Republican plan to investigate the troubled hurricane-relief effort through a committee to be led by Representative Thomas M. Davis III, Republican of Virginia. Mr. Safavian's wife, Jennifer, is chief counsel for oversight and investigations on the House Government Reform Committee, which Mr. Davis leads.

"Spouses are not responsible for their counterpart's activities," Ms. Pelosi said at a news conference. "But I do say when there is a direct link to the White House and procurement and the investigation that this committee is supposed to conduct, then I think that really shatters all sense of confidence."

Her criticism was echoed on Capitol Hill, with Democrats saying that beyond the criminal charges, Mr. Safavian had lacked the background for an important federal procurement post. They also said he was one of several senior Bush administration officials involved in the sluggish hurricane-relief effort who had been chosen for their jobs because of political connections.

Michael D. Brown, who was chosen by President Bush to direct the Federal Emergency Management Agency, resigned last week after widespread criticism that he and many of his top aides had had little emergency management experience.

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Democrats have also been critical of the recent nomination of a lawyer with little immigration experience to lead the Immigration and Customs Enforcement agency within the Department of Homeland Security. The lawyer, Julie L. Myers, is the niece of Gen. Richard B. Myers of the Air Force, the chairman of the Joint Chiefs of Staff.

"I'd be interested in how Mr. Safavian got his job," Ms. Pelosi said. "Mr. Safavian doesn't have the credentials that would justify his being the top procurement person for the White House. Did any influential members of Congress recommend him to that job? Is there a connection between his wife and that recommendation?"

The General Services Administration, which manages government buildings and other property, refused to answer questions Tuesday about how Mr. Safavian got his job as the agency's chief of staff from 2002 until last year.

Clay Johnson III, deputy director of management for the Office of Management and Budget, said in a statement that he had urged that Mr. Safavian be hired at the budget office last year because "I was impressed with his knowledge of the issues, agencies and the Hill."

"No one interfered or pressured me to do it," Mr. Johnson said.

Mr. Safavian was involved in developing broad policies for federal contracting in the hurricane-relief effort along the Gulf Coast, but Mr. Johnson said Mr. Safavian had nothing to do with awarding individual contracts for emergency relief work.

"No one at O.M.B.," he said, "including Mr. Safavian, is authorized to be involved in any contracting decisions, and I'm not aware of that happening. It's not part of our mission."

Mr. Davis said through a spokesman that he had done nothing to help Mr. Safavian obtain his jobs in the administration.

Mr. Safavian and his wife did not respond to telephone messages left at their home in Alexandria, Va. The Justice Department did not notify news organizations of the arrest until after Mr. Safavian had made his first court appearance, which prevented reporters from observing the hearing. His lawyer also did not return phone calls for comment.

The White House and the Department of Homeland Security stepped up their efforts on Tuesday to rescue the nomination of Ms. Myers, a former federal prosecutor in Brooklyn, to the immigration post.

"Julie Myers is well-respected within the law enforcement community and highly qualified to lead the Immigration and Customs Enforcement," said Erin Healy, a White House spokeswoman. "We will work with the Senate to ensure her confirmation."

But the nomination faced new challenges, some not directly related to Ms. Myers's qualifications.

Senator Carl Levin, Democrat of Michigan, threatened Tuesday to block the nomination unless he received a secret F.B.I. memo about interrogations of terror suspects that he has been seeking for months; the May 2004 memorandum details the concerns of F.B.I. agents about the interrogation of suspected members of Al Qaeda held at the Navy base at Guantánamo Bay, Cuba.

Democrats have questioned whether the memorandum mentions Michael Chertoff, who directed the Justice Department's criminal division in Mr. Bush's first term and who is now the secretary of homeland security. Ms. Myers, whose nomination to the Homeland Security job was the subject of an article in the Tuesday editions of The Washington Post, had been Mr. Chertoff's chief of staff at the Justice Department. She married Mr. Chertoff's current chief of staff last weekend.

Aide Was Reticent On Lobbying For Foreign Clients (WP)

By Susan Schmidt And R. Jeffrey Smith

The Washington Post, September 21, 2005

David H. Safavian, the Bush administration official arrested Monday, initially failed to disclose lobbying work he had done for several controversial foreign clients when he went before a Senate panel last year to be confirmed as chief of the White House's federal procurement office.

The Senate Governmental Affairs Committee held up Safavian's nomination for more than a year, in part because of lawmakers' concerns about lobbying work for two men later accused of links to suspected terrorist organizations, according to committee documents. Safavian did not disclose his firm's representation of the men until questioned in writing by the committee's staff, and initially failed to tell the panel he had registered as a foreign agent for two controversial African regimes.

The Senate panel nevertheless approved him unanimously and the Senate followed suit on Nov. 21, 2004.

Safavian was arrested Monday on charges of lying and obstructing an investigation into former powerhouse lobbyist Jack Abramoff's dealings with the federal government. Safavian resigned his government post Friday. Yesterday, his attorney, Barbara Van Gelder, did not return telephone calls seeking comment.

Senate approval of Safavian occurred two months after The Washington Post disclosed Safavian's participation in an August 2002 Scotland golf trip with Abramoff. That trip was central to the criminal complaint against Safavian unsealed on Monday.

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Yesterday, a spokeswoman for committee chairwoman Susan Collins (R-Maine) said the review of Safavian's background had been thorough.

"Based on our extensive review of his qualifications and background, we had no reason to believe that Mr. Safavian had engaged in any wrongdoing," said a spokeswoman for Sen. Joseph I. Lieberman (Conn.), the committee's senior Democrat at the time of the vote.

The record of Safavian's confirmation shows extensive questioning by the committee staff about his alleged lobbying for local Muslim leader Abdurahman Alamoudi, who in October 2000 made widely publicized comments supporting Hezbollah and the Islamic Resistance Movement, or Hamas, at a rally in Lafayette Park.

Lobby disclosure forms originally filed by Safavian's firm, Janus-Merritt Strategies, show that it represented Alamoudi, a prominent Muslim activist, until 2001. Alamoudi has since been convicted and imprisoned for accepting money from the Libyan government as part of an alleged plot to assassinate the crown prince of Saudi Arabia.

Janus-Merritt Strategies changed its lobby disclosure forms in 2001 to indicate that its client was not Alamoudi but Jamal Barzinji. In March 2002, Barzinji was named in a search warrant affidavit filed by a Customs Service official as "the officer or director" of a group of entities in Northern Virginia "controlled by individuals who have shown support for terrorists or terrorist fronts." No charges have been filed against Barzinji, and he has denied any wrongdoing.

Safavian told the committee in an April 16, 2004, letter that he and his firm never did any work for Alamoudi. He said the firm lobbied at Barzinji's request to gain U.S. support to free the former deputy prime minister of Malaysia, Anwar Ibrahim, who was imprisoned for six years.

Safavian also told the committee that he had "overlooked" two other clients while preparing his initial submissions for the OMB position. He did not initially mention work as a registered foreign agent for Gabon, a country persistently rated by the United States as having a "poor" human rights record, or his work as a registered foreign agent for Pascal Lissouba, the former president of the Republic of Congo who has been tried in absentia for treason and embezzlement.

Safavian, former chief of staff at the General Services Administration, is charged with three counts of making false statements and obstructing a GSA investigation into his ties with Abramoff. Before joining the government, Safavian worked as a lobbyist with Abramoff, then founded Janus-Merritt Strategies with conservative antitax crusader Grover Norquist.

As a lobbyist, he represented the government of Pakistan on military sales matters and the Islamic Institute in an effort to promote a U.S. postage stamp commemorating Ramadan. With Abramoff, he also represented the Commonwealth of Northern Mariana Islands, a U.S. protectorate, to try to block the imposition of minimum wage rules.

In its probe, the Senate committee also raised questions about a potential conflict of interest between Safavian and his wife, Jennifer, the chief counsel for oversight and investigations at the House Committee of Government Reform, which oversees federal procurement policy matters.

Safavian said his wife had pledged to recuse herself from "any matters where the conduct of officials and employees" at the Office of Management and Budget the principal issue, "as well as matters relating specifically to procurement policy, competitive sourcing, or information technology."

Ex-GSA Official Charged With Hindering Probe (WT/AP)

By Associated Press

The Washington Times, September 21, 2005

A former Bush administration official is charged with making false statements and obstructing a federal investigation into his dealings with lobbyist Jack Abramoff.

David Safavian, a former chief of staff of the General Services Administration (GSA) and Abramoff lobbying associate, concealed from federal investigators that Mr. Abramoff was seeking to do business with the government when Mr. Safavian, a GSA official at the time, joined him on a golf trip to Scotland in 2002, according to an FBI affidavit and government officials.

FBI agent Jeffrey A. Reising said in the affidavit that a lobbyist -- identified elsewhere as Mr. Abramoff -- had enlisted Mr. Safavian's help in trying to gain control of 40 acres of land at the Federal Research Center at White Oak in Silver Spring for a private high school that Mr. Abramoff helped establish.

Mr. Safavian edited a letter that the lobbyist was preparing to send to the GSA and arranged and attended a meeting involving a GSA official, the lobbyist's wife and others to discuss leasing the property, according to the affidavit.

Mr. Abramoff told his wife to use her maiden name at the meeting because Mr. Safavian sought to play down Mr. Abramoff's involvement, according to the affidavit.

Mr. Safavian was given clearance to go on the August 2002 golf trip after telling the GSA's ethics officer that the lobbyist "has no business before GSA," according to the affidavit.

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Nine persons, including Rep. Bob Ney, Ohio Republican, made the trip and played golf on the fabled Old Course at St. Andrews in Scotland. Mr. Safavian paid $3,100 for the travel, "in the exercise of discretion," he said, as quoted in the affidavit.

Mr. Safavian moved to the Office of Management and Budget last year, becoming the administration's top procurement official. He resigned from that post, effective Friday, OMB spokesman Alex Conant said.

No one answered the phone at a listing for Mr. Safavian in Alexandria.

Mr. Safavian worked with Mr. Abramoff on the team at the Preston, Gates & Ellis law firm that was lobbying to keep the Northern Mariana Islands free from certain U.S. labor and immigration laws during the last half of the 1990s.

Mr. Abramoff is not named in the affidavit, but two government officials confirmed he is the person referred to in the affidavit as Lobbyist A. They spoke on the condition of anonymity because the investigation is still under way.

In addition, Mr. Safavian was asked in February for information about the golf trip by the Senate Indian Affairs Committee. Both the Senate panel and a federal grand jury are investigating deals in which Mr. Abramoff and an associate received at least $66 million from six Indian tribes to lobby for their casinos and other interests.

Separately, Mr. Abramoff has pleaded not guilty to a six-count federal fraud and conspiracy indictment stemming from his role in the 2000 purchase of a fleet of gambling boats in Florida.

No Progress In Fight Over Hurricane Panel (RC)

By Erin P. Billings And Ben Pershing

Roll Call, September 21, 2005

Democrats and Republicans in both chambers remained unwilling Tuesday to cede ground on the terms of the joint bicameral committee tasked with investigating the federal government's response to Hurricane Katrina, leaving the select panel's future in question.

While some talks appeared to be under way in the Senate, the House remained deadlocked on the composition of the panel. House Democrats continued to press their call for an independent panel modeled after the 9/11 Commission, while the GOP leadership was poised to move forward and appoint its members to the joint committee today.

House Republicans vowed to forge ahead with the panel regardless of whether Democrats decide to participate.

"I would just once again call on the Democrats, in the interest of the truth and the victims of Hurricane Katrina, to set aside any partisan hostilities and join the Republicans and the bipartisan, bicameral joint select committee to review the preparations in response to the devastating hurricane," Majority Leader Tom DeLay (R-Texas) said during his regular press briefing.

DeLay declined to speculate on whether Speaker Dennis Hastert (R-Ill.) might choose to appoint Democrats to the panel himself if House Minority Leader Nancy Pelosi (D-Calif.) declines to do so. He also pointed out that Katrina committee Chairman Tom Davis (R-Va.) already has announced plans to call former Federal Emergency Management Agency Director Michael Brown as a witness and said that it would be "pretty irresponsible of the Democrats to miss that opportunity" to question him.

Pelosi, for her part, reiterated her position Tuesday, saying Democrats will not come to the table and participate unless Republicans give them equal representation on the committee as well as full subpoena power. The 20-person panel would be made up of 11 Republicans and nine Democrats under the GOP proposal.

Brendan Daly, spokesman to Pelosi, said: "As it stands now, it's a sham. There's been no change in her position on that."

Daly added that Democrats will not participate with Republicans on the joint committee unless concessions are made, and at this point, "there's been no attempt [by Republicans] to compromise."

House Minority Whip Steny Hoyer (D-Md.) said Tuesday that a 9/11-style commission is the best and only way to ensure Americans get the answers they deserve about the Katrina response. He added that it is critical to find out why — four years after 9/11 — "we were still so ill prepared to respond effectively."

"The public saw the 9/11 Commission, they thought the 9/11 Commission did a good job," Hoyer said.

As the hard-line jockeying continued between party leaders, the political stakes in the battle continued to escalate. New opinion polls released Tuesday showed the American public panning the White House response to Katrina, and when coupled with the continued military problems in Iraq and soaring gasoline prices, President Bush remains mired at the lowest approval ratings of his presidency.

But Congressional Democrats also face a risk in appearing to obstruct any investigation, despite the fact that polling showed a huge majority of respondents favoring an independent commission. One House Democratic leadership aide suggested that it is politically tenuous for either party to keep up the stalemate indefinitely.

"Who is going to give any credibility to an investigation that is led by a Republican and only involves Republicans?" this source said. "I think that it behooves both sides to come to a compromise, but that doesn't mean that a compromise is going to occur."

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Across the Capitol, Senate Majority Leader Bill Frist (R-Tenn.) and Minority Leader Harry Reid (D-Nev.) were expected to meet today to discuss the select committee controversy.

Reid has been under heavy pressure from Pelosi and other Democrats not to go along with Frist's plan to use the Homeland Security and Governmental Affairs Committee, chaired by Sen. Susan Collins (R-Maine), as the main vehicle to lead the Senate's investigation into the Bush administration handling of the Katrina crisis.

Senate GOP leadership aides said it was vital for Congress to discharge its oversight role in probing the Katrina disaster immediately, adding that there was time for an independent commission to be appointed after the present crisis has been resolved.

"This is no time for Congress to give up its oversight role," said a Republican staffer. "This is a time for action, and this is what standing committees are designed for. A select committee could also be helpful, but Congress needs to act, and an independent commission releasing some report in a year is not going to help anything."

Reid, though, has objected to Frist's proposal for a select committee. Democrats believe the proposal, as drafted, does not cover a long enough time period to investigate and also gives too much weight to the House in deciding what direction the panel should take. "As it is currently drafted, Sen. Reid will oppose" the Frist select-committee proposal, said Rebecca Kirsner, a Reid aide.

Without a plan for a joint committee in place, GOP leaders are striving to show that their party is actively moving ahead in addressing the humanitarian crisis wrought by Katrina.

Senate Republicans were briefed Tuesday by Office of Management and Budget Director Josh Bolton on the status of the Katrina recovery effort. Bolton's briefing included a detailed breakdown of how and where the Bush administration has spent the $62 billion in emergency funds appropriated by lawmakers so far.

Bolton told the GOP Senators that the administration has disbursed roughly $16 billion so far, and some Republican insiders are now beginning to question whether an additional emergency supplemental will even be necessary, especially if tight controls are implemented on funding recovery programs for Katrina victims.

Sen. Trent Lott (R-Miss.), whose home state was hit hard by Katrina, cautioned his colleagues in an emotional appeal to be careful about appearing insensitive to the plight of those whose lives were disrupted by Katrina. "It's not all about the money," the Mississippi Republican said on Tuesday of his closed-door speech to the Senate GOP Conference. "We have to make sure we are aware that a lot of people have lost everything. Nobody is saying don't worry about how we spend federal funds. Be we need to get people back on their feet first."

Katrina's Cost May Test GOP Harmony (WP)

By Shailagh Murray And Jim Vandehei

The Washington Post, September 21, 2005

Congressional Republicans from across the ideological spectrum yesterday rejected the White House's open-wallet approach to rebuilding the Gulf Coast, a sign that the lockstep GOP discipline that George W. Bush has enjoyed for most of his presidency is eroding on Capitol Hill.

Trying to allay mounting concerns, White House budget director Joshua B. Bolten met with Republican senators for an hour after their regular Tuesday lunch. Senators emerged to say they were annoyed by the lack of concrete ideas for paying the Hurricane Katrina bill.

"Very entertaining," Sen. John McCain (R-Ariz.) said sarcastically as he left the session. "I haven't heard any specifics from the administration."

"At least give us some idea" of how to cover the cost, said Sen. Conrad Burns (R-Mont.), who is facing reelection in 2006. "We owe that to the American taxpayer."

The pushback on Katrina aid, which the White House is also confronting among House Republicans, represents the loudest and most widespread dissent Bush has faced from his own party since it took full control of Congress in 2002. As polls show the president's approval numbers falling, there is growing concern among lawmakers that GOP margins in Congress could shrink next year, and even rank-and-file Republicans are complaining that Bush is shirking the difficult budget decisions that must accompany the rebuilding bonanza.

Rep. Tom Feeney (R-Fla.) said he and other fiscal conservatives are feeling "genuine concern [which] could easily turn into frustration and anger."

Congressional Republicans are not arguing with Bush's pledge that the federal government will lead the Louisiana and Mississippi recovery. But they are insisting that the massive cost -- as much as $200 billion -- be paid for. Conservatives are calling for spending cuts to existing programs, a few GOP moderates are entertaining the possibility of a tax increase, and many in the middle want to freeze Bush tax cuts that have yet to take effect.

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The resistance suggests that Bush's second term could turn out far rockier and more contentious than his first. One indicator many Republicans are watching to gauge whether Bush is becoming a liability for the party is in Pennsylvania, where Rick Santorum, the No. 3 Republican in the Senate, is trailing state treasurer Bob Casey Jr. by double digits.

"My caucus would do anything for Senator Santorum," Sen. Lincoln D. Chafee (R-R.I.) said of his colleague. Chafee, who himself faces a tough reelection battle next year, predicted Republicans will increasingly be faced with the choice of propping up Bush or protecting their own. "I think they're going to collide," Chafee said of the two options.

Asked whether Bush's problems were a factor in his slump, Santorum responded, "That may be."

The White House is aware of the growing political problem and has moved on several fronts to pacify Republicans -- with decidedly uneven results. Treasury Secretary John W. Snow, in a speech yesterday, said the White House will be forced to put several plans on the "back burner," including changes to the estate tax and permanently extending first-term tax cuts. "It's taken over the national agenda, and I think it will for a while," he said.

This prompted protests from one of the White House's closest allies, House Majority Leader Tom DeLay (R-Tex.), who said waiting on taxes was unacceptable. But White House officials said Snow was accurately reflecting Bush's intentions.

Amid this friction, top White House officials told Republicans the relief and recovery package could come in much lower than widely quoted projections of $200 billion. Some House GOP leaders also are urging their colleagues to cool off, reminding them that the true cost of the relief effort is not yet known.

"There are tough choices that are going to have to be made," said White House spokesman Scott McClellan. "We're going to have to cut unnecessary spending elsewhere in the budget to offset some of the cost with Katrina."

House conservatives are particularly riled. Unhappy about spending growth during Bush's first term, they thought they had slowed the pace when Congress passed a relatively austere fiscal 2006 budget this spring.

A group of these conservatives, including Feeney, plans today to present to the White House a proposal to cover the cost of the entire Katrina relief and reconstruction package. Dubbed "Operation Offset," it will include repealing many of the pork-barrel projects stuffed into the $286 billion highway bill that Bush signed into law a few weeks before Katrina struck.

McCain called on Bush to undo the Medicare prescription drug law, while a number of lawmakers said the costly benefit should at least be postponed from its January starting date. Republicans are pressing ahead with the Medicare changes, even as the White House spreads the word it is opposed to such a move.

In one of the most unexpected proposals to cover the reconstruction costs, Rep. Vernon Ehlers (R-Mich.) raised the possibility of raising taxes. Other Republicans say that while a tax increase is unlikely, Bush tax cuts that are scheduled to take effect in coming years may be in serious jeopardy.

Sen. George V. Voinovich (R-Ohio) said he will even comb through the Pentagon budget for cost savings. "Many of us think that we need to step back and look at what we're doing and reevaluate it," Voinovich said. But he added that "someone has to look at the big picture" -- and that someone should be the president. "The vision is missing," Voinovich said.

A new Gallup poll shows a majority of Americans believe the mission in Iraq should be cut to cover the recovery costs, while only a small fraction support slashing other domestic programs, raising taxes or increasing the deficit to finance it. New Orleans also has emerged as the chief target of angst. "The question is do we really want to flood New Orleans with money," said Rep. Jack Kingston (R-Ga.).

Kingston said he has detected a building hostility toward New Orleans among his constituents, based on reports that local officials mismanaged the crisis, along with federal dollars that had previously flowed the region's way. "What we are hearing from constituents is: 'Wait a minute, slow down on this,' " Kingston said.

Deficits have rarely emerged as a potent political issue, with the exception of Ross Perot's independent bid for the presidency in 1992, but some worried Republicans believe the deficit may soon reach an untenable level, especially if Democrats can link it to Republican mismanagement.

"I don't know that anyone ever lost a race because of the deficit, but there is concern" that it could happen this time around, said Rep. Thomas M. Davis III (R-Va.), the former head of the National Republican Congressional Committee. "You can't just keep piling up debt."

Message Chaos Afflicts Both Parties As Katrina Aftermath Washes Discipline Away (WP)

By Dana Milbank

The Washington Post, September 21, 2005

For about an hour and a half yesterday, Republicans had a new tax-cut policy.

Addressing a group of credit-union officials in the morning, Treasury Secretary John W. Snow said that hurricane recovery spending would "push to the back burner" the GOP's plans to extend the tax cuts this year.

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But about 90 minutes later, House Majority Leader Tom DeLay (R-Tex.) held a news conference in his office and asserted that "we're not reexamining" the commitment to extend the tax cuts. "That's not an option," DeLay said, then, for emphasis, added: "Not an option."

Across the aisle and on the other side of the Capitol, Democrats were having similar difficulty staying on message. Senate Minority Leader Harry M. Reid (D-Nev.) went to the Senate floor to announce his opposition to Supreme Court nominee John G. Roberts Jr., and to say that "senators should take notice" of the civil rights objections to the nominee.

But as those words were ringing through the chamber, the ranking Democrat on the Senate Judiciary Committee, Sen. Patrick J. Leahy (Vt.), was outside the cloakroom telling reporters that Reid "is speaking as an individual and as the senior senator from Nevada." The leader of the Democrats, Leahy said, is "not speaking for the caucus."

Katrina has washed away party discipline in Washington. With President Bush submerged -- a Gallup poll released yesterday showed that his support has actually fallen to 40 percent since his prime-time speech from Louisiana last week -- Republicans decided to stake out their own positions. And Democrats, with no obvious party leader, are quarreling over message and messenger.

The result: It's every man for himself in Washington. Nature may abhor a vacuum, but politics loves one.

The chairman of the House Republicans' campaign effort, Rep. Thomas M. Reynolds (N.Y.), told colleagues that they should drop plans for Social Security legislation this year. House Speaker J. Dennis Hastert (Ill.) said Reynolds spoke only for himself.

Vice President Cheney said he sees no need for a "czar" to oversee the Katrina response. But Sen. John McCain (R-Ariz.) said after meeting with administration figures yesterday: "I feel we need a czar, an administrator."

The message chaos in the governing party would seem to present an opportunity for the Democrats. But the opposition party is itself divided. Oppose Roberts? Pull out of Iraq? Repeal tax cuts? Democrats are split -- and leaderless.

Democratic National Committee Chairman Howard Dean took a turn as party leader last week, comparing Roberts to DeLay and Bush aide Karl Rove. House Minority Leader Nancy Pelosi (Calif.) has also vied to speak for the party, calling Bush "oblivious, in denial, dangerous."

On Sunday, former president Bill Clinton took his turn as party leader, attacking the Bush tax cuts. Sen. John F. Kerry (Mass.) and John Edwards, his former running mate, gave dueling auditions for party leader on Monday.

Yesterday, Reid took the party's reins. Apparently unable to settle on a theme for a morning news conference with Pelosi, the two leaders' news bulletin promised a smorgasbord: Katrina, the federal budget, judicial nominations and the Voting Rights Act.

In the afternoon, Reid held a session with reporters in which he acknowledged that his status as the party's Senate leader only goes so far. "Roberts will get plenty of votes" from Democrats, he said. Reid said he did not ask other Democrats to vote no because "you can only go to the well so many times."

As Reid abandoned hope of a party line on Roberts, Republicans down the hall were openly rebelling against the administration. After meeting with White House budget director Joshua B. Bolten, the GOP senators emerged decidedly off-message, demanding a recovery "czar" and criticizing Bush's spending habits.

Sen. Sam Brownback (R-Kan.) speculated that money will be saved because "we're going to be pulling troops out" of Iraq next year. Sen. Conrad Burns (R-Mont.) demanded "some idea" from the administration on Katrina spending, saying: "You'll spill more on the ground than you'll get to the trough."

DeLay, for his part, seemed to be paying the administration no attention at all. A week ago, at a time when Bush was saying "we're going to have to cut unnecessary spending" to pay for the Katrina response, DeLay said the House Republicans had cut just about everything there was to cut.

At his weekly news conference yesterday, when a reporter asked about future supplemental spending for Katrina, DeLay interrupted. "We don't know that there's going to be another supplemental," he said.

This seemed odd because Bolten had said two weeks earlier that he expected "a need for additional supplemental spending."

The reporter pressed, saying "we assume there is" going to be more Katrina spending.

"No," DeLay said, "we don't."

Katrina Clean-up Will 'hurt Bush Agenda' (FT)

By Caroline Daniel

Financial Times, September 21, 2005

The need to focus on the damage and clean-up from Hurricane Katrina will delay other parts of the administration's economic agenda, John Snow, US Treasury secretary, admitted on Tuesday.

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"It's taken over the national agenda and I think it will for a while," said Mr Snow said during remarks to the National Association of Federal Credit Unions in Washington. "I think it will push to the back burner some issues that otherwise would have been on the agenda now the estate tax, tax cut permanence, GSEs [government-sponsored enterprises] and other things."

Mr Snow also played down estimates that reconstruction work following Katrina, which struck the Gulf coast on August 29, would eventually cost taxpayers $200bn (£110bn, €165bn).

"Will the relief and reconstruction by costly? Of course it will," he said. "But I want to assure you that this administration. . . will not stray from our course of federal deficit reduction."

White House officials denied that Mr Snow's remarks meant Mr Bush was re-thinking his agenda. "The president has said the Katrina recovery effort will be the top priority," said Trent Duffy, White House spokesman. "The rest of his agenda is still important. A lot of tax relief does not expire this year, so there is no tremendous urgency. He will not raise taxes."

Scott Milburn, spokesman at the Office of Management and Budget, added: "We think tax cuts still need to be made permanent. That is key to preserving our economic expansion."

The comments come amid fierce political skirmishing over tax cuts, and concern from both Democrats and Republicans about how to pay for post-Katrina reconstruction. There are also continued concerns about the $62bn in immediate hurricane relief approved in two separate bills by Congress.

Newt Gingrich, former House speaker, said: "Congress has granted $61,000 per person [to hurricane victims] in the Gulf Coast from the two panic bills. Before they go charging off a cliff, they need to look at that."

Democrats have used the battle over hurricane spending to resist efforts to make the tax cuts permanent. Those concerns were echoed on Monday by a prominent Republican senator, George Voinovich of Ohio.

Yet many Republicans are eager to press ahead. When asked whether he would reconsider his stance on permanent tax cuts, Tom DeLay, House majority leader, said, "That is raising taxes and. . . that is not an option." Mr DeLay also warned that failing to make the tax cuts permanent could "pour cold water" on economic growth.

Conservative members of the House Republican Study Committee are also expected on Wednesday to launch "Operation Offset" a push designed to outline ideas for spending cuts and to reduce the federal debt "so that the reconstruction costs aren't passed on to our nation's children and grandchildren in an enormous debt burden", the group said.

Lawmakers Prepare Plans To Finance Storm Relief (New York Times)

By Carl Hulse

New York Times, September 21, 2005

WASHINGTON, Sept. 20 - Conservative House Republicans plan to recommend on Wednesday more than $500 billion in savings over 10 years to compensate for the costs of Hurricane Katrina as lawmakers continue to struggle to develop a consensus on the fiscal approach to the disaster.

At the top of a partial list of the potential cuts being circulated on Tuesday were previously suggested ideas like delaying the start of the new Medicare prescription drug coverage for one year to save $31 billion and eliminating $25 billion in projects from the newly enacted transportation measure.

The list also proposed eliminating the Moon-Mars initiative that NASA announced on Monday, for $44 billion in savings; ending support for the Corporation for Public Broadcasting, $4 billion; cutting taxpayer payments for the national political conventions and the presidential election campaign fund, $600 million; and charging federal employees for parking, $1.54 billion.

"What House conservatives will demonstrate through Operation Offset is that there is more than enough room in the federal budget to provide for the needs of the families affected by Katrina without raising taxes," said a House Republican aide who is working with lawmakers on the proposals and who insisted on anonymity because the package would not be made public until Wednesday.

The suggestions are certain to draw serious opposition from other lawmakers who consider those programs essential, illustrating the difficulty faced by the majority Republicans in finding acceptable ways to offset the hurricane costs.

Before the list was made public, Representative Tom DeLay of Texas, the House majority leader, declared that delaying the Medicare plan was a nonstarter. Mr. DeLay also expressed skepticism that most lawmakers would want to revisit the transportation bill, saying he would be reluctant to sacrifice the projects that he won for his district in the Houston area.

"My earmarks are pretty important to building an economy in that region," Mr. DeLay said of the local projects he backed in the bill. A watchdog group said those items totaled more than $114 million.

Mr. DeLay said Republicans would press ahead this year with their planned tax cuts, though Treasury Secretary John W. Snow told a trade association on Tuesday that some tax measures might have to be delayed, including a repeal of the estate tax and the effort to make permanent some cuts instituted earlier in the Bush administration.

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"I think it will push to the back burner some issues that otherwise would have been on the agenda now," Mr. Snow said in a speech to the National Association of Federal Credit Unions.

Senate Republicans met for more than an hour on Tuesday with Joshua B. Bolten, director of the Office of Management and Budget, to try to hash out an approach to hurricane-related spending, a problem that lawmakers acknowledge is among the most difficult they have faced.

Senators said they continued to press the White House to name a prominent individual to oversee the relief effort, creating a central contact point for the flow of money, as well as many legislative proposals.

In the House, Democratic leaders called for establishing a special commission to try to prevent fraud and abuse in spending on the recovery.

"We need to make sure that federal contracts are awarded based on confidence and integrity instead of cronyism and greed," Representative Henry A. Waxman, Democrat of California, said. "And at long last, we need to start putting the interests of the taxpayers ahead of the private contractor."

Senate Republican leaders promised to be diligent in overseeing the money, which they said was being spent more slowly than immediately after the storm. They said they would keep the deficit in mind.

Senator Bill Frist of Tennessee, the majority leader, said Congress needed "to make sure that that money is spent wisely, that it is spent with full accountability, that it is spent with fiscal responsibility and transparency."

There was a sharp split among Republicans. Some were more insistent on clearly defined cuts than others.

"There is no agreement to pay for this at all," Senator Judd Gregg, Republican of New Hampshire, said. "Those of us who would like to pay for it are very much a minority within our caucus."

Mr. DeLay said estimates that the recovery and rebuilding effort could cost $200 billion or more were unfounded. Other lawmakers disputed that, saying none of the rebuilding costs have been considered, as the Louisiana delegation is preparing a multibillion-dollar aid request.

Republicans Split Over Paying For Hurricane Aid (REU-Y2)

By Richard Cowan

Reuters, September 21, 2005

Republicans in Congress are deeply split over whether to pay for the burgeoning costs of hurricane relief by cutting domestic programs or to simply add billions of dollars to the growing U.S. national debt, top lawmakers and congressional aides said on Tuesday.

"There's no agreement to pay for this at all. Those of us who would like to pay for it are very much a minority within our caucus," said Senate Budget Committee Chairman Judd Gregg, a New Hampshire Republican.

A Senate leadership aide concurred, saying, "Judd's comment is probably accurate."

Congress has approved $62.3 billion in emergency aid following the death and destruction suffered along the Gulf Coast after Hurricane Katrina slammed ashore last month.

Some early estimates pegged the ultimate federal cost of repairing infrastructure, homes, businesses and farms in Louisiana, Mississippi and Alabama at around $200 billion.

Last week, House Majority Leader Tom DeLay told reporters that "it is right to borrow to pay for it."

But with the Bush administration expected to ask for another round of emergency funds in coming weeks, conservative Republicans in the House and Senate are increasingly vocal about the need to offset costs with domestic spending cuts.

Revisiting the issue on Tuesday, DeLay said, "We are in the process of looking" at spending cuts that might help pay for the biggest federal disaster relief effort in history.

He added that tax increases "are not an option."

In the Senate, Gregg refused to rule out tax hikes, saying Congress must "look at all functions of the budget, including the revenue side."

He refused to say whether a revenue review could include consideration of tax increases, putting off extensions of Republican tax cuts already enacted or raising the wide range of government fees on businesses and individuals.

"I'm willing to look at a revenue solution and I'm not going to get too specific about it," Gregg said after leaving a meeting of Senate Republicans also attended by Vice President Dick Cheney.

If Republicans choose the spending-cut route, a tough fight is anticipated. Prominent Republicans, including Sen. John McCain (news, bio, voting record) of Arizona, called for delaying next year's start of a Medicare prescription drug benefit for the elderly and cutting highway projects approved this summer.

DeLay called the Medicare postponement a "nonstarter" and noted President Bush had ruled out the idea. He said it would be difficult to reopen the highway legislation, which took two years to pass.

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Also on Tuesday, the Federal Reserve raised key interest rates for the 11th straight time and signaled more increases to come, saying Hurricane Katrina will provide only a temporary setback to economic growth.

That conclusion is at odds with the views of some House Republicans, including Speaker Dennis Hastert, who have voiced support for an economic stimulus they say is needed to counter any hits the economy could take because of the storm.

The liberal Center on Budget and Policy Priorities on Tuesday said such a package of tax cuts, which would likely help businesses and individuals not hit by the hurricane, would be "costly" and "ill-advised."

(Additional reporting by Joanne Kenen)

GOP Factions Vie Over Offset Plans (RC)

By Ben Pershing

Roll Call, September 21, 2005

The debate over paying for the recovery from Hurricane Katrina continued Tuesday as various factions within the House GOP floated ideas for spending offsets and jockeyed for position.

Majority Leader Tom DeLay (R-Texas) embraced the idea of finding spending offsets but declined to endorse any specific proposals, while the conservative Republican Study Committee met with GOP leaders to discuss their own plans and Republican moderates focused on strengthening oversight of the massive federal outlays that are already under way.

The RSC's meeting with the leadership Tuesday came as some leaders had grown concerned that the conservative group's high-profile push for spending offsets were making the party look bad.

In classic Washington, D.C., fashion, one leadership aide described the meeting as a "frank" discussion, during which the RSC lawmakers were told that the total costs for Katrina were still unclear and that it was a useless exercise to try to find offsets for more than the $62 billion Congress has already appropriated.

"We don't have a $200 billion supplemental request from the president," said the leadership aide, who noted that the meeting ended with a spirit of cooperation. "We need to take a hard look at the RSC's list [of offsets]. ... If we have the votes to pass them, we'll do them."

While the RSC's hand would be strengthened if the group could attract some moderate lawmakers to its cause, such outreach appears unlikely in this case.

Though the RSC and the centrist Tuesday Group have been able to work together occasionally in the past, particularly on budget process reform, the two GOP factions are singing from different songbooks on Katrina.

"A lot of the things the RSC wants to do, to the moderates, are unrealistic," said Rep. Mike Castle (R-Del.), a leading Tuesday Group member.

Specifically, Castle and other moderate Members and aides said they would be unlikely to support the RSC proposal to delay implementation of the Medicare prescription drug bill for a year.

"I think that's more posturing than it is reality at this point," Castle said of the idea.

Instead, the Tuesday Group is primarily focused on implementing stringent oversight over the money Congress appropriates for Katrina. Many moderate lawmakers were in Chicago this past weekend to attend a Republican Main Street Partnership retreat, and those Members agreed to endorse a proposal by Rep. Jim Kolbe (R-Ariz.) to create a special inspector general to scrutinize Katrina spending.

But while the RSC has been vocal in staking out ground on the offsets issue, the Tuesday Group has been relatively quiet about its plans.

"We don't copy the RSC. We do our own thing," said Rep. Mark Kirk (R-Ill.), the co-chairman of the Tuesday Group.

Kirk suggested that the main difference between the two groups was stylistic, with the Tuesday Group preferring to work behind the scenes.

"The difference between us and the RSC is a lot less press releases," Kirk said. "I'm less interested in getting a lot of attention and more interested in getting the special IG."

The RSC will hold a press conference today to unveil the list of specific offset ideas the group shared with leadership Tuesday. Yet even within that conservative faction, the possibility remains that not every member will support all of the proposed spending cuts.

In an e-mail sent Monday to all RSC press secretaries, the office of the group's chairman, Rep. Mike Pence (R-Ind.), wrote: "We are coming up with a list of federal savings ... and are NOT asking all those who come to the press conference to endorse all the savings, but ARE SEEKING about 10 Members to specifically take ownership over one offset idea and speak to that at the press conference."

As the RSC trumpets its plan, DeLay has spent this week sharpening his own message about how to deal with the budgetary consequences of Katrina.

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At his press briefing last week, DeLay sparked controversy by lauding the GOP's record of fiscal discipline and declaring an "ongoing victory" against government waste.

Following an outcry from his fellow conservatives, DeLay sought to clarify his remarks Tuesday as a he faced a barrage of questions from reporters seeking specific details on how the billions of dollars spent on Katrina might be offset.

While conceding that he spoke "inartfully" last week, DeLay reiterated his praise for the party's overall record of fiscal accomplishment, saying that "this Republican House has been focussed on fiscal responsibility and fiscal restraint" since the GOP took power in 1995.

And after saying last week that he was waiting for someone to bring him a list of realistic spending offsets, DeLay reiterated Tuesday his desire to find spending cuts, though he declined to address many specific ideas.

"There are programs all over the federal budget that are bloated or wasteful or inefficiently using the funds we provide them, and I'm very interested in identifying them," DeLay said.

While DeLay agrees in principle with his fellow conservatives about the importance of finding offsets, the Majority Leader was dismissive of the idea to delay the Medicare bill by a year.

"The president has already spoken on that, and it's a non-starter," DeLay said. Arguing that the Medicare bill was actually designed to save money in the long run anyway, DeLay said that "postponing a reform that is going to implement fiscal restraint doesn't make a whole lot of sense."

He was less clear in his views on another potential spending fix: reopening the highway bill to remove Member earmarks.

"It's still an option, and we're going to look at that [and] many others," DeLay said, though he later emphasized the economic importance of the highway bill and political difficulties that would be associated with revisiting it.

After Minority Leader Nancy Pelosi (D-Calif.) said that she would be willing to forgo her highway bill earmarks to help pay for Katrina, DeLay was asked if he would do the same.

"I don't know about that," DeLay said. "I would take a look at it. My earmarks are pretty important to building an economy in that region."

DeLay also criticized the idea of putting off extending President Bush's tax cuts and said that they remained on the agenda, saying that not extending the cuts would be the equivalent of raising taxes.

"Katrina tax hikes are not about Katrina; they're about tax hikes, and they are not an option," he said.

Recovery's Cost Forces Lawmakers To Reassess Pet Spending Projects (KRT)

By James Kuhnhenn

Knight Ridder, September 21, 2005

WASHINGTON - Pressure is growing to help pay for Hurricane Katrina's costs by getting members of Congress to give up the pet spending projects they've inserted into legislation for their states or districts.

But some top lawmakers are decidedly unenthusiastic.

"Kiss my ear!" Rep. Don Young, R-Alaska, told a Fairbanks newspaper reporter when asked whether he'd return the $223 million he'd "earmarked" for a bridge in the Alaskan outback. Young is chairman of the House Transportation and Infrastructure Committee.

Earmarks are projects that have neither been requested by the administration nor deemed worthy by a congressional committee. Over the years they've become as prevalent as grease on a machine's gears. The 1991 transportation bill contained 538 earmarks. This year's had 4,373. Last year's catchall appropriations bill, which wrapped together seven of the 13 annual spending bills, contained 8,000 earmarks totaling $10 billion.

House Majority Leader Tom DeLay, R-Texas, scoffed at the suggestion that he give up his earmarks, saying highway projects in his district contributed to economic growth. One watchdog group estimated DeLay's total earmarks at $114.4 million over five years.

"My earmarks are pretty important to building an economy in that region," DeLay said. "What's good about the highway bill ... is it creates hundreds of thousands of jobs. It is an economic engine that drives the economy."

Still, as pressure grows to reduce Katrina's bite from the federal budget, many lawmakers are being forced to take a second look at their appetites for federal money.

In Bozeman, Mont., a citizens' group petitioned its congressional delegation to rescind the $4 million the city obtained for a parking garage and direct the money instead to Katrina's victims. Rep. Mike Pence, R-Ind., a leading conservative in the House of Representatives, said he'd give up his $16 million in highway-bill earmarks to help pay Katrina's costs.

But the usual refrain in Congress is that "one congressman's `pork' is another's bacon."

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House Democratic leader Nancy Pelosi, D-Calif., who guided $130 million in special projects into the highway bill, said Tuesday that she'd give up her own earmarks to help the devastated region. Later, however, she amended her stance, saying she wouldn't give up a $50 million retrofitting project for the Golden Gate Bridge to protect the span from earthquakes.

Rep. Henry Waxman, D-Calif., railed against Republicans for inserting special spending projects that he said were "out of control." But when he was asked whether he'd give up his own $16 million in pet projects, Waxman replied: "How about everybody's earmarks? ... If you want to get rid of all the pork barrel projects, I'm for that."

Getting rid of earmarks alone would hardly make up for Katrina spending, however, which may total $200 billion before it's done. Highway bill earmarks total only $24.2 billion over five years. Even if they all were rescinded, that would save only $9.8 billion over five years because much of the money would go to states anyway under complicated allocation formulas.

Katrina's costs, however, clearly are fraying congressional relations, particularly within Republican ranks. Vice President Dick Cheney and White House Budget Director Joshua Bolten told Senate Republicans on Tuesday that the administration will seek more money for Katrina relief and reconstruction in mid-October. Congress already has approved almost $62 billion.

The Katrina discussion, held during a closed-door luncheon in the Capitol, prompted many Republicans to complain that the administration was too eager to spend money on the devastated region without providing adequate financial safeguards and recommending ways to pay the expense.

But several senators said no one recommended giving back his or her earmarks. And when Sen. Judd Gregg, R-N.H., recommended a balanced package of spending cuts and revenue increases, he was met with stony silence.

Asked whether there were any alternative options worth pursuing to pay for Katrina, Sen. Pete Domenici, R-N.M., replied: "There aren't any. Everybody's mad."

A list of top earmarks, or "pork" projects, in this year's highway-spending bill compiled by Taxpayers for Common Sense, a budget watchdog group, is on the group's Web site at www.taxpayer.net/Transportation/safetealu/states.htm.

Highway Bill Earmarks Eyed For Storm Relief (WT)

By Stephen Dinan

The Washington Times, September 21, 2005

The top House Democrat said yesterday she would give up some specific transportation projects in her San Francisco district to help pay for Hurricane Katrina, but Majority Leader Tom DeLay said he doesn't think cutting projects in his district is a good idea.

"The highway bill is an important part of building our economy," Mr. DeLay said. "You cannot have a strong economy unless you have a strong infrastructure."

Earmarks -- the specific spending projects members of Congress write into bills, which critics call "pork" -- have become a major focus of conservatives who want to cut spending to help pay for hurricane relief.

The highway bill contains about $24 billion in earmarks, and House Minority Leader Nancy Pelosi, California Democrat, put other lawmakers on the spot yesterday morning when she said she would give hers up.

"I certainly would give up earmarks to help the people in the region," Mrs. Pelosi said, adding that her constituents would be "proud" to sacrifice.

But by the afternoon she had backtracked, saying she wouldn't give up all of the $128.6 million going to her district. She said the $58.8 million slated to retrofit the Golden Gate Bridge to protect it from earthquakes is a safety issue too important to forgo.

"You have to judge what are your priorities. And the priority for us, I think, is clearly about we want to help the people of the region," Mrs. Pelosi said, adding that Congress should first stop tax cuts planned for later this year.

Hurricane spending has become a dominant issue in Washington with lawmakers promising to spend whatever is necessary to rebuild the Gulf Coast. Some Republicans have called for deep cuts to pay for the spending, but they appear to be a minority.

Members of Congress have estimated Katrina's costs to be between $150 billion and $225 billion, but Mr. DeLay said nobody knows for sure.

"Anybody throwing around this $200 billion figure, it would be nice for one of you all to ask them where they get it, because there is no such a figure," he said. Mr. DeLay said that's why Republicans have not presented a comprehensive plan to pay for Katrina.

"The point is that if you don't know the figure, you don't have a plan," he said.

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Mr. DeLay took heat from conservatives after telling reporters last week that the government should borrow money and add to the deficit to pay for Katrina. He specifically rejected cuts to the transportation bill, saying he hadn't seen any that would work.

Asked if that meant the government was running at peak efficiency, Mr. DeLay said, "Yes, after 11 years of Republican majority, we've pared it down pretty good."

But this week, he embraced cutting and said all options should be on the table.

"We are looking at every opportunity to save money and provide offsets for that that has already been authorized to be spent," Mr. DeLay said. "And we are continuing to look, while we are having oversight of how things are being spent."

He also said he did not mean to say there is no cutting room left in the budget.

"What I said was, fiscal restraint -- and I said it inartfully, I know -- I said it is an 'ongoing victory.' Ongoing is the operative word," Mr. DeLay said. "We are always involved in fiscal restraint and fiscal responsibility ever since we have been in the majority."

He at one point defended higher highway spending, arguing it creates jobs. But he also took credit for a two-year fight that cut about $90 billion out of the bill the Senate wanted.

"That was an incredible effort -- I think a laudable effort -- to keep the bank account as closed as possible in the highways," Mr. DeLay said.

He ruled out some conservatives' proposal to delay the Medicare prescription-drug benefit, set to kick in next year at a cost of $40 billion.

"That is a nonstarter," the Texas Republican said. "Medicare is a reform to save spending."

Gregg Open To Katrina Tax Increase (HILL)

By Jonathan Allen

The Hill, September 21, 2005

The chairman of the Senate Budget Committee refused to rule out increasing taxes yesterday as he and many of his GOP colleagues called for offsets to temper the effect of the next round of federal spending for disaster relief in the Gulf Coast.

“We’ve got two sides to the ledger,” said Sen. Judd Gregg (R-N.H.). “I’m willing to look at a revenue solution … as part of a package.”

Though Gregg declined to specify or rule out any solution, there are limited options for generating revenue, many of which involve deferring expected tax cuts or increasing taxes in a targeted or across-the-board fashion.

Conservatives demanded accountability and offsets in the next package of spending for the recovery from Hurricane Katrina, but many of them, including House Majority Leader Tom DeLay (R-Texas), scoffed at tax increases.

“The so-called Katrina tax hikes are not about Katrina; they’re about tax hikes and will only serve to balloon the oversized, under-responsive emergency-management system that broke down three weeks ago in the wake of the hurricane,” DeLay said in a House floor speech, according to prepared remarks provided by his office.

Like DeLay, most Republicans who called for offsets focused solely on spending.

Many said they would like to see offsets in the form of reductions in government “waste, fraud and abuse.” Others called for increasing the amount Congress plans to cut from mandatory programs through budget reconciliation — currently $35 billion over five years — later in the year.

That could lead to funding Katrina recovery through more severe cuts to programs aimed at the poor and elderly. Medicare, Medicaid and food stamps are among the programs on the chopping block in a reconciliation process that was already pushed back after Katrina hit.

House Minority Leader Nancy Pelosi (D-Calif.) and others sharply criticized Republican budget priorities. “Even though Katrina took a price, and even though a mirror was placed in front of America that shows a face that we sometimes choose to ignore, the majority here in the Congress has still said that they will go forth with a budget that will give $70 billion in tax cuts to the wealthiest people in America,” she said.

Sen. Sam Brownback (R-Kan.) repeated his call for a commission to review government programs, similar to the one that closes and realigns military bases. Brownback introduced legislation in 2002 that would create such a panel, called the Commission on the Accountability and Review of Federal Agencies.

Sen. John Sununu (R-N.H.) said tax increases could slow the economy, but he said he might support “rethinking” business incentives in the recently enacted energy law, a position he has long advocated. Sen. Pete Domenici (R-N.M.), chairman of the Energy Committee, said there should have been more, not fewer, industry incentives.

There have also been many calls from both sides of the aisle to reopen the recently passed highway bill and cut some of the earmarks after congressional passage of $62.3 billion in emergency relief.

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DeLay was ambiguous about whether or not he favors reopening the bill. “Everything is an option if it makes sense,” he said.

He did say he would not request the repeal of highway projects in his own district after Pelosi volunteered cutting her own transportation projects to help foot the cleanup costs.

One Senate Republican aide pointed out that many of the suggestions for offsets are either unrealistic or would hardly make a dent in the spending. “It’s going to be very difficult to pay for this because of the size,” the aide said.

The White House on Monday rejected suggestions that implementation of the landmark Medicare prescription-drug law enacted in 2003 should be delayed to offset Katrina spending. Already, Congress has spent $62.3 billion on the recovery effort. But lawmakers are concerned that there has been little scrutiny in the first two relief packages.

All across the Capitol yesterday, lawmakers and aides discussed how to handle the next round of Katrina-related spending, which GOP aides say is not likely to be doled out until after an October recess.

Josh Bolten, the director of the White House Office of Management and Budget, met with Republican senators yesterday afternoon.

Republican leaders in the Senate are assessing how to arrive at a budget for future spending, the question of possible offsets and means of ensuring accountability for the money that they send to the Gulf Coast, according to a senior Senate Republican aide.

Only $14 billion of the money appropriated so far had been spent as of Monday night, the aide said.

House conservatives, led by Republican Study Committee Chairman Mike Pence (R-Ind.) and Rep. Jeff Flake (R-Ariz.), were expected to unveil a plan for offsetting Katrina spending today.

Foreign Investment Aids Cleanup, Despite Adding To U.S. Deficit (WP)

By Jonathan Weisman

The Washington Post, September 21, 2005

On Friday, as official Washington fretted over the potential fiscal calamity of Hurricane Katrina, the Treasury Department let Americans know where the money would come from to rebuild the Gulf Coast: foreign investors.

The latest Treasury report on foreign lending showed that investors abroad poured $101.4 billion into the United States in July alone -- a voracious clip -- to snap up stocks, bonds and everything else available. So while the federal government keeps spending and while tax cuts remain politically sacrosanct, continued foreign investment should help pick up the estimated $200 billion cleanup tab for Katrina and further postpone a final reckoning on the budget deficit.

"We know [Katrina] is an extraordinarily consequential event for the people and the region, but it's one the economy can weather," said Douglas Holtz-Eakin, director of the nonpartisan Congressional Budget Office. "The evidence is, we can finance this with borrowing. I don't see any evidence we couldn't do that."

Any debt must be paid back, with interest, so running up the deficit to reconstruct the Gulf region carries a cost, at least to future generations. Foreign holdings of U.S. government debt exceeded $2.03 trillion in July, meaning that every man, woman and child in the United States owes foreign investors $6,846.

Holtz-Eakin said Congress and President Bush face a choice on how to finance the recovery: raise taxes, cut spending or let foreigners pay. The decision will reveal much about the government's ability to set priorities in the face of far larger challenges, such as the baby boom's nearing retirement, Holtz-Eakin said.

Ever since record budget surpluses turned to yawning deficits, some economists have issued warnings of pending doom that have yet to come true. They predicted that foreign lenders would sour on U.S. government debt as the Treasury Department sold billions of bonds and notes each day. To keep those buyers happy, interest rates would have to rise substantially. Housing, cars and other items bought on credit would turn expensive, and the U.S. economy would slide into recession.

Despite such warnings, Congress and Bush cut taxes every year since 2001, and spending soared, largely to finance the war in Iraq but also to fund the largest expansion of Medicare since President Lyndon Johnson created the program in 1965, the most expensive transportation and public works bill in history, and now, the biggest domestic reconstruction effort ever.

Compared with the size of the economy, federal tax revenue has plunged, to 16.3 percent of the gross domestic product last year from 20.9 percent in 2000, before recovering to 17.5 percent of the GDP this year. Meanwhile, spending has climbed steadily, to an estimated 20.2 percent of the economy this year from 18.4 percent in 2000, and that CBO estimate came out before Katrina struck.

But economic disaster has not hit.

"These long-run worries, there's an element of truth to them, but I think frankly the fears are exaggerated," said James Glassman, senior U.S. economist at J.P. Morgan Chase.

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On the contrary, tax receipts, buoyed by a thriving corporate sector, set a single-day record last Thursday. The Treasury pulled in $71 billion that day, shattering the $61 billion record set June 15. And corporate tax receipts on Thursday -- $63 billion -- surpassed the total for any previous month on record. At 4.9 percent, the unemployment rate is the lowest since August 2001.

And interest rates have shrugged off Katrina. The small increase in rates in recent days stems mainly from inflation fears that predated the hurricane, said Steven Englander, chief currency strategist for North America at Barclays Capital in New York.

That seeming contradiction can be solved by looking abroad. Foreign holdings of U.S. government debt reached slightly more than $1 trillion in 2000 and have more than doubled since. Japan, long the nation's largest creditor, now holds $683 billion in U.S. government debt. China, which recently surpassed Britain as the United States' second largest lender, has seen its stake in the U.S. government more than triple, to $242 billion this summer from $71.4 billion in 2000.

And there does not seem to be much lessening of appetite. Foreign purchases of U.S. stocks and bonds have nearly doubled in the past four months. Asian nations appear intent on buying U.S. assets to prop up the value of the dollar and keep U.S. interest rates low, thus helping U.S. consumers buy their goods. And that Asian buying spree is financed by U.S. consumers who continue their spending on Asian goods. On top of the bill for that new flat-screen television, add the interest owed to Chinese and Japanese lenders.

The United States also remains blessed by its competition: Foreign investors, looking for a stable place to park their money, still see U.S. assets as far more attractive then European or Asian investment options.

Katrina will do nothing to shake that arrangement, said Michael P. Dooley, a senior adviser at Deutsche Bank in New York and an expert on currency markets.

And Katrina just is not as big as it sounds, most budget analysts agree. Currently, about $4.1 trillion in U.S. government debt is traded worldwide. So far, Congress has enacted $64.6 billion on Katrina-related legislation, and the Senate has approved additional legislation worth nearly $11 billion. Without doubt, $75.6 billion is a large amount, larger than the budgets of the Justice, Homeland Security and Energy departments combined. But borrowing $76 billion tomorrow would add a little more than 1 percent to the amount of federal debt already on the market.

Nevertheless, economists who have warned for years of the dangers of the deficit are not about to give up yet, "not on your life," said Stephen S. Roach, chief economist at Morgan Stanley and a leading deficit hawk. "Here we are taking on $150 [billion], $200 [billion], $300 billion in debt for Katrina at a time when we're doing Iraq, we're doing Afghanistan, and the national savings rate is at a record low for any leading nation in the history of the world," he said. "It will come back to haunt us."

House, Senate Agree On Hurricane Tax-Relief Bill (WSJ)

By David Rogers

The Wall Street Journal, September 21, 2005

WASHINGTON -- House-Senate negotiators agreed on an estimated $6 billion tax-relief bill to expand deductions this year for Hurricane Katrina survivors and spur employment of low-income workers on the Gulf Coast.

The measure, expected to be sent to President Bush this week, would temporarily relax tax rules to encourage corporate cash donations and make it easier for displaced families to deduct storm losses and claim refunds on past taxes.

While the precise costs weren't available last night, estimates are that it could provide about $6.2 billion in tax relief for the next 24 months. Republicans are promising a second round of hurricane-related tax relief, but a Congressional Research Service report warned that such an approach often provides less help for low-income families with lower tax liability.

The final talks centered on two employer tax credits to encourage companies to hire hurricane survivors or keep employees on the payroll during this period of business interruption. House tax writers preferred to target these credits -- valued at as much as $2,400 a year -- at workers in the disaster area. The Senate approach was more to track survivors and help them find new jobs -- or temporary assignments with their old employers -- regardless of location.

The compromise gives preference to the hard-hit areas, such as New Orleans, but recognizes the need to help evacuees stabilize their lives as well. The existing Work Opportunity Tax Credit would be extended to Katrina survivors for two years if hired inside the disaster area and just through the end of 2005, if hired outside.

Similarly, the House agreed to a three-month experiment with a new Senate-backed employer credit intended to help distressed companies keep workers on their payrolls. The credit is limited to employers in the disaster area with fewer than 200 employees -- which would appear to exclude many of the larger casino operators along the Gulf. The House agreed to reconsider the idea as part of future tax legislation.

Wealthy small-business owners will benefit from a provision lifting the limit on how much a corporation can deduct -- as a percentage of taxable income -- for cash contributions to Katrina relief. Beyond Katrina, there is a short-term improvement in deductions for contributions of food and book inventories, and the bill opens the door for noncorporate taxpayers, such as a farm

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partnership, to participate in food deductions. The publishing industry failed to get one of its top priorities, allowing an inflated adjustment in the value of books donated.

Property owners stand to benefit most from provisions that make it easier to claim deductions on storm losses and that extend the time period for buying a replacement home or building before being subject to taxes. Casualty losses attributable to Katrina are made fully deductible regardless of whether the loss exceeds 10% of a taxpayer's adjusted gross income. Moreover, a taxpayer can carry back these deductions to apply them to 2004 taxes, yielding a refund on taxes paid.

For example, under current law, a person with an adjusted gross income of $40,000, who has lost a car valued at $5,000, can only deduct $1,000. A Katrina survivor could claim the full $5,000.

Tax writers say this will help persons of all incomes. A second provision allowing families to take money from retirement accounts without penalty would most benefit those with large holdings.

In The Gulf Zone (WSJ)

The Wall Street Journal, September 21, 2005

If we had our druthers, all of America would be an "opportunity zone," with low and flat-rate taxes and little of the regulation that can strangle economic development. But the battered Gulf Coast is a good place to start with these investment-friendly reconstruction incentives, and so Congress could (and probably will) do much worse than enact President Bush's Gulf Opportunity Zone.

The idea is to lure businesses back to the region through lower tax rates, incentives for new capital investment, and low-cost business loans and loan guarantees. So far the details are sketchy. But one promising magnet for capital is the small-business expensing plan, which allows firms to immediately deduct from their federal tax bill the first $100,000 of the cost of a new office, plant or equipment. We're typically against temporary tax incentives, but if anything warrants such a lift, the aftermath of Katrina does -- and especially as an alternative to the "Marshall Plan" for new federal spending via FEMA or a bureaucratic cousin that is already being proposed in Washington.

We only wish the tax incentives went further than what Mr. Bush has proposed. Why not allow the Gulf to operate as a laboratory for a flat tax, with an 18% rate and no taxes whatsoever on capital investment for businesses -- small and large? And if this works for New Orleans, as it has for so many of the former economically ravaged nations of East Europe, then make it the law of the land.

The Bush plan also provides an "urban homesteading" feature, whereby low-income families would be given a free plot of federal land in the ruined areas in exchange for a commitment to build a home there. It's a truism that people better maintain homes that are their own property. The plan also contains what amounts to a voucher for students uprooted by Katrina. They'd be able to use up to $7,500 for public, but also for private or religious, schools -- which has the teachers unions up in arms. Leave it to the National Educational Association to let its own monopoly interests trump the welfare of kids, even in the wake of a disaster.

The Office of Management and Budget is also compiling a list of onerous and anti-growth federal regulations that would be suspended in the hurricane region. This should include environmental rules and mandates that have closed down the oil refinery business in this critical national oil, gas and energy hub. And we're glad to see Transportation Secretary Norman Mineta reporting, in a letter to us on Monday, that highway reconstruction is already under way using bonus incentives to reward faster work.

The price tag for these proposals would be a tiny fraction of the cost of a federally directed welfare state/public works effort, which seems to be the choice of Democrats -- and too many Republicans. Congress has already appropriated $62 billion in federal aid and another $100 billion is in the works. That's all new spending, by the way; a better option would be to divert money from pork-barrel projects to Katrina relief. (See below.)

It was through a combination of local civic organizations and business investment that other proud American cities were rebuilt after other disasters. At least one-half of the structures in San Francisco were toppled or burned to the ground, and a quarter million Californians left homeless, by the Great Earthquake of 1906. Within three years the city was rebuilt without any FEMA aid, Small Business Administration loans or federal housing assistance.

Similarly the Chicago Fire of 1871 razed virtually every building in the entire downtown business district (save for the famous Water Tower), while scores of outlying neighborhoods were destroyed. As a recent report from the Foundation for Economic Education details: "Within two years this burned city had been almost completely rebuilt through private aid and initiative." The group that so heroically coordinated the entire relief effort, including housing 157,000 suddenly homeless people and employing tens of thousands of others, was the Chicago Relief and Aid Society.

It is precisely in this spirit of compassion, enterprise and business acumen that New Orleans should be restored to its past glory. Congressman Bobby Jindal, who represents a large slice of New Orleans and whose own home has been nearly

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destroyed, warns that now is not the time for a bidding war of spending between the two parties. Rather, he says, "We now have a once-in-a-lifetime opportunity to let the free market policies that we know will work for New Orleans flourish." And if it works there, why not everywhere?

Sleight Of Budgeting (NYT)

The New York Times, September 21, 2005

The decision by Congressional leaders to delay action on their tax-and-spending bills was most welcome. The bills' broad outlines were drawn up pre-Katrina, and were objectionable even then: spending cuts totaling $35 billion over five years in programs for low- and moderate-income families, and $70 billion in new tax breaks, mostly for the most affluent families. Counting interest, the bills would increase the deficit by $40 billion over five years.

Post-Katrina, those plans would be scandalous, highlighting the skewed priorities that have put the country into a tight financial spot as it copes both with hurricane damage, and with the social and economic rifts that Katrina has exposed.

Unfortunately, it's increasingly unclear why Congress imposed the delay. (The deadlines were shifted into October and early November.) Initially, it appeared that lawmakers needed time to recast their priorities - away from budget cuts that would reduce the aid for hurricane victims and other needy Americans, and away from high-end tax cuts that would needlessly starve the Treasury at a time of mounting rebuilding costs.

Now, however, it appears that postponement may be only a tactical move to recast Katrina as the event that requires Congress to hack away at existing programs to pre-empt unacceptably large deficits from reconstruction spending. That's false.

Katrina cannot and should not be paid for by cutting government programs, unless the goal is to end up with a government that's even less effective than it was before Katrina. True, there's fat that Congress should trim. But even if members of Congress were willing to rescind the porkiest of the pork spending they approved in the highway bill passed last summer, doing that would raise about $24 billion.

That would be a nice offset for the estimated $200 billion price tag for Katrina, but hardly enough. Bigger cuts that have been suggested, like delaying the start of the Medicare drug coverage plan, are not workable, not to mention political nonstarters for President Bush and for Republican leaders.

What is needed most is more revenue, and that requires Congress to stop cutting taxes.

But Congress appears to be angling to proceed with business as usual while disguising what it is doing. If all goes according to plan, Congress will take up the spending-cut bill weeks before the tax-cut bill.

That would be the first time lawmakers had split such deficit-bloating legislation into two separate bills, raising the suspicion that they're trying to hide the fact that $35 billion in spending cuts, heartless and misguided as they are, would be used to help pay for the $70 billion in new tax breaks - not for deficit reduction and certainly not for Katrina.

The lawmakers' only responsible course of action is to give up on tax cuts, but they are balking. Wedded to tax cuts himself, President Bush cannot lead them where they need to go. It's up to the American people to push their representatives in the right direction.

To Rebuild New Orleans (LAT)

The Los Angeles Times, September 21, 2005

After Hurricane Katrina flooded New Orleans, federal officials warned that the city could be underwater for three months or more. Instead, aided by hot sun and clear skies, the Army Corps of Engineers expects to have the streets of New Orleans pumped dry by the end of this week — provided, of course, that Hurricane Rita doesn't send the water right back over the city's weakened levees.

The pumps' progress led Mayor C. Ray Nagin to start the city's revival too early. On Sunday, Nagin invited residents of the Algiers neighborhood to return home, then rescinded the invitation the next day as Rita bore down on the Gulf of Mexico.

As this episode illustrates, it's time for officials on the Gulf Coast to shift from the pedal-to-the-metal urgency of the rescue efforts to the more deliberate pace of reconstruction. As important as it is to rebuild New Orleans and let evacuees return to their homes and jobs, it's even more critical to ensure that the rebuilt version of the Big Easy does not simply mimic the one Katrina laid to waste — a city ridden by poverty and unemployment, with the poorest residents living in the areas most vulnerable to flooding.

That kind of economic resuscitation will require both a willingness to try new approaches and an attention to history. This country has learned much in the last 40 years about how to revive a city (and, sadly, how not to). New Orleans, more than any city in the nation, can be the beneficiary of those lessons.

Government has three basic, interrelated tasks: rebuilding the city's infrastructure, reviving its economy and resettling its population.

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President Bush has pledged that Washington will cover the bulk of the cost of rebuilding New Orleans' roads, bridges, sewers and other public works. Because these are expensive projects that will consume most of Washington's Katrina relief budget, federal and state officials should look for ways to put private dollars to work — for example, by joining forces with private companies to share the cost of toll roads and bridges, then splitting the revenue.

The city's human infrastructure is badly in need of repairs too. Although the investment will take years to yield dividends, the city needs better schools to help residents climb out of poverty and make the city more attractive to employers. The private sector could play an important role here too, through efforts such as charter schools.

To revive New Orleans' economy, Bush has proposed creating "Gulf Opportunity Zones." Similar to the "enterprise zones" that have been declared across the country since the 1980s, these would offer about $2 billion worth of tax breaks and loan subsidies to businesses that build and equip offices in Katrina's wake.

Although some analysts are enthusiastic about enterprise zones, they may not be the best way to encourage New Orleans' recovery. In general, most new jobs emanate from new, small businesses, which don't benefit much from tax breaks because they don't have much taxable income. By contrast, the beneficiaries of enterprise zones often are established businesses that move their offices into the zone to lower their tax burden.

If the goal is to help the economy of New Orleans without siphoning jobs from other cities, policymakers need to find ways to help entrepreneurs create jobs there that residents can and want to fill. That means making it easier and more profitable for companies to create jobs for local residents, and making it easier for residents to do the work.

Education is obviously key to that effort, and so is housing. On the housing front, the administration plans to spend $5 billion to place evacuees in 300,000 mobile homes, trailers and other temporary structures. This plan has drawn flak from both sides of the political spectrum, and rightly so. The "temporary" enclaves isolate evacuees, rather than letting them resettle close to where they can find work. The better approach is to stick with vouchers that evacuees can use to rent housing in the communities of their choice.

Hundreds of thousands of homes were damaged by Katrina and subsequent flooding, and roughly half of the homeowners in New Orleans carried flood insurance. The rest, along with many of Katrina's other victims along the Gulf Coast, are left to haggle with their insurance companies over how much of their loss was caused by Katrina's winds, which would be covered by homeowner's insurance. The federal government can help both groups by offering adjusters assistance in calculating losses and mediators assistance in determining their cause.

For the city's poorest residents, the government should follow Baltimore's example and build low-rise, mixed-income developments that are proving more resistant to crime than the projects they replaced. Planners now have a better understanding of how to design low-income housing to discourage crime. They will have an opportunity in New Orleans to use what they've learned from the successes and failures of numerous American urban renewal projects.

Finally, as Congress and the administration open the federal spigot to aid the Gulf Coast, the public has the right to know exactly where its money is going — and the obligation to share the pain.

Taxpayers have put up more than $60 billion for the rescue and recovery effort so far, and may be asked to spend three times that amount on the Gulf Coast. The best protections against waste and misuse are to ensure that contractors compete for all the projects and publicly account for their spending.

At the same time, Congress should plan to pay off the massive spending on Katrina over the next few years rather than adding to the already burgeoning deficit. The burden should be spread broadly by cutting or postponing far-reaching programs; a good place to start would be the $25 billion that Congress recently authorized for lawmakers' pet highway projects across the country.

And it almost goes without saying that new tax cuts are simply unthinkable — at least until the federal budget has joined New Orleans in recovering from Katrina.

Cuts For Katrina (WSJ)

The Wall Street Journal, September 21, 2005

Last week we suggested that cancellation of $25 billion in pork projects -- euphemistically known as "earmarks" -- in the recently passed Highway Bill would be a good first step to offset some of the cost of rebuilding the infrastructure in New Orleans and along the Gulf Coast.

The idea of a pork-for-reconstruction swap had already been denounced as "moronic" by a spokesman for Don Young of Alaska, Chairman of the House Transportation Committee and proud father of the now-infamous $223 million "bridge to nowhere" near Ketchikan. Since then the White House and Congressional Republican leadership have been acting as if the cost of Katrina relief should have no impact on the course of an administration that has presided over the fastest growth in discretionary spending since Lyndon Johnson.

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But thankfully, a grassroots Internet campaign and a handful of House GOP conservatives have refused to give up on the idea that spending cuts should be found to defray the estimated $200 billion federal price tag for hurricane relief. In the Senate, John McCain is proposing a similar pork-for-Katrina swap.

The Internet campaign picks up on the idea of revisiting the earmarks in the Highway Bill. A Web site called Porkbusters (www.truthlaidbear.com/porkbusters.php) helpfully lists these projects by state and directs readers to the appropriate Representatives and Senators to ask what they would cut. Around the country a flood of letters to local newspapers has echoed the theme.

And if revisiting the Highway Bill is too much to ask, how about a one-year moratorium on all non-defense earmarks for fiscal 2006? Rep. Ron Lewis (R., Kentucky) proposes just that in a "Dear Colleague" letter dated Monday. Other suggestions include across-the-board spending cuts at federal agencies of 2.5 cents on the dollar and delaying the introduction of the Medicare drug benefit by a year. We should be hearing more today when members of the House Republican Study Committee -- led by consistent spending hawks such as Mike Pence, Jeb Hensarling and Jeff Flake -- announce "Operation Offset" and a list of specific options to find savings in the budget.

White House flaks have been sending out emails claiming the new spending is mandated by a 1988 law called the Stafford Act. But the idea that somehow the government is on automatic pilot and that expenditures cannot be restrained by Congress or the President is irresponsible and even insidious. It is a basic principle of Constitutional law that no Congress can mandate expenditures by a future one. And while the Stafford Act does suggest that temporary infrastructure repair after major disasters is a federal responsibility, it does not justify why 41 states should receive Katrina aid and it certainly doesn't relieve Republicans of their fiscal duty to identify offsetting cuts.

The startling bottom line on Bush administration profligacy is this: At $22,000 per household, federal spending is at an inflation-adjusted post-World War II high and set to go still higher soon as the Baby Boomers start drawing Medicare and Social Security. Reforming those entitlements will be tough enough. And voters will have good reason not to want to entrust that task to a party that can't even admit the wastefulness of bridges to nowhere in the wake of the new century's worst hurricane.

Governors Ask For Inquiry On Oil Prices (NYT)

By The New York Times

The New York Times, September 21, 2005

CHICAGO, Sept. 20 - The governors of eight states sent a letter on Tuesday to President Bush and Congress calling for an investigation into profits made by oil companies after Hurricane Katrina and asking for legislation that would require the companies to refund to customers any profits deemed excess.

"When the wholesale price of gas went up by 60 cents almost overnight, oil companies were obviously using the most devastating natural disaster in our nation's history to reap a windfall at the expense of American consumers," said the letter, which was initiated by Gov. James E. Doyle of Wisconsin and was signed by governors from Illinois, Iowa, Michigan, Montana, New Mexico, Oregon and Washington.

"To price-gouge consumers under normal circumstances is dishonest enough," the letter stated, "but to make money off the severe misfortune of others is downright immoral."

The letter cited an analysis by Donald A. Nichols, an economics professor at the University of Wisconsin at Madison, who reported that gas prices surged disproportionately compared with crude oil price increases. The price markup from crude oil to gasoline has almost tripled since the hurricane, the report said.

OPEC Drops Cartel Role And Says Pump All You Can (NYT)

By Jad Mouawad

The New York Times, September 21, 2005

VIENNA, Sept. 20 - Oil prices slipped Tuesday on signs that the direction of Hurricane Rita was shifting away from America's energy heartland and OPEC formally agreed to lift all restrictions on its oil sales for the next three months, in a move aimed at further reassuring markets still on edge over the security of energy supplies.

On Monday, energy prices surged 7 percent, to $67 a barrel, on worries that Hurricane Rita was headed for the main oil-producing areas of the Gulf of Mexico. The latest predictions somewhat eased those fears but still suggested that the hurricane could affect offshore facilities and refineries along the coast of Texas. Another shift in the storm late Tuesday night pushed oil prices up in after-hours trading.

After OPEC's two-day meeting, Saudi Arabia, the largest and most influential member, rallied the oil-producing group to support its 18-month-long campaign to sell as much oil as consumers ask for.

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Saudi Arabia, which always keeps some idle capacity to compensate for unexpected production shortages, has been pumping above its official production ceiling since May 2004.

OPEC's decision effectively freezes the group's two-decade quota system originally intended to prevent prices from dropping too low and instead legitimizes - at least temporarily - a production free-for-all intended to bring prices down. Even so, because of shortages in refining capacity in the United States, Ali al-Naimi, oil minister of Saudi Arabia, admitted there might be few takers for the oil, but he stressed the decision's psychological impact.

"OPEC went out of its way and offered all the spare capacity that it has, recognizing that maybe there is no demand, but offering it so that consumers can feel comfortable that the supply is there," said Mr. Naimi, the group's most influential representative.

OPEC has so far seemed powerless to rein in soaring prices, which have doubled since the beginning of 2004. Even so, some members like Iran and Venezuela, were reluctant to back the Saudi strategy. Both countries produce below their quota levels, but do not want to give the Saudis a freer hand.

Still, members of the Organization of the Petroleum Exporting Countries agreed to pledge all their remaining extra capacity to the market, saying they could supply an additional two million barrels of oil a day - amounting to 7 percent of the group's current output.

Mr. Naimi said OPEC's extra oil would be made available immediately - and without any discounts. "If the people don't want the crude, it is better for it to stay underground," he said during a 15-minutes interview with a handful of reporters after the meeting. Though they are now reaping record revenue, oil producers also recognize that excessively high prices could crimp demand. The foreign minister of Saudi Arabia, Prince Saud al-Faisal, said in New York on Tuesday that he would be happy to see oil prices fall to a level of $35 to $40 a barrel, but he cautioned that this "would not happen right now."

Crude oil for October delivery on the New York Mercantile Exchange fell 2 percent, to $66.23 a barrel on Tuesday.

Hurricane Katrina, which struck the gulf's energy hub three weeks ago, curbed production from the offshore region and idled four major refineries along the coast, which amount to 5 percent of domestic capacity. Flooded after the storm, these plants will be out of commission until November at the earliest.

Saudi Arabia, which pumped 9.6 million barrels a day in September, has about 1.5 million barrels a day of extra capacity on call. It plans to increase its capacity by an additional 300,000 barrels a day, to a total of 11.3 million barrels, by next spring. More additions are planned through 2010 to bring the country's total capacity to 12.5 million barrels a day.

Other OPEC producers, like Kuwait, the United Arab Emirates and Nigeria, have 500,000 barrels a day of idle capacity. The group currently pumps 28.3 million barrels a day, excluding Iraq, or about a third of world production. With Iraq, whose exports are constrained by the insurgency, OPEC's 11 nations produce 30.2 million barrels a day.Facing criticism that it was not investing enough to add capacity, OPEC also outlined some long-term plans. These call for expanding capacity to 38 million barrels a day by 2010.

Mr. Naimi said he would be happy if buyers called for more supplies - and called OPEC's hand.

"Yes, yes, I hope they do," he said. "We'll make more money. All they have to do is test. We want to move this crude and sell it, if the price is right. We are businessmen after all."

Western governments coordinated the release of 60 million barrels of oil to make up for shortfalls after Hurricane Katrina. But only a fraction of that oil was actually bought by refiners who are struggling to make up for their losses. This makes it unlikely that OPEC will actually sell any more oil than it currently does. "OPEC has done the perfect P.R. move," said Roger Diwan, a managing director at PFC Energy. "It's a hands-down victory for OPEC in the political battle. No barrel of oil is actually involved here."

OPEC Suspends Its Output Quotas (WSJ)

By Bhushan Bahree

The Wall Street Journal, September 21, 2005

VIENNA -- In a bid to reassure markets that its members are free to pump all the crude oil they can, the Organization of Petroleum Exporting Countries yesterday suspended its output quotas for the fourth quarter.

Still, at a time when every oil producer except Saudi Arabia is producing flat-out, the move is unlikely to have much effect on world oil prices. OPEC ministers said the cartel could produce as much as two million barrels a day more of crude for consumers at market prices, but industry observers doubt that OPEC has anywhere near that much unused pumping capacity.

Observers instead watched Hurricane Rita, which is moving toward offshore oil and natural-gas production assets in the Gulf of Mexico that last month's Hurricane Katrina missed. The U.S. government reported that 58% of oil production and 35% of gas were shut off in the Gulf yesterday.

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Industry watchers also worry about the potential for Rita to damage Houston-area refineries. The regions around Houston and New Orleans are the two biggest refinery centers in the U.S.; combined, the areas pump out one-third of the nation's gasoline. On New York futures markets, oil, natural gas and gasoline fell, but remained at elevated levels. (See related article.)

Saudi Arabia for more than a year has promised to produce extra oil to tame gyrating petroleum markets. But the International Energy Agency's chief, Claude Mandil, yesterday estimated that all of OPEC could pump between half and three-quarters of the two million barrels extra that the cartel's members claim.

Nor is this extra crude capacity likely to be tapped to any significant degree by refineries, unless there are new supply disruptions. Refineries already are working flat-out to meet rising world demand and can't process any more oil, especially the heavy-sulfur kind that OPEC has left.

"What OPEC has offered is short-term insurance to consumers on the crude-oil front," said Vera de Ladoucette, an analyst at Cambridge Energy Research Associates in Paris. "It removes any remaining doubt about OPEC's willingness to produce to its maximum capacity."

The cartel's members, including Saudi Arabia, the world's largest oil exporter, haven't in fact been constrained by output quotas since May of last year. During this time, Saudi Arabia's oil minister repeatedly has pledged to produce as much as the kingdom's capacity of 11 million barrels a day if customers want the oil. Yesterday, Saudi Oil Minister Ali Naimi said the kingdom was producing about 9.6 million barrels a day this month, well in excess of its current quota of 9.1 million barrels a day.

As for discounting oil to push more supplies onto world markets to drive down the price, Mr. Naimi said: "Absolutely not. I don't want to bring it on the market unless the consumer wants it at the commercial rate."

Mr. Naimi also said the kingdom's oil-output capacity was likely to rise by 300,000 barrels a day to 11.3 million barrels next spring, when the kingdom brings on line a field called Haradh. Further output-capacity increases are scheduled for 2007, when more of Saudi Arabia's fast-track field developments are completed.

The Paris-based IEA has forecast that, after 2010, oil output outside OPEC will have peaked, leaving the world totally reliant on extra supplies from the cartel to fuel economic growth. In Russia, President Vladimir Putin has backed plans to offer tax holidays to companies developing new oil fields, after a top government official warned that the recent slowdown in oil-production growth could worsen next year.

In the early years of this decade, Russia was the main source of new crude oil on world markets, delivering annual production increases of more than 10% and rivaling Saudi Arabia as the world's largest producer. But the Kremlin's dismantling and partial nationalization last year of OAO Yukos, once the country's most dynamic producer, have combined with higher tax rates to cast a pall over the industry, and production so far this year is up only 1.3% from last year. Industry officials don't expect any significant recovery in output in the near future, since proposed tax changes are still months away from final approval, and new oil projects take years to develop.

Oil Price Drops $1.16 A Barrel; Offshore Evacuations Quicken (WSJ)

By Masood Farivar and Katya Kazakina

The Wall Street Journal, September 21, 2005

Oil prices dropped more than $1 a barrel but held on to most of Monday's sharp advance, as Hurricane Rita headed toward the Gulf Coast.

Projections made early yesterday that Rita would miss the Houston area refineries triggered a drop of more than $2 a barrel in oil prices. But prices recovered much of those losses as Rita strengthened to a Category 2 hurricane, with winds of 100 miles per hour and the pace of evacuations from offshore rigs picked up.

"The way this is going to enter, it's going to impact most of the Gulf," said Ted Falgout, the director of Port Fourchon, a major port servicing the offshore oil and gas industry. "You can't be leaving people in the path of the storm just because it's predicted to go to Texas."

Mr. Falgout's job as director of a port that handles workers and equipment moving to and from offshore rigs gives him a good perspective on the breadth of activity in the Gulf. Fourchon's significance has been augmented since Hurricane Katrina all but wiped out another important offshore services port in Venice, La.

Companies, including such oil majors Royal Dutch Shell PLC, BP PLC and Chevron Corp., began evacuating staff Monday. Murphy Oil Corp., Marathon Oil Corp. and Apache Corp. are also bringing workers back ashore.

Refineries in the Houston area, representing about 13% of total U.S. processing capacity, continued to operate normally as they began to respond to the storm threat by securing their facilities and developing operating plans.

At the New York Mercantile Exchange, the October crude contract ended $1.16 lower at $66.23. Petroleum products, which advanced more than 10% Monday, posted bigger losses but ended well off their intraday lows by 4 p.m.

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October gasoline, up nearly 25 cents at one point Monday, closed at $1.9766 a gallon, down 6.61 cents on the day. October heating oil, up more than 20 cents Monday, ended at $2.0113, down 2.71 cents.

While worries about disruptions to energy infrastructure have eased a bit, forecasters and analysts warned that Rita's track and strength could change as it moves westward.

The pullback in prices came as the Organization of Petroleum Exporting Countries, meeting in Vienna, decided to leave its official output target unchanged but to make some two million barrels a day in unused production capacity available as of Oct. 1.

Officials, expressing concern about the latest price rise, said the move to make all of the cartel's extra capacity available was meant to reassure consumers on supplies.

In other commodity markets:

COFFEE: Futures on the New York Board of Trade rose as funds exited previously established short positions amid rumors that some coffee stored in New Orleans will be decertified by Nybot officials after damage from Katrina. Buying interest was also fueled by concerns Rita could either inflict more damage to coffee stockpiles located in New Orleans or damage coffee stockpiles located in Houston. Coffee for September delivery rose 7.3 cents a pound, to 91.75 cents.

Bush Signs Katrina-related Flood Insurance Bill (REU-Y2)

Reuters, September 21, 2005

President George W. Bush on Tuesday signed legislation to increase the borrowing authority of the government's flood insurance program to $3.5 billion from $1.5 billion to pay claims from Hurricane Katrina.

The legislation increases the borrowing authority of the National Flood Insurance Program that is administered by the Federal Emergency Management Agency.

The program offers low-cost flood insurance to homeowners and small business owners in high-risk areas where it might otherwise not be available.

The program does not use government funds, but is allowed to borrow from the Treasury if necessary to pay claims.

Some analysts have expressed concern that the new borrowing authority was not enough and would have to be increased again to handle Katrina-related claims.

The National Flood Insurance Program pays up to $250,000 for residential buildings, and another $100,000 for contents that are lost. It also pays up to $500,000 for nonresidential buildings and $500,000 for their contents.

Bush also signed into law a bill to exclude federal financial assistance for flooding from being considered income, so that the recipient's eligibility for other government benefits would not be affected.

Flooding Victims To Get Funds Quicker (USAT)

By Kathy Chu

USA Today, September 21, 2005

The Federal Emergency Management Agency is loosening the claims process for its flood-insurance program so Hurricane Katrina victims can get paid even if insurance adjusters can't get to the area.

The move comes as thousands of displaced homeowners and businesses cope with an impaired banking system and try to figure out how to pay for food, shelter and relocation.

“A lot of people don't even have homes,” says Michael Buckley, a FEMA deputy division director. “Rather than trying to agonize over the details” in clear cases of flood damage to homes and businesses, people will be able to get the temporary financial assistance they need, he says.

FEMA is urging the 100 private insurers that handle federal flood claims to advance $3,000 to policyholders from their coverage. FEMA also wants them to ease the requirement that policyholders provide flood loss proof through pictures or other documentation.

Insurance companies typically cover wind and wind-driven rain damage, but not flood losses. Insurers do, however, sell federal flood policies and service the claims for the federal government.

The majority of home and business owners don't have federal flood coverage. Only 34% of homeowners and 23% of businesses in the affected areas have it, FEMA estimates. The policies pay a maximum of $250,000 for damage to a home and $100,000 for damage to contents. Businesses get up to $500,000 each for property and content damage.

FEMA expects to shell out significantly more in Katrina-related flood losses than the record $2 billion payout for 2004's four hurricanes, Buckley says.

FEMA is not mandating the $3,000 payments, but many insurers are expected to provide them. Companies are “doing everything they can to get rid of red tape and bureaucracy,” says Julie Rochman, spokeswoman for the American Insurance Association.

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Travelers started advancing policyholders $3,000 from their flood-content coverage a few days after Katrina hit.

"We took a bit of a chance" because FEMA hadn't given guidance at that time, says Ed Charlebois, a Travelers vice president. But, "obviously, these folks had been devastated by what happened."

State Farm and Allstate also have been advancing funds if policyholders have coverage for flood damage to contents. Separately, many insurers are providing two weeks' worth of living expenses under homeowner policies to those who have been evacuated.

Homeowners insurance typically pays for expenses, including food and lodging, if the government calls for an evacuation due to hurricane winds or if wind damage makes a house unlivable.

Flood insurance, however, does not pay for those costs, so money doled out on those policies will be deducted from the total coverage amount.

Rethinking Flood Insurance (WP)

The Washington Post, September 21, 2005

Like a rickety house that was already falling down, the federal flood insurance program has been destroyed by Hurricane Katrina. The theory of the program is that people who choose to live in areas prone to flooding should pay for that risk by buying insurance; they should not expect taxpayers around the country to rescue them from their own recklessness. But the truth is that, after a disaster like Katrina, the federal government will bail everybody out whether they are insured or not; it's humanly and politically unthinkable to do otherwise. Because the likelihood of a federal rescue is so strong, there never was much incentive to buy insurance. The huge federal effort after Katrina will undermine the program further.

The first response must be to make flood insurance compulsory, as auto insurance is. Currently, homeowners have to buy flood insurance if they live in a flood-prone area and they have a mortgage through a federally regulated or insured lender. But other mortgage providers escape this requirement; besides, people who own their homes outright are free to go uninsured, and many who buy insurance as a condition of their mortgage let the coverage lapse later. As a result, fewer than half of the homes in New Orleans had coverage, and the rate in Mississippi was much lower. To improve this situation, Congress needs to mandate coverage for everyone and then come up with a mechanism to enforce compliance. Regulators could oblige insurers that offer homeowners' policies to bundle flood insurance into their protection against fire, theft and so on. Or public authorities could collect flood insurance premiums at the same time they collect property taxes.

The second response must be to price flood insurance properly. In a vain attempt to persuade homeowners to buy coverage, the current system is subsidized; this allows people to build houses in exposed locations and then collect a federal check when the inevitable occurs, sometimes repeatedly. By pricing flood insurance accurately, the government would create price signals that would drive housing development to higher, drier land. Those who remain determined to live below sea level or on the beach -- or developers who put up low-income rental units in these places -- would pay the full cost of their preference. In some areas that have acute shortages of safe land -- New Orleans being one -- this may inflict hardship on the poor. But the best way to address that is to offer means-tested subsidies in a few jurisdictions, not to offer subsidies to rich and poor alike all over the nation.

Compulsory, fully priced insurance would in theory achieve the best of all worlds: It would ensure flood victims of compensation, it would protect taxpayers and it would deter risky construction. But in the real world the purchase of insurance policies will be less than complete, and accurate pricing of insurance risks would require inspecting every beach house to determine the quality of its flood precautions -- which is not likely to be practical. It may therefore be necessary to reinforce the federal construction standards in areas prone to flooding. If the feds are expected to come to the rescue in the event of a flood, it's reasonable to ask that zoning rules limit this liability.

How You Pay For People To Build In Flood Zones (USAT)

USA Today, September 21, 2005

Katrina was a devastating storm; Rita may well become one. But it is misleading to call such hurricanes natural disasters. (Related: Opposing view)

Storms become disasters only if they hit population centers. Otherwise, they're of interest mainly to scientists and weather buffs but are like the proverbial tree that falls in the forest to the rest of us.

These days, however, there isn't much chance a major hurricane could come ashore in the USA and not become a disaster: 54% of Americans live within 50 miles of a shoreline, according to the National Oceanic and Atmospheric Administration. By 2025, three-quarters of the country is projected to live in such communities.

This unprecedented march to the sea has been abetted by unwise government policies that encourage living along the coast. Principal among them: the National Flood Insurance Program.

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Started in 1968, federal flood insurance subsidizes development in coastal areas and other regions subject to flooding by offering insurance at bargain rates underwritten by the government.

As of last year, about 4.6 million policies were in effect with an average annual premium of $438. These premiums are nowhere near enough to cover the program's losses. Earlier this month, Congress authorized the program to borrow $3.5 billion for Katrina-related payments, an amount most experts believe is just the beginning and few believe will be repaid by property owners.

The program not only brings big government into an area better left to private enterprise, it also achieves the opposite of its goal. By lowering the cost of maintaining a home on flood-prone lands, it increases the populations in these areas. That in turn leads to more, and more costly, disasters.

According to the Heinz Center for Science, Economics and the Environment, a non-partisan think tank, development density in flood-prone areas has grown dramatically since the advent of federal flood insurance. Before its enactment, lands subject to flooding were 25% less densely developed on average than comparable land not subject to flooding. Since then, the figure has closed to 15%.

Other problems with the program:

·Passing the buck. Private insurers have an incentive to claim that most hurricane damage is caused by storm surges (which are covered by the federal flood insurance) rather than by winds (which private insurers cover). Mississippi is investigating claims that some adjusters pressured homeowners in Katrina's path to sign waivers saying that their homes were destroyed by water.

· Lack of long-term planning. The government makes little or no attempt to quantify the financial risk it is exposed to through its insurance program, which provides more than three-quarters of a trillion dollars in coverage. That makes it difficult for the public to debate what should be done to protect coastal communities.

The government does, to be sure, have a vital role to play in identifying flood-prone areas. But the actual issuance of policies should be left to the private sector.

True, that would lead to higher premiums because private insurers can't run to Congress for money to cover their losses. But then why should taxpayers in Kansas subsidize insurance for people who live in Florida? And why should those Kansans — or anyone, for that matter — want to underwrite a system that each year helps put more people and property in harm's way?

After 37 years, it's time to recognize federal flood insurance for what it is: a disaster.

Premiums Offset Costs (USAT)

By Richard Baker

USA Today, September 21, 2005

In response to Hurricane Katrina, Congress has unanimously passed legislation I helped introduce, which will allow the National Flood Insurance Program (NFIP) to borrow up to $3.5 billion a year from the U.S. Treasury, up from the current ceiling of $1.5 billion. If this sounds like part of a massive federal taxpayer-funded recovery of the Gulf Coast region, it's not. On the contrary, this is one of the few expenditures in which the taxpayers will not have to contribute. (Related: Our view)

All claims under the NFIP are paid using premiums of policyholders, not taxpayer revenue, and the funds the NFIP borrows from the Treasury must be repaid, with interest. Far from being a subsidy, the NFIP is just about the only federal disaster program in which the victims pay in advance to pick up the tab for the recovery of their losses.

To give an example, in 2001 Tropical Storm Allison, the costliest at the time, produced damages estimated at $5 billion, nearly all of it from flooding in the Houston area. As a result, 2001 saw the highest expenditure in the NFIP's history, with claims exceeding $1.4 billion — or, put another way, about a third of the damages were met not by taxpayers but by NFIP premiums. These losses were more than covered because premiums collected that year exceeded $1.7 billion.

Given this history, and knowing the federal expenditures for disaster relief mandated by law, does anyone doubt that taxpayer resources will pour into Katrina-stricken communities? Why, then, would anyone complain about a program that reduces the taxpayer burden, and actually works according to an old-fashioned concept whereby those who might be impacted pay a premium to fund recovery from the next disaster?

Before the creation of the NFIP, flood-plain management never existed. Today, every community that participates must develop flood-control plans and take steps to mitigate repetitive-loss properties. The more a community does, the better its residents' premiums. According to NFIP's statistics, flood damage is reduced by nearly $1 billion a year through partnerships with communities, the insurance industry and lenders. Every $3 paid in claims saves $1 in disaster assistance payments. And finally, buildings constructed to NFIP standards suffer approximately 80% less damage annually than those that are not.

The question isn't why we need the NFIP. The real question is why it's not used more.

Rep. Richard Baker, R-La., chairsa House panel that oversees the insurance industry.

DOJ_NMG_0007264

Back To Trent Lott's House (WP)

By Anne Applebaum

The Washington Post, September 21, 2005

"Out of the rubbles of Trent Lott's house -- he's lost his entire house -- there's going to be a fantastic house. And I'm looking forward to sitting on the porch."

-- George W. Bush, Sept. 2

Now that a suitable interval has passed, perhaps it's time to return to the question of Sen. Trent Lott's house. What interests me is not the now-tired question of whether the president ought to have promised to rebuild the Mississippi senator's family home on the Pascagoula beachfront before mentioning the lost homes of thousands of much poorer, less notorious people. What interests me is why his house was built on the beach in the first place.

At first glance, the answer appears simple. Although I haven't had the pleasure of visiting the senator's home, it's pretty safe to guess that he wanted to live by the water because it's psychologically soothing and aesthetically pleasing. It's quieter too, having seagulls instead of neighbors. It's nicer to sit on the porch.

But it's also true that many people build houses along the water because it makes economic sense to do so. Houses or apartments with ocean views command higher prices. Beachfront property owners can demand higher rents. Beachside businesses -- casinos, hotels, restaurants -- spin money. And, best of all, the risks of owning beachfront property -- risks from floods, hurricanes and erosion -- are covered by other people. Federally subsidized flood insurance programs and state-subsidized beach "re-nourishment" programs ensure that taxpayers -- rich, poor, local, national -- pay for damage to property built close to the water. To put it differently, Lott's house was on the beach because you and I paid for it.

Barring an unforeseen dose of political sanity, we're about to subsidize the reconstruction and even the expansion of more susceptible beachfront communities too. Leave aside New Orleans for a moment, with its special history and its peculiar geography. Focus instead on the rest of the Gulf Coast, much of which was wiped out no less thoroughly. Just like other hurricane-prone, flood-prone, erosion-prone parts of the country -- the Florida Keys, the Outer Banks, the Texas and California coasts -- the Gulf Coast recently has experienced an extraordinary building boom. In 2003 approximately 153 million people lived in U.S. coastal counties, an increase of 33 million people since 1980. By 2008, 7 million more will probably have moved there, too.

As a result of this success, beach developers tend to be disproportionately wealthy and politically influential, and therefore unusually good at fighting zoning laws and grabbing subsidies. Even after Hurricane Andrew forced Florida to establish stricter building codes, the owners of hot Florida Panhandle real estate managed to get a raft of exemptions for their region. One North Carolina beach community, Emerald Isle, has collected millions of dollars in state and federal money to combat erosion -- even though some 80 percent of Emerald Isle's new artificial beach is privately owned and inaccessible to the public, which paid for it. As The Post's Michael Grunwald recently pointed out, Lott himself used his political clout to force an Army engineer out of his job after the man had the temerity to suggest that Mississippi stop building casinos along the flood-prone coast. Twenty of those casinos were destroyed by Hurricane Katrina, and the 16,000 people who worked in them have lost their jobs and probably their homes as well.

The pattern doesn't hold across the country, away from the ocean: Entire towns happily moved uphill after catastrophic flooding in the Midwest in the 1990s, when the government paid them to leave. But with a few exceptions, coastal victims of hurricanes and floods have not only refused to move inland, they've also used post-disaster government funding to build more and higher buildings, with fewer restrictions then ever before.

To reverse this trend, politicians would have to do a lot more than write checks and come up with neat new names for old housing programs. Instead, they would have to force coastal property owners to pay the real cost of the risk they incur by building in dangerous places. They would not only have to stop subsidizing flood insurance, they also would have to require developers to pay heavier taxes and higher insurance premiums. They would have to alter incentives in order to encourage building farther inland. They would have to enforce stricter building codes. In barrier islands and other truly unstable places, zoning laws should prevent any new construction at all.

Such proposals would, of course, be the kiss of death for almost any politician. After all, they go against two important American principles: property owners' right to build what they want, and the government's obligation to bail them out afterward. Those are the principles supported by the rugged inhabitants of Denver and Los Angeles, who build houses ever closer to forests that periodically burn, and those are the principles supported by the denizens of seaside Pascagoula. At least when President Bush finally gets around to drinking his alcohol-free mint julep on Lott's new porch, we can hope that he raises a glass to those of us who made it all possible.

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First Lady Tackles Poverty, Race Issues (AJC/AP)

By Jennifer Loven, Associated Press Writer

The Atlanta Journal-Constitution, September 21, 2005

WASHINGTON — Laura Bush, former inner-city teacher, says Hurricane Katrina could have a silver lining if it forces the nation to respond "in a different way" to difficult poverty and racial problems.

"A large percentage of our population probably doesn't realize what inner cities are really like and has looked away from that," Bush told The Associated Press in an interview Tuesday.

The first lady sat down in the White House's Map Room to promote this weekend's National Book Festival, a daylong event on the National Mall that she has put on in concert with the Library of Congress for five years — a tradition she started as first lady of Texas.

But she readily allowed the brief interview to range beyond books to more difficult issues like Katrina and the Supreme Court vacancy now before President Bush. With her popularity in polls twice that of her husband's, which is stuck at a record-low level, Mrs. Bush often plays the president's chief defender and puts a smiling, trusted face on administration policies.

Mrs. Bush has been to the Gulf Coast four times, once alongside her husband, and has held events around Washington devoted to the hurricane response. Her husband, beset with criticism about the government's initial response to Katrina, traveled to the region for a fifth time Tuesday and is returning again this weekend.

"He has to. That's his job," Mrs. Bush said matter-of-factly. "That's what happens when you run for president. You don't know what might happen like this."

Then, in a wifely endorsement, she said, "Fortunately he is really strong and so I'm confident that he'll be able to sustain the level of attention that he'll have to — and not just to that, also to the war in Iraq, to foreign policy and to all the other issues that are on the desk of the president of the United States."

With her husband called upon — and promising — to take bold new action on racial inequities in the wake of the storm, Mrs. Bush held up the 2002 No Child Left Behind education law as the signature example of how the Bush administration has been fighting poverty from the start. White House aides say the law is fueling higher achievement levels, particularly for poor and minority students — though there is little data yet to prove that such a new law deserves all the credit for recent gains in narrowing the achievement gap between younger whites and minorities.

But she said she also hopes for a broader national discussion of poverty and race. "I think it's really important for us to talk about it in a different way," said Mrs. Bush, who over three decades ago taught elementary students at an inner-city school in Houston and was a school librarian in a poor Austin neighborhood.

Without offering specifics, she urged policymakers to tackle not only improving education so that poor and minority children have a leg up in life, but increasing the amount of affordable housing stock and the jobs available to those who most need them. She pressed for job training programs, whether through the government or unions or corporations.

"Because of the devastation on the coast, there will be a neighborhood and a housing discussion that'll be possible that really was not possible before," she said. "And then the employment piece of it is also very, very important. ... If a large number of people can come out with skills that they didn't have before, that will be one silver lining."

She pleaded with Americans who have been so generous and focused not to turn away from the staggering need in the Gulf Coast before the job is done.

"That's going to be the hard part for everyone, and that is to sustain the amount of help that evacuees are getting to do the long, long hard work that's going to be required," Mrs. Bush said. "It's particularly hard for Americans, because we're so impatient and we think that everything ought to be fixed yesterday."

As for the book festival, it has added a Katrina focus this year by prominently featuring "Book Relief," a joint project between the Library of Congress and the nonprofit First Book that hopes to deliver 5 million books — up from 100,000 gathered so far — to storm evacuees, libraries and schools whose collections were wiped out.

The first lady repeated her desire to see her husband nominate a woman to replace Justice Sandra Day O'Connor, whose retirement will leave Ruth Bader Ginsburg as the Supreme Court's sole female, and said "there are qualified women that are in the pool" of potential nominees being considered.

"It's important to have women in those jobs, just like I think it's important for women to be in every field in our country," she said.

But she hedged on whether the president would heed her wishes.

"Whether it's a woman or a man, I know they'll be highly qualified," she said.

Politics, Priorities Stand In Way Of National War On Poverty (USAT)

DOJ_NMG_0007266

By Jill Lawrence
USA Today, September 21, 2005

WASHINGTON — Hurricane Katrina brought poor people directly into American living rooms. Then, amid the images of hardship, the Census Bureau said poverty had risen for the fourth straight year.

Is the nation at a crossroads, about to experience a dramatic shift in its politics and priorities?

Hurricane Katrina has sparked hopes and calls for a new national resolve to end poverty. But the public may not be mobilized for such a crusade.

Two-thirds of those in a USA TODAY/CNN/Gallup Poll this month said the country is not spending enough to fight poverty. Yet such sentiment cannot be attributed to Katrina; 69% said the same thing more than a year ago in a University of Chicago Poll.

Glen Bolger, a Republican pollster, says his pre- and post-Katrina surveys show voter priorities are unchanged. Asked what would most influence their vote for Congress next year, their top issues are Iraq, terrorism and jobs.

Even assuming the public would support a national war on poverty, many analysts say it's not likely to happen. One reason is the cost of Gulf Coast recovery, combined with the expense of the Iraq war and President Bush's drive for more tax cuts. "Yes, Katrina has shined a light on poverty," says Sheila Zedlewski, director of the Income and Benefits Policy Center at the Urban Institute. "But we have a competing problem and that is the federal deficit," which the White House estimated to be $333 billion this year.

Another problem is the divide between liberals and conservatives on how to fight poverty. More government programs or more run by churches? Direct help or tax cuts?

"We all want to solve poverty," says Donald Devine, vice chairman of the American Conservative Union. "The question is, will we do it the way we did it in 1932, or have we learned something since then?"

The New Deal looks pretty good to some Democrats. Former vice presidential nominee John Edwards, director of the Center on Poverty, Work and Opportunity at the University of North Carolina, praised three Depression-era programs this week and proposed a job creation program for the Gulf Coast. Sen. Edward Kennedy, D-Mass., wants a Gulf Coast Redevelopment Authority modeled on the Tennessee Valley Authority.

Bush's plan includes tax incentives for business, vouchers to help displaced parents pay for private and parochial schools, relaxed environmental regulations and suspension of a requirement that federal contractors pay workers prevailing local wages. All are part of a long-standing GOP agenda.

Calls for a more expansive fight against poverty are coming from many quarters. First lady Laura Bush told the Associated Press she hopes Katrina helps the country respond "in a different way" to poverty and racial problems. "A large percentage of our population probably doesn't realize what inner cities are really like and has looked away from that," she said Tuesday.

Most of those calling for broad-based action are Democrats or clergy. "We can no longer be a nation that overlooks the poor and the suffering," T.D. Jakes, pastor of a Dallas megachurch, said at a memorial service for Katrina victims.

Edwards, Illinois Sen. Barack Obama and Massachusetts Sen. John Kerry are among the Democrats pressing to turn Katrina into a pivotal moment. "Will we be satisfied to only do the immediate: care for the victims and rebuild the city?" Kerry, his party's 2004 presidential nominee, asked Monday in a speech at Brown University. "Or will we be inspired to tackle … the societal injustice that left so many of the least fortunate waiting and praying on those rooftops?"

Charlie Cook, publisher of a political report, says Republicans "need to soften some of their hard edges or run the risk of losing their majorities" in the House and Senate. They would be smart, he says, to talk broadly about fighting poverty.

Are there any steps that could bridge the gap between parties? Rich Lowry, editor of the conservative National Review, suggests "a grand right-left bargain" in which liberals focus on preventing illegitimate births and conservatives support more urban spending.

Zedlewski says Katrina has revealed "a fragmented safety net" with many separate programs and sets of rules. It's so difficult to navigate that there may be bipartisan support for streamlining, she says: "People on both sides of the aisle would like to see this support system work better than it does."

Such consequences would be modest compared with those from the 1911 Triangle Shirtwaist factory fire that led to workplace reforms and the modern labor movement, and the 1927 Mississippi River flood that prompted a government response foreshadowing the New Deal.

But some leaders say even a discussion with no immediate results would be better than the pre-Katrina silence. Los Angeles Mayor Antonio Villaraigosa says his city has the highest poverty rate in the country. "I'm amazed at how little the issue of poverty is raised in the Congress," he says. "Hurricane Katrina is an opportunity for us to engage in that debate."

Rita Nears Category 4 (USAT)

DOJ_NMG_0007267

By Tom Vanden Brook
USA Today, September 21, 2005

MIAMI — Hurricane Rita was forecast to strengthen tonight into a major storm as powerful as Hurricane Katrina, after brushing past the Florida Keys on Tuesday.

Rita's growing strength and its westward track prompted evacuations in Texas, the scrambling of National Guard troops and a dash in Louisiana to shore up levees.

The National Hurricane Center said Rita, with winds above 100 mph, is likely to become a Category 3 hurricane this morning with winds of at least 111 mph. It is then predicted to quickly become a Category 4 with winds of at least 131 mph as it gains strength from the warm waters of the Gulf of Mexico, hurricane center specialist Stacy Stewart said. Katrina was a Category 4 storm with winds of 145 mph when it hit the Gulf Coast on Aug. 29.

“If Rita goes on to become a Category 4 and remains a Category 4 when it makes landfall, you could have a similar disaster to Katrina,” Stewart said. “People need to take this storm very, very, very seriously.”

Rita was on track to hit Texas by Friday. Galveston County, Texas, ordered an evacuation starting tonight of tens of thousands of residents in coastal island communities. School buses were lined up to ferry those without cars. Gov. Rick Perry ordered 1,200 Texas National Guardsmen on relief duty in Louisiana to return home.

In New Orleans, the Army Corps of Engineers raced to patch levees damaged by Katrina. There was a small chance Rita could swerve toward Louisiana, according to the hurricane center.

“The protection is very tenuous at best,” corps official Dave Wurtzel said of the levees.

The federal government was pouring resources into the region to ensure a rapid response. Helicopters were on standby to carry in water, food and other supplies. The Federal Emergency Management Agency readied aircraft and buses for evacuations. Rescue teams and truckloads of ice, water and prepared meals were being sent to areas in Rita's path.

The warship USS Bataan, laden with hospital supplies and doctors, was shadowing the storm. President Bush received a briefing aboard the USS Iwo Jima, docked in New Orleans. He discussed plans for “what we pray is not a devastating storm.”

Rita ran just south of the Florida Keys on Tuesday. Water and sand washed over some roads.

Gulf Coast Braces As Hurricane Rita Gains Strength (LAT)

By John-thor Dahlburg And Maria L. Laganga
The Los Angeles Times, September 21, 2005

FLORIDA KEYS — An intensifying Hurricane Rita gave people here a soaking and a scare today, as the storm roared through this group of isles and islets toward the Gulf Coast.

Though it was unlikely that Rita would directly hit the Keys, there was concern that it would pick up energy and become a serious threat to the Gulf Coast, which is still recovering from Hurricane Katrina.

"If this is all it is, we have been lucky again," said Monroe County Sheriff Richard Roth. "We've dodged another bullet."

Rita, a Category 2 hurricane with winds of more than 100 mph, is about 50 miles south of Key West and about 65 miles northeast of Havana, Cuba, according to the National Hurricane Center. It was moving toward the Gulf of Mexico, where it was expected to pick up energy from the warm waters and most likely hit Texas by the end of the week.

Some of the storm's effects could be felt as soon as Thursday in New Orleans, slammed when Katrina hit the Gulf Coast on Aug. 29.

According to the Hurricane Center, Rita was moving west at 15 mph, with rainfall in the Keys between 6 to 8 inches. A storm surge of 2 to 4 feet could bring flooding along the Florida coast.

As it moved south of Key West, the archipelago's largest city, the storm whipped up a chocolate-colored surf that poured onto the Overseas Highway, which is only foot above sea level in places, and is the only road link to the mainland United States. The surf left a thick matt of brownish seaweed on the road, along with coconuts and the occasional float torn from a lobster pot.

Sheriff Roth said his deputies and firefighters had been called in to evacuate 12 people who had hunkered down in their trailer park in Islamorada.

Roth estimated that 40,000 people, about half of the year-round population in this popular tourist and fishing destination, had heeded the wish of authorities that they evacuate.

Though proverbially relaxed about the vagaries of tropical weather, many Conchs, as Keys natives are known, had been spooked by the images of flooding and other devastation caused by Katrina, Roth said

"They were quick to leave this time," Roth said, though they had only one day to evacuate.

One factor in the Key's favor was Rita's brisk forward motion, which gave it less time to linger and cause harm with its waves, wind and rain.

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"The more it sits here and stalls, the more damage it does," said Sharon Harrold, a director at the Monroe County sheriff's office. "We like them to move fast. In and out."

As Rita, the third hurricane to strike the United States this year, began to batter the keys, authorities warned residents to stay off the road and hole up in a safe place.

By midday, officials said Highway 1 was flooded in at least eight locations and for all practical purposes cut off from the rest of the county. "The whole Keys, US 1 is impassible," Harrold said, at the county emergency operation center in Marathon, about 45 miles northeast of Key West.

At fire stations throughout the Keys, the red and black flags heralding the coming of the hurricane snapped in the increasingly fierce winds.

The seas around the islands were whipped into a brownish jade color, in places seawater and tossing waves slopped onto roads carrying crabs that then scampered across the asphalt. Palm trees flailed their fronds against a battleship grey sky and the air carried a strong smell of brine.

Though Florida faced four hurricanes last year and three so far in 2005, Roth, the sheriff for the Keys, said the response by authorities was becoming more finally honed with each ordeal.

Florida authorities, he said, had already stockpiled water, ice, gasoline, diesel fuel and other relief supplies at staging areas from Homestead north to Palm Beach. They were just waiting for Rita's winds to die down to bring in whatever was needed.

"I have never seen staging like I have seen in this storm," Roth said. "It's amazing what's available to us — helicopters, Humvees, the National Guard."

On Ohio Key, a trailer park lay partially under water. Further to the south on Big Pine Key, which is home to a federally protected species of deer, no bigger than dogs, the deer preserve was partially flooded. On Big Pine Key Rita's gust were powerful enough to push an SUV around on the road.

Elsewhere in the lower Keys, residents worried about storm surge parked their cars on the highest ground available — the shoulder of US 1, turning the berms of the Overseas Highway into what looked like a large used car lot.

On Big Coppitt Key Rita's winds were powerful enough to tear one of the hurricane warning flags from the fire station's flagpole and carry it away.

In Key West, the southernmost city in the continental United States, closer to Havana than Miami, Rita pushed the foaming surf over the beachfront road on the south side of the island, inundating the road with 4 inches of water and depositing scores of natural sponges, wrested from the seabed.

The raging surf foamed with plumes 6 feet high as it dashed against the sea wall. In Key West's business and tourists district many traffic lights were knocked out, neighborhoods reported power losses and streets were littered with downed palm fronds, tree branches and green coconuts. Duvall Street, the main drag for cruise ship passenger and other tourists, was practically deserted, its storefronts covered with plywood sheets or steel storm shutters.

"We are tired of hurricanes. We are moving to Alaska," was the message painted on the boards protecting one trattoria.

Florida Gov. Jeb Bush ordered 2,400 Florida National Guard Troops to active duty, and alerted 2,000 for possible activation.

Homestead Air Force Base and Patrick Air Force Base have been designated as FEMA mobilization centers, from which supplies and equipment will be ferried to the areas affected by the storm. The Pentagon has also put eight helicopters from Patrick Air Force Base on alert to conduct search and rescue missions.

With the storm moving into the Gulf of Mexico, the Pentagon has decided to move the five ships deployed for Joint Task Force Katrina out of Rita's path. The ships that will sail east are the Tortuga, the Comfort, the Iwo Jima, the Shreveport and the Grapple.

In expectation of Rita making landfall in Texas, Gov. Rick Perry today ordered 1,100 Texas National Guard troops aiding relief efforts in Louisiana back to their home state. Perry has authorized the activation of up to 5,000 Texas Guardsmen.

Officials of Galveston, Texas — nearly 900 miles from Key West — have already asked residents to leave voluntarily. Louisiana Gov. Kathleen Babineaux Blanco urged everyone in the southwest part of her state to prepare to evacuate.

Officials said Rita might reach Category 3, or even Category 4, status before it hits coastal Texas.

In coastal Galveston, officials made plans to evacuate the city's 58,000 residents. In 1900, a hurricane with estimated winds of 135 mph made landfall at Galveston, inundating the Texas resort city with a 20-foot storm surge and killing at least 6,000 people.

Since then, a 17-foot-high seawall has been erected at Galveston, but officials still worried about a tidal surge.

As Texas braced for Hurricane Rita, men, women and children who had been evacuated from Louisiana to shelters in Houston after Hurricane Katrina began to pack their belongings for yet another move.

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Officials plan to close down the shelter at the Reliant Center -- Houston's largest temporary facility for Katrina evacuees -- and transfer people to Ft. Chaffee, Ark., in advance of Rita.

The center this morning was a buzz of stress and activity, as reluctant evacuees prepared to leave yet again, heading to their fourth shelter in three states since surviving Katrina.

Many of the 976 evacuees who remained at the Reliant Center began their journeys at the Superdome in New Orleans, were airlifted to Houston's Astrodome, then shifted to the Reliant Center shelter when the Astrodome closed.

"I'm tired, I'm tired," said Darrell Lewis, 41, as he waited, resigned, on a folding chair outside the shelter for a bus to Ellington Field and an eventual plane to Arkansas. "I just want to settle down, go someplace and stay there and get my life back together. I been in three places already, and now I'm going to Arkansas."

Some of remaining evacuees at the Reliant Center have balked at being airlifted to yet another state and have made plans to move in with relatives or find other housing.

Carol Ben, 62, waited outside of the massive shelter with a friend for "somebody to come and get me. I'm going to Dallas, hopefully to my son or daughter's house.

"We were going to leave Saturday, but we have to leave early," Ben said. "It's a problem all the way around. It looks like it's following us."

FEMA Rushes To Help After Rita (WT)

By Audrey Hudson

The Washington Times, September 21, 2005

The Federal Emergency Management Agency (FEMA), already stretched thin from recovery efforts for Hurricane Katrina, is scrambling to prepare for an equally disastrous hurricane forecast to reach Category 4 strength by this afternoon.

FEMA and state officials began preparation efforts Monday for the first impact of Hurricane Rita in the Florida Keys, racing hundred of trucks with ice, water and military Meals Ready to Eat (MREs) rations to pre-staging sites, and dispatched multiple emergency teams to provide medical care and search and rescue services.

Florida Gov. Jeb Bush mobilized 2,400 National Guardsmen and put another 2,000 guardsmen on alert Sunday, evacuated all hospitals and nursing-home patients in Monroe County and issued a mandatory evacuation of Key West before closing the bridge to the island at midnight Monday.

Six Black Hawk helicopters and one Chinook were on standby in West Palm Beach, and out-of-state choppers were staged to respond to Hurricane Rita victims.

"The great work being done locally and with support from the state and federal officials, we've responded to this storm, I think, in a way that Floridians can be proud," Mr. Bush said at a press conference yesterday.

R. David Paulison, acting FEMA director, said state evacuation efforts were thorough, and he expects the same cooperation with Texas.

"I've been on the phone with [Mr. Bush] on a regular basis. He is very pleased with the job we've done. Florida, like Texas, has an outstanding emergency management system, and they're easy to work with," Mr. Paulison said.

As Rita grew from a tropical storm to a Category 2 hurricane on a path toward Texas and Louisiana, FEMA began relocating more than 8,000 Katrina evacuees who were sheltered in Texas to other locations, while rounding up water and food for new shelters.

Meanwhile, FEMA officials set up staging areas in Texas with 90 truckloads of water and ice and eight trucks full of MREs, and dispatched 18 urban search-and-rescue task forces and disaster medical assistance teams.

"Texas also has an outstanding emergency management system. They are well prepared," Mr. Paulison said. "They are ready for the hurricane. They know it's not going to be easy, but they're ready to go."

Texas Gov. Rick Perry will begin mandatory evacuations today in Galveston, Corpus Christi, Houston and San Antonio and has recalled the Texas National Guard from Louisiana along with other emergency personnel and equipment. Forecasters currently predict Rita will make landfall near Galveston, a city that was leveled by a hurricane 105 years ago this month.

"For the past three weeks, our emergency personnel have been assisting our neighbors devastated by Hurricane Katrina, and over the last year our state has heightened preparations for dealing with a catastrophic storm. While we continue to hope that day never comes, Texas must be ready if it does," Mr. Perry said.

FEMA officials are in place at Texas' operation center, which went on full-alert status today with 34 state agencies on site round-the-clock, a spokeswoman for the governor told the Houston Chronicle.

"FEMA has already been part of this. They have offered whatever support we need," Perry spokeswoman Kathy Walt said. Texas is not Louisiana. You won't see that breakdown occurring here."

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Texas Pulls Katrina Relief Crews To Aid In New Storm (WSJ)

By Gary McWilliams

The Wall Street Journal, September 21, 2005

Texas state officials pulled back emergency workers from Hurricane Katrina relief operations, and businesses and residents began battening down in advance of the second hurricane in a month to take aim at the Gulf Coast.

The National Hurricane Center predicted Hurricane Rita, which strengthened yesterday to a Category 2 with winds of about 100 miles an hour, will make landfall along the Texas coast, though the storm also could turn toward Louisiana. Forecasters expect Rita to continue strengthening before striking Texas as early as Friday night. (See the hurricane center's strike-probability map.)

Texas Gov. Rick Perry recalled a contingent of 1,000 Texas National Guard members from Louisiana and announced plans to redeploy them alongside 5,000 state emergency workers for possible water rescue operations.

In Houston, officials were emptying two huge shelters that were set up four weeks ago to house New Orleans residents fleeing Hurricane Katrina. The two shelters harbored about 30,000 people at the height of the Katrina evacuations, but only 1,200 remained yesterday morning.

The Federal Emergency Management Agency arranged for 10 chartered jets to fly as many as 1,700 people out of the region. Shelter occupants were requested to relocate to Fort Chaffee, Ark. Those who didn't want to leave Texas were being asked to find temporary housing elsewhere.

"Our major concern is to get them out of harm's way," said Gloria Roemer, a spokesman for Harris County Judge Robert Eckels. "We cannot have them here in this arena; it's not safe here," she said. Once the two shelters are closed, personnel will be directed to prepare for Hurricane Rita.

In Louisiana, federal, state and local officials said they are prepared to evacuate residents quickly if Rita threatens the battered state. New Orleans Mayor Ray Nagin said the federal government has provided 500 buses to empty the city of holdouts still there. Starting today, residents and business owners trying to return to assess the damage to their property will be turned back at checkpoints into New Orleans.

Brigadier General Robert Crear of the U.S. Army Corps of Engineers warned that the city's levee system was "almost completely destroyed" by Katrina and likely could withstand a storm surge of only five to 10 feet in some locations. Louisiana Governor Kathleen Blanco said officials are "praying that it dissipates. ... This state can barely stand what happened after Katrina."

In Galveston, an island city 50 miles south of Houston that is no stranger to hurricanes, officials called for nearly 60,000 residents to evacuate inland and closed schools for the week. Galveston hotels and rental cottages were asking visitors to leave the island, and residents were boarding up vacation homes.

Evacuees were directed to Red Cross shelters in Huntsville, Texas, 115 miles north. University of Texas Medical Branch at Galveston, the island's largest hospital, said it was drawing up plans for an orderly evacuation of patients, if needed, today or tomorrow.

Rita Is Gaining Force In The Gulf (WP)

By Sam Coates And Manuel Roig-franzia

The Washington Post, September 21, 2005

KEY WEST, Fla., Sept. 20 -- Hurricane Rita slapped at Key West on Tuesday before strengthening in the Gulf of Mexico, where it appeared to be veering away from New Orleans, but still forced the evacuation of 7,000 of Louisiana's Katrina evacuees from Texas.

Forecasters expect Rita to swell on Wednesday into a Category 4 monster, carrying 131-mph winds, as it gains strength from the warm Gulf waters and spins westward toward an anticipated landfall early Saturday near Galveston, Tex. The storm's sudden burst of power after it passed 50 miles south of Key West, and the possibility that its track could change, sent ripples of anxiety across hundreds of miles of the Gulf Coast, much of it still in the early stages of recovery from Katrina three weeks ago.

President Bush signed an emergency declaration for Florida, which allowed federal relief help to be prepositioned. He also said that he had spoken with Texas Gov. Rick Perry (R) about storm preparations.

"All up and down this coastline, people are now preparing for what is anticipated to be yet another significant storm," Bush said.

Perry activated 5,000 members of the Texas National Guard. Military leaders prepared to rush the USS Iwo Jima, which has served as a floating command post in New Orleans, and several other naval vessels out to sea to better ride out the storm.

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Emergency workers began plans to open shelters in central Texas, and the mayor of Galveston issued a voluntary evacuation order, which could be followed by a mandatory order on Wednesday.

The scramble to prepare for Rita's next landfall swung into motion even before the storm toppled trees and electrical lines with 90-mph gusts in Key West. But there were no reports of injuries, only isolated flooding. The damage was far less than feared from a storm so fearsome that nearly half of Key West's residents evacuated -- far more than the usual 25 percent on an island famous for its nonchalance in the face of hurricane threats.

"We are very fortunate," Key West Mayor Jimmy Weekley said.

Key West's apparent fortune did little to ease anxiety as the storm grew more powerful Tuesday. New Orleans Mayor C. Ray Nagin, who has delayed plans to let residents return, urged those who are still in the city to leave once again. Two busloads of residents followed his advice. But hundreds ignored him.

In the Gentilly neighborhood of New Orleans, where neck-high floodwaters from Hurricane Katrina have now receded, the National Guard was warning a handful of homeowners who had sneaked into the city to check on their houses that it was time to get out again.

"We are not forcing them, but we will do anything to convince them to get out of here," said Sgt. Timothy Eagle of the Oregon National Guard, who cruised the neighborhood in a Humvee. "We don't want to come back for the body."

Perhaps the worst off, at least psychologically, are the thousands of Katrina evacuees in Texas who are now being "re-traumatized" by a second evacuation.

"You can imagine what's going on in people's minds who lost virtually everything," said Howard B. Smith, associate dean of the College of Education and Counseling at South Dakota State University and coordinator of Red Cross mental health services.

A few evacuees began boarding planes bound for Fort Chaffee in Arkansas, a state that will accept 4,000 displaced residents, while an additional 3,000 will be going to Tennessee. One thousand may be going to Nebraska. But some evacuees were unwilling to be uprooted again.

"It's a natural and well-expected reluctance," Perry spokeswoman Kathy Walt said.

Perry urged residents to fill their vehicles with gasoline, gather personal and financial records, stock up on a three-month supply of needed medications and emergency provisions such as flashlights, water and nonperishable food; and find places to stay inland.

Advance work in Louisiana, where levees are still being repaired and 40 percent of the pumps in New Orleans still do not work, included the staging of 500 buses in case the storm edged toward the city, addressing a lack of transportation that left the city with no choice but to house tens of thousands of people in squalor at the Louisiana Superdome and the convention center in the days after Katrina.

"We're learning as we go," Nagin said.

Nagin, whose plan to let residents return to the city was sternly criticized by Bush and by the administration's point man for New Orleans recovery, Vice Adm. Thad W. Allen, went for a show of unity at a news briefing on Tuesday, presenting Allen with a T-shirt that read "I love New Orleans." He also hugged Gov. Kathleen Babineaux Blanco (D), who declared a state of emergency as Rita entered the Gulf.

Nagin said he might begin reconsidering when to restart his plan to repopulate the city on Friday if Rita does not hit Louisiana. But he refused to discuss a timetable after meeting with Bush, who made his fifth trip to New Orleans on Tuesday, and Allen, who has cautioned that the city is still unsafe.

Now that the storm is deep into the gulf, the party can continue in Key West, where Bill Piercenall, who works in a restaurant and lives downtown, spent the hours before the storm "feet up" drinking beer.

"I'm just surprised there aren't more drag queens," said L.A. Meyers, working in the 801 bar, the only drinking establishment open on Duval Street, the main road in downtown Key West. "They love to come out during hurricanes."

The arrival of Rita on Key West is getting forecasters closer to the possibility of a notable quirk. An international committee of the World Meteorological Organization has preselected storm names for decades, first using only female names, then alternating male and female names since 1979.

But there is a finite number of preselected names -- 21 -- each summer, and after Rita, only four are left this year: Stan, Tammy, Vince and Wilma. If that list is exhausted, the meteorological group will have to revert to a backup plan: naming storms using the Greek alphabet, beginning with alpha, beta and gamma.

Bush Concerned Rita May Hit Damaged Gulf (KCS)

By Nedra Pickler

The Kansas City Star, September 21, 2005

DOJ_NMG_0007272

NEW ORLEANS - President Bush kept a worried watch Tuesday on "what we pray is not a devastating storm" - Hurricane Rita - as he flew over miles of flattened homes and mud-caked neighborhoods hit by Hurricane Katrina.

Bush received a briefing about Rita aboard the USS Iwo Jima, which is docked near downtown New Orleans, as the hurricane lashed the Florida Keys and caused new anxiety among Katrina victims in Mississippi, Louisiana and Alabama.

In a ship mess hall, the president held a videoconference with three federal officials: Homeland Security Secretary Michael Chertoff, the National Hurricane Center's deputy director, Ed Rappaport, and a Federal Emergency Management Agency official.

The officials said Rita was projected to strengthen to a Category 3 hurricane that would hit the upper to middle part of the Texas coast by the weekend and could create tropical storm conditions - or, much less likely, hurricane-force winds - in southeastern Louisiana.

"We're watching very closely, of course, its track," Bush said later at a Folgers coffee plant in Louisiana that recently restarted operations. "All up and down the coastline people are now preparing for what is anticipated to be yet another significant storm."

Eager to show hands-on leadership after being criticized for a slow response to Katrina, Bush signed an emergency declaration for Florida, spoke with Texas Gov. Rick Perry about planning for the storm's landfall, and said military outfits are being removed from New Orleans to be out of Rita's path and ready to help with recovery.

The White House said Bush had named Frances Fragos Townsend, his in-house homeland security adviser, to lead an administration investigation of "what went wrong and what went right" in the sluggish federal response to Katrina. The appointment of Townsend, a former federal prosecutor with a reputation as a tough adversary, is unlikely to satisfy Democrats on Capitol Hill who are demanding a fully independent investigation.

Bush said he was pleased that New Orleans Mayor Ray Nagin suspended his plan to allow as many as a third of the city's residents to return. He said positive steps are being taken.

"What you're beginning to see is a revitalized economy," Bush said, standing before 110 trailers set up for Folgers employees who lost their homes. "Progress is being made."

Bush began the day in Gulfport, Miss., where he dropped in on the first meeting of Gov. Haley Barbour's Commission on Recovery, Rebuilding and Renewal, applauding their "can-do spirit" and pledging to help clean up the devastated Gulf Coast. He flew along the coast over mile after mile of destroyed homes.

"There is no doubt in my mind that out of the rubble and out of the huge heaps of timber that used to be homes, a better Mississippi will emerge," Bush told the local government and business leaders gathered in an air-conditioned tent set up in a hurricane-damaged outlet shopping center.

The president told them he had heard their complaints about bureaucratic hurdles for trash removal, saying he was personally making calls to cut through red tape and people in the area will soon see results.

"There was a level of frustration, as there should have been," he said. "We'll get the debris removed."

Barbour told Bush that local officials need the federal government's help to rebuild the area's infrastructure and make Mississippi's hurricane zone "the most attractive place in America for private investment."

"I'm confident that we'll get the resources because y'all have been so generous and good to us. But we want you to know that we're going to try to help you know what to give us," Barbour said to laughter.

Jim Barksdale, chairman of Barbour's commission, told the president and other attendees that they only have themselves to blame if reconstruction isn't successful. "You folks are like the pig at a ham and egg breakfast," he said. "You are committed."

White House press secretary Scott McClellan acknowledged that some of Mississippi's more rural areas still are waiting for federal help that has been focused in New Orleans and other larger population centers.

After Bush returned to Washington, the White House issued a statement saying Bush had signed into law legislation that allows the National Flood Insurance Program to borrow up to $3.5 billion a year from the Treasury, up from the current ceiling of $1.5 billion. He also signed into law a measure that excludes federal assistance for mitigating flood damage from being considered income when determining a person's eligibility for other federal benefit programs.

Another Storm Could Renew Flooding (USAT)

By Alan Levin

USA Today, September 21, 2005

NEW ORLEANS — The Army Corps of Engineers sped repairs to the pumps and levees guarding this crippled city Tuesday, but another hurricane or heavy rains almost certainly would cause new flooding, according to corps officials and engineering and storm experts.

Three weeks after Hurricane Katrina breached levees and flood barriers and inundated large sections of New Orleans, the corps is closely watching the path of Hurricane Rita, which buffeted the Florida Keys Tuesday and moved into the Gulf of Mexico.

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"We're not in a position to go through a tropical storm without reflooding a lot of areas that were just drained," says Paul Kemp, a professor at Louisiana State University's Hurricane Center.

Rita's projected path takes it toward possible landfall Friday on the Texas coast. If that happens, Rita's high winds and storm surge will largely skirt New Orleans, said Lee Butler, an engineering consultant and former corps engineer who has studied New Orleans' levees. "There shouldn't be that much pressure on New Orleans if the storm stays to the west of Galveston," Butler said.

As Rita strengthens, the corps is filling hundreds of sandbags, moving pumps into vulnerable areas and adding dirt and rock to low spots on levees to strengthen New Orleans' defenses against flooding, said Col. Duane Gapinski, who commands the agency's effort to rebuild the levees.

That combination should protect the city against a storm surge of 5 feet or higher, Gapinski said.

The corps also plans to build temporary steel dams across two canals near Lake Pontchartrain where breaches occurred after Katrina struck.

But parts of New Orleans lie below sea level and almost certainly would flood again if Rita shifts course and hits the region. Here are the area's major flood weaknesses, according to the corps:

·The city's system of pumps, which was knocked out by Katrina, is operating at less than half normal capacity. A preliminary corps study predicted a storm that dumped 9 inches of rain would produce pools of water 2 to 4 feet deep in the lowest lying areas. Even 3 inches would flood some areas again, said Brig. Gen. Robert Crear of the corps.

·Five major breaches that led to flooding in New Orleans during Katrina have been repaired, but the protective barriers are 5 to 10 feet lower than they were before Katrina. The corps plans to dam two canals near Lake Pontchartrain to protect levees there. But there is no such protection near the city's Ninth Ward, which was heavily flooded by Katrina.

·St. Bernard Parish, a community east of New Orleans that was severely flooded by Katrina, could be vulnerable if Rita pushes water toward it from the Gulf. Much of a 10-mile stretch of levees designed to protect the parish was leveled by Katrina's storm surge.

Rita Threatens New Orleans' Damaged Levees (WT/AP)

By Michael Rubinkam, Associated Press

The Washington Times, September 21, 2005

NEW ORLEANS -- The Army Corps of Engineers raced to mend New Orleans' fractured levee system yesterday, and residents were forced to decide yet again whether to stay or go as a new hurricane threatened the city.

Mayor C. Ray Nagin, Louisiana Gov. Kathleen Babineaux Blanco and other officials strongly urged people along the Louisiana coast to be prepared to evacuate and said nearly 500 buses stood ready.

"The protection is very tenuous at best," said Dave Wurtzel, the Army Corps official responsible for repairing the 17th Street Canal levee, whose huge breach during Hurricane Katrina caused the worst of the floods that soaked the city.

The new threat was Hurricane Rita, which strengthened into a 100-mph Category 2 storm as it barreled past the Florida Keys into the Gulf of Mexico.

"We are praying that the hurricane dissipates or that it weakens," said Mrs. Blanco, who declared a state of emergency. "This state can barely stand what happened to it."

The storm was projected to cross the Gulf and hit Texas by the end of the week. But a slight turn to the right was possible, and engineers warned that even a glancing blow to New Orleans and as little as 3 inches of rain could swamp the city's levees as early as tomorrow.

In anticipation of Rita, the Corps drove a massive metal barrier across the 17th Street Canal bed to prevent a storm surge from Lake Pontchartrain from swamping New Orleans again. Although engineers have left a large opening in the wall to allow floodwater to continue to be pumped back into the lake, it will have to be closed quickly if the storm threatens.

"This is what we're going to have to rely on to protect this canal and this part of the city," Mr. Wurtzel said.

Government engineers and private contractors also worked round-the-clock across New Orleans to repair the damage to the system of pumps, concrete flood walls, earthen berms and canals that protect the city.

In addition, the Corps had 800 giant sandbags weighing 6,000 to 15,000 pounds on hand, and had ordered 2,500 more to shore up low spots and plug any new breaches. It was also putting pumps and other materials where they might be needed.

"If New Orleans was directly affected by a Category 1, I would be concerned -- I would pull my people out," said David Pezza, the top geotechnical engineer for the Army Corps. "These levees are greatly compromised."

Mixed Signals Add New Level Of Aggravation (USAT)

By Matt Kelley

DOJ_NMG_0007274

USA Today, September 21, 2005

NEW ORLEANS — Frazzled and frustrated residents prepared Tuesday for the possibility of another hurricane, saying they're sick of mixed signals from federal, state and local leaders about whether to stay or go.

"I'm just tired," Shandried Baxter, 30, said as she waited for her clothes to dry at one of the few operating coin laundries in the city. "If we have to leave, we have to leave," she added with a shrug.

Mayor Ray Nagin and Louisiana Gov. Kathleen Blanco said they would like to see everyone evacuate: the residents who stayed in the city after Hurricane Katrina hit three weeks ago, as well as those who returned at the mayor's suggestion on Monday to the Algiers section of the city.

The National Hurricane Center projected that Rita would strike Texas at the end of the week, which gave Louisiana officials hope that their state would be bypassed.

"Today I feel better about Rita, and I'm not as prone to do a hard, mandatory evacuation," Nagin told reporters after meeting with President Bush and other federal officials. "But I want to leave that open as an option."

Nagin said he will "start to shut the city down" today if Rita remains a serious threat. He estimated that about 500 residents remained in the city, as well as hundreds of emergency, relief and reconstruction workers. The estimate seemed low, as hundreds, if not thousands, of people could be seen in the Algiers area on Tuesday.

Some of the military forces in New Orleans moved out of the city to be ready for action if Rita hits.

Police, meanwhile, turned away many residents trying to return. Nagin said authorities would begin strict enforcement today of a dusk-to-dawn curfew. Buses were provided at the city's convention center for anyone who wanted to leave, and two buses of evacuees left Tuesday, Nagin said.

Lt. Gen. Russel Honore, commander of the military's Joint Task Force Katrina, bristled at reporters' questions about where those evacuees would be taken.

"That's not your business," he said, adding later: "Don't start panic here. … Let's not get stuck on the last storm. Don't get stuck on stupid, reporters."

Blanco said state officials were working to find housing for people still staying in shelters after Katrina. All of the shelters in the state south of Interstate 10, which runs through New Orleans, would be closed, she said.

"We want people to move out of shelters, because shelter life is not a good way of life," she said.

Many residents of the Algiers neighborhood, which Nagin had urged residents to return to Monday, said they didn't know what to believe. "It doesn't make sense. First he orders us back, then he tells us to leave," Arthur Lawrence Brown Sr., 73, said of the mayor.

Brown sat in a folding chair on his stoop. Like many residents, he vowed not to leave. "I didn't go the first time. I won't go the second time," said Brown, an Army veteran of the Korean War. "If the Lord wants me, I'll be right here."

Others said they will leave if Rita does threaten New Orleans. One was Marcia Toca, 36, who said she would flee if necessary. But she said she didn't want to leave her neighborhood too quickly because authorities were not letting people re-enter the Algiers area.

"We're stuck here," Toca said. "It's like a prison. It's very frustrating. We came back in to get started rebuilding, and then they stopped us again."

Residents Leave Gulf Coast Area As Storm Grows (NYT)

By William Yardley And Abby Goodnough

The New York Times, September 21, 2005

NEW ORLEANS, Sept. 20 - Hurricane Rita brushed past Key West on Tuesday and was forecast to strengthen into a major hurricane later in the week, prompting residents and rescuers to begin evacuating this feeble city, as well as parts of Louisiana and Texas.

From the tip of the Florida peninsula to Galveston, Tex., thousands left their homes or made plans to, including many who had already fled once, from Hurricane Katrina, and were living in shelters and temporary housing. In Houston, officials moved evacuees from New Orleans out of the Reliant Arena and sent many of them on to Arkansas.

In Louisiana, Gov. Kathleen Babineaux Blanco asked President Bush on Tuesday to declare a state of emergency for her battered state as it prepares for Hurricane Rita. She requested $10 million in assistance.

Churning undiminished toward the warm and wide Gulf of Mexico, Hurricane Rita could strengthen to Category 4 intensity as it approaches Texas later this week, said Colin McAdie, a meteorologist at the National Hurricane Center in Miami. Hurricane Katrina was a Category 4 storm when it devastated parts of the coasts of Louisiana, Mississippi and Alabama on Aug. 29.

Mr. McAdie said western Louisiana could also bear the brunt of the storm depending on changes in steering currents.

"It's better not to nail it down too precisely," he said. "Over the next day or so we'll have a better idea."

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The threat of a new storm aligned federal and local authorities in Louisiana, at least publicly, after weeks of tension over the response to Hurricane Katrina.

President Bush, who had visited Mississippi earlier, attended a briefing in New Orleans. Later in the day, Mr. Bush signed legislation to increase the borrowing authority of the government's flood insurance program to $3.5 billion from $1.5 billion to pay claims from Hurricane Katrina.

"All up and down this coastline people are now preparing for what is anticipated to be yet another significant storm," the president said. He said Vice Adm. Thad W. Allen would remain in charge of the federal effort in Louisiana and Mississippi and that "we've got another admiral who is now being stationed in Texas, to coordinate the relief response."

Mr. Bush also praised the New Orleans mayor, C. Ray Nagin, who decided Monday to suspend a staggered reopening of parts of the city.

"He made a wise decision to say to people, be cautious about returning here, because a rain of any amount could cause these levees to break again," the president said.

The mayor, prickly a day earlier under pressure from the president and Admiral Allen to delay the return of residents into parts of the city, gave the admiral a T-shirt at a news conference on Tuesday outside City Hall, where generators still supply power and most key operations have moved across the street to the battered Hyatt Hotel.

Mr. Nagin said the words on the T-shirt read: "I love New Orleans."

The official death toll in Louisiana remained at 736. In Mississippi, 219 people died from the storm.

The Associated Press reported that a 72-year-old man, John Lyons, had been found alive in his home in New Orleans. Mr. Lyons's wife, Leola, also 72, was found dead.

In the city, mostly empty of residents but with its physical core still vulnerable, the possibility of heavy rain and a storm surge prompted officials to make emergency efforts to bolster its weakened levee system, station 500 buses on its outskirts to evacuate remaining residents and establish a military hospital at the convention center, which just weeks ago was the scene of violence and desperation for thousands of trapped evacuees from Hurricane Katrina.

In Florida, Hurricane Rita lashed Key West as it passed about 50 miles south of the island on Tuesday afternoon, flooding roads, yards and beaches through much of the Keys but not inflicting the severe damage many had feared. Late Tuesday night, it bordered on Category 3 strength as it moved into the Gulf of Mexico, with sustained winds near 110 miles per hour.

The Lower and Middle Keys were cut off from the rest of Florida for most of the day after Route 1 closed because of flooding. A quarter-mile section of the highway on Lower Matecumbe Key was closed because of a storm surge. Law enforcement officials said the roads were strewn with debris, although that did not stop the curious from driving. A few bars and restaurants stayed opened and drew restless crowds.

"We were not asked to close, and we won't close until we are," said Michael Pastore, a bartender at Don's Place, a Key West bar that opened at 7 a.m. on Tuesday.

By late afternoon, about 24,000 homes and businesses in Monroe, Miami-Dade, Broward and Palm Beach counties had no electricity far fewer than when Hurricane Katrina hit South Florida on Aug. 26, killing 11. In Miami, which suffered only rain squalls, tame winds and minor flooding, officials said government offices and schools would reopen Wednesday.

Gov. Jeb Bush said that 2,400 National Guard troops had been mobilized and 2,000 more were on alert in case the storm the seventh to hit Florida in 13 months - proved devastating. Hospitals and nursing homes in the Keys, eager to avoid the mistakes of New Orleans, evacuated their patients on Monday.

In New Orleans, Mr. Nagin said perhaps as few several hundred people were still living in the city's most vulnerable areas, in addition to the thousands of military and emergency workers who had come to help it recover. Lt. Gen. Russel L. Honoré, who is leading military efforts in the recovery, emphasized that evacuees taken to the convention center would be quickly transported out of town.

"We're not going back into that convention center and Superdome business," he said, alluding to the days of televised despair when tens of thousands of mostly poor black residents were trapped by floodwaters in the two buildings.

Two busloads of residents were evacuated from the convention center on Tuesday, the mayor said.

The mayor said officials would be more aggressive in pushing for evacuation on Wednesday if the storm turns toward the city, but he said they would not force people from their homes. General Honoré said about 14,000 troops in the region would move into shelters capable of withstanding Category 5 storms, the strongest measured on the Saffir-Simpson scale.

The city's weakened levee system could be breached by a storm surge as low as five feet, said Brig. Gen. Robert Crear of the Army Corps of Engineers. The Corps, which has used sandbags, stones and concrete to seal breaches in several levees, does not expect the levees to be fully repaired until June 1, the start of the 2006 hurricane season.

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General Crear said canals with repaired levees were being blocked at Lake Pontchartrain, to prevent pressure from building on the levees. In addition to storm damage, he said that the levees may have been damaged by barges that broke lose during Hurricane Katrina but that he was not certain.

"We had barges sitting on top of levees," he said. "We had barges sitting on the other side of levees. We don't know yet. We have not done the forensics yet."

The state continued to grapple with the costs of the destruction from Hurricane Katrina. The governor announced that she had signed an order freezing the state budget in anticipation of a loss of $750 million to $1 billion in state revenues from the effects of thee hurricanes. That order, signed Monday night, includes a hiring freeze for state agencies and is intended to save $30 million to $50 million in spending, she said, adding that it "will be the first of many."

Officials in Galveston called for a voluntary evacuation before Hurricane Rita emerged into the gulf.

Mr. Bush said Tuesday that he had also spoken to Gov. Rick Perry of Texas "on the planning for what we pray is not a devastating storm - but there's one coming."

R. David Paulison, the acting director of the Federal Emergency Management Agency, said in Washington on Tuesday that 45 truckloads of water, 45 truckloads of ice and 8 truckloads of ready-to-eat meals were being staged in Texas in advance of the storm. Nine urban search and rescue teams and nine disaster medical assistance teams also are to arrive.

The agency, still facing criticism for its response to Hurricane Katrina, has more search and rescue teams available in Texas than it did along the Gulf Coast in the advance of Hurricane Katrina.

The Texas National Guard has also started withdrawing troops from Louisiana to prepare for landfall by Hurricane Rita, Louisiana National Guard officials said.

About 1,000 Texas troops were recalled, Lt. Michael Odie said. Along Interstate 10, convoys of military trucks drove west, some with handwritten signs with "Katrina" crossed out and "Rita" written beside the words "Texas Bound."

Evacuees Of One Storm Flee Another In Texas (NYT)

By Ralph Blumenthal

The New York Times, September 21, 2005

HOUSTON, Sept. 20 - Hurricane Rita prompted a mandatory evacuation of this city's public shelters on Tuesday, emptying them as quickly as they had filled just three weeks ago and sending still-dazed survivors of Hurricane Katrina packing off to Arkansas, to the bus terminal, to the airport and, for some who considered themselves lucky, to paid and furnished apartments here in the Houston area.

Clustered in the hot sun and with all they had salvaged spilling from black garbage bags, shopping carts and suitcases tied with cords, evacuees set to leave one of the shelters, at Reliant Arena, seemed largely resigned to this new flight, although there were some flashes of temper.

Leading a circle of 10 with hands clasped in prayer as buses and taxicabs filled around them, Johnny Jeremiah, minister of the Pleasant Grove Missionary Baptist Church here, intoned, "God, this day, right now, this place, with this foolishness going on, we need you."

City and county officials, who had moved a vast bureaucracy to house more than 27,000 survivors in four public shelters quickly after the New Orleans disaster, said none of those now leaving the shelters would be put in housing that could be at risk from the approaching storm. But they said they might have to relocate people who had earlier been placed at hotels and motels in low-lying areas.

With the new storm's path uncertain, Galveston, which still bears scars from the great hurricane of September 1900 - the nation's deadliest disaster, with at least 6,000 killed - ordered a mandatory evacuation to begin at 6 p.m. Wednesday. Mayor Bill White of Houston said that this city of two million would make its own decision Wednesday and that as much as half the population could be called upon to evacuate.

In recent days, the dwindling thousands of storm survivors who had been sheltered in the Astrodome and Reliant Arena, as well as the adjacent Reliant Center exhibition hall and the George R. Brown Convention Center, were concentrated largely in the arena, which was finally emptied Tuesday night.

For the last hundreds in the arena, the day was particularly trying. Families sat on bundles of possessions like war refugees. Pregnant women and the injured waited in wheelchairs. Red Cross volunteers weaved through the throngs, passing out cold water and pastries.

With her month-old daughter asleep in a stroller, Monique Davis scooped up diapers that had spilled over the ground. Nearby lay a trash bag with stuffed animals poking out. A boy rocked solemnly on a wooden hobbyhorse.

About 500 people who had applied for apartments and been promised them lined up for buses and taxicabs to get there. Others boarded tour buses to Ellington Field for flights to new shelter at Fort Chaffee, Ark. - some chose to make the entire trip

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by bus - or to George Bush Intercontinental Airport, where Continental Airlines was offering free tickets out. Still others got rides to the Greyhound terminal, where free tickets also awaited.

Steve Freeman, an oyster shucker with an injured leg infected from walking through floodwaters, said he planned to take up Continental on the free flight to reach Norfolk, Va., where he heard there were lots of oysters. But he was suspicious of the official motives for the evacuation.

"They've been trying to get us out early," Mr. Freeman said. "We're the working people. They don't want us here."

Paul Horton, driver of a produce truck, said he would use his airline ticket to fly to Atlanta to join his wife and two children, who had evacuated there with a neighbor. He has been separated from them since the hurricane, Mr. Horton said, when they got out after the water reached chest-high. He was later rescued and evacuated by bus to Dallas, then Arizona, Arkansas and finally the Reliant sports and entertainment complex in Houston.

Rohonor R. Randall, in a wheelchair with a bandaged foot ailing from exposure to polluted water, said she was bound for Fort Chaffee, but by bus.

"I'm not afraid of planes, I just like to be on the ground," Ms. Randall said.

She called for her newfound friend, the Rev. Hugh Hairston, pastor of Loveland Church in Ontario, Calif., a leader of a group of volunteer clerics called Operation Compassion. He offered a prayer for her foot.

Ms. Randall gripped his hand and said: "You never know where life leads you. Life changes in an instant, like God is showing you life is valuable."

Rita Evacuees From Keys Play It Safe (USAT)

By Kelly Whiteside

USA Today, September 21, 2005

Some longtime residents leave path of a storm for the 1st time

MIAMI — About 350 evacuees from the Florida Keys spread sleeping bags, blankets and flattened cardboard boxes across the hallways of Florida International University on Tuesday as they sought haven from Hurricane Rita.

Many of them boarded city buses in Key West on Monday evening and arrived three hours later at this makeshift Red Cross shelter to wait out the storm. They left home because of the images of Hurricane Katrina and the fear that Rita might do the same.

“I didn't want to get caught in what those people got caught in with Katrina,” said Yvonne Dixon-Mahoney, a corrections officer from Big Pine Key. “Seeing people on their roofs, with the water rising and all the chaos in New Orleans, I thought we'd better go.”

Dixon-Mahoney, her husband Phillip and their four children, including a 6-month-old daughter, left behind their two dogs and cat with plenty of food and lots of concern.

Longtime residents of the Keys said it was the first time they had evacuated their homes for a hurricane. Tourists and all 78,000 residents in the low-lying Keys were ordered to leave on Monday.

Mary Smyth from Austin was visiting friends in Key West. Now she was worried if Rita, headed into the Gulf of Mexico for the Texas coast, would allow her to get home.

William Laney, visiting from Fort Lauderdale, learned about the storm while watching pro football on Sunday and a scroll about the mandatory evacuation spread across the TV screen in his hotel room. Unable to drive because of two recent knee replacement surgeries, he took the bus and went to the shelter.

At the earth sciences department at FIU, the scene was a stark contrast to the experiences of those who weathered Hurricane Katrina. Though Rita developed into a Category 2 storm with winds of 100 mph as it passed the Keys on Tuesday afternoon, there was only a light rain and a firm breeze here in west Miami-Dade County.

The greater Miami area, home to more than 2.2 million people, was under a hurricane warning Tuesday. That was lifted after the storm passed.

Wind and rain buffeted the northern Keys, but Isis Majeska has seen worse.

“If I go out onto my porch, I don't even see leaves down,” said Majeska, 46, who works for the Monroe County court system. “It's just not that bad a storm.”

Those who took shelter on the third floor of the Charles E. Perry Building on FIU's campus included homeless people, vacationers, office workers, store managers and retirees.

Evacuees slept on tile floors in the hallways or upright in classroom desks. One mother of five swept the floor of an opened classroom that had become a play area for children.

A television without reception was suspended in a corner. “We asked for DVDs, but there weren't any,” said Dominique Atkins, who then walked to the Walgreens and bought bingo games and coloring books for her two children.

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There was air conditioning and electricity, and the mood was generally upbeat. The Red Cross delivered a steady supply of water and three meals a day.

Judy Garmas cradled her 3-week-old son, Rene, already a veteran of two hurricanes, in her right arm as she sat beneath a map of “Tectonic Lithofacies of Appalachian Orogen” and talked about a different type of earth science. “We live in a trailer, and I didn't want to get caught, not with the baby,” she said. “He was only 2 days old when Katrina hit.”

The Garmas family lives in Sweetwater, southwest of Miami, but drove to the shelter to join her sister's family, who evacuated from Key West. By 3 p.m., they were packing their blue stroller, diaper bag and blankets once they received word there was no damage to their trailer. An hour later, they were gone.

As Rita Picks Up Steam, It's Deja Vu All Over Again For U.S. Energy Industry (KRT)

By Kevin G. Hall

Knight Ridder, September 21, 2005

WASHINGTON - Hurricane Rita threatens serious damage this week to the energy infrastructure in and around the Gulf of Mexico and could send fuel prices skyrocketing anew.

Oil companies battened down offshore oil rigs and platforms Tuesday in the central and western Gulf and evacuated offshore personnel.

"All of the operators and drilling contractors are taking extra precautions for Rita because they've seen what can happen after Katrina," said David Kent, an owner and editor of the Houston-based Web site Rigzone.com, focused on the offshore oil industry. "I think it's a matter of getting out of Dodge right now."

On Tuesday the Web site, a favorite of energy analysts, warned that Rita threatens the most productive area of deepwater oil rigs and platforms.

Rita was upgraded to a Category 2 hurricane Tuesday and is forecast to become Category 4 on Wednesday - with winds from 131 to 155 mph - as it heads toward the Texas coastline. It could make landfall Friday.

Texas is the country's largest oil producer, accounting for 20 percent of national production. Much of it comes from offshore activities coordinated through Houston, America's energy capital.

The state boasts 26 refineries, or about a quarter of the nation's refining. At least 14 are located on or near the Gulf Coast. They turn oil into gasoline or distillates for home heating. Most are built on higher ground in and around Houston, and most are further inland than refineries damaged by Katrina. Even if Houston dodges a direct hit, Rita could force precautionary shutdowns that could severely impact the availability of gasoline.

That could drive gasoline prices up sharply. Most U.S. refineries have been running full throttle to make up for the four major refineries idled by Katrina. Those refineries, three in Louisiana and one in Mississippi, have a combined capacity to convert 659,000 barrels of crude oil per day.

If Rita crosses the Houston area, all eyes will be on ExxonMobil's refinery in Baytown, the nation's largest, with a production capacity of 557,000 barrels a day. Baytown's city manager, Gary Jackson, said he's in close contact with the industry.

"We know they are monitoring just as we are. There will be some critical times with decisions ahead," he said. "Those final calls will be their calls, each on an individual plant-by-plant basis."

Rita's uncertain path drove global oil prices up by more than $4 a barrel Monday, the largest one-day jump ever. Oil prices tapered off Tuesday, closing down a dollar at $66.23 on the New York Mercantile Exchange.

"Judging by what the market has done and speaking for myself, I am very nervous indeed," said Bart Melek, a senior economist and energy analyst at BMO Nesbitt Burns in Toronto, a division of the Bank of Montreal.

The world's oil supply is stretched to near capacity. Katrina knocked out almost 5 percent of U.S. oil production, and Rita threatens more damage. Add to that volatile mix growing civil unrest in Nigeria, the fifth-largest oil supplier to the United States, and it all adds up to more fuel-price volatility in the days ahead.

"It's not going to take very much to move it up. God forbid that something happened in the Middle East," Melek said. "There isn't physical spare capacity, there just isn't."

Colonial Pipeline Co. operates the nation's largest pipeline, which originates in Houston. Katrina knocked out the utilities that provide the power to push gasoline through pipes that supply much of the U.S. East Coast. At company headquarters in Alpharetta, Ga., there is understandable concern.

"We're still in a wait-and-watch mode. We're monitoring it carefully," said Steve Baker, a company spokesman.

A lesson from Katrina: Colonial will pre-position portable diesel generators on tractor-trailer rigs if necessary to try to keep its pipelines flowing in case of power outages.

"If the storm goes west of Houston, there's likely to be no impact on us or the power grid," Baker said hopefully.

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Chevron, Royal Dutch Shell, ExxonMobil and British Petroleum all announced evacuations of manned oil platforms and rigs days before projected landfall. Some energy analysts believe that's an ominous admission that Rita threatens more destruction.

"They're pretty good about predicting these things," said Craig Smith, an energy expert and author of the forthcoming book "Black Gold Stranglehold," which examines fuel prices. "We hope it peters out, but if it has any strength and hits platforms or turns toward New Orleans, we cannot afford another hurricane right now. We just can't afford it. You're seeing that nervousness in the markets."

Gulf Oil Platforms Hunker Down For Rita (USAT)

By David J. Lynch

USA Today, September 21, 2005

Still reeling from Hurricane Katrina, the battered Gulf of Mexico energy industry girded Tuesday for its second potentially devastating storm in a month.

Crews evacuated offshore oil platforms ahead of the approaching Hurricane Rita and its 100-mile-per-hour winds. The storm is expected to intensify as it crosses the Gulf of Mexico, home to 29% of domestic U.S. oil production, and could batter energy facilities Katrina left untouched.

"What wasn't hit by Katrina is being targeted by Rita. The market is taking the storm very seriously," says Agbeli Ameko of First Enercast Financial, an energy forecasting firm in Denver.

After rising $4 a barrel Monday, the biggest one-day jump ever, oil markets calmed Tuesday. Light, sweet crude for October delivery fell $1.16 to $66.23 a barrel in New York trading.

The latest storm could jolt prices if it slams into critical refineries on the Texas coast. Thanks to Katrina, four refineries representing about 5% of U.S. capacity already are closed for "an extended period," the Energy Department says.

With oil and gas markets already stretched tight, any further loss of capacity from Rita could send prices at the pump back up.

Texas is home to 26 refineries, which account for 27% of domestic refining capacity. Major refineries belonging to BP, Valero, Marathon Oil, Citgo, ExxonMobil, Royal Dutch Shell and ConocoPhillips lie in a coastal arc stretching north and south from Houston.

Some experts say the industry could rebound faster from Rita than it has from Katrina. Coastal refineries in Texas are guarded by barrier islands and thus are not as vulnerable to heavy flood damage as those in Louisiana and Mississippi.

"I'm not convinced it's going to have the lasting effect Katrina has," says Mark Routt, an analyst at Energy Security Analysis of Wakefield, Mass. "… A lot more capacity could go down, but it'll come back sooner. It's better protected."

Across the Gulf Tuesday, workers headed for dry land. Transocean, a major offshore drilling contractor, was expected by the end of Tuesday to have evacuated 500 workers from three moored rigs. About 725 workers remain on seven maneuvering rigs. "They move like ships. As the storm dictates, they'll move out of the way," says spokesman Guy Cantwell.

Katrina's legacy, however, continues to be felt. Offshore Logistics' Venice, La., helicopter facility was heavily damaged and left submerged after a protective levee failed under Katrina's assault.

This week, operating from the firm's other sites, Offshore's roughly 150 helicopters have been busy shuttling crews to safety from installations far from land.

With relief workers and evacuees filling hotels in the region, it's hard to find lodging for oil crews. Later this week, Offshore will start flying its choppers out of danger.

"We're going to be battening down our hatches," spokesman Joe Baj says.

Utility Tallies Fiscal Toll (NYT/AP)

By The Associated Press

The New York Times, September 21, 2005

BATON ROUGE, La., Sept. 21 (AP) - Faced with the costs of rebuilding its Gulf Coast utility systems devastated by Hurricane Katrina, Entergy said Tuesday that it would consider bankruptcy protection for its New Orleans unit.

Entergy, whose Entergy New Orleans unit has lost up to an estimated 130,000 customers because of the hurricane, estimates the unit's storm-related costs at $325 million to $475 million.

Entergy also said Tuesday that it planned to pursue various avenues for recovering costs from the storm, including insurance reimbursements, potential federal relief and "existing or new rate mechanisms."

Blanco Pushes FEMA For Hotel Rooms (USAT)

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By Thomas Frank
USA Today, September 21, 2005

Louisiana's governor asked the federal government Tuesday to move tens of thousands of Hurricane Katrina evacuees out of shelters and into hotels.

Gov. Kathleen Blanco's request comes after state officials said it could take months to prepare trailers and other temporary housing for evacuees. Blanco wants the Federal Emergency Management Agency to pay for hotel rooms for 90 days for each individual or family.

"It's just not moving fast enough," said Jerry Jones, the governor's director of facility planning. "We don't want to just warehouse these people. We want them to be in a place where they can thrive and get back to normalcy."

Ron Sherman, FEMA's housing coordinator in Louisiana, said the idea could work and vowed to review it. FEMA currently pays for thousands of evacuees to stay in hotels for up to 60 days. The American Red Cross is paying hotel bills for thousands of others.

If accepted, Blanco's recommendation would allow displaced Louisianians living in shelters in their state or elsewhere to move to hotels identified by FEMA. It is unclear how many people would be eligible for hotel stays. Nearly 100,000 people are staying in 1,042 shelters in 26 states and the District of Columbia, according to FEMA.

Montine McNulty, executive director of the Arkansas Hospitality Association, called the plan "workable" and said many local hotels had rented rooms to evacuees for six months. "This is an especially good time because for many of the resort areas; it's sort of a down period," McNulty said.

Arkansas has 7,992 evacuees in shelters, the most of any state not damaged by Katrina. Texas had 13,182 shelter residents Monday but was planning to move 7,000 to Arkansas and Tennessee to keep them safe from Hurricane Rita.

Blanco's hotel request reflects the state's growing concern that Louisianians staying in out-of-state shelters will find permanent housing in the communities where they are sheltered.

People would be more likely to move back to Louisiana if they could stay in hotels for 90 days and then be able to occupy a trailer in their home state, said Jones, the governor's aide. "This buys us some time. … We want to entice them to come back home," he said.

Sherren Bartheleny, 49, sitting on a plastic chair outside a shelter in downtown Baton Rouge, said she was skeptical of the governor's plan because she fears it will take much longer than 90 days for the government to find appropriate housing for evacuees.

"If [Blanco] can put me in a trailer back in Plaquemines Parish after 90 days, I'll go to a hotel," said Bartheleny, whose home was destroyed. "I want a written statement from the governor."

Experts Say Faulty Levees Caused Much Of Flooding (WP)

By Michael Grunwald And Susan B. Glasser
The Washington Post, September 21, 2005

NEW ORLEANS, Sept. 20 -- Louisiana's top hurricane experts have rejected the official explanations for the floodwall collapses that inundated much of New Orleans, concluding that Hurricane Katrina's storm surges were much smaller than authorities have suggested and that the city's flood- protection system should have kept most of the city dry.

The Army Corps of Engineers has said that Katrina was just too massive for a system that was not intended to protect the city from a storm greater than a Category 3 hurricane, and that the floodwall failures near Lake Pontchartrain were caused by extraordinary surges that overtopped the walls.

But with the help of complex computer models and stark visual evidence, scientists and engineers at Louisiana State University's Hurricane Center have concluded that Katrina's surges did not come close to overtopping those barriers. That would make faulty design, inadequate construction or some combination of the two the likely cause of the breaching of the floodwalls along the 17th Street and London Avenue canals -- and the flooding of most of New Orleans.

In the weeks since Katrina drowned this low-lying city, there has been an intense focus on the chaotic government response to the flood. But Ivor van Heerden, the Hurricane Center's deputy director, said the real scandal of Katrina is the "catastrophic structural failure" of barriers that should have handled the hurricane with relative ease.

"We are absolutely convinced that those floodwalls were never overtopped," said van Heerden, who also runs LSU's Center for the Study of Public Health Impacts of Hurricanes.

In an interview Tuesday, Corps spokesman Paul Johnston said the agency still believes that storm surges overtopped the concrete floodwalls near the lake, then undermined the earthen levees on which they were perched, setting the stage for the breaches that emptied the lake into the city.

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Johnston said the Corps intends to launch an investigation to make sure it is correct about that scenario. But he emphasized that Katrina was a Category 4 hurricane when it smashed into the Gulf Coast, whereas Congress authorized the Corps to protect New Orleans against a storm only up to Category 3. "The event exceeded the design," Johnston said.

The center's researchers agree that Katrina's initial surge from the southeast overwhelmed floodwalls along the New Orleans Industrial Canal, flooding the city's Lower Ninth Ward as well as St. Bernard Parish. They believe that a little-used Army Corps navigation canal known as the Mississippi River Gulf Outlet helped amplify that surge, although they acknowledge that this surge was larger than the system was designed to control.

But the researchers have strong evidence that Katrina's subsequent surge from the north was several feet shy of the height that would have been necessary to overtop the 17th Street and London Avenue floodwalls. It was the failures of those floodwalls that emptied the lake into the rest of the city, filling most of New Orleans like a soup bowl.

On a tour Tuesday, researchers showed numerous indications that Katrina's surge was not as tall as the lakefront's protections. They showed a "debris line" that indicates the top height of Katrina's waves was at least four feet below the crest of Lake Pontchartrain's levees. They also pointed out how the breached floodwalls near the lake showed no signs of overtopping -- no splattering of mud, no drip lines and no erosion at their bases. They contended that the pattern of destruction behind the breaches was consistent with a localized "pressure burst," rather than widespread overtopping.

The center has also completed a computerized "hindcast" of Katrina, which has confirmed the evidence before their eyes. Their model indicates that most of the surge around the lake and its nearby canals was less than 11 feet above sea level, and that none of it should have been greater than 13 feet. The Army Corps's flood-protection system for New Orleans was designed to handle surges of more than 14 feet above sea level.

"This should not have been a big deal for these floodwalls," said oceanographer G. Paul Kemp, a hurricane expert who runs LSU's Natural Systems Modeling Laboratory. "It should have been a modest challenge. There's no way this should have exceeded the capacity."

The center's researchers said it is too early to say whether the breaches were caused by poor design, faulty construction or some combination. But van Heerden said the floodwalls at issue -- massive concrete slabs mounted on steel sheet pilings -- looked more like the sound barriers found on major highways. He also suggested that the slabs should have been interlocked, and that the canals they were supposed to protect should have had floodgates to keep out water from the lake.

Former representative Bob Livingston (R-La.), who helped lead the charge for Corps projects in Louisiana when he chaired the House Appropriations Committee, noted that the earthen levees along Lake Pontchartrain had all held, while the concrete floodwalls had failed. He was especially concerned about the 17th Street barrier, saying it "shouldn't have broken."

"I don't know if it's bad construction or bad design, but whoever the contractor is has a problem," said Livingston, now a lobbyist on Capitol Hill.

Former senator J. Bennett Johnston (D-La.) said he remembers numerous briefings from Corps officials about the danger of a hurricane overtopping the New Orleans levees. But he said he never envisioned a scenario like this one. "This came as a surprise," he said.

The Corps has not identified the contractors who built the floodgates that failed; Paul Johnston said there will be a full investigation into the breaches.

Congress authorizes flood- control projects -- after receiving recommendations from the Corps -- and the Corps oversees their design and construction.

John M. Barry -- who criticized the Corps in "Rising Tide," a history of the Mississippi River flood of 1927 -- said that if Katrina did not exceed the design capacity of the New Orleans levees, the federal government may bear ultimate responsibility for this disaster.

"If this is true, then the loss of life and the devastation in much of New Orleans is no more a natural disaster than a surgeon killing a patient by failing to suture an artery would be a natural death," Barry said. "And that surgeon would be culpable."

Design Flaws Seen In New Orleans Flood Walls (NYT)

By Christopher Drew And Andrew C. Revkin

The New York Times, September 21, 2005

NEW ORLEANS, Sept. 20 - Along the Mississippi River and Lake Pontchartrain, great earthen levees were ample to hold off much of the surging water propelled by Hurricane Katrina.

But concrete flood walls installed over the last several decades along the drainage and barge canals cutting into New Orleans were built in a way that by Army Corps of Engineers standards left them potentially unstable in a flood, according to government documents and interviews. The walls collapsed in several places during the storm.

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A corps engineering manual cautions that such flood walls "rarely exceed" seven feet because they can lose stability as waters rise. But some of the New Orleans canal walls rose as high as 11 feet above dirt berms in which they were anchored.

As a result of federal budget constraints, the walls were never tested for their ability to withstand the cascades of lake water that rushed up to, or over, their tops as storm waves pulsed through the canals on Aug. 29, corps and local officials say.

Hurricane Katrina was the first serious test of the flood walls, said Stevan Spencer, chief engineer for the Orleans Levee District, and it "just overwhelmed the system."

Since the storm, corps officials have said that there is a simple explanation for the devastation: Hurricane Katrina was a Category 4 storm and Congress authorized a flood control system to handle only a Category 3 storm. "Anything above that, all bets are off," said Al Naomi, a senior project manager in the corps's New Orleans district.

But federal meteorologists say that New Orleans did not get the full brunt of the storm, because its strongest winds passed dozens of miles east of the city. While a formal analysis of the storm's strength and surges will take months, the National Hurricane Center said the sustained winds over Lake Pontchartrain reached only 95 miles per hour, while Category 3 storms are defined by sustained winds of 111 to 130 m.p.h.

This raises a series of questions about how the walls that failed were designed and constructed, as well as whether the soil in some spots was too weak to hold them. Investigations by federal engineers and outside experts are just now beginning.

One factor could be height, said Robert G. Bea, a former corps engineer and professor at the University of California, Berkeley, who is part of a National Science Foundation inquiry into the flood controls failures. The higher the wall, Professor Bea said, the greater the risk it could tip under the ever greater pressure of rising waters.

The 2000 edition of the Army Corps of Engineers manual "Design and Construction of Levees" says that the height of flood walls built on levees is an important factor in their ability to withstand a flood. For that reason, the manual says walls like those used in New Orleans "rarely exceed" seven feet. But on two of the three canals where breaks occurred - the 17th Street and London Avenue canals - the concrete sections rise 11 feet above the dirt berms.

Each wall resembles a row of teeth set in a jaw. Individual slabs are anchored to a continuous steel sheet buried in the dirt, giving the wall its strength. Above a short foundation, the slabs are linked only by rubbery gaskets that allow the concrete to expand and contract without cracking.

Hassan S. Mashriqui, an engineering professor at Louisiana State University and an expert on storm surges, said the segmented nature of the walls could be an additional problem, since any weak point could cause a catastrophic failure.

"Since they're not tied together you get a little bit of a gap and that's what water needs to make it fail," Dr. Mashriqui said.

Other questions surround the walls' design, known as an "I-wall" for its slim cross section that fits easily into densely developed areas.

The corps manual for flood control construction suggests a different design for walls higher than seven feet - walls shaped like an inverted T, with the horizontal section buried in the dirt for extra stability.

But that option was never considered, corps engineers said, because "T walls" were more expensive, required a broad base of dense soil for support and were not necessarily stronger.

The corps and local levee authorities also never tested whether the chosen I-wall design could survive if water flowed over the top and cascaded onto dirt embankments below.

Corps officials said they were proscribed from considering stronger wall designs for the canals both by the tight quarters and by federal law, which requires that they seek and study only the level of flood control authorized by Congress.

"Our hands are tied as to looking at higher-level events," Mr. Naomi said.

Mr. Naomi said that the recommendations in the flood control engineering manual were "general guidance," and that conditions at a particular site could justify deviations.

He defended the walls, saying: "The flood walls have functioned over the years very successfully and without incident. The design works. It has worked in other locales. And will likely continue to be used as long as you do not subject it to pressures that it was not designed to handle."

The broken walls, which were long seen as a second choice to earthen levees, are testament to 40 years of fiscal and political compromises made by elected officials, from local levee boards to Congress and several presidential administrations, as they balanced costs and environmental concerns with the need to protect a city that lies largely below sea level and is still subsiding.

Ever since Hurricane Betsy flooded parts of New Orleans in 1965, the federal government has financed a hurricane defense system designed to guard against an equivalent storm.

But as the threat of a more intense hurricane became better understood in recent years, government financing for flood prevention in New Orleans did not keep pace with a growing alarm among many local residents, scientists and even the corps's own engineers.

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Standing next to the shattered remains of one of the concrete walls last week, Cynthia Hedge-Morrell, a New Orleans councilwoman, said, "In my opinion, they were playing Russian roulette with people's lives."

"Do you realize that if those walls had held, we'd have just had a little cleaning job?" said Ms. Hedge-Morrell, whose district between downtown and the lakefront was covered with 10 feet of water from the breaks of flood walls. "We would not have this massive loss of life and destruction."

On Tuesday, streams of dump trucks hurriedly dumped loads of gravel into the breaches in New Orleans's flood defenses, in case Hurricane Rita shifts toward here later this week.

In the wake of Hurricane Katrina, a surge from Lake Pontchartrain poured into the main parts of the city through breaks on the walls lining the 17th Street and London Avenue canals, which normally carry runoff pumped out of the city into the lake. A separate surge from the Gulf of Mexico overwhelmed the walls along the Industrial Canal, inundating the Lower Ninth Ward. Officials say that break may have been caused by a barge that broke loose from its moorings.

When the hurricane hit, the only earthen levees that failed in a way that produced substantial flooding were on the Mississippi River Gulf Outlet, a man-made ship canal east of the city. These levees, which were not as high as those on the river or Lake Pontchartrain, let in the floodwaters that ravaged eastern New Orleans and St. Bernard Parish.

A surge from Lake Pontchartrain was the catastrophic situation that the corps had been guarding against since Hurricane Betsy 40 years ago. Initially, the corps wanted to build a giant barrier to keep water from the Gulf of Mexico from reaching Lake Pontchartrain and flooding the canals.

That project was delayed by lawsuits from environmental groups that contended the corps had failed to study ecological effects. By the late 1970's, the corps abandoned that approach and began raising levees along the lake and the Mississippi and adding flood walls on the canals.

In the mid-1990's, engineering professors at Louisiana State began publicizing computer models that showed how a Category 5 storm could kill tens of thousands of people and flood the French Quarter. Corps officials in Louisiana pushed local officials to help seek more money from Congress, both to finish existing upgrades and to start bolstering the city against bigger threats.

Joseph Suhayda, who was one of the Louisiana State professors, said corps officials privately urged him to "raise the consciousness" about the dire threats.

But upgrading the flood control system never became a major priority for corps officials in Washington, local and federal officials say.

Corps veterans said it was not surprising that federal engineers did not issue more vocal warnings.

"I don't think it was culturally in the system for the corps to say 'this is crazy,' " said William F. Marcuson III, the former director of the Waterways Experiment Station for the corps in Vicksburg, Miss., and president-elect of the American Society of Civil Engineers.

"The corps works for Congress," Mr. Marcuson said, "and when the boss says design for a Category 3 storm, culturally the corps is not going to go back and say this is wrong."

Investigations into how the walls failed are just now beginning. Col. Richard Wagenaar, commander of the corps district in New Orleans, said the soil behind the flood walls could have been weakened after they were topped by the storm surge, or the walls could have simply given way as the water - and the pressure - mounted against them.

Indeed, as several engineers said, while a dirt levee of similar height might eventually be topped as well, and possibly eroded, only the walls were vulnerable to a sudden collapse.

The determination of how the walls fell will bear on how officials decide to remake the flood control system.

Max Hearn, executive director of the Orleans Levee District, said that if the federal government was now ready to pay for Category 5 protection, it seemed unlikely that the flood wall system could be upgraded to that level.

But Mr. Hearn said the only answer might be the construction of flood gates designed to limit a hurricane surge in Lake Pontchartrain - the same idea that was considered and dropped in the 1970's.

Damaged Levees Offer New Orleans Little Flood Protection, Corps Says (KRT)

By Pete Carey

Knight Ridder, September 21, 2005

Hurricane Katrina so weakened New Orleans' 350-mile levee system that it probably can't protect the city from flooding even in a relatively minor storm, officials with the Army Corps of Engineers said.

While workers have closed most of the breaches that allowed the city to flood after Katrina, none of the burst levees has been returned to its pre-flood height, corps officials said. Many other sections of the levee have washed away or have eroded enough that even a small rise in the surrounding waters would spill into the city.

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The damage to the levees is particularly worrisome as Hurricane Rita approaches the Gulf Coast. Engineers were working feverishly Tuesday to close gaps.

One break remains open on the 17th Street Canal and two are still open along the London Avenue canals, spokeswoman Dana Finney said. Corps engineers dropped 80 10,000-pound sandbags into the breaches Tuesday in an effort to close them.

Walls along both canals are so damaged, however, that corps officials decided to prepare to seal the canals' entrances to Lake Pontchartrain temporarily - even though such a move would render them useless in carrying out their designated purpose, draining water from the city into the lake. A decision on whether to take the final steps to close the canals will be made at noon Wednesday.

"London Avenue has got significant structural problems, we know that," said Col. Richard P. Wagenaar, the corps's New Orleans district commander. "That's why we're closing it off."

Corps officials said recovery efforts were likely to be delayed in St. Bernard and Plaquemines parishes by a decision to close levee breaks there that had been made to help drain those areas. St. Bernard Parish has been pumped nearly dry.

Computer modeling suggests that parts of the city and nearby parishes could be endangered even without a direct hit from Rita, Finney said.

In a statement Sunday, Brig Gen. Robert Crear, the commander of the corps's Katrina recovery task force, said the system in its current state "does not ensure that the city will be protected against storms or hurricanes." He warned that people in the city would be at risk.

Tuesday, Crear said he thought the levees might be able to handle a storm surge of up to 5 feet, far less than the 17 feet that Katrina brought. He said there was no way the levee system could be repaired before Rita hits and that the goal was to make repairs in time for next year's hurricane season, which begins June 1.

Any new flooding probably would slow down repair operations, said David Pezza, a corps engineering-construction specialist. "I have to say we would have to anticipate a delay," Pezza said, "but our goals are still June 2006."

Officials have noted that new flooding would primarily threaten areas that already were damaged in the floods from Katrina.

In its statement Sunday, corps officials offered a grim assessment of the levee system: Only one of six levees cited was deemed in good shape; the others were likely to flood in a storm.

Joseph Suhayada, retired director of the Louisiana Water Resources Research Institute at Louisiana State University, said some breaches had been filled only to 3 or 4 feet above the level of Lake Pontchartrain, although they were still being built up. They might reach 5 feet of protection soon, "which is not much of a storm."

The corps has stocked 800 huge sandbags to close any new levee breaches and has ordered 2,500 more.

Even heavy rain would be a threat. "With anywhere from 2 to 3 inches of rain, we will get some locations that could have potentially 2 to 3 feet of water," Wagenaar said.

"Hopefully, there won't be too much rain," Wagenaar said.

Supersizing The Levees (WSJ)

By Michael Corkery and Ann Carrns

The Wall Street Journal, September 21, 2005

NEW ORLEANS -- Three weeks after Hurricane Katrina ripped siding off the three-story building where Ben White owns a hair salon, he was still sweeping away a mess of brown leaves and hair-spritzer nozzles. But one of the battered building's best features was intact: a panoramic view of Lake Pontchartrain.

Even that could change as federal and state officials dust off dormant plans to fortify the system of levees and flood walls in and around New Orleans that proved too weak to withstand Katrina. While none of the options being considered is anywhere close to approval, the floodwaters that inundated the city have boosted the odds that between five and 10 feet could eventually be added to the height of the levees that now generally rise 13 to 18 feet.

Floodwaters are receding in New Orleans, but larger levees may threaten land and homes near the 17th Street Canal.

Besides costing billions of dollars, bolstering the line of defense against future hurricanes would likely send swarms of bulldozers into swank neighborhoods, threaten environmentally vulnerable marshes and trigger lawsuits from homeowners whose property would have to be seized to make room for the supersize levees. Raising the height of the levees to 25 feet or higher could also block views of the lake and require engineers to widen the base of the dirt structures by 100 feet or more.

"It would be disappointing to lose the view," says Mr. White, whose salon is in the Bucktown section of Metairie, just west of New Orleans. But he adds that he "wouldn't be against something that was good for the community."

The city's current flood-control system was designed to handle up to a Category 3 hurricane. Katrina, with winds as strong as 145 miles an hour, was a Category 4. Officials with the U.S. Army Corps of Engineers, which builds most levees and other flood-control systems, say that, from a scientific and engineering standpoint, a levee system can be built that would safeguard

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the city from even the most powerful hurricanes. "There's no question...we could build to protect against a Category 5 storm," says Don Basham, chief of engineering at Army Corps headquarters in Washington.

A 2002 preliminary study by the Army Corps' New Orleans district of whether the hurricane-protection system around New Orleans should be upgraded included the option of raising levees, and engineers say some could approach 30 feet. It would require protective gates to be built where the canals empty into Lake Pontchartrain, but no changes are likely to be needed in the concrete flood walls along the canals.

Another option drawing renewed attention would steer an estimated $3 billion to the Army Corps to build and reinforce a 35-mile section of levees east of New Orleans, including massive gates in two channels linking Lake Pontchartrain with Lake Borgne and the Gulf of Mexico, plus a third gate at the junction of two man-made waterways that are popular shipping lanes. The gates would be closed as hurricanes approach to block storm surges from flooding the city and neighboring communities, as they did when Katrina barreled through.

It can take decades to study and fund major flood-control projects, partly because state and local governments are required to share the costs. Louisiana officials now contend that protecting New Orleans is so urgent that the federal government should pay for the entire job and that the process for reviewing, designing and constructing stronger levees should be streamlined.

The Louisiana Department of Natural Resources has asked the state's members of Congress to request $18.2 billion in federal funds for a variety of hurricane-protection projects and $14 billion to help restore wetlands that serve as a buffer zone against hurricanes.

So far, state officials are studying a version of the so-called barrier plan east of New Orleans, which would extend levees beyond Slidell, a city on the northern shore of Lake Pontchartrain that was also devastated. But that could harm marshy areas by restricting the natural movement of water. A plan with similar elements was abandoned in the 1970s after environmentalists and fishermen launched a legal attack, and fierce opposition could resurface regardless of how well the new levees would shield New Orleans from floods. The earlier plan also was designed to protect from a Category 3 storm, the corps says.

Randy Hanchey, Louisiana's deputy secretary of natural resources, says state officials are urgently studying the barrier option but haven't decided exactly where the levees and gates would be located. Army Corps officials haven't recommended a specific plan yet. "We'll be looking to the Corps for guidance and working with state and local officials on rebuilding not only New Orleans but its flood-control protection," said Scott Milburn, a spokesman for the White House Office of Management and Budget.

Raising the city's levees, typically grassy mounds where residents used to stroll and enjoy the view of Lake Pontchartrain, could consume precious real estate. One neighborhood that could be affected by new flood control measures is Lakeview, a mostly middle class and upper middle class enclave where housing prices were rising fast before Katrina. Some homes in a nearby neighborhood closer to the lake were valued at as much as $1 million.

The Lakefront Campus of the University of New Orleans on the London Street Canal is still threatened.

It's impossible to tell how much anything is worth now. Along the 17th Street Canal wall, which separates New Orleans from Jefferson Parish and was breached during the hurricane, military vehicles and heavy trucks are kicking up clouds of dust as they repair the flood wall. The homes of families that lived along the canal are strewn with debris from floodwaters that rose near the top of their front doors.

The destruction could make it easier for government officials to use eminent domain to buy out homeowners on sites needed for levee-enlargement projects. But under most eminent-domain laws, compensation is based on assessed value when the purchase is proposed, meaning that New Orleans homeowners would likely get far less than they would have before the storm.

"The whole question of fair market value is going to be very murky," says John McIlwain, a senior resident fellow at the Urban Land Institute in Washington, adding that he expects "a significant amount of litigation."

Jim Wright, who lives in the Lakeshore neighborhood, doubts that many of those who lived on the canals will ever move back now that they know protective flood walls can be breached. "I can't imagine anyone would want to have that time bomb in their backyard," he says.

But Arthur Sterbcow, president of Latter & Blum, a large residential real-estate firm in Louisiana, predicts that affected residents will welcome the added protection -- and that property values will rise as a result.

Katrina's Children Find New Schools, And Fears (NYT)

By Michael Winerip
The New York Times, September 21, 2005
HOUSTON

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DAVE SCHRANDT is in charge of registering homeless children for the Cypress-Fairbanks school district, and when he really gets cranked up, he can fill out the six forms to enroll a hurricane evacuee in 15 minutes.

"O.K., Tyrone, you get free breakfast, free lunch, free school supplies, and you'll start tomorrow," he said, madly checking off boxes one day last week. Tyrone Edwards, 16, and Emma Collins, his grandmother, from St. Bernard Parish, La., barely had time to nod before another box was checked.

"Address?" Mr. Schrandt asked, and not waiting, he wrote "8350 Highway 6N," the address of the shelter at Copperfield Church.

Mr. Schrandt asked what kind of math Tyrone was taking back home, and when all the boy could answer was "Math 3," Mr. Schrandt guessed it was probably Algebra II, wrote that in, then put a question mark beside "science," since Tyrone knew he was taking a science, but not which one.

"Special ed?" Mr. Schrandt said, jumping to the next question.

"He had both special ed and the regular," Mrs. Collins said.

"Almost done," said Mr. Schrandt, who asked if Tyrone needed clothes. Mrs. Collins said Tyrone's bag was left behind when they were helicoptered out of the flood, so Mr. Schrandt made notes on Tyrone's pants size (28-30 waist), shirt size (large) and shoe size (11).

"Biggest shoes I've had so far were 18's," Mr. Schrandt said. "So that's it. We're done." And the next morning, before 7, a bus pulled up to the church for Tyrone, one of 1,910 Katrina kids who have enrolled in this suburban district, which includes a small part of Houston and northwest Harris County.

While much of the federal response to Katrina has been its own epic disaster, a rare bright light is the McKinney-Vento Act, federal legislation passed in 2002 to ensure that homeless children are quickly enrolled in school. The law requires that every school district in America have a homeless liaison worker like Mr. Schrandt; that children are registered immediately, even those without records; and that transportation is provided.

Barbara Duffield, policy director of the National Association for the Education of Homeless Children, said she was hearing from as far away as Alaska that the enrollment of the 370,000 displaced children has generally been swift and good hearted.

"It's almost like the three years since the law was passed were a rehearsal for Katrina," she said. "Districts were ready. We're seeing school officials take, not just the letter of the law, but the spirit of the law to heart." And Texas, which has enrolled the most evacuees, 44,812, "gets the gold star," she said.

At Owens Elementary here there is a room called the Closet, stocked with clothing donations that are organized by size, so flood families can shop free for what they need. Each new child is assigned a classroom buddy, a playground buddy, a cafeteria buddy and a bus buddy, so instantly they have four new friends.

In the teachers' lunchroom at Danish Elementary there is a Star of Hope Tree. The stars list evacuee families' needs; teachers pick off a star and shop for the items. "My 15-year-old got three pairs of pants, four to five brand- new shirts," said Judith Howard, a mother of five, who is living doubled up with her sister's family.

There was so little red tape enrolling that New Orleans parents like Barbara Varnado and Latanya Hawkins did not even know the name of their children's new district; they thought they were in Houston city schools.

That is the good news. The hard news on relocation is just emerging. From visits to several schools and shelters in this district of 85,000, the third largest in the state, it is clear that a major task lies ahead, teaching and counseling the newcomers. Principals and teachers say many seem to be behind local students academically and to be traumatized.

At Owens (41 evacuees) and Danish (31), teachers have just begun assessing the new students, and are finding many with significant academic gaps. This is not surprising. The schools here are in their sixth week; New Orleans children had been in school a week when the hurricane hit and are beginning here just as the local students finish midterm exams.

They have been transplanted to a state with an intensive test-driven curriculum that they have not been prepared for. And they have come from an urban district considered one of the worst and poorest in the nation to a middle- to upper-class high-achieving suburban district. "We're recommending a lot for extra tutoring," said Laura Barrett, the Owens principal.

Add to that the effect of the horrors that many have seen. Sadie Woodard, head of counseling for the district, is having every new child interviewed individually and using retired counselors to run weekly support groups. "I have five or six - they have this look, it just breaks your heart, the fear in their eyes," Ms. Barrett said.

At Owens, several have fallen asleep during reading and music and on the soft pillows in the library. A lot still live in church shelters, crowded hotel rooms and doubled up in homes with relatives. The other day, Ms. Barrett carried out a 4-year old prekindergarten girl who was snoring and being sent home for rest. "We tell them it's O.K., they're not in trouble, they can put their heads down," Ms. Barrett said. "They just need a nap."

Aisha Brown's first-grade daughter, India, was sent "home" from Adam Elementary to the Cypress Bible Church shelter to get some sleep. "She hasn't been right since the storm," Ms. Brown said. "India saw everything."

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Ms. Brown's three children were saved from the rising waters when the parents emptied their refrigerator, broke off the door and floated them six blocks to a bridge. "India saw people falling off the bridge and drowning, screaming for help. She saw shooting at the Superdome." The mother said that when they finally got on an evacuation bus, "India asked me, 'Is there going to be shooting on the bus, too?' "

At the church shelter, the mother said, people have been extraordinarily kind, but India remains fearful. "She sleepwalks and cries, hollering for me," she said. As parishioners filed into the church hall last week, India was briefly separated from her parents. "I found her under a table crying," said the mother.

LAST week, at 7:30 Monday morning, Brandon Hart paced the lobby of the Hampton Inn where he was living, eager for the school bus to arrive. He said he loved his new middle school, Labay; it was better than his New Orleans school. "I want to stay here," he said. "I used to live in a bad neighborhood. It's better out here. It's quiet. And I'm on the football team. I'm going to my first practice today. They told me I was going to start at tight end. They seen me play on the playground. I'm pretty good."

The next morning, back in the lobby he looked miserable. "I couldn't practice," he said. "They're getting ready for the game. They said it would be too confusing for everyone. They said I had to wait a few days." By Saturday night, the family had checked out and was heading to Baton Rouge, La., to try resettling there. The volatility is reflected in the numbers. Last week, there were 1,910 Katrina children enrolled in Cypress-Fairbanks district; Monday, it was 1,632.

At Cypress Falls High, the principal gathered the 95 Katrina children to welcome them and urged that they join clubs to integrate more quickly into the school. But Reyna Turcios, 16, who came from New Orleans with her aunt and three cousins after their apartment was destroyed, said she did not think she would join anything. "I don't want to get in there and do all the stuff and get so happy and then leave again," she said. "I don't like being here in Houston. I miss my friends, my school, my teachers. It seems impossible, but I wish we could go back and have our own life."

Her aunt, Maria Duarte, said that the children had been treated kindly here, but that they did not feel they belonged. "I see they feel like an ugly duck," she said. "My little one, he tells me I'm a bad mother. He doesn't want to get on the bus in the morning. I have to drag him. I say, 'If you don't go to school, I'll go to jail.' He says, 'Good, we'll go together, who cares.' "

Officials Lower Tally Of 'Missing' Children (WP)

By Evelyn Nieves

The Washington Post, September 21, 2005

Authorities trying to track down more than 2,600 children in Louisiana, Mississippi, Georgia and Alabama still missing three weeks after Hurricane Katrina believe that most of them are not really "missing."

Rather, authorities said, the vast majority of these children are "lost" -- separated from a parent or guardian during the rush to rescue hurricane victims from rooftops and shelters, when families were divided because of lack of space on a bus or helicopter.

"They're not missing in the traditional sense," said Ernie Allen, president and CEO of the National Center for Missing and Exploited Children, which has taken on the task of finding the children and reuniting families.

The Alexandria-based center is working with sheriffs, police officers and FBI agents from across the country who have volunteered to help with the enormous caseload, and is partnering with CNN, which has been airing photos of missing children. As of yesterday, the center had resolved 966 out of 3,600 Hurricane Katrina cases, Allen said.

The number of cases continues to grow, Allen said, as more families learn where they can report missing children. The center has logged about 17,000 calls to a Katrina victim toll-free hotline (1-888-544-5475) and receives an average of 1 million hits a day from around the world on its Web site (http://www.missingkids.com). The site includes links to sites and numbers for those looking to locate adults among the hundreds still unaccounted for in Louisiana and Mississippi.

"The vast majority of the cases in our judgment are what we would call 'fractured families,' " said Allen, including instances in which evacuees ended up in one state and their children in another. He cited several examples of people reporting children missing, only to discover they were safe with a relative who did not know how to find the parents.

"We got a call from parents of a 7-year-old separated from her mother in the storm," Allen said. "We put the photos on the air and on our Web site, and the child's grandmother called and said, 'I have her.' That is a pretty good illustration of the kind of situation we're seeing."

Allen added that there is likely a relatively small number of cases in which children reported missing did not survive the storm.

There are also probably some children in the custody of people with whom they do not belong, Allen said.

In some cases, children whose parents have not been located have ended up in foster care. The state of Louisiana, as of last week, had placed in foster care 50 children whose parents had not been located, with 35 of the children found in shelters in Texas and the remainder in shelters in Mississippi, Arkansas and Louisiana.

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"We're working on these one case at a time, doing old-fashioned gumshoe detective work," Allen said. "Every report we get, we have to treat as if it's potentially serious and the child is at risk."

The center has specialized in helping police across the country find children who were abducted by family members or strangers.

"This is more about reunification and repairing," Allen said. "But it's extremely urgent. If you're separated from your child in a supermarket or department store for 10 minutes, it's something you never forget. Here are parents who are separated from their children for three weeks and don't know where they are."

Was It Wind Or Water? Gulf Coast Lawyer Is Taking On Insurers (NYT)

By Jeremy Alford And Joseph B. Treaster

The New York Times, September 21, 2005

PASCAGOULA, Miss., Sept. 18 - Richard Scruggs picked his way through the ruins of his once-handsome four-bedroom home, no more than 50 yards from the edge of the Gulf of Mexico.

A wall of water flung by Hurricane Katrina tore through the home a little more than three weeks ago, blowing out the sides of the house and leaving only a pair of brick chimneys and exposed studs tenuously holding up the upper floor.

To the left of Mr. Scruggs's home lies a bare concrete slab where another elegant home stood until the storm's assault on New Orleans and the coasts of Louisiana, Mississippi and Alabama. To the right, a peaked roof sits at a twisted angle on a waterlogged lawn, all that remains of another big house.

"The whole street is torn up," Mr. Scruggs said. "Very few houses are even standing."

Mr. Scruggs, a wealthy plaintiffs' lawyer who played a leading role in wrenching a $250 billion settlement from the tobacco industry a few years back, is furious about the hurricane - not simply that it happened, but that insurance companies might escape what he sees as their responsibility for a huge portion of the losses from the storm, those resulting from flooding.

The insurers say homeowners' policies cover wind and rain damage, but do not cover flood damage caused by hurricanes or anything else. A federal program provides up to $250,000 in flood insurance, but most people do not have that coverage.

"I'm not going to sit still for this," said Mr. Scruggs, who grew up in Pascagoula and has practiced law here for decades. "I'm going to bring every organizational and legal skill I possess to make these guys do the right thing under their policies."

At stake is a potential $15 billion worth of insurance payments. That explains why the insurance companies, which have never been successfully challenged on the "wind vs. water" issue, are equally adamant.

They have contract law in their favor, they say. Their longstanding practice of not covering flood losses resulted years ago in a federal program being specifically created to provide such coverage. Still, they worry about going to court in Mississippi, which has a reputation for being tough on corporate defendants despite recent changes in the state's legal system.

At the very least, Mr. Scruggs contended that the extent of coverage is ambiguous and that courts have ruled that it is the responsibility of the writer of the policy - the insurance company - to make the provisions clear.

Much of the damage, he said, came from storm surge, which he said was gulf water driven inland by the wind. If the insurers wanted to exclude coverage for storm surge "they certainly know how to do it," he said. "And that term does not appear."

Fred Levin, a Pensacola lawyer who specializes in suing insurance companies, said his first reaction was that Mr. Scruggs had no chance of winning. "What the hell are they trying to do?" he said. "Contract law is contract law."

But Mr. Levin said policies on the Gulf Coast, unlike those in Florida, do not appear to include large, bold-type warnings that flood damage is not covered. He added that any lawsuit by Mr. Scruggs could hinge on whether insurance agents fully explained to homeowners that their hurricane coverage applied only to wind and rain.

"You go to the agent and tell him you want full coverage," Mr. Levin said, "and he tells you, 'Yes, you've got full coverage.' I think that's the best claim they've got."

There is no disputing that Hurricane Katrina caused enormous damage, much of it from flooding. Robert P. Hartwig, the chief economist of the Insurance Information Institute, a trade group in New York, estimates that 200,000 homes were destroyed or damaged beyond repair in Louisiana, Mississippi and Alabama. Estimates of the insured losses run as high as $60 billion, nearly twice as much in today's dollars as the losses in the Sept. 11 attacks and nearly three times the insurers' costs from Hurricane Andrew, the worst previous storm, in 1992.

Should the Mississippi challenge go against the insurers, Mr. Hartwig said, costs could rise to more than $75 billion. If forced to pay for damage they never anticipated and for which they never collected premiums, Mr. Hartwig said, insurers would face severe strains; some might even go bankrupt.

Most people, even in low-lying areas, do not buy federal flood insurance. But even fewer people bought flood insurance on the Mississippi Coast than in New Orleans and nearby parishes or counties. In New Orleans, Mr. Hartwig said, 40 percent

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bought it. Nearly 60 percent did so in the two flanking parishes. But in the three Mississippi counties facing the Gulf of Mexico, 23.4 percent bought it in Hancock County, 11.7 percent in Harrison County and 10.4 percent in Jackson County.

Jim Hood, the attorney general of Mississippi, filed a civil lawsuit in a state court last Thursday to force the insurers to pay for storm surge losses. "I'm not going to allow insurance companies to bankrupt the entire Gulf Coast by using the fine print and saying that people should have known that they didn't have coverage for water damage," he said.

Mr. Scruggs, 59, said that he and his neighbors, like thousands of owners of homes and small businesses along the coast, bought hurricane insurance for which they paid an extra premium and agreed to a higher- than-usual deductible. He said he bought the maximum of $250,000 in federal flood insurance for his $800,000 home because it sits on the waterfront. But he and some insurance executives said the flooding from Katrina extended much farther inland than in previous storms.

Mr. Scruggs said storm surges were part and parcel of hurricanes along the Gulf Coast. "Everyone knows, as does the insurance industry, that the major risk to life and property from a hurricane is storm surge," he said. "So having a hurricane policy that excluded storm surge is preposterous. No one believed that. When you pay an additional premium for a hurricane endorsement you would naturally think, 'O.K., I've got that covered.' "

The insurance companies say the cost of hurricane coverage was intended to pay for extraordinary expenses resulting from hurricane winds and rain.

"The flood exclusions are very broad and cover rising waters regardless of the cause or circumstance," Mr. Hartwig said. "Homeowners' contracts are pretty cut and dry. They've been tested by time."

Mr. Scruggs said he planned to file lawsuits in a few days on behalf of several hundred Gulf Coast residents against State Farm, Allstate and Nationwide - the three largest insurers in the region - as well as others.

With a bank of operators responding to a toll-free number, Mr. Scruggs said his list of clients could easily run into the thousands. To make space for the anticipated jump in business, Mr. Scruggs has gutted a conference room in his office in an antebellum home on the main street of Moss Point, a village adjacent to Pascagoula, and set up rows of interview cubicles with a waiting room filled with dozens of neatly aligned metal folding chairs.

Mr. Scruggs said he did not see the insurance battle as a personal gold mine. He said he was prepared to take as little as 1 percent of any settlement or jury award - far less than the typical contingency fee of one-third or more - and that he would try to get the insurers to pay for his services separately from any payments to policyholders.

State Farm, Allstate and Nationwide declined to comment on the planned lawsuits. But all of the companies contended that any effort to force payment would be against the public interest. "In essence," said Richard Luedke, a spokesman for State Farm, "the attorney general is challenging the validity of contracts in the state of Mississippi and that threatens the foundation of the economy and state and has ramifications for the residents of Mississippi." Paul Leonard, a police lieutenant in Pascagoula, said he turned to Mr. Scruggs after surging gulf waters gutted his home a few blocks back from the waterfront and his insurer, Nationwide, denied his claim.

"They said all my damage was from water and they weren't paying," Mr. Leonard said. "If it was from wind, they said they would have paid."

Mr. Scruggs has shifted much of his daily work to an office in Oxford, Miss., in the last year or so. Since the hurricane, he has been commuting between Oxford and Pascagoula in his private twin-engine corporate jet, sometimes ferrying generators, food, water and other relief supplies. He said he expected to be spending more time on the coast as he battles the insurance companies.

Mr. Scruggs said he has not yet learned how his insurer, USAA, plans to respond to his claim.

In any event, Mr. Scruggs, who said his taxable income last year was $8 million to $9 million, said that if he had to, he could certainly cover his own losses. Most other people, he said, "will have no way to rebuild or do anything."

Cities' New Job 1: Disaster Plans (CSM)

By Peter N. Spotts

The Christian Science Monitor, September 21, 2005

Hurricane Katrina has sent a stark message to other regions of the United States that face the potential for natural disasters: Throw out plans that call for citizens to be self-sufficient for three days. It may take longer for the cavalry to arrive.

The slow, confused initial responses to Katrina are among many elements of the disaster now prompting state and local emergency management officials around the country to take a hard look at disaster-response plans.

In many cases, these reviews were already under way as part of National Preparedness Month. But Katrina - followed in short order by hurricane Ophelia's sweep over North Carolina and now Rita's charge into the Gulf of Mexico - has emphasized the need to have effective plans ready at a moment's notice.

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"We've seen what happens when the federal government hasn't done much of anything in advance," says Eric Holdeman, director of emergency planning for Washington State's King County, which includes Seattle and could be prone to an earthquake. "If you want to be prepared for the maximum credible catastrophic event, you should be thinking seven days, not just the minimum of three days."

In Florida, which has emerged as a model for hurricane planning, officials ordered all 80,000 residents of the Keys to evacuate ahead of Rita's arrival. Some, however, stayed behind in boarded-up homes. Military cargo planes evacuated three hospitals.

Whether for this hurricane season or for future situations, learning and applying the lessons from Katrina are crucial, analysts say, because despite its devastation, the hurricane actually wasn't a worst-case event. For example, researchers for years have had their eyes fixed on Los Angeles. Some studies suggest that if the Puente Hills Fault underneath the city ruptures, the temblor could leave hundreds of thousands of people homeless, inflict $250 billion in damage, and kill 20,000.

The Eastern US faces significant - and underappreciated - earthquake risks of its own. While large earthquakes occur there far less frequently, many of the buildings are older, unreinforced brick. And Eastern cities have been slower to change building codes to reduce earthquake fatalities, despite warnings of the hazards.

Some studies suggest that New York, for example, should be as prepared for an earthquake as San Francisco. The potential damage, death toll, and fallout on the US economy could rival that of a major quake in the Bay Area.

In Boston, which has earthquake risks as well, city officials have seen Katrina's handwriting on the wall. They are beefing up evacuation plans, gearing up to withstand more-intense hurricanes, and looking to establish well-stocked shelters for poor or disabled residents who may not be able to leave the city.

Even cities whose hazards may not reach Katrina's proportions are reviewing their plans. In Tulsa, Okla., for example, the public-works department is reexamining how it would respond to worst-case floods that involve a breach of levees that channel the Arkansas River.

"It's probably been 15 years or more since we've looked at that," says Charles Hardt, the city's public-works director. Katrina has been "a wake-up call."

Los Angeles and New York are among the cities acknowledged to have some of the most advanced response plans. Officials in these places say they have honed their plans through repeated reviews and rehearsals. Watching the response to Katrina hasn't altered their plans much, although they're keeping in mind a checklist of practices that would reduce the chance of major missteps.

When it comes to ensuring that the poor or infirm are evacuated to well-stocked shelters in an emergency, Florida is a state that has largely gotten it right, planners say.

"Our lessons learned came from hurricane Andrew," says Kristy Campbell, a spokeswoman for the state's emergency operations center. Storm-specific coordination between state, county, and local agencies begins two to three days before a hurricane strikes. Relief supplies are squirreled away in safe locations. During the year, local officials keep track of the people who may need help evacuating.

Yet disaster response is only half the equation, researchers and planners say. To reduce the effects of an earthquake, storm, or flood, more emphasis must be placed on helping cities build disaster resilience, they argue. Yet such mitigation is not getting the support it needs, they say.

Experts point to the success of programs such as the Federal Emergency Management Agency's Project Impact. During the 1990s, this initiative provided seed money for a range of mitigation projects, from improving earthquake resistance in structures in the Pacific Northwest to developing economical "safe rooms" for homes and offices in tornado-prone areas. The program ended shortly after President Bush took office.

Stocks Slide After Rate Increase (WSJ)

By Scott Patterson

The Wall Street Journal, September 21, 2005

A hawkish Federal Reserve spooked Wall Street Tuesday. Stocks dipped sharply as investors bolted for the exits amid fears heightened by the specter of Hurricane Rita.

The Dow Jones Industrial Average fell 76.11 points to 10481.52, nearing levels seen at the beginning of September. The Standard & Poor's 500-stock index declined 9.68 to 1221.34 and the Nasdaq Composite Index fell 13.93 to 2131.33.

Rate-sensitive stocks such as banks, consumer cyclicals and home-builders were punished. Technology stocks fared somewhat better, though there were few places to hide amid the broad thumping.

The Federal Open Market Committee increased the target on the federal-funds rate by a quarter-percentage point to 3.75% and said it planned to continue to remove accommodation at a "pace that is likely to be measured."

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The increase was widely expected. Investors had hoped for hints that the rate-tightening cycle, which has lasted since June 2004, could be drawing to a close soon in light of the economic damage wrought by Hurricane Katrina. The Fed provided no such clues, however.

The policy statement indicated that "the hurricane didn't matter in the long term," said Stephen Sachs, director of trading at Rydex Investments. "The Fed is getting more and more concerned about energy prices translating into inflation," he said.

Some economists had expected the Fed to pause due to uncertainty over Katrina's impact, but policy makers downplayed the hurricane's effects. The hurricane's damage doesn't pose a "persistent threat," the Fed said in the statement. The more lasting threat: "Higher energy and other costs have the potential to add to inflation pressures."

FOMC director Mark Olsen dissented, arguing for a pause in rate increases, an unusual stray voice in the typically unified Fed.

Expectations for more increases this year rose, according to federal-funds futures contracts. Futures jumped to pricing in a full 4% year-end federal funds rate after the announcement, compared was a 3.975% year-end rate earlier.

A prime example of the headwinds companies are facing -- as well as issues facing the broader economy and the Fed -- is Leggett & Platt, a builder of industrial products. After Monday's close, the company guided earnings and sales lower, citing "higher costs for raw materials and energy," among a range of other issues.

Leggett's solution: price increases. Since "raw material and energy costs are not going to abate, we will have no choice but to pass along these increases," the company said in a news release. Its shares fell 13%.

Leggett hasn't been alone in pegging the blame for earnings shortfall on high energy prices. Beauty-products maker Estee Lauder, which posted disappointing earnings late Monday, fingered higher oil and gas prices, as well as softness in the South due to the impact of Katrina, among other factors. Shares of the beauty-products maker fell nearly 10%.

Investors took some solace in a decrease in oil prices. Light, sweet crude fell $1.16, or 1.7%, to $66.23 a barrel a day after it surged 7%, or $4.39 -- the biggest one-day gain in dollar terms on record, as then-Tropical Storm Rita threatened to disrupt the recovery effort under way after Katrina. The Organization of Petroleum Exporting Countries agreed to offer its remaining spare capacity, about two million extra barrels of oil a day, to reassure markets about energy supply.

Meanwhile, investment bank Goldman Sachs gained a fraction of a point after it posted record third-quarter earnings of $3.25 a share, surpassing forecasts for a gain of $2.38 a share. The strong performance of the investment bank comes on the heels of similar market-beating results from Lehman Brothers and Bear Stearns. Morgan Stanley reports earnings Wednesday.

Circuit City Stores gained 5.9% after it swung to a one-cent gain in the second quarter on strong sales of digital televisions and portable digital audio players, beating forecasts for a loss of three cents a share. The company also boosted revenue guidance for 2006 to a gain of 5% to 8%, higher than the previous range of 3% to 6%.

In major market action:

Stocks fell. On the Big Board, where 1.7 billion shares traded, 1,031 stocks rose and 2,259 fell. On the Nasdaq Stock Market, where 1.8 billion shares traded, 1,225 stocks advanced and 1,795 declined.

Bonds were mixed. The benchmark 10-year Treasury lost 2/32, or 63 cents per $1,000 invested, to yield 4.255% Tuesday. The 30-year bond gained 11/32 to yield 4.529%. Yields move inversely to prices.

The dollar advanced. It was at 111.91 yen Tuesday, off from 111.48 yen late Monday, while the euro rose to $1.2127 from $1.2151.

Fed Raises Interest Rate To Highest In 4 Years (USAT)

By Sue Kirchhoff

USA Today, September 21, 2005

WASHINGTON — The Federal Reserve raised short-term interest rates an 11th consecutive time Tuesday, saying that while Hurricane Katrina could dampen near-term growth, the storm damage did not pose a “more persistent threat” to the economy.

In a statement announcing it had boosted its target for short-term rates by a quarter-percentage point to 3.75% — the highest level in four years — the policymaking Federal Open Market Committee also made clear that its measured campaign of rate moves was likely to continue.

Further, in the first dissent since June 2003, Fed Governor Mark Olson voted against the move, preferring to hold rates steady. The vote was 9-1.

“The widespread devastation in the Gulf region, the associated dislocation of economic activity and the boost to energy prices imply that spending, production and employment will be set back in the near term,” the Fed said.

“While these unfortunate developments have increased uncertainty about near-term economic performance … they do not pose a more persistent threat,” it said.

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Following the Fed announcement, a number of banks raised their prime interest rates, the basis for many consumer and business loans, by a quarter-point to 6.75%. Though the move was expected in financial markets, the Dow Jones industrial average ended Tuesday down 76.11 points, or 0.7%, to 10,481.52. Short-term bond prices fell while yields rose.

Hurricane Katrina disrupted oil, gasoline and natural gas operations in the Gulf, sending prices sharply higher. Energy price increases are a double-edged sword, with the potential to fuel inflation and slow growth as consumers reassess their budgets.

Economists said the Fed is clearly signaling that price pressures are the larger risk now.

The central bank, which has been raising rates in quarter-point increments since June 2004, noted the economy was moving at a "good pace" before Katrina, bolstered by high worker output and low interest rates.

It said Katrina could add to inflation pressures and energy price volatility, though noting core inflation, which excludes food and energy, has been relatively low.

"The Fed is, if anything, more concerned about inflation than they are about a growth slowdown," says Stephen Stanley of Greenwich Capital Markets.

He and other economists expect short-term rates to top 4% by the end of the year, while Stanley also expects rate increases to continue into next year.

Unswayed By Storm, Fed Raises Key Rate (NYT)

By Edmund L. Andrews

The New York Times, September 21, 2005

WASHINGTON, Sept. 20 - Saying that Hurricane Katrina was unlikely to pose a "persistent threat" to the economy, the Federal Reserve raised interest rates on Tuesday for the 11th time in a row and signaled that more increases were on the way.

In an unusually long statement, the central bank acknowledged that the hurricane's devastation was likely to cause higher energy prices, higher joblessness and greater uncertainty in the months ahead.

But it said the hurricane had not shaken its confidence about longer-term growth, and it left little doubt that its top priority was still to head off inflationary pressures.

The decision lifted the federal funds rate on overnight loans between banks by a quarter-point, to 3.75 percent, the 11th rate increase since the central bank began raising rates in June 2004.

"The widespread devastation in the gulf region, the associated dislocation of economic activity and the boost to energy prices imply that spending, production and employment will be set back in the near term," the central bank's Federal Open Market Committee said in a statement.

But it continued: "While these unfortunate developments have increased uncertainty about the near-term economic performance, it is the committee's view that they do not pose a more persistent threat."

In an important hint about its desire to keep raising rates for a while longer, the central bank repeated its long-held expectation that "policy accommodation" - meaning low interest rates - could be reversed at a "measured" pace.

In response, the stock market fell yesterday. The Dow Jones industrial average went down 76.11 points, to 10,481.52; the Standard & Poor's 500-stock index fell 0.8 percent.

In a rare departure from the Fed's normal unity, one member of the policy committee, Mark W. Olson, voted against the rate increase.

It was the first dissent since June 2003, and a sign that Tuesday's decision was unusually difficult.

But it did not necessarily portend a serious rift within the Fed. Mr. Olson, a commercial banker by profession, has focused primarily on bank regulation and has rarely taken strong stands on macroeconomic policy.

Edward McKelvey, a senior economist at Goldman Sachs, said policy makers were taking a much harder line about inflation than investors had been assuming.

"In our view, the financial markets are much too complacent about what a decision to keep tightening means at this juncture," Mr. McKelvey wrote before the Fed decision came out. "If under these circumstances the F.O.M.C. is prepared to keep going, then this means that the committee is more worried about the longer-term risk of higher inflation than the shorter-term risk of a collapse in growth."

In the first two weeks after Hurricane Katrina, many Wall Street analysts speculated that the Fed would either pause in raising rates or signal that the process would end fairly soon.

Historically, the central bank has taken a dim view of changing policy in response to a natural disaster, even a big one. Fed officials, and many economists, contend that the economic impact of such calamities is usually local and usually temporary.

The normal pattern is for the economy to slow and for unemployment to rise in the immediate aftermath. But any slowdown is usually followed by an even bigger jump in economic activity as rebuilding begins.

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The big uncertainty this month is whether Hurricane Katrina, which disabled major oil refineries and offshore drilling platforms, will cause a more enduring downturn.

But the Fed, which has been raising the cost of borrowing since June 2004, showed little appetite for a "wait and see" approach.

It noted that the economy had been expanding "at a good pace" before the hurricane. It also noted that "higher energy prices and other costs have the potential to add to inflation pressures."

Most important, it repeated phrases suggesting that money remains too cheap for comfort. It said the prospects for inflation and growth are "roughly equal." It implied that monetary policy is still "accommodative," meaning that interest rates are not yet back to a "neutral" level that allows growth without inflation. And it repeated its expectation about raising rates at a "pace that is likely to be measured."

Ethan Harris, chief United States economist at Lehman Brothers, said that neither the hurricane nor the surge in oil prices constituted a good reason to relax monetary policy.

Both the hurricane damage and higher energy prices amount to a "supply shock" that leads to higher costs. By keeping interest rates low, the Fed would be stoking consumer demand and possibly driving prices up even higher.

"There's not really anything you can do about a supply shock, other than repair the damage," Mr. Harris said. "As a policy maker you have to be very careful about putting a lot of stimulus into the economy at a time when capacity has been impaired."

Analysts continue to debate among themselves about how much more the Fed will raise rates. Most now predict that it will raise them a quarter-point at each of its two remaining meetings this year, in October and December, which would take the federal funds rate to 4.25 percent.

In its statement, the Fed conceded that inflation remains mild and that higher energy prices have yet to drive other prices higher.

But Fed officials are increasingly concerned that low interest rates have fueled too much speculation in housing and too much complacency among investors toward risk.

Fed Raises Key Interest Rate For 11th Straight Time (LAT)

By Jesus Sanchez

The Los Angeles Times, September 21, 2005

The Federal Reserve today raised interest rates by another quarter percentage point and gave no sign that it was going to postpone rate hikes despite evidence that Hurricane Katrina would likely weaken the economy and labor market in the near term.

The central bank's Federal Open Market Committee, headed by Fed Chairman Alan Greenspan, raised the benchmark federal funds rate — what banks charge each other for short-term loans — to 3.75% from 3.50%. It was the 11th consecutive quarter-point increase since mid-2004.

However, in a dissent, committee member Mark W. Olson voted against the rate increase, preferring no change in the federal funds rate.

The Dow Jones industrial average, which had been in positive territory for most of the day, slumped after the Fed's announcement, closing down 76.11 points to 10,481.52. Nasdaq and the S&P 500 were also lower today.

A recent spike in gasoline and energy prices and a plunge in consumer confidence since Hurricane Katrina had increased speculation that the Fed might leave rates unchanged or indicate that it would back away from future increases.

In the widely read remarks that accompanied the rate announcement, the Fed did acknowledge growing concerns about the hurricane's economic impact on the economy.

"The widespread devastation in the gulf region, the associated dislocation of economic activity, and the boost to energy prices imply that spending, production, and employment will be set back in the near term," the Fed said in a statement. "In addition to elevating premiums for some energy products, the disruption to the production and refining infrastructure may add to energy price volatility."

However, in the long run, the policymakers said that increased economic uncertainties do "not pose a more persistent threat" to the economy.

Notably, the Fed continued to telegraph its intention to raise rates "at a measured pace," meaning in small increments, as the economy continues to recover and demand for goods and services increases. The central bank had been compelled to keep pushing rates higher in an effort to keep price inflation in check.

"Higher energy and other costs have the potential to add to inflation pressures," the Fed said. "However, core inflation has been relatively low in recent months and longer-term inflation expectations remain contained."

Changes in the federal funds rate eventually reverberate throughout the economy because many lending rates, on everything from credit cards, home equity loans and adjustable-rate mortgages, are in some way linked to changes in the Fed's

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benchmark rate. While higher rates will make borrowing money more expensive, it also means that consumers can expect to earn more from savings accounts.

Most analysts have said that the economy is strong enough to continue expanding on its own without the help of rock-bottom lending rates. However, raising rates too quickly could weaken consumer spending — the largest driver of economic growth — and undermine the housing market, which has been a huge source of economic growth in places like California.

Under Greenspan's leadership, the Federal Reserve had steadily cut its rate from 6.5% in 2000 to 1% by last June to prop up an economy hit by tumbling stock prices, the 2001 terrorist attacks, corporate scandals and the Iraq war.

In other economic news today, U.S. new home construction in August weakened for the second consecutive month, according to the Commerce Department.

Housing starts, a measure of construction activity, fell 1.3% to a seasonally adjusted annual rate of 2.01 million homes. The August results, which were slightly weaker than many analysts had forecast, came after housing starts in July dropped 1.5%.

Fed Lifts Key Rate, Confident In Growth (WP)

By Nell Henderson

The Washington Post, September 21, 2005

Federal Reserve officials expressed confidence yesterday that Hurricane Katrina has caused no more than a temporary setback to the U.S. economy, allowing them to raise their key short-term interest rate another notch to make sure inflation stays under control.

As the federal government and insurance companies begin to put tens of billions of dollars into Gulf Coast reconstruction, Fed policymakers expressed more worry about rising inflation pressures than slower economic growth and indicated that they will probably keep raising interest rates in the months ahead.

Private economists are forecasting that the economy will gain more from the reconstruction spending than it has lost because of the storm.

In an unusually long and sympathetic statement released after their meeting, Fed officials noted "the widespread devastation in the Gulf region . . . and the boost to energy prices" resulting from the storm, which displaced thousands of area residents, wiped out hundreds of thousands of jobs, disrupted shipping systems throughout the Mississippi Valley and shut down much of the nation's oil and gasoline production.

In the first week after Katrina hit, economists worried that consumers and businesses might react to soaring energy prices by sharply pulling back on spending plans, triggering a sudden slump. Some Fed officials were open then to the possibility of leaving interest rates unchanged for a while because of the uncertainty of the economic outlook.

But since then, energy production has recovered somewhat, while oil and gasoline prices have come down from their post-Katrina peaks.

By yesterday, Fed officials had concluded that national consumer spending, employment and overall economic growth "will be set back in the near term" because of the storm.

Looking out over the months ahead, they added, "while these unfortunate developments have increased uncertainty about near-term economic performance, it is the [Fed's] view that they do not pose a more persistent threat."

Rather, Fed officials said, low interest rates continue to stimulate economic growth, while "higher energy and other costs have the potential to add to inflation pressures."

Already, prices have climbed for building materials and transportation services. Economists are watching closely to see how successful other businesses are at raising consumer prices to cover their higher energy costs. That may become easier at a time when consumers say they are expecting higher inflation than they did before Katrina.

The central bank's top policymaking group, the Federal Open Market Committee, was more divided yesterday than it has been in more than two years. Nine of the 10 voting members, including Chairman Alan Greenspan, agreed to raise their benchmark federal funds rate to 3.75 percent from 3.5 percent.

Fed board member Mark W. Olson voted against the move, saying he preferred to leave the rate unchanged -- the first dissent on the committee since June 2003.

Some other committee members came to the meeting open to Olson's position; only seven of the 12 regional Fed banks had requested a similar quarter-percentage-point increase in the largely symbolic discount rate to 4.75 percent-- a sign that five Fed banks might have been content with no increase in the funds rate either. The discount rate is charged to commercial banks when they borrow directly from the Fed.

The federal funds rate influences many other borrowing costs throughout the economy. Major banks followed the Fed's action by lifting their prime rate on business loans by a similar quarter percentage point, to 6.75 percent from 6.5 percent. Many

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consumer rates, such as on credit cards and home equity loans, may rise as well. Banks and other financial institutions may increase the rates they pay on savers' certificates of deposit and money market funds.

However, long-term rates, such as those charged on 30-year mortgages, are determined by global markets. Those rates have remained low over the past 15 months, even as the Fed hiked short-term rates. For example, the fixed rate on a 30-year mortgage averaged 5.74 percent nationally last week, about where it was a year ago at 5.75 percent, according to mortgage finance company Freddie Mac.

The Fed committee made it clear that it plans to keep raising the federal funds rate in the months to come, repeating that it believes it can do so gradually, "at a pace that is likely to be measured."

Stock prices fell on concern that higher interest rates will dampen economic growth and profits.

Fed officials stressed their belief that the economy was in solid shape before the storm hit.

Consumers and businesses increased spending rapidly during the summer, while unemployment fell to a low 4.9 percent in August, and price inflation outside of the energy sector was tame.

The economy "appeared poised to continue growing at a good pace before the tragic toll of Hurricane Katrina," the Fed statement said.

Fed officials did not mention it, but they are also well aware that the post-hurricane reconstruction will provide a strong stimulus to national economic growth. Insurance companies are preparing to pay about $50 billion in claims. Congress has appropriated more than $60 billion in assistance, and President Bush has proposed a federal response that could cost up to $200 billion by some estimates.

The result will be a net plus for the economy, according to estimates by Macroeconomic Advisers LLC, a St. Louis forecasting firm. The economy will grow by a healthy 3.4 percent in 2005, or roughly 0.2 percentage points slower than it would have without Katrina; the economy will then expand by a robust 3.8 percent next year, or 0.5 percent more than without the post-hurricane spending burst, the firm said yesterday.

The Fed's action was its 11th consecutive quarter-percentage-point increase in the federal funds rate, the overnight rate charged on loans between banks, since June 2004, when it was at a four-decade low of 1 percent.

Many investors and analysts have come to expect a "measured" pace to mean a quarter-percentage-point increase at every scheduled Fed meeting. But Fed officials have stressed that they could pause or increase the rate by as much as a half percentage point at a time, depending on the behavior of the economy.

Thus Fed policymakers might leave the fed funds rate unchanged at their next meeting Nov. 1 if the economy slows more than they expect. Or they could raise the rate by half a point if inflation takes off.

Several analysts predicted that Fed meetings will include more debate and possibly more dissents as the rate goes higher and as Greenspan prepares to step down early next year.

"Greenspan certainly has the intention of raising rates" higher, said Anthony Chan, senior economist for J.P. Morgan Asset Management. But, he said, "moving forward, there will be more challenges to that."

Fed Keeps Focus On Inflation And Raises Rate (WSJ)

By Greg Ip

The Wall Street Journal, September 21, 2005

WASHINGTON -- The Federal Reserve raised interest rates for the 11th consecutive time, concluding that Hurricane Katrina's impact on inflation is more worrisome than its effect on growth.

The Fed raised its short-term interest-rate target to 3.75%, from 3.5%. It indicated that it expects to raise the rate further at a "measured" pace, which has come to mean an increase of one-quarter percentage point at each meeting of Fed policy makers. (The Fed's statement)

The decision to raise rates and to signal more ahead amid the uncertainty created by Katrina as well as some political pressure to take a break attests to the Fed's mounting concern over inflation. Fed Chairman Alan Greenspan appears more willing to risk slowing the economy down by raising rates too much, then to risk letting inflation rise further by raising them too little.

Tuesday's increase wasn't wholly expected: A minority of economists thought the Fed would pause to assess Katrina's impact. And some Fed officials wanted to do so. Fed Governor Mark Olson cast the lone dissent Tuesday, breaking a two-year stretch of unanimous votes.

In a statement, the Fed acknowledged Katrina's "tragic toll," but predicted it wouldn't derail the economy's expansion, and may aggravate inflation. "The widespread devastation in the Gulf region, the associated dislocation of economic activity, and the boost to energy prices imply that spending, production, and employment will be set back in the near term," the Fed said.

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"While these unfortunate developments have increased uncertainty about near-term economic performance, it is the [Fed's] view that they do not pose a more persistent threat." Economic growth, it said, would be supported by still-low interest rates and brisk productivity growth, while "higher energy and other costs have the potential to add to inflation pressures."

It did say that underlying inflation is "relatively low" and longer-term inflation expectations are "contained," but this was less sanguine than the statement following its Aug. 9 meeting, which called such expectations "well contained."

In June of last year, the federal funds rate, charged on overnight loans between banks, stood at a 46-year low of 1%. The Fed's goal since then has been to return rates to a "neutral" level that neither fuels inflation nor restrains growth. Estimates of neutral range from 3% to 5.5%.

Financial markets now expect only one more quarter-point rate increase during the three remaining meetings before Mr. Greenspan's term ends Jan. 31 -- and possibly one more by next summer.

In response to the Fed move, commercial banks raised their prime lending rate, a benchmark for many short-term business and consumer loans, to 6.75% from 6.5%. Longer-term lending rates will be little affected, however, as bond markets, where long-term rates are set, had anticipated Tuesday's action and showed little response.

With the economy growing steadily, unemployment falling and underlying inflation low, Fed officials had been comfortable with a steady diet of small, well-telegraphed rate increases for the past several months.

But in the weeks prior to Katrina, the Fed had increasingly fretted that rising energy prices in an economy with little spare capacity were a growing threat to inflation. The unemployment rate in August fell to 4.9%, a level many economists, including those on the Fed's staff, consider indicative of an economy operating at capacity.

Consumer prices rose 3.6% in the 12 months through August, matching the largest such increase in four years, and Morgan Stanley expects them to hit 4.3% in September. Excluding food and energy prices, inflation has hovered around 2%, but Fed officials worry other prices may creep higher as energy costs work their way through the pipeline. Several cities, for instance, recently have permitted taxi companies to boost fares because of higher gasoline prices.

"I'm concerned about core inflation running at the upper end of the range that I feel is consistent with price stability," Federal Reserve Bank of Chicago President Michael Moskow, who voted in favor of Tuesday's rate increase, said earlier this month.

Katrina has aggravated those concerns. Ken Simonson, chief economist for Associated General Contractors of America, recently predicted construction-materials prices would rise 10% next year, up from his previous forecast of 6% to 8%. He blames higher fuel and transportation costs, disruptions and shortages related to Katrina.

The University of Michigan found consumers expect inflation in the coming year of 4.6%, a near-15-year high, and expect average inflation of 3.1% over the next five years, a four-year high. Richard Berner, chief U.S. economist at Morgan Stanley, said federal reconstruction spending could boost growth so much next year that the Fed may have to raise rates even further than it previously anticipated.

Still, there is a risk Tuesday's increase will prove to be a mistake. The University of Michigan said consumer confidence experienced its largest two-month drop on record from July to September, a development that often foreshadowed recession. Oil and gasoline prices have rebounded this week as Hurricane Rita threatens the Gulf coast. "There is a risk the energy shock is going to be bigger and have more damaging effects on the economy than realized," said Bill Dudley, chief U.S. economist at Goldman Sachs. "They could look bad with the benefit of hindsight."

Mr. Greenspan has in the past altered course in the face of a shock, though not a natural disaster. In 1997, the Fed moved to a neutral from a tightening stance because of the Asian financial crisis. In December 1999, it paused rather than raise rates because of uncertainty over how computers at banks and elsewhere would handle the century date change. And it cut rates rapidly after the terrorist attacks of Sept. 11, 2001.

Its decision not to pause this time drew some political flak. "Chairman Greenspan is insensitive to America's working families," Senator Jim Bunning, a Kentucky Republican and longtime Greenspan critic, said in a statement. "Americans simply don't need another rate hike in the middle of a crisis."

Mr. Greenspan has been praised for bringing down both unemployment and inflation in his 18 years as Fed chairman. But as that tenure draws to a close, he appears clearly more willing to risk a rise in unemployment than a jump in inflation, while aiming to avoid both. Richard DeKaser, chief economist at National City Corp. in Cleveland, said the Fed might welcome a slowdown because it would maintain some slack in the economy. That would make it harder for firms and workers to build higher energy prices into prices and wages. As in 1995, a "soft patch...would provide a firmer basis for extending the expansion into the...rest of the decade," Mr. DeKaser said.

Mr. Olson, a former banking consultant and Congressional staffer, who cast the lone dissent, primarily works on regulatory and consumer affairs, and his views on the economy and monetary policy seldom make news. A spokeswoman said he declined to comment on the reason for his dissent. The reasons are to be given in minutes to the meeting, to be released in three weeks.

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Mr. Berner said his dissent probably reflected a desire to await more information, rather than a belief that the time had come for the Fed to stop raising rates.

Other officials may also have had misgivings, but these won't be known until the minutes of this meeting are issued. The Fed's policy-making committee comprises 19 officials, of which 12 may cast a vote on rate moves: the seven members of the Fed board of governors in Washington and presidents of five of the 12 regional Fed banks. With two vacancies on the Fed board, Tuesday's vote was 9-1.

In a sign of possible unease among other Fed officials, only seven of the Fed's 12 regional banks asked for a quarter-point increase in the discount rate, to 4.75% from 4.5%, prior to Tuesday's meeting. The little-used discount rate is charged on Fed loans to member banks and usually moves in lockstep with the federal funds rate. Regional banks' discount requests can reflect the rate views of either the bank's president, or its private-sector board, or both.

Among those absent from the request were the Atlanta and Dallas Feds, whose districts bore the brunt of Katrina. Dallas Fed President Richard Fisher, however, voted for the increase in the federal funds target. Two more banks asked for the discount-rate requests late Tuesday.

Those absent may have asked for no increase or, less likely, a larger increase. It's also possible their boards met in the immediate aftermath of Katrina when the economic outlook was much dicier.

US Raises Interest Rates Despite Oil Crisis (FT)

By Carola Hoyos And Sheila McNulty

Financial Times, September 21, 2005

The Federal Reserve on Tuesday voted 9-1 to raise US interest rates by another quarter point and signalled that it expected to continue tightening policy.

The move came in spite of the devastation caused by Hurricane Katrina and as Hurricane Rita approached the Gulf, posing a fresh threat to oil production.

But the Organisation of the Petroleum Exporting Countries responded to concerns about the rising oil price pushed up in part by hurricane damage by offering the world all its extra crude.

Opec delegates agreed to offer consumers 2m barrels a day of extra oil, though Iran, the traditional price hawk of the group, insisted the offer would be reviewed at the group's meeting in Kuwait in December.

US crude futures on Tuesday retreated $1.16 to $66.23, after gaining $4.17 on Monday as fears of Hurricane Rita grew. October gasoline futures trading on the New York Mercantile exchange fell 4.77 cents to $2 a gallon.

While the Fed acknowledged the economic dislocation caused by Katrina and the rise in energy prices that has hit spending, production and employment in the near term, policymakers rejected calls for a “compassionate pause” in raising interest rates.

The Fed said the disruption to the production and refining infrastructure in the region might add to energy price volatility, but added: “While these unfortunate developments have increased uncertainty about near-term economic performance, it is the committee's view that they do not pose a more persistent threat.”

Before Katrina struck, it said, the US economy had been growing well. Core inflation had been “relatively low” in recent months and longer-term inflation expectations remained contained.

“Policy accommodation can be removed at a pace that is likely to be measured,” it said. However, Mark Olson, a member of the board of governors, voted against a quarter-point rise to 3.75 per cent, instead preferring no change in rates.

Opec's negotiations in Vienna were overshadowed by Rita as delegates and traders tried to forecast how much damage it would do to the Texas oil industry. “We are worried,” said Sheikh Ahmed Fahd Al-Ahmed Al-Sabah, Kuwait's oil minister. “We are following the hurricane to see what will be the effect, especially in Texas.”

Panic buying seized Houston on Tuesday, with housewives filling trolleys with cases of bottled water at supermarkets such as Wal-Mart and Target.

Thousands of people fled Florida as Rita swept into the Keys, but the storm was expected to do more damage along the Gulf coast this weekend.

Gulf coast energy companies evacuated offshore facilities and tested emergency equipment and procedures.

Analysts agree the US energy industry, already strained after Hurricane Katrina, could see further fuel price rises if bad weather strikes again.

More than a quarter of the US refining industry, processing 4.5m barrels a day of crude oil, stands in the path of Rita, including three of the country's five largest refineries.

Fed Increases Interest Rate Despite Storm (WT)

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By Patrice Hill

The Washington Times, September 21, 2005

The Federal Reserve, in an unusual non-unanimous decision criticized as "insensitive," yesterday voted to raise interest rates despite the economic disruptions caused by Hurricane Katrina.

The Fed said it does not expect the immediate rise in joblessness and decline in growth from the storm to pose a "persistent threat" to the economy, and that it must address the possibility that the soaring energy prices triggered by Katrina will fan inflation.

Mark Olsen, a Fed governor, dissented in the 9-1 vote, saying he thought a pause in the Fed's string of quarter-point rate increases since June 2004 was warranted. Many agreed on Wall Street, where stocks and bonds tumbled in response to the Fed's move.

Lawmakers on Capitol Hill and some economists said the central bank was being "insensitive" by increasing the cost of rebuilding from the storm by raising the interest rates on construction loans, while adding to the burden on consumers already hard-pressed by skyrocketing gasoline prices.

The Fed acknowledged the extraordinarily broad devastation from the hurricane, which killed almost 1,000 people and put nearly 1 million out of their homes and work -- some temporarily, some indefinitely.

It also acknowledged that the disaster, which caused consumer confidence to plunge to a 13-year low earlier this month, has "increased uncertainty" about the economy's performance.

But the central bank noted that the economy was growing solidly "before the tragic toll" and should be able to withstand the shock.

Even with the nearly three percentage point boost in interest rates since the Fed started its campaign, it said the level of rates remains low by historical standards and is still stimulating the economy.

The board raised the federal funds rate, which is the rate it targets on overnight loans among banks, to 3.75 percent. Commercial banks raised their prime lending rates by a corresponding amount, to 6.75 percent.

Richard Yamarone, an economist with Argus Research Corp., said the Fed ignored "a chorus of congressional leaders, business figures and investors" because it fears the sharp rise in energy prices this year will push the inflation rate over the psychological threshold of 4 percent.

Although many economists -- and even the Fed -- note that inflation excluding volatile energy prices remains tame at about 2 percent, persistently higher energy costs nevertheless will stoke inflation by prompting higher cost-of-living increases and a push for higher wages, he said.

Katrina fueled inflation not only by shutting down 5 percent of U.S. energy production and driving up energy prices, but also by boosting the costs of transportation and building materials, Mr. Yamarone noted.

"A Fed pause, or even a rate cut, would have done nothing to help the Gulf Coast area," he said. "It is more important to address the drag of inflation than to pause out of compassion for a region that was closed to business for a week."

But Sen. Jim Bunning, Kentucky Republican, said Fed Chairman Alan Greenspan was "insensitive" and out of touch with the plight of working families.

"Maybe if he didn't have a government car and driver and had to pay for his own gas like ordinary folks, or if he lost everything he owned in a hurricane, he would be a bit more compassionate," the senator said.

Peter Morici, a business professor at the University of Maryland, said the Fed and many economists consistently have underestimated the severity of the storm and its effect on the economy, initially dismissing it as little worse than previous storms.

The central bank may be making a mistake like it did in 1990, when Mr. Greenspan led a campaign to raise rates in the face of a weakening economy, he said. Many economists blame the Fed's unresponsiveness for precipitating the 1990-91 recession.

"Falling retail sales and consumer confidence indicate the mood of the country is turning sour," and the Fed's move yesterday contributes to the pessimism, Mr. Morici said.

"By raising interest rates in an economy already slowing and buffeted by Hurricane Katrina, Mr. Greenspan needlessly risks driving the economy into recession, something he did accomplish for the first President Bush," he said.

Richard Berner, an economist with Morgan Stanley, said the Fed's task is particularly challenging now because of the explosion in energy costs, inflation and federal spending -- which also is inflationary -- prompted by Katrina.

Although the decision to raise rates may be a good one aimed at quelling an inflation threat, communicating that strategy is difficult in light of the public outcry over federal unresponsiveness to the storm.

Home Construction Declined In August (NYT/AP)

By The Associated Press

DOJ_NMG_0007299

The New York Times, September 21, 2005

WASHINGTON, Sept. 20 (AP) - Construction of new homes slipped for a second month in August, providing fresh evidence that the housing boom may be cooling.

The Commerce Department reported Tuesday that construction of new homes and apartments dropped 1.3 percent last month after a decline of 1.5 percent in July. The two declines are the first consecutive ones since early 2004.

Even with the drops, housing construction totaled 2.01 million units in August, seasonally adjusted and annualized. It was the eighth month in the last nine that construction exceeded the two million rate.

Hurricane Katrina, which hit late in the month, had little impact on the data, but analysts predicted a more adverse effect in September.

David Seiders, chief economist at the National Association of Home Builders, predicted that for all of 2005 housing construction would total 2.02 million units, up 3.6 percent from the pace in 2004 and the best showing in more than two decades.

For 2006, Mr. Seiders forecast housing construction would drop 4.8 percent, to around 1.92 million starts. He said he had added just 25,000 starts to that figure for rebuilding from the hurricane, expecting that the recovery effort will be stretched out perhaps as long as five years.

For August, construction of new single-family homes fell by 0.5 percent, to 1.71 million units, while construction of multifamily units was down 6 percent, to 328,000 units.

By region, construction rose 13.3 percent in the West, to an annual rate of 561,000 units. All other regions posted declines in August from July.

The biggest drop occurred in the South, where construction fell 6.6 percent, to an annual rate of 915,000 units. Analysts said unusually wet weather accounted for the decline.

Construction was down 5.2 percent in the Midwest, to an annual rate of 346,000 units, and down 4.1 percent in the Northeast, to an annual rate of 187,000 units.

Housing Starts Fell In August On Drop In Multifamily Units (WSJ)

By Rafael Gerena-Morales

The Wall Street Journal, September 21, 2005

Residential construction fell for a second straight month in August as construction of condominiums and apartments tumbled, suggesting that rising concerns about overbuilding in the condo market may have prompted developers to pull back.

The Commerce Department reported Tuesday that construction starts of new homes declined 1.3% last month to a seasonally adjusted annual rate of 2.009 million units. In July, starts were down 1.5% to 2.035 million. The government said the effect from Hurricane Katrina was minimal in August because it disrupted construction activity for only the last few days of the month.

The drop was attributed exclusively to declines in multifamily housing. Construction starts of single-family homes edged up 0.1% to 1.709 million. Starts of housing with two or more units dropped 8.5% to 300,000 units while construction of homes with five or more units fell 12% to 256,000 units.

Read the complete text of the Commerce Department's report on August housing starts and analysis from Briefing.com.

Although statistics for multifamily homes tend to be volatile month to month, economists said the August decline was the second straight drop and the level of starts in August was below the average for the past year. Joel Naroff, chief economist at Commerce Bancorp., said it may be too early to discern a clear trend, but two consecutive months of downward movement may indicate that "builders are starting to throttle back."

David Seiders, chief economist at the National Association of Homebuilders, said that while the recent declines in multifamily starts could be an "early sign of an oversupply" in the condo market, he cautioned that the declines also could be weather-related since multifamily starts in the South fell sharply last month. "If this is weather-related, these declines will be temporary," Mr. Seiders said.

Despite the possible slowing in the multifamily market, the single-family-home market remains strong. Some economists say the rebuilding efforts along the Gulf Coast in the aftermath of Hurricane Katrina will increase housing starts. Even if certain segments of the housing market cool, the overall "residential housing sector is going to be OK for a while," Mr. Naroff said.

Treasury Secretary John Snow Tuesday also dismissed the idea that the overall housing market is in trouble or that there is a bubble in the market. Speaking to credit-union executives in Washington, Mr. Snow said that predictions of a nationwide collapse of the housing market were improbable at best. "There's some easing off going on and that's expected," he said, but added, "I think the bubble is a gross misnomer."

The Commerce Department also reported Tuesday that permits for future building declined 2.2% to a seasonally adjusted annual rate of 2.124 million units. In July, permits rose 1.8% -- revised from a previously reported 1.6% increase.

The Commerce report showed that residential construction fell 4.1% in the Northeast, 6.6% in the South, and 5.2% in the Midwest; starts climbed 13% in the West. Nationwide, an estimated 184,600 houses were started in August, based on figures unadjusted for seasonal factors. An estimated 199,600 building permits were issued last month, also based on unadjusted figures.

Barbour Steers Mississippi Toward Recovery (WT)

By Guy Taylor

The Washington Times, September 21, 2005

GULFPORT, Miss. -- Flood-ravaged New Orleans has dominated press coverage and political debate in the wake of Hurricane Katrina, though neighboring Mississippi took the full brunt of the storm's fury, leaving more than 10,000 residents homeless.

"We're not into whining or moping around or victimhood," said Mississippi Gov. Haley Barbour, who has avoided the blame game that started in Louisiana as soon as Katrina made landfall.

The Republican governor remains optimistic, insisting that somewhere in the hurricane's devastation is "an opportunity to build the Gulf Coast back bigger and better than ever before."

His can-do attitude has drawn praise from, among others, former Reagan speechwriter Peggy Noonan, who compared Mr. Barbour's post-Katrina leadership to that of former New York Mayor Rudolph W. Giuliani after the September 11 attacks.

Mr. Barbour, former chairman of the Republican National Committee, says he's not bothered by the comparatively scant national press coverage given to his state's suffering.

"I would rather [have made] the progress that we've made than get a lot of press attention by not making progress, so it doesn't bother me that we're not on the front page of the news," he said in an interview with The Washington Times.

Though he describes his job dealing with the hurricane's aftermath in Mississippi as "a little bit like getting a drink of water out of a fire hydrant," Mr. Barbour says he's not complaining.

"I'm a heck of a lot better off than the people [on the coast] that don't have homes, that can't take a shower, that have to rely on somebody to bring them a meal," he said. "If they can deal with it, I can deal with it."

But while some observers say his leadership in Katrina's aftermath have made him a possible White House contender for 2008, Mr. Barbour, 57, insists politics is the last thing on his mind.

"I'm not focused or particularly interested in the politics of it, which is one reason I have disdained all the people who want to point fingers and play the blame game," he said.

"We'll have the opportunity to improve many areas of South Mississippi that were severely damaged and that puts a responsibility on me that makes this more than a full-time job, which is why I'm not very interested in politics, even re-election politics."

While neighboring Louisiana under Democratic Gov. Kathleen Babineaux Blanco continues to be entangled in post-Katrina political wrangling, Mississippi appears on a faster track to recovery -- partly due to Mr. Barbour's experience as a high-powered Washington dealmaker.

Mr. Barbour, who left here last night for a week-long trip to Washington, has been working closely on a federal aid proposal with Mississippi Sens. Trent Lott and Thad Cochran, both of whom are also Republicans and close to the Bush administration.

"Our staffs have been working together to develop the right package that's consistent with good policy for the country and that would meet our needs," he said.

President Bush yesterday made Gulfport the first stop on his fifth tour of the region, appearing with Mr. Barbour in a makeshift tent to inaugurate the governor's "Commission on Rebuilding, Recovery and Renewal," headed by former Netscape CEO James Barksdale.

Mississippi's recovery will be driven private investors sinking cash into the crushed ports and coastal cities, Mr. Barbour said. "Twenty years from now, how we rebuild is going to be determined by the private sector."

But some Mississippi residents have called the state and federal recovery efforts too slow and disorganized. Last week, the state's attorney general filed a lawsuit against five major insurance companies, saying they tried to trick thousands of homeowners out of insurance claims.

Mr. Barbour is taking the bumps in stride. He appeared nonchalant at a press conference Monday in Jackson, the state capital. Flanked by emergency managers, he wore a short-sleeved shirt with no tie and joked with reporters.

Asked how the state is preparing for the possibility of being hit in coming days by Hurricane Rita, he said flatly: "We're praying a lot, and we hope that the same hand that put Katrina right into the coast will put Rita somewhere else."

Afterward, Mr. Barbour acknowledged the stress of dealing with the disaster.

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"Sure I get tired," he said. "I'm just human, but I'll tell you what, when you see people who were poor before the storm and who have lost what little they ever had and they're helping their neighbors, it gives you energy."

He said he spends time praying and that "people pray for us and we need it and appreciate it, and they don't make any mulls about it. The Supreme Court ain't outlawed that yet."

GOP Split On Social Security (HILL)

By Bob Cusack And Patrick O'Connor

The Hill, September 21, 2005

A lack of communication between House Speaker Dennis Hastert (R-Ill.) and Ways and Means Committee Chairman Bill Thomas (R-Calif.) over the past several months has clouded the prospects for Social Security reform this year.

Thomas has kept Hastert in the dark on his yet-to-be-introduced broad retirement bill, which would include major changes to the Social Security system. Meanwhile, Hastert has not committed to a floor vote on revamping the entitlement program, leaving Thomas unsure of how to proceed.

When pressed on a timetable over the last couple of weeks, Hastert cited talking points on the need to reform the program.

Throughout the spring and summer, leadership aides complained that they could not educate members about Thomas's plan because the powerful chairman was playing it close to the vest.

In May, a House GOP leadership aide said, "It's hard to react to what Thomas is doing because we're not sure what he's up to. … It's very confusing right now."

But other Republicans say that leadership has postponed making difficult decisions on moving a bill and that the delay has triggered confusion and frustration in the GOP conference.

After Bush made his case for Social Security reform, Thomas held a news conference the next morning without alerting leadership. Infuriated, GOP leadership aides criticized Thomas in the media.

Days later, sources close to Thomas reveled in a Bush speech to the Latino Coalition in which the president said, "I have worked closely with Chairman Thomas on a lot of crucial issues. When he says he can get the job done, he means he can get the job done and has proven over the past five years that he can get the job done."

The crux of the problem for Republicans, congressional sources say, is that House Republicans lack the votes to pass a bill and have been struggling on an exit strategy. Some wanted to cite the devastation caused by Hurricane Katrina as a reason to abandon a reform bill, but leadership officials have not taken that approach.

Conservatives have long made Social Security reform a legislative priority. Members of the conservative Republican Study Committee (RSC) were a driving force behind the most recent House reform option, a plan developed by Sen. Jim DeMint (R-S.C.), a former House and RSC member, and amended by Rep. Jim McCrery (R-La.) and other members of the Ways and Means Committee.

The legislation has 46 co-sponsors, and only two lawmakers, Reps. Chris Cannon (R-Utah) and Lee Terry (R-Neb.), have endorsed the bill since the August recess.

Asked yesterday if he is committed to the DeMint-McCrery bill, Thomas said, "I am committed to a retirement-security package."

Most political experts on and off Capitol Hill say Social Security reform is dead in this Congress. They say the only remaining questions are whether Thomas will pass a bill out of his committee and whether the House will pass the legislation.

In April, McCrery said, "I'm confident that we're going to develop, under the chairman's leadership, a plan that can pass the House."

But with dozens of Republicans uncommitted, it is doubtful that the House can approve of any legislation with private accounts in it.

National Republican Congressional Committee Chairman Tom Reynolds, a Ways and Means Committee member, told Thomas during a panel meeting last week that he would recommend that leadership table Social Security reform this year.

"I think Tom Reynolds may have been talking about what his feelings are," Hastert said during a press briefing Thursday night. "Social Security is something very important. It's something we've talked about doing, and when we decide to move forward we'll let the press know."

Reynolds had dinner with Hastert last Wednesday, the day he told his fellow Ways and Means Republicans that he was recommending leadership postpone the legislation instead of forcing vulnerable members to take a tough vote.

Reynolds declined to say how he would vote on a Social Security bill, saying he does not answer hypothetical questions.

As Democrats aligned against the private-accounts bill, it has proved to be a tough sell for Republican House leaders. During the winter and spring, congressional Republicans met with vocal opposition during a series of town-hall meetings held in member districts across the country.

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Bush and his Cabinet secretaries made "100 stops in 100 days," which seemingly did more to incite the opposition than motivate his base, even though the White House initially hoped to have a reform bill passed by late spring, according to lobbyists working closely with the administration.

In July, deputy White House Chief of Staff Karl Rove told a group of college students and lobbyists that the House would move a bill in September and the Senate would act soon thereafter.

House Majority Leader Tom DeLay (R-Texas) has insisted for much of the summer that the House vote on reform legislation at some point this year. Other leaders, Reynolds among them, were reluctant to sign off on a vote that could haunt congressional Republicans during the contentious midterm elections in 2006.

DeLay's public comments on the need to pass Social Security reform have been much stronger than Hastert's.

Blunt and his whip operation, fresh off a bruising battle to pass the Central America Free Trade Agreement, are in no hurry to press members on Social Security reform.

"I think the leaders do need to take into consideration where the Senate may be," House Majority Whip Roy Blunt (R-Mo.) said last week. "We need to make absolutely sure this is the right way to protect and reform Social Security."

Blunt said last week that his whip operation would continue to listen to member concerns on this issue and to keep providing them with information about the various options for reform.

Asked about whether or not it could pass the House, Blunt said, "This is a step that a majority of House members would be willing to take."

Senate Finance Committee Chairman Chuck Grassley (R-Iowa) has been unable to move any reform out of his panel, and the prospects are grim because Sen. Olympia Snowe (R-Maine) opposes private accounts. Without Democratic support, Grassley needs Snowe's vote.

Grassley told The Hill last spring that Congress had to pass a reform bill in 2005 or it would not happen for the next "eight or nine years."

In Bush's Trail, Scarred Ground (NYT)

By Matthew L. Wald

The New York Times, September 21, 2005

WASHINGTON, Sept. 20 - When people refer to battlegrounds in presidential races, they are usually not thinking of airport runways. But those people probably have not heard of Runway 4/22 at the airport in Las Cruces, N.M.

The runway, the airport's longest, has been closed since President Bush made a campaign stop in August 2004. It has gouges six inches deep and a hundred yards long, which the city says were put there by two Air Force cargo planes accompanying the president. Las Cruces put the damage at $2.1 million.

The city said airport officials warned the Air Force that the planes, a giant C-17 and a military version of the 757, were too heavy, and that the hot asphalt would be too soft for landing that day.

When Bill Clinton paid a presidential visit, he landed at Holloman Air Force Base nearby, said Terence J. Kelly, a spokesman for Las Cruces. When Senator John Kerry and former Senator John Edwards, the Democratic candidates for president and vice president, visited, "they landed elsewhere," Mr. Kelly said.

After a year of discussions, the Air Force has offered $600,000 for repairs.

"It's open to dispute whether it was nice and pretty to begin with," said Maj. Ann Stefanek of the Air Force.

Major Stefanek said the Air Force was acknowledging the damage but denying that it was warned before the landing.

The Las Cruces City Council may discuss the settlement offer next month.

Frist Sold Stock Before Price Drop (LAT/AP)

By From Associated Press

The Los Angeles Times, September 21, 2005

WASHINGTON — Senate Majority Leader Bill Frist, a potential presidential candidate in 2008, sold all his stock in his family's hospital company about two weeks before it issued a disappointing earnings report and the price fell 9%.

Frist held an undisclosed amount of stock in HCA Inc., the nation's largest for-profit hospital chain. On June 13, he instructed the trustee managing the assets to sell his HCA shares and those of his wife and children, said Amy Call, a spokeswoman for Frist.

Frist's shares in the Nashville company were sold by July 1 and those of his wife and children by July 8, Call said. The trustee decided when to sell the shares, and the Tennessee Republican had no control over the exact time they were sold, she said.

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HCA shares peaked at $58.40 a share June 22. After slipping for two weeks, the price fell $4.86 to $50.05 on July 13 after the firm announced that quarterly earnings would not meet analysts' expectations.

The value of Frist's stock at the time of the sale was not disclosed. Earlier this year, he reported holding blind trusts valued at $7 million to $35 million.

Blind trusts are used to avoid conflicts of interest. Assets are turned over to a trustee who reports to the owner only the total value and income earned.

The sale of the shares was first reported by Congressional Quarterly.

OTHER NEWS:

Judicial Conference Supports Citing Unpublished Opinions (LAW)

By Tony Mauro, Legal Times

Law.com, September 21, 2005

The policy-making body of the federal judiciary on Tuesday endorsed a sweeping rule change that will allow lawyers to cite unpublished opinions in federal appeals courts nationwide beginning in 2007.

The Judicial Conference also voted not to take a position on the controversial question of whether the sprawling 9th U.S. Circuit Court of Appeals should be split in two. Members did, however, agree that they would oppose any circuit-splitting bill that does not provide adequate funding for the costs involved. The issue has been debated by Congress for years without resolution.

The citation rule change, if ratified by the Supreme Court and untouched by Congress, would end a practice that brought charges of a hidden, unaccountable system of justice against some of the nation's largest and most important appellate courts. The 2nd, 7th, 9th and federal circuits ban citation of unpublished opinions outright, while six other circuits discourage it.

Passage of the resolution by voice vote followed "a great deal of debate," said Judge Carolyn Dineen King, chair of the executive committee, at a post-meeting news conference.

She said passage was eased by an amendment introduced at the meeting that would make the change prospective only, meaning that lawyers will be able to cite only those unpublished opinions issued after Jan. 1, 2007. King also stressed that individual circuit courts will be able to set their own rules about the precedential value unpublished opinions can be given.

The conference vote is something of a bouquet tossed to its likely next chairman, chief justice nominee John Roberts Jr. As a private practitioner and then as a judge on the U.S. Court of Appeals for the D.C. Circuit, Roberts served on the advisory committee that recommended the new rule, 32.1. "A lawyer ought to be able to tell a court what it has done," Roberts said at the April 2004 meeting at which the advisory committee first endorsed the rule.

At his Senate Judiciary Committee confirmation hearings last week, Roberts said he was in line to chair the advisory committee in October -- now unlikely, since as chief justice he would chair the entire Judicial Conference. The conference's standing committee on rules of practice and procedure approved the citation rule in June of this year.

"This is one of the things John Roberts took a personal interest in," said Mark Levy, who heads the appellate advocacy group at Kilpatrick Stockton and was another member of the advisory committee along with Roberts. "It will be a terrific change that will make the process fairer and more transparent."

Michael Schmier of the California-based Committee for the Rule of Law said: "We have worked for 10 years to see this day. We are gratified that the mechanism by which the rule of law is imposed upon the judiciary is restored." Schmier said that the federal rule change could have a ripple effect on California and other states that have their own non-citation rules.

The meeting of the Judicial Conference was presided over by Justice John Paul Stevens in the wake of the death Sept. 3 of Chief Justice William Rehnquist.

Stevens "did a fine job," King said. "He has a great deal of charm." The conference -- composed of the chief judges of all 13 circuits as well as one district judge from each circuit and the chief judge of the Court of International Trade -- passed a resolution mourning the loss of Rehnquist, who presided over the conference for nearly two decades.

As many as 80 percent of all appeals court opinions are designated "unpublished," though most are available on electronic databases or from the courts themselves. The practice of issuing uncitable, unpublished opinions -- many of them brief dispositions drafted by law clerks or staff attorneys -- developed over the past 30 years as a time-saving device for overburdened appeals judges. Critics say the practice produced a body of often conflicting opinions that did not need to be harmonized and could not be cited or reversed.

A significant faction of appeals judges, led by 9th Circuit Judge Alex Kozinski, resisted the rule change, complaining that it would exponentially increase their workload by forcing them to polish and beef up the unpublished opinions.

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After Tuesday's vote, Kozinski said, "I don't have any comment. I think it's a bad idea, but that's what it is. Maybe the Supreme Court will overrule it."

Kozinski, who encouraged other 9th Circuit judges and practitioners to write letters in opposition to the rule change, also asserted the change would increase litigation costs by expanding the universe of cases lawyers must search on behalf of clients. But a study by the Federal Judicial Center, issued in April, found that in circuits that had decided in recent years to allow unpublished opinions to be cited, neither problem had materialized to a significant degree.

But another leading opponent of the rule change said that survey was misleading because it takes a long time for lawyers and judges to change their practices. "In years to come, you are going to see briefs loaded up with this junk law," said Sanford Svetcov of Lerach Coughlin Stoia Geller Rudman & Robbins in San Francisco, who voted against the move in the advisory committee. But Svetcov acknowledged that the momentum was strongly in favor of the rule change. "There was a freight train running downhill, with only me and Judge Kozinski standing in the way."

Stephen Barnett, emeritus law professor at the University of California, Berkeley, a leading proponent of the citation rule change, said that the Judicial Conference deserved credit for "refusing to be swayed by an elaborate letter-writing campaign from the 9th Circuit." The conference, he added, "has followed an extensive process of deliberation, research, and reason to a courageous and laudable result."

Reporter Justin Scheck of The Recorder contributed to this report.

Lawyer Presses Expert Witness To Apologize During Vioxx Trial (WSJ)

By Paul Davies

The Wall Street Journal, September 21, 2005

ATLANTIC CITY, N.J. -- A lawyer representing Merck & Co. in the second Vioxx trial pressed an expert witness for the plaintiff to apologize for earlier testimony in which he said the company put "profits before patients" and that executives "don't mind killing patients."

Stephen D. Raber, an attorney at Williams & Connolly LLP, of Washington, said pharmacology professor Benedict Lucchesi misinterpreted internal emails by Merck executives on which he based inflammatory comments during testimony on Friday.

"You owe them an apology," said Mr. Raber, who sometimes seemed frustrated and angered throughout his tense cross-examination of Dr. Lucchesi. "I don't think I offended them," responded Dr. Lucchesi, who didn't yield much ground to any of Mr. Raber's questioning.

The state-court trial began here last week. Frederick "Mike" Humeston, a postal worker from Boise, Idaho, is suing Merck, alleging Vioxx caused his heart attack in 2001 after he took the painkiller for two months.

Merck lost the first Vioxx trial in Texas state court last month. The Whitehouse Station, N.J., drug maker faces about 5,000 Vioxx lawsuits and could be liable for as much as $50 billion, analysts estimate.

Dr. Lucchesi spent much of the day on the stand yesterday deflecting Mr. Raber's questions. In several instances, Mr. Raber pleaded with Dr. Lucchesi to give a "straight answer" to his questions.

Later, Dr. Lucchesi reiterated his earlier opinion that Vioxx can cause heart attacks and strokes in some patients. Mr. Raber did establish that Dr. Lucchesi didn't read through all of the clinical studies Merck did on animals and humans before Vioxx was approved.

Mr. Raber used an easel and marker to write down the date of the Food and Drug Administration's initial approval of Vioxx and the three subsequent approval dates for additional uses that were received from May 1999 through August 2004. Next to each date he wrote "safe & effective."

Mr. Raber tried to defuse damaging internal emails from Merck scientists, including one from former executive Edward M. Scolnick, who wrote in March 2000 after reviewing data from a study that "the CV events are clearly there," referring to increased cardiovascular issues in some patients taking Vioxx. Mr. Raber presented a subsequent email from Dr. Scolnick from February 2001 that showed his view had changed. "We all worried to death about the CV events last spring," Dr. Scolnick wrote. "With all the data now available I am no longer worried."

When presented with this email, Dr. Lucchesi said, "I don't know what data he looked at. I don't know what convinced him."

North Korea Throws Nuclear Deal Into Doubt (FT)

By Anna Fifield, Guy Dinmore And Andrew Yeh

Financial Times, September 21, 2005

North Korea and the US on Tuesday disputed crucial details of their landmark six-party agreement reached just a day earlier, with Pyongyang declaring it would only give up its nuclear weapons after it received light-water reactors.

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China, host to the talks, immediately played down the differences. President Roh Moo-hyun of South Korea said his government, which has pledged to double North Korea's electricity supply, would mediate over the issue of timing.

North Korea's foreign ministry released a statement saying: “The US should not even dream of the issue of [North Korea's] dismantlement of its nuclear deterrent before providing light-water reactors, a physical guarantee for confidence-building.”

The Bush administration immediately rejected the demand, and said the issue would be discussed at the next round of six-party talks in November.

“This was obviously not the agreement they signed and we will see what the coming weeks bring,” the state department's Sean McCormack said.

But Christopher Hill, the chief US negotiator, told the Associated Press in Washington: “Life is too short to overreact to every statement coming out of Pyongyang. It obviously was not a helpful statement. But it was not unexpected, either.”

Monday's joint statement of principles set out commitments by the six parties but did not address the crucial issues of verification and timing. Diplomats expect further disputes. North Korea pledged to “abandon” its nuclear weapons programmes, return soon to the nuclear non-proliferation treaty and allow in UN inspectors.

The US affirmed it had no intention to attack North Korea, and said it would take steps to normalise relations. The US agreed, along with the other parties, to “discuss at an appropriate time” the provision of a light-water nuclear reactor to North Korea.

The Bush administration made clear that its interpretation of “an appropriate time” followed the complete dismantling of all North Korea's nuclear weapons and facilities.

Washington has been highly critical of the 1994 deal between the Clinton administration and Pyongyang which provided for construction of two reactors in return for a nuclear freeze.

“This has reinforced everything we feared about North Korea's promises, but no one expected them to shove it in everyone's faces within 24 hours,” said Peter Beck of the International Crisis Group think-tank. “It doesn't mean they're ripping up the piece of paper, they just like to keep everyone guessing,” he added.

US officials suggested that North Korea's demand could be directed at a domestic audience, to avoid suggestions that their leader, Kim Jong-il, was showing weakness by agreeing to disarm. They said Washington did not intend to become drawn into public wrangling over the agreement.

Nations Seek To Hold North Korea To Text Of Agreement (WP)

By Glenn Kessler

The Washington Post, September 21, 2005

The United States, Russia and other nations urged North Korea yesterday to abide by a six-nation deal to dismantle its nuclear programs after the government in Pyongyang issued a statement that cast doubt on the agreement it had signed with great fanfare in Beijing on Monday.

North Korea, in a statement issued by an unnamed foreign ministry spokesman, said it would not begin to dismantle its nuclear programs until after it received a civilian nuclear reactor. That statement ran counter to the interpretation U.S. officials had offered of the agreement -- that a civilian nuclear reactor was only a distant possibility after North Korea had dismantled its programs and demonstrated its compliance.

"We will stick to the text of the Beijing [agreement], and I believe we can make progress if everybody sticks to what we agreed to," Secretary of State Condoleezza Rice told reporters at the United Nations. At the same news conference, Russian Foreign Minister Sergei Lavrov agreed, saying, "I also think we have to stick to the text of the agreement." Officials in Japan and China echoed those sentiments.

In its statement, North Korea asserted that the United States had been isolated on the issue of whether North Korea could pursue peaceful nuclear power, leaving it no choice but to withdraw its objection. Once the United States provides North Korea with a light-water reactor, the statement said, North Korea will return to the nuclear Non-Proliferation Treaty.

Christopher R. Hill, the chief U.S. negotiator, had predicted before he left Beijing that North Korea would issue such a statement, if only for face-saving domestic purposes. Other U.S. officials also said they were not alarmed, calling it a predictable propaganda stunt and saying North Korea's true intentions would be apparent when the talks resume in November.

Still, analysts and some U.S. officials privately said the North Korea statement demonstrated some of the pitfalls in the long-sought statement of principles. The statement outlined a series of goals -- such as North Korea abandoning its nuclear programs, normalizing relations, providing North Korea with energy aid -- but left unstated the sequence and timing of steps needed to achieve those goals.

The final stumbling block was North Korea's demand for a civilian nuclear reactor. The idea was anathema to the Bush administration, which came into office deeply skeptical of a 1994 agreement freezing North Korea's programs in exchange for

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two light-water reactors. The concrete had been poured for the $4 billion project, but it was terminated after the Bush administration accused North Korea in 2002 of violating the accord by conducting a clandestine nuclear program.

During the final round of talks, China proposed text that said North Korea "stated that it has the right to peaceful uses of nuclear energy. The other parties expressed their respect and agreed to discuss at an appropriate time the subject of the provision of light-water reactor" to North Korea.

Rice, working primarily with South Korean Foreign Minister Ban Ki Moon, then came up with a solution over the weekend -- that the text was acceptable as long as each party could offer its own interpretation of the sequencing. Hill, in his statement, made clear "appropriate time" would come at the end of the process -- if ever.

One senior U.S. official, asked if he believed North Korea really intended to give up its nuclear programs, paused and then said: "We'll see . . . we'll see."

U.S. Says North Korean Demand For Reactor Won't Derail Accord (NYT)

By Steven R. Weisman

The New York Times, September 21, 2005

WASHINGTON, Sept. 20 - The Bush administration on Tuesday brushed off a demand from North Korea for a light-water nuclear reactor, saying that the accord announced Monday in Beijing left it clear that the North must abandon its nuclear weapons program before such a matter can be discussed.

"I think we will not get hung up on this statement," said Secretary of State Condoleezza Rice, referring to a comment from North Korea that it would continue to insist on getting a reactor up front, as a price for agreeing to the Beijing deal. "We will stick to the text of the Beijing statement, and I believe we can make progress if everybody sticks to what was actually agreed to," Ms. Rice added at a news briefing with the Russian foreign minister, Sergey Lavrov. Mr. Lavrov said that "we shouldn't rely on oral statements" from North Korea or others.

The Beijing agreement laid out a set of principles to guide discussions, which are scheduled to resume in November. The United States hailed the part of the accord in which North Korea agreed to abandon "all nuclear weapons and existing nuclear programs" and submit to international inspections.

In return, the United States agreed to join its four partners - Russia, Japan, South Korea and China - in providing security guarantees and economic incentives over time, according to the principle of "commitment for commitment, action for action."

Despite the efforts of American and other top officials to be positive about the Beijing agreement, the exchange about the nuclear reactor appeared to show that a wide gap remained between North Korea and, on the other side, the United States and its partners, on the very question that had stymied the talks for weeks.

In recent talks, North Korea had demanded, for its energy needs, a light-water reactor, of the sort promised in 1994 in return for an earlier agreement to freeze its nuclear programs. In 2002 the United States discovered that the North had reneged on that deal, and the Bush administration refused to supply such a reactor in any future arrangement.

The stalemate was resolved at the last minute over the weekend by China, which called on the United States to agree to discuss providing the North with a light-water reactor "at an appropriate time." Such a reactor is less efficient in producing weapons-grade fuel than a regular reactor.

Christopher R. Hill, the chief negotiator in the talks, said Tuesday that he was not surprised by North Korea's continued insistence on getting the reactor up front, but that the North understood that the American timetable for discussing the reactor was shared by the other countries in the talks.

"The North Koreans will make odd statements at their leisure, but they know precisely what the deal is," Mr. Hill said in an interview. "The deal with five other countries is that they have to get out of the nuclear business, and at an appropriate time to have discussions on a light-water reactor."

Mr. Hill said that he was untroubled by North Korea's statement and that work would begin soon on the next phase, which is a proposal for a way to verify that it is abandoning its nuclear ambitions.

But some experts who examined the Beijing accord said Tuesday that the problem of the light-water reactor would come back to haunt the negotiators.

"I never believed that the administration would ever, as a matter of principle, provide a light-water reactor," said Charles L. Pritchard, who negotiated with North Korea in President Bush's first term. "In this agreement, we've kept the door open in a false matter."

Mr. Pritchard said he now feared that the North Koreans might not come back to the negotiating table in November without assurances on the reactor.

But Mr. Hill said he fully expected North Korea to return to the talks and discuss how to implement the latest accord. That was also the view of the South Koreans and the Japanese.

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"The light-water reactor was the major sticking point, and it remains the one sticking point still," said an Asian diplomat, asking that his country not be identified because of its rules barring discussions of negotiations. "These differences of opinion are somewhat worrisome."

He said he expected that North Korea would not agree immediately to resume talks in November, but that eventually China would persuade them to return.

U.S., Russia Tell Pyongyang To Stick To DealPublished (WT/REU)

By Reuters

The Washington Times, September 21, 2005

NEW YORK (Reuters) -- The United States and Russia told North Korea yesterday to stick to an agreement to dismantle its nuclear-weapons program reached in six-party talks in Beijing and not insist on a light-water reactor first.

"I think that we will not get hung up on this statement" by Pyongyang, Secretary of State Condoleezza Rice told reporters at the United Nations. "We will stick to the text of the Beijing [agreement], and I believe we can make progress if everybody sticks to what we agreed to."

Russian Foreign Minister Sergei Lavrov agreed, saying, "I also think we have to stick to the text of the agreement. ... The most important thing is to see that the agreement is carried out."

North Korea jeopardized a six-country deal on giving up its nuclear arms less than 24 hours after the pact was announced by vowing yesterday to keep the weapons until Washington provides the communist state with a civilian nuclear power plant.

In the agreement signed Monday in Beijing, North Korea agreed to scrap its nuclear programs in return for aid and recognition of its right to a civilian nuclear program.

The six countries -- China, the United States, North Korea, Russia, South Korea and Japan -- agreed to discuss providing a light-water reactor (LWR) "at an appropriate time."

But the North took a different stance yesterday.

"The U.S. should not even dream of the issue of the DPRK's dismantlement of its nuclear deterrent before providing LWRs," it said in a statement published by the Korean Central News Agency. "This is our just and consistent stand as solid as a deeply rooted rock."

DPRK is short for the North's official name, the Democratic People's Republic of Korea. Light-water reactors are used to make electricity that experts say are more proliferation-resistant than other reactors.

China asked all sides to fulfill their promises. Seoul said it would take the lead role in bridging the gap between the United States and North Korea.

President Bush spoke with South Korean President Roh Moo-hyun yesterday and both agreed that verification that North Korea has abandoned its nuclear weapons program is "critical" for implementing the recent agreement, White House spokesman Scott McClellan said.

The United States and others were following the sequencing as specified in the accord, Mr. McClellan said.

"Now, if North Korea needs some time to reflect on that agreement, we'll give it to them. But all the parties are operating off the agreement that was signed by North Korea and all the others," he said.

Japan saw a possible negotiating ploy in North Korea's assertions.

"We must watch North Korea closely to see if there is really a fundamental difference on that point," Japanese Chief Cabinet spokesman Hiroyuki Hosoda told reporters. "If we are completely at odds, that will mean going back to the beginning. But we do not believe that is the case."

Meanwhile Japanese Foreign Minister Nobutaka Machimura said yesterday that Japan and North Korea will resume bilateral talks soon on Pyongyang's nuclear weapons, missile program and abductions of Japanese citizens. The meeting would restart negotiations that have been stalled for nearly a year.

Japan has been eager to reopen the talks in hopes of resolving the cases of Japanese citizens kidnapped by North Korea in the 1970s and '80s. North Korea, meanwhile, could benefit from Japanese aid, investment and trade.

The United States, backed by Japan, had long argued that North Korea could not be trusted with atomic energy because it had broken a previous deal to halt weapons development.

But China, South Korea and Russia said that if Pyongyang scrapped its nuclear weapons and agreed to strict safeguards, it should have such an energy program in the future.

Longtime Statesman Puts Best Face Forward For U.S. (WP)

By Glenn Kessler

The Washington Post, September 21, 2005

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Assistant Secretary of State Christopher R. Hill, who over the weekend as chief U.S. negotiator reached a tentative agreement with North Korea on ending its nuclear programs, was a fresh-faced 21-year-old Peace Corps volunteer in Cameroon when he learned his first lesson in diplomacy.

Hill's job in 1973 was to ride around on a Suzuki dirt bike and audit the books of credit unions in 28 villages and plantations. He discovered one board of directors had taken 60 percent of the money, so he gave an impassioned speech denouncing the malfeasance to hundreds of villagers sitting on a mountainside. His presentation was met with applause and gratitude -- and then the assembled group immediately reelected everyone he had just condemned.

"I realized I didn't know beans about what was going on in this tea plantation," Hill recalled over breakfast recently. It turned out the board reflected a careful amalgam of tribal interests, and it didn't matter whether it ran a good credit union or not.

The lesson, according to Hill: "When something's happened, it's happened for a reason and you do your best to understand that reason. But don't necessarily think you can change it."

Hill, with a dry wit and easy manner, has taken that adage to heart during more than two decades of difficult diplomatic assignments in the foreign service, shuttling back and forth between Asia and Europe.

During the Clinton administration, Hill was a key negotiator in the Dayton Peace Accords that ended the Bosnian war, and he played an important role in the crisis over Kosovo. He was ambassador to Macedonia when protesters attacked the U.S. Embassy in 1999 over NATO airstrikes in Yugoslavia.

The embassy in Macedonia, unlike most overseas missions, had never been given Marine guards. The protesters quickly overran the guard posts and began to use the embassy flagpole as a battering ram. When a top State Department official called Hill during the crisis to ask where his Marines were, Hill sardonically noted he didn't have any -- but there were Marines at the embassy in Luxembourg.

Former U.N. ambassador Richard C. Holbrooke, who described Hill as "brilliant, fearless and argumentative" in his book on the Dayton negotiations, said that Hill manages to be both "very cool and very passionate." This unique combination, he said, enhances Hill's "extremely good negotiating skills."

Hill also has an easy familiarity with the media. In a city where scores of officials hide behind the cloak of anonymity in speaking to journalists, Hill prefers to speak on the record. He conducted two or three news conferences a day during the talks in Beijing.

The son of a foreign service officer, Hill's first posting was in Belgrade. He had lived there as a child and remembers playing with the daughter of the U.S. ambassador, the legendary George F. Kennan.

Hill has a knack for attracting high-profile sponsors. He was a rising star during the Clinton administration, winning his first ambassadorship on the recommendation of the president of Macedonia. Then he came to President Bush's attention when the president of Poland lavishly praised Hill's performance as ambassador there and requested that Hill stay on.

Some former Clinton administration officials say that Hill sometimes appeared to exceed his negotiating instructions, or at least have a creative interpretation of them. And some conservative officials in the current administration are not happy with the deal he reached in Beijing with North Korea -- and were openly gleeful yesterday when Pyongyang appeared to try to wiggle out of the deal.

Hill had long sought to be ambassador to South Korea, and he finally got there last year. But then Secretary of State Condoleezza Rice plucked him for his current job after he had been there just eight months.

In Seoul, Hill broke with diplomatic precedent -- and charmed the South Korean public -- by repeatedly visiting universities and other hotbeds of anti-Americanism to give speeches and have debates. He established a cyber chat room and personally answered questions from Koreans under the name "ambassador." He caused a stir by paying respects at a memorial for thousands of civilians who were fired upon by the then-military government in a 1980 massacre. Many Koreans has suspected that the U.S. government had backed the attack, and no senior U.S. official had ever before visited the cemetery in Gwangju.

"He was here the shortest term among the six ambassadors that I've seen here in my 18 years, but had the most impact," said Tami Overby, a senior official with the American Chamber of Commerce in South Korea. "He was a rule-breaker, always willing to challenge."

Hill jokes that he feels like "assistant secretary for North Korea," but his current post gives him responsibility for U.S. policy toward countries across the Pacific region, including China, Japan and Indonesia. Much as he hated to leave Seoul, he said, Rice's offer was "truly an offer I couldn't refuse."

Hill's experience brings him connections across the globe. While ambassador to Poland, Hill got to know the South Korean ambassador at the time -- Song Min Soon -- who then became the chief South Korean negotiator at the North Korean disarmament talks. The two have joked to Rice that they formed a "Warsaw pact" during the talks.

"He's really a man who wants to do something, not just managing things," Song said in an telephone interview from Seoul. "We jointly determined we would make history, rather than sitting idle on the floor of history."

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Rice has given Hill significant negotiating authority, and he said he worked closely with her in structuring the compromise that resulted in this week's agreement. Essentially, it allowed both sides to offer its own interpretation of a crucial clause, allowing a deal to be announced -- but with the essential dispute fundamentally unresolved.

Hill said his years in diplomacy had convinced him that "people are neither as bad as they look nor as good as they look." So, as a negotiator, he tries to suspend value judgments as he analytically tries to figure out the other side's goals -- and whether you can "allow that other side to fulfill its objectives in a way that is consistent with your interests."

The Bush administration has long been bitterly divided over North Korea policy, but Hill shrugs off any difficulties over managing the competing demands of the State Department, Pentagon and White House.

"Your best diplomacy should start at home," he said. "As a professional diplomat, if I can't deal with that, then what am I doing talking to foreigners?"

A Skeptical View (WSJ)

By Nicholas Eberstadt

The Wall Street Journal, September 21, 2005

Contrary to conventional wisdom, which holds the North Korean state to be an unremittingly hostile "negotiating partner," history actually demonstrates that Pyongyang can be a highly obliging interlocutor under certain very specific conditions. All that is necessary to "get to yes" with the Democratic People's Republic of Korea is to concede every important point demanded by the North Korean side while sacrificing vital interests of one's own.

Monday's "breakthrough" at the six-party talks in Beijing would appear to conform precisely to this long-established pattern. The vaunted outcome -- a long-desired "consensus statement" inked by North Korea and the other five governments engaged in protracted discussions over North Korean denuclearization -- is being celebrated by diplomatic sophisticates in Seoul, Beijing, Moscow, Tokyo and Washington.

Enthusiasts contend that the North Korean regime, after two years of tough talks with five other countries united in the desire to force it to dismantle its nuclear weapons program, has at last agreed to a step-by-step process that will eventually resolve the crisis. In reality, nothing of the sort has taken place. A careful reading of the Sept. 19 joint statement suggests instead that North Korean negotiators have just achieved a stunning advance in their government's quest to "normalize" its nuclear weapons program. There's also been equally momentous progress in Pyongyang's longstanding campaign to sunder the U.S.-South Korean military alliance. Wittingly or otherwise, the U.S. negotiating team has executed an apparent cave-in -- embracing precepts crucial to North Korean objectives but inimical to Washington's own.

To appreciate the full significance of this joint statement, one need only dwell on two of its precepts: The first is North Korea's now-internationally ratified "peaceful right to the uses of nuclear energy," and the second is the purportedly common "goal of … verifiable denuclearization of the Korean Peninsula." According to the joint statement, North Korea "stated that it has the right to peaceful uses of nuclear energy. The other parties expressed their respect and agreed to discuss at an appropriate time the subject of the provision of [a] light-water reactor to the DPRK." There is a problem with this declaration, though. Pyongyang's "peaceful nuclear energy program" is, as almost everyone knows, an entirely imaginary animal -- akin to the unicorn.

Although North Korea's nuclear program extends back decades, and entailed terrible expense for its people (it continued through the great famine of the '90s, despite international agreements to "freeze" it), there is no evidence whatever to suggest that North Korea attempted to harness the atom for civilian purposes. The reactors at Yongbyon -- the site that initially attracted world concern about Pyongyang's nuclear intentions -- were never hooked up to the country's electrical energy grid, nor are they today. They have been exclusively used for harvesting weapons-grade plutonium.

Moreover, North Korea has been caught out (through classified intelligence reports, but also via acknowledgments from Pakistan's Pervez Musharraf, whose country's scientists collaborated with Pyongyang) in an illicit program to manufacture highly enriched uranium. This was the trigger to the latest round of the DPRK nuclear crisis, commencing in October 2002.

North Korea's nuclear record is unique. Not only is it the only state ever to withdraw from the Nuclear Nonproliferation Treaty, but North Korea's is also without doubt the contemporary government that has striven hardest and most consistently to mislead the international community about its nuclear capabilities. Under such circumstances, "respecting" its right to pursue a "peaceful" nuclear program in effect offers Pyongyang carte blanche to continue stockpiling an atomic arsenal.

Washington initially resisted the DPRK's surreal proposal for an international acceptance of "peaceful North Korean nuclear power." Once the Chinese and South Korean governments indicated that they were prepared to endorse this fiction, however, the U.S. government signed on, too. As to the endorsed "goal of … verifiable denuclearization of the Korean Peninsula," this formula conjoins the objective of dismantling the North's nukes with the notion of making South Korea nuke-free. But since the

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latter has never made nuclear weapons -- and since all U.S. nuclear weapons were removed from there 15 years ago -- how is the corollary to work?

Pyongyang's rhetorical syllogism depends entirely upon the existence of the U.S.-Seoul military alliance. So long as the U.S. is treaty-bound to South Korea's defense, Pyongyang maintains that any and all means of American security protections -- including nuclear guarantees -- naturally cover the South. In this logic, the only way by which the southern portion of the Korean peninsula can be "denuclearized" is by severing the U.S.-South Korean military alliance; by withdrawing all U.S. forces from South Korea; and by leaving South Korea outside the U.S. security perimeter (as it seemed to be in early 1950).

The Beijing joint statement of "common understanding" is being described as a defeat for Bush administration hardliners (who favor regime-change in North Korea) and a victory for administration moderates (who prefer diplomatic engagement). In fact, it is a loss for both camps. After all, the cause of engagement with North Korea is undermined -- not promoted -- by uncritically embracing a flawed schema for a diplomatic resolution of the nuclear crisis.

The future of the six-party talks, as always, remains uncertain. But negotiations between the U.S. and North Korea -- whether in bilateral or multilateral forums -- have always been zero-sum deals. At present Pyongyang seems to be reaping tremendous gains. North Korea can therefore rightly view Monday's joint statement as a diplomatic triumph -- a multilateral broadening, and political deepening, of the gains from the Clinton-era "Agreed Framework." This joint statement affirms all of the "rewards-for-freeze" precepts that helped to finance the survival of the state -- and the development of nuclear weaponry -- in the earlier 1994 accord. But not only has the world now seen the failure of the earlier North Korean nonproliferation accords; it has also witnessed a new administration in Washington -- purportedly cognizant of all the earlier U.S. mistakes -- make those mistakes all over again.

Mr. Eberstadt holds the Wendt Chair in Political Economy at the American Enterprise Institute.

Sanction Call Provokes A New Threat From Iran (WP/AP)

By Ali Akbar Darein, Associated Press

The Washington Post, September 21, 2005

TEHRAN, Sept. 20 -- Iran on Tuesday threatened to resume enriching uranium and barring open inspections of its nuclear facilities if a meeting of the U.N. atomic watchdog agency decides to refer Iran to the Security Council for possible sanctions.

However, Iran's top nuclear negotiator, Ali Larijani, offered European negotiators a new round of talks, saying the world should give Tehran's new government a chance to reach a political understanding.

At the International Atomic Energy Agency board meeting in Vienna, European officials prepared a draft resolution that would refer Iran to the Security Council for alleged "failures and breaches of its obligations to comply" with the nuclear Non-Proliferation Treaty.

But opposition by Russia could delay the vote until a later meeting of the 35-member board, diplomats in Vienna said.

Larijani criticized the discussion in Vienna, saying that nuclear technology has become a matter of national pride and that the Iranian government would not compromise over its right to enrich uranium.

"If they want to speak with Iran with the language of force, Iran will have no choice, in order to preserve its technological achievements, to get out of the framework" of the Non-Proliferation Treaty, Larijani said at a news conference.

Larijani did not appear to be calling for Iran to pull out of the treaty completely but rather to suspend the protocol that allows unfettered, short-notice inspections of nuclear facilities.

He warned that Iran's response would be the same if the IAEA tried to impose deadlines.

"If they set a deadline, it will, from Iran's point of view, make no difference from being referred to the U.N. Security Council, and Iran will react in the same manner," Larijani said.

Britain, Germany and France, negotiating on behalf of the European Union, have drafted a resolution demanding Iran be referred to the council. China and Russia -- both Security Council members with veto power -- oppose hauling Iran before the U.N.'s top decision-making body. The Europeans also face opposition from other members of the IAEA board of governors, which convened Monday to discuss Iran's nuclear program.

The IAEA has been trying to determine whether gaps in Iranian reporting on more than 18 years of clandestine nuclear activity constitute attempts to hide ambitions to produce weapons in what Iran insists is a purely civilian program to generate electricity. Establishing such intent would bolster arguments by U.S. officials for a tougher international stance against Iran.

Iran Warns Against Referral Of Nuclear Issue To The U.N. (NYT)

By Nazila Fathi And David E. Sanger

The New York Times, September 21, 2005

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TEHRAN, Sept. 20 - Iran's chief nuclear negotiator warned Tuesday that the country would resume enriching uranium and restrict United Nations inspectors from critical information if the United States and its allies used the "language of threat" by referring Iran to the Security Council.

The negotiator's threat, which appeared to be backed by Iran's supreme religious leader, Ayatollah Ali Khamenei, came as a confidential draft resolution circulating at the governing board of the International Atomic Energy Agency included a call for the Security Council to take up "Iran's many failures and breaches of its obligations." But the draft makes no specific reference to sanctions, which are still opposed by China and Russia, both of which hold veto power in the Council. A copy of the resolution was provided to The New York Times by an official involved in the behind-the-scenes diplomacy over how the board should deal with Iran at its meeting this week.

The comments by the Iranian negotiator, Ali Larijani, in a news conference here on Tuesday were the first time that Iran had explicitly threatened to cut off inspections and resume enriching uranium - which it insists will be used for civilian reactor fuel, not nuclear weapons - if the atomic agency's board acts.

Mr. Larijani, who is also secretary of Iran's Supreme National Security Council, is newly appointed to his post as negotiator on nuclear issues, and the news conference was his first since President Mahmoud Ahmadinejad took office last month. In a fiery speech on Saturday in front of the United Nations General Assembly, Mr. Ahmadinejad criticized the United States and its allies and vowed to press ahead with Iran's nuclear program, noting that it had a right under the Nuclear Nonproliferation Treaty to produce nuclear fuel. The Bush administration maintains that Iran gave up that right by hiding, for more than 17 years, a range of nuclear activities that United Nations inspectors only discovered with the help of intelligence agencies and Iranian dissidents.

Last week in New York, the senior State Department official on nonproliferation, Robert Joseph, briefed seven nations on the I.A.E.A.'s board about evidence that the United States has collected that it says shows that Iran's missiles could be used to launch nuclear warheads, according to a senior administration official, who insisted on anonymity because he was discussing intelligence matters. Among the countries that received the briefing were Ghana, Argentina and India. But American officials insist that the briefings were classified, and they have declined to make public the details of their suspicions.

Iran's threat came only 24 hours after the United States and North Korea reached an agreement in principle for the North to give up its nuclear weapons and all other nuclear facilities. But that accord seemed in jeopardy within hours of its signing, and it is being closely watched by Iranian officials.

Mr. Larijani said the world should learn a lesson from the case of North Korea, which American intelligence officials believe has produced fuel enough for six or eight weapons. He said the Bush administration's efforts to isolate the North had failed. "What was the result of such tough policies?" he asked. "After two years they ended up accepting its program, so you should accept ours right now," he said.

American officials say they have never accepted the North's weapons program; Mr. Larijani may have been referring to President Bush's decision to discuss allowing the North to keep a light-water reactor.

What was striking to several American experts interviewed Tuesday was that Iran's threats seemed to be drawn from the strategy that North Korea pursued three years ago, when it was confronted by American allegations that it had started a second, clandestine nuclear program to evade a freeze on nuclear activities that it had negotiated with the Clinton administration in 1994. At the end of 2002, the North threw out international inspectors and withdrew from the nonproliferation treaty, though Iran has not threatened to go that far.

"The North Koreans were using the Iranian example as well, saying that if they are allowed to keep a reactor, why can't we?" said Jack Pritchard, a former State Department official who dealt with the North and left the department in disagreement with the Bush administration's strategy. "Having these negotiations with North Korea and Iran take place simultaneously means that both countries use the other's tactics, and I'm sure the administration wished that was not happening."

Ayatollah Khamenei, Iran's religious leader, said in a statement read on state television on Tuesday, "The great Iranian nation today, stronger than before and with a determined will to reach its aims and goals, stands solidly and will not surrender to any sort of pressure and threat."

Mr. Larijani emphasized that the ability to enrich uranium was Iran's right under the nonproliferation treaty. The United States and Iran's three European negotiating partners, Germany, Britain and France, have insisted that Iran not be allowed to do so, however, because the enrichment process can also be used to produce weapons.

"If they want to use the language of force against Iran, Iran will definitely review its relations with the nuclear agency and its commitments to N.P.T.," he said. "If they want to use the language of threat, or send Iran's case to the Security Council, Iran will think twice about implementing the Additional Protocol and will resume uranium enrichment."

The Additional Protocol is an addendum to the treaty that allows the I.A.E.A. to conduct intrusive inspections of sites that a country has not declared are part of its nuclear program. Iran adopted it in 2003 and started carrying out its procedures, but the Parliament has not ratified it.

Mr. Larijani also rejected calls for a deadline for the country to stop work at the fuel-conversion facility at Isfahan, saying that setting a deadline was equal to sending Iran's case to the Security Council. "Pressuring a country like this is resisting a country's national pride," he said, referring to the country's achievements in nuclear science and compared it with nationalization of oil in the 1950's. "Two years of negotiations and hiding intentions has made Iran frustrated and it seems that the three European countries have humiliated Iranian people," he said.

To reach a compromise, the three European countries have insisted that Iran freeze its enrichment of uranium fuel, but have promised to provide the country with fuel for its plants. Control would remain in European hands.

Mr. Larijani said Tuesday that that was not acceptable. "There is no international guarantee that governments would provide us with nuclear fuel," he said. "We cannot lay the fate of this nation in the hands of other governments."

Both President Bush and Secretary of State Condoleezza Rice have said in recent days that they think a referral of Iran to the United Nations Security Council for possible sanctions is nearly certain but its timing is not.

"I am quite certain that at some point in time Iran is going to be referred to the Security Council, particularly if Iran continues to demonstrate that it is not prepared to give the international community assurances that is not going to try to build nuclear weapons under cover of civil power," Ms. Rice said.

Rice Urges Israel To Aid Palestinian Election (NYT)

By Joel Brinkley

The New York Times, September 21, 2005

UNITED NATIONS, Sept. 20 - Secretary of State Condoleezza Rice urged Israel on Tuesday to allow Palestinians to carry out their legislative elections in January without Israeli interference, implicitly criticizing Ariel Sharon, the Israeli prime minister.

During a visit to New York last week, Mr. Sharon said he would withhold cooperation with the Palestinian legislative elections if candidates from the militant group Hamas took part. Both he and Palestinian leaders said elections could not be held without Israeli cooperation.

"This is going to be a Palestinian process," Ms. Rice said after a meeting here to discuss the Middle East, "and I think we have to give the Palestinians some room for the evolution of their political process.

"We hope that the elections can go forward and that everyone will work to make those elections go forward."

Mr. Sharon's assertion puts the Bush administration in the awkward position of having to choose between its two most important foreign policy goals: fighting terrorism and spreading democracy in the Arab world. Ms. Rice met with representatives from the United Nations, the European Union and Russia, a group known as the quartet that is focused on settling the Israeli-Palestinian conflict.

The meeting was called with the idea that it would be used to congratulate Mr. Sharon for the Israeli withdrawal from Gaza and to discuss moving the Middle East peace effort forward. And while the officials did congratulate Israel, much of their final statement and individual remarks at a news conference afterward came in response to several provocative statements Mr. Sharon made last week.

American officials widely saw the statements as potential setbacks for the peace effort. Israeli officials seized upon one line in the quartet's final statement, saying it supported Mr. Sharon's position on the Palestinian elections.

"We also agreed that, ultimately, those who want to be part of the political process should not engage in armed group or militia activities," the statement said.

But a senior Bush administration official who is involved in the issue said, "The word 'ultimately' was chosen carefully." Israel should allow the election take place, he added, and the Palestinians ultimately should disarm Hamas. American officials seized on a different statement in Mr. Sharon's speech to the United Nations General Assembly last week. Mr. Sharon said Israel would pursue the peace effort "in accordance with the sequence of the road map," as the peace plan that the United States and its allies proposed in 2003 is called.

But the day after Mr. Sharon gave that speech, he seemed to belie that pledge when he made a new pronouncement on West Bank settlements. He declared that Israel would not freeze growth in any of those settlements until the very end of the peace effort, years from now. The road map calls on Israel to freeze growth in the settlements as one of the first Israeli actions in its sequence of prescribed steps.

The Palestinians have still to take the first step outlined for them in the road map: ending violence and disarming militant groups. The quartet urged them "to maintain law and order and dismantle terrorist capabilities and infrastructure."

Mahmoud Abbas, the Palestinian president, has invited Hamas and Islamic Jihad, a similar group, to take part in the elections, saying participation in the political process could serve to moderate their behavior. Hamas is fielding candidates in the election, but there seems to be little evidence yet that the group has moderated its behavior.

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In a speech to the General Assembly on Tuesday, Silvan Shalom, the Israeli foreign minister, noted that "two days ago in Gaza, the terrorist organization Hamas held a rally of 10,000 armed men dedicated to a holy war against Israel."

Hamas has claimed responsibility for some of the deadliest suicide bombings in Israel that have killed hundreds of civilians over the last few years, and its charter calls for the elimination of Israel.

With all these conflicts in the air, diplomats and American officials said they would wait before making any decisions about how to move forward. Later this month, Mr. Sharon's party, Likud, will hold a central committee meeting to determine whether it is time to choose a new leader. That could lead to new elections.

"There is a political development on the Israeli side," Kofi Annan, the United Nations secretary general, said during the quartet news conference, adding that "we are not sure whether it leads to elections or not," and "want to see that settled before one takes any other bold initiatives."

At U.N., Sharon Is Praised For Gaza Pullout (WP)

By Colum Lynch

The Washington Post, September 21, 2005

UNITED NATIONS, Sept. 20 -- The United States, the United Nations, Russia and the European Union on Tuesday praised Israeli leader Ariel Sharon for showing what they called "political courage" by ending Israel's 38-year occupation of Gaza with the peaceful withdrawal of Israeli troops and settlers.

The high-level coordinating group on Middle East peace -- known as the quartet -- also voiced "appreciation" to the Palestinian Authority for keeping the peace during the withdrawal, but in the same statement pressed the authority to crack down on Palestinian militants. U.N. Secretary General Kofi Annan appealed to Palestinians seeking to participate in the political process not to participate in "armed group or militia activities."

But Annan and the quartet stopped short of supporting an Israeli demand that the Islamic Resistance Movement, a militant group also known as Hamas, be excluded from legislative elections scheduled for January.

The quartet meeting -- which included Secretary of State Condoleezza Rice, Russian Foreign Minister Sergei Lavrov and British Foreign Secretary Jack Straw -- met on the sidelines of the U.N. General Assembly in an effort to reinvigorate the Palestinian and Israeli peace process.

The group urged Palestinian and Israeli leaders to resume negotiations on the U.S.-backed "road map," a political blueprint outlining a path toward a final and comprehensive settlement of the Israeli-Palestinian conflict. The group also applauded the role of the U.S. security adviser, Lt. Gen. William Ward, in coordinating the Israeli and Palestinian security agencies to ensure Israel's bloodless evacuation from Gaza.

"This meeting was very focused on how to move ahead, how to take the momentum of what has been a successful disengagement from the Gaza to build institutions that will form the foundation of a Palestinian state," Rice said after the meeting.

Rice said the group discussed a proposal by former World Bank president James D. Wolfensohn, President Bush's envoy on aid to the Palestinian territories, to invest "substantial sums of money" into public works projects that "improve the economic prospects of the Palestinian people."

Rice joined other quartet partners in voicing concern over Israel's construction of a security barrier separating the Israeli and Palestinian populations, and she urged Sharon's government to halt the establishment of new Israeli settlements on Palestinian lands.

Today's meeting capped a rare week of diplomatic plaudits at the United Nations for Israel, which is traditionally the subject of censure by its European critics and Arab adversaries in the General Assembly and the Security Council.

Sharon was greeted last week with a handshake at the United Nations by Gen. Pervez Musharraf, president of Pakistan, a tough critic of Israel. The exchange followed an unusual high-level meeting between the two countries' foreign ministers in Istanbul. The meeting was brokered by Turkey, one of Israel's closest allies in the Muslim world.

Pakistan and other Muslim countries previously shunned Israel, and some of Israel's Arab adversaries have portrayed Sharon as a warmonger and war criminal.

Israeli Foreign Minister Silvan Shalom sought to parlay Israel's Gaza withdrawal into broader diplomatic recognition in the Muslim world. He also announced Israel's intention to seek a Security Council seat, although the first opportunity will not arise until 2017.

Shalom said Tuesday in an address to the General Assembly that he has met with more than 10 foreign ministers from the Muslim world, including publicly announced sessions with Tunisia's and Qatar's foreign ministers. The contacts, he noted, are growing "at a rate never seen before."

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"Unfortunately, many of our ties with the Arab and Muslim world are still deep in the shadows, away from the public eye," he said. "Today, I call on my Arab and Muslim colleagues to bring our contacts into the light of day."

Although several Arab leaders and ministers publicly welcomed Israel's Gaza pullout, they also demanded that Israel complete its withdrawal from all the Arab lands it has captured since the 1967 Arab-Israeli war.

Kuwait's foreign minister, Sabah Salem Sabah, said Tuesday that Israel's action should be viewed as a "first step" leading to an end of Israel's occupation of all Arab lands and to the establishment of a Palestinian capital in East Jerusalem.

U.S. Pressures Syria To Fall In Line On Lebanon, Iraq (USAT)

By Barbara Slavin

USA Today, September 21, 2005

WASHINGTON — The United States is increasing pressure on Syria, using harsher words and pointed diplomacy to get President Bashar Assad's government to stop aiding Iraqi insurgents.

Recently, Bush administration officials met for the second time with a Syrian opposition leader who favors Assad's replacement by a democratic government.

At the United Nations on Monday, Secretary of State Condoleezza Rice chaired a meeting on shoring up Lebanese democracy that excluded Syria, long the power broker there, and Emile Lahoud, Lebanon's Syrian-backed president.

Last week, President Bush said the United States would work with allies to further isolate Syria, already subject to U.S. trade and investment sanctions. The U.S. ambassador to Iraq, Zalmay Khalilzad, accused Syria of harboring training camps for insurgents and said U.S. patience was running out.

Several Syria experts say the Bush administration has started to plan for a Syria without Assad at its helm, but some warn that the alternatives could be even worse.

“The administration is scouting,” says Kenneth Katzman, a Middle East expert at the Congressional Research Service in Washington. “There's no Chalabi out there,” he adds, referring to Ahmad Chalabi, an Iraqi exile leader who promoted the overthrow of Saddam Hussein and is now a deputy prime minister in Iraq.

Last month, Farid Ghadry, a Syrian-American who heads an opposition group called the Reform Party of Syria, met for an hour with the head of the National Security Council's Middle East section.

Ghadry says he and Michael Scott Doran discussed the “transition from an autocracy to a democracy and why a transitional parliament is an important element” of that change. It was his second meeting with U.S. officials; in March, he went to the State Department to discuss Syria's future.

His party claims to have offices in 18 countries, including an underground office in Syria, and operates a Cyprus-based radio station that broadcasts into Syria.

U.S. officials began anticipating the fall of Assad when Syrian troops were forced to withdraw from Lebanon in April after the Feb. 14 assassination of former Lebanese prime minister Rafik Hariri, Katzman says.

Hariri supporters charge that Syria was behind the murder. A U.N. investigation has led to the arrest of four pro-Syrian Lebanese security officials. Investigators led by German Judge Detlev Mehlis went to Damascus on Tuesday to interview Syrian officials about the crime.

The meetings with Ghadry and the administration's decision to grant visas to two Syrian reformers to attend a May conference in Washington show the administration is in “the very early stages” of planning for regime change in Syria, Katzman says.

Appropriations bills for the fiscal year that begins in October promote democracy in Syria, he says. A House version allocates as much as $1.5 million; the Senate version does not specify an amount.

U.S. officials want Assad out of power because they don't believe he will stop the flow of fighters from Syria to Iraq, says Flynt Leverett, a former member of the National Security Council in the Clinton and current Bush administrations.

Administration officials declined repeated requests for comment. In the New York Post on Thursday, Rice said the U.S. intention was still to change Syria's behavior. “But we'll see whether or not the Syrian government is smart enough to take that course,” she said.

Monday, she told reporters at the U.N. that “Syria needs to get on the right side of events” by stopping interference in Lebanon and ending support for Palestinian militants and Iraqi insurgents.

Syria denies it is helping Iraqi insurgents. The United States is not patrolling the border, while Syria has stationed 10,000 troops there, says Buthaina Shabaan, Syria's minister of expatriates and an adviser to Assad. Instead of pushing for Assad's removal, Americans should ask whether “promoting violence and war is the right way to change countries and bring freedom and democracy,” she says. “Are they satisfied with the results in Iraq?”

Several Syria experts say Assad's removal could pose new problems.

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Theodore Kattouf, U.S. ambassador to Syria until September 2003, warns of a power vacuum, leading to chaos, or a worse leader, such as Assad's uncle Rifaat.

Exiled by Assad's late father, Rifaat Assad has long sought power but would be an unlikely ally for the Bush administration. In 1982, he led a brutal crackdown on Islamic fundamentalists in the Syrian city of Hama. An estimated 20,000 people were killed.

Murhaf Jouejati, a Syrian-American professor of political science at George Washington University, says Rifaat Assad is extremely unpopular in Syria and that the secular opposition is weak. Jouejati calls Ghadry a "Chalabi mini-me." The fundamentalist Muslim Brotherhood would take advantage of any instability, he says. "The Bush administration wants regime change but cannot find a viable alternative."

Frustration with Assad has been building since the United States invaded Iraq in March 2003. Edward Djerejian, U.S. ambassador to Syria under the first Bush administration, met with Assad in January and urged him to cooperate, just as his father did during the Gulf War in 1991. "He has not made a strategic decision to do so," says Djerejian, director of the Baker Institute for Public Policy at Rice University.

US Uses 'Libya Model' To Boost Pressure On Syria (CSM)

By Nicholas Blanford

The Christian Science Monitor, September 21, 2005

BEIRUT - Once considered key to Middle East stability, Syria is facing growing marginalization as the United States maintains a policy of unrelenting pressure against the Baathist regime.

American and Iraqi officials have stepped up their criticism of Syria in recent days in what some analysts believe is the beginning of an attempt by Washington to repeat the "Libya model" - total political and economic isolation to compel a U-turn in regime behavior.

"They are going to grab Syria by the throat and squeeze and shake, and see what kind of change falls out of the Syrian pockets.... It's going to be the harshest isolation they can manufacture," says Joshua Landis, a professor of Middle Eastern studies at the University of Oklahoma, presently based in Damascus and author of Syriacomment.com.

These are lonely times for Syrian President Bashar al-Assad. His planned trip to attend the United Nations summit in New York last week was cancelled at the last minute amid clear indications that he would not be welcome in the United States.

By contrast, leading Lebanese officials, who a few months ago were at the forefront of the anti-Syrian opposition in Lebanon, were feted in New York.

On Monday, Secretary of State Condoleezza Rice hosted a multilateral gathering in support of Lebanon that brought together UN Secretary-General Kofi Annan and the foreign ministers of Britain, France, and Russia, among others. They agreed to sponsor an international donor conference for Lebanon in November and encourage Lebanese domestic reforms while furthering Syria's international isolation.

US and Iraqi officials have accused Damascus of failing to prevent militants from crossing into neighboring Iraq to join the insurgency. President Bush warned last week that President Assad must understand that the US "takes his lack of action [on stopping insurgents] seriously."

If persistent US pressure is not enough, Assad also faces the disagreeable prospect that some of his closest regime colleagues could be implicated in a UN report into the assassination of Rafik Hariri, a former Lebanese prime minister who was killed in February. Tuesday, Detlev Mehlis, a German prosecutor who heads the UN investigation commission, traveled to Damascus to interview several senior Syrian military intelligence officers who were serving in Lebanon when Mr. Hariri was killed.

Four senior pro-Syrian Lebanese intelligence and security chiefs were arrested last month on suspicion of involvement in the assassination. The release of Mr. Mehlis's conclusions are expected at the end of October. If the report implicates senior Syrian officials, it could lead to UN sanctions and the severing of diplomatic relations with the US and European countries.

The effect, according to analysts, would be to recreate the economic and diplomatic embargo slapped on Libya in the 1990s. Isolating the pariah state eventually persuaded Libyan leader Col. Muammar Qaddafi to seek a return to the international fold.

US officials often refer to Syria as "low-hanging fruit" - requiring little effort to pick off. Yet, perhaps the Syrian regime's greatest defense is the lack of an organized and credible opposition that could ease into power if the ruling Baath Party was overthrown. Syria's sectarian and ethnic mix is as potentially turbulent as Iraq's, and many analysts say it's only the Baath Party's ruthless grip on society that has ensured stability.

Still, a weak opposition may have resulted in a false sense of confidence.

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"They still act with the mentality of the Clinton era, when they were treated like the strongest regional power," says Sami Moubayed, a Syrian political analyst. "That is why they are reacting somewhat passively to the crisis with Washington, saying to themselves and to those around them: This won't last. They won't hit us. The neighboring scenario in Iraq just strengthens their argument" that there is no alternative to the Baath Party, he says.

Senate Votes To Retain Ban On Japanese Beef (WSJ/AP)

By The Associated Press

The Wall Street Journal, September 21, 2005

Angry with Japan for refusing to lift a mad cow-related ban on U.S. beef, senators retaliated by voting to retain a ban on Japanese beef.

Once the biggest customer of American beef, importing more than $1.5 billion in 2003, Japan has refused to allow the purchase of U.S. beef since the nation's first case of mad-cow disease was confirmed in Washington state almost two years ago. Last fall, Japan agreed to remove the ban but still hasn't done so.

In June, U.S. authorities confirmed a second domestic case in a Texas-born cow. Japan, in contrast, has found 20 cases of mad-cow disease. U.S. regulators proposed last month to partially lift the ban on Japanese beef.

Senators adopted, on a 72-26 vote, an amendment by Sen. Ben Nelson (D., Neb.) prohibiting importation of Japanese beef until Japan lifts its ban. They adopted a similar, nonbinding measure by Sen. Wayne Allard (R., Colo.) on a voice vote.

Opponents of the amendment said trade decisions about food safety should be based on science, not on restrictions in Japan or other countries.

"And when we expect trading partners to respect science, we should be willing to do the same," said Sen. Charles Grassley (R., Iowa). "So I don't support depriving the Department of Agriculture with the funding it needs to make decisions based on sound science even while we need to send a loud and clear message to Japan."

Japan's food safety panel issued a draft report last week saying U.S. cows faced higher risk of exposure to mad-cow disease than Japanese cows because of insufficient feed controls in the 1980s and 1990s, the Kyodo News agency reported.

Eating infected beef is believed to cause variant Creutzfeldt-Jakob disease, a fatal brain disorder that has killed more than 150 people, mostly in Britain in the 1990s.

Bush's Trade Talks Enthusiasm Welcomed (FT)

By Peter Mandelson

Financial Times, September 21, 2005

From Mr Peter Mandelson.

Sir, With reference to your report of Thabo Mbeki's comments on the Doha round ("Mbeki tells rich world to end farm subsidies", September 17) and comments of mine on President George W. Bush's pledge to end all US tariffs, subsidies and trade barriers if others did the same: I suggested some would regard such a proposition as playing to the gallery, but I did not say this was my view.

On the contrary, I welcome President Bush's personal engagement and bold ambition for the current World Trade Organisation trade talks.

There is no alternative if this round is to deliver what we set out to achieve. My message to President Bush and other leaders is: yes to ambitious goals, but then let us take practical steps to deliver.

I suggest two ways to do just that. In the area of tariffs, let us agree at the WTO ministerial meeting in Hong Kong to eliminate all tariffs and quotas on imports from the poorer countries of the world.

In the area of subsidies, the European Union's Common Agricultural Policy reform will allow us to lower trade-distorting payouts significantly as well as eliminate agricultural export subsidies altogether.

Let the EU and the US demonstrate joint leadership on this and table some real numbers for cuts. To succeed, we need to offer both the bold vision and the concrete steps the world is waiting for.

Peter Mandelson,
EU Trade Commissioner,
Brussels,
Belgium

Europe Is Closer To Talks With Turkey (NYT)

By The International Herald Tribune, International Herald Tribune

The New York Times, September 21, 2005

DOJ_NMG_0007317

BRUSSELS, Sept. 20 - The European Union on Tuesday appeared closer than ever to beginning membership talks with Turkey on Oct. 3, despite last-minute objections from the Greek Cypriots.

Union ambassadors reached a tentative agreement on a declaration dealing with Turkey's failure to recognize Cyprus during talks in Brussels late Monday. But in a turnaround, Cyprus withdrew its support on Tuesday, demanding a clause that would allow Cypriot leaders to revisit the declaration, diplomats said.

However, Tassos Papadopoulos, the president of Cyprus, said he was still broadly satisfied with the terms of the statement, holding out the prospect that a deal could be reached soon.

Since July, when Turkey declared again that it refused to recognize Cyprus, a union country since 2004, European governments have been debating how they can allow Turkey to start membership talks.

Reforms To Forge Ahead Amid Feud (WT)

By David R. Sands

The Washington Times, September 21, 2005

Ukraine will stick to its pro-Western, pro-market reform program despite an escalating political feud between the leaders of the Orange Revolution, acting Foreign Minister Borys Tarasyuk said in an interview yesterday at the Ukrainian Embassy.

Mr. Tarasyuk, in Washington for talks with Vice President Dick Cheney and senior administration and congressional officials, said the basic thrust of Ukraine's foreign policy has not been an issue in the recent upheaval in Kiev.

"Naturally, it is a question that has come up in all my meetings, but what you are really seeing is a democracy working through its problems," Mr. Tarasyuk said.

"There will be no changes in our foreign policy. We want good relations with our major partners, with the United States, with Europe, with Russia, and we still have a goal of joining the European Union and NATO. These policies are not being held hostage to our internal differences."

But even as Mr. Tarasyuk was speaking, Ukraine's sharply divided parliament rejected President Viktor Yushchenko's choice to replace as prime minister his former Orange Revolution ally Yulia Tymoshenko.

With Mrs. Tymoshenko's faction abstaining, nominee and acting Prime Minister Yuri Yekhanurov, an ally of the president, fell three votes short of the 226 needed in the 450-seat assembly, despite heavy lobbying from the president against what he called "a cynical plot to destroy" his government.

Ukraine plunged into crisis and gridlock earlier this month when Mr. Yushchenko abruptly fired the charismatic Mrs. Tymoshenko amid intense governmental infighting. Adding to the embarrassing feud were charges of corruption, a halting reform program and a slowing economy.

Mr. Yekhanurov remains in charge of a caretaker Cabinet, and the president's options include seeking another parliamentary vote on the nomination.

Mr. Tarasyuk, a close ally of the president, called the upheavals in Kiev a "catharsis" for Ukraine.

"There was a necessary self-cleaning among the government team in order to come back to the principles of the Orange Revolution and to regain the trust of the public," he said.

He expressed confidence that the government would be able to push through the remaining parts of a major economic reform package strongly supported by the Bush administration and the European Union.

"I expect that as soon as the new prime minister is appointed, the drafts will be considered and passed" in parliament, he said.

Full approval of the reform measures is seen as critical to Ukraine's hopes of winning U.S. and European backing for its bid to join the World Trade Organization by the end of the year.

The foreign minister said Ukraine's longer-term hopes of joining the European Union and NATO remain on track despite the political standoff.

The Bush administration strongly backed Mr. Yushchenko in the Orange Revolution standoff late last year over a fraudulent election that originally favored a pro-Moscow rival. U.S. officials said they stand by the new government as it works through the political crisis.

Party Gives Merkel A Vote Of Confidence (WT)

By Nicholas Kralev

The Washington Times, September 21, 2005

BERLIN -- Angela Merkel, Chancellor Gerhard Schroeder's conservative challenger, won her party's overwhelming backing to continue at the helm yesterday, raising her chances to become the first woman to lead Germany following last Sunday's inconclusive election.

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In another boost for Mrs. Merkel, who is trying to form a coalition government with other parties, Mr. Schroeder said he was ready for talks without preconditions, dropping his previous demand that Mrs. Merkel not become chancellor.

The vote of confidence in Mrs. Merkel cemented her position after two days of intense speculation that she had lost the broad support of her Christian Democratic Union (CDU) because of its poor election performance.

"It was a good day for the union's parliamentary faction, which is once again ready to work," Mrs. Merkel said after the vote she had requested. "We have underlined the fact that we, as the strongest group in parliament, lay claim to forming the government."

Edmund Stoiber, leader of the Christian Social Union (CSU), the CDU's Bavarian sister party, said the alliance's parliamentary group had given Mrs. Merkel "clear support." She won 98.6 percent, with only three members voting against her.

The result was higher than the first time she was elected group leader in 2002, with 92.2 percent, as well as the 93.7 percent she received a year later.

"Germany needs a stable government that is capable of acting, and under Angela Merkel's leadership," Mr. Stoiber said.

Doubt in Mrs. Merkel's continued leadership was the buzz of Berlin since Sunday, when the election results came as a huge disappointment for the CDU.

Having started the campaign with a 20-point lead over the SPD, the CDU/CSU and preferred coalition partner, the Free Democratic Party (FDP), won a majority of less than 1 percent -- or three parliamentary seats -- over the SPD and its partner, the Greens.

Some politicians and analysts said the CDU's ambitious economic and social reform package had scared voters, while others blamed the outcome on the country's lack of acceptance of a divorced, Protestant woman from the former East Germany as their leader.

The CDU/CSU alliance won 35.2 percent on Sunday against 34.3 percent for the SPD. The FDP received 9.8 percent -- not enough for the two parties to form a government.

The Greens, whom Mrs. Merkel hopes to woo in a coalition Cabinet with the FDP, received 8.1 percent. The new Left Party of former Communists and a breakaway SPD fraction did slightly better with 8.7 percent, but both Mrs. Merkel and Mr. Schroeder have ruled out partnering with them.

Mr. Schroeder, who said his party had begun coalition talks, sounded much more accommodating about a CDU-SPD "grand coalition" led by Mrs. Merkel yesterday.

"It's about exploratory talks, a phase in which we must talk to one another about how one will bring about a stable government, which we need at this time," he said.

Frau Schröder And Herr Merkel (WSJ)

By Mathias Doepfner

The Wall Street Journal, September 21, 2005

BERLIN -- After Sunday's election, one feels like shrieking: "And the loser is … Germany!"

Yet everyone is behaving like winners: the Christian Democratic CDU because, despite everything, it is the largest party and will try to form a government; the Social Democratic SPD, especially Gerhard Schröder, who, in a hormone-induced rush brought on by the CDU's unexpected losses, asserted brassily that the chancellorship was his; the Greens, since the left-right shift had such little effect on their vote that it was as if they hadn't been a part of the unsuccessful Red-Green government; the Left Party, which in its first time out secured more than 8% of the vote with a program of nationalist, socialist populism and a front man, Oskar Lafontaine, known to knock the mike out of the hands of journalists who ask awkward questions; and finally, and most surprisingly, the Free Democrats (FDP), who got almost double the expected votes with a radical reform program that was crystal clear from day one.

What can we learn from this? And what happens next? It is clear that Germans do not want to be governed by Angela Merkel. There is no other way to explain the CDU's collapse to 35.2% in the election after reaching 49% only a couple of months ago in opinion polls. The internationally popular interpretation blames German aversion to reform, as well as Ms. Merkel for being much too honest in announcing changes that were much too harsh. The flat tax promoted by Paul Kirchhof, her finance minister-designate, has been faulted particularly.

This thesis is too simple. Mr. Kirchhof was first taken to task by his own party before the SPD took up the issue. The Union's lack of unity was a mark of Ms. Merkel's unfortunate campaign from the beginning. She failed not because she communicated too clearly, but because she was not clear enough. While Mr. Schröder offered imprecise promises, she offered imprecise demands. While Mr. Schröder -- an instinctive genius and excellent campaigner -- unscrupulously stoked the fear of losing social protections and publicly declared his love for his wife, his challenger showed no emotion at all. While Mr. Schröder

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staged a sentimental campaign, Ms. Merkel was a candidate of the mind; while the man acted with a feminine touch, the woman's touch was too masculine.

What the conservatives lacked above all was a vision: What do we want to do with this country? Angela Merkel wanted the right things. But it was never clear enough, never concrete, never tangible. The hearts of voters, even those well-disposed, remained remarkably cold. This absence of all pathos, this lack of emotion, was perhaps the most distinctive feature of the CDU campaign and the most important reason for its failure. The FDP, by contrast, proved that it doesn't have to be that way. They were the determined voice of reform, never making a secret of their clear, economically oriented program, bravely defending the Kirchhof flat tax, and earning points with this clarity and honesty -- even among people who actually wanted the CDU, but in the end voted FDP instead.

The Germans' desire for clarity and honesty is apparent not only from this example. Their wish for reform is more pronounced than politicians believe. People simply want to know what they are getting into, and to be convinced that those who lead know where they are going. The "German Disease" is not a crisis of the German mentality, but one of political leadership.

The coming months hold risks and opportunities. The risks lie in the formation of a government, which Ms. Merkel can unfortunately advance with only limited backing from her party. Too many former opponents who had put down their weapons over the past weeks are taking out their knives again -- even though yesterday 98.6% of CDU/CSU lawmakers re-elected her as their parliamentary leader. A further question remains: Will there be a CDU-FDP-Green coalition or a grand coalition, possibly even led by Mr. Schröder, who could keep insisting on this role until the CDU surrenders from a lack of alternatives? Or maybe even another round of elections?

But more important than these nuts-and-bolts political questions is the larger picture and its international consequences. What road will Germany take? Will it continue on the path of Franco-German social protectionism, driving Germany (and thus Europe) into permanent economic crisis and foreign-policy isolationism? Or the path of Anglo-American deregulated economies, which will finally free up Germany's enormous growth potential -- and thus inspire all of Europe and tie it more strongly to a Western alliance? The election in Germany has set things in motion. Nothing is clear and anything is possible: Weimar or "Wirtschaftswunder."

The socialist Left had as much success with class hatreds and social fears as the FDP did with its concept of greater personal responsibility and less bureaucracy. Where will the next government's compass point? Who will find the words to tell people the truth and excite their enthusiasm for change? Things are in motion, and the forces of freedom need one thing above all: faithful international friends who retain their interest in Germany. There is no alternative to the European-American relationship: Germany must not lose. It must win.

Mr. Döpfner is chief executive and chairman of Axel Springer AG, publishers of Bild Zeitung, Europe's largest-circulation newspaper. (Belinda Cooper translated this essay from the German.)

Germany's Political Crisis Has U.S. Roots (WSJ)

By Marcus Walker And David Crawford

The Wall Street Journal, September 21, 2005

BERLIN -- In some ways, Germany's post-election political mess is the fault of the Americans.

Germany's disarray partly stems from the country's unique political system. No part of the government is strong enough to push through controversial measures, such as economic overhaul, without wide consensus. That is the way the U.S. deliberately set things up after World War II, to prevent the rise of another Hitler.

Tomorrow, the leaders of Germany's two major parties, ideological rivals, plan to meet to discuss forming a "grand coalition" government, after no one won a majority in Sunday's national election.

Such a division of power would come on top of Germany's unusual distribution of influence to its state governors, who regularly veto the plans of the executive branch and lower house of parliament.

That veto is largely why Germany was forced into an election on Sunday that had no conclusive result. Chancellor Gerhard Schroeder disbanded his own governing majority in parliament in May to force the vote, because the balance of power among state governors had turned firmly against him after his party lost a key regional election. Now, Germany has no effective government at all.

Germany's own version of federalism, in which the states and central government have largely overlapping responsibilities and regularly thwart each other, stems from the way the U.S. occupation army chose to build democracy.

Lt. Gen. Lucius D. Clay, America's viceroy in Germany after the Nazi surrender, was charged with shaping the new government. He got little guidance from Washington beyond a U.S. Treasury paper titled "Program to Prevent Germany from Starting a World War III." It proposed reducing the whole German economy to farming.

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Lt. Gen. Clay didn't go that far, but to make life difficult for any future dictators he exploited Germany's history of rival local principalities. He oversaw the creation of Germany's regional governments -- some of them based on historical kingdoms and others made up -- and handed powers to them, rather than to national parties.

Then the state representatives, when writing the constitution, made sure a majority of them could veto moves by the federal government.

Parliamentary democracy and coalition governments are common in Europe, but Germany's system does more to weaken the center. It is as if in the U.S. Republican state governors could systematically block a Democratic Congress and president.

That is the difficulty Mr. Schroeder faced in pushing through his own version of economic overhaul.

Germany's more immediate problem after the election is that there is no working majority in the lower house of parliament among the usual party coalitions. So a new one will have to be formed, or yet another election called.

Ahead of talks with other parties, Mr. Schroeder said yesterday that he was open to different coalition possibilities. He sounded more flexible than immediately after the election, when he declared the outcome a personal vindication and a disaster for the opposition conservatives led by Angela Merkel. Both sides were still claiming the right to name the chancellor and lead the government.

The conservatives made a public show of support for Ms. Merkel by re-electing her as their parliamentary leader yesterday, with 219 deputies backing her, but three voting against her in the secret ballot.

Ms. Merkel has faced criticism from colleagues at the state level for a campaign that brought the third-worst result in the party's history.

German business leaders continued to fret about the deadlock, as data from a leading economic-research institute showed falling investor confidence. The ZEW institute, of Mannheim, said its index of analysts' and investors' sentiment fell from 50 in August to just 38.6 after the election.

Deutsche Bank AG's chief executive, Josef Ackermann, told a business conference in Berlin: "The challenges we face, in particular globalization and the demographic changes, won't get smaller because there is a political stalemate in parliament."

To some degree, stalemate is built into the German system. If Ms. Merkel had held on to her lead in polls and won Sunday's election, as expected, she still would have faced a fight against state governors -- even though most of them are in her party. She wanted to raise the value-added tax to fund a reduction in employers' social-security contributions. Christian Democrat state governors -- who are entitled to half of VAT revenue -- wanted to use it to plug holes in their own budgets.

Because the next national government will be less conservative-dominated than Ms. Merkel had hoped, the disputes can only get worse.

"This constitution is becoming outdated in many ways," says Konrad Jarausch, a history professor at the University of North Carolina.

Overhauling the federal system to get the states and the government out of each other's hair has been on the agenda since the 1960s. "It's one of those things you can't resolve, because someone has to give up something," Prof. Jarausch says. The last attempt at overhaul fell apart a year ago, when a compromise was vetoed -- by state governors.

Those governors owe their power to Lt. Gen. Clay, who helped their predecessors in the states, starting with the self-styled Free State of Bavaria, the independent-minded region in Germany's south.

Bavaria always has been considered the state most likely to secede. Bavaria's present-day premier, Edmund Stoiber, lost votes for his fellow conservative Ms. Merkel during the election campaign by ranting against eastern Germans who voted for neo-communists and lamenting that "the voters are not everywhere as intelligent as in Bavaria." Ms. Merkel is from eastern Germany.

To make a central government palatable to Bavarians at all, the talks about a federal constitution in 1949 -- Germany's Philadelphia Convention -- were held in a Bavarian lakeside castle. Bavaria voted against the constitution anyway.

Over the decades, the states have expanded their power in national affairs. Now, almost any move on the economy, finance or the welfare state needs states' permission.

Mr. Schroeder had to fight his way past obstruction from governors even when both major parties agreed in principle about an overhaul. Shortly after his latest proposal for cutting business taxes foundered on resistance by the states, Mr. Schroeder gave up and asked his own party to vote him down to force Sunday's election.

Germany And The Battle For Reform (NYT)

The New York Times, September 21, 2005

The big news from Germany's elections on Sunday was what did not happen: Angela Merkel, the right-wing candidate who had a free fall from a 20-point lead, did not become the first woman chancellor. The incumbent, Gerhard Schröder, was not driven into retirement, as his opponents had hoped. And Germans did not give either a governing majority. Still, they delivered a

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message: economic reform should move forward. The three parties that support reforms got 80 percent of the vote. All they have to do is agree on how to govern.

Given Germany's dismal economic health, there is no alternative to reforms for Germany and for Europe as a whole. Ms. Merkel seemed to be doing well against Mr. Schröder, a highly skilled candidate, until she blundered by picking Paul Kirchhof, a professor who advocates a flat tax, as her economic spokesman. The idea fell, well, flat. As for Mr. Schröder, drawing even with Ms. Merkel's party was a vindication of the risk he took in calling the election to gain a mandate for reforms.

The arithmetic now makes for some complicated possibilities. The most likely outcome seems to be a coalition of Mr. Schröder's party and Ms. Merkel's party. Such a "grand coalition" is widely discredited outside Germany as inherently unstable and incapable of agreeing on policy. But coalitions between the two major parties have worked well in the German states.

If the two major parties look beyond their rivalries, they could find that they agree on the basics of critically needed economic reforms like lowering employment costs, making labor markets more flexible and simplifying the tax code. And they would certainly have the clout to push a joint program through the Parliament and past the unions. Mr. Schröder called the elections because there was a big job to be done, and the voters agreed.

A Mess In Germany (WP)

The Washington Post, September 21, 2005

The most important German election in decades has produced a dismal result for Germany, the European Union and the transatlantic alliance. As expected, Chancellor Gerhard Schroeder of the Social Democrats failed in his attempt to win a new mandate, but his principal opponent, Angela Merkel of the Christian Democratic Party, also did not win enough support to form a government. The two big German parties combined received the lowest percentage of votes in 50 years, and the balance of power in Parliament will be held by three smaller factions -- one of which, the new Left Party, is a noxious mix of anti-globalization populists and former East Bloc communists.

Mr. Schroeder has further fouled this messy situation with arrogant and undemocratic behavior. Though he finished in second place with 34 percent of the vote, and his coalition lost 33 of the 306 seats it held in the Bundestag, the chancellor loudly claimed victory and is trying to bully his way back into office. German commentators are calling his power play "delusional" and "grotesque," but the political situation is so unsettled that its success cannot be ruled out.

It's difficult to imagine a worse outcome to the election than a new term for Mr. Schroeder, whose habitual demagoguery and opportunism have poisoned not only German politics but also the European Union and U.S.-German relations. Yet the other possibilities aren't much better. The most likely is a "grand coalition" between the Christian Democrats and Social Democrats that would exclude Mr. Schroeder, and possibly also Ms. Merkel, who is trying to be the first woman and the first citizen of the former East Germany to become chancellor. Alternatively, one of the large parties could create a coalition including a small party on the opposite side of the political spectrum, alignments as bizarre as the nicknames -- "stoplight" and "Jamaica" -- they have been given.

Whatever the final result, the chances that Germany will continue the economic reforms that Mr. Schroeder cautiously began don't seem great. Both major candidates seem to have been punished by voters for advocating change: Mr. Schroeder for his half-steps and Ms. Merkel for promising more. The two parties together might agree to force through the further reforms they know the country needs, but it is just as likely they will compromise by doing nothing. It also seems unlikely that a weak German government will support needed reforms for the European Union, which itself is reeling from French voters' rejection of a new constitution in May.

American conservatives and internationalists might be tempted to take quiet satisfaction from the political disarray in the two big European states that have worked hardest in the past five years to thwart U.S. policies and establish Europe as a rival power to the United States. That would be shortsighted. In fact, Mr. Schroeder and his French ally, Jacques Chirac, were never likely to succeed in creating a European counterweight, and the weakness of Germany and France will only make them less able to support the United States in key strategic matters on which there is a transatlantic consensus, such as preventing Iran from developing nuclear weapons. About the best that Americans, and Germans, can hope for is that the tenure of the new government will be relatively brief -- and that the next election will produce a more decisive result.

A French Lesson: Taunts About Race Can Boomerang (NYT)

By John Tagliabue

The New York Times, September 21, 2005

PARIS, Sept. 20 - The French news media were captivated by Hurricane Katrina, pointing out how the American government's faltering response brought into plain view the sad lot of black Americans. But this time the French, who have long criticized America's racism, could not overlook the parallels at home.

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"It is true that the devastations of Katrina have cruelly shed light on the wounds of America, ghettoization, poverty, criminality, racial and territorial tensions," Le Figaro, the conservative daily, said in an editorial on Sept. 8. "In France, those in disagreement ran to pelt the 'American model' and the neoconservative president. But have they just looked at the state of their own country?"

Only four days before, a fire had swept an apartment in south Paris, killing 12 people, most of them black. And just days before that, 17 black people died in a single blaze. Since April, 48 people, most of them children and all of them black, have died in four separate fires in Paris.

In neighborhoods like Château Rouge, filled with the hundreds of thousands of nonwhite immigrants, some Arabs but mainly blacks, whom France has absorbed over the years from former colonies in Africa and the Caribbean, you feel the anger.

"It could be a coincidence," said Sissouo Cheickh, bitterly, "but one question the French have to answer is: of 48 people who died, why were 48 black?"

Mr. Cheickh, 28, got a university degree in France, but rather than working for someone else and running into what he and other young blacks say is France's low glass ceiling, he decided to start his own business. Six months ago he scraped together some money and opened a store.

"You see these fabrics? All from Africa, from my family," said Mr. Cheickh, who came from Mali, as he gestured toward colorful rolls of cloth.

France has long boasted of itself as the cradle of human rights and a bulwark against racism. It regularly denounced racism in the United States, and the road from Harlem to Paris was wide, inviting talented American blacks like the dancer Josephine Baker, musicians like Sidney Bechet and writers like Richard Wright and James Baldwin.

But French insistence on the equality of man leaves them in a bind, their black critics say, perpetuating the fiction of a society without minorities.

The census in France does not list people by race. Hence, while blacks are thought to number about 1.5 million, of a total population of 59 million, no one really knows the exact number, which is estimated to be far higher.

There are virtually no black people in corporate France, and blacks have almost no political representation. No black person sits in the National Assembly or in a regional parliament, and only a smattering are found in city councils. The European Union finances programs for minorities but not in France, because of its refusal to recognize minorities.

So, today, blacks are not much on the French agenda. After the recent fires, the interior minister, Nicolas Sarkozy, proposed a program of affirmative action and a requirement that résumés conceal a person's ethnic or racial identity. But the rest of the cabinet, including the minister for equal opportunity, rejected the ideas, saying they offended the fundamental principle of equality.

"The French like to say, 'Blacks are a social problem, not racial,' " said Gaston Kelman, 52, a native of Cameroon who has written widely on France's black population. "So our institutions have no means to overcome it."

Until recently, virtually all blacks were on the lowest rung of the social ladder. Gradually, however, a younger generation is, like Mr. Cheickh, gaining education, starting businesses and gradually giving birth to a black middle class. They feel the discrimination they say is rampant in French society and are beginning to resist.

After graduating with a degree in economics and data processing, Claude Vuaki tried his hand at several jobs before deciding to start his own business. Together with his wife, Kibé, he opened a beauty salon in central Paris. But Mr. Vuaki's search for start-up capital was typical of the black experience. "They said right off, no loan, no money," said Mr. Vuaki, 52. He and his wife managed to gather some family savings and self-financed their shop.

Now the business is so successful that they plan a second shop, in Nice or Cannes. Mrs. Vuaki travels regularly to the United States to study African-American hairstyles.

Still, Mr. Vuaki remains one of a relatively small minority. Most blacks are employed in menial jobs, in construction or transportation. What encourages people like Mr. Vuaki is that the glass ceiling often felt by young blacks who get an education is not discouraging them, but increasingly prompting them to strike out on their own.

"A lot of people I know want to create something of their own," he said, often in landscaping, construction and delivery services.

Still, Mr. Kelman said this slight opening is not inhibiting many young Africans with an education to strike off for Britain, Canada and the United States, where they think they will find greater opportunities.

Asked whether the French people are racist, Mr. Kelman replied: "It's a racism of nuance. Every Frenchman would immediately say, 'One of my closest friends is black.' "

Mr. Kelman said government housing and employment policies create an "institutionalized ghetto-building." He described with a laugh a typical job interview for a black candidate. When the boss realizes the candidate is black, he begins praising the

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sights and sounds of Africa he discovered on his last vacation there: the broad beaches, beautiful greenery, vast sky. Needless to say, the candidate doesn't get the job.

In the schools, white pupils are typically encouraged to continue studying while black children are often steered toward vocational studies. The influence of African-Americans, through television, films and sports, is everywhere. Some young blacks turn to Afrocentrism, Mr. Kelman said, others to rappers and others to black Muslim groups. What they don't turn to is mainstream French society.

"We're at an impasse," Mr. Kelman said.

No 'Turning Back' In Egypt (WP)

By David Ignatius

The Washington Post, September 21, 2005

CAIRO -- It's hard to imagine Egyptian President Hosni Mubarak as a change agent. During the 24 years he has ruled this country, he has displayed a military man's passion for stability and a corresponding wariness of democracy. His Egypt has often symbolized the political stasis of the Arab world.

But unlikely as it sounds, the 77-year-old Mubarak won reelection this month on a platform of political and economic reform. The fact that even the pharaonic Mubarak is running as a democrat illustrates the power of the reform movement in the Arab world today. The movement is potent because it's coming from the Arab societies themselves and not just from democracy enthusiasts in Washington.

I can't predict whether Mubarak will deliver on the promises he made during his campaign. I can see all the reasons why he should and all the reasons why he won't. But what's unmistakably clear in the aftermath of Egypt's first semblance of a multi-candidate presidential election is that the country's old authoritarian system has broken apart. I doubt Mubarak could put it back together even if he tried.

This used to be a country where people were very careful about what they said in public. It was basically a one-party state, and the price of keeping your job -- and sometimes of staying out of prison -- was to stay safely within the unwritten but universally recognized red lines. The state-run Egyptian press was often the worst offender -- pretending to be independent but maintaining an almost Stalinist sycophancy toward the ruler. Happily, those old habits of deference are changing.

During several days of conversations here, I found people remarkably frank in their comments. Just as interesting, political activists across the spectrum described the situation in Egypt in similar terms. Though many see the one-sided election as a joke (Mubarak won with 88 percent of the vote), they all see Egypt as changing, and they all agree it will be hard to stop the momentum of change.

Let's start with the most extreme critics of the regime, the Muslim Brotherhood. I met Ali Abdel Fatah, one of the Brotherhood's leaders, over coffee at the Syndicate of Journalists, which has become a haven for activists in recent months. While he denounces Mubarak's election victory as fraudulent, Abdel Fatah thinks the democratic movement in Egypt is real. "We appreciate pluralism and we insist on it," he says.

Abdel Fatah says he has been imprisoned 11 times for his views, and the Brotherhood is still banned from running openly as a political party -- but he wants to play in the new game. He plans to field about 150 "independent" candidates in November's parliamentary elections and expects that about 30 of them will win, roughly doubling the group's unofficial representation in parliament.

Puffing a hookah pipe in a coffeehouse on Imad El-Din Street is Amin Soliman Eskander, one of the co-founders of the protest group known as Kifaya. Even though the election is over, the group (whose Arabic name means "Enough!") is still organizing demonstrations. "The national atmosphere no longer allows oppression," he explains. Eskander has been imprisoned seven times because of his dissent. Asked whether he thinks political change can come peacefully in Egypt, he says, "Yes, of course."

In a cafe on the bank of the Nile, Hisham Kassem, who runs a fiery new independent newspaper, explains that the old days of docility are over. The newspapers are running headlines denouncing Mubarak and his family that would have been unthinkable a year ago. "I'm sure he grits his teeth that we're out there criticizing him, but we can't turn back," Kassem says.

The Mubarak camp doesn't disagree with the view that the rules of the game have changed. Mohamed Kamal, a key political adviser, says the old insistence on stability has given way to a realization that Egypt needs change. That's the importance of Mubarak's agreement to a multi-candidate election this year, he argues. "The president was always up on the mountain, surrounded by people who wanted to protect him. He came down from the mountain to ask people for their vote."

One of the brightest lights in Mubarak's government, Industry Minister Rachid Mohammed Rachid, agrees that the election symbolized the idea of accountability. "When Mubarak ran, he took it seriously, put together a program and a list of deliverables. This has never been done before."

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The Mubarak regime is certainly capable of reneging on its promises. But there's so much pressure for change, from so many different directions (including the Bush administration), that it won't be easy. "I don't think there is any turning back," the president's son, Gamal Mubarak, tells me. And for the moment, I'm inclined to take him at his word.

Nazi Hunter (WSJ)

The Wall Street Journal, September 21, 2005

In taking note of the life of Simon Wiesenthal, the great Nazi hunter who died yesterday at 96 after surviving the Soviet NKVD, numerous German death camps and a 1982 assassination attempt, we are reminded of Andrew Jackson's famous aphorism: "One man with courage makes a majority."

From today's perspective, it is difficult to remember that when Mr. Wiesenthal began tracking Nazis from a tiny "Documentation Center" in the Austrian city of Linz, his work was hardly popular. Much of Europe wanted to put its collaborationist chapters behind it; some of the most prominent Nazis had fled to distant corners and assumed new identities; the world's attention was otherwise engaged.

Yet working off the leads of informers -- some of them ex-Nazis out to settle old scores -- Mr. Wiesenthal was able to track down many of those he called "the murderers among us." Among them: Franz Stangl, commandant of the Treblinka and Sobibor death camps, who had fled to Brazil; Valerian Trifa, a Romanian fascist and pogrom-instigator, who later became an Orthodox Archbishop in Michigan; and Karl Silberbauer, the Gestapo agent who arrested Anne Frank and later found work as a Vienna police officer. These arrests, along with Israel's capture and trial of Adolf Eichmann (in which Mr. Wiesenthal played a secondary role), did as much as anything to put the memory of the Holocaust at the center of every civilized conscience.

Equally remarkable was Mr. Wiesenthal's insistence on backing up his allegations with voluminous documentary evidence. This could get him into scraps, as when he refused to denounce Kurt Waldheim, the one-time SS officer and later U.N. Secretary General and President of Austria, as a war criminal. Some Jewish leaders accused him of a cover-up; Mr. Wiesenthal replied that "accusations from Jewish sources must be able to stand up to all tests of credibility." Such evidentiary standards stand in stark contrast with those of groups such as Amnesty International, with their loose and incendiary accusations of "torture" at Guantanamo or "war crimes" in Jenin.

Toward the end of his life, Mr. Wiesenthal lent his name to a number of centers dedicated to advancing the cause of tolerance world-wide. With the resurgence of virulent anti-Semitism, particularly in Europe and the Muslim world, the cause has only grown in importance. Yet there is a risk that a specious and open-ended form of "tolerance" might obscure more fundamental objectives: justice for the perpetrators of atrocities, and remembrance for their victims. Simon Wiesenthal delivered both, and we owe it to his memory to carry on that work.

DOJ_NMG_0007325

McDowell, Cynthia

From: McDowell, Cynthia

Sent: Wednesday, September 21, 2005 1:40 PM

To: Andrea Bottner; Andrew Emrich; Brad Schlozman; Brent McIntosh; Bruce Mcdonald; Carl Nichols; Carl Peed; Cheri Nolan; Clifford White; Crystal Roberts; Cybele Daley; Dan Meron; Dana Boente; Deborah Rhodes; Deborah Spagnoli; Domingo Herraiz; Donald Gambatesa; Edward McNally; Elizabeth Kessler; Greg Harris; Gregory Katsas; James Clinger; Jeffrey Bucholtz; Jeffrey Taylor; John Richter; Jonathan Cohn; Joseph Bianco; Kelly Johnson; Kristi Macklin; Kyle Sampson; Laura Parsky; Lily Swenson; Luis Reyes; Matthew Friedrich; Michael Battle; Monica Goodling; Neil Gorsuch; Nicholas Tzitzon; Pat O'Brien; Patrick Hofer; Patrick Philbin; Rachel Brand; Raul Yanes; Rebecca Seidel; Richard Hertling; Richard Morrison; Robert Flores; Sean McLaughlin; Sharee Freeman; Steve Bradbury; Steven McFarland; Stuart Nash; Tasia Scolinos; Theodore Ullyot; Thomas Barnett; Tracy Henke; Uttam Dhillon; Wan Kim; Alex MacLean; Andrew Ames; Andrew Beach; Angela Williamson; Asheesh Agarwal; Ben Curtis; Beth Collins Cook; Brian Cohen; Bruce Taylor; C. Kevin Marshall; Candice Chiu; Carrie Nelson; Chris Gober; Connor Flaherty; Courtney Elwood; Cynthia Magnuson; Cynthia McKnight; Deborah Underhill; Ebony Lee; Elizabeth Apisson; Eric Akers; Eric Holland; Gordon Todd; Grant Nichols; Jaclyn Lesch; James OConnell; Jan Williams; Jana White; Janet Potter; Jason Torchinsky; Jennifer Korn; Jessica Gavora; John Irving; John Nowacki; Julie Warren; Kerri Strug; Kiahna Sellers; Kimberly Smith; Lara Reynolds; Laura Keehner; Lindsey de la Torre; Mark Metcalf; Mary Neumayr; Matt David; Matt Robinson; Matt Roper; Matthew Miranda; Michael Costigan; Miriam Moore; Molly Donlin; Natalie Voris; Neal Jungeblut; Omar Vargas; Patrick McArthur; Payson Peabody; Price Roe; Raquel Sours; Rena Comisac; Ryan Bounds; Sandra Malloy; Shane Chambers; Theodore Cooperstein; Tim Racicot; Timothy Hagle; Trent Luckinbill; Tucker McNeil; Wanda Martinson; William Otis; William Woodruff

Subject: DEADLINE 9:00 AM Thurs 9-22: HURRICANES KATRINA and RITA VOLUNTEERS again NEEDED

Importance: High

Dear Political Appointees:

As a continued response for Hurricane Katrina and in preparation for Hurricane Rita, **DHS is again interested in compiling a list of appointees who would be interested in assisting in the Gulf region or here in Washington, D.C.**

- The immediate need is to identify individuals with specific public affairs experience who could deploy to the Gulf Region. They are looking for mid-level public affairs specialists who could work on rapid response, able to draft talking points and releases. If you are interested and in a position to deploy to Baton Rouge, Mississippi, Texas or to help at DHS or FEMA HQ, please email your relevant information as noted below.
- Also, there is a continued need for other volunteers in this effort in the following categories

- Also, there is a continued need for other volunteers in this effort in the following categories:

1.) Administrative/General Support
2.) Legislative Affairs
3.) General Communications/Public Affairs
4.) Community Relations/Public Liaison
5.) Logistics & Advance

If you are interested in volunteering in this effort, you must:

1) Have the approval of your supervisor(s) and the DOJ White House Liaison, Jan Williams;

2) Ensure that you would be a relevant asset to the above needs;

3) Realize that many all volunteers may not be utilized for this purpose: DHS/FEMA will reach out to individuals who express interest and utilize those individuals on an as needed basis. Interested individuals are requested not to contact DHS/FEMA directly.

4) Note that individuals deployed will be asked to have their home department/agency pay for all travel expenses (including housing, transportation, and per diem). This should be done in accordance with DOJ's normal travel policies.

5) Email the following personal information to Cynthia McDowell by 9:00 AM THURSDAY, SEPTEMBER 22:

- Full Name:
- DOB:
- SSN:
- Direct Phone No.:
- Cell Phone No.:
- Email Address:
- Willing to DEPLOY or work in DC?:
- Skills Category.

Again, many thanks to you all for your consideration in this time of crises.

Regards,

DOJ Office of White House Liaison
Jan Williams, Cynthia McDowell

~

Cynthia R. McDowell
Internal Communications Coordinator
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 5317
Washington, D.C. 20530
Tel: (202) 514-9376, Fax: (202) 514-3546

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, October 7, 2005 4:18 PM
To: Williams, Jan; Washington, Tracy T
Subject: RE: 10/12 Event: President's remarks to agency appointees and Senior Executive Service employees

I would very much like to attend. Thank you.

-----Original Message-----
From: Williams, Jan
Sent: Friday, October 07, 2005 4:13 PM
To: Bottner, Andrea; Emrich, Andrew (ENRD); Schlozman, Brad (CRT); McIntosh, Brent; McDonald, Bruce; Nichols, Carl (CIV); Peed, Carl; Nolan, Cheri; White, Clifford; Roberts, Crystal; Daley, Cybele; Meron, Daniel (CIV); Boente, Dana J. (TAX); Rhodes, Deborah; Spagnoli, Deborah A. (USPC); Herraiz, Domingo S.; Gambatesa, Donald (USMS); McDowell, Cynthia; McNally, Edward; Kessler, Elizabeth A; Katsas, Gregory (CIV); Clinger, James H; Bucholtz, Jeffrey (CIV); Clark, Jeffrey B. (ENRD); Taylor, Jeffrey (OAG); Richter, John (CRM); Bianco, Joseph F.; Johnson, Kelly A. (ENRD); Macklin, Kristi R; Sampson, Kyle; Parsky, Laura; Swenson, Lily F; Reyes, Luis (SMO); Friedrich, Matthew; Battle, Michael (USAEO); Goodling, Monica (USAEO); Gorsuch, Neil M; Tzitzon, Nicholas; O'Brien, Pat (ODAG); Hofer, Patrick F. (TAX); Philbin, Patrick (ODAG); Brand, Rachel; Yanes, Raul; Seidel, Rebecca; Hertling, Richard; Morrison, Richard T. (TAX); Flores, Robert; McLaughlin, Sean; Freeman, Sharee; Bradbury, Steve; McFarland, Steven T (ODAG); Nash, Stuart (ODAG); Scolinos, Tasia; Ullyot, Theodore; Barnett, Thomas O.; Henke, Tracy (SMO); Dhillon, Uttam; Kim, Wan (CRT); MacLean, Alex (CRT); Ames, Andrew; Beach, Andrew; Williamson, Angela U; Agarwal, Asheesh; Curtis, Ben (CRT); Cook, Elisebeth C; Cohen, Brian; Taylor, Bruce (CRM); Marshall, C. Kevin; Chiu, Candice; Nelson, Carrie; Gober, Chris; Flaherty, Connor; Elwood, Courtney; Magnuson, Cynthia; McKnight, Cynthia M (CRT); Underhill, Deborah; Lee, Ebony; Apisson, Elizabeth M; Akers, Eric J.; Holland, Eric W; Todd, Gordon (CRT); Nichols, Grant W; Lesch, Jaclyn; OConnell, James; White, Jana; Potter, Janet; Korn, Jennifer; Gavora, Jessica; Irving, John (ODAG); Nowacki, John; Warren, Julie; Strug, Kerri; Sellers, Kiahna (OAG); Smith, Kimberly A; Keehner, Laura; de la Torre, Lindsey; Metcalf, Mark H (CRT); Neumayr, Mary (ENRD); David, Matt; Robinson, Matt; Roper, Matt M; Miranda, Matthew; Costigan, Michael; Moore, Miriam (ODAG); Voris, Natalie; Jungeblut, Neal P.; Vargas, Omar (ODAG); McArthur, Patrick; Peabody, Payson R. (TAX); Roe, Price (OCIO); Sours, Raquel; Comisac, Rena; Bounds, Ryan W (OLP); Cohn, Jonathan (CIV); Malloy, Sandra; Chambers, Shane P; Cooperstein, Theodore M; Hagle, Timothy; Luckinbill, Trent W.; McNeil, Tucker (OPA); Martinson, Wanda; Friedrich, Matthew
Cc: Washington, Tracy T
Subject: 10/12 Event: President's remarks to agency appointees and Senior Executive Service employees

The President's remarks to agency appointees and Senior Executive Service employees event will be held on Wednesday, October 12 at 2:15 p.m. at DAR Constitution Hall, 1776 D Street, NW. If you are interested in attending, please email Tracy Washington or myself. **Tickets are limited, so respond quickly to secure a ticket.**

On the day of the event, attendees should arrive at the 18th Street entrance. Doors open at 11:45 a.m.; everyone should arrive before the doors close at 1:15 p.m. **Attendees are strongly encouraged to begin arriving at 11:45 a.m**. Please bring your ticket to the event as everyone will need a ticket to enter the building.

NOTE: Prohibited items include, but are not limited to, the following: video recorders or any type of recording device, tobacco, aerosol
containers, guns, ammunition, fireworks, electric stun guns, mace, martial arts weapons/devices, or knives of any size. The U.S. Secret Service reserves the right to prohibit any other personal items. There are no storage facilities are available on or around the complex. Individuals who arrive with prohibited items will not be permitted to enter.

Umbrellas and cameras are permitted.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, October 12, 2005 10:02 AM
To: Katsas, Gregory (CIV)
Subject: RE: ASG meeting

no problem
-----Original Message-----
From: Katsas, Gregory (CIV)
Sent: Wednesday, October 12, 2005 10:00 AM
To: Gorsuch, Neil M
Subject: ASG meeting

I need to skip. Am scrambling to get Smelt out. Will catch up with you later.

Metcalf, Mark H (CRT)

From: Metcalf, Mark H (CRT)

Sent: Wednesday, October 26, 2005 5:33 PM

To: Williams, Jan; Emrich, Andrew (ENRD); Schlozman, Brad (CRT); McIntosh, Brent; McDonald, Bruce; Nichols, Carl (CIV); Peed, Carl; Nolan, Cheri; White, Clifford; Roberts, Crystal; Daley, Cybele; Meron, Daniel (CIV); Boente, Dana J. (TAX); Rhodes, Deborah; Spagnoli, Deborah A. (USPC); Herraiz, Domingo S.; [redacted] (USMS); McDowell, Cynthia; McNally, Edward; Kessler, Elizabeth A; Katsas, Gregory (CIV); Clinger, James H; Bucholtz, Jeffrey (CIV); Clark, Jeffrey B. (ENRD); Taylor, Jeffrey (OAG); Richter, John (CRM); Bianco, Joseph F.; Johnson, Kelly A. (ENRD); Macklin, Kristi R; Sampson, Kyle; Parsky, Laura; Swenson, Lily F; Reyes, Luis (SMO); Friedrich, Matthew; Battle, Michael (USAEO); Goodling, Monica (USAEO); Gorsuch, Neil M; Tzitzon, Nicholas; O'Brien, Pat (ODAG); Hofer, Patrick F. (TAX); Philbin, Patrick (ODAG); Brand, Rachel; Yanes, Raul; Seidel, Rebecca; Hertling, Richard; Morrison, Richard T. (TAX); Flores, Robert; McLaughlin, Sean; Freeman, Sharee; Bradbury, Steve; McFarland, Steven T (ODAG); Nash, Stuart (ODAG); Scolinos, Tasia; Ullyot, Theodore; Barnett, Thomas O.; Henke, Tracy (SMO); Dhillon, Uttam; Kim, Wan (CRT); MacLean, Alex (CRT); Ames, Andrew; Beach, Andrew; Williamson, Angela U; Agarwal, Asheesh (CIV); Curtis, Ben (CRT); Cook, Elisebeth C; Cohen, Brian; Taylor, Bruce (CRM); Marshall, C. Kevin; Chiu, Candice; Nelson, Carrie; Gober, Chris; Flaherty, Connor; Elwood, Courtney; Magnuson, Cynthia; McKnight, Cynthia M (CRT); Underhill, Deborah; Lee, Ebony; Apisson, Elizabeth M; Akers, Eric J.; Holland, Eric W; Todd, Gordon (CRT); Nichols, Grant W; Lesch, Jaclyn; OConnell, James; White, Jana; Potter, Janet; Korn, Jennifer; Gavora, Jessica; Irving, John (ODAG); Nowacki, John; Warren, Julie; Strug, Kerri; Sellers, Kiahna (OAG); Smith, Kimberly A; Keehner, Laura; de la Torre, Lindsey; Neumayr, Mary (ENRD); David, Matt; Robinson, Matt; Roper, Matt M; Miranda, Matthew; Costigan, Michael; Moore, Miriam (ODAG); Voris, Natalie (USAEO); Jungeblut, Neal P.; Vargas, Omar (ODAG); McArthur, Patrick; Peabody, Payson R. (TAX); Roe, Price (OCIO); Sours, Raquel; Comisac, Rena; Bounds, Ryan W (OLP); Cohn, Jonathan (CIV); Malloy, Sandra; Chambers, Shane P; Cooperstein, Theodore M; Hagle, Timothy; Luckinbill, Trent W.; McNeil, Tucker (OPA); Martinson, Wanda; Friedrich, Matthew; Otis, Lee L; Fisher, Alice; Purpura, Michael; Boardman, Michelle; Elwood, John; Keisler, Peter D (CIV); O'Connor, Elizabeth K.; Moschella, William; Roehrkasse, Brian; Ames, Andy; Hagy, David, W.; SCH/ACA Accreditation; Clark, John (USMS); Trono, Robert (USMS); Schmitt, Glenn; Rowe, Kiri; Truscott, Carl J.; Bottner, Andrea

Subject: [redacted] contact info

Fellow Apptees: [redacted] asked me to forward this contact information to you.

[redacted]
The Ashcroft Group
1399 New York Ave, Suite 590
Washington, DC 20005
202.942.0202
[redacted]@AshcroftGroupLLC.com

[redacted]@AshcroftGroupLLC.com
-----Original Message-----
From: Williams, Jan
Sent: Tuesday, October 25, 2005 8:43 AM
To: Emrich, Andrew (ENRD); Schlozman, Brad (CRT); McIntosh, Brent; McDonald, Bruce; Nichols, Carl (CIV); Peed, Carl; Nolan, Cheri; White, Clifford; Roberts, Crystal; Daley, Cybele; Meron, Daniel (CIV); Boente, Dana J. (TAX); Rhodes, Deborah; Spagnoli, Deborah A. (USPC); Herraiz, Domingo S.; [redacted] USMS); McDowell, Cynthia; McNally, Edward; Kessler, Elizabeth A; Katsas, Gregory (CIV); Clinger, James H; Bucholtz, Jeffrey (CIV); Clark, Jeffrey B. (ENRD); Taylor, Jeffrey (OAG); Richter, John (CRM); Bianco, Joseph F.; Johnson, Kelly A. (ENRD); Macklin, Kristi R; Sampson, Kyle; Parsky, Laura; Swenson, Lily F; Reyes, Luis (SMO); Friedrich, Matthew; Battle, Michael (USAEO); Goodling, Monica (USAEO); Gorsuch, Neil M; Tzitzon, Nicholas; O'Brien, Pat (ODAG); Hofer, Patrick F. (TAX); Philbin, Patrick (ODAG); Brand, Rachel; Yanes, Raul; Seidel, Rebecca; Hertling, Richard; Morrison, Richard T. (TAX); Flores, Robert; McLaughlin, Sean; Freeman, Sharee; Bradbury, Steve; McFarland, Steven T (ODAG); Nash, Stuart (ODAG); Scolinos, Tasia; Ullyot, Theodore; Barnett, Thomas O.; Henke, Tracy (SMO); Dhillon, Uttam; Kim, Wan (CRT); MacLean, Alex (CRT); Ames, Andrew; Beach, Andrew; Williamson, Angela U; Agarwal, Asheesh; Curtis, Ben (CRT); Cook, Elisebeth C; Cohen, Brian; Taylor, Bruce (CRM); Marshall, C. Kevin; Chiu, Candice; Nelson, Carrie; Gober, Chris; Flaherty, Connor; Elwood, Courtney; Magnuson, Cynthia; McKnight, Cynthia M (CRT); Underhill, Deborah; Lee, Ebony; Apisson, Elizabeth M; Akers, Eric J.; Holland, Eric W; Todd, Gordon (CRT); Nichols, Grant W; Lesch, Jaclyn; OConnell, James; White, Jana; Potter, Janet; Korn, Jennifer; Gavora, Jessica; Irving, John (ODAG); Nowacki, John; Warren, Julie; Strug, Kerri; Sellers, Kiahna (OAG); Smith, Kimberly A; Keehner, Laura; de la Torre, Lindsey; Metcalf, Mark H (CRT); Neumayr, Mary (ENRD); David, Matt; Robinson, Matt; Roper, Matt M; Miranda, Matthew; Costigan, Michael; Moore, Miriam (ODAG); Voris, Natalie (USAEO); Jungeblut, Neal P.; Vargas, Omar (ODAG); McArthur, Patrick; Peabody, Payson R. (TAX); Roe, Price (OCIO); Sours, Raquel; Comisac, Rena; Bounds, Ryan W (OLP); Cohn, Jonathan (CIV); Malloy, Sandra; Chambers, Shane P; Cooperstein, Theodore M; Hagle, Timothy; Luckinbill, Trent W.; McNeil, Tucker (OPA); Martinson, Wanda; Friedrich, Matthew; Otis, Lee L; Fisher, Alice; Purpura, Michael; Boardman, Michelle; Elwood, John; Keisler, Peter D. (CIV); O'Connor, Elizabeth K.; Moschella, William; Roehrkasse, Brian; Ames, Andy; Hagy, David, W.; SCH/ACA Accreditation; [redacted] (USMS); [redacted] (USMS); Schmitt, Glenn; Rowe, Kiri; Truscott, Carl J.; Bottner, Andrea
Subject: FW: Signing of S. 397, the Protection of Lawful Commerce in Arms Act

I may have three extra seats to the President's signing of S.397, the Protection of Lawful Commerce in Arms Act on Wednesday, October 26 at 11:05 a.m. in Room 350 of the EEOB. We would ask that you arrive by 10:15 a.m. If you are interested attending, please email your ss and dob to me asap.

JCON Broadcast (JMDJCON)

From: JCON Broadcast (JMDJCON)
Sent: Monday, October 31, 2005 11:53 AM
Subject: JCON BROADCAST, WEEK OF OCTOBER 31, 2005

JCON BROADCAST, WEEK OF OCTOBER 31, 2005

1. **CFC Rally Today - Hear the "Pearl of Africa" Children's Choir**
2. **Commemoration Ceremony Honoring Attorney General Levi**
3. **Federal Employees Health Benefits Open Season**
4. **2005/2006 Flu Season Update – *High Risk Shots Available Nov. 7th***
5. **Temporary Early Closure of the 9th Street Pedestrian Entrance**
6. **Library Staff Training**

CFC RALLY TODAY: HEAR THE "PEARL OF AFRICA" CHILDREN'S CHOIR!

The Department's **Combined Federal Campaign** (CFC) is underway. You are invited to a very special CFC Rally to begin this year's campaign **at 1:30 p.m., today, October 31, in The Great Hall** of the RFK Main Justice Building. Snacks will be provided, as well as entertainment and great door prizes. Those attending the rally will enjoy a performance by the "**Pearl of Africa" Children's Choir**, an internationally renowned choir from Uganda.

Be an Everyday Hero by contributing! For more information about the Combined Federal Campaign, visit the Department's CFC website at: http://www.usdoj.gov/jmd/ps/empcfc.htm. The CFC gives you the power to help your neighbors in need, around the corner, across the Nation, and throughout the world. Through a modest gift to the charity of your choice, you are a Super Hero impacting the lives of others.

COMMEMORATION CEREMONY: HONORING ATTORNEY GENERAL LEVI

You are invited to attend a very special ceremony honoring the 30th anniversary of the appointment and administration of Attorney General Edward Hirsch Levi. Attorney General Levi was appointed in 1975 soon after President Gerald Ford assumed office, and, through his strong leadership and high standards in the immediate post-Watergate era, he restored the Nation's confidence in the tradition of legal excellence and uncompromising integrity within the Department. The event will be held **2:00 p.m., on Thursday, November 3, 2005, in The Great Hall of the RFK Main Justice Building**. A reception will follow the event.

Speakers at the ceremony will include **Attorney General Alberto R. Gonzales, Secretary of Defense Donald Rumsfeld, Supreme Court Justices John Paul Stevens and Antonin Scalia,**

former Secretary of Housing and Urban Development and U.S. Trade Representative Carla Hills, Judge Robert Bork, and former Attorney General Nicholas Katzenbach.

FEDERAL EMPLOYEES HEALTH BENEFITS OPEN SEASON

The Federal Employees Health Benefits (FEHB) Open Season will run from November 14, 2005, through December 12, 2005. During this time period, you have the option to make changes to your current plan or switch to another plan. Changes to your FEHB should be made through Employee Self Service (ESS). If you do not have access to ESS or need assistance, please contact your servicing personnel office. All transactions must be completed by close of business, December 12, 2005. Changes that are made during this 2005 Open Season period are effective January 8, 2006 (the first day of the first full pay period of the new year).

The DOJ Federal Employees Health Fair will be held from 9:00 a.m. to 3:00 p.m. on Wednesday, November 9, 2005, in Room 1160 of the National Place Building.

Please plan to attend the fair to meet the carriers from the various health plans to discuss their benefits for 2006. You may locate the premium rates for 2006 on the Office of Personnel Management's website. To access the premium rates, please click on the following link: http://apps.opm.gov/rates/non_postal.cfm?year=2006. Representatives from LTC Partners, the Federal Government's Long Term Care Insurance program, will be available to discuss Long Term Care Insurance.

Also, during the upcoming FEHB 2006 Open Season, eligible employees can enroll in the Flexible Spending Accounts (FSAFEDS) program, which allows you to set aside money before taxes to pay for a wide range of health care and dependent care expenses. You can save 20 – 40 percent on these expenses, depending upon your tax situation.

FSAFEDS elections must be made annually during the FEHB Open Season. Even if you enrolled during last year's open season, you must make a new election to continue participating in 2006. You can find useful information about FSAFEDS on its website, www.fsafeds.com. FSAFEDS representatives will be available during Open Season (November 14 – December 12, 2005) to answer your questions. They may be reached at 1-877-FSAFEDS (1-877-372-3337) Monday through Friday from 9:00 a.m. until 9:00 p.m., eastern time. (TTY line: 1-800-952-0450.) Additionally, FSAFEDS representatives will be available during the FEHB health fair.

2005/2006 FLU SEASON UPDATE

While we continue to remain on a waiting list for vaccine from our initial flu vaccine vendor, we have been informed that it is *unlikely* we will be receiving those vaccines. If our status changes on that list, we will inform you quickly.

However, we have been able to procure a small amount of flu vaccine from a new vendor, and will be offering flu shots only to DOJ employees who fall within a high-risk (priority group) category, as determined by the Centers for Disease Control (CDC). If you fall within a priority group listed below, you may receive a flu vaccine. If you are unsure if you fall within a priority group, please contact your physician or your designated health unit. If you are pregnant, you must obtain written permission from your physician, before you can receive a flu shot.

The CDC's designated priority groups are as follows:

- Adults 65 and older.
- Residents of nursing homes and other chronic care facilities.
- Adults and children ages 2-64 with chronic medical conditions, especially asthma, other lung diseases, heart disease, and chronic metabolic disease (kidney, blood, diabetes).
- Immuno-suppressed individuals over the age of 2.
- Children aged 6-23 months.
- Pregnant women.
- Health care workers who provide direct patient care.
- Out-of-home caregivers and household contacts of children less than 6 months old.

Flu vaccines are expected to arrive the week of November 7, 2005. When the vaccine is received, a flu vaccination schedule will be posted in three areas:

- Outside each Health Unit
- On the DOJ Health Unit website at: http://10.173.2.12/your_health/healthun.php
- On a JCON Broadcast

If you do not qualify as a member of a designated priority group, you may wish to consult a website hosted by The American Heart Association which enables you to locate flu clinics by typing in your zip code. You can find a flu clinic by going to: http://www.flucliniclocator.org/.

Additional information about the flu and vaccines are available from the website for the Centers for Disease Control at: http://www.cdc.gov/flu/keyfacts.htm.

TEMPORARY EARLY CLOSURE: 9TH STREET PEDESTRIAN ENTRANCE

The 9th Street pedestrian entrance at the RFK MAIN Justice Building will close at 6:00 p.m. instead of its regular time of 9:00 p.m., Monday, November 7th through Friday, November 11th due to the after-hours cleaning of the mosaic ceiling.

As a safety precaution during the upcoming work, the north and south revolving doors along the 1600 corridor exiting into the portico will also be closed to pedestrian traffic at 6:00 p.m. Please use the exterior doors by elevator lobbies number 1 and 7 to cross the courtyard.

LIBRARY STAFF TRAINING

The DOJ Libraries offer training sessions tailored to your research needs. Expand your knowledge of legislative histories, company information, expert witnesses, public records, searching the web, online newspapers, journals, and more. The sessions are open to all DOJ staff. Please see the current class list at: http://10.173.2.12/jmd/lib/training/currentclasses.htm

Check the Intranet, DOJNET, at http://10.173.2.12/ for additional information of Department-wide interest.

THIS MESSAGE IS SENT FROM AN UNATTENDED ID. DO NOT REPLY TO THIS MESSAGE. IF YOU HAVE QUESTIONS, PLEASE USE THE CONTACTS IN THE MESSAGE OR CALL THE JCON HELPDESK AT 616-7100.

JMD … Serving Justice - Securing Results

[redacted]

From: [redacted]
Sent: Monday, October 31, 2005 11:51 PM
To: [redacted]
Subject: SCt Today
Attachments: tmp.htm

Happy Halloween, sportsfans. If bobbing for nominees isn't enough excitement for you, there were four grants, a CVSG, and a wait-and-see for yours truly on today's Order List-plus a couple of per curiam summary reversals. Let's start with the grants.
Laboratory Corp. of Am. v. Metabolite Labs. (04-607)- After calling for the views of the SG, the Court promptly ignored them and granted question (3) of this Fed.-Circuit special: Whether a method patent setting forth an indefinite, undescribed, and non-enabling step directing a party simply to 'correlat[e]' test results can validly claim a monopoly over a basic scientific relationship used in medical treatment such that any doctor necessarily infringes the patent merely by thinking about the relationship after looking at a test result." The Court declined to consider two other questions, namely: (1) Whether liability can be imposed for willfully inducing patent infringement under 35 U.S.C. § 271(b) based solely on evidence that a party has disseminated a basic scientific fact to others. (2) Whether an express limitation in a patent claim can be ignored so as to allow the patent to cover the exact opposite of what was claimed.

Fernandez-Vargas v. Gonzales (04-1376)- The question presented is whether 8 U.S.C. § 1231(a)(5), which provides for the reinstatement of a previous order of removal against an alien who has illegally re-entered the United States, applies to an alien whose illegal re-entry predated the effective date of the provision."

The final two grants involve the application of OT 2003 crim. pro. blockbuster Crawford v. Washington (prosecutors can't introduce our-of-court testimonial statements where the defense had no opportunity to cross-examine). The cases, to be argued together, are Davis v. Washington (05-5224), which asks whether an alleged victim's statements to a 911 operator naming her assailant-admitted as "excited utterances" under a jurisdiction's hearsay law-constitute "testimonial" statements subject to the Confrontation Clause restrictions enunciated in Crawford; and Hammon v. Indiana (05-5705), which asks whether an oral accusation made to an investigating officer at the scene of a crime is a testimonial statement within the meaning of Crawford.

The Court CVSG'd in Federal Trade Commission v. Schering-Plough (05-273), which promises to separate soft-core free marketers from the real Lochner devotees. The questions presented are: (1) Is an agreement between pharmaceutical patent holder and a would-be generic competitor, in which the patent holder makes a substantial payment to the challenger for the purpose of delaying the challenger's entry into market, unreasonable restraint of trade? (2) Did the court of appeals grossly misapply the pertinent "substantial evidence" standard of review, by summarily rejecting extensive factual findings of an expert federal agency regarding matters within its purview?

The Court issued two unanimous per curiam opinions. The first was Kane v. Espesita (04-1538), in which the Court consumed a scant two pages to summarily reverse the Ninth Circuit's holding that petitioner's lack of access to a law library violated his right of self-representation under Faretta v.

California, 422 U.S. 806 (1975). Noting that the courts of appeals are divided on that very issue, the Court concluded that either answer by a lower could not meet the "unreasonable application" standard on federal habeas review.

In a more robust opinion, the Court summarily reversed the Seventh Circuit in Ivan "No Relation To Angie" Eberhart v. United States (04-9949). The core issue there was whether the seven-day limit for new trial motions under Federal Rule of Criminal Procedure 33 (which applies to any such motion not involving newly discovered evidence) was jurisdictional or merely a "claims-processing" rule. The Court held the latter, finding the rule similar to the Bankruptcy rules recently found nonjurisdictional in Kontrick v. Ryan, 540 U.S. 443 (2004). The Court closed with an somewhat uncommon "our bad," noting that the Seventh Circuit's error stemmed in part from some sloppy statements in a couple of prior Court opinions.

Finally, the Court again took no action on the long-pending Hamdan petition. Nor did it act on my personal favorite (because we wrote it) Bustillo v. Johnson (05-51) or a similar (but decidedly less spectacular) petition from Oregon, which raise issues arising under the Vienna Convention on Consular Relations. I can only assume (and hope) that the Court is letting this week's frenzied news cycle pass before granting the petition outright. Tune into to the same bat channel next Monday for an update.

If you would like to subscribe to these updates, or, more to the point, unsubscribe, please send an e-mail to

Happy Halloween, sportsfans. If bobbing for nominees isn't enough excitement for you, there were four grants, a CVSG, and a wait-and-see for yours truly on today's Order List—plus a couple of *per curiam* summary reversals. Let's start with the grants.

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[redacted]

If you would like to subscribe to these updates, or, more to the point, unsubscribe, please send an e-mail to [redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, November 2, 2005 7:00 PM
To: Nichols, Carl (CIV); Moschella, William
Subject: RE: NYT article

Yes, this is the article Jim called inaccurate. I wonder.

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Wednesday, November 02, 2005 4:12 PM
To: Gorsuch, Neil M; Moschella, William
Subject: FW: NYT article

Had you guys seen this article? I had not.

New York Times
November 2, 2005
Pg. 1
Detainee Policy Sharply Divides Bush Officials By Tim Golden and Eric Schmitt WASHINGTON, Nov. 1 - The Bush administration is embroiled in a sharp internal debate over whether a new set of Defense Department standards for handling terror suspects should adopt language from the Geneva Conventions prohibiting "cruel," "humiliating" and "degrading" treatment, administration officials say.
Advocates of that approach, who include some Defense and State Department officials and senior military lawyers, contend that moving the military's detention policies closer to international law would prevent further abuses and build support overseas for the fight against Islamic extremists, officials said.
Their opponents, who include aides to Vice President Dick Cheney and some senior Pentagon officials, have argued strongly that the proposed language is vague, would tie the government's hands in combating terrorists and still would not satisfy America's critics, officials said.
The debate has delayed the publication of a second major Pentagon directive on interrogations, along with a new Army interrogations manual that was largely completed months ago, military officials said.
It also underscores a broader struggle among senior officials over whether to scale back detention policies that have drawn strong opposition even from close American allies.
Since Mr. Bush's second term began, several officials said, factions within the administration have clashed over the revision of rules for the military tribunals to be held at Guantánamo Bay, Cuba, the transfer of some prisoners held there, and aspects of the United States' detention operations in Afghanistan and Iraq.
"It goes back to the question of how you want to fight the war on terror," said a senior administration official who has advocated changes but, like others, would discuss the internal deliberations only on the condition of anonymity. "We think you do that most successfully by creating alliances." The document under discussion, known as Department of Defense Directive 23.10, would provide broad guidance from Defense Secretary Donald H.
Rumsfeld; while it would not spell out specific detention and interrogation techniques, officials said, those procedures would have to conform to its standards. It would not cover the treatment of detainees held by the Central Intelligence Agency.

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The behind-the-scenes debate over the Pentagon directive comes more than three years after President Bush decided that the Geneva Conventions did not apply to the fight against terrorism. It mirrors a public battle between the Bush administration and Senator John McCain, Republican of Arizona, who is pressing a separate legislative effort to ban the "cruel, inhuman or degrading treatment" of any detainee in United States custody.
After a 90-to-9 vote in the Senate last month in favor of Mr. McCain's amendment to a $445 billion defense spending bill, the White House moved to exempt clandestine C.I.A. activities from the provision. A House-Senate conference committee is expected to consider the issue this week.
Mr. Cheney and some of his aides have spearheaded the administration's opposition to Senator McCain's amendment; they were also quick to oppose a draft of the detention directive, which began to circulate in the Pentagon in mid-September, officials said.
A central player in the fight over the directive is David S. Addington, who was the vice president's counsel until he was named on Monday to succeed I.
Lewis Libby Jr. as Mr. Cheney's chief of staff. According to several officials, Mr. Addington verbally assailed a Pentagon aide who was called to brief him and Mr. Libby on the draft, objecting to its use of language drawn from Article 3 of the Geneva Conventions.
"He left bruised and bloody," one Defense Department official said of the Pentagon aide, Matthew C. Waxman, Mr. Rumsfeld's chief adviser on detainee issues. "He tried to champion Article 3, and Addington just ate him for lunch." Despite his vehemence, Mr. Addington did not necessarily win the argument, officials said. They predicted that it would be settled by Mr. Rumsfeld after consultation with other agencies.
But while advocates of change within the administration have prevailed in a few skirmishes, some of those officials acknowledged privately that proponents of the status quo still dominate the issue - partly because of the bureaucratic difficulty of overturning policies that have been in place for several years and, in some cases, were either approved by Justice Department lawyers or upheld by the federal courts.
"A lot of the decisions that have been made are now difficult to get out of," one senior administration official said.
A spokesman for the vice president, Stephen E. Schmidt, said Mr. Addington would have no comment on his reported role in the policy debates. A Defense Department spokesman, Bryan Whitman, also would not discuss Mr. Waxman's role except to say it was "certainly an exaggeration" to characterize him as having been bloodied by Mr. Addington.
Mr. Whitman confirmed that the Pentagon officials were revising four major documents - including the two high-level directives on detention operations and interrogations and the Army interrogations manual - as part of its response to the 12 major investigations and policy reviews that followed the Abu Ghraib abuse scandal.
The four documents "are nearing completion or are either undergoing final editing or are in some stage of final coordination," Mr. Whitman said. But he would not comment on their contents or on the internal discussions, beyond saying it was important "to allow and encourage a wide variety of views to come to the surface." The administration's policies for the detention, interrogation and prosecution of terrorism suspects have long been a source of friction within the government.
Even some supporters of those policies have acknowledged that the tensions stem in part from the way they were pushed through after the Sept. 11 attacks, by a handful of administration lawyers who circumvented international-law experts, military lawyers and even some cabinet-level officials who might have objected.
Many officials said Mr. Addington, who helped create the legal framework after 9/11, remains a bulwark in support of those policies, deftly blocking or weakening proposed changes. Nonetheless, the internal politics of those issues have begun to shift in Mr. Bush's second term.
Several architects of the original policies have left the government. Some other senior officials, who had challenged aspects of the policy with limited success, have gained stronger voices in new posts.

Condoleezza Rice, who occasionally questioned the Pentagon's management of Guantánamo when she was national security adviser, has called more forcefully for a reconsideration of some detention policies as secretary of state, a stance generally backed by her successor at the White House, Stephen J. Hadley, administration officials said. The new deputy defense secretary, Gordon R. England, has also been an influential advocate for reviewing the detention policies within the Pentagon, officials said.
"The results may not be very different, but the discussions have changed," a senior military lawyer said. "And there are more discussions." Since President Bush's decision in February 2002 to set aside the Geneva Conventions in fighting terrorists, government lawyers have debated what legal framework should apply to combatants in a struggle that the administration argues does not fit into the categories of international violence contemplated by the 1949 conventions.
Lawyers at the State Department raised the issue repeatedly, officials said.
But because the department opposed the president's original decision to put aside the conventions, the efforts of its lawyers were largely dismissed as attempts to revive a question that had already been decided, they added.
Beginning late last year, Defense Department lawyers took up the issue as they revised Directive 23.10, the "DoD Program for Enemy Prisoners of War and Other Detainees." A roughly 12-page draft of the directive, which began circulating in the Pentagon in mid-September, received strong support from lawyers for the armed services, the military vice chiefs and some civilian defense officials, several officials said.
"The uniformed service lawyers are behind the rewrite because it brings the policy into line with Geneva," one senior defense official said. "Their concern was that we were losing our standing with allies as well as the moral high ground with the rest of the world." Following one of the recommendations of the Sept. 11 commission, the draft, written by officials in Mr. Waxman's office and military lawyers, lifted directly from Article 3 of the Geneva accords in setting out new rules for the treatment of terrorism suspects, three officials who have reviewed the document said.
Common Article 3, as the provision is known, sets out minimum standards for the treatment of captured fighters and others in "armed conflicts not of an international character." Although President Bush determined in February 2002 that the article was not relevant to Al Qaeda or the Taliban because of its international focus, the Sept. 11 panel noted that it "was specifically designed for those cases in which the usual laws of war did not apply." The draft Pentagon directive adopted the language of Common Article 3 "as a matter of policy rather than law," one defense official said. Even so, the Geneva reference was opposed by two senior Pentagon officials, Stephen A.
Cambone, the under secretary of defense for intelligence policy, and, William J. Haynes, the department's general counsel, defense officials said.
Mr. Addington, who has been a close bureaucratic ally of both defense officials, soon called Mr. Waxman to the Old Executive Office Building to brief him and Mr. Libby on the directive. Two defense officials who were told about the meeting said Mr. Addington objected to phrases taken from Article 3 - which proscribes "cruel treatment and torture," and "outrages upon personal dignity, in particular murder of all kinds, mutilation, humiliating and degrading treatment" - as problematically vague.
"We may know what they mean in the United States," one senior administration official familiar with the debate said of the Geneva terms. "But views around the world may differ from ours. Having a female interrogator even asking questions of a male might be humiliating to some parts of the Muslim faith." Another official said Mr. Addington and others also argued that Mr. Bush had specifically rejected the Article 3 standard in 2002, setting out a different one when he ordered that military detainees "be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.
Only when the dispute is resolved, defense officials said, would the Pentagon conclude the drafting of the second directive, known as 31.15, on the interrogation of prisoners including terrorism suspects. That document, in turn, would make possible the publication of a roughly 200-page Army manual for interrogations that was virtually completed last spring, officials said.
"If we don't resolve this soon," one defense official said, referring to the overlapping debate over

"If we don't resolve this soon," one defense official said, referring to the overlapping debate over Senator McCain's proposal, "Congress is going to do it for us."

Karen L. Hecker
Office of the DoD General Counsel (Legal Counsel)

Room 3B652
(703) 571-9349 (DSN 671)
(703) 614-6745 (fax)

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, November 3, 2005 11:59 AM
To: Brett Gerry (E-mail)
Subject: FW: CA2 argument today ...

-----Original Message-----
From: Letter, Douglas (CIV)
Sent: Thursday, November 03, 2005 10:36 AM
To: Letter, Douglas (CIV); Elwood, Courtney; Gorsuch, Neil M; Katsas, Gregory (CIV); Kopp, Robert (CIV); Nichols, Carl (CIV); Hunt, Jody (CIV); Schraibman, Sandy (CIV); Greene, Carlton (CIV); Dreeben, Michael R; Keisler, Peter D. (CIV); Meron, Daniel (CIV); Richard.Brown@ic.fbi.gov; Valerie.Caproni@ic.fbi.gov; Baker, James; Perkins, Lisa (USACT); Breinholt, Jeff; Sabin, Barry; Moschella, William; Brand, Rachel; McIntosh, Brent; Rowan, Patrick; Anne.Gulyassy@ic.fbi.gov
Subject: RE: CA2 argument today ...

<http://www.law.com/jsp/article.jsp?id=1130953713023

Here is an article, sent to me by the SDNY, with some more details about the Second Circuit nsl argument yesterday.

Mercer, Bill (ODAG)

From: Mercer, Bill (ODAG)
Sent: Monday, November 14, 2005 2:13 PM
To: Gorsuch, Neil M
Subject: Read: Darby Brief Argument

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, November 14, 2005 7:16 PM
To: Shaw, Aloma A
Subject: RE: (Time Sensitive) SES Performance Appraisals and Accomplishments

Finished mine; where does it go?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Monday, November 07, 2005 3:01 PM
To: Henke, Tracy (SMO); McCallum, Robert (SMO); Gorsuch, Neil M; Swenson, Lily F; Kessler, Elizabeth A
Cc: McCallum, Robert (SMO); Gunn, Currie (SMO); Shaw, Aloma A
Subject: (Time Sensitive) SES Performance Appraisals and Accomplishments

Folks,
I know this isn't a fun assignment, but please get your self-appraisal/accomplishments info. to Robert by tonight or early tomorrow. The Performance Review Board is asking Robert for all of his appraisals (of direct reports and individuals on his staff), and other documents, asap as they were planning on meeting Thursday 11/10. I think they can push it back to early next week, but we should get Robert all that he needs to make his appraisals asap.

Robert, please let either Tracy, or Currie, or I, know if we can be of any assistance in walking through exactly what is required to send forward (i.e. the rack and stack, etc.).

Thanks everyone --LR

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 15, 2005 8:22 AM
To: Bucholtz, Jeffrey (CIV)
Subject: new bivens case?

Do you know anything about this?

Eight Iraqis Suing Defense Department For Treatment While Detained By US. The ACLU and Human Rights First have filed a lawsuit on behalf of eight former prisoners who were detained by the US military in Iraq. ABC World News Tonight (11/14, story 4, 2:30, Vargas) last night interviewed two of the men, Thahee Sabbar and Sherzad Khalid, who claimed to be grocers who were arrested for unknown reasons in July, 2003. For "months after, the two men allege they were tortured in camps all over Iraq, including Abu Ghraib." They alleged "repeated beatings, mock executions, deprivation of sleep, food and water, sexual humiliation." Khalid was "released in September, 2003; Sabbar, in January 2004. As is with the case with many detainees, no charges were filed against them. The two men, together with six other former prisoners, are now suing Defense Secretary Donald Rumsfeld for violations of their rights and are seeking damages. It is basically their word against the US military." Both the Pentagon "and the Justice Department acknowledge the two men were prisoners, but refused to comment on their allegations."

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, November 15, 2005 11:36 AM
To: Shaw, Aloma A
Subject: RE: (Time Sensitive) SES Performance Appraisals and Accomplishments
Attachments: performance work plan.doc

-----Original Message-----
From: Shaw, Aloma A
Sent: Tuesday, November 15, 2005 11:31 AM
To: Gorsuch, Neil M
Subject: RE: (Time Sensitive) SES Performance Appraisals and Accomplishments

Send it to me.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, November 14, 2005 7:16 PM
To: Shaw, Aloma A
Subject: RE: (Time Sensitive) SES Performance Appraisals and Accomplishments

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Cc: McCallum, Robert (SMO); Gunn, Currie (SMO); Shaw, Aloma A
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Robert, please let either Tracy, or Currie, or I, know if we can be of any assistance in walking through exactly what is required to send forward (i.e. the rack and stack, etc.).

Thanks everyone --LR

Accountability for Organizational Results

Helped coordinate litigation efforts involving a number of national security matters -- including the Darby photos litigation and FOIA case seeking a poll of Guantanamo Bay detainees -- with DOD, SDNY, NSC, White House Counsel, among others

Helped coordinate legislative effort on Graham Amendment within DOJ and in consultation with DOD and others

Drafted speeches on terrorism and national security efforts for the Attorney General

Appeared on behalf of ASG as required for speeches, conferences, meetings

Helped draft policy and legislation on avian flu and volunteer liability in national disasters

Helped draft motion to dismiss the first set of Bivens suits related to the war on terrorism consolidated before Judge Hogan

Assumed responsibility for Edmonds litigation

Chaired trade group and appeared on behalf of DOJ in other interagency working groups (e.g., BRAC)

Accountability for People/Workforce

Participated on committee reviewing the options for improving the Department's workforce structure for privacy and civil liberty related issues; helped write committee's draft report

Helped in recruiting efforts for OASG and new privacy office

Helped coordinate component management questions and concerns during ASG's tenure as Acting DAG

Accountability for Taxpayer Value

Assisted with immigration litigation overflow by assuming responsibility for an immigration appeal and drafting appellate brief

Assisted ASG in determining whether to approve settlements reached by components as wise expenditures of the government's resources

Helped coordinate with OMB on Indian water rights litigation issues, avian flu liability scheme, draft volunteer liability legislation, and other matters with a budget impact

Accountability for Confidential Policy Making

Provided confidential advice to the ASG and other senior leaders in the Department on litigation matters and ensured appropriate consultation with Administration leaders outside the Department on those matters

Resolved by negotiation a CRT employment investigation

Assisted in drafting of attorney-client waiver policy memo and subsequently advised USAO offices, as requested, on how to implement policy

Helped develop and coordinate new departmental policy with respect to bullet-proof vests

Provided timely updates on national security litigation issues to policy makers inside and outside DOJ

Shaw, Aloma A

Subject:	Detainee Legislation Meeting
Location:	WH Sit Room
Start:	Tuesday, November 29, 2005 9:30 AM
End:	Tuesday, November 29, 2005 10:30 AM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Shaw, Aloma A
Required Attendees:	Gorsuch, Neil M; Bradbury, Steve

When: Tuesday, November 29, 2005 9:30 AM-10:30 AM (GMT-05:00) Eastern Time (US & Canada).
Where: WH Sit Room

~~*~*~*~*~*~*~*~*

Purpose: to discuss proposed Rumsfeld letter to conferees on National Defense Authorization Act, as well as our broader legislative strategy on detainee legislation.

Proposed Attendees:
Harriet Miers, Mike Allen, Sandy Hodgkinson, Steve Slick, Steve Bradbury, Jim Haynes or designee, John Bellinger or designee, Jon Rizzo or designee, Corin Stone, David Addington.

Mr. Bradbury if you'd like to ride along with Neil to this meeting, his car will depart 10th St. gate at 9:15 am and return at 10:35 am.

Mitchell, Dyone

From: Mitchell, Dyone
Sent: Thursday, December 1, 2005 5:31 PM
To: Gorsuch, Neil M
Subject: Not read: DUE NOON, NOV 30 LRM MBL59 - - DEFENSE (Rumsfeld) Letter to Conferees on S1042 & HR 1815 National Defense Authorization Act for FY 2006

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 3:06 PM
To: [redacted]@apprisemedia.com'
Subject: RE: Detainee Treatment Roundtable

I'd vote to stick with the two we have.

-----Original Message-----
From: [redacted]@apprisemedia.com [mailto [redacted]@apprisemedia.com]
Sent: Tuesday, December 06, 2005 2:57 PM
To: Gorsuch, Neil M
Subject: FW: Detainee Treatment Roundtable

Unfortunate about DOD. This is a potential back up - do you want to call him today to vet him? Any other thoughts for participants?
Michael

-----Original Message-----
From: [redacted]@cfr.org [mailto [redacted]@cfr.org]
Sent: Tuesday, December 06, 2005 10:39 AM
To: [redacted]
Cc: [redacted]@cfr.org
Subject: Re: Detainee Treatment Roundtable

[redacted]

The JAG Corps and West Point are planning to send [redacted] down for the panel. They just called. Do you want to speak to him directly? Let me know how I can help. Here is the info:

Cheers,
[redacted]

|----------|
| | | [redacted] | | | | | | Visiting Professor of Law, Department of Law | | | | | | U.S. Military Academy; 646 Swift Road; West Point, NY 10996-1905 | | | | | | Office phone: [redacted] fax: 845-938-5541; office e-mail: | [redacted]@usma.edu | |

(See attached file: Solis CV.doc)

[redacted]
Research Associate, Military Fellows
Council on Foreign Relations
58 East 68th Street

58 East 68th Street
New York, NY 10021
(212)434-9490
[redacted]@cfr.org
http://www.cfr.org

[redacted]
[redacted]@appri To
semedia.com> [redacted]@cfr.org>
cc
12/01/2005 07:47 [redacted]@cfr.org>,
PM [redacted]@cfr.org>,
<ngorsuch@khhte.com>
Subject
Re: Detainee Treatment Roundtable

[redacted]
Thanks for forwarding. These all look like compelling participants, and I believe Neil Gorsuch, (who is coordinating with me), knows some of the presenters listed below.

Should we follow up with [redacted]
or the suggested panelists first?

[redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From [redacted]@cfr.org <[redacted]@cfr.org>
To: [redacted] <[redacted]@apprisemedia.com>
CC: [redacted]@cfr.org <[redacted]@cfr.org>; [redacted]@cfr.org <[redacted]@cfr.org>
Sent: Thu Dec 01 13:06:43 2005
Subject: Detainee Treatment Roundtable

[redacted]

See e-mail below. I think one of these consultants would be a good possibility for the panel discussion

on 12 Dec. I'll let you make contact.

[redacted]

[redacted]
Senior Military Fellow
Council on Foreign Relations
58 East 68th Street, New York, NY 10021 Tel[redacted]ax (212) 434-9816 http://www.cfr.org

----- Forwarded by Evans Revere/NY/CFR on 12/01/2005 03:30 PM -----

"[redacted]CIV, OSD-POLICY" [redacted]@osd.mil>

12/01/2005 03:28 PM
To
"[redacted]@cfr.org'" <[redacted]@cfr.org> cc
"[redacted]@osd.gov'" <[redacted]@osd.gov> Subject
BRIEFING PROPOSAL

[redacted]
Delighted to touch base again after several years being in the trenches.
I'm working as the policy advisor for the Office of Detainee Affairs under the Office of Secretary of Defense. We do policy for the Department of Defense related to detainee issues Part of our charter is outreach and we have an outreach presentation related to our operations in Guantanamo Bay which I believe would be an interesting forum/presentation for the Council.
The four presenters are:

1 [redacted] Principal Director, Office of Detainee Affairs, Office of the Secretary of Defense (DASD-DA) 2. [redacted] Director, Office for the Administrative Review of the Detention of Enemy Combatants (OARDEC) 3. [redacted] USAF, Legal Adviser to the Appointing Authority, Office of Military Commissions (OMC)

4 [redacted] USAF, Detainee Affairs Division Chief, Joint Chiefs of Staff (JCS) Given the dates of the presentation organizational substitutes may be used, but the format will be the same.
The panel is called "the Guantanamo Bay Detainee Policies, Proceses and Operations brief".
The brief is approximately 50 minutes is length and followed by a 30 minute Q and A session. Of course a closed door non attribution session with the Council experts is also possible.

Please discuss with your colleagues and let's discuss. My telephone number is: [redacted] Hope you are enjoying my favorite town and look forward to seeing you in the near future.

Cheers,
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 3:44 PM
To: [redacted]@apprisemedia.com'
Subject: RE: Detainee Treatment Roundtable

Will give him a call.

-----Original Message-----
From: [redacted]@apprisemedia.com [mailto: [redacted]@apprisemedia.com]
Sent: Tuesday, December 06, 2005 3:18 PM
To: Gorsuch, Neil M
Subject: Re: Detainee Treatment Roundtable

Want to throw in your buddy as a third? The ny prosecutor?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To: [redacted]@apprisemedia.com>
Sent: Tue Dec 06 12:08:06 2005
Subject: RE: Detainee Treatment Roundtable

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"[redacted]@osd.gov'" [redacted]@osd.gov> Subject
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Cheers,
[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 6:53 PM
To: Williams, Jan
Subject: Re: War on Terror Event with President Bush

Does this mean as well that you and Lu aren't going?

-----Original Message-----
From: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Agarwal, Asheesh (CIV) <aagarwal@CIV.USDOJ.GOV>; Akers, Eric J. <Eric.J.Akers@usdoj.gov>; Ames, Andrew <Andrew.Ames@SMOJMD.USDOJ.gov>; Barnett, Thomas O. <Thomas.Barnett@ATR.USDOJ.gov>; Battle, Michael (USAEO) <Michael.Battle@usdoj.gov>; Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>; Beck, Cherith (USAARE) <Cherith.Beck@usdoj.gov>; Bianco, Joseph F. <Joseph.F.Bianco@usdoj.gov>; Blomquist, Kathleen M <Kathleen.M.Blomquist@SMOJMD.USDOJ.gov>; Boardman, Michelle <Michelle.Boardman@SMOJMD.USDOJ.gov>; Bottner, Andrea <Andrea.Bottner@usdoj.gov>; Bounds, Ryan W (OLP) <Ryan.W.Bounds@SMOJMD.USDOJ.gov>; Bradbury, Steve <Steve.Bradbury@SMOJMD.USDOJ.gov>; Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; Burch, Victoria <Victoria.Burch@usa.usdoj.gov>; Chambers, Shane P <Shane.P.Chambers@SMOJMD.USDOJ.gov>; Clinger, James H <James.H.Clinger@SMOJMD.USDOJ.gov>; Cohen, Brian <Brian.Cohen@SMOJMD.USDOJ.gov>; Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>; Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>; Cook, Elisebeth C <Elisebeth.C.Cook@SMOJMD.USDOJ.gov>; Cook, Marita L. (USAWY) <Marita.Cook@usdoj.gov>; Cooperstein, Theodore M <Theodore.M.Cooperstein@SMOJMD.USDOJ.gov>; Coppenger, Chesed L. (TAX) <Chesed.L.Coppenger@tax.USDOJ.gov>; Costigan, Michael <Michael.J.Costigan@usdoj.gov>; Coughlin, Robert <Robert.Coughlin@usdoj.gov>; Curtis, O. Benton <O.Benton.Curtis@usa.usdoj.gov>; Daley, Cybele <Cybele.Daley@usdoj.gov>; David, Matt <Matt.David@usdoj.gov>; Dhillon, Uttam <Uttam.Dhillon@SMOJMD.USDOJ.gov>; Dummermuth, Matt (USAVAE) <Matt.Dummermuth@usdoj.gov>; Eisenberg, John <John.Eisenberg@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Elwood, John <John.Elwood@SMOJMD.USDOJ.gov>; Flaherty, Connor <Connor.Flaherty@usdoj.gov>; Freeman, Sharee (CRT) <Sharee.Freeman@crt.usdoj.gov>; Friedrich, Matthew <Matthew.Friedrich2@usdoj.gov>; [redacted] (USMS) [redacted]@usdoj.gov>; Garre, Gregory G <Gregory.G.Garre@SMOJMD.USDOJ.gov>; Glut, Martha (USANE) <Martha.Glut@usdoj.gov>; Gober, Chris <Chris.Gober@SMOJMD.USDOJ.gov>; Golden, Lois <Lois.Golden@usa.usdoj.gov>; Goodling, Monica <Monica.Goodling@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Hagle, Timothy <Timothy.Hagle@usdoj.gov>; Harris, Gregory <Gregory.Harris@usa.usdoj.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Hofer, Patrick F. (TAX) <Patrick.F.Hofer@tax.USDOJ.gov>; Holland, Eric W <Eric.W.Holland@SMOJMD.USDOJ.gov>; Irving, John (ODAG) <John.Irving@SMOJMD.USDOJ.gov>; Jaffer, Jamil N <Jamil.N.Jaffer@SMOJMD.USDOJ.gov>; Jordan, Theresa (USADE) <Theresa.Jordan@usdoj.gov>; Jungeblut, Neal P. <Neal.P.Jungeblut@usdoj.gov>; Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>; Keehner, Laura <Laura.Keehner@usdoj.gov>; Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>; Korn, Jennifer <Jennifer.Korn@SMOJMD.USDOJ.gov>; Losch, Jaclyn <Jaclyn.Losch@SMOJMD.USDOJ.gov>;

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OV>
CC: Washington, Tracy T <Tracy.T.Washington@SMOJMD.USDOJ.gov>; Spagnoli, Deborah A. (USPC) <Deborah.Spagnoli@usdoj.gov>
Sent: Tue Dec 06 17:41:36 2005
Subject: RE: War on Terror Event with President Bush

We no longer have access to tickets for tomorrow's event. To those who rsvped, please DO NOT PLAN ON ATTENDING. Sorry for the inconvenience.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 7:53 PM
To: Williams, Jan; Reyes, Luis (SMO)
Subject: Re: War on Terror Event with President Bush

I have secured tix for you two thru CFR. If you don't want to use them plse let me know asap. I have a car lvg ninth st at 940 if you'd like to go with me.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>
Sent: Tue Dec 06 18:53:02 2005
Subject: Re: War on Terror Event with President Bush

Does this mean as well that you and Lu aren't going?

-----Original Message-----
From: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Agarwal, Asheesh (CIV) <aagarwal@CIV.USDOJ.GOV>; Akers, Eric J. <Eric.J.Akers@usdoj.gov>; Ames, Andrew <Andrew.Ames@SMOJMD.USDOJ.gov>; Barnett, Thomas O. <Thomas.Barnett@ATR.USDOJ.gov>; Battle, Michael (USAEO) <Michael.Battle@usdoj.gov>; Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>; Beck, Cherith (USAARE) <Cherith.Beck@usdoj.gov>; Bianco, Joseph F. <Joseph.F.Bianco@usdoj.gov>; Blomquist, Kathleen M <Kathleen.M.Blomquist@SMOJMD.USDOJ.gov>; Boardman, Michelle <Michelle.Boardman@SMOJMD.USDOJ.gov>; Bottner, Andrea <Andrea.Bottner@usdoj.gov>; Bounds, Ryan W (OLP) <Ryan.W.Bounds@SMOJMD.USDOJ.gov>; Bradbury, Steve <Steve.Bradbury@SMOJMD.USDOJ.gov>; Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; Burch, Victoria <Victoria.Burch@usa.usdoj.gov>; Chambers, Shane P <Shane.P.Chambers@SMOJMD.USDOJ.gov>; Clinger, James H <James.H.Clinger@SMOJMD.USDOJ.gov>; Cohen, Brian <Brian.Cohen@SMOJMD.USDOJ.gov>; Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>; Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>; Cook, Elisebeth C <Elisebeth.C.Cook@SMOJMD.USDOJ.gov>; Cook, Marita L. (USAWY) <Marita.Cook@usdoj.gov>; Cooperstein, Theodore M <Theodore.M.Cooperstein@SMOJMD.USDOJ.gov>; Coppenger, Chesed L. (TAX) <Chesed.L.Coppenger@tax.USDOJ.gov>; Costigan, Michael <Michael.J.Costigan@usdoj.gov>; Coughlin, Robert <Robert.Coughlin@usdoj.gov>; Curtis, O. Benton <O.Benton.Curtis@usa.usdoj.gov>; Daley, Cybele <Cybele.Daley@usdoj.gov>; David, Matt <Matt.David@usdoj.gov>; Dhillon, Uttam <Uttam.Dhillon@SMOJMD.USDOJ.gov>; Dummermuth, Matt (USAVAE) <Matt.Dummermuth@usdoj.gov>; Eisenberg, John <John.Eisenberg@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Elwood, John <John.Elwood@SMOJMD.USDOJ.gov>; Flaherty, Connor <Connor.Flaherty@usdoj.gov>; Freeman, Sharee (CRT) <Sharee.Freeman@crt.usdoj.gov>; Friedrich, Matthew <Matthew.Friedrich2@usdoj.gov>; [redacted](USMS) [redacted]

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CC: Washington, Tracy T <Tracy.T.Washington@SMOJMD.USDOJ.gov>; Spagnoli, Deborah A. (USPC) <Deborah.Spagnoli@usdoj.gov>
Sent: Tue Dec 06 17:41:36 2005
Subject: RE: War on Terror Event with President Bush

We no longer have access to tickets for tomorrow's event. To those who rsvped, please DO NOT PLAN ON ATTENDING. Sorry for the inconvenience.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 8:59 AM
To: Williams, Jan; Reyes, Luis (SMO)
Subject: RE: War on Terror Event with President Bush

Is there someone else who particularly wanted to go? Lu and I are going and I have one more ticket.

-----Original Message-----
From: Williams, Jan
Sent: Wednesday, December 07, 2005 8:32 AM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: RE: War on Terror Event with President Bush

Neil, thank you. but now I cant go. I am sorry. I want a full report.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 7:53 PM
To: Williams, Jan; Reyes, Luis (SMO)
Subject: Re: War on Terror Event with President Bush

I have secured tix for you two thru CFR. If you don't want to use them plse let me know asap. I have a car lvg ninth st at 940 if you'd like to go with me.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>
Sent: Tue Dec 06 18:53:02 2005
Subject: Re: War on Terror Event with President Bush

Does this mean as well that you and Lu aren't going?

-----Original Message-----
From: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Agarwal, Asheesh (CIV) <aagarwal@CIV.USDOJ.GOV>; Akers, Eric J. <Eric.J.Akers@usdoj.gov>; Ames, Andrew <Andrew.Ames@SMOJMD.USDOJ.gov>; Barnett, Thomas O. <Thomas.Barnett@ATR.USDOJ.gov>; Battle, Michael (USAEO) <Michael.Battle@usdoj.gov>; Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>; Beck, Cherith (USAARE) <Cherith.Beck@usdoj.gov>; Bianco, Joseph F. <Joseph.F.Bianco@usdoj.gov>; Blomquist, Kathleen M <Kathleen.M.Blomquist@SMOJMD.USDOJ.gov>;

<Joseph.P.Bianco@usdoj.gov>; Blomquist, Kathleen M <Kathleen.M.Blomquist@SMOJMD.USDOJ.gov>; Boardman, Michelle <Michelle.Boardman@SMOJMD.USDOJ.gov>; Bottner, Andrea <Andrea.Bottner@usdoj.gov>; Bounds, Ryan W (OLP) <Ryan.W.Bounds@SMOJMD.USDOJ.gov>; Bradbury, Steve <Steve.Bradbury@SMOJMD.USDOJ.gov>; Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; Burch, Victoria <Victoria.Burch@usa.usdoj.gov>; Chambers, Shane P <Shane.P.Chambers@SMOJMD.USDOJ.gov>; Clinger, James H <James.H.Clinger@SMOJMD.USDOJ.gov> ; Cohen, Brian <Brian.Cohen@SMOJMD.USDOJ.gov>; Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>; Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>; Cook, Elisebeth C <Elisebeth.C.Cook@SMOJMD .USDOJ.gov>; Cook, Marita L. (USAWY) <Marita.Cook@usdoj.gov>; Cooperstein, Theodore M <Theodore.M.Cooperstein@SMOJMD.USDOJ.gov>; Coppenger, Chesed L. (TAX) <Chesed.L.Coppenger@tax.USDOJ.gov>; Costigan, Michael <Michael.J.Costigan@usdoj.gov>; Coughlin, Robert <Robert.Coughlin@usdoj.gov>; Curtis, O. Benton <O.Benton.Curtis@usa.usdoj.gov>; Daley, Cybele <Cybele.Daley@usdoj.gov>; David, Matt <Matt.David@usdoj.gov>; Dhillon, Uttam <Uttam.Dhillon@SMOJMD.USDOJ.gov>; Dummermuth, Matt (USAVAE) <Matt.Dummermuth@usdoj.g ov>; Eisenberg, John <John.Eisenberg@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Elwood, John <John.Elwood@SMOJMD.USDOJ.gov>; Flaherty, Connor <Connor.Flaherty@usdoj.gov>; Freeman, Sharee (CRT) <Sharee.Freeman@crt.usdoj.gov >; Friedrich, Matthew <Matthew.Friedrich2@usdoj.gov>; [redacted] (USMS) <[redacted]@usdoj.gov>; Garre, Gregory G <Gregory.G.Garre@SMOJMD.USDOJ.gov>; Glut, Martha (USANE) <Martha.Glut@usdoj.gov>; Gober, Chris <Chris.Gober@SMOJMD.USDOJ.gov>; Golden, Lois <Lois.Golden@usa.usdoj.gov>; Goodling, Monica <Monica.Goodling@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Hagle, Timothy <Timothy.Hagle@usdoj.gov>; Harris, Gregory <Gregory.Harris@usa.usdoj.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDO J.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Hofer, Patrick F. (TAX) <Patrick.F.Hofer@tax.USDOJ.gov>; Holland, Eric W <Eric.W.Holland@SMOJMD.USDOJ.gov>; Irving, John (ODAG) <John.Irving@SMOJMD.USDOJ.gov>; Jaffer, Jamil N <Jamil.N.Jaffer@SMOJMD.USDOJ. gov>; Jordan, Theresa (USADE) <Theresa.Jordan@usdoj.gov>; Jungeblut, Neal P. <Neal.P.Jungeblut@usdoj.gov>; Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>; Keehner, Laura <Laura.Keehner@usdoj.gov>; Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>; Korn, Jennifer <Jennifer.Korn@SMOJMD.USDOJ.gov>; Lesch, Jaclyn <Jaclyn.Lesch@SMOJMD.USDOJ.gov>; Lonick, Saundra <Saundra.Lonick@usdoj.gov>; Luckinbill, Trent W. <Trent.Luckinbill@ATR.USDOJ.gov>; Macklin, Kristi R <Kristi.R.Macklin@SMOJMD.USDOJ.gov>; MacLean, Alex (CRT) <Alex.MacLean@crt.usdoj.gov>; Magnuson, Cynthia <Cynthia.Magnuson@SMOJMD.USDOJ.gov>; Malloy, Sandra [EX:/O=USDOJ/OU=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy]; Marshall, C. Kevin <C.Kevin.Marshall@SMOJMD.USDOJ.gov>; Martinson, Wanda <Wanda.Martinson@SMOJMD. USDOJ.gov>; Masoudi, Gerald <Gerald.Masoudi@ATR.USDOJ.gov>; McArthur, Patrick <Patrick.McArthur@SMOJMD.USDOJ.gov>; McDonald, Bruce <Bruce.Mcdonald@ATR.USDOJ.gov>; McFarland, Steven T (ODAG) <Steven.T.McFarland@SMOJMD.USDOJ.gov>; McIntosh, Brent <Brent.McIntosh@SMOJMD.USDOJ.gov>; McKee, Cindy (USAKS) <Cindy.McKee@usdoj.gov>; McKeown, Matt (ENRD) <MMcKeown2@ENRD.USDOJ.GOV>; McKnight, Cynthia M (CRT) <Cynthia.McKnight@crt.usdoj.gov>; McNally, Edward <Edward.McNally@usdoj.gov>; McNeil, Tucker (OPA) <Tucker.McNeil@SMOJMD.USDOJ.gov>; Meron, Daniel (CIV) <DMeron@CIV.USDOJ.GOV>; Metcalf, Mark H (CRT) <Mark.H.Metcalf@crt.usdoj.gov>; Miranda, Matthew <Matthew.Miranda@usa.usdoj.gov>; Monheim, Thomas <Thomas.Monheim@SMOJMD.USDOJ.gov>; Moore, Miriam (ODAG) <Miriam.Moore@SMOJMD.USDOJ.gov>; Morrison, Richard T. (TAX) <Richard.T.Morrison@tax.USDOJ.gov>; Murphy, Sean <Sean.Murphy@usdoj.gov>; Nelson, Carolyn Pasternak <Carolyn.Nelson@ATR.USDOJ.gov>; Neumayr, Mary (ENRD) <Mary.Neumayr@usdoj.gov>; Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>; Nichols, Grant W <Grant.W.Nichols@SMOJMD.USDOJ .gov>; Nowacki, John <John.Nowacki@SMOJMD.USDOJ.gov>; OConnell, James <James.OConnell@ATR.USDOJ.gov>; Otis, Lee L <Lee.L.Otis@SMOJMD.USDOJ.gov>; Otis, William G. <William.G.Otis@usdoj.gov>; Parsky, Laura <Laura.Parsky@usdoj.gov>; Peabody, Payson R. (TAX)

<Payson.R.Peabody@tax.USDOJ.gov>; Peed, Carl <Carl.Peed@usdoj.gov>; Potter, Janet <Janet.Potter@SMOJMD.USDOJ.gov>; Racicot, Tim (USAMT) <Tim.Racicot2@usdoj.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Roberts, Crystal <Crystal.Roberts@SMOJMD.USDOJ.gov>; Roe, Price (OCIO) <Price.Roe@SMOJMD.USDOJ.gov>; Roehrkasse, Brian <Brian.Roehrkasse@SMOJMD.USDOJ.gov>; Roper, Matt M <Matt.M.Roper@SMOJMD.USDOJ.gov>; Rosenberg, Chuck <Chuck.Rosenberg@SMOJMD.USDOJ.gov>; Rowe, Kiri <Kirsten.Rowe@usdoj.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Schlozman, Brad (CRT) <Brad.Schlozman@crt.usdoj.gov>; Schmitt, Glenn <Glenn.Schmitt@usdoj.gov>; Schwartz, Arthur <Arthur.Schwartz@SMOJMD.USDOJ.gov>; Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>; Seidel, Rebecca <Rebecca.Seidel@SMOJMD.USDOJ.gov>; Selim, George (CRS) <George.Selim@CRS.USDOJ.GOV>; Sellers, Kiahna (OAG) <Kiahna.Sellers@SMOJMD.USDOJ.gov>; Smith, Kimberly A <Kimberly.A.Smith@SMOJMD.USDOJ.gov>; Sours, Raquel <Raquel.Sours@SMOJMD.USDOJ.gov>; Strug, Kerri <Kerri.Strug@usdoj.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Taylor, Bruce A. <Bruce.A.Taylor@usdoj.gov>; Tenpas, Ronald J (ODAG) <Ronald.J.Tenpas@SMOJMD.USDOJ.gov>; Todd, Gordon (OLP) <Gordon.Todd@SMOJMD.USDOJ.gov>; Tomlinson, Linda (USANH) <Linda.Tomlinson@usdoj.gov>; Turner, Donald J. (USAPAM) <Donald.Turner@usdoj.gov>; Tzitzon, Nicholas <Nicholas.Tzitzon@usdoj.gov>; Underhill, Deborah <Deborah.Underhill@SMOJMD.USDOJ.gov>; Vargas, Omar (CRT) <Omar.Vargas@crt.usdoj.gov>; Voris, Natalie (USAEO) <Natalie.Voris@usdoj.gov>; Warren, Julie <Julie.Warren@SMOJMD.USDOJ.gov>; Woodruff, William <William.Woodruff@usdoj.gov>; Brand, Rachel <Rachel.Brand@SMOJMD.USDOJ.gov>; [redacted] (USMS) [redacted]@usdoj.gov>; Clement, Paul D <Paul.D.Clement@SMOJMD.USDOJ.gov>; Fisher, Alice <Alice.Fisher@usdoj.gov>; Flores, Robert <Robert.Flores@usdoj.gov>; Gillis, John <John.Gillis@usdoj.gov>; Herraiz, Domingo S. <Domingo.S.Herraiz@usdoj.gov>; Keisler, Peter D (CIV) <pkeisler@CIV.USDOJ.GOV>; Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>; Leonhart, Michele M. <Michele.M.Leonhart@usdoj.gov>; McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; McNulty, Paul J <Paul.J.McNulty@SMOJMD.USDOJ.gov>; Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>; O'Connor, Eileen J. (AAG/TAX) <Eileen.J.O'Connor@tax.USDOJ.gov>; Sanchez, William J (CRT) <William.J.Sanchez@crt.usdoj.gov>; Tamargo, Mauricio J <Mauricio.J.Tamargo@SMOJMD.USDOJ.gov>; Tandy, Karen P <Karen.P.Tandy@SMOJMD.USDOJ.gov>; Wooldridge, Sue Ellen (ENRD) <SWooldridg@ENRD.USDOJ.GOV>
CC: Washington, Tracy T <Tracy.T.Washington@SMOJMD.USDOJ.gov>; Spagnoli, Deborah A. (USPC) <Deborah.Spagnoli@usdoj.gov>
Sent: Tue Dec 06 17:41:36 2005
Subject: RE: War on Terror Event with President Bush

We no longer have access to tickets for tomorrow's event. To those who rsvped, please DO NOT PLAN ON ATTENDING. Sorry for the inconvenience.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 12:47 PM
To: Williams, Jan; Reyes, Luis (SMO)
Subject: RE: War on Terror Event with President Bush

Sorry, got this after we were already on our way.

-----Original Message-----
From: Williams, Jan
Sent: Wednesday, December 07, 2005 9:44 AM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: RE: War on Terror Event with President Bush

alex Maclean in OSC, CRT.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 8:59 AM
To: Williams, Jan; Reyes, Luis (SMO)
Subject: RE: War on Terror Event with President Bush

Is there someone else who particularly wanted to go? Lu and I are going and I have one more ticket.

-----Original Message-----
From: Williams, Jan
Sent: Wednesday, December 07, 2005 8:32 AM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: RE: War on Terror Event with President Bush

Neil, thank you. but now I cant go. I am sorry. I want a full report.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, December 06, 2005 7:53 PM
To: Williams, Jan; Reyes, Luis (SMO)
Subject: Re: War on Terror Event with President Bush

I have secured tix for you two thru CFR. If you don't want to use them plse let me know asap. I have a car lvg ninth st at 940 if you'd like to go with me.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>
Sent: Tue Dec 06 18:53:02 2005
Subject: Re: War on Terror Event with President Bush

Does this mean as well that you and Lu aren't going?

-----Original Message-----
From: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>
To: Williams, Jan <Jan.Williams@SMOJMD.USDOJ.gov>; Agarwal, Asheesh (CIV) <aagarwal@CIV.USDOJ.GOV>; Akers, Eric J. <Eric.J.Akers@usdoj.gov>; Ames, Andrew <Andrew.Ames@SMOJMD.USDOJ.gov>; Barnett, Thomas O. <Thomas.Barnett@ATR.USDOJ.gov>; Battle, Michael (USAEO) <Michael.Battle@usdoj.gov>; Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>; Beck, Cherith (USAARE) <Cherith.Beck@usdoj.gov>; Bianco, Joseph F. <Joseph.F.Bianco@usdoj.gov>; Blomquist, Kathleen M <Kathleen.M.Blomquist@SMOJMD.USDOJ.gov>; Boardman, Michelle <Michelle.Boardman@SMOJMD.USDOJ.gov>; Bottner, Andrea <Andrea.Bottner@usdoj.gov>; Bounds, Ryan W (OLP) <Ryan.W.Bounds@SMOJMD.USDOJ.gov>; Bradbury, Steve <Steve.Bradbury@SMOJMD.USDOJ.gov>; Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; Burch, Victoria <Victoria.Burch@usa.usdoj.gov>; Chambers, Shane P <Shane.P.Chambers@SMOJMD.USDOJ.gov>; Clinger, James H <James.H.Clinger@SMOJMD.USDOJ.gov>; Cohen, Brian <Brian.Cohen@SMOJMD.USDOJ.gov>; Cohn, Jonathan (CIV) <JCohn@CIV.USDOJ.GOV>; Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>; Cook, Elisebeth C <Elisebeth.C.Cook@SMOJMD.USDOJ.gov>; Cook, Marita L. (USAWY) <Marita.Cook@usdoj.gov>; Cooperstein, Theodore M <Theodore.M.Cooperstein@SMOJMD.USDOJ.gov>; Coppenger, Chesed L. (TAX) <Chesed.L.Coppenger@tax.USDOJ.gov>; Costigan, Michael <Michael.J.Costigan@usdoj.gov>; Coughlin, Robert <Robert.Coughlin@usdoj.gov>; Curtis, O. Benton <O.Benton.Curtis@usa.usdoj.gov>; Daley, Cybele <Cybele.Daley@usdoj.gov>; David, Matt <Matt.David@usdoj.gov>; Dhillon, Uttam <Uttam.Dhillon@SMOJMD.USDOJ.gov>; Dummermuth, Matt (USAVAE) <Matt.Dummermuth@usdoj.gov>; Eisenberg, John <John.Eisenberg@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Elwood, John <John.Elwood@SMOJMD.USDOJ.gov>; Flaherty, Connor <Connor.Flaherty@usdoj.gov>; Freeman, Sharee (CRT) <Sharee.Freeman@crt.usdoj.gov>; Friedrich, Matthew <Matthew.Friedrich2@usdoj.gov>; [redacted] (USMS) <[redacted]@usdoj.gov>; Garre, Gregory G <Gregory.G.Garre@SMOJMD.USDOJ.gov>; Glut, Martha (USANE) <Martha.Glut@usdoj.gov>; Gober, Chris <Chris.Gober@SMOJMD.USDOJ.gov>; Golden, Lois <Lois.Golden@usa.usdoj.gov>; Goodling, Monica <Monica.Goodling@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Hagle, Timothy <Timothy.Hagle@usdoj.gov>; Harris, Gregory <Gregory.Harris@usa.usdoj.gov>; Henke, Tracy (SMO) <Tracy.Henke@SMOJMD.USDOJ.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Hofer, Patrick F. (TAX) <Patrick.F.Hofer@tax.USDOJ.gov>; Holland, Eric W <Eric.W.Holland@SMOJMD.USDOJ.gov>; Irving, John (ODAG) <John.Irving@SMOJMD.USDOJ.gov>; Jaffer, Jamil N <Jamil.N.Jaffer@SMOJMD.USDOJ.gov>; Jordan, Theresa (USADE) <Theresa.Jordan@usdoj.gov>; Jungeblut, Neal P. <Neal.P.Jungeblut@usdoj.gov>; Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>; Keehner, Laura <Laura.Keehner@usdoj.gov>; Kessler, Elizabeth A <Elizabeth.A.Kessler@SMOJMD.USDOJ.gov>; Korn, Jennifer <Jennifer.Korn@SMOJMD.USDOJ.gov>; Lesch, Jaclyn <Jaclyn.Lesch@SMOJMD.USDOJ.gov>; Lonick, Saundra <Saundra.Lonick@usdoj.gov>; Luckinbill, Trent W. <Trent.Luckinbill@ATR.USDOJ.gov>; Macklin, Kristi R <Kristi.R.Macklin@SMOJMD.USDOJ.gov>; MacLean, Alex (CRT) <Alex.MacLean@crt.usdoj.gov>; Magnuson, Cynthia <Cynthia.Magnuson@SMOJMD.USDOJ.gov>;

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CC: Washington, Tracy T <Tracy.T.Washington@SMOJMD.USDOJ.gov>; Spagnoli, Deborah A. (USPC) <Deborah.Spagnoli@usdoj.gov>

Sent: Tue Dec 06 17:41:36 2005

Sent: Tue Dec 06 17:41:36 2005
Subject: RE: War on Terror Event with President Bush

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 07, 2005 3:15 PM
To: Nichols, Carl (CIV)
Subject: RE: Sen. Graham website

This is news to me, but anything we give to the Hill we have to assume that it's in public hands. Also, on first glance it appears that this page has been up for almost a month. Would pulling it down call undue attention to it? Is there anything specific about it that is wrong?

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Wednesday, December 07, 2005 3:10 PM
To: Henry, Terry (CIV); Gorsuch, Neil M
Subject: RE: Sen. Graham website

uggh. Neil, can we try to get them to take this down.

From: Henry, Terry (CIV)
Sent: Wednesday, December 07, 2005 3:08 PM
To: Nichols, Carl (CIV)
Subject: FW: Sen. Graham website

Carl, fyi.

Terry M. Henry
Senior Trial Counsel
Civil Division, Federal Programs Branch
U.S. Department of Justice
Tel. 202.514.4107

From: Katerberg, Robert (CIV)
Sent: Wednesday, December 07, 2005 3:03 PM
To: Henry, Terry (CIV); Warden, Andrew (CIV)
Subject: Sen. Graham website

Sen. Graham's folks apparently cut-and-pasted my conversational blurbs about various GTMO motions directly on his website for all the world to see, complete with "n.b."s and shorthand abbreviations. Yikes, I almost have to cringe. I wish that in the frenetic 30 minutes I was given to compile these things and write up blurbs, someone had informed me that we were ghostwriting for Sen. Graham's website, in which case I sure would have adopted a different tone.

http://lgraham.senate.gov/index.cfm?mode=presspage&id=248690

Examples of Habeas Petitions Filed on Behalf of Detainees

* Canadian detainee who threw a grenade that killed an Army medic in firefight and who comes from family with longstanding al Qaeda ties moves for preliminary injunction forbidding interrogation of him

or engaging in "cruel, inhuman, or degrading" treatment of him (n.b. this motion was denied by Judge Bates).

* "Al Odah motion for dictionary internet security forms" -- Kuwaiti detainees seek court orders that they be provided dictionaries in contravention of GTMO's force protection policy and that their counsel be given high-speed internet access at their lodging on the base and be allowed to use classified DoD telecommunications facilities, all on the theory that otherwise their "right to counsel" is unduly burdened.

* "Alladeen -- Motion for TRO re transfer" -- Egyptian detainee who Combatant Status Review Tribunal adjudicated as no longer an enemy combatant, and who was therefore due to be released by the US, files motion to block his repatriation to Egypt.

* "Paracha -- Motion for PI re Conditions" -- Motion by high level al Qaeda detainee complaining about base security procedures, speed of mail delivery, and medical treatment; seeking an order that he be transferred to the "least onerous conditions" at GTMO and asking the court to order that GTMO allow him to keep any books and reading materials sent to him and to "report to the Court" on "his opportunities for exercise, communication, recreation, worship, etc."

* "Motion for PI re Medical Records" -- Motion by detainee accusing military's health professionals of "gross and intentional medical malpractice" in alleged violation of the 4th, 5th, 8th, and 14th Amendments, 42 USC 1981, and unspecified international agreements.

* "Abdah -- Emergency Motion re DVDs" -- "emergency" motion seeking court order requiring GTMO to set aside its normal security policies and show detainees DVDs that are purported to be family videos.

* "Petitioners' Supp. Opposition" -- Filing by detainee requesting that, as a condition of a stay of litigation pending related appeals, the Court involve itself in his medical situation and set the stage for them to second-guess the provision of medical care and other conditions of confinement.

* "Al Odah Supplement to PI Motion" -- Motion by Kuwaiti detainees unsatisfied with the Koran they are provided as standard issue by GTMO, seeking court order that they be allowed to keep various other supplementary religious materials, such as a "tafsir" or 4-volume Koran with commentary, in their cells.

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 7, 2005 7:06 PM
To: Michael Allen (E-mail); John B. Wiegmann (E-mail); Moschella, William
Cc: Frank Jimenez (E-mail)
Subject: Graham

Interesting article suggesting House-Senate deal is close. Any word on where we stand with Graham? Anything we can do to help on this end?

http://www.bloomberg.com/apps/news?pid=10000103&sid=aMIQOxXrXJj8

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, December 12, 2005 5:33 PM
To:	Sampson, Kyle; Elwood, Courtney
Cc:	Reyes, Luis (SMO)
Subject:	FW: Trafficking Report

Appears that the KS human trafficking sentencing date has been set; as we've discussed at Strat. Initiative mtgs, the AG may wish to consider participating in this. Also as discussed, the report on the dept's h.t. work over last 4 yrs is progressing nicely as set forth below.

-----Original Message-----
From: Comisac, Rena (CRT)
Sent: Monday, December 12, 2005 5:29 PM
To: Reyes, Luis (SMO); Omar.Vargas@SMOJMD.USDOJ.gov
Cc: Pacold, Martha M; Gorsuch, Neil M
Subject: RE: Trafficking Report

Sentencing in Kaufman is scheduled for Monday, January 23. Our line prosecutors are optimistic that it will actually happen on that date.

As for the report, here is our plan:

Circulate first draft to working group: Tuesday, December 20, requesting response by Friday, December 23 Circulate second draft to working group: Wednesday, January 4, requesting response by Friday, January 6 Circulate final draft: Tuesday, January 10, requesting response by Wednesday, January 11 Final draft to printer: Thursday, January 12 (target date -- will depend on cost and turn-around time to print)

We got good feedback from the working group on the structure and content of the outline, and are plowing forward with drafting the narrative this week, so please let me know if you have input for us to consider and incorporate. Also, I would like your thoughts on printing options, including funding. I will give you a call to discuss. Thanks.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Monday, December 12, 2005 2:37 PM
To: Comisac, Rena (CRT); Omar.Vargas@SMOJMD.USDOJ.gov
Cc: Pacold, Martha M; Gorsuch, Neil M
Subject: Trafficking Report

Rena, Omar:
Hope you had a good weekend. Now that you have had a chance to see what data you have and to put together a structure, could please give us a quick updated on how you see this coming together and

how we are looking on time? Also, Rena, just wanted to confirm that we are looking potentially at early January for a sentencing in Kansas, correct? Thanks!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 8:55 AM
To: Reyes, Luis (SMO)
Subject: RE: Trafficking Report

I wonder whether CRT should prepare a memo recommending AG involvement in the KS sentencing press announcement just so that it gets teed up formally. What think you?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Monday, December 12, 2005 2:37 PM
To: Comisac, Rena (CRT); 'Omar.Vargas@SMOJMD.USDOJ.gov'
Cc: Pacold, Martha M; Gorsuch, Neil M
Subject: Trafficking Report

Rena, Omar:
Hope you had a good weekend. Now that you have had a chance to see what data you have and to put together a structure, could please give us a quick updated on how you see this coming together and how we are looking on time? Also, Rena, just wanted to confirm that we are looking potentially at early January for a sentencing in Kansas, correct? Thanks!

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 10:39 AM
To: Reyes, Luis (SMO)
Subject: RE: Trafficking Report

Thx. I agree that memo will need to be drawn up quickly.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, December 13, 2005 9:59 AM
To: Gorsuch, Neil M
Subject: RE: Trafficking Report

This makes good sense. Will have them gen up a quick memo, and get the time reserved on the AG's calendar sooner rather than later.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, December 13, 2005 8:55 AM
To: Reyes, Luis (SMO)
Subject: RE: Trafficking Report

I wonder whether CRT should prepare a memo recommending AG involvement in the KS sentencing press announcement just so that it gets teed up formally. What think you?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Monday, December 12, 2005 2:37 PM
To: Comisac, Rena (CRT); 'Omar.Vargas@SMOJMD.USDOJ.gov'
Cc: Pacold, Martha M; Gorsuch, Neil M
Subject: Trafficking Report

Rena, Omar:
Hope you had a good weekend. Now that you have had a chance to see what data you have and to put together a structure, could please give us a quick updated on how you see this coming together and how we are looking on time? Also, Rena, just wanted to confirm that we are looking potentially at early January for a sentencing in Kansas, correct? Thanks!

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Tuesday, December 13, 2005 4:39 PM
To:	McCallum, Robert (SMO); Elwood, Courtney; Sampson, Kyle; Moschella, William; Bradbury, Steve; Prestes, Brian; Eisenberg, John; Keisler, Peter D (CIV); Nichols, Carl (CIV); Brett Gerry (E-mail); Michael Allen (E-mail); John B. Wiegmann (E-mail)
Subject:	FW: Documents on Habeas Legislation
Attachments:	tmp.htm; RL33180 (Guantanamo Detainees- Habeas Corpus Challenges in Federal Court).pdf; JudgesLetter12.7.05.pdf

FYI. Neither the CRS report nor the judges letter is helpful to the cause of the Graham legislation. That said, the report, which focuses on the Senate passed bill, does help underscore the need for subsequently added language covering non-habeas lawsuits. And the authors of the letter by and large come as no surprise (though there are a few, such as Judge Pratt whom I've come to know and admire over the years).

-----Original Message-----
From: jimenezf@dodgc.osd.mil [mailto:jimenezf@dodgc.osd.mil]
Sent: Tuesday, December 13, 2005 12:01 PM
To: Gorsuch, Neil M
Subject: FW: Documents on Habeas Legislation

> -----Original Message-----
> From: Hecker Karen Maj AFLSA/JAJA
> Sent: Tuesday, December 13, 2005 11:40
> To: Becker, Grace, Ms, DoD OGC
> Cc: Jimenez, Frank, Mr, DoD OGC; terry.henry@usdoj.gov
> Subject: FW: Documents on Habeas Legislation
>
>
>
> -----Original Message-----
> From: Hecker, Karen, Ms DoD OGC
> Sent: Tuesday, December 13, 2005 11:20 AM
> To: Hecker Karen Maj AFLSA/JAJA
> Subject: FW: Documents on Habeas Legislation
>
>
>
> ----------
> From: Wolf, Kendal, CIV, OSD-POLICY
> Sent: Tuesday, December 13, 2005 11:20:20 AM
> To: Marrone, Christian, CIV, OSD-LA; Hecker, Karen, Ms DoD OGC;

> Beaver, Diane, Ms, DoD OGC; French, Christina, Ms, DoD OGC;
> Hyams, Ross, CIV, OSD-POLICY; Burfeind, Barbara, CIV, OSD-POLICY;
> Cooper, Zachary, CIV, OSD-POLICY; Del Monte, Bryan, CIV,
> OSD-POLICY;
> Fortune, Anthony, CIV, USA, OSD-POLICY
> Subject: Documents on Habeas Legislation
> Auto forwarded by a Rule
>
> You may be interested in the attached:
>
> Congressional Research Service report: "Guantanamo Detainees: Habeas > Corpus Challenges in Federal Court" > <<RL33180 (Guantanamo Detainees- Habeas Corpus Challenges in Federal > Court).pdf>>
>
> Congressional letter from a dozen retired federal judges against the > Graham provision on Habeas Corpus.
> <<JudgesLetter12.7.05.pdf>>
>
> V/R,
> Kendal
>
> J Kendal Wolf
> OSD/OUSD(P), Detainee Affairs
> Pentagon Room 5E420
> Kendal.Wolf@osd.mil / Kendal.Wolf@osd.smil.mil > COMM: (703) 693-7667 DSN: 223-7667 > Pager: 1-877-596-1647 / 8775961647@skytel.com
>

To Members of Congress:

The undersigned retired federal judges write to express our deep concern about the Amendment to the Defense Authorization bill, section 1092 of S.1042, which threatens to strip federal courts of their historic habeas corpus jurisdiction on behalf of prisoners detained at the Guantánamo Naval Base. This Amendment was first introduced by Senator Lindsey Graham. The Amendment raises constitutional, legal, and practical concerns of immense moment. Yet the Senate curtailed consideration to two fleeting floor debates, depriving the House and Senate Judiciary Committees of their proper jurisdiction to consider these issues. If passed without serious Committee consideration, this Amendment would shout profound disrespect by Congress of our Nation's federal courts, the United States Supreme Court in particular.

The Amendment concerns the habeas corpus jurisdiction of the federal courts to hear cases arising from the detentions at Guantánamo Bay. It could affect appeals from the status tribunals that have designated individuals as "enemy combatants" as well as appeals from the military commissions established to try war crimes. The Amendment potentially alters a long established tradition governing where challenges to detention may be brought and the claims that may be raised.

To be sure, Congress has a legitimate role in addressing the complex relationship between the Guantánamo Naval Base and the federal courts. But it should not rush to enact ill-fashioned provisions affecting the habeas corpus jurisdiction of the federal courts without even conducting hearings. We urge you to exclude the Amendment from the Defense Authorization bill. As Senator Arlen Specter, the Chairman of the Senate Judiciary Committee, powerfully argued, these issues should instead be referred to the House and Senate Judiciary Committees for their careful and expert consideration.

We appreciate the goal of avoiding an influx of frivolous claims, but no judge has found any filing of a Guantánamo detainee to be frivolous. In any event, federal judges are well-experienced and well-equipped in the task of sifting out frivolous claims from meritorious ones. Moreover, even cursory examination of the Amendment suggests that it raises more questions than it settles, and will increase litigation rather than limiting it. For example, in plain defiance of our long separation-of-powers tradition, the Amendment casts a cloud over ongoing cases, including *Hamdan v. Rumsfeld,* which the Supreme Court of the United States accepted for review only weeks ago. Congress has not attempted to short-circuit Supreme Court review of a habeas case since 1867, and there is no evidence that it considered the consequences of such a momentous decision here.

The Amendment could also shift the forum in pending habeas cases from the district court, where they are currently under review, to the court of appeals. These cases all seek to challenge the factual and legal basis for detentions at Guantánamo, and were filed after the Supreme Court's decision last year in *Rasul v. Bush*. The Government's forum-shopping in the midst of litigation is highly irregular, and inevitably creates a public

impression that the Government is manipulating the jurisdiction of the federal courts to achieve favored results.

This potential forum-shift raises deep concerns for another reason. In cases of executive detention, district court review of habeas petitions is central to fulfilling the Great Writ's historic purpose: to ensure that individuals are not unlawfully detained. Eliminating that critical district court function would jeopardize the Judiciary's ability to ensure that detention decisions by the federal executive are not grounded on torture or cruel, inhuman or degrading treatment. Indeed, the overwhelming endorsement of Senator John McCain's anti-abuse provision demonstrates that Congress recognizes the importance of this worthy goal. However, the Senate, in its haste, overlooked that habeas corpus is central to vindicating Senator McCain's provision.

For more than two hundred years, the federal courts have been key to maintaining our rule of law under the Constitution. This Amendment could erode long-exercised federal court review of military tribunals and executive detention. We urge you to subject this stark departure from our best legal traditions to the scrutiny and skepticism it deserves. We urge you to remove the Amendment from the Defense Authorization bill so that the House and Senate Judiciary Committees can exercise their proper jurisdiction in the manner that Senator Specter has rightly urged.

Respectfully,

Judge John J. Gibbons (ret'd)
U. S. Court of Appeals for the Third Circuit (1969 – 1990)

Judge Shirley M. Hufstedler (ret'd)
U. S. Court of Appeals for the Ninth Circuit (1968 – 1979)

Judge Nathaniel R. Jones (ret'd)
U. S. Court of Appeals for the Sixth Circuit (1979 – 2002)

Judge Timothy K. Lewis (ret'd)
U. S. District Court, Western District of Pennsylvania (1991 – 1992)
U. S. Court of Appeals for the Third Circuit (1992 – 1999)

Judge John S. Martin, Jr.
U. S. District Court, Southern District of New York (1990 – 2003)

Judge Abner J. Mikva (ret'd)
U. S. Court of Appeals for District of Columbia Circuit (1979 – 1994)
Chief Judge of the Court of Appeals for District of Columbia Circuit (1986 – 1994)

DOJ_NMG_0007383

Judge William A. Norris (ret'd)
U.S. Court of Appeals for the Ninth Circuit (1980 – 1997)

Judge Layn R. Phillips (ret'd)
U.S. District Court, Western District of Oklahoma (1987 – 1991)

Judge George C. Pratt (ret'd)
U. S. District Court, Eastern District of New York (1976 – 1982)
U. S. Court of Appeals for the Second Circuit (1982 – 1995)

Judge H. Lee Sarokin (ret'd)
U.S. District Court for the District of New Jersey (1979 – 1994)
U.S. Court of Appeals for the Third Circuit (1994 – 1996)

Judge Abraham D. Sofaer (ret'd)
U. S. District Court, Southern District of New York (1979 – 1985)
Legal Advisor, State Department (1985 – 1990)

Judge Patricia M. Wald (ret'd)
U.S. Court of Appeals for District of Columbia Circuit (1979 – 1999)
Chief Judge of the U.S. Court of Appeals for District of Columbia Circuit (1986 – 1991)

DOJ_NMG_0007384

Order Code RL33180

CRS Report for Congress
Received through the CRS Web

Guantanamo Detainees: *Habeas Corpus* Challenges in Federal Court

December 7, 2005

Jennifer K. Elsea and Kenneth Thomas
Legislative Attorneys
American Law Division

DOJ_NMG_0007385

Guantanamo Detainees: Habeas Corpus Challenges in Federal Court

Summary

After the U.S. Supreme Court held that U.S. courts have jurisdiction pursuant to 28 U.S.C. § 2241 to hear legal challenges on behalf of more than 500 persons detained at the U.S. Naval Station in Guantanamo Bay, Cuba, in connection with the war against terrorism (*Rasul v. Bush)*, the Pentagon established administrative hearings, called "Combatant Status Review Tribunals" (CSRTs), to allow the detainees to contest their status as enemy combatants, and informed them of their right to pursue relief in federal court by seeking a writ of habeas corpus. Lawyers have filed more than a dozen petitions on behalf of some 60 detainees in the District Court for the District of Columbia, where judges have reached conflicting conclusions as to whether the detainees have any enforceable rights to challenge their treatment and detention.

In one, *Hamdan v. Rumsfeld*, a federal judge ruled that a petitioner must be treated as a prisoner of war until a competent tribunal has decided otherwise, in accordance with the Geneva Conventions, and that the procedural rules the Department of Defense set up to govern military commissions are inconsistent with the Uniform Code of Military Justice (UCMJ), and therefore, the commissions lack jurisdiction. The government temporarily suspended the operation of military tribunals until the D.C. Circuit Court of Appeals reversed the district court's opinion, and the Supreme Court granted *certiorari*, where the case is pending as of the date of this report.

The Senate approved an amendment introduced by Senator Graham to S. 1042, the National Defense Authorization Act for FY2006, that would require the Secretary of Defense to report to Congress how it determines whether individual detainees are properly detained as enemy combatants, and to give to the District of Columbia Circuit Court of Appeals exclusive jurisdiction to hear appeals of those determinations, but also to foreclose the detainees' ability to petition for *habeas corpus* in any court. If enacted, the appeals provision of the Graham Amendment may allow detainees to raise many of the claims they might have raised in petitioning for a writ of *habeas corpus*, but may exclude some detainees from seeking any relief. The bill could end litigation at the district court, but may raise constitutional issues with respect to the Suspension Clause (U.S. Const. Art. 1, § 9, cl. 2), whether it amounts to an impermissible "court-stripping" measure to deprive the Supreme Court of jurisdiction over matters of law entrusted to it by the Constitution, and whether such constitutionally sensitive issues can be avoided in light of available alternative procedures.

This report provides an overview of the CSRT procedures, summarizes court cases related to the detentions and the use of military commissions, and summarizes the Graham Amendment and analyzes how it might affect detainee-related litigation in federal court. It will be updated as events warrant.

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Guantanamo Detainees: *Habeas Corpus* Challenges in Federal Court

In *Rasul v. Bush*, 124 S.Ct. 2686 (2004), a divided Supreme Court declared that "a state of war is not a blank check for the president"and ruled that persons deemed "enemy combatants" have the right to challenge their detention before a judge or other "neutral decision-maker." The decision reversed the holding of the Court of Appeals for the District of Columbia Circuit, which had agreed with the Bush Administration that no U.S. court has jurisdiction to hear petitions for *habeas corpus* by or on behalf of the detainees because they are aliens and are detained outside the sovereign territory of the United States. Lawyers have filed more than a dozen petitions on behalf of some 60 detainees in the District Court for the District of Columbia, where judges have reached conflicting conclusions as to whether the detainees have any enforceable rights to challenge their treatment and detention.

The Supreme Court granted *certiorari* in *Hamdan v. Rumsfeld* (05-184) to decide whether Congress authorized the President to try suspected terrorists by military commissions and whether detainees can assert rights under the 1949 Geneva Convention in an action for a writ of *habeas corpus* challenging the legality of their detention by the Executive branch. The Senate approved an amendment introduced by Senator Graham to S. 1042, the National Defense Authorization Act for FY2006, that would require the Secretary of Defense to submit to the Armed Services and Judiciary Committees the procedural rules for determining detainees' status,[1] which would be required to preclude evidence determined by the board or tribunal to have been obtained by undue coercion (S.Amdt. 2516 to S. 1042, "the Graham Amendment").[2] The Graham amendment would, if enacted, give exclusive jurisdiction to the D.C. Circuit Court of Appeals to hear appeals of those determinations as well as final verdicts of military commissions, but would foreclose the detainees' ability to petition for *habeas corpus* in any court,[3] effectively reversing the *Rasul* decision.

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[1] The amendment refers to both the Combatant Status Review Tribunals ("CSRTs"), the initial administrative procedure to confirm the detainees' status as enemy combatants, and the Administrative Review Boards, which were established to provide annual review that the detainees' continued detention is warranted.

[2] 151 CONG. REC. S12667 (daily ed. Nov. 10, 2005)(introduced by Sen. Graham, passed by roll call vote, 49 - 42), as amended by S.Amdt. 2524, 151 CONG. REC. S12771 (daily ed. Nov. 14, 2005).

[3] S.Amdt. 2515 to S. 1042, printed at 151 CONG. REC. S12655 (daily ed. Nov. 10, 2005)("Graham Amendment"), later amended by S.Amdt. 2524, 151 CONG. REC. S12771 (daily ed. Nov. 14, 2005).

This report provides background, including an overview of the *Rasul* decision and of the CSRT procedures established to comply with it, summarizes court cases related to the detentions and the use of military commissions, and summarizes the Graham Amendment and analyzes how it might affect detainee-related litigation in federal courts.

Background

The White House determined in February 2002 that Taliban detainees are covered under the Geneva Conventions,[4] while Al Qaeda detainees are not,[5] but that none of the detainees qualifies for the status of prisoner of war (POW).[6] The Administration has deemed all of them to be "unlawful enemy combatants," who may be held without trial or even if they are acquitted by a military tribunal. Fifteen of the detainees have been determined by the President to be subject to his military order ("MO") of November 13, 2001,[7] making them eligible for trial by military commission.[8]

Rasul v. Bush[9]

Petitioners were two Australians and twelve Kuwaitis (a petition on behalf of two U.K. citizens was mooted by their release) who were captured during hostilities in Afghanistan and are being held in military custody at the Guantanamo Bay Naval Base, Cuba. The Administration argued, and the court below had agreed, that under the 1950 Supreme Court case *Johnson v. Eisentrager* (339 U.S. 763), "'the privilege of litigation' does not extend to aliens in military custody who have no presence in 'any territory over which the United States is sovereign.'" The Court distinguished *Rasul* by noting that *Eisentrager* concerned the *constitutional* right to *habeas corpus* rather than the right as implemented by statute. The *Rasul* Court did not reach the constitutional issue, but found authority for federal court jurisdiction in 28 U.S.C. §

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[4] The two most relevant conventions are the Geneva Convention Relative to the Treatment of Prisoners of War, August 12, 1949, 6 U.S.T. 3317 (hereinafter "GPW"); Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3516 (hereinafter "GC").

[5] White House Memorandum, "Humane Treatment of al Qaeda and Taliban Detainees" (Feb. 7, 2002), *available at* [http://www.washingtonpost.com/wp-srv/nation/documents/020702bush.pdf].

[6] For more history and analysis, see CRS Report RL31367, *Treatment of 'Battlefield Detainees' in the War on Terrorism*, by Jennifer K. Elsea.

[7] Order on Detention, Treatment, and Trial of Certain Non-Citizens in the War against Terrorism, November 13, 2001, 66 Fed.Reg. 57,833 (2000)(hereinafter "MO" or "military order").

[8] For an analysis of the military commission rules, see CRS Report RL31600, *The Department of Defense Rules for Military Commissions: Analysis of Procedural Rules and Comparison with Proposed Legislation and the Uniform Code of Military Justice*, by Jennifer Elsea.

[9] 124 S. Ct. 2686 (2004).

2241, which grants courts the authority to hear applications for habeas corpus "within their respective jurisdictions," by any person who claims to be held "in custody in violation of the Constitution or laws or treaties of the United States."[10]

The Court also declined to read the statute to vary its geographical scope according to the citizenship of the detainee. Justice Kennedy, in a concurring opinion, would have found jurisdiction over the Guantanamo detainees based on the facts that Guantanamo is effectively a U.S. territory and is "far removed from any hostilities," and that the detainees are "being held indefinitely without the benefit of any legal proceeding to determine their status." Noting that the Writ of Habeas Corpus ("Writ") has evolved as the primary means to challenge executive detentions, especially those without trial, the Court held that jurisdiction over *habeas* petitions does not turn on sovereignty over the territory where detainees are held. Even if the *habeas* statute were presumed not to extend extraterritorially, as the government urged, the Court found that the "complete jurisdiction and control" the United States exercises under its lease with Cuba would suffice to bring the detainees within the territorial and historical scope of the Writ.

Without expressly overruling *Eisentrager*, the Court distinguished the cases at issue to find *Eisentrager* inapplicable. *Eisentrager* listed six factors that precluded those petitioners from seeking habeas relief: each petitioner "(a) is an enemy alien; (b) has never been or resided in the United States; (c) was captured outside of our territory and there held in military custody as a prisoner of war; (d) was tried and convicted by a Military Commission sitting outside the United States; (e) for offenses against laws of war committed outside the United States; (f) and is at all times imprisoned outside the United States."[11] The present Court noted that the Guantanamo petitioners, in contrast "are not nationals of countries at war with the United States, and they deny that they have engaged in or plotted acts of aggression against the United States; they have never been afforded access to any tribunal, much less charged with and convicted of wrongdoing; and for more than two years they have been imprisoned in territory over which the United States exercises exclusive jurisdiction and control."

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[10] *Rasul* at 2694. When *Eisentrager* was decided in 1950, the *Rasul* majority found, the "respective jurisdictions" of federal district courts was understood to extend no farther than the geographical boundaries of the districts (citing Ahrens v. Clark, 335 U.S. 188 (1948)). According to the Court, that understanding was altered by a line of cases recognized in Braden v. 30th Judicial Circuit Court of Ky., 410 U.S. 484 (1973), as overruling the statutory interpretation that had established the "inflexible jurisdictional rule" upon which *Eisentrager* was implicitly based. Justice Scalia, with Chief Justice Rehnquist and Justice Thomas, dissented, arguing that the *habeas* statute on its face requires a federal district court with territorial jurisdiction over the detainee. The dissenters would have read *Braden* as distinguishing *Ahrens* rather than overruling it. For more analysis of the *Rasul* opinion, see CRS Report RS21884, *The Supreme Court and Detainees in the War on Terrorism: Summary and Analysis*, by Jennifer K. Elsea.

[11] *Rasul* at 2693 (citing *Eisentrager* at 777).

As to the petitioners' claims based on statutes other than the *habeas* statute, which included the federal question statute[12] as well as the Alien Tort Statute,[13] the Court applied the same reasoning to conclude that nothing precluded the detainees from bringing such claims before a federal court.[14]

The Court's opinion leaves many questions unanswered. It is unclear which of the *Eisentrager* (or *Rasul*) factors would control under a different set of facts.[15] The opinion does not address whether persons detained by the U.S. military abroad in locations where the United States does not exercise full jurisdiction and control would have access to U.S. courts. The Court did not decide the merits of the petitions, although in a footnote the majority opined that "Petitioners' allegations–that, although they have engaged neither in combat nor in acts of terrorism against the United States, they have been held in Executive detention for more than two years in territory subject to the long-term, exclusive jurisdiction and control of the United States, without access to counsel and without being charged with any wrongdoing–unquestionably describe 'custody in violation of the Constitution or laws or treaties of the United States.'" The opinion leaves to lower courts such issues as whether the detentions are authorized by Congress, who may be detained and what evidence might be adduced to determine whether a person is an enemy combatant, or whether the Geneva Conventions afford the detainees any protections. The Court did not address the extent to which Congress might alter federal court jurisdiction over detainees' *habeas* petitions, an issue which is discussed more fully below.

Combatant Status Review Tribunals

In response to Supreme Court decisions in 2004 related to "enemy combatants," the Pentagon established procedures for Combatant Status Review Tribunals (CSRTs), based on the procedures the Army uses to determine POW status during traditional wars.[16] Detainees who are determined not to be enemy combatants are to

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[12] 28 U.S.C. § 1331("The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.").

[13] 28 U.S.C. § 1350 ("The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States.").

[14] *Rasul* at 2698 ("nothing in *Eisentrager* or in any of our other cases categorically excludes aliens detained in military custody outside the United States from the 'privilege of litigation' in U.S. courts").

[15] The Court noted that "*Eisentrager* made quite clear that all six of the facts critical to its disposition were relevant only to the question of the prisoners' *constitutional* entitlement to habeas corpus." *Rasul* at 2693 (emphasis original).

[16] *See* Department of Defense (DoD) Fact Sheet, "Combatant Status Review Tribunals," *available at* [http://www.defenselink.mil/news/Jul2004/d20040707factsheet.pdf]. CSRT proceedings are modeled on the procedures of Army Regulation (AR) 190-8, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees (1997), which establishes administrative procedures to determine the status of detainees under the Geneva

(continued...)

be transferred to their country of citizenship or otherwise dealt with "consistent with domestic and international obligations and U.S. foreign policy."[17] CSRTs have been completed for all detainees, and have confirmed the status of 520 enemy combatants. Of the 38 detainees determined not to be enemy combatants, 23 have been transferred to their home States. Presumably, any new detainees that might be transported to Guantanamo Bay will go before a CSRT.

The tribunals are administrative rather than adversarial, but each detainee has an opportunity to present "reasonably available" evidence and witnesses[18] to a panel of three commissioned officers to try to demonstrate that the detainee does not meet the criteria to be designated as an "enemy combatant," defined as "an individual who was part of or supporting Taliban or al Qaida forces, or associated forces that are engaged in hostilities against the United States or its coalition partners[,] ...[including] any person who has committed a belligerent act or has directly supported hostilities in aid of enemy armed forces." Each detainee is represented by a military officer (not a member of the Judge Advocate General Corps) and may elect to participate in the hearing or remain silent.

The CSRTs are not bound by the rules of evidence that would apply in court, and the government's evidence is presumed to be "genuine and accurate." The government is required to present all of its relevant evidence, including evidence that tends to negate the detainee's designation, to the tribunal. Unclassified summaries of relevant evidence may be provided to the detainee. The detainee's personal representative may view classified information and comment on it to the tribunal to aid in its determination but does not act as an advocate for the detainee. If the tribunal determines that the preponderance of the evidence is insufficient to support a continued designation as "enemy combatant" and its recommendation is approved through the chain of command, the detainee will be informed of that decision upon finalization of transportation arrangements (or earlier, if the task force commander deems it appropriate).

In March 2002, the Pentagon announced plans to create a separate process for periodically reviewing the status of detainees.[19] The process, similar to the CSRT

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[16] (...continued)
Conventions and prescribes their treatment in accordance with international law. It does not include a category for "unlawful" or "enemy" combatants, who would presumably be covered by the other categories.

[17] *See* DoD Press Release, "Combatant Status Review Tribunal Order Issued" (June 7, 2004), *available at* [http://www.defenselink.mil/releases/2004/nr20040707-0992.html].

[18] Witnesses from within the U.S. Armed Forces are not "reasonably available" if their participation, as determined by their commanders, would adversely affect combat or support operations. All other witnesses, apparently including those from other agencies, are not "reasonably available" if they decline to attend or cannot be reached, or if security considerations prevents their presence. It is unclear who makes the security determination. Non-government witnesses appear at their own expense. Testimony is under oath and may be provided in writing or by telephone or video.

[19] *See* DoD Press Release, "DoD Announces Draft Detainee Review Policy" (March 3,
(continued...)

process, affords persons detained at Guantánamo Bay the opportunity to present to a review board, on at least an annual basis while hostilities are ongoing, information to show that the detainee is no longer a threat or that it is in the interest of the United States and its allies to release the prisoner. The detainee's State of nationality may be allowed, national security concerns permitting, to submit information on behalf of its national.

Court Challenges to the Detention Policy

While the Supreme Court clarified that the detainees have at least statutory recourse to federal courts to challenge their detention, the extent to which they may enforce any rights they may have under the Geneva Conventions and other law remains unclear. The Justice Department argues that *Rasul v. Bush* merely decided the issue of jurisdiction, but that the 1950 Supreme Court decision in *Johnson v. Eisentrager*[20] remains applicable to limit the relief to which the detainees are entitled. While one district judge from the D.C. Circuit agreed,[21] others have not, holding for example that detainees have the right to the assistance of an attorney.[22] One judge found that a detainee has the right to be treated as a POW until a "competent tribunal" decides otherwise,[23] but the appellate court reversed. The following sections summarize the three most important decisions as they make their way through the D.C. Circuit Court of Appeals and, it is expected, to the Supreme Court, though their prospects at the high court may depend on congressional action in the interim.

Khalid v. Bush[24]

Seven detainees, all of whom had been captured outside of Afghanistan, sought relief from their detention at the Guantanamo Bay facility. U.S. District Judge Richard J. Leon agreed with the Administration that Congress, in its Authorization to Use Military Force (AUMF),[25] granted President Bush the authority to detain foreign enemy combatants outside the United States for the duration of the war against al Qaeda and the Taliban, and that the courts have virtually no power to

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[19] (...continued)
2004), *available at* [http://www.defenselink.mil/releases/2004/nr20040303-0403.html].

[20] 339 U.S. 763 (1950) (holding that the federal courts did not have jurisdiction to hear a petition on behalf of German citizens who had been convicted by U.S. military commissions in China because the writ of *habeas corpus* was not available to "enemy alien[s], who at no relevant time and in no stage of [their] captivity [have] been within [the court's] jurisdiction").

[21] Khalid v. Bush, 355 F.Supp.2d 311 (D. D.C. 2005).

[22] Al Odah v. United States, 346 F.Supp.2d (D. D.C. 2004).

[23] Hamdan v. Rumsfeld, 344 F.Supp.2d 152 (D. D.C. 2004), *rev'd* 415 F.3d 33 (D.C. Cir.), *cert. granted* 2005 U.S. LEXIS 8222 (Nov. 7, 2005).

[24] 355 F.Supp.2d 311 (D. D.C. 2005).

[25] Authorization for Use of Military Force ("the AUMF"), P.L. 107-40, 115 Stat. 224 (2001).

review the conditions under which such prisoners are held. Noting that the prisoners had been captured and detained pursuant to the President's military order,[26] Judge Leon agreed with the government that "(1) non-resident aliens detained under [such] circumstances have no rights under the Constitution; (2) no existing federal law renders their custody unlawful; (3) no legally binding treaty is applicable; and (4) international law is not binding under these circumstances."[27]

Judge Leon rejected the petitioners' contention that their arrest outside of Afghanistan and away from any active battlefield meant that they could not be "enemy combatants" within the meaning of the law of war, finding instead that the AUMF contains no geographical boundaries,[28] and gives the President virtually unlimited authority to exercise his war power wherever enemy combatants are found.[29] The circumstances behind the off-battlefield captures did, however, apparently preclude the petitioners from claiming their detentions violate the Geneva Conventions.[30] Other treaties put forth by the petitioners were found to be unavailing because of their non-self-executing nature.[31]

The court declined to evaluate whether the conditions of detention were unlawful. Judge Leon concluded that "[w]hile a state of war does not give the President a 'blank check,' and the courts must have some role when individual liberty is at stake, any role must be limited when, as here, there is an ongoing armed conflict and the individuals challenging their detention are non-resident aliens."[32] He dismissed all seven petitions, ruling that "until Congress and the President act further, there is . . . no viable legal theory under international law by which a federal court could issue a writ."

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[26] Although the MO states that it authorizes detention as well as trial by military commissions, only fifteen of the detainees have been formally designated as subject to the MO.

[27] 355 F.Supp.2d at 314.

[28] *Id.* at 320.

[29] *Id*. at 318.

> The President's ability to make the decisions necessary to effectively prosecute a Congressionally authorized armed conflict must be interpreted expansively. Indeed, the Constitution does not delegate to Congress the power to "conduct" or to "make" war; rather, Congress has been given the power to "declare" war. This critical distinction lends considerable support to the President's authority to make the operational and tactical decisions necessary during an ongoing conflict. Moreover, there can be no doubt that the President's power to act at a time of armed conflict is at its strongest when Congress has specifically authorized the President to act.

[30] *Id*. at 326.

[31] *Id*. at 327. It may be argued that the habeas statute itself (28 U.S.C. § 2241), which authorizes challenges of detention based on treaty violations, provides a means for private enforcement. *See Eisentrager* at 339 U.S. at 789 (while noting that the 1929 Geneva Convention did not provide for private enforcement, considering but rejecting the *habeas* claim that the treaty vitiated jurisdiction of military commission).

[32] *Id.* at 330 (citations omitted).

In re Guantanamo Detainee Cases[33]

U.S. District Judge Joyce Hens Green interpreted *Rasul* more broadly, finding that the detainees do have rights under the U.S. Constitution and international treaties, and thus denied the government's motion to dismiss the eleven challenges before the court. Specifically, Judge Green held that the detainees are entitled to due process of law under the Fifth Amendment, and that the CSRT procedures do not meet that standard. Interpreting the history of Supreme Court rulings on the availability of constitutional rights in territories under the control of the American government (though not part of its sovereign territory), Judge Green concluded that the inquiry turns on the fundamental nature of the constitutional rights being asserted rather than the citizenship of the person asserting them. Accepting that the right not to be deprived of liberty without due process of law is a fundamental constitutional right, the judge applied a balancing test to determine what process is due in light of the government's significant interest in safeguarding national security.[34] Judge Green rejected the government's stance that the CSRTs provided more than sufficient due process for the detainees. Instead, she identified two categories of defects. She objected to the CSRTs' failure to provide the detainees with access to material evidence upon which the tribunal affirmed their "enemy combatant" status and the failure to permit the assistance of counsel to compensate for the lack of access. These circumstances, she said, deprived detainees of a meaningful opportunity to challenge the evidence against them.

Second, in particular cases, the judge found that the CSRTs' handling of accusations of torture and the vague and potentially overbroad definition of "enemy combatant" could violate the due process rights of detainees. Citing detainees' statements and news reports of abuse, Judge Green noted that the possibility that evidence was obtained involuntarily from the accused or from other witnesses, whether by interrogators at Guantanamo or by foreign intelligence officials elsewhere, could make such evidence unreliable and thus constitutionally inadmissible as a basis on which to determine whether a detainee is an enemy combatant. Judge Green objected to the definition of "enemy combatant" because it appears to cover "individuals who never committed a belligerent act or who never directly supported hostilities against the U.S. or its allies." She noted that government counsel had, in response to a set of hypothetical questions, stated that the following could be treated as enemy combatants under the AUMF: "[a] little old lady in Switzerland who writes checks to what she thinks is a charity that helps orphans in Afghanistan but [what] really is a front to finance al-Qaeda activities, a person who teaches English to the son of an al Qaeda member, and a journalist who knows the location of Osama Bin Laden but refuses to disclose it to protect her source."[35] Judge Green stated that the indefinite detention of a person solely because of his contacts with individuals or organizations tied to terrorism, and not due to any direct

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[33] 355 F.Supp.2d 443 (D. D.C. 2005).

[34] *Id*. at 465 (citing *Hamdi v. Rumsfeld*).

[35] *Id*. at 475 (internal citations omitted).

involvement in terrorist activities, would violate due process even if such detention were found to be authorized by the AUMF.[36]

The D.C. Circuit Court of Appeals is considering the government's appeal with respect to the holding that the detainees have enforceable rights under the Constitution and international law, as well as appeals by some detainees with respect to other aspects of Judge Green's decision. Oral arguments were heard September 8, 2005 on this case as well as the detainees' appeal of the *Khalid* decision, *supra*.

Hamdan v. Rumsfeld[37]

Salim Ahmed Hamdan, who was captured in Afghanistan and is alleged to have worked for Osama Bin Laden as a body guard and driver, brought this challenge to the lawfulness of the Secretary of Defense's plan to try him for alleged war crimes before a military commission convened pursuant to the President's military order. Hamdan's attorney objected to the military commission rules and procedures, which he argued were inconsistent with the UCMJ[38] and Hamdan's right to be treated as a prisoner of war under the Geneva Conventions. U.S. District Judge Robertson agreed, finding that the Geneva Conventions apply to the whole of the conflict in Afghanistan, including under their protections all persons detained in connection with the hostilities there.[39] Accordingly, he ruled, Hamdan was entitled to be treated as a prisoner of war until his status was determined to be otherwise by a competent tribunal, in accordance with article 5 of the Third Geneva Convention (prisoners of war). The D.C. Circuit Court of Appeals, in an opinion written by Judge Randolph, reversed that finding, ruling that the Geneva Conventions are not judicially enforceable,[40] and that in any event, the military commission would qualify as a "competent tribunal" within the meaning of U.S. Army regulations implementing the Conventions.[41] Judge Williams wrote a concurring opinion, agreeing with the government's conception of the conflict with Al Qaeda as separate from the conflict with the Taliban, but construing Common Article 3 to apply to any conflict with a non-state actor, without regard to the geographical confinement of such a conflict within the borders of a signatory state.

With respect to the President's military order establishing military commissions, the district court judge had found no inherent authority in the President as Commander-in-Chief of the Armed Forces to create such tribunals, and that existing statutory authority for military commissions is limited. Interpreting the statute in light of the Geneva Conventions, which permits the punishment of prisoners of war

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[36] *Id*. at 476.

[37] 344 F.Supp.2d 152 (D. D.C. 2004), *rev'd* 415 F.3d 33 (D.C. Cir. 2005), *cert. granted* 2005 U.S. LEXIS 8222 (Nov. 7, 2005).

[38] 10 U.S.C. §§ 801 *et seq*.

[39] *Id*. at 161 (rejecting the government's position that the military is engaged in two separate conflicts in Afghanistan, respectively, against the Taliban and against Al Qaeda).

[40] 415 F.3d at 39.

[41] *Id*. at 43-44.

"only if the sentence has been pronounced by the same courts according to the same procedure as in the case of members of the armed forces of the Detaining Power,"[42] Judge Robertson found no congressional authority for Hamdan's trial under the DoD's rules for military commissions. He found these rules to be fatally inconsistent with the UCMJ (contrary to UCMJ art. 36, 10 U.S.C. § 836) because they give military authorities the power to exclude the accused from hearings and deny him access to evidence presented against him.[43] The Circuit Court reversed, opining that Congress did not mean that all of the UCMJ procedural rules for courts-martial should apply to military commissions. Instead, the panel interpreted art. 36 to mean that military commission rules have only to be consistent with those articles of the UCMJ that refer specifically to military commissions. The Supreme Court has agreed to review the case.[44]

The Graham Amendment

The Senate approved an amendment to its Defense Authorization bill (S. 1042, passed by roll call vote November 15, 2005), to require the Defense Department to submit to the Armed Services and Judiciary Committees the procedural rules for determining detainees' status,[45] which would be required to preclude evidence determined by the board or tribunal to have been obtained by undue coercion (S.Amdt. 2516 to S. 1042, "the Graham Amendment").[46] The amendment would neither authorize nor require a formal status determination, but it would require that the Judiciary and Armed Services Committees be notified 30 days prior to the implementation of any changes to the rules. It does not contain similar requirements with respect to the rules for military commissions.

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[42] GPW art. 102.

[43] 344 F.Supp.2d at 166.

[44] Hamdan v. Rumsfeld, *et al*., No. 05-184. The questions presented are:

> 1. Whether the military commission established by the President to try petitioner and others similarly situated for alleged war crimes in the "war on terror" is duly authorized under Congress's Authorization for the Use of Military Force (AUMF), Pub. L. No. 107-40, 115 Stat. 224; the Uniform Code of Military Justice (UCMJ); or the inherent powers of the President?
>
> 2. Whether petitioner and others similarly situated can obtain judicial enforcement from an Article III court of rights protected under the1949 Geneva Convention in an action for a writ of habeas corpus challenging the legality of their detention by the Executive branch?

[45] The amendment refers to both the Combatant Status Review Tribunals ("CSRTs"), the initial administrative procedure to confirm the detainees' status as enemy combatants, and the Administrative Review Boards, which were established to provide annual review that the detainees' continued detention is warranted.

[46] 151 CONG. REC. S12667 (daily ed. Nov. 10, 2005)(introduced by Sen. Graham, passed by roll call vote, 49 - 42), as amended by S.Amdt. 2524, 151 CONG. REC. S12771 (daily ed. Nov. 14, 2005).

Judicial Review

The most controversial portion of the Graham Amendment would amend 28 U.S.C. § 2241 to eliminate the federal courts' statutory jurisdiction over *habeas* claims by aliens detained by the Department of Defense at Guantanamo Bay. Section 1092(d) of S. 1042 would add a new subsection (e) to 28 U.S.C. § 2241:

> No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien outside the United States (as that term is defined in section 101(a)(38) of the Immigration and Naturalization Act (8 U.S.C. 1101(a)(38)) who is detained by the Department of Defense at Guantanamo Bay, Cuba.[47]

Section 1092 would eliminate all federal court jurisdiction over *habeas* cases on behalf of the detainees, possibly including cases pending at the bill's enactment.[48] Any alien in DoD custody at Guantanamo Bay for any reason other than enemy combatant status would likewise be precluded from seeking *habeas* relief. The amendment would not foreclose or limit any legal avenue other than *habeas corpus* that might be available to the detainees to seek relief. Suits for damages or petitions seeking injunctive relief, for example, would not be affected. In addition, the amendment would provide for limited appeals of status determinations made pursuant to the DoD procedures for Combatant Status Review Tribunals (CSRTs)[49] and appeals of final decisions of military commissions.[50]

Appeals of Status Determinations. The D.C. Circuit Court of Appeals would have exclusive jurisdiction to hear appeals of any "decision of a Designated Civilian Official . . . that an alien is properly detained as an enemy combatant." The scope of "propriety of detention" is somewhat ambiguous. While *habeas* review would ordinarily be limited to whether a detainee has been determined by fair process to fit the criteria for classification as an enemy combatant, appellate review could potentially be broader, possibly encompassing determinations as to whether the detainee poses a security risk or possesses valuable intelligence information such that his detention is proper to accomplish stated DoD policy aims. However, the scope

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[47] 28 U.S.C. § 2441 refers to federal courts only. The Graham Amendment could be read to preclude *habeas* actions in state courts as well, or, if interpreted in the context of the section as amended, could be read as limited to federal courts.

[48] Subsection (e)(1) states that "(e)xcept as provided in paragraph (2), this section shall take effect on the day after the enactment of this Act." Paragraph (e)(2) provides that the paragraphs of subsection (d) that provide for appellate review of CSRT and final decisions of military commissions are effective (presumably, on the date of enactment) with respect to claims whose review is governed by those paragraphs that are pending on or after the date of enactment. The disposition of pending *habeas* cases whose review would *not* be governed by the appeals provisions remains unclear, including interlocutory claims related to the proceedings of military commissions, claims related to treatment and living conditions, or claims by detainees who have been determined to be "no longer enemy combatants" but remain in DoD custody.

[49] S. 1042 § 1092(d)(2)(engrossed as passed by the Senate).

[50] *Id.* § 1092(d)(3).

of review by the appellate court is expressly limited to the consideration of two types of claims.

Section 1092(C)(i) of S. 1042 would provide for the consideration of whether the determination applied the "correct standards" and complied with applicable DoD procedures for CSRTs (including whether it is supported by the preponderance of the evidence, but allowing a rebuttable presumption in favor of the government). It is not clear what the "correct standards" might encompass; the language might be intended to refer to standards prescribed within the CSRT rules, but it could be interpreted more broadly to cover such considerations as whether they are necessary and appropriate to ensure the AUMF is properly implemented and its scope not exceeded.

Section 1092(C)(ii) would allow appeals based on claims that "subjecting an alien enemy combatant to such standards and procedures is [in]consistent with the Constitution and laws of the United States." The provision does not specifically make reference to treaties of the United States or the international law of armed conflict, but the appellate court might treat these as incorporated into U.S. law by the Supremacy Clause[51] or the UCMJ.[52] Appellate jurisdiction would cease upon the detainee's transfer from DoD custody. If a detainee is transferred to the custody of another U.S. agency, jurisdiction under the *habeas* statute would no longer be constrained by the amendment.

The Graham Amendment does not elaborate on the role of the "Designated Civilian Official" whose decision may be appealed. As the CSRTs were initially established,[53] the final approval of CSRT decisions was the responsibility of the

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[51] U.S. CONST. art VI, cl. 2 provides that "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land." The language of the Graham Amendment, by including "the Constitution and the laws of the United States" and omitting reference to treaties, may be intended specifically to exclude treaties. On the other hand, statutes and regulations are generally interpreted with an assumption that they are intended to comply with international legal obligations. *See* Murray v. Schooner Charming Betsy, 6 U.S. (2 Cranch) 64, 118 (1804) (Marshall, J.) ("an act of Congress ought never to be construed to violate the law of nations if any other possible construction remains....").

[52] 10 U.S.C. §§ 801 *et seq*. Offenses against the law of war are incorporated in articles 18 and 21 (10 U.S.C. §§ 818 and 821). *See ex parte* Quirin, 317 U.S. 1, 29 (1942).

> Congress has incorporated by reference, as within the jurisdiction of military commissions, all offenses which are defined as such by the law of war and which may constitutionally be included within that jurisdiction. Congress has the choice of crystallizing in permanent form and in minute detail every offense against the law of war, or of adopting the system of common law applied by the military tribunals so far as it should be recognized and deemed applicable by the courts. It chose the latter course.

[53] Memorandum, Assistant Secretary of Defense Paul Wolfowitz for the Secretary of the Navy, Order Establishing Combatant Status Review Tribunals (June 7, 2004), *available at* [http://www.defenselink.mil/news/Jul2004/d20040707review.pdf](last visited Nov. 12, 2005).

convening authority,[54] and there was no mention of a "designated civilian official," although this might be a reference to the role of the Secretary of the Navy, to whom the order establishing CSRTs was addressed.[55] The procedures established by Secretary England refer to the position of Director, CSRT, who appears to be the convening authority for the tribunals and the official whose final approval is required (currently a military officer).[56] At any rate, it does not appear that the Graham Amendment would give the D.C. Circuit Court of Appeals jurisdiction to review CSRT determinations that have not been made or approved by a civilian official who had been appointed with the advice and consent of the Senate, but a court might interpret the provision more broadly in order to give the provision effect.

The restriction on the use of evidence obtained through undue coercion to be incorporated into the CSRT rules would apply prospectively only, and would be unavailable as a means to challenge determinations with respect to detainees who have already been determined to be enemy combatants. The limitation on the use of such evidence would apply to the administrative review boards each detainee is to receive annually, but it appears that these decisions are not subject to review pursuant to the appeals provision. On the other hand, the amendment does not define "combatant status review tribunal," and the provision for jurisdiction over an appeal of any "decision . . . that an alien is properly detained as an enemy combatant" could be read broadly to include the decisions related to the annual administrative reviews or simply to any decision regarding whether to release or transfer a detainee, which might not depend entirely upon the status determination.[57] The court could also

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[54] Rear Adm. James M. McGarrah currently serves as convening authority for the CSRTs, which have made determinations for all current detainees.

[55] *See id.* The Department of Defense appointed the Secretary of the Navy, Gordon England, to be the designated civilian official to operate and oversee the annual administrative review boards set up to determine the continued detention of persons affirmed by CSRTs to be enemy combatants at Guantanamo Bay Naval Base, Cuba. *See* Press Release, Department of Defense, Navy Secretary to Oversee Enemy Combatant Admin Review (June 23, 2004), *available at* [http://www.defenselink.mil/releases/2004/nr20040623-0932.html](last visited Nov. 12, 2005).

[56] *See* Memorandum, Secretary of the Navy, Implementation of Combatant Status Review Tribunal Procedures for Enemy Combatants detained at Guantanamo Bay Naval Station, Cuba, July 29, 2004, *available at* [http://www.defenselink.mil/news/Jul2004/d20040730comb.pdf](last visited Nov. 12, 2005).

[57] According to DoD, it has released 180 detainees and released 76 detainees to foreign governments. *See* DoD Press Release, "Detainee Transfer Announced" (Nov. 5, 2005), *available at* [http://www.defenselink.mil/releases/2005/nr20051105-5073.html]. Not all of them have been released pursuant to determinations by CSRTs. *See* DoD Fact Sheet, Guantanamo Detainees, *available at* [http://www.defenselink.mil/news/Apr2004/d20040406gua.pdf] (describing detainee review process to determine whether detainees pose a threat).

> An elaborate process is in place to identify enemy combatants to be held at Guantanamo, assess the threat they pose to the U.S. and the international community, and regularly review all available information to make sure that their continued detention is necessary. Detainees have been released when it is believed they no longer pose a significant threat,

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address the admissibility of evidence procured through coercion under the constitutional basis for review to determine whether due process requires that CSRTs exclude such evidence.

Appeals of Military Commission Decisions. The Graham Amendment would also provide for an appeal to the Court of Appeals for the District of Columbia Circuit of final decisions rendered pursuant to Military Commission Order No. 1 ("MCO No. 1") or successor order. The court would be required to review capital cases or cases in which the alien was sentenced to a term of imprisonment for 10 years or more, but it could hear other cases at its discretion. "Final decision" is not defined; presumably final verdicts and sentences would qualify, while interlocutory challenges to the proceedings would not. However, federal appellate courts sometimes treat an order that is not a complete disposition of a case as "final" and therefore ripe for review. The final decision of the military commission is defined in MCO No. 1 to be the result of the post-trial review and approval of the military commission's finding by the President, or the Secretary of Defense, if the President delegates the authority to him.

The scope of review would be limited to considering whether the decision applied the correct standards and was consistent with MCO No. 1, and whether "subjecting an alien enemy combatant to such order is consistent with the Constitution and laws of the United States." Again, the "laws of the United States" may include more than just statutes; judicial precedent, treaties, and consistent regulations may also provide sources for formulating these standards. In particular, appellate review of military commission procedures and decisions would seem to require at least some interpretation of the international law of war and relevant treaties.

Constitutional Considerations

The Graham Amendment could be interpreted as congressional ratification of the President's detainee policies, including the implementation of CSRTs and military commissions for persons deemed to be enemy combatants. If enacted, it may put to rest many of the constitutional separation of powers issues surrounding the President's conduct of the war on terrorism, fleshing out somewhat the scope of authority granted in the AUMF. Or it may prevent such questions from reaching the Supreme Court. On the other hand, it may give rise to even more litigation concerning its interpretation and whether it violates the Constitution's Suspension Clause or exceeds Congress's authority to regulate the jurisdiction of federal courts.

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[57] (...continued)

and they have been transferred to the custody of their governments when those governments are prepared to assume responsibility for ensuring that the detainees will not pose a threat to the United States.

The Suspension of *Habeas Corpus*

The Writ of Habeas Corpus (*ad subjiciendum*), also known as the Great Writ, has its origin in Fourteenth Century England.[58] It provides the means for those detained by the government to ask a court to order their warden to explain the legal authority for their detention. In the early days of the Republic, its primary use was to challenge executive detention without trial or bail, or pursuant to a ruling by a court without jurisdiction, but the writ has expanded over the years to include a variety of collateral challenges to convictions or sentences based on alleged violations of fundamental constitutional rights.[59] A court reviewing a petition for *habeas corpus* does not determine the guilt or innocence of the petitioner; rather, it tests the legality of the detention and the custodian's authority to detain. If the detention is not supported by law, the detainee is to be released.[60] Minor irregularities in trial procedures that do not amount to violations of fundamental constitutional rights are generally to be addressed on direct appeal.[61]

Given the emphasis the *Rasul* Court placed on the distinction between the statutory and constitutional entitlement to *habeas corpus*, it would seem reasonable to suppose that Congress might easily revoke by statute what it had earlier granted without offending either the Court or the Constitution. However, the special status accorded the Writ by the Suspension Clause of the Constitution complicates matters.

Article I, § 9, cl. 2, provides: "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." If the Graham Amendment amounts to a suspension of the writ of *habeas corpus*, the Supreme Court could take up the question of whether a "case of rebellion or invasion" exists and whether the federal courts' consideration of the detainees' petitions actually endangers the public safety to such a degree that suspension of the writ is warranted. If, on the other hand, the amendment represents the mere regulation of procedures for seeking relief, or eliminates a statutory right not guaranteed by the Constitution, then the Supreme Court may rule itself ineligible to review detainee cases.

While the federal courts' power to review petitions under *habeas corpus* has historically relied on statute,[62] it has been explained that the Constitution obligates Congress to provide "efficient means by which [the Writ] should receive life and

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[58] For a general background and description of related writs, see 39 Am. Jur. 2d. *Habeas Corpus* § 1 (1999).

[59] *See generally* Sen. Doc. 108-17 at 848 *et seq*.

[60] *Ex parte* Watkins, 28 U.S. (3 Pet.) 193, 201 (1830) (Marshall, C.J.) ("The writ of habeas corpus is a high prerogative writ, known to the common law, the great object of which is the liberation of those who may be imprisoned without sufficient cause.").

[61] 39 Am. Jur. 2d. *Habeas Corpus* § 27 (1999).

[62] *Ex parte* Bollman, 8 U.S. (4 Cr.) 75 (1807).

activity."[63] The Court presumes that "the Suspension Clause of the Constitution refers to the writ as it exists today, rather than as it existed in 1789."[64] Consequently, the Court may be unwilling to permit Congress to eliminate *habeas* rights it previously granted, at least to the extent that no other avenue of relief is available.[65]

Congress's authority to control the courts' jurisdiction over *habeas* cases was tested in the aftermath of the Civil War. As part of its Reconstruction efforts, Congress broadened the scope of the Writ to provide for review of convictions of state courts and to give the Supreme Court appellate jurisdiction in *habeas corpus* cases. Prior to that time, the Supreme Court could review *habeas* decisions only by issuing an original writ of *habeas corpus* combined with *certiorari*. However, when the Court's new appellate review appeared to threaten the legitimacy of much of the Reconstruction legislation, including a statute that allowed military trials of civilians in formerly Confederate states, Congress hastily revoked the Supreme Court's appellate jurisdiction over *habeas* cases. The Supreme Court upheld Congress's authority to revoke its appellate jurisdiction, even though it had already heard arguments in the case of McCardle, a civilian held for trial by a military commission in Mississippi. Upon dismissing McCardle's appeal, however, the Court remarked:

> Counsel seem to have supposed, if effect be given to the repealing act in question, that the whole appellate power of the court, in cases of habeas corpus, is denied. But this is an error. The act of 1868 does not except from that jurisdiction any cases but appeals from Circuit Courts under the act of 1867. It does not affect the jurisdiction which was previously exercised.[66]

Shortly after the McCardle case, the Supreme Court, in agreeing to review the case of another civilian held by military authority, confirmed that it could indeed continue to issue original writs of *habeas corpus* and *certiorari* notwithstanding the repeal of the 1867 law.[67] Repeal of those parts of the Judiciary Act of 1789 that conferred power on the Supreme Court to review *habeas* cases was not to be found by implication. Congress made no effort to further diminish the Court's *habeas* jurisdiction, leaving open the question whether such an effort would amount to a violation of the Suspension Clause.

The Supreme Court had an opportunity to revisit the question after Congress in 1996 passed the Antiterrorism and Effective Death Penalty Act (AEDPA), part of which restricted successive *habeas* petitions by prisoners in state custody. Until 1867, prisoners held pursuant to convictions in state courts were not eligible to seek

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[63] *Id*. at 94.

[64] Felker v. Tupin, 518 U.S. 663 (1996)(citing Swain v. Pressley, 430 U.S. 372 (1977)).

[65] *Cf. id*. (Holding that restrictions on successive petitions for *habeas corpus* by prisoners convicted in state courts did not suspend the writ, but merely applied a modified *res judicata* rule to control abuse of the writ).

[66] *Ex parte* McCardle, 74 U.S. (7 Wall.) 506, 515 (1868).

[67] *Ex parte* Yerger, 75 U.S. (8 Wall.) 85 (1869).

federal *habeas* relief,[68] yet it remains unclear whether Congress is free to revoke such jurisdiction without effecting a suspension of the Writ. In *Felker v. Turpin*,[69] the Supreme Court followed its holding in *ex parte Yerger* to interpret a section of the AEDPA preventing its review of orders denying leave to file a second *habeas* petition as leaving intact the Supreme Court's power to consider original petitions for *habeas* relief, apparently avoiding an unconstitutional "suspension" of the Writ, or at least avoiding the need for the Court to determine whether the Suspension Clause was in fact implicated.

The Graham Amendment appears to be less equivocal with respect to the rights of a narrowly defined class of persons to petition for *habeas* relief: no jurisdiction, whether original or appellate, will lie in federal court for petitions on behalf of aliens detained by the military at Guantanamo Bay. If the amendment is enacted, the Court may find it necessary to resolve the question of the Suspension Clause's effect on Congress's authority to regulate the jurisdiction of federal courts, particularly the Supreme Court.

Limiting Court Jurisdiction

At the brink of the Suspension Clause issue is the question whether the relief available under *habeas* may be available under other procedures. In addition, the question arises as to whether the Graham Amendment, by limiting certain procedural routes to challenge the Guantanamo detainees' detention and treatment, would limit the vindication of constitutional rights and unconstitutionally usurp the role of the federal courts. A definitive interpretation of the effect of the Graham Amendment is difficult, however, since many of the constitutional and procedural issues raised by the detentions at Guantanamo remain unresolved.

Generally, it would appear that there are two categories of cases that are likely to be brought by detainees at Guantanamo: cases challenging the fact or length of a detainee's incarceration, and cases challenging the conditions under which a detainee is being held. While there may be some overlap, these two categories may involve different procedural routes and the application of different constitutional rights.

The Fact and Length of Detention. As noted above, the Supreme Court has found that the Guantanamo detainees presently have a statutory right to petition a federal district court for a writ of *habeas corpus*[70] based on claims that they are held

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[68] *See Ex parte* Bollman, 8 U.S. (4 Cranch) 75, 99 (1807)(interpreting Section 14 of the Judiciary Act of 1789, which established the jurisdiction of federal courts over *habeas corpus* and other matters, to withhold from state prisoners access to the federal writ of habeas corpus). For an analysis of why the interpretation may have been in error, see Eric M. Freedman, *Milestones in Habeas Corpus: Part I Just Because John Marshall Said It, Doesn't Make it So: Ex Parte Bollman and the Illusory Prohibition on the Federal Writ of Habeas Corpus for State Prisoners in the Judiciary Act of 1789*, 51 ALA. L. REV. 531 (2000).

[69] 518 U.S. 651 (1996).

[70] 28 U.S.C. §§ 2241(a), (c)(3).

"in custody in violation of the Constitution or laws or treaties of the United States."[71] In general, writs of *habeas corpus* are available as a means of challenging the fact or length of a detention or incarceration.[72] Thus, the Graham Amendment would appear to be intended to prohibit detainees from utilizing this particular statutory procedure to bring cases into court.[73]

Thus, the question arises as to whether there were other alternate procedural routes by which detainees could bring suits challenging the fact or length of their detention. It would appear that a significant number of these constitutional issues could be addressed by courts even if *habeas corpus* was found to be unavailable.[74]

For instance, under the Graham Amendment, the United States Court of Appeals for the District of Columbia Circuit would appear to have exclusive jurisdiction[75] to determine the validity of decisions by either a CSRT that a detainee is an enemy combatant, and would also have exclusive jurisdiction to review military commission decisions regarding these detainees. As noted, the court's jurisdiction does provide for constitutional review of whether the standards and procedures utilized in the proceedings below were consistent with the Constitution and laws of the United States.

In addition, the Graham Amendment does not appear to limit other procedural routes which might be available to the Guantanamo detainees. As will be discussed below, there are a number of extraordinary remedies beside *habeas* that can arise when constitutional rights are at issue, but statutory remedies are found to be inadequate.[76]

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[71] Rasul v. Bush, 124 S. Ct. 2686 (2004).

[72] Although it appears less common for challenges to prison conditions to be entertained under this procedural route, such cases can be brought. "A motion pursuant to § 2241 generally challenges the execution of a federal prisoner's sentence, including such matters as the administration of parole, computation of a prisoner's sentence by prison officials, prison disciplinary actions, prison transfers, type of detention and prison conditions." Jiminian v. Nash, 245 F.3d 144 (2d Cir. N.Y. 2001). *See, e.g.,* Rickenbacker v. United States, 365 F. Supp. 2d 347 (E.D.N.Y. 2005) (challenging failure to provide drug and psychiatric treatment in accordance with sentencing court's recommendation).

[73] As discussed above, there may be limits to the extent to which the writ of *habeas corpus* may be suspended.

[74] See discussion, *supra*, accompanying notes 36-67.

[75] The Graham Amendment does not indicate whether the Supreme Court would have jurisdiction to review decisions by the Court of Appeals on a writ of *certiorari*, but various other statutes that similarly provide exclusive jurisdiction to Court of Appeals have not been interpreted to preclude Supreme Court review. *See, e.g*, 28 U.S.C § 1295 (2005) (providing the United States Court of Appeals for the Federal Circuit exclusive jurisdiction over appeals from a variety of specialized courts). Senator Graham has indicated that the decisions of the D.C. Circuit Court under the amendment would be subject to Supreme Court review. Lindsey Graham, *Rules for Our War*, WASH. POST, Dec. 6, 2005 at A29.

[76] As is discussed later, the federal courts have general jurisdiction to consider allegations of violations of constitutional law, and, even absent statutory authority, have allowed cases

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Conditions of Detention. The Graham Amendment does not specifically address the issue of court review of the conditions of detention. However, a variety of challenges have been raised by detainees in Guantanamo regarding conditions of their detention, including such issues as whether prisoners can be held in solitary confinement[77] when they can be transferred,[78] or whether they can have contact with relatives.[79] Statements regarding the Graham Amendment seem to indicate that its sponsors anticipated that the amendment, by eliminating *habeas* corpus petitions, would limit the ability of detainees to seek redress regarding the conditions of their detention.[80]

Although cases challenging conditions in Guantanamo have been brought under writs of *habeas corpus*,[81] depending on the nature of the complaint, other procedural routes may be available. For instance, Guantanamo detainees have sought relief from the courts using the All Writs Act,[82] principally to prevent their transfer to other countries without notice,[83] but for other reasons too.[84] It is significant that use of the All Writs Act by a court is an extraordinary remedy, generally not invoked if there is an alternative remedy available.[85] If the courts find that *habeas* corpus relief is not available because of the Graham Amendment, then the application of the All Writs Act may be more likely.

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[76] (...continued)
referred to as *Bivens* actions to be brought to challenge unconstitutional behavior by government officials. *See* discussion accompanying notes 84-92, *infra*. Or, in a limited number of cases, federal prisoners have sought to use the remedy of mandamus to secure release from confinement. See discussion accompanying notes 93-96, *infra*. While it is not clear whether these remedies are available to detainees in Guantanamo, the Graham Amendment does not on its face preclude detainees from filing such actions.

[77] Paul Shukovsky, *Terrorism Suspect's Suit Tells of U.S. Abuse: Documents in Guantanamo Case Describe Extreme Isolation,* Seattle Post-Intelligencer A1 (August 6, 2004).

[78] Al-Anazi v. Bush, 370 F. Supp. 2d 188 (D.C. 2005).

[79] Josh White, *Lawyers Seek Improved Conditions for Suicidal Detainee*, The Washington Post A8 (November 5, 2005).

[80] *See* 151 Cong. Rec. S12752-54 (daily ed. November 14, 2005)(statement of Senator Lindsay Graham).

[81] *See, e.g., In re* Guantanamo Detainee Cases, 355 F. Supp. 2d 443, 480-81 (D.D.C. 2005)(rejecting claims on other grounds).

[82] All Writs Act, 28 U.S.C. § 1651.

[83] Al-Anazi v. Bush, 370 F. Supp. 2d 188 (D.D.C. 2005)(denying a preliminary injunction to provide their counsel with 30-days' notice of any proposed transfer of detainees to any place outside the U.S.); Almurbati v. Bush, 366 F. Supp. 2d 72 (D.D.C. 2005)(same); Abdah v. Bush, 2005 U.S. Dist. LEXIS 4144 (D.D.C. 2005)(Thirteen Yemeni nationals were entitled to a TRO preventing the government from transferring them to the custody of another government).

[84] *See* El-Banna v. Bush, 2005 U.S. Dist. LEXIS 16880 (2005) (seeking preservation of records relating to treatment of detainees).

[85] Al-Anazi v. Bush, 370 F. Supp. 2d 188, 196 (D.D.C. 2005).

Prisoners in federal prison, acting under a district court's general jurisdiction to consider claims arising under the Constitution,[86] have sometimes sought writs of mandamus[87] to obtain changes in prison conditions.[88] These writs, which are directed against government officials, have been used to require those officials to act in compliance with constitutional requirements. Although these challenges are often denied on the merits or on procedural grounds, cases have been brought based on the First Amendment,[89] Sixth Amendment,[90] Eighth Amendment[91] and various other grounds.[92] Although the use of this writ by the Guantanamo detainees does not appear to be well established,[93] deprivation of the right of *habeas corpus* to these detainees by the Graham Amendment may make application of this remedy more likely.[94]

Finally, it is possible that the detainees in Guantanamo could bring a *Bivens* action for damages against relevant government officials.[95] In *Bivens v. Six Unknown Federal Narcotics Agents*,[96] the Supreme Court has held that suits can be brought against federal government officials directly under the Constitution for violations of

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[86] 28 U.S.C. § 1331. *See* Caldwell v. Miller, 790 F.2d 589 (7th Cir. 1986).

[87] Russell Donaldson, *Mandamus, under 28 U.S.C.A. §1361, To Obtain Change in Prison Condition or Release of Federal Prisoner*, 114 A.L.R. Fed. 225 (2005).

[88] Relief in mandamus is generally available where: (1) the plaintiff can show a clear legal right to the performance of the requested action; (2) the duty of the official in question is clearly defined and nondiscretionary; (3) there is no other adequate remedy available to the plaintiff; (4) there are other separate jurisdictional grounds for the action. *Id.* at 1(a). A writ of mandamus may issue only where "the duty to be performed is ministerial and the obligation to act peremptory, and clearly defined. The law must not only authorize the demanded action, but require it; the duty must be clear and undisputable." Ali v. Ashcroft, 350 F. Supp. 2d 28, 65 (D.C.D.C. 2004), *quoting* Shoshone-Bannock Tribes v. Reno, 56 F.3d 1476, 1479 (D.C. Cir. 1995).

[89] *See* Long v. Parker, 390 F.2d. 816 (3rd Cir. 1968) (prisoner suit to obtain access to religious weekly newspaper stated a valid cause of action worthy of a factual hearing).

[90] Stover v. Carlson, 413 F. Supp. 718 (D. Conn. 1976) (ending federal prison practice of opening privileged communications outside of prisoner's presence).

[91] Fullwood v. Clemmer, 206 F. Supp. 370 (D. D.C. 1962) (keeping prisoner in solitary confinement for more than two years for minor disciplinary infractions violates the Eighth Amendment). It should be noted that where a prisoner has not yet been convicted of a crime, a challenge to conditions of detentions may sound in Due Process rather than as an Eighth Amendment challenge. Bell v. Wolfish, 441 U.S. 520 (1979).

[92] *See generally* Russell Donaldson, *supra* note 57.

[93] *See* Ali v. Ashcroft, 350 F. Supp. 2d 28, 65 (D. D.C. 2004) (rejecting argument that the Hostage Act requires the President to seek release of plaintiff from custody of the Saudi Arabian government).

[94] Housley v. U.S., 1992 U.S. App. LEXIS 26368 (9th Cir.).

[95] *See* John Boston, Daniel E. Manville, *Prisoners' Self–Help Litigation Manual (*3rd Ed. 1995*).* There is also limited authority to indicate that a plaintiff may seek an injunction as part of a Bivens claim. Sheptin v. United States, 2000 U.S. Dist. LEXIS 12999, *6 (N.D. Ill. Sept. 1, 2000).

[96] 403 U.S. 388 (1971).

the Fourth Amendment. The Court has also explicitly provided that such suits are available to federal prisoners alleging cruel and unusual punishment in violation of the Eighth Amendment.[97] Again, this remedy is most likely to be available where Congress has not provided an adequate remedy for constitutional violations.[98] However, it should be noted that the number of successful *Bivens* actions appears to be relatively small, and state actors in certain roles, such as federal agency enforcement officials, may have absolute immunity from damage suits.

Congressional Authority Over Federal Courts

As noted, sponsors of the Graham Amendment have indicated that the intent of the language which passed the Senate was, in part, to limit the ability of detainees to bring cases challenging the conditions of their detention. To the extent that such challenges are based on constitutional considerations, however, the question arises as to whether Congress can impose such limitations. This issue might not be reached by the courts, however, if it is determined that alternative procedures to challenge an alleged constitutional violation are available. If it is determined that no alternative procedure is available to vindicate constitutional rights, however, or such alternatives are later foreclosed, then it might be argued that the Congress's limitation on the use of *habeas corpus* by the detainees is an unconstitutional limitation.

The Constitution contains few requirements regarding the jurisdiction of the federal courts. Article III, Section 1, of the Constitution provides that

> The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.[99] The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Although Article III provides for a Supreme Court headed by the Chief Justice of the United States,[100] nothing else about its structure and its operation is specified,

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[97] Carlson v. Green, 446 U.S. 14 (1980)(Court allowed a *Bivens* action against federal prison officials for failing to provide adequate medical treatment).

[98] In *Carlson*, the Supreme Court held that a *Bivens*-type action cannot be brought in situation: where defendants (1) demonstrate special factors counseling hesitation in the absence of affirmative action by Congress, or (2) show that Congress has provided a sufficient alternate remedy.

[99] The latter part of this quoted language dovetails with clause 9 of § 8 of Article I, under which Congress is authorized "[t]o constitute tribunals inferior to the supreme Court."

[100] Although the position of Chief Justice is not specifically mandated, it is referenced in Article I, § 3, Cl. 6, in connection with the procedure for the Senate impeachment trial of a President:

> The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no Person shall be

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so the size and composition of the Court, as well as the specifics, if any, of the lower federal courts, is left to Congress.[101] Utilizing its power to establish inferior courts, Congress has also created the United States district courts,[102] the courts of appeals for the thirteen circuits,[103] and other federal courts.[104]

On its face, there is no limit on the power of Congress to make exceptions to and regulate the Supreme Court's appellate jurisdiction, to create inferior federal courts and to specify their jurisdiction. However, that is true of the Constitution's other grants of legislative authority in Article I and elsewhere, which do not prevent the application of other constitutional principles to those powers. "[T]he Constitution is filled with provisions that grant Congress or the States specific power to legislate in certain areas," Justice Black wrote for the Court in a different context, but "these granted powers are always subject to the limitations that they may not be exercised in a way that violates other specific provisions of the Constitution."[105] Justice Harlan seems to have had the same thought in mind when he said that, with respect to Congress's power over jurisdiction of the federal courts, "what such exceptions and regulations should be it is for Congress, in its wisdom, to establish, having of course due regard to all the Constitution."[106]

Thus, it is clear that while Congress has significant authority over administration of the judicial system, it may not exercise its authority over the courts in a way that violates constitutional rights such as the Fifth Amendment due process clause or precepts of equal protection. For instance, Congress could not limit access to the judicial system based on race or ethnicity.[107] Nor, without amendment of the Constitution, could Congress provide that the courts may take property while denying

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[100] (...continued)
convicted without Concurrence of two-thirds of the Members present.

[101] By the Judiciary Act of 1789, it was established that the Court was to be composed of the Chief Justice and five Associate Justices. The number of Justices was gradually increased to ten, until in 1869 the number was fixed at nine, where it has remained to this day.

[102] 28 U.S.C. §§ 81-131, 132.

[103] 28 U.S.C. §§ 41, 43 (District of Columbia Circuit, First Circuit through Eleventh Circuit, Federal Circuit).

[104] See, e.g., 28 U.S.C. §§ 151 (U.S. bankruptcy courts); 251 (U.S. Court of International Trade).

[105] Williams v. Rhodes, 393 U.S. 23, 29 (1968).

[106] United States v. Bitty, 208 U.S. 393, 399-400 (1908).

[107] Laurence Tribe, *Jurisdictional Gerrymandering: Zoning Disfavored Rights Out of the Federal Courts*, 16 Harv. C.R.- C.L.L. Rev. 129, 142-43 (1981). For instance, segregation in courtrooms is unlawful and may not be enforced through contempt citations for disobedience, Johnson v. Virginia, 373 U.S. 61 (1963), or through other means. Treatment of parties to or witnesses in judicial actions based on their race is impermissible. Hamilton v. Alabama, 376 U.S. 650 (1964)(reversing contempt conviction of witness who refused to answer questions so long as prosecutor addressed her by her first name).

a right to compensation under the takings clause.[108] In general, the mere fact Congress is exercising its authority over the courts does not serve to insulate such legislation from constitutional scrutiny.

Separation of Powers Issues

It is also clear that Congress may not exercise its authority over the courts in a way that violates precepts of separation of powers. The doctrine of separation of powers is not found in the text of the Constitution, but has been discerned by courts, scholars and others in the allocation of power in the first three Articles, i.e., the "legislative power" is vested in Congress, the "executive power" is vested in the President, and the "judicial power" is vested in the Supreme Court and the inferior federal courts. That interpretation is also consistent with the speeches and writings of the framers. Beginning with *Buckley v. Valeo*,[109] the Supreme Court has reemphasized separation of powers as a vital element in American federal government.[110]

The federal courts have long held that Congress may not act to denigrate the authority of the judicial branch. In the 1782 decision in *Hayburn's Case*,[111] several Justices objected to a congressional enactment that authorized the federal courts to hear claims for disability pensions for veterans. The courts were to certify their decisions to the Secretary of War, who was authorized either to award each pension or to refuse it if he determined the award was an "imposition or mistaken." The Justices on circuit contended that the law was unconstitutional because the judicial power was committed to a separate department and because the subjecting of a court's opinion to revision or control by an officer of the executive or the legislative branch was not authorized by the Constitution. Congress thereupon repealed the objectionable features of the statute.[112] More recently, the doctrine of separation of

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[108] The Fifth Amendment provides that no "private property [ ] be taken for public use without just compensation."

[109] 424 U.S. 1, 109-43 (1976).

[110] It is true that the Court has wavered between two approaches to cases raising separation-of-powers claims, using a strict approach in some cases and a less rigid balancing approach in others. Nevertheless, the Court looks to a test that evaluates whether the moving party, usually Congress, has "impermissibly undermine[d]" the power of another branch or has "impermissibly aggrandize[d]" its own power at the expense of another branch; whether, that is, the moving party has "disrupt[ed] the proper balance between the coordinate branches [by] preventing the [other] Branch from accomplishing its constitutionally assigned functions." Morrison v. Olson, 487 U.S. 654, 695 (1988). See also INS v. Chadha, 462 U.S. 919 (1983); Bowsher v. Synar, 478 U.S. 714 (1986); Mistretta v. United States, 488 U.S. 361 (1989); Metropolitan Washington Airports Auth. v. Citizens for the Abatement of Airport Noise, 501 U.S. 252 (1991).

[111] 2 Dall. (2 U.S.) 409 (1792). This case was not actually decided by the Supreme Court, but by several Justices on circuit.

[112] Those principles remain vital. See, e.g., Chicago & S. Air Lines v. Waterman S. S. Corp., 333 U.S. 103, 113-14 (1948)("Judgments within the powers vested in courts by the Judiciary Article of the Constitution may not lawfully be revised, overturned or refused faith

(continued...)

powers has been applied to prevent Congress from vesting jurisdiction over common-law bankruptcy claims in non-Article III courts.[113]

Allocation of court jurisdiction by Congress is complicated by the presence of state court systems that can and in some cases do hold concurrent jurisdiction over cases involving questions of federal statutory and constitutional law. Thus, the power of Congress over the federal courts is really the power to determine how federal cases are to be allocated among state courts, federal inferior courts, and the United States Supreme Court. Congress has significant authority to determine which of these various courts will adjudicate such cases, and the method by which this will occur. For most purposes, the exercise of this power is relatively noncontroversial.

As regards the instant proposal, however, there appears to be little chance of state courts exercising jurisdiction over the detainees in Guantanamo Bay.[114] Consequently, the issue here appears to be, not where the cases of the Guantanamo detainees will be heard, but whether such cases will be heard in any court, whether state or federal. Although the Supreme Court has not specifically addressed the issue of the withdrawal of jurisdiction from all courts to consider challenges to the actions of government officials, it would seem likely that such restrictions would be constitutionally suspect.

Eliminating Federal Court Jurisdiction Where There is No State Court Review

A series of lower federal court decisions seems to indicate that in most cases, some forum must be provided for the vindication of constitutional rights, whether in federal or state courts. For instance, in 1946, a series of Supreme Court decisions[115] under the Fair Labor Standards Act of 1938[116] exposed employers to $5 billion dollars in damages, and the United States itself was threatened with liability for over

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[112] (...continued)
and credit by another Department of Government."); Connor v. Johnson, 402 U.S. 690 (1971).

[113] *Northern Pipeline Constr. Co. v. Marathon Pipe Line Co.,* 458 U.S. 50 (1982).

[114] The Graham Amendment provides that "[n]o court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien outside of the United States." The argument could be made, however, that this language is intended to be limited to the statutory provision it is amending, 28 U.S.C. § 2241, which only covers federal writs of *habeas corpus*. If the Amendment was found to be so limited, a Guantanamo detainee might seek a writ of *habeas corpus* in a state court relying on state statutes. *See, e.g.,* Cal Pen Code § 1473 (2005)(state writ of *habeas corpus*). Such an extraterritorial application of state *habeas* law is likely to be novel and would be specific to each state statute. Consequently, an evaluation of the likely success of such a suit is beyond the scope of this report.

[115] *See, e.g.*, Tennessee Coal, Iron & R. Co. v. Muscoda Local No. 123, 321 U.S. 590 (1944).

[116] 29 U.S.C. § 201-219.

$1.5 billion. Subsequently, Congress enacted the Portal to Portal Act of 1947,[117] which limited the jurisdiction of any court, state or federal, to impose liability or impose punishment with respect to such liabilities. Although the act was upheld by a series of federal district courts and courts of appeals, most of the courts disregarded the purported jurisdictional limits, and decided the cases on the merits.

As one court noted, "while Congress has the undoubted power to give, withhold, or restrict the jurisdiction of courts other than the Supreme Court, it must not exercise that power as to deprive any person of life, liberty, or property without due process or just compensation. . . ."[118] The Court has also construed other similar statutes narrowly so as to avoid "serious constitutional questions" that would arise if no judicial forum for a constitutional claim existed.[119]

The Supreme Court has not directly addressed whether there needs to be a judicial forum to vindicate all constitutional rights. Justice Scalia has pointed out that there are particular cases, such as political questions cases, where all constitutional review is in effect precluded.[120] Other commentators point to sovereign immunity and the ability of the government to limit the remedies available to plaintiffs.[121] However, the Court has, in cases involving particular rights, generally found a requirement that effective judicial remedies be present. Thus, for instance, the Court has held that the Constitution mandates the availability of effective remedies for takings.[122] These cases would seem to indicate a basis for the Court to find that parties seeking to vindicate other particular rights must have a judicial forum for such challenges.

Conclusion

The Administration's policy of detaining wartime captives and suspected terrorists at Guantanamo Bay Naval Station raises a host of novel legal questions regarding, among other matters, the relative powers of the President and Congress to fight terrorism. The Graham Amendment to the Senate version of the National Defense Authorization Act for FY2006 may become Congress's first effort to impose limits on the President's conduct of the War on Terrorism and to prescribe a role for the courts. The precise impact the amendment would have, if enacted, with respect to litigation already in the courts, is difficult to predict.

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[117] 29 U.S.C. § 251-262.

[118] Battaglia v. General Motors Corp., 169 F.2d 254, 257 (2d. Cir. 1948).

[119] See, e.g., Webster v. Doe, 486 U.S. 592 (1988).

[120] 486 U.S. at 612-13 (Scalia, J., dissenting).

[121] Bartlett v. Bowen, 816 F.2d 695, 719-720 (1987)(Bork, J., dissenting).

[122] First English Evangelical Lutheran Church of Glendale v. Los Angeles County, 482 U.S. 304 (1987).

-----Original Message-----

From: Hecker Karen Maj AFLSA/JAJA

Sent: Tuesday, December 13, 2005 11:40

To: Becker, Grace, Ms, DoD OGC

Cc: Jimenez, Frank, Mr, DoD OGC; terry.henry@usdoj.gov

Subject: FW: Documents on Habeas Legislation

-----Original Message-----

From: Hecker, Karen, Ms DoD OGC

Sent: Tuesday, December 13, 2005 11:20 AM

To: Hecker Karen Maj AFLSA/JAJA

Subject: FW: Documents on Habeas Legislation

From: Wolf, Kendal, CIV, OSD-POLICY
Sent: Tuesday, December 13, 2005 11:20:20 AM
To: Marrone, Christian, CIV, OSD-LA; Hecker, Karen, Ms DoD OGC;
Beaver, Diane, Ms, DoD OGC; French, Christina, Ms, DoD OGC;
Hyams, Ross, CIV, OSD-POLICY; Burfeind, Barbara, CIV, OSD-POLICY;
Cooper, Zachary, CIV, OSD-POLICY; Del Monte, Bryan, CIV, OSD-POLICY;
Fortune, Anthony, CIV, USA, OSD-POLICY
Subject: Documents on Habeas Legislation
Auto forwarded by a Rule

You may be interested in the attached:

Congressional Research Service report: "Guantanamo Detainees: Habeas Corpus Challenges in Federal Court"
<<RL33180 (Guantanamo Detainees- Habeas Corpus Challenges in Federal Court).pdf>>

Congressional letter from a dozen retired federal judges against the Graham provision on Habeas Corpus.
<<JudgesLetter12.7.05.pdf>>

V/R,
Kendal

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 9:42 AM
To: Monheim, Thomas
Subject: Re: War on Terror Speech on Wed, 12/14

Afraid I'm not going to make this one but the last one I did see and it was great. Hope I can get a full report when you return. Thanks for the invite.

-----Original Message-----
From: Monheim, Thomas <Thomas.Monheim@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Dec 14 08:59:21 2005
Subject: FW: War on Terror Speech on Wed, 12/14

Neil, are you planning to attend? If so, do you want to head over together?

-----Original Message-----
From: Williams, Jan
Sent: Tuesday, December 13, 2005 5:08 PM
To: Williams, Jan; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bradbury, Steve; Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Malloy, Sandra; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roberts, Crystal; Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald L (USARAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie

Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Woodruff, William; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); 'Sanchez, William J (CRT)'; Tamargo, Mauricio J; Tandy, Karen P; Wooldridge, Sue Ellen (ENRD)
Subject: RE: War on Terror Speech on Wed, 12/14

i still have a couple seats available -- please let me know if you can attend.

-----Original Message-----
From: Williams, Jan
Sent: Tuesday, December 13, 2005 1:37 PM
To: Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bradbury, Steve; Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Malloy, Sandra; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roberts, Crystal; Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan

(CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); 'Sanchez, William J (CRT)'; Tamargo, Mauricio J; Tandy, Karen P; Wooldridge, Sue Ellen (ENRD)
Subject: FW: War on Terror Speech on Wed, 12/14

I would like to invite you to the President's War on Terror speech on Wednesday, December 14th. The event is in the Atrium Ballroom of the Ronald Reagan Building. Please arrive no later than 10 am. Please bring your ID. Thanks. Reply quickly because space is limited. Please rsvp by emailing me before 4pm today.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 7:31 PM
To: Bucholtz, Jeffrey (CIV)
Subject: RE:

Absolutely! If you're inclined, we might invite some of your CIV colleagues as well. In any event, it is on my calendar and I'm looking forward to it already.

-----Original Message-----
From: Bucholtz, Jeffrey (CIV)
Sent: Wednesday, December 14, 2005 7:26 PM
To: Gorsuch, Neil M
Subject:

Hey Neil, something we didn't get to do today was talk about scheduling something fun. I'm here all next week and sure am hoping it's slower than it's been lately, so if you're here too, maybe lunch or a drink after work one day? Would Th. evening work for you?

Thank you for suggesting the el Masri meeting and for getting Robert to come to it. I think it was a good way of getting people's attention.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 14, 2005 7:11 PM
To: Williams, Jan
Subject: RE: REMARKS BY THE PRESIDENT ON THE WAR ON TERROR

Another great speech. CFR was terrific too. We are back playing offense.

-----Original Message-----
From: Williams, Jan
Sent: Wednesday, December 14, 2005 6:39 PM
To: Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bradbury, Steve; Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Malloy, Sandra; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roberts, Crystal; Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Brand, Rachel;

(USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Brand, Rachel;
Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert;
Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan
(CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J;
Moschella, William; O'Connor, Eileen J. (AAG/TAX); Sanchez, William J
(CRT); Tamargo, Mauricio J; Tandy, Karen P; Wooldridge, Sue Ellen
(ENRD); Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L;
Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG);
Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford
Subject: FW: REMARKS BY THE PRESIDENT ON THE WAR ON TERROR

Below are the remarks from the President's speech at the Reagan Building today. Jan

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REMARKS BY THE PRESIDENT

ON THE WAR ON TERROR

The Woodrow Wilson Center

Ronald Reagan Building and International Trade Center

Washington, D.C.

11:08 A.M. EST

THE PRESIDENT: ...I've come to discuss an issue of vital importance to the American people, and that is: Victory in the war on terror. On September the 11th, 2001, our nation awoke to a sudden attack, and we accepted new responsibilities. We are confronting new dangers with firm resolve. We're hunting down the terrorists and their supporters. We will fight this war without wavering -- and we will prevail.
(Applause.)

In the war on terror, Iraq is now the central front -- and over the last few weeks, I've been discussing our political, economic, and military strategy for victory in that country. A historic election will take place tomorrow in Iraq. And as millions of Iraqis prepare to cast their ballots, I want to talk today about why we went into Iraq, why we stayed in Iraq, and why we cannot -- and will not -- leave Iraq until victory is achieved. (Applause.)

We are living through a watershed moment in the story of freedom.
Most of the focus now is on this week's elections -- and rightly so.
Iraqis will go to the polls to choose a government that will be the only constitutional democracy in the Arab world. Yet we need to remember that these elections are also a vital part of a broader strategy for protecting the American people against the threat of terrorism.

We saw the future the terrorists intend for our nation on that fateful morning of September the 11th, 2001. That day we learned that vast oceans and friendly neighbors are no longer enough to protect us.
September the 11th changed our country; it changed the policy of our government. We adopted a new strategy to protect the American people:
We would hunt down the terrorists wherever they hide; we would make no distinction between the terrorists and those who harbor them; and we would advance our security at home by advancing freedom in the Middle East.

September the 11th also changed the way I viewed threats like Saddam Hussein. We saw the destruction terrorists could cause with airplanes loaded with jet fuel -- and we imagined the destruction they could cause with even more powerful weapons. At the time, the leaders of both political parties recognized this new reality: We cannot allow the world's most dangerous men to get their hands on the world's most dangerous weapons. In an age of terrorism and weapons of mass destruction, if we wait for threats to fully materialize, we will have waited too long. (Applause.)

We removed Saddam Hussein from power because he was a threat to our security. He had pursued and used weapons of mass destruction. He sponsored terrorists. He ordered his military to shoot at American and British pilots patrolling the no-fly zones. He invaded his neighbors.
He fought a war against the United States and a broad coalition. He had declared that the United States of America was his enemy.

Over the course of a decade, Saddam Hussein refused to comply with more than a dozen United Nations resolutions -- including demands that he respect the rights of the Iraqi people, disclose his weapons, and abide by the terms of a 1991 cease-fire. He deceived international inspectors, and he denied them the unconditional access they needed to do their jobs. When a unanimous Security Council gave him one final chance to disclose and disarm, or face serious consequences, he refused to comply with that final opportunity. At any point along the way, Saddam Hussein could have avoided war by complying with the just demands of the international community. The United States did not choose war -- the choice was Saddam Hussein's.

When we made the decision to go into Iraq, many intelligence agencies around the world judged

When we made the decision to go into Iraq, many intelligence agencies around the world judged that Saddam possessed weapons of mass destruction. This judgment was shared by the intelligence agencies of governments who did not support my decision to remove Saddam. And it is true that much of the intelligence turned out to be wrong. As President, I'm responsible for the decision to go into Iraq -- and I'm also responsible for fixing what went wrong by reforming our intelligence capabilities. And we're doing just that. At the same time, we must remember that an investigation after the war by chief weapons inspector Charles Duelfer found that Saddam was using the U.N. oil-for-food program to influence countries and companies in an effort to undermine sanctions, with the intent of restarting his weapons programs once the sanctions collapsed and the world looked the other way. Given Saddam's history and the lessons of September the 11th, my decision to remove Saddam Hussein was the right decision. Saddam was a threat -- and the American people and the world is better off because he is no longer in power. (Applause.) We are in Iraq today because our goal has always been more than the removal of a brutal dictator; it is to leave a free and democratic Iraq in its place.

As I stated in a speech in the lead-up to the war, a liberated Iraq could show the power of freedom to transform the Middle East by bringing hope and progress to the lives of millions. So we're helping the Iraqi -- Iraqi people build a lasting democracy that is peaceful and prosperous and an example for the broader Middle East. The terrorists understand this, and that is why they have now made Iraq the central front in the war on terror.

The enemy of freedom in Iraq is a combination of rejectionists and Saddamists and terrorists. The rejectionists are ordinary Iraqis, mostly Sunni Arabs, who miss the privileged status they had under the regime of Saddam Hussein. We believe that, over time, most of this group will be persuaded to support the democratic Iraq led by a federal government that is strong enough to protect minority rights. We're encouraged by the indications that many Sunnis intend to participate in tomorrow's elections.

The Saddamists are former regime loyalists who harbor dreams of returning to power, and they're trying to foment anti-democratic sentiment amongst the larger Sunni community. Yet they lack popular support, and over time, they can be marginalized and defeated by the security forces of a free Iraq.

The terrorists affiliated with or inspired by al Qaeda are the smallest, but most lethal group. They are led by a brutal terrorist named Zarqawi. He's al Qaeda's chief operations officer in Iraq. He has stated his allegiance to Osama bin Laden. The terrorists have ambitions; they have goals. They want to stop the advance of freedom in Iraq. They want to make Iraq what Afghanistan was under the Taliban -- a safe haven from which they can plot attacks against our people. There is no limit to their brutality. They kill the innocent to achieve their aims. This is an enemy without conscience -- and against such enemy, there is only one effective response: We will never back down, we will never give in, and we will never accept anything less than complete victory. (Applause.)

Last month, my administration released a document called the "National Strategy for Victory in

Iraq." In recent weeks, I've been discussing our strategy with the American people. At the U.S. Naval Academy, I spoke about how we changed our approach to training Iraqi security forces, so they can take the fight to the enemy and eventually take responsibility for the security of their citizens without major foreign assistance. Iraqi forces are becoming more and more capable.

This time last year, there was only a handful of Iraqi battalions ready for combat. Now there are more than 125 Iraqi army and police combat battalions in the fight against the terrorists. Of these, more than 70 Iraqi battalions are fighting side-by-side with coalition forces, and more than 50 others are taking the lead in the fight. So far, in December, there have been more than 900 combat operations in Iraq at the company level or above, and 75 percent of these involved Iraqi security forces either in the lead or fighting side-by-side with our coalition. As these Iraqi forces grow in size and strength, American and coalition forces can concentrate on training Iraqis, and hunting down high-value targets like Zarqawi and his associates.

Last week before the Council on Foreign Relations, I explained how we changed our approach to help Iraqis hold and rebuild cities taken from the enemy, and how to help them revitalize Iraq's infrastructure and economy. Today, many cities like Mosul and Najaf are coming back to life, and Iraq's economy is growing. Thousands of new businesses have opened in Iraq, personal income is up, and according to one survey, seven in 10 Iraqis say their own lives are going well, and nearly two-thirds expect things to improve in the next year.

Earlier this week at the Philadelphia World Affairs Council, I spoke in depth about how we changed our approach to helping the Iraqis build their democracy. At the request of Iraqi leaders, we accelerated the transition to Iraqi self-government. We set four major milestones to guide Iraq's transition to constitutional democracy: the transfer of sovereignty, elections for a transitional government, the adoption of a democratic constitution, and elections for a new government under that constitution. In spite of the violence, Iraqis have met every milestone -- and this is changing the political landscape in Iraq.

Sunni Arabs who failed to participate in the January elections are now campaigning vigorously in this week's elections -- and we can expect a higher turnout of Sunni voters. As Sunnis join the political process, Iraqi democracy becomes more inclusive -- and the terrorists and Saddamists are becoming marginalized.

Each of the changes we have made in our approach in Iraq is helping us meet the hard realities and the facts on the ground. We've adapted our tactics; we have fixed what was not working, and we have listened to those who know best: our military commanders -- and the Iraqi people.

Our tactics continue to change, but our goal in Iraq has not changed: a free and democratic Iraq. I

Our tactics continue to change, but our goal in Iraq has not changed: a free and democratic Iraq. I strongly believe a democratic Iraq is a crucial part of our strategy to defeat the terrorists, because only democracy can bring freedom and reconciliation to Iraq, and peace to this troubled part of the world. Our efforts to advance freedom in Iraq are driven by our vital interests and our deepest beliefs. America was founded on the principle that all men are created equal, and we believe that the people of the Middle East desire freedom as much as we do. History has shown that free nations are peaceful nations. And as Iraqi democracy takes hold, Iraqi citizens will have a stake in a common and peaceful future.

As we advance the cause of freedom in Iraq, our nation can proceed with confidence because we have done this kind of work before. After World War II, President Harry Truman believed that the way to help bring peace and prosperity to Asia was to plant the seeds of freedom and democracy in Japan. Like today, there were many skeptics and pessimists who said that the Japanese were not ready for democracy. Fortunately, President Harry Truman stuck to his guns. He believed, as I do, in freedom's power to transform an adversary into an ally. And because he stayed true to his convictions, today Japan is one of the world's freest and most prosperous nations, and one of America's closest allies in keeping the peace. The spread of freedom to Iraq and the Middle East requires the same confidence and persistence, and it will lead to the same results. (Applause.)

The people of Iraq are now seeing some of the tangible benefits of their new democracy. They see that as freedom advances, their lives are improving. Iraqis have approved a bold constitution that guarantees the rule of law and freedom of assembly, and property rights, and freedom of speech and the press, and women's rights, and the right to vote. They see their freedom increasingly being defended by their own soldiers and police instead of foreign forces. And they see that freedom is bringing opportunity and a better life.

The Iraqis still face many challenges, including security, and reconstruction, and economic reform. But they are building a strong democracy that can handle these challenges and that will be a model for the Middle East. Freedom in Iraq will inspire reformers from Damascus to Tehran. This new Iraq shares our deepest values, and it shares our most determined enemies. By helping Iraqis build a nation that can govern itself, sustain itself, and defend itself, we will gain an ally in the war on terror and a partner for peace in the Middle East.

The stakes in Iraq are high, and we will not leave until victory has been achieved. (Applause.) Today there's an intense debate about the importance of Iraq to the war on terror. The constant headlines about car bombings and killings have led some to ask whether our presence in Iraq has made America less secure. This view presumes that if we were not in Iraq, the terrorists would be leaving us alone. The reality is that the terrorists have been targeting America for years, long before we ever set foot in Iraq.

We were not in Iraq in 1993, when the terrorists tried to blow up the World Trade Center in New

York. We were not in Iraq in 1998, when the terrorists bombed our embassies in Kenya and Tanzania. We were not in Iraq in 2000, when the terrorists killed 17 American sailors aboard the USS Cole. There wasn't a single American soldier in Iraq on September the 11th, 2001, when the terrorists murdered nearly 3,000 people in the worst attack on our home since Pearl Harbor.

These acts are part of a grand strategy by the terrorists. Their stated objective is to drive the United States and coalition forces out of the Middle East so they can gain control of Iraq and use that country as a base from which to launch attacks against America, overthrow moderate governments in the Middle East, and establish a totalitarian Islamic empire that stretches from Spain to Indonesia. Hear the words of the terrorists. In a letter to the terrorist leader Zarqawi, the al Qaeda leader Zawahiri has outlined plans that will unfold in several stages. These are his words: "... Expel the Americans from Iraq. ...
Establish an Islamic authority over as much territory as you can to spread its power in Iraq... Extend the jihad wave to secular countries neighboring Iraq." End quote.

To achieve these goals, the terrorists are targeting innocent men, women, and children. The enemy has only the ability to create chaos for the cameras with spectacular acts of violence. They know they cannot defeat us militarily. So they're trying to break our will in the hopes of getting America to leave the battlefield early, and they cite Vietnam as a reason they can prevail. Zawahiri, in his letter to Zarqawi, wrote, "The aftermath of the collapse of the American power in Vietnam -- and how they ran and left their agents -- is noteworthy." In the past, al Qaeda has said that American pullouts of Lebanon and Somalia showed them that America is weak and could be made to run. And now the terrorists think they can make America run in Iraq. There's only one way the terrorists can prevail: if we lose our nerve and leave before the job is done. And that is not going to happen on my watch. (Applause.)

Some in Washington are calling for a rapid and complete withdrawal of our forces in Iraq. They say that our presence there is the cause for instability in Iraq, and that the answer is to set a deadline to withdraw. I disagree. I've listened carefully to all the arguments, and there are four reasons why I believe that setting an artificial deadline would be a recipe for disaster.

First, setting an artificial deadline would send the wrong message to the Iraqis. As Iraqis are risking their lives for democracy, it would tell them that America is more interested in leaving than helping them succeed, put at risk all the democratic progress they have made over the past year.

Secondly, setting an artificial deadline would send the wrong message to the enemy. It would tell them that if they wait long enough, America will cut and run. It would vindicate the terrorists' tactics of beheadings and suicide bombings and mass murder. It would embolden the terrorists and invite new attacks on America.

Third, setting an artificial deadline would send the wrong message to the region and the world. It would tell our friends and supporters that America is a weak and unreliable ally, and that when the going gets tough, America will retreat.

Finally, setting an artificial deadline would send the wrong message to the most important audience -- our troops on the front line.
It would tell them that America is abandoning the mission they are risking their lives to achieve, and that the sacrifice of their comrades killed in this struggle has been in vain. I make this pledge to the families of the fallen: We will carry on the fight, we will complete their mission, and we will win. (Applause.)

Victory will be achieved by meeting certain clear objectives: when the terrorists and Saddamists can no longer threaten Iraq's democracy, when the Iraqi security forces can protect their own people, and when Iraq is not a safe haven for terrorists to plot attacks against our country. These objectives, not timetables set by politicians in Washington, will drive our force levels in Iraq. As Iraqis stand up, we will stand down. And when victory is achieved, our troops will then come home, with the honor they have earned. (Applause.)

One of the blessings of our free society is that we can debate these issues openly, even in a time of war. Most of the debate has been a credit to our democracy, but some have launched irresponsible charges.
They say that we act because of oil, that we act in Iraq because of Israel, or because we misled the American people. Some of the most irresponsible comments about manipulating intelligence have come from politicians who saw the same intelligence we saw, and then voted to authorize the use of force against Saddam Hussein. These charges are pure politics. They hurt the morale of our troops. Whatever our differences in Washington, our men and women in uniform deserve to know that once our politicians vote to send them into harm's way, our support will be with them in good days and bad, and we will settle for nothing less than complete victory. (Applause.)

Before this victory comes, we still have a lot of difficult work ahead. We've made real progress in the last two and a half years, and the terrorists see this progress and they're determined to stop it. These enemies are not going to give up because of a successful election.
They know that as democracy takes root in Iraq, their hateful ideology will suffer a devastating blow. So we can expect violence to continue.

We can also expect that the elections will be followed by days of uncertainty. We may not know for certain who's won the elections until the early part of January -- and that's important for our citizens to understand. It's going to take a while. It's also going to take a while for them to form a government. The work ahead will require patience of the Iraqi people, and require our patience, as well. Yet we

must remember that a free Iraq is in our interests, because a free Iraq will be a beacon of hope. And as the Middle East grows in liberty, the American people will become safer and our nation will be more secure.

The work ahead will also require continued sacrifice. Yet we can be confident, because history has shown the power of freedom to overcome tyranny. And we can be confident because we have on our side the greatest force for freedom in human history: the men and women of the United States Armed Forces. (Applause.)

One of these men was a Marine lieutenant named Ryan McGlothlin, from Lebanon, Virginia. Ryan was a bright young man who had everything going for him and he always wanted to serve our nation. He was a valedictorian of his high school class. He graduated from William & Mary with near-perfect grade averages, and he was on a full scholarship at Stanford, where he was working toward a doctorate in chemistry.

Two years after the attacks of September the 11th, the young man who had the world at his feet came home from Stanford for a visit. He told his dad, "I just don't feel like I'm doing something that matters.
I want to serve my country. I want to protect our lands from terrorists, so I joined the Marines." When his father asked him if there was some other way to serve, Ryan replied that he felt a special obligation to step up because he had been given so much. Ryan didn't support me in the last election, but he supported our mission in Iraq.
And he supported his fellow Marines.

Ryan was killed last month fighting the terrorists near the -- Iraq's Syrian border. In his pocket was a poem that Ryan had read at his high school graduation, and it represented the spirit of this fine Marine. The poem was called "Don't Quit."

In our fight to keep America free, we'll never quit. We've lost wonderful Americans like Ryan McGlothlin. We cherish the memory of each one. We pray the loved ones -- pray for the loved ones they've left behind, and we count it a privilege to be citizens of a country they served. We also honor them by acknowledging that their sacrifice has brought us to this moment: the birth of a free and sovereign Iraqi nation that will be a friend of the United States, and a force for good in a troubled region of the world.

The story of freedom has just begun in the Middle East. And when the history of these days is written, it will tell how America once again defended its own freedom by using liberty to transform nations from bitter foes to strong allies. And history will say that this generation, like generations before, laid the foundation of peace for generations to come.

May God bless you all. (Applause.)

END 11:39 A.M. EST

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 19, 2005 2:12 PM
To: Reyes, Luis (SMO)
Cc: Brand, Rachel
Subject: Re: Trafficking Report.

Thanks, chief.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Brand, Rachel <Rachel.Brand@SMOJMD.USDOJ.gov>
Sent: Mon Dec 19 14:09:43 2005
Subject: Trafficking Report.

As this crystalizes I will make sure Richard and Rachel are looped in and have relevant copies for review. The latest version of the outline is below (Richard and Larry Rothenberg were copied). A draft narrative is imminent.

-----Original Message-----
From: Comisac, Rena (CRT)
Sent: Tuesday, December 13, 2005 7:24 PM
To: Hertling, Richard; Rothenberg, Laurence E; Roth, Monique; Thacker, Stephanie; Oosterbaan, Andrew; McHenry, Teresa; Voris, Natalie (USAEO); Hagy, David, W.; Bottner, Andrea; Kaplan, Jennifer; Scott-Finan, Nancy; Reyes, Luis (SMO); Ho-Gonzalez, William; Kockritz, Janis; Hagen, Leslie A. (USAEO); Placido, Anthony P.; Ball, Lisa M (LEO); stansstraus@comcast.net
Cc: Bell, T March (CRT); Schlozman, Brad (CRT); Vargas, Omar (CRT)
Subject: Updated outline for trafficking report

Attached is an updated outline for the trafficking report that encompasses the very helpful suggestions you all supplied on Friday. Pls. take a quick look and if you see any glaring omissions or have any substantive edits, please email me with a cc to Omar by COB tomorrow. Thanks much for your input and feedback.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, December 19, 2005 2:37 PM
To: Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Mercer, Bill (ODAG); Fisher, Alice; Scolinos, Tasia; Moschella, William; Brand, Rachel; Hertling, Richard
Cc: Reyes, Luis (SMO)
Subject: FW: Trafficking Report.
Attachments: DOJ HT Report Outline.rev3.C-RJC edits.wpd

All: Attached is the outline of the trafficking report being prepared by CRT. The document itself is being prepared now and will be finalized in January. If you have any comments to offer, now is the moment. Many thanks, NMG

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From: Comisac, Rena (CRT)
Sent: Tuesday, December 13, 2005 7:24 PM
To: Hertling, Richard; Rothenberg, Laurence E; Roth, Monique; Thacker, Stephanie; Oosterbaan, Andrew; McHenry, Teresa; Voris, Natalie (USAEO); Hagy, David, W.; Bottner, Andrea; Kaplan, Jennifer; Scott-Finan, Nancy; Reyes, Luis (SMO); Ho-Gonzalez, William; Kockritz, Janis; Hagen, Leslie A. (USAEO); Placido, Anthony P.; Ball, Lisa M (LEO); stansstraus@comcast.net
Cc: Bell, T March (CRT); Schlozman, Brad (CRT); Vargas, Omar (CRT)
Subject: Updated outline for trafficking report

Attached is an updated outline for the trafficking report that encompasses the very helpful suggestions you all supplied on Friday. Pls. take a quick look and if you see any glaring omissions or have any substantive edits, please email me with a cc to Omar by COB tomorrow. Thanks much for your input and feedback.

DOJ Report on Activities to Combat Human Trafficking
2001-2005
Updated as of 12/13/05

I. Define Human Trafficking

A. Description of the problem

1. Actions, often including use of force, fraud, or coercion, to compel a person into a situation in which s/he will be exploited. Victims are often lured by promises of well-paying jobs. Once deprived of the opportunity to return home, victims are forced or coerced into two general types of forced labor: sexual exploitation and labor exploitation.

2. Trafficking statistics – aggregate if available, otherwise CRT statistics, which are:

a. Total trafficking cases filed FY01-05: 91
i. Total filed FY96-00: 18
ii. 80% increase
b. Total trafficking defendants charged FY01-05: 248
i. Total charged FY96-00: 80
ii. 68% increase
c. Total trafficking defendants convicted FY01-05: 141
i. Total convicted FY96-00: 67
ii. 52% increase

B. Scope of the problem

. It is extremely difficult to quantify the number of victims trafficked globally and into the United States and therefore it is difficult to define the scope of the problem within the United States.

a. Some estimate as much as 800,000 people trafficked across international borders annually. (Source: U.S. Dept. of State)
b. Some estimate that as many as 17,500 victims are trafficked into the United States each year. (source: U.S. Dept. of State; HHS-ORR)

. Despite U.S. government efforts, there is noted disparity between the estimated number of victims and those who have been found and assisted.

a. Less than 1,000 victims have been assisted to date.

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b. Some estimates may overstate the extent of the problem and conflate human trafficking with the smuggling and harboring of illegal aliens.

. Identifying and assisting victims of human trafficking are difficult tasks and therefore we have no reliable figures regarding the number of victims that may be in the United States.

a. Victims often suffer from paralyzing fear and are reluctant to seek out help.
b. Traffickers perversely use the specter of American law to exploit their victims.
c. Traffickers coerce and deceive the destitute and meek.

II. <u>An Administration Priority</u>

A. Executive Order 13257

1. Signed by POTUS February 13, 2002

2. Established Cabinet-level Interagency Task Force to Monitor and Combat Trafficking in Persons

B. NSPD-22

1. Signed February 2002

2. Administration's commitment to eradicate trafficking includes:

a. Vigorous enforcement of U.S. laws against all who traffic in persons
b. Raising awareness at home and abroad about human trafficking and how it can be eradicate
c. Identifying, protecting, and assisting victims
d. Encouraging other nations to work with the U.S. to combat trafficking, draft and enforce laws against trafficking, and hold accountable those engaged in it.

C. Senior Policy Operating Group

1. Established by TVPA
2. Meets quarterly and includes representatives from DOS, DOJ, DHS, HHS, DOL, USAID, OMB, and CIA.
   a. DOJ serves as head of the SPOG subcommittee on regulations

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b. DOJ work on SPOG collaborations. *[NB: our major work has been the drafting of the model regulation to implement the limitation on funds in the TVPRA, but it's not public yet, so we can't talk about it in the report.]*

II. Halting Human Trafficking With a Record Number of Aggressive Investigations and Prosecutions

A. Trafficking for Commercial Sexual Exploitation (CSE)

1. Describe the problem

2. Efforts to address CSE

a. FBI's Involuntary Servitude and Slavery/ Trafficking in Persons Initiative as it concerns CSE. [FBI - need more information]
   i. Initiated in 2004
   ii. Human Trafficking Initiative - EC dated 10/21/05 recommends that FBI's 56 field offices:

1. Conduct threat assessments in territories to determine nature and scope of trafficking problem

2. Join or establish trafficking task forces or working groups

3. Establish contact with NGOs

4. Conduct aggressive trafficking investigations

5. Developed and disseminated general human trafficking investigative protocol to all field intelligence group

b. Civil Rights Division performance statistics

   i. From FY01-FY05, CRT filed 68 CSE trafficking cases (90% increase over the 7 trafficking cases CRT filed FY96-FY00)
   ii. From FY01-FY05, CRT charged 187 defendants with CSE trafficking (82% increase over the 34 defendants CRT charged FY96-FY00)
   iii. From FY01-FY05, CRT convicted 109 CSE trafficking defendants (82 % increase over the 20 defendants convicted

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FY96-FY00)

iv. Record numbers of CSE trafficking cases filed, defendants charged, and defendants convicted by CRT in 2005

v. 100% success rate in CSE trafficking cases

c. USAOs and CRM performance statistics

d. Examples of successful prosecutions

B. Trafficking for Labor Without Compensation (Labor Trafficking)

1. Describe the problem (domestic servitude, farm or factory labor, construction, janitorial)

2. Efforts to address labor trafficking

a. FBI's Involuntary Servitude and Slavery/ Trafficking in Persons Initiative as it concerns labor trafficking. [FBI - need more information]

b. Civil Rights Division performance statistics

i. From FY01-FY05, CRT filed 23 labor trafficking cases (52% % increase over the X trafficking cases CRT filed FY96-FY00).

ii. From FY01-FY05, CRT charged 61 defendants with labor trafficking (25% increase over the 46 defendants CRT charged FY96-FY00).

iii. Record number of labor trafficking cases filed by CRT in 2005

iv. 100% success rate in labor trafficking cases

c. USAOs and CRM performance statistics

d. Examples of successful prosecutions

C. Trafficking in Children

1. Child sex trafficking

a. Innocence Lost Initiative--June 2003. Designed to address the growing problem of children forced into prostitution (domestic sex trafficking).

i. CEOS, FBI and NCMEC (funded in part by OJP) provide

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training; it is solely dedicated to the investigation and prosecution of cases involving child prostitution.

ii. 14 field offices participate

iii. Training is multi-disciplinary. Includes state and federal law enforcement, prosecutors, and social service providers.

iv. Approximately 320 key personnel have been trained. An additional training session on prostitution will be offered in January 2006.

b. Performance statistics FY96-05

c. Examples of successful prosecutions

2. Sex tourism

a. Description of the problem

b. Performance statistics FY96-05

c. Examples of successful prosecutions

D. Statutory Tools

1. TVPA

a. Discuss statutes used to prosecute trafficking cases before TVPA passage

b. Describe TVPA enhancement of DOJ prosecution efforts

2. TVPRA – describe enhancement of DOJ prosecution efforts

3. PROTECT Act – describe enhancement of DOJ prosecution efforts

4. Justice for All Act – describe DOJ measures to comply with provisions as they relate to trafficking

E. Intra-Agency Coordination

1. FBI/CRM/CRT quarterly meetings, CRM quarterly reports

2. Attorney detailed from CRT to DSS.

3. Human Trafficking Newsletters

a. CRT

b. CEOS

F. Inter-Agency Coordination

1. Human Smuggling and Trafficking Center

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a. History
b. Three separate but related mission areas related to illicit movement of people.
    i. Human trafficking
    ii. Alien smuggling
    iii. Clandestine terrorist travel.
c. Function: Gathers and analyzes law enforcement and intelligence data, which it then shares with law enforcement community
d. DOJ contribution
    i. Steering Committee co-chair
    ii. Full-time CRM detailee from OCRS

. Memorandum of Understanding between DOJ, DHS, and HHS.

3. Other areas of inter-agency coordination specifically related to investigations and prosecutions and not covered elsewhere in report

IV. <u>The Department's Collateral Attack on Human Traffickers</u>

A. Multi-Disciplinary Task Force Initiative

. The Department has designed, developed, and instituted locally based, multi-disciplinary task forces to investigate and prosecute human trafficking cases. These task forces embody the Department's victim-centered approach.

. The Department announced its initiative to develop and support multi-disciplinary task forces at the "National Training Conference on Human Trafficking: Rescuing Women and Children From Slavery Trafficking," July 2004

a. President Bush delivered keynote remarks. Regarding domestic efforts to combat trafficking, the President remarked, "[w]e're supporting organizations that rescue the victims, passing stronger anti-trafficking laws, and warning travelers that they will be held to account for supporting this modern form of slavery. Women and children should never be exploited for pleasure or greed, anywhere on Earth."
b. [Ashcroft Remarks]

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c. The conference had a substantial impact on the Department's efforts to promote victim-centered prosecutions through local multi-disciplinary task forces.
    i. more than 500 attended
    ii. Teams of federal, state and local law enforcement from from communities including Atlanta, GA; Charlotte, NC; Chicago, IL; El Paso, TX; Houston, TX; Las Vegas, NV; Long Island, NY; Los Angeles, CA; Miami, FL; Newark, NJ; New Orleans, LA; New York, NY; Metropolitan Washington, DC; Philadelphia, PA; Phoenix, AZ; Richmond, VA; San Diego, CA; San Francisco, CA; St. Louis, MO, Seattle, WA and Tampa, FL.
    iii. Teams included the following members: USAO-AUSA; ICE-SACs; FBI- SACs; Local law enforcement agency special crimes and vice units; State and local prosecutors; Governmental and non-governmental victim service providers.

. Multi-Disciplinary Task Forces bring together federal, state and local law enforcement and victim service providers to coordinate efforts to uncover human trafficking case and rescue victims.

a. Department's law enforcement resources collaborate with the intelligence and expertise of local immigration agents, local law enforcement, particularly special crimes and vice squads, and of local community- and faith-based service providers.
    i. Local community- and faith-based organizations are essential to reaching those victims in communities that are isolated by geography, culture or language.
b. Task Forces premised on belief that local authorities are better positioned to know where in their communities trafficking takes place. Federal resources and assets can combine with locals to produce results.
c. Task Forces are coordinated through USAO and include representatives of:
    i. FBI field offices
    ii. Immigration and Customs Enforcement agents
    iii. state and local law enforcement
    iv. social services agencies.
d. In order to receive BJA Anti-Human Trafficking Initiative funding the local USAO, local law enforcement agencies and victim service providers must enter into a Memorandum of Understanding with all task force members committing themselves to collaborating together on investigations and assistance to victims.

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4. Accomplishments of Multi-Disciplinary Task Force Initiative

a. 5 Task Force existed prior to the national conference
b. 20 task forces were instituted in connection with the conference.
c. CRT, CRM, OJP, OLP and OVW collaborated with experts to develop the conference training curriculum and materials.
d. 32 Task Forces have been created to date
    i. Locations/jurisdictions
    ii. Number of law enforcement personnel
    iii. Investigators
    iv. Prosecutors
    v. number of victim service providers
e. In the first six months of operation, and with only 20 of the 32 task forces reporting performance data at the time, 61 victims of severe trafficking had been identified and many more were rescued from environments where trafficking was occurring. [OJP: Is it possible to get current data?]

. To date, OJP has provided $17 million in funding to support state and local law enforcement.

a. In FY 2004, OVC and BJA initiated a funding and training program to support local multi-disciplinary task forces. The solicitation entitled "Law Enforcement and Service Provider Multidisciplinary Anti-Trafficking Task Forces," urged applicants to leverage existing federally-funded victim services efforts.
b. In FY 2005, OVC and BJA issued a joint solicitation for concept papers to continue the coordinated law enforcement task forces and victim services initiatives. Federal funds made available through this solicitation were intended to support task forces or supplemental funding of current trafficking victim service providers in areas with pre-existing BJA-funded task forces.
c. Authority: TVPA (victim assistance grants)
d. Coordinates with OVC, CRT, COPS, and USAOs. All proposed funding grants are reviewed by the SPOG.
e. To date, $17 million has been awarded to institute 32 task forces.

. BJA (OJP) in collaboration with other federal partners, provides ongoing training and technical assistance to task forces.

a. February 2005, BJA convened a task force training conference. The focus of the conference was to explain the degree of

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collaboration needed among federal, state, and local law enforcement, prosecution, and victim services agencies in order to effectively rescue victims and prosecute traffickers.

b. 22 task forces (existing at that time).
c. Federal participants:
    i. ICE
    ii. OJP (BJA and OVC)
    iii. OJP Office of Civil Rights
    iv. ORR
    v. U. S. Attorneys
    vi. CRT trainers

B. Restoring Victims' Dignity

. A victim-centered response by federal law enforcement is essential to prosecution.

a. Beneficiaries are often momentary-e.g. customers of sexual exploitation or low labor costs.
b. Trafficking victim is often only remaining eyewitness.
c. Essential to liberation of victims and restoration of dignity
    i. Investigators and prosecutors immediately refer victims to victim-witness specialists and victim service providers.
d. Victim-centered prosecutions flow from our nation's foundational principals - respect for human dignity, civil rights.

. Components regularly promote a victim-centered response and educate law enforcement and victim service providers about the dynamics of trafficking and the need for pro-active investigations.

a. CRT training of victim service providers
b. Since January 2003, nearly 40,000 law enforcement officers, attorneys, social service providers, advocates, medical and mental health professionals, and community members have been trained by OVC and BJA grantees.
c. BJA's law enforcement training emphasizes that code enforcement, fire marshals, and other persons that may have access to where victims are being held should be trained on signs of human trafficking.
d. FBI-CRU has also been invited to dozens of regional DOJ/United States Attorney and FBI sponsored, HT training conferences hosted throughout the United States, e.g., Philadelphia, New Haven, Tampa, Houston, San Diego, Los Angeles, Portland, St. Louis, San

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Francisco.

e. CEOS attorneys have trained attorneys and investigators from all over the world on the commercial sexual exploitation and sex trafficking of children, usually in conjunction our other DOJ partners, including OPDAT, ICITAP, AFMLS, and CVRTS. CEOS has trained individuals from: the Council of Baltic States (11 Baltic nations), Albania, Angola, Armenia, Austria, the Balkans, Belgium, Belize, Bosnia, Brazil, Bulgaria, China, Costa Rica, Croatia, Czech Republic, El Salvador, Ecuador, Georgia, Germany, Guinea, Hungary, Indonesia, Israel, Japan, Korea, Lithuania, Latvia, Macedonia, Mexico, Montenegro, Nigeria, Panama, the Philippines, Poland, Romania, Russia, Senegal, Serbia, Slovenia, South Africa, Suriname, Thailand, the United Kingdom, and Ukraine, among others.

. The Department's funding and technical support of crime victim services is provided through the Office for Victims of Crime (OJP).

a. Coordinates with the Office of Refugee Resettlement (ORR) at the Department of Health and Human. Services to avoid duplication of services to trafficking victims and meets monthly with ORR.
b. Coordinates with CRT and FBI victim-witness coordinators to ensure services are made available by grantees.
c. 741 victims have been served FY 2003.

. Public awareness is essential to proactive investigations that uncover victims.

a. All components speak about trafficking and the Department's activities to combat it at various events.
    i. CRT - more than 200 presentations
    ii. OJP: Please provide any additional information related to outreach and awareness efforts supported through OVC's grants.
    iii. FBI-CRU has accepted invitations to appear on national television programs and local radio programs which highlight, define and expose trafficking to the general public, e.g., CNBC, Donny Deutche's The Big Idea and D.C. radio station WMAL AM 630's "Danger Zone" with Richard Carlson.
    iv. The CRU has conducted CR training to various organizations such as the International Association of Labor Standards Annual Conference, Memphis, TN, and the

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National Organization of Women's Annual Conference in Los Angeles California.

v. CEOS participated in a joint project with ICE, NCMEC, the United States Department of State, Office to Monitor and Combat Trafficking in Persons, and NGOs *End Child Prostitution*, *Child Pornography and the Sexual Exploitation of Children* (ECPAT), and *World Vision, and Rape, Abuse, & Incest National Network* (RAINN) to develop a brochure and posters designed to curb child sex tourism. The proposed brochure and poster are intended to be widely distributed both within the United States as well as abroad in an effort to combat the problem.

vi. CEOS participated a forum of child victims of trafficking co-organized by the US Conference of Catholic Bishops and the Institute for the Study of International Migration at Georgetown University held April 30 to May 2, 2003 in Miami, Florida. The forum dealt with identifying and serving child victims of trafficking. The focus of that conference was to explore strategies and protocols to identify and meet the special needs and circumstances of trafficked children in order to develop a blueprint for further technical assistance to a wide range of appropriate audiences. CEOS' focus at the conference was to encourage service providers to make the link with law enforcement as early as possible upon discovering a potential trafficking case, as that will help facilitate an appropriate law enforcement/prosecutorial response.

vii. Identifying Unknown Exploiters of Children. In partnership with FBI's Innocent Images Unit, CEOS conducts the Endangered Child Alert Program (ECAP), which identifies unknown subjects depicted exploiting children in images of child pornography by indicting them as John Doe cases and then airing the cropped images of the subjects on the television series "America's Most Wanted." As of August 10, 2005, six subjects have been profiled by AMW, and with the assistance of tips from viewers, five have been identified. More importantly, 35 of their child victims in Indiana, Montana, Texas, Colorado, and Canada have been identified as a result of this initiative. On August 9, 2005, a grand jury in the Eastern District of Wisconsin returned a John Doe indictment against the seventh subject to be profiled. [determine whether this are trafficking related]

b. OVW plans a summit of law enforcement officers, in collaboration with the International Association of Chiefs of Police, to continue

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to extend the level of awareness of and commitment to combating human trafficking.

c. Example(s) of successful prosecution that came to our attention through outreach.

. Important benefits are provided for victims under the TVPA and the TVPRA.

a. Traffickers are subject to mandatory restitution penalties owed to their victims.
b. Immigrant victims of human trafficking are provided protections and benefits.
    i. Victims are informed of their rights.
    ii. Victims are offered an adjustment of status permitting continued presence in the United States.
    iii. Victims may request a T-Visa.
    iv. Immigrant victims are offered culturally and linguistically appropriate services.
c. To date CRT and other law enforcement agencies have assisted 687 victims to obtain continued presence immigration status allowing them to remain in the country and to receive benefits and services.
d. OVC administers victim services programs to help rescue and restore victims of human trafficking.
    i. OVC administers a TVPA grant program providing services to victims of trafficking.
    ii. OVC ensures that crime victims are provided benefits and advocacy before the criminal justice system.
    iii. OVC Grantees provide: housing, clothing, and food; medical, dental, and psychological care; legal assistance and immigration advocacy; and interpretation services.
    iv. Since FY 2002, OJP (OVC) has funded 22 victim service providers.

. Trafficking victims may avail themselves to victim services providers funded through OVW. Since 2001, OVW has set aside over one million dollars to provide training and technical assistance to OVW grantees and others on human trafficking.

a. Legal Momentum's Immigrant Women Project
    i. Since 2001, The Legal Momentum's Immigrant Women Program provides technical assistance to OVW grantees to foster their ability to serve immigrant victims of domestic

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violence, sexual assault, and stalking.

ii. Legal Momentum has developed a nationwide directory of experts working with immigrant victims of available for trafficking victims.

iii. Immigrant Women Program training workshops educate grantees about the availability of T and U visas, identifying whether a victim has been trafficked, barriers faced by trafficking victims who seek services, and conducting outreach to potential victims of trafficking. 949 attorneys and advocates have attended these workshops and another 150 will be trained within the next year.

b. In 2003, the Family Violence Prevention Fund established a project aimed at improving collaborative responses to trafficked victims of domestic violence and sexual assault at sites in Georgia and Washington. The main goal of the project was to build multi-disciplinary collaborations between service providers and law enforcement to effectively and appropriately assist trafficking victims. OVW anticipates expanding this project to Alaska.

c. OVW grantees serving victims of domestic violence, sexual assault, and stalking may assist trafficking victims, particularly legal services providers.

. OVC (OJP) and OVW provide training and technical assistance to victim service providers.

a. OVC provides a training and technical assistance to its grantees telephonically, in person, and via the Internet.

b. Training and technical assistance includes mentoring guides and safety protocols for both providers and clients.

c. OVC grantees also provide training to local police and organizations. Since FY 2004 24,600 persons have been trained.

i. Training topics have included the dynamics of trafficking, the legal definition of trafficking under the TVPA, legal rights and services for trafficking victims, and cultural considerations in serving these victims.

d. OVC and the NIJ are studying effective approaches to victim service delivery and will publish an evaluation of field-tested services in June 2006.

8. DOJ-HHS coordination regarding services to victims

a. OVC-ORR regular coordination meetings

b. Avoids duplication in services

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C. Promoting Foreign Criminalization and Prosecution of Human Trafficking

. Goal is to promote the efforts of foreign governments to criminalize human trafficking and to enhance their capacity to investigate and prosecute these crimes.

. The centerpiece of the President's international efforts to combat human trafficking is his $50 million International Human Trafficking Initiative to build the capacity of several foreign nations to address this crime, announced in an address to the United Nations General Assembly in September 2003.

a. Replicates victim-centered prosecutions through multi-disciplinary task forces and increased outreach in India, Indonesia, Mexico, Moldova, and Tanzania
b. DOJ coordinates with the Department of Health and Human Services, Department of Labor, Department of State and the US Agency for International Development.
c. Includes training by CRT, OPDAT and ICITAP to local law enforcement, judicial and prosecution agencies.
d. The Department has been instrumental in securing agreements in connection with this initiative with Mexico, India, and Indonesia.
    i. Information on agreements

. In addition to the President's Initiative, FBI and CRM routinely work with foreign governments to prosecute cases of human trafficking.

a. Since FY 2003, the FBI has participated in the Southeast European Cooperative Initiative as the lead observer on human trafficking and has agents detailed to Albania, Bulgaria, and Romania to work on trafficking issues.
    i. Regional Center for Combating Trans-Border Crime in Bucharest, Romania, coordinates Southeastern European police and customs regional actions for preventing and combating trans-border crime, including trafficking in persons and migrant smuggling.
    ii. The following twelve countries are actively involved with the Center: Albania, the Federation of Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Hungary, Macedonia, Moldova, Romania, Serbia and Montenegro, Slovenia and Turkey.

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b. CRM's OIA
    i. Works with CRT and USAOs to obtain foreign evidence; connects domestic law enforcement authorities with foreign prosecution and judicial authorities.
        1. OIA assisted a European country investigating a trafficking scheme involving Europe and Eastern Europe. OIA sent to that country evidence obtained pursuant to searches in the United States of locations where the targets were believed to have stored potential evidence of their crimes.
        2. OIA supports anti-trafficking efforts by assisting US law enforcement with securing evidence gathered by foreign authorities.
            i) In *Carreto v. United States*, OIA helped secure testimony, as well as documentary and physical evidence, gathered by Mexican authorities in their investigations of the Carreto's transnational operation.
            ii) OIA secured evidence and testimony from Russia in support of a federal prosecution of a defendant in California accused of trafficking her niece into the United States and forcing her to be used in prostitution.
    ii. OIA works to extradite traffickers from foreign nations to the US or from the US to foreign nations for prosecution.
    iii. CRM: aggregate data describing OIA assistance FY 96-05.

. CRT and CRM are involved in outreach and providing technical assistance to foreign governments and nongovernmental organizations.

a. During FY 2003, CRT officials addressed international gatherings convened in countries such as Guatemala, the Dominican Republic and Brazil to encourage a coordinated response to human trafficking worldwide.
b. OPDAT and ICITAP work to build effective partnerships with other law enforcement agencies sharing the same goal of eradicating these predatory trafficking groups.
c. Build capacity of foreign governmental and non-governmental organizations to combat human trafficking.
d. Coordinate with FBI, USAOs, and OJP to provide technical assistance.
e. OPDAT/ICITAP administered TIP programs with 15 foreign

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nations in FY 05.

f. OPDAT/ICITAP performance statistics FY 96-05.

. The Department works with foreign governments to adopt legislation that aids in the investigation and prosecution of traffickers and the protection of victims.

a. In FY 2004, CRT attorneys and victim coordinators have conducted trainings and have assisted in drafting trafficking legislation in Asia, Africa, Europe, the Caribbean, North America, and South America.
    i. One Civil Rights Division attorney has been detailed to Moldova for two years to work on human trafficking issues in the former Soviet republics.
b. OPDAT and ICITAP assisted 7 foreign nations with legislation that directly or indirectly furthered anti-human trafficking efforts in FY 2004.
    i. Through OPDAT, FBI-CRU has provided training in Suriname and Ghana.
    ii. OPDAT/ICITAP performance statistics FY 96-05.
c. On January 30, 2005, FBI-CRU provided training to 50 international visitors, including officials from: Australia, India, Pakistan, South Africa, Haiti, and England.
    i. FBI-CRU, through the Asian Criminal Enterprise and Crimes Against Children Units, conducted a training session at the British Embassy on January 30, 2005. Both the British Embassy and Women in Federal Law Enforcement sponsored the program.

6. The Department supports international public awareness activities.

a. Prevents would-be victims.
b. Encourages foreign governments to take action.
c. Public awareness is increased through activities of CRT, FBI, USAOs, OJP, and OVW, working through OPDAT and ICITAP, in connection with briefings for foreign delegations and training programs.
    i. FY 2005, OPDAT and ICITAP conducted programs with over 15 countries.
    ii. OPDAT/ICITAP performance statistics FY 96-05.

D. Fostering State, Local and Non-Governmental Activities to Combat Human Trafficking

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1. In 2004, the Department developed and introduced a model state law. At that time, only four states-Texas, Florida, Missouri, and Washington-had state laws against trafficking.

a. Developed by a working group of legal policy experts and trial attorneys, it seeks to expand anti-trafficking law enforcement authority to the states in order to harness the almost one million state and local law enforcement officers who might come into contact with trafficking victims.
b. Reflects lessons learned through prosecutions, especially enforcement of the TVPA.
c. Announced at the 2004 National Conference and promoted by DOJ officials. CRT continues to provide technical assistance regarding the model state law to state legislators and related organizations.
d. In 2004, the U.S. Senate passed a resolution endorsing the statute and encouraging states to adopt it. Adoption of the model statute would promote a uniform national legal strategy to combat human trafficking.
e. 13 states have enacted statutes; most reflect the department's model though none have enacted the model in its entirety.
f. In March 2005, the Attorney General sent letters to state governors and legislative leaders explaining the scope of the trafficking problem, pointing to the need for state assistance to the federal government in fighting trafficking, and urging them to adopt the model.

. Outreach & technical assistance is critical to uncovering this insidious crime. CRT, along with FBI, CRM, USAOs, OJP and OVW, work to increase awareness among local law enforcement and community- and faith-based organizations.

a. All Departmental components provide training and/or technical assistance to governmental and non-governmental organizations.
b. Reinforces victim-centered approach to prosecutions and collaborative work of task forces.
c. In October 2002, CRT organized a comprehensive anti-trafficking training for federal prosecutors and agents at DOJ's training facility, the National Advocacy Center, in Columbia, South Carolina. Approximately 150 federal prosecutors and agents attended the training.
d. In FY 2002, CRT authored an article in the August 2002 issue of POLICE CHIEF magazine, entitled, "Working Together to Stop

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Modern-Day Slavery."

   i. Outlines ways for local law enforcement during the course of their usual investigations to identify trafficking cases.

e. In November 2002 the Attorney General issued "blue sheets" for prosecutors, outlining the new TVPA crimes and adding guidance regarding the prosecution of such crimes to the U.S. Attorneys' Manual.
   i. Highlights trafficking in persons as a priority and provides a comprehensive source of information and resources within the Department and with related agencies

f. In FY 2003, CRT provided periodic training at the FBI Quantico training center and to ICE.

g. In FY 2003, CRT conducted training sessions in the Washington, D.C. metropolitan area; New York City; Chicago, Illinois; San Diego, California; Atlanta, Georgia; Dallas, Texas; and several other cities and with numerous nongovernmental organizations such as the U.S. Conference of Catholic Bishops, Women in Federal Law Enforcement, International Asian Organized Crime Conference, National Organization of Black Law Enforcement Executives.

h. In FY 2004, CRT initiated publication of its Anti-Trafficking News Bulletin, a bi-monthly update on DOJ's anti-trafficking efforts. Each issue of the bulletin provides updates of recent case activity and describes outreach and policy activities of the Division and DOJ as a whole.

i. In FY 2004, CRT conducted more than fifty trainings around the United States at conferences and meetings in Houston, Seattle, Newark, San Antonio, Los Angeles, Chicago, Salt Lake City, New Orleans, San Francisco, Baltimore, New York City, Miami, El Paso, Austin, Orlando, Las Vegas, Connecticut, Albuquerque, Philadelphia, Northern Virginia, Phoenix, and elsewhere.

j. CRT and EOUSA's Office of Legal Education hosted a comprehensive training session for federal agents and prosecutors, including FBI and ICE agents at DOJ's National Advocacy Center in January 2004. Furthermore, CRT actively participates in human trafficking training at U.S. Attorneys' Offices as part of the regular curriculum of the FBI, ICE, and DOS's Diplomatic Security Service agents.

k. OVW has funded the IACP to create a training package for law enforcement officers, including a guidebook on the identification and investigation of human trafficking crimes and a roll call training video with discussion guide to accompany the guidebook.

l. OVW funds the IACP's National Law Enforcement Leadership Initiative, whose goals include developing law enforcement leadership that is committed to ending violence against women.

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i. The Initiative will hold a National Policy Summit on the Crime of Human Trafficking, which will focus on the role of local law enforcement in identifying and investigating human trafficking. IACP anticipates holding this leadership summit in the summer of 2006.

m. BJA initiated, in FY 2005, a program to educate law enforcement trainers about human trafficking through the COPS' Regional Community Policing Institutes (RCPI).
   i. COPS' RCPI initiative will educate ___ law enforcement trainers and ultimately, reach ____ police officers.

n. NIJ is supporting research that will provide a clear perspective on the current state of law enforcement's understanding of human trafficking. The research will identify: 1) current law enforcement responses to human trafficking; 2) the implications of such responses for victims; and 3) best practices and lessons learned by law enforcement and the partners they collaborate with on trafficking cases (e.g., victims service providers, attorneys, etc.).

o. OJJDP, through NCMEC and Fox Valley Technical College, provide training on topics such as child maltreatment, runaway and missing children, the protection of children, and child pornography also include segments on domestic trafficking of children for sexual purposes. To date, training has reached more than 64,000 law enforcement officers, prosecutors, and community service providers.

V. Conclusion

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Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, December 19, 2005 5:45 PM
To:	Elwood, Courtney; Sampson, Kyle; Clement, Paul D; Garre, Gregory G; Bradbury, Steve; Keisler, Peter D (CIV); Nichols, Carl (CIV); Katsas, Gregory (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO)
Subject:	Colloquy
Attachments:	tmp.htm; Graham Kyl et al colloquy[1].doc

Some favorable leg history we expect to be associated with Graham. (Of course, we expect Sen. Levin to have prepared some of his own.)

SENATORS KYL, GRAHAM, BROWNBACK, CORNYN (COMMENTS ON FINAL PASSAGE OF NATIONAL DEFENSE AUTHORIZATION ACT OF 2006)

Mr. KYL: I would like to say a few words about the now-completed National Defense Authorization Act for Fiscal Year 2006, and in particular about section 1405 of that Act, which expels lawsuits brought by enemy combatants from United States courts. I see that my colleague, the senior Senator from South Carolina, is also on the floor.

I would like to begin by commenting on the need for this legislation. This provision originally was added to the bill in an amendment that was offered by Senator Graham and of which I was a cosponsor, as well as Senators Cornyn and Chambliss.

Keeping war-on-terror detainees out of the court system is a prerequisite for conducting effective and productive interrogation, and interrogation has proved to be an important source of critical intelligence that has saved American lives.

In *Rasul v. Bush*, the U.S. Supreme Court interpreted section 2241 of title 28 to authorize enemy combatants held outside of the United States to file habeas-corpus petitions challenging their status in federal courts. Such a process is both without precedent and is utterly impractical.

Giving detainees access to federal judicial proceedings threatens to seriously undermine vital U.S. intelligence-gathering activities. Under the new *Rasul*-imposed system, shortly after Al Qaida and Taliban detainees arrive at Guantanamo Bay, they are informed that they have the right to challenge their detention in federal court and the right to see a lawyer. Detainees overwhelmingly have exercised both rights. The lawyers inevitably tell detainees not to talk to interrogators. Also, mere notice of the availability of these proceedings gives detainees hope that they can win release through adversary litigation B rather than by cooperating with their captors. Effective interrogation requires the detainee to develop a relationship of trust and dependency with his interrogator. The system imposed last year as a result of *Rasul* B access to adversary litigation and a lawyer B completely undermines these preconditions for successful interrogation.

Navy Vice-Admiral Lowell Jacoby expounded on the preconditions for effective interrogation in a declaration attached to the United States= brief in the *Padilla* litigation in the Southern District of New York. Vice-Admiral Jacoby at the time was the Director of the Defense Intelligence Agency. He noted in the Declaration that:

> "DIA=s approach to interrogation is largely dependent upon creating an atmosphere of dependency and trust between the subject and the interrogator. Developing the kind of relationship of trust and dependency necessary for effective interrogations is a process that can take a significant amount of time. There are numerous examples of situations where interrogators have been unable to obtain valuable intelligence from a subject until months, or, even years, after the interrogation process began.
>
> "Anything that threatens the perceived dependency and trust between the subject and interrogator directly threatens the value of interrogation as an intelligence gathering tool. Even seemingly minor interruptions can have profound psychological impacts on the delicate subject-interrogator relationship. Any insertion of counsel into the subject-interrogator relationship, for example B even if only for a limited duration or for a specific purpose B can undo months of work and may permanently shut down the interrogation process."

Specifically with regard to Jose Padilla, Vice Admiral Jacoby also noted in his Declaration that:

> "Providing [Padilla] access to counsel now would create expectations by Padilla that his ultimate release may be obtained through an adversarial civil litigation process. This would break B probably irreparably B the sense of dependency and trust that the interrogators are attempting to create."
>
> The system of litigation that *Rasul* has wrought is unacceptable.

Mr. GRAHAM: I agree entirely. If I could add one thing on this point: perhaps the best evidence that the current *Rasul* system undermines effective interrogation is that even the detainees' lawyers are bragging about their lawsuits' having that effect. Michael Ratner, a lawyer who has filed lawsuits on behalf of numerous enemy combatants held at Guantanamo Bay, boasted in a recent magazine interview about how he has made it harder for the military to do its job. He particularly emphasized that the litigation interferes with interrogation of enemy combatants. Ratner stated:

> "The litigation is brutal for [the United States]. It=s huge. We have over one hundred lawyer now from big and small firms working to represent these detainees. Every time an attorney goes down there, it makes it that much harder [for the U.S. military] to do what they=re doing. You can=t

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> run an interrogation * * * with attorneys. What are they going to do now that we=re getting court orders to get more lawyers down there?"

When I read that quote, that for me was the last straw. I knew that something had to be done. On this issue, both the detainees' lawyers and the Defense Department seem to agree: involving enemy combatants in adversarial litigation in U.S. courts undermines effective interrogation of those detainees.

Mr. KYL: I am glad that we have been able to work together on this issue. I would add that interrogation of these detainees is important. In his Declaration to the Southern District of New York, DIA Director Jacoby described how interrogation has proven to be a critical intelligence tool B indeed, our most important intelligence tool B in past conflicts and in the current war on terror. Interrogation was our most valuable source of information in World War II and the Gulf War, and has played a key role in stopping numerous terrorist attacks in the present conflict. Vice Admiral Jacoby stated in that declaration:

> "Interrogations are vital in all combat operations, regardless of the intensity of the conflict. Interrogation permits the collection of information from sources with direct knowledge of, among other things, plans, locations, and persons seeking to do harm to the United States and its citizens. When done effectively, interrogation provides information that likely could not be gained from any other source.
>
> "The Department of the Army=s Field Manual governing Intelligence Interrogation, FM 34-52, dated 28 September 1992, provides several examples of the importance of interrogations in gathering intelligence. The Manual cites, for example, the United States General Board on Intelligence survey of nearly 80 intelligence units after World War II. Based upon those surveys, the Board estimated that 43 percent of all intelligence produced in the European theater of operations was from HUMINT, and 84 percent of the HUMINT was from interrogation. The majority of those surveyed agreed that interrogation was the most valuable of all collection operations.
>
> The Army Field Manual also notes that during OPERATION DESERT STORM, DoD interrogators collected information that, among other things, helped to: develop a plan to breach Iraqi defensive belts; confirm Iraqi supply-line interdiction by coalition air strikes; identify diminishing Iraqi troop morale; and identify a United State Prisoner of War captured during the battle of Kafji."

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Vice Admiral Jacoby also noted that interrogations of enemy combatants captured in the War on Terror have played a vital role in preventing numerous terrorist attacks. Again, quoting from his declaration in the Padilla litigation, Jacoby noted that interrogations of combatants such as those held at Guantanamo Bay have:

> "provided vital information to the President, military commanders, and others involved in the war on Terrorism. It is estimated that more than 100 additional attacks on the United States and its interests have been thwarted since 11 September 2001 by the effective intelligence gathering efforts of the Intelligence Community and others.
>
> "In fact, Padilla=s capture and detention were the direct result of such effective intelligence gathering efforts. The information leading to Padilla=s capture came from a variety of sources over time, including the interrogation of other detainees. Knowledge and disruption of Al Qaida=s plot to detonate a 'dirty bomb' or arrange for other attacks within the United States may not have occurred absent the interrogation techniques described above."

There are other examples of the importance of intelligence obtained form interrogation. In a recent new release, the Defense Department described valuable information that was obtained from interrogation of Mohamed al Kahtani, an enemy combatant being held at Guantanamo Bay. The Pentagon release noted that interrogation of Kahtani has yielded information that:

> "Clarified Jose Padilla=s and Richard Reid=s relationship with al-Qaida and their activities in Afghanistan; provided infiltration routes and methods used by al-Qaida to cross borders undetected; explained how Osama Bin Laden evaded capture by U.S. forces, as well as provided important information on his health; and provided detailed information about 30 of Osama Bin Laden=s bodyguards who are also held at Guantanamo."

The Pentagon=s news release concluded: "the result of those interrogations [at Guantanamo Bay] has undoubtedly produced information that has saved the lives of U.S. and coalition forces in the field."

Let me cite another example: a June 27, 2004 Washington Post story notes that on November 11, 2001, Pakistani forces captured Ibn al-Shaykh al-Libi, a Libyan national who ran the Khaldan paramilitary camp in Afghanistan. In January 2002, al-Libi was handed over to U.S. forces and interrogated. According the Post, interrogation of al-Libi:

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> "provided the CIA with intelligence about an alleged plot to blow up the U.S. Embassy in Yemen with a truck bomb and pointed officials in the direction of Abu Zubaida, a top al Qaeda leader know to have been involved in the September 11 plot. In March 2002, Abu Zubaida was captured. * * * * [Interrogation of Zubaida] led to the apprehension of other al Qaeda members, including Ramzi Binalshibh, also in Pakistan. The capture of Binalshibh and other al Qaeda leaders B Omar al-Faruq in Indonesia, Rahim al-Nashiri in Kuwait, and Muhammad al Darbi in Yemen B were all partly the result of information gained during interrogations, according to U.S. intelligence and national security officials."

The bottom line is that keeping detainees out of court makes effective interrogation possible, and interrogation has proved to be an invaluable source of intelligence, allowing the United States to capture important terrorists, prevent future terrorist attacks, and save the lives of American soldiers in the field.

I should also say a few words about some of the attacks that have been made against our amendment. For example, some critics have suggested that our amendment is inconsistent with the McCain amendment – that it prevents detainees from suing to enforce the McCain amendment. The response to this criticism is relatively straightforward: our amendment does not take anything away because the McCain amendment does create a private cause of action in the first place. That amendment directly regulates military officers and is enforced through the usual mechanisms of military discipline.

Mr. GRAHAM: You are absolutely correct Senator Kyl. I must admit, I'm a bit confused by the assertion that our amendment is somehow internally inconsistent, that our provisions interfere with the McCain provisions in some way.

While we certainly need to ensure that our people are not abusing the detainees, and that is what we addressed so well with the McCain portion of our total package, directing our departments and agencies to refrain from cruel, inhumane, or degrading treatment; we also don't want to give these detainees the right to use our courts to go after our soldiers, marines, and policy makers based on how we have decided to treat them.

In fact, I'd like to remind all of my colleagues of some of the most egregious cases that prompted our amendments. For instance, a detainee who threw a grenade that killed an Army medic, a medic – someone trying to render medical assistance, and who often treats our enemies on the battlefield as well as our own troops – I just can't believe anyone, on any side of an armed conflict, would seek to kill a medic.

In any event, a detainee who threw the grenade that killed an Army medic in a firefight, and who comes from a family with longstanding al Qaeda ties, filed for an injunction

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forbidding anyone from interrogating him or engaging in "cruel, inhuman, or degrading" treatment of him.

Now clearly, our reaffirmation of America's policy against treating anyone in a cruel, inhuman, or degrading way tells the world that we are not like our enemy. We do not allow our departments or agencies to treat people like that. And if our people do abuse people, we are very firm with them criminally. I'm very proud of that.

However, to allow a detainee access to our courts to contest every aspect of his detention, a person who has fought against the very system he now seeks to make use of, is ludicrous. And for anyone to say that somehow our provisions undermine the McCain provisions or our overall amendment is just as ludicrous.

The McCain provisions are about us. How we behave. How we administer justice. It is another affirmative statement that the United States of America is that "Shining City on the Hill" President Reagan so beautifully referred to. It has nothing to do with the detainees or their rights in the courts.

The Graham-Kyl provisions are about them, the detainees, and how we are going to treat them. And I am proud of the provisions we have made for the detainee's status to be reviewed by the federal courts on the one time direct appeal. We allow for a just trial process, in the form of military tribunals and boards and commissions, a process based on Supreme Court precedent, modeled on the tribunals we've used in the past. That is the process we have established for determining the status of detainees.

But I've gotten a little far a field here, let's get back to the lawsuits. Here's another of the crazy lawsuits out there: there's a suit out there by a detainee accusing military health professionals of "gross and intentional medical malpractice" in alleged violation of the 4th, 5th, 8th, and 14th Amendments, 42 USC 1981, and other, unspecified, international agreements. Now I don't know about the rest of you, but a detainee has no business in our courts suing the individual doctors and nurses that are making sure that that detainee is in good health.

Here's another one, there's one guy down there that we're trying to send home, and he's suing to keep us from sending him home. Imagine that, he's trying to stay.

One high level al Qaida detainee lawsuit complains about the base security procedures, the speed of the mail, and his medical treatment. He is asking the courts to order the marines to transfer him into the "least onerous conditions" at Guantanamo and allow him to keep any books and reading material sent to him.

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I think this one is the one that makes me the maddest. A high level al Qaida member, who probably has the blood of 9/11 on his hands, complaining about the speed of his mail delivery. Complaining about how onerous the conditions are at Guantanamo.

With the McCain provisions of our amendment, we have directed the Department of Defense to treat him humanely. But under our provisions, he will receive the justice he deserves.

As you can see, these cases have nothing to do with cruel or inhumane treatment. They are abuses of our courts by the very people who are trying to kill Americans here and abroad. As the McCain amendment provisions state very clearly, we are not going to treat people inappropriately. And, Senator Kyl, as our provisions state very clearly, we are not going to allow them to make a mockery of our courts, standing beside our own citizens at the courthouse door.

We have provided a fair alternative judicial process for the detainees with our provisions. In fact, we have been more than fair. We've given them more process than our own soldiers and marines would enjoy under the Geneva Convention. This in no way undermines the McCain provisions about how we will treat them and I would challenge anyone who thinks so to come to the Senate floor and debate us on that point.

Mr. KYL: To be clear, neither the CSRT nor the ARB process is designed to entertain grievance about the conditions of confinement. Is that your understanding as well?

Mr. GRAHAM: Yes. And those are the only channels we are creating where the detainee himself can pursue a remedy on his own in a semi-adversarial forum. These complaints about conditions of confinement, these are for the military itself to enforce through its own procedures and systems of accountability for monitoring its soldiers. And we have no reason to believe that those systems are not adequate to investigate and remedy abuses. For all the attention to cases such as Abu Ghraib, one thing that deserves emphasis is that it was our own military that discovered, investigated, and punished those abuses. That is as it should be. These standards of treatment are important, but they need to be enforced through the military's internal systems of accountability, not through lawsuits and adversarial proceedings brought by detainees. The military's own accountability systems ultimately, I think, will be more effective in monitoring our detention centers and in remedying abuses. All that litigation would do – letting these detainees into court – is undermine intelligence gathering through interrogation.

Mr. BROWNBACK: If I might interrupt, I would like to add that I share the understanding of my colleagues from Arizona and South Carolina. I supported the McCain amendments – I think that it is important to ensure that detainees are treated humanely. But I would not support allowing those detainees to file lawsuits against our

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armed forces, and I wasn't aware that anyone had even suggested that the McCain amendments allow detainees to file Bivens-type actions.

Mr. KYL: No one really argued that the McCain amendments do create a private cause of action, except that some groups have suggested that the Graham/Kyl amendment is somehow inconsistent with the McCain amendments, the implication being that the Graham amendment wiped out the forum for bringing some cause of action that otherwise was created. Obviously, if the McCain amendment did create a private right of action, our amendment would bar the courts from entertaining that action. But the fact alone that the same Congress that adopted the McCain amendment also adopted the Graham/Kyl amendment tends to confirm, I would think, that the McCain amendments never were intended to create a private right of action in the first place.

Mr. CORNYN: If I might also interrupt, I would just like to add that I signed the Defense Authorization conference report, and I do not understand that conference report to create any private right of action on behalf of detainees. The Supreme Court recently has tightened the standards for spontaneously recognizing such actions in cases where Congress is silent on the matter – I believe it was in the recent case of Alexander against Sandoval. The McCain amendments do not state that they create a private cause of action. They regulate the conduct our troops rather than creating rights. And we have alternative means of their enforcement – as my colleague mentioned, through the system of military discipline – and thus we do not need a private cause of action to be implemented. I would be pretty surprised if, under those circumstances, anyone were to argue that the McCain amendment created a private right of action. So the senior Senator from South Carolina is correct, the Graham amendment – of which I was a cosponsor – does not take away any cause of action created elsewhere in this bill, because the bill does not create any rights of action. Some members have been arguing that the McCain amendment will establish a standard that perhaps could be employed in another cause of action. That is, of course, true. But if such a cause of action is to exist, Congress will have to create it in the future. No cause of action currently in the existence could serve as a vehicle for enforcing the McCain amendment in a private lawsuit, and I think that all the backers of that amendment consistently agree that the McCain amendments themselves did not create a private right of action. Again, it would be strange to construe this Act as intending such a private action when by the same hand this Congress would take away any forum for asserting such action.

Mr. GRAHAM: I thank the Senator from Texas for his comments. I'd also like to say a word about the timing of this bill because we drafted this section very carefully and I want our colleagues to know exactly what they will be agreeing to. While our language does respond to the Rasul decision by effectively reversing the Supreme Court's decision in that case, we wanted to respect the courts' role in this by addressing two different considerations.

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First, as we stated before, we wanted the CSRT process to yield decisions which will be reviewed by the D.C. Circuit Court of Appeals. And we wanted to be sensitive to the Rasul court's concerns about a process for the detainees. So, what we did was make the substantive provisions governing the CSRTs and ARBs apply to all cases, those pending on or after the enactment date. This was to ensure that every detainee was provided with the same protections and review.

Second, regarding the modification of the jurisdiction of those courts currently hearing individual habeas or other actions that have been filed by the detainees, we wanted those cases to be recast as appeals of their CSRT determinations. We believe that is the best way to balance between allowing the detainees to challenge their status, and still allowing effective detention and interrogation techniques. As we all know, a court either has jurisdiction to hear a case or it doesn't. Jurisdiction doesn't attach for all time when the case is filed.

This is really no different that transferring a case from one court to another. But in this case, given the change in the substantive law as well, we were required to extinguish these habeas and other actions in order to effect a transfer of jurisdiction over these cases to the D.C. Circuit Court and substantive legal change as well.

Mr. KYL: Right. It may not be quite right to characterize this bill's provisions as transferring jurisdiction. Rather, they extinguish one type of action – all of the actions now in the courts – and create in their place a very limited judicial review of certain military administrative decisions.

Mr. GRAHAM: Yes, that is correct. But we do still allow some types of judicial review to go forward – those cases asking for review, in accordance with section 1405, of military commissions or CSRTs. And the very last paragraph of section 1405 – I believe that it is paragraph (h)(2) – adopts a compromise of sorts. It states that the bill's authorization for limited D.C. Circuit review of CSRTs and military commissions shall apply to pending cases. Obviously, no pending case seeks judicial review in the D.C. Circuit pursuant to section to section 1405. What this paragraph means is that, at the same time that the courts like the D.C. district courts kick these cases out of their courtrooms, they can also tell them where they should go next. And if, for example, a habeas action currently is in the D.C. Circuit, that court can simply construe that action as a request for review of the detainee's CSRT pursuant to subsection (e) of 1405, and allow that claim to go forward in that form.

Mr. KYL: The D.C. Circuit will have to give the petitioner leave to amend his claim, I assume?

Mr. GRAHAM: Yes, I assume that they will do so. No sense in kicking out a detainee's current habeas action in the D.C. Circuit just so that he has to refile a section 1405 review

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request – it would be better to let the current case go forward as a 1405 review request, as appropriately amended.

Mr. CORNYN: But the bill does throw out all of the cases that currently are in the courts, right?

Mr. GRAHAM: That is correct.

Mr. KYL: We agree on that point. The one thing that critics have said about this bill that is correct is that it is a jurisdiction stripping bill. It strips every court of jurisdiction to hear claims from detainees held in Guantanamo Bay. The courts' rule of construction for these types of statutes is that legislation ousting the courts of jurisdiction is applied to pending cases. It has to. We're not just changing the law governing the action. We are eliminating the forum in which that action can be heard. And there is no exception anywhere in this bill for keeping intact part of that forum to hear the case. The case simply has nowhere to be heard.

I've just been handed a memorandum on this subject. The governing cases on this question are the Landraf case, as well as Hallowell v. Commons, 239 U.S. at 506, and Sherman v. Grinnell, 123 U.S. at 679. As the Landraf court noted, these statutes "speak to the power of the court rather than the rights or obligations of the parties." These cases articulate the rule that will govern the detainee habeas actions and other lawsuits that currently are in the courts: legislation removing jurisdiction applies to pending cases and removes those cases from the courts.

Mr. GRAHAM: My understanding is that the Supreme Court granted certiorari recently in a case which that court also will now be without jurisdiction to hear. It is clearly within our prerogatives to do that to a pending Supreme Court case, is it not?

Mr. KYL: Yes. The Constitution gives Congress the power to make "exceptions" and "regulations" to the Supreme Court's jurisdiction – or at least, to its appellate jurisdiction. It was Marbury v. Madison that held that Congress could not regulate original jurisdiction, but the court since then has made clear that even habeas actions filed directly in the Supreme Court are regarded as falling within a subspecies of the Supreme Court's appellate jurisdiction. This would be an interesting exam question for a law school class.

The Congress's authority to use this power was affirmed by the Supreme Court in the case of Ex Parte McCardle. That case involved, I believe, an even sharper use of this authority than this bill does – I believe that there the Supreme Court had even heard argument in that case before Congress stripped the court's jurisdiction over it. The Supreme Court upheld the statute and dismissed Colonel McCardle's case for want of jurisdiction.

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Mr. GRAHAM: And we are confident that McCardle still is good law?

Mr. KYL: So long as the Constitution still is good law. I am not aware that the clause in Article III allowing Congress to make exceptions and regulations to Supreme Court appellate jurisdiction has been repealed.

I suppose that some might argue that stripping the Supreme Court of jurisdiction over a pending case is unconstitutional if it is driven by some impure motive. But I can't imagine that the court would take away an authority clearly granted to Congress by the Constitution, regardless of what motive one might attribute to us. I am a member of this body, and would have great difficulty describing some definitive motive or intent to every law that we enact. I don't know how the Supreme Court or any other court could accurately discern such a motive. The laws that we enact have meanings that can discerned through ordinary rules of construction. I think the rule of law is much more secure when the meaning of legislation is governed by those universally accessible rules of construction rather than through some attempt to psychoanalyze Congress's motive. And in any event, as I recall, this amendment was filed before the Supreme Court even granted review in the Hamdan case. That makes it a little hard to argue that the amendment was motivated by a desire to strip the court of its jurisdiction in that case. I don't think that the Constitution gives Hamdan a greater right to have his case go forward than it did to Colonel McCardle.

Mr. GRAHAM: So once this bill is signed into law, the Supreme Court will dismiss the Hamdan case for want of jurisdiction? And those rules of construction that tell the court what our laws mean, they include legislative history? Our statements here give the court guidance as well, don't they?

Mr. KYL: Yes, the court should dismiss Hamdan for want of jurisdiction. That is what they did in Ex Parte McCardle. I assume that we may see an unhappy dissent from the court's order from one or two of the Justices – there may be some members of the court who refuse to accept McCardle and Article III. But I think that a majority of the court would do the right thing – to send Hamdan back to the military commission, and then allow him to appeal pursuant to section 1405 of this bill.

The court also may well request a round of briefing on the effect of the Act on the Hamdan case. I suppose that a lawyer in the SG's office can look forward to rereading Ex Parte McCardle and the debates on the case in Hart & Wechsler's. But again, I don't think that this will change the result.

As for legislative history, I think it usually is regarded as an element of the canons of construction. It gives some indication of what Congress at least understood what it was doing – the context in which a law was enacted. Although, I understand that Justice

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Scalia does not read legislative history. I suppose that for his sake, we will have to strive to be exceptionally clear in the laws that we write.

Mr. GRAHAM: For those members of the courts who do read legislative history, let me address another issue. As we worked through this language in conference, we received a lot of comments from our colleagues who were concerned not only about the frivolous cases being filed by al Qaida terrorists at Guantanamo, but by people detained by our forces in Iraq.

I believe there are several cases that have been filed by those held in Iraq challenging their detention by American forces. Our language does not address these cases, and let me tell you why.

The Rasul v. Bush decision that we've talked so much about worked two significant changes in prior POW or detainee law. Prior to Rasul, the Eisentrager line of cases had governed whether foreign combatants had access to our courts. In 1950, the Eisentrager court held that a federal district court lacked authority to hear habeas cases for some German POWs held by U. S. forces outside the U.S.. These Germans had been tried and convicted of war crimes by an American military commission headquartered in Nanking, and then put in jail in Germany.

The Court stated six reasons for its decision. The German prisoners were: (1) enemy aliens who (2) had never been or resided in the United States, (3) were captured outside U. S. territory and there held in military custody, (4) were there tried and convicted by the military (5) for offenses committed there, and (6) were imprisoned there at all times.

The Eisentrager line of cases is the reason the Bush Administration chose to locate the al Qaida and Taliban holding facility at Guantanamo. The Bush Administration relied upon the Eisentrager line of cases so as to prevent exactly what we have seen happen since Rasul: terrorists with lawyers. Now I'm a lawyer myself, and I think we can all agree that that is a bad combination.

In fact, if my colleagues will permit me a quick aside, I would remind them again of the statement by one of the lawyers for some of these terrorists, Michael Ratner. Mr. Ratner boasts about the fact that this litigation has undermined intelligence gathering in the war on terror. In an interview published in May of this year, Mr. Rather stated, and I quote: "The litigation is brutal for the United States. It's huge. We have over one hundred lawyer now from big and small firms working to represent these detainees. Every time an attorney goes down there, it makes it that much harder for the U.S. military to do what they're doing. You can't run an interrogation with attorneys. What are they going to do now that we're getting court orders to get more lawyers down there?" End Quote.

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Now that is what we are facing. Terrorists with lawyers. I am pretty sure the American people expect more from their government than that.

But getting back to what I was saying about Eisentrager. The Bush Administration relied on the Supreme Court's decision in Eisentrager when they located the detainees at Guantanamo, reasoning sensibly, at least I think it was sensibly, that since the al Qaida and Taliban members were enemy aliens who were being held by US forces outside the United States after being captured on the battlefield, that they would not have access to federal courts.

But then the Supreme Court held in Rasul that the detainees could have access to our courts to challenge their detention. Would my colleague from Arizona care to comment on the Rasul decision?

Mr. KYL: Where to even begin? The U.S. has been accused before in its history of imperialistic behavior, but I think that this is the first time ever that a portion of a sovereign nation has been annexed to the United States by the U.S. Supreme Court.

Rasul begins with a discussion of two cases that were irrelevant to the question before the court, Ahrens v. Clark and the Braden case. Ahrens had adopted a strict rule that district courts may only hear cases within their territorial jurisdiction. Braden then softened that rule for particular circumstances – for cases where a defendant is in prison in one state but under indictment in another, allowing the defendant to bring a habeas action to challenge the indictment in the latter state's courts. Neither of these cases has anything to do with enemy combatants.

From a discussion of these relatively mundane decisions, the Rasul majority adopts a rather stunning non-sequitir: that "because Braden overruled the statutory predicate to Eisentrager's holding, Eisentrager plainly does not preclude the exercise of section 2241 jurisdiction over petitioners' claims."

It could almost be a rule of construction that when a lawyer says "plainly" or "clearly," he usually is identifying the weakest point in his argument. Braden is a case concerned more with the technical aspects of judicial administration than with core questions of the scope of the writ. Eisentrager is different. The Nazi soldiers denied access to the writ in that case did not simply file in the wrong forum – Alabama instead of Kentucky – or at the wrong phase of their sentences. Eisentrager denied review to the Nazi soldiers because they were Nazi soldiers in the custody of the U.S. military in occupied Germany. It is not a case about how we administer the writ of habeas corpus, but about the power and nature of the writ and who may employ it. I doubt that there was any member of the court who participated in Braden who believed that the court in that case was destroying the foundation of Eisentrager.

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So according to section III of Rasul, Braden killed the "statutory predicate" for Eisentrager and that's that. No more territorial jurisdiction requirement for habeas courts. Apparently even the Rasul court itself was unwilling to buy this argument, however, because section IV of the opinion goes on to explain that Guantanamo Bay, Cuba is really part of the territory of the United States – something which section III just told us irrelevant and unnecessary to the court's decision.

But territorial jurisdiction does matter – a point that the court seems to concede by attempting to annex Guantanamo Bay to the United States. But Cuba is not the United States. Eisentrager should be restored to its rightful place as the precedent that governs litigation attempted by enemy combatants outside of our territory – even for the special case of Guantanamo Bay. Eisentrager was the law of the land for over 50 years, until Rasul carved a hole into it. Through this Act, Congress patches that hole and restores Eisentrager's role as the governing standard. We do this not because (or not just because) Rasul doesn't make sense and is wrong. We do it because Eisentrager's reasoning is compelling, and the rule that is established wards off much mischief.

Let me quote two key passages from Eisentrager that explain why enemy combatants outside the United States should not have access to U.S. courts. As that court began by noting, there has been:

> "no instance where a court, in this or any other country where the writ is known, has issued it on behalf of an alien enemy who, at no relevant time and in no stage of his captivity, has been within its territorial jurisdiction. Nothing in the text of the Constitution extends such a right, nor does anything in our statutes."

Not only has this always been the law, but it should remain so. Eisentrager explains rather clearly and eloquently why we do not let enemy combatants sue our soldiers in our courts:

> "A basic consideration in habeas corpus practice is that the prisoner will be produced before the court. This is the crux of the statutory scheme established by the Congress; indeed, it is inherent in the very term "habeas corpus." And though production of the prisoner may be dispensed with where it appears on the face of the application that no cause for granting the writ exists, Walker v. Johnston, we have consistently adhered to and recognized the general rule. Ahrens v. Clark. To grant the writ to these prisoners might mean that our army must transport them across the seas for hearing. This would require allocation of shipping space, guarding personnel, billeting and rations. It might also require transportation for whatever witnesses the prisoners desired to call as well as transportation for those necessary to defend legality of the sentence. The writ, since it is held

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> to be a matter of right, would be equally available to enemies during active hostilities as in the present twilight between war and peace. Such trials would hamper the war effort and bring aid and comfort to the enemy. They would diminish the prestige of our commanders, not only with enemies but with wavering neutrals. It would be difficult to devise more effective fettering of a field commander than to allow the very enemies he is ordered to reduce to submission to call him to account in his own civil courts and divert his efforts and attention from the military offensive abroad to the legal defensive at home. Nor is it unlikely that the result of such enemy litigiousness would be a conflict between judicial and military opinion highly comforting to enemies of the United States."

Other authorities also have emphasized that the Anglo-American common law tradition includes no place for habeas petitions filed by enemy aliens in military custody outside our territory. Law Professor Peter Lushing, in an internet posting commenting on the Graham amendment shortly after it passed the Senate, put the matter quite colorfully: "the guys in the powdered wigs would have flipped over the idea that habeas extends to foreigners we are in combat with who have been captured and are being held by us abroad." He concludes: "the Rasul decision has extended habeas far beyond what anybody alive during the ratification of the Constitution would have envisioned."

Former U.S. Attorney General William Barr testified on the subject of detainees in the war on terror before the Senate Judiciary Committee on June 15 of this year. His testimony made a considerable impact on members of the committee – it persuaded several of us that something needed to be done legislatively to correct the current situation. Here is what Attorney General Barr had to say about the history of habeas and detainees:

> "The determination that a particular foreign person seized on the battlefield is an enemy combatant has always been recognized as a matter committed to the sound judgment of the Commander in Chief and his military forces. There has never been a requirement that our military engage in evidentiary proceedings to establish that each individual captured is, in fact, an enemy combatant."

Attorney General Barr went on to note:

> "World War II provides a dramatic example. During that war, we held hundreds of thousands of German and Italian prisoners in detention camps within the United States. These foreign prisoners were not charged with anything; they were not entitled to lawyers; they were not given access to U.S. courts; and the American military was not required to engage in evidentiary proceedings to establish that each was a combatant."

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The concerns that were expressed in the passage from Eisentrger that I quoted earlier also have been expressed by other, more recent commentators, with the present conflict against Islamic extremism in mind. For example, in a 2003 article in George Washington Law Review, law professor John C. Yoo notes the special importance of "interrogating enemy combatants for information about coming attacks" in this conflict, and concludes:

> "de novo judicial review threatens to undermine the very effectiveness of the military effort against al Qaeda. A habeas proceeding could become a forum for recalling commanders and intelligence operatives from the field into open court; disrupting overt and covert operations; revealing successful military tactics and methods; and forcing the military to shape its activities to the demands of the judicial process."

Similarly, Andrew McCarthy, a former federal prosecutor who led the case against Sheik Omar Abdel Rahman, offered a stinging criticism of Rasual the day after the Supreme Court issued its opinion. He stated that:

> "How can it conceivably be appropriate to impose on our soldiers the burdens of stopping to collect evidence and write incident reports in the middle of fighting a war? Of course they do a measure of that now — after all, it is much in their interest correctly to sort out whom to hold and whom to release. But, until now, that has certainly not been done with the rigor anticipation of litigation will doubtless produce. It is not enough to say, hopefully, that U.S. courts will be indulgent given what's involved. Empirically, judicial demands on governmental procedural compliance become steadily more demanding over time, and government naturally responds by being even more internally exacting to avoid problems. In no time flat, what was once thought a trifling inconvenience becomes a major expenditure — in this case one that will inevitably detract from the military mission which is the bedrock of our safety."

McCarthy also summarized why the Rasul decision is at war with the role and duties of the federal judiciary in our constitutional framework:

> "In the Framers' ingenious construct, the courts of the United States are supposed to be a bulwark protecting members of the uniquely American community — i.e., citizens of the United States and those aliens who, by their lawful participation in our national life, have immersed themselves into the fabric of American society — from the excesses of an oppressive executive or a legislature insufficiently heedful of their fundamental rights. It is the institution that ensures the law and order a free people must have in order to thrive.

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> "Nevertheless, as manifested in Rasul, yesterday's case involving claims of foreign enemy combatants captured on faraway battlefields and held by the military in Guantanamo Bay, Cuba — an installation outside the jurisdiction of any U.S. court — the judiciary is no longer a neutral arbiter there to ensure that Americans get a fair shake from their government and its laws. Instead, it is evolving, or morphing, into a sort of United Nations with teeth. It has seized the mantle of international arbiter, ensuring that the world — including that part of it energetically trying to kill Americans — has a forum in which to press its case against the United States."

McCarthy went on to conclude: "Rasul is a dangerous decision. Congress should slam the door on al Qaeda today."

And again, former Attorney General Barr also commented on this same question – on the impracticality of applying judicial process and standards to questions of the detention of enemy combatants. Because of his authority and the force of his arguments, I quote from his June 15 testimony at length:

> "There appear to be courts and critics who continue to claim that the Due Process Clause applies and that the CSRT process does not go far enough. I believe these assertions are frivolous.
>
> "I am aware of no legal precedent that supports the proposition that foreign persons confronted by U.S. troops in the zone of battle have Fifth Amendment rights that they can assert against the American troops. On the contrary, there are at least three reasons why the Fifth Amendment has no applicability to such a situation. First, as the Supreme Court has consistently held, the Fifth Amendment does not have extra-territorial application to foreign persons outside the United States. As Justice Kennedy has observed, "[T]he Constitution does not create, nor do general principles of law create, any juridical relation between our country and some undefined, limitless class of non-citizens who are beyond our territory." Moreover, as far as I am aware, prior to their capture, none of the detainees had taken any voluntary act to place themselves under the protection of our laws; their only connection with the United States is that they confronted U.S. troops on the battlefield. And finally, the nature of the power being used against these individuals is not the domestic law enforcement power – we are not seeking to subject these individuals to the obligations and sanctions of our domestic laws – rather, we are waging war against them as foreign enemies, a context in which the concept of Due Process is inapposite.

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> "In society today, we see a tendency to impose the judicial model on virtually every field of decision-making. The notion is that the propriety of any decision can be judged by determining whether it satisfies some objective standard of proof and that such a judgment must be made by a "neutral" arbiter based on an adversarial evidentiary hearing. What we are seeing today is an extreme manifestation of this – an effort to take the judicial rules and standard applicable in the domestic law enforcement context and extend them to the fighting of wars. In my view, nothing could be more farcical, or more dangerous.
>
> "These efforts flow from a fundamental error – confusion between two very distinct constitutional realms. In the domestic realm of law enforcement, the government's role is disciplinary – sanctioning an errant member of society for transgressing the internal rules of the body politic. The Framers recognized that in the name of maintaining domestic tranquility an overzealous government could oppress the very body politic it is meant to protect. The government itself could become an oppressor of "the people."
>
> "Thus our Constitution makes the fundamental decision to sacrifice efficiency in the realm of law enforcement by guaranteeing that no punishment can be meted out in the absence of virtual certainty of individual guilt. Both the original Constitution and the Bill of Rights contain a number of specific constraints on the Executive's law enforcement powers, many of which expressly provide for a judicial role as a neutral arbiter or "check" on executive power. In this realm, the Executive's subjective judgments are irrelevant; it must gather and present objective evidence of guilt satisfying specific constitutional standards at each stage of a criminal proceeding. The underlying premise in this realm is that it is better for society to suffer the cost of the guilty going free than mistakenly to deprive an innocent person of life or liberty.
>
> "The situation is entirely different in armed conflict where the entire nation faces an external threat. In armed conflict, the body politic is not using its domestic disciplinary powers to sanction an errant member, rather it is exercising its national defense powers to neutralize the external threat and preserve the very foundation of all our civil liberties. Here the Constitution is not concerned with handicapping the government to preserve other values. Rather it is designed to maximize the government's efficiency to achieve victory – even at the cost of "collateral damage" that would be unacceptable in the domestic realm."

Attorney General Barr brought these concerns into relief with the following hypothetical example:

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> "Let me posit a battlefield scenario. American troops are pinned down by sniper fire from a village. As the troops advance, they see two men running from a building from which the troops believe they had received sniper fire. The troops believe they are probably a sniper team. Is it really being suggested that the Constitution vests these men with due process rights as against the American soldiers? When do these rights arise? If the troops shoot and kill them – i.e., deprive them of life – could it be a violation of due process? Suppose they are wounded and it turns out they were not enemy forces. Does this give rise to Bivens' Constitutional tort actions for violation of due process? Alternatively, suppose the fleeing men are captured and held as enemy combatants. Does the due process clause really mean that they have to be released unless the military can prove they were enemy combatants? Does the Due Process Clause mean that the American military must divert its energies and resources from fighting the war and dedicate them to investigating the claims of innocence of these two men?
>
> "This illustrates why military decisions are not susceptible to judicial administration and supervision. There are simply no judicially-manageable standards to either govern or evaluate military operational judgments. Such decisions inevitably involve the weighing of risks. One can easily imagine situations in which there is an appreciable risk that someone is an enemy combatant, but significant uncertainty and not a preponderance of evidence. Nevertheless, the circumstances may be such that the President makes a judgment that prudence dictates treating such a person as hostile in order to avoid an unacceptable risk to our military operations. By their nature, these military judgments must rest upon a broad range of information, opinion, prediction, and even surmise. The President's assessment may include reports from his military and diplomatic advisors, field commanders, intelligence sources, or sometimes just the opinion of frontline troops. He must decide what weight to give each of these sources. He must evaluate risks in light of the present state of the conflict and the overall military and political objectives of the campaign."

Attorney General Barr goes on to consider the practical consequences of applying civilian due process concepts in the context of military detention of enemy combatants:

> "The imposition of such procedures would fundamentally alter the character and mission of our combat troops. To the extent that the decisions to detain persons as enemy combatants are based in part on the circumstances of the initial encounter on the battlefield, our frontline troops will have to concern themselves with developing and preserving evidence as to each individual they capture, at the same time as they confront enemy

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> forces in the field. They would be diverted from their primary mission – the rapid destruction of the enemy by all means at their disposal – to taking notes on the conduct of particular individuals in the field of battle. Like policeman, they would also face the prospect of removal from the battlefield to give evidence at post-hoc proceedings.
>
> "Nor would the harm stop there. Under this due process theory, the military would have to take on the further burden of detailed investigation of detainees' factual claims once they are taken to the rear. Again, this would radically change the nature of the military enterprise. To establish the capacity to conduct individualized investigations and adversarial hearings as to every detained combatant would make the conduct of war – especially irregular warfare – vastly more cumbersome and expensive. For every platoon of combat troops, the United States would have to field three platoons of lawyers, investigators, and paralegals. Such a result would inject legal uncertainty into our military operations, divert resources from winning the war into demonstrating the individual "fault" of persons confronted in the field of battle, and thereby uniquely disadvantage our military vis-à-vis every other fighting force in the world.
>
> "Second, the introduction of an ultimate decision maker outside of the normal chain of command, or altogether outside the Executive Branch, would disrupt the unitary chain of command and undermine the confidence of frontline troops in their superior officers. The impartial tribunals could literally overrule command decisions regarding battlefield tactics and set free prisoners of war whom American soldiers have risked or given their lives to capture. The effect of such a prospect on military discipline and morale is impossible to predict."

Attorney General Barr also noted that "Supreme Court's decision in Rasul was a statutory ruling, not a constitutional one." He went on to point out:

> "An important consequence follows: Congress remains free to restrict or even to eliminate entirely the ability of enemy aliens at Guantanamo Bay to file habeas petitions. Congress could consider enacting legislation that does so – either by creating special procedural rules for enemy alien detainees, by requiring any such habeas petitions to be filed in a particular court, or by prohibiting enemy aliens from haling military officials into court altogether."

Obviously, the Congress has taken the former Attorney General up on his suggestion, particularly the third variation of it.

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I should also say a few words about military commissions. The Judiciary Committee also heard enlightening testimony on the history of these commissions. Former Attorney General Barr commented on them as follows:

> "Throughout our history we have used military tribunals to try enemy forces accused of engaging in war crimes. Shortly after the attacks of 9/11, the President established military commissions to address war crimes committed by members of al-Qaeda and their Taliban supporters."
>
> "Again, our experience in World War II provides a useful analog. While the vast majority of Axis prisoners were simply held as enemy combatants, military commissions were convened at various times during the war, and in its immediate aftermath, to try particular Axis prisoners for war crimes. One notorious example was the massacre of American troops at Malmedy during the Battle of the Bulge. The German troops responsible for these violations were tried before military commissions."

As an aside, those disturbed by the tendency of some in the press and politics to take the side of the Guantanamo detainees – of those captured while at war with America – might find it interesting that the same phenomenon developed with regard to the Malmedy detainees. The Malmedy German soldiers were tried and convicted of massacring American POWs near the Belgian village of Malmedy during the Battle of the Bulge. This crime unquestionably occurred – the bodies of over 80 U.S. soldiers were recovered in a field, most of them shot in the head. Members of the German unit responsible for this crime later were captured and tried by a military commission. Over the years, these Nazi soldiers, at least some of whom unquestionably massacred American G.I.s, somehow managed to turn the tables on the U.S. military in the press and in political circles. Senator Joseph McCarthy took up their cause, as did other Senators. The most fanciful allegations of abuse made by these Nazi murderers were indulged by various prominent Americans, and the whole incident became a public relations embarassment for the U.S. military. Eventually, this pressure campaign succeeded in winning the commutation of all death sentences given to the Malmedy killers, and all of the German soldiers involved – even their commander – were released from prison by the mid-1950s. For those who find it disturbing that the sympathies of the press (especially in Europe) and of various intellectuals have been misplaced on the side of the Guantanamo detainees, at least we can take comfort in the fact the perversions of truth and rank miscarriages of justice that have resulted from such misplaced sympathy so far in this war pale in comparison to those that followed from Malmedy.

Perhaps first among those who would object to any sympathizing with the Guantanamo detainees would be Andrew McCarthy, the former federal antiterror prosecutor. He has written often on this and other war-on-terror topics. I was pleased to see that shortly after the Graham/Kyl amendment first passed the Senate, he wrote a column for National

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Review Online lauding our efforts. It was titled "Restoring Law and Order," and McCarthy's only complaint was that "it has taken our national legislature nearly a year-and-a-half – during all of which we have been at war – to stir itself to address this serious national-security problem." So you can imagine my disappointment when, just two days later, Mr. McCarthy posted another column commenting on the final Senate language, which include some compromises to ensure bipartisan support. This column was titled "Snatching Defeat from the Jaws of Victory." Some of its language I won't recite here. But its specific complaints bear scrutiny. Mr. McCarthy alleged that "the senators resolved Tuesday that the ultimate decision about who is properly considered an 'enemy combatant,' should rest with federal judges, not our military commanders." As he characterized the final Senate language, "a panel of robed lawyers will second-guess the determination of [our soldiers'] commanders on scene that certain captives warranted detention – that holding them would be beneficial to the war effort." Similarly, with regard to military commissions, Mr. McCarthy complained that "everything that happens in the commission would be reviewed by judges if this measure passes."

I do not think that these words are an accurate characterization of the Senate-passed language. I think that Mr. McCarthy probably relied on inaccurate characterizations of the language that were published in the press at the time rather than on the language itself. Nevertheless, Mr. McCarthy's complaints did cause me and others to take another look at the language, to make sure that it does what we intended.

Limited judicial review of the decisions of the CSRTs and military commissions is authorized by paragraphs 2 and 3 of subsection 1405(e) of the conference report. These paragraphs authorize the same two narrow judicial inquiries into the "status determinations" and "final decisions" of the CSRTs and military commissions. (The difference in language here is not intended to connote any substantive difference in the scope of review – it simply attempts to accurately characterize the work of each entity: "making status determinations" for the CSRTs, and "reaching final decisions" for the military commissions.)

The review authorized by each of these paragraphs goes only to the following questions: did the CSRTs and commissions use the standards and procedures identified by the Secretary of Defense, and is the use of these systems to either continue the detention of enemy combatants or try them for war crimes consistent with the Constitution and federal law? The first inquiry I think is straightforward: did the military follow its own rules? This inquiry does not ask whether the military reached the correct result by applying its rules, or even whether those rules were properly applied to the facts. The inquiry is simply whether the right rule was employed.

As to the second inquiry, here the language has been further modified in order to make clear the narrow scope of the inquiry. The original Senate language spoke of whether "subjecting" an enemy combatant to the CSRT or commission systems was constitutional

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and legal. This formulation was somewhat illogical in that the detainee would not complain of the fact that he was forced to go through a CSRT – rather, he would want to challenge its adequacy as a means for justifying his continued detention. And in any event, our concern was to make clear that this language in no way invites a re-evaluation of the correctness of the military's decision, even under a deferential standard of review. Nor does it invite an as-applied challenge. All that this language asks is whether using these systems is good enough for the ends that they serve – to justify continued detention or to try an enemy combatant for war crimes. The only thing that this provision authorizes is, in effect, a facial challenge. In fact, we anticipate that once the District of Columbia Circuit decides these questions in one case (at least so long as military orders do not substantially change), that decision will operate as circuit precedent in all future cases, with no need to relitigate this second inquiry in the future. In effect, the second inquiry – into the constitutionality and lawfulness of the use of CSRTs and commissions – need only be decided once by the court.

It bears quoting some of the thinking that undergirds the establishment of these review standards. Attorney General Barr, in his June 5 testimony before the Judiciary Committee, describes the philosophy and approach that paragraph 2's scope of review for CSRTs is designed to reflect:

> "It seems to me that the kinds of military decisions at issue here – namely, what and who poses a threat to our military operations – are quintessentially Executive in nature. They are not amenable to the type of process we employ in the domestic law enforcement arena. They cannot be reduced to neat legal formulas, purely objective tests and evidentiary standards. They necessarily require the exercise of prudential judgment and the weighing of risks. This is one of the reasons why the Constitution vests ultimate military decision-making in the President as Commander-in-Chief. If the concept of Commander-in-Chief means anything, it must mean that the office holds the final authority to direct how, and against whom, military power is to be applied to achieve the military and political objectives of the campaign.
>
> "I am not speaking here of "deference" to Presidential decisions. In some contexts, courts are fond of saying that they "owe deference" to some Executive decisions. But this suggests that the court has the ultimate decision-making authority and is only giving weight to the judgment of the Executive. This is not a question of deference – the point here is that the ultimate substantive decision rests with the President and that courts have no authority to substitute their judgments for that of the President."

And the thinking that underlies paragraph 3's scope of review for military-commission decisions is well articulated in Johnson v. Eisentrager:

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> "It is not for us to say whether these prisoners were or were not guilty of a war crime, or whether if we were to retry the case we would agree to the findings of fact or the application of the laws of war made by the Military Commission. The petition shows that these prisoners were formally accused of violating the laws of war and fully informed of particulars of these charges. As we observed in the Yamashita case, "If the military tribunals have lawful authority to hear, decide and condemn, their action is not subject to judicial review merely because they have made a wrong decision on disputed facts. Correction of their errors of decision is not for the courts but for the military authorities which are alone authorized to review their decisions." "We consider here only the lawful power of the commission to try the petitioner for the offense charged.""

There is another matter that I should mention before I yield the floor to my colleague from South Carolina. Some have asked why the jurisdiction-removing language in the bill is limited to Guantanamo. The answer is that Rasul is only about Guantanamo. Although the opinion contains the discussion of Ahrens and Braden that undercuts the "territorial-jurisdiction" rule for habeas courts, in the end the decision appears to be based on the unique status of the naval station at Guantanamo Bay – the permanent nature of the lease, for example, which can only be terminated by the United States. Justice Kennedy adopted a similar focus in his concurring opinion. I believe that Justice Kennedy's concurrence goes so far as to declare that Guantanamo is in practical respects a United States territory.

Some have raised the concern that the logic of Rasul will be extended to U.S. military and intelligence detention facilities in Iraq or Afghanistan. I think that such an extension would be very foolish and I do not think that the court will go there. I do not think that the Supreme Court is going to declare parts of Afghanistan or Iraq to be the territory of the United States. If the court does do so, we can of course legislatively overrule it, as we legislatively overrule Rasul today. But I do not think that it is either necessary, or respectful of the court's capacity for common sense, to preemptively overrule such an outlandish hypothetical decision. Does the Senator from South Carolina agree?

Mr. GRAHAM: Yes, my friend from Arizona is correct, our language applies only to Guantanamo just because we understand that the Supreme Court only extended the jurisdiction of the courts over the detainees held at Guantanamo. And since the Rasul decision was based on the habeas statute in the US Code, I'm very comfortable amending that statute as a proper Congressional response to the Court's decision.

As I stated repeatedly to a number of my colleagues, we did not want to deprive the courts of jurisdiction to hear cases filed on behalf of detainees in Iraq because we are

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confident that, as the law stands now, those cases are already barred by previous Supreme Court decisions, which the Rasul decision left in place.

We should always be careful when dealing with our co-equal branches. Just as we do not appreciate it when they stray into our areas of constitutional responsibility, we should always be willing to refrain from straying into theirs unnecessarily. As I read the Rasul decision, these other cases from other parts of the world are still subject to the Eisentrager opinion and will not be considered by US courts.

And so, our language is limited to Guantanamo. To my friends who counseled that we should extend our jurisdiction modification to those cases being filed on behalf of Iraqis held in accordance with the Geneva Convention, I would just counsel them to be patient. I cannot imagine the Court extending its jurisdiction halfway around the world to involve what is almost exclusively an executive branch function. However, should that become necessary, I am perfectly willing to modify our courts' jurisdiction again to ensure that that does not happen. But again, in truth, especially after our very robust action here today, I cannot even conceive of such a decision by the Supreme Court.

Mr. KYL: Well, that is what I thought before Rasul was decided. But we can cross that bridge if we get to it.

Mr. GRAHAM: Mr. President, I'd also like my esteemed colleague from Arizona, Senator Kyl, to address the misunderstandings that seem to have made their way into the press. For instance, when I returned from Iraq this morning, I was surprised to see the New York Times editorial page making some fundamental mistakes about what our legislation does.

Mr. President, I'd also request unanimous consent to have the New York Times editorial entitled "Ban Torture. Period." from today, December 16, 2005.

The first sentence reads, "It should have been unmitigated good news when President Bush finally announced yesterday that he would back Senator John McCain's proposal to ban torture and "cruel, inhuman or degrading" treatment at United States prison camps. Nothing should be more obvious for an American president than to support a ban on torture." I agree, nothing should be more obvious. And I'd like to applaud the New York Times for finally endorsing the actions the President Reagan took when we signed the Convention Against Torture on April 18, 1988, and the Senate ratified the Convention on October 21, 1994.

But since they appear to be laboring under some confusion, I'd like to clear educate them a bit about how and when our anti-torture statutes apply. First, torture has been illegal for quite some time. Indeed, Section 2340A of Title 18 of the United States Code specifically provides for the prosecution of people who torture overseas. And most of the techniques of torture, beatings, improper imprisonment, and threats have long been part of the criminal code of the United States.

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I strongly supported Senator McCain's amendment each and every time it came up. I am extremely pleased it passed. But, make no mistake, it does not make torture illegal. Torture has long been illegal. What the McCain language does is make a very clear statement that we will treat people humanely while we have them in our custody. The McCain amendment is a very clear policy statement that is in accord with the best of American tradition. But it does not ban torture. Accordingly, the Graham-Levin-Kyl provisions do not equivocate in any way regarding torture. The Times editors, regrettably, for I appreciate the place the Times holds in our public discourse, do not appear to understand what they are talking about.

And Mr. President, I would like to address one other statement the Times makes. They state, and I quote, that "What is at stake here, and so harmful to America's reputation, is the routine mistreatment of prisoners swept up in the so-called war on terror." Now Mr. President, I take great exception to this baseless smear of our soldiers and Marines. It is said off-handedly, almost as if everyone takes it for granted that the fine men and women of our armed services routinely mistreat our prisoners.

Well Mr. President, I'll tell you, I for one don't take it for granted that the fine people who are putting their lives on the line to protect our nation routinely mistreat the prisoners in their care. I believe they follow the orders that their superiors give them, orders based on such policy statements as Senator McCain's or the Army Field Manual, and they follow them to the best of their ability.

Now, are there going to be bad apples? As a former JAG prosecutor and defense counsel, I can tell you affirmatively, yes, there will be. And they will be arrested, tried, convicted, and will serve long sentences. Those few do not live up to the standard of the many honorable service members, and that will be made abundantly clear.

Mr. President, our troops do not deserve such a slander, and I call on the New York Times to take back the vile assertion they have made against the people who exemplify the best our nation has to offer.

Mr. KYL: If I could address a few other minor issues. It is important to note that the limited judicial review authorized by paragraphs 2 and 3 of subsection (e) are not habeas-corpus review. It is a limited judicial review of its own nature. All habeas actions are terminated by this bill. I hope that this change will also put to rest any arguments that extending habeas to prisoners also extends to them some type of substantive rights. I do not believe that supposition is correct in any event – habeas is a vehicle for asserting rights, not a source of rights, and the fact that an individual has access to habeas does not mean that he has any of the rights that he asserts. But in any event, because this bill leaves no habeas in place, that debate need not be rejoined.

Also, some have suggested that by vesting exclusive jurisdiction in the D.C. Circuit for the paragraph 2 and 3 appeals, this bill bars even Supreme Court appellate review. That was not the drafters' intention, nor do I believe that it is a correct reading of the legislative language. Supreme Court review is implicit (or rather, authorized elsewhere in statute) for all judicial decisions. It is rarely mentioned expressly. In fact, when it is mentioned, it is sometimes to preempt Supreme Court review. For example, the limit on successive federal habeas petitions

DOJ_NMG_0007475

for state prisoners in section 2244 bars petitions for certiorari following a three-judge panel's decision on a successive-petition application. The clear implication of provisions such as that is that Supreme Court review is implicitly allowed except where expressly barred, and thus since it is not barred here, it is allowed.

DOJ_NMG_0007476

From: Allen, Michael
Sent: Monday, December 19, 2005 2:56 PM
To: Wiegmann, John B.
Subject: FW: Colloquy

-----Original Message-----
From: Olson, Jen (L. Graham) [mailto:Jen_Olson@lgraham.senate.gov]
Sent: Monday, December 19, 2005 2:50 PM
To: Allen, Michael
Subject: Colloquy

Here is the draft graham-kyl et al colloquy. Needs to be cleaned up, but you'll get the point. Will drop today after vote.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Galyean, James (L. Graham) <James_Galyean@lgraham.senate.gov>
To: Olson, Jen (L. Graham) <Jen_Olson@lgraham.senate.gov>; Beck, Meredith LGRAHAM <Meredith_Beck@lgraham.senate.gov>
Sent: Sat Dec 17 17:03:03 2005
Subject: FW: home email

H <<Graham Kyl et al colloquy[1].doc>> ere it is.

From: Joe Matal [mailto:jmatal@gmail.com]
Sent: Saturday, December 17, 2005 6:10 AM
To: Galyean, James (L. Graham)
Cc: Matal, Joe (Judiciary); jamesgalyean@yahoo.com
Subject: Re: home email

James: here is the colloqy. It is a beast. A few things to note: Cornyn and Brownback each have one statement -- you will need their signatures. In Cornyn's statement, I have added some language that tries to neutralize the language in the McCain colloquy about "standards enforceable in other actions." You have my permission to sign Kyl's name to this and drop it in the record. You should sign Graham and Kyl as "Lindsey Graham live" and "Jon Kyl live." I will be in the air most of today, reachable at COB by blackberry and at my sister's house, 562-943-1224.

On 12/15/05, Galyean, James (L. Graham) <James_Galyean@lgraham.senate.gov> wrote:

From: Matal, Joe (Judiciary) [mailto: Joe_Matal@judiciary-rep.senate.gov]
Sent: Thursday, December 15, 2005 11:34 PM
To: jmatal@gmail.com; Galyean, James (L. Graham)
Subject: home email

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 2:24 PM
To: Taylor, Jeffrey (OAG)
Subject: McCain-Graham summary.wpd
Attachments: McCain-Graham summary.wpd

Jeff, I will see you at 330 but thought your suggestion of a one-pager was a good idea and so have quickly drafted the attached for your review. NMG

McCain

- Interrogations of those in DoD custody must follow Field Manual
- CID applies to all detainees in USG custody or control
- In civil or criminal proceedings, no liability if defendant didn't know the challenged interrogation practice was unlawful and a person of ordinary sense and understanding wouldn't know the practice was unlawful
- This supplements, does not displace, existing common law defenses (e.g., reliance on counsel)
- USG may provide counsel for accused

Graham

- DoD must: submit existing CSRT and ARB procedures for GTMO detainees; submit procedures in place for processing its detainees in Afghanistan or Iraq; report on any modifications to detainee processing procedures 60 days before they take effect; and must make annual reports
- Existing CSRT/ARB procedures are modified to require panels to consider whether any statement given was coerced and, if so, what weight (if any) it should be afforded
- DoD detainees at GTMO are barred from bringing habeas suits
- DoD detainees at GTMO are also barred from bringing any other suits, including non-habeas challenges to conditions of confinement, (a) throughout the time they remain in military custody and (b) forever thereafter if CADC affirms a CSRT finding that they are ECs
- CADC to review CSRT determinations to determine (a) if the CSRT followed the procedures and standards specified by the SECDEF and (b) whether the CSRT procedures are themselves consistent with the Constitution and laws of the US
- CADC to conduct same review for MCs that impose a sentence of 10 years or more; review of sentences of less than 10 years is discretionary
- "Retroactivity" questions to be resolved in *Al Odah, Hamdan*

Other

- DoD must train Iraquis on CAT and humane treatment of detainees, translate Army Field Code manual to Arabic, and provide annual report to Congress on efforts in this area

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 2:59 PM
To: McCallum, Robert (SMO); Reyes, Luis (SMO)
Subject: RE: AG-led initiatives

A good list.

Some potential adds -- (1) avian flu response, both w/r/t security and civil liability; (2) privacy/civil liberties restructuring initiative; (3) continued emphasis on human trafficking efforts; (4) resuscitation of the IP task force; (5) settlement of first Cobell-style tribal claim on very favorable terms; (6) gang training initiative (rationalizing existing programs and focusing on best programs); (7) new bullet proof vest regulatory regime; (8) continued aggressive defense of war on terror related litigation.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, December 20, 2005 2:03 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: FW: AG-led initiatives

Thoughts? Attny client priv. waiver, detainee legislation/Graham amendment, Immigration litigation issues with Judicial branch and legislative fixes, NAACP outreach, Bankruptcy reform Act, coordination of issues and relationships with Judic. Conference committees, OJP Civ Litig. Stats, Cobell legislation, …… Other things? Robt.

From: Elwood, Courtney
Sent: Tuesday, December 20, 2005 1:45 PM
To: Sampson, Kyle; Brand, Rachel; Fisher, Alice; Goodling, Monica; Gorsuch, Neil M; McCallum, Robert (SMO); McNeil, Tucker (OPA); Mercer, Bill (ODAG); Moschella, William; Oldham, Jeffrey L; Pacold, Martha M; Roberts, Crystal; Scolinos, Tasia; Taylor, Jeffrey (OAG); McNulty, Paul J
Subject: AG-led initiatives

The Attorney General has asked us to prepare a list of initiatives or projects that the Department has launched or pursued at his direction during the year that he has been Attorney General (e.g., the gang initiative). Please identify for me any projects or initiatives that you believe fit this description.

Let me know if you have any questions.

Many thanks,
Courtney

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 3:03 PM
To: McCallum, Robert (SMO); Reyes, Luis (SMO); Henke, Tracy (SMO)
Subject: RE: AG-led initiatives

Tracy - Any other thoughts?

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, December 20, 2005 3:02 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: RE: AG-led initiatives

Let's check with Tracy to see if there are any other things going on in OJP, OVW (like local justice centers), COPS, CRS, etc. I overlooked several important matters below. What about Katrina related matters? Robt.

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 2:59 PM
To: McCallum, Robert (SMO); Reyes, Luis (SMO)
Subject: RE: AG-led initiatives

A good list.

Some potential adds -- (1) avian flu response, both w/r/t security and civil liability; (2) privacy/civil liberties restructuring initiative; (3) continued emphasis on human trafficking efforts; (4) resuscitation of the IP task force; (5) settlement of first Cobell-style tribal claim on very favorable terms; (6) gang training initiative (rationalizing existing programs and focusing on best programs); (7) new bullet proof vest regulatory regime; (8) continued aggressive defense of war on terror related litigation.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, December 20, 2005 2:03 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: FW: AG-led initiatives

Thoughts? Attny client priv. waiver, detainee legislation/Graham amendment, Immigration litigation issues with Judicial branch and legislative fixes, NAACP outreach, Bankruptcy reform Act, coordination of issues and relationships with Judic. Conference committees, OJP Civ Litig. Stats, Cobell legislation, …… Other things? Robt.

From: Elwood, Courtney
Sent: Tuesday, December 20, 2005 1:45 PM
To: Sampson, Kyle; Brand, Rachel; Fisher, Alice; Goodling, Monica; Gorsuch, Neil M; McCallum, Robert (SMO); McNeil, Tucker (OPA); Mercer, Bill (ODAG); Moschella, William; Oldham, Jeffrey L; Pacold, Martha M; Roberts, Crystal; Scolinos, Tasia; Taylor, Jeffrey (OAG); McNulty, Paul J
Subject: AG-led initiatives

The Attorney General has asked us to prepare a list of initiatives or projects that the Department has launched or pursued at his direction during the year that he has been Attorney General (e.g., the gang

initiative). Please identify for me any projects or initiatives that you believe fit this description.

Let me know if you have any questions.

Many thanks,
Courtney

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 3:25 PM
To: McCallum, Robert (SMO); Reyes, Luis (SMO)
Cc: Henke, Tracy (SMO)
Subject: RE: AG-led initiatives

Absolutely

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, December 20, 2005 3:24 PM
To: Reyes, Luis (SMO); Gorsuch, Neil M
Cc: Henke, Tracy (SMO)
Subject: RE: AG-led initiatives

Neil: Since I am heading out this afternoon, will you respond to Courtney and copy me? Thanks. Robt.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Tuesday, December 20, 2005 3:20 PM
To: Gorsuch, Neil M; McCallum, Robert (SMO)
Cc: Henke, Tracy (SMO)
Subject: Re: AG-led initiatives

Meant to copy you on this Tracy.

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>
Sent: Tue Dec 20 15:14:44 2005
Subject: Re: AG-led initiatives

Would add sex offender registry , any initiatives we had on judicial security, (copying Tracy to make sure we can claim these), continuation of corporate integrity (i.e. KPMG), and meth initiatives.

Also, I know that we had a historic year in enforcing the language provisions of the Voting Rights Act - that is, we filed more Section 203 cases (giving access to the polls to more folks) than have ever been filed in a single year.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: McCallum, Robert (SMO) <Robert.McCallum@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
Sent: Tue Dec 20 14:58:52 2005
Subject: RE: AG-led initiatives

A good list.

Some potential adds -- (1) avian flu response, both w/r/t security and civil liability; (2) privacy/civil liberties restructuring initiative; (3) continued emphasis on human trafficking efforts; (4) resuscitation of the IP task force; (5) settlement of first Cobell-style tribal claim on very favorable terms; (6) gang training initiative (rationalizing existing programs and focusing on best programs); (7) new bullet proof vest regulatory regime; (8) continued aggressive defense of war on terror related litigation.

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, December 20, 2005 2:03 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: FW: AG-led initiatives

Thoughts? Attny client priv. waiver, detainee legislation/Graham amendment, Immigration litigation issues with Judicial branch and legislative fixes, NAACP outreach, Bankruptcy reform Act, coordination of issues and relationships with Judic. Conference committees, OJP Civ Litig. Stats, Cobell legislation, ... Other things? Robt.

From: Elwood, Courtney
Sent: Tuesday, December 20, 2005 1:45 PM
To: Sampson, Kyle; Brand, Rachel; Fisher, Alice; Goodling, Monica; Gorsuch, Neil M; McCallum, Robert (SMO); McNeil, Tucker (OPA); Mercer, Bill (ODAG); Moschella, William; Oldham, Jeffrey L; Pacold, Martha M; Roberts, Crystal; Scolinos, Tasia; Taylor, Jeffrey (OAG); McNulty, Paul J
Subject: AG-led initiatives

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Let me know if you have any questions.

Many thanks,
Courtney

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, December 20, 2005 3:59 PM
To: Reyes, Luis (SMO); Henke, Tracy (SMO); Swenson, Lily F
Cc: McCallum, Robert (SMO)
Subject: RE: AG-led initiatives

Here's the list as I have it. Please let me know if you have any additional ideas or suggested edits.

Advent of national sex offender registry & likelihood of covering virtually all states soon Historic number of enforcement actions regarding the language provisions of the Voting Rights Act (Sec. 203) Continued emphasis on human trafficking prosecutions compared with prior years Detainee legislation/Graham amendment NAACP outreach New bullet proof vest regulatory regime Implementation of bankruptcy reform act Settlement of first, model tribal Cobell-style claim on favorable terms; efforts aimed at Cobell legislation Attorney client priv. waiver policy directive Coordination of relationships with Judicial Conference Advancing studies of civil justice statistics to inform "tort reform" debate Continuation of corporate and political integrity investigations (eg KPMG; Conyngham; Abramoff; Libby) Avian flu response, both w/r/t security and civil liability Privacy/civil liberties restructuring initiative Immigration litigation reform initiative Revival of the IP task force Gang training initiative (rationalizing existing programs and focusing on best programs) Continued aggressive defense of war on terror related litigation

-----Original Message-----
From: McCallum, Robert (SMO)
Sent: Tuesday, December 20, 2005 2:03 PM
To: Gorsuch, Neil M; Reyes, Luis (SMO)
Subject: FW: AG-led initiatives

Thoughts? Attny client priv. waiver, detainee legislation/Graham amendment, Immigration litigation issues with Judicial branch and legislative fixes, NAACP outreach, Bankruptcy reform Act, coordination of issues and relationships with Judic. Conference committees, OJP Civ Litig. Stats, Cobell legislation, ... Other things? Robt.

From: Elwood, Courtney
Sent: Tuesday, December 20, 2005 1:45 PM
To: Sampson, Kyle; Brand, Rachel; Fisher, Alice; Goodling, Monica; Gorsuch, Neil M; McCallum, Robert (SMO); McNeil, Tucker (OPA); Mercer, Bill (ODAG); Moschella, William; Oldham, Jeffrey L; Pacold, Martha M; Roberts, Crystal; Scolinos, Tasia; Taylor, Jeffrey (OAG); McNulty, Paul J
Subject: AG-led initiatives

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initiative). Please identify for me any projects or initiatives that you believe fit this description.

Let me know if you have any questions.

Many thanks,
Courtney

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 21, 2005 8:34 AM
To: Elwood, Courtney
Cc: McCallum, Robert (SMO); Reyes, Luis (SMO); Henke, Tracy (SMO)
Subject: FW: AG-led initiatives

Courtney, Below is a list of some items Robert, Lu, Tracy and I could think of immediately. We'll continue thinking on this, but do let us know if we can be of any further help, NMG

Advent of national sex offender registry & likelihood of covering virtually all states soon Historic number of enforcement actions regarding the language provisions of the Voting Rights Act (Sec. 203) Continued strong emphasis on human trafficking prosecutions Detainee legislation - Graham amendment NAACP outreach New bullet proof vest regulatory regime Implementation of bankruptcy reform act Settlement of first, model tribal Cobell-style claim on favorable terms; efforts aimed at Cobell legislation Attorney client privilege waiver policy directive Coordination of relationships with Judicial Conference Advancing studies of civil justice statistics to inform "tort reform" debate Continued strong emphasis on corporate and political integrity investigations (eg KPMG; Conyngham; Abramoff; Libby) Avian flu response, both w/r/t security issues and civil liability Privacy/civil liberties restructuring initiative Immigration litigation reform initiative Revival of the IP task force Gang training initiative (rationalizing existing programs and focusing on best programs) Continued aggressive defense of war on terror related litigation

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 21, 2005 8:35 AM
To: Sampson, Kyle; Taylor, Jeffrey (OAG)
Subject: FW: AG-led initiatives

Gents: Should've included you on this as well. NMG

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, December 21, 2005 8:34 AM
To: Elwood, Courtney
Cc: McCallum, Robert (SMO); Reyes, Luis (SMO); Henke, Tracy (SMO)
Subject: FW: AG-led initiatives

Courtney, Below is a list of some items Robert, Lu, Tracy and I could think of immediately. We'll continue thinking on this, but do let us know if we can be of any further help, NMG

Advent of national sex offender registry & likelihood of covering virtually all states soon Historic number of enforcement actions regarding the language provisions of the Voting Rights Act (Sec. 203) Continued strong emphasis on human trafficking prosecutions Detainee legislation - Graham amendment NAACP outreach New bullet proof vest regulatory regime Implementation of bankruptcy reform act Settlement of first, model tribal Cobell-style claim on favorable terms; efforts aimed at Cobell legislation Attorney client privilege waiver policy directive Coordination of relationships with Judicial Conference Advancing studies of civil justice statistics to inform "tort reform" debate Continued strong emphasis on corporate and political integrity investigations (eg KPMG; Conyngham; Abramoff; Libby) Avian flu response, both w/r/t security issues and civil liability Privacy/civil liberties restructuring initiative Immigration litigation reform initiative Revival of the IP task force Gang training initiative (rationalizing existing programs and focusing on best programs) Continued aggressive defense of war on terror related litigation

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 21, 2005 5:15 PM
To: Katsas, Gregory (CIV)
Subject: RE: Colloquy

Caught that earlier and it's been communicated to the right folks, but thanks for the careful read!

-----Original Message-----
From: Katsas, Gregory (CIV)
Sent: Wednesday, December 21, 2005 2:40 PM
To: Gorsuch, Neil M
Subject: FW: Colloquy

What say you, fearless leader?

-----Original Message-----
From: Katsas, Gregory (CIV)
Sent: Wednesday, December 21, 2005 2:39 PM
To: Katerberg, Robert (CIV); Hunt, Jody (CIV); Garvey, Vincent (CIV); Henry, Terry (CIV)
Subject: RE: Colloquy

Yes, I assume that was a (most unfortunate) typo. I'll ask Neil if we can still fix things like that.

-----Original Message-----
From: Katerberg, Robert (CIV)
Sent: Wednesday, December 21, 2005 2:24 PM
To: Katsas, Gregory (CIV); Hunt, Jody (CIV); Garvey, Vincent (CIV); Henry, Terry (CIV)
Subject: RE: Colloquy

On page 5, in the discussion of interplay with the McCain amendment, there's a statement that "our amendment does not take anything away because the McCain amendment does create a private cause of action in the first place." Isn't there a "not" missing? If there are channels through which suggestions can be made, might be worth getting this apparent typo corrected, although in fairness I note that later statements by Kyl (p. 8) clarify that he does not consider the McCain amendment as creating a private right of action.

-----Original Message-----
From: Katsas, Gregory (CIV)
Sent: Wednesday, December 21, 2005 2:13 PM
To: Hunt, Jody (CIV); Garvey, Vincent (CIV); Henry, Terry (CIV); Katerberg, Robert (CIV)
Subject: FW: Colloquy

In case you haven't seen this yet.

-----Original Message-----

-----Original Message-----
From: Gorsuch, Neil M
Sent: Monday, December 19, 2005 5:45 PM
To: Elwood, Courtney; Sampson, Kyle; Clement, Paul D; Garre, Gregory G; Bradbury, Steve; Keisler, Peter D (CIV); Nichols, Carl (CIV); Katsas, Gregory (CIV); Bucholtz, Jeffrey (CIV); McCallum, Robert (SMO)
Subject: Colloquy

Some favorable leg history we expect to be associated with Graham. (Of course, we expect Sen. Levin to have prepared some of his own.)

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 21, 2005 5:17 PM
To: Loeb, Robert (CIV); Marcus, Jonathan L
Subject: RE: Defense bill

Jonathan's on target. As I understand it, Graham/Levin is in the defense authorization bill which passed the House and is still awaiting action in the Senate; the separate defense appropriations bill is the one with the ANWR provision that was voted down earlier today. And as that shows, nothing is done until it's done...

-----Original Message-----
From: Loeb, Robert (CIV)
Sent: Wednesday, December 21, 2005 2:49 PM
To: Gorsuch, Neil M
Subject: Fw: Defense bill

-----Original Message-----
From: Marcus, Jonathan L <Jonathan.L.Marcus@SMOJMD.USDOJ.gov>
To: Loeb, Robert (CIV) <RLoeb@CIV.USDOJ.GOV>
Sent: Wed Dec 21 14:42:00 2005
Subject: RE: Defense bill

I thought Neil said that the defense authorization bill, which contains the Graham/Levin amendment, was separate from the defense appropriations bill, which contains the drilling provision.

-----Original Message-----
From: Loeb, Robert (CIV)
Sent: Wednesday, December 21, 2005 2:38 PM
To: Marcus, Jonathan L
Subject: Fw: Defense bill

-----Original Message-----
From: Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>
To: Letter, Douglas (CIV) <DLetter@CIV.USDOJ.GOV>; Loeb, Robert (CIV) <RLoeb@CIV.USDOJ.GOV>
Sent: Wed Dec 21 13:50:16 2005
Subject: Fw: Defense bill

-----Original Message-----
From: Meron, Daniel (CIV) <DMeron@CIV.USDOJ.GOV>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>; Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>; Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; Keisler, Peter D (CIV) <pkeisler@CIV.USDOJ.GOV>
Sent: Wed Dec 21 13:47:58 2005
Subject: Defense bill

<<AP-Arctic-Drilling.url>>
I think this means that the house will have to be recalled (next week?) to vote on the new version of the defense bill.

The message is ready to be sent with the following file or link attachments:

Shortcut to: http://www.nytimes.com/aponline/national/AP-Arctic-Drilling.html?hp&ex=1135227600&en=db30bd3acc2de4d9&ei=5094&partner=homepage

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, December 21, 2005 6:05 PM
To: Campbell, Frank AS
Subject: RE: Draft Report on Criminal History Background Checks for Non-Criminal Justice Purposes

Are you just looking for any comments from this office, or some further action or distribution by us?

From: Campbell, Frank AS
Sent: Wednesday, December 21, 2005 5:30 PM
To: Gorsuch, Neil M
Subject: FW: Draft Report on Criminal History Background Checks for Non-Criminal Justice Purposes
Importance: High

Neil: I note that Luis is out of the office until 1/1/06, so I'm forwarding this to you for appropriate handling within the Associate's Office. Thanks. Frank Campbell

---

From: Campbell, Frank AS
Sent: Wednesday, December 21, 2005 5:26 PM
To: Bush, Thomas E (LEO); Commodore, Todd C (LEO); Nash, Allen W (LEO); Sundin, Margaret-Mary (LEO); Kelley, Patrick W (LEO); Hitch, Vance (OCIO); Roe, Price (OCIO); Boodro, Janet M; Archer, Michael; Greenfeld, Larry; Ramker, Gerard; Samuels, Julie; Vargas, Omar (CRT); Reyes, Luis (SMO); Schmitt, Glenn; Morgan, John; Miles, Christopher
Cc: Hertling, Richard; Jones, Kevin R; Gormsen, Eric T
Subject: Draft Report on Criminal History Background Checks for Non-Criminal Justice Purposes
Importance: High

ALL:

Under section 6403 of the Intelligence Reform and Terrorism Prevention Act of 2004, the Attorney General is required to prepare a report to Congress making recommendations for improving, standardizing, and consolidating the existing statutory authorities and procedures for the conduct of criminal history records for non-criminal justice purposes. In June of this year, OLP published a notice in the Federal Register seeking public comment on the reporting requirement. We received 55 comments in response to the notice which are now posted, along with the notice, on the OLP website. We also received input from the FBI and BJS, based on their review of the comments, on the issues that should be addressed in the report.

OLP has prepared a draft of the report which is attached for internal, DOJ-component review. We ask that you do not circulate the draft outside of the Department.

We ask that the components copied on this e-mail provide comments back to OLP no later than COB, FRIDAY, JANUARY 6, 2006.

Please feel free to call me if you have any questions about the draft. Thank you in advance for your efforts in reviewing the draft of this important report.

Frank Campbell

Frank A. S. Campbell
Deputy Assistant Attorney General

Office of Legal Policy
U.S. Department of Justice
(202) 514-2283

<< File: CRIMINAL HISTORY RECORD CHECKS FOR NONCRIMINAL JUSTICE PURPOSES.REPORT OF THE ATTORNEY GENERAL.draft.12.21.05.wpd >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, December 22, 2005 10:54 AM
To: Loeb, Robert (CIV); Meron, Daniel (CIV)
Subject: RE: Defense bill

Graham was attached only to authorization -- which has now passed and awaits signature. McCain attached his provisions to both auth and approps to "show" that he could and would keep attaching it to bills until it passed and, thus, there was no way for opponents to tank or avoid it.

-----Original Message-----
From: Loeb, Robert (CIV)
Sent: Thursday, December 22, 2005 10:51 AM
To: Gorsuch, Neil M
Subject: FW: Defense bill

-----Original Message-----
From: Meron, Daniel (CIV)
Sent: Thursday, December 22, 2005 10:50 AM
To: Loeb, Robert (CIV)
Subject: RE: Defense bill

Bob,

I don't get one thing -- is the provision attached to both the spending and authorization bills? If so, do both need to pass or just one?

Also, do you have a copy of the reservations to the CAT that are cross-referenced in the bill re definition of torture?

Dan

-----Original Message-----
From: Loeb, Robert (CIV)
Sent: Thursday, December 22, 2005 10:45 AM
To: Letter, Douglas (CIV); Meron, Daniel (CIV); Henry, Terry (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Nichols, Carl (CIV); Marcus, Jonathan L
Subject: RE: Defense bill

From AP:

WASHINGTON -
President Bush is expected to sign a voluminous defense bill that requires the humane treatment of foreign terrorism suspects and rebukes some of his wartime policies.
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On a voice vote, the Senate late Wednesday approved the bill setting Pentagon policy, sending it to the president's desk for his signature. The House passed the legislation Monday.

The Bush administration initially threatened to veto any bill limiting how the United States detains, interrogates or prosecutes terror suspects.

But last week, Bush reluctantly endorsed the ban on cruel, inhuman and degrading treatment of foreign detainees amid pressure from the Republican-controlled Congress and U.S. allies.

The chief sponsor, Sen. John McCain (news, bio, voting record), R-Ariz., had the votes in both the House and Senate to override a veto despite early lobbying against the ban by Vice President Dick Cheney.

"It puts in law the policy of America on these issues," Sen. John Warner (news, bio, voting record), R-Va., chairman of the Senate Armed Services Committee, said. "It also provides what I regard as a fair set of standards for our men and women in uniform."

Sen. Jeff Sessions (news, bio, voting record), R-Ala., called the ban unnecessary because U.S. law already prohibits torture.

"Frankly, I'm not sure whether the administration agreed to this because they felt they had no choice or because they were happy with it," Sessions said.

The ban was part of a broader package of provisions that seek to standardize interrogation techniques and heal a U.S. image tarnished by the Abu Ghraib prison abuse scandal in Iraq and allegations of prisoner abuse at the U.S. naval base at Guantanamo Bay, Cuba.

In an attempt by Congress to increase its oversight during wartime, the measure includes language directing the president to submit quarterly reports to Congress on U.S. policy and military operations in Iraq.

That provision also puts Congress on record saying that 2006 should be a period of significant transition to full Iraqi sovereignty, with Iraqi security forces taking the lead to create conditions for the phased withdrawal of U.S. forces from Iraq.

The detainee provisions also were included in a separate $453 billion defense spending bill. On Wednesday, the Senate passed that measure, which includes $50 billion more for wars in Iraq and Afghanistan, but only after stripping out a provision that would have allowed oil drilling in the Arctic National Wildlife Refuge.

Because of the change, the House needs to sign off on the final version of the spending measure - expected Thursday - before it goes to the president for his signature.

The detainee provisions prohibit "cruel, inhuman or degrading treatment or punishment" of anyone in U.S. government custody anywhere in the world. They also require that service members follow procedures in the Army Field Manual during interrogations of prisoners.

In addition, the measure narrows a 2004 Supreme Court ruling that gave Guantanamo detainees the right to fight the legality of their detentions in any federal court. Instead, the bill limits their ability to

appeal their detention status and punishments to a federal appeals court in Washington.

-----Original Message-----
From: Letter, Douglas (CIV)
Sent: Thursday, December 22, 2005 10:41 AM
To: Loeb, Robert (CIV); Meron, Daniel (CIV); Henry, Terry (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Nichols, Carl (CIV); Marcus, Jonathan L
Subject: RE: Defense bill

I will therefore make contact with the DC Circuit shortly.

-----Original Message-----
From: Loeb, Robert (CIV)
Sent: Thursday, December 22, 2005 10:38 AM
To: Meron, Daniel (CIV); Henry, Terry (CIV); Katsas, Gregory (CIV); Letter, Douglas (CIV); Keisler, Peter D (CIV); Nichols, Carl (CIV); Marcus, Jonathan L
Subject: RE: Defense bill

no changes -- should be signed today.

-----Original Message-----
From: Meron, Daniel (CIV)
Sent: Thursday, December 22, 2005 7:30 AM
To: Loeb, Robert (CIV); Henry, Terry (CIV); Katsas, Gregory (CIV); Letter, Douglas (CIV); Keisler, Peter D (CIV); Nichols, Carl (CIV); Marcus, Jonathan L
Subject: Re: Defense bill

Did they make ny chnges tht would require house action?

-----Original Message-----
From: Loeb, Robert (CIV) <RLoeb@CIV.USDOJ.GOV>
To: Meron, Daniel (CIV) <DMeron@CIV.USDOJ.GOV>; Henry, Terry (CIV) <THenry@CIV.USDOJ.GOV>; Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>; Letter, Douglas (CIV) <DLetter@CIV.USDOJ.GOV>; Keisler, Peter D (CIV) <pkeisler@CIV.USDOJ.GOV>; Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>; Marcus, Jonathan L <Jonathan.L.Marcus@SMOJMD.USDOJ.gov>
Sent: Wed Dec 21 22:27:39 2005
Subject: Re: Defense bill

It looks like the Senate just passed the authorization.

-----Original Message-----
From: Meron, Daniel (CIV) <DMeron@CIV.USDOJ.GOV>
To: Loeb, Robert (CIV) <RLoeb@CIV.USDOJ.GOV>; Henry, Terry (CIV) <THenry@CIV.USDOJ.GOV>; Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>; Letter, Douglas (CIV) <DLetter@CIV.USDOJ.GOV>; Keisler, Peter D (CIV) <pkeisler@CIV.USDOJ.GOV>; Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>
Sent: Wed Dec 21 17:29:14 2005
Subject: RE: Defense bill

Then I stand corrected.

-----Original Message-----
From: Loeb, Robert (CIV)
Sent: Wednesday, December 21, 2005 5:17 PM
To: Henry, Terry (CIV); Meron, Daniel (CIV); Katsas, Gregory (CIV); Letter, Douglas (CIV); Keisler, Peter D (CIV); Nichols, Carl (CIV)
Subject: FW: Defense bill

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, December 21, 2005 5:17 PM
To: Loeb, Robert (CIV); Marcus, Jonathan L
Subject: RE: Defense bill

Jonathan's on target. As I understand it, Graham/Levin is in the defense authorization bill which passed the House and is still awaiting action in the Senate; the separate defense appropriations bill is the one with the ANWR provision that was voted down earlier today. And as that shows, nothing is done until it's done...

-----Original Message-----
From: Loeb, Robert (CIV)
Sent: Wednesday, December 21, 2005 2:49 PM
To: Gorsuch, Neil M
Subject: Fw: Defense bill

-----Original Message-----
From: Marcus, Jonathan L <Jonathan.L.Marcus@SMOJMD.USDOJ.gov>
To: Loeb, Robert (CIV) <RLoeb@CIV.USDOJ.GOV>
Sent: Wed Dec 21 14:42:00 2005
Subject: RE: Defense bill

I thought Neil said that the defense authorization bill, which contains the Graham/Levin amendment, was separate from the defense appropriations bill, which contains the drilling provision.

-----Original Message-----
From: Loeb, Robert (CIV)
Sent: Wednesday, December 21, 2005 2:38 PM
To: Marcus, Jonathan L
Subject: Fw: Defense bill

-----Original Message-----
From: Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>
To: Letter, Douglas (CIV) <DLetter@CIV.USDOJ.GOV>; Loeb, Robert (CIV) <RLoeb@CIV.USDOJ.GOV>
Sent: Wed Dec 21 13:50:16 2005
Subject: Fw: Defense bill

-----Original Message-----
From: Meron, Daniel (CIV) <DMeron@CIV.USDOJ.GOV>
To: Nichols, Carl (CIV) <canichol@CIV.USDOJ.GOV>; Katsas, Gregory (CIV) <GKatsas@CIV.USDOJ.GOV>; Bucholtz, Jeffrey (CIV) <JBucholt@CIV.USDOJ.GOV>; Keisler, Peter D (CIV) <pkeisler@CIV.USDOJ.GOV>
Sent: Wed Dec 21 13:47:58 2005
Subject: Defense bill

<<AP-Arctic-Drilling.url>>
I think this means that the house will have to be recalled (next week?) to vote on the new version of the defense bill.

The message is ready to be sent with the following file or link attachments:

Shortcut to: http://www.nytimes.com/aponline/national/AP-Arctic-Drilling.html?hp&ex=1135227600&en=db30bd3acc2de4d9&ei=5094&partner=homepage

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, JANUARY 3, 2006 7:45 AM EST

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TERRORISM NEWS:

White House Plans Focus On Iraq, Economy For 2006. In a story that runs over 2100 words highlighting political and policy opportunities for the Administration -- as well as potential pitfalls, USA Today (1/3, Jackson, Page, 2.31M) says that while past president have faced their greatest difficulties during the sixth year of their tenure, the White House is making preparations for a "better year" ahead. USA adds that for President Bush, 2005 "was a year of growing public impatience with the Iraq war, angst over record gas prices, devastation from Hurricane Katrina, the collapse of his Social Security plan and, finally, a firestorm over his decision to authorize targeted domestic spying without court warrants. Now he faces a challenge that has upended the best-laid plans of his predecessors: his sixth year in office." However, the White House "and its allies see opportunities, though, sixth year or not." Top aides "say Bush aims to travel more often and speak out more forcefully, touting the economy as underappreciated good news." To "avoid the sort of stalemate that undermined his Social Security proposal, Bush will downsize his domestic agenda, proposing changes in immigration law but shelving, at least for now, plans for a tax overhaul." White House spokesman Scott McClellan "says the basic game plan is simple: 'The economy and progress in Iraq.'" USA adds Bush's "most powerful aide, Karl Rove, has invited think-tank analysts, authors and others to the White House for ideas to help reinvigorate the president's domestic agenda." But there is "trouble on the horizon, too, and events that are outside White House control," such as in Iraq, the CIA leak investigation, and the Abramoff probe. USA then outlines the White House's planned strategy across a number of policy fronts.

The Washington Times (1/3, Sammon, 90K) reports President Bush "is planning to spend 2006 getting back to the basics of his agenda by making the case for his policies on Iraq and the economy instead of pursuing lofty new domestic initiatives." White House spokesman Trent Duffy said, "The president will begin the new year very much in the way he left 2005, which is to discuss the country's two top priorities, keeping our economy strong and growing stronger and creating jobs, and also winning the war on terrorism." The Times adds that is "not to say Mr. Bush will not reveal new initiatives in his State of the Union address, tentatively scheduled for Jan. 31. But those initiatives are expected to be more modest than his ambitious quest to reform Social Security, partly because it will be harder to enact his agenda in a congressional re-election year." Aides "hinted that Mr. Bush will try to make his tax cuts permanent, pass an immigration reform law and push for additional energy legislation, including a measure to open oil exploration in the Arctic National Wildlife Refuge in Alaska. Although he has not officially abandoned Social Security reform, he will spend less time promoting the long-shot initiative."

Democrats To Attack Bush, GOP On Privacy Issues. The Washington Times (1/3, Hurt, 90K) reports congressional Democrats "are drafting a strategy to attack the Bush administration and Republicans as having little regard for the privacy of Americans." Before Christmas, Senate Minority Whip Richard Durbin said, "We will initiate at the beginning of this year one of the most serious debates and discussions on Capitol Hill in our history about individual rights and liberties." The Times adds the "topic will be a major focus of the Supreme Court confirmation hearings of federal Judge Samuel A. Alito Jr. as privacy rights -- the political code phrase for abortion rights -- already has become a major issue, Mr. Durbin said." Democratic leaders "then plan to keep the issue alive as they continue their opposition to key parts of the USA Patriot Act, which is set to expire in early February unless extended." But the "real payoff, Democrats say, will be the hearings into President Bush's authorization of warrantless spying on terror suspects."

Comey Opposed Parts Of NSA Domestic Spying Program. CNN's Lou Dobbs Tonight (1/2, Romans) reported, "The White House is vowing to aggressively defend its program to secretly wiretap Americans in the days and weeks ahead. But this upcoming offensive comes amid new reports of serious internal debate in the Bush administration over the legality of this program." CNN (Quijano) added, "Government officials say during at least part of James Comey's tenure as deputy attorney general, he vigorously opposed parts of the National Security Agency's secret domestic surveillance program and refused to sign off on its renewal." On Sunday, President Bush "would not comment directly when asked whether he was aware of any high-level resistance to the NSA program. Instead, he again forcefully defended its use, calling it legal and necessary." CNN added that "sources have told CNN that the surveillance program was stopped in 2004 for a short time because of legal questions. Some changes were then made to the program, but it's not clear what those changes were."

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Williams Says Domestic Spying Program Is Hard To Defend. Pete Williams said on MSNBC's Hardball (1/2) that the domestic surveillance program is "a hard program to defend, because we don't know the extent of it or precisely how it worked. … Now, the legal justification they make is twofold. First, they say, the president has a constitutional authority as commander-in-chief to do this. And secondly, they say, when Congress authorized the use of military force, which was right after 9/11, it gave the president whatever authority he needed to do in wartime. Intelligence gathering, the administration argued, is incident to making war and the president has authority under that law as well. That's been their legal argument.

Mitchell Says Administration Needs To Be "More Out Front" About Eavesdropping. Andrea Mitchell of NBC News said on MSNBC's Hardball (1/2), "I think [Senate Judiciary Committee Chairman Arlen] Specter is a bellwether. … Right now the administration is pressing Specter to give this up and let the intelligence community do this in secret. And he's been arguing that this needs to be the Judiciary Committee. That there are major legal issues involved. One of the things that the White House probably is still resisting, but really needs to do, is be a little bit more out front, because it's not just a handful of cases. It's at least 500 people at a time being eavesdropped upon. And in fact, there were millions and millions of calls and e-mails that were swept up in this electronic vacuum cleaner.'

Thomas Says Presidents Always Give Themselves Power In Times Of War. Evan Thomas of Newsweek said on MSNBC's Hardball (1/2) that this is "an historic moment. A couple hundred years of presidents in times of crisis reaching out, giving a lot of power to themselves. Inevitably, there's a reaction, first it starts with a bureaucracy, it's a little slow and then seeps into the public. You can trace this after Watergate, Vietnam, World War II, World War I, every time we have a war, presidents do this. Eventually there's a reaction. I think that reaction is beginning now. What's not clear is how severe it is, whether the president is going to get whapped back, but you can feel some emanations off of Capitol Hill, as often where it starts, that people are starting to say, hey, maybe the balance is a little bit out of whack here."

Bush Defends Domestic Wiretap Program. President Bush on Sunday visited San Antonio to meet with wounded Iraq veterans and staff at the Brooke Army Medical Center. That visit, however, was largely upstaged by what NBC called his "strongly worded defense" of the Administration's use of the National Security Agency to wiretap people in the US. Other reports also tended to state say Bush defended the program "strongly" or "fiercely." The President made the remarks as media reports indicated there was some dissension within the Justice Department over the legality of the program -- and as four senators backed holding hearings. The story was the lead on NBC, while CBS covered it in a full segment and ABC mentioned it briefly. Today's major newspapers also cover the story in depth.

NBC Nightly News (1/1, lead story, 2:30, Costello) reported the President said, "yet again, in a very strongly worded defense," that "if al Qaeda is trying to call someone, the government should now who and why." Bush "felt compelled again to defend the secret White House program to monitor email traffic and listen into the phone calls of as many as 500 Americans each day without court approval. Mr. Bush said only international calls to and from the US and involving known al Qaeda sympathizers were tapped." President Bush: "It seems logical to me if we know a phone number associated with al Qaeda and or an al Qaeda affiliate, and they are making phone calls, it makes sense to find out why." Costello: "The President again emphasized Congress was kept informed of the program, which was regularly reviewed by the Justice Department and found to be legal. But the New York Times reported that then-Deputy Attorney General James Comey resisted approving parts of the spying program out of concern that it wasn't legal. And Newsweek reports in a cover story that then-Attorney General John Ashcroft refused to overrule Comey, while Time magazine reports that the President even bypassed top Justice Department attorneys who normally reviewed top-secret intelligence programs."

The CBS Evening News (1/1, story 4, 2:00, Roberts) reported, "Bush again fiercely defended his domestic spying program, one that authorizes the government to monitor conversations to and from the US without a court warrant." In an "attempt to dissuade congressional hearings its legality, he says even the program's disclosure has damaged national security and in answer to criticisms about possible civil liberty violations he argues that spying is limited in scope." President Bush: "If somebody from al Qaeda is calling you, we'd like to know why. In the meantime, this program is conscious of people's civil liberties, as am I." Roberts: "Today four US Senators, including Richard Lugar, the Republican Chairman of the Foreign Relations Committee said that hearings on the President's authorization of domestic spying without warrants are appropriate."

The New York Times (1/2, Lichtblau) reports Senator Arlen Specter, "a Pennsylvania Republican and chairman of the Judiciary Committee, has already pledged to make hearings into the program one of his highest priorities." In a letter to Specter on Sunday, "Senator Charles E. Schumer, a New York Democrat who is also on the committee, said the panel should also explore 'significant concern about the legality of the program even at the very highest levels of the Department of Justice.'"

Lugar, appearing on CNN's Late Edition (1/1, Blitzer), said, "I can understand in the context of 9/11 that there may have been, in a common sense way, a reason why calls coming from the Middle East or Afghanistan to America might

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be intercepted, but I think the Congress quite rightly is trying to take a look at now that we're past 9/11, we're going to have to live with the war on terror for a long, long while." Asked if he advocated holding hearings on the matter, Lugar responded, "I do. I think this is an appropriate time. … I think we want to see what in the course of time really works best and the FISA Act has worked pretty well from the time of President Carter's day to the current time."

Sen. Mitch McConnell, on Fox News Sunday (1/1, Wallace), said, "Thank goodness the Justice Department is investigating to find out who has been endangering our national security by leaking this information so that our enemies now have a greater sense of what our techniques are in going after terrorists. The overwhelming majority of the American people understand that we need new techniques in the wake of 9/11 in order to protect us. … This needs to be investigated, because whoever leaked this information has done the U.S. and its national security a great disservice."

ABC World News Tonight (1/1, story 6, :20, Harris) reported, "There are reports that high-level officials at the Justice Department objected to the Administration's controversial domestic spying program." Reuters (1/2, Zakaria) notes the New York Times "reported on Sunday that James Comey, a deputy to then-Attorney General John Ashcroft, was concerned about the legality of the NSA program and refused to extend it in 2004." White House aides "then turned to Ashcroft while the attorney general was hospitalized for gallbladder surgery, the Times said." The AP (1/2, Riechmann) says Bush "didn't answer a reporter's question about whether he was aware of any resistance to the program at high levels of his administration and how that might have influenced his decision to approve it."

The New York Post (1/2, Mangan, Dicker) reports, "President Bush belittled top Justice Department official James Comey with the nickname 'Cuomo' after the former Manhattan U.S. attorney balked at allowing controversial warrantless eavesdropping to catch terrorists, a new report claims." The Post continues, "Comey acquired the nickname — which referred to New York ex-Gov. Mario Cuomo — after Bush administration officials concluded he was not a 'team player' on that and other issues, Newsweek reports. … Comey, who now is general counsel for the Lockheed Martin corporation, could not be reached for comment. … But Cuomo laughingly told The Post, 'I'll say this — Comey and Cuomo have this in common: They both agree that the president was wrong.' … The White House denied that Bush, who has a penchant for doling out nicknames, tagged Comey with the scornful sobriquet."

New York Daily News (1/2, Siemaszko) reports, "Schumer also said he will ask Specter to question top White House officials such as former Acting Attorney General Jim Comey, who reportedly opposed the secret domestic eavesdropping on legal grounds. … 'When Comey, who was one of the premier terrorism prosecutors in this country, said that he thought this program violated the law ... it calls into question the way the president and the vice president went about changing it,' Schumer said on 'Fox News Sunday.'"

Schumer, on Fox News Sunday (1/1, Wallace), commented, "The problem here is that the President thought there was a problem -- that's legitimate -- but instead of coming to people and saying 'okay, I need changes in the law,' he just changed it on his own. And today's revelations…really heighten the concerns about this. When [former Deputy Attorney General James] Comey, who was one of the premiere terrorism prosecutors in this country, said that he thought this program violated the law, when it's reported that people at the NSA -- and none of these people are left-wing liberals -- had real doubts about the program, it calls into question the way the president and vice president went about changing it."

The Los Angeles Times (1/2, Roche, Chen) says Bush "strongly defended the domestic eavesdropping program," and quotes the President saying, "If somebody from Al Qaeda is calling you, we'd like to know why. … We're at war with a bunch of coldblooded killers."

The Washington Post (1/2, A1, Rein) notes it was Bush's "third defense in two weeks of his secret domestic spying program." The Post quotes Bush saying, "This is a limited program designed to prevent attacks on the United States of America, and I repeat limited." The Post later says, "The president's first public comments of the new year after no public appearances last week offered a glimpse into how his administration intends to deflect congressional inquiries into his authorization of wiretaps on terrorism suspects -- with a vigorous defense of the program as a matter of national security."

The Washington Times (1/2, Curl) adds the President also "criticized anew the leaker who revealed the program to the New York Times, which published a front-page article about it on the day the Senate was scheduled to vote on an extension of the Patriot Act. 'There's an enemy out there. They read newspapers, they listen to what you write, they listen to what you put on the air, and they react,' said Mr. Bush, who added that the leak of the program causes great harm to national security."

NSA Surveillance Credited With Stopping Terror Attacks Post-9/11. Syndicated columnist Charles Krauthammer, appearing on Fox News Sunday (1/1, Wallace), said, "There's a great irony here. Everybody has been asking of themselves for the last four years why haven't we had a second attack. … But what we've heard over the last six months with these revelations, these so-called scandals, of the secret prisons where high-level Al Qaida have been held, the coercive interrogation which is under attack in the McCain amendment, and now the NSA eavesdropping -- we have the untold story which the

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administration could not tell. It knew why we had been protected. … We had a means, technological, in the NSA eavesdropping, and also other means in capturing these terrorists, of getting information. It's worked. It's held us safe."

DOJ Probes Of High-Level Leaks Seldom Meet With Success. Knight Ridder (1/2, Mondics) reports, "When President Bush defended the National Security Agency after the disclosure that it had spied on hundreds of Americans, he angrily denounced media leaks about the program, and the Justice Department has now opened a criminal probe. … But an ongoing Justice investigation of the president's own staff in an unrelated leak case and the handling of hundreds of other leak allegations each year suggest that the probe of the NSA leak - which focuses on the disclosure of classified information to The New York Times - faces huge obstacles." Knight Ridder continues, "Only two government officials have ever been convicted of leaking classified information to a news organization. Samuel L. Morison, a Navy intelligence analyst, was prosecuted for leaking three spy satellite photos to Jane's Defence Weekly in 1984; Jonathan Randel, a former Drug Enforcement Administration analyst, was convicted in 1999 of leaking confidential information about DEA investigations to a London newspaper." Knight Ridder adds, "More recently, special prosecutor Patrick Fitzgerald acknowledged difficulty proving that any laws governing the release of classified information were broken in the White House leak to the media of a CIA operative's identity. Fitzgerald did win an indictment Oct. 28 of I. Lewis "Scooter" Libby, former chief of staff to Vice President Cheney, for allegedly lying to investigators in the case. But after two years, Fitzgerald has charged no one with illegally releasing sensitive national security information - the charge that prompted the investigation. … Mark Corallo, a former Justice spokesman who is now a spokesman for Bush adviser Karl Rove in matters related to the Fitzgerald investigation, said the department typically received hundreds of requests a year from intelligence agencies to investigate leaks, and most cases went nowhere. … One reason is that the Justice Department, despite a handful of high-profile cases, has been reluctant to subpoena reporters who for reasons of confidentiality declined to testify; another is that laws governing such prosecutions require the government to show that the leaker intended to break the law - a difficult hurdle to clear."

Bush Will Begin 2006 "Preoccupied" By Domestic Spying Controversy. Time (1/9, Lacayo) reports that President Bush's 2002 Executive Order allowing the NSA to eavesdrop without a warrant on phone conversations, e-mail and other electronic communications "remained a closely guarded secret" for four years. Time adds, "Because the NSA program was so sensitive, Administration officials tell TIME, the 'lawyers' group,' an organization of fewer than half a dozen government attorneys the National Security Council convenes to review top-secret intelligence programs, was bypassed. Instead, the legal vetting was given to Alberto Gonzales, then White House counsel. In the weeks since Dec. 16, when the program was disclosed by the New York Times, it has set off a ferocious debate in Washington and around the country about how the rule of law should constrain the war on terrorism. That development ensures that the President will start the new year preoccupied for a while with a fight over whether his responsibility to prevent another attack gave him the power to push aside an act of Congress -- or, to use the terms of his harshest critics, to break the law."

In a separate story, Time (1/9, Tumulty, Allen) reports that "the revelation that his Administration has been spying in this country without warrants -- illegally, critics say -- may have put a crimp in Bush's plan to climb back on top of the agenda as the new legislative session begins. 'When Congress comes back,' warns a top G.O.P. congressional aide, 'domestic surveillance and privacy issues will be all over the front pages.' To which the President and his strategists seem to be saying, Bring it on." From the Time the story broke, the Administration "decided its strategy would be to 'overwhelm the skeptics, not back off, not change anything about the program and really home in very strongly on the fact that this is a legitimate part of presidential warmaking power,' says an adviser." GOP strategists "argue that Democrats have little leeway to attack on the issue because it could make them look weak on national security and because some of their leaders were briefed about the National Security Agency (NSA) no-warrant surveillance before it became public knowledge. Some key Democrats even defend it."

"Ferocious" Administration Infighting Delayed Domestic Spying Program For A Time. Newsweek (1/9, Thomas, Klaidman) reports, "NEWSWEEK has learned, ferocious behind-the-scenes infighting stalled for a time the administration's ambitious program of electronic spying on U.S. citizens at home and abroad." Newsweek adds, "It does not appear that President Bush -- determined to stand tall in the war on terror -- or Vice President Cheney, a staunch believer in executive power, hesitated to circumvent FISA. Asserting the broad warmaking powers conferred on the president by Article 2 of the Constitution and by a post-9/11 congressional resolution authorizing the use of force to combat global terror, Bush repeatedly approved of what the NSA calls a 'special collection program' that eavesdropped -- without warrants -- on about 500 Americans a day."

"Reassertion Of Presidential Power" Said To Be At Heart Of Spying Debate. U.S. News and World Report (1/9, Kaplan) reports, "At the heart of the debate over domestic spying is a reassertion of presidential power. Legal advisers to the president have made a case for sweeping executive authority during wartime. The White House's authority to

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render terrorism suspects jailed without trial and run warrantless eavesdropping, they argue, is authorized by a congressional war resolution passed after 9/11 and by the Constitution's grant of war-making power to the commander in chief. Among the prime supporters of this position is Vice President Dick Cheney, who as White House chief of staff under Gerald Ford saw Congress take back considerable amounts of executive power after the abuses of the Nixon era. But Congress and the courts may now be pushing back. Legal challenges to the administration's detention policy and the FBI's national security letters are winding their way through the courts." Likewise, Time (1/9, Lacayo) says the White House "has been developing a very robust interpretation of presidential power" to "support its aggressive conduct." Vice President Dick Cheney "in particular believes that presidential power has been unreasonably confined since the 1970s." Time adds, "Because they required the President to plainly bypass an act of Congress, the no-warrant wiretaps may be the sharpest expression yet of the Administration's willingness to expand the scope of Executive power."

Domestic Spying Efforts May Be More Widespread Than Previously Thought. U.S. News and World Report (1/9, Kaplan) reports, "A string of revelations in recent weeks suggests that domestic spying programs may be far broader than previously thought." Government officials "have offered spirited defenses" of these programs. They say these allegations of spying "have been misinterpreted and exaggerated," and they "insist that the public expects law enforcement and intelligence agencies to be aggressive in the age of terrorism. President Bush was unapologetic about the NSA's warrantless intercepts. … The FBI, too, has mounted a strong defense. No investigations are opened, officials say, unless there is 'specific information about a potential criminal or terrorist threat.' Mere mention of groups or individuals in an FBI file, agents say, does not mean they are under investigation."

Allegations Have Sparked Lawmakers Into Action. U.S. News and World Report (1/9, Kaplan) reports that "the mounting allegations of domestic spying have sparked widespread concern and prompted members of Congress to action, among them Arlen Specter, the Pennsylvania Republican who chairs the Senate Judiciary Committee and who will convene hearings later this month. 'I want to know precisely what they did,' Specter said. 'How the NSA utilized their technical equipment, whose conversations they overheard, how many conversations they overheard, what they did with the material, what purported justification there was.' Democrat Rep. Robert Wexler is demanding documents on the Defense Department's secret monitoring program, part of a little-known agency called the Counterintelligence Field Activity."

Time (1/9, Lacayo) adds that "the House and Senate Intelligence Committees are almost certain to make deeper inquiries. Meanwhile, the Justice Department is launching an investigation of its own, into how word of the secret program was leaked." Justice officials "have refused to say whether the overall legality of the NSA program will also be investigated."

Bush Administration "Implored" NYTimes Editors Not To Publish Domestic Spying Story. Time (1/9, Ratnesar) reports on New York Times reporters James Risen and Eric Lichtblau, who broke the story "that the Bush Administration was running a covert domestic-spying program." It "took Risen more than a year to get the story into print -- and not before President Bush personally implored Times editors not to publish Risen and Lichtblau's account of how Bush authorized the National Security Agency to wiretap telephone and e-mail communications inside the US without court-sanctioned warrants." Time adds, "At the center of the article's backstory is Risen, who unsuccessfully pushed to publish the wiretap report last year, then took a leave to write a book, State of War: The Secret History of the CIA and the Bush Administration. It now appears he may pay a price for the disclosure: last Friday the Justice Department opened an investigation into who leaked the existence of the NSA program to the Times, raising the prospect of Risen's being compelled to reveal the identities of the 'nearly dozen' current and former officials who spoke to him about the program or face jail time for contempt of court."

Domestic Spying Debate Follows A "Predictable" Wartime Pattern. Newsweek (1/9, Thomas, Klaidman) reports in its cover story, "The current debate over national security and civil liberties is not new. It follows a predictable pattern of a democracy in wartime. … To understand the current struggle -- and judge how seriously to take the Bush and Cheney bids for power -- it is useful to compare this battle to all the balancing acts that have come before. The facts change, but the pattern varies little: In national crises, presidents reach for power." A president "will almost always choose to violate individual rights over the risk of losing a war." Newsweek adds, "Congress lies low and goes along. … Typically, in times of national peril, Congress gets swept along on a wave of patriotism. … The bureaucracy pushes back. … Though 'bureaucrat' can be a bad name, government careerists are sometimes the only ones who will uphold standards of fairness or decency. They know, too, that they can be left holding the bag if later congressional hearings look into dubious secret operations. … The public and the politicians react -- and overreact. Historically, wartime encroachments on civil liberties have spawned backlashes. … The American public may be less than sympathetic to the targets of the Bush antiterror crackdown. But if the administration is shown to have violated the civil liberties of

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mainstream peace groups or (heaven forbid!) members of the press, the outcry could produce an overreaction."

More Commentary. Columnist Ruth Marcus, meanwhile, writes in today's Washington Post (1/2) about Bush's domestic spying, and comments, "Perhaps, in the aftermath of Sept. 11, that's how the country wants its intelligence activities conducted." But "living on the edge inevitably risks falling off a cliff - especially if you choose to live there on your own and in secret." Marcus says "the need for legal checks, the importance of congressional oversight, the missteps that inevitably occur when the executive branch is accountable only to itself -- seem to have been ignored by all the parties involved. As Congress gears up for another needed round of hearings, the challenge is not only to discover what happened but also not to forget, again, what was already, painfully learned."

DOJ IG Finds Terror Specialists At US Attorney's Offices Failing To Coordinate. The Washington Times (1/3, Seper, 90K) reports that a report from the Justice Department's Office of Inspector General has concluded that "Intelligence specialists at the 93 US attorneys' offices assigned to identify terrorist activity and assist in prosecutions are not coordinating their efforts and lack guidance." According to the report, though the offices "have made 'valuable' individual contributions to counterterrorism efforts, their overall effectiveness needs to increase through improved coordination and guidance." The IG report "made eight recommendations to improve the use of the specialists, including identifying and providing the standard tools they should use, defining the types of results they should produce, and establishing the quality standards those results should meet. "

Former CIA Official Says Agency May Need A Decade To Build Up Anti-Terror Service. Reuters (1/2, Morgan) reports, "A former CIA counterterrorism officer who tracked Osama bin Laden through the mountains of Afghanistan says the U.S. spy agency could need a decade to build up its clandestine service for the U.S. war on terrorism." Gary Berntsen, "a decorated espionage officer who led a paramilitary unit code-named 'Jawbreaker' in the war that toppled the Taliban after the September 11 attacks," said CIA Director Porter Goss "faces an uphill battle to fill the agency's senior ranks with aggressive, seasoned operatives." Berntsen said in an interview, "He's probably more aggressive than most of the senior officers in the clandestine service. So I think he's having to pull them along a bit." Goss, he added, "is trying to improve the situation. But it's going to be tough. The rebuilding is going to take years. A decade, at least."

Experts Say Padilla Dispute Could Jeopardize Terror War. The Legal Times (1/2, Henning) reports, "This time, audacity may not pay off for Bush administration lawyers. …. Having aggressively — and in the view of their critics, arrogantly — pursued an expansive view of executive power since the start of the war on terrorism, they could see their plans derailed by an escalating skirmish over 'enemy combatant' Jose Padilla." The Times continues, "Last week was punctuated by another round, in a rancorous and highly unusual exchange between the U.S. Court of Appeals for the 4th Circuit and the Bush administration over the detention of Padilla, a U.S. citizen whose case is regarded as a crucial legal litmus test of anti-terrorism tactics. … In late November the government abruptly asked the appeals court to vacate a Sept. 9 decision granting President George W. Bush the right to detain indefinitely U.S. citizens as enemy combatants without charge or trial. It was a move that alienated one of the administration's most reliable judicial allies, the largely conservative 4th Circuit." The Times adds 'The administration's abandonment of its aggressive position in a case that it has touted as crucial to battling terrorists confounded outsiders and infuriated the judges who had previously given the White House a highly favorable ruling. … 'This is perhaps the most important constitutional litigation since September 11,' says Timothy Lynch, director of the Cato Institute's Project on Criminal Justice. 'They severely underestimated the reaction by the judiciary and other legal observers. Maybe they missed the forest for the trees and lost sight of how big this was, but this is going to hurt the credibility of the Justice Department in other terrorism cases.'"

The Pittsburgh Post-Gazette (1/2, McGough) reports, "It must have seemed like a good idea at the time. Fearful of another test of presidential power in the U.S. Supreme Court, the Bush administration in November decided to cut its losses and end the 3 1/2-year-long confinement of Jose Padilla as an 'enemy combatant.' .. Mr. Padilla, a Brooklyn-born convert to Islam, was arrested at Chicago's O'Hare Airport in May 2002 and was identified by then-Attorney General John Ashcroft as a participant in an al-Qaida plot to explode a radioactive 'dirty bomb' in the United States. A federal appeals court upheld his detention, but Mr. Padilla's lawyers appealed to the Supreme Court. … Then the Bush administration executed a legal U-turn. It secured an indictment of Mr. Padilla by a federal grand jury in Florida on terrorism charges unrelated to a 'dirty bomb,' announced that he would be transferred from a Navy brig in Charleston, S.C., to a civilian prison in Miami and asked the 4th U.S. Circuit Court of Appeals in Richmond to vacate its decision upholding Mr. Padilla's confinement." The Post-Gazette adds, "The 4th Circuit, one of the administration's favorite tribunals, wouldn't play. It refused to vacate its order or approve of Mr. Padilla's transfer from military to civilian custody. In an

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opinion by Judge J. Michael Luttig, a conservative icon often mentioned as a possible Bush appointee to the Supreme Court, the 4th Circuit worried about 'an appearance that the government may be attempting to avoid consideration of our decision by the Supreme Court.' … Last week the administration shot back, demanding that the Supreme Court authorize Mr. Padilla's transfer. In a petition filed with the Supreme Court, Solicitor General Paul D. Clement fumed that 'the 4th Circuit's order defies both law and logic' and constituted an 'unwarranted attack' on President Bush's authority. Besides, Mr. Clement said, Mr. Padilla's lawyers hadn't objected to transferring their client. … It is true that in an earlier filing with the 4th Circuit, Mr. Padilla's attorneys had indicated that they wouldn't object to the transfer because they could continue to challenge Mr. Padilla's designation as an enemy combatant. But last week they took a different tack. … The battle of the briefs between the government and Mr. Padilla's lawyers turns on the proper interpretation of a federal court rule that says prisoners seeking a writ of habeas corpus -- as Mr. Padilla is doing -- ordinarily can't be transferred from one jailer to another. But the larger issue in the turf war between the 4th Circuit and the Bush administration is the same one raised in Mr. Padilla's original legal challenge: the scope of presidential power in the 'war on terror.'"

WPost Comments On Changing Government Tactics In The Padilla Case. The Washington Post (1/2) editorializes, "Just when it appeared the case of accused enemy combatant Jose Padilla couldn't get any weirder, the two parties have switched sides. In an emergency brief filed before the Supreme Court last week, the Justice Department asked the justices to step in and allow the government to transfer Mr. Padilla immediately from military to civilian custody so that he can face the criminal charges recently filed against him. This is the same Justice Department that had been arguing for 3 1/2 years that Mr. Padilla could be held without charge on President Bush's order as an al Qaeda fighter - for much of that time without even having access to his lawyers. … The government is now seeking to release Mr. Padilla from his legal limbo, and Mr. Padilla is objecting."

US Said To Be Underutilizing Arab, Muslim Community In War On Terror. Randa Fahmy Hudome, former associate deputy energy secretary in the Bush administration, in an op-ed in the Wall Street Journal (1/3, A24, 2.11M) writes that while the US government "has focused on the vital national security challenges posed in the post-9/11 environment -- challenges in law enforcement, intelligence gathering and public diplomacy," there is "an untapped resource in all 50 states that can provide insight into many of these challenges -- the American Arab and Muslim community." However, "they have been underutilized on the frontlines of the global war on terror. While President Bush has appointed more Arab- and Muslim-Americans to senior positions than any previous administration, the rest of the government has been slow to follow his lead." Fahmy Hudome states, "The Department of State should create an Arab- and Muslim-American Advisory Board -- made up of experts who reflect the religious, ethnic and geographic diversity of the Middle East -- to advise the US government about issues, sensitivities, perceptions and misperceptions both here and abroad."

Administration Action On Hamadi Release Called Inadequate. Ken Stethem, brother of US Navy Diver Robert Stethem, who was murdered during the 1985 TWA hijacking, was asked on MSNBC's Scarborough Country (1/2), why he wrote to the Bush Administration complaining about the release by German authorities of Mohammed Ali Hamadi, who was convicted of the murder. Stethem said, "We're absolutely unsatisfied with the indifference and the action that they took upon Hamadi's release. … We've gotten two phone calls, one from Andrew Card, wishing us well and saying he's sorry. And then we got one from [State Department Counterterrorism Coordinator] Ambassador [Henry] Crumpton…saying basically the same thing." Stethem went on to say he has not "heard anything" from Congress, "and it's unbelievable." When asked what the Administration's response to his requests has been, Stethem said, "Nothing! We've been trying to get meetings with Condoleezza Rice in the State Department, through the Justice Department since May. And we've not been given the opportunity once. … It's incredible, just incredible to see the president soliciting support for the war on terrorism, the same week that Hamadi is released and the Administration knew about his impending release while the president was preparing that speech."

PATRIOT ACT:

White House To Step Up Defense Of Patriot Act, NSA Surveillance. The Financial Times (1/3, Daniel) reports the White House "will this week step up efforts to defend its policy on the Patriot Act as well as its controversial decision to conduct domestic surveillance on US citizens without a warrant from a judge, in the face of mounting concerns from civil liberties groups." President Bush "began the counter-offensive with a strong defence of his decision in 2001 to authorise the National Security Agency to eavesdrop on those suspected of links to al-Qaeda and of his legal authority to prosecute the war on terror." On Tuesday, Bush "will take part in a meeting on the Patriot Act, the anti-terrorism legislation that Congress failed to renew before the Christmas break. On Wednesday he will make a

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statement on the 'war on terror' at the Pentagon." As "part of a co-ordinated approach, Dick Cheney, vice-president, will also give a speech about terrorism."

HOMELAND RESPONSE:

Chertoff To Announce Changes To Homeland Security Grant Program. Several media outlets this morning are reporting on the upcoming announcement of changes to the Urban Area Security Initiative. The AP indicates that Secretary Chertoff has sought the changes, while the New York Times notes that he is prepared for some negative response. The New York Times (1/3, Lipton, 1.19M) reports, "Facing cuts in antiterrorism financing, the Department of Homeland Security plans to announce today that it will evaluate new requests for money from an $800 million aid program for cities based less on politics and more on assessments of where terrorists are likely to strike and potentially cause the greatest damage, department officials say. The changes to the program, the Urban Area Security Initiative, are being driven in part by a reduction in the overall pool of money for antiterrorism efforts." Homeland Security Secretary Michael Chertoff, who is to announce the shift, said in a speech last month that "the changes he was considering would require an acknowledgment that the nation could not protect itself against all risks." DHS officials "would not offer predictions of what the likely outcome would be in terms of how many cities would see their grants eliminated or cut significantly." Meanwhile, "Mr. Chertoff has made clear that he expects protests when the final grant awards are announced."

The Wall Street Journal/AP (1/3, A4) reports, "The change…addresses both the destruction and lack of preparedness seen during Hurricane Katrina. It also reflects…Chertoff's efforts to give his department an all-hazards mission -- even though it was created as a direct result of the Sept. 11, 2001, terror attacks." The AP notes, "Homeland Security spokesman Russ Knocke would not comment on which cities will be eligible for grants this year." A longer version of the AP (1/2, Jordan) story noted, "Calls to city officials around the country and to the US Conference of Mayors for comment were not immediately returned."

Under the headline "More Cities Eligible For Urban Grants, USA Today (1/3, 2.31M) reported, "Homeland Security Secretary Michael Chertoff will announce today which cities will receive part of $765 million in annual Urban Area Security Initiative grants. In past years, the grants have gone to the nation's 50 largest cities for terror-related security measures. This year, cities that risk being hit by a natural disaster or health crisis also are eligible."

DHS Issues Manual On Correspondence For Employees. In its "Verbatim" column, the Washington Post (1/3, A15, 744K) runs a portion of "a new manual for correspondence standards and procedures" sent out by Fred Schwien, the Department of Homeland Security's executive secretary. The portion is headlined, "4.3 Statement of Lateness (Note: Not in use until on or about Feb 1, 2006)," and reads, "If a component response does not meet the five-day deadline for returning correspondence to the ES, a statement of lateness is required. … Workload and component priorities are not valid excuses. As stated previously, for the DHS employee tasked with preparing an item for the Secretary or Deputy Secretary signature, there are few, if any, higher priorities."

Deadline Extended For Evacuees To Leave Hotels. Federal officials have extended the deadline for Hurricane Katrina evacuees to check out of their government-funded hotel rooms. The AP (1/3, McGill) reports that the extension comes as the feds "iron out issues arising from a class-action lawsuit. One issue: The Federal Emergency Management Agency, which inherited the program from the American Red Cross, still does not have up-to-date records on the identities of evacuees in the hotel program or where they are staying, according to court papers filed last week by government lawyers. Under a federal judge's ruling last month, FEMA is required to keep the hotel program running until Feb. 7. However, U.S. District Judge Stanwood Duval said FEMA could stop paying for hotel rooms beginning Jan. 7 — Saturday — for evacuees who have been approved or disapproved for other FEMA housing aid, such as a trailer or rental assistance. Now, the Jan. 7 date no longer holds, according to a flier being distributed to hotels in the program. It says: 'The program will continue for all evacuees in all states until further notice pending the resolution of certain issues now in litigation.'"

Residents Await Word On Neighborhood Hit By Katrina Oil Spill. A front page story in the Wall Street Journal (1/3, McKay, 2.11M) reports that when the levees that protected the Chalmette, Louisiana "gave way to Hurricane Katrina on Aug. 29, about 1,800 homes were inundated with floodwaters carrying nearly 1.1 million gallons of oil from a nearby refinery. Thick black crude seeped into homes and yards. Officials sealed off the area. A private contractor hired by the refinery's owner, Murphy Oil Corp. of El Dorado, Ark., began cleaning up. But the crews left most homes and yards untouched for weeks until Murphy Oil could track down their scattered owners to seek permission to clean them, the oil company says. Four months after Katrina hit, oil remains in hundreds of homes and yards. This heavily damaged community, which remains mostly abandoned, raises acute

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personal and public-policy questions: How can residents displaced by Katrina determine if it's safe to return to their homes, and when? And who ultimately should decide?" The Journal notes that "neither federal nor state nor local officials have provided residents with any clear answers. Parish leaders and residents say they expected the federal Environmental Protection Agency to manage the cleanup process and determine when the neighborhood was safe. But the EPA says it's not up to it to decide whether the community should be resettled."

I-10 Repairs Cited As An Example For All Gulf Coast Rebuilding Projects. The New York Times (1/3, Schwartz, 1.19M) reports that while the repair of the twin spans of Interstate 10 over Louisiana's Lake Pontchartrain "has gone unusually right, coming in ahead of time and under budget. By cannibalizing one bridge to fix the other, and then using temporary steel spans to fix the first bridge, the State of Louisiana and the contractor were able to open one span in October and plan to have traffic flowing on the other as early as Jan. 6, nearly two weeks ahead of schedule." The Times adds that following Katrina, "one of the highest priorities was getting the Interstate open, and doing so quickly required creative thinking, dedication and no small amount of luck. … The work was financed by the Federal Highway Administration, which advised Louisiana on the project. Norman Y. Mineta, the federal transportation secretary, said through a spokeswoman that the project was 'serving as a model for the kinds of efficiencies we should try to achieve in all gulf rebuilding projects.'"

Local Gulf Coast Contractors Feel Cut Out Of Katrina Cleanup. The CBS Evening News (1/1, story 7, Roberts) reported, "In the months since Hurricane Katrina hit, Federal agencies have poured billions of dollars into the battered gulf region. But in Mississippi, Bill Whitaker heard complaints from local contractors who say few of those dollars have come their way." CBS (Whitaker) added, "Big players like Ashbritt of Pompano Beach, Florida, awarded a Federal contract worth $500 million and others like Bechtel and Halliburton subsidiary Kellog Brown and Root got contracts for tens of millions dollars more." Socrates Garrett: "And the network of good old boys were already in place." Whitaker: "Socrates Garrett's company is the biggest in Mississippi yet trucks and workers he has in place sit idle." Garrett: "If we can't work then you can bet that other smaller minority firms don't even have a chance." Whitaker: "Mississippi Congressman Thompson says his state's businesses are suffering because FEMA and the Army Corps of Engineers and other Federal agencies responsible for cleanup are playing politics." Rep. Bennie Thompson: "Those are the contracts that have gone to companies that were well connected, had the right lobbyists, contributed to the right party in power." Whitaker: "Ashbritt says it wasn't politics but hard work that won the contracts." Randal Perkins, Ashbritt: "At the end of the day if you're not qualified and capable and ready to handle the challenge given to you you're not getting the contract." Whitaker: "He says most of Ashbritt's subcontracts have gone to Mississippi companies, but Congressman Thompson says they're getting the dregs, the little jobs and little of the Federal money. Mississippi's Republican governor agrees." Gov. Haley Barbour: "We don't think there's a high enough percentage of the work going to local contractors. There's some, unquestionably, but we think there needs to be more."

Nagin Says New Orleans Could Take Three To Five Years To Regain Population. The AP (1/2) reports, "New Orleans Mayor C. Ray Nagin yesterday said it could take three to five years to regain the city's population of nearly half a million before Hurricane Katrina. Mr. Nagin said on CBS' Face the Nation that reopening several public and private schools this month would help raise New Orleans' population to about 200,000, double the current level, as families returned with their children. Shortages of suitable housing would limit further growth over the near term, he said."

Emergency Officials Include Animal Rescue In Emergency Plans. The Washington Post (1/2, B1, Wan) reports on the "merging field of disaster planning for pets, filled with doomsday scenarios, four-legged victims and people who love them. For years, despite an estimated 69 million U.S. households with a pet, animal advocates have been relegated to the fringes of emergency planning. After Katrina, however, and the sight of people in New Orleans refusing to evacuate and in some cases dying with their pets, emergency officials are starting to take animal rescue seriously. By saving the pets, advocates said, owners can be saved as well." The Post adds, "The concept is as old as Noah's Ark, but modern pet disaster planning didn't truly begin, U.S. experts said, until after Hurricane Andrew in 1992. When Andrew tore through South Florida, it killed more than 100 animals in the Miami Metrozoo. Hundreds of others, including baboons, antelope and 500-pound Galapagos tortoises, wandered off through the rubble. Escaped horses drowned in canals. … After Andrew, the federal government created Veterinary Medical Assistance Teams, to be deployed wherever animal-threatening disasters hit. The 1992 hurricane also prompted the Humane Society to establish a department devoted to disaster planning and rescue."

Gulf Coast Seeing Puppy Boom Following Hurricane Katrina. The Washington Post (1/3, A10,

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Reeves, 744K) reports on a boom in the birth of puppies in the wake of Hurricane Katrina. According to the Post, "Officials say more than 6,000 pets were saved in the region after Katrina came ashore Aug. 29, and many of them were relocated to new homes elsewhere in the country. An unknown number drowned in the floodwaters or died later of injuries. But thousands of animals remain, and humane organizations are beginning to see the result of even small numbers of animals running loose for weeks in neighborhoods where fences were flattened and owners fled.'

Charleston Post & Courier Lauds FBI's Nuclear Monitoring. The Charleston (SC) Post & Courier (1/3) editorializes, "A federal program to monitor radiation levels has quietly sought to defuse one of the greatest terror threats to the nation. Radiation surveillance seeks to diminish the likelihood that terrorists could set off a so-called "dirty bomb" containing radioactive material or, worse, detonate a nuclear explosive." The P&C continues, "The program was recently reported on the Web site of U.S. News & World report, and confirmed by federal officials. It hasn't received the same media attention as electronic eavesdropping and other forms of domestic spying, though it has been criticized by some Muslim groups who feel they are being targeted." The P&C adds, "Radioactivity monitors have been installed at a variety of public locations, including ports and subways since 9/11. There should be no reluctance to use passive monitoring as broadly as is warranted. … Monitoring potential sources of radioactivity by 'sniffing the air' clearly doesn't raise the same issues of privacy as wiretapping. Keeping radioactive material out of the hands of potential terrorists is essential to national security and public safety."

WAR NEWS:

Shiites, Kurds May Drop Allawi From Coalition, Give Sunnis Role. The Los Angeles Times (1/3, Daragahi, 958K) reports, "The victors in last month's parliamentary election indicated Monday that they were prepared to cut a secular politician backed by Washington out of the new government in favor of Iraq's main Sunni Arab slate. The pro-Western politician, former interim Prime Minister Iyad Allawi, did poorly in the Dec. 15 balloting despite spending heavily on a sleek television campaign." The Times adds that "the emerging political alliance lumps together Shiites, Kurds and Islamist Sunni Arabs — and excludes secular Iraqis, hard-core Sunni Arab nationalists and those sympathetic to the Baath Party of ex-dictator Saddam Hussein."

USA Today/AP (1/3) adds "Iraq's main Sunni Arab group made an unprecedented trip north to see Kurd leaders and agreed Monday for the first time on broad outlines for a coalition government." The move "opens a way out of the political turmoil that has gripped the country since disputed parliamentary elections Dec. 15." The agreement "struck by Kurdistan regional President Massoud Barzani and representatives of the main Sunni Arab group, the Iraqi Accordance Front, could lead to a broad-based government." The Accordance Front "will be part of a future government," said Foreign Minister Hoshyar Zebari, "a Kurd who sat in on the meetings."

The New York Times (1/3, Oppel Jr., 1.19M) also reports on the "broad framework for a coalition government," which "drew a rebuke from other Sunni Arab political leaders who accused the Sunni consensus party of violating an agreement to press ahead with claims of Sunni disenfranchisement during the vote on Dec. 15 and to not bargain on their own for a role in the new government."

Despite Poor Election Results, Chalabi Could Play Key Role. Knight Ridder (1/3, Hannah, Youssef) reports, "Even though Ahmad Chalabi apparently lost badly in last month's parliamentary election here, the former Pentagon favorite is still likely to be a big player in the next Iraqi government." The Dec. 15 vote "went largely to ethnic and sectarian coalitions at the expense of secular slates, including his, preliminary returns indicate. That could leave him without a seat in parliament." Yet "the former exile who helped spur the US-led invasion by feeding false intelligence to Washington about Saddam Hussein's alleged weapons of mass destruction, and who returned to Iraq after Saddam's fall to craft himself into a political leader, still has more cards to play. Characteristically, Chalabi, 61, could land on his feet in a high government post even though he failed to win even a minimum of votes from the Iraqi people."

Iraq Facing Fuel Crisis As Oil Minister Quits. NBC Nightly News (1/2, story 8, :30, Holt) reported, "There are growing concerns tonight about an oil crisis in Iraq. Fuel prices for Iraqi citizens are way up, supplies are growing scarce and new numbers out today show Iraq's oil exports hit their lowest levels since the war. Today, Iraq's oil minister quit." The AP (1/3, Juhi) adds "Iraq's exports of oil hit their lowest level in December since the war, as the country's oil minister resigned Monday in the wake of protests and riots over soaring gas prices and lengthening lines at the pump. Only 34.4 million barrels were exported in December, or about 1.1 million barrels per day," which was "the lowest average since Iraq resumed exports after the U.S.-led invasion in March 2003, according to figures released Monday." The Washington Post (1/3, A12, Hernandez, 744K) also reports the story.

Twelve Iraqis Killed In Insurgent Attacks. NBC Nightly News (1/2, story 8, :30, Holt) reported, "At least 12 people, including two children, were killed in violence today.

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In the worst incident, a suicide bomber rammed his car into a bus full of Iraqi policemen, killing seven and injuring 13." The CBS Evening News (1/02, story 7, 2:00, Schieffer) reported, "No American deaths were reported in Iraq today but insurgent violence killed at least a dozen Iraqis."

The Los Angeles Times (1/3, Daragahi, 958K) reports the US military also "reported the deaths of four American civilian contractors involved in a motor vehicle accident on the Asad Air Base in western Iraq on Sunday. Nineteen others, including a Marine, were also injured when their bus was struck by a 7-ton truck, the military said."

Iraqi Volunteer Buries Unclaimed Bodies Of Those Slain In Violence. The CBS Evening News (1/02, story 7, 2:00, Schieffer) reported on the "story of a remarkable man who has devoted himself to honoring the dead, no matter who they were." CBS (Alfonsi) added on Sheikh Jamal-al Sudani's effort to bury the unclaimed bodies of about 250 of those killed in insurgent attacks. Al-Sudani "and his group of volunteers aren't paid. They do this grim job, they say, solely for God's rewards." The "group drives the bodies from Baghdad to Najaf through Iraq. The final stop is the Valley Cemetery, a holy place because a number of prophets are buried there and a practical place because the loose soil makes it easy to bury so many bodies. The bodies of Sunnis, Shiites, Muslims and Christians are all carefully washed and wrap." Terrorists "want to kill him because he cares for the victim of their suicide attacks others because he buries the suicide bombers but he is no stranger to threats. He's been doing this work for 15 years."

Poll Finds Support Among Military For Bush Policies Drops To 60%. Agence France-Presse (1/3) reports, "Support for President George W. Bush's Iraq policy has fallen among the US armed forces to just 54 percent from 63 percent a year ago, according to a poll by the magazine group Military Times. In its annual survey of the views of military personnel, the group reported on its website that support for Bush's overall policies dropped over the past year to 60 percent from 71 percent." AFP adds, "While still significantly more supportive of the president than the broad US population, the fall in support by military personnel tracks a similar decline in the president's popularity among the general public."

Murtha Says He Wouldn't Join Military Today. Reuters (1/3) reports, "Rep. John Murtha, a key Democratic voice who favors pulling U.S. troops from Iraq, said in remarks airing on Monday that he would not join the US military today. A decorated Vietnam combat veteran who retired as a colonel after 37 years in the U.S. Marine Corps, Murtha told ABC News' 'Nightline' program that Iraq 'absolutely' was a wrong war for President George W. Bush to have launched." "Would you join (the military) today?," he was asked in an interview taped on Friday. He replied, "No." The interviewer retorted, "And I think you're saying the average guy out there who's considering recruitment is justified in saying 'I don't want to serve.'" Said Murtha, "Exactly right."

On ABC News Nightline (1/2), Murtha said the Administration "got awful lot of bad information" about the situation in Iraq because "they don't talk to Congress. … They don't listen to people with experience." When asked if President Bush "doesn't really know what's going on" in Iraq, Murtha said, "Yes, that's what happens. The President mischaracterizes things because he gets bad information." In the run-up to the Gulf War, former President Bush "would get all kinds of criticism from Democrats and Republicans, and he would patiently listen to it, and then do what he thought was right." The American public "is way ahead of this president. If they think they're fooling the public with their rhetoric, they're wrong. You can't operate that way in today's world. … The American people want to see a clear mission, they want to see an exit strategy."

Father Calls Son's Death In Iraq "A Waste." Paul E. Schroeder, managing director of a trade development firm in Cleveland, writes in the Washington Post (1/3, A17, 744K), "Early on Aug. 3, 2005, we heard that 14 Marines had been killed in Haditha, Iraq. Our son, Lance Cpl. Edward 'Augie' Schroeder II, was stationed there. At 10:45 a.m. two Marines showed up at our door. After collecting himself for what was clearly painful duty, the lieutenant colonel said, 'Your son is a true American hero.' … I am outraged at what I see as the cause of his death. For nearly three years, the Bush administration has pursued a policy that makes our troops sitting ducks. While Secretary of State Condoleezza Rice told the Senate Foreign Relations Committee that our policy is to 'clear, hold and build' Iraqi towns, there aren't enough troops to do that. … Though it hurts, I believe that his death -- and that of the other Americans who have died in Iraq -- was a waste" if "Americans stop hiding behind flag-draped hero masks and stop whispering their opposition to this war. Until then, the lives of other sons, daughters, husbands, wives, fathers and mothers may be wasted as well. This is very painful to acknowledge, and I have to live with it. So does President Bush."

Abizaid Optimistic About Turning Control Over To Iraqi Government. USA Today (1/3, Komarow, 2.31M) reports, "The top US general in the Iraq region says he is optimistic the United States will succeed this year in turning a substantial part of the country over to Iraqi government control, moving US forces into a backup role. The ability of Iraq's military to secure the country is a key condition for the eventual withdrawal of US forces." In an interview this weekend, Gen. John Abizaid, who "was on a

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short visit to Iraq, prodded his subordinates to turn control of their sectors over to Iraqi forces as soon as the Iraqis are ready. U.S. commanders must overcome their reluctance to turn over control to less-experienced Iraqi forces, Abizaid said." Said Abizaid, "Look, there is always a risk in taking a chance on the people that you've come to help. … There's also a risk of condescension (where) you look at them and say, 'They're not ready.'" Abizaid, "head of US Central Command, declined to speculate on what American troop levels will be at the end of 2006."

Administration Boosts Peacekeeping, Post-War Capabilities. The Wall Street Journal (1/3, King Jr., Jaffe, 2.11M) reports, "The difficulties of rebuilding Iraq after toppling Saddam Hussein have taught President Bush a painful lesson: Aftermaths can be tougher than wars. Now the administration is trying to recalibrate the military and foreign service to better handle postwar developments in future conflicts. For the first time, the Pentagon has declared that, along with battling foes, the ability to foster stability and reconstruction is one of its core missions." The Administration also "planted the seed for a corps of trained nation builders in 2004 when it created an Office of the Coordinator for Reconstruction and Stabilization in the State Department. The 55-person shop is staffed largely by officials on loan from the Defense Department, the Central Intelligence Agency and other agencies. It tries to anticipate the next global hot spot -- be it Sudan or North Korea -- and prepares to deploy as the main US postwar coordinator wherever a need might arise." However, "with finances tight, Congress isn't rushing to budget the money. One senior Pentagon official says he has heard objections from both Democrats and Republicans on Capitol Hill. Their worry: elevating the importance of nation-building will, over time, divert funds from the nation's ability to wage all-out war and leave the military less prepared to counter an unexpected major threat from a country such as China. And legislators in both parties are wary of more Iraq-style adventures."

Budget Request To Include No New Iraq Rebuilding Funds. The Wall Street Journal (1/3, Dreazen, 2.11M) reports, "The US and its key foreign allies are likely to fall short of their funding pledges to help rebuild Iraq, as violence in the war-torn country absorbs contributions and deters nations from making new ones. T he reconstruction shortfall may total one-third of promised funds, adding to the challenges for Iraq's next government." The White House and "some US lawmakers have made clear that this year they want Iraqi security forces to take the lead in combating the insurgency, laying the groundwork for a gradual US military withdrawal." The new year also "marks a turning point in the administration's goal to rebuild Iraq -- an effort that has had mixed success." The Journal adds, "The $18.4 billion US rebuilding program was established with a three-year term that expires in the fall, and lawmakers -- mindful of contractor overcharges, corruption and security issues that have surfaced -- have made clear that they are unwilling to authorize a follow-up program. The budget request for Fiscal Year 2007 that the White House sends Congress next month will include no new Iraq rebuilding money, according to an official familiar with the matter. News that the White House won't seek Iraq reconstruction funds for fiscal 2007 was reported earlier by the Washington Post."

Book Claims CIA Ignored Information That Iraq Had No WMD. The AP (1/3) reports, "A new book on the government's secret anti-terrorism operations describes how the CIA recruited an Iraqi-American anesthesiologist in 2002 to obtain information from her brother, who was a figure in Saddam Hussein's nuclear program." Dr. Sawsan Alhaddad of Cleveland "made the dangerous trip to Iraq on the CIA's behalf. The book said her brother was stunned by her questions about the nuclear program because -- he said -- it had been dead for a decade." New York Times reporter James Risen "uses the anecdote to illustrate how the CIA ignored information that Iraq no longer had weapons of mass destruction. His book, 'State of War: The Secret History of the CIA and the Bush Administration' describes secret operations of the Bush administration's war on terrorism." The major revelation in the book "has already been the subject of extensive reporting by Risen's newspaper: the National Security Agency's eavesdropping of Americans' conversations without obtaining warrants from a special court." The book said Dr. Alhaddad "flew home in mid-September 2002 and had a series of meetings with CIA analysts. She relayed her brother's information that there was no nuclear program. A CIA operative later told Dr. Alhaddad's husband that the agency believed her brother was lying."

Clinton Administration Said Saddam Was Reconstituting His WMD. In its "History Lessons" column, the Washington Times (1/3, 90K) excerpts the State Department's Daily Press Briefing of November 10, 1998 in which then-Assistant Secretary of State James Rubin said, "[T]his can't go on indefinitely; that if Saddam [Hussein] continues to block UNSCOM and we do not respond, he will be able to reconstitute his weapons of mass destruction in a matter of months, not a matter of years. This is a dangerous situation; this is why we have considered it a grave situation. If we fail to act, he will feel emboldened to threaten the region further, armed, possibly, with the most dangerous kinds of weapons."

Saddam Says He Prefers To Be Shot If Sentenced To Death. The Washington Times (1/3,

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Martin, 90K) reports, "Saddam Hussein has told his lawyers that he wants to be shot by firing squad, not hanged, if sentenced to death during his murder trial, which resumes later this month in Baghdad." Saddam "maintains that he is still commander in chief of Iraq's armed forces -- and that a firing squad is 'the right way' to execute a military leader."

US Teen Returns Home From Winter Vacation Trip To Baghdad. NBC Nightly News (1/2, story 11, 1:50, Holt) reported 16-year-old Farris Hassan is "returned home last night from his ill-advised solo journey to Iraq. And it's not just his mom who wants answers." NBC (Sanders) added, "Maybe it's a sign of the times when a 16-year-old tells his family he's more nervous about facing the US media than traveling to a war zone. But he may have good reason after his arrival at Miami International Airport last night. He certainly appeared self-assured late this afternoon." Farris Hassan: "Yes. Right now, I came back and I'm pretty tired and I'm preparing my statement this time." Sanders: "Today, it was Farris' day off. He says he'll talk the details about his trip tomorrow." Hassan "reportedly told selected friends he gone to Iraq to witness democracy in progress. But after talking to the Associated Press there, the US Embassy told him he couldn't make any more statements." USA Today (1/3, Koch, 2.31M) and New York Times/AP (1/3), among others, also report the story.

Magazine Notes Iraq War Game Staging Ground In Louisiana. The Washington Post (1/3, C1, Carlson, 744K) reports Harper's magazine "has found a big, heartwarming silver lining inside that gloomy old Global War on Terrorism. Here it is: Our government has hired a bunch of poor souls who lost their arms and legs in accidents and has rigged them up with bags of fake blood so they can play wounded civilians in war games down at Fort Polk, La." Cubic, "the defense contractor that produces these games, has also hired 250 Arabic-speaking immigrants at $220 a day as 'Cultural Role Players' in the war games. They've also hired hundreds of local Louisianans to play random Arab civilians, plus 'dozens of scriptwriters' to come up with realistic scenarios for the war games." Wells Tower, "author of this jaw-droppingly bizarre article," said, "The military spends an average of $9 million staging each 3 1/2 -week mission rehearsal exercise," which "works out to about $117 million a year." That "doesn't include the $49 million spent constructing the state-of-the-art fake city of Suliyah, which contains 29 buildings."

US Giving NATO, Allies Growing Role In Afghanistan. The Washington Post (1/3, A1, Witte, 744K) reports, "Four years into a mammoth reconstruction effort here that has been largely led, funded and secured by Americans, the United States is showing a growing willingness to cede those jobs to others. The most dramatic example will come by this summer, when the US military officially hands over control of the volatile southern region -- plagued by persistent attacks from Islamic militias -- to an international force led by the NATO alliance." The United States "will cut its troop strength by 2,500, even though it is not clear how aggressively NATO troops will pursue insurgents, who have shown no sign of relenting." The Post ads, "At the same time, the U.S. government is increasingly allowing Western allies, or Afghans themselves, to take on the tasks of rebuilding a country that has suffered more than two decades of fighting and remains beset by poverty, drugs and insurgency."

Bush Awards Purple Hearts To Soldiers Wounded In Iraq. The Houston Chronicle (1/2, Hedges) reports, "President Bush's first official act of the new year was pinning Purple Hearts on US soldiers wounded in Iraq, a signal that for the White House, 2006 would be another year dominated by the war." The President "gave the military award to nine soldiers during a private session today with veterans of Iraq and Afghanistan and some family members at the Brooke Army Medical Center." The soldiers "were among more than 2,300 wounded service members treated there since the beginning of the two wars, and Bush took note of their plight as he restated his reasons for the unpopular Iraq war." Said Bush, "There's horrible consequences to war -- that's what you see in this building. … On the other hand, we also see (soldiers) who say, 'I'd like to go back in, Mr. President, what we're doing is the right thing,' because many of these troops understand that by defeating the enemy there, we don't have to face them here. And they understand that by helping the country and the Middle East become a democracy, we are, in fact, laying the foundation for future peace."

The AP (1/2, Riechmann) says the President "boarded the Marine One presidential helicopter before dawn on his ranch in Crawford and flew more than an hour to Randolph Air Force Base. His motorcade drove to Brooke Army Medical Center, a 224-bed hospital at nearby Fort Sam Houston, to meet with about 50 injured members of various branches of the armed forces and their families." Said Bush, "This hospital is full of healers and compassionate people that care deeply about our men and women in uniform. … It's also full of courageous young soldiers and marines, airmen. I'm just overwhelmed by the great strength of character of not only those who have been wounded but of their loved ones as well."

Reuters (1/2) adds Bush "returned to Washington later in the day to tackle his agenda for 2006, another year in which the Iraq war is expected to be a dominating factor with

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critics calling for US troops to withdraw." The Los Angeles Times (1/2, Chen) also mentions Bush's visit.

As 2006 Begins, Bush's Focus Is On Economy, Iraq, War On Terror. According to the AP (1/2, Riechmann), President Bush is starting 2006 trumpeting upturns in the US economy, defending US actions in Iraq and challenging critics of his policies in the war on terror. The AP adds, "White House officials hope this week sets the tone for its top priorities as Bush visits the Pentagon on Wednesday to discuss the war on terror and then flies to Chicago on Friday to try to convince Americans that the economy is on solid footing." On Sunday, Bush visited wounded US troops in San Antonio, and this week, he will use "the backdrop of the White House to meet with a bipartisan group of former secretaries of state and defense to discuss terrorism and Iraq and to surround himself with U.S. attorneys to pressure lawmakers to renew the Patriot Act."

Brownstein Compares Bush, Polk Presidencies. Ron Brownstein writes in the Los Angeles Times (1/2), "The president whom George W. Bush may resemble most is not his biological father, George H.W. Bush, or even Ronald Reagan, who often seems his ideological father, but James K. Polk, a dynamic and willful leader few discuss anymore. … Polk may be the only predecessor who matched Bush's determination to drive massive change on a minute margin of victory. Polk won by fewer than 38,000 votes of 2.7 million cast. Over four tumultuous years, he pursued an ambitious, highly partisan agenda that offered little to those who had voted against him. Sound familiar? … It's worth considering Polk's record not because Americans will take up arms against each other anytime soon — although you might never know that from listening to talk radio — but because it suggests that a president who slights the need to build national consensus can seed long-term problems that aren't immediately apparent amid short-term successes."

Bush Will Not Ask Congress For Additional Iraq Reconstruction Funding. The Washington Post (1/2, A1, Knickmeyer), in a front-page article, reports that the Bush administration "does not intend to seek any new funds for Iraq reconstruction in the budget request going before Congress in February, officials say. The decision signals the winding down of an $18.4 billion US rebuilding effort in which roughly half of the money was eaten away by the insurgency, a buildup of Iraq's criminal justice system and the investigation and trial of Saddam Hussein. … US officials in Baghdad have made clear, other foreign donors and the fledgling Iraqi government will have to take up what authorities say is tens of billions of dollars of work yet to be done merely to bring reliable electricity, water and other services to Iraq's 26 million people."

Army Officer Shows Off Baghdad Reconstruction Projects. The Washington Post (1/2, A10, Knickmeyer) traveled around Baghdad with Maj. John Hudson of the U.S. Army Corps of Engineers on a tour his "Prides and joys," the many reconstruction projects going on in the city. At "an Army Corps of Engineers office in the Green Zone -- the fortified site of much of the Iraqi government -- Hudson, in flak jacket and helmet, spread his hands lovingly on a map of Baghdad. 'Two youth centers. Two fire stations -- those are in some of your poorer neighborhoods. Baghdad highway patrol. A facility for the SWAT team. A new perimeter wall for Doura,' a power plant in Baghdad's insurgency-ridden south. A checkpoint on a southern road into the city. An electrical substation. … The projects are among 90 under his domain and among 3,600 projects in an $18.4 billion reconstruction package for Iraq due to peak, and be completed, this year." The Post adds, "Hudson will return to Colorado Springs around March. Money for the U.S. reconstruction package here is scheduled to run out around the end of the year. International donors largely have not kept their pledges to pick up the tab for reconstruction. Iraqis have balked at the painful economic reforms necessary to win foreign loans to do the work. Insurgents want to destroy it all. Civil war would do the same."

DOJ:

New Maryland US Attorney Restructures Staff, Targets Violent Crime. The Baltimore Sun (1/2, Dolan) reports, "Maryland's top federal prosecutor is both expanding his office and reorganizing his staff to emphasize a commitment to fighting violent crime." The Sun continues, "Maryland U.S. Attorney Rod J. Rosenstein said he would start this month by restructuring his criminal division. It's part of an effort, he said, to coordinate better with local and federal law enforcement agents. … 'I had a meeting with the FBI's public corruption unit, and there was a real question of where that responsibility lay in our office,' Rosenstein said. 'It's a question of accountability.' The Sun adds, "Starting this year, federal prosecutors handling criminal cases in Baltimore will be required to focus on either terrorism and national security, fraud and public corruption, violent crime, drugs or major crimes - a catch-all section including civil rights violations and child pornography. They'll be expected to stay in their subjects for at least two years, Rosenstein said. … The division's managers have all been asked to reapply for their jobs, he added. … Five months into the job, the moves come as Rosenstein has established a reputation as a genial and intense leader known for his thoroughness and his prolific e-mails to his staff. … James Wyda, the federal public defender for Maryland, praised Rosenstein for his new hires and complimented the quality of his staff. … But Wyda also cautioned that Rosenstein is early in his tenure. He said Rosenstein would be judged, in part, on how he handles the

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substantial number of capital murder cases that have been transferred into the federal system in Maryland."

CORPORATE SCANDALS:

Attorneys For CA Defendants Claim US Misusing Sarbanes-Oxley. The Legal Times (1/2, Perrotta) reports, "Attorneys representing two former executives of Computer Associates, the Long Island, N.Y., company caught up in a massive accounting scandal, argued last week that federal prosecutors are misusing a criminal statute revised as part of the Sarbanes-Oxley Act, possibly leading to severe prison sentences — up to 20 years — that were not intended by federal legislators." The Times continues, "The dispute involves the prosecution of Sanjay Kumar, the former chairman and CEO of Computer Associates, and Stephen Richards, a former sales executive, on various fraud and obstruction charges. Federal prosecutors accuse both men of lying to the government and lying to their company's outside counsel, Wachtell, Lipton, Rosen & Katz, which was conducting an internal investigation of the company's accounting practices." The Times adds, "Kumar and Richards are in a fight over the meaning of a federal criminal statute that was amended as part of the Sarbanes-Oxley Act. … While defense attorneys argue that the SOX revisions have created a narrow statute that applies only to physical evidence, such as documents, the government contends it reaches beyond that to include any conduct that could obstruct an official proceeding."

Milberg Weiss Worried About Indicted Attorney's Actions. The California Recorder (1/3, Scheck) reports, "Nearly 12 years ago, an internal memo from the Southern California firm Best Best & Krieger expressed concerns that it was acting as a conduit for legally questionable payments from the plaintiff firm Milberg Weiss to Seymour Lazar, the lead plaintiff in dozens of securities class actions." The Recorder continues, "The memo, filed in court by prosecutors last week, expresses particular worry about the Best firm recording payments from the firm then known as Milberg Weiss Bershad Hynes & Lerach to Lazar as firm income, which would then be secretly credited to Lazar for future legal services. … 'To us it just smells bad,' the memo says, 'and probably would to an investigator.'" The Recorder adds, "That concern came to fruition in June, when Lazar and his attorney, Paul Selzer -- a former partner at the Best firm -- were indicted by a Los Angeles federal grand jury for allegedly taking more than $2 million in illegal kickbacks from Milberg Weiss. … The L.A. U.S. Attorney's Office has spent the past five years probing whether Milberg Weiss -- which split in 2004 when star partner William Lerach broke off to form his own San Diego-based firm -- paid illegal kickbacks to lead plaintiffs in class actions. … After several years of investigation with few public developments, the Lazar and Selzer indictments were widely seen as an effort to force the two defendants to testify against Milberg Weiss and its partners. … Prosecutors have also given immunity to at least two other former clients who say they received kickbacks from the firm via other attorneys. Lawyers familiar with the case say their allegations are similar to those detailed in the Lazar indictment."

NYTimes Bemoans Inflated Corporate Executive Pay. The New York Times (1/2) editorializes, "It would be nice to see corporate America put more effort - and money - into quality control and fair living wages for workers and less into exorbitant pay packages and bonuses for corporate chieftains. We remain hopeful."

CRIMINAL LAW:

Abramoff Plea Bargain Could Be Announced Today. The CBS Evening News (1/02, story 4, 2:30, Schieffer) reported, "In Washington, law enforcement sources told CBS News tonight that a plea bargain deal involving Washington lobbyist Jack Abramoff could be announced as early as tomorrow. We are told that the deal could implicate lawmakers who allegedly took illegal gifts from him. Abramoff has already been charged in connection with a corruption case in Florida. His attorneys had no immediate comment."

Abramoff Under Pressure To Take Plea Deal. With Abramoff under pressure from Federal authorities to accept a plea bargain, many Washington observers expect the arrangement would lead to the implication of several members of Congress. ABC World News Tonight (1/1, story 5, 2:15, Harris) reported Federal officials are "investigating what's likely to be one of the biggest influence-pedaling scandals in history. The potential that Abramoff is cooperating is making some people in Congress very nervous. ABC's Geoff Morrell has that story." ABC (Morrell) added prosecutors believe Abramoff "used that money to bribe members of Congress and are now pressuring him to name names." Melanie Sloan, former Federal prosecutor: "I think people are going to be amazed when they learn the extent of the bribery that Jack Abramoff was involved with members of Congress." Morrell: "Tonight, the only lawmaker known to be under scrutiny is Bob Ney of Ohio. But several others are scrambling to distance themselves from Abramoff. Montana Sen. Conrad Burns, who raked in nearly $60,000 from the disgraced lobbyist, now says 'I hope Abramoff goes to jail and we never see him again. I wish he had never been born.'" Sloan: "I think by the time this is over, this is going to be the biggest congressional scandal in history."

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Abramoff Plea Would "Send Shockwaves Through Washington." U.S. News and World Report (1/9, Brush) reports that Abramoff is "reportedly close to cutting his own deal with federal investigators, a development that would send shock waves through Washington. Abramoff's testimony could implicate lawmakers in a vast influence-peddling case, and those once friendly with the man known as 'Casino Jack' are now ducking for cover." Abramoff "is reportedly close to an agreement with prosecutors that might include cooperation with investigators looking into his lobbying tactics. A spokesman for Abramoff declined to comment." Lawmakers "are scrambling to return campaign contributions. According to the Center for Responsive Politics, 210 federal lawmakers have received donations to their campaigns or political action committees from either Abramoff or his clients, since 1999; most big recipients were Republicans. Republican Sen. Conrad Burns of Montana, who's up for re-election this year, has returned $150,000, saying the donations 'served to undermine the public's confidence in its government.' … Sen. Max Baucus, a Montana Democrat, is returning roughly $19,000. Sen. Byron Dorgan, a North Dakota Democrat and ranking member of the Senate Indian Affairs Committee, which is investigating Abramoff, is returning $67,000. Rep. Denny Rehberg, a Montana Republican, returned $18,000 to Indian tribes and donated to charity the $2,000 he received directly from Abramoff."

Congressional Hearings To Add Drama To Conflicts With White House. The Christian Science Monitor (1/3, Chaddock, 61K) reports Congress "is gearing up for the most dramatic slate of hearings since the Clinton impeachment fracas." The "high-profile probes underscore efforts by Congress to reclaim power from a war-time White House. And they could reshape this fall's midterm elections." Lawmakers "on both sides of the aisle set in motion an aggressive oversight agenda, ranging from secret prisons and the treatment of detainees under US control, to the president's authorization of domestic eavesdropping without a warrant." In addition, "more members of Congress find themselves under scrutiny," as Abramoff "and his former associates work out plea agreements promising cooperation in a widening bribery investigation on Capitol Hill. Former House majority leader Tom DeLay, meanwhile, will face charges of money laundering in court later this month." The "scrutiny on - and from - Congress is a sharp turnaround for a Republican-controlled body that came to power extolling ethics, and one that has been deferential to the Bush presidency about its conduct in the war on terrorism." A "major reason for the new posture on Capitol Hill is the willingness of GOP moderates to challenge the Bush administration's war policies."

Maryland Tech Firm Owner To Plead Guilty To Bribing DC School Officials. The Legal Times (1/2, Kelley) reports, "The owner of a Maryland-based technology firm is expected to plead guilty this week to bribing District of Columbia Public School officials in exchange for contracts." The Times continues, "On Dec. 7 the U.S. Attorney's Office for the District of Columbia charged Charles Wiggins, the owner of Wiggins Telecommunications in Temple Hills, Md., with one felony count of bribing public officials. Within a week of being charged, Wiggins agreed to plead guilty and cooperate." The Times adds, "Wiggins' attorney, Sidney Friedman of Baltimore, says he is not authorized to comment on the deal reached with prosecutors. Assistant U.S. Attorney Daniel Butler, who is handling the prosecution, could not be reached for comment. … In charging documents, the prosecution alleges that from early 2001 through 2003, Wiggins doled out nearly $50,000 in bribes to a DCPS office manager and an elementary school principal. The two school officials, who so far are identified only as 'Individual 1' and 'Individual 2' in court documents, allegedly gave Wiggins preferential treatment in exchange for receiving a cut of the profits generated by his DCPS contracts."

Prince George's County Community No Longer Immune From Violence. The Washington Post (1/3, Thomas-Lester) reports, "Three miles beyond the Capital Beltway, Woodmore South seems far removed from the violence and fear that has infested some Prince George's County neighborhoods. … The upscale subdivision, with its rolling green lawns along wide and winding roads, reflects what draws many residents to the county: a chance for a classic suburban life in a community where most neighbors and political leaders are African American. … But consider the past several months: In June, a Woodmore South boy was beaten at nearby Six Flags America, and a teenage girl was shot after leaving a neighborhood graduation party. At one nearby shopping mall, a young man was beaten to death in early November. At another, a District man was shot Dec. 10. Earlier that day, an argument at a popular restaurant led to a fatal shooting a few blocks away." The Post continues, "The county and its incorporated cities recorded 173 homicides in 2005 -- surpassing the record 154 set during the crack epidemic in 1991 -- and a car was stolen every half hour. Although most of the crime remains concentrated inside the Beltway, residents in such suburban enclaves as Mitchellville, Bowie and Fort Washington are going through an upheaval, psychic and otherwise. … Some residents, who fled crime in the District a generation ago, are considering leaving Prince George's. Others, still drawn by the appeal of one of the nation's largest black, middle-class communities, are staying put -- but fortifying their homes and hiring off-duty police officers. … Some have lost faith in a county police department stretched thin by rapid growth: In November, Bowie voters decided overwhelmingly to set up their own

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department, and College Park residents gave their City Council the option." The Post notes, "Just as telling and troubling, the rise in crime has fueled perceptions among some middle-income residents that their low-income neighbors from the District or elsewhere in the county are preying on their prosperity."

Grant Seeking More FBI Agents To Fight Corruption In Chicago. The Chicago Sun Times (1/2, Korecki) reports, "If you're a government employee or contractor and you thought last year was a bad time to be corrupt in Chicago, you better look out in 2006. While the Chicago FBI just added a third public corruption squad in September to make the unit the largest in the country -- it still isn't enough. FBI Special Agent in Charge Robert Grant said he and U.S. Attorney Patrick Fitzgerald have asked Washington, D.C., for more resources to help root out public fraud. 'We asked headquarters to give us more bodies,' Grant told the Chicago Sun-Times. … Though new corruption cases continue to hit the Dirksen federal courthouse at a brisk pace, 'there are areas we want to explore that we haven't even gotten to yet,' Grant said." The Sun Times notes, "Grant wouldn't say how many additional agents he's seeking. But he said he thinks Chicago has a good chance of getting the boost in manpower because public corruption has become a bureau priority nationally and 'they know we're doing such a good job here.'" The AP (1/3) posts a truncated version of the Sun Times story.

Ryan, Warner Expected To Take Stand. The Chicago Sun Times (1/3, Korecki) reports, "In all, jurors have endured testimony from nearly 50 witnesses in the 13 weeks since George Ryan's public corruption trial began. But there's still one person who could drastically reshape their impressions: the former governor himself. And he may have that opportunity, because it seems likely that Ryan will take the stand in his own defense. Lawyers representing Ryan and his co-defendant Lawrence Warner said last week they expect to put their clients on the stand after the prosecution rests this month." Ryan attorney Dan Webb and Warner lawyer Ed Genson "said they'll make a final decision when the prosecution rests, which is expected mid-month. Neither would go into the tactical reasoning of doing something that defense lawyers typically avoid.

Tennessee State Trooper Transferred For Own Safety After Helping FBI Probe. The Knoxville News (1/2, Stambaugh) reports, "A Tennessee Highway Patrol trooper was recently transferred from Cocke County to keep him out of harm's way after his cooperation with the FBI was revealed during legal proceedings, court records show." Trooper Kevin Kimbrough "is one of at least three local lawmen who have been secretly recording their conversations with other officers at the behest of federal and state authorities as part of a four-year probe into public corruption and organized crime." The News notes, "The probe has relied heavily on undercover officers, informants and wiretaps in Tennessee, North Carolina, Georgia and Florida. Thus far, seven Cocke County lawmen have been arrested, two illegal cockfighting compounds have been uncovered, two brothels have been shut down and more than 150 people have faced criminal charges."

Indicted Lawmakers Vow To Attend Ethics Special Session. The AP (1/2) reports, "Two Tennessee Democratic senators facing federal bribery charges say they will attend a special session on ethics this month despite calls from Republican leaders that they not." Sens. Ward Crutchfield and Kathryn Bowers "are among five current or former lawmakers indicted on bribery and extortion charges in an FBI investigation that focused on a bogus company called E-Cycle Management." Sen. Jim Bryson "has written a letter to both Crutchfield and Bowers urging them not to participate in the special session. 'What I hope not to do, but will do if I have to, is present a resolution to the Senate, urging them not to attend,' Bryson said." The Tennessean (1/1, de la Cruz) notes, "Bowers supports many proposals in the ethics bill that will be the focal point of the session but does not like the ban on cash contributions, she said last week. At the same time, cash transactions have been at the heart of the public corruption case. A cash payment is what snared Bowers in the bribery sting."

Reform Provision Would Ban Cash Contributions. The Memphis Commercial Appeal (1/2, Locker) reports, "It was one of the eye-popping aspects of the FBI's 'Tennessee Waltz' bribery investigation: a handful of state legislators accepting hundreds of dollars in cash from undercover FBI agents posing as business executives. The acceptance of cash by some of the legislators was perfectly legal: It was properly disclosed as a campaign contribution on their campaign-finance reports, was within the $1,000 limit on individual contributions, and was not, they said, payment for legislative action. … But campaign contributions in cash will be banned if the sweeping ethics reform bill legislators will consider in a special session starting Jan. 10 is approved. Contributions will be by check, money order or some form other than cash."

Chat Room Solicitation Leads To Kansas Man's Arrested For Child Porn. The AP (1/2) reports, "Law enforcement officers in two states used high-tech tools to crack what they believe is the largest child porn case in Wichita history." Steven Craig Perrine "was charged last week with possession and distribution of child pornography after investigators said they searched his home and found more than 16,000 sexually explicit images involving children. … Authorities said the case began Sept. 9, when a

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Leetsdale, Pa., man visited an Internet chatroom and began talking to someone using the screen name 'Stevedragonslayer,'" who "asked if he wanted to see a 'hot video,' FBI Special Agent Rebecca Martin wrote in an affidavit. The video showed naked girls who looked younger than 10 walking around a bathroom, Martin wrote." The Pennsylvania man, James Vanlandingham, reported the incident to state authorities; and, The Pittsburgh Post-Gazette (12/31, Ayad, 261K) notes, "With only a screen name to aid his search," Pennsylvania State Police Computer Crimes Task Force Officer Reginald Humbert "located IP addresses…with subpoenas of Yahoo! Inc. and Cox Communications Inc. that led FBI investigators and the Sedwick-Witchita County Exploited and Missing Child Unit straight to the two computers Mr. Perrine was using."

Detectives In DC Nightclub Slaying Probe Under Investigation. The Washington Post (1/3, B1, Cauvin) reports, "The witness didn't know what to think. … A few days earlier, she had seen a dying man dragged off the dance floor at a popular Northwest Washington nightclub. Now two homicide detectives wanted her to change her story, she said. Instead of saying that the man in the black shirt was stabbing the victim, she was told she should make it seem as though it was the man in the white shirt." The Post continues, "So she did, she later testified. … 'I was confused,' the witness said, 'but I figured that it's their job. They know what they're doing. I guess they got it under control.'" The Post adds, "In fact, the investigation into the Feb. 13 death of Terrence Brown at Club U was about to spin out of control. The two detectives, hoping to pursue murder charges against a suspect, apparently wanted the woman -- and two other witnesses -- to revise their accounts to point to their suspect and reflect the medical examiner's conclusion that the 31-year-old Brown died from a deep stab wound. Everything fell apart when prosecutors grew suspicious. … Nearly a year later, Brown's killing remains unsolved, clouded and complicated by an investigation into the detectives' conduct. Recently filed documents in D.C. Superior Court provide the most complete picture yet of how the high-profile case was derailed. They depict the detectives as determined to close the case even though the evidence and witnesses' statements suggested that the suspect they had in their sights could not have inflicted the fatal wound. … The theory didn't fly, and it was the two detectives, Erick Brown and Milagros Morales, who wound up in trouble. Brown, 40, was taken off the case almost immediately, and Morales, 41, was removed several days later. They have been stripped of their badges and guns and are under investigation by prosecutors and the police internal affairs unit." The Post notes, "It is a remarkable turn for both. Brown, a police officer for 15 years, is a onetime homicide detective of the year, according to David Schertler, a defense attorney for both detectives, and law enforcement officials. Morales, a police officer for 20 years, was once an investigator for internal affairs, the unit that investigates police corruption, Schertler and the officials said. … Schertler said they did nothing wrong. 'The detectives strongly disagree with the characterization that they tried to pressure or coerce any witness into saying anything that wasn't true,' he said."

Warner May Order New DNA Test In 1992 Execution. As his term nears its end, Virginia Gov. Mark Warner is facing a decision on whether to order DNA testing that could determine if Virginia executed an innocent man in 1992. The AP (1/3, Gelineau) reports, "If the tests show Roger Keith Coleman did not rape and murder his sister-in-law in 1981, it would mark the first time in the United States an executed person is scientifically proven innocent, say death-penalty opponents, who are keenly aware that such a result could sway public opinion their way." Warner, who is seen as a likely presidential candidate in 2008, "hopes to finalize negotiations over how the test would be conducted before his term ends Jan. 14, said spokesman Kevin Hall." Coleman's attorneys "argued he didn't have time to commit the crime, that tests showed semen from two men was found inside Miss McCoy and that another man bragged about murdering her."

Executions, Death Sentences Becoming More Rare In The US. The Washington Post (1/2, A11, Lane) reports, "As 2005 gives way to 2006, the death penalty remains a major item of business on the Supreme Court's docket. In addition to a steady flow of stay-of-execution applications, the court has four capital punishment cases to decide. … Yet in one important sense, this activity is misleading: The justices may be busy with death penalty cases, but capital punishment is on the wane in the United States." The Post notes, "In the year just completed, 60 convicted killers were executed. That is a drop of 39 percent from the recent peak of 98 in 1999. … Perhaps more significant, death sentences are dwindling. In 2005, there were 96 new death sentences, according to the center. This is down 70 percent from 1996."

Tennessee Case Seen As First Test Of Roberts' Influence On Death Penalty Cases. The Los Angeles Times (1/2, Savage) reports, "The major death penalty case before the Supreme Court this year reads like a 'whodunit,' as one judge put it. But if there is doubt about who did it, should the defendant be on death row? … Though they might not solve the murder mystery, the case should give an early clue on whether the high court, now led by Chief Justice John G. Roberts Jr., is willing to overturn a death sentence if an inmate's guilt is in doubt." In the case from Tennessee, "The justices will now decide whether to make it easier to reopen old cases when new evidence — including DNA testing -- raises real doubts about the defendant's guilt."

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DC Region Homicides Rose In 2005. The Washington Post (1/2, A1, Klein) reports, "The Washington region saw a rise in bloodshed in 2005, largely fueled by a spike in slayings in the D.C. suburbs, most dramatically in Prince George's County. … Across the region, there were 466 homicides in 2005, compared with 420 in 2004 -- a rise of about 11 percent. About half of those slayings have been solved. It was the first time the District has recorded fewer than 200 homicides in consecutive years since the mid-1980s. At the same time, the total in Prince George's climbed from 148 to 173, a grim record for the county."

WPost Calls Bush Record On Pardons "Dismal." An editorial in the Washington Post (1/3, A16, 744K) says that although President Bush is "a big fan of presidential power," he "still has not exercised his veto," and he "prefers to forget that Article II of the Constitution gives him the 'Power to grant Reprieves and Pardons for Offenses against the United States.' Mr. Bush, who famously proclaims himself a 'compassionate conservative,' has shown mercy fewer times than any president in recent history (though he has granted more pardons than President Bill Clinton had at the comparable point in his presidency). He has granted clemency less than a fifth the number of times of presidents Jimmy Carter, Ronald Reagan or Gerald Ford, who served not even a full term in office." The Post adds that Bush's record on pardons "dismal" and "a far cry from the manner in which the Framers of the Constitution envisioned the power."

CIVIL LAW:

DC Appeals Court Institutes Mediation Program For Civil Appeals. The Legal Times (1/2, Broida) reports, "In a continuing effort to reduce the backlog of cases at the D.C. Court of Appeals, the court has instituted a one-year appellate mediation program for civil appeals." The Times continues, "Starting this week, all parties who are represented by counsel will be required to attend alternative dispute mediation sessions to see if their appeal can be settled without being brought before the court." The Times adds, "The yearlong pilot program is an outgrowth of a similar limited mediation program that was successfully tried at the court this summer. … Ed Schwab, head of the appellate division of the D.C. Attorney General's Office, says his office had a positive experience with the program. He cited one case that was settled within three hours. 'So we were quite happy,' he says. … But Schwab cautions that not every case can be settled, especially those that don't involve money. In some cases, citizens will be seeking a remedy for a government action, and in cases like those, mediation may not work. Nevertheless, he says, 'Anytime you can settle, I think it is a good idea.'"

WPost Says Drug Safety Disputes Should Not Be Decided In Court. An editorial in the Washington Post (1/2, A12) says, "The New England Journal of Medicine's recent retraction of a 2000 article that helped establish the popularity of Vioxx, the controversial painkiller, should give doctors, hospitals and journal authors reason to think harder about how drug safety information is processed. The retraction, published last month, stated that the article's authors -- including scientists in the employ of Merck & Co., which makes Vioxx -- knew in advance of publication that 20 out of more than 2,000 patients taking part in a study of Vioxx suffered from heart attacks after taking the drug, not 17 as the article reported. They left out the information, they say, on the grounds that the three heart attacks in question occurred after the study had technically ended. But as a result, the level of heart attack risk associated with Vioxx appeared in the article to be slightly lower than it should have been." The revelation "raises legitimate questions about the relationship between scientists, who are often paid by drug companies, and medical journals, which should do a better job of stating authors' conflicts of interest. It should also lead doctors who prescribe drugs and are ultimately responsible for understanding their side effects to read such journals with greater skepticism. It does not, however, alter our view that the courts are the wrong place to resolve disputes about drug safety. … Scientific judgments about the risks and advantages of drugs are not black and white -- which is why they are best made by scientists and by the regulatory agency that employs them, not by jurors through the lens of hindsight."

CIVIL RIGHTS:

High Court To Hear Two Fourth Amendment Cases This Month. The Supreme Court will hear two Fourth Amendment cases this month. The Washington Times (1/2, Taylor) reports, "Hudson v. Michigan, which the justices will hear when the court reconvenes Jan. 9, questions whether police violated the Fourth Amendment 'knock and announce rule' when they burst into a suspected cocaine dealer's home in Detroit. The following week, the justices will consider rules pertaining to searches conducted with special 'anticipatory' warrants, which become operative only after 'triggering events' indicate probable cause."

District Of Columbia Activists Seek Approval For Gay Marriages. The Washington Post (1/2, B1, Weiss) reports, "The D.C. Council is considering measures

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that would amount to the greatest expansion of rights for same-sex couples in a decade. But for some in the District's large and influential gay community, the package of tax and inheritance benefits is perhaps most notable for what it is not: a move to legalize gay marriage. With Massachusetts having legalized gay marriage and other states coming close, some gay activists are saying that now is the time to push for full marriage rights in the District." The Post notes Sen. Sam Brownback "warned that the city would trigger a sharp backlash from Congress if it pursued gay marriage."

Democrats' Approach To Religion Seen As Wrongheaded. In an op-ed for the New York Times (1/2) Joseph Loconte, a research fellow in religion at the Heritage Foundation, writes, "Nancy Pelosi…sounded like an Old Testament prophet recently when she denounced the Republican budget for its 'injustice and immorality' and urged her colleagues to cast their no votes 'as an act of worship' during this religious season. This, apparently, is what the Democrats had in mind when they vowed after President Bush's re-election to reclaim religious voters for their party. … A look at the tactics and theology of the religious left, however, suggests that this is exactly what American politics does not need. If Democrats give religious progressives a stronger voice, they'll only replicate the misdeeds of the religious right. For starters, we'll see more attempts to draw a direct line from the Bible to a political agenda."

Many Counties Remain In Turmoil Over New Voting Technology. The Los Angeles Times (1/3, Levey, 958K) reports that California and other states "are embroiled in a contentious debate over how voters should cast their ballots." With "electronic machines under attack as unreliable and vulnerable to hackers, there is little consensus about what the new technology should look like. That has left many counties nationwide in turmoil as they struggle with unproven technology while state regulations remain in flux and the federal government offers minimal guidance." The Times adds, "Congress in 2002 passed the Help America Vote Act, pledging nearly $4 billion to help states upgrade their voting systems. The same year, California passed its own $200-million bond for the same purpose. The flood of money fueled a nationwide spending spree on high-tech machines that were expected to revolutionize vote counting. But the machines often have not proved as reliable as hoped. And while states and counties rushed to buy them, elections officials struggled to regulate how machines should record votes and safeguard results."

Voting Act Puts County Registrars In Bind. The Sacramento Bee (1/2, Yamamura) reports, "Mikel Haas is running out of time and patience, but he says he'll give it one more month before he really starts to panic. … With an April 11 special election fast approaching, the San Diego County registrar of voters still doesn't have any California-certified machines to meet the requirements of the 2002 U.S. Help America Vote Act." The Bee continues, "Most counties in California - and many across the country - officially fell out of compliance Sunday with rules mandating that election systems be accessible to voters with disabilities. But the San Diego County special election puts Haas at the head of the line when it comes to compliance. … While the legal deadline has passed, Secretary of State Bruce McPherson has tried to assure county officials and voters that California will resolve its Help America Vote Act issues by the June primary, the first statewide election with federal races. … But McPherson has not certified any new accessible voting machines since August, making some registrars nervous and others downright angry." The Bee adds, "McPherson's spokeswoman, Jennifer Kerns, said that at least six election systems are 'in the pipeline' and that McPherson is confident multiple options will be available for the June primary. … But registrars like Haas are torn. They say they respect McPherson's need to put controversial equipment through a battery of tests. But they also face the practical need of having to run an election in a matter of months."

Timing Of Evolution Sticker Petitions Still In Dispute. The Fulton County (GA) Daily Report (1/2, Land) reports, "Federal appeals judges are still wrestling with factual inconsistencies over how a petition -- pushed by Marjorie Rogers, a self-described 'six-day biblical creationist' -- affected the Cobb County, Ga., school board's decision to amend new science textbooks with stickers questioning the validity of evolution." The Report continues, "A panel of the 11th U.S. Circuit Court of Appeals last month heard the school board's appeal of a federal judge's 2005 decision that the stickers, which say that evolution is 'a theory, not a fact,' amounted to an unconstitutional endorsement of religion. Selman v. Cobb County School District, 390 F. Supp 2d 1286. (The 11th Circuit case is No. 05-10341-1.) … During the arguments, judges sounded highly skeptical of the ruling by U.S. District Judge Clarence Cooper. They also upbraided Jeffrey O. Bramlett, the lawyer for the plaintiffs challenging the stickers, for making statements about the timeline of the case that 11th Circuit Judge Edward E. Carnes called 'just wrong.'" The Report adds, "Carnes demanded that Bramlett provide a written explanation of his assertions that the stickers had been placed in the textbooks as a result of Rogers' petition drive. … Bramlett's claims had been called into question by Cobb County's attorney, Ernest Linwood Gunn IV, whose brief said the petition had not been circulated until four months after the disclaimers were inserted into the books. … On Dec. 22, a week after the argument, Bramlett filed a 127-page response that said there were two petitions -

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- one by Rogers, with more than 2,300 signatures delivered to the school board before the books were purchased, and a smaller petition delivered after the sticker plan was implemented. … The day the 11th Circuit received Bramlett's response, the court issued a one-page letter to Gunn instructing him, by today, to provide 'any evidence regarding the timing of any petitions that may have been filed with the School Board.'"

Federal Workforce Trails Private Sector In Hiring Hispanics. Under the headline, "Hispanics Underrepresented In The Federal Workforce," the Washington Post (1/3, A16, Fears, 744K) reports, "Hispanics represent 7 percent of employees in federal government when the group's population is growing faster than all others. The five-percentage-point gap between Hispanics working in the public and private domains translates to thousands of jobs and billions of dollars in potential pay, according to a coalition of Hispanic federal employees. The private sector tracks with the 13 percent of Hispanics in the general population, 40 million people, not including an estimated 11 million undocumented workers living in the country illegally." The Post adds, "The consequences are felt nationwide, Hispanic advocates say. The government suffers from a shortage of Spanish-speaking workers who could help non-English speakers navigate Social Security and other federal documents. In the chaotic aftermath of hurricanes Katrina and Rita, the government discovered that it could not effectively communicate with displaced immigrants, legal and undocumented."

ANTITRUST:

Columnist Predicts Mergers For Coming Year. In a column for New York Magazine (1/2), James Cramer writes, "The start of the year is a time for crystal-ball gazing. Sure, I could give you the standard fare, the typical Wall Street gibberish that you will hear in a virtual 24-hour loop for the next few weeks: untried Fed chairman, big-budget deficits, uncertain presidential leadership, a peak in real estate, an end to the interest-rate-tightening cycle. Know what? You know all that already. I'd rather tell you about some things that could happen that could make you some huge money in 2006. I can't guarantee any of them will come to pass, but if they do, well, remember your friend Cramer tipped you to them." Cramer continues, "Citigroup Will Merge With Goldman Sachs … For the past few years, Citigroup has been in the doghouse with regulators. Now new honcho Chuck Prince, a buttoned-down lawyer, has eliminated the cowboys and stopped the culture of trying to sell anything to customers as long as it had a big fee. That may soon give him the green light to make an acquisition. Citigroup has been taking a huge backseat to other players as it gets its ethical house in order. An acquisition could make Citigroup dominant again worldwide." Cramer adds, "Comcast Will Buy CBS … In 2004, when Comcast made its aborted offer for Disney—something that Comcast actually thought that Disney wanted, when nothing could have been further from the truth—I figured that win or lose, Comcast would remain a key, if not the key, player in the distribution of television programming in this country. But Intel, Broadcom, Qualcomm, Apple, Microsoft, Texas Instruments, Motorola, Nokia, Dell, and Marvell Technology Group all have another agenda, which is to make a new device that makes your phone calls, gets you on the Internet (wirelessly), and downloads TV programming, sans commercials, when you want, on the channel you want it. Late in 2006, we're bound to see one or more of these great tech companies unveil a product that will allow you to purchase, download, and watch anything that you want, from sports programs to movies to television shows to video games. The device will smash the current cable paradigm and will make all those stocks worth owning once again, as they were in the year just past." Cramer continues, "Pfizer And Bristol-Myers Squibb Will Merge, And Merck Will Snap Up Schering-Plough … My crystal ball sees no end to the turmoil afflicting the pharmaceutical industry. With the government as the biggest payer in the system, courtesy of the changes in Medicare, the drug companies will be forced to discount drugs well below where they thought they might have to. That combination of price squeeze and endless overhead will force Bristol-Myers and Pfizer to merge, and Merck and Schering-Plough will get together."

Arizona Questions Competition Problems With Development Deal. The Arizona Republic (1/2, Alltucker) reports, "State regulators want to scrutinize Cox Communications' role in arranging a special deal that effectively prevented rivals from seeking customers in a massive new-home development in Peoria." The Republic continues, "A new report by the Arizona Corporation Commission suggests there is "clear and convincing evidence" that in December 2003 a deal was struck between Cox Communications and a private developer to curb competition for phone, cable and high-speed Internet services at the 17,000-home Vistancia community. … The Corporation Commission wants to hold a public hearing to examine the deal and discuss potential fines against Cox." The Republic adds, "Although the arrangement was proposed by the developer, Shea Sunbelt, state regulators said Cox was an "active participant," with 15 employees helping write and revise terms of the deal. … The arrangement came to light after a tiny telephone company, Accipiter Communications, filed a complaint with state regulators alleging it was shut out of Vistancia. The arrangement also

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triggered an investigation by the federal Department of Justice's antitrust division."

Columnist Decries Government-Sanctioned Monopolies. In a column for the Orange County Register (1/2), Tibor R. Machan writes, "In Silverado Canyon, there is a tiny post office where each weekday we pick up our mail. One or two of the people who work there are, unfortunately, quite often absent because of illness or something else and, more often than not, the mail now doesn't get distributed until late in the afternoon. The Postal Service says they have to have the mail out by 5 p.m. but it used to be in our boxes by 10:30 a.m. or even earlier, until recently. … OK, so there has been more mail this time of year, but here is how that eventuality should play out. The post office should either hire more people so the mail gets out earlier or an alternative mail service should appear on the scene and offer competing first-class delivery service." Machan continues, "That latter alternative, of course, is illegal. Competition in first-class mail delivery is against the law, nevermind the demand. Accordingly, the post office can keep being later and later with mail distribution and does not have to hire any extra help since no one's about to come in and take the business from them. … This is but one of the relatively innocuous results of the monopoly in first-class mail service. Other monopolies are far more insidious. Take the New York Metropolitan Transit Authority, which last month was struck by the public-employee union to which all its workers belong. … " When there's a strike in a free market, people often have other vendors from whom they can receive service. There is usually competition, so that if Chrysler's autoworkers go on strike, there are Ford, Toyota, General Motors and other carmakers still in business." Machan adds, "Just why the American public is mostly passive about the many monopolies protected or operated by government is a mystery to me - one reason might be is that the government schools do not explain in their economics classes just how unnecessary and unjust such monopolies are, seeing that the schools themselves are a case in point. But perhaps with some voices making a bit of noise about the situation others will catch on and in time we can get a system in which my little post office would either shape up or find itself competing with an alternative mail-delivery agency."

Homeowners' Web Site In Wisconsin Competes With Realtors. The New York Times (1/3, Bailey) reports, "Across the country, the National Association of Realtors and the 6 percent commission that most of its members charge to sell a house are under assault by government officials, consumer advocates, lawyers and ambitious entrepreneurs. But the most effective challenge so far emanates from a spare bedroom in the modest home here of Christie Miller." The Times continues, "Ms. Miller, 38, a former social worker who favors fuzzy slippers, and her cousin, Mary Clare Murphy, 51, operate what real estate professionals believe to be the largest for-sale-by-owner Web site in the country." The Times adds, "They have turned Madison, a city of 208,000 known for its liberal politics, into one of the most active for-sale-by-owner markets in the country. And their success suggests that, in challenging the Realtor association's dominance of home sales, they may have hit on a winning formula that has eluded many other upstarts. Their site, FsboMadison.com (pronounced FIZZ-boh) holds a nearly 20 percent share of the Dane County market for residential real estate listings. … The site, which charges just $150 to list a home and throws in a teal blue yard sign, draws more Internet traffic than the traditional multiple listing service controlled by real estate agents." The Times notes, "Madison is home to the University of Wisconsin and a city where the percentage of residents who graduated from college is twice the national level. It is also a hotbed of antibusiness sentiment, which turns out to be the perfect place for a free-market real estate revolution. Bucking the system is a civic pastime here. … Elsewhere, the Justice Department, free-market scholars, plaintiffs' lawyers and countless entrepreneurs are vowing to make real estate more competitive and to bring down sales commissions. To do that, they advocate forcing the Realtors' association to share control of its established listing services. Those critics seem to view the listings as an unassailable monopoly. … And who can blame them? Those 800-plus local listing services, controlled by local branches of the Realtors' association, help dole out about $60 billion a year in commissions to real estate agents and the firms that employ them. Despite numerous attacks, the association has been remarkably successful to date at protecting its turf. Through lobbying, litigation and legislation, the Realtors' group has managed to keep control of the crucial listings."

Unlikely Alliance Develops Between Rivals Sony, Samsung. The Wall Street Journal (1/3, Dvorak, Ramstad) reports, "For years, Samsung Electronics Co.'s key mission was to unseat rival Sony Corp. as the world's top electronics maker. Long seen as a South Korean underdog, Samsung has in the past few years surpassed its Japanese rival in market capitalization, revenue and profits. In television sets, Sony's traditional stronghold, Samsung now jockeys with Sony and a handful of top players for the No. 1 share of sales globally." The Journal continues, "But the relationship between Sony's Hiroshi Murayama and Samsung's Jang Insik tells a different story. The two engineers symbolize how the two companies have increasingly come to depend on each other since 2003. That's when Sony, looking for a source of panels for its new flat-panel TV line, asked to

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become a partner in a $2 billion factory Samsung was building to produce liquid-crystal displays." The Journal adds, "Messrs. Jang and Murayama phone each other from their bases in South Korea and Japan respectively several times a day and visit in person every month to discuss how to make better panels. Mr. Murayama persuaded Mr. Jang and his bosses to speed their development of key technologies, and Samsung let Mr. Murayama use some of those technologies in Sony's TV panels even before its own products. Sony's TVs that use those new panels ended up outselling Samsung's LCD sets by more than three to one this fall in major U.S. retailers. … But Samsung is still keen to work with Sony because it's getting a crash course in how to improve LCD panels, which it had mostly used in computer monitors and cellphones, in the important TV segment. … The unlikely alliance shows just how tangled the connections have become between consumer-electronics companies as competition in the industry intensifies. … The same trend is happening across Asian electronics makers, which have traditionally prided themselves on doing as much as they could in-house, from the design of their gadgets to the technology that goes into them."

ENVIRONMENT/INDIAN AFFAIRS:

Health Officials Note Progress In Preparations For Bird Flu Epidemic. Health officials said yesterday that the US is making progress in preparing for a bird flu epidemic. This includes measures to close schools and quarantine the sick. However, the AP (1/2, Yen) reports that vaccine supplies remain inadequate. Julie Gerberding, director of the national Centers for Disease Control and Prevention, said on CBS' Face the Nation, "We've got a lot of work to do." Citing "'bottlenecks' in vaccine production and the delivery of health care if there's an outbreak," Gerberding added, "We've got to get more and better anti-viral drugs. And we've got to have every single link in our public health system as strong as it can be so it can detect this problem." The AP adds, "Health and Human Services Secretary Mike Leavitt, appearing on CNN's 'Late Edition,' praised the money approved by Congress as a good step that will fund one year of preparedness efforts. Still, he said the U.S. is not ready, saying additional money is needed to ensure there would be enough vaccine supplies for all Americans within six months of an initial outbreak. State and local governments also need to step up efforts, Leavitt said."

Gerberding said on CBS' Face the Nation (1/1, Schieffer) she does not know whether "it is just a matter of time" before Avian flu appears in the US, but "we've got to take the steps now to get prepared for that." She added, "Frankly, we're not as prepared as we need to be. We're certainly doing more today than we were even two years ago so we're making fast progress. But we've got a lot of work to do. We've got to get a vaccine supply that we can count on. We've got to get more and better anti- viral drugs."

Leavitt Says US Still Has Work To Do. HHS Secretary Michael Leavitt said on CNN's Late Edition (1/1, Blitzer) that the avian flu virus "continues to spread in wild birds across the world. There is no reason to believe that at some point it will stop. That means that ultimately it would find its way to the United States. We need to be prepared. … We are not as prepared as we aspire to be. We have a great deal of work to do."

Plan To Change Toxic Release Reporting Requirements Draws Fire. The Washington Post (1/3, D1, Skrzycki, 744K) reports in its "The Regulators" column, "Opposition is growing to a Bush administration plan to change the reporting requirements of" the Toxic Release Inventory, the "highly successful public information program that collects data annually on releases of toxic chemicals." The inventory "has been a roadmap for individuals and community groups interested in pinpointing where the country's most-polluting facilities are located." The business community has pushed "over the past decade to reduce the 'burden' of having to fill out a five-page form for each chemical they use every year. This form includes detailed information on the quantity of the chemical, how it is made and processed, and how much of it is released. After considering several options, the [EPA] in October proposed changes that would allow more companies to file a shorter report, known as Form A, which contains less information about their use of toxic chemicals." The EPA "dropped another bombshell at the same time, telling Congress that it is thinking about eliminating annual filing in favor of every other year. … The twin ideas prompted outrage from environmental and public-interest groups." The Post adds, "Environmental and community groups, in particular, consider the reporting program a great success. And it has become even more useful since the agency has required reports on more chemicals and from more industrial sectors, including mining and electrical utilities."

Other States Adopting California's Strict Greenhouse Gas Rules. The Washington Post (1/3, D1, Freeman, 744K) reports, "On Friday, Massachusetts joined Oregon, Connecticut and five other states in adopting California's tough greenhouse gas rules, which limit the amount of carbon dioxide and other gases that can be emitted from vehicle tailpipes. These new rules would supplement federal exhaust pollutant standards already in place. Two other states are in the process of adopting the rules. The carbon dioxide regulations are so strict, the auto industry argues, that they would cause extensive design

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changes to new vehicles, driving up prices and crippling new-car sales. Every major automaker that sells vehicles in the United States is suing to have the new rules overturned, even as states on the West Coast and in the Northeast are moving quickly to adopt them." The California rule "requires a 30 percent reduction in greenhouse gases by 2016. The rules are one element of a wider trend of states enacting their own energy policies to govern auto and factory emissions and appliance energy efficiency, updating older federal rules or writing new rules where none exist."

Novak Praises Romney Decision To Pull Out Of RGGI. Robert Novak (1/2) writes in his syndicated column, "Massachusetts Gov. Mitt Romney on Dec. 16 made a significant move that will benefit the pocketbooks of his state's consumers and perhaps boost his own Republican presidential prospects. He pulled Massachusetts out of the compact of Northeastern states requiring a reduction in power plant emissions of carbon dioxide. The Regional Greenhouse Gas Initiative (RGGI) would cut the emissions by 10 percent by 2019, forcing up electricity prices because of greater dependence on increasingly expensive natural gas. … The defection of Romney, originally inclined to support RGGI, represents a major setback for the Greens." Novak adds, "Green pressure can lead politicians to make promises that they would regret. … It appears Mitt Romney will avoid that pitfall on his long uphill climb to the White House."

Government Seeks To Remove Grizzly Bears From Endangered List. NBC Nightly News (1/1, story 12, 2:20, Seigenthaler) reported, "The Federal Government has declared grizzly bears in Yellowstone recovered, clearing the way to remove it from the endangered list." NBC (O'Neil) added, "By 1975 it was clear the grizzlies needed to be put on the endangered species list." Biologist Kerry Gunther: "We've gone from a population of less than 200 to a population of 600 and increasing population. It's a great success story." O'Neil: "A sorely needed victory for the act which some in Washington want to water down. The grizzly is only on of a handful to ever be declared recovered."

Texas, Oklahoma Continue To Be Plagued By Wildfires. The CBS Evening News (1/02, story 2, 2:30, Schieffer) reported, "The fires in Texas and Oklahoma now spreading to New Mexico are being fueled by the worst drought in decades. The fires killed four people last week and searchers were set to look for any victims from two small towns in Texas that burned last night. Since early November, the Oklahoma fires have destroyed some 200 buildings and at least 270,000 acres." CBS (Cowan) added, "Nearly 100 more homes were lost to flames that burned into the wee hours of the morning. Some communities like Ringgold near the Texas-Oklahoma border were erased."

NBC Nightly News (1/2, story 5, 1:50, Teague) reported, "Fire crews have spent more than a week battling grass fires that have raged across Oklahoma, Texas, and New Mexico and burned again today. Nearly 300,000 acres have been scorched so far and more than 400 homes. The weather simply won't give fire crews a break." The AP (1/3, Flynn) runs a similar report.

Damage From California Flooding Now In Hundreds Of Millions Of Dollars. The CBS Evening News (1/02, story 3, 2:30, Schieffer) reported, "Back-to-back storms drenched California and caused an estimated $100 million in flood damage. Most of it is the result of rivers that have spilled out of their banks in Northern California. Now the storms are threatening the southern part of the state." CBS (Hughes) added, "The pounding rain was too much for vulnerable hillsides above Los Angeles, burned bare by this year's wild fires. Rescue workers were watching for any sign that nearby residents needed to pack up and run from the hills. The second wave of storms to hit this weekend is swamping parts of Southern California. Up to four inches of rain is expected in the valleys and eight in some mountain areas."

NBC Nightly News (1/2, story 4, 2:20, Lewis) reported, "In California's wine country, where hundreds of homes and businesses are flooded out, they're just beginning to assess the damage, estimated in the hundreds of millions of dollars." In Pasadena, "there were plenty of raindrops on roses at 117th annual Rose parade. Defying the elements, the USC marching band wore plastic ponchos and sunglasses. As a smaller-than-usual crowd of spectators watched." Governor Arnold Schwarzenegger has "issued a state of emergency in seven California counties most adversely affected by the storm."

Cato Fellows Argue Strategic Petroleum Reserve Should Be Scrapped. Jerry Taylor and Peter Van Doren, senior fellows at the Cato Institute, write in the New York Times (1/3, 1.19M), "The rise in fuel prices that followed Hurricanes Katrina and Rita has prompted many members of Congress to call for new and expanded federal reserves of crude oil, diesel fuel, home heating oil, jet fuel and propane. Proponents of stockpiling claim that if the government were to hoard those commodities when prices were low, it could unleash them on the market when supplies are tight, thus dampening price increases and stabilizing the market. But the experience in this country with the strategic petroleum reserve strongly suggests that such government-managed stockpiles are a waste of taxpayers' money. Rather than increasing the stockpile, the reserve should be emptied

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and closed." Economists "agree that every barrel of oil we put in the public reserve displaces oil that might otherwise have gone into private inventories. How much displacement occurs is unclear, but there is little doubt that it's significant. If the reserve is thought of as an insurance policy against high prices, the cost of the policy has been more expensive than the dangers the stockpile is meant to prevent. Americans should resist the drive to expand public stockpiles. Instead, we should sell while the selling is good."

Opponents Of ICC Said To Have Little To Stand On. The Washington Post (1/2) editorializes, "With a key federal approval expected soon for the proposed intercounty connector -- the east-west toll highway that would transverse Maryland suburbs -- the road's opponents are mounting an eleventh-hour anti-ICC campaign. Having failed over the years to sway the traffic-weary public with other arguments (environmental impact, cost, effect on traffic), the foes are focusing on how much the road will cost to use. This, too, is a losing argument."

Loyal Mdewakanton Tribe Wins Court Battle Over Minnesota Land. Indian Country Today (1/3, Melmer) reports, "Membership in a Dakota tribe is expected to more than double after an accurate list of lineal descendants of the Loyalist Mdewakanton is complied and verified, as ordered by a federal court." ICT continues, "U.S. Court of Federal Claims Judge Charles Lettow has denied a U.S. Justice Department motion to reconsider his earlier ruling that gave the descendants of the Loyalist Mdewakanton rights to land in Minnesota. … Lettow also ruled that the federal government breached its trust obligations to the Loyalist Mdewakantons and their descendants when in a 1980 congressional act it put the land into trust for three federally recognized Dakota communities - Prairie Island, Shakopee and Lower Sioux. That act violated an 1886 contract signed by Mdewakanton leader John Bluestone, which gave that land to the Mdewakanton who were descendants of those who pledged loyalty to the United States in 1862. … Previously the land was either assigned to individual loyalists or leased, with the proceeds from the lease paid to the loyalists." ICT adds, "The loyalists want the land returned to them and Mdewakanton tribal membership, with full political power, restored. Lease revenues that were given to groups other than the loyalist's lineal descendants constitutes a breach of the contractual agreement by the federal government, the plaintiffs argued. Today's lineal descendants want compensation for the lost revenues. … Lettow's latest decision rejected the federal government's claim that it didn't mismanage the trust on behalf of the lineal descendants. He also rejected the argument that the 1886 contract did not authorize a trust responsibility to the loyalists. … Lettow ordered the government to perform an accounting to determine the size of financial compensation that is owed the loyalists' descendants."

Navajos Try To Stop Arizona Uranium Rush. The Arizona Republic (1/3, Shaffer) reports, "The price of uranium has tripled in the past two years, bringing with it the possibility of another uranium rush in Arizona, the state with the richest deposits of the ore and, along with New Mexico, the worst legacy associated with its mining." The Republic continues, "Last year, 700 mining claims were filed and 100 test holes were bored into the wild, remote high desert in northern Arizona. … Scott Florence, director of the Bureau of Land Management's Arizona Strip district in St. George, Utah, said those numbers are significantly higher than any year since the frenzy of the 1980s. … 'Finding the right mine site is a real art. But it seems like everyone and their mother is trying now,' he said." The Republic adds, "Secondary supplies of uranium on the world market have virtually dried up, and China, India and Japan are clamoring for uranium for their burgeoning domestic nuclear-power industries. Uranium now fetches $36 a pound on the spot market. Four years ago, it was going for just over $7 a pound. … But not everyone is happy about the search for new mine sites. Navajo Nation President Joe Shirley Jr., stirred to action by the memory of how dangerous uranium mining can be, issued an executive order in November banning negotiations with uranium companies or uranium exploration on the three-state Navajo Nation, which was engulfed by a public health tragedy after the first wave of uranium mining began on its reservation in the 1950s. Dozens of premature deaths of Navajo miners and passed-on genetic defects have been attributed to uranium exposure."

FBI/DEA/ATF/USMS:

FBI Photographer Sues Over Mistreatment Due To Tourette's Syndrome. The Legal Times (1/2, Kelley) reports, "As a photographer for the Federal Bureau of Investigation, Jeffrey Bell was frequently tapped to work on high-profile cases. Between 1991 and 2000 he was deployed throughout the United States and abroad to photograph matters involving terrorism, forensics, counterintelligence, and emergency response. … But according to a lawsuit Bell, a 43-year-old with Tourette's syndrome, filed recently in the U.S. District Court for the District of Columbia, all that changed after an incident stemming from his disorder led to retaliation from his employer. Bell's trial is expected to start this week." The Times continues, "Court papers filed by Bell's attorney, Edith Marshall of Powers Pyles Sutter & Verville, state that Bell was taking a new medication to control his Tourette's when he became involved in a verbal altercation

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with a co-worker. Bell explained that the outburst was a side effect of his medicine, but he claims he was treated differently from that point on because of his Tourette's, a neurological disorder that can cause involuntary tics and vocalizations as well as obsessive-compulsive tendencies and hyperactivity." The Times adds, "Bell alleges that because of his Tourette's he was regarded as a 'problem personality' and often blamed for any workplace conflict that occurred."

Doctors Said To Fear DEA Action When Prescribing Pain Medications. In an story titled "Painful Choices: Physicians Challenged By Quest To End Suffering" the Deseret (UT) Morning News (1/2, Collins, Jarvik) writes, "The perception among doctors is that the regulatory environment has become more hostile, says Micke Brown, director of advocacy for the American Pain Foundation, headquartered in Baltimore. 'Many health care providers are running scared,' especially primary care physicians, she says. 'Some are even backing away from managing people's pain.'" Pain management doctor Lynn Webster, who heads the Utah Academy of Pain, "is an opioid advocate. … He argues that the undertreatment of pain is 'still a major problem' in Utah, in part because of doctors' fears of punishment by the federal Drug Enforcement Agency (DEA) and the state Division of Occupational and Professional Licensing (DOPL). … Pain experts are waiting anxiously for the DEA to clarify its interpretation of the federal law that governs prescribing controlled substances for pain. DEA said the guidance was imminent more than a year ago. But pain experts, still waiting, continue to warn colleagues to err on the side of stricter federal interpretations."

Maryland Tax Dollars Said To Be Disproportionately Tied Up In Locking Up Addicts. In the Washington Post (1/1, B8), Tara Andrews, director of Justice Maryland and Democratic candidate for the state Senate from Baltimore City, writes "By the latest count, more than 250,000 Marylanders are in need of substance-abuse treatment. Even in Montgomery County, considered the state's wealthiest county, the treatment gap is great. Yet despite population growth, state funding for treatment has declined. More than three-quarters of those in Maryland prisons report having an alcohol or drug problem, and four out of 10 entering the state's prisons every year are locked up for drug offenses. Maryland has the third-highest percentage of prison admissions for drug offenses in the country. … Maryland tax dollars are disproportionately locked up by the incarceration of drug addicts, while providers of substance-abuse treatment make do with crumbs. A shift of dollars away from incarceration and toward a dedicated fund for treatment would make a world of difference and a world of sense."

Plan Colombia Credited With Record Number Of Cocaine Seizures. Reuters (12/31) reports, "Colombia seized a record 186 tons of cocaine [in 2005] thanks to a Washington-backed program aimed at cutting imports of the illegal drug to the United States, the Colombian government said on Friday. The haul, seized using equipment and expert advice provided by 'Plan Colombia,' was 26 percent more than last year and had a U.S. street value of $4.7 billion, Defense Minister Camilo Ospina told reporters. He said the increase was possible thanks in part to more than $3 billion in mostly military aid that the United States has provided since 2000 to help fight drug-running Marxist rebels fighting a decades-old insurgency. Washington says cocaine is becoming more expensive on U.S. streets, a sign that the money, largely steered toward aerial spraying of coca bushes used to make cocaine, is making the drug less available."

IMMIGRATION:

Migrant Advocacy Group Celebrates 10 Years. The Miami Herald (1/2, Chardy) reports, "Alfredo López-Sánchez languished for months at a detention center for migrant children in Southwest Miami-Dade -- until an attorney for a local immigrant rights group realized the Guatemalan did not understand Spanish." The Herald continues, "The lawyer from the Miami-based Florida Immigrant Advocacy Center eventually found an interpreter who spoke López-Sánchez's Mayan language. … That was September 2001. A year later, López-Sánchez -- then 17 -- was free and on his way to getting a green card." The Herald adds, "Such successes have turned the Florida Immigrant Advocacy Center into a powerhouse in national advocacy for persecuted migrants too poor to hire a lawyer. … FIAC, as the group is known in the immigrant rights community, is marking its 10th anniversary today -- with a string of victories, and some defeats, in what often seems an uphill battle against ever-tougher immigration laws. It plans a 10th anniversary celebration dinner March 6. … The group began in 1996 -- two years after former House Speaker Newt Gingrich's conservative revolution swept Congress with calls to close the borders and even to shut the school door to children of undocumented immigrants. In the end, Congress amended immigration law, making it extremely difficult for any immigrant without proper papers to avoid detention or deportation -- though lawmakers dropped provisions that would have let states bar children from public schools if their parents entered the country illegally. … Ten years later, in the fallout from the Sept. 11, 2001, terrorist attacks, immigration law is again facing calls from conservatives in Congress to toughen the rules for citizenship, including barring U.S.-born children of illegal

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immigrants from becoming automatic citizens and the deportation of migrants encountered on the streets without the right to a court review to plead their case."

Conflicting Public Attitudes On Illegal Immigration Noted. The Washington Post (1/3, A7, Balz, 744K) notes the "sometimes conflicting public attitudes" on illegal immigration. A Washington Post-ABC News poll taken in mid-December "found Americans alarmed by the federal government's failure to do more to block the flow of illegal immigration and critical of the impact of illegal immigration on the country but receptive to the aspirations of undocumented immigrants living and working in the United States. … The Post-ABC News poll found that four in five Americans think the government is not doing enough to prevent illegal immigration, with three in five saying they strongly hold that view. The same poll found that 56 percent of Americans believe that illegal immigrants have done more to hurt the country than to help it, with 37 percent saying they help the country. About three in five Republicans and a bare majority of Democrats agreed that illegal immigrants are detrimental to the country. The only groups in the poll who disagreed were people with postgraduate degrees, those with incomes exceeding $100,000 and nonwhite respondents. The Post-ABC poll did not include enough Hispanics to provide an accurate reading of their sentiment, but a Pew Hispanic Center survey last summer found that two in three Latinos said that undocumented migrants help the economy. … In the recent Post-ABC News poll, President Bush got his lowest marks on immigration, with 33 percent saying they approved of how he was handling the issue. That may largely reflect irritation over the government's failure to control the borders."

Hayworth Set To Publish An "Anti-Immigration Manifesto." Time (1/9, Allen) reports in its "Notebook" column that Rep. J.D. Hayworth "is about to publish an anti-immigration manifesto, Whatever It Takes, that should rile up right-wing radio just as the White House was hoping to gain traction for a broad immigration-reform package." In the book Hayworth "calls for deploying active-duty troops to the border and considering a 'border security fence from the Pacific Ocean to the Gulf of Mexico.'" Hayworth "contends that Bush's plan to confer temporary legal status on Mexicans working in the U.S. amounts to 'false compassion.' But Senator John McCain plans to push hard this winter for such a program. House Republican leaders say they might accept one if immigrants had to return home to apply for temporary work permits. Hayworth tells TIME that even that would be too lenient, designed to appease 'left-wing grievance mongers' and businesses that want cheap labor. Bush may have sounded as if he were running for sheriff during his recent border visits, but to convince the likes of Hayworth, he'll have to talk a lot tougher."

CONGRESS-ADMINISTRATION:

Alito Argued President Should Issue "Interpretive Signing Statements." As a Justice Department lawyer in 1986, Supreme Court nominee Samuel Alito made the case or presidential power, laying out a strategy under which the president would routinely issues statements about the meaning of statutes when he signs the into law. The Washington Post (1/2, A11, Lee) reports that such "'interpretive signing statements' would be a significant departure from run-of-the-mill bill signing pronouncements, which are 'often little more than a press release,' Alito wrote. The idea was to flag constitutional concerns and get courts to pay as much attention to the president's take on a law as to 'legislative intent.'" The Post adds, "The Reagan administration popularized the use of such statements and subsequent administrations continued the practice. (The courts have yet to give them much weight, though.) President Bush has been especially fond of them, issuing at least 108 in his first term, according to presidential scholar Phillip J. Cooper of Portland State University in Oregon."

Alito Said To Have An "Everyman Appeal." The New York Times(1/2, Kirkpatrick) says that according to people who have participated in Alito's rehearsals for this week's confirmation hearings say he "will never be as polished and camera-ready as Chief Justice John G. Roberts Jr. was at his own hearings a few months ago." But two of Judge Alito's supporters who participated in the murder boards, speaking about the confidential sessions on condition of anonymity for fear of White House reprisals, said they emerged convinced that his demeanor was a political asset because it gave him an Everyman appeal." The Times adds, "Senators of both parties have said it will not be easy to follow Chief Justice Roberts," and "some Democrats said they already had much more pointed questions waiting for Judge Alito, focusing mainly on strongly worded statements that he made as lawyer in the Reagan administration about his conservative approach to the Constitution, abortion rights and other issues. Leading Democratic senators have said his responses will be a deciding factor in whether they seek to block the nomination by filibustering."

Alito Hearings Will Test Domestic Spying Program's Political Resonance. Time (1/9, Tumulty, Allen) the opening of Supreme Court nominee Samuel Alito's confirmation hearings this week will be the first test of the domestic spying program's "political resonance." According to Time, Alito opponents, "who had planned to put the abortion issue on center stage, are quickly retooling their strategy. … Alito's record could give his critics plenty of

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ammunition. The Third Circuit judge has long been an advocate of the unitary-executive concept, a constitutional interpretation that is a favorite of Bush's and Vice President Dick Cheney's, which argues that the President should have nearly total control of Executive Branch agencies and resist any incursion on that power by Congress." Time adds, "Administration officials concede that the controversy will inject a volatile new element into the confirmation debate but say Alito will resist getting drawn in."

Alito's Writings Suggest He Will Accelerate Court's Shift To The Right. U.S. News and World Report (1/9, Halloran) says the battle over Alito "shows every sign of achieving Borkian dimensions. As Alito prepares for his confirmation hearings before the Senate Judiciary Committee next week, the portraits being painted of him have become ever more cartoonish, nasty, and one-dimensional. … Behind the caricatures, however, are real questions. Who, really, is Sam Alito, and what kind of a justice would he be? An analysis of Alito's writings as a Reagan administration lawyer, and of his opinions from the bench, reveals him to be a solidly conservative jurist but one who also pays deference to precedent. … His lengthy paper trail suggests he will accelerate the court's shift to the right on several important issues," including abortion, civil rights, capital punishment and federalism.

Roberts, Alito Seen As Likely Allies Of Business. Academics and business experts say Chief Justice John Roberts and Alito are likely to be allies of manufacturers and business, The AP (1/1, Cassata) reported, "One represented corporate interests as a private attorney; the other often sided with employers in lawsuits filed by workers. Beyond their decisions in individual cases, the Roberts court also has the potential to craft a consistent philosophy on business issues, something that several academics argue has been lacking in recent years since the departure of Lewis Powell in 1987. … The court's highly selective docket for the current term will give Roberts and Alito, assuming the latter is confirmed, ample opportunity to shape the court. Among the critical issues for companies are the Supreme Court's decisions in antitrust cases, government regulation of land development and the commerce clause. … Abortion and social issues dominate the public debate over the Supreme Court, but business matters make up a significant portion of the justices' work."

Interest Groups To Intensify Rhetoric In Debate Over Alito Nomination. USA Today (1/3, Kiely, Memmott, 2.31M) reports the Senate hearings on Judge Samuel Alito's nomination to the Supreme Court "are set to begin Monday. This week, groups on both sides of the debate plan to launch elaborate phone, e-mail and ad campaigns." Ralph Neas of the People for the American Way said, "There's no question there will be an acceleration of efforts." Neas "plans a wave of TV ads" in opposition to the nomination. Meanwhile, Christian Myers of Progress for America said, "It's game time now, and we're making a serious push." The "conservative group will spend $500,000 to broadcast a pro-Alito ad on cable television and in four states where senators may be undecided." Other groups, "from the conservative Focus on the Family to the liberal Leadership Council on Civil Rights, plan phone banks, e-mail blitzes and visits to newspaper editorial boards and radio hosts." But "relatively few senators will get most of the attention. One is Senate Judiciary Committee Chairman Arlen Specter, a centrist Pennsylvania Republican who will preside over Alito's confirmation hearings." Both sides are "focusing on senators whose votes will help determine whether there's enough Senate support for a filibuster." The key senators "are centrists; all say they're undecided about Alito. Several face re-election fights this year. The biggest group is 'red state Democrats.'"

The New York Times (1/3, Kirkpatrick, 1.19M) reports that in the "final days before" the Alito hearings, "partisans on both sides are pulling out all the stops in an effort to sway public opinion. Moving beyond Judge Alito's judicial record, a coalition of liberal groups is preparing commercials attacking his integrity and credibility instead, several people involved in the effort said Monday." Conservatives, "for their part, are capitalizing on ethnic pride to rally Italian-American support for Judge Alito with public events and newspaper advertisements. The efforts are aimed particularly at the Northeastern States, where some moderate Republican senators have expressed doubts about his confirmation." The advertising campaigns "on both sides are the most visible components of a last-minute push by advocacy groups anticipating a potentially close Senate vote." People "involved in the liberal coalition, which includes People for the American Way, the legal group Alliance for Justice, the A.F.L.-C.I.O., the N.A.A.C.P., the Sierra Club and abortion rights groups, said it planned to run new commercials, beginning this week with radio and television advertisements in selected states intended to undercut Judge Alito's credibility." The sources "said the first advertisements would focus on occasional lapses from a pledge Judge Alito made at the 1990 hearings for his confirmation to the appeals court that he would recuse himself from cases involving the companies that managed his mutual fund investments, Vanguard and Smith Barney."

Alito View's On Reapportionment Cases Seen As Debatable. In a New York Times editorial observer story (1/3), Adam Cohen says, "There has been a lot of talk about the abortion views of Judge Alito, President Bush's Supreme Court nominee. But his views on the redistricting cases may be more important." Sen. Joseph Biden "said recently that Judge Alito's statements about one person one vote could do more to jeopardize his nomination than his statements about Roe v. Wade. Rejecting the one-person-one-vote principle is a radical position. If Judge Alito still holds this view today, he

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could lead the court to accept a very different vision of American democracy, one in which it would be far easier for powerful special interests to get a stranglehold on government."

Critics Said To Be Wrong For Seizing On Alito's Memos In Abortion, Wiretap Cases. In a New York Times op-ed (1/3), former Reagan Administration solicitor general Charles Fried says Judge Alito's "opponents have seized upon two memorandums he wrote when he was a junior lawyer in the office of the solicitor general: one on the Thornburgh case, which dealt with Roe v. Wade, and the other on Mitchell v. Forsyth, which addressed the attorney general's personal liability for wiretaps found to violate the Constitution. Determined to fit the man to the Scalito caricature with which they hope to defeat his nomination to the Supreme Court, Judge Alito's detractors ignore the context and the content of both documents." But "these were not the writings of a political operative seeking to make trouble or advance an agenda. The solicitor general takes a case to the Supreme Court only when some other part of the government - perhaps a division of the Department of Justice or another agency - recommends it." As in "every case, a junior staff member was assigned to analyze these recommendations and propose a course of action to the solicitor general. It fell to Judge Alito to write those memos." But what is "remarkable in both cases is that Judge Alito recommended against taking the position that more senior, politically appointed officials were urging the solicitor general to take before the court. In the abortion case, not only the head of the civil division but also other high-ranking officials were urging that I, as the solicitor general at the time, ask the court to overturn Roe v. Wade. The bottom line of Judge Alito's memo was that I should not do that."

Roberts Calls For Tighter Court Security, Pay Raises For Judges. US Chief Justice John Roberts yesterday called for better court security and higher salaries to ensure a diverse mix of judges on the bench. Reuters (1/2, Charles) reports that Roberts wrote in his 2005 Report on the Federal Judiciary, "I recognize that it is a bit presumptuous for me to issue this report at this time, barely three months after taking the oath as chief justice," but, "But I do not intend to start the new year by breaking with a 30-year-old tradition, and so will highlight in this report issues that are pressing and apparent." Reuters adds, "Roberts expressed concern over violence directed at judges and in courts in the past year. He mentioned the murders of a U.S. district judge's husband and mother in Chicago by an angry litigant, and a court shooting in Atlanta that left a judge, court reporter and deputy dead. … Roberts also returned to a theme that Rehnquist regularly mentioned in his annual reports: the need to raise pay for judges. … Roberts said the real pay of federal judges has declined since 1969 by almost 24 percent, while the real pay of the average American worker during the same period had increased by more than 15 percent."

Bush Team Notable For Lack Of Turnover. The Washington Times/AP (1/3) reports the loyalty of President Bush's aides have limited turnover. After "two wars, devastating strikes by terrorists and hurricanes, a bruising re-election and countless legislative battles, President Bush's team is continuing the trend -- defying history and shake-up rumors to remain almost entirely intact five years in." Only a "handful of the president's most senior aides have departed since Mr. Bush came to Washington in 2001. Though some have shifted roles, it's a familiar cast of characters at the president's side: Vice President Dick Cheney, Chief of Staff Andrew H. Card Jr., political guru Karl Rove, Deputy Chief of Staff Joe Hagin, counselor Dan Bartlett, budget chief Joshua B. Bolten, White House Counsel Harriet Miers and press secretary Scott McClellan." Bush's Cabinet "has seen more turnover than his top-level White House staff. Still, a third of the 21 Cabinet-rank positions are held by the same person as when Mr. Bush came to Washington." David Gergen said, "I don't think there's any other president in the modern era that has seen this kind of stability."

Medicare Drug Program Gets Off To An "Uneven" Start. A somewhat negative story in the New York Times (1/3, Pear, 1.19M) says the Medicare prescription drug program "got off to an uneven start across the country" this week. The Times says that while people "who applied early and had identification cards in hand were often able to fill prescriptions through the new program," others "were stymied in their efforts to take advantage of the drug benefit, as pharmacists spent hours trying to confirm eligibility and enrollment by telephone and computer." The Times adds, "Dr. Mark B. McClellan, administrator of the Centers for Medicare and Medicaid Services, said he was pleased with the first days' experience. 'Many thousands of people were able to get their prescriptions filled,' he said."

Many Seniors Still Befuddled As Medicare Drug Benefit Takes Effect. ABC World News Tonight (1/1, story 2, 2:35, Harris) reported, "The beginning of 2006 means millions of senior citizens can get prescription drug benefits through Medicare. Pharmacists say tomorrow may be the busiest day of the year, with many seniors coming in with many questions about their plans. While 43 million seniors are eligible, only 1 million have signed up for what some consider the most confusing government benefits ever." ABC (Yang) added, "Medicare officials say there's still plenty of time. Enrollment ends May 15th. They're now running TV ads, encouraging people to help their moms and dads. … Medicare officials say one of the most efficient ways to sort

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through all the options is on the Internet. But 75% of seniors say they've never even been online."

The CBS Evening News (1/1, story 5, 2:20, Roberts) reported, "Huge fanfare and a lot of confusion are accompanying the biggest change in Medicare history. The government's new prescription drug plan which is supposed to make drugs more afford to believe millions of Americans seniors goes into effect today." CBS (Chen) added, "20 million low income Americans" are "being forced off state drug coverage programs and into the myriad of prescription plans run by private insurance companies. Supporters expect as many as 10 million more will voluntarily sign up, though only one million have so far."

Gingrich Urges GOP To Propose Lobbying Reforms. Former Speaker of the House Newt Gingrich was asked on CBS' Face the Nation (1/1, Schieffer) if Republicans are in danger of suffering losses in this year's elections due to scandals tied to several GOP congressmen. Gingrich relied, "I think that this coming year…is going to be a very big year of decision for Republicans. We have to be the party of reform. We can't just be the party of pork barrel. … I'd look very seriously at completely rethinking the relationship with lobbyists. I'd require every lobbying activity to be listed on the Thomas system, the computer system people can access, so you'd know if your member of Congress, whether they went golfing, whether they had dinner. I'd make this stuff public and transparent. I'd consider not allowing fund-raisers in Washington. I think this whole system has grown, frankly, a little sick with insiders raising money for insiders to re-elect insiders to do favors for insiders. I think this is not just a Republican problem. Don't misunderstand me. But I think we are much more naturally the party of reform than the Democrats are."

Cheney, Rumsfeld Have Neighboring Estates On Maryland's Eastern Shore. A lengthy story on the front page of the Washington Post's (1/3, C1, Montgomery) Style section looks at the "expensive waterfront estates" of Vice President Dick Cheney and Defense Secretary Donald Rumsfeld in St. Michael's, Maryland. Rumsfeld's retreat, Mount Misery and Cheney's place, Ballintober, are "are separated by two miles of narrow lanes." The Post reports, "What gives? Is a secret weekend war cabinet forming? Are yachts and duck decoys part of the plan to transform the military? Did Cheney tire of his secure undisclosed hideaway and opt to join Rummy in his serene disclosed getaway? We are probably thinking too hard. The search for obscure meaning -- that reflex for overinterpretation -- is so Western Shore. The Bay Bridge is where you lighten up and leave behind your fevered quest for the matrix behind the mask. … Cheney may be the first part-time resident with a full Secret Service detail, but the famous, the rich and the powerful of Washington (and New York, Baltimore, Philadelphia, Pittsburgh) have been setting a course for St. Michaels and the wider, watery Talbot County for generations. The area has functioned like the Adirondacks did for the swells of the Gilded Age, Newport for the robber barons and the Hamptons for Wall Street. But somehow St. Michaels…survives as an anti-Newport, a non-Nantucket, an un-Hamptons. Not overrun, overpriced, overglitzed. Not yet."

Mankiw Offers New Year's Resolutions For Lawmakers. In Wall Street Journal (1/3, 2.11M), N. Gregory Mankiw, former chairman of President Bush's Council of Economic Advisers, offers a list of New Year's resolutions, which "any senator, congressman or presidential wannabe is free to adopt… as his or her own." Among Mankiw's resolutions: "This year I will be straight about the budget mess. I know that the federal budget is on an unsustainable path. I know that when the baby-boom generation retires and becomes eligible for Social Security and Medicare, all hell is going to break loose. I know that the choices aren't pretty -- either large cuts in promised benefits or taxes vastly higher than anything ever experienced in U.S. history. I am going to admit these facts to the American people, and I am going to say which choice I favor." Mankiw adds, "This year I will admit that there are some good taxes. Everyone hates taxes, but the government needs to fund its operations, and some taxes can actually do some good in the process. I will tell the American people that a higher tax on gasoline is better at encouraging conservation than are heavy-handed CAFE regulations. It would not only encourage people to buy more fuel-efficient cars, but it would encourage them to drive less, such as by living closer to where they work." Mankiw also writes, "This year I will be modest about what government can do. I know that economic prosperity comes not from government programs but from entrepreneurial inspiration."

Grassley Makes Case For GOP Deficit Reduction Bill. Senate Finance Committee Chairman Charles Grassley writes in USA Today (1/3, 2.31M), "In such a partisanship-first environment, any fair-minded move toward a more responsible budget is surely welcomed by the taxpayers. The GOP-sponsored deficit reduction bill is that sort of initiative. It's modest, representing just one-half of 1% of what would otherwise be spent during the next five years. Its Medicaid provisions reflect what governors nationwide -- Republicans and Democrats -- asked Congress to do to help them manage the program in their states and ensure its viability for low-income pregnant women and children." Grassley adds, "The tax relief in question is also part of

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stemming the red ink in Washington. The tax policies passed by the Senate and House aren't new at all. They merely extend expiring tax laws so that taxpayers aren't hit with a tax increase. This legislation is needed to protect 14 million families from the alternative minimum tax meant for wealthy individuals. It includes tax breaks for higher education and teachers who buy classroom supplies. It closes tax shelter loopholes. And it includes pro-growth measures that have helped fuel our economy." Grassley concludes, "Congress needs to do a lot more to control spending and reduce the deficit, but it's wrong to dismiss a step in the right direction."

USA Today Says GOP Bill Lacks Conscience. An accompanying editorial in USA Today (1/3, 2.31M) says "it would be nice to see in Washington a new commitment to fiscal restraint and a resolve to bequeath a solvent government and robust economy to future generations. To listen to many Republican lawmakers, a move in that direction is underway. … It would be nice to see it that way, but to believe that is to believe in fairy tales. This political sleight of hand is simply too small to matter and is designed to evade the real financial predicament — runaway health care costs, unsustainable retirement benefits and tax rates receipts well below historical averages. The cowardice in that is bad enough, but the measure is also cruel. Virtually all of Congress' cuts are made to programs for the poor and the young, who lack organized lobbies. Absent congressional conscience, they are simply targets of political opportunity. And be assured conscience is lacking." USA adds, "Congress will not deserve credit until it takes on health costs, tells seniors it can't sustain a Social Security system in which one of every three adults collects benefits, and raises taxes for the wealthy back to more reasonable levels. Until then, each year will bring the nation and the federal government only closer to fiscal crisis."

OTHER NEWS:

West Virginia Coal Miners Trapped After Mine Explosion. Rescue crews yesterday sought desperately to reach 13 West Virginia coal miners trapped after a mine explosion in Tallmansville. The story was the lead on both CBS and NBC last night; ABC was preempted for college football last night. The CBS Evening News (1/02, lead story, 4:00, Schieffer) reported, "They are still not certain what caused it. A lightning strike is the best guess now, but before dawn this morning, there was an explosion at a coal mine in Tallmansville in central West Virginia. Tonight 13 minors are trapped there, some 160 feet underground. They have air purifying equipment but no oxygen. For most of the day, poisonous gas has kept rescue workers from trying to reach them. But late today, rescue workers did enter the mine." CBS (Orr) added, "An eight-man rescue team has just entered the mine and are now traveling a tunnel in the hill behind me going some two miles inside the hill trying to reach the miners who are trapped there. So far it's a bit grim because there's no communication with the trapped miners."

NBC Nightly News (1/2, lead story, 3:15, Holt) reported, "Tonight, a life and death drama is taking place outside a coal mine in West Virginia." NBC Nightly News (1/2, story 2, 2:45, Holt) also spoke with NBC News Robert Hager, who covered the 2002 Quecreek Mine accident, where nine miners were successfully rescued after begin trapped by a flood. Hager said, "This one looks grimmer to me, mostly because in that case, they were dealing with a flood. In this case, it's been an explosion, and an explosion does two things. It creates a lot of debris and it's blocked the shaft, and eats up oxygen." The Washington Times/AP (1/3, Smith), Washington Post (1/3, A1, Tyson, Vedantam, 744K) and New York Times (1/3, Dao, 1.19M), among other newspapers, also report the story.

Bernanke Faces Difficult Balance Sheet, Greenspan Comparisons. The Wall Street Journal (1/3, Ip, 2.11M) reports that incoming Federal Reserve Chairman Ben Bernanke faces "two major stumbling blocks" as he steps into the post being vacated by outgoing chairman Alan Greenspan: "difficult comparisons" with Greenspan and "a balance sheet with potential land mines." Bernanke's job "is complicated by a balance sheet loaded with debt and possibly overvalued assets. … 'It could be argued that Greenspan is handing Bernanke a poisoned chalice: an economy with an impressive track record, but one burdened with unprecedented financial imbalances,' Martin Barnes, editor of the Bank Credit Analyst, a forecast journal, wrote in November. 'It will be hard to rebuild household savings, reduce the current-account deficit and stabilize the housing sector without causing some economic pain.'"

Economy Expected To Grow For Fifth Straight Year, But At Slower Rate. The Wall Street Journal (1/3, Gerena-Morales, Annett, 2.11M) reports, "Strong spending by businesses should power the nation's economy to a fifth straight year of expansion in 2006, according to a survey of economists' forecasts, but a softening housing market is likely to slow the overall pace of growth. For the past five years, real-estate wealth has supported the economy by providing consumers with cash to buy everything from designer kitchens to luxury vacations to new or second homes. Some economists believe that the boom has been responsible for creating more than one million American jobs since 2000." But "as home sales start to slow and the inventory of unsold homes climbs, many economists believe that home prices will rise more gradually, or even decline, delivering a jolt that causes consumers to rein in spending. That, in turn, may cause economic growth to slow." The

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Journal adds, "The consensus forecast of 56 economists surveyed by The Wall Street Journal is that the nation's gross domestic product -- the broadest measure of economic output -- will grow at an annual rate of 3.5% in the first half of 2006 and 3.1% in the second half. While those growth rates are considered respectable, they would fall short of the 4.1% average of the past 2½ years. … On the positive side, economists expect overall inflation to moderate this year."

Hubbard Credits Bush Tax Cuts With Helping Economy After Recession. Former Chairman of the Council of Economic Advisers Glenn Hubbard said on Fox News' Special Report (1/2), "The economy is growing at a potential rate of around 3.5 percent, which is truly extraordinary. It really traces the two things, I think. One is how well financial markets work to allocate risk and capital in the country. And the other is how amazingly flexible American labor markets are. There's really no economy in the world that has capital and labor markets as efficient as this one." Asked about polls showing that President Bush is getting credit for the "revival of the economy," Hubbard said that "the president deserves credit for a set of tax policies that really helped the economy bounce back from the recession. But the underlying strength of the economy has little to do with Washington and a lot to do with the kind of institutions that helped the economy absorb technological change and absorb shocks, whether those shocks in financial markets or the real economy in your Katrina example. That is really the heart and soul of this high growth rate for the economy."

Stock Market "A Dud" In '00s. USA Today (1/3, Shell, 2.31M) reports, "This isn't your father's bull market. The '80s were great. The '90s were even better. But the '00s so far have been pretty much a dud. … It's unlikely, for example, that the Dow Jones industrial average, which declined 0.6% in 2005, will be able to come anywhere near its 228% gain in the '80s and its 318% gain in the '90s. The blue-chip barometer is actually down 6.8% since the end of 1999."

However, the New York Times (1/3, Dash, 1.19M) runs a report under the headline "After A Resilient '05, Wall St. Isn't Counting Out '06," in which it says "the economy proved more resilient than the worriers expected. Consumers continued to spend. The housing market did not collapse. Economic growth has been robust. And the stock market even had a year-end rally going - with the Dow Jones industrial average flirting with 11,000 - until it fizzled in the final weeks." So "it is not surprising that Wall Street has muted the alarms about 2006. Over all, analysts are relatively bullish in their outlooks. But concerns remain about the health of consumer spending and the effects of higher interest rates. Five Wall Street analysts who were surveyed predicted that the Standard & Poor's 500-stock index, which closed 2005 at 1,248.49, would end 2006 between 1,170 and 1,400."

Recession Worries Said To Be Rising For 2006. The CBS Evening News (1/1, story 6, 2: 20, Roberts) reported, "Like a roller coaster, the stock market had some wild ups and downs in 2005, but ended up right where it started. So what's next?" CBS (Alfonsi) added, "With big business struggling, unsteady interest rates, and signs of a recession, the best some forecasters are hoping for 2006 is an average year." A lot of investors "saw less-than-strong stock returns in 2005. The Dow finished in the red for the first time since 2002. The S&P was flat and the tech-heavy Nasdaq didn't fare much better. If you consider a year marked with soaring gas prices and natural disasters, those flat numbers don't look too bad. But what was bad news in 2005 could be good news for the market in 2006."

Dallas-Area Among Regions Reporting Robust Employment Numbers. The Dallas Morning News (1/2, Kreimer) reports, "An expanding economy and a skilled labor shortage have sparked a resurgence in the recruitment of employed and unemployed workers alike, including those at the high end of the pay scale, hiring experts say. That makes this year's outlook for job seekers the best since the turn of the millennium. … The Dallas-area job market hasn't seen growth that robust since 2000, when employment rose 3.9 percent, according to Texas Workforce Commission data."

Only Some Parts Of US Said To Be Experiencing Housing Bubble. The New York Times' Paul Krugman (1/2) writes, "In spite of record home prices, housing in most of America remains surprisingly affordable, thanks to low interest rates. That fact may seem to say that there's no housing bubble. But it doesn't. … It's…worth noting that the reason housing was so expensive in 1981 and 1982 was that mortgage interest rates were extremely high. That made recovery easy, because all it took to make housing affordable again was for interest rates to return to normal levels. This time, with interest rates already low by historical standards, restoring affordability will require a big fall in housing prices."

Minimum Wage In 17 States, District Of Columbia Higher Than Federal Level. Nearly half of the US civilian labor force lives in states where the pay if higher than the minimum wage set by the federal government. The New York Times (1/2, Broder) reports, "Seventeen states and the District of Columbia have acted on their own to set minimum wages that exceed the $5.15 an hour rate set by the federal government, and this year lawmakers in dozens of the remaining states will debate raising the minimum wage. Some states that already have a higher minimum wage than the federal rate will be debating further increases and adjustments for inflation." The federal minimum wage was raised from $4.75 in 1997. Since then, "efforts in Congress to increase the amount have been stymied largely by Republican lawmakers and business groups who argued that a higher minimum wage would drive

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away jobs. Thwarted by Congress, labor unions and community groups have increasingly focused their efforts at raising the minimum wage on the states, where the issue has received more attention than in Republican-dominated Washington, said Bill Samuel, the legislative director of the national A.F.L.-C.I.O."

NYTimes Says Congress Should Raise Minimum Wage. An editorial in the New York Times (1/3, 1.19M) says, "The federal minimum wage has been a paltry $5.15 an hour for more than eight years. Polls show that there is strong popular support for raising it, but Congress has resisted. Unions, community groups and advocates for the poor are increasingly taking the matter directly to voters through state referendums to raise their states' minimum wages, according to an article yesterday in The Times. Their intentions are laudable, but the efforts only highlight Congress's failure to set the federal minimum wage at a reasonable level." The Times adds, "State minimum-wage referendums are not ideal. Policy matters of this kind are best handled by legislatures, and the nation would be better off with a uniform federal standard. But given where the federal minimum wage now stands, state-level initiatives are the only game in town. Those grass-roots debates may shame Congress into taking long-overdue action to help the lowest-paid workers."

WSJournal Decries NEA Use Of Members' Dues. An editorial in the Wall Street Journal (1/3, 2.11M) says "If we told you that an organization gave away more than $65 million last year to Jesse Jackson's Rainbow PUSH Coalition, the Gay and Lesbian Alliance Against Defamation, Amnesty International, AIDS Walk Washington and dozens of other such advocacy groups, you'd probably assume we were describing a liberal philanthropy. In fact, those expenditures have all turned up on the financial disclosure report of the National Education Association, the country's largest teachers union. Under new federal rules pushed through by Secretary of Labor Elaine Chao, large unions must now disclose in much more detail how they spend members' dues money." The Journal adds that "even a cursory glance at the NEA's recent filings" exposes "the union as a honey pot for left-wing political causes that have nothing to do with teachers, much less students. … It's well understood that the NEA is an arm of the Democratic National Committee. (Or is it the other way around?) But we wonder if the union's rank-and-file stand in unity behind this laundry list of left-to-liberal recipients of money that comes out of their pockets."

WSJournal Praises Yale's Refusal To Give Anarchist Professor Tenure. The Wall Street Journal (1/3, 2.11M) editorializes, "Until recently, David Graeber was an associate professor of anthropology at Yale University, with a field specialty in Madagascar and a salary of $63,000. He is also a self-declared anarchist who has been arrested at antiglobalization rallies. Last spring, Yale denied him tenure. Mr. Graeber was outraged, suspecting the decision might have something to do with his politics." The journal adds, "One might fairly ask of Mr. Graeber why, if his anarchist convictions are sincere, he would seek to join the very employing class that he is otherwise pledged to struggle against. … In recent interviews, Mr. Graeber has given his answer: 'I'm not really an anarchist as a professor,' he told the New York Times. 'I figured I'd be a scholar in New Haven and an activist in New York.' So it turns out that even anarchists have their bourgeois ambitions. That's fair enough, but so is Yale's decision to deny Mr. Graeber tenure, and for what we suspect were not political motives. Among the qualities that characterize Ivy League faculties these days, hostility to liberal or radical politics isn't among them."

WPost Says Baltimore's Problems Predate O'Malley. An editorial in the Washington Post (1/3, A16, 744K) says, "No doubt, Baltimore Mayor Martin O'Malley rues the day when, as a candidate for office, he pledged to reduce the number of murders in the city to 150 annually. Instead, Baltimore's murder rate has remained stubbornly high -- it has not dipped below 250 since Mr. O'Malley took office in 1999 -- and this year the numbers attest again to the ongoing bloodbath. … Now that Mr. O'Malley is trying to become governor, Baltimore's murder rate represents a natural soft target for his political foes. … The question is how much blame can be fairly apportioned to Mr. O'Malley. Under his administration, overall violent crime in Baltimore, including rapes, robberies and assaults, has dropped sharply -- more sharply, in fact, than it has in other large cities. Real estate values have soared and, probably more significantly, Baltimore has stanched the outflow of middle-class residents who fled the city for years, right through the 1990s. Mr. O'Malley's popularity in the city is broad and deep, and no one accuses him of not trying to attack the murder rate head-on." The Post adds, "Political opponents of Mr. O'Malley can make all the hay they want, but the failures in Baltimore that have contributed to the ghastly murder rampage -- including low-performing schools and inefficient parole, probation and juvenile justice systems as well as the drug scourge -- predated his time in office. At issue is how effectively has Mr. O'Malley stepped up to those problems as well. His attempts and failures to rein in the murder rate deserve scrutiny, but so do government and society at large in Maryland -- and at all levels."

New State Laws Deal With Technology, Security. The Christian Science Monitor (1/3, Scherer, 61K) reports on new state laws which will take effect this

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year. The Monitor reports, "A number of state legislatures have focused on the impact of technology. For example, some automobile companies are installing 'black boxes' in their more expensive models. These devices, like those in airplanes, record the direction and speed of a car, steering and braking performance, and the status of the driver's seat belt. Now, Nevada has enacted legislation that requires manufacturers to notify buyers if a car contains such a device and what the black box can record. In addition, the information in the box can be downloaded or retrieved only by the owner of the vehicle. … Many states have also become alarmed over 'security breaches,' especially by companies with credit-card or Social Security information. Six states - Connecticut, Illinois, Louisiana, Maine, Minnesota, and Nevada - are requiring companies to notify consumers if sensitive financial information has been stolen. Connecticut goes even further: Residents can "freeze" their credit reports if there has been a slip-up. New Jersey and Virginia, meanwhile, have barred making public a person's Social Security number."

Liberal Crusader Hirschkop Nears Retirement. The Legal Times (1/2, McLure) reports on the impending retirement of long-time liberal attorney Philip Hirschkop, who is "known not only for his legal prowess but his bombastic and outspoken manner. Hirschkop, now 69, is preparing to close his law offices in Old Town Alexandria, Va., marking the end of a colorful, four-decade career that made him an icon among left-wing lawyers." The Times continues, "For the past two decades, Hirschkop has served as the outside general counsel for People for the Ethical Treatment of Animals, the controversial animal rights group known for its militant advocacy of vegetarianism and its proclivity for throwing pies at fur-wearing fashionistas. … But long before he hoisted PETA's standard in battle, Hirschkop had made his mark as a civil rights lawyer and as an opponent of the Vietnam War. Perhaps his most significant case was Loving v. Virginia, a landmark 1967 U.S. Supreme Court case that overturned Jim Crow-era laws banning interracial marriage — a case in which Hirschkop presented the main argument when he was just two years out of law school." The Times adds, "Since that auspicious start, he's worked for a member of the House Un-American Activities Committee, donned a Viet-Cong armband to protest the war, and stood for the free-speech rights of the American Nazi Party. In one six-year span, 17 disciplinary complaints were brought against him at the Virginia State Bar — a distinction Hirschkop bears proudly. The complaints, he says, were 'never for screwing a client, only for making public statements' about pending litigation."

Relief Agency Head Urges Donors To Choose Charities Carefully. Richard M. Walden, president of the international relief agency Operation USA, writes in the New York Times (1/3, 1.19M), "Money is the mother's milk of disaster relief. And over the last 12 months - with the Indian Ocean tsunami, the hurricanes on the Gulf Coast and the Pakistan earthquake - fund-raising records have been broken by the King Kong of relief agencies, the American Red Cross, and by many smaller organizations as well. … In late November it was reported that the American Red Cross still had $400 million of the $567 million it had collected for the tsunami since Dec. 26, 2004. Meanwhile, many of the countries hit by the waves, all of which have their own national Red Cross or Red Crescent societies, continue to beg for more help with housing, health and education programs. Why our Red Cross holds on to so much money is a mystery, but it is hardly the only agency that does so. A survey by InterAction, an umbrella group of relief agencies, found that many other charities reported spending far less than they took in last year; an average of just 42 percent of the money received by 62 relief groups providing tsunami relief has been spent." Walden adds, "With the incendiary combination of huge government contracts, Internet fund-raising and appeals based on mass disasters, the charity business has entered a new age. Americans should continue to help those in dire need, but they should also look around before sending a check or clicking the 'donate' button."

Two Rescued After Plane Crashes Near New York City. NBC Nightly News (1/2, story 6, :20, Holt) reported, "A successful rescue today just north of New York City. Police and Coast Guard helicopters pulled two men out of the frigid Hudson River after their single-engine plane went down shortly after the pilot had issued a mayday call. An FAA spokesman says the men were a flight instructor and his student. Both are being treated tonight for hypothermia."

New Rules Could Lead To Increased Minimum Credit Card Payments. NBC Nightly News (1/2, story 7, 2:20, Holt) reported, "Just in time for those post-holiday bills to start piling up in your mailbox, some new rules that banks are now enforcing that will lead to higher minimum credit card payments for everyone. As of now, 13% of credit card holders pay just the minimum payment each month. And if you're among them you may be in for a surprise when you open that next bill." NBC (Shamlian) added, "Too many customers are saying 'charge it' too often. At least, that's the view of banking regulators who are behind the guidelines aimed at getting people to pay more, so they can get out of debt quicker. In the past, some minimums didn't cover even the interest due. The government guidelines say payments should cover at least 1% of principal, plus interest and fees. As of this month, all banks are complying." Nessa Feddis, American Bankers Assn.: "For the consumers in the long term, it means they'll pay less interest and they'll pay the

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balance off more quickly." Shamlian: "It could be a painful transition. On a balance of $5,000, the payment would jump from $100 to $200 a month. But that larger minimum payment means the debt would be erased in about two and a half years instead of almost seven years."

Questions Raised About Attorney Suing Ex-Client For Former Adversary. The Wall Street Journal (1/3, Davies) reports, "Don King makes a good living off boxers in the ring, and Judd Burstein has done well off Mr. King in the courtroom. … Since 1997, Mr. Burstein, a Manhattan lawyer, has scored a string of legal victories representing fighters in contract disputes against boxing's most famous promoter. In all, Mr. Burstein estimates he has cost Mr. King $25 million and pocketed $3 million to $4 million for himself." The Journal continues, "The acrimony between the two has been so intense over the years that Mr. Burstein once referred to the promoter as a 'cancer' on boxing. Mr. King described Mr. Burstein as an 'insidious insect.' … But now, Mr. Burstein finds himself in Mr. King's corner. The pugnacious attorney has switched sides and is representing the fight promoter in a lawsuit against Christopher Byrd, the International Boxing Federation heavyweight champ, whom Mr. Burstein recently represented in a suit against Mr. King. 'It's good to have him on my payroll now,' Mr. King says of Mr. Burstein." The Journal adds, "There's no rule explicitly prohibiting lawyers from representing someone they once sued. But legal experts say it's rare for an attorney to sue one person on behalf of a client and then sue the former client on behalf of the former adversary. … Complicating matters: The previous lawsuit and the current one involve a dispute over the same contract."

Texas Said To Be At Epicenter Of 2006 Congressional Races. The Dallas Morning News (1/2, Gillman) says Texas "is sure to be the epicenter of this year's congressional races, thanks to some unique factors, especially the trial of former House Majority Leader Tom DeLay and Democrats' efforts to leverage his ethics problems into a national wave." Unless DeLay "is convicted or the court throws out Texas' current congressional map, voters can expect spirited contests in only three Texas districts, and the campaign that officially begins today– the deadline for candidates to file paperwork to run in the March 7 primaries – probably won't alter the lineup much." DeLay "has his legal woes. Freshman Rep. Henry Cuellar, a Laredo Democrat, won the primary by just 58 votes two years ago after several bitter recounts. And Rep. Chet Edwards of Waco is a Democrat in a heavily Republican district." DeLay's district "is solidly Republican, but analysts say he's vulnerable, noting that he drew just 55 percent of the vote in winning an 11th term in 2004." Cuellar "served as Gov. Rick Perry's secretary of state and volunteered on the Bush presidential campaign, and his rivals say he's a Republican in disguise. … The district is solidly Democratic. The challenge will be to win without a runoff in April." Edwards "won his eighth term with just 51 percent. Two Republicans have spent months vying for the right to take him on in President Bush's hometown district: Iraq war veteran Van Taylor and Tucker Anderson, a former aide to Dallas Rep. Pete Sessions, a Republican."

GOP Said To Be At Disadvantage In 2006 Midterm Elections. The Washington Times (1/3, Lambro, 90K) reports President Bush and the Republicans "face a tougher midterm election landscape in 2006, due largely to the closely divided American electorate and, ironically, the gains the Republicans have made in the past decade." Few analysts "expect the Democrats to regain control of the House or Senate in November, but many think they likely will pick up seats in both chambers and cut into the Republican advantage in governorships. Republicans have a larger number of vulnerable seats to defend, particularly in Democratic-leaning 'blue' states." Political analyst Stuart Rothenberg said, "This year still looks very much like a Democratic year, and the only question is how big a year it will be for the Democratic Senatorial Campaign Committee and the Democratic Congressional Committee. … At this point, Democratic gains appear to be inevitable." The Times identifies Senate race opportunities for the Democrats in Pennsylvania, Rhode Island, and Ohio, and for Republicans in Minnesota, Maryland, and New Jersey. In the House, "most analysts say Democrats could pick up a half dozen seats, well below the 15-seat gain they would need to win majority control." In the state houses, Democrats "appear likely to make modest gains…where Republicans hold a 28 to 22 advantage."

Dionne Says GOP Disunity Could Hurt Showing In Midterms. In his Washington Post column (1/3, A17), E.J. Dionne says, "The 2006 elections will determine whether Rove's brilliantly constructed machine has staying power or falls apart in the face of adversity. And there was adversity in abundance during 2005." But it is "three strikes and you're out: The social-issues right can't help Bush if its support drives away too many moderates. Pro-business economics can't help if it drives away many in the middle class. And the war on terrorism doesn't help if Bush is seen as managing it badly." It is "customary in columns of this sort to say somewhere around now that the Democrats will need to come up with a plan, a message, a program, etc., etc. I'm all for such things. But in 1958, 1966 and 1978, the out party gained ground largely by exploiting the failures of the party in power and exacerbating the contradictions in its coalition. If the Democrats prosper in 2006, it will be because whatever program they come up with achieves those goals."

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Schneider "Political Earthquake" Required For Democrats To Retake Congress In 2006. William Schneider said on CNN's Lou Dobbs Tonight (1/2), "Ever hear of the six-year itch? It's a disease presidents often get after their party has held the White House for six years. The symptoms? Big setbacks for the president's party at the polls. It happened to the Democrats in 1938 and 1966. And to the Republicans in 1958, 1974, and 1986. On the average, the president's party lost 44 House seats and seven Senate seats in those elections. Democrats need to gain just 16 seats this year to win control of the House of Representatives, and seven to take over the Senate. Piece of cake? Not exactly. Very few seats change party these days. Most House seats are safe for one party, and only three Republican senators running for re-election are from blue states." It "would take a political earthquake for the Democrats to win control of Congress this year. But you know, earthquakes have been known to happen."

Barone Also Says Democrats Are Unlikely To Retake House. Michael Barone of US News and World Report said on Fox News' Special Report (1/2), "Democrats need a net gain of 15 seats to win the House, that doesn't seem very many. But if there are only 25 races that are very seriously contested, a net gain of 15 is pretty hard to achieve. So, [DCCC Chairman Rahm] Emanuel is trying to broaden the field and make some districts seriously contested that people would not have thought were in the past." Barone added that retaking the House is "a long shot for the Democrats."

Barnes Says Democrats Won't Win House Or Senate Control. Fred Barnes was asked on Fox News' Special Report (1/3) for his predictions for 2006. Barnes said, "I think Democrats will win House seats, but not the House. They'll win Senate seats, but not control of the Senate. I expect Arnold to be reelected as governor of California. And President Bush's job approval rating, which has bumped up to 50 percent in a couple of polls already. Will stay around 50 percent or higher for most of 2006." Barnes added, "The emerging star among Democratic presidential candidates is Russ Feingold, a Wisconsin senator. Among Republican presidential candidates is George Allen, the Virginia senator."

Trump Rules Out Gubernatorial Bid, Hints At Run For White House. The New York Post (1/3, Dicker, 624K) reports that Donald Trump on Monday "flatly ruled out running for governor this year -- but hinted he may go for president in 2008. Trump, in a phone call to The Post…declared, 'I'm not going to run for governor because I'm having too much fun doing what I'm doing now." While Trump "repeatedly ruled out a race for statewide office, he strongly suggested he was interested in entering the national political arena in 2008. Trump, who considered an independent run for president in 2000, pointedly noted that his decision not to run governor this year 'doesn't preclude me from doing something [political] in the future.' He then repeatedly ducked questions on whether he would consider running for the White House, repeating that he's too busy for electoral politics. But a political figure close to Trump told The Post, 'Donald is definitely interested in running for president in 2008, possibly as an independent candidate.'"

NYC Transit Strike Seen As Avoidable. In an op-ed for the New York Times (1/2) Meyer S. Frucher and Joseph M. Bress, former directors of the Governor's Office of Employee Relations for New York State, write, "New York City's transit workers are back on the job. … The city, meanwhile, lost an estimated $1 billion during a frigid holiday shopping week that saw seven million commuters stranded. There's a better way than this to get a contract, and we can institute it simply by building on existing New York state law." The authors note that Gov. Mario Cuomo "signed an amendment to the Taylor Law that specifically addressed transit negotiations, offering a binding arbitration procedure to break deadlocked talks."

Bolton Initiatives Would Give Security Council Members Enhanced Power. he Washington Post (1/2, A7, Lynch) reports John R. Bolton, the U.S. ambassador to the United Nations, "said he will start the new year by reinvigorating stalled efforts to restructure management of the world body, beginning with a controversial push to seek assurances that the Security Council's five major powers will be guaranteed posts on a new Human Rights Council. Bolton said in an interview that the Bush administration wants to ensure that the United States is never again denied membership in the United Nations' principal human rights body, as it was in 2001, when Austria, France and Sweden defeated a U.S. bid for membership in the Geneva-based Human Rights Commission. … The proposal is part of a broader drive by Bolton to place the five permanent Security Council members -- Britain, China, France, Russia and the United States -- at the center of U.N. decision making."

Musharraf Backs Off Pledge To Take On Madrassas. The New York Times (1/2, Masood) reports, "As the incendiary training at some of Pakistan's seminaries drew renewed focus in the weeks after the July 7 bombings in London, President Pervez Musharraf promised to bring the schools into the mainstream and expel their foreign students by the end of the year." But" his tough pledge has fizzled." Last week, "the government backed away from its deadline and said it would not use force to deport the students." The schools then "said they would resist any effort to round up the students, and on Sunday, a coalition representing the seminaries called the government's plan 'inhuman, immoral and totally illegal,' The Associated Press reported." The

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schools, called madrasas, "were once the Islamic equivalent of Sunday school. … Of the four suicide bombers in the London attacks, at least one had spent time at a madrasa here with connections to militant groups."

The Washington Times (1/2, Ansari) adds "Western intelligence agencies suspect that madrassas served as rendezvous points between senior al Qaeda operatives and Tanweer, Khan and other British recruits." Musharraf, however, "relented on Thursday after clerics said they would rather be incarcerated than comply with orders to expel foreigners or give their names to the authorities."

UN Asks To Interview Assad In Hariri Probe. The Financial Times (1/3, Biedermann) reports, "United Nations investigators on Monday said they want to interview Bashar al-Assad, Syria's president, and Farouq al-Shara'a, his foreign minister, in connection with the murder of Rafiq al-Hariri, Lebanon's former prime minister." The announcement "came days after Abdel-Halim Khaddam, Syria's former vice-president, indicated that Mr Assad might have been personally involved in the run-up to the murder." The UN probe "was awaiting answers from Syria after requesting to speak to Mr Assad, Mr Shara'a and others, a spokesperson for the commission said."

The New York Times (1/3, Fattah, 1.19M) says "the request compounds pressure on the Syrian government just days after a stunning public attack on the president by his former vice president raised new questions about whether the government had been complicit in the assassination." A spokesman for the United Nations investigation told The Associated Press "the commission had sent a request to interview Mr. Assad and Mr. Sharaa, among others," but "would not specify when the request was made. It was not immediately clear whether the request had any connection to the allegation by former Vice President Abdul-Halim Khaddam on Friday that Mr. Assad threatened Mr. Hariri's life months before the assassination."

Former Syrian Vice President Breaks With Assad On Hariri Probe. The Financial Times (1/2, Biedermann) reports, "Syria's former vice-president Abdel-Halim Khaddam said on Friday that he has 'full confidence' in the UN-investigation into the assassination. The UN-team, until recently led by the German prosecutor Detlev Mehlis, has implicated senior Lebanese and Syrian officials." Speaking on the Arab satellite television station al-Arabiya from Paris, "where he has been staying for the last couple of months," Khaddam "announced a break with his country's leadership. He blamed President Bashar al-Assad for a deterioration in Syria's international position. And he said that if Syria had indeed killed Mr Hariri, it could not have happened without the knowledge of Mr. Assad."

Protestors Demand To Know Fate Of Missing Lebanese. The Washington Post (1/2, A1, Shadid) reports, "In the heart of downtown Beirut…women every day…protest demanding to know the fate of their children. Many believe they languish in jails in neighboring Syria. Others are not sure. Behind them, their children's faces stare from pictures tacked to billboards, blank faces with generation-old haircuts, the dates of their disappearances reading like a war memorial yet to be built. The protest…serves as a stark reminder, organizers say, that Lebanese society has yet to confront, much less resolve, the legacy of the most cataclysmic event in its modern history -- the 1975-90 civil war. Fifteen years later, that conflict is still shrouded in silence. Under a 1991 amnesty law, all but a handful of killings were placed beyond prosecution." The Post adds, "The protest's longevity reflects the changes unleashed by the departure of Syrian troops last spring after a 29-year presence. It is a sign of new transparency in public discourse as Lebanon."

Abbas May Delay Palestinian Elections. The New York Times (1/3, Erlanger, 1.19M) reports, "The Palestinian president, Mahmoud Abbas, on Monday raised for the first time the possibility of delaying legislative elections this month, saying the vote would be impossible if Israel did not allow residents of East Jerusalem to participate." Said Abbas, "We are all in agreement that Jerusalem has to be included in the election. … And if it is not included, all the factions agree that there will be no elections." But "a Hamas official in the Gaza Strip, Mahmoud Zahar, told reporters there had been no agreement to accept another delay." Hamas "agreed last summer to postpone the elections, originally scheduled for July, but has insisted on the vote's going ahead this month."

British Hostages Freed In Gaza. The Financial Times (1/2, Davi) reports, "Three Britons held hostage in the Gaza Strip were released by their kidnappers on Friday night, according to unconfirmed reports from Palestine. Human rights worker Kate Burton, 24, and her parents had been freed, Palestinian mediator Kamal Sharafi said. However, the Foreign Office in London was unable to confirm the reports." The Times adds, "Concern grew through the day over the fate of the Britons, after the Palestinian police chief earlier said there had been no demands or contacts from the unidentified hostage-takers."

Palestinian Security Officers Free Italian Hostage. The New York Times/AP (1/2) reports, "Palestinian security officers stormed a building on Sunday where an Italian hostage was being held, freeing the captive in a shootout with his kidnappers." It was "a rare show of force in a wave of kidnappings, shootouts and other violence in the Gaza Strip that has embarrassed the Palestinian president, Mahmoud Abbas, threatening to undermine his Fatah Party in Jan. 25 legislative elections and to strengthen Hamas, the Islamic militant group." The hostage, Alessandro Bernardini, an aide in the European Parliament, "was abducted early Sunday in

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Khan Younis." The Washington Times (1/2, Barzak) runs the same AP story.

Italian Tourists Taken Hostage In Yemen. The Washington Times (1/2, Mounassa) reports, "Yemeni tribesmen took five Italian tourists hostage yesterday -- one day after freeing a German family of five that included a former ambassador to Washington. Of the five Italians, three women refused to be released later in the day, insisting on returning to their male companions who remained in captivity, local officials said." It was "the fourth abduction of foreigners in the country in three months."

Ahmadinejad Reportedly Causing Unease Inside Iran. The Los Angeles Times (1/2, Siamdoust) reports, "On the surface, little seems to have changed in the Iranian capital since President Mahmoud Ahmadinejad took office in August. … But underneath the veneer of normality, Iranians are watching as their controversial president settles into office — and their country hardens under his fundamentalist leadership." The Times goes on to report, "To both insiders and outsiders, the political face of Iran seems to have drastically changed. … Ahmadinejad, draped in a Palestinian kaffiyeh, the scarf that he has appropriated to signal his struggle against perceived injustice, has stirred international ire with virulent anti-Israel rhetoric. Meanwhile, his habit of immersing politics in sacred Islamic tradition has chafed critics within Iran." According to the Times, "But even in Iran's mostly conservative parliament, the hard-line president has found himself unable to get traction. In a first for the Islamic Republic, lawmakers turned down four of the ministers Ahmadinejad asked them to approve. It took him three months and four candidates to seat an oil minister. Some reformist legislators even agitated for hearings on the president's 'lack of political competence.'"

Krauthammer Predicts Israel Will Attack Iran This Year. Syndicated columnist Charles Krauthammer, on Fox News Sunday (1/1, Wallace), predicted, "Israel will launch a military strike on Iranian nuclear facilities. There are rumors today in German newspapers that the U.S. and NATO are talking about this. I don't imagine the U.S. or NATO will do this." Israel "will feel that the world isn't acting, and it's going to act on its own."

Sharon To Undergo Heart Surgery. The AP (1/2, Federman) reports, "Israeli Prime Minister Ariel Sharon will undergo a heart procedure Thursday to close a small hole that apparently led to his recent stroke, his office announced Sunday." Doctors "said last week that the procedure, known as a cardiac catheterization, would virtually eliminate the risk of Sharon suffering a similar stroke."

In Abrupt Reversal, Russia Restores Most Gas To Ukraine Pipeline. The Washington Post (1/3, A12, Finn, 744K) reports, "Russia retreated abruptly Monday from its confrontation with Ukraine over natural gas prices, after an uproar in West European capitals over dead-of-winter cuts in gas supplies threatened to undermine Russia's ambition to expand its highly profitable role as a strategic energy partner of the European Union." The "state-controlled Russian energy giant Gazprom" said it "would almost completely restore reductions it made Sunday in the gas it pumps into Ukrainian pipelines that connect to the rest of the continent." The New York Times (1/3, Kramer, 1.19M) adds Gazprom "officials…presented the decision not as a reversal but as a response to Ukraine's 'theft' of natural gas." But "it became clear almost immediately that the driving force in Russia's decision was the sharp criticism across Europe, including countries like Germany that are usually reliable allies."

The Financial Times (1/3, Correspondents) says "European countries on Monday suffered large cuts to their gas supplies as a bitter stand-off between Russia and Ukraine over gas prices intensified. Supplies of Russian gas to Italy fell by 25 per cent, according to Eni, the country's biggest oil and gas supplier. Deliveries of Russian gas to France dropped up to 30 per cent, Gaz de France said. Many central and eastern European countries, which depend heavily on gas from Russia, reported even larger declines."

The Wall Street Journal (1/3, White, Cummins, 2.11M) notes "the sudden crisis highlighted concerns about Europe's dependence on Russia, which supplies a quarter of the continent's gas, at a time of growing fears that the Kremlin is using energy as a political weapon." The Christian Science Monitor (1/3, Weir, 61K) runs a similar report in which it says that "with 80 percent of Russian gas exports flowing through Ukraine, wintry Europe could be hard hit." The Washington Times/Reuters (1/3, Clothier) runs a similar story.

In an analysis piece, the New York Times (1/3, Chivers, 1.19M) says for "President Vladimir V. Putin and Russia, 2006 was supposed to be a banner year. Instead, it has begun badly, and with problems of the Kremlin's own making. The Kremlin, which labored in 2005 to distance itself from the ill will that accompanied its destruction of the Yukos oil company and the bungled handling of the rigged Ukrainian presidential election in 2004, has begun the new year with a display of politics and bullying, followed by partial retreat, that is raising fresh questions about its reliability as an international energy partner."

CNN's Lou Dobbs Tonight (1/2, Romans) said "critics of President Putin say he's using Soviet-style tactics to bully Russia's neighbors." In an editorial, the Wall Street Journal (1/3, 2.11M) says, "Putin certainly has a flair for timing. The Russian President is assuming the chairmanship of the G-8 democratic nations in the same week that he's been

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attempting some Soviet-style energy extortion against Ukraine. … The Kremlin's real goal here isn't money so much as political influence over its democratic, free-thinking and formerly subservient Slavic neighbor. A year ago Ukraine's Viktor Yushchenko used his 'Orange Revolution' to defeat the Kremlin's handpicked presidential candidate and turn toward the West. The energy squeeze is Mr. Putin's attempt at revenge, notably coming less than three months before Ukraine's parliamentary elections."

David Satter, who is "affiliated" with the Hoover Institution, the Hudson Institute and Johns Hopkins, writes in the Wall Street Journal (1/3, 2.11M), "With Sunday's accession of Vladimir Putin to the presidency of the G-8, post-Soviet Russia has achieved a new level of recognition and prestige as a democratic state. The recognition is undeserved. Instead of being democratic or even becoming democratic, Russia is daily sinking deeper into authoritarianism and lawlessness. … The Putin regime cannot ignore the views of G-8 colleagues. This is why the West needs to use all its influence to counteract Russia's self-destructive behavior."

Winter Weather Cuts Aid To Earthquake Refugees In Pakistan. The Washington Post/AP (1/3, A14, Khan) reports Pakistani earthquake survivors "struggled Monday to keep their children warm as the bitter winter hit Kashmir, grounding helicopter aid flights and blocking roads for the second straight day. … The Pakistan meteorological office forecast continued rain and snow for the next two days and low temperatures of 21 degrees Fahrenheit in the plains and 7 degrees Fahrenheit above 5,000 feet. For the second straight day, helicopters from the United Nations, foreign militaries and Pakistan's army were not able to deliver winterized tents, clothes, food and other provisions in the quake zone because of poor visibility, said Maj. Farooq Nasir, an army spokesman. They were trying to move supplies by truck, but mudslides and snow have also made some roads impassable, he said."

New Russian Law On NGOs Seen As Stifling Democracy. NBC Nightly News (1/1, story 10, 2:20, Mendenall) reported, "This week, Russia passed a new law that tightens the Kremlin's control over nearly a half million non-governmental organizations or NGOs, many of which have been critical of the president. Like Human Rights Watch, which says the Kremlin, irked by reports of human rights abuses, could use the new law to close it down. … The law also makes it harder to operate for other prominent US organizations promoting democracy, which Putin has accused of spying and supporting political revolutions on Russia's borders in Ukraine and Georgia, something the Kremlin doesn't want to spread much to Russia's borders."

Last Alternative Russian News Outlet Beset By Turmoil. The New York Times (1/2, Kishkovsky) reports, "Recent turmoil in the news department of REN-TV, Russia's last nationwide television network with independent news programming, has caused concern among media analysts and free-speech advocates in the country. … REN-TV has been known for critical news reporting that offered an alternative to state channels' uniformly positive coverage of President Vladimir V. Putin, media analysts said. Its signal reaches more than 113 million people, although its audience share hovers around 5 percent."

Taiwan's President Calls For Increased Defense Spending. The New York Times (1/2, Bradsher) reports Taiwanese President Chen Shui-bian "called Sunday for increased arms purchases and warned against greater economic ties to mainland China, in a televised speech that silenced months of speculation that he might soon seek to improve relations across the Taiwan Strait." The Times notes, "The speech was Mr. Chen's first major policy address since his Democratic Progressive Party fared badly in islandwide municipal elections on Dec. 3. … The Nationalist Party, which favors closer relations with Beijing, did much better in those elections."

Pakistan Negotiating Purchase Of Chinese Nuclear Reactors. The Financial Times (1/3, Bokhari) reports, "Pakistan is negotiating the purchase of between six and eight nuclear power reactors from China during the next decade in the most ambitious expansion yet of the country's nuclear energy capability. … The plants are expected to be completed by 2025, with construction starting by 2015, a senior Pakistani official told the Financial Times."

Sudanese Refugees In Egypt Vulnerable Following Deadly Riot. The New York Times (1/3, Slackman, 1.19M) reports, "Hundreds of Sudanese have been released from police detention camps onto the streets of this city with no money, no place to live - and in many cases, no shoes - three days after the riot police attacked a squatter camp set up as a protest to press the United Nations to relocate the migrants to another country. … The attack officially left 26 dead, including seven small children, and many others injured." The Times adds, "So many were left dead, and the international condemnation was so embarrassing, that President Hosni Mubarak has told the attorney general to investigate. But the government's official position is that the Sudanese were to blame. Magdy Rady, the government's chief spokesman, said the Sudanese injured their own people by trampling those who collapsed, and he said they also attacked the police, injuring more than 70 officers." The Times notes, "The Sudanese were unarmed

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and many were barefoot. The police were wearing riot gear, including helmets with face shields, and wielded truncheons."

Korean Retailers Exert Power In China. The New York Times (1/2, Onishi) reports, "At Korea City, on the top floor of the Xidan Shopping Center, a warren of tiny shops sell hip-hop clothes, movies, music, cosmetics and other offerings in the South Korean style. To young Chinese shoppers, it seemed not to matter that some of the products, like New York Yankees caps or Japan's Astro Boy dolls, clearly have little to do with South Korea. Or that most items originated, in fact, in Chinese factories. … From clothes to hairstyle, music to television dramas, South Korea has been defining the tastes of many Chinese and other Asians for the past half decade."

Morales Election Seen As Evidence Of Castro's Growing Influence. The Washington Post's Jackson Diehl (1/2) writes, "Here's a sad but safe new year's prediction: U.S. relations with Latin America, which plunged to their lowest point in decades in 2005, will get still worse in 2006." Bolivia's Evo Morales "will probably take instruction from Chavez, Kirchner and Fidel Castro -- who at age 79 must believe he is finally seeing the emergence of the totalitarian bloc he and Che Guevara tried and failed to create in the 1960s."

Bolivia's Morales Says He Will Be America's "Worst Nightmare." Time (1/9, Padgett) reports that Bolivia's President-elect Evo Morales "won a stunning landslide in last month's election in no small part because he pledged to legalize far more cultivation of coca, which Aymara Indians like him have chewed for centuries for traditional medicinal purposes and which the U.S. has tried for decades to eradicate in Bolivia because drug traffickers use it to make cocaine. Morales impishly claims that coca-leaf extract is part of the formula of the classic American beverage Coca-Cola (a legend the company has consistently declined to comment on) and adds, 'It's not right that exporting coca is legal for Coca-Cola but not for the rest of us!' The Yankee baiting is part of Morales' stated intention to be the U.S.'s 'worst nightmare.'" The Bush Administration "has reason to be spooked. Morales' win has helped build momentum for a resurgence of leftist and often anti-U.S. candidates around Latin America. At least nine presidential races are slated for the region this year, and leftists could win at least five -- including those in the two most populous countries, Brazil and Mexico, as well as in coca producers like Peru and Ecuador. Leftists have toppled conservative governments in Uruguay and Honduras, and socialist Michelle Bachelet is favored to win Chile's presidential runoff on Jan. 15. To punctuate the situation, the radical left-wing President of oil-rich Venezuela, Hugo Chavez…is all but certain to be re-elected at year's end."

Ivory Coast Military Installation Attacked. The New York Times/AP (1/3) reports, "Gunmen attacked the main military barracks in Abidjan, Ivory Coast's largest city, on Monday, with gunfire and heavy explosions that shook the surrounding area, authorities said. The armed forces chief, Gen. Phillipe Mangou, said that the attack occurred around 6 a.m. at Camp Akuedo, and that military forces had repulsed it. There was no word on who carried out the assault."

Subsistence Farming Said To Encourage Child Labor In Ethiopia. The Washington Post (1/3, A1, Wax, 744K) reports Ethiopia "has one of the highest rates of child labor in the world," according to the UN. Nine million children "are employed, 90 percent of them in the agricultural sector. … Factors pushing children into the fields include ancient farming techniques, overworked land, the AIDS epidemic and a booming population of 74 million." The Post notes, "It is also an impoverished rural society where 85 percent of the population farms two-acre plots of land, too small to turn a profit, and nearly every plot is worked to exhaustion. Studies have shown that cultures dependent on subsistence farming also have the highest rates of child labor."

Former Political Prisoners Detail Burmese Junta's Abuses. The Washington Post (1/3, A12, Sipress, Nakashima, 744K) reports on Burmese political prisoners Min Ko Naing and Myo Myint both of whom "passed more than a third of his life in prison when both were released in 2004. Min Ko Naing, 44, remained in Burma, under scrutiny of the secret police. Myo Myint, 43, fled to a small town just over the border in Thailand. Their testimony, provided in separate interviews last month, highlights the psychological and physical abuse endured by political prisoners in Burma, which is ruled by a military junta. More than 1,100 people remain in jail for seeking democratic reform, according to Amnesty International. The two men's accounts reveal how determined they remain to press for social change despite torture inside prison walls and only the remote prospect for a shift in power outside them. Myo Myint now works with a group advocating prisoner rights. Min Ko Naing is urging the government and its opponents to set aside political differences to ease the country's deepening poverty and treat spreading disease."

Strike Follows Purge At Beijing Newspaper. The Christian Science Monitor (1/3, Marquand, 61K) reports, "An emotional strike by 100 journalists at [Beijing's] most popular and lively newspaper follows a 16-month campaign to quash a broad range of 'unapproved' public speech in areas verging on politics or society. … In the case of Beijing News, whose progressive editor Yang Bin was replaced without warning last week, Chinese authorities dealt a seemingly fatal blow to

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a publishing project that two years ago gave the press some freedom to experiment. Last June the paper reported on violent land disputes in Hebei province, and last month, in what may have precipitated the purge, it published tame, but independent, stories on the official coverup of a massive benzene chemical spill in the Songhua River. Last Thursday, in a gritty south Beijing neighborhood, nearly 100 reporters left the news offices. They began a short-lived strike - a rarity in China - and signed a petition asking for Mr. Yang's reinstatement."

Kirchner Seen As Moving Argentina To Left. The New York Times (1/3, Rohter, 1.19M) reports, "Just four years ago, Argentina's economy was prostrate and its politics in chaos, after a financial crisis resulted in bank deposits being frozen, the government defaulting on more than $100 billion in debt and five presidents holding office in two weeks. But on Tuesday, the country is expected to pay off the last of its debt to the International Monetary Fund and simply walk away from further negotiations with the group. … The $9.8 billion payment is an important symbolic milestone and just one of several recent signs that President Néstor Kirchner appears to be concentrating more power in his own hands and steering his government to the left. Since a midterm election victory in October, Mr. Kirchner has also moved to establish an alliance with Venezuela's populist leader, Hugo Chávez, and, as a traditional Peronist, to extend the hand of the state deeper into the economy, the judiciary and the news media."

LATimes Says North Korea Worsening Famine With Secrecy. The Los Angeles Times (1/2) editorializes, "Many third world countries would have been driven to the wall by back-to-back years of floods and drought. But North Korea, which suffered nature's disasters a decade ago, makes its problems worse with its leader's paranoid, Stalinist determination to isolate the nation from outsiders. For 10 years, the United Nations' World Food Program has done what it could to limit the number of deaths by famine, providing millions of tons of food worth more than $1 billion. When Pyongyang sometimes refused to let U.N. officials visit a province, the organization cut off the food. Its policy of 'no access, no food aid' is necessary to ensure that dictators such as North Korea's Kim Jong Il don't take the milk and grain and give it to their soldiers and trusted civil servants, rather than those who need it most. But now North Korea has forbidden private charities and the U.N. agency to deliver food. Pyongyang claims an improved harvest last year, and help from China and South Korea, will provide enough to feed its 23 million people. But outside experts are doubtful. A more likely reason for stopping food aid is to keep foreigners away and increase the already tight control by Kim's regime."

NYTimes Says Administration "Name-Calling" Against Korea Is Counter Productive. The New York Times (1/3, 1.19M) editorializes, "Calling North Korea nasty names is easy and satisfying. Negotiating is hard and frustrating. So for four years, the Bush administration put more creative energy into name-calling than into serious talks. The main result was that the North moved four years further along toward being able to threaten its neighbors with nuclear weapons. … The North can afford to take its time over resolving the nuclear issue, wasting diplomatic energy on disruptive and bullying tactics. The United States cannot afford that luxury. It makes little sense for the Bush administration to return to name-calling or to rule out high-level talks on the Patriot Act sanctions." According to the Post, "The window that briefly opened for diplomacy after John Bolton moved from nonproliferation issues to the United Nations is once again in danger of being slammed shut, reportedly at the urging of Vice President Dick Cheney and Mr. Bolton's successor in the nonproliferation job, Robert Joseph."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Cantonese Is Losing Its Voice."
"Voting System Results Still Out."
"New Beginning In U.S. Comes At Agonizing Cost."
"W. Virginia Blast Leaves 13 Coal Miners Trapped."
"Storm Stoked By Fierce Winds."
"Rain Dampens Everything But Spirit."

USA Today:
"Hospital Building Booms In 'Burbs."
"Dangerous Gas Hinders Effort; Mine Had Safety Citations."
"Bush Entering A Tough Time For Two-Termers."

New York Times:
"New Rules Set Fr Giving Out Antiterror Aid."
"Russia Restores Most Of Gas Cut To Ukraine Line."
"Blast Traps 13 In A Coal Mine In West Virginia."
"As Argentina's Debt Dwindles, President's Power Steadily Grows."
"Owners' Web Gives Realtors Run For Money."

Washington Post:
"Independence To End Flights On Thursday."
"Pr. George's Community A Sanctuary No More."
"U.S. Cedes Duties In Rebuilding Afghanistan."
"As Rural Ethiopians Struggle, Child Labor Can Mean Survival."

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"Obese Patients Increase Need For Specialized Medical Care."
"West Virginia Mine Explosion Traps 13."

Washington Times:
"Redskins Celebrate Long Awaited Playoff Return."
"Discount Carrier To Stop Flying."
"Europe Spurs Russia To Turn On Gas."
"Iraq, Economy Return To Top Of Bush Agenda."
"Saddam Prefers Death By Shooting."
"13 W. Va Miners Trapped By Blast; Resuce Team Sent."

Atlanta Journal-Constitution:
"Bulldogs Lose Nail Biter At Dome."
"Crews Dig For Miners."
"Storms Rake Metro Area."
"A Tiny Town That's Fit To Be Tied - Twice."

Dallas Morning News:
"Town Destroyed By Fire."

Houston Chronicle:
"Abramoff Plea Bargain Announcement Expected."
"Strayhorn Declares She'll Run As Independent."
"Fed Up With Gunshots, One Man Calls On The Angels."
"Absentee Ballots Show Turn In Mexico's Politics."
"4 KBR Contractors Killed In Collision At Iraq Base."
"Texans Let Capers, Two Top Assistants Go."

Story Lineup From Last Night's Network News:
ABC: Preempted by College Football.
CBS: WV Mine Accident; TX-OK Brushfires; CA Flooding; Abramoff Plea Bargain; Food Labels; American Heroes; Iraqi Burials; Japan Birthrate.
NBC: WV Mine Accident; Mine Accident Analysis; Mine Accident Witness; CA Flooding; TX-OK Brushfires; NY Plane Accident; Credit Card Payments; Iraq-Oil Prices; Indonesia Flooding; Germany-Ice Rink Collapse; Iraq-US Teen.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: WV-mine explosion; CA-levee repairs; CA-heavy rains; OK, TX-wildfires.
CBS: WV-mine explosion; CA-heavy rains; OK, TX-wildfires.
NPR: WV-mine explosion; Independence Air shut down; Haiti-presidential candidate arrested; Germany-ice rink collapse; CA-heavy rains; Midwest, South-tornadoes; Israel-Gaza car bombing.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH – Participates in a meeting on the Patriot Act, Roosevelt Room, White House. Pool at bottom.

VICE PRESIDENT CHENEY – No public schedule.

US Senate: FLOOR SCHEDULE _ 12 p.m. The Senate will convene for a pro forma session. Notes: Once today's session adjourns, the Senate is not expected to meet until 10:00 a.m. on Wednesday, Jan. 18, 2006.

US House: No Scheduled Events.

Other. ASSOCIATION OF AMERICAN LAW SCHOOLS _ The Association of American Law Schools holds their five day annual meeting. Workshops and plenary sessions for law professors, researchers and professionals. Topics will include the Iraqi Constitution, educational diversity, balancing life in law school, religious law, contracts, economics and international law. Location: Most events at Washington Marriott Wardman Park, 2660 Woodley Road NW.

URBAN SECURITY-CHERTOFF _ 10:30 a.m. Homeland Security Secretary Michael Chertoff participates in a news conference on 2006 Urban Area Security Initiative Grants. Location: Building 21, Nebraska Avenue Complex, 3801 Nebraska Ave, NW.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, JANUARY 3, 2006 7:45 AM EST

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TERRORISM NEWS:

White House Plans Focus On Iraq, Economy For 2006. In a story that runs over 2100 words highlighting political and policy opportunities for the Administration -- as well as potential pitfalls, USA Today (1/3, Jackson, Page, 2.31M) says that while past president have faced their greatest difficulties during the sixth year of their tenure, the White House is making preparations for a "better year" ahead. USA adds that for President Bush, 2005 "was a year of growing public impatience with the Iraq war, angst over record gas prices, devastation from Hurricane Katrina, the collapse of his Social Security plan and, finally, a firestorm over his decision to authorize targeted domestic spying without court warrants. Now he faces a challenge that has upended the best-laid plans of his predecessors: his sixth year in office." However, the White House "and its allies see opportunities, though, sixth year or not." Top aides "say Bush aims to travel more often and speak out more forcefully, touting the economy as underappreciated good news." To "avoid the sort of stalemate that undermined his Social Security proposal, Bush will downsize his domestic agenda, proposing changes in immigration law but shelving, at least for now, plans for a tax overhaul." White House spokesman Scott McClellan "says the basic game plan is simple: 'The economy and progress in Iraq.'" USA adds Bush's "most powerful aide, Karl Rove, has invited think-tank analysts, authors and others to the White House for ideas to help reinvigorate the president's domestic agenda." But there is "trouble on the horizon, too, and events that are outside White House control," such as in Iraq, the CIA leak investigation, and the Abramoff probe. USA then outlines the White House's planned strategy across a number of policy fronts.

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The Washington Times (1/3, Sammon, 90K) reports President Bush "is planning to spend 2006 getting back to the basics of his agenda by making the case for his policies on Iraq and the economy instead of pursuing lofty new domestic initiatives." White House spokesman Trent Duffy said, "The president will begin the new year very much in the way he left 2005, which is to discuss the country's two top priorities, keeping our economy strong and growing stronger and creating jobs, and also winning the war on terrorism." The Times adds that is "not to say Mr. Bush will not reveal new initiatives in his State of the Union address, tentatively scheduled for Jan. 31. But those initiatives are expected to be more modest than his ambitious quest to reform Social Security, partly because it will be harder to enact his agenda in a congressional re-election year." Aides "hinted that Mr. Bush will try to make his tax cuts permanent, pass an immigration reform law and push for additional energy legislation, including a measure to open oil exploration in the Arctic National Wildlife Refuge in Alaska. Although he has not officially abandoned Social Security reform, he will spend less time promoting the long-shot initiative."

Democrats To Attack Bush, GOP On Privacy Issues. The Washington Times (1/3, Hurt, 90K) reports congressional Democrats "are drafting a strategy to attack the Bush administration and Republicans as having little regard for the privacy of Americans." Before Christmas, Senate Minority Whip Richard Durbin said, "We will initiate at the beginning of this year one of the most serious debates and discussions on Capitol Hill in our history about individual rights and liberties." The Times adds the "topic will be a major focus of the Supreme Court confirmation hearings of federal Judge Samuel A. Alito Jr. as privacy rights -- the political code phrase for abortion rights -- already has become a major issue, Mr. Durbin said." Democratic leaders "then plan to keep the issue alive as they continue their opposition to key parts of the USA Patriot Act, which is set to expire in early February unless extended." But the "real payoff, Democrats say, will be the hearings into President Bush's authorization of warrantless spying on terror suspects."

Comey Opposed Parts Of NSA Domestic Spying Program. CNN's Lou Dobbs Tonight (1/2, Romans) reported, "The White House is vowing to aggressively defend its program to secretly wiretap Americans in the days and weeks ahead. But this upcoming offensive comes amid new reports of serious internal debate in the Bush administration over the legality of this program." CNN (Quijano) added, "Government officials say during at least part of James Comey's tenure as deputy attorney general, he vigorously opposed parts of the National Security Agency's secret domestic surveillance program and refused to sign off on its renewal." On Sunday, President Bush "would not comment directly when asked whether he was aware of any high-level resistance to the NSA program. Instead, he again forcefully defended its use, calling it legal and necessary." CNN added that "sources have told CNN that the surveillance program was stopped in 2004 for a short time because of legal questions. Some changes were then made to the program, but it's not clear what those changes were."

Williams Says Domestic Spying Program Is Hard To Defend. Pete Williams said on MSNBC's Hardball (1/2) that the domestic surveillance program is "a hard program to defend, because we don't know the extent of it or precisely how it worked. … Now, the legal justification they make is twofold. First, they say, the president has a constitutional authority as commander-in-chief to do this. And secondly, they say, when Congress authorized the use of military force, which was right after 9/11, it gave the president whatever authority he needed to do in wartime. Intelligence gathering, the administration argued, is incident to making war and the president has authority under that law as well. That's been their legal argument.

Mitchell Says Administration Needs To Be "More Out Front" About Eavesdropping. Andrea Mitchell of NBC News said on MSNBC's Hardball (1/2), "I think [Senate Judiciary Committee Chairman Arlen] Specter is a bellwether. … Right now the administration is pressing Specter to give this up and let the intelligence community do this in secret. And he's been arguing that this needs to be the Judiciary Committee. That there are major legal issues involved. One of the things that the White House probably is still resisting, but really needs to do, is be a little bit more out front, because it's not just a handful of cases. It's at least 500 people at a time being eavesdropped upon. And in fact, there were millions and millions of calls and e-mails that were swept up in this electronic vacuum cleaner.'

Thomas Says Presidents Always Give Themselves Power In Times Of War. Evan Thomas of Newsweek said on MSNBC's Hardball (1/2) that this is "an historic moment. A couple hundred years of presidents in times of crisis reaching out, giving a lot of power to themselves. Inevitably, there's a reaction, first it starts with a bureaucracy, it's a little slow and

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then seeps into the public. You can trace this after Watergate, Vietnam, World War II, World War I, every time we have a war, presidents do this. Eventually there's a reaction. I think that reaction is beginning now. What's not clear is how severe it is, whether the president is going to get whapped back, but you can feel some emanations off of Capitol Hill, as often where it starts, that people are starting to say, hey, maybe the balance is a little bit out of whack here."

Bush Defends Domestic Wiretap Program. President Bush on Sunday visited San Antonio to meet with wounded Iraq veterans and staff at the Brooke Army Medical Center. That visit, however, was largely upstaged by what NBC called his "strongly worded defense" of the Administration's use of the National Security Agency to wiretap people in the US. Other reports also tended to state say Bush defended the program "strongly" or "fiercely." The President made the remarks as media reports indicated there was some dissension within the Justice Department over the legality of the program -- and as four senators backed holding hearings. The story was the lead on NBC, while CBS covered it in a full segment and ABC mentioned it briefly. Today's major newspapers also cover the story in depth.

NBC Nightly News (1/1, lead story, 2:30, Costello) reported the President said, "yet again, in a very strongly worded defense," that "if al Qaeda is trying to call someone, the government should now who and why." Bush "felt compelled again to defend the secret White House program to monitor email traffic and listen into the phone calls of as many as 500 Americans each day without court approval. Mr. Bush said only international calls to and from the US and involving known al Qaeda sympathizers were tapped." President Bush: "It seems logical to me if we know a phone number associated with al Qaeda and or an al Qaeda affiliate, and they are making phone calls, it makes sense to find out why." Costello: "The President again emphasized Congress was kept informed of the program, which was regularly reviewed by the Justice Department and found to be legal. But the New York Times reported that then-Deputy Attorney General James Comey resisted approving parts of the spying program out of concern that it wasn't legal. And Newsweek reports in a cover story that then-Attorney General John Ashcroft refused to overrule Comey, while Time magazine reports that the President even bypassed top Justice Department attorneys who normally reviewed top-secret intelligence programs."

The CBS Evening News (1/1, story 4, 2:00, Roberts) reported, "Bush again fiercely defended his domestic spying program, one that authorizes the government to monitor conversations to and from the US without a court warrant." In an "attempt to dissuade congressional hearings its legality, he says even the program's disclosure has damaged national security and in answer to criticisms about possible civil liberty violations he argues that spying is limited in scope." President Bush: "If somebody from al Qaeda is calling you, we'd like to know why. In the meantime, this program is conscious of people's civil liberties, as am I." Roberts: "Today four US Senators, including Richard Lugar, the Republican Chairman of the Foreign Relations Committee said that hearings on the President's authorization of domestic spying without warrants are appropriate."

The New York Times (1/2, Lichtblau) reports Senator Arlen Specter, "a Pennsylvania Republican and chairman of the Judiciary Committee, has already pledged to make hearings into the program one of his highest priorities." In a letter to Specter on Sunday, "Senator Charles E. Schumer, a New York Democrat who is also on the committee, said the panel should also explore 'significant concern about the legality of the program even at the very highest levels of the Department of Justice.'"

Lugar, appearing on CNN's Late Edition (1/1, Blitzer), said, "I can understand in the context of 9/11 that there may have been, in a common sense way, a reason why calls coming from the Middle East or Afghanistan to America might be intercepted, but I think the Congress quite rightly is trying to take a look at now that we're past 9/11, we're going to have to live with the war on terror for a long, long while." Asked if he advocated holding hearings on the matter, Lugar responded, "I do. I think this is an appropriate time. … I think we want to see what in the course of time really works best and the FISA Act has worked pretty well from the time of President Carter's day to the current time."

Sen. Mitch McConnell, on Fox News Sunday (1/1, Wallace), said, "Thank goodness the Justice Department is investigating to find out who has been endangering our national security by leaking this information so that our enemies now have a greater sense of what our techniques are in going after terrorists. The overwhelming majority of the American people understand that we need new techniques in the wake of 9/11 in order to protect us. … This needs to be investigated, because whoever leaked this information has done the U.S. and its national security a great disservice."

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ABC World News Tonight (1/1, story 6, :20, Harris) reported, "There are reports that high-level officials at the Justice Department objected to the Administration's controversial domestic spying program." Reuters (1/2, Zakaria) notes the New York Times "reported on Sunday that James Comey, a deputy to then-Attorney General John Ashcroft, was concerned about the legality of the NSA program and refused to extend it in 2004." White House aides "then turned to Ashcroft while the attorney general was hospitalized for gallbladder surgery, the Times said." The AP (1/2, Riechmann) says Bush "didn't answer a reporter's question about whether he was aware of any resistance to the program at high levels of his administration and how that might have influenced his decision to approve it."

The New York Post (1/2, Mangan, Dicker) reports, "President Bush belittled top Justice Department official James Comey with the nickname 'Cuomo' after the former Manhattan U.S. attorney balked at allowing controversial warrantless eavesdropping to catch terrorists, a new report claims." The Post continues, "Comey acquired the nickname — which referred to New York ex-Gov. Mario Cuomo — after Bush administration officials concluded he was not a 'team player' on that and other issues, Newsweek reports. … Comey, who now is general counsel for the Lockheed Martin corporation, could not be reached for comment. … But Cuomo laughingly told The Post, 'I'll say this — Comey and Cuomo have this in common: They both agree that the president was wrong.' … The White House denied that Bush, who has a penchant for doling out nicknames, tagged Comey with the scornful sobriquet."

New York Daily News (1/2, Siemaszko) reports, "Schumer also said he will ask Specter to question top White House officials such as former Acting Attorney General Jim Comey, who reportedly opposed the secret domestic eavesdropping on legal grounds. … 'When Comey, who was one of the premier terrorism prosecutors in this country, said that he thought this program violated the law ... it calls into question the way the president and the vice president went about changing it,' Schumer said on 'Fox News Sunday.'"

Schumer, on Fox News Sunday (1/1, Wallace), commented, "The problem here is that the President thought there was a problem -- that's legitimate -- but instead of coming to people and saying 'okay, I need changes in the law,' he just changed it on his own. And today's revelations…really heighten the concerns about this. When [former Deputy Attorney General James] Comey, who was one of the premiere terrorism prosecutors in this country, said that he thought this program violated the law, when it's reported that people at the NSA -- and none of these people are left-wing liberals -- had real doubts about the program, it calls into question the way the president and vice president went about changing it."

The Los Angeles Times (1/2, Roche, Chen) says Bush "strongly defended the domestic eavesdropping program," and quotes the President saying, "If somebody from Al Qaeda is calling you, we'd like to know why. … We're at war with a bunch of coldblooded killers."

The Washington Post (1/2, A1, Rein) notes it was Bush's "third defense in two weeks of his secret domestic spying program." The Post quotes Bush saying, "This is a limited program designed to prevent attacks on the United States of America, and I repeat limited." The Post later says, "The president's first public comments of the new year after no public appearances last week offered a glimpse into how his administration intends to deflect congressional inquiries into his authorization of wiretaps on terrorism suspects -- with a vigorous defense of the program as a matter of national security."

The Washington Times (1/2, Curl) adds the President also "criticized anew the leaker who revealed the program to the New York Times, which published a front-page article about it on the day the Senate was scheduled to vote on an extension of the Patriot Act. 'There's an enemy out there. They read newspapers, they listen to what you write, they listen to what you put on the air, and they react,' said Mr. Bush, who added that the leak of the program causes great harm to national security."

NSA Surveillance Credited With Stopping Terror Attacks Post-9/11. Syndicated columnist Charles Krauthammer, appearing on Fox News Sunday (1/1, Wallace), said, "There's a great irony here. Everybody has been asking of themselves for the last four years why haven't we had a second attack. … But what we've heard over the last six months with these revelations, these so-called scandals, of the secret prisons where high-level Al Qaida have been held, the coercive interrogation which is under attack in the McCain amendment, and now the NSA eavesdropping -- we have the untold story which the administration could not tell. It knew why we had been protected. … We had a means, technological, in the NSA eavesdropping, and also other means in capturing these terrorists, of getting information. It's worked. It's held us safe."

DOJ Probes Of High-Level Leaks Seldom Meet With Success. Knight Ridder (1/2, Mondics) reports, "When President Bush defended the National Security Agency after the disclosure that it had spied on hundreds of Americans, he angrily denounced media leaks about the program, and the Justice Department has now opened a criminal probe. … But an ongoing Justice investigation of the president's own staff in an unrelated leak case and the handling of hundreds of other leak allegations each year suggest that the probe of the NSA leak - which focuses on the disclosure of classified information to The New York Times - faces huge obstacles." Knight Ridder continues, "Only two government officials have ever been convicted of leaking classified information to a news organization. Samuel L. Morison, a Navy intelligence analyst, was prosecuted for leaking three spy satellite photos to Jane's Defence Weekly in 1984; Jonathan Randel, a former Drug Enforcement Administration analyst, was convicted in 1999 of leaking confidential information about DEA investigations to a London newspaper." Knight Ridder adds, "More recently, special prosecutor Patrick Fitzgerald acknowledged difficulty proving that any laws governing the release of classified information were broken in the White House leak to the media of a CIA operative's identity. Fitzgerald did win an indictment Oct. 28 of I. Lewis "Scooter" Libby, former chief of staff to Vice President Cheney, for allegedly lying to investigators in the case. But after two years, Fitzgerald has charged no one with illegally releasing sensitive national security information - the charge that prompted the investigation. … Mark Corallo, a former Justice spokesman who is now a spokesman for Bush adviser Karl Rove in matters related to the Fitzgerald investigation, said the department typically received hundreds of requests a year from intelligence agencies to investigate leaks, and most cases went nowhere. … One reason is that the Justice Department, despite a handful of high-profile cases, has been reluctant to subpoena reporters who for reasons of confidentiality declined to testify; another is that laws governing such prosecutions require the government to show that the leaker intended to break the law - a difficult hurdle to clear."

Bush Will Begin 2006 "Preoccupied" By Domestic Spying Controversy. Time (1/9, Lacayo) reports that President Bush's 2002 Executive Order allowing the NSA to eavesdrop without a warrant on phone conversations, e-mail and other electronic communications "remained a closely guarded secret" for four years. Time adds, "Because the NSA program was so sensitive, Administration officials tell TIME, the 'lawyers' group,' an organization of fewer than half a dozen government attorneys the National Security Council convenes to review top-secret intelligence programs, was bypassed. Instead, the legal vetting was given to Alberto Gonzales, then White House counsel. In the weeks since Dec. 16, when the program was disclosed by the New York Times, it has set off a ferocious debate in Washington and around the country about how the rule of law should constrain the war on terrorism. That development ensures that the President will start the new year preoccupied for a while with a fight over whether his responsibility to prevent another attack gave him the power to push aside an act of Congress -- or, to use the terms of his harshest critics, to break the law."

In a separate story, Time (1/9, Tumulty, Allen) reports that "the revelation that his Administration has been spying in this country without warrants -- illegally, critics say -- may have put a crimp in Bush's plan to climb back on top of the agenda as the new legislative session begins. 'When Congress comes back,' warns a top G.O.P. congressional aide, 'domestic surveillance and privacy issues will be all over the front pages.' To which the President and his strategists seem to be saying, Bring it on." From the Time the story broke, the Administration "decided its strategy would be to 'overwhelm the skeptics, not back off, not change anything about the program and really home in very strongly on the fact that this is a legitimate part of presidential warmaking power,' says an adviser." GOP strategists "argue that Democrats have little leeway to attack on the issue because it could make them look weak on national security and because some of their leaders were briefed about the National Security Agency (NSA) no-warrant surveillance before it became public knowledge. Some key Democrats even defend it."

"Ferocious" Administration Infighting Delayed Domestic Spying Program For A Time. Newsweek (1/9, Thomas, Klaidman) reports, "NEWSWEEK has learned, ferocious behind-the-scenes infighting stalled for a time the administration's ambitious program of electronic spying on U.S. citizens at home and abroad." Newsweek adds, "It does not appear that President Bush -- determined to stand tall in the war on terror -- or Vice President Cheney, a staunch believer in executive power, hesitated to circumvent FISA. Asserting the broad warmaking powers conferred on the president by Article 2 of the Constitution and by a post-9/11 congressional resolution authorizing the use of force to combat global terror, Bush repeatedly approved of what the

NSA calls a 'special collection program' that eavesdropped -- without warrants -- on about 500 Americans a day."

"Reassertion Of Presidential Power" Said To Be At Heart Of Spying Debate. U.S. News and World Report (1/9, Kaplan) reports, "At the heart of the debate over domestic spying is a reassertion of presidential power. Legal advisers to the president have made a case for sweeping executive authority during wartime. The White House's authority to render terrorism suspects jailed without trial and run warrantless eavesdropping, they argue, is authorized by a congressional war resolution passed after 9/11 and by the Constitution's grant of war-making power to the commander in chief. Among the prime supporters of this position is Vice President Dick Cheney, who as White House chief of staff under Gerald Ford saw Congress take back considerable amounts of executive power after the abuses of the Nixon era. But Congress and the courts may now be pushing back. Legal challenges to the administration's detention policy and the FBI's national security letters are winding their way through the courts." Likewise, Time (1/9, Lacayo) says the White House "has been developing a very robust interpretation of presidential power" to "support its aggressive conduct." Vice President Dick Cheney "in particular believes that presidential power has been unreasonably confined since the 1970s." Time adds, "Because they required the President to plainly bypass an act of Congress, the no-warrant wiretaps may be the sharpest expression yet of the Administration's willingness to expand the scope of Executive power."

Domestic Spying Efforts May Be More Widespread Than Previously Thought. U.S. News and World Report (1/9, Kaplan) reports, "A string of revelations in recent weeks suggests that domestic spying programs may be far broader than previously thought." Government officials "have offered spirited defenses" of these programs. They say these allegations of spying "have been misinterpreted and exaggerated," and they "insist that the public expects law enforcement and intelligence agencies to be aggressive in the age of terrorism. President Bush was unapologetic about the NSA's warrantless intercepts. … The FBI, too, has mounted a strong defense. No investigations are opened, officials say, unless there is 'specific information about a potential criminal or terrorist threat.' Mere mention of groups or individuals in an FBI file, agents say, does not mean they are under investigation."

Allegations Have Sparked Lawmakers Into Action. U.S. News and World Report (1/9, Kaplan) reports that "the mounting allegations of domestic spying have sparked widespread concern and prompted members of Congress to action, among them Arlen Specter, the Pennsylvania Republican who chairs the Senate Judiciary Committee and who will convene hearings later this month. 'I want to know precisely what they did,' Specter said. 'How the NSA utilized their technical equipment, whose conversations they overheard, how many conversations they overheard, what they did with the material, what purported justification there was.' Democrat Rep. Robert Wexler is demanding documents on the Defense Department's secret monitoring program, part of a little-known agency called the Counterintelligence Field Activity."

Time (1/9, Lacayo) adds that "the House and Senate Intelligence Committees are almost certain to make deeper inquiries. Meanwhile, the Justice Department is launching an investigation of its own, into how word of the secret program was leaked." Justice officials "have refused to say whether the overall legality of the NSA program will also be investigated."

Bush Administration "Implored" NYTimes Editors Not To Publish Domestic Spying Story. Time (1/9, Ratnesar) reports on New York Times reporters James Risen and Eric Lichtblau, who broke the story "that the Bush Administration was running a covert domestic-spying program." It "took Risen more than a year to get the story into print -- and not before President Bush personally implored Times editors not to publish Risen and Lichtblau's account of how Bush authorized the National Security Agency to wiretap telephone and e-mail communications inside the US without court-sanctioned warrants." Time adds, "At the center of the article's backstory is Risen, who unsuccessfully pushed to publish the wiretap report last year, then took a leave to write a book, State of War: The Secret History of the CIA and the Bush Administration. It now appears he may pay a price for the disclosure: last Friday the Justice Department opened an investigation into who leaked the existence of the NSA program to the Times, raising the prospect of Risen's being compelled to reveal the identities of the 'nearly dozen' current and former officials who spoke to him about the program or face jail time for contempt of court."

Domestic Spying Debate Follows A "Predictable" Wartime Pattern. Newsweek (1/9, Thomas, Klaidman) reports in its cover story, "The current debate over national

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security and civil liberties is not new. It follows a predictable pattern of a democracy in wartime. … To understand the current struggle -- and judge how seriously to take the Bush and Cheney bids for power -- it is useful to compare this battle to all the balancing acts that have come before. The facts change, but the pattern varies little: In national crises, presidents reach for power." A president "will almost always choose to violate individual rights over the risk of losing a war." Newsweek adds, "Congress lies low and goes along. … Typically, in times of national peril, Congress gets swept along on a wave of patriotism. … The bureaucracy pushes back. … Though 'bureaucrat' can be a bad name, government careerists are sometimes the only ones who will uphold standards of fairness or decency. They know, too, that they can be left holding the bag if later congressional hearings look into dubious secret operations. … The public and the politicians react -- and overreact. Historically, wartime encroachments on civil liberties have spawned backlashes. … The American public may be less than sympathetic to the targets of the Bush antiterror crackdown. But if the administration is shown to have violated the civil liberties of mainstream peace groups or (heaven forbid!) members of the press, the outcry could produce an overreaction."

More Commentary. Columnist Ruth Marcus, meanwhile, writes in today's Washington Post (1/2) about Bush's domestic spying, and comments, "Perhaps, in the aftermath of Sept. 11, that's how the country wants its intelligence activities conducted." But "living on the edge inevitably risks falling off a cliff - especially if you choose to live there on your own and in secret." Marcus says "the need for legal checks, the importance of congressional oversight, the missteps that inevitably occur when the executive branch is accountable only to itself -- seem to have been ignored by all the parties involved. As Congress gears up for another needed round of hearings, the challenge is not only to discover what happened but also not to forget, again, what was already, painfully learned."

DOJ IG Finds Terror Specialists At US Attorney's Offices Failing To Coordinate. The Washington Times (1/3, Seper, 90K) reports that a report from the Justice Department's Office of Inspector General has concluded that "Intelligence specialists at the 93 US attorneys' offices assigned to identify terrorist activity and assist in prosecutions are not coordinating their efforts and lack guidance." According to the report, though the offices "have made 'valuable' individual contributions to counterterrorism efforts, their overall effectiveness needs to increase through improved coordination and guidance." The IG report "made eight recommendations to improve the use of the specialists, including identifying and providing the standard tools they should use, defining the types of results they should produce, and establishing the quality standards those results should meet. "

Former CIA Official Says Agency May Need A Decade To Build Up Anti-Terror Service. Reuters (1/2, Morgan) reports, "A former CIA counterterrorism officer who tracked Osama bin Laden through the mountains of Afghanistan says the U.S. spy agency could need a decade to build up its clandestine service for the U.S. war on terrorism." Gary Berntsen, "a decorated espionage officer who led a paramilitary unit code-named 'Jawbreaker' in the war that toppled the Taliban after the September 11 attacks," said CIA Director Porter Goss "faces an uphill battle to fill the agency's senior ranks with aggressive, seasoned operatives." Berntsen said in an interview, "He's probably more aggressive than most of the senior officers in the clandestine service. So I think he's having to pull them along a bit." Goss, he added, "is trying to improve the situation. But it's going to be tough. The rebuilding is going to take years. A decade, at least."

Experts Say Padilla Dispute Could Jeopardize Terror War. The Legal Times (1/2, Henning) reports, "This time, audacity may not pay off for Bush administration lawyers. …. Having aggressively — and in the view of their critics, arrogantly — pursued an expansive view of executive power since the start of the war on terrorism, they could see their plans derailed by an escalating skirmish over 'enemy combatant' Jose Padilla." The Times continues, "Last week was punctuated by another round, in a rancorous and highly unusual exchange between the U.S. Court of Appeals for the 4th Circuit and the Bush administration over the detention of Padilla, a U.S. citizen whose case is regarded as a crucial legal litmus test of anti-terrorism tactics. … In late November the government abruptly asked the appeals court to vacate a Sept. 9 decision granting President George W. Bush the right to detain indefinitely U.S. citizens as enemy combatants without charge or trial. It was a move that alienated one of the administration's most reliable judicial allies, the largely conservative 4th Circuit." The Times adds 'The administration's abandonment of its aggressive position

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in a case that it has touted as crucial to battling terrorists confounded outsiders and infuriated the judges who had previously given the White House a highly favorable ruling. … 'This is perhaps the most important constitutional litigation since September 11,' says Timothy Lynch, director of the Cato Institute's Project on Criminal Justice. 'They severely underestimated the reaction by the judiciary and other legal observers. Maybe they missed the forest for the trees and lost sight of how big this was, but this is going to hurt the credibility of the Justice Department in other terrorism cases.'"

The Pittsburgh Post-Gazette (1/2, McGough) reports, "It must have seemed like a good idea at the time. Fearful of another test of presidential power in the U.S. Supreme Court, the Bush administration in November decided to cut its losses and end the 3 1/2-year-long confinement of Jose Padilla as an 'enemy combatant.' .. Mr. Padilla, a Brooklyn-born convert to Islam, was arrested at Chicago's O'Hare Airport in May 2002 and was identified by then-Attorney General John Ashcroft as a participant in an al-Qaida plot to explode a radioactive 'dirty bomb' in the United States. A federal appeals court upheld his detention, but Mr. Padilla's lawyers appealed to the Supreme Court. … Then the Bush administration executed a legal U-turn. It secured an indictment of Mr. Padilla by a federal grand jury in Florida on terrorism charges unrelated to a 'dirty bomb,' announced that he would be transferred from a Navy brig in Charleston, S.C., to a civilian prison in Miami and asked the 4th U.S. Circuit Court of Appeals in Richmond to vacate its decision upholding Mr. Padilla's confinement." The Post-Gazette adds, "The 4th Circuit, one of the administration's favorite tribunals, wouldn't play. It refused to vacate its order or approve of Mr. Padilla's transfer from military to civilian custody. In an opinion by Judge J. Michael Luttig, a conservative icon often mentioned as a possible Bush appointee to the Supreme Court, the 4th Circuit worried about 'an appearance that the government may be attempting to avoid consideration of our decision by the Supreme Court.' … Last week the administration shot back, demanding that the Supreme Court authorize Mr. Padilla's transfer. In a petition filed with the Supreme Court, Solicitor General Paul D. Clement fumed that 'the 4th Circuit's order defies both law and logic' and constituted an 'unwarranted attack' on President Bush's authority. Besides, Mr. Clement said, Mr. Padilla's lawyers hadn't objected to transferring their client. … It is true that in an earlier filing with the 4th Circuit, Mr. Padilla's attorneys had indicated that they wouldn't object to the transfer because they could continue to challenge Mr. Padilla's designation as an enemy combatant. But last week they took a different tack. … The battle of the briefs between the government and Mr. Padilla's lawyers turns on the proper interpretation of a federal court rule that says prisoners seeking a writ of habeas corpus -- as Mr. Padilla is doing -- ordinarily can't be transferred from one jailer to another. But the larger issue in the turf war between the 4th Circuit and the Bush administration is the same one raised in Mr. Padilla's original legal challenge: the scope of presidential power in the 'war on terror.'"

WPost Comments On Changing Government Tactics In The Padilla Case. The Washington Post (1/2) editorializes, "Just when it appeared the case of accused enemy combatant Jose Padilla couldn't get any weirder, the two parties have switched sides. In an emergency brief filed before the Supreme Court last week, the Justice Department asked the justices to step in and allow the government to transfer Mr. Padilla immediately from military to civilian custody so that he can face the criminal charges recently filed against him. This is the same Justice Department that had been arguing for 3 1/2 years that Mr. Padilla could be held without charge on President Bush's order as an al Qaeda fighter - for much of that time without even having access to his lawyers. … The government is now seeking to release Mr. Padilla from his legal limbo, and Mr. Padilla is objecting."

US Said To Be Underutilizing Arab, Muslim Community In War On Terror. Randa Fahmy Hudome, former associate deputy energy secretary in the Bush administration, in an op-ed in the Wall Street Journal (1/3, A24, 2.11M) writes that while the US government "has focused on the vital national security challenges posed in the post-9/11 environment -- challenges in law enforcement, intelligence gathering and public diplomacy," there is "an untapped resource in all 50 states that can provide insight into many of these challenges -- the American Arab and Muslim community." However, "they have been underutilized on the frontlines of the global war on terror. While President Bush has appointed more Arab- and Muslim-Americans to senior positions than any previous administration, the rest of the government has been slow to follow his lead." Fahmy Hudome states, "The Department of State should create an Arab- and Muslim-American Advisory Board -- made up of experts who reflect the religious, ethnic and geographic diversity of the Middle East -- to advise the US government

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about issues, sensitivities, perceptions and misperceptions both here and abroad."

Administration Action On Hamadi Release Called Inadequate. Ken Stethem, brother of US Navy Diver Robert Stethem, who was murdered during the 1985 TWA hijacking, was asked on MSNBC's Scarborough Country (1/2), why he wrote to the Bush Administration complaining about the release by German authorities of Mohammed Ali Hamadi, who was convicted of the murder. Stethem said, "We're absolutely unsatisfied with the indifference and the action that they took upon Hamadi's release. … We've gotten two phone calls, one from Andrew Card, wishing us well and saying he's sorry. And then we got one from [State Department Counterterrorism Coordinator] Ambassador [Henry] Crumpton…saying basically the same thing." Stethem went on to say he has not "heard anything" from Congress, "and it's unbelievable." When asked what the Administration's response to his requests has been, Stethem said, "Nothing! We've been trying to get meetings with Condoleezza Rice in the State Department, through the Justice Department since May. And we've not been given the opportunity once. … It's incredible, just incredible to see the president soliciting support for the war on terrorism, the same week that Hamadi is released and the Administration knew about his impending release while the president was preparing that speech."

PATRIOT ACT:

White House To Step Up Defense Of Patriot Act, NSA Surveillance. The Financial Times (1/3, Daniel) reports the White House "will this week step up efforts to defend its policy on the Patriot Act as well as its controversial decision to conduct domestic surveillance on US citizens without a warrant from a judge, in the face of mounting concerns from civil liberties groups." President Bush "began the counter-offensive with a strong defence of his decision in 2001 to authorise the National Security Agency to eavesdrop on those suspected of links to al-Qaeda and of his legal authority to prosecute the war on terror." On Tuesday, Bush "will take part in a meeting on the Patriot Act, the anti-terrorism legislation that Congress failed to renew before the Christmas break. On Wednesday he will make a statement on the 'war on terror' at the Pentagon." As "part of a co-ordinated approach, Dick Cheney, vice-president, will also give a speech about terrorism."

HOMELAND RESPONSE:

Chertoff To Announce Changes To Homeland Security Grant Program. Several media outlets this morning are reporting on the upcoming announcement of changes to the Urban Area Security Initiative. The AP indicates that Secretary Chertoff has sought the changes, while the New York Times notes that he is prepared for some negative response. The New York Times (1/3, Lipton, 1.19M) reports, "Facing cuts in antiterrorism financing, the Department of Homeland Security plans to announce today that it will evaluate new requests for money from an $800 million aid program for cities based less on politics and more on assessments of where terrorists are likely to strike and potentially cause the greatest damage, department officials say. The changes to the program, the Urban Area Security Initiative, are being driven in part by a reduction in the overall pool of money for antiterrorism efforts." Homeland Security Secretary Michael Chertoff, who is to announce the shift, said in a speech last month that "the changes he was considering would require an acknowledgment that the nation could not protect itself against all risks." DHS officials "would not offer predictions of what the likely outcome would be in terms of how many cities would see their grants eliminated or cut significantly." Meanwhile, "Mr. Chertoff has made clear that he expects protests when the final grant awards are announced."

The Wall Street Journal/AP (1/3, A4) reports, "The change…addresses both the destruction and lack of preparedness seen during Hurricane Katrina. It also reflects…Chertoff's efforts to give his department an all-hazards mission -- even though it was created as a direct result of the Sept. 11, 2001, terror attacks." The AP notes, "Homeland Security spokesman Russ Knocke would not comment on which cities will be eligible for grants this year." A longer version of the AP (1/2, Jordan) story noted, "Calls to city officials around the country and to the US Conference of Mayors for comment were not immediately returned."

Under the headline "More Cities Eligible For Urban Grants, USA Today (1/3, 2.31M) reported, "Homeland Security Secretary Michael Chertoff will announce today which cities will receive part of $765 million in annual Urban Area Security Initiative grants. In past years, the grants have

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gone to the nation's 50 largest cities for terror-related security measures. This year, cities that risk being hit by a natural disaster or health crisis also are eligible."

DHS Issues Manual On Correspondence For Employees. In its "Verbatim" column, the Washington Post (1/3, A15, 744K) runs a portion of "a new manual for correspondence standards and procedures" sent out by Fred Schwien, the Department of Homeland Security's executive secretary. The portion is headlined, "4.3 Statement of Lateness (Note: Not in use until on or about Feb 1, 2006)," and reads, "If a component response does not meet the five-day deadline for returning correspondence to the ES, a statement of lateness is required. … Workload and component priorities are not valid excuses. As stated previously, for the DHS employee tasked with preparing an item for the Secretary or Deputy Secretary signature, there are few, if any, higher priorities."

Deadline Extended For Evacuees To Leave Hotels. Federal officials have extended the deadline for Hurricane Katrina evacuees to check out of their government-funded hotel rooms. The AP (1/3, McGill) reports that the extension comes as the feds "iron out issues arising from a class-action lawsuit. One issue: The Federal Emergency Management Agency, which inherited the program from the American Red Cross, still does not have up-to-date records on the identities of evacuees in the hotel program or where they are staying, according to court papers filed last week by government lawyers. Under a federal judge's ruling last month, FEMA is required to keep the hotel program running until Feb. 7. However, U.S. District Judge Stanwood Duval said FEMA could stop paying for hotel rooms beginning Jan. 7 — Saturday — for evacuees who have been approved or disapproved for other FEMA housing aid, such as a trailer or rental assistance. Now, the Jan. 7 date no longer holds, according to a flier being distributed to hotels in the program. It says: 'The program will continue for all evacuees in all states until further notice pending the resolution of certain issues now in litigation.'"

Residents Await Word On Neighborhood Hit By Katrina Oil Spill. A front page story in the Wall Street Journal (1/3, McKay, 2.11M) reports that when the levees that protected the Chalmette, Louisiana "gave way to Hurricane Katrina on Aug. 29, about 1,800 homes were inundated with floodwaters carrying nearly 1.1 million gallons of oil from a nearby refinery. Thick black crude seeped into homes and yards. Officials sealed off the area. A private contractor hired by the refinery's owner, Murphy Oil Corp. of El Dorado, Ark., began cleaning up. But the crews left most homes and yards untouched for weeks until Murphy Oil could track down their scattered owners to seek permission to clean them, the oil company says. Four months after Katrina hit, oil remains in hundreds of homes and yards. This heavily damaged community, which remains mostly abandoned, raises acute personal and public-policy questions: How can residents displaced by Katrina determine if it's safe to return to their homes, and when? And who ultimately should decide?" The Journal notes that "neither federal nor state nor local officials have provided residents with any clear answers. Parish leaders and residents say they expected the federal Environmental Protection Agency to manage the cleanup process and determine when the neighborhood was safe. But the EPA says it's not up to it to decide whether the community should be resettled."

I-10 Repairs Cited As An Example For All Gulf Coast Rebuilding Projects. The New York Times (1/3, Schwartz, 1.19M) reports that while the repair of the twin spans of Interstate 10 over Louisiana's Lake Pontchartrain "has gone unusually right, coming in ahead of time and under budget. By cannibalizing one bridge to fix the other, and then using temporary steel spans to fix the first bridge, the State of Louisiana and the contractor were able to open one span in October and plan to have traffic flowing on the other as early as Jan. 6, nearly two weeks ahead of schedule." The Times adds that following Katrina, "one of the highest priorities was getting the Interstate open, and doing so quickly required creative thinking, dedication and no small amount of luck. … The work was financed by the Federal Highway Administration, which advised Louisiana on the project. Norman Y. Mineta, the federal transportation secretary, said through a spokeswoman that the project was 'serving as a model for the kinds of efficiencies we should try to achieve in all gulf rebuilding projects.'"

Local Gulf Coast Contractors Feel Cut Out Of Katrina Cleanup. The CBS Evening News (1/1, story 7, Roberts) reported, "In the months since Hurricane Katrina hit, Federal agencies have poured billions of dollars into the battered gulf region. But in Mississippi, Bill Whitaker

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heard complaints from local contractors who say few of those dollars have come their way." CBS (Whitaker) added, "Big players like Ashbritt of Pompano Beach, Florida, awarded a Federal contract worth $500 million and others like Bechtel and Halliburton subsidiary Kellog Brown and Root got contracts for tens of millions dollars more." Socrates Garrett: "And the network of good old boys were already in place." Whitaker: "Socrates Garrett's company is the biggest in Mississippi yet trucks and workers he has in place sit idle." Garrett: "If we can't work then you can bet that other smaller minority firms don't even have a chance." Whitaker: "Mississippi Congressman Thompson says his state's businesses are suffering because FEMA and the Army Corps of Engineers and other Federal agencies responsible for cleanup are playing politics." Rep. Bennie Thompson: "Those are the contracts that have gone to companies that were well connected, had the right lobbyists, contributed to the right party in power." Whitaker: "Ashbritt says it wasn't politics but hard work that won the contracts." Randal Perkins, Ashbritt: "At the end of the day if you're not qualified and capable and ready to handle the challenge given to you you're not getting the contract." Whitaker: "He says most of Ashbritt's subcontracts have gone to Mississippi companies, but Congressman Thompson says they're getting the dregs, the little jobs and little of the Federal money. Mississippi's Republican governor agrees." Gov. Haley Barbour: "We don't think there's a high enough percentage of the work going to local contractors. There's some, unquestionably, but we think there needs to be more."

Nagin Says New Orleans Could Take Three To Five Years To Regain Population. The AP (1/2) reports, "New Orleans Mayor C. Ray Nagin yesterday said it could take three to five years to regain the city's population of nearly half a million before Hurricane Katrina. Mr. Nagin said on CBS' Face the Nation that reopening several public and private schools this month would help raise New Orleans' population to about 200,000, double the current level, as families returned with their children. Shortages of suitable housing would limit further growth over the near term, he said."

Emergency Officials Include Animal Rescue In Emergency Plans. The Washington Post (1/2, B1, Wan) reports on the "merging field of disaster planning for pets, filled with doomsday scenarios, four-legged victims and people who love them. For years, despite an estimated 69 million U.S. households with a pet, animal advocates have been relegated to the fringes of emergency planning. After Katrina, however, and the sight of people in New Orleans refusing to evacuate and in some cases dying with their pets, emergency officials are starting to take animal rescue seriously. By saving the pets, advocates said, owners can be saved as well." The Post adds, "The concept is as old as Noah's Ark, but modern pet disaster planning didn't truly begin, U.S. experts said, until after Hurricane Andrew in 1992. When Andrew tore through South Florida, it killed more than 100 animals in the Miami Metrozoo. Hundreds of others, including baboons, antelope and 500-pound Galapagos tortoises, wandered off through the rubble. Escaped horses drowned in canals. … After Andrew, the federal government created Veterinary Medical Assistance Teams, to be deployed wherever animal-threatening disasters hit. The 1992 hurricane also prompted the Humane Society to establish a department devoted to disaster planning and rescue."

Gulf Coast Seeing Puppy Boom Following Hurricane Katrina. The Washington Post (1/3, A10, Reeves, 744K) reports on a boom in the birth of puppies in the wake of Hurricane Katrina. According to the Post, "Officials say more than 6,000 pets were saved in the region after Katrina came ashore Aug. 29, and many of them were relocated to new homes elsewhere in the country. An unknown number drowned in the floodwaters or died later of injuries. But thousands of animals remain, and humane organizations are beginning to see the result of even small numbers of animals running loose for weeks in neighborhoods where fences were flattened and owners fled.'

Charleston Post & Courier Lauds FBI's Nuclear Monitoring. The Charleston (SC) Post & Courier (1/3) editorializes, "A federal program to monitor radiation levels has quietly sought to defuse one of the greatest terror threats to the nation. Radiation surveillance seeks to diminish the likelihood that terrorists could set off a so-called "dirty bomb" containing radioactive material or, worse, detonate a nuclear explosive." The P&C continues, "The program was recently reported on the Web site of U.S. News & World report, and confirmed by federal officials. It hasn't received the same media attention as electronic eavesdropping and other forms of domestic spying, though it has been criticized by some Muslim groups who feel they are

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being targeted." The P&C adds, "Radioactivity monitors have been installed at a variety of public locations, including ports and subways since 9/11. There should be no reluctance to use passive monitoring as broadly as is warranted. … Monitoring potential sources of radioactivity by 'sniffing the air' clearly doesn't raise the same issues of privacy as wiretapping. Keeping radioactive material out of the hands of potential terrorists is essential to national security and public safety."

WAR NEWS:

Shiites, Kurds May Drop Allawi From Coalition, Give Sunnis Role. The Los Angeles Times (1/3, Daragahi, 958K) reports, "The victors in last month's parliamentary election indicated Monday that they were prepared to cut a secular politician backed by Washington out of the new government in favor of Iraq's main Sunni Arab slate. The pro-Western politician, former interim Prime Minister Iyad Allawi, did poorly in the Dec. 15 balloting despite spending heavily on a sleek television campaign." The Times adds that "the emerging political alliance lumps together Shiites, Kurds and Islamist Sunni Arabs — and excludes secular Iraqis, hard-core Sunni Arab nationalists and those sympathetic to the Baath Party of ex-dictator Saddam Hussein."

USA Today/AP (1/3) adds "Iraq's main Sunni Arab group made an unprecedented trip north to see Kurd leaders and agreed Monday for the first time on broad outlines for a coalition government." The move "opens a way out of the political turmoil that has gripped the country since disputed parliamentary elections Dec. 15." The agreement "struck by Kurdistan regional President Massoud Barzani and representatives of the main Sunni Arab group, the Iraqi Accordance Front, could lead to a broad-based government." The Accordance Front "will be part of a future government," said Foreign Minister Hoshyar Zebari, "a Kurd who sat in on the meetings."

The New York Times (1/3, Oppel Jr., 1.19M) also reports on the "broad framework for a coalition government," which "drew a rebuke from other Sunni Arab political leaders who accused the Sunni consensus party of violating an agreement to press ahead with claims of Sunni disenfranchisement during the vote on Dec. 15 and to not bargain on their own for a role in the new government."

Despite Poor Election Results, Chalabi Could Play Key Role. Knight Ridder (1/3, Hannah, Youssef) reports, "Even though Ahmad Chalabi apparently lost badly in last month's parliamentary election here, the former Pentagon favorite is still likely to be a big player in the next Iraqi government." The Dec. 15 vote "went largely to ethnic and sectarian coalitions at the expense of secular slates, including his, preliminary returns indicate. That could leave him without a seat in parliament." Yet "the former exile who helped spur the US-led invasion by feeding false intelligence to Washington about Saddam Hussein's alleged weapons of mass destruction, and who returned to Iraq after Saddam's fall to craft himself into a political leader, still has more cards to play. Characteristically, Chalabi, 61, could land on his feet in a high government post even though he failed to win even a minimum of votes from the Iraqi people."

Iraq Facing Fuel Crisis As Oil Minister Quits. NBC Nightly News (1/2, story 8, :30, Holt) reported, "There are growing concerns tonight about an oil crisis in Iraq. Fuel prices for Iraqi citizens are way up, supplies are growing scarce and new numbers out today show Iraq's oil exports hit their lowest levels since the war. Today, Iraq's oil minister quit." The AP (1/3, Juhi) adds "Iraq's exports of oil hit their lowest level in December since the war, as the country's oil minister resigned Monday in the wake of protests and riots over soaring gas prices and lengthening lines at the pump. Only 34.4 million barrels were exported in December, or about 1.1 million barrels per day," which was "the lowest average since Iraq resumed exports after the U.S.-led invasion in March 2003, according to figures released Monday." The Washington Post (1/3, A12, Hernandez, 744K) also reports the story.

Twelve Iraqis Killed In Insurgent Attacks. NBC Nightly News (1/2, story 8, :30, Holt) reported, "At least 12 people, including two children, were killed in violence today. In the worst incident, a suicide bomber rammed his car into a bus full of Iraqi policemen, killing seven and injuring 13." The CBS Evening News (1/02, story 7, 2:00, Schieffer) reported, "No American deaths were reported in Iraq today but insurgent violence killed at least a dozen Iraqis."

The Los Angeles Times (1/3, Daragahi, 958K) reports the US military also "reported the deaths of four American civilian contractors involved in a motor vehicle accident on the Asad Air Base in western Iraq on Sunday. Nineteen

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others, including a Marine, were also injured when their bus was struck by a 7-ton truck, the military said."

Iraqi Volunteer Buries Unclaimed Bodies Of Those Slain In Violence. The CBS Evening News (1/02, story 7, 2:00, Schieffer) reported on the "story of a remarkable man who has devoted himself to honoring the dead, no matter who they were." CBS (Alfonsi) added on Sheikh Jamal-al Sudani's effort to bury the unclaimed bodies of about 250 of those killed in insurgent attacks. Al-Sudani "and his group of volunteers aren't paid. They do this grim job, they say, solely for God's rewards." The "group drives the bodies from Baghdad to Najaf through Iraq. The final stop is the Valley Cemetery, a holy place because a number of prophets are buried there and a practical place because the loose soil makes it easy to bury so many bodies. The bodies of Sunnis, Shiites, Muslims and Christians are all carefully washed and wrap." Terrorists "want to kill him because he cares for the victim of their suicide attacks others because he buries the suicide bombers but he is no stranger to threats. He's been doing this work for 15 years."

Poll Finds Support Among Military For Bush Policies Drops To 60%. Agence France-Presse (1/3) reports, "Support for President George W. Bush's Iraq policy has fallen among the US armed forces to just 54 percent from 63 percent a year ago, according to a poll by the magazine group Military Times. In its annual survey of the views of military personnel, the group reported on its website that support for Bush's overall policies dropped over the past year to 60 percent from 71 percent." AFP adds, "While still significantly more supportive of the president than the broad US population, the fall in support by military personnel tracks a similar decline in the president's popularity among the general public."

Murtha Says He Wouldn't Join Military Today. Reuters (1/3) reports, "Rep. John Murtha, a key Democratic voice who favors pulling U.S. troops from Iraq, said in remarks airing on Monday that he would not join the US military today. A decorated Vietnam combat veteran who retired as a colonel after 37 years in the U.S. Marine Corps, Murtha told ABC News' 'Nightline' program that Iraq 'absolutely' was a wrong war for President George W. Bush to have launched." "Would you join (the military) today?," he was asked in an interview taped on Friday. He replied, "No." The interviewer retorted, "And I think you're saying the average guy out there who's considering recruitment is justified in saying 'I don't want to serve.'" Said Murtha, "Exactly right."

On ABC News Nightline (1/2), Murtha said the Administration "got awful lot of bad information" about the situation in Iraq because "they don't talk to Congress. … They don't listen to people with experience." When asked if President Bush "doesn't really know what's going on" in Iraq, Murtha said, "Yes, that's what happens. The President mischaracterizes things because he gets bad information." In the run-up to the Gulf War, former President Bush "would get all kinds of criticism from Democrats and Republicans, and he would patiently listen to it, and then do what he thought was right." The American public "is way ahead of this president. If they think they're fooling the public with their rhetoric, they're wrong. You can't operate that way in today's world. … The American people want to see a clear mission, they want to see an exit strategy."

Father Calls Son's Death In Iraq "A Waste." Paul E. Schroeder, managing director of a trade development firm in Cleveland, writes in the Washington Post (1/3, A17, 744K), "Early on Aug. 3, 2005, we heard that 14 Marines had been killed in Haditha, Iraq. Our son, Lance Cpl. Edward 'Augie' Schroeder II, was stationed there. At 10:45 a.m. two Marines showed up at our door. After collecting himself for what was clearly painful duty, the lieutenant colonel said, 'Your son is a true American hero.' … I am outraged at what I see as the cause of his death. For nearly three years, the Bush administration has pursued a policy that makes our troops sitting ducks. While Secretary of State Condoleezza Rice told the Senate Foreign Relations Committee that our policy is to 'clear, hold and build' Iraqi towns, there aren't enough troops to do that. … Though it hurts, I believe that his death -- and that of the other Americans who have died in Iraq -- was a waste" if "Americans stop hiding behind flag-draped hero masks and stop whispering their opposition to this war. Until then, the lives of other sons, daughters, husbands, wives, fathers and mothers may be wasted as well. This is very painful to acknowledge, and I have to live with it. So does President Bush."

Abizaid Optimistic About Turning Control Over To Iraqi Government. USA Today (1/3, Komarow, 2.31M) reports, "The top US general in the Iraq region says he is optimistic the United States will succeed this year in turning a substantial part of the country over to Iraqi government control, moving US forces into a backup

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role. The ability of Iraq's military to secure the country is a key condition for the eventual withdrawal of US forces." In an interview this weekend, Gen. John Abizaid, who "was on a short visit to Iraq, prodded his subordinates to turn control of their sectors over to Iraqi forces as soon as the Iraqis are ready. U.S. commanders must overcome their reluctance to turn over control to less-experienced Iraqi forces, Abizaid said." Said Abizaid, "Look, there is always a risk in taking a chance on the people that you've come to help. … There's also a risk of condescension (where) you look at them and say, 'They're not ready.'" Abizaid, "head of US Central Command, declined to speculate on what American troop levels will be at the end of 2006."

Administration Boosts Peacekeeping, Post-War Capabilities. The Wall Street Journal (1/3, King Jr., Jaffe, 2.11M) reports, "The difficulties of rebuilding Iraq after toppling Saddam Hussein have taught President Bush a painful lesson: Aftermaths can be tougher than wars. Now the administration is trying to recalibrate the military and foreign service to better handle postwar developments in future conflicts. For the first time, the Pentagon has declared that, along with battling foes, the ability to foster stability and reconstruction is one of its core missions." The Administration also "planted the seed for a corps of trained nation builders in 2004 when it created an Office of the Coordinator for Reconstruction and Stabilization in the State Department. The 55-person shop is staffed largely by officials on loan from the Defense Department, the Central Intelligence Agency and other agencies. It tries to anticipate the next global hot spot -- be it Sudan or North Korea -- and prepares to deploy as the main US postwar coordinator wherever a need might arise." However, "with finances tight, Congress isn't rushing to budget the money. One senior Pentagon official says he has heard objections from both Democrats and Republicans on Capitol Hill. Their worry: elevating the importance of nation-building will, over time, divert funds from the nation's ability to wage all-out war and leave the military less prepared to counter an unexpected major threat from a country such as China. And legislators in both parties are wary of more Iraq-style adventures."

Budget Request To Include No New Iraq Rebuilding Funds. The Wall Street Journal (1/3, Dreazen, 2.11M) reports, "The US and its key foreign allies are likely to fall short of their funding pledges to help rebuild Iraq, as violence in the war-torn country absorbs contributions and deters nations from making new ones. T he reconstruction shortfall may total one-third of promised funds, adding to the challenges for Iraq's next government." The White House and "some US lawmakers have made clear that this year they want Iraqi security forces to take the lead in combating the insurgency, laying the groundwork for a gradual US military withdrawal." The new year also "marks a turning point in the administration's goal to rebuild Iraq -- an effort that has had mixed success." The Journal adds, "The $18.4 billion US rebuilding program was established with a three-year term that expires in the fall, and lawmakers -- mindful of contractor overcharges, corruption and security issues that have surfaced -- have made clear that they are unwilling to authorize a follow-up program. The budget request for Fiscal Year 2007 that the White House sends Congress next month will include no new Iraq rebuilding money, according to an official familiar with the matter. News that the White House won't seek Iraq reconstruction funds for fiscal 2007 was reported earlier by the Washington Post."

Book Claims CIA Ignored Information That Iraq Had No WMD. The AP (1/3) reports, "A new book on the government's secret anti-terrorism operations describes how the CIA recruited an Iraqi-American anesthesiologist in 2002 to obtain information from her brother, who was a figure in Saddam Hussein's nuclear program." Dr. Sawsan Alhaddad of Cleveland "made the dangerous trip to Iraq on the CIA's behalf. The book said her brother was stunned by her questions about the nuclear program because -- he said -- it had been dead for a decade." New York Times reporter James Risen "uses the anecdote to illustrate how the CIA ignored information that Iraq no longer had weapons of mass destruction. His book, 'State of War: The Secret History of the CIA and the Bush Administration' describes secret operations of the Bush administration's war on terrorism." The major revelation in the book "has already been the subject of extensive reporting by Risen's newspaper: the National Security Agency's eavesdropping of Americans' conversations without obtaining warrants from a special court." The book said Dr. Alhaddad "flew home in mid-September 2002 and had a series of meetings with CIA analysts. She relayed her brother's information that there was no nuclear program. A CIA operative later told Dr. Alhaddad's husband that the agency believed her brother was lying."

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Clinton Administration Said Saddam Was Reconstituting His WMD. In its "History Lessons" column, the Washington Times (1/3, 90K) excerpts the State Department's Daily Press Briefing of November 10, 1998 in which then-Assistant Secretary of State James Rubin said, "[T]his can't go on indefinitely; that if Saddam [Hussein] continues to block UNSCOM and we do not respond, he will be able to reconstitute his weapons of mass destruction in a matter of months, not a matter of years. This is a dangerous situation; this is why we have considered it a grave situation. If we fail to act, he will feel emboldened to threaten the region further, armed, possibly, with the most dangerous kinds of weapons."

Saddam Says He Prefers To Be Shot If Sentenced To Death. The Washington Times (1/3, Martin, 90K) reports, "Saddam Hussein has told his lawyers that he wants to be shot by firing squad, not hanged, if sentenced to death during his murder trial, which resumes later this month in Baghdad." Saddam "maintains that he is still commander in chief of Iraq's armed forces -- and that a firing squad is 'the right way' to execute a military leader."

US Teen Returns Home From Winter Vacation Trip To Baghdad. NBC Nightly News (1/2, story 11, 1:50, Holt) reported 16-year-old Farris Hassan is "returned home last night from his ill-advised solo journey to Iraq. And it's not just his mom who wants answers." NBC (Sanders) added, "Maybe it's a sign of the times when a 16-year-old tells his family he's more nervous about facing the US media than traveling to a war zone. But he may have good reason after his arrival at Miami International Airport last night. He certainly appeared self-assured late this afternoon." Farris Hassan: "Yes. Right now, I came back and I'm pretty tired and I'm preparing my statement this time." Sanders: "Today, it was Farris' day off. He says he'll talk the details about his trip tomorrow." Hassan "reportedly told selected friends he gone to Iraq to witness democracy in progress. But after talking to the Associated Press there, the US Embassy told him he couldn't make any more statements." USA Today (1/3, Koch, 2.31M) and New York Times/AP (1/3), among others, also report the story.

Magazine Notes Iraq War Game Staging Ground In Louisiana. The Washington Post (1/3, C1, Carlson, 744K) reports Harper's magazine "has found a big, heartwarming silver lining inside that gloomy old Global War on Terrorism. Here it is: Our government has hired a bunch of poor souls who lost their arms and legs in accidents and has rigged them up with bags of fake blood so they can play wounded civilians in war games down at Fort Polk, La." Cubic, "the defense contractor that produces these games, has also hired 250 Arabic-speaking immigrants at $220 a day as 'Cultural Role Players' in the war games. They've also hired hundreds of local Louisianans to play random Arab civilians, plus 'dozens of scriptwriters' to come up with realistic scenarios for the war games." Wells Tower, "author of this jaw-droppingly bizarre article," said, "The military spends an average of $9 million staging each 3 1/2 -week mission rehearsal exercise," which "works out to about $117 million a year." That "doesn't include the $49 million spent constructing the state-of-the-art fake city of Suliyah, which contains 29 buildings."

US Giving NATO, Allies Growing Role In Afghanistan. The Washington Post (1/3, A1, Witte, 744K) reports, "Four years into a mammoth reconstruction effort here that has been largely led, funded and secured by Americans, the United States is showing a growing willingness to cede those jobs to others. The most dramatic example will come by this summer, when the US military officially hands over control of the volatile southern region -- plagued by persistent attacks from Islamic militias -- to an international force led by the NATO alliance." The United States "will cut its troop strength by 2,500, even though it is not clear how aggressively NATO troops will pursue insurgents, who have shown no sign of relenting." The Post ads, "At the same time, the U.S. government is increasingly allowing Western allies, or Afghans themselves, to take on the tasks of rebuilding a country that has suffered more than two decades of fighting and remains beset by poverty, drugs and insurgency."

Bush Awards Purple Hearts To Soldiers Wounded In Iraq. The Houston Chronicle (1/2, Hedges) reports, "President Bush's first official act of the new year was pinning Purple Hearts on US soldiers wounded in Iraq, a signal that for the White House, 2006 would be another year dominated by the war." The President "gave the military award to nine soldiers during a private session today with veterans of Iraq and Afghanistan and some family members at the Brooke Army Medical Center." The soldiers "were among

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more than 2,300 wounded service members treated there since the beginning of the two wars, and Bush took note of their plight as he restated his reasons for the unpopular Iraq war." Said Bush, "There's horrible consequences to war -- that's what you see in this building. … On the other hand, we also see (soldiers) who say, 'I'd like to go back in, Mr. President, what we're doing is the right thing,' because many of these troops understand that by defeating the enemy there, we don't have to face them here. And they understand that by helping the country and the Middle East become a democracy, we are, in fact, laying the foundation for future peace."

The AP (1/2, Riechmann) says the President "boarded the Marine One presidential helicopter before dawn on his ranch in Crawford and flew more than an hour to Randolph Air Force Base. His motorcade drove to Brooke Army Medical Center, a 224-bed hospital at nearby Fort Sam Houston, to meet with about 50 injured members of various branches of the armed forces and their families." Said Bush, "This hospital is full of healers and compassionate people that care deeply about our men and women in uniform. … It's also full of courageous young soldiers and marines, airmen. I'm just overwhelmed by the great strength of character of not only those who have been wounded but of their loved ones as well."

Reuters (1/2) adds Bush "returned to Washington later in the day to tackle his agenda for 2006, another year in which the Iraq war is expected to be a dominating factor with critics calling for US troops to withdraw." The Los Angeles Times (1/2, Chen) also mentions Bush's visit.

As 2006 Begins, Bush's Focus Is On Economy, Iraq, War On Terror. According to the AP (1/2, Riechmann), President Bush is starting 2006 trumpeting upturns in the US economy, defending US actions in Iraq and challenging critics of his policies in the war on terror. The AP adds, "White House officials hope this week sets the tone for its top priorities as Bush visits the Pentagon on Wednesday to discuss the war on terror and then flies to Chicago on Friday to try to convince Americans that the economy is on solid footing." On Sunday, Bush visited wounded US troops in San Antonio, and this week, he will use "the backdrop of the White House to meet with a bipartisan group of former secretaries of state and defense to discuss terrorism and Iraq and to surround himself with U.S. attorneys to pressure lawmakers to renew the Patriot Act."

Brownstein Compares Bush, Polk Presidencies. Ron Brownstein writes in the Los Angeles Times (1/2), "The president whom George W. Bush may resemble most is not his biological father, George H.W. Bush, or even Ronald Reagan, who often seems his ideological father, but James K. Polk, a dynamic and willful leader few discuss anymore. … Polk may be the only predecessor who matched Bush's determination to drive massive change on a minute margin of victory. Polk won by fewer than 38,000 votes of 2.7 million cast. Over four tumultuous years, he pursued an ambitious, highly partisan agenda that offered little to those who had voted against him. Sound familiar? … It's worth considering Polk's record not because Americans will take up arms against each other anytime soon — although you might never know that from listening to talk radio — but because it suggests that a president who slights the need to build national consensus can seed long-term problems that aren't immediately apparent amid short-term successes."

Bush Will Not Ask Congress For Additional Iraq Reconstruction Funding. The Washington Post (1/2, A1, Knickmeyer), in a front-page article, reports that the Bush administration "does not intend to seek any new funds for Iraq reconstruction in the budget request going before Congress in February, officials say. The decision signals the winding down of an $18.4 billion US rebuilding effort in which roughly half of the money was eaten away by the insurgency, a buildup of Iraq's criminal justice system and the investigation and trial of Saddam Hussein. … US officials in Baghdad have made clear, other foreign donors and the fledgling Iraqi government will have to take up what authorities say is tens of billions of dollars of work yet to be done merely to bring reliable electricity, water and other services to Iraq's 26 million people."

Army Officer Shows Off Baghdad Reconstruction Projects. The Washington Post (1/2, A10, Knickmeyer) traveled around Baghdad with Maj. John Hudson of the U.S. Army Corps of Engineers on a tour his "Prides and joys," the many reconstruction projects going on in the city. At "an Army Corps of Engineers office in the Green Zone -- the fortified site of much of the Iraqi government -- Hudson, in flak jacket and helmet, spread his hands lovingly on a map of Baghdad. 'Two youth centers. Two fire stations -- those are in some of your poorer neighborhoods. Baghdad highway patrol. A facility for the SWAT team. A new perimeter wall for Doura,' a power plant in Baghdad's insurgency-ridden south. A checkpoint on

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a southern road into the city. An electrical substation. … The projects are among 90 under his domain and among 3,600 projects in an $18.4 billion reconstruction package for Iraq due to peak, and be completed, this year." The Post adds, "Hudson will return to Colorado Springs around March. Money for the U.S. reconstruction package here is scheduled to run out around the end of the year. International donors largely have not kept their pledges to pick up the tab for reconstruction. Iraqis have balked at the painful economic reforms necessary to win foreign loans to do the work. Insurgents want to destroy it all. Civil war would do the same."

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New Maryland US Attorney Restructures Staff, Targets Violent Crime. The Baltimore Sun (1/2, Dolan) reports, "Maryland's top federal prosecutor is both expanding his office and reorganizing his staff to emphasize a commitment to fighting violent crime." The Sun continues, "Maryland U.S. Attorney Rod J. Rosenstein said he would start this month by restructuring his criminal division. It's part of an effort, he said, to coordinate better with local and federal law enforcement agents. … 'I had a meeting with the FBI's public corruption unit, and there was a real question of where that responsibility lay in our office,' Rosenstein said. 'It's a question of accountability.' The Sun adds, "Starting this year, federal prosecutors handling criminal cases in Baltimore will be required to focus on either terrorism and national security, fraud and public corruption, violent crime, drugs or major crimes - a catch-all section including civil rights violations and child pornography. They'll be expected to stay in their subjects for at least two years, Rosenstein said. … The division's managers have all been asked to reapply for their jobs, he added. … Five months into the job, the moves come as Rosenstein has established a reputation as a genial and intense leader known for his thoroughness and his prolific e-mails to his staff. … James Wyda, the federal public defender for Maryland, praised Rosenstein for his new hires and complimented the quality of his staff. … But Wyda also cautioned that Rosenstein is early in his tenure. He said Rosenstein would be judged, in part, on how he handles the substantial number of capital murder cases that have been transferred into the federal system in Maryland."

CORPORATE SCANDALS:

Attorneys For CA Defendants Claim US Misusing Sarbanes-Oxley. The Legal Times (1/2, Perrotta) reports, "Attorneys representing two former executives of Computer Associates, the Long Island, N.Y., company caught up in a massive accounting scandal, argued last week that federal prosecutors are misusing a criminal statute revised as part of the Sarbanes-Oxley Act, possibly leading to severe prison sentences — up to 20 years — that were not intended by federal legislators." The Times continues, "The dispute involves the prosecution of Sanjay Kumar, the former chairman and CEO of Computer Associates, and Stephen Richards, a former sales executive, on various fraud and obstruction charges. Federal prosecutors accuse both men of lying to the government and lying to their company's outside counsel, Wachtell, Lipton, Rosen & Katz, which was conducting an internal investigation of the company's accounting practices." The Times adds, "Kumar and Richards are in a fight over the meaning of a federal criminal statute that was amended as part of the Sarbanes-Oxley Act. … While defense attorneys argue that the SOX revisions have created a narrow statute that applies only to physical evidence, such as documents, the government contends it reaches beyond that to include any conduct that could obstruct an official proceeding."

Milberg Weiss Worried About Indicted Attorney's Actions. The California Recorder (1/3, Scheck) reports, "Nearly 12 years ago, an internal memo from the Southern California firm Best Best & Krieger expressed concerns that it was acting as a conduit for legally questionable payments from the plaintiff firm Milberg Weiss to Seymour Lazar, the lead plaintiff in dozens of securities class actions." The Recorder continues, "The memo, filed in court by prosecutors last week, expresses particular worry about the Best firm recording payments from the firm then known as Milberg Weiss Bershad Hynes & Lerach to Lazar as firm income, which would then be secretly credited to Lazar for future legal services. … 'To us it just smells bad,' the memo says, 'and probably would to an investigator.'" The Recorder adds, "That concern came to fruition in June, when Lazar and his attorney, Paul Selzer -- a former partner at the Best firm -- were indicted by a Los Angeles federal grand jury for allegedly taking more than $2 million in illegal kickbacks from Milberg

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Weiss. … The L.A. U.S. Attorney's Office has spent the past five years probing whether Milberg Weiss -- which split in 2004 when star partner William Lerach broke off to form his own San Diego-based firm -- paid illegal kickbacks to lead plaintiffs in class actions. … After several years of investigation with few public developments, the Lazar and Selzer indictments were widely seen as an effort to force the two defendants to testify against Milberg Weiss and its partners. … Prosecutors have also given immunity to at least two other former clients who say they received kickbacks from the firm via other attorneys. Lawyers familiar with the case say their allegations are similar to those detailed in the Lazar indictment."

NYTimes Bemoans Inflated Corporate Executive Pay. The New York Times (1/2) editorializes, "It would be nice to see corporate America put more effort - and money - into quality control and fair living wages for workers and less into exorbitant pay packages and bonuses for corporate chieftains. We remain hopeful."

CRIMINAL LAW:

Abramoff Plea Bargain Could Be Announced Today. The CBS Evening News (1/02, story 4, 2:30, Schieffer) reported, "In Washington, law enforcement sources told CBS News tonight that a plea bargain deal involving Washington lobbyist Jack Abramoff could be announced as early as tomorrow. We are told that the deal could implicate lawmakers who allegedly took illegal gifts from him. Abramoff has already been charged in connection with a corruption case in Florida. His attorneys had no immediate comment."

Abramoff Under Pressure To Take Plea Deal. With Abramoff under pressure from Federal authorities to accept a plea bargain, many Washington observers expect the arrangement would lead to the implication of several members of Congress. ABC World News Tonight (1/1, story 5, 2:15, Harris) reported Federal officials are "investigating what's likely to be one of the biggest influence-pedaling scandals in history. The potential that Abramoff is cooperating is making some people in Congress very nervous. ABC's Geoff Morrell has that story." ABC (Morrell) added prosecutors believe Abramoff "used that money to bribe members of Congress and are now pressuring him to name names." Melanie Sloan, former Federal prosecutor: "I think people are going to be amazed when they learn the extent of the bribery that Jack Abramoff was involved with members of Congress." Morrell: "Tonight, the only lawmaker known to be under scrutiny is Bob Ney of Ohio. But several others are scrambling to distance themselves from Abramoff. Montana Sen. Conrad Burns, who raked in nearly $60,000 from the disgraced lobbyist, now says 'I hope Abramoff goes to jail and we never see him again. I wish he had never been born.'" Sloan: "I think by the time this is over, this is going to be the biggest congressional scandal in history."

Abramoff Plea Would "Send Shockwaves Through Washington." U.S. News and World Report (1/9, Brush) reports that Abramoff is "reportedly close to cutting his own deal with federal investigators, a development that would send shock waves through Washington. Abramoff's testimony could implicate lawmakers in a vast influence-peddling case, and those once friendly with the man known as 'Casino Jack' are now ducking for cover." Abramoff "is reportedly close to an agreement with prosecutors that might include cooperation with investigators looking into his lobbying tactics. A spokesman for Abramoff declined to comment." Lawmakers "are scrambling to return campaign contributions. According to the Center for Responsive Politics, 210 federal lawmakers have received donations to their campaigns or political action committees from either Abramoff or his clients, since 1999; most big recipients were Republicans. Republican Sen. Conrad Burns of Montana, who's up for re-election this year, has returned $150,000, saying the donations 'served to undermine the public's confidence in its government.' … Sen. Max Baucus, a Montana Democrat, is returning roughly $19,000. Sen. Byron Dorgan, a North Dakota Democrat and ranking member of the Senate Indian Affairs Committee, which is investigating Abramoff, is returning $67,000. Rep. Denny Rehberg, a Montana Republican, returned $18,000 to Indian tribes and donated to charity the $2,000 he received directly from Abramoff."

Congressional Hearings To Add Drama To Conflicts With White House. The Christian Science Monitor (1/3, Chaddock, 61K) reports Congress "is gearing up for the most dramatic slate of hearings since the Clinton impeachment fracas." The "high-profile probes underscore efforts by Congress to reclaim power from a war-time White House. And they could reshape this fall's midterm elections." Lawmakers "on both sides of the aisle set in motion an aggressive oversight agenda, ranging from secret prisons and the treatment of detainees under US control, to the president's

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authorization of domestic eavesdropping without a warrant." In addition, "more members of Congress find themselves under scrutiny," as Abramoff "and his former associates work out plea agreements promising cooperation in a widening bribery investigation on Capitol Hill. Former House majority leader Tom DeLay, meanwhile, will face charges of money laundering in court later this month." The "scrutiny on - and from - Congress is a sharp turnaround for a Republican-controlled body that came to power extolling ethics, and one that has been deferential to the Bush presidency about its conduct in the war on terrorism." A "major reason for the new posture on Capitol Hill is the willingness of GOP moderates to challenge the Bush administration's war policies."

Maryland Tech Firm Owner To Plead Guilty To Bribing DC School Officials. The Legal Times (1/2, Kelley) reports, "The owner of a Maryland-based technology firm is expected to plead guilty this week to bribing District of Columbia Public School officials in exchange for contracts." The Times continues, "On Dec. 7 the U.S. Attorney's Office for the District of Columbia charged Charles Wiggins, the owner of Wiggins Telecommunications in Temple Hills, Md., with one felony count of bribing public officials. Within a week of being charged, Wiggins agreed to plead guilty and cooperate." The Times adds, "Wiggins' attorney, Sidney Friedman of Baltimore, says he is not authorized to comment on the deal reached with prosecutors. Assistant U.S. Attorney Daniel Butler, who is handling the prosecution, could not be reached for comment. … In charging documents, the prosecution alleges that from early 2001 through 2003, Wiggins doled out nearly $50,000 in bribes to a DCPS office manager and an elementary school principal. The two school officials, who so far are identified only as 'Individual 1' and 'Individual 2' in court documents, allegedly gave Wiggins preferential treatment in exchange for receiving a cut of the profits generated by his DCPS contracts."

Prince George's County Community No Longer Immune From Violence. The Washington Post (1/3, Thomas-Lester) reports, "Three miles beyond the Capital Beltway, Woodmore South seems far removed from the violence and fear that has infested some Prince George's County neighborhoods. … The upscale subdivision, with its rolling green lawns along wide and winding roads, reflects what draws many residents to the county: a chance for a classic suburban life in a community where most neighbors and political leaders are African American. … But consider the past several months: In June, a Woodmore South boy was beaten at nearby Six Flags America, and a teenage girl was shot after leaving a neighborhood graduation party. At one nearby shopping mall, a young man was beaten to death in early November. At another, a District man was shot Dec. 10. Earlier that day, an argument at a popular restaurant led to a fatal shooting a few blocks away." The Post continues, "The county and its incorporated cities recorded 173 homicides in 2005 -- surpassing the record 154 set during the crack epidemic in 1991 -- and a car was stolen every half hour. Although most of the crime remains concentrated inside the Beltway, residents in such suburban enclaves as Mitchellville, Bowie and Fort Washington are going through an upheaval, psychic and otherwise. … Some residents, who fled crime in the District a generation ago, are considering leaving Prince George's. Others, still drawn by the appeal of one of the nation's largest black, middle-class communities, are staying put -- but fortifying their homes and hiring off-duty police officers. … Some have lost faith in a county police department stretched thin by rapid growth: In November, Bowie voters decided overwhelmingly to set up their own department, and College Park residents gave their City Council the option." The Post notes, "Just as telling and troubling, the rise in crime has fueled perceptions among some middle-income residents that their low-income neighbors from the District or elsewhere in the county are preying on their prosperity."

Grant Seeking More FBI Agents To Fight Corruption In Chicago. The Chicago Sun Times (1/2, Korecki) reports, "If you're a government employee or contractor and you thought last year was a bad time to be corrupt in Chicago, you better look out in 2006. While the Chicago FBI just added a third public corruption squad in September to make the unit the largest in the country -- it still isn't enough. FBI Special Agent in Charge Robert Grant said he and U.S. Attorney Patrick Fitzgerald have asked Washington, D.C., for more resources to help root out public fraud. 'We asked headquarters to give us more bodies,' Grant told the Chicago Sun-Times. … Though new corruption cases continue to hit the Dirksen federal courthouse at a brisk pace, 'there are areas we want to explore that we haven't even gotten to yet,' Grant said." The Sun Times notes, "Grant wouldn't say how many additional agents he's seeking. But he

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said he thinks Chicago has a good chance of getting the boost in manpower because public corruption has become a bureau priority nationally and 'they know we're doing such a good job here.'" The AP (1/3) posts a truncated version of the Sun Times story.

Ryan, Warner Expected To Take Stand. The Chicago Sun Times (1/3, Korecki) reports, "In all, jurors have endured testimony from nearly 50 witnesses in the 13 weeks since George Ryan's public corruption trial began. But there's still one person who could drastically reshape their impressions: the former governor himself. And he may have that opportunity, because it seems likely that Ryan will take the stand in his own defense. Lawyers representing Ryan and his co-defendant Lawrence Warner said last week they expect to put their clients on the stand after the prosecution rests this month." Ryan attorney Dan Webb and Warner lawyer Ed Genson "said they'll make a final decision when the prosecution rests, which is expected mid-month. Neither would go into the tactical reasoning of doing something that defense lawyers typically avoid.

Tennessee State Trooper Transferred For Own Safety After Helping FBI Probe. The Knoxville News (1/2, Stambaugh) reports, "A Tennessee Highway Patrol trooper was recently transferred from Cocke County to keep him out of harm's way after his cooperation with the FBI was revealed during legal proceedings, court records show." Trooper Kevin Kimbrough "is one of at least three local lawmen who have been secretly recording their conversations with other officers at the behest of federal and state authorities as part of a four-year probe into public corruption and organized crime." The News notes, "The probe has relied heavily on undercover officers, informants and wiretaps in Tennessee, North Carolina, Georgia and Florida. Thus far, seven Cocke County lawmen have been arrested, two illegal cockfighting compounds have been uncovered, two brothels have been shut down and more than 150 people have faced criminal charges."

Indicted Lawmakers Vow To Attend Ethics Special Session. The AP (1/2) reports, "Two Tennessee Democratic senators facing federal bribery charges say they will attend a special session on ethics this month despite calls from Republican leaders that they not." Sens. Ward Crutchfield and Kathryn Bowers "are among five current or former lawmakers indicted on bribery and extortion charges in an FBI investigation that focused on a bogus company called E-Cycle Management." Sen. Jim Bryson "has written a letter to both Crutchfield and Bowers urging them not to participate in the special session. 'What I hope not to do, but will do if I have to, is present a resolution to the Senate, urging them not to attend,' Bryson said." The Tennessean (1/1, de la Cruz) notes, "Bowers supports many proposals in the ethics bill that will be the focal point of the session but does not like the ban on cash contributions, she said last week. At the same time, cash transactions have been at the heart of the public corruption case. A cash payment is what snared Bowers in the bribery sting."

Reform Provision Would Ban Cash Contributions. The Memphis Commercial Appeal (1/2, Locker) reports, "It was one of the eye-popping aspects of the FBI's 'Tennessee Waltz' bribery investigation: a handful of state legislators accepting hundreds of dollars in cash from undercover FBI agents posing as business executives. The acceptance of cash by some of the legislators was perfectly legal: It was properly disclosed as a campaign contribution on their campaign-finance reports, was within the $1,000 limit on individual contributions, and was not, they said, payment for legislative action. … But campaign contributions in cash will be banned if the sweeping ethics reform bill legislators will consider in a special session starting Jan. 10 is approved. Contributions will be by check, money order or some form other than cash."

Chat Room Solicitation Leads To Kansas Man's Arrested For Child Porn. The AP (1/2) reports, "Law enforcement officers in two states used high-tech tools to crack what they believe is the largest child porn case in Wichita history." Steven Craig Perrine "was charged last week with possession and distribution of child pornography after investigators said they searched his home and found more than 16,000 sexually explicit images involving children. … Authorities said the case began Sept. 9, when a Leetsdale, Pa., man visited an Internet chatroom and began talking to someone using the screen name 'Stevedragonslayer,'" who "asked if he wanted to see a 'hot video,' FBI Special Agent Rebecca Martin wrote in an affidavit. The video showed naked girls who looked younger than 10 walking around a bathroom, Martin wrote." The Pennsylvania man, James Vanlandingham, reported the incident to state authorities; and, The Pittsburgh Post-Gazette (12/31, Ayad, 261K) notes, "With only a screen name to aid his search," Pennsylvania State Police Computer Crimes Task

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Force Officer Reginald Humbert "located IP addresses…with subpoenas of Yahoo! Inc. and Cox Communications Inc. that led FBI investigators and the Sedwick-Witchita County Exploited and Missing Child Unit straight to the two computers Mr. Perrine was using."

Detectives In DC Nightclub Slaying Probe Under Investigation. The Washington Post (1/3, B1, Cauvin) reports, "The witness didn't know what to think. … A few days earlier, she had seen a dying man dragged off the dance floor at a popular Northwest Washington nightclub. Now two homicide detectives wanted her to change her story, she said. Instead of saying that the man in the black shirt was stabbing the victim, she was told she should make it seem as though it was the man in the white shirt." The Post continues, "So she did, she later testified. … 'I was confused,' the witness said, 'but I figured that it's their job. They know what they're doing. I guess they got it under control.'" The Post adds, "In fact, the investigation into the Feb. 13 death of Terrence Brown at Club U was about to spin out of control. The two detectives, hoping to pursue murder charges against a suspect, apparently wanted the woman -- and two other witnesses -- to revise their accounts to point to their suspect and reflect the medical examiner's conclusion that the 31-year-old Brown died from a deep stab wound. Everything fell apart when prosecutors grew suspicious. … Nearly a year later, Brown's killing remains unsolved, clouded and complicated by an investigation into the detectives' conduct. Recently filed documents in D.C. Superior Court provide the most complete picture yet of how the high-profile case was derailed. They depict the detectives as determined to close the case even though the evidence and witnesses' statements suggested that the suspect they had in their sights could not have inflicted the fatal wound. … The theory didn't fly, and it was the two detectives, Erick Brown and Milagros Morales, who wound up in trouble. Brown, 40, was taken off the case almost immediately, and Morales, 41, was removed several days later. They have been stripped of their badges and guns and are under investigation by prosecutors and the police internal affairs unit." The Post notes, "It is a remarkable turn for both. Brown, a police officer for 15 years, is a onetime homicide detective of the year, according to David Schertler, a defense attorney for both detectives, and law enforcement officials. Morales, a police officer for 20 years, was once an investigator for internal affairs, the unit that investigates police corruption, Schertler and the officials said. … Schertler said they did nothing wrong. 'The detectives strongly disagree with the characterization that they tried to pressure or coerce any witness into saying anything that wasn't true,' he said."

Warner May Order New DNA Test In 1992 Execution. As his term nears its end, Virginia Gov. Mark Warner is facing a decision on whether to order DNA testing that could determine if Virginia executed an innocent man in 1992. The AP (1/3, Gelineau) reports, "If the tests show Roger Keith Coleman did not rape and murder his sister-in-law in 1981, it would mark the first time in the United States an executed person is scientifically proven innocent, say death-penalty opponents, who are keenly aware that such a result could sway public opinion their way." Warner, who is seen as a likely presidential candidate in 2008, "hopes to finalize negotiations over how the test would be conducted before his term ends Jan. 14, said spokesman Kevin Hall." Coleman's attorneys "argued he didn't have time to commit the crime, that tests showed semen from two men was found inside Miss McCoy and that another man bragged about murdering her."

Executions, Death Sentences Becoming More Rare In The US. The Washington Post (1/2, A11, Lane) reports, "As 2005 gives way to 2006, the death penalty remains a major item of business on the Supreme Court's docket. In addition to a steady flow of stay-of-execution applications, the court has four capital punishment cases to decide. … Yet in one important sense, this activity is misleading: The justices may be busy with death penalty cases, but capital punishment is on the wane in the United States." The Post notes, "In the year just completed, 60 convicted killers were executed. That is a drop of 39 percent from the recent peak of 98 in 1999. … Perhaps more significant, death sentences are dwindling. In 2005, there were 96 new death sentences, according to the center. This is down 70 percent from 1996."

Tennessee Case Seen As First Test Of Roberts' Influence On Death Penalty Cases. The Los Angeles Times (1/2, Savage) reports, "The major death penalty case before the Supreme Court this year reads like a 'whodunit,' as one judge put it. But if there is doubt about who did it, should the defendant be on death row? … Though they might not solve the murder mystery, the case should give an early clue on whether the high court, now led by Chief Justice John G. Roberts Jr., is willing to overturn a death sentence if an inmate's guilt is in doubt." In the case from Tennessee, "The justices will now decide whether to make it easier to reopen

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old cases when new evidence — including DNA testing -- raises real doubts about the defendant's guilt."

DC Region Homicides Rose In 2005. The Washington Post (1/2, A1, Klein) reports, "The Washington region saw a rise in bloodshed in 2005, largely fueled by a spike in slayings in the D.C. suburbs, most dramatically in Prince George's County. … Across the region, there were 466 homicides in 2005, compared with 420 in 2004 -- a rise of about 11 percent. About half of those slayings have been solved. It was the first time the District has recorded fewer than 200 homicides in consecutive years since the mid-1980s. At the same time, the total in Prince George's climbed from 148 to 173, a grim record for the county."

WPost Calls Bush Record On Pardons "Dismal." An editorial in the Washington Post (1/3, A16, 744K) says that although President Bush is "a big fan of presidential power," he "still has not exercised his veto," and he "prefers to forget that Article II of the Constitution gives him the 'Power to grant Reprieves and Pardons for Offenses against the United States.' Mr. Bush, who famously proclaims himself a 'compassionate conservative,' has shown mercy fewer times than any president in recent history (though he has granted more pardons than President Bill Clinton had at the comparable point in his presidency). He has granted clemency less than a fifth the number of times of presidents Jimmy Carter, Ronald Reagan or Gerald Ford, who served not even a full term in office." The Post adds that Bush's record on pardons "dismal" and "a far cry from the manner in which the Framers of the Constitution envisioned the power."

CIVIL LAW:

DC Appeals Court Institutes Mediation Program For Civil Appeals. The Legal Times (1/2, Broida) reports, "In a continuing effort to reduce the backlog of cases at the D.C. Court of Appeals, the court has instituted a one-year appellate mediation program for civil appeals." The Times continues, "Starting this week, all parties who are represented by counsel will be required to attend alternative dispute mediation sessions to see if their appeal can be settled without being brought before the court." The Times adds, "The yearlong pilot program is an outgrowth of a similar limited mediation program that was successfully tried at the court this summer. … Ed Schwab, head of the appellate division of the D.C. Attorney General's Office, says his office had a positive experience with the program. He cited one case that was settled within three hours. 'So we were quite happy,' he says. … But Schwab cautions that not every case can be settled, especially those that don't involve money. In some cases, citizens will be seeking a remedy for a government action, and in cases like those, mediation may not work. Nevertheless, he says, 'Anytime you can settle, I think it is a good idea.'"

WPost Says Drug Safety Disputes Should Not Be Decided In Court. An editorial in the Washington Post (1/2, A12) says, "The New England Journal of Medicine's recent retraction of a 2000 article that helped establish the popularity of Vioxx, the controversial painkiller, should give doctors, hospitals and journal authors reason to think harder about how drug safety information is processed. The retraction, published last month, stated that the article's authors -- including scientists in the employ of Merck & Co., which makes Vioxx -- knew in advance of publication that 20 out of more than 2,000 patients taking part in a study of Vioxx suffered from heart attacks after taking the drug, not 17 as the article reported. They left out the information, they say, on the grounds that the three heart attacks in question occurred after the study had technically ended. But as a result, the level of heart attack risk associated with Vioxx appeared in the article to be slightly lower than it should have been." The revelation "raises legitimate questions about the relationship between scientists, who are often paid by drug companies, and medical journals, which should do a better job of stating authors' conflicts of interest. It should also lead doctors who prescribe drugs and are ultimately responsible for understanding their side effects to read such journals with greater skepticism. It does not, however, alter our view that the courts are the wrong place to resolve disputes about drug safety. … Scientific judgments about the risks and advantages of drugs are not black and white -- which is why they are best made by scientists and by the regulatory agency that employs them, not by jurors through the lens of hindsight."

CIVIL RIGHTS:

High Court To Hear Two Fourth Amendment Cases This Month. The Supreme Court will hear two Fourth Amendment cases this month. The Washington Times (1/2, Taylor) reports, "Hudson v. Michigan, which the

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justices will hear when the court reconvenes Jan. 9, questions whether police violated the Fourth Amendment 'knock and announce rule' when they burst into a suspected cocaine dealer's home in Detroit. The following week, the justices will consider rules pertaining to searches conducted with special 'anticipatory' warrants, which become operative only after 'triggering events' indicate probable cause."

District Of Columbia Activists Seek Approval For Gay Marriages. The Washington Post (1/2, B1, Weiss) reports, "The D.C. Council is considering measures that would amount to the greatest expansion of rights for same-sex couples in a decade. But for some in the District's large and influential gay community, the package of tax and inheritance benefits is perhaps most notable for what it is not: a move to legalize gay marriage. With Massachusetts having legalized gay marriage and other states coming close, some gay activists are saying that now is the time to push for full marriage rights in the District." The Post notes Sen. Sam Brownback "warned that the city would trigger a sharp backlash from Congress if it pursued gay marriage."

Democrats' Approach To Religion Seen As Wrongheaded. In an op-ed for the New York Times (1/2) Joseph Loconte, a research fellow in religion at the Heritage Foundation, writes, "Nancy Pelosi…sounded like an Old Testament prophet recently when she denounced the Republican budget for its 'injustice and immorality' and urged her colleagues to cast their no votes 'as an act of worship' during this religious season. This, apparently, is what the Democrats had in mind when they vowed after President Bush's re-election to reclaim religious voters for their party. … A look at the tactics and theology of the religious left, however, suggests that this is exactly what American politics does not need. If Democrats give religious progressives a stronger voice, they'll only replicate the misdeeds of the religious right. For starters, we'll see more attempts to draw a direct line from the Bible to a political agenda."

Many Counties Remain In Turmoil Over New Voting Technology. The Los Angeles Times (1/3, Levey, 958K) reports that California and other states "are embroiled in a contentious debate over how voters should cast their ballots." With "electronic machines under attack as unreliable and vulnerable to hackers, there is little consensus about what the new technology should look like. That has left many counties nationwide in turmoil as they struggle with unproven technology while state regulations remain in flux and the federal government offers minimal guidance." The Times adds, "Congress in 2002 passed the Help America Vote Act, pledging nearly $4 billion to help states upgrade their voting systems. The same year, California passed its own $200-million bond for the same purpose. The flood of money fueled a nationwide spending spree on high-tech machines that were expected to revolutionize vote counting. But the machines often have not proved as reliable as hoped. And while states and counties rushed to buy them, elections officials struggled to regulate how machines should record votes and safeguard results."

Voting Act Puts County Registrars In Bind. The Sacramento Bee (1/2, Yamamura) reports, "Mikel Haas is running out of time and patience, but he says he'll give it one more month before he really starts to panic. … With an April 11 special election fast approaching, the San Diego County registrar of voters still doesn't have any California-certified machines to meet the requirements of the 2002 U.S. Help America Vote Act." The Bee continues, "Most counties in California - and many across the country - officially fell out of compliance Sunday with rules mandating that election systems be accessible to voters with disabilities. But the San Diego County special election puts Haas at the head of the line when it comes to compliance. … While the legal deadline has passed, Secretary of State Bruce McPherson has tried to assure county officials and voters that California will resolve its Help America Vote Act issues by the June primary, the first statewide election with federal races. … But McPherson has not certified any new accessible voting machines since August, making some registrars nervous and others downright angry." The Bee adds, "McPherson's spokeswoman, Jennifer Kerns, said that at least six election systems are 'in the pipeline' and that McPherson is confident multiple options will be available for the June primary. … But registrars like Haas are torn. They say they respect McPherson's need to put controversial equipment through a battery of tests. But they also face the practical need of having to run an election in a matter of months."

Timing Of Evolution Sticker Petitions Still In Dispute. The Fulton County (GA) Daily Report (1/2, Land) reports, "Federal appeals judges are still wrestling with factual inconsistencies over how a petition -- pushed by Marjorie Rogers, a self-described 'six-day biblical creationist'

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-- affected the Cobb County, Ga., school board's decision to amend new science textbooks with stickers questioning the validity of evolution." The Report continues, "A panel of the 11th U.S. Circuit Court of Appeals last month heard the school board's appeal of a federal judge's 2005 decision that the stickers, which say that evolution is 'a theory, not a fact,' amounted to an unconstitutional endorsement of religion. Selman v. Cobb County School District, 390 F. Supp 2d 1286. (The 11th Circuit case is No. 05-10341-1.) … During the arguments, judges sounded highly skeptical of the ruling by U.S. District Judge Clarence Cooper. They also upbraided Jeffrey O. Bramlett, the lawyer for the plaintiffs challenging the stickers, for making statements about the timeline of the case that 11th Circuit Judge Edward E. Carnes called 'just wrong.'" The Report adds, "Carnes demanded that Bramlett provide a written explanation of his assertions that the stickers had been placed in the textbooks as a result of Rogers' petition drive. … Bramlett's claims had been called into question by Cobb County's attorney, Ernest Linwood Gunn IV, whose brief said the petition had not been circulated until four months after the disclaimers were inserted into the books. … On Dec. 22, a week after the argument, Bramlett filed a 127-page response that said there were two petitions -- one by Rogers, with more than 2,300 signatures delivered to the school board before the books were purchased, and a smaller petition delivered after the sticker plan was implemented. … The day the 11th Circuit received Bramlett's response, the court issued a one-page letter to Gunn instructing him, by today, to provide 'any evidence regarding the timing of any petitions that may have been filed with the School Board.'"

Federal Workforce Trails Private Sector In Hiring Hispanics. Under the headline, "Hispanics Underrepresented In The Federal Workforce," the Washington Post (1/3, A16, Fears, 744K) reports, "Hispanics represent 7 percent of employees in federal government when the group's population is growing faster than all others. The five-percentage-point gap between Hispanics working in the public and private domains translates to thousands of jobs and billions of dollars in potential pay, according to a coalition of Hispanic federal employees. The private sector tracks with the 13 percent of Hispanics in the general population, 40 million people, not including an estimated 11 million undocumented workers living in the country illegally." The Post adds, "The consequences are felt nationwide, Hispanic advocates say. The government suffers from a shortage of Spanish-speaking workers who could help non-English speakers navigate Social Security and other federal documents. In the chaotic aftermath of hurricanes Katrina and Rita, the government discovered that it could not effectively communicate with displaced immigrants, legal and undocumented."

ANTITRUST:

Columnist Predicts Mergers For Coming Year. In a column for New York Magazine (1/2), James Cramer writes, "The start of the year is a time for crystal-ball gazing. Sure, I could give you the standard fare, the typical Wall Street gibberish that you will hear in a virtual 24-hour loop for the next few weeks: untried Fed chairman, big-budget deficits, uncertain presidential leadership, a peak in real estate, an end to the interest-rate-tightening cycle. Know what? You know all that already. I'd rather tell you about some things that could happen that could make you some huge money in 2006. I can't guarantee any of them will come to pass, but if they do, well, remember your friend Cramer tipped you to them." Cramer continues, "Citigroup Will Merge With Goldman Sachs … For the past few years, Citigroup has been in the doghouse with regulators. Now new honcho Chuck Prince, a buttoned-down lawyer, has eliminated the cowboys and stopped the culture of trying to sell anything to customers as long as it had a big fee. That may soon give him the green light to make an acquisition. Citigroup has been taking a huge backseat to other players as it gets its ethical house in order. An acquisition could make Citigroup dominant again worldwide." Cramer adds, "Comcast Will Buy CBS … In 2004, when Comcast made its aborted offer for Disney—something that Comcast actually thought that Disney wanted, when nothing could have been further from the truth—I figured that win or lose, Comcast would remain a key, if not the key, player in the distribution of television programming in this country. But Intel, Broadcom, Qualcomm, Apple, Microsoft, Texas Instruments, Motorola, Nokia, Dell, and Marvell Technology Group all have another agenda, which is to make a new device that makes your phone calls, gets you on the Internet (wirelessly), and downloads TV programming, sans commercials, when you want, on the channel you want it. Late in 2006, we're bound to see one or more of these great tech companies unveil a product that will allow you to purchase, download, and watch anything that you want, from sports programs to movies to

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television shows to video games. The device will smash the current cable paradigm and will make all those stocks worth owning once again, as they were in the year just past." Cramer continues, "Pfizer And Bristol-Myers Squibb Will Merge, And Merck Will Snap Up Schering-Plough … My crystal ball sees no end to the turmoil afflicting the pharmaceutical industry. With the government as the biggest payer in the system, courtesy of the changes in Medicare, the drug companies will be forced to discount drugs well below where they thought they might have to. That combination of price squeeze and endless overhead will force Bristol-Myers and Pfizer to merge, and Merck and Schering-Plough will get together."

Arizona Questions Competition Problems With Development Deal. The Arizona Republic (1/2, Alltucker) reports, "State regulators want to scrutinize Cox Communications' role in arranging a special deal that effectively prevented rivals from seeking customers in a massive new-home development in Peoria." The Republic continues, "A new report by the Arizona Corporation Commission suggests there is "clear and convincing evidence" that in December 2003 a deal was struck between Cox Communications and a private developer to curb competition for phone, cable and high-speed Internet services at the 17,000-home Vistancia community. … The Corporation Commission wants to hold a public hearing to examine the deal and discuss potential fines against Cox." The Republic adds, "Although the arrangement was proposed by the developer, Shea Sunbelt, state regulators said Cox was an "active participant," with 15 employees helping write and revise terms of the deal. … The arrangement came to light after a tiny telephone company, Accipiter Communications, filed a complaint with state regulators alleging it was shut out of Vistancia. The arrangement also triggered an investigation by the federal Department of Justice's antitrust division."

Columnist Decries Government-Sanctioned Monopolies. In a column for the Orange County Register (1/2), Tibor R. Machan writes, "In Silverado Canyon, there is a tiny post office where each weekday we pick up our mail. One or two of the people who work there are, unfortunately, quite often absent because of illness or something else and, more often than not, the mail now doesn't get distributed until late in the afternoon. The Postal Service says they have to have the mail out by 5 p.m. but it used to be in our boxes by 10:30 a.m. or even earlier, until recently. … OK, so there has been more mail this time of year, but here is how that eventuality should play out. The post office should either hire more people so the mail gets out earlier or an alternative mail service should appear on the scene and offer competing first-class delivery service." Machan continues, "That latter alternative, of course, is illegal. Competition in first-class mail delivery is against the law, nevermind the demand. Accordingly, the post office can keep being later and later with mail distribution and does not have to hire any extra help since no one's about to come in and take the business from them. … This is but one of the relatively innocuous results of the monopoly in first-class mail service. Other monopolies are far more insidious. Take the New York Metropolitan Transit Authority, which last month was struck by the public-employee union to which all its workers belong. … " When there's a strike in a free market, people often have other vendors from whom they can receive service. There is usually competition, so that if Chrysler's autoworkers go on strike, there are Ford, Toyota, General Motors and other carmakers still in business." Machan adds, "Just why the American public is mostly passive about the many monopolies protected or operated by government is a mystery to me - one reason might be is that the government schools do not explain in their economics classes just how unnecessary and unjust such monopolies are, seeing that the schools themselves are a case in point. But perhaps with some voices making a bit of noise about the situation others will catch on and in time we can get a system in which my little post office would either shape up or find itself competing with an alternative mail-delivery agency."

Homeowners' Web Site In Wisconsin Competes With Realtors. The New York Times (1/3, Bailey) reports, "Across the country, the National Association of Realtors and the 6 percent commission that most of its members charge to sell a house are under assault by government officials, consumer advocates, lawyers and ambitious entrepreneurs. But the most effective challenge so far emanates from a spare bedroom in the modest home here of Christie Miller." The Times continues, "Ms. Miller, 38, a former social worker who favors fuzzy slippers, and her cousin, Mary Clare Murphy, 51, operate what real estate professionals believe to be the largest for-sale-by-owner Web site in the country." The Times adds, "They have turned

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Madison, a city of 208,000 known for its liberal politics, into one of the most active for-sale-by-owner markets in the country. And their success suggests that, in challenging the Realtor association's dominance of home sales, they may have hit on a winning formula that has eluded many other upstarts. Their site, FsboMadison.com (pronounced FIZZ-boh) holds a nearly 20 percent share of the Dane County market for residential real estate listings. … The site, which charges just $150 to list a home and throws in a teal blue yard sign, draws more Internet traffic than the traditional multiple listing service controlled by real estate agents." The Times notes, "Madison is home to the University of Wisconsin and a city where the percentage of residents who graduated from college is twice the national level. It is also a hotbed of antibusiness sentiment, which turns out to be the perfect place for a free-market real estate revolution. Bucking the system is a civic pastime here. … Elsewhere, the Justice Department, free-market scholars, plaintiffs' lawyers and countless entrepreneurs are vowing to make real estate more competitive and to bring down sales commissions. To do that, they advocate forcing the Realtors' association to share control of its established listing services. Those critics seem to view the listings as an unassailable monopoly. … And who can blame them? Those 800-plus local listing services, controlled by local branches of the Realtors' association, help dole out about $60 billion a year in commissions to real estate agents and the firms that employ them. Despite numerous attacks, the association has been remarkably successful to date at protecting its turf. Through lobbying, litigation and legislation, the Realtors' group has managed to keep control of the crucial listings."

Unlikely Alliance Develops Between Rivals Sony, Samsung. The Wall Street Journal (1/3, Dvorak, Ramstad) reports, "For years, Samsung Electronics Co.'s key mission was to unseat rival Sony Corp. as the world's top electronics maker. Long seen as a South Korean underdog, Samsung has in the past few years surpassed its Japanese rival in market capitalization, revenue and profits. In television sets, Sony's traditional stronghold, Samsung now jockeys with Sony and a handful of top players for the No. 1 share of sales globally." The Journal continues, "But the relationship between Sony's Hiroshi Murayama and Samsung's Jang Insik tells a different story. The two engineers symbolize how the two companies have increasingly come to depend on each other since 2003. That's when Sony, looking for a source of panels for its new flat-panel TV line, asked to become a partner in a $2 billion factory Samsung was building to produce liquid-crystal displays." The Journal adds, "Messrs. Jang and Murayama phone each other from their bases in South Korea and Japan respectively several times a day and visit in person every month to discuss how to make better panels. Mr. Murayama persuaded Mr. Jang and his bosses to speed their development of key technologies, and Samsung let Mr. Murayama use some of those technologies in Sony's TV panels even before its own products. Sony's TVs that use those new panels ended up outselling Samsung's LCD sets by more than three to one this fall in major U.S. retailers. … But Samsung is still keen to work with Sony because it's getting a crash course in how to improve LCD panels, which it had mostly used in computer monitors and cellphones, in the important TV segment. … The unlikely alliance shows just how tangled the connections have become between consumer-electronics companies as competition in the industry intensifies. … The same trend is happening across Asian electronics makers, which have traditionally prided themselves on doing as much as they could in-house, from the design of their gadgets to the technology that goes into them."

ENVIRONMENT/INDIAN AFFAIRS:

Health Officials Note Progress In Preparations For Bird Flu Epidemic. Health officials said yesterday that the US is making progress in preparing for a bird flu epidemic. This includes measures to close schools and quarantine the sick. However, the AP (1/2, Yen) reports that vaccine supplies remain inadequate. Julie Gerberding, director of the national Centers for Disease Control and Prevention, said on CBS' Face the Nation, "We've got a lot of work to do." Citing "'bottlenecks' in vaccine production and the delivery of health care if there's an outbreak," Gerberding added, "We've got to get more and better anti-viral drugs. And we've got to have every single link in our public health system as strong as it can be so it can detect this problem." The AP adds, "Health and Human Services Secretary Mike Leavitt, appearing on CNN's 'Late Edition,' praised the money approved by Congress as a good step that will fund one year of preparedness efforts. Still, he said the U.S. is not ready, saying additional money is needed to ensure there would be enough vaccine supplies for all

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Americans within six months of an initial outbreak. State and local governments also need to step up efforts, Leavitt said."

Gerberding said on CBS' Face the Nation (1/1, Schieffer) she does not know whether "it is just a matter of time" before Avian flu appears in the US, but "we've got to take the steps now to get prepared for that." She added, "Frankly, we're not as prepared as we need to be. We're certainly doing more today than we were even two years ago so we're making fast progress. But we've got a lot of work to do. We've got to get a vaccine supply that we can count on. We've got to get more and better anti- viral drugs."

Leavitt Says US Still Has Work To Do. HHS Secretary Michael Leavitt said on CNN's Late Edition (1/1, Blitzer) that the avian flu virus "continues to spread in wild birds across the world. There is no reason to believe that at some point it will stop. That means that ultimately it would find its way to the United States. We need to be prepared. … We are not as prepared as we aspire to be. We have a great deal of work to do."

Plan To Change Toxic Release Reporting Requirements Draws Fire. The Washington Post (1/3, D1, Skrzycki, 744K) reports in its "The Regulators" column, "Opposition is growing to a Bush administration plan to change the reporting requirements of" the Toxic Release Inventory, the "highly successful public information program that collects data annually on releases of toxic chemicals." The inventory "has been a roadmap for individuals and community groups interested in pinpointing where the country's most-polluting facilities are located." The business community has pushed "over the past decade to reduce the 'burden' of having to fill out a five-page form for each chemical they use every year. This form includes detailed information on the quantity of the chemical, how it is made and processed, and how much of it is released. After considering several options, the [EPA] in October proposed changes that would allow more companies to file a shorter report, known as Form A, which contains less information about their use of toxic chemicals." The EPA "dropped another bombshell at the same time, telling Congress that it is thinking about eliminating annual filing in favor of every other year. … The twin ideas prompted outrage from environmental and public-interest groups." The Post adds, "Environmental and community groups, in particular, consider the reporting program a great success. And it has become even more useful since the agency has required reports on more chemicals and from more industrial sectors, including mining and electrical utilities."

Other States Adopting California's Strict Greenhouse Gas Rules. The Washington Post (1/3, D1, Freeman, 744K) reports, "On Friday, Massachusetts joined Oregon, Connecticut and five other states in adopting California's tough greenhouse gas rules, which limit the amount of carbon dioxide and other gases that can be emitted from vehicle tailpipes. These new rules would supplement federal exhaust pollutant standards already in place. Two other states are in the process of adopting the rules. The carbon dioxide regulations are so strict, the auto industry argues, that they would cause extensive design changes to new vehicles, driving up prices and crippling new-car sales. Every major automaker that sells vehicles in the United States is suing to have the new rules overturned, even as states on the West Coast and in the Northeast are moving quickly to adopt them." The California rule "requires a 30 percent reduction in greenhouse gases by 2016. The rules are one element of a wider trend of states enacting their own energy policies to govern auto and factory emissions and appliance energy efficiency, updating older federal rules or writing new rules where none exist."

Novak Praises Romney Decision To Pull Out Of RGGI. Robert Novak (1/2) writes in his syndicated column, "Massachusetts Gov. Mitt Romney on Dec. 16 made a significant move that will benefit the pocketbooks of his state's consumers and perhaps boost his own Republican presidential prospects. He pulled Massachusetts out of the compact of Northeastern states requiring a reduction in power plant emissions of carbon dioxide. The Regional Greenhouse Gas Initiative (RGGI) would cut the emissions by 10 percent by 2019, forcing up electricity prices because of greater dependence on increasingly expensive natural gas. … The defection of Romney, originally inclined to support RGGI, represents a major setback for the Greens." Novak adds, "Green pressure can lead politicians to make promises that they would regret. … It appears Mitt Romney will avoid that pitfall on his long uphill climb to the White House."

Government Seeks To Remove Grizzly Bears From Endangered List. NBC Nightly News (1/1, story 12, 2:20, Seigenthaler) reported, "The Federal Government has declared grizzly bears in Yellowstone

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recovered, clearing the way to remove it from the endangered list." NBC (O'Neil) added, "By 1975 it was clear the grizzlies needed to be put on the endangered species list." Biologist Kerry Gunther: "We've gone from a population of less than 200 to a population of 600 and increasing population. It's a great success story." O'Neil: "A sorely needed victory for the act which some in Washington want to water down. The grizzly is only on of a handful to ever be declared recovered."

Texas, Oklahoma Continue To Be Plagued By Wildfires. The CBS Evening News (1/02, story 2, 2:30, Schieffer) reported, "The fires in Texas and Oklahoma now spreading to New Mexico are being fueled by the worst drought in decades. The fires killed four people last week and searchers were set to look for any victims from two small towns in Texas that burned last night. Since early November, the Oklahoma fires have destroyed some 200 buildings and at least 270,000 acres." CBS (Cowan) added, "Nearly 100 more homes were lost to flames that burned into the wee hours of the morning. Some communities like Ringgold near the Texas-Oklahoma border were erased."

NBC Nightly News (1/2, story 5, 1:50, Teague) reported, "Fire crews have spent more than a week battling grass fires that have raged across Oklahoma, Texas, and New Mexico and burned again today. Nearly 300,000 acres have been scorched so far and more than 400 homes. The weather simply won't give fire crews a break." The AP (1/3, Flynn) runs a similar report.

Damage From California Flooding Now In Hundreds Of Millions Of Dollars. The CBS Evening News (1/02, story 3, 2:30, Schieffer) reported, "Back-to-back storms drenched California and caused an estimated $100 million in flood damage. Most of it is the result of rivers that have spilled out of their banks in Northern California. Now the storms are threatening the southern part of the state." CBS (Hughes) added, "The pounding rain was too much for vulnerable hillsides above Los Angeles, burned bare by this year's wild fires. Rescue workers were watching for any sign that nearby residents needed to pack up and run from the hills. The second wave of storms to hit this weekend is swamping parts of Southern California. Up to four inches of rain is expected in the valleys and eight in some mountain areas."

NBC Nightly News (1/2, story 4, 2:20, Lewis) reported, "In California's wine country, where hundreds of homes and businesses are flooded out, they're just beginning to assess the damage, estimated in the hundreds of millions of dollars." In Pasadena, "there were plenty of raindrops on roses at 117th annual Rose parade. Defying the elements, the USC marching band wore plastic ponchos and sunglasses. As a smaller-than-usual crowd of spectators watched." Governor Arnold Schwarzenegger has "issued a state of emergency in seven California counties most adversely affected by the storm."

Cato Fellows Argue Strategic Petroleum Reserve Should Be Scrapped. Jerry Taylor and Peter Van Doren, senior fellows at the Cato Institute, write in the New York Times (1/3, 1.19M), "The rise in fuel prices that followed Hurricanes Katrina and Rita has prompted many members of Congress to call for new and expanded federal reserves of crude oil, diesel fuel, home heating oil, jet fuel and propane. Proponents of stockpiling claim that if the government were to hoard those commodities when prices were low, it could unleash them on the market when supplies are tight, thus dampening price increases and stabilizing the market. But the experience in this country with the strategic petroleum reserve strongly suggests that such government-managed stockpiles are a waste of taxpayers' money. Rather than increasing the stockpile, the reserve should be emptied and closed." Economists "agree that every barrel of oil we put in the public reserve displaces oil that might otherwise have gone into private inventories. How much displacement occurs is unclear, but there is little doubt that it's significant. If the reserve is thought of as an insurance policy against high prices, the cost of the policy has been more expensive than the dangers the stockpile is meant to prevent. Americans should resist the drive to expand public stockpiles. Instead, we should sell while the selling is good."

Opponents Of ICC Said To Have Little To Stand On. The Washington Post (1/2) editorializes, "With a key federal approval expected soon for the proposed intercounty connector -- the east-west toll highway that would transverse Maryland suburbs -- the road's opponents are mounting an eleventh-hour anti-ICC campaign. Having failed over the years to sway the traffic-weary public with other arguments (environmental impact, cost, effect on traffic), the foes are focusing on how much the road will cost to use. This, too, is a losing argument."

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Loyal Mdewakanton Tribe Wins Court Battle Over Minnesota Land. Indian Country Today (1/3, Melmer) reports, "Membership in a Dakota tribe is expected to more than double after an accurate list of lineal descendants of the Loyalist Mdewakanton is complied and verified, as ordered by a federal court." ICT continues, "U.S. Court of Federal Claims Judge Charles Lettow has denied a U.S. Justice Department motion to reconsider his earlier ruling that gave the descendants of the Loyalist Mdewakanton rights to land in Minnesota. … Lettow also ruled that the federal government breached its trust obligations to the Loyalist Mdewakantons and their descendants when in a 1980 congressional act it put the land into trust for three federally recognized Dakota communities - Prairie Island, Shakopee and Lower Sioux. That act violated an 1886 contract signed by Mdewakanton leader John Bluestone, which gave that land to the Mdewakanton who were descendants of those who pledged loyalty to the United States in 1862. … Previously the land was either assigned to individual loyalists or leased, with the proceeds from the lease paid to the loyalists." ICT adds, "The loyalists want the land returned to them and Mdewakanton tribal membership, with full political power, restored. Lease revenues that were given to groups other than the loyalist's lineal descendants constitutes a breach of the contractual agreement by the federal government, the plaintiffs argued. Today's lineal descendants want compensation for the lost revenues. … Lettow's latest decision rejected the federal government's claim that it didn't mismanage the trust on behalf of the lineal descendants. He also rejected the argument that the 1886 contract did not authorize a trust responsibility to the loyalists. … Lettow ordered the government to perform an accounting to determine the size of financial compensation that is owed the loyalists' descendants."

Navajos Try To Stop Arizona Uranium Rush. The Arizona Republic (1/3, Shaffer) reports, "The price of uranium has tripled in the past two years, bringing with it the possibility of another uranium rush in Arizona, the state with the richest deposits of the ore and, along with New Mexico, the worst legacy associated with its mining." The Republic continues, "Last year, 700 mining claims were filed and 100 test holes were bored into the wild, remote high desert in northern Arizona. … Scott Florence, director of the Bureau of Land Management's Arizona Strip district in St. George, Utah, said those numbers are significantly higher than any year since the frenzy of the 1980s. … 'Finding the right mine site is a real art. But it seems like everyone and their mother is trying now,' he said." The Republic adds, "Secondary supplies of uranium on the world market have virtually dried up, and China, India and Japan are clamoring for uranium for their burgeoning domestic nuclear-power industries. Uranium now fetches $36 a pound on the spot market. Four years ago, it was going for just over $7 a pound. … But not everyone is happy about the search for new mine sites. Navajo Nation President Joe Shirley Jr., stirred to action by the memory of how dangerous uranium mining can be, issued an executive order in November banning negotiations with uranium companies or uranium exploration on the three-state Navajo Nation, which was engulfed by a public health tragedy after the first wave of uranium mining began on its reservation in the 1950s. Dozens of premature deaths of Navajo miners and passed-on genetic defects have been attributed to uranium exposure."

FBI/DEA/ATF/USMS:

FBI Photographer Sues Over Mistreatment Due To Tourette's Syndrome. The Legal Times (1/2, Kelley) reports, "As a photographer for the Federal Bureau of Investigation, Jeffrey Bell was frequently tapped to work on high-profile cases. Between 1991 and 2000 he was deployed throughout the United States and abroad to photograph matters involving terrorism, forensics, counterintelligence, and emergency response. … But according to a lawsuit Bell, a 43-year-old with Tourette's syndrome, filed recently in the U.S. District Court for the District of Columbia, all that changed after an incident stemming from his disorder led to retaliation from his employer. Bell's trial is expected to start this week." The Times continues, "Court papers filed by Bell's attorney, Edith Marshall of Powers Pyles Sutter & Verville, state that Bell was taking a new medication to control his Tourette's when he became involved in a verbal altercation with a co-worker. Bell explained that the outburst was a side effect of his medicine, but he claims he was treated differently from that point on because of his Tourette's, a neurological disorder that can cause involuntary tics and vocalizations as well as obsessive-compulsive tendencies and hyperactivity." The Times adds, "Bell alleges that because of his Tourette's he was regarded as a 'problem personality' and often blamed for any workplace conflict that occurred."

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Doctors Said To Fear DEA Action When Prescribing Pain Medications. In an story titled "Painful Choices: Physicians Challenged By Quest To End Suffering" the Deseret (UT) Morning News (1/2, Collins, Jarvik) writes, "The perception among doctors is that the regulatory environment has become more hostile, says Micke Brown, director of advocacy for the American Pain Foundation, headquartered in Baltimore. 'Many health care providers are running scared,' especially primary care physicians, she says. 'Some are even backing away from managing people's pain.'" Pain management doctor Lynn Webster, who heads the Utah Academy of Pain, "is an opioid advocate. … He argues that the undertreatment of pain is 'still a major problem' in Utah, in part because of doctors' fears of punishment by the federal Drug Enforcement Agency (DEA) and the state Division of Occupational and Professional Licensing (DOPL). … Pain experts are waiting anxiously for the DEA to clarify its interpretation of the federal law that governs prescribing controlled substances for pain. DEA said the guidance was imminent more than a year ago. But pain experts, still waiting, continue to warn colleagues to err on the side of stricter federal interpretations."

Maryland Tax Dollars Said To Be Disproportionately Tied Up In Locking Up Addicts. In the Washington Post (1/1, B8), Tara Andrews, director of Justice Maryland and Democratic candidate for the state Senate from Baltimore City, writes "By the latest count, more than 250,000 Marylanders are in need of substance-abuse treatment. Even in Montgomery County, considered the state's wealthiest county, the treatment gap is great. Yet despite population growth, state funding for treatment has declined. More than three-quarters of those in Maryland prisons report having an alcohol or drug problem, and four out of 10 entering the state's prisons every year are locked up for drug offenses. Maryland has the third-highest percentage of prison admissions for drug offenses in the country. … Maryland tax dollars are disproportionately locked up by the incarceration of drug addicts, while providers of substance-abuse treatment make do with crumbs. A shift of dollars away from incarceration and toward a dedicated fund for treatment would make a world of difference and a world of sense."

Plan Colombia Credited With Record Number Of Cocaine Seizures. Reuters (12/31) reports, "Colombia seized a record 186 tons of cocaine [in 2005] thanks to a Washington-backed program aimed at cutting imports of the illegal drug to the United States, the Colombian government said on Friday. The haul, seized using equipment and expert advice provided by 'Plan Colombia,' was 26 percent more than last year and had a U.S. street value of $4.7 billion, Defense Minister Camilo Ospina told reporters. He said the increase was possible thanks in part to more than $3 billion in mostly military aid that the United States has provided since 2000 to help fight drug-running Marxist rebels fighting a decades-old insurgency. Washington says cocaine is becoming more expensive on U.S. streets, a sign that the money, largely steered toward aerial spraying of coca bushes used to make cocaine, is making the drug less available."

IMMIGRATION:

Migrant Advocacy Group Celebrates 10 Years. The Miami Herald (1/2, Chardy) reports, "Alfredo López-Sánchez languished for months at a detention center for migrant children in Southwest Miami-Dade -- until an attorney for a local immigrant rights group realized the Guatemalan did not understand Spanish." The Herald continues, "The lawyer from the Miami-based Florida Immigrant Advocacy Center eventually found an interpreter who spoke López-Sánchez's Mayan language. … That was September 2001. A year later, López-Sánchez -- then 17 -- was free and on his way to getting a green card." The Herald adds, "Such successes have turned the Florida Immigrant Advocacy Center into a powerhouse in national advocacy for persecuted migrants too poor to hire a lawyer. … FIAC, as the group is known in the immigrant rights community, is marking its 10th anniversary today -- with a string of victories, and some defeats, in what often seems an uphill battle against ever-tougher immigration laws. It plans a 10th anniversary celebration dinner March 6. … The group began in 1996 -- two years after former House Speaker Newt Gingrich's conservative revolution swept Congress with calls to close the borders and even to shut the school door to children of undocumented immigrants. In the end, Congress amended immigration law, making it extremely difficult for any immigrant without proper papers to avoid detention or deportation -- though lawmakers dropped provisions that would have let states bar children from public schools if their parents entered the country illegally. … Ten years later, in the

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fallout from the Sept. 11, 2001, terrorist attacks, immigration law is again facing calls from conservatives in Congress to toughen the rules for citizenship, including barring U.S.-born children of illegal immigrants from becoming automatic citizens and the deportation of migrants encountered on the streets without the right to a court review to plead their case."

Conflicting Public Attitudes On Illegal Immigration Noted. The Washington Post (1/3, A7, Balz, 744K) notes the "sometimes conflicting public attitudes" on illegal immigration. A Washington Post-ABC News poll taken in mid-December "found Americans alarmed by the federal government's failure to do more to block the flow of illegal immigration and critical of the impact of illegal immigration on the country but receptive to the aspirations of undocumented immigrants living and working in the United States. … The Post-ABC News poll found that four in five Americans think the government is not doing enough to prevent illegal immigration, with three in five saying they strongly hold that view. The same poll found that 56 percent of Americans believe that illegal immigrants have done more to hurt the country than to help it, with 37 percent saying they help the country. About three in five Republicans and a bare majority of Democrats agreed that illegal immigrants are detrimental to the country. The only groups in the poll who disagreed were people with postgraduate degrees, those with incomes exceeding $100,000 and nonwhite respondents. The Post-ABC poll did not include enough Hispanics to provide an accurate reading of their sentiment, but a Pew Hispanic Center survey last summer found that two in three Latinos said that undocumented migrants help the economy. … In the recent Post-ABC News poll, President Bush got his lowest marks on immigration, with 33 percent saying they approved of how he was handling the issue. That may largely reflect irritation over the government's failure to control the borders."

Hayworth Set To Publish An "Anti-Immigration Manifesto." Time (1/9, Allen) reports in its "Notebook" column that Rep. J.D. Hayworth "is about to publish an anti-immigration manifesto, Whatever It Takes, that should rile up right-wing radio just as the White House was hoping to gain traction for a broad immigration-reform package." In the book Hayworth "calls for deploying active-duty troops to the border and considering a 'border security fence from the Pacific Ocean to the Gulf of Mexico.'" Hayworth "contends that Bush's plan to confer temporary legal status on Mexicans working in the U.S. amounts to 'false compassion.' But Senator John McCain plans to push hard this winter for such a program. House Republican leaders say they might accept one if immigrants had to return home to apply for temporary work permits. Hayworth tells TIME that even that would be too lenient, designed to appease 'left-wing grievance mongers' and businesses that want cheap labor. Bush may have sounded as if he were running for sheriff during his recent border visits, but to convince the likes of Hayworth, he'll have to talk a lot tougher."

CONGRESS-ADMINISTRATION:

Alito Argued President Should Issue "Interpretive Signing Statements." As a Justice Department lawyer in 1986, Supreme Court nominee Samuel Alito made the case or presidential power, laying out a strategy under which the president would routinely issues statements about the meaning of statutes when he signs the into law. The Washington Post (1/2, A11, Lee) reports that such "'interpretive signing statements' would be a significant departure from run-of-the-mill bill signing pronouncements, which are 'often little more than a press release,' Alito wrote. The idea was to flag constitutional concerns and get courts to pay as much attention to the president's take on a law as to 'legislative intent.'" The Post adds, "The Reagan administration popularized the use of such statements and subsequent administrations continued the practice. (The courts have yet to give them much weight, though.) President Bush has been especially fond of them, issuing at least 108 in his first term, according to presidential scholar Phillip J. Cooper of Portland State University in Oregon."

Alito Said To Have An "Everyman Appeal." The New York Times(1/2, Kirkpatrick) says that according to people who have participated in Alito's rehearsals for this week's confirmation hearings say he "will never be as polished and camera-ready as Chief Justice John G. Roberts Jr. was at his own hearings a few months ago." But two of Judge Alito's supporters who participated in the murder boards, speaking about the confidential sessions on condition of anonymity for fear of White House reprisals, said they emerged convinced that his demeanor was a political asset because it gave him an Everyman appeal." The Times adds, "Senators of both parties have said it will not be easy to follow Chief Justice Roberts," and "some Democrats said they

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already had much more pointed questions waiting for Judge Alito, focusing mainly on strongly worded statements that he made as lawyer in the Reagan administration about his conservative approach to the Constitution, abortion rights and other issues. Leading Democratic senators have said his responses will be a deciding factor in whether they seek to block the nomination by filibustering."

Alito Hearings Will Test Domestic Spying Program's Political Resonance. Time (1/9, Tumulty, Allen) the opening of Supreme Court nominee Samuel Alito's confirmation hearings this week will be the first test of the domestic spying program's "political resonance." According to Time, Alito opponents, "who had planned to put the abortion issue on center stage, are quickly retooling their strategy. … Alito's record could give his critics plenty of ammunition. The Third Circuit judge has long been an advocate of the unitary-executive concept, a constitutional interpretation that is a favorite of Bush's and Vice President Dick Cheney's, which argues that the President should have nearly total control of Executive Branch agencies and resist any incursion on that power by Congress." Time adds, "Administration officials concede that the controversy will inject a volatile new element into the confirmation debate but say Alito will resist getting drawn in."

Alito's Writings Suggest He Will Accelerate Court's Shift To The Right. U.S. News and World Report (1/9, Halloran) says the battle over Alito "shows every sign of achieving Borkian dimensions. As Alito prepares for his confirmation hearings before the Senate Judiciary Committee next week, the portraits being painted of him have become ever more cartoonish, nasty, and one-dimensional. … Behind the caricatures, however, are real questions. Who, really, is Sam Alito, and what kind of a justice would he be? An analysis of Alito's writings as a Reagan administration lawyer, and of his opinions from the bench, reveals him to be a solidly conservative jurist but one who also pays deference to precedent. … His lengthy paper trail suggests he will accelerate the court's shift to the right on several important issues," including abortion, civil rights, capital punishment and federalism.

Roberts, Alito Seen As Likely Allies Of Business. Academics and business experts say Chief Justice John Roberts and Alito are likely to be allies of manufacturers and business, The AP (1/1, Cassata) reported, "One represented corporate interests as a private attorney; the other often sided with employers in lawsuits filed by workers. Beyond their decisions in individual cases, the Roberts court also has the potential to craft a consistent philosophy on business issues, something that several academics argue has been lacking in recent years since the departure of Lewis Powell in 1987. … The court's highly selective docket for the current term will give Roberts and Alito, assuming the latter is confirmed, ample opportunity to shape the court. Among the critical issues for companies are the Supreme Court's decisions in antitrust cases, government regulation of land development and the commerce clause. … Abortion and social issues dominate the public debate over the Supreme Court, but business matters make up a significant portion of the justices' work."

Interest Groups To Intensify Rhetoric In Debate Over Alito Nomination. USA Today (1/3, Kiely, Memmott, 2.31M) reports the Senate hearings on Judge Samuel Alito's nomination to the Supreme Court "are set to begin Monday. This week, groups on both sides of the debate plan to launch elaborate phone, e-mail and ad campaigns." Ralph Neas of the People for the American Way said, "There's no question there will be an acceleration of efforts." Neas "plans a wave of TV ads" in opposition to the nomination. Meanwhile, Christian Myers of Progress for America said, "It's game time now, and we're making a serious push." The "conservative group will spend $500,000 to broadcast a pro-Alito ad on cable television and in four states where senators may be undecided." Other groups, "from the conservative Focus on the Family to the liberal Leadership Council on Civil Rights, plan phone banks, e-mail blitzes and visits to newspaper editorial boards and radio hosts." But "relatively few senators will get most of the attention. One is Senate Judiciary Committee Chairman Arlen Specter, a centrist Pennsylvania Republican who will preside over Alito's confirmation hearings." Both sides are "focusing on senators whose votes will help determine whether there's enough Senate support for a filibuster." The key senators "are centrists; all say they're undecided about Alito. Several face re-election fights this year. The biggest group is 'red state Democrats.'"

The New York Times (1/3, Kirkpatrick, 1.19M) reports that in the "final days before" the Alito hearings, "partisans on both sides are pulling out all the stops in an effort to sway public opinion. Moving beyond Judge Alito's judicial record, a coalition of liberal groups is preparing commercials attacking his integrity and credibility instead, several people involved in the effort said Monday." Conservatives, "for their part, are capitalizing on ethnic pride to rally Italian-American support

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for Judge Alito with public events and newspaper advertisements. The efforts are aimed particularly at the Northeastern States, where some moderate Republican senators have expressed doubts about his confirmation." The advertising campaigns "on both sides are the most visible components of a last-minute push by advocacy groups anticipating a potentially close Senate vote." People "involved in the liberal coalition, which includes People for the American Way, the legal group Alliance for Justice, the A.F.L.-C.I.O., the N.A.A.C.P., the Sierra Club and abortion rights groups, said it planned to run new commercials, beginning this week with radio and television advertisements in selected states intended to undercut Judge Alito's credibility." The sources "said the first advertisements would focus on occasional lapses from a pledge Judge Alito made at the 1990 hearings for his confirmation to the appeals court that he would recuse himself from cases involving the companies that managed his mutual fund investments, Vanguard and Smith Barney."

Alito View's On Reapportionment Cases Seen As Debatable. In a New York Times editorial observer story (1/3), Adam Cohen says, "There has been a lot of talk about the abortion views of Judge Alito, President Bush's Supreme Court nominee. But his views on the redistricting cases may be more important." Sen. Joseph Biden "said recently that Judge Alito's statements about one person one vote could do more to jeopardize his nomination than his statements about Roe v. Wade. Rejecting the one-person-one-vote principle is a radical position. If Judge Alito still holds this view today, he could lead the court to accept a very different vision of American democracy, one in which it would be far easier for powerful special interests to get a stranglehold on government."

Critics Said To Be Wrong For Seizing On Alito's Memos In Abortion, Wiretap Cases. In a New York Times op-ed (1/3), former Reagan Administration solicitor general Charles Fried says Judge Alito's "opponents have seized upon two memorandums he wrote when he was a junior lawyer in the office of the solicitor general: one on the Thornburgh case, which dealt with Roe v. Wade, and the other on Mitchell v. Forsyth, which addressed the attorney general's personal liability for wiretaps found to violate the Constitution. Determined to fit the man to the Scalito caricature with which they hope to defeat his nomination to the Supreme Court, Judge Alito's detractors ignore the context and the content of both documents." But "these were not the writings of a political operative seeking to make trouble or advance an agenda. The solicitor general takes a case to the Supreme Court only when some other part of the government - perhaps a division of the Department of Justice or another agency - recommends it." As in "every case, a junior staff member was assigned to analyze these recommendations and propose a course of action to the solicitor general. It fell to Judge Alito to write those memos." But what is "remarkable in both cases is that Judge Alito recommended against taking the position that more senior, politically appointed officials were urging the solicitor general to take before the court. In the abortion case, not only the head of the civil division but also other high-ranking officials were urging that I, as the solicitor general at the time, ask the court to overturn Roe v. Wade. The bottom line of Judge Alito's memo was that I should not do that."

Roberts Calls For Tighter Court Security, Pay Raises For Judges. US Chief Justice John Roberts yesterday called for better court security and higher salaries to ensure a diverse mix of judges on the bench. Reuters (1/2, Charles) reports that Roberts wrote in his 2005 Report on the Federal Judiciary, "I recognize that it is a bit presumptuous for me to issue this report at this time, barely three months after taking the oath as chief justice," but, "But I do not intend to start the new year by breaking with a 30-year-old tradition, and so will highlight in this report issues that are pressing and apparent." Reuters adds, "Roberts expressed concern over violence directed at judges and in courts in the past year. He mentioned the murders of a U.S. district judge's husband and mother in Chicago by an angry litigant, and a court shooting in Atlanta that left a judge, court reporter and deputy dead. … Roberts also returned to a theme that Rehnquist regularly mentioned in his annual reports: the need to raise pay for judges. … Roberts said the real pay of federal judges has declined since 1969 by almost 24 percent, while the real pay of the average American worker during the same period had increased by more than 15 percent."

Bush Team Notable For Lack Of Turnover. The Washington Times/AP (1/3) reports the loyalty of President Bush's aides have limited turnover. After "two wars, devastating strikes by terrorists and hurricanes, a bruising re-election and countless legislative battles, President Bush's team is continuing the trend -- defying history and shake-up rumors to remain almost entirely intact five years in." Only a

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"handful of the president's most senior aides have departed since Mr. Bush came to Washington in 2001. Though some have shifted roles, it's a familiar cast of characters at the president's side: Vice President Dick Cheney, Chief of Staff Andrew H. Card Jr., political guru Karl Rove, Deputy Chief of Staff Joe Hagin, counselor Dan Bartlett, budget chief Joshua B. Bolten, White House Counsel Harriet Miers and press secretary Scott McClellan." Bush's Cabinet "has seen more turnover than his top-level White House staff. Still, a third of the 21 Cabinet-rank positions are held by the same person as when Mr. Bush came to Washington." David Gergen said, "I don't think there's any other president in the modern era that has seen this kind of stability."

Medicare Drug Program Gets Off To An "Uneven" Start. A somewhat negative story in the New York Times (1/3, Pear, 1.19M) says the Medicare prescription drug program "got off to an uneven start across the country" this week. The Times says that while people "who applied early and had identification cards in hand were often able to fill prescriptions through the new program," others "were stymied in their efforts to take advantage of the drug benefit, as pharmacists spent hours trying to confirm eligibility and enrollment by telephone and computer." The Times adds, "Dr. Mark B. McClellan, administrator of the Centers for Medicare and Medicaid Services, said he was pleased with the first days' experience. 'Many thousands of people were able to get their prescriptions filled,' he said."

Many Seniors Still Befuddled As Medicare Drug Benefit Takes Effect. ABC World News Tonight (1/1, story 2, 2:35, Harris) reported, "The beginning of 2006 means millions of senior citizens can get prescription drug benefits through Medicare. Pharmacists say tomorrow may be the busiest day of the year, with many seniors coming in with many questions about their plans. While 43 million seniors are eligible, only 1 million have signed up for what some consider the most confusing government benefits ever." ABC (Yang) added, "Medicare officials say there's still plenty of time. Enrollment ends May 15th. They're now running TV ads, encouraging people to help their moms and dads. … Medicare officials say one of the most efficient ways to sort through all the options is on the Internet. But 75% of seniors say they've never even been online."

The CBS Evening News (1/1, story 5, 2:20, Roberts) reported, "Huge fanfare and a lot of confusion are accompanying the biggest change in Medicare history. The government's new prescription drug plan which is supposed to make drugs more afford to believe millions of Americans seniors goes into effect today." CBS (Chen) added, "20 million low income Americans" are "being forced off state drug coverage programs and into the myriad of prescription plans run by private insurance companies. Supporters expect as many as 10 million more will voluntarily sign up, though only one million have so far."

Gingrich Urges GOP To Propose Lobbying Reforms. Former Speaker of the House Newt Gingrich was asked on CBS' Face the Nation (1/1, Schieffer) if Republicans are in danger of suffering losses in this year's elections due to scandals tied to several GOP congressmen. Gingrich relied, "I think that this coming year…is going to be a very big year of decision for Republicans. We have to be the party of reform. We can't just be the party of pork barrel. … I'd look very seriously at completely rethinking the relationship with lobbyists. I'd require every lobbying activity to be listed on the Thomas system, the computer system people can access, so you'd know if your member of Congress, whether they went golfing, whether they had dinner. I'd make this stuff public and transparent. I'd consider not allowing fund-raisers in Washington. I think this whole system has grown, frankly, a little sick with insiders raising money for insiders to re-elect insiders to do favors for insiders. I think this is not just a Republican problem. Don't misunderstand me. But I think we are much more naturally the party of reform than the Democrats are."

Cheney, Rumsfeld Have Neighboring Estates On Maryland's Eastern Shore. A lengthy story on the front page of the Washington Post's (1/3, C1, Montgomery) Style section looks at the "expensive waterfront estates" of Vice President Dick Cheney and Defense Secretary Donald Rumsfeld in St. Michael's, Maryland. Rumsfeld's retreat, Mount Misery and Cheney's place, Ballintober, are "are separated by two miles of narrow lanes." The Post reports, "What gives? Is a secret weekend war cabinet forming? Are yachts and duck decoys part of the plan to transform the military? Did Cheney tire of his secure undisclosed hideaway and opt to join Rummy in his serene disclosed getaway? We are probably thinking too hard. The search for obscure meaning -- that reflex for overinterpretation -- is so Western Shore. The Bay Bridge is where you lighten up and leave behind your fevered quest for

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the matrix behind the mask. … Cheney may be the first part-time resident with a full Secret Service detail, but the famous, the rich and the powerful of Washington (and New York, Baltimore, Philadelphia, Pittsburgh) have been setting a course for St. Michaels and the wider, watery Talbot County for generations. The area has functioned like the Adirondacks did for the swells of the Gilded Age, Newport for the robber barons and the Hamptons for Wall Street. But somehow St. Michaels…survives as an anti-Newport, a non-Nantucket, an un-Hamptons. Not overrun, overpriced, overglitzed. Not yet."

Mankiw Offers New Year's Resolutions For Lawmakers. In Wall Street Journal (1/3, 2.11M), N. Gregory Mankiw, former chairman of President Bush's Council of Economic Advisers, offers a list of New Year's resolutions, which "any senator, congressman or presidential wannabe is free to adopt… as his or her own." Among Mankiw's resolutions: "This year I will be straight about the budget mess. I know that the federal budget is on an unsustainable path. I know that when the baby-boom generation retires and becomes eligible for Social Security and Medicare, all hell is going to break loose. I know that the choices aren't pretty -- either large cuts in promised benefits or taxes vastly higher than anything ever experienced in U.S. history. I am going to admit these facts to the American people, and I am going to say which choice I favor." Mankiw adds, "This year I will admit that there are some good taxes. Everyone hates taxes, but the government needs to fund its operations, and some taxes can actually do some good in the process. I will tell the American people that a higher tax on gasoline is better at encouraging conservation than are heavy-handed CAFE regulations. It would not only encourage people to buy more fuel-efficient cars, but it would encourage them to drive less, such as by living closer to where they work." Mankiw also writes, "This year I will be modest about what government can do. I know that economic prosperity comes not from government programs but from entrepreneurial inspiration."

Grassley Makes Case For GOP Deficit Reduction Bill. Senate Finance Committee Chairman Charles Grassley writes in USA Today (1/3, 2.31M), "In such a partisanship-first environment, any fair-minded move toward a more responsible budget is surely welcomed by the taxpayers. The GOP-sponsored deficit reduction bill is that sort of initiative. It's modest, representing just one-half of 1% of what would otherwise be spent during the next five years. Its Medicaid provisions reflect what governors nationwide -- Republicans and Democrats -- asked Congress to do to help them manage the program in their states and ensure its viability for low-income pregnant women and children." Grassley adds, "The tax relief in question is also part of stemming the red ink in Washington. The tax policies passed by the Senate and House aren't new at all. They merely extend expiring tax laws so that taxpayers aren't hit with a tax increase. This legislation is needed to protect 14 million families from the alternative minimum tax meant for wealthy individuals. It includes tax breaks for higher education and teachers who buy classroom supplies. It closes tax shelter loopholes. And it includes pro-growth measures that have helped fuel our economy." Grassley concludes, "Congress needs to do a lot more to control spending and reduce the deficit, but it's wrong to dismiss a step in the right direction."

USA Today Says GOP Bill Lacks Conscience. An accompanying editorial in USA Today (1/3, 2.31M) says "it would be nice to see in Washington a new commitment to fiscal restraint and a resolve to bequeath a solvent government and robust economy to future generations. To listen to many Republican lawmakers, a move in that direction is underway. … It would be nice to see it that way, but to believe that is to believe in fairy tales. This political sleight of hand is simply too small to matter and is designed to evade the real financial predicament — runaway health care costs, unsustainable retirement benefits and tax rates receipts well below historical averages. The cowardice in that is bad enough, but the measure is also cruel. Virtually all of Congress' cuts are made to programs for the poor and the young, who lack organized lobbies. Absent congressional conscience, they are simply targets of political opportunity. And be assured conscience is lacking." USA adds, "Congress will not deserve credit until it takes on health costs, tells seniors it can't sustain a Social Security system in which one of every three adults collects benefits, and raises taxes for the wealthy back to more reasonable levels. Until then, each year will bring the nation and the federal government only closer to fiscal crisis."

OTHER NEWS:

West Virginia Coal Miners Trapped After Mine Explosion. Rescue crews yesterday sought

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desperately to reach 13 West Virginia coal miners trapped after a mine explosion in Tallmansville. The story was the lead on both CBS and NBC last night; ABC was preempted for college football last night. The CBS Evening News (1/02, lead story, 4:00, Schieffer) reported, "They are still not certain what caused it. A lightning strike is the best guess now, but before dawn this morning, there was an explosion at a coal mine in Tallmansville in central West Virginia. Tonight 13 minors are trapped there, some 160 feet underground. They have air purifying equipment but no oxygen. For most of the day, poisonous gas has kept rescue workers from trying to reach them. But late today, rescue workers did enter the mine." CBS (Orr) added, "An eight-man rescue team has just entered the mine and are now traveling a tunnel in the hill behind me going some two miles inside the hill trying to reach the miners who are trapped there. So far it's a bit grim because there's no communication with the trapped miners."

NBC Nightly News (1/2, lead story, 3:15, Holt) reported, "Tonight, a life and death drama is taking place outside a coal mine in West Virginia." NBC Nightly News (1/2, story 2, 2:45, Holt) also spoke with NBC News Robert Hager, who covered the 2002 Quecreek Mine accident, where nine miners were successfully rescued after begin trapped by a flood. Hager said, "This one looks grimmer to me, mostly because in that case, they were dealing with a flood. In this case, it's been an explosion, and an explosion does two things. It creates a lot of debris and it's blocked the shaft, and eats up oxygen." The Washington Times/AP (1/3, Smith), Washington Post (1/3, A1, Tyson, Vedantam, 744K) and New York Times (1/3, Dao, 1.19M), among other newspapers, also report the story.

Bernanke Faces Difficult Balance Sheet, Greenspan Comparisons. The Wall Street Journal (1/3, lp, 2.11M) reports that incoming Federal Reserve Chairman Ben Bernanke faces "two major stumbling blocks" as he steps into the post being vacated by outgoing chairman Alan Greenspan: "difficult comparisons" with Greenspan and "a balance sheet with potential land mines." Bernanke's job "is complicated by a balance sheet loaded with debt and possibly overvalued assets. … 'It could be argued that Greenspan is handing Bernanke a poisoned chalice: an economy with an impressive track record, but one burdened with unprecedented financial imbalances,' Martin Barnes, editor of the Bank Credit Analyst, a forecast journal, wrote in November. 'It will be hard to rebuild household savings, reduce the current-account deficit and stabilize the housing sector without causing some economic pain.'"

Economy Expected To Grow For Fifth Straight Year, But At Slower Rate. The Wall Street Journal (1/3, Gerena-Morales, Annett, 2.11M) reports, "Strong spending by businesses should power the nation's economy to a fifth straight year of expansion in 2006, according to a survey of economists' forecasts, but a softening housing market is likely to slow the overall pace of growth. For the past five years, real-estate wealth has supported the economy by providing consumers with cash to buy everything from designer kitchens to luxury vacations to new or second homes. Some economists believe that the boom has been responsible for creating more than one million American jobs since 2000." But "as home sales start to slow and the inventory of unsold homes climbs, many economists believe that home prices will rise more gradually, or even decline, delivering a jolt that causes consumers to rein in spending. That, in turn, may cause economic growth to slow." The Journal adds, "The consensus forecast of 56 economists surveyed by The Wall Street Journal is that the nation's gross domestic product -- the broadest measure of economic output -- will grow at an annual rate of 3.5% in the first half of 2006 and 3.1% in the second half. While those growth rates are considered respectable, they would fall short of the 4.1% average of the past 2½ years. … On the positive side, economists expect overall inflation to moderate this year."

Hubbard Credits Bush Tax Cuts With Helping Economy After Recession. Former Chairman of the Council of Economic Advisers Glenn Hubbard said on Fox News' Special Report (1/2), "The economy is growing at a potential rate of around 3.5 percent, which is truly extraordinary. It really traces the two things, I think. One is how well financial markets work to allocate risk and capital in the country. And the other is how amazingly flexible American labor markets are. There's really no economy in the world that has capital and labor markets as efficient as this one." Asked about polls showing that President Bush is getting credit for the "revival of the economy," Hubbard said that "the president deserves credit for a set of tax policies that really helped the economy bounce back from the recession. But the underlying strength of the economy has little to do with Washington and a lot to do with the kind of institutions that helped the economy absorb technological change and

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absorb shocks, whether those shocks in financial markets or the real economy in your Katrina example. That is really the heart and soul of this high growth rate for the economy."

Stock Market "A Dud" In '00s. USA Today (1/3, Shell, 2.31M) reports, "This isn't your father's bull market. The '80s were great. The '90s were even better. But the '00s so far have been pretty much a dud. … It's unlikely, for example, that the Dow Jones industrial average, which declined 0.6% in 2005, will be able to come anywhere near its 228% gain in the '80s and its 318% gain in the '90s. The blue-chip barometer is actually down 6.8% since the end of 1999."

However, the New York Times (1/3, Dash, 1.19M) runs a report under the headline "After A Resilient '05, Wall St. Isn't Counting Out '06," in which it says "the economy proved more resilient than the worriers expected. Consumers continued to spend. The housing market did not collapse. Economic growth has been robust. And the stock market even had a year-end rally going - with the Dow Jones industrial average flirting with 11,000 - until it fizzled in the final weeks." So "it is not surprising that Wall Street has muted the alarms about 2006. Over all, analysts are relatively bullish in their outlooks. But concerns remain about the health of consumer spending and the effects of higher interest rates. Five Wall Street analysts who were surveyed predicted that the Standard & Poor's 500-stock index, which closed 2005 at 1,248.49, would end 2006 between 1,170 and 1,400."

Recession Worries Said To Be Rising For 2006. The CBS Evening News (1/1, story 6, 2: 20, Roberts) reported, "Like a roller coaster, the stock market had some wild ups and downs in 2005, but ended up right where it started. So what's next?" CBS (Alfonsi) added, "With big business struggling, unsteady interest rates, and signs of a recession, the best some forecasters are hoping for 2006 is an average year." A lot of investors "saw less-than-strong stock returns in 2005. The Dow finished in the red for the first time since 2002. The S&P was flat and the tech-heavy Nasdaq didn't fare much better. If you consider a year marked with soaring gas prices and natural disasters, those flat numbers don't look too bad. But what was bad news in 2005 could be good news for the market in 2006."

Dallas-Area Among Regions Reporting Robust Employment Numbers. The Dallas Morning News (1/2, Kreimer) reports, "An expanding economy and a skilled labor shortage have sparked a resurgence in the recruitment of employed and unemployed workers alike, including those at the high end of the pay scale, hiring experts say. That makes this year's outlook for job seekers the best since the turn of the millennium. … The Dallas-area job market hasn't seen growth that robust since 2000, when employment rose 3.9 percent, according to Texas Workforce Commission data."

Only Some Parts Of US Said To Be Experiencing Housing Bubble. The New York Times' Paul Krugman (1/2) writes, "In spite of record home prices, housing in most of America remains surprisingly affordable, thanks to low interest rates. That fact may seem to say that there's no housing bubble. But it doesn't. … It's…worth noting that the reason housing was so expensive in 1981 and 1982 was that mortgage interest rates were extremely high. That made recovery easy, because all it took to make housing affordable again was for interest rates to return to normal levels. This time, with interest rates already low by historical standards, restoring affordability will require a big fall in housing prices."

Minimum Wage In 17 States, District Of Columbia Higher Than Federal Level. Nearly half of the US civilian labor force lives in states where the pay if higher than the minimum wage set by the federal government. The New York Times (1/2, Broder) reports, "Seventeen states and the District of Columbia have acted on their own to set minimum wages that exceed the $5.15 an hour rate set by the federal government, and this year lawmakers in dozens of the remaining states will debate raising the minimum wage. Some states that already have a higher minimum wage than the federal rate will be debating further increases and adjustments for inflation." The federal minimum wage was raised from $4.75 in 1997. Since then, "efforts in Congress to increase the amount have been stymied largely by Republican lawmakers and business groups who argued that a higher minimum wage would drive away jobs. Thwarted by Congress, labor unions and community groups have increasingly focused their efforts at raising the minimum wage on the states, where the issue has received more attention than in Republican-dominated Washington, said Bill Samuel, the legislative director of the national A.F.L.-C.I.O."

NYTimes Says Congress Should Raise Minimum Wage. An editorial in the New York Times (1/3, 1.19M) says, "The federal minimum wage has been a paltry $5.15 an hour for more than eight years. Polls show that there is strong popular support for raising it, but Congress has resisted. Unions, community groups and advocates for the poor are increasingly taking the matter directly to voters through state

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referendums to raise their states' minimum wages, according to an article yesterday in The Times. Their intentions are laudable, but the efforts only highlight Congress's failure to set the federal minimum wage at a reasonable level." The Times adds, "State minimum-wage referendums are not ideal. Policy matters of this kind are best handled by legislatures, and the nation would be better off with a uniform federal standard. But given where the federal minimum wage now stands, state-level initiatives are the only game in town. Those grass-roots debates may shame Congress into taking long-overdue action to help the lowest-paid workers."

WSJournal Decries NEA Use Of Members' Dues. An editorial in the Wall Street Journal (1/3, 2.11M) says "If we told you that an organization gave away more than $65 million last year to Jesse Jackson's Rainbow PUSH Coalition, the Gay and Lesbian Alliance Against Defamation, Amnesty International, AIDS Walk Washington and dozens of other such advocacy groups, you'd probably assume we were describing a liberal philanthropy. In fact, those expenditures have all turned up on the financial disclosure report of the National Education Association, the country's largest teachers union. Under new federal rules pushed through by Secretary of Labor Elaine Chao, large unions must now disclose in much more detail how they spend members' dues money." The Journal adds that "even a cursory glance at the NEA's recent filings" exposes "the union as a honey pot for left-wing political causes that have nothing to do with teachers, much less students. … It's well understood that the NEA is an arm of the Democratic National Committee. (Or is it the other way around?) But we wonder if the union's rank-and-file stand in unity behind this laundry list of left-to-liberal recipients of money that comes out of their pockets."

WSJournal Praises Yale's Refusal To Give Anarchist Professor Tenure. The Wall Street Journal (1/3, 2.11M) editorializes, "Until recently, David Graeber was an associate professor of anthropology at Yale University, with a field specialty in Madagascar and a salary of $63,000. He is also a self-declared anarchist who has been arrested at antiglobalization rallies. Last spring, Yale denied him tenure. Mr. Graeber was outraged, suspecting the decision might have something to do with his politics." The journal adds, "One might fairly ask of Mr. Graeber why, if his anarchist convictions are sincere, he would seek to join the very employing class that he is otherwise pledged to struggle against. … In recent interviews, Mr. Graeber has given his answer: 'I'm not really an anarchist as a professor,' he told the New York Times. 'I figured I'd be a scholar in New Haven and an activist in New York.' So it turns out that even anarchists have their bourgeois ambitions. That's fair enough, but so is Yale's decision to deny Mr. Graeber tenure, and for what we suspect were not political motives. Among the qualities that characterize Ivy League faculties these days, hostility to liberal or radical politics isn't among them."

WPost Says Baltimore's Problems Predate O'Malley. An editorial in the Washington Post (1/3, A16, 744K) says, "No doubt, Baltimore Mayor Martin O'Malley rues the day when, as a candidate for office, he pledged to reduce the number of murders in the city to 150 annually. Instead, Baltimore's murder rate has remained stubbornly high -- it has not dipped below 250 since Mr. O'Malley took office in 1999 -- and this year the numbers attest again to the ongoing bloodbath. … Now that Mr. O'Malley is trying to become governor, Baltimore's murder rate represents a natural soft target for his political foes. … The question is how much blame can be fairly apportioned to Mr. O'Malley. Under his administration, overall violent crime in Baltimore, including rapes, robberies and assaults, has dropped sharply -- more sharply, in fact, than it has in other large cities. Real estate values have soared and, probably more significantly, Baltimore has stanched the outflow of middle-class residents who fled the city for years, right through the 1990s. Mr. O'Malley's popularity in the city is broad and deep, and no one accuses him of not trying to attack the murder rate head-on." The Post adds, "Political opponents of Mr. O'Malley can make all the hay they want, but the failures in Baltimore that have contributed to the ghastly murder rampage -- including low-performing schools and inefficient parole, probation and juvenile justice systems as well as the drug scourge -- predated his time in office. At issue is how effectively has Mr. O'Malley stepped up to those problems as well. His attempts and failures to rein in the murder rate deserve scrutiny, but so do government and society at large in Maryland -- and at all levels."

New State Laws Deal With Technology, Security. The Christian Science Monitor (1/3, Scherer, 61K) reports on new state laws which will take effect this year. The Monitor reports, "A number of state legislatures have focused on the impact of technology. For example, some

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automobile companies are installing 'black boxes' in their more expensive models. These devices, like those in airplanes, record the direction and speed of a car, steering and braking performance, and the status of the driver's seat belt. Now, Nevada has enacted legislation that requires manufacturers to notify buyers if a car contains such a device and what the black box can record. In addition, the information in the box can be downloaded or retrieved only by the owner of the vehicle. … Many states have also become alarmed over 'security breaches,' especially by companies with credit-card or Social Security information. Six states - Connecticut, Illinois, Louisiana, Maine, Minnesota, and Nevada - are requiring companies to notify consumers if sensitive financial information has been stolen. Connecticut goes even further: Residents can "freeze" their credit reports if there has been a slip-up. New Jersey and Virginia, meanwhile, have barred making public a person's Social Security number."

Liberal Crusader Hirschkop Nears Retirement. The Legal Times (1/2, McLure) reports on the impending retirement of long-time liberal attorney Philip Hirschkop, who is "known not only for his legal prowess but his bombastic and outspoken manner. Hirschkop, now 69, is preparing to close his law offices in Old Town Alexandria, Va., marking the end of a colorful, four-decade career that made him an icon among left-wing lawyers." The Times continues, "For the past two decades, Hirschkop has served as the outside general counsel for People for the Ethical Treatment of Animals, the controversial animal rights group known for its militant advocacy of vegetarianism and its proclivity for throwing pies at fur-wearing fashionistas. … But long before he hoisted PETA's standard in battle, Hirschkop had made his mark as a civil rights lawyer and as an opponent of the Vietnam War. Perhaps his most significant case was Loving v. Virginia, a landmark 1967 U.S. Supreme Court case that overturned Jim Crow-era laws banning interracial marriage — a case in which Hirschkop presented the main argument when he was just two years out of law school." The Times adds, "Since that auspicious start, he's worked for a member of the House Un-American Activities Committee, donned a Viet-Cong armband to protest the war, and stood for the free-speech rights of the American Nazi Party. In one six-year span, 17 disciplinary complaints were brought against him at the Virginia State Bar — a distinction Hirschkop bears proudly. The complaints, he says, were 'never for screwing a client, only for making public statements' about pending litigation."

Relief Agency Head Urges Donors To Choose Charities Carefully. Richard M. Walden, president of the international relief agency Operation USA, writes in the New York Times (1/3, 1.19M), "Money is the mother's milk of disaster relief. And over the last 12 months - with the Indian Ocean tsunami, the hurricanes on the Gulf Coast and the Pakistan earthquake - fund-raising records have been broken by the King Kong of relief agencies, the American Red Cross, and by many smaller organizations as well. … In late November it was reported that the American Red Cross still had $400 million of the $567 million it had collected for the tsunami since Dec. 26, 2004. Meanwhile, many of the countries hit by the waves, all of which have their own national Red Cross or Red Crescent societies, continue to beg for more help with housing, health and education programs. Why our Red Cross holds on to so much money is a mystery, but it is hardly the only agency that does so. A survey by InterAction, an umbrella group of relief agencies, found that many other charities reported spending far less than they took in last year; an average of just 42 percent of the money received by 62 relief groups providing tsunami relief has been spent." Walden adds, "With the incendiary combination of huge government contracts, Internet fund-raising and appeals based on mass disasters, the charity business has entered a new age. Americans should continue to help those in dire need, but they should also look around before sending a check or clicking the 'donate' button."

Two Rescued After Plane Crashes Near New York City. NBC Nightly News (1/2, story 6, :20, Holt) reported, "A successful rescue today just north of New York City. Police and Coast Guard helicopters pulled two men out of the frigid Hudson River after their single-engine plane went down shortly after the pilot had issued a mayday call. An FAA spokesman says the men were a flight instructor and his student. Both are being treated tonight for hypothermia."

New Rules Could Lead To Increased Minimum Credit Card Payments. NBC Nightly News (1/2, story 7, 2:20, Holt) reported, "Just in time for those post-holiday bills to start piling up in your mailbox, some new rules that banks are now enforcing that will lead to higher minimum credit card payments for everyone. As of now, 13%

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of credit card holders pay just the minimum payment each month. And if you're among them you may be in for a surprise when you open that next bill." NBC (Shamlian) added, "Too many customers are saying 'charge it' too often. At least, that's the view of banking regulators who are behind the guidelines aimed at getting people to pay more, so they can get out of debt quicker. In the past, some minimums didn't cover even the interest due. The government guidelines say payments should cover at least 1% of principal, plus interest and fees. As of this month, all banks are complying." Nessa Feddis, American Bankers Assn.: "For the consumers in the long term, it means they'll pay less interest and they'll pay the balance off more quickly." Shamlian: "It could be a painful transition. On a balance of $5,000, the payment would jump from $100 to $200 a month. But that larger minimum payment means the debt would be erased in about two and a half years instead of almost seven years."

Questions Raised About Attorney Suing Ex-Client For Former Adversary. The Wall Street Journal (1/3, Davies) reports, "Don King makes a good living off boxers in the ring, and Judd Burstein has done well off Mr. King in the courtroom. … Since 1997, Mr. Burstein, a Manhattan lawyer, has scored a string of legal victories representing fighters in contract disputes against boxing's most famous promoter. In all, Mr. Burstein estimates he has cost Mr. King $25 million and pocketed $3 million to $4 million for himself." The Journal continues, "The acrimony between the two has been so intense over the years that Mr. Burstein once referred to the promoter as a 'cancer' on boxing. Mr. King described Mr. Burstein as an 'insidious insect.' … But now, Mr. Burstein finds himself in Mr. King's corner. The pugnacious attorney has switched sides and is representing the fight promoter in a lawsuit against Christopher Byrd, the International Boxing Federation heavyweight champ, whom Mr. Burstein recently represented in a suit against Mr. King. 'It's good to have him on my payroll now,' Mr. King says of Mr. Burstein." The Journal adds, "There's no rule explicitly prohibiting lawyers from representing someone they once sued. But legal experts say it's rare for an attorney to sue one person on behalf of a client and then sue the former client on behalf of the former adversary. … Complicating matters: The previous lawsuit and the current one involve a dispute over the same contract."

Texas Said To Be At Epicenter Of 2006 Congressional Races. The Dallas Morning News (1/2, Gillman) says Texas "is sure to be the epicenter of this year's congressional races, thanks to some unique factors, especially the trial of former House Majority Leader Tom DeLay and Democrats' efforts to leverage his ethics problems into a national wave." Unless DeLay "is convicted or the court throws out Texas' current congressional map, voters can expect spirited contests in only three Texas districts, and the campaign that officially begins today– the deadline for candidates to file paperwork to run in the March 7 primaries – probably won't alter the lineup much." DeLay "has his legal woes. Freshman Rep. Henry Cuellar, a Laredo Democrat, won the primary by just 58 votes two years ago after several bitter recounts. And Rep. Chet Edwards of Waco is a Democrat in a heavily Republican district." DeLay's district "is solidly Republican, but analysts say he's vulnerable, noting that he drew just 55 percent of the vote in winning an 11th term in 2004." Cuellar "served as Gov. Rick Perry's secretary of state and volunteered on the Bush presidential campaign, and his rivals say he's a Republican in disguise. … The district is solidly Democratic. The challenge will be to win without a runoff in April." Edwards "won his eighth term with just 51 percent. Two Republicans have spent months vying for the right to take him on in President Bush's hometown district: Iraq war veteran Van Taylor and Tucker Anderson, a former aide to Dallas Rep. Pete Sessions, a Republican."

GOP Said To Be At Disadvantage In 2006 Midterm Elections. The Washington Times (1/3, Lambro, 90K) reports President Bush and the Republicans "face a tougher midterm election landscape in 2006, due largely to the closely divided American electorate and, ironically, the gains the Republicans have made in the past decade." Few analysts "expect the Democrats to regain control of the House or Senate in November, but many think they likely will pick up seats in both chambers and cut into the Republican advantage in governorships. Republicans have a larger number of vulnerable seats to defend, particularly in Democratic-leaning 'blue' states." Political analyst Stuart Rothenberg said, "This year still looks very much like a Democratic year, and the only question is how big a year it will be for the Democratic Senatorial Campaign Committee and the Democratic Congressional Committee. … At this point, Democratic gains appear to be inevitable." The Times identifies Senate race opportunities for the Democrats in

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Pennsylvania, Rhode Island, and Ohio, and for Republicans in Minnesota, Maryland, and New Jersey. In the House, "most analysts say Democrats could pick up a half dozen seats, well below the 15-seat gain they would need to win majority control." In the state houses, Democrats "appear likely to make modest gains…where Republicans hold a 28 to 22 advantage."

Dionne Says GOP Disunity Could Hurt Showing In Midterms. In his Washington Post column (1/3, A17), E.J. Dionne says, "The 2006 elections will determine whether Rove's brilliantly constructed machine has staying power or falls apart in the face of adversity. And there was adversity in abundance during 2005." But it is "three strikes and you're out: The social-issues right can't help Bush if its support drives away too many moderates. Pro-business economics can't help if it drives away many in the middle class. And the war on terrorism doesn't help if Bush is seen as managing it badly." It is "customary in columns of this sort to say somewhere around now that the Democrats will need to come up with a plan, a message, a program, etc., etc. I'm all for such things. But in 1958, 1966 and 1978, the out party gained ground largely by exploiting the failures of the party in power and exacerbating the contradictions in its coalition. If the Democrats prosper in 2006, it will be because whatever program they come up with achieves those goals."

Schneider "Political Earthquake" Required For Democrats To Retake Congress In 2006. William Schneider said on CNN's Lou Dobbs Tonight (1/2), "Ever hear of the six-year itch? It's a disease presidents often get after their party has held the White House for six years. The symptoms? Big setbacks for the president's party at the polls. It happened to the Democrats in 1938 and 1966. And to the Republicans in 1958, 1974, and 1986. On the average, the president's party lost 44 House seats and seven Senate seats in those elections. Democrats need to gain just 16 seats this year to win control of the House of Representatives, and seven to take over the Senate. Piece of cake? Not exactly. Very few seats change party these days. Most House seats are safe for one party, and only three Republican senators running for re-election are from blue states." It "would take a political earthquake for the Democrats to win control of Congress this year. But you know, earthquakes have been known to happen."

Barone Also Says Democrats Are Unlikely To Retake House. Michael Barone of US News and World Report said on Fox News' Special Report (1/2), "Democrats need a net gain of 15 seats to win the House, that doesn't seem very many. But if there are only 25 races that are very seriously contested, a net gain of 15 is pretty hard to achieve. So, [DCCC Chairman Rahm] Emanuel is trying to broaden the field and make some districts seriously contested that people would not have thought were in the past." Barone added that retaking the House is "a long shot for the Democrats."

Barnes Says Democrats Won't Win House Or Senate Control. Fred Barnes was asked on Fox News' Special Report (1/3) for his predictions for 2006. Barnes said, "I think Democrats will win House seats, but not the House. They'll win Senate seats, but not control of the Senate. I expect Arnold to be reelected as governor of California. And President Bush's job approval rating, which has bumped up to 50 percent in a couple of polls already. Will stay around 50 percent or higher for most of 2006." Barnes added, "The emerging star among Democratic presidential candidates is Russ Feingold, a Wisconsin senator. Among Republican presidential candidates is George Allen, the Virginia senator."

Trump Rules Out Gubernatorial Bid, Hints At Run For White House. The New York Post (1/3, Dicker, 624K) reports that Donald Trump on Monday "flatly ruled out running for governor this year -- but hinted he may go for president in 2008. Trump, in a phone call to The Post…declared, 'I'm not going to run for governor because I'm having too much fun doing what I'm doing now." While Trump "repeatedly ruled out a race for statewide office, he strongly suggested he was interested in entering the national political arena in 2008. Trump, who considered an independent run for president in 2000, pointedly noted that his decision not to run governor this year 'doesn't preclude me from doing something [political] in the future.' He then repeatedly ducked questions on whether he would consider running for the White House, repeating that he's too busy for electoral politics. But a political figure close to Trump told The Post, 'Donald is definitely interested in running for president in 2008, possibly as an independent candidate.'"

NYC Transit Strike Seen As Avoidable. In an op-ed for the New York Times (1/2) Meyer S. Frucher and Joseph M. Bress, former directors of the Governor's Office of Employee Relations for New York State, write, "New York City's transit workers are back on the job. … The city, meanwhile, lost an estimated $1 billion during a frigid holiday

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shopping week that saw seven million commuters stranded. There's a better way than this to get a contract, and we can institute it simply by building on existing New York state law." The authors note that Gov. Mario Cuomo "signed an amendment to the Taylor Law that specifically addressed transit negotiations, offering a binding arbitration procedure to break deadlocked talks."

Bolton Initiatives Would Give Security Council Members Enhanced Power. he Washington Post (1/2, A7, Lynch) reports John R. Bolton, the U.S. ambassador to the United Nations, "said he will start the new year by reinvigorating stalled efforts to restructure management of the world body, beginning with a controversial push to seek assurances that the Security Council's five major powers will be guaranteed posts on a new Human Rights Council. Bolton said in an interview that the Bush administration wants to ensure that the United States is never again denied membership in the United Nations' principal human rights body, as it was in 2001, when Austria, France and Sweden defeated a U.S. bid for membership in the Geneva-based Human Rights Commission. … The proposal is part of a broader drive by Bolton to place the five permanent Security Council members -- Britain, China, France, Russia and the United States -- at the center of U.N. decision making."

Musharraf Backs Off Pledge To Take On Madrassas. The New York Times (1/2, Masood) reports, "As the incendiary training at some of Pakistan's seminaries drew renewed focus in the weeks after the July 7 bombings in London, President Pervez Musharraf promised to bring the schools into the mainstream and expel their foreign students by the end of the year." But" his tough pledge has fizzled." Last week, "the government backed away from its deadline and said it would not use force to deport the students." The schools then "said they would resist any effort to round up the students, and on Sunday, a coalition representing the seminaries called the government's plan 'inhuman, immoral and totally illegal,' The Associated Press reported." The schools, called madrasas, "were once the Islamic equivalent of Sunday school. … Of the four suicide bombers in the London attacks, at least one had spent time at a madrasa here with connections to militant groups."

The Washington Times (1/2, Ansari) adds "Western intelligence agencies suspect that madrassas served as rendezvous points between senior al Qaeda operatives and Tanweer, Khan and other British recruits." Musharraf, however, "relented on Thursday after clerics said they would rather be incarcerated than comply with orders to expel foreigners or give their names to the authorities."

UN Asks To Interview Assad In Hariri Probe. The Financial Times (1/3, Biedermann) reports, "United Nations investigators on Monday said they want to interview Bashar al-Assad, Syria's president, and Farouq al-Shara'a, his foreign minister, in connection with the murder of Rafiq al-Hariri, Lebanon's former prime minister." The announcement "came days after Abdel-Halim Khaddam, Syria's former vice-president, indicated that Mr Assad might have been personally involved in the run-up to the murder." The UN probe "was awaiting answers from Syria after requesting to speak to Mr Assad, Mr Shara'a and others, a spokesperson for the commission said."

The New York Times (1/3, Fattah, 1.19M) says "the request compounds pressure on the Syrian government just days after a stunning public attack on the president by his former vice president raised new questions about whether the government had been complicit in the assassination." A spokesman for the United Nations investigation told The Associated Press "the commission had sent a request to interview Mr. Assad and Mr. Sharaa, among others," but "would not specify when the request was made. It was not immediately clear whether the request had any connection to the allegation by former Vice President Abdul-Halim Khaddam on Friday that Mr. Assad threatened Mr. Hariri's life months before the assassination."

Former Syrian Vice President Breaks With Assad On Hariri Probe. The Financial Times (1/2, Biedermann) reports, "Syria's former vice-president Abdel-Halim Khaddam said on Friday that he has 'full confidence' in the UN-investigation into the assassination. The UN-team, until recently led by the German prosecutor Detlev Mehlis, has implicated senior Lebanese and Syrian officials." Speaking on the Arab satellite television station al-Arabiya from Paris, "where he has been staying for the last couple of months," Khaddam "announced a break with his country's leadership. He blamed President Bashar al-Assad for a deterioration in Syria's international position. And he said that if Syria had indeed killed Mr Hariri, it could not have happened without the knowledge of Mr. Assad."

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Protestors Demand To Know Fate Of Missing Lebanese. The Washington Post (1/2, A1, Shadid) reports, "In the heart of downtown Beirut…women every day…protest demanding to know the fate of their children. Many believe they languish in jails in neighboring Syria. Others are not sure. Behind them, their children's faces stare from pictures tacked to billboards, blank faces with generation-old haircuts, the dates of their disappearances reading like a war memorial yet to be built. The protest…serves as a stark reminder, organizers say, that Lebanese society has yet to confront, much less resolve, the legacy of the most cataclysmic event in its modern history -- the 1975-90 civil war. Fifteen years later, that conflict is still shrouded in silence. Under a 1991 amnesty law, all but a handful of killings were placed beyond prosecution." The Post adds, "The protest's longevity reflects the changes unleashed by the departure of Syrian troops last spring after a 29-year presence. It is a sign of new transparency in public discourse as Lebanon."

Abbas May Delay Palestinian Elections. The New York Times (1/3, Erlanger, 1.19M) reports, "The Palestinian president, Mahmoud Abbas, on Monday raised for the first time the possibility of delaying legislative elections this month, saying the vote would be impossible if Israel did not allow residents of East Jerusalem to participate." Said Abbas, "We are all in agreement that Jerusalem has to be included in the election. … And if it is not included, all the factions agree that there will be no elections." But "a Hamas official in the Gaza Strip, Mahmoud Zahar, told reporters there had been no agreement to accept another delay." Hamas "agreed last summer to postpone the elections, originally scheduled for July, but has insisted on the vote's going ahead this month."

British Hostages Freed In Gaza. The Financial Times (1/2, Davi) reports, "Three Britons held hostage in the Gaza Strip were released by their kidnappers on Friday night, according to unconfirmed reports from Palestine. Human rights worker Kate Burton, 24, and her parents had been freed, Palestinian mediator Kamal Sharafi said. However, the Foreign Office in London was unable to confirm the reports." The Times adds, "Concern grew through the day over the fate of the Britons, after the Palestinian police chief earlier said there had been no demands or contacts from the unidentified hostage-takers."

Palestinian Security Officers Free Italian Hostage. The New York Times/AP (1/2) reports, "Palestinian security officers stormed a building on Sunday where an Italian hostage was being held, freeing the captive in a shootout with his kidnappers." It was "a rare show of force in a wave of kidnappings, shootouts and other violence in the Gaza Strip that has embarrassed the Palestinian president, Mahmoud Abbas, threatening to undermine his Fatah Party in Jan. 25 legislative elections and to strengthen Hamas, the Islamic militant group." The hostage, Alessandro Bernardini, an aide in the European Parliament, "was abducted early Sunday in Khan Younis." The Washington Times (1/2, Barzak) runs the same AP story.

Italian Tourists Taken Hostage In Yemen. The Washington Times (1/2, Mounassa) reports, "Yemeni tribesmen took five Italian tourists hostage yesterday -- one day after freeing a German family of five that included a former ambassador to Washington. Of the five Italians, three women refused to be released later in the day, insisting on returning to their male companions who remained in captivity, local officials said." It was "the fourth abduction of foreigners in the country in three months."

Ahmadinejad Reportedly Causing Unease Inside Iran. The Los Angeles Times (1/2, Siamdoust) reports, "On the surface, little seems to have changed in the Iranian capital since President Mahmoud Ahmadinejad took office in August. … But underneath the veneer of normality, Iranians are watching as their controversial president settles into office — and their country hardens under his fundamentalist leadership." The Times goes on to report, "To both insiders and outsiders, the political face of Iran seems to have drastically changed. … Ahmadinejad, draped in a Palestinian kaffiyeh, the scarf that he has appropriated to signal his struggle against perceived injustice, has stirred international ire with virulent anti-Israel rhetoric. Meanwhile, his habit of immersing politics in sacred Islamic tradition has chafed critics within Iran." According to the Times, "But even in Iran's mostly conservative parliament, the hard-line president has found himself unable to get traction. In a first for the Islamic Republic, lawmakers turned down four of the ministers Ahmadinejad asked them to approve. It took him three months and four candidates to seat an oil minister. Some reformist legislators even agitated for hearings on the president's 'lack of political competence.'"

Krauthammer Predicts Israel Will Attack Iran This Year. Syndicated columnist Charles Krauthammer, on Fox

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News Sunday (1/1, Wallace), predicted, "Israel will launch a military strike on Iranian nuclear facilities. There are rumors today in German newspapers that the U.S. and NATO are talking about this. I don't imagine the U.S. or NATO will do this." Israel "will feel that the world isn't acting, and it's going to act on its own."

Sharon To Undergo Heart Surgery. The AP (1/2, Federman) reports, "Israeli Prime Minister Ariel Sharon will undergo a heart procedure Thursday to close a small hole that apparently led to his recent stroke, his office announced Sunday." Doctors "said last week that the procedure, known as a cardiac catheterization, would virtually eliminate the risk of Sharon suffering a similar stroke."

In Abrupt Reversal, Russia Restores Most Gas To Ukraine Pipeline. The Washington Post (1/3, A12, Finn, 744K) reports, "Russia retreated abruptly Monday from its confrontation with Ukraine over natural gas prices, after an uproar in West European capitals over dead-of-winter cuts in gas supplies threatened to undermine Russia's ambition to expand its highly profitable role as a strategic energy partner of the European Union." The "state-controlled Russian energy giant Gazprom" said it "would almost completely restore reductions it made Sunday in the gas it pumps into Ukrainian pipelines that connect to the rest of the continent." The New York Times (1/3, Kramer, 1.19M) adds Gazprom "officials…presented the decision not as a reversal but as a response to Ukraine's 'theft' of natural gas." But "it became clear almost immediately that the driving force in Russia's decision was the sharp criticism across Europe, including countries like Germany that are usually reliable allies."

The Financial Times (1/3, Correspondents) says "European countries on Monday suffered large cuts to their gas supplies as a bitter stand-off between Russia and Ukraine over gas prices intensified. Supplies of Russian gas to Italy fell by 25 per cent, according to Eni, the country's biggest oil and gas supplier. Deliveries of Russian gas to France dropped up to 30 per cent, Gaz de France said. Many central and eastern European countries, which depend heavily on gas from Russia, reported even larger declines."

The Wall Street Journal (1/3, White, Cummins, 2.11M) notes "the sudden crisis highlighted concerns about Europe's dependence on Russia, which supplies a quarter of the continent's gas, at a time of growing fears that the Kremlin is using energy as a political weapon." The Christian Science Monitor (1/3, Weir, 61K) runs a similar report in which it says that "with 80 percent of Russian gas exports flowing through Ukraine, wintry Europe could be hard hit." The Washington Times/Reuters (1/3, Clothier) runs a similar story.

In an analysis piece, the New York Times (1/3, Chivers, 1.19M) says for "President Vladimir V. Putin and Russia, 2006 was supposed to be a banner year. Instead, it has begun badly, and with problems of the Kremlin's own making. The Kremlin, which labored in 2005 to distance itself from the ill will that accompanied its destruction of the Yukos oil company and the bungled handling of the rigged Ukrainian presidential election in 2004, has begun the new year with a display of politics and bullying, followed by partial retreat, that is raising fresh questions about its reliability as an international energy partner."

CNN's Lou Dobbs Tonight (1/2, Romans) said "critics of President Putin say he's using Soviet-style tactics to bully Russia's neighbors." In an editorial, the Wall Street Journal (1/3, 2.11M) says, "Putin certainly has a flair for timing. The Russian President is assuming the chairmanship of the G-8 democratic nations in the same week that he's been attempting some Soviet-style energy extortion against Ukraine. … The Kremlin's real goal here isn't money so much as political influence over its democratic, free-thinking and formerly subservient Slavic neighbor. A year ago Ukraine's Viktor Yushchenko used his 'Orange Revolution' to defeat the Kremlin's handpicked presidential candidate and turn toward the West. The energy squeeze is Mr. Putin's attempt at revenge, notably coming less than three months before Ukraine's parliamentary elections."

David Satter, who is "affiliated" with the Hoover Institution, the Hudson Institute and Johns Hopkins, writes in the Wall Street Journal (1/3, 2.11M), "With Sunday's accession of Vladimir Putin to the presidency of the G-8, post-Soviet Russia has achieved a new level of recognition and prestige as a democratic state. The recognition is undeserved. Instead of being democratic or even becoming democratic, Russia is daily sinking deeper into authoritarianism and lawlessness. … The Putin regime cannot ignore the views of G-8 colleagues. This is why the West needs to use all its influence to counteract Russia's self-destructive behavior."

Winter Weather Cuts Aid To Earthquake Refugees In Pakistan. The Washington Post/AP (1/3,

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A14, Khan) reports Pakistani earthquake survivors "struggled Monday to keep their children warm as the bitter winter hit Kashmir, grounding helicopter aid flights and blocking roads for the second straight day. … The Pakistan meteorological office forecast continued rain and snow for the next two days and low temperatures of 21 degrees Fahrenheit in the plains and 7 degrees Fahrenheit above 5,000 feet. For the second straight day, helicopters from the United Nations, foreign militaries and Pakistan's army were not able to deliver winterized tents, clothes, food and other provisions in the quake zone because of poor visibility, said Maj. Farooq Nasir, an army spokesman. They were trying to move supplies by truck, but mudslides and snow have also made some roads impassable, he said."

New Russian Law On NGOs Seen As Stifling Democracy. NBC Nightly News (1/1, story 10, 2:20, Mendenall) reported, "This week, Russia passed a new law that tightens the Kremlin's control over nearly a half million non-governmental organizations or NGOs, many of which have been critical of the president. Like Human Rights Watch, which says the Kremlin, irked by reports of human rights abuses, could use the new law to close it down. … The law also makes it harder to operate for other prominent US organizations promoting democracy, which Putin has accused of spying and supporting political revolutions on Russia's borders in Ukraine and Georgia, something the Kremlin doesn't want to spread much to Russia's borders."

Last Alternative Russian News Outlet Beset By Turmoil. The New York Times (1/2, Kishkovsky) reports, "Recent turmoil in the news department of REN-TV, Russia's last nationwide television network with independent news programming, has caused concern among media analysts and free-speech advocates in the country. … REN-TV has been known for critical news reporting that offered an alternative to state channels' uniformly positive coverage of President Vladimir V. Putin, media analysts said. Its signal reaches more than 113 million people, although its audience share hovers around 5 percent."

Taiwan's President Calls For Increased Defense Spending. The New York Times (1/2, Bradsher) reports Taiwanese President Chen Shui-bian "called Sunday for increased arms purchases and warned against greater economic ties to mainland China, in a televised speech that silenced months of speculation that he might soon seek to improve relations across the Taiwan Strait." The Times notes, "The speech was Mr. Chen's first major policy address since his Democratic Progressive Party fared badly in islandwide municipal elections on Dec. 3. … The Nationalist Party, which favors closer relations with Beijing, did much better in those elections."

Pakistan Negotiating Purchase Of Chinese Nuclear Reactors. The Financial Times (1/3, Bokhari) reports, "Pakistan is negotiating the purchase of between six and eight nuclear power reactors from China during the next decade in the most ambitious expansion yet of the country's nuclear energy capability. … The plants are expected to be completed by 2025, with construction starting by 2015, a senior Pakistani official told the Financial Times."

Sudanese Refugees In Egypt Vulnerable Following Deadly Riot. The New York Times (1/3, Slackman, 1.19M) reports, "Hundreds of Sudanese have been released from police detention camps onto the streets of this city with no money, no place to live - and in many cases, no shoes - three days after the riot police attacked a squatter camp set up as a protest to press the United Nations to relocate the migrants to another country. … The attack officially left 26 dead, including seven small children, and many others injured." The Times adds, "So many were left dead, and the international condemnation was so embarrassing, that President Hosni Mubarak has told the attorney general to investigate. But the government's official position is that the Sudanese were to blame. Magdy Rady, the government's chief spokesman, said the Sudanese injured their own people by trampling those who collapsed, and he said they also attacked the police, injuring more than 70 officers." The Times notes, "The Sudanese were unarmed and many were barefoot. The police were wearing riot gear, including helmets with face shields, and wielded truncheons."

Korean Retailers Exert Power In China. The New York Times (1/2, Onishi) reports, "At Korea City, on the top floor of the Xidan Shopping Center, a warren of tiny shops sell hip-hop clothes, movies, music, cosmetics and other offerings in the South Korean style. To young Chinese shoppers, it seemed not to matter that some of the products, like New York Yankees caps or Japan's Astro Boy dolls, clearly have little to do with South Korea. Or that most items originated, in fact, in Chinese factories. … From clothes to

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hairstyle, music to television dramas, South Korea has been defining the tastes of many Chinese and other Asians for the past half decade."

Morales Election Seen As Evidence Of Castro's Growing Influence. The Washington Post's Jackson Diehl (1/2) writes, "Here's a sad but safe new year's prediction: U.S. relations with Latin America, which plunged to their lowest point in decades in 2005, will get still worse in 2006." Bolivia's Evo Morales "will probably take instruction from Chavez, Kirchner and Fidel Castro -- who at age 79 must believe he is finally seeing the emergence of the totalitarian bloc he and Che Guevara tried and failed to create in the 1960s."

Bolivia's Morales Says He Will Be America's "Worst Nightmare." Time (1/9, Padgett) reports that Bolivia's President-elect Evo Morales "won a stunning landslide in last month's election in no small part because he pledged to legalize far more cultivation of coca, which Aymara Indians like him have chewed for centuries for traditional medicinal purposes and which the U.S. has tried for decades to eradicate in Bolivia because drug traffickers use it to make cocaine. Morales impishly claims that coca-leaf extract is part of the formula of the classic American beverage Coca-Cola (a legend the company has consistently declined to comment on) and adds, 'It's not right that exporting coca is legal for Coca-Cola but not for the rest of us!' The Yankee baiting is part of Morales' stated intention to be the U.S.'s 'worst nightmare.'" The Bush Administration "has reason to be spooked. Morales' win has helped build momentum for a resurgence of leftist and often anti-U.S. candidates around Latin America. At least nine presidential races are slated for the region this year, and leftists could win at least five -- including those in the two most populous countries, Brazil and Mexico, as well as in coca producers like Peru and Ecuador. Leftists have toppled conservative governments in Uruguay and Honduras, and socialist Michelle Bachelet is favored to win Chile's presidential runoff on Jan. 15. To punctuate the situation, the radical left-wing President of oil-rich Venezuela, Hugo Chavez…is all but certain to be re-elected at year's end."

Ivory Coast Military Installation Attacked. The New York Times/AP (1/3) reports, "Gunmen attacked the main military barracks in Abidjan, Ivory Coast's largest city, on Monday, with gunfire and heavy explosions that shook the surrounding area, authorities said. The armed forces chief, Gen. Phillipe Mangou, said that the attack occurred around 6 a.m. at Camp Akuedo, and that military forces had repulsed it. There was no word on who carried out the assault."

Subsistence Farming Said To Encourage Child Labor In Ethiopia. The Washington Post (1/3, A1, Wax, 744K) reports Ethiopia "has one of the highest rates of child labor in the world," according to the UN. Nine million children "are employed, 90 percent of them in the agricultural sector. … Factors pushing children into the fields include ancient farming techniques, overworked land, the AIDS epidemic and a booming population of 74 million." The Post notes, "It is also an impoverished rural society where 85 percent of the population farms two-acre plots of land, too small to turn a profit, and nearly every plot is worked to exhaustion. Studies have shown that cultures dependent on subsistence farming also have the highest rates of child labor."

Former Political Prisoners Detail Burmese Junta's Abuses. The Washington Post (1/3, A12, Sipress, Nakashima, 744K) reports on Burmese political prisoners Min Ko Naing and Myo Myint both of whom "passed more than a third of his life in prison when both were released in 2004. Min Ko Naing, 44, remained in Burma, under scrutiny of the secret police. Myo Myint, 43, fled to a small town just over the border in Thailand. Their testimony, provided in separate interviews last month, highlights the psychological and physical abuse endured by political prisoners in Burma, which is ruled by a military junta. More than 1,100 people remain in jail for seeking democratic reform, according to Amnesty International. The two men's accounts reveal how determined they remain to press for social change despite torture inside prison walls and only the remote prospect for a shift in power outside them. Myo Myint now works with a group advocating prisoner rights. Min Ko Naing is urging the government and its opponents to set aside political differences to ease the country's deepening poverty and treat spreading disease."

Strike Follows Purge At Beijing Newspaper. The Christian Science Monitor (1/3, Marquand, 61K) reports, "An emotional strike by 100 journalists at [Beijing's] most popular and lively newspaper follows a 16-month campaign to quash a broad range of 'unapproved' public speech in areas verging on politics or society. … In the case of Beijing

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News, whose progressive editor Yang Bin was replaced without warning last week, Chinese authorities dealt a seemingly fatal blow to a publishing project that two years ago gave the press some freedom to experiment. Last June the paper reported on violent land disputes in Hebei province, and last month, in what may have precipitated the purge, it published tame, but independent, stories on the official coverup of a massive benzene chemical spill in the Songhua River. Last Thursday, in a gritty south Beijing neighborhood, nearly 100 reporters left the news offices. They began a short-lived strike - a rarity in China - and signed a petition asking for Mr. Yang's reinstatement."

Kirchner Seen As Moving Argentina To Left. The New York Times (1/3, Rohter, 1.19M) reports, "Just four years ago, Argentina's economy was prostrate and its politics in chaos, after a financial crisis resulted in bank deposits being frozen, the government defaulting on more than $100 billion in debt and five presidents holding office in two weeks. But on Tuesday, the country is expected to pay off the last of its debt to the International Monetary Fund and simply walk away from further negotiations with the group. … The $9.8 billion payment is an important symbolic milestone and just one of several recent signs that President Néstor Kirchner appears to be concentrating more power in his own hands and steering his government to the left. Since a midterm election victory in October, Mr. Kirchner has also moved to establish an alliance with Venezuela's populist leader, Hugo Chávez, and, as a traditional Peronist, to extend the hand of the state deeper into the economy, the judiciary and the news media."

LATimes Says North Korea Worsening Famine With Secrecy. The Los Angeles Times (1/2) editorializes, "Many third world countries would have been driven to the wall by back-to-back years of floods and drought. But North Korea, which suffered nature's disasters a decade ago, makes its problems worse with its leader's paranoid, Stalinist determination to isolate the nation from outsiders. For 10 years, the United Nations' World Food Program has done what it could to limit the number of deaths by famine, providing millions of tons of food worth more than $1 billion. When Pyongyang sometimes refused to let U.N. officials visit a province, the organization cut off the food. Its policy of 'no access, no food aid' is necessary to ensure that dictators such as North Korea's Kim Jong Il don't take the milk and grain and give it to their soldiers and trusted civil servants, rather than those who need it most. But now North Korea has forbidden private charities and the U.N. agency to deliver food. Pyongyang claims an improved harvest last year, and help from China and South Korea, will provide enough to feed its 23 million people. But outside experts are doubtful. A more likely reason for stopping food aid is to keep foreigners away and increase the already tight control by Kim's regime."

NYTimes Says Administration "Name-Calling" Against Korea Is Counter Productive. The New York Times (1/3, 1.19M) editorializes, "Calling North Korea nasty names is easy and satisfying. Negotiating is hard and frustrating. So for four years, the Bush administration put more creative energy into name-calling than into serious talks. The main result was that the North moved four years further along toward being able to threaten its neighbors with nuclear weapons. … The North can afford to take its time over resolving the nuclear issue, wasting diplomatic energy on disruptive and bullying tactics. The United States cannot afford that luxury. It makes little sense for the Bush administration to return to name-calling or to rule out high-level talks on the Patriot Act sanctions." According to the Post, "The window that briefly opened for diplomacy after John Bolton moved from nonproliferation issues to the United Nations is once again in danger of being slammed shut, reportedly at the urging of Vice President Dick Cheney and Mr. Bolton's successor in the nonproliferation job, Robert Joseph."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"Cantonese Is Losing Its Voice."
"Voting System Results Still Out."
"New Beginning In U.S. Comes At Agonizing Cost."
"W. Virginia Blast Leaves 13 Coal Miners Trapped."
"Storm Stoked By Fierce Winds."
"Rain Dampens Everything But Spirit."

USA Today:

"Hospital Building Booms In 'Burbs."
"Dangerous Gas Hinders Effort; Mine Had Safety Citations."
"Bush Entering A Tough Time For Two-Termers."

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New York Times:
"New Rules Set Fr Giving Out Antiterror Aid."
"Russia Restores Most Of Gas Cut To Ukraine Line."
"Blast Traps 13 In A Coal Mine In West Virginia."
"As Argentina's Debt Dwindles, President's Power Steadily Grows."
"Owners' Web Gives Realtors Run For Money."

Washington Post:
"Independence To End Flights On Thursday."
"Pr. George's Community A Sanctuary No More."
"U.S. Cedes Duties In Rebuilding Afghanistan."
"As Rural Ethiopians Struggle, Child Labor Can Mean Survival."
"Obese Patients Increase Need For Specialized Medical Care."
"West Virginia Mine Explosion Traps 13."

Washington Times:
"Redskins Celebrate Long Awaited Playoff Return."
"Discount Carrier To Stop Flying."
"Europe Spurs Russia To Turn On Gas."
"Iraq, Economy Return To Top Of Bush Agenda."
"Saddam Prefers Death By Shooting."
"13 W. Va Miners Trapped By Blast; Resuce Team Sent."

Atlanta Journal-Constitution:
"Bulldogs Lose Nail Biter At Dome."
"Crews Dig For Miners."
"Storms Rake Metro Area."
"A Tiny Town That's Fit To Be Tied - Twice."

Dallas Morning News:
"Town Destroyed By Fire."

Houston Chronicle:
"Abramoff Plea Bargain Announcement Expected."
"Strayhorn Declares She'll Run As Independent."
"Fed Up With Gunshots, One Man Calls On The Angels."
"Absentee Ballots Show Turn In Mexico's Politics."
"4 KBR Contractors Killed In Collision At Iraq Base."
"Texans Let Capers, Two Top Assistants Go."

Story Lineup From Last Night's Network News:
ABC: Preempted by College Football.
CBS: WV Mine Accident; TX-OK Brushfires; CA Flooding; Abramoff Plea Bargain; Food Labels; American Heroes; Iraqi Burials; Japan Birthrate.
NBC: WV Mine Accident; Mine Accident Analysis; Mine Accident Witness; CA Flooding; TX-OK Brushfires; NY Plane Accident; Credit Card Payments; Iraq-Oil Prices; Indonesia Flooding; Germany-Ice Rink Collapse; Iraq-US Teen.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: WV-mine explosion; CA-levee repairs; CA-heavy rains; OK, TX-wildfires.
CBS: WV-mine explosion; CA-heavy rains; OK, TX-wildfires.
NPR: WV-mine explosion; Independence Air shut down; Haiti-presidential candidate arrested; Germany-ice rink collapse; CA-heavy rains; Midwest, South-tornadoes; Israel-Gaza car bombing.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH – Participates in a meeting on the Patriot Act, Roosevelt Room, White House. Pool at bottom.

VICE PRESIDENT CHENEY – No public schedule.

US Senate: FLOOR SCHEDULE _ 12 p.m. The Senate will convene for a pro forma session. Notes: Once today's session adjourns, the Senate is not expected to meet until 10:00 a.m. on Wednesday, Jan. 18, 2006.

US House: No Scheduled Events.

Other. ASSOCIATION OF AMERICAN LAW SCHOOLS _ The Association of American Law Schools holds their five day annual meeting. Workshops and plenary sessions for law professors, researchers and professionals. Topics will include the Iraqi Constitution, educational diversity, balancing life in law school, religious law, contracts, economics and international law. Location: Most events at Washington Marriott Wardman Park, 2660 Woodley Road NW.

URBAN SECURITY-CHERTOFF _ 10:30 a.m. Homeland Security Secretary Michael Chertoff participates in a news conference on 2006 Urban Area Security Initiative Grants. Location: Building 21, Nebraska Avenue Complex, 3801 Nebraska Ave, NW.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, JANUARY 3, 2006 7:45 AM EST

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TERRORISM NEWS:

White House Plans Focus On Iraq, Economy For 2006. In a story that runs over 2100 words highlighting political and policy opportunities for the Administration -- as well as potential pitfalls, USA Today (1/3, Jackson, Page, 2.31M) says that while past president have faced their greatest difficulties during the sixth year of their tenure, the White House is making preparations for a "better year" ahead. USA adds that for President Bush, 2005 "was a year of growing public impatience with the Iraq war, angst over record gas prices, devastation from Hurricane Katrina, the collapse of his Social Security plan and, finally, a firestorm over his decision to authorize targeted domestic spying without court warrants. Now he faces a challenge that has upended the best-laid plans of his predecessors: his sixth year in office." However, the White House "and its allies see opportunities, though, sixth year or not." Top aides "say Bush aims to travel more often and speak out more forcefully, touting the economy as underappreciated good news." To "avoid the sort of stalemate that undermined his Social Security proposal, Bush will downsize his domestic agenda, proposing changes in immigration law but shelving, at least for now, plans for a tax overhaul." White House spokesman Scott McClellan "says the basic game plan is simple: 'The economy and progress in Iraq.'" USA adds Bush's "most powerful aide, Karl Rove, has invited think-tank analysts, authors and others to the White House for ideas to help reinvigorate the president's domestic agenda." But there is "trouble on the horizon, too, and events that are outside White House control," such as in Iraq, the CIA leak investigation, and the Abramoff probe. USA then outlines the White House's planned strategy across a number of policy fronts.

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The Washington Times (1/3, Sammon, 90K) reports President Bush "is planning to spend 2006 getting back to the basics of his agenda by making the case for his policies on Iraq and the economy instead of pursuing lofty new domestic initiatives." White House spokesman Trent Duffy said, "The president will begin the new year very much in the way he left 2005, which is to discuss the country's two top priorities, keeping our economy strong and growing stronger and creating jobs, and also winning the war on terrorism." The Times adds that is "not to say Mr. Bush will not reveal new initiatives in his State of the Union address, tentatively scheduled for Jan. 31. But those initiatives are expected to be more modest than his ambitious quest to reform Social Security, partly because it will be harder to enact his agenda in a congressional re-election year." Aides "hinted that Mr. Bush will try to make his tax cuts permanent, pass an immigration reform law and push for additional energy legislation, including a measure to open oil exploration in the Arctic National Wildlife Refuge in Alaska. Although he has not officially abandoned Social Security reform, he will spend less time promoting the long-shot initiative."

Democrats To Attack Bush, GOP On Privacy Issues. The Washington Times (1/3, Hurt, 90K) reports congressional Democrats "are drafting a strategy to attack the Bush administration and Republicans as having little regard for the privacy of Americans." Before Christmas, Senate Minority Whip Richard Durbin said, "We will initiate at the beginning of this year one of the most serious debates and discussions on Capitol Hill in our history about individual rights and liberties." The Times adds the "topic will be a major focus of the Supreme Court confirmation hearings of federal Judge Samuel A. Alito Jr. as privacy rights -- the political code phrase for abortion rights -- already has become a major issue, Mr. Durbin said." Democratic leaders "then plan to keep the issue alive as they continue their opposition to key parts of the USA Patriot Act, which is set to expire in early February unless extended." But the "real payoff, Democrats say, will be the hearings into President Bush's authorization of warrantless spying on terror suspects."

Comey Opposed Parts Of NSA Domestic Spying Program. CNN's Lou Dobbs Tonight (1/2, Romans) reported, "The White House is vowing to aggressively defend its program to secretly wiretap Americans in the days and weeks ahead. But this upcoming offensive comes amid new reports of serious internal debate in the Bush administration over the legality of this program." CNN (Quijano) added, "Government officials say during at least part of James Comey's tenure as deputy attorney general, he vigorously opposed parts of the National Security Agency's secret domestic surveillance program and refused to sign off on its renewal." On Sunday, President Bush "would not comment directly when asked whether he was aware of any high-level resistance to the NSA program. Instead, he again forcefully defended its use, calling it legal and necessary." CNN added that "sources have told CNN that the surveillance program was stopped in 2004 for a short time because of legal questions. Some changes were then made to the program, but it's not clear what those changes were."

Williams Says Domestic Spying Program Is Hard To Defend. Pete Williams said on MSNBC's Hardball (1/2) that the domestic surveillance program is "a hard program to defend, because we don't know the extent of it or precisely how it worked. … Now, the legal justification they make is twofold. First, they say, the president has a constitutional authority as commander-in-chief to do this. And secondly, they say, when Congress authorized the use of military force, which was right after 9/11, it gave the president whatever authority he needed to do in wartime. Intelligence gathering, the administration argued, is incident to making war and the president has authority under that law as well. That's been their legal argument.

Mitchell Says Administration Needs To Be "More Out Front" About Eavesdropping. Andrea Mitchell of NBC News said on MSNBC's Hardball (1/2), "I think [Senate Judiciary Committee Chairman Arlen] Specter is a bellwether. … Right now the administration is pressing Specter to give this up and let the intelligence community do this in secret. And he's been arguing that this needs to be the Judiciary Committee. That there are major legal issues involved. One of the things that the White House probably is still resisting, but really needs to do, is be a little bit more out front, because it's not just a handful of cases. It's at least 500 people at a time being eavesdropped upon. And in fact, there were millions and millions of calls and e-mails that were swept up in this electronic vacuum cleaner.'

Thomas Says Presidents Always Give Themselves Power In Times Of War. Evan Thomas of Newsweek said on MSNBC's Hardball (1/2) that this is "an historic moment. A couple hundred years of presidents in times of crisis reaching out, giving a lot of power to themselves. Inevitably, there's a reaction, first it starts with a bureaucracy, it's a little slow and

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then seeps into the public. You can trace this after Watergate, Vietnam, World War II, World War I, every time we have a war, presidents do this. Eventually there's a reaction. I think that reaction is beginning now. What's not clear is how severe it is, whether the president is going to get whapped back, but you can feel some emanations off of Capitol Hill, as often where it starts, that people are starting to say, hey, maybe the balance is a little bit out of whack here."

Bush Defends Domestic Wiretap Program. President Bush on Sunday visited San Antonio to meet with wounded Iraq veterans and staff at the Brooke Army Medical Center. That visit, however, was largely upstaged by what NBC called his "strongly worded defense" of the Administration's use of the National Security Agency to wiretap people in the US. Other reports also tended to state say Bush defended the program "strongly" or "fiercely." The President made the remarks as media reports indicated there was some dissension within the Justice Department over the legality of the program -- and as four senators backed holding hearings. The story was the lead on NBC, while CBS covered it in a full segment and ABC mentioned it briefly. Today's major newspapers also cover the story in depth.

NBC Nightly News (1/1, lead story, 2:30, Costello) reported the President said, "yet again, in a very strongly worded defense," that "if al Qaeda is trying to call someone, the government should now who and why." Bush "felt compelled again to defend the secret White House program to monitor email traffic and listen into the phone calls of as many as 500 Americans each day without court approval. Mr. Bush said only international calls to and from the US and involving known al Qaeda sympathizers were tapped." President Bush: "It seems logical to me if we know a phone number associated with al Qaeda and or an al Qaeda affiliate, and they are making phone calls, it makes sense to find out why." Costello: "The President again emphasized Congress was kept informed of the program, which was regularly reviewed by the Justice Department and found to be legal. But the New York Times reported that then-Deputy Attorney General James Comey resisted approving parts of the spying program out of concern that it wasn't legal. And Newsweek reports in a cover story that then-Attorney General John Ashcroft refused to overrule Comey, while Time magazine reports that the President even bypassed top Justice Department attorneys who normally reviewed top-secret intelligence programs."

The CBS Evening News (1/1, story 4, 2:00, Roberts) reported, "Bush again fiercely defended his domestic spying program, one that authorizes the government to monitor conversations to and from the US without a court warrant." In an "attempt to dissuade congressional hearings its legality, he says even the program's disclosure has damaged national security and in answer to criticisms about possible civil liberty violations he argues that spying is limited in scope." President Bush: "If somebody from al Qaeda is calling you, we'd like to know why. In the meantime, this program is conscious of people's civil liberties, as am I." Roberts: "Today four US Senators, including Richard Lugar, the Republican Chairman of the Foreign Relations Committee said that hearings on the President's authorization of domestic spying without warrants are appropriate."

The New York Times (1/2, Lichtblau) reports Senator Arlen Specter, "a Pennsylvania Republican and chairman of the Judiciary Committee, has already pledged to make hearings into the program one of his highest priorities." In a letter to Specter on Sunday, "Senator Charles E. Schumer, a New York Democrat who is also on the committee, said the panel should also explore 'significant concern about the legality of the program even at the very highest levels of the Department of Justice.'"

Lugar, appearing on CNN's Late Edition (1/1, Blitzer), said, "I can understand in the context of 9/11 that there may have been, in a common sense way, a reason why calls coming from the Middle East or Afghanistan to America might be intercepted, but I think the Congress quite rightly is trying to take a look at now that we're past 9/11, we're going to have to live with the war on terror for a long, long while." Asked if he advocated holding hearings on the matter, Lugar responded, "I do. I think this is an appropriate time. … I think we want to see what in the course of time really works best and the FISA Act has worked pretty well from the time of President Carter's day to the current time."

Sen. Mitch McConnell, on Fox News Sunday (1/1, Wallace), said, "Thank goodness the Justice Department is investigating to find out who has been endangering our national security by leaking this information so that our enemies now have a greater sense of what our techniques are in going after terrorists. The overwhelming majority of the American people understand that we need new techniques in the wake of 9/11 in order to protect us. … This needs to be investigated, because whoever leaked this information has done the U.S. and its national security a great disservice."

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ABC World News Tonight (1/1, story 6, :20, Harris) reported, "There are reports that high-level officials at the Justice Department objected to the Administration's controversial domestic spying program." Reuters (1/2, Zakaria) notes the New York Times "reported on Sunday that James Comey, a deputy to then-Attorney General John Ashcroft, was concerned about the legality of the NSA program and refused to extend it in 2004." White House aides "then turned to Ashcroft while the attorney general was hospitalized for gallbladder surgery, the Times said." The AP (1/2, Riechmann) says Bush "didn't answer a reporter's question about whether he was aware of any resistance to the program at high levels of his administration and how that might have influenced his decision to approve it."

The New York Post (1/2, Mangan, Dicker) reports, "President Bush belittled top Justice Department official James Comey with the nickname 'Cuomo' after the former Manhattan U.S. attorney balked at allowing controversial warrantless eavesdropping to catch terrorists, a new report claims." The Post continues, "Comey acquired the nickname — which referred to New York ex-Gov. Mario Cuomo — after Bush administration officials concluded he was not a 'team player' on that and other issues, Newsweek reports. … Comey, who now is general counsel for the Lockheed Martin corporation, could not be reached for comment. … But Cuomo laughingly told The Post, 'I'll say this — Comey and Cuomo have this in common: They both agree that the president was wrong.' … The White House denied that Bush, who has a penchant for doling out nicknames, tagged Comey with the scornful sobriquet."

New York Daily News (1/2, Siemaszko) reports, "Schumer also said he will ask Specter to question top White House officials such as former Acting Attorney General Jim Comey, who reportedly opposed the secret domestic eavesdropping on legal grounds. … 'When Comey, who was one of the premier terrorism prosecutors in this country, said that he thought this program violated the law ... it calls into question the way the president and the vice president went about changing it,' Schumer said on 'Fox News Sunday.'"

Schumer, on Fox News Sunday (1/1, Wallace), commented, "The problem here is that the President thought there was a problem -- that's legitimate -- but instead of coming to people and saying 'okay, I need changes in the law,' he just changed it on his own. And today's revelations…really heighten the concerns about this. When [former Deputy Attorney General James] Comey, who was one of the premiere terrorism prosecutors in this country, said that he thought this program violated the law, when it's reported that people at the NSA -- and none of these people are left-wing liberals -- had real doubts about the program, it calls into question the way the president and vice president went about changing it."

The Los Angeles Times (1/2, Roche, Chen) says Bush "strongly defended the domestic eavesdropping program," and quotes the President saying, "If somebody from Al Qaeda is calling you, we'd like to know why. … We're at war with a bunch of coldblooded killers."

The Washington Post (1/2, A1, Rein) notes it was Bush's "third defense in two weeks of his secret domestic spying program." The Post quotes Bush saying, "This is a limited program designed to prevent attacks on the United States of America, and I repeat limited." The Post later says, "The president's first public comments of the new year after no public appearances last week offered a glimpse into how his administration intends to deflect congressional inquiries into his authorization of wiretaps on terrorism suspects -- with a vigorous defense of the program as a matter of national security."

The Washington Times (1/2, Curl) adds the President also "criticized anew the leaker who revealed the program to the New York Times, which published a front-page article about it on the day the Senate was scheduled to vote on an extension of the Patriot Act. 'There's an enemy out there. They read newspapers, they listen to what you write, they listen to what you put on the air, and they react,' said Mr. Bush, who added that the leak of the program causes great harm to national security."

NSA Surveillance Credited With Stopping Terror Attacks Post-9/11. Syndicated columnist Charles Krauthammer, appearing on Fox News Sunday (1/1, Wallace), said, "There's a great irony here. Everybody has been asking of themselves for the last four years why haven't we had a second attack. … But what we've heard over the last six months with these revelations, these so-called scandals, of the secret prisons where high-level Al Qaida have been held, the coercive interrogation which is under attack in the McCain amendment, and now the NSA eavesdropping -- we have the untold story which the administration could not tell. It knew why we had been protected. … We had a means, technological, in the NSA eavesdropping, and also other means in capturing these terrorists, of getting information. It's worked. It's held us safe."

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DOJ Probes Of High-Level Leaks Seldom Meet With Success. Knight Ridder (1/2, Mondics) reports, "When President Bush defended the National Security Agency after the disclosure that it had spied on hundreds of Americans, he angrily denounced media leaks about the program, and the Justice Department has now opened a criminal probe. … But an ongoing Justice investigation of the president's own staff in an unrelated leak case and the handling of hundreds of other leak allegations each year suggest that the probe of the NSA leak - which focuses on the disclosure of classified information to The New York Times - faces huge obstacles." Knight Ridder continues, "Only two government officials have ever been convicted of leaking classified information to a news organization. Samuel L. Morison, a Navy intelligence analyst, was prosecuted for leaking three spy satellite photos to Jane's Defence Weekly in 1984; Jonathan Randel, a former Drug Enforcement Administration analyst, was convicted in 1999 of leaking confidential information about DEA investigations to a London newspaper." Knight Ridder adds, "More recently, special prosecutor Patrick Fitzgerald acknowledged difficulty proving that any laws governing the release of classified information were broken in the White House leak to the media of a CIA operative's identity. Fitzgerald did win an indictment Oct. 28 of I. Lewis "Scooter" Libby, former chief of staff to Vice President Cheney, for allegedly lying to investigators in the case. But after two years, Fitzgerald has charged no one with illegally releasing sensitive national security information - the charge that prompted the investigation. … Mark Corallo, a former Justice spokesman who is now a spokesman for Bush adviser Karl Rove in matters related to the Fitzgerald investigation, said the department typically received hundreds of requests a year from intelligence agencies to investigate leaks, and most cases went nowhere. … One reason is that the Justice Department, despite a handful of high-profile cases, has been reluctant to subpoena reporters who for reasons of confidentiality declined to testify; another is that laws governing such prosecutions require the government to show that the leaker intended to break the law - a difficult hurdle to clear."

Bush Will Begin 2006 "Preoccupied" By Domestic Spying Controversy. Time (1/9, Lacayo) reports that President Bush's 2002 Executive Order allowing the NSA to eavesdrop without a warrant on phone conversations, e-mail and other electronic communications "remained a closely guarded secret" for four years. Time adds, "Because the NSA program was so sensitive, Administration officials tell TIME, the 'lawyers' group,' an organization of fewer than half a dozen government attorneys the National Security Council convenes to review top-secret intelligence programs, was bypassed. Instead, the legal vetting was given to Alberto Gonzales, then White House counsel. In the weeks since Dec. 16, when the program was disclosed by the New York Times, it has set off a ferocious debate in Washington and around the country about how the rule of law should constrain the war on terrorism. That development ensures that the President will start the new year preoccupied for a while with a fight over whether his responsibility to prevent another attack gave him the power to push aside an act of Congress -- or, to use the terms of his harshest critics, to break the law."

In a separate story, Time (1/9, Tumulty, Allen) reports that "the revelation that his Administration has been spying in this country without warrants -- illegally, critics say -- may have put a crimp in Bush's plan to climb back on top of the agenda as the new legislative session begins. 'When Congress comes back,' warns a top G.O.P. congressional aide, 'domestic surveillance and privacy issues will be all over the front pages.' To which the President and his strategists seem to be saying, Bring it on." From the Time the story broke, the Administration "decided its strategy would be to 'overwhelm the skeptics, not back off, not change anything about the program and really home in very strongly on the fact that this is a legitimate part of presidential warmaking power,' says an adviser." GOP strategists "argue that Democrats have little leeway to attack on the issue because it could make them look weak on national security and because some of their leaders were briefed about the National Security Agency (NSA) no-warrant surveillance before it became public knowledge. Some key Democrats even defend it."

"Ferocious" Administration Infighting Delayed Domestic Spying Program For A Time. Newsweek (1/9, Thomas, Klaidman) reports, "NEWSWEEK has learned, ferocious behind-the-scenes infighting stalled for a time the administration's ambitious program of electronic spying on U.S. citizens at home and abroad." Newsweek adds, "It does not appear that President Bush -- determined to stand tall in the war on terror -- or Vice President Cheney, a staunch believer in executive power, hesitated to circumvent FISA. Asserting the broad warmaking powers conferred on the president by Article 2 of the Constitution and by a post-9/11 congressional resolution authorizing the use of force to combat global terror, Bush repeatedly approved of what the

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NSA calls a 'special collection program' that eavesdropped -- without warrants -- on about 500 Americans a day."

"Reassertion Of Presidential Power" Said To Be At Heart Of Spying Debate. U.S. News and World Report (1/9, Kaplan) reports, "At the heart of the debate over domestic spying is a reassertion of presidential power. Legal advisers to the president have made a case for sweeping executive authority during wartime. The White House's authority to render terrorism suspects jailed without trial and run warrantless eavesdropping, they argue, is authorized by a congressional war resolution passed after 9/11 and by the Constitution's grant of war-making power to the commander in chief. Among the prime supporters of this position is Vice President Dick Cheney, who as White House chief of staff under Gerald Ford saw Congress take back considerable amounts of executive power after the abuses of the Nixon era. But Congress and the courts may now be pushing back. Legal challenges to the administration's detention policy and the FBI's national security letters are winding their way through the courts." Likewise, Time (1/9, Lacayo) says the White House "has been developing a very robust interpretation of presidential power" to "support its aggressive conduct." Vice President Dick Cheney "in particular believes that presidential power has been unreasonably confined since the 1970s." Time adds, "Because they required the President to plainly bypass an act of Congress, the no-warrant wiretaps may be the sharpest expression yet of the Administration's willingness to expand the scope of Executive power."

Domestic Spying Efforts May Be More Widespread Than Previously Thought. U.S. News and World Report (1/9, Kaplan) reports, "A string of revelations in recent weeks suggests that domestic spying programs may be far broader than previously thought." Government officials "have offered spirited defenses" of these programs. They say these allegations of spying "have been misinterpreted and exaggerated," and they "insist that the public expects law enforcement and intelligence agencies to be aggressive in the age of terrorism. President Bush was unapologetic about the NSA's warrantless intercepts. … The FBI, too, has mounted a strong defense. No investigations are opened, officials say, unless there is 'specific information about a potential criminal or terrorist threat.' Mere mention of groups or individuals in an FBI file, agents say, does not mean they are under investigation."

Allegations Have Sparked Lawmakers Into Action. U.S. News and World Report (1/9, Kaplan) reports that "the mounting allegations of domestic spying have sparked widespread concern and prompted members of Congress to action, among them Arlen Specter, the Pennsylvania Republican who chairs the Senate Judiciary Committee and who will convene hearings later this month. 'I want to know precisely what they did,' Specter said. 'How the NSA utilized their technical equipment, whose conversations they overheard, how many conversations they overheard, what they did with the material, what purported justification there was.' Democrat Rep. Robert Wexler is demanding documents on the Defense Department's secret monitoring program, part of a little-known agency called the Counterintelligence Field Activity."

Time (1/9, Lacayo) adds that "the House and Senate Intelligence Committees are almost certain to make deeper inquiries. Meanwhile, the Justice Department is launching an investigation of its own, into how word of the secret program was leaked." Justice officials "have refused to say whether the overall legality of the NSA program will also be investigated."

Bush Administration "Implored" NYTimes Editors Not To Publish Domestic Spying Story. Time (1/9, Ratnesar) reports on New York Times reporters James Risen and Eric Lichtblau, who broke the story "that the Bush Administration was running a covert domestic-spying program." It "took Risen more than a year to get the story into print -- and not before President Bush personally implored Times editors not to publish Risen and Lichtblau's account of how Bush authorized the National Security Agency to wiretap telephone and e-mail communications inside the US without court-sanctioned warrants." Time adds, "At the center of the article's backstory is Risen, who unsuccessfully pushed to publish the wiretap report last year, then took a leave to write a book, State of War: The Secret History of the CIA and the Bush Administration. It now appears he may pay a price for the disclosure: last Friday the Justice Department opened an investigation into who leaked the existence of the NSA program to the Times, raising the prospect of Risen's being compelled to reveal the identities of the 'nearly dozen' current and former officials who spoke to him about the program or face jail time for contempt of court."

Domestic Spying Debate Follows A "Predictable" Wartime Pattern. Newsweek (1/9, Thomas, Klaidman) reports in its cover story, "The current debate over national

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security and civil liberties is not new. It follows a predictable pattern of a democracy in wartime. … To understand the current struggle -- and judge how seriously to take the Bush and Cheney bids for power -- it is useful to compare this battle to all the balancing acts that have come before. The facts change, but the pattern varies little: In national crises, presidents reach for power." A president "will almost always choose to violate individual rights over the risk of losing a war." Newsweek adds, "Congress lies low and goes along. … Typically, in times of national peril, Congress gets swept along on a wave of patriotism. … The bureaucracy pushes back. … Though 'bureaucrat' can be a bad name, government careerists are sometimes the only ones who will uphold standards of fairness or decency. They know, too, that they can be left holding the bag if later congressional hearings look into dubious secret operations. … The public and the politicians react -- and overreact. Historically, wartime encroachments on civil liberties have spawned backlashes. … The American public may be less than sympathetic to the targets of the Bush antiterror crackdown. But if the administration is shown to have violated the civil liberties of mainstream peace groups or (heaven forbid!) members of the press, the outcry could produce an overreaction."

More Commentary. Columnist Ruth Marcus, meanwhile, writes in today's Washington Post (1/2) about Bush's domestic spying, and comments, "Perhaps, in the aftermath of Sept. 11, that's how the country wants its intelligence activities conducted." But "living on the edge inevitably risks falling off a cliff - especially if you choose to live there on your own and in secret." Marcus says "the need for legal checks, the importance of congressional oversight, the missteps that inevitably occur when the executive branch is accountable only to itself -- seem to have been ignored by all the parties involved. As Congress gears up for another needed round of hearings, the challenge is not only to discover what happened but also not to forget, again, what was already, painfully learned."

DOJ IG Finds Terror Specialists At US Attorney's Offices Failing To Coordinate. The Washington Times (1/3, Seper, 90K) reports that a report from the Justice Department's Office of Inspector General has concluded that "Intelligence specialists at the 93 US attorneys' offices assigned to identify terrorist activity and assist in prosecutions are not coordinating their efforts and lack guidance." According to the report, though the offices "have made 'valuable' individual contributions to counterterrorism efforts, their overall effectiveness needs to increase through improved coordination and guidance." The IG report "made eight recommendations to improve the use of the specialists, including identifying and providing the standard tools they should use, defining the types of results they should produce, and establishing the quality standards those results should meet. "

Former CIA Official Says Agency May Need A Decade To Build Up Anti-Terror Service. Reuters (1/2, Morgan) reports, "A former CIA counterterrorism officer who tracked Osama bin Laden through the mountains of Afghanistan says the U.S. spy agency could need a decade to build up its clandestine service for the U.S. war on terrorism." Gary Berntsen, "a decorated espionage officer who led a paramilitary unit code-named 'Jawbreaker' in the war that toppled the Taliban after the September 11 attacks," said CIA Director Porter Goss "faces an uphill battle to fill the agency's senior ranks with aggressive, seasoned operatives." Berntsen said in an interview, "He's probably more aggressive than most of the senior officers in the clandestine service. So I think he's having to pull them along a bit." Goss, he added, "is trying to improve the situation. But it's going to be tough. The rebuilding is going to take years. A decade, at least."

Experts Say Padilla Dispute Could Jeopardize Terror War. The Legal Times (1/2, Henning) reports, "This time, audacity may not pay off for Bush administration lawyers. …. Having aggressively — and in the view of their critics, arrogantly — pursued an expansive view of executive power since the start of the war on terrorism, they could see their plans derailed by an escalating skirmish over 'enemy combatant' Jose Padilla." The Times continues, "Last week was punctuated by another round, in a rancorous and highly unusual exchange between the U.S. Court of Appeals for the 4th Circuit and the Bush administration over the detention of Padilla, a U.S. citizen whose case is regarded as a crucial legal litmus test of anti-terrorism tactics. … In late November the government abruptly asked the appeals court to vacate a Sept. 9 decision granting President George W. Bush the right to detain indefinitely U.S. citizens as enemy combatants without charge or trial. It was a move that alienated one of the administration's most reliable judicial allies, the largely conservative 4th Circuit." The Times adds 'The administration's abandonment of its aggressive position

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in a case that it has touted as crucial to battling terrorists confounded outsiders and infuriated the judges who had previously given the White House a highly favorable ruling. … 'This is perhaps the most important constitutional litigation since September 11,' says Timothy Lynch, director of the Cato Institute's Project on Criminal Justice. 'They severely underestimated the reaction by the judiciary and other legal observers. Maybe they missed the forest for the trees and lost sight of how big this was, but this is going to hurt the credibility of the Justice Department in other terrorism cases.'"

The Pittsburgh Post-Gazette (1/2, McGough) reports, "It must have seemed like a good idea at the time. Fearful of another test of presidential power in the U.S. Supreme Court, the Bush administration in November decided to cut its losses and end the 3 1/2-year-long confinement of Jose Padilla as an 'enemy combatant.' .. Mr. Padilla, a Brooklyn-born convert to Islam, was arrested at Chicago's O'Hare Airport in May 2002 and was identified by then-Attorney General John Ashcroft as a participant in an al-Qaida plot to explode a radioactive 'dirty bomb' in the United States. A federal appeals court upheld his detention, but Mr. Padilla's lawyers appealed to the Supreme Court. … Then the Bush administration executed a legal U-turn. It secured an indictment of Mr. Padilla by a federal grand jury in Florida on terrorism charges unrelated to a 'dirty bomb,' announced that he would be transferred from a Navy brig in Charleston, S.C., to a civilian prison in Miami and asked the 4th U.S. Circuit Court of Appeals in Richmond to vacate its decision upholding Mr. Padilla's confinement." The Post-Gazette adds, "The 4th Circuit, one of the administration's favorite tribunals, wouldn't play. It refused to vacate its order or approve of Mr. Padilla's transfer from military to civilian custody. In an opinion by Judge J. Michael Luttig, a conservative icon often mentioned as a possible Bush appointee to the Supreme Court, the 4th Circuit worried about 'an appearance that the government may be attempting to avoid consideration of our decision by the Supreme Court.' … Last week the administration shot back, demanding that the Supreme Court authorize Mr. Padilla's transfer. In a petition filed with the Supreme Court, Solicitor General Paul D. Clement fumed that 'the 4th Circuit's order defies both law and logic' and constituted an 'unwarranted attack' on President Bush's authority. Besides, Mr. Clement said, Mr. Padilla's lawyers hadn't objected to transferring their client. … It is true that in an earlier filing with the 4th Circuit, Mr. Padilla's attorneys had indicated that they wouldn't object to the transfer because they could continue to challenge Mr. Padilla's designation as an enemy combatant. But last week they took a different tack. … The battle of the briefs between the government and Mr. Padilla's lawyers turns on the proper interpretation of a federal court rule that says prisoners seeking a writ of habeas corpus -- as Mr. Padilla is doing -- ordinarily can't be transferred from one jailer to another. But the larger issue in the turf war between the 4th Circuit and the Bush administration is the same one raised in Mr. Padilla's original legal challenge: the scope of presidential power in the 'war on terror.'"

WPost Comments On Changing Government Tactics In The Padilla Case. The Washington Post (1/2) editorializes, "Just when it appeared the case of accused enemy combatant Jose Padilla couldn't get any weirder, the two parties have switched sides. In an emergency brief filed before the Supreme Court last week, the Justice Department asked the justices to step in and allow the government to transfer Mr. Padilla immediately from military to civilian custody so that he can face the criminal charges recently filed against him. This is the same Justice Department that had been arguing for 3 1/2 years that Mr. Padilla could be held without charge on President Bush's order as an al Qaeda fighter - for much of that time without even having access to his lawyers. … The government is now seeking to release Mr. Padilla from his legal limbo, and Mr. Padilla is objecting."

US Said To Be Underutilizing Arab, Muslim Community In War On Terror. Randa Fahmy Hudome, former associate deputy energy secretary in the Bush administration, in an op-ed in the Wall Street Journal (1/3, A24, 2.11M) writes that while the US government "has focused on the vital national security challenges posed in the post-9/11 environment -- challenges in law enforcement, intelligence gathering and public diplomacy," there is "an untapped resource in all 50 states that can provide insight into many of these challenges -- the American Arab and Muslim community." However, "they have been underutilized on the frontlines of the global war on terror. While President Bush has appointed more Arab- and Muslim-Americans to senior positions than any previous administration, the rest of the government has been slow to follow his lead." Fahmy Hudome states, "The Department of State should create an Arab- and Muslim-American Advisory Board -- made up of experts who reflect the religious, ethnic and geographic diversity of the Middle East -- to advise the US government

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about issues, sensitivities, perceptions and misperceptions both here and abroad."

Administration Action On Hamadi Release Called Inadequate. Ken Stethem, brother of US Navy Diver Robert Stethem, who was murdered during the 1985 TWA hijacking, was asked on MSNBC's Scarborough Country (1/2), why he wrote to the Bush Administration complaining about the release by German authorities of Mohammed Ali Hamadi, who was convicted of the murder. Stethem said, "We're absolutely unsatisfied with the indifference and the action that they took upon Hamadi's release. … We've gotten two phone calls, one from Andrew Card, wishing us well and saying he's sorry. And then we got one from [State Department Counterterrorism Coordinator] Ambassador [Henry] Crumpton…saying basically the same thing." Stethem went on to say he has not "heard anything" from Congress, "and it's unbelievable." When asked what the Administration's response to his requests has been, Stethem said, "Nothing! We've been trying to get meetings with Condoleezza Rice in the State Department, through the Justice Department since May. And we've not been given the opportunity once. … It's incredible, just incredible to see the president soliciting support for the war on terrorism, the same week that Hamadi is released and the Administration knew about his impending release while the president was preparing that speech."

PATRIOT ACT:

White House To Step Up Defense Of Patriot Act, NSA Surveillance. The Financial Times (1/3, Daniel) reports the White House "will this week step up efforts to defend its policy on the Patriot Act as well as its controversial decision to conduct domestic surveillance on US citizens without a warrant from a judge, in the face of mounting concerns from civil liberties groups." President Bush "began the counter-offensive with a strong defence of his decision in 2001 to authorise the National Security Agency to eavesdrop on those suspected of links to al-Qaeda and of his legal authority to prosecute the war on terror." On Tuesday, Bush "will take part in a meeting on the Patriot Act, the anti-terrorism legislation that Congress failed to renew before the Christmas break. On Wednesday he will make a statement on the 'war on terror' at the Pentagon." As "part of a co-ordinated approach, Dick Cheney, vice-president, will also give a speech about terrorism."

HOMELAND RESPONSE:

Chertoff To Announce Changes To Homeland Security Grant Program. Several media outlets this morning are reporting on the upcoming announcement of changes to the Urban Area Security Initiative. The AP indicates that Secretary Chertoff has sought the changes, while the New York Times notes that he is prepared for some negative response. The New York Times (1/3, Lipton, 1.19M) reports, "Facing cuts in antiterrorism financing, the Department of Homeland Security plans to announce today that it will evaluate new requests for money from an $800 million aid program for cities based less on politics and more on assessments of where terrorists are likely to strike and potentially cause the greatest damage, department officials say. The changes to the program, the Urban Area Security Initiative, are being driven in part by a reduction in the overall pool of money for antiterrorism efforts." Homeland Security Secretary Michael Chertoff, who is to announce the shift, said in a speech last month that "the changes he was considering would require an acknowledgment that the nation could not protect itself against all risks." DHS officials "would not offer predictions of what the likely outcome would be in terms of how many cities would see their grants eliminated or cut significantly." Meanwhile, "Mr. Chertoff has made clear that he expects protests when the final grant awards are announced."

The Wall Street Journal/AP (1/3, A4) reports, "The change…addresses both the destruction and lack of preparedness seen during Hurricane Katrina. It also reflects…Chertoff's efforts to give his department an all-hazards mission -- even though it was created as a direct result of the Sept. 11, 2001, terror attacks." The AP notes, "Homeland Security spokesman Russ Knocke would not comment on which cities will be eligible for grants this year." A longer version of the AP (1/2, Jordan) story noted, "Calls to city officials around the country and to the US Conference of Mayors for comment were not immediately returned."

Under the headline "More Cities Eligible For Urban Grants, USA Today (1/3, 2.31M) reported, "Homeland Security Secretary Michael Chertoff will announce today which cities will receive part of $765 million in annual Urban Area Security Initiative grants. In past years, the grants have

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gone to the nation's 50 largest cities for terror-related security measures. This year, cities that risk being hit by a natural disaster or health crisis also are eligible."

DHS Issues Manual On Correspondence For Employees. In its "Verbatim" column, the Washington Post (1/3, A15, 744K) runs a portion of "a new manual for correspondence standards and procedures" sent out by Fred Schwien, the Department of Homeland Security's executive secretary. The portion is headlined, "4.3 Statement of Lateness (Note: Not in use until on or about Feb 1, 2006)," and reads, "If a component response does not meet the five-day deadline for returning correspondence to the ES, a statement of lateness is required. … Workload and component priorities are not valid excuses. As stated previously, for the DHS employee tasked with preparing an item for the Secretary or Deputy Secretary signature, there are few, if any, higher priorities."

Deadline Extended For Evacuees To Leave Hotels. Federal officials have extended the deadline for Hurricane Katrina evacuees to check out of their government-funded hotel rooms. The AP (1/3, McGill) reports that the extension comes as the feds "iron out issues arising from a class-action lawsuit. One issue: The Federal Emergency Management Agency, which inherited the program from the American Red Cross, still does not have up-to-date records on the identities of evacuees in the hotel program or where they are staying, according to court papers filed last week by government lawyers. Under a federal judge's ruling last month, FEMA is required to keep the hotel program running until Feb. 7. However, U.S. District Judge Stanwood Duval said FEMA could stop paying for hotel rooms beginning Jan. 7 — Saturday — for evacuees who have been approved or disapproved for other FEMA housing aid, such as a trailer or rental assistance. Now, the Jan. 7 date no longer holds, according to a flier being distributed to hotels in the program. It says: 'The program will continue for all evacuees in all states until further notice pending the resolution of certain issues now in litigation.'"

Residents Await Word On Neighborhood Hit By Katrina Oil Spill. A front page story in the Wall Street Journal (1/3, McKay, 2.11M) reports that when the levees that protected the Chalmette, Louisiana "gave way to Hurricane Katrina on Aug. 29, about 1,800 homes were inundated with floodwaters carrying nearly 1.1 million gallons of oil from a nearby refinery. Thick black crude seeped into homes and yards. Officials sealed off the area. A private contractor hired by the refinery's owner, Murphy Oil Corp. of El Dorado, Ark., began cleaning up. But the crews left most homes and yards untouched for weeks until Murphy Oil could track down their scattered owners to seek permission to clean them, the oil company says. Four months after Katrina hit, oil remains in hundreds of homes and yards. This heavily damaged community, which remains mostly abandoned, raises acute personal and public-policy questions: How can residents displaced by Katrina determine if it's safe to return to their homes, and when? And who ultimately should decide?" The Journal notes that "neither federal nor state nor local officials have provided residents with any clear answers. Parish leaders and residents say they expected the federal Environmental Protection Agency to manage the cleanup process and determine when the neighborhood was safe. But the EPA says it's not up to it to decide whether the community should be resettled."

I-10 Repairs Cited As An Example For All Gulf Coast Rebuilding Projects. The New York Times (1/3, Schwartz, 1.19M) reports that while the repair of the twin spans of Interstate 10 over Louisiana's Lake Pontchartrain "has gone unusually right, coming in ahead of time and under budget. By cannibalizing one bridge to fix the other, and then using temporary steel spans to fix the first bridge, the State of Louisiana and the contractor were able to open one span in October and plan to have traffic flowing on the other as early as Jan. 6, nearly two weeks ahead of schedule." The Times adds that following Katrina, "one of the highest priorities was getting the Interstate open, and doing so quickly required creative thinking, dedication and no small amount of luck. … The work was financed by the Federal Highway Administration, which advised Louisiana on the project. Norman Y. Mineta, the federal transportation secretary, said through a spokeswoman that the project was 'serving as a model for the kinds of efficiencies we should try to achieve in all gulf rebuilding projects.'"

Local Gulf Coast Contractors Feel Cut Out Of Katrina Cleanup. The CBS Evening News (1/1, story 7, Roberts) reported, "In the months since Hurricane Katrina hit, Federal agencies have poured billions of dollars into the battered gulf region. But in Mississippi, Bill Whitaker

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heard complaints from local contractors who say few of those dollars have come their way." CBS (Whitaker) added, "Big players like Ashbritt of Pompano Beach, Florida, awarded a Federal contract worth $500 million and others like Bechtel and Halliburton subsidiary Kellog Brown and Root got contracts for tens of millions dollars more." Socrates Garrett: "And the network of good old boys were already in place." Whitaker: "Socrates Garrett's company is the biggest in Mississippi yet trucks and workers he has in place sit idle." Garrett: "If we can't work then you can bet that other smaller minority firms don't even have a chance." Whitaker: "Mississippi Congressman Thompson says his state's businesses are suffering because FEMA and the Army Corps of Engineers and other Federal agencies responsible for cleanup are playing politics." Rep. Bennie Thompson: "Those are the contracts that have gone to companies that were well connected, had the right lobbyists, contributed to the right party in power." Whitaker: "Ashbritt says it wasn't politics but hard work that won the contracts." Randal Perkins, Ashbritt: "At the end of the day if you're not qualified and capable and ready to handle the challenge given to you you're not getting the contract." Whitaker: "He says most of Ashbritt's subcontracts have gone to Mississippi companies, but Congressman Thompson says they're getting the dregs, the little jobs and little of the Federal money. Mississippi's Republican governor agrees." Gov. Haley Barbour: "We don't think there's a high enough percentage of the work going to local contractors. There's some, unquestionably, but we think there needs to be more."

Nagin Says New Orleans Could Take Three To Five Years To Regain Population. The AP (1/2) reports, "New Orleans Mayor C. Ray Nagin yesterday said it could take three to five years to regain the city's population of nearly half a million before Hurricane Katrina. Mr. Nagin said on CBS' Face the Nation that reopening several public and private schools this month would help raise New Orleans' population to about 200,000, double the current level, as families returned with their children. Shortages of suitable housing would limit further growth over the near term, he said."

Emergency Officials Include Animal Rescue In Emergency Plans. The Washington Post (1/2, B1, Wan) reports on the "merging field of disaster planning for pets, filled with doomsday scenarios, four-legged victims and people who love them. For years, despite an estimated 69 million U.S. households with a pet, animal advocates have been relegated to the fringes of emergency planning. After Katrina, however, and the sight of people in New Orleans refusing to evacuate and in some cases dying with their pets, emergency officials are starting to take animal rescue seriously. By saving the pets, advocates said, owners can be saved as well." The Post adds, "The concept is as old as Noah's Ark, but modern pet disaster planning didn't truly begin, U.S. experts said, until after Hurricane Andrew in 1992. When Andrew tore through South Florida, it killed more than 100 animals in the Miami Metrozoo. Hundreds of others, including baboons, antelope and 500-pound Galapagos tortoises, wandered off through the rubble. Escaped horses drowned in canals. … After Andrew, the federal government created Veterinary Medical Assistance Teams, to be deployed wherever animal-threatening disasters hit. The 1992 hurricane also prompted the Humane Society to establish a department devoted to disaster planning and rescue."

Gulf Coast Seeing Puppy Boom Following Hurricane Katrina. The Washington Post (1/3, A10, Reeves, 744K) reports on a boom in the birth of puppies in the wake of Hurricane Katrina. According to the Post, "Officials say more than 6,000 pets were saved in the region after Katrina came ashore Aug. 29, and many of them were relocated to new homes elsewhere in the country. An unknown number drowned in the floodwaters or died later of injuries. But thousands of animals remain, and humane organizations are beginning to see the result of even small numbers of animals running loose for weeks in neighborhoods where fences were flattened and owners fled.'

Charleston Post & Courier Lauds FBI's Nuclear Monitoring. The Charleston (SC) Post & Courier (1/3) editorializes, "A federal program to monitor radiation levels has quietly sought to defuse one of the greatest terror threats to the nation. Radiation surveillance seeks to diminish the likelihood that terrorists could set off a so-called "dirty bomb" containing radioactive material or, worse, detonate a nuclear explosive." The P&C continues, "The program was recently reported on the Web site of U.S. News & World report, and confirmed by federal officials. It hasn't received the same media attention as electronic eavesdropping and other forms of domestic spying, though it has been criticized by some Muslim groups who feel they are

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being targeted." The P&C adds, "Radioactivity monitors have been installed at a variety of public locations, including ports and subways since 9/11. There should be no reluctance to use passive monitoring as broadly as is warranted. … Monitoring potential sources of radioactivity by 'sniffing the air' clearly doesn't raise the same issues of privacy as wiretapping. Keeping radioactive material out of the hands of potential terrorists is essential to national security and public safety."

WAR NEWS:

Shiites, Kurds May Drop Allawi From Coalition, Give Sunnis Role. The Los Angeles Times (1/3, Daragahi, 958K) reports, "The victors in last month's parliamentary election indicated Monday that they were prepared to cut a secular politician backed by Washington out of the new government in favor of Iraq's main Sunni Arab slate. The pro-Western politician, former interim Prime Minister Iyad Allawi, did poorly in the Dec. 15 balloting despite spending heavily on a sleek television campaign." The Times adds that "the emerging political alliance lumps together Shiites, Kurds and Islamist Sunni Arabs — and excludes secular Iraqis, hard-core Sunni Arab nationalists and those sympathetic to the Baath Party of ex-dictator Saddam Hussein."

USA Today/AP (1/3) adds "Iraq's main Sunni Arab group made an unprecedented trip north to see Kurd leaders and agreed Monday for the first time on broad outlines for a coalition government." The move "opens a way out of the political turmoil that has gripped the country since disputed parliamentary elections Dec. 15." The agreement "struck by Kurdistan regional President Massoud Barzani and representatives of the main Sunni Arab group, the Iraqi Accordance Front, could lead to a broad-based government." The Accordance Front "will be part of a future government," said Foreign Minister Hoshyar Zebari, "a Kurd who sat in on the meetings."

The New York Times (1/3, Oppel Jr., 1.19M) also reports on the "broad framework for a coalition government," which "drew a rebuke from other Sunni Arab political leaders who accused the Sunni consensus party of violating an agreement to press ahead with claims of Sunni disenfranchisement during the vote on Dec. 15 and to not bargain on their own for a role in the new government."

Despite Poor Election Results, Chalabi Could Play Key Role. Knight Ridder (1/3, Hannah, Youssef) reports, "Even though Ahmad Chalabi apparently lost badly in last month's parliamentary election here, the former Pentagon favorite is still likely to be a big player in the next Iraqi government." The Dec. 15 vote "went largely to ethnic and sectarian coalitions at the expense of secular slates, including his, preliminary returns indicate. That could leave him without a seat in parliament." Yet "the former exile who helped spur the US-led invasion by feeding false intelligence to Washington about Saddam Hussein's alleged weapons of mass destruction, and who returned to Iraq after Saddam's fall to craft himself into a political leader, still has more cards to play. Characteristically, Chalabi, 61, could land on his feet in a high government post even though he failed to win even a minimum of votes from the Iraqi people."

Iraq Facing Fuel Crisis As Oil Minister Quits. NBC Nightly News (1/2, story 8, :30, Holt) reported, "There are growing concerns tonight about an oil crisis in Iraq. Fuel prices for Iraqi citizens are way up, supplies are growing scarce and new numbers out today show Iraq's oil exports hit their lowest levels since the war. Today, Iraq's oil minister quit." The AP (1/3, Juhi) adds "Iraq's exports of oil hit their lowest level in December since the war, as the country's oil minister resigned Monday in the wake of protests and riots over soaring gas prices and lengthening lines at the pump. Only 34.4 million barrels were exported in December, or about 1.1 million barrels per day," which was "the lowest average since Iraq resumed exports after the U.S.-led invasion in March 2003, according to figures released Monday." The Washington Post (1/3, A12, Hernandez, 744K) also reports the story.

Twelve Iraqis Killed In Insurgent Attacks. NBC Nightly News (1/2, story 8, :30, Holt) reported, "At least 12 people, including two children, were killed in violence today. In the worst incident, a suicide bomber rammed his car into a bus full of Iraqi policemen, killing seven and injuring 13." The CBS Evening News (1/02, story 7, 2:00, Schieffer) reported, "No American deaths were reported in Iraq today but insurgent violence killed at least a dozen Iraqis."

The Los Angeles Times (1/3, Daragahi, 958K) reports the US military also "reported the deaths of four American civilian contractors involved in a motor vehicle accident on the Asad Air Base in western Iraq on Sunday. Nineteen

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others, including a Marine, were also injured when their bus was struck by a 7-ton truck, the military said."

Iraqi Volunteer Buries Unclaimed Bodies Of Those Slain In Violence. The CBS Evening News (1/02, story 7, 2:00, Schieffer) reported on the "story of a remarkable man who has devoted himself to honoring the dead, no matter who they were." CBS (Alfonsi) added on Sheikh Jamal-al Sudani's effort to bury the unclaimed bodies of about 250 of those killed in insurgent attacks. Al-Sudani "and his group of volunteers aren't paid. They do this grim job, they say, solely for God's rewards." The "group drives the bodies from Baghdad to Najaf through Iraq. The final stop is the Valley Cemetery, a holy place because a number of prophets are buried there and a practical place because the loose soil makes it easy to bury so many bodies. The bodies of Sunnis, Shiites, Muslims and Christians are all carefully washed and wrap." Terrorists "want to kill him because he cares for the victim of their suicide attacks others because he buries the suicide bombers but he is no stranger to threats. He's been doing this work for 15 years."

Poll Finds Support Among Military For Bush Policies Drops To 60%. Agence France-Presse (1/3) reports, "Support for President George W. Bush's Iraq policy has fallen among the US armed forces to just 54 percent from 63 percent a year ago, according to a poll by the magazine group Military Times. In its annual survey of the views of military personnel, the group reported on its website that support for Bush's overall policies dropped over the past year to 60 percent from 71 percent." AFP adds, "While still significantly more supportive of the president than the broad US population, the fall in support by military personnel tracks a similar decline in the president's popularity among the general public."

Murtha Says He Wouldn't Join Military Today. Reuters (1/3) reports, "Rep. John Murtha, a key Democratic voice who favors pulling U.S. troops from Iraq, said in remarks airing on Monday that he would not join the US military today. A decorated Vietnam combat veteran who retired as a colonel after 37 years in the U.S. Marine Corps, Murtha told ABC News' 'Nightline' program that Iraq 'absolutely' was a wrong war for President George W. Bush to have launched." "Would you join (the military) today?," he was asked in an interview taped on Friday. He replied, "No." The interviewer retorted, "And I think you're saying the average guy out there who's considering recruitment is justified in saying 'I don't want to serve.'" Said Murtha, "Exactly right."

On ABC News Nightline (1/2), Murtha said the Administration "got awful lot of bad information" about the situation in Iraq because "they don't talk to Congress. … They don't listen to people with experience." When asked if President Bush "doesn't really know what's going on" in Iraq, Murtha said, "Yes, that's what happens. The President mischaracterizes things because he gets bad information." In the run-up to the Gulf War, former President Bush "would get all kinds of criticism from Democrats and Republicans, and he would patiently listen to it, and then do what he thought was right." The American public "is way ahead of this president. If they think they're fooling the public with their rhetoric, they're wrong. You can't operate that way in today's world. … The American people want to see a clear mission, they want to see an exit strategy."

Father Calls Son's Death In Iraq "A Waste." Paul E. Schroeder, managing director of a trade development firm in Cleveland, writes in the Washington Post (1/3, A17, 744K), "Early on Aug. 3, 2005, we heard that 14 Marines had been killed in Haditha, Iraq. Our son, Lance Cpl. Edward 'Augie' Schroeder II, was stationed there. At 10:45 a.m. two Marines showed up at our door. After collecting himself for what was clearly painful duty, the lieutenant colonel said, 'Your son is a true American hero.' … I am outraged at what I see as the cause of his death. For nearly three years, the Bush administration has pursued a policy that makes our troops sitting ducks. While Secretary of State Condoleezza Rice told the Senate Foreign Relations Committee that our policy is to 'clear, hold and build' Iraqi towns, there aren't enough troops to do that. … Though it hurts, I believe that his death -- and that of the other Americans who have died in Iraq -- was a waste" if "Americans stop hiding behind flag-draped hero masks and stop whispering their opposition to this war. Until then, the lives of other sons, daughters, husbands, wives, fathers and mothers may be wasted as well. This is very painful to acknowledge, and I have to live with it. So does President Bush."

Abizaid Optimistic About Turning Control Over To Iraqi Government. USA Today (1/3, Komarow, 2.31M) reports, "The top US general in the Iraq region says he is optimistic the United States will succeed this year in turning a substantial part of the country over to Iraqi government control, moving US forces into a backup

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role. The ability of Iraq's military to secure the country is a key condition for the eventual withdrawal of US forces." In an interview this weekend, Gen. John Abizaid, who "was on a short visit to Iraq, prodded his subordinates to turn control of their sectors over to Iraqi forces as soon as the Iraqis are ready. U.S. commanders must overcome their reluctance to turn over control to less-experienced Iraqi forces, Abizaid said." Said Abizaid, "Look, there is always a risk in taking a chance on the people that you've come to help. … There's also a risk of condescension (where) you look at them and say, 'They're not ready.'" Abizaid, "head of US Central Command, declined to speculate on what American troop levels will be at the end of 2006."

Administration Boosts Peacekeeping, Post-War Capabilities. The Wall Street Journal (1/3, King Jr., Jaffe, 2.11M) reports, "The difficulties of rebuilding Iraq after toppling Saddam Hussein have taught President Bush a painful lesson: Aftermaths can be tougher than wars. Now the administration is trying to recalibrate the military and foreign service to better handle postwar developments in future conflicts. For the first time, the Pentagon has declared that, along with battling foes, the ability to foster stability and reconstruction is one of its core missions." The Administration also "planted the seed for a corps of trained nation builders in 2004 when it created an Office of the Coordinator for Reconstruction and Stabilization in the State Department. The 55-person shop is staffed largely by officials on loan from the Defense Department, the Central Intelligence Agency and other agencies. It tries to anticipate the next global hot spot -- be it Sudan or North Korea -- and prepares to deploy as the main US postwar coordinator wherever a need might arise." However, "with finances tight, Congress isn't rushing to budget the money. One senior Pentagon official says he has heard objections from both Democrats and Republicans on Capitol Hill. Their worry: elevating the importance of nation-building will, over time, divert funds from the nation's ability to wage all-out war and leave the military less prepared to counter an unexpected major threat from a country such as China. And legislators in both parties are wary of more Iraq-style adventures."

Budget Request To Include No New Iraq Rebuilding Funds. The Wall Street Journal (1/3, Dreazen, 2.11M) reports, "The US and its key foreign allies are likely to fall short of their funding pledges to help rebuild Iraq, as violence in the war-torn country absorbs contributions and deters nations from making new ones. T he reconstruction shortfall may total one-third of promised funds, adding to the challenges for Iraq's next government." The White House and "some US lawmakers have made clear that this year they want Iraqi security forces to take the lead in combating the insurgency, laying the groundwork for a gradual US military withdrawal." The new year also "marks a turning point in the administration's goal to rebuild Iraq -- an effort that has had mixed success." The Journal adds, "The $18.4 billion US rebuilding program was established with a three-year term that expires in the fall, and lawmakers -- mindful of contractor overcharges, corruption and security issues that have surfaced -- have made clear that they are unwilling to authorize a follow-up program. The budget request for Fiscal Year 2007 that the White House sends Congress next month will include no new Iraq rebuilding money, according to an official familiar with the matter. News that the White House won't seek Iraq reconstruction funds for fiscal 2007 was reported earlier by the Washington Post."

Book Claims CIA Ignored Information That Iraq Had No WMD. The AP (1/3) reports, "A new book on the government's secret anti-terrorism operations describes how the CIA recruited an Iraqi-American anesthesiologist in 2002 to obtain information from her brother, who was a figure in Saddam Hussein's nuclear program." Dr. Sawsan Alhaddad of Cleveland "made the dangerous trip to Iraq on the CIA's behalf. The book said her brother was stunned by her questions about the nuclear program because -- he said -- it had been dead for a decade." New York Times reporter James Risen "uses the anecdote to illustrate how the CIA ignored information that Iraq no longer had weapons of mass destruction. His book, 'State of War: The Secret History of the CIA and the Bush Administration' describes secret operations of the Bush administration's war on terrorism." The major revelation in the book "has already been the subject of extensive reporting by Risen's newspaper: the National Security Agency's eavesdropping of Americans' conversations without obtaining warrants from a special court." The book said Dr. Alhaddad "flew home in mid-September 2002 and had a series of meetings with CIA analysts. She relayed her brother's information that there was no nuclear program. A CIA operative later told Dr. Alhaddad's husband that the agency believed her brother was lying."

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Clinton Administration Said Saddam Was Reconstituting His WMD. In its "History Lessons" column, the Washington Times (1/3, 90K) excerpts the State Department's Daily Press Briefing of November 10, 1998 in which then-Assistant Secretary of State James Rubin said, "[T]his can't go on indefinitely; that if Saddam [Hussein] continues to block UNSCOM and we do not respond, he will be able to reconstitute his weapons of mass destruction in a matter of months, not a matter of years. This is a dangerous situation; this is why we have considered it a grave situation. If we fail to act, he will feel emboldened to threaten the region further, armed, possibly, with the most dangerous kinds of weapons."

Saddam Says He Prefers To Be Shot If Sentenced To Death. The Washington Times (1/3, Martin, 90K) reports, "Saddam Hussein has told his lawyers that he wants to be shot by firing squad, not hanged, if sentenced to death during his murder trial, which resumes later this month in Baghdad." Saddam "maintains that he is still commander in chief of Iraq's armed forces -- and that a firing squad is 'the right way' to execute a military leader."

US Teen Returns Home From Winter Vacation Trip To Baghdad. NBC Nightly News (1/2, story 11, 1:50, Holt) reported 16-year-old Farris Hassan is "returned home last night from his ill-advised solo journey to Iraq. And it's not just his mom who wants answers." NBC (Sanders) added, "Maybe it's a sign of the times when a 16-year-old tells his family he's more nervous about facing the US media than traveling to a war zone. But he may have good reason after his arrival at Miami International Airport last night. He certainly appeared self-assured late this afternoon." Farris Hassan: "Yes. Right now, I came back and I'm pretty tired and I'm preparing my statement this time." Sanders: "Today, it was Farris' day off. He says he'll talk the details about his trip tomorrow." Hassan "reportedly told selected friends he gone to Iraq to witness democracy in progress. But after talking to the Associated Press there, the US Embassy told him he couldn't make any more statements." USA Today (1/3, Koch, 2.31M) and New York Times/AP (1/3), among others, also report the story.

Magazine Notes Iraq War Game Staging Ground In Louisiana. The Washington Post (1/3, C1, Carlson, 744K) reports Harper's magazine "has found a big, heartwarming silver lining inside that gloomy old Global War on Terrorism. Here it is: Our government has hired a bunch of poor souls who lost their arms and legs in accidents and has rigged them up with bags of fake blood so they can play wounded civilians in war games down at Fort Polk, La." Cubic, "the defense contractor that produces these games, has also hired 250 Arabic-speaking immigrants at $220 a day as 'Cultural Role Players' in the war games. They've also hired hundreds of local Louisianans to play random Arab civilians, plus 'dozens of scriptwriters' to come up with realistic scenarios for the war games." Wells Tower, "author of this jaw-droppingly bizarre article," said, "The military spends an average of $9 million staging each 3 1/2 -week mission rehearsal exercise," which "works out to about $117 million a year." That "doesn't include the $49 million spent constructing the state-of-the-art fake city of Suliyah, which contains 29 buildings."

US Giving NATO, Allies Growing Role In Afghanistan. The Washington Post (1/3, A1, Witte, 744K) reports, "Four years into a mammoth reconstruction effort here that has been largely led, funded and secured by Americans, the United States is showing a growing willingness to cede those jobs to others. The most dramatic example will come by this summer, when the US military officially hands over control of the volatile southern region -- plagued by persistent attacks from Islamic militias -- to an international force led by the NATO alliance." The United States "will cut its troop strength by 2,500, even though it is not clear how aggressively NATO troops will pursue insurgents, who have shown no sign of relenting." The Post ads, "At the same time, the U.S. government is increasingly allowing Western allies, or Afghans themselves, to take on the tasks of rebuilding a country that has suffered more than two decades of fighting and remains beset by poverty, drugs and insurgency."

Bush Awards Purple Hearts To Soldiers Wounded In Iraq. The Houston Chronicle (1/2, Hedges) reports, "President Bush's first official act of the new year was pinning Purple Hearts on US soldiers wounded in Iraq, a signal that for the White House, 2006 would be another year dominated by the war." The President "gave the military award to nine soldiers during a private session today with veterans of Iraq and Afghanistan and some family members at the Brooke Army Medical Center." The soldiers "were among

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more than 2,300 wounded service members treated there since the beginning of the two wars, and Bush took note of their plight as he restated his reasons for the unpopular Iraq war." Said Bush, "There's horrible consequences to war -- that's what you see in this building. … On the other hand, we also see (soldiers) who say, 'I'd like to go back in, Mr. President, what we're doing is the right thing,' because many of these troops understand that by defeating the enemy there, we don't have to face them here. And they understand that by helping the country and the Middle East become a democracy, we are, in fact, laying the foundation for future peace."

The AP (1/2, Riechmann) says the President "boarded the Marine One presidential helicopter before dawn on his ranch in Crawford and flew more than an hour to Randolph Air Force Base. His motorcade drove to Brooke Army Medical Center, a 224-bed hospital at nearby Fort Sam Houston, to meet with about 50 injured members of various branches of the armed forces and their families." Said Bush, "This hospital is full of healers and compassionate people that care deeply about our men and women in uniform. … It's also full of courageous young soldiers and marines, airmen. I'm just overwhelmed by the great strength of character of not only those who have been wounded but of their loved ones as well."

Reuters (1/2) adds Bush "returned to Washington later in the day to tackle his agenda for 2006, another year in which the Iraq war is expected to be a dominating factor with critics calling for US troops to withdraw." The Los Angeles Times (1/2, Chen) also mentions Bush's visit.

As 2006 Begins, Bush's Focus Is On Economy, Iraq, War On Terror. According to the AP (1/2, Riechmann), President Bush is starting 2006 trumpeting upturns in the US economy, defending US actions in Iraq and challenging critics of his policies in the war on terror. The AP adds, "White House officials hope this week sets the tone for its top priorities as Bush visits the Pentagon on Wednesday to discuss the war on terror and then flies to Chicago on Friday to try to convince Americans that the economy is on solid footing." On Sunday, Bush visited wounded US troops in San Antonio, and this week, he will use "the backdrop of the White House to meet with a bipartisan group of former secretaries of state and defense to discuss terrorism and Iraq and to surround himself with U.S. attorneys to pressure lawmakers to renew the Patriot Act."

Brownstein Compares Bush, Polk Presidencies. Ron Brownstein writes in the Los Angeles Times (1/2), "The president whom George W. Bush may resemble most is not his biological father, George H.W. Bush, or even Ronald Reagan, who often seems his ideological father, but James K. Polk, a dynamic and willful leader few discuss anymore. … Polk may be the only predecessor who matched Bush's determination to drive massive change on a minute margin of victory. Polk won by fewer than 38,000 votes of 2.7 million cast. Over four tumultuous years, he pursued an ambitious, highly partisan agenda that offered little to those who had voted against him. Sound familiar? … It's worth considering Polk's record not because Americans will take up arms against each other anytime soon — although you might never know that from listening to talk radio — but because it suggests that a president who slights the need to build national consensus can seed long-term problems that aren't immediately apparent amid short-term successes."

Bush Will Not Ask Congress For Additional Iraq Reconstruction Funding. The Washington Post (1/2, A1, Knickmeyer), in a front-page article, reports that the Bush administration "does not intend to seek any new funds for Iraq reconstruction in the budget request going before Congress in February, officials say. The decision signals the winding down of an $18.4 billion US rebuilding effort in which roughly half of the money was eaten away by the insurgency, a buildup of Iraq's criminal justice system and the investigation and trial of Saddam Hussein. … US officials in Baghdad have made clear, other foreign donors and the fledgling Iraqi government will have to take up what authorities say is tens of billions of dollars of work yet to be done merely to bring reliable electricity, water and other services to Iraq's 26 million people."

Army Officer Shows Off Baghdad Reconstruction Projects. The Washington Post (1/2, A10, Knickmeyer) traveled around Baghdad with Maj. John Hudson of the U.S. Army Corps of Engineers on a tour his "Prides and joys," the many reconstruction projects going on in the city. At "an Army Corps of Engineers office in the Green Zone -- the fortified site of much of the Iraqi government -- Hudson, in flak jacket and helmet, spread his hands lovingly on a map of Baghdad. 'Two youth centers. Two fire stations -- those are in some of your poorer neighborhoods. Baghdad highway patrol. A facility for the SWAT team. A new perimeter wall for Doura,' a power plant in Baghdad's insurgency-ridden south. A checkpoint on

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a southern road into the city. An electrical substation. … The projects are among 90 under his domain and among 3,600 projects in an $18.4 billion reconstruction package for Iraq due to peak, and be completed, this year." The Post adds, "Hudson will return to Colorado Springs around March. Money for the U.S. reconstruction package here is scheduled to run out around the end of the year. International donors largely have not kept their pledges to pick up the tab for reconstruction. Iraqis have balked at the painful economic reforms necessary to win foreign loans to do the work. Insurgents want to destroy it all. Civil war would do the same."

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New Maryland US Attorney Restructures Staff, Targets Violent Crime. The Baltimore Sun (1/2, Dolan) reports, "Maryland's top federal prosecutor is both expanding his office and reorganizing his staff to emphasize a commitment to fighting violent crime." The Sun continues, "Maryland U.S. Attorney Rod J. Rosenstein said he would start this month by restructuring his criminal division. It's part of an effort, he said, to coordinate better with local and federal law enforcement agents. … 'I had a meeting with the FBI's public corruption unit, and there was a real question of where that responsibility lay in our office,' Rosenstein said. 'It's a question of accountability.' The Sun adds, "Starting this year, federal prosecutors handling criminal cases in Baltimore will be required to focus on either terrorism and national security, fraud and public corruption, violent crime, drugs or major crimes - a catch-all section including civil rights violations and child pornography. They'll be expected to stay in their subjects for at least two years, Rosenstein said. … The division's managers have all been asked to reapply for their jobs, he added. … Five months into the job, the moves come as Rosenstein has established a reputation as a genial and intense leader known for his thoroughness and his prolific e-mails to his staff. … James Wyda, the federal public defender for Maryland, praised Rosenstein for his new hires and complimented the quality of his staff. … But Wyda also cautioned that Rosenstein is early in his tenure. He said Rosenstein would be judged, in part, on how he handles the substantial number of capital murder cases that have been transferred into the federal system in Maryland."

CORPORATE SCANDALS:

Attorneys For CA Defendants Claim US Misusing Sarbanes-Oxley. The Legal Times (1/2, Perrotta) reports, "Attorneys representing two former executives of Computer Associates, the Long Island, N.Y., company caught up in a massive accounting scandal, argued last week that federal prosecutors are misusing a criminal statute revised as part of the Sarbanes-Oxley Act, possibly leading to severe prison sentences — up to 20 years — that were not intended by federal legislators." The Times continues, "The dispute involves the prosecution of Sanjay Kumar, the former chairman and CEO of Computer Associates, and Stephen Richards, a former sales executive, on various fraud and obstruction charges. Federal prosecutors accuse both men of lying to the government and lying to their company's outside counsel, Wachtell, Lipton, Rosen & Katz, which was conducting an internal investigation of the company's accounting practices." The Times adds, "Kumar and Richards are in a fight over the meaning of a federal criminal statute that was amended as part of the Sarbanes-Oxley Act. … While defense attorneys argue that the SOX revisions have created a narrow statute that applies only to physical evidence, such as documents, the government contends it reaches beyond that to include any conduct that could obstruct an official proceeding."

Milberg Weiss Worried About Indicted Attorney's Actions. The California Recorder (1/3, Scheck) reports, "Nearly 12 years ago, an internal memo from the Southern California firm Best Best & Krieger expressed concerns that it was acting as a conduit for legally questionable payments from the plaintiff firm Milberg Weiss to Seymour Lazar, the lead plaintiff in dozens of securities class actions." The Recorder continues, "The memo, filed in court by prosecutors last week, expresses particular worry about the Best firm recording payments from the firm then known as Milberg Weiss Bershad Hynes & Lerach to Lazar as firm income, which would then be secretly credited to Lazar for future legal services. … 'To us it just smells bad,' the memo says, 'and probably would to an investigator.'" The Recorder adds, "That concern came to fruition in June, when Lazar and his attorney, Paul Selzer -- a former partner at the Best firm -- were indicted by a Los Angeles federal grand jury for allegedly taking more than $2 million in illegal kickbacks from Milberg

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Weiss. … The L.A. U.S. Attorney's Office has spent the past five years probing whether Milberg Weiss -- which split in 2004 when star partner William Lerach broke off to form his own San Diego-based firm -- paid illegal kickbacks to lead plaintiffs in class actions. … After several years of investigation with few public developments, the Lazar and Selzer indictments were widely seen as an effort to force the two defendants to testify against Milberg Weiss and its partners. … Prosecutors have also given immunity to at least two other former clients who say they received kickbacks from the firm via other attorneys. Lawyers familiar with the case say their allegations are similar to those detailed in the Lazar indictment."

NYTimes Bemoans Inflated Corporate Executive Pay. The New York Times (1/2) editorializes, "It would be nice to see corporate America put more effort - and money - into quality control and fair living wages for workers and less into exorbitant pay packages and bonuses for corporate chieftains. We remain hopeful."

CRIMINAL LAW:

Abramoff Plea Bargain Could Be Announced Today. The CBS Evening News (1/02, story 4, 2:30, Schieffer) reported, "In Washington, law enforcement sources told CBS News tonight that a plea bargain deal involving Washington lobbyist Jack Abramoff could be announced as early as tomorrow. We are told that the deal could implicate lawmakers who allegedly took illegal gifts from him. Abramoff has already been charged in connection with a corruption case in Florida. His attorneys had no immediate comment."

Abramoff Under Pressure To Take Plea Deal. With Abramoff under pressure from Federal authorities to accept a plea bargain, many Washington observers expect the arrangement would lead to the implication of several members of Congress. ABC World News Tonight (1/1, story 5, 2:15, Harris) reported Federal officials are "investigating what's likely to be one of the biggest influence-pedaling scandals in history. The potential that Abramoff is cooperating is making some people in Congress very nervous. ABC's Geoff Morrell has that story." ABC (Morrell) added prosecutors believe Abramoff "used that money to bribe members of Congress and are now pressuring him to name names." Melanie Sloan, former Federal prosecutor: "I think people are going to be amazed when they learn the extent of the bribery that Jack Abramoff was involved with members of Congress." Morrell: "Tonight, the only lawmaker known to be under scrutiny is Bob Ney of Ohio. But several others are scrambling to distance themselves from Abramoff. Montana Sen. Conrad Burns, who raked in nearly $60,000 from the disgraced lobbyist, now says 'I hope Abramoff goes to jail and we never see him again. I wish he had never been born.'" Sloan: "I think by the time this is over, this is going to be the biggest congressional scandal in history."

Abramoff Plea Would "Send Shockwaves Through Washington." U.S. News and World Report (1/9, Brush) reports that Abramoff is "reportedly close to cutting his own deal with federal investigators, a development that would send shock waves through Washington. Abramoff's testimony could implicate lawmakers in a vast influence-peddling case, and those once friendly with the man known as 'Casino Jack' are now ducking for cover." Abramoff "is reportedly close to an agreement with prosecutors that might include cooperation with investigators looking into his lobbying tactics. A spokesman for Abramoff declined to comment." Lawmakers "are scrambling to return campaign contributions. According to the Center for Responsive Politics, 210 federal lawmakers have received donations to their campaigns or political action committees from either Abramoff or his clients, since 1999; most big recipients were Republicans. Republican Sen. Conrad Burns of Montana, who's up for re-election this year, has returned $150,000, saying the donations 'served to undermine the public's confidence in its government.' … Sen. Max Baucus, a Montana Democrat, is returning roughly $19,000. Sen. Byron Dorgan, a North Dakota Democrat and ranking member of the Senate Indian Affairs Committee, which is investigating Abramoff, is returning $67,000. Rep. Denny Rehberg, a Montana Republican, returned $18,000 to Indian tribes and donated to charity the $2,000 he received directly from Abramoff."

Congressional Hearings To Add Drama To Conflicts With White House. The Christian Science Monitor (1/3, Chaddock, 61K) reports Congress "is gearing up for the most dramatic slate of hearings since the Clinton impeachment fracas." The "high-profile probes underscore efforts by Congress to reclaim power from a war-time White House. And they could reshape this fall's midterm elections." Lawmakers "on both sides of the aisle set in motion an aggressive oversight agenda, ranging from secret prisons and the treatment of detainees under US control, to the president's

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authorization of domestic eavesdropping without a warrant." In addition, "more members of Congress find themselves under scrutiny," as Abramoff "and his former associates work out plea agreements promising cooperation in a widening bribery investigation on Capitol Hill. Former House majority leader Tom DeLay, meanwhile, will face charges of money laundering in court later this month." The "scrutiny on - and from - Congress is a sharp turnaround for a Republican-controlled body that came to power extolling ethics, and one that has been deferential to the Bush presidency about its conduct in the war on terrorism." A "major reason for the new posture on Capitol Hill is the willingness of GOP moderates to challenge the Bush administration's war policies."

Maryland Tech Firm Owner To Plead Guilty To Bribing DC School Officials. The Legal Times (1/2, Kelley) reports, "The owner of a Maryland-based technology firm is expected to plead guilty this week to bribing District of Columbia Public School officials in exchange for contracts." The Times continues, "On Dec. 7 the U.S. Attorney's Office for the District of Columbia charged Charles Wiggins, the owner of Wiggins Telecommunications in Temple Hills, Md., with one felony count of bribing public officials. Within a week of being charged, Wiggins agreed to plead guilty and cooperate." The Times adds, "Wiggins' attorney, Sidney Friedman of Baltimore, says he is not authorized to comment on the deal reached with prosecutors. Assistant U.S. Attorney Daniel Butler, who is handling the prosecution, could not be reached for comment. … In charging documents, the prosecution alleges that from early 2001 through 2003, Wiggins doled out nearly $50,000 in bribes to a DCPS office manager and an elementary school principal. The two school officials, who so far are identified only as 'Individual 1' and 'Individual 2' in court documents, allegedly gave Wiggins preferential treatment in exchange for receiving a cut of the profits generated by his DCPS contracts."

Prince George's County Community No Longer Immune From Violence. The Washington Post (1/3, Thomas-Lester) reports, "Three miles beyond the Capital Beltway, Woodmore South seems far removed from the violence and fear that has infested some Prince George's County neighborhoods. … The upscale subdivision, with its rolling green lawns along wide and winding roads, reflects what draws many residents to the county: a chance for a classic suburban life in a community where most neighbors and political leaders are African American. … But consider the past several months: In June, a Woodmore South boy was beaten at nearby Six Flags America, and a teenage girl was shot after leaving a neighborhood graduation party. At one nearby shopping mall, a young man was beaten to death in early November. At another, a District man was shot Dec. 10. Earlier that day, an argument at a popular restaurant led to a fatal shooting a few blocks away." The Post continues, "The county and its incorporated cities recorded 173 homicides in 2005 -- surpassing the record 154 set during the crack epidemic in 1991 -- and a car was stolen every half hour. Although most of the crime remains concentrated inside the Beltway, residents in such suburban enclaves as Mitchellville, Bowie and Fort Washington are going through an upheaval, psychic and otherwise. … Some residents, who fled crime in the District a generation ago, are considering leaving Prince George's. Others, still drawn by the appeal of one of the nation's largest black, middle-class communities, are staying put -- but fortifying their homes and hiring off-duty police officers. … Some have lost faith in a county police department stretched thin by rapid growth: In November, Bowie voters decided overwhelmingly to set up their own department, and College Park residents gave their City Council the option." The Post notes, "Just as telling and troubling, the rise in crime has fueled perceptions among some middle-income residents that their low-income neighbors from the District or elsewhere in the county are preying on their prosperity."

Grant Seeking More FBI Agents To Fight Corruption In Chicago. The Chicago Sun Times (1/2, Korecki) reports, "If you're a government employee or contractor and you thought last year was a bad time to be corrupt in Chicago, you better look out in 2006. While the Chicago FBI just added a third public corruption squad in September to make the unit the largest in the country -- it still isn't enough. FBI Special Agent in Charge Robert Grant said he and U.S. Attorney Patrick Fitzgerald have asked Washington, D.C., for more resources to help root out public fraud. 'We asked headquarters to give us more bodies,' Grant told the Chicago Sun-Times. … Though new corruption cases continue to hit the Dirksen federal courthouse at a brisk pace, 'there are areas we want to explore that we haven't even gotten to yet,' Grant said." The Sun Times notes, "Grant wouldn't say how many additional agents he's seeking. But he

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said he thinks Chicago has a good chance of getting the boost in manpower because public corruption has become a bureau priority nationally and 'they know we're doing such a good job here.'" The AP (1/3) posts a truncated version of the Sun Times story.

Ryan, Warner Expected To Take Stand. The Chicago Sun Times (1/3, Korecki) reports, "In all, jurors have endured testimony from nearly 50 witnesses in the 13 weeks since George Ryan's public corruption trial began. But there's still one person who could drastically reshape their impressions: the former governor himself. And he may have that opportunity, because it seems likely that Ryan will take the stand in his own defense. Lawyers representing Ryan and his co-defendant Lawrence Warner said last week they expect to put their clients on the stand after the prosecution rests this month." Ryan attorney Dan Webb and Warner lawyer Ed Genson "said they'll make a final decision when the prosecution rests, which is expected mid-month. Neither would go into the tactical reasoning of doing something that defense lawyers typically avoid.

Tennessee State Trooper Transferred For Own Safety After Helping FBI Probe. The Knoxville News (1/2, Stambaugh) reports, "A Tennessee Highway Patrol trooper was recently transferred from Cocke County to keep him out of harm's way after his cooperation with the FBI was revealed during legal proceedings, court records show." Trooper Kevin Kimbrough "is one of at least three local lawmen who have been secretly recording their conversations with other officers at the behest of federal and state authorities as part of a four-year probe into public corruption and organized crime." The News notes, "The probe has relied heavily on undercover officers, informants and wiretaps in Tennessee, North Carolina, Georgia and Florida. Thus far, seven Cocke County lawmen have been arrested, two illegal cockfighting compounds have been uncovered, two brothels have been shut down and more than 150 people have faced criminal charges."

Indicted Lawmakers Vow To Attend Ethics Special Session. The AP (1/2) reports, "Two Tennessee Democratic senators facing federal bribery charges say they will attend a special session on ethics this month despite calls from Republican leaders that they not." Sens. Ward Crutchfield and Kathryn Bowers "are among five current or former lawmakers indicted on bribery and extortion charges in an FBI investigation that focused on a bogus company called E-Cycle Management." Sen. Jim Bryson "has written a letter to both Crutchfield and Bowers urging them not to participate in the special session. 'What I hope not to do, but will do if I have to, is present a resolution to the Senate, urging them not to attend,' Bryson said." The Tennessean (1/1, de la Cruz) notes, "Bowers supports many proposals in the ethics bill that will be the focal point of the session but does not like the ban on cash contributions, she said last week. At the same time, cash transactions have been at the heart of the public corruption case. A cash payment is what snared Bowers in the bribery sting."

Reform Provision Would Ban Cash Contributions. The Memphis Commercial Appeal (1/2, Locker) reports, "It was one of the eye-popping aspects of the FBI's 'Tennessee Waltz' bribery investigation: a handful of state legislators accepting hundreds of dollars in cash from undercover FBI agents posing as business executives. The acceptance of cash by some of the legislators was perfectly legal: It was properly disclosed as a campaign contribution on their campaign-finance reports, was within the $1,000 limit on individual contributions, and was not, they said, payment for legislative action. … But campaign contributions in cash will be banned if the sweeping ethics reform bill legislators will consider in a special session starting Jan. 10 is approved. Contributions will be by check, money order or some form other than cash."

Chat Room Solicitation Leads To Kansas Man's Arrested For Child Porn. The AP (1/2) reports, "Law enforcement officers in two states used high-tech tools to crack what they believe is the largest child porn case in Wichita history." Steven Craig Perrine "was charged last week with possession and distribution of child pornography after investigators said they searched his home and found more than 16,000 sexually explicit images involving children. … Authorities said the case began Sept. 9, when a Leetsdale, Pa., man visited an Internet chatroom and began talking to someone using the screen name 'Stevedragonslayer,'" who "asked if he wanted to see a 'hot video,' FBI Special Agent Rebecca Martin wrote in an affidavit. The video showed naked girls who looked younger than 10 walking around a bathroom, Martin wrote." The Pennsylvania man, James Vanlandingham, reported the incident to state authorities; and, The Pittsburgh Post-Gazette (12/31, Ayad, 261K) notes, "With only a screen name to aid his search," Pennsylvania State Police Computer Crimes Task

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Force Officer Reginald Humbert "located IP addresses…with subpoenas of Yahoo! Inc. and Cox Communications Inc. that led FBI investigators and the Sedwick-Witchita County Exploited and Missing Child Unit straight to the two computers Mr. Perrine was using."

Detectives In DC Nightclub Slaying Probe Under Investigation. The Washington Post (1/3, B1, Cauvin) reports, "The witness didn't know what to think. … A few days earlier, she had seen a dying man dragged off the dance floor at a popular Northwest Washington nightclub. Now two homicide detectives wanted her to change her story, she said. Instead of saying that the man in the black shirt was stabbing the victim, she was told she should make it seem as though it was the man in the white shirt." The Post continues, "So she did, she later testified. … 'I was confused,' the witness said, 'but I figured that it's their job. They know what they're doing. I guess they got it under control.'" The Post adds, "In fact, the investigation into the Feb. 13 death of Terrence Brown at Club U was about to spin out of control. The two detectives, hoping to pursue murder charges against a suspect, apparently wanted the woman -- and two other witnesses -- to revise their accounts to point to their suspect and reflect the medical examiner's conclusion that the 31-year-old Brown died from a deep stab wound. Everything fell apart when prosecutors grew suspicious. … Nearly a year later, Brown's killing remains unsolved, clouded and complicated by an investigation into the detectives' conduct. Recently filed documents in D.C. Superior Court provide the most complete picture yet of how the high-profile case was derailed. They depict the detectives as determined to close the case even though the evidence and witnesses' statements suggested that the suspect they had in their sights could not have inflicted the fatal wound. … The theory didn't fly, and it was the two detectives, Erick Brown and Milagros Morales, who wound up in trouble. Brown, 40, was taken off the case almost immediately, and Morales, 41, was removed several days later. They have been stripped of their badges and guns and are under investigation by prosecutors and the police internal affairs unit." The Post notes, "It is a remarkable turn for both. Brown, a police officer for 15 years, is a onetime homicide detective of the year, according to David Schertler, a defense attorney for both detectives, and law enforcement officials. Morales, a police officer for 20 years, was once an investigator for internal affairs, the unit that investigates police corruption, Schertler and the officials said. … Schertler said they did nothing wrong. 'The detectives strongly disagree with the characterization that they tried to pressure or coerce any witness into saying anything that wasn't true,' he said."

Warner May Order New DNA Test In 1992 Execution. As his term nears its end, Virginia Gov. Mark Warner is facing a decision on whether to order DNA testing that could determine if Virginia executed an innocent man in 1992. The AP (1/3, Gelineau) reports, "If the tests show Roger Keith Coleman did not rape and murder his sister-in-law in 1981, it would mark the first time in the United States an executed person is scientifically proven innocent, say death-penalty opponents, who are keenly aware that such a result could sway public opinion their way." Warner, who is seen as a likely presidential candidate in 2008, "hopes to finalize negotiations over how the test would be conducted before his term ends Jan. 14, said spokesman Kevin Hall." Coleman's attorneys "argued he didn't have time to commit the crime, that tests showed semen from two men was found inside Miss McCoy and that another man bragged about murdering her."

Executions, Death Sentences Becoming More Rare In The US. The Washington Post (1/2, A11, Lane) reports, "As 2005 gives way to 2006, the death penalty remains a major item of business on the Supreme Court's docket. In addition to a steady flow of stay-of-execution applications, the court has four capital punishment cases to decide. … Yet in one important sense, this activity is misleading: The justices may be busy with death penalty cases, but capital punishment is on the wane in the United States." The Post notes, "In the year just completed, 60 convicted killers were executed. That is a drop of 39 percent from the recent peak of 98 in 1999. … Perhaps more significant, death sentences are dwindling. In 2005, there were 96 new death sentences, according to the center. This is down 70 percent from 1996."

Tennessee Case Seen As First Test Of Roberts' Influence On Death Penalty Cases. The Los Angeles Times (1/2, Savage) reports, "The major death penalty case before the Supreme Court this year reads like a 'whodunit,' as one judge put it. But if there is doubt about who did it, should the defendant be on death row? … Though they might not solve the murder mystery, the case should give an early clue on whether the high court, now led by Chief Justice John G. Roberts Jr., is willing to overturn a death sentence if an inmate's guilt is in doubt." In the case from Tennessee, "The justices will now decide whether to make it easier to reopen

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old cases when new evidence — including DNA testing -- raises real doubts about the defendant's guilt."

DC Region Homicides Rose In 2005. The Washington Post (1/2, A1, Klein) reports, "The Washington region saw a rise in bloodshed in 2005, largely fueled by a spike in slayings in the D.C. suburbs, most dramatically in Prince George's County. … Across the region, there were 466 homicides in 2005, compared with 420 in 2004 -- a rise of about 11 percent. About half of those slayings have been solved. It was the first time the District has recorded fewer than 200 homicides in consecutive years since the mid-1980s. At the same time, the total in Prince George's climbed from 148 to 173, a grim record for the county."

WPost Calls Bush Record On Pardons "Dismal." An editorial in the Washington Post (1/3, A16, 744K) says that although President Bush is "a big fan of presidential power," he "still has not exercised his veto," and he "prefers to forget that Article II of the Constitution gives him the 'Power to grant Reprieves and Pardons for Offenses against the United States.' Mr. Bush, who famously proclaims himself a 'compassionate conservative,' has shown mercy fewer times than any president in recent history (though he has granted more pardons than President Bill Clinton had at the comparable point in his presidency). He has granted clemency less than a fifth the number of times of presidents Jimmy Carter, Ronald Reagan or Gerald Ford, who served not even a full term in office." The Post adds that Bush's record on pardons "dismal" and "a far cry from the manner in which the Framers of the Constitution envisioned the power."

CIVIL LAW:

DC Appeals Court Institutes Mediation Program For Civil Appeals. The Legal Times (1/2, Broida) reports, "In a continuing effort to reduce the backlog of cases at the D.C. Court of Appeals, the court has instituted a one-year appellate mediation program for civil appeals." The Times continues, "Starting this week, all parties who are represented by counsel will be required to attend alternative dispute mediation sessions to see if their appeal can be settled without being brought before the court." The Times adds, "The yearlong pilot program is an outgrowth of a similar limited mediation program that was successfully tried at the court this summer. … Ed Schwab, head of the appellate division of the D.C. Attorney General's Office, says his office had a positive experience with the program. He cited one case that was settled within three hours. 'So we were quite happy,' he says. … But Schwab cautions that not every case can be settled, especially those that don't involve money. In some cases, citizens will be seeking a remedy for a government action, and in cases like those, mediation may not work. Nevertheless, he says, 'Anytime you can settle, I think it is a good idea.'"

WPost Says Drug Safety Disputes Should Not Be Decided In Court. An editorial in the Washington Post (1/2, A12) says, "The New England Journal of Medicine's recent retraction of a 2000 article that helped establish the popularity of Vioxx, the controversial painkiller, should give doctors, hospitals and journal authors reason to think harder about how drug safety information is processed. The retraction, published last month, stated that the article's authors -- including scientists in the employ of Merck & Co., which makes Vioxx -- knew in advance of publication that 20 out of more than 2,000 patients taking part in a study of Vioxx suffered from heart attacks after taking the drug, not 17 as the article reported. They left out the information, they say, on the grounds that the three heart attacks in question occurred after the study had technically ended. But as a result, the level of heart attack risk associated with Vioxx appeared in the article to be slightly lower than it should have been." The revelation "raises legitimate questions about the relationship between scientists, who are often paid by drug companies, and medical journals, which should do a better job of stating authors' conflicts of interest. It should also lead doctors who prescribe drugs and are ultimately responsible for understanding their side effects to read such journals with greater skepticism. It does not, however, alter our view that the courts are the wrong place to resolve disputes about drug safety. … Scientific judgments about the risks and advantages of drugs are not black and white -- which is why they are best made by scientists and by the regulatory agency that employs them, not by jurors through the lens of hindsight."

CIVIL RIGHTS:

High Court To Hear Two Fourth Amendment Cases This Month. The Supreme Court will hear two Fourth Amendment cases this month. The Washington Times (1/2, Taylor) reports, "Hudson v. Michigan, which the

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justices will hear when the court reconvenes Jan. 9, questions whether police violated the Fourth Amendment 'knock and announce rule' when they burst into a suspected cocaine dealer's home in Detroit. The following week, the justices will consider rules pertaining to searches conducted with special 'anticipatory' warrants, which become operative only after 'triggering events' indicate probable cause."

District Of Columbia Activists Seek Approval For Gay Marriages. The Washington Post (1/2, B1, Weiss) reports, "The D.C. Council is considering measures that would amount to the greatest expansion of rights for same-sex couples in a decade. But for some in the District's large and influential gay community, the package of tax and inheritance benefits is perhaps most notable for what it is not: a move to legalize gay marriage. With Massachusetts having legalized gay marriage and other states coming close, some gay activists are saying that now is the time to push for full marriage rights in the District." The Post notes Sen. Sam Brownback "warned that the city would trigger a sharp backlash from Congress if it pursued gay marriage."

Democrats' Approach To Religion Seen As Wrongheaded. In an op-ed for the New York Times (1/2) Joseph Loconte, a research fellow in religion at the Heritage Foundation, writes, "Nancy Pelosi…sounded like an Old Testament prophet recently when she denounced the Republican budget for its 'injustice and immorality' and urged her colleagues to cast their no votes 'as an act of worship' during this religious season. This, apparently, is what the Democrats had in mind when they vowed after President Bush's re-election to reclaim religious voters for their party. … A look at the tactics and theology of the religious left, however, suggests that this is exactly what American politics does not need. If Democrats give religious progressives a stronger voice, they'll only replicate the misdeeds of the religious right. For starters, we'll see more attempts to draw a direct line from the Bible to a political agenda."

Many Counties Remain In Turmoil Over New Voting Technology. The Los Angeles Times (1/3, Levey, 958K) reports that California and other states "are embroiled in a contentious debate over how voters should cast their ballots." With "electronic machines under attack as unreliable and vulnerable to hackers, there is little consensus about what the new technology should look like. That has left many counties nationwide in turmoil as they struggle with unproven technology while state regulations remain in flux and the federal government offers minimal guidance." The Times adds, "Congress in 2002 passed the Help America Vote Act, pledging nearly $4 billion to help states upgrade their voting systems. The same year, California passed its own $200-million bond for the same purpose. The flood of money fueled a nationwide spending spree on high-tech machines that were expected to revolutionize vote counting. But the machines often have not proved as reliable as hoped. And while states and counties rushed to buy them, elections officials struggled to regulate how machines should record votes and safeguard results."

Voting Act Puts County Registrars In Bind. The Sacramento Bee (1/2, Yamamura) reports, "Mikel Haas is running out of time and patience, but he says he'll give it one more month before he really starts to panic. … With an April 11 special election fast approaching, the San Diego County registrar of voters still doesn't have any California-certified machines to meet the requirements of the 2002 U.S. Help America Vote Act." The Bee continues, "Most counties in California - and many across the country - officially fell out of compliance Sunday with rules mandating that election systems be accessible to voters with disabilities. But the San Diego County special election puts Haas at the head of the line when it comes to compliance. … While the legal deadline has passed, Secretary of State Bruce McPherson has tried to assure county officials and voters that California will resolve its Help America Vote Act issues by the June primary, the first statewide election with federal races. … But McPherson has not certified any new accessible voting machines since August, making some registrars nervous and others downright angry." The Bee adds, "McPherson's spokeswoman, Jennifer Kerns, said that at least six election systems are 'in the pipeline' and that McPherson is confident multiple options will be available for the June primary. … But registrars like Haas are torn. They say they respect McPherson's need to put controversial equipment through a battery of tests. But they also face the practical need of having to run an election in a matter of months."

Timing Of Evolution Sticker Petitions Still In Dispute. The Fulton County (GA) Daily Report (1/2, Land) reports, "Federal appeals judges are still wrestling with factual inconsistencies over how a petition -- pushed by Marjorie Rogers, a self-described 'six-day biblical creationist'

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-- affected the Cobb County, Ga., school board's decision to amend new science textbooks with stickers questioning the validity of evolution." The Report continues, "A panel of the 11th U.S. Circuit Court of Appeals last month heard the school board's appeal of a federal judge's 2005 decision that the stickers, which say that evolution is 'a theory, not a fact,' amounted to an unconstitutional endorsement of religion. Selman v. Cobb County School District, 390 F. Supp 2d 1286. (The 11th Circuit case is No. 05-10341-1.) … During the arguments, judges sounded highly skeptical of the ruling by U.S. District Judge Clarence Cooper. They also upbraided Jeffrey O. Bramlett, the lawyer for the plaintiffs challenging the stickers, for making statements about the timeline of the case that 11th Circuit Judge Edward E. Carnes called 'just wrong.'" The Report adds, "Carnes demanded that Bramlett provide a written explanation of his assertions that the stickers had been placed in the textbooks as a result of Rogers' petition drive. … Bramlett's claims had been called into question by Cobb County's attorney, Ernest Linwood Gunn IV, whose brief said the petition had not been circulated until four months after the disclaimers were inserted into the books. … On Dec. 22, a week after the argument, Bramlett filed a 127-page response that said there were two petitions -- one by Rogers, with more than 2,300 signatures delivered to the school board before the books were purchased, and a smaller petition delivered after the sticker plan was implemented. … The day the 11th Circuit received Bramlett's response, the court issued a one-page letter to Gunn instructing him, by today, to provide 'any evidence regarding the timing of any petitions that may have been filed with the School Board.'"

Federal Workforce Trails Private Sector In Hiring Hispanics. Under the headline, "Hispanics Underrepresented In The Federal Workforce," the Washington Post (1/3, A16, Fears, 744K) reports, "Hispanics represent 7 percent of employees in federal government when the group's population is growing faster than all others. The five-percentage-point gap between Hispanics working in the public and private domains translates to thousands of jobs and billions of dollars in potential pay, according to a coalition of Hispanic federal employees. The private sector tracks with the 13 percent of Hispanics in the general population, 40 million people, not including an estimated 11 million undocumented workers living in the country illegally." The Post adds, "The consequences are felt nationwide, Hispanic advocates say. The government suffers from a shortage of Spanish-speaking workers who could help non-English speakers navigate Social Security and other federal documents. In the chaotic aftermath of hurricanes Katrina and Rita, the government discovered that it could not effectively communicate with displaced immigrants, legal and undocumented."

ANTITRUST:

Columnist Predicts Mergers For Coming Year. In a column for New York Magazine (1/2), James Cramer writes, "The start of the year is a time for crystal-ball gazing. Sure, I could give you the standard fare, the typical Wall Street gibberish that you will hear in a virtual 24-hour loop for the next few weeks: untried Fed chairman, big-budget deficits, uncertain presidential leadership, a peak in real estate, an end to the interest-rate-tightening cycle. Know what? You know all that already. I'd rather tell you about some things that could happen that could make you some huge money in 2006. I can't guarantee any of them will come to pass, but if they do, well, remember your friend Cramer tipped you to them." Cramer continues, "Citigroup Will Merge With Goldman Sachs … For the past few years, Citigroup has been in the doghouse with regulators. Now new honcho Chuck Prince, a buttoned-down lawyer, has eliminated the cowboys and stopped the culture of trying to sell anything to customers as long as it had a big fee. That may soon give him the green light to make an acquisition. Citigroup has been taking a huge backseat to other players as it gets its ethical house in order. An acquisition could make Citigroup dominant again worldwide." Cramer adds, "Comcast Will Buy CBS … In 2004, when Comcast made its aborted offer for Disney—something that Comcast actually thought that Disney wanted, when nothing could have been further from the truth—I figured that win or lose, Comcast would remain a key, if not the key, player in the distribution of television programming in this country. But Intel, Broadcom, Qualcomm, Apple, Microsoft, Texas Instruments, Motorola, Nokia, Dell, and Marvell Technology Group all have another agenda, which is to make a new device that makes your phone calls, gets you on the Internet (wirelessly), and downloads TV programming, sans commercials, when you want, on the channel you want it. Late in 2006, we're bound to see one or more of these great tech companies unveil a product that will allow you to purchase, download, and watch anything that you want, from sports programs to movies to

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television shows to video games. The device will smash the current cable paradigm and will make all those stocks worth owning once again, as they were in the year just past." Cramer continues, "Pfizer And Bristol-Myers Squibb Will Merge, And Merck Will Snap Up Schering-Plough … My crystal ball sees no end to the turmoil afflicting the pharmaceutical industry. With the government as the biggest payer in the system, courtesy of the changes in Medicare, the drug companies will be forced to discount drugs well below where they thought they might have to. That combination of price squeeze and endless overhead will force Bristol-Myers and Pfizer to merge, and Merck and Schering-Plough will get together."

Arizona Questions Competition Problems With Development Deal. The Arizona Republic (1/2, Alltucker) reports, "State regulators want to scrutinize Cox Communications' role in arranging a special deal that effectively prevented rivals from seeking customers in a massive new-home development in Peoria." The Republic continues, "A new report by the Arizona Corporation Commission suggests there is "clear and convincing evidence" that in December 2003 a deal was struck between Cox Communications and a private developer to curb competition for phone, cable and high-speed Internet services at the 17,000-home Vistancia community. … The Corporation Commission wants to hold a public hearing to examine the deal and discuss potential fines against Cox." The Republic adds, "Although the arrangement was proposed by the developer, Shea Sunbelt, state regulators said Cox was an "active participant," with 15 employees helping write and revise terms of the deal. … The arrangement came to light after a tiny telephone company, Accipiter Communications, filed a complaint with state regulators alleging it was shut out of Vistancia. The arrangement also triggered an investigation by the federal Department of Justice's antitrust division."

Columnist Decries Government-Sanctioned Monopolies. In a column for the Orange County Register (1/2), Tibor R. Machan writes, "In Silverado Canyon, there is a tiny post office where each weekday we pick up our mail. One or two of the people who work there are, unfortunately, quite often absent because of illness or something else and, more often than not, the mail now doesn't get distributed until late in the afternoon. The Postal Service says they have to have the mail out by 5 p.m. but it used to be in our boxes by 10:30 a.m. or even earlier, until recently. … OK, so there has been more mail this time of year, but here is how that eventuality should play out. The post office should either hire more people so the mail gets out earlier or an alternative mail service should appear on the scene and offer competing first-class delivery service." Machan continues, "That latter alternative, of course, is illegal. Competition in first-class mail delivery is against the law, nevermind the demand. Accordingly, the post office can keep being later and later with mail distribution and does not have to hire any extra help since no one's about to come in and take the business from them. … This is but one of the relatively innocuous results of the monopoly in first-class mail service. Other monopolies are far more insidious. Take the New York Metropolitan Transit Authority, which last month was struck by the public-employee union to which all its workers belong. … " When there's a strike in a free market, people often have other vendors from whom they can receive service. There is usually competition, so that if Chrysler's autoworkers go on strike, there are Ford, Toyota, General Motors and other carmakers still in business." Machan adds, "Just why the American public is mostly passive about the many monopolies protected or operated by government is a mystery to me - one reason might be is that the government schools do not explain in their economics classes just how unnecessary and unjust such monopolies are, seeing that the schools themselves are a case in point. But perhaps with some voices making a bit of noise about the situation others will catch on and in time we can get a system in which my little post office would either shape up or find itself competing with an alternative mail-delivery agency."

Homeowners' Web Site In Wisconsin Competes With Realtors. The New York Times (1/3, Bailey) reports, "Across the country, the National Association of Realtors and the 6 percent commission that most of its members charge to sell a house are under assault by government officials, consumer advocates, lawyers and ambitious entrepreneurs. But the most effective challenge so far emanates from a spare bedroom in the modest home here of Christie Miller." The Times continues, "Ms. Miller, 38, a former social worker who favors fuzzy slippers, and her cousin, Mary Clare Murphy, 51, operate what real estate professionals believe to be the largest for-sale-by-owner Web site in the country." The Times adds, "They have turned

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Madison, a city of 208,000 known for its liberal politics, into one of the most active for-sale-by-owner markets in the country. And their success suggests that, in challenging the Realtor association's dominance of home sales, they may have hit on a winning formula that has eluded many other upstarts. Their site, FsboMadison.com (pronounced FIZZ-boh) holds a nearly 20 percent share of the Dane County market for residential real estate listings. … The site, which charges just $150 to list a home and throws in a teal blue yard sign, draws more Internet traffic than the traditional multiple listing service controlled by real estate agents." The Times notes, "Madison is home to the University of Wisconsin and a city where the percentage of residents who graduated from college is twice the national level. It is also a hotbed of antibusiness sentiment, which turns out to be the perfect place for a free-market real estate revolution. Bucking the system is a civic pastime here. … Elsewhere, the Justice Department, free-market scholars, plaintiffs' lawyers and countless entrepreneurs are vowing to make real estate more competitive and to bring down sales commissions. To do that, they advocate forcing the Realtors' association to share control of its established listing services. Those critics seem to view the listings as an unassailable monopoly. … And who can blame them? Those 800-plus local listing services, controlled by local branches of the Realtors' association, help dole out about $60 billion a year in commissions to real estate agents and the firms that employ them. Despite numerous attacks, the association has been remarkably successful to date at protecting its turf. Through lobbying, litigation and legislation, the Realtors' group has managed to keep control of the crucial listings."

Unlikely Alliance Develops Between Rivals Sony, Samsung. The Wall Street Journal (1/3, Dvorak, Ramstad) reports, "For years, Samsung Electronics Co.'s key mission was to unseat rival Sony Corp. as the world's top electronics maker. Long seen as a South Korean underdog, Samsung has in the past few years surpassed its Japanese rival in market capitalization, revenue and profits. In television sets, Sony's traditional stronghold, Samsung now jockeys with Sony and a handful of top players for the No. 1 share of sales globally." The Journal continues, "But the relationship between Sony's Hiroshi Murayama and Samsung's Jang Insik tells a different story. The two engineers symbolize how the two companies have increasingly come to depend on each other since 2003. That's when Sony, looking for a source of panels for its new flat-panel TV line, asked to become a partner in a $2 billion factory Samsung was building to produce liquid-crystal displays." The Journal adds, "Messrs. Jang and Murayama phone each other from their bases in South Korea and Japan respectively several times a day and visit in person every month to discuss how to make better panels. Mr. Murayama persuaded Mr. Jang and his bosses to speed their development of key technologies, and Samsung let Mr. Murayama use some of those technologies in Sony's TV panels even before its own products. Sony's TVs that use those new panels ended up outselling Samsung's LCD sets by more than three to one this fall in major U.S. retailers. … But Samsung is still keen to work with Sony because it's getting a crash course in how to improve LCD panels, which it had mostly used in computer monitors and cellphones, in the important TV segment. … The unlikely alliance shows just how tangled the connections have become between consumer-electronics companies as competition in the industry intensifies. … The same trend is happening across Asian electronics makers, which have traditionally prided themselves on doing as much as they could in-house, from the design of their gadgets to the technology that goes into them."

ENVIRONMENT/INDIAN AFFAIRS:

Health Officials Note Progress In Preparations For Bird Flu Epidemic. Health officials said yesterday that the US is making progress in preparing for a bird flu epidemic. This includes measures to close schools and quarantine the sick. However, the AP (1/2, Yen) reports that vaccine supplies remain inadequate. Julie Gerberding, director of the national Centers for Disease Control and Prevention, said on CBS' Face the Nation, "We've got a lot of work to do." Citing "'bottlenecks' in vaccine production and the delivery of health care if there's an outbreak," Gerberding added, "We've got to get more and better anti-viral drugs. And we've got to have every single link in our public health system as strong as it can be so it can detect this problem." The AP adds, "Health and Human Services Secretary Mike Leavitt, appearing on CNN's 'Late Edition,' praised the money approved by Congress as a good step that will fund one year of preparedness efforts. Still, he said the U.S. is not ready, saying additional money is needed to ensure there would be enough vaccine supplies for all

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Americans within six months of an initial outbreak. State and local governments also need to step up efforts, Leavitt said."

Gerberding said on CBS' Face the Nation (1/1, Schieffer) she does not know whether "it is just a matter of time" before Avian flu appears in the US, but "we've got to take the steps now to get prepared for that." She added, "Frankly, we're not as prepared as we need to be. We're certainly doing more today than we were even two years ago so we're making fast progress. But we've got a lot of work to do. We've got to get a vaccine supply that we can count on. We've got to get more and better anti- viral drugs."

Leavitt Says US Still Has Work To Do. HHS Secretary Michael Leavitt said on CNN's Late Edition (1/1, Blitzer) that the avian flu virus "continues to spread in wild birds across the world. There is no reason to believe that at some point it will stop. That means that ultimately it would find its way to the United States. We need to be prepared. … We are not as prepared as we aspire to be. We have a great deal of work to do."

Plan To Change Toxic Release Reporting Requirements Draws Fire. The Washington Post (1/3, D1, Skrzycki, 744K) reports in its "The Regulators" column, "Opposition is growing to a Bush administration plan to change the reporting requirements of" the Toxic Release Inventory, the "highly successful public information program that collects data annually on releases of toxic chemicals." The inventory "has been a roadmap for individuals and community groups interested in pinpointing where the country's most-polluting facilities are located." The business community has pushed "over the past decade to reduce the 'burden' of having to fill out a five-page form for each chemical they use every year. This form includes detailed information on the quantity of the chemical, how it is made and processed, and how much of it is released. After considering several options, the [EPA] in October proposed changes that would allow more companies to file a shorter report, known as Form A, which contains less information about their use of toxic chemicals." The EPA "dropped another bombshell at the same time, telling Congress that it is thinking about eliminating annual filing in favor of every other year. … The twin ideas prompted outrage from environmental and public-interest groups." The Post adds, "Environmental and community groups, in particular, consider the reporting program a great success. And it has become even more useful since the agency has required reports on more chemicals and from more industrial sectors, including mining and electrical utilities."

Other States Adopting California's Strict Greenhouse Gas Rules. The Washington Post (1/3, D1, Freeman, 744K) reports, "On Friday, Massachusetts joined Oregon, Connecticut and five other states in adopting California's tough greenhouse gas rules, which limit the amount of carbon dioxide and other gases that can be emitted from vehicle tailpipes. These new rules would supplement federal exhaust pollutant standards already in place. Two other states are in the process of adopting the rules. The carbon dioxide regulations are so strict, the auto industry argues, that they would cause extensive design changes to new vehicles, driving up prices and crippling new-car sales. Every major automaker that sells vehicles in the United States is suing to have the new rules overturned, even as states on the West Coast and in the Northeast are moving quickly to adopt them." The California rule "requires a 30 percent reduction in greenhouse gases by 2016. The rules are one element of a wider trend of states enacting their own energy policies to govern auto and factory emissions and appliance energy efficiency, updating older federal rules or writing new rules where none exist."

Novak Praises Romney Decision To Pull Out Of RGGI. Robert Novak (1/2) writes in his syndicated column, "Massachusetts Gov. Mitt Romney on Dec. 16 made a significant move that will benefit the pocketbooks of his state's consumers and perhaps boost his own Republican presidential prospects. He pulled Massachusetts out of the compact of Northeastern states requiring a reduction in power plant emissions of carbon dioxide. The Regional Greenhouse Gas Initiative (RGGI) would cut the emissions by 10 percent by 2019, forcing up electricity prices because of greater dependence on increasingly expensive natural gas. … The defection of Romney, originally inclined to support RGGI, represents a major setback for the Greens." Novak adds, "Green pressure can lead politicians to make promises that they would regret. … It appears Mitt Romney will avoid that pitfall on his long uphill climb to the White House."

Government Seeks To Remove Grizzly Bears From Endangered List. NBC Nightly News (1/1, story 12, 2:20, Seigenthaler) reported, "The Federal Government has declared grizzly bears in Yellowstone

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recovered, clearing the way to remove it from the endangered list." NBC (O'Neil) added, "By 1975 it was clear the grizzlies needed to be put on the endangered species list." Biologist Kerry Gunther: "We've gone from a population of less than 200 to a population of 600 and increasing population. It's a great success story." O'Neil: "A sorely needed victory for the act which some in Washington want to water down. The grizzly is only on of a handful to ever be declared recovered."

Texas, Oklahoma Continue To Be Plagued By Wildfires. The CBS Evening News (1/02, story 2, 2:30, Schieffer) reported, "The fires in Texas and Oklahoma now spreading to New Mexico are being fueled by the worst drought in decades. The fires killed four people last week and searchers were set to look for any victims from two small towns in Texas that burned last night. Since early November, the Oklahoma fires have destroyed some 200 buildings and at least 270,000 acres." CBS (Cowan) added, "Nearly 100 more homes were lost to flames that burned into the wee hours of the morning. Some communities like Ringgold near the Texas-Oklahoma border were erased."

NBC Nightly News (1/2, story 5, 1:50, Teague) reported, "Fire crews have spent more than a week battling grass fires that have raged across Oklahoma, Texas, and New Mexico and burned again today. Nearly 300,000 acres have been scorched so far and more than 400 homes. The weather simply won't give fire crews a break." The AP (1/3, Flynn) runs a similar report.

Damage From California Flooding Now In Hundreds Of Millions Of Dollars. The CBS Evening News (1/02, story 3, 2:30, Schieffer) reported, "Back-to-back storms drenched California and caused an estimated $100 million in flood damage. Most of it is the result of rivers that have spilled out of their banks in Northern California. Now the storms are threatening the southern part of the state." CBS (Hughes) added, "The pounding rain was too much for vulnerable hillsides above Los Angeles, burned bare by this year's wild fires. Rescue workers were watching for any sign that nearby residents needed to pack up and run from the hills. The second wave of storms to hit this weekend is swamping parts of Southern California. Up to four inches of rain is expected in the valleys and eight in some mountain areas."

NBC Nightly News (1/2, story 4, 2:20, Lewis) reported, "In California's wine country, where hundreds of homes and businesses are flooded out, they're just beginning to assess the damage, estimated in the hundreds of millions of dollars." In Pasadena, "there were plenty of raindrops on roses at 117th annual Rose parade. Defying the elements, the USC marching band wore plastic ponchos and sunglasses. As a smaller-than-usual crowd of spectators watched." Governor Arnold Schwarzenegger has "issued a state of emergency in seven California counties most adversely affected by the storm."

Cato Fellows Argue Strategic Petroleum Reserve Should Be Scrapped. Jerry Taylor and Peter Van Doren, senior fellows at the Cato Institute, write in the New York Times (1/3, 1.19M), "The rise in fuel prices that followed Hurricanes Katrina and Rita has prompted many members of Congress to call for new and expanded federal reserves of crude oil, diesel fuel, home heating oil, jet fuel and propane. Proponents of stockpiling claim that if the government were to hoard those commodities when prices were low, it could unleash them on the market when supplies are tight, thus dampening price increases and stabilizing the market. But the experience in this country with the strategic petroleum reserve strongly suggests that such government-managed stockpiles are a waste of taxpayers' money. Rather than increasing the stockpile, the reserve should be emptied and closed." Economists "agree that every barrel of oil we put in the public reserve displaces oil that might otherwise have gone into private inventories. How much displacement occurs is unclear, but there is little doubt that it's significant. If the reserve is thought of as an insurance policy against high prices, the cost of the policy has been more expensive than the dangers the stockpile is meant to prevent. Americans should resist the drive to expand public stockpiles. Instead, we should sell while the selling is good."

Opponents Of ICC Said To Have Little To Stand On. The Washington Post (1/2) editorializes, "With a key federal approval expected soon for the proposed intercounty connector -- the east-west toll highway that would transverse Maryland suburbs -- the road's opponents are mounting an eleventh-hour anti-ICC campaign. Having failed over the years to sway the traffic-weary public with other arguments (environmental impact, cost, effect on traffic), the foes are focusing on how much the road will cost to use. This, too, is a losing argument."

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Loyal Mdewakanton Tribe Wins Court Battle Over Minnesota Land. Indian Country Today (1/3, Melmer) reports, "Membership in a Dakota tribe is expected to more than double after an accurate list of lineal descendants of the Loyalist Mdewakanton is complied and verified, as ordered by a federal court." ICT continues, "U.S. Court of Federal Claims Judge Charles Lettow has denied a U.S. Justice Department motion to reconsider his earlier ruling that gave the descendants of the Loyalist Mdewakanton rights to land in Minnesota. … Lettow also ruled that the federal government breached its trust obligations to the Loyalist Mdewakantons and their descendants when in a 1980 congressional act it put the land into trust for three federally recognized Dakota communities - Prairie Island, Shakopee and Lower Sioux. That act violated an 1886 contract signed by Mdewakanton leader John Bluestone, which gave that land to the Mdewakanton who were descendants of those who pledged loyalty to the United States in 1862. … Previously the land was either assigned to individual loyalists or leased, with the proceeds from the lease paid to the loyalists." ICT adds, "The loyalists want the land returned to them and Mdewakanton tribal membership, with full political power, restored. Lease revenues that were given to groups other than the loyalist's lineal descendants constitutes a breach of the contractual agreement by the federal government, the plaintiffs argued. Today's lineal descendants want compensation for the lost revenues. … Lettow's latest decision rejected the federal government's claim that it didn't mismanage the trust on behalf of the lineal descendants. He also rejected the argument that the 1886 contract did not authorize a trust responsibility to the loyalists. … Lettow ordered the government to perform an accounting to determine the size of financial compensation that is owed the loyalists' descendants."

Navajos Try To Stop Arizona Uranium Rush. The Arizona Republic (1/3, Shaffer) reports, "The price of uranium has tripled in the past two years, bringing with it the possibility of another uranium rush in Arizona, the state with the richest deposits of the ore and, along with New Mexico, the worst legacy associated with its mining." The Republic continues, "Last year, 700 mining claims were filed and 100 test holes were bored into the wild, remote high desert in northern Arizona. … Scott Florence, director of the Bureau of Land Management's Arizona Strip district in St. George, Utah, said those numbers are significantly higher than any year since the frenzy of the 1980s. … 'Finding the right mine site is a real art. But it seems like everyone and their mother is trying now,' he said." The Republic adds, "Secondary supplies of uranium on the world market have virtually dried up, and China, India and Japan are clamoring for uranium for their burgeoning domestic nuclear-power industries. Uranium now fetches $36 a pound on the spot market. Four years ago, it was going for just over $7 a pound. … But not everyone is happy about the search for new mine sites. Navajo Nation President Joe Shirley Jr., stirred to action by the memory of how dangerous uranium mining can be, issued an executive order in November banning negotiations with uranium companies or uranium exploration on the three-state Navajo Nation, which was engulfed by a public health tragedy after the first wave of uranium mining began on its reservation in the 1950s. Dozens of premature deaths of Navajo miners and passed-on genetic defects have been attributed to uranium exposure."

FBI/DEA/ATF/USMS:

FBI Photographer Sues Over Mistreatment Due To Tourette's Syndrome. The Legal Times (1/2, Kelley) reports, "As a photographer for the Federal Bureau of Investigation, Jeffrey Bell was frequently tapped to work on high-profile cases. Between 1991 and 2000 he was deployed throughout the United States and abroad to photograph matters involving terrorism, forensics, counterintelligence, and emergency response. … But according to a lawsuit Bell, a 43-year-old with Tourette's syndrome, filed recently in the U.S. District Court for the District of Columbia, all that changed after an incident stemming from his disorder led to retaliation from his employer. Bell's trial is expected to start this week." The Times continues, "Court papers filed by Bell's attorney, Edith Marshall of Powers Pyles Sutter & Verville, state that Bell was taking a new medication to control his Tourette's when he became involved in a verbal altercation with a co-worker. Bell explained that the outburst was a side effect of his medicine, but he claims he was treated differently from that point on because of his Tourette's, a neurological disorder that can cause involuntary tics and vocalizations as well as obsessive-compulsive tendencies and hyperactivity." The Times adds, "Bell alleges that because of his Tourette's he was regarded as a 'problem personality' and often blamed for any workplace conflict that occurred."

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Doctors Said To Fear DEA Action When Prescribing Pain Medications. In an story titled "Painful Choices: Physicians Challenged By Quest To End Suffering" the Deseret (UT) Morning News (1/2, Collins, Jarvik) writes, "The perception among doctors is that the regulatory environment has become more hostile, says Micke Brown, director of advocacy for the American Pain Foundation, headquartered in Baltimore. 'Many health care providers are running scared,' especially primary care physicians, she says. 'Some are even backing away from managing people's pain.'" Pain management doctor Lynn Webster, who heads the Utah Academy of Pain, "is an opioid advocate. … He argues that the undertreatment of pain is 'still a major problem' in Utah, in part because of doctors' fears of punishment by the federal Drug Enforcement Agency (DEA) and the state Division of Occupational and Professional Licensing (DOPL). … Pain experts are waiting anxiously for the DEA to clarify its interpretation of the federal law that governs prescribing controlled substances for pain. DEA said the guidance was imminent more than a year ago. But pain experts, still waiting, continue to warn colleagues to err on the side of stricter federal interpretations."

Maryland Tax Dollars Said To Be Disproportionately Tied Up In Locking Up Addicts. In the Washington Post (1/1, B8), Tara Andrews, director of Justice Maryland and Democratic candidate for the state Senate from Baltimore City, writes "By the latest count, more than 250,000 Marylanders are in need of substance-abuse treatment. Even in Montgomery County, considered the state's wealthiest county, the treatment gap is great. Yet despite population growth, state funding for treatment has declined. More than three-quarters of those in Maryland prisons report having an alcohol or drug problem, and four out of 10 entering the state's prisons every year are locked up for drug offenses. Maryland has the third-highest percentage of prison admissions for drug offenses in the country. … Maryland tax dollars are disproportionately locked up by the incarceration of drug addicts, while providers of substance-abuse treatment make do with crumbs. A shift of dollars away from incarceration and toward a dedicated fund for treatment would make a world of difference and a world of sense."

Plan Colombia Credited With Record Number Of Cocaine Seizures. Reuters (12/31) reports, "Colombia seized a record 186 tons of cocaine [in 2005] thanks to a Washington-backed program aimed at cutting imports of the illegal drug to the United States, the Colombian government said on Friday. The haul, seized using equipment and expert advice provided by 'Plan Colombia,' was 26 percent more than last year and had a U.S. street value of $4.7 billion, Defense Minister Camilo Ospina told reporters. He said the increase was possible thanks in part to more than $3 billion in mostly military aid that the United States has provided since 2000 to help fight drug-running Marxist rebels fighting a decades-old insurgency. Washington says cocaine is becoming more expensive on U.S. streets, a sign that the money, largely steered toward aerial spraying of coca bushes used to make cocaine, is making the drug less available."

IMMIGRATION:

Migrant Advocacy Group Celebrates 10 Years. The Miami Herald (1/2, Chardy) reports, "Alfredo López-Sánchez languished for months at a detention center for migrant children in Southwest Miami-Dade -- until an attorney for a local immigrant rights group realized the Guatemalan did not understand Spanish." The Herald continues, "The lawyer from the Miami-based Florida Immigrant Advocacy Center eventually found an interpreter who spoke López-Sánchez's Mayan language. … That was September 2001. A year later, López-Sánchez -- then 17 -- was free and on his way to getting a green card." The Herald adds, "Such successes have turned the Florida Immigrant Advocacy Center into a powerhouse in national advocacy for persecuted migrants too poor to hire a lawyer. … FIAC, as the group is known in the immigrant rights community, is marking its 10th anniversary today -- with a string of victories, and some defeats, in what often seems an uphill battle against ever-tougher immigration laws. It plans a 10th anniversary celebration dinner March 6. … The group began in 1996 -- two years after former House Speaker Newt Gingrich's conservative revolution swept Congress with calls to close the borders and even to shut the school door to children of undocumented immigrants. In the end, Congress amended immigration law, making it extremely difficult for any immigrant without proper papers to avoid detention or deportation -- though lawmakers dropped provisions that would have let states bar children from public schools if their parents entered the country illegally. … Ten years later, in the

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fallout from the Sept. 11, 2001, terrorist attacks, immigration law is again facing calls from conservatives in Congress to toughen the rules for citizenship, including barring U.S.-born children of illegal immigrants from becoming automatic citizens and the deportation of migrants encountered on the streets without the right to a court review to plead their case."

Conflicting Public Attitudes On Illegal Immigration Noted. The Washington Post (1/3, A7, Balz, 744K) notes the "sometimes conflicting public attitudes" on illegal immigration. A Washington Post-ABC News poll taken in mid-December "found Americans alarmed by the federal government's failure to do more to block the flow of illegal immigration and critical of the impact of illegal immigration on the country but receptive to the aspirations of undocumented immigrants living and working in the United States. … The Post-ABC News poll found that four in five Americans think the government is not doing enough to prevent illegal immigration, with three in five saying they strongly hold that view. The same poll found that 56 percent of Americans believe that illegal immigrants have done more to hurt the country than to help it, with 37 percent saying they help the country. About three in five Republicans and a bare majority of Democrats agreed that illegal immigrants are detrimental to the country. The only groups in the poll who disagreed were people with postgraduate degrees, those with incomes exceeding $100,000 and nonwhite respondents. The Post-ABC poll did not include enough Hispanics to provide an accurate reading of their sentiment, but a Pew Hispanic Center survey last summer found that two in three Latinos said that undocumented migrants help the economy. … In the recent Post-ABC News poll, President Bush got his lowest marks on immigration, with 33 percent saying they approved of how he was handling the issue. That may largely reflect irritation over the government's failure to control the borders."

Hayworth Set To Publish An "Anti-Immigration Manifesto." Time (1/9, Allen) reports in its "Notebook" column that Rep. J.D. Hayworth "is about to publish an anti-immigration manifesto, Whatever It Takes, that should rile up right-wing radio just as the White House was hoping to gain traction for a broad immigration-reform package." In the book Hayworth "calls for deploying active-duty troops to the border and considering a 'border security fence from the Pacific Ocean to the Gulf of Mexico.'" Hayworth "contends that Bush's plan to confer temporary legal status on Mexicans working in the U.S. amounts to 'false compassion.' But Senator John McCain plans to push hard this winter for such a program. House Republican leaders say they might accept one if immigrants had to return home to apply for temporary work permits. Hayworth tells TIME that even that would be too lenient, designed to appease 'left-wing grievance mongers' and businesses that want cheap labor. Bush may have sounded as if he were running for sheriff during his recent border visits, but to convince the likes of Hayworth, he'll have to talk a lot tougher."

CONGRESS-ADMINISTRATION:

Alito Argued President Should Issue "Interpretive Signing Statements." As a Justice Department lawyer in 1986, Supreme Court nominee Samuel Alito made the case or presidential power, laying out a strategy under which the president would routinely issues statements about the meaning of statutes when he signs the into law. The Washington Post (1/2, A11, Lee) reports that such "'interpretive signing statements' would be a significant departure from run-of-the-mill bill signing pronouncements, which are 'often little more than a press release,' Alito wrote. The idea was to flag constitutional concerns and get courts to pay as much attention to the president's take on a law as to 'legislative intent.'" The Post adds, "The Reagan administration popularized the use of such statements and subsequent administrations continued the practice. (The courts have yet to give them much weight, though.) President Bush has been especially fond of them, issuing at least 108 in his first term, according to presidential scholar Phillip J. Cooper of Portland State University in Oregon."

Alito Said To Have An "Everyman Appeal." The New York Times(1/2, Kirkpatrick) says that according to people who have participated in Alito's rehearsals for this week's confirmation hearings say he "will never be as polished and camera-ready as Chief Justice John G. Roberts Jr. was at his own hearings a few months ago." But two of Judge Alito's supporters who participated in the murder boards, speaking about the confidential sessions on condition of anonymity for fear of White House reprisals, said they emerged convinced that his demeanor was a political asset because it gave him an Everyman appeal." The Times adds, "Senators of both parties have said it will not be easy to follow Chief Justice Roberts," and "some Democrats said they

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already had much more pointed questions waiting for Judge Alito, focusing mainly on strongly worded statements that he made as lawyer in the Reagan administration about his conservative approach to the Constitution, abortion rights and other issues. Leading Democratic senators have said his responses will be a deciding factor in whether they seek to block the nomination by filibustering."

Alito Hearings Will Test Domestic Spying Program's Political Resonance. Time (1/9, Tumulty, Allen) the opening of Supreme Court nominee Samuel Alito's confirmation hearings this week will be the first test of the domestic spying program's "political resonance." According to Time, Alito opponents, "who had planned to put the abortion issue on center stage, are quickly retooling their strategy. … Alito's record could give his critics plenty of ammunition. The Third Circuit judge has long been an advocate of the unitary-executive concept, a constitutional interpretation that is a favorite of Bush's and Vice President Dick Cheney's, which argues that the President should have nearly total control of Executive Branch agencies and resist any incursion on that power by Congress." Time adds, "Administration officials concede that the controversy will inject a volatile new element into the confirmation debate but say Alito will resist getting drawn in."

Alito's Writings Suggest He Will Accelerate Court's Shift To The Right. U.S. News and World Report (1/9, Halloran) says the battle over Alito "shows every sign of achieving Borkian dimensions. As Alito prepares for his confirmation hearings before the Senate Judiciary Committee next week, the portraits being painted of him have become ever more cartoonish, nasty, and one-dimensional. … Behind the caricatures, however, are real questions. Who, really, is Sam Alito, and what kind of a justice would he be? An analysis of Alito's writings as a Reagan administration lawyer, and of his opinions from the bench, reveals him to be a solidly conservative jurist but one who also pays deference to precedent. … His lengthy paper trail suggests he will accelerate the court's shift to the right on several important issues," including abortion, civil rights, capital punishment and federalism.

Roberts, Alito Seen As Likely Allies Of Business. Academics and business experts say Chief Justice John Roberts and Alito are likely to be allies of manufacturers and business, The AP (1/1, Cassata) reported, "One represented corporate interests as a private attorney; the other often sided with employers in lawsuits filed by workers. Beyond their decisions in individual cases, the Roberts court also has the potential to craft a consistent philosophy on business issues, something that several academics argue has been lacking in recent years since the departure of Lewis Powell in 1987. … The court's highly selective docket for the current term will give Roberts and Alito, assuming the latter is confirmed, ample opportunity to shape the court. Among the critical issues for companies are the Supreme Court's decisions in antitrust cases, government regulation of land development and the commerce clause. … Abortion and social issues dominate the public debate over the Supreme Court, but business matters make up a significant portion of the justices' work."

Interest Groups To Intensify Rhetoric In Debate Over Alito Nomination. USA Today (1/3, Kiely, Memmott, 2.31M) reports the Senate hearings on Judge Samuel Alito's nomination to the Supreme Court "are set to begin Monday. This week, groups on both sides of the debate plan to launch elaborate phone, e-mail and ad campaigns." Ralph Neas of the People for the American Way said, "There's no question there will be an acceleration of efforts." Neas "plans a wave of TV ads" in opposition to the nomination. Meanwhile, Christian Myers of Progress for America said, "It's game time now, and we're making a serious push." The "conservative group will spend $500,000 to broadcast a pro-Alito ad on cable television and in four states where senators may be undecided." Other groups, "from the conservative Focus on the Family to the liberal Leadership Council on Civil Rights, plan phone banks, e-mail blitzes and visits to newspaper editorial boards and radio hosts." But "relatively few senators will get most of the attention. One is Senate Judiciary Committee Chairman Arlen Specter, a centrist Pennsylvania Republican who will preside over Alito's confirmation hearings." Both sides are "focusing on senators whose votes will help determine whether there's enough Senate support for a filibuster." The key senators "are centrists; all say they're undecided about Alito. Several face re-election fights this year. The biggest group is 'red state Democrats.'"

The New York Times (1/3, Kirkpatrick, 1.19M) reports that in the "final days before" the Alito hearings, "partisans on both sides are pulling out all the stops in an effort to sway public opinion. Moving beyond Judge Alito's judicial record, a coalition of liberal groups is preparing commercials attacking his integrity and credibility instead, several people involved in the effort said Monday." Conservatives, "for their part, are capitalizing on ethnic pride to rally Italian-American support

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for Judge Alito with public events and newspaper advertisements. The efforts are aimed particularly at the Northeastern States, where some moderate Republican senators have expressed doubts about his confirmation." The advertising campaigns "on both sides are the most visible components of a last-minute push by advocacy groups anticipating a potentially close Senate vote." People "involved in the liberal coalition, which includes People for the American Way, the legal group Alliance for Justice, the A.F.L.-C.I.O., the N.A.A.C.P., the Sierra Club and abortion rights groups, said it planned to run new commercials, beginning this week with radio and television advertisements in selected states intended to undercut Judge Alito's credibility." The sources "said the first advertisements would focus on occasional lapses from a pledge Judge Alito made at the 1990 hearings for his confirmation to the appeals court that he would recuse himself from cases involving the companies that managed his mutual fund investments, Vanguard and Smith Barney."

Alito View's On Reapportionment Cases Seen As Debatable. In a New York Times editorial observer story (1/3), Adam Cohen says, "There has been a lot of talk about the abortion views of Judge Alito, President Bush's Supreme Court nominee. But his views on the redistricting cases may be more important." Sen. Joseph Biden "said recently that Judge Alito's statements about one person one vote could do more to jeopardize his nomination than his statements about Roe v. Wade. Rejecting the one-person-one-vote principle is a radical position. If Judge Alito still holds this view today, he could lead the court to accept a very different vision of American democracy, one in which it would be far easier for powerful special interests to get a stranglehold on government."

Critics Said To Be Wrong For Seizing On Alito's Memos In Abortion, Wiretap Cases. In a New York Times op-ed (1/3), former Reagan Administration solicitor general Charles Fried says Judge Alito's "opponents have seized upon two memorandums he wrote when he was a junior lawyer in the office of the solicitor general: one on the Thornburgh case, which dealt with Roe v. Wade, and the other on Mitchell v. Forsyth, which addressed the attorney general's personal liability for wiretaps found to violate the Constitution. Determined to fit the man to the Scalito caricature with which they hope to defeat his nomination to the Supreme Court, Judge Alito's detractors ignore the context and the content of both documents." But "these were not the writings of a political operative seeking to make trouble or advance an agenda. The solicitor general takes a case to the Supreme Court only when some other part of the government - perhaps a division of the Department of Justice or another agency - recommends it." As in "every case, a junior staff member was assigned to analyze these recommendations and propose a course of action to the solicitor general. It fell to Judge Alito to write those memos." But what is "remarkable in both cases is that Judge Alito recommended against taking the position that more senior, politically appointed officials were urging the solicitor general to take before the court. In the abortion case, not only the head of the civil division but also other high-ranking officials were urging that I, as the solicitor general at the time, ask the court to overturn Roe v. Wade. The bottom line of Judge Alito's memo was that I should not do that."

Roberts Calls For Tighter Court Security, Pay Raises For Judges. US Chief Justice John Roberts yesterday called for better court security and higher salaries to ensure a diverse mix of judges on the bench. Reuters (1/2, Charles) reports that Roberts wrote in his 2005 Report on the Federal Judiciary, "I recognize that it is a bit presumptuous for me to issue this report at this time, barely three months after taking the oath as chief justice," but, "But I do not intend to start the new year by breaking with a 30-year-old tradition, and so will highlight in this report issues that are pressing and apparent." Reuters adds, "Roberts expressed concern over violence directed at judges and in courts in the past year. He mentioned the murders of a U.S. district judge's husband and mother in Chicago by an angry litigant, and a court shooting in Atlanta that left a judge, court reporter and deputy dead. … Roberts also returned to a theme that Rehnquist regularly mentioned in his annual reports: the need to raise pay for judges. … Roberts said the real pay of federal judges has declined since 1969 by almost 24 percent, while the real pay of the average American worker during the same period had increased by more than 15 percent."

Bush Team Notable For Lack Of Turnover. The Washington Times/AP (1/3) reports the loyalty of President Bush's aides have limited turnover. After "two wars, devastating strikes by terrorists and hurricanes, a bruising re-election and countless legislative battles, President Bush's team is continuing the trend -- defying history and shake-up rumors to remain almost entirely intact five years in." Only a

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"handful of the president's most senior aides have departed since Mr. Bush came to Washington in 2001. Though some have shifted roles, it's a familiar cast of characters at the president's side: Vice President Dick Cheney, Chief of Staff Andrew H. Card Jr., political guru Karl Rove, Deputy Chief of Staff Joe Hagin, counselor Dan Bartlett, budget chief Joshua B. Bolten, White House Counsel Harriet Miers and press secretary Scott McClellan." Bush's Cabinet "has seen more turnover than his top-level White House staff. Still, a third of the 21 Cabinet-rank positions are held by the same person as when Mr. Bush came to Washington." David Gergen said, "I don't think there's any other president in the modern era that has seen this kind of stability."

Medicare Drug Program Gets Off To An "Uneven" Start. A somewhat negative story in the New York Times (1/3, Pear, 1.19M) says the Medicare prescription drug program "got off to an uneven start across the country" this week. The Times says that while people "who applied early and had identification cards in hand were often able to fill prescriptions through the new program," others "were stymied in their efforts to take advantage of the drug benefit, as pharmacists spent hours trying to confirm eligibility and enrollment by telephone and computer." The Times adds, "Dr. Mark B. McClellan, administrator of the Centers for Medicare and Medicaid Services, said he was pleased with the first days' experience. 'Many thousands of people were able to get their prescriptions filled,' he said."

Many Seniors Still Befuddled As Medicare Drug Benefit Takes Effect. ABC World News Tonight (1/1, story 2, 2:35, Harris) reported, "The beginning of 2006 means millions of senior citizens can get prescription drug benefits through Medicare. Pharmacists say tomorrow may be the busiest day of the year, with many seniors coming in with many questions about their plans. While 43 million seniors are eligible, only 1 million have signed up for what some consider the most confusing government benefits ever." ABC (Yang) added, "Medicare officials say there's still plenty of time. Enrollment ends May 15th. They're now running TV ads, encouraging people to help their moms and dads. … Medicare officials say one of the most efficient ways to sort through all the options is on the Internet. But 75% of seniors say they've never even been online."

The CBS Evening News (1/1, story 5, 2:20, Roberts) reported, "Huge fanfare and a lot of confusion are accompanying the biggest change in Medicare history. The government's new prescription drug plan which is supposed to make drugs more afford to believe millions of Americans seniors goes into effect today." CBS (Chen) added, "20 million low income Americans" are "being forced off state drug coverage programs and into the myriad of prescription plans run by private insurance companies. Supporters expect as many as 10 million more will voluntarily sign up, though only one million have so far."

Gingrich Urges GOP To Propose Lobbying Reforms. Former Speaker of the House Newt Gingrich was asked on CBS' Face the Nation (1/1, Schieffer) if Republicans are in danger of suffering losses in this year's elections due to scandals tied to several GOP congressmen. Gingrich relied, "I think that this coming year…is going to be a very big year of decision for Republicans. We have to be the party of reform. We can't just be the party of pork barrel. … I'd look very seriously at completely rethinking the relationship with lobbyists. I'd require every lobbying activity to be listed on the Thomas system, the computer system people can access, so you'd know if your member of Congress, whether they went golfing, whether they had dinner. I'd make this stuff public and transparent. I'd consider not allowing fund-raisers in Washington. I think this whole system has grown, frankly, a little sick with insiders raising money for insiders to re-elect insiders to do favors for insiders. I think this is not just a Republican problem. Don't misunderstand me. But I think we are much more naturally the party of reform than the Democrats are."

Cheney, Rumsfeld Have Neighboring Estates On Maryland's Eastern Shore. A lengthy story on the front page of the Washington Post's (1/3, C1, Montgomery) Style section looks at the "expensive waterfront estates" of Vice President Dick Cheney and Defense Secretary Donald Rumsfeld in St. Michael's, Maryland. Rumsfeld's retreat, Mount Misery and Cheney's place, Ballintober, are "are separated by two miles of narrow lanes." The Post reports, "What gives? Is a secret weekend war cabinet forming? Are yachts and duck decoys part of the plan to transform the military? Did Cheney tire of his secure undisclosed hideaway and opt to join Rummy in his serene disclosed getaway? We are probably thinking too hard. The search for obscure meaning -- that reflex for overinterpretation -- is so Western Shore. The Bay Bridge is where you lighten up and leave behind your fevered quest for

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the matrix behind the mask. … Cheney may be the first part-time resident with a full Secret Service detail, but the famous, the rich and the powerful of Washington (and New York, Baltimore, Philadelphia, Pittsburgh) have been setting a course for St. Michaels and the wider, watery Talbot County for generations. The area has functioned like the Adirondacks did for the swells of the Gilded Age, Newport for the robber barons and the Hamptons for Wall Street. But somehow St. Michaels…survives as an anti-Newport, a non-Nantucket, an un-Hamptons. Not overrun, overpriced, overglitzed. Not yet."

Mankiw Offers New Year's Resolutions For Lawmakers. In Wall Street Journal (1/3, 2.11M), N. Gregory Mankiw, former chairman of President Bush's Council of Economic Advisers, offers a list of New Year's resolutions, which "any senator, congressman or presidential wannabe is free to adopt… as his or her own." Among Mankiw's resolutions: "This year I will be straight about the budget mess. I know that the federal budget is on an unsustainable path. I know that when the baby-boom generation retires and becomes eligible for Social Security and Medicare, all hell is going to break loose. I know that the choices aren't pretty -- either large cuts in promised benefits or taxes vastly higher than anything ever experienced in U.S. history. I am going to admit these facts to the American people, and I am going to say which choice I favor." Mankiw adds, "This year I will admit that there are some good taxes. Everyone hates taxes, but the government needs to fund its operations, and some taxes can actually do some good in the process. I will tell the American people that a higher tax on gasoline is better at encouraging conservation than are heavy-handed CAFE regulations. It would not only encourage people to buy more fuel-efficient cars, but it would encourage them to drive less, such as by living closer to where they work." Mankiw also writes, "This year I will be modest about what government can do. I know that economic prosperity comes not from government programs but from entrepreneurial inspiration."

Grassley Makes Case For GOP Deficit Reduction Bill. Senate Finance Committee Chairman Charles Grassley writes in USA Today (1/3, 2.31M), "In such a partisanship-first environment, any fair-minded move toward a more responsible budget is surely welcomed by the taxpayers. The GOP-sponsored deficit reduction bill is that sort of initiative. It's modest, representing just one-half of 1% of what would otherwise be spent during the next five years. Its Medicaid provisions reflect what governors nationwide -- Republicans and Democrats -- asked Congress to do to help them manage the program in their states and ensure its viability for low-income pregnant women and children." Grassley adds, "The tax relief in question is also part of stemming the red ink in Washington. The tax policies passed by the Senate and House aren't new at all. They merely extend expiring tax laws so that taxpayers aren't hit with a tax increase. This legislation is needed to protect 14 million families from the alternative minimum tax meant for wealthy individuals. It includes tax breaks for higher education and teachers who buy classroom supplies. It closes tax shelter loopholes. And it includes pro-growth measures that have helped fuel our economy." Grassley concludes, "Congress needs to do a lot more to control spending and reduce the deficit, but it's wrong to dismiss a step in the right direction."

USA Today Says GOP Bill Lacks Conscience. An accompanying editorial in USA Today (1/3, 2.31M) says "it would be nice to see in Washington a new commitment to fiscal restraint and a resolve to bequeath a solvent government and robust economy to future generations. To listen to many Republican lawmakers, a move in that direction is underway. … It would be nice to see it that way, but to believe that is to believe in fairy tales. This political sleight of hand is simply too small to matter and is designed to evade the real financial predicament — runaway health care costs, unsustainable retirement benefits and tax rates receipts well below historical averages. The cowardice in that is bad enough, but the measure is also cruel. Virtually all of Congress' cuts are made to programs for the poor and the young, who lack organized lobbies. Absent congressional conscience, they are simply targets of political opportunity. And be assured conscience is lacking." USA adds, "Congress will not deserve credit until it takes on health costs, tells seniors it can't sustain a Social Security system in which one of every three adults collects benefits, and raises taxes for the wealthy back to more reasonable levels. Until then, each year will bring the nation and the federal government only closer to fiscal crisis."

OTHER NEWS:

West Virginia Coal Miners Trapped After Mine Explosion. Rescue crews yesterday sought

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desperately to reach 13 West Virginia coal miners trapped after a mine explosion in Tallmansville. The story was the lead on both CBS and NBC last night; ABC was preempted for college football last night. The CBS Evening News (1/02, lead story, 4:00, Schieffer) reported, "They are still not certain what caused it. A lightning strike is the best guess now, but before dawn this morning, there was an explosion at a coal mine in Tallmansville in central West Virginia. Tonight 13 minors are trapped there, some 160 feet underground. They have air purifying equipment but no oxygen. For most of the day, poisonous gas has kept rescue workers from trying to reach them. But late today, rescue workers did enter the mine." CBS (Orr) added, "An eight-man rescue team has just entered the mine and are now traveling a tunnel in the hill behind me going some two miles inside the hill trying to reach the miners who are trapped there. So far it's a bit grim because there's no communication with the trapped miners."

NBC Nightly News (1/2, lead story, 3:15, Holt) reported, "Tonight, a life and death drama is taking place outside a coal mine in West Virginia." NBC Nightly News (1/2, story 2, 2:45, Holt) also spoke with NBC News Robert Hager, who covered the 2002 Quecreek Mine accident, where nine miners were successfully rescued after begin trapped by a flood. Hager said, "This one looks grimmer to me, mostly because in that case, they were dealing with a flood. In this case, it's been an explosion, and an explosion does two things. It creates a lot of debris and it's blocked the shaft, and eats up oxygen." The Washington Times/AP (1/3, Smith), Washington Post (1/3, A1, Tyson, Vedantam, 744K) and New York Times (1/3, Dao, 1.19M), among other newspapers, also report the story.

Bernanke Faces Difficult Balance Sheet, Greenspan Comparisons. The Wall Street Journal (1/3, lp, 2.11M) reports that incoming Federal Reserve Chairman Ben Bernanke faces "two major stumbling blocks" as he steps into the post being vacated by outgoing chairman Alan Greenspan: "difficult comparisons" with Greenspan and "a balance sheet with potential land mines." Bernanke's job "is complicated by a balance sheet loaded with debt and possibly overvalued assets. … 'It could be argued that Greenspan is handing Bernanke a poisoned chalice: an economy with an impressive track record, but one burdened with unprecedented financial imbalances,' Martin Barnes, editor of the Bank Credit Analyst, a forecast journal, wrote in November. 'It will be hard to rebuild household savings, reduce the current-account deficit and stabilize the housing sector without causing some economic pain.'"

Economy Expected To Grow For Fifth Straight Year, But At Slower Rate. The Wall Street Journal (1/3, Gerena-Morales, Annett, 2.11M) reports, "Strong spending by businesses should power the nation's economy to a fifth straight year of expansion in 2006, according to a survey of economists' forecasts, but a softening housing market is likely to slow the overall pace of growth. For the past five years, real-estate wealth has supported the economy by providing consumers with cash to buy everything from designer kitchens to luxury vacations to new or second homes. Some economists believe that the boom has been responsible for creating more than one million American jobs since 2000." But "as home sales start to slow and the inventory of unsold homes climbs, many economists believe that home prices will rise more gradually, or even decline, delivering a jolt that causes consumers to rein in spending. That, in turn, may cause economic growth to slow." The Journal adds, "The consensus forecast of 56 economists surveyed by The Wall Street Journal is that the nation's gross domestic product -- the broadest measure of economic output -- will grow at an annual rate of 3.5% in the first half of 2006 and 3.1% in the second half. While those growth rates are considered respectable, they would fall short of the 4.1% average of the past 2½ years. … On the positive side, economists expect overall inflation to moderate this year."

Hubbard Credits Bush Tax Cuts With Helping Economy After Recession. Former Chairman of the Council of Economic Advisers Glenn Hubbard said on Fox News' Special Report (1/2), "The economy is growing at a potential rate of around 3.5 percent, which is truly extraordinary. It really traces the two things, I think. One is how well financial markets work to allocate risk and capital in the country. And the other is how amazingly flexible American labor markets are. There's really no economy in the world that has capital and labor markets as efficient as this one." Asked about polls showing that President Bush is getting credit for the "revival of the economy," Hubbard said that "the president deserves credit for a set of tax policies that really helped the economy bounce back from the recession. But the underlying strength of the economy has little to do with Washington and a lot to do with the kind of institutions that helped the economy absorb technological change and

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absorb shocks, whether those shocks in financial markets or the real economy in your Katrina example. That is really the heart and soul of this high growth rate for the economy."

Stock Market "A Dud" In '00s. USA Today (1/3, Shell, 2.31M) reports, "This isn't your father's bull market. The '80s were great. The '90s were even better. But the '00s so far have been pretty much a dud. … It's unlikely, for example, that the Dow Jones industrial average, which declined 0.6% in 2005, will be able to come anywhere near its 228% gain in the '80s and its 318% gain in the '90s. The blue-chip barometer is actually down 6.8% since the end of 1999."

However, the New York Times (1/3, Dash, 1.19M) runs a report under the headline "After A Resilient '05, Wall St. Isn't Counting Out '06," in which it says "the economy proved more resilient than the worriers expected. Consumers continued to spend. The housing market did not collapse. Economic growth has been robust. And the stock market even had a year-end rally going - with the Dow Jones industrial average flirting with 11,000 - until it fizzled in the final weeks." So "it is not surprising that Wall Street has muted the alarms about 2006. Over all, analysts are relatively bullish in their outlooks. But concerns remain about the health of consumer spending and the effects of higher interest rates. Five Wall Street analysts who were surveyed predicted that the Standard & Poor's 500-stock index, which closed 2005 at 1,248.49, would end 2006 between 1,170 and 1,400."

Recession Worries Said To Be Rising For 2006. The CBS Evening News (1/1, story 6, 2: 20, Roberts) reported, "Like a roller coaster, the stock market had some wild ups and downs in 2005, but ended up right where it started. So what's next?" CBS (Alfonsi) added, "With big business struggling, unsteady interest rates, and signs of a recession, the best some forecasters are hoping for 2006 is an average year." A lot of investors "saw less-than-strong stock returns in 2005. The Dow finished in the red for the first time since 2002. The S&P was flat and the tech-heavy Nasdaq didn't fare much better. If you consider a year marked with soaring gas prices and natural disasters, those flat numbers don't look too bad. But what was bad news in 2005 could be good news for the market in 2006."

Dallas-Area Among Regions Reporting Robust Employment Numbers. The Dallas Morning News (1/2, Kreimer) reports, "An expanding economy and a skilled labor shortage have sparked a resurgence in the recruitment of employed and unemployed workers alike, including those at the high end of the pay scale, hiring experts say. That makes this year's outlook for job seekers the best since the turn of the millennium. … The Dallas-area job market hasn't seen growth that robust since 2000, when employment rose 3.9 percent, according to Texas Workforce Commission data."

Only Some Parts Of US Said To Be Experiencing Housing Bubble. The New York Times' Paul Krugman (1/2) writes, "In spite of record home prices, housing in most of America remains surprisingly affordable, thanks to low interest rates. That fact may seem to say that there's no housing bubble. But it doesn't. … It's…worth noting that the reason housing was so expensive in 1981 and 1982 was that mortgage interest rates were extremely high. That made recovery easy, because all it took to make housing affordable again was for interest rates to return to normal levels. This time, with interest rates already low by historical standards, restoring affordability will require a big fall in housing prices."

Minimum Wage In 17 States, District Of Columbia Higher Than Federal Level. Nearly half of the US civilian labor force lives in states where the pay if higher than the minimum wage set by the federal government. The New York Times (1/2, Broder) reports, "Seventeen states and the District of Columbia have acted on their own to set minimum wages that exceed the $5.15 an hour rate set by the federal government, and this year lawmakers in dozens of the remaining states will debate raising the minimum wage. Some states that already have a higher minimum wage than the federal rate will be debating further increases and adjustments for inflation." The federal minimum wage was raised from $4.75 in 1997. Since then, "efforts in Congress to increase the amount have been stymied largely by Republican lawmakers and business groups who argued that a higher minimum wage would drive away jobs. Thwarted by Congress, labor unions and community groups have increasingly focused their efforts at raising the minimum wage on the states, where the issue has received more attention than in Republican-dominated Washington, said Bill Samuel, the legislative director of the national A.F.L.-C.I.O."

NYTimes Says Congress Should Raise Minimum Wage. An editorial in the New York Times (1/3, 1.19M) says, "The federal minimum wage has been a paltry $5.15 an hour for more than eight years. Polls show that there is strong popular support for raising it, but Congress has resisted. Unions, community groups and advocates for the poor are increasingly taking the matter directly to voters through state

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referendums to raise their states' minimum wages, according to an article yesterday in The Times. Their intentions are laudable, but the efforts only highlight Congress's failure to set the federal minimum wage at a reasonable level." The Times adds, "State minimum-wage referendums are not ideal. Policy matters of this kind are best handled by legislatures, and the nation would be better off with a uniform federal standard. But given where the federal minimum wage now stands, state-level initiatives are the only game in town. Those grass-roots debates may shame Congress into taking long-overdue action to help the lowest-paid workers."

WSJournal Decries NEA Use Of Members' Dues. An editorial in the Wall Street Journal (1/3, 2.11M) says "If we told you that an organization gave away more than $65 million last year to Jesse Jackson's Rainbow PUSH Coalition, the Gay and Lesbian Alliance Against Defamation, Amnesty International, AIDS Walk Washington and dozens of other such advocacy groups, you'd probably assume we were describing a liberal philanthropy. In fact, those expenditures have all turned up on the financial disclosure report of the National Education Association, the country's largest teachers union. Under new federal rules pushed through by Secretary of Labor Elaine Chao, large unions must now disclose in much more detail how they spend members' dues money." The Journal adds that "even a cursory glance at the NEA's recent filings" exposes "the union as a honey pot for left-wing political causes that have nothing to do with teachers, much less students. … It's well understood that the NEA is an arm of the Democratic National Committee. (Or is it the other way around?) But we wonder if the union's rank-and-file stand in unity behind this laundry list of left-to-liberal recipients of money that comes out of their pockets."

WSJournal Praises Yale's Refusal To Give Anarchist Professor Tenure. The Wall Street Journal (1/3, 2.11M) editorializes, "Until recently, David Graeber was an associate professor of anthropology at Yale University, with a field specialty in Madagascar and a salary of $63,000. He is also a self-declared anarchist who has been arrested at antiglobalization rallies. Last spring, Yale denied him tenure. Mr. Graeber was outraged, suspecting the decision might have something to do with his politics." The journal adds, "One might fairly ask of Mr. Graeber why, if his anarchist convictions are sincere, he would seek to join the very employing class that he is otherwise pledged to struggle against. … In recent interviews, Mr. Graeber has given his answer: 'I'm not really an anarchist as a professor,' he told the New York Times. 'I figured I'd be a scholar in New Haven and an activist in New York.' So it turns out that even anarchists have their bourgeois ambitions. That's fair enough, but so is Yale's decision to deny Mr. Graeber tenure, and for what we suspect were not political motives. Among the qualities that characterize Ivy League faculties these days, hostility to liberal or radical politics isn't among them."

WPost Says Baltimore's Problems Predate O'Malley. An editorial in the Washington Post (1/3, A16, 744K) says, "No doubt, Baltimore Mayor Martin O'Malley rues the day when, as a candidate for office, he pledged to reduce the number of murders in the city to 150 annually. Instead, Baltimore's murder rate has remained stubbornly high -- it has not dipped below 250 since Mr. O'Malley took office in 1999 -- and this year the numbers attest again to the ongoing bloodbath. … Now that Mr. O'Malley is trying to become governor, Baltimore's murder rate represents a natural soft target for his political foes. … The question is how much blame can be fairly apportioned to Mr. O'Malley. Under his administration, overall violent crime in Baltimore, including rapes, robberies and assaults, has dropped sharply -- more sharply, in fact, than it has in other large cities. Real estate values have soared and, probably more significantly, Baltimore has stanched the outflow of middle-class residents who fled the city for years, right through the 1990s. Mr. O'Malley's popularity in the city is broad and deep, and no one accuses him of not trying to attack the murder rate head-on." The Post adds, "Political opponents of Mr. O'Malley can make all the hay they want, but the failures in Baltimore that have contributed to the ghastly murder rampage -- including low-performing schools and inefficient parole, probation and juvenile justice systems as well as the drug scourge -- predated his time in office. At issue is how effectively has Mr. O'Malley stepped up to those problems as well. His attempts and failures to rein in the murder rate deserve scrutiny, but so do government and society at large in Maryland -- and at all levels."

New State Laws Deal With Technology, Security. The Christian Science Monitor (1/3, Scherer, 61K) reports on new state laws which will take effect this year. The Monitor reports, "A number of state legislatures have focused on the impact of technology. For example, some

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automobile companies are installing 'black boxes' in their more expensive models. These devices, like those in airplanes, record the direction and speed of a car, steering and braking performance, and the status of the driver's seat belt. Now, Nevada has enacted legislation that requires manufacturers to notify buyers if a car contains such a device and what the black box can record. In addition, the information in the box can be downloaded or retrieved only by the owner of the vehicle. … Many states have also become alarmed over 'security breaches,' especially by companies with credit-card or Social Security information. Six states - Connecticut, Illinois, Louisiana, Maine, Minnesota, and Nevada - are requiring companies to notify consumers if sensitive financial information has been stolen. Connecticut goes even further: Residents can "freeze" their credit reports if there has been a slip-up. New Jersey and Virginia, meanwhile, have barred making public a person's Social Security number."

Liberal Crusader Hirschkop Nears Retirement. The Legal Times (1/2, McLure) reports on the impending retirement of long-time liberal attorney Philip Hirschkop, who is "known not only for his legal prowess but his bombastic and outspoken manner. Hirschkop, now 69, is preparing to close his law offices in Old Town Alexandria, Va., marking the end of a colorful, four-decade career that made him an icon among left-wing lawyers." The Times continues, "For the past two decades, Hirschkop has served as the outside general counsel for People for the Ethical Treatment of Animals, the controversial animal rights group known for its militant advocacy of vegetarianism and its proclivity for throwing pies at fur-wearing fashionistas. … But long before he hoisted PETA's standard in battle, Hirschkop had made his mark as a civil rights lawyer and as an opponent of the Vietnam War. Perhaps his most significant case was Loving v. Virginia, a landmark 1967 U.S. Supreme Court case that overturned Jim Crow-era laws banning interracial marriage — a case in which Hirschkop presented the main argument when he was just two years out of law school." The Times adds, "Since that auspicious start, he's worked for a member of the House Un-American Activities Committee, donned a Viet-Cong armband to protest the war, and stood for the free-speech rights of the American Nazi Party. In one six-year span, 17 disciplinary complaints were brought against him at the Virginia State Bar — a distinction Hirschkop bears proudly. The complaints, he says, were 'never for screwing a client, only for making public statements' about pending litigation."

Relief Agency Head Urges Donors To Choose Charities Carefully. Richard M. Walden, president of the international relief agency Operation USA, writes in the New York Times (1/3, 1.19M), "Money is the mother's milk of disaster relief. And over the last 12 months - with the Indian Ocean tsunami, the hurricanes on the Gulf Coast and the Pakistan earthquake - fund-raising records have been broken by the King Kong of relief agencies, the American Red Cross, and by many smaller organizations as well. … In late November it was reported that the American Red Cross still had $400 million of the $567 million it had collected for the tsunami since Dec. 26, 2004. Meanwhile, many of the countries hit by the waves, all of which have their own national Red Cross or Red Crescent societies, continue to beg for more help with housing, health and education programs. Why our Red Cross holds on to so much money is a mystery, but it is hardly the only agency that does so. A survey by InterAction, an umbrella group of relief agencies, found that many other charities reported spending far less than they took in last year; an average of just 42 percent of the money received by 62 relief groups providing tsunami relief has been spent." Walden adds, "With the incendiary combination of huge government contracts, Internet fund-raising and appeals based on mass disasters, the charity business has entered a new age. Americans should continue to help those in dire need, but they should also look around before sending a check or clicking the 'donate' button."

Two Rescued After Plane Crashes Near New York City. NBC Nightly News (1/2, story 6, :20, Holt) reported, "A successful rescue today just north of New York City. Police and Coast Guard helicopters pulled two men out of the frigid Hudson River after their single-engine plane went down shortly after the pilot had issued a mayday call. An FAA spokesman says the men were a flight instructor and his student. Both are being treated tonight for hypothermia."

New Rules Could Lead To Increased Minimum Credit Card Payments. NBC Nightly News (1/2, story 7, 2:20, Holt) reported, "Just in time for those post-holiday bills to start piling up in your mailbox, some new rules that banks are now enforcing that will lead to higher minimum credit card payments for everyone. As of now, 13%

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of credit card holders pay just the minimum payment each month. And if you're among them you may be in for a surprise when you open that next bill." NBC (Shamlian) added, "Too many customers are saying 'charge it' too often. At least, that's the view of banking regulators who are behind the guidelines aimed at getting people to pay more, so they can get out of debt quicker. In the past, some minimums didn't cover even the interest due. The government guidelines say payments should cover at least 1% of principal, plus interest and fees. As of this month, all banks are complying." Nessa Feddis, American Bankers Assn.: "For the consumers in the long term, it means they'll pay less interest and they'll pay the balance off more quickly." Shamlian: "It could be a painful transition. On a balance of $5,000, the payment would jump from $100 to $200 a month. But that larger minimum payment means the debt would be erased in about two and a half years instead of almost seven years."

Questions Raised About Attorney Suing Ex-Client For Former Adversary. The Wall Street Journal (1/3, Davies) reports, "Don King makes a good living off boxers in the ring, and Judd Burstein has done well off Mr. King in the courtroom. … Since 1997, Mr. Burstein, a Manhattan lawyer, has scored a string of legal victories representing fighters in contract disputes against boxing's most famous promoter. In all, Mr. Burstein estimates he has cost Mr. King $25 million and pocketed $3 million to $4 million for himself." The Journal continues, "The acrimony between the two has been so intense over the years that Mr. Burstein once referred to the promoter as a 'cancer' on boxing. Mr. King described Mr. Burstein as an 'insidious insect.' … But now, Mr. Burstein finds himself in Mr. King's corner. The pugnacious attorney has switched sides and is representing the fight promoter in a lawsuit against Christopher Byrd, the International Boxing Federation heavyweight champ, whom Mr. Burstein recently represented in a suit against Mr. King. 'It's good to have him on my payroll now,' Mr. King says of Mr. Burstein." The Journal adds, "There's no rule explicitly prohibiting lawyers from representing someone they once sued. But legal experts say it's rare for an attorney to sue one person on behalf of a client and then sue the former client on behalf of the former adversary. … Complicating matters: The previous lawsuit and the current one involve a dispute over the same contract."

Texas Said To Be At Epicenter Of 2006 Congressional Races. The Dallas Morning News (1/2, Gillman) says Texas "is sure to be the epicenter of this year's congressional races, thanks to some unique factors, especially the trial of former House Majority Leader Tom DeLay and Democrats' efforts to leverage his ethics problems into a national wave." Unless DeLay "is convicted or the court throws out Texas' current congressional map, voters can expect spirited contests in only three Texas districts, and the campaign that officially begins today– the deadline for candidates to file paperwork to run in the March 7 primaries – probably won't alter the lineup much." DeLay "has his legal woes. Freshman Rep. Henry Cuellar, a Laredo Democrat, won the primary by just 58 votes two years ago after several bitter recounts. And Rep. Chet Edwards of Waco is a Democrat in a heavily Republican district." DeLay's district "is solidly Republican, but analysts say he's vulnerable, noting that he drew just 55 percent of the vote in winning an 11th term in 2004." Cuellar "served as Gov. Rick Perry's secretary of state and volunteered on the Bush presidential campaign, and his rivals say he's a Republican in disguise. … The district is solidly Democratic. The challenge will be to win without a runoff in April." Edwards "won his eighth term with just 51 percent. Two Republicans have spent months vying for the right to take him on in President Bush's hometown district: Iraq war veteran Van Taylor and Tucker Anderson, a former aide to Dallas Rep. Pete Sessions, a Republican."

GOP Said To Be At Disadvantage In 2006 Midterm Elections. The Washington Times (1/3, Lambro, 90K) reports President Bush and the Republicans "face a tougher midterm election landscape in 2006, due largely to the closely divided American electorate and, ironically, the gains the Republicans have made in the past decade." Few analysts "expect the Democrats to regain control of the House or Senate in November, but many think they likely will pick up seats in both chambers and cut into the Republican advantage in governorships. Republicans have a larger number of vulnerable seats to defend, particularly in Democratic-leaning 'blue' states." Political analyst Stuart Rothenberg said, "This year still looks very much like a Democratic year, and the only question is how big a year it will be for the Democratic Senatorial Campaign Committee and the Democratic Congressional Committee. … At this point, Democratic gains appear to be inevitable." The Times identifies Senate race opportunities for the Democrats in

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Pennsylvania, Rhode Island, and Ohio, and for Republicans in Minnesota, Maryland, and New Jersey. In the House, "most analysts say Democrats could pick up a half dozen seats, well below the 15-seat gain they would need to win majority control." In the state houses, Democrats "appear likely to make modest gains…where Republicans hold a 28 to 22 advantage."

Dionne Says GOP Disunity Could Hurt Showing In Midterms. In his Washington Post column (1/3, A17), E.J. Dionne says, "The 2006 elections will determine whether Rove's brilliantly constructed machine has staying power or falls apart in the face of adversity. And there was adversity in abundance during 2005." But it is "three strikes and you're out: The social-issues right can't help Bush if its support drives away too many moderates. Pro-business economics can't help if it drives away many in the middle class. And the war on terrorism doesn't help if Bush is seen as managing it badly." It is "customary in columns of this sort to say somewhere around now that the Democrats will need to come up with a plan, a message, a program, etc., etc. I'm all for such things. But in 1958, 1966 and 1978, the out party gained ground largely by exploiting the failures of the party in power and exacerbating the contradictions in its coalition. If the Democrats prosper in 2006, it will be because whatever program they come up with achieves those goals."

Schneider "Political Earthquake" Required For Democrats To Retake Congress In 2006. William Schneider said on CNN's Lou Dobbs Tonight (1/2), "Ever hear of the six-year itch? It's a disease presidents often get after their party has held the White House for six years. The symptoms? Big setbacks for the president's party at the polls. It happened to the Democrats in 1938 and 1966. And to the Republicans in 1958, 1974, and 1986. On the average, the president's party lost 44 House seats and seven Senate seats in those elections. Democrats need to gain just 16 seats this year to win control of the House of Representatives, and seven to take over the Senate. Piece of cake? Not exactly. Very few seats change party these days. Most House seats are safe for one party, and only three Republican senators running for re-election are from blue states." It "would take a political earthquake for the Democrats to win control of Congress this year. But you know, earthquakes have been known to happen."

Barone Also Says Democrats Are Unlikely To Retake House. Michael Barone of US News and World Report said on Fox News' Special Report (1/2), "Democrats need a net gain of 15 seats to win the House, that doesn't seem very many. But if there are only 25 races that are very seriously contested, a net gain of 15 is pretty hard to achieve. So, [DCCC Chairman Rahm] Emanuel is trying to broaden the field and make some districts seriously contested that people would not have thought were in the past." Barone added that retaking the House is "a long shot for the Democrats."

Barnes Says Democrats Won't Win House Or Senate Control. Fred Barnes was asked on Fox News' Special Report (1/3) for his predictions for 2006. Barnes said, "I think Democrats will win House seats, but not the House. They'll win Senate seats, but not control of the Senate. I expect Arnold to be reelected as governor of California. And President Bush's job approval rating, which has bumped up to 50 percent in a couple of polls already. Will stay around 50 percent or higher for most of 2006." Barnes added, "The emerging star among Democratic presidential candidates is Russ Feingold, a Wisconsin senator. Among Republican presidential candidates is George Allen, the Virginia senator."

Trump Rules Out Gubernatorial Bid, Hints At Run For White House. The New York Post (1/3, Dicker, 624K) reports that Donald Trump on Monday "flatly ruled out running for governor this year -- but hinted he may go for president in 2008. Trump, in a phone call to The Post…declared, 'I'm not going to run for governor because I'm having too much fun doing what I'm doing now." While Trump "repeatedly ruled out a race for statewide office, he strongly suggested he was interested in entering the national political arena in 2008. Trump, who considered an independent run for president in 2000, pointedly noted that his decision not to run governor this year 'doesn't preclude me from doing something [political] in the future.' He then repeatedly ducked questions on whether he would consider running for the White House, repeating that he's too busy for electoral politics. But a political figure close to Trump told The Post, 'Donald is definitely interested in running for president in 2008, possibly as an independent candidate.'"

NYC Transit Strike Seen As Avoidable. In an op-ed for the New York Times (1/2) Meyer S. Frucher and Joseph M. Bress, former directors of the Governor's Office of Employee Relations for New York State, write, "New York City's transit workers are back on the job. … The city, meanwhile, lost an estimated $1 billion during a frigid holiday

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shopping week that saw seven million commuters stranded. There's a better way than this to get a contract, and we can institute it simply by building on existing New York state law." The authors note that Gov. Mario Cuomo "signed an amendment to the Taylor Law that specifically addressed transit negotiations, offering a binding arbitration procedure to break deadlocked talks."

Bolton Initiatives Would Give Security Council Members Enhanced Power. he Washington Post (1/2, A7, Lynch) reports John R. Bolton, the U.S. ambassador to the United Nations, "said he will start the new year by reinvigorating stalled efforts to restructure management of the world body, beginning with a controversial push to seek assurances that the Security Council's five major powers will be guaranteed posts on a new Human Rights Council. Bolton said in an interview that the Bush administration wants to ensure that the United States is never again denied membership in the United Nations' principal human rights body, as it was in 2001, when Austria, France and Sweden defeated a U.S. bid for membership in the Geneva-based Human Rights Commission. … The proposal is part of a broader drive by Bolton to place the five permanent Security Council members -- Britain, China, France, Russia and the United States -- at the center of U.N. decision making."

Musharraf Backs Off Pledge To Take On Madrassas. The New York Times (1/2, Masood) reports, "As the incendiary training at some of Pakistan's seminaries drew renewed focus in the weeks after the July 7 bombings in London, President Pervez Musharraf promised to bring the schools into the mainstream and expel their foreign students by the end of the year." But" his tough pledge has fizzled." Last week, "the government backed away from its deadline and said it would not use force to deport the students." The schools then "said they would resist any effort to round up the students, and on Sunday, a coalition representing the seminaries called the government's plan 'inhuman, immoral and totally illegal,' The Associated Press reported." The schools, called madrasas, "were once the Islamic equivalent of Sunday school. … Of the four suicide bombers in the London attacks, at least one had spent time at a madrasa here with connections to militant groups."

The Washington Times (1/2, Ansari) adds "Western intelligence agencies suspect that madrassas served as rendezvous points between senior al Qaeda operatives and Tanweer, Khan and other British recruits." Musharraf, however, "relented on Thursday after clerics said they would rather be incarcerated than comply with orders to expel foreigners or give their names to the authorities."

UN Asks To Interview Assad In Hariri Probe. The Financial Times (1/3, Biedermann) reports, "United Nations investigators on Monday said they want to interview Bashar al-Assad, Syria's president, and Farouq al-Shara'a, his foreign minister, in connection with the murder of Rafiq al-Hariri, Lebanon's former prime minister." The announcement "came days after Abdel-Halim Khaddam, Syria's former vice-president, indicated that Mr Assad might have been personally involved in the run-up to the murder." The UN probe "was awaiting answers from Syria after requesting to speak to Mr Assad, Mr Shara'a and others, a spokesperson for the commission said."

The New York Times (1/3, Fattah, 1.19M) says "the request compounds pressure on the Syrian government just days after a stunning public attack on the president by his former vice president raised new questions about whether the government had been complicit in the assassination." A spokesman for the United Nations investigation told The Associated Press "the commission had sent a request to interview Mr. Assad and Mr. Sharaa, among others," but "would not specify when the request was made. It was not immediately clear whether the request had any connection to the allegation by former Vice President Abdul-Halim Khaddam on Friday that Mr. Assad threatened Mr. Hariri's life months before the assassination."

Former Syrian Vice President Breaks With Assad On Hariri Probe. The Financial Times (1/2, Biedermann) reports, "Syria's former vice-president Abdel-Halim Khaddam said on Friday that he has 'full confidence' in the UN-investigation into the assassination. The UN-team, until recently led by the German prosecutor Detlev Mehlis, has implicated senior Lebanese and Syrian officials." Speaking on the Arab satellite television station al-Arabiya from Paris, "where he has been staying for the last couple of months," Khaddam "announced a break with his country's leadership. He blamed President Bashar al-Assad for a deterioration in Syria's international position. And he said that if Syria had indeed killed Mr Hariri, it could not have happened without the knowledge of Mr. Assad."

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Protestors Demand To Know Fate Of Missing Lebanese. The Washington Post (1/2, A1, Shadid) reports, "In the heart of downtown Beirut…women every day…protest demanding to know the fate of their children. Many believe they languish in jails in neighboring Syria. Others are not sure. Behind them, their children's faces stare from pictures tacked to billboards, blank faces with generation-old haircuts, the dates of their disappearances reading like a war memorial yet to be built. The protest…serves as a stark reminder, organizers say, that Lebanese society has yet to confront, much less resolve, the legacy of the most cataclysmic event in its modern history -- the 1975-90 civil war. Fifteen years later, that conflict is still shrouded in silence. Under a 1991 amnesty law, all but a handful of killings were placed beyond prosecution." The Post adds, "The protest's longevity reflects the changes unleashed by the departure of Syrian troops last spring after a 29-year presence. It is a sign of new transparency in public discourse as Lebanon."

Abbas May Delay Palestinian Elections. The New York Times (1/3, Erlanger, 1.19M) reports, "The Palestinian president, Mahmoud Abbas, on Monday raised for the first time the possibility of delaying legislative elections this month, saying the vote would be impossible if Israel did not allow residents of East Jerusalem to participate." Said Abbas, "We are all in agreement that Jerusalem has to be included in the election. … And if it is not included, all the factions agree that there will be no elections." But "a Hamas official in the Gaza Strip, Mahmoud Zahar, told reporters there had been no agreement to accept another delay." Hamas "agreed last summer to postpone the elections, originally scheduled for July, but has insisted on the vote's going ahead this month."

British Hostages Freed In Gaza. The Financial Times (1/2, Davi) reports, "Three Britons held hostage in the Gaza Strip were released by their kidnappers on Friday night, according to unconfirmed reports from Palestine. Human rights worker Kate Burton, 24, and her parents had been freed, Palestinian mediator Kamal Sharafi said. However, the Foreign Office in London was unable to confirm the reports." The Times adds, "Concern grew through the day over the fate of the Britons, after the Palestinian police chief earlier said there had been no demands or contacts from the unidentified hostage-takers."

Palestinian Security Officers Free Italian Hostage. The New York Times/AP (1/2) reports, "Palestinian security officers stormed a building on Sunday where an Italian hostage was being held, freeing the captive in a shootout with his kidnappers." It was "a rare show of force in a wave of kidnappings, shootouts and other violence in the Gaza Strip that has embarrassed the Palestinian president, Mahmoud Abbas, threatening to undermine his Fatah Party in Jan. 25 legislative elections and to strengthen Hamas, the Islamic militant group." The hostage, Alessandro Bernardini, an aide in the European Parliament, "was abducted early Sunday in Khan Younis." The Washington Times (1/2, Barzak) runs the same AP story.

Italian Tourists Taken Hostage In Yemen. The Washington Times (1/2, Mounassa) reports, "Yemeni tribesmen took five Italian tourists hostage yesterday -- one day after freeing a German family of five that included a former ambassador to Washington. Of the five Italians, three women refused to be released later in the day, insisting on returning to their male companions who remained in captivity, local officials said." It was "the fourth abduction of foreigners in the country in three months."

Ahmadinejad Reportedly Causing Unease Inside Iran. The Los Angeles Times (1/2, Siamdoust) reports, "On the surface, little seems to have changed in the Iranian capital since President Mahmoud Ahmadinejad took office in August. … But underneath the veneer of normality, Iranians are watching as their controversial president settles into office — and their country hardens under his fundamentalist leadership." The Times goes on to report, "To both insiders and outsiders, the political face of Iran seems to have drastically changed. … Ahmadinejad, draped in a Palestinian kaffiyeh, the scarf that he has appropriated to signal his struggle against perceived injustice, has stirred international ire with virulent anti-Israel rhetoric. Meanwhile, his habit of immersing politics in sacred Islamic tradition has chafed critics within Iran." According to the Times, "But even in Iran's mostly conservative parliament, the hard-line president has found himself unable to get traction. In a first for the Islamic Republic, lawmakers turned down four of the ministers Ahmadinejad asked them to approve. It took him three months and four candidates to seat an oil minister. Some reformist legislators even agitated for hearings on the president's 'lack of political competence.'"

Krauthammer Predicts Israel Will Attack Iran This Year. Syndicated columnist Charles Krauthammer, on Fox

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News Sunday (1/1, Wallace), predicted, "Israel will launch a military strike on Iranian nuclear facilities. There are rumors today in German newspapers that the U.S. and NATO are talking about this. I don't imagine the U.S. or NATO will do this." Israel "will feel that the world isn't acting, and it's going to act on its own."

Sharon To Undergo Heart Surgery. The AP (1/2, Federman) reports, "Israeli Prime Minister Ariel Sharon will undergo a heart procedure Thursday to close a small hole that apparently led to his recent stroke, his office announced Sunday." Doctors "said last week that the procedure, known as a cardiac catheterization, would virtually eliminate the risk of Sharon suffering a similar stroke."

In Abrupt Reversal, Russia Restores Most Gas To Ukraine Pipeline. The Washington Post (1/3, A12, Finn, 744K) reports, "Russia retreated abruptly Monday from its confrontation with Ukraine over natural gas prices, after an uproar in West European capitals over dead-of-winter cuts in gas supplies threatened to undermine Russia's ambition to expand its highly profitable role as a strategic energy partner of the European Union." The "state-controlled Russian energy giant Gazprom" said it "would almost completely restore reductions it made Sunday in the gas it pumps into Ukrainian pipelines that connect to the rest of the continent." The New York Times (1/3, Kramer, 1.19M) adds Gazprom "officials…presented the decision not as a reversal but as a response to Ukraine's 'theft' of natural gas." But "it became clear almost immediately that the driving force in Russia's decision was the sharp criticism across Europe, including countries like Germany that are usually reliable allies."

The Financial Times (1/3, Correspondents) says "European countries on Monday suffered large cuts to their gas supplies as a bitter stand-off between Russia and Ukraine over gas prices intensified. Supplies of Russian gas to Italy fell by 25 per cent, according to Eni, the country's biggest oil and gas supplier. Deliveries of Russian gas to France dropped up to 30 per cent, Gaz de France said. Many central and eastern European countries, which depend heavily on gas from Russia, reported even larger declines."

The Wall Street Journal (1/3, White, Cummins, 2.11M) notes "the sudden crisis highlighted concerns about Europe's dependence on Russia, which supplies a quarter of the continent's gas, at a time of growing fears that the Kremlin is using energy as a political weapon." The Christian Science Monitor (1/3, Weir, 61K) runs a similar report in which it says that "with 80 percent of Russian gas exports flowing through Ukraine, wintry Europe could be hard hit." The Washington Times/Reuters (1/3, Clothier) runs a similar story.

In an analysis piece, the New York Times (1/3, Chivers, 1.19M) says for "President Vladimir V. Putin and Russia, 2006 was supposed to be a banner year. Instead, it has begun badly, and with problems of the Kremlin's own making. The Kremlin, which labored in 2005 to distance itself from the ill will that accompanied its destruction of the Yukos oil company and the bungled handling of the rigged Ukrainian presidential election in 2004, has begun the new year with a display of politics and bullying, followed by partial retreat, that is raising fresh questions about its reliability as an international energy partner."

CNN's Lou Dobbs Tonight (1/2, Romans) said "critics of President Putin say he's using Soviet-style tactics to bully Russia's neighbors." In an editorial, the Wall Street Journal (1/3, 2.11M) says, "Putin certainly has a flair for timing. The Russian President is assuming the chairmanship of the G-8 democratic nations in the same week that he's been attempting some Soviet-style energy extortion against Ukraine. … The Kremlin's real goal here isn't money so much as political influence over its democratic, free-thinking and formerly subservient Slavic neighbor. A year ago Ukraine's Viktor Yushchenko used his 'Orange Revolution' to defeat the Kremlin's handpicked presidential candidate and turn toward the West. The energy squeeze is Mr. Putin's attempt at revenge, notably coming less than three months before Ukraine's parliamentary elections."

David Satter, who is "affiliated" with the Hoover Institution, the Hudson Institute and Johns Hopkins, writes in the Wall Street Journal (1/3, 2.11M), "With Sunday's accession of Vladimir Putin to the presidency of the G-8, post-Soviet Russia has achieved a new level of recognition and prestige as a democratic state. The recognition is undeserved. Instead of being democratic or even becoming democratic, Russia is daily sinking deeper into authoritarianism and lawlessness. … The Putin regime cannot ignore the views of G-8 colleagues. This is why the West needs to use all its influence to counteract Russia's self-destructive behavior."

Winter Weather Cuts Aid To Earthquake Refugees In Pakistan. The Washington Post/AP (1/3,

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A14, Khan) reports Pakistani earthquake survivors "struggled Monday to keep their children warm as the bitter winter hit Kashmir, grounding helicopter aid flights and blocking roads for the second straight day. … The Pakistan meteorological office forecast continued rain and snow for the next two days and low temperatures of 21 degrees Fahrenheit in the plains and 7 degrees Fahrenheit above 5,000 feet. For the second straight day, helicopters from the United Nations, foreign militaries and Pakistan's army were not able to deliver winterized tents, clothes, food and other provisions in the quake zone because of poor visibility, said Maj. Farooq Nasir, an army spokesman. They were trying to move supplies by truck, but mudslides and snow have also made some roads impassable, he said."

New Russian Law On NGOs Seen As Stifling Democracy. NBC Nightly News (1/1, story 10, 2:20, Mendenall) reported, "This week, Russia passed a new law that tightens the Kremlin's control over nearly a half million non-governmental organizations or NGOs, many of which have been critical of the president. Like Human Rights Watch, which says the Kremlin, irked by reports of human rights abuses, could use the new law to close it down. … The law also makes it harder to operate for other prominent US organizations promoting democracy, which Putin has accused of spying and supporting political revolutions on Russia's borders in Ukraine and Georgia, something the Kremlin doesn't want to spread much to Russia's borders."

Last Alternative Russian News Outlet Beset By Turmoil. The New York Times (1/2, Kishkovsky) reports, "Recent turmoil in the news department of REN-TV, Russia's last nationwide television network with independent news programming, has caused concern among media analysts and free-speech advocates in the country. … REN-TV has been known for critical news reporting that offered an alternative to state channels' uniformly positive coverage of President Vladimir V. Putin, media analysts said. Its signal reaches more than 113 million people, although its audience share hovers around 5 percent."

Taiwan's President Calls For Increased Defense Spending. The New York Times (1/2, Bradsher) reports Taiwanese President Chen Shui-bian "called Sunday for increased arms purchases and warned against greater economic ties to mainland China, in a televised speech that silenced months of speculation that he might soon seek to improve relations across the Taiwan Strait." The Times notes, "The speech was Mr. Chen's first major policy address since his Democratic Progressive Party fared badly in islandwide municipal elections on Dec. 3. … The Nationalist Party, which favors closer relations with Beijing, did much better in those elections."

Pakistan Negotiating Purchase Of Chinese Nuclear Reactors. The Financial Times (1/3, Bokhari) reports, "Pakistan is negotiating the purchase of between six and eight nuclear power reactors from China during the next decade in the most ambitious expansion yet of the country's nuclear energy capability. … The plants are expected to be completed by 2025, with construction starting by 2015, a senior Pakistani official told the Financial Times."

Sudanese Refugees In Egypt Vulnerable Following Deadly Riot. The New York Times (1/3, Slackman, 1.19M) reports, "Hundreds of Sudanese have been released from police detention camps onto the streets of this city with no money, no place to live - and in many cases, no shoes - three days after the riot police attacked a squatter camp set up as a protest to press the United Nations to relocate the migrants to another country. … The attack officially left 26 dead, including seven small children, and many others injured." The Times adds, "So many were left dead, and the international condemnation was so embarrassing, that President Hosni Mubarak has told the attorney general to investigate. But the government's official position is that the Sudanese were to blame. Magdy Rady, the government's chief spokesman, said the Sudanese injured their own people by trampling those who collapsed, and he said they also attacked the police, injuring more than 70 officers." The Times notes, "The Sudanese were unarmed and many were barefoot. The police were wearing riot gear, including helmets with face shields, and wielded truncheons."

Korean Retailers Exert Power In China. The New York Times (1/2, Onishi) reports, "At Korea City, on the top floor of the Xidan Shopping Center, a warren of tiny shops sell hip-hop clothes, movies, music, cosmetics and other offerings in the South Korean style. To young Chinese shoppers, it seemed not to matter that some of the products, like New York Yankees caps or Japan's Astro Boy dolls, clearly have little to do with South Korea. Or that most items originated, in fact, in Chinese factories. … From clothes to

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hairstyle, music to television dramas, South Korea has been defining the tastes of many Chinese and other Asians for the past half decade."

Morales Election Seen As Evidence Of Castro's Growing Influence. The Washington Post's Jackson Diehl (1/2) writes, "Here's a sad but safe new year's prediction: U.S. relations with Latin America, which plunged to their lowest point in decades in 2005, will get still worse in 2006." Bolivia's Evo Morales "will probably take instruction from Chavez, Kirchner and Fidel Castro -- who at age 79 must believe he is finally seeing the emergence of the totalitarian bloc he and Che Guevara tried and failed to create in the 1960s."

Bolivia's Morales Says He Will Be America's "Worst Nightmare." Time (1/9, Padgett) reports that Bolivia's President-elect Evo Morales "won a stunning landslide in last month's election in no small part because he pledged to legalize far more cultivation of coca, which Aymara Indians like him have chewed for centuries for traditional medicinal purposes and which the U.S. has tried for decades to eradicate in Bolivia because drug traffickers use it to make cocaine. Morales impishly claims that coca-leaf extract is part of the formula of the classic American beverage Coca-Cola (a legend the company has consistently declined to comment on) and adds, 'It's not right that exporting coca is legal for Coca-Cola but not for the rest of us!' The Yankee baiting is part of Morales' stated intention to be the U.S.'s 'worst nightmare.'" The Bush Administration "has reason to be spooked. Morales' win has helped build momentum for a resurgence of leftist and often anti-U.S. candidates around Latin America. At least nine presidential races are slated for the region this year, and leftists could win at least five -- including those in the two most populous countries, Brazil and Mexico, as well as in coca producers like Peru and Ecuador. Leftists have toppled conservative governments in Uruguay and Honduras, and socialist Michelle Bachelet is favored to win Chile's presidential runoff on Jan. 15. To punctuate the situation, the radical left-wing President of oil-rich Venezuela, Hugo Chavez…is all but certain to be re-elected at year's end."

Ivory Coast Military Installation Attacked. The New York Times/AP (1/3) reports, "Gunmen attacked the main military barracks in Abidjan, Ivory Coast's largest city, on Monday, with gunfire and heavy explosions that shook the surrounding area, authorities said. The armed forces chief, Gen. Phillipe Mangou, said that the attack occurred around 6 a.m. at Camp Akuedo, and that military forces had repulsed it. There was no word on who carried out the assault."

Subsistence Farming Said To Encourage Child Labor In Ethiopia. The Washington Post (1/3, A1, Wax, 744K) reports Ethiopia "has one of the highest rates of child labor in the world," according to the UN. Nine million children "are employed, 90 percent of them in the agricultural sector. … Factors pushing children into the fields include ancient farming techniques, overworked land, the AIDS epidemic and a booming population of 74 million." The Post notes, "It is also an impoverished rural society where 85 percent of the population farms two-acre plots of land, too small to turn a profit, and nearly every plot is worked to exhaustion. Studies have shown that cultures dependent on subsistence farming also have the highest rates of child labor."

Former Political Prisoners Detail Burmese Junta's Abuses. The Washington Post (1/3, A12, Sipress, Nakashima, 744K) reports on Burmese political prisoners Min Ko Naing and Myo Myint both of whom "passed more than a third of his life in prison when both were released in 2004. Min Ko Naing, 44, remained in Burma, under scrutiny of the secret police. Myo Myint, 43, fled to a small town just over the border in Thailand. Their testimony, provided in separate interviews last month, highlights the psychological and physical abuse endured by political prisoners in Burma, which is ruled by a military junta. More than 1,100 people remain in jail for seeking democratic reform, according to Amnesty International. The two men's accounts reveal how determined they remain to press for social change despite torture inside prison walls and only the remote prospect for a shift in power outside them. Myo Myint now works with a group advocating prisoner rights. Min Ko Naing is urging the government and its opponents to set aside political differences to ease the country's deepening poverty and treat spreading disease."

Strike Follows Purge At Beijing Newspaper. The Christian Science Monitor (1/3, Marquand, 61K) reports, "An emotional strike by 100 journalists at [Beijing's] most popular and lively newspaper follows a 16-month campaign to quash a broad range of 'unapproved' public speech in areas verging on politics or society. … In the case of Beijing

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News, whose progressive editor Yang Bin was replaced without warning last week, Chinese authorities dealt a seemingly fatal blow to a publishing project that two years ago gave the press some freedom to experiment. Last June the paper reported on violent land disputes in Hebei province, and last month, in what may have precipitated the purge, it published tame, but independent, stories on the official coverup of a massive benzene chemical spill in the Songhua River. Last Thursday, in a gritty south Beijing neighborhood, nearly 100 reporters left the news offices. They began a short-lived strike - a rarity in China - and signed a petition asking for Mr. Yang's reinstatement."

Kirchner Seen As Moving Argentina To Left. The New York Times (1/3, Rohter, 1.19M) reports, "Just four years ago, Argentina's economy was prostrate and its politics in chaos, after a financial crisis resulted in bank deposits being frozen, the government defaulting on more than $100 billion in debt and five presidents holding office in two weeks. But on Tuesday, the country is expected to pay off the last of its debt to the International Monetary Fund and simply walk away from further negotiations with the group. … The $9.8 billion payment is an important symbolic milestone and just one of several recent signs that President Néstor Kirchner appears to be concentrating more power in his own hands and steering his government to the left. Since a midterm election victory in October, Mr. Kirchner has also moved to establish an alliance with Venezuela's populist leader, Hugo Chávez, and, as a traditional Peronist, to extend the hand of the state deeper into the economy, the judiciary and the news media."

LATimes Says North Korea Worsening Famine With Secrecy. The Los Angeles Times (1/2) editorializes, "Many third world countries would have been driven to the wall by back-to-back years of floods and drought. But North Korea, which suffered nature's disasters a decade ago, makes its problems worse with its leader's paranoid, Stalinist determination to isolate the nation from outsiders. For 10 years, the United Nations' World Food Program has done what it could to limit the number of deaths by famine, providing millions of tons of food worth more than $1 billion. When Pyongyang sometimes refused to let U.N. officials visit a province, the organization cut off the food. Its policy of 'no access, no food aid' is necessary to ensure that dictators such as North Korea's Kim Jong Il don't take the milk and grain and give it to their soldiers and trusted civil servants, rather than those who need it most. But now North Korea has forbidden private charities and the U.N. agency to deliver food. Pyongyang claims an improved harvest last year, and help from China and South Korea, will provide enough to feed its 23 million people. But outside experts are doubtful. A more likely reason for stopping food aid is to keep foreigners away and increase the already tight control by Kim's regime."

NYTimes Says Administration "Name-Calling" Against Korea Is Counter Productive. The New York Times (1/3, 1.19M) editorializes, "Calling North Korea nasty names is easy and satisfying. Negotiating is hard and frustrating. So for four years, the Bush administration put more creative energy into name-calling than into serious talks. The main result was that the North moved four years further along toward being able to threaten its neighbors with nuclear weapons. … The North can afford to take its time over resolving the nuclear issue, wasting diplomatic energy on disruptive and bullying tactics. The United States cannot afford that luxury. It makes little sense for the Bush administration to return to name-calling or to rule out high-level talks on the Patriot Act sanctions." According to the Post, "The window that briefly opened for diplomacy after John Bolton moved from nonproliferation issues to the United Nations is once again in danger of being slammed shut, reportedly at the urging of Vice President Dick Cheney and Mr. Bolton's successor in the nonproliferation job, Robert Joseph."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"Cantonese Is Losing Its Voice."
"Voting System Results Still Out."
"New Beginning In U.S. Comes At Agonizing Cost."
"W. Virginia Blast Leaves 13 Coal Miners Trapped."
"Storm Stoked By Fierce Winds."
"Rain Dampens Everything But Spirit."

USA Today:

"Hospital Building Booms In 'Burbs."
"Dangerous Gas Hinders Effort; Mine Had Safety Citations."
"Bush Entering A Tough Time For Two-Termers."

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New York Times:
"New Rules Set Fr Giving Out Antiterror Aid."
"Russia Restores Most Of Gas Cut To Ukraine Line."
"Blast Traps 13 In A Coal Mine In West Virginia."
"As Argentina's Debt Dwindles, President's Power Steadily Grows."
"Owners' Web Gives Realtors Run For Money."

Washington Post:
"Independence To End Flights On Thursday."
"Pr. George's Community A Sanctuary No More."
"U.S. Cedes Duties In Rebuilding Afghanistan."
"As Rural Ethiopians Struggle, Child Labor Can Mean Survival."
"Obese Patients Increase Need For Specialized Medical Care."
"West Virginia Mine Explosion Traps 13."

Washington Times:
"Redskins Celebrate Long Awaited Playoff Return."
"Discount Carrier To Stop Flying."
"Europe Spurs Russia To Turn On Gas."
"Iraq, Economy Return To Top Of Bush Agenda."
"Saddam Prefers Death By Shooting."
"13 W. Va Miners Trapped By Blast; Resuce Team Sent."

Atlanta Journal-Constitution:
"Bulldogs Lose Nail Biter At Dome."
"Crews Dig For Miners."
"Storms Rake Metro Area."
"A Tiny Town That's Fit To Be Tied - Twice."

Dallas Morning News:
"Town Destroyed By Fire."

Houston Chronicle:
"Abramoff Plea Bargain Announcement Expected."
"Strayhorn Declares She'll Run As Independent."
"Fed Up With Gunshots, One Man Calls On The Angels."
"Absentee Ballots Show Turn In Mexico's Politics."
"4 KBR Contractors Killed In Collision At Iraq Base."
"Texans Let Capers, Two Top Assistants Go."

Story Lineup From Last Night's Network News:
ABC: Preempted by College Football.
CBS: WV Mine Accident; TX-OK Brushfires; CA Flooding; Abramoff Plea Bargain; Food Labels; American Heroes; Iraqi Burials; Japan Birthrate.
NBC: WV Mine Accident; Mine Accident Analysis; Mine Accident Witness; CA Flooding; TX-OK Brushfires; NY Plane Accident; Credit Card Payments; Iraq-Oil Prices; Indonesia Flooding; Germany-Ice Rink Collapse; Iraq-US Teen.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: WV-mine explosion; CA-levee repairs; CA-heavy rains; OK, TX-wildfires.
CBS: WV-mine explosion; CA-heavy rains; OK, TX-wildfires.
NPR: WV-mine explosion; Independence Air shut down; Haiti-presidential candidate arrested; Germany-ice rink collapse; CA-heavy rains; Midwest, South-tornadoes; Israel-Gaza car bombing.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH – Participates in a meeting on the Patriot Act, Roosevelt Room, White House. Pool at bottom.

VICE PRESIDENT CHENEY – No public schedule.

US Senate: FLOOR SCHEDULE _ 12 p.m. The Senate will convene for a pro forma session. Notes: Once today's session adjourns, the Senate is not expected to meet until 10:00 a.m. on Wednesday, Jan. 18, 2006.

US House: No Scheduled Events.

Other. ASSOCIATION OF AMERICAN LAW SCHOOLS _ The Association of American Law Schools holds their five day annual meeting. Workshops and plenary sessions for law professors, researchers and professionals. Topics will include the Iraqi Constitution, educational diversity, balancing life in law school, religious law, contracts, economics and international law. Location: Most events at Washington Marriott Wardman Park, 2660 Woodley Road NW.

URBAN SECURITY-CHERTOFF _ 10:30 a.m. Homeland Security Secretary Michael Chertoff participates in a news conference on 2006 Urban Area Security Initiative Grants. Location: Building 21, Nebraska Avenue Complex, 3801 Nebraska Ave, NW.

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From: Miller, Charles S
Sent: Tuesday, January 03, 2006 10:53 AM
To: Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wiggins, Mike; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 1/3/06 Civil Division News

FEMA: Evacuees in Hotels Get New Deadline

Move to scuttle Hamdan, Al Odah cases?

Ninteen charged in odometer fraud

Couple say Logan security screener took $7,000 ring; Suit seeks to have jewelry replaced

AP

January 3, 2006

FEMA: Evacuees in Hotels Get New Deadline

By KEVIN McGILL

Associated Press Writer

NEW ORLEANS_Hurricane Katrina evacuees around the nation who faced a Jan. 7 deadline for checking out of their government-funded hotel rooms have received a reprieve: Federal\l "l" officials will keep paying for the rooms beyond that date as they iron out issues arising from a class\l "l"-action\l "l" lawsuit.

One issue: The Federal\l "l" Emergency Management Agency, which inherited the program from the American Red Cross, still does not have up-to-date records on the identities of evacuees in the hotel program or where they are staying, according to court papers filed last week by government lawyers.

Under a federal judge's ruling last month, FEMA is required to keep the hotel program running until Feb. 7. However, U.S. District Judge Stanwood Duval said FEMA could stop paying for hotel rooms beginning Jan. 7 _ Saturday _ for evacuees who have been approved or disapproved for other FEMA housing aid, such as a trailer or rental assistance.

Now, the Jan. 7 date no longer holds, according to a flier being distributed to hotels in the program. It says: "The program will continue for all evacuees in all states until further notice pending the resolution of certain issues now in litigation."

FEMA's decision to continue the program for everyone beyond the Jan. 7 date stems from some confusion about the judge's Dec. 12 order, which was issued in a class-action lawsuit filed in November on behalf of thousands of Katrina evacuees.

Government attorneys said in court filings last week that Duval's order is unclear as to whether it covers evacuees who

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have failed to apply yet for FEMA assistance, and whether FEMA can require evacuees who are staying in the hotels to identify themselves by registering.

As government lawyers sought a clarification from the judge, attorneys for evacuees expressed concern that amid the uncertainty, some people who are entitled to stay in the hotel program might be evicted.

"If you can't be certain who's in the hotel, it's indicative of the fact that you may be evicting some of our clients," said Danny Greenberg, one of the attorneys pressing the lawsuit.

FEMA spokeswoman Nicol Andrews on Monday: "We've always said we're not going to put anyone on the street." Andrews stressed that FEMA does not intend to stop funding for any evacuee whose eligibility for further assistance had not been determined.

The Red Cross began the hotel program in September. FEMA funded the program from its inception and took over its operation from the Red Cross in October.

As of mid-December, FEMA was footing the bill for an estimated 41,000 rooms, and the program had cost the agency $350 million.

END

Scotus Blog

Monday, January 02, 2006

Move to scuttle Hamdan, Al Odah cases?

Posted by Lyle Denniston at 11:59 AM

The Bush Administration appears to be preparing to try to scuttle the two most significant pending cases on the legal rights of foreign nationals now being held at the terrorism prison at Guantanamo Bay, Cuba. One of those cases has been granted review by the Supreme Court, the other is awaiting a decision in the D.C. Circuit Court.

President Bush himself signaled this strategy of challenge in a statement last Friday that got little mention in the media, during the holiday lull. His remarks, made at his ranch in Crawford, Texas, came as he signed into law a new defense authorization bill, H.R. 2863, that contains the "Detainee Treatment Act of 2005" as part of its Title X, "Matters Relating to Detainees." (The full text of the President's signing statement can be found here. The discussion of the detainee issue is in the eighth paragraph, which begins "The executive branch shall construe Title X...")

(UPDATE: The White House, it turns out, actually issued two statements by the President on this new legislation. A markedly different version, while shorter, was more explicit in the President's claim that Congress had acted to wipe out the detainees' cases. In this other version, Bush said flatly: "I also appreciate the legislation's elimination of the hundreds of claims brought by terrorists at Guantanamo Bay, Cuba, that challenge many different aspects of their detention and that are now pending in our courts." There was no public explanation for the differences in the two statements, and it was not clear it what sequence they were issued, although the shorter one has a later number in the White House press release file on the Web. The shorter version can be found here.)

This challenge will clearly be aimed at *Hamdan v. Rumsfeld* (05-184), an appeal that the Supreme Court agreed on Nov. 7 to hear and decide in the current Term. That case involves Salim Ahmed Hamdan, a Yemeni national who is facing war crimes charges before a "military commission" at Guantanamo. The case challenges the constitutionality of those special commissions. Hamdan's brief is due in the Court this Friday.

The other cases being targeted are *Al Odah, et al., v. U.S., et al.,* that the D.C. Circuit heard on Sept. 8, and are awaiting a ruling by a three-judge panel. (The lead case is docketed in the Circuit Court as 05-5064). This involves a series of *habeas* challenges by Guantanamo prisoners to their capture and prolonged detention by the U.S. military.

The Administration also will be seeking to head off any future *habeas* challenges by any other detainees who are foreign nationals.

At this point, it is unclear whether the Administration will initiate on its own the planned new challenge to the pending cases, or whether it will await a possible invitation by the courts for further briefing on the fate of those cases. Given how energetically the Administration has pursued its legal aims during the war on terrorism, it would be no surprise if it moved quickly to assert its new move to keep the courts from reviewing its wartime actions.

Conceivably, defense lawyers could initiate the issue, too, in an attempt to get their views before the courts first. These lawyers, equally energetic in defending their clients, are expected to vigorously oppose the Administration's strategy, and to contest its reading of the new legislation. In addition, if the new law is construed as the Administration does, the defense teams are expected to contend that it goes beyond Congress' constitutional powers.

Because the dispute here turns on the courts' jurisdiction, both the courts themselves and the attorneys involved have an obligation to address it before any move is made toward a final decision on the merits.

These new developments are the outgrowth of the passage by Congress of what has been called "the Graham-Levin amendment" to H.R. 2863. That is the potentially court-stripping provision that President Bush signed into law on Dec. 30, along with the remainder of H.R. 2863.

The President said that he and his legal advisers "shall construe section 1005 [of the new Detainee Act] to preclude the Federal courts from exercising subject matter jurisdiction over any existing or future action, including applications for writs of habeas corpus..."

Clearly acting upon interpretations made by White House and Justice Department lawyers, Bush cited three bases for the court-stripping interpretation: first, the "constitutional authority of the President" and the constitutional limits on the courts' power; second, the Supreme Court's April 24, 2001, decision in *Alexander, et al., v. Sandoval*, strictly limiting individuals' right to file court cases to protect their rights unless Congress explicitly creates such a right; and, third, the language of "the Graham-Levin amendment" as finally enacted.

The sweeping claims of the President's power "to supervise the unitary executive branch" and his power as Commander in Chief are familiar in war-on-terrorism cases. The interpretation of the impact of the amendment on pending cases was expected, in view of somewhat cloudy language written by Congress about the effective date of the new law's detainee provisions. That uncertainty also shows in legislative debates on the impact of the new amendment.

What is novel about the President's statement is the reliance upon the *Sandoval* decision. Even though the Supreme Court in its first detainee decisions, in 2004, ruled that detainees do have a right to file *habeas* challenges, the Administration's lawyers appear to be preparing to argue that the new detainee act overrides that decision, because it fails to create any "private right of action" for detainees.

My blogging colleague, Marty Lederman, has an excellent post on the Balkinization blog on the President's signing statement, including discussion of the government strategy on Congress' attempt to limit torture of detainees. His post, here, also includes links to the final language of the detainee and torture provisions.

When the fate of the Hamdan case in the Supreme Court arises, as it will sooner or later this Term, Chief Justice John G. Roberts, Jr., presumably will not join in acting on it. He has taken himself out of any role in that case, because he was a judge on the D.C. Circuit case that decided the case below. Thus, only eight Justices will deal with the question of jurisdiction.

The full Court, however, is expected to act on the other move by the Bush Administration to avoid another ruling on a key war-on-terrorism case: the case of Jose Padilla, a U.S. citizen designated an "enemy combatant" but recently charged in civilian court with terrorism-related crimes. The Court has not yet granted or denied Padilla's petition (*Padilla v. Hanft*, 05-533), nor has it acted yet on the dispute that has arisen over whether the case is now moot in view of the criminal charges. The mootness issue is related to a second controversy, over whether the courts will now approve Padilla's transfer from military custody to civilian custody. The Court may act promptly on the transfer question. It is scheduled to consider Padilla's petition for review on Jan. 13, but conceivably that could be moved up.

END

AP

Published Monday, January 2, 2006

Ninteen charged in odometer fraud

EAST ST. LOUIS, Ill. (AP) - Nineteen people accused of tampering with truck odometers in a scheme to inflate the value of the vehicles will face trial in federal court in East St. Louis.

In October and November 2003, buyers looking for new trucks traded in what appeared to be low-milage models at three southern Illinois dealerships. But the trucks had actually traveled long distances with their odometers disconnected, federal prosecutors said.

The group received trade-in values inflated by about $10,000 per vehicle at Metro Chrysler Centre in Columbia, Steve Schmitt Motors in Greenville and a company in Lawrenceville, near the Indiana border, officials said.

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"They came across as very legit," said Brian Lord, owner of Metro Chrysler.

Most of the suspects were from Memphis, Tenn., but the scheme was also carried out in Iowa, Nebraska and Texas, with a total loss to dealerships estimated at $413,000, prosecutors said.

Federal authorities were first notified of the alleged scheme by investigators in Indiana and the National Insurance Crime Bureau, said Postal Inspector Dan Taylor.

The suspects were indicted on Dec. 15 on charges that included mail and wire fraud, odometer tampering and making false odometer statements. They were scheduled to appear in court last week, but the appearance has been postponed to Jan. 13. The fraud charge carries a maximum penalty of 20 years in prison, while the odometer charges have three-year maximum prison sentences.

END

Boston Globe

January 3, 2006

Couple say Logan security screener took $7,000 ring; Suit seeks to have jewelry replaced

By Shelley Murphy, Globe Staff

A Somerset schoolteacher has filed a federal lawsuit accusing a screener of stealing his diamond wedding ring last summer while he was passing through a security checkpoint at Logan International Airport.

John Wright said he put his ring, a 1.53-carat diamond set in gold, into a plastic bin with his Rolex watch and wallet. He said he then placed the bin on the conveyer belt as he and his wife, Janet, passed through the checkpoint to catch a flight to San Juan on July 14.

After walking through the metal detector, Wright said, he went to retrieve his belongings from the bin, but the ring, valued at $7,000, had vanished.

"I hadn't even gone 15 feet on my vacation and I was robbed," Wright said. He immediately began shouting that his ring was missing, he said, prompting the three Transportation Security Administration screeners who were at the checkpoint to search around the conveyer belt, without success.

Ann Davis, a spokeswoman for the federal TSA, said she couldn't comment on the specifics of Wright's case because of the lawsuit, but that the agency does not tolerate workplace theft and aggressively investigates all complaints.

Wright, 51, who lives in Tiverton, R.I., and teaches health at Somerset Middle School, said he suspected that one of the TSA screeners took the ring because there were no passengers in front of him as he went through the checkpoint and his wife was directly behind him.

A TSA supervisor summoned to the scene said he couldn't search or question the employees, according to the Wrights, because there was no evidence that they had taken the ring.

Janet Wright said they were told that only one end of the conveyer belt was monitored by a security camera, and a review of the videotape from that camera only showed her husband picking up the plastic bin and yelling, "My ring! My ring!"

"I was shocked when I found that out," said Janet Wright. That discovery only bolstered the couple's belief that the ring had been stolen by a TSA employee, she said, because the screeners would have known the theft could not be caught on camera.

After TSA denied a claim seeking $7,000 to replace the ring, Wright filed suit in US District Court in Boston last month against the federal government alleging that TSA negligently allowed the ring to be stolen and failed to provide a secure checkpoint. The suit seeks reimbursement for the ring and attorney's fees.

Davis declined to address the Wrights' assertion that only one side of the checkpoint, located in Terminal B, was monitored by a security camera. "Ultimately, we don't want to confirm where cameras are or aren't for security reasons," she said.

But, she added, "there are a substantial amount of cameras throughout the terminal and at the checkpoint to cover the area and certainly to deter any criminal activity."

Between February 2002 -- when TSA assumed responsibility for screening passengers and baggage -- and last October, 165 TSA screeners have been arrested for theft at airports throughout the country, according to Davis. None of those arrests occurred at Logan.

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On five occasions, twice in 2005 and three times in 2004, passengers have accused TSA screeners at Logan of stealing property, Davis said. Passengers reported property stolen from checked baggage and at checkpoints, but in all cases the employees were cleared of any wrongdoing and allowed to remain on the job, she said.

She also said that none of the screeners accused of theft in the past had been on duty at the checkpoint on the day Wright's ring was lost.

Davis said the number of TSA screeners caught stealing is small, considering that the agency has 43,000 screeners at airports nationwide and about 740 in Boston.

Still, there have been a number of highly publicized cases around the country. In some instances, screeners have been accused of stealing cash from purses or wallets at checkpoints. But most cases involve checked baggage.

Four former TSA screeners pleaded guilty last year to stealing laptops, cameras, and other items from checked baggage at Detroit Metropolitan Airport. Complaints from passengers, including celebrities Chevy Chase, Joan Rivers, and Susan Lucci, that items were taken from their luggage triggered an investigation that led to the arrest in 2004 of four TSA screeners from LaGuardia Airport and John F. Kennedy International Airport in New York.

The Wrights voiced dismay at how their complaint was handled, saying the TSA supervisor who was summoned to the checkpoint did not call State Police and gave them an 800 number to call to report a lost or stolen item.

But Davis said it is not standard operating procedure at Logan for TSA to call State Police every time a theft is reported by a passenger. Passengers may choose to file a complaint with the police, however.

"We will, of course, interview the screeners if they've been accused of stealing," said Davis, but she said employees aren't searched if there's insufficient evidence to warrant it.

The Wrights, who have been married for 27 years, said TSA denied their claim without a thorough investigation, leaving them with no choice but to sue.

"We felt we were in a secure area," said Janet Wright. "We followed instructions, they told us to remove items. . . . We got to the other side and one of our valuables is missing," she said.

END

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Image not available for this document, ID: 0.7.10316.58672-000001

USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Wednesday, January 04, 2006 8:29 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing for Wednesday, January 04, 2006
Attachments:	agnb060104.pdf; agnb060104.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, JANUARY 4, 2006 7:45 AM EST

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TERRORISM NEWS:

NSA Conducted Domestic Eavesdropping Before White House Authorization. The Washington Post (1/4, A3, Linzer, 744K) reports that even before "the White House formally authorized a secret program to spy on U.S. citizens without obtaining warrants, such eavesdropping was occurring and some of the information was being shared with the FBI, declassified correspondence and interviews with congressional and intelligence officials indicate." On Oct. 1, 2001, "three weeks after the Sept. 11 terrorist attacks, Gen. Michael V. Hayden, who was running the National Security Agency at the time, told the House intelligence committee that the agency was broadening its surveillance authorities, according to a newly released letter sent to him that month by Minority Leader Nancy Pelosi (Calif.)." In an October 11, 2001 letter, Pelosi said, "I am concerned whether and to what extent the National Security Agency has received specific presidential authorization for the operations you are conducting." The Post adds the "secret NSA program, developed in the immediate aftermath of the attacks on Washington and New York as a way to find any hidden al Qaeda operatives still in the United States, was authorized in October 2001, a senior administration official said."

The New York Times (1/4, A1, Lichtblau, Shane, 1.19M) reports the NSA "acted on its own authority, without a formal directive from President Bush, to expand its domestic surveillance operations in the weeks after the Sept. 11 attacks, according to declassified documents released Tuesday." The Pelosi letter "also suggested that the security agency, whose mission is to eavesdrop on foreign communications, moved immediately after the Sept. 11 attacks to identify terror suspects at home by loosening restrictions on domestic eavesdropping." Bush Administration officials "said on Tuesday that General Hayden, now the country's No. 2 intelligence official, had acted on the authority previously granted to the N.S.A., relying on an intelligence directive known as Executive Order 12333, issued by President Ronald Reagan in 1981. That order set guidelines for the collection of intelligence, including by the N.S.A."

The AP (1/4, Shrader) reports Pelosi's letter shows the "congressional intelligence committees had at least a hint in October 2001 that the National Security Agency was expanding its surveillance activities after the 9/11 attacks." It "appears that Hayden may have at least alluded broadly to the new surveillance work with a wider audience of House and Senate intelligence committee members during the classified October briefing. According to Pelosi's letter,

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Hayden spoke about the agency's new posture to expand its operations."

Cheney To "Aggressively Defend" NSA Program In Wednesday Speech. CNN's The Situation Room (1/3, Bash) reported that Vice President Dick Cheney will "talk about the NSA secret surveillance program in a speech tomorrow. An administration official tells CNN that he will aggressively defend the NSA program much like he did in an interview with CNN a couple of weeks ago, saying point blank that the White House has not violated the law and take on critics who say that they have."

NYTimes Reporter Says Administration Eavesdropped On Thousands Of Americans. NBC Nightly News (1/3, story 6, 2:00, Mitchell) last night interviewed New York Times reporter James Risen, who discussed his story on the Bush Administration's domestic use of the National Security Agency. NBC notes that while the Administration says it "secretly eavesdrop without warrants on only a few 'enemies' as the President claimed on Sunday," Risen "says in a book out today it was a lot bigger than that." Risen: "They were eavesdropping on roughly 500 people in the United States every day over the past three or four years. That adds up to potentially thousands of people." Mitchell: "James Risen writes that after 9/11, the Administration got companies to route more international calls through the US, to make it easier for the NSA to spy on terrorists." Risen: "You could listen to all 250 million Americans and that would be a very effective counter terrorism tool, the question is where is the balance between security and civil liberties." Mitchell: "Today, the White House again defended the spying." White House spokesman Scott McClellan: "What we're talking about is looking at international calls involving known Al Qaeda members or affiliated organizations."

NYTimes Criticizes Investigation Of NSA Program "Whistle-Blowers." The New York Times (1/4, 1.19M) says in an editorial, "A democratic society cannot long survive if whistle-blowers are criminally punished for revealing what those in power don't want the public to know - especially if it's unethical, illegal or unconstitutional behavior by top officials. Reporters need to be able to protect these sources, regardless of whether the sources are motivated by policy disputes or nagging consciences. This is doubly important with an administration as dedicated as this one is to extreme secrecy. … Illegal spying and torture need to be investigated, not whistle-blowers and newspapers."

LATimes Says Comey's Objections Are Revealing. The Los Angeles Times (1/4, 958K) says in an editorial, "James B. Comey can hardly be considered soft on terrorism. As deputy attorney general, he has been one of the Bush administration's chief prosecutors of the war on terror, pursuing accused bombers and terrorists from Riyadh to Chicago. So his refusal to approve the administration's warrantless wiretaps of Americans cannot simply be dismissed as the rantings of an Al Qaeda apologist." But Comey's objections, "made in 2004 and first reported Sunday in the New York Times, do more than rob the president and his defenders of one of their favorite arguments. The article was based on the accounts of unnamed administration officials, and Comey isn't giving the reasons for his opposition to the National Security Agency's domestic surveillance program. But they're easy to guess."

More Commentary. In a column posted on National Review Online (1/4), Rich Lowry writes, "Is it written somewhere that the Constitution can be violated only by the president? One would think so, given the debate over the secret National Security Agency program to monitor, without court approval, calls between suspected al Qaeda operatives overseas and people in the United States. Opponents of the program say President Bush has trashed the Constitution, in particular the Fourth Amendment's prohibition against unreasonable searches. … The Constitution, however, doesn't exist solely to constrain the executive, as those braying about the NSA wiretaps seem to suggest. It confers powers on the executive as well as limiting them. If those powers are abridged by another branch of the government, the Constitution is being violated — and not, obviously, by the president." Lowry adds, "Thus, only one player so far in the NSA controversy has been held by a court to have probably violated the constitution, and he's a judge. Judge James Robertson resigned from the Foreign Intelligence Surveillance Act court — the secret court that approves domestic wiretaps related to national security — to protest the NSA program, making him something of a cause celebre among Bush bashers. But he's an odd hero, given that his contribution to the debate over the executive's surveillance power was a flagrant error." Lowry concludes, "Like it or not, the president has the constitutional authority to wage the war on terror. His detractors don't like it, so they pretend the authority doesn't exist, and trample on the Constitution in the process."

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The Seattle Post-Intelligencer (1/4) editorializes, "It's hard to imagine that the Republican-led Congress is up to the job of unraveling the Bush administration's spying scandal. There's no other truly proper forum, however." The P-I continues, "At least in theory, some of the work could start in the Justice Department. As the American Civil Liberties Union has suggested, Attorney General Alberto Gonzales should appoint an independent counsel to look at possible crimes in the warrantless monitoring of Americans' communications. … But that appears unlikely. Instead, Gonzales' Justice Department has shamelessly launched an investigation to find who tipped The New York Times and the public to President Bush's approval of the wiretaps. Worse, Gonzales himself was involved in the spying decisions while serving as White House counsel. The Times reported that Gonzales, in March 2004, went to a hospital to try to talk then-Attorney General John Ashcroft into setting aside his chief deputy's objections to the National Security Agency's domestic surveillance." The P-I concludes, "The Senate seems ready to look at the administration's dubious claims that Bush violated neither the law nor the Constitution. But the House of Representatives, where impeachment proceedings begin, ought to take the lead in determining whether to hold the president accountable."

DOJ Seeks Dismissal Of Guantanamo Suits.

The New York Times (1/4, Lewis) reports, "The Bush administration notified federal trial judges in Washington that it would soon ask them to dismiss all lawsuits brought by prisoners at Guantánamo Bay, Cuba, challenging their detentions, Justice Department officials said Tuesday." The Times continues, "The action means that the administration is moving swiftly to take advantage of an amendment to the military bill that President Bush signed into law last Friday. The amendment strips federal courts from hearing habeas corpus petitions from Guantánamo detainees." The Times adds, "On Tuesday, the Justice Department sent notices to all the federal judges in Washington who have cases involving challenges brought by Guantánamo inmates, informing them of the new amendment. The officials said the department would file formal notices within several days asking the judges to dismiss more than 160 cases involving at least 300 detainees. … If the administration wins its argument it would mean an abrupt end to a wide effort by dozens of lawyers to use the right of habeas corpus in federal courts to challenge the imprisonment of suspected terrorists at Guantánamo as enemy combatants."

The Los Angeles Times/AP (1/4, Sherman) reports, "The measure, part of the Defense Appropriations Act that President Bush signed last week, was intended to allow detainees at the U.S. naval base in Cuba to appeal their detention status and punishments to a federal appeals court in Washington. … That avenue replaces the one tool the Supreme Court gave detainees in 2004 to fight the legality of their detentions -- the right to file habeas corpus lawsuits, which demand that the government justify someone's continued imprisonment, in any federal court." The AP continues, "The new provision won broad support only after its chief Democratic sponsor, Sen. Carl Levin of Michigan, said it had been altered so it would not apply to pending cases. … But on Tuesday, the Justice Department notified judges at U.S. District Court in Washington that it will ask them to dismiss 187 cases involving more than 300 people because the law eliminates the jurisdiction of district courts to consider the legality of detentions at the naval base. … The decision to try to stop pending cases in their tracks drew an immediate rebuke from advocates for the detainees, who said the provision should apply only to new challenges. 'The battle about what that provision means has only just begun,' said Elisa Massimino, director of the Washington office of Human Rights First."

Reuters (1/4, Charles) reports, "The department filed a notice to judges presiding over the cases at the U.S. District Court in Washington to advise them that by the end of next week the Justice Department would file official motions to dismiss the cases." Reuters adds, "The notice comes a week after President George W. Bush signed new legislation banning cruel and inhumane treatment of prisoners. The anti-torture law also curbs the ability of prisoners being held at the U.S. Naval Base in Cuba to challenge their detention in federal court. … The legislation requiring humane treatment of detainees in U.S. custody was originally opposed by the White House. But Bush backed off his original veto threats after Congress voted overwhelmingly to support the amendment, pushed by Sen. John McCain, an Arizona Republican who was a prisoner of war in Vietnam." Reuters notes, "Hundreds of prisoners have filed lawsuits in civilian courts to protest their confinement or to protest conditions of confinement. While some have protested their confinement in general, others have sued over the type of Koran they have been given while others want access to DVDs, a Justice

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Department official said. … The Center for Constitutional Rights, which represents many of the detainees who have sued in civilian court, has criticized the anti-torture law for eliminating prisoners' access to the U.S. judicial system. … But the Justice Department official, who declined to be identified, said detainees still had the right to appeal, they just had to wait until the military process was completed."

After Signing Torture Ban, Bush Qualifies Approval In Signing Statement. The Boston Globe (1/4, Savage, 484K) reports that when President Bush "last week signed the bill outlawing the torture of detainees, he quietly reserved the right to bypass the law under his powers as commander in chief." Bush "issued a 'signing statement' -- an official document in which a president lays out his interpretation of a new law -- declaring that he will view the interrogation limits in the context of his broader powers to protect national security. This means Bush believes he can waive the restrictions, the White House and legal specialists said." The statement says, "The executive branch shall construe [the law] in a manner consistent with the constitutional authority of the President...as Commander in Chief." The President added "that this approach 'will assist in achieving the shared objective of the Congress and the President...of protecting the American people from further terrorist attacks.'" The Globe adds that some legal specialists "said yesterday that the president's signing statement, which was posted on the White House website but had gone unnoticed over the New Year's weekend, raises serious questions about whether he intends to follow the law." A senior Administration official "who spoke to a Globe reporter about the statement on condition of anonymity because he is not an official spokesman, said the president intended to reserve the right to use harsher methods in special situations involving national security." Legal academics "and human rights organizations said Bush's signing statement and his stance on the wiretapping law are part of a larger agenda that claims exclusive control of war-related matters for the executive branch and holds that any involvement by Congress or the courts should be minimal."

London Bombings Cost Little To Undertake. The AP (1/4, Panja) reports that security experts said "the suicide bombings that killed 52 people on London's transit system in July were a relatively low-cost operation." Independent defense and security expert Paul Beaver put the cost at "about $2,000." Terrorism financing expert Loretta Napoleoni noted they were "relatively inexpensive largely because the four bombers were homegrown, living with their families in towns north of London and traveling to their targets using a rental car and a train." However, "neither Beaver nor Napoleoni included in their estimates the costs of some suspects' travel to Pakistan, which has become a subject of the investigation."

PATRIOT ACT:

Bush Launches Push To Renew Patriot Act. President Bush yesterday urged Congress to renew the Patriot Act. The story was not covered by the networks, and received little coverage on local TV. CNN's The Situation Room (1/3, Blitzer) reported the President "launched a 30-day push to win renewal of key elements of the USA Patriot Act and he began with some tough talk aimed at critics of those anti-terror measures." CNN (Bash) added, "While Congress is out of town, the White House is trying to take advantage of having the Washington stage to themselves. Today…it was about pushing for a renewal, not just an extension of the Patriot Act provisions that are expiring there. Now, the president had in the White House some US attorneys who say that they have benefited from the Patriot Act in prosecuting terror cases. And the president, for his part, accused lawmakers who are holding it up of playing politics."

Fox News' Special Report (1/3, Garrett) added, "Determined to break a filibuster blocking parts of the Patriot Act," Bush "armed himself with stories from some of the prosecutors who use the act every day." Later, Bush sent the prosecutors "out to talk about the terrorist plots the act helped them back up." The AP (1/4, Loven) says "district attorneys cited several cases in which the Patriot Act had played a crucial role, from staging an undercover sting on California weapons dealers attempting to sell Stinger missiles to securing convictions of major terrorist financiers in New York." Ken Wainstein, district attorney for the District of Columbia, said, "We use it each and every day to protect our country against terrorists and criminals." Mary Beth Buchanan, the district attorney for the Western District of Pennsylvania, added, "We believe this provides adequate safeguards in every respect." The White House event "drew 19 of the country's 93 U.S. attorneys. They were contacted by officials at the Justice Department to attend." The Washington Times (1/4, Curl, 90K) quotes Roslynn Mauskopf,

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US attorney for the Eastern District of New York, saying "the law was instrumental in convicting two persons of funneling $20 million to the terror groups al Qaeda and Hamas."

Print coverage emphasized the partisan aspects of the dispute over the Patriot Act. For example, USA Today (1/4, Jackson, 2.31M) says Bush "fired the first shot in the renewed battle over the USA Patriot Act, hosting on Tuesday a group of federal prosecutors who said the soon-to-expire law helped solve major crimes." The President "accused Senate Democrats of blocking reauthorization of the law for 'partisan reasons.'" USA Today adds "Bush-appointed U.S. attorneys from 14 states and the District of Columbia said the law has helped them crack cases involving terrorist finances, weapons exchanged for drugs, and child abductions." Senate Democrats "who blocked renewal late last year, such as Patrick Leahy of Vermont, said they support the law but want to make sure civil liberties are protected."

The Washington Post (1/4, A2, VandeHei, 744K) headlines its story "Bush Assails Democrats Over Patriot Act," and framed Bush's remarks as part of "an aggressive campaign to defend the president's terrorism-fighting authority." White House spokesman Scott McClellan, "speaking to reporters earlier in the day, said Senate Democrats are simply doing the bidding of liberal special interest groups such as the American Civil Liberties Union, which opposes the broad surveillance power authorized by the act." Democrats "are trying to 'appease' the ACLU 'because they want to weaken and undermine the Patriot Act,' McClellan said." The Post adds, "Adopting campaign-style tactics, Bush and his aides plan to accuse Democrats of jeopardizing national security to further their political agenda, a tack that worked well for the White House in the 2002 and 2004 elections. But the political environment is different now, with Bush less popular and Democrats better organized in opposition."

There was a small amount of coverage of Bush's remarks on local television. Some examples: KABB-TV San Antonio (1/3, 9:34 p.m.) reported, "Bush has started the new year the same as he ended the last: pushing for a permanent renewal of the Patriot Act." WGCL-TV Atlanta (1/3, 11:16 p.m.) added the President "used his meeting with federal prosecutors today as a backdrop to pressure Congress."

Voice of America (1/4, Stearns) reports, "President Bush says he will spend the next 30 days trying to convince Congress and the American people that the nation needs a permanent extension of the anti-terrorism laws known as the Patriot Act. … 'The American people expect to be protected, and the Patriot Act is a really important tool for them to stay protected,' the president said."

The New York Times (1/4, Bumiller) reports, "President Bush assembled a phalanx of United States attorneys at the White House on Tuesday to bolster his call for Congress to renew the antiterrorism law known as the USA Patriot Act, intensifying a coming clash with Capitol Hill over civil liberties and national security." The Times continues, "Surrounded in the Roosevelt Room by 19 federal prosecutors, Mr. Bush said Congress was holding up renewal of the law because of politics. … 'When it came time to renew the act, for partisan reasons, in my mind, people have not stepped up and have agreed that it's still necessary to protect the country,' Mr. Bush said. 'The enemy has not gone away - they're still there. And I expect Congress to understand that we're still at war and they've got to give us the tools necessary to win this war.'" The Times adds, "The president's remarks and an appearance by the United States attorneys in the West Wing driveway afterward were part of a stepped-up White House campaign to make permanent the antiterrorism law, which expanded the government's investigative powers after the attacks on Sept. 11, 2001. … The White House efforts were further complicated by a simultaneous uproar in Congress last month over revelations that Mr. Bush authorized a secret spying program to monitor international phone calls and international e-mail messages of people in the United States." The Times notes, "The United States attorneys, all Bush appointees summoned to Washington by the Justice Department, echoed Mr. Bush when they appeared en masse in front of television cameras moments later. … Rosalynn Mauskopf, the United States attorney for the Eastern District of New York, was among those who stepped up to the microphones and said the law had made it easier for the Eastern District 'to choke off the supply of money to terrorists.' … Specifically, Ms. Mauskopf said prosecutors had used the law, which broadens federal powers to demand financial records, to convict the spiritual adviser to Osama bin Laden, Sheik Muhammad Ali Hassan al-Mouyad, as well as Sheik Mouyad's assistant, for funneling millions of dollars to Al Qaeda and the militant group Hamas."

The AP (1/3, Loven) reports, "Later, outside the West Wing, district attorneys cited several cases in which the Patriot Act had played a crucial role, from staging an undercover sting on California weapons dealers attempting to sell Stinger missiles to securing convictions of major terrorist

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financiers in New York. … 'We use it each and every day to protect our country against terrorists and criminals,' said Ken Wainstein, district attorney for the District of Columbia. … 'We believe this provides adequate safeguards in every respect,' said Mary Beth Buchanan, the district attorney for the Western District of Pennsylvania."

Reuters (1/4, Holland) reports, "The Democratic leader in the House of Representatives, Rep. Nancy Pelosi of California, rejected Bush's complaint that the Patriot Act was a victim of partisan politics and accused him of misleading the public. … Rather, she said, there are bipartisan concerns that the law 'failed to secure the right balance between our national security and our civil liberties' and that the extension will give lawmakers time to 'add the appropriate safeguards.'" Reuters notes, "The senior Democrat on the Senate Judiciary committee, Sen. Patrick Leahy of Vermont, said their efforts were aimed at improving the Patriot Act, not ending it. … 'We want to make sure that these far-reaching government powers have adequate checks and balances so they can be effectively used without unduly threatening Americans' hard-won freedoms from government abuse, Leahy said in a statement."

HOMELAND RESPONSE:

Homeland Security Revamps Criteria For State, Local Funding Distribution. The Department of Homeland Security has changed its criteria for the distribution of $756 million in funds to states and municipalities to more accurately reflect their actual risk. The story was reported by ABC in a full segment, while NBC mentioned it in a brief segment. In addition, the major dailies also reported the story, typically in a front page story, while it was also widely distributed by such news services as Knight Ridder.

ABC World News Tonight (1/3, story 6, 2:00, Thomas) reported, "Until now, Federal and local officials have spent Homeland Security money without restraint. But that's about to change." Secretary of Homeland Security Michael Chertoff: "If an area is not capable of coming up with an investment justification that makes sense, they're not going to get money." Thomas: "Critics are asking, 'What took so long?'" Tim Roemer, 9/11 Commissioner: "It's about time. Why didn't we do this right after 9/11?" Thomas: The funds "will be doled out based on actual risk. 35 cities like New York, Atlanta, Miami, Chicago, Dallas and Los Angeles will get the highest priority. But 11 big cities, including San Diego, Omaha, Phoenix, Tampa and Las Vegas could be getting considerably less money or none at all." Some "critics wonder anything is really changing at all. Congress will still control more than $1 billion in Homeland Security funding, which it and the states can spend as they wish." Rep. Ed Markey: "They're cutting the amount of money that is going to be spent on this program while still allowing Congress to take twice as much money and use pork barrel standards."

NBC Nightly News (1/3, story 7, :45, Williams) reported the change was made "after years of complaints that more per capita anti-terrorism funds were going to sparsely populated states like Wyoming and Alaska than to states like California and New York." USA Today (1/4, 2.31M) reports the "announcement created potential winners and losers among dozens of metropolitan areas competing for funds, which overall are being reduced from $855 million last year to $765 million this year." New York City Mayor Michael Bloomberg said, "I think that's exactly what we have been screaming for all along." USA adds New York "got $207 million last year, by far the most of any community. Homeland Security officials said they won't announce how much each recipient will get until June, after assessing each applicant's plans for the money."

Knight Ridder (1/4, Puzzanghera) reports the Homeland Security Department "announced Tuesday that 35 urban areas are eligible for $765 million in special anti-terrorism grants because of their high risk of attack and added new rules for allocating the money to force regional cooperation and eliminate wasteful spending." The regions "include Washington, New York, Philadelphia, Charlotte, N.C., Miami, Chicago, Kansas City, Minneapolis/Saint Paul, Dallas/Fort Worth, Los Angeles and the San Francisco Bay Area. Each has 60 days to come up with a proposal for what it would do with the money and justify how the expenditures would improve security." The "'investment justifications' are designed to avoid questionable decisions, such as the purchase of four Segway motorized scooters for a total of $24,815 by the San Jose, Calif., police and Santa Clara County, Calif., bomb squads."

The Washington Times (1/4, Hudson, 90K) reports the "urban grant is separate from a first-responder program that guarantees funding to every state and U.S. territory, including the Virgin Islands, American Samoa, Guam and the Northern Mariana Islands. Critics of that congressionally mandated

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program have questioned smaller cities' need for such money and say the program is abused."

The Los Angeles Times (1/4, Gaouette, 958K) reports Los Angeles "and other high-profile urban areas could get more federal aid as a result of changes in the way the Department of Homeland Security allocates funds to train and equip police officers, firefighters and other emergency responders for possible terrorist attacks." The plan is "the latest round in a running battle between the Bush administration and Congress. The administration favors allocating anti-terrorism grants based on risk, thus favoring major urban centers on the East and West coasts. Congress has insisted on sharing aid more broadly, including funds for such towns as North Pole, Alaska, where the threat of attack is considered minimal."

The New York Times (1/4, Lipton, 1.19M) reports the "new system is based less on politics and city boundaries and more on assessments of where terrorists are likely to strike and potentially cause the greatest damage." The changes "to the program, the Urban Area Security Initiative, are being driven in part by a reduction in the overall pool of money for antiterrorism efforts." Until the application process "is under way, it is unclear what the impact may be in cities now receiving money under the program, including New York, whose region will grow to encompass Yonkers. Mr. Chertoff emphasized that the designated areas are not guaranteed grants."

The Washington Post (1/4, A1, Eggen, 744K) reports in a front page story that "lawmakers and local officials in Washington and other major urban areas praised the changes, which were made in the face of continued infighting in Congress over funding formulas for other types of Homeland Security grants. David Robertson, executive director of the Metropolitan Washington Council of Governments, said the change could mean more leverage for the District and its neighbors in competing for federal money."

NYTimes Praises Basing Fund Distribution On Risk, Not Politics. The New York Times (1/4, 1.19M) praises the new Homeland Security funding procedure in an editorial titled, "Risk Wins A Round Over Politics." The Times says it is "very good news - with two caveats. It still remains to be seen precisely how the money will be handed out. And the improvements in this single program do not change the fact that Congress, thanks to the influence of small-state senators, still lets politics play a disturbingly large role in the distribution of other antiterrorism funds."

Dirty Bomb Clean Up Standards Would Allow High Cancer Risks. The AP (1/4, Hebert) reports, "The government issued cleanup standards Tuesday for a 'dirty bomb' terrorist attack that would in some cases be far less rigorous than what is required for Superfund sites, nuclear power plants and nuclear waste dumps," eliciting, "sharp criticism from some environmental groups and nuclear watchdog organizations." Diane D'Arrigo, of the Nuclear Information and Resource Service, said that the guidelines would, "in some cases" allow radiation levels "that can be expected to produce a cancer in one of every four people exposed."

The New York Times (1/4, Wald, 1.19M) adds that The Homeland Security Department says "government officials… should consider permitting people to re-occupy contaminated land and buildings even if they would be exposed to radiation at a level double what nuclear plant workers can legally receive." The advice is characterized "as a draft, because…[the department] would take public comment until March 6, but the advice takes effect immediately."

Man Sues US Over Lost Ring At Airport. The AP (1/4) reports, "A man is suing the federal government, alleging his $7,000 wedding ring was stolen as he passed through a security checkpoint at Logan International Airport." The AP continues, "John Wright, 51, says he and his wife were taking a flight to San Juan, Puerto Rico, in July when he placed the 1.53-carat diamond and gold ring in a plastic tub along with his Rolex watch and wallet." The AP adds, "Wright, of Tiverton, R.I., then placed the bin on the scanner conveyer belt as he and his wife, Janet, passed through the metal detector. When he retrieved his belongings, Wright said, the ring was missing. … 'I hadn't even gone 15 feet on my vacation and I was robbed,' said Wright, a health teacher in Somerset. … He said he alerted the three Transportation Security Administration screeners who were at the checkpoint, and they searched the conveyer belt without success. … Wright filed the lawsuit in U.S. District Court last month after the TSA denied his claim seeking $7,000 to replace the ring. The lawsuit seeks reimbursement for the ring and attorney's fees."

Author Says US Needs To Prepare For Suicide Bombing Blitz. Ralph Peters, author of "New Glory: Expanding America's Global Supremacy" and a

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member of USA TODAY's board of contributors, writes in an op-ed in USA Today (1/4, 2.31M), "The ultimate precision weapon and genuine 'smart bomb,' the suicide bomber is hard to deter and exasperatingly difficult to defeat." The US needs "to prepare for the suicide-bomber blitzkrieg, when murderous zealots come at us in waves." The "great strategic struggle of this century is between those who believe in a generous, loving god — in any religion — and those who serve a punitive, merciless deity." Taken "from the ranks of troubled souls…who find mundane reality overwhelming and terrifying" and "longing for release from the insecurities of his daily experience," suicide bomber show that "the new age of faith is also an era of the perversion of religion."

WAR NEWS:

Bush To Meet With Former State, Defense Secretaries About Iraq. President Bush will consult with a bipartisan group of former secretaries of state and defense at the White House today. The New York Times (1/4, Sanger, 1.19M) reports that the meeting "was called by the White House, which sent out invitations just before Christmas to everyone who once held those jobs. The invitees were told that they were being asked to attend a briefing on Iraq and other issues. It was unclear, one recipient said, 'how interested they are in what we are thinking.'" Never before "has Mr. Bush asked such a broad array of former senior officials to show up together, presumably armed with strong opinions about issues like whether the moment has come to begin an exit from Iraq and what the United States should be doing with North Korea, Iran, Sudan or public diplomacy." The Times adds, "Several of the officials, mostly Democrats, said they were concerned about being used as props in an effort to portray Mr. Bush as seeking what the national security adviser, Stephen J. Hadley, recently called 'common ground' on Iraq. … Among those planning to attend are Colin L. Powell, Mr. Bush's first secretary of state and the administration's best-known and most careful dissident voice, and Madeleine K. Albright, Mr. Powell's predecessor. William Perry, who was secretary of defense in the Clinton administration, is flying in from California."

US Opposes Iraqi Rejection Of US-Trained Sunni To Command Baghdad Brigade. The Iraqi government has nominated a new leader for a brigade that is set to assume control over some of Baghdad's most sensitive areas. The Washington Post (1/4, A12, Finer, 744K) reports that the nomination comes over "the strong objections of US commanders in Baghdad," and the dispute "appears likely to postpone an already overdue handover by American forces for at least another month." Iraq's Defense Ministry "said it would not approve the officer groomed by U.S. forces since August to command the unit, Col. Muhammed Wasif Taha, a 23-year Iraqi army veteran. U.S. commanders are concerned that the rejection of a qualified Sunni Muslim candidate by a government that is dominated by the rival Shiite Muslim majority will fuel perceptions of Iraq's security forces as sectarian institutions, particularly in Sunni regions where sympathy for the insurgency runs deep."

Allied Commitment To Remaining In Iraq Seen As Wavering. The Christian Science Monitor (1/4, Sappenfield, 61K) says the Bush administration's "coalition of the willing" in Iraq "appears increasingly unwilling to commit to the cause indefinitely. Last week, two countries finished withdrawing the last of their troops from Iraq, and two others decided to cut their forces by about a third. In all, the coalition has declined from a 2003 high of 38 nations and 50,000 troops to 28 nations and about 20,000 soldiers today. In terms of military operations on the ground, the withdrawals mean little, analysts say. Only Britain has a substantial security role, and so far it has remained steadfast. Yet each country's commitment to Iraq - however small - is a significant token to an administration that has long sought global support for the conflict." The Monitor adds, "So far, the Pentagon has looked at the fluctuations without great consternation. … The ambivalence is born of the fact that - with the exception of Britain - coalition nations have not done the heavy lifting of fighting insurgents."

Iraqi Vice President Says New Government Could Be Delayed Until April. Iraqi Vice President Adil Abdul-Mahdi said yesterday that Iraq may not have a new government until April if various political and sectarian factions cannot resolve their differences. The AP (1/4, Quinn) reports that Abdul-Mahdi, who is a leading Shiite candidate to become the next prime minister, said that a "broad-based coalition government including Shiites, Kurds and Sunni Arabs is the only way to defeat the insurgency. 'The future government, I think, will be a national unity government. This is a must. It is not something that only the results of the

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elections can decide. It is a political necessity, and all parties agree on that.'"

Officials Say Efforts To Form Unity Government Will Continue. Meanwhile, Reuters (1/4, Aqrawi) reports, "Iraqi leaders have agreed to press on with efforts to form a national unity government after the latest round of talks on Tuesday hosted by Kurdish officials in their northern stronghold. Negotiations on how exactly to share posts among the rival ethnic and sectarian factions will convene in the coming days in Baghdad, Kurdish regional president Masoud Barzani said after he and Iraq's Kurdish interim president Jalal Talabani met minority Sunni Arab leaders from the Iraqi Accordance Front. … The discussions have been held despite Sunni protests that the results of the December 15 election were rigged -- a claim that has prompted electoral officials to invite a team of foreign experts who are arriving this week to review the process."

Women's Rights Advocates Worry Iraqi Government Becoming More Islamist. Knight Ridder (1/4, Ahmed) reports on the "enormous obstacles" facing women in Iraqi politics. Knight Ridder reports, "During Saddam Hussein's 25-year reign, women did have a few opportunities to play important roles in government or elsewhere in society, but only as long as they complied with Saddam's demands to serve him and the ruling Baath party. Women had the right to vote, for instance, but like all Iraqis could vote only for Saddam. Yet for all the talk of shedding a history of female repression and establishing a nation in which a woman's voice matters as much as a man's, signs that the government is becoming more Islamist worry champions of women's rights. Proponents of Islam in government note that the religion explicitly values women, including by cherishing their contributions to family, home and society. Yet others fear that a conservative Islamic government would bar women from voting, moving or even studying independently of their fathers, husbands or brothers."

International Team Begins Review Of Iraq Election Complaints. An international team has begun reviewing the complaints filed over Iraq's parliamentary elections. The AP (1/4) reports that the Independent Electoral Commission of Iraq "has completed its investigation of almost 2,000 election complaints and will announce the findings today, commission member Hussein Hindawi said. However, the commission won't announce final election results until an international team finishes its work, meaning they might not be ready for two weeks, commission member Safwat Rashid said. … The commission investigated 1,980 complaints, including 50 that were considered serious enough to alter results in some districts. The international team, which began its work Monday, agreed to review Iraq's elections after protests by Sunni Arab and secular Shiite groups that the polls were tainted with fraud." The Washington Times also runs the AP story this morning.

The Financial Times (1/4, Negus, Correspondent) adds, "The IECI had originally forecast that results might be available early this month, but Sunni Arab and secularists alleged widespread fraud and voter intimidation by Shia Islamists and demanded that international observers be brought in to check the results. Consequently, last week the IECI invited the International Mission for Iraqi Elections (IMIE), a group set up in 2004 to monitor the country's political process, to send a team to Baghdad to review elections procedures."

US Air Assault Kills Nine Women And Children In Iraq. The New York Times (1/4, Oppel, Al-Neami, 1.19M) reports, "American F-14 warplanes killed nine members of an Iraqi family, including women and young children, during a bombing and cannon strike on Monday night that obliterated a home near the northern industrial city of Baiji, Iraqi officials said Tuesday. … The attack enraged Iraqi officials in Baiji…who said that the airstrike was unjustified and that it had destroyed an innocent family. A preliminary investigation indicated the blast had killed the wife of the home's owner, his daughter-in-law and seven children and grandchildren, including one son who worked for the police." The Times notes, "American officials said the warplanes had been pursuing insurgents who had been observed setting up a roadside bomb. They fled to a building, and the American planes struck the building and destroyed it." The Times adds that, according to Reuters, a Baiji police colonel, Sufyan Mustafa, said, "There were no terrorists in this house."

The AP (1/4, Straziuso) reports, "The U.S. military did not comment on the deaths. It said only that an unmanned aircraft spotted three men planting a roadside bomb in the city 155 miles north of Baghdad, and that Navy F-14s bombed a nearby building the three had entered."

The Washington Post (1/4, A12, Knickmeyer, Aldin, 744K) reports, "The dead included women and children

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whose bodies were recovered in the nightclothes and blankets in which they had apparently been sleeping. A Washington Post special correspondent watched as the corpses of three women and three boys who appeared to be younger than 10 were removed Tuesday from the house." The Post goes on to report, "The U.S. military says that it does not count civilian deaths from American attacks and that investigating deaths caused by any one strike is often impractical in dangerous areas. But some analysts say the U.S. military should make a systematic effort, both to test the reliability of its intelligence and to better learn how to reduce civilian casualties."

Vitality Of New Iraqi Businesses Disputed. The Christian Science Monitor (1/4, Levinson, 61K) reports the Iraqi Ministry of Trade says 24,000 new businesses "have opened since the fall of Saddam Hussein" in April 2003. US officials "point" to these businesses "to support their claims that the Iraqi economy, despite ongoing security woes, is recovering. 'I think ordinary Iraqis have picked up on the sense that the economy looks better,' says Thomas Delare, the counselor for economic affairs at the US Embassy in Baghdad." However, Economists at the Baghdad Economic Forum "say that as many as 90 percent of the 24,000 new businesses are idle, unable to secure the work, raw materials, and startup money to get off the ground. Security problems, unreliable electricity, and lack of finance are hobbling small businesses, analysts and local businessmen say."

Iraqi Expatriates' Claims Are Central To Book By NYTimes Reporter. The Washington Times (1/4, 90K) reports that New York Times reporter James Risen's new book "describes how the CIA recruited an Iraqi-American anesthesiologist in 2002 to obtain information from her brother, who was a figure in Iraqi dictator Saddam Hussein's nuclear program. Dr. Sawsan Alhaddad of Cleveland made the trip to Iraq on the CIA's behalf. The book said her brother was stunned by her questions about the nuclear program because he said it had been dead for a decade." According to the Times, "Risen uses the anecdote to illustrate how the CIA ignored information that Iraq no longer had weapons of mass destruction."

Hart Alleges Bush Plans Permanent US Bases In Iraq. In an op-ed for the Financial Times (1/4) former Sen. Gary Hart writes, "It has been the dream of Republican neoconservatives at least since 1998 – and probably years before – to overthrow Saddam Hussein and to use the new client state of Iraq as the US's military and political base from which to pacify the complex and troubled Middle East." According to Hart, "neoconservative" policymakers intend "to construct permanent US military bases at strategic points throughout the country and then persuade the new 'democratic' government to invite us to stay. … This is the ultimate test of true Bush administration intentions in Iraq. If we are, in fact, constructing permanent bases, 'leaving' simply means a reduction of forces and the permanent stationing of US brigades in Iraq."

In 1998, Clinton Said US Must Be Prepared To Act Against Iraq. In its "History Lessons" column, the Washington Times (1/4, 90K) reports on remarks by former President Bill Clinton at that Arlington National Cemetery Veterans Day ceremony on November 11, 1998. Clinton said that if UN inspectors "are not permitted to visit suspect sites or monitor compliance at known production facilities, [Iraq's weapons of mass destruction] may as well be in Baltimore, not Baghdad. … A failure to respond could embolden Saddam Hussein to act recklessly, signaling to him that he can with impunity develop these weapons of mass destruction or threaten his neighbors, and this is very important in an age when we look forward to weapons of mass destruction being a significant threat to civilized people everywhere." Clinton added, "We continue to hope, indeed pray, that Saddam will comply, but we must be prepared to act if he does not."

CIA Officer Says US Failed To Send Troops To Capture Bin Laden In Tora Bora. The Financial Times (1/4, Spiegel) reports, "US military commanders were told that Osama bin Laden was hiding in the mountainous Tora Bora region of Afghanistan in early December 2001 but failed to send troops to block his escape, according to a new account by the CIA officer who ran the agency's operations in the country. Gary Berntsen, a CIA veteran who headed a paramilitary team called 'Jawbreaker' during the Afghan war, said in a book published last week that one of his Arabic-speaking operatives found a radio on a dead al-Qaeda fighter during the Tora Bora battle and heard the terrorist leader repeatedly try to rally his troops. … Later on the same captured radio" CIA agents "reported hearing Mr bin Laden apologising for getting his men trapped in the mountains and killed in large numbers by American bombing,

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Mr Berntsen wrote." The Times notes, "The book, titled Jawbreaker, was heavily edited by CIA censors.'

Reports That Bin Laden Suffers From Kidney Trouble Scrutinized. In an op-ed for the Washington Times (1/4, 90K) author Richard Miniter writes that although there have been several claims that Osama bin Laden "has kidney trouble" there is "no evidence, just a lot of chatter. There is only one presumably well-informed source who has gone on the record to say that bin Laden was on dialysis: Pakistani Prime Minister Pervez Musharraf. And he later changed his mind. … In fact, there is a mountain of evidence that bin Laden is not on dialysis. No medical report has been produced that shows bin Laden is on dialysis. No reporter who has actually met bin Laden has seen the archterrorist hooked up to a dialysis machine or heard him talk about it."

US Spending Cuts Seen As Leaving Iraq, Afghanistan Unstable. USA Today (1/4, 2.31M) editorializes, "Four years ago, the United States invaded Afghanistan with a burning mission. … The mission is only partially accomplished, but the United States is on its way out. In a preview of events in Iraq, U.S. forces, rebuilding funds and projects are being cut and handed to Western allies and Afghans over the next year. The troubling suggestion is of a job half done. The picture certainly doesn't look pretty. Bin Laden remains at large. Despite successful Afghan elections and solid leadership by President Hamid Karzai, democracy is precarious." According to USA Today, "In Iraq, the United States is already following a similar trajectory of retreating from grandiose post-invasion commitments."

Churchill's WWII Remarks Noted In Context Of War On Terror. The Wall Street Journal (1/4, 2.11M) editorializes, "No one knows how Winston Churchill would have fought the war on terror or what he might have thought of the U.S. practice of holding members of al Qaeda at Guantanamo or secret CIA prisons in Eastern Europe. But in newly declassified records of the British Bulldog's War Cabinet meetings, Churchill offers some posthumous insights on wartime leadership." Churchill "advocated shooting German POWs if the Nazis were to kill British prisoners" and "proposed…'wiping out German villages by air attack.'"

In Contentious Letterman Appearance, O'Reilly Defends Support For Iraq War. Fox News' Bill O'Reilly in a contentious interview on CBS' Late Night With David Letterman (1/3), was asked by Letterman about his "friends in the Bush Administration. Things seem to be darker now…than they might have been heretofore. How do things look to you?" O'Reilly replied, "It's pretty rough" adding "I think the Iraq thing is a vital thing for the country and it's absolutely brutal. We should all take it very seriously. This simplistic stuff about hating Bush or he lied and all this stuff, does the country no good at all. We've got to win this thing. You have to win it. Even though it's a screw-up, giant, massive, all right, right now for everybody's protection, it's best for the world to have a democracy in that country functioning and friendly to the west. Is it not?"

Letterman Criticizes Bush Decision To Topple Hussein, WMD Intelligence. During O'Reilly's interview on CBS' Late Night With David Letterman (1/3) Letterman said, "Why are we there in the first place? The President himself less than a month ago said we are there because of a mistake made in intelligence. Whose intelligence? Somebody got off a bus and handed it to him? No, it was the intelligence gathered by his administration. So why are we there in the first place? I agree with you that we have to support the troops" but "I also agree that now we're in it it's going to take a long, long time. People who expect it to be solved and wrapped up in a couple of years, unrealistic. It's not going to happen. However that does not eliminate the legitimate speculation and concern and questioning why the hell are we there to begin with?"

Letterman Defends Sheehan Criticism Of Iraq War. O'Reilly, in his interview on CBS' Late Night With David Letterman (1/3) said, "We believe that the United States, particularly the military are doing a noble thing. The soldiers and Marines are noble. They're not terrorists. When people call them that, like Cindy Sheehan called the insurgents freedom fighters, we don't like that." Letterman asked O'Reilly, "How can you possibly take exception with the motivation and the position of someone like Cindy Sheehan?" O'Reilly replied, "Because I believe she's run by far-left elements in this country. I feel bad for the woman." O'Reilly later added that Sheehan "has a right to grieve any way she wants. She has a right to say whatever she wants. When she says to the public that the insurgents are terrorists or freedom fighters, how do you [think], David Letterman, that makes people who lost loved ones by these blowing the hell out of them, how do you think they feel? What about their feelings, sir?" Letterman later replied, "I'm very concerned about

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people like yourself who don't have nothing but endless sympathy for a woman like Cindy Sheehan. Honest to Christ."

CORPORATE SCANDALS:

Government Wants To Use Skilling's Statements Against Him. The Wall Street Journal (1/4, Emshwiller) reports, "In its effort to convict Jeffrey Skilling of multiple crimes at Enron Corp., the government is trying to trundle out a new witness against the former company president: himself." Prosecutors say "Mr. Skilling attempted 'to deceive' the Securities and Exchange Commission in a Dec. 6, 2001, deposition about his reasons for selling 500,000 Enron shares on Sept. 17 of that year." Skilling's attorneys say the "SEC officials didn't properly warn the former Enron president about his criminal exposure before he talked in what he believed was a purely civil investigation."

Causey Plea Takes Accounting Out Of Trial, But Raises Tricky Questions. The Wall Street Journal (1/4, Emshwiller) reports, "The plea bargain last week by former Enron Chief Accounting Officer Richard Causey gives federal prosecutors the chance to present a shorter and less technical case against Mr. Causey's two co-defendants, former company Chairman Kenneth Lay and former President Jeffrey Skilling." They don't need to get "deep into complex accounting transactions," but "can focus more on whether the consistently optimistic public statements made about Enron's financial condition by the men qualified as lies and, thus, a fraud upon investors." Still, "Mr. Causey's securities-fraud plea presents both sides with tricky new tactical questions, ranging from whether to call the former accounting chief as a witness to how he should be portrayed to the jury."

Six Former Putnam Execs Charged With Alleged Fund Fraud. USA Today (1/4, Iwata) reports, "Six former executives of Putnam Fiduciary Trust have been charged with scheming to defraud corporate client Cardinal Health and a group of Putnam mutual funds of $4 million." The SEC civil complaint accuses former senior managing director Karnig Durgarian; former vice president Ronald Hogan; and former managing directors Donald McCracken, Virginia Papa, Sandra Childs and Kevin Crain "of hiding a 2001 trading error that caused Cardinal Health's employee retirement assets…to miss out on $4 million in stock market gains." The accused's attorneys said "at least four of them plan to fight the charges." Putnam was not charged "because the company has cooperated fully with the investigation" and "made full restitution of the $4 million, fired or disciplined employees involved and strengthened the company's financial oversight and compliance."

The Wall Street Journal (1/4, Hechinger, Forelle) adds, "In January 2001, Putnam mistakenly allowed a one-day delay in investing money on behalf of Cardinal Health's 401(k) and other retirement plans, according to the SEC complaint, filed in U.S. District Court in Boston. The markets rose sharply on that day, causing customers to lose out on $4 million in gains, the agency said."

US Charges Former Stockbroker With Insider Trading. The AP (1/4, Neumeister) reports, "A former stockbroker made nearly $23,000 on a pending acquisition by a Silicon Valley company after using insider knowledge he learned from his girlfriend, an attorney involved in the deal, prosecutors said Tuesday." The AP continues, "Lee Edelman, 34, was indicted on securities fraud charges after his girlfriend, an associate at a large Manhattan law firm, told him in March 2004 that Applied Materials Inc. was in talks to acquire Metron Technology NV. Applied Materials, based in Santa Clara, Calif., builds semiconductor-making equipment, while Metron provides support services for the industry." The AP adds, "Metron's share price almost doubled on Aug. 16, 2004, when the deal was announced. Edelman, of New York, quickly sold his shares, making $22,786, according to the indictment in U.S. District Court in Manhattan." The AP notes, "The Securities and Exchange Commission, which filed civil insider trading charges against Edelman, said in a release that Edelman broke up with his girlfriend several weeks after he began buying Metron stock. The attorney was not identified in court papers and was not aware of Edelman's stock buys, investigators said. … An initial court appearance had not been scheduled. Edelman faces up to 20 years in prison, if convicted."

Cartwright Named SEC General Counsel. The Wall Street Journal (1/4, Burns, 2.11M) reports, "The Securities and Exchange Commission announced Tuesday that securities lawyer and former astrophysicist Brian Cartwright will join the SEC on Jan. 23 as its new general counsel." SEC Chairman Christopher Cox, "in a prepared statement announcing the appointment,…predicted Mr.

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Cartwright would be a powerful champion for investors." The New York Times/Reuters (1/4) also covered this story.

CRIMINAL LAW:

Abramoff Plea Deal Could Lead To Bribery Charges Against Several Members Of Congress. Lobbyist Jack Abramoff yesterday pleaded guilty to conspiracy, mail fraud, and tax evasion charges that could carry a jail term of up to 11 years. Media coverage is treating the Abramoff plea as a major story, one of the biggest scandals in congressional history with the potential to roil Washington and affect the 2006 elections. For now, press accounts indicate Republicans seem more at risk than Democrats. The AP (1/4, Raum) reports the plea deal "could send seismic waves across the political landscape in this congressional election year," and Republicans "are likely to take the biggest hits. The GOP "has more seats to lose and has closer ties with the former lobbyist." The AP quotes GOP consultant Rich Galen saying, "You don't have to be a political genius to sniff the smell of blood in the water."

The Washington Post (1/4, Birnbaum, Balz, 744K), in a front-page analysis piece, says Abramoff "represented the most flamboyant and extreme example of a brand of influence trading that flourished after the Republican takeover of the House of Representatives 11 years ago. Now, some GOP strategists fear that the fallout from his case could affect the party's efforts to keep control in the November midterm elections." The Post goes on to report, "So far, the public has not identified corruption as solely a Republican problem. … But Republicans worry about two possibilities." Another Washington Post story (1/4, A10, Weisman) says "GOP leaders moved yesterday to distance themselves from disgraced lobbyist Jack Abramoff and prepare to combat a growing corruption scandal. … Top Republican strategists pushed GOP leaders to embrace legislation to curb the influence of lobbyists." Meanwhile, ex-Speaker Newt Gingrich "called on House Republicans to elect a new majority leader to permanently replace Rep. Tom DeLay (R-Tex.), Abramoff's most powerful ally in Washington." CNN's Lou Dobbs Tonight (1/3, Henry) reported that current Speaker Dennis Hastert "has decided to give back about $70,000 in Jack Abramoff-related campaign money, give that money to charity. It's another sign that today's plea deal is just starting to reverberate all across Washington."

For now, Republicans appear to be most worried about the plea's possible fallout. The Los Angeles Times (1/4, Hook, Murtius, 958K) says the "corruption investigation surrounding…Abramoff shows the significant political risk that Republican leaders took when they adopted what had once seemed a brilliant strategy for dominating Washington: turning the K Street lobbying corridor into a cog of the GOP political machine." The AP (1/4) adds Democratic Leader Nancy Pelosi "said Abramoff's confession in court was 'not a surprise because this Republican Congress is the most corrupt in history and the American people are paying the price.'"

CNN's The Situation Room (1/3, Henry) also reported Democrats "are trying to say in these midterm elections coming up, that there's a culture of Republican corruption, culture of corruption and cronyism." However, "if Democrats get drawn into this, it's going to be hard to make that charge." The Wall Street Journal (1/4, Mullins, Rogers, Squeo, 2.11M) says that "the fact that some Democrats also had dealings with Mr. Abramoff clouded the question of whether the scandal will have a sharp partisan impact in the November 2006 midterm elections. … Lawyers involved in the case say that prosecutors are looking at Mr. Abramoff's dealings with at least three other members of Congress and more than a dozen current and former congressional aides." Similarly, the Financial Times (1/4, Waldmeir) notes "some Democrats also received campaign contributions from Mr Abramoff."

A similar New York Times (1/4, Stolberg, 1.19M) story says that "while Mr. Abramoff is most closely linked to Republicans, even Democrats, many of whom also benefited from his largesse, acted skittish." A "Democratic Congressional aide who insisted on anonymity so as not to drag his boss into the scandal" told the Times, "We're talking about people who have longstanding careers in Congress who took contributions from somebody who knew somebody who knew somebody who knew Jack Abramoff. … Now they're panicked. The hope is that this investigation will root out the wrongdoing without innocent people getting hit with the ricochet."

Reports indicate Abramoff's illegal actions could ensnare several members of Congress – even leadership – and their aides. GOP Rep. Robert Ney is mentioned in several stories, while others suggest Abramoff's plea could hurt DeLay. Rep. John Doolittle and Sen. Conrad Burns, also Republicans, may also face legal scrutiny. As ABC World News Tonight (1/3, story 3, 2:10, Ross) said officials "tell ABC

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News the first congressman likely to be indicted for bribery will be…Ney. He claims he was a victim." The Los Angeles Times (1/4, Simon, 958K) also says "Abramoff's agreement to cooperate with federal investigators as part of his guilty plea raised the prospect that Ney could face indictment. … Ironically, Ney won his first elective office by defeating a Democrat who had been tainted by scandal -- Wayne Hays."

NBC Nightly News (1/3, story 5, 2:00, Myers) added Ney "is but one of at least a half dozen members of Congress who have reason to sweat Abramoff's plea." NBC mentions DeLay, Doolittle, "whose wife was hired to plan an event for one of Abramoff's foundations," and Burns, "who pressured the government to award a $3 million grant to one of Abramoff's tribal clients." Eighteen members of Congress "were on a list to get free meals at this Abramoff restaurant, according to former employees. Two dozen members of Congress, including…Hastert, and Senate Democratic leader Harry Reid received hefty campaign contributions from Abramoff's clients. Five members promised to return almost $300,000." Reuters (1/4, Sullivan) adds that "Republican and Democratic lawmakers seeking to distance themselves from Abramoff and his clients have returned more than $200,000 in campaign contributions in recent weeks."

The CBS Evening News (1/03, story 4, 2:30, (Borger) said the "corruption" Abramoff acknowledged "was breathtaking in scope. Bilking Indian tribes of more than $60 million, keeping nearly half of in the kickbacks. The indictment specifically mentions just one member, Representative Number One. Sources say he is Ohio Congressman Robert Ney." Federal prosecutors "said they are going to follow this story wherever it leads them. We're hearing at least 12 to 15 public officials." NBC Nightly News (1/3, story 4, 2:00, P. Williams) also mentions Ney, and notes that in a statement today, the Congressman "said he did nothing wrong and had no idea of Abramoff's conduct."

The Washington Times (1/4, Seper, 90K) reports Abramoff "admitted to U.S. District Judge Ellen Segal Huvelle he had taken part in a scheme involving the 'corruption of public officials,' saying he gave campaign contributions and funded lavish trips and other items 'in exchange for certain official acts.'" As part of the plea bargain, Abramoff "agreed to pay at least $25 million in restitution -- which the government has described as the profits he concealed as part of the conspiracy."

The New York Times (1/4, Kornblut, 1.19M) quotes Abramoff saying, "Your honor, words will not be able to ever express how sorry I am for this, and I have profound regret and sorrow for the multitude of mistakes and harm I have caused. … All of my remaining days, I will feel tremendous sadness and regret for my conduct and for what I have done. I only hope that I can merit forgiveness from the Almighty and from those I have wronged or caused to suffer. I will work hard to earn that redemption."

USA Today (1/4, Johnson, Drinkard, 2.31M) reports "at least a dozen FBI field offices have been drawn into the inquiry, FBI Assistant Director Chris Swecker said." Authorities "have declined to disclose the number of possible targets in the ongoing inquiry, but it goes beyond one member of Congress or his office. 'No criminal resources of the FBI will be spared in support of this important mission,' Swecker said."

The New York Times (1/4, Janofsky, 1.19M) reports, "The kickbacks from one Indian tribe exceeded $11 million. From another, they surpassed $6 million. In less than three years, Jack Abramoff secretly netted more than $20 million from tribes in five states, a sum close to half of the $43.3 million they paid him and a partner to lobby on their behalf. … The level to which Mr. Abramoff enriched himself at the expense of clients came into sharp focus on Tuesday as his plea agreement on federal charges of conspiracy, mail fraud and tax evasion was made public by the Justice Department."

The AP (1/4, Gamboa) reports, "The governor of the Texas Tigua tribe, which operated a gaming casino near El Paso for more than eight years, is hoping lobbyist Jack Abramoff's guilty pleas in a federal corruption scandal will be a catalyst for restarting the tribe's gaming." The AP continues, "Tigua Gov. Arturo Senclair said the tribe is looking forward to what members of Congress will tell investigators should any be charged in the unraveling scandal that led Abramoff to plead guilty Tuesday. … 'Maybe once this whole thing is done and all the e-mails are uncovered ... maybe when Congress members do start talking, maybe we can come back and start working with the state' to reopen the casino, he said." The AP adds, "The plea agreement filed by Justice Department officials said Abramoff and his ex-business partner Michael Scanlon solicited the Tigua tribe — identified in the document as Texas Tribe #1 — to hire them to provide lobbying and grass roots services to reopen the tribe's casino. The tribe was paying fees to the Scanlon business. … The tribe was to pay $4.2 million in fees and make 'additional and substantial' campaign contributions at the direction of Abramoff and Scanlon, the plea agreement said. … Abramoff

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had told the tribe he'd work for free, but never revealed that he got about half the net profits, or $1.85 million, from the Scanlon business."

The Los Angeles Times (1/4, Fiore, Groves, 958K) recounts Abramoff's exploits at Beverly Hills High School, where his "weightlifting prowess was the stuff of legend. … His former football coach, Bill Stansbury, recalled a game against Inglewood when Abramoff legally blocked an opposing player and knocked him out cold." Abramoff also "helped organize charitable events, Stansbury said, among them a Quarter-Pounder-eating contest at a McDonald's, with some proceeds going to the American Cancer Society, and a celebrity basketball game to benefit a youth foundation." The Times adds, "Today, about 30 years later, Abramoff is at the center of a political scandal in Washington — the result, in part, of the same drive, interest in charitable organizations and excess that he showed in his youth."

Knight Ridder distributes a Dallas Morning News article (1/4, Mittelstadt) reporting that the plea deal "sent a chill Tuesday through Capitol Hill, where the Republican plied dozens of politicians with campaign contributions and favored some with lavish trips, Super Bowl tickets and pricey meals in exchange for legislative help. … 'They have to be just sweating bullets,' said Melanie Sloan, executive director of Citizens for Responsibility and Ethics in Washington, a watchdog group. 'Anybody who ever had anything to do with Jack Abramoff has to be rethinking every minute, every conversation with him.'" The News adds, "The Abramoff case may not be marked by the outright bribery of corruption sagas such as Abscam and Koreagate, where members of Congress pocketed envelopes stuffed with cash. But it has the potential to rank as one of Congress' worst scandals in decades because of the number of lawmakers and aides who could be ensnared - and because of the disgraced lobbyist's reach into the top rungs of the GOP leadership. … 'Government officials and government action are not for sale,' said Assistant Attorney General Alice Fisher, who heads the Justice Department's Criminal Division. 'The Justice Department will aggressively investigate and prosecute these types of cases, which have a devastating impact on the public's trust of government. We will not shy away from that responsibility, no matter where the trail leads.'"

Knight Ridder (1/4, Thomma, Young) reports, "By itself, the fall of a high-flying lobbyist who collected $80 million in fees from casino-rich Indian tribes, wined and dined politicians at his own upscale Washington restaurant, Signatures, and flew them abroad for golf outings was a dramatic tale. … But it was the likelihood that Abramoff now will help federal prosecutors go after members of Congress that gripped official Washington. … 'This is going to grow and multiply,' said Bill Mateja, a former top official in the Bush Justice Department who's now a Dallas lawyer. 'If I were on Capitol Hill, I would be shaking in my boots. Because if anyone knows where the skeletons are buried, it's Jack Abramoff.'"

The Financial Times (1/4, Washington) reports, "Mr Abramoff's long-awaited decision to plead guilty and co-operate with federal investigators will give the Justice Department powerful new ammunition in its probe of alleged patterns of corruption and bribery within the ranks of the Republican leadership."

The Legal Times (1/4, Metzger) reports, "At the hearing Tuesday in a Washington, D.C., federal courtroom, Abramoff appeared a hollow shell of the K Street power broker that he once was. Frowning and avoiding eye contact throughout the hearing with anyone except U.S. District Judge Ellen Segal Huvelle, Abramoff often seemed on the brink of tears as he sat quietly at the defense table. He answered Huvelle's questions in monosyllables and barely spoke above a whisper. In a prepared statement Abramoff delivered at the end of the hearing, he said: 'Words will not be able to ever express how sorry I am for this, and I have profound regret and sorrow for the multitude of mistakes and harm I have caused. I only hope that I can merit forgiveness from the Almighty and from those I have wronged or caused to suffer.'" The Times adds, "Abramoff and his attorney, Abbe Lowell, did not answer questions after the hearing. Lowell released a statement saying his client had been in talks with the Justice Department for 18 months. … With Abramoff and his former business partner Scanlon both having cut plea deals to cooperate with prosecutors, all attention is now focused on Capitol Hill."

The Boston Globe also reported on the plea agreement.

DNC Chair Calls On Bush To Return $100,000 Abramoff Raised For Him. ABC News Radio (1/4) reports this morning, "The White House calls Abramoff's acts outrageous. The chairman of the Democratic National Committee called on President Bush to return more than $100,000 that Abramoff raised for the President's 2004 reelection campaign."

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Hastert Donates Abramoff-Linked Contributions To Charity. CNN.com (1/4) reports, "House Speaker Dennis Hastert became the latest lawmaker to dump campaign contributions from clients of high-flying lobbyist Jack Abramoff, giving about $70,000 to charity Tuesday. … 'The speaker believes that while these contributions were legal, it is appropriate to donate the money to charity,' a spokesman for the Illinois Republican, Ron Bonjean, said. Bonjean did not specify which group or groups would receive the money."

Officials Say Administration Clear Of Any Direct Ties Between Bush, Abramoff. CNN's The Situation Room (1/3, Bash) reported, "The question at the White House has been for some time, what effect" the Abramoff plea "will have on the White House, if any. It has sort of been what aides have told us privately. Their fear has been that maybe it would be an X factor in preventing them from having the political comeback they hope to have in 2006. … They say here at the White House the president does not recall meeting Jack Abramoff; that he did have some meetings with low-level staffers here and maybe attended some holiday parties, but that's about it. … But other than that, officials both inside the White House and outside think that they are going to be pretty clear of any direct ties between Abramoff and the president."

Interior Department's Griles Seen As Likely Target For Prosecutors. The Washington Post (1/4, A16, 744K), in an editorial, notes Abramoff's "cooperation could expand prosecutors' knowledge about his entanglements with other officials. Notable among them are…DeLay…his associates and tribal clients, and the former second-ranking official at the Interior Department, J. Steven Griles, the recipient of an Abramoff job offer and a target of numerous Abramoff-initiated lobbying contacts."

Reed's Opponents Use Abramoff Ties Against Him. The AP (1/4, Gross) reports, "Opponents of former Christian Coalition leader Ralph Reed in his bid for lieutenant governor wasted no time Tuesday tying the Republican to embattled lobbyist Jack Abramoff - who pleaded guilty to federal conspiracy, tax evasion and mail fraud charges." The AP continues, "Reed has said he regrets funding a multistate antigambling campaign with money from Abramoff's gambling-industry clients. Reed angered religious groups - considered his political base - when it was revealed that his work was paid for by Indian tribes with casinos who were trying to shut down would-be competitors. … Reed has not been accused of a crime. … 'The only thing I can say is that if you're Ralph Reed, you're awfully nervous right now,' said Greg Hecht, a former state senator seeking the Democratic nomination for lieutenant governor. 'When you get certain candidates that seem to intimate they hold a higher moral position than others, it becomes a real problem and this may just be one step in a line of difficulties for him.'"

Probe Could Lead To One Of Biggest Scandals In Congressional History. As ABC World News Tonight (1/3, story 3, 2:10, Vargas) reported last night, "This could be one of Washington's biggest scandals in years, involving both parties and potentially some very big fish." The Washington Post's Dana Milbank said on MSNBC's Countdown with Keith Olberman last night (1/3), "It now seems that this could be with us for a while and take down a lot of people." Milbank makes the same point in a Washington Post column this morning (1/4). Meanwhile, Norah O'Donnell of NBC News, on MSNBC's Abrams Report (1/3), called the plea "a potential time bomb for leading members of Congress. Experts say his plea deal could unleash the biggest congressional scandal in decades." USA Today (1/4, Drinkard, Johnson, 2.31M) quotes Norman Ornstein of the American Enterprise Institute saying, "The fear level on Capitol Hill, on a scale of 100, is 105. … Anybody touched by Abramoff is having difficulty sleeping these days." The Christian Science Monitor (1/4, Feldmann, Chaddock, 61K) runs a similar report under the headline "Abramoff Deals, Congress Quakes."

Knight Ridder (1/4, Thomma, Young) calls it "a mushrooming political scandal," one that "could make it easier for Americans to see the free flow of money and lobbyist influence in Washington and affect the way they vote in this year's congressional elections." Democrats "hope to benefit, but polls so far show both parties losing public esteem."

The Los Angeles Times (1/4, Roche Jr., Schmitt, 958K) say the move "presages the biggest corruption scandal on Capitol Hill in nearly three decades," adding that "it has already ensnared at least one member of Congress and two former congressional aides, and could now lead into unknown territory." The New York Times (1/4, Kornblut, 1.19M) goes further, calling the probe "potentially one of the most explosive in Congressional history."

The Washington Post (1/4, A1, Schmidt, Grimaldi, 744K) reports the plea deal "could have enormous legal and political consequences for the lawmakers on whom Abramoff lavished luxury trips, skybox fundraisers, campaign contributions, jobs for their spouses, and meals at Signatures, the lobbyist's upscale restaurant."

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Local TV reports also remarked on the unpredictable effects of the probe. KARE-TV Minneapolis (1/3, 5:29 p.m.), for example, said the plea "could mean big trouble for others in Washington," while WXYZ-TV Detroit (1/3, 6:10 p.m.) called it "a huge political scandal." Abramoff "says he has emails that will prove these people agreed to vote certain ways in exchange for money or trips. If he has these emails they're going to be explosive." KSAZ-TV Phoenix (1/3, 5:20 p.m.) asked, "The biggest question now is, how many members of Congress will get caught up in the scandal? Some reports say 20 lawmakers could be implicated."

DeLay Once Called Abramoff His Best Friend. The Houston Chronicle (1/4, Hedges, 581K) notes DeLay "once called Abramoff his best friend." DeLay attorney Richard Cullen "declined to comment Monday amid reports Abramoff would strike a deal with prosecutors." Dick DeGuerin, attorney for DeLay, said on MSNBC's Abrams Report (1/3) if he is concerned about Abramoff's plea. DeGuerin said, "No. No question that they are friends and Tom DeLay is not the person who is going to turn his back on a friend in trouble. I'm sure he is very sympathetic. At the same time, if Abramoff feels the truth, and we hope he does, I think it will clear the air. Every time his name comes up, they try to link him to some improper conduct with Tom DeLay and that just not there." DeGuerin added, "Everybody has had a friend that has a friend that gotten into trouble. And Tom DeLay is not going to abandon Jack Abramoff just because Abramoff has done some illegal things. But he hasn't done anything illegal with Tom DeLay."

The Dallas Morning News (1/4, Gillman) reports on the close relationship between former House Majority Leader Tom DeLay and lobbyist Jack Abramoff. They "built a politically potent network of former aides, lobbyists and comrades-in-arms. The question hanging over Washington on Tuesday: Could Mr. Abramoff's plummet and plea deal drag down his longtime ally?"

KHOU-TV, CBS 11, Houston, TX (1/4, Chow) reports, "What does Jack Abramoff's guilty plea mean for DeLay? … No question that's the big question now. How will this impact the former House Majority Leader and word is, about a dozen other congressmen." KHOU-TV adds, "None of Tuesday's charges connect Abramoff and DeLay, but Travis County's prosecutor is now issuing subpoenas for records linking the Sugar Land Republican to the lobbyist. … Insiders believe the noose is tightening on some after Abramoff's guilty plea. … Jack Abramoff's guilty pleas, revealed among other things, a stunning fraud scheme. He admits to bilking Indian tribes of more than $60 million and getting nearly half of that in kickbacks. … The immediate fallout to Congressman DeLay? Late Tuesday, his office announced he will donate funds from Abramoff to local charities. … His office says an accounting process is now underway." KHOU-TV notes, "Experts say federal prosecutors will now move onto congressional aides … 'The noose is tightening and its tightening through the use of people who are in direct contact with members of Congress,' said Stan Brand, former U.S. House Counsel. … Some of those aides also enjoyed the lavish trips. Insiders believe at least a dozen congressmen will be under fire from Abramoff's deal."

"Staffer A" Said To Be DeLay Aide. Bloomberg (1/4, Salant) reports Abramoff's guilty plea "pushed the federal investigation of the lobbyist deep into the office of" the former House Majority Leader "by implicating one of his top ex-staffers." The AP adds, "People close to the investigation identified the 'Staffer A' mentioned on page 13 of Abramoff's 15-page plea agreement as DeLay's former deputy chief of staff, Tony Rudy." While a member of DeLay's staff, Rudy "helped Abramoff stop a measure that would have prohibited Internet gambling, according to the government. In return, Rudy's wife was paid $50,000 through a non-profit group, the government says."

On PBS' NewsHour (1/3, Lehrer) the Washington Post's James Grimaldi noted, "The charging documents today also talk about two congressional aides who we have written about but have not been widely written about who are named as staffer A and staffer B. There are pending allegations now, according to these documents, against these staffers. One of those staffers was a deputy to…DeLay. You should expect that there should be some movement there. The question would be, are the prosecutors building a stepladder case that would go from Jack Abramoff to this staffer and then on to perhaps…DeLay." Eamon Javers of Business Week added, "In the case of staffer A and B who are listed in this document today I've talked to a number of former Abramoff associates today who say that's probably Tony Rudy who was the deputy chief of staff to Tom Delay and also Neal Vols who worked for Mr. Ney. These guys are going to face possible situation themselves."

More Commentary. USA Today (1/4, 2.31M) editorializes, "The Abramoff scandal is likely to make 2006 the year a seamy underside of Congress comes into full public view. Barely a decade after the arrival of a reformist

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GOP Congress, the institution has fallen into one of its most tawdry periods ever, with members actively seeking favors in exchange for legislation that sells out the public interest for personal or partisan gain.

The New York Times' Maureen Dowd (1/4) writes, "The Abramoff plea bargain may have left his former business partners and political pals panicking, wondering if the rat will rat them out." DeLay and Ney "are among the sleazy solons caught up in the scandal, and the House speaker, Dennis Hastert, scrambled yesterday to launder $69,000 in dirty Abramoff contributions, donating the wad to charity. And then there's Ralph Reed, the choirboy Bible thumper who used his links to Christian groups to immorally play Indian tribes off against each other."

USA Today (1/4, 1A, 2.31M) runs a front-page box titled "Why Abramoff Matters." Listed are two bullet-points: "What he knows could help bring criminal charges against at least 12 members of Congress or their aides;" and "He paid for trips, donated campaign funds and did favors for Reps. Tom DeLay, Bob Ney and others."

Former Conyers Aide Arrested In Ghana. The Detroit Free Press (1/4, Ashenfelter, Thurtell) reports Dewayne Boyd, a former aide to Michigan Rep. John Conyers Jr., was "arrested in the African nation of Ghana on Friday, eight months after he failed to show up for sentencing on charges of defrauding sponsors and vendors of a national conference for black farmers of more than $150,000 in 1999." FBI spokeswoman Dawn Clenney said Boyd "was arrested by Ghanaian police on Friday. She said Boyd was returned Sunday to New York, where he was to appear today in U.S. District Court in Brooklyn for a hearing to determine whether he will be returned to Michigan."

Families Of Missing Cruise Passengers Form Group To Push For Reforms. The AP (1/4, Christoffersen) reports, "Relatives of cruise passengers who disappeared on the high seas are forming a new group to seek industry reforms," and "the group, which includes eight families so far, will seek a second hearing before Congress." The AP adds, "In the past five years, the FBI opened 305 criminal cases on the high seas, Chris Swecker, assistant director of the FBI, testified at last month's congressional hearing. Sexual assaults on cruise ships comprised 45 percent of the cases, while physical assaults made up 22 percent and missing persons 10 percent, Swecker said." In addition to the case of missing American honeymooner Chris Smith, "federal agents are investigating an alleged rape of a passenger on the same cruise, a cruise line spokeswoman said Tuesday. 'It's an allegation and we are cooperating with the FBI,' Lynn Martenstein, spokeswoman for Royal Caribbean Cruises, told The Associated Press."

FBI Investigating Theft Of Uniforms, Vehicles From Military Recruiting Offices. The Milwaukee Journal Sentinel (1/4, Seibel, 266K) reports, "Police officers making routine checks on area businesses found a door to the local military recruiting office open 26 times since July, officials said Tuesday after a weekend burglary of military uniforms was reported at the facility. Authorities are linking the burglary with the theft of a government vehicle outside a military recruiting office in Indianapolis, a development that has prompted interest from federal, state and local law-enforcement agencies." Police Capt. Tim Imler said that "in the parking lot where the 2003 Oldsmobile Alero was stolen…another stolen government car was recovered" and "was still bearing its government-issued license plates. ... Michael Johnson, a supervisory special agent in the FBI's Milwaukee office, said the bureau is investigating the crime, but only as theft of government property. 'We have no reason to believe it is tied to terrorism at this point,' he said."

The AP (1/4) notes, "The break-in follows the theft of a car from a recruiting center in Indianapolis over the weekend. That car was found at the same Town of Brookfield recruiting center where the new thefts were reported, FBI Special Agent Mike Johnson said. … The recovered vehicle is being processed for evidence, Johnson said. The FBI is involved because federal property was stolen." WFIE-TV Evansville, IN (1/3, Chambliss) also reports on the incident.

Marion Barry Robbed At Gunpoint. Washington DC City Councilman and former Mayor Marion Barry was robbed at gunpoint in his home Monday. A front page story in the Washington Post (1/4, A1, Wilber, 744K) reports, "Barry, 69, was held up in his kitchen about 9:30 p.m. Monday by two assailants who minutes earlier had helped him carry groceries from his car to his third-floor apartment in Southeast Washington. They pointed a gun at Barry's face and stole his wallet, which contained more than $200, his driver's license and two credit cards, police said. … Barry was not injured in the holdup."

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The Washington Times (1/4, Cella, 90K) adds that Barry said he "felt downhearted about being robbed in the Ward 8 neighborhood he represents on the D.C. Council. He also said that he doesn't want authorities to prosecute the robbers, if they are caught, and that he 'loves' them. 'I was really kind of hurt,' Mr. Barry, a Democrat, said at a press conference yesterday at City Hall. 'There's sort of an unwritten code in Washington among the underworld, the hustlers, and these other guys that I'm their friend. I don't advocate what they do, but I advocate the conditions to change what they do,' he said."

Former Ryan Employee Testifies About Doing Political Work On Official Time. The AP (1/4, Colias) reports, "A former employee of the Illinois secretary of state's office testified Tuesday that he spent much of his time on the clock working on political campaigns, including George Ryan's runs for governor and secretary of state. Brad Roseberry testified at the former governor's racketeering and fraud trial that Scott Fawell, Ryan's chief of staff when he was secretary of state, assigned him to do campaign work on numerous Republican campaigns from 1992 to 1999, when Roseberry was a state employee. … 'Toward the (election), it was virtually full time,' said Roseberry, who testified under government immunity from prosecution for anything that he might say on the stand." However, "under cross-examination from lead defense attorney Dan K. Webb, Roseberry agreed numerous times that Ryan himself never directed him to do political work of any kind. Webb also insinuated that Roseberry might have fabricated some of what he told the FBI in exchange for his immunity." The AP adds, "Earlier Tuesday, a former Cook County prosecutor said Ryan in 1992 cursed when he and then-Cook County State's Attorney Jack O'Malley suggested a way to prevent corruption within the secretary of state's office."

The Chicago Tribune (1/4, Bush, O'Connor, 643K) reports, "Testifying under immunity from prosecution, Roseberry told jurors that he routinely did political work on state time. He also testified that after Ryan was re-elected secretary of state in 1994, he compiled a list of state employees who had worked on the campaign in anticipation they would receive raises and promotions for helping Ryan. Roseberry himself received a 20-percent raise after the election and was promoted to a position that did not exist before the election, he said." The Chicago Sun Times (1/4, Korecki) adds, "When a state prosecutor suggested a way to stop corruption in the secretary of state's office, George Ryan allegedly gave him a gruff response: 'F--- you, Jack. These are my guys,' Ryan told Cook County State's Attorney Jack O'Malley in May of 1992. Illinois Appellate Court Judge Patrick Quinn, then O'Malley's public integrity chief, recalled the conversation Tuesday as he testified at Ryan's public corruption trial. … O'Malley doesn't remember the exchange, according to Quinn and prosecutors. Quinn said at the time he told his supervisor about Ryan's response."

Investigators Seeking Wider Information On Doyle Campaign Contributions. The AP (1/4, Ross) reports, "State and federal investigators have asked a group that tracks campaign contributions for details on donations Gov. Jim Doyle received from utility interests, a company that won a state travel contract and a fundraiser held by a Department of Transportation official, the organization's executive director told The Associated Press. Federal, state and local prosecutors announced last year they would review $20,000 in donations Doyle received from officials with Adelman Travel Systems shortly before and after the Milwaukee company won the state contract. The requests of the Wisconsin Democracy Campaign indicate investigators are looking at a wider range of donations than they have previously let on." The AP adds, "Doyle spokesman Dan Leistikow said the governor's administration has complied with all requests for information from investigators and was confident they would find no wrongdoing."

Philadelphia Good-Government Group Calls For City Probe Of Mariano Allegations. The Philadelphia Inquirer (1/4, Schaffer, 423K) reports, "Philadelphia's leading good-government lobby is calling on City Council to hold hearings and set new conduct rules in response to FBI documents and grand jury testimony showing that electricians' union leader John J. Dougherty had great influence over the office of indicted Councilman Rick Mariano. The Committee of Seventy also asked for an investigation into Mariano's dismissal of three staffers who testified before a grand jury that indicted him on corruption charges." City Controller Alan Butkovitz "said he would be happy to investigate if the Mariano case weren't already being handled by the federal government. 'The problem with this is that the FBI's already heavily into this case, and I would just get in the way,' he said. 'From what I've heard, they'd have a fit.'"

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Indicted Tennessee Lawmaker's Lawyer Steps Down Over Conflict Of Interest. The AP (1/4, Baird) reports, "Former state Sen. Roscoe Dixon told a federal judge Tuesday he is getting a new defense lawyer, a move that will delay the first scheduled trial for the Tennessee Waltz scandal by months. Defense lawyer Walter Bailey stepped down after prosecutors raised questions about a potential conflict of interest with a government informant." The AP adds, "Outside the courthouse Dixon said he was initially disappointed in losing Bailey as his lawyer and seeing the trial delayed. 'At first you want to hurry up and get it out of the way, but maybe this ordeal is about long suffering, patience, learning how to let God work things for you,' Dixon said."

Mob Figure Revealed Wealth Of Gambino Family Secrets On FBI Tapes. The AP (1/4, Apuzzo) reports, "Mobster Victor Riccitelli wanted so badly to keep his recorded conversations with an FBI informant secret, he broke the mob's honor code and admitted his Mafia membership rather than have prosecutors play the tapes in court. For the first time since Riccitelli and more than a dozen others were indicted in a landmark Mafia case in 2004, prosecutors recently offered the first clues as to why he was so insistent the tapes remain sealed: In them, he revealed the Gambino crime family hierarchy, placing ranks with names and explaining the upper echelon of one of the nation's most notorious crime syndicates." The AP notes, "Riccitelli was scheduled to be sentenced for racketeering Tuesday but his case was delayed until Jan. 20. He faces six to eight years in prison and prosecutors want that tacked onto the end of his 13-year sentence for cocaine distribution -- all but ensuring that Riccitelli, 72 and a cancer patient, will die in prison."

Ohio Loan Processors Agree To Plead Guilty To Mortgage Fraud. The Cincinnati Enquirer (1/4, Boyer, 205K) reports, "Two loan processors have agreed to plead guilty to fraud and other charges in the federal probe into mortgage fraud involving low-priced homes in Greater Cincinnati. Ike Bronson, a former loan processor at Seven Hills Financial mortgage brokerage, has agreed to plead guilty to charges of bank fraud, conspiracy and filing a false tax return, in documents filed in U.S. District Court in Cincinnati. Bryan Young, another loan processor, has agreed to plead guilty to bank fraud and conspiracy charges, according to court papers." The Enquirer notes, "More than three dozen people have entered guilty pleas in the ongoing probe by the Internal Revenue Service, the FBI and the U.S. Postal Inspection Service into the sale of more than $50 million in area real estate."

CIVIL LAW:

Scios Unit Failed To Tell US Of Two Deaths During Heart Drug Study. The New York Times (1/4, Saul) reports, "The Scios unit of Johnson & Johnson yesterday added to the questions already clouding its heart failure medication Natrecor, saying the company had failed to tell federal regulators about the deaths of two patients in a clinical trial of the drug." The Times continues, "The two deaths were also omitted from a report of the trial published in October in The Journal of Emergency Medicine, the company said. That article reported 6 deaths within 30 days among 237 patients given Natrecor or other treatment in hospital emergency rooms in 2001 and early 2002. Five of those deaths were of people who had taken Natrecor. … The two additional deaths raised the total to seven among Natrecor patients, although Scios said yesterday that the difference did not change the safety assumptions about the drug." The Times adds, "Neither Scios nor Dr. W. Franklin Peacock 4th of the Cleveland Clinic, the principal investigator in the study, disclosed yesterday how the deaths had been omitted from the results, but said they had learned only recently that the deaths occurred within the 30-day study period. A final analysis of the results is under way and will be submitted to the Food and Drug Administration, said Mark Wolfe, a Scios spokesman. He said he did not yet know the causes of the two additional deaths. … But a spokeswoman for the Cleveland Clinic, Eileen Sheil, said that Dr. Peacock strongly believed that the deaths had been accidental and not related to problems with Natrecor." The times notes, "After achieving sales of $400 million in 2004, though, Natrecor's growth failed to meet forecasts last year after questions arose about its safety and whether it was effective enough to justify a cost of about $500 a treatment, compared with much cheaper alternatives. The Justice Department is also investigating whether Scios promoted the drug for unapproved uses. And the government recently announced that Medicare and Medicaid would no longer cover the drug's outpatient use."

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Federal Agencies Must Designate Chief FOIA Officers. Federal Computer Week (1/4, Weigelt) reports, "Federal agencies must designate a chief Freedom of Information Act officer by Jan. 13, and each new officer will review the agency's FOIA operations and develop an improvement plan by June, according to a memo." FCW continues, "Released Dec. 30 by the Office of Management and Budget, the memo states that each agency must send a report on its FOIA operations and its improvement plan to the Justice Department and OMB by June 14. Agencies will also post the improvement plans on their Web sites. … The chief FOIA officer will be responsible for agencywide compliance with FOIA and oversee the program's implementation, the memo states. The officer will designate several public liaisons and post their contact information on the agency's Web site. The liaisons will serve as supervisors who review concerns about services."

Government Computer News (1/4, Thormeyer) reports, "On Dec. 14, 2005, President Bush via executive order directed agencies to streamline their FOIA processing by appointing a chief FOIA officer and making information about how they handle these requests available online within six months. … In the OMB memorandum, deputy director Joel Kaplan provided more specifics and said agency FOIA officers must review their information operations and draft an improvement plan with concrete milestones for fiscal 2006 and 2007. … The plan must be submitted to the Justice Department and OMB and posted on agency Web sites by June 14, Kaplan wrote."

AARP Support For Imported Rx Drugs Seen As "Softened." The Hill (1/4, McCormack, Cusack) reports on the AARP's "softened…support" for prescription drug importation after admitting Part D "saves senior citizens more than buying pharmaceuticals from Canada." Such a "revised position" could slow momentum of pending legislation as well as "alleviate political pressure on the White House and the pharmaceutical industry." An AARP analysis compared Canadian drug prices to those found in Medicare's plan finder. While Canadian drug were cheaper, "when a senior includes all out-of-pocket costs…the [Part D] price is lower." In AARP's press release, they said conversations with potential Part D enrollees revealed a shift in focus "from the legislation to choosing the best plan to suit their needs." The announcement triggered a "strong reaction" from both sides of the isle. Rep. Gil Gutknecht's spokesman Jon Yarian said, "Saying that Medicare drug plans 'cost less' than buying prescription drugs from other countries is misleading. The cost of the prescription drugs hasn't changed. The only difference is who bears the burden of the expense."

CIVIL RIGHTS:

Russian-American Woman Pleads Guilty In Human Trafficking Conspiracy. The Newark Star-Ledger (1/3, Ben-Ali, 420K) reports, "A Brooklyn woman accused of forcing Russian immigrants to dance nude in New Jersey strip clubs in a human trafficking ring run by her husband pleaded guilty" Monday "to conspiracy charges in Newark federal court." Viktoriya I'lina, "a naturalized U.S. citizen from Russia, is the last of three defendants to plead guilty in a case that involved luring more than 25 women from Voronezh in Russia, sending them to work in strip clubs and forcing them to pay exorbitant fees to members of the ring." She "admitted demanding $5,200 from one dancer and $2,600 from another, when the two women stopped dancing in the clubs," and pleaded guilty to visa fraud. The Star-Ledger notes, "The Brooklyn trio was arrested by FBI agents in August 2002.

Louisiana Secretary Of State Gets DOJ OK For New Orleans Elections. The AP (1/3, Deslatte) reports that Louisiana Secretary of State Al Ater "moved closer to readying a new date for the postponed New Orleans mayoral and city council elections, gaining approval from the U.S. Justice Department for special authority to take control of the elections." The AP continues, "The Legislature, in a recent special session, gave the secretary of state special powers to develop an emergency elections plan during a declared disaster that would let Ater relocate or consolidate polling places and address shortages of elections workers and voting machines. … That new law required approval by the federal government under the Voting Rights Act, and Ater spokeswoman Jennifer Marusak said the approval was granted." The AP adds, "Gov. Kathleen Blanco postponed the Feb. 4 New Orleans elections after Ater said it was impossible to ready the devastated city and track down voters so soon after Hurricane Katrina. The storm had damaged polling places and scattered the city's voters and elections workers around the nation. … Ater agreed to hold the elections by April 29 if possible, as part of the settlement of a

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lawsuit against him and Blanco, but a series of bureaucratic hurdles remain before he can recommend a new election date to the governor. … The governor and two legislative committees must agree to Ater's takeover of the elections - an agreement expected to win easy approval." The AP notes, "Then, Ater must present his emergency elections plan for New Orleans, which needs approval from the full Louisiana Legislature and another layer of approval from the U.S. Justice Department, Marusak said."

Ex-DC Parks And Recreation Chief Accused Of Sexual Harassment. The Washington Post (1/4, A1, Barker) reports, "The former chief of facility maintenance at the D.C. Department of Parks and Recreation allegedly kissed, fondled and demanded sexual favors from three women under his supervision, according to the women, who say the alleged harassment continued even after they told several supervisors at the agency. The women are single mothers who were hired initially for maintenance jobs at $6.15 an hour under the District's welfare-to-work program. One former employee said she complained in person more than three years ago to Neil O. Albert, a former deputy mayor who was then the department's director. The maintenance chief, Darnell Thompson Sr., 50, left his $66,000 position at the agency last summer after a current employee, Garrina Byrd, 28, filed a sexual harassment complaint against him with the city's Office of Human Rights. 'The Chief would grab my breasts or my behind and, if I had on a skirt, he would try to put his hand up my skirt,' Byrd alleges in her complaint, filed in April. 'I began to consent to the Chief's requests for sex because I was afraid that I would lose my employment.'" The Post adds, "The allegations against Thompson are drawn from Byrd's complaint and from interviews with her and two former recreation department employees. The women alleged a range of sexual harassment incidents, most of which they said took place in Thompson's office at the facilities maintenance bureau."

Advocates Sue To Block Massachusetts Ballot Measure Banning Gay Marriage. Reuters (1/4, Szep) reports gay rights lawyers "filed on Tuesday a lawsuit to stop a proposed ballot measure aimed at overturning a court decision that made Massachusetts the first and only U.S. state to legalize gay marriage." The lawsuit "by the Gay & Lesbian Advocates & Defenders (GLAD) said the state's attorney general erred when he ruled in September that Massachusetts voters could decide in a 2008 poll to redefine marriage as the union of one man and one woman. They said the decision by Thomas Reilly, a Democrat who is likely to run for governor this year, was unconstitutional because ballot initiatives cannot reverse judicial decisions under the state's Constitution."

The Washington Times (1/4, Wetzstein, 90K) reports the lawsuit challenges "a ruling that allowed a petition drive for a constitutional amendment that would end same-sex 'marriages' in Massachusetts." Massachusetts Attorney General Thomas Reilly "'simply got it wrong' in September when he certified VoteOnMarriage.org's marriage amendment for a petition drive, said Gary Buseck, legal director of Gay & Lesbian Advocates & Defenders (GLAD), which filed its lawsuit before the Massachusetts Supreme Judicial Court."

ANTITRUST:

Laptop Magazine Executive In Plea Talks With DOJ Over Circulation Fraud. AdAge.com (1/3, Ives) reports, "One of the publishing executives accused of circulation fraud at Laptop magazine has entered plea negotiations with the U.S. Justice Department, court documents filed in the case show." AdAge continues, "Proceedings regarding the executive, John Jay Annis, are on hold through Jan. 30 while the parties try to hammer out a deal, which Judge Steven M. Gold has indicated he considers likely. … The U.S. attorney's office for the Eastern District of New York, which has been investigating circulation practices since schemes by Newsday and Hoy to inflate their numbers became public, secured the arrests of Edward D. Brown, president-publisher, Bedford Communications, and Mr. Annis, Bedford's circulation director, last October." AdAge adds, "Prosecutors accused the pair of scheming to inflate circulation at Laptop magazine by hiring a distributor to accept 15,000 copies that they would claim as paid circulation -- whether or not they were ever distributed. The distributor they hired was really an undercover postal inspector, prosecutors said. … It is unclear what a plea arrangement would mean to the circulation investigation. According to the Bedford Web site, Mr. Annis serves as a circulation consultant to 'several other publishing companies,' so he may have information of interest to prosecutors about magazines beyond Laptop. That could explain the surprising effort by the government to arrange an

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elaborate sting on executives at Bedford, a relatively small target."

Apollo Takeover Of Linens 'N Things Gets FTC Antitrust Nod. The New York Times/Reuters (1/4) reports, "U.S. antitrust authorities said on Tuesday they approved plans by Linens 'n Things Inc. to be taken over by private equity firm Apollo Management L.P. and its affiliates." Reuters continues, "Officials have completed their investigation of the $1.3 billion deal without taking action, the Federal Trade Commission said in a notice." Reuters adds, "Linens 'n Things faces stiff competition from larger rival Bed Bath & Beyond Inc. and discounters such as Target Corp., which have expanded home decor offerings. … Under the terms of the Apollo deal, financing is contingent upon Linens 'n Things reporting a fourth-quarter comparable sales decline of no more than 6 percent and earnings before interest, taxes, depreciation and amortization of not less than $140 million."

Cisco Receives Antitrust Nod For Scientific-Atlanta Offer. The Wall Street Journal (1/4) reports, "Cisco Systems Inc. received U.S. antitrust clearance for its offer to acquire Scientific-Atlanta Inc. for about $6.9 billion, or $43 a share," but the "bid still requires regulatory approvals in various foreign jurisdictions." Scientific-Atlanta says "its shareholders can vote on the proposed deal with Cisco at a special meeting Feb. 2. The companies expect the deal to close in Cisco's fiscal 2006 third quarter."

The AP (1/4) reports, "Under the transaction announced in November, Cisco will acquire Scientific-Atlanta for $6.9 billion, or $43 per share in cash, and assumed options. Scientific-Atlanta's cash balance will reduce the cost of the deal for Cisco to about $5.3 billion." The AP adds, "The deal, which is expected to close by late April, is expected to fuel changes in how TV is distributed and watched as programming is increasingly shuttled to homes using the language of the Internet. … Scientific-Atlanta, a leading maker of cable boxes and the technology behind them, is expected to benefit as its customers -- cable and phone companies -- move toward Internet-based TV offerings. Cisco is the world's largest supplier of data networking gear."

WSJournal Backs Wal-Mart Bid To Offer Banking Services. An editorial in the Wall Street Journal (1/4, 2.11M) says, "The Federal Deposit Insurance Corporation (FDIC) will soon have to make a big decision: whether to grant retail giant Wal-Mart a charter to enter the consumer banking business." The Independent Community Bankers Association "is raising a ruckus in Washington to keep big bad Wal-Mart locked out of their game. We have here a textbook case of a powerful corporate lobby rushing to its pals in Congress and their regulators, in this case the FDIC, and pleading for them to squash competition that might lower the prices of banking services. … If the bankers succeed in this protectionist gambit, the biggest loser won't be Wal-Mart, but rather consumers, particularly those in lower-income neighborhoods where competition in retail banking is traditionally scarce. Wal-Mart banking services in these areas might even solve the longstanding problems of red-lining and discriminatory lending practices. Wal-Mart already performs many bank-like functions that are especially popular in poor areas -- including wire transfers, money orders, paycheck cashing, and express bill payment services." The Journal adds, "It's always possible that Wal-Mart will fall on its face in banking. We suspect, however, that what really spooks the banking industry is the threat of more competition, more convenience and lower prices for financial services. But that should be welcome news to members of Congress and the regulators at the Federal Reserve Board and the FDIC if they truly care about the welfare of the banking consumer."

ENVIRONMENT/INDIAN AFFAIRS:

Texas, New Mexico, Oklahoma Firefighters Continue To Battle Wildfires. The CBS Evening News (1/03, story 7, :45, Schieffer) reported, "Fire fighters in Texas raced against time today to contain the last major wildfires that are still racing through the grass and farmland in west Texas. Ranchers moved their livestock after the weather service warned that wind conditions could cause major flare-ups and also said there is no relief in sight from months of drought." NBC Nightly News (1/3, story 7, :45, Williams) and the New York Times (1/4, Blumenthal, 1.19M), among other sources, also report the story.

Damage In California Flooding Could Top $100 Million. The CBS Evening News (1/03, story 7, :45, Schieffer) reported, "On the West Coast, residents of northern California are looking forward to drier weather after two storms sent rivers spilling into vineyards and flooded upscale

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neighborhoods. Authorities say there were at least three storm-related deaths and $100 million in damage."

Six Months After Property Rights Ruling, Residents Have Not Vacated Homes. Six months after the Supreme Court ruled in the Kelo v. New London case that the city could seize and demolish private homes to make way for a commercial development project, residents in the targeted area are still living in their homes. The Christian Science Monitor (1/4, Richey, 61K) reports, "There have been no bulldozers. No wrecking balls. No police officers dragging homeowners away. At least, not yet. Instead, the state of Connecticut has hired a mediator to try to find a more peaceful solution to the seven-year battle that has touched off a heated debate over the government's use of eminent domain to foster economic development." The Monitor adds, "It is difficult to overestimate the level of animosity between New London development officials and the homeowners. After enduring years of attempts to force them out, residents say the toughest test so far has been losing at the Supreme Court. … The city's redevelopment agency sent notices to all tenants living in rented properties in Fort Trumbull. The move got the attention of Connecticut Gov. M. Jodi Rell, who instructed the city to withdraw the notices. Since then, the feud has been in hiatus pending the work of the mediator."

Blumenthal Says US Is Unprepared For Avian Flu Pandemic. The Washington Post (1/4, A15, 744K) interviews Susan J. Blumenthal, a former assistant surgeon general, about the possible threat from an outbreak of avian flu in the US. Asked, "How real is the threat of an avian flu pandemic," Blumenthal said, "On the question of are we more vulnerable, there is the group of people I call the ostriches and the Chicken Little. The ostriches point out that we have better science and public health than ever before, that we have not seen the H5N1 virus here. The Chicken Little say we do not have enough antiviral [medications]; we don't have a vaccine. The threat is probably somewhere in between." Asked is the US is prepared, Blumenthal said, "We're not sufficiently prepared if a pandemic were to strike us this year. We have a plan that outlines the major steps to be taken. Hopefully we'll have the time to develop new vaccines and stockpile antivirals. We don't have [the necessary] communications systems in place. We don't have a rapid diagnostic tool for using in the field, there is no cell-based vaccine nor the production systems that would be needed."

Lawsuit Challenges Construction Of Seneca Casino In Buffalo. The New York Times (1/4, Staba) reports, "A coalition of citizens' groups, churches, business people and lawyers filed a lawsuit in federal court on Tuesday to halt construction of an Indian casino on the Buffalo River waterfront. The suit alleges that federal officials, including Interior Secretary Gale A. Norton, failed to abide by a 1988 law regulating gambling facilities established off reservation land," in that a "casino cannot be permitted under federal law, because the nine-acre site along the Buffalo River is not adjacent to an existing reservation and was not part of land claimed by the Seneca Nation. In addition, the suit alleges that the approval process violated federal laws that require a study of the environmental impact of a proposed casino." The legal challenge "is being financed in part by the Margaret L. Wendt Foundation."

FBI/DEA/ATF/USMS:

Drug Traffickers Said To Be Using High-Tech Gadgets. In a story titled "High-Tech Gadgetry Pops Up In Drug Trade," the Knoxville (TN) News-Sentinel (1/4) reports on the November arrests of four men "accused in a conspiracy case that Assistant U.S. Attorney Mike Winck has alleged in court records funneled hundreds of pounds of cocaine, crack and marijuana and thousands of ecstasy pills from [Detroit] to Knoxville starting in May 2003. … The group used sophisticated secret compartments, including the nifty pop-up box built into the floor of a bathroom at a house…the affidavit alleged. Vehicles used to transport drugs also were equipped with hidden stash boxes, including a Ford Excursion described in the affidavit that had two secret compartments, one where the airbag should have been and another in the floor. Both were activated through cigarette lighters in the vehicle, the affidavit stated. … According to the affidavit, a man identified only as the 'Kid' engineered hiding places for the alleged network's goody stash. The alleged dealer who showed off the devices in August has not been charged. The affidavit makes clear he had no idea the customer he was trying to wow with his tour was working for Knoxville Police Department investigator Bruce Conkey and U.S. Drug Enforcement Administration Agent Todd Lee. The pair, who led the probe, used five informants in all during their

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two-year investigation. Only two are now willing to testify, the affidavit stated."

Former Montana Corrections Officer Indicted On Drug Charges. The AP (1/4) reports, "A federal grand jury…has indicted a former officer at the Montana State Prison on charges of attempting to distribute methamphetamine, heroin and marijuana." Michael E. Short "was arraigned in U.S. District Court in Missoula on Tuesday and was released without bail after pleading not guilty. Prosecutors, the FBI and a state Corrections Department official declined to discuss specifics of the case, including whether Short is accused of trying to sell drugs to inmates. However, a statement from the U.S. attorney's office said the charges were the result of a joint investigation between the FBI and the Department of Corrections."

Rhode Island Becomes 11th State To Legalize Medical Marijuana. The AP (1/4) reports, "Rhode Island on Tuesday became the 11th state to legalize medical marijuana and the first since the U.S. Supreme Court ruled in June that patients who use the drug can still be prosecuted under federal law. The House overrode a veto by Gov. Don Carcieri, 59-13, allowing people with illnesses such as cancer and AIDS to grow up to 12 marijuana plants or buy 2.5 ounces of marijuana to relieve their symptoms. Those who do are required to register with the state and get an identification card. Federal law prohibits any use of marijuana, but Maine, Vermont, Alaska, California, Colorado, Hawaii, Montana, Nevada, Oregon and Washington allow it to be grown and used for medicinal purposes." The AP continues, "Tom Riley, a spokesman for the White House Office of National Drug Control Policy, said the vote showed 'misguided and out-of-touch' views on the harms of marijuana. There's this notion from the '60s or the '70s that marijuana is a harmless drug,' Riley said. 'It's not.'" The AP story was published in newspapers and/or posted on the Web sites of more than 50 news outlets, including ABC News, CBS News, CNN, The New York Times, Forbes, Boston Globe, San Diego Union Tribune, San Jose Mercury News, Miami Herald, Canada's Globe and Mail, and the Jamaica Observer.

The Providence (RI) Journal (1/4, Mayerowitz, Gregg, Gudrais) writes, "The new law protects them from arrest under state law, but does nothing to stop federal prosecution, leaving some critics to call the measure nothing more than a symbolic act. … The White House Office of National Drug Control Policy also weighed in yesterday, saying that using marijuana is still against federal laws and the Food and Drug Administration does not consider the drug a safe and effective medicine for pain relief. 'It's largely symbolic. I don't think that it will have practical effect,' Tom Riley, a spokesman in the office, said of Rhode Island's law. Riley also said that the vast majority of people who serve time for marijuana possession are trafficking the drug.' … The Marijuana Policy Project works to 'minimize' laws that are intended to prohibit marijuana use. … The group's executive director, Rob Kampia, hailed yesterday's vote…as a major victory. 'We will continue to roll back the government's war on the sick and dying and the White House drug czar can't stop us any more than he can make water flow uphill,' Kampia said in a statement."

In a separate story from the Providence (RI) Journal (1/4) Felice Freyer writes, "The medical marijuana law that passed yesterday allows doctors to recommend that patients obtain from illegal sources a drug of unknown potency and unknown purity. This is not how doctors normally prescribe treatment. But if the longstanding support of the Rhode Island Medical Society is any indication, many are willing to go this route -- because of the potential benefits to patients who can't get relief from pain, nausea, muscle spasms and other problems. Even supporters of the concept, however, admit that it's 'weird.'"

Providence Business News (1/3) reports, "The law is effective immediately, but the state Department of Health, which will register users and give them identification cards, still has 90 days to develop procedures to do so."

Cable TV Coverage. CNN's The Situation Room (1/3, 7:00 p.m.) reported, "Rhode Island is the 11th state to legalize medical marijuana. The move allows patients with illnesses like AIDS or cancer to buy or grow small amounts of marijuana to ease their symptoms. The first such move by any statement since the Supreme Court ruled that marijuana users can still be prosecuted until federal law."

CNN's Anderson Cooper 360 (1/3, 10:00 p.m.) reported, "In Rhode Island, medical marijuana legalized by lawmakers over a veto by the governor. Rhode Island is the first state to take the step [since the Supreme Court ruled] that patients can be prosecuted under federal laws."

CNN's Lou Dobbs Tonight (1/3, 6:00 p.m.) reported, "And legalizing marijuana, the smallest state in the nation just says yes."

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Local TV Coverage. There was widespread local TV coverage of the news that Rhode Island has legalized medical marijuana. Most of the coverage noted that federal law does not allow the use of marijuana by anyone. Some examples: KHWB-TV Houston (1/3, 9:13 p.m.) reported, "There are now 11 states that say it's okay to smoke marijuana for medicinal purposes. Rhode Island lawmakers have legalized marijuana medical smoking," but the "Feds can still come after people caught with legal medical marijuana."

WFTC-TV Minneapolis (1/3, 10:13 p.m.) said, "Sufferers of long time illnesses such as cancer, multiple sclerosis and AIDS got something to smile about today and possible relief for some other symptoms. This after Rhode Island became the 11th state to legalize medical marijuana. Federal law prohibits any use of marijuana but authorities say they are unlikely to prosecute the sick. Minnesota has yet to pass any law allowing marijuana use for any reason."

WTOL-TV Toledo (1/3, 11:22 p.m.) said, "The law allows people with illnesses such as cancer and AIDS to grow up to 12 pot plants. They can also buy two-and-a-half ounces of marijuana to relieve their symptoms."

KHON-TV Honolulu (1/3, 5:33 p.m.) added, "The Rhode Island House voted to override a governor's veto by a wide margin."

WFSB-TV Hartford (1/3, 11:03 p.m.), WANE-TV Ft. Wayne (1/3, 11:15 p.m.) and KOKH-TV Oklahoma City (1/3, 9:51 p.m.) were just three of the many stations around the country also covering this story, using similar language as that used by the stations cited above.

Prosecutors Say Meth Problems Surpass Those Caused By Other Drugs. In a story about issues affecting lawyers that the ABA Journal calls "underrated, underreported and unappreciated," the American Bar Association Journal (1/4) writes, "Problems caused by meth have surpassed those caused by other popular drugs, such as crack cocaine, says Linda McKinney, the public defender for south central Missouri's 44th district. … In her experiences, first as a prosecutor and then as a public defender, she knows of only 10 instances where the defendants were able to break their addiction. Prosecutors elsewhere make similar observations. And some say that while adult use is most common among the working class, juvenile use involves children from across the economic spectrum. Boys often try the drug due to peer pressure, while girls see it as a way to lose weight. … In a survey of 500 law enforcement agencies, 58 percent of the respondents cited methamphetamine use as their county's biggest drug problem. In addition, 87 percent reported an increase in meth-related arrests in the past three years. The survey, published in 2005, was conducted by the National Association of Counties. According to a 2004 study by the Office of National Drug Control Policy, 11.7 million Americans reported that they had used methamphetamine at least once. In another study by the agency, which focused on juveniles, 6.2 percent of high school seniors surveyed reported that they had tried the drug."

Drug War Said To Be Driving Afro-Colombians From Their Homes. The Los Angeles Times (1/4) reports from Pereira, Colombia, that Afro-Colombians are being driven off land in a cocaine war. The Times writes, "More than 3 million people have been driven from their homes by the civil conflict between armed groups vying for political dominance and the control of crops, especially those linked to the nation's drug trade. Only Sudan has more internally displaced citizens than Colombia, according to the Norwegian Refugee Council, a human rights group that has tracked the displaced around the globe for the Office of the United Nations High Commissioner for Refugees. Although Colombia has had a large displaced population for two decades, its size has increased quickly in recent months, experts say, and a disproportionate number of them are…Afro-Colombians. They are targeted because they lack political clout and sophistication at a time when their rural homes have become economically attractive."

National Trend Seen Toward Destroying Guns Used In Crimes. The New York Times (1/4, Belluck) reports, "A law Maine enacted in 2001 that requires handguns used in homicides to be destroyed when they are no longer needed for evidence." Unlike other areas "the police allow victims' relatives to watch a gun's destruction." Still, "the requirement that crime guns be destroyed reflects a trend among police departments nationwide," as "efforts to prevent the resale of guns have been spurred partly by highly publicized crimes." Still, while "some police departments destroy guns, often by melting them down, others, usually smaller departments, still sell them," needing the funds the sales bring.

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DOJ's Weed & Seed Program Eagerly Awaited In Modesto, CA. The Modesto Bee (1/3) editorializes, "For many people, the new year started with music, dancing and hearty partying. There was no such hoopla for the Jan.1 launch of the Weed and Seed program in west Modesto. … That's appropriate. Weed and Seed is not a flash-in-the-pan kind of thing. It's a methodical, yearslong commitment to getting rid of gangs, drugs and other criminal elements, and then cultivating pride and revitalization in a neighborhood that has suffered from ugly stepsister treatment." The Bee adds, "The program has been in the planning and wish stages since 2002. The city's first application for the U.S. Justice Department's Weed and Seed designation — and up to $1 million that comes with it — was rejected. Last summer, with the second application, the outcome was positive. … The Justice Department is promising tougher federal prosecution of people arrested for certain crimes. It also is insisting on proof of success. The California State University, Stanislaus, Center for Public Policy Studies is to assist with that measurement. … In fact, many organizations are tapped for Weed and Seed assistance. Some of the strategies are fairly obvious, such as stricter code enforcement to assure that trashy lots are cleaned up. But there are other, less predictable elements. For instance, volunteers are to provide income tax assistance to help residents recover some of the $2.5 million in earned income tax credits that have gone unclaimed in that ZIP code, 95351. The reclaimed money goes directly to the residents. … The official launch of the Weed and Seed project isn't what's important. More significant is what has been accomplished by this time next year and the year after."

IMMIGRATION:

Morris Says Republicans Face Dilemma On Immigration. In his column in The Hill (1/4), Dick Morris says Republicans "face one of the trickiest political problems they have faced as a party since Clinton pre-empted their program through triangulation and left them temporarily devoid of issues." As the "number of illegal immigrants mounts in the United States, the demands of the party's nativist constituency for tighter border controls and immigration enforcement threatens to put it at odds with America's rapidly growing Hispanic population, dooming the GOP to possible minority status not just in California and New York but in Texas and Florida as well." The "obvious answer to these concerns is a grand bargain that couples the strictest border defense with a generous guest-worker program, granting legal status to Mexican immigrants and regulating their numbers, working conditions, and wages — and assuring that they contribute to Social Security and other taxes." The "foreign-policy implications of a fence are harder to handle," but "it is in the realm of domestic politics that the GOP would pay the highest price for a purely nativist policy." Texas has "now become a majority-minority state, joining California. Can its wholesale flip to the Democratic Party be far behind? Not if the Republicans are seen as an anti-Hispanic party!"

TAX:

Americans Paying Smaller Share Of Income To IRS. The latest statistical analysis from the IRS shows that as Americans' incomes are rising, they are paying a smaller share of them in federal taxes. The Wall Street Journal (1/4, Matthews, 2.11M) adds that "the growing number of people who are subject to the alternative minimum tax are paying an increasing share of the total amount of federal income taxes, according to the Treasury Department's Statistics of Income Bulletin, which was released late last month. The report analyzed individual 2003 income-tax returns and is the latest data available on individual tax returns. Falling tax rates under the Economic Growth and Tax Relief Reconciliation Act of 2001 resulted in a 6.1% decrease in total individual income tax in 2003, to $748 billion, from 2002. But the portion of total taxes paid under the AMT rose 38.2%, to $9.47 billion."

New York Art Gallery Spat Leads To Tax Dodging Confessions. The New York Times (1/4, Hartocollis) reports, "A feud between Upper East Side gallery owners" Helen Fioratti and James Sansum, "has resulted in both admitting to tax violations." Sansum "pleaded guilty yesterday to failing to pay income tax on personal purchases" and "was sentenced to pay $58,000 in back taxes and to three years' probation." He "was granted leniency after he volunteered information that led to the conviction of Ms. Fioratti on charges of evading sales tax on artwork sold at her gallery," which led to a sentence "last month to pay more than $550,000 in restitution."

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CONGRESS-ADMINISTRATION:

Alito Hearing Expected To Focus On Pennsylvania Abortion Ruling. The AP (1/4, Rubinkam) reports, "Samuel Alito's decision as a U.S. federal appeals judge to uphold a 1980s Pennsylvania abortion restriction -- later overturned by the Supreme Court -- is likely to draw some of the toughest scrutiny at his upcoming confirmation hearing." The AP continues, "Pennsylvania lawmakers were among the first anywhere to approve restrictions on abortion -- including one that required women seeking the procedure to notify their husbands. Alito voted to uphold that requirement, but the Supreme Court disagreed, striking it down in a landmark 1992 decision. … Senators are expected to grill Alito about the case, Planned Parenthood v. Casey, at his Supreme Court confirmation hearing, scheduled to begin Jan. 9. They're also expected to ask him about memos he wrote in the 1980s in which he said the case of Roe v. Wade -- the 1973 decision that legalized abortion nationwide -- should be overturned." The AP adds, "While the Court's decision in Casey upheld a constitutional right to abortion, the justices gave states new powers to make it more difficult for women to end their pregnancies. For that reason, activists on both sides regard Casey as the Court's most important abortion case since Roe. … Since Casey, state legislatures have approved hundreds of new regulations that determine when, where and how women may get abortions."

Alito Seen As Smart, Cautious. The AP (1/4, Benac) reports, "Samuel Alito's ninth-grade Latin teacher still swoons at how beautifully he conjugated verbs. A fellow judge admires him as someone who won't use five words when two will do. … From the classroom to the courtroom to his neighborhood, President Bush's latest nominee for the Supreme Court leaves a distinct impression on people. Talk to those who know him best and a portrait emerges of a smart, serious, cautious young man who grew up to be a smart, serious, cautious judge." The AP adds, "Alito is hardly a social dynamo. But he is well-liked as a regular guy who doesn't lord it over others just because he's way smarter than truly regular guys. … Interest groups on the left portray him as an extremist eager to impose his conservative views on the nation. But among those who have worked closely with Alito over the years, even liberal Democrats tend to characterize him as fair-minded, measured and pleasant. … Joshua Schwartz, a George Washington University law professor who worked alongside him in the Reagan Justice Department but describes himself as a liberal Democrat, credits Alito with having 'small-c conservative values.' … 'He's an incrementalist. He's cautious. He believes very deeply in hearing all sides of an argument before making a decision.'"

Polls Indicate Americans Believe Alito Should Be Confirmed. Every major US poll indicates that the American people support the confirmation of Supreme Court nominee Samuel Alito. This, despite that the Washington Times (1/4, Hurt, 90K) calls "a major coordinate campaign" by "liberal interest groups" to "convince the American public that the Senate should reject' him. According to the Times "A poll conducted by The Washington Post just before Christmas, for instance, found 54 percent in favor of Judge Alito's confirmation, compared with 28 percent opposed. A CNN poll last month similarly found 49 percent favoring Judge Alito and 29 percent opposed."

Roberts' First State Of Judiciary Report Focuses On Independence. The Legal Times (1/4, Mauro) reports, "The year 2005 was a stormy one for the judiciary, not only because of the death of Chief Justice William Rehnquist, but also because of clashes with Congress over the Terri Schiavo case, the politicking over judicial nominees, and issues such as Supreme Court citation of foreign laws and precedents. … Yet when Chief Justice John Roberts Jr. issued his first annual report on the state of the judiciary last week, he sidestepped those controversial questions and focused instead on what he saw as more bread-and-butter threats to judicial independence: low judicial salaries and high rental costs for courthouses. In doing so, he followed the precedent of predecessors Warren Burger and Rehnquist, who largely avoided controversial topics other than judicial salaries in their 30 years of annual reports." The Times adds, "Higher pay for judges and rent relief for courthouses, Roberts said, would have a "vanishingly small" impact on the overall federal budget but 'would go a long way toward maintaining a strong and independent federal judiciary with the resources to administer justice efficiently and fairly. And that is priceless.' Roberts also called for increased security for judges in the wake of violence aimed at federal and state judges last year." The Times adds, "Roberts issued the report three months into his tenure as chief justice, which he described as 'a bit presumptuous,' but

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said he did not want to break with the tradition of his predecessors."

Lawmakers Will Address Spending Cuts, Patriot Act, Pensions After Recess. When they return from recess later this month, lawmakers will face several key issues remaining from 2005. The Washington Times (1/4, Fagan, 90K) reports, 'When the House returns Jan. 31, leaders initially will focus on clearing legislation that would collect about $40 billion in savings from entitlement programs across the government -- a top priority for congressional conservatives and President Bush. … Ron Bonjean, spokesman for House Speaker J. Dennis Hastert, Illinois Republican, said House leaders 'intend to move very quickly' on the spending cuts and an extension of the Patriot Act, followed by a final package that will extend tax cuts." The Times adds "Congress failed to pass a permanent extension of the Patriot Act last year, opting at the last minute for a one-month extension. A House Democratic aide said Democrats have been alerted to expect votes Feb. 1 on both the spending cuts and the Patriot Act. The Senate is scheduled to return Jan. 18. Initial focus will be on the Patriot Act, an asbestos litigation-reform bill and the Supreme Court nomination of Judge Samuel A. Alito Jr., said Bob Stevenson, spokesman for Senate Majority Leader Bill Frist, Tennessee Republican."

The Wall Street Journal (1/4, Preciphs, 2.11M) says Congress is also expected "to take steps when it reconvenes this month to shore up private pensions, but almost half the workers in private industry won't benefit since their employers offer no retirement plans. … For several years, Congress has been trying various means of encouraging people to save more themselves, including such changes as the 1997 bill that created Roth individual retirement accounts. As old-style defined-benefit pensions -- the ones that pay a set sum each month -- atrophy, some lawmakers and analysts have been urging Congress to expand government incentives to increase personal savings even though previous attempts have had limited success."

Conservatives Scale Back 2006 Agenda. The Hill (1/4, Allen) reports that "fiscal and social conservatives are compiling less ambitious legislative wish lists for 2006. Republicans of all stripes looked at 2005, with expanded majorities in the House and Senate and President Bush just starting his second term, as a rare opportunity to win enactment of favored legislation. But the new year is not seen that way at all. 'The political reality is, generally speaking, that you have a tough time with big, ambitious ideas in an election year,' said former Rep. Pat Toomey (R-Pa.), the president of the anti-tax Club for Growth." The Hill adds, "Many interest groups have scaled back their 2006 dockets, although few admit it."

Meyerson Says 2005 Was Bad Year For Right. Harold Meyerson writes in the Washington Post (1/4, A17, 744K), "On the field of ideology, 2005 was a lousy year for the American right. … In retrospect the year's biggest mystery is how George W. Bush thought he could privatize Social Security. Essentially Bush assumed the role of the national CEO who tells his workers he's dumping their defined-benefit pensions for some ill-defined 401(k) investment schemes. And essentially the American people responded with the same anger and anxiety that airline and auto employees have shown when their bosses reneged on their commitments of a secure retirement." Meyerson adds, "Bush's plan to scuttle Social Security was in tatters when Hurricane Katrina blew ashore. For Bush this was a double whammy, since FEMA's failure to respond to the storm underscored the image of a government that would not be there when needed." Meyerson continues, "For the left, what 2005 has demonstrated is that while Americans have no great love for government, they do expect it to provide a baseline of security -- the more so since the employer-provided benefits of the past 60 years are going the way of the dodo. That means that government-supported universal health insurance will soon be back on the nation's agenda. But that's the easy part. Rebuilding the kind of security that defined private-sector economic life for most of the past century, and that helped individuals define themselves, is a conundrum that's daunting even to contemplate."

Life Experience Has Made Shirzad "Passionate" About Trade, Democracy. The Financial Times (1/3, Daniel) profiled US Deputy National Security Adviser Faryar Shirzad, reporting, "After three years at the National Security Council, Mr. Shirzad was promoted to lead its international economic staff. To ensure better co-ordination between the economic and foreign policy halves of the White House, he reports to the National Economic Council. Trade, and its impact on political freedom rather than just commercial interests, is a key theme for President George W. Bush. … For all his discreet style, he is passionate about trade and in agreement with Mr. Bush's

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view of freedom and the importance of democracy, drawn from his own life experience. He is the son of an Iranian diplomat, was born in London and lived in Pakistan and Rome. At 13, he was living in New York during the Iranian revolution in 1979 and vividly recalls the disruption for his family."

Pharmacists Report Glitches On Drug Benefit's First Day. A negative report in USA Today (1/4, Koch, 2.31M) says that on Tuesday, the first full business day on which the Medicare drug benefit was available, pharmacists "struggled with billing glitches and missing drug cards as they tried to fill prescriptions." Pharmacists" said some customers came in without cards or letters showing their eligibility and others were surprised that they had to pay full cost until meeting a deductible." USA adds, "Larry Kocot, senior adviser to Medicare Administrator Mark McClellan, said sheer volume caused computer slowdowns Monday, but these problems had been resolved by Tuesday. 'This is going very well,' said Gary Karr, spokesman for the Centers for Medicare and Medicaid Services. He blamed snags on heavy computer traffic, pharmacists forgetting billing details and beneficiaries not having cards."

Drug Benefit Uses Tiered Pricing System. USA Today (1/4, Appleby, 2.31M) reports, "Medicare's drug benefit, expanding on a practice now in limited use in the private sector, requires patients to pay larger co-payments for expensive treatments, including some drugs for cancer, arthritis, multiple sclerosis and anemia. In the private sector, some employers' insurance plans charge more for some so-called 'lifestyle' drugs, such as impotence treatment Viagra or some allergy remedies. But the Medicare program, which took effect Jan. 1, expands those charges into new territory: treatments for serious or life-threatening conditions." USA adds, "While most working-age adults have insurance with two or three different "tiers" corresponding to how much they pay at the pharmacy for certain drugs — with generics the cheapest and brand-name drugs more — about 40% of the Medicare plans have four tiers, according to the analysis by Avalere Health, a for-profit research firm in Washington that did an analysis of the drugs earmarked for higher payments by patients. Fourteen percent have five tiers. In comparison, 4% of workers with health insurance through their jobs have a fourth tier, according to a nationwide survey by the non-profit Kaiser Family Foundation."

"Buy America" Language Dropped From Defense Bill. The AP (1/4, Daly) reports, "A defense bill approved by Congress would allow open competition for a multibillion-dollar contract to supply refueling tankers for the Air Force. President Bush is expected to sign the measure, squelching an earlier House-approved bill that would have helped The Boeing Co. by keeping the Pentagon from buying military equipment from the parent company of European jet maker Airbus SAS." The AP adds, "'Buy America' language had been inserted by Rep. Duncan Hunter, R-Calif., chairman of the House Armed Services Committee. However, Hunter agreed to remove the provision last month at the request of Senate leaders and administration officials, who said it could spark retaliatory measures by other countries and limit Pentagon flexibility. Congress voted final passage Dec. 21."

Federal Workers In Raleigh Area Will See Highest Pay Increase. The Washington Post (1/4, B2, Barr, 744K) reports in its "Federal Diary" column, "Most federal employees will receive pay raises ranging from 2.83 percent to 5.62 percent this year, according to pay tables published by the Office of Personnel Management. The lowest raises will go to General Schedule employees who are outside the boundaries of 31 specially designated locality pay areas. The highest raise will go to employees in Raleigh-Durham-Cary, N.C., which has been designated as a locality pay zone for the first time and is catching up with nonfederal salaries in that area. As previously reported, the 2006 pay table for federal employees in the Washington-Baltimore area shows an increase of 3.44 percent in salaries (putting the average federal salary here at $80,425)."

NYTimes Cheers Delays In Sauerbrey Confirmation Process. The New York Times (1/4, 1.19M) editorializes, "Defying early forecasts of easy confirmation, the Senate recessed for the holidays without approving Ellen Sauerbrey, President Bush's lamentable choice to head an important State Department agency that coordinates emergency relief for refugees of foreign wars, persecution and natural disasters. Her nomination has yet to clear the Senate Foreign Relations Committee, raising at least a glimmer of hope that she may not get the job. Like all too many Bush appointees, Ms. Sauerbrey has political connections that seem her most obvious credential. … The worry now is that Mr. Bush will bypass the Senate and install Ms. Sauerbrey on his own by using a recess appointment, the

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same tactic he used to make John Bolton the United States ambassador to the United Nations. The president should do just the opposite. The Senate's delay is a chance for Mr. Bush to rethink Ms. Sauerbrey's elevation and find someone with solid credentials for the refugee job."

OTHER NEWS:

After Incorrect Report Of 12 Survivors, Only One West Virginia Miner Found Alive. Reuters (1/4) reports, "Only one of 13 miners who were in a West Virginia coal mine when it was hit by an explosion was found alive, a company official told family members on Wednesday, after reports hours earlier that 12 had survived led to rejoicing." In fact, the "Final" Northern Virginia edition of the Washington Post (1/4, A1, Tyson, 744K), available this morning in the DC area, is still headlined "12 Found Alive in W.Va. Coal Mine; Body of 13th Man Was Discovered In Adjacent Area." USA Today's print edition (1/4, Brook) runs a story titled "Relief Sweeps Through Families," and a second piece (1/4, Brook) on "the one that didn't return." Likewise, the New York Times titles its front page story (1/4, Dao) "12 Miners Found Alive 41 Hours After Explosion."

USA Today (1/4, Brook, 2.31M) reports that "prospects of finding the miners alive were bleak," as "air monitors…found levels of carbon monoxide more than three times the maximum regarded as safe." The hope was that "adequate levels of oxygen in the mine and survival training could have allowed the miners to construct a shelter from the carbon monoxide." The explosion's cause "remained unclear." However, the Washington Post (1/4, A1, Tyson, 744K) reports that Bennett K. Hatfield, president of International Coal Group Inc., said "damage in the mine 'resembled' that of a methane explosion." The AP also publishes a timeline of the events.

Bush Offered Support For Miners' Rescue. The Atlanta Journal-Constitution/AP (1/4, Pickler) reports, "President Bush said Tuesday the nation was praying for 13 men trapped in a West Virginia coal mine and offered federal help to help bring them out." Bush, "speaking during a meeting with U.S. attorneys to seek renewal of the terror-fighting Patriot Act, said he called West Virginia Gov. Joe Manchin to offer support."

Explosion, Safety Violations Raises Questions About Safety Of Sago Mine. The networks last night gave significant coverage to the ongoing rescue efforts at the Sago Mine in Tallmansville, West Virginia. ABC World News Tonight (1/3, lead story, 3:00, Vargas), The CBS Evening News (1/03, lead story, 2:00, Schieffer), and the NBC Nightly News (1/3, lead story, 3:00, Williams) each reported the story as their lead, and they each followed up the story with reports on mine safety and the local community.

ABC World News Tonight (1/3, story 2, 1:40, Vargas) reported, "Inspectors cited that mine for 46 Federal health and safety violations in the last 3 months alone. There are more than 2,000 mines across the country." ABC (L. Stark) added, "Federal regulators inspect underground coal mines four times a year. State regulars do inspections, as well. The Sago Mine received 208 Federal citations in 2005, up from just 68 in 2004. State violations also jumped, from 75 to 144." Davitt McAteer, former Asst. Secretary, US Mine Safety and Health: "It should tell us that the safety program that the mine has employed is not working. And things are not improving, but, in fact, are getting worse a safety standpoint."

The CBS Evening News (1/03, lead story, 2:00, Orr) reported, "The explosion raises questions about the safety record of the Sago Mine. Federal and state inspectors wrote up more than 350 health citations last year. 46 in one eleven-week period just before Christmas. The most serious involved possible roof collapses and the buildup of dangerous gases."

NBC Nightly News (1/3, lead story, 3:00, Williams) reported, "As rescuers desperately sped up their efforts this afternoon, some families were asking questions about the mines safety record. 180 violations over the last three inspections." International Coal Group, "which just bought the mine in November, says it has addressed many of the safety concerns."

The Washington Post (1/4, A1, Tyson, 744K) adds, "Federal regulators have cited the mine, in north-central West Virginia, more than 270 times in the past two years for safety violations, a third of them considered 'significant and substantial,' according to the Mine Safety and Health Administration." Some of the recent violations were for "inadequate ventilation to dissipate dangerous gases."

The Christian Science Monitor (1/4, Clayton, 61K) reports, "Vigils like the one for 13 trapped coal miners are much less common today, after 25 years of closer government oversight." The "industry…endured at least 1,000 fatalities a year through the 1930s and '40s," but "the death toll of 28 in 2004, the latest figure available, underscores the achievement of stricter government oversight and corporate

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compliance." Still, "coal miners account for about half of all mining-related fatalities."

WPost Says Mine Inspection Agency Needs Own Examination. The Washington Post (1/4, A16, 744K) editorializes, "After the explosion that trapped 13 men in a West Virginia coal mine early Monday, an equally chilling story of safety neglect may be emerging as well." The mine had "an accident rate in 2004 that was three times higher than the national average" and last year "received 205 orders and citations for health and safety violations, 96 of which carried a 'significant and substantial' risk of death or injury." The mine's "safety problems…should have caused officials at the Mine Safety and Health Administration, which is responsible for mine inspections, to take notice." Also, "MSHA has in the past several years formed a series of 'partnerships' with mining industry groups," which "might have allowed the agency to become too friendly with the businesses it regulates. When Congress comes back to town, we'd like to hear some open discussion about the health of the nation's mine inspections."

Author Says Less Secrecy, Better Penalties Needed In Coal Mining. Jeff Goodell, author of the forthcoming "Big Coal: The Dirty Secret Behind America's Energy Future," writes in an op-ed in the New York Times (1/4, 1.19M), "One of the toughest turnaround jobs in American industry has been the effort to change the perception of coal from an industrial relic of 19th century to an energy source for the 21st century." However, with the damage to people's health and the pollution associated with its mining, "there is nothing pretty about coal," and "coal mining remains a dirty and dangerous business, especially in regions of Appalachia where all the easy coal is gone and what's left is increasingly difficult and dangerous to mine." For "coal…to be taken seriously as a fuel source in the 21st century, it's up to federal and state regulators to make sure that even" small, difficult mines are safe, and "a good first step would be to reverse the Bush administration's new privacy rules, which have made it tougher for outsiders to obtain federal inspectors' reports. Even better would be to increase fines and other penalties for operators who break the rules."

Federal Reserve Minutes Spark Wall Street Rally. NBC Nightly News (1/3, story 7, :45, Williams) reported, "On Wall Street today, stocks came roaring back on the first trading day of the new year, after the minutes of the last Federal Reserve meeting showed the end of the Fed's nearly two-year rate hike campaign probably in the far off. The Dow finished up just under 130 points on the day [to 10847.41]. The NASDAQ was up more than 38 points [to 2243.74]." The Financial Times (1/4, Swann) adds the S&P 500 "climbed 1.64 per cent, or 20.51 points, to 1,268.8 – its biggest daily gain in points terms since April – and gave a boost to investors after a lacklustre 2005 in which the index rose just 3 per cent."

USA Today (1/4, Kirchhoff, 2.31M) runs a similar report under the headline "Fed Minutes Indicate Rate Increases Wrapping Up," while the Washington Post (1/4, D3, Aversa, 744K) titles its story "Views On Rates Differ Within Fed; Wording on Interest Changed Last Month." The Wall Street Journal (1/4, lp, 2.11M) and New York Times (1/4, Andrews, 1.19M) also report the story. USA Today (1/4, Krantz, 2.31M), Washington Times/AP (1/4) and Wall Street Journal (1/4, Patterson, 2.11M) also run stories on the stock numbers.

Growth In Capital Expenditures Seen As Accelerating. The Wall Street Journal (1/4, Zuckerman, 2.11M) reports, "After a long lull, there are signs that companies are set to boost spending faster this year. The change could benefit many corporations, including Oracle Corp., Halliburton Co., Schlumberger Ltd. and Washington Group International Inc. Capital expenditures, which include all kinds of spending that enhance a business's long-term prospects, such as buying or upgrading buildings or equipment, have been growing at a rate of about 11% in the US for more than a year, though that has been edging up a bit lately." But "there are some signs that the spending is starting to rise faster, at least among larger, public companies."

Columnists Say Optimistic Economic Forecasts Could Be Off Mark. Steven Pearlstein writes in the Washington Post (1/4, D1, 744K), "The columnist who tries to predict the future of the economy or the financial markets is a fool -- but no more so than the army of forecasters, money managers and economic policymakers who have been doing just that as part of the annual New Year ritual. The consensus view…is that everything is going to be peachy-keen in 2006. … Okay, so last year did turn out better than we worrywarts would have imagined," but "reduce it to its bare essentials, and the story of 2005 was that oil producers proved just as willing to lend us the money to buy oil that we otherwise could not afford as the Japanese and Chinese have been to lend us the money to buy cars, jeans and flat-screen TVs. The arrival of this newest credit card from the Middle East may have allowed us to live above our means for yet

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another year. But let's not fall into the trap of confusing that with long-term economic health." The "more likely scenario, it seems to me, is a 2006 in which the economic chickens finally come home to roost."

Robert J. Samuelson writes, also in the Washington Post (1/4, A17, 744K), "Could anything darken the outlook? Here are five candidates: Housing goes bust. … The dollar 'crashes.' … Oil jumps to $85 a barrel. … The yield curve' of interest rates 'inverts.'" He adds, "There are other potential pitfalls. Will China's surging economy produce an unpleasant surprise? Will the replacement of Alan Greenspan with Ben Bernanke go smoothly? But the larger story of the US economy has been that it continually overcomes many reasons for it to falter. Consumers have spent freely, drawing money from appreciated stocks or homes. From 1995 to 2005 consumer spending rose an average of 3.8 percent annually, notes Susan Sterne of Economic Analysis Associates. That may cool with the housing boom." But "something else will fill the gap. So say the standard forecasts. They're often right when predicting small shifts in the status quo. But they usually miss big changes, for good or ill. If something truly bad happens in 2006, you probably won't read about it first."

Bush, McClellan Pick Different Candidates In Texas Gubernatorial Race. The Houston Chronicle (1/4, Mason, 581K) reports the Texas governor's race "is just getting started and already White House loyalties are divided, with President Bush backing Gov. Rick Perry and White House spokesman Scott McClellan supporting his mother, Carole Keeton Strayhorn." McClellan said, "The president will support the Republican nominee, and it's pretty clear the Republican nominee will be his friend, Rick Perry." The Chronicle adds Strayhorn, "the Texas comptroller elected as a Republican, announced Monday that she will run as an independent in the governor's race. The White House spokesman is the youngest of her four sons." McClellan said, "My mother cares deeply about Texas, and she has my full support." The Chronicle adds that by running as an independent, Strayhorn "avoids facing the incumbent in a GOP primary battle that tends to favor the more conservative candidate." But Strayhorn "said she is still a Republican and understands Bush's decision to support Perry."

D'Amato Criticizes Weld For Running "Sham College." The New York Times (1/4, Healy, 1.19M) reports former Sen. Alfonse M. D'Amato "sharply criticized a leading Republican candidate for governor, William F. Weld, saying last night that Mr. Weld was under the 'cloud' of a federal investigation for once running a 'sham college.'" D'Amato "also chastised Mr. Weld for resigning as governor of Massachusetts in 1997, before his second term was over, and then seeking to lead New York 'without any real experience here.'" Speaking on NY1, "where he is a paid commentator, Mr. D'Amato acknowledged that he did not feel 'kindly' toward Mr. Weld, given that Mr. Weld had led the Justice Department's criminal division around the time that officials there began investigating Mr. D'Amato's brother, Armand, a lobbyist." D'Amato said Weld "would have trouble explaining the 'multimillion dollar looting' of Decker College in Kentucky, which collapsed in bankruptcy last fall after federal officials cut off student loan aid because of mismanagement concerns." Weld was Decker's "chief executive from last January to October."

Kaine Town Halls Fail To Generate Consensus On Transportation Fixes. The Washington Post (1/4, A1, Ginsberg, 744K) reports in a front pages story that Gov.-elect Timothy M. Kaine has "spent the two months since his election gathering Virginians to discuss the traffic congestion problems that plague much of the state, but the forums, including one last night in Fairfax County, have failed to yield a consensus for any new action." After "talking with thousands of people about transportation issues in his most visible effort to prepare for the governorship, Kaine (D) remains committed to the proposals he outlined during the election campaign. He has used the 10 town hall meetings across the state more as a listening tour than as a forum to promote ideas." The "well-attended forums highlighted both the significance of traffic congestion in the lives of Virginians and the conflicting opinions on how to ease it." If the meetings "have brightened the spotlight on transportation, they have done little to bring Virginians closer to agreement on what kinds of fixes to make and how to pay for them."

Schwarzenegger Offers To Repay Schools $1.7 Billion. The Los Angeles Times (1/4, Halper, Helfand, 958K) reports Gov. Arnold Schwarzenegger "offered an olive branch to educators Tuesday with a proposal to begin repaying money the state borrowed from schools in recent years to balance the budget." The plan "to give

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schools about $1.7 billion extra — paid for with unanticipated state revenue — will be part of the budget Schwarzenegger proposes next week. It signals an effort to patch up his shredded relationship with the state's major education groups as he seeks reelection in November." The move "comes eight weeks after Schwarzenegger ended a vigorous campaign for Proposition 76, which would have capped state spending and cost schools billions." Educators "emerged from a meeting with Schwarzenegger on Tuesday to laud him for seeking common ground. But they said they're entitled to billions more; that his plan shortchanges schools of money they contributed to closing budget deficits in each of the last two years." Scott Plotkin, executive director of the California School Boards Assn., said "that although education groups 'are not looking for another fight,' they believe the state owes local districts $3.8 billion more." School officials were "also skeptical about the strings attached to Schwarzenegger's proposal: The governor wants some of the new money directed to his pet projects."

History Books Portray Clinton Impeachment As "Milestone Event." The Washington Post (1/4, A15, 744K) reports on how the impeachment of former President Bill Clinton is being portrayed in the history books. According to the Times, "The impeachment is portrayed in the context of his two-term tenure -- a milestone event, but not one that overshadows how Clinton handled the economy, crime and health care. The most commonly used texts give straightforward recaps of Clinton's toughest days, with some flavor of how it affected the nation. Absent are any lurid details about his relationship with Lewinsky that spiced up news reports and late-night talk shows as the scandal and impeachment played out in 1998 and early 1999. … The impeachment is covered briefly in middle school texts. … Yet at all levels, the salacious details of the Lewinsky affair are nowhere to be found. Middle school texts describe it as 'a personal relationship between the president and a White House intern.' High school books describe it as Clinton's 'improper relationship with a young White House intern' or say Clinton 'denied having sexual relations' with an intern."

US Muslims Form First Islamic Sorority. The Washington Times (1/4, Duin, 90K) reports on the creation of America's first Islamic sorority. According to the Times, "Thirteen women at the University of Kentucky will form the sorority's first college chapter this spring, and another group is waiting to start at the University of Maryland's Baltimore campus. A citywide chapter in the District, made up of women from several local universities, is also in the works." The Times adds, "Along with pledges, there will be prayer to Allah. Instead of hazing, there's hijab, the scarf some devout Muslim women wear. Covering one's hair is not mandated within Gamma Gamma Chi; in fact, four out of the five board members do not wear one. … Although Gamma Gamma Chi is open to all, no non-Muslims have joined to date."

New Rules Require Banks To Raise Minimum Credit Card Payments. ABC World News Tonight (1/3, story 5, 2:15, Vargas) reported, "'Out of control' is a good way to describe credit card debt in the United States. And 35 million Americans…stay mired in that debt by making only the minimum payment required, usually just 2% or $180 a month." Prof. Deborah Thorne, Ohio University: "They will never get out of credit card debt. They will die making the minimum payment on that credit card." Stark: "It's that disturbing reality that led government regulators to issue new rules, effective January 1, requiring banks to increase the minimum payment, sometimes doubling it, so consumers will pay their debts down faster. Under the old rules, it would take 48 years and $21,000 in interest to pay off the typical $9,000 credit card debt. By doubling the minimum payment, that same debt is paid off in 14 years at $4,800 in interest. Consumers save money in the long run. But in the short run, some cardholders will have trouble with the bigger payments, and could be forced into bankruptcy."

Iran Announces It Will Resume Nuclear Program. Iran's government again scrambled negotiations over its nuclear program by defiantly announcing that it would resume its development of nuclear fuel production technology. ABC World News Tonight (1/3, story 4, 3:05, Vargas) reported Iran's "hard-line government has aggravated the international community and the US in particular the best way it knows how, by flaunting its nuclear ambitions." ABC (Woodruff) added, "Almost every day, now, the new Iranian president says something to make the Administration nervous. Today, it was a big one. In the negotiations over the future of its nuclear program, the Iranian government made a surprise announcement." A top Iranian nuclear official "announced that six days from now, Iran will resume research into nuclear fuel production."

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The New York Times (1/4, Sciolino, 1.19M) reports Iran's announcement "jeopardized an agreement with the Europeans, complicated a Russian initiative and prompted an American threat." The US "warned Iran that it could face unspecified consequences if it resumed nuclear activities. 'If Iran takes any further enrichment-related steps, the international community will have to consider additional measures to restrain Iran's nuclear ambitions,' said Sean McCormack, a State Department spokesman." And "a statement from the British Foreign Office called Iran's letter 'unhelpful and provocative,' while Cristina Gallach, a spokeswoman for the European Union, branded it 'a step in the wrong direction.'" Reuters (1/4) also reports on the US warning.

The Los Angeles Times (1/4, Farley, Marshall, 958K) quotes one Western diplomat saying, "It has all the makings of another crisis. … Step by step, they are moving towards their goal. When will the Europeans say enough is enough?"

The Financial Times (1/4, Bozorgmehr) notes, "Mohammad Saeedi, deputy to Iran's Atomic Energy Organisation, told state television the 'resumption of research on nuclear fuel technology' had been notified to the International Atomic Energy Agency [IAEA] yesterday and would recommence within a couple of days. 'Research has nothing to do with nuclear fuel production and is a separate issue, while no decision has yet been made about it [the latter],' Mr Saeedi said."

The Washington Times/Reuters (1/4, Hughes) adds, "Diplomats said the move, which follows Iran's resumption of uranium conversion in August, was a serious blow to diplomatic efforts to resolve the dispute over Iran's nuclear program."

But the Los Angeles Times/AP (1/4) notes one European diplomat "said it was too early to evaluate the significance of the move and whether it would scuttle talks planned for later this month."

European Intelligence Report Says Iran Seeking Nuclear Weapons. Reuters (1/4) reports Britain's Guardian newspaper cited a leak from a European intelligence agency which says "Iran is secretly trying to obtain technology and expertise needed to build a nuclear weapon." The revelation "threatens to deepen a rift with the West over its nuclear program." According to the intelligence the scope of Iran's plans stretches from Syria, Pakistan and North Korea and it "says Iran has built a web of front companies, middlemen and academics whose job is to find the information and materials needed for nuclear, biological and chemical arsenals, according to the Guardian." In addition, Iran is seeking "to build a missile capable of reaching Israel and southern Europe."

Risen Book Alleges US Gave Iran Nuclear Designs In "Clumsy" Sabotage Effort. The Los Angeles Times (1/4, Meyer, 958K) reports, "In a clumsy effort to sabotage Iran's nuclear program, the CIA in 2004 intentionally handed Tehran some top-secret bomb designs laced with a hidden flaw that U.S. officials hoped would doom any weapon made from them," according to James Risen's book "State of War: The Secret History of the CIA and the Bush Administration." Yet, "the Iranians were tipped to the scheme by the Russian defector hired by the CIA to deliver the plans and may have gleaned scientific information useful for designing a bomb." Two nuclear weapons experts said "that a deliberate flaw in the plans could have been easily found by the Iranians." Former IAEA weapons inspector David Albright said "the plans could have shaved many years off Iran's nuclear effort." In addition, "the CIA effort to sabotage Iran's nuclear effort came on the heels of another massive intelligence failure, in which a CIA officer mistakenly sent an Iranian agent a trove of information that could help identify nearly every one of the spy agency's undercover operatives in Iran." According to Risen's book, the "Iranian was a double agent who turned over the data to Iranian authorities. They used it to dismantle the CIA's spy network inside the country and arrest or possibly kill an unknown number of U.S. agents."

Iranian Government Said To Permit Freedom For Youth. ABC World News Tonight (1/3, story 7, 3:25, Woodruff) reported, "More and more, we learn that the people who rule this country by Islamic law are able to do so because they allow the younger generation some measure of freedom. For many, this is how Fridays are spent in the Islamic Republic of Iran -- a day of prayer. One of the largest services in the country is on the campus of Tehran University. The women sit in their own area, outside the main auditorium. They still chant 'Death to America' and 'Death to Britain.' But it seems to lack the fierce conviction of the revolution's early days, more like an old habit. And look at these faces, not many young people here at all."

Administration Rejects North Korean Demand To Lift Sanctions. The AP (1/4, Schweid) reports, "The Bush administration on Tuesday rejected a North Korean demand that it lift sanctions as a way of possibly

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resuming stalled nuclear disarmament talks." Saying the "issues are unrelated, State Department spokesman Sean McCormack said. 'I don't see in what way they are preventing North Korea from going back to the six-party talks.'"

US Urges UN To Probe Allegations Of Syrian Threats Against Hariri. The AP (1/4, Schweid) reports, "The Bush administration urged U.N. investigators Tuesday to look into an allegation by" former Syrian vice president Abdul-Halim Khaddam "that President Bashar Assad had threatened former Lebanese Prime Minister Rafik Hariri several months before Hariri was assassinated." State Department spokesman Sean McCormack said, "I think that Mr. Khaddam's remarks raise some deeply troubling issues as to what exactly was going on during the period in time in question."

Bush Says Palestinian Elections Should Proceed As Scheduled. Reuters (1/4) reports, "President George W. Bush wants Palestinian elections to go forward as scheduled this month with no delay and thinks Palestinians should be allowed to vote in East Jerusalem, a White House official said on Tuesday." He "is hoping the January 25 vote will mark a step forward in his vision of two states, Israel and Palestine, living side by side in peace." A White House spokesman said, "We believe that people must have access to the ballot. … Arrangements have been made in the past to ensure that those persons can vote and we believe some arrangements should be possible at this time."

US Sends Envoys To Help Resolve Dispute. In addition to President Bush's statement, the Washington Times (1/4, Kralev, 90K) notes the US is "sending envoys to the Middle East to help resolve a dispute that threatens to derail this month's Palestinian elections." According to State Department spokesman Sean McCormack "C. David Welch, assistant secretary of state for Near Eastern affairs, and Elliott Abrams, a deputy national security adviser for the region at the White House, will travel to Israel and the Palestinian territories today to meet with officials on both sides."

Fatah Attempts To Attract Voters While Delaying Election. The New York Times (1/4, Erlanger, 1.19M) in an article describing how the Palestinian Fatah party is attempting to attract voters despite uncertainty about whether the elections will be held notes Palestinian Deputy Prime Minister Nabil Shaath "questioned Hamas's ability to govern the Palestinians and deal with Israel -- which considers Hamas a terrorist group, and which Hamas does not recognize. 'How will negotiations with Israel be managed under Hamas?' Mr. Shaath asked. 'How will they pay salaries and ensure security? What will they do for women?'" Yet, "Fatah's biggest problems are its own divisions and a reputation for cronyism, mismanagement and corruption, coupled with its failure to achieve an independent Palestinian state through negotiation and compromise." Fatah is seeking "to postpone the elections, because of fears that Hamas will win more than 40 percent of the 132 seats at stake and become either the most powerful political force or a sizable blocking minority in the future legislature. Many Fatah veterans would rather have no election than hand over such power to Hamas."

The Washington Post (1/4, A13, Wilson, 744K) notes that even if Hamas makes significant gains in the national elections, the "makeup of the new parliament will likely have little bearing on Palestinian policy, which will remain firmly in Abbas's control. But the results would help gauge both the popularity of Hamas, whose armed wing has carried out numerous attacks on Israeli soldiers and civilians during the most recent uprising that began in September 2000, and Fatah's unity as it endures a divisive generational power struggle."

Armed Gangs In Control Of Gaza After Israeli Withdrawal. The Christian Science Monitor (1/4, Frankel, 61K) reports, "As the first year devoid of an Israeli presence since 1967 dawns in the Gaza Strip, armed militias roam the streets freely, foreigners are kidnapped with regularity, and the measure of a man in this coastal territory is not his political title, or even the size of his house, but the number of AK-47-wielding bodyguards he employs." After "Israel left Gaza four months ago, full control over the 1.3 million people was ostensibly transferred to the Palestinian Authority (PA). But its authority in this coastal territory has deteriorated to such a state of anarchy, that the best-armed gangs or families are effectively the law now."

Questions Raised About $3 Million Sharon Received In 1999 Campaign. The New York Times (1/4, Erlanger, 1.19M) in an article on the Palestinian elections also notes, "In a development that may roil the…Israeli political campaign, Israeli Channel 10 reported Tuesday night that the police had evidence that would show that the family of Prime Minister Ariel Sharon had received $3 million from a wealthy Austrian, Martin Schlaff, in connection

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with his 1999 campaign. The money is thought to be connected to a $1.5 million loan from a South African businessman that is suspected of being used to refund illegal campaign contributions." In addition, "one of Mr. Sharon's sons, Omri, resigned from Parliament on Tuesday before his sentencing later this month for unrelated financing violations and falsification of documents from his father's 1999 campaign."

VP To Assume Control While Sharon Undergoes Surgery. The Washington Times/AP (1/4, Federman) reports, "Sharon will hand over power to" Vice Prime Minister Ehud Olmert "during a heart procedure this week, his office said yesterday, the first time an Israeli leader has agreed to give up his authority because of illness." November's "stroke has put the health of Mr. Sharon, who turns 78 next month, on the political agenda as he seeks a third term in March 28 elections." But concerns about his health appear "to have had no effect on the party's prospects. Opinion polls forecast a strong victory for Kadima, and show Likud far behind."

Departure Of Sharon Roils Likud Party. USA Today (1/4, Gutman, 2.31M) reports that "dramatic turns in Israeli politics over the past couple of months have reshaped the country's politics. The ruling Likud Party…is struggling after its leader, Prime Minister Ariel Sharon, left to form the centrist Kadima Party. The center-left Labor Party elected a socialist who vows to inject life into the faction." And now "even in Likud bastions such as the Carmel Market, there is a political realignment. 'Like my father, my family and most everyone here in the market, I used to vote Likud,' says Yoni Ben-Yonatan, 24, owner of a dollar store. 'But there have been so many changes. … I will stick with Sharon. My father won't.'"

Ashcroft's Firm Lobbying For Israeli Company's Korean Weapons Deal. The Hill (1/4, Kaplan) reports, "Israel's major aerospace company hired former US Attorney General John Ashcroft's lobbying firm late last month to help secure the U.S. government's approval to sell a weapons system to the South Korean Air Force, according to lobbying disclosure records. The South Koreans are choosing between an early-warning radar system built by Israel Aircraft Industries (IAI) and a similar, more expensive system built by Chicago-based Boeing Co. The radar systems enhance an air force's ability to track enemy fighter jets during combat. … The South Koreans initially had intended to make a decision by Dec. 31, but the government told the companies last month that it would delay its final decision until May 2006, which gives the Israeli company an additional four months to get the U.S. government's blessing." The Ashcroft Group and IAI "signed a nondisclosure agreement, said spokeswoman Juleanna Glover Weiss, and IAI officials based in D.C. and Tel Aviv said the company does not comment on its consultants."

Rice Seeks To Strengthen Ties On Trip To Indonesia, Australia. Reuters (1/4) reports that next week "Secretary of State Condoleezza Rice will visit Indonesia and Australia, strong U.S. allies in fighting terrorism." In Indonesia, Rice "will discuss a range of issues, including U.S. support for 'Indonesia's democratic development,' cooperation in tackling the threat of avian flu and progress in recovery efforts after the devastating tsunami in December 2004." According to State Department spokesman Sean McCormack in Australia, "Rice will meet foreign ministers from Japan and Australia as part of a new 'strategic dialogue' between the three countries." She "will also take part in a meeting between the United States and five Asia-Pacific countries that announced a pact last July to cut greenhouse gases that falls outside the Kyoto Protocol on climate change."

Indonesia Seeks To Accelerate Tsunami Recovery. The Washington Post (1/4, A14, Nakashima, 744K) reports, "Stung by intense criticism of a slow rebuilding effort after" the 2004 tsunami "the Indonesian government and relief agencies are moving to pick up the pace. After building about 16,000 houses in 2005, Indonesia is undertaking what officials call the world's largest reconstruction effort ever after a natural disaster. The goal is to build 80,000 homes by the end of this year and a total of 120,000 by mid-2007." But "accelerating the rebuilding process will not be easy. Not all of the houses built in 2005 have been occupied, according to the Rehabilitation and Reconstruction Agency for Aceh and Nias."

Recent Violence Raises Concerns About Terrorism In India. The New York Times (1/4, Rai, 1.19M) reports, "The police in southern India on Tuesday announced the arrest of a suspect in the shooting of a well-known scholar here as anxiety rose over the possibility of terrorist attacks aimed at the region's high-technology industries." Increasing "tensions across this relatively prosperous belt of the country, the police said they had also uncovered plots to attack outsourcing companies after

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arresting four other suspects possibly connected to Islamic militant groups during the past two weeks."

US Providing Vital Medical Care In Parts Of Kashmir Devastated By Earthquake. PBS' NewsHour (1/3, Lehrer), in a two-part segment on the devastation caused by October's earthquake in Pakistan, reported U.S. Ambassador Ryan Crocker said that the US pledge of $510 million toward relief efforts is "not only the right humanitarian thing to do but it is also important symbolically." Crocker said, "It is the second most populous Muslim country in the world. It's important, I think, as we consider our relations with the Muslim world that we consider how we can make a difference by come to go the aid of Muslims who have suffered." The NewsHour went on to report that US Chinook helicopters "have been key to shuttling relief supplies and casualties. Many of them arrive at one of two U.S. Military MASH units" which have "become a key medical center for the regional capital. Its hospitals were wiped out in the quake."

Reporter Released In China After US Objections. The Washington Post (1/4, A12, Pan, 744K) reports, "The Chinese government released a prominent investigative reporter from prison Tuesday, even as it has been intensifying a crackdown on the press. The early release appeared intended to mollify the Bush administration, which had included the journalist on a short list of political prisoners whose cases it raises regularly with Chinese officials."

Australia May Remove Rx Drug Protection From Free Trade Deal With US. The Wall Street Journal (1/4, Brooks, 2.11M) reports, "Mark Vaile, Australia's trade minister and acting prime minister, said the government may remove an amendment included in the Australia-U.S. free-trade agreement designed to contain drug prices if pharmaceutical makers can prove the provision is 'commercially detrimental.'" The Journal notes, "The so-called evergreening amendment was negotiated by Australia's major opposition Labor in 2004 as a condition of the center-left party's support for the trade treaty and is designed to prevent drug companies from extending medicine patents so as to delay cheaper generic versions coming to market."

Administration Criticizes Russian Attempts To Impose Limits On Gas Exports. The AP (1/4, Schweid) reports, "The Bush administration criticized Russia on Tuesday for imposing limits on natural gas supplies to Europe by reducing Ukraine's share through a pipeline that carries about 80 percent of Russian gas exports to the West." Russia's decision "to restore most of the gas it had withheld Monday in a pricing dispute 'does not resolve the issue,' State Department spokesman Sean McCormack said."

PBS' NewsHour (1/3, Lehrer) reported a "State Department spokesman criticized Russian actions. He said they raised questions about using energy as a political weapon. The gas dispute also roiled energy markets. In New York trading, oil prices surged more than $2 to close above $63 a barrel. It was the largest increase since September."

Concerns Raised About Reliance On Russian Energy Resources. The attempt to limit gas shipments raised serious concerns about European reliance on Russian energy resources. The Wall Street Journal (1/4, 2.11M) reports, "Russian natural gas flowed across Ukraine to countries throughout Europe yesterday, banishing the specter of immediate and prolonged shortages because of Moscow's price dispute with Kiev." Yet "relief was tempered by the realization that the Continent's dependence on Russian natural gas means it is vulnerable to future energy crises. European officials also criticized Russia's behavior and called for a diplomatic resolution with Ukraine."

And the New York Times (1/4, Landler, 1.19M) says, "Russia's shutdown of natural gas lines to Ukraine lasted less than 48 hours, but the repercussions could last far longer in Western Europe, which also relies heavily on Russian gas." For Germany, "which is by far Russia's largest customer and has made energy the cornerstone of a broad economic alliance with Moscow, some experts said the standoff might even have political implications." Russian expert Alexander Rahr said, "Germany's alliance with Russia was not just conceived as a commercial deal, but as a way to integrate Russia into Europe. … This could be in jeopardy if the gas dispute continues."

The AP (1/4, Vasovic) notes, "The gas dispute highlights Ukraine's dependence on Russia as the key supplier to its energy inefficient industries. It also demonstrates Russia's opposition to Ukraine's attempts to break out of the Kremlin's sphere of influence and join the European Union and NATO."

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The Washington Times (1/4, Borowiec, Sands, 90K) says, "The dispute put in sharp relief two contrasting priorities of Russian President Vladimir Putin's foreign policy: his desire to use Russia's energy reserves to cement ties to Europe and his willingness to use those same resources to bring Ukraine's pro-Western government to heel."

EU Considers Response To Energy Supply Threat. The Financial Times (1/4, Laitner, Warner) reports, "Brussels has few weapons in its arsenal to respond to threats to EU supplies because energy policies are largely dealt with by the member states." In October, British PM Tony Blair called for a common EU energy policy, yet "member states have been reluctant to extend Brussels' powers over such a sensitive area as energy."

Ukraine Asserts Right To Withdraw Gas From Pipeline. The New York Times (1/4, Kramer, 1.19M) reports, "Ukraine conceded Tuesday that it had withdrawn natural gas from its pipeline system that Russia said was intended for export to Europe, but said it had a contractual right to the fuel under an agreement with the Central Asian nation of Turkmenistan." Mikola Goncharuk, a member of the board of Ukraine's natural gas company said "that his company had indeed drawn down gas from the pipeline system, but under a contract with Turkmenistan. Russian export gas, he said, was untouched."

Neither Side In Russian Oil Dispute Seen As Softening Stance. Reuters (1/4, Lowe) reports, "Russian energy officials were set to meet counterparts from Ukraine on Tuesday to discuss the dispute but there was no sign of a softening of tone on either side in a dispute with clear political overtones."

US Papers Criticize Putin. The Washington Post (1/4, A16, 744K) editorializes, "Russian President Vladimir Putin once again has overplayed his hand." In response to international complaints, "Putin was forced to back down, though the underlying price dispute with Ukraine remains unresolved. He has a sensible way out of the conflict, which the Bush administration is urging on him: a negotiation in which Ukraine agrees to a gradual shift toward world market prices." Western nation's "should realize that dependence on Russian gas is not consistent with 'energy security.' Instead they should develop alternative sources of supply, or a greater emphasis on nuclear energy. Russia cannot be allowed to hold its neighbors, or the world, hostage during a future cold winter."

The New York Times (1/4, 1.19M) in an editorial writes, "Russia is still a more secure energy supplier than the Middle East. But Europe and the United States should remind Mr. Putin that energy security is a two-way street. Ukraine has no permanent right to a gas subsidy, but as long as Mr. Putin uses pricing to reward and punish, he undermines Russia's claim to be a reliable, businesslike supplier."

Chavez, Morales Pledge To Fight US "Imperialism." The AP (1/4, Toothaker) reports Venezuelan President Hugo Chavez "offered Bolivia's president-elect diesel fuel, trade benefits and help in financing his social reforms as the two leftists cemented ties, reasserting their opposition to U.S. policy in Latin America. Fresh from a visit with Cuba's Fidel Castro, Evo Morales said in Caracas at the start of a seven-nation world tour that he and the Venezuelan leader were uniting in a 'fight against neoliberalism and imperialism.' Morales will visit Spain, France, Belgium, South Africa, China and Brazil — "but not Washington. Morales' spokesman says he was not invited to Washington. … In praising Castro and Chavez on Tuesday, he clearly established Washington's fiercest Latin American critics as his models."

Peru Seeks Extradition Of Fujimori From Chile. The New York Times (1/4, Rohter, Bonnefoy, 1.19M) reports the government of Peru "formally requested Tuesday that Chile extradite former President Alberto Fujimori, who…has been held in custody here ever since he unexpectedly arrived two months ago from exile in Japan. Mr. Fujimori, 67, is wanted in Peru on more than a dozen counts of corruption and violating human rights." The Times notes, "There are…local legal precedents that work in Mr. Fujimori's favor. … When Argentine judges recently sought the arrest and extradition of one of that country's former presidents, Carlos Saúl Menem, after he went into exile here, Chilean courts turned down their requests." Fujimori "has hired Mr. Menem's lawyer, Gabriel Zaliasnik."

The Washington Post (1/4, A14, Reel, 744K) reports, "The Peruvian government also asked that Chile continue to detain Fujimori, who is being held at a correctional officers academy in Santiago, the capital. A spokesman for Fujimori in Lima, the Peruvian capital, told the Reuters news agency that his attorneys were seeking his release. The extradition process could be lengthy, with many observers predicting

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deliberations that could stretch over several months and possibly more than a year."

Blair Petitions Bush To Salvage Deal For Joint Strike Fighter Engine. Reuters (1/4, Wolf) reports, "British Prime Minister Tony Blair has written to U.S. President George W. Bush to try to save a multibillion-dollar contract to develop an engine for the F-35 Joint Strike Fighter, the Pentagon's costliest warplane program, people familiar with the matter said on Tuesday." The Pentagon plans "to kill a $2.4 billion General Electric Co.-Rolls-Royce Plc contract to develop an alternate turbofan engine for the fighter." White House aides "did not return a phone call seeking comment. Steve Atkins, a spokesman for the British Embassy in Washington, said: 'We don't comment on confidential government-to-government correspondence.'" But "Blair, Bush's staunchest foreign partner on Iraq, is well-placed to save the GE-Rolls-Royce engine. Britain has committed at least $2 billion to co-development of the F-35, the most of any of the project's eight foreign partners."

France Cancels State Of Emergency. The Washington Post (1/4, A13, Moore, 744K) reports, "The French government on Wednesday will end the state of national emergency it imposed eight weeks ago to counter the violence and arson that erupted in more than 300 cities and towns across the country, President Jacques Chirac said Tuesday." In response to the riots, Chirac "urged the cabinet to do more to address the country's high unemployment, one of the biggest problems facing the people who were responsible for the rioting. Since the violence abated, however, Chirac's government has initiated few programs to address the discrimination and joblessness faced by immigrant communities."

Economic Outlook For Europe Healthy. The Wall Street Journal (1/4, Walker, 2.11M) reports, "Europe's economic upturn looks set to continue into 2006, as a manufacturing survey showed another improvement in business conditions and Germany reported a sharp drop in unemployment." Yet "analysts warn that a strengthening euro and an expected moderation of U.S. economic growth could limit the life of Europe's upswing, unless domestic demand improves too. Germany's labor office treated the surprisingly sharp drop in joblessness in December -- down 110,000 on a seasonally adjusted basis -- as a hopeful sign of greater demand for labor. The drop took the unemployment rate in Europe's biggest economy to 11.2%."

Drug Cartel Violence Continues To Plague Mexico. The CBS Evening News (1/03, story 8, 3:00, Schieffer) reported that in Mexico violence continued through the new year as "at least eight people have been gunned down since New Year's Eve and the worst of it is just across the US border where rival drug gangs are waging all out war." CBS (Whitaker) added, "It's become all too common in Mexico, kidnapping, murder. About 1,500 drug-related killings last year. A crisis along the US Mexico border. Hyper-violent drug cartels dying to dominate the $140 billion drug trade." There has been "so much violence the US ambassador to Mexico temporarily closed the Nuevo Laredo consulate." Tony Garza, US Ambassador to Mexico: "Some have said I ordered the shutdown to punish the Mexican government for its failure to control violence in the region. And in a sense that's true." Whitaker: "Ironically, the violence largely is a result of the crackdown by President Vicente Fox. His government has arrested thousands of drug traffickers, including kingpins, has killed others, triggering this bloodbath by gangsters further down the totem pole."

US, Mexican Officers Investigating Border Patrol Shooting. The New York Times (1/4, Thompson, 1.19M) reports, "The Mexican authorities are investigating the death of an 18-year-old Mexican man shot by a United States Border Patrol agent after he had illegally crossed the border into California." Border Patrol spokesman Todd Fraser said the agent had "come under attack by an assailant who was throwing rocks," and "fired back in self-defense." But "Mexican authorities…said the shooting reflected a growing hostility in the United States toward migrants. The authorities have used the shooting to draw attention to a law passed by Congress last month that would strengthen controls along the border and mandate the construction of miles of steel fences that Mexicans have likened to the Berlin Wall."

The Washington Times (1/4, Seper, 90K) reports, "Police officials in San Diego are investigating the shooting death of a Mexican national by a US Border Patrol agent, who fired a shot at the man after being targeted in a rock attack." San Diego police homicide Lt. Kevin Rooney "said the shooting occurred between two border fences and that the agent, who was checking a report of illegal border crossers in

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the area, arrived in a marked vehicle and saw a man 'holding a makeshift ladder as he stood near the northernmost fence.' He said the agent ran toward the migrant, who retreated to the south and 'scooped up what the agent believed to be several rocks.' 'As the agent unholstered his duty weapon, the male cocked his arm and made a throwing motion toward the agent. The agent fired at the male, who grabbed his arm and fled down a grade that leads to the primary border fence,' he said. A total of 218 rocking incidents occurred on the San Diego border last year, injuring more than a dozen agents."

Support For Increased AIDS Testing Proves Controversial. In his monthly column for the Washington Post (1/4, A17, 744K) Richard Holbrooke, former U.S. ambassador to the UN and president of the Global Business Coalition on HIV/AIDS, writes that last month, "While continuing to support increased funding for treatment of those who already have AIDS, I argued that far more emphasis should be put on detection and testing so that people learn their status and then, with counseling, change their behavior if they are HIV-positive, thus reducing the spread of the HIV virus. This may sound simple, even self-evident, to those not involved with the issue on a regular basis, but no column I have written for this newspaper provoked a greater reaction. To listen to some of the criticism you would think I had called for mandatory testing and quarantining of people with AIDS."

Rapid Liberalization Seen As More Successful Than Gradual Reforms. The Wall Street Journal's Mary Anastasia O'Grady (1/4) reports, "Is there any way to explain why it is that some countries have been able to restructure their economies so radically while others have been left in the clutches of special interests? The 2006 Index of Economic Freedom, published today by the Heritage Foundation and The Wall Street Journal, provides powerful clues. … Countries that liberalize quickly and thoroughly achieve resounding successes, politically and economically. Conversely, gradualism risks stagnation and even reversals, because the benefits are not evident enough to impress the electorate and generate a momentum in their favor." O'Grady adds, "This matters the most in democracies, where leadership needs to produce results if liberalization is to stick. Clearly, it's not the absolute income level that generates support for reforms but the growth in living standards that seems to hold the key. Halfhearted measures generate immense resentment from the 'losers' of the old system but often don't yield large enough gains to create a constituency to support the changes."

US Seen As Exacerbating Negative Global Energy Trends. The New York Times' Thomas Friedman (1/4) writes, "Look at all the global trends involving oil (or gas) today, and they are all bad. … The only force on the planet with the will and the way to neutralize their worst effects is America. But here's the rub: America's refusal to have a serious energy policy makes these problems only more severe, and its refusal to have a serious entitlement policy - reforming Social Security and Medicare before they totally devour the U.S. budget - is only going to sap America's ability to play the global governing role that is so necessary for world stability. To put it another way, our energy gluttony is strengthening the worst forces in the world and our entitlement gluttony is going to weaken our capacity to deal with those forces."

Bush's Management Of Foreign Policy In 2006 Examined. Frederick Kempe, in his "Thinking Global" column in the Wall Street Journal (1/4, 2.11M) writes a critical analysis of President Bush's management of foreign affairs in 2005. He says Bush, "in contrast to predecessor Bill Clinton, was to have been more disciplined both personally and in running his government." But, "the messy Iraq war aftermath, the botched Katrina hurricane response in New Orleans and the expanding U.S. deficit have raised global concerns about Oval Office management. 'What's in question is the traditional image of us as an effective country,' says Fred Bergsten of the Institute for International Economics." But Bush will benefit from an "unappreciated momentum flowing off 2005, a more successful year than most realize. And a dramatic 2005 shift of policy responsibility to Condoleezza Rice's State Department has also improved foreign-policy coordination and execution. That said, Mr. Bush faces an overcrowded agenda -- the schedule includes decisive challenges in Germany, Iraq, Ukraine, China, India, the United Nations and more -- that could make 2006 one of the most significant foreign-policy years since the Cold War."

THE BIG PICTURE:

Headlines From Today's Front Pages.

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Los Angeles Times:
"On A Scale Of Life Or Death."
"Former Force On Capitol Hill Admits Fraud."
"First Joyful News, Then A Tragedy About Miners."
"Two Head Coaches Prove Nice Guys Don't Finish Last."
"Abramoff Reached Beyond The Limits."
"Afro-Colombians Driven Off Land In Cocaine War."
"Gov. To Start Repaying Schools."

USA Today:
"Who's Your Granddaddy? Rose Basks In Big Game."
"Plea Deal Stokes Anxiety On Hill."
"Why Abramoff Matters."
"Poison Gas Kept Rescuers At Bay."

New York Times:
"Lobbyist Accepts Plea Deal."
"Iran To Resume Nuclear WOrk, Angering US."
"Agency First Acted On Its Own To Broaden Spying, Files Show."
"12 Miners Are Found Alive, Family Members Say."
"Students Return To Big Changes In New Orleans."

Washington Post:
"Abramoff Pleads Guilty To 3 Counts."
"Robbed At Gunpoint, Barry Harbors 'No Animosities'."
"Forums Yield Much Talk, Little Consensus."
"Law On Md. Mortuaries Has Guardian Angel At State House."
"Ex-Boss Demanded Sex, D.C. Parks And Recreation Workers Say."
"Case Bringing New Scrutiny To Lobbying."
"12 Miners Found Alive In West Virginia."
"DHS Boosts Risk In Grants; D.C. May Gain."

Washington Times:
"Redskins Fans Pay Top Dollar For Tickets."
"Women Start 1st Islamic Sorority."
"Abramoff Pleads Guilty."
"Fatal Shooting Of Mexican By Agent At Border Probed."
"Barry Robber At SE Home By Men He Helped."
"Tehran Will Restart Nuclear Fuel Research."
"Prescriptions Of Mind Altering Drugs For Teens Rise."

Detroit Free Press:
"Millen: I Share Your Pain."
"Petty Criminals Fill Jails, Put Judges, Taxpayers In A Bind."
"Ford Leads In Recalled Vehicles; Toyota Up."
"HOw You And 19 Friends Can Be At The Big Game."
"Rescue Workers Find Body In Mine."

Atlanta Journal-Constitution:
"Miracle In Mine."
"Franklin Set To Build On Legacy."
"Sugar Bowl Of Electronics Shows Lights Up Las Vegas."
"Power Lobbyist Pleads Guilty."

Dallas Morning News:
"Hype Takes Back Seat As UT, USC Face Off."
"Abramoff's Plea Puts Congress In Crosshairs."
"Could DeLay Fall With Friend?"
"11 Of 12 Miners Said Alive Dead."

Houston Chronicle:
"Monumental Matchup."
"Lobbyist's Plea Deal May Rattle Congress."
"Bells Ring Out For 12 Rescued Miners."
"Can Competing Cadaver Exhibits Draw The Living."

Story Lineup From Last Night's Network News:
ABC: ABC: WV Mine Accident; Mine Safety; Abramoff Guilty Plea; Iran-Nuclear Program; Credit Card Payments; Homeland Security Funding; Iran-Cultural Changes.
CBS: WV Mine Accident; WV Mine Local Reaction; Mine Safety; Abramoff Plea Bargain; American Heroes; SUV Crash Study; TX Brushfires; CA Flooding; Mexico Drug Cartel Violence; WV Mine Update.
NBC: WV Coal Mine Accident; Coal Miners' Families; Mining Industry; Abramoff Plea Bargain; Congressmen-Abramoff; Risen Interview; Homeland Security Funds; TX Brushfires; Stock Markets; Statin Studies; Studying Pain.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: WV-mine rescue; Germany-ice rink collapse; Abramoff plea; Gas prices; Wall Street.
CBS: WV-mine rescue.
NPR: WV-mine rescue; Bush-Patriot Act; Russia, Ukraine-natural gas dispute; Wall Street; San Diego-city government reform efforts; NV-floods; CA-heavy rains; TX-wildfires.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH – Participates in Defense briefings, the Pentagon, closed press; makes a statement on the global war on terror, Pentagon. Pool coverage.

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VICE PRESIDENT CHENEY – Speaks about Iraq and the war on terrorism, Heritage Foundation, 214 Massachusetts Ave. NE.

US Senate: No scheduled events.

US House: No scheduled events.

Other. ASSOCIATION OF AMERICAN LAW SCHOOLS _ The Association of American Law Schools holds their five day annual meeting. Workshops and plenary sessions for law professors, researchers and professionals. Topics will include the Iraqi Constitution, educational diversity, balancing life in law school, religious law, contracts, economics and international law. Location: Most events at Washington Marriott Wardman Park, 2660 Woodley Road NW.

ALITO-AFRICAN AMERICANS _ 8 a.m. Historically Black Colleges and Universities and law schools hold a forum on the Supreme Court nomination of Samuel Alito from the African American perspective. Location: 2nd floor, Building 39, UDC Law School, 4200 Connecticut Ave. NW.

ALITO-ITALIANS _ 10 a.m. The National Italian American Foundation holds an event in support of the Supreme Court nomination of Samuel Alito. Location: NIAF offices, 1860 19th St. NW.

ALITO-OPPOSITION _ 10 a.m. News conference in opposition of Supreme Court nominee Samuel Alito. With Kim Gandy, president, NOW; E. Faye Williams, president, National Congress of Black Women; and Eleanor Smeal, president, Feminist Majority Foundation. Location: National Press Club, Lisagor Room, 14th and F Sts. NW.

CHAMBER-ECONOMY _ 10 a.m. US Chamber of Commerce President Tom Donohue holds a news conference to announce the Chamber's 2006 policy priorities, economic forecast and legislative outlook. Location: 1615 H St. NW.

ALITO-OPPOSITION _ 11 a.m. People For the American Way and the Alliance for Justice hold a news briefing to release reports on the nomination of Samuel Alito to the Supreme Court. Location: Murrow Room, National Press Club, 14th and F Sts. NW.

PARTIAL-BIRTH ABORTION _ 11 a.m. Pro-choice groups hold a media teleconference in advance of the Supreme Court's decision whether or not to review Gonzales vs. Carhart, a legal challenge to the federal partial-birth abortion ban. With Vicki Sapporta, CEO, National Abortion Federation; Janet Crepps, attorney, Center for Reproductive Rights; Eve Gartner, attorney, Planned Parenthood; and Talcott Camp, deputy director, ACLU Reproductive Freedom Project. Contacts: Ken Goldman, 202-667-5881.

ALITO _ 12 p.m. The American Constitution Society for Law and Policy holds a forum on the nomination of Samuel Alito to the Supreme Court. With Sherrilyn Ifill, University of Maryland Law School; Dawn Johnsen, Indiana University School of Law; Neil Kinkopf, Georgia State University College of Law; and others. Location: Center for American Progress, 10th floor, 1333 H St. NW.

GINGRICH _ 12:30 p.m. Former House Speaker Newt Gingrich speaks to the Rotary Club of Washington luncheon meeting. Location: Hotel Washington, 515 15th St. NW.

HUD-MORTGAGE SETTLEMENT _ 1 p.m. Housing and Urban Development General Counsel Keith Gottfried holds a teleconference to announce a legal settlement against a large national mortgage company. Contacts: Brian Sullivan, 202-708-0685.

MUTUAL FUNDS-SEC _ 2 p.m. - 3 p.m. Eugene Scalia, counsel to the U.S. Chamber of Commerce and partner, Gibson, Dunn and Crutcher, holds a media teleconference to review the Chamber's challenge to the SEC's rule requiring mutual funds to have an independent chair and 75% independent directors. Contacts: Linda Rozett, 202-463-5682.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, JANUARY 4, 2006 7:45 AM EST

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TERRORISM NEWS:

NSA Conducted Domestic Eavesdropping Before White House Authorization. The Washington Post (1/4, A3, Linzer, 744K) reports that even before "the White House formally authorized a secret program to spy on U.S. citizens without obtaining warrants, such eavesdropping was occurring and some of the information was being shared with the FBI, declassified correspondence and interviews with congressional and intelligence officials indicate." On Oct. 1, 2001, "three weeks after the Sept. 11 terrorist attacks, Gen. Michael V. Hayden, who was running the National Security Agency at the time, told the House intelligence committee that the agency was broadening its surveillance authorities, according to a newly released letter sent to him that month by Minority Leader Nancy Pelosi (Calif.)." In an October 11, 2001 letter, Pelosi said, "I am concerned whether and to what extent the National Security Agency has received specific presidential authorization for the operations you are conducting." The Post adds the "secret NSA program, developed in the immediate aftermath of the attacks on Washington and New York as a way to find any hidden al Qaeda operatives still in the United States, was authorized in October 2001, a senior administration official said."

The New York Times (1/4, A1, Lichtblau, Shane, 1.19M) reports the NSA "acted on its own authority, without a formal directive from President Bush, to expand its domestic surveillance operations in the weeks after the Sept. 11 attacks, according to declassified documents released Tuesday." The Pelosi letter "also suggested that the security agency, whose mission is to eavesdrop on foreign communications, moved immediately after the Sept. 11 attacks to identify terror suspects at home by loosening restrictions on domestic eavesdropping." Bush Administration officials "said on Tuesday that General Hayden, now the country's No. 2 intelligence official, had acted on the authority previously granted to the N.S.A., relying on an intelligence directive known as Executive Order 12333, issued by President Ronald Reagan in 1981. That order set guidelines for the collection of intelligence, including by the N.S.A."

The AP (1/4, Shrader) reports Pelosi's letter shows the "congressional intelligence committees had at least a hint in October 2001 that the National Security Agency was expanding its surveillance activities after the 9/11 attacks." It "appears that Hayden may have at least alluded broadly to the new surveillance work with a wider audience of House and Senate intelligence committee members during the classified October briefing. According to Pelosi's letter, Hayden spoke about the agency's new posture to expand its operations."

Cheney To "Aggressively Defend" NSA Program In Wednesday Speech. CNN's The Situation Room (1/3, Bash) reported that Vice President Dick Cheney will "talk about the NSA secret surveillance program in a speech tomorrow. An administration official tells CNN that he will aggressively defend the NSA program much like he did in an interview with CNN a couple of weeks ago, saying point blank that the White House has not violated the law and take on critics who say that they have."

NYTimes Reporter Says Administration Eavesdropped On Thousands Of Americans. NBC Nightly News (1/3, story 6, 2:00, Mitchell) last night interviewed New York Times reporter James Risen, who discussed his story on the Bush Administration's domestic use of the National Security Agency. NBC notes that while the Administration says it "secretly eavesdrop without warrants on only a few 'enemies' as the President claimed on Sunday," Risen "says in a book out today it was a lot bigger than that." Risen: "They were eavesdropping on roughly 500 people in the United States every day over the past three or four years. That adds up to potentially thousands of people." Mitchell: "James Risen writes that after 9/11, the Administration got companies to route more international calls through the US, to make it easier for the NSA to spy on terrorists." Risen: "You could listen to all 250 million Americans and that would be a very effective counter terrorism tool, the question is where is the balance between security and civil liberties." Mitchell: "Today, the White House again defended the spying." White House spokesman Scott McClellan: "What we're talking about is looking at international calls involving known Al Qaeda members or affiliated organizations."

NYTimes Criticizes Investigation Of NSA Program "Whistle-Blowers." The New York Times (1/4, 1.19M) says in an editorial, "A democratic society cannot long survive if whistle-blowers are criminally punished for revealing what those in power don't want the public to know - especially if it's unethical, illegal or unconstitutional behavior by top officials. Reporters need to be able to protect these sources, regardless of whether the sources are motivated by policy disputes or nagging consciences. This is doubly important with an administration as dedicated as this one is to extreme secrecy. … Illegal spying and torture need to be investigated, not whistle-blowers and newspapers."

LATimes Says Comey's Objections Are Revealing. The Los Angeles Times (1/4, 958K) says in an editorial, "James B. Comey can hardly be considered soft on terrorism. As deputy attorney general, he has been one of the Bush administration's chief prosecutors of the war on terror, pursuing accused bombers and terrorists from Riyadh to Chicago. So his refusal to approve the administration's warrantless wiretaps of Americans cannot simply be dismissed as the rantings of an Al Qaeda apologist." But Comey's objections, "made in 2004 and first reported Sunday

in the New York Times, do more than rob the president and his defenders of one of their favorite arguments. The article was based on the accounts of unnamed administration officials, and Comey isn't giving the reasons for his opposition to the National Security Agency's domestic surveillance program. But they're easy to guess."

More Commentary. In a column posted on National Review Online (1/4), Rich Lowry writes, "Is it written somewhere that the Constitution can be violated only by the president? One would think so, given the debate over the secret National Security Agency program to monitor, without court approval, calls between suspected al Qaeda operatives overseas and people in the United States. Opponents of the program say President Bush has trashed the Constitution, in particular the Fourth Amendment's prohibition against unreasonable searches. … The Constitution, however, doesn't exist solely to constrain the executive, as those braying about the NSA wiretaps seem to suggest. It confers powers on the executive as well as limiting them. If those powers are abridged by another branch of the government, the Constitution is being violated — and not, obviously, by the president." Lowry adds, "Thus, only one player so far in the NSA controversy has been held by a court to have probably violated the constitution, and he's a judge. Judge James Robertson resigned from the Foreign Intelligence Surveillance Act court — the secret court that approves domestic wiretaps related to national security — to protest the NSA program, making him something of a cause celebre among Bush bashers. But he's an odd hero, given that his contribution to the debate over the executive's surveillance power was a flagrant error." Lowry concludes, "Like it or not, the president has the constitutional authority to wage the war on terror. His detractors don't like it, so they pretend the authority doesn't exist, and trample on the Constitution in the process."

The Seattle Post-Intelligencer (1/4) editorializes, "It's hard to imagine that the Republican-led Congress is up to the job of unraveling the Bush administration's spying scandal. There's no other truly proper forum, however." The P-I continues, "At least in theory, some of the work could start in the Justice Department. As the American Civil Liberties Union has suggested, Attorney General Alberto Gonzales should appoint an independent counsel to look at possible crimes in the warrantless monitoring of Americans' communications. … But that appears unlikely. Instead, Gonzales' Justice Department has shamelessly launched an investigation to find who tipped The New York Times and the public to President Bush's approval of the wiretaps. Worse, Gonzales himself was involved in the spying decisions while serving as White House counsel. The Times reported that Gonzales, in March 2004, went to a hospital to try to talk then-Attorney General John Ashcroft into setting aside his chief deputy's objections to the National Security Agency's domestic surveillance." The P-I concludes, "The Senate seems ready to look at the administration's dubious claims that Bush violated neither the law nor the Constitution. But the House of Representatives, where impeachment proceedings begin, ought to take the lead in determining whether to hold the president accountable."

DOJ Seeks Dismissal Of Guantanamo Suits.

The New York Times (1/4, Lewis) reports, "The Bush administration notified federal trial judges in Washington that it would soon ask them to dismiss all lawsuits brought by prisoners at Guantánamo Bay, Cuba, challenging their detentions, Justice Department officials said Tuesday." The Times continues, "The action means that the administration is moving swiftly to take advantage of an amendment to the military bill that President Bush signed into law last Friday. The amendment strips federal courts from hearing habeas corpus petitions from Guantánamo detainees." The Times adds, "On Tuesday, the Justice Department sent notices to all the federal judges in Washington who have cases involving challenges brought by Guantánamo inmates, informing them of the new amendment. The officials said the department would file formal notices within several days asking the judges to dismiss more than 160 cases involving at least 300 detainees. … If the administration wins its argument it would mean an abrupt end to a wide effort by dozens of lawyers to use the right of habeas corpus in federal courts to challenge the imprisonment of suspected terrorists at Guantánamo as enemy combatants."

The Los Angeles Times/AP (1/4, Sherman) reports, "The measure, part of the Defense Appropriations Act that President Bush signed last week, was intended to allow detainees at the U.S. naval base in Cuba to appeal their detention status and punishments to a federal appeals court in Washington. … That avenue replaces the one tool the Supreme Court gave detainees in 2004 to fight the legality of their detentions -- the right to file habeas corpus lawsuits, which demand that the government justify someone's continued imprisonment, in any federal court." The AP continues, "The new provision won broad support only after its chief Democratic sponsor, Sen. Carl Levin of Michigan, said it had been altered so it would not apply to pending cases. … But on Tuesday, the Justice Department notified judges at U.S. District Court in Washington that it will ask them to dismiss 187 cases involving more than 300 people because the law eliminates the jurisdiction of district courts to consider the legality of detentions at the naval base. … The decision to try to stop pending cases in their tracks drew an immediate rebuke from advocates for the detainees, who said the provision should apply only to new challenges. 'The battle about what that provision means has only just begun,' said Elisa Massimino, director of the Washington office of Human Rights First."

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Reuters (1/4, Charles) reports, "The department filed a notice to judges presiding over the cases at the U.S. District Court in Washington to advise them that by the end of next week the Justice Department would file official motions to dismiss the cases." Reuters adds, "The notice comes a week after President George W. Bush signed new legislation banning cruel and inhumane treatment of prisoners. The anti-torture law also curbs the ability of prisoners being held at the U.S. Naval Base in Cuba to challenge their detention in federal court. … The legislation requiring humane treatment of detainees in U.S. custody was originally opposed by the White House. But Bush backed off his original veto threats after Congress voted overwhelmingly to support the amendment, pushed by Sen. John McCain, an Arizona Republican who was a prisoner of war in Vietnam." Reuters notes, "Hundreds of prisoners have filed lawsuits in civilian courts to protest their confinement or to protest conditions of confinement. While some have protested their confinement in general, others have sued over the type of Koran they have been given while others want access to DVDs, a Justice Department official said. … The Center for Constitutional Rights, which represents many of the detainees who have sued in civilian court, has criticized the anti-torture law for eliminating prisoners' access to the U.S. judicial system. … But the Justice Department official, who declined to be identified, said detainees still had the right to appeal, they just had to wait until the military process was completed."

After Signing Torture Ban, Bush Qualifies Approval In Signing Statement. The Boston Globe (1/4, Savage, 484K) reports that when President Bush "last week signed the bill outlawing the torture of detainees, he quietly reserved the right to bypass the law under his powers as commander in chief." Bush "issued a 'signing statement' -- an official document in which a president lays out his interpretation of a new law -- declaring that he will view the interrogation limits in the context of his broader powers to protect national security. This means Bush believes he can waive the restrictions, the White House and legal specialists said." The statement says, "The executive branch shall construe [the law] in a manner consistent with the constitutional authority of the President...as Commander in Chief." The President added "that this approach 'will assist in achieving the shared objective of the Congress and the President...of protecting the American people from further terrorist attacks.'" The Globe adds that some legal specialists "said yesterday that the president's signing statement, which was posted on the White House website but had gone unnoticed over the New Year's weekend, raises serious questions about whether he intends to follow the law." A senior Administration official "who spoke to a Globe reporter about the statement on condition of anonymity because he is not an official spokesman, said the president intended to reserve the right to use harsher methods in special situations involving national security." Legal academics "and human rights organizations said Bush's signing statement and his stance on the wiretapping law are part of a larger agenda that claims exclusive control of war-related matters for the executive branch and holds that any involvement by Congress or the courts should be minimal."

London Bombings Cost Little To Undertake. The AP (1/4, Panja) reports that security experts said "the suicide bombings that killed 52 people on London's transit system in July were a relatively low-cost operation." Independent defense and security expert Paul Beaver put the cost at "about $2,000." Terrorism financing expert Loretta Napoleoni noted they were "relatively inexpensive largely because the four bombers were homegrown, living with their families in towns north of London and traveling to their targets using a rental car and a train." However, "neither Beaver nor Napoleoni included in their estimates the costs of some suspects' travel to Pakistan, which has become a subject of the investigation."

PATRIOT ACT:

Bush Launches Push To Renew Patriot Act. President Bush yesterday urged Congress to renew the Patriot Act. The story was not covered by the networks, and received little coverage on local TV. CNN's The Situation Room (1/3, Blitzer) reported the President "launched a 30-day push to win renewal of key elements of the USA Patriot Act and he began with some tough talk aimed at critics of those anti-terror measures." CNN (Bash) added, "While Congress is out of town, the White House is trying to take advantage of having the Washington stage to themselves. Today…it was about pushing for a renewal, not just an extension of the Patriot Act provisions that are expiring there. Now, the president had in the White House some US attorneys who say that they have benefited from the Patriot Act in prosecuting terror cases. And the president, for his part, accused lawmakers who are holding it up of playing politics."

Fox News' Special Report (1/3, Garrett) added, "Determined to break a filibuster blocking parts of the Patriot Act," Bush "armed himself with stories from some of the prosecutors who use the act every day." Later, Bush sent the prosecutors "out to talk about the terrorist plots the act helped them back up." The AP (1/4, Loven) says "district attorneys cited several cases in which the Patriot Act had played a crucial role, from staging an undercover sting on California weapons dealers attempting to sell Stinger missiles to securing convictions of major terrorist financiers in New York." Ken Wainstein, district attorney for the District of Columbia,

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said, "We use it each and every day to protect our country against terrorists and criminals." Mary Beth Buchanan, the district attorney for the Western District of Pennsylvania, added, "We believe this provides adequate safeguards in every respect." The White House event "drew 19 of the country's 93 U.S. attorneys. They were contacted by officials at the Justice Department to attend." The Washington Times (1/4, Curl, 90K) quotes Roslynn Mauskopf, US attorney for the Eastern District of New York, saying "the law was instrumental in convicting two persons of funneling $20 million to the terror groups al Qaeda and Hamas."

Print coverage emphasized the partisan aspects of the dispute over the Patriot Act. For example, USA Today (1/4, Jackson, 2.31M) says Bush "fired the first shot in the renewed battle over the USA Patriot Act, hosting on Tuesday a group of federal prosecutors who said the soon-to-expire law helped solve major crimes." The President "accused Senate Democrats of blocking reauthorization of the law for 'partisan reasons.'" USA Today adds "Bush-appointed U.S. attorneys from 14 states and the District of Columbia said the law has helped them crack cases involving terrorist finances, weapons exchanged for drugs, and child abductions." Senate Democrats "who blocked renewal late last year, such as Patrick Leahy of Vermont, said they support the law but want to make sure civil liberties are protected."

The Washington Post (1/4, A2, VandeHei, 744K) headlines its story "Bush Assails Democrats Over Patriot Act," and framed Bush's remarks as part of "an aggressive campaign to defend the president's terrorism-fighting authority." White House spokesman Scott McClellan, "speaking to reporters earlier in the day, said Senate Democrats are simply doing the bidding of liberal special interest groups such as the American Civil Liberties Union, which opposes the broad surveillance power authorized by the act." Democrats "are trying to 'appease' the ACLU 'because they want to weaken and undermine the Patriot Act,' McClellan said." The Post adds, "Adopting campaign-style tactics, Bush and his aides plan to accuse Democrats of jeopardizing national security to further their political agenda, a tack that worked well for the White House in the 2002 and 2004 elections. But the political environment is different now, with Bush less popular and Democrats better organized in opposition."

There was a small amount of coverage of Bush's remarks on local television. Some examples: KABB-TV San Antonio (1/3, 9:34 p.m.) reported, "Bush has started the new year the same as he ended the last: pushing for a permanent renewal of the Patriot Act." WGCL-TV Atlanta (1/3, 11:16 p.m.) added the President "used his meeting with federal prosecutors today as a backdrop to pressure Congress."

Voice of America (1/4, Stearns) reports, "President Bush says he will spend the next 30 days trying to convince Congress and the American people that the nation needs a permanent extension of the anti-terrorism laws known as the Patriot Act. … 'The American people expect to be protected, and the Patriot Act is a really important tool for them to stay protected,' the president said."

The New York Times (1/4, Bumiller) reports, "President Bush assembled a phalanx of United States attorneys at the White House on Tuesday to bolster his call for Congress to renew the antiterrorism law known as the USA Patriot Act, intensifying a coming clash with Capitol Hill over civil liberties and national security." The Times continues, "Surrounded in the Roosevelt Room by 19 federal prosecutors, Mr. Bush said Congress was holding up renewal of the law because of politics. … 'When it came time to renew the act, for partisan reasons, in my mind, people have not stepped up and have agreed that it's still necessary to protect the country,' Mr. Bush said. 'The enemy has not gone away - they're still there. And I expect Congress to understand that we're still at war and they've got to give us the tools necessary to win this war.'" The Times adds, "The president's remarks and an appearance by the United States attorneys in the West Wing driveway afterward were part of a stepped-up White House campaign to make permanent the antiterrorism law, which expanded the government's investigative powers after the attacks on Sept. 11, 2001. … The White House efforts were further complicated by a simultaneous uproar in Congress last month over revelations that Mr. Bush authorized a secret spying program to monitor international phone calls and international e-mail messages of people in the United States." The Times notes, "The United States attorneys, all Bush appointees summoned to Washington by the Justice Department, echoed Mr. Bush when they appeared en masse in front of television cameras moments later. … Rosalynn Mauskopf, the United States attorney for the Eastern District of New York, was among those who stepped up to the microphones and said the law had made it easier for the Eastern District 'to choke off the supply of money to terrorists.' … Specifically, Ms. Mauskopf said prosecutors had used the law, which broadens federal powers to demand financial records, to convict the spiritual adviser to Osama bin Laden, Sheik Muhammad Ali Hassan al-Mouyad, as well as Sheik Mouyad's assistant, for funneling millions of dollars to Al Qaeda and the militant group Hamas."

The AP (1/3, Loven) reports, "Later, outside the West Wing, district attorneys cited several cases in which the Patriot Act had played a crucial role, from staging an undercover sting on California weapons dealers attempting to sell Stinger missiles to securing convictions of major terrorist financiers in New York. … 'We use it each and every day to protect our country against terrorists and criminals,' said Ken Wainstein, district attorney for the District of Columbia. … 'We believe this provides adequate safeguards in every respect,' said Mary Beth Buchanan, the district attorney for the Western District of Pennsylvania."

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Reuters (1/4, Holland) reports, "The Democratic leader in the House of Representatives, Rep. Nancy Pelosi of California, rejected Bush's complaint that the Patriot Act was a victim of partisan politics and accused him of misleading the public. … Rather, she said, there are bipartisan concerns that the law 'failed to secure the right balance between our national security and our civil liberties' and that the extension will give lawmakers time to 'add the appropriate safeguards.'" Reuters notes, "The senior Democrat on the Senate Judiciary committee, Sen. Patrick Leahy of Vermont, said their efforts were aimed at improving the Patriot Act, not ending it. … 'We want to make sure that these far-reaching government powers have adequate checks and balances so they can be effectively used without unduly threatening Americans' hard-won freedoms from government abuse, Leahy said in a statement."

HOMELAND RESPONSE:

Homeland Security Revamps Criteria For State, Local Funding Distribution. The Department of Homeland Security has changed its criteria for the distribution of $756 million in funds to states and municipalities to more accurately reflect their actual risk. The story was reported by ABC in a full segment, while NBC mentioned it in a brief segment. In addition, the major dailies also reported the story, typically in a front page story, while it was also widely distributed by such news services as Knight Ridder.

ABC World News Tonight (1/3, story 6, 2:00, Thomas) reported, "Until now, Federal and local officials have spent Homeland Security money without restraint. But that's about to change." Secretary of Homeland Security Michael Chertoff: "If an area is not capable of coming up with an investment justification that makes sense, they're not going to get money." Thomas: "Critics are asking, 'What took so long?'" Tim Roemer, 9/11 Commissioner: "It's about time. Why didn't we do this right after 9/11?" Thomas: The funds "will be doled out based on actual risk. 35 cities like New York, Atlanta, Miami, Chicago, Dallas and Los Angeles will get the highest priority. But 11 big cities, including San Diego, Omaha, Phoenix, Tampa and Las Vegas could be getting considerably less money or none at all." Some "critics wonder anything is really changing at all. Congress will still control more than $1 billion in Homeland Security funding, which it and the states can spend as they wish." Rep. Ed Markey: "They're cutting the amount of money that is going to be spent on this program while still allowing Congress to take twice as much money and use pork barrel standards."

NBC Nightly News (1/3, story 7, :45, Williams) reported the change was made "after years of complaints that more per capita anti-terrorism funds were going to sparsely populated states like Wyoming and Alaska than to states like California and New York." USA Today (1/4, 2.31M) reports the "announcement created potential winners and losers among dozens of metropolitan areas competing for funds, which overall are being reduced from $855 million last year to $765 million this year." New York City Mayor Michael Bloomberg said, "I think that's exactly what we have been screaming for all along." USA adds New York "got $207 million last year, by far the most of any community. Homeland Security officials said they won't announce how much each recipient will get until June, after assessing each applicant's plans for the money."

Knight Ridder (1/4, Puzzanghera) reports the Homeland Security Department "announced Tuesday that 35 urban areas are eligible for $765 million in special anti-terrorism grants because of their high risk of attack and added new rules for allocating the money to force regional cooperation and eliminate wasteful spending." The regions "include Washington, New York, Philadelphia, Charlotte, N.C., Miami, Chicago, Kansas City, Minneapolis/Saint Paul, Dallas/Fort Worth, Los Angeles and the San Francisco Bay Area. Each has 60 days to come up with a proposal for what it would do with the money and justify how the expenditures would improve security." The "'investment justifications' are designed to avoid questionable decisions, such as the purchase of four Segway motorized scooters for a total of $24,815 by the San Jose, Calif., police and Santa Clara County, Calif., bomb squads."

The Washington Times (1/4, Hudson, 90K) reports the "urban grant is separate from a first-responder program that guarantees funding to every state and U.S. territory, including the Virgin Islands, American Samoa, Guam and the Northern Mariana Islands. Critics of that congressionally mandated program have questioned smaller cities' need for such money and say the program is abused."

The Los Angeles Times (1/4, Gaouette, 958K) reports Los Angeles "and other high-profile urban areas could get more federal aid as a result of changes in the way the Department of Homeland Security allocates funds to train and equip police officers, firefighters and other emergency responders for possible terrorist attacks." The plan is "the latest round in a running battle between the Bush administration and Congress. The administration favors allocating anti-terrorism grants based on risk, thus favoring major urban centers on the East and West coasts. Congress has insisted on sharing aid more broadly, including funds for such towns as North Pole, Alaska, where the threat of attack is considered minimal."

The New York Times (1/4, Lipton, 1.19M) reports the "new system is based less on politics and city boundaries and more on assessments of where terrorists are likely to strike and potentially cause the greatest damage." The changes "to the program, the Urban Area Security Initiative, are being driven in part by a reduction in the overall pool of money for

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antiterrorism efforts." Until the application process "is under way, it is unclear what the impact may be in cities now receiving money under the program, including New York, whose region will grow to encompass Yonkers. Mr. Chertoff emphasized that the designated areas are not guaranteed grants."

The Washington Post (1/4, A1, Eggen, 744K) reports in a front page story that "lawmakers and local officials in Washington and other major urban areas praised the changes, which were made in the face of continued infighting in Congress over funding formulas for other types of Homeland Security grants. David Robertson, executive director of the Metropolitan Washington Council of Governments, said the change could mean more leverage for the District and its neighbors in competing for federal money."

NYTimes Praises Basing Fund Distribution On Risk, Not Politics. The New York Times (1/4, 1.19M) praises the new Homeland Security funding procedure in an editorial titled, "Risk Wins A Round Over Politics." The Times says it is "very good news - with two caveats. It still remains to be seen precisely how the money will be handed out. And the improvements in this single program do not change the fact that Congress, thanks to the influence of small-state senators, still lets politics play a disturbingly large role in the distribution of other antiterrorism funds."

Dirty Bomb Clean Up Standards Would Allow High Cancer Risks. The AP (1/4, Hebert) reports, "The government issued cleanup standards Tuesday for a 'dirty bomb' terrorist attack that would in some cases be far less rigorous than what is required for Superfund sites, nuclear power plants and nuclear waste dumps," eliciting, "sharp criticism from some environmental groups and nuclear watchdog organizations." Diane D'Arrigo, of the Nuclear Information and Resource Service, said that the guidelines would, "in some cases" allow radiation levels "that can be expected to produce a cancer in one of every four people exposed."

The New York Times (1/4, Wald, 1.19M) adds that The Homeland Security Department says "government officials… should consider permitting people to re-occupy contaminated land and buildings even if they would be exposed to radiation at a level double what nuclear plant workers can legally receive." The advice is characterized "as a draft, because…[the department] would take public comment until March 6, but the advice takes effect immediately."

Man Sues US Over Lost Ring At Airport. The AP (1/4) reports, "A man is suing the federal government, alleging his $7,000 wedding ring was stolen as he passed through a security checkpoint at Logan International Airport." The AP continues, "John Wright, 51, says he and his wife were taking a flight to San Juan, Puerto Rico, in July when he placed the 1.53-carat diamond and gold ring in a plastic tub along with his Rolex watch and wallet." The AP adds, "Wright, of Tiverton, R.I., then placed the bin on the scanner conveyer belt as he and his wife, Janet, passed through the metal detector. When he retrieved his belongings, Wright said, the ring was missing. … 'I hadn't even gone 15 feet on my vacation and I was robbed,' said Wright, a health teacher in Somerset. … He said he alerted the three Transportation Security Administration screeners who were at the checkpoint, and they searched the conveyer belt without success. … Wright filed the lawsuit in U.S. District Court last month after the TSA denied his claim seeking $7,000 to replace the ring. The lawsuit seeks reimbursement for the ring and attorney's fees."

Author Says US Needs To Prepare For Suicide Bombing Blitz. Ralph Peters, author of "New Glory: Expanding America's Global Supremacy" and a member of USA TODAY's board of contributors, writes in an op-ed in USA Today (1/4, 2.31M), "The ultimate precision weapon and genuine 'smart bomb,' the suicide bomber is hard to deter and exasperatingly difficult to defeat." The US needs "to prepare for the suicide-bomber blitzkrieg, when murderous zealots come at us in waves." The "great strategic struggle of this century is between those who believe in a generous, loving god — in any religion — and those who serve a punitive, merciless deity." Taken "from the ranks of troubled souls…who find mundane reality overwhelming and terrifying" and "longing for release from the insecurities of his daily experience," suicide bomber show that "the new age of faith is also an era of the perversion of religion."

WAR NEWS:

Bush To Meet With Former State, Defense Secretaries About Iraq. President Bush will consult with a bipartisan group of former secretaries of state and defense at the White House today. The New York Times (1/4, Sanger, 1.19M) reports that the meeting "was called by the White House, which sent out invitations just before Christmas to everyone who once held those jobs. The invitees were told that they were being asked to attend a briefing on Iraq and other issues. It was unclear, one recipient said, 'how interested they are in what we are thinking.'" Never before "has Mr. Bush asked such a broad array of former senior officials to show up together, presumably armed with strong opinions about issues like whether the moment has come to begin an exit from Iraq and what the United States should be doing with North Korea, Iran, Sudan or public diplomacy." The Times adds, "Several of the officials, mostly Democrats, said they were concerned about being used as props in an effort to portray Mr. Bush as

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seeking what the national security adviser, Stephen J. Hadley, recently called 'common ground' on Iraq. … Among those planning to attend are Colin L. Powell, Mr. Bush's first secretary of state and the administration's best-known and most careful dissident voice, and Madeleine K. Albright, Mr. Powell's predecessor. William Perry, who was secretary of defense in the Clinton administration, is flying in from California."

US Opposes Iraqi Rejection Of US-Trained Sunni To Command Baghdad Brigade. The Iraqi government has nominated a new leader for a brigade that is set to assume control over some of Baghdad's most sensitive areas. The Washington Post (1/4, A12, Finer, 744K) reports that the nomination comes over "the strong objections of US commanders in Baghdad," and the dispute "appears likely to postpone an already overdue handover by American forces for at least another month." Iraq's Defense Ministry "said it would not approve the officer groomed by U.S. forces since August to command the unit, Col. Muhammed Wasif Taha, a 23-year Iraqi army veteran. U.S. commanders are concerned that the rejection of a qualified Sunni Muslim candidate by a government that is dominated by the rival Shiite Muslim majority will fuel perceptions of Iraq's security forces as sectarian institutions, particularly in Sunni regions where sympathy for the insurgency runs deep."

Allied Commitment To Remaining In Iraq Seen As Wavering. The Christian Science Monitor (1/4, Sappenfield, 61K) says the Bush administration's "coalition of the willing" in Iraq "appears increasingly unwilling to commit to the cause indefinitely. Last week, two countries finished withdrawing the last of their troops from Iraq, and two others decided to cut their forces by about a third. In all, the coalition has declined from a 2003 high of 38 nations and 50,000 troops to 28 nations and about 20,000 soldiers today. In terms of military operations on the ground, the withdrawals mean little, analysts say. Only Britain has a substantial security role, and so far it has remained steadfast. Yet each country's commitment to Iraq - however small - is a significant token to an administration that has long sought global support for the conflict." The Monitor adds, "So far, the Pentagon has looked at the fluctuations without great consternation. … The ambivalence is born of the fact that - with the exception of Britain - coalition nations have not done the heavy lifting of fighting insurgents."

Iraqi Vice President Says New Government Could Be Delayed Until April. Iraqi Vice President Adil Abdul-Mahdi said yesterday that Iraq may not have a new government until April if various political and sectarian factions cannot resolve their differences. The AP (1/4, Quinn) reports that Abdul-Mahdi, who is a leading Shiite candidate to become the next prime minister, said that a "broad-based coalition government including Shiites, Kurds and Sunni Arabs is the only way to defeat the insurgency. 'The future government, I think, will be a national unity government. This is a must. It is not something that only the results of the elections can decide. It is a political necessity, and all parties agree on that.'"

Officials Say Efforts To Form Unity Government Will Continue. Meanwhile, Reuters (1/4, Aqrawi) reports, "Iraqi leaders have agreed to press on with efforts to form a national unity government after the latest round of talks on Tuesday hosted by Kurdish officials in their northern stronghold. Negotiations on how exactly to share posts among the rival ethnic and sectarian factions will convene in the coming days in Baghdad, Kurdish regional president Masoud Barzani said after he and Iraq's Kurdish interim president Jalal Talabani met minority Sunni Arab leaders from the Iraqi Accordance Front. … The discussions have been held despite Sunni protests that the results of the December 15 election were rigged -- a claim that has prompted electoral officials to invite a team of foreign experts who are arriving this week to review the process."

Women's Rights Advocates Worry Iraqi Government Becoming More Islamist. Knight Ridder (1/4, Ahmed) reports on the "enormous obstacles" facing women in Iraqi politics. Knight Ridder reports, "During Saddam Hussein's 25-year reign, women did have a few opportunities to play important roles in government or elsewhere in society, but only as long as they complied with Saddam's demands to serve him and the ruling Baath party. Women had the right to vote, for instance, but like all Iraqis could vote only for Saddam. Yet for all the talk of shedding a history of female repression and establishing a nation in which a woman's voice matters as much as a man's, signs that the government is becoming more Islamist worry champions of women's rights. Proponents of Islam in government note that the religion explicitly values women, including by cherishing their contributions to family, home and society. Yet others fear that a conservative Islamic government would bar women from voting, moving or even studying independently of their fathers, husbands or brothers."

International Team Begins Review Of Iraq Election Complaints. An international team has begun reviewing the complaints filed over Iraq's parliamentary elections. The AP (1/4) reports that the Independent Electoral Commission of Iraq "has completed its investigation of almost 2,000 election complaints and will announce the findings today, commission member Hussein Hindawi said. However, the commission won't announce final election results until an international team finishes its work, meaning they might not be ready for two weeks, commission member

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Safwat Rashid said. … The commission investigated 1,980 complaints, including 50 that were considered serious enough to alter results in some districts. The international team, which began its work Monday, agreed to review Iraq's elections after protests by Sunni Arab and secular Shiite groups that the polls were tainted with fraud." The Washington Times also runs the AP story this morning.

The Financial Times (1/4, Negus, Correspondent) adds, "The IECI had originally forecast that results might be available early this month, but Sunni Arab and secularists alleged widespread fraud and voter intimidation by Shia Islamists and demanded that international observers be brought in to check the results. Consequently, last week the IECI invited the International Mission for Iraqi Elections (IMIE), a group set up in 2004 to monitor the country's political process, to send a team to Baghdad to review elections procedures."

US Air Assault Kills Nine Women And Children In Iraq. The New York Times (1/4, Oppel, Al-Neami, 1.19M) reports, "American F-14 warplanes killed nine members of an Iraqi family, including women and young children, during a bombing and cannon strike on Monday night that obliterated a home near the northern industrial city of Baiji, Iraqi officials said Tuesday. … The attack enraged Iraqi officials in Baiji…who said that the airstrike was unjustified and that it had destroyed an innocent family. A preliminary investigation indicated the blast had killed the wife of the home's owner, his daughter-in-law and seven children and grandchildren, including one son who worked for the police." The Times notes, "American officials said the warplanes had been pursuing insurgents who had been observed setting up a roadside bomb. They fled to a building, and the American planes struck the building and destroyed it." The Times adds that, according to Reuters, a Baiji police colonel, Sufyan Mustafa, said, "There were no terrorists in this house."

The AP (1/4, Straziuso) reports, "The U.S. military did not comment on the deaths. It said only that an unmanned aircraft spotted three men planting a roadside bomb in the city 155 miles north of Baghdad, and that Navy F-14s bombed a nearby building the three had entered."

The Washington Post (1/4, A12, Knickmeyer, Aldin, 744K) reports, "The dead included women and children whose bodies were recovered in the nightclothes and blankets in which they had apparently been sleeping. A Washington Post special correspondent watched as the corpses of three women and three boys who appeared to be younger than 10 were removed Tuesday from the house." The Post goes on to report, "The U.S. military says that it does not count civilian deaths from American attacks and that investigating deaths caused by any one strike is often impractical in dangerous areas. But some analysts say the U.S. military should make a systematic effort, both to test the reliability of its intelligence and to better learn how to reduce civilian casualties."

Vitality Of New Iraqi Businesses Disputed. The Christian Science Monitor (1/4, Levinson, 61K) reports the Iraqi Ministry of Trade says 24,000 new businesses "have opened since the fall of Saddam Hussein" in April 2003. US officials "point" to these businesses "to support their claims that the Iraqi economy, despite ongoing security woes, is recovering. 'I think ordinary Iraqis have picked up on the sense that the economy looks better,' says Thomas Delare, the counselor for economic affairs at the US Embassy in Baghdad." However, Economists at the Baghdad Economic Forum "say that as many as 90 percent of the 24,000 new businesses are idle, unable to secure the work, raw materials, and startup money to get off the ground. Security problems, unreliable electricity, and lack of finance are hobbling small businesses, analysts and local businessmen say."

Iraqi Expatriates' Claims Are Central To Book By NYTimes Reporter. The Washington Times (1/4, 90K) reports that New York Times reporter James Risen's new book "describes how the CIA recruited an Iraqi-American anesthesiologist in 2002 to obtain information from her brother, who was a figure in Iraqi dictator Saddam Hussein's nuclear program. Dr. Sawsan Alhaddad of Cleveland made the trip to Iraq on the CIA's behalf. The book said her brother was stunned by her questions about the nuclear program because he said it had been dead for a decade." According to the Times, "Risen uses the anecdote to illustrate how the CIA ignored information that Iraq no longer had weapons of mass destruction."

Hart Alleges Bush Plans Permanent US Bases In Iraq. In an op-ed for the Financial Times (1/4) former Sen. Gary Hart writes, "It has been the dream of Republican neoconservatives at least since 1998 – and probably years before – to overthrow Saddam Hussein and to use the new client state of Iraq as the US's military and political base from which to pacify the complex and troubled Middle East." According to Hart, "neoconservative" policymakers intend "to construct permanent US military bases at strategic points throughout the country and then persuade the new 'democratic' government to invite us to stay. … This is the ultimate test of true Bush administration intentions in Iraq. If we are, in fact, constructing permanent bases, 'leaving' simply means a reduction of forces and the permanent stationing of US brigades in Iraq."

In 1998, Clinton Said US Must Be Prepared To Act Against Iraq. In its "History Lessons" column, the

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Washington Times (1/4, 90K) reports on remarks by former President Bill Clinton at that Arlington National Cemetery Veterans Day ceremony on November 11, 1998. Clinton said that if UN inspectors "are not permitted to visit suspect sites or monitor compliance at known production facilities, [Iraq's weapons of mass destruction] may as well be in Baltimore, not Baghdad. … A failure to respond could embolden Saddam Hussein to act recklessly, signaling to him that he can with impunity develop these weapons of mass destruction or threaten his neighbors, and this is very important in an age when we look forward to weapons of mass destruction being a significant threat to civilized people everywhere." Clinton added, "We continue to hope, indeed pray, that Saddam will comply, but we must be prepared to act if he does not."

CIA Officer Says US Failed To Send Troops To Capture Bin Laden In Tora Bora. The Financial Times (1/4, Spiegel) reports, "US military commanders were told that Osama bin Laden was hiding in the mountainous Tora Bora region of Afghanistan in early December 2001 but failed to send troops to block his escape, according to a new account by the CIA officer who ran the agency's operations in the country. Gary Berntsen, a CIA veteran who headed a paramilitary team called 'Jawbreaker' during the Afghan war, said in a book published last week that one of his Arabic-speaking operatives found a radio on a dead al-Qaeda fighter during the Tora Bora battle and heard the terrorist leader repeatedly try to rally his troops. … Later on the same captured radio" CIA agents "reported hearing Mr bin Laden apologising for getting his men trapped in the mountains and killed in large numbers by American bombing, Mr Berntsen wrote." The Times notes, "The book, titled Jawbreaker, was heavily edited by CIA censors.'

Reports That Bin Laden Suffers From Kidney Trouble Scrutinized. In an op-ed for the Washington Times (1/4, 90K) author Richard Miniter writes that although there have been several claims that Osama bin Laden "has kidney trouble" there is "no evidence, just a lot of chatter. There is only one presumably well-informed source who has gone on the record to say that bin Laden was on dialysis: Pakistani Prime Minister Pervez Musharraf. And he later changed his mind. … In fact, there is a mountain of evidence that bin Laden is not on dialysis. No medical report has been produced that shows bin Laden is on dialysis. No reporter who has actually met bin Laden has seen the archterrorist hooked up to a dialysis machine or heard him talk about it."

US Spending Cuts Seen As Leaving Iraq, Afghanistan Unstable. USA Today (1/4, 2.31M) editorializes, "Four years ago, the United States invaded Afghanistan with a burning mission. … The mission is only partially accomplished, but the United States is on its way out. In a preview of events in Iraq, U.S. forces, rebuilding funds and projects are being cut and handed to Western allies and Afghans over the next year. The troubling suggestion is of a job half done. The picture certainly doesn't look pretty. Bin Laden remains at large. Despite successful Afghan elections and solid leadership by President Hamid Karzai, democracy is precarious." According to USA Today, "In Iraq, the United States is already following a similar trajectory of retreating from grandiose post-invasion commitments."

Churchill's WWII Remarks Noted In Context Of War On Terror. The Wall Street Journal (1/4, 2.11M) editorializes, "No one knows how Winston Churchill would have fought the war on terror or what he might have thought of the U.S. practice of holding members of al Qaeda at Guantanamo or secret CIA prisons in Eastern Europe. But in newly declassified records of the British Bulldog's War Cabinet meetings, Churchill offers some posthumous insights on wartime leadership." Churchill "advocated shooting German POWs if the Nazis were to kill British prisoners" and "proposed…'wiping out German villages by air attack.'"

In Contentious Letterman Appearance, O'Reilly Defends Support For Iraq War. Fox News' Bill O'Reilly in a contentious interview on CBS' Late Night With David Letterman (1/3), was asked by Letterman about his "friends in the Bush Administration. Things seem to be darker now…than they might have been heretofore. How do things look to you?" O'Reilly replied, "It's pretty rough" adding "I think the Iraq thing is a vital thing for the country and it's absolutely brutal. We should all take it very seriously. This simplistic stuff about hating Bush or he lied and all this stuff, does the country no good at all. We've got to win this thing. You have to win it. Even though it's a screw-up, giant, massive, all right, right now for everybody's protection, it's best for the world to have a democracy in that country functioning and friendly to the west. Is it not?"

Letterman Criticizes Bush Decision To Topple Hussein, WMD Intelligence. During O'Reilly's interview on CBS' Late Night With David Letterman (1/3) Letterman said, "Why are we there in the first place? The President himself less than a month ago said we are there because of a mistake made in intelligence. Whose intelligence? Somebody got off a bus and handed it to him? No, it was the intelligence gathered by his administration. So why are we there in the first place? I agree with you that we have to support the troops" but "I also agree that now we're in it it's going to take a long, long time. People who expect it to be solved and wrapped up in a couple of years, unrealistic. It's not going to happen. However that does not eliminate the

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legitimate speculation and concern and questioning why the hell are we there to begin with?"

Letterman Defends Sheehan Criticism Of Iraq War. O'Reilly, in his interview on CBS' Late Night With David Letterman (1/3) said, "We believe that the United States, particularly the military are doing a noble thing. The soldiers and Marines are noble. They're not terrorists. When people call them that, like Cindy Sheehan called the insurgents freedom fighters, we don't like that." Letterman asked O'Reilly, "How can you possibly take exception with the motivation and the position of someone like Cindy Sheehan?" O'Reilly replied, "Because I believe she's run by far-left elements in this country. I feel bad for the woman." O'Reilly later added that Sheehan "has a right to grieve any way she wants. She has a right to say whatever she wants. When she says to the public that the insurgents are terrorists or freedom fighters, how do you [think], David Letterman, that makes people who lost loved ones by these blowing the hell out of them, how do you think they feel? What about their feelings, sir?" Letterman later replied, "I'm very concerned about people like yourself who don't have nothing but endless sympathy for a woman like Cindy Sheehan. Honest to Christ."

CORPORATE SCANDALS:

Government Wants To Use Skilling's Statements Against Him. The Wall Street Journal (1/4, Emshwiller) reports, "In its effort to convict Jeffrey Skilling of multiple crimes at Enron Corp., the government is trying to trundle out a new witness against the former company president: himself." Prosecutors say "Mr. Skilling attempted 'to deceive' the Securities and Exchange Commission in a Dec. 6, 2001, deposition about his reasons for selling 500,000 Enron shares on Sept. 17 of that year." Skilling's attorneys say the "SEC officials didn't properly warn the former Enron president about his criminal exposure before he talked in what he believed was a purely civil investigation."

Causey Plea Takes Accounting Out Of Trial, But Raises Tricky Questions. The Wall Street Journal (1/4, Emshwiller) reports, "The plea bargain last week by former Enron Chief Accounting Officer Richard Causey gives federal prosecutors the chance to present a shorter and less technical case against Mr. Causey's two co-defendants, former company Chairman Kenneth Lay and former President Jeffrey Skilling." They don't need to get "deep into complex accounting transactions," but "can focus more on whether the consistently optimistic public statements made about Enron's financial condition by the men qualified as lies and, thus, a fraud upon investors." Still, "Mr. Causey's securities-fraud plea presents both sides with tricky new tactical questions, ranging from whether to call the former accounting chief as a witness to how he should be portrayed to the jury."

Six Former Putnam Execs Charged With Alleged Fund Fraud. USA Today (1/4, Iwata) reports, "Six former executives of Putnam Fiduciary Trust have been charged with scheming to defraud corporate client Cardinal Health and a group of Putnam mutual funds of $4 million." The SEC civil complaint accuses former senior managing director Karnig Durgarian; former vice president Ronald Hogan; and former managing directors Donald McCracken, Virginia Papa, Sandra Childs and Kevin Crain "of hiding a 2001 trading error that caused Cardinal Health's employee retirement assets…to miss out on $4 million in stock market gains." The accused's attorneys said "at least four of them plan to fight the charges." Putnam was not charged "because the company has cooperated fully with the investigation" and "made full restitution of the $4 million, fired or disciplined employees involved and strengthened the company's financial oversight and compliance."

The Wall Street Journal (1/4, Hechinger, Forelle) adds, "In January 2001, Putnam mistakenly allowed a one-day delay in investing money on behalf of Cardinal Health's 401(k) and other retirement plans, according to the SEC complaint, filed in U.S. District Court in Boston. The markets rose sharply on that day, causing customers to lose out on $4 million in gains, the agency said."

US Charges Former Stockbroker With Insider Trading. The AP (1/4, Neumeister) reports, "A former stockbroker made nearly $23,000 on a pending acquisition by a Silicon Valley company after using insider knowledge he learned from his girlfriend, an attorney involved in the deal, prosecutors said Tuesday." The AP continues, "Lee Edelman, 34, was indicted on securities fraud charges after his girlfriend, an associate at a large Manhattan law firm, told him in March 2004 that Applied Materials Inc. was in talks to acquire Metron Technology NV. Applied Materials, based in Santa Clara, Calif., builds semiconductor-making equipment, while Metron provides support services for the industry." The AP adds, "Metron's share price almost doubled on Aug. 16, 2004, when the deal was announced. Edelman, of New York, quickly sold his shares, making $22,786, according to the indictment in U.S. District Court in Manhattan." The AP notes, "The Securities and Exchange Commission, which filed civil insider trading charges against Edelman, said in a release that Edelman broke up with his girlfriend several weeks after he began buying Metron stock. The attorney was not identified in court papers and was not aware of Edelman's stock buys, investigators said. … An initial court appearance

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had not been scheduled. Edelman faces up to 20 years in prison, if convicted."

Cartwright Named SEC General Counsel. The Wall Street Journal (1/4, Burns, 2.11M) reports, "The Securities and Exchange Commission announced Tuesday that securities lawyer and former astrophysicist Brian Cartwright will join the SEC on Jan. 23 as its new general counsel." SEC Chairman Christopher Cox, "in a prepared statement announcing the appointment,…predicted Mr. Cartwright would be a powerful champion for investors." The New York Times/Reuters (1/4) also covered this story.

CRIMINAL LAW:

Abramoff Plea Deal Could Lead To Bribery Charges Against Several Members Of Congress. Lobbyist Jack Abramoff yesterday pleaded guilty to conspiracy, mail fraud, and tax evasion charges that could carry a jail term of up to 11 years. Media coverage is treating the Abramoff plea as a major story, one of the biggest scandals in congressional history with the potential to roil Washington and affect the 2006 elections. For now, press accounts indicate Republicans seem more at risk than Democrats. The AP (1/4, Raum) reports the plea deal "could send seismic waves across the political landscape in this congressional election year," and Republicans "are likely to take the biggest hits. The GOP "has more seats to lose and has closer ties with the former lobbyist." The AP quotes GOP consultant Rich Galen saying, "You don't have to be a political genius to sniff the smell of blood in the water."

The Washington Post (1/4, Birnbaum, Balz, 744K), in a front-page analysis piece, says Abramoff "represented the most flamboyant and extreme example of a brand of influence trading that flourished after the Republican takeover of the House of Representatives 11 years ago. Now, some GOP strategists fear that the fallout from his case could affect the party's efforts to keep control in the November midterm elections." The Post goes on to report, "So far, the public has not identified corruption as solely a Republican problem. … But Republicans worry about two possibilities." Another Washington Post story (1/4, A10, Weisman) says "GOP leaders moved yesterday to distance themselves from disgraced lobbyist Jack Abramoff and prepare to combat a growing corruption scandal. … Top Republican strategists pushed GOP leaders to embrace legislation to curb the influence of lobbyists." Meanwhile, ex-Speaker Newt Gingrich "called on House Republicans to elect a new majority leader to permanently replace Rep. Tom DeLay (R-Tex.), Abramoff's most powerful ally in Washington." CNN's Lou Dobbs Tonight (1/3, Henry) reported that current Speaker Dennis Hastert "has decided to give back about $70,000 in Jack Abramoff-related campaign money, give that money to charity. It's another sign that today's plea deal is just starting to reverberate all across Washington."

For now, Republicans appear to be most worried about the plea's possible fallout. The Los Angeles Times (1/4, Hook, Murtius, 958K) says the "corruption investigation surrounding…Abramoff shows the significant political risk that Republican leaders took when they adopted what had once seemed a brilliant strategy for dominating Washington: turning the K Street lobbying corridor into a cog of the GOP political machine." The AP (1/4) adds Democratic Leader Nancy Pelosi "said Abramoff's confession in court was 'not a surprise because this Republican Congress is the most corrupt in history and the American people are paying the price.'"

CNN's The Situation Room (1/3, Henry) also reported Democrats "are trying to say in these midterm elections coming up, that there's a culture of Republican corruption, culture of corruption and cronyism." However, "if Democrats get drawn into this, it's going to be hard to make that charge." The Wall Street Journal (1/4, Mullins, Rogers, Squeo, 2.11M) says that "the fact that some Democrats also had dealings with Mr. Abramoff clouded the question of whether the scandal will have a sharp partisan impact in the November 2006 midterm elections. … Lawyers involved in the case say that prosecutors are looking at Mr. Abramoff's dealings with at least three other members of Congress and more than a dozen current and former congressional aides." Similarly, the Financial Times (1/4, Waldmeir) notes "some Democrats also received campaign contributions from Mr Abramoff."

A similar New York Times (1/4, Stolberg, 1.19M) story says that "while Mr. Abramoff is most closely linked to Republicans, even Democrats, many of whom also benefited from his largesse, acted skittish." A "Democratic Congressional aide who insisted on anonymity so as not to drag his boss into the scandal" told the Times, "We're talking about people who have longstanding careers in Congress who took contributions from somebody who knew somebody who knew somebody who knew Jack Abramoff. … Now they're panicked. The hope is that this investigation will root out the wrongdoing without innocent people getting hit with the ricochet."

Reports indicate Abramoff's illegal actions could ensnare several members of Congress – even leadership – and their aides. GOP Rep. Robert Ney is mentioned in several stories, while others suggest Abramoff's plea could hurt DeLay. Rep. John Doolittle and Sen. Conrad Burns, also Republicans, may also face legal scrutiny. As ABC World News Tonight (1/3, story 3, 2:10, Ross) said officials "tell ABC News the first congressman likely to be indicted for bribery will be…Ney. He claims he was a victim." The Los Angeles Times (1/4, Simon, 958K) also says "Abramoff's agreement to cooperate with federal investigators as part of his guilty plea

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raised the prospect that Ney could face indictment. … Ironically, Ney won his first elective office by defeating a Democrat who had been tainted by scandal -- Wayne Hays."

NBC Nightly News (1/3, story 5, 2:00, Myers) added Ney "is but one of at least a half dozen members of Congress who have reason to sweat Abramoff's plea." NBC mentions DeLay, Doolittle, "whose wife was hired to plan an event for one of Abramoff's foundations," and Burns, "who pressured the government to award a $3 million grant to one of Abramoff's tribal clients." Eighteen members of Congress "were on a list to get free meals at this Abramoff restaurant, according to former employees. Two dozen members of Congress, including…Hastert, and Senate Democratic leader Harry Reid received hefty campaign contributions from Abramoff's clients. Five members promised to return almost $300,000." Reuters (1/4, Sullivan) adds that "Republican and Democratic lawmakers seeking to distance themselves from Abramoff and his clients have returned more than $200,000 in campaign contributions in recent weeks."

The CBS Evening News (1/03, story 4, 2:30, (Borger) said the "corruption" Abramoff acknowledged "was breathtaking in scope. Bilking Indian tribes of more than $60 million, keeping nearly half of in the kickbacks. The indictment specifically mentions just one member, Representative Number One. Sources say he is Ohio Congressman Robert Ney." Federal prosecutors "said they are going to follow this story wherever it leads them. We're hearing at least 12 to 15 public officials." NBC Nightly News (1/3, story 4, 2:00, P. Williams) also mentions Ney, and notes that in a statement today, the Congressman "said he did nothing wrong and had no idea of Abramoff's conduct."

The Washington Times (1/4, Seper, 90K) reports Abramoff "admitted to U.S. District Judge Ellen Segal Huvelle he had taken part in a scheme involving the 'corruption of public officials,' saying he gave campaign contributions and funded lavish trips and other items 'in exchange for certain official acts.'" As part of the plea bargain, Abramoff "agreed to pay at least $25 million in restitution -- which the government has described as the profits he concealed as part of the conspiracy."

The New York Times (1/4, Kornblut, 1.19M) quotes Abramoff saying, "Your honor, words will not be able to ever express how sorry I am for this, and I have profound regret and sorrow for the multitude of mistakes and harm I have caused. … All of my remaining days, I will feel tremendous sadness and regret for my conduct and for what I have done. I only hope that I can merit forgiveness from the Almighty and from those I have wronged or caused to suffer. I will work hard to earn that redemption."

USA Today (1/4, Johnson, Drinkard, 2.31M) reports "at least a dozen FBI field offices have been drawn into the inquiry, FBI Assistant Director Chris Swecker said." Authorities "have declined to disclose the number of possible targets in the ongoing inquiry, but it goes beyond one member of Congress or his office. 'No criminal resources of the FBI will be spared in support of this important mission,' Swecker said."

The New York Times (1/4, Janofsky, 1.19M) reports, "The kickbacks from one Indian tribe exceeded $11 million. From another, they surpassed $6 million. In less than three years, Jack Abramoff secretly netted more than $20 million from tribes in five states, a sum close to half of the $43.3 million they paid him and a partner to lobby on their behalf. … The level to which Mr. Abramoff enriched himself at the expense of clients came into sharp focus on Tuesday as his plea agreement on federal charges of conspiracy, mail fraud and tax evasion was made public by the Justice Department."

The AP (1/4, Gamboa) reports, "The governor of the Texas Tigua tribe, which operated a gaming casino near El Paso for more than eight years, is hoping lobbyist Jack Abramoff's guilty pleas in a federal corruption scandal will be a catalyst for restarting the tribe's gaming." The AP continues, "Tigua Gov. Arturo Senclair said the tribe is looking forward to what members of Congress will tell investigators should any be charged in the unraveling scandal that led Abramoff to plead guilty Tuesday. … 'Maybe once this whole thing is done and all the e-mails are uncovered ... maybe when Congress members do start talking, maybe we can come back and start working with the state' to reopen the casino, he said." The AP adds, "The plea agreement filed by Justice Department officials said Abramoff and his ex-business partner Michael Scanlon solicited the Tigua tribe — identified in the document as Texas Tribe #1 — to hire them to provide lobbying and grass roots services to reopen the tribe's casino. The tribe was paying fees to the Scanlon business. … The tribe was to pay $4.2 million in fees and make 'additional and substantial' campaign contributions at the direction of Abramoff and Scanlon, the plea agreement said. … Abramoff had told the tribe he'd work for free, but never revealed that he got about half the net profits, or $1.85 million, from the Scanlon business."

The Los Angeles Times (1/4, Fiore, Groves, 958K) recounts Abramoff's exploits at Beverly Hills High School, where his "weightlifting prowess was the stuff of legend. … His former football coach, Bill Stansbury, recalled a game against Inglewood when Abramoff legally blocked an opposing player and knocked him out cold." Abramoff also "helped organize charitable events, Stansbury said, among them a Quarter-Pounder-eating contest at a McDonald's, with some proceeds going to the American Cancer Society, and a celebrity basketball game to benefit a youth foundation." The Times adds, "Today, about 30 years later, Abramoff is at the center of a political scandal in Washington — the result, in part, of the same drive, interest in charitable organizations and excess that he showed in his youth."

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Knight Ridder distributes a Dallas Morning News article (1/4, Mittelstadt) reporting that the plea deal "sent a chill Tuesday through Capitol Hill, where the Republican plied dozens of politicians with campaign contributions and favored some with lavish trips, Super Bowl tickets and pricey meals in exchange for legislative help. … 'They have to be just sweating bullets,' said Melanie Sloan, executive director of Citizens for Responsibility and Ethics in Washington, a watchdog group. 'Anybody who ever had anything to do with Jack Abramoff has to be rethinking every minute, every conversation with him.'" The News adds, "The Abramoff case may not be marked by the outright bribery of corruption sagas such as Abscam and Koreagate, where members of Congress pocketed envelopes stuffed with cash. But it has the potential to rank as one of Congress' worst scandals in decades because of the number of lawmakers and aides who could be ensnared - and because of the disgraced lobbyist's reach into the top rungs of the GOP leadership. … 'Government officials and government action are not for sale,' said Assistant Attorney General Alice Fisher, who heads the Justice Department's Criminal Division. 'The Justice Department will aggressively investigate and prosecute these types of cases, which have a devastating impact on the public's trust of government. We will not shy away from that responsibility, no matter where the trail leads.'"

Knight Ridder (1/4, Thomma, Young) reports, "By itself, the fall of a high-flying lobbyist who collected $80 million in fees from casino-rich Indian tribes, wined and dined politicians at his own upscale Washington restaurant, Signatures, and flew them abroad for golf outings was a dramatic tale. … But it was the likelihood that Abramoff now will help federal prosecutors go after members of Congress that gripped official Washington. … 'This is going to grow and multiply,' said Bill Mateja, a former top official in the Bush Justice Department who's now a Dallas lawyer. 'If I were on Capitol Hill, I would be shaking in my boots. Because if anyone knows where the skeletons are buried, it's Jack Abramoff.'"

The Financial Times (1/4, Washington) reports, "Mr Abramoff's long-awaited decision to plead guilty and co-operate with federal investigators will give the Justice Department powerful new ammunition in its probe of alleged patterns of corruption and bribery within the ranks of the Republican leadership."

The Legal Times (1/4, Metzger) reports, "At the hearing Tuesday in a Washington, D.C., federal courtroom, Abramoff appeared a hollow shell of the K Street power broker that he once was. Frowning and avoiding eye contact throughout the hearing with anyone except U.S. District Judge Ellen Segal Huvelle, Abramoff often seemed on the brink of tears as he sat quietly at the defense table. He answered Huvelle's questions in monosyllables and barely spoke above a whisper. In a prepared statement Abramoff delivered at the end of the hearing, he said: 'Words will not be able to ever express how sorry I am for this, and I have profound regret and sorrow for the multitude of mistakes and harm I have caused. I only hope that I can merit forgiveness from the Almighty and from those I have wronged or caused to suffer.'" The Times adds, "Abramoff and his attorney, Abbe Lowell, did not answer questions after the hearing. Lowell released a statement saying his client had been in talks with the Justice Department for 18 months. … With Abramoff and his former business partner Scanlon both having cut plea deals to cooperate with prosecutors, all attention is now focused on Capitol Hill."

The Boston Globe also reported on the plea agreement.

DNC Chair Calls On Bush To Return $100,000 Abramoff Raised For Him. ABC News Radio (1/4) reports this morning, "The White House calls Abramoff's acts outrageous. The chairman of the Democratic National Committee called on President Bush to return more than $100,000 that Abramoff raised for the President's 2004 reelection campaign."

Hastert Donates Abramoff-Linked Contributions To Charity. CNN.com (1/4) reports, "House Speaker Dennis Hastert became the latest lawmaker to dump campaign contributions from clients of high-flying lobbyist Jack Abramoff, giving about $70,000 to charity Tuesday. … 'The speaker believes that while these contributions were legal, it is appropriate to donate the money to charity,' a spokesman for the Illinois Republican, Ron Bonjean, said. Bonjean did not specify which group or groups would receive the money."

Officials Say Administration Clear Of Any Direct Ties Between Bush, Abramoff. CNN's The Situation Room (1/3, Bash) reported, "The question at the White House has been for some time, what effect" the Abramoff plea "will have on the White House, if any. It has sort of been what aides have told us privately. Their fear has been that maybe it would be an X factor in preventing them from having the political comeback they hope to have in 2006. … They say here at the White House the president does not recall meeting Jack Abramoff; that he did have some meetings with low-level staffers here and maybe attended some holiday parties, but that's about it. … But other than that, officials both inside the White House and outside think that they are going to be pretty clear of any direct ties between Abramoff and the president."

Interior Department's Griles Seen As Likely Target For Prosecutors. The Washington Post (1/4, A16, 744K), in an editorial, notes Abramoff's "cooperation could expand prosecutors' knowledge about his entanglements with other officials. Notable among them are…DeLay…his associates and tribal clients, and the former second-ranking official at the Interior Department, J. Steven Griles, the recipient of an Abramoff job offer and a target of numerous Abramoff-initiated lobbying contacts."

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Reed's Opponents Use Abramoff Ties Against Him. The AP (1/4, Gross) reports, "Opponents of former Christian Coalition leader Ralph Reed in his bid for lieutenant governor wasted no time Tuesday tying the Republican to embattled lobbyist Jack Abramoff - who pleaded guilty to federal conspiracy, tax evasion and mail fraud charges." The AP continues, "Reed has said he regrets funding a multistate antigambling campaign with money from Abramoff's gambling-industry clients. Reed angered religious groups - considered his political base - when it was revealed that his work was paid for by Indian tribes with casinos who were trying to shut down would-be competitors. … Reed has not been accused of a crime. … 'The only thing I can say is that if you're Ralph Reed, you're awfully nervous right now,' said Greg Hecht, a former state senator seeking the Democratic nomination for lieutenant governor. 'When you get certain candidates that seem to intimate they hold a higher moral position than others, it becomes a real problem and this may just be one step in a line of difficulties for him.'"

Probe Could Lead To One Of Biggest Scandals In Congressional History. As ABC World News Tonight (1/3, story 3, 2:10, Vargas) reported last night, "This could be one of Washington's biggest scandals in years, involving both parties and potentially some very big fish." The Washington Post's Dana Milbank said on MSNBC's Countdown with Keith Olberman last night (1/3), "It now seems that this could be with us for a while and take down a lot of people." Milbank makes the same point in a Washington Post column this morning (1/4). Meanwhile, Norah O'Donnell of NBC News, on MSNBC's Abrams Report (1/3), called the plea "a potential time bomb for leading members of Congress. Experts say his plea deal could unleash the biggest congressional scandal in decades." USA Today (1/4, Drinkard, Johnson, 2.31M) quotes Norman Ornstein of the American Enterprise Institute saying, "The fear level on Capitol Hill, on a scale of 100, is 105. … Anybody touched by Abramoff is having difficulty sleeping these days." The Christian Science Monitor (1/4, Feldmann, Chaddock, 61K) runs a similar report under the headline "Abramoff Deals, Congress Quakes."

Knight Ridder (1/4, Thomma, Young) calls it "a mushrooming political scandal," one that "could make it easier for Americans to see the free flow of money and lobbyist influence in Washington and affect the way they vote in this year's congressional elections." Democrats "hope to benefit, but polls so far show both parties losing public esteem."

The Los Angeles Times (1/4, Roche Jr., Schmitt, 958K) say the move "presages the biggest corruption scandal on Capitol Hill in nearly three decades," adding that "it has already ensnared at least one member of Congress and two former congressional aides, and could now lead into unknown territory." The New York Times (1/4, Kornblut, 1.19M) goes further, calling the probe "potentially one of the most explosive in Congressional history."

The Washington Post (1/4, A1, Schmidt, Grimaldi, 744K) reports the plea deal "could have enormous legal and political consequences for the lawmakers on whom Abramoff lavished luxury trips, skybox fundraisers, campaign contributions, jobs for their spouses, and meals at Signatures, the lobbyist's upscale restaurant."

Local TV reports also remarked on the unpredictable effects of the probe. KARE-TV Minneapolis (1/3, 5:29 p.m.), for example, said the plea "could mean big trouble for others in Washington," while WXYZ-TV Detroit (1/3, 6:10 p.m.) called it "a huge political scandal." Abramoff "says he has emails that will prove these people agreed to vote certain ways in exchange for money or trips. If he has these emails they're going to be explosive." KSAZ-TV Phoenix (1/3, 5:20 p.m.) asked, "The biggest question now is, how many members of Congress will get caught up in the scandal? Some reports say 20 lawmakers could be implicated."

DeLay Once Called Abramoff His Best Friend. The Houston Chronicle (1/4, Hedges, 581K) notes DeLay "once called Abramoff his best friend." DeLay attorney Richard Cullen "declined to comment Monday amid reports Abramoff would strike a deal with prosecutors." Dick DeGuerin, attorney for DeLay, said on MSNBC's Abrams Report (1/3) if he is concerned about Abramoff's plea. DeGuerin said, "No. No question that they are friends and Tom DeLay is not the person who is going to turn his back on a friend in trouble. I'm sure he is very sympathetic. At the same time, if Abramoff feels the truth, and we hope he does, I think it will clear the air. Every time his name comes up, they try to link him to some improper conduct with Tom DeLay and that just not there." DeGuerin added, "Everybody has had a friend that has a friend that gotten into trouble. And Tom DeLay is not going to abandon Jack Abramoff just because Abramoff has done some illegal things. But he hasn't done anything illegal with Tom DeLay."

The Dallas Morning News (1/4, Gillman) reports on the close relationship between former House Majority Leader Tom DeLay and lobbyist Jack Abramoff. They "built a politically potent network of former aides, lobbyists and comrades-in-arms. The question hanging over Washington on Tuesday: Could Mr. Abramoff's plummet and plea deal drag down his longtime ally?"

KHOU-TV, CBS 11, Houston, TX (1/4, Chow) reports, "What does Jack Abramoff's guilty plea mean for DeLay? … No question that's the big question now. How will this impact the former House Majority Leader and word is, about a dozen other congressmen." KHOU-TV adds, "None of Tuesday's charges connect Abramoff and DeLay, but Travis County's prosecutor is now issuing subpoenas for records linking the Sugar Land Republican to the lobbyist. … Insiders believe the noose is tightening on some after Abramoff's guilty plea.

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… Jack Abramoff's guilty pleas, revealed among other things, a stunning fraud scheme. He admits to bilking Indian tribes of more than $60 million and getting nearly half of that in kickbacks. … The immediate fallout to Congressman DeLay? Late Tuesday, his office announced he will donate funds from Abramoff to local charities. … His office says an accounting process is now underway." KHOU-TV notes, "Experts say federal prosecutors will now move onto congressional aides … 'The noose is tightening and its tightening through the use of people who are in direct contact with members of Congress,' said Stan Brand, former U.S. House Counsel. … Some of those aides also enjoyed the lavish trips. Insiders believe at least a dozen congressmen will be under fire from Abramoff's deal."

"Staffer A" Said To Be DeLay Aide. Bloomberg (1/4, Salant) reports Abramoff's guilty plea "pushed the federal investigation of the lobbyist deep into the office of" the former House Majority Leader "by implicating one of his top ex-staffers." The AP adds, "People close to the investigation identified the 'Staffer A' mentioned on page 13 of Abramoff's 15-page plea agreement as DeLay's former deputy chief of staff, Tony Rudy." While a member of DeLay's staff, Rudy "helped Abramoff stop a measure that would have prohibited Internet gambling, according to the government. In return, Rudy's wife was paid $50,000 through a non-profit group, the government says."

On PBS' NewsHour (1/3, Lehrer) the Washington Post's James Grimaldi noted, "The charging documents today also talk about two congressional aides who we have written about but have not been widely written about who are named as staffer A and staffer B. There are pending allegations now, according to these documents, against these staffers. One of those staffers was a deputy to…DeLay. You should expect that there should be some movement there. The question would be, are the prosecutors building a stepladder case that would go from Jack Abramoff to this staffer and then on to perhaps…DeLay." Eamon Javers of Business Week added, "In the case of staffer A and B who are listed in this document today I've talked to a number of former Abramoff associates today who say that's probably Tony Rudy who was the deputy chief of staff to Tom Delay and also Neal Vols who worked for Mr. Ney. These guys are going to face possible situation themselves."

More Commentary. USA Today (1/4, 2.31M) editorializes, "The Abramoff scandal is likely to make 2006 the year a seamy underside of Congress comes into full public view. Barely a decade after the arrival of a reformist GOP Congress, the institution has fallen into one of its most tawdry periods ever, with members actively seeking favors in exchange for legislation that sells out the public interest for personal or partisan gain.

The New York Times' Maureen Dowd (1/4) writes, "The Abramoff plea bargain may have left his former business partners and political pals panicking, wondering if the rat will rat them out." DeLay and Ney "are among the sleazy solons caught up in the scandal, and the House speaker, Dennis Hastert, scrambled yesterday to launder $69,000 in dirty Abramoff contributions, donating the wad to charity. And then there's Ralph Reed, the choirboy Bible thumper who used his links to Christian groups to immorally play Indian tribes off against each other."

USA Today (1/4, 1A, 2.31M) runs a front-page box titled "Why Abramoff Matters." Listed are two bullet-points: "What he knows could help bring criminal charges against at least 12 members of Congress or their aides;" and "He paid for trips, donated campaign funds and did favors for Reps. Tom DeLay, Bob Ney and others."

Former Conyers Aide Arrested In Ghana. The Detroit Free Press (1/4, Ashenfelter, Thurtell) reports Dewayne Boyd, a former aide to Michigan Rep. John Conyers Jr., was "arrested in the African nation of Ghana on Friday, eight months after he failed to show up for sentencing on charges of defrauding sponsors and vendors of a national conference for black farmers of more than $150,000 in 1999." FBI spokeswoman Dawn Clenney said Boyd "was arrested by Ghanaian police on Friday. She said Boyd was returned Sunday to New York, where he was to appear today in U.S. District Court in Brooklyn for a hearing to determine whether he will be returned to Michigan."

Families Of Missing Cruise Passengers Form Group To Push For Reforms. The AP (1/4, Christoffersen) reports, "Relatives of cruise passengers who disappeared on the high seas are forming a new group to seek industry reforms," and "the group, which includes eight families so far, will seek a second hearing before Congress." The AP adds, "In the past five years, the FBI opened 305 criminal cases on the high seas, Chris Swecker, assistant director of the FBI, testified at last month's congressional hearing. Sexual assaults on cruise ships comprised 45 percent of the cases, while physical assaults made up 22 percent and missing persons 10 percent, Swecker said." In addition to the case of missing American honeymooner Chris Smith, "federal agents are investigating an alleged rape of a passenger on the same cruise, a cruise line spokeswoman said Tuesday. 'It's an allegation and we are cooperating with the FBI,' Lynn Martenstein, spokeswoman for Royal Caribbean Cruises, told The Associated Press."

FBI Investigating Theft Of Uniforms, Vehicles From Military Recruiting Offices. The Milwaukee Journal Sentinel (1/4, Seibel, 266K) reports, "Police officers making routine checks on area businesses found a door to the local military recruiting office open 26 times since July, officials said Tuesday after a weekend burglary of military

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uniforms was reported at the facility. Authorities are linking the burglary with the theft of a government vehicle outside a military recruiting office in Indianapolis, a development that has prompted interest from federal, state and local law-enforcement agencies." Police Capt. Tim Imler said that "in the parking lot where the 2003 Oldsmobile Alero was stolen…another stolen government car was recovered" and "was still bearing its government-issued license plates. ... Michael Johnson, a supervisory special agent in the FBI's Milwaukee office, said the bureau is investigating the crime, but only as theft of government property. 'We have no reason to believe it is tied to terrorism at this point,' he said."

The AP (1/4) notes, "The break-in follows the theft of a car from a recruiting center in Indianapolis over the weekend. That car was found at the same Town of Brookfield recruiting center where the new thefts were reported, FBI Special Agent Mike Johnson said. … The recovered vehicle is being processed for evidence, Johnson said. The FBI is involved because federal property was stolen." WFIE-TV Evansville, IN (1/3, Chambliss) also reports on the incident.

Marion Barry Robbed At Gunpoint. Washington DC City Councilman and former Mayor Marion Barry was robbed at gunpoint in his home Monday. A front page story in the Washington Post (1/4, A1, Wilber, 744K) reports, "Barry, 69, was held up in his kitchen about 9:30 p.m. Monday by two assailants who minutes earlier had helped him carry groceries from his car to his third-floor apartment in Southeast Washington. They pointed a gun at Barry's face and stole his wallet, which contained more than $200, his driver's license and two credit cards, police said. … Barry was not injured in the holdup."

The Washington Times (1/4, Cella, 90K) adds that Barry said he "felt downhearted about being robbed in the Ward 8 neighborhood he represents on the D.C. Council. He also said that he doesn't want authorities to prosecute the robbers, if they are caught, and that he 'loves' them. 'I was really kind of hurt,' Mr. Barry, a Democrat, said at a press conference yesterday at City Hall. 'There's sort of an unwritten code in Washington among the underworld, the hustlers, and these other guys that I'm their friend. I don't advocate what they do, but I advocate the conditions to change what they do,' he said."

Former Ryan Employee Testifies About Doing Political Work On Official Time. The AP (1/4, Colias) reports, "A former employee of the Illinois secretary of state's office testified Tuesday that he spent much of his time on the clock working on political campaigns, including George Ryan's runs for governor and secretary of state. Brad Roseberry testified at the former governor's racketeering and fraud trial that Scott Fawell, Ryan's chief of staff when he was secretary of state, assigned him to do campaign work on numerous Republican campaigns from 1992 to 1999, when Roseberry was a state employee. … 'Toward the (election), it was virtually full time,' said Roseberry, who testified under government immunity from prosecution for anything that he might say on the stand." However, "under cross-examination from lead defense attorney Dan K. Webb, Roseberry agreed numerous times that Ryan himself never directed him to do political work of any kind. Webb also insinuated that Roseberry might have fabricated some of what he told the FBI in exchange for his immunity." The AP adds, "Earlier Tuesday, a former Cook County prosecutor said Ryan in 1992 cursed when he and then-Cook County State's Attorney Jack O'Malley suggested a way to prevent corruption within the secretary of state's office."

The Chicago Tribune (1/4, Bush, O'Connor, 643K) reports, "Testifying under immunity from prosecution, Roseberry told jurors that he routinely did political work on state time. He also testified that after Ryan was re-elected secretary of state in 1994, he compiled a list of state employees who had worked on the campaign in anticipation they would receive raises and promotions for helping Ryan. Roseberry himself received a 20-percent raise after the election and was promoted to a position that did not exist before the election, he said." The Chicago Sun Times (1/4, Korecki) adds, "When a state prosecutor suggested a way to stop corruption in the secretary of state's office, George Ryan allegedly gave him a gruff response: 'F--- you, Jack. These are my guys,' Ryan told Cook County State's Attorney Jack O'Malley in May of 1992. Illinois Appellate Court Judge Patrick Quinn, then O'Malley's public integrity chief, recalled the conversation Tuesday as he testified at Ryan's public corruption trial. … O'Malley doesn't remember the exchange, according to Quinn and prosecutors. Quinn said at the time he told his supervisor about Ryan's response."

Investigators Seeking Wider Information On Doyle Campaign Contributions. The AP (1/4, Ross) reports, "State and federal investigators have asked a group that tracks campaign contributions for details on donations Gov. Jim Doyle received from utility interests, a company that won a state travel contract and a fundraiser held by a Department of Transportation official, the organization's executive director told The Associated Press. Federal, state and local prosecutors announced last year they would review $20,000 in donations Doyle received from officials with Adelman Travel Systems shortly before and after the Milwaukee company won the state contract. The requests of the Wisconsin Democracy Campaign indicate investigators are looking at a wider range of donations than they have previously let on." The AP adds, "Doyle spokesman Dan Leistikow said the governor's administration has complied

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with all requests for information from investigators and was confident they would find no wrongdoing."

Philadelphia Good-Government Group Calls For City Probe Of Mariano Allegations. The Philadelphia Inquirer (1/4, Schaffer, 423K) reports, "Philadelphia's leading good-government lobby is calling on City Council to hold hearings and set new conduct rules in response to FBI documents and grand jury testimony showing that electricians' union leader John J. Dougherty had great influence over the office of indicted Councilman Rick Mariano. The Committee of Seventy also asked for an investigation into Mariano's dismissal of three staffers who testified before a grand jury that indicted him on corruption charges." City Controller Alan Butkovitz "said he would be happy to investigate if the Mariano case weren't already being handled by the federal government. 'The problem with this is that the FBI's already heavily into this case, and I would just get in the way,' he said. 'From what I've heard, they'd have a fit.'"

Indicted Tennessee Lawmaker's Lawyer Steps Down Over Conflict Of Interest. The AP (1/4, Baird) reports, "Former state Sen. Roscoe Dixon told a federal judge Tuesday he is getting a new defense lawyer, a move that will delay the first scheduled trial for the Tennessee Waltz scandal by months. Defense lawyer Walter Bailey stepped down after prosecutors raised questions about a potential conflict of interest with a government informant." The AP adds, "Outside the courthouse Dixon said he was initially disappointed in losing Bailey as his lawyer and seeing the trial delayed. 'At first you want to hurry up and get it out of the way, but maybe this ordeal is about long suffering, patience, learning how to let God work things for you,' Dixon said."

Mob Figure Revealed Wealth Of Gambino Family Secrets On FBI Tapes. The AP (1/4, Apuzzo) reports, "Mobster Victor Riccitelli wanted so badly to keep his recorded conversations with an FBI informant secret, he broke the mob's honor code and admitted his Mafia membership rather than have prosecutors play the tapes in court. For the first time since Riccitelli and more than a dozen others were indicted in a landmark Mafia case in 2004, prosecutors recently offered the first clues as to why he was so insistent the tapes remain sealed: In them, he revealed the Gambino crime family hierarchy, placing ranks with names and explaining the upper echelon of one of the nation's most notorious crime syndicates." The AP notes, "Riccitelli was scheduled to be sentenced for racketeering Tuesday but his case was delayed until Jan. 20. He faces six to eight years in prison and prosecutors want that tacked onto the end of his 13-year sentence for cocaine distribution -- all but ensuring that Riccitelli, 72 and a cancer patient, will die in prison."

Ohio Loan Processors Agree To Plead Guilty To Mortgage Fraud. The Cincinnati Enquirer (1/4, Boyer, 205K) reports, "Two loan processors have agreed to plead guilty to fraud and other charges in the federal probe into mortgage fraud involving low-priced homes in Greater Cincinnati. Ike Bronson, a former loan processor at Seven Hills Financial mortgage brokerage, has agreed to plead guilty to charges of bank fraud, conspiracy and filing a false tax return, in documents filed in U.S. District Court in Cincinnati. Bryan Young, another loan processor, has agreed to plead guilty to bank fraud and conspiracy charges, according to court papers." The Enquirer notes, "More than three dozen people have entered guilty pleas in the ongoing probe by the Internal Revenue Service, the FBI and the U.S. Postal Inspection Service into the sale of more than $50 million in area real estate."

CIVIL LAW:

Scios Unit Failed To Tell US Of Two Deaths During Heart Drug Study. The New York Times (1/4, Saul) reports, "The Scios unit of Johnson & Johnson yesterday added to the questions already clouding its heart failure medication Natrecor, saying the company had failed to tell federal regulators about the deaths of two patients in a clinical trial of the drug." The Times continues, "The two deaths were also omitted from a report of the trial published in October in The Journal of Emergency Medicine, the company said. That article reported 6 deaths within 30 days among 237 patients given Natrecor or other treatment in hospital emergency rooms in 2001 and early 2002. Five of those deaths were of people who had taken Natrecor. … The two additional deaths raised the total to seven among Natrecor patients, although Scios said yesterday that the difference did not change the safety assumptions about the drug." The Times adds, "Neither Scios nor Dr. W. Franklin Peacock 4th of the Cleveland Clinic, the principal investigator in the study, disclosed yesterday how the deaths had been omitted from the results, but said they had learned only recently that the deaths occurred within the 30-day study period. A final analysis of the results is under way and will be submitted to the Food and Drug Administration, said Mark Wolfe, a Scios spokesman. He said he did not yet know the causes of the two additional deaths. … But a spokeswoman for the Cleveland Clinic, Eileen Sheil, said that Dr. Peacock strongly believed that the deaths had been accidental and not related to problems with Natrecor." The times notes, "After achieving sales of $400 million in 2004, though, Natrecor's growth failed to meet forecasts last year after questions arose

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about its safety and whether it was effective enough to justify a cost of about $500 a treatment, compared with much cheaper alternatives. The Justice Department is also investigating whether Scios promoted the drug for unapproved uses. And the government recently announced that Medicare and Medicaid would no longer cover the drug's outpatient use."

Federal Agencies Must Designate Chief FOIA Officers. Federal Computer Week (1/4, Weigelt) reports, "Federal agencies must designate a chief Freedom of Information Act officer by Jan. 13, and each new officer will review the agency's FOIA operations and develop an improvement plan by June, according to a memo." FCW continues, "Released Dec. 30 by the Office of Management and Budget, the memo states that each agency must send a report on its FOIA operations and its improvement plan to the Justice Department and OMB by June 14. Agencies will also post the improvement plans on their Web sites. … The chief FOIA officer will be responsible for agencywide compliance with FOIA and oversee the program's implementation, the memo states. The officer will designate several public liaisons and post their contact information on the agency's Web site. The liaisons will serve as supervisors who review concerns about services."

Government Computer News (1/4, Thormeyer) reports, "On Dec. 14, 2005, President Bush via executive order directed agencies to streamline their FOIA processing by appointing a chief FOIA officer and making information about how they handle these requests available online within six months. … In the OMB memorandum, deputy director Joel Kaplan provided more specifics and said agency FOIA officers must review their information operations and draft an improvement plan with concrete milestones for fiscal 2006 and 2007. … The plan must be submitted to the Justice Department and OMB and posted on agency Web sites by June 14, Kaplan wrote."

AARP Support For Imported Rx Drugs Seen As "Softened." The Hill (1/4, McCormack, Cusack) reports on the AARP's "softened…support" for prescription drug importation after admitting Part D "saves senior citizens more than buying pharmaceuticals from Canada." Such a "revised position" could slow momentum of pending legislation as well as "alleviate political pressure on the White House and the pharmaceutical industry." An AARP analysis compared Canadian drug prices to those found in Medicare's plan finder. While Canadian drug were cheaper, "when a senior includes all out-of-pocket costs…the [Part D] price is lower." In AARP's press release, they said conversations with potential Part D enrollees revealed a shift in focus "from the legislation to choosing the best plan to suit their needs." The announcement triggered a "strong reaction" from both sides of the isle. Rep. Gil Gutknecht's spokesman Jon Yarian said, "Saying that Medicare drug plans 'cost less' than buying prescription drugs from other countries is misleading. The cost of the prescription drugs hasn't changed. The only difference is who bears the burden of the expense."

CIVIL RIGHTS:

Russian-American Woman Pleads Guilty In Human Trafficking Conspiracy. The Newark Star-Ledger (1/3, Ben-Ali, 420K) reports, "A Brooklyn woman accused of forcing Russian immigrants to dance nude in New Jersey strip clubs in a human trafficking ring run by her husband pleaded guilty" Monday "to conspiracy charges in Newark federal court." Viktoriya I'lina, "a naturalized U.S. citizen from Russia, is the last of three defendants to plead guilty in a case that involved luring more than 25 women from Voronezh in Russia, sending them to work in strip clubs and forcing them to pay exorbitant fees to members of the ring." She "admitted demanding $5,200 from one dancer and $2,600 from another, when the two women stopped dancing in the clubs," and pleaded guilty to visa fraud. The Star-Ledger notes, "The Brooklyn trio was arrested by FBI agents in August 2002.

Louisiana Secretary Of State Gets DOJ OK For New Orleans Elections. The AP (1/3, Deslatte) reports that Louisiana Secretary of State Al Ater "moved closer to readying a new date for the postponed New Orleans mayoral and city council elections, gaining approval from the U.S. Justice Department for special authority to take control of the elections." The AP continues, "The Legislature, in a recent special session, gave the secretary of state special powers to develop an emergency elections plan during a declared disaster that would let Ater relocate or consolidate polling places and address shortages of elections workers and voting machines. … That new law required approval by the federal government under the Voting Rights Act, and Ater spokeswoman Jennifer Marusak said the approval was granted." The AP adds, "Gov. Kathleen Blanco postponed the Feb. 4 New Orleans elections after Ater said it was impossible to ready the devastated city and track down voters so soon after Hurricane Katrina. The storm had damaged polling places and scattered the city's voters and elections workers around the nation. … Ater agreed to hold the elections by April 29 if possible, as part of the settlement of a lawsuit against him and Blanco, but a series of bureaucratic hurdles remain before he can recommend a new election date to the governor. … The governor and two legislative committees must agree to Ater's takeover of the elections - an agreement expected to win easy approval." The AP notes,

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"Then, Ater must present his emergency elections plan for New Orleans, which needs approval from the full Louisiana Legislature and another layer of approval from the U.S. Justice Department, Marusak said."

Ex-DC Parks And Recreation Chief Accused Of Sexual Harassment. The Washington Post (1/4, A1, Barker) reports, "The former chief of facility maintenance at the D.C. Department of Parks and Recreation allegedly kissed, fondled and demanded sexual favors from three women under his supervision, according to the women, who say the alleged harassment continued even after they told several supervisors at the agency. The women are single mothers who were hired initially for maintenance jobs at $6.15 an hour under the District's welfare-to-work program. One former employee said she complained in person more than three years ago to Neil O. Albert, a former deputy mayor who was then the department's director. The maintenance chief, Darnell Thompson Sr., 50, left his $66,000 position at the agency last summer after a current employee, Garrina Byrd, 28, filed a sexual harassment complaint against him with the city's Office of Human Rights. 'The Chief would grab my breasts or my behind and, if I had on a skirt, he would try to put his hand up my skirt,' Byrd alleges in her complaint, filed in April. 'I began to consent to the Chief's requests for sex because I was afraid that I would lose my employment.'" The Post adds, "The allegations against Thompson are drawn from Byrd's complaint and from interviews with her and two former recreation department employees. The women alleged a range of sexual harassment incidents, most of which they said took place in Thompson's office at the facilities maintenance bureau."

Advocates Sue To Block Massachusetts Ballot Measure Banning Gay Marriage. Reuters (1/4, Szep) reports gay rights lawyers "filed on Tuesday a lawsuit to stop a proposed ballot measure aimed at overturning a court decision that made Massachusetts the first and only U.S. state to legalize gay marriage." The lawsuit "by the Gay & Lesbian Advocates & Defenders (GLAD) said the state's attorney general erred when he ruled in September that Massachusetts voters could decide in a 2008 poll to redefine marriage as the union of one man and one woman. They said the decision by Thomas Reilly, a Democrat who is likely to run for governor this year, was unconstitutional because ballot initiatives cannot reverse judicial decisions under the state's Constitution."

The Washington Times (1/4, Wetzstein, 90K) reports the lawsuit challenges "a ruling that allowed a petition drive for a constitutional amendment that would end same-sex 'marriages' in Massachusetts." Massachusetts Attorney General Thomas Reilly "'simply got it wrong' in September when he certified VoteOnMarriage.org's marriage amendment for a petition drive, said Gary Buseck, legal director of Gay & Lesbian Advocates & Defenders (GLAD), which filed its lawsuit before the Massachusetts Supreme Judicial Court."

ANTITRUST:

Laptop Magazine Executive In Plea Talks With DOJ Over Circulation Fraud. AdAge.com (1/3, Ives) reports, "One of the publishing executives accused of circulation fraud at Laptop magazine has entered plea negotiations with the U.S. Justice Department, court documents filed in the case show." AdAge continues, "Proceedings regarding the executive, John Jay Annis, are on hold through Jan. 30 while the parties try to hammer out a deal, which Judge Steven M. Gold has indicated he considers likely. … The U.S. attorney's office for the Eastern District of New York, which has been investigating circulation practices since schemes by Newsday and Hoy to inflate their numbers became public, secured the arrests of Edward D. Brown, president-publisher, Bedford Communications, and Mr. Annis, Bedford's circulation director, last October." AdAge adds, "Prosecutors accused the pair of scheming to inflate circulation at Laptop magazine by hiring a distributor to accept 15,000 copies that they would claim as paid circulation -- whether or not they were ever distributed. The distributor they hired was really an undercover postal inspector, prosecutors said. … It is unclear what a plea arrangement would mean to the circulation investigation. According to the Bedford Web site, Mr. Annis serves as a circulation consultant to 'several other publishing companies,' so he may have information of interest to prosecutors about magazines beyond Laptop. That could explain the surprising effort by the government to arrange an elaborate sting on executives at Bedford, a relatively small target."

Apollo Takeover Of Linens 'N Things Gets FTC Antitrust Nod. The New York Times/Reuters (1/4) reports, "U.S. antitrust authorities said on Tuesday they approved plans by Linens 'n Things Inc. to be taken over by private equity firm Apollo Management L.P. and its affiliates." Reuters continues, "Officials have completed their investigation of the $1.3 billion deal without taking action, the Federal Trade Commission said in a notice." Reuters adds, "Linens 'n Things faces stiff competition from larger rival Bed Bath & Beyond Inc. and discounters such as Target Corp., which have expanded home decor offerings. … Under the terms of the Apollo deal, financing is contingent upon Linens 'n Things reporting a fourth-quarter comparable sales decline of no more than 6 percent and earnings before interest,

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taxes, depreciation and amortization of not less than $140 million."

Cisco Receives Antitrust Nod For Scientific-Atlanta Offer. The Wall Street Journal (1/4) reports, "Cisco Systems Inc. received U.S. antitrust clearance for its offer to acquire Scientific-Atlanta Inc. for about $6.9 billion, or $43 a share," but the "bid still requires regulatory approvals in various foreign jurisdictions." Scientific-Atlanta says "its shareholders can vote on the proposed deal with Cisco at a special meeting Feb. 2. The companies expect the deal to close in Cisco's fiscal 2006 third quarter."

The AP (1/4) reports, "Under the transaction announced in November, Cisco will acquire Scientific-Atlanta for $6.9 billion, or $43 per share in cash, and assumed options. Scientific-Atlanta's cash balance will reduce the cost of the deal for Cisco to about $5.3 billion." The AP adds, "The deal, which is expected to close by late April, is expected to fuel changes in how TV is distributed and watched as programming is increasingly shuttled to homes using the language of the Internet. … Scientific-Atlanta, a leading maker of cable boxes and the technology behind them, is expected to benefit as its customers -- cable and phone companies -- move toward Internet-based TV offerings. Cisco is the world's largest supplier of data networking gear."

WSJournal Backs Wal-Mart Bid To Offer Banking Services. An editorial in the Wall Street Journal (1/4, 2.11M) says, "The Federal Deposit Insurance Corporation (FDIC) will soon have to make a big decision: whether to grant retail giant Wal-Mart a charter to enter the consumer banking business." The Independent Community Bankers Association "is raising a ruckus in Washington to keep big bad Wal-Mart locked out of their game. We have here a textbook case of a powerful corporate lobby rushing to its pals in Congress and their regulators, in this case the FDIC, and pleading for them to squash competition that might lower the prices of banking services. … If the bankers succeed in this protectionist gambit, the biggest loser won't be Wal-Mart, but rather consumers, particularly those in lower-income neighborhoods where competition in retail banking is traditionally scarce. Wal-Mart banking services in these areas might even solve the longstanding problems of red-lining and discriminatory lending practices. Wal-Mart already performs many bank-like functions that are especially popular in poor areas -- including wire transfers, money orders, paycheck cashing, and express bill payment services." The Journal adds, "It's always possible that Wal-Mart will fall on its face in banking. We suspect, however, that what really spooks the banking industry is the threat of more competition, more convenience and lower prices for financial services. But that should be welcome news to members of Congress and the regulators at the Federal Reserve Board and the FDIC if they truly care about the welfare of the banking consumer."

ENVIRONMENT/INDIAN AFFAIRS:

Texas, New Mexico, Oklahoma Firefighters Continue To Battle Wildfires. The CBS Evening News (1/03, story 7, :45, Schieffer) reported, "Fire fighters in Texas raced against time today to contain the last major wildfires that are still racing through the grass and farmland in west Texas. Ranchers moved their livestock after the weather service warned that wind conditions could cause major flare-ups and also said there is no relief in sight from months of drought." NBC Nightly News (1/3, story 7, :45, Williams) and the New York Times (1/4, Blumenthal, 1.19M), among other sources, also report the story.

Damage In California Flooding Could Top $100 Million. The CBS Evening News (1/03, story 7, :45, Schieffer) reported, "On the West Coast, residents of northern California are looking forward to drier weather after two storms sent rivers spilling into vineyards and flooded upscale neighborhoods. Authorities say there were at least three storm-related deaths and $100 million in damage."

Six Months After Property Rights Ruling, Residents Have Not Vacated Homes. Six months after the Supreme Court ruled in the Kelo v. New London case that the city could seize and demolish private homes to make way for a commercial development project, residents in the targeted area are still living in their homes. The Christian Science Monitor (1/4, Richey, 61K) reports, "There have been no bulldozers. No wrecking balls. No police officers dragging homeowners away. At least, not yet. Instead, the state of Connecticut has hired a mediator to try to find a more peaceful solution to the seven-year battle that has touched off a heated debate over the government's use of eminent domain to foster economic development." The Monitor adds, "It is difficult to overestimate the level of animosity between New London development officials and the homeowners. After enduring years of attempts to force them out, residents say the toughest test so far has been losing at the Supreme Court. … The city's redevelopment agency sent notices to all tenants living in rented properties in Fort Trumbull. The move got the attention of Connecticut Gov. M. Jodi Rell, who instructed the city to withdraw the notices. Since then, the feud has been in hiatus pending the work of the mediator."

Blumenthal Says US Is Unprepared For Avian Flu Pandemic. The Washington Post (1/4, A15, 744K)

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interviews Susan J. Blumenthal, a former assistant surgeon general, about the possible threat from an outbreak of avian flu in the US. Asked, "How real is the threat of an avian flu pandemic," Blumenthal said, "On the question of are we more vulnerable, there is the group of people I call the ostriches and the Chicken Little. The ostriches point out that we have better science and public health than ever before, that we have not seen the H5N1 virus here. The Chicken Little say we do not have enough antiviral [medications]; we don't have a vaccine. The threat is probably somewhere in between." Asked is the US is prepared, Blumenthal said, "We're not sufficiently prepared if a pandemic were to strike us this year. We have a plan that outlines the major steps to be taken. Hopefully we'll have the time to develop new vaccines and stockpile antivirals. We don't have [the necessary] communications systems in place. We don't have a rapid diagnostic tool for using in the field, there is no cell-based vaccine nor the production systems that would be needed."

Lawsuit Challenges Construction Of Seneca Casino In Buffalo. The New York Times (1/4, Staba) reports, "A coalition of citizens' groups, churches, business people and lawyers filed a lawsuit in federal court on Tuesday to halt construction of an Indian casino on the Buffalo River waterfront. The suit alleges that federal officials, including Interior Secretary Gale A. Norton, failed to abide by a 1988 law regulating gambling facilities established off reservation land," in that a "casino cannot be permitted under federal law, because the nine-acre site along the Buffalo River is not adjacent to an existing reservation and was not part of land claimed by the Seneca Nation. In addition, the suit alleges that the approval process violated federal laws that require a study of the environmental impact of a proposed casino." The legal challenge "is being financed in part by the Margaret L. Wendt Foundation."

FBI/DEA/ATF/USMS:

Drug Traffickers Said To Be Using High-Tech Gadgets. In a story titled "High-Tech Gadgetry Pops Up In Drug Trade," the Knoxville (TN) News-Sentinel (1/4) reports on the November arrests of four men "accused in a conspiracy case that Assistant U.S. Attorney Mike Winck has alleged in court records funneled hundreds of pounds of cocaine, crack and marijuana and thousands of ecstasy pills from [Detroit] to Knoxville starting in May 2003. … The group used sophisticated secret compartments, including the nifty pop-up box built into the floor of a bathroom at a house…the affidavit alleged. Vehicles used to transport drugs also were equipped with hidden stash boxes, including a Ford Excursion described in the affidavit that had two secret compartments, one where the airbag should have been and another in the floor. Both were activated through cigarette lighters in the vehicle, the affidavit stated. … According to the affidavit, a man identified only as the 'Kid' engineered hiding places for the alleged network's goody stash. The alleged dealer who showed off the devices in August has not been charged. The affidavit makes clear he had no idea the customer he was trying to wow with his tour was working for Knoxville Police Department investigator Bruce Conkey and U.S. Drug Enforcement Administration Agent Todd Lee. The pair, who led the probe, used five informants in all during their two-year investigation. Only two are now willing to testify, the affidavit stated."

Former Montana Corrections Officer Indicted On Drug Charges. The AP (1/4) reports, "A federal grand jury…has indicted a former officer at the Montana State Prison on charges of attempting to distribute methamphetamine, heroin and marijuana." Michael E. Short "was arraigned in U.S. District Court in Missoula on Tuesday and was released without bail after pleading not guilty. Prosecutors, the FBI and a state Corrections Department official declined to discuss specifics of the case, including whether Short is accused of trying to sell drugs to inmates. However, a statement from the U.S. attorney's office said the charges were the result of a joint investigation between the FBI and the Department of Corrections."

Rhode Island Becomes 11th State To Legalize Medical Marijuana. The AP (1/4) reports, "Rhode Island on Tuesday became the 11th state to legalize medical marijuana and the first since the U.S. Supreme Court ruled in June that patients who use the drug can still be prosecuted under federal law. The House overrode a veto by Gov. Don Carcieri, 59-13, allowing people with illnesses such as cancer and AIDS to grow up to 12 marijuana plants or buy 2.5 ounces of marijuana to relieve their symptoms. Those who do are required to register with the state and get an identification card. Federal law prohibits any use of marijuana, but Maine, Vermont, Alaska, California, Colorado, Hawaii, Montana, Nevada, Oregon and Washington allow it to be grown and used for medicinal purposes." The AP continues, "Tom Riley, a spokesman for the White House Office of National Drug Control Policy, said the vote showed 'misguided and out-of-touch' views on the harms of marijuana. There's this notion from the '60s or the '70s that marijuana is a harmless drug,' Riley said. 'It's not.'" The AP story was published in newspapers and/or posted on the Web sites of more than 50 news outlets, including ABC News, CBS News, CNN, The New York Times, Forbes, Boston Globe, San Diego Union Tribune, San Jose Mercury News, Miami Herald, Canada's Globe and Mail, and the Jamaica Observer.

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The Providence (RI) Journal (1/4, Mayerowitz, Gregg, Gudrais) writes, "The new law protects them from arrest under state law, but does nothing to stop federal prosecution, leaving some critics to call the measure nothing more than a symbolic act. … The White House Office of National Drug Control Policy also weighed in yesterday, saying that using marijuana is still against federal laws and the Food and Drug Administration does not consider the drug a safe and effective medicine for pain relief. 'It's largely symbolic. I don't think that it will have practical effect,' Tom Riley, a spokesman in the office, said of Rhode Island's law. Riley also said that the vast majority of people who serve time for marijuana possession are trafficking the drug.' … The Marijuana Policy Project works to 'minimize' laws that are intended to prohibit marijuana use. … The group's executive director, Rob Kampia, hailed yesterday's vote…as a major victory. 'We will continue to roll back the government's war on the sick and dying and the White House drug czar can't stop us any more than he can make water flow uphill,' Kampia said in a statement."

In a separate story from the Providence (RI) Journal (1/4) Felice Freyer writes, "The medical marijuana law that passed yesterday allows doctors to recommend that patients obtain from illegal sources a drug of unknown potency and unknown purity. This is not how doctors normally prescribe treatment. But if the longstanding support of the Rhode Island Medical Society is any indication, many are willing to go this route -- because of the potential benefits to patients who can't get relief from pain, nausea, muscle spasms and other problems. Even supporters of the concept, however, admit that it's 'weird.'"

Providence Business News (1/3) reports, "The law is effective immediately, but the state Department of Health, which will register users and give them identification cards, still has 90 days to develop procedures to do so."

Cable TV Coverage. CNN's The Situation Room (1/3, 7:00 p.m.) reported, "Rhode Island is the 11th state to legalize medical marijuana. The move allows patients with illnesses like AIDS or cancer to buy or grow small amounts of marijuana to ease their symptoms. The first such move by any statement since the Supreme Court ruled that marijuana users can still be prosecuted until federal law."

CNN's Anderson Cooper 360 (1/3, 10:00 p.m.) reported, "In Rhode Island, medical marijuana legalized by lawmakers over a veto by the governor. Rhode Island is the first state to take the step [since the Supreme Court ruled] that patients can be prosecuted under federal laws."

CNN's Lou Dobbs Tonight (1/3, 6:00 p.m.) reported, "And legalizing marijuana, the smallest state in the nation just says yes."

Local TV Coverage. There was widespread local TV coverage of the news that Rhode Island has legalized medical marijuana. Most of the coverage noted that federal law does not allow the use of marijuana by anyone. Some examples: KHWB-TV Houston (1/3, 9:13 p.m.) reported, "There are now 11 states that say it's okay to smoke marijuana for medicinal purposes. Rhode Island lawmakers have legalized marijuana medical smoking," but the "Feds can still come after people caught with legal medical marijuana."

WFTC-TV Minneapolis (1/3, 10:13 p.m.) said, "Sufferers of long time illnesses such as cancer, multiple sclerosis and AIDS got something to smile about today and possible relief for some other symptoms. This after Rhode Island became the 11th state to legalize medical marijuana. Federal law prohibits any use of marijuana but authorities say they are unlikely to prosecute the sick. Minnesota has yet to pass any law allowing marijuana use for any reason."

WTOL-TV Toledo (1/3, 11:22 p.m.) said, "The law allows people with illnesses such as cancer and AIDS to grow up to 12 pot plants. They can also buy two-and-a-half ounces of marijuana to relieve their symptoms."

KHON-TV Honolulu (1/3, 5:33 p.m.) added, "The Rhode Island House voted to override a governor's veto by a wide margin."

WFSB-TV Hartford (1/3, 11:03 p.m.), WANE-TV Ft. Wayne (1/3, 11:15 p.m.) and KOKH-TV Oklahoma City (1/3, 9:51 p.m.) were just three of the many stations around the country also covering this story, using similar language as that used by the stations cited above.

Prosecutors Say Meth Problems Surpass Those Caused By Other Drugs. In a story about issues affecting lawyers that the ABA Journal calls "underrated, underreported and unappreciated," the American Bar Association Journal (1/4) writes, "Problems caused by meth have surpassed those caused by other popular drugs, such as crack cocaine, says Linda McKinney, the public defender for south central Missouri's 44th district. … In her experiences, first as a prosecutor and then as a public defender, she knows of only 10 instances where the defendants were able to break their addiction. Prosecutors elsewhere make similar observations. And some say that while adult use is most common among the working class, juvenile use involves children from across the economic spectrum. Boys often try the drug due to peer pressure, while girls see it as a way to lose weight. … In a survey of 500 law enforcement agencies, 58 percent of the respondents cited methamphetamine use as their county's biggest drug problem. In addition, 87 percent reported an increase in meth-related arrests in the past three years. The survey, published in 2005, was conducted by the National Association of Counties. According to a 2004 study by the Office of National Drug Control Policy, 11.7 million Americans reported that they had used methamphetamine at least once.

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In another study by the agency, which focused on juveniles, 6.2 percent of high school seniors surveyed reported that they had tried the drug."

Drug War Said To Be Driving Afro-Colombians From Their Homes. The Los Angeles Times (1/4) reports from Pereira, Colombia, that Afro-Colombians are being driven off land in a cocaine war. The Times writes, "More than 3 million people have been driven from their homes by the civil conflict between armed groups vying for political dominance and the control of crops, especially those linked to the nation's drug trade. Only Sudan has more internally displaced citizens than Colombia, according to the Norwegian Refugee Council, a human rights group that has tracked the displaced around the globe for the Office of the United Nations High Commissioner for Refugees. Although Colombia has had a large displaced population for two decades, its size has increased quickly in recent months, experts say, and a disproportionate number of them are…Afro-Colombians. They are targeted because they lack political clout and sophistication at a time when their rural homes have become economically attractive."

National Trend Seen Toward Destroying Guns Used In Crimes. The New York Times (1/4, Belluck) reports, "A law Maine enacted in 2001 that requires handguns used in homicides to be destroyed when they are no longer needed for evidence." Unlike other areas "the police allow victims' relatives to watch a gun's destruction." Still, "the requirement that crime guns be destroyed reflects a trend among police departments nationwide," as "efforts to prevent the resale of guns have been spurred partly by highly publicized crimes." Still, while "some police departments destroy guns, often by melting them down, others, usually smaller departments, still sell them," needing the funds the sales bring.

DOJ's Weed & Seed Program Eagerly Awaited In Modesto, CA. The Modesto Bee (1/3) editorializes, "For many people, the new year started with music, dancing and hearty partying. There was no such hoopla for the Jan.1 launch of the Weed and Seed program in west Modesto. … That's appropriate. Weed and Seed is not a flash-in-the-pan kind of thing. It's a methodical, yearslong commitment to getting rid of gangs, drugs and other criminal elements, and then cultivating pride and revitalization in a neighborhood that has suffered from ugly stepsister treatment." The Bee adds, "The program has been in the planning and wish stages since 2002. The city's first application for the U.S. Justice Department's Weed and Seed designation — and up to $1 million that comes with it — was rejected. Last summer, with the second application, the outcome was positive. … The Justice Department is promising tougher federal prosecution of people arrested for certain crimes. It also is insisting on proof of success. The California State University, Stanislaus, Center for Public Policy Studies is to assist with that measurement. … In fact, many organizations are tapped for Weed and Seed assistance. Some of the strategies are fairly obvious, such as stricter code enforcement to assure that trashy lots are cleaned up. But there are other, less predictable elements. For instance, volunteers are to provide income tax assistance to help residents recover some of the $2.5 million in earned income tax credits that have gone unclaimed in that ZIP code, 95351. The reclaimed money goes directly to the residents. … The official launch of the Weed and Seed project isn't what's important. More significant is what has been accomplished by this time next year and the year after."

IMMIGRATION:

Morris Says Republicans Face Dilemma On Immigration. In his column in The Hill (1/4), Dick Morris says Republicans "face one of the trickiest political problems they have faced as a party since Clinton pre-empted their program through triangulation and left them temporarily devoid of issues." As the "number of illegal immigrants mounts in the United States, the demands of the party's nativist constituency for tighter border controls and immigration enforcement threatens to put it at odds with America's rapidly growing Hispanic population, dooming the GOP to possible minority status not just in California and New York but in Texas and Florida as well." The "obvious answer to these concerns is a grand bargain that couples the strictest border defense with a generous guest-worker program, granting legal status to Mexican immigrants and regulating their numbers, working conditions, and wages — and assuring that they contribute to Social Security and other taxes." The "foreign-policy implications of a fence are harder to handle," but "it is in the realm of domestic politics that the GOP would pay the highest price for a purely nativist policy." Texas has "now become a majority-minority state, joining California. Can its wholesale flip to the Democratic Party be far behind? Not if the Republicans are seen as an anti-Hispanic party!"

TAX:

Americans Paying Smaller Share Of Income To IRS. The latest statistical analysis from the IRS shows that as Americans' incomes are rising, they are paying a smaller share of them in federal taxes. The Wall Street Journal (1/4, Matthews, 2.11M) adds that "the growing number of people

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who are subject to the alternative minimum tax are paying an increasing share of the total amount of federal income taxes, according to the Treasury Department's Statistics of Income Bulletin, which was released late last month. The report analyzed individual 2003 income-tax returns and is the latest data available on individual tax returns. Falling tax rates under the Economic Growth and Tax Relief Reconciliation Act of 2001 resulted in a 6.1% decrease in total individual income tax in 2003, to $748 billion, from 2002. But the portion of total taxes paid under the AMT rose 38.2%, to $9.47 billion."

New York Art Gallery Spat Leads To Tax Dodging Confessions. The New York Times (1/4, Hartocollis) reports, "A feud between Upper East Side gallery owners" Helen Fioratti and James Sansum, "has resulted in both admitting to tax violations." Sansum "pleaded guilty yesterday to failing to pay income tax on personal purchases" and "was sentenced to pay $58,000 in back taxes and to three years' probation." He "was granted leniency after he volunteered information that led to the conviction of Ms. Fioratti on charges of evading sales tax on artwork sold at her gallery," which led to a sentence "last month to pay more than $550,000 in restitution."

CONGRESS-ADMINISTRATION:

Alito Hearing Expected To Focus On Pennsylvania Abortion Ruling. The AP (1/4, Rubinkam) reports, "Samuel Alito's decision as a U.S. federal appeals judge to uphold a 1980s Pennsylvania abortion restriction -- later overturned by the Supreme Court -- is likely to draw some of the toughest scrutiny at his upcoming confirmation hearing." The AP continues, "Pennsylvania lawmakers were among the first anywhere to approve restrictions on abortion -- including one that required women seeking the procedure to notify their husbands. Alito voted to uphold that requirement, but the Supreme Court disagreed, striking it down in a landmark 1992 decision. … Senators are expected to grill Alito about the case, Planned Parenthood v. Casey, at his Supreme Court confirmation hearing, scheduled to begin Jan. 9. They're also expected to ask him about memos he wrote in the 1980s in which he said the case of Roe v. Wade -- the 1973 decision that legalized abortion nationwide -- should be overturned." The AP adds, "While the Court's decision in Casey upheld a constitutional right to abortion, the justices gave states new powers to make it more difficult for women to end their pregnancies. For that reason, activists on both sides regard Casey as the Court's most important abortion case since Roe. … Since Casey, state legislatures have approved hundreds of new regulations that determine when, where and how women may get abortions."

Alito Seen As Smart, Cautious. The AP (1/4, Benac) reports, "Samuel Alito's ninth-grade Latin teacher still swoons at how beautifully he conjugated verbs. A fellow judge admires him as someone who won't use five words when two will do. … From the classroom to the courtroom to his neighborhood, President Bush's latest nominee for the Supreme Court leaves a distinct impression on people. Talk to those who know him best and a portrait emerges of a smart, serious, cautious young man who grew up to be a smart, serious, cautious judge." The AP adds, "Alito is hardly a social dynamo. But he is well-liked as a regular guy who doesn't lord it over others just because he's way smarter than truly regular guys. … Interest groups on the left portray him as an extremist eager to impose his conservative views on the nation. But among those who have worked closely with Alito over the years, even liberal Democrats tend to characterize him as fair-minded, measured and pleasant. … Joshua Schwartz, a George Washington University law professor who worked alongside him in the Reagan Justice Department but describes himself as a liberal Democrat, credits Alito with having 'small-c conservative values.' … 'He's an incrementalist. He's cautious. He believes very deeply in hearing all sides of an argument before making a decision.'"

Polls Indicate Americans Believe Alito Should Be Confirmed. Every major US poll indicates that the American people support the confirmation of Supreme Court nominee Samuel Alito. This, despite that the Washington Times (1/4, Hurt, 90K) calls "a major coordinate campaign" by "liberal interest groups" to "convince the American public that the Senate should reject' him. According to the Times "A poll conducted by The Washington Post just before Christmas, for instance, found 54 percent in favor of Judge Alito's confirmation, compared with 28 percent opposed. A CNN poll last month similarly found 49 percent favoring Judge Alito and 29 percent opposed."

Roberts' First State Of Judiciary Report Focuses On Independence. The Legal Times (1/4, Mauro) reports, "The year 2005 was a stormy one for the judiciary, not only because of the death of Chief Justice William Rehnquist, but also because of clashes with Congress over the Terri Schiavo case, the politicking over judicial nominees, and issues such as Supreme Court citation of foreign laws and precedents. … Yet when Chief Justice John Roberts Jr. issued his first annual report on the state of the judiciary last week, he sidestepped those controversial questions and focused instead on what he saw as more bread-and-butter threats to judicial independence: low judicial salaries and high rental costs for courthouses. In doing so, he followed the precedent of predecessors Warren Burger and Rehnquist, who largely avoided controversial topics other

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than judicial salaries in their 30 years of annual reports." The Times adds, "Higher pay for judges and rent relief for courthouses, Roberts said, would have a "vanishingly small" impact on the overall federal budget but 'would go a long way toward maintaining a strong and independent federal judiciary with the resources to administer justice efficiently and fairly. And that is priceless.' Roberts also called for increased security for judges in the wake of violence aimed at federal and state judges last year." The Times adds, "Roberts issued the report three months into his tenure as chief justice, which he described as 'a bit presumptuous,' but said he did not want to break with the tradition of his predecessors."

Lawmakers Will Address Spending Cuts, Patriot Act, Pensions After Recess. When they return from recess later this month, lawmakers will face several key issues remaining from 2005. The Washington Times (1/4, Fagan, 90K) reports, 'When the House returns Jan. 31, leaders initially will focus on clearing legislation that would collect about $40 billion in savings from entitlement programs across the government -- a top priority for congressional conservatives and President Bush. … Ron Bonjean, spokesman for House Speaker J. Dennis Hastert, Illinois Republican, said House leaders 'intend to move very quickly' on the spending cuts and an extension of the Patriot Act, followed by a final package that will extend tax cuts." The Times adds "Congress failed to pass a permanent extension of the Patriot Act last year, opting at the last minute for a one-month extension. A House Democratic aide said Democrats have been alerted to expect votes Feb. 1 on both the spending cuts and the Patriot Act. The Senate is scheduled to return Jan. 18. Initial focus will be on the Patriot Act, an asbestos litigation-reform bill and the Supreme Court nomination of Judge Samuel A. Alito Jr., said Bob Stevenson, spokesman for Senate Majority Leader Bill Frist, Tennessee Republican."

The Wall Street Journal (1/4, Preciphs, 2.11M) says Congress is also expected "to take steps when it reconvenes this month to shore up private pensions, but almost half the workers in private industry won't benefit since their employers offer no retirement plans. … For several years, Congress has been trying various means of encouraging people to save more themselves, including such changes as the 1997 bill that created Roth individual retirement accounts. As old-style defined-benefit pensions -- the ones that pay a set sum each month -- atrophy, some lawmakers and analysts have been urging Congress to expand government incentives to increase personal savings even though previous attempts have had limited success."

Conservatives Scale Back 2006 Agenda. The Hill (1/4, Allen) reports that "fiscal and social conservatives are compiling less ambitious legislative wish lists for 2006. Republicans of all stripes looked at 2005, with expanded majorities in the House and Senate and President Bush just starting his second term, as a rare opportunity to win enactment of favored legislation. But the new year is not seen that way at all. 'The political reality is, generally speaking, that you have a tough time with big, ambitious ideas in an election year,' said former Rep. Pat Toomey (R-Pa.), the president of the anti-tax Club for Growth." The Hill adds, "Many interest groups have scaled back their 2006 dockets, although few admit it."

Meyerson Says 2005 Was Bad Year For Right. Harold Meyerson writes in the Washington Post (1/4, A17, 744K), "On the field of ideology, 2005 was a lousy year for the American right. … In retrospect the year's biggest mystery is how George W. Bush thought he could privatize Social Security. Essentially Bush assumed the role of the national CEO who tells his workers he's dumping their defined-benefit pensions for some ill-defined 401(k) investment schemes. And essentially the American people responded with the same anger and anxiety that airline and auto employees have shown when their bosses reneged on their commitments of a secure retirement." Meyerson adds, "Bush's plan to scuttle Social Security was in tatters when Hurricane Katrina blew ashore. For Bush this was a double whammy, since FEMA's failure to respond to the storm underscored the image of a government that would not be there when needed." Meyerson continues, "For the left, what 2005 has demonstrated is that while Americans have no great love for government, they do expect it to provide a baseline of security -- the more so since the employer-provided benefits of the past 60 years are going the way of the dodo. That means that government-supported universal health insurance will soon be back on the nation's agenda. But that's the easy part. Rebuilding the kind of security that defined private-sector economic life for most of the past century, and that helped individuals define themselves, is a conundrum that's daunting even to contemplate."

Life Experience Has Made Shirzad "Passionate" About Trade, Democracy. The Financial Times (1/3, Daniel) profiled US Deputy National Security Adviser Faryar Shirzad, reporting, "After three years at the National Security Council, Mr. Shirzad was promoted to lead its international economic staff. To ensure better co-ordination between the economic and foreign policy halves of the White House, he reports to the National Economic Council. Trade, and its impact on political freedom rather than just commercial interests, is a key theme for President George W. Bush. … For all his discreet style, he is passionate about trade and in agreement with Mr. Bush's view of freedom and the importance of democracy, drawn from his own life experience. He is the son of an Iranian

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diplomat, was born in London and lived in Pakistan and Rome. At 13, he was living in New York during the Iranian revolution in 1979 and vividly recalls the disruption for his family."

Pharmacists Report Glitches On Drug Benefit's First Day. A negative report in USA Today (1/4, Koch, 2.31M) says that on Tuesday, the first full business day on which the Medicare drug benefit was available, pharmacists "struggled with billing glitches and missing drug cards as they tried to fill prescriptions." Pharmacists" said some customers came in without cards or letters showing their eligibility and others were surprised that they had to pay full cost until meeting a deductible." USA adds, "Larry Kocot, senior adviser to Medicare Administrator Mark McClellan, said sheer volume caused computer slowdowns Monday, but these problems had been resolved by Tuesday. 'This is going very well,' said Gary Karr, spokesman for the Centers for Medicare and Medicaid Services. He blamed snags on heavy computer traffic, pharmacists forgetting billing details and beneficiaries not having cards."

Drug Benefit Uses Tiered Pricing System. USA Today (1/4, Appleby, 2.31M) reports, "Medicare's drug benefit, expanding on a practice now in limited use in the private sector, requires patients to pay larger co-payments for expensive treatments, including some drugs for cancer, arthritis, multiple sclerosis and anemia. In the private sector, some employers' insurance plans charge more for some so-called 'lifestyle' drugs, such as impotence treatment Viagra or some allergy remedies. But the Medicare program, which took effect Jan. 1, expands those charges into new territory: treatments for serious or life-threatening conditions." USA adds, "While most working-age adults have insurance with two or three different "tiers" corresponding to how much they pay at the pharmacy for certain drugs — with generics the cheapest and brand-name drugs more — about 40% of the Medicare plans have four tiers, according to the analysis by Avalere Health, a for-profit research firm in Washington that did an analysis of the drugs earmarked for higher payments by patients. Fourteen percent have five tiers. In comparison, 4% of workers with health insurance through their jobs have a fourth tier, according to a nationwide survey by the non-profit Kaiser Family Foundation."

"Buy America" Language Dropped From Defense Bill. The AP (1/4, Daly) reports, "A defense bill approved by Congress would allow open competition for a multibillion-dollar contract to supply refueling tankers for the Air Force. President Bush is expected to sign the measure, squelching an earlier House-approved bill that would have helped The Boeing Co. by keeping the Pentagon from buying military equipment from the parent company of European jet maker Airbus SAS." The AP adds, "'Buy America' language had been inserted by Rep. Duncan Hunter, R-Calif., chairman of the House Armed Services Committee. However, Hunter agreed to remove the provision last month at the request of Senate leaders and administration officials, who said it could spark retaliatory measures by other countries and limit Pentagon flexibility. Congress voted final passage Dec. 21."

Federal Workers In Raleigh Area Will See Highest Pay Increase. The Washington Post (1/4, B2, Barr, 744K) reports in its "Federal Diary" column, "Most federal employees will receive pay raises ranging from 2.83 percent to 5.62 percent this year, according to pay tables published by the Office of Personnel Management. The lowest raises will go to General Schedule employees who are outside the boundaries of 31 specially designated locality pay areas. The highest raise will go to employees in Raleigh-Durham-Cary, N.C., which has been designated as a locality pay zone for the first time and is catching up with nonfederal salaries in that area. As previously reported, the 2006 pay table for federal employees in the Washington-Baltimore area shows an increase of 3.44 percent in salaries (putting the average federal salary here at $80,425)."

NYTimes Cheers Delays In Sauerbrey Confirmation Process. The New York Times (1/4, 1.19M) editorializes, "Defying early forecasts of easy confirmation, the Senate recessed for the holidays without approving Ellen Sauerbrey, President Bush's lamentable choice to head an important State Department agency that coordinates emergency relief for refugees of foreign wars, persecution and natural disasters. Her nomination has yet to clear the Senate Foreign Relations Committee, raising at least a glimmer of hope that she may not get the job. Like all too many Bush appointees, Ms. Sauerbrey has political connections that seem her most obvious credential. … The worry now is that Mr. Bush will bypass the Senate and install Ms. Sauerbrey on his own by using a recess appointment, the same tactic he used to make John Bolton the United States ambassador to the United Nations. The president should do just the opposite. The Senate's delay is a chance for Mr. Bush to rethink Ms. Sauerbrey's elevation and find someone with solid credentials for the refugee job."

OTHER NEWS:

After Incorrect Report Of 12 Survivors, Only One West Virginia Miner Found Alive. Reuters (1/4) reports, "Only one of 13 miners who were in a West Virginia coal mine when it was hit by an explosion was found alive, a company official told family members on Wednesday,

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after reports hours earlier that 12 had survived led to rejoicing." In fact, the "Final" Northern Virginia edition of the Washington Post (1/4, A1, Tyson, 744K), available this morning in the DC area, is still headlined "12 Found Alive in W.Va. Coal Mine; Body of 13th Man Was Discovered In Adjacent Area." USA Today's print edition (1/4, Brook) runs a story titled "Relief Sweeps Through Families," and a second piece (1/4, Brook) on "the one that didn't return." Likewise, the New York Times titles its front page story (1/4, Dao) "12 Miners Found Alive 41 Hours After Explosion."

USA Today (1/4, Brook, 2.31M) reports that "prospects of finding the miners alive were bleak," as "air monitors…found levels of carbon monoxide more than three times the maximum regarded as safe." The hope was that "adequate levels of oxygen in the mine and survival training could have allowed the miners to construct a shelter from the carbon monoxide." The explosion's cause "remained unclear." However, the Washington Post (1/4, A1, Tyson, 744K) reports that Bennett K. Hatfield, president of International Coal Group Inc., said "damage in the mine 'resembled' that of a methane explosion." The AP also publishes a timeline of the events.

Bush Offered Support For Miners' Rescue. The Atlanta Journal-Constitution/AP (1/4, Pickler) reports, "President Bush said Tuesday the nation was praying for 13 men trapped in a West Virginia coal mine and offered federal help to help bring them out." Bush, "speaking during a meeting with U.S. attorneys to seek renewal of the terror-fighting Patriot Act, said he called West Virginia Gov. Joe Manchin to offer support."

Explosion, Safety Violations Raises Questions About Safety Of Sago Mine. The networks last night gave significant coverage to the ongoing rescue efforts at the Sago Mine in Tallmansville, West Virginia. ABC World News Tonight (1/3, lead story, 3:00, Vargas), The CBS Evening News (1/03, lead story, 2:00, Schieffer), and the NBC Nightly News (1/3, lead story, 3:00, Williams) each reported the story as their lead, and they each followed up the story with reports on mine safety and the local community.

ABC World News Tonight (1/3, story 2, 1:40, Vargas) reported, "Inspectors cited that mine for 46 Federal health and safety violations in the last 3 months alone. There are more than 2,000 mines across the country." ABC (L. Stark) added, "Federal regulators inspect underground coal mines four times a year. State regulars do inspections, as well. The Sago Mine received 208 Federal citations in 2005, up from just 68 in 2004. State violations also jumped, from 75 to 144." Davitt McAteer, former Asst. Secretary, US Mine Safety and Health: "It should tell us that the safety program that the mine has employed is not working. And things are not improving, but, in fact, are getting worse a safety standpoint."

The CBS Evening News (1/03, lead story, 2:00, Orr) reported, "The explosion raises questions about the safety record of the Sago Mine. Federal and state inspectors wrote up more than 350 health citations last year. 46 in one eleven-week period just before Christmas. The most serious involved possible roof collapses and the buildup of dangerous gases."

NBC Nightly News (1/3, lead story, 3:00, Williams) reported, "As rescuers desperately sped up their efforts this afternoon, some families were asking questions about the mines safety record. 180 violations over the last three inspections." International Coal Group, "which just bought the mine in November, says it has addressed many of the safety concerns."

The Washington Post (1/4, A1, Tyson, 744K) adds, "Federal regulators have cited the mine, in north-central West Virginia, more than 270 times in the past two years for safety violations, a third of them considered 'significant and substantial,' according to the Mine Safety and Health Administration." Some of the recent violations were for "inadequate ventilation to dissipate dangerous gases."

The Christian Science Monitor (1/4, Clayton, 61K) reports, "Vigils like the one for 13 trapped coal miners are much less common today, after 25 years of closer government oversight." The "industry…endured at least 1,000 fatalities a year through the 1930s and '40s," but "the death toll of 28 in 2004, the latest figure available, underscores the achievement of stricter government oversight and corporate compliance." Still, "coal miners account for about half of all mining-related fatalities."

WPost Says Mine Inspection Agency Needs Own Examination. The Washington Post (1/4, A16, 744K) editorializes, "After the explosion that trapped 13 men in a West Virginia coal mine early Monday, an equally chilling story of safety neglect may be emerging as well." The mine had "an accident rate in 2004 that was three times higher than the national average" and last year "received 205 orders and citations for health and safety violations, 96 of which carried a 'significant and substantial' risk of death or injury." The mine's "safety problems…should have caused officials at the Mine Safety and Health Administration, which is responsible for mine inspections, to take notice." Also, "MSHA has in the past several years formed a series of 'partnerships' with mining industry groups," which "might have allowed the agency to become too friendly with the businesses it regulates. When Congress comes back to town, we'd like to hear some open discussion about the health of the nation's mine inspections."

Author Says Less Secrecy, Better Penalties Needed In Coal Mining. Jeff Goodell, author of the forthcoming "Big Coal: The Dirty Secret Behind America's Energy Future," writes in an op-ed in the New York Times (1/4, 1.19M), "One of the toughest turnaround jobs in American industry has

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been the effort to change the perception of coal from an industrial relic of 19th century to an energy source for the 21st century." However, with the damage to people's health and the pollution associated with its mining, "there is nothing pretty about coal," and "coal mining remains a dirty and dangerous business, especially in regions of Appalachia where all the easy coal is gone and what's left is increasingly difficult and dangerous to mine." For "coal…to be taken seriously as a fuel source in the 21st century, it's up to federal and state regulators to make sure that even" small, difficult mines are safe, and "a good first step would be to reverse the Bush administration's new privacy rules, which have made it tougher for outsiders to obtain federal inspectors' reports. Even better would be to increase fines and other penalties for operators who break the rules."

Federal Reserve Minutes Spark Wall Street Rally. NBC Nightly News (1/3, story 7, :45, Williams) reported, "On Wall Street today, stocks came roaring back on the first trading day of the new year, after the minutes of the last Federal Reserve meeting showed the end of the Fed's nearly two-year rate hike campaign probably in the far off. The Dow finished up just under 130 points on the day [to 10847.41]. The NASDAQ was up more than 38 points [to 2243.74]." The Financial Times (1/4, Swann) adds the S&P 500 "climbed 1.64 per cent, or 20.51 points, to 1,268.8 – its biggest daily gain in points terms since April – and gave a boost to investors after a lacklustre 2005 in which the index rose just 3 per cent."

USA Today (1/4, Kirchhoff, 2.31M) runs a similar report under the headline "Fed Minutes Indicate Rate Increases Wrapping Up," while the Washington Post (1/4, D3, Aversa, 744K) titles its story "Views On Rates Differ Within Fed; Wording on Interest Changed Last Month." The Wall Street Journal (1/4, Ip, 2.11M) and New York Times (1/4, Andrews, 1.19M) also report the story. USA Today (1/4, Krantz, 2.31M), Washington Times/AP (1/4) and Wall Street Journal (1/4, Patterson, 2.11M) also run stories on the stock numbers.

Growth In Capital Expenditures Seen As Accelerating. The Wall Street Journal (1/4, Zuckerman, 2.11M) reports, "After a long lull, there are signs that companies are set to boost spending faster this year. The change could benefit many corporations, including Oracle Corp., Halliburton Co., Schlumberger Ltd. and Washington Group International Inc. Capital expenditures, which include all kinds of spending that enhance a business's long-term prospects, such as buying or upgrading buildings or equipment, have been growing at a rate of about 11% in the US for more than a year, though that has been edging up a bit lately." But "there are some signs that the spending is starting to rise faster, at least among larger, public companies."

Columnists Say Optimistic Economic Forecasts Could Be Off Mark. Steven Pearlstein writes in the Washington Post (1/4, D1, 744K), "The columnist who tries to predict the future of the economy or the financial markets is a fool -- but no more so than the army of forecasters, money managers and economic policymakers who have been doing just that as part of the annual New Year ritual. The consensus view…is that everything is going to be peachy-keen in 2006. … Okay, so last year did turn out better than we worrywarts would have imagined," but "reduce it to its bare essentials, and the story of 2005 was that oil producers proved just as willing to lend us the money to buy oil that we otherwise could not afford as the Japanese and Chinese have been to lend us the money to buy cars, jeans and flat-screen TVs. The arrival of this newest credit card from the Middle East may have allowed us to live above our means for yet another year. But let's not fall into the trap of confusing that with long-term economic health." The "more likely scenario, it seems to me, is a 2006 in which the economic chickens finally come home to roost."

Robert J. Samuelson writes, also in the Washington Post (1/4, A17, 744K), "Could anything darken the outlook? Here are five candidates: Housing goes bust. … The dollar 'crashes.' … Oil jumps to $85 a barrel. … The yield curve' of interest rates 'inverts.'" He adds, "There are other potential pitfalls. Will China's surging economy produce an unpleasant surprise? Will the replacement of Alan Greenspan with Ben Bernanke go smoothly? But the larger story of the US economy has been that it continually overcomes many reasons for it to falter. Consumers have spent freely, drawing money from appreciated stocks or homes. From 1995 to 2005 consumer spending rose an average of 3.8 percent annually, notes Susan Sterne of Economic Analysis Associates. That may cool with the housing boom." But "something else will fill the gap. So say the standard forecasts. They're often right when predicting small shifts in the status quo. But they usually miss big changes, for good or ill. If something truly bad happens in 2006, you probably won't read about it first."

Bush, McClellan Pick Different Candidates In Texas Gubernatorial Race. The Houston Chronicle (1/4, Mason, 581K) reports the Texas governor's race "is just getting started and already White House loyalties are divided, with President Bush backing Gov. Rick Perry and White House spokesman Scott McClellan supporting his mother, Carole Keeton Strayhorn." McClellan said, "The president will support the Republican nominee, and it's pretty clear the Republican nominee will be his friend, Rick Perry." The Chronicle adds Strayhorn, "the Texas comptroller elected as

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a Republican, announced Monday that she will run as an independent in the governor's race. The White House spokesman is the youngest of her four sons." McClellan said, "My mother cares deeply about Texas, and she has my full support." The Chronicle adds that by running as an independent, Strayhorn "avoids facing the incumbent in a GOP primary battle that tends to favor the more conservative candidate." But Strayhorn "said she is still a Republican and understands Bush's decision to support Perry."

D'Amato Criticizes Weld For Running "Sham College." The New York Times (1/4, Healy, 1.19M) reports former Sen. Alfonse M. D'Amato "sharply criticized a leading Republican candidate for governor, William F. Weld, saying last night that Mr. Weld was under the 'cloud' of a federal investigation for once running a 'sham college.'" D'Amato "also chastised Mr. Weld for resigning as governor of Massachusetts in 1997, before his second term was over, and then seeking to lead New York 'without any real experience here.'" Speaking on NY1, "where he is a paid commentator, Mr. D'Amato acknowledged that he did not feel 'kindly' toward Mr. Weld, given that Mr. Weld had led the Justice Department's criminal division around the time that officials there began investigating Mr. D'Amato's brother, Armand, a lobbyist." D'Amato said Weld "would have trouble explaining the 'multimillion dollar looting' of Decker College in Kentucky, which collapsed in bankruptcy last fall after federal officials cut off student loan aid because of mismanagement concerns." Weld was Decker's "chief executive from last January to October."

Kaine Town Halls Fail To Generate Consensus On Transportation Fixes. The Washington Post (1/4, A1, Ginsberg, 744K) reports in a front pages story that Gov.-elect Timothy M. Kaine has "spent the two months since his election gathering Virginians to discuss the traffic congestion problems that plague much of the state, but the forums, including one last night in Fairfax County, have failed to yield a consensus for any new action." After "talking with thousands of people about transportation issues in his most visible effort to prepare for the governorship, Kaine (D) remains committed to the proposals he outlined during the election campaign. He has used the 10 town hall meetings across the state more as a listening tour than as a forum to promote ideas." The "well-attended forums highlighted both the significance of traffic congestion in the lives of Virginians and the conflicting opinions on how to ease it." If the meetings "have brightened the spotlight on transportation, they have done little to bring Virginians closer to agreement on what kinds of fixes to make and how to pay for them."

Schwarzenegger Offers To Repay Schools $1.7 Billion. The Los Angeles Times (1/4, Halper, Helfand, 958K) reports Gov. Arnold Schwarzenegger "offered an olive branch to educators Tuesday with a proposal to begin repaying money the state borrowed from schools in recent years to balance the budget." The plan "to give schools about $1.7 billion extra — paid for with unanticipated state revenue — will be part of the budget Schwarzenegger proposes next week. It signals an effort to patch up his shredded relationship with the state's major education groups as he seeks reelection in November." The move "comes eight weeks after Schwarzenegger ended a vigorous campaign for Proposition 76, which would have capped state spending and cost schools billions." Educators "emerged from a meeting with Schwarzenegger on Tuesday to laud him for seeking common ground. But they said they're entitled to billions more; that his plan shortchanges schools of money they contributed to closing budget deficits in each of the last two years." Scott Plotkin, executive director of the California School Boards Assn., said "that although education groups 'are not looking for another fight,' they believe the state owes local districts $3.8 billion more." School officials were "also skeptical about the strings attached to Schwarzenegger's proposal: The governor wants some of the new money directed to his pet projects."

History Books Portray Clinton Impeachment As "Milestone Event." The Washington Post (1/4, A15, 744K) reports on how the impeachment of former President Bill Clinton is being portrayed in the history books. According to the Times, "The impeachment is portrayed in the context of his two-term tenure -- a milestone event, but not one that overshadows how Clinton handled the economy, crime and health care. The most commonly used texts give straightforward recaps of Clinton's toughest days, with some flavor of how it affected the nation. Absent are any lurid details about his relationship with Lewinsky that spiced up news reports and late-night talk shows as the scandal and impeachment played out in 1998 and early 1999. … The impeachment is covered briefly in middle school texts. … Yet at all levels, the salacious details of the Lewinsky affair are nowhere to be found. Middle school texts describe it as 'a personal relationship between the president and a White House intern.' High school books describe it as Clinton's 'improper relationship with a young White House intern' or say Clinton 'denied having sexual relations' with an intern."

US Muslims Form First Islamic Sorority. The Washington Times (1/4, Duin, 90K) reports on the creation of America's first Islamic sorority. According to the Times, "Thirteen women at the University of Kentucky will form the sorority's first college chapter this spring, and another group

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is waiting to start at the University of Maryland's Baltimore campus. A citywide chapter in the District, made up of women from several local universities, is also in the works." The Times adds, "Along with pledges, there will be prayer to Allah. Instead of hazing, there's hijab, the scarf some devout Muslim women wear. Covering one's hair is not mandated within Gamma Gamma Chi; in fact, four out of the five board members do not wear one. … Although Gamma Gamma Chi is open to all, no non-Muslims have joined to date."

New Rules Require Banks To Raise Minimum Credit Card Payments. ABC World News Tonight (1/3, story 5, 2:15, Vargas) reported, "'Out of control' is a good way to describe credit card debt in the United States. And 35 million Americans…stay mired in that debt by making only the minimum payment required, usually just 2% or $180 a month." Prof. Deborah Thorne, Ohio University: "They will never get out of credit card debt. They will die making the minimum payment on that credit card." Stark: "It's that disturbing reality that led government regulators to issue new rules, effective January 1, requiring banks to increase the minimum payment, sometimes doubling it, so consumers will pay their debts down faster. Under the old rules, it would take 48 years and $21,000 in interest to pay off the typical $9,000 credit card debt. By doubling the minimum payment, that same debt is paid off in 14 years at $4,800 in interest. Consumers save money in the long run. But in the short run, some cardholders will have trouble with the bigger payments, and could be forced into bankruptcy."

Iran Announces It Will Resume Nuclear Program. Iran's government again scrambled negotiations over its nuclear program by defiantly announcing that it would resume its development of nuclear fuel production technology. ABC World News Tonight (1/3, story 4, 3:05, Vargas) reported Iran's "hard-line government has aggravated the international community and the US in particular the best way it knows how, by flaunting its nuclear ambitions." ABC (Woodruff) added, "Almost every day, now, the new Iranian president says something to make the Administration nervous. Today, it was a big one. In the negotiations over the future of its nuclear program, the Iranian government made a surprise announcement." A top Iranian nuclear official "announced that six days from now, Iran will resume research into nuclear fuel production."

The New York Times (1/4, Sciolino, 1.19M) reports Iran's announcement "jeopardized an agreement with the Europeans, complicated a Russian initiative and prompted an American threat." The US "warned Iran that it could face unspecified consequences if it resumed nuclear activities. 'If Iran takes any further enrichment-related steps, the international community will have to consider additional measures to restrain Iran's nuclear ambitions,' said Sean McCormack, a State Department spokesman." And "a statement from the British Foreign Office called Iran's letter 'unhelpful and provocative,' while Cristina Gallach, a spokeswoman for the European Union, branded it 'a step in the wrong direction.'" Reuters (1/4) also reports on the US warning.

The Los Angeles Times (1/4, Farley, Marshall, 958K) quotes one Western diplomat saying, "It has all the makings of another crisis. … Step by step, they are moving towards their goal. When will the Europeans say enough is enough?"

The Financial Times (1/4, Bozorgmehr) notes, "Mohammad Saeedi, deputy to Iran's Atomic Energy Organisation, told state television the 'resumption of research on nuclear fuel technology' had been notified to the International Atomic Energy Agency [IAEA] yesterday and would recommence within a couple of days. 'Research has nothing to do with nuclear fuel production and is a separate issue, while no decision has yet been made about it [the latter],' Mr Saeedi said."

The Washington Times/Reuters (1/4, Hughes) adds, "Diplomats said the move, which follows Iran's resumption of uranium conversion in August, was a serious blow to diplomatic efforts to resolve the dispute over Iran's nuclear program."

But the Los Angeles Times/AP (1/4) notes one European diplomat "said it was too early to evaluate the significance of the move and whether it would scuttle talks planned for later this month."

European Intelligence Report Says Iran Seeking Nuclear Weapons. Reuters (1/4) reports Britain's Guardian newspaper cited a leak from a European intelligence agency which says "Iran is secretly trying to obtain technology and expertise needed to build a nuclear weapon." The revelation "threatens to deepen a rift with the West over its nuclear program." According to the intelligence the scope of Iran's plans stretches from Syria, Pakistan and North Korea and it "says Iran has built a web of front companies, middlemen and academics whose job is to find the information and materials needed for nuclear, biological and chemical arsenals, according to the Guardian." In addition, Iran is seeking "to build a missile capable of reaching Israel and southern Europe."

Risen Book Alleges US Gave Iran Nuclear Designs In "Clumsy" Sabotage Effort. The Los Angeles Times (1/4, Meyer, 958K) reports, "In a clumsy effort to sabotage Iran's nuclear program, the CIA in 2004 intentionally handed Tehran some top-secret bomb designs laced with a hidden flaw that U.S. officials hoped would doom any weapon made from them," according to James Risen's book "State of War: The Secret History of the CIA and the Bush Administration." Yet, "the Iranians were tipped to the scheme by the Russian defector hired by the CIA to deliver the plans and may have

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gleaned scientific information useful for designing a bomb." Two nuclear weapons experts said "that a deliberate flaw in the plans could have been easily found by the Iranians." Former IAEA weapons inspector David Albright said "the plans could have shaved many years off Iran's nuclear effort." In addition, "the CIA effort to sabotage Iran's nuclear effort came on the heels of another massive intelligence failure, in which a CIA officer mistakenly sent an Iranian agent a trove of information that could help identify nearly every one of the spy agency's undercover operatives in Iran." According to Risen's book, the "Iranian was a double agent who turned over the data to Iranian authorities. They used it to dismantle the CIA's spy network inside the country and arrest or possibly kill an unknown number of U.S. agents."

Iranian Government Said To Permit Freedom For Youth. ABC World News Tonight (1/3, story 7, 3:25, Woodruff) reported, "More and more, we learn that the people who rule this country by Islamic law are able to do so because they allow the younger generation some measure of freedom. For many, this is how Fridays are spent in the Islamic Republic of Iran -- a day of prayer. One of the largest services in the country is on the campus of Tehran University. The women sit in their own area, outside the main auditorium. They still chant 'Death to America' and 'Death to Britain.' But it seems to lack the fierce conviction of the revolution's early days, more like an old habit. And look at these faces, not many young people here at all."

Administration Rejects North Korean Demand To Lift Sanctions. The AP (1/4, Schweid) reports, "The Bush administration on Tuesday rejected a North Korean demand that it lift sanctions as a way of possibly resuming stalled nuclear disarmament talks." Saying the "issues are unrelated, State Department spokesman Sean McCormack said. 'I don't see in what way they are preventing North Korea from going back to the six-party talks.'"

US Urges UN To Probe Allegations Of Syrian Threats Against Hariri. The AP (1/4, Schweid) reports, "The Bush administration urged U.N. investigators Tuesday to look into an allegation by" former Syrian vice president Abdul-Halim Khaddam "that President Bashar Assad had threatened former Lebanese Prime Minister Rafik Hariri several months before Hariri was assassinated." State Department spokesman Sean McCormack said, "I think that Mr. Khaddam's remarks raise some deeply troubling issues as to what exactly was going on during the period in time in question."

Bush Says Palestinian Elections Should Proceed As Scheduled. Reuters (1/4) reports, "President George W. Bush wants Palestinian elections to go forward as scheduled this month with no delay and thinks Palestinians should be allowed to vote in East Jerusalem, a White House official said on Tuesday." He "is hoping the January 25 vote will mark a step forward in his vision of two states, Israel and Palestine, living side by side in peace." A White House spokesman said, "We believe that people must have access to the ballot. … Arrangements have been made in the past to ensure that those persons can vote and we believe some arrangements should be possible at this time."

US Sends Envoys To Help Resolve Dispute. In addition to President Bush's statement, the Washington Times (1/4, Kralev, 90K) notes the US is "sending envoys to the Middle East to help resolve a dispute that threatens to derail this month's Palestinian elections." According to State Department spokesman Sean McCormack "C. David Welch, assistant secretary of state for Near Eastern affairs, and Elliott Abrams, a deputy national security adviser for the region at the White House, will travel to Israel and the Palestinian territories today to meet with officials on both sides."

Fatah Attempts To Attract Voters While Delaying Election. The New York Times (1/4, Erlanger, 1.19M) in an article describing how the Palestinian Fatah party is attempting to attract voters despite uncertainty about whether the elections will be held notes Palestinian Deputy Prime Minister Nabil Shaath "questioned Hamas's ability to govern the Palestinians and deal with Israel -- which considers Hamas a terrorist group, and which Hamas does not recognize. 'How will negotiations with Israel be managed under Hamas?' Mr. Shaath asked. 'How will they pay salaries and ensure security? What will they do for women?'" Yet, "Fatah's biggest problems are its own divisions and a reputation for cronyism, mismanagement and corruption, coupled with its failure to achieve an independent Palestinian state through negotiation and compromise." Fatah is seeking "to postpone the elections, because of fears that Hamas will win more than 40 percent of the 132 seats at stake and become either the most powerful political force or a sizable blocking minority in the future legislature. Many Fatah veterans would rather have no election than hand over such power to Hamas."

The Washington Post (1/4, A13, Wilson, 744K) notes that even if Hamas makes significant gains in the national elections, the "makeup of the new parliament will likely have little bearing on Palestinian policy, which will remain firmly in Abbas's control. But the results would help gauge both the popularity of Hamas, whose armed wing has carried out numerous attacks on Israeli soldiers and civilians during the most recent uprising that began in September 2000, and Fatah's unity as it endures a divisive generational power struggle."

Armed Gangs In Control Of Gaza After Israeli Withdrawal. The Christian Science Monitor (1/4, Frankel,

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61K) reports, "As the first year devoid of an Israeli presence since 1967 dawns in the Gaza Strip, armed militias roam the streets freely, foreigners are kidnapped with regularity, and the measure of a man in this coastal territory is not his political title, or even the size of his house, but the number of AK-47-wielding bodyguards he employs." After "Israel left Gaza four months ago, full control over the 1.3 million people was ostensibly transferred to the Palestinian Authority (PA). But its authority in this coastal territory has deteriorated to such a state of anarchy, that the best-armed gangs or families are effectively the law now."

Questions Raised About $3 Million Sharon Received In 1999 Campaign. The New York Times (1/4, Erlanger, 1.19M) in an article on the Palestinian elections also notes, "In a development that may roil the…Israeli political campaign, Israeli Channel 10 reported Tuesday night that the police had evidence that would show that the family of Prime Minister Ariel Sharon had received $3 million from a wealthy Austrian, Martin Schlaff, in connection with his 1999 campaign. The money is thought to be connected to a $1.5 million loan from a South African businessman that is suspected of being used to refund illegal campaign contributions." In addition, "one of Mr. Sharon's sons, Omri, resigned from Parliament on Tuesday before his sentencing later this month for unrelated financing violations and falsification of documents from his father's 1999 campaign."

VP To Assume Control While Sharon Undergoes Surgery. The Washington Times/AP (1/4, Federman) reports, "Sharon will hand over power to" Vice Prime Minister Ehud Olmert "during a heart procedure this week, his office said yesterday, the first time an Israeli leader has agreed to give up his authority because of illness." November's "stroke has put the health of Mr. Sharon, who turns 78 next month, on the political agenda as he seeks a third term in March 28 elections." But concerns about his health appear "to have had no effect on the party's prospects. Opinion polls forecast a strong victory for Kadima, and show Likud far behind."

Departure Of Sharon Roils Likud Party. USA Today (1/4, Gutman, 2.31M) reports that "dramatic turns in Israeli politics over the past couple of months have reshaped the country's politics. The ruling Likud Party…is struggling after its leader, Prime Minister Ariel Sharon, left to form the centrist Kadima Party. The center-left Labor Party elected a socialist who vows to inject life into the faction." And now "even in Likud bastions such as the Carmel Market, there is a political realignment. 'Like my father, my family and most everyone here in the market, I used to vote Likud,' says Yoni Ben-Yonatan, 24, owner of a dollar store. 'But there have been so many changes. … I will stick with Sharon. My father won't.'"

Ashcroft's Firm Lobbying For Israeli Company's Korean Weapons Deal. The Hill (1/4, Kaplan) reports, "Israel's major aerospace company hired former US Attorney General John Ashcroft's lobbying firm late last month to help secure the U.S. government's approval to sell a weapons system to the South Korean Air Force, according to lobbying disclosure records. The South Koreans are choosing between an early-warning radar system built by Israel Aircraft Industries (IAI) and a similar, more expensive system built by Chicago-based Boeing Co. The radar systems enhance an air force's ability to track enemy fighter jets during combat. … The South Koreans initially had intended to make a decision by Dec. 31, but the government told the companies last month that it would delay its final decision until May 2006, which gives the Israeli company an additional four months to get the U.S. government's blessing." The Ashcroft Group and IAI "signed a nondisclosure agreement, said spokeswoman Juleanna Glover Weiss, and IAI officials based in D.C. and Tel Aviv said the company does not comment on its consultants."

Rice Seeks To Strengthen Ties On Trip To Indonesia, Australia. Reuters (1/4) reports that next week "Secretary of State Condoleezza Rice will visit Indonesia and Australia, strong U.S. allies in fighting terrorism." In Indonesia, Rice "will discuss a range of issues, including U.S. support for 'Indonesia's democratic development,' cooperation in tackling the threat of avian flu and progress in recovery efforts after the devastating tsunami in December 2004." According to State Department spokesman Sean McCormack in Australia, "Rice will meet foreign ministers from Japan and Australia as part of a new 'strategic dialogue' between the three countries." She "will also take part in a meeting between the United States and five Asia-Pacific countries that announced a pact last July to cut greenhouse gases that falls outside the Kyoto Protocol on climate change."

Indonesia Seeks To Accelerate Tsunami Recovery. The Washington Post (1/4, A14, Nakashima, 744K) reports, "Stung by intense criticism of a slow rebuilding effort after" the 2004 tsunami "the Indonesian government and relief agencies are moving to pick up the pace. After building about 16,000 houses in 2005, Indonesia is undertaking what officials call the world's largest reconstruction effort ever after a natural disaster. The goal is to build 80,000 homes by the end of this year and a total of 120,000 by mid-2007." But "accelerating the rebuilding process will not be easy. Not all of the houses built in 2005 have been occupied, according to the Rehabilitation and Reconstruction Agency for Aceh and Nias."

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Recent Violence Raises Concerns About Terrorism In India. The New York Times (1/4, Rai, 1.19M) reports, "The police in southern India on Tuesday announced the arrest of a suspect in the shooting of a well-known scholar here as anxiety rose over the possibility of terrorist attacks aimed at the region's high-technology industries." Increasing "tensions across this relatively prosperous belt of the country, the police said they had also uncovered plots to attack outsourcing companies after arresting four other suspects possibly connected to Islamic militant groups during the past two weeks."

US Providing Vital Medical Care In Parts Of Kashmir Devastated By Earthquake. PBS' NewsHour (1/3, Lehrer), in a two-part segment on the devastation caused by October's earthquake in Pakistan, reported U.S. Ambassador Ryan Crocker said that the US pledge of $510 million toward relief efforts is "not only the right humanitarian thing to do but it is also important symbolically." Crocker said, "It is the second most populous Muslim country in the world. It's important, I think, as we consider our relations with the Muslim world that we consider how we can make a difference by come to go the aid of Muslims who have suffered." The NewsHour went on to report that US Chinook helicopters "have been key to shuttling relief supplies and casualties. Many of them arrive at one of two U.S. Military MASH units" which have "become a key medical center for the regional capital. Its hospitals were wiped out in the quake."

Reporter Released In China After US Objections. The Washington Post (1/4, A12, Pan, 744K) reports, "The Chinese government released a prominent investigative reporter from prison Tuesday, even as it has been intensifying a crackdown on the press. The early release appeared intended to mollify the Bush administration, which had included the journalist on a short list of political prisoners whose cases it raises regularly with Chinese officials."

Australia May Remove Rx Drug Protection From Free Trade Deal With US. The Wall Street Journal (1/4, Brooks, 2.11M) reports, "Mark Vaile, Australia's trade minister and acting prime minister, said the government may remove an amendment included in the Australia-U.S. free-trade agreement designed to contain drug prices if pharmaceutical makers can prove the provision is 'commercially detrimental.'" The Journal notes, "The so-called evergreening amendment was negotiated by Australia's major opposition Labor in 2004 as a condition of the center-left party's support for the trade treaty and is designed to prevent drug companies from extending medicine patents so as to delay cheaper generic versions coming to market."

Administration Criticizes Russian Attempts To Impose Limits On Gas Exports. The AP (1/4, Schweid) reports, "The Bush administration criticized Russia on Tuesday for imposing limits on natural gas supplies to Europe by reducing Ukraine's share through a pipeline that carries about 80 percent of Russian gas exports to the West." Russia's decision "to restore most of the gas it had withheld Monday in a pricing dispute 'does not resolve the issue,' State Department spokesman Sean McCormack said."

PBS' NewsHour (1/3, Lehrer) reported a "State Department spokesman criticized Russian actions. He said they raised questions about using energy as a political weapon. The gas dispute also roiled energy markets. In New York trading, oil prices surged more than $2 to close above $63 a barrel. It was the largest increase since September."

Concerns Raised About Reliance On Russian Energy Resources. The attempt to limit gas shipments raised serious concerns about European reliance on Russian energy resources. The Wall Street Journal (1/4, 2.11M) reports, "Russian natural gas flowed across Ukraine to countries throughout Europe yesterday, banishing the specter of immediate and prolonged shortages because of Moscow's price dispute with Kiev." Yet "relief was tempered by the realization that the Continent's dependence on Russian natural gas means it is vulnerable to future energy crises. European officials also criticized Russia's behavior and called for a diplomatic resolution with Ukraine."

And the New York Times (1/4, Landler, 1.19M) says, "Russia's shutdown of natural gas lines to Ukraine lasted less than 48 hours, but the repercussions could last far longer in Western Europe, which also relies heavily on Russian gas." For Germany, "which is by far Russia's largest customer and has made energy the cornerstone of a broad economic alliance with Moscow, some experts said the standoff might even have political implications." Russian expert Alexander Rahr said, "Germany's alliance with Russia was not just conceived as a commercial deal, but as a way to integrate Russia into Europe. … This could be in jeopardy if the gas dispute continues."

The AP (1/4, Vasovic) notes, "The gas dispute highlights Ukraine's dependence on Russia as the key supplier to its energy inefficient industries. It also demonstrates Russia's opposition to Ukraine's attempts to break out of the Kremlin's sphere of influence and join the European Union and NATO."

The Washington Times (1/4, Borowiec, Sands, 90K) says, "The dispute put in sharp relief two contrasting priorities of Russian President Vladimir Putin's foreign policy: his desire

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to use Russia's energy reserves to cement ties to Europe and his willingness to use those same resources to bring Ukraine's pro-Western government to heel."

EU Considers Response To Energy Supply Threat. The Financial Times (1/4, Laitner, Warner) reports, "Brussels has few weapons in its arsenal to respond to threats to EU supplies because energy policies are largely dealt with by the member states." In October, British PM Tony Blair called for a common EU energy policy, yet "member states have been reluctant to extend Brussels' powers over such a sensitive area as energy."

Ukraine Asserts Right To Withdraw Gas From Pipeline. The New York Times (1/4, Kramer, 1.19M) reports, "Ukraine conceded Tuesday that it had withdrawn natural gas from its pipeline system that Russia said was intended for export to Europe, but said it had a contractual right to the fuel under an agreement with the Central Asian nation of Turkmenistan." Mikola Goncharuk, a member of the board of Ukraine's natural gas company said "that his company had indeed drawn down gas from the pipeline system, but under a contract with Turkmenistan. Russian export gas, he said, was untouched."

Neither Side In Russian Oil Dispute Seen As Softening Stance. Reuters (1/4, Lowe) reports, "Russian energy officials were set to meet counterparts from Ukraine on Tuesday to discuss the dispute but there was no sign of a softening of tone on either side in a dispute with clear political overtones."

US Papers Criticize Putin. The Washington Post (1/4, A16, 744K) editorializes, "Russian President Vladimir Putin once again has overplayed his hand." In response to international complaints, "Putin was forced to back down, though the underlying price dispute with Ukraine remains unresolved. He has a sensible way out of the conflict, which the Bush administration is urging on him: a negotiation in which Ukraine agrees to a gradual shift toward world market prices." Western nation's "should realize that dependence on Russian gas is not consistent with 'energy security.' Instead they should develop alternative sources of supply, or a greater emphasis on nuclear energy. Russia cannot be allowed to hold its neighbors, or the world, hostage during a future cold winter."

The New York Times (1/4, 1.19M) in an editorial writes, "Russia is still a more secure energy supplier than the Middle East. But Europe and the United States should remind Mr. Putin that energy security is a two-way street. Ukraine has no permanent right to a gas subsidy, but as long as Mr. Putin uses pricing to reward and punish, he undermines Russia's claim to be a reliable, businesslike supplier."

Chavez, Morales Pledge To Fight US "Imperialism." The AP (1/4, Toothaker) reports Venezuelan President Hugo Chavez "offered Bolivia's president-elect diesel fuel, trade benefits and help in financing his social reforms as the two leftists cemented ties, reasserting their opposition to U.S. policy in Latin America. Fresh from a visit with Cuba's Fidel Castro, Evo Morales said in Caracas at the start of a seven-nation world tour that he and the Venezuelan leader were uniting in a 'fight against neoliberalism and imperialism.' Morales will visit Spain, France, Belgium, South Africa, China and Brazil — "but not Washington. Morales' spokesman says he was not invited to Washington. … In praising Castro and Chavez on Tuesday, he clearly established Washington's fiercest Latin American critics as his models."

Peru Seeks Extradition Of Fujimori From Chile. The New York Times (1/4, Rohter, Bonnefoy, 1.19M) reports the government of Peru "formally requested Tuesday that Chile extradite former President Alberto Fujimori, who…has been held in custody here ever since he unexpectedly arrived two months ago from exile in Japan. Mr. Fujimori, 67, is wanted in Peru on more than a dozen counts of corruption and violating human rights." The Times notes, "There are…local legal precedents that work in Mr. Fujimori's favor. … When Argentine judges recently sought the arrest and extradition of one of that country's former presidents, Carlos Saúl Menem, after he went into exile here, Chilean courts turned down their requests." Fujimori "has hired Mr. Menem's lawyer, Gabriel Zaliasnik."

The Washington Post (1/4, A14, Reel, 744K) reports, "The Peruvian government also asked that Chile continue to detain Fujimori, who is being held at a correctional officers academy in Santiago, the capital. A spokesman for Fujimori in Lima, the Peruvian capital, told the Reuters news agency that his attorneys were seeking his release. The extradition process could be lengthy, with many observers predicting deliberations that could stretch over several months and possibly more than a year."

Blair Petitions Bush To Salvage Deal For Joint Strike Fighter Engine. Reuters (1/4, Wolf) reports, "British Prime Minister Tony Blair has written to U.S. President George W. Bush to try to save a multibillion-dollar contract to develop an engine for the F-35 Joint Strike Fighter, the Pentagon's costliest warplane program, people familiar with the matter said on Tuesday." The Pentagon plans "to kill a $2.4 billion General Electric Co.-Rolls-Royce Plc contract to develop an alternate turbofan engine for the fighter." White House aides "did not return a phone call seeking comment. Steve Atkins, a spokesman for the British Embassy in Washington, said: 'We don't comment on confidential government-to-government correspondence.'" But "Blair, Bush's staunchest foreign partner on Iraq, is well-placed to save the GE-Rolls-Royce engine. Britain has

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committed at least $2 billion to co-development of the F-35, the most of any of the project's eight foreign partners."

France Cancels State Of Emergency. The Washington Post (1/4, A13, Moore, 744K) reports, "The French government on Wednesday will end the state of national emergency it imposed eight weeks ago to counter the violence and arson that erupted in more than 300 cities and towns across the country, President Jacques Chirac said Tuesday." In response to the riots, Chirac "urged the cabinet to do more to address the country's high unemployment, one of the biggest problems facing the people who were responsible for the rioting. Since the violence abated, however, Chirac's government has initiated few programs to address the discrimination and joblessness faced by immigrant communities."

Economic Outlook For Europe Healthy. The Wall Street Journal (1/4, Walker, 2.11M) reports, "Europe's economic upturn looks set to continue into 2006, as a manufacturing survey showed another improvement in business conditions and Germany reported a sharp drop in unemployment." Yet "analysts warn that a strengthening euro and an expected moderation of U.S. economic growth could limit the life of Europe's upswing, unless domestic demand improves too. Germany's labor office treated the surprisingly sharp drop in joblessness in December -- down 110,000 on a seasonally adjusted basis -- as a hopeful sign of greater demand for labor. The drop took the unemployment rate in Europe's biggest economy to 11.2%."

Drug Cartel Violence Continues To Plague Mexico. The CBS Evening News (1/03, story 8, 3:00, Schieffer) reported that in Mexico violence continued through the new year as "at least eight people have been gunned down since New Year's Eve and the worst of it is just across the US border where rival drug gangs are waging all out war." CBS (Whitaker) added, "It's become all too common in Mexico, kidnapping, murder. About 1,500 drug-related killings last year. A crisis along the US Mexico border. Hyper-violent drug cartels dying to dominate the $140 billion drug trade." There has been "so much violence the US ambassador to Mexico temporarily closed the Nuevo Laredo consulate." Tony Garza, US Ambassador to Mexico: "Some have said I ordered the shutdown to punish the Mexican government for its failure to control violence in the region. And in a sense that's true." Whitaker: "Ironically, the violence largely is a result of the crackdown by President Vicente Fox. His government has arrested thousands of drug traffickers, including kingpins, has killed others, triggering this bloodbath by gangsters further down the totem pole."

US, Mexican Officers Investigating Border Patrol Shooting. The New York Times (1/4, Thompson, 1.19M) reports, "The Mexican authorities are investigating the death of an 18-year-old Mexican man shot by a United States Border Patrol agent after he had illegally crossed the border into California." Border Patrol spokesman Todd Fraser said the agent had "come under attack by an assailant who was throwing rocks," and "fired back in self-defense." But "Mexican authorities…said the shooting reflected a growing hostility in the United States toward migrants. The authorities have used the shooting to draw attention to a law passed by Congress last month that would strengthen controls along the border and mandate the construction of miles of steel fences that Mexicans have likened to the Berlin Wall."

The Washington Times (1/4, Seper, 90K) reports, "Police officials in San Diego are investigating the shooting death of a Mexican national by a US Border Patrol agent, who fired a shot at the man after being targeted in a rock attack." San Diego police homicide Lt. Kevin Rooney "said the shooting occurred between two border fences and that the agent, who was checking a report of illegal border crossers in the area, arrived in a marked vehicle and saw a man 'holding a makeshift ladder as he stood near the northernmost fence.' He said the agent ran toward the migrant, who retreated to the south and 'scooped up what the agent believed to be several rocks.' 'As the agent unholstered his duty weapon, the male cocked his arm and made a throwing motion toward the agent. The agent fired at the male, who grabbed his arm and fled down a grade that leads to the primary border fence,' he said. A total of 218 rocking incidents occurred on the San Diego border last year, injuring more than a dozen agents."

Support For Increased AIDS Testing Proves Controversial. In his monthly column for the Washington Post (1/4, A17, 744K) Richard Holbrooke, former U.S. ambassador to the UN and president of the Global Business Coalition on HIV/AIDS, writes that last month, "While continuing to support increased funding for treatment of those who already have AIDS, I argued that far more emphasis should be put on detection and testing so that people learn their status and then, with counseling, change their behavior if they are HIV-positive, thus reducing the spread of the HIV virus. This may sound simple, even self-evident, to those not involved with the issue on a regular basis, but no column I have written for this newspaper provoked a greater reaction. To listen to some of the criticism you would think I had called for mandatory testing and quarantining of people with AIDS."

Rapid Liberalization Seen As More Successful Than Gradual Reforms. The Wall Street Journal's Mary Anastasia O'Grady (1/4) reports, "Is there any way to

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explain why it is that some countries have been able to restructure their economies so radically while others have been left in the clutches of special interests? The 2006 Index of Economic Freedom, published today by the Heritage Foundation and The Wall Street Journal, provides powerful clues. … Countries that liberalize quickly and thoroughly achieve resounding successes, politically and economically. Conversely, gradualism risks stagnation and even reversals, because the benefits are not evident enough to impress the electorate and generate a momentum in their favor." O'Grady adds, "This matters the most in democracies, where leadership needs to produce results if liberalization is to stick. Clearly, it's not the absolute income level that generates support for reforms but the growth in living standards that seems to hold the key. Halfhearted measures generate immense resentment from the 'losers' of the old system but often don't yield large enough gains to create a constituency to support the changes."

US Seen As Exacerbating Negative Global Energy Trends. The New York Times' Thomas Friedman (1/4) writes, "Look at all the global trends involving oil (or gas) today, and they are all bad. … The only force on the planet with the will and the way to neutralize their worst effects is America. But here's the rub: America's refusal to have a serious energy policy makes these problems only more severe, and its refusal to have a serious entitlement policy - reforming Social Security and Medicare before they totally devour the U.S. budget - is only going to sap America's ability to play the global governing role that is so necessary for world stability. To put it another way, our energy gluttony is strengthening the worst forces in the world and our entitlement gluttony is going to weaken our capacity to deal with those forces."

Bush's Management Of Foreign Policy In 2006 Examined. Frederick Kempe, in his "Thinking Global" column in the Wall Street Journal (1/4, 2.11M) writes a critical analysis of President Bush's management of foreign affairs in 2005. He says Bush, "in contrast to predecessor Bill Clinton, was to have been more disciplined both personally and in running his government." But, "the messy Iraq war aftermath, the botched Katrina hurricane response in New Orleans and the expanding U.S. deficit have raised global concerns about Oval Office management. 'What's in question is the traditional image of us as an effective country,' says Fred Bergsten of the Institute for International Economics." But Bush will benefit from an "unappreciated momentum flowing off 2005, a more successful year than most realize. And a dramatic 2005 shift of policy responsibility to Condoleezza Rice's State Department has also improved foreign-policy coordination and execution. That said, Mr. Bush faces an overcrowded agenda -- the schedule includes decisive challenges in Germany, Iraq, Ukraine, China, India, the United Nations and more -- that could make 2006 one of the most significant foreign-policy years since the Cold War."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"On A Scale Of Life Or Death."
"Former Force On Capitol Hill Admits Fraud."
"First Joyful News, Then A Tragedy About Miners."
"Two Head Coaches Prove Nice Guys Don't Finish Last."
"Abramoff Reached Beyond The Limits."
"Afro-Colombians Driven Off Land In Cocaine War."
"Gov. To Start Repaying Schools."

USA Today:
"Who's Your Granddaddy? Rose Basks In Big Game."
"Plea Deal Stokes Anxiety On Hill."
"Why Abramoff Matters."
"Poison Gas Kept Rescuers At Bay."

New York Times:
"Lobbyist Accepts Plea Deal."
"Iran To Resume Nuclear WOrk, Angering US."
"Agency First Acted On Its Own To Broaden Spying, Files Show."
"12 Miners Are Found Alive, Family Members Say."
"Students Return To Big Changes In New Orleans."

Washington Post:
"Abramoff Pleads Guilty To 3 Counts."
"Robbed At Gunpoint, Barry Harbors 'No Animosities'."
"Forums Yield Much Talk, Little Consensus."
"Law On Md. Mortuaries Has Guardian Angel At State House."
"Ex-Boss Demanded Sex, D.C. Parks And Recreation Workers Say."
"Case Bringing New Scrutiny To Lobbying."
"12 Miners Found Alive In West Virginia."
"DHS Boosts Risk In Grants; D.C. May Gain."

Washington Times:
"Redskins Fans Pay Top Dollar For Tickets."
"Women Start 1st Islamic Sorority."
"Abramoff Pleads Guilty."
"Fatal Shooting Of Mexican By Agent At Border Probed."
"Barry Robber At SE Home By Men He Helped."
"Tehran Will Restart Nuclear Fuel Research."
"Prescriptions Of Mind Altering Drugs For Teens Rise."

Detroit Free Press:
"Millen: I Share Your Pain."

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"Petty Criminals Fill Jails, Put Judges, Taxpayers In A Bind."
"Ford Leads In Recalled Vehicles; Toyota Up."
"HOw You And 19 Friends Can Be At The Big Game."
"Rescue Workers Find Body In Mine."

Atlanta Journal-Constitution:
"Miracle In Mine."
"Franklin Set To Build On Legacy."
"Sugar Bowl Of Electronics Shows Lights Up Las Vegas."
"Power Lobbyist Pleads Guilty."

Dallas Morning News:
"Hype Takes Back Seat As UT, USC Face Off."
"Abramoff's Plea Puts Congress In Crosshairs."
"Could DeLay Fall With Friend?"
"11 Of 12 Miners Said Alive Dead."

Houston Chronicle:
"Monumental Matchup."
"Lobbyist's Plea Deal May Rattle Congress."
"Bells Ring Out For 12 Rescued Miners."
"Can Competing Cadaver Exhibits Draw The Living."

Story Lineup From Last Night's Network News:
ABC: ABC: WV Mine Accident; Mine Safety; Abramoff Guilty Plea; Iran-Nuclear Program; Credit Card Payments; Homeland Security Funding; Iran-Cultural Changes.
CBS: WV Mine Accident; WV Mine Local Reaction; Mine Safety; Abramoff Plea Bargain; American Heroes; SUV Crash Study; TX Brushfires; CA Flooding; Mexico Drug Cartel Violence; WV Mine Update.
NBC: WV Coal Mine Accident; Coal Miners' Families; Mining Industry; Abramoff Plea Bargain; Congressmen-Abramoff; Risen Interview; Homeland Security Funds; TX Brushfires; Stock Markets; Statin Studies; Studying Pain.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: WV-mine rescue; Germany-ice rink collapse; Abramoff plea; Gas prices; Wall Street.
CBS: WV-mine rescue.
NPR: WV-mine rescue; Bush-Patriot Act; Russia, Ukraine-natural gas dispute; Wall Street; San Diego-city government reform efforts; NV-floods; CA-heavy rains; TX-wildfires.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH – Participates in Defense briefings, the Pentagon, closed press; makes a statement on the global war on terror, Pentagon. Pool coverage.

VICE PRESIDENT CHENEY – Speaks about Iraq and the war on terrorism, Heritage Foundation, 214 Massachusetts Ave. NE.

US Senate: No scheduled events.

US House: No scheduled events.

Other. ASSOCIATION OF AMERICAN LAW SCHOOLS _ The Association of American Law Schools holds their five day annual meeting. Workshops and plenary sessions for law professors, researchers and professionals. Topics will include the Iraqi Constitution, educational diversity, balancing life in law school, religious law, contracts, economics and international law. Location: Most events at Washington Marriott Wardman Park, 2660 Woodley Road NW.

ALITO-AFRICAN AMERICANS _ 8 a.m. Historically Black Colleges and Universities and law schools hold a forum on the Supreme Court nomination of Samuel Alito from the African American perspective. Location: 2nd floor, Building 39, UDC Law School, 4200 Connecticut Ave. NW.

ALITO-ITALIANS _ 10 a.m. The National Italian American Foundation holds an event in support of the Supreme Court nomination of Samuel Alito. Location: NIAF offices, 1860 19th St. NW.

ALITO-OPPOSITION _ 10 a.m. News conference in opposition of Supreme Court nominee Samuel Alito. With Kim Gandy, president, NOW; E. Faye Williams, president, National Congress of Black Women; and Eleanor Smeal, president, Feminist Majority Foundation. Location: National Press Club, Lisagor Room, 14th and F Sts. NW.

CHAMBER-ECONOMY _ 10 a.m. US Chamber of Commerce President Tom Donohue holds a news conference to announce the Chamber's 2006 policy priorities, economic forecast and legislative outlook. Location: 1615 H St. NW.

ALITO-OPPOSITION _ 11 a.m. People For the American Way and the Alliance for Justice hold a news briefing to release reports on the nomination of Samuel Alito to the Supreme Court. Location: Murrow Room, National Press Club, 14th and F Sts. NW.

PARTIAL-BIRTH ABORTION _ 11 a.m. Pro-choice groups hold a media teleconference in advance of the Supreme Court's decision whether or not to review Gonzales vs. Carhart, a legal challenge to the federal partial-birth abortion ban. With Vicki Sapporta, CEO, National Abortion Federation; Janet Crepps, attorney, Center for Reproductive Rights; Eve Gartner, attorney, Planned Parenthood; and Talcott Camp, deputy director, ACLU Reproductive Freedom Project. Contacts: Ken Goldman, 202-667-5881.

ALITO _ 12 p.m. The American Constitution Society for Law and Policy holds a forum on the nomination of Samuel Alito to the Supreme Court. With Sherrilyn Ifill, University of Maryland Law School; Dawn Johnsen, Indiana University School of Law; Neil Kinkopf, Georgia State University College of Law; and others. Location: Center for American Progress, 10th floor, 1333 H St. NW.

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GINGRICH _ 12:30 p.m. Former House Speaker Newt Gingrich speaks to the Rotary Club of Washington luncheon meeting. Location: Hotel Washington, 515 15th St. NW.

HUD-MORTGAGE SETTLEMENT _ 1 p.m. Housing and Urban Development General Counsel Keith Gottfried holds a teleconference to announce a legal settlement against a large national mortgage company. Contacts: Brian Sullivan, 202-708-0685.

MUTUAL FUNDS-SEC _ 2 p.m. - 3 p.m. Eugene Scalia, counsel to the U.S. Chamber of Commerce and partner, Gibson, Dunn and Crutcher, holds a media teleconference to review the Chamber's challenge to the SEC's rule requiring mutual funds to have an independent chair and 75% independent directors. Contacts: Linda Rozett, 202-463-5682.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, JANUARY 4, 2006 7:45 AM EST

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TERRORISM NEWS:

Secret Surveillance May Have Occurred Before Authorization (WP)

By Dafna Linzer

The Washington Post, January 4, 2006

Even before the White House formally authorized a secret program to spy on U.S. citizens without obtaining warrants, such eavesdropping was occurring and some of the information was being shared with the FBI, declassified correspondence and interviews with congressional and intelligence officials indicate.

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On Oct. 1, 2001, three weeks after the Sept. 11 terrorist attacks, Gen. Michael V. Hayden, who was running the National Security Agency at the time, told the House intelligence committee that the agency was broadening its surveillance authorities, according to a newly released letter sent to him that month by Minority Leader Nancy Pelosi (Calif.). Pelosi, the ranking Democrat on the committee, raised concerns in the letter, which was declassified with several redactions and made public yesterday by her staff.

"I am concerned whether and to what extent the National Security Agency has received specific presidential authorization for the operations you are conducting," Pelosi wrote on Oct. 11, 2001. The substance of Hayden's response one week later, on Oct. 17, 2001, was redacted.

The secret NSA program, developed in the immediate aftermath of the attacks on Washington and New York as a way to find any hidden al Qaeda operatives still in the United States, was authorized in October 2001, a senior administration official said.

The president and senior aides have publicly discussed various aspects of the program, but neither the White House, the NSA nor the office of the director of national intelligence would say what day the president authorized it. Don Weber, an NSA spokesman, said in an e-mail yesterday that it would be inappropriate to "discuss details which could potentially cause harm to the safety of our nation."

Pelosi's letter suggested that she and others on the committee first heard about expanded work by the NSA on Oct. 1, 2001, when Hayden briefed them on NSA activities.

"During your appearance before the committee," she wrote, "you indicated that you had been operating since the September 11 attacks with an expansive view of your authorities with respect to the conduct of electronic surveillance." The letter, while redacted in parts concerned with surveillance, made clear that the agency was "forwarding" intercepts and other collected information to the FBI. Two sources familiar with the NSA program said Pelosi was directly referring to information collected without a warrant on U.S. citizens or residents.

An intelligence official close to Hayden said that his appearance on Oct. 1, 2001, before the House committee had been to discuss Executive Order 12333, and not the new NSA program.

The order, signed by President Ronald Reagan in 1981, gave guidance and specific instructions about the intelligence activities that the U.S. government could engage in. It specifically prohibited domestic surveillance for intelligence purposes without a warrant "unless the Attorney General has determined in each case that there is probable cause to believe that the technique is directed against a foreign power or an agent of a foreign power."

The official said that Pelosi's concerns had been answered in writing and again several weeks later during a private briefing.

The NSA program operated in secret until it was made public in news accounts last month. Since then, President Bush and his advisers have defended it as legal and necessary to protect the country against future attacks and have said Congress was repeatedly consulted. But Democrats, some Republicans and constitutional law experts have raised concerns about whether Bush overstepped his constitutional authority and violated privacy laws meant to guard against the government spying on its own citizens without a warrant. The NSA's work, which is normally restricted to eavesdropping overseas, also angered judges on a special court that administers warrants for secret investigations.

New York Times reporter James Risen, who, with a colleague, was the first to write about the NSA program, released a book yesterday that includes details about the program and other intelligence issues facing the Bush administration.

Jennifer Millerwise Dyck, spokeswoman for the CIA, said the book contains inaccuracies about the CIA's work on Iran's nuclear program and Iraq, but she would not provide details.

Agency First Acted On Its Own To Broaden Spying, Files Show (NYT)

By Eric Lichtblau And Scott Shane

The New York Times, January 4, 2006

WASHINGTON, Jan. 3 - The National Security Agency acted on its own authority, without a formal directive from President Bush, to expand its domestic surveillance operations in the weeks after the Sept. 11 attacks, according to declassified documents released Tuesday.

The N.S.A. operation prompted questions from a leading Democrat, Representative Nancy Pelosi of California, who said in an Oct. 11, 2001, letter to a top intelligence official that she was concerned about the agency's legal authority to expand its domestic operations, the documents showed.

Ms. Pelosi's letter, which was declassified at her request, showed much earlier concerns among lawmakers about the agency's domestic surveillance operations than had been previously known. Similar objections were expressed by Senator John D. Rockefeller IV, Democrat of West Virginia, in a secret letter to Vice President Dick Cheney nearly two years later.

The letter from Ms. Pelosi, the House minority leader, also suggested that the security agency, whose mission is to eavesdrop on foreign communications, moved immediately after the Sept. 11 attacks to identify terror suspects at home by loosening restrictions on domestic eavesdropping.

The congresswoman wrote to Lt. Gen. Michael V. Hayden, then head of the N.S.A., to express her concerns after she and other members of the House and Senate Intelligence Committees received a classified briefing from General Hayden on Oct. 1, 2001, about the agency's operations.

Ms. Pelosi, then the ranking Democrat on the House Intelligence Committee, said, "I am concerned whether, and to what extent, the National Security Agency has received specific presidential authorization for the operations you are conducting."

The answer, General Hayden suggested in his response to Ms. Pelosi a week later, was that it had not. "In my briefing," he wrote, "I was attempting to emphasize that I used my authorities to adjust N.S.A.'s collection and reporting."

It is not clear whether General Hayden referred at the briefing to the idea of warrantless eavesdropping. Parts of the letters from Ms. Pelosi and General Hayden concerning other specific aspects of the spy agency's domestic operation were blacked out because they remain classified. But officials familiar with the uncensored letters said they referred to other aspects of the domestic eavesdropping program.

Bush administration officials said on Tuesday that General Hayden, now the country's No. 2 intelligence official, had acted on the authority previously granted to the N.S.A., relying on an intelligence directive known as Executive Order 12333, issued by President Ronald Reagan in 1981. That order set guidelines for the collection of intelligence, including by the N.S.A.

"He had authority under E.O. 12333 that had been given to him, and he briefed Congress on what he did under those authorities," said Judith A. Emmel, a spokeswoman for the Office of the Director of National Intelligence. "Beyond that, we can't get into details of what was done."

In 2002, President Bush signed an executive order specifically authorizing the security agency to eavesdrop without warrants on the international communications of Americans inside the United States who the agency believed were connected to Al Qaeda. The disclosure of the domestic spying program last month provoked an outcry in Washington, where Congressional hearings are planned.

General Hayden's October 2001 briefing was one of the first glimpses into the expanded but largely hidden role that the N.S.A. would assume in combating terrorism over the last four years.

In the briefing, Ms. Pelosi wrote to General Hayden, "you indicated that you had been operating since the Sept. 11 attacks with an expansive view of your authorities" with respect to electronic surveillance and intelligence-gathering operations.

"You seemed to be inviting expressions of concern from us, if there were any," Ms. Pelosi wrote, but she said that the lack of specific information about the agency's operations made her concerned about the legal rationale used to justify it.

One step that the agency took immediately after the Sept. 11 attacks, Ms. Pelosi wrote in her letter, was to begin forwarding information from foreign intelligence intercepts to the F.B.I. for investigation without first receiving a specific request from the bureau for "identifying information."

In the past, under so-called minimization procedures intended to guard Americans' privacy, the agency's standard practice had been to require a written request from a government official who wanted to know the name of an American citizen or a person in the United States who was mentioned or overheard in a wiretap.

In the weeks after the Sept. 11 attacks, the agency began monitoring telephone calls and e-mail messages between the United States and Afghanistan to track possible terror suspects. That program led to the broader eavesdropping operation on other international communications, officials have said.

The agency has also tapped into some of the nation's main telecommunications arteries to trace and analyze large volumes of phone and e-mail traffic to look for patterns of possible terrorist activity.

Marc Rotenberg, director of the Electronic Privacy Information Center, said the new documents, along with previous reports of objections to the program from Senator Rockefeller and James B. Comey, the former deputy attorney general, underscored the need for a comprehensive investigation.

"There's an increasing picture of concern, if not outright opposition, within the government," Mr. Rotenberg said. "But we can't second-guess anyone's actions on a document-by-document basis," particularly if the documents are released only in part, he added.

The way the N.S.A.'s role has expanded has prompted concern even from some of its former leaders, like Bobby R. Inman, a retired admiral who was N.S.A. director from 1977 to 1981. Admiral Inman said that while he supported the decision to step up eavesdropping against potential terrorists immediately after the 2001 attacks, the Bush administration should have tried to change the Foreign Intelligence Surveillance Act to provide explicit legal authorization for what N.S.A. was doing.

"What I don't understand is why when you're proposing the Patriot Act, you don't set up an oversight mechanism for this?" Admiral Inman said in an interview. "I would have preferred an approach to try to gain legislation to try to operate with new technology and with an audit of how this technology was used."

Intelligence Panel Had Clue About Spying (AP)

By Katherine Shrader

The Associated Press, January 4, 2006

WASHINGTON -- Congressional intelligence committees had at least a hint in October 2001 that the National Security Agency was expanding its surveillance activities after the 9/11 attacks, according to a letter released Tuesday by House Minority Leader Nancy Pelosi.

The California Democrat had raised questions to Gen. Michael Hayden, then the NSA director, about the legal authority to conduct the eavesdropping work.

In the October 2001 letter, Pelosi said she was told in a briefing that month that the agency "had been operating since the Sept. 11 attacks with an expansive view" of its authorities "to the conduct of electronic surveillance under the Foreign Intelligence Surveillance Act and related statutes, orders, regulations and guidelines."

"I am concerned whether, and to what extent, the National Security Agency has received specific presidential authorization for the operations you are conducting," Pelosi, then the top Democrat on the intelligence panel, wrote Hayden.

President Bush has acknowledged he authorized the NSA to eavesdrop -- without warrants -- on international calls and e-mails of Americans and others inside the United States with suspected ties to al-Qaida or its affiliates.

"I can say that if somebody from al-Qaida is calling you, we'd like to know why," Bush said this week. "This program is conscious of people's civil liberties, as am I."

Bush and other senior officials have said he personally renewed the program more than three dozen times since October 2001, and a small group of Congress members was briefed on the highly classified effort.

But it appears that Hayden may have at least alluded broadly to the new surveillance work with a wider audience of House and Senate intelligence committee members during the classified October briefing. According to Pelosi's letter, Hayden spoke about the agency's new posture to expand its operations.

Hayden, who is now the nation's No. 2 intelligence official, told Pelosi he wanted to clarify ambiguities. "In my briefing, I was attempting to emphasize that I used my authorities to adjust NSA's collection and reporting," he wrote on Oct. 18, 2001.

The subsequent crucial sentences of the letter, released Tuesday, were blocked out for security reasons.

Key parts of Pelosi's letter were also withheld. For instance, one sentence indicates that the NSA was forwarding intercepts and other undisclosed information to the FBI without first getting a request.

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A series of independent commissions have encouraged national security agencies to improve cooperation. But it is far from clear in the letter how this work may be happening.

Said Steven Aftergood, a government secrecy expert with the Federation of American Scientists: "It does seem that the NSA is doing something different and in a different way than what it has done before."

On The Subject Of Leaks (NYT)

The New York Times, January 4, 2006

Given the Bush administration's appetite for leak investigations (three are under way), this seems a good moment to try to clear away the fog around this issue.

A democratic society cannot long survive if whistle-blowers are criminally punished for revealing what those in power don't want the public to know - especially if it's unethical, illegal or unconstitutional behavior by top officials. Reporters need to be able to protect these sources, regardless of whether the sources are motivated by policy disputes or nagging consciences. This is doubly important with an administration as dedicated as this one is to extreme secrecy.

The longest-running of the leak cases involves Valerie Wilson, a covert C.I.A. operative whose identity was leaked to the columnist Robert Novak. The question there was whether the White House was using this information in an attempt to silence Mrs. Wilson's husband, a critic of the Iraq invasion, and in doing so violated a federal law against unmasking a covert operative. There is a world of difference between that case and a current one in which the administration is trying to find the sources of a New York Times report that President Bush secretly authorized spying on American citizens without warrants. The spying report was a classic attempt to give the public information it deserves to have. The Valerie Wilson case began with a cynical effort by the administration to deflect public attention from hyped prewar intelligence on Iraq. The leak inquiry in that case ended up targeting the press, and led to the jailing of a Times reporter.

When the government does not want the public to know what it is doing, it often cites national security as the reason for secrecy. The nation's safety is obviously a most serious issue, but that very fact has caused this administration and many others to use it as a catchall for any matter it wants to keep secret, even if the underlying reason for the secrecy is to prevent embarrassment to the White House. The White House has yet to show that national security was harmed by the report on electronic spying, which did not reveal the existence of such surveillance - only how it was being done in a way that seems outside the law.

Leak investigations are often designed to distract the public from the real issues by blaming the messenger. Take the third leak inquiry, into a Washington Post report on secret overseas C.I.A. camps where prisoners are tortured or shipped to other countries for torture. The administration said the reporting had damaged America's image. Actually, the secret detentions and torture did that.

Illegal spying and torture need to be investigated, not whistle-blowers and newspapers.

The Spy Plan's Spoiler (LAT)

The Los Angeles Times, January 4, 2006

JAMES B. COMEY CAN HARDLY be considered soft on terrorism. As deputy attorney general, he has been one of the Bush administration's chief prosecutors of the war on terror, pursuing accused bombers and terrorists from Riyadh to Chicago. So his refusal to approve the administration's warrantless wiretaps of Americans cannot simply be dismissed as the rantings of an Al Qaeda apologist.

But Comey's objections, made in 2004 and first reported Sunday in the New York Times, do more than rob the president and his defenders of one of their favorite arguments. The article was based on the accounts of unnamed administration officials, and Comey isn't giving the reasons for his opposition to the National Security Agency's domestic surveillance program. But they're easy to guess.

First, the program is unnecessary. There is already a special court to approve wiretaps of suspected terrorists, and it is notoriously obliging; in 2004, it received 1,758 requests for warrants and denied none of them. It often issues such warrants within hours and can approve them after the fact. (Details about the court's activities are secret.) And the Patriot Act, almost all of which has been renewed, gives law enforcement extraordinary powers to fight terrorists.

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Second, the program is probably illegal. The Foreign Intelligence Surveillance Act, which created that special court, specifically allows warrantless surveillance in the case of war, but for only 15 days after that war has been declared. If it had to conduct such surveillance for longer than that — Congress authorized the use of force, which is tantamount to a declaration of war, one week after 9/11 — the executive branch would need to change the law.

The administration has a novel response to this argument: We're at war, and we don't have time to obey the law. Or, as an assistant attorney general put it in a letter to Congress last month: We were worried that the special court that grants secret warrants would not do so with sufficient "speed and agility," and "any legislative change" to amend the system "would have tipped off our enemies." So the administration went ahead with its spying program anyway.

Last, and most important, the NSA's surveillance program is an affront to the American system of checks and balances — and Americans' right to privacy as guaranteed by the 4th Amendment. The president fails to grasp this point. Asked Sunday what he'd say to Americans worried about violations of their privacy, Bush responded with a breathtaking non sequitur. "If somebody from Al Qaeda is calling you," he said, "we'd like to know why."

So, no doubt, would James Comey. But at least he understands that, even in a time of war, the government is not free to simply tap your phone to find out who's calling you and why.

FISA Fallacies (NRO)

By Rich Lowry

National Review Online, January 4, 2006

Is it written somewhere that the Constitution can be violated only by the president? One would think so, given the debate over the secret National Security Agency program to monitor, without court approval, calls between suspected al Qaeda operatives overseas and people in the United States. Opponents of the program say President Bush has trashed the Constitution, in particular the Fourth Amendment's prohibition against unreasonable searches.

The Constitution, however, doesn't exist solely to constrain the executive, as those braying about the NSA wiretaps seem to suggest. It confers powers on the executive as well as limiting them. If those powers are abridged by another branch of the government, the Constitution is being violated — and not, obviously, by the president.

Thus, only one player so far in the NSA controversy has been held by a court to have probably violated the constitution, and he's a judge. Judge James Robertson resigned from the Foreign Intelligence Surveillance Act court — the secret court that approves domestic wiretaps related to national security — to protest the NSA program, making him something of a cause celebre among Bush bashers. But he's an odd hero, given that his contribution to the debate over the executive's surveillance power was a flagrant error.

In a 2002 decision, Judge Robertson and others on the FISA court imposed restrictions on the Bush administration's conduct of foreign-intelligence investigations that weren't mandated by the language of the 1978 FISA statute, and that had been explicitly made unnecessary by the 2001 Patriot Act. The Bush administration appealed, and the FISA court of review issued a stinging rebuke to Robertson, et al.

The court of review, apparently a stickler for such things, said the FISA "court did not provide any constitutional basis for its action — we think there is none — and misconstrued the main statutory provision on which it relied." Besides that, it was world-class jurisprudence. By effectively trying to micromanage the Justice Department, the decision continued, "the FISA court may well have exceeded [its] constitutional bounds."

Would that the court could permanently monitor the debate over the NSA program. Democrats who argue that Bush has abused the Constitution are, like Judge Robertson, themselves Constitution-abusers. The president has the authority under Article II of the Constitution to defend the United States. If he can bomb the nation's enemies overseas without a court's approval, he certainly can listen to their conversations. (FISA, which requires a special warrant for foreign-intelligence surveillance in the U.S., doesn't apply abroad, making cross-border calls a murky area).

Every administration, liberal or conservative, has claimed this warrantless surveillance power, and no court has ever denied it. The FISA court of review explained, citing the 14th Circuit's 1980 decision in a case involving the surveillance of a Vietnamese spy named David Truong, "The Truong court, as did all the other courts to have decided the issue, held that the President did

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have inherent authority to conduct warrantless searches to obtain foreign intelligence information." The court added, "We take it for granted that the President does have that authority."

The court in the Truong case noted that the executive "not only has superior expertise in the area of foreign intelligence, it is also constitutionally designated as the pre-eminent authority in foreign affairs." And the Constitution's framers knew what they were about, according to the Truong court: "Attempts to counter foreign threats to the national security require the utmost stealth, speed and secrecy. A warrant requirement would add a procedural hurdle that would reduce the flexibility of executive foreign-intelligence initiatives."

That argument rings all the truer in the Age of al Qaeda, when a fast-moving, amorphous enemy operates both outside and within U.S. borders. Like it or not, the president has the constitutional authority to wage the war on terror. His detractors don't like it, so they pretend the authority doesn't exist, and trample on the Constitution in the process.

— Rich Lowry is author of Legacy: Paying the Price for the Clinton Years.

Domestic Spying: Independent Look (SEAPI)

By SEATTLE POST-INTELLIGENCER EDITORIAL BOARD

Seattle Post-Intelligencer, January 4, 2006

It's hard to imagine that the Republican-led Congress is up to the job of unraveling the Bush administration's spying scandal. There's no other truly proper forum, however.

At least in theory, some of the work could start in the Justice Department. As the American Civil Liberties Union has suggested, Attorney General Alberto Gonzales should appoint an independent counsel to look at possible crimes in the warrantless monitoring of Americans' communications.

But that appears unlikely. Instead, Gonzales' Justice Department has shamelessly launched an investigation to find who tipped The New York Times and the public to President Bush's approval of the wiretaps. Worse, Gonzales himself was involved in the spying decisions while serving as White House counsel. The Times reported that Gonzales, in March 2004, went to a hospital to try to talk then-Attorney General John Ashcroft into setting aside his chief deputy's objections to the National Security Agency's domestic surveillance.

John Dean, the White House counsel whose testimony helped bring down President Nixon, has written on FindLaw.com about the parallels between Bush's activities and those during the Nixon administration. Both presidents committed impeachable offenses, he argued.

The Senate seems ready to look at the administration's dubious claims that Bush violated neither the law nor the Constitution. But the House of Representatives, where impeachment proceedings begin, ought to take the lead in determining whether to hold the president accountable.

U.S. To Seek Dismissal Of Guantánamo Suits (NYT)

By Neil A. Lewis

The New York Times, January 4, 2006

WASHINGTON, Jan. 3 - The Bush administration notified federal trial judges in Washington that it would soon ask them to dismiss all lawsuits brought by prisoners at Guantánamo Bay, Cuba, challenging their detentions, Justice Department officials said Tuesday.

The action means that the administration is moving swiftly to take advantage of an amendment to the military bill that President Bush signed into law last Friday. The amendment strips federal courts from hearing habeas corpus petitions from Guantánamo detainees.

On Tuesday, the Justice Department sent notices to all the federal judges in Washington who have cases involving challenges brought by Guantánamo inmates, informing them of the new amendment. The officials said the department would file formal notices within several days asking the judges to dismiss more than 160 cases involving at least 300 detainees.

If the administration wins its argument it would mean an abrupt end to a wide effort by dozens of lawyers to use the right of habeas corpus in federal courts to challenge the imprisonment of suspected terrorists at Guantánamo as enemy combatants.

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The administration had selected Guantánamo as the site for a detention camp for terrorism suspects in the expectation that its actions would not be subject to review by federal courts. But in June 2004, the Supreme Court ruled that the naval base at Guantánamo was not outside the jurisdiction of United States law and that the habeas corpus statute that allows prisoners to challenge their detentions was applicable.

The challenges were brought in various district courts in Washington. After some federal judges disagreed over the meaning of the Supreme Court ruling, the United States Court of Appeals for the District of Columbia Circuit took up the issue, and during arguments in September, the appeals judges seemed skeptical of the administration's contentions.

In addition to arguing in court, the administration separately pressed its case in Congress and found a strong ally in Senator Lindsey Graham, Republican of South Carolina, who said the challenges brought by Guantánamo inmates were frivolous and were clogging the courts. Mr. Graham, along with Senators Carl Levin, Democrat of Michigan, and Jon Kyl, Republican of Arizona, sponsored the amendment to the Defense Act eliminating habeas corpus jurisdiction in federal courts.

The amendment instead allows the District of Columbia appellate court to review the results of military tribunals at Guantánamo in which the prisoners were found to have been properly deemed imprisoned as enemy combatants.

Administration critics have complained that the tribunals at Guantánamo, in which panels of three officers decide whether a prisoner is an enemy combatant, are unfair in several respects. The prisoners are not represented by lawyers and they often may not see evidence used against them for national security reasons.

Tasia Scolinos, the Justice Department spokeswoman, said the detainees had ample opportunity to be heard.

"We are aware of no other country that has provided their enemies with such extensive legal review during an ongoing conflict," Ms. Scolinos said. "Detainees are entitled to legal review both within the military system and to the highest civilian courts in the country."

The Justice Department requests asking the district judges to dismiss all the habeas corpus petitions are expected to be challenged by lawyers for the detainees, making it likely that the issue will be resolved by the appeals court or the Supreme Court.

Although the courts and Congress are co-equal branches of government, the Constitution allows Congress to define the scope of jurisdiction for all federal courts below the Supreme Court.

Justice To Try To Toss Gitmo Challenges (LAT/AP)

By Mark Sherman, Associated Press Writer

The Los Angeles Times, January 4, 2006

WASHINGTON — The Justice Department will seek dismissal of lawsuits from more than 300 Guantanamo Bay detainees fighting the legality of their confinement, using a new law that the Bush administration says sharply limits existing challenges. Advocates for detainees quickly registered their opposition Tuesday.

The measure, part of the Defense Appropriations Act that President Bush signed last week, was intended to allow detainees at the U.S. naval base in Cuba to appeal their detention status and punishments to a federal appeals court in Washington.

That avenue replaces the one tool the Supreme Court gave detainees in 2004 to fight the legality of their detentions -- the right to file habeas corpus lawsuits, which demand that the government justify someone's continued imprisonment, in any federal court.

The new provision won broad support only after its chief Democratic sponsor, Sen. Carl Levin of Michigan, said it had been altered so it would not apply to pending cases.

But on Tuesday, the Justice Department notified judges at U.S. District Court in Washington that it will ask them to dismiss 187 cases involving more than 300 people because the law eliminates the jurisdiction of district courts to consider the legality of detentions at the naval base.

The decision to try to stop pending cases in their tracks drew an immediate rebuke from advocates for the detainees, who said the provision should apply only to new challenges. "The battle about what that provision means has only just begun," said Elisa Massimino, director of the Washington office of Human Rights First.

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Many of the 500 or so prisoners held at Guantanamo were captured in Afghanistan and have been detained for several years without being charged.

Since the Supreme Court ruling, prisoner lawsuits against the government have piled up.

Administration officials and supportive lawmakers have argued that the United States gives the detainees unprecedented access to U.S. courts, in some cases more than U.S. military personnel who have been convicted of crimes by military courts.

Under the new law, detainees still may appeal their classification as enemy combatants or their conviction by a military commission to the U.S. Court of Appeals for the District of Columbia.

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On the Net:

Justice Department: http://www.usdoj.gov

Human Rights First: http://www.humanrightsfirst.org

Dismissal Of Terror Detainee Cases Sought (REU)

By Deborah Charles

Reuters, January 4, 2006

WASHINGTON (Reuters) - The U.S. Justice Department will seek to dismiss more than 180 cases involving inmates at Guantanamo Bay who have challenged their detention in court, court documents showed on Tuesday.

The department filed a notice to judges presiding over the cases at the U.S. District Court in Washington to advise them that by the end of next week the Justice Department would file official motions to dismiss the cases.

The notice comes a week after President George W. Bush signed new legislation banning cruel and inhumane treatment of prisoners. The anti-torture law also curbs the ability of prisoners being held at the U.S. Naval Base in Cuba to challenge their detention in federal court.

The legislation requiring humane treatment of detainees in U.S. custody was originally opposed by the White House. But Bush backed off his original veto threats after Congress voted overwhelmingly to support the amendment, pushed by Sen. John McCain, an Arizona Republican who was a prisoner of war in Vietnam.

In a concession to the White House, the bill limits prisoners from going to lower-level civilian courts for relief from confinement. They can only go to an appeals court once they have gone through a military court process.

PRISONER LAWSUITS

The United States has faced criticism at home and abroad for treatment of prisoners at Guantanamo and for holding prisoners indefinitely. Only nine of about 500 prisoners being held at the base have been charged, and the United States has been holding prisoners there since January 2002.

Hundreds of prisoners have filed lawsuits in civilian courts to protest their confinement or to protest conditions of confinement. While some have protested their confinement in general, others have sued over the type of Koran they have been given while others want access to DVDs, a Justice Department official said.

The Center for Constitutional Rights, which represents many of the detainees who have sued in civilian court, has criticized the anti-torture law for eliminating prisoners' access to the U.S. judicial system.

But the Justice Department official, who declined to be identified, said detainees still had the right to appeal, they just had to wait until the military process was completed.

"It affords more judicial review in civilian court than we afford our own military convicted of crimes," the official said.

Panels of military officers, formally called commissions, were due this month to hold hearings in the first U.S. war crimes trials since World War Two. The Pentagon has promised "full and fair" proceedings.

Human rights activists and military defense lawyers have criticized the military commission rules, saying they favor prosecutors, allow hearsay and evidence obtained through torture.

Bush Could Bypass New Torture Ban (BOS)

By Charlie Savage

The Boston Globe, January 4, 2006

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WASHINGTON -- When President Bush last week signed the bill outlawing the torture of detainees, he quietly reserved the right to bypass the law under his powers as commander in chief.

After approving the bill last Friday, Bush issued a "signing statement" -- an official document in which a president lays out his interpretation of a new law -- declaring that he will view the interrogation limits in the context of his broader powers to protect national security. This means Bush believes he can waive the restrictions, the White House and legal specialists said.

"The executive branch shall construe [the law] in a manner consistent with the constitutional authority of the President . . . as Commander in Chief," Bush wrote, adding that this approach "will assist in achieving the shared objective of the Congress and the President . . . of protecting the American people from further terrorist attacks."

Some legal specialists said yesterday that the president's signing statement, which was posted on the White House website but had gone unnoticed over the New Year's weekend, raises serious questions about whether he intends to follow the law.

A senior administration official, who spoke to a Globe reporter about the statement on condition of anonymity because he is not an official spokesman, said the president intended to reserve the right to use harsher methods in special situations involving national security.

"We are not going to ignore this law," the official said, noting that Bush, when signing laws, routinely issues signing statements saying he will construe them consistent with his own constitutional authority. "We consider it a valid statute. We consider ourselves bound by the prohibition on cruel, unusual, and degrading treatment."

But, the official said, a situation could arise in which Bush may have to waive the law's restrictions to carry out his responsibilities to protect national security. He cited as an example a "ticking time bomb" scenario, in which a detainee is believed to have information that could prevent a planned terrorist attack.

"Of course the president has the obligation to follow this law, [but] he also has the obligation to defend and protect the country as the commander in chief, and he will have to square those two responsibilities in each case," the official added. ''We are not expecting that those two responsibilities will come into conflict, but it's possible that they will."

David Golove, a New York University law professor who specializes in executive power issues, said that the signing statement means that Bush believes he can still authorize harsh interrogation tactics when he sees fit.

"The signing statement is saying 'I will only comply with this law when I want to, and if something arises in the war on terrorism where I think it's important to torture or engage in cruel, inhuman, and degrading conduct, I have the authority to do so and nothing in this law is going to stop me,' " he said. "They don't want to come out and say it directly because it doesn't sound very nice, but it's unmistakable to anyone who has been following what's going on."

Golove and other legal specialists compared the signing statement to Bush's decision, revealed last month, to bypass a 1978 law forbidding domestic wiretapping without a warrant. Bush authorized the National Security Agency to eavesdrop on Americans' international phone calls and e-mails without a court order starting after the terrorist attacks of Sept. 11, 2001.

The president and his aides argued that the Constitution gives the commander in chief the authority to bypass the 1978 law when necessary to protect national security. They also argued that Congress implicitly endorsed that power when it authorized the use of force against the perpetrators of the attacks.

Legal academics and human rights organizations said Bush's signing statement and his stance on the wiretapping law are part of a larger agenda that claims exclusive control of war-related matters for the executive branch and holds that any involvement by Congress or the courts should be minimal.

Vice President Dick Cheney recently told reporters, "I believe in a strong, robust executive authority, and I think that the world we live in demands it. . . . I would argue that the actions that we've taken are totally appropriate and consistent with the constitutional authority of the president."

Since the 2001 attacks, the administration has also asserted the power to bypass domestic and international laws in deciding how to detain prisoners captured in the Afghanistan war. It also has claimed the power to hold any US citizen Bush designates an "enemy combatant" without charges or access to an attorney.

And in 2002, the administration drafted a secret legal memo holding that Bush could authorize interrogators to violate antitorture laws when necessary to protect national security. After the memo was leaked to the press, the administration

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eliminated the language from a subsequent version, but it never repudiated the idea that Bush could authorize officials to ignore a law.

The issue heated up again in January 2005. Attorney General Alberto Gonzales disclosed during his confirmation hearing that the administration believed that antitorture laws and treaties did not restrict interrogators at overseas prisons because the Constitution does not apply abroad.

In response, Senator John McCain, Republican of Arizona, filed an amendment to a Defense Department bill explicitly saying that that the cruel, inhuman, and degrading treatment of detainees in US custody is illegal regardless of where they are held.

McCain's office did not return calls seeking comment yesterday.

The White House tried hard to kill the McCain amendment. Cheney lobbied Congress to exempt the CIA from any interrogation limits, and Bush threatened to veto the bill, arguing that the executive branch has exclusive authority over war policy.

But after veto-proof majorities in both houses of Congress approved it, Bush called a press conference with McCain, praised the measure, and said he would accept it.

Legal specialists said the president's signing statement called into question his comments at the press conference.

"The whole point of the McCain Amendment was to close every loophole," said Marty Lederman, a Georgetown University law professor who served in the Justice Department from 1997 to 2002. "The president has re-opened the loophole by asserting the constitutional authority to act in violation of the statute where it would assist in the war on terrorism."

Elisa Massimino, Washington director for Human Rights Watch, called Bush's signing statement an "in-your-face affront" to both McCain and to Congress.

"The basic civics lesson that there are three co-equal branches of government that provide checks and balances on each other is being fundamentally rejected by this executive branch," she said.

"Congress is trying to flex its muscle to provide those checks [on detainee abuse], and it's being told through the signing statement that it's impotent. It's quite a radical view."

Experts: London Bombings Cost About $2,000 (AP)

By Tariq Panja

The Associated Press, January 4, 2006

LONDON — The suicide bombings that killed 52 people on London's transit system in July were a relatively low-cost operation, security experts said Tuesday.

"I think the London bombings, including buying the train tickets and conducting reconnaissance, were done for no more than 1,200" pounds, or about $2,000, independent defense and security expert Paul Beaver told The Associated Press.

Terrorism financing expert Loretta Napoleoni said the bombings were relatively inexpensive largely because the four bombers were homegrown, living with their families in towns north of London and traveling to their targets using a rental car and a train.

"They were just a group of friends who lived at home," she said. "Their only costs were the homemade explosives and the traveling costs to London."

The British Broadcasting Corp. reported Tuesday that police believe the attacks cost "no more than several hundred pounds."

Police have said the four used inexpensive, peroxide-based explosives. But they would not specify the estimated cost of the attack until they had completed the investigation into the "wider circumstances of how the attack was funded," police said Tuesday.

The BBC also reported that investigators believe teaching assistant Mohammad Sidique Khan, 30, was the group's chief's financier. He died in the attacks, along with the three other suspected bombers: Hasib Hussain, an unemployed 18-year-old; Lindsey Germaine, 19, whose occupation was unclear; and Shehzad Tanweer, 22, who helped out at his family's fish-and-chips shop.

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Neither Beaver nor Napoleoni included in their estimates the costs of some suspects' travel to Pakistan, which has become a subject of the investigation.

Al-Qaida deputy leader Ayman al-Zawahri said in a statement broadcast in September that his terror network carried out the London bombings. Counterterrorism experts have not confirmed the link.

An August 2004 United Nations report said that al-Qaida had spent less than $50,000 on each of its major attacks since Sept. 11, 2001, including bombings in Bali, Madrid and Istanbul. Sanctions and other measures to block the group's funding had only "limited impact" on preventing attacks, the report said.

PATRIOT ACT:

Bush Pushes For Patriot Act Renewal (AP)

By Jennifer Loven

The Associated Press, January 4, 2006

WASHINGTON — As the clock runs on Congress' short-term extension of the Patriot Act, President Bush met with federal prosecutors Tuesday and contended that the domestic anti-terror law is vital to keeping Americans safe.

Many key provisions of the law were to expire Dec. 31. Amid a debate over whether the act sufficiently protects civil liberties, most Senate Democrats and a few Republicans united against legislation that would have renewed several provisions permanently while extending others for four years.

In a move the White House adamantly opposed but later accepted, Congress approved a one-month extension of the law in its current form to allow the debate to continue. The new measure expires Feb. 3.

Bush, his voice rising in apparent irritation, said lawmakers must act on a permanent renewal of the law that expanded the government's surveillance and prosecutorial powers against suspected terrorists, their associates and financiers. Noting the Patriot Act was overwhelmingly approved not long after the 2001 terrorist attacks on New York and Washington, he said political considerations now were getting in the way.

"When it came time to renew the act, for partisan reasons, in my mind, people have not stepped up and have agreed that it's still necessary to protect the country," said the president, sitting at a table in the Roosevelt Room with federal officials and 19 district attorneys from around the country.

"The enemy has not gone away. They're still there. And I expect Congress to understand that we're still at war, and they got to give us the tools necessary to win this war," he said.

Later, outside the West Wing, district attorneys cited several cases in which the Patriot Act had played a crucial role, from staging an undercover sting on California weapons dealers attempting to sell Stinger missiles to securing convictions of major terrorist financiers in New York.

"We use it each and every day to protect our country against terrorists and criminals," said Ken Wainstein, district attorney for the District of Columbia.

"We believe this provides adequate safeguards in every respect," said Mary Beth Buchanan, the district attorney for the Western District of Pennsylvania.

Sen. Russ Feingold, D-Wis., said Bush should spend more time negotiating about the Patriot Act with Democrats and others on Capitol Hill and less on "staged meetings with hand-picked participants" at the White House.

"Contrary to the president's misleading comments, nobody wants to see the Patriot Act expire," Feingold said. "We want commonsense changes to the act that would give the government the power to combat terrorism while protecting the rights and freedoms of law-abiding citizens."

The White House event drew 19 of the country's 93 U.S. attorneys. They were contacted by officials at the Justice Department to attend, Wainstein said.

Among the provisions the renewal would make permanent are those that allow roving wiretaps so that investigators can listen in on any telephone and tap any computer they think a terrorist might use.

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Bush Steps Up Bid To Renew Patriot Act (WT)

By Joseph Curl

The Washington Times, January 4, 2006

President Bush yesterday began to pressure lawmakers into renewing the Patriot Act, meeting in the Oval Office with 19 U.S. attorneys, some of whom cited specific cases in which the anti-terror law protected Americans from attack.

Key provisions of the Patriot Act were to expire Dec. 31, but after an acrimonious civil liberties debate, Senate Democrats who had threatened to filibuster renewal allowed an extension of the law only through Feb. 3.

"This Patriot Act was passed overwhelmingly by the United States Congress in 2001," the president told reporters yesterday. "And now, when it came time to renew the act, for partisan reasons, in my mind, people have not stepped up and have agreed that it's still necessary to protect the country.

"The enemy has not gone away -- they're still there. And I expect Congress ... to give us the tools necessary to win this war. ... The American people expect to be protected, and the Patriot Act is a really important tool for them to stay protected," Mr. Bush said.

After the meeting, several U.S. attorneys cited cases in which the act had enabled law-enforcement agents to thwart attacks, from staging an undercover sting on California weapons dealers attempting to sell Stinger missiles, to securing convictions of major terrorist financiers in New York.

"We told him that we use it each and every day to protect our country against terrorists and criminals," said Kenneth L. Wainstein, U.S. attorney for the District of Columbia.

Roslynn Mauskopf, U.S. attorney for the Eastern District of New York, said the law was instrumental in convicting two persons of funneling $20 million to the terror groups al Qaeda and Hamas.

The Patriot Act, enacted after the September 11, 2001, terrorist attacks, expanded the authority of the federal government to conduct secret searches, obtain private records and intercept telephone calls to track suspected terrorists.

But Senate Democrats -- and a handful of Republicans -- opposed extension of the Patriot Act after the revelation last month that Mr. Bush authorized the National Security Agency to monitor international calls among suspected terror group members, including al Qaeda.

The White House yesterday condemned Senate Democrats for playing politics.

"They were engaging in obstructionist tactics to try to kill the Patriot Act, as they said in their own words," Bush spokesman Scott McClellan said, noting that Senate Minority Leader Harry Reid, Nevada Democrat, had boasted "about killing the Patriot Act."

Sen. Russell D. Feingold, Wisconsin Democrat, said Mr. Bush should spend more time negotiating about the Patriot Act with Democrats and others on Capitol Hill and less on "staged meetings with hand-picked participants" at the White House.

"We want common-sense changes to the act that would give the government the power to combat terrorism while protecting the rights and freedoms of law-abiding citizens," Mr. Feingold said.

Bush, Prosecutors Push Patriot Act (USAT)

By David Jackson

USA Today, January 4, 2006

WASHINGTON — President Bush fired the first shot in the renewed battle over the USA Patriot Act, hosting on Tuesday a group of federal prosecutors who said the soon-to-expire law helped solve major crimes.

“These good folks have used the Patriot Act to protect America,” Bush said. He accused Senate Democrats of blocking reauthorization of the law for “partisan reasons.”

The Patriot Act, passed after the 9/11 attacks to give law enforcement extra powers to track terrorism suspects, expires Feb. 3. Bush wants to make it permanent.

Bush-appointed U.S. attorneys from 14 states and the District of Columbia said the law has helped them crack cases involving terrorist finances, weapons exchanged for drugs, and child abductions.

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Senate Democrats who blocked renewal late last year, such as Patrick Leahy of Vermont, said they support the law but want to make sure civil liberties are protected.

Four Republican senators joined Democrats in blocking renewal of the law: Larry Craig of Idaho, John Sununu of New Hampshire, Lisa Murkowski of Alaska and Chuck Hagel of Nebraska. The Senate GOP leadership agreed to a six-month extension. The GOP-led House of Representatives later cut that extension to five weeks from its original expiration date of Dec. 31.

The House is not scheduled to reconvene until Jan. 31, just three days before the Patriot Act expires.

The coming debate could well focus on other issues, particularly disclosures that the Bush administration approved domestic wiretapping without warrants of people suspected of links to terrorism.

In voting to block renewal, Sen. Charles Schumer, D-N.Y., said the revelation "greatly influenced my vote."

Michael Greenberger, director of the Center for Health and Homeland Security at the University of Maryland, said Bush may be aiming to pressure the four dissenting Republicans. But he said controversy over the warrantless surveillance program could make renewing the Patriot Act "an uphill task." Even Republicans such as Senate Judiciary Committee Chairman Arlen Specter of Pennsylvania called the spying inappropriate.

U.S. Attorney Roslynn Mauskopf, from New York, said the Patriot Act enabled her office to convict two men of funneling $20 million to terrorist groups.

U.S. Attorney Carol Lam of California said that before 9/11, information from a foreign intelligence wiretap could not be shared with criminal prosecutors. She said officials had to choose between "pursuing an intelligence investigation or a criminal investigation."

Bush Assails Democrats Over Patriot Act (WP)

By Jim Vandehei

The Washington Post, January 4, 2006

President Bush accused Democrats yesterday of blocking a full reauthorization of the USA Patriot Act for political reasons, as the White House stepped up an aggressive campaign to defend the president's terrorism-fighting authority.

"For partisan reasons, in my mind, people have not stepped up," Bush told reporters, with 19 federal prosecutors by his side. "The enemy has not gone away; they're still there, and I expect Congress to understand that we're still at war and they've got to give us the tools necessary to win this war."

White House spokesman Scott McClellan, speaking to reporters earlier in the day, said Senate Democrats are simply doing the bidding of liberal special interest groups such as the American Civil Liberties Union, which opposes the broad surveillance power authorized by the act. Democrats are trying to "appease" the ACLU "because they want to weaken and undermine the Patriot Act," McClellan said.

The Patriot Act, which Congress voted to extend until the end of this month amid a bitter political dispute over its reach, provides the federal government with broad power to monitor and prosecute terrorism suspects and those helping them. Many Democrats and a few key Republicans oppose the act as written because they say it does not provide adequate protections for the civil liberties of innocent Americans.

The Patriot Act is expected to dominate the debate when Congress returns at the end of the month and to serve as a backdrop for a broader, and possibly even more contentious, argument over Bush's anti-terrorism policies.

The White House is bracing for a heated dispute over both the Patriot Act and the recent revelations that Bush secretly authorized the National Security Agency to monitor communications within the United States involving terrorism suspects overseas. Congress is planning hearings on the NSA program this month and another vote on the Patriot Act early next month, when the current extension expires.

Adopting campaign-style tactics, Bush and his aides plan to accuse Democrats of jeopardizing national security to further their political agenda, a tack that worked well for the White House in the 2002 and 2004 elections. But the political environment is different now, with Bush less popular and Democrats better organized in opposition.

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Moreover, key Republicans are also raising objections to Bush's broad interpretation of presidential power. Senate Judiciary Committee Chairman Arlen Specter (R-Pa.) was among the first to demand hearings on the NSA intercepts, and four GOP senators who typically back Bush in policy disputes played crucial roles in blocking the full reauthorization of the Patriot Act before Congress adjourned shortly before Christmas.

On another front, the Justice Department notified U.S. District Court judges in Washington that it will seek the dismissal of lawsuits from more than 300 Guantanamo Bay detainees who are questioning the legality of their confinement, using a provision of the defense appropriations law that the Bush administration says limits existing challenges.

The new provision prevailed after a sponsor, Sen. Carl M. Levin (D-Mich.), said it would not apply to pending cases. But the Justice Department said the law eliminates the jurisdiction of district courts over challenges to the legality of detentions at the U.S. naval base in Cuba.

The new law still permits detainees to appeal being classified as enemy combatants or any military-commission convictions to the U.S. Court of Appeals for the D.C. Circuit.

Bush Seeks Patriot Act Extension (VOA)

By Scott Stearns

Voice of America, January 4, 2006

President Bush says some opposition Democrats are playing politics with U.S. national security by delaying the long-term extension of controversial anti-terrorism laws. Opponents say the expanded police powers threaten civil liberties.

George Bush flanked by Attorney General Alberto GonzalesPresident Bush says he will spend the next 30 days trying to convince Congress and the American people that the nation needs a permanent extension of the anti-terrorism laws known as the Patriot Act.

"The American people expect to be protected, and the Patriot Act is a really important tool for them to stay protected," the president said.

First passed following the September 2001 terrorist attacks in New York and Washington, those broader police powers were due to expire at the end of 2005. Congress gave the president just a one-month extension through February 3 amidst concerns from Democrats and some Republicans that parts of the Patriot Act threaten civil liberties.

The laws give investigators broader powers to seize library and medical records as well as to conduct roving wiretaps. Opponents are also concerned about what they say is limited Congressional and judicial oversight.

President Bush says there is plenty of oversight in the Patriot Act. He says critics are putting partisan politics ahead of national security.

"There's oversight on this important program," he said. "And now when it came time to renew the act, for partisan reasons in my mind, people have not stepped up and have agreed that it is still necessary to protect the country. The enemy has not gone away. They are still there. And I expect Congress to understand that we are still at war, and they have got to give us the tools necessary to win this war."

This will be the president's first legislative challenge of the new year and comes at a time of new questions about expanding executive power following the president's admission that he authorized the surveillance of telephone calls without a court warrant.

President Bush says those intercepts are strictly limited to communications where one of the parties is outside the United States, and then only to people with known links to terrorist groups.

He says media reports that uncovered the operation have helped America's enemies by revealing U.S. intelligence techniques. The Justice Department is investigating how reporters learned of the program.

Congress will investigate the intercepts themselves and whether the president exceeded his power by authorizing them without a court order.

Bush Renews Patriot Act Campaign (NYT)

By Elisabeth Bumiller

The New York Times, January 4, 2006

DOJ_NMG_0007758

WASHINGTON, Jan. 3 - President Bush assembled a phalanx of United States attorneys at the White House on Tuesday to bolster his call for Congress to renew the antiterrorism law known as the USA Patriot Act, intensifying a coming clash with Capitol Hill over civil liberties and national security.

Surrounded in the Roosevelt Room by 19 federal prosecutors, Mr. Bush said Congress was holding up renewal of the law because of politics.

"When it came time to renew the act, for partisan reasons, in my mind, people have not stepped up and have agreed that it's still necessary to protect the country," Mr. Bush said. "The enemy has not gone away - they're still there. And I expect Congress to understand that we're still at war and they've got to give us the tools necessary to win this war."

The president's remarks and an appearance by the United States attorneys in the West Wing driveway afterward were part of a stepped-up White House campaign to make permanent the antiterrorism law, which expanded the government's investigative powers after the attacks on Sept. 11, 2001.

The measure was originally passed with bipartisan support, but with time limits built in because many lawmakers were nervous about its broad reach in the wake of criticism that the legislation impinged on civil liberties. Last month, with major provisions of the law set to expire on Dec. 31, the White House made a strong push to make the law permanent, but Democrats and a handful of Republicans balked, and extended the law for only five weeks, to Feb. 3.

The White House efforts were further complicated by a simultaneous uproar in Congress last month over revelations that Mr. Bush authorized a secret spying program to monitor international phone calls and international e-mail messages of people in the United States.

The United States attorneys, all Bush appointees summoned to Washington by the Justice Department, echoed Mr. Bush when they appeared en masse in front of television cameras moments later.

Rosalynn Mauskopf, the United States attorney for the Eastern District of New York, was among those who stepped up to the microphones and said the law had made it easier for the Eastern District "to choke off the supply of money to terrorists."

Specifically, Ms. Mauskopf said prosecutors had used the law, which broadens federal powers to demand financial records, to convict the spiritual adviser to Osama bin Laden, Sheik Muhammad Ali Hassan al-Mouyad, as well as Sheik Mouyad's assistant, for funneling millions of dollars to Al Qaeda and the militant group Hamas.

Administration and Congressional officials said they expected a compromise on the renewal bill in coming weeks between the White House and members of both parties. In mid-December, the House did pass a measure to make 14 of 16 expiring provisions in the act permanent, but that bill became bottled up in the Senate, eventually leading Congress to enact only a five-week extension.

Senator Charles E. Schumer, the New York Democrat who said he voted to block permanent renewal of the act in part because of the revelations about the spying program, said Tuesday that there was room for a deal.

"Look," Mr. Schumer said, "this is one that should be able to be worked out because the sides are relatively close."

One main sticking point is a provision that gives the federal government the power to demand access to library records on what patrons have borrowed and other information material showing their reading habits. The provision was challenged in a lawsuit in Connecticut by the American Civil Liberties Union.

The other main sticking point is an administrative subpoena, called a national security letter, that gives the federal government the power to demand records without a judge's approval.

Among the other United States attorneys called to the White House on Tuesday were Mike Garcia of the Southern District of New York, Carol Lam of the Southern District of California and Paul McNulty of the Eastern District of Virginia, who is also acting deputy attorney general.

Bush Pushes For Patriot Act Renewal (AP)

By JENNIFER LOVEN, The Associated Press

AP, January 3, 2006

WASHINGTON (AP) — As the clock runs on Congress' short-term extension of the Patriot Act, President Bush met with federal prosecutors Tuesday and contended that the domestic anti-terror law is vital to keeping Americans safe.

Many key provisions of the law were to expire Dec. 31. Amid a debate over whether the act sufficiently protects civil liberties, most Senate Democrats and a few Republicans united against legislation that would have renewed several provisions permanently while extending others for four years.

In a move the White House adamantly opposed but later accepted, Congress approved a one-month extension of the law in its current form to allow the debate to continue. The new measure expires Feb. 3.

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Bush, his voice rising in apparent irritation, said lawmakers must act on a permanent renewal of the law that expanded the government's surveillance and prosecutorial powers against suspected terrorists, their associates and financiers. Noting the Patriot Act was overwhelmingly approved not long after the 2001 terrorist attacks on New York and Washington, he said political considerations now were getting in the way.

"When it came time to renew the act, for partisan reasons, in my mind, people have not stepped up and have agreed that it's still necessary to protect the country," said the president, sitting at a table in the Roosevelt Room with federal officials and 19 district attorneys from around the country.

"The enemy has not gone away. They're still there. And I expect Congress to understand that we're still at war, and they got to give us the tools necessary to win this war," he said.

Later, outside the West Wing, district attorneys cited several cases in which the Patriot Act had played a crucial role, from staging an undercover sting on California weapons dealers attempting to sell Stinger missiles to securing convictions of major terrorist financiers in New York.

"We use it each and every day to protect our country against terrorists and criminals," said Ken Wainstein, district attorney for the District of Columbia.

"We believe this provides adequate safeguards in every respect," said Mary Beth Buchanan, the district attorney for the Western District of Pennsylvania.

Sen. Russ Feingold, D-Wis., said Bush should spend more time negotiating about the Patriot Act with Democrats and others on Capitol Hill and less on "staged meetings with hand-picked participants" at the White House.

"Contrary to the president's misleading comments, nobody wants to see the Patriot Act expire," Feingold said. "We want commonsense changes to the act that would give the government the power to combat terrorism while protecting the rights and freedoms of law-abiding citizens."

The White House event drew 19 of the country's 93 U.S. attorneys. They were contacted by officials at the Justice Department to attend, Wainstein said.

Among the provisions the renewal would make permanent are those that allow roving wiretaps so that investigators can listen in on any telephone and tap any computer they think a terrorist might use.

Bush Pushes For Patriot Act Renewal (REU)

By Steve Holland

Reuters, January 4, 2006

WASHINGTON (Reuters) - President George W. Bush opened a 30-day push to gain renewal of the anti-terrorism USA Patriot Act on Tuesday with a partisan blast at Democrats and a meeting with U.S. prosecutors who called the law essential.

A temporary extension of the Patriot Act, passed in December to stop a Democratic filibuster blocking maneuver, expires February 3 and Bush is using the early days of the new year to press for permanent passage of the law.

He accused Democrats of blocking the law for "partisan reasons."

"The enemy has not gone away. They're still there. And I expect Congress to understand that we're still at war, and they've got to give us the tools necessary to win this war," Bush said.

White House spokesman Scott McClellan was blunter, saying Democrats were putting politics ahead of national security.

Bush brought to the White House 19 U.S. attorneys from around the country to help make his point that the law has been helpful to law enforcement.

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Enacted in response to the September 11 attacks, the Patriot Act expanded the authority of the federal government to conduct secret searches, obtain private records and intercept telephone calls, among other activities, in its efforts to track down suspected terror cells.

The five-week extension was agreed on last month to give lawmakers more time to consider civil liberties protections.

DOMESTIC EAVESDROPPING

The debate over whether some provisions of the Patriot Act infringe too much on civil liberties became more heated after the revelation that Bush authorized the National Security Agency to conduct a domestic eavesdropping operation on Americans suspected of links to terrorism without seeking court approval.

The Democratic leader in the House of Representatives, Rep. Nancy Pelosi of California, rejected Bush's complaint that the Patriot Act was a victim of partisan politics and accused him of misleading the public.

Rather, she said, there are bipartisan concerns that the law "failed to secure the right balance between our national security and our civil liberties" and that the extension will give lawmakers time to "add the appropriate safeguards."

The senior Democrat on the Senate Judiciary committee, Sen. Patrick Leahy of Vermont, said their efforts were aimed at improving the Patriot Act, not ending it.

"We want to make sure that these far-reaching government powers have adequate checks and balances so they can be effectively used without unduly threatening Americans' hard-won freedoms from government abuse, Leahy said in a statement.

The U.S. attorneys spoke to reporters after their meeting with Bush and cited several examples of cases in which provisions of the Patriot Act allowed them to break up plots to attack the United States and other criminal activity.

"We told him that we use it each and every day to protect our country against terrorists and criminals," said Ken Wainstein, U.S. attorney for Washington, D.C.

The U.S. attorneys said they believed the civil liberties protections included in a compromise version of the bill agreed on by congressional negotiators were sufficient.

Roslynn Mauskopf, U.S. attorney for the Eastern District of New York, said the law was used to gain convictions of two people for funneling more than $20 million to al Qaeda and Hamas.

"Without the provisions of the Patriot Act we would not have been able to build and prove this case against these two master terrorist financiers," she said.

HOMELAND RESPONSE:

Chertoff Says Cities To Compete For Crisis Funds Based On Risk (USAT)

USA Today, January 4, 2006

Cities at greater risk from terrorism, a health crisis or natural disaster will get a bigger share of federal funds under the urban area security program, the Homeland Security Department said Tuesday. The announcement created potential winners and losers among dozens of metropolitan areas competing for funds, which overall are being reduced from $855 million last year to $765 million this year.

“We are taking a giant step forward in implementing this risk-based strategy,” Homeland Security Secretary Michael Chertoff said. In the past, the grants generally went to the 50 largest cities for terrorism-related security measures. This year, cities at risk from natural disasters or health crises also are eligible.

“I think that's exactly what we have been screaming for all along,” New York City Mayor Michael Bloomberg said. New York got $207 million last year, by far the most of any community.

Homeland Security officials said they won't announce how much each recipient will get until June, after assessing each applicant's plans for the money.

The agency said 35 metropolitan areas will be eligible this year if they show they will use the money wisely. An additional eleven areas that previously received money under the program will still be eligible but may be dropped next year unless they show a compelling need and a sound plan. Those at risk of being dropped include Buffalo, Las Vegas, Louisville and Tampa.

U.S. won't lift sanctions on North Korea

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The Bush administration rejected a North Korean demand that it lift sanctions as a way of possibly resuming stalled nuclear disarmament talks. The sanctions were imposed for alleged currency counterfeiting and other illegal activities.

The two issues are unrelated, State Department spokesman Sean McCormack said. “I don't see in what way they are preventing North Korea from going back to the six-party talks,” he said.

The negotiations are aimed at halting North Korea's nuclear weapons program. The six nations are China, Japan, Russia, the United States and North and South Korea. All agreed in November to return to the negotiations as soon as possible, McCormack said.

Alito supporters run ads in 3 more states

A conservative group supporting Supreme Court nominee Samuel Alito said it will spend $500,000 on new TV ads it will air this week in North Dakota, Maine and Louisiana in an attempt to influence senators considered swing votes on the nomination. The ads by Progress for America target Democrats Byron Dorgan and Kent Conrad of North Dakota, Republicans Susan Collins and Olympia Snowe of Maine and Democrat Mary Landrieu of Louisiana.

The ad is the group's fourth television spot since the federal appeals court judge was nominated Oct. 31 to replace retiring Supreme Court Justice Sandra Day O'Connor. Other ads have aired in Rhode Island, Nebraska and Arkansas.

Senate Judiciary Committee hearings on Alito open Monday. A vote by the full Senate is scheduled for Jan. 20.

Campbell won't run for Colo. governor

Former Republican senator Ben Nighthorse Campbell said he will not run for governor of Colorado. “I've kind of lost interest in public office,” Campbell said. He declined to endorse either of the two Republicans still in the race, Rep. Bob Beauprez and former University of Denver president Marc Holtzman. “I feel the best candidates haven't emerged yet,” Campbell said.

Former Denver district attorney Bill Ritter and Gary Lindstrom, a freshman state representative, are the only two Democratic candidates. Gov. Bill Owens, a Republican, is barred from running for re-election because of term limits.

Campbell, a former Democrat, won nine races and served 22 years in public office. He retired last year.

U.S. Adjusts Rules For Anti-terrorism Grants (KRT)

By Jim Puzzanghera

Knight Ridder, January 4, 2006

WASHINGTON - The Homeland Security Department announced Tuesday that 35 urban areas are eligible for $765 million in special anti-terrorism grants because of their high risk of attack and added new rules for allocating the money to force regional cooperation and eliminate wasteful spending.

The regions include Washington, New York, Philadelphia, Charlotte, N.C., Miami, Chicago, Kansas City, Minneapolis/Saint Paul, Dallas/Fort Worth, Los Angeles and the San Francisco Bay Area. Each has 60 days to come up with a proposal for what it would do with the money and justify how the expenditures would improve security.

The "investment justifications" are designed to avoid questionable decisions, such as the purchase of four Segway motorized scooters for a total of $24,815 by the San Jose, Calif., police and Santa Clara County, Calif., bomb squads.

"The fact of the matter is the public has the right to expect that even when the city's in a high-risk category, the money that it gets under this program has to be spent wisely and effectively," Homeland Security Secretary Michael Chertoff said at a news conference.

The department gauged the risks via a computer evaluation that assessed population, vital infrastructure and frequency of terrorism investigations.

Under the Urban Areas Security Initiative program, begun in 2003, major cities that are close to one another - such as Dallas, Fort Worth and Arlington, Texas, and San Francisco, San Jose and Oakland, Calif. - received separate grants. But Chertoff said the widespread impact of Hurricanes Katrina and Rita helped persuade his department to ignore municipal boundaries in making this year's grants.

"When terrorists plan an attack, the attack is not carefully delineated within the lines of political jurisdictions," he said. "Protecting the country is not about who gets to give the money out or what particular jurisdiction gets to have control over the funds that are being distributed by the federal treasury."

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Although the grants are designed to deal with terrorism, Chertoff said his department would consider requests that were helpful in natural disasters as well, such as evacuation plans and interoperable emergency communications.

The method of distributing the money across regions has been criticized.

San Jose Mayor Ron Gonzales said it "could be a grave mistake."

In a letter to Chertoff last month, he noted that the San Francisco Bay Area is spread over 8,000 square miles and crosses dozens of jurisdictions.

"Obviously our local plans and resources must be coordinated among all levels of government with our neighbors," Gonzales wrote. "However, the overly broad combination of different urban centers in the name of efficiency could very likely lead to a lack of efficiency when we need it most."

But Don Parker, the fire chief and disaster manager for Vallejo, a city of about 116,000 at the northern end of the San Francisco Bay Area, said a regional approach was a good idea given the way terrorist attacks could affect surrounding communities.

"If San Francisco suffers a dirty bomb, there's going to be a lot of people leaving San Francisco pretty quickly," Parker said. His city stands to get some funding from the program for the first time.

The 35 high-risk urban areas encompass 95 cities with populations of more than 100,000 and are in 29 states and the District of Columbia. In 2005, 50 cities received $830 million in urban area grants.

The grants are just one part of homeland security funding for state and local governments. In 2006, Congress appropriated $2.5 billion for such grants, with $550 million distributed via formulas.

Homeland security grants have been the focus of a political struggle in Washington. Lawmakers from rural areas prefer formulas that guarantee a specific amount for each state, while those from urban areas want money distributed based on the risk of attack.

The urban security grants aren't dictated by formulas, but Chertoff used Tuesday's announcement to stress that the Bush administration prefers risk-based decisions on all grants.

The department said it intended to drop 11 cities from the program in 2007 after a year of transitional funding - including San Diego, Las Vegas and Tampa, Fla. - as it tried to focus the program on areas with the highest terrorism risk.

Terror Grants To Fund Disasters (WT)

By Audrey Hudson

The Washington Times, January 4, 2006

The Department of Homeland Security has expanded eligibility for $756 million in anti-terrorism grant money to include preparation and response to natural disasters.

"Capabilities to evacuate people would obviously have relevance in a terrorism case with a certain kind of attack, but would also have relevance in a natural disaster of a certain kind," said Homeland Security Secretary Michael Chertoff.

Mr. Chertoff said the focus will be "upon geographic regions, as opposed to political jurisdictions," and that the change was made as a direct response to shortcomings surrounding last year's hurricanes and a review of the terror attack on London's underground rail system.

"To pick the obvious example, when you have a geographical area that's below sea level, which has a certain consequence and a certain risk that emerges through a natural disaster, that may also apply to a terrorism-driven disaster, and so that would be part of the plan," Mr. Chertoff said.

The urban grant is separate from a first-responder program that guarantees funding to every state and U.S. territory, including the Virgin Islands, American Samoa, Guam and the Northern Mariana Islands. Critics of that congressionally mandated program have questioned smaller cities' need for such money and say the program is abused.

The 35 metropolitan areas eligible for this year's urban grant encompass 95 cities with populations of more than 100,000 people and include the Washington area and a 10-mile boundary, as well as Baltimore; Philadelphia; Chicago; Phoenix; Denver; Miami; Atlanta; Memphis, Tenn.; Indianapolis; Baton Rouge, La.; New Orleans; Boston; Detroit; Las Vegas; and Dallas.

To be eligible for the grants, regions must show they are at risk and how they will spend the money, Mr. Chertoff said.

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Key Capitol Hill lawmakers yesterday signaled support for changing the grant qualifications. Sen. Judd Gregg, New Hampshire Republican, said the risk-based threats should include border protection.

"I believe that all funds should be distributed on a threat basis, and that the department should reorient its resources, not only in the funds they distribute, but also in setting priorities for department initiatives based on threat," said Mr. Gregg, who chairs the Senate Appropriations subcommittee on homeland security.

The more than $3 billion first-responder program has swelled from four to 11 categories of grants. Allocations now include $400 million for law enforcement, $175 million for port security and $655 million for firefighter assistance.

Mr. Chertoff said firefighting grant funds have been used for questionable projects, such as $63,000 for a decontamination hazardous materials unit still in its crate stored in a warehouse and more than $100,000 each for custom-built mobile command centers hundreds of miles from major cities.

"If an area is not capable of coming up with an investment justification that makes sense, they're not going to get money," Mr. Chertoff said. "That's going to eliminate the proverbial leather jackets or other kinds of apocryphal stories or non-apocryphal stories you read about in years past."

More Aid To Go To High-Risk Areas (LAT)

By Nicole Gaouette

The Los Angeles Times, January 4, 2006

WASHINGTON — Los Angeles and other high-profile urban areas could get more federal aid as a result of changes in the way the Department of Homeland Security allocates funds to train and equip police officers, firefighters and other emergency responders for possible terrorist attacks.

The plan, announced Tuesday by Homeland Security Secretary Michael Chertoff, will shift more funds to high-risk areas and away from areas where attacks are considered less likely.

At the same time, other changes, along with an overall drop in federal aid levels, are stirring concern among some Los Angeles-area officials about the long-term effect of the new approach to distributing funds.

The plan is the latest round in a running battle between the Bush administration and Congress. The administration favors allocating anti-terrorism grants based on risk, thus favoring major urban centers on the East and West coasts. Congress has insisted on sharing aid more broadly, including funds for such towns as North Pole, Alaska, where the threat of attack is considered minimal.The debate was complicated by the nation's experience with Hurricane Katrina, which served as a reminder that terrorism is not the only threat facing emergency responders and that natural disasters could affect areas that have little to fear from terrorists.

The new approach, which applies only to Urban Areas Security Initiative grants, creates new regional groupings for the distribution of funds, including three in California. Another federal grant program remains unchanged; it allots each state a guaranteed minimum, according to a formula devised by Congress, and then distributes the rest on a risk basis.

"This is a step in the right direction," said Jack Weiss, a Los Angeles City Council member whose district encompasses Los Angeles International Airport. "At the same time, I'm always concerned when Washington wants us to create new bureaucracies to cope with the paperwork."

Many of the changes reflect an effort to make dwindling funds go further; grant money for the Urban Areas Security Initiative has dropped from $855 million last year to $765 million for 2006.

Though the program has always been risk-based, the department said, it is putting a greater emphasis on risk by limiting the number of eligible areas.

Previously spread among 50 cities, grant eligibility will now be limited to 35 regions that Chertoff identified as the "communities facing the greatest risk and demonstrating the greatest need in order to receive the highest return in our nation's security."

Some cities, such as San Diego, are being phased out for eligibility in the program after being given funding for a "bridge" year to complete ongoing projects. Those communities will still be able to receive other funding and could continue to receive the urban areas grants if they can demonstrate a need.

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San Diego Mayor Jerry Sanders said he was disappointed, noting that his city has a major seaport, the busiest international border in the nation and the largest concentration of U.S. military forces in the world.

Sanders, who took office last month, blamed his predecessors for not doing a better job in lobbying for funds and vowed to discuss the situation with Chertoff when he visits San Diego on Thursday.

Chertoff said Tuesday that he expected complaints. "This is not a popularity contest," he said of the grant program.

He said that his department's ability to assess risk had become increasingly more sophisticated and that federal officials had used a database of more than 30 million spreadsheets to calculate risk matrices — which measure an area's potential targets, including bridges, chemical and nuclear plants or hospitals, its vulnerabilities and the consequences of an attack.

Los Angeles-area first responders applauded the move to put more emphasis on risk.

"Hopefully we'll see more" funding, said Garden Grove Fire Department Capt. Tim Sawyer. "Instead of throwing money out there to everyone equally," he said, funding decisions would be made "more appropriate" by emphasizing risk profiles.

In a further move to ensure that only deserving projects are funded, the Homeland Security Department is requiring the 35 regions to submit a list of projects they would undertake with the grant money. The projects must pass review by a national panel to receive funding. In the past, all eligible areas received funds.

Many L.A. officials praised the move to create regional blocs that would apply for funding as a team. Three California regional groupings have been created: one encompassing Anaheim and Santa Ana; one for the Bay Area, including San Francisco, San Jose and Oakland; and one combining Los Angeles and Long Beach. The ports of L.A. and Long Beach handle 42% of the nation's trade and represent a significant potential target.

"If you look at the ports, the difference between the two is a political jurisdictional line — it's not a geographic difference, it's not a difference in the way trade operates or where the population is really distributed," Chertoff said, explaining the decision to combine Los Angeles and Long Beach.

The move to create regional blocs came from the lessons learned from Katrina, when the Gulf Coast was so badly damaged that surrounding areas were pulled in to respond, Chertoff said. "We have to consider consequences, vulnerabilities and threats in the context of a natural region," he said.

But Cmdr. Mike Grossman of the Los Angeles County Sheriff's Department cautioned that Homeland Security's regional combinations might not mesh well with California's standardized emergency management system, which is organized by county. He pointed out that the federal agency has made Simi Valley and Thousand Oaks part of the Los Angeles-Long Beach area although they are part of Ventura County and its emergency response network.

"The configuration that has come out is not consistent with the structure the state has, which causes organizational issues," Grossman said.

Maurice Suh, L.A. deputy mayor for domestic security and public safety, said he didn't expect coordination with other jurisdictions to be an issue.

"We view this in a very positive light," he said. The Department of Homeland Security "has made clear to us that funding initiatives in the Southern California area is a priority. In our view, Los Angeles is the leader in terms of assets and security concerns in the area."

Rules For Granting Terror Aid Are Overhauled (NYT)

By Eric Lipton

The New York Times, January 4, 2006

Facing cuts in antiterrorism financing, the Department of Homeland Security announced today that it has overhauled its system for evaluating new requests for money from a $765 million aid program for cities. The new system is based less on politics and city boundaries and more on assessments of where terrorists are likely to strike and potentially cause the greatest damage.

The changes to the program, the Urban Area Security Initiative, are being driven in part by a reduction in the overall pool of money for antiterrorism efforts. For 2006, Congress has appropriated $120 million less in these urban grants than for 2005.

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Domestic security grants in general, including the urban area ones, have been criticized because they have sent more antiterrorism money per capita to sparsely populated states like Wyoming and Alaska than to densely populated states like New York and California.

Homeland Security Secretary Michael Chertoff acknowledged the criticism in making the announcement in a news conference today. "The fact of the matter is we have learned some lessons," Mr. Chertoff said. "We've listened to some of the critics. And where there is merit to some of those observations, we've incorporated changes to take account of those criticisms."

Under the new rules, individual cities, counties or political jurisdictions will not be vying for the terror aid. Grant applications will be limited to 35 metropolitan regions in 23 states and the District of Columbia. The areas encompass 95 cities with populations of 100,000 or more, the department said. In addition, 11 urban areas that had previously been given money will be allowed to apply for "sustainment funding," so projects already under way can be completed.

"A single urban area may, in fact, include several cities," Mr. Chertoff said. "For example, what we have identified as the California Bay Area consists of Oakland, San Francisco and San Jose, as well as other, smaller, communities."

He said that studying the effects of natural disasters and terror attacks had led to the new approach. "Anybody who looked at what happened, for example, in Katrina and Rita, understood that even if the hurricane was directed at a particular jurisdiction, the effects were felt within the entire region," Mr. Chertoff said. "The whole region had to chip in in terms of assisting. And, of course, the region bore the brunt of the evacuations."

Until the application process is under way, it is unclear what the impact may be in cities now receiving money under the program, including New York, whose region will grow to encompass Yonkers. Mr. Chertoff emphasized that the designated areas are not guaranteed grants. "You may be at risk," he said, "but we have to ask ourselves, 'Are you going to use the money wisely?' "

He also said that the Homeland Security Department's ability to analyze the potential risks in urban areas and the potential effectiveness of proposals had increased with each year.

"We've got more data to work with; we've got better analytical tools to apply to that data," Mr. Chertoff said. "And that means we've got much more specificity in terms of the kinds of characteristics we take into account."

Set up after the 2001 terrorist attacks, the Homeland Security Department's local and state grant programs have drawn repeated criticism from members of Congress and budget watchdog groups because the early emphasis on spreading the money around resulted in tens of millions of dollars going to some communities where, critics said, the terrorist threat was not as urgent as elsewhere.

Examples cited in recent testimony to Congress include $557,400 awarded to North Pole, Alaska, a city of about 1,700 residents, to buy rescue and communications equipment, and $500,000 to Outagamie County, Wis., population 165,000, to buy chemical suits, rescue saws, disaster-response trailers, emergency lighting and a bomb disposal vehicle.

Officials from some smaller American cities that have received grants said they deserved a reasonable share of the antiterrorism aid.

"We certainly are much smaller than a city like New York or Los Angeles," said Don Thorson, administrator for the grant program in Omaha.

But, Mr. Thorson said: "We still are an urban area. And we still have risks. No one can predict where a terrorist might strike. Look where Timothy McVeigh struck. It was Oklahoma City."

Omaha received $5.1 million last year, which it used to buy bomb suits and communications equipment, among other items.

Mr. Chertoff said, "The public has a right to expect that even when a city is in a high-risk category the money it gets under this program has to be spent wisely and effectively."

Representative Peter T. King, Republican of New York, who is chairman of the House Committee on Homeland Security, said the shift properly made risk a more meaningful factor in allocating the money.

"The more risk-based they can make it, the better," Mr. King said. "It sends a message to Congress that homeland security is a serious matter, it is not a public works project, that we are not going down the pork-barrel road. That is vital." The Urban Area Security Initiative represents $765 million of the $2.5 billion budgeted in the 2006 fiscal year for state and local antiterrorism programs. A separate Homeland Security grant program, which gives money directly to states, has been allocated $550 million

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by Congress this fiscal year. That money will still be distributed, in part, based on a formula that sets a minimum for each state. But for the first time, money not obligated by this formula will be distributed based on risk.

When the Urban Area Security grants were first announced in 2003, only seven cities were given money: New York, Washington, Los Angeles, Seattle, Chicago, San Francisco and Houston. But the list quickly grew to 30 cities and finally to 50 as more cities were deemed eligible for the grants.

Last year, even though the number of cities remained about the same, a much larger share of the money went to the biggest cities, with New York getting $207.5 million, compared with $49.7 million in 2004.

The system unveiled today evaluates applications for aid based on how well cities meet emergency preparedness standards recently established by the Homeland Security Department.

The standards include detailed steps that local and state governments would be required to take in response to potential threats, like the release of the nerve agent Sarin in office buildings or the truck bombing of a sports arena. The applications will also be ranked based on a significantly expanded database that the agency has set up to try to objectively measure the risk level in each city, department officials said. The database includes, for example, an inventory of high-profile government buildings and major structures like bridges, as well as daily ridership on a subway system and how many subway stations a city system has.

Risk is defined as a combination of the perceived threat, the vulnerability of a particular city or asset, and the consequences of an attack.

"The system before was fairly Neanderthalic," one Homeland Security official said, on the condition on anonymity because he did not want to pre-empt Mr. Chertoff's announcement. "It was very, very sophomoric."

The 35 regions eligible to apply for grants are Anaheim/Santa Ana, Calif.; San Francisco Bay; Los Angeles/Long Beach, Calif.; Denver; Washington; Fort Lauderdale, Fla.; Jacksonville, Fla.; Miami; Orlando, Fla.; Atlanta; Honolulu; Chicago; Indianapolis; New Orleans; Boston; Baltimore; Detroit; Minneapolis-St. Paul; Kansas City, Mo.; St. Louis; Charlotte, N.C.; Jersey City/Newark; New York; Cincinnati; Cleveland; Columbus, Ohio; Portland, Ore.; Philadelphia; Pittsburgh; Memphis; Dallas-Fort Worth; Houston; San Antonio; Seattle; and Milwaukee.

The 11 areas eligible to apply for sustainment money are Phoenix; Sacramento, Calif.; San Diego; Tampa, Fla.; Louisville, Ky.; Baton Rouge, La.; Omaha; Las Vegas; Buffalo; Toledo, Ohio; and Oklahoma City.

Mr. Chertoff has made clear that he expects protests when the final grant awards are announced. He acknowledged that when cities fall off the eligibility list his agency hears "outcries and complaints."

"I have to be very clear about this," he said. "The purpose of the U.A.S.I. program - indeed, the purpose of all Homeland Security funding - is not to generate popularity for the secretary or for the Department of Homeland Security. It is to address the highest priorities driven by an analytic, risk-based process."

The prospect of increased competition for the money comes as no surprise to officials in some smaller cities.

"We anticipated there would be a point soon where Bush would be concerned about throwing so much money out there," said Samuel Simon, director of public safety in St. Louis.

The city received $7 million last year, money spent - wisely, Mr. Simon said - to prepare for the possibility of a pandemic flu outbreak or small-scale terrorist attack.

D.C. May Benefit As DHS Bases Grants On Risk (WP)

By Dan Eggen

The Washington Post, January 4, 2006

Regions at the highest risk of terrorist attack or natural disaster will receive an increased share of grant money under a new urban funding formula unveiled yesterday by the Department of Homeland Security, the latest step in its effort to focus more resources on the gravest threats facing the United States.

The policy change, announced by Secretary Michael Chertoff, comes after several years of criticism from lawmakers and private research groups.

The critics complained that sparsely populated states such as Wyoming were receiving a proportionally greater share of Homeland Security money than populous jurisdictions, including Washington, that are much more likely to be attacked.

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For fiscal 2006, Washington and 34 other metropolitan regions will be eligible to compete for $765 million from the department's largest grant program, the Urban Area Security Initiative. Eleven other urban areas that have received grants may still compete, but they are being warned they may be dropped if they cannot show a compelling need, officials said.

The smaller list is due in part to a cut in funding by Congress, which slashed $90 million from the program this year, and it will force cities in the same region to work together in seeking aid.

But Chertoff also characterized the changes as part of a broader effort to distribute money based on measurable risk factors, and he said that such grants are "not party favors to be distributed as widely as possible."

"We've looked at what happened in the hurricanes, we've looked at what happened over in London with the terrorist attacks on the rail lines, and that has reinforced the idea that we have to consider consequences, vulnerabilities and threats," Chertoff told reporters at a news conference.

Lawmakers and local officials in Washington and other major urban areas praised the changes, which were made in the face of continued infighting in Congress over funding formulas for other types of Homeland Security grants. David Robertson, executive director of the Metropolitan Washington Council of Governments, said the change could mean more leverage for the District and its neighbors in competing for federal money.

"It's hard to minimize someone else's risk or what they perceive, but by any measure, the Washington area is right up there in terms of risk, both for terrorism and natural disasters," Robertson said.

The policy shift applies only to one part of DHS's vast grant apparatus, which is slated to distribute $2.5 billion in state and local Homeland Security grants during the current fiscal year.

One focus of controversy has been Homeland Security grants given to states in a separate program that will total $550 million in 2006. About 40 percent of that money is divided evenly among the states, regardless of threat or population, although DHS has been given wider latitude by Congress in spending part of the money this year.

Some smaller states and regions left out of the urban grant program have also protested the changes. Sen. Joseph I. Lieberman (D-Conn.) said in a statement yesterday that major cities in Connecticut are being shortchanged despite the presence of a nuclear submarine base and other sensitive sites, and he complained that DHS has shifted its rationale for distributing grant money too many times.

"Forcing cities to compete for an ever decreasing share of federal support is tantamount to disarming in the middle of a war," Lieberman said.

Nonetheless, many other lawmakers and homeland security experts praised the change.

"The philosophy of risk-based allocations for setting priorities is the right way to go," said David Heyman, director of the homeland security program at the Center for Strategic and International Studies, a Washington think tank. "We cannot continue to spend money based on political power in Congress or with no link to the threat. If we do, we'll spend ourselves to death without any security."

Decisions have not been made on how the funding will be distributed. The D.C. region has received about $167 million in urban area grant money since 2003, including $77 million in 2005, according to the Metropolitan Washington Council of Governments.

Vulnerability to terrorism was the primary criterion for making grants over the last three years. The new formula adds the risk of natural disaster or disease to the calculation. Officials said the risk calculations are based on sophisticated and detailed data sets down to Zip codes.

"With every successive year we've gotten much more specific in terms of the way we measure and weigh the characteristics that go into our risk formula," Chertoff said. ". . . We've got more data to work with. We've got better analytical tools to apply to that data."

Sen. Charles E. Schumer (D-N.Y.) said in a statement that he was pleased by the announcement but indicated he was reserving judgment until final grant numbers are announced.

Rep. Thomas M. Davis III (R-Va.) commended "DHS for moving the ball forward themselves."

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"We cannot be completely safe everywhere, all the time, so we have to be putting our Homeland Security dollars where they're most needed," Davis said. ". . . The metro D.C. region was already targeted by terrorists. As the seat of government it just goes to reason that we would continue to be high on their list."

Risk Wins A Round Over Politics (NYT)

The New York Times, January 4, 2006

The Homeland Security Department announced this week that it intended to rely more on the risk of a terrorist attack, and less on politics, when it hands out funds under a key antiterrorism program. This is very good news - with two caveats. It still remains to be seen precisely how the money will be handed out. And the improvements in this single program do not change the fact that Congress, thanks to the influence of small-state senators, still lets politics play a disturbingly large role in the distribution of other antiterrorism funds.

National security experts, including the 9/11 commission, overwhelmingly agree that antiterrorism money should be handed out based on the risk of an attack and the harm it would do. But members of Congress have trouble seeing any program - even one designed to protect the nation from terrorists - as above politics and patronage.

Senators from small low-risk states, led by Susan Collins, Republican of Maine, scored an unfortunate victory last year when they blocked an amendment, backed by all six senators from New York, California and Texas, that would have distributed more antiterrorism money on the basis of risk. As a result, states like Wyoming - and Maine - still get too much money, and places like New York City and Washington, D.C., get too little.

Homeland Security Secretary Michael Chertoff has, to his credit, been a consistent supporter of an approach based more on risk. In this week's announcement, he promised to rely more heavily on risk in making decisions on allocating $765 million under the Urban Area Security Initiative. There are, however, several factors that may interfere with his good intentions. The department intends to take into account the degree to which a grant could be used to help with disasters not related to terrorism, like hurricanes or pandemics. This could blur the program's focus and end up directing more money toward places that face nonterrorist threats, an outcome that was not Congress's intention.

It is also possible that when financing proposals are actually evaluated later this year, Mr. Chertoff's emphasis on risk will become lost in an array of other criteria.

Whatever success Mr. Chertoff has in improving this program, two others are still badly in need of a similar reorientation toward risk and away from politics: the State Homeland Security Grant Program and the Law Enforcement Terrorism Prevention Program, which account for much of the nation's antiterrorism spending.

Mr. Chertoff's emphasis on risk is the right one. We hope that the Homeland Security Department sticks to this principle when it makes its final grant decisions under the Urban Area Security Initiative later this year. And we hope that when Congress passes the next Homeland Security appropriation covering the other antiterrorism programs, it does a better job of putting risk ahead of politics.

Government Has 'Dirty Bomb' Cleanup Guide (AP)

By H. Josef Hebert

The Associated Press, January 4, 2006

WASHINGTON -- The government issued cleanup standards Tuesday for a "dirty bomb" terrorist attack that would in some cases be far less rigorous than what is required for Superfund sites, nuclear power plants and nuclear waste dumps.

After such an attack, long-term radiation exposure could remain at levels that would be expected to produce cancers in one of every four people who return to the contaminated sites, anti-nuclear watchdog groups said after analyzing the new federal guidelines.

Dirty bombs -- largely theoretical terrorist weapons -- would use conventional explosives to disperse radioactive material without a nuclear explosion. Such weapons, which could use Cesium 137 or other radioactives, would be useful as terror devices because they can render an area dangerous or uninhabitable.

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The guidelines issued by the Homeland Security Department say the impact from detonating a crude nuclear device or a dirty bomb could vary widely, from contaminating a small area, such as a single building or city block, to conceivably many square miles. So, it said, cleanup requirements also could vary widely.

In some cases, the document suggested, long-term radiation exposures of as much as 10,000 millirems per year -- a level equivalent to hundreds of chest X-rays a year or 30 times the annual exposure to radiation from natural "background" sources -- could be allowed for areas that are returned to general use.

If there is widespread contamination from a dirty bomb or an "improvised nuclear device" -- which could cause a crude nuclear explosion -- some areas may have to be put off limits permanently, the guidelines said.

The guidelines, which go into effect immediately but could be modified after a public comment period, brought sharp criticism from some environmental groups and nuclear watchdog organizations.

Long-term radiation levels of 10,000 millirems a year as would be permitted by the guidelines in some cases can be expected to produce a cancer in one of every four people exposed, said Diane D'Arrigo, of the Nuclear Information and Resource Service, a Washington-based nuclear industry watchdog group, citing government radiation risk assessments.

The federal guidelines do not establish specific numerical standards for cleanup, but they cite radiation "benchmarks" established by other agencies or international organizations that would be acceptable.

Among those benchmarks that could be used under the guidelines is one established by the International Commission on Radiation Protection which cites a long-term release of 10,000 millirems a year as an acceptable exposure standard after cleanup.

By comparison, the Nuclear Regulatory Commission does not allow exposure to the public of more than 100 millirems per year in its cleanup standard. The exposure at a future Yucca Mountain nuclear waste site has a limit of 15 millirems. Background radiation from natural sources averages about 350 millirems, while exposure from a chest X-ray is about 6 millirems.

Donald Tighe, a spokesman for the White House Office of Science and Technology, said the guidelines specifically avoided setting a numerical cleanup standard for long-term radiation exposure. Instead, he said, it is hoped the guidelines will help state, local and federal officials choose appropriate cleanup standards depending on circumstances.

"It would be very inaccurate for anyone to characterize this as leaning toward any one side of the range of (cleanup) standards" that might be available, said Tighe.

But Daniel Hirsch, of the Committee to Bridge the Gap, a nuclear watchdog group in California, said the guidelines are so lax that it opens the way for cleanup efforts to fall short of what is needed to protect public health.

The Department of Homeland Security "is proposing a nuclear Katrina, a formal policy of allowing the public to be exposed to massive radiation doses from a dirty bomb while the government does nothing to protect them," he said.

Even After 'Dirty Bomb' Exposure, Residents Might Be Allowed Back In (New York Times)

By Matthew L. Wald

New York Times, January 4, 2006

WASHINGTON, Jan. 3 - The Homeland Security Department, preparing for an attack by terrorists who would spread radioactive material, advised government officials on Tuesday that they should consider permitting people to re-occupy contaminated land and buildings even if they would be exposed to radiation at a level double what nuclear plant workers can legally receive.

The department published a document that stressed trying to balance the health risk of radiation exposure with minimizing the disruption that a “dirty bomb” would cause.

If there is a delay in reoccupying areas evacuated because of contamination, “the disruption and harm caused by the incident could be inadvertently and unnecessarily increased,” the department advised. “Failure to restore important services rapidly could result in additional adverse public health and welfare impacts that could be more significant than the direct radiological impacts.”

The document, published in The Federal Register, listed precise exposure limits for emergency workers and members of the public in the immediate aftermath of a dirty bomb attack.

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For the long term, it said that officials responsible for public health and safety should consider a variety of "benchmarks" in use around the world, some far higher than the standards in use in the United States for protection of the public in routine operations and nuclear accidents. One of those, from the International Commission on Radiation Protection, says that actions to reduce exposure to radiation, like evacuation or cleanup, may not be required until doses equal 10 rem a year, an amount that is about 30 times what the average American receives from natural and manmade sources of radiation, and double what power plant workers can legally receive. It is also about five times as high as the maximum that power plant workers commonly receive in a year.

An opponent of nuclear power, Daniel Hirsch, of the Committee to Bridge the Gap, said the standard that should apply is the one that the Environmental Protection Agency uses when power plants are torn down, which is 25-thousandths of a rem per year, one-400th of the international standard.

But a spokesman for the Environmental Protection Agency, John Millett, said that when his agency's guidelines were set in 1991, with nuclear power plant accidents in mind, there was no consensus on what long-term exposure should be allowed.

Larry Orluskie, a spokesman for the Department of Homeland Security, said the new guidance did not necessarily suggest using the international agency's number, but recommended considering its use, "depending on what the circumstance is, and what the environment is, and the state and local authorities' need for that area.''

The document issued Tuesday lists a variety of factors, including the cost of cleanup. Mr. Hirsch and a second antinuclear group, the Nuclear Information and Resource Service, said that the 10 rem figure would produce cancer or leukemia in one person in four who was exposed to that amount annually for a total of 30 years. The two groups called the advice "a nuclear Katrina in the making."

The department characterized its advice as a draft, because, it said, it would take public comment until March 6, but the advice takes effect immediately.

The document offered advice on both dirty bombs, a postulated weapon that is a conventional explosive laced with a radioactive contaminant, and on nuclear bombs that a terrorist group might smuggle into a city. Security experts say that a dirty bomb is far easier to construct and thus might be the more likely threat, and that if a terrorist group managed to detonate an actual nuclear bomb, then the No. 1 issue would probably not be the long-term health risk of radiation exposure.

The Homeland Security Department, with the E.P.A., the Nuclear Regulatory Commission and other agencies, has been working on the advice since 2003 but has had trouble developing a consensus.

Man Sues U.S. Over Ring Lost At Airport (FINDLAW/AP)

AP, January 4, 2006

(AP) - BOSTON-A man is suing the federal government, alleging his $7,000 wedding ring was stolen as he passed through a security checkpoint at Logan International Airport.

John Wright, 51, says he and his wife were taking a flight to San Juan, Puerto Rico, in July when he placed the 1.53-carat diamond and gold ring in a plastic tub along with his Rolex watch and wallet.

Wright, of Tiverton, R.I., then placed the bin on the scanner conveyer belt as he and his wife, Janet, passed through the metal detector. When he retrieved his belongings, Wright said, the ring was missing.

"I hadn't even gone 15 feet on my vacation and I was robbed," said Wright, a health teacher in Somerset.

He said he alerted the three Transportation Security Administration screeners who were at the checkpoint, and they searched the conveyer belt without success.

Wright filed the lawsuit in U.S. District Court last month after the TSA denied his claim seeking $7,000 to replace the ring. The lawsuit seeks reimbursement for the ring and attorney's fees.

Wright said he suspects one of the TSA screeners took the ring because there were no passengers in front of him as he went through the checkpoint with his wife, who was directly behind him.

Ann Davis, a spokeswoman for TSA, said she could not comment on the case, but said the agency does not tolerate workplace theft and aggressively investigates all complaints.

Living, And Dying, With Suicide Bombers (USAT)

By Ralph Peters

USA Today, January 4, 2006

After spending trillions of dollars on high-tech armaments, the United States finds itself confounded by a dirt-cheap weapon of genius: The suicide bomber. The ultimate precision weapon and genuine "smart bomb," the suicide bomber is hard to deter and exasperatingly difficult to defeat.

This is the "poor man's nuke." For a few hundred dollars (or less) and a human life, a suicide bomber can achieve strategic effects the U.S. Air Force can only envy.

For all of the claims that technology would dominate the 21st century — and not only in the realm of warfare — we find that impassioned faith still trumps microchips. Armed with a fervent belief in his god's appetite for blood, the suicide bomber can dominate headlines around the world with a few pounds of explosives.

A paradox of the Information Age is that it's simultaneously the new age of superstition. As calcified social orders collapse under the pressures of global change, those who feel most threatened flee into debased, occult religion. Increasingly, fanaticism finds outlet in shedding the blood not only of unbelievers, but also of co-religionists whose beliefs are seen as imperfect.

The suicide bomber views himself (more rarely, herself) as fulfilling a divine mission whose execution will be rewarded in paradise. How do we discourage an enemy who regards death as a promotion? How do we identify the religious madman among the masses in time to stop him from killing? On a practical level, defeating the increasing numbers of suicide bombers is our most difficult security mission.

Homeland vulnerable

Except for 9/11, suicide bombers have conducted their missions abroad. That's going to change, but it's a credit to the patriotism and decency of American Muslims that none of our fellow citizens has strapped on a bomb and walked into a Wal-Mart. Nonetheless, our enemies will find a way to bring their deadly campaign back to our doorsteps.

The suicide bomber is so powerful a weapon that not even the terrorists have realized its full potential. Today, we see intermittent, localized attacks. The suicide bomber is at the same stage of development as the tank was in World War I: Used in small numbers, armored vehicles did not achieve and sustain critical mass.

We need to prepare for the suicide-bomber blitzkrieg, when murderous zealots come at us in waves.

The obvious forerunners of today's Islamist fanatics were the Assassins, the notorious cult that operated from Persia through Syria in the 11th and 12th centuries. Armed only with sacramental knives and patience, the Assassins terrorized governments by killing sultans and grand viziers. It took the invading Mongols — the all-time masters of counter-insurgency warfare — to destroy the Assassins in their mountain strongholds.

But assassination became commonplace in the Muslim world thereafter. The Assassins came from an off-shoot sect of Shiite Islam. Today's suicide bombers are overwhelmingly Sunnis, but the pattern of waging an asymmetrical conflict through carefully planned murders is a tradition, not an aberration.

To be fair to the Assassins, they attacked only the mighty, not the masses. And, as Bernard Lewis, the giant of Middle Eastern studies at Princeton, pointed out, Islam's prohibition against suicide meant that yesteryear's murderers allowed themselves to be caught and suffer torture rather than kill themselves.

But the new age of faith is also an era of the perversion of religion, from the primitive blood-cult evident in ritual beheadings to the rationalization of a suicide bomber's death — not as self-murder but the consequence of a brave attack in the conduct of holy war.

Nor should it be as difficult as we assume for Westerners to grasp the psychology at work in the suicide bomber. Our own history is full of martyrs and religious warriors who went boldly and knowingly to their deaths. In every culture, the really good haters die well.

Who are they?

Deplore his act though we rightly do, the suicide bomber who imagines himself a defender of his threatened faith and humiliated people is the extremist equivalent of the soldier we revere for throwing himself on a grenade to save his comrades' lives. Our rules for self-sacrifice are different, but the psychology is uncomfortably familiar. The results may differ terribly, but the motivation has filial roots.

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We see only the indiscriminate carnage, the apparent madness. Until we recognize his crazed valor, we cannot understand the suicide bomber. And it's much harder to defeat an enemy you don't understand.

Suicide bombers are recruited from the ranks of troubled souls, from those who find mundane reality overwhelming and terrifying. The suicide bomber longs for release from the insecurities of his daily experience. He is fleeing from life every bit as much as he's rushing toward paradise. He dreads women, sin and doubt.

Hypnotized by faith and excited to ecstasy, he can walk into a children's clinic and press a detonator. No heart-rending child's face will stop him. His god will forgive the innocent. Nothing matters but the divine will as interpreted by the masters of terror — the most brilliant psychologists of our time.

We have faced enemies more dangerous, but none so implacable.

The world's great strategic struggle of this century is between those who believe in a generous, loving god — in any religion — and those who serve a punitive, merciless deity.

The suicide bomber has chosen his side.

Ralph Peters is the author, most recently, of New Glory: Expanding America's Global Supremacy, and a member of USA TODAY's board of contributors.

WAR NEWS:

From Cabinet Rooms Past, A Gathering To Assess Iraq (NYT)

By David E. Sanger

The New York Times, January 4, 2006

WASHINGTON, Jan. 3 - It will be an unusual sight on Thursday in the Roosevelt Room of White House, and deliberately so: President Bush will engage in a consultation of sorts with a bipartisan collection of former secretaries of state and defense.

Among them will be several who have left little doubt that they think Mr. Bush has dangerously mishandled Iraq, ignored other looming crises, and put critical alliances at risk.

The meeting was called by the White House, which sent out invitations just before Christmas to everyone who once held those jobs.

The invitees were told that they were being asked to attend a briefing on Iraq and other issues. It was unclear, one recipient said, "how interested they are in what we are thinking."

Among those planning to attend are Colin L. Powell, Mr. Bush's first secretary of state and the administration's best-known and most careful dissident voice, and Madeleine K. Albright, Mr. Powell's predecessor.

William Perry, who was secretary of defense in the Clinton administration, is flying in from California; he helped formulate foreign policy positions for Senator John Kerry of Massachusetts in the race for president in 2004.

"This should be interesting," said another former secretary who received an invitation, but asked not to be identified until he had heard Mr. Bush's arguments.

"It's not exactly as if these guys have reached out to hear a lot of outside opinions."

In fact, no one inside the White House could recall a meeting quite like this during Mr. Bush's first five years in office.

At moments he has called upon past presidents - notably his father and Bill Clinton - for aid missions to countries hit by the 2004 tsunami, and then to cities and towns hit by Hurricane Katrina. Former Secretary of State James A. Baker III was recruited to lead efforts to get debt relief for Iraq, and Brent Scowcroft, the former national security adviser, headed up a White House panel that reviews foreign intelligence issues, only to be dis-invited after he became a critic of the decision to invade Iraq.

But never before has Mr. Bush asked such a broad array of former senior officials to show up together, presumably armed with strong opinions about issues like whether the moment has come to begin an exit from Iraq and what the United States should be doing with North Korea, Iran, Sudan or public diplomacy.

Several of the officials, mostly Democrats, said they were concerned about being used as props in an effort to portray Mr. Bush as seeking what the national security adviser, Stephen J. Hadley, recently called "common ground" on Iraq. But they said

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they suspected that the president was seeking to close the gap with officials of both parties who are influential in Congress, and often comment on Iraq and other issues on television and on op-ed pages.

Perhaps the most interesting dynamic will be between Mr. Bush and Mr. Powell. Since leaving office a year ago, Mr. Powell has been careful to avoid direct criticism of his former boss, though some of his former aides have been blistering in their descriptions of Mr. Bush, Vice President Dick Cheney and Secretary of Defense Donald H. Rumsfeld (who presumably has an invitation because he served as secretary of defense under Gerald R. Ford).

In May, Mr. Bush traveled to Mr. Powell's house in McLean, Va., for a quiet dinner, but Mr. Powell publicly parted company with the administration on the issue of interrogation techniques for suspected terrorists, backing an amendment sponsored last year by Senator John McCain, Republican of Arizona, when the White House still opposed it.

Mr. Bush's guests will be briefed by Gen. George W. Casey Jr., the American commander in Iraq, and Zalmay M. Khalilzad, the American ambassador there.

"We invited them so they could hear from General Casey and Ambassador Khalilzad, so that they could hear about the progress we are making on our plan for victory in Iraq, from the military and civilian leaders on the ground," Scott McClellan, the White House press secretary, said Tuesday evening, calling the meeting part of Mr. Bush's broader effort for "outreach on the strategy."

"There will be opportunity for them to ask questions and have a discussion," he said.

Iraq Wants U.S. Choice Out As Chief Of Brigade (WP)

By Jonathan Finer

The Washington Post, January 4, 2006

BAGHDAD, Jan. 3 -- Over the strong objections of U.S. commanders in Baghdad, the Iraqi government has nominated a new leader for a brigade that is set to assume control over some of the capital's most sensitive areas. This dispute appears likely to postpone an already overdue handover by American forces for at least another month.

The 5th Brigade, 6th Division of the Iraqi army was scheduled to assume responsibility on Dec. 27 for the heart of Baghdad, including the perimeter of the fortified Green Zone, where the U.S. Embassy and many Iraqi government buildings are located. It was also to patrol the road to the city's main airport.

But a transfer ceremony that was to be attended by top generals was canceled three days beforehand, after Iraq's Defense Ministry said it would not approve the officer groomed by U.S. forces since August to command the unit, Col. Muhammed Wasif Taha, a 23-year Iraqi army veteran.

U.S. commanders are concerned that the rejection of a qualified Sunni Muslim candidate by a government that is dominated by the rival Shiite Muslim majority will fuel perceptions of Iraq's security forces as sectarian institutions, particularly in Sunni regions where sympathy for the insurgency runs deep.

American officers who work with the unit reevaluated the brigade without Taha in charge and lowered its readiness rating from Level 1, meaning it can operate without U.S. assistance, to Level 3, which means significant help is required. That rating, in force for a month, made it officially unqualified for the proposed new responsibilities.

"When you bring a new commander, we're not sure of his schooling, his experience on the ground. So it's hard for us to assess him," said Col. Ed Cardon, 45, of Watsonville, Calif., commander of the U.S. Army's 4th Brigade, 3rd Infantry Division. "We are very comfortable with Colonel Muhammed. We are not comfortable with a commander we've never worked with before. The handover was contingent upon their leadership remaining where it was."

The standoff comes at a time of broad political and military transition in Baghdad. The 3rd Infantry Division will leave the capital later this month, and the Iraqi government is preparing to give way to a new administration following the Dec. 15 elections.

The dispute simmered with little public notice for months, as official statements from U.S. and Iraqi officials depicted a seamless transition underway throughout the country to enable the eventual withdrawal of U.S. forces.

Throughout the handover, in which Iraqi forces have assumed control over dozens of former American bases, a few entire cities and the majority of land in the capital, U.S. officials have emphasized their role as trainers of the new Iraqi army. They defer

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questions over its deployment and command to the government. But their strong backing of Taha suggests reluctance to relinquish control over details of security, particularly in strategically important parts of the country.

Contacted several times this week, a Defense Ministry spokesman, Maj. Gen. Salih Sarhan, said Taha was likely to be confirmed on a trial basis. But on Tuesday he said the ministry had a different candidate in mind.

Sarhan did not name the person but described him as "an experienced, competent officer, and more senior in terms of rank" than Taha. "The ministry wanted to install a senior officer to be an executive commanding officer with the appropriate rank," Sarhan said.

Taha, 42, a graduate of Iraq's most selective military officer training program and of a top Pakistani military academy, is among the best commanders in the Iraqi army, according to U.S. officers who have worked with him.

In an interview, Taha said the Iraqi brigade to which he was assigned during the U.S. invasion dissolved without fighting. He later went to work for a satellite telephone company in Baghdad, then joined the new U.S.-backed Iraqi army in the summer of 2004.

As a Sunni Arab from Baghdad, he would help diversify the army's top ranks, which are currently dominated by Shiites and Kurds, U.S. officers said. Infusing the military with more Sunni Arabs -- the minority group that led the country under Saddam Hussein and makes up most of Iraq's insurgency -- could improve stability in restive Sunni regions where security forces are mistrusted.

"The military must be a balance between all the Iraqi sides," Taha said. "There is no need for one side to control everything. All Iraqis should be represented."

Another Defense Ministry spokesman, who spoke on condition of anonymity, said Taha had been a member of Hussein's elite Special Republican Guard and a high-level member of Hussein's Baath Party. Taha denies both claims.

Iraq's army was disbanded soon after the U.S. invasion, and former top officers were initially precluded from rejoining. But Iraq's Defense Ministry has embraced the return of many former commanders, who now make up the bulk of the new officer corps.

Cardon, the 4th Brigade commander, said the Defense Ministry's unnamed candidate is a brigadier general from Kut, a predominantly Shiite city southeast of Baghdad.

"Maybe the guy the government wants is the greatest officer in Iraq, or maybe he is the worst, we don't know," said Capt. Ed Ballanco, 31, of Montvale, N.J., commander of the military training team that is partnered with the Iraqi 5th Brigade. "I do know that Colonel Muhammed is by far and away the most professional officer I have worked with in this country."

Lt. Col. Fred Wellman, a spokesman for the multinational force responsible for training the Iraqi army, said he was surprised that the brigade's official rating had fallen so far based on the prospect of a different commander.

"My concern is we're investing ourselves in a person through personal loyalty, which is good, but that we are not allowing the system to work itself out," he said. "We have asked the Iraqis to take control of their ministry and that is what they are doing."

Cardon said American officials are increasingly concerned that the cohesion and quality of the Iraqi army will suffer because politics or sectarian considerations, rather than merit, determine appointments. Iraq's defense minister, Sadoun Dulaimi, a Sunni Arab and former academic, is widely expected to leave his post when a new government is formed based on last month's elections.

"You watch to see how many brigade commanders change jobs when you have a new defense minister," Cardon said. "It is very dangerous to politicize the leadership like this. The question then becomes, are you loyal to the country or to a political party?"

During the standoff over his appointment, Taha has received threatening phone calls. Cardon said he believes some of them are coming from officers within the Defense Ministry because the callers reached him on his cell phone. "Sometimes those death threats aren't just from insurgents, so I worry about his future," Cardon said.

Taha said he did not know why his appointment has been opposed. "I am the best among the officers and I don't know why they are against me," he said. "I am waiting and whatever God decides is all right."

US Allies In Iraq: Valuable But Dwindling (CSM)

By Mark Sappenfield

The Christian Science Monitor, January 4, 2006

WASHINGTON - As member nations consider another calendar year in Iraq, the Bush administration's "coalition of the willing" appears increasingly unwilling to commit to the cause indefinitely.

Last week, two countries finished withdrawing the last of their troops from Iraq, and two others decided to cut their forces by about a third. In all, the coalition has declined from a 2003 high of 38 nations and 50,000 troops to 28 nations and about 20,000 soldiers today.

In terms of military operations on the ground, the withdrawals mean little, analysts say. Only Britain has a substantial security role, and so far it has remained steadfast. Yet each country's commitment to Iraq - however small - is a significant token to an administration that has long sought global support for the conflict. As such, the continual reshaping of the coalition is more a matter of foreign policy than military power, as Washington takes account of its strongest allies in the war on terror.

"Iraq has been the crucible that has shown us how limited our cold-war alliances were," says Thomas Donnelly, an analyst at the American Enterprise Institute here. "It took us 50 years to build NATO; the challenge we have now is that we've got to come up with something new."

The coalition is perhaps the first sketch of that new security structure, but recent months in particular have altered the face of it. Bulgaria and Ukraine withdrew the last of their roughly 1,200 troops from Iraq last month. Last week, Poland announced it would remove 600 of its 1,500 troops by March, and the South Korean parliament voted to pull out 1,000 of its 3,200 soldiers - with the rest leaving next year.

The news comes as the coalition was already shrinking. Italy will withdraw 300 of its 2,800 troops this month as part of a phased pullout, and other nations - most notably Spain and the Netherlands - have already withdrawn either all or virtually all their troops.

So far, the Pentagon has looked at the fluctuations without great consternation. "We don't set any conditions on coalition members," says Lt. Col. Barry Venable, a spokesman. "Certainly, we'd like more, but we're grateful for what each and every nation feels it can contribute."

The ambivalence is born of the fact that - with the exception of Britain - coalition nations have not done the heavy lifting of fighting insurgents. "They weren't going to win the war, and if they left tomorrow, they wouldn't lose the war," says Andrew Bacevich, a professor of international relations at Boston University.

Drawing conclusions from who has drawn down their forces and why, however, is difficult. For its part, Italy says its withdrawal is part of a "success strategy." Even the United States has announced plans to cut troop levels, with military leaders saying they see progress in Iraq, so it is hardly surprising that other nations would be eager to do the same.

Yet analysts suggest there are a host of other reasons, as well. In some cases, such as South Korea, relations with the US have soured, giving the country less incentive to stay. In others, such as Spain, voters turned so strongly against the war after the Madrid train bombings that they elected a government that pledged to withdraw from Iraq.

In this context, continued participation in the coalition is an important measuring stick - both for how influential Washington remains, and for who is willing to listen. And the Bush administration has stressed how much it values any help. The president stopped in Mongolia in November to thank the country for its 130 soldiers.

Indeed, among the limited contributions of coalition nations, some have a significance beyond numbers. Poland has become a major power broker for the US in Europe, and its decision last week to keep some troops in Iraq - it had previously planned to withdraw them all - was seen as a US foreign-policy victory. Moreover, Iraq marks the first time that Japan has deployed troops to a war zone since World War II. Though the troops are there on a humanitarian mission, the US has encouraged Japanese military participation as it seeks a counterweight to China and South Korea.

"It marks a huge threshold for Japanese domestic political opinion," says Mr. Donnelly. "Japan used Iraq to rethink its whole approach to the use of military force."

From the beginning, however, international support for the war in Iraq has been thin - even among coalition members - and it has become only more so. The US also did most of the heavy lifting during the first Gulf War, but then it had a huge array of

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allies to help pay the cost. Though the lessons of this war are tied to its uncertain outcome, they have pointed to the limits of a limited coalition.

"What we need if we intend to have this global war on terror include some additional military campaigns is substantive military participation by allies and money," says Dr. Bacevich. "A coalition matters to the degree that it brings something substantive to the table."

Iraqi V.P. Says No New Gov't Until April (AP)

By Patrick Quinn

The Associated Press, January 4, 2006

BAGHDAD, Iraq — Vice President Adil Abdul-Mahdi, a leading Shiite candidate to become the next prime minister, said Tuesday that Iraq may not have a new government until April if political and sectarian groups cannot set aside their differences.

A broad-based coalition government including Shiites, Kurds and Sunni Arabs is the only way to defeat the insurgency, Abdul-Mahdi told The Associated Press in an interview at his home along the banks of the slowly flowing Tigris River.

"The future government, I think, will be a national unity government. This is a must. It is not something that only the results of the elections can decide. It is a political necessity, and all parties agree on that," Abdul-Mahdi said, wearing a tan suit as he sat on an ornate chair in a functional but bare reception area in the heavily guarded single-story stone house.

The 63-year-old former exile's remarks reflect the desire of many Shiites, especially politically moderate Islamists, to make the government more inclusive and representative in an effort to stop the daily bloodshed that ravages Iraq.

Abdul-Mahdi, who served as finance minister in Iraq's first interim government, said the country's political parties have to show flexibility if they want to form a government quickly.

"If we are flexible with our requests, then we can see a government in a very short period. But if we are reluctant, rigid, then this might take a while, maybe two months, three months," he said. "We are hoping that all parties will be flexible and they will be moderate in their requests, practical in seeing things, looking at the future and not sticking to their pasts or the present."

There were indications that three main parties to emerge from the Dec. 15 parliamentary elections — the Shiite United Iraqi Alliance, the Sunni Arab Iraqi Accordance Front and the Kurdish coalition — were making significant headway in forming a coalition government ahead of the release of final results.

Leaders of the Accordance Front agreed Monday for the first time on the broad outlines for such a government during an unprecedented trip north to the Kurds.

Abdul-Mahdi said "theoretically we are very close" to forming a government, but it could take some time before final results are certified.

Some smaller Sunni Arab groups and secular parties are claiming widespread election fraud and have threatened to boycott the 275-member parliament if the elections are not rerun in some provinces including Baghdad.

Although the United Nations has endorsed the elections as credible, those groups want an international assessment team to inspect about 1,500 complaints thoroughly. The team began its work on Monday.

Final results were to be released this week, but election officials said Tuesday they may take two weeks.

Abdul-Mahdi said the process could last longer.

"They will not be announced until next week. Then there will be a period of verification and ratification," he said. If there are appeals, "then it will take another two weeks."

But Abdul-Mahdi said the real delays in forming a new government could appear when "we come to the real discussion of posts and key posts."

One key post, that of prime minister, could go to the soft-spoken Abdul-Mahdi, the son of a respected Shiite cleric who was a Cabinet minister in Iraq's monarchy.

Trained as an economist, he left Iraq in 1969 for exile in France after being arrested, tortured, and jailed by the Baath party. In his youth, Abdul-Mahdi dabbled with Baathism and Maoism before adopting the Islamic-style democracy he now favors.

Abdul-Mahdi is currently a leading member of the powerful Shiite Supreme Council for the Islamic Revolution in Iraq, one of two major Islamic groups making up the United Iraqi Alliance, the religious Shiite political organization that dominates Iraq.

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The other candidate for the country's top job to emerge from the governing Shiite alliance is the incumbent, Prime Minister Ibrahim al-Jaafari, head of the conservative Islamic Dawa party. Al-Jaafari's popularity, however, has apparently suffered because of his government's inability to stave off the insurgents and bolster the economy of a country with the world's third-largest proven oil reserves.

Abdul-Mahdi said he would actively campaign for the post.

That marks a change from after the Jan. 30 elections, when he reportedly took himself out of the running in favor of al-Jaafari, who was said to have the backing of Iraq's most prominent cleric, the powerful Grand Ayatollah Ali al-Sistani.

This time, however, al-Sistani has not yet anointed a favorite.

"There is no intention of withdrawing," Abdul-Mahdi said. "On the contrary there is an insistence on this matter. I believe that this is the right thing to."

Preliminary results from last month's elections show the Shiite religious group expected to take nearly half the seats in parliament — or about 130, well short of the 184 needed to avoid a coalition government.

The Kurds could win about 55 seats, Sunni Arab groups about 50, while a secular group headed by former Prime Minister Ayad Allawi is expected to receive about 25.

Abdul-Mahdi said a broad-based government would have enough legitimacy to deflate the Sunni-led insurgency and eventually lead to the withdrawal of U.S.-led coalition forces. He did not give a timeline for such a withdrawal.

"We always thought that the final solution was a political one, not a military one," he said. "We are progressing on this front, the political front, and all the efforts we are doing on security issues, improving our armed forces, our security institutions, we are preparing all the conditions for the withdrawal of the multinational forces."

Iraq Leaders Set Sights On Unity Government (REU)

By Shamal Aqrawi

Reuters, January 4, 2006

ARBIL, Iraq (Reuters) - Iraqi leaders have agreed to press on with efforts to form a national unity government after the latest round of talks on Tuesday hosted by Kurdish officials in their northern stronghold.

Negotiations on how exactly to share posts among the rival ethnic and sectarian factions will convene in the coming days in Baghdad, Kurdish regional president Masoud Barzani said after he and Iraq's Kurdish interim president Jalal Talabani met minority Sunni Arab leaders from the Iraqi Accordance Front.

"We have agreed on a national unity government," Barzani told a news conference in the Kurdish capital Arbil. "The negotiations will continue in Baghdad among all the parties."

The discussions have been held despite Sunni protests that the results of the December 15 election were rigged -- a claim that has prompted electoral officials to invite a team of foreign experts who are arriving this week to review the process.

One election official said on Tuesday, however, that he expected to see final results published in the coming days which, despite some annulments for irregularities, will confirm the dominance of the Shi'ite Islamist Alliance despite strong turnout by Sunnis who boycotted the previous election in January.

"We are going to cancel between 50 to 70 ballot boxes out of around 31,000 from across Iraq," Commissioner Adel al-Lamy said.

"The overall results will not be affected by the cancellation. It will not affect the results in one city let alone affect the results of any province," Lamy told Reuters.

Electoral officials in Iraq gave differing accounts of whether at least some of the four unnamed observers, two Arabs, a Canadian and a European, had begun work.

Though some Sunni Arab leaders say they will protest and reject talks on government roles unless the foreign monitors uphold their claims of fraud, the United Nations has already called the election largely fair and other Sunni politicians are staking their claims to a share of power in negotiations.

AIR STRIKE

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Among grievances within the Sunni community dominant under Saddam Hussein are the activities of U.S. troops in their home areas of the north and west. In the latest friction, political leaders and the local police voiced outrage at a U.S. air strike on a house in the northern town of Baiji that killed six people.

In other violence, police said a sister of Interior Minister Bayan Jabor was kidnapped in Baghdad; aides to Jabor, a hate figure for Sunni rebels, said they were unaware of the incident.

The U.S. military said aircraft bombed the building in the oil refining town of Baiji late on Monday when three men were spotted from the air going into the house after digging a hole that troops suspected was for a roadside bomb.

Baiji police said six people were killed and three wounded when the house was obliterated. Among the casualties were two police officers, one killed, the other wounded, they added. The youngest casualty was 14, the local police chief said.

"I absolutely confirm there were no terrorists in this house," Baiji police chief Colonel Sufyan Mustafa told Reuters.

"Even if there had been, why didn't they surround the area and detain the terrorists instead?"

DIGGING ROAD

A statement issued by the U.S. 101st Airborne Division said soldiers monitoring film from a reconnaissance drone spotted three men digging a hole by a road around 9 p.m. (1800 GMT).

Pilots were alerted, the military said: "The individuals... were followed from the air to a nearby building. Coalition forces employed precision-guided munitions on the structure."

The military gave no casualty figures.

Asked whether a bomb -- an improvised explosive device or IED, in military jargon -- had been found in the road and what measures were taken to determine who was in the house before the attack, spokesman Lieutenant Colonel Ed Loomis said he could not detail tactics but said : "Digging in the road surface in the hours of darkness are the actions of someone emplacing an IED."

Lieutenant Colonel Barry Johnson, national spokesman for U.S. forces, said: "Insurgent activity was confirmed through multiple sources, to include previous intelligence and direct observation at the time of the air strike ... "We are working closely with Iraqi security forces ... to determine precisely what happened and any unintended casualties resulting from our targeting of insurgent activity."

A local official of the biggest Sunni Arab political group, the Iraqi Islamic Party, called for demonstrations.

Hussein al-Falluji, a leader of the Accordance Front, said: "Once again the occupiers have shown their barbarism."

Last week, the military said an air strike killed 10 people near the nearby town of Hawija after pilots tracked men who had been spotted digging by a roadside.

U.S. forces have used air power increasingly of late.

Official data show the average in the last quarter of 2005 was 54 strikes per month, compared with five strikes per month in the first quarter; the recent rate was comparable to the 56 per month seen in the second half of 2004 when troops fought a Shi'ite uprising and stormed the Sunni city of Falluja.

The U.S. government says it will start withdrawing its 160,000 ground troops from Iraq as Iraqi forces become more able to combat revolt against the Baghdad authorities. But analysts expect U.S. air power to remain a key factor in the conflict.

Women Face Enormous Obstacles In Iraqi Politics (KRT)

By Huda Ahmed

Knight Ridder, January 4, 2006

BAGHDAD, Iraq - Maha al Douri took a radical stance when she decided to run for a seat in the Iraqi Parliament in December: The 36-year-old candidate on a minor Shiite Muslim slate put her face on campaign posters - and succeeded in raising eyebrows around the country.

"I got threats," said al Douri. "I am the first (female) candidate to talk about women's rights. The political parties list women as candidates, but they want to waste the woman's voice. Where is the secularity and democracy we hear about? Are they only slogans?"

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She's hardly alone in wondering what the future holds for women seeking political power in Iraq. Al Douri, who studied politics and journalism for a doctoral degree, notes that any woman getting involved must be brave enough to risk enormous social pressure and to face tremendous practical obstacles.

The official line from the government and many politicians is that women are welcome to participate. The constitution, which voters ratified in October, even guarantees women equal rights in society and a quarter of the seats in Parliament.

"We seek a real role for women, not a marginal one," said Haider al Abadi, a prominent member of Iraq's largest political coalition, the United Iraqi Alliance, a Shiite group. "Society has now accepted women in the political field. ... We are keen for women to hold leading positions in the government."

During Saddam Hussein's 25-year reign, women did have a few opportunities to play important roles in government or elsewhere in society, but only as long as they complied with Saddam's demands to serve him and the ruling Baath party. Women had the right to vote, for instance, but like all Iraqis could vote only for Saddam.

Yet for all the talk of shedding a history of female repression and establishing a nation in which a woman's voice matters as much as a man's, signs that the government is becoming more Islamist worry champions of women's rights.

Proponents of Islam in government note that the religion explicitly values women, including by cherishing their contributions to family, home and society. Yet others fear that a conservative Islamic government would bar women from voting, moving or even studying independently of their fathers, husbands or brothers.

Already there have been numerous reports of husbands casting votes in their wives' names and of fathers voting for their daughters. Before October's constitutional referendum, in conservative areas campaign posters showing a woman's face - symbolizing the face of a new Iraq - were ripped from walls or painted over and denounced as shameful.

In the December parliamentary elections, security concerns prompted candidate Huda al Nu'aimi to decide at the last minute not to display any of her campaign posters, including those featuring her face. Like other female candidates, some of whom were even afraid to appear in public, al Nu'aimi feared that she'd be a target.

"I did not dare to be pursued by militias or organized criminal groups. I did not want my posters to be torn or covered in bad words," said al Nu'aimi, a candidate of the Iraqi National Dialogue Front, a major secular Sunni Muslim slate. "Here, the man is still the master."

Like many Iraqis who are worried about the direction their nation will take, Aseel Ayad wants women to have a stronger role in politics. The 23-year-old, who works in her family's Baghdad optical shop, thinks it's important that the new government's promises of gender equality - the right to work, vote and participate fully in society - don't vanish.

"As a woman, I feel I need women in office to help me achieve my goals," she said. "So far we have seen nothing in the past elections. Women have been represented in the slates, but only to fill a space, and they haven't been valued."

While some political groups did just that, others sought to fill the spaces on their slates that were constitutionally reserved for women with bona fide candidates, said Hussein al Musawi of the Sun of Iraq, the minor Shiite slate that included al Douri. It will take time for Iraq to embrace a political system that's open to women and for women to seize the opportunity, he said.

"This is a golden chance for women," al Musawi said. "They must exploit it in the best way they can and improve their role in society in these years, so in the next round of elections women will be able to raise their percentage" in Parliament.

Not everyone is eager for women's rights to top the government's agenda.

Mays Hussam, 34, an office manager in Baghdad, said the nation had more pressing issues, including the epidemic violence that kills Iraqis daily and the chronic electricity shortage. Only after Iraq's basic needs are met should the government take on more, she said.

"I don't want something for my gender," she said. "All I care about now is security and a healthy environment for my son. Once we're safer, I hope women will defend our rights."

Political analyst Hazim Ali of Jadriyah University said that security fears, however, weren't necessarily driving the movements to exclude women from politics. Some extremist clerics may be taking advantage of troubled times to keep women in traditional roles, he said.

"Politics here is a male thing," Ali said. "I consider it two-faced: We say we accept women's role in politics, but we do not believe in them."

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Azhar al Sheikhli, the minister for women's affairs, said that too often women were regarded as simple-minded, unable to handle the rough-and-tumble political world. Strong laws are needed to guarantee women's rights, and new generations must be taught that women have much to give to Iraq, she said.

"The heads of our political lists realize they don't need women at the top of their lists to succeed, so they figure, `Why risk it?'" she said. "We hope that will change with time."

Results Of Iraq Elections Not Likely For 2 Weeks (USAT)

USA Today, January 4, 2006

BAGHDAD — An international team began reviewing the hundreds of complaints filed over Iraq's parliamentary elections, and an Iraqi elections official said Tuesday that results might not be ready for two more weeks.

U.S. aircraft, meanwhile, bombed a building where suspected insurgents were hiding north of Baghdad, killing seven people, Iraqi police said.

In the capital, the sister of Iraqi Interior Minister Bayan Jabr was kidnapped by gunmen who killed one of her bodyguards and seriously wounded another, said Adnan Thabet, commander of the Interior Ministry's special forces.

The Independent Electoral Commission of Iraq has completed its investigation of almost 2,000 election complaints and will announce the findings today, commission member Hussein Hindawi said.

However, the commission won't announce final election results until an international team finishes its work, meaning they might not be ready for two weeks, commission member Safwat Rashid said. Officials previously said final results of the Dec. 15 vote would be announced in early January.

The commission investigated 1,980 complaints, including 50 that were considered serious enough to alter results in some districts.

The international team, which began its work Monday, agreed to review Iraq's elections after protests by Sunni Arab and secular Shiite groups that the polls were tainted with fraud.

Preliminary results give the governing Shiite religious bloc, the United Iraqi Alliance, a big lead, but one that would still require forming a coalition with other groups.

U.S. aircraft bombed a house late Monday inBeiji, site of Iraq's largest oil refinery, killing seven people and wounding four, Iraqi police Capt. Arkan Jassim said. The U.S. military said an unmanned aircraft spotted three men planting a roadside bomb in the city 155 miles north of Baghdad, and that Navy F-14s bombed a nearby building the three had entered. In other violence, eight people were killed Tuesday in three attacks in Baghdad.

Gunmen attacked a car carrying construction workers in a western neighborhood, killing three, police Capt. Qasim Hussein said. Another car carrying civilians was fired on in the same area, killing two people, police 1st Lt. Thair Mahmoud said. Three civilians elsewhere in Baghdad were shot to death, police said.

International Team Probes Complaints About Vote (WT/AP)

By Jason Straziuso

The Washington Times, January 4, 2006

BAGHDAD -- An international team began reviewing the hundreds of complaints filed about Iraq's parliamentary elections, and an Iraqi elections official said yesterday that results might not be ready for two weeks.

In the capital, the sister of Iraq's interior minister was kidnapped by gunmen, who killed one of her bodyguards and seriously wounded another, an Interior Ministry official said.

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Preliminary results give the governing Shi'ite religious bloc, the United Iraqi Alliance, a big lead, but one that still would require forming a coalition.

Interior Minister Bayan Jabr's sister was kidnapped in northeastern Baghdad, said Adnan Thabet, commander of the Interior Ministry's special forces. He did not provide details about the abduction or the minister's sister -- including her name or age.

Mr. Jabr is a member of the Supreme Council for Islamic Revolution in Iraq -- the country's largest Shi'ite party, also known as SCIRI. He was formerly a senior official of the Badr Brigade, a militia that belongs to SCIRI.

Mr. Jabr has in recent weeks been the focus of criticism regarding charges of torture and abuse at Interior Ministry prisons. Many of those abused were Sunnis, the group thought to sponsor the insurgency.

U.S. aircraft bombed a house late Monday in Beiji, site of Iraq's largest oil refinery, killing seven persons and wounding four, said Iraqi police Capt. Arkan Jassim. The U.S. military said an unmanned aircraft spotted three men planting a roadside bomb in the city, which is 155 miles north of Baghdad, and that Navy F-14s bombed a nearby building the three had entered.

But police in Beiji told Reuters news agency that the victims were innocent family members, the youngest being 14, and that they included two police officers, one of whom was killed.

"I absolutely confirm there were no terrorists in this house," police chief Col. Sufyan Mustafa told Reuters.

Fraud Probe Continues Into Iraq Poll Results (FT)

By Steve Negus, Iraq Correspondent

Financial Times, January 4, 2006

Final results for Iraq's December 15 elections may not be ready for another two weeks, Iraqi officials said on Tuesday, but politicians continued to hold talks on forming a national unity government to include all major ethnic and sectarian groups.

Officials from Iraq's independent electoral commission (IECI) say that the more than 2,000 complaints filed have already been investigated, but time was needed for a team from a Canada-based elections mission to check the violations-detection process.

The IECI had originally forecast that results might be available early this month, but Sunni Arab and secularists alleged widespread fraud and voter intimidation by Shia Islamists and demanded that international observers be brought in to check the results.

Consequently, last week the IECI invited the International Mission for Iraqi Elections (IMIE), a group set up in 2004 to monitor the country's political process, to send a team to Baghdad to review elections procedures.

Sunni leaders have welcomed the participation of the IMIE mission, which includes two Arab League representatives, a Canadian and a European. The mission started work on Monday.

The IECI for its part has said that in the next few days it will announce the cancellation of results in polling stations where major fraud had occurred.

Any cancellations, however, are not expected to change dramatically the outcome of an election where the Shia Islamist-led United Iraqi Alliance (UIA) is expected to secure between 120 and 130 seats in the 275-member parliament, compared to around 50 won by a Kurdish coalition and 40 gained by the main Sunni group.

Despite an outcome that would require the UIA to ally with only one major faction to create the two-thirds majority it needs to form a government, most mainstream Iraqi politicians have agreed that Iraq should have a national unity government to overcome ethnic and sectarian divides.

To this end, President Jalal Talabani and other Kurdish politicians have hosted meetings in their northern self-rule zone, which have been attended by the largest Sunni movement, the Islamist-leaning Iraqi Consensus Front.

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On Tuesday, Front leader Adnan al-Dulaimi was quoted as saying that there was an "agreement to form a balanced Iraqi government by consensus and co-operation and away from any sectarian affairs".

Other groups, however, have denounced the Front for breaking ranks with Sunnis and secularists who rejected the election results, leaving open the possibility that some Sunnis will continue to contest the legitimacy of the elections even as others participate in the government.

Discussions in the north also focused on who among the UAI might head the government, with a statement from Mr Talabani's office on Monday saying that the president had no objection to Ibrahim al-Jaafari of the Shia Islamist al-Daawa retaining his post as prime minister.

Many Kurds were thought to be disappointed with Mr Jaafari's performance and to prefer Adel Abd al-Mahdi, vice-president, from the Supreme Council for Islamic Revolution in Iraq (Sciri), a rival Shia Islamist party.

If Mr Jaafari's al-Daawa retains the premiership, then Sciri may insist on keeping control of the interior ministry – an arrangement likely to infuriate many Sunnis, who argue that the current Sciri interior minister has tolerated the mass detention and assassination of their co-religionists.

U.S. Strike On Home Kills 9 In Family, Iraqi Officials Say (NYT)

By Richard A. Oppel Jr. And Omar Al-neami

The New York Times, January 4, 2006

BAGHDAD, Iraq, Jan. 3 - American F-14 warplanes killed nine members of an Iraqi family, including women and young children, during a bombing and cannon strike on Monday night that obliterated a home near the northern industrial city of Baiji, Iraqi officials said Tuesday.

American officials said the warplanes had been pursuing insurgents who had been observed setting up a roadside bomb. They fled to a building, and the American planes struck the building and destroyed it.

The attack enraged Iraqi officials in Baiji, about 150 miles north of Baghdad, who said that the airstrike was unjustified and that it had destroyed an innocent family.

A preliminary investigation indicated the blast had killed the wife of the home's owner, his daughter-in-law and seven children and grandchildren, including one son who worked for the police, said Maj. Muthanna al-Qaisi, a spokesman for the governor of Salahaddin Province. Three more relatives were wounded, he said.

"The owner of the house is a very simple man," Major Qaisi said. "The American forces did not provide us with any justification for the attack, and the governor requires an investigation concerning this attack." He said the governor would meet with American officials on Wednesday to demand an explanation. The home, behind a mosque, was demolished in the 10:30 p.m. attack, he said.

Agence France-Presse in Baiji reported that eight bodies had been pulled from the rubble along with three survivors - two unconscious women and an 8-year-old boy whose cry for help alerted rescuers. Agence France-Presse quoted the owner of the home, Ghadban Hassan, as saying he was at a store 100 yards away when the bombs struck. He said 14 family members had been inside.

A Baiji police colonel, Sufyan Mustafa, told Reuters that the family members killed in the bombing did not include any suspected insurgents. "There were no terrorists in this house," he said.

American military officials said the airstrike came after a pilotless reconnaissance aircraft detected three men planting a roadside bomb about 9 p.m. The men "dug a hole following the common pattern of roadside bomb emplacement," the military said in a statement. "The individuals were assessed as posing a threat to Iraqi civilians and coalition forces, and the location of the three men was relayed to close air support pilots."

The men were tracked from the road site to a building nearby, which was then bombed with "precision guided munitions," the military said. The statement did not say whether a roadside bomb was later found at the site. An additional military statement said Navy F-14's had "strafed the target with 100 cannon rounds" and dropped one bomb.

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American officials said they were working to confirm how many causalities were involved and who was killed. "We're now trying to determine in coordination with Iraqi security forces in the area exactly what casualties occurred, and why they occ urred," said Lt. Col. Barry Johnson, a military spokesman.

In Baghdad on Tuesday afternoon, gunmen kidnapped the sister of the interior minister, Bayan Jabr, the Iraqi police said. Mr. Jabr is a highly polarizing figure, accused by Sunni Arabs of orchestrating widespread assassinations of Sunnis. Mr. Jabr has denied that, but American soldiers raided jails under his control last year and found Sunnis with clear signs of abuse.

North of the capital in Baquba, a suicide car bomber attacked a bus filled with police officers on Tuesday, killing three and wounding 14 more, the American military said.

The Kurdish leader Massoud Barzani said further talks aimed at forming a unity government would continue with discussions on how to spread government posts around to the main sectarian and ethnic blocs, Reuters reported. The main Sunni Arab political party agreed with the Kurds on Monday to drop objections to the validity of the parliamentary election on Dec. 15 and work toward forming a coalition government.

Officials from the Iraqi election commission said it could take another week or two before final certified results are released. An international team of election monitors is evaluating complaints that Sunni Arabs and some other groups were disenfranchised. Iraqi election officials and United Nations observers have rejected calls for new elections.

In an interview on Tuesday, the head of the Iraqi election commission, Adel al-Lami, said no more than 50 to 70 ballot boxes - of 31,000 - would be canceled because of findings of fraud.

Dozens Feared Dead In Indonesia Landslide (AP)

By Irwan Firdaus

The Associated Press, January 4, 2006

JAKARTA, Indonesia -- Landslides triggered by heavy rains swept down on a village on Indonesia's Java island at dawn Wednesday, burying homes beneath tons of mud and leaving dozens of people missing and feared dead, officials said.

Most residents of Cijeruk, a village of about 200 people, were at home sleeping or performing early morning Muslim prayers when the landslide tumbled down from a nearby mountain, local government official Supriyanto told The Associated Press.

Budi Warityo, a police officer at the village in central Java, told The AP that so far only 12 people had been rescued and on e body had been recovered, but that many of the remaining 200 people were missing and believed killed.

"The rest of the villagers are feared to be buried under the mud," he said by telephone from the scene, about 130 miles east of Jakarta.

Meanwhile on the east of Java, rescuers tried to find survivors from a series of landslides and flash floods that killed at least 57 people and left dozens other missing earlier this week, officials said.

The mud and water destroyed bridges and roads in the already isolated area in Jember district, cutting of at least two villages two days after the disaster, el-Shinta radio reported.

Heavy tropical downpours cause dozens of landslides and flash floods each year in Indonesia, where millions of people live in mountainous regions and near fertile flood plains close to rivers.

U.S. Raid Kills Family North Of Baghdad (WP)

By Ellen Knickmeyer And Salih Saif Aldin

The Washington Post, January 4, 2006

BAGHDAD, Jan. 3 -- U.S. pilots targeting a house where they believed insurgents had taken shelter killed a family of 12, Iraqi officials said Tuesday. The dead included women and children whose bodies were recovered in the nightclothes and blankets in which they had apparently been sleeping.

A Washington Post special correspondent watched as the corpses of three women and three boys who appeared to be younger than 10 were removed Tuesday from the house outside the town of Baiji, 150 miles north of Baghdad.

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A U.S. military spokesman said that American forces take every precaution to prevent civilian casualties and that they were working with Iraqi authorities to determine what happened at the farmhouse in Baiji. "We continue to see terrorists and insurgents using civilians in an attempt to shield themselves," Lt. Col. Barry Johnson, a military spokesman, said in an e-mail.

The Associated Press Television News showed footage of men carrying several bodies wrapped in carpets from the wreckage of the house. The men chanted ritual prayers: "There is no god but God."

The United States has steadily intensified its use of airstrikes against insurgents in Iraq in the past year, increasing the number of attacks from 25 in January 2005 to 120 in November.

The U.S. military says that it does not count civilian deaths from American attacks and that investigating deaths caused by any one strike is often impractical in dangerous areas. But some analysts say the U.S. military should make a systematic effort, both to test the reliability of its intelligence and to better learn how to reduce civilian casualties.

On Tuesday, Johnson said the U.S. military was trying to do that with the Baiji attack. "We are determining the facts in this particular case so we will know exactly how civilians may have been drawn into the air strike that was deemed necessary by our forces fighting insurgents on the ground," Johnson said in the e-mail.

Johnson deferred comment on civilian casualties in the strike to Iraqi officials.

U.S. forces had received the information leading to the attack from multiple sources, including existing intelligence and direct observation at the time of the strike, Johnson said in the e-mail.

A U.S. military statement said that an unmanned U.S. drone detected three men digging a hole in a road in the area. Insurgents regularly bury bombs along roads in the area to target U.S. or Iraqi convoys. The three men were tracked to a building, which U.S. forces then hit with precision-guided munitions, the statement said.

Maj. Abdul Jabbar Kaissi, a security officer in Salahuddin province, said the airstrike killed the 12-member family of his relative, Ghadban Nahi Kaissi, who is also a relative of Salahuddin Gov. Ahmad Mahmud Kaissi.

Officials said six surrounding houses were damaged and two residents in the area were wounded seriously enough to require treatment. Officials and other people at the scene said there had been no insurgents in the house targeted.

As American forces cordoned off the site Tuesday morning, the Post special correspondent witnessed emergency workers carrying out the bodies of the three boys on the thin mattresses where they had been found. Search crews used blankets to wrap up the bodies.

Emergency workers also retrieved the bodies of three women -- a bloodied older woman whose head was wrapped in a black veil and two younger women whose hair was uncovered and who were dressed for bed. The head of one of the two young women was crushed.

"I would certainly think that if they believe they had strong intelligence about enemy activity they would want to confirm that they had killed their intended targets and want to understand if they had killed or injured innocent people inadvertently," said Sarah Sewall, who was deputy assistant secretary of defense for peacekeeping and humanitarian aid during the Clinton administration. She is now program director at Harvard University's Carr Center for Human Rights Policy.

Separately Tuesday, top Iraqi police officials in the southern city of Basra said an Iranian citizen was among three men detained in a raid Sunday that uncovered a large amount of arms and explosives. One of the officials said some of the seized ordnance had markings showing it had been made in Iran. The raid was in Nashwa, east of Basra, near the Iran-Iraq border.

The ordnance included 235 sticks of dynamite, as well as artillery and mortar shells and antitank mines, officials said.

U.S. Ambassador Zalmay Khalilzad recently warned Iran against sending weapons into Iraq. A top U.S. military official, who spoke on condition that he not be identified further, had said repeatedly that weapons and guerrillas were entering Iraq from Iran.

Specific accounts of such smuggling seldom emerge. Police and officials in southern areas bordering Iran, and in the Interior Ministry in Baghdad, are predominantly Shiites. Many are members of religious political parties with links to Iran, a Shiite theocracy.

In northern Iraq, meanwhile, Kurdish regional leader Massoud Barzani held post-election talks with Sunni Arab leaders, telling reporters after the meeting that "we have agreed on a national unity government." Negotiations on the makeup of a coalition government will continue in Baghdad, Barzani said.

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In Baghdad, however, spokesmen in the Shiite religious alliance that early results show netted the biggest share of votes in last month's elections said the alliance would accept only coalition partners that favored federalism and strong measures against members of the Baath Party that ruled Iraq under Saddam Hussein.

The measures would be antithetical to most prospective Sunni coalition partners, however. Their members come from the Sunni minority that lost power with the overthrow of Hussein's government.

Also in Baghdad Tuesday, police said a sister of Interior Minister Bayan Jabr, a Shiite, had been kidnapped, but Jabr's political party denied the abduction had occurred. Parts of central Baghdad were locked down as police searched for the woman.

Cautiously, Iraqis Open For Business (CSM)

By Charles Levinson

The Christian Science Monitor, January 4, 2006

BAGHDAD - On a crisp winter afternoon in Baghdad's well-to-do Jadiriya neighborhood, families, young couples, and students from nearby Baghdad University crowd the tables outside the Hassan Ice Cream Shop.

A decade ago, when international sanctions meant sugar - among other commodities - was in short supply, ice cream shops such as the one Mohammed Hassan opened last April were illegal. Now, Iraqis are eagerly consuming what was once forbidden, and Mr. Hassan is raking in profits.

"I'm succeeding because I've filled a hole in the market," says Hassan. "I'm giving Iraqi families ice cream and a safe place to spend their free time."

Hassan's is one of the 24,000 new businesses that the Iraqi Ministry of Trade says have opened since the fall of Saddam Hussein in April 2003 and to which US officials point to support their claims that the Iraqi economy, despite ongoing security woes, is recovering.

"I think ordinary Iraqis have picked up on the sense that the economy looks better," says Thomas Delare, the counselor for economic affairs at the US Embassy in Baghdad.

The success of Hassan's parlor, in a large part, is due to location. It sits in a well-guarded neighborhood, just blocks away from the home of Iraqi president Jalal Talabani. Iraqi police stand on nearly every corner. And whereas most of Baghdad receives a few hours of electricity each day, here the lights (and ice cream freezers) rarely go out.

Elsewhere, new businesses aren't faring so well. Economists at the Baghdad Economic Forum say that as many as 90 percent of the 24,000 new businesses are idle, unable to secure the work, raw materials, and startup money to get off the ground. Security problems, unreliable electricity, and lack of finance are hobbling small businesses, analysts and local businessmen say.

Dangerous roads, cheap imports

Not far from Hassan's ice cream parlor, Nour Ali Haider sits behind the counter of his leather jacket store. He is the sort of self-made entrepreneur the US would like to see blossom in Iraq's nascent free market economy. In 1989, fed up with his three-dollar-a-month job in a state-owned leather factory, Mr. Haider bought a dozen leather jackets and began hawking them from a street corner. Now he owns his own store and, until recently, business was thriving.

"Before the fall of Saddam I wouldn't have been able to talk [to journalists] because I'd have been so busy," he says. "Now I can sit here and talk and drink tea with you all evening."

His is one of dozens of leather goods stores along this heavily traveled boulevard. Buyers once came from all over Iraq and neighboring Jordan and Syria to buy inexpensive Iraqi-made leather coats here. But since car bombs, kidnappings, and assassinations have become a daily ordeal for ordinary Iraqis, business has all but disappeared. Two car bombs exploded just blocks away from his store last week.

Earlier this year, struggling to feed his wife and three kids, Haider tried his hand at another trade. He started a new business selling generators, a hot commodity in electricity-starved Iraq, but it proved to be a losing venture.

"The generators I was selling were coming from China, and most of them were broken," he says. "And by the time I got into the market everybody already had generators. I lost $2,500."

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Cheap imports from China and elsewhere are a sore subject for many small businessmen here. In 2003, the US-led Coalition Provisional Authority (CPA) enacted a series of economic policies to rapidly liberalize the economy. They slashed tariffs on all but a handful of goods. Inexpensive wares began pouring in, leaving Iraqi producers struggling to compete.

"Everything is being imported from outside the country with no taxes, tariffs, or any kind of planning," complains Shaalan al-Shazar, the head of Ro'a al Muhager, an eight-person engineering firm that designs machines for small Iraqi factories. "This has led to the deterioration of Iraqi industry, and now I have no work."

As an engineer, Mr. Shazar should be well placed to benefit from the $21 billion that the US is spending to rebuild Iraq. But he hasn't seen a penny. Thanks to rampant corruption, he says, only foreign companies and well-connected Iraqis get contracts.

"Who is getting these contracts?" wonders Shazar. "I don't know. Friends of translators for the US, friends of the [US] Army. I never see any of these projects advertised in the newspapers."

Owners of small Iraqi construction firms echo such sentiments. Like the abolition of tariffs, they say it's another legacy of the economic policies enacted by the CPA. In this case, the concerned law is the CPA's controversial Article 39, an investment law that gave foreign companies unfettered access to Iraq, effectively freezing many local companies out of the rebuilding effort. Risks of doing business in Iraq

But even if Shazar could get those contracts, he says it's just too dangerous to work with the Americans. "It's not that I don't want to work with the Americans, but I'm afraid."

Shazar has a centrally located office in downtown Baghdad. It was once just a 30-minute commute to get home each evening to his wife and six daughters on the city's western edge. Now, due to checkpoints and road blocks, the drive takes up to two hours. The commute has become too dangerous, so he's boarded up the office and works from home - secretly.

"My business is hidden inside my home now," he says. "There are no advertisements or signs outside. There are many insurgents in my neighborhood and if they knew that I'm a businessman and they think I have money, they will rob me or kidnap my daughter."

Now, the hope for many of Iraq's small businessmen, and indeed for the economy as a whole, is that last month's vote will herald an inclusive government that will help take the steam out of the insurgency.

"Domestic entrepreneurs and foreign investors have all been waiting for stability, predictability, and greater security," says Mr. Delare of the US Embassy. "The election doesn't guarantee any of those things, but it offers the promise that now we can put them in place."

CIA Enlisted Aid Of Iraqis In U.S. (WT)

The Washington Times, January 4, 2006

From combined dispatches

A new book on the government's secret anti-terrorism operations describes how the CIA recruited an Iraqi-American anesthesiologist in 2002 to obtain information from her brother, who was a figure in Iraqi dictator Saddam Hussein's nuclear program.

Dr. Sawsan Alhaddad of Cleveland made the trip to Iraq on the CIA's behalf. The book said her brother was stunned by her questions about the nuclear program because he said it had been dead for a decade.

New York Times reporter James Risen uses the anecdote to illustrate how the CIA ignored information that Iraq no longer had weapons of mass destruction. His book "State of War: The Secret History of the CIA and the Bush Administration" describes secret operations under the Bush administration's war on terrorism.

The major revelation in "State of War" has been the subject of extensive reporting by Mr. Risen's newspaper: The National Security Agency's eavesdropping of Americans' conversations without obtaining warrants from a special court.

The timing of the Times story and Mr. Risen's book publication have come into question as the newspaper held the story for a year after the White House expressed concerns that it could jeopardize national security.

The newspaper published the eavesdropping story on Dec. 16, the day the Senate debated whether to renew key elements of the anti-terror USA Patriot Act. Renewal efforts failed to gain enough Senate support, forcing the Bush administration to settle for a temporary extension until Feb. 3.

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The Times story, co-written by Eric Lichtblau, has prompted the Department of Justice to investigate the sources of the national security leak.

A Time magazine article says Mr. Risen concedes his book requires readers to make a "leap of faith" and accept the credibility of his numerous anonymous sources. He is contesting a court order to reveal the identities of sources he quoted in a series of disputed articles about nuclear scientist Wen Ho Lee.

In "State of War," Mr. Risen writes that Dr. Alhaddad flew home in mid-September 2002 and had a series of meetings with CIA analysts. She relayed her brother's information that there was no nuclear program.

A CIA operative later told Dr. Alhaddad's husband that the agency thought her brother was lying. In all, the book says, about 30 family members of Iraqis made trips to their native country to contact weapons scientists, and all of them reported that the programs had been abandoned.

In October 2002, the U.S. intelligence community issued a National Intelligence Estimate that concluded that Iraq was reconstituting its nuclear program.

Mr. Risen writes that the NSA spying program was started in 2002 after the CIA began to capture high-ranking al Qaeda terror operatives overseas and took their computers, cell phones and personal phone directories.

The CIA turned the telephone numbers and e-mail addresses from the material over to the NSA, which began monitoring the phone numbers -- in addition to anyone in contact with the telephone subscribers, the book said, adding that this led to an expansion of the monitoring, both overseas and in the United States.

The book said the NSA does not need approval from the White House, the Justice Department or anyone else in the Bush administration to eavesdrop on a specific phone line in the United States.

In a chapter on a "rogue operation," the book said a CIA officer mistakenly sent one of its Iranian agents information that could be used to identify virtually every spy the agency had in Iran. The book said the Iranian was a double agent who turned over the data to Iranian security officials.

The book said the information severely damaged the CIA's Iranian network, and quoted agency sources as saying that several of the U.S. agents were arrested and jailed.

End This Evasion On Permanent Army Bases In Iraq (FT)

By Gary Hart

Financial Times, January 4, 2006

It has been the dream of Republican neoconservatives at least since 1998 – and probably years before – to overthrow Saddam Hussein and to use the new client state of Iraq as the US's military and political base from which to pacify the complex and troubled Middle East. Leaving aside the plausibility of this notion, it is not one with which the great American leaders of history would have identified and certainly not one they would have attempted to carry out in secret.

Having failed in this enterprise, as some of us predicted, the question is: what now? There is still the possibility that a central remnant of this secret scheme may yet be salvaged. Surprisingly, the trick has drawn little attention from the American audience. It is to help install at least the semblance of a "democratic" government in Baghdad, even one that in author Fareed Zakaria's perceptive term is an illiberal democracy; to construct permanent US military bases at strategic points throughout the country and then persuade the new "democratic" government to invite us to stay.

So, now that the debate has finally turned not on whether to stay or to go but on how soon and under what conditions we should leave, it would be a mistake of epic proportions to assume things are that simple. There is an old movie line my friend Frank Mankiewicz, the veteran political adviser, is fond of quoting: "These are desperate men and they will stop at nothing." This he said during the Watergate years and we all knew what he was talking about, but it also applies today. For those of us who warned against kicking a Middle East hornets' nest, to assume that now it is simply a question of timing would be to assume that the neo-con Houdinis who gave us Vietnam-in-the-desert are out of tricks.

Any attempt to find out whether the US is, or is not, constructing permanent military bases meets with frustration. The few who have attempted to get a direct answer to this question are met with evasion and purposeful confusion over what is or is not "permanent". But this is the ultimate test of true Bush administration intentions in Iraq. If we are, in fact, constructing permanent

bases, "leaving" simply means a reduction of forces and the permanent stationing of US brigades in Iraq. If this "compromise" solution appeals to you, you might wish to refresh your memory about the disastrous French experience in Indochina or even certain phases of the British occupation of Iraq.

Under circumstances where Congress was performing its constitutional oversight responsibilities, and where the press was less intimidated by power, it would be a straightforward exercise to determine whether a final neoconservative trick is a foot. Congressional committees would have senior civilian and uniformed Pentagon and State department officials answer direct questions about US plans. "Mr or Madame secretary, are we, or are we not, constructing permanent military bases in Iraq and, if so, for what purpose?"

But this Congress has made clear it is a purely partisan institution, not a separate branch of government, and that it has no intention of fulfilling its duties to oversee the executive branch and inform the American people. Obviously, reporters could do the same with the White House press secretary (with no serious hope of an honest answer) or, even better, the president.

And to forgo predictable semantic sleights of hand, let us define "permanent" as: fixed, solid, durable and lasting. In practical terms, that means pouring concrete and welding steel, not tents and ditch latrines.

It is a shame for any American to distrust the veracity of his or her leaders. But the current crop has given us more than enough reason to do so. So when the president says: "When they [Iraqis] stand up, we will stand down," it cries out for an explicit definition of what "stand down" means in practice. Otherwise, "stand down" will quickly join "stay the course" and "support the troops" as rhetorical substitutes for policy and the equivalent of the scarves magicians use to obscure the concealment of an ace up the sleeve.

The art of deception does not require outright lies. It may simply lie in refusing to reveal the truth, the art of the trick. Given all the purposeful obfuscation, deception and card-shuffling that went on during the run up to the Iraq war, and the shuck-and-jive since things turned ugly, does anyone seriously believe the neoconservative magicians are out of tricks?

History Lessons (WT)

The Washington Times, January 4, 2006

Remarks by the president at Arlington National Cemetery Veterans Day ceremony, Nov. 11, 1998:

President Clinton: But if the inspectors are not permitted to visit suspect sites or monitor compliance at known production facilities, [Iraq's weapons of mass destruction] may as well be in Baltimore, not Baghdad. That would open a window of opportunity for Iraq to rebuild its arsenal of weapons and delivery systems in months -- I say again, in months -- not years. A failure to respond could embolden Saddam Hussein to act recklessly, signalling to him that he can with impunity develop these weapons of mass destruction or threaten his neighbors, and this is very important in an age when we look forward to weapons of mass destruction being a significant threat to civilized people everywhere. And it would permanently damage the credibility of the United Nations Security Council to act as a force for promoting international peace and security. We continue to hope, indeed pray, that Saddam will comply, but we must be prepared to act if he does not. (Applause.)

Ex-CIA Agent Says US Missed Bin Laden In Afghanistan (FT)

By Peter Spiegel, Defence Correspondent

Financial Times, January 4, 2006

US military commanders were told that Osama bin Laden was hiding in the mountainous Tora Bora region of Afghanistan in early December 2001 but failed to send troops to block his escape, according to a new account by the CIA officer who ran the agency's operations in the country.

Gary Berntsen, a CIA veteran who headed a paramilitary team called "Jawbreaker" during the Afghan war, said in a book published last week that one of his Arabic-speaking operatives found a radio on a dead al-Qaeda fighter during the Tora Bora battle and heard the terrorist leader repeatedly try to rally his troops.

"After the Spectre [gunship aircraft] cleared the area, Bilal heard a voice he recognised from dozens of tape recordings," Mr Berntsen wrote, using a pseudonym for an Arab-American former Marine who was part of the CIA team. "It was Osama bin Laden telling his troops to keep fighting."

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Later on the same captured radio, “Bilal” and a second CIA agent, another American of Middle Eastern origin, reported hearing Mr bin Laden apologising for getting his men trapped in the mountains and killed in large numbers by American bombing, Mr Berntsen wrote. The book, titled Jawbreaker, was heavily edited by CIA censors.

Mr Berntsen also wrote that on the recommendation of a former Special Forces officer who was part of his team as a CIA contractor, he made a formal request for 800 US army Rangers to be deployed along the Pakistani border to prevent Mr bin Laden’s escape, a request that was never granted.

The issue of whether senior US commanders failed to capture Mr bin Laden at Tora Bora because of an over-reliance on unreliable Afghan warlords became an issue in the 2004 presidential campaign when Democratic challenger John Kerry accused the Bush administration of allowing the al-Qaeda leader to escape by not sending American troops to the battlefield.

At the time, retired general Tommy Franks, the former head of US Central Command who ran the Afghan campaign, denied that the military knew of Mr bin Laden’s presence and accused Mr Kerry of relying on “distortions of history”.

“We do not know to this day whether Mr bin Laden was at Tora Bora in December 2001,” Gen Franks wrote in the New York Times during the presidential race. “Tora Bora was teeming with Taliban and Qaeda operatives, many of whom were killed or captured, but Mr bin Laden was never within our grasp.”

Mr Berntsen disputes this account, saying he told senior commanders of Mr bin Laden’s presence and arguing that Afghan allies who had militia fighters in the region allowed Mr bin Laden to escape with about 200 Saudi and Yemeni fighters into Pakistan.

“He was either badly misinformed by his own people or blinded by the fog of war,” Mr Berntsen wrote of Gen Franks’s claims and his insistence that Afghan militia were up to the task. “I’d made it clear in my reports that our Afghan allies were hardly anxious to get at al-Qaeda in Tora Bora.”

Media reports have cited accounts of Mr bin Laden’s presence at Tora Bora, but Mr Berntsen is the highest-ranking former official to publicly confirm that senior US commanders had been told the al-Qaeda leader was there during the battle.

Osama Debunks A Myth (WT)

By Richard Miniter

The Washington Times, January 4, 2006

Indian Muslims, Internet gurus, television anchors, and at least one prime minister have said that [Osama] bin Laden has kidney trouble.

So where is the evidence? In short, there is no evidence, just a lot of chatter.

There is only one presumably well-informed source who has gone on the record to say that bin Laden was on dialysis: Pakistani Prime Minister Pervez Musharraf. And he later changed his mind.

At first, Gen. Pervez Musharraf seemed to strongly endorse the notion, in January 2002. "I think now, frankly, he is dead for the reason he is a patient, he is a kidney patient," he told CNN. Gen. Musharraf added, "Pakistan knew bin Laden took two dialysis machines into Afghanistan. One was specifically for his own personal use."

Over the next few years, bin Laden would appear alive and well in a string of audio and video tapes. In December 2004, when Gen. Musharraf again sat down with CNN's Wolf Blitzer, he all but reversed himself.

In fact, there is a mountain of evidence that bin Laden is not on dialysis.

No medical report has been produced that shows bin Laden is on dialysis. No reporter who has actually met bin Laden has seen the archterrorist hooked up to a dialysis machine or heard him talk about it. Robert Fisk, the only Western journalist to interview bin Laden three times, makes no mention of dialysis.

Peter Bergen led a CNN team into Afghanistan to interview bin Laden in 1997. Bin Laden appeared healthy and strong; neither the reporters nor bin Laden mentioned dialysis or kidney trouble.

Even bin Laden's longtime associates dispute the kidney ailment meme. Saudi newspaper editor Khaled Batarfi has known bin Laden for two decades, ever since the two were neighbors in the Saudi port city of Jeddah. He told the Sunday Tasmanian, an Australian newspaper, that bin Laden "does not suffer from kidney disease."

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Foreign government officials who have met bin Laden also insist that he has no problems with his kidneys. Bin Laden lived in Sudan from 1991 to May 1996. I interviewed political leaders and intelligence officials there who knew him. Gutbi al-Mahdi, Sudan's former intelligence chief, told me bin Laden had no health problems during his time in Sudan. In fact, every Sudanese I spoke with denied that bin Laden had any health problems, let alone a kidney ailment requiring dialysis.

Bin Laden himself is of the same opinion. Hamid Mir, an intrepid Pakistani journalist who writes for the Pakistani daily Dawn, landed one of the only two authentic post?September 11 interviews with the world's most wanted man.

In the course of the wide-ranging interview, Mr. Mir asked bin Laden about his kidneys: "A French newspaper has claimed that you have a kidney problem and have secretly gone to Dubai for treatment last year [2000]. Is that correct?"

Bin Laden responded: "My kidneys are all right. I did not go to Dubai last year. One British newspaper has published an imaginary interview with an Islamabad dateline with one of my sons in Saudi Arabia. All this is false."

Perhaps the definitive account comes from bin Laden's doctor, who was arrested on October 21, 2002, in Pakistan and held incommunicado for a full month. "It was a very extensive investigation, eight hours a day," he said. "It went on and on." He added, "I was not physically tortured; there was just mental anguish."

Dr. Amer Aziz, a British citizen born in Pakistan, was interrogated by eight CIA and FBI agents, as well as by Pakistani intelligence officers. Strongly sympathetic to radical Islam, Aziz had treated bin Laden for years. He reportedly admitted to visiting bin Laden after the September 11 attacks. Upon his release, he talked freely to Paul Haven of the Associated Press in November 2002. The doctor said he had given bin Laden a "complete physical" in 1999 and treated him for back injuries after bin Laden was thrown from a horse. "His kidneys were fine," the doctor told Mr. Haven. He said "If you're on dialysis, you have a special look. I didn't see any of that," and added that bin Laden "was walking. He was healthy." Aziz was emphatic: "I did not see any evidence of kidney disease; I didn't see any evidence of dialysis."

Aziz later discussed the dialysis issue with the New York Times. "When I hear these reports, I laugh. I did not see any evidence."

He has good reason to laugh -- legions of Westerners have bought the story that bin Laden is on dialysis, with no proof at all.

Richard Miniter is the author of two New York Times bestselling books, "Losing bin Laden" and "Shadow War," and is an internationally recognized expert on terrorism.

Democracies In Danger (USAT)

USA Today, January 4, 2006

Heading out. Four years ago, the United States invaded Afghanistan with a burning mission: to hunt down Osama bin Laden, mastermind of the still-raw 9/11 attacks, and destroy the fanatical Taliban regime that harbored him and other al-Qaeda leaders.

The mission is only partially accomplished, but the United States is on its way out. In a preview of events in Iraq, U.S. forces, rebuilding funds and projects are being cut and handed to Western allies and Afghans over the next year. The troubling suggestion is of a job half done.

The picture certainly doesn't look pretty. Bin Laden remains at large. Despite successful Afghan elections and solid leadership by President Hamid Karzai, democracy is precarious. A Taliban insurgency festers. Warlords hold sway in some areas and will likely gain power as U.S. forces depart. The heroin trade is going strong. Even the U.S. ambassador says the $623 million aid budget for this year — little more than half of the aid in 2005 — isn't enough.

Still, a drawdown makes practical sense, provided al-Qaeda isn't allowed to regain a foothold. The U.S. military is overstretched. Tracking down bin Laden and other al-Qaeda leaders depends less on a large troop presence in Afghanistan than it does on timely intelligence and cooperation from Pakistan.

Nor should the USA bear the entire financial burden of rebuilding the country. It has spent more than $47 billion on military efforts, and instilling democracy in a country that has never known it will take many years.

The lesson is this: Democracies don't bloom overnight, but working with the international community is the best solution in an intertwined world. International forces will now do what they have done for years in failing states: Be patient and try to avert the worst, not insist on a short path to an unattainable ideal.

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In Iraq, the United States is already following a similar trajectory of retreating from grandiose post-invasion commitments.

Getting foreign help in Iraq is elusive, though. If President Bush can't find a way to win back allies whose advice he ignored in his headlong rush to war, the already-high price of that decision may go higher still.

Backing down. Russians can tell you something about dashed hopes for democracy. President Vladimir Putin has behaved for years like a cross between a czar and a KGB thug, rolling back democracy with near impunity, impervious to the international community's feeble protests because he has had little to fear.

But when Putin, acting to type, tried to cut off natural gas supplies to Ukraine over the weekend in a pricing dispute, international pressure forced him to back down.

The Russian president thought he had a good rationale for the cutoff. Ukraine still pays the ridiculously low gas prices it enjoyed as a Soviet satellite — less than a quarter of today's market value. Putin evidently thought his capitalist arguments for a fair price would win the day and the international community would join him in condemning Ukraine.

It isn't so simple. Russia agreed in 2004 to continue the low prices until 2009. But that was before the "Orange Revolution" swept in the pro-Western government of Viktor Yushchenko. Much as he denies it, Putin wants to use gas supplies to regain influence: A cut now, in winter, would send Ukraine's economy into a tailspin and angry protesters into the streets. But Putin's cunning overlooked the fact that many European countries also rely on Russian gas through the same pipeline. A sure way to enrage Western nations is to mess with their fuel supplies.

As the Europeans' supplies fell — Russia says the Ukraine was stealing from the pipeline — they questioned Putin's assurances that Russia is a stable energy supplier. The USA and others joined in the condemnation.

In an added irony, when Russia took over the chairmanship of the Group of Eight leading industrialized countries Sunday, it made energy security its cornerstone message.

The fiasco, most immediately, adds fuel to old questions of whether Russia deserves a place in the G8 at all, let alone its chairmanship. More broadly, just like the international cooperation designed to keep Afghanistan from disaster, the Ukraine-gas episode serves as a reminder of the immense power international pressure and clubs can have in curbing bad behavior — if only they'll use it.

Churchill At War (WSJ)

The Wall Street Journal, January 4, 2006

No one knows how Winston Churchill would have fought the war on terror or what he might have thought of the U.S. practice of holding members of al Qaeda at Guantanamo or secret CIA prisons in Eastern Europe. But in newly declassified records of the British Bulldog's War Cabinet meetings, Churchill offers some posthumous insights on wartime leadership.

In 1942, the Cabinet discussed the options were Hitler to fall into British hands. "All sorts of complications ensue as soon as you admit a fair trial," Churchill said, according to notes taken by the deputy cabinet secretary Sir Norman Brook. To avoid such a "farce," which he thought would distract from the war effort, Churchill favored swifter means of dealing with Hitler. "This man is the mainspring of evil. Instrument -- electric chair, for gangsters."

Churchill called other Nazi leaders "outlaws" and argued that those who fell into British hands should be executed rather than put on trial. (There is no record of his views on water-boarding.)

At another Cabinet meeting, he advocated shooting German POWs if the Nazis were to kill British prisoners (the U.K., for the record, never did). After the Germans massacred the people of Lidice, Czechoslovakia, Churchill proposed, perhaps again half seriously, "wiping out German villages by air attack on a three-for-one basis." The Cabinet overruled him.

Churchill might wonder at today's attitudes toward fighting terrorists, about American "torture" of prisoners, and about the U.S. President who's often derided in London as a "cowboy." The British Prime Minister's clarity about the Nazi threat in World War II got his nation and the world successfully through that conflict.

CORPORATE SCANDALS:

Skilling Faces New Enron Allegation (WSJ)

DOJ_NMG_0007792

By John R. Emshwiller

The Wall Street Journal, January 4, 2006

In its effort to convict Jeffrey Skilling of multiple crimes at Enron Corp., the government is trying to trundle out a new witness against the former company president: himself.

In a court filing in Houston yesterday, federal prosecutors said Mr. Skilling attempted "to deceive" the Securities and Exchange Commission in a Dec. 6, 2001, deposition about his reasons for selling 500,000 Enron shares on Sept. 17 of that year.

The $15.6 million sale came less than three months before the energy giant collapsed into bankruptcy proceedings on Dec. 2, 2001. The government is seeking to use that SEC testimony in its trial against Mr. Skilling and former Enron Chairman Kenneth Lay, which is scheduled to start in Houston Jan. 30. (See related article1.) Both men are former chief executives of Enron.

While the indictment against Mr. Skilling alleges numerous instances of criminal wrongdoing, the allegation that Mr. Skilling tried to deceive the SEC in his deposition is new. The government made its filing yesterday in opposition to a motion filed by Mr. Skilling's attorneys last month, seeking to keep his SEC testimony out of the coming criminal trial.

Insider trading related to the 2001 stock transaction is among the charges against Mr. Skilling. The government contends that he knew of and helped hide from the public numerous financial problems at Enron. He and Mr. Lay have pleaded not guilty to all charges, which also include conspiracy and securities-fraud allegations.

Daniel Petrocelli, Mr. Skilling's lead defense attorney, sharply challenged the contention in yesterday's government filing. "Mr. Skilling attempted to deceive no one, and the government knows it," he said in an interview.

Yesterday's court filing by the Justice Department's Enron Task Force quoted the Dec. 6, 2001, SEC deposition in which Mr. Skilling attributed the Sept. 17 stock sale to his fears about the impact of the Sept. 11 terrorist attacks on the stock market. "There was no other reason other than September 11th that I sold the stock," the government filing quoted Mr. Skilling as saying. "Oh, I agonized over it, absolutely agonized over it." He said it didn't have anything to do with concerns specific to Enron.

However, the government court filing says Mr. Skilling "failed to inform" the SEC that he had tried to sell 200,000 shares of Enron Sept. 6 through the brokerage firm Charles Schwab Corp. The filing said that trade didn't go through because the brokerage firm hadn't yet received formal notification that Mr. Skilling was no longer a top company officer, which would have restricted his ability to sell Enron stock. Mr. Skilling resigned from Enron in August 2001.

"Skilling's attempt to deceive the SEC about the reason for his sale in sworn testimony gives rise to an inference that material nonpublic information was a factor in his decision to sell in September 2001," the government argues in its filing.

Mr. Petrocelli, the Skilling attorney, said his client's Sept. 6 brokerage call about possibly selling some Enron stock "had nothing to do with any concerns about the company. He was thinking about beginning to diversify some of his holdings, which were virtually all in Enron stock." He said the sale of stock later that month was prompted by concerns about Sept. 11.

In last month's motion seeking to exclude the SEC testimony from the criminal trial, Mr. Skilling's attorneys said that SEC officials didn't properly warn the former Enron president about his criminal exposure before he talked in what he believed was a purely civil investigation. "Consistent with the Fifth Amendment, due process, and basic notions of fairness, the government may not use civil discovery devices to obtain evidence from the target of a criminal investigation," the motion said. Between Dec. 5, 2001, and Jan. 31, 2003, Mr. Skilling talked with the SEC on six occasions and declined to answer further questions only when he finally learned that he was a target of the criminal probe, the filing added. It noted that the SEC, which handles civil securities-law violations, and the Justice Department, which prosecutes criminal violations, worked closely together in the continuing four-year-old probe of Enron.

Yesterday's government response disputed the argument that a criminal probe couldn't use information gleaned from a civil investigation. And in the case of Mr. Skilling's Dec. 6, 2001, SEC deposition, the filing said that the Justice Department's Enron Task Force hadn't yet been formed.

Mr. Skilling's willingness to talk with the SEC was part of a controversial strategy to speak out that he followed in the months after Enron's collapse. In press interviews and testimony before Congress, he repeatedly denied taking part in or knowing of any wrongdoing at Enron. By contrast, most of his former colleagues stayed mum for fear that anything they said could later be used against them. Mr. Skilling's lawyers have pointed to his willingness to talk as evidence that he had nothing to hide.

Enron Prosecutors, After Plea Bargain, Can Reduce Technical Jargon In Trial (WSJ)

By John R. Emshwiller

The Wall Street Journal, January 4, 2006

The climactic courtroom battle in the Enron Corp. criminal war just got simpler -- and more complicated.

The plea bargain last week by former Enron Chief Accounting Officer Richard Causey gives federal prosecutors the chance to present a shorter and less technical case against Mr. Causey's two co-defendants, former company Chairman Kenneth Lay and former President Jeffrey Skilling. The pair's trial on conspiracy, fraud and other charges is scheduled to start in Houston on Jan. 30.

If Mr. Causey had remained in the case, lawyers for the Justice Department's special Enron Task Force faced the challenge of getting deep into complex accounting transactions that prosecutors contend were used to hide the energy titan's financial problems.

At the same time, however, Mr. Causey's securities-fraud plea presents both sides with tricky new tactical questions, ranging from whether to call the former accounting chief as a witness to how he should be portrayed to the jury.

Prosecutors long have worried about jurors getting lost in complex accounting issues, such as how to account for special-purpose entities, say people familiar with the matter. Such special-purpose entities were allegedly used by Enron to create bogus profits and hide investment losses.

When public attention began to focus on some of these suspect dealings in late 2001, investor confidence plummeted, and the company was forced to seek bankruptcy-law protection within weeks.

With the trial now involving just the two men who were the public faces of Enron -- each did a stint as chief executive -- the government's case can shift emphasis. Prosecutors can focus more on whether the consistently optimistic public statements made about Enron's financial condition by the men qualified as lies and, thus, a fraud upon investors.

Prosecutors contend that Mr. Skilling, as president and chief architect of Enron's spectacular rise in the 1990s, was the lead deceiver until his surprise resignation in August 2001. After that, Mr. Lay took over the task of putting out false information to the public about Enron's financial condition and business prospects, prosecutors contend.

Such a prosecutorial approach would put less emphasis on proving that a particular accounting treatment was fraudulent and more on proving that Messrs. Lay and Skilling knew Enron had financial problems and lied about them to prolong a scheme that was making them wealthy.

The indictment estimates that Mr. Lay received more than $200 million in compensation and stock profits in 1998 to 2001, while Mr. Skilling received more than $100 million.

The concept of a highly paid executive lying to protect himself is a concept that a juror can understand without having to sit through an introductory accounting course. Mr. Causey's departure "absolutely will simplify the case the government has to present," says Jacob Frenkel, a former Securities and Exchange Commission lawyer now in private practice in Rockville, Md.

Ironically, a major setback in the government's four-year-old Enron probe might have helped push prosecutors to the Causey plea deal, says Christopher Bebel, a former federal prosecutor now in private practice in Houston.

Last year, the Enron Task Force prosecuted several former executives of Enron's telecommunications unit, and the trial degenerated into an often mind-numbing exercise in technical jargon. The jury acquitted defendants on numerous counts and deadlocked on the rest.

That experience helped the government realize that it "must redouble its efforts to simplify the evidence" in the coming trial, says Mr. Bebel.

There's one small potential upside for Mr. Skilling and Mr. Lay that results from Mr. Causey no longer being at the defense table, observers say. If the government does provide persuasive evidence of accounting-related misdeeds, lawyers for the two remaining defendants could more easily argue that Mr. Causey hid the wrongdoing from them.

As defense counsel, "I wouldn't hesitate to paint Causey as someone...who didn't report violations," says Jonathan Halpern, a former federal prosecutor who is now in private practice in New York.

The Skilling and Lay camps haven't taken that course, so far.

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Following Mr. Causey's plea to one count of securities fraud last week, lawyers for the two former top Enron executives painted him as an innocent man bludgeoned into a guilty plea by the pressure of the giant federal investigation and the threat of decades in prison.

Under his plea deal, Mr. Causey faces seven years in prison, which could be reduced to five if prosecutors feel he is particularly helpful in the continuing Enron investigation.

Before his plea deal, Mr. Causey had been working on a joint defense team with Messrs. Skilling and Lay. Their lawyers say that Mr. Causey repeatedly told them that he knew of no wrongdoing by his two former bosses. "He will not incriminate Jeff Skilling or Ken Lay," says Daniel Petrocelli, Mr. Skilling's lead defense lawyer.

Lawyers for Mr. Lay and Mr. Skilling say that crimes weren't committed at Enron, save for a few relatively small ones by the company's former chief financial officer, Andrew Fastow, who hid them from his fellow executives. Defense lawyers regularly attack the credibility of Mr. Fastow, who has a plea bargain with prosecutors and is expected to testify at the coming trial.

The most obvious form of help that Mr. Causey could provide the government would be to testify. But prosecutors often spend months or years questioning and requestioning a major witness, looking for holes in the testimony.

Mr. Fastow, for example, reached his plea deal nearly two years ago. Prosecutors will have only a matter of weeks to debrief Mr. Causey. That could make putting him on the stand a riskier proposition for the government.

Many observers think the government will take that risk, since even relatively tepid testimony by Mr. Causey could be helpful. Given the positive public statements uttered by Mr. Skilling and Mr. Lay about Enron, "it would be enough for Causey to take the witness stand and testify that there were many uncertainties attached" to Enron's internal financial analyses, says Mr. Bebel, the former prosecutor.

Alleged Fund Fraud Leads To Charges 6 Ex-Putnam Fiduciary Trust Execs Accused (USAT)

By Edward Iwata

USA Today, January 4, 2006

Six former executives of Putnam Fiduciary Trust have been charged with scheming to defraud corporate client Cardinal Health and a group of Putnam mutual funds of $4 million, the Securities and Exchange Commission said Tuesday.

The SEC civil complaint, filed Friday in U.S. District Court in Boston, accuses the executives of hiding a 2001 trading error that caused Cardinal Health's employee retirement assets — invested in several Putnam mutual funds — to miss out on $4 million in stock market gains. Putnam Fiduciary is the transfer agent for Putnam Investments, a large mutual fund company.

The complaint charges former senior managing director Karnig Durgarian; former vice president Ronald Hogan; and former managing directors Donald McCracken, Virginia Papa, Sandra Childs and Kevin Crain.

At least four of them plan to fight the charges, their attorneys said.

According to the SEC complaint, Cardinal Health transferred an undisclosed amount of retirement plan assets to Putnam on Jan. 2, 2001, to invest in Putnam mutual funds.

But for an unknown reason, the assets were not invested until the next day.

This one-day delay caused the retirement plan to be “deprived of nearly $4 million in market appreciation,” the complaint reads.

The SEC alleges that the defendants used “deception, illegal trade reversals and accounting machinations” to shift $3 million of the losses to shareholders of other Putnam mutual funds.

The defendants also “improperly allowed Cardinal Health's (retirement) plan to bear approximately $1 million of the loss without disclosing to Cardinal Health that they had done so,” the SEC alleges.

The conduct was discovered last January, the SEC said.

SEC officials decided not to charge Putnam because the company has cooperated fully with the investigation, according to David Bergers, an SEC enforcement official in Boston.

Putnam made full restitution of the $4 million, fired or disciplined employees involved and strengthened the company's financial oversight and compliance “to make sure a situation like this could not happen again,” Putnam Investments CEO Ed Haldeman said.

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Attorney Anthony Mirenda, who represents Crain, said in a statement, “Mr. Crain will fight this to clear his name because he did not participate in any fraud.”

Crain “proactively brought this situation to the attention of internal auditors and has cooperated in the government's investigation throughout,” Mirenda said.

The accounting transactions used to correct the errors were approved by higher-ups and were “the normal safeguards and internal controls at Putnam at the time,” Mirenda said.

SEC Charges 6 Ex-Putnam Officials (WSJ)

By John Hechinger And Charles Forelle

The Wall Street Journal, January 4, 2006

The Securities and Exchange Commission charged six former Putnam Investments executives with civil fraud, alleging they covered up a scheme that resulted in $4 million in losses to five Putnam mutual funds and the retirement plan of Cardinal Health Inc. in 2001.

Walter G. Ricciardi, the SEC's deputy director of enforcement and administrator of the Boston office, called the alleged behavior "egregious." The SEC said it wouldn't charge Putnam, of Boston, because of the company's "swift, extensive and extraordinary cooperation" in the agency's investigation.

In March 2004, Putnam, a unit of Marsh & McLennan Cos. of New York, and one of the nation's largest mutual-fund companies, disclosed some of the losses and the departure of two executives related to the incident.

The company said it discovered the losses as part of an internal review and reported it to regulators and clients. It said it made restitution to customers.

In 2003, Putnam installed new management, including current Chief Executive Charles Haldeman, after the company became the first fund firm to face unrelated civil-fraud charges in a share-trading scandal that later engulfed most of the biggest players in the mutual-fund industry.

In a statement, Mr. Haldeman said the company had strengthened controls since the losses at the retirement plan. "We have worked hard at Putnam to create a culture in which all of our colleagues value the importance of taking care of other people's money and putting our clients first," he said.

The most recent charges, filed Friday, concern executives at Putnam Fiduciary Trust Co., which does administrative work for the mutual-fund company.

In January 2001, Putnam mistakenly allowed a one-day delay in investing money on behalf of Cardinal Health's 401(k) and other retirement plans, according to the SEC complaint, filed in U.S. District Court in Boston. The markets rose sharply on that day, causing customers to lose out on $4 million in gains, the agency said.

Putnam didn't report the delay to the client, the SEC said. Instead, Putnam executives conspired to cover up the losses by backdating trades and using improper accounting maneuvers, regulators alleged. As a result, shareholders in Putnam Research Fund, George Putnam Fund of Boston and Putnam Asset Allocation Balanced Portfolio, Growth Portfolio and Conservative Portfolio improperly bore $3 million of those losses. The losses for individual shareholders were small. They were slightly more than a penny a share at the fund most affected, Putnam Research, and less for the other funds. Participants in Cardinal Health's plan lost $1 million, the SEC said. Cardinal Health, of Dublin, Ohio, declined to comment.

The SEC charged Karnig Durgarian, a former managing director and chief of operations for Putnam Fiduciary; Donald McCracken, a former managing director and head of global operations services; Virginia Papa, a former managing director and director of defined-contribution servicing; Sandra Childs, a former managing director responsible for compliance; Kevin Crain, a former managing director overseeing plan administration; and Ronald Hogan, a former vice president. The agency said it was seeking unspecified fines.

Frank A. Libby, an attorney for Mr. Durgarian, said his client "looks forward to his opportunity to contest the SEC's claims." Anthony Mirenda, an attorney for Mr. Crain, said his client had no knowledge of the accounting maneuvers, didn't participate in any fraud and has cooperated with investigators. Mr. Crain believed the retroactive transactions "were routinely used at Putnam to

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correct errors and that these transactions in particular had been approved by appropriate people senior to him," Mr. Mirenda said in a statement.

Mr. Hogan's attorney, Jamie L. Wacks, said Mr. Hogan cooperated with investigators, and believed the transactions were intended to correct errors and had been "processed with the usual safeguards and controls." Ms. Wacks called the SEC action "meritless" and says her client denies wrongdoing. Ms. Papa's attorney, Michael J. Connelly, said she "has not misled any client, manipulated any record or covered up anything." Gary Matsko, an attorney for Mr. McCracken, said his client had an "unblemished" career and denies wrongdoing. An attorney for Ms. Childs declined to comment.

Putnam said it "took action against the individuals, "including termination." The company wouldn't be more specific, though it said all had left the company between January 2002 and July 2004. In January 2004, Mr. Crain, after being terminated from Putnam for other reasons, left a voice mail for an internal auditor, saying the transactions had the "fingerprints" of "financial fraud," according to the SEC complaint. The SEC said Putnam later terminated Messrs. Durgarian and Hogan and Ms. Papa, as well as retroactively dismissing "for cause" Mr. McCracken, who had left the company in 2002.

Ex-Stockbroker Charged With Profiting From Attorney Girlfriend's Inside Information (LAW/AP)

By Larry Neumeister, The Associated Press

AP, January 4, 2006

A former stockbroker made nearly $23,000 on a pending acquisition by a Silicon Valley company after using insider knowledge he learned from his girlfriend, an attorney involved in the deal, prosecutors said Tuesday.

Lee Edelman, 34, was indicted on securities fraud charges after his girlfriend, an associate at a large Manhattan law firm, told him in March 2004 that Applied Materials Inc. was in talks to acquire Metron Technology NV. Applied Materials, based in Santa Clara, Calif., builds semiconductor-making equipment, while Metron provides support services for the industry.

Metron's share price almost doubled on Aug. 16, 2004, when the deal was announced. Edelman, of New York, quickly sold his shares, making $22,786, according to the indictment in U.S. District Court in Manhattan.

The Securities and Exchange Commission, which filed civil insider trading charges against Edelman, said in a release that Edelman broke up with his girlfriend several weeks after he began buying Metron stock. The attorney was not identified in court papers and was not aware of Edelman's stock buys, investigators said.

Edelman, reached by telephone at home Tuesday, said he did nothing wrong.

"I'm innocent, and I'm going to fight it to the end," he said. "She never gave me any information whatsoever."

An initial court appearance had not been scheduled. Edelman faces up to 20 years in prison, if convicted.

According to the complaint, Edelman and his girlfriend had a history of sharing confidential work and personal information and that the girlfriend trusted and expected Edelman to keep information about her clients confidential.

In March 2004, the woman disclosed the names of the companies involved in the transaction to Edelman and told him he must keep them confidential. Three months later, Edelman accompanied her to collect six boxes of documents related to the acquisition, the SEC said. For the next several weeks, she reviewed documents, talked with colleagues and clients and did other work related to the deal on weekends and evenings with Edelman present, the SEC said.

Edelman allegedly bought 12,000 shares between July 1, 2004, and Aug. 13, 2004.

SEC Names Brian Cartwright Its New General Counsel (WSJ)

By Judith Burns

The Wall Street Journal, January 4, 2006

WASHINGTON -- The Securities and Exchange Commission announced Tuesday that securities lawyer and former astrophysicist Brian Cartwright will join the SEC on Jan. 23 as its new general counsel. Mr. Cartwright succeeds Giovanni Prezioso, who plans to return to the private sector early this year.

Mr. Cartwright, 58 years old, is a partner at the law firm of Latham & Watkins, in California, where he chaired the firm's public company practice and was one of five partners responsible for managing the firm. He holds a law degree from Harvard

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Law School, where he was President of the Harvard Law Review and winner of the Sears Prize. He served as law clerk to U.S. Supreme Court Justice Sandra Day O'Connor and U.S. Court of Appeals Judge Malcolm R. Wilkey of the D.C. Circuit.

Before becoming a lawyer, Mr. Cartwright had a career as an astrophysicist. After graduating from Yale University, he earned a Ph.D. in Physics from the University of Chicago and worked as a research physicist at the University of California at Berkeley's space sciences laboratory. He published numerous articles in scholarly journals including the Astrophysical Journal.

In a prepared statement announcing the appointment, SEC Chairman Christopher Cox predicted Mr. Cartwright would be a powerful champion for investors.

"His talent, tenacity, and insight will serve the Commission, the capital markets, and investors well," Mr. Cox said.

S.E.C. Names Counsel (NYT/REU)

By Reuters

The New York Times, January 4, 2006

WASHINGTON, Jan. 3 (Reuters) - Brian G. Cartwright, a securities lawyer who was previously an astrophysicist, has been named general counsel for the Securities and Exchange Commission, the agency said on Tuesday.

Mr. Cartwright will take office on Jan. 23, succeeding Giovanni P. Prezioso, who said in November that he would step down this year to return to the private sector.

Mr. Cartwright, 58, is a partner at the international law firm of Latham & Watkins, which is based in California. The S.E.C. chairman, Christopher Cox, was a partner at the firm in the 1980's.

Mr. Cartwright graduated from Harvard Law School in 1980 and was a law clerk to Justice Sandra Day O'Connor. He was a research physicist in astrophysics at the University of California, Berkeley, from 1973 to 1977.

CRIMINAL LAW:

Analysis: Abramoff Plea May Rock GOP Boat (SEAPI)

By tom raum

Seattle Post-Intelligencer, January 4, 2006

WASHINGTON -- The plea deal worked out by Jack Abramoff could send seismic waves across the political landscape in this congressional election year. The Republicans, who control Congress and the White House, are likely to take the biggest hits.

The GOP has more seats to lose and has closer ties with the former lobbyist. But some Democrats with links to Abramoff and his associates are also expected to be snagged in the influence-peddling net.

While the full dimensions of the corruption probe are not yet clear, some political consultants and analysts are already comparing its damage potential to the 1992 House banking scandal that led to the retirement or ouster of 77 lawmakers.

"You don't have to be a political genius to sniff the smell of blood in the water," said GOP consultant Rich Galen.

Galen said even lawmakers in seemingly safe districts, and those "who don't have a reputation for being fast and loose with the rules," could be vulnerable if voters rise up in reproach "and everybody drops five or six points" in this year's midterm contests.

Abramoff, a former $100,000-plus fundraiser for President Bush with close ties to former House Majority Leader Tom DeLay, pleaded guilty on Tuesday to conspiracy, tax evasion and mail fraud. That cleared the way for his cooperation with federal prosecutors in bringing charges against former business and political associates.

The investigation is believed to involve up to 20 members of Congress and aides and possibly several administration officials.

The timing couldn't be worse, politically, especially for Republicans. Lawmakers who may be indicted could find themselves coming to trial this summer, just ahead of the midterm elections. Around the same time, I. Lewis "Scooter" Libby, former chief of staff to Vice President Dick Cheney, is expected to stand trial in the CIA leak case.

DeLay, who had to step down as majority leader in September after a grand jury in Texas indicted him in a campaign finance investigation, is awaiting a trial date. And former Rep. Randy "Duke" Cunningham, R-Calif., gave up his seat Dec. 1 after admitting he had accepted $2.4 million in bribes from defense contractors.

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With so many trials and prosecutions in the works, speculation is swirling over whom Abramoff might bring down and on the possible fallout for others.

"Most seats in Congress are relatively safe this year. But they are not safe from a tsunami," said University of Virginia political scientist Larry Sabato, author of a book on political scandals. "Iraq, plus economic problems, plus these scandals, could produce a tsunami. That's what every incumbent on Capitol Hill has to fear."

Most Americans are convinced that corruption reaching into all levels of government is a deeply rooted problem. According to an AP-Ipsos poll last month, 88 percent say the problem is a serious one, with 51 percent calling it "very serious."

People need to know "that government is not for sale," Assistant Attorney General Alice S. Fisher said in pledging to pursue the investigation "wherever it goes."

For months, federal prosecutors have focused on whether Abramoff defrauded his Indian tribal clients of millions of dollars and used improper influence on members of Congress. Tribes represented by the lobbyist contributed millions of dollars in casino income to congressional campaigns.

Abramoff also took members of Congress on lavish overseas trips and provided sports tickets, golf fees, frequent meals, entertainment and jobs for lawmakers' relatives and aides.

Some lawmakers have already returned contributions. Others no doubt are nervously scouring their memories and appointment books.

For years, many lawmakers have shrugged off lobbyists' gifts as campaign contributions, harmless wining, dining and socializing. "Now you've got someone admitting exactly what the motivation was and explaining all the avenues they used," said Kent Cooper, a former Federal Election Commission official.

"You're talking about standard operating procedure here in Washington suddenly being turned on its head and a key operator signing a plea agreement that he may have been involved in some kind of public corruption," said Cooper, who tracks lobbying and campaign contributions for the nonpartisan Political Money Line service.

The Democratic National Committee called the situation the latest installment of a Republican "culture of corruption." That notion was disputed by White House spokesman Scott McClellan, who denounced Abramoff's activities as "outrageous" and noted that the lobbyist and his clients contributed to both parties.

That may be so, said Norman Ornstein, a political analyst at the American Enterprise Institute, "but it will disproportionately affect Republicans. They are the majority party and because Abramoff is a conservative Republican."

Case Bringing New Scrutiny To A System And A Profession (WP)

By Jeffrey H. Birnbaum And Dan Balz

The Washington Post, January 4, 2006

The biggest corruption scandal to infect Congress in a generation took down one of the best-connected lobbyists in Washington yesterday. The questions echoing around the capital were what other careers -- and what other familiar ways of doing business -- are endangered.

Jack Abramoff represented the most flamboyant and extreme example of a brand of influence trading that flourished after the Republican takeover of the House of Representatives 11 years ago. Now, some GOP strategists fear that the fallout from his case could affect the party's efforts to keep control in the November midterm elections.

Abramoff was among the lobbyists most closely associated with the K Street Project, which was initiated by his friend Tom DeLay (R-Tex.), now the former House majority leader, once the GOP vaulted to power. It was an aggressive program designed to force corporations and trade associations to hire more GOP-connected lobbyists in what at times became an almost seamless relationship between Capitol Hill lawmakers and some firms that sought to influence them.

Now Abramoff has become a symbol of a system out of control. His agreement to plead guilty to three criminal counts and cooperate with prosecutors threatens to ensnare other lawmakers or their aides -- Republicans and possibly some Democrats. At a minimum, yesterday's developments put both sides of the lawmaker-lobbyist relationship on notice that some of the wilder customs of recent years -- lubricated with money, entertainment and access -- carry higher risks. In the post-Abramoff era, what once was accepted as business as usual may be seen as questionable or worse.

"In the short run, members of Congress will get allergic to lobbyists," said former representative Vin Weber (R-Minn.), now a lobbyist for Clark & Weinstock. "They'll be nervous about taking calls and holding meetings, to say nothing of lavish trips to Scotland. Those will be out. For a period of time now, members of Congress will be concerned about even legitimate contact with the lobbying world."

The initial impact of a scandal that earlier produced a guilty plea from Abramoff associate Michael Scanlon could be changes in the way lawmakers and lobbyists interact. In the longer term, said many lobbyists and others, Congress will be pressured to revisit and toughen rules on gifts and travel that lawmakers and members of their staffs may accept. Some former lawmakers said even bigger changes may be needed to restore public confidence in how Washington works.

Former House speaker Newt Gingrich (R-Ga.), who with Weber's help effectively used issues of corruption to wrest control of the House from the Democrats in 1994, said the Abramoff scandal should trigger a broader review in Congress of the way politicians finance campaigns and deal with lobbyists.

"I'm going to talk at length about the need for us to rethink not just lobbying but the whole process of elections, incumbency protection and the way in which the system has evolved," he said. "Which is very different from the way the American system is supposed to be like. I think Abramoff is just part of a large pattern that has got to be rethought."

Emotions ran high on K Street yesterday when news of Abramoff's plea deal began to break. "The Abramoff scandal is causing a reexamination of what lobbyists do in town," said R. Bruce Josten, executive vice president of the U.S. Chamber of Commerce. "I wouldn't be surprised to see lawmakers become cautious in meetings with lobbyists."

With an eye on November's elections, Republicans have sought to limit the damage to themselves by portraying the scandal as bipartisan, describing Abramoff as an equal-opportunity dispenser of campaign cash and largess.

So far, the public has not identified corruption as solely a Republican problem. A Washington Post-ABC News poll in November asked Americans whether they thought Democrats or Republicans were better on ethical matters; 16 percent said Democrats, 12 percent said Republicans, and 71 percent said there was not much difference between the parties.

But Republicans worry about two possibilities. The first is that Abramoff, known for his close ties to DeLay, mostly implicates Republicans as a result of his plea agreement. That could shift public attitudes sharply against the GOP. "People are uneasy about what else is out there," said one GOP strategist who requested anonymity to speak more candidly about the possible political fallout.

Beyond that is a fear that the scandal and attention it could draw in the months before the election might further sour the public on Washington and Congress. As the party in power, Republicans know they stand to lose more if voters take retribution in November.

Regardless of the electoral implications, the Abramoff scandal may force changes on Capitol Hill in the form of tough new lobbying disclosure laws that even some lobbying advocates say it is time to consider. "There will be a push for increased oversight and disclosure of lobbying," said Douglas G. Pinkham, president of the Public Affairs Council, a lobbyist education group. "There needs to be greater transparency and better enforcement."

Sens. John McCain (R-Ariz.) and Russell Feingold (D-Wis.), who co-wrote campaign finance changes a few years ago, have introduced separate proposals that would crack down hard on lobbying as now practiced. Their ideas will serve as the starting point for what is expected to be a vigorous debate.

Some lobbyists reacted defensively yesterday, at pains to say that Abramoff was an exception to the way they do business. "The Abramoff style is so far afield from the normal course of business as to be irrelevant to me and probably most people in my line of work," said Joel Johnson, a Clinton White House official and now a lobbyist for the Glover Park Group.

"The whole Abramoff matter is atypical," agreed Ed Rogers of Barbour Griffith & Rogers. "It is not a lesson of how business is done in Washington."

John Jonas, a lobbyist at Patton Boggs, said he expects "less partying, less gifting, more awareness about compliance" with rules that have been "observed in the breach."

As for the perception of lobbying as a profession, "it's confirmed everybody's worst fears about lobbyists -- that they double-deal, that they're not aboveboard," Jonas said. "That hurts the legitimate practice of the profession."

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Gingrich said Republican leaders in Congress should take the initiative to reform lobbying and campaign finance, rather than hoping to slip quietly past the current scandal. "Things have to be done to really rethink where the center of the political process is," he said. "Right now, the center is a lobbying and PAC [political action committee] system center, which is not healthy."

GOP Leaders Seek Distance From Abramoff (WP)

By Jonathan Weisman

The Washington Post, January 4, 2006

With a House Republican committee chairman implicated in the criminal case and the highest echelons of the Republican Party increasingly vulnerable to charges, GOP leaders moved yesterday to distance themselves from disgraced lobbyist Jack Abramoff and prepare to combat a growing corruption scandal.

Hours after Abramoff pleaded guilty to conspiracy, mail fraud and tax evasion charges, House Speaker J. Dennis Hastert (R-Ill.) announced that he will donate to charity the tens of thousands of dollars that he has received from Abramoff's Indian tribe clients. Top Republican strategists pushed GOP leaders to embrace legislation to curb the influence of lobbyists.

And former House speaker Newt Gingrich (R-Ga.) called on House Republicans to elect a new majority leader to permanently replace Rep. Tom DeLay (R-Tex.), Abramoff's most powerful ally in Washington, who faces a trial on unrelated criminal charges of violating Texas campaign laws.

"Unequivocally, the House Republicans need to select a new majority leader in late January or early February," said Gingrich, who cited revelations in The Washington Post that a public advocacy group organized by DeLay associates had been largely financed by Russian energy interests.

The plea agreement signed by Abramoff yesterday implicates only one lawmaker, Rep. Robert W. Ney (R-Ohio), but it indicates that future revelations would ensnare other public officials. The agreement refers broadly to trips, campaign contributions and entertainment offered to public officials "in exchange for agreements that the public officials would use their official positions and influence" for Abramoff's benefit. That suggests there were specific quid pro quos that could yield additional charges of bribery and public corruption.

Ney, the chairman of the House Administration Committee, which oversees the operations of the House, is never referenced by name, although Ney's spokesman confirmed that Ney is the "Representative #1" repeatedly mentioned in court documents outlining Abramoff's wrongdoing. The court documents depict "Representative #1" as accepting lavish gifts of travel, meals, entertainment and campaign contributions, then awarding congressional contracts to Abramoff's clients, inserting a statement of support in the Congressional Record, and even obtaining a travel visa for a relative of one of Abramoff's clients while in Russia on official business.

Ney spokesman Brian Walsh denied the charges, saying any official actions Ney had taken were based on "the merits and facts of the situation and not because of any improper influence from Jack Abramoff or anybody else."

"At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities," Ney said in a statement.

Republican strategists expressed some relief that the damage could be limited. Carl Forti, a spokesman for the National Republican Congressional Committee, said that if Abramoff's revelations ensnare only one lawmaker and some unknown staff members, Democrats will have little chance of sparking a political revolt when voters go to the polls in November to elect a new Congress.

But now that Abramoff has agreed to cooperate with prosecutors in exchange for a lighter prison sentence, he could provide testimony highly damaging to other high-level lawmakers. DeLay is not mentioned, but court documents do single out his former deputy chief of staff, Tony C. Rudy. The documents detail 10 monthly payments totaling $50,000 that went to the wife of an aide identified as "Staffer A." In exchange, that aide, identified elsewhere as Rudy, helped torpedo Internet gambling legislation and a postal-rate increase, according to Abramoff's plea agreement.

Moreover, numerous references to Abramoff-financed trips to Scotland and the Northern Mariana Islands raised anew questions about DeLay's own trips to both locations with Abramoff.

Dick DeGuerin, an attorney for DeLay, said he is not concerned about the Abramoff investigation. DeLay has offered to cooperate with the Justice Department probe and has not been called in, he said.

"If Jack Abramoff tells the truth, what he'll do is clear the air, and everyone will see there's no connection between Jack Abramoff's money-dealing and Tom DeLay," DeGuerin said.

Yesterday, Travis County prosecutor Ronnie Earle, who has been overseeing the probe into illegal corporate donations in Texas, tried to find that connection by sending subpoenas to Abramoff's two former employers in Washington, seeking documents and any correspondence involving DeLay and certain contributions by Abramoff clients.

The subpoenas are based on evidence that the law firm Preston Gates Ellis LLP and several Abramoff clients, including the Mississippi Band of Choctaw Indians, made donations to Texans for a Republican Majority, a political action committee organized by DeLay and his associates. That committee has been indicted on charges of illegally using corporate funds, and Earle now appears to be seeking information on what the donors expected to get in return for their payments.

Even before the plea agreement was unveiled, the Democratic Congressional Campaign Committee had circulated a 1997 quote from DeLay hailing Abramoff as "one of my closest and dearest friends."

"Tom DeLay was majority leader of the House of Representatives," said DCCC Chairman Rahm Emanuel (Ill.), "and Tom DeLay said Jack Abramoff was his best friend, nobody else."

But Democrats could be ensnared by the Abramoff case, as well. The lobbyist oversaw at the law firm Greenberg Traurig LLP a team of two dozen lobbyists that included many Democrats. The biggest beneficiaries of campaign contributions directed by the Abramoff team included such high-ranking Democrats as then-Sen. Thomas A. Daschle (S.D.), Senate Minority Leader Harry M. Reid (Nev.) and Rep. Patrick J. Kennedy (R.I.), a former head of the House Democrats' campaign committee.

Some key Republican strategists have complained that GOP leaders have been slow in responding to a scandal that has been unfolding for months and in holding internal elections to permanently replace DeLay in the House leadership.

With Abramoff's plea, that may change. In November, The Post detailed a fundraiser held by Hastert at one of Abramoff's restaurants that netted from the lobbyist's law firm and tribal clients at least $21,500 for the speaker's political action committee. Since then, numerous lawmakers from both parties have returned such donations, but only yesterday did Hastert join the line.

"While these contributions were legal, he believes that it is appropriate to donate the money to charity," said Ron Bonjean, Hastert's spokesman.

Lobbying Plan Was Central To GOP's Political Strategy (LAT)

By Janet Hook And Mary Curtius

The Los Angeles Times, January 4, 2006

WASHINGTON — The corruption investigation surrounding lobbyist Jack Abramoff shows the significant political risk that Republican leaders took when they adopted what had once seemed a brilliant strategy for dominating Washington: turning the K Street lobbying corridor into a cog of the GOP political machine.

Abramoff thrived in the political climate fostered by GOP leaders, including Rep. Tom DeLay (R-Texas), who have methodically tried to tighten the links between the party in Congress and business lobbyists, through what has become known as the "K Street Project."

GOP leaders, seeking to harness the financial and political support of K Street, urged lobbyists to support their conservative agenda, give heavily to Republican politicians and hire Republicans for top trade association jobs. Abramoff obliged on every front, and his tentacles of influence reached deep into the upper echelons of Congress and the Bush administration.

Now, in the wake of a plea agreement in which Abramoff will cooperate in an influence-peddling investigation that might target a number of lawmakers, some Republicans are saying that the party will need to take action to avoid being tarnished.

"This is going to be a huge black eye for our party," said Rep. Ray LaHood (R-Ill.), a senior member close to House Speaker J. Dennis Hastert (R-Ill.). "Denny's going to have to be very tough and really speak out against people who are indicted. He's going to have to do it quickly and decisively and frequently."

Hastert moved Tuesday to inoculate himself from the scandal by announcing that he would give to charity about $60,000 he received from Abramoff and his clients. He is the latest of several lawmakers who have returned or redirected money they received from Abramoff-related sources.

One Senate Republican aide, speaking on condition of anonymity, said Republicans soon will unveil ethics reform legislation in an effort to blunt criticism from Democrats that they have fostered a "culture of corruption" in Washington.

The controversy may also increase the prospect that Republicans will shake up their leadership after Congress reconvenes at the end of January. House Republican moderates are calling for new leadership elections to permanently replace DeLay, who stepped down temporarily as majority leader after he was indicted in an unrelated case.

"Let's get a permanent leadership and begin moving forward and overcome the problems that are on the table right now," said Sarah Chamberlain Resnick, executive director of the Republican Main Street Partnership, a caucus of GOP moderates in Congress.

Conservatives are worried about possible political fallout for all Republicans, not just those who might be implicated, once Abramoff starts cooperating with prosecutors.

"This is the one thing that could result in a change in who controls the Congress," said Paul Weyrich, a conservative activist.

Abramoff pleaded guilty Tuesday to corruption charges in connection with allegations that he bilked his Indian tribe clients and conspired to bribe a member of Congress. He also will plead guilty to charges in a separate case in Miami, in connection with a deal to buy a floating casino fleet, SunCruz Casinos.

Although Abramoff admitted Tuesday to illegal conduct in some of his dealings, much of what he did to influence Congress amounted to larger-than-life versions of legal practices common among lobbyists.

Abramoff did not just ply lawmakers with meals; he opened a restaurant and plied them with his meals. He did not simply hand out tickets to sporting events; he offered access to several luxury skyboxes. He did not arrange garden-variety golf outings; he brought golfers to the world's most exclusive courses.

"The connections between Congress, congressional staff and lobbyists have been a problem for many years," said Dennis Thompson, author of the book "Ethics in Congress."

"In the last few years it's gotten out of control," Thompson said. "But Abramoff has taken it to a new level."

For investigators, the question is whether any lawmakers returned Abramoff's favors by using their offices to benefit him or his clients, which could violate federal law.

Critics of the campaign finance system say it would be a kind of rough justice if Republicans were hobbled by their relationships with a lobbyist, because they worked so hard to increase coordination between their party and K Street.

Republicans said their efforts were no different than what Democrats did for years to raise money and organize support from their constituencies, including labor unions and civil rights advocates. But Democratic critics said the GOP went much further in linking political money to policy outcomes, and that Abramoff was a master at maneuvering in a system that required lobbyists to "pay to play" on Capitol Hill.

"Jack Abramoff is a classic example of the pay-to-play system carried out in the extreme," said Fred Wertheimer, head of Democracy 21, a campaign-finance watchdog group.

According to a study by the nonpartisan Center for Responsive Politics, 296 members of Congress since 1999 have received contributions from Abramoff, his Indian tribe clients or SunCruz Casinos. Abramoff and his wife contributed $204,253 — all of it to Republicans.

In addition, Abramoff also leaned on his Indian clients to give to key lawmakers. The center found that Abramoff's clients gave almost $4.2 million, more than half to Republicans.

His most famous golf outings took members, including DeLay and Rep. Bob Ney (R-Ohio), to the fabled St. Andrews course in Scotland. Such trips are against House rules if they are paid for by a lobbyist. DeLay and Ney said they believed the trips were properly paid for by a nonprofit group, but prosecutors are reportedly looking at whether Abramoff initially picked up some of the expenses.

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Favors done for DeLay and Ney have drawn particular scrutiny because they took aggressive steps to help Abramoff or his clients on issues that seemed remote from their own constituents' interests. When Abramoff was trying to buy the Florida floating casino fleet, Ney inserted a statement in the Congressional Record critical of Abramoff's rival.

Abramoff had been hired to stall legislation raising the minimum wage for the U.S.-administered Northern Mariana Islands in the Pacific Ocean, and DeLay was credited with helping him do so. DeLay also was an ally in Abramoff's effort to fight legislation to allow the taxation of Indian tribe gaming revenue.

DeLay and Ney, like other lawmakers who helped Abramoff, said they took action on the merits, not because they received favors from him.

The last time Washington lobbying came under such broad legal scrutiny was in the Abscam scandal of 1980, when an FBI sting operation led to the conviction of seven members of Congress on corruption charges.

That episode was widely viewed as a scandal involving isolated individuals, the proverbial "bad apples."

But some critics of the current campaign finance system say that the Abramoff scandal could have broader significance if it is seen as an indictment of a corrupt political system, not just individuals.

Abramoff Pleads Guilty, Will Cooperate (AP)

By Mark Sherman and Curt Anderson

The Associated Press, January 4, 2006

WASHINGTON (AP) - Jack Abramoff, the lobbyist who spawned a congressional corruption scandal, pleaded guilty Tuesday to three felonies and pledged to cooperate in a criminal probe edging closer to former House Majority Leader Tom DeLay.

"I plead guilty, your honor," Abramoff said in flat, unemotional tones, accepting a plea bargain that said he had provided lavish trips, golf outings, meals and more to public officials "in exchange for a series of official acts."

In one case, he reported payments totaling $50,000 to the wife of a congressional aide to help block legislation for a client. The aide worked for DeLay, according to officials who spoke on condition of anonymity.

Public corruption aside, Abramoff admitted defrauding four Indian tribes and other clients, taking millions in kickbacks from a one-time business partner, misusing a charity he had established and failing to pay income taxes on millions of ill-gotten gains.

(AP) Assistant Attorney General for the Criminal Division Alice Fisher briefs reporters at the Justice...

Full ImageHe is expected to plead guilty to additional charges on Wednesday in Florida in connection with charges stemming from the 2000 purchase of a fleet of gambling boats.

At the Justice Department, officials said they intend to make use of the trove of e-mails and other material in Abramoff's possession as part of a probe that is believed to be focusing on as many as 20 members of Congress and aides.

"This investigation continues ... however long it takes, wherever it leads," said Alice Fisher, assistant attorney general.

Whatever the legal ramifications, there was swift political fallout at the dawn of an election year in which minority Democrats intend to make ethics a campaign issue.

In a turnabout, House Speaker Dennis Hastert, R-Ill., joined the roster of politicians announcing plans to donate Abramoff's campaign contributions to charity.

(AP) Assistant Attorney General for the Criminal Division Alice Fisher briefs reporters at the Justice...

Full ImageHouse Democratic Leader Nancy Pelosi said Abramoff's confession in court was "not a surprise because this Republican Congress is the most corrupt in history and the American people are paying the price."

Abramoff faces as much as 11 years in federal prison as well as fines in connection with his guilty pleas on charges of conspiracy, mail fraud and tax evasion. The precise penalty is to be determined in part by the extent of his cooperation with prosecutors. Together with his former business partner, Michael Scanlon, he is expected to face restitution costs of $25 million.

Abramoff also will be required to pay $1.7 million for unpaid taxes, officials said.

Scanlon pleaded guilty last November to corruption charges as part of the investigation that began 21 months ago.

The Bush administration's former chief procurement official, David H. Safavian, was charged last fall with making false statements and obstructing investigations into a 2002 golf outing. He has pleaded innocent.

(AP) Assistant Attorney General for the Criminal Division Alice Fisher briefs reporters at the Justice...

Full ImageThe court papers released in connection with Tuesday's plea offered these glimpses into Abramoff's activities:

- On behalf of clients eager to stop internet gambling and postal rate legislation, Abramoff paid $50,000 in 10 equal monthly payments beginning in June 2000 to the wife of a congressional aide identified as Staffer A. Based on other information made public, Staffer A was Tony Rudy, at the time a top aide to DeLay. His identity was confirmed by officials who spoke only on condition of anonymity, noting that the court papers did not name the aide.

DeLay's office had no immediate comment. The congressman has previously said any actions he took on legislation were consistent with his political philosophy.

Separately, DeLay is fighting state campaign finance charges in Texas, hoping to clear himself in time to reclaim his leadership post in Congress.

- Abramoff contradicted statements by Rep. Bob Ney, saying the Ohio Republican accepted a golfing trip to Scotland in 2002 with the knowledge that the lobbyist's Indian clients were paying for it. Ney is not mentioned by name, but his identity is clear from a description of his committee chairmanship. Ney issued a statement saying, "At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature" of his activities.

(AP) Jack Abramoff leaves Federal Court in Washington Tuesday, Jan. 3, 2006. The once-powerful lobbyist...

Full Image- Abramoff also said he had made a $10,000 donation to the National Republican Campaign Committee at Ney's request, part of what the plea agreement refers to as the "corruption of public officials."

- Court documents said Abramoff solicited $50,000 from a wireless telephone company and got Ney's agreement to push the company's application to install a wireless telephone infrastructure in the House of Representatives, a job Ney's committee would have overseen.

At the Justice Department, Fisher said that in one instance, "Abramoff was so bold as to take fees to assist one client when he was actually working for another client to defeat the first client's interests." Those clients were Indian tribes were from Texas and Louisiana, and the issue involved casino gambling.

Apart from his lobbying in Congress, Abramoff raised at least $100,000 for President Bush's 2004 re-election effort, earning the honorary title "pioneer" from the campaign.

White House spokesman Scott McClellan said he could not say whether Abramoff ever met Bush. McClellan said of Abramoff: "What he is reportedly acknowledging doing is unacceptable and outrageous."

(AP) Internal Revenue Service Commissioner Mark Emerson responds to questions from reporters at the...

Full Image"If laws were broken, he must be held to account for what he did," McClellan said.

Once a well-connected lobbyist able to command almost unimaginable fees - a Louisiana tribe once paid Scanlon and him more than $30 million over 26 months - Abramoff apologized after pleading guilty.

"Words will not ever be able to express my sorrow and my profound regret for all my actions and mistakes," he said. "I hope I can merit forgiveness from the Almighty and those I've wronged or caused to suffer."

Pressure had been intensifying on Abramoff to strike a deal with prosecutors since another former partner, Adam Kidan, pleaded guilty last month to fraud and conspiracy in connection with the 2000 SunCruz boat deal in Florida.

Capitol Offense Guilty Plea By Lobbyist Raises Prospect Of Wider Investigation (WSJ)

By Brody Mullins, David Rogers And Anne Marie Squeo

The Wall Street Journal, January 4, 2006

WASHINGTON -- Prominent Republican lobbyist Jack Abramoff pleaded guilty to three felonies and agreed to help prosecutors probing political corruption, raising the possibility of a wider investigation that could embroil powerful members of Congress.

Yet the fact that some Democrats also had dealings with Mr. Abramoff clouded the question of whether the scandal will have a sharp partisan impact in the November 2006 midterm elections.

Making the bribery case especially striking -- and worrisome for members of Congress -- is that some of its elements include transactions that occur in Washington every day. It is commonplace for lawmakers to solicit campaign donations from

lobbyists, who routinely offer them in hopes of gaining advantage. Yet Mr. Abramoff also went far beyond routine practice by furnishing lawmakers with lavish trips, free meals and entertainment as well.

It remains unclear which lawmakers prosecutors are looking at, and also how persuasive Mr. Abramoff could be in helping to make potential cases against any of them stick. A onetime chairman of College Republicans -- a close ally of such party luminaries as Tom DeLay, Ralph Reed and Grover Norquist -- Mr. Abramoff says he has information that could implicate 60 lawmakers.

"The case is significant and the corruption scheme with Mr. Abramoff is very extensive," said Alice Fisher, assistant attorney general for the Justice Department's criminal division, at a news conference. She said prosecutors "will continue to follow it wherever it leads."

The plea deal follows a 21-month Justice Department investigation of whether Mr. Abramoff offered lawmakers and their aides gifts in exchange for helping his lobbying clients in Congress. Besides conspiring to bribe legislators this way, Mr. Abramoff pleaded guilty to bilking Indian tribes who were his lobbying clients, by arranging kickbacks from associates.

The sums he and several associates collected from Indian tribes and other clients evidently were huge. For the period 2001-2004 alone, those fees topped $80 million, investigators say. Mr. Abramoff also pleaded guilty to tax evasion.

The criminal information (used in lieu of an indictment) discussed only one legislator, citing this person as having been "provided a stream of things of value" in return for official favors. It said the things provided included campaign donations, a lavish golf trip to Scotland, tickets to sporting events and other entertainments, and regular meals at a pricey Washington restaurant called Signatures that Mr. Abramoff once owned. (See the document1.)

Though the filing didn't name the congressman, the information pointed to Rep. Bob Ney, an Ohio Republican, and his office has acknowledged that he is the one meant. Rep. Ney, chairman of the House Administration Committee, said he helped Mr. Abramoff's clients on the merits, not because of any improper influence.

Lawyers involved in the case say that prosecutors are looking at Mr. Abramoff's dealings with at least three other members of Congress and more than a dozen current and former congressional aides. That in itself would make this the broadest federal corruption case involving Congress since Abscam, more than two decades ago, which resulted in bribery convictions of six lawmakers. Abscam was a probe in which Federal Bureau of Investigation agents posed as Arab sheiks or their representatives and offered bribes to members of Congress, transactions secretly filmed in some cases.

In a more recent case, Republican Rep. Randall "Duke" Cunningham of California resigned from Congress in November after pleading guilty to receiving $2.4 million in bribes from military contractors and evading more than $1 million in taxes.

At a minimum, Mr. Abramoff's plea agreement increases political pressure on Mr. DeLay, the Texas Republican who has stepped aside as House Majority Leader while under indictment in an unrelated corruption investigation in his home state. Former DeLay press secretary Michael Scanlon, later a business associate of Mr. Abramoff, pleaded guilty in late November to joining in a fraud and bribery scheme with Mr. Abramoff.

Mr. Abramoff's plea deal twice refers to another onetime DeLay aide, Tony Rudy, who later worked as a lobbyist under Mr. Abramoff. In the plea arrangement, Mr. Abramoff said he and lobbying partners of his attempted to bribe Mr. Rudy by paying his wife $50,000 in 10 equal payments from June 2000 to February 2001. Mr. Abramoff sought, in return, help both in stopping legislation regarding Internet gambling and in opposing postal rate increases, according to documents filed yesterday.

In fact, an Internet gambling bill failed in the House late that summer. And the alleged payments also followed a controversial golf trip by Mr. DeLay to Scotland in June 2000 organized by Mr. Abramoff, who hired an Arizona golf-tour company to make the arrangements.

Mr. DeLay said he had thought the trip was financed by a nonprofit conservative group, the National Center for Public Policy Research, not by Mr. Abramoff or his clients. But House gift rules say such trips are acceptable only if they are principally designed for information gathering; instead, records reviewed by The Wall Street Journal indicate that recreation was the principal reason for the Scottish leg of Mr. DeLay's trip to Britain that June.

Former DeLay staffers say Mr. Rudy was a principal contact for Mr. Abramoff in the leadership's office, and Amy Ridenour, the center's president, has said she is "somewhat hazy about how Scotland got into it." Mr. Rudy, who has retained a defense attorney, didn't immediately return calls seeking comment.

Richard Cullen, an attorney for Mr. DeLay, said that he "encourages people who have information to cooperate and tell the truth and has full confidence he will be exonerated."

There were immediate signs from some Republicans that Mr. Abramoff's plea might sink Mr. DeLay's hopes of reclaiming his post as majority leader. He has sought to put off election for a successor while he tries to gain vindication on the charges against him in Texas. But Republican Rep. Jim Leach of Iowa said the party would be "insane" not to move ahead with new elections. "This is arguably one of the most troubling scandals in modern times and it reflects very poorly on the Congress," Mr. Leach said.

Important Question

The most important political question is whether the case reflects equally poorly on both parties -- or boosts the Democrats' fight to reclaim control of Congress in November's elections. As the public's attitude toward Congress and the Bush administration soured throughout 2005, Democrats built a significant lead when Americans were asked which party they wanted to control Capitol Hill. In December's Wall Street Journal/NBC News poll, 46% preferred Democrats to be in charge; 38% said the Republicans.

Yet the same survey showed that public skepticism about politicians' integrity is bipartisan. Roughly eight in 10 called corruption "equally a problem among both parties," raising questions about whether Democrats can make headway with their argument that Republican rule has created "a culture of corruption."

"I do think it will have a dramatic effect on future elections for both parties," said Rep. Wayne Gilchrest, a Republican moderate from Maryland. "Part of it is going to be anti-incumbent. Part of it will be people who don't vote because there's no hope. Part of it will be disgust with Republicans, who seem to be indicted every other week." Democrats argue that even a general anti-incumbent backlash could benefit them, since Republicans now hold more seats.

Aside from Messrs. DeLay and Ney, prosecutors are believed to be examining two Republican lawmakers for their dealings with Mr. Abramoff, as well as more than a dozen current and former congressional aides. One is Rep. John Doolittle of California. A spokeswoman for Rep. Doolittle has dismissed as "simply ridiculous" the idea that he "had some improper involvement" with Mr. Abramoff.

The other Republican lawmaker prosecutors are believed to be looking at is Sen. Conrad Burns of Montana. Mr. Burns, the largest Senate recipient of campaign donations from Mr. Abramoff and his clients, helped one Abramoff client get $3 million in federal money one year. In 2001, Mr. Abramoff flew two of Mr. Burns's aides to the Super Bowl; Mr. Abramoff also hired a pair of Mr. Burns's aides.

Mr. Burns said in a statement that "I've returned or donated to charity the contributions I've received from Abramoff and his clients and associates and to date, I have not been contacted by the U.S. Justice Department." If it asks, he will cooperate in any way possible, he said.

Republicans say Mr. Abramoff's dealings with Democrats, such as Senate Democratic Leader Harry Reid of Nevada and Democratic Sen. Byron Dorgan of North Dakota, will help blunt the partisan fallout. In 2002, Messrs. Reid and Dorgan sent separate letters asking the Interior Department to block an Indian tribe in Louisiana from opening a casino that would have competed with an existing casino operated by one of Mr. Abramoff's clients. The day after Mr. Reid sent his letter, Mr. Abramoff's client, a tribe called the Coushattas, sent a $5,000 contribution to one of Mr. Reid's fund-raising groups.

A spokesman for Mr. Reid said that "he has long opposed the expansion of off-reservation Indian gaming," and any official action he took was consistent with that view. The spokesman said Mr. Reid has never met Mr. Abramoff.

In 2002, Mr. Dorgan helped one of Mr. Abramoff's clients get $3 million in federal funding, and around the same time, Mr. Dorgan received $20,000 in campaign contributions from Mr. Abramoff's firm and clients. In fall 2003, Mr. Dorgan pushed Congress to consider granting federal recognition to a Massachusetts tribe that was an Abramoff client.

Mr. Dorgan has returned some $67,000 in donations he received from members of the lobbyist's firm and its clients, though he says all were legal and that he never met Mr. Abramoff. Yesterday Mr. Dorgan issued a statement taking credit for helping to expose "the corruption of Jack Abramoff" as a leader of the Senate Select Committee on Indian Affairs.

Congress may seek to inoculate itself from the scandal this year by pursuing legislation that would reform lobbying laws. Legislation proposed by Arizona Republican Sen. John McCain would require lobbyists to disclose more about their contacts

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with members of Congress and congressional aides. Other proposals would bar lawmakers and aides from accepting meals or gifts from lobbyists.

Mr. Abramoff faced a maximum sentence of 30 years, but under the terms of his plea agreement that is likely to be reduced to between 9 and 11 years, the Justice Department said. That sentence could be reduced further, depending on the level of cooperation he provides in the case, which began in March 2004. Mr. Abramoff agreed to pay $25 million in restitution to the Indian tribes he admitted defrauding and pay $1.7 million to the Internal Revenue Service for taxes he had avoided.

"Words will not be able to ever express how sorry I am for this," Mr. Abramoff said in court as he offered his plea. "I have profound regret and sorrow for the multitude of mistakes and harm I have caused."

According to the plea arrangement, Mr. Abramoff beginning in 2000 offered "Representative #1" and his staffers tickets to the Super Bowl, campaign contributions, meals and drinks and frequent "golf and related expenses" at Washington-area courses. In exchange, the agreement states, Representative #1 helped Mr. Abramoff and his clients 11 times.

In August 2001, it says, the legislator "used his position as chairman of a committee of the House to endorse and support a client of Abramoff as the provider of wireless telephone infrastructure to the House of Representatives." The legislator also helped Mr. Abramoff buy a casino-boat chain in Florida in 2000 and tried to add language to a bill that would have helped one of Mr. Abramoff's Native American clients, the plea deal says.

Rep. Ney, the man acknowledged by his own office to be Representative #1, said that "at the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities." A spokesman said Mr. Ney would "absolutely not" step aside as chairman of the House Administration Committee. The committee oversees election law as well as the day-to-day operations of the House. Mr. Ney, a former teacher, has represented a district in east-central Ohio since winning election in the Republicans' 1994 midterm election sweep.

'One Step at a Time'

Experts in Washington corruption cases said the language of the Abramoff plea deal makes clear the investigation will reach further. "It's not limited to Ney. The charges speak of 'public officials,' " said Stanley Brand, a veteran defense attorney and former Democratic counsel in the House. "It's a very, very tightly knit set of charges. They are not over pleading these cases. They are going one step at a time."

Campaign contributions aren't illegal unless there is an express agreement that the money is being paid in exchange for a particular action. That's one element that makes public-corruption cases difficult to bring, say former prosecutors. Unlike a crime such as robbery, there is often no clearly identifiable victim and usually little reason for either side to cooperate with law enforcement. That's what makes the deal with Mr. Abramoff key to what Justice Department officials describe as a wide-ranging, ongoing investigation.

Enlisting his testimony "is a huge break," said Randall Eliason, a law professor at American University and former head of the public-corruption unit for the U.S. Attorney's office in Washington. "He was in the meetings. He was there when the deals, if any, took place and can say, 'I gave him this in exchange for this official action.' "

Prosecutors will need significant corroborating evidence to prove potential charges against Mr. Ney or other members of Congress. The lobbyists' guilty pleas themselves can be used by defense lawyers to impeach Mr. Abramoff's credibility, adding to the Justice Department's challenge in building additional cases.

The FBI has been engaged in an aggressive crackdown on public corruption, officials say. In the past two years, the bureau has helped convict more than 1,050 government employees accused of corrupt activities, including 177 federal officials.

US Lobbyist Admits Fraud And Bribe Plot (FT)

By Patti Waldmeir In Washington

Financial Times, January 4, 2006

Jack Abramoff, the Republican lobbyist and central figure in an influence-peddling scandal with reverberations throughout Washington, on Tuesday pleaded guilty to federal corruption charges and agreed to help prosecutors investigate the activities of top US lawmakers including Tom DeLay, the former House majority leader.

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Mr Abramoff on Tuesday pleaded guilty to charges of conspiracy, mail fraud and tax evasion. He admitted to conspiring to defraud his lobbying clients, and trying to bribe lawmakers and congressional aides with campaign contributions, meals, trips and sports tickets. He is expected to serve about 10 years in prison.

According to the charges filed on Tuesday, Mr Abramoff and a former aide to Mr DeLay, Michael Scanlon, overbilled several Indian tribes who were their clients. They then diverted the money either into their own pockets, or used it to provide what the charges said was "a stream of things of value", including a lavish golfing trip to Scotland, for a lawmaker and his staff.

No politicians are named in the papers filed on Tuesday by the Justice Department but prosecutors are understood to be investigating at least a dozen lawmakers, congressional aides and lobbyists, including Mr DeLay and Bob Ney of Ohio, a fellow Republican lawmaker.

Mr Abramoff's long-awaited decision to plead guilty and co-operate with federal investigators will give the Justice Department powerful new ammunition in its probe of alleged patterns of corruption and bribery within the ranks of the Republican leadership.

Democrats are hoping to exploit the perception of a "culture of corruption" among Republican leaders in the November congressional elections, although some Democrats also received campaign contributions from Mr Abramoff.

The charges on Tuesday said: "It was a purpose of the conspiracy for defendant Abramoff, Scanlon and others to enrich themselves by obtaining substantial funds from their clients through fraud and concealment."

Some of these funds were used to try to influence an unnamed congressman to "perform a series of official acts" including passing legislation.

Sports tickets and meals at Mr Abramoff's upmarket Washington restaurant were lavished on lawmakers. "His activities went far beyond lawful lobbying," said Alice Fisher, a top Justice Department official.

Tuesday's charges are separate from charges pending against Mr Abramoff in Florida. He is expected to plead guilty to those as well.

Scott McClellan, White House spokesman, said that, "if laws were broken, [Mr Abramoff] must be held to account for what he did".

Tremors Across Washington As Lobbyist Will Aid Inquiry (NYT)

By Sheryl Gay Stolberg

The New York Times, January 4, 2006

WASHINGTON, Jan. 3 - As a high-flying Republican lobbyist, Jack Abramoff has long been known as a mover and shaker in Washington. But when he cut a deal with federal prosecutors on Tuesday, he shook up this town as never before.

Not long ago, Mr. Abramoff was perhaps Washington's most aggressive - and, at $750 an hour, most highly compensated - deal maker, a flamboyant man who moved fluidly through the nexus of money and power. Now his decision to cooperate in a broadening corruption and bribery investigation has thrust him into the role of a corporate insider turning against the company that claimed just to be doing business as usual.

Even before Mr. Abramoff left the federal courthouse on Tuesday in a trench coat and fedora, nervous lawmakers of both parties, and even the White House, began trying to distance themselves from him.

Speaker J. Dennis Hastert of Illinois announced that he would donate to charity $69,000 in campaign contributions directed to him by Mr. Abramoff.

The plea bargain also had immediate ripple effects for a lawmaker who was once Mr. Abramoff's closest ally in the Republican leadership, Representative Tom DeLay of Texas. Mr. DeLay, indicted on a count of money laundering in a separate campaign-related case in Texas, is trying to regain his post as House majority leader, but Mr. Abramoff's plea complicates his prospects.

Mr. Abramoff, 46, pleaded guilty to charges of conspiracy, fraud and tax evasion, and prosecutors said he used campaign contributions, lavish trips, meals and other perks to influence lawmakers and their aides. Court papers filed on Tuesday singled out just one member of Congress, "Representative No. 1," identified elsewhere as Representative Bob Ney, Republican of Ohio.

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But that was cold comfort on Capitol Hill, where there was a sense of lawmakers and lobbyists' waiting for the other shoe to drop. In a city whose history is rife with scandal and the political price it exacts, from the F.B.I. sting operation known as Abscam to the savings and loans collapse involving "the Keating Five," some experts feared that the Abramoff investigation would eclipse all the rest.

While Mr. Abramoff is most closely linked to Republicans, even Democrats, many of whom also benefited from his largesse, acted skittish.

"We're talking about people who have longstanding careers in Congress who took contributions from somebody who knew somebody who knew somebody who knew Jack Abramoff," said a Democratic Congressional aide who insisted on anonymity so as not to drag his boss into the scandal. "Now they're panicked. The hope is that this investigation will root out the wrongdoing without innocent people getting hit with the ricochet."

Mr. Abramoff's plea bargain is scary to Washington's power brokers precisely because he was so entangled with so many of them.

His ties to Grover G. Norquist, a leading conservative strategist and president of Americans for Tax Reform, and Ralph Reed, the former director of the Christian Coalition who is now a candidate for lieutenant governor in Georgia, date from his college days.

He once worked as a lobbyist alongside David H. Safavian, who was the head of the White House procurement office until just before his arrest last fall in the Abramoff investigation. And Mr. Abramoff's former personal assistant once worked for Karl Rove, President Bush's chief political strategist.

At the White House, administration officials have been reluctant to comment on the case, referring questions to the Justice Department and declining to defend Mr. Safavian. But on Tuesday morning, the White House spokesman, Scott McClellan, denounced Mr. Abramoff's actions.

"What he is reportedly acknowledging doing is unacceptable and outrageous," Mr. McClellan said. "If laws were broken, he must be held to account and punished for what he did."

Some Democrats saw the plea bargain as good political news. They are trying to build their 2006 midterm campaigns around what they call the Republican "culture of corruption" and say Mr. Abramoff taps into that theme.

Minutes after his deal was announced, the Democratic Congressional Campaign Committee, which tries to help elect Democrats to Congress, trumpeted the news on its Web site. "Breaking News: Jack Abramoff to Plead Guilty," the headline said.

Publicly, Republicans insisted that they were not worried.

"I think there may have been some nervousness, but after reading the plea agreement today and seeing that only one person was named, there's got to be a little bit of relief out there," said Carl Forti, spokesman for the National Republican Congressional Committee.

But privately, some said they were concerned that the Justice Department might try to interpret bribery statutes more broadly than in the past. They fear a lesser standard of proof could ensnare lawmakers, lobbyists and aides, current and former.

"There's a lot of talk coming out of various quarters that the Justice Department is going to pursue a different definition of bribery, meaning that if somebody were to give a gift or a campaign contribution in the same time period as a member took an official action, that in and of itself would constitute bribery," said a former Republican leadership aide who insisted on anonymity. "That scares the bejesus out of people."

A one-time Hollywood filmmaker, Mr. Abramoff began his rise in Republican power circles in the 1980's, when he was chairman of the College Republicans National Committee. His staff included Mr. Norquist and Mr. Reed.

In 1994, when the Republicans reclaimed the House after 40 years, Mr. Abramoff rose to power with them. He used his contacts with Mr. DeLay and other prominent Republicans to build a lucrative lobbying and business enterprise that, at its peak, included a fancy restaurant, Signatures, with a special kosher kitchen. His primary clients were Indian tribes, which he has now acknowledged bilking.

From complimentary meals at his restaurant to lavish golfing trips to Scotland, including one taken by Mr. Ney and another by Mr. DeLay, to lucrative skybox tickets at Washington sports events, Mr. Abramoff's largesse seemed to know no bounds.

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According to the Center for Responsive Politics, an organization that tracks campaign contributions, he has directed more than $4.4 million since 1999 to candidates and campaign committees. The money came mostly from Mr. Abramoff's clients, but also directly from him and from a casino boat company that he once owned.

On Tuesday, a spokesman for Mr. Hastert said the speaker would join a growing list of members of Congress who have returned or donated money given them by Mr. Abramoff.

"The speaker believes that while these contributions were legal, it is appropriate to donate the money to charity," said the spokesman, Ron Bonjean.

Mr. DeLay, whose former press secretary, Michael Scanlon, was Mr. Abramoff's business partner and has also been indicted in connection with the investigation, has been working furiously to resolve the Texas case before the House reconvenes on Jan. 31.

The intent was to clear his name and forestall any call for leadership elections. But Republicans say even a legal victory in Texas could be overshadowed by Mr. Abramoff's case.

A spokesman for Mr. DeLay said that the lawmaker had nothing to fear from Mr. Abramoff's plea and that it should not be a factor in whether he should resume his position as majority leader.

"Mr. DeLay has been very clear that all of his actions were properly vetted and they were promptly and publicly disclosed in accordance with House ethics rules," the spokesman, Kevin Madden, said. "So there is no reason for him to be concerned."

The investigation is prompting people inside and outside Congress to change their behavior.

Mr. Hastert has raised the possibility of new ethics training for lawmakers.

Paul Miller, president of the 700-member American League of Lobbyists, said lawmakers and lobbyists were "taking a step backward and assessing how they are doing business and how they are operating."

Even as Mr. Miller acknowledged that Mr. Abramoff's case had tarnished his industry, he took pains to dispute the idea that Mr. Abramoff deserved the description "superlobbyist," so often bestowed on him in a city where money and influence speak louder than words and where when the mighty fall they fall hard.

"Jack Abramoff," Mr. Miller said, "is nothing more than a supercrook."

The Heat Is Now On Ohio Rep. Ney (LAT)

By Richard Simon, Times Staff Writer

The Los Angeles Times, January 4, 2006

WASHINGTON — In 2003, Rep. Bob Ney was in the news for helping lead the push to rename the French fries in the House cafeterias "freedom fries" to protest France's refusal to back the U.S. invasion of Iraq.

Now, the Ohio Republican is in the spotlight as "Representative #1" — the unnamed lawmaker in federal court documents released Tuesday who allegedly received favors from lobbyist Jack Abramoff in return for supporting legislation beneficial to one of Abramoff's clients. The documents were unveiled as part of the guilty plea Abramoff entered to several charges stemming from his lobbying activity.

Ney has repeatedly denied any wrongdoing; in a statement Tuesday, he said: "At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities."

But Abramoff's agreement to cooperate with federal investigators as part of his guilty plea raised the prospect that Ney could face indictment. At the least, the Abramoff scandal has cast a cloud over Ney's lengthy political career.

Ironically, Ney won his first elective office by defeating a Democrat who had been tainted by scandal — Wayne Hays.

Hays was serving in the Ohio Legislature when Ney upset him in 1980. Four years earlier, Hays had quit his seat in the U.S. House after Elizabeth Ray, who was on the payroll of the committee he headed, said she was being paid to serve as his mistress. At the time. Ray famously said she could not type or "even answer the phone."

Ney, 51, won his House seat in 1994, when a GOP landslide gave Republicans control of the House and Senate for the first time in 40 years.

In 2001, he became head of the Committee on House Administration, a position that deals with chores that capture little public attention but are important to colleagues, such as overseeing parking on Capitol Hill.

It was in his role as the panel's chairman that he ordered the name change for French fries.

He also helped write legislation that authorized more than $3.8 billion in federal aid to help state and local officials improve their voting systems — a bill passed by Congress after the Florida vote-counting debacle in the 2000 election.

Born in West Virginia, Ney graduated from Ohio State University in the mid-1970s. He spent 1978 in Iran teaching English and is the only House member who speaks fluent Farsi.

During the last year, Ney has uncharacteristically broken with the GOP's House leadership on some key issues.

He was one of nine Republicans in the chamber to vote against a recently passed budget-cutting bill because of concern about its effect on his congressional district's steel industry and cuts to Medicaid. He also opposed the Central American Free Trade Agreement, and has been among a handful of Republicans working against reauthorization of the Patriot Act because of concerns about its effect on civil liberties.

Ney's district in eastern Ohio is heavily rural and picked up more Republican voters when it was redrawn after the 2000 census. He won reelection in 2004 with 66% of the vote.

Ney's spokesman, Brian Walsh, said Tuesday he expected the district's constituents to give the lawmaker the benefit of the doubt as the ethics scandal continued to unfold.

"I think many people in Washington these days presume someone to be guilty until proven innocent," Walsh said. "I think that's different in middle America."

Three Democrats already are vying for the right to oppose Ney in November. The campaign manager for one of the Democrats, Joe Sulzer, said the ethical allegations swirling around Ney were not yet "central in the way it is in D.C. right now" for most voters in the district.

But the Sulzer aide, Joe Abbey, added that he believed the Abramoff plea would "advance the issue tenfold" and sharpen questions of whether Ney was more focused on helping Abramoff than his constituents.

One Democratic official in Ney's district cautioned against counting out the lawmaker.

Mark Thomas, a Belmont County commissioner, noted that Ney helped secure more than $20 million for the area in a recently passed highway bill.

"I think the people in this district are taking the position that until he has been accused of whatever he may be accused of, and the facts come out, and he has an opportunity to respond," Thomas said, "we're going to be behind him as a congressman."

*

Times staff writer Ronald Brownstein contributed to this report.

Abramoff Pleads Guilty To Fraud (REU-Y2)

By Andy Sullivan

Reuters, January 4, 2006

Lobbyist Jack Abramoff pleaded guilty to fraud charges on Tuesday and agreed to help U.S. prosecutors in a corruption probe that could involve several top Republican lawmakers, including former House Majority Leader Tom DeLay.

Abramoff pleaded guilty to conspiracy, mail fraud and tax evasion before a federal judge in Washington. He also will plead guilty to conspiracy and wire fraud in a separate case in Miami on Wednesday, his lawyer there said.

The long-expected plea will give prosecutors valuable ammunition as they seek to prove that DeLay of Texas, Republican Rep. Bob Ney (news, bio, voting record) of Ohio and other top lawmakers gave Abramoff and his lobbying clients favorable treatment in return for campaign contributions, Super Bowl tickets and other gifts.

"Abramoff provided these things of value with the intent and often with the understanding that his clients would receive the official action they wanted," Assistant Attorney General Alice Fisher said at a press conference. "As admitted by Abramoff, his actions often produced the official influence that he sought."

Republican and Democratic lawmakers seeking to distance themselves from Abramoff and his clients have returned more than $200,000 in campaign contributions in recent weeks.

Abramoff, 47, faces a maximum sentence of 30 years, but under the terms of the plea deal it will be reduced to between 9 1/2 and 11 years. The sentence could be reduced even further if Abramoff cooperates fully, a Justice Department official said.

As part of the plea deal, Abramoff together with former partner Michael Scanlon will pay at least $25 million in restitution, and Abramoff will pay $1.7 million to the Internal Revenue Service for tax evasion.

REGRET, SORROW

Wearing a double-breasted, charcoal-colored suit, Abramoff answered Judge Ellen Segal Huvelle's questions in a hushed voice.

"I have profound regret and sorrow for the multitude of mistakes and harm I have caused. All of my remaining days, I will feel tremendous sadness and regret for my conduct and for what I have done," Abramoff said in a prepared statement.

According to the charges, Abramoff directed his Indian-tribe clients to hire Scanlon's public-relations firm at steep costs. Scanlon, a former DeLay aide, then secretly kicked back 50 percent of the $53 million he earned to Abramoff.

The two used the money to shower golf trips, lavish dinners and other favors on lawmakers. They also kept much of it for themselves.

Scanlon pleaded guilty to conspiracy in November and has been cooperating with investigators.

According to the charges, one unidentified lawmaker agreed to support legislation sought by Abramoff, place statements supporting him in the Congressional Record -- the official daily report on congressional proceedings -- and give one of his clients a contract to provide wireless telephone service to the House of Representatives.

That description matches actions taken by Ney, who inserted comments supporting Abramoff into the Congressional Record and who oversees routine matters like wireless service in congressional buildings as chairman of the House Administration Committee.

Ney's attorney Mark Tuohey was not available for comment.

The Justice Department's Fisher would not say how many officials are implicated in the probe.

"We are going to follow this wherever it goes. We are going to expend the resources that are necessary to make sure that people know that government is not for sale," she said.

DeLay attorney Dick DeGuerin said the Abramoff investigation would not uncover any wrongdoing by his client.

"Everything that Tom DeLay has done is above board," he told MSNBC, adding that early on, DeLay had offered the Justice Department cooperation in the investigation.

The charges are separate from those pending against Abramoff in Florida, where he has been charged in connection with falsifying a loan in the purchase of a Florida casino cruise line.

In an e-mail, Abramoff attorney Neal Sonnett said that Abramoff would plead guilty in Miami on Wednesday to wire fraud and conspiracy to commit wire fraud, while other charges would be dropped as part of the plea deal.

The FBI launched its investigation of Abramoff and Scanlon in March 2004, said Chris Swecker, head of the FBI's criminal investigative division.

Abramoff first contacted the Justice Department to discuss a plea a year and a half ago, Abramoff's Washington attorney Abbe Lowell said.

Abramoff Pleads Guilty (WT)

By Jerry Seper

The Washington Times, January 4, 2006

Lobbyist Jack Abramoff pleaded guilty yesterday in federal court to charges of conspiracy, tax evasion and mail fraud, agreeing to cooperate in an ongoing investigation into influence peddling on Capitol Hill.

Abramoff admitted to U.S. District Judge Ellen Segal Huvelle he had taken part in a scheme involving the "corruption of public officials," saying he gave campaign contributions and funded lavish trips and other items "in exchange for certain official acts."

As part of the plea bargain, Abramoff agreed to pay at least $25 million in restitution -- which the government has described as the profits he concealed as part of the conspiracy.

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"Words will not ever be able to express my sorrow and my profound regret for all my actions and mistakes," he told Judge Huvelle in the Washington courtroom. "I hope I can merit forgiveness from the Almighty and those I've wronged or caused to suffer."

It was not clear yesterday who might be targeted in the government probe, although both Republicans and Democrats have been the beneficiaries of Abramoff's lobbying activities. Since he was first identified as an investigative target, lawmakers from both parties have returned more than $200,000 in campaign contributions.

Assistant Attorney General Alice S. Fisher said the Justice Department will pursue the investigation "wherever it goes" and intended to "expend the resources to make sure people know that government is not for sale." Abbe Lowell, Abramoff's attorney, said his client will continue to work with investigators.

Democrats are expected to make ethics a centerpiece of this year's midterm election. After Mr. Abramoff's confession, House Minority Leader Nancy Pelosi called the Republican-led Congress the "most corrupt in history." Republican leaders were silent.

According to court documents, Abramoff and partner Michael Scanlon, a former aide to Rep. Tom DeLay, Texas Republican, conspired to defraud Indian tribes in six states of millions of dollars. Scanlon pleaded guilty to related charges in Miami in November.

The court documents also said Abramoff gave public officials and their relatives gifts of money, trips, meals and entertainment in return for favorable treatment of his clients. One member of the House, identified as Rep. Bob Ney, Ohio Republican, reportedly received a "lavish trip to Scotland to play golf on world-famous courses" and other benefits in exchange for support on various issues.

The documents said Abramoff arranged for a $50,000 check to be sent through the mail from Texas to pay for the Scotland trip. Abramoff also is accused of arranging for one of Mr. Ney's former staff members to lobby the congressman in 2002 before the ex-staffer's one-year ban on lobbying had expired.

Mr. Ney has denied any wrongdoing, saying yesterday that at the time he dealt with Abramoff, "I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities." The congressman's attorney, Mark Tuohey, described the charges as "nothing new," saying they were included in a November plea agreement by Scanlon.

Also at issue are Abramoff's ties to Mr. DeLay, who accepted about $57,000 in campaign contributions as well as golf outings and other trips provided for or arranged by the lobbyist for lawmakers.

The documents also said Abramoff, who is expected to plead guilty to two additional federal charges in Florida stemming from a 2000 purchase of a fleet of gambling boats, filed a tax return for 2002 that concealed his illegal income.

Abramoff told Judge Huvelle "I plead guilty, your Honor" to each of three counts outlined in a November indictment. He had faced up to 30 years in prison, but prosecutors are expected to recommend 9½ years under terms of the plea bargain.

Prosecutors are thought to have finalized the Abramoff deal after a guilty plea by former partner Adam Kidan, who admitted Dec. 15 in federal court in Miami to committing mail and wire fraud in connection with the 2000 boat deal in Florida.

At the White House, spokesman Scott McClellan could not say yesterday whether Abramoff had ever met with President Bush, although the lobbyist and his associates logged more than 200 visits with administration officials and he raised $100,000 for Mr. Bush's 2004 re-election campaign.

Mr. McClellan called Abramoff's actions "unacceptable and outrageous." The spokesman said, "If laws were broken, he must be held to account for what he did."

House Speaker J. Dennis Hastert, Illinois Republican, joined the growing list of lawmakers who have either returned money received from Abramoff or given it to charities. Lawmakers who have done so include Rep. Ernest Istook, Oklahoma Republican; Rep. Denny Rehberg, Montana Republican; Sen. Sam Brownback, Kansas Republican; Sen. Max Baucus, Montana Democrat; Sen. Conrad Burns, Montana Republican; and Sen. Byron L. Dorgan, North Dakota Democrat.

G.O.P. Lobbyist Pleads Guilty In Deal With Prosecutors (NYT)

By Anne E. Kornblut

The New York Times, January 4, 2006

WASHINGTON, Jan. 3 - Jack Abramoff pleaded guilty to three felony counts in Washington today as part of a settlement with federal prosecutors, ending an intense, months-long negotiation over whether the Republican lobbyist would testify against his former colleagues.

Mr. Abramoff, 46, pleaded guilty to conspiracy, fraud, and tax evasion, setting the stage for prosecutors to begin using him as a cooperating witness against his former business and political colleagues. In exchange, Mr. Abramoff faces a maximum of about 10 years in prison in the Washington case.

The conspiracy charge included Mr. Abramoff's effort to influence at least one member of Congress and a Congressional staff member.

As United States District Judge Ellen S. Huvelle read each of the charges today, Mr. Abramoff answered softly, "I plead guilty, your honor."

"Your honor, words will not be able to ever express how sorry I am for this, and I have profound regret and sorrow for the multitude of mistakes and harm I have caused," he said. "All of my remaining days, I will feel tremendous sadness and regret for my conduct and for what I have done. I only hope that I can merit forgiveness from the Almighty and from those I have wronged or caused to suffer. I will work hard to earn that redemption."

At a news briefing this afternoon, Alice Fisher, an assistant attorney general, said Mr. Abramoff offered up gifts to government officials that included an all-expense paid trip to Scotland "to play golf on a world-famous course, tickets and travel to the Super Bowl in Florida, tickets for concerts and other events in Washington, repeated and regular meals at his upscale restaurant, and campaign contributions."

She said he provided these gifts "with the intent and often with the understanding that his clients would receive the official action they wanted."And, she said, "his actions often produced the official influence that he sought."

"Government officials and government action are not for sale," she said. "The Justice Department will aggressively investigate and prosecute these types of cases, which have a devastating impact on the public's trust of government. We will not shy away from that responsibility, no matter where the trail leads."

Official Washington has been on edge for months awaiting word of Mr. Abramoff's legal future. Once a masterful Republican lobbyist with close ties to the former House majority leader, Representative Tom DeLay, Mr. Abramoff earned tens of millions of dollars representing Indian casino interests and farflung entities like the Commonwealth of the Northern Marianas Islands.

Through a complicated web of financial arrangements, he helped funnel donations to his lawmaker friends' and their campaigns, and took members of Congress, mainly the Republicans in power, on lavish trips.

Mr. Abramoff is also scheduled to appear in Florida Wednesday in a related case, in which he was indicted last year. In that case, he is expected to plead guilty to fraud and conspiracy in connection with his purchase of the SunCruz casino boat line, and will face a maximum of about seven years' prison time.

Mr. Abramoff has been talking to investigators in the corruption case for many months, his lawyer, Abbe Lowell, said.

"Eighteen months ago, Mr. Abramoff first made contact with prosecutors to admit his wrongdoing and to seek forgiveness from those he has wronged," Mr. Lowell said today. "He intends to continue to work with the Justice Department and others to fully resolve all matters of interest, to provide restitution to anyone he has harmed, and to seek absolution from all."

Participants in the case, who spoke on condition of anonymity because of the sensitivity of the investigation, said Mr. Abramoff had provided a full picture of what evidence he could offer against other suspects.

On the corruption charge, prosecutors said in documents filed with the court today that Mr. Abramoff and his partner, Michael Scanlon, who reached a plea agreement with officials last year, conspired to "corruptly give, offer and promise things of value, including money, meals, trips and entertainment, to public officials and their relatives with the intent to influence, and in return for agreements to perform official acts benefiting" them and their clients.

The document details lavish gifts and contributions that Mr. Abramoff gave a House member, identified here only as "Representative #1."

Representative Bob Ney, a Republican of Ohio, acknowledged at the time of Mr. Scanlon's plea agreement that he was the person represented as Representative No. 1 in the documents in that case, but he has dismissed any suggestion that he was persuaded to do Mr. Scanlon's bidding because of campaign aid or perks like meals, entertainment or overseas travel.

Mr. Ney said in a statement today, "At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities," Reuters reported. Mr. Ney has not been charged.

The document also alleges that Mr. Abramoff bribed public officials, including "Representative #1," and his staff, when he funded a golfing trip to Scotland in exchange for the congressman's official actions to benefit his clients.

He is also accused of tax evasion for filing false documents and false entries to financial books and records, and filing a false income tax return in 2002, "all for the purpose of concealing additional unreported taxable income received by or on behalf of" himself, the documents state.

Mr. Abramoff is also accused of hiring congressional staffers and conspiring with them to lobby their former employers - including members of Congress - in violation of a one-year federal ban on such lobbying.

Mr. Abramoff's participation in Washington has taken place mostly below the radar, as prosecutors made the Miami case the focus of their public work and as Mr. Abramoff and his associates claimed they were preparing to stand trial, facing up to as many as 30 years in prison.

Though Mr. Abramoff's pleas in each location are separate, the deal reached with the Justice Department is all-encompassing, reducing the severe penalties Mr. Abramoff could have faced in either investigation, in exchange for his inside knowledge of certain lobbying work and legislative actions. One element of the deal is that he can serve prison time in the two cases concurrently, although the sentencing will not take place until much further along in the investigation.

The deal, a so-called "global" arrangement because it encompasses separate prosecutions in Florida and Washington, comes less than a week before Mr. Abramoff was scheduled to stand trial in the Miami case.

With Mr. Abramoff's cooperation, the Justice Department will have a potentially critical witness to alleged patterns of corruption or bribery within the Republican leadership ranks, which in some cases they believe also took the form of campaign donations and free meals at Mr. Abramoff's downtown restaurant, Signatures.

After more than two years of investigations, prosecutors have developed a list of at least a dozen lawmakers, congressional aides and lobbyists whose work appears suspect and who are now at the core of the case.

Already, prosecutors had a key witness in Mr. Scanlon, once press secretary to Mr. DeLay. When Mr. Scanlon reached a plea agreement last year, it put pressure on Mr. Abramoff to reach his own deal.

Now that Mr. Abramoff has done the same, one person involved in the case said: "When some people hear about this, they will clamor to cut a deal of their own."

‘Corruption … Very Extensive' Ex-lobbyist Abramoff Will Help Wide-ranging Investigation Involving A Dozen FBI Offices (USAT)

By Kevin Johnson And Jim Drinkard

USA Today, January 4, 2006

WASHINGTON — A little more than a year ago, Jack Abramoff was enjoying many of the benefits access to official Washington can provide.

There were multimillion-dollar lobbying fees to collect, Super Bowl tickets to distribute and lavish trips and dinners to host.

What set Abramoff (AY-bra-moff) apart from legitimate Washington power brokers, federal prosecutors say, was his willingness to exploit an extensive network of Capitol Hill contacts — from well-positioned congressional staffers to members of the Republican leadership — regardless of the rules.

“The corruption scheme with Mr. Abramoff is very extensive,” Assistant Attorney General Alice Fisher said. “Government officials and governmental action are not for sale.”

Abramoff's campaign of corruption officially ended Tuesday when he pleaded guilty to conspiracy, fraud and tax evasion. In addition to about 10 years in prison, he may be forced to repay more than $25 million, according to court documents.

Prosecutors say Abramoff's cooperation is central to a wide-ranging corruption investigation that stretches from Capitol Hill to congressional districts across the USA.

At least a dozen FBI field offices have been drawn into the inquiry, FBI Assistant Director Chris Swecker said. Authorities have declined to disclose the number of possible targets in the ongoing inquiry, but it goes beyond one member of Congress or his office. "No criminal resources of the FBI will be spared in support of this important mission," Swecker said.

The plea agreement outlined a scheme by which Abramoff and his secret partner, public relations operative Michael Scanlon, billed Indian tribes for exorbitant fees, then split the profits. Abramoff hid some of the money from the IRS by directing it to a non-profit group he established, the Capital Athletic Foundation.

Abramoff's share of the kickbacks from fees paid by four Indian tribes in Louisiana, Texas, Michigan and Mississippi came to more than $20 million, prosecutors said.

Abramoff and Scanlon also provided "a stream of things of value" to public officials to get their help. The stream included "foreign and domestic travel, golf fees, frequent meals, entertainment, election support … employment for relatives of officials and campaign contributions," court documents say.

Among the recipients were a House member identified by the lawmaker's attorney as Rep. Bob Ney, R-Ohio, and members of Ney's staff. They got trips to the Northern Marianas Islands in 2000, to the Super Bowl in Tampa in 2001, and to Scotland's storied St. Andrews golf course in 2002, according to the documents. Ney also held fundraising events at Abramoff's now-defunct Washington restaurant, Signatures.

In return, Ney and his aides put statements in the Congressional Record supportive of Abramoff's interests and helped an Abramoff client get a wireless telephone contract with the House of Representatives, the government charged. In a statement, Ney denied that he was influenced by Abramoff.

Abramoff also funneled $50,000 to the wife of an unnamed congressional aide in 2000 and 2001, in return for the aide's help in blocking legislation for a client.

Abramoff's guilty plea follows weeks of other scandal news involving government officials.

Republican Tom DeLay stepped down from his position as House majority leader last year after he was indicted on charges related to fundraising in a separate case in his home state of Texas. DeLay has close ties to Abramoff, who employed some of the Texan's former aides and paid for a separate golf trip to Scotland for DeLay. Randy "Duke" Cunningham resigned from the House in November after pleading guilty to taking at least $2.4 million in bribes from defense contractors.

The developments appear to be damaging Americans' perception of their elected representatives. A USA TODAY/CNN/Gallup Poll taken Dec. 16-18 found that 49% of American adults say they believe "most members of Congress are corrupt." That's 1 percentage point below the level of 1994, when voters turned control of Congress over to Republicans. The GOP appears to be tarred by scandal slightly more than the Democrats; 47% said "almost all" or "many" Republicans are corrupt, compared with 44% for Democrats.

Among registered voters, 55% said the issue of corruption will be the "most important" or a "very important" factor in their decision on whom to vote for next year. The poll has a margin of error of +/-3 to 5 percentage points, depending on the question.

White House spokesman Scott McClellan called Abramoff's confessed conduct "outrageous."

"He needs to be held to account, and he needs to be punished," McClellan said. Abramoff was among President Bush's Pioneers, who raised at least $100,000 for his re-election in 2004.

Many Millions In Kickbacks From Tribes (NYT)

By Michael Janofsky

The New York Times, January 4, 2006

WASHINGTON, Jan. 3 - The kickbacks from one Indian tribe exceeded $11 million. From another, they surpassed $6 million. In less than three years, Jack Abramoff secretly netted more than $20 million from tribes in five states, a sum close to half of the $43.3 million they paid him and a partner to lobby on their behalf.

"These are staggering numbers, even by Washington standards," said Stanley Brand, a defense lawyer who specializes in criminal and ethical matters. "The big firms do very, very well, but they don't come close to these kinds of numbers."

The level to which Mr. Abramoff enriched himself at the expense of clients came into sharp focus on Tuesday as his plea agreement on federal charges of conspiracy, mail fraud and tax evasion was made public by the Justice Department.

The agreement referred to five business relationships Mr. Abramoff had with Indian tribes, and in each case he admitted to receiving a large percentage of the tribe's total spending as a kickback. As part of his plea, Mr. Abramoff agreed to repay his former clients $25 million.

Mr. Abramoff carried out his fraudulent schemes by persuading clients that they needed the lobbying services of firms run by a former business partner, Michael Scanlon, or by his own companies. Mr. Scanlon pleaded guilty in November to conspiring to bribe a member of Congress, and as part of his plea, he agreed to repay $19.6 million to the tribes that once retained him.

Mr. Abramoff's largest kickback came from a Louisiana tribe that used his services from early 2001 through the spring of 2004. In the plea agreement Mr. Abramoff said the tribe paid companies run by Mr. Scanlon $30,510,000. But through an agreement between Mr. Abramoff and Mr. Scanlon, they concealed a kickback of about $11,450,000 to Mr. Abramoff.

In another scheme, beginning in early 2001, a Mississippi tribe paid Mr. Scanlon about $14,765,000, ignorant of the "secret profit-sharing agreement" between Mr. Scanlon and Mr. Abramoff that sliced off nearly half of the total, about $6,364,000, as a kickback to Mr. Abramoff.

A Michigan tribe paid Mr. Scanlon about $3.5 million from the middle of 2002 to the fall of 2003, unaware of the "secret arrangement" that directed about $540,000, half the profit earned by Mr. Scanlon's companies, to Mr. Abramoff.

In a scheme that suggested how little they cared for the needs of their clients, Mr. Abramoff and Mr. Scanlon persuaded a Texas tribe in 2002 to hire them to help the tribe reopen its casino through federal legislation. According to the plea agreement, while the tribe paid $4.2 million for services arranged by Mr. Scanlon, the two men concealed from the Texas tribe that, at the same time, they had collected millions of dollars from the Louisiana tribe to oppose all gaming in the Texas Legislature.

They also did not tell the Texas tribe that $1,850,000 of their fees went directly to Mr. Abramoff "pursuant to his undisclosed arrangement with Mr. Scanlon."

In a final case cited by the plea agreement, a New Mexico tribe paid Mr. Scanlon $2.75 million, hiding from tribal officials that the lobbying firm's profit margin was about 80 percent and that $1,175,000 of the total was paid to Mr. Abramoff through his secret agreement with Mr. Scanlon.

Paul Miller, president of the American League of Lobbyists, a trade group with 700 members, said Mr. Abramoff was "in a league by himself" as a Washington lobbyist, a term he said he used reluctantly.

"Jack Abramoff, by my definition, is not a lobbyist," Mr. Miller said. "He knowingly defrauded clients. In my view, he is nothing more than a scam artist."

Tiguas Hope Abramoff Plea Helps In Reopening Of Casino (AP)

By SUZANNE GAMBOA, Associated Press

AP, January 4, 2006

The governor of the Texas Tigua tribe, which operated a gaming casino near El Paso for more than eight years, is hoping lobbyist Jack Abramoff's guilty pleas in a federal corruption scandal will be a catalyst for restarting the tribe's gaming.

Tigua Gov. Arturo Senclair said the tribe is looking forward to what members of Congress will tell investigators should any be charged in the unraveling scandal that led Abramoff to plead guilty Tuesday.

"Maybe once this whole thing is done and all the e-mails are uncovered ... maybe when Congress members do start talking, maybe we can come back and start working with the state" to reopen the casino, he said.

Abramoff pleaded guilty Tuesday to three felonies and pledged to cooperate with investigators looking into the lavish trips, golf outings, meals and other gifts he said he provided to public officials "in exchange for a series of official acts."

The plea agreement filed by Justice Department officials said Abramoff and his ex-business partner Michael Scanlon solicited the Tigua tribe — identified in the document as Texas Tribe #1 — to hire them to provide lobbying and grass roots services to reopen the tribe's casino. The tribe was paying fees to the Scanlon business.

The tribe was to pay $4.2 million in fees and make "additional and substantial" campaign contributions at the direction of Abramoff and Scanlon, the plea agreement said.

Abramoff had told the tribe he'd work for free, but never revealed that he got about half the net profits, or $1.85 million, from the Scanlon business.

The investigators said Abramoff and Scanlon never told the Tiguas that beginning in 2001 they collected millions of dollars from the Louisiana Coushatta tribe to oppose all gaming in the Texas Legislature, including a 2003 bill that could have reopened the Tiguas' Speaking Rock Casino.

"Abramoff knew that Texas Tribe #1 supported and promoted this legislation while he worked to prevent its passage for the benefit of his other client, the Louisiana tribe," according to the plea agreement.

The Tiguas were forced to close the casino in February 2002 under a federal court ruling in a 1999 lawsuit brought by then Attorney General John Cornyn, now a U.S. senator. Cornyn has said he filed the lawsuit to enforce Texas law.

E-mails and other records released by the Senate Indian Affairs Committee — which conducted its own investigation — have shown that Abramoff hired former Christian Coalition director Ralph Reed to drum up opposition to Texas tribes' casinos in 2001.

"When we entered the Abramoff web, the assumption was this is the way we get things done in Washington, attending dinners, attending sporting events in skyboxes and attending golf outings. That's the way things got done," Senclair said. "You are a tribe, playing by the rules of the game, not knowing that's not the way it should have been done."

Despite the developments in the investigation, Senclair said there is little celebration for the tribe.

"We're still out of money. We still haven't been given restitution for the full amount (paid to Abramoff)," Senclair said. "There's still sadness because the casino is shut down."

Abramoff Reached Beyond The Limits (LAT)

By Faye Fiore And Martha Groves

The Los Angeles Times, January 4, 2006

WASHINGTON — At Beverly Hills High School, Jack Abramoff's weightlifting prowess was the stuff of legend.

As a senior, he became the first member of the school's 2700 Club, lifting a combined total of 2,700 pounds in the power squat, dead lift, bench press, and clean and jerk.

His former football coach, Bill Stansbury, recalled a game against Inglewood when Abramoff legally blocked an opposing player and knocked him out cold.

Abramoff also helped organize charitable events, Stansbury said, among them a Quarter-Pounder-eating contest at a McDonald's, with some proceeds going to the American Cancer Society, and a celebrity basketball game to benefit a youth foundation.

Today, about 30 years later, Abramoff is at the center of a political scandal in Washington — the result, in part, of the same drive, interest in charitable organizations and excess that he showed in his youth.

During a decade as one of the capital's most successful lobbyists, commanding hourly rates as high as $750, Abramoff, 46, amassed a personal fortune while lavishing lawmakers and others with golf junkets, free meals and access to sports arena skyboxes.

Now, he has pleaded guilty to conspiring to defraud some of his lobbying clients and bribe a lawmaker. Federal investigators are probing whether other lawmakers improperly returned Abramoff's favors by using their offices to benefit him and his clients.

His reach into the Republican power structure was vast. Beleaguered former House Majority Leader Tom DeLay once described him as "one of my closest and dearest friends." Abramoff was one of the "pioneers" who raised more than $100,000 for President Bush's 2004 reelection campaign.

The son of a Diners Club executive, Abramoff moved with his family from Atlantic City, N.J., to Beverly Hills when he was 10.

Soon after, he experienced a religious epiphany. His family was Jewish but not particularly observant, not like the characters in "Fiddler on the Roof," which he had recently watched. The Orthodox traditions of his grandparents' generation had perished over the years, and Abramoff, at age 12, decided to be the one to unbury them.

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He began walking to synagogue every Saturday and taught himself Hebrew, exhibiting early signs of the chin-to-chest drive that would later help catapult him to become one of the most well-connected Republican lobbyists in Washington.

At Beverly Hills High, he earned a reputation for ambition, hard work and commitment. He held the school record for the power squat, which he completed while holding 510 pounds on his back.

"Jack showed good leadership and was very dedicated, probably the strongest kid on the team," recalled Stansbury, who was the football team's offensive line coach when Abramoff played as the starting center. "For his size, he was extremely strong and very aggressive."

Abramoff was president of the high school Lettermen's Club, said Stansbury, who is now a teacher and coach at Paso Robles High School. "Jack always had a clear mission of where he wanted to be and how he was going to get there. I had a lot of respect for Jack's work ethic."

Steven Herbert, a freelance journalist who writes for The Times' sports section and attended the same schools a year behind Abramoff, recalled an early setback for Abramoff. He ran for student council president at the Hawthorne School, a Beverly Hills elementary and middle school, in 1972. Heading into a runoff election, Abramoff was disqualified for exceeding the spending limit. The principal, Herbert recalled, penalized Abramoff for holding a party, stating it amounted to a campaign expenditure that pushed him over the limit.

In the handful of interviews Abramoff has granted over the last year, he has refused to discuss the federal probe of his lobbying work but has talked about his past, including the religious revelation in his adolescence.

"I felt a twinge of sadness that that culture had died out in our family," he told Mother Jones magazine last summer. Recalling the decision he made then: "I'll be the person to resurrect it."

He became as conservative in his politics as in his faith and forged early friendships that would help him ascend his party's ranks. While an undergraduate at Brandeis University in Massachusetts, he met Grover Norquist, a Harvard graduate student who went on to head Americans for Tax Reform. Their common passion for conservative activism led them to organize young Republicans in the 1980 election, which some believed helped Ronald Reagan score an upset in that famously Democratic state.

Norquist was the first of many prominent Republicans that Abramoff would befriend as he took on key political chores on behalf of the GOP.

Abramoff became national chairman of the student wing of the GOP, the College Republican National Committee, a position once held by Bush confidant Karl Rove. There, Abramoff forged his long friendship with activist Ralph Reed, who would years later turn the Christian Coalition into a major political force within the GOP.

In his mid-20s, Abramoff set out to spread the Reagan Doctrine. He became executive director of Citizens for America, Reagan's grass-roots lobbying group.

With Republicans out of power in the early 1990s, Abramoff took a break from full-time politics and returned to his West Coast roots. He spent 10 years as a movie producer and made several B-grade films, including 1989's anti-communist romp "Red Scorpion."

In business and in politics, "he was always the consummate entrepreneur," said Marshall Wittmann, a former conservative activist who knew Abramoff during his rise to power and who is now a fellow at the centrist Democratic Leadership Council.

Abramoff was drawn back into politics in 1994 when the GOP takeover of Congress created opportunities for a talented rainmaker. Washington was full of new GOP lawmakers, and lobbying firms were desperate for people with Republican contacts. With his old friends suddenly in high places and his ticket already punched as a Reagan devotee, Abramoff was in demand almost overnight. He soon acquired a list of top-drawer clients — Unisys Corp., Tyco International and the government of the Northern Mariana Islands, a remote Pacific commonwealth that lawmakers were eyeing for additional federal regulation.

Abramoff became a bona fide high roller. He bought a majority stake in Signatures, a high-end restaurant on Pennsylvania Avenue between the White House and Capitol Hill that was a hot spot for Republican lobbyists, members of Congress and political fundraisers. GOP lawmakers filled his private skyboxes at Redskin, Oriole and Wizard games.

He also showed an interest in charitable organizations. Concerned about the quality of Jewish education in the Washington area, he founded an Orthodox school and sent two of his children there.

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A charitable organization he founded, the Capital Athletic Foundation, figures in the charges to which Abramoff entered guilty pleas Tuesday. Prosecutors said he induced a wireless telephone company to make $50,000 in payments to the foundation rather than pay a lobbying fee to the firm Abramoff worked for.

His most lucrative clients, though, were the Indian casino tribes he began to represent in the mid-1990s. Prosecutors say Abramoff and a partner conspired to defraud some of those tribes in five states, reaping millions of dollars from the scheme.

"Can you smell money?!" Abramoff wrote to his partner Michael P.S. Scanlon, a public relations consultant and former DeLay spokesman, regarding an Indian tribe rich with gambling casino profits. Scanlon recently pleaded guilty to federal conspiracy charges.

Abramoff at one point disparaged some of the tribal members who had made him rich, calling them "troglodytes" and "plain stupid … Morons."

Last year, Abramoff was forced to listen to those words in a hearing of the Senate Indian Affairs Committee. "Why would you want to work for people that you have that much contempt for?" one senator asked.

On the advice of his lawyer, Abramoff did not respond.

Abramoff Case Could Have Far-reaching Impact (KRT)

By Michelle Mittelstadt, Dallas Morning News

KRT, January 4, 2006

WASHINGTON - Fallen lobbyist Jack Abramoff's deal to cooperate in an influence-peddling investigation surely sent a chill Tuesday through Capitol Hill, where the Republican plied dozens of politicians with campaign contributions and favored some with lavish trips, Super Bowl tickets and pricey meals in exchange for legislative help.

"They have to be just sweating bullets," said Melanie Sloan, executive director of Citizens for Responsibility and Ethics in Washington, a watchdog group. "Anybody who ever had anything to do with Jack Abramoff has to be rethinking every minute, every conversation with him."

The Abramoff case may not be marked by the outright bribery of corruption sagas such as Abscam and Koreagate, where members of Congress pocketed envelopes stuffed with cash. But it has the potential to rank as one of Congress' worst scandals in decades because of the number of lawmakers and aides who could be ensnared - and because of the disgraced lobbyist's reach into the top rungs of the GOP leadership.

Abramoff, who was one of President Bush's top fundraisers and traded on his ties to former House Majority Leader Tom DeLay, pleaded guilty Tuesday to charges of conspiracy, mail fraud and tax evasion. It marked the latest twist in a corruption inquiry that is believed to be focusing on DeLay, R-Texas, and as many as 14 others on Capitol Hill.

"Government officials and government action are not for sale," said Assistant Attorney General Alice Fisher, who heads the Justice Department's Criminal Division. "The Justice Department will aggressively investigate and prosecute these types of cases, which have a devastating impact on the public's trust of government. We will not shy away from that responsibility, no matter where the trail leads."

One lawmaker who may be in the crosshairs is Rep. Bob Ney, R-Ohio, chairman of the House Administration Committee. In the Abramoff plea agreement, prosecutors detailed the legislative favors that Ney - identified only as "Representative No. 1" in court papers - performed for Abramoff's clients after receiving political contributions, overseas travel and other gifts.

"At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities," Ney said, denying wrongdoing.

Though Jack Abramoff has yet to become a household name, experts say the scandal could resonate with a public increasingly nervous about public corruption. An AP-Ipsos poll last month found that 88 percent of Americans believe corruption at all levels of government is a serious problem, with 51 percent calling it very serious.

"What makes a person like Abramoff so dangerous is he embodies and personifies problems that usually seem technical or abstract or too big to deal with," said Julian Zelizer, a Boston University history professor who wrote a book on congressional scandals. "Here you have a kind of villain that I think Americans might start paying attention to a bit."

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And just as Republicans used ethics as a cudgel to end House Democrats' four-decade lock on power in 1994, Zelizer and other experts said the current scandal holds peril for the GOP even though some Democrats also received Abramoff's largesse.

"There is always the cliche `a pox on both your houses.' But I do think the party in power does take extra heat on these things," said Larry Noble, executive director of the Center for Responsive Politics, among the watchdog groups that tracked the $2.1 billion paid by corporations and special interests to lobby Washington last year.

The Abramoff scandal holds the potential for strengthening lobbying disclosure and campaign finance regulations, particularly if the investigation remains front-page news with politicians' indictments, Noble said.

At the very least, there could be more scrutiny of lobbying, which Center for Public Integrity executive director Roberta Baskin called the "fourth branch of government in Washington."

"It's like the sun coming up on K Street right now," Baskin said. "There is the possibility and hope of there being a lot more scrutiny and accountability."

But Danielle Brian, head of the Project on Government Oversight, predicted change would be slow without a public outcry to force lawmakers to action.

"I definitely am not looking to Congress to make the changes themselves," Brian said, noting that the House and Senate ethics committees have been largely moribund in recent years. "I don't see there is any evidence there is any real self-policing going on."

Lobbyist's Guilty Plea Signals Broadening Scandal In Washington (KRT)

By Steven Thomma And Alison Young

Knight Ridder, January 4, 2006

WASHINGTON - The nation's capital braced Tuesday for a mushrooming political scandal as a well-connected lobbyist pleaded guilty to federal criminal charges and prepared to testify about members of Congress caught in his web of corruption.

Jack Abramoff, 46, invoked God as he apologized and pleaded guilty before a federal judge to one charge each of conspiracy, mail fraud and tax evasion. He faces a maximum of 30 years in prison - and another potential plea in a Florida indictment related to his purchase of a fleet of casino cruise ships from a man who was murdered a few months later.

By itself, the fall of a high-flying lobbyist who collected $80 million in fees from casino-rich Indian tribes, wined and dined politicians at his own upscale Washington restaurant, Signatures, and flew them abroad for golf outings was a dramatic tale.

But it was the likelihood that Abramoff now will help federal prosecutors go after members of Congress that gripped official Washington.

"This is going to grow and multiply," said Bill Mateja, a former top official in the Bush Justice Department who's now a Dallas lawyer. "If I were on Capitol Hill, I would be shaking in my boots. Because if anyone knows where the skeletons are buried, it's Jack Abramoff."

The Abramoff case could rival or surpass the 1980 Abscam case, in which an FBI sting trapped members of Congress taking bribes. Six members of the House of Representatives and one senator were convicted then.

It also could make it easier for Americans to see the free flow of money and lobbyist influence in Washington and affect the way they vote in this year's congressional elections. Democrats hope to benefit, but polls so far show both parties losing public esteem.

Justice Department officials said they hoped their extensive investigation would send a message about corruption.

"Government officials and government action are not for sale," said Alice Fisher, an assistant attorney general. "The Justice Department will aggressively investigate and prosecute these types of cases, which have a devastating impact on the public's trust of government."

The scandal threatens to engulf several high-ranking lawmakers from both major political parties, including:

- Rep. Bob Ney, R-Ohio, the chairman of the House Administration Committee, whose Web page identifies him as the "11th most powerful member of Congress." He took a golf trip to Scotland on Abramoff's tab, but says he did nothing wrong.

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- Rep. Tom DeLay, R-Texas, who was forced to step down last fall as House majority leader when he was indicted on a campaign-finance charge that isn't related to the Abramoff case. DeLay denies any wrongdoing in taking overseas trips financed by Abramoff. His spokesman said Tuesday that all of DeLay's actions were approved by the House ethics committee.

- Rep. John Doolittle, R-Calif., the secretary of the House Republican Conference, who took campaign contributions from Abramoff and whose wife was hired by an Abramoff foundation. Doolittle denies that his intervention in a California Indian casino case, which would've helped Abramoff, was connected to his relations to the lobbyist.

- Sen. Harry Reid, D-Nev., the Senate minority leader, who's denied that his intercession in an Indian-casino case that would've helped Abramoff was linked to a $5,000 contribution from an Abramoff client.

"Abramoff probably had relationships with lots more members of Congress," said Melanie Sloan, a former federal prosecutor, the head of Citizens for Responsibility and Ethics in Washington and who's supported Democrats. "He's clearly been spilling his guts for several months."

Abramoff's lawyer, Abbe Lowell, said in a statement that his client "intends to continue to work with the Justice Department and others to fully resolve all matters of interest, to provide restitution to anyone he has harmed, and to seek absolution from all."

Abramoff would serve nine and a half to 11 years of his sentence under federal guidelines. That could be reduced further with his cooperation in the investigation. He also faces a fine of more than $750,000 and mandatory restitution estimated to be about $26.7 million - $1.7 million of that to the Internal Revenue Service for evading taxes, plus an undetermined amount of back taxes.

The lobbyist was contrite as he faced U.S. District Judge Ellen Segal Huvelle.

"Your honor, words will not be able to ever express how sorry I am for this, and I have profound regret and sorrow for the multitude of mistakes and harm I have caused," he said.

"All of my remaining days, I will feel tremendous sadness and regret for my conduct and for what I have done. I only hope that I can merit forgiveness from the Almighty and from those I have wronged or caused to suffer. I will work hard to earn that redemption."

The most far-reaching charge said Abramoff corruptly influenced public officials and their relatives.

"Abramoff and others would offer and provide things of value to public officials, including trips, campaign contributions, meals and entertainment in exchange for agreements that the public officials would use their official positions and influence to benefit defendant Abramoff's clients and ... businesses," the federal charge said.

It didn't identify any public officials by name.

But it did say Abramoff influenced a House Committee chairman identified as "Representative A." It said Abramoff used "a lavish trip to Scotland to play golf on world famous courses, tickets to sporting events ... regular meals at Abramoff's upscale restaurant, and campaign contributions" to win official favors from the congressman.

Representative A is apparently Ney.

An Abramoff partner, Michael Scanlon, who formerly had worked for DeLay, pleaded guilty in November to conspiring to bribe Ney. Ney has denied wrongdoing.

"At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities," Ney said in a statement.

The plea bargain also said Abramoff had defrauded several Indian tribes by charging them huge fees while lying about his work or the way that money was funneled to him. For example, it said he urged them to hire other firms while concealing that he got a 50 percent kickback from more than $54 million that the tribes paid those firms.

Abramoff greased his relationships with golf trips, meals at his restaurant and seats in his luxury skyboxes at Washington sports events. He and his clients also contributed freely to campaigns, $4.4 million since 2000, according to the nonpartisan Center for Responsive Politics.

With the investigation threatening to spread, several members of Congress recently returned campaign contributions to Abramoff, a trend that House Speaker Dennis Hastert, R-Ill., joined Tuesday evening. He announced that he'd return $70,000 in contributions from Abramoff-related clients, including Indian tribes.

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Previously, Sen. Max Baucus, D-Mont., returned $18,892. That amount included $1,892, the value of seats in Abramoff's skybox at a Washington sports arena, which Baucus had used but never reported.

Sen. Byron Dorgan, D-N.D., gave back $67,000 in Abramoff-related donations.

Sen. Conrad Burns, R-Mont., returned more than $150,000 and summed up what probably is the prevailing attitude in Congress toward the once-popular lobbyist.

"This Abramoff guy is a bad guy," Burns told a Montana television station last month. "I hope he goes to jail and we never see him again. I wish he'd never been born, to be right honest with you."

Knight Ridder correspondents James Kuhnhenn and Maria Recio contributed to this report.

Lobbyist Admits Fraud And Bribe Plots (FT)

By Patti Waldmeirin Washington

Financial Times, January 4, 2006

Jack Abramoff, Republican lobbyist and central figure in an influence-peddling scandal with reverberations throughout Washington, yesterday pleaded guilty to federal corruption charges and agreed to help prosecutors investigate the activities of top US lawmakers including Tom DeLay, the former House majority leader.

Mr Abramoff yesterday pleaded guilty to conspiring to defraud his lobbying clients, breaking federal lobbying laws and conspiring to bribe lawmakers and congressional aides with campaign contributions, meals, trips and sports tickets. He is expected to serve about 10 years in prison.

According to the charges filed yesterday, Mr Abramoff and a former aide to Mr DeLay, Michael Scanlon, overbilled several Indian tribes who were their clients. They then diverted the money either into their own pockets, or used it to provide what the charges said was "a stream of things of value", including a lavish golfing trip to Scotland, for a lawmaker and his staff.

No politicians are named in the papers filed yesterday by the Justice Department, but prosecutors are understood to be investigating at least a dozen lawmakers, congressional aides and lobbyists, including Mr DeLay and Bob Ney of Ohio, a fellow Republican lawmaker.

Mr Abramoff's long-awaited decision to plead guilty and co-operate with federal investigators will give the Justice Department powerful new ammunition in its probe of alleged patterns of corruption and bribery within the ranks of the Republican leadership.

Democrats are hoping to exploit the perception of a "culture of corruption" among Republican leaders in November elections, although some Democrats also received campaign contributions from Mr Abramoff.

The charges yesterday said: "It was a purpose of the conspiracy for defendant Abramoff, Scanlon and others to enrich themselves by obtaining substantial funds from their clients through fraud and concealment."

Some of these funds were used to try to influence an unnamed Congressman to "perform a series of official acts" including passing legislation. Sports tickets and meals at Mr Abramoff's upmarket Washington restaurant were lavished on lawmakers. The charges also included breaking lobbying laws by hiring congressional staffers to lobby their former bosses within a year of their employment on Capitol Hill.

Yesterday's charges are separate from those pending against Mr Abramoff in Florida, where he has been charged with conspiracy and wire fraud.

Scott McClellan, White House spokesman, said that "if laws were broken, [Mr Abramoff] must be held to account for what he did".

Lobbyist Abramoff Pleads Guilty To Conspiracy, Fraud (LAW)

By Andy Metzger, Legal Times

Legal Times, January 4, 2006

Scandal-plagued lobbyist Jack Abramoff pleaded guilty Tuesday to three counts of conspiracy, fraud and tax evasion as the Justice Department's investigation shifts away from Abramoff and toward lawmakers and Hill staffers who allegedly accepted what Abramoff now says were bribes.

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The plea deal could send Abramoff to prison for nine to 12 years and will require him to pay about $25 million in restitution to his former Native American tribal clients that he admitted to defrauding. Abramoff is also expected to plead guilty later this week to fraud charges in Florida, bringing an end to both of the Justice Department's investigations into him.

In a deal that closely mirrors the one made in November by former business partner Michael Scanlon, who pleaded guilty to conspiracy charges, Abramoff admits to providing trips, entertainment, and campaign contributions to Rep. Bob Ney, R-Ohio, in return for several official favors. Ney is identified in the plea document as "Representative #1." (Ney's lawyer has stated that Ney is Representative #1).

Ney issued a statement Tuesday denying that he has done anything improper or illegal. "At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities," Ney said in the statement, which echoes his past remarks on the matter.

Abramoff also admitted to defrauding his tribal clients by directing them to pay millions of dollars to Scanlon's consulting and public relations company, but concealing that he received kickbacks from Scanlon equal to half of the profits -- an amount that exceeded $20 million. The charge that Abramoff defrauded Indian clients first surfaced in February 2004. Since then, the corruption investigation has widened to include Congress and members of the Bush administration. According to published reports, the Justice Department is currently investigating as many as 20 congressmen and Hill staffers.

At the hearing Tuesday in a Washington, D.C., federal courtroom, Abramoff appeared a hollow shell of the K Street power broker that he once was. Frowning and avoiding eye contact throughout the hearing with anyone except U.S. District Judge Ellen Segal Huvelle, Abramoff often seemed on the brink of tears as he sat quietly at the defense table. He answered Huvelle's questions in monosyllables and barely spoke above a whisper. In a prepared statement Abramoff delivered at the end of the hearing, he said: "Words will not be able to ever express how sorry I am for this, and I have profound regret and sorrow for the multitude of mistakes and harm I have caused. I only hope that I can merit forgiveness from the Almighty and from those I have wronged or caused to suffer."

Abramoff and his attorney, Abbe Lowell, did not answer questions after the hearing. Lowell released a statement saying his client had been in talks with the Justice Department for 18 months.

With Abramoff and his former business partner Scanlon both having cut plea deals to cooperate with prosecutors, all attention is now focused on Capitol Hill. According to published reports, lawmakers under investigation by the Justice Department include Ney, Rep. John Doolittle, R-Calif., Sen. Conrad Burns, R-Mont., and former House Majority Leader Tom DeLay, R-Texas.

In addition to identifying Ney, Abramoff also implicated two congressional staffers-turned-lobbyists who worked for him at Greenberg Traurig. In the plea document they are referred to only as Staffers "A" and "B."

In his plea Abramoff alleges that Staffer A solicited contributions from Abramoff's lobby clients for a charity that Abramoff controlled. Those funds were then used to finance a golf trip to Scotland attended by Ney. During the hearing Judge Huvelle stated that the activities of Staffer A's wife and her organization are also under investigation.

Abramoff also claims in his plea that Staffer B, a former Ney aide who joined Abramoff's team at Greenberg, was the conduit through which he communicated with Ney to arrange what Abramoff now says were corrupt acts.

Neil Volz, Ney's former chief of staff who worked for Abramoff at Greenberg and is now a lobbyist with Barnes & Thornburg, is under investigation by the Justice Department. Other lobbyists under investigation are Tony Rudy, a former DeLay staffer who worked at Greenberg for a year before joining Alexander Strategy Group. Rudy's wife, Lisa, operated Liberty Consulting, which did work for several Abramoff clients and associates. Edwin Buckham, another former DeLay staffer now at Alexander Strategy, and Kevin Ring, a former chief of staff for Doolittle who later went to work for Abramoff, are also being investigated by the Justice Department, according to several published reports.

Ring declined to comment, citing the ongoing investigation. The others did not return calls for comment before deadline.

Abramoff Pleads Guilty, Agrees To Aid Probe Into Congress (BOS)

By Michael Kranish, Globe Staff

The Boston Globe, January 4, 2006

DOJ_NMG_0007825

WASHINGTON -- Lobbyist Jack Abramoff yesterday pleaded guilty to conspiracy, fraud, and tax evasion charges in one of the biggest corruption cases in recent Washington history, agreeing to cooperate with prosecutors who are investigating whether members of Congress took bribes from him in exchange for favors.

Abramoff admitted that he told Indian tribes to give money to a lobbying firm while hiding his own $20 million take and that he also tried to bribe public officials, the government said.

The plea bargain sent shockwaves through Capitol Hill as lawmakers awaited word on possible indictments of members of Congress. The government said Abramoff gave "money, meals, trips, and entertainment to public officials and their relatives . . . in return for agreements to perform official acts."

The indictment did not provide the name of any public official who took action after receiving money or gifts from Abramoff. But it does refer to Abramoff's collaboration with an unnamed member of Congress. Yesterday Representative Robert W. Ney, Republican of Ohio, issued a statement indicating that he was the unnamed member, and denied any wrongdoing.

In pleading guilty, Abramoff told US District Court Judge Ellen Huvelle: "Words will not ever be able to express my sorrow and my profound regret for all my actions and mistakes. I hope I can merit forgiveness from the Almighty and those I've wronged or caused to suffer."

The head of the Justice Department's criminal division, Alice S. Fisher, vowed to continue the investigation no matter where it leads.

"Government officials and government action are not for sale," she said at a news conference. "The Justice Department will aggressively investigate and prosecute these types of cases, which have a devastating impact on the public's trust of government."

The charges against Abramoff revolved around his scheme to collect $20 million from Indian tribes in Louisiana, Michigan, Mississippi, and Texas.

Separately, Abramoff today is expected to plead guilty to charges involving fraudulent financial dealings in seeking to purchase a Miami cruise ship company, a deal that was largely unrelated to his tribal lobbying.

Abramoff, 46, faces up to 30 years in jail for the Washington-based charges, but prosecutors said that could be cut to 9 1/2 years under sentencing guidelines, with a possible further reduction for cooperating with the government in cases against others. He is expected to pay $25 million in fines to his victims and $1.7 million in evaded federal taxes. Prison time from his Miami charges could be served concurrently with his Washington-based charges, a Justice official said.

The case has been the talk of Washington for months because Abramoff has been a close associate of many leading officials, most of them Republicans. Abramoff was a top fund-raiser for President Bush and worked closely with Tom DeLay, the former House majority leader who resigned his leadership post late last year after being indicted in a separate case alleging violation of Texas voting laws.

In addition, Abramoff had close dealings with such high-profile Republicans as antitax activist Grover G. Norquist and former Christian Coalition director Ralph Reed.

Abramoff's role unraveled partly because of hundreds of e-mails between Abramoff and various associates obtained by federal investigators. While Abramoff represented himself publicly as a pious man who worked on behalf of tribal interests, he described tribal leaders in one e-mail as "moronic," adding: "I'd love us to get our mitts on that moola!! Oh well, stupid folks get wiped out."

Prosecutors made the deal with Abramoff partly in hopes of gaining new information for their investigation into the activities of an undisclosed number of public officials, including members of Congress and congressional aides.

Abramoff urged tribes to give money to numerous public officials, and at least two dozen members of Congress have returned contributions related to Abramoff. Senator Conrad Burns, Republican of Montana, returned $150,000 just before Christmas. Senator Byron L. Dorgan, a North Dakota Democrat, returned $67,000. Both have denied wrongdoing.

Abramoff got his start in politics at Brandeis University in Massachusetts in 1980, organizing college Republicans and forming an alliance with a Weston native, Norquist, who was rallying GOP members at Harvard Business School. The pair moved to Washington, where they worked for the national party with another rising GOP star, Reed.

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Abramoff's lobbying for tribes took off in the late 1990s, when some Republicans were pushing for a tax on Indian casino profits. Abramoff was hired by tribes to help kill the tax idea. Then Abramoff started collecting millions of dollars from tribes to help other casino interests.

The indictment cited four examples of how Abramoff exploited tribes, in conjunction with Capitol Campaign Strategies, the firm run by his partner, Michael Scanlon, a former DeLay press secretary who has pleaded guilty in a related case. The indictment declared that by concealing their conspiracy, Abramoff and Scanlon violated laws against fraudulent dealings. The two called the scheme "Gimmie Five," shorthand for Abramoff's collection of half of the profits:

Abramoff advised the Mississippi band of Choctaw Indians to hire Capitol Campaign Strategies for $14 million without disclosing to the tribe that he had secretly arranged to receive $6.4 million in that arrangement.

Abramoff advised the Louisiana Coushatta tribe to pay his partner, Michael Scanlon, and others $31 million without disclosing to the tribe that he would receive $11.4 million.

Abramoff advised the Michigan Saginaw Chippewa tribe to pay Capitol Campaign Strategies $3.5 million without disclosing to the tribe that he would receive $540,000.

Abramoff persuaded the Texas Tigua tribe to pay Scanlon $4.2 million in its effort to win approval for reopening its casino, without disclosing to the tribe that Abramoff would receive $1.8 million and that Abramoff was working separately to oppose the Tigua's effort to reopen the casino.

No charges were filed related to the work by Abramoff's firm for the Mashpee Wampanoag tribe of Massachusetts, which paid $50,000 to two of Abramoff's partners as part of an effort to win federal recognition and possibly build a casino.

While Abramoff's dealings with the tribes were widely publicized during Senate hearings into his tribal lobbying, his relationships with members of Congress received far less scrutiny during that probe. As a result, there has been much tension on Capitol Hill about whether Abramoff would strike a deal and implicate lawmakers. Those fears may have been increased by a portion of the Abramoff indictment that refers to "bribery and . . . fraud involving public officials."

Much of the speculation yesterday was focused on Ney, the chairman of the Committee on House Administration. Ney's congressional website notes that he has been described as the 11th most powerful member of Congress.

The indictment says Abramoff "provided a stream of things of value to a Member of the United States House of Representatives (Representative #1) and his staff." The indictment says that gifts include "a lavish trip to Scotland to play on world famous courses, tickets to sporting events, and other entertainment," and campaign contributions.

Some of the money for the Scotland trip came from a $50,000 donation Abramoff arranged from the Tigua tribe, the indictment said.

In exchange for those gifts, the indictment says, the congressman worked on "advancing the application" by an Abramoff client to get a wireless telephone system installed in House offices.

As soon as Abramoff's plea bargain was released, Ney issued a statement alluding to his involvement with Abramoff in matters covered by the indictment, but denying any wrongdoing.

"At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities," Ney said in a statement yesterday. His spokesman added that "the truth will show that congressman Ney did nothing wrong."

Representative Martin T. Meehan, the Lowell Democrat, said he hoped that the plea bargain will lead Congress to tighten lobbying restrictions, just as the Watergate scandal prompted limits on campaign contributions. Meehan has proposed legislation that requires lobbyists to disclose meetings with members of Congress, among other measures.

"Given the plea bargain agreement, there is an assumption that there is more to this case than we know," Meehan said, when asked in a telephone interview about the state of concern about possible future indictments. "This agreement means that Abramoff's web of corruption will begin to unravel. That can only help our efforts to pass meaningful lobbying and ethics reforms."

The plea deal follows a number of high-profile cases affecting top Republicans, including the DeLay indictment, the indictment of former vice presidential chief of staff I. Lewis "Scooter" Libby in the CIA leak case, and a guilty plea on bribery charges by former US representative Randy "Duke" Cunningham.

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Hastert Donates Abramoff-linked Money (CNN)

CNN.com, January 4, 2006

WASHINGTON (CNN) -- House Speaker Dennis Hastert became the latest lawmaker to dump campaign contributions from clients of high-flying lobbyist Jack Abramoff, giving about $70,000 to charity Tuesday.

The donation came after Abramoff pleaded guilty to corruption charges and agreed to cooperate with a federal corruption investigation in Washington.

"The speaker believes that while these contributions were legal, it is appropriate to donate the money to charity," a spokesman for the Illinois Republican, Ron Bonjean, said. Bonjean did not specify which group or groups would receive the money.

Abramoff pleaded guilty to conspiracy, fraud and tax evasion charges in an agreement with federal prosecutors that could have a wide-reaching effect in Washington. (Full story)

Abramoff is a former College Republican chairman with longstanding ties to top Republicans in Washington, including former House Majority Leader Tom DeLay, conservative activist Grover Norquist and former Christian Coalition chief Ralph Reed.

A source close to the probe said investigators are looking at about a half dozen members of Congress, while a senior government official told CNN the probe involves about two dozen lawmakers and staffers.

Sources told CNN that Abramoff might have thousands of e-mails in which he describes the influence-peddling in which he was involved and explains what lawmakers were doing in exchange for the money he was putting into their campaign coffers.

Abramoff's guilty plea comes as Democrats head into the 2006 congressional elections by blasting what they call a "culture of corruption" surrounding the Republican leadership.

About two-thirds of the more than $4.4 million in political donations from Abramoff, his clients and associates since 1998 went to Republicans, according to records compiled by the Center for Responsive Politics, a campaign-finance watchdog group. A search of Federal Election Commission records since 1998 found no personal donations from Abramoff to Democrats.

Republican Sen. Conrad Burns of Montana told The Washington Post in December that he would return $150,000 in contributions from Abramoff, his clients and associates. Burns is up for re-election in November, and state Democrats have been hammering him over his ties to the lobbyist.

DeLay's political action committee, Americans for a Republican Majority, has returned $5,000 from Abramoff, according to federal election records. The Texas congressman gave up his leadership post in September after his indictment on charges that he improperly steered corporate money into the state's 2002 legislative races -- a case unrelated to Abramoff's. DeLay's trial in Texas on money laundering charges is pending. He has pleaded not guilty.

And North Dakota Sen. Byron Dorgan said in December that he would return $67,000 in donations from Indian tribes Abramoff represented. Dorgan, the ranking Democrat on the Indian Affairs Committee that investigated Abramoff's dealings with his tribal clients, told a North Dakota newspaper that he would not keep any money that "could have been the result of any action Mr. Abramoff might have taken."

He praised the Justice Department for securing Abramoff's plea agreement, saying in a written statement Tuesday that it "confirms much of the work that we have done and much of what we have found."

CNN congressional correspondent Ed Henry contributed to this report.

Mr. Abramoff's Plea (WP)

The Washington Post, January 4, 2006

OMINOUSLY FOR members of Congress and their staffers who enjoyed themselves at his expense and then did his bidding, disgraced lobbyist Jack Abramoff agreed yesterday to plead guilty to conspiracy, mail fraud and tax evasion. His deal follows a similar plea by Michael Scanlon, Mr. Abramoff's partner in lobbying and in crime. Mr. Abramoff admitted to bilking his clients, deceiving his law firm, misusing charities and lying on his income taxes. He also admitted to bribing at least one member of Congress and his staff, plying them with perks and being more than amply thanked by their help for his clients. Now that the two biggest private-sector targets in this case have agreed to cooperate, prosecutors can concentrate on the public officials involved.

As outlined in the charges filed against Mr. Abramoff, he and Mr. Scanlon "provided a stream of things of value" to a member of Congress and his staff, "including but not limited to a lavish trip to Scotland to play golf on world-famous courses, tickets to sporting events and other entertainment, regular meals at defendant Abramoff's upscale restaurant, and campaign contributions for Representative #1, his political action committee, and other political committees on behalf of Representative #1." The public record makes clear that the unnamed representative is Rep. Robert W. Ney (R-Ohio), chairman of the House Administration Committee.

If the allegations are true, Mr. Ney ought to be not only ashamed but also embarrassed at how cheaply he and his staff could be bought. "In exchange for those things of value," the document dryly recites, the lobbyists obtained "agreements to support and pass legislation, agreements to place statements into the Congressional Record, meetings with defendant Abramoff's clients, and advancing the application of a client of defendant Abramoff for a license to install wireless telephone infrastructure in the House of Representatives."

Most of these details were already known. But Mr. Abramoff's cooperation -- he's been talking behind the scenes to prosecutors for months -- could expand prosecutors' knowledge about his entanglements with other officials. Notable among them are former House majority leader Tom DeLay (R-Tex.), who took three overseas trips with Mr. Abramoff and received more than $70,000 from the lobbyist, his associates and tribal clients, and the former second-ranking official at the Interior Department, J. Steven Griles, the recipient of an Abramoff job offer and a target of numerous Abramoff-initiated lobbying contacts.

Mr. Abramoff's plea -- he agreed to pay $25 million in restitution and faces a lengthy prison term -- wouldn't have come about without enterprising journalism, the tenacity of Sen. John McCain (R-Ariz.) and the skilled efforts of federal prosecutors. But one player remains notable for its absence: the House ethics committee, which has been silent and, for most of the past year, dysfunctional. It is critical that the panel -- and its Senate counterpart, if appropriate -- rouse itself to deal with the scandal in its midst.

Reed Opponents Link Candidate To Abramoff Plea (AP)

By Doug Gross

AP, January 4, 2006

ATLANTA - Opponents of former Christian Coalition leader Ralph Reed in his bid for lieutenant governor wasted no time Tuesday tying the Republican to embattled lobbyist Jack Abramoff - who pleaded guilty to federal conspiracy, tax evasion and mail fraud charges.

Reed has said he regrets funding a multistate antigambling campaign with money from Abramoff's gambling-industry clients. Reed angered religious groups - considered his political base - when it was revealed that his work was paid for by Indian tribes with casinos who were trying to shut down would-be competitors.

Reed has not been accused of a crime.

A spokeswoman for Reed did not respond to several telephone calls and e-mails by The Associated Press seeking comment on Tuesday.

"The only thing I can say is that if you're Ralph Reed, you're awfully nervous right now," said Greg Hecht, a former state senator seeking the Democratic nomination for lieutenant governor. "When you get certain candidates that seem to intimate they hold a higher moral position than others, it becomes a real problem and this may just be one step in a line of difficulties for him."

Former state representative and Department of Human Resources commissioner Jim Martin, of Atlanta, also is seeking the Democratic nomination.

Brad Alexander, spokesman for state Sen. Casey Cagle - Reed's opponent in the Republican primary - said Cagle remains focused on his own agenda, but was quick to link Reed to Abramoff's plea.

"We have every confidence the ongoing Justice Department investigation will fully review the evidence and continue to seek appropriate legal remedies on behalf of all those wronged by Jack Abramoff, Ralph Reed, and the others involved in this matter," Alexander said.

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Abramoff agreed Tuesday with U.S. District Court Judge Ellen Huvelle when she said he had engaged in a conspiracy involving "corruption of public officials." The lobbyist also agreed when she said he and others had engaged in a scheme to provide campaign contributions, trips and other items "in exchange for certain official acts."

Prosecutors also say Abramoff and lobbying partner Michael Scanlon, who pleaded guilty in November, conspired to defraud Indian tribes in Louisiana, Michigan, Mississippi, New Mexico and Texas of millions of dollars.

Abramoff reaped roughly $20 million in hidden profits from the scheme, according to the information.

In a speech posted on Reed's campaign Web site in December, he said a lot of good came from his antigambling efforts. "Nevertheless, had I known then what I know now, I would not have undertaken that work," he said.

A campaign spokesman said Reed made the speech Dec. 9 before a Christian youth group in Alpharetta.

Throughout A City, Lessons Of The Fall (WP)

By Dana Milbank

The Washington Post, January 4, 2006

It was just past noon yesterday, about the time Jack Abramoff would be sitting down to lunch at Signatures, the restaurant he owned at Eighth Street and Pennsylvania Avenue NW. Over the roasted waluu ($19) or perhaps a starter of Kobe pot stickers ($12), he would be securing favors for his lobbying clients from well-fed lawmakers.

But the doors were locked at Signatures yesterday, the political memorabilia removed from the walls, the tablecloths gone, trash on the floor, dishes stacked on tables and stools stored on the counter of the still-stocked bar. A Zagat sticker in the window prematurely promised: "Rated Excellent 2006."

Instead of a table at the now-defunct restaurant, Abramoff had a lunchtime appointment three blocks down Pennsylvania, at the federal courthouse. There, in black raincoat and fedora, he pleaded guilty to conspiracy, fraud and tax offenses that could cost him $25 million and put him behind bars for at a least a decade.

"I just want to say words will not ever be able to express my sorrow and my profound regret for all my actions and mistakes," Abramoff, slouched over the defense table, said quickly and softly into the microphone. "For all of my remaining days, I will feel tremendous sadness and regret for my conduct and for what I have done. I only hope that I can merit forgiveness from the Almighty and from those I have wronged or caused to suffer."

Abramoff cut a wretched figure as he shuffled into the courtroom of Judge Ellen Segal Huvelle. The once-athletic lobbyist was slouching, his newly overweight frame wrapped in a double-breasted suit. His hand shook when he took his oath. After his plea, he closed his eyes and looked as if he were going to cry. He accepted soothing pats on the back from his lawyer. He clasped his hands together and rubbed fingers as if attempting to thumb-wrestle himself. Only the cufflinks and sharp blue tie hinted at the vast wealth and power Abramoff had amassed.

Abramoff was not alone in his misery. Away on an extended recess, lawmakers and staffers who were involved in the lobbyist's schemes had to worry that Abramoff would testify against them. And President Bush, who had returned to Washington with hopes of switching the debate to comfortable terrain such as taxes and terrorism, would be bumped out of the news by more scandal.

"Culture of corruption," howled House Minority Leader Nancy Pelosi (D-Calif.). Democratic National Committee Chairman Howard Dean demanded that Bush return more than $100,000 raised for him by Abramoff.

The lobbyist's old friends and beneficiaries only piled on. "Self-serving and fraudulent," charged Rep. Bob Ney (R-Ohio), aka "Representative #1" in court papers.

"Outrageous," said White House spokesman Scott McClellan.

In public, Abramoff's only defenders yesterday were of the $500-per-hour variety. Superlawyer Abbe Lowell, complete with pocket handkerchief, did his best to help his client. He lent him a pen. He poured him some Poland Spring water. He stood at Abramoff's side and guided his client as he went through the plea ceremony.

"I am 46 years old, Your Honor," Abramoff told the judge. "I graduated from Georgetown University Law School."

Without hesitation, the defendant said he was giving up his right to trial without the influence of drugs or mental illness. But when Huvelle went through his misdeeds, Abramoff's voice grew tight and quiet.

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"You failed to disclose" payments?

"Yes, Your Honor."

"You committed fraud?"

"Yes, Your Honor."

There were "misrepresentations made" about Abramoff's Capital Athletic Foundation?

Here Lowell whispered to his client. "That and other entities, Your Honor," Abramoff answered.

He admitted the "golfing trip to Scotland" was not for charitable purposes and agreed that he engaged in a public corruption scheme. "Yes, Your Honor," Abramoff said in a near-whisper. He took a sip of water.

You "provided things of value for an official act?"

"Yes, Your Honor."

"You have committed tax evasion?"

"Yes, Your Honor."

You filed "false and fraudulent forms?"

"Yes, Your Honor."

The disgrace continued for half an hour as Abramoff stood in the well, his fingertips pressing the table. The prosecutor, Mary Butler, told the judge that the lobbyist's passport has been surrendered and that, when Abramoff makes his restitution, "we would not expect it to be less" than $25 million. At this, the defendant gripped the table tightly.

Although prosecutors are recommending 9 1/2 to 11 years in prison, Huvelle repeatedly warned Abramoff that she is "not bound by these guidelines" and could sentence him to up to 30 years.

Abramoff rubbed his neck. "Yes, Your Honor."

The plea hearing was over, but not the ordeal. About 100 reporters formed a gantlet down the narrow hallway, peppering Abramoff -- "A statement outside?" "Jack, any reaction?" -- and following him to a waiting Town Car. Cameras pressed to the car's window, trained on the unhappy man in the black fedora. Even the loyal Lowell, climbing into the car, let a fleeting smile escape.

Plea Deal Stokes Anxiety On Hill Superlobbyist Abramoff Agrees To Help In Inquiry Involving Lawmakers (USAT)

By Jim Drinkard And Kevin Johnson

USA Today, January 4, 2006

WASHINGTON — Former superlobbyist Jack Abramoff pleaded guilty Tuesday to three felony counts of fraud, conspiracy and tax evasion, agreeing to help prosecutors in a wide-ranging probe of corruption in Congress.

Abramoff told U.S. District Judge Ellen Segal Huvelle, “I plead guilty, your honor,” in a soft voice as each count was read. “All my remaining days, I will feel tremendous sadness and regret for my conduct,” he added before leaving the courtroom.

Abramoff had close ties to Rep. Tom DeLay of Texas and other legislators. Over the past six years, Abramoff and Indian tribes he represented gave more than $4.4 million in political contributions to more than 240 lawmakers, nearly two-thirds to Republicans.

House Speaker Dennis Hastert, R-Ill., on Tuesday became the latest to unload Abramoff-tainted money, announcing he would give more than $60,000 to charity.

“The fear level on Capitol Hill, on a scale of 100, is 105,” said Norman Ornstein of the American Enterprise Institute. “Anybody touched by Abramoff is having difficulty sleeping these days.”

Abramoff, 46, also was to plead guilty to two counts of fraud today in a second case, involving a Florida business deal to buy a casino boat business. He was indicted last year in that case.

As part of Tuesday's plea deal, Abramoff will repay those he cheated, but it's unclear whether he can fully repay the $25 million in losses. He also is liable for $1.7 million in back taxes and penalties. The charges carry maximum penalties of 30 years in jail, but sentencing guidelines and his cooperation could bring that down to about 10 years.

A charging document accompanying the plea deal described an arrangement between Abramoff and a House member previously identified as Rep. Bob Ney, R-Ohio, by the lawmaker's attorney. The House member did favors for Abramoff clients in return for "a stream of things of value," including travel, meals and entertainment, the document says.

In a statement, Ney denied he had been influenced by Abramoff. "At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature" of his activities, the statement said.

The probe goes beyond Ney's office. At least 12 lawmakers, their aides or other officials are the focus of the probe, say two federal officials briefed on the matter but who aren't authorized to speak publicly about ongoing investigations. It's unclear how many congressional offices are involved.

Abramoff built his lobbying practice over the past decade, raking in millions of dollars from clients who sought to harness his close government ties, especially Congress' GOP majority.

His specialty was representing Indian tribes with gambling interests, promising to protect them from federal taxation and competition.

In Senate hearings last year, Abramoff was portrayed as a power broker run amok. Testimony from tribal leaders and e-mails between Abramoff and his partner, Michael Scanlon, showed how they enriched themselves from the $82 million they billed the tribes. Scanlon, a former DeLay aide, pleaded guilty in November to fraud and bribery.

Abramoff Deals, Congress Quakes (CSM)

By Linda Feldmann And Gail Russell Chaddock

The Christian Science Monitor, January 4, 2006

WASHINGTON - Washington's long-awaited "A-bomb" has gone off.

Super-lobbyist Jack Abramoff's guilty plea Tuesday to three felony counts sets the stage for the biggest congressional scandal perhaps in decades, certainly since the Republicans took over Congress 10 years ago, pledging clean government.

In exchange for his guilty pleas, in both the Washington case and a separate Florida case in which he was indicted last year, Mr. Abramoff will cooperate with federal prosecutors investigating members of Congress, Capitol Hill aides, and other lobbyists. Political players with ties to Abramoff and his network, who knew the lobbyist was preparing to cut a deal, have been sweating for months. Now they're sweating harder.

Though members of both parties are involved, analysts expect Republicans - who control both houses of Congress - to bear the brunt of the political fallout. Abramoff, who has close ties to former House majority leader Tom DeLay of Texas, allegedly funneled campaign donations to lawmakers, who were treated to lavish trips and meals, in exchange for official acts.

"It could end some careers," says Jennifer Duffy, an analyst at the non-partisan Cook Political report.

Stanley Brand, a Washington defense lawyer and former Democratic counsel to the House, predicts at least six members of Congress and at least as many staff will be convicted by the end of the year.

Besides Representative DeLay, who is already under indictment in Texas, other members who are already battling allegations over their associations with Abramoff include Sen. Conrad Burns (R) of Montana, Rep. Bob Ney (R) of Ohio, and Rep. John Doolittle (R) of California.

Federal campaign records show that about 220 members of Congress received some $1.7 million in political contributions from Abramoff and his associates and clients, including American Indian tribes, between 2001 and 2004. According to Bloomberg news service, 201 of those members are still in Congress; Republicans received 64 percent of that money.

Since the whiff of scandal began to emerge around Abramoff, members have been rushing to return his contributions or donate the money to charity. But not everyone who ever took Abramoff-related money or perks is guilty of wrongdoing.

"It's not enough to take a campaign contribution," says Mr. Brand. "What's criminal is accepting the contribution in return for an express agreement to perform an official act. Beyond campaign contributions, one can't accept bribes or gratuities of any kind in return for official acts." Members of the executive branch may also be implicated in the investigation, he says.

"The line between a bribe and a legal contribution is very thin, but it is that line that keeps you out of jail," says Larry Noble, executive director of the Center for Responsive Politics. "The critical element is whether there was an understanding or agreement to take specific action in return for the money."

Abramoff joins former associate Michael Scanlon, former press secretary to DeLay, as a witness for the prosecution. Mr. Scanlon reached a plea deal last year, which raised the stakes for Abramoff. The Department of Justice says the two men defrauded Indian tribes they represented out of tens of millions of dollars.

In exchange for the guilty plea and cooperation, Abramoff would probably get a reduced prison sentence. In the Washington case, he faces a maximum of 10 years; in the Florida case, in which he is pleading guilty to fraud and conspiracy in the purchase of a casino cruise line, he could get as many as seven years.

"Up until now, I've said it will involve just a few members," says Mr. Noble. "But if they've reached a plea agreement with Abramoff, it means he's turned over people higher than him, and they must have some pretty strong evidence.

The explosion of the Abramoff scandal also represents bad news for the White House, just as President Bush is preparing for his Jan. 31 State of the Union speech - an effort to build on the momentum he started last month, after a stumbling first year to his second term.

All of Washington is looking ahead to next November's midterm elections, and whether Congress's low approval ratings and Republican woes in particular can grow big enough to swing control of one or both houses of Congress to the Democrats. Polls show that so far, the Democrats' charge that Republicans have created a "culture of corruption" has not seeped into public consciousness. But, analysts say, the 2006 campaign has not started in earnest, and it's too soon to say how the public is perceiving the corruption message.

"This will crowd out a lot of the news about the new Bush agenda," says Paul Light, a political scientist at New York University. "He'll be going up to the Hill to present his agenda, and meanwhile you have six, 12, 20 members desperately trying to return money to Abramoff, and another bunch wondering how they will look in an orange jump suit."

If the Bush White House tries to minimize the scandal, "it feeds the view that Bush doesn't take ethics seriously," says Professor Light. Last year, a top White House aide, I. Lewis Libby, was indicted in the scandal surrounding the public revelation of a CIA agent's identity.

For Congress as an institution, the Abramoff scandal reinforces prevailing attitudes that are already set in stone, says Light, who has studied the issue of trust in politics. "The American public has become inured to congressional scandals, and as long as members are bringing home enough pork, they basically say, a pox on both their houses."

Lobbyist's Guilty Plea Signals Broadening Scandal In Washington (KRT)

By Steven Thomma And Alison Young

Knight Ridder, January 4, 2006

WASHINGTON - The nation's capital braced Tuesday for a mushrooming political scandal as a well-connected lobbyist pleaded guilty to federal criminal charges and prepared to testify about members of Congress caught in his web of corruption.

Jack Abramoff, 46, invoked God as he apologized and pleaded guilty before a federal judge to one charge each of conspiracy, mail fraud and tax evasion. He faces a maximum of 30 years in prison - and another potential plea in a Florida indictment related to his purchase of a fleet of casino cruise ships from a man who was murdered a few months later.

By itself, the fall of a high-flying lobbyist who collected $80 million in fees from casino-rich Indian tribes, wined and dined politicians at his own upscale Washington restaurant, Signatures, and flew them abroad for golf outings was a dramatic tale.

But it was the likelihood that Abramoff now will help federal prosecutors go after members of Congress that gripped official Washington.

"This is going to grow and multiply," said Bill Mateja, a former top official in the Bush Justice Department who's now a Dallas lawyer. "If I were on Capitol Hill, I would be shaking in my boots. Because if anyone knows where the skeletons are buried, it's Jack Abramoff."

The Abramoff case could rival or surpass the 1980 Abscam case, in which an FBI sting trapped members of Congress taking bribes. Six members of the House of Representatives and one senator were convicted then.

It also could make it easier for Americans to see the free flow of money and lobbyist influence in Washington and affect the way they vote in this year's congressional elections. Democrats hope to benefit, but polls so far show both parties losing public esteem.

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Justice Department officials said they hoped their extensive investigation would send a message about corruption.

"Government officials and government action are not for sale," said Alice Fisher, an assistant attorney general. "The Justice Department will aggressively investigate and prosecute these types of cases, which have a devastating impact on the public's trust of government."

The scandal threatens to engulf several high-ranking lawmakers from both major political parties, including:

- Rep. Bob Ney, R-Ohio, the chairman of the House Administration Committee, whose Web page identifies him as the "11th most powerful member of Congress." He took a golf trip to Scotland on Abramoff's tab, but says he did nothing wrong.

- Rep. Tom DeLay, R-Texas, who was forced to step down last fall as House majority leader when he was indicted on a campaign-finance charge that isn't related to the Abramoff case. DeLay denies any wrongdoing in taking overseas trips financed by Abramoff. His spokesman said Tuesday that all of DeLay's actions were approved by the House ethics committee.

- Rep. John Doolittle, R-Calif., the secretary of the House Republican Conference, who took campaign contributions from Abramoff and whose wife was hired by an Abramoff foundation. Doolittle denies that his intervention in a California Indian casino case, which would've helped Abramoff, was connected to his relations to the lobbyist.

- Sen. Harry Reid, D-Nev., the Senate minority leader, who's denied that his intercession in an Indian-casino case that would've helped Abramoff was linked to a $5,000 contribution from an Abramoff client.

"Abramoff probably had relationships with lots more members of Congress," said Melanie Sloan, a former federal prosecutor, the head of Citizens for Responsibility and Ethics in Washington and who's supported Democrats. "He's clearly been spilling his guts for several months."

Abramoff's lawyer, Abbe Lowell, said in a statement that his client "intends to continue to work with the Justice Department and others to fully resolve all matters of interest, to provide restitution to anyone he has harmed, and to seek absolution from all."

Abramoff would serve nine and a half to 11 years of his sentence under federal guidelines. That could be reduced further with his cooperation in the investigation. He also faces a fine of more than $750,000 and mandatory restitution estimated to be about $26.7 million - $1.7 million of that to the Internal Revenue Service for evading taxes, plus an undetermined amount of back taxes.

The lobbyist was contrite as he faced U.S. District Judge Ellen Segal Huvelle.

"Your honor, words will not be able to ever express how sorry I am for this, and I have profound regret and sorrow for the multitude of mistakes and harm I have caused," he said.

"All of my remaining days, I will feel tremendous sadness and regret for my conduct and for what I have done. I only hope that I can merit forgiveness from the Almighty and from those I have wronged or caused to suffer. I will work hard to earn that redemption."

The most far-reaching charge said Abramoff corruptly influenced public officials and their relatives.

"Abramoff and others would offer and provide things of value to public officials, including trips, campaign contributions, meals and entertainment in exchange for agreements that the public officials would use their official positions and influence to benefit defendant Abramoff's clients and ... businesses," the federal charge said.

It didn't identify any public officials by name.

But it did say Abramoff influenced a House Committee chairman identified as "Representative A." It said Abramoff used "a lavish trip to Scotland to play golf on world famous courses, tickets to sporting events ... regular meals at Abramoff's upscale restaurant, and campaign contributions" to win official favors from the congressman.

Representative A is apparently Ney.

An Abramoff partner, Michael Scanlon, who formerly had worked for DeLay, pleaded guilty in November to conspiring to bribe Ney. Ney has denied wrongdoing.

"At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities," Ney said in a statement.

The plea bargain also said Abramoff had defrauded several Indian tribes by charging them huge fees while lying about his work or the way that money was funneled to him. For example, it said he urged them to hire other firms while concealing that he got a 50 percent kickback from more than $54 million that the tribes paid those firms.

Abramoff greased his relationships with golf trips, meals at his restaurant and seats in his luxury skyboxes at Washington sports events. He and his clients also contributed freely to campaigns, $4.4 million since 2000, according to the nonpartisan Center for Responsive Politics.

With the investigation threatening to spread, several members of Congress recently returned campaign contributions to Abramoff, a trend that House Speaker Dennis Hastert, R-Ill., joined Tuesday evening. He announced that he'd return $70,000 in contributions from Abramoff-related clients, including Indian tribes.

Previously, Sen. Max Baucus, D-Mont., returned $18,892. That amount included $1,892, the value of seats in Abramoff's skybox at a Washington sports arena, which Baucus had used but never reported.

Sen. Byron Dorgan, D-N.D., gave back $67,000 in Abramoff-related donations.

Sen. Conrad Burns, R-Mont., returned more than $150,000 and summed up what probably is the prevailing attitude in Congress toward the once-popular lobbyist.

"This Abramoff guy is a bad guy," Burns told a Montana television station last month. "I hope he goes to jail and we never see him again. I wish he'd never been born, to be right honest with you."

Knight Ridder correspondents James Kuhnhenn and Maria Recio contributed to this report.

Abramoff Pleads Guilty To 5 Criminal Charges (LAT)

By Walter F. Roche Jr. And Richard B. Schmitt

The Los Angeles Times, January 4, 2006

WASHINGTON — Pleading for forgiveness from "the Almighty and those I have wronged," an ashen Jack A. Abramoff, once the most powerful lobbyist on Capitol Hill, stood before a federal judge today and pleaded guilty to a vast scheme of fraud and tax evasion that could send him to prison for nine to 30 years.

Abramoff now becomes the chief witness for the prosecution in its influence-peddling probe of Congress that some say presages the biggest corruption scandal on Capitol Hill in nearly three decades. It has already ensnared at least one member of Congress and two former congressional aides, and could now lead into unknown territory.

The plea includes a requirement that Abramoff cooperate truthfully in the widespread probe of his actions over a decade-long period, a process that could significantly reduce his jail time. Abramoff also must make restitution of some $25 million and pay a little more than $1.7 million in back taxes to the IRS.

Speaking softly, at times barely above a whisper, Abramoff, 46, responded with simple "yes" and "no" answers as he entered the guilty pleas during a 50-minute session before U.S. Judge Ellen Segal Huvelle.

Abramoff wore a rumpled black suit and appeared pale as he stood beside his lawyer, Abbe Lowell, in the packed fourth-floor courtroom. At the end of the court session, Abramoff stood and, with the judge's permission, read from a folded piece of paper.

"I only hope that I can merit forgiveness from the Almighty and those I have wronged or caused to suffer," Abramoff said in his brief statement. "Words will not ever be able to express how sorry I am for this, and I have profound regret and sorrow for the multitude of mistakes and harm I have caused."

The indictment caps an intensive and sweeping investigation that the FBI launched in March 2004, and Abramoff's promised cooperation gives that probe a powerful impetus.

Justice Department officials said at a news conference that the fallen dealmaker had already begun sharing information and documents with them.

Officials declined to discuss additional charges, but said they were moving expeditiously, and some legal experts said they expected the agreement would lead to a cascading series of new charges.

"This is just the beginning," said Stanley Brand, a Washington lawyer and former general counsel of the House of Representatives.

"That is the pattern of the Justice Department. They start with the lobbyists and the outsiders, and they build into the public officials," he said. "The members of Congress are the highest point in the food chain."

The scandal is "about an eight on the Richter scale, and it is probably going to be a nine before it is all over," Brand said.

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Abramoff's jail sentence will be set at a later date and will depend on his continued cooperation, according to Mary Butler, the lead prosecutor. The counts of conspiracy, fraud and tax evasion could mean a prison term of up to 30 years. But federal sentencing guidelines call for 9 to 11½ years, officials said.

Abramoff and his attorney left the courthouse without further comment.

Abramoff also has agreed to plead guilty to wire fraud charges in a case in Florida relating to the purchase of a fleet of casino gambling boats, according to Neil Sonnett, his attorney in that case.

The sentences in the two cases are expected to be served concurrently.

Under today's plea agreement, which mirrors charges brought earlier against one of his former partners, Michael P.S. Scanlon, Abramoff admitted to engaging in a conspiracy to defraud Indian tribes of more than $20 million through a secret kickback arrangement.

Scanlon already has entered a guilty plea to a parallel conspiracy charge and has promised to cooperate in the probe.

Abramoff also admitted to defrauding his former law firm, Greenberg Traurig, by having clients direct payments to entities he controlled, bypassing the firm.

According to court documents, Abramoff and Scanlon hid the millions of dollars in fees by persuading Indian tribe clients with casino interests to pay consulting fees to companies and a nonprofit corporation that Abramoff had set up. The two then shared the excess profits "pursuant to their secret agreement."

Abramoff, according to the charges, lied to the tribes, telling them that he was working for nothing and, in some cases, denying any connection to the companies getting the payments. So bold were Abramoff and Scanlon in the scheme they called "Gimme Five," said a federal prosecutor, that in one case they simultaneously collected fees from two Indian tribes on the opposite sides of the same issue.

Though court documents refer only to "Representative One," the documents describe specific actions taken by Rep. Robert Ney (R-Ohio), the chairman of a key House committee.

Abramoff admitted to providing things of value to Ney and members of his staff, including "a lavish trip to Scotland to play golf on world famous courses, tickets to sporting events and other entertainment." In return, the documents state, Scanlon and Abramoff got Ney's agreement to support specific legislation and favor an Abramoff client seeking a contract to provide wireless phone services to the U.S. House.

Ney, whose actions also had been cited in the Scanlon case, issued a brief statement denying that he had done anything wrong.

"Congressman Ney has never done anything illegal or improper and the allegations in this plea agreement do not change this fact," said Ney's spokesman, Brian J. Walsh.

A prosecutor, citing the items Abramoff provided to Ney and his staff in return for specific actions, said, "That's not lobbying, that's a crime."

In addition to Ney, the documents filed today for the first time describe specific actions taken by two unnamed former congressional aides who worked in collaboration with Abramoff and Scanlon.

One, "Staffer A", solicited a Michigan Indian tribe to make a $25,000 payment to the Abramoff-controlled Capital Athletic Foundation. Abramoff then "used this money for his personal and professional benefit to partially pay for a golfing trip to Scotland for himself, public officials, members of his staff and others." That same staffer, according to court documents, solicited a distilled beverage company that had hired Abramoff's firm for a $25,000 payment that was funneled to the same nonprofit to fund the same overseas trip.

Another staffer, described as a former chief of staff to Ney and a former chief of staff to the House Administration Committee, was cited in the documents for violating a restriction barring former aides from lobbying their bosses for a year after leaving the public payroll.

Lobbyist Accepts Deal And Becomes Witness In Corruption Case (NYT)

By Anne E. Kornblut

The New York Times, January 4, 2006

WASHINGTON, Jan. 3 - Jack Abramoff pleaded guilty to three felony counts on Tuesday as part of a settlement with federal prosecutors, instantly becoming the star witness in a sweeping federal investigation into public corruption in Washington. The inquiry could involve as many as a dozen lawmakers, people involved in the case said.

Mr. Abramoff, 46, once a prominent Republican lobbyist, accepted a recommended reduced prison sentence of about 10 years in exchange for testifying against former associates in the influence-peddling case. The agreement also requires Mr. Abramoff to pay more than $26 million in tax penalties and restitution to former clients, although he has told associates he is broke.

The corruption inquiry involving Mr. Abramoff, potentially one of the most explosive in Congressional history, has expanded in recent months to encompass dozens of political operatives, including former Congressional aides and lobbyists suspected of arranging bribes in exchange for legislative work, participants in the case said.

His testimony, coupled with that of Michael Scanlon, a former Abramoff business associate who pleaded guilty in November, reaches into the executive and legislative branches and appears to be drawing an ever-tighter ring of evidence around the former House Republican majority leader, Tom DeLay, and other senior Congressional Republicans.

Standing hunched in a dark suit in front of a Federal District Court judge, his eyes downcast as the plea deal was announced, Mr. Abramoff bore little resemblance to the brash operative who in hundreds of e-mails messages obtained by prosecutors once boasted about his financial kickbacks, referring to them as a "gimme five" scheme.

Instead, in front of Judge Ellen Huvelle, Mr. Abramoff confessed to making "a multitude of mistakes" during a decade or so of lobbying work. In a soft, grainy voice, he pleaded guilty to defrauding at least four Indian tribes of tens of millions of dollars, enticing government officials with bribes and evading taxes.

"All of my remaining days, I will feel tremendous sadness and regret for my conduct and for what I have done," Mr. Abramoff said. Emerging from the courthouse into a light drizzle wearing a black fedora, he slipped into a waiting car and was driven away. His next public appearance is scheduled for Wednesday in Florida, when he will plead guilty in a related case.

Mr. DeLay, who has taken in thousands in campaign donations from Mr. Abramoff and accompanied the lobbyist on a lavish golf trip to Scotland in 2000, has denied any wrongdoing. Richard Cullen, a former United States attorney representing Mr. DeLay, said his client "is confident that when the Department of Justice completes its investigation and gets to the bottom of this that they will conclude that he did nothing wrong." No lawmaker has been charged in the case.

Court documents filed Tuesday gave a snapshot of what Mr. Abramoff has been telling investigators during their plea negotiations over the last year and a half.

In one instance cited in court documents, Mr. Abramoff directed favors to a senior DeLay staff member - referred to in documents as "Staffer A," but identified by lawyers as Tony C. Rudy, now a Republican lobbyist. Those favors came in the form of payments to Mr. Rudy's wife, Lisa. Mr. Abramoff paid $50,000 to Lisa Rudy through a charity organization in exchange for her husband's "agreement to perform a series of official acts," the plea agreement said.

"Abramoff, Scanlon and others engaged in a course of conduct through which one or both of them offered and provided a stream of things of value to public officials in exchange for a series of official acts and influence," the agreement states.

Also mentioned in the plea agreement was a "Representative No. 1" who, along with members of his staff, accepted gifts, travel and free meals at Mr. Abramoff's restaurant, Signatures, in exchange for legislative help, including inserting a comment into the Congressional Record designed to help Mr. Abramoff with a business deal. Representative Bob Ney, Republican of Ohio, was identified as this figure after court documents were filed in connection with Mr. Scanlon's plea deal. Although Mr. Ney did not deny his association with Mr. Abramoff and Mr. Scanlon on Tuesday, he insisted, as he has in the past, that he was tricked by the two men into doing work on behalf of their lobbying clients.

According to people involved in the case, Mr. Ney's former chief of staff, Neil Volz, is referred to in the documents as "Staffer B," and is accused in the paperwork of violating the one-year lobbying ban after leaving Mr. Ney's office before beginning to lobby his former boss again. Lawyers for Mr. Rudy and Mr. Volz did not return calls seeking comment.

Mr. Abramoff helped funnel more than $1.5 million in campaign donations to hundreds of elected officials, more than half of them Republican, since 2000, according to analyses of his work. As prosecutors threatened to indict him - and ultimately, late Monday night, worked out a negotiated settlement after weeks of intense wrangling - the government's lawyers argued that Mr.

Abramoff had gone past the routine business of campaign fund-raising and political glad-handing into the realm of bribery. Or, as Assistant Attorney General Alice S. Fisher put it on Tuesday, Mr. Abramoff "went far beyond lawful lobbying."

"Government officials and government action are not for sale," Ms. Fisher said, flanked by senior law enforcement officials at a news conference at the Justice Department.

As part of his all-encompassing settlement, Mr. Abramoff plans to plead guilty on Wednesday to two charges of conspiracy and fraud in a related case in Miami stemming from his purchase of a casino boat line, SunCruz Casinos, in 2000. He was scheduled to stand trial in that case next Monday.

That plea provides that all other charges against Mr. Abramoff in the case will be dropped, people familiar with the plea agreement said. He may face up to about seven years of prison time for the Florida charges, but that sentence can be served concurrently with the Washington sentence under the terms of his deal with Justice Department prosecutors. How much time Mr. Abramoff will spend in prison will be determined later, after he has fulfilled most of his obligation to help investigators.

Mr. Abramoff has been in talks with prosecutors for some 18 months, his lawyer in Washington, Abbe D. Lowell, said. According to people involved in the case, all of whom spoke on condition of anonymity because the broader investigation is continuing, Mr. Abramoff at times offered guidance to investigators as they pursued other targets.

According to participants in the case, he has shared information about David H. Safavian, a former Bush administration official indicted last year, and Tim Flanigan, the Tyco executive who withdrew his nomination as the second-in-command at the Justice Department after his ties to Mr. Abramoff came into question.

Tyco is also mentioned, although not by name, in the plea agreement. According to the court document, Mr. Abramoff sent a business proposal to "Company A," a manufacturing and services company identified by participants as Tyco. Mr. Abramoff "falsely advised" the company about the grass-roots company that he suggested they hire, and which in turn kicked back huge sums to Mr. Abramoff.

Mr. Abramoff told Tyco "that he was negotiating on their behalf" to try to save them money "when in fact he was simply setting a high price on services that he controlled and from which he would profit."

The publicly released court documents, followed by the Justice Department's news conference about the case, were designed as a "shot across the bow" to other potential suspects in the inquiry, a person involved said.

"With most cases, the plea is the end, but with Abramoff, the plea is just the beginning," said an F.B.I. official who spoke on condition of anonymity, adding, "This one has legs."

Abramoff Pleads Guilty To 3 Counts (WP)

By Susan Schmidt And James V. Grimaldi

The Washington Post, January 4, 2006

Jack Abramoff, the once-powerful lobbyist at the center of a wide-ranging public corruption investigation, pleaded guilty yesterday to fraud, tax evasion and conspiracy to bribe public officials in a deal that requires him to provide evidence about members of Congress.

The plea deal could have enormous legal and political consequences for the lawmakers on whom Abramoff lavished luxury trips, skybox fundraisers, campaign contributions, jobs for their spouses, and meals at Signatures, the lobbyist's upscale restaurant.

In court papers, prosecutors refer to only one congressman: Rep. Robert W. Ney (R-Ohio). But Abramoff, who built a political alliance with House Republicans, including former majority leader Tom DeLay of Texas, has agreed to provide information and testimony about half a dozen House and Senate members, officials familiar with the inquiry said. He also is to provide evidence about congressional staffers, Interior Department workers and other executive branch officials, and other lobbyists.

"The corruption scheme with Mr. Abramoff is very extensive," Alice S. Fisher, head of the Justice Department's criminal division, said at a news conference with other high-ranking officials of the Internal Revenue Service and the FBI. "We're going to follow this wherever it goes."

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Fisher declined to identify the officials under scrutiny. "We name people in indictments," she said, adding: "We are moving very quickly."

Among the allegations in the court documents is that Abramoff arranged for payments totaling $50,000 for the wife of an unnamed congressional staffer in return for the staffer's help in killing an Internet gambling measure. The Washington Post has previously reported that Tony Rudy, a former top aide to DeLay, worked with Abramoff to kill such a bill in 2000 before going to work for Abramoff.

Abramoff's appearance in U.S. District Court came nearly two years after his lobbying practices gained public notice because of the enormous payments -- eventually tallied at $82 million -- that he and a public relations partner received from casino-rich Indian tribes. Yesterday, he admitted defrauding four of those tribal clients out of millions of dollars. He also pleaded guilty to evading taxes, to conspiring to bribe lawmakers, and to conspiring to induce former Capitol Hill staffers to violate the one-year ban on lobbying their former bosses.

Under terms of his plea agreement, Abramoff can expect to receive a prison sentence of 9 1/2 to 11 years, and he is required to make restitution of $26.7 million to the IRS and to the Indian tribes he defrauded. Today he is to plead guilty to fraud and conspiracy counts in a related case in Florida involving his purchase of a casino cruise line.

Standing before U.S. District Judge Ellen Segal Huvelle in Washington yesterday, Abramoff looked sheepish and sad. "Your Honor, words will not be able to ever express how sorry I am for this, and I have profound regret and sorrow for the multitude of mistakes and harm I have caused," he said softly. "All of my remaining days, I will feel tremendous sadness and regret for my conduct and for what I have done. I only hope that I can merit forgiveness from the Almighty and from those I have wronged or caused to suffer."

Abramoff has been in extensive discussions with government lawyers for months leading up to yesterday's plea.

Ney, chairman of the House Administration Committee, is among the first of those expected to feel the fallout. In the court documents -- which identify him only as "Representative #1" -- Ney is accused of meeting with one of Abramoff's clients in Russia in 2003 to "influence the process for obtaining a [U.S.] visa" for one of the client's relatives and of agreeing to aid a California tribe represented by Abramoff on tax and post office issues.

Ney also placed comments in the Congressional Record backing Abramoff's efforts to gain control of the Florida gambling company, SunCruz Casinos, and offered legislative language sought by Abramoff that would have reopened a Texas tribe's shuttered casino.

The court papers said Ney advanced the prospects of an Abramoff client, a telecommunications company that won a contract to wire the House.

Two of Abramoff's former partners have already pleaded guilty and have promised to cooperate in the ongoing investigation of congressional corruption and are prepared to testify against Ney in connection with his aid in the SunCruz purchase. Prosecutors in Florida and Washington are in discussions about where a case against Ney should be brought, officials said.

Ney reiterated yesterday that he had done nothing wrong and said he was misled by Abramoff.

One of Abramoff's former associates, Michael Scanlon, a onetime press aide to DeLay, was a secret partner in Abramoff's Indian tribal scheme. Abramoff not only charged the tribes lobbying fees but also urged them to hire Scanlon's public relations firm at hugely inflated prices. Scanlon, in turn, kicked back half of the money to Abramoff, who was thus able to conceal the funds from public disclosure and even from the lobbyist's law firm.

They spread tribal money around and sought legislative favors in return. Abramoff and Scanlon "offered and provided a stream of things of value to public officials in exchange for official acts and influence and agreements to provide official action and influence," a statement of facts attached to the plea agreement said. "These things of value included, but are not limited to, foreign and domestic travel, golf fees, frequent meals, entertainment, election support for candidates for government office, employment for relatives of officials and campaign contributions."

Among the things of interest to investigators are payments made by Abramoff and his colleagues to the wives of some lawmakers and actions taken by Rudy and other senior Capitol Hill aides, some of whom went to work for Abramoff at the law firm Greenberg Traurig LLP, lawyers and others familiar with the probe said.

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Another person under scrutiny, sources said, is DeLay, who is facing separate campaign finance charges in his home state of Texas.

"Tom DeLay is not concerned that Mr. Abramoff is cooperating," said Richard Cullen, his attorney. "He urges everyone involved to cooperate in the investigation and to tell the truth." Cullen had no comment on allegations involving former DeLay aides Rudy and Scanlon.

Among the trips under scrutiny is a golf excursion to Scotland that DeLay and aides took with Abramoff in 2000 and a similar trip Ney took two years later.

DeLay has taken three overseas trips with Abramoff since 1997 -- to the Mariana Islands, Russia and Scotland -- and received more than $70,000 from Abramoff, his associates and tribal clients for his campaign committees.

Investigating DeLay could take up to a year and require the cooperation of other witnesses before issues surrounding the Texas Republican are resolved, according to people familiar with the case.

Sen. Conrad Burns (R-Mont.), Rep. John T. Doolittle (R-Calif.) and other legislators involved with Indian issues are among those being investigated, sources said.

A spokesman for Doolittle, whose wife received payments from Abramoff's lobbying firm, has previously said there was no connection with her husband's work. Burns's office has said his actions on behalf of Abramoff's tribal clients were in sync with his support for improving the lot of Indian tribes.

Also of interest to prosecutors is former deputy interior secretary J. Steven Griles, who held the job from 2001 to 2004. He has said he never tried to intercede on behalf of Abramoff's clients, but e-mails released by a Senate committee show more than half a dozen contacts Griles had with Abramoff or with a woman working as the lobbyist's go-between.

Prosecutors are continuing to investigate two of DeLay's top former deputies, Rudy and Edwin A. Buckham. Rudy is under investigation for assistance he allegedly provided Abramoff's lobbying clients while he was working for DeLay. Payments from Abramoff clients and associates to Liberty Consulting -- a political firm founded by Rudy's wife, Lisa -- are also under review by the Justice Department. Rudy did not return calls seeking comment yesterday.

Abramoff maintained a business relationship with Buckham, who runs the Alexander Strategy Group with Rudy. Among the areas of interest to prosecutors is client business directed to the Alexander Strategy Group when the firm was hiring the spouses of members of Congress, including DeLay's wife, Christine.

Christine DeLay was paid about $115,000 over three years while performing a special project -- contacting members of Congress to find out their favorite charity, according to her attorney.

Fisher, offering the Justice Department's first public comments on an inquiry that began in spring 2004, said that the Abramoff case is "very active and ongoing." She said the department is committed to making sure that people know "government is not for sale."

Abramoff Pleads Guilty To Federal Charges (Hchron)

By Micheal Hedges

Houston Chronicle, January 4, 2006

WASHINGTON — Prominent lobbyist Jack Abramoff, who had several ties to former House majority leader Tom DeLay of Sugar Land, pleaded guilty today to conspiracy, fraud and tax evasion charges,bringing a wide-ranging corruption probe to the doors of Congress.

As part of his plea bargain, Abramoff is expected to cooperate with prosecutors in their examination of the actions of several congressmen and their top aides. The charges could carry a prison sentence of up to 30 years.

The charges mentioned gifts and contributions to an unnamed House member who has been identified as Rep. Bob Ney, R-Ohio, chairman of the House Administration Committee, allegedly in return for favors.

Ney has not been charged. He and DeLay have denied wrongdoing.

Abramoff agreed with U.S. District Court Judge Ellen Huvelle when she said that he had engaged in a conspiracy involving "corruption of public officials." The lobbyist also agreed when she said he and others had engaged in a scheme to provide campaign contributions, trips and other items "in exchange for certain official acts."

Court papers said Abramoff corruptly gave "money, meals, trips and entertainment to public officials and their relatives with the intent to influence and in return for agreements to perform official acts" benefiting Abramoff, former business partner Michael Scanlon and their clients. The papers said Abramoff caused former congressional aides to lobby their former bosses within a one-year window of employment, during which they are barred from such activities.

Scanlon, DeLay's former press secretary, pleaded guilty in November.

Abramoff was also expected to plead guilty today to two criminal charges in Florida involving a 2000 purchase of a fleet of gambling boats.

U.S. District Judge Paul C. Huck has scheduled a telephone conference for later today on the Florida case.

Abramoff was pressured to plea bargain there when former partner, Adam Kidan pleaded guilty recently to fraud and conspiracy in connection with the SunCruz boat deal.

In Washington, prosecutors say Abramoff and Scanlon conspired to defraud their Indian tribe lobbying clients of about $82 million after being hired to pave the way for gambling casinos and to block others.

Last month, five members of Congress — Rep. Ernest Istook, R-Okla.; Sen. Sam Brownback, R-Kan.; Sen. Max Baucus, D-Mont.; Sen. Conrad Burns, R-Mont.; and Sen. Byron Dorgan, D-N.D. — returned or gave away campaign donations from Abramoff.

DeLay and Abramoff went on two trips together that have been reviewed by investigators, one to Britain in 2000 and one to the Northern Mariana Islands during the New Year's holiday of 1998. Also, Abramoff clients made donations to DeLay political organizations.

The two men are also linked through several former DeLay staff members who eventually became wealthy working with Abramoff.

DeLay once called Abramoff his best friend.

DeLay attorney Richard Cullen declined to comment Monday amid reports Abramoff would strike a deal with prosecutors.

He has said previously that there was no indication the congressman is in jeopardy from the Abramoff investigation.

"Mr. DeLay is not concerned about the potential of Mr. Abramoff cooperating with the government," Cullen said in a recent interview. "Mr. DeLay thinks everybody should be cooperating (with investigators) and telling the truth."

Cullen said he met with federal prosecutors early in the probe and offered them DeLay's cooperation. Asked if any DeLay records or documents had been subpoenaed by investigators, Cullen said no records were sought.

White House spokesman Scott McClellan today said he did not know whether Abramoff ever met President Bush. Of Abramoff, McClellan said, "What he is reportedly acknowledged doing is unacceptable and outrageous."

"If laws were broken, he must be held to account for what he did," McClellan added.

In October, Bush appointee David Safavian, former chief of staff of the General Services Administration, was indicted on charges he made false statements and obstructed a federal investigation into his dealings with lobbyist Abramoff.

Meanwhile, the prosecutor in the Texas money laundering case against DeLay issued subpoenas today looking for links between Abramoff and fundraising by the former majority leader.

District Attorney Ronnie Earle issued the subpoenas in Austin.

In the Texas case, Earle sought records from Abramoff's former employers, legal firms Greenberg Traurig LLP and Preston Gates Ellis & Rouvelas Meeds, LLP. He also subpoenaed records from a lawyer for the Mississippi Band of Choctaw Indians, a former Abramoff client, and from a representative for the Barona Band of Mission Indians, a California tribe.

Will DeLay Go Down With His Friend? (DMN)

By Todd J. Gillman

The Dallas Morning News, January 4, 2006

WASHINGTON – Former House Majority Leader Tom DeLay and lobbyist Jack Abramoff had been friends for years, trading easily on each other's success.

One rose to the pinnacle of power in Congress. The other became the most sought-after lobbyist in town. They built a politically potent network of former aides, lobbyists and comrades-in-arms.

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The question hanging over Washington on Tuesday: Could Mr. Abramoff's plummet and plea deal drag down his longtime ally?

"A lot of people, including Mr. DeLay's political enemies, are hoping that's the case. But I believe they'll be disappointed," said DeLay attorney Richard Cullen.

"DeLay has conducted himself consistently with the standards of conduct in the House and has violated no laws. So he's at peace in terms of where this investigation will end up, and it's premature to jump at the conclusion that Abramoff has information that's troubling to Mr. DeLay," Mr. Cullen said.

The Washington Post reported today that investigators have Mr. DeLay under scrutiny. The financial and political ties between the Sugar Land Republican and Mr. Abramoff are extensive, and their histories and causes are intertwined.

"There is no way this is good for him. How bad it will be will depend on what else we see happen," said Larry Noble, executive director of the Center for Responsive Politics, which studies campaign finance.

In court Tuesday, Mr. Abramoff – facing up to 11 years in prison and $27 million in restitution – confessed to providing all sorts of favors to just one lawmaker, and it wasn't Mr. DeLay. He told the court he'd provided the lawmaker, understood to be Ohio Republican Bob Ney, a "lavish trip to Scotland to play golf on world-famous courses, tickets to sporting events and other entertainment," meals at Mr. Abramoff's upscale restaurant and generous campaign donations – largesse he also bestowed on Mr. DeLay.

Targets unknown

Prosecutors cited several favors that Mr. Ney offered in return, including help with Mr. Abramoff's purchase of a fleet of casino ships. Justice Department and FBI officials have offered no such examples involving Mr. DeLay, and they wouldn't say whether they're digging or expect to learn of any in coming months.

Mr. Abramoff and Mr. DeLay worked closely on many projects, traveling together to the Mariana Islands, Russia and the United Kingdom, ostensibly under the auspices of a conservative Washington think tank, the National Center for Public Policy Research. Mr. Abramoff sat on the group's board, and reports surfaced that two of his clients each donated $25,000 to the nonprofit a day before the Britain junket.

House rules prohibit travel paid for by lobbyists or their clients, though Mr. DeLay and other lawmakers on the trip say they had no idea where the group got the funds.

Mr. Abramoff and his partner, former DeLay press secretary Michael Scanlon – who has also pleaded guilty and cooperated with federal prosecutors – routinely boasted of their connections with the majority leader when selling their services to Indian tribes and others.

The Marianas connection could also provide investigators an interesting trail. Mr. DeLay sought to protect the garment industry on the islands, an American commonwealth in the Pacific, from U.S. labor laws.

In 1999, during a power struggle in the local legislature, two former DeLay aides, Ed Buckham and Mr. Scanlon, went to Saipan to persuade two lawmakers to switch sides in a leadership vote, dangling promises of federal largesse for which Mr. DeLay reportedly paved the way later. The favored candidate won and later awarded Mr. Abramoff a contract worth $1.6 million.

During the Marianas visit, Mr. DeLay called Mr. Abramoff "one of my closest and dearest friends," though by early 2004, when a Senate committee had begun investigating the lobbyist, Mr. DeLay tried to distance himself, telling reporters that "if anybody is trading on my name to get clients or make money, that is wrong and they should stop it."

Mr. DeLay and Mr. Abramoff also collaborated closely on the K Street Project, an effort to pressure Washington's premier lobbying firms to shun Democrats and stock their staffs with GOP loyalists. At one point, the House ethics panel reprimanded Mr. DeLay for threatening retaliatory legislation against a trade group for hiring a Democrat as its top lobbyist.

Critics have raised questions about the $115,000 that the congressman's wife, Christine DeLay, was paid over four years by Alexander Strategy Group – a firm led by Mr. Buckham and other former DeLay aides that got client referrals from Mr. Abramoff – for researching the charitable preferences of lawmakers. The DeLays said the work was real and the pay justified.

In the clear?

Jan Baran, a Republican ethics lawyer who once represented Speaker Newt Gingrich, said the plea deal might carry no implications for Mr. DeLay.

"There's nothing in there that involves him or suggests his involvement. ... If the Justice Department has some information about other public officials, they presumably would have included it by now," he said.

He noted that courts are strict when it comes to enforcing bribery law. Prosecutors must prove quid pro quo – Latin for "something for something." Mr. DeLay got favors from Mr. Abramoff. But so did several hundred colleagues.

Bribery would require proving the legislators offered a specific legislative favor in exchange for the power lunches, golf outings, trips and campaign cash. Accepting such dining and activities without the promise of legislative action is routine and legal in Washington.

"Lawful lobbying does not include paying a public official a personal benefit with the understanding, explicit or implicit, that a certain official act will occur. That's not lobbying. That's a crime," said Assistant Attorney General Alice Fisher, carefully sidestepping the issue of which lawmakers the Justice Department is targeting.

Investigating Mr. DeLay could take up to a year and require the cooperation of other witnesses before issues surrounding him are resolved, people familiar with the case told The Post..

As speculation bubbled about what Mr. Abramoff could offer federal authorities, there was activity involving Mr. DeLay in Austin.

Travis County prosecutor Ronnie Earle obtained subpoenas Tuesday for donations from two former Abramoff law firms – Greenberg Traurig and Preston Gates – to Mr. DeLay's state political action committee, Texans for a Republican Majority.

The grand jury, which is investigating money-laundering allegations against Mr. DeLay and several lieutenants, also ordered records of campaign donations from Mr. Abramoff's biggest lobbying client, the Mississippi Band of Choctaw Indians.

Staff writers Michelle Mittelstadt and Allen Pusey in Washington, and Pete Slover in Austin, contributed to this report.

Abramoff's Plea Tightens Noose Around Some Necks (KHOU-TV)

By Shern-Min Chow

KHOU-TV, CBS 11, Houston, TX, January 4, 2006

A high-powered lobbyist with ties to congressman Tom Delay cut a tell-all deal with the Feds.

What does Jack Abramoff's guilty plea mean for DeLay?

No question that's the big question now. How will this impact the former House Majority Leader and word is, about a dozen other congressmen.

None of Tuesday's charges connect Abramoff and DeLay, but Travis County's prosecutor is now issuing subpoenas for records linking the Sugar Land Republican to the lobbyist.

Insiders believe the noose is tightening on some after Abramoff's guilty plea.

Jack Abramoff's guilty pleas, revealed among other things, a stunning fraud scheme. He admits to bilking Indian tribes of more than $60 million and getting nearly half of that in kickbacks.

"Abramoff admitted today to his participation in an extensive corruption shceme. Abramoff gave things of value to public officials including foreign and domestic trips, campaign contributions, excessive meal and entertainment," said Justice Department spokesperson Alice Fisher.

He says those gifts bought legislative favors for his clients.

"As admitted by Abramoff, his actions often produced the official influence he sought," said Fisher.

The immediate fallout to Congressman DeLay? Late Tuesday, his office announced he will donate funds from Abramoff to local charities.

His office says an accounting process is now underway.

DeLay has received at least $57,000 in political contributions from Abramoff, his lobbying associates or tribal clients.

Experts say federal prosecutors will now move onto congressional aides

"The noose is tightening and its tightening through the use of people who are in direct contact with members of Congress," said Stan Brand, former U.S. House Counsel.

Some of those aides also enjoyed the lavish trips. Insiders believe at least a dozen congressmen will be under fire from Abramoff's deal.

In a carefully orchestrated appearance, he told the federal court, "words will not ever be able to express my sorrow and my profound regret."

But the punishment may. Abramoff will pay $25 million in restitution, $1.7 million in unpaid taxes, and prosecutors will recommend a prison sentence of 9 to 11 years.

Wednesday, he appears in Florida on charges relating to a fleet of gambling boats. He's expected to plead guilty to 2 to 6 other charges.

DeLay May Face New Jeopardy As Abramoff Probers Target Ex-Aide (BLOOM)

By Michael Forsythe Jonathan D. Salant

Bloomberg, January 4, 2006

Jan. 4 (Bloomberg) -- Jack Abramoff's guilty plea yesterday pushed the federal investigation of the lobbyist deep into the office of former House Majority Leader Tom DeLay by implicating one of his top ex-staffers.

People close to the investigation identified the ``Staffer A" mentioned on page 13 of Abramoff's 15-page plea agreement as DeLay's former deputy chief of staff, Tony Rudy. While a member of DeLay's staff, Rudy helped Abramoff stop a measure that would have prohibited Internet gambling, according to the government. In return, Rudy's wife was paid $50,000 through a non-profit group, the government says. DeLay himself isn't named in the agreement.

The link to DeLay is at least the third to emerge in a 20- month investigation of Abramoff's ties with lawmakers, and it comes as DeLay, 58, fights separate money-laundering charges in Texas that forced him to step down as House majority leader.

Abramoff, 46, told a federal judge in Washington he will cooperate with prosecutors investigating political corruption.

``If I were DeLay, I would be very concerned," said Bill Mateja, a white-collar criminal-defense lawyer with Fish & Richardson PC in Dallas and formerly a senior counsel in the Justice Department's corporate criminal task force. ``A staffer is certainly a subject of the investigation. Whether it takes them all the way to DeLay, we'll have to wait and see."

Rudy didn't return a phone call seeking comment.

Legal Cloud

Abramoff's agreement to cooperate may scuttle DeLay's chances of returning as majority leader, because the Texas Republican may continue to be under a legal shadow for many more months. President George W. Bush said in an interview with Fox News Channel on Dec. 14 that he hoped Delay would be able to reclaim the majority leader's post because of his success in passing legislation.

``Do I? Yes, I do," the president said when asked whether he thought DeLay was innocent in the Texas case. He added, ``When he's over there, we get our votes through the House."

Abramoff's plea also increases the political jeopardy for Republicans in general during this election year, since most of the donations from the lobbyist and his former associates and clients went to members of that party.

Abramoff pleaded guilty yesterday to tax evasion, wire fraud and conspiring to corrupt public officials. He is set to plead guilty today to conspiracy and wire fraud in a separate case in federal court in Miami and will cooperate with prosecutors, according to a copy of the plea agreement obtained by Bloomberg News. The government will dismiss four other charges against him in connection with his purchase of a casino cruise-ship line in 2000, the agreement says.

Legislative Favors

The plea agreement in Washington charged Abramoff with conspiring to corrupt ``Representative #1," previously identified as Representative Robert Ney, an Ohio Republican, in return for legislative favors for the lobbyist's clients. Neither Ney nor DeLay has been charged.

``The corruption scheme with Mr. Abramoff is very extensive, and we will continue to follow it wherever it leads," Assistant Attorney General Alice Fisher told reporters. ``This case is very active and ongoing."

In November, former DeLay spokesman Michael Scanlon, Abramoff's business partner, pleaded guilty to helping the lobbyist defraud Indian-tribe clients of more than $50 million. Scanlon is also cooperating with investigators.

Not Concerned

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DeLay's lawyer, Richard Cullen, said DeLay isn't concerned that Abramoff's plea arrangement will put the lawmaker in jeopardy.

``He's not apprehensive about this, because he knows he hasn't done anything wrong and he's confident that will be the ultimate conclusion," Cullen said.

Cullen said he couldn't comment on Rudy, saying DeLay has always demanded that his staff ``comply to the highest ethics and violate no laws. He would have no tolerance with staffers that did not obey the law."

About 220 lawmakers received at least $1.7 million in political donations from Abramoff, his associates and nine tribal clients between 2001 and 2004, according to a review of Federal Election Commission and Internal Revenue Service records. Of those, 201 are still in Congress. Republicans got $1.1 million, 64 percent of the total.

Many lawmakers are giving money back to Abramoff's clients or donating the funds to charity. House Speaker Dennis Hastert, an Illinois Republican, said yesterday he would donate his Abramoff-related money to charity. Hastert received $57,250 from Abramoff, his associates and his clients from 2001 to 2004, ranking fifth among all lawmakers. Republican Senator Conrad Burns of Montana, who ranked first, said last month he'd give donations he got from Abramoff to charity, and Democrat Byron Dorgan of North Dakota, who ranked fourth, said he would send Abramoff-related donations back to the tribes.

Top Recipient

DeLay was the top recipient of funds directly from Abramoff, having accepted $17,000 in donations from the lobbyist from 2001 to 2004.

The reference to Rudy in Abramoff's plea agreement suggests that the investigation is also zeroing in on Capitol Hill staff members as well as lawmakers.

Rudy went to work for Abramoff at the Greenberg Traurig LLP law firm in Washington in 2001. In 2000, Abramoff and former DeLay chief of staff Ed Buckham used their credit cards to underwrite a trip to the U.K. attended by DeLay and his wife, the Washington Post reported in April.

Before Rudy left DeLay's office, he helped Abramoff stop legislation curbing Internet gambling on behalf of eLottery Inc., the Washington Post reported in October.

Internet Gambling

Norwalk, Connecticut-based eLottery paid Abramoff's former firm, Preston Gates LLP, $720,000 in 2000. Preston Gates, Abramoff's employer at the time, said it was lobbying on legislation to ban Internet gambling. The legislation was defeated. DeLay was one of 44 Republicans to vote against the measure in July 2000, with 165 Republicans voting for it. The measure, which needed 270 votes to pass the House, failed by 15 votes.

At the time, Rudy's wife, Lisa, was being paid fees by Toward Tradition, a Seattle-based Orthodox Jewish nonprofit organization run by Rabbi Daniel Lapin, a friend of Abramoff's, the Post reported in October.

Rudy in June 2002 also solicited a $25,000 donation for Abramoff's Capital Athletic Foundation charity from a Cyprus-based importer of Russian vodka, the government charged. Abramoff then used that money to help pay for a Scotland golf trip. The foundation's ledgers, released in November by a Senate Committee investigating the lobbyist, showed Abramoff spent more than $160,000 on the August 2002 trip that was attended by Ney and other officials, including Christian activist Ralph Reed.

Representative Chris Shays, a Connecticut Republican, said in an e-mailed statement that ``Jack Abramoff's guilty plea and his close association with Tom DeLay underscore the need for a new majority leader in the Republican Party."

Shays said that ``it is time we make it clear that ethics are an essential part of how we do business and that our leadership needs to reflect this strong ethical conduct."

Lobbyist's Plea Likely To Expose Seamy Underside Of Congress (USAT)

USA Today, January 4, 2006

Jack Abramoff, the former lobbyist who pleaded guilty Tuesday to fraud and tax evasion, is a vivid illustration of Mark Twain's adage that truth is stranger than fiction. Abramoff got into lobbying after a stint making mediocre action movies. Once in the influence-peddling business, he made a quick fortune by defrauding Indian tribes, representing foreign dictators and cozying up to powerful lawmakers — often at a Pennsylvania Avenue restaurant he owned. (Related: Abramoff pleads guilty)

Perhaps some day someone will make a film about Abramoff. In the meantime, his plea has focused attention on an even more appalling spectacle: the lawmakers that were part of his network.

What is most shocking in the Abramoff case is not that he would want to make a fortune and spread it around to gain power and influence. It is that so many members of Congress would be so quick to accommodate him. As many as 20 lawmakers and senior staff members are believed to be under investigation. That makes Abramoff, who has agreed to cooperate with prosecutors, the most dangerous man in Washington right now.

Prosecutors say Abramoff "engaged in a pattern of corruptly providing things of value to public officials, including trips, campaign contributions, and meals and entertainment, with the intent to influence acts." Officials who were eager to take Abramoff's money are now scrambling to give it away.

The Abramoff scandal is likely to make 2006 the year a seamy underside of Congress comes into full public view. Barely a decade after the arrival of a reformist GOP Congress, the institution has fallen into one of its most tawdry periods ever, with members actively seeking favors in exchange for legislation that sells out the public interest for personal or partisan gain.

Some of their behavior is legal, though troubling. Today's Congress is more than willing to grant special tax breaks to companies and industries that provide the most bountiful political contributions and have the most influential lobbyists.

Some acts of individual lawmakers, though, might exceed even the minimal lobbying laws that govern their behavior. The Abramoff scandal, which touches both parties, shows a widespread sense of entitlement among lawmakers to some of the lifestyle perks that their better-paid lobbyist acquaintances enjoy.

One member of the House, Rep. Bob Ney, R-Ohio, figures prominently in the plea agreement under the pseudonym Representative #1. He is alleged to have acted on Abramoff's behalf 11 times. Former majority leader Tom DeLay, R-Texas, is likely to receive intense scrutiny for taking trips to the South Pacific, Scotland and elsewhere bankrolled by Abramoff's groups.

These, however, might be the tip of the too-long-ignored lobbying iceberg. Abramoff is far from the only Washington lobbyist who tried to join with members of Congress in cheating the public.

A full accounting will be a painful episode. It will bring shame to lawmakers and embarrassment to the nation. It will, we hope, lead to changes in the ways lobbyists are regulated and campaigns are financed. It's true that morality can't be legislated. Even so, a cleansing process triggered by the Abramoff scandal can help ensure that fewer members of Congress are beholden to corrupt special interests operating behind the scenes.

It's Not Personal, Jack, It's Strictly Business (NYT)

By Maureen Dowd

The New York Times, January 4, 2006

The sight of Jack Abramoff striding out of federal court here yesterday, looking like a stocky gangster from a 40's movie in black fedora and trench coat, may seem like the strongest evidence so far of how graft and hubris have overwhelmed the capital.

It could have been a scene from "The Godfather," a favorite film of the felonious lobbyist. The Washington Post reported that he "did business with people linked to the underworld," bilked Indian tribes of tens of millions and then lavished a bundle in tribal gambling profits on greedy members of Congress.

The Post said Mr. Abramoff loved to amuse colleagues by imitating Michael Corleone as he rejected a corrupt politician's demand for a share of Mafia gambling money: "Senator, you can have my answer now if you like. My offer is this: nothing."

But just because this is a scale of amorality and blatant sale of government that astonishes even Washington cynics, why look on the dark side?

The Abramoff plea bargain may have left his former business partners and political pals panicking, wondering if the rat will rat them out. The Republican congressmen Tom DeLay and Bob Ney are among the sleazy solons caught up in the scandal, and the House speaker, Dennis Hastert, scrambled yesterday to launder $69,000 in dirty Abramoff contributions, donating the wad to charity. And then there's Ralph Reed, the choirboy Bible thumper who used his links to Christian groups to immorally play Indian tribes off against each other.

But looking at the big picture, in some ways the imperial presidency is working out quite well for everyone.

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Think about it: all those congressmen don't really need to do their jobs anymore. With the president able to make war more or less as he chooses, treat the enemy as he sees fit and snoop on Americans at will, our representatives have more time for the duty many are clearly best suited to: playing golf gratis in Scotland. (Remember how the White House press used to give poor Bill Clinton such a hard time about mere mulligans?)

Now that Dick Cheney has freed Congress from the bother of advising and/or consenting, lawmakers can work on new ways to game the system and wallow in the G.O.P.'s culture of corruption - while tut-tutting about the decline in American moral values.

Since the Republican-run Capitol doesn't have to worry about holding the Bush White House accountable for excesses in torture and spying and the other myriad ways it has placed itself above the law, congressmen have more leisure hours for Abramoff successors to treat them to some Redskins games and steak dinners.

Checks and balances are now as quaint as the Geneva Conventions. Congress is complicit in putting its thumb on the scale for the executive branch.

The Post reported that W. had taken advantage of an innovation started years ago by Samuel Alito Jr. to shore up executive privilege. As a young Justice Department lawyer in the Reagan administration, Mr. Alito created a strategy that has the president declare what laws mean when he signs them. Mr. Alito wanted the courts to focus as much on the president's interpretation of a law as on what he called "legislative intent."

W. has issued at least 108 such statements, The Post said, rejecting "provisions in bills that the White House regarded as interfering with its powers in national security, intelligence policy and law enforcement."

And since the imperial presidency is run by the vice president, W. has a lot of free time to do the things he likes to do. Confined with his wife and mother-in-law at the Crawford ranch, he spent his Christmas vacation mountain-biking and clearing brush.

He left the ranch for a brief visit at Brooke Army Medical Center in San Antonio, where he kidded in a way that again showed his jarring lack of empathy with the amputees from Iraq and Afghanistan: "As you can possibly see, I have an injury myself - not here at the hospital, but in combat with a cedar. I eventually won. The cedar gave me a little scratch. As a matter of fact, the colonel asked if I needed first aid when she first saw me. I was able to avoid any major surgical operations here, but thanks for your compassion, colonel."

W. also used the occasion to defend the Nixonian eavesdropping program that even made John Ashcroft and his deputy, James Comey, skittish. As The Times reported, Andy Card and Alberto Gonzales had to make an emergency trip to see the reluctant Mr. Ashcroft in the hospital in March 2004 to get the program recertified because Mr. Comey had balked.

You know you're in trouble when John Ashcroft is worried about overreaching.

Why Abramoff Matters (USAT)

USA Today, January 4, 2006

•What he knows could help bring criminal charges against at least 12 members of Congress or their aides.

•He paid for trips, donated campaign funds and did favors for Reps. Tom DeLay, Bob Ney and others.

Ex-Conyers Aide Arrested In Ghana On U.S. Fraud Charges (FREEP)

By david ashenfelter and joel thurtell

Detroit Free Press, January 4, 2006

A former aide to Michigan Congressman John Conyers Jr. was arrested in the African nation of Ghana on Friday, eight months after he failed to show up for sentencing on charges of defrauding sponsors and vendors of a national conference for black farmers of more than $150,000 in 1999.

FBI spokeswoman Dawn Clenney said Dewayne Boyd, 49, of Detroit, was arrested by Ghanaian police on Friday.

She said Boyd was returned Sunday to New York, where he was to appear today in U.S. District Court in Brooklyn for a hearing to determine whether he will be returned to Michigan.

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Boyd was convicted by a federal court jury in December 2004 of seven counts of fraud in the scam he ran while working for Conyers, a Michigan Democrat. There was no evidence that Conyers, D-Mich., was aware of the scam. Conyers fired Boyd in 2002.

Relatives Of Missing Cruise Passengers Form New Group (NSDY/AP)

By John Christoffersen, Associated Press Writer

Long Island Newsday, January 4, 2006

STAMFORD, Conn. -- Relatives of cruise passengers who disappeared on the high seas are forming a new group to seek industry reforms, saying they want to draw attention to how they were treated and the extent of crimes aboard the ships.

The group, which includes eight families so far, will seek a second hearing before Congress. The first hearing last month focused largely on the disappearance of George Allen Smith IV of Greenwich in the Mediterranean Sea last July, one of the latest in a string of disappearances in recent years.

"To me the number of disappearances plus the number of sexual assaults they admit to is alarming," said Brett Rivkind, a lawyer for Smith's family and the new group. "The only way they're going to change is by Congress regulating them."

In the past five years, the FBI opened 305 criminal cases on the high seas, Chris Swecker, assistant director of the FBI, testified at last month's congressional hearing. Sexual assaults on cruise ships comprised 45 percent of the cases, while physical assaults made up 22 percent and missing persons 10 percent, Swecker said.

Besides Smith's case, federal agents are investigating an alleged rape of a passenger on the same cruise, a cruise line spokeswoman said Tuesday.

"It's an allegation and we are cooperating with the FBI," Lynn Martenstein, spokeswoman for Royal Caribbean Cruises, told The Associated Press.

The alleged rape occurred three days after Smith disappeared from the ship, Martenstein said. She called the alleged rape a separate incident.

FBI officials declined to comment.

Smith, whose family is part of the new group, vanished July 5 from a Royal Caribbean ship in the Mediterranean Sea between Turkey and Greece. The FBI has been investigating, but no one has been charged and no body has been recovered.

Rivkind said the alleged rape victim told him the FBI was investigating the incident.

James Walker, an attorney for Smith's widow, Jennifer Hagel-Smith, said the alleged rape victim was not his client.

Industry officials estimated that 13 people have disappeared from cruise ships in the past two years. With more than 10 million passengers last year, that means less than one person per million went missing, according to the International Council of Cruise Lines.

The council said there are about 50 cruise ship crimes against U.S. citizens reported to the FBI annually, or one crime per 200,000 passengers.

"You are much safer on a cruise ship than you are in virtually any community in the United States," said Michael Crye, president of the council.

U.S. Rep. Christopher Shays, a Connecticut Republican who led the hearing, and other lawmakers question such statistics because they said the industry supplies its own data to the FBI and might be downplaying crime to keep its business thriving.

"If we're going to have an impact on what's going on, we need to join together," said Kendall Carver, whose daughter, Merrian Lynn Carver, disappeared from a cruise in Alaska in August 2004. "I think the public needs to know about it."

Smith's family contends he was a victim of foul play covered up by a cruise ship line eager to avoid bad publicity.

"The lack of information given by cruise lines is abysmal and I think that needs to change," Bree Smith, George Smith's sister, said Tuesday. "To be a victim of one of these crimes and never see any justice done, it adds insult to injury."

The cruise line has said it handled the incident appropriately and has cooperated fully with investigators.

The new group does not have a name yet, but is organizing through an e-mail, cruisevictims@cox.net.

Recruiting Office Left Open 26 Times (MJS)

By JACQUELINE SEIBEL

Milwaukee Journal Sentinel, January 4, 2006

Town of Brookfield - Police officers making routine checks on area businesses found a door to the local military recruiting office open 26 times since July, officials said Tuesday after a weekend burglary of military uniforms was reported at the facility.

Authorities are linking the burglary with the theft of a government vehicle outside a military recruiting office in Indianapolis, a development that has prompted interest from federal, state and local law-enforcement agencies.

Police believe the back door to the office at 20101 W. Blue Mound Road, which contains recruiting services for the U.S. Army, Navy, Air Force, Marines and Coast Guard, was likely unlocked again over the weekend, police Capt. Tim Imler said.

Three military uniforms, including a dress uniform and combat fatigues; a government-owned car; and keys to several government vehicles were stolen here sometime between Saturday evening and the discovery of the burglary at 7 p.m. Monday, Imler said.

In the parking lot where the 2003 Oldsmobile Alero was stolen, near the West Point Cinemas, another stolen government car was recovered, Imler said. That Chevrolet Malibu from Indianapolis had no apparent damage and was still bearing its government-issued license plates.

Today, the FBI will process evidence found in the vehicle stolen from Indianapolis, Imler said.

Michael Johnson, a supervisory special agent in the FBI's Milwaukee office, said the bureau is investigating the crime, but only as theft of government property.

"We have no reason to believe it is tied to terrorism at this point," he said.

Because the car from the Indianapolis recruiting office was found in Waukesha County, authorities have concluded that the two break-ins are related, Johnson said.

Yet Imler said authorities do not know why recruiting offices appear to have been targeted, especially since the burglar left behind computers and cash.

Also, a car with government plates would not be useful to a thief who did not have accompanying government identification, Johnson said. Someone whose aim was to collect military uniforms would be unlikely to target a recruiting station.

"There usually aren't a lot of people working in a recruiter's office, so it's doubtful they're going to have a lot of uniforms," he said.

The Indianapolis Police Department did not return phone calls seeking comment, and an officer from that state's military recruiting headquarters would only confirm that a car had been stolen.

Assisting the Town of Brookfield police and the FBI in the investigation are the U.S. Departments of Defense and Homeland Security, U.S. Immigration and Customs Enforcement, and the Joint Terrorism Task Force, consisting of federal, state and local officials.

Defense Department spokesman Lt. Col. Brian Maka said Tuesday that he had not heard about the Town of Brookfield burglary or that there had been other problems at military recruitment offices.

Gina Barton of the Journal Sentinel staff contributed to this report.

FBI Investigates Break-in At Military Recruiting Center,170 (MH)

The Miami Herald, January 4, 2006

BROOKFIELD, Wis. - Marine uniforms and a military vehicle were stolen from an armed forces recruiting center over the weekend, police said Tuesday.

The break-in follows the theft of a car from a recruiting center in Indianapolis over the weekend. That car was found at the same Town of Brookfield recruiting center where the new thefts were reported, FBI Special Agent Mike Johnson said.

Two military uniforms and a maroon 2003 Oldsmobile Alero were missing from the Brookfield site, but computers, money and electronic equipment were left behind, authorities said.

The recovered vehicle is being processed for evidence, Johnson said. The FBI is involved because federal property was stolen.

The stolen uniforms include Marine dress coats and military fatigues and boots. The thief or thieves could be impersonating military personnel, Town of Brookfield police Capt. Tim Imler said.

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Military Vehicle And Uniforms Stolen In WI (WFIE-TV)

WFIE-TV, January 4, 2006

Police say a military vehicle and uniforms have been stolen from a recruiting center in suburban Milwaukee.

The break-in follows the theft of a car from a recruiting center in Indianapolis over the weekend. FBI Special Agent Mike Johnson says that car was found at the same recruiting center in Brookfield, Wisconsin where the new thefts were reported.

In the Town of Brookfield, police say a 2003 Olds Alero was taken, also two Marine dress coats and some military fatigues and boots.

Police warn that the thieves may try to impersonate military personnel.

Robbed At Gunpoint, Barry Harbors 'No Animosities' (WP)

By Del Quentin Wilber

The Washington Post, January 4, 2006

D.C. Council member and former mayor Marion Barry yesterday urged two young men who robbed him at gunpoint Monday night to turn themselves in to police, promising that he would urge authorities not to prosecute them.

"I have no animosities," Barry declared. "I don't even want you prosecuted, really. I love you. Give yourself up. Call the police. . . . I will do all I can to advocate non-prosecution."

Barry, 69, was held up in his kitchen about 9:30 p.m. Monday by two assailants who minutes earlier had helped him carry groceries from his car to his third-floor apartment in Southeast Washington. They pointed a gun at Barry's face and stole his wallet, which contained more than $200, his driver's license and two credit cards, police said.

The thieves apparently knew that Barry (D-Ward 8) was a longtime community leader, a fact that he said made the crime "kind of hurt" because he is well respected by so many people in the city. Barry was not injured in the holdup.

"There is a sort of an unwritten code in Washington, among the underworld and the hustlers and these other guys, that I am their friend," Barry said at an afternoon news conference in which he described the robbery in detail. "I don't advocate what they do. I advocate conditions to change what they do. I was a little hurt that this betrayal did happen."

D.C. police, who are battling a recent spike in holdups, said they were shocked that someone would knowingly rob a former mayor in his apartment. They have no suspects. A bystander found Barry's wallet -- without the cash -- on a nearby street. The billfold, driver's license and credit cards were returned yesterday to the council member, authorities said.

"I was very surprised, especially in the fact that the individuals knew who Mr. Barry was, and they went ahead and robbed him anyway," said D.C. Police Cmdr. Joel Maupin. "It shows that people don't care who you are -- they just want what you have."

Barry, a four-term mayor who returned to politics last year when he was elected to the council, called the news conference at the John A. Wilson Building, the District's city hall, to talk about the crime and to urge stiffer penalties for gun possession. Even as he characterized the city's problems with guns and violence as a "pandemic," he said he felt empathy for those who robbed him.

U.S. Attorney Kenneth L. Wainstein declined to comment on Barry's remarks. Prosecutors and police will make the call on whether to file charges against those responsible for the crime.

"As with all violent crimes, we will expend every effort in the investigation of this case, both to vindicate council member Barry's rights and to prevent the perpetrators from victimizing others in the future," Wainstein said.

Barry often has spoken out against street crime in a political career that goes back more than three decades. He was first elected mayor in 1978 and was reelected to second and third terms. He was in his third term when the FBI videotaped him smoking crack; he was convicted of one count of misdemeanor drug possession.

He settled in Ward 8 after completing a six-month prison sentence and won the council seat there in 1992, launching a comeback that eventually led to a fourth term as mayor. He recently pleaded guilty to two misdemeanor tax charges because he did not pay most of his income taxes after leaving the mayor's office in 1999. He is scheduled to be sentenced Jan. 18.

Monday's robbery was not the first time Barry has been the victim of violence. He was shot above the heart by a stray bullet during the 1977 takeover of city hall by a group of Hanafi Muslims -- an experience that he said was less scary than what happened at his home Monday evening.

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"On March 7, 1977, in this very same building, I walked across the hall and heard something ring out," Barry remembered yesterday. "And I got hit in my chest. I didn't even have time to think.

"In this incident, I had a chance to see it. I was much more frightened, much more emotionally involved. It was a horrific experience to face a gun," Barry said. "I could see my life flash before me at that moment."

Monday's episode began about 9 p.m. when Barry returned from shopping for groceries at a Safeway store in Southwest Washington. He parked outside his beige-brick apartment building in the 2600 block of Douglas Place SE, part of a neighborhood that police say has problems with drug dealing and burglaries but generally is not affected by the level of violence in harder-hit areas of Barry's ward. The young men, whom Barry said he did not recognize, asked if they could help carry his bags upstairs.

"Mr. B, can we help you with your groceries?" Barry said one of the youths asked him.

Such requests are common, Barry said.

"When I go home in the evening or come out in the morning or weekend, the young people are all over me, asking for money, begging for money. 'Give me a dollar. Give me five dollars,' " Barry said. "So I try to make a practice of making them work for what they get."

Barry gave the young men several bags. After helping him, they asked if they could have some candy in a dish on a dining room table. He and the young men talked a bit. Barry then handed the two a few dollars and they left.

About 15 minutes later, they came back.

"I just let them in. That's how we do it over there. At least that's how I do it," Barry said.

Once inside the apartment, one of the men pulled out "a gun and pointed it at my face and pushed me into the kitchen," he said.

The assailants quickly fled with Barry's wallet. Police said they were stepping up patrols in the neighborhood to prevent other robberies and to gather information about the assailants.

Yesterday, Barry called for a summit among the city's leaders to address gun violence. And he said he will prod the council to pass a bill he introduced to stiffen penalties for carrying a gun in the District. The proposed legislation would also prohibit judges in most cases from granting pretrial release to defendants facing gun charges.

"Violence is everywhere," Barry said. "Guns are everywhere. This ought to be the number one priority in our city -- saving lives, getting guns off the street and rehabilitating young people."

Barry Robbed At SE Home By Men He Helped (WT)

By Matthew Cella

The Washington Times, January 4, 2006

Former D.C. Mayor Marion Barry was robbed at gunpoint in his Southeast apartment Monday night by two young men whom he had paid minutes earlier to help him carry groceries from his car.

Mr. Barry, 69, said he was not injured during the robbery, but felt downhearted about being robbed in the Ward 8 neighborhood he represents on the D.C. Council. He also said that he doesn't want authorities to prosecute the robbers, if they are caught, and that he "loves" them.

"I was really kind of hurt," Mr. Barry, a Democrat, said at a press conference yesterday at City Hall. "There's sort of an unwritten code in Washington among the underworld, the hustlers, and these other guys that I'm their friend.

"I don't advocate what they do, but I advocate the conditions to change what they do," he said.

Mr. Barry said his wallet containing his driver's license, credit cards and an undisclosed amount of cash was taken. Police later recovered the wallet, minus the cash.

Mr. Barry said he had been shopping and had a trunk full of groceries when he stopped his car in front of his apartment building in the 2600 block of Douglas Road SE at about 9:30 p.m.

He said two young men approached him, calling him "B," as the neighborhood's young people refer to him. The men asked him whether they could help carry his groceries upstairs.

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Mr. Barry said he frequently pays young people who ask him for money in the neighborhood to perform such services, preferring that to a handout.

He said he made small talk with the men, one of whom identified himself as Marcus and told Mr. Barry that he lived across the street.

The men brought the groceries into Mr. Barry's apartment, and Mr. Barry gave each man some candy before they left. About 10 minutes later, he said, the two men came back to his door, and he thought nothing of letting them in.

"They had a gun, pointed it at my face and pushed me in the kitchen," he said, adding that his life flashed before his eyes when one of the men cocked the handgun while pointing it at his head.

Mr. Barry said that the apartment building has a secure outer door, but that it is often broken. He said he thought the door locked behind him when he came in.

Seventh District Cmdr. Joel Maupin said that he was "very surprised" to hear that Mr. Barry was robbed and that it might have been a crime of opportunity.

"It shows a lot of people really don't care who you are," he said. "All they want is to get what you have."

Mr. Barry said that he held no animosity toward the men who robbed him and that he would prefer they not be prosecuted if they were caught.

"For the young men who did this to me, I say to you, I don't hold any animosities, I don't even want you prosecuted really. I love you. Give yourself up. Call the police, let them know you engaged in this activity," he said.

He said that getting guns off the streets should be the "No. 1 priority of this city" and that crime had reached crisis proportions.

Metropolitan Police Department Capt. C.V. Morris, head of the violent crimes branch, said he did not agree completely with Mr. Barry's assessment of crime in the District.

"I agree to an extent," Capt. Morris said. "We have a situation where, yes, a lot of our crimes are declining, but when you look at our robberies, our robberies are peaking. And it's all about guns. So I definitely understand this."

Through November, the most recent month for which statistics are available, preliminary police reports show that all categories of crime except for robbery had declined citywide. Robberies were up 5.8 percent.

In the 7th Police District, which includes Ward 8, robberies were up 15 percent, statistics show. Homicides and sexual assaults were each up 16.3 percent, statistics show.

Mr. Barry said he visited former council member Sandy Allen on Monday, hugged her and offered prayers two days after her grandson was killed in the same area.

Mr. Barry's first three terms as mayor ended with a 1990 crack cocaine arrest and six months in federal prison.

He returned to win the Ward 8 council seat in 1992 and then the mayor's office in 1994 for his fourth term. However, Congress in 1995 sapped most of the mayor's powers by instituting a control board to run the city. Mr. Barry declined to run again in 1998.

In 2002, Mr. Barry backed out of running for an at-large seat on the D.C. Council after U.S. Park Police reported finding "traces" of marijuana and cocaine in his illegally parked Jaguar. No charges were filed, and Mr. Barry has disputed the account.

In 2004, Mr. Barry was elected to the Ward 8 seat on the D.C. Council after he defeated Mrs. Allen, the incumbent Democrat, in the primary.

Recently, Mr. Barry pleaded guilty to two misdemeanor charges stemming from an investigation that revealed he did not file taxes from 1999 through 2004. His sentencing is scheduled for Jan. 18.

Witness: Fawell Assigned Him Campaign Work (AP)

By MIKE COLIAS, ASSOCIATED PRESS

AP, January 4, 2006

A former employee of the Illinois secretary of state's office testified Tuesday that he spent much of his time on the clock working on political campaigns, including George Ryan's runs for governor and secretary of state.

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Brad Roseberry testified at the former governor's racketeering and fraud trial that Scott Fawell, Ryan's chief of staff when he was secretary of state, assigned him to do campaign work on numerous Republican campaigns from 1992 to 1999, when Roseberry was a state employee.

Roseberry said he spent much of his work time on campaigns for Ryan and other GOP candidates-- knocking on doors and putting up campaign signs-- in the months leading up to elections, even though taxpayers were paying his salary as a state employee.

"Toward the (election), it was virtually full time," said Roseberry, who testified under government immunity from prosecution for anything that he might say on the stand. It is illegal to do campaign work on state time.

Under cross-examination from lead defense attorney Dan K. Webb, Roseberry agreed numerous times that Ryan himself never directed him to do political work of any kind. Webb also insinuated that Roseberry might have fabricated some of what he told the FBI in exchange for his immunity.

Ryan, 71, and lobbyist Larry Warner, 67, are charged with racketeering, mail fraud and other offenses. The federal indictment says that when Ryan was secretary of state he steered big-money state leases and contracts to his friends, including Warner, and received gifts and free vacations.

Ryan and Warner say nothing they did was illegal.

Roseberry testified that he typically met with Fawell and other office workers to discuss campaign work and that he only recalled Ryan being present once, in 1992. He said he met with Ryan, Fawell and others at the secretary of state's office in Chicago to discuss Roseberry's work on a campaign for Bruce Clark, a Kankakee Republican and husband of Ryan's niece who was running for the Legislature.

"I told (Ryan) it would be a tough race," Roseberry said. "He said, 'I know that. Tell me something I don't know.'" Roseberry said the meeting lasted about 20 minutes, during which one supervisor suggested Roseberry take a leave of absence to work on Clark's campaign, but Fawell rejected the idea.

Webb questioned whether Roseberry might have concocted the story to improve his chances of avoiding jail time, saying it wasn't until Roseberry's fifth meeting with prosecutors, in January 2003, that he mentioned a meeting with Ryan.

"Had you made up your mind going into that meeting that you needed to make something up about George Ryan or you were never going to get a grant of immunity?" Webb asked.

"No," Roseberry said.

Roseberry testified that the government granted him immunity a few weeks after he told prosecutors about the Ryan meeting.

Webb also tried to poke holes in Roseberry's credibility by asking him questions about his alcoholism, which Roseberry acknowledged led to an inability to remember details for much of the time he worked in the secretary of state's office. He said he quit drinking in 1996.

Earlier Tuesday, a former Cook County prosecutor said Ryan in 1992 cursed when he and then-Cook County State's Attorney Jack O'Malley suggested a way to prevent corruption within the secretary of state's office.

Patrick J. Quinn said the conversation took place just before a news conference at which Ryan and O'Malley were to discuss the indictment of two secretary of state's office supervisors who were charged with selling phony drivers licenses.

Quinn said that after he suggested the anti-fraud method, Ryan turned to O'Malley, cursed and then said, "Those are my guys."

Quinn, now an Illinois appellate judge, said O'Malley told Ryan he wasn't trying to tell him how to run his office but that the press would ask questions about how he would prevent future corruption.

Quinn quoted Ryan as saying: "Jack, you're going to go out there and look like a hero for catching these guys, and I'll look like a hero for helping you."

Judge: Jurors Won't Learn Of George Ryan's Death Penalty Reform (CHIT)

By Rudolph Bush And Matt O'connor, Tribune Staff Reporters

Chicago Tribune, January 4, 2006

DOJ_NMG_0007853

After a week off for the holidays, the trial of former Gov. George Ryan resumed today with Ryan's defense pressing forcefully but failing to put evidence of his death penalty reform before the jury.

Julie Bauer, one of Ryan's attorneys, argued it was critical that prosecution witness and Illinois Appellate Judge Patrick Quinn be questioned about his opinion of Ryan's decision to commute all death sentences in Illinois.

Outside the presence of the jury, Quinn called Ryan's decision "illegal and immoral" but swore he bore no ill will toward Ryan that led him to cooperate with prosecutors.

Prosecutors sought only to have Quinn, a former assistant state's attorney, testify about an unrelated 1992 conversation he had with then-Secretary of State Ryan and Cook County State's Atty. Jack O'Malley.

With the jury seated before him, Quinn said that during the conversation, Ryan crudely rejected a suggestion that Quinn believed could curb corruption among secretary of state employees who took bribes to sell driver's licenses to motorists who had lost their licenses for driving drunk.

The conversation occurred after the arrest of two secretary of state supervisors for the alleged offense.

Just prior to a news conference announcing the investigation and arrests, Quinn told O'Malley of a plan to store driver's photos at the secretary of state's office to prevent the issuance of illegal licenses.

"Mr. O'Malley told Secretary Ryan, 'George, Quinn has a good idea how you can cut down on this in the future,'" Quinn testified. "Mr. Ryan turned to Mr. O'Malley and said, '(Expletive) you, Jack. These are my guys.'"

Outside the jury's presence, Ryan's attorney Julie Bauer argued that Quinn's potential bias toward Ryan over the Death Penalty issue should be explored.

Even before the trial began, the defense sought to bring out evidence of Ryan's Death penalty reform.

But today, U.S. District Judge Rebecca Pallmeyer again rejected the effort and upheld the prosecution's argument that Ryan's policy decisions were irrelevant in the corruption trial.

Also testifying today was Brad Roseberry, a former Ryan political operative and supervisor in the Secretary of State's office.

Testifying under immunity from prosecution, Roseberry told jurors that he routinely did political work on state time.

He also testified that after Ryan was re-elected secretary of state in 1994, he compiled a list of state employees who had worked on the campaign in anticipation they would receive raises and promotions for helping Ryan.

Roseberry himself received a 20-percent raise after the election and was promoted to a position that did not exist before the election, he said.

Witness: Ryan Ignored Fraud (CHIST)

By NATASHA KORECKI, Federal Courts Reporter

Chicago Sun-Times, January 4, 2006

When a state prosecutor suggested a way to stop corruption in the secretary of state's office, George Ryan allegedly gave him a gruff response: "F--- you, Jack. These are my guys," Ryan told Cook County State's Attorney Jack O'Malley in May of 1992.

Illinois Appellate Court Judge Patrick Quinn, then O'Malley's public integrity chief, recalled the conversation Tuesday as he testified at Ryan's public corruption trial.

Ryan's reply came after Quinn conveyed an idea on cutting down on fraud in the secretary of state's office as he briefed Ryan and O'Malley before a news conference.

Quinn's office had just completed an investigation into the secretary of state's Midlothian licensing facility, charging employees with giving out driver's licenses to repeat DUI offenders in exchange for bribes. Quinn said O'Malley turned to him and said: "Why don't you tell George about that" idea to keep the fraud from occurring again.

Quinn testified he was surprised by Ryan's response.

"I would assume ... that Mr. Ryan would welcome any suggestions and, if nothing else, say: 'That sounds good. We will look into that,' " Quinn said. "That's what I would assume an elected official would say upon being presented with an idea about how to fight corruption -- to at least pay lip service to the idea that he'll cooperate."

When Ryan recoiled, O'Malley said Ryan might want to have a response ready in case reporters asked how he planned to stop bribes for licenses in the future, Quinn said.

"Jack, you're going to go out there and look like a hero for catching those guys and I'll look like a hero for helping you, and that's all anybody's going to ask," Ryan replied, according to Quinn.

O'Malley doesn't remember the exchange, according to Quinn and prosecutors. Quinn said at the time he told his supervisor about Ryan's response.

He said federal prosecutors later contacted him to ask about the alleged conversation; he didn't seek them out.

What role Ryan played

Prosecutors say Ryan's comeback epitomizes his take on rooting out corruption in his office. The trial, in its 14th week, entered the phase that explores what role Ryan played as investigations into corruption within his secretary of state's office intensified.

Ryan, 71, is charged with steering state contracts and leases to friends and taking cash, vacations and gifts in return. He's also charged with lying to the feds.

But Ryan's lawyers suggested Ryan rebuffed Quinn's idea because he didn't want to walk out and publicize a reform before he examined it. Years later, Ryan did revamp the secretary of state's computer system, digitizing all driver's licenses in an aim to cut back on fraud.

Outside of the jury's presence, Quinn, a judge for about nine years, ripped Ryan's 2003 decision to clear Death Row.

"It was absolutely illegal and immoral," he said.

The comment came as Ryan's lawyers sought to attack Quinn's credibility, painting him as an ex-prosecutor who had a beef with Ryan for commuting the sentences of criminals Quinn helped put behind bars.

Ryan lawyer Julie Bauer asked Quinn about his prosecution of Steve Manning, an ex-cop who landed on Death Row for murder. His conviction was later overturned by a higher court, and he was the 13th person to be let off of Death Row at a time when Illinois was mulling a moratorium on a troubled system here.

After hearing the testimony, U.S. District Judge Rebecca Pallmeyer ruled the jury couldn't hear it because it let lawyers expound on Ryan's policy decisions. She also said Ryan's 2003 decision to clear Death Row came years after Manning was released. Manning, who attended opening statements at Ryan's trial, won a $6.6 million jury verdict against the FBI last year for allegedly framing him in two crimes.

Doubts raised over memory

Also on Tuesday, former secretary of state worker Brad Roseberry said taxpayers paid for his salary as he did political work under Ryan from 1992 to 1999.

Roseberry, a court liaison for the secretary of state's office, testified that Ryan knew about him doing political work on state time at least at one point because Ryan was at a 1992 meeting where the issue was discussed.

But Roseberry said Ryan never told him to stay on the state payroll while he worked on political campaigns of Ryan and others.

Ryan attorney Dan Webb raised doubts about Roseberry's memory because he's a recovering alcoholic. Webb at one point asked if Roseberry concocted the meeting with Ryan to win an immunity order. Webb also asked if Roseberry drank a fifth of gin before that meeting. Roseberry said he couldn't recall.

Roseberry said the state later gave him a hefty raise as a reward for his political work.

Investigators Seek Info From Group On Doyle Donations (DULNT)

By Jr Ross

The Duluth News Tribune, January 4, 2006

MADISON, Wis. - State and federal investigators have asked a group that tracks campaign contributions for details on donations Gov. Jim Doyle received from utility interests, a company that won a state travel contract and a fundraiser held by a Department of Transportation official, the organization's executive director told The Associated Press.

Federal, state and local prosecutors announced last year they would review $20,000 in donations Doyle received from officials with Adelman Travel Systems shortly before and after the Milwaukee company won the state contract.

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The requests of the Wisconsin Democracy Campaign indicate investigators are looking at a wider range of donations than they have previously let on.

Mike McCabe, the group's executive director, said investigators had specific questions on the timing of donations Doyle received but gave no indication about the scope of their probe. He said the group was approached because of its unique data base detailing campaign donations.

"If they went to the Elections Board and went pawing through campaign finance repots, it'd be like looking for needles in a haystack," said McCabe, whose group advocates for campaign finance reform. "They came to us because we can help them find those needles."

The Department of Justice, U.S. Attorney's Office in Milwaukee, Dane County district attorney and FBI declined to comment Tuesday when contacted by the AP.

Doyle spokesman Dan Leistikow said the governor's administration has complied with all requests for information from investigators and was confident they would find no wrongdoing.

"People can look at this all day long if they want to, but they're not going to find anything because the governor and his entire administration act with integrity and the people of Wisconsin know that," Leistikow said.

Attorney General Peg Lautenschlager, U.S. Attorney Steven Biskupic and Dane County District Attorney Brian Blanchard announced a joint review of Doyle's donations from Adelman executives following media reports on a contract that could be worth up to $750,000.

McCabe said FBI agents first approached him a year ago asking general questions about corruption in the Capitol but were not focusing on Doyle at the time. He said Department of Justice and the FBI began asking more specific questions about Doyle's donations in early fall, and the organization complied with requests for information in November.

McCabe said DOJ specifically asked about donations from the Wisconsin Public Service Corp. The group turned that information over to investigators and also used it as part of a report it put out publicly last month detailing the $41,550 that executives of WPS and Alliant Energy Corp. gave to Doyle in the six months after the state Public Service Commission rejected their sale of the Kewaunee nuclear plant to a Virginia company.

The three-member commission, which included two Doyle appointees, reversed its decision on March 17 and allowed the sale to go through.

Leistikow said the governor was not involved in the process to award the Adelman contract and pointed out the PSC is an independent agency. Those involved in the PSC's decision have denied any undue influence.

McCabe said investigators asked about donations collected at a fundraiser held in September by Ruben Anthony Jr., deputy secretary at the Department of Transportation. He invited dozens of employees of companies that vie for DOT engineering contracts.

The Ethics Board is reviewing that fundraiser, but McCabe said the Democracy Campaign could not provide details to investigators on those donations because they will not be reported until later this month.

DOT spokeswoman Peg Schmitt said investigators have not asked the agency for any documents.

Department of Administration spokesman Scott Larrivee said the agency, which oversaw the awarding of the Adelman contract, first turned over documents to investigators in October and has complied with other requests since then.

He referred questions about the content of the documents to investigators.

Council Urged To Investigate Mariano (PHI)

By Michael Currie Schaffer

The Philadelphia Inquirer, January 4, 2006

Philadelphia's leading good-government lobby is calling on City Council to hold hearings and set new conduct rules in response to FBI documents and grand jury testimony showing that electricians' union leader John J. Dougherty had great influence over the office of indicted Councilman Rick Mariano.

The Committee of Seventy also asked for an investigation into Mariano's dismissal of three staffers who testified before a grand jury that indicted him on corruption charges. Committee president Zack Stalberg warned that lawsuits by wrongly fired employees could leave taxpayers on the hook.

"Mariano and Dougherty set a whole new standard for coziness and inappropriate insider behavior," Stalberg said of the revelations, which were first reported in The Inquirer and based on FBI reports and transcripts of grand jury testimony by Mariano aides as well as Dougherty and his political team.

Among other things, the documents reveal that:

Mariano never even interviewed his chief of staff, Walt DeTreux, before he was hired. Mariano left that task to one of Dougherty's political aides.

DeTreux took the job only on the condition that he "answer to the International Brotherhood of Electrical Workers," according to an FBI summary.

Mariano aide John Lisko said he regularly briefed Dougherty "on all legislative, political, and administrative activities" in the office.

Mariano's lawyer, Nino V. Tinari, said he supported the idea of setting rules. But he said his client had been unaware of the extent of Dougherty's influence and therefore was not responsible for inappropriate ties.

"How could he be culpable of something he wasn't even aware of?" Tinari said.

Dougherty, a likely 2007 mayoral candidate who serves as treasurer of the city Democratic Party, declined to comment. He told The Inquirer last month that he had not controlled Mariano and had in fact encouraged him to be more independent.

DeTreux has said that FBI interviewers misinterpreted his comments. He said he meant that he wanted to run the office without interference from Mariano, whose staff had been seen as bumbling and disorganized.

But Stalberg said the details demonstrated the need for a Council policy designed to "insulate Council members and their staff from special interests."

"We would all be outraged if a Council member became controlled by a local company that went so far as to install its own staff in his or her office," he wrote. "The public elects officials and expects them to be independent - not captive to a business or a union or anybody else."

Mariano was indicted Oct. 25 on charges that he accepted $30,000 in bribes from businessmen in exchange for legislative favors. If convicted, he faces 10 years in federal prison.

Prosecutors also examined as a case of possible witness intimidation Mariano's Oct. 21 firing of DeTreux and Lisko and last month's axing of staffer Anna Davila, all of whom spoke to the grand jury. No charges have been filed.

Tinari said the staffers were not fired for testifying.

In separate letters to U.S. Attorney Patrick Meehan, Philadelphia District Attorney Lynne M. Abraham, and City Controller Alan Butkovitz, Stalberg asked for an investigation into whether the firings were "consistent with city policy."

Butkovitz said he would be happy to investigate if the Mariano case weren't already being handled by the federal government.

"The problem with this is that the FBI's already heavily into this case, and I would just get in the way," he said. "From what I've heard, they'd have a fit."

Cathie Abookire, a spokeswoman for Abraham, said all questions related to the Mariano case would be referred to Meehan's office.

First Tennessee Waltz Trial Delayed As Dixon Seeks New Lawyer (AP)

By WOODY BAIRD, Associated Press Writer

AP, January 4, 2006

MEMPHIS, Tenn. (AP) -- Former state Sen. Roscoe Dixon told a federal judge Tuesday he is getting a new defense lawyer, a move that will delay the first scheduled trial for the Tennessee Waltz scandal by months.

Defense lawyer Walter Bailey stepped down after prosecutors raised questions about a potential conflict of interest with a government informant.

U.S. District Court Judge Jon McCalla said he expected Dixon's trial on charges of taking payoffs to influence legislation to be delayed at least two to three months. It had been set to begin Jan. 17.

The conflict of interest stemmed from work Bailey's law firm had done representing the informant, Tim Willis, in other legal matters.

Those cases involved issues that could be used to question the credibility and character of Willis, who is expected to be the prosecution's witness, but Bailey could have been limited in raising those questions because of his firm's previous work.

Outside the courthouse Dixon said he was initially disappointed in losing Bailey as his lawyer and seeing the trial delayed.

"At first you want to hurry up and get it out of the way, but maybe this ordeal is about long suffering, patience, learning how to let God work things for you," Dixon said.

The former lawmaker, a Memphis Democrat, said he is looking for a new attorney.

In Recordings, Mobster Pierces Veil On Gambino Crime Family (NSDY/AP)

By Matt Apuzzo, Associated Press Writer

Long Island Newsday, January 4, 2006

NEW HAVEN, Conn. -- Mobster Victor Riccitelli wanted so badly to keep his recorded conversations with an FBI informant secret, he broke the mob's honor code and admitted his Mafia membership rather than have prosecutors play the tapes in court.

For the first time since Riccitelli and more than a dozen others were indicted in a landmark Mafia case in 2004, prosecutors recently offered the first clues as to why he was so insistent the tapes remain sealed: In them, he revealed the Gambino crime family hierarchy, placing ranks with names and explaining the upper echelon of one of the nation's most notorious crime syndicates.

Riccitelli, in conversations with a Stamford strip club owner working with the FBI, also described his Mafia induction ceremony, the secret ritual in which members swear a lifelong allegiance to the crime family.

"He said that a picture of a saint was placed in his hands and burned, and that he dumped the ashes in a dish," prosecutors wrote last week, describing the tapes in a memo to U.S. District Judge Janet Bond Arterton.

Riccitelli was scheduled to be sentenced for racketeering Tuesday but his case was delayed until Jan. 20. He faces six to eight years in prison and prosecutors want that tacked onto the end of his 13-year sentence for cocaine distribution _ all but ensuring that Riccitelli, 72 and a cancer patient, will die in prison.

Defense attorney John Einhorn did not return a message seeking a response to the prosecution memo.

The Gambino crime family, once led by John Gotti, allegedly runs illegal Connecticut gambling businesses that include sports betting, poker machines and the numbers racket, prosecutors said.

"The defendant is an incorrigible and possibly violent criminal whose life is marked by one constant: a never ending search for fresh opportunity to enrich himself illegally," prosecutors wrote.

In late 2003 _ when law enforcement officials were openly calling John Gotti's brother, Peter, the family boss _ Riccitelli was captured on tape explaining that Arnold "Zeke" Squittieri was in charge, with Anthony "The Genius" Megale serving as the No. 2 man and Joseph "Jo Jo" Corozzo as consigliere, or top adviser.

Megale, a Stamford man who pleaded guilty last year to racketeering in Connecticut and also faces charges in New York, handled much of the family's day-to-day operations, Riccitelli said.

"He's in New York every day. He's under the (expletive) fire," Riccitelli said. "It's the consigliere, the underboss and the boss. OK? The boss is a sweetheart, but he can't run around cause he's on parole. He'll go do what he gotta do now, don't get me wrong, but he can't go in the street where wise guys are because then he's gonna be seen."

Squittieri, of Englewood Cliffs, N.J., wasn't publicly identified as the Gambino boss until last year when prosecutors indicted him and Megale in New York and accused them of running the family. New York prosecutors have identified Corozzo as consigliere but he has not been charged as such.

It is unclear whether prosecutors will try to play the Riccitelli tapes at sentencing later this month. They were close to doing so in October when on the eve of trial Riccitelli tried again to have the tapes thrown out.

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Prosecutors put John Sereno, the FBI agent who led the investigation, on the stand and let him explain how he wired his informant before every meeting. As prosecutors were about to hit the play button, Einhorn leapt up and objected.

A judge ruled that the tapes would be admitted, and Riccitelli leaned back in his chair and said, "That's it. No point."

He pleaded guilty that day.

Two Plead Guilty In Mortgage Fraud (CINE)

By Mike Boyer, Enquirer staff writer

The Cincinnati Enquirer, January 4, 2006

Two loan processors have agreed to plead guilty to fraud and other charges in the federal probe into mortgage fraud involving low-priced homes in Greater Cincinnati.

Ike Bronson, a former loan processor at Seven Hills Financial mortgage brokerage, has agreed to plead guilty to charges of bank fraud, conspiracy and filing a false tax return, in documents filed in U.S. District Court in Cincinnati.

Bryan Young, another loan processor, has agreed to plead guilty to bank fraud and conspiracy charges, according to court papers.

More than three dozen people have entered guilty pleas in the ongoing probe by the Internal Revenue Service, the FBI and the U.S. Postal Inspection Service into the sale of more than $50 million in area real estate.

Bronson originated loans and recruited buyers for a number of properties sold at artificially inflated prices, according to investigators. He also was aware false information was submitted on mortgage loan applications.

Investigators said Bronson caused real or intended losses of more than $728,000 to financial institutions and failed to report $131,217 in income in 2003 as result of payoffs from fraudulent loan proceeds.

Young processed 15 to 20 loans that included false documents causing real or intended losses exceeding $255,000 for financial institutions, investigators said.

Both men waived a grand jury indictment and will appear in U.S. District Court on Jan. 12 to formally enter their pleas.

Separately, Erica Crum, a loan officer for two different mortgage companies, was sentenced last week in U.S. District Court to 37 months in prison and was fined $15,000, after admitting charges of conspiracy, bank fraud and money laundering.

She also was ordered not to seek employment in the mortgage industry and to pay restitution to be determined later.

Crum, who worked at Airline Union's Mortgage Co., in Springdale, until April 2002 and out of her home from then until May 2003 for Loan Star Mortgage, misrepresented to lenders the source of down payments purportedly made by borrowers, according to court papers.

She also engaged in at least 25 money-laundering transactions involving $393,626, investigators said.

CIVIL LAW:

U.S. Not Told Of 2 Deaths During Study Of Heart Drug (NYT)

By Stephanie Saul

The New York Times, January 4, 2006

The Scios unit of Johnson & Johnson yesterday added to the questions already clouding its heart failure medication Natrecor, saying the company had failed to tell federal regulators about the deaths of two patients in a clinical trial of the drug.

The two deaths were also omitted from a report of the trial published in October in The Journal of Emergency Medicine, the company said. That article reported 6 deaths within 30 days among 237 patients given Natrecor or other treatment in hospital emergency rooms in 2001 and early 2002. Five of those deaths were of people who had taken Natrecor.

The two additional deaths raised the total to seven among Natrecor patients, although Scios said yesterday that the difference did not change the safety assumptions about the drug.

Neither Scios nor Dr. W. Franklin Peacock 4th of the Cleveland Clinic, the principal investigator in the study, disclosed yesterday how the deaths had been omitted from the results, but said they had learned only recently that the deaths occurred

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within the 30-day study period. A final analysis of the results is under way and will be submitted to the Food and Drug Administration, said Mark Wolfe, a Scios spokesman. He said he did not yet know the causes of the two additional deaths.

But a spokeswoman for the Cleveland Clinic, Eileen Sheil, said that Dr. Peacock strongly believed that the deaths had been accidental and not related to problems with Natrecor.

Natrecor, which the F.D.A. approved in August 2001 for use in acutely ill heart-failure patients, became a big seller for Scios. Sales were helped by use of the product in less severely ill patients, known as off-label use, sometimes in outpatient clinics in cardiologists' offices.

After achieving sales of $400 million in 2004, though, Natrecor's growth failed to meet forecasts last year after questions arose about its safety and whether it was effective enough to justify a cost of about $500 a treatment, compared with much cheaper alternatives. The Justice Department is also investigating whether Scios promoted the drug for unapproved uses. And the government recently announced that Medicare and Medicaid would no longer cover the drug's outpatient use.

Scios consistently defended Natrecor's safety. But the failure of researchers to accurately collect and report the death data in the Natrecor trial comes amid questions elsewhere in the medical industry about the accuracy of studies of drugs and medical devices.

"When you're talking deaths in clinical trials, mistakes are not an option," said Dr. Arthur Caplan, a medical ethicist at the University of Pennsylvania. "It's just an area where we have to have absolute, foolproof reporting in place."

Last month, the drug maker Merck was accused of misrepresenting the results of a clinical trial of the painkiller Vioxx to minimize its heart risks. The study was published in November 2000, almost four years before Merck stopped selling the drug amid safety concerns.

The Vioxx accusation came from Dr. Gregory D. Curfman, the editor of The New England Journal of Medicine, who said the authors of a Vioxx study had deleted data about strokes, heart attacks and other vascular problems suffered by some patients. Merck has denied mishandling the data submitted for publication.

While the findings of the Natrecor study were presented earlier at medical conferences, it was not until October that the complete results were published in The Journal of Emergency Medicine. At that time, Dr. Peacock and colleagues, who included a Scios executive, reported that five Natrecor patients had died within 30 days. The deaths included those from causes clearly not related to Natrecor use, including an accident, the study reported.

In the meantime, Scios had undertaken a retrospective review of the study to look at mortality in patients up to 180 days after treatment. It was during that review, according to the Scios spokesman, Mr. Wolfe, that the two additional deaths among Natrecor patients within the 30-day period were discovered. When the company learned of those deaths, it notified the F.D.A. and Dr. Peacock, Mr. Wolfe said.

Ms. Sheil, the spokeswoman for the Cleveland Clinic, said Dr. Peacock learned of the additional deaths in September and notified The Journal of Emergency Medicine, but the article had already been published. Its authors say they will update it once the analysis by Scios is completed, sometime in the next few months.

Agencies To Designate Chief FOIA Officers (FCW)

By Matthew D. Weigelt

Federal Computer Week, January 4, 2006

Federal agencies must designate a chief Freedom of Information Act officer by Jan. 13, and each new officer will review the agency's FOIA operations and develop an improvement plan by June, according to a memo.

Released Dec. 30 by the Office of Management and Budget, the memo states that each agency must send a report on its FOIA operations and its improvement plan to the Justice Department and OMB by June 14. Agencies will also post the improvement plans on their Web sites.

The chief FOIA officer will be responsible for agencywide compliance with FOIA and oversee the program's implementation, the memo states. The officer will designate several public liaisons and post their contact information on the agency's Web site. The liaisons will serve as supervisors who review concerns about services.

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President Bush issued an executive order Dec. 14 that directs agency leaders to ensure citizen-centered and results-oriented FOIA operations. In fiscal 2006 and 2007 FOIA reports, agencies will include information regarding the milestones made in FOIA improvement plans.

OMB Issues Further Guidance On FOIA Executive Order (GCN)

By Rob Thormeyer, GCN Staff

Government Computer News, January 4, 2006

Agencies must designate a chief Freedom of Information Act officer by Jan. 13, as well as review and revise their FOIA processing requirements by mid-June, according to a memorandum from the Office of Management and Budget.

In the memorandum dated Dec. 30, 2005, OMB also required agencies to establish one or more FOIA service centers and place contact information for public liaisons on their Web sites.

On Dec. 14, 2005, President Bush via executive order directed agencies to streamline their FOIA processing by appointing a chief FOIA officer and making information about how they handle these requests available online within six months.

In the OMB memorandum, deputy director Joel Kaplan provided more specifics and said agency FOIA officers must review their information operations and draft an improvement plan with concrete milestones for fiscal 2006 and 2007.

The plan must be submitted to the Justice Department and OMB and posted on agency Web sites by June 14, Kaplan wrote.

AARP Edges Away From Drug Imports (HILL)

By Kelly Mccormack And Bob Cusack

The Hill, January 4, 2006

In a move that is already attracting criticism from some lawmakers, AARP last week softened its support of drug reimportation legislation by saying that the new Medicare drug benefit saves senior citizens more than buying pharmaceuticals from Canada.

The powerful consumer group has previously endorsed reimportating drugs, but its revised position could severely damage momentum for legislation pending in Congress.

It could also alleviate political pressure on the White House and the pharmaceutical industry, which have opposed reimportation even though it is supported by a majority of members of Congress.

The group has enormous clout on Capitol Hill, playing a crucial role in passing the Medicare drug bill in 2003 and thwarting the GOP effort to reform Social Security last year.

AARP's press release on the matter, released over the holidays, did not get much attention last week. But the ramifications of it could be significant in the debate on the affordability of prescription drugs.

The new analysis, titled "The New Math: Cheaper than Canada? The drug benefit may be the better deal," used the government's Medicare plan finder to compare "stand alone" plans that cover all of a senior's prescription needs to the cost of acquiring drugs across the border. It concluded that seniors who enroll in a low-cost Medicare prescription-drug plan would save more in drug costs this year than if they were to buy the same drugs in Canada.

While Canadian drug prices are still cheaper than prices in the United States, AARP found that when a senior includes all out-of-pocket costs — premiums, deductibles and payments for medications — the price is lower.

AARP stressed that it continues to support reimportation legislation.

"The bottom line is drug prices are too high," said AARP spokesman Mark Kitchens. "The two ideas [reimportation and the Medicare drug benefit] are not mutually exclusive. Many Americans that are not on Medicare would benefit from reimportation. Medicare Part D is a tool that would make prescriptions more affordable."

But AARP CEO Bill Novelli adopted a different tone in the group's Dec. 29 release, saying, "Jan. 1 is truly a watershed day for many Americans who face the high cost of presciption drugs. Millions of Americans who have never had drug coverage can now save more money through Medicare Part D rather than turning to Canada to get their prescriptions."

Some congressional Democrats are still upset with Novelli for his role in AARP's backing of the GOP drug bill more than two years ago.

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The AARP release added, "In conversations with potential enrollees, AARP is hearing that the focus has shifted from the legislation to choosing the best plan to suit their needs."

These statements triggered strong reactions from both sides of the aisle.

"AARP is selling Medicare drug coverage, so it's not surprising that they're pushing their own product," said Rep. Sherrod Brown (D-Ohio). "Now they are making an apples-to-oranges comparison between Medicare drug coverage and Canadian drug prices. Seniors deserve decent drug coverage, and every American deserves lower-priced drugs. That's the bottom line."

AARP is working with the insurance company UnitedHealth Group to offer prescription-drug coverage. More than two million seniors have signed up for drug plans offered by the AARP-backed insurer.

Senate Finance Committee Chairman Chuck Grassley (R-Iowa) said that the AARP study "drives home the point that the new Medicare prescription-drug benefit can help beneficiaries save some serious money on their prescription-drug bills." But he emphasized that the savings will not be realized by all beneficiaries.

"We need to continue to work on other ways to lower prescription drugs costs for all Americans," said Grassley. "We can't let up on making prescription drugs more affordable."

"Saying that Medicare drug plans 'cost less' than buying prescription drugs from other countries is misleading," said Jon Yarian, a spokesman for Rep. Gil Gutknecht's (R-Minn.). "The cost of the prescription drugs hasn't changed. The only difference is who bears the burden of the expense. American taxpayers will be paying for these 'savings.'"

Rep. Jo Ann Emerson (R-Mo.) said, "The fact remains that we still lack a comprehensive policy to address high prescription-drug prices in America when identical, safe and affordable medicines are readily available to Americans just over our borders."

The pharmaceutical industry was more optimistic about the potential savings in the Medicare prescription-drug benefit.

"Seniors shouldn't have to gamble with their lives by importing potentially dangerous, counterfeit prescription medicines," said the Pharmaceutical Research and Manufacturers of America Senior Vice President Ken Johnson. "Instead they should opt for a safer, more affordable option offered by Medicare.

CIVIL RIGHTS:

Guilty Plea In Strip Club Case (NSL)

By RUSSELL BEN-ALI, Star-Ledger Staff

Newark Star-Ledger, January 4, 2006

A Brooklyn woman accused of forcing Russian immigrants to dance nude in New Jersey strip clubs in a human trafficking ring run by her husband pleaded guilty yesterday to conspiracy charges in Newark federal court.

Viktoriya I'lina , 41, a naturalized U.S. citizen from Russia, is the last of three defendants to plead guilty in a case that involved luring more than 25 women from Voronezh in Russia, sending them to work in strip clubs and forcing them to pay exorbitant fees to members of the ring.

Yesterday she admitted demanding $5,200 from one dancer and $2,600 from another, when the two women stopped dancing in the clubs.

I'lina pleaded guilty before Judge John C. Lifland to one count of conspiracy to commit extortion, which carries a maximum sentence of 20 years in prison and a fine of $250,000. She also pleaded guilty to visa fraud, which carries a maximum prison sentence of five years and a fine of $250,000.

But under federal sentencing guidelines, I'lina will likely face a term of 41 to 51 months in prison when sentenced on April 13, authorities said. She also agreed to forfeit $25,575 seized from her Brooklyn residence during a court-ordered search.

"As we did with her husband, we'll be seeking a sentence at the top of that range," U.S. Attorney Christopher J. Christie said in a statement. "For the treatment they imposed on these women, both of them deserve nothing less."

I'lina's attorney, Lawrence S. Lustberg , said he plans to file an extensive sentencing memorandum to prove that I'lina is less culpable than her co-conspirators.

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"We'll also show that for many of the women who were involved, she actually treated them with decency and dignity," Lustberg said of his client. He described her as the mother of a high school girl who traveled to the U.S. after earning a medical degree in Russia and has spent most of the past three and a half years in jail or under house arrest.

I'lina's co-defendants included her husband, ring organizer Lev Trakhtenberg , a promoter of Russian cultural events, and former boxer Sergey Malchikov , known as the group's local enforcer. The Brooklyn trio was arrested by FBI agents in August 2002.

The ring illegally gained cultural exchange visas for more than 25 women whom they represented as members of the Moscow Southwest Theater, a Russian acting troupe that visited the University of Chicago as part of an exchange program, according to the U.S. Attorney's Office.

Once here, the victims were led to believe that their families in Russia would be harmed by mobsters if the women did not turn over much of their earnings from dancing up to 10 hours per day, six days per week in the clubs, authorities said.

Trachtenberg, a naturalized U.S. citizen, was sentenced last June to 60 months in prison for his role in the New Jersey ring. The sentence is to run concurrently with a 42-month sentence he received in Manhattan federal court, where he admitted last March to forcing one Russian woman into prostitution when she attempted to quit dancing.

Malchikov pleaded guilty to conspiracy to commit forced labor, visa fraud and extortion and was sentenced last June to 45 months in prison.

Despite the ring's breakup, forced labor remains a serious problem facing law enforcement.

"We believe that this (practice) is ongoing still in New Jersey, in terms of Russian women dancing in clubs, but nothing directly related to these three defendants," said Assistant U.S. Attorney Leslie Faye Schwartz , who prosecuted the three cases.

Ater Gets Justice Dept. OK To Take Over New Orleans Elections (AP)

AP, January 4, 2006

Secretary of State Al Ater moved closer to readying a new date for the postponed New Orleans mayoral and city council elections, gaining approval from the U.S. Justice Department for special authority to take control of the elections.

The Legislature, in a recent special session, gave the secretary of state special powers to develop an emergency elections plan during a declared disaster that would let Ater relocate or consolidate polling places and address shortages of elections workers and voting machines.

That new law required approval by the federal government under the Voting Rights Act, and Ater spokeswoman Jennifer Marusak said the approval was granted.

Gov. Kathleen Blanco postponed the Feb. 4 New Orleans elections after Ater said it was impossible to ready the devastated city and track down voters so soon after Hurricane Katrina. The storm had damaged polling places and scattered the city's voters and elections workers around the nation.

Ater agreed to hold the elections by April 29 if possible, as part of the settlement of a lawsuit against him and Blanco, but a series of bureaucratic hurdles remain before he can recommend a new election date to the governor.

The governor and two legislative committees must agree to Ater's takeover of the elections - an agreement expected to win easy approval.

Then, Ater must present his emergency elections plan for New Orleans, which needs approval from the full Louisiana Legislature and another layer of approval from the U.S. Justice Department, Marusak said.

Ater is working on a tight schedule. To hold the mayoral and city council primary elections April 29, all those approvals must be in line by March 8, when the sign-up period for the elections must begin.

As part of the developing emergency elections plan, Ater's office is combing through a list of more than one million names submitted by the Federal Emergency Management Agency - people who sought FEMA hurricane aid - hoping to track down where Katrina evacuees have relocated since the storm forced thousands of people out of Louisiana.

Ater said he needed the information to notify evacuees of their voting rights and the way to request an absentee ballot for elections.

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Marusak said elections officials hope to mail the information by February and plan to use the FEMA list to start media campaigns about voting rights in areas housing the largest number of hurricane evacuees.

Ex-Boss Demanded Sex, D.C. Parks And Recreation Workers Say (WP)

By Karlyn Barker

The Washington Post, January 4, 2006

The former chief of facility maintenance at the D.C. Department of Parks and Recreation allegedly kissed, fondled and demanded sexual favors from three women under his supervision, according to the women, who say the alleged harassment continued even after they told several supervisors at the agency.

The women are single mothers who were hired initially for maintenance jobs at $6.15 an hour under the District's welfare-to-work program. One former employee said she complained in person more than three years ago to Neil O. Albert, a former deputy mayor who was then the department's director.

The maintenance chief, Darnell Thompson Sr., 50, left his $66,000 position at the agency last summer after a current employee, Garrina Byrd, 28, filed a sexual harassment complaint against him with the city's Office of Human Rights.

"The Chief would grab my breasts or my behind and, if I had on a skirt, he would try to put his hand up my skirt," Byrd alleges in her complaint, filed in April. "I began to consent to the Chief's requests for sex because I was afraid that I would lose my employment."

Byrd, who was hired in 2001 and said Thompson's sexual harassment began in 2002, repeated her allegation last month at a D.C. Council committee's oversight hearing on the recreation department.

"Each time, he threatened to fire me if I didn't agree to his demands," Byrd testified. She told the panel that young women struggling to improve their lives should not be "forced to choose between their dignity and the need to make a living."

The District government has a "zero tolerance" policy that prohibits sexual harassment in the workplace and requires any supervisor who receives a complaint to make sure an investigation is conducted. Byrd's complaint has triggered mandatory training for the recreation department's 750 employees on what constitutes sexual harassment -- and what managers should do about it, said Kimberley Flowers, the department's new director.

The city has been criticized previously for failing to quickly address problems in the workplace. Five female deputies at the D.C. medical examiner's office filed complaints in 2003, alleging sexual harassment and racial discrimination, and later collected a settlement that totaled $250,000.

The allegations against Thompson are drawn from Byrd's complaint and from interviews with her and two former recreation department employees. The women alleged a range of sexual harassment incidents, most of which they said took place in Thompson's office at the facilities maintenance bureau at 1515 Half St. SW.

One woman, Annette Burns, said that Thompson tried to sexually assault her in 2002 when she was eight months pregnant -- and that she reported him to Albert. Demera Gaskins said Thompson came to recreation centers where she worked last year and pressured her for sex.

Thompson, hired in 1986, according to city records, declined to comment on the allegations when contacted by telephone at his home.

"I don't have any response," he said.

A spokeswoman for the District's Attorney General's Office, which is representing the Parks and Recreation Department, also would not comment.

Flowers and other city officials declined to discuss the allegations or say why Thompson left the agency, citing possible litigation and the confidentiality of personnel matters.

Allegations about Thompson were raised in April with the council's Committee on Education, Libraries and Recreation. Deborrah E. Jackson, an officer with the union representing non-management employees, said in an interview that she started hearing concerns about Thompson in 2001 and 2002 after the agency began hiring former welfare recipients, mostly women, for jobs that offered temporary work experience or "term" employment that could be renewed every 13 months.

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In a memorandum to council member Kathy Patterson (D-Ward 3), chairwoman of the panel, Jackson said there had been at least three sexual harassment allegations against Thompson. She wrote that Albert and another official, Neil Stanley, failed to heed the women's complaints.

"Neither of these administrators conducted in-house investigations," Jackson, president of the American Federation of Government Employees, Local 2741, told Patterson.

Albert and Stanley, however, said they took the allegations very seriously and investigated them.

"If the findings warranted it, the matter was referred to the Office of Human Rights," said Albert, who couldn't recall the specifics of any case. Albert left the agency in 2004 after three years to become a deputy mayor. He recently quit to run an education management company.

"Maybe someone didn't like the results, but it's not correct to say we didn't do anything about it," said Stanley, the agency's former general counsel who took over as interim director when Albert left. He is now a deputy director at the D.C. Department of Consumer and Regulatory Affairs.

Since January 2001, according to the Office of Human Rights, only one sexual harassment complaint -- Byrd's -- has been filed against the Department of Parks and Recreation. In the past three years, the office has received a total of 20 sexual harassment complaints from all District agencies.

Patterson said she called the Parks and Recreation Department twice about the sexual harassment allegations and about separate allegations that Thompson had brought a gun to work and threatened employees. She said that by the second call, Thompson was on administrative leave. He was dropped from the city payroll Aug. 19.

Byrd, Burns and Gaskins said they were thrilled to be hired as maintenance workers, assigned to pick up trash, rake leaves and clean recreation centers. The job paid only $6.15 to start. But it was their first steady employment, and the hours, 7 a.m. to 3:30 p.m., gave them time with their children.

Byrd alleged that her problems with Thompson began in 2002, when Thompson ordered her to pull up her shirt if she wanted to keep her job. She complied, she said, and was transferred that day from field work to the Half Street office. She answered phones, made calls -- and endured what she said in her council committee testimony was nearly three years of escalating sexual demands.

In her complaint, Byrd says she initially reported Thompson to a female supervisor, who told her to just tell him to stop.

"The touching progressed to the point where the Chief began asking for sex and when I refused, he threatened me by saying he would not extend my 13-month employment for another term," Byrd said in her complaint.

In an interview, Byrd alleged that Thompson called her into his office and showed her a termination letter.

"He asked me what was I willing to do to stay," and they then had intercourse on his desk, Byrd alleged, crying as she related the story. "I thought it would be one time and that I'd have a job and that would be the end of it."

Thompson, she alleged, began to demand a variety of sexual favors. He promoted her to a job as a clerical assistant, with a salary of $33,500 a year, even though she had no secretarial training. On Thompson's orders, she said, she spent more and more time in his office, fueling rumors that she was his girlfriend. That impression spread among co-workers when word got around that he had given Byrd $3,000 to buy a car.

She said that she did not ask for the money and that Thompson said nothing when he handed her the cash in an envelope outside the Half Street building. Thompson, she alleged, had been accused of sexually harassing another woman at work. Byrd said she regarded the cash as "hush money" so that she would not report him.

By last spring, Byrd said in an interview, she had begun refusing Thompson's sexual demands, and he showed her another termination letter. She said she discussed her problems with another supervisor, Julie Banks.

"She told me he had been threatening to fire her if she didn't have sex with him," said Banks, who urged Byrd to report Thompson.

On April 5, Byrd went to the department's headquarters on 16th Street NW and filed a complaint. That day, she was handed a letter that said she had received her "first and final" interview on her complaint, with no indication that anything would be done about it. The next day, she filed a complaint with the Office of Human Rights.

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"You come into the workplace to get training and instead you get abused," said Gary T. Brown, an attorney for Byrd who also represents Burns. He said as welfare-to-work women, both were particularly vulnerable.

Burns, now 28, started at the agency in 2000. She said she began having problems with Thompson in 2002 after she became pregnant and he transferred her to clerical duties in his office. She said she complained to a male supervisor that Thompson was touching her inappropriately, but the behavior continued.

On April 30, 2002, Burns said, Thompson cornered her in his office, grabbed her left breast and tried to kiss her. She said she fled in tears. The next day, she said, she went to headquarters and met with Albert and Stanley. She was placed on administrative leave, then transferred to an office away from Thompson. She said she heard nothing more about her complaint.

Burns, who had been hoping for a permanent job, was let go after her term employment ended.

"When I got terminated," she said, "I called Mr. Albert. He never called me back."

Albert recalled getting "one or two complaints" about Thompson. "We followed up on it immediately," he said.

Thompson was still the maintenance chief in 2004 when Gaskins, who was hired in 2003, alleges that he started making sexual demands. By then, she was a term employee with a salary of $12.95 an hour, and she said she agreed to his demands after he threatened to fire her.

"He was my boss," said Gaskins, now 25. "I pretty much had to do what he said."

But a few months later, when she began refusing, she said, Thompson handed her a termination letter, effective March 31 last year.

Johnnie Richardson, a work leader, said she heard complaints about Thompson from Gaskins and Byrd but didn't report him because she didn't believe the allegations.

Byrd returned to the Half Street office after Thompson was gone. Co-workers, she said, "have been horrible to me," and last month she was reassigned to another office with less convenient hours. She said she hopes her complaint will result in job training, a financial settlement and "someone taking responsibility."

Recently, Byrd said, she was among the employees summoned to a training session on how to recognize and prevent sexual harassment. The instructions, she said, "are four years too late."

Massachusetts Sued Over Gay Marriage Ruling (REU-Y2)

By Jason Szep

Reuters, January 4, 2006

Gay rights lawyers filed on Tuesday a lawsuit to stop a proposed ballot measure aimed at overturning a court decision that made Massachusetts the first and only U.S. state to legalize gay marriage.

The lawsuit by the Gay & Lesbian Advocates & Defenders (GLAD) said the state's attorney general erred when he ruled in September that Massachusetts voters could decide in a 2008 poll to redefine marriage as the union of one man and one woman.

They said the decision by Thomas Reilly, a Democrat who is likely to run for governor this year, was unconstitutional because ballot initiatives cannot reverse judicial decisions under the state's Constitution.

"The attorney general simply got it wrong," Gary Buseck, GLAD's legal director, said in a statement.

Reilly's office said his decision was legally sound, adding that Reilly does not personally favor banning same-sex marriage.

Massachusetts' highest court ruled in 2003 that it was unconstitutional to ban gay marriage, paving the way for America's first same-sex marriages in May the following year.

Since then, about 7,000 gays and lesbians have wed in the state, and gay rights advocates across the country have sought to encourage other states to legalize same-sex marriages.

Those efforts have largely failed, most recently in Texas, which in November became the 19th U.S. state to approve a constitutional ban on same-sex marriage.

Homosexual couples in at least seven states have filed lawsuits seeking the right to marry, while as many as 10 states could see campaigns this year for amendments to uphold marriage as the union of a man and a woman.

'AN ELECTRIFYING ISSUE'

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In Massachusetts, VoteOnMarriage.org -- a coalition of conservative and Christian groups -- proposed the 2008 ballot initiative to amend the state constitution by defining marriage as exclusively between a man and a woman.

Between September 21 and November 23 last year, they gathered more than twice the number of voter signatures needed for state legislators to put the question to the public.

On Tuesday they predicted the lawsuit would be defeated.

"We don't think the suit is credible," said Kristian Mineau, president of the Massachusetts Family Institute, a backer of the initiative. "I think they were surprised at the magnitude of the number of signatures -- 170,000 -- which tells us what an electrifying issue this is with the people."

Conservatives and some religious groups say the issue is so important that voters should decide it, not the state Supreme Court.

Massachusetts' Republican governor, Mitt Romney, a devout Mormon with White House ambitions, supports their position.

The ballot initiative must be approved by 25 percent of the 200-member state Legislature this year and again in 2007 before it can go to voters.

If passed, it would not seek to annul marriage licenses already issued to same-sex couples.

GLAD said it expects the Massachusetts Supreme Judicial Court for Suffolk County to consider the lawsuit against Reilly in the next few months.

Massachusetts Sued On Marriage Petition (WT)

By Cheryl Wetzstein

The Washington Times, January 4, 2006

A homosexual rights legal organization filed a lawsuit yesterday challenging a ruling that allowed a petition drive for a constitutional amendment that would end same-sex "marriages" in Massachusetts.

Massachusetts Attorney General Thomas Reilly "simply got it wrong" in September when he certified VoteOnMarriage.org's marriage amendment for a petition drive, said Gary Buseck, legal director of Gay & Lesbian Advocates & Defenders (GLAD), which filed its lawsuit before the Massachusetts Supreme Judicial Court.

Article 48 of the state constitution says citizens cannot use constitutional amendments to reverse judicial decisions. The sole purpose of the marriage amendment, Mr. Buseck said, is to reverse the court's 2003 Goodridge decision, which legalized same-sex "marriage" in Massachusetts.

The proposed marriage amendment would allow marriages only between one man and one woman.

Johanna Schulman, president of GLAD's board of directors, is the lawsuit's plaintiff. Mr. Reilly and William F. Galvin, secretary of the commonwealth, are named as defendants.

The lawsuit asks the court to find that Mr. Reilly erred when he certified the VoteOnMarriage.org amendment for a signature drive. It also asks the court to block Mr. Galvin from taking any "further steps" to get the proposal on a ballot.

This fall, backers of the VoteOnMarriage.org amendment collected about 170,000 signatures, roughly twice the number needed.

Mr. Galvin certified more than 123,000 signatures in December. GLAD attorneys expect that he will send the amendment to state lawmakers when they go into session today.

The amendment must be approved twice by lawmakers before it can go before voters in November 2008. If the amendment is passed, backers say, it would not nullify existing same-sex "marriages."

More than 6,500 same-sex couples have "married" since the Goodridge decision went into effect in May 2004.

A spokesman for Mr. Reilly said yesterday that although the attorney general doesn't support the marriage amendment personally, he thinks that allowing it to proceed was the right decision.

In an opinion column written in September, Mr. Reilly said he looked carefully at the history of Article 48.

Citizen petitions have been used since the early 1900s to amend the state constitution "in response to a court decision finding a law unconstitutional," Mr. Reilly wrote. Petitions may not be used to "put a law back into effect" after a court has found it unconstitutional, but citizens are clearly allowed to amend the constitution "going forward," he wrote.

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The amendment "was drafted with sound legal advice from constitutional scholars, and as long as the constitution and recent precedent are followed," it should survive a court review, said Kris Mineau, head of the Massachusetts Family Institute and spokesman for VoteOnMarriage.org.

ANTITRUST:

MAGAZINE CIRCULATION-FRAUD CASE ENTERS PLEA NEGOTIATIONS (ADAGE)

By Nat Ives

AdAge.com, January 3, 2006

NEW YORK (AdAge.com) -- One of the publishing executives accused of circulation fraud at Laptop magazine has entered plea negotiations with the U.S. Justice Department, court documents filed in the case show.

Deal likely

Proceedings regarding the executive, John Jay Annis, are on hold through Jan. 30 while the parties try to hammer out a deal, which Judge Steven M. Gold has indicated he considers likely.

The U.S. attorney's office for the Eastern District of New York, which has been investigating circulation practices since schemes by Newsday and Hoy to inflate their numbers became public, secured the arrests of Edward D. Brown, president-publisher, Bedford Communications, and Mr. Annis, Bedford's circulation director, last October.

Bogus distribution

Prosecutors accused the pair of scheming to inflate circulation at Laptop magazine by hiring a distributor to accept 15,000 copies that they would claim as paid circulation -- whether or not they were ever distributed. The distributor they hired was really an undercover postal inspector, prosecutors said.

It is unclear what a plea arrangement would mean to the circulation investigation. According to the Bedford Web site, Mr. Annis serves as a circulation consultant to “several other publishing companies,” so he may have information of interest to prosecutors about magazines beyond Laptop. That could explain the surprising effort by the government to arrange an elaborate sting on executives at Bedford, a relatively small target.

No comment

The lead prosecutor on the case, Jonathan Edward Davis, declined to comment on any such speculation or other facets of the negotiations. An attorney for Mr. Annis did not respond to a message seeking comment.

The U.S. attorney's office has also subpoenaed Time Inc. for information on that company's bulk-distribution programs. Time Inc. disclosed the subpoena in September and said it was complying.

But a plea deal may produce nothing more than testimony against Mr. Brown or a quicker resolution of the case.

Mr. Brown's status is also unclear. After the original order for his arrest and a reported not-guilty plea, court documents do not mention him again and do not list an attorney for him. Mr. Brown did not return a call seeking comment.

Linens 'N Things Deal Gets US Antitrust Approval (NYT/REU)

By Reuters

The New York Times, January 4, 2006

Filed at 2:20 p.m. ET

WASHINGTON (Reuters) - U.S. antitrust authorities said on Tuesday they approved plans by Linens 'n Things Inc. (LIN.N) to be taken over by private equity firm Apollo Management L.P. and its affiliates.

Officials have completed their investigation of the $1.3 billion deal without taking action, the Federal Trade Commission said in a notice.

Linens 'n Things faces stiff competition from larger rival Bed Bath & Beyond Inc. (BBBY.O) and discounters such as Target Corp. (TGT.N), which have expanded home decor offerings.

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Under the terms of the Apollo deal, financing is contingent upon Linens 'n Things reporting a fourth-quarter comparable sales decline of no more than 6 percent and earnings before interest, taxes, depreciation and amortization of not less than $ 140 million.

Cisco's Offer For Scientific-Atlanta Gets U.S. Antitrust Clearance (WSJ)

The Wall Street Journal, January 4, 2006

Cisco Systems Inc. received U.S. antitrust clearance for its offer to acquire Scientific-Atlanta Inc. for about $6.9 billion, or $43 a share.

The San Jose, Calif., networking titan said its bid still requires regulatory approvals in various foreign jurisdictions. Cisco agreed in November to acquire the maker of television set-top boxes, filling in the missing video element from its far-reaching effort to penetrate the consumer market.

Scientific-Atlanta, Lawrenceville, Ga., said its shareholders can vote on the proposed deal with Cisco at a special meeting Feb. 2. The companies expect the deal to close in Cisco's fiscal 2006 third quarter, which ends in April.

As of 4 p.m. composite trading on the Nasdaq Stock Market, Cisco was at $17.45, up 33 cents. As of 4 p.m. composite trading on the New York Stock Exchange, Scientific-Atlanta was at $42.90, off 17 cents.

Cisco Systems Says Regulatory Waiting Period For Acquisition Of Scientific-Atlanta Expires (AP)

AP, January 4, 2006

SAN JOSE, Calif. (AP) -- Network equipment maker Cisco Systems Inc. said the federal waiting period for its acquisition of cable television technology company Scientific-Atlanta Inc. has expired without regulators taking any action.

On Tuesday, the companies said the U.S. antitrust waiting period expired on Friday, though the deal is still subject to approval by authorities outside the United States.

Under the transaction announced in November, Cisco will acquire Scientific-Atlanta for $6.9 billion, or $43 per share in cash, and assumed options. Scientific-Atlanta's cash balance will reduce the cost of the deal for Cisco to about $5.3 billion.

The deal, which is expected to close by late April, is expected to fuel changes in how TV is distributed and watched as programming is increasingly shuttled to homes using the language of the Internet.

Scientific-Atlanta, a leading maker of cable boxes and the technology behind them, is expected to benefit as its customers -- cable and phone companies -- move toward Internet-based TV offerings. Cisco is the world's largest supplier of data networking gear.

Shares of San Jose-based Cisco rose 33 cents to close at $17.45 Tuesday on the Nasdaq Stock Market. Shares of Scientific-Atlanta fell 17 cents to close at $42.90 on the New York Stock Exchange.

Banking Against Wal-Mart (WSJ)

The Wall Street Journal, January 4, 2006

The Federal Deposit Insurance Corporation (FDIC) will soon have to make a big decision: whether to grant retail giant Wal-Mart a charter to enter the consumer banking business. You won't be surprised to learn that the idea of more banking competition is not universally popular with . . . bankers.

In particular, the Independent Community Bankers Association (ICBA) is raising a ruckus in Washington to keep big bad Wal-Mart locked out of their game. We have here a textbook case of a powerful corporate lobby rushing to its pals in Congress and their regulators, in this case the FDIC, and pleading for them to squash competition that might lower the prices of banking services.

At issue is whether Wal-Mart should be granted the authority to establish an Industrial Loan Company (ILC) in Utah. ILCs are state-chartered, quasi-banks that were originally designed a century ago to help low-income workers get cheap loans. ILCs can provide most banking services, such as check cashing, lending, and credit card processing. Target and General Electric have been granted an ILC with little controversy. But because Wal-Mart has been portrayed as America's latest corporate villain, its political hurdles are much higher.

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If the bankers succeed in this protectionist gambit, the biggest loser won't be Wal-Mart, but rather consumers, particularly those in lower-income neighborhoods where competition in retail banking is traditionally scarce. Wal-Mart banking services in these areas might even solve the longstanding problems of red-lining and discriminatory lending practices. Wal-Mart already performs many bank-like functions that are especially popular in poor areas -- including wire transfers, money orders, paycheck cashing, and express bill payment services.

So it's especially notable that Congressman Barney Frank of Massachusetts and a gang of other Capitol Hill liberals have cast a skeptical eye toward Wal-Mart's entry into banking. If they decide to regulate Wal-Mart out of the industry, the end result will be higher banking service costs for the poor constituents they claim to represent.

The protest is all the more curious since Wal-Mart's immediate banking ambitions are quite modest. To head off the mounting opposition from the bankers, Wal-Mart insists that in the short term it merely wants to create an in-house banking affiliate so it can lower costs on credit card transactions at its stores. Traditionally, banks charge an interchange fee of roughly 2% on the cost of the retail credit/debit card transaction. Wal-Mart has determined that if it owns its own bank it can cut the transaction fee in half, and pass the cost-savings on to its customers who pay with Visa or MasterCard.

But why shouldn't Wal-Mart be permitted to engage in a whole range of banking services down the line, if it wishes to? That's the meaty policy issue at stake here: whether the traditional firewall between banks and commercial enterprises (i.e., the commercial lenders and the borrowers) should be officially torn down. The Gramm-Leach-Bliley Act of 1999 effectively abandoned this traditional separation between commerce and banking when it allowed securities and insurance firms to engage in most banking activities. This has all been part of a 25-year-long deregulation of banking that has led to huge increases in efficiency in American financial markets as well as vastly improved consumer services. (Remember the quaint notion of "banker's hours?")

Peter Wallison of the American Enterprise Institute notes that "the Gramm-Leach-Bliley Act has eviscerated the policy case against allowing commercial firms to affiliate with banks." Wal-Mart's entry into the mix would merely continue what has been a benign, pro-competition trend.

Would granting Wal-Mart its ILC status impose an unnecessary financial risk on the soundness of the banking system? The Community Bankers lobby warns that "Wal-Mart's entrance into banking would constitute a dangerous over-concentration of economic power that would skew market forces." What clearly undermines this argument is that in every other consumer market that Wal-Mart has entered, from hardware services to selling gas at the pump, the impact of its gaining market share has been to reduce prices, not to raise them.

Studies have found, for example, that in neighborhoods where Wal-Mart has entered the grocery business, its prices range from 8% to 27% below those charged at the incumbent grocery chains. Moreover, if there were a repeat of the kind of bank failures we witnessed in the late 1980s, financially sturdy Wal-Mart would be far less susceptible to the risk of closure (and FDIC deposit insurance payments to depositors) than small and less capitalized community banks.

It's always possible that Wal-Mart will fall on its face in banking. We suspect, however, that what really spooks the banking industry is the threat of more competition, more convenience and lower prices for financial services. But that should be welcome news to members of Congress and the regulators at the Federal Reserve Board and the FDIC if they truly care about the welfare of the banking consumer.

ENVIRONMENT/INDIAN AFFAIRS:

No New Deaths In Oklahoma, But The Fires Cut A Grim Path (NYT)

By Ralph Blumenthal

The New York Times, January 4, 2006

SHAWNEE, Okla., Jan. 3 - Firefighters contained at least seven new and long-smoldering blazes across Oklahoma on Tuesday with no reported injuries, but hundreds of additional acres of drought-parched grassland and dozens of buildings were scorched or destroyed, officials reported.

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Texas and New Mexico also fought holding actions against the fires, some apparently set, that have so far claimed at least two dead in Oklahoma and three dead in Texas and consumed more than half a million acres and more than 500 homes.

One fire in Shamrock off I-44 between Oklahoma City and Tulsa gutted an unoccupied school and resisted barrages of flame-retardant chemicals dropped from a four-engine tanker plane. At least 62 firefighters from Tennessee, Alabama, North Carolina and other states were deployed in six eastern Oklahoma sectors with bulldozers, tanker trucks and other heavy equipment.

"The grass is so dead - you might as well have matches sitting out there," said Troy Taylor, a truck driver from Ringgold, Tex., who saw a wall of flame advancing on him on Sunday and fled with his wife, Lori, and their children.

The fire, which began on Sunday and was still active Tuesday afternoon, burned a trail 25 miles long, destroying 41,000 acres and 32 buildings in two counties.

The Federal Emergency Management Agency authorized the use of federal disaster relief funds to help Texas, Oklahoma and New Mexico fight the fires. But Lt. Gov. Mary Fallin of New Mexico, in a visit to the incident command center in Shawnee that is serving as firefighting headquarters, said Oklahoma was still waiting for the White House response to the state's request for a federal declaration of emergency to cover some of the state's expenses.

"Contact has been made," said Ms. Fallin, a Republican running for Congress.

Some of the visiting firefighters spoke with relish of rushing to the aid of the stricken Southwest. Pete Moditz, a career forester from Selmer, Tenn., showed off his legs scratched red through his pants from brambles as he led a tractor plow through the fires. Water might knock down a fire, but "that," he said, pointing to the yellow monster on tank treads, "puts it out."

A wet spring combined with parched conditions for the last six months have made Texas, Oklahoma and New Mexico a giant tinderbox.

"We've got reports that this is the worst drought since 1956," said Judge James Kittrell of Montague County, whose jurisdiction includes Ringgold.

Thirty-three of Oklahoma's 77 counties have suffered fires, with damages put at $10 million. In Texas, since Dec. 26, 159 fires have destroyed 238 homes and 254,555 acres, according to the state's emergency management center.

In New Mexico, 14 grass fires burned up to 60,000 acres.

The fire in Ringgold was frighteningly fast, residents said, falling on the North Texas town at speeds of up to 60 miles per hour. "We decided if the flames made it to the railroad tracks, we were going to leave," said Mr. Taylor, the truck driver, pointing to a distant ridge.

"Ten minutes later, it was in our yard," Mr. Taylor said.

The billowing wall of four-foot flames had burned its way to U.S. 82, jumped the road and blazed across the Taylors' lawn right up to the house.

Around them they could hear the sounds of their town burning down: propane tanks exploding, tires popping, paint cans blowing lids.

"The fire was right next to the van when we left," Mr. Taylor said.

"It came so quick, it went around the buildings and went on," he said. Mr. Taylor, who had driven around the block, realized his house was all right, jumped out of his van and began putting out his lawn of flames.

Battle Over Property Rights Goes On, Despite Ruling (CSM)

By Warren Richey

The Christian Science Monitor, January 4, 2006

The moment of truth is yet to arrive in the now-famous Fort Trumbull neighborhood in New London, Conn.

Six months after the US Supreme Court ruled that the city could seize and demolish private homes to make way for a commercial development project, determined residents are still living in their homes in the targeted neighborhood.

There have been no bulldozers. No wrecking balls. No police officers dragging homeowners away. At least, not yet.

Instead, the state of Connecticut has hired a mediator to try to find a more peaceful solution to the seven-year battle that has touched off a heated debate over the government's use of eminent domain to foster economic development.

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To property rights activists across the nation, Fort Trumbull has become ground zero in that battle ever since the high court's 5-4 ruling. These activists are using outrage over the case to spearhead a reform movement aimed at passing laws to make it increasingly difficult for local and state governments to raze homes and turn the land over to private developers.

"It has to be one of the most vilified Supreme Court decisions in history - where people understood the issues, understood the result, and didn't like it," says Scott Sawyer, a member of the legal team representing the homeowners.

On the other side of the debate are government officials, planners, urban renewal experts, and development firms warning that many cities and towns need every tool at their disposal to help foster prosperity in the face of chronic economic decline. To these advocates, New London is a prime example of a small city with high unemployment, a stagnant tax base, and no large tracts of vacant land to support a major development project. Without the option of using eminent domain, the city's economic prospects would be bleak, they say.

"We won. We would like to move the project forward," says New London City Manager Richard Brown. "We are champing at the bit to get going."

There is nothing new about the constitutional issue at the center of the case. The Supreme Court has long recognized that there is no bar to government takings that may provide both public and private benefits.

But Kelo v. New London was different because of the players involved. The high court's two prior legal precedents involved monopolistic landowners in Hawaii and a department store owner in Washington, D.C. In contrast, Susette Kelo is a homeowner, like most US citizens. When the government took action against her, many Americans could imagine the government taking similar action against them. Kelo's pink cottage in Fort Trumbull has become an icon, Mr. Sawyer says, as recognizable to some as the Liberty Bell.

"It is the house that represents property rights in the United States," he says. "Why would you ever tear that down?"

Sawyer and others say they aren't sure what will happen next. City officials say the development project is still economically viable. All they need is a green light from the mediator and the state.

The city's redevelopment agency has spent much of its $70 million budget preparing a large portion of the 90-acre riverfront site for the planned hotel, office, and condo project. Land has been graded, roads built, and utilities installed. But major construction has not yet begun.

Some analysts suggest that the national backlash following the Supreme Court decision has made it even more difficult to find companies willing to move in. What firm wants to locate to a piece of property that will long be associated with the taking of people's homes? these analysts ask.

Nonetheless, the city's planning board has approved the hotel portion of the project, and there are talks under way for the Coast Guard to move its research and development center to a vacant office building on the site. The building is all that remains of the US Naval Undersea Warfare Center, which was shut down in 1996.

When that center closed, the federal government agreed to turn over the 32 acres of property to the city. Rather than focus on that tract alone, the city expanded its redevelopment plan by 58 acres, including the Fort Trumbull neighborhood.

The homeowners say they aren't opposed to redevelopment. But they don't see why the renewal project has to include the demolition of their homes.

It is difficult to overestimate the level of animosity between New London development officials and the homeowners. After enduring years of attempts to force them out, residents say the toughest test so far has been losing at the Supreme Court.

"It took a while to get a handle on it," says Matt Dery, whose family has lived on the same corner in Fort Trumbull for 100 years. But Mr. Dery says his discussion with the mediator has left him hopeful. "Things have a way of working themselves out. Maybe there is a higher power at work here - I'm sure there is," he says.

Dery's neighbor, Byron Athenian, is just taking it day by day. "It is kind of a strange way to live," says Mr. Athenian, who has resided for 10 years in the house with gray shingles owned by his mother. This past fall, a few months after the Supreme Court ruling, he received an eviction notice. "When I first got it, it was like 'Wow, they only gave me 30 days to leave,' " he says.

The city's redevelopment agency sent notices to all tenants living in rented properties in Fort Trumbull. The move got the attention of Connecticut Gov. M. Jodi Rell, who instructed the city to withdraw the notices. Since then, the feud has been in hiatus pending the work of the mediator.

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But that hasn't stopped people from worrying about what might happen next.

"I think there could be civil disobedience if they moved in there with a wrecking ball," says Susan Munger, a member of the Coalition to Save the Fort Trumbull Neighborhood. "There has to be another way to resolve it that is satisfactory to the homeowners. Some of them don't have any intention of leaving."

As for a compromise, City Manager Brown isn't making any predictions. But he says New London badly needs a boost.

"The forecast for economic assistance from the state of Connecticut to its urban areas is not any better for the upcoming year than it was for the past couple," he says. "We are going to be left on our own to develop new sources of revenue, so we need the project to move forward."

Prevention Is Key To Avian Or Seasonal Flu (WP)

The Washington Post, January 4, 2006

Avian flu has recently moved to the top of President Bush's health care agenda. But medical experts such as Susan J. Blumenthal have been warning for years that international travel, a weakened public health system and antiquated vaccines have made the prospect of an influenza pandemic a matter of when, not if.

Blumenthal, a former assistant surgeon general, in a recent speech in Washington warned that the H5N1 strain of the virus, now confined largely to birds, has the potential to develop into a deadly human virus. Already, the virus has "killed more birds than any in the history of the world," humans do not have immunity, it is striking younger victims and it has spread rapidly into at least 16 countries, she said.

A clinical professor of psychiatry at Georgetown and Tufts University schools of medicine, Blumenthal was the first deputy assistant secretary for women's health, from 1993 to 1997, and is an authority on global public health. She retired from the government last year.

In an interview, she talked about infectious diseases and chronic illnesses -- and what individuals and the government can do to reduce risk. She said one of the lessons of Hurricane Katrina is that the United States is not sufficiently prepared to deal with any number of crises, from a terrorist attack to a natural disaster to a pandemic.

-- Ceci Connolly

Q Why is a pandemic a matter of when, not if?

AEach generation has had a pandemic. The 1918 influenza pandemic killed 40 million people and infected 500 million. It was like a global blizzard over 18 months. With international trade and modern travel, the world is shrinking. . . . In 1969, the surgeon general announced the "war against infectious diseases is over." We thought we had conquered the microbe. But we've had 30 new diseases since 1972, including SARS [severe acute respiratory syndrome], monkey pox and Lyme disease.

How real is the threat of an avian flu pandemic?

On the question of are we more vulnerable, there is the group of people I call the ostriches and the Chicken Little. The ostriches point out that we have better science and public health than ever before, that we have not seen the H5N1 virus here. The Chicken Little say we do not have enough antiviral [medications]; we don't have a vaccine. The threat is probably somewhere in between.

How is the virus spread?

It begins in aquatic birds, moves to domestic poultry and then potentially to humans. . . . Asia is a hotbed [for H5N1] because people live in close proximity to poultry, and they lack a strong public health infrastructure. You can become infected through direct contact with poultry or contact with a surface that has poultry droppings or excretions. There have been about 135 human cases since 1997, which is relatively few.

Your speeches are alarming. Is that intentional?

Somewhat. If you give candid information, people make good decisions. But we also want it to be a wake-up call. People know they should eat right, exercise, get out of the way of a hurricane, but we don't always do those things. We know we shouldn't smoke, yet one out of five people do. It took Katrina and seeing some of the failures in not having state, federal and local preparedness not being coordinated to serve as a wake-up call to the concern of pandemic flu.

Are we prepared?

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We're not sufficiently prepared if a pandemic were to strike us this year. We have a plan that outlines the major steps to be taken. Hopefully we'll have the time to develop new vaccines and stockpile antivirals. We don't have [the necessary] communications systems in place. We don't have a rapid diagnostic tool for using in the field, there is no cell-based vaccine nor the production systems that would be needed. . . . But we can't forget the [pandemics] that are currently with us.

Such as?

Forty million people worldwide are infected with the AIDS virus; 3 million die each year. One million children die of measles each year because they don't get a 70-cent vaccine. . . . In the United States, we have the highest infant mortality rate of the industrialized world. We spend twice as much as any other nation on health care, and we rank 18th in life expectancy and 35th in overall health status.

If there is an outbreak of avian flu, would there be a quarantine in the United States, and what would it look like?

What we would suggest is social distancing -- have people stay in their homes, not go to mass gatherings. It would be a real challenge. We have a generation of physicians who haven't trained in quarantine techniques. During the SARS outbreak, it was health care professionals and students who violated the quarantine. If there is a pandemic, things could quickly degenerate into chaos. That's why it's important to rehearse for these things.

What should average Americans do to protect themselves against avian flu or other infectious diseases?

Get your seasonal flu shot. The seasonal flu causes 36,000 deaths in America and 500,000 worldwide. It translates into $37 billion in economic costs related to treatment. . . . Also get a pneumonia shot. Practice good hygiene, particularly around the holiday season when you are at a lot of parties shaking hands. Washing hands is one of the best public health interventions we have.

What would you put on the top of a public health agenda for 2006?

Smoking, certainly. If you thought there were a killer out there claiming the lives of one out of every five people, we'd have the FBI, CIA and police all out there tracking that terrorist. . . . Safe water. Water is one of the key health and political issues of the 21st century. [Unclean] water is the leading cause of death and disability in the world. Water impacts the economy; it's linked to energy, recreation, food. Katrina showed the importance of access to safe water. Sixty-five percent of our bodies are water.

You say in your speeches that we are a treatment-oriented society rather than a prevention-oriented society. Why is that noteworthy?

Small steps can bring big rewards. Losing five or 10 pounds can make you feel much better. Walking 10,000 steps a day. These can significantly decrease your risk for chronic illnesses. . . . On a public policy level, whether you're trying to prevent cancer, diabetes, a hurricane or bioterrorism, prevention is the cornerstone.

Buffalo Lawsuit Challenges A Casino Off Indian Land (NYT)

By David Staba

The New York Times, January 4, 2006

BUFFALO, Jan. 3 - In the latest salvo between local advocates and government officials over this city's future, a coalition of citizens' groups, churches, business people and lawyers filed a lawsuit in federal court on Tuesday to halt construction of an Indian casino on the Buffalo River waterfront.

The suit alleges that federal officials, including Interior Secretary Gale A. Norton, failed to abide by a 1988 law regulating gambling facilities established off reservation land when they approved the proposed Buffalo casino. The proposed facility is one of three gambling sites in this region allowed under a 2002 compact between New York State and the Seneca Nation.

In legal papers filed in Federal District Court, the plaintiffs - led by a group called Citizens Against Casino Gambling in Erie County - said that a Buffalo casino cannot be permitted under federal law, because the nine-acre site along the Buffalo River is not adjacent to an existing reservation and was not part of land claimed by the Seneca Nation.

In addition, the suit alleges that the approval process violated federal laws that require a study of the environmental impact of a proposed casino. The plaintiffs also say that demolition of a grain elevator at the proposed site would violate the National Historic Preservation Act.

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"Some people have tried to make this into grain silos versus a casino, but this is a much more important issue," said Richard Lippes, one of the plaintiffs' lawyers. "These citizens aren't opposed to progress. They just want the right things to happen in the right way."

Barry E. Snyder, president of the Seneca Nation, was not available for comment Tuesday afternoon. But on Friday, he spoke dismissively of a possible lawsuit during the partial opening of a luxury hotel adjacent to the Senecas' existing casino in Niagara Falls.

"Lawsuits come and go - they don't interest me," Mr. Snyder was quoted as saying in The Buffalo News. "We took the opportunity to build a casino and hotel in Niagara Falls because no one else would do it. I've said the same of Buffalo, and we're going ahead. I'm a man of my word."

Proponents also maintain that the casino will create jobs as well as spur economic development in the long dormant area.

Several parties to the lawsuit, including Mr. Lippes and the Preservation Coalition of Erie County, also took part in recent years in two other significant civic lawsuits that sought to preserve land.

They were among the litigants who halted a state plan to build a marina, which would have been constructed atop limestone walls that were part of the original terminus of the Erie Canal, and a proposal by an international commission to build a steel bridge next to the Peace Bridge, which was built in 1927 and connects Buffalo to Fort Erie, Ontario.

In each instance, a judge ruled that the government agencies involved did not follow proper planning procedures. Both plans have since been revised. The waterfront plans, proposed by the Empire State Development Corporation, now include the restoration of the canal terminus and other historic elements. As for the bridge, a two-nation panel has recommended a sweeping cable-stayed bridge over the Niagara River.

"In both cases, we got something better," said Mr. Lippes, who served as general counsel to the primary plaintiff in each case.

Like the waterfront and Peace Bridge suits, the legal challenge to the proposed Seneca Buffalo Creek Casino is being financed in part by the Margaret L. Wendt Foundation, which often provides money to educational or artistic organizations.

"We feel the need to make sure the laws are followed when making this kind of change to our community," said Janet Loew Day, a foundation trustee.

The plaintiffs said that taking the land for the proposed casino site off the tax rolls and creating, in essence, a tiny sovereign nation housing the casino would run counter to the canal restoration plans and other nascent development in the area.

FBI/DEA/ATF/USMS:

High-tech Gadgetry Pops Up In Drug Trade (KNOXNS)

By Jamie Satterfield

Knoxville (TN) News Sentinel, January 4, 2006

He couldn't help but show off a little.

With the eager customer watching, the alleged drug dealer waltzed into the bathroom of the East Knoxville house, flipped on the light and then pressed the switch into the wall. Up from the floor popped a secret compartment where drugs were kept hidden.

The customer must have seemed impressed because the alleged dealer gave him an impromptu tour of other hidden hatches used by his organization and even introduced the consumer to the "Kid" who crafted all of the devices.

Turns out, the customer was a rat.

This morsel of insider information on both the investigation and the inner workings of a large-scale Detroit-to-Knoxville drug trafficking organization is contained in an 83-page search warrant affidavit recently unsealed in U.S. District Court.

The search warrants obtained via the affidavit led to the November arrests of four men accused in a conspiracy case that Assistant U.S. Attorney Mike Winck has alleged in court records funneled hundreds of pounds of cocaine, crack and marijuana and thousands of ecstasy pills from the Motor City to Knoxville starting in May 2003.

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The arrested - and later indicted - include alleged mastermind Robert "Party" Smith and the man Knoxville Police Department Investigator Bruce Conkey dubbed Smith's right-hand man, Stephen "Black" Ardis.

The search warrant affidavit broadens the suspect list in the alleged conspiracy to include at least a dozen other people, including both drug dealer suspects in Knoxville and supplier suspects in Detroit.

The lengthy document also reveals an organization that was, at times, as sophisticated as the make-believe cocaine kingpin Tony Montana of "Scarface" movie fame, who Conkey has testified was Smith's idol. At other times, the affidavit makes the group seem downright foolhardy.

Take the tour offered the informant, for instance.

It revealed a concerted effort by the alleged trafficking organization to spread out the risks of police raids by using a half-dozen different houses to handle the trade, the affidavit stated.

At some, deemed in the affidavit as "stash houses," drugs were stored. At others, termed in the affidavit as "crack houses," drugs were sold. If police hit any single place, the entire inventory of illegal wares would not be wiped out.

The group used sophisticated secret compartments, including the nifty pop-up box built into the floor of a bathroom at a house on Sunset Avenue, the affidavit alleged. Vehicles used to transport drugs also were equipped with hidden stash boxes, including a Ford Excursion described in the affidavit that had two secret compartments, one where the airbag should have been and another in the floor. Both were activated through cigarette lighters in the vehicle, the affidavit stated.

According to the affidavit, a man identified only as the "Kid" engineered hiding places for the alleged network's goody stash.

The alleged dealer who showed off the devices in August has not been charged. The affidavit makes clear he had no idea the customer he was trying to wow with his tour was working for Conkey and U.S. Drug Enforcement Administration Agent Todd Lee.

The pair, who led the probe, used five informants in all during their two-year investigation. Only two are now willing to testify, the affidavit stated.

Despite the high-tech gadgetry and constant use of code words to cloak the illegal goings-on of the group, Smith and Ardis apparently were clueless that Conkey and Lee were on their trail, the affidavit alleged.

That changed in October when an unidentified woman called Ardis after Ardis drove past her home. She tipped him that one, maybe two, unmarked cars were tailing him, according to the affidavit.

"I can't believe you all didn't see them," she said.

Within days, secretly recorded phone conversations between Ardis and Smith showed not only that Ardis had figured out he was being followed but that the pursuing undercover officer was none other than "McConkey."

Conkey has for more than a decade managed to work undercover while having one of the most high-profile nicknames and reputations in the inner city.

Years ago, angry drug dealers who had accused Conkey of harassing them wrote and recorded a rap song about him, referring to him as "McConkey." The nickname stuck.

On Oct. 26, the affidavit alleges, Ardis called Smith to break the bad news that "McConkey" had been following him.

"I just now found out it was him," Ardis is quoted in the affidavit as saying.

Smith pressed Ardis on where he saw "McConkey" so they could move their operation, the affidavit alleged. But Ardis said it didn't matter where he moved. "McConkey" would find him, according to the affidavit.

" the (expletive) like Superman," Ardis said.

Days later, however, the pair were back in business, the affidavit alleged. Less than a month later, Conkey, Lee and a team of federal and local officers arrested them.

They are now awaiting trial, along with an alleged "mule" who authorities say ferried drugs for the pair and a person accused of being a customer. It's not clear if those named in the affidavit will be charged

Former State Prison Officer Faces Felony Drug Charges (AP)

Associated Press

AP, January 4, 2006

DOJ_NMG_0007876

MISSOULA -- A federal grand jury here has indicted a former officer at the Montana State Prison on charges of attempting to distribute methamphetamine, heroin and marijuana.

Michael E. Short, 50, was arraigned in U.S. District Court in Missoula on Tuesday and was released without bail after pleading not guilty.

Prosecutors, the FBI and a state Corrections Department official declined to discuss specifics of the case, including whether Short is accused of trying to sell drugs to inmates. However, a statement from the U.S. attorney's office said the charges were the result of a joint investigation between the FBI and the Department of Corrections.

Corrections spokesman Bob Anez said only that Short worked at the prison for about 5 1/2 years before resigning in July 2005.

"Other than that, I can't comment beyond what is in the indictment because we don't want to do anything that would contaminate a jury pool should this case ever go to trial," Anez said.

It was not clear late Tuesday whether Short had hired an attorney.

The federal indictment, which is dated Dec. 8 but unsealed only upon Short's appearance Tuesday, charges Short with attempting to possess and attempting to distribute a quarter pound of marijuana and a half ounce of methampetamine on July 12, 2005, in the Deer Lodge and Anaconda area.

He faces a second charge of attempting to possess and attempting to distribute a quarter pound of marijuana, a half ounce of methamphetamine and 2 grams of heroin on July 16, 2005, in the same area. Short also is charged with being a drug user in possession of a firearm. All three charges are felonies.

Rhode Island Legalizes Medical Marijuana (NYT/AP)

By The Associated Press

The New York Times, January 4, 2006

PROVIDENCE, R.I. (AP) -- Rhode Island on Tuesday became the 11th state to legalize medical marijuana and the first since the U.S. Supreme Court ruled in June that patients who use the drug can still be prosecuted under federal law.

The House overrode a veto by Gov. Don Carcieri, 59-13, allowing people with illnesses such as cancer and AIDS to grow up to 12 marijuana plants or buy 2.5 ounces of marijuana to relieve their symptoms. Those who do are required to register with the state and get an identification card.

Federal law prohibits any use of marijuana, but Maine, Vermont, Alaska, California, Colorado, Hawaii, Montana, Nevada, Oregon and Washington allow it to be grown and used for medicinal purposes.

The U.S. high court ruled June 6 that people who smoke marijuana because their doctors recommend it can still be prosecuted under federal drug laws, even if their states allow it.

Federal authorities, however, have conceded they are unlikely to prosecute many medicinal marijuana users.

"I'm sure everybody in this room knows at least one person who would have benefited from medical marijuana," Rep. Thomas Slater, who has cancer, told fellow lawmakers before the vote. Slater said he does not use marijuana now, but it could become part of his treatment in the future.

Carcieri, unhappy with the override, said the law fails to provide ways for users to buy marijuana legally and leaves Rhode Islanders open to federal prosecution.

"Users will be forced to purchase marijuana in the illegal street market, putting them at risk and complicating the difficult jobs that our law enforcement personnel must do every day," the governor said.

Tom Riley, a spokesman for the White House Office of National Drug Control Policy, said the vote showed "misguided and out-of-touch" views on the harms of marijuana.

"There's this notion from the '60s or the '70s that marijuana is a harmless drug," Riley said. "It's not."

Legislators Override Veto, Then Begin New Session (PROJO)

By Scott Mayerowitz, Katherine Gregg And Elizabeth Gudrais

The Providence Journal, January 4, 2006

DOJ_NMG_0007877

PROVIDENCE -- Rhode Island became the 11th state yesterday to allow the use of marijuana to ease the pain of people suffering from serious and chronic illnesses such as AIDS and cancer.

Patients whose doctors or caregivers recommend marijuana will soon be able to possess up to 12 plants, or 2.5 ounces of marijuana. The new law protects them from arrest under state law, but does nothing to stop federal prosecution, leaving some critics to call the measure nothing more than a symbolic act.

The marijuana issue provided a dramatic start to the lawmakers' first day back in the State House in six months.

This year's legislative session began with an almost festive atmosphere. There were backslaps and smiles and tables full of food, despite simmering election-year tensions, especially those between House Speaker William J. Murphy's leadership team and an alliance of Republicans and dissident Democrats.

Murphy, D-West Warwick, vowed in the coming months to tackle -- among other things -- "responsible tax reform, a comprehensive energy strategy, a fair and livable working wage."

"The issues that we will face in this session are the issues that every Rhode Islander faces in their day-to-day lives," Murphy said.

BUT THE FOCUS yesterday was on marijuana.

Lawmakers had passed "medical marijuana" legislation in June, but the measure was vetoed by Governor Carcieri. The Senate overrode the veto the next day, but the House waited until yesterday to override, easily doing so with a 59-to-13 vote. Three members were absent and only 44 votes were needed for the override.

(Lawmakers have been officially on "recess" for the last six months, allowing for the override before officially adjourning yesterday and then opening a new session.)

"It's been a long wait and a lot of work, but this law will grant mercy and relief to the sick and suffering. Finally Rhode Island will stop denying sick people a proven means of relief from their pain," said the House sponsor, Rep. Thomas C. Slater, D-Providence, who has cancer.

Sen. Rhoda E. Perry, D-Providence, the Senate sponsor, called it a "progressive and compassionate piece of legislation." The bill carries the name of Edward O. Hawkins, Perry's nephew who died of AIDS.

Persuading his colleagues for an override, Slater said "Ten states have realized that it makes no sense in making people criminals for following their doctor's advice and relieving their pain." In those states, "The sky has not fallen and thousands of patients live in less pain."

House Minority Leader Robert A. Watson, R-East Greenwich, who supported and voted for the bill in the past, said that in his heart he wanted to pass the law but in the end he needed to stand behind the governor. Only 6 of the 14 other House Republicans joined Watson, voting to uphold the veto.

Carcieri's press secretary, Jeff Neal, said the governor continues to oppose the measure, saying it will "encourage criminal activity because it does not provide any means for the legal purchase of medical marijuana."

The Republican governor's office also said that "the definition of which medical conditions qualify one for use of marijuana is so broad that it would allow nearly any Rhode Islander to be a user."

Carcieri has said the bill "is full of loopholes" including a lack of standards for dosage and quality of the drugs, no legal source of the drug or marijuana seeds and allows patients and their caregivers to possess "staggering" amounts of marijuana.

The White House Office of National Drug Control Policy also weighed in yesterday, saying that using marijuana is still against federal laws and the Food and Drug Administration does not consider the drug a safe and effective medicine for pain relief.

"It's largely symbolic. I don't think that it will have practical effect," Tom Riley, a spokesman in the office, said of Rhode Island's law.

Riley also said that the vast majority of people who serve time for marijuana possession are trafficking the drug.

Additionally, in June the U.S. Supreme Court ruled that state laws permitting the medicinal use of marijuana do not supersede federal laws.

Ten states already have similar laws: Alaska, California, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Vermont and Washington.

DOJ_NMG_0007878

There are other states that have medical marijuana laws, but the Marijuana Policy Project, which has been pushing for the law here, says these 10 states are the only ones where the law makes a practical difference. The Marijuana Policy Project works to "minimize" laws that are intended to prohibit marijuana use.

Rhode Island, Hawaii and Vermont are the only three states where medical marijuana came through legislative action. The other states approved it through ballot initiatives.

The group's executive director, Rob Kampia, hailed yesterday's vote -- the first after the Supreme Court ruling -- as a major victory.

"We will continue to roll back the government's war on the sick and dying and the White House drug czar can't stop us any more than he can make water flow uphill," Kampia said in a statement.

THE DEPARTMENT OF HEALTH now has 90 days to create rules and regulations regarding the use of marijuana for medical purposes.

Once those rules are in place, people looking to use marijuana must first get a signed statement by a doctor stating that in their opinion "the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient."

The department then has 30 days to approve or deny the application and another 5 days to then issue identification cards to those approved.

Anybody with such a card is immune from state criminal and civil prosecution or any disciplinary action by employers as long as they do not possess more than the allowed quantities.

The law does nothing to protect people from arrest or prosecution under federal drug laws.

The plants must be stored in "an indoor facility." Authorized caregivers cannot have a felony conviction in their past. The Department of Health is required to report back to the legislature by Jan. 1, 2007, on the number of people who availed themselves of the program, and any problems arising from it. Unless lawmakers vote to keep the program going, it will expire on June 30, 2007.

The legislation does not provide a way for people to get the drug, leaving that to illegal channels.

AFTER PASSING THE marijuana legislation, lawmakers shifted to the session ahead.

During an opening speech, Murphy more than once urged his colleagues "to put aside petty politics and whatever personal agenda[s] we might have in this election year and get down to doing the work that we have been sent here to do."

"Let's do what's right, not what's politically expedient," Murphy said. "And, please, this is an election year. Let's work for six months together as a House of Representatives and worry about politics in June."

Watson quipped in response: "I would hope that we don't rid the room of all petty politics, because we do need to have some fun."

More seriously, Watson said: "A majority is judged best by how they treat the minority."

Over in the Senate, lawmakers took the highly unusual step of recommitting two bills that passed by both chambers last year but were never transmitted to the governor's desk.

Senate spokesman Greg Pare said the bills were never given to Carcieri because the Senate leadership tried, but failed, to work out a compromise and avoid vetoes on the bills.

So yesterday, the Senate essentially killed off the bills by sending them back to committee.

The first was a lobbying bill that would have exempted from disclosures certain sales and purchases -- namely, transactions carried out "in the ordinary course of business and for fair market value" -- made by people and companies seeking to influence the General Assembly.

The other would have allowed Beacon Mutual Insurance, the state's dominant worker's compensation insurer, to expand beyond Rhode Island's borders and go from a public nonprofit to a private for-profit company.

Supporters Of Medical Marijuana Bill Concede Problems (PROJO)

By Felice J. Freyer

The Providence Journal, January 4, 2006

The medical marijuana law that passed yesterday allows doctors to recommend that patients obtain from illegal sources a drug of unknown potency and unknown purity.

This is not how doctors normally prescribe treatment.

But if the longstanding support of the Rhode Island Medical Society is any indication, many are willing to go this route -- because of the potential benefits to patients who can't get relief from pain, nausea, muscle spasms and other problems.

Even supporters of the concept, however, admit that it's "weird."

Under the new law, a doctor, a nurse practitioner or anyone else permitted to write prescriptions can sign a statement attesting that "the potential benefits of the medical use of marijuana would likely outweigh the health risks" for a patient with a "debilitating medical condition."

With this certification, the patient can apply for a card from the Health Department that prohibits prosecution by state authorities for growing or possessing marijuana. (Under a U.S. Supreme Court decision earlier this year, however, the federal government can prosecute.)

The law doesn't say where the marijuana will come from, but it's understood that patients or their caregivers will get it illegally from drug dealers, or grow it from seeds obtained illegally.

"It's a weird concept, isn't it?" said Dr. Margaret A. Sun, president of the Rhode Island Academy of Family Physicians, who testified in favor of the law before the General Assembly. "I'll give them a letter that it's OK for them to use medically, and then they're going to some alleyway and buy it on the street."

Before the law is put to use, the Health Department must write regulations. Sun hopes the regulations will provide some safeguards. Sun also is concerned about not knowing the strength or purity of the marijuana that patients may obtain. But she calls the law "a step in the right direction" for those who don't have an alternative.

Dr. Robert S. Crausman, chief administrative officer of the state Board of Medical Licensure and Discipline, disagrees. "It raises a world of issues for us," he said. "Our statute says it's unprofessional conduct to violate federal law. To create another law that allows doctors to violate federal law . . . puts our board in a very awkward circumstance.

"What other medications do doctors prescribe in this fashion?" said Crausman, who practices medicine part-time, specializing in lung diseases.

If a patient of his requested a medical certification to obtain marijuana, Crausman says he would probably decline because he wouldn't know where they were getting the marijuana plants. "I don't tell my patients on digoxin to take foxglove tea. . . . Aspirin comes from bark. When was the last time you took bark for a headache?"

In a 1999 review of medical marijuana, the Institute of Medicine of the National Academy of Sciences concluded that the active ingredients in marijuana had "potential therapeutic value" for pain relief, control of nausea and vomiting, and appetite stimulation. But it called smoking marijuana a crude way to deliver the medication, and one that also delivers harmful substances. Other than the hazards of smoking, the institute concluded, the side effects of marijuana are no worse than those of other medicines.

The new Rhode Island law allows marijuana use for cancer, glaucoma, HIV infection, AIDS, hepatitis C, or any condition causing wasting, chronic pain, severe nausea, seizures or muscle spasms.

Crausman acknowledged that marijuana contains "wonderful active ingredients," but he wishes they were available through pharmacies in a purified, regulated form. Meanwhile, he said, effective drugs are available for every condition and symptom that marijuana is said to treat -- including a pill containing the chief active ingredient in the plant.

But that pill often doesn't work because the drug isn't well-absorbed through the stomach. And many doctors and patients say that the existing medications don't work for everyone.

Sun, the family physician, said that her sister, who suffers from multiple sclerosis, smokes marijuana to relieve the muscle rigidity that sometimes makes her fall. "She'll take a puff or two of pot, wait 15 minutes, and get her muscles able to move more easily," Sun said.

"She's on a lot of medications, including muscle relaxers," Sun said. "They're very sedating. They work well, and eventually you become tolerant so you don't fall asleep. Then they don't work as well. . . . She finds that this is something that works well, works quickly and doesn't sedate her."

Among the patients in her East Providence practice, Sun said she doesn't have anyone she believes would benefit from smoking marijuana. "I'm sure there'll be people asking me for it," she added with a laugh. But doctors already face drug-seeking patients who want prescriptions for legal narcotics, she said.

Dr. Thomas A. Bledsoe, an internist who is interim director of Brown Medical School's Center for Biomedical Ethics, called the new law "an unsatisfactory solution." But he said he might make use of it for certain patients, after explaining the risks and unknowns. "Patients who are competent have decision-making capacity," Bledsoe said. "I see my job as giving them advice and giving them information."

In terminal cancer patients, Bledsoe said, "The symptoms that [marijuana] can help with can be very nasty, very interfering with normal life. We're talking about the rest of their life, and it's short. Quality of life is very important."

Diane Lipscombe, a professor of neuroscience at Brown Medical School who studies the biology behind chronic pain, said that the classic drugs for pain relief simply don't work for millions of people.

Marijuana contains substances called cannabinoids that are also produced naturally in the body, just as the body produces natural opiates, she explained. The two substances work together in the brain to numb pain. Cannabinoids may enhance the effect of opiates, and they are of particular interest because they also affect peripheral nerves, not just the brain, she said.

"There are millions of people who have no effective treatment for pain," said Lipscombe. "All I can say is, anything that can help people who are in constant pain is a good thing."

Legislators Override Carcieri's Medical Marijuana Veto (PRBN)

Providence Business News, January 4, 2006

The state House of Representatives on Tuesday voted 59 to 13 to override a veto by Gov. Donald L. Carcieri of legislation passed last year to legalize medical marijuana, making Rhode Island the 11th state to allow people with certain illnesses to use the substance.

Federal law forbids marijuana use, but Alaska, California, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Vermont and Washington allow it to be grown and used for medicinal purposes. In June, the U.S. Supreme Court ruled that patients who used the drug in those states could still be prosecuted under federal law.

The new Rhode Island law allows people with severe illnesses such as cancer, AIDS, multiple sclerosis and hepatitis C, on a doctor's recommendation, to get registered with the state and get permission to grow up to 12 marijuana plants or buy up to 2.5 ounces of the drug.

The law is effective immediately, but the state Department of Health, which will register users and give them identification cards, still has 90 days to develop procedures to do so.

The medical marijuana bill was one of the highest-profile measures in last year's legislative session, but Carcieri vetoed the measure. The state Senate voted the override his veto the following day, but the House recessed without taking action, leaving the bill's fate up in the air. Legislators voted on Tuesday before convening the 2006 House session – the last possible time they could do it.

After the vote, Carcieri issued a statement saying the law "will encourage criminal activity," because it does not provide any means for the legal purchase of medical marijuana, forcing them to buy the drug in the illegal street market.

The governor also objected to the lack of "safeguards to protect the community," such as restrictions on where marijuana can be cultivated and stored, and he called the definition of eligible medical conditions as "so broad that it would allow nearly any Rhode Islander to be a user." Finally, Carcieri noted, "this bill appears to violate federal law."

The governor noted that along with himself, the state police, the state Department of Health, and the chief judge of the Rhode Island Family Court had opposed the law.

The full text of the law is posted here.

Flying Under The Radar (ABAJRNL)

By Stephanie Francis Ward

American Bar Association Journal, January 4, 2006

DOJ_NMG_0007881

Coming off of a slow holiday diet of year-in-review articles calling attention to the biggest news of 2005, we call on you to take a look forward.

Place your hand on our crystal ball to see how our sources predict what legal news might be making headlines in the months to come.

To make our list, we first determined the most underrated, underreported and unappreciated issues affecting lawyers. And then we thought about how these topics are likely to play out in the future.

While the chosen list is far from comprehensive, it identifies developments that may indeed prove worthy of extra attention.

METH: PUBLIC DRUG ENEMY NO. 1

If you live in a small town and run into problems with the law, methamphetamine may be the first cause that authorities suspect. Some rural justice system officials estimate that the drug is a factor in up to 80 percent of their caseloads.

"It fuels domestic violence, child abuse, thefts, burglaries and crimes of violence because the people who use it get so paranoid," says John Sarcone, the county attorney in Polk County, Iowa. "Most of these people have children, and there are a number of kids who get removed" from home.

Problems caused by meth have surpassed those caused by other popular drugs, such as crack cocaine, says Linda McKinney, the public defender for south central Missouri's 44th district. "I think meth in all of its forms has been much more destructive physically because it's a harder drug to kick," she says. In her experiences, first as a prosecutor and then as a public defender, she knows of only 10 instances where the defendants were able to break their addiction.

Prosecutors elsewhere make similar observations. And some say that while adult use is most common among the working class, juvenile use involves children from across the economic spectrum. Boys often try the drug due to peer pressure, while girls see it as a way to lose weight. Presiding Judge John G. Moody of Missouri's 44th Judicial Circuit reports seeing more juvenile defendants, some as young as 10, testing positive for the drug.

Studies back up personal experiences. In a survey of 500 law enforcement agencies, 58 percent of the respondents cited methamphetamine use as their county's biggest drug problem. In addition, 87 percent reported an increase in meth-related arrests in the past three years. The survey, published in 2005, was conducted by the National Association of Counties.

According to a 2004 study by the Office of National Drug Control Policy, 11.7 million Americans reported that they had used methamphetamine at least once. In another study by the agency, which focused on juveniles, 6.2 percent of high school seniors surveyed reported that they had tried the drug.

It's little wonder that meth has the attention of the nation's top law enforcement official. Last summer, in a speech to the National District Attorneys Association, Attorney General Alberto Gonzales said the illegal manufacture and use of the stimulant is the country's biggest drug problem.

While the drug is moving into urban areas, it's more prevalent in smaller, more rural communities, largely because it's cheap and easy to manufacture. A meth lab inventory might include pseudoephedrine, which is found in over-the-counter decongestants, and chemicals such as hydrogen peroxide, lye and red phosphorus.

Some of the ingredients are combined and cooked, creating the danger of explosion. The cooking process generates liquid and solid wastes that can contaminate buildings, soil and groundwater. "Here in Iowa, we call them Beavis and Butt-Head labs," Sarcone says.

Increased caseloads are straining resources for courts, prosecutors and public defenders. McKinney says the caseload in her district has gone from 50,000 a year to 100,000 a year. Of those cases, she says, about 80 percent involve methamphetamine use.

McKinney's office represents about 90 percent of the county's criminal defendants. She fears that some defendants eventually will have to be turned away because of the increasing caseload.

In March, Iowa passed a law that restricts the sale of nonprescription medications containing pseudoephedrine. One of the mandates is that retailers must keep such medications behind the counter or in a locked case. Sarcone says he's already seeing fewer shoplifting arrests, and he thinks the law also will lead to a reduction in manufacturing cases. It's one of several states to pass such a law.

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"Pseudoephedrine laws, where the stuff is put behind the counter, are very effective," Sarcone says. He adds that a federal law, requiring all states to monitor sales of the drug, would be the most effective. "Without the ingredients you can't make it," he says. "It's like having the yeast to make the bread rise."

Drug courts also seem to help, mainly by reducing the number of repeat offenders. These courts focus on intensive programs to help defendants quit meth rather than do jail time.

In Twin Falls, Idaho, the county has operated such a program for three years. Prosecutor Grant P. Loebs says that about 50 percent to 60 percent of those who complete the program are staying clean. Still, he sees usage of the drug in about 90 percent of the county's presentencing reports.

Defendants who participate in drug courts have to take periodic drug tests and appear frequently before the judge. In Moody's court, participants are assigned a parole officer and a case manager, as well as a tracker, who handles drug testing.

"We try to get to know them, and they get to know that we are trying to help them," Moody says. "I try to praise them when they do well and act disappointed when they don't. It makes a difference."

THE FACT

Meth prices vary throughout the United States. At the distribution level, prices range from $3,500 per pound in parts of California and Texas to $21,000 per pound in the Southeast and Northeast regions of the country. Retail prices range from $400 to $3,000 per ounce.

Source:"Drug Trafficking in the United States," DEA

—Stephanie Francis Ward

Afro-Colombians Driven Off Land In Cocaine War (LAT)

By Chris Kraul, Times Staff Writer

The Los Angeles Times, January 4, 2006

PEREIRA, Colombia — Armando Garces was reluctant to leave his mountain village even after right-wing militia members had gone door to door telling residents they had 48 hours to evacuate, or else. He didn't like being ordered to abandon the only home he had ever known.

Then a daylong gun battle erupted between the paramilitary fighters and leftist guerrillas over control of nearby coca crops and transit routes. Garces' town, nestled in Colombia's Pacific coast rain forest, was caught in the crossfire between the rebels above the town and militia members below it.

"We hid under our beds all day, and the next morning we were gone," said Garces, recalling the terrifying day in June when his township, Bajo Calima, became a battleground in the nation's long-running drug wars. "Everyone agreed it was time to look for some other future."

So the 25-year-old woodcutter, his wife, two children and about 500 other residents joined the swelling ranks of Colombia's internally displaced. More than 3 million people have been driven from their homes by the civil conflict between armed groups vying for political dominance and the control of crops, especially those linked to the nation's drug trade.

Only Sudan has more internally displaced citizens than Colombia, according to the Norwegian Refugee Council, a human rights group that has tracked the displaced around the globe for the Office of the United Nations High Commissioner for Refugees.

Although Colombia has had a large displaced population for two decades, its size has increased quickly in recent months, experts say, and a disproportionate number of them are, like Garces, Afro-Colombians. They are targeted because they lack political clout and sophistication at a time when their rural homes have become economically attractive.

Ricardo Esquivia, general coordinator of Arvidas, an advocacy group for the displaced in Sucre state, said most AfroColombians who own such land either lack full knowledge of their rights or the political power to enforce them. One factor working against Afro-Colombians is the 80% illiteracy rate in the areas where many live, said Esquivia, himself an Afro-Colombian.

"They are historically vulnerable and relegated [to a lower status] because they have never fully exercised their economic, social and cultural rights," said Jorge Rojas, a leading advocate for human rights and the displaced in Bogota, the capital.

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Those rights include a constitutional provision that guarantees land title to rural Afro-Colombian communities that have organized loosely as a group and occupied their property for 10 years or more, said Luis Murillo, a former governor of Colombia's Choco state. Murillo, also an Afro-Colombian, estimates that 1 million Afro-Colombians, or one-third of those living in rural areas, have been forced off of their land.

The growth of the displaced has much to do with the changing logistics of Colombia's multibillion-dollar cocaine trade. The success of U.S.-sponsored spraying programs meant to eradicate coca leaf production in Colombia's Amazon basin has caused a shift in coca farming to more remote areas, including the coastal zone surrounding Bajo Calima, where Afro-Colombians are concentrated.

The port city of Buenaventura near Garces' hometown and the estuaries that drain into it have become the most important cocaine processing and transshipment centers in Colombia, U.S. law enforcement officials have said.

Garces and other residents were lucky to escape with their lives. In past years, both paramilitary and guerrilla groups in towns such as Bajo Calima have massacred thousands of people whom they suspected of helping the other side or just for being in the way.

Since July, Garces has lived in a shantytown called Plumon on the outskirts of Pereira, built into the side of a river canyon. It has no running water or electricity.

Internal refugees such as Garces put enormous pressure on towns where they have moved. "It's impossible to solve the housing problem. We are incapable," said Pereira City Manager German Dario Saldarriaga, whose town in the interior — about 120 miles northeast of Buenaventura and 105 miles west of Bogota — is struggling with 15,000 displaced residents, about half of them Afro-Colombian.

Pereira has built three new hospitals and is erecting nearly 1,000 housing units to accommodate the influx of displaced people, but needs 4,000 more houses to deal with the overflow. Meanwhile, crime has skyrocketed, Saldarriaga said.

"Sometimes we feel overwhelmed, but it's much worse in other cities like Medellin and Cali," he said.

Human rights groups inside and outside Colombia see a longer-term risk in the government's inability to stand up for the land rights of its citizens. Many say the voices of the displaced aren't being heard in Colombia's nascent peace process.

Although kidnappings and killings have declined, the process that President Alvaro Uribe began in July 2003 to try to demobilize Colombia's armed factions doesn't do enough to ensure that the displaced may someday return to the millions of acres of land they have abandoned, said Lisa Haugaard of the Latin America Working Group, a coalition of religious and humanitarian agencies in Washington.

Haugaard and others fear that a law passed last summer outlining the terms of "reinsertion" of fighters into society will mean that most of the abandoned land, which totals 10 million acres, will simply remain in the hands of demobilized paramilitary fighters.

If that turns out to be the case, shantytowns such as Plumon, where Garces lives, and Bosques de Otun could become breeding grounds for a future generation of Colombian insurgents, she said.

"There is definitely a silence in the peace process on this question of land rights. Yet it will be dealt with in conflict and in a myriad of conflicting ways on the ground," Haugaard said.

Officials at the U.S. Embassy in Bogota fear that the problem of Colombia's displaced is a humanitarian time bomb and said the U.S. Agency for International Development's $30-million annual aid package is being redesigned to focus more on the needs of Afro-Colombians. That redesign is partially the result of pressure from the Congressional Black Caucus in the U.S.

"It's a huge crisis for a country already dealing with a lot of other crises at the same time," said a U.S. Embassy official who asked not to be identified.

Control of the drug trade isn't the only motive causing armed groups to push rural Afro-Colombians off their land. In Sucre state, where Esquivia works, about 60,000 have fled the countryside for the state capital, Sincelejo, to escape the bloody fight for control of avocado and palm plantations or simply for territorial dominance.

Adelina Zuniga left her 15-acre farm in Macayepa for Sincelejo two years ago after massacres of suspected guerrilla sympathizers in her town sent a chilling message. Having fled the countryside, her family initially slept 15 to a room in a Sincelejo shanty. She has now emerged as a leader of the displaced and pastor of a local evangelical church.

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"People arrive with no place to stay, no work and bothered by the local police. Almost all the old folks who came with us have died of despondency. They go from being important to feeling useless. They see no solution," Zuniga said.

The influx has led to social problems, including teen prostitution and the growth of street gangs, said Esquivia of the Arvidas advocacy group.

Until security improves back home, Garces plans to stay put in Pereira's Plumon slum, where he has found work paying $2 a day picking coffee and loading sacks of cement onto trucks. Besides, people who have gone back to Bajo Calima have found nothing but a burned-out ghost town.

"I'm not going back to the war," he said.

Seeing Crime Guns Destroyed Gives Solace To Victims' Families (NYT)

By Pam Belluck

The New York Times, January 4, 2006

SOUTH PORTLAND, Me. - Kelly DeCambra made her way through a seven-inches-an-hour snowstorm to a dingy Maine State Police garage where, among the brake parts, transmissions and a flat-bed tow truck, she hoped to find a fragment of solace.

It would come in the form of a Ruger .44 Magnum Super Blackhawk revolver, caked with blood and the memory of Ms. DeCambra's son, 21-year-old Lionel St. Hilaire, who was shot to death with it last year.

The mother had come to watch the gun that was used to kill her son be sawed into pieces in an acrid plume of white-hot sparks.

Ms. DeCambra's act of witness was made possible by a law Maine enacted in 2001 that requires handguns used in homicides to be destroyed when they are no longer needed for evidence. Before that, guns were often sold or auctioned by police departments to raise money for other equipment.

Gun control advocates, gun rights supporters, and law enforcement officials say they believe that Maine is the only state where the police allow victims' relatives to watch a gun's destruction, and the acts of witness are arranged informally by the police, not spelled out in the law.

Supporters of the law, including the Maine Chiefs of Police Association, acknowledge that in a state like Maine, which in the last decade averaged about 20 homicides a year, destroying such weapons takes only a few guns out of circulation. But the requirement that crime guns be destroyed reflects a trend among police departments nationwide.

A few states, including New York and Wisconsin, require at least some guns to be destroyed, and others, like Washington, have rescinded bans on destroying guns used in crimes.

Several municipalities have passed ordinances to prevent crime guns from being sold, and the International Association of Chiefs of Police passed a resolution six years ago encouraging police departments to destroy guns used in crimes .

"It's just a culmination of factors," said Gene Voegtlin, the association's legislative counsel, based in Alexandria, Va. "Did police agencies really want to be in a situation where they were offering guns back to the public? A lot of the weapons that are confiscated aren't necessarily the highest quality, so there are some safety issues involved, liability issues involved." The association's resolution urges police departments not to sell their old police guns or trade them in to a manufacturer for new ones, a practice that began to be common in the 1990's.

Efforts to prevent the resale of guns have been spurred partly by highly publicized crimes like those committed by Buford O. Furrow Jr., a white supremacist who in 1999 used a gun that had once belonged to the police department in Cosmopolis, Wash., to wound five people at a Jewish community center in Los Angeles and kill a Filipino-American postal worker.

Although some police departments destroy guns, often by melting them down, others, usually smaller departments, still sell them.

"You got to use every penny you can get," said Roberto Fulgueira, the police chief in Sweetwater, Fla., who last year traded in his officers' old Glocks and some crime guns, saying he needed about $15,000 for new Glocks for his 65 officers.

With the money, he said, "I bought all my men guns, I bought bulletproof vests, and I still have a credit."

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Maine's law came about because of Debbie O'Brien, a Kennebunk woman whose 20-year-old son, Devin, was shot to death in 1996. When she learned that the state police would probably sell the gun used to kill her son, Ms. O'Brien said her reaction was, "Oh, my God, the police are here to help you and the next thing you know they're turning around and selling a gun, making money off my dead son."

Ms. O'Brien lobbied for the proposed law, saying that she told the state police, "Look, if you need money, let's do bake sales."

"You're in hell," she said. "You're just struggling to have a life, and then I realized that would include the gun."

William Harwood, a gun control advocate in Maine, and Robert M. Schwartz, executive director of the Maine Chiefs of Police Association, said the original proposal was for all crime guns to be destroyed. But because of the state's strong hunting lobby, they said, the final law included only handguns used in homicides.

"To be candid," Mr. Harwood said, "the legislation had as much symbolic importance as it does deterrence."

But the symbolism is powerful, said Ms. O'Brien, who watched the .22-caliber handgun used to kill her son be cut up six years after his death.

"It was just a very important day for my husband and I," she said. "This was a weapon that changed our lives."

For Ms. DeCambra, watching the destruction of the gun used to kill her son - even though it was done without ceremony in a stark garage - seemed the closest thing she could find to justice, and a way to ease her feelings of helplessness and guilt that she had not been there to help her son when he was gunned down by a woman's former boyfriend.

Ms. DeCambra said she never saw her son's body because it was already being autopsied by the time the police notified her.

She said she had been unable to see punishment imposed on her son's killer, Zachary Fenderson, who had found his ex-girlfriend with Mr. St. Hilaire one night, because Mr. Fenderson immediately shot and killed himself.

Ms. DeCambra said she was even thwarted when she tried to put up a cross in a wooded area across from the house where her son was killed. She said someone removed each cross she tried to erect - a wooden one, a steel one, even one anchored in cement. "I haven't had any control over anything," said Ms. DeCambra, 38, a bartender at Mulligan's in Biddeford, Me. "When I brought children into this world, it's my job to protect them, and I couldn't do that. I feel like I failed him."

Ms. DeCambra, who had her first child when she was 14 and who gave birth to Mr. St. Hilaire when she was 16, has had a rocky life, plagued with early drug use and health problems that required a pacemaker and several operations. Her son, she said, was molested as a child, acted out in school and was sent to residential treatment centers. At 12, she said, he was molested by a center staff member, who was convicted. At 18, he was jailed for two years for having sex with a 13-year-old girl.

"I'm the first one to say my son wasn't perfect," she said. "But he's not a monster. He was my son, and I loved him very much."

Seeking to grasp the enormity of her son's death, Ms. DeCambra asked for the crime scene photos of his body, which she keeps along with an evidence bag containing his crumpled clothes.

Seeing the gun destroyed seemed a tangible way to address her grief, and she brought along her 24-year-old daughter, her 18-year-old son and his pregnant fiancée, her 2-year-old granddaughter and two friends. Without fanfare, a state police detective, Jeff Linscott, brought out the long-barreled Ruger revolver. He said many victims' relatives do not attend gun destructions, recoiling at the thought of seeing the weapon.

Ms. DeCambra hid her face and wept, her hands shaking, as a mechanic used a red chop saw to slice the gun four times, the pieces to be tossed on a scrap pile of used brake rotors and other metal parts.

"I have the same nightmare over and over," Ms. DeCambra said. "I'm watching him get shot, and I can't stop it. I need to do this."

Editorial: Mark Outcome, Not Start Of Weed And Seed Effort (MODBEE)

Modesto Bee, January 3, 2006

For many people, the new year started with music, dancing and hearty partying. There was no such hoopla for the Jan.1 launch of the Weed and Seed program in west Modesto.

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That's appropriate. Weed and Seed is not a flash-in-the-pan kind of thing. It's a methodical, yearslong commitment to getting rid of gangs, drugs and other criminal elements, and then cultivating pride and revitalization in a neighborhood that has suffered from ugly stepsister treatment.

The program has been in the planning and wish stages since 2002. The city's first application for the U.S. Justice Department's Weed and Seed designation — and up to $1 million that comes with it — was rejected. Last summer, with the second application, the outcome was positive.

The Justice Department is promising tougher federal prosecution of people arrested for certain crimes. It also is insisting on proof of success. The California State University, Stanislaus, Center for Public Policy Studies is to assist with that measurement.

In fact, many organizations are tapped for Weed and Seed assistance. Some of the strategies are fairly obvious, such as stricter code enforcement to assure that trashy lots are cleaned up. But there are other, less predictable elements. For instance, volunteers are to provide income tax assistance to help residents recover some of the $2.5 million in earned income tax credits that have gone unclaimed in that ZIP code, 95351. The reclaimed money goes directly to the residents.

The neighborhood also is benefiting from significant private and public investments that tie nicely into the project. They include:

The city's $2 million makeover of the Maddux Youth Center in César Chávez Park. It was started last spring and is due for completion this year.

Plans for a $5 million Neighborhood Center at Marshall Park, off Sutter Avenue and just south of Paradise Road. The city is seeking bids for the project, which is to include a fire station and a police substation.

Installation of long-awaited sewer lines in the Robertson Road tract, a $2 million county project

Being part of the new Stanislaus County Enterprise Zone. Companies that locate or expand in the zone are eligible for tax breaks and other incentives.

Rising property values. Bob Schmal, a neighborhood resident active in the project, said there are almost no abandoned homes in the area anymore because there's such a demand for housing. Further, 60percent to 70 percent of the houses are owner-occupied, up from about 40percent a few years ago, Schmal said. As a result, there's a new attitude about the importance of upkeep.

For all the formal programs, the success of Weed and Seed will depend on people — especially the residents. The Stanislaus County Sheriff's Department is assigning deputy Noel Vento to the area; he's been effective in working with residents in Empire and south Modesto.

Sheriff's Lt. Jim Gordon is well aware that west Modesto residents have heard promises before. "We've told the neighborhood that we intend to make things better. We have to come through."

This effort is to affect more than the 15,000 residents of the designated area. Lessons learned here can be applied to other struggling neighborhoods.

The official launch of the Weed and Seed project isn't what's important. More significant is what has been accomplished by this time next year and the year after.

The mission of Weed and Seed is explainedon the Department of Justice Web site, www.ojp.usdoj.gov/ccdo/ws/welcome.html.

IMMIGRATION:

The Border's Vital Center (HILL)

The Hill, January 4, 2006

Republicans face one of the trickiest political problems they have faced as a party since Clinton pre-empted their program through triangulation and left them temporarily devoid of issues.

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As the number of illegal immigrants mounts in the United States, the demands of the party's nativist constituency for tighter border controls and immigration enforcement threatens to put it at odds with America's rapidly growing Hispanic population, dooming the GOP to possible minority status not just in California and New York but in Texas and Florida as well.

The push-pull between Hispanic demands for respect and nativist concerns about job loss, crime, education costs and urban crowding, all exacerbated by illegal immigration, poses a huge problem for party leaders.

The obvious answer to demands for limits on immigration is the border fence passed by the House and pending in the Senate. Slated to extend over 700 miles of the U.S.-Mexico border at a cost upwards of $2 billion, the barrier, coupled with increased enforcement manpower and effective employer sanctions, will likely give the United States a means to control population inflows. But what of the economic, moral, foreign-policy and political issues a fence will raise?

Economically, Mexican illegal immigrants are not in search of welfare but come looking for work. That they find it is obvious. Otherwise how could they send $11 billion a year home to their families and why would they come in increasing numbers?

Clearly the American economy needs their services. On a micro-economic level, they do jobs Americans don't want at wages below what we would consider acceptable — and perhaps below those that are legal as well. On a macro level, their presence holds down labor costs and permits the Federal Reserve to take more chances with low interest rates than it could in an inflationary-wage market.

The obvious answer to these concerns is a grand bargain that couples the strictest border defense with a generous guest-worker program, granting legal status to Mexican immigrants and regulating their numbers, working conditions, and wages — and assuring that they contribute to Social Security and other taxes.

The foreign-policy implications of a fence are harder to handle. Already Latin resentment against the United States is fueling the rise of an oil- and cocaine-based leftist oligarchy throughout our hemisphere. Castro now has friends in power in Venezuela and Bolivia and moderate allies in Brazil, Uruguay and Argentina. In Peru, a leftist Chavez look-alike, Ollanta Humala, is leading in the presidential race. In Nicaragua, Daniel Ortega may be heading back to power by a gradual military coup. And in Mexico itself, a Chavez protégé, Andrés Manuel López Obrador, is leading in the polls for the July 2006 presidential race. Can you imagine having a border with a Chavez or a Castro, whose ability to disregard American concerns would be underscored by massive oil reserves?

But it is in the realm of domestic politics that the GOP would pay the highest price for a purely nativist policy. Texas has now become a majority-minority state, joining California. Can its wholesale flip to the Democratic Party be far behind? Not if the Republicans are seen as an anti-Hispanic party! Is the GOP really willing to make political war against the Latinos by rubbing their noses in a border fence when they now account for 14 percent of the population and will probably increase their share to 18 percent over the next 10 years?

The permanent political price the Republican Party would pay for this shortsightedness is reminiscent of the way it antagonized the African-American vote in the '60s. Remember that Dwight Eisenhower carried blacks in 1952 and 1956. John F. Kennedy only narrowly prevailed in the black community. It was not until Barry Goldwater and Richard Nixon, pursuing the Southern strategy at all costs, drove blacks into the arms of the Democrats that their votes were irretrievably lost. Is the GOP, driven by the anger of its base, going to make Hispanics permanent Democrats?

By moving away from English-only policies and reaching out to Hispanics, Bush has closed the gap among Latino voters. Gore carried them by 30 points, but Kerry only won among them by 10. But the border backlash may be undoing all this good work.

The obvious answer is to couple a fence with a good guest-worker program, with a citizenship track predicated on good behavior. But if the Republican Party allows the House bill to become law — a fence with no guest-worker program — it will be antagonize the vital Latino vote and consign itself to permanent minority status.

Morris, a former political adviser to Sen. Trent Lott (R-Miss.) and President Bill Clinton, is the author of Condi vs. Hillary: The Next Great Presidential Race.

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TAX:

Federal Taxes Fall As Income Rises (WSJ)

By Robert Guy Matthews

The Wall Street Journal, January 4, 2006

Even as Americans' income rises, they are paying a smaller share of it in federal taxes, according to the latest statistical analysis by the Internal Revenue Service.

At the same time, the growing number of people who are subject to the alternative minimum tax are paying an increasing share of the total amount of federal income taxes, according to the Treasury Department's Statistics of Income Bulletin, which was released late last month. The report analyzed individual 2003 income-tax returns and is the latest data available on individual tax returns.

Falling tax rates under the Economic Growth and Tax Relief Reconciliation Act of 2001 resulted in a 6.1% decrease in total individual income tax in 2003, to $748 billion, from 2002. But the portion of total taxes paid under the AMT rose 38.2%, to $9.47 billion.

The AMT is a controversial parallel tax that, in 2003, kicked in at $40,250 of taxable income for single and head of household filers, and $58,000 for married couples -- for taxpayers with large families or deductions for such expenses as state taxes. Once subject to the AMT, many filers lose important deductions such as state and local taxes and personal exemptions.

The AMT is estimated to have snared four million taxpayers in 2005. If Congress doesn't move to restrain the tax -- a bill that would do that is now pending in Congress -- this number would jump to 21.6 million taxpayers this year, and married couples with gross taxable income above $45,000 would be subject to it. For 2005, married couples began to pay the AMT at $58,000. The government collects an average of $2,770 more in taxes per household from those who have to pay the AMT, according to the U.S. Treasury Department.

The AMT was originally designed to ensure that high-income earners wouldn't be able to use deductions and exemptions to the extent that they would end up paying no taxes at the end of the year. While it still accounts for a small share of total tax receipts, each year more people are being forced to pay it -- and revenue from the AMT is becoming increasingly important to government coffers.

For years, Congress has elected to limit the scope of the tax to keep the tax from eventually hitting middle-income earners. But each year that step is taken, the costs of forgone tax revenue grow because the federal long-term budget already assumes the income from the tax. For 2006 alone, a limit on the AMT could cost the government as much as $12.22 billion in lost revenue.

Despite the AMT, the average tax rate for all 130.4 million returns in 2003 fell for all income groups. The only exception was for people with returns less than $10,000, which stayed the same as the year before.

The adjusted gross income reported on these returns totaled just over $6.2 trillion, a 2.9% increase from the year earlier. Taxable income, or the amount of money subject to taxes after deductions, increased 2.5% to $4.2 trillion in 2003. This was the third successive year that total income tax declined.

In addition, the IRS says, the number of individuals who itemized their deductions decreased for the first time since 1999. The main reason for this drop is because Congress ended what amounted to a marriage penalty for couples taking the standard deduction. In 2003, married taxpayers filing jointly could take a standard deduction of $9,500, equal to the double the $4,750 allotted for singles. In 2002, the standard deduction for married taxpayers totaled just $7,850. * * *

The IRS said last week that you need to get written documentation if you are donating a car worth more than $500.

Looking to crack down on taxpayers who overestimate the value of donated cars -- for which they can then take a deduction on their tax returns -- the IRS says that anyone who donated a vehicle after Jan. 1, 2005, would need the charity to give a written acknowledgment with the value attached. Generally, taxpayers' deductions are limited to the gross proceeds from the sale of the vehicle by the charity.

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For charities who accepted donated vehicles in 2005, there is no need to have sold the vehicle in 2005 to receive a deduction. They can sell the vehicle in 2006 and still qualify for deduction under IRS rules.

Taxpayers, however, must deduct in the same year they make a donation. * * *

BRIEF: Nearly a million very small business owners will now be able to file employment taxes to the IRS just once a year instead of quarterly. Beginning now, employers who have employment tax liability of $1,000 or less can file using the new Form 944 instead of the old one, Form 941. The IRS says that some 950,000 employers will be able to qualify.

Two Feuding Gallery Owners Admit The Art Of Tax Evasion (NYT)

By Anemona Hartocollis

The New York Times, January 4, 2006

A feud between Upper East Side gallery owners whose clients include some of New York's wealthiest collectors has resulted in both admitting to tax violations.

The owners are Helen Fioratti and James Sansum, her former protégé. Mr. Sansum, 39, pleaded guilty yesterday to failing to pay income tax on personal purchases, like clothing and his poodle's veterinary bill, that he made using gallery credit cards while working for Ms. Fioratti. Prosecutors said the money should have been declared as compensation. He was sentenced to pay $58,000 in back taxes and to three years' probation.

But the sentence fell far short of the 15 years in prison he faced under his original indictment, which accused him of stealing $568,000 in art, antiques, books and money from Ms. Fioratti.

Prosecutors said that Mr. Sansum was granted leniency after he volunteered information that led to the conviction of Ms. Fioratti on charges of evading sales tax on artwork sold at her gallery. Ms. Fioratti, 74, was sentenced last month to pay more than $550,000 in restitution. Mr. Sansum, according to prosecutors, claimed he learned how to cheat on his taxes from her.

Ms. Fioratti runs L'Antiquaire and the Connoisseur, at 36 East 73rd Street. It specializes in European art and counts Fords, Vanderbilts and the convicted Tyco executive L. Dennis Kozlowski among its clients. Ms. Fioratti hired Mr. Sansum in 1989 after he graduated from Harvard, where he was a classmate and friend of her daughter, Arianna.

In 2002, after resigning from Ms. Fioratti's gallery, Mr. Sansum opened James Sansum Fine and Decorative Art, just two blocks away at 1020 Lexington Avenue. Ms. Fioratti accused him of stealing art, including paintings by her daughter, to stock his new gallery. Mr. Sansum said the art had been given to him. He said he had been authorized to use gallery credit cards to supplement his $18,200 salary.

His supporters have said that Ms. Fioratti was retaliating for his defection, and that she was upset by the realization that he was gay. Ms. Fioratti's lawyer, Michael Miller, said yesterday that the suggestion that she was homophobic was nonsense. He said Ms. Fioratti had let Mr. Sansum live rent-free in her townhouse, giving him "a home when his personal world was falling apart," then was betrayed by him.

Mr. Sansum is suing Ms. Fioratti to force her to buy back his 6 percent share in her gallery. The value of that share is in dispute. Prosecutors said that Mr. Sansum had agreed to return four paintings by Ms. Fioratti's daughter; other disputed artworks will remain in the custody of the court until a judge decides who owns them.

CONGRESS-ADMINISTRATION:

Alito Hearing To Focus On Landmark Pa. Abortion Case (LAW/AP)

By Michael Rubinkam, The Associated Press

AP, January 4, 2006

Samuel Alito's decision as a U.S. federal appeals judge to uphold a 1980s Pennsylvania abortion restriction -- later overturned by the Supreme Court -- is likely to draw some of the toughest scrutiny at his upcoming confirmation hearing.

Pennsylvania lawmakers were among the first anywhere to approve restrictions on abortion -- including one that required women seeking the procedure to notify their husbands. Alito voted to uphold that requirement, but the Supreme Court disagreed, striking it down in a landmark 1992 decision.

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Senators are expected to grill Alito about the case, Planned Parenthood v. Casey, at his Supreme Court confirmation hearing, scheduled to begin Jan. 9. They're also expected to ask him about memos he wrote in the 1980s in which he said the case of Roe v. Wade -- the 1973 decision that legalized abortion nationwide -- should be overturned.

While the Court's decision in Casey upheld a constitutional right to abortion, the justices gave states new powers to make it more difficult for women to end their pregnancies. For that reason, activists on both sides regard Casey as the Court's most important abortion case since Roe.

Since Casey, state legislatures have approved hundreds of new regulations that determine when, where and how women may get abortions.

Waiting periods, parental consent laws, informed consent requirements and other restrictions have become commonplace. According to NARAL Pro-Choice America, an abortion-rights group, states have passed more than 460 abortion measures since 1995, although not all of them survived court challenges.

"The Casey decision greatly weakened the standard of review by which restrictions on the right to choose would be viewed by the court," said Blake Cornish, NARAL legal director.

While disappointed that the Court failed to overturn Roe, anti-abortion activists seized on the Court's reasoning that states may pass restrictions so long as they do not present an "undue burden" to a woman seeking to end her pregnancy.

"The Casey decision obviously did not go as far as we would have wanted, but it did allow us to work on legislation that (resulted) in saving lives," said Mary Spaulding Balch, director of state legislation for National Right to Life, an anti-abortion group.

Casey arose from 1980s-era abortion laws that were among the first of their kind in the nation.

They required women to wait at least 24 hours for an abortion, to certify that they had informed their spouses of the intended procedure, and to receive information from a doctor about fetal development and abortion risks and alternatives. Another provision required teenagers to get permission from a parent or judge before ending their pregnancies.

A three-judge panel of the 3rd U.S. Circuit Court of Appeals upheld most of the restrictions, but voted 2-1 to overturn husband notification, ruling that it presented an illegal barrier to women seeking abortions. The lone dissenter was Alito, who pointed out that the provision did not give husbands veto power over their spouses' decisions.

Although the Supreme Court rejected Alito's analysis, abortion-rights activists say the Casey decision gave them little to cheer about.

"Even though Roe stayed intact technically, Casey was the first challenge to Roe that started the erosion of Roe that is still going on now," said Dayle Steinberg, president and chief executive of Planned Parenthood of Southeastern Pennsylvania, the lead plaintiff in the case.

Jennifer Boulanger, who heads an abortion clinic that was a co-plaintiff in Casey, said women especially chafe at the 24-hour waiting period that the Court's ruling ushered in.

"Most women who are making this decision have thought about it for weeks. By the time they call us, they're ready. They don't want to have to wait any longer," said Boulanger, executive director of the Allentown Women's Center.

Anti-abortion activists say such rules have worked to reduce the number of abortions.

After Pennsylvania's first abortion restrictions took effect in the early 1980s, the number of abortions in the state declined sharply -- while rising nationwide. In the 1990s, the nation's abortion rate dropped as states began following Pennsylvania's lead.

"We were light years ahead of everybody else," said former state Rep. Stephen Freind, the architect of virtually all of Pennsylvania's abortion restrictions.

A 2004 study commissioned by the conservative Heritage Foundation found that abortion restrictions -- including parental involvement, informed consent, a ban on the type of late-term abortion known as partial-birth abortion, and a ban on Medicaid funding of abortion -- all helped reduce the number of abortions.

Abortion-rights activists cite other factors for the nationwide drop in abortions, including a decline in the number of unwanted pregnancies.

Alito Seen As Smart, Serious, Cautious (AP)

By NANCY BENAC, ASSOCIATED PRESS WRITER

DOJ_NMG_0007891

AP, January 4, 2006

WASHINGTON -- Samuel Alito's ninth-grade Latin teacher still swoons at how beautifully he conjugated verbs. A fellow judge admires him as someone who won't use five words when two will do.

From the classroom to the courtroom to his neighborhood, President Bush's latest nominee for the Supreme Court leaves a distinct impression on people. Talk to those who know him best and a portrait emerges of a smart, serious, cautious young man who grew up to be a smart, serious, cautious judge.

His confirmation hearings begin next Monday.

Alito is hardly a social dynamo. But he is well-liked as a regular guy who doesn't lord it over others just because he's way smarter than truly regular guys.

Interest groups on the left portray him as an extremist eager to impose his conservative views on the nation. But among those who have worked closely with Alito over the years, even liberal Democrats tend to characterize him as fair-minded, measured and pleasant.

Joshua Schwartz, a George Washington University law professor who worked alongside him in the Reagan Justice Department but describes himself as a liberal Democrat, credits Alito with having "small-c conservative values."

"He's an incrementalist. He's cautious. He believes very deeply in hearing all sides of an argument before making a decision."

Alito got one of his first big career breaks in part because his father, too, had a reputation for evenhandedness.

In 1976, the young Alito's resume jumped out at federal appellate Judge Leonard Garth from among hundreds pouring in from would-be law clerks.

The judge had been so impressed by a presentation given years earlier by Alito's father, an Italian immigrant who became a New Jersey legislative aide, that he remembered the name and called the son in for an interview. Alito "served me precisely as I like law clerks to serve me, both as a sounding board and an incisive, analytical individual," says Garth, a moderate conservative appointed by Richard Nixon. "Sam is very reserved," Garth said, noting his thrifty way with words.

Now, Alito has been Garth's colleague on the 3rd U.S. Circuit Court of Appeals for 15 years in New Jersey.

"I think he is the brightest person on our court," says Garth, including himself.

Alito has long managed to be the smartypants who doesn't act like a smartypants.

"I remember right where he sat: first row, second seat," says 91-year-old Grace Bolge, who taught him Latin at Reynolds Junior High in Hamilton Township outside Trenton. Alito easily nailed the nuances of verbs and the subtleties of proper translation, but never held himself out as better than the others, she recalls.

"There's a humbleness about him that I never saw in anybody else," says Bolge.

Decades later, Alito's law clerks voice similar sentiments.

Former clerk Katherine Huang remembers Alito dutifully taking phone messages for the whole office when everyone else took Good Friday off.

When one of Alito's fellow judges on the 3rd Circuit erected statues outside the entrance to her office, Alito's staff installed pink plastic flamingos at his doorway.

"He really enjoyed that," said Huang.

Alito, 55, credits his two college-age children with helping him keep his ego in check - "on a pretty much daily basis."

A neighbor, lawyer Hilary Brunell, says Alito displayed a restrained approach when they teamed up to coach high school students on a mock trial team that included Alito's son. Alito advocated much the same approach as they exchanged ideas about parenting, Brunell said.

"His attitude was that you can offer guidance and then it's up to the child to take it or not," she said.

Make no mistake, though, Alito can show flashes of pique.

His 91-year-old mother, Rose, says Alito was upset that he didn't get nominated for the Supreme Court earlier, when President Bush tapped Harriet Miers, who later withdrew her nomination. In 1988, when the National Law Journal ran a 211-word

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story suggesting that Alito had not had a good year as New Jersey's U.S. attorney, he penned a biting 522-word response that said the article "required the sacrifice of even minimal journalistic standards."

It was in his college years - first at Princeton, then Yale Law School - that Alito's conservative streak became apparent, though he was hardly outspoken.

Mark Dwyer, Alito's friend at Princeton and roommate at Yale, says it "wasn't in Sam's nature to sit around and chat about who should be elected" or what laws should be enacted. "I would have guessed that he was a natural supporter for Republican politicians and moderate to conservative, but not extreme conservative," says Dwyer.

At Yale, Dwyer remembers Alito as so tidy the roomies were known as the "two Felixes."

At Princeton, Dwyer and Alito chose to take their meals at Stevenson Hall, a university-run alternative to the private eating clubs that are somewhat akin to a fraternity system. Dwyer called it a "muted statement" against the selective nature of the clubs.

Marsha Levy-Warren, who graduated from Princeton a year after Alito in 1973 and was part of the university's first coed class, says he was known to be conservative but not noisy about it. While Princeton was not as restive as some other universities at the time, she says, anti-war and liberal sentiments nonetheless were strong, and students such as Alito who "stood kind of in the opposite camp were known."

As unrest mounted, the university set up a special committee of faculty, students and administrators to study how the school was governed. Stanley Kelley, the professor who chaired the committee, selected Alito as his staff assistant.

Kelley, now retired, said that in a highly charged environment, Alito didn't align himself with extreme views on either side.

"He chose to associate himself with the middle," said Kelley.

Alito himself painted a much sharper and conservative political self-portrait in completing a 1985 application for a job in the Reagan Justice Department. He wrote of being most influenced in the 1960s by the writings of William F. Buckley, the National Review and Barry Goldwater's 1964 campaign. He also cited his membership in the Concerned Alumni of Princeton, a conservative alumni group known for its opposition to opening the school to women and bringing in more minorities.

"That's all certainly news to me," says Dwyer. "I would remember if Sam had ever said anything pro-Goldwater."

Levy-Warren, a New York psychologist and psychoanalyst, said she finds Alito's disclosure of membership in Concerned Alumni of Princeton "distressing" and "painful," remembering CAP as a polarizing group that felt the school was moving in the "wrong direction" by welcoming women and minorities.

Alito now says he has no recollection of being a member of the group or participating in its activities.

As documents from Alito's past have trickled out, the judge's strongly conservative paper trail sometimes seems to clash with his more measured public comments.

He has been working to reassure senators that he maintains an open mind, despite pronouncements like those on the job application stating that he was "particularly proud" of his work on cases arguing that the Constitution does not protect the right to an abortion and opposing racial and ethnic quotas.

"The idea that Alito maintains an open mind on reproductive rights is simply not credible," says Ralph Neas, president of the liberal People for the American Way. Marcia Greenberger, co-president of the National Women's Law Center, sees "a series of mounting inconsistent statements and evasions."

Sen. Edward Kennedy, D-Mass., said the seeming contradictions mean that Alito will have "an especially heavy burden at the hearings in January to explain the growing number of discrepancies between his current statements and his past actions."

But John McGinnis, a Northwestern law professor who worked with Alito in the Reagan Justice Department, says both the sharply worded documents and Alito's restrained public persona represent different facets of the same Alito.

"It's not such a strange dichotomy," he said. "His ideals are quite conservative and his ideas of how to realize them are quite institutionally pragmatic."

McGinnis describes Alito as having a "Burkean" conservative ideal, referring to Edmund Burke, the 18th century English statesman and philosopher who opposed hasty political changes in favor of gradual reforms.

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Just such an approach is evident in a 1985 legal memo Alito wrote that counseled other lawyers in the Justice Department to gradually chip away at abortion rights rather than try to immediately overturn the landmark 1973 Roe v. Wade ruling.

Anthony Kronman, Alito's classmate at Yale and later dean of the law school there, points to Alito's statement on the 1985 job application that he had been drawn to Yale by the writings of Alexander Bickel, a constitutional law professor at the university.

"Bickel's leading virtue, the virtue that he celebrated and put on the highest level, was the virtue of prudence," says Kronman. "My hunch, my hope, is that Sam will prove to be a conservative of the Bickelian variety."

Anti-Alito Push Fails To Sway U.S. (WT)

By Charles Hurt

The Washington Times, January 4, 2006

Despite a major coordinated campaign, liberal interest groups have failed to convince the American public that the Senate should reject Supreme Court nominee Samuel A. Alito Jr.

Every major poll indicates that far more voters think Judge Alito should be confirmed than think he should be rejected. Though that support generally is lower than it was for John G. Roberts Jr. before his confirmation for chief justice in the fall, it is on par with the public support for Supreme Court nominees during the past 20 years.

"Since the nomination of Samuel Alito, left-wing groups have lashed out at him through a number of avenues in an attempt to derail his nomination," conservative activists Sean Rushton and Joseph Cella said in a memo to supporters. "The left's campaign has involved television, radio, print and Internet campaigns, public statements, the issuing of reports, and a van-based road tour. In all these media, the left failed to generate any substantive opposition to Judge Alito."

A poll conducted by The Washington Post just before Christmas, for instance, found 54 percent in favor of Judge Alito's confirmation, compared with 28 percent opposed. A CNN poll last month similarly found 49 percent favoring Judge Alito and 29 percent opposed.

Judge Alito's confirmation hearings before the Senate Judiciary Committee begin Monday.

Liberal interest groups started formulating opposition even before President Bush nominated Judge Alito in late October to replace retiring Justice Sandra Day O'Connor. Before Mr. Bush finished introducing his nominee in a White House ceremony, People for the American Way issued a statement promising to "wage a massive national effort to defeat the nominee."

Other groups quickly followed suit and urged senators to oppose the nomination. They also aired ads against Judge Alito in states such as Maine and Rhode Island, where Republican senators represent more liberal electorates.

"Rolling Justice," a caravan of Alito opponents organized by the liberal Alliance for Justice, traveled through key states to try to raise opposition to the nomination. The effectiveness of the campaign was not clear.

At a December stop in Craig, Colo., three Rolling Justice members stopped at a Holiday Inn to meet with locals. No one showed up.

In an e-mail to journalists yesterday, People For the American Way President Ralph G. Neas said the campaign against Judge Alito represented the most formidable progressive coalition since the defeat of Robert H. Bork's nomination to the high court in 1987.

He said public opinion will turn against Judge Alito once his record receives full attention.

"While the Senate Judiciary Committee hearings on Alito next week will be as civil as the John Roberts hearings, there is no question that there will be much more drama and tension," Mr. Neas said.

Today, the group plans to release a final version of its report on why Judge Alito should be blocked.

Also today, the National Italian American Foundation will kick off a nationwide campaign of supporters who, like Judge Alito, are of Italian descent.

Independence A Key Issue In Roberts' First State Of Judiciary Report (LAW)

By Tony Mauro, Legal Times

Legal Times, January 4, 2006

DOJ_NMG_0007894

The year 2005 was a stormy one for the judiciary, not only because of the death of Chief Justice William Rehnquist, but also because of clashes with Congress over the Terri Schiavo case, the politicking over judicial nominees, and issues such as Supreme Court citation of foreign laws and precedents.

Yet when Chief Justice John Roberts Jr. issued his first annual report on the state of the judiciary last week, he sidestepped those controversial questions and focused instead on what he saw as more bread-and-butter threats to judicial independence: low judicial salaries and high rental costs for courthouses. In doing so, he followed the precedent of predecessors Warren Burger and Rehnquist, who largely avoided controversial topics other than judicial salaries in their 30 years of annual reports.

Higher pay for judges and rent relief for courthouses, Roberts said, would have a "vanishingly small" impact on the overall federal budget but "would go a long way toward maintaining a strong and independent federal judiciary with the resources to administer justice efficiently and fairly. And that is priceless." Roberts also called for increased security for judges in the wake of violence aimed at federal and state judges last year.

Roberts issued the report three months into his tenure as chief justice, which he described as "a bit presumptuous," but said he did not want to break with the tradition of his predecessors.

Rep. Adam Schiff, D-Calif., co-chair of the Congressional Caucus on the Judicial Branch, supports Roberts' appeals, but expressed the hope that Roberts and the rest of the judiciary will do more to build public support for a more broadly defined brand of judicial independence.

"He could set a completely new tone and make an outreach to Congress and to the public to help the people understand that the judge's role is not to be popular," said Schiff. "He did not focus on that aspect of judicial independence." Schiff's caucus comprises two dozen members of Congress interested in improving relations between the legislative and congressional branches. The caucus has not yet met with Roberts, Schiff said.

The salary issue raised by Roberts is a recurring theme for chief justices; in 2002, as Roberts noted, the late Chief Justice William Rehnquist said he was 'beating a dead horse' by raising it. But the situation has only gotten worse, Roberts said, with the real pay of federal judges declining almost 24 percent since 1969. With a raise that began on Jan. 1, the annual salary of the chief justice went to $212,100. Associate justices are paid $203,000, while appeals judges get $175,100, and district court judges receive $165,200.

"There will always be a substantial difference in pay between successful government and private sector lawyers," Roberts acknowledged in his written report. "But if that difference remains too large -- as it is today -- the judiciary will over time cease to be made up of a diverse group of the nation's very best lawyers." Roberts noted that increasing numbers of judges are leaving the bench -- nine in the last year. "Every time a judge leaves the bench for a higher paying job, the independence fostered by life tenure is weakened," Roberts said.

The rent complaint is a newer but growing problem. During the 2005 fiscal year, the judiciary paid $926 million to the General Services Administration in rent, Roberts said, even though the GSA's actual cost of providing the space was $426 million. "The federal judiciary cannot continue to serve as a profit center for GSA," Roberts said. In part because of rising rents, about 1,500 jobs in the judicial branch were eliminated in the last two years.

In testimony before Congress last June, GSA official F. Joseph Moravec defended GSA rental policies as "an honest accounting of the cost of occupancy" for high quality courtroom space. The judiciary is the GSA's largest customer, he said, occupying 2,159 courtrooms and 39 million square feet, a threefold increase in the last 30 years. "It is high quality, functional space with befitting public areas, modern technological functionality and enhanced security features," said Moravec, commissioner of public building services.

Congress To Start Year With Unfinished Business (WT)

By Amy Fagan

The Washington Times, January 4, 2006

Congress will face key issues remaining from 2005 when they return later this month, including legislation to reduce entitlement spending, the future of the USA Patriot Act and a package of tax-cut extensions.

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When the House returns Jan. 31, leaders initially will focus on clearing legislation that would collect about $40 billion in savings from entitlement programs across the government -- a top priority for congressional conservatives and President Bush.

Final passage of the legislation was stymied last month after the Senate approved the final version with a few technical changes, meaning the House must reapprove it.

Ron Bonjean, spokesman for House Speaker J. Dennis Hastert, Illinois Republican, said House leaders "intend to move very quickly" on the spending cuts and an extension of the Patriot Act, followed by a final package that will extend tax cuts.

Congress failed to pass a permanent extension of the Patriot Act last year, opting at the last minute for a one-month extension.

A House Democratic aide said Democrats have been alerted to expect votes Feb. 1 on both the spending cuts and the Patriot Act.

The Senate is scheduled to return Jan. 18. Initial focus will be on the Patriot Act, an asbestos litigation-reform bill and the Supreme Court nomination of Judge Samuel A. Alito Jr., said Bob Stevenson, spokesman for Senate Majority Leader Bill Frist, Tennessee Republican.

Mr. Stevenson said the preference is to approve the Patriot Act without another temporary extension, but that the Senate Judiciary Committee already will be carrying a heavy load with the Alito nomination.

Jim Manley, spokesman for Senate Minority Leader Harry Reid, Nevada Democrat, said "bipartisan concerns" have been raised over the Patriot Act, but Mr. Reid hopes to get "a good compromise bill done as quickly as possible."

Congress also failed to produce a final package of tax-cut extensions last year.

The House and Senate each passed legislation extending many of the same expiring tax cuts, but the main component of each bill is different and a final compromise has not been crafted. The Senate bill's centerpiece would prevent millions more Americans from having to pay the alternative minimum tax. The House bill would extend the reduced tax rate for capital gains and dividends income.

Democrats have argued that the proposed spending cuts would hurt the poor and that extending the tax cuts would benefit the rich.

Mr. Manley said the juxtaposition of the spending cuts and tax cuts could make it "a difficult vote for many moderate Republicans."

Immigration also will be on the Senate agenda early this year. The House approved a border security bill in December. Mr. Stevenson said the Senate will debate the issue, but leaders haven't decided which immigration bill to bring to the floor.

Congress May Focus On Retirement Funds (WSJ)

By Joi Preciphs

The Wall Street Journal, January 4, 2006

WASHINGTON -- Congress is expected to take steps when it reconvenes this month to shore up private pensions, but almost half the workers in private industry won't benefit since their employers offer no retirement plans.

About 48 million full-time employees -- or 45% of the private-sector work force -- receive no pension benefits and their companies offer no retirement-savings programs. Their ranks are expected to grow as larger employers shed retirement obligations and many small businesses steer clear of them altogether.

Workers without retirement benefits are disproportionately Hispanic, young, single, less-educated and lower-paid than the work force in general, according to an analysis of government data by the Employee Benefit Research Institute, a nonpartisan think tank here. They work largely in the health-care, custodial, retail, manufacturing, construction, mining and agriculture industries, and for small companies across the economy.

Hortencia Lemus has worked for 30 years at an Angelica Textile Services laundry plant in Colton, Calif., with no retirement benefits. Concerned about how she will support herself after retirement, she and many co-workers went on strike Dec. 20 to press their demands. So far, no settlement has been reached.

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"It's going to be hard to survive, and I'm getting older and it's going to be harder for me to find a job somewhere else," Ms. Lemus, a 48-year-old who speaks little English, said through a translator. "It is worrisome to think about looking for another job and starting brand new at a new place at our ages."

Small businesses, defined as companies employing fewer than 500 workers, employ almost half the private-sector work force and have the lowest rate of employer-sponsored retirement plans. Many business owners say they can't afford to fund both retirement and health benefits, and that their employees prefer health coverage.

Mike Sincavage owns an excavation company in Blakeslee, Pa., that employs five workers. Health-insurance costs jumped 27% this year, he said, not leaving much money to offer other benefits. Having health coverage is important to his workers, he said, as well as being able to maximize take-home pay.

"They said they would take care of their own retirement," Mr. Sincavage said. "In our type of business, the typical employee needs as much money in their pockets as they can have."

But with Americans living longer, workers without pension plans or sufficient savings are vulnerable to sharp drops in living standards after retiring. More than half of all workers reported that apart from their homes, they had less than $25,000 in total savings and investments, according to an EBRI report last year. Many workers say they can't save more because of rising living expenses, the report said.

Americans long have relied on three sources of income in retirement: the government Social Security programs, employer-provided pension plans and their own savings. For several years, Congress has been trying various means of encouraging people to save more themselves, including such changes as the 1997 bill that created Roth individual retirement accounts.

As old-style defined-benefit pensions -- the ones that pay a set sum each month -- atrophy, some lawmakers and analysts have been urging Congress to expand government incentives to increase personal savings even though previous attempts have had limited success.

In 1996, Congress created the Savings Incentive Match Plan for Employees, or Simple plan, to encourage companies with fewer than 100 workers to set up retirement-savings plans. Administrative paperwork requirements for companies are reduced if they make matching contributions or offer 2% of each full-time worker's compensation to the plan. But relatively few eligible employers have taken advantage of the program, says Denny Dennis, senior research fellow at the National Federation of Independent Business, a 600,000 member small-business advocacy group.

Provisions in the 2001 Economic Growth and Tax Relief Reconciliation Act, or the Bush tax-cut bill, also offered tax incentives for retirement-plan sponsors and further simplified program rules, but an EBRI survey said the changes have done little to increase plan sponsorship among small employers.

"To some extent it's a 'rob Peter to pay Paul' kind of thing" for many businesses, Mr. Dennis said about weighing one kind of benefit against another that many smaller employers face. But with financial-service companies such as Charles Schwab Corp., Fidelity Investments and others recently announcing plans to eliminate certain account-servicing fees, he said, more companies would likely consider the option.

Kathy Stokes Murray, a spokeswoman for the Brookings Institution's Retirement Security Project initiative, says one option Congress could pursue is expanding the Saver's Tax Credit. Created in 1991, it provides families with annual incomes under $50,000 with an income-tax reduction equal to 50% of funds contributed to an individual retirement account or other qualified savings plan. Its current form, however, doesn't help lower-income families who don't owe taxes.

Although Capitol Hill lawmakers floated measures last year to make the credit permanent or extend its sunset to 2008 or 2009, Peter Orszag, a Brookings Institution economist, called the proposals "partial and incomplete" because none of them broaden eligibility for middle-income households or index the credit's adjusted gross income phase-out limits for inflation.

Maryland Democratic Rep. Ben Cardin, who supported making the Saver's Credit permanent in the pension-overhaul package recently passed by the House, said the idea of making the credit refundable so that more lower-income workers could benefit has encountered resistance from lawmakers who have a "philosophical opposition" to it. He says there is bipartisan interest in the issue, but supporters will have to win over congressional leaders to gain further changes.

Groups like the Retirement Security Project also are pushing to lift rules that make it difficult for lower-income people to set aside savings and continue to qualify for government benefits such as food stamps and Medicaid, the federal-state health-care

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program for the poor and disabled. The current asset rules, they say, "create disincentives for low-income working families to build savings."

The proposal also would help families with modest retirement savings who run into financial trouble, such as a job loss or major medical expense, and are forced to spend retirement savings because the money prevents them from qualifying for government aid.

"I think policy makers will address these issues in the near to immediate term," Mr. Orszag said. "It's not going to go away as the baby boomers continue to age. It's going to become increasingly more salient as the years go on."

Right Scales Back Election Year Agenda (HILL)

By By Jonathan Allen

The Hill, January 4, 2006

After a year in which many of their highest hopes were dashed, diminished or deferred, fiscal and social conservatives are compiling less ambitious legislative wish lists for 2006.

Republicans of all stripes looked at 2005, with expanded majorities in the House and Senate and President Bush just starting his second term, as a rare opportunity to win enactment of favored legislation.

But the new year is not seen that way at all. “The political reality is, generally speaking, that you have a tough time with big, ambitious ideas in an election year,” said former Rep. Pat Toomey (R-Pa.), the president of the anti-tax Club for Growth.

No prize was bigger, or ultimately more elusive, last year than Bush’s proposal to overhaul Social Security. But other desired, big-ticket legislative items, from a constitutional amendment banning same-sex marriage to an extension of the 15 percent tax rate on capital gains and dividends, also fell short.

Projected entitlement cuts were trimmed, a tax-cut package was pushed into the new year, and a reformation of the tax code never made it out of the legislative starting gate.

Many interest groups have scaled back their 2006 dockets, although few admit it.

“We decided a couple of religious-discrimination issues would be at the top of our agenda,” said Jim Backlin, legislative director for the Christian Coalition. Among them are an effort to force cable companies to carry all local signals, particularly those of religious broadcasters, on their systems and one to support the use of Jesus’ name in military chaplains’ prayers.

The “must carry” broadcasting issue was the top priority for the group last year, according to its website. But the No. 2 item, a Social Security overhaul, is no longer on the list.

Last year’s Christian Coalition agenda had 15 items; this year’s version has just 10.

In some cases, new legislative wish lists look a lot like the old ones. Andrea Lafferty, executive director of the Traditional Values Coalition, disputed the notion that expectations for 2006 have been scaled back.

“In no way do I feel that we’ve lost momentum,” said Lafferty, whose group remains focused on a litany of judiciary issues, including the confirmation of Judge Samuel Alito to the Supreme Court and constitutional amendments supporting the Pledge of Allegiance and banning gay marriage.

Lafferty chalks up stagnation on a number of the group’s highest priorities last year to “the nature of the beast.”

“Congress is not a fast-moving beast,” she said.

Leaders at the Christian Coalition and Traditional Values Coalition, like those at other interest groups, lobbying shops and think tanks around town, will listen for their primary priorities when President Bush makes his State of the Union address late this month.

“We make our views known before the State of the Union each year,” Backlin said.

“We’re definitely hoping that the president will make mention of the success of adult stem-cell research,” said Lanier Swann, director of government relations at Concerned Women for America. Many social conservatives are preparing for an early Senate battle over embryonic stem-cell research. Several activists pointed to the end-of-year enactment of legislation supporting cord-blood research as a major victory in 2005.

Fiscal conservatives will be parsing the president’s words and the numbers behind them.

Brian Riedl, a federal budget expert at the Heritage Foundation, said he hopes Bush’s speech has “a low price tag.”

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Typically, the State of the Union includes a long list of proposals that add up to a big cost for taxpayers, Riedl said.

"Instead, call for reductions in wasteful and unnecessary spending," Riedl advised. "Lay out a broad vision of why small government is good for taxpayers."

Riedl lauded lawmakers for what he called "cosmetic efforts" to rein in government spending in 2005. But in 2006, he said, "they need to do a better job of walking the walk."

While most of official Washington expects a tougher legislative road in a midterm election year, one tax lobbyist with close ties to the House and White House expressed hope that the approach of the end of Rep. Bill Thomas's (R-Calif.) tenure as Ways and Means chairman would prompt enactment of new tax laws.

"Thomas is trying to cement a legacy," the lobbyist said.

In addition to the Alito confirmation fight and abortion-related issues, social conservatives are gearing up for a Senate battle on immigration policy after House passage of a bill in 2005.

The issue tops the conservative Eagle Forum's Web page.

"Senators who are up for reelection in 2006 had better listen to the House votes," longtime conservative activist Phyllis Schlafly warned in a column.

Whatever their legislative goals, activists may not have much time to make them a reality before the next election.

"There is a shorter window," said Rep. Adam Putnam (R-Fla.). He said a string of legislative victories in 2005 was overshadowed by high expectations on Social Security, the enactment of laws just before long recesses and the devastation wrought by Hurricanes Katrina and Rita in the latter part of the year. A burgeoning lobbying scandal could easily be added to the list.

"Last year was the year for vision," Putnam said. "This next year's going to be a year for nose-to-the-grindstone, competent governance."

A Gentler Capitalism (WP)

By Harold Meyerson

The Washington Post, January 4, 2006

On the field of ideology, 2005 was a lousy year for the American right. Twice -- in the president's proposal to privatize Social Security and in the government's failure to save New Orleans -- it confronted the public with the prospect of a radically reduced government. Twice, the public recoiled at the sight. In retrospect the year's biggest mystery is how George W. Bush thought he could privatize Social Security. Essentially Bush assumed the role of the national CEO who tells his workers he's dumping their defined-benefit pensions for some ill-defined 401(k) investment schemes. And essentially the American people responded with the same anger and anxiety that airline and auto employees have shown when their bosses reneged on their commitments of a secure retirement. The difference, of course, is that the American people have a lot more power as voters than they do as workers.

Bush's plan to scuttle Social Security was in tatters when Hurricane Katrina blew ashore. For Bush this was a double whammy, since FEMA's failure to respond to the storm underscored the image of a government that would not be there when needed. In today's America, where business has largely abandoned the guarantees of security it used to provide its employees, a similar abdication by government was clearly not what the public sought.

For the pervasive insecurity that is inextricably part of today's capitalism has become the dominant fact of modern life. "The fragmenting of big institutions has left many people's lives in a fragmented state: the places they work more resembling train stations than villages," writes sociologist Richard Sennett in "The Culture of the New Capitalism," a newly published collection of lectures he gave at Yale University in 2004. Throughout most of the 20th century, the insecurity endemic to capitalism was mitigated by business institutions organized, as Sennett's great predecessor Max Weber first noted, along military lines. The corporation gave the employee a place and a ladder, and in such a lifelong institution, Sennett notes, "it became possible to define what the stages of a career ought to be like, to correlate longtime service in a firm to specific steps of increased wealth."

Sennett is no apologist for the old corporate order, but it did impart a structure to people's work lives and a place to hone their crafts. The new workplace, by contrast, is a brave new world of short-term employment and relationships, where experience

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is not necessarily a virtue and institutional memory is sketchy at best. It may be a fine place for young workers, but "as middle age looms and children, mortgages and school fees appear, the need for structure and predictability in work grows greater." The frequent migration of executives from one firm to another, Sennett adds, imposes further costs on employees: "This managerial revolving door has meant that the steady, self-disciplined worker has lost his audience."

In the absence of a more structured work life, what Sennett sees is a more muddled sense of self. He finds that confusion among displaced middle-aged workers, but also among young college graduates who, compared with their counterparts of the 1970s, are less able to articulate their career goals. In an economy that disdains continuity, how exactly do you define "career"?

From his interviews with a wide range of workers, Sennett turns up a widespread resignation to these immense changes in economic life. That doesn't mean, though, that the American people aren't reacting to this profound shift in their lives, and their sense of their lives. The increased prominence of religion in American life over the past several decades, I'd surmise, is in part a reaction to this embattled sense of self. And if most Americans take globalization as a given, many are increasingly enraged at our relatively open borders and the immigrants who cross them. These are two responses to the new insecurity that the right has exploited, though neither does anything to reestablish a more benign economy.

For the left, what 2005 has demonstrated is that while Americans have no great love for government, they do expect it to provide a baseline of security -- the more so since the employer-provided benefits of the past 60 years are going the way of the dodo. That means that government-supported universal health insurance will soon be back on the nation's agenda. But that's the easy part. Rebuilding the kind of security that defined private-sector economic life for most of the past century, and that helped individuals define themselves, is a conundrum that's daunting even to contemplate.

And yet: The new capitalism disdains stability; human beings, on the whole, don't. And immodest as it may be to alter the terms of capitalism, it's a damned sight easier than changing human beings.

Bush Loyalist Takes Economics To The Political Stage (FT)

By Caroline Daniel

Financial Times, January 4, 2006

In the last two months, Faryar Shirzad has been to Kenya, Uganda, Mongolia, Japan, China, the UK and Russia. He has just returned from the gruelling World Trade Organisation talks in Hong Kong. The only solace is occasional business-class travel.

He has no regrets. As the US deputy national security adviser for international economics, Mr Shirzad says his job is "endlessly fascinating ... It is a real privilege to see a foreign government at the peak of preparedness as they interact with our government, to see the leader of a country sitting down with ours talking through the difficult issues of the day."

After three years at the National Security Council, Mr Shirzad was promoted to lead its international economic staff. To ensure better co-ordination between the economic and foreign policy halves of the White House, he reports to the National Economic Council.

Trade, and its impact on political freedom rather than just commercial interests, is a key theme for President George W. Bush. "Condoleezza Rice [US secretary of state] and Stephen Hadley [national security adviser] are both very cognisant of the degree to which economics are now a driving element of our position in the world and the conduct of international relations ... Both are very mindful of the importance of integrating the economic agenda into the broader national security agenda," says Mr Shirzad.

His portfolio includes oversight of international finance, trade, environment, energy, investment, development assistance, humanitarian assistance and disaster response, being the G8 "sherpa" – the president's personal representative to the G8 process – and managing his preparatory work for most of the large economic summits.

Grant Aldonis, former commerce under-secretary for international trade, who calls Mr Shirzad his "best professional friend", sums up his role: "He is the last guy the president talks to about international economic issues before a decision is made ... He is the consummate staffer. He reserved judgment, thought through problems and gave unvarnished advice."

A framed, handwritten note from the president is prominent on Mr Shirzad's office wall. He is proud but modest, saying he is too embarrassed to read the presidential praise aloud.

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Mr Shirzad is attentive without being obsequious. He is seen as a good negotiator and is effusively loyal to Mr Bush, whom he lauds some ten times on different issues during the interview. The only long pause comes when asked if Mr Bush's decision to impose steel tariffs dented his image on free trade.

For all his discreet style, he is passionate about trade and in agreement with Mr Bush's view of freedom and the importance of democracy, drawn from his own life experience. He is the son of an Iranian diplomat, was born in London and lived in Pakistan and Rome. At 13, he was living in New York during the Iranian revolution in 1979 and vividly recalls the disruption for his family.

"My father had been consul-general, living in a big house, and we had to very quickly get out and assume a very low-profile existence. I cannot imagine what my parents went through, with four children, to lose their country, their job and most of their life assets. The thing we had going for us was our health, and the fact that we, by the grace of God, were in the United States."

The family moved to Bethesda, Maryland. His mother became a census-taker, checking up on families who hadn't filled out their 1980 census forms. He and his father lugged phone directories door to door. The family also set up a delicatessen and began stocking a few Iranian books.

Eventually the books took over so they sold the deli and started a book business, Iranbooks, which is still in operation today. "I think they at one point had the largest collection of Persian-language books outside Iran."

Continuing the career abruptly ended for his father, Mr Shirzad has forged a career in international affairs. He studied finance and went to Harvard graduate school to study public policy, before going to law school. He became a trade lawyer for seven years then served on the US Senate finance committee on the Republican staff.

"Bill Roth [Republican chair of the committee] was a very important influence. He was very much the embodiment of the greatest generation who went into public service at a young age and often at great personal sacrifice."

On the Hill he worked to get fast-track approval for trade deals for the president, which had been bogged down in a decade of partisan bickering. Mr Bush has since used this authority to pursue trade agreements in the Middle East with Morocco, Jordan, Bahrain, the UAE and Oman.

"We are seeing an agenda take hold in places like the Middle East, one that will have an enduring legacy beyond the time that the president is in office," he says. Officials are conscious of making the best use of that authority before it expires in 2007. "It is why the president has been so bold on the trade and WTO agenda."

Some trade analysts, however, argue that this record has come at a price, squandering political capital on obscure deals and leading to congressional fatigue at a time when Democrats are more resistant to supporting free trade agreements. The administration must also build support for a more ambitious Doha round.

Mr Aldonis says Mr Shirzad's challenge over the next year is to "mobilise political support when other themes are working against it, and find a strategy of appealing to internationalist Democrats. They came out of a nothing in Hong Kong and they have got a year left. How do they get out of the cul-de-sac of negotiations?".

Mr Shirzad, ever cautious, offers few clues. "We always have to worry about protectionism because politically it is an easy course for people to take. Trade legislation is hard work and politically difficult, but it is important."

Pharmacists Deal With Medicare Confusion Computer Glitch, Missing Cards Among Troubles (USAT)

By Wendy Koch

USA Today, January 4, 2006

Pharmacists struggled with billing glitches and missing drug cards as they tried to fill prescriptions Tuesday under Medicare's new drug benefit, the most sweeping expansion to the program since its inception in 1965.

On the first full business day the benefit was available, pharmacists said some customers came in without cards or letters showing their eligibility and others were surprised that they had to pay full cost until meeting a deductible.

"We're trying everything we can to help, but people are confused," said Samuel Mogbo, a CVS drug store pharmacist in Chicago. He said some customers hadn't received their cards and others had lost them.

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About 21 million senior and disabled Americans have some kind of prescription-drug benefit. The majority either kept coverage from former employers or stayed in a Medicare Advantage plan they had previously joined. About 6.2 million people were automatically enrolled in the new Medicare program because they had been in state programs for low-income people. About 1 million joined on their own.

Those eligible have until May 15 to sign up without penalty. They can choose from an array of plans.

At Linda's Pharmacy in Chicago, most customers had their cards and those who didn't returned home to get them, said pharmacist and owner Linda Dobson. She said the pharmacy experienced "minor" billing problems.

Robert Hayes, president of the Medicare Rights Center in New York City, blamed many of Monday's problems on the malfunction of a major computer database used by pharmacists to check eligibility.

At Scheer Drugs in the Bronx, where more than 90% of Medicare recipients are low-income seniors who were automatically enrolled, "it's chaos," pharmacist Bill Scheer said.

"People are falling through the holes," he said. "They need their medicine."

Larry Kocot, senior adviser to Medicare Administrator Mark McClellan, said sheer volume caused computer slowdowns Monday, but these problems had been resolved by Tuesday.

"This is going very well," said Gary Karr, spokesman for the Centers for Medicare and Medicaid Services. He blamed snags on heavy computer traffic, pharmacists forgetting billing details and beneficiaries not having cards. "It's not a magic system," he said.

"It is confusing, but consider the volume of change. … This is a massive undertaking," said Glenna Canitz, executive director of Bay Pharmacy in St. Petersburg, Fla. Her pharmacy, which has filled thousands of prescriptions under the new benefit, experienced some denials, but she considered them "opening-day glitches."

Medicare Expands Tier Pricing System Cancer, Arthritis, MS Drugs Fall In Highest Levels (USAT)

By Julie Appleby

USA Today, January 4, 2006

Medicare's drug benefit, expanding on a practice now in limited use in the private sector, requires patients to pay larger co-payments for expensive treatments, including some drugs for cancer, arthritis, multiple sclerosis and anemia.

In the private sector, some employers' insurance plans charge more for some so-called "lifestyle" drugs, such as impotence treatment Viagra or some allergy remedies.

But the Medicare program, which took effect Jan. 1, expands those charges into new territory: treatments for serious or life-threatening conditions.

While most working-age adults have insurance with two or three different "tiers" corresponding to how much they pay at the pharmacy for certain drugs — with generics the cheapest and brand-name drugs more — about 40% of the Medicare plans have four tiers, according to the analysis by Avalere Health, a for-profit research firm in Washington that did an analysis of the drugs earmarked for higher payments by patients. Fourteen percent have five tiers.

In comparison, 4% of workers with health insurance through their jobs have a fourth tier, according to a nationwide survey by the non-profit Kaiser Family Foundation.

In that fourth tier — where Medicare patients will most commonly pay 25% to 33% of the cost of the drug rather than a flat dollar amount — are such expensive treatments as Remicade and Enbrel for rheumatoid arthritis, Procrit and Aranesp for anemia and Copaxone and Betaseron for multiple sclerosis.

That differs, says Avalere President Daniel Mendelson and other benefit experts, from the drugs most commonly found in higher "tiers" in employer-offered plans. Often, those tiers are used by employers generally trying to get workers to think twice about taking expensive drugs for non-life-threatening conditions, such as hair loss, allergies or impotence.

Tier systems caught on in the late 1990s among employer-offered insurance, initially as a way to get patients to choose lower-cost generic drugs over more expensive brand-name products.

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The average co-payment now in private insurance is $10 for generics, $22 for brand-name drugs on an insurer's formulary and $35 for those not on the formulary, according to the Kaiser survey. The average co-payment for a fourth-tier drug is $74.

In Medicare, the tier prices vary, but generics are generally $10 or less, according to an analysis of 10 national plans by Avalere, while brand-name drugs range from $17 to $45 per prescription. Tier-four drugs are generally charged at 25% to 33% of the cost of the drug, although one national plan charges $50 to $69 per prescription.

Under one plan that charges 25% for drugs in the fourth tier, Medicare patients would pay $231 a month for anemia drug Aranesp, which is often used for cancer patients undergoing chemotherapy.

A patient taking Remicade for rheumatoid arthritis would pay $143 a month. The most expensive co-payment is in one national plan with a tier charging 75% of the cost of the drugs it places in that category, which include the breast cancer drug Herceptin (which would cost patients $1,991 a month), colon cancer drug Avastin ($1,839) and cancer drug Gemzar ($92).

Medicare officials say that most patients who did not have other drug coverage before will save substantially under the new program, even if their drugs are in the fourth tier. Instead of paying the full cost of the drug, the patient will have help from the government, especially after going through the "doughnut hole," which is the coverage gap during which the patient pays the full cost of the drugs until he or she has spent $3,600, after which the government pays 95% of the cost.

"In the case of Aranesp, the catastrophic (coverage) will start by the third month if the beneficiary has no other coverage," Peter Ashkenaz, spokesman for the Centers for Medicare and Medicaid Services, said in an e-mail. "Overall, the savings will be high."

But some patients may not be able to pay their way through the doughnut hole, says Kevin Brennan, senior vice president of policy for the Arthritis Foundation.

"They may be out of luck," he says.

In addition, most of the pharmaceutical assistance programs that offered free or low-cost drugs to lower-income patients will no longer do so for those with Medicare drug coverage.

Overall, Brennan says, the Medicare drug benefit is a step forward, but his organization says it will monitor it closely and may go to Medicare officials with suggestions for changes. His organization is also watching what private insurers do. Some may decide to create similar tier structures in their offerings to workers.

"We're really concerned about that," says Brennan, who takes an expensive arthritis drug he says has "changed my life as far as my ability to function" and fears such drugs may become too costly, even for those with insurance, if co-payments rise.

"We're looking at a real crisis," he says. "These are wonderful drugs that are tremendously innovative, but they are incredibly expensive. We as a country are going to have to figure out how to pay for them."

The American Cancer Society is also watching closely.

"Co-payments are an issue for us with any treatment for cancer," says Christy Schmidt, senior director of policy. "All insurance companies look at the bottom line and how to control costs. Medicare is often a leader in policy in the nation. We intend to watch this over time."

In 2002, a policy to charge cancer patients up to $550 per chemotherapy drug and up to $250 per radiation treatment was instituted by PacifiCare for its Medicare managed-care patients. After an outcry, the insurer dropped many of the charges.

The Cancer Society says it knows of no current plans that require special cancer co-payments.

But as ever-more-expensive drugs hit the market, more employers may begin to set up four-tier drug-benefit programs, says Dave Guilmette, managing director at benefits consulting firm Towers Perrin.

"It's a creative way to manage costs," says Guilmette. The Medicare drug program "will stimulate a lot more of this kind of design."

But he doesn't think many employers will place expensive treatments for life-threatening conditions in fourth tiers. Rather, he says, employers are more likely to require the use of disease-management programs or have insurers insist that patients try lower-cost drugs before moving on to higher-cost ones.

"These are people who are typically very sick and need the drugs," says Guilmette. "If you're asking them to pay 50% of something costing $20,000 a year, that isn't a competitive practice."

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Eric Michael, pharmacy consultant with Mercer Health and Benefits, says that the fourth tier can make sense if employers and insurers are trying to get patients to realize the cost of expensive treatments, so long as there is an out-of-pocket maximum and the benefit is clearly explained.

He says some employers need to create such a tier to protect themselves from expensive new treatments that may treat both serious and non-serious conditions. Patients would pay more, for example, if they sought the expensive rheumatoid arthritis treatments Humira or Enbrel for a less serious use, such as for the cosmetic treatment of the rash caused by psoriasis.

"We need to make sure the drugs used are medically appropriate," he says. "A lot of plans are not putting those checks in place and are amazed when they spend $12,000 to $13,000 a year to cover a cosmetic thing."

Congress Drops 'Buy America' For Tankers (AP)

By Matthew Daly

The Associated Press, January 4, 2006

WASHINGTON — A defense bill approved by Congress would allow open competition for a multibillion-dollar contract to supply refueling tankers for the Air Force.

President Bush is expected to sign the measure, squelching an earlier House-approved bill that would have helped The Boeing Co. by keeping the Pentagon from buying military equipment from the parent company of European jet maker Airbus SAS.

Boeing lost the lucrative tanker contract in 2004 amid an ethics scandal.

"Buy America" language had been inserted by Rep. Duncan Hunter, R-Calif., chairman of the House Armed Services Committee. However, Hunter agreed to remove the provision last month at the request of Senate leaders and administration officials, who said it could spark retaliatory measures by other countries and limit Pentagon flexibility. Congress voted final passage Dec. 21.

Harald Stavenas, a spokesman for Hunter, said this week the lawmaker would fight for it in the future.

Chicago-based Boeing lost the tanker deal in 2004, after revelations that it had hired a top Air Force acquisitions official who later admitted giving the company preferential treatment.

The deal would have allowed the Air Force to buy or lease 100 Boeing 767 planes for use as tankers, but it was killed by Congress in the 2005 defense authorization bill. The Air Force has said it is likely to reopen the deal to competition, although no formal timeline has been set.

George Behan, chief of staff to Rep. Norm Dicks, D-Wash., said withdrawal of the buy-America clause was expected.

"There's no question there will be an open competition. The real question is whether the Pentagon will ever award the contract to a company that has a major European component, given the (U.S.) complaints about illegal subsidies the parent company is receiving," Behan said.

Dicks' district outside Seattle includes thousands of Boeing workers.

The House bill would have barred the Pentagon from purchasing goods and services from foreign companies that receive government subsidies. While no companies were named, lawmakers said the amendment was aimed at disqualifying Airbus' parent company from bidding on the tanker contract.

Airbus, which is 80 percent owned by the European Aeronautic Defence and Space Co., has long received subsidies from European governments, sparking tension between U.S. and European officials.

EADS, which is based in France and Germany, has said it plans to team with Northrop Grumman Corp. to offer a tanker version of its Airbus A330 passenger jet to produce a new generation of aerial refueling tankers. The contract could be worth at least $20 billion.

Boeing spokesman Doug Kennett said Tuesday that "Boeing welcomes fair competition and the opportunity to tender the best proposal possible."

Randy Belote, a spokesman for Northrop Grumman, said the California-based company believes its partnership with EADS would produce an American-made product. Last year, EADS said it would build a manufacturing plant in Mobile, Ala., if it wins the tanker contract.

Federal Raise Set At 3.44 Percent In D.C. Area; Raleigh-Durham Sees Highest Increase (WP)

DOJ_NMG_0007904

By Stephen Barr

The Washington Post, January 4, 2006

Most federal employees will receive pay raises ranging from 2.83 percent to 5.62 percent this year, according to pay tables published by the Office of Personnel Management.

The lowest raises will go to General Schedule employees who are outside the boundaries of 31 specially designated locality pay areas. The highest raise will go to employees in Raleigh-Durham-Cary, N.C., which has been designated as a locality pay zone for the first time and is catching up with nonfederal salaries in that area.

As previously reported, the 2006 pay table for federal employees in the Washington-Baltimore area shows an increase of 3.44 percent in salaries (putting the average federal salary here at $80,425).

In addition to Raleigh-Durham, four other metro areas will receive higher raises than Washington-Baltimore area employees. They are:

Hartford, Conn., 3.62 percent; Buffalo, 3.75 percent, also a new locality pay area; New York-Newark, 3.77 percent; and San Francisco-San Jose-Oakland, 3.95 percent.

Locality payments are supposed to close the gap between federal and nonfederal pay in 31 metro areas and a catchall category known as the "rest of the U.S." Locality adjustments reflect wage growth and labor markets and do not take into account cost of living, housing and other consumer prices.

Last year, the president's pay advisers calculated that federal employee pay, on average, lagged behind the private sector by 13.37 percent. Some Bush administration officials scoff at the use of the average, contending that some federal employees are paid in excess of private-sector salaries and some federal employees are not paid enough.

In addition to Raleigh-Durham and Buffalo, Phoenix has been designated as a locality pay area for the first time, and workers there will receive a 2.95 percent raise. In the three areas, officials determined that nonfederal salaries were above those paid for comparable GS positions.

Three areas have been removed as locality pay areas for 2006 and will receive transitional pay raises. They are: Kansas City, 2.25 percent; St. Louis, 2.49 percent; and Orlando, 2.8 percent.

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Cronyism And Crises (NYT)

The New York Times, January 4, 2006

Defying early forecasts of easy confirmation, the Senate recessed for the holidays without approving Ellen Sauerbrey, President Bush's lamentable choice to head an important State Department agency that coordinates emergency relief for refugees of foreign wars, persecution and natural disasters. Her nomination has yet to clear the Senate Foreign Relations Committee, raising at least a glimmer of hope that she may not get the job.

Like all too many Bush appointees, Ms. Sauerbrey has political connections that seem her most obvious credential. A former Maryland state legislator and a twice-defeated gubernatorial candidate, she served as state chairman of President Bush's 2000 campaign. She is a favorite of Mr. Bush's far-right base, having pursued an anti-abortion and anti-family-planning agenda in her current patronage post as the American representative to the United Nations Commission on the Status of Women.

Unlike previous appointees to head the State Department agency, the Bureau of Population, Refugees and Migration, Ms. Sauerbrey has zero experience in emergency management and refugee resettlement. In the wake of the bungled response to Hurricane Katrina by a similarly uncredentialed appointee, Congress has become more sensitive to charges of this kind of cronyism. A few weeks ago, the Foreign Relations Committee bowed to a request from Senator Barbara Boxer and put off its planned vote on Ms. Sauerbrey.

Ms. Boxer is not the only committee member concerned by Ms. Sauerbrey's thin résumé for overseeing a $1 billion bureau with life-and-death responsibilities for helping to set up refugee camps and arranging for adequate food and protection. Senators on both sides of the aisle are troubled, and the nomination's approval by the committee is not the sure thing it once seemed.

The worry now is that Mr. Bush will bypass the Senate and install Ms. Sauerbrey on his own by using a recess appointment, the same tactic he used to make John Bolton the United States ambassador to the United Nations. The president should do just

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the opposite. The Senate's delay is a chance for Mr. Bush to rethink Ms. Sauerbrey's elevation and find someone with solid credentials for the refugee job.

OTHER NEWS:

Only 1 W. Virginia Coal Miner Now Said Found Alive (REU)

Reuters, January 4, 2006

TALLMANSVILLE, West Virginia (Reuters) - Only one of 13 miners who were in a West Virginia coal mine when it was hit by an explosion was found alive, a company official told family members on Wednesday, after reports hours earlier that 12 had survived led to rejoicing.

Virginia Dean, whose uncle was in the mine, said, "Only one lived. They lied."

12 Found Alive In W.Va. Coal Mine (WP)

By Ann Scott Tyson

The Washington Post, January 4, 2006

SAGO, W.Va., Jan. 3 -- A dozen miners trapped 12,000 feet into a mountainside since early Monday were found alive Tuesday night just hours after rescuers found the body of a 13th man, who died in an explosion in an adjacent coal mine that was sealed off in early December.

The bells at the Sago Baptist Church pealed, and joyous relatives rushed outside to celebrate their miracle: Miners surfacing after being in the cold, damp Sago Mine for 41 hours. Gov. Joe Manchin III said some would need medical attention.

"Everybody ran from the church screaming, 'They're alive! They're coming!' " said Loretta Ables, whose fianc, Fred Ware, was among the missing miners. She had lost hope when she learned about the dangerously high levels of carbon monoxide in the mine, but she was elated as she waited outside the church. "I feel great, very great."

The miners had apparently done what they had been taught to do: barricaded themselves in a pocket with breathable air and awaited rescue.

On Monday morning, a cart that takes miners deep into the mine had dropped the 13th miner off at his work station. It was 11,200 feet down the air intake channel, at the intersection of the sealed-off mine, where authorities think the blast occurred. Only 700 feet farther, the miners stopped the cart and walked off to begin work. They took their lunch buckets and gear. Their cart, undamaged by the blast, was still on the track.

Earlier Tuesday night, Manchin had held out hope for the 12, saying they "did not get the force of this blast."

"Our hopes are still high" for the other miners, the governor said. He said miracles happened in his state.

Bennett K. Hatfield, president of International Coal Group Inc., said: "We are clearly in a situation where we need a miracle, but miracles happen."

Federal regulators have cited the mine, in north-central West Virginia, more than 270 times in the past two years for safety violations, a third of them considered "significant and substantial," according to the Mine Safety and Health Administration. The problems included mine roofs that collapsed without warning, faulty tunnel supports and dangerous buildups of flammable coal dust. Recent violations included inadequate ventilation to dissipate dangerous gases.

Early Tuesday, rescuers drilled a 6 1/4 -inch hole 260 feet into an area near where the miners were thought to be. They measured carbon monoxide of 1,300 parts per million -- more than three times the level a person can safely breathe for 15 minutes.

After pounding on a pipe for 10 minutes, a common method for miners to communicate, rescuers lowered a microphone into the hole and picked up no response. A camera lowered into the hole showed no signs of wide-scale destruction such as a roof collapse from the explosion, making officials optimistic that rescuers would not have to dig through much debris.

Word of the deadly levels of gas in the mine left family members distraught. Some broke down sobbing, and others grew quietly somber.

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"It's hard to hear they might not be coming out," said Michelle Mouser, a niece of Terry Helms, a fire boss who inspeced the mine for problems each day before the production crews entered. "It's real down," she said of the mood of relatives gathered at the church as she sat under a drizzly, overcast sky earlier Tuesday.

"My heart goes out to each and every one of them," said Vinnie Ables, 30, Tuesday night. "At first I had no hope, and then I started to pray."

Except for relatives and friends of Terry Helms, whose relatives had told reporters they suspected he was the 13th man since the body was found at his work station, there was jubilation. People at the church sang a familiar hymn, "How Great Thou Art," as other relatives sped to the scene to greet the miners.

"I got scared a lot of times, but I couldn't give up," Charlotte Weaver, wife of miner Jack Weaver, told the Associated Press. "We have an 11-year-old son, and I couldn't go home and tell him Daddy wasn't coming home." Through the day, mine officials moved to speed the advance of the eight-man rescue teams, especially after a 1,300-pound robot equipped with a special camera became bogged down in mud while exploring the mine. The teams pressed through dank five-foot-high tunnels, hastily repairing ventilation systems as they went, but forgoing other repairs.

Hatfield said damage in the mine "resembled" that of a methane explosion. Methane is naturally produced in coal mines and is highly combustible. The "very substantial" explosion occurred in the sealed-off mine near where Helms's body was found.

Although their entrapment was not similar, the joy at the rescue of the 12 mirrored the relief 3 1/2 years ago when nine miners were brought to the surface one by one after being trapped for more than four days at the Quecreek mine near Somerset, Pa. Mining experts credited improved training in helping the miners to save themselves in both the Quecreek and Sago incidents.

Over railroad tracks and down a winding road along the Buckhannon River near the mine, miners' family members waited with increasing anxiety, remembering the last time they saw their loved ones.

Sam Luntz, 61, recalled urging his brother-in-law, miner Martin Bennett, 50, to retire. "He was at my house on Christmas Eve, and we talked about retiring. He laughed and said he'll probably work at the mine for the rest of his life," Luntz said.

Despite arthritis and the telltale cough of black lung disease, Bennett would not apply for disability benefits, Luntz said. His brother-in-law "loved his job."

Bennett's son is also a miner, but Luntz said it is unlikely he will return to the dangerous work, "especially if his dad don't come out alive."

In the hilly backwoods of West Virginia, mining runs in families for generations, and when disaster strikes -- this one is the biggest in recent local memory -- the community pulls together.

"Upshur County is like family -- when one person is hurt, we're pretty much all hurt," Sandy Fultz, an emergency medical technician and volunteer firefighter, said as she directed traffic near the mine.

Carmalita Rice, 19, a neighbor of missing miner Fred Ware, 59, said she knew the tall, thin widower was at risk the moment she heard the blast, which shook her bed. "We knew his schedule, so we knew he was in it," she said.

Helms's son Nick Helms, 25, said he was afraid to attend a briefing by mine officials. "Sometimes I can't get up the nerve to walk in. I'm scared of the news."

Terry Helms's fiance, Virginia Moore, said she packed his lunch bucket with sandwiches before he headed to work before dawn.

" 'Okay, babe. I'll see you tonight,' " she said he told her as he stepped into his red pickup truck.

"Be careful," she urged him.

From the morning darkness, he answered, "I will."

Relief Sweeps W.Va. Mining Town Families Learn 12 Miners Found Alive Underground (USAT)

By Tom Vanden Brook

USA Today, January 4, 2006

TALLMANSVILLE, W.Va. — Twelve miners trapped inside a coal mine for 42 hours were found alive shortly before midnight Tuesday, prompting screams of joy from family members in a nearby church.

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"They're all alive!" screamed one woman as she ran out of the church, its bells ringing in the dark.

Harley Ables, 29, said Gov. Joe Manchin told the families that 12 of the 13 miners were OK and coming out. One miner had been found dead.

Earlier in the evening, Ben Hatfield, president of International Coal Group, which owns the mine, said rescuers had yet to find signs of the other miners. The vehicle they had been traveling in had been found abandoned.

Hatfield said at the time that it appeared that the other miners had survived the explosion Monday and had sought safety in another part of the mine.

"It's another glimmer of hope but raises the question of where the other miners could have gone," Hatfield said.

Telling the miners' families that a body had been found, he said, was "about the hardest thing I've ever had to do.

Rescuers had to stop advancing through the mine shafts temporarily while they tried to restore ventilation sufficient to allow them to move farther, Hatfield said. The explosion disabled vents in the shaft.

"We remain hopeful there'll be some good news before it's all over, but hopes are certainly stretched thin," he said.

Hatfield said he did not know how the unidentified miner died. The body was found about 700 feet from the vehicle. He said rescuers would keep looking for the others. He said there was no evidence of a roof cave-in or collapse in the mine, and the vehicle was not damaged or thrown off its track.

Prospects of finding the miners alive were bleak. Before reaching the body, the rescuers had drilled narrow holes into the mine, inserted air monitors and found levels of carbon monoxide more than three times the maximum regarded as safe. The deadly gas is a byproduct of combustion, such as an explosion.

A camera lowered down a narrow hole had found no signs of the miners. Drilling crews pounded on steel pipes but heard no sounds or response from the missing men.

The rescue crews were in the farthest reaches of the mine, 11,200 feet from its entrance, when they found the body.

The missing men were thought to be trapped 260 feet beneath the surface.

Waiting family members had retreated to the nearby Sago Baptist Church to pray and wait out the efforts. Hundreds had spent Monday night huddled in tents or wrapped in blankets in the cool, damp mountain air.

Key to hope for a miracle was whether adequate levels of oxygen in the mine and survival training could have allowed the miners to construct a shelter from the carbon monoxide.

Carbon monoxide poisons by entering the lungs through breathing and displacing oxygen from the bloodstream. It can kill swiftly and, because it is odorless and colorless, with little warning.

The cause of the explosion remained unclear, Hatfield said. Lara Ramsburg, a spokeswoman for Gov. Joe Manchin, said it may have been sparked by lightning.

Jesse Stolzefels, 22 has worked in the mine for three years laying track for rail cars. It's a safe place to work, he said. "This was a freak accident," he said.

The best hope for the missing men is that they would have constructed a barrier against the deadly gas after the explosion. Materials to build such a structure — wood and plastic sheeting — would have been available in the mine, Hatfield said.

"Essentially, they could have built a room around themselves for safety," he said.

The explosion that trapped the miners occurred when the mine was reopening after being closed for the holidays. Ramsburg said two cars carrying miners were entering the mine when the blast occurred. The second car, carrying six miners, made it out after feeling the effects of the blast.

The accident recalled a similar drama four years ago when nine Pennsylvania coal miners were successfully rescued after being trapped for 77 hours in a flooded mineshaft 240 feet underground.

Town Pauses And Mourns One Who Did Not Return Son Remembers Hardworking, Unselfish Dad (USAT)

By Tom Vanden Brook

USA Today, January 4, 2006

TALLMANSVILLE, W.Va. — Nick Helms says he owes everything to his father: the clothes on his back, the food he eats.

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Most important, says Helms, whose father Terry was among 13 miners trapped in the Sago Mine after an explosion on Monday, is the life he gave to his son.

"He gave his life in there," he said of the mine, "so that I could go out and live mine."

Helms, 25, was among scores of relatives and friends of the miners who gathered Tuesday in a chilly drizzle at the Sago Baptist Church, a white chapel snug against a hillside across the road from the mine. The church erupted in joy when news came that 12 of the miners had survived.

But the news wasn't good for Helms. The 13th miner, whose body was found before the 12 were discovered, was Terry Helms, said his niece, Michele Mouser.

"He was a great guy. He was willing to help anybody," she said.

Terry Helms' job at the mine was fire boss, the official responsible for monitoring conditions inside the mine and helping to ensure the miners' safety. Helms, 50, was well aware of the dangers in mining and worked to make certain his son, Nick, didn't follow in his footsteps, Nick said.

"He worked so hard so I wouldn't have to set foot in a coal mine," said Nick Helms, who lives in Myrtle Beach, S.C. and hopes to become a professional golfer.

On Monday, when Nick Helms returned home from running errands, he had more than a dozen messages on his answering machine. He said he sensed his father might be in trouble.

His girlfriend finally reached him. Your dad's mine exploded, she told him. "I just about dropped on the floor," he said.

While friends and relatives awaited word on the trapped miners, veteran miners dropped by to offer support. When asked why they keep going back into the mine, knowing what can happen, miner Ted Johnson, 40, said, "It's as good a paying job as you'll find in this area."

Also prior to the news, clergy members and Red Cross counselors tried to comfort spouses and children. Piano music and singing could be heard.

"Wonderful hymns," said Barbary Chaapel, 64, whose sister's former husband, Jack Weaver, 51, was among those trapped in the mine. "I'll Fly Away. Amazing Grace."

Red Cross spokeswoman Cecelia Hart said about 25 volunteers were helping the miners' relatives and friends. "We're counseling; we're holding hands," Hart said.

A few hundred yards from the church, rescue workers and reporters jammed the narrow country lane leading from the church to the mine.

A few miles away, in the county seat, Buckhannon, signs of support sprouted. "Pray for the miners and their families," read the sign at Domino's Pizza.

Faith, and support of friends and family, are sustaining the miners' families, Chaapel said.

12 Miners Found Alive 41 Hours After Explosion (NYT)

By James Dao

The New York Times, January 4, 2006

SAGO, W.Va., Wednesday, Jan. 4 - Forty-one hours after an explosion trapped 13 men in a West Virginia coal mine here, family members and a state official said 12 of the miners had been found alive Tuesday night.

Earlier Tuesday evening, the body of one miner was found 11,200 feet from the mine entrance, within a few hundred feet of a vehicle used to transport the workers deep into the mine, company officials said. The miner was not identified, and the cause of his death was unclear.

Joe Thornton, deputy secretary for the West Virginia Department of Military Affairs and Public Safety, said the rescued miners were being examined at the mine shortly before midnight and would soon be taken to nearby hospitals. Mr. Thornton said he did not know details of their medical condition.

Outside the Sago Baptist Church, where people had gathered across the street from the mine, family and friends of the miners hugged each other and shed tears of joy as they learned the news.

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"It's a miracle," said Loretta Ables, who said her fiancé, Fred Ware, was among the survivors. "Everyone was telling us they were probably dead."

Earlier in the ordeal, air readings from a hole drilled 260 feet into the mine had revealed extremely high levels of toxic carbon monoxide, a likely byproduct of the explosion, mine company officials said.

After the one miner's body was found alone, Bennett K. Hatfield, the chief executive officer of International Coal Group, the mine's owner, said he considered it a hopeful sign that the other miners had abandoned the vehicle and found a safe pocket of air.

Terry Goff, a friend of one of the miners, said he learned that the miners were alive when the bell at the Baptist church began ringing just before midnight.

"People were rushing out, yelling, 'There's 12 alive!' " Mr. Goff said.

"When they found the body and said the carbon monoxide levels were high, I doubted my faith," he said, "but now we've got 12 men walking off that hill."

Throughout the day, trained rescue teams equipped with oxygen canisters had rotated through the mine, meticulously repairing the damaged ventilation system and combing through the mazelike corridors for the men.

Emotions seesawed throughout the day with each new piece of information. In the morning, hopes had run high that the miners, most of them highly experienced workers in their 40's and 50's, had barricaded themselves in a corridor with breathable air to wait for a rescue party.

By late afternoon, mine company officials said that with only a few thousand feet of mine left to search, the chances of the miners being alive seemed remote. But late in the evening, officials said the fact that 12 miners had apparently not been killed by the force of the explosion renewed hopes that they were alive.

Nick Helms, who waited all day for news of his father, Terry, said his father, a strapping 50-year-old, had endured numerous injuries in a 30-year career and hated mining because of the dangers, but refused to quit because the job put food on the table.

"He gave his life in there so I could go to the movies," Mr. Helms, 25, said of his father. Switching to the present tense, Mr. Helms added, "He is very selfless."

The explosion, which occurred at about 6:30 Monday morning in an unused part of the mine that had been sealed just last month, shook homes and woke people nearby. But it did not cause extensive damage inside the mine, company officials said.

Some concrete walls used to direct airflow had been knocked down by the force of the blast, but there were no cave-ins or piles of rubble from the explosion, officials said.

The real danger to the miners, officials said, would have come from the persistent high levels of carbon monoxide inside the mine.

A colorless, odorless gas, carbon monoxide impedes the body's ability to carry oxygen to vital organs. It can cause flulike symptoms like headaches and nausea, and in high enough quantities, it can kill a person in 15 minutes. Of particular danger to trapped miners, it can also cause confusion.

By Tuesday evening, monitors showed carbon dioxide readings of more than 300 parts per million in some sections of the mine, more than 10 times the amount considered safe, company officials said.

"The CO2 was the worst thing they could find," said Bruce E. Dial of Pineville, N.C., who worked as a federal mine safety official for more than 20 years.

Miners, after underground explosions or fires, are trained to find pockets of breathable air using special monitors, then barricade themselves in using a plastic-coated fabric known as brattice cloth.

Lewis Wade, a mine safety expert and senior science adviser for the National Institute for Occupational Safety and Health, said a well-sealed corridor could keep a miner alive for hours. "Explosions are devastating things," Mr. Wade said, "but miners are smart and resilient people."

Federal inspectors fined the Sago mine more than $24,000 for roughly 202 violations in 2005, according to federal records.

The total monetary figure is likely to rise substantially because the federal mine-safety agency has yet to put a dollar figure on some citations.

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The most serious of these citations are 16 "unwarrantable failure orders," which are problems that an operator knows exist but fails to correct.

Thirteen of these orders were issued in the past six months, federal records show.

"Under the Bush administration, the citing of unwarrantable failures has gone down dramatically," said Tony Oppegard, a top federal mine official in the Clinton administration and a former prosecutor of mine-safety violations in Kentucky. "So to see a rash of unwarrantable failures under this administration is a telling sign of a mine with serious safety problems."

Inspectors found dangerous accumulations of coal dust, which can be explosive. Other citations dealt with ventilation and firefighting equipment violations.

Since June, the mine has experienced 15 roof falls or wall collapses, with three causing injuries to miners, according to federal records. That is an unusually high number, Mr. Oppegard said, "and it's indicative of roof-control problems."

Asked about the violations on Tuesday, Mr. Hatfield said the mine's "bad history" had occurred before his company took it over last year, adding that dramatic improvements had been made since then.

The anxiety of the day was heightened by what seemed to be painfully slow progress by the rescue teams, which took the entire day to move 2,000 feet.

But, experts said, the teams had to proceed cautiously, frequently testing the air and repairing the ventilation system, because of an array of dangers. A weakened roof could have caved in, for instance, or trapped methane could have triggered a second explosion.

Dennis O'Dell, administrator of health and safety for the United Mine Workers of America, who was assisting in the search, said hasty rescue efforts had at times led to additional deaths. At the Blue Creek No. 5 Mine in Alabama in 2001, 10 men attempting to rescue trapped miners were killed in a second explosion.

"I know it's tough on families because every minute seems like an hour," Mr. O'Dell said. "It's just something you have to do. Everybody has done as good a job here as I have seen."

In one setback, a robot owned by the federal government became mired in mud inside the mine on Tuesday and was rendered unusable. Officials had hoped that the robot, equipped with lights, an air testing device and a video camera, would reach the trapped miners faster than human teams could.

The cause of the blast remained a mystery. Company officials said that the mine did not have a history of methane gas problems and that air testing conducted before the explosion found no evidence of methane, a highly combustible gas.

The apparent lack of methane led some mining experts to speculate that coal dust, which is highly combustible, caused the explosion. A spark from electrical equipment could ignite coal dust, they said.

Mr. Hatfield said the likelihood of a coal dust explosion seemed low because no work had been done in the mine over the weekend.

The trapped team was the first to enter the mine after the holiday layoff but had not begun work when the explosion occurred, he said. As a result, there would have been little or no coal dust in the air, he said.

Lightning was another possible cause. The explosion happened during a violent thunderstorm, and Mr. O'Dell said there had been incidents in which metal pipes extruding from underground mines had conducted lightning bolts. The bolts then ignited pockets of methane gas, he said.

A Timeline Of Key Events In The Sago Mine Explosion: (AP)

The Associated Press, January 4, 2006

A timeline of key events in the Sago Mine explosion:

Jan. 2:

– An early morning explosion traps 13 miners underground, but rescuers cannot enter for nearly 12 hours because dangerous levels of carbon monoxide are being vented.

– Rescue crews finally enter the mine on foot for fear of sparking another explosion.

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– The U.S. Mine Safety and Health Administration sends in a rescue robot, but it's abandoned after getting stuck in the mud.

Jan. 3:

– Rescuers keep pushing deeper into the mine shaft.

– A mine executive is "very discouraged" by air quality tests, which show carbon monoxide levels measured 1,300 parts per million, exceeding the maximum safe level of 400 parts per million.

– West Virginia Governor Joe Manchin says it will take a miracle to find the missing miners alive.

– One body is discovered in the mine. The prospects of finding anyone alive appear increasingly bleak with no signs of life.

– Shortly before midnight, family members say they have been told that the other 12 miners are alive, 41 hours after the explosion.

– One miner is in critical condition at a hospital, and was "unconscious but moaning" when he was brought to St. Joseph's Hospital, a doctor says.

Jan 4:

– Three hours after word that 12 miners had survived, the mine company's chief executive officer makes a stunning announcement that news of 12 survivors was wrong. Just one person survived, he says, explaining the wrong information was a miscommunication between rescuers and the command centre overseeing rescue efforts.

– Chaos and fights break out in the church where the families had gathered to wait, says John Groves, whose brother Jerry Groves was trapped in the mine.

Bush Says Nation Praying For W. Va. Miners (AP)

By Nedra Pickler

The Associated Press, January 4, 2006

WASHINGTON — President Bush said Tuesday the nation was praying for 13 men trapped in a West Virginia coal mine and offered federal help to help bring them out, "hopefully in good condition."

"May God bless those who are trapped below the earth," Bush said from the White House as rescue crews scrambled to reach the miners 31 hours after they were trapped underground.

The miners were trapped early Monday 260 feet below the surface of the Sago Mine, located about 100 miles northeast of Charleston.

The president, speaking during a meeting with U.S. attorneys to seek renewal of the terror-fighting Patriot Act, said he called West Virginia Gov. Joe Manchin to offer support.

"I told him that Americans all across our country were praying for the miners who are trapped in the mine there in West Virginia," Bush said. "I told him that I appreciated the great outpouring of compassion from the West Virginia citizens toward those worried family members. I also assured him that the federal government will help the folks in West Virginia any way we can to bring those miners out of that mine, hopefully in good condition."

The Mine Safety and Health Administration had rescue and safety specialists on the scene, set up a mobile command center and brought in a rescue robot able to explore areas of the mine that wouldn't be safe for human rescuers. The robot was abandoned for human searchers after it became bogged down in mud within the mine. Federal officials also monitored gas samples.

Bush was being regularly briefed on the situation, White House spokesman Scott McClellan said earlier Tuesday.

In US Mines, The Safety Record Has Been On An Upswing (CSM)

By Mark Clayton

The Christian Science Monitor, January 4, 2006

The vigil at a coal mine in Tallmansville, W.Va., where dozens of well-wishers waited hour upon hour for word of 13 miners trapped 260 feet underground, is a scene that has become much more infrequent in coal country - a result of vast improvements in US mine safety.

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For an industry that endured at least 1,000 fatalities a year through the 1930s and '40s, the death toll of 28 in 2004, the latest figure available, underscores the achievement of stricter government oversight and corporate compliance, experts and officials say.

Still, coal miners account for about half of all mining-related fatalities - an indication that the men and women who plumb America's coal seams continue to encounter hazardous, potentially deadly conditions like the explosion that rocked the International Coal Group (ICG) mine in West Virginia on Monday.

In 2003, 16 mining fatalities occurred in underground mining work with a fatality rate of 35.7 per 100,000 workers, according to the National Institute for Occupational Safety and Health. Of those, 11 occurred in coal operator mines. Coal contractors had the highest fatality rate, at 212.8 per 100,000 operator employees, the institute reports.

At press time Tuesday, hopes began to sag that the trapped miners would be rescued, after air-quality tests inside the mine showed carbon-monoxide readings triple the maximum safe level. Rescue workers also sent a camera into a hole drilled into the mine, to look for signs of the miners, and planned to move in a camera-equipped robot.

The blast occurred at about 6:40 a.m. Monday, trapping the miners below the surface of the mine, located about 100 miles northeast of Charleston.

By early Tuesday, rescuers had penetrated more than 9,000 feet into the coal mine but returned to the surface before the drilling crew punched into the mine. Officials thought the rescue team should exit in case the drilling caused a buildup of carbon monoxide, said Ben Hatfield, chief executive officer of ICG.

The federal government is helping in the rescue efforts. "We are praying and hoping for the best," White House spokesman Scott McClellan said.

The Mine Safety and Health Administration (MSHA) has rescue and safety specialists on scene, has set up a command center, and has brought in a rescue robot able to explore areas that wouldn't be safe for human rescuers.

The notion that mining ranks among the most dangerous occupations, in terms of on-the-job fatalities and injuries, may be misguided. "Of the 5,559 total work-related fatalities that occurred in 2003, only 56 (about 1 percent) occurred in coal and mineral mining," according to the National Mining Association website, which used data from the MSHA and the Bureau of Labor Statistics to calculate the number. Mining, the website notes, appears far down the list, behind trade, transportation, and public utilities (25 percent), construction (20 percent), and farming, forestry, and fishing (13 percent).

Coal mine explosions are typically caused by buildups of naturally occurring methane gas. The danger increases in winter, when the barometric pressure can release the odorless, highly flammable gas. The mine had been idle Saturday and Sunday, for the New Year's holiday.

ICG acquired the Sago Mine last March when it bought Anker West Virginia Mining Co., which had been in bankruptcy. The Sago Mine had annual production of about 800,000 tons of coal, the company said.

Federal inspectors cited the mine for 46 alleged violations of federal mine health and safety rules during an 11-week review that ended Dec. 22, according to records.

The more serious alleged violations, resulting in proposed penalties of at least $250 each, involved steps for safeguarding against roof falls, and the mine's plan to control methane and breathable dust. The mine received 208 citations from MSHA during 2005, up from 68 citations in 2004.

Safety at the mine has improved since ICG took over, said Gene Kitts, a company senior vice president. "We think we are operating a safe mine. We have no real clue about what triggered this explosion."

A Mining Disaster (WP)

The Washington Post, January 4, 2006

THE MERE THOUGHT of being trapped at the bottom of a coal mine is horrible enough to send shivers down most people's backs. But after the explosion that trapped 13 men in a West Virginia coal mine early Monday, an equally chilling story of safety neglect may be emerging as well. According to Ellen Smith, editor of Mine Safety and Health News, the Sago coal mine, where the accident occurred, had an accident rate in 2004 that was three times higher than the national average. That record has since worsened: Last year, the mine's operators received 205 orders and citations for health and safety violations, 96 of

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which carried a "significant and substantial" risk of death or injury. In 2005 the mine was forced to halt operations 16 times after failing to comply with safety rules. Eight of those citations, which were among the most serious a mine can receive, occurred in the final quarter of the year.

Mining has never been a pristine or perfectly safe business. But there are mines in this country that operate safely and that receive no health and safety citations at all. At the very least, the safety problems at Sago should have caused officials at the Mine Safety and Health Administration, which is responsible for mine inspections, to take notice. Did they? We may never know. At the moment, a spokesman for the MSHA says it is "hard to say" whether the mine's record was unusual. Ms. Smith says the MSHA, which used to publish the results of its accident investigations, no longer does so. The Bush administration's preference for concealing formerly public information has, it seems, penetrated the mine safety inspection world, too.

Another question worth asking in the wake of this event is whether the culture of the MSHA has changed in the past six years. Once purely an enforcement agency, set up to make sure that mines followed safety regulations, the MSHA has in the past several years formed a series of "partnerships" with mining industry groups. In principle, such partnerships might help make mines safer. In practice, they might have allowed the agency to become too friendly with the businesses it regulates. When Congress comes back to town, we'd like to hear some open discussion about the health of the nation's mine inspections.

Black Gold Or Black Death? (NYT)

By Jeff Goodell

The New York Times, January 4, 2006

IN recent years, one of the toughest turnaround jobs in American industry has been the effort to change the perception of coal from an industrial relic of 19th century to an energy source for the 21st century. The high-water mark of this makeover campaign may well have come last spring, when General Electric began its "ecomagination" advertising campaign touting its new clean coal technology. One ad featured glamorous, scantily clad models (male and female) shoveling coal in a dark mine while Tennessee Ernie Ford's version of "16 Tons," the great song about hard labor and corporate exploitation, played on the soundtrack. Near the end of the ad, a voice announced, "Harnessing the power of coal is looking more beautiful every day."

But there is nothing pretty about coal, as we have been grimly reminded by the plight of the 13 coal miners trapped by a mine collapse near Tallmansville, W.V. The American Lung Association estimates that 24,000 people die prematurely each year from power-plant pollution. In Appalachia, mountaintop removal mining - a method of mining in which the mountain is removed from the coal, rather than the coal removed from the mountain - has flattened some 380,000 acres in the region and destroyed more than 700 miles of streams.

Coal plants generate more than 130 million tons a year of combustion waste - fly ash, bottom ash, scrubber sludge - that is laced with toxic metals like arsenic and mercury and pumped into holding ponds and abandoned mines, where it can sometimes leak into aquifers and drinking water. Most important, coal plants are responsible for nearly 40 percent of the carbon dioxide released in the United States, meaning that if we're going to get a handle on global warming, we'll have to get a handle on coal.

Still, in recent years - thanks in part to skyrocketing natural gas prices, worries about dwindling oil supplies, regulatory rollbacks of the Bush administration - coal has become sexy. And it indeed has many virtues.

Coal is cheap and plentiful. Right now, more than half the electricity generated in America is produced with coal. America is often called "the Saudi Arabia of coal," with enough to last us for 250 years. Improvements in emission controls make new coal plants much cleaner than the old coal burners; 120 of these up-to-date plants are in the works right now. New technology allows coal to be liquefied into diesel, a possible substitute for oil.

There is also a strong cultural connection to the resurgence of coal, particularly in the producing areas: it is a red-state rock, a taking back of America from the silly blue-staters who believed the future would be powered by solar panels and switchgrass. I recently attended a rally for a new coal plant in the Midwest where boosters chanted, "Coal is U.S.A.! Coal is U.S.A.!"

Nothing, however, has been more important to the comeback of coal than the purported safety improvements in mining. The coal industry knows that as much as Americans may love a cheap kilowatt, they are not going to support burning coal if it

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results in people suffering miserable deaths in Appalachian coal mines. The industry works overtime to suggest that coal mining today has nothing in common with its dark and exploitative past. The old days of breaker boys (children who picked rocks out of the coal) and methane explosions are gone, the coal industry argues, and mining today is safe, well paid and professional.

Promotional literature published by the National Mining Association and other industry groups usually show miners as clean-faced men in close proximity to high-tech machinery - computer screens, global positioning systems, bright yellow haul trucks. The average salary of a coal miner, the association says, is $50,000 a year. According to one coal industry Web site, working in a coal mine today is as safe as working in a grocery store.

The people in Tallmansville know better. Coal mining remains a dirty and dangerous business, especially in regions of Appalachia where all the easy coal is gone and what's left is increasingly difficult and dangerous to mine. (Coal mining is indeed a fairly safe operation in the big strip mines of Wyoming, where the 70-foot seams of coal lie so close to the surface that, in places, you can practically dig it out with a spoon.)

In parts of West Virginia, Pennsylvania and Kentucky, some mines are so complex and tight the workers call them "dogholes." Working in an underground mine, especially one owned by a small non-union operator in Appalachia, is one of the few jobs in America that is nearly as dangerous as commercial fishing in Alaska.

Not long ago, I spoke with a coal miner who was spending eight hours a day in a coal seam in western Kentucky that was a mere 20 inches high. You can't even turn around in a mine like that, have to mine laying on your belly. I asked him how much he earned. "Not enough to buy a new truck," he told me.

If coal is indeed going to be taken seriously as a fuel source in the 21st century, it's up to federal and state regulators to make sure that even 20-inch dogholes are safe (and they can be, with the proper technology, worker skills and governmental oversight). A good first step would be to reverse the Bush administration's new privacy rules, which have made it tougher for outsiders to obtain federal inspectors' reports. Even better would be to increase fines and other penalties for operators who break the rules. In many cases the penalties for running a dangerous mine - the West Virginia mine had 208 federal citations in 2005, up from 68 in 2004 - amounted to little more than a slap on the wrist.

In the summer of 2002, outside the Quecreek Mine in Pennsylvania, I watched for three days as heroic men rescued nine co-workers who had been buried alive. There was no talk about the Saudi Arabia of coal there, no easy words about energy independence or the economic virtues of burning coal. Like the families who stood vigil in Tallmansville this week, they were people who understood the real price of cheap power.

US Federal Reserve Nearing End Of Tightening Cycle (FT)

By Christopher Swann In Washington

Financial Times, January 4, 2006

US stocks put on a turn of speed in the first trading day of the new year, after the minutes of the Federal Reserve's meeting in December added to confidence that rates were unlikely to rise much further.

The S&P 500 climbed 1.64 per cent, or 20.51 points, to 1,268.8 – its biggest daily gain in points terms since April – and gave a boost to investors after a lacklustre 2005 in which the index rose just 3 per cent.

The minutes of the Fed's December meeting, at which rates rose by a quarter point to 4.25 per cent, confirmed that the US central bank is now close to the end of a tightening cycle that has lasted a year and a half. The Fed has been raising rates in quarter point steps since an historic low of 1 per cent was reached in June 2004.

In December a majority of the Fed's Open Market Committee argued that "the number of additional firming steps required probably would not be large".

The minutes indicate that members of the committee believed that the level of interest rates was now neutral – neither fostering nor constraining economic growth.

"In these circumstances, the committee thought that policy should no longer be characterised as accommodative," the minutes said.

The Fed also sounded more relaxed about the outlook for inflation than in previous meetings, saying intense competition in the US market and subdued pay rises had helped contain price pressures.

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The central bank said the economy had continued to expand at a solid rate at the end of last year, with inflationary pressures remaining subdued. "Overall and core consumer price inflation were projected to move higher in the first half of next year, reflecting the effects of higher energy prices, but then to trend lower as those effects ebb", it said.

The yield of the two-year Treasury bond fell six basis points in response to the minutes, to 4.34 per cent. Financial markets are still braced for a rate rise at this month's meeting, the last to be chaired by Alan Greenspan, outgoing chairman.

Some analysts cautioned that the market reaction was overdone. Marc Chandler, global head of currency strategy at Brown Brothers Harriman, said: "The market was predisposed to read the minutes with a dovish bias and, sure enough, it saw what it wanted to see."

Stephen Stanley, chief economist at RBS Greenwich Capital, was also sceptical, commenting that "we are left to debate the meaning of 'not large' today, whereas on December 13 we were trying to quantify 'some'."

But opinion remains divided about the likelihood of a further increase at Ben Bernanke's first meeting as chairman in March. Traders were pricing in a 60 per cent probability that rates would be raised to 4.75 per cent in March, down from an 80 per cent probability at the end of last year, said Ian Mr Morris, US economist at HSBC.

Fed Minutes Indicate Rate Increases Wrapping Up (USAT)

By Sue Kirchhoff

USA Today, January 4, 2006

WASHINGTON — The Federal Reserve is nearing the end of its 18-month drive to raise interest rates, with most central bank officials saying the number of additional increases needed to tame inflation "probably would not be large," according to minutes of a Dec. 13 meeting released Tuesday.

Members of the Fed's policymaking Open Market Committee differed on just how much further tightening was needed, saying the outlook was "becoming considerably less certain" and that future rate moves were more dependent on strength of economic data.

Though economists have widely predicted that the Fed will soon wrap up its campaign, the minutes rallied the stock and bond markets. The Dow Jones industrial average rose 129.91 points to 10,847.41.

"We needed confirmation just to make sure we were on the right page," says Kim Rupert of Action Economics. "We think there are several more (increases) ahead, although we do think they might pause after" the Jan. 31 meeting.

The Fed has been raising interest rates in quarter-point increments since June 2004 to fend off harmful inflation. Short-term rates, which were a low 1% in mid-2004, are now 4.25%.

Economists, like Fed officials, differ on when the central bank will decide that rates are at a neutral level that neither impedes nor over-stimulates growth. Most expect the Fed to raise rates by a quarter point on Jan. 31, which will also be retiring Fed Chairman Alan Greenspan's last day in office.

White House economic adviser Ben Bernanke has been nominated to succeed Greenspan.

Some forecasters, such as Global Insight, predict another quarter-point increase in March.

The minutes indicate that some Fed members already consider interest rates within a broad range of the level needed to keep the economy operating close to potential.

According to the minutes, Fed economists expect the economy to slow slightly in 2006 from the strong pace of 2005. Still, output will be near potential the next two years, and the inflation rate should rise in the first half of 2006, due to energy prices, before ebbing again.

Hurricane-related rebuilding will boost the economy in the near term, but that will be muted by rising interest rates and a slowing housing market. At the same time, Fed officials worry that given strong growth and rising factory utilization, inflation could rise if the central bank is not responsive.

David Kelly of Putnam Investments expects a quarter-point move at the Jan. 31 meeting and hopes the Fed stops there. He says the risks of slower growth already outweigh those of higher inflation.

The economy grew at a 4.1% annual rate in the third quarter. A report Tuesday said manufacturing expanded more slowly last month.

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Views On Rates Differ Within Fed (WP)

By Jeannine Aversa

The Washington Post, January 4, 2006

Federal Reserve policymakers differed last month on how much higher interest rates would need to rise to keep the economy and inflation on an even keel, but most believed the end of the nearly two-year rate-hike campaign probably wasn't far off.

Minutes of the Fed's closed-door meeting on Dec. 13, released yesterday, provided insight into the thinking of Fed policymakers. At that meeting, Fed officials made their most extensive recent changes in the wording of the central bank's policy statement, which economists and market analysts parse for clues about future rate moves.

"Views differed on how much future tightening might be required," the minutes said, explaining why changes were made to the Fed's policy statement released after the December meeting.

One of the most important changes was that the Fed dropped language -- contained in previous statements -- that described interest rates as being too low, or accommodative. Economists viewed that move as a sign the Fed was winding down its rate-raising campaign.

Fed Chairman Alan Greenspan and his colleagues decided at the December meeting to boost rates for the 13th time since June 2004 to prevent inflation from flaring up. They noted that the economy was growing solidly and that the labor market had gotten stronger, forces that could lead to a pickup in inflation.

"Although future action would depend on the incoming data, this characterization of the outlook for policy was seen by most members as indicating that, given the information now in hand, the number of additional firming steps required probably would not be large," the minutes stated.

On Wall Street, stocks were buoyed by the Fed's assessment. The Dow Jones industrials surged 129.91 points to close at 10,847.41.

The Fed's action in December left its key short-term rate, called the federal funds rate, at 4.25 percent, the highest in 4 1/2 years. The funds rate is the interest that banks charge each other on overnight loans and is the Fed's main tool to influence economic activity.

The rate increase was part of an 18-month process in which the Fed lifted rates from extraordinary low levels to more normal ones. Before the central bank began its rate-raising campaign, the funds rate had been sliced to 1 percent, a 46-year low, in an effort to help revive the economy after the 2001 recession, terrorist attacks and accounting scandals rocked Wall Street.

Throughout the Fed's rate-raising cycle, it had pledged in its policy statement to boost rates at a "measured" pace. Economists came to view that as quarter-percentage-point increments. The Fed's 13 rate increases thus far have all been quarter-point hikes.

At the December meeting, some members thought the word "measured" was no longer necessary, the minutes revealed. However, the Fed's policy statement released at the time kept that word.

"Its retention for this meeting was seen as potentially useful to preclude a possible misinterpretation" by financial markets that the Fed might need to act more aggressively in boosting rates, the minutes said.

Many economists predict the Fed will bump up rates again at the next meeting, on Jan 31. That's the first meeting of 2006 and the last before Greenspan retires that day after 18-plus years at the helm of the Fed.

Some analysts believe another rate increase will come at the following meeting on March 28, which would mark the first one presided over by Ben S. Bernanke, who was nominated last year to replace Greenspan as Fed chairman.

On the housing market, Fed policymakers at the December meeting discussed "tentative signs that activity was beginning to slow," the minutes said. Thus far, housing barometers don't suggest "a significant weakening" in housing activity, the minutes said.

Policymakers also said the economy had bounced back from the Gulf Coast hurricanes. Hurricane-related rebuilding would boost economic activity, but this would be tempered by higher interest rates and subdued spending by consumers who may feel less wealthy as the housing market moderates, the minutes said.

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Fed Suggests It's Close To Ending Run Of Rate Rises (WSJ)

By Greg Ip, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, January 4, 2006

WASHINGTON -- Federal Reserve officials are less worried about inflation and thus may raise interest rates just one or two more times in the next few months, minutes of their December meeting suggest.

"The number of additional [rate increases] required probably would not be large," according to a summary of the Dec. 13 meeting, released yesterday, with the customary three-week lag. (Text of the minutes1)

More clearly than the statement issued just after the meeting, the minutes signal that the Fed is nearing the end of a campaign that has raised the target for the federal-funds rate -- charged on overnight loans between banks -- to 4.25% from a 46-year low of 1% in June 2004, in 13 quarter-percentage-point steps.

The likelihood that the Fed is nearing an end to its tightening was reinforced yesterday by weaker-than-expected economic data. An index of manufacturing activity, based on a survey of factory purchasing managers, slipped in December, and construction spending grew less than expected in November as home-renovation outlays fell. In addition, some economists estimate that consumer spending was flat in the fourth quarter for the first time since 1991.

The prospect of an end to rate increases sent the Dow Jones Industrial Average soaring 129.91 points, or 1.21%, to 10847.41, its biggest point and percentage gain since late October. Bonds finished mixed, with the yield declining on two-year Treasurys, which are sensitive to expectations on Fed policy. The dollar lost ground, meanwhile, posting its biggest decline against the euro in three months.

The minutes said Fed officials' inflation concerns had "eased somewhat" since the previous meeting Nov. 1. They noted that slowing housing-price gains would restrain consumer spending, and that officials had to be "mindful of the lags in the effect" of past rate increases on the economy. These factors all weigh in favor of the Fed halting its policy-tightening soon.

To be sure, some factors are pushing in the other direction. The minutes cite concerns that higher energy prices could yet push underlying inflation higher, that business spending had accelerated, and that the "sustained period" of low interest rates may have boosted home prices and raised the risk of an overheating economy. "Views differed on how much further" rates might have to rise, the minutes cautioned.

Given these conflicting forces, Fed officials may further weaken their verbal commitment to future rate actions in the statement issued after their meeting Jan. 31, the last to be led by Chairman Alan Greenspan. Some Fed officials think that would give the incoming chairman, Ben Bernanke, more freedom to plot the policy he thinks best -- whether to stop raising rates immediately or to continue raising them at his first Fed meeting on March 28.

On Dec. 13, the Fed altered two key parts of its post-meeting statement. It abandoned the assertion that interest rates were "accommodative," or below a level that neither stimulates nor restrains growth. And instead of saying rates would continue to rise at "a pace that is likely to be measured," it said instead, "some further measured policy firming is likely to be needed."

Economists at the time generally saw the retention of the word "measured" as a reaffirmation of plans to keep raising rates at a quarter point per meeting. But Fed officials, according to the meeting minutes and in sentiments expressed since, actually meant to convey less certainty about further rate increases. They retained the word "measured" to prevent speculation that a half-percentage-point increase might be in the cards, and eliminated the word "pace" because they thought the word might imply two or more rate increases.

Yesterday's minutes and weaker economic data prompted some economists to reconsider their rate views. Peter Hooper, chief U.S. economist at Deutsche Bank, still expects the federal-funds rate to rise to 5% by spring, but he said the minutes put that forecast "at risk." Jan Hatzius, chief U.S. economist at Goldman Sachs, is also sticking to a forecast of 5% by mid-2006. But, Mr. Hatzius said the weak manufacturing report as well as Fed officials' apparent lack of worry about inflation "have increased the downside risk to our forecast a bit. It certainly could be 4.75%, although stopping at 4.5% would still require a significantly weaker set of numbers than we are expecting."

In financial futures markets, expectations of Fed actions have changed very little since early December. Contracts based on the federal-funds rate reflect expectations that it will rise to 4.5% on Jan. 31 and put about 50% odds on a move to 4.75% on March 28, with no increases deemed likely thereafter.

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Fed officials probably will tweak their post-meeting statement again on Jan. 31. Since most officials agree inflation is more likely to rise than fall and the inflation rate is near the high end of their "comfort zone," they may still want to signal a bias to tighter credit conditions. But because their actions will depend more on new economic data than in the past year and half, they may soften the commitment to raise rates further. For example, instead of saying further increases are "likely to be needed," the statement could say "may be needed."

The Institute for Supply Management, a group representing corporate purchasing managers, said yesterday that its index of manufacturing activity dropped to 54.2 in December from 58.1 in November and 59.1 in October. Readings above 50 indicate the manufacturing sector is expanding, and all parts of the index continue to exceed their 20-year averages.

Still, "the pace of growth has decelerated," Daniel J. Meckstroth, chief economist for the Manufacturers Alliance/MAPI, said. "Hurricanes Katrina and Rita disrupted transportation networks and supply chains in manufacturing at a time when inventories were already lean, setting off a scramble for materials in September, October and into November. By year end, manufacturers got caught up."

The ISM's new-orders index, a gauge of future manufacturing activity, fell to 55.5 in December, down from 59.8 in November, and the production index, which measures output, slipped to 57 from 60.6 in November. New orders from other countries, as measured by ISM's export index, slid to 53.3 last month, down from 59.2 in November.

Manufacturers, however, got some relief from elevated prices for raw materials, including energy. The prices index fell to 63 from 74 in November and 84 in October. Still, manufacturers remain wary about energy prices, said Norbert Ore, Georgia-Pacific Corp.'s procurement director, who oversees the ISM survey. Several managers, he said, indicated they plan to buy energy-saving equipment and materials.

Meanwhile, the Commerce Department said construction spending grew 0.2% in November to a seasonally adjusted $1.146 trillion annual rate after rising 0.8% in October.

Private-sector construction grew 0.2%, fueled primarily by 0.5% increase in non-residential construction while residential construction slipped 0.1%. Government construction increased 0.3%, led by increases in educational and highway spending.

--Joi Preciphs contributed to this article.

Write to Greg Ip at greg.ip@wsj.com2

Fed's Notes Offer Hope Of A Brake On Rates (NYT)

By Edmund L. Andrews

The New York Times, January 4, 2006

WASHINGTON, Jan. 3 - The Federal Reserve has set the stage for ending its 18-month campaign of raising interest rates, but officials signaled on Tuesday that they are entering a new period of uncertainty at the same time that Alan Greenspan prepares to retire as Fed chairman.

According to minutes released Tuesday from the Fed policy committee's meeting in December, officials agreed that they would probably have to push rates only a little higher before stopping.

"Given the information now in hand, the number of additional firming steps required probably would not be large," the summary said, ascribing that view to "most members" of the rate-setting Federal Open Market Committee.

On Wall Street, stock prices increased sharply in response. Major indexes rose more than 1 percent, with the Dow Jones industrial average up 129.91 points, or 1.2 percent, its largest one-day gain in a month.

The minutes also suggested, though, that investors might have gotten ahead of themselves.

For more than two years, the Fed has given investors explicit guidance about future rate decisions, most recently as it gradually pushed up interest rates from the lows of early 2004. But Fed committee members made clear at the December meeting that they were increasingly uncertain about both the potential course of the economy and the best way to communicate their intentions.

"Views differed on how much further tightening would be required," according to the minutes. "Members thought the policy outlook was becoming considerably less certain and that policy decisions going forward would depend to an increased extent on the implications of incoming economic data."

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The ambiguity struck Peter Kretzmer, senior economist at Bank of America. "The markets really seized on the idea they were closer," he said, referring to an end of rate increases, "but when one thinks about it, they also highlighted just as clearly that there's uncertainty. What they really highlighted is that what they do will depend more on the data."

The summary of last month's deliberations provided a wealth of new insights as the Fed prepares for the transition from Mr. Greenspan to Ben S. Bernanke, President Bush's nominee to be the next Fed chairman.

The meeting minutes confirmed that Fed officials became slightly less worried about inflation pressure, even though they expected high energy prices to push overall inflation somewhat higher for a while.

"Participants indicated that their concerns about near-term inflation pressures had eased somewhat," the minutes said. Policy makers said prices were being held in check by competition from foreign producers.

They also noted that labor costs had risen only moderately, despite strong economic growth. And they drew comfort from findings that the spike in oil prices last summer and fall had only a "muted" impact on consumer prices.

But Fed officials made it clear that they were divided about when to stop raising interest rates. They also labored mightily to preserve maneuvering room, warning that decisions would be heavily influenced by coming economic data.

"Views differed on how much further tightening would be required," according to the minutes. "Members thought the policy outlook was becoming considerably less certain and that policy decisions going forward would depend to an increased extent on the implications of incoming economic data."

Fed officials seemed to be warning that they might stop providing the hints on future policy decisions that they had been giving over the last two years, with phrases like a "measured" pace of rate increases.

Mr. Greenspan, who is to retire on Jan. 31 after 18 years at the helm of the Federal Reserve, has long warned that the Fed will not always tip its hand on future policy.

Mr. Bernanke, who is expected to win easy Senate approval as his successor, has argued for years that the central bank needs to be more "transparent." But he has not said that he favors advance guidance as a matter of principle.

Many analysts agree that the last two years have been unusually predictable, and that the Fed is now entering a new stage of uncertainty.

Robert DiClemente, chief United States economist at Citigroup, said: "It seems to me the consensus is less confident, and I sense that not only in the committee's own discussion but in the staff's backpedaling a bit on the outlook. It's indicative how people are more divided, and I think their willingness to guide market expectation has been diminished by that."

Two major factors made it much easier for Mr. Greenspan to offer guidance on the Fed's intentions over the last two years.

The first was that inflation remained low even while job creation and economic growth strengthened. That allowed the Fed to adjust policy gradually, without surprises.

The other was that the Fed had reduced interest rates far below normal from 2001 to 2004 in hope of invigorating a stalling economy. But by 2004, policy makers largely agreed that rates needed to be brought back to more usual levels.

Indeed, Mr. Greenspan told lawmakers early in 2004 that returning rates to normal, without disruption, would be his biggest policy challenge. "It's not a gimme putt," he remarked, borrowing a golf metaphor.

With the benchmark short-term interest rate, the Federal funds rate on overnight loans between banks, now at 4.25 percent, four times the level just 18 months ago, Fed officials are evidently getting close to at least a pause.

Based on prices for federal funds futures, investors are betting that the rate will climb to 4.5 percent at the next Fed policy meeting on Jan. 31, but then very little above that.

Still, several analysts said that investors might have read too much into the Fed's readiness for a pause, and predicted that the federal funds rate would reach 4.75 percent or even 5 percent this year.

Ian Shepherdson, chief United States economist at High Frequency Economics in Valhalla, N.Y., said the Fed was keeping its options open.

In a note to clients on Tuesday, Mr. Shepherdson wrote: "Clearly, there is a debate as to how much further tightening will be necessary. Still, this does not read like a Fed where everyone is looking for a reason to stop."

Stocks Start New Year With A Bang Dow, S& P, Nasdaq See Significant Gains (USAT)

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By Matt Krantz

USA Today, January 4, 2006

Investors didn't waste any time putting a tepid 2005 behind them and celebrating the new year Tuesday by sending stocks sharply higher on 2006's first day of trading.

All three major stock indexes gained more than 1% after notes released from the Federal Reserve's last meeting indicated its 11/2-year-long campaign boosting interest rates might be near an end.

While a rally is always welcome on Wall Street, it's even more beloved in January. Market historians attach significance to the first trading days of the year, claiming they can predict how stocks will perform the rest of the year.

Even taken by itself, Tuesday's rally was a source of good cheer:

•The tech-heavy Nasdaq composite index gained 38 points, or 1.7%, making it the best performer of all the major indexes. It was the index's biggest one-day percentage gain since July 8.

•The Dow Jones industrials, which fell 0.6% in 2005, sprang up 130 points, or 1.2%, to 10,847. Had that rally occurred a session earlier, the Dow would have ended 2005 up 0.6%.

•The Standard & Poor's 500-stock index rose 21 points, or 1.6%, to 1269, its biggest percentage gain since Oct. 28. It was the first time in more than a month that all three indexes gained 1% or more the same day.

While many investors were hoping for a strong finish to 2005, they were pleased to see the rally, albeit late. “I'm pretty surprised this didn't happen sooner,” says Michelle Clayman, managing partner at New Amsterdam Partners.

Investors hope the rally can hang on for at least another four trading days due to the January “early warning system.” The last 35 times the S&P 500 has gained in its first five days, the market has ended the year higher 30 times, with an average gain of 13.7%, says the 2006 Stock Trader's Almanac.

But it will take more than one good day to soothe investors.

Most investors, especially after seeing the Fed's notes, are assuming there are only one or two more increases in short-term rates coming, says David Joy, strategist at RiverSource Investments. But Joy fears inflation could heat up and force the Fed to move more aggressively. “It's too early to say inflation is absolutely not a problem,” he says.

Al Goldman, strategist at A.G. Edwards, cautions investors from getting fixated on January, because a lot can happen the rest of the year. For instance, in 2005, the Nasdaq fell the first trading day of the year and didn't make it back above its first-day close until July 14.

“Would I rather have an up early January? You bet,” Goldman says. But “you can't take it to the bank.”

Dow Zooms Up 130 Points (WT)

The Washington Times, January 4, 2006

NEW YORK (AP) -- Wall Street had a bullish start to the new year yesterday, with the Dow Jones Industrial Average surging nearly 130 points after the Federal Reserve signaled a willingness to stop its campaign of interest rate increases in the near future.

In minutes from the Federal Reserve's Dec. 13 meeting, policy makers disagreed on exactly when to stop the policy of raising rates in quarter-percentage-point increments, but the Open Market Committee members did agree that an end was coming soon. The nation's benchmark rate stands at 4.25 percent, the result of quarter percentage point rises over the past 13 meetings dating back to June 2004.

Investors ended 2005 with the fear that the Fed would go too far in raising rates, choking off economic growth in its effort to stem inflation. That concern had kept stocks volatile for much of the year and stymied Wall Street's typical year-end rally. But the news of a possible policy shift was greeted with enthusiastic buying yesterday.

"Given the rise we saw, it shows you the importance of interest rates and what the Fed thinks," said Jay Suskind, head trader at Ryan Beck & Co. "This gives us hope that the Fed will be sensitive to the economy and we can get back to that nice 'Goldilocks' economy where growth is just right."

The Dow rose 129.91, or 1.21 percent, to 10,847.41.

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Broader stock indicators also advanced sharply. The Standard & Poor's 500 Index added 20.51, or 1.64 percent, to 1,268.80, and the Nasdaq Composite Index gained 38.42, or 1.74 percent, to 2,243.74.

Bonds moved higher, with the yield on the 10-year Treasury note falling to 4.37 percent from 4.40 percent late Friday. The dollar was mixed against other major currencies, while gold prices rose sharply.

The Fed minutes helped stocks overcome a number of hurdles in early trading, including a sharp jump in energy prices prompted by wintry weather in the Northeast. A barrel of light crude settled at $63.14, up $2.06, on the New York Mercantile Exchange.

Wall Street remained concerned that the economy was already slowing after a pair of economic reports pointed to slowdowns in manufacturing and the red-hot housing market. The Institute for Supply Management's manufacturing index fell to 54.2 in December, less than the 57.5 reading expected by economists and off from 58.1 in November. In addition, the Commerce Department said construction spending rose 0.2 percent in November, far less than 0.7 percent gain expected.

Stocks also were weighed down in early trading because of negative news from a pair of Dow industrials. Wal-Mart Stores Inc. lost 57 cents to $46.23 as the retailer said its holiday sales will only approach the low end of its previous forecasts despite deep discounts used to lure buyers into the stores.

Fellow Dow component General Motors Corp. suffered after Banc of America Securities lowered its price target for the automaker to $13 per share from $16 per share, citing the likelihood of lower-than-expected savings on health care costs. Shares of the struggling automaker dropped 52 cents to $18.90.

The negative economic data and Dow pressures made the sharp rise in late trading even more surprising, said Chris Johnson, manager of quantitative analysis at Schaeffer's Investment Research in Cincinnati, who questioned whether the market's thirst for gains, unfulfilled in December, fueled some over-exuberance.

"This is definitely a nice bounce here today, but there are a lot of stocks that have no reason to rally that have rallied," Mr. Johnson said. "I hope it sticks, but I'm going watch cautiously here over the next couple of days."

In other action, Poultry producer Pilgrim's Pride Corp. fell to a new 52-week low after the company slashed its first-quarter profit forecasts in response to lower prices in the United States and disappointing sales in Mexico. Pilgrim's Pride tumbled $7.80, or 24 percent, to $25.36.

Walgreen Co. rose $1.13 to $45.39 as the drugstore chain said higher generic drug sales helped push profits up 5 percent in the first quarter. The company beat Wall Street profit forecasts by a penny per share.

Fed Minutes Give Stocks Life (WSJ)

The Wall Street Journal, January 4, 2006

Stocks rallied Tuesday afternoon after minutes from the Federal Reserve's December meeting suggested that the end of the central bank's 18-month campaign to raise interest rates will happen sooner rather than later.

A year earlier, it was almost the exact opposite on Wall Street: Fed minutes suggested rate increases would continue far into 2005, and the Dow Jones Industrial Average slumped 98.65 points in heavy trading. That set the tone for stocks for the rest of the month and presaged a flat market for 2005, as the Fed fulfilled its promise and boosted rates by eight more times to 4.25%.

Now investors are hoping that, just like last year, early January trading will help set the tone for 2006.

FED FUEL

Stocks shot higher Tuesday after the Fed released minutes at 2 p.m. Eastern

Dow industrials

Nasdaq composite

The Dow industrials, limp before the release of the minutes, surged 129.91 points, or 1.21%, to 10847.41. Exxon Mobil jumped 4.1% amid a big advance by crude-oil prices. But financial stocks such as American Express and Citigroup, which would benefit from an end to the rate increases, also rallied.

The Standard & Poor's 500-stock index popped 20.51, or 1.64%, to 1268.80, helped by the rally in financials, which make up more than 20% of the index. Technology stocks, which benefit from low rates as consumers and companies spend more on

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new gadgets, led Tuesday's advance. The Nasdaq Composite Index, heavy with tech stocks, rocketed 38.42 points, or 1.74%, to 2243.74. Microsoft gained 2.6% and Intel rose 2.4%, also propping up the Dow average.

The dollar fell sharply against the euro and the yen, since the greenback usually benefits from higher interest rates.

Policy makers at the December meeting noted that inflationary pressures had "eased somewhat" since November and said "the number of additional firming steps required probably would not be large," the minutes say, though future actions are dependent on "incoming data." That raised hopes that the Fed, which boosted short-term rates by a quarter-point for the 13th-consecutive time last month, has only one more increase on tap. On Jan. 31, policy makers meet again in what will be the final meeting chaired by Alan Greenspan.

The Fed is broadly expected to nudge rates higher once again by a quarter-percentage point. Fed-funds futures contracts, bets on future moves by policy makers, reflected hopes that the increase will be the last. As of last Friday, the contracts priced in a 60% chance that rates would go to 4.75%. After the release of the minutes, those odds had fallen to 48%.

"Maybe it's only one and done for the Fed," said Ethan Harris, an economist at Lehman Brothers. Even if the Fed does raise rates more than once, he added, there is a "sense of relief that the end of the tunnel is in sight."

The market had a topsy-turvy start: Stocks opened higher in a rush of new-year enthusiasm that was quickly stamped out by reports on manufacturing activity and construction spending that failed to match Wall Street's expectations.

Commodities, which surged in 2005 amid rising demand from emerging economies such as China and India, continued their winning ways in 2006. Crude-oil prices, up 40% last year, rose $2.10 to $63.14 on the New York Mercantile Exchange following a weekend dispute between Russia and the Ukraine over natural-gas deliveries10. Comex gold futures rose $13.60 to $532.50 a troy ounce on the Nymex following an 18% rise last year.

Investors are keeping a close watch on stocks in the first few days of January, which often serve as guideposts for how the market will do during the rest of the year. According to the Stock Traders Almanac, the last 35 times the first five days of January have been positive on the S&P 500, the index posted full-year gains 86% of those times. The last 20 years the index has been negative during the first five days, it has posted a loss for the year half of those times.

Traders also have their eye on the pesky yield curve -- the difference between short- and long-term interest rates -- which hurt stocks in the closing days of 2005. Short-term rates had moved higher than long-term rates, traditionally a sign of trouble for the economy. Early Tuesday, the curve was slightly "inverted," with short-term rates higher than long-term rates. But the curve returned to normal after the release of the Fed's minutes amid hopes that rates at the short side of the curve won't go much higher.

In major market action:

Stocks rose11. On the Big Board, where 1.8 billion shares traded, 2,617 stocks rose and 812 fell. On the Nasdaq Stock Market, where 2 billion shares traded, 1,908 rose and 1,206 declined.

Bonds advanced12. The benchmark 10-year Treasury note gained 5/32 point, or $1.56 for every $1,000 invested, to yield 4.375% Tuesday. The 30-year bond fell 11/32 to yield 4.560%. Yields move inversely to prices.

The dollar fell.13 It traded at 116.23 yen, off from 117.92 yen late Friday, while the euro rose to $1.2014 from $1.1826.

Capital-Spending Plays May Finally Pay Off (WSJ)

By Gregory Zuckerman

The Wall Street Journal, January 4, 2006

After a long lull, there are signs that companies are set to boost spending faster this year. The change could benefit many corporations, including Oracle Corp., Halliburton Co., Schlumberger Ltd. and Washington Group International Inc.

Capital expenditures, which include all kinds of spending that enhance a business's long-term prospects, such as buying or upgrading buildings or equipment, have been growing at a rate of about 11% in the U.S. for more than a year, though that has been edging up a bit lately.

But there are some signs that the spending is starting to rise faster, at least among larger, public companies. Companies in the Standard & Poor's 500-stock index increased their spending on capital expenditures during the third quarter of 2005 by 24%, compared with the same period in 2004, according to Thomson Financial, which tracks these figures. That is quite a change.

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After a surge in the late-1990s, capital expenditures for these larger companies declined on a year-over-year basis between the third quarter of 2001 and the fourth quarter of 2003, and have averaged about a 9% increase each quarter subsequently, according to Thomson.

A number of analysts expect a jump in this kind of spending in the next year. That is in part because U.S. companies are sitting on a record pile of cash, and many have pared their debt, giving them ample funds to boost spending. While many have used that largess to increase share buybacks, dividends and acquisitions, a jump in capital expenditures could be in store for 2006, some say, as the recovery grows long in the tooth and companies deal with capacity strains in their businesses.

"A lot of industries are hitting points where there's not a lot of existing capacity to meet demand," says Greg Jensen, co-chief investment officer at Bridgewater Associates, a money-management firm in Westport, Conn., with more than $140 billion in assets. "To meet demand, more companies will have to invest more."

To be sure, some investors have been anticipating a surge in corporate spending for some time, but the results have been largely underwhelming. Some caution that with interest rates going up and more companies forced to shore up pension plans, there may be more disappointment ahead for business spending. But a lot of the increased spending may take place in areas with higher growth prospects, such as in Asia, where manufacturers continue to move operations.

And if stock prices stay down, it will probably be more attractive for companies to repurchase shares -- or acquire competitors -- rather than spend more on so-called organic growth.

"We continue to believe [mergers and acquisitions] will be the preferred use of cash in 2006, especially at current valuation levels," says Jason Trennert, chief investment strategist at ISI Group Inc., a New York research firm. "But increases in cap-ex could also be a bigger part of the program than we originally thought."

The safest bets for beneficiaries of a spending increase: businesses catering to industries that saw windfall profits in 2005, such as the energy sector. Some analysts point to stocks such as Halliburton, Schlumberger and Ameron International Corp. as likely beneficiaries of spending from energy companies.

Some analysts, such as Tobias Levkovich of Citigroup Inc., urge investors to focus on technology companies such as Oracle, Intel Corp., International Business Machines Corp. and Microsoft Corp. They predict that more companies will increase their spending on software and other tech areas, which can improve productivity.

Many of these large tech stocks already are quite inexpensive, providing investors with a margin of safety in case the expected jump in capital expenditures fails to materialize. Oracle, for example, is expected to see earnings rise a strong 18% to 79 cents a share for its fiscal year ending May 2006, but trades just a tad above the overall market's multiple of earnings. Oracle's balance sheet sports $2.3 billion more cash than debt.

A number of hedge funds have been buying up shares of Washington Group International, the construction and engineering company that saw revenue from mining projects jump more than 70% in the third quarter of 2005, compared with 2004's third quarter. That figure should keep rising amid the commodity boom.

Washington Group trades at about 21 times next year's expected earnings. That is a reasonable premium above the 14.5 price-earnings multiple of the S&P 500, considering analysts expect the company's profits to jump 28% to $2.52 a share in 2006 from $1.97 in 2005. The stock trades at less than two times its book value, an inexpensive price, and has a pristine balance sheet with no debt.

With Rosy Predictions, Pundits Missing 2006's Warning Signs (WP)

By Steven Pearlstein

The Washington Post, January 4, 2006

The columnist who tries to predict the future of the economy or the financial markets is a fool -- but no more so than the army of forecasters, money managers and economic policymakers who have been doing just that as part of the annual New Year ritual.

The consensus view, in case you've been on a beach reading Dan Silva spy novels these past two weeks and missed it, is that everything is going to be peachy-keen in 2006. Economic growth will slow only modestly from last year's unsustainable spurt; inflation will remain in check; the air will be let out gradually from the real-estate bubble; energy prices won't get any higher and

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probably will retreat a bit; the transition at the Fed will be seamless; the trade and budget deficits will shrink; the dollar may drift down, but only a bit; and stocks will post respectable gains.

Oh, and yes, purchases of new golf equipment will trim three strokes from your handicap.

Okay, so last year did turn out better than we worrywarts would have imagined. The economy's ability to withstand energy-price spikes, hurricanes and the Republican political meltdown was truly impressive. And yesterday's New Year rally on Wall Street demonstrated the widespread desire to believe in macroeconomic magic.

But reduce it to its bare essentials, and the story of 2005 was that oil producers proved just as willing to lend us the money to buy oil that we otherwise could not afford as the Japanese and Chinese have been to lend us the money to buy cars, jeans and flat-screen TVs. The arrival of this newest credit card from the Middle East may have allowed us to live above our means for yet another year. But let's not fall into the trap of confusing that with long-term economic health.

While the signals coming from the economic pundocracy may be solid green, the ones coming recently from the marketplace are flashing yellow. A middling Christmas season for retailers. A bicoastal housing boom that has already begun to abate, with an initial 10 to 15 percent drop in prices from speculative highs. A stock market that couldn't sustain a year-end rally despite record profits. A bond-market yield curve that makes it no more expensive to borrow money at a fixed rate for 30 years as for one year.

Other warning signs: A corporate sector unable to find a more profitable use for its record retained earnings than buying up its own stock or overpaying for questionable acquisitions. Hedge funds so flush with cash that they are lending money into a commercial real estate bubble, bidding up the price of gold and financing hostile takeovers. Pay packages for corporate executives and investment bankers up 30 percent in a year in which investors were lucky to eke out a 3 percent gain.

This is not to argue the economy is hurtling toward a crackup. The strength of the economy over the past year -- indeed, over the past 23 years, during which there have been but two relatively shallow recessions -- speaks eloquently of the resilience that comes with the globalization of trade and capital flows.

At the same time, I have a hard time squaring so many disquieting realities with a consensus forecast that has the economy gliding into some magical macroeconomic equilibrium.

A more likely scenario, it seems to me, is a 2006 in which the economic chickens finally come home to roost. Annual growth rates will fall from their current 3.7 percent to somewhere below 2 percent before the final quarter as government deficits are trimmed and households stop spending down their home equity. Inflation will reach 3.5 percent as key workers finally demand their fair share of productivity gains, health care and commodity prices continue to rise, higher energy costs work their way into the economy, and import prices spike in response to another steep drop in the value of the dollar. As economic growth slows, stocks will continue to drift sideways, snuffing out a nascent boom in corporate capital expenditures. Meanwhile, the long bull market in bonds will finally end as interest rates rise -- the result of heightened inflation expectations, continued monetary tightening by the Fed and a newfound reluctance of foreigners to invest their trade surpluses in dollar-denominated Treasury bonds.

The one likely bright spot in this scenario is the export sector, both manufacturing and service, which will benefit from a weaker dollar, continued robust growth in China, India, Eastern Europe and Latin America, and a revived Japanese economy.

At the same time, additional risks include excessive lending to developing countries, a restructuring of the U.S. auto industry, a hit to corporate profits as a result of tighter pension rules and a banking crisis triggered by a collapse of several highly leveraged hedge funds. All of these are risks that Washington policymakers could address but in an hotly-contested election year probably won't.

Will things play out exactly this way? Surely not. But if history is any guide, the odds in favor of it are no worse, and probably a bit better, than the remarkably rosy scenario embraced by Washington and Wall Street.

Waiting For A Soft Landing (WP)

By Robert J. Samuelson

The Washington Post, January 4, 2006

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At year's end I usually scan a stack of economic reports to see what lies ahead. Well, folks, according to most forecasts, we're headed for a swell year -- though a boring one. Typical is the forecast from the Organization for Economic Cooperation and Development in Paris. In 2006 the U.S. economy should grow 3.5 percent (about the same as in 2005), it says. Unemployment drops from today's 5 percent to 4.8 percent. Inflation remains tame, at 2.5 percent. The world economy also does well; international trade expands 9 percent.

All this good news is, of course, bad for the news business. The sunny predictions suggest two familiar economic catchphrases: "soft landing" and "Goldilocks economy." The Federal Reserve stops raising interest rates before it causes a recession; that's the soft landing. Economic growth is then fast enough to keep unemployment low and not so fast as to trigger higher inflation; that's the Goldilocks economy, not too hot or too cold.

Could anything darken the outlook? Here are five candidates:

Housing goes bust. Higher mortgage rates have already dampened demand and prices. From 5.6 percent in June, rates on 30-year fixed mortgages have increased to 6.3 percent. They may reach 6.7 percent by year-end 2006, says Orawin Velz of the Mortgage Bankers Association. A "bust" would involve sinking prices after some big gains: about 25 percent over the past two years. That could depress consumer confidence and spending. If rates on adjustable-rate mortgages (more than half of new loans in 2004) rose sharply, more homeowners might miss monthly payments. But most forecasts aren't glum. For 2006 the mortgage bankers expect average housing prices to rise 6 percent, almost equaling the increase in personal income.

The dollar "crashes." In 2005 the U.S. trade deficit was $712 billion, estimates Moody's Economy.com. That's up from $624 billion in 2004. The willingness of foreigners -- including central banks in China and elsewhere -- to invest their surplus dollars in American stocks and bonds raises U.S. share prices and reduces U.S. interest rates. A dollar sell-off could do the opposite, hurting housing (above) and consumer spending. Though plausible, similar warnings in the past were never borne out.

General Motors files for bankruptcy. Bankrupt Delphi -- GM's biggest parts supplier -- and the United Auto Workers are negotiating tensely over Delphi's demands for deep wage and benefit cuts. If the UAW were to strike, GM might also shut down and suffer massive losses. A four-month strike could cost GM $20 billion, estimates Jonathan Steinmetz of Morgan Stanley. GM would still have to pay workers and outstanding supplier bills. GM itself might file for bankruptcy. Because everyone -- GM, Delphi and the UAW -- has so much to lose, Steinmetz doubts a doomsday outcome. Delphi, the UAW and GM will settle.

Oil jumps to $85 a barrel. Energy economist Philip K. Verleger Jr. thinks prices could rise up to 25 percent from 2005's peaks, driven partly by a scramble for low-sulfur oil to meet stiffer U.S. air pollution rules for cars and trucks. Supply disruptions or refinery outages could also create scarcities. Still, the U.S. Energy Information Administration predicts steady prices of $63 a barrel for West Texas Intermediate crude -- roughly even with the second half of 2005. Nariman Behravesh of Global Insight sees $57 WTI by the year-end.

The "yield curve" of interest rates "inverts." An inversion means that short-term interest rates (say, on three-month Treasury bills) exceed longer-term interest rates (say, on 10-year Treasury bonds). Usually, short-term rates are lower, because the risk of lending for lengthier periods is greater. Since 1965 interest-rate inversions have occurred seven times -- and recessions have followed in five, notes Bill Dudley of Goldman Sachs. The reason: An inversion signals tight money. In 2006 Dudley expects another inversion as the Fed raises short-term rates. But he thinks we'll escape a recession, because the overall level of rates will remain low.

There are other potential pitfalls. Will China's surging economy produce an unpleasant surprise? Will the replacement of Alan Greenspan with Ben Bernanke go smoothly? But the larger story of the U.S. economy has been that it continually overcomes many reasons for it to falter. Consumers have spent freely, drawing money from appreciated stocks or homes. From 1995 to 2005 consumer spending rose an average of 3.8 percent annually, notes Susan Sterne of Economic Analysis Associates. That may cool with the housing boom.

But something else will fill the gap. So say the standard forecasts. They're often right when predicting small shifts in the status quo. But they usually miss big changes, for good or ill. If something truly bad happens in 2006, you probably won't read about it first. Happy New Year.

Bush Backs Perry, But McClellan's For Mom (Hchron)

By julie mason

Houston Chronicle, January 4, 2006

WASHINGTON — The Texas governor's race is just getting started and already White House loyalties are divided, with President Bush backing Gov. Rick Perry and White House spokesman Scott McClellan supporting his mother, Carole Keeton Strayhorn.

"The president will support the Republican nominee, and it's pretty clear the Republican nominee will be his friend, Rick Perry," McClellan said today.

Strayhorn, the Texas comptroller elected as a Republican, announced Monday that she will run as an independent in the governor's race.

The White House spokesman is the youngest of her four sons.

"My mother cares deeply about Texas, and she has my full support," McClellan said.

By running as an independent, Strayhorn avoids facing the incumbent in a GOP primary battle that tends to favor the more conservative candidate.

Strayhorn, campaigning as "one tough grandma," said she is still a Republican and understands Bush's decision to support Perry.

Perry, who like Strayhorn was once a Democrat, served as lieutenant governor when Bush was governor.

"I respect what he's got to do, he is still my good friend," Strayhorn said of Bush during a campaign swing around the state. "He's got to do what he's got to do. My focus is Texas."

The president generally refrains from making endorsements in contested Republican primary races, but Perry did not draw a primary opponent this year. So Strayhorn's decision to run as an independent saves Bush from having to answer a lot of awkward questions about his choice in the primary.

"The president considers my mother a friend," McClellan said.

Before joining the White House staff in 2001, McClellan ran his mother's 1996 campaign for Texas railroad commissioner and her 1998 comptroller's race.

He said he has no plans to vacate his podium in the West Wing to help out his mother's campaign this year.

Instead, McClellan's brother, Brad, a former assistant Texas state attorney general, is running their mother's gubernatorial campaign.

Brad's twin, Dudley, is an attorney. Strayhorn's other son, Mark McClellan, is the administrator of the Centers for Medicare and Medicaid Services in the Bush administration.

"I am so pleased and proud of all my sons," Strayhorn said today. Bush is planning to actively campaign for Republican candidates this year. But his early backing of Perry probably won't be significant in the Texas race, said University of Houston political scientist Richard Murray.

"It would be huge news if he didn't support Perry," Murray said. "It's what you expected, and it will be marginally helpful for Perry. But it's only news if the president is breaking with someone from his own party."

Also running for governor as an independent is satirist Kinky Friedman. Former U.S. Reps. Chris Bell of Houston and Bob Gammage are the Democratic primary candidates.

Although he is supporting his mother in spirit, the White House spokesman can't actually vote for her. McClellan is registered to vote in Virginia.

Weld Is Criticized By D'Amato (NYT)

By Patrick D. Healy

The New York Times, January 4, 2006

Alfonse M. D'Amato, the former senator, sharply criticized a leading Republican candidate for governor, William F. Weld, saying last night that Mr. Weld was under the "cloud" of a federal investigation for once running a "sham college."

Mr. D'Amato, a Republican, also chastised Mr. Weld for resigning as governor of Massachusetts in 1997, before his second term was over, and then seeking to lead New York "without any real experience here."

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Speaking on NY1, where he is a paid commentator, Mr. D'Amato acknowledged that he did not feel "kindly" toward Mr. Weld, given that Mr. Weld had led the Justice Department's criminal division around the time that officials there began investigating Mr. D'Amato's brother, Armand, a lobbyist.

"You want to come and be the governor of New York without any real experience here, but you've got experience down in Tennessee running this institution that's being investigated up and down," Mr. D'Amato said. "It doesn't sound to me that this is the time and place, not with this cloud."

Mr. D'Amato also said that Attorney General Eliot Spitzer, who is seeking the Democratic nomination for governor, had done an "excellent" job in office.

Mr. D'Amato said Mr. Weld would have trouble explaining the "multimillion dollar looting" of Decker College in Kentucky, which collapsed in bankruptcy last fall after federal officials cut off student loan aid because of mismanagement concerns.

Mr. Weld was Decker's chief executive from last January to October. Mr. Weld has said that federal prosecutors have told his lawyer that he was not being investigated.

Spokesmen for Mr. Weld and the state Republican Party declined to comment last night. Mr. Weld did not return a telephone message.

Kaine's Transportation Forums Yield Much Talk, Little Consensus (WP)

By Steven Ginsberg

The Washington Post, January 4, 2006

Gov.-elect Timothy M. Kaine has spent the two months since his election gathering Virginians to discuss the traffic congestion problems that plague much of the state, but the forums, including one last night in Fairfax County, have failed to yield a consensus for any new action.

After talking with thousands of people about transportation issues in his most visible effort to prepare for the governorship, Kaine (D) remains committed to the proposals he outlined during the election campaign. He has used the 10 town hall meetings across the state more as a listening tour than as a forum to promote ideas.

The well-attended forums highlighted both the significance of traffic congestion in the lives of Virginians and the conflicting opinions on how to ease it.

"Everyone agrees there's a problem. No one seems to agree what the solutions are, and these meetings haven't gotten us there," said Prince William Board of County Supervisors Chairman Sean T. Connaughton (R), who attended a town hall in Manassas in November.

During his campaign, Kaine said he would ensure that money designated for roads and rails is not diverted to other priorities and pledged to help localities gain more power to regulate development and control traffic congestion.

Spokeswoman Delacey Skinner said Kaine intends to submit a plan in about two weeks that would primarily focus on those issues. The General Assembly convenes next Wednesday, and Kaine will be inaugurated Jan. 14.

Skinner said the town halls have given Kaine a chance to get "a very good sense of how urgent the problem is across the state."

Others said the urgency has been apparent for some time.

"Everybody knows what the priorities are," said Del. R. Steven Landes (R-Augusta), chairman of the House Republican Caucus. "I'm kind of befuddled about what his ideas are and what he wants to do. I guess it's almost like he's expecting the public to come up with a solution for transportation. He may be building momentum, but most people want to know what the plan is."

Fairfax Board Chairman Gerald E. Connolly (D) said the town halls are "building up a head of steam and putting pressure on members of the General Assembly." But he also said that "there have been very few specifics, and it would be nice if we heard more of that."

Landes said House leaders will present a transportation package that includes a proposal to increase fines for chronically bad drivers and that seeks to designate surplus state revenue for new projects. He added that House members oppose higher taxes, potentially setting up a showdown with the Senate, where members proposed a tax increase two years ago to pay for billions of dollars in transportation projects.

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As at all the other town hall meetings, Northern Virginians at George Mason High School in Falls Church last night offered Kaine a range of often contradictory ideas for how best to release motorists from their traffic headaches. Some said expansion of Metro transit was critical, while others said widening roads was a must. Many said it was necessary to raise taxes to pay for projects; others preferred tolls or private-sector investment.

About the only thing the crowd of about 500 commuters, politicians, activists and others shared was a sentiment that something needs to be done -- and quickly -- to ease the daily frustration of getting around in Northern Virginia.

"We need to address this issue and address it early," Kaine told them. "We just can't wait, because it gets tougher and tougher."

Several of the speakers praised Kaine's efforts to link land use and transportation.

"I highly applaud your stance. . . . We should definitely look at the impact [of development] on public facilities infrastructure," said Amy Tozzi of McLean.

The town halls and the focus on transportation have defined Kaine's time since Election Day, beginning with a pledge on the morning after his Nov. 8 victory to widen Interstate 66 inside the Capital Beltway and build a rail line to Dulles International Airport.

His town hall tour, which has attracted hundreds of frustrated commuters at nearly every site, started in Roanoke eight days after the election. It has included stops in Newport News, suburban Richmond, Manassas, Leesburg and Fredericksburg. Last night's was his first in Fairfax, the state's largest jurisdiction, and will be followed by a last one tomorrow in Virginia Beach.

At the forums and elsewhere, Kaine has repeatedly said that transportation problems are at a "crisis" stage and that he is targeting the 2006 General Assembly session as the time to make major improvements.

If the meetings have brightened the spotlight on transportation, they have done little to bring Virginians closer to agreement on what kinds of fixes to make and how to pay for them.

The crowd in Falls Church concentrated on the need for better transit service, a focus different from many of the other meetings.

"I'm very frustrated by the poor solutions we have for public transportation," said Jay Baker of Arlington County. "I wonder why there are so many miles of free roads and yet every passenger pays for every mile on Metro."

The town halls have also heightened the debate between those who see roads as essential to business growth and those who see them as generating suburban sprawl.

And in some cases, they have appeared to make prospects for change more difficult. At the Newport News meeting, commuters tallied a long list of reasons they don't want another water crossing in Hampton Roads, something state officials have labeled as vital and have been eagerly trying to build.

Gov. To Start Repaying Schools (LAT)

By Evan Halper And Duke Helfand

The Los Angeles Times, January 4, 2006

SACRAMENTO — Gov. Arnold Schwarzenegger offered an olive branch to educators Tuesday with a proposal to begin repaying money the state borrowed from schools in recent years to balance the budget.

The plan to give schools about $1.7 billion extra — paid for with unanticipated state revenue — will be part of the budget Schwarzenegger proposes next week. It signals an effort to patch up his shredded relationship with the state's major education groups as he seeks reelection in November.

"We have the money this year to give it to the education community," the governor told reporters after administration officials announced the proposal. "They deserve it."

The move comes eight weeks after Schwarzenegger ended a vigorous campaign for Proposition 76, which would have capped state spending and cost schools billions. That item, rejected by voters in the November special election, had prompted school groups to bankroll a series of bruising television ads that helped send the governor's approval rating plummeting.

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Educators emerged from a meeting with Schwarzenegger on Tuesday to laud him for seeking common ground. But they said they're entitled to billions more; that his plan shortchanges schools of money they contributed to closing budget deficits in each of the last two years.

"This is a good start," said Scott Plotkin, executive director of the California School Boards Assn. "I think he's moving in the right direction."

But Plotkin said that although education groups "are not looking for another fight," they believe the state owes local districts $3.8 billion more.

School officials were also skeptical about the strings attached to Schwarzenegger's proposal: The governor wants some of the new money directed to his pet projects. Those include vocational education classes; grants to pay for new art, music and physical education programs; teacher training; and tutoring to help high school students pass exit exams.

"It's not always about how much money but how do you spend the money," he said.

Plotkin said local school officials are in a better position than the state to apportion the money effectively. Schools don't have the funds to pay for many of their students' most basic needs, he and others say, and they would rather be able to spend the money on such things as books and class-size reduction.

Still, officials in the Los Angeles Unified School District welcomed the news that more money could be on the way. The district has weathered years of deep budget cuts.

Supt. Roy Romer said he would use additional state funds to reduce the size of middle school and high school math classes, many of which now hover at about 40 students. The money could also help cover escalating healthcare costs, he said.

"This is a step in the right direction. I'm encouraged by it," Romer said. "It's not the whole package. But it's going down the road a step. Obviously, the governor is trying to make up for the deal he did not keep before, and I applaud that effort."

That deal was made after the governor took office in fall 2003, as he struggled to balance his first budget. Schools agreed to give up $2 billion they were owed under voter-approved spending formulas in return for his pledge that all the money would be restored in coming years.

A year later, the state still had a deficit, and Schwarzenegger kept the reduction in place. Now, as the 2006-07 budget is readied, educators say the tab has grown to $5.5 billion — the amount schools would get if they had been fully funded since 2004.

Schwarzenegger has made several recent moves that position him closer to the political center as he prepares to launch his reelection campaign in earnest. He has also announced that he wants to cancel a scheduled tuition increase at state colleges and universities, raise the minimum wage and help Californians buy cheaper medicines.

In his State of the State address Thursday, he is expected to announce plans for a large borrowing program to improve transportation systems, hospitals, ports and levees. Tuesday he told reporters the money could also be used to build thousands of new schools and modernize others.

Legislative leaders, meanwhile, said they were encouraged by the education funding plan.

"This is a very positive step for the governor," said Assembly Speaker Fabian Nuñez (D-Los Angeles). "It does a lot to rebuild his relationship with us."

Nuñez, who in the past has sharply criticized the governor's education agenda, suggested that the Legislature and administration could devise a plan to pay back $5.5 billion over several years. If so, he said, "the sky might clear itself of the partisan bickering we dealt with last year," he said.

Administration officials, who contend that the governor never committed to paying that amount, said they are willing to talk about future funding.

Today, Schwarzenegger will visit a Los Angeles school to highlight a ballot initiative that he successfully championed before he was governor to fund after-school activities for students all over California. The measure is scheduled to take effect in the coming fiscal year, when the state will be required to spend $428 million for the program.

Nuñez and Senate President Pro Tem Don Perata (D-Oakland) say the state cannot afford the program, and they would like to put a measure on the ballot suspending it. "Voters approved this when the state had the money to pay for it," Nuñez said, but that is no longer the case.

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In History Lesson, Less Can Be More (WP)

The Washington Post, January 4, 2006

It was just seven years ago, but for high school students, President Bill Clinton's impeachment is literally a subject for the history books.

Today's high school seniors were 10 or 11 at the height of the scandal, and today's middle-schoolers were approaching or entering first grade.

"This is very difficult for everybody, because it's so fresh," said Gilbert T. Sewall, director of the American Textbook Council, an independent group that reviews history texts. "It's easier to nail down history like the transcontinental railroad. With Clinton, you're dealing with material that has by no means been settled."

The House impeached Clinton on charges of lying to a federal grand jury and obstructing justice to conceal his affair with Monica S. Lewinsky, who was a White House intern when the relationship began. Clinton, who was acquitted in a Senate trial, was the second president impeached for conduct in office.

The impeachment is portrayed in the context of his two-term tenure -- a milestone event, but not one that overshadows how Clinton handled the economy, crime and health care.

The most commonly used texts give straightforward recaps of Clinton's toughest days, with some flavor of how it affected the nation. Absent are any lurid details about his relationship with Lewinsky that spiced up news reports and late-night talk shows as the scandal and impeachment played out in 1998 and early 1999.

"It should not be in the book for titillating purposes or settling scores," said Alan Brinkley, the Columbia University provost who has written or contributed to several history textbooks. "It should be in the book because of its significance to our recent history."

The impeachment is covered briefly in middle school texts. "The American Journey," published by McGraw-Hill, offers a description that is representative of other accounts. "Although there was general agreement that the president had lied, Congress was divided over whether his actions justified impeachment," the book says.

In "The Americans," a high school text published by McDougal Littell, the topic merits two paragraphs. The same book gave more space to the impeachment of Andrew Johnson in 1868. "The American Vision," a McGraw-Hill high school book written by Brinkley and others, has five paragraphs on Clinton's impeachment and one on his legacy.

"Compression is a tremendous challenge," Brinkley said. "Five paragraphs on a topic is a lot for all but the most important issues."

"A History of the United States," a high school text published by Pearson Prentice Hall, refers to the impeachment scandal as "a sorry mess" that diminished Clinton and his rivals. Polls showed most Americans did not believe Clinton's "tortured explanations of his behavior," the book says, but also did not think his offenses warranted his removal.

By the time students get to college, the textbooks offer more sophisticated detail of the impeachment and the way it all changed American public life.

Yet at all levels, the salacious details of the Lewinsky affair are nowhere to be found.

Middle school texts describe it as "a personal relationship between the president and a White House intern." High school books describe it as Clinton's "improper relationship with a young White House intern" or say Clinton "denied having sexual relations" with an intern.

Students don't need the details to grasp the impeachment struggle, said Allan J. Lichtman, a presidential historian and professor at American University. But they do need textbooks that present the issue with as much depth as is practical, he said.

"The books not only influence the students, they influence the teachers," he said. "And given that many students don't go on to college -- and even those who do may not revisit the material -- the textbook may be their most significant impression."

Women Start 1st Islamic Sorority (WT)

By Julia Duin

The Washington Times, January 4, 2006

America's first Islamic sorority is more about God than being Greek.

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There will be no beer at Gamma Gamma Chi functions, in obedience to Islamic law, nor will there be group fraternizing with the opposite sex.

"Partying is allowed in Islam, but it's how you party," said Althia Collins, an Alexandria businesswoman who has helped create it. "You can have fun with girls and it doesn't have to include men."

Thirteen women at the University of Kentucky will form the sorority's first college chapter this spring, and another group is waiting to start at the University of Maryland's Baltimore campus. A citywide chapter in the District, made up of women from several local universities, is also in the works.

Along with pledges, there will be prayer to Allah. Instead of hazing, there's hijab, the scarf some devout Muslim women wear. Covering one's hair is not mandated within Gamma Gamma Chi; in fact, four out of the five board members do not wear one.

Mrs. Collins' daughter, Imani Abdul-Haqq, came up with concept for Gamma Gamma Chi while rushing sororities at Guilford College in Greensboro, N.C.

As Mrs. Abdul-Haqq entered the room wearing her scarf, "They looked at her like she had three heads," Mrs. Collins said.

Plus, a lot of sororities had Christian roots or began meetings with a Christian prayer, which discomfited the daughter, who converted to Islam in 1999. Since then, she has designed a line of Islamic wear, including T-shirts for women with slogans like "Real Women Pray" and "NO, I am not oppressed."

Mrs. Collins has contributed $50,000 in cash or in-kind services to start up the sorority, and Mrs. Abdul-Haqq chose the Greek letters Gamma Gamma Chi because together they mean "women on earth for a period of time," dovetailing with Islamic teaching.

Although Gamma Gamma Chi is open to all, no non-Muslims have joined to date. But other Muslims have reacted well, Mrs. Abdul-Haqq said.

"They think it's due time we have a organization like this for Muslim women," she said, "which helps them grow as women, leaders and part of many communities. It also gives them a chance to network."

They've had inquiries from Sunni, Shi'ite and the Nation of Islam women.

Before joining, members must recite a creed, learn the sorority song and take part in a secret induction ceremony that deals with "the values of the sorority" such as sisterhood and philanthropy.

Mrs. Collins converted in 1998, having grown up with a Baptist father and a mother who attended an African Methodist Episcopal Zion church. She began trying other churches during college, then, feeling restless, began investigating other faiths.

She began reading evangelistic texts about Islam during a visit to her sister, who had converted years before. Islam, she decided, appealed to her intellect, whereas Christianity seemed more concerned with the emotions.

"Besides," she said, "I really did not understand the Trinity."

To date, Gamma Gamma Chi has heard from young women in 18 states, Pakistan and the United Arab Emirates.

"I thought this was something revolutionary," Mrs. Collins said. "We are building a sorority established on the tradition of the sunnas; the ways of the prophet [Mohammed]."

Iran To Resume Its Nuclear Work; U.S. Warns Of Seeking Restraints (New York Times)

By Elaine Sciolino

New York Times, January 4, 2006

PARIS, Jan. 3 - Iran announced Tuesday that it planned to restart nuclear research, a move that jeopardized an agreement with the Europeans, complicated a Russian initiative and prompted an American threat.

The decision, contained in a brief letter delivered Tuesday to the International Atomic Energy Agency in Vienna, declared that Iran "has decided to resume" research and development "on the peaceful nuclear energy program" that was suspended under an agreement with France, Germany and Britain in late 2004.

The letter did not define the research, but said the activities would resume Monday and be conducted "in accordance with Iran's safeguards agreement" with the I.A.E.A., the nuclear monitoring agency of the United Nations.

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"Research" has been a code word for experiments in enrichment of uranium at the previously secret facility at Natanz in central Iran. There is particular concern that Iran intends to reopen that site, perhaps to conduct modest enrichment experiments or even to manufacture and assemble centrifuges for enrichment, the most sensitive part of the nuclear fuel cycle.

Iran's move complicates a Russian initiative to break the deadlock over whether Iran has the right to enrich uranium. Russia has proposed that Iran be allowed to conduct uranium enrichment activities in Russia, as a way to guarantee that Iran's nuclear program is peaceful. A delegation from Moscow is scheduled to arrive in Tehran for talks this weekend, although Iranian officials have been less than enthusiastic about the proposal.

The United States warned Iran that it could face unspecified consequences if it resumed nuclear activities. "If Iran takes any further enrichment-related steps, the international community will have to consider additional measures to restrain Iran's nuclear ambitions," said Sean McCormack, a State Department spokesman.

After receiving the letter, I.A.E.A. officials described its contents to representatives of the 35 countries that make up its board, which could censure Iran by referring its case to the United Nations Security Council.

Iran has argued consistently that its decision to enter into an agreement with the Europeans to suspend all uranium conversion and enrichment activities was temporary, not required under its international treaty obligations and dependent on receiving a broad range of economic, technological, political and security incentives which it said have not been forthcoming. It has also insisted repeatedly that it has a sovereign right to develop the nuclear fuel cycle in its own territory.

Indeed, in defending Iran's decision, the letter said that the suspension of the country's nuclear-related activities under the European agreement had been "voluntary and non-legally binding."

But the United States, and to an increasing extent the Europeans, are convinced that Iran is determined to become a nuclear power and have taken a forceful stance in trying to ban Iran from conducting any nuclear activity that could help in a weapons program.

This most recent decision is certain to further erode foreign confidence in Iran's leadership.

The Iranian president, Mahmoud Ahmadinejad, has faced broad international condemnation recently for his inflammatory statements that the Holocaust is a myth and that Israel should be "wiped off the map." On Sunday, Mr. Ahmadinejad said Europe had decided to create Israel as a "Jewish camp" in the midst of Muslim countries as the best way to rid Europe of Jews.

Last August, Iran angered its European negotiating partners and the United States when it resumed the process of converting uranium at its site at Isfahan, a clear violation of the European agreement, but only a preliminary step in mastering the nuclear fuel cycle.

Criticism of Iran's decision to restart nuclear research and development activities was swift.

Besides the American threat, a statement from the British Foreign Office called Iran's letter "unhelpful and provocative," while Cristina Gallach, a spokeswoman for the European Union, branded it "a step in the wrong direction."

France called on Iran to reverse its decision. "We want Iran to abide by the suspension of all activities related to enrichment and reprocessing," a Foreign Ministry spokesman, Jean-Baptiste Mattei, told reporters.

Mohamed ElBaradei, the director of the nuclear agency, also called on Iran in a statement to maintain "its suspension of all enrichment-related activity as a key confidence-building measure" and to resolve other issues about its nuclear program.

The I.A.E.A. has repeatedly criticized Iran for failing to fully cooperate with requests to open certain facilities to its inspectors.

The agency has summoned Iranian officials to a meeting in Vienna on Wednesday to explain their intentions on research.

In a proposal presented last spring to the three European governments, Iran outlined steps that it said would advance its nuclear program, while providing assurances that its program was peaceful. Among the proposals was the installation of 3,000 centrifuges at Natanz.

On Monday, the head of the national security commission in Parliament, Alaeddin Borujerdi, said in Tehran that Iran was "determined" to reactivate the Natanz facility.

Iran could be gambling that even if it restarts nuclear research activities, it would once again avoid international sanctions. Despite threats by both the United States and the Europeans to refer Iran to the Security Council for punitive action after it

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resumed activities at Isfahan, the countries were forced to back down in the face of opposition from China and Russia, which each have veto power there.

In Tehran on Tuesday, Mohammad Saeedi, the deputy head of the atomic energy agency, said on state television that Iran would resume research, without providing details.

He stressed that the research "has no connection with the production of nuclear fuel," but did not specify whether that ruled out all activities related to uranium enrichment.

He also portrayed the decision as one of national self-interest, explaining that the suspension of key nuclear activities under the agreement with the Europeans had hurt Iran. "During this period our experts incurred heavy losses and many of our researchers have lost their jobs," he said.

The letter to the I.A.E.A., which was signed with a scrawl, but without a typed name identifying the official, was written on stationery of the Permanent Mission of Iran to the United Nations in Vienna.

Parts of the letter were quoted in an I.A.E.A. news release while other parts were disclosed by a European diplomat who spoke on condition of anonymity because of the fears surrounding the nuclear issue.

US Warns Iran Against Resuming Nuclear Research (REU)

Reuters, January 4, 2006

WASHINGTON (Reuters) - The United States on Tuesday warned Iran against resuming atomic fuel research and development which it said would further Tehran's efforts to build nuclear bombs.

"If Iran takes any further enrichment-related steps, the international community will have to consider additional measures to restrain Iran's nuclear ambitions," State Department spokesman Sean McCormack said.

The United States suspects research and development work that Tehran said would restart on January 9 could help what Washington believes is its pursuit of a nuclear bomb, he told reporters.

Iran denies seeking nuclear weapons.

The United States has been pressing for months for Iran to be referred to the United Nations Security Council for possible sanctions because it says Iran has failed to dispel suspicions it is building a nuclear bomb.

International resistance to such a move has gradually been eroding as Iran has taken an increasingly hard line insisting on its right to develop peaceful nuclear programs to generate power.

Earlier on Tuesday, Iran said it would resume nuclear research and development which it suspended two years ago to defuse international pressure over its atomic ambitions.

Such work may include the manufacture and assembly of centrifuges used for uranium enrichment, the most sensitive part of the nuclear fuel cycle. It could also include some small-scale enrichment tests.

Diplomats said Tuesday's move, which follows Iran's resumption of uranium conversion in August, was a serious blow to diplomatic efforts to resolve the dispute.

Iran Says It Will Restart Nuclear Fuel Research (LAT)

By Maggie Farley And Tyler Marshall

The Los Angeles Times, January 4, 2006

UNITED NATIONS — Iran announced Tuesday that it would resume nuclear fuel research next week, provoking new concern from the U.N.'s nuclear watchdog agency and nations, including the United States, that are convinced Tehran is trying to build nuclear weapons.

Iran delivered a letter to the International Atomic Energy Agency on Tuesday saying its nuclear body planned to resume research and development on its "peaceful nuclear energy program" on Jan. 9, ending a voluntary suspension of such activities since late 2003. In August, Iran restarted its work on the process to convert raw uranium into gas, and Tuesday's announcement was seen by some as an inflammatory effort to raise the stakes before another round of talks with European diplomats on Jan. 18.

"It has all the makings of another crisis," said a Western diplomat familiar with the negotiations. "Step by step, they are moving towards their goal. When will the Europeans say enough is enough?"

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The letter did not specify what kind of research activities would be restarted, and IAEA chief Mohamed ElBaradei has asked Iran for clarification. In September, the nuclear agency's board of governors passed a resolution warning Iran that resumption of any enrichment and reprocessing activities would open the door to punitive action. Enrichment of the gas produces nuclear fuel that can be used in a civilian reactor or as material for a bomb.

The deputy chief of Iran's Atomic Energy Organization said Tuesday that the activities would not include enrichment of uranium at this time. "That will be a separate issue on which no decision has been made," Mohammed Saeedi told Iranian state television.

Iranian officials this week asked the IAEA to remove seals and cameras from a nuclear facility at Natanz to allow work to resume. The U.N. agency had installed them when Iran agreed to the suspension.

Although the work at Natanz may not prove to be a technical violation, Western diplomats who have been negotiating to keep Iran's nuclear program in check view the announcement as provocative. Both U.S. and European diplomats reacted sharply to Iran's statement.

At a routine briefing Tuesday, State Department spokesman Sean McCormack noted the IAEA was seeking clarification on the announcement. He warned that Iran could face punitive measures if any of its research activities were found to relate to uranium enrichment.

For more than two years, the Bush administration has been trying to persuade allies to refer Iran to the U.N. Security Council, where it could face political and economic sanctions. Tehran's declaration could bolster America's case.

"Our view is that if Iran takes any further enrichment-related steps, the international community will have to consider additional measures to constrain Iran's nuclear ambitions," McCormack told reporters. "Iran is trying to pursue nuclear weapons under the cover of a peaceful nuclear program."

He accused Iran of trying to drag out talks with Britain, France and Germany aimed at providing Tehran with peaceful nuclear energy, while attempting to develop its own expertise that it could use to build weapons. Those talks were suspended last summer after Iran declared it would resume a process of converting uranium into a gaseous substance — a key step toward enrichment.

In Paris, French Foreign Ministry spokesman Jean-Baptiste Mattei urged Tehran to hold to its earlier commitment to suspend "all enrichment and reprocessing activities."

The official also urged Tehran to seriously consider a Russian offer to guarantee a supply of safeguarded enriched uranium for the life of Iran's first civilian nuclear reactor nearing completion at Bushehr.

"We consider the time is short now, and that it is up to Iran to take the necessary decisions to relaunch a process of negotiations," Mattei said.

Tehran has sent mixed messages on the Russian proposal and a Foreign Ministry spokesman appeared to reject it Tuesday, saying that Iran wanted to keep control of the enrichment process.

Nonproliferation specialists in Washington viewed Tehran's announcement as the latest step in a strategy to gradually expand nuclear activities it had pledged to suspend, while stopping short of calling off the negotiations.

"Having pushed the envelope last year on uranium conversion and getting no resistance, they are trying to push again to get more," said Jon Wolfsthal, a nuclear nonproliferation specialist at the Center for Strategic and International Studies in Washington.

"The Iranians have calculated they can do anything shy of enrichment," he said.

Iran Announces Resumption Of Research On Nuclear Fuel (FT)

By Najmeh Bozorgmehr In Tehran

Financial Times, January 4, 2006

Iran said on Tuesday it would resume nuclear research, a move that is likely to provoke international concern.

Mohammad Saeedi, deputy to Iran's Atomic Energy Organisation, told state television the "resumption of research on nuclear fuel technology" had been notified to the International Atomic Energy Agency [IAEA] yesterday and would recommence

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within a couple of days. “Research has nothing to do with nuclear fuel production and is a separate issue, while no decision has yet been made about it [the latter],” Mr Saeedi said.

Mohamed ElBaradei, the IAEA secretary-general, informed the 35 countries on the UN watchdog agency’s board that it had received a note from Iran and was seeking clarification.

The US responded on by warning Iran against resuming atomic fuel research, saying it could help what Washington believes is Tehran’s pursuit of a nuclear weapon, Sean McCormack, State Department spokesman, said. “If Iran takes any further enrichment-related steps, the international community will have to consider additional measures to restrain Iran’s nuclear ambitions,” he said, without specifying what action the US might take.

Negotiations between Iran and the EU3 – Britain, France and Germany –- collapsed in August after Iran rejected a European offer of incentives to abandon all its nuclear enrichment activities and resumed conversion activities at the Isfahan plant. Iran maintains that its nuclear work aims only to generate electricity.

A European diplomat in Tehran said the announcement was “vague” on the “nature and extent” of research activities. “If it’s related to enrichment activities it is very serious and a breach of IAEA resolution [in November].”

Last month, the EU held “talks about talks” with Iran in Vienna in an effort to woo Iran back to the negotiating table. Further talks are scheduled this month.

“Iran’s decision [on research] is because the two sides are setting a new base, a new agenda and new commitments for the new round of talks,” a senior Iranian official said. “The assembly of centrifuges could be Iran’s next step.” Part of the research might take place in Natanz, the main site for enrichment, he suggested.

As a way out of the impasse, Russia has proposed that Iran could enrich uranium on its soil and transfer the fuel to Iran for use in its nuclear plants. Iran has been careful not to reject the proposal outright in order to keep Russia on its side.

Tehran Will Restart Nuclear Fuel Research (WT/REU)

By Paul Hughes

The Washington Times, January 4, 2006

TEHRAN -- Iran announced yesterday that it would resume atomic fuel research and development next week, raising the specter of a new showdown with the West, which suspects that Tehran wants nuclear technology to build bombs.

The news coincided with strong hints from Iran's Foreign Ministry that Tehran would reject a Russian compromise proposal aimed at defusing Iran's nuclear row with the West.

The two developments were likely to spark renewed calls from Washington and the European Union for the case to be referred to the U.N. Security Council, which could impose political or economic sanctions.

"The Atomic Energy Organization of Iran has decided to resume from Jan. 9, 2006, [research and development] on the peaceful nuclear energy program which was suspended," Iran said in a note delivered to the International Atomic Energy Agency (IAEA) in Vienna, Austria.

Diplomats said the move, which follows Iran's resumption of uranium conversion in August, was a serious blow to diplomatic efforts to resolve the dispute over Iran's nuclear program.

"This does not help the process," said an EU diplomat, referring to efforts by the EU trio of Britain, Germany and France to find a negotiated solution to the standoff.

The United States yesterday warned Iran against resuming atomic fuel research.

"If Iran takes any further enrichment-related steps, the international community will have to consider additional measures to restrain Iran's nuclear ambitions," State Department spokesman Sean McCormack said in Washington.

The United States has been pressing for months for Iran to be referred to the Security Council for sanctions because it says Iran has failed to dispel suspicions that it is building a nuclear bomb.

A resumption of nuclear research and development, frozen voluntarily by Iran two years ago to defuse international pressure over its atomic ambitions, could include the manufacture and assembly of centrifuges used for uranium enrichment, the most sensitive part of the nuclear fuel cycle. It could also include some small-scale enrichment tests.

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The IAEA found in 2003 that Iran had conducted considerable clandestine research, including enrichment tests and centrifuge assembly, since the mid-1980s. But the agency has not detected any clear proof that Tehran wants to build atomic weapons.

A Security Council referral vote could be held at the next meeting of the IAEA's 35-nation governing board, scheduled for March 6. At its last session in November, the board opted to put off any vote to give time for Russia's proposal to bear fruit.

IAEA chief Mohamed ElBaradei urged Iran to cooperate more with his agency and to keep diplomatic channels open. Meanwhile, he urged Iran to take "measures to build confidence and enable the resumption of dialogue with all concerned parties."

Iran, which says its nuclear program will be used only for peaceful purposes, voluntarily suspended atomic research as well as all uranium processing and enrichment under negotiations with the EU trio that began in 2003.

Tehran began to roll back its suspension of nuclear work in August by restarting its uranium conversion plant at Isfahan, prompting the European nations to freeze talks with Iran. The talks resumed in December, and the sides are to meet again this month.

Mohammad Saeedi, deputy head of Iran's Atomic Energy Organization, stressed that the actual enrichment of uranium, done through injecting gas into centrifuges at Iran's unfinished Natanz facility, would not be resumed for now.

"That will be a separate issue on which no decision has yet been made," he told Iranian television.

Earlier yesterday, Foreign Ministry spokesman Hamid Reza Asefi was cool to a Russian proposal aimed at easing Western concerns that Iran could get its hands on bomb-grade, highly enriched uranium.

"The Russian proposal is ambiguous," Mr. Asefi told a weekly press conference. "If they want to propose enrichment [only] in Russia, we have said it is not acceptable. But if it is a complementary or parallel plan, we will study that."

A Russian delegation is expected in Tehran on Saturday to hold further talks on the proposal.

Iran Tells U.N. It Will Resume Nuclear Research (LAT/AP)

The Los Angeles Times, January 4, 2006

TEHRAN, Iran — Iran told the U.N. nuclear watchdog agency today it planned to resume nuclear fuel research after a 21/2-year hiatus, a vague declaration that was likely to be taken in the West as fresh evidence Tehran was trying to build an atomic weapon.

International Atomic Energy Agency head Mohamed Elbaradei said it was important that Tehran "maintains its suspension of all enrichment-related activity" as a way of reducing international suspicions about its nuclear plans.

Mohammad Saeedi, deputy head of the Atomic Energy Organization of Iran, said research would "resume in cooperation and coordination with the IAEA in the next few days," adding that it would "have little to do with the production of nuclear fuel."

Beyond that, he would not specify what type of research Tehran planned but claimed its nuclear program had suffered significantly during the research suspension. He said Iran could no longer keep its research scientists in limbo.

Iran has said it remains determined, at some point, to resume uranium enrichment, a process that can produce fuel for nuclear weapons.

The announcement, while vague, was certain to raise further concerns in the United States and among its European allies who believe Iran wants to build a nuclear arsenal. Tehran says its nuclear program is for electricity generation.

ElBaradei also called on Iran to "build confidence and enable the resumption of dialogue with all concerned parties."

The Iranian mission to the IAEA said Tehran has decided to resume from Feb. 9 research and development "on the peaceful nuclear energy program which has been suspended," ElBaradei told the agency's board.

A European diplomat accredited to the agency said it was too early to evaluate the significance of the move and whether it would scuttle talks planned for later this month.

The EU has previously said that any decision by Iran to resume work on its uranium enrichment program would be "the red line" that would end European attempts to negotiate differences with Iran.

Furthermore, the EU has said a resumption of work on the program would revive attempts to take Iran to the U.N. Security Council for violating the nuclear nonproliferation treaty.

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But the diplomat, who demanded anonymity because he was not authorized to publicly discuss European Union strategy, said the Europeans needed details of precisely what Iran planned to research before making a decision on future talks.

Iran has come under heavy international pressure from the IAEA and the West to abandon its program to produce fuel for its Russian-built nuclear reactor that is due to come online this year and for its future nuclear power plants.

Iran has vowed it will never give up the right to produce nuclear fuel, which it says is guaranteed by the Nuclear Nonproliferation Treaty.

While refusing to permanently renounce uranium enrichment, Iran suspended many aspects of its nuclear fuel program in 2003 as a goodwill gesture during negotiations with the big three European powers, Britain, France and Germany.

The talks collapsed in August after Iran resumed uranium reprocessing activities, a step before enrichment, at its Uranium Conversion Facility in Isfahan, central Iran.

While the two sides resumed dialogue last month, talks have so far failed to resolve the dispute. More talks are scheduled for later this month.

Iran's decision to resume nuclear research coincided with the announcement by Asefi that Iran would reject a U.S. and European-backed Russian proposal to end the dispute if it required Tehran to cede the right to enrich uranium at home.

"The Russian proposal is ambiguous. We have to talk to the Russians to see what are the details," Asefi told reporters.

"If it means enrichment be carried out (only) in Russia, we have said it is not acceptable. But if it is a complementary plan, we will study it," Asefi said.

Extremists within the increasingly hard-line Iranian government have denounced the Russian proposal as a "dirty trick."

Intelligence Report Says Iran Seeks Nuclear Bomb: Paper (REU)

Reuters, January 4, 2006

LONDON (Reuters) - Iran is secretly trying to obtain technology and expertise needed to build a nuclear weapon, according to a leaked intelligence report that threatens to deepen a rift with the West over its nuclear program.

Tehran's nuclear purchasing plans stretch from Europe to North Korea and the former Soviet states, Britain's Guardian newspaper said, citing a report by an unnamed European intelligence agency.

The 55-page report, dated July 1, 2005, draws on material gathered by British, French, German and Belgian agencies and has been used to brief European government ministers, the newspaper said.

The leaked report comes as Iran and the West remain locked in a standoff over Tehran's nuclear program.

The United States and the European Union fear Iran's civilian nuclear power program is a cover for making nuclear weapons. Iran says it needs nuclear technology to generate electricity.

The leaked intelligence report claims Iran has an advanced program designed to acquire nuclear expertise, training and equipment.

It also says Syria, Pakistan and North Korea are part of a global black market in illicit weapons parts.

The document says Iran has built a web of front companies, middlemen and academics whose job is to find the information and materials needed for nuclear, biological and chemical arsenals, according to the Guardian.

"In addition to sensitive goods, Iran continues intensively to seek the technology and know-how for military applications of all kinds," the newspaper quoted from the report.

'MISSILE DEVELOPMENT'

According to the Guardian, the document details Tehran's attempts to build a missile capable of reaching Israel and southern Europe.

Iranian scientists are building wind tunnels, navigation technology and acquiring calibration devices needed for advanced missiles, the document says.

It concludes that Syria and Pakistan have also been buying technology and chemicals needed to develop rocket programs and to enrich uranium, according to the Guardian.

The report concludes that scientists in Tehran are shopping for parts for a new ballistic missile with "import requests and acquisitions ... registered almost daily", the Guardian said.

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The report's aim is to warn European Union companies from doing business with the front companies, the newspaper said. The report does not name Western firms or academics believed to have worked with Iran, North Korea, Syria or Pakistan.

On Tuesday, Iran said it would resume atomic fuel research and development next week.

That could lead to renewed calls from Washington and the European Union for the case to be referred to the U.N. Security Council, where Iran could face political or economic sanctions.

CIA Gave Iran Bomb Plans, Book Says (LAT)

By Josh Meyer

The Los Angeles Times, January 4, 2006

WASHINGTON — In a clumsy effort to sabotage Iran's nuclear program, the CIA in 2004 intentionally handed Tehran some top-secret bomb designs laced with a hidden flaw that U.S. officials hoped would doom any weapon made from them, according to a new book about the U.S. intelligence agency.

But the Iranians were tipped to the scheme by the Russian defector hired by the CIA to deliver the plans and may have gleaned scientific information useful for designing a bomb, writes New York Times reporter James Risen in "State of War: The Secret History of the CIA and the Bush Administration."

The clandestine CIA effort was just one of many alleged intelligence failures during the Bush administration, according to the book.

Risen also cites intelligence gaffes that fueled the Bush administration's case for war against Saddam Hussein, spawned a culture of torture throughout the U.S. military and encouraged the rise of heroin cultivation and trafficking in postwar Afghanistan.

Even before the book's release Tuesday, its main revelation — that President Bush authorized a secret effort by another intelligence outfit, the National Security Agency, to eavesdrop on unsuspecting Americans without court-approved warrants — had created a storm of controversy when it was reported last month in the New York Times in an article coauthored by Risen.

In the book, Risen says he based his accounts on interviews with dozens of intelligence officials who, while unnamed, had proved reliable in the past.

Bush has confirmed the existence of the program, but condemned the newspaper for the December report and for its use of confidential sources.

The CIA added its own criticism Tuesday, saying the book contains "serious inaccuracies."

The NSA domestic spying controversy is at the heart of an intensifying debate over whether the president has overstepped his authority in fighting the U.S.-declared war on terrorism by not adequately consulting or allowing oversight from Congress and the courts.

The Justice Department disclosed Friday that it was conducting a criminal investigation to find out who leaked classified details of the domestic spying program.

The book's release date was moved up in the wake of the NSA controversy, and it provides additional details of that domestic spying effort, in which Bush did not seek permission for domestic wiretaps from the Foreign Intelligence Surveillance Court.

The New York Times delayed for a year publication of its article on the NSA's domestic spying, in part because of personal requests from the president. Critics have questioned whether the paper could have published the information before last year's presidential election if it had decided against a delay. Newspaper officials have refused to comment on reasons for the delay or on the exact timing.

Top New York Times officials also refused to publish a news article about the reported CIA plot to give intentionally flawed nuclear plans to Iran, according to a person briefed on the newspaper's conversations by one of the participants. That person said the New York Times withheld publication at the request of the White House and former CIA Director George J. Tenet.

U.S. officials have long maintained that Iran's rulers want to develop nuclear weapons, but Tehran has insisted that it seeks to develop only a civilian nuclear energy program. Whatever the case, the CIA was desperate to counter what it believed was a clandestine nuclear program, and turned to a Russian defector who had once been a nuclear scientist in the former Soviet republics, according to the book.

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The book says the CIA worked with the U.S.-based defector to concoct a story about how he was destitute, but in possession of valuable nuclear weapons blueprints that had been secreted out of Russia.

CIA officials had concerns about the man's temperament, Risen says, but sent the defector and the blueprints to Vienna anyway, with orders to hand-deliver them to someone at Tehran's diplomatic mission to the International Atomic Energy Agency, or IAEA, the U.N. nuclear watchdog.

His CIA handlers never imagined that the Russian defector would tip off the Iranians to the fatal flaw that they had hidden deep within the blueprints. But that, the book adds, is exactly what the Russian did, in part because the CIA failed to send anybody to accompany him out of fear that it might make the Iranians suspicious.

The book does not say whether Iran used the plans, but reports that a senior Iranian official visiting Vienna appears to have taken them immediately to Tehran after the defector dropped them off.

"He [the Russian] was the front man for what may have been one of the most reckless operations in the modern history of the CIA, one that may have helped put nuclear weapons in the hands of a charter member of what President George W. Bush has called the axis of evil," the book contends.

Two nuclear weapons experts who say that they have no knowledge about whether the covert effort described in the book occurred added that a deliberate flaw in the plans could have been easily found by the Iranians.

"Iran has excellent scientists and any information related to weapons designs could move its program ahead," said a European nuclear weapons expert, who refused to allow his name to be used because his government prohibits comments on nuclear weapons or designs.

David Albright, a former weapons inspector for the IAEA, agreed with the other expert that the plans could have shaved many years off Iran's nuclear effort.

"I wouldn't call it a colossal failure" by the CIA, said Albright, now president of the Institute for Science and International Security in Washington. "But I don't quite understand the purpose of it, why you would want to hand something like this to the Iranians. It's unlikely to work."

According to the book, the CIA effort to sabotage Iran's nuclear effort came on the heels of another massive intelligence failure, in which a CIA officer mistakenly sent an Iranian agent a trove of information that could help identify nearly every one of the spy agency's undercover operatives in Iran.

The Iranian was a double agent who turned over the data to Iranian authorities. They used it to dismantle the CIA's spy network inside the country and arrest or possibly kill an unknown number of U.S. agents, the book says.

White House Won't Undo N. Korea Sanctions (AP)

By Barry Schweid

The Associated Press, January 4, 2006

WASHINGTON — The Bush administration on Tuesday rejected a North Korean demand that it lift sanctions as a way of possibly resuming stalled nuclear disarmament talks.

The two issues are unrelated, State Department spokesman Sean McCormack said. "I don't see in what way they are preventing North Korea from going back to the six-party talks."

The sanctions were imposed for alleged currency counterfeiting and other illegal activities.

"While under U.S. sanctions, it's impossible to sit face-to-face and discuss abandoning our nuclear deterrent," said the Rodong Sinmun, the North's ruling Workers Party newspaper, in a Korean-language commentary carried by the official Korean Central News Agency.

"The U.S. sanctions are obviously the fundamental element that disrupts the six-party talks," the newspaper said.

McCormack said it was important and reasonable for the United States to protect American currency. "We, the United States, as well as other countries are going to take steps to stop, inhibit or prevent illicit activities," he said.

The negotiations are designed to halt North Korea's nuclear weapons program. The six nations, which include Japan, China, South Korea and Russia, as well as the United States and North Korea, agreed to return to the negotiations as soon as possible, McCormack said.

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"We are prepared to do so, and we look forward to the resumption of those talks," he said.

As for the alleged violations, McCormack said the United States had offered North Korea a briefing and was turned down.

White House Supports Lebanon-Syria Probe (AP)

By Barry Schweid

The Associated Press, January 4, 2006

WASHINGTON — The Bush administration urged U.N. investigators Tuesday to look into an allegation by a former Syrian vice president that President Bashar Assad had threatened former Lebanese Prime Minister Rafik Hariri several months before Hariri was assassinated.

The allegation was made last week by former Vice President Abdul-Halim Khaddam, who left Syria several months ago.

Khaddam said Assad warned Hariri months before his assassination last year that he would "crush whoever attempts to overturn our decision" to extend the term of Lebanon's pro-Syrian president.

Hariri, a billionaire Lebanese nationalist who sought to assist his country wiggle free from Syrian control, was assassinated last February in Beirut. The blast killed 20 other people and helped accelerate U.N. demands that Syria release its grip on its smaller neighbor.

Referring to Khaddam's allegation, State Department spokesman Sean McCormack said, "I think his remarks warrant further investigation" by the United Nations.

Mehlis already has implicated senior Syrian officials in Hariri's assassination. Syria has dismissed the charges as unfounded.

"I think that Mr. Khaddam's remarks raise some deeply troubling issues as to what exactly was going on during the period in time in question," McCormack said.

"They raise serious questions about who in the Syrian government may have been involved in the assassination," he said.

Bush Hopes Palestinian Election Goes Forward (REU-Y2)

Reuters, January 4, 2006

President George W. Bush wants Palestinian elections to go forward as scheduled this month with no delay and thinks Palestinians should be allowed to vote in East Jerusalem, a White House official said on Tuesday.

Bush is hoping the January 25 vote will mark a step forward in his vision of two states, Israel and Palestine, living side by side in peace.

The vote is widely seen as a referendum on Palestinian President Mahmoud Abbas's rule following Israel's withdrawal from Gaza last year, which raised hopes of ending fighting and of founding a Palestinian state.

"It's our desire to see the elections go forward as scheduled," said a White House spokesman.

Israel has threatened to bar Palestinians from voting in East Jerusalem. Israel had allowed voting in East Jerusalem in the last Palestinian parliamentary election in 1996.

"We believe that people must have access to the ballot," the White House spokesman said. "Arrangements have been made in the past to ensure that those persons can vote and we believe some arrangements should be possible at this time."

U.S. Envoys To Help Resolve Vote Dispute (WT)

By Nicholas Kralev

The Washington Times, January 4, 2006

The United States said yesterday that it was sending envoys to the Middle East to help resolve a dispute that threatens to derail this month's Palestinian elections.

The dispatch of two senior diplomats was announced as campaigning officially began in the Palestinian territories, although electioneering in East Jerusalem was blocked by Israeli police.

Israel has said it will not permit voting in the city because of the participation in the process of the militant group Hamas. Palestinian Authority President Mahmoud Abbas warned Monday that the election would not take place if Israel carried out its threat.

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"We see no reason why those elections should not proceed on Jan. 25," State Department spokesman Sean McCormack said in Washington yesterday.

"We believe that the Palestinian Authority should be concentrating on preparations for those elections, so that the Palestinian people can vote in an atmosphere that is free from violence or coercion or intimidation."

Mr. McCormack noted that Israel had threatened previously to bar voting in East Jerusalem, which it annexed in the 1967 Middle East war, but that the two sides had been able to reach an agreement.

"We see no reason why the Palestinian Authority and the Israeli government shouldn't be able to come to some similar kind of accommodation for this round of voting, and we are going to be working with [them]," he said.

C. David Welch, assistant secretary of state for Near Eastern affairs, and Elliott Abrams, a deputy national security adviser for the region at the White House, will travel to Israel and the Palestinian territories today to meet with officials on both sides, Mr. McCormack said.

"We believe that these elections should be for all the Palestinian people within the parameters as defined by the Palestinian Authority," he said.

In East Jerusalem, which the Palestinians want to be the capital of their future state, Israeli police yesterday beat some Palestinian campaigners with clubs and arrested seven, including a local leader of Mr. Abbas' Fatah movement, wire service reports said.

Police spokesman Shmuel Ben-Ruby was quoted as saying the men had been released on bail after being questioned on "illegal activity by the Palestinian Authority in Jerusalem."

Israel allowed voting in East Jerusalem in the last Palestinian parliamentary elections in 1996, which Hamas boycotted.

Former Israeli Prime Minister Shimon Peres, who has joined current leader Ariel Sharon's new coalition, told the Al Jazeera television network that a decision on voting in East Jerusalem had not been made.

"We are waiting to see what will happen on the Palestinian side," he said, referring to internal Palestinian violence in the Gaza Strip that also has threatened the elections.

Palestinians Campaign For An Election That May Not Be Held (NYT)

By Steven Erlanger

The New York Times, January 4, 2006

JERUSALEM, Jan. 3 - Campaigning for Palestinian legislative elections opened Tuesday despite doubts about whether the vote will actually take place on Jan. 25.

With the Palestinian president, Mahmoud Abbas, on a tour of the Persian Gulf, Deputy Prime Minister Nabil Shaath cited the late Yasir Arafat, who died in November 2004, in kicking off the campaign for a riven Fatah movement.

Speaking by Mr. Arafat's tomb in Ramallah, on the West Bank, and using his nom de guerre, Mr. Shaath said, "With your permission, Abu Ammar, we will continue to fly the flag of Fatah and head to victory."

In a development that may roil the parallel Israeli political campaign, Israeli Channel 10 reported Tuesday night that the police had evidence that would show that the family of Prime Minister Ariel Sharon had received $3 million from a wealthy Austrian, Martin Schlaff, in connection with his 1999 campaign. The money is thought to be connected to a $1.5 million loan from a South African businessman that is suspected of being used to refund illegal campaign contributions.

In a separate case, one of Mr. Sharon's sons, Omri, resigned from Parliament on Tuesday before his sentencing later this month for unrelated financing violations and falsification of documents from his father's 1999 campaign.

In opening the campaign, Mr. Shaath admitted that "Fatah has made mistakes and we must work to correct them." But he also warned that the radical Islamic movement Hamas, taking part in the elections for the first time, could win if Fatah failed to unite.

He questioned Hamas's ability to govern the Palestinians and deal with Israel - which considers Hamas a terrorist group, and which Hamas does not recognize. "How will negotiations with Israel be managed under Hamas?" Mr. Shaath asked. "How will they pay salaries and ensure security? What will they do for women?"

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Still, Fatah's biggest problems are its own divisions and a reputation for cronyism, mismanagement and corruption, coupled with its failure to achieve an independent Palestinian state through negotiation and compromise.

Fatah is looking for reasons to postpone the elections, because of fears that Hamas will win more than 40 percent of the 132 seats at stake and become either the most powerful political force or a sizable blocking minority in the future legislature. Many Fatah veterans would rather have no election than hand over such power to Hamas.

Hamas opposes another delay in the vote, having already agreed to Mr. Abbas's request to move the election from July to this month.

Israel, which opposes letting Hamas take part in the elections, has not yet decided whether to allow Palestinians in East Jerusalem to vote by postal ballot, as they have done in previous elections, when Hamas did not take part.

A senior Israeli official said, however, that Israel would help Palestinians in East Jerusalem who wanted to vote outside the city. In the past, he said, only 5,000 of the 120,000 or so eligible Palestinian voters in Jerusalem had been allowed to vote in post offices, and only 1,200 of them have done so, with a vast majority voting outside the city.

The issue has important symbolic value. Mr. Abbas said Monday that if voting were not allowed in East Jerusalem, it would be impossible to hold the elections. Israel clearly does not want to be blamed for any postponement, but also does not want to sanction the election.

"The post offices are there, and if we decide to have them open, then they'll be open," the Israeli official said. "We're waiting for the right moment to announce what our position is, and now is not the right moment. We're making assessments on a daily basis."

Mr. Sharon, 77, is to go into the hospital on Thursday for an operation under general anesthesia to plug a small hole in his heart that may have been a factor in the stroke he suffered Dec. 18. He will spend the night in the hospital and will temporarily cede his powers to his deputy, Ehud Olmert, for what is expected to be a three-hour period of operation and recovery.

Palestinians Kick Off Campaign Amid Signs Of 2nd Postponement (WP)

By Scott Wilson

The Washington Post, January 4, 2006

JERUSALEM, Jan. 3 -- The leading Palestinian political parties kicked off campaigns for parliament on Tuesday, but there was a growing possibility that balloting would be postponed as two prominent candidates had confrontations with Israeli authorities in East Jerusalem, where Israel has prohibited election activities.

Mustafa Barghouti, a former presidential candidate and leader of the Independent Palestine movement, was detained by Israeli police while campaigning in Jerusalem's Old City and held for about five hours. Police said Barghouti had the proper permit to enter East Jerusalem, annexed by Israel after the 1967 Middle East war.

Israeli police also dispersed a rally for the Third Way movement outside the Old City's Damascus Gate. Hanan Ashrawi, a member of the Palestinian parliament from the Jerusalem district, was speaking at the event when police intervened. Ashrawi said police briefly detained one of her aides for obstructing a police officer.

"I'm seriously concerned over how this campaign has begun, and not only because of the highhanded manner of the Israelis," Ashrawi said in a telephone interview. "I'm also worried about our own domestic realities and the breakdown of law and order. There appears to be an emerging anarchy."

Palestinians are scheduled to vote on Jan. 25 for a new 132-seat legislature. There was a festive atmosphere in many parts of the West Bank, but several candidates in East Jerusalem faced problems, including some members of the governing Fatah movement who were detained.

The Palestinian leader, Mahmoud Abbas, suggested Monday that he might postpone the election because of Israel's ban on voting in East Jerusalem. It would be the second time Abbas has delayed the vote, which was initially scheduled for July.

The warning by Abbas angered candidates of the Islamic Resistance Movement, or Hamas. Recent public opinion polls project that Hamas, which does not recognize Israel, would win between 30 and 40 percent of the vote, second only to Abbas's secular Fatah movement. Hamas has never competed in national elections, but was highly successful in municipal races over the past year and has been popular because of its social service programs.

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"We have told them that postponing the election will lead to a vacuum and to a dark future," Ismael Haniyeh, a top Hamas candidate, told reporters in the Gaza Strip. "Postponing the election is not the solution."

The makeup of the new parliament will likely have little bearing on Palestinian policy, which will remain firmly in Abbas's control. But the results would help gauge both the popularity of Hamas, whose armed wing has carried out numerous attacks on Israeli soldiers and civilians during the most recent uprising that began in September 2000, and Fatah's unity as it endures a divisive generational power struggle.

Israeli officials have banned voting and electioneering in East Jerusalem because of the participation of Hamas, saying a 1996 agreement with Palestinian leaders about the election process prohibited the involvement of groups that do not recognize Israel.

"This time Hamas, a terrorist group, is participating," said an official in Prime Minister Ariel Sharon's office. "Because of this we cannot cooperate with the elections. This is our policy not only in East Jerusalem but throughout the process." The official spoke on condition he not be further identified.

A number of Palestinian politicians have called on the Bush administration to pressure Israel into allowing the vote to take place in East Jerusalem, an important symbol for Israelis and Palestinians, each of whom claim Jerusalem as their capital.

Barghouti, who lost the presidential race to Abbas a year ago, echoed that demand after his arrest. "Israel is trying to obstruct free elections in Jerusalem, and by doing so obstructing the process everywhere," he said.

After Israel, Who Can Run Gaza? (CSM)

By Rafael D. Frankel

The Christian Science Monitor, January 4, 2006

GAZA CITY - As the first year devoid of an Israeli presence since 1967 dawns in the Gaza Strip, armed militias roam the streets freely, foreigners are kidnapped with regularity, and the measure of a man in this coastal territory is not his political title, or even the size of his house, but the number of AK-47-wielding bodyguards he employs.

When Israel left Gaza four months ago, full control over the 1.3 million people was ostensibly transferred to the Palestinian Authority (PA). But its authority in this coastal territory has deteriorated to such a state of anarchy, that the best-armed gangs or families are effectively the law now.

"Yasser Arafat left a terrible legacy of violence behind him where people are always acting outside the law," says Eyad Sarraj, a Palestinian political analyst and a candidate in the Jan. 25 elections. "Now, with him gone, everyone is fighting for his power."

Tuesday, Palestinian parties launched their election campaigns across Gaza and the West Bank with parades, posters, and banners. This is the latest manifestation of the central Palestinian power struggle between the Islamic militant group Hamas and the ruling Fatah Party.

With Palestinian Legislative Council elections scheduled in three weeks, the violence in Gaza has heightened as dozens of armed factions, most claiming ties to Fatah, jostle for control. On Monday, even the Palestinian police donned masks and shot their guns in the air in a mass protest against the PA's lack of will to give police permission to aggressively tackle the escalating crime.

All throughout the days here gun shots ring out. From time to time, explosions from homemade bombs, rockets, and the countering Israeli artillery fire echo through the graffiti-ridden streets.

But the police Monday had an additional demand of PA President Mahmoud Abbas, one that is being made increasingly by leaders of his Fatah Party: delay the elections. "We are in a dangerous situation in which any attempt to hold elections might bring about battles between armed factions and the police," PA Police Chief Ala Hosni told the Israeli newspaper Haaretz.

After insisting for weeks that elections would go ahead as scheduled, Mr. Abbas said for the first time on Monday that he would consider delaying the vote; not because of the violence, but due to the question of whether Israel would bar Palestinians in East Jerusalem from voting.

Despite previous ambiguous statements from Prime Minister Ariel Sharon, Israeli government spokesman Raanan Gissin says Israel will not stand in the way of Palestinians living in Jerusalem from casting ballots.

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"We will find a way to fulfill our obligations to allow them to exercise their right to vote," Mr. Gissin says. While the exact formula has not yet been decided, he says, it would likely be similar to the 1996 Palestinian elections when Israel allowed mail-in balloting from Jerusalem as well as easier access to areas in the West Bank with voting booths.

(Under the 1993 Oslo Accords, Palestinian political activities are prohibited in Jerusalem, as is participation in the PA by parties, such as Hamas, that do not recognize Israel's right to exist.)

"The Palestinians are looking for an excuse to blame Israel because they are incapable of controlling their own streets," Gissin says. "If they decide they want to cancel the election, they do it on their own merit, they can't hang it on us."

Mr. Sarraj, who is running for a seat in the Palestinian legislature with the Wahad [Promise] Party, says the PA's lack of law enforcement in Gaza and the talk about voting problems in East Jerusalem are calculated moves by Abbas to provide "excuses" to delay elections he knows Fatah will fair poorly in.

After the strong showing by Hamas in recent municipal elections in Palestinian cities, Abbas is worried that not only will Fatah lose substantial ground in the legislature, it may lose control of that body altogether, Sarraj says.

Of all the militant Palestinian groups, Hamas has been responsible for the most Israeli deaths in terrorist attacks. Yet in a move to increase its political standing, Hamas has largely kept to the terms of a cease-fire it agreed to with Abbas last February.

On Monday, an official Hamas statement demanded that "the excuse of the security situation and anarchy in the Palestinian Authority not be used to postpone the elections."

And it won't be, says Saeb Erekat, the chief Palestinian negotiator who often speaks for the PA. "President Abbas knows the catastrophic consequences of postponing the elections," he says. As long as Israel provides the same voting access as it did in 1996, Mr. Erekat says, the elections will go ahead as planned - Israel should "not stand in the way" of that process.

As for the violence on Gaza's streets, Erekat says that while "every effort is being made to contain" it, the PA was not sure who was behind the rash of shootings and government office takeovers by masked gunmen.

British human rights worker Kate Burton and her visiting parents were kidnapped last Wednesday by a previously unknown group of gunmen and released two days later.

"It's impossible to say who has guns in Gaza anymore," Erekat says. "The ballots are the only thing that can stop the violence at this point."

Power Shift Set During Procedure For Sharon (WT/AP)

By Josef Federman

The Washington Times, January 4, 2006

JERUSALEM -- Prime Minister Ariel Sharon will hand over power to his deputy during a heart procedure this week, his office said yesterday, the first time an Israeli leader has agreed to give up his authority because of illness.

Mr. Sharon's office played down concerns about the 77-year-old leader's health, saying the procedure to close a small hole in his heart, including a period when he will be under general anesthesia, will last only three hours. However, officials canceled the weekly Cabinet meeting Sunday to give Mr. Sharon an extra day to recover.

Vice Prime Minister Ehud Olmert will take over during the procedure, Mr. Sharon's office said.

Doctors discovered the hole after Mr. Sharon suffered a mild stroke Dec. 18. The hole, measuring about one-eighth of an inch, apparently led to the stroke by allowing a small blood clot to reach Mr. Sharon's brain.

Although Mr. Sharon temporarily lost the ability to speak, his doctors said the prime minister suffered no lasting damage. He has resumed his full workload, and doctors say tomorrow's procedure, called a heart catheterization, will virtually eliminate the risk of a similar stroke.

The process of transferring power is spelled out in a 1992 law. But tomorrow will mark the first time in Israel's 57-year history that a leader has yielded his authority because of an illness, said legal commentator Moshe Negbi. In previous cases, including lengthy illnesses suffered by Golda Meir in the 1970s and Menachem Begin in the 1980s, their ailments were hidden from the public.

Last month's stroke has put the health of Mr. Sharon, who turns 78 next month, on the political agenda as he seeks a third term in March 28 elections.

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Mr. Sharon recently quit the hard-line Likud Party to head a new centrist party, Kadima (Forward), in the upcoming election.

The health scare appears to have had no effect on the party's prospects. Opinion polls forecast a strong victory for Kadima, and show Likud far behind.

Benjamin Netanyahu, a former prime minister elected to lead Likud last month, said yesterday he would not make an issue out of Mr. Sharon's health during the campaign.

Israel Undergoes Political 'revolution' Alignments Shift As Sharon Leaves Likud (USAT)

By Matthew Gutman

USA Today, January 4, 2006

TEL AVIV, Israel — Two months ago, politics in the Carmel Market, a gantlet of clothing stalls, butcher shops and spice kiosks, was straightforward. The small shop owners here are staunchly conservative and have supported Israel's largest party, Likud, for decades.

However, dramatic turns in Israeli politics over the past couple of months have reshaped the country's politics. The ruling Likud Party, a fixture in Israeli politics for more than 30 years, is struggling after its leader, Prime Minister Ariel Sharon, left to form the centrist Kadima Party. The center-left Labor Party elected a socialist who vows to inject life into the faction.

Today, even in Likud bastions such as the Carmel Market, there is a political realignment. "Like my father, my family and most everyone here in the market, I used to vote Likud," says Yoni Ben-Yonatan, 24, owner of a dollar store. "But there have been so many changes. … I will stick with Sharon. My father won't."

The recent political changes are "nothing short of a revolution," says Asher Cohen, a professor of political science at Bar-Ilan University in Tel Aviv. "Here you have a sitting prime minister dumping the party he helped found 30 years ago to create an entirely new party."

Sharon was a key player in the establishment of Likud in 1973. The working-class people who populate open air markets such as Carmel have long provided Likud's support, Cohen says.

Likud swept to power in 1977. Since that victory, Likud prime ministers have governed Israel for 20 of the past 28 years. The decision by Sharon to leave the party has left Likud severely weakened and its future uncertain.

Sharon's new party is so popular that "it blows the two giants of Israeli politics (Labor and Likud) right out of the water," Cohen says.

Most voters seem to have chosen Sharon, a former general who as defense minister engineered Israel's invasion of Lebanon in 1982, over the party he helped create.

A recent poll in the Israeli daily newspaper Maariv showed that if elections were held now, Likud would drop from its current 40 seats to 16. According to the poll findings, Sharon's Kadima Party would win 40 of the 120 seats in the Knesset, Israel's parliament, making Kadima the largest of Israel's many political parties. National elections are scheduled for March 28.

"Sharon has the experience, he has the toughness, and only he can balance right and left and eventually bring us a real peace with the Palestinians," says Ben-Yonatan, who served in an elite Israeli army unit.

In announcing his new party, Sharon claimed he was abandoning Likud because the party's powerful right wing undermined his efforts to pursue peace with the Palestinians. Sharon supports the U.S.-brokered "road map" peace plan that would lead to creation of a Palestinian state.

Sharon also railed at Likud's 3,000-strong Central Committee, which set the party's political agenda. Sharon has blamed committee members for increasing political corruption in Israel.

Sharon's health complicates matters. On Dec. 18, the chronically overweight Sharon, 77, was hospitalized for two days for a mild stroke.

On Thursday, doctors are to seal a small hole in his heart that might have led to his stroke. His deputy, Ehud Olmert, will assume the prime minister's duties while Sharon undergoes the procedure, which should take three hours.

After Sharon abandoned the party, Likud elected hawkish former prime minister Benjamin Netanyahu, 56, as its chairman. Netanyahu condemned Sharon's withdrawal from Gaza and parts of the West Bank and is campaigning on a hard-line platform that would grant a Palestinian state on only a fraction of West Bank land.

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Israel's Labor Party has taken a turn leftward with the election of Amir Peretz, 53, a union leader. He unseated Labor Party leader Shimon Peres, 82, in primaries Nov. 9.

Peretz has vowed to raise the minimum wage and taxes on the wealthy. He packed his shadow Cabinet with social crusaders, such as Shelly Yechimovitch, a former news personality who often expressed her socialist politics on TV.

Peretz says Israel should accede to most Palestinian demands for creating an independent state before moving on to issues such as eradicating child poverty and unemployment. Convinced that Peretz could not bring peace with the Palestinians, Peres and three other prominent party veterans joined Sharon's new party.

It remains unclear whether Sharon's party, bolstered by moderate defectors from Labor and Likud, will mean Israeli politics are moving to the center. With no activists or party infrastructure, Kadima's life span could be as short or as long as Sharon's desire to rule, Cohen says.

Sharon's strength, says Asher Arian, a fellow at Jerusalem-based think-tank Israeli Democracy Institute, "is being more in tune with Israeli public opinion than anyone else."

Ashcroft Helps Israelis On Korean Weapons Deal (HILL)

By Jonathan E. Kaplan

The Hill, January 4, 2006

Israel's major aerospace company hired former U.S. Attorney General John Ashcroft's lobbying firm late last month to help secure the U.S. government's approval to sell a weapons system to the South Korean Air Force, according to lobbying disclosure records.

The South Koreans are choosing between an early-warning radar system built by Israel Aircraft Industries (IAI) and a similar, more expensive system built by Chicago-based Boeing Co. The radar systems enhance an air force's ability to track enemy fighter jets during combat.

U.S. law requires Israel, and any other country seeking to resell American military technology, to secure approval from the Department of State's Directorate of Defense Trade Controls. That agency can also consult with the Pentagon on whether to issue an export license. A State Department spokesman declined to comment.

Boeing already has the U.S. government's approval.

The South Koreans initially had intended to make a decision by Dec. 31, but the government told the companies last month that it would delay its final decision until May 2006, which gives the Israeli company an additional four months to get the U.S. government's blessing.

Boeing officials based in Seoul, South Korea, expressed disappointment with the four-month delay in news reports in that country and Israel. The Jerusalem Post reported last month that Alexander Vershbow, the U.S. ambassador to South Korea, met with the South Korean defense minister and pushed for Boeing. The $1 billion deal has garnered little attention in the U.S. media and in Congress.

In 2005, Boeing contributed $642,877 to Republican and Democratic lawmakers' political action committees and campaign committees, according to politicalmoneyline.com. The firm reported spending $4.9 million on lobbying in 2004.

A spokesman for Rep. Norm Dicks (D-Wash.), who traditionally aids Boeing because the company has a large presence in his district, said he was not aware of the sale and had not been contacted by Boeing on the matter. Spokespeople for Speaker Dennis Hastert (R-Ill.), Rep. Mark Kirk (R-Ill.) and Washington Democratic Sens. Patty Murray and Maria Cantwell did not return calls for comment.

South Korea, the world's 11th largest economy, has been investing heavily in its military in recent years. The U.S. ally has developed its own fighter plane and battle tank and launched an aircraft carrier, destroyers and submarines, said John Pike of GlobalSecurity.org, an intelligence research company.

"The [surveillance] technology makes a tremendous difference whether you have airplanes like this," Pike said, adding that not having the system is like having a "football team without a coach and captain. It is night-and-day in terms of efficiency and effectiveness of air power. Any serious, self-respecting country wants them or wants to get them."

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The Ashcroft Group and IAI signed a nondisclosure agreement, said spokeswoman Juleanna Glover Weiss, and IAI officials based in D.C. and Tel Aviv said the company does not comment on its consultants.

Ashcroft has built a lucrative lobbying practice since starting last summer. Public records also show that Oracle; ChoicePoint, a company that sells data to police and federal law-enforcement agencies; and the American Institute of Certified Public Accountants have hired Ashcroft.

Public records do not disclose how much IAI is paying Ashcroft. The records show that IAI also hired Morris Amitay for $20,000.

"I am not going to comment," Amitay said, referring to questions about the potential deal to IAI's office in Arlington, Va.

While it is not unusual for foreign governments to hire Washington lobbyists to navigate the executive-branch bureaucracy, Congress has a record of inserting itself into commercial transactions, especially when national-security issues are concerned. For example, the House overwhelmingly passed two resolutions last year encouraging the Bush administration to stop a potential merger between a Chinese oil company and Unocal, a U.S. oil company.

Israel has come under criticism from the U.S. government for selling arms to countries hostile to the United States, such as China and South Africa. In 2000, pressure from the Clinton administration and Congress stopped Israel from selling its Phalcon radar system to the Chinese.

"Past Israeli behavior does not inspire confidence," said Loren Thompson of the Lexington Institute, adding that past actions could spark Congressional action.

The United States suspended cooperation with Israel last year on some long-term military projects after Israel announced plans to sell China spare parts for Harpy Drone unmanned aerial vehicles. The United States and Israel signed a memorandum of understanding in August to regulate future arms sales between Israel and other countries.

Boeing has sold its surveillance system to the Australian and Turkish governments, said a D.C.-based Boeing official, who declined further comment. Last year, the Israelis sold the Phalcon system to India's air force, and, previously, they sold the Phalcon system to the Chilean air force.

The United States approved $22.4 billion in licenses to sell arms in 2004; Israel accounted for $1.33 billion in sales. Japan and Great Britain were the largest buyers of U.S. weapons, according to a State Department report

Rice To Visit Indonesia, Australia (REU-Y2)

Reuters, January 4, 2006

Secretary of State Condoleezza Rice will visit Indonesia and Australia, strong U.S. allies in fighting terrorism, from January 7-12, the State Department said on Tuesday.

Rice will first go to Indonesia, the world's most populous Muslim nation, for talks with President Susilo Bambang Yudhoyono and other ministers, said spokesman Sean McCormack.

Both sides will discuss a range of issues, including U.S. support for "Indonesia's democratic development," cooperation in tackling the threat of avian flu and progress in recovery efforts after the devastating tsunami in December 2004.

They will also likely look at military relations between Indonesia and the United States, which have become closer as a reward for Jakarta's cooperation in the war on terrorism and against al Qaeda-linked militants.

In November, Washington announced it was restoring military ties, despite objections from human rights groups which said monitoring of armed forces would need to be tightened.

U.S. military ties were cut back after Indonesian troops shot at demonstrators in East Timor in 1991, killing dozens, when the tiny territory was ruled by Jakarta.

They were then severed after pro-Jakarta militias backed by elements in the military sacked East Timor in 1999 when the territory voted for independence.

In Australia, Rice will meet foreign ministers from Japan and Australia as part of a new "strategic dialogue" between the three countries, McCormack said.

Rice will also take part in a meeting between the United States and five Asia-Pacific countries that announced a pact last July to cut greenhouse gases that falls outside the Kyoto Protocol on climate change.

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Critics say the pact, the Asia-Pacific Partnership for Clean Development and Climate, is ineffectual and merely serves the needs of industrialized nations.

The pact, which involves the United States, Australia, China, Japan, India and South Korea, looks at how to develop technologies to reduce greenhouse gas emissions rather than having specific targets.

Expediting Homes For Tsunami Victims (WP)

By Ellen Nakashima

The Washington Post, January 4, 2006

MEUDANGGHON, Indonesia -- In a field along Sumatra's west coast, a group of villagers gathered under a blue tarp, peering at a laptop computer. The screen displayed a design of a simple brick house.

"Everyone okay with this?" asked Dave Hodgkin, a relief aid consultant. "Any changes? If you want a bigger window, tell us."

"Don't change anything," a woman in a black head scarf quickly responded. "It'll slow things down."

Hodgkin works with Fauna & Flora International, a British group that is preparing to build homes in this isolated village of 60 households in Aceh province, the area hit hardest by the tsunami of more than a year ago. Similar scenes have been taking place across Aceh over the past several months as aid workers help survivors plan entire communities.

Stung by intense criticism of a slow rebuilding effort after the Dec. 26, 2004, undersea earthquake and resulting tsunami, the Indonesian government and relief agencies are moving to pick up the pace. After building about 16,000 houses in 2005, Indonesia is undertaking what officials call the world's largest reconstruction effort ever after a natural disaster. The goal is to build 80,000 homes by the end of this year and a total of 120,000 by mid-2007.

Interviews with officials and survivors indicate that accelerating the rebuilding process will not be easy. Not all of the houses built in 2005 have been occupied, according to the Rehabilitation and Reconstruction Agency for Aceh and Nias, known by its Indonesian initials BRR. Nias is an island off the Sumatran coast and was heavily damaged by an earthquake last March.

More than 60,000 people still live in tents. Another 50,000 are in barracks or other forms of temporary shelter. Several hundred thousand are living with friends and family, but many will need homes of their own.

"Until the last person moves out of the barracks into their own house, that last person will say that we are slow," according to Kuntoro Mangkusubroto, director of the government relief agency.

But beginning this year, he said, there will be 5,000 housing starts a month. Officials said the increased pace will bring logistical challenges. Building 120,000 houses will require 13.7 million cubic meters of concrete, gravel and wood -- or 1.7 million truckloads of material, officials said. It will be trucked, shipped and in some cases flown by helicopter to remote areas, said Sudirman Said, BRR spokesman.

Moving the material will be hampered by the lack of transportation facilities. The tsunami and earthquake wrecked most of Aceh's ports, highways and bridges. Officials expect a port restoration at Meulaboh to be completed by February, but others will take longer.

One recent morning, on the eastern outskirts of Banda Aceh, the provincial capital, a single cargo ship loaded with sugar was docked at Malahayati port's only jetty. Two other ships, one carrying cement, idled in the harbor. The port can dock only one ship at a time.

"This is the main supply line for all the villages along the coast" of northern Aceh and part of its western coast, said Jan Roos, project manager for a construction firm hired by the Dutch government to enlarge the port. The Dutch are spending $8.2 million to dredge the harbor, build a second jetty and make other improvements. By October, Roos said, the port should be able to handle up to three ships.

Another port has been reopened for passenger ferries on the western side of the capital. But cargo ships still cannot land at the Ulee Lheue port, also to the west. Instead, the U.N. World Food Program and other relief agencies are using special landing craft that can pull up to shore, lower a ramp and unload.

Still, a landing craft must travel up to 18 hours from Ulee Lheue to Calang down the Sumatran west coast, a trip that used to take only 3 1/2 hours on the West Coast Highway before the tsunami battered it and dumped large chunks into the sea.

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The United States is spending $245 million to repair the highway, the largest infrastructure project in Aceh and the most complex. Land has shifted in many parts of the island, and in some areas 500 yards of beach are submerged or washed away. "The road now in many places is next to the ocean and has to be relocated," said William Frej, the Indonesia director of the U.S. Agency for International Development.

The road will be rebuilt up to five miles inland, he said. USAID officials hope it will be finished by 2008.

The only hitch is that some villagers, eager to be settled, are rebuilding close to the shore, near their old fishing grounds. But Frej said he thought many would ultimately move.

"The road is unquestionably the economic backbone of Aceh," he said. "I would suspect that many of the villages, when the road is completed, will be relocated much closer to the road."

Zainal Abidin, 55, who lost his wife and three of their six children in the tsunami, lives about 150 yards from the sea in Leupung on the west coast. He does not want to move. He went back to the site of his old village and has lived in a tent for almost a year.

Now, he said, "all I want is to have a house in my old place."

But a relief agency that has promised houses for the village is clearing fields near a hill inland. The leader of the village says only about half the people are willing to move.

Another challenge is obtaining land titles for an estimated 300,000 people affected by the tsunami. The BRR, with the help of large donors led by the World Bank, will help people secure their property rights and establish a land database. Holding a land deed will also help those who need loan collateral to start a business, said Eddy Purwanto, a BRR official.

"The idea is to reconstruct ownership," he said, "but also to get them out of the cycle of poverty."

Officials said that one of the most difficult challenges is managing expectations. After the tsunami, with record donations pouring in and 500,000 people in need of shelter, hopes were raised that houses would be built quickly.

"Total destruction is total destruction and it takes time to rebuild -- and I'm not even referring to Katrina," said Scott Campbell, Aceh director for Catholic Relief Services. "I'm referring to Hurricanes Ivan and Charlie and others over a year old where people are still not in permanent houses. And this is coming from a country where there's loads of resources and infrastructure."

In recognition that many people here are going to have to wait until 2007 for permanent houses, international Red Cross groups, the United Nations and the BRR are building 20,000 transitional homes of galvanized steel. Officials hope to move most people out of tents by April.

In what is left of the village of Meudangghon, a mile from the sea, 30 families live in tents on a field once lush with mango, durian and orange trees. Thirty other families are in barracks in the nearest town, 45 minutes away by motorbike and ferry.

The villagers plan to rebuild on higher ground about 1 1/2 miles inland, near a mountain. The land they will build on belongs to several villagers, who have agreed to sell to their neighbors, with the local government putting up the money, said Helen Barnes, the project manager of Fauna & Flora in Aceh.

Mohammad Nasir, the village head, said the planning process has taken a long time. But he said he believes it will be worth it.

"I have faith," he said. "I am optimistic this will work."

Police In India Make An Arrest In Scholar's Death (NYT)

By Saritha Rai

The New York Times, January 4, 2006

BANGALORE, India, Jan. 3 - The police in southern India on Tuesday announced the arrest of a suspect in the shooting of a well-known scholar here as anxiety rose over the possibility of terrorist attacks aimed at the region's high-technology industries.

Heightening tensions across this relatively prosperous belt of the country, the police said they had also uncovered plots to attack outsourcing companies after arresting four other suspects possibly connected to Islamic militant groups during the past two weeks.

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The police were put on high alert in a number of cities, installing checkpoints and searching people and cars in Bangalore, Hyderabad and Madras, all flourishing cities where hundreds of outsourcing companies offer services to Western clients.

The measures taken in Hyderabad coincided with a visit to the city by Prime Minister Manmohan Singh to open the Indian Science Congress, the country's biggest meeting of scientists and scholars.

Wire reports quoted Mr. Singh as saying that terrorists were singling out India's research institutes because of the country's growing technical and scientific prowess. "The symbols and temples of our knowledge society are today being targeted by terrorists," Mr. Singh told scientists at the conference.

Ajit Kumar Mohanty, the police commissioner in Hyderabad, said the police had been "even more vigilant" since arrests two days ago revealed plans for an attack at Hi-Tech City, where most of Hyderabad's technology companies are based.

On Sunday, the Hyderabad police arrested two men suspected of being part of larger networks and seized a large quantity of explosives. Reports quoted the police as saying that the men had given details of their plans to attack technology companies by using bombs detonated by cellphones.

The first of a series of recent arrests was made in mid-December.

The police said Tuesday that they believed more such groups were holed up in the city.

Last week a gunman shot dead a retired professor, M. C. Puri, and wounded four others in the offices of the Indian Institute of Science, the country's premier science and technology institution. On Tuesday, the Bangalore police announced the arrest on Sunday of a suspect, Abdul Rahman, 35, saying he was known for "a very strong connection" to the Lashkar-e-Taiba, a militant organization based in Pakistan.

China Releases Investigative Reporter Whose Jailing Had Upset U.S. (WP)

By Philip P. Pan

The Washington Post, January 4, 2006

BEIJING, Jan. 3 -- The Chinese government released a prominent investigative reporter from prison Tuesday, even as it has been intensifying a crackdown on the press. The early release appeared intended to mollify the Bush administration, which had included the journalist on a short list of political prisoners whose cases it raises regularly with Chinese officials.

Jiang Weiping, 50, who spent the last five years in prison after writing a series of hard-hitting articles on government corruption for a magazine in Hong Kong, was granted a sentence reduction for good behavior and released one year before his term was set to end, according to his wife, Li Yanling.

Several human rights groups had campaigned for Jiang's release, including the New York-based Committee to Protect Journalists, which honored him with its international press freedom award in 2001.

The release was the first of a prominent political prisoner by the Chinese government in more than nine months. It came several weeks after U.S. officials expressed frustration over China's failure to free a prisoner as a gesture of goodwill in advance of President Bush's visit to Beijing in November.

Jiang was on a list of 13 prisoners that U.S. officials handed the Chinese during a 2002 meeting between Bush and Jiang Zemin, China's president at the time. Senior U.S. officials pressed for the prisoner's release in several subsequent meetings, and the U.S. ambassador to China, Clark T. Randt Jr., raised the case in speeches.

John Kamm, executive director of the San Francisco-based Dui Hua Foundation, which lobbies Chinese officials on behalf of political prisoners, said the decision could signal a new readiness by the Chinese government to address U.S. criticism of its human rights record after a period in which it appeared unwilling to make concessions.

Jiang Weiping, a former bureau chief for the Hong Kong newspaper Wen Hui Bao, was arrested in December 2000 after writing a series of articles for the magazine Frontline that exposed corruption among senior officials in the northeastern province of Liaoning. He was then sentenced to eight years in prison on charges of revealing state secrets and inciting subversion. A higher court later reduced the sentence to six years.

Jiang's supporters said he was targeted by party officials upset by his reporting, which helped uncover some of China's largest and most colorful corruption cases in recent memory. He reported, for example, that one local mayor used state money to

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buy apartments for 29 mistresses, and that another official lost nearly $3.6 million in public funds in casinos in Macau. That official was later arrested and executed.

Jiang also reported that one of the Communist Party's rising stars, Bo Xilai, covered up corruption among friends and relatives during his years as mayor of the city of Dalian. Bo, who is the son of the party elder Bo Yibo, was serving as the Liaoning governor when Jiang's reports were published, and is now China's trade minister.

Jiang's release came as the government has been stepping up a crackdown on freedom of expression that began nearly two years ago. Last week, Liaoning authorities upheld the conviction of Zheng Yichun, an Internet essayist who has been sentenced to seven years in prison for writing articles criticizing the government. The same day, propaganda officials fired the editor in chief of one of the nation's most daring newspapers, the Beijing News, prompting as many as 100 journalists there to stage a one-day strike.

Last month, prosecutors concerned about the release of state secrets indicted a researcher for the New York Times, Zhao Yan, on charges related to his reporting for the newspaper. Prosecutors were also expected to make a decision this week about whether to pursue a case against a Singapore newspaper journalist, Ching Cheong, who has been detained since April on suspicion of espionage.

Australia Revisits Drug-price Cap (WSJ)

By Veronica Brooks

The Wall Street Journal, January 4, 2006

CANBERRA, Australia -- Mark Vaile, Australia's trade minister and acting prime minister, said the government may remove an amendment included in the Australia-U.S. free-trade agreement designed to contain drug prices if pharmaceutical makers can prove the provision is "commercially detrimental."

The so-called evergreening amendment was negotiated by Australia's major opposition Labor in 2004 as a condition of the center-left party's support for the trade treaty and is designed to prevent drug companies from extending medicine patents so as to delay cheaper generic versions coming to market.

Australia's free-trade agreement with the world's biggest economy came into force at the start of 2005 and will be the subject of a formal review in March.

The Australian newspaper reported yesterday that the influential U.S. pharmaceutical industry is pushing Canberra to scrap the safeguard amendment.

"I am sure that the American side, particularly industry in America, would like to have a discussion about the way those amendments, and the provisions of those amendments are operating," Mr. Vaile told Australian Broadcasting Corp. radio.

"But the point needs to be made that they would have to prove that those amendments are being commercially detrimental, which we don't believe they are.

"Under the Australian system, innovative drug companies get a very liberal dose of protection under the patent arrangements," he added. "They do have opportunities for patent extensions if there is a significant improvement in the benefits that flow from that drug, but through our process of certification and the [Therapeutic Goods Administration] we don't allow the abuse of the system."

Under Labor's amendment to the free-trade-treaty legislation, drug companies misusing the patent system to delay the release of cheaper generic pharmaceuticals face fines of as much as A$10 million (US$7.3 million), have to pay damages for any losses to the generic-drug manufacturer, and repay extra costs to federal and state governments.

Labor insisted the government adopt the amendments, adamant that safeguards were required to preserve access to affordable medicines under Canberra's A$6-billion-a-year Pharmaceutical Benefits Scheme.

Bush Administration Criticizes Russia (Ap)

By barry scwhied

The Associated Press, January 4, 2006

The Bush administration criticized Russia on Tuesday for imposing limits on natural gas supplies to Europe by reducing Ukraine's share through a pipeline that carries about 80 percent of Russian gas exports to the West.

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A decision by Russia to restore most of the gas it had withheld Monday in a pricing dispute "does not resolve the issue," State Department spokesman Sean McCormack said.

Noting that Europe was in the midst of winter's cold, McCormack decried "the use of energy for political purposes."

He noted that Ukraine, a former Soviet republic, was due to hold parliamentary elections. And yet, McCormack also said he was not trying to discern Russia's motives in limiting supplies and proposing a sharp boost in gas prices.

McCormack said State Department officials were talking to both governments to try to help resolve the dispute.

Russia has acussed Ukraine of trying to steal its share of gas from Europe, an allegation that Ukraine rejects and the State Department declined to address.

Russian Natural Gas Streams Through Ukraine Once Again (WSJ)

The Wall Street Journal, January 4, 2006

Russian natural gas flowed across Ukraine to countries throughout Europe yesterday, banishing the specter of immediate and prolonged shortages because of Moscow's price dispute with Kiev.

But relief was tempered by the realization that the Continent's dependence on Russian natural gas means it is vulnerable to future energy crises. (See related article1.) European officials also criticized Russia's behavior and called for a diplomatic resolution with Ukraine.

Calling Russia's decision to cut off gas shipments to Ukraine on Sunday "hasty," European Union Energy Commissioner Andris Piebalgs told BBC World, "I think Russia has overplayed this issue. We have never had such a situation in the 40 years since Russia and the previous Soviet Union made gas supplies."

Demanding Ukraine agree to end years of paying below-market prices for gas, Russia Sunday cut off shipments to the country, which also carries 80% of Russia's gas exports to Europe. After European customers began reporting steep declines in the flow of Russian gas, Moscow on Monday put more gas into the pipeline.

A spokesman for Russian state-controlled gas monopoly OAO Gazprom, which supplies a quarter of Europe's gas and aims to increase those sales, also admitted that the still-simmering crisis "absolutely has a negative impact on Russia's image and reputation."

Across Europe, officials were calling for steps to reduce dependence on Russian fuel. Poland, whose energy dependency on Russia is a legacy of its former status as a satellite of Moscow, launched an urgent search for new suppliers of natural gas. "I've instructed the economy minister to urgently prepare investment decisions allowing us to diversify gas supplies," Prime Minister Kazimierz Marcinkiewicz said.

Mr. Piebalgs said, "The situation has shown how vulnerable the union is to shortages of gas supply." A meeting today of representatives of EU member states and the gas industry will discuss how they would deal with future threats to Europe's supply. The Continent has few alternatives for supply with Norway producing at capacity and British gas fields in decline.

Both Russia and Ukraine showed interest yesterday in resolving the gas cutoff, which led to Monday's Europe-wide shortages, Russian accusations that Ukraine was at fault for stealing Europe-bound gas and Ukrainian denials. Gazprom said talks were planned with Ukrainian officials, though there was no sign of a compromise.

While European officials said the conflict is an economic one over prices, the crisis has clear political overtones. Under a 2004 deal with the previous government in Kiev, Moscow had agreed to continue to supply inexpensive fuel to Ukraine through 2009. But after pro-Western President Viktor Yushchenko took office early last year, Moscow has sought to raise the prices to world-market levels. The sides differ on what the terms of the contracts mean.

Gazprom officials said there is no valid contract for shipments to Ukraine this year and warned that the gas titan might not be able to continue to keep up supplies for European customers if demand in Ukraine -- now low because of unseasonably warm weather -- rises. Ukrainian officials said they were taking only gas they are entitled to under past agreements.

Gas Halt May Produce Big Ripples In European Policy (NYT)

By Mark Landler

The New York Times, January 4, 2006

DOJ_NMG_0007953

FRANKFURT, Jan. 3 - Russia's shutdown of natural gas lines to Ukraine lasted less than 48 hours, but the repercussions could last far longer in Western Europe, which also relies heavily on Russian gas.

Even as the flow of gas to Germany, France and other countries resumed at normal levels by Tuesday evening, public officials and energy experts called on the Continent to rethink its energy policy.

Russia's standoff with Ukraine has exposed a deep European dependence on Russia, the officials and experts said. To reduce that vulnerability, they said, Europe should seek out other gas suppliers and develop alternative fuels, like clean-burning coal, nuclear power and renewable energy.

"If Russia is prepared to run the risk of cutting off supplies to its neighbors if they have a disagreement, how reliable are they as a supplier?" said William Ramsay, deputy executive director of the International Energy Agency, which advises 26 industrialized nations. "You have to ask the question."

Russia is virtually the sole supplier of gas to large swaths of Central and Eastern Europe, and to close neighbors like Finland. France and Italy buy between a quarter and a third of their imported gas from Russia.

In Germany, which is by far Russia's largest customer and has made energy the cornerstone of a broad economic alliance with Moscow, some experts said the standoff might even have political implications.

"Germany's alliance with Russia was not just conceived as a commercial deal, but as a way to integrate Russia into Europe," said Alexander Rahr, a Russia expert at the German Council on Foreign Relations in Berlin. "This could be in jeopardy if the gas dispute continues."

The European Union, he said, is likely to rush to Ukraine's defense in its dispute with Russia over gas prices, giving Germany little choice but to fall in line. And Russia can no longer count on the friendship between President Vladimir V. Putin and Gerhard Schröder, who stepped down as German chancellor in November.

Mr. Schröder's successor, Angela Merkel, has not commented publicly on the dispute between Moscow and Kiev. But her economics minister, Michael Glos, said Monday that Germany would increase its Russian gas purchases only if Moscow proved itself to be a dependable supplier.

Mr. Glos also rekindled a debate over Germany's larger energy policy, saying the new government ought to reconsider the Schröder government's plan to phase out nuclear power by 2021.

Mrs. Merkel supports extending the life of Germany's nuclear plants. But during negotiations to form a government, she was unable to persuade the Social Democrats with whom she shares power to shelve the planned phase-out, which had been championed by Mr. Schröder's coalition partner, the Green Party.

"The latest developments show how important it is to draw on a balanced, broad energy mix," Mr. Glos said in a statement on Monday. In a radio interview, he added, "The German nuclear power plants were doomed by the Red-Green coalition to be switched off only for political reasons."

Some experts predicted that Russia's recent actions would strengthen Mrs. Merkel's hand. Germany imports more than 40 percent of its gas from Russia, and within hours of the shutdown, the largest German supplier, E.ON Ruhrgas, said it was not getting its normal amounts of gas.

"We understand that Russia cannot continue to subsidize Ukraine with very cheap gas, given rising market prices," the company's chairman, Burckhard Bergmann, said in a statement. "But it is also important to raise prices to the international market level in steps that Ukraine can cope with."

Mr. Bergmann's careful tone is not surprising, given his company's complex ties with Russia. Ruhrgas owns a stake in Gazprom, Russia's gas monopoly, in addition to being one of its main customers. It is also a partner with Gazprom in a $4.7 billion project to build a pipeline from Russia, under the Baltic Sea, to Germany and other parts of Western Europe.

Mr. Schröder brokered that deal with Mr. Putin shortly before he left office. He later accepted a job as the chairman of the board of a Russian-German consortium that is building the pipeline - a decision that drew withering criticism from across the political spectrum here.

Experts note that the energy alliance between Germany and Russia originated under Helmut Kohl, Mrs. Merkel's political mentor, not Mr. Schröder - a fact the chancellor is sure to recall when she visits Moscow this month. She is unlikely to derail an arrangement that has profited both nations.

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"She might tell them when she goes there about the mess one can make by using energy as a political tool," said Mr. Rahr. "But she will do nothing to question the energy alliance between Germany and Russia."

Other experts argue that the European Union should negotiate an agreement with Russia that guarantees fair prices to all its members. Otherwise, there will be further disputes like this one.

While many here said they welcomed a debate over energy policy, some worried that it would be limited to perennial topics like nuclear power rather than forward-looking issues, like renewable energy.

Ukraine, for example, has the most potential of any European country to generate energy from crops, grasses and trees, often referred to as biomass, because of its rich soil and low population density, according to Hermann Scheer, president of the European Association for Renewable Energy.

"Those who prolong the current energy system are simply provoking things like the gas dispute," he said.

Ukrainians Angry Over Moscow Gas Dispute (AP)

The Associated Press, January 4, 2006

KIEV, Ukraine — Disgruntled Ukrainians thronged Bessarabsky Market in downtown Kiev in freezing temperatures Tuesday to buy electric heaters after a natural gas cutoff by Russia brought on by a pricing dispute.

The halt of Russian gas supplies that began Sunday has not yet caused major heating problems, but Kiev residents feared the two sides were far from a resolution. Russian and Ukrainian officials agreed Tuesday to resume talks on the issue.

Residents of the capital largely blamed Russia, which wants Ukraine to pay four times more for gas than it did last year.

"It's Russia's revamped imperialism behind all this. They believe that with the cutoff of gas they can dominate us," said Valentyn Vasilyev, 32, who was among those buying a heater.

"Thanks to Russia I am now wasting handsome money on an electric heater. But Muscovites will not win this time," said 46-year-old Olena Kostenko, wiping her nose as it started to snow.

For the vendor doing a brisk trade at the open-air stand, the gas dispute has been good news. He sold 10 heaters in less than an hour, for $21 each.

"I regret I didn't have more of these," said Yuriy, who gave only his first name because he feared legal problems for selling unlicensed goods. "People are buying like crazy."

Nearby a poster read, "Do not buy Russian goods," and "Do not give money to Russian oppressors."

The cutoff also reduced gas supplies to Europe, which gets about a quarter of its gas from Ukraine, though the European countries most affected _ Hungary, Austria, Slovakia and Slovenia _ reported supplies were back to normal Tuesday.

In Washington, State Department spokesman Sean McCormack criticized Russia for "the use of energy for political purposes."

Noting that Europe was in the midst of winter's cold, McCormack said the decision by Russia to restore most of the gas it had withheld Monday to European countries "does not resolve the issue,"

The gas dispute highlights Ukraine's dependence on Russia as the key supplier to its energy inefficient industries. It also demonstrates Russia's opposition to Ukraine's attempts to break out of the Kremlin's sphere of influence and join the European Union and NATO.

Ukraine's tilt toward the West since President Viktor Yushchenko took office a year ago has irritated the Kremlin.

Ukraine's Foreign Ministry has characterized the gas dispute as an attempt by Moscow to wreck Ukraine's economy as the country tries to integrate into Western Europe.

Some Ukrainians, however, mainly pensioners with strong emotional ties to the former Soviet Union, still believe the country's future lies in the renewal of centuries-long economic, ethnic, religious and cultural links with Russia.

"What are we without Russia? A wasteland, nothing. You argue with a bear and it will ultimately eat you," retired army officer Mykola Kostenyk said.

Many communities in Ukraine's west reported a decrease in gas supplies and local providers said they would stop heating schools during the winter holidays.

In the key western city of Lviv, several factories reported shifting from gas to coal or oil as their primary energy source.

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On Tuesday, a pro-Russian opposition bloc loyal to Ukraine's first post-Soviet president, Leonid Kravchuk, demanded an urgent parliamentary session about the gas dispute and said a new caretaker government should be appointed until March parliamentary elections.

In a statement, Kravchuk's bloc said the current Cabinet, loyal to Yushchenko and Prime Minister Yuriy Yekhanurov, "cannot be an effective participant in any talks with the Russian side, including the gas issue."

Yushchenko and his allies "took a deliberately hostile position toward Russia on a broad range of international issues," the statement said.

Meanwhile, the office of the prosecutor general ordered a probe into the activities of all companies responsible for storing and securing gas supplies throughout Ukraine and overseeing "all the activities related with rational use of energy," a statement said.

Gas Price Dispute Worries Europeans (WT)

By Andrew Borowiec And David R. Sands

The Washington Times, January 4, 2006

A bitter pricing dispute with Ukraine that briefly disrupted Russia's natural-gas supplies to Europe has fueled fears over Moscow's growing clout as an energy supplier to the Continent.

Gas shipments through Ukraine to Europe returned to normal yesterday -- a day after they were severely restricted in the pricing fight -- but doubts about Russia's reliability and intentions as an energy supplier dominated the European press.

"Welcome to the new Cold War," wrote the London Times, describing Moscow's leading role as energy supplier "Russia's most powerful weapon in its post-Soviet arsenal."

The dispute put in sharp relief two contrasting priorities of Russian President Vladimir Putin's foreign policy: his desire to use Russia's energy reserves to cement ties to Europe and his willingness to use those same resources to bring Ukraine's pro-Western government to heel.

Vladimir Socor, an analyst with the Jamestown Foundation, said Mr. Putin's goals in the dispute are "twofold."

He wants to "defeat Ukraine's [pro-Western] Orange political camp in the upcoming political elections and compel Ukraine to turn its transit-pipeline system into a Russian-Ukrainian consortium," Mr. Socor wrote in an analysis of the crisis.

Analysts said yesterday Moscow may have underestimated how badly the shutdown will damage its reputation in Europe, which now gets a quarter of its natural gas from Russia. The dispute also comes just as Russia assumes for the first time the chairmanship of the Group of Eight industrial powers.

London's Daily Mail called Russia's G-8 presidency "a travesty the West will come to regret," while in Paris, the conservative Le Figaro's headline proclaimed: "Putin plunges Europe into difficulty."

European Union officials said yesterday there was no immediate supply crisis, but EU Energy Commissioner Andris Piebalgs told reporters that "the situation has shown how vulnerable the Union is to shortages of gas supply."

Representatives of the 25 EU member states and the gas industry meet today in Brussels on ways to deal with future threats to Europe's gas supply.

Russian and Ukrainian energy officials began separate talks yesterday in Moscow to discuss the dispute.

The showdown pushed up world oil prices in New York and London markets.

Russian officials deny a political motive in the showdown, saying they switched off Ukraine's gas because Kiev rejected an abrupt, fourfold increase in gas prices to market levels. Russia also accuses Kiev of siphoning off pipeline shipments meant for European customers.

The Bush administration, which has strongly backed new Ukrainian President Viktor Yushchenko, said Gazprom's sharp price increase "raises questions about the use of energy to exert political pressure," according to State Department spokesman Sean McCormack.

"Such a change should be introduced over time, rather than suddenly and unilaterally," Mr. McCormack said.

EU Could Step In To Help Solve Gas Dispute (FT)

By Sarah Laitner In Brussels And Tom Warner In Kiev

DOJ_NMG_0007956

Financial Times, January 4, 2006

Energy experts meet on Wednesday in Brussels to thrash out the EU's response to the Russia-Ukraine gas dispute after the stand-off led to a cut in European supplies.

European diplomats in Kiev said the EU could be prepared to play a more proactive role to help solve the dispute.

The threat to European supplies has renewed the debate over whether the EU needs a common energy policy to address its growing dependence on imported oil and gas.

The European Commission on Tuesday defended itself against criticism that it should have reacted more rapidly to the disruption when Russia cut the amount of gas it exports via a pipeline in Ukraine. Gas supplies to France fell 30 per cent on Monday, while countries in eastern Europe that rely heavily on Russian exports saw even bigger falls. The Commission insisted the dispute was between a gas supplier and transit operator.

Brussels has few weapons in its arsenal to respond to threats to EU supplies because energy policies are largely dealt with by the member states.

Tony Blair, British prime minister, raised eyebrows in October when he called for a common EU energy policy that included countries co-ordinating efforts to negotiate with suppliers.

"For far too long we have been in the situation where, in a haphazard and random way energy needs and energy priorities are simply determined in each country according to its needs, but without any sense of the collective power we could have in Europe if we were prepared to pool our energy and our resources," Mr Blair told the European parliament.

But member states have been reluctant to extend Brussels' powers over such a sensitive area as energy.

Predictions that two thirds of Europe's total energy and three quarters of its gas will be imported by 2020 are likely to spur calls for greater co-ordination to secure supplies.

Part of the difficulty lies in defining what a common European energy policy would be. The EU has spent more than a decade liberalising gas and electricity markets to create a single pan-European market, efforts which have been hampered by structural weaknesses in Europe's energy network and a lack of competition.

But member states have reacted coolly to ideas such as Commission control over strategic oil reserves or direction from Brussels on nuclear power options.

In a paper prepared for the British presidency of the EU, which ended last month, Prof Dieter Helm of Oxford University suggested measures such as creation of an EU gas security and storage regime and a European information exchange on future capacity plans.

Ukraine Concedes It Took Gas From Pipeline But Says It Had The Contractual Right (NYT)

By Andrew E. Kramer

The New York Times, January 4, 2006

KIEV, Ukraine, Jan. 3 - Ukraine conceded Tuesday that it had withdrawn natural gas from its pipeline system that Russia said was intended for export to Europe, but said it had a contractual right to the fuel under an agreement with the Central Asian nation of Turkmenistan.

Both Russia and Turkmenistan export natural gas through Russian pipelines to Ukraine, which customarily takes some for its own use and ships the rest on to other European countries. But Russia cut the flow through the pipeline on Sunday, ostensibly in a dispute with Ukraine over pricing and transit fees. That set off alarm bells throughout Europe during the winter heating season and shook world energy markets' confidence in Russia.

Russia placed blame for the shortages on Ukraine, saying it stole gas intended for export, but under pressure from European governments, Russia restored full flow to the pipeline on Monday. Despite the bickering, the two countries resumed negotiations on gas prices on Tuesday.

Nevertheless, the price of crude oil leapt by more than $2 a barrel on Tuesday in afternoon trading on the New York Mercantile Exchange, fed by concerns over Russia's reliability. Crude oil prices rose to a two-month high of $63.80 a barrel at midday before pulling back slightly.

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While admitting that they took their usual allotment of gas on Tuesday, Ukrainian officials dismissed Russian claims that the gas had been stolen. Mikola Goncharuk, a member of the board of Ukraine's natural gas company, Naftogaz, said at a news conference in Kiev that his company had indeed drawn down gas from the pipeline system, but under a contract with Turkmenistan. Russian export gas, he said, was untouched.

"We are demanding the full volume of gas from Turkmenistan today," Mr. Goncharuk said. "For now we can get by without Russian gas."

Gazprom, Russia's government-owned gas company, insists that the pipeline carries only Russian gas for export to Europe.

Meanwhile, the political fallout continued from Russia's brief gas embargo, which was widely regarded in Europe as punishment of Ukraine for its rejection of Moscow in elections last year and its continued turn to the West and away from the Russian orbit.

In Washington, the State Department spokesman criticized Russia's use of energy as a foreign policy tool, while Austria and other Central and Eastern European countries agreed to make the diversification of energy supplies a priority, though they did not say how they would achieve it.

The European Union's top energy official said Tuesday that the pricing dispute could fester for weeks to come, jeopardizing one of the Continent's primary sources of energy. Andris Piebalgs, the energy commissioner, said the agreement by the two sides to resume talks on the issue was "just a temporary calmdown," according to the Bloomberg news agency.

Each side in the dispute has plausibly blamed the other because the pipeline system, a great achievement of the Soviet Union's postwar industrial expansion, was built as a unified web. After the Soviet Union broke up, the successor states divided the gas flow through treaties and commercial agreements that grew more complex each year.

Companies subsidized others, shrewd businessmen made millions or billions exploiting price discrepancies, gas utilities became government slush funds and corruption blossomed.

The gas is sometimes mingled in the web of pipes. In the argument on Tuesday, Ukraine said some of the gas entering its pipeline system had been bought from Turkmenistan and shipped by an intermediary company. Mr. Goncharuk said his company paid last Friday for 126 million cubic meters a day of gas from Turkmenistan, for an unspecified period.

He said that Ukraine therefore had a right to withdraw that volume of gas from its pipelines, but that it had chosen to take only 90 million cubic meters out of concern for the security of natural gas flows to Europe during the winter.

The Russian minister of industry and energy, Viktor Khristenko, said Tuesday that Gazprom had contracted the entire export capacity of Turkmenistan for the first quarter of 2006, the Dow Jones news service reported.

In statements carried in the Russian news media, Turkmenistan's mercurial and authoritarian leader, Saparmurat Niyazov, who presides over a closed nation deep in Central Asia, shed little light on the dispute. He has confirmed sales to Ukraine without elaborating on the discrepancy with Gazprom's statements. Gazprom controls the pipeline leading north from his country.

Mr. Goncharuk also asserted that Ukraine had a right to withdraw additional gas from the pipelines in lieu of transit fees from Russia under a barter agreement reached in 2004 and in force in 2005.

Volodymyr R. Sidenko, chief economist at the Institute of Economic Forecasting in the Ukrainian Academy of Sciences, said: "Ukraine considers if we have not arrived at any agreement, the old one is in effect. The Russian side rejects these arguments."

Meanwhile, the gas dispute has already dented Ukraine's energy-intensive economy. Chemical and metallurgical industries slowed production to reduce demand by 15 to 20 percent, according to a statement by the Ukrainian government.

While Kiev scored points for withstanding what European nations almost universally regarded as Russia's intimidation tactics, its energy troubles are far from over.

Natural gas-guzzling steel mills and chemical plants earn much of Ukraine's export revenues. Outdated and inefficient, many have scraped by since the collapse of the Soviet Union only because of cheap energy from Russia. Market-rate energy prices, which Ukrainian officials acknowledge they must pay eventually, could plunge Ukraine back into recession, officials here have said.

On average, metallurgical plants would become unprofitable at natural gas prices above $105 per 1,000 cubic meters, according to estimates by Mr. Sidenko. The chemical industry would be unprofitable at prices above $85, he said.

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Under the 2005 contract, negotiated before the Orange Revolution, Ukraine pays $50 per 1,000 cubic meters. Gazprom is asking for $220 to $230 now, about double what most other former Soviet states pay.

Gazprom Says Gas Supplies Back on (REU)

By Christian Lowe

Reuters, January 4, 2006

MOSCOW (Reuters) - Russia's gas deliveries to European customers returned to normal on Tuesday as it traded insults with former ally Ukraine over who was to blame for supply disruptions across the continent.

Russian energy officials were set to meet counterparts from Ukraine on Tuesday to discuss the dispute but there was no sign of a softening of tone on either side in a dispute with clear political overtones.

Russia switched off Ukraine's gas when Kiev rejected a big hike in prices. It was forced to turn the taps back on after key European partners complained their supplies had been hit too and chided Moscow for using energy as a political tool.

Relations between the ex-Soviet allies, already strained after Ukraine elected a West-leaning leader a year ago, have now hit a new low with the gas dispute.

Russia has accused Ukraine of stealing gas intended for other European countries. Ukraine says Russia is lying.

The crisis has lent new urgency to efforts by European states to reevaluate their energy policy to ensure supplies are secure. EU energy officials meet for emergency talks on Wednesday.

Italy, Germany and France said their gas supplies from Russia were back to normal after Russia's state-run Gazprom pushed extra gas into the system to make up for the earlier shortfall.

However, Gazprom warned there was still a risk of supply disruptions to Europe if Ukraine continues to steal gas.

"There is still a danger that the situation could develop in such a way that we are not going to be in a position to compensate," Gazprom deputy CEO Alexander Medvedev told Reuters in an interview.

Ukraine has said it will help itself to Russian gas piped across its territory if temperatures dip below freezing.

MEETING PLANNED

Senior officials from Gazprom and Ukraine's state Naftogaz company were to meet later on Tuesday for the first time since negotiations collapsed in the final hours of 2005.

But the gulf between them was huge. In Moscow and Kiev, everyone from gas executives, television anchors, prime ministers and foreign ministry spokesmen lined up to blame the other side for the crisis.

Russia said it was Ukraine's fault by refusing to pay the same prices as its European neighbours, rejecting a last-minute compromise offered by Putin and then stealing Europe's gas when Gazprom, in exasperation, finally turned the taps off.

Ukraine was just as vehement. "The fact is that Gazprom officials are lying," said Naftogaz Ukrainy spokesman Eduard Zanyuk.

Ukraine said the Kremlin was punishing it for daring to pull away from its sphere of influence.

The Kremlin has made no secret of its dislike of the West-leaning stand of Ukraine's President Viktor Yushchenko who rose to power a year ago after mass protests forced a rerun of an election initially won by a Moscow-backed candidate.

Moscow is demanding an increase in the price Ukraine pays for its gas to $230 (133 pounds) per 1,000 cubic metres from the current $50 price that is rooted in Soviet-era subsidies.

Ukraine says such a big hike will badly damage its economy.

Ukraine's gross domestic product may fall by 5 percent and inflation rise to 27-30 percent in 2006 if the price for Russian gas increases to $230, a senior government official was quoted as saying on Tuesday by Unian news agency.

ENERGY RETHINK

The wobble in gas supplies sent a chill through capitals and energy markets, with some analysts saying the disruption had hurt Russia's credibility as a dependable supplier of energy.

Prices for oil -- Russia's other major money earner -- jumped a dollar to just over $60 a barrel as consumers feared the row could yet crimp fuel supplies to Europe. In Britain -- Europe's only major, freely traded gas market -- wholesale prices rose as much as 8 percent on Tuesday.

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Tony Blair's spokesman said the British Prime Minister has long believed the EU needed a more coherent energy policy to meet the challenges of energy supply and security.

"These events have underlined the Prime Minister's thinking in making that argument," said the spokesman.

Noe Van Hulst, a director with energy watchdog the International Energy Agency, said Russia was playing a risky game.

"From the Russians' perspective, it's not in their long term interest to put their reputation (as a reliable energy supplier) ... at risk. It's dangerous," Van Hulst told Reuters.

It was unclear how the row would play out politically for Ukraine's Yushchenko.

His supporters say by cutting off gas Moscow had tried to put his administration in a bad light ahead of a March parliamentary election, when his biggest challengers will be the pro-Moscow parties.

But some analysts said the crisis would cost the pro-Moscow opposition support if voters view Russia's actions as aggressive and unfriendly.

Russia's Energy Politics (WP)

The Washington Post, January 4, 2006

RUSSIAN PRESIDENT Vladimir Putin once again has overplayed his hand. In his zeal to reestablish Moscow's dominion over Ukraine, he has, as he did during the Orange Revolution, triggered an international crisis that could end up weakening rather than strengthening Russia's international position. Mr. Putin hoped that by shutting off gas supplies to Ukraine on Sunday, he could undermine its democratic and pro-Western government. Instead, he has provided a timely wake-up call to Western European countries dependent on Russian energy supplies. Those nations now see how Mr. Putin understands the question of "energy security," which he would make one of the principal topics for discussion by the Group of Eight this year.

For Ukraine and other former Soviet republics, Russia's crude use of energy for political ends is an old story. For years Moscow has been using its control over natural gas to reward neighbors who submit to its political diktat, such as Belarus, and punish those who seek greater independence, such as Georgia and Moldova. It has also been trying to gain control over pipelines carrying gas and oil, as well as electricity networks, by using gas as a lever. That leverage is considerable: Russia holds more than a quarter of the world's gas supplies and is a major supplier to virtually every country in Europe.

Ukraine used to be one of Moscow's pampered clients. In 2004, as part of his overt attempt to install a pro-Moscow puppet as Ukrainian president, Mr. Putin promised to heavily subsidize Ukraine's gas for years to come. But his meddling catalyzed the Orange Revolution, which gave Ukraine a democratic government determined to preserve its independence. So now Mr. Putin, acting baldly through the state-controlled company Gazprom, is seeking to quadruple the price Ukraine pays just weeks before parliamentary elections in which pro-Moscow parties are bidding to regain power. In partially shutting down supplies on Sunday, Mr. Putin calculated that Ukraine would allow Russian gas free transit to countries farther west through the same pipeline -- or, if it did not, that Western governments would blame Kiev.

Instead, when gas pressure fell off sharply yesterday in Vienna, Rome and Paris, it was Mr. Putin who was reproached -- including by such customers as Germany, which recently agreed to a controversial plan for a new pipeline under the Baltic Sea. Mr. Putin was forced to back down, though the underlying price dispute with Ukraine remains unresolved. He has a sensible way out of the conflict, which the Bush administration is urging on him: a negotiation in which Ukraine agrees to a gradual shift toward world market prices. Poland and the Baltic countries have cut such deals with Russia in the past -- though the prices they pay Gazprom are nowhere near what Mr. Putin proposed to charge Ukraine.

Even if Mr. Putin adopts this course, Western countries should absorb an important lesson. Without a prosperous or technologically advanced economy and with greatly reduced military strength, Mr. Putin hopes to restore Russia's world-power status through its control of gas. That inevitably means manipulating supplies to other countries for political ends. Western countries that do not wish to receive Mr. Putin's ultimatums -- from Germany, France and Britain to the United States, which is being pressed by Russia to line up as a major customer for new Arctic gas fields -- should realize that dependence on Russian gas is not consistent with "energy security." Instead they should develop alternative sources of supply, or a greater emphasis on nuclear energy. Russia cannot be allowed to hold its neighbors, or the world, hostage during a future cold winter.

Russia Shoots Itself In The Foot (NYT)

DOJ_NMG_0007960

The New York Times, January 4, 2006

If President Vladimir Putin wants to convince the world that Russia is a more reliable energy supplier than the Middle East, playing and losing a game of chicken with Ukraine was not the way to go. Mr. Putin tried to use a pricing dispute between Gazprom, Russia's behemoth, and Naftogaz of Ukraine to punish President Viktor Yushchenko for Ukraine's westward leanings. Instead, he gave Russia another black eye and antagonized Europe.

When Gazprom turned down the natural gas spigot a notch, Ukraine simply took what it needed, leaving Europe short of fuel, furious and anxious. That's not a great start for Mr. Putin's turn at the head of the Group of 8, especially since energy security was to be his theme song.

Not that the conflict reflects that well on Ukraine. Russia has long charged wildly different rates to former Soviet republics, depending on their degree of loyalty or usefulness. Thus Belarus, which ceded control of all its pipelines to Russia and is firmly in the Kremlin's orbit, pays $47 per 1,000 cubic meters, while Estonia and Latvia, both in the European Union and NATO, pay about $120. The average price in Western Europe is expected to go over $250 this year. Ukraine had been paying $50, and using the energy wastefully and corruptly. Mr. Yushchenko has also been using cheap fuel as a lure for Western investors. Well, if Ukraine wants to play in the West, it may soon have to pay like the West.

Russia is still a more secure energy supplier than the Middle East. But Europe and the United States should remind Mr. Putin that energy security is a two-way street. Ukraine has no permanent right to a gas subsidy, but as long as Mr. Putin uses pricing to reward and punish, he undermines Russia's claim to be a reliable, businesslike supplier.

Morales Aligns Himself With Castro, Chavez (AP)

By Christopher Toothaker

The Associated Press, January 4, 2006

CARACAS, Venezuela — President Hugo Chavez offered Bolivia's president-elect diesel fuel, trade benefits and help in financing his social reforms as the two leftists cemented ties, reasserting their opposition to U.S. policy in Latin America.

Fresh from a visit with Cuba's Fidel Castro, Evo Morales said in Caracas at the start of a seven-nation world tour that he and the Venezuelan leader were uniting in a "fight against neoliberalism and imperialism."

Morales' next stops are Spain, France, Belgium, South Africa, China and Brazil — but not Washington. Morales' spokesman says he was not invited to Washington, where officials have expressed concern of the growing alliance between Morales, Chavez and Castro.

The Venezuelan leader received him with full military honors as well as hugs and smiles. Crowds of leftist, pro-government supporters cheered as Morales and Chavez arrived at the National Pantheon in downtown Caracas, then headed to a private meeting at Miraflores Palace.

Morales, who takes office as Bolivia's first Indian president on Jan. 22, predicted more leftist leaders would come to power in the region Tuesday in Caracas.

"The time of the people has arrived. This is the new millenium of the people," he said before leaving later that evening for Spain.

During the trip, Morales is expected to discuss with other leaders Bolivia's vast natural gas holdings — the second largest in South America — which he has said he wants to nationalize. But he says he would leave alone foreign oil and gas companies.

The trip is also designed to show that the coca-growing protest organizer has the presidential grit to hold his own on the world stage and tackle the deep problems of his country, including poverty and political instability.

At a joint news conference, Chavez said Venezuela would supply 150,000 barrels of diesel fuel monthly to Bolivia to supplant the impoverished country's imports.

"I won't accept you paying us a cent, you are going to pay us in agricultural products," said Chavez, adding that the offer was worth $180 million a year.

Chavez also said Venezuela will donate $30 million to Morales' government following his Jan. 22 inauguration.

In praising Castro and Chavez on Tuesday, he clearly established Washington's fiercest Latin American critics as his models.

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"We are here to resolve social problems, economic problems," Morales said. "This movement is not only in Bolivia; Fidel in Cuba and Hugo in Venezuela are logging triumphs in social movements and leftist policies."

"We are going to change Bolivia. We are going to change Latin America," Morales said.

Chavez referred to the three leftist leaders as "an axis of good" — a play on President Bush's reference to North Korea, Iran and prewar Iraq as the "axis of evil."

Just back from his first trip abroad over the weekend — to communist Cuba — Morales met on Monday with U.S. Ambassador David Greenlee. Representatives of both sides said the meeting was private and declined to give details.

Morales vowed during his campaign to be Washington's "nightmare," but has said he is open to developing relations with the United States. American officials, too, have said they hope to work with Morales.

"We'll see what kinds of policies President Morales pursues," State Department spokesman Sean McCormack said. "And, based on that, we'll see what kind of relationship the United States and Bolivia will have."

Chavez says he is leading a socialist revolution and has taken increasing control of the oil and gas industry.

High oil prices and the greater share of industry profits have allowed him to fund growing social programs, a goal Morales says he shares.

Morales' opposition to U.S.-led efforts to eradicate coca cultivation in his Andean nation also have alarmed Washington. Coca is the source of cocaine, but Bolivia's Indians also use it for hunger suppression and medicinal purposes.

Morales tended llamas as a young boy and rose to power at the head of street demonstrations that toppled two presidents, demanding that more power be transferred from the country's long-ruling lighter-skinned elite to Bolivia's poor Indian majority.

Peru Asks Chile To Extradite Fujimori To Face A Range Of Charges (NYT)

By Larry Rohter And Pascale Bonnefoy

The New York Times, January 4, 2006

SANTIAGO, Chile, Jan. 3 - The government of Peru formally requested Tuesday that Chile extradite former President Alberto Fujimori, who governed Peru during the 1990's and has been held in custody here ever since he unexpectedly arrived two months ago from exile in Japan.

Mr. Fujimori, 67, is wanted in Peru on more than a dozen counts of corruption and violating human rights. The accusations against him range from bearing the responsibility for death squad killings and unauthorized wiretaps to paying bribes and siphoning money from government ministries.

In the past, Mr. Fujimori has denied all of the charges against him, saying they are part of a political campaign to discredit him. Peru is scheduled to hold an election for president in April, and though Mr. Fujimori has been ruled ineligible because of the charges, he had declared himself a candidate and was apparently on his way back to Peru to campaign when he landed here in November.

Relations between Chile and Peru have been tense for more than a century, and remain so because of disagreements over maritime boundaries. But at a news conference, the Chilean foreign minister, Ignacio Walker, said the Fujimori case was a purely legal matter, not an affair of state. "The courts offer guarantees of complete impartiality," he said. "This should not perturb our bilateral relations in any way."

Leaders of Peruvian human rights organizations and relatives of death-squad victims came from Lima to lobby for extradition. "We hope that the Chilean courts will act as consistently as they have recently with Pinochet," said Francisco Soberón, a member of one such group, referring to the former Chilean dictator who has been stripped of his immunity from prosecution for human rights abuses and corruption offenses.

Under Chilean law, government lawyers will now question Mr. Fujimori about the charges against him. Eventually, the case will move to the Chilean Supreme Court, which may take months to rule. "We are convinced there is more than enough evidence than what the Chilean Supreme Court normally requires for an indictment," José Miguel Vivanco, the executive director of Human Rights Watch, said in an interview here. "Denial of extradition would be incomprehensible, inexcusable."

When Mr. Fujimori arrived here, he was given a 90-day tourist visa, which expires Feb. 7. Theoretically, Chile's president, Ricardo Lagos, could decide not to renew the visa and have Mr. Fujimori expelled to Peru.

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There are, however, local legal precedents that work in Mr. Fujimori's favor, including some involving both Nazi war criminals and former associates of Mr. Fujimori. When Argentine judges recently sought the arrest and extradition of one of that country's former presidents, Carlos Saúl Menem, after he went into exile here, Chilean courts turned down their requests.

Mr. Fujimori, in fact, has hired Mr. Menem's lawyer, Gabriel Zaliasnik. Mr. Zaliasnik said last month that his client had come here because he "thought that the Chilean authorities would not discriminate against him" but that they would "treat him the same way they did with respect to Carlos Menem."

Hours after his arrival here, Mr. Fujimori was detained because of the charges he faces, and remains in custody at a police training school. His lawyer said Mr. Fujimori had been learning to play guitar and cultivating a small rose garden, but the Peruvian authorities complain that he has also been using meetings with relatives and associates to direct his supporters' actions back home.

Peru Asks Chile To Extradite Fujimori (WP)

By Monte Reel

The Washington Post, January 4, 2006

BUENOS AIRES, Jan. 3 -- Peru's government on Tuesday formally asked Chile to extradite former president Alberto Fujimori and handed over 12 boxes of evidence that it said links him to human rights violations and corruption.

Fujimori was arrested on Nov. 7 in Chile, after defying an international warrant and returning to South America from Japan, which had granted him asylum when he fled Peru in 2000 during a corruption scandal. At the time of his arrest, Fujimori said he had hoped to return to Peru to run for president in this year's election.

The Peruvian government is seeking to prosecute Fujimori on 12 charges of crimes alleged to have been committed during his 1990-2000 presidency, including responsibility for a death squad accused of killing 25 people in two incidents. He also is accused of torture, illegal telephone surveillance, misuse of government funds and bribery. Fujimori denies all the charges.

Officials said the evidence presented to the Chilean Foreign Ministry includes testimony from many former Fujimori allies, several of whom have been tried in recent years for acts committed during Fujimori's authoritarian administration. Among those convicted were cabinet ministers, an ex-armed forces chief and Vladimiro Montesinos, a former intelligence chief who has been sentenced to 15 years on corruption and arms-dealing charges.

A Chilean Supreme Court judge is to rule on whether the evidence meets the main requirement for extradition -- establishing probable cause for a trial on charges considered serious crimes in both Peru and Chile.

"My sense is that there is enough evidence for any reasonable court to justify Fujimori's extradition," said Jose Miguel Vivanco, Americas director of New York-based Human Rights Watch. "Many key members of Fujimori's government have consistently implicated him in cases that are clearly crimes in Peru and also in Chile."

The Peruvian government also asked that Chile continue to detain Fujimori, who is being held at a correctional officers academy in Santiago, the capital. A spokesman for Fujimori in Lima, the Peruvian capital, told the Reuters news agency that his attorneys were seeking his release.

The extradition process could be lengthy, with many observers predicting deliberations that could stretch over several months and possibly more than a year. A judge on Chile's Supreme Court, Orlando Alvarez, is to review the evidence and question Fujimori and other witnesses. His decision could be appealed to a panel of five justices, which would issue a final decision.

Even though the Peruvian Congress banned Fujimori from running for president until at least 2011, the former leader had announced his intention to run before his arrest. His backers have continued to promote his candidacy, holding rallies on his behalf. Supporters praise Fujimori for having crushed the violent Shining Path rebel group and controlling hyperinflation with austere fiscal policies.

Blair Presses Bush On Engine Deal (REU-Y2)

By Jim Wolf

Reuters, January 4, 2006

DOJ_NMG_0007963

British Prime Minister Tony Blair has written to U.S. President George W. Bush to try to save a multibillion-dollar contract to develop an engine for the F-35 Joint Strike Fighter, the Pentagon's costliest warplane program, people familiar with the matter said on Tuesday.

"A letter went from the prime minister to the president shortly before Christmas," said a person who asked not to be identified because of the matter's sensitivity.

At issue is a Pentagon plan, reported last week but in the works for more than a month, to kill a $2.4 billion General Electric Co.-Rolls-Royce Plc contract to develop an alternate turbofan engine for the fighter.

Pratt & Whitney, a United Technologies Corp. unit, is building the engine that will go in the first F-35s, a family of single-engine, radar-evading aircraft being built by Lockheed Martin Corp..

Proponents of an alternate engine have cited potential savings through competition. They also describe it as a hedge against having to ground the fleet in case of engine trouble. But developing a second engine has boosted development costs, something the Pentagon is under pressure to pare.

SALES IN THE BALANCE

If upheld by the White House and Congress in budget wrangling, canceling the project could mean tens of billions of dollars in extra sales over decades for Pratt & Whitney.

Saving the alternate engine program "was the purpose of (Blair's) letter," another person familiar the matter said.

"We're gratified by the efforts of our partner, Rolls-Royce, which has shared concerns with the U.K. government," said Rick Kennedy, a spokesman for Cincinnati, Ohio-based GE/Aviation, a GE division.

Rolls-Royce described the alternate engine program in a statement as "an important collaboration" between the United States and the United Kingdom but declined to comment on the Pentagon's cancellation plan.

The White House did not return a phone call seeking comment. Steve Atkins, a spokesman for the British Embassy in Washington, said: "We don't comment on confidential government-to-government correspondence."

Blair, Bush's staunchest foreign partner on Iraq, is well-placed to save the GE-Rolls-Royce engine. Britain has committed at least $2 billion to co-development of the F-35, the most of any of the project's eight foreign partners.

GE and Rolls-Royce, one of Britain's premier brands, won the $2.4 billion development contract in July. It is due to run through September 2013. The big money is in spares and maintenance over the engines' projected 40-year lifespan.

"Any letter from Blair is likely to get the president's very close attention," said Loren Thompson of the Arlington, Virginia-based Lexington Institute, a research group with close ties to the Pentagon and military contractors.

If the Pentagon sticks to its decision, GE probably would exit the business of building tactical fighter engines, Thompson said.

The F-35 is due to be the Pentagon's biggest purchase ever at an estimated $256 billion. The Pentagon plans to buy as many as 2,480 in three variants for the U.S. Air Force, Navy, Marine Corps and the British Royal Navy.

In addition, hundreds or thousands may be sold overseas, generating demand for at least 4,000 engines over coming decades, with each engine costing several million dollars.

The F-135 co-development partners include Britain, the United States, Italy, the Netherlands, Turkey, Canada, Australia, Denmark and Norway.

France To End State Of Emergency (WP)

By Molly Moore

The Washington Post, January 4, 2006

PARIS, Jan. 3 -- The French government on Wednesday will end the state of national emergency it imposed eight weeks ago to counter the violence and arson that erupted in more than 300 cities and towns across the country, President Jacques Chirac said Tuesday.

The original declaration was "essential," but "strictly temporary," Chirac told his cabinet Tuesday, but he added that "considering the situation of these past several weeks, I decided to end it." The government had planned to keep the measure in force for another six weeks.

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During three weeks of unrest in late October and November, youths and young men of predominantly Arab and African descent set fire to an estimated 10,000 cars and attacked 255 schools, 233 other public buildings and scores of private businesses, according to police figures obtained by the French newspaper Le Monde.

Nearly 5,000 people were arrested and 400 were sentenced to jail terms in France's worst civil unrest since student demonstrations nearly four decades ago.

After nearly two weeks in which French police were unable to control the guerrilla-style tactics of the rioters, the government imposed a state of emergency using a law enacted half a century ago during France's unsuccessful war against rebels in its former colony of Algeria.

The law's activation, which was opposed by human rights organizations, socialist political leaders and other groups, gave police broad authority to conduct searches without warrants and impose curfews.

Officials feared a resurgence of problems on New Year's Eve, when -- even in calm years -- youths in poor suburban communities traditionally set cars ablaze in rituals of protest. On Saturday night, 25,000 extra police officers were deployed throughout the country in suburban neighborhoods where France's subsidized housing projects are located, as well as around famous landmarks such as the Eiffel Tower in Paris.

Police said the 425 car burnings recorded around the country Saturday night were fewer than officials had feared, though the number was higher than the 333 blazes set during the previous New Year's Eve. "The situation today is not completely satisfactory, as was shown Dec. 31," a government spokesman, Jean-Francois Cope, told reporters after the president's meeting with the cabinet. He said, however, that the violence had subsided significantly.

It is unclear whether the emergency measures had a significant impact on the violence, according to community leaders. Only a handful of towns imposed curfews. The large number of arrests, which were allowed under the special law, and the intervention of parents and community leaders with youths curbed the violence in many neighborhoods, other observers said.

Chirac, largely a lame duck in what is likely his last year as president, urged the cabinet to do more to address the country's high unemployment, one of the biggest problems facing the people who were responsible for the rioting. Since the violence abated, however, Chirac's government has initiated few programs to address the discrimination and joblessness faced by immigrant communities.

European Upturn Looks Set To Continue (WSJ)

By Marcus Walker

The Wall Street Journal, January 4, 2006

BERLIN – Europe's economic upturn looks set to continue into 2006, as a manufacturing survey showed another improvement in business conditions and Germany reported a sharp drop in unemployment.

Manufacturing output and new orders in the 12 countries that use the euro as their currency are running at their highest for 18 months, according to the Purchasing Managers' Index for December. Strong global demand for European goods, coupled with a weaker euro, is helping European industry to lead a broadening economic recovery, economists say.

But analysts warn that a strengthening euro and an expected moderation of U.S. economic growth could limit the life of Europe's upswing, unless domestic demand improves too. Germany's labor office treated the surprisingly sharp drop in joblessness in December -- down 110,000 on a seasonally adjusted basis -- as a hopeful sign of greater demand for labor. The drop took the unemployment rate in Europe's biggest economy to 11.2%.

Employment in Germany isn't rising as fast as the number of people claiming unemployment benefits is falling, however. During last year, the number of jobs that contributed to social-security funds was consistently down from a year earlier. Employment and vacancies fell fractionally in November. Much of Germany's recent decline in unemployment is due to state-sponsored or subsidized job schemes.

But the rate at which German companies are shedding workers has slowed, says Thorsten Polleit, an economist at Barclays Capital in Frankfurt. "What we're seeing is, at best, stagnation," he says.

Elsewhere in Europe, industry is planning to add modestly to its payrolls, according to the PMI survey. Overall, the PMI rose to 53.4 in December from 52.8 a month earlier and beating expectations. A score of over 50 indicates that the manufacturing

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sector is growing. "Although not consistent with strong industrial-production growth in a historical context, the trend improvement in the manufacturing sector remains clear," Swiss bank UBS wrote in a research report.

German and Italian industry reported the strongest rises in output and new orders, while French manufacturers reported only slight improvement. Coming after a dip in French business confidence in the Insee survey last month, the data added to evidence that the French economy, one of the euro zone's growth drivers in recent years, is weakening, while Germany's economy is improving on the back of soaring exports.

Outside the euro zone, the manufacturing PMI in the U.K. showed little change in December -- although that beat expectations of worsening conditions. The British economy is struggling to maintain its relatively high growth rates of the past decade, amid a slowdown in consumer spending. The British government hopes that business investment will contribute more to growth, but economists see little sign of that happening so far.

Mexico Investigates Death Of Man Shot In U.S. By Border Patrol Agent (NYT)

By Ginger Thompson

The New York Times, January 4, 2006

MEXICO CITY, Jan. 3 - The Mexican authorities are investigating the death of an 18-year-old Mexican man shot by a United States Border Patrol agent after he had illegally crossed the border into California.

Witnesses told Mexican authorities that the man, Guillermo Martínez Rodríguez, was shot Friday. A brother and two other men traveling with him helped him to return to Tijuana, where he died in a hospital a day later.

Todd Fraser, a spokesman for the Border Patrol, acknowledged the shooting in a telephone interview on Tuesday, saying that an agent had "come under attack by an assailant who was throwing rocks." The agent "fired back in self-defense," Mr. Fraser said. Then, he said, the migrant climbed back over the fence and fled into Mexico.

Mr. Fraser said he did not have a figure for the number of migrants shot by American border agents last year, but he said the number of rock attacks by migrants against agents in the San Diego area had increased to 218 incidents in 2005, from 112 in 2004. "The rock attacks are increasing, and that is attributed to the increased enforcement by our agents," he said. "Smugglers are getting frustrated because they can't get their loads through, and that results in more attacks on our officers."

Mexican authorities, however, said the shooting reflected a growing hostility in the United States toward migrants. The authorities have used the shooting to draw attention to a law passed by Congress last month that would strengthen controls along the border and mandate the construction of miles of steel fences that Mexicans have likened to the Berlin Wall.

Mexico has condemned the proposed law as "shameful," saying it does not recognize the contributions of undocumented workers to the American economy. Previous border enforcement efforts, Mexican authorities say, have not stopped migrants, but have pushed them onto isolated and inhospitable routes.

Luis Cabrera, Mexico's consul in San Diego, said the shooting "goes against the spirit of cooperation that should exist along the border."

Fatal Shooting Of Mexican By Agent At Border Probed (WT)

By Jerry Seper

The Washington Times, January 4, 2006

Police officials in San Diego are investigating the shooting death of a Mexican national by a U.S. Border Patrol agent, who fired a shot at the man after being targeted in a rock attack.

Border Patrol spokesman Todd Fraser yesterday said the agent, an eight-year veteran whose name was withheld, came under attack Friday after approaching the man along fences on the U.S.-Mexico border near the San Ysidro, Calif., port of entry. He said the man was standing on the U.S. side of the fence at the time of the 7:25 p.m. encounter, but returned to Mexico after the shooting.

Mr. Fraser said the unidentified agent fired in self-defense, trying to protect himself from what agents in the area describe as a "rocking," during which agents and their vehicles are pelted with large rocks or chunks of cement blocks. He said the agent, fearing for his life, fired one round at the man, who then fled back to Mexico. He said the agent was not sure at the time whether the man had been hit.

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The shooting victim has been identified by Mexican officials as Guillermo Martinez Rodriguez, an 18-year-old who checked himself into a Tijuana, Mexico, hospital after the incident but died four hours later. He reportedly was struck by a single gunshot to the back of his right shoulder.

Mexican government officials denounced the shooting, including Ruben Aguilar, chief spokesman for Mexican President Vicente Fox, who said it "does no more than provide evidence that only a law that guarantees legal entry and is respectful of human rights can resolve the migratory problem both countries face."

The Mexican government has vigorously opposed efforts by U.S. officials to bring tighter security measures or build more fences along the border, even publishing and distributing documents last year showing migrants how to illegally enter the United States.

More than 1 million illegal aliens, mostly Mexican nationals, were apprehended by the Border Patrol last year.

San Diego police homicide Lt. Kevin Rooney said detectives are investigating the shooting and results of the probe will be forwarded to the U.S. Attorney's Office in San Diego for review.

Lt. Rooney said the shooting occurred between two border fences and that the agent, who was checking a report of illegal border crossers in the area, arrived in a marked vehicle and saw a man "holding a makeshift ladder as he stood near the northernmost fence."

He said the agent ran toward the migrant, who retreated to the south and "scooped up what the agent believed to be several rocks."

"As the agent unholstered his duty weapon, the male cocked his arm and made a throwing motion toward the agent. The agent fired at the male, who grabbed his arm and fled down a grade that leads to the primary border fence," he said.

A total of 218 rocking incidents occurred on the San Diego border last year, injuring more than a dozen agents. The rockings have gotten so violent that Border Patrol agents in San Diego now ride in "war wagons," vehicles fitted with custom-made steel screens and bars.

Mexico's federal attorney general's office said it also is investigating the incident, targeting "whomever is found to have been responsible," although a statement released by the office does not say if it plans to bring charges in the case and if so, against whom.

The attorney general's statement said Mr. Martinez Rodriguez, a native of Guadalajara who recently moved to Tijuana, was with four other persons when he was shot.

Mr. Fraser said that acts of violence have been on the rise all along the U.S.-Mexico border, adding that others who sought to throw large rocks at agents have been shot at, but he had no information on how many had been hit or if any had been injured or killed.

In July, rising border violence prompted the governors of California, Texas and six Mexican border states to pledge during a meeting to work together to attempt to stem the problem.

Sorry, But AIDS Testing Is Critical (WP)

By Richard Holbrooke

The Washington Post, January 4, 2006

A month ago, on World AIDS Day, I wrote that despite all the public rhetoric about progress, "we are not winning the war on AIDS" and that the "very best that can be said is that we are losing at a slightly lower rate" [op-ed, Nov. 29]. I thought this was fairly obvious, given the fact that on each World AIDS Day since the first one 18 years ago, the number of people who are HIV-positive has increased. I thought it was even more obvious from just one stunning fact: that of the 12,000 people who will be infected in the next 24 hours around the world, over 90 percent will not learn they are sick until roughly 2013, when they develop full-blown AIDS. Meanwhile, not knowing their status, they will unintentionally spread it to other people over the next eight years, and these people will spread it to still more, and so on.

Given this situation, I suggested that current strategies are clearly not working, especially on prevention. While continuing to support increased funding for treatment of those who already have AIDS, I argued that far more emphasis should be put on

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detection and testing so that people learn their status and then, with counseling, change their behavior if they are HIV-positive, thus reducing the spread of the HIV virus.

This may sound simple, even self-evident, to those not involved with the issue on a regular basis, but no column I have written for this newspaper provoked a greater reaction. To listen to some of the criticism you would think I had called for mandatory testing and quarantining of people with AIDS. "This man is out of control," wrote one prominent AIDS activist under the headline, "Someone stop this man." I was accused of "championing a conservative, traditionalist public health approach, which is simply looking to identify the infected and contain them."

Such criticism ignored my strong public advocacy over the past six years of much more funding for treatment. But far more distressing were the assertions of "progress" from world leaders and editorial pages. Originally designed to put pressure on public officials, World AIDS Day has turned into an empty rhetorical ritual in which world leaders issue high-minded statements, after which they let another year of living ever more dangerously pass.

Although there were plenty of calls for more funding for treatment, so far as I am aware no one suggested new prevention strategies or even admitted that today's approaches are not working. Current policies on prevention are simple enough: Conservatives emphasize promoting abstinence (which is why a minimum of 30 percent of the American contribution to the effort is earmarked for that purpose), while liberals stress the use of condoms and the need to avoid needle-sharing. Of course, any of these practices, if followed rigorously, will prevent the spread of AIDS, but none is ever going to be used by enough people to reverse the spread of the disease. It is a classic case of American "red state-blue state" politics and ideology trumping the brutal reality on the ground, or, more accurately, in a bedroom or alleyway.

I have been told repeatedly, for more than four years, that the case for testing is not proven. But isn't it obvious that AIDS will continue to spread more rapidly as long as 90 percent of those affected do not know their status? Wouldn't greater knowledge of one's status -- held in the strictest confidence (an essential part of any testing program) -- greatly modify behavior, both for those who are HIV-positive and for the large majority who, even in the worst-hit areas, are not infected? And wouldn't the greatest beneficiaries of widespread testing be women, who are all too often helpless victims but who do not know either their own status or that of any man in their life -- and who have no way of getting their men to be tested?

Yet the dedicated and committed professional community engaged in this desperate struggle, including UNAIDS and the World Health Organization, still refuses to make testing a top priority. (One commendable exception is Randall Tobias, the Bush administration's special envoy on AIDS, who makes it a practice to be publicly tested -- if possible with a local official -- in every country he visits; he well may be the most tested person on Earth.)

Why, in general, is the issue played down? I believe it is partly a case of a mind-set that was locked in 20 years ago, at the dawn of the AIDS crisis. Stigmatization was a huge problem then, even in the United States, and antiretroviral drugs were not yet available.

But times have changed, and so has the nature of the disease and the way it is spreading. (The greatest step forward in prevention would be the development of an effective microbicide that women could self-administer, but that goal is still eluding researchers.)

Recently there has been encouraging action in three small African nations -- Lesotho, Botswana and Malawi -- which have started making testing routine and officially encouraged (but not mandatory). Lesotho's new policy, creatively called KYS, or "Know Your Status," is especially worth watching because it is a formal, widespread national effort. If it works, perhaps the high priests of the worldwide effort on AIDS will stop listening to their own echoes and unexamined assumptions -- and take action. If ever there were a place where an ounce of prevention was worth a ton of cure, this is it.

The writer, a former U.S. ambassador to the United Nations, is president of the Global Business Coalition on HIV/AIDS, a nongovernmental organization, and writes a monthly column for The Post.

Wish They All Could Be Like Estonia (WSJ)

By Mary Anastasia O'grady

The Wall Street Journal, January 4, 2006

DOJ_NMG_0007968

With the 1989 fall of the Berlin Wall the world witnessed a backlash against the overintrusive state. A rallying cry in favor of economic liberalization went up around much of the globe. Some governments -- notably in Eastern Europe -- used the momentum to push deep, structural reform. Others -- notably in Latin America -- bungled the opportunity.

Is there any way to explain why it is that some countries have been able to restructure their economies so radically while others have been left in the clutches of special interests?

The 2006 Index of Economic Freedom, published today by the Heritage Foundation and The Wall Street Journal, provides powerful clues. The annual report surveys 157 countries, grading property rights protection, the regulatory environment, tax rates, fiscal policy, government intervention in the economy, monetary policy, black markets and trade policy, assigning each a numerical rating. Each country falls into one of four categories: "free," "mostly free," "mostly unfree" and "repressed." The chart shows this year's results.

DETAILS

See a country index of economic freedom for 2006.

As they do every year, the index authors observe the average per capita income of countries in each category. Not surprisingly, over the years, they have found a strong relationship between economic freedom and prosperity. Yet there is something more that can be observed in this pattern: Countries that liberalize quickly and thoroughly achieve resounding successes, politically and economically. Conversely, gradualism risks stagnation and even reversals, because the benefits are not evident enough to impress the electorate and generate a momentum in their favor.

Take, for example, the difference between the wealth of "repressed" economies and "mostly unfree" economies. The per capita GDP of the former is $4,239 while of the latter it is a tad lower at $4,058. This suggests that reforms that move a country one step up in economic liberty, on average, produce no material benefit to the population.

The jump from "mostly unfree" to "mostly free" yields a much better return but still leaves a country not particularly well-off. "Mostly free" countries have a per capita GDP of $13,530, while "free" countries have, on average, a per capita GDP of over $30,000.

This matters the most in democracies, where leadership needs to produce results if liberalization is to stick. Clearly, it's not the absolute income level that generates support for reforms but the growth in living standards that seems to hold the key. Halfhearted measures generate immense resentment from the "losers" of the old system but often don't yield large enough gains to create a constituency to support the changes.

For evidence of this, compare seventh-place Estonia, a tiny nation that undertook revolutionary reform in the mid-1990s, with Chile, rated 14th this year and often considered the poster child of economic liberty in the developing world.

Chile has been in various stages of economic reform since the 1973 coup that ousted Salvador Allende, who was threatening to take the country over the communist cliff. The return to democracy in 1989 brought about a series of left-of-center governments that, while boasting that they had not turned back the economic liberalism of the Pinochet dictatorship, slowed the pace of reform dramatically. The current socialist presidency of Ricardo Lagos even reversed liberalization in labor markets.

Meanwhile in Estonia, as former Prime Minister Mart Laar likes to explain, the post-Soviet period has been marked by rapid, deep reform. Communism was so reviled that policy makers, almost instinctively, chose its direct opposite and promptly enshrined the preference in law.

The results may explain why political support for economic liberalism continues in Estonia, while in Chile free markets are under assault even by center-right politicians. The difference is the rate of change of progress for citizens. In 2004, with reforms kicking in, Estonia's per capita GDP was almost $7,500, nearly double what it was in 2001 -- $3,951, when the country ranked 14th in the Index of Economic Freedom. In Chile, after 30 years of reform, per capita GDP remains below $5,900, edging up only slightly from $4,784 in 2001, when Chile ranked 13th.

The tale of two small nations tells a wider global story. Is it any wonder for example that Brazilians, who after almost two decades of being told they are converting to a market economy, widely reject the notion? Improvements have occurred, for instance in monetary stability, but the country is still ranked "mostly unfree," with a per capita GDP of $3,500. Maybe Mr. Laar could pay them a visit.

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Ms. O'Grady is member of the Journal's editorial board. She is co-editor, with Marc A. Miles and Kim R. Holmes, of the 2006 Index of Economic Freedom (422 pages, $24.95), available at 1-800-975-8625.

Social Insecurity Crisis (NYT)

By Thomas L. Friedman

The New York Times, January 4, 2006

The year 2006 is just four days old, but I'm already prepared to nominate the natural resource of the year, the one that will have the most decisive impact on international relations - and that is undoubtedly oil.

Look at all the global trends involving oil (or gas) today, and they are all bad: the former leader of Germany gets voted out of office and goes to work for the president of Russia, running a pipeline company owned by Russia. The oil-for-food scandal tarnishes the U.N. The president of Iran, feeling so emboldened by the billions of dollars flowing into his country thanks to $60-a-barrel oil, engages in repeated rants about how the Holocaust was a myth. Vladimir Putin's oil-fueled government in Russia steadily erodes civil liberties at home, while using its energy clout abroad to try to punish Ukraine and to deflect U.N. pressure on Syria for its murderous campaign against Lebanese democrats and on Iran for its work to develop a nuclear bomb. I could go on. Do you have all day?

If you look at these trends, three things come to mind: They are all negative, they are all going to get worse with another year of $60-a-barrel oil, and the only force on the planet with the will and the way to neutralize their worst effects is America.

But here's the rub: America's refusal to have a serious energy policy makes these problems only more severe, and its refusal to have a serious entitlement policy - reforming Social Security and Medicare before they totally devour the U.S. budget - is only going to sap America's ability to play the global governing role that is so necessary for world stability.

To put it another way, our energy gluttony is strengthening the worst forces in the world and our entitlement gluttony is going to weaken our capacity to deal with those forces. As the Johns Hopkins University foreign affairs specialist Michael Mandelbaum puts it: "The greatest threat to America's role in the world today is not China. It's Medicare."

In a smart and original new book, "The Case for Goliath: How America Acts as the World's Government in the 21st Century," Mr. Mandelbaum argues that while U.S. foreign policy is hardly perfect, it is America - through its vast military deployments, diplomatic engagements and vital role in buttressing the global economy and its rules - that provides the basic governance that keeps the world stable and on a decent track.

Most countries in the world like this situation, he contends. They like it because they know that the U.S. is not a predatory power, so they are not afraid of the order it provides. They like it because this global order is helpful to every country in the world, but the cost of it is borne largely by U.S. taxpayers. And they like it because they can criticize the U.S. and still enjoy all the benefits it provides.

The best evidence for all this, Mr. Mandelbaum notes, is the fact that no military coalition has ever formed to counter America's global governing role - as happened with other hegemonic powers in history.

In Mr. Mandelbaum's view, America "is not the lion of the international system, terrorizing and preying on smaller, weaker animals in order to survive itself. It is, rather, the elephant, which supports a wide variety of other creatures - smaller mammals, birds and insects - by generating nourishment for them as it goes about the business of feeding itself."

No other country could play this crucial stabilizing role. But its continuation depends on "American taxpayers' being willing to keep paying for it," Mr. Mandelbaum said - and that gets us back to our runaway entitlements.

USA Today recently quoted David Walker, the U.S. comptroller general, as saying we are about to be hit by "a demographic tsunami" that will "never recede." The baby boomers total 77 million, and their first wave turns 60 this year. Unless we trim the Medicare and Social Security benefits promised to these boomers, the paper noted, America's "national debt will grow more than $3 trillion through 2010, to $11.2 trillion. ... The interest alone would cost $561 billion in 2010, the same as the Pentagon [budget]."

The same as the Pentagon's! So either Social Security and Medicare shrink or the Pentagon shrinks - because higher taxes seem to be out of the question for now. If history is any guide, Americans will prefer Social Security and Medicare over paying to make the world safe for China, India, Russia and Iran to pursue their interests.

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If so, the world may soon test out one of the most important theses of Mr. Mandelbaum's book: that the greatest threat to global stability is "not too much American power, but too little."

Crowded Foreign-Policy Calendar Will Test Bush's Management Skills (WSJ)

By Frederick Kempe

The Wall Street Journal, January 4, 2006

For those who may have forgotten during the untidiness of the past couple of years, President Bush was once billed as America's first "MBA President." This Harvard business grad ('75), in contrast to predecessor Bill Clinton, was to have been more disciplined both personally and in running his government.

Yet the messy Iraq war aftermath, the botched Katrina hurricane response in New Orleans and the expanding U.S. deficit have raised global concerns about Oval Office management. "What's in question is the traditional image of us as an effective country," says Fred Bergsten of the Institute for International Economics.

What President Bush has going for him is unappreciated momentum flowing off 2005, a more successful year than most realize1. And a dramatic 2005 shift of policy responsibility to Condoleezza Rice's State Department has also improved foreign-policy coordination and execution. That said, Mr. Bush faces an overcrowded agenda – the schedule includes decisive challenges in Germany, Iraq, Ukraine, China, India, the United Nations and more -- that could make 2006 one of the most significant foreign-policy years since the Cold War.

For President Bush, how he manages the second year of his second term will determine whether he can look forward to building a historic legacy in 2007-2008, his last two years of office, or instead be engaged in a lame duck's damage control. He also dare not forget the lessons of 9/11 and Katrina: It's the surprises that may shape history. "I worry less about the knowns than the unknowns," says Simon Serfaty of the Center for Strategic and International Studies.

With that in mind, here's an abridged 2006 Thinking Global calendar for the world's most important chief executive to help him stay on schedule and effectively manage the coming year. * * *

JAN. 12-13: Angela Merkel's Visit

Administration officials recognize the importance of newly elected German Chancellor Angela Merkel's visit to Washington well enough to have scheduled an "extended" meeting with the president, including lunch. That's this White House's equivalent of royal treatment.

One of the administration's smartest moves in 2005 was launching the year with an offensive to repair and deepen relations with Europe, which remains central to all of the U.S.'s challenges from fighting terrorism to advancing world trade. Working with Europe becomes easier in 2006 now that Ms. Merkel's election has removed one of the world leaders Mr. Bush trusted least, Gerhard Schroeder. (Jacques Chirac will have to wait until 2007 elections.)

Ms. Merkel's free market and Atlanticist instincts can help enormously, but she rules precariously over a right-left coalition in a country that's turned viciously anti-Bush. Jackson Janes of the American Institute of Contemporary German Studies warns that too much presidential warmth could backfire in a country where no one wants Ms. Merkel to be the president's lapdog.

A Merkel who looks statesmanlike while disagreeing with Mr. Bush this month might serve U.S. long-term interests better than an obedient ally.

JAN. 26: The Palestinian Democracy Gamble

The Palestinian Authority holds parliamentary elections that will test whether the U.S. was right to pressure Israel to lift its opposition to the participation of Hamas in the balloting. Hamas, still considered a terrorist organization by the EU and the U.S., performed well in local elections last year partly because voters consider it to be more honest than the corrupt, ruling Fatah party.

Whether Hamas winds in a landslide, as some fear, or emerges at the very least as a strong opposition, the real test will be whether the Bush administration is gambling right that it will moderate its behavior as it joins the political process. Will parliamentary democracy be as satisfying to Hamas as suicide terrorism and a charter that still calls for Israel's destruction?

The Palestinian outcome will influence Israel's own landmark elections March 28. Israel's former Prime Minister Ariel Sharon will lead a new centrist party, Kadima, with the unlikely support of long-time Labour Party rival Shimon Peres, against former right-wing Likud party allies that split over his Gaza withdrawal.

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FEBRUARY: Building an Indian Strategic Partnership

Bush administration officials are already privately speaking of the U.S. president's planned visit to India in February as historic. They say one of their administration's lasting legacies will be a new strategic relationship with the world's most populous democracy and one of its fastest growing economies.

Yet this is the stuff of long-term, delicate diplomacy. The U.S., in a wide-reaching July agreement with India, essentially recognized India as a nuclear state, departing from previous nonproliferation policy. Its hope is that the country will now politically reposition itself from longtime leader of the essentially anti-American non-aligned countries to a member of the community of democracies fighting terrorism, supporting freedom and, if necessary, counter-balancing China.

For starters, however, Washington is hoping India will find a way to satisfy its July agreement to separate its military and civilian nuclear operations and make them more transparent before the president rolls into town.

MARCH: Bringing Ukraine Into the West

Ukraine's March parliamentary elections are Europe's most important this year.

The Russian decision to cut off natural gas to Ukraine on Jan. 1, even if quickly reversed, made the stakes of Ukraine's March parliamentary elections all the more apparent. A revanchist Russia is increasingly ready to use its energy weapon to punish overly independent neighbors. A successful Ukrainian vote could put the dagger in residual Kremlin imperial ambitions to Kiev.

Alexander Motyl of Rutgers University says the West's best response is to embrace Ukraine even more resolutely. The U.S. should lift the Jackson-Vanik trade restrictions (the Senate has voted to lift, but the House has not), follow the EU lead and declare Ukraine a market economy, sign a bilateral agreement with Ukraine as a precondition of its WTO membership and begin a process that would make Ukraine a NATO member by the end of the Bush administration.

Which party wins voting in March isn't as important as a general acceptance that elections are free and fair and that Ukraine's democratic institutions continue to grow and resist Moscow's meddling.

APRIL: Managing the Chinese Rise

The next six-month review of China by the U.S. Treasury is due at some point in April or May. Last time around, the Treasury opted not to label China as a "currency manipulator," which could have triggered legislative action. But it will be increasingly more difficult for the Bush White House to avoid this course without suffering 2006 congressional trade action against Beijing.

With the U.S. trade deficit continuing to rise along with protectionism pressures, Mr. Bergsten, the economist, believes the time has come for the Bush administration to get tough with the Chinese who are maintaining their currency at a 25-30 % discount by his calculations. That in turn has prompted other Asian countries to maintain currencies "massively undervalued against the dollar."

If China won't budge, Mr. Bergsten suggests mobilizing the G-7, all of which is suffering, to take China to the WTO on the grounds that its undervalued currency is an improper trade subsidy. Yuan revaluation will help U.S. trade figures less than many might hope, so the larger point is whether the U.S. can coax China to play more by international rules.

JUNE: The Iraqi Tipping Point

Deadlines are always difficult to set for anything in the Mideast, but end-June is a fair bet as a tipping point for Iraq. The most important test following December's encouraging election is how quickly Iraqi officials can take to form a government and whether Sunnis will finally accept they are a minority and Shiites can be an enlightened and not vengeful majority.

The constitution established no deadline for the newly elected national assembly to appoint a government, but almost everyone agrees that the longer it takes the more it will feed the insurgency. That's exactly what happened after last January's elections.

So watch how deftly the gifted U.S. Ambassador Zalmay Khalilzad can speed along government deals at a time when the locals remain hard-pressed to even accept December's electoral results. The year will be critical to Iraq's balance between progress and civil war – and that outcome will be central to Mr. Bush's Republican party in November's midterm elections and, more importantly to the administration's larger cause of Mideast transformation.

JULY: Saving World Trade Talks

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The best that could be said for world trade talks in Hong Kong last December was that the participants avoided a breakdown. The problem this year is that the body most capable of breaking the deadline, the G-8, has as its president dysfunctional Russia, a country neither democratic nor in the World Trade Organization.

All the more reason, says Mr. Bergsten, that the West should press Mr. Putin to prove his worth by making his July G-8 summit in St. Petersburg one devoted to closing differences among developed country leaders so that one can avoid the first breakdown in global trade talks since 1930. "The trade ministers will never resolve this," he says. "It's too deeply political."

SEPTEMBER: A Reformed or a Resigned U.N.

By the time of the September General Assembly of the United Nations in New York, the world is likely to know whether the organization has been capable of reforming itself or not. In 2006, the U.N. will either grow more relevant or more marginalized, but the status quo can't hold following the oil-for-food corruption scandal and breakdown over the Iraq war.

It will either respond to new global demands on its resources by making itself more efficient and effective, or be kicking the can down the road endangering the institution itself. By the end of 2006's first quarter, the U.N. will either have embraced the reform agenda set last September by giving the Secretary General more rapid-response management authority or it will opt for continued, consensual mediocrity.

By December, U.N. members will pick a new secretary general for the next five years. Watch to see whether they pick someone capable of leading an increasingly challenged organization that has had a surge of peacekeeping operations -- to 18 -- and is bracing for crises ranging from a possible pandemic to natural disasters and war-driven genocide.

OCTOBER: Dealing With Iran's Nuclear Program

By October 2006, Iran's first nuclear power plant, the Bushehr facility, is likely to come on stream. Mr. Sefarty of the Center for International and Strategic Studies predicts that may also be about the time that matters heat up over Iran's nuclear ambitions in Washington. Current Western efforts to get Moscow to negotiate a deal with Iran to reprocess its fuel in Russia are less about gaining Teheran's unlikely agreement to such a far-fetched plan and more about winning Russia's support at the U.N. should Iran be referred to the Security Council.

The good news is that the world's nuclear experts don't think Iran can produce a bomb for another few years. The bad news is that the reason is that Teheran is working on a more comprehensive program for a sustained capability rather than trying to produce a quick bomb or two.

The bottom line: months of negotiations with the world's two most egregious proliferators, Iran and North Korea, are producing little more than further negotiations. The U.S. is likely in 2006 to get off the sidelines to more energetically join European states pressuring an Iranian leader who is openly calling for Israel's destruction or relocation to Alaska or Bavaria. Don't expect any military fireworks, but increased diplomatic heat may bring matters to a boil ahead of congressional elections.

NOVEMBER-DECEMBER: The Midterm Elections

The key 2006 test of whether the MBA president has restored U.S. credibility for effectiveness will be mid-term congressional elections, coming long after memories of Katrina mishandling have faded. Of foreign-policy issues, Iraqi has the post potential to swing voters, with policy toward China of increasing importance and the Iranian threat as a possible emerging issue.

Don't rule out a Republican setback, which wouldn't be unusual for such elections in a presidential second term. Yet Mr. Bush's majority in the House is 231 to 202, difficult to overturn even with all seats up for grabs, given the power of incumbency. The Republican lead in the Senate is 55 to 44 with one independent. With 15 Republicans and some 18 Democrats are up for re-election, it would take a very bad Bush year to endanger his party's majority.

Expect a good Republican outcome if the U.S. economy remains strong, if the Iraq situation improves and the president can announce troop reductions, if China has given some ground on trade and currency revaluation, and if the president has managed any nasty surprises.

If Mr. Bush retains his majority, expect his final two years, when driving domestic change is always difficult, to focus on establishing his place in history as a man who has taken down tyrants and promoted Mideast transformation.

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Yet if the past is any guide, the main event of the year might not appear above. Just as 9/11 shaped his first term and Katrina tarnished the first year of his second one, it's a fair bet that his management ability in 2006 will be most severely tested by something unscheduled and unpredictable.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

Secret Surveillance May Have Occurred Before Authorization (WP)

By Dafna Linzer

The Washington Post, January 4, 2006

Even before the White House formally authorized a secret program to spy on U.S. citizens without obtaining warrants, such eavesdropping was occurring and some of the information was being shared with the FBI, declassified correspondence and interviews with congressional and intelligence officials indicate.

On Oct. 1, 2001, three weeks after the Sept. 11 terrorist attacks, Gen. Michael V. Hayden, who was running the National Security Agency at the time, told the House intelligence committee that the agency was broadening its surveillance authorities, according to a newly released letter sent to him that month by Minority Leader Nancy Pelosi (Calif.). Pelosi, the ranking Democrat on the committee, raised concerns in the letter, which was declassified with several redactions and made public yesterday by her staff.

"I am concerned whether and to what extent the National Security Agency has received specific presidential authorization for the operations you are conducting," Pelosi wrote on Oct. 11, 2001. The substance of Hayden's response one week later, on Oct. 17, 2001, was redacted.

The secret NSA program, developed in the immediate aftermath of the attacks on Washington and New York as a way to find any hidden al Qaeda operatives still in the United States, was authorized in October 2001, a senior administration official said.

The president and senior aides have publicly discussed various aspects of the program, but neither the White House, the NSA nor the office of the director of national intelligence would say what day the president authorized it. Don Weber, an NSA spokesman, said in an e-mail yesterday that it would be inappropriate to "discuss details which could potentially cause harm to the safety of our nation."

Pelosi's letter suggested that she and others on the committee first heard about expanded work by the NSA on Oct. 1, 2001, when Hayden briefed them on NSA activities.

"During your appearance before the committee," she wrote, "you indicated that you had been operating since the September 11 attacks with an expansive view of your authorities with respect to the conduct of electronic surveillance." The letter, while redacted in parts concerned with surveillance, made clear that the agency was "forwarding" intercepts and other collected information to the FBI. Two sources familiar with the NSA program said Pelosi was directly referring to information collected without a warrant on U.S. citizens or residents.

An intelligence official close to Hayden said that his appearance on Oct. 1, 2001, before the House committee had been to discuss Executive Order 12333, and not the new NSA program.

The order, signed by President Ronald Reagan in 1981, gave guidance and specific instructions about the intelligence activities that the U.S. government could engage in. It specifically prohibited domestic surveillance for intelligence purposes without a warrant "unless the Attorney General has determined in each case that there is probable cause to believe that the technique is directed against a foreign power or an agent of a foreign power."

The official said that Pelosi's concerns had been answered in writing and again several weeks later during a private briefing.

The NSA program operated in secret until it was made public in news accounts last month. Since then, President Bush and his advisers have defended it as legal and necessary to protect the country against future attacks and have said Congress was repeatedly consulted. But Democrats, some Republicans and constitutional law experts have raised concerns about whether Bush overstepped his constitutional authority and violated privacy laws meant to guard against the government spying on its own citizens without a warrant. The NSA's work, which is normally restricted to eavesdropping overseas, also angered judges on a special court that administers warrants for secret investigations.

New York Times reporter James Risen, who, with a colleague, was the first to write about the NSA program, released a book yesterday that includes details about the program and other intelligence issues facing the Bush administration.

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Jennifer Millerwise Dyck, spokeswoman for the CIA, said the book contains inaccuracies about the CIA's work on Iran's nuclear program and Iraq, but she would not provide details.

Agency First Acted On Its Own To Broaden Spying, Files Show (NYT)

By Eric Lichtblau And Scott Shane

The New York Times, January 4, 2006

WASHINGTON, Jan. 3 - The National Security Agency acted on its own authority, without a formal directive from President Bush, to expand its domestic surveillance operations in the weeks after the Sept. 11 attacks, according to declassified documents released Tuesday.

The N.S.A. operation prompted questions from a leading Democrat, Representative Nancy Pelosi of California, who said in an Oct. 11, 2001, letter to a top intelligence official that she was concerned about the agency's legal authority to expand its domestic operations, the documents showed.

Ms. Pelosi's letter, which was declassified at her request, showed much earlier concerns among lawmakers about the agency's domestic surveillance operations than had been previously known. Similar objections were expressed by Senator John D. Rockefeller IV, Democrat of West Virginia, in a secret letter to Vice President Dick Cheney nearly two years later.

The letter from Ms. Pelosi, the House minority leader, also suggested that the security agency, whose mission is to eavesdrop on foreign communications, moved immediately after the Sept. 11 attacks to identify terror suspects at home by loosening restrictions on domestic eavesdropping.

The congresswoman wrote to Lt. Gen. Michael V. Hayden, then head of the N.S.A., to express her concerns after she and other members of the House and Senate Intelligence Committees received a classified briefing from General Hayden on Oct. 1, 2001, about the agency's operations.

Ms. Pelosi, then the ranking Democrat on the House Intelligence Committee, said, "I am concerned whether, and to what extent, the National Security Agency has received specific presidential authorization for the operations you are conducting."

The answer, General Hayden suggested in his response to Ms. Pelosi a week later, was that it had not. "In my briefing," he wrote, "I was attempting to emphasize that I used my authorities to adjust N.S.A.'s collection and reporting."

It is not clear whether General Hayden referred at the briefing to the idea of warrantless eavesdropping. Parts of the letters from Ms. Pelosi and General Hayden concerning other specific aspects of the spy agency's domestic operation were blacked out because they remain classified. But officials familiar with the uncensored letters said they referred to other aspects of the domestic eavesdropping program.

Bush administration officials said on Tuesday that General Hayden, now the country's No. 2 intelligence official, had acted on the authority previously granted to the N.S.A., relying on an intelligence directive known as Executive Order 12333, issued by President Ronald Reagan in 1981. That order set guidelines for the collection of intelligence, including by the N.S.A.

"He had authority under E.O. 12333 that had been given to him, and he briefed Congress on what he did under those authorities," said Judith A. Emmel, a spokeswoman for the Office of the Director of National Intelligence. "Beyond that, we can't get into details of what was done."

In 2002, President Bush signed an executive order specifically authorizing the security agency to eavesdrop without warrants on the international communications of Americans inside the United States who the agency believed were connected to Al Qaeda. The disclosure of the domestic spying program last month provoked an outcry in Washington, where Congressional hearings are planned.

General Hayden's October 2001 briefing was one of the first glimpses into the expanded but largely hidden role that the N.S.A. would assume in combating terrorism over the last four years.

In the briefing, Ms. Pelosi wrote to General Hayden, "you indicated that you had been operating since the Sept. 11 attacks with an expansive view of your authorities" with respect to electronic surveillance and intelligence-gathering operations.

"You seemed to be inviting expressions of concern from us, if there were any," Ms. Pelosi wrote, but she said that the lack of specific information about the agency's operations made her concerned about the legal rationale used to justify it.

One step that the agency took immediately after the Sept. 11 attacks, Ms. Pelosi wrote in her letter, was to begin forwarding information from foreign intelligence intercepts to the F.B.I. for investigation without first receiving a specific request from the bureau for "identifying information."

In the past, under so-called minimization procedures intended to guard Americans' privacy, the agency's standard practice had been to require a written request from a government official who wanted to know the name of an American citizen or a person in the United States who was mentioned or overheard in a wiretap.

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In the weeks after the Sept. 11 attacks, the agency began monitoring telephone calls and e-mail messages between the United States and Afghanistan to track possible terror suspects. That program led to the broader eavesdropping operation on other international communications, officials have said.

The agency has also tapped into some of the nation's main telecommunications arteries to trace and analyze large volumes of phone and e-mail traffic to look for patterns of possible terrorist activity.

Marc Rotenberg, director of the Electronic Privacy Information Center, said the new documents, along with previous reports of objections to the program from Senator Rockefeller and James B. Comey, the former deputy attorney general, underscored the need for a comprehensive investigation.

"There's an increasing picture of concern, if not outright opposition, within the government," Mr. Rotenberg said. "But we can't second-guess anyone's actions on a document-by-document basis," particularly if the documents are released only in part, he added.

The way the N.S.A.'s role has expanded has prompted concern even from some of its former leaders, like Bobby R. Inman, a retired admiral who was N.S.A. director from 1977 to 1981. Admiral Inman said that while he supported the decision to step up eavesdropping against potential terrorists immediately after the 2001 attacks, the Bush administration should have tried to change the Foreign Intelligence Surveillance Act to provide explicit legal authorization for what N.S.A. was doing.

"What I don't understand is why when you're proposing the Patriot Act, you don't set up an oversight mechanism for this?" Admiral Inman said in an interview. "I would have preferred an approach to try to gain legislation to try to operate with new technology and with an audit of how this technology was used."

Intelligence Panel Had Clue About Spying (AP)

By Katherine Shrader

The Associated Press, January 4, 2006

WASHINGTON -- Congressional intelligence committees had at least a hint in October 2001 that the National Security Agency was expanding its surveillance activities after the 9/11 attacks, according to a letter released Tuesday by House Minority Leader Nancy Pelosi.

The California Democrat had raised questions to Gen. Michael Hayden, then the NSA director, about the legal authority to conduct the eavesdropping work.

In the October 2001 letter, Pelosi said she was told in a briefing that month that the agency "had been operating since the Sept. 11 attacks with an expansive view" of its authorities "to the conduct of electronic surveillance under the Foreign Intelligence Surveillance Act and related statutes, orders, regulations and guidelines."

"I am concerned whether, and to what extent, the National Security Agency has received specific presidential authorization for the operations you are conducting," Pelosi, then the top Democrat on the intelligence panel, wrote Hayden.

President Bush has acknowledged he authorized the NSA to eavesdrop -- without warrants -- on international calls and e-mails of Americans and others inside the United States with suspected ties to al-Qaida or its affiliates.

"I can say that if somebody from al-Qaida is calling you, we'd like to know why," Bush said this week. "This program is conscious of people's civil liberties, as am I."

Bush and other senior officials have said he personally renewed the program more than three dozen times since October 2001, and a small group of Congress members was briefed on the highly classified effort.

But it appears that Hayden may have at least alluded broadly to the new surveillance work with a wider audience of House and Senate intelligence committee members during the classified October briefing. According to Pelosi's letter, Hayden spoke about the agency's new posture to expand its operations.

Hayden, who is now the nation's No. 2 intelligence official, told Pelosi he wanted to clarify ambiguities. "In my briefing, I was attempting to emphasize that I used my authorities to adjust NSA's collection and reporting," he wrote on Oct. 18, 2001.

The subsequent crucial sentences of the letter, released Tuesday, were blocked out for security reasons.

Key parts of Pelosi's letter were also withheld. For instance, one sentence indicates that the NSA was forwarding intercepts and other undisclosed information to the FBI without first getting a request.

A series of independent commissions have encouraged national security agencies to improve cooperation. But it is far from clear in the letter how this work may be happening.

Said Steven Aftergood, a government secrecy expert with the Federation of American Scientists: "It does seem that the NSA is doing something different and in a different way than what it has done before."

On The Subject Of Leaks (NYT)

The New York Times, January 4, 2006

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Given the Bush administration's appetite for leak investigations (three are under way), this seems a good moment to try to clear away the fog around this issue.

A democratic society cannot long survive if whistle-blowers are criminally punished for revealing what those in power don't want the public to know - especially if it's unethical, illegal or unconstitutional behavior by top officials. Reporters need to be able to protect these sources, regardless of whether the sources are motivated by policy disputes or nagging consciences. This is doubly important with an administration as dedicated as this one is to extreme secrecy.

The longest-running of the leak cases involves Valerie Wilson, a covert C.I.A. operative whose identity was leaked to the columnist Robert Novak. The question there was whether the White House was using this information in an attempt to silence Mrs. Wilson's husband, a critic of the Iraq invasion, and in doing so violated a federal law against unmasking a covert operative. There is a world of difference between that case and a current one in which the administration is trying to find the sources of a New York Times report that President Bush secretly authorized spying on American citizens without warrants. The spying report was a classic attempt to give the public information it deserves to have. The Valerie Wilson case began with a cynical effort by the administration to deflect public attention from hyped prewar intelligence on Iraq. The leak inquiry in that case ended up targeting the press, and led to the jailing of a Times reporter.

When the government does not want the public to know what it is doing, it often cites national security as the reason for secrecy. The nation's safety is obviously a most serious issue, but that very fact has caused this administration and many others to use it as a catchall for any matter it wants to keep secret, even if the underlying reason for the secrecy is to prevent embarrassment to the White House. The White House has yet to show that national security was harmed by the report on electronic spying, which did not reveal the existence of such surveillance - only how it was being done in a way that seems outside the law.

Leak investigations are often designed to distract the public from the real issues by blaming the messenger. Take the third leak inquiry, into a Washington Post report on secret overseas C.I.A. camps where prisoners are tortured or shipped to other countries for torture. The administration said the reporting had damaged America's image. Actually, the secret detentions and torture did that.

Illegal spying and torture need to be investigated, not whistle-blowers and newspapers.

The Spy Plan's Spoiler (LAT)

The Los Angeles Times, January 4, 2006

JAMES B. COMEY CAN HARDLY be considered soft on terrorism. As deputy attorney general, he has been one of the Bush administration's chief prosecutors of the war on terror, pursuing accused bombers and terrorists from Riyadh to Chicago. So his refusal to approve the administration's warrantless wiretaps of Americans cannot simply be dismissed as the rantings of an Al Qaeda apologist.

But Comey's objections, made in 2004 and first reported Sunday in the New York Times, do more than rob the president and his defenders of one of their favorite arguments. The article was based on the accounts of unnamed administration officials, and Comey isn't giving the reasons for his opposition to the National Security Agency's domestic surveillance program. But they're easy to guess.

First, the program is unnecessary. There is already a special court to approve wiretaps of suspected terrorists, and it is notoriously obliging; in 2004, it received 1,758 requests for warrants and denied none of them. It often issues such warrants within hours and can approve them after the fact. (Details about the court's activities are secret.) And the Patriot Act, almost all of which has been renewed, gives law enforcement extraordinary powers to fight terrorists.

Second, the program is probably illegal. The Foreign Intelligence Surveillance Act, which created that special court, specifically allows warrantless surveillance in the case of war, but for only 15 days after that war has been declared. If it had to conduct such surveillance for longer than that — Congress authorized the use of force, which is tantamount to a declaration of war, one week after 9/11 — the executive branch would need to change the law.

The administration has a novel response to this argument: We're at war, and we don't have time to obey the law. Or, as an assistant attorney general put it in a letter to Congress last month: We were worried that the special court that grants secret warrants would not do so with sufficient "speed and agility," and "any legislative change" to amend the system "would have tipped off our enemies." So the administration went ahead with its spying program anyway.

Last, and most important, the NSA's surveillance program is an affront to the American system of checks and balances — and Americans' right to privacy as guaranteed by the 4th Amendment. The president fails to grasp this point. Asked Sunday what he'd say to Americans worried about violations of their privacy, Bush responded with a breathtaking non sequitur. "If somebody from Al Qaeda is calling you," he said, "we'd like to know why."

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So, no doubt, would James Comey. But at least he understands that, even in a time of war, the government is not free to simply tap your phone to find out who's calling you and why.

FISA Fallacies (NRO)

By Rich Lowry

National Review Online, January 4, 2006

Is it written somewhere that the Constitution can be violated only by the president? One would think so, given the debate over the secret National Security Agency program to monitor, without court approval, calls between suspected al Qaeda operatives overseas and people in the United States. Opponents of the program say President Bush has trashed the Constitution, in particular the Fourth Amendment's prohibition against unreasonable searches.

The Constitution, however, doesn't exist solely to constrain the executive, as those braying about the NSA wiretaps seem to suggest. It confers powers on the executive as well as limiting them. If those powers are abridged by another branch of the government, the Constitution is being violated — and not, obviously, by the president.

Thus, only one player so far in the NSA controversy has been held by a court to have probably violated the constitution, and he's a judge. Judge James Robertson resigned from the Foreign Intelligence Surveillance Act court — the secret court that approves domestic wiretaps related to national security — to protest the NSA program, making him something of a cause celebre among Bush bashers. But he's an odd hero, given that his contribution to the debate over the executive's surveillance power was a flagrant error.

In a 2002 decision, Judge Robertson and others on the FISA court imposed restrictions on the Bush administration's conduct of foreign-intelligence investigations that weren't mandated by the language of the 1978 FISA statute, and that had been explicitly made unnecessary by the 2001 Patriot Act. The Bush administration appealed, and the FISA court of review issued a stinging rebuke to Robertson, et al.

The court of review, apparently a stickler for such things, said the FISA "court did not provide any constitutional basis for its action — we think there is none — and misconstrued the main statutory provision on which it relied." Besides that, it was world-class jurisprudence. By effectively trying to micromanage the Justice Department, the decision continued, "the FISA court may well have exceeded [its] constitutional bounds."

Would that the court could permanently monitor the debate over the NSA program. Democrats who argue that Bush has abused the Constitution are, like Judge Robertson, themselves Constitution-abusers. The president has the authority under Article II of the Constitution to defend the United States. If he can bomb the nation's enemies overseas without a court's approval, he certainly can listen to their conversations. (FISA, which requires a special warrant for foreign-intelligence surveillance in the U.S., doesn't apply abroad, making cross-border calls a murky area).

Every administration, liberal or conservative, has claimed this warrantless surveillance power, and no court has ever denied it. The FISA court of review explained, citing the 14th Circuit's 1980 decision in a case involving the surveillance of a Vietnamese spy named David Truong, "The Truong court, as did all the other courts to have decided the issue, held that the President did have inherent authority to conduct warrantless searches to obtain foreign intelligence information." The court added, "We take it for granted that the President does have that authority."

The court in the Truong case noted that the executive "not only has superior expertise in the area of foreign intelligence, it is also constitutionally designated as the pre-eminent authority in foreign affairs." And the Constitution's framers knew what they were about, according to the Truong court: "Attempts to counter foreign threats to the national security require the utmost stealth, speed and secrecy. A warrant requirement would add a procedural hurdle that would reduce the flexibility of executive foreign-intelligence initiatives."

That argument rings all the truer in the Age of al Qaeda, when a fast-moving, amorphous enemy operates both outside and within U.S. borders. Like it or not, the president has the constitutional authority to wage the war on terror. His detractors don't like it, so they pretend the authority doesn't exist, and trample on the Constitution in the process.

— Rich Lowry is author of Legacy: Paying the Price for the Clinton Years.

Domestic Spying: Independent Look (SEAPI)

By SEATTLE POST-INTELLIGENCER EDITORIAL BOARD

Seattle Post-Intelligencer, January 4, 2006

It's hard to imagine that the Republican-led Congress is up to the job of unraveling the Bush administration's spying scandal. There's no other truly proper forum, however.

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At least in theory, some of the work could start in the Justice Department. As the American Civil Liberties Union has suggested, Attorney General Alberto Gonzales should appoint an independent counsel to look at possible crimes in the warrantless monitoring of Americans' communications.

But that appears unlikely. Instead, Gonzales' Justice Department has shamelessly launched an investigation to find who tipped The New York Times and the public to President Bush's approval of the wiretaps. Worse, Gonzales himself was involved in the spying decisions while serving as White House counsel. The Times reported that Gonzales, in March 2004, went to a hospital to try to talk then-Attorney General John Ashcroft into setting aside his chief deputy's objections to the National Security Agency's domestic surveillance.

John Dean, the White House counsel whose testimony helped bring down President Nixon, has written on FindLaw.com about the parallels between Bush's activities and those during the Nixon administration. Both presidents committed impeachable offenses, he argued.

The Senate seems ready to look at the administration's dubious claims that Bush violated neither the law nor the Constitution. But the House of Representatives, where impeachment proceedings begin, ought to take the lead in determining whether to hold the president accountable.

U.S. To Seek Dismissal Of Guantánamo Suits (NYT)

By Neil A. Lewis

The New York Times, January 4, 2006

WASHINGTON, Jan. 3 - The Bush administration notified federal trial judges in Washington that it would soon ask them to dismiss all lawsuits brought by prisoners at Guantánamo Bay, Cuba, challenging their detentions, Justice Department officials said Tuesday.

The action means that the administration is moving swiftly to take advantage of an amendment to the military bill that President Bush signed into law last Friday. The amendment strips federal courts from hearing habeas corpus petitions from Guantánamo detainees.

On Tuesday, the Justice Department sent notices to all the federal judges in Washington who have cases involving challenges brought by Guantánamo inmates, informing them of the new amendment. The officials said the department would file formal notices within several days asking the judges to dismiss more than 160 cases involving at least 300 detainees.

If the administration wins its argument it would mean an abrupt end to a wide effort by dozens of lawyers to use the right of habeas corpus in federal courts to challenge the imprisonment of suspected terrorists at Guantánamo as enemy combatants.

The administration had selected Guantánamo as the site for a detention camp for terrorism suspects in the expectation that its actions would not be subject to review by federal courts. But in June 2004, the Supreme Court ruled that the naval base at Guantánamo was not outside the jurisdiction of United States law and that the habeas corpus statute that allows prisoners to challenge their detentions was applicable.

The challenges were brought in various district courts in Washington. After some federal judges disagreed over the meaning of the Supreme Court ruling, the United States Court of Appeals for the District of Columbia Circuit took up the issue, and during arguments in September, the appeals judges seemed skeptical of the administration's contentions.

In addition to arguing in court, the administration separately pressed its case in Congress and found a strong ally in Senator Lindsey Graham, Republican of South Carolina, who said the challenges brought by Guantánamo inmates were frivolous and were clogging the courts. Mr. Graham, along with Senators Carl Levin, Democrat of Michigan, and Jon Kyl, Republican of Arizona, sponsored the amendment to the Defense Act eliminating habeas corpus jurisdiction in federal courts.

The amendment instead allows the District of Columbia appellate court to review the results of military tribunals at Guantánamo in which the prisoners were found to have been properly deemed imprisoned as enemy combatants.

Administration critics have complained that the tribunals at Guantánamo, in which panels of three officers decide whether a prisoner is an enemy combatant, are unfair in several respects. The prisoners are not represented by lawyers and they often may not see evidence used against them for national security reasons.

Tasia Scolinos, the Justice Department spokeswoman, said the detainees had ample opportunity to be heard.

"We are aware of no other country that has provided their enemies with such extensive legal review during an ongoing conflict," Ms. Scolinos said. "Detainees are entitled to legal review both within the military system and to the highest civilian courts in the country."

The Justice Department requests asking the district judges to dismiss all the habeas corpus petitions are expected to be challenged by lawyers for the detainees, making it likely that the issue will be resolved by the appeals court or the Supreme Court.

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Although the courts and Congress are co-equal branches of government, the Constitution allows Congress to define the scope of jurisdiction for all federal courts below the Supreme Court.

Justice To Try To Toss Gitmo Challenges (LAT/AP)

By Mark Sherman, Associated Press Writer

The Los Angeles Times, January 4, 2006

WASHINGTON — The Justice Department will seek dismissal of lawsuits from more than 300 Guantanamo Bay detainees fighting the legality of their confinement, using a new law that the Bush administration says sharply limits existing challenges. Advocates for detainees quickly registered their opposition Tuesday.

The measure, part of the Defense Appropriations Act that President Bush signed last week, was intended to allow detainees at the U.S. naval base in Cuba to appeal their detention status and punishments to a federal appeals court in Washington.

That avenue replaces the one tool the Supreme Court gave detainees in 2004 to fight the legality of their detentions -- the right to file habeas corpus lawsuits, which demand that the government justify someone's continued imprisonment, in any federal court.

The new provision won broad support only after its chief Democratic sponsor, Sen. Carl Levin of Michigan, said it had been altered so it would not apply to pending cases.

But on Tuesday, the Justice Department notified judges at U.S. District Court in Washington that it will ask them to dismiss 187 cases involving more than 300 people because the law eliminates the jurisdiction of district courts to consider the legality of detentions at the naval base.

The decision to try to stop pending cases in their tracks drew an immediate rebuke from advocates for the detainees, who said the provision should apply only to new challenges. "The battle about what that provision means has only just begun," said Elisa Massimino, director of the Washington office of Human Rights First.

Many of the 500 or so prisoners held at Guantanamo were captured in Afghanistan and have been detained for several years without being charged.

Since the Supreme Court ruling, prisoner lawsuits against the government have piled up.

Administration officials and supportive lawmakers have argued that the United States gives the detainees unprecedented access to U.S. courts, in some cases more than U.S. military personnel who have been convicted of crimes by military courts.

Under the new law, detainees still may appeal their classification as enemy combatants or their conviction by a military commission to the U.S. Court of Appeals for the District of Columbia.

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On the Net:

Justice Department: http://www.usdoj.gov

Human Rights First: http://www.humanrightsfirst.org

Dismissal Of Terror Detainee Cases Sought (REU)

By Deborah Charles

Reuters, January 4, 2006

WASHINGTON (Reuters) - The U.S. Justice Department will seek to dismiss more than 180 cases involving inmates at Guantanamo Bay who have challenged their detention in court, court documents showed on Tuesday.

The department filed a notice to judges presiding over the cases at the U.S. District Court in Washington to advise them that by the end of next week the Justice Department would file official motions to dismiss the cases.

The notice comes a week after President George W. Bush signed new legislation banning cruel and inhumane treatment of prisoners. The anti-torture law also curbs the ability of prisoners being held at the U.S. Naval Base in Cuba to challenge their detention in federal court.

The legislation requiring humane treatment of detainees in U.S. custody was originally opposed by the White House. But Bush backed off his original veto threats after Congress voted overwhelmingly to support the amendment, pushed by Sen. John McCain, an Arizona Republican who was a prisoner of war in Vietnam.

In a concession to the White House, the bill limits prisoners from going to lower-level civilian courts for relief from confinement. They can only go to an appeals court once they have gone through a military court process.

PRISONER LAWSUITS

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The United States has faced criticism at home and abroad for treatment of prisoners at Guantanamo and for holding prisoners indefinitely. Only nine of about 500 prisoners being held at the base have been charged, and the United States has been holding prisoners there since January 2002.

Hundreds of prisoners have filed lawsuits in civilian courts to protest their confinement or to protest conditions of confinement. While some have protested their confinement in general, others have sued over the type of Koran they have been given while others want access to DVDs, a Justice Department official said.

The Center for Constitutional Rights, which represents many of the detainees who have sued in civilian court, has criticized the anti-torture law for eliminating prisoners' access to the U.S. judicial system.

But the Justice Department official, who declined to be identified, said detainees still had the right to appeal, they just had to wait until the military process was completed.

"It affords more judicial review in civilian court than we afford our own military convicted of crimes," the official said.

Panels of military officers, formally called commissions, were due this month to hold hearings in the first U.S. war crimes trials since World War Two. The Pentagon has promised "full and fair" proceedings.

Human rights activists and military defense lawyers have criticized the military commission rules, saying they favor prosecutors, allow hearsay and evidence obtained through torture.

Bush Could Bypass New Torture Ban (BOS)

By Charlie Savage

The Boston Globe, January 4, 2006

WASHINGTON -- When President Bush last week signed the bill outlawing the torture of detainees, he quietly reserved the right to bypass the law under his powers as commander in chief.

After approving the bill last Friday, Bush issued a "signing statement" -- an official document in which a president lays out his interpretation of a new law -- declaring that he will view the interrogation limits in the context of his broader powers to protect national security. This means Bush believes he can waive the restrictions, the White House and legal specialists said.

"The executive branch shall construe [the law] in a manner consistent with the constitutional authority of the President . . . as Commander in Chief," Bush wrote, adding that this approach "will assist in achieving the shared objective of the Congress and the President . . . of protecting the American people from further terrorist attacks."

Some legal specialists said yesterday that the president's signing statement, which was posted on the White House website but had gone unnoticed over the New Year's weekend, raises serious questions about whether he intends to follow the law.

A senior administration official, who spoke to a Globe reporter about the statement on condition of anonymity because he is not an official spokesman, said the president intended to reserve the right to use harsher methods in special situations involving national security.

"We are not going to ignore this law," the official said, noting that Bush, when signing laws, routinely issues signing statements saying he will construe them consistent with his own constitutional authority. "We consider it a valid statute. We consider ourselves bound by the prohibition on cruel, unusual, and degrading treatment."

But, the official said, a situation could arise in which Bush may have to waive the law's restrictions to carry out his responsibilities to protect national security. He cited as an example a "ticking time bomb" scenario, in which a detainee is believed to have information that could prevent a planned terrorist attack.

"Of course the president has the obligation to follow this law, [but] he also has the obligation to defend and protect the country as the commander in chief, and he will have to square those two responsibilities in each case," the official added. "We are not expecting that those two responsibilities will come into conflict, but it's possible that they will."

David Golove, a New York University law professor who specializes in executive power issues, said that the signing statement means that Bush believes he can still authorize harsh interrogation tactics when he sees fit.

"The signing statement is saying 'I will only comply with this law when I want to, and if something arises in the war on terrorism where I think it's important to torture or engage in cruel, inhuman, and degrading conduct, I have the authority to do so and nothing in this law is going to stop me,' " he said. "They don't want to come out and say it directly because it doesn't sound very nice, but it's unmistakable to anyone who has been following what's going on."

Golove and other legal specialists compared the signing statement to Bush's decision, revealed last month, to bypass a 1978 law forbidding domestic wiretapping without a warrant. Bush authorized the National Security Agency to eavesdrop on Americans' international phone calls and e-mails without a court order starting after the terrorist attacks of Sept. 11, 2001.

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The president and his aides argued that the Constitution gives the commander in chief the authority to bypass the 1978 law when necessary to protect national security. They also argued that Congress implicitly endorsed that power when it authorized the use of force against the perpetrators of the attacks.

Legal academics and human rights organizations said Bush's signing statement and his stance on the wiretapping law are part of a larger agenda that claims exclusive control of war-related matters for the executive branch and holds that any involvement by Congress or the courts should be minimal.

Vice President Dick Cheney recently told reporters, "I believe in a strong, robust executive authority, and I think that the world we live in demands it. . . . I would argue that the actions that we've taken are totally appropriate and consistent with the constitutional authority of the president."

Since the 2001 attacks, the administration has also asserted the power to bypass domestic and international laws in deciding how to detain prisoners captured in the Afghanistan war. It also has claimed the power to hold any US citizen Bush designates an "enemy combatant" without charges or access to an attorney.

And in 2002, the administration drafted a secret legal memo holding that Bush could authorize interrogators to violate antitorture laws when necessary to protect national security. After the memo was leaked to the press, the administration eliminated the language from a subsequent version, but it never repudiated the idea that Bush could authorize officials to ignore a law.

The issue heated up again in January 2005. Attorney General Alberto Gonzales disclosed during his confirmation hearing that the administration believed that antitorture laws and treaties did not restrict interrogators at overseas prisons because the Constitution does not apply abroad.

In response, Senator John McCain, Republican of Arizona, filed an amendment to a Defense Department bill explicitly saying that that the cruel, inhuman, and degrading treatment of detainees in US custody is illegal regardless of where they are held.

McCain's office did not return calls seeking comment yesterday.

The White House tried hard to kill the McCain amendment. Cheney lobbied Congress to exempt the CIA from any interrogation limits, and Bush threatened to veto the bill, arguing that the executive branch has exclusive authority over war policy.

But after veto-proof majorities in both houses of Congress approved it, Bush called a press conference with McCain, praised the measure, and said he would accept it.

Legal specialists said the president's signing statement called into question his comments at the press conference.

"The whole point of the McCain Amendment was to close every loophole," said Marty Lederman, a Georgetown University law professor who served in the Justice Department from 1997 to 2002. "The president has re-opened the loophole by asserting the constitutional authority to act in violation of the statute where it would assist in the war on terrorism."

Elisa Massimino, Washington director for Human Rights Watch, called Bush's signing statement an "in-your-face affront" to both McCain and to Congress.

"The basic civics lesson that there are three co-equal branches of government that provide checks and balances on each other is being fundamentally rejected by this executive branch," she said.

"Congress is trying to flex its muscle to provide those checks [on detainee abuse], and it's being told through the signing statement that it's impotent. It's quite a radical view."

Experts: London Bombings Cost About $2,000 (AP)

By Tariq Panja

The Associated Press, January 4, 2006

LONDON — The suicide bombings that killed 52 people on London's transit system in July were a relatively low-cost operation, security experts said Tuesday.

"I think the London bombings, including buying the train tickets and conducting reconnaissance, were done for no more than 1,200" pounds, or about $2,000, independent defense and security expert Paul Beaver told The Associated Press.

Terrorism financing expert Loretta Napoleoni said the bombings were relatively inexpensive largely because the four bombers were homegrown, living with their families in towns north of London and traveling to their targets using a rental car and a train.

"They were just a group of friends who lived at home," she said. "Their only costs were the homemade explosives and the traveling costs to London."

The British Broadcasting Corp. reported Tuesday that police believe the attacks cost "no more than several hundred pounds."

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Police have said the four used inexpensive, peroxide-based explosives. But they would not specify the estimated cost of the attack until they had completed the investigation into the "wider circumstances of how the attack was funded," police said Tuesday.

The BBC also reported that investigators believe teaching assistant Mohammad Sidique Khan, 30, was the group's chief's financier. He died in the attacks, along with the three other suspected bombers: Hasib Hussain, an unemployed 18-year-old; Lindsey Germaine, 19, whose occupation was unclear; and Shehzad Tanweer, 22, who helped out at his family's fish-and-chips shop.

Neither Beaver nor Napoleoni included in their estimates the costs of some suspects' travel to Pakistan, which has become a subject of the investigation.

Al-Qaida deputy leader Ayman al-Zawahri said in a statement broadcast in September that his terror network carried out the London bombings. Counterterrorism experts have not confirmed the link.

An August 2004 United Nations report said that al-Qaida had spent less than $50,000 on each of its major attacks since Sept. 11, 2001, including bombings in Bali, Madrid and Istanbul. Sanctions and other measures to block the group's funding had only "limited impact" on preventing attacks, the report said.

PATRIOT ACT:

Bush Pushes For Patriot Act Renewal (AP)

By Jennifer Loven

The Associated Press, January 4, 2006

WASHINGTON — As the clock runs on Congress' short-term extension of the Patriot Act, President Bush met with federal prosecutors Tuesday and contended that the domestic anti-terror law is vital to keeping Americans safe.

Many key provisions of the law were to expire Dec. 31. Amid a debate over whether the act sufficiently protects civil liberties, most Senate Democrats and a few Republicans united against legislation that would have renewed several provisions permanently while extending others for four years.

In a move the White House adamantly opposed but later accepted, Congress approved a one-month extension of the law in its current form to allow the debate to continue. The new measure expires Feb. 3.

Bush, his voice rising in apparent irritation, said lawmakers must act on a permanent renewal of the law that expanded the government's surveillance and prosecutorial powers against suspected terrorists, their associates and financiers. Noting the Patriot Act was overwhelmingly approved not long after the 2001 terrorist attacks on New York and Washington, he said political considerations now were getting in the way.

"When it came time to renew the act, for partisan reasons, in my mind, people have not stepped up and have agreed that it's still necessary to protect the country," said the president, sitting at a table in the Roosevelt Room with federal officials and 19 district attorneys from around the country.

"The enemy has not gone away. They're still there. And I expect Congress to understand that we're still at war, and they got to give us the tools necessary to win this war," he said.

Later, outside the West Wing, district attorneys cited several cases in which the Patriot Act had played a crucial role, from staging an undercover sting on California weapons dealers attempting to sell Stinger missiles to securing convictions of major terrorist financiers in New York.

"We use it each and every day to protect our country against terrorists and criminals," said Ken Wainstein, district attorney for the District of Columbia.

"We believe this provides adequate safeguards in every respect," said Mary Beth Buchanan, the district attorney for the Western District of Pennsylvania.

Sen. Russ Feingold, D-Wis., said Bush should spend more time negotiating about the Patriot Act with Democrats and others on Capitol Hill and less on "staged meetings with hand-picked participants" at the White House.

"Contrary to the president's misleading comments, nobody wants to see the Patriot Act expire," Feingold said. "We want commonsense changes to the act that would give the government the power to combat terrorism while protecting the rights and freedoms of law-abiding citizens."

The White House event drew 19 of the country's 93 U.S. attorneys. They were contacted by officials at the Justice Department to attend, Wainstein said.

Among the provisions the renewal would make permanent are those that allow roving wiretaps so that investigators can listen in on any telephone and tap any computer they think a terrorist might use.

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Bush Steps Up Bid To Renew Patriot Act (WT)

By Joseph Curl

The Washington Times, January 4, 2006

President Bush yesterday began to pressure lawmakers into renewing the Patriot Act, meeting in the Oval Office with 19 U.S. attorneys, some of whom cited specific cases in which the anti-terror law protected Americans from attack.

Key provisions of the Patriot Act were to expire Dec. 31, but after an acrimonious civil liberties debate, Senate Democrats who had threatened to filibuster renewal allowed an extension of the law only through Feb. 3.

"This Patriot Act was passed overwhelmingly by the United States Congress in 2001," the president told reporters yesterday. "And now, when it came time to renew the act, for partisan reasons, in my mind, people have not stepped up and have agreed that it's still necessary to protect the country.

"The enemy has not gone away -- they're still there. And I expect Congress ... to give us the tools necessary to win this war. ... The American people expect to be protected, and the Patriot Act is a really important tool for them to stay protected," Mr. Bush said.

After the meeting, several U.S. attorneys cited cases in which the act had enabled law-enforcement agents to thwart attacks, from staging an undercover sting on California weapons dealers attempting to sell Stinger missiles, to securing convictions of major terrorist financiers in New York.

"We told him that we use it each and every day to protect our country against terrorists and criminals," said Kenneth L. Wainstein, U.S. attorney for the District of Columbia.

Roslynn Mauskopf, U.S. attorney for the Eastern District of New York, said the law was instrumental in convicting two persons of funneling $20 million to the terror groups al Qaeda and Hamas.

The Patriot Act, enacted after the September 11, 2001, terrorist attacks, expanded the authority of the federal government to conduct secret searches, obtain private records and intercept telephone calls to track suspected terrorists.

But Senate Democrats -- and a handful of Republicans -- opposed extension of the Patriot Act after the revelation last month that Mr. Bush authorized the National Security Agency to monitor international calls among suspected terror group members, including al Qaeda.

The White House yesterday condemned Senate Democrats for playing politics.

"They were engaging in obstructionist tactics to try to kill the Patriot Act, as they said in their own words," Bush spokesman Scott McClellan said, noting that Senate Minority Leader Harry Reid, Nevada Democrat, had boasted "about killing the Patriot Act."

Sen. Russell D. Feingold, Wisconsin Democrat, said Mr. Bush should spend more time negotiating about the Patriot Act with Democrats and others on Capitol Hill and less on "staged meetings with hand-picked participants" at the White House.

"We want common-sense changes to the act that would give the government the power to combat terrorism while protecting the rights and freedoms of law-abiding citizens," Mr. Feingold said.

Bush, Prosecutors Push Patriot Act (USAT)

By David Jackson

USA Today, January 4, 2006

WASHINGTON — President Bush fired the first shot in the renewed battle over the USA Patriot Act, hosting on Tuesday a group of federal prosecutors who said the soon-to-expire law helped solve major crimes.

“These good folks have used the Patriot Act to protect America,” Bush said. He accused Senate Democrats of blocking reauthorization of the law for “partisan reasons.”

The Patriot Act, passed after the 9/11 attacks to give law enforcement extra powers to track terrorism suspects, expires Feb. 3. Bush wants to make it permanent.

Bush-appointed U.S. attorneys from 14 states and the District of Columbia said the law has helped them crack cases involving terrorist finances, weapons exchanged for drugs, and child abductions.

Senate Democrats who blocked renewal late last year, such as Patrick Leahy of Vermont, said they support the law but want to make sure civil liberties are protected.

Four Republican senators joined Democrats in blocking renewal of the law: Larry Craig of Idaho, John Sununu of New Hampshire, Lisa Murkowski of Alaska and Chuck Hagel of Nebraska. The Senate GOP leadership agreed to a six-month extension. The GOP-led House of Representatives later cut that extension to five weeks from its original expiration date of Dec. 31.

The House is not scheduled to reconvene until Jan. 31, just three days before the Patriot Act expires.

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The coming debate could well focus on other issues, particularly disclosures that the Bush administration approved domestic wiretapping without warrants of people suspected of links to terrorism.

In voting to block renewal, Sen. Charles Schumer, D-N.Y., said the revelation "greatly influenced my vote."

Michael Greenberger, director of the Center for Health and Homeland Security at the University of Maryland, said Bush may be aiming to pressure the four dissenting Republicans. But he said controversy over the warrantless surveillance program could make renewing the Patriot Act "an uphill task." Even Republicans such as Senate Judiciary Committee Chairman Arlen Specter of Pennsylvania called the spying inappropriate.

U.S. Attorney Roslynn Mauskopf, from New York, said the Patriot Act enabled her office to convict two men of funneling $20 million to terrorist groups.

U.S. Attorney Carol Lam of California said that before 9/11, information from a foreign intelligence wiretap could not be shared with criminal prosecutors. She said officials had to choose between "pursuing an intelligence investigation or a criminal investigation."

Bush Assails Democrats Over Patriot Act (WP)

By Jim Vandehei

The Washington Post, January 4, 2006

President Bush accused Democrats yesterday of blocking a full reauthorization of the USA Patriot Act for political reasons, as the White House stepped up an aggressive campaign to defend the president's terrorism-fighting authority.

"For partisan reasons, in my mind, people have not stepped up," Bush told reporters, with 19 federal prosecutors by his side. "The enemy has not gone away; they're still there, and I expect Congress to understand that we're still at war and they've got to give us the tools necessary to win this war."

White House spokesman Scott McClellan, speaking to reporters earlier in the day, said Senate Democrats are simply doing the bidding of liberal special interest groups such as the American Civil Liberties Union, which opposes the broad surveillance power authorized by the act. Democrats are trying to "appease" the ACLU "because they want to weaken and undermine the Patriot Act," McClellan said.

The Patriot Act, which Congress voted to extend until the end of this month amid a bitter political dispute over its reach, provides the federal government with broad power to monitor and prosecute terrorism suspects and those helping them. Many Democrats and a few key Republicans oppose the act as written because they say it does not provide adequate protections for the civil liberties of innocent Americans.

The Patriot Act is expected to dominate the debate when Congress returns at the end of the month and to serve as a backdrop for a broader, and possibly even more contentious, argument over Bush's anti-terrorism policies.

The White House is bracing for a heated dispute over both the Patriot Act and the recent revelations that Bush secretly authorized the National Security Agency to monitor communications within the United States involving terrorism suspects overseas. Congress is planning hearings on the NSA program this month and another vote on the Patriot Act early next month, when the current extension expires.

Adopting campaign-style tactics, Bush and his aides plan to accuse Democrats of jeopardizing national security to further their political agenda, a tack that worked well for the White House in the 2002 and 2004 elections. But the political environment is different now, with Bush less popular and Democrats better organized in opposition.

Moreover, key Republicans are also raising objections to Bush's broad interpretation of presidential power. Senate Judiciary Committee Chairman Arlen Specter (R-Pa.) was among the first to demand hearings on the NSA intercepts, and four GOP senators who typically back Bush in policy disputes played crucial roles in blocking the full reauthorization of the Patriot Act before Congress adjourned shortly before Christmas.

On another front, the Justice Department notified U.S. District Court judges in Washington that it will seek the dismissal of lawsuits from more than 300 Guantanamo Bay detainees who are questioning the legality of their confinement, using a provision of the defense appropriations law that the Bush administration says limits existing challenges.

The new provision prevailed after a sponsor, Sen. Carl M. Levin (D-Mich.), said it would not apply to pending cases. But the Justice Department said the law eliminates the jurisdiction of district courts over challenges to the legality of detentions at the U.S. naval base in Cuba.

The new law still permits detainees to appeal being classified as enemy combatants or any military-commission convictions to the U.S. Court of Appeals for the D.C. Circuit.

Bush Seeks Patriot Act Extension (VOA)

By Scott Stearns

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Voice of America, January 4, 2006

President Bush says some opposition Democrats are playing politics with U.S. national security by delaying the long-term extension of controversial anti-terrorism laws. Opponents say the expanded police powers threaten civil liberties.

George Bush flanked by Attorney General Alberto GonzalesPresident Bush says he will spend the next 30 days trying to convince Congress and the American people that the nation needs a permanent extension of the anti-terrorism laws known as the Patriot Act.

"The American people expect to be protected, and the Patriot Act is a really important tool for them to stay protected," the president said.

First passed following the September 2001 terrorist attacks in New York and Washington, those broader police powers were due to expire at the end of 2005. Congress gave the president just a one-month extension through February 3 amidst concerns from Democrats and some Republicans that parts of the Patriot Act threaten civil liberties.

The laws give investigators broader powers to seize library and medical records as well as to conduct roving wiretaps. Opponents are also concerned about what they say is limited Congressional and judicial oversight.

President Bush says there is plenty of oversight in the Patriot Act. He says critics are putting partisan politics ahead of national security.

"There's oversight on this important program," he said. "And now when it came time to renew the act, for partisan reasons in my mind, people have not stepped up and have agreed that it is still necessary to protect the country. The enemy has not gone away. They are still there. And I expect Congress to understand that we are still at war, and they have got to give us the tools necessary to win this war."

This will be the president's first legislative challenge of the new year and comes at a time of new questions about expanding executive power following the president's admission that he authorized the surveillance of telephone calls without a court warrant.

President Bush says those intercepts are strictly limited to communications where one of the parties is outside the United States, and then only to people with known links to terrorist groups.

He says media reports that uncovered the operation have helped America's enemies by revealing U.S. intelligence techniques. The Justice Department is investigating how reporters learned of the program.

Congress will investigate the intercepts themselves and whether the president exceeded his power by authorizing them without a court order.

Bush Renews Patriot Act Campaign (NYT)

By Elisabeth Bumiller

The New York Times, January 4, 2006

WASHINGTON, Jan. 3 - President Bush assembled a phalanx of United States attorneys at the White House on Tuesday to bolster his call for Congress to renew the antiterrorism law known as the USA Patriot Act, intensifying a coming clash with Capitol Hill over civil liberties and national security.

Surrounded in the Roosevelt Room by 19 federal prosecutors, Mr. Bush said Congress was holding up renewal of the law because of politics.

"When it came time to renew the act, for partisan reasons, in my mind, people have not stepped up and have agreed that it's still necessary to protect the country," Mr. Bush said. "The enemy has not gone away - they're still there. And I expect Congress to understand that we're still at war and they've got to give us the tools necessary to win this war."

The president's remarks and an appearance by the United States attorneys in the West Wing driveway afterward were part of a stepped-up White House campaign to make permanent the antiterrorism law, which expanded the government's investigative powers after the attacks on Sept. 11, 2001.

The measure was originally passed with bipartisan support, but with time limits built in because many lawmakers were nervous about its broad reach in the wake of criticism that the legislation impinged on civil liberties. Last month, with major provisions of the law set to expire on Dec. 31, the White House made a strong push to make the law permanent, but Democrats and a handful of Republicans balked, and extended the law for only five weeks, to Feb. 3.

The White House efforts were further complicated by a simultaneous uproar in Congress last month over revelations that Mr. Bush authorized a secret spying program to monitor international phone calls and international e-mail messages of people in the United States.

The United States attorneys, all Bush appointees summoned to Washington by the Justice Department, echoed Mr. Bush when they appeared en masse in front of television cameras moments later.

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Rosalynn Mauskopf, the United States attorney for the Eastern District of New York, was among those who stepped up to the microphones and said the law had made it easier for the Eastern District "to choke off the supply of money to terrorists."

Specifically, Ms. Mauskopf said prosecutors had used the law, which broadens federal powers to demand financial records, to convict the spiritual adviser to Osama bin Laden, Sheik Muhammad Ali Hassan al-Mouyad, as well as Sheik Mouyad's assistant, for funneling millions of dollars to Al Qaeda and the militant group Hamas.

Administration and Congressional officials said they expected a compromise on the renewal bill in coming weeks between the White House and members of both parties. In mid-December, the House did pass a measure to make 14 of 16 expiring provisions in the act permanent, but that bill became bottled up in the Senate, eventually leading Congress to enact only a five-week extension.

Senator Charles E. Schumer, the New York Democrat who said he voted to block permanent renewal of the act in part because of the revelations about the spying program, said Tuesday that there was room for a deal.

"Look," Mr. Schumer said, "this is one that should be able to be worked out because the sides are relatively close."

One main sticking point is a provision that gives the federal government the power to demand access to library records on what patrons have borrowed and other information material showing their reading habits. The provision was challenged in a lawsuit in Connecticut by the American Civil Liberties Union.

The other main sticking point is an administrative subpoena, called a national security letter, that gives the federal government the power to demand records without a judge's approval.

Among the other United States attorneys called to the White House on Tuesday were Mike Garcia of the Southern District of New York, Carol Lam of the Southern District of California and Paul McNulty of the Eastern District of Virginia, who is also acting deputy attorney general.

Bush Pushes For Patriot Act Renewal (AP)

By JENNIFER LOVEN, The Associated Press

AP, January 3, 2006

WASHINGTON (AP) — As the clock runs on Congress' short-term extension of the Patriot Act, President Bush met with federal prosecutors Tuesday and contended that the domestic anti-terror law is vital to keeping Americans safe.

Many key provisions of the law were to expire Dec. 31. Amid a debate over whether the act sufficiently protects civil liberties, most Senate Democrats and a few Republicans united against legislation that would have renewed several provisions permanently while extending others for four years.

In a move the White House adamantly opposed but later accepted, Congress approved a one-month extension of the law in its current form to allow the debate to continue. The new measure expires Feb. 3.

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Bush, his voice rising in apparent irritation, said lawmakers must act on a permanent renewal of the law that expanded the government's surveillance and prosecutorial powers against suspected terrorists, their associates and financiers. Noting the Patriot Act was overwhelmingly approved not long after the 2001 terrorist attacks on New York and Washington, he said political considerations now were getting in the way.

"When it came time to renew the act, for partisan reasons, in my mind, people have not stepped up and have agreed that it's still necessary to protect the country," said the president, sitting at a table in the Roosevelt Room with federal officials and 19 district attorneys from around the country.

"The enemy has not gone away. They're still there. And I expect Congress to understand that we're still at war, and they got to give us the tools necessary to win this war," he said.

Later, outside the West Wing, district attorneys cited several cases in which the Patriot Act had played a crucial role, from staging an undercover sting on California weapons dealers attempting to sell Stinger missiles to securing convictions of major terrorist financiers in New York.

"We use it each and every day to protect our country against terrorists and criminals," said Ken Wainstein, district attorney for the District of Columbia.

"We believe this provides adequate safeguards in every respect," said Mary Beth Buchanan, the district attorney for the Western District of Pennsylvania.

Sen. Russ Feingold, D-Wis., said Bush should spend more time negotiating about the Patriot Act with Democrats and others on Capitol Hill and less on "staged meetings with hand-picked participants" at the White House.

"Contrary to the president's misleading comments, nobody wants to see the Patriot Act expire," Feingold said. "We want commonsense changes to the act that would give the government the power to combat terrorism while protecting the rights and freedoms of law-abiding citizens."

The White House event drew 19 of the country's 93 U.S. attorneys. They were contacted by officials at the Justice Department to attend, Wainstein said.

Among the provisions the renewal would make permanent are those that allow roving wiretaps so that investigators can listen in on any telephone and tap any computer they think a terrorist might use.

Bush Pushes For Patriot Act Renewal (REU)

By Steve Holland

Reuters, January 4, 2006

WASHINGTON (Reuters) - President George W. Bush opened a 30-day push to gain renewal of the anti-terrorism USA Patriot Act on Tuesday with a partisan blast at Democrats and a meeting with U.S. prosecutors who called the law essential.

A temporary extension of the Patriot Act, passed in December to stop a Democratic filibuster blocking maneuver, expires February 3 and Bush is using the early days of the new year to press for permanent passage of the law.

He accused Democrats of blocking the law for "partisan reasons."

"The enemy has not gone away. They're still there. And I expect Congress to understand that we're still at war, and they've got to give us the tools necessary to win this war," Bush said.

White House spokesman Scott McClellan was blunter, saying Democrats were putting politics ahead of national security.

Bush brought to the White House 19 U.S. attorneys from around the country to help make his point that the law has been helpful to law enforcement.

Enacted in response to the September 11 attacks, the Patriot Act expanded the authority of the federal government to conduct secret searches, obtain private records and intercept telephone calls, among other activities, in its efforts to track down suspected terror cells.

The five-week extension was agreed on last month to give lawmakers more time to consider civil liberties protections.

DOMESTIC EAVESDROPPING

The debate over whether some provisions of the Patriot Act infringe too much on civil liberties became more heated after the revelation that Bush authorized the National Security Agency to conduct a domestic eavesdropping operation on Americans suspected of links to terrorism without seeking court approval.

The Democratic leader in the House of Representatives, Rep. Nancy Pelosi of California, rejected Bush's complaint that the Patriot Act was a victim of partisan politics and accused him of misleading the public.

Rather, she said, there are bipartisan concerns that the law "failed to secure the right balance between our national security and our civil liberties" and that the extension will give lawmakers time to "add the appropriate safeguards."

The senior Democrat on the Senate Judiciary committee, Sen. Patrick Leahy of Vermont, said their efforts were aimed at improving the Patriot Act, not ending it.

"We want to make sure that these far-reaching government powers have adequate checks and balances so they can be effectively used without unduly threatening Americans' hard-won freedoms from government abuse, Leahy said in a statement.

The U.S. attorneys spoke to reporters after their meeting with Bush and cited several examples of cases in which provisions of the Patriot Act allowed them to break up plots to attack the United States and other criminal activity.

"We told him that we use it each and every day to protect our country against terrorists and criminals," said Ken Wainstein, U.S. attorney for Washington, D.C.

The U.S. attorneys said they believed the civil liberties protections included in a compromise version of the bill agreed on by congressional negotiators were sufficient.

Roslynn Mauskopf, U.S. attorney for the Eastern District of New York, said the law was used to gain convictions of two people for funneling more than $20 million to al Qaeda and Hamas.

"Without the provisions of the Patriot Act we would not have been able to build and prove this case against these two master terrorist financiers," she said.

HOMELAND RESPONSE:

Chertoff Says Cities To Compete For Crisis Funds Based On Risk (USAT)

USA Today, January 4, 2006

Cities at greater risk from terrorism, a health crisis or natural disaster will get a bigger share of federal funds under the urban area security program, the Homeland Security Department said Tuesday. The announcement created potential winners

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and losers among dozens of metropolitan areas competing for funds, which overall are being reduced from $855 million last year to $765 million this year.

"We are taking a giant step forward in implementing this risk-based strategy," Homeland Security Secretary Michael Chertoff said. In the past, the grants generally went to the 50 largest cities for terrorism-related security measures. This year, cities at risk from natural disasters or health crises also are eligible.

"I think that's exactly what we have been screaming for all along," New York City Mayor Michael Bloomberg said. New York got $207 million last year, by far the most of any community.

Homeland Security officials said they won't announce how much each recipient will get until June, after assessing each applicant's plans for the money.

The agency said 35 metropolitan areas will be eligible this year if they show they will use the money wisely. An additional eleven areas that previously received money under the program will still be eligible but may be dropped next year unless they show a compelling need and a sound plan. Those at risk of being dropped include Buffalo, Las Vegas, Louisville and Tampa.

U.S. won't lift sanctions on North Korea

The Bush administration rejected a North Korean demand that it lift sanctions as a way of possibly resuming stalled nuclear disarmament talks. The sanctions were imposed for alleged currency counterfeiting and other illegal activities.

The two issues are unrelated, State Department spokesman Sean McCormack said. "I don't see in what way they are preventing North Korea from going back to the six-party talks," he said.

The negotiations are aimed at halting North Korea's nuclear weapons program. The six nations are China, Japan, Russia, the United States and North and South Korea. All agreed in November to return to the negotiations as soon as possible, McCormack said.

Alito supporters run ads in 3 more states

A conservative group supporting Supreme Court nominee Samuel Alito said it will spend $500,000 on new TV ads it will air this week in North Dakota, Maine and Louisiana in an attempt to influence senators considered swing votes on the nomination. The ads by Progress for America target Democrats Byron Dorgan and Kent Conrad of North Dakota, Republicans Susan Collins and Olympia Snowe of Maine and Democrat Mary Landrieu of Louisiana.

The ad is the group's fourth television spot since the federal appeals court judge was nominated Oct. 31 to replace retiring Supreme Court Justice Sandra Day O'Connor. Other ads have aired in Rhode Island, Nebraska and Arkansas.

Senate Judiciary Committee hearings on Alito open Monday. A vote by the full Senate is scheduled for Jan. 20.

Campbell won't run for Colo. governor

Former Republican senator Ben Nighthorse Campbell said he will not run for governor of Colorado. "I've kind of lost interest in public office," Campbell said. He declined to endorse either of the two Republicans still in the race, Rep. Bob Beauprez and former University of Denver president Marc Holtzman. "I feel the best candidates haven't emerged yet," Campbell said.

Former Denver district attorney Bill Ritter and Gary Lindstrom, a freshman state representative, are the only two Democratic candidates. Gov. Bill Owens, a Republican, is barred from running for re-election because of term limits.

Campbell, a former Democrat, won nine races and served 22 years in public office. He retired last year.

U.S. Adjusts Rules For Anti-terrorism Grants (KRT)

By Jim Puzzanghera

Knight Ridder, January 4, 2006

WASHINGTON - The Homeland Security Department announced Tuesday that 35 urban areas are eligible for $765 million in special anti-terrorism grants because of their high risk of attack and added new rules for allocating the money to force regional cooperation and eliminate wasteful spending.

The regions include Washington, New York, Philadelphia, Charlotte, N.C., Miami, Chicago, Kansas City, Minneapolis/Saint Paul, Dallas/Fort Worth, Los Angeles and the San Francisco Bay Area. Each has 60 days to come up with a proposal for what it would do with the money and justify how the expenditures would improve security.

The "investment justifications" are designed to avoid questionable decisions, such as the purchase of four Segway motorized scooters for a total of $24,815 by the San Jose, Calif., police and Santa Clara County, Calif., bomb squads.

"The fact of the matter is the public has the right to expect that even when the city's in a high-risk category, the money that it gets under this program has to be spent wisely and effectively," Homeland Security Secretary Michael Chertoff said at a news conference.

The department gauged the risks via a computer evaluation that assessed population, vital infrastructure and frequency of terrorism investigations.

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Under the Urban Areas Security Initiative program, begun in 2003, major cities that are close to one another - such as Dallas, Fort Worth and Arlington, Texas, and San Francisco, San Jose and Oakland, Calif. - received separate grants. But Chertoff said the widespread impact of Hurricanes Katrina and Rita helped persuade his department to ignore municipal boundaries in making this year's grants.

"When terrorists plan an attack, the attack is not carefully delineated within the lines of political jurisdictions," he said. "Protecting the country is not about who gets to give the money out or what particular jurisdiction gets to have control over the funds that are being distributed by the federal treasury."

Although the grants are designed to deal with terrorism, Chertoff said his department would consider requests that were helpful in natural disasters as well, such as evacuation plans and interoperable emergency communications.

The method of distributing the money across regions has been criticized.

San Jose Mayor Ron Gonzales said it "could be a grave mistake."

In a letter to Chertoff last month, he noted that the San Francisco Bay Area is spread over 8,000 square miles and crosses dozens of jurisdictions.

"Obviously our local plans and resources must be coordinated among all levels of government with our neighbors," Gonzales wrote. "However, the overly broad combination of different urban centers in the name of efficiency could very likely lead to a lack of efficiency when we need it most."

But Don Parker, the fire chief and disaster manager for Vallejo, a city of about 116,000 at the northern end of the San Francisco Bay Area, said a regional approach was a good idea given the way terrorist attacks could affect surrounding communities.

"If San Francisco suffers a dirty bomb, there's going to be a lot of people leaving San Francisco pretty quickly," Parker said. His city stands to get some funding from the program for the first time.

The 35 high-risk urban areas encompass 95 cities with populations of more than 100,000 and are in 29 states and the District of Columbia. In 2005, 50 cities received $830 million in urban area grants.

The grants are just one part of homeland security funding for state and local governments. In 2006, Congress appropriated $2.5 billion for such grants, with $550 million distributed via formulas.

Homeland security grants have been the focus of a political struggle in Washington. Lawmakers from rural areas prefer formulas that guarantee a specific amount for each state, while those from urban areas want money distributed based on the risk of attack.

The urban security grants aren't dictated by formulas, but Chertoff used Tuesday's announcement to stress that the Bush administration prefers risk-based decisions on all grants.

The department said it intended to drop 11 cities from the program in 2007 after a year of transitional funding - including San Diego, Las Vegas and Tampa, Fla. - as it tried to focus the program on areas with the highest terrorism risk.

Terror Grants To Fund Disasters (WT)

By Audrey Hudson

The Washington Times, January 4, 2006

The Department of Homeland Security has expanded eligibility for $756 million in anti-terrorism grant money to include preparation and response to natural disasters.

"Capabilities to evacuate people would obviously have relevance in a terrorism case with a certain kind of attack, but would also have relevance in a natural disaster of a certain kind," said Homeland Security Secretary Michael Chertoff.

Mr. Chertoff said the focus will be "upon geographic regions, as opposed to political jurisdictions," and that the change was made as a direct response to shortcomings surrounding last year's hurricanes and a review of the terror attack on London's underground rail system.

"To pick the obvious example, when you have a geographical area that's below sea level, which has a certain consequence and a certain risk that emerges through a natural disaster, that may also apply to a terrorism-driven disaster, and so that would be part of the plan," Mr. Chertoff said.

The urban grant is separate from a first-responder program that guarantees funding to every state and U.S. territory, including the Virgin Islands, American Samoa, Guam and the Northern Mariana Islands. Critics of that congressionally mandated program have questioned smaller cities' need for such money and say the program is abused.

The 35 metropolitan areas eligible for this year's urban grant encompass 95 cities with populations of more than 100,000 people and include the Washington area and a 10-mile boundary, as well as Baltimore; Philadelphia; Chicago; Phoenix; Denver; Miami; Atlanta; Memphis, Tenn.; Indianapolis; Baton Rouge, La.; New Orleans; Boston; Detroit; Las Vegas; and Dallas.

To be eligible for the grants, regions must show they are at risk and how they will spend the money, Mr. Chertoff said.

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Key Capitol Hill lawmakers yesterday signaled support for changing the grant qualifications. Sen. Judd Gregg, New Hampshire Republican, said the risk-based threats should include border protection.

"I believe that all funds should be distributed on a threat basis, and that the department should reorient its resources, not only in the funds they distribute, but also in setting priorities for department initiatives based on threat," said Mr. Gregg, who chairs the Senate Appropriations subcommittee on homeland security.

The more than $3 billion first-responder program has swelled from four to 11 categories of grants. Allocations now include $400 million for law enforcement, $175 million for port security and $655 million for firefighter assistance.

Mr. Chertoff said firefighting grant funds have been used for questionable projects, such as $63,000 for a decontamination hazardous materials unit still in its crate stored in a warehouse and more than $100,000 each for custom-built mobile command centers hundreds of miles from major cities.

"If an area is not capable of coming up with an investment justification that makes sense, they're not going to get money," Mr. Chertoff said. "That's going to eliminate the proverbial leather jackets or other kinds of apocryphal stories or non-apocryphal stories you read about in years past."

More Aid To Go To High-Risk Areas (LAT)

By Nicole Gaouette

The Los Angeles Times, January 4, 2006

WASHINGTON — Los Angeles and other high-profile urban areas could get more federal aid as a result of changes in the way the Department of Homeland Security allocates funds to train and equip police officers, firefighters and other emergency responders for possible terrorist attacks.

The plan, announced Tuesday by Homeland Security Secretary Michael Chertoff, will shift more funds to high-risk areas and away from areas where attacks are considered less likely.

At the same time, other changes, along with an overall drop in federal aid levels, are stirring concern among some Los Angeles-area officials about the long-term effect of the new approach to distributing funds.

The plan is the latest round in a running battle between the Bush administration and Congress. The administration favors allocating anti-terrorism grants based on risk, thus favoring major urban centers on the East and West coasts. Congress has insisted on sharing aid more broadly, including funds for such towns as North Pole, Alaska, where the threat of attack is considered minimal.The debate was complicated by the nation's experience with Hurricane Katrina, which served as a reminder that terrorism is not the only threat facing emergency responders and that natural disasters could affect areas that have little to fear from terrorists.

The new approach, which applies only to Urban Areas Security Initiative grants, creates new regional groupings for the distribution of funds, including three in California. Another federal grant program remains unchanged; it allots each state a guaranteed minimum, according to a formula devised by Congress, and then distributes the rest on a risk basis.

"This is a step in the right direction," said Jack Weiss, a Los Angeles City Council member whose district encompasses Los Angeles International Airport. "At the same time, I'm always concerned when Washington wants us to create new bureaucracies to cope with the paperwork."

Many of the changes reflect an effort to make dwindling funds go further; grant money for the Urban Areas Security Initiative has dropped from $855 million last year to $765 million for 2006.

Though the program has always been risk-based, the department said, it is putting a greater emphasis on risk by limiting the number of eligible areas.

Previously spread among 50 cities, grant eligibility will now be limited to 35 regions that Chertoff identified as the "communities facing the greatest risk and demonstrating the greatest need in order to receive the highest return in our nation's security."

Some cities, such as San Diego, are being phased out for eligibility in the program after being given funding for a "bridge" year to complete ongoing projects. Those communities will still be able to receive other funding and could continue to receive the urban areas grants if they can demonstrate a need.

San Diego Mayor Jerry Sanders said he was disappointed, noting that his city has a major seaport, the busiest international border in the nation and the largest concentration of U.S. military forces in the world.

Sanders, who took office last month, blamed his predecessors for not doing a better job in lobbying for funds and vowed to discuss the situation with Chertoff when he visits San Diego on Thursday.

Chertoff said Tuesday that he expected complaints. "This is not a popularity contest," he said of the grant program.

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He said that his department's ability to assess risk had become increasingly more sophisticated and that federal officials had used a database of more than 30 million spreadsheets to calculate risk matrices — which measure an area's potential targets, including bridges, chemical and nuclear plants or hospitals, its vulnerabilities and the consequences of an attack.

Los Angeles-area first responders applauded the move to put more emphasis on risk.

"Hopefully we'll see more" funding, said Garden Grove Fire Department Capt. Tim Sawyer. "Instead of throwing money out there to everyone equally," he said, funding decisions would be made "more appropriate" by emphasizing risk profiles.

In a further move to ensure that only deserving projects are funded, the Homeland Security Department is requiring the 35 regions to submit a list of projects they would undertake with the grant money. The projects must pass review by a national panel to receive funding. In the past, all eligible areas received funds.

Many L.A. officials praised the move to create regional blocs that would apply for funding as a team. Three California regional groupings have been created: one encompassing Anaheim and Santa Ana; one for the Bay Area, including San Francisco, San Jose and Oakland; and one combining Los Angeles and Long Beach. The ports of L.A. and Long Beach handle 42% of the nation's trade and represent a significant potential target.

"If you look at the ports, the difference between the two is a political jurisdictional line — it's not a geographic difference, it's not a difference in the way trade operates or where the population is really distributed," Chertoff said, explaining the decision to combine Los Angeles and Long Beach.

The move to create regional blocs came from the lessons learned from Katrina, when the Gulf Coast was so badly damaged that surrounding areas were pulled in to respond, Chertoff said. "We have to consider consequences, vulnerabilities and threats in the context of a natural region," he said.

But Cmdr. Mike Grossman of the Los Angeles County Sheriff's Department cautioned that Homeland Security's regional combinations might not mesh well with California's standardized emergency management system, which is organized by county. He pointed out that the federal agency has made Simi Valley and Thousand Oaks part of the Los Angeles-Long Beach area although they are part of Ventura County and its emergency response network.

"The configuration that has come out is not consistent with the structure the state has, which causes organizational issues," Grossman said.

Maurice Suh, L.A. deputy mayor for domestic security and public safety, said he didn't expect coordination with other jurisdictions to be an issue.

"We view this in a very positive light," he said. The Department of Homeland Security "has made clear to us that funding initiatives in the Southern California area is a priority. In our view, Los Angeles is the leader in terms of assets and security concerns in the area."

Rules For Granting Terror Aid Are Overhauled (NYT)

By Eric Lipton

The New York Times, January 4, 2006

Facing cuts in antiterrorism financing, the Department of Homeland Security announced today that it has overhauled its system for evaluating new requests for money from a $765 million aid program for cities. The new system is based less on politics and city boundaries and more on assessments of where terrorists are likely to strike and potentially cause the greatest damage.

The changes to the program, the Urban Area Security Initiative, are being driven in part by a reduction in the overall pool of money for antiterrorism efforts. For 2006, Congress has appropriated $120 million less in these urban grants than for 2005.

Domestic security grants in general, including the urban area ones, have been criticized because they have sent more antiterrorism money per capita to sparsely populated states like Wyoming and Alaska than to densely populated states like New York and California.

Homeland Security Secretary Michael Chertoff acknowledged the criticism in making the announcement in a news conference today. "The fact of the matter is we have learned some lessons," Mr. Chertoff said. "We've listened to some of the critics. And where there is merit to some of those observations, we've incorporated changes to take account of those criticisms."

Under the new rules, individual cities, counties or political jurisdictions will not be vying for the terror aid. Grant applications will be limited to 35 metropolitan regions in 23 states and the District of Columbia. The areas encompass 95 cities with populations of 100,000 or more, the department said. In addition, 11 urban areas that had previously been given money will be allowed to apply for "sustainment funding," so projects already under way can be completed.

"A single urban area may, in fact, include several cities," Mr. Chertoff said. "For example, what we have identified as the California Bay Area consists of Oakland, San Francisco and San Jose, as well as other, smaller, communities."

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He said that studying the effects of natural disasters and terror attacks had led to the new approach. "Anybody who looked at what happened, for example, in Katrina and Rita, understood that even if the hurricane was directed at a particular jurisdiction, the effects were felt within the entire region," Mr. Chertoff said. "The whole region had to chip in in terms of assisting. And, of course, the region bore the brunt of the evacuations."

Until the application process is under way, it is unclear what the impact may be in cities now receiving money under the program, including New York, whose region will grow to encompass Yonkers. Mr. Chertoff emphasized that the designated areas are not guaranteed grants. "You may be at risk," he said, "but we have to ask ourselves, 'Are you going to use the money wisely?' "

He also said that the Homeland Security Department's ability to analyze the potential risks in urban areas and the potential effectiveness of proposals had increased with each year.

"We've got more data to work with; we've got better analytical tools to apply to that data," Mr. Chertoff said. "And that means we've got much more specificity in terms of the kinds of characteristics we take into account."

Set up after the 2001 terrorist attacks, the Homeland Security Department's local and state grant programs have drawn repeated criticism from members of Congress and budget watchdog groups because the early emphasis on spreading the money around resulted in tens of millions of dollars going to some communities where, critics said, the terrorist threat was not as urgent as elsewhere.

Examples cited in recent testimony to Congress include $557,400 awarded to North Pole, Alaska, a city of about 1,700 residents, to buy rescue and communications equipment, and $500,000 to Outagamie County, Wis., population 165,000, to buy chemical suits, rescue saws, disaster-response trailers, emergency lighting and a bomb disposal vehicle.

Officials from some smaller American cities that have received grants said they deserved a reasonable share of the antiterrorism aid.

"We certainly are much smaller than a city like New York or Los Angeles," said Don Thorson, administrator for the grant program in Omaha.

But, Mr. Thorson said: "We still are an urban area. And we still have risks. No one can predict where a terrorist might strike. Look where Timothy McVeigh struck. It was Oklahoma City."

Omaha received $5.1 million last year, which it used to buy bomb suits and communications equipment, among other items.

Mr. Chertoff said, "The public has a right to expect that even when a city is in a high-risk category the money it gets under this program has to be spent wisely and effectively."

Representative Peter T. King, Republican of New York, who is chairman of the House Committee on Homeland Security, said the shift properly made risk a more meaningful factor in allocating the money.

"The more risk-based they can make it, the better," Mr. King said. "It sends a message to Congress that homeland security is a serious matter, it is not a public works project, that we are not going down the pork-barrel road. That is vital." The Urban Area Security Initiative represents $765 million of the $2.5 billion budgeted in the 2006 fiscal year for state and local antiterrorism programs. A separate Homeland Security grant program, which gives money directly to states, has been allocated $550 million by Congress this fiscal year. That money will still be distributed, in part, based on a formula that sets a minimum for each state. But for the first time, money not obligated by this formula will be distributed based on risk.

When the Urban Area Security grants were first announced in 2003, only seven cities were given money: New York, Washington, Los Angeles, Seattle, Chicago, San Francisco and Houston. But the list quickly grew to 30 cities and finally to 50 as more cities were deemed eligible for the grants.

Last year, even though the number of cities remained about the same, a much larger share of the money went to the biggest cities, with New York getting $207.5 million, compared with $49.7 million in 2004.

The system unveiled today evaluates applications for aid based on how well cities meet emergency preparedness standards recently established by the Homeland Security Department.

The standards include detailed steps that local and state governments would be required to take in response to potential threats, like the release of the nerve agent Sarin in office buildings or the truck bombing of a sports arena. The applications will also be ranked based on a significantly expanded database that the agency has set up to try to objectively measure the risk level in each city, department officials said. The database includes, for example, an inventory of high-profile government buildings and major structures like bridges, as well as daily ridership on a subway system and how many subway stations a city system has.

Risk is defined as a combination of the perceived threat, the vulnerability of a particular city or asset, and the consequences of an attack.

"The system before was fairly Neanderthalic," one Homeland Security official said, on the condition on anonymity because he did not want to pre-empt Mr. Chertoff's announcement. "It was very, very sophomoric."

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The 35 regions eligible to apply for grants are Anaheim/Santa Ana, Calif.; San Francisco Bay; Los Angeles/Long Beach, Calif.; Denver; Washington; Fort Lauderdale, Fla.; Jacksonville, Fla.; Miami; Orlando, Fla.; Atlanta; Honolulu; Chicago; Indianapolis; New Orleans; Boston; Baltimore; Detroit; Minneapolis-St. Paul; Kansas City, Mo.; St. Louis; Charlotte, N.C.; Jersey City/Newark; New York; Cincinnati; Cleveland; Columbus, Ohio; Portland, Ore.; Philadelphia; Pittsburgh; Memphis; Dallas-Fort Worth; Houston; San Antonio; Seattle; and Milwaukee.

The 11 areas eligible to apply for sustainment money are Phoenix; Sacramento, Calif.; San Diego; Tampa, Fla.; Louisville, Ky.; Baton Rouge, La.; Omaha; Las Vegas; Buffalo; Toledo, Ohio; and Oklahoma City.

Mr. Chertoff has made clear that he expects protests when the final grant awards are announced. He acknowledged that when cities fall off the eligibility list his agency hears "outcries and complaints."

"I have to be very clear about this," he said. "The purpose of the U.A.S.I. program - indeed, the purpose of all Homeland Security funding - is not to generate popularity for the secretary or for the Department of Homeland Security. It is to address the highest priorities driven by an analytic, risk-based process."

The prospect of increased competition for the money comes as no surprise to officials in some smaller cities.

"We anticipated there would be a point soon where Bush would be concerned about throwing so much money out there," said Samuel Simon, director of public safety in St. Louis.

The city received $7 million last year, money spent - wisely, Mr. Simon said - to prepare for the possibility of a pandemic flu outbreak or small-scale terrorist attack.

D.C. May Benefit As DHS Bases Grants On Risk (WP)

By Dan Eggen

The Washington Post, January 4, 2006

Regions at the highest risk of terrorist attack or natural disaster will receive an increased share of grant money under a new urban funding formula unveiled yesterday by the Department of Homeland Security, the latest step in its effort to focus more resources on the gravest threats facing the United States.

The policy change, announced by Secretary Michael Chertoff, comes after several years of criticism from lawmakers and private research groups.

The critics complained that sparsely populated states such as Wyoming were receiving a proportionally greater share of Homeland Security money than populous jurisdictions, including Washington, that are much more likely to be attacked.

For fiscal 2006, Washington and 34 other metropolitan regions will be eligible to compete for $765 million from the department's largest grant program, the Urban Area Security Initiative. Eleven other urban areas that have received grants may still compete, but they are being warned they may be dropped if they cannot show a compelling need, officials said.

The smaller list is due in part to a cut in funding by Congress, which slashed $90 million from the program this year, and it will force cities in the same region to work together in seeking aid.

But Chertoff also characterized the changes as part of a broader effort to distribute money based on measurable risk factors, and he said that such grants are "not party favors to be distributed as widely as possible."

"We've looked at what happened in the hurricanes, we've looked at what happened over in London with the terrorist attacks on the rail lines, and that has reinforced the idea that we have to consider consequences, vulnerabilities and threats," Chertoff told reporters at a news conference.

Lawmakers and local officials in Washington and other major urban areas praised the changes, which were made in the face of continued infighting in Congress over funding formulas for other types of Homeland Security grants. David Robertson, executive director of the Metropolitan Washington Council of Governments, said the change could mean more leverage for the District and its neighbors in competing for federal money.

"It's hard to minimize someone else's risk or what they perceive, but by any measure, the Washington area is right up there in terms of risk, both for terrorism and natural disasters," Robertson said.

The policy shift applies only to one part of DHS's vast grant apparatus, which is slated to distribute $2.5 billion in state and local Homeland Security grants during the current fiscal year.

One focus of controversy has been Homeland Security grants given to states in a separate program that will total $550 million in 2006. About 40 percent of that money is divided evenly among the states, regardless of threat or population, although DHS has been given wider latitude by Congress in spending part of the money this year.

Some smaller states and regions left out of the urban grant program have also protested the changes. Sen. Joseph I. Lieberman (D-Conn.) said in a statement yesterday that major cities in Connecticut are being shortchanged despite the presence of a nuclear submarine base and other sensitive sites, and he complained that DHS has shifted its rationale for distributing grant money too many times.

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"Forcing cities to compete for an ever decreasing share of federal support is tantamount to disarming in the middle of a war," Lieberman said.

Nonetheless, many other lawmakers and homeland security experts praised the change.

"The philosophy of risk-based allocations for setting priorities is the right way to go," said David Heyman, director of the homeland security program at the Center for Strategic and International Studies, a Washington think tank. "We cannot continue to spend money based on political power in Congress or with no link to the threat. If we do, we'll spend ourselves to death without any security."

Decisions have not been made on how the funding will be distributed. The D.C. region has received about $167 million in urban area grant money since 2003, including $77 million in 2005, according to the Metropolitan Washington Council of Governments.

Vulnerability to terrorism was the primary criterion for making grants over the last three years. The new formula adds the risk of natural disaster or disease to the calculation. Officials said the risk calculations are based on sophisticated and detailed data sets down to Zip codes.

"With every successive year we've gotten much more specific in terms of the way we measure and weigh the characteristics that go into our risk formula," Chertoff said. ". . . We've got more data to work with. We've got better analytical tools to apply to that data."

Sen. Charles E. Schumer (D-N.Y.) said in a statement that he was pleased by the announcement but indicated he was reserving judgment until final grant numbers are announced.

Rep. Thomas M. Davis III (R-Va.) commended "DHS for moving the ball forward themselves."

"We cannot be completely safe everywhere, all the time, so we have to be putting our Homeland Security dollars where they're most needed," Davis said. ". . . The metro D.C. region was already targeted by terrorists. As the seat of government it just goes to reason that we would continue to be high on their list."

Risk Wins A Round Over Politics (NYT)

The New York Times, January 4, 2006

The Homeland Security Department announced this week that it intended to rely more on the risk of a terrorist attack, and less on politics, when it hands out funds under a key antiterrorism program. This is very good news - with two caveats. It still remains to be seen precisely how the money will be handed out. And the improvements in this single program do not change the fact that Congress, thanks to the influence of small-state senators, still lets politics play a disturbingly large role in the distribution of other antiterrorism funds.

National security experts, including the 9/11 commission, overwhelmingly agree that antiterrorism money should be handed out based on the risk of an attack and the harm it would do. But members of Congress have trouble seeing any program - even one designed to protect the nation from terrorists - as above politics and patronage.

Senators from small low-risk states, led by Susan Collins, Republican of Maine, scored an unfortunate victory last year when they blocked an amendment, backed by all six senators from New York, California and Texas, that would have distributed more antiterrorism money on the basis of risk. As a result, states like Wyoming - and Maine - still get too much money, and places like New York City and Washington, D.C., get too little.

Homeland Security Secretary Michael Chertoff has, to his credit, been a consistent supporter of an approach based more on risk. In this week's announcement, he promised to rely more heavily on risk in making decisions on allocating $765 million under the Urban Area Security Initiative. There are, however, several factors that may interfere with his good intentions. The department intends to take into account the degree to which a grant could be used to help with disasters not related to terrorism, like hurricanes or pandemics. This could blur the program's focus and end up directing more money toward places that face nonterrorist threats, an outcome that was not Congress's intention.

It is also possible that when financing proposals are actually evaluated later this year, Mr. Chertoff's emphasis on risk will become lost in an array of other criteria.

Whatever success Mr. Chertoff has in improving this program, two others are still badly in need of a similar reorientation toward risk and away from politics: the State Homeland Security Grant Program and the Law Enforcement Terrorism Prevention Program, which account for much of the nation's antiterrorism spending.

Mr. Chertoff's emphasis on risk is the right one. We hope that the Homeland Security Department sticks to this principle when it makes its final grant decisions under the Urban Area Security Initiative later this year. And we hope that when Congress passes the next Homeland Security appropriation covering the other antiterrorism programs, it does a better job of putting risk ahead of politics.

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Government Has 'Dirty Bomb' Cleanup Guide (AP)

By H. Josef Hebert

The Associated Press, January 4, 2006

WASHINGTON -- The government issued cleanup standards Tuesday for a "dirty bomb" terrorist attack that would in some cases be far less rigorous than what is required for Superfund sites, nuclear power plants and nuclear waste dumps.

After such an attack, long-term radiation exposure could remain at levels that would be expected to produce cancers in one of every four people who return to the contaminated sites, anti-nuclear watchdog groups said after analyzing the new federal guidelines.

Dirty bombs -- largely theoretical terrorist weapons -- would use conventional explosives to disperse radioactive material without a nuclear explosion. Such weapons, which could use Cesium 137 or other radioactives, would be useful as terror devices because they can render an area dangerous or uninhabitable.

The guidelines issued by the Homeland Security Department say the impact from detonating a crude nuclear device or a dirty bomb could vary widely, from contaminating a small area, such as a single building or city block, to conceivably many square miles. So, it said, cleanup requirements also could vary widely.

In some cases, the document suggested, long-term radiation exposures of as much as 10,000 millirems per year -- a level equivalent to hundreds of chest X-rays a year or 30 times the annual exposure to radiation from natural "background" sources -- could be allowed for areas that are returned to general use.

If there is widespread contamination from a dirty bomb or an "improvised nuclear device" -- which could cause a crude nuclear explosion -- some areas may have to be put off limits permanently, the guidelines said.

The guidelines, which go into effect immediately but could be modified after a public comment period, brought sharp criticism from some environmental groups and nuclear watchdog organizations.

Long-term radiation levels of 10,000 millirems a year as would be permitted by the guidelines in some cases can be expected to produce a cancer in one of every four people exposed, said Diane D'Arrigo, of the Nuclear Information and Resource Service, a Washington-based nuclear industry watchdog group, citing government radiation risk assessments.

The federal guidelines do not establish specific numerical standards for cleanup, but they cite radiation "benchmarks" established by other agencies or international organizations that would be acceptable.

Among those benchmarks that could be used under the guidelines is one established by the International Commission on Radiation Protection which cites a long-term release of 10,000 millirems a year as an acceptable exposure standard after cleanup.

By comparison, the Nuclear Regulatory Commission does not allow exposure to the public of more than 100 millirems per year in its cleanup standard. The exposure at a future Yucca Mountain nuclear waste site has a limit of 15 millirems. Background radiation from natural sources averages about 350 millirems, while exposure from a chest X-ray is about 6 millirems.

Donald Tighe, a spokesman for the White House Office of Science and Technology, said the guidelines specifically avoided setting a numerical cleanup standard for long-term radiation exposure. Instead, he said, it is hoped the guidelines will help state, local and federal officials choose appropriate cleanup standards depending on circumstances.

"It would be very inaccurate for anyone to characterize this as leaning toward any one side of the range of (cleanup) standards" that might be available, said Tighe.

But Daniel Hirsch, of the Committee to Bridge the Gap, a nuclear watchdog group in California, said the guidelines are so lax that it opens the way for cleanup efforts to fall short of what is needed to protect public health.

The Department of Homeland Security "is proposing a nuclear Katrina, a formal policy of allowing the public to be exposed to massive radiation doses from a dirty bomb while the government does nothing to protect them," he said.

Even After 'Dirty Bomb' Exposure, Residents Might Be Allowed Back In (New York Times)

By Matthew L. Wald

New York Times, January 4, 2006

WASHINGTON, Jan. 3 - The Homeland Security Department, preparing for an attack by terrorists who would spread radioactive material, advised government officials on Tuesday that they should consider permitting people to re-occupy contaminated land and buildings even if they would be exposed to radiation at a level double what nuclear plant workers can legally receive.

The department published a document that stressed trying to balance the health risk of radiation exposure with minimizing the disruption that a “dirty bomb” would cause.

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If there is a delay in reoccupying areas evacuated because of contamination, “the disruption and harm caused by the incident could be inadvertently and unnecessarily increased,” the department advised. “Failure to restore important services rapidly could result in additional adverse public health and welfare impacts that could be more significant than the direct radiological impacts.”

The document, published in The Federal Register, listed precise exposure limits for emergency workers and members of the public in the immediate aftermath of a dirty bomb attack.

For the long term, it said that officials responsible for public health and safety should consider a variety of “benchmarks” in use around the world, some far higher than the standards in use in the United States for protection of the public in routine operations and nuclear accidents. One of those, from the International Commission on Radiation Protection, says that actions to reduce exposure to radiation, like evacuation or cleanup, may not be required until doses equal 10 rem a year, an amount that is about 30 times what the average American receives from natural and manmade sources of radiation, and double what power plant workers can legally receive. It is also about five times as high as the maximum that power plant workers commonly receive in a year.

An opponent of nuclear power, Daniel Hirsch, of the Committee to Bridge the Gap, said the standard that should apply is the one that the Environmental Protection Agency uses when power plants are torn down, which is 25-thousandths of a rem per year, one-400th of the international standard.

But a spokesman for the Environmental Protection Agency, John Millett, said that when his agency’s guidelines were set in 1991, with nuclear power plant accidents in mind, there was no consensus on what long-term exposure should be allowed.

Larry Orluskie, a spokesman for the Department of Homeland Security, said the new guidance did not necessarily suggest using the international agency’s number, but recommended considering its use, “depending on what the circumstance is, and what the environment is, and the state and local authorities’ need for that area.’’

The document issued Tuesday lists a variety of factors, including the cost of cleanup. Mr. Hirsch and a second antinuclear group, the Nuclear Information and Resource Service, said that the 10 rem figure would produce cancer or leukemia in one person in four who was exposed to that amount annually for a total of 30 years. The two groups called the advice “a nuclear Katrina in the making.”

The department characterized its advice as a draft, because, it said, it would take public comment until March 6, but the advice takes effect immediately.

The document offered advice on both dirty bombs, a postulated weapon that is a conventional explosive laced with a radioactive contaminant, and on nuclear bombs that a terrorist group might smuggle into a city. Security experts say that a dirty bomb is far easier to construct and thus might be the more likely threat, and that if a terrorist group managed to detonate an actual nuclear bomb, then the No. 1 issue would probably not be the long-term health risk of radiation exposure.

The Homeland Security Department, with the E.P.A., the Nuclear Regulatory Commission and other agencies, has been working on the advice since 2003 but has had trouble developing a consensus.

Man Sues U.S. Over Ring Lost At Airport (FINDLAW/AP)

AP, January 4, 2006

(AP) - BOSTON-A man is suing the federal government, alleging his $7,000 wedding ring was stolen as he passed through a security checkpoint at Logan International Airport.

John Wright, 51, says he and his wife were taking a flight to San Juan, Puerto Rico, in July when he placed the 1.53-carat diamond and gold ring in a plastic tub along with his Rolex watch and wallet.

Wright, of Tiverton, R.I., then placed the bin on the scanner conveyer belt as he and his wife, Janet, passed through the metal detector. When he retrieved his belongings, Wright said, the ring was missing.

"I hadn't even gone 15 feet on my vacation and I was robbed," said Wright, a health teacher in Somerset.

He said he alerted the three Transportation Security Administration screeners who were at the checkpoint, and they searched the conveyer belt without success.

Wright filed the lawsuit in U.S. District Court last month after the TSA denied his claim seeking $7,000 to replace the ring. The lawsuit seeks reimbursement for the ring and attorney's fees.

Wright said he suspects one of the TSA screeners took the ring because there were no passengers in front of him as he went through the checkpoint with his wife, who was directly behind him.

Ann Davis, a spokeswoman for TSA, said she could not comment on the case, but said the agency does not tolerate workplace theft and aggressively investigates all complaints.

Living, And Dying, With Suicide Bombers (USAT)

By Ralph Peters

USA Today, January 4, 2006

After spending trillions of dollars on high-tech armaments, the United States finds itself confounded by a dirt-cheap weapon of genius: The suicide bomber. The ultimate precision weapon and genuine "smart bomb," the suicide bomber is hard to deter and exasperatingly difficult to defeat.

This is the "poor man's nuke." For a few hundred dollars (or less) and a human life, a suicide bomber can achieve strategic effects the U.S. Air Force can only envy.

For all of the claims that technology would dominate the 21st century — and not only in the realm of warfare — we find that impassioned faith still trumps microchips. Armed with a fervent belief in his god's appetite for blood, the suicide bomber can dominate headlines around the world with a few pounds of explosives.

A paradox of the Information Age is that it's simultaneously the new age of superstition. As calcified social orders collapse under the pressures of global change, those who feel most threatened flee into debased, occult religion. Increasingly, fanaticism finds outlet in shedding the blood not only of unbelievers, but also of co-religionists whose beliefs are seen as imperfect.

The suicide bomber views himself (more rarely, herself) as fulfilling a divine mission whose execution will be rewarded in paradise. How do we discourage an enemy who regards death as a promotion? How do we identify the religious madman among the masses in time to stop him from killing? On a practical level, defeating the increasing numbers of suicide bombers is our most difficult security mission.

Homeland vulnerable

Except for 9/11, suicide bombers have conducted their missions abroad. That's going to change, but it's a credit to the patriotism and decency of American Muslims that none of our fellow citizens has strapped on a bomb and walked into a Wal-Mart. Nonetheless, our enemies will find a way to bring their deadly campaign back to our doorsteps.

The suicide bomber is so powerful a weapon that not even the terrorists have realized its full potential. Today, we see intermittent, localized attacks. The suicide bomber is at the same stage of development as the tank was in World War I: Used in small numbers, armored vehicles did not achieve and sustain critical mass.

We need to prepare for the suicide-bomber blitzkrieg, when murderous zealots come at us in waves.

The obvious forerunners of today's Islamist fanatics were the Assassins, the notorious cult that operated from Persia through Syria in the 11th and 12th centuries. Armed only with sacramental knives and patience, the Assassins terrorized governments by killing sultans and grand viziers. It took the invading Mongols — the all-time masters of counter-insurgency warfare — to destroy the Assassins in their mountain strongholds.

But assassination became commonplace in the Muslim world thereafter. The Assassins came from an off-shoot sect of Shiite Islam. Today's suicide bombers are overwhelmingly Sunnis, but the pattern of waging an asymmetrical conflict through carefully planned murders is a tradition, not an aberration.

To be fair to the Assassins, they attacked only the mighty, not the masses. And, as Bernard Lewis, the giant of Middle Eastern studies at Princeton, pointed out, Islam's prohibition against suicide meant that yesteryear's murderers allowed themselves to be caught and suffer torture rather than kill themselves.

But the new age of faith is also an era of the perversion of religion, from the primitive blood-cult evident in ritual beheadings to the rationalization of a suicide bomber's death — not as self-murder but the consequence of a brave attack in the conduct of holy war.

Nor should it be as difficult as we assume for Westerners to grasp the psychology at work in the suicide bomber. Our own history is full of martyrs and religious warriors who went boldly and knowingly to their deaths. In every culture, the really good haters die well.

Who are they?

Deplore his act though we rightly do, the suicide bomber who imagines himself a defender of his threatened faith and humiliated people is the extremist equivalent of the soldier we revere for throwing himself on a grenade to save his comrades' lives. Our rules for self-sacrifice are different, but the psychology is uncomfortably familiar. The results may differ terribly, but the motivation has filial roots.

We see only the indiscriminate carnage, the apparent madness. Until we recognize his crazed valor, we cannot understand the suicide bomber. And it's much harder to defeat an enemy you don't understand.

Suicide bombers are recruited from the ranks of troubled souls, from those who find mundane reality overwhelming and terrifying. The suicide bomber longs for release from the insecurities of his daily experience. He is fleeing from life every bit as much as he's rushing toward paradise. He dreads women, sin and doubt.

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Hypnotized by faith and excited to ecstasy, he can walk into a children's clinic and press a detonator. No heart-rending child's face will stop him. His god will forgive the innocent. Nothing matters but the divine will as interpreted by the masters of terror — the most brilliant psychologists of our time.

We have faced enemies more dangerous, but none so implacable.

The world's great strategic struggle of this century is between those who believe in a generous, loving god — in any religion — and those who serve a punitive, merciless deity.

The suicide bomber has chosen his side.

Ralph Peters is the author, most recently, of New Glory: Expanding America's Global Supremacy, and a member of USA TODAY's board of contributors.

WAR NEWS:

From Cabinet Rooms Past, A Gathering To Assess Iraq (NYT)

By David E. Sanger

The New York Times, January 4, 2006

WASHINGTON, Jan. 3 - It will be an unusual sight on Thursday in the Roosevelt Room of White House, and deliberately so: President Bush will engage in a consultation of sorts with a bipartisan collection of former secretaries of state and defense.

Among them will be several who have left little doubt that they think Mr. Bush has dangerously mishandled Iraq, ignored other looming crises, and put critical alliances at risk.

The meeting was called by the White House, which sent out invitations just before Christmas to everyone who once held those jobs.

The invitees were told that they were being asked to attend a briefing on Iraq and other issues. It was unclear, one recipient said, "how interested they are in what we are thinking."

Among those planning to attend are Colin L. Powell, Mr. Bush's first secretary of state and the administration's best-known and most careful dissident voice, and Madeleine K. Albright, Mr. Powell's predecessor.

William Perry, who was secretary of defense in the Clinton administration, is flying in from California; he helped formulate foreign policy positions for Senator John Kerry of Massachusetts in the race for president in 2004.

"This should be interesting," said another former secretary who received an invitation, but asked not to be identified until he had heard Mr. Bush's arguments.

"It's not exactly as if these guys have reached out to hear a lot of outside opinions."

In fact, no one inside the White House could recall a meeting quite like this during Mr. Bush's first five years in office.

At moments he has called upon past presidents - notably his father and Bill Clinton - for aid missions to countries hit by the 2004 tsunami, and then to cities and towns hit by Hurricane Katrina. Former Secretary of State James A. Baker III was recruited to lead efforts to get debt relief for Iraq, and Brent Scowcroft, the former national security adviser, headed up a White House panel that reviews foreign intelligence issues, only to be dis-invited after he became a critic of the decision to invade Iraq.

But never before has Mr. Bush asked such a broad array of former senior officials to show up together, presumably armed with strong opinions about issues like whether the moment has come to begin an exit from Iraq and what the United States should be doing with North Korea, Iran, Sudan or public diplomacy.

Several of the officials, mostly Democrats, said they were concerned about being used as props in an effort to portray Mr. Bush as seeking what the national security adviser, Stephen J. Hadley, recently called "common ground" on Iraq. But they said they suspected that the president was seeking to close the gap with officials of both parties who are influential in Congress, and often comment on Iraq and other issues on television and on op-ed pages.

Perhaps the most interesting dynamic will be between Mr. Bush and Mr. Powell. Since leaving office a year ago, Mr. Powell has been careful to avoid direct criticism of his former boss, though some of his former aides have been blistering in their descriptions of Mr. Bush, Vice President Dick Cheney and Secretary of Defense Donald H. Rumsfeld (who presumably has an invitation because he served as secretary of defense under Gerald R. Ford).

In May, Mr. Bush traveled to Mr. Powell's house in McLean, Va., for a quiet dinner, but Mr. Powell publicly parted company with the administration on the issue of interrogation techniques for suspected terrorists, backing an amendment sponsored last year by Senator John McCain, Republican of Arizona, when the White House still opposed it.

Mr. Bush's guests will be briefed by Gen. George W. Casey Jr., the American commander in Iraq, and Zalmay M. Khalilzad, the American ambassador there.

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"We invited them so they could hear from General Casey and Ambassador Khalilzad, so that they could hear about the progress we are making on our plan for victory in Iraq, from the military and civilian leaders on the ground," Scott McClellan, the White House press secretary, said Tuesday evening, calling the meeting part of Mr. Bush's broader effort for "outreach on the strategy."

"There will be opportunity for them to ask questions and have a discussion," he said.

Iraq Wants U.S. Choice Out As Chief Of Brigade (WP)

By Jonathan Finer

The Washington Post, January 4, 2006

BAGHDAD, Jan. 3 -- Over the strong objections of U.S. commanders in Baghdad, the Iraqi government has nominated a new leader for a brigade that is set to assume control over some of the capital's most sensitive areas. This dispute appears likely to postpone an already overdue handover by American forces for at least another month.

The 5th Brigade, 6th Division of the Iraqi army was scheduled to assume responsibility on Dec. 27 for the heart of Baghdad, including the perimeter of the fortified Green Zone, where the U.S. Embassy and many Iraqi government buildings are located. It was also to patrol the road to the city's main airport.

But a transfer ceremony that was to be attended by top generals was canceled three days beforehand, after Iraq's Defense Ministry said it would not approve the officer groomed by U.S. forces since August to command the unit, Col. Muhammed Wasif Taha, a 23-year Iraqi army veteran.

U.S. commanders are concerned that the rejection of a qualified Sunni Muslim candidate by a government that is dominated by the rival Shiite Muslim majority will fuel perceptions of Iraq's security forces as sectarian institutions, particularly in Sunni regions where sympathy for the insurgency runs deep.

American officers who work with the unit reevaluated the brigade without Taha in charge and lowered its readiness rating from Level 1, meaning it can operate without U.S. assistance, to Level 3, which means significant help is required. That rating, in force for a month, made it officially unqualified for the proposed new responsibilities.

"When you bring a new commander, we're not sure of his schooling, his experience on the ground. So it's hard for us to assess him," said Col. Ed Cardon, 45, of Watsonville, Calif., commander of the U.S. Army's 4th Brigade, 3rd Infantry Division. "We are very comfortable with Colonel Muhammed. We are not comfortable with a commander we've never worked with before. The handover was contingent upon their leadership remaining where it was."

The standoff comes at a time of broad political and military transition in Baghdad. The 3rd Infantry Division will leave the capital later this month, and the Iraqi government is preparing to give way to a new administration following the Dec. 15 elections.

The dispute simmered with little public notice for months, as official statements from U.S. and Iraqi officials depicted a seamless transition underway throughout the country to enable the eventual withdrawal of U.S. forces.

Throughout the handover, in which Iraqi forces have assumed control over dozens of former American bases, a few entire cities and the majority of land in the capital, U.S. officials have emphasized their role as trainers of the new Iraqi army. They defer questions over its deployment and command to the government. But their strong backing of Taha suggests reluctance to relinquish control over details of security, particularly in strategically important parts of the country.

Contacted several times this week, a Defense Ministry spokesman, Maj. Gen. Salih Sarhan, said Taha was likely to be confirmed on a trial basis. But on Tuesday he said the ministry had a different candidate in mind.

Sarhan did not name the person but described him as "an experienced, competent officer, and more senior in terms of rank" than Taha. "The ministry wanted to install a senior officer to be an executive commanding officer with the appropriate rank," Sarhan said.

Taha, 42, a graduate of Iraq's most selective military officer training program and of a top Pakistani military academy, is among the best commanders in the Iraqi army, according to U.S. officers who have worked with him.

In an interview, Taha said the Iraqi brigade to which he was assigned during the U.S. invasion dissolved without fighting. He later went to work for a satellite telephone company in Baghdad, then joined the new U.S.-backed Iraqi army in the summer of 2004.

As a Sunni Arab from Baghdad, he would help diversify the army's top ranks, which are currently dominated by Shiites and Kurds, U.S. officers said. Infusing the military with more Sunni Arabs -- the minority group that led the country under Saddam Hussein and makes up most of Iraq's insurgency -- could improve stability in restive Sunni regions where security forces are mistrusted.

"The military must be a balance between all the Iraqi sides," Taha said. "There is no need for one side to control everything. All Iraqis should be represented."

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Another Defense Ministry spokesman, who spoke on condition of anonymity, said Taha had been a member of Hussein's elite Special Republican Guard and a high-level member of Hussein's Baath Party. Taha denies both claims.

Iraq's army was disbanded soon after the U.S. invasion, and former top officers were initially precluded from rejoining. But Iraq's Defense Ministry has embraced the return of many former commanders, who now make up the bulk of the new officer corps.

Cardon, the 4th Brigade commander, said the Defense Ministry's unnamed candidate is a brigadier general from Kut, a predominantly Shiite city southeast of Baghdad.

"Maybe the guy the government wants is the greatest officer in Iraq, or maybe he is the worst, we don't know," said Capt. Ed Ballanco, 31, of Montvale, N.J., commander of the military training team that is partnered with the Iraqi 5th Brigade. "I do know that Colonel Muhammed is by far and away the most professional officer I have worked with in this country."

Lt. Col. Fred Wellman, a spokesman for the multinational force responsible for training the Iraqi army, said he was surprised that the brigade's official rating had fallen so far based on the prospect of a different commander.

"My concern is we're investing ourselves in a person through personal loyalty, which is good, but that we are not allowing the system to work itself out," he said. "We have asked the Iraqis to take control of their ministry and that is what they are doing."

Cardon said American officials are increasingly concerned that the cohesion and quality of the Iraqi army will suffer because politics or sectarian considerations, rather than merit, determine appointments. Iraq's defense minister, Sadoun Dulaimi, a Sunni Arab and former academic, is widely expected to leave his post when a new government is formed based on last month's elections.

"You watch to see how many brigade commanders change jobs when you have a new defense minister," Cardon said. "It is very dangerous to politicize the leadership like this. The question then becomes, are you loyal to the country or to a political party?"

During the standoff over his appointment, Taha has received threatening phone calls. Cardon said he believes some of them are coming from officers within the Defense Ministry because the callers reached him on his cell phone. "Sometimes those death threats aren't just from insurgents, so I worry about his future," Cardon said.

Taha said he did not know why his appointment has been opposed. "I am the best among the officers and I don't know why they are against me," he said. "I am waiting and whatever God decides is all right."

US Allies In Iraq: Valuable But Dwindling (CSM)

By Mark Sappenfield

The Christian Science Monitor, January 4, 2006

WASHINGTON - As member nations consider another calendar year in Iraq, the Bush administration's "coalition of the willing" appears increasingly unwilling to commit to the cause indefinitely.

Last week, two countries finished withdrawing the last of their troops from Iraq, and two others decided to cut their forces by about a third. In all, the coalition has declined from a 2003 high of 38 nations and 50,000 troops to 28 nations and about 20,000 soldiers today.

In terms of military operations on the ground, the withdrawals mean little, analysts say. Only Britain has a substantial security role, and so far it has remained steadfast. Yet each country's commitment to Iraq - however small - is a significant token to an administration that has long sought global support for the conflict. As such, the continual reshaping of the coalition is more a matter of foreign policy than military power, as Washington takes account of its strongest allies in the war on terror.

"Iraq has been the crucible that has shown us how limited our cold-war alliances were," says Thomas Donnelly, an analyst at the American Enterprise Institute here. "It took us 50 years to build NATO; the challenge we have now is that we've got to come up with something new."

The coalition is perhaps the first sketch of that new security structure, but recent months in particular have altered the face of it. Bulgaria and Ukraine withdrew the last of their roughly 1,200 troops from Iraq last month. Last week, Poland announced it would remove 600 of its 1,500 troops by March, and the South Korean parliament voted to pull out 1,000 of its 3,200 soldiers - with the rest leaving next year.

The news comes as the coalition was already shrinking. Italy will withdraw 300 of its 2,800 troops this month as part of a phased pullout, and other nations - most notably Spain and the Netherlands - have already withdrawn either all or virtually all their troops.

So far, the Pentagon has looked at the fluctuations without great consternation. "We don't set any conditions on coalition members," says Lt. Col. Barry Venable, a spokesman. "Certainly, we'd like more, but we're grateful for what each and every nation feels it can contribute."

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The ambivalence is born of the fact that - with the exception of Britain - coalition nations have not done the heavy lifting of fighting insurgents. "They weren't going to win the war, and if they left tomorrow, they wouldn't lose the war," says Andrew Bacevich, a professor of international relations at Boston University.

Drawing conclusions from who has drawn down their forces and why, however, is difficult. For its part, Italy says its withdrawal is part of a "success strategy." Even the United States has announced plans to cut troop levels, with military leaders saying they see progress in Iraq, so it is hardly surprising that other nations would be eager to do the same.

Yet analysts suggest there are a host of other reasons, as well. In some cases, such as South Korea, relations with the US have soured, giving the country less incentive to stay. In others, such as Spain, voters turned so strongly against the war after the Madrid train bombings that they elected a government that pledged to withdraw from Iraq.

In this context, continued participation in the coalition is an important measuring stick - both for how influential Washington remains, and for who is willing to listen. And the Bush administration has stressed how much it values any help. The president stopped in Mongolia in November to thank the country for its 130 soldiers.

Indeed, among the limited contributions of coalition nations, some have a significance beyond numbers. Poland has become a major power broker for the US in Europe, and its decision last week to keep some troops in Iraq - it had previously planned to withdraw them all - was seen as a US foreign-policy victory. Moreover, Iraq marks the first time that Japan has deployed troops to a war zone since World War II. Though the troops are there on a humanitarian mission, the US has encouraged Japanese military participation as it seeks a counterweight to China and South Korea.

"It marks a huge threshold for Japanese domestic political opinion," says Mr. Donnelly. "Japan used Iraq to rethink its whole approach to the use of military force."

From the beginning, however, international support for the war in Iraq has been thin - even among coalition members - and it has become only more so. The US also did most of the heavy lifting during the first Gulf War, but then it had a huge array of allies to help pay the cost. Though the lessons of this war are tied to its uncertain outcome, they have pointed to the limits of a limited coalition.

"What we need if we intend to have this global war on terror include some additional military campaigns is substantive military participation by allies and money," says Dr. Bacevich. "A coalition matters to the degree that it brings something substantive to the table."

Iraqi V.P. Says No New Gov't Until April (AP)

By Patrick Quinn

The Associated Press, January 4, 2006

BAGHDAD, Iraq — Vice President Adil Abdul-Mahdi, a leading Shiite candidate to become the next prime minister, said Tuesday that Iraq may not have a new government until April if political and sectarian groups cannot set aside their differences.

A broad-based coalition government including Shiites, Kurds and Sunni Arabs is the only way to defeat the insurgency, Abdul-Mahdi told The Associated Press in an interview at his home along the banks of the slowly flowing Tigris River.

"The future government, I think, will be a national unity government. This is a must. It is not something that only the results of the elections can decide. It is a political necessity, and all parties agree on that," Abdul-Mahdi said, wearing a tan suit as he sat on an ornate chair in a functional but bare reception area in the heavily guarded single-story stone house.

The 63-year-old former exile's remarks reflect the desire of many Shiites, especially politically moderate Islamists, to make the government more inclusive and representative in an effort to stop the daily bloodshed that ravages Iraq.

Abdul-Mahdi, who served as finance minister in Iraq's first interim government, said the country's political parties have to show flexibility if they want to form a government quickly.

"If we are flexible with our requests, then we can see a government in a very short period. But if we are reluctant, rigid, then this might take a while, maybe two months, three months," he said. "We are hoping that all parties will be flexible and they will be moderate in their requests, practical in seeing things, looking at the future and not sticking to their pasts or the present."

There were indications that three main parties to emerge from the Dec. 15 parliamentary elections — the Shiite United Iraqi Alliance, the Sunni Arab Iraqi Accordance Front and the Kurdish coalition — were making significant headway in forming a coalition government ahead of the release of final results.

Leaders of the Accordance Front agreed Monday for the first time on the broad outlines for such a government during an unprecedented trip north to the Kurds.

Abdul-Mahdi said "theoretically we are very close" to forming a government, but it could take some time before final results are certified.

Some smaller Sunni Arab groups and secular parties are claiming widespread election fraud and have threatened to boycott the 275-member parliament if the elections are not rerun in some provinces including Baghdad.

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Although the United Nations has endorsed the elections as credible, those groups want an international assessment team to inspect about 1,500 complaints thoroughly. The team began its work on Monday.

Final results were to be released this week, but election officials said Tuesday they may take two weeks.

Abdul-Mahdi said the process could last longer.

"They will not be announced until next week. Then there will be a period of verification and ratification," he said. If there are appeals, "then it will take another two weeks."

But Abdul-Mahdi said the real delays in forming a new government could appear when "we come to the real discussion of posts and key posts."

One key post, that of prime minister, could go to the soft-spoken Abdul-Mahdi, the son of a respected Shiite cleric who was a Cabinet minister in Iraq's monarchy.

Trained as an economist, he left Iraq in 1969 for exile in France after being arrested, tortured, and jailed by the Baath party. In his youth, Abdul-Mahdi dabbled with Baathism and Maoism before adopting the Islamic-style democracy he now favors.

Abdul-Mahdi is currently a leading member of the powerful Shiite Supreme Council for the Islamic Revolution in Iraq, one of two major Islamic groups making up the United Iraqi Alliance, the religious Shiite political organization that dominates Iraq.

The other candidate for the country's top job to emerge from the governing Shiite alliance is the incumbent, Prime Minister Ibrahim al-Jaafari, head of the conservative Islamic Dawa party. Al-Jaafari's popularity, however, has apparently suffered because of his government's inability to stave off the insurgents and bolster the economy of a country with the world's third-largest proven oil reserves.

Abdul-Mahdi said he would actively campaign for the post.

That marks a change from after the Jan. 30 elections, when he reportedly took himself out of the running in favor of al-Jaafari, who was said to have the backing of Iraq's most prominent cleric, the powerful Grand Ayatollah Ali al-Sistani.

This time, however, al-Sistani has not yet anointed a favorite.

"There is no intention of withdrawing," Abdul-Mahdi said. "On the contrary there is an insistence on this matter. I believe that this is the right thing to."

Preliminary results from last month's elections show the Shiite religious group expected to take nearly half the seats in parliament — or about 130, well short of the 184 needed to avoid a coalition government.

The Kurds could win about 55 seats, Sunni Arab groups about 50, while a secular group headed by former Prime Minister Ayad Allawi is expected to receive about 25.

Abdul-Mahdi said a broad-based government would have enough legitimacy to deflate the Sunni-led insurgency and eventually lead to the withdrawal of U.S.-led coalition forces. He did not give a timeline for such a withdrawal.

"We always thought that the final solution was a political one, not a military one," he said. "We are progressing on this front, the political front, and all the efforts we are doing on security issues, improving our armed forces, our security institutions, we are preparing all the conditions for the withdrawal of the multinational forces."

Iraq Leaders Set Sights On Unity Government (REU)

By Shamal Aqrawi

Reuters, January 4, 2006

ARBIL, Iraq (Reuters) - Iraqi leaders have agreed to press on with efforts to form a national unity government after the latest round of talks on Tuesday hosted by Kurdish officials in their northern stronghold.

Negotiations on how exactly to share posts among the rival ethnic and sectarian factions will convene in the coming days in Baghdad, Kurdish regional president Masoud Barzani said after he and Iraq's Kurdish interim president Jalal Talabani met minority Sunni Arab leaders from the Iraqi Accordance Front.

"We have agreed on a national unity government," Barzani told a news conference in the Kurdish capital Arbil. "The negotiations will continue in Baghdad among all the parties."

The discussions have been held despite Sunni protests that the results of the December 15 election were rigged -- a claim that has prompted electoral officials to invite a team of foreign experts who are arriving this week to review the process.

One election official said on Tuesday, however, that he expected to see final results published in the coming days which, despite some annulments for irregularities, will confirm the dominance of the Shi'ite Islamist Alliance despite strong turnout by Sunnis who boycotted the previous election in January.

"We are going to cancel between 50 to 70 ballot boxes out of around 31,000 from across Iraq," Commissioner Adel al-Lamy said.

"The overall results will not be affected by the cancellation. It will not affect the results in one city let alone affect the results of any province," Lamy told Reuters.

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Electoral officials in Iraq gave differing accounts of whether at least some of the four unnamed observers, two Arabs, a Canadian and a European, had begun work.

Though some Sunni Arab leaders say they will protest and reject talks on government roles unless the foreign monitors uphold their claims of fraud, the United Nations has already called the election largely fair and other Sunni politicians are staking their claims to a share of power in negotiations.

AIR STRIKE

Among grievances within the Sunni community dominant under Saddam Hussein are the activities of U.S. troops in their home areas of the north and west. In the latest friction, political leaders and the local police voiced outrage at a U.S. air strike on a house in the northern town of Baiji that killed six people.

In other violence, police said a sister of Interior Minister Bayan Jabor was kidnapped in Baghdad; aides to Jabor, a hate figure for Sunni rebels, said they were unaware of the incident.

The U.S. military said aircraft bombed the building in the oil refining town of Baiji late on Monday when three men were spotted from the air going into the house after digging a hole that troops suspected was for a roadside bomb.

Baiji police said six people were killed and three wounded when the house was obliterated. Among the casualties were two police officers, one killed, the other wounded, they added. The youngest casualty was 14, the local police chief said.

"I absolutely confirm there were no terrorists in this house," Baiji police chief Colonel Sufyan Mustafa told Reuters.

"Even if there had been, why didn't they surround the area and detain the terrorists instead?"

DIGGING ROAD

A statement issued by the U.S. 101st Airborne Division said soldiers monitoring film from a reconnaissance drone spotted three men digging a hole by a road around 9 p.m. (1800 GMT).

Pilots were alerted, the military said: "The individuals... were followed from the air to a nearby building. Coalition forces employed precision-guided munitions on the structure."

The military gave no casualty figures.

Asked whether a bomb -- an improvised explosive device or IED, in military jargon -- had been found in the road and what measures were taken to determine who was in the house before the attack, spokesman Lieutenant Colonel Ed Loomis said he could not detail tactics but said : "Digging in the road surface in the hours of darkness are the actions of someone emplacing an IED."

Lieutenant Colonel Barry Johnson, national spokesman for U.S. forces, said: "Insurgent activity was confirmed through multiple sources, to include previous intelligence and direct observation at the time of the air strike ... "We are working closely with Iraqi security forces ... to determine precisely what happened and any unintended casualties resulting from our targeting of insurgent activity."

A local official of the biggest Sunni Arab political group, the Iraqi Islamic Party, called for demonstrations.

Hussein al-Falluji, a leader of the Accordance Front, said: "Once again the occupiers have shown their barbarism."

Last week, the military said an air strike killed 10 people near the nearby town of Hawija after pilots tracked men who had been spotted digging by a roadside.

U.S. forces have used air power increasingly of late.

Official data show the average in the last quarter of 2005 was 54 strikes per month, compared with five strikes per month in the first quarter; the recent rate was comparable to the 56 per month seen in the second half of 2004 when troops fought a Shi'ite uprising and stormed the Sunni city of Falluja.

The U.S. government says it will start withdrawing its 160,000 ground troops from Iraq as Iraqi forces become more able to combat revolt against the Baghdad authorities. But analysts expect U.S. air power to remain a key factor in the conflict.

Women Face Enormous Obstacles In Iraqi Politics (KRT)

By Huda Ahmed

Knight Ridder, January 4, 2006

BAGHDAD, Iraq - Maha al Douri took a radical stance when she decided to run for a seat in the Iraqi Parliament in December: The 36-year-old candidate on a minor Shiite Muslim slate put her face on campaign posters - and succeeded in raising eyebrows around the country.

"I got threats," said al Douri. "I am the first (female) candidate to talk about women's rights. The political parties list women as candidates, but they want to waste the woman's voice. Where is the secularity and democracy we hear about? Are they only slogans?"

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She's hardly alone in wondering what the future holds for women seeking political power in Iraq. Al Douri, who studied politics and journalism for a doctoral degree, notes that any woman getting involved must be brave enough to risk enormous social pressure and to face tremendous practical obstacles.

The official line from the government and many politicians is that women are welcome to participate. The constitution, which voters ratified in October, even guarantees women equal rights in society and a quarter of the seats in Parliament.

"We seek a real role for women, not a marginal one," said Haider al Abadi, a prominent member of Iraq's largest political coalition, the United Iraqi Alliance, a Shiite group. "Society has now accepted women in the political field. ... We are keen for women to hold leading positions in the government."

During Saddam Hussein's 25-year reign, women did have a few opportunities to play important roles in government or elsewhere in society, but only as long as they complied with Saddam's demands to serve him and the ruling Baath party. Women had the right to vote, for instance, but like all Iraqis could vote only for Saddam.

Yet for all the talk of shedding a history of female repression and establishing a nation in which a woman's voice matters as much as a man's, signs that the government is becoming more Islamist worry champions of women's rights.

Proponents of Islam in government note that the religion explicitly values women, including by cherishing their contributions to family, home and society. Yet others fear that a conservative Islamic government would bar women from voting, moving or even studying independently of their fathers, husbands or brothers.

Already there have been numerous reports of husbands casting votes in their wives' names and of fathers voting for their daughters. Before October's constitutional referendum, in conservative areas campaign posters showing a woman's face - symbolizing the face of a new Iraq - were ripped from walls or painted over and denounced as shameful.

In the December parliamentary elections, security concerns prompted candidate Huda al Nu'aimi to decide at the last minute not to display any of her campaign posters, including those featuring her face. Like other female candidates, some of whom were even afraid to appear in public, al Nu'aimi feared that she'd be a target.

"I did not dare to be pursued by militias or organized criminal groups. I did not want my posters to be torn or covered in bad words," said al Nu'aimi, a candidate of the Iraqi National Dialogue Front, a major secular Sunni Muslim slate. "Here, the man is still the master."

Like many Iraqis who are worried about the direction their nation will take, Aseel Ayad wants women to have a stronger role in politics. The 23-year-old, who works in her family's Baghdad optical shop, thinks it's important that the new government's promises of gender equality - the right to work, vote and participate fully in society - don't vanish.

"As a woman, I feel I need women in office to help me achieve my goals," she said. "So far we have seen nothing in the past elections. Women have been represented in the slates, but only to fill a space, and they haven't been valued."

While some political groups did just that, others sought to fill the spaces on their slates that were constitutionally reserved for women with bona fide candidates, said Hussein al Musawi of the Sun of Iraq, the minor Shiite slate that included al Douri. It will take time for Iraq to embrace a political system that's open to women and for women to seize the opportunity, he said.

"This is a golden chance for women," al Musawi said. "They must exploit it in the best way they can and improve their role in society in these years, so in the next round of elections women will be able to raise their percentage" in Parliament.

Not everyone is eager for women's rights to top the government's agenda.

Mays Hussam, 34, an office manager in Baghdad, said the nation had more pressing issues, including the epidemic violence that kills Iraqis daily and the chronic electricity shortage. Only after Iraq's basic needs are met should the government take on more, she said.

"I don't want something for my gender," she said. "All I care about now is security and a healthy environment for my son. Once we're safer, I hope women will defend our rights."

Political analyst Hazim Ali of Jadriyah University said that security fears, however, weren't necessarily driving the movements to exclude women from politics. Some extremist clerics may be taking advantage of troubled times to keep women in traditional roles, he said.

"Politics here is a male thing," Ali said. "I consider it two-faced: We say we accept women's role in politics, but we do not believe in them."

Azhar al Sheikhli, the minister for women's affairs, said that too often women were regarded as simple-minded, unable to handle the rough-and-tumble political world. Strong laws are needed to guarantee women's rights, and new generations must be taught that women have much to give to Iraq, she said.

"The heads of our political lists realize they don't need women at the top of their lists to succeed, so they figure, `Why risk it?'" she said. "We hope that will change with time."

Results Of Iraq Elections Not Likely For 2 Weeks (USAT)

USA Today, January 4, 2006

BAGHDAD — An international team began reviewing the hundreds of complaints filed over Iraq's parliamentary elections, and an Iraqi elections official said Tuesday that results might not be ready for two more weeks.

U.S. aircraft, meanwhile, bombed a building where suspected insurgents were hiding north of Baghdad, killing seven people, Iraqi police said.

In the capital, the sister of Iraqi Interior Minister Bayan Jabr was kidnapped by gunmen who killed one of her bodyguards and seriously wounded another, said Adnan Thabet, commander of the Interior Ministry's special forces.

The Independent Electoral Commission of Iraq has completed its investigation of almost 2,000 election complaints and will announce the findings today, commission member Hussein Hindawi said.

However, the commission won't announce final election results until an international team finishes its work, meaning they might not be ready for two weeks, commission member Safwat Rashid said. Officials previously said final results of the Dec. 15 vote would be announced in early January.

The commission investigated 1,980 complaints, including 50 that were considered serious enough to alter results in some districts.

The international team, which began its work Monday, agreed to review Iraq's elections after protests by Sunni Arab and secular Shiite groups that the polls were tainted with fraud.

Preliminary results give the governing Shiite religious bloc, the United Iraqi Alliance, a big lead, but one that would still require forming a coalition with other groups.

U.S. aircraft bombed a house late Monday inBeiji, site of Iraq's largest oil refinery, killing seven people and wounding four, Iraqi police Capt. Arkan Jassim said. The U.S. military said an unmanned aircraft spotted three men planting a roadside bomb in the city 155 miles north of Baghdad, and that Navy F-14s bombed a nearby building the three had entered. In other violence, eight people were killed Tuesday in three attacks in Baghdad.

Gunmen attacked a car carrying construction workers in a western neighborhood, killing three, police Capt. Qasim Hussein said. Another car carrying civilians was fired on in the same area, killing two people, police 1st Lt. Thair Mahmoud said. Three civilians elsewhere in Baghdad were shot to death, police said.

International Team Probes Complaints About Vote (WT/AP)

By Jason Straziuso

The Washington Times, January 4, 2006

BAGHDAD -- An international team began reviewing the hundreds of complaints filed about Iraq's parliamentary elections, and an Iraqi elections official said yesterday that results might not be ready for two weeks.

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U.S. aircraft, meanwhile, bombed a building where suspected insurgents were hiding north of Baghdad, killing seven persons, Iraqi police said.

The Independent Electoral Commission of Iraq has completed an investigation of almost 2,000 election complaints and will announce the findings today, said commission member Hussein Hindawi.

But the commission won't announce the final election results until an international team finishes its work, meaning they might not be ready for two weeks, said commission member Safwat Rashid. Officials previously said the final results of the Dec. 15 vote would be announced early this month.

The commission investigated 1,980 complaints, including 50 considered serious enough to alter results in some districts, an election official said.

The international team, which began its work Monday, agreed to review Iraq's elections after protests by Sunni Arab and secular Shi'ite groups that the voting was tainted by fraud.

Preliminary results give the governing Shi'ite religious bloc, the United Iraqi Alliance, a big lead, but one that still would require forming a coalition.

Interior Minister Bayan Jabr's sister was kidnapped in northeastern Baghdad, said Adnan Thabet, commander of the Interior Ministry's special forces. He did not provide details about the abduction or the minister's sister -- including her name or age.

Mr. Jabr is a member of the Supreme Council for Islamic Revolution in Iraq -- the country's largest Shi'ite party, also known as SCIRI. He was formerly a senior official of the Badr Brigade, a militia that belongs to SCIRI.

Mr. Jabr has in recent weeks been the focus of criticism regarding charges of torture and abuse at Interior Ministry prisons. Many of those abused were Sunnis, the group thought to sponsor the insurgency.

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U.S. aircraft bombed a house late Monday in Beiji, site of Iraq's largest oil refinery, killing seven persons and wounding four, said Iraqi police Capt. Arkan Jassim. The U.S. military said an unmanned aircraft spotted three men planting a roadside bomb in the city, which is 155 miles north of Baghdad, and that Navy F-14s bombed a nearby building the three had entered.

But police in Beiji told Reuters news agency that the victims were innocent family members, the youngest being 14, and that they included two police officers, one of whom was killed.

"I absolutely confirm there were no terrorists in this house," police chief Col. Sufyan Mustafa told Reuters.

Fraud Probe Continues Into Iraq Poll Results (FT)

By Steve Negus, Iraq Correspondent

Financial Times, January 4, 2006

Final results for Iraq's December 15 elections may not be ready for another two weeks, Iraqi officials said on Tuesday, but politicians continued to hold talks on forming a national unity government to include all major ethnic and sectarian groups.

Officials from Iraq's independent electoral commission (IECI) say that the more than 2,000 complaints filed have already been investigated, but time was needed for a team from a Canada-based elections mission to check the violations-detection process.

The IECI had originally forecast that results might be available early this month, but Sunni Arab and secularists alleged widespread fraud and voter intimidation by Shia Islamists and demanded that international observers be brought in to check the results.

Consequently, last week the IECI invited the International Mission for Iraqi Elections (IMIE), a group set up in 2004 to monitor the country's political process, to send a team to Baghdad to review elections procedures.

Sunni leaders have welcomed the participation of the IMIE mission, which includes two Arab League representatives, a Canadian and a European. The mission started work on Monday.

The IECI for its part has said that in the next few days it will announce the cancellation of results in polling stations where major fraud had occurred.

Any cancellations, however, are not expected to change dramatically the outcome of an election where the Shia Islamist-led United Iraqi Alliance (UIA) is expected to secure between 120 and 130 seats in the 275-member parliament, compared to around 50 won by a Kurdish coalition and 40 gained by the main Sunni group.

Despite an outcome that would require the UIA to ally with only one major faction to create the two-thirds majority it needs to form a government, most mainstream Iraqi politicians have agreed that Iraq should have a national unity government to overcome ethnic and sectarian divides.

To this end, President Jalal Talabani and other Kurdish politicians have hosted meetings in their northern self-rule zone, which have been attended by the largest Sunni movement, the Islamist-leaning Iraqi Consensus Front.

On Tuesday, Front leader Adnan al-Dulaimi was quoted as saying that there was an "agreement to form a balanced Iraqi government by consensus and co-operation and away from any sectarian affairs".

Other groups, however, have denounced the Front for breaking ranks with Sunnis and secularists who rejected the election results, leaving open the possibility that some Sunnis will continue to contest the legitimacy of the elections even as others participate in the government.

Discussions in the north also focused on who among the UAI might head the government, with a statement from Mr Talabani's office on Monday saying that the president had no objection to Ibrahim al-Jaafari of the Shia Islamist al-Daawa retaining his post as prime minister.

Many Kurds were thought to be disappointed with Mr Jaafari's performance and to prefer Adel Abd al-Mahdi, vice-president, from the Supreme Council for Islamic Revolution in Iraq (Sciri), a rival Shia Islamist party.

If Mr Jaafari's al-Daawa retains the premiership, then Sciri may insist on keeping control of the interior ministry – an arrangement likely to infuriate many Sunnis, who argue that the current Sciri interior minister has tolerated the mass detention and assassination of their co-religionists.

U.S. Strike On Home Kills 9 In Family, Iraqi Officials Say (NYT)

By Richard A. Oppel Jr. And Omar Al-neami

The New York Times, January 4, 2006

BAGHDAD, Iraq, Jan. 3 - American F-14 warplanes killed nine members of an Iraqi family, including women and young children, during a bombing and cannon strike on Monday night that obliterated a home near the northern industrial city of Baiji, Iraqi officials said Tuesday.

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American officials said the warplanes had been pursuing insurgents who had been observed setting up a roadside bomb. They fled to a building, and the American planes struck the building and destroyed it.

The attack enraged Iraqi officials in Baiji, about 150 miles north of Baghdad, who said that the airstrike was unjustified and that it had destroyed an innocent family.

A preliminary investigation indicated the blast had killed the wife of the home's owner, his daughter-in-law and seven children and grandchildren, including one son who worked for the police, said Maj. Muthanna al-Qaisi, a spokesman for the governor of Salahaddin Province. Three more relatives were wounded, he said.

"The owner of the house is a very simple man," Major Qaisi said. "The American forces did not provide us with any justification for the attack, and the governor requires an investigation concerning this attack." He said the governor would meet with American officials on Wednesday to demand an explanation. The home, behind a mosque, was demolished in the 10:30 p.m. attack, he said.

Agence France-Presse in Baiji reported that eight bodies had been pulled from the rubble along with three survivors - two unconscious women and an 8-year-old boy whose cry for help alerted rescuers. Agence France-Presse quoted the owner of the home, Ghadban Hassan, as saying he was at a store 100 yards away when the bombs struck. He said 14 family members had been inside.

A Baiji police colonel, Sufyan Mustafa, told Reuters that the family members killed in the bombing did not include any suspected insurgents. "There were no terrorists in this house," he said.

American military officials said the airstrike came after a pilotless reconnaissance aircraft detected three men planting a roadside bomb about 9 p.m. The men "dug a hole following the common pattern of roadside bomb emplacement," the military said in a statement. "The individuals were assessed as posing a threat to Iraqi civilians and coalition forces, and the location of the three men was relayed to close air support pilots."

The men were tracked from the road site to a building nearby, which was then bombed with "precision guided munitions," the military said. The statement did not say whether a roadside bomb was later found at the site. An additional military statement said Navy F-14's had "strafed the target with 100 cannon rounds" and dropped one bomb.

American officials said they were working to confirm how many causalities were involved and who was killed. "We're now trying to determine in coordination with Iraqi security forces in the area exactly what casualties occurred, and why they occurred," said Lt. Col. Barry Johnson, a military spokesman.

In Baghdad on Tuesday afternoon, gunmen kidnapped the sister of the interior minister, Bayan Jabr, the Iraqi police said. Mr. Jabr is a highly polarizing figure, accused by Sunni Arabs of orchestrating widespread assassinations of Sunnis. Mr. Jabr has denied that, but American soldiers raided jails under his control last year and found Sunnis with clear signs of abuse.

North of the capital in Baquba, a suicide car bomber attacked a bus filled with police officers on Tuesday, killing three and wounding 14 more, the American military said.

The Kurdish leader Massoud Barzani said further talks aimed at forming a unity government would continue with discussions on how to spread government posts around to the main sectarian and ethnic blocs, Reuters reported. The main Sunni Arab political party agreed with the Kurds on Monday to drop objections to the validity of the parliamentary election on Dec. 15 and work toward forming a coalition government.

Officials from the Iraqi election commission said it could take another week or two before final certified results are released. An international team of election monitors is evaluating complaints that Sunni Arabs and some other groups were disenfranchised. Iraqi election officials and United Nations observers have rejected calls for new elections.

In an interview on Tuesday, the head of the Iraqi election commission, Adel al-Lami, said no more than 50 to 70 ballot boxes - of 31,000 - would be canceled because of findings of fraud.

Dozens Feared Dead In Indonesia Landslide (AP)

By Irwan Firdaus

The Associated Press, January 4, 2006

JAKARTA, Indonesia -- Landslides triggered by heavy rains swept down on a village on Indonesia's Java island at dawn Wednesday, burying homes beneath tons of mud and leaving dozens of people missing and feared dead, officials said.

Most residents of Cijeruk, a village of about 200 people, were at home sleeping or performing early morning Muslim prayers when the landslide tumbled down from a nearby mountain, local government official Supriyanto told The Associated Press.

Budi Warityo, a police officer at the village in central Java, told The AP that so far only 12 people had been rescued and one body had been recovered, but that many of the remaining 200 people were missing and believed killed.

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"The rest of the villagers are feared to be buried under the mud," he said by telephone from the scene, about 130 miles east of Jakarta.

Meanwhile on the east of Java, rescuers tried to find survivors from a series of landslides and flash floods that killed at least 57 people and left dozens other missing earlier this week, officials said.

The mud and water destroyed bridges and roads in the already isolated area in Jember district, cutting of at least two villages two days after the disaster, el-Shinta radio reported.

Heavy tropical downpours cause dozens of landslides and flash floods each year in Indonesia, where millions of people live in mountainous regions and near fertile flood plains close to rivers.

U.S. Raid Kills Family North Of Baghdad (WP)

By Ellen Knickmeyer And Salih Saif Aldin

The Washington Post, January 4, 2006

BAGHDAD, Jan. 3 -- U.S. pilots targeting a house where they believed insurgents had taken shelter killed a family of 12, Iraqi officials said Tuesday. The dead included women and children whose bodies were recovered in the nightclothes and blankets in which they had apparently been sleeping.

A Washington Post special correspondent watched as the corpses of three women and three boys who appeared to be younger than 10 were removed Tuesday from the house outside the town of Baiji, 150 miles north of Baghdad.

A U.S. military spokesman said that American forces take every precaution to prevent civilian casualties and that they were working with Iraqi authorities to determine what happened at the farmhouse in Baiji. "We continue to see terrorists and insurgents using civilians in an attempt to shield themselves," Lt. Col. Barry Johnson, a military spokesman, said in an e-mail.

The Associated Press Television News showed footage of men carrying several bodies wrapped in carpets from the wreckage of the house. The men chanted ritual prayers: "There is no god but God."

The United States has steadily intensified its use of airstrikes against insurgents in Iraq in the past year, increasing the number of attacks from 25 in January 2005 to 120 in November.

The U.S. military says that it does not count civilian deaths from American attacks and that investigating deaths caused by any one strike is often impractical in dangerous areas. But some analysts say the U.S. military should make a systematic effort, both to test the reliability of its intelligence and to better learn how to reduce civilian casualties.

On Tuesday, Johnson said the U.S. military was trying to do that with the Baiji attack. "We are determining the facts in this particular case so we will know exactly how civilians may have been drawn into the air strike that was deemed necessary by our forces fighting insurgents on the ground," Johnson said in the e-mail.

Johnson deferred comment on civilian casualties in the strike to Iraqi officials.

U.S. forces had received the information leading to the attack from multiple sources, including existing intelligence and direct observation at the time of the strike, Johnson said in the e-mail.

A U.S. military statement said that an unmanned U.S. drone detected three men digging a hole in a road in the area. Insurgents regularly bury bombs along roads in the area to target U.S. or Iraqi convoys. The three men were tracked to a building, which U.S. forces then hit with precision-guided munitions, the statement said.

Maj. Abdul Jabbar Kaissi, a security officer in Salahuddin province, said the airstrike killed the 12-member family of his relative, Ghadban Nahi Kaissi, who is also a relative of Salahuddin Gov. Ahmad Mahmud Kaissi.

Officials said six surrounding houses were damaged and two residents in the area were wounded seriously enough to require treatment. Officials and other people at the scene said there had been no insurgents in the house targeted.

As American forces cordoned off the site Tuesday morning, the Post special correspondent witnessed emergency workers carrying out the bodies of the three boys on the thin mattresses where they had been found. Search crews used blankets to wrap up the bodies.

Emergency workers also retrieved the bodies of three women -- a bloodied older woman whose head was wrapped in a black veil and two younger women whose hair was uncovered and who were dressed for bed. The head of one of the two young women was crushed.

"I would certainly think that if they believe they had strong intelligence about enemy activity they would want to confirm that they had killed their intended targets and want to understand if they had killed or injured innocent people inadvertently," said Sarah Sewall, who was deputy assistant secretary of defense for peacekeeping and humanitarian aid during the Clinton administration. She is now program director at Harvard University's Carr Center for Human Rights Policy.

Separately Tuesday, top Iraqi police officials in the southern city of Basra said an Iranian citizen was among three men detained in a raid Sunday that uncovered a large amount of arms and explosives. One of the officials said some of the seized ordnance had markings showing it had been made in Iran. The raid was in Nashwa, east of Basra, near the Iran-Iraq border.

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The ordnance included 235 sticks of dynamite, as well as artillery and mortar shells and antitank mines, officials said.

U.S. Ambassador Zalmay Khalilzad recently warned Iran against sending weapons into Iraq. A top U.S. military official, who spoke on condition that he not be identified further, had said repeatedly that weapons and guerrillas were entering Iraq from Iran.

Specific accounts of such smuggling seldom emerge. Police and officials in southern areas bordering Iran, and in the Interior Ministry in Baghdad, are predominantly Shiites. Many are members of religious political parties with links to Iran, a Shiite theocracy.

In northern Iraq, meanwhile, Kurdish regional leader Massoud Barzani held post-election talks with Sunni Arab leaders, telling reporters after the meeting that "we have agreed on a national unity government." Negotiations on the makeup of a coalition government will continue in Baghdad, Barzani said.

In Baghdad, however, spokesmen in the Shiite religious alliance that early results show netted the biggest share of votes in last month's elections said the alliance would accept only coalition partners that favored federalism and strong measures against members of the Baath Party that ruled Iraq under Saddam Hussein.

The measures would be antithetical to most prospective Sunni coalition partners, however. Their members come from the Sunni minority that lost power with the overthrow of Hussein's government.

Also in Baghdad Tuesday, police said a sister of Interior Minister Bayan Jabr, a Shiite, had been kidnapped, but Jabr's political party denied the abduction had occurred. Parts of central Baghdad were locked down as police searched for the woman.

Cautiously, Iraqis Open For Business (CSM)

By Charles Levinson

The Christian Science Monitor, January 4, 2006

BAGHDAD - On a crisp winter afternoon in Baghdad's well-to-do Jadiriya neighborhood, families, young couples, and students from nearby Baghdad University crowd the tables outside the Hassan Ice Cream Shop.

A decade ago, when international sanctions meant sugar - among other commodities - was in short supply, ice cream shops such as the one Mohammed Hassan opened last April were illegal. Now, Iraqis are eagerly consuming what was once forbidden, and Mr. Hassan is raking in profits.

"I'm succeeding because I've filled a hole in the market," says Hassan. "I'm giving Iraqi families ice cream and a safe place to spend their free time."

Hassan's is one of the 24,000 new businesses that the Iraqi Ministry of Trade says have opened since the fall of Saddam Hussein in April 2003 and to which US officials point to support their claims that the Iraqi economy, despite ongoing security woes, is recovering.

"I think ordinary Iraqis have picked up on the sense that the economy looks better," says Thomas Delare, the counselor for economic affairs at the US Embassy in Baghdad.

The success of Hassan's parlor, in a large part, is due to location. It sits in a well-guarded neighborhood, just blocks away from the home of Iraqi president Jalal Talabani. Iraqi police stand on nearly every corner. And whereas most of Baghdad receives a few hours of electricity each day, here the lights (and ice cream freezers) rarely go out.

Elsewhere, new businesses aren't faring so well. Economists at the Baghdad Economic Forum say that as many as 90 percent of the 24,000 new businesses are idle, unable to secure the work, raw materials, and startup money to get off the ground. Security problems, unreliable electricity, and lack of finance are hobbling small businesses, analysts and local businessmen say. Dangerous roads, cheap imports

Not far from Hassan's ice cream parlor, Nour Ali Haider sits behind the counter of his leather jacket store. He is the sort of self-made entrepreneur the US would like to see blossom in Iraq's nascent free market economy. In 1989, fed up with his three-dollar-a-month job in a state-owned leather factory, Mr. Haider bought a dozen leather jackets and began hawking them from a street corner. Now he owns his own store and, until recently, business was thriving.

"Before the fall of Saddam I wouldn't have been able to talk [to journalists] because I'd have been so busy," he says. "Now I can sit here and talk and drink tea with you all evening."

His is one of dozens of leather goods stores along this heavily traveled boulevard. Buyers once came from all over Iraq and neighboring Jordan and Syria to buy inexpensive Iraqi-made leather coats here. But since car bombs, kidnappings, and assassinations have become a daily ordeal for ordinary Iraqis, business has all but disappeared. Two car bombs exploded just blocks away from his store last week.

Earlier this year, struggling to feed his wife and three kids, Haider tried his hand at another trade. He started a new business selling generators, a hot commodity in electricity-starved Iraq, but it proved to be a losing venture.

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"The generators I was selling were coming from China, and most of them were broken," he says. "And by the time I got into the market everybody already had generators. I lost $2,500."

Cheap imports from China and elsewhere are a sore subject for many small businessmen here. In 2003, the US-led Coalition Provisional Authority (CPA) enacted a series of economic policies to rapidly liberalize the economy. They slashed tariffs on all but a handful of goods. Inexpensive wares began pouring in, leaving Iraqi producers struggling to compete.

"Everything is being imported from outside the country with no taxes, tariffs, or any kind of planning," complains Shaalan al-Shazar, the head of Ro'a al Muhager, an eight-person engineering firm that designs machines for small Iraqi factories. "This has led to the deterioration of Iraqi industry, and now I have no work."

As an engineer, Mr. Shazar should be well placed to benefit from the $21 billion that the US is spending to rebuild Iraq. But he hasn't seen a penny. Thanks to rampant corruption, he says, only foreign companies and well- connected Iraqis get contracts.

"Who is getting these contracts?" wonders Shazar. "I don't know. Friends of translators for the US, friends of the [US] Army. I never see any of these projects advertised in the newspapers."

Owners of small Iraqi construction firms echo such sentiments. Like the abolition of tariffs, they say it's another legacy of the economic policies enacted by the CPA. In this case, the concerned law is the CPA's controversial Article 39, an investment law that gave foreign companies unfettered access to Iraq, effectively freezing many local companies out of the rebuilding effort.
Risks of doing business in Iraq

But even if Shazar could get those contracts, he says it's just too dangerous to work with the Americans. "It's not that I don't want to work with the Americans, but I'm afraid."

Shazar has a centrally located office in downtown Baghdad. It was once just a 30-minute commute to get home each evening to his wife and six daughters on the city's western edge. Now, due to checkpoints and road blocks, the drive takes up to two hours. The commute has become too dangerous, so he's boarded up the office and works from home - secretly.

"My business is hidden inside my home now," he says. "There are no advertisements or signs outside. There are many insurgents in my neighborhood and if they knew that I'm a businessman and they think I have money, they will rob me or kidnap my daughter."

Now, the hope for many of Iraq's small businessmen, and indeed for the economy as a whole, is that last month's vote will herald an inclusive government that will help take the steam out of the insurgency.

"Domestic entrepreneurs and foreign investors have all been waiting for stability, predictability, and greater security," says Mr. Delare of the US Embassy. "The election doesn't guarantee any of those things, but it offers the promise that now we can put them in place."

CIA Enlisted Aid Of Iraqis In U.S. (WT)

The Washington Times, January 4, 2006

From combined dispatches

A new book on the government's secret anti-terrorism operations describes how the CIA recruited an Iraqi-American anesthesiologist in 2002 to obtain information from her brother, who was a figure in Iraqi dictator Saddam Hussein's nuclear program.

Dr. Sawsan Alhaddad of Cleveland made the trip to Iraq on the CIA's behalf. The book said her brother was stunned by her questions about the nuclear program because he said it had been dead for a decade.

New York Times reporter James Risen uses the anecdote to illustrate how the CIA ignored information that Iraq no longer had weapons of mass destruction. His book "State of War: The Secret History of the CIA and the Bush Administration" describes secret operations under the Bush administration's war on terrorism.

The major revelation in "State of War" has been the subject of extensive reporting by Mr. Risen's newspaper: The National Security Agency's eavesdropping of Americans' conversations without obtaining warrants from a special court.

The timing of the Times story and Mr. Risen's book publication have come into question as the newspaper held the story for a year after the White House expressed concerns that it could jeopardize national security.

The newspaper published the eavesdropping story on Dec. 16, the day the Senate debated whether to renew key elements of the anti-terror USA Patriot Act. Renewal efforts failed to gain enough Senate support, forcing the Bush administration to settle for a temporary extension until Feb. 3.

The Times story, co-written by Eric Lichtblau, has prompted the Department of Justice to investigate the sources of the national security leak.

A Time magazine article says Mr. Risen concedes his book requires readers to make a "leap of faith" and accept the credibility of his numerous anonymous sources. He is contesting a court order to reveal the identities of sources he quoted in a series of disputed articles about nuclear scientist Wen Ho Lee.

In "State of War," Mr. Risen writes that Dr. Alhaddad flew home in mid-September 2002 and had a series of meetings with CIA analysts. She relayed her brother's information that there was no nuclear program.

A CIA operative later told Dr. Alhaddad's husband that the agency thought her brother was lying. In all, the book says, about 30 family members of Iraqis made trips to their native country to contact weapons scientists, and all of them reported that the programs had been abandoned.

In October 2002, the U.S. intelligence community issued a National Intelligence Estimate that concluded that Iraq was reconstituting its nuclear program.

Mr. Risen writes that the NSA spying program was started in 2002 after the CIA began to capture high-ranking al Qaeda terror operatives overseas and took their computers, cell phones and personal phone directories.

The CIA turned the telephone numbers and e-mail addresses from the material over to the NSA, which began monitoring the phone numbers -- in addition to anyone in contact with the telephone subscribers, the book said, adding that this led to an expansion of the monitoring, both overseas and in the United States.

The book said the NSA does not need approval from the White House, the Justice Department or anyone else in the Bush administration to eavesdrop on a specific phone line in the United States.

In a chapter on a "rogue operation," the book said a CIA officer mistakenly sent one of its Iranian agents information that could be used to identify virtually every spy the agency had in Iran. The book said the Iranian was a double agent who turned over the data to Iranian security officials.

The book said the information severely damaged the CIA's Iranian network, and quoted agency sources as saying that several of the U.S. agents were arrested and jailed.

End This Evasion On Permanent Army Bases In Iraq (FT)

By Gary Hart

Financial Times, January 4, 2006

It has been the dream of Republican neoconservatives at least since 1998 – and probably years before – to overthrow Saddam Hussein and to use the new client state of Iraq as the US's military and political base from which to pacify the complex and troubled Middle East. Leaving aside the plausibility of this notion, it is not one with which the great American leaders of history would have identified and certainly not one they would have attempted to carry out in secret.

Having failed in this enterprise, as some of us predicted, the question is: what now? There is still the possibility that a central remnant of this secret scheme may yet be salvaged. Surprisingly, the trick has drawn little attention from the American audience. It is to help install at least the semblance of a "democratic" government in Baghdad, even one that in author Fareed Zakaria's perceptive term is an illiberal democracy; to construct permanent US military bases at strategic points throughout the country and then persuade the new "democratic" government to invite us to stay.

So, now that the debate has finally turned not on whether to stay or to go but on how soon and under what conditions we should leave, it would be a mistake of epic proportions to assume things are that simple. There is an old movie line my friend Frank Mankiewicz, the veteran political adviser, is fond of quoting: "These are desperate men and they will stop at nothing." This he said during the Watergate years and we all knew what he was talking about, but it also applies today. For those of us who warned against kicking a Middle East hornets' nest, to assume that now it is simply a question of timing would be to assume that the neo-con Houdinis who gave us Vietnam-in-the-desert are out of tricks.

Any attempt to find out whether the US is, or is not, constructing permanent military bases meets with frustration. The few who have attempted to get a direct answer to this question are met with evasion and purposeful confusion over what is or is not "permanent". But this is the ultimate test of true Bush administration intentions in Iraq. If we are, in fact, constructing permanent bases, "leaving" simply means a reduction of forces and the permanent stationing of US brigades in Iraq. If this "compromise" solution appeals to you, you might wish to refresh your memory about the disastrous French experience in Indochina or even certain phases of the British occupation of Iraq.

Under circumstances where Congress was performing its constitutional oversight responsibilities, and where the press was less intimidated by power, it would be a straightforward exercise to determine whether a final neoconservative trick is afoot. Congressional committees would have senior civilian and uniformed Pentagon and State department officials answer direct questions about US plans. "Mr or Madame secretary, are we, or are we not, constructing permanent military bases in Iraq and, if so, for what purpose?"

But this Congress has made clear it is a purely partisan institution, not a separate branch of government, and that it has no intention of fulfilling its duties to oversee the executive branch and inform the American people. Obviously, reporters could do the same with the White House press secretary (with no serious hope of an honest answer) or, even better, the president.

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And to forgo predictable semantic sleights of hand, let us define "permanent" as: fixed, solid, durable and lasting. In practical terms, that means pouring concrete and welding steel, not tents and ditch latrines.

It is a shame for any American to distrust the veracity of his or her leaders. But the current crop has given us more than enough reason to do so. So when the president says: "When they [Iraqis] stand up, we will stand down," it cries out for an explicit definition of what "stand down" means in practice. Otherwise, "stand down" will quickly join "stay the course" and "support the troops" as rhetorical substitutes for policy and the equivalent of the scarves magicians use to obscure the concealment of an ace up the sleeve.

The art of deception does not require outright lies. It may simply lie in refusing to reveal the truth, the art of the trick. Given all the purposeful obfuscation, deception and card-shuffling that went on during the run up to the Iraq war, and the shuck-and-jive since things turned ugly, does anyone seriously believe the neoconservative magicians are out of tricks?

History Lessons (WT)

The Washington Times, January 4, 2006

Remarks by the president at Arlington National Cemetery Veterans Day ceremony, Nov. 11, 1998:

President Clinton: But if the inspectors are not permitted to visit suspect sites or monitor compliance at known production facilities, [Iraq's weapons of mass destruction] may as well be in Baltimore, not Baghdad. That would open a window of opportunity for Iraq to rebuild its arsenal of weapons and delivery systems in months -- I say again, in months -- not years. A failure to respond could embolden Saddam Hussein to act recklessly, signalling to him that he can with impunity develop these weapons of mass destruction or threaten his neighbors, and this is very important in an age when we look forward to weapons of mass destruction being a significant threat to civilized people everywhere. And it would permanently damage the credibility of the United Nations Security Council to act as a force for promoting international peace and security. We continue to hope, indeed pray, that Saddam will comply, but we must be prepared to act if he does not. (Applause.)

Ex-CIA Agent Says US Missed Bin Laden In Afghanistan (FT)

By Peter Spiegel, Defence Correspondent

Financial Times, January 4, 2006

US military commanders were told that Osama bin Laden was hiding in the mountainous Tora Bora region of Afghanistan in early December 2001 but failed to send troops to block his escape, according to a new account by the CIA officer who ran the agency's operations in the country.

Gary Berntsen, a CIA veteran who headed a paramilitary team called "Jawbreaker" during the Afghan war, said in a book published last week that one of his Arabic-speaking operatives found a radio on a dead al-Qaeda fighter during the Tora Bora battle and heard the terrorist leader repeatedly try to rally his troops.

"After the Spectre [gunship aircraft] cleared the area, Bilal heard a voice he recognised from dozens of tape recordings," Mr Berntsen wrote, using a pseudonym for an Arab-American former Marine who was part of the CIA team. "It was Osama bin Laden telling his troops to keep fighting."

Later on the same captured radio, "Bilal" and a second CIA agent, another American of Middle Eastern origin, reported hearing Mr bin Laden apologising for getting his men trapped in the mountains and killed in large numbers by American bombing, Mr Berntsen wrote. The book, titled Jawbreaker, was heavily edited by CIA censors.

Mr Berntsen also wrote that on the recommendation of a former Special Forces officer who was part of his team as a CIA contractor, he made a formal request for 800 US army Rangers to be deployed along the Pakistani border to prevent Mr bin Laden's escape, a request that was never granted.

The issue of whether senior US commanders failed to capture Mr bin Laden at Tora Bora because of an over-reliance on unreliable Afghan warlords became an issue in the 2004 presidential campaign when Democratic challenger John Kerry accused the Bush administration of allowing the al-Qaeda leader to escape by not sending American troops to the battlefield.

At the time, retired general Tommy Franks, the former head of US Central Command who ran the Afghan campaign, denied that the military knew of Mr bin Laden's presence and accused Mr Kerry of relying on "distortions of history".

"We do not know to this day whether Mr bin Laden was at Tora Bora in December 2001," Gen Franks wrote in the New York Times during the presidential race. "Tora Bora was teeming with Taliban and Qaeda operatives, many of whom were killed or captured, but Mr bin Laden was never within our grasp."

Mr Berntsen disputes this account, saying he told senior commanders of Mr bin Laden's presence and arguing that Afghan allies who had militia fighters in the region allowed Mr bin Laden to escape with about 200 Saudi and Yemeni fighters into Pakistan.

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"He was either badly misinformed by his own people or blinded by the fog of war," Mr Berntsen wrote of Gen Franks's claims and his insistence that Afghan militia were up to the task. "I'd made it clear in my reports that our Afghan allies were hardly anxious to get at al-Qaeda in Tora Bora."

Media reports have cited accounts of Mr bin Laden's presence at Tora Bora, but Mr Berntsen is the highest-ranking former official to publicly confirm that senior US commanders had been told the al-Qaeda leader was there during the battle.

Osama Debunks A Myth (WT)

By Richard Miniter

The Washington Times, January 4, 2006

Indian Muslims, Internet gurus, television anchors, and at least one prime minister have said that [Osama] bin Laden has kidney trouble.

So where is the evidence? In short, there is no evidence, just a lot of chatter.

There is only one presumably well-informed source who has gone on the record to say that bin Laden was on dialysis: Pakistani Prime Minister Pervez Musharraf. And he later changed his mind.

At first, Gen. Pervez Musharraf seemed to strongly endorse the notion, in January 2002. "I think now, frankly, he is dead for the reason he is a patient, he is a kidney patient," he told CNN. Gen. Musharraf added, "Pakistan knew bin Laden took two dialysis machines into Afghanistan. One was specifically for his own personal use."

Over the next few years, bin Laden would appear alive and well in a string of audio and video tapes. In December 2004, when Gen. Musharraf again sat down with CNN's Wolf Blitzer, he all but reversed himself.

In fact, there is a mountain of evidence that bin Laden is not on dialysis.

No medical report has been produced that shows bin Laden is on dialysis. No reporter who has actually met bin Laden has seen the archterrorist hooked up to a dialysis machine or heard him talk about it. Robert Fisk, the only Western journalist to interview bin Laden three times, makes no mention of dialysis.

Peter Bergen led a CNN team into Afghanistan to interview bin Laden in 1997. Bin Laden appeared healthy and strong; neither the reporters nor bin Laden mentioned dialysis or kidney trouble.

Even bin Laden's longtime associates dispute the kidney ailment meme. Saudi newspaper editor Khaled Batarfi has known bin Laden for two decades, ever since the two were neighbors in the Saudi port city of Jeddah. He told the Sunday Tasmanian, an Australian newspaper, that bin Laden "does not suffer from kidney disease."

Foreign government officials who have met bin Laden also insist that he has no problems with his kidneys. Bin Laden lived in Sudan from 1991 to May 1996. I interviewed political leaders and intelligence officials there who knew him. Gutbi al-Mahdi, Sudan's former intelligence chief, told me bin Laden had no health problems during his time in Sudan. In fact, every Sudanese I spoke with denied that bin Laden had any health problems, let alone a kidney ailment requiring dialysis.

Bin Laden himself is of the same opinion. Hamid Mir, an intrepid Pakistani journalist who writes for the Pakistani daily Dawn, landed one of the only two authentic post?September 11 interviews with the world's most wanted man.

In the course of the wide-ranging interview, Mr. Mir asked bin Laden about his kidneys: "A French newspaper has claimed that you have a kidney problem and have secretly gone to Dubai for treatment last year [2000]. Is that correct?"

Bin Laden responded: "My kidneys are all right. I did not go to Dubai last year. One British newspaper has published an imaginary interview with an Islamabad dateline with one of my sons in Saudi Arabia. All this is false."

Perhaps the definitive account comes from bin Laden's doctor, who was arrested on October 21, 2002, in Pakistan and held incommunicado for a full month. "It was a very extensive investigation, eight hours a day," he said. "It went on and on." He added, "I was not physically tortured; there was just mental anguish."

Dr. Amer Aziz, a British citizen born in Pakistan, was interrogated by eight CIA and FBI agents, as well as by Pakistani intelligence officers. Strongly sympathetic to radical Islam, Aziz had treated bin Laden for years. He reportedly admitted to visiting bin Laden after the September 11 attacks. Upon his release, he talked freely to Paul Haven of the Associated Press in November 2002. The doctor said he had given bin Laden a "complete physical" in 1999 and treated him for back injuries after bin Laden was thrown from a horse. "His kidneys were fine," the doctor told Mr. Haven. He said "If you're on dialysis, you have a special look. I didn't see any of that," and added that bin Laden "was walking. He was healthy." Aziz was emphatic: "I did not see any evidence of kidney disease; I didn't see any evidence of dialysis."

Aziz later discussed the dialysis issue with the New York Times. "When I hear these reports, I laugh. I did not see any evidence."

He has good reason to laugh -- legions of Westerners have bought the story that bin Laden is on dialysis, with no proof at all.

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Richard Miniter is the author of two New York Times bestselling books, "Losing bin Laden" and "Shadow War," and is an internationally recognized expert on terrorism.

Democracies In Danger (USAT)

USA Today, January 4, 2006

Heading out. Four years ago, the United States invaded Afghanistan with a burning mission: to hunt down Osama bin Laden, mastermind of the still-raw 9/11 attacks, and destroy the fanatical Taliban regime that harbored him and other al-Qaeda leaders.

The mission is only partially accomplished, but the United States is on its way out. In a preview of events in Iraq, U.S. forces, rebuilding funds and projects are being cut and handed to Western allies and Afghans over the next year. The troubling suggestion is of a job half done.

The picture certainly doesn't look pretty. Bin Laden remains at large. Despite successful Afghan elections and solid leadership by President Hamid Karzai, democracy is precarious. A Taliban insurgency festers. Warlords hold sway in some areas and will likely gain power as U.S. forces depart. The heroin trade is going strong. Even the U.S. ambassador says the $623 million aid budget for this year — little more than half of the aid in 2005 — isn't enough.

Still, a drawdown makes practical sense, provided al-Qaeda isn't allowed to regain a foothold. The U.S. military is overstretched. Tracking down bin Laden and other al-Qaeda leaders depends less on a large troop presence in Afghanistan than it does on timely intelligence and cooperation from Pakistan.

Nor should the USA bear the entire financial burden of rebuilding the country. It has spent more than $47 billion on military efforts, and instilling democracy in a country that has never known it will take many years.

The lesson is this: Democracies don't bloom overnight, but working with the international community is the best solution in an intertwined world. International forces will now do what they have done for years in failing states: Be patient and try to avert the worst, not insist on a short path to an unattainable ideal.

In Iraq, the United States is already following a similar trajectory of retreating from grandiose post-invasion commitments.

Getting foreign help in Iraq is elusive, though. If President Bush can't find a way to win back allies whose advice he ignored in his headlong rush to war, the already-high price of that decision may go higher still.

Backing down. Russians can tell you something about dashed hopes for democracy. President Vladimir Putin has behaved for years like a cross between a czar and a KGB thug, rolling back democracy with near impunity, impervious to the international community's feeble protests because he has had little to fear.

But when Putin, acting to type, tried to cut off natural gas supplies to Ukraine over the weekend in a pricing dispute, international pressure forced him to back down.

The Russian president thought he had a good rationale for the cutoff. Ukraine still pays the ridiculously low gas prices it enjoyed as a Soviet satellite — less than a quarter of today's market value. Putin evidently thought his capitalist arguments for a fair price would win the day and the international community would join him in condemning Ukraine.

It isn't so simple. Russia agreed in 2004 to continue the low prices until 2009. But that was before the "Orange Revolution" swept in the pro-Western government of Viktor Yushchenko. Much as he denies it, Putin wants to use gas supplies to regain influence: A cut now, in winter, would send Ukraine's economy into a tailspin and angry protesters into the streets. But Putin's cunning overlooked the fact that many European countries also rely on Russian gas through the same pipeline. A sure way to enrage Western nations is to mess with their fuel supplies.

As the Europeans' supplies fell — Russia says the Ukraine was stealing from the pipeline — they questioned Putin's assurances that Russia is a stable energy supplier. The USA and others joined in the condemnation.

In an added irony, when Russia took over the chairmanship of the Group of Eight leading industrialized countries Sunday, it made energy security its cornerstone message.

The fiasco, most immediately, adds fuel to old questions of whether Russia deserves a place in the G8 at all, let alone its chairmanship. More broadly, just like the international cooperation designed to keep Afghanistan from disaster, the Ukraine-gas episode serves as a reminder of the immense power international pressure and clubs can have in curbing bad behavior — if only they'll use it.

Churchill At War (WSJ)

The Wall Street Journal, January 4, 2006

No one knows how Winston Churchill would have fought the war on terror or what he might have thought of the U.S. practice of holding members of al Qaeda at Guantanamo or secret CIA prisons in Eastern Europe. But in newly declassified records of the British Bulldog's War Cabinet meetings, Churchill offers some posthumous insights on wartime leadership.

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In 1942, the Cabinet discussed the options were Hitler to fall into British hands. "All sorts of complications ensue as soon as you admit a fair trial," Churchill said, according to notes taken by the deputy cabinet secretary Sir Norman Brook. To avoid such a "farce," which he thought would distract from the war effort, Churchill favored swifter means of dealing with Hitler. "This man is the mainspring of evil. Instrument -- electric chair, for gangsters."

Churchill called other Nazi leaders "outlaws" and argued that those who fell into British hands should be executed rather than put on trial. (There is no record of his views on water-boarding.)

At another Cabinet meeting, he advocated shooting German POWs if the Nazis were to kill British prisoners (the U.K., for the record, never did). After the Germans massacred the people of Lidice, Czechoslovakia, Churchill proposed, perhaps again half seriously, "wiping out German villages by air attack on a three-for-one basis." The Cabinet overruled him.

Churchill might wonder at today's attitudes toward fighting terrorists, about American "torture" of prisoners, and about the U.S. President who's often derided in London as a "cowboy." The British Prime Minister's clarity about the Nazi threat in World War II got his nation and the world successfully through that conflict.

CORPORATE SCANDALS:

Skilling Faces New Enron Allegation (WSJ)

By John R. Emshwiller

The Wall Street Journal, January 4, 2006

In its effort to convict Jeffrey Skilling of multiple crimes at Enron Corp., the government is trying to trundle out a new witness against the former company president: himself.

In a court filing in Houston yesterday, federal prosecutors said Mr. Skilling attempted "to deceive" the Securities and Exchange Commission in a Dec. 6, 2001, deposition about his reasons for selling 500,000 Enron shares on Sept. 17 of that year.

The $15.6 million sale came less than three months before the energy giant collapsed into bankruptcy proceedings on Dec. 2, 2001. The government is seeking to use that SEC testimony in its trial against Mr. Skilling and former Enron Chairman Kenneth Lay, which is scheduled to start in Houston Jan. 30. (See related article1.) Both men are former chief executives of Enron.

While the indictment against Mr. Skilling alleges numerous instances of criminal wrongdoing, the allegation that Mr. Skilling tried to deceive the SEC in his deposition is new. The government made its filing yesterday in opposition to a motion filed by Mr. Skilling's attorneys last month, seeking to keep his SEC testimony out of the coming criminal trial.

Insider trading related to the 2001 stock transaction is among the charges against Mr. Skilling. The government contends that he knew of and helped hide from the public numerous financial problems at Enron. He and Mr. Lay have pleaded not guilty to all charges, which also include conspiracy and securities-fraud allegations.

Daniel Petrocelli, Mr. Skilling's lead defense attorney, sharply challenged the contention in yesterday's government filing. "Mr. Skilling attempted to deceive no one, and the government knows it," he said in an interview.

Yesterday's court filing by the Justice Department's Enron Task Force quoted the Dec. 6, 2001, SEC deposition in which Mr. Skilling attributed the Sept. 17 stock sale to his fears about the impact of the Sept. 11 terrorist attacks on the stock market. "There was no other reason other than September 11th that I sold the stock," the government filing quoted Mr. Skilling as saying. "Oh, I agonized over it, absolutely agonized over it." He said it didn't have anything to do with concerns specific to Enron.

However, the government court filing says Mr. Skilling "failed to inform" the SEC that he had tried to sell 200,000 shares of Enron Sept. 6 through the brokerage firm Charles Schwab Corp. The filing said that trade didn't go through because the brokerage firm hadn't yet received formal notification that Mr. Skilling was no longer a top company officer, which would have restricted his ability to sell Enron stock. Mr. Skilling resigned from Enron in August 2001.

"Skilling's attempt to deceive the SEC about the reason for his sale in sworn testimony gives rise to an inference that material nonpublic information was a factor in his decision to sell in September 2001," the government argues in its filing.

Mr. Petrocelli, the Skilling attorney, said his client's Sept. 6 brokerage call about possibly selling some Enron stock "had nothing to do with any concerns about the company. He was thinking about beginning to diversify some of his holdings, which were virtually all in Enron stock." He said the sale of stock later that month was prompted by concerns about Sept. 11.

In last month's motion seeking to exclude the SEC testimony from the criminal trial, Mr. Skilling's attorneys said that SEC officials didn't properly warn the former Enron president about his criminal exposure before he talked in what he believed was a purely civil investigation. "Consistent with the Fifth Amendment, due process, and basic notions of fairness, the government may not use civil discovery devices to obtain evidence from the target of a criminal investigation," the motion said. Between Dec. 5, 2001, and Jan. 31, 2003, Mr. Skilling talked with the SEC on six occasions and declined to answer further questions only when

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he finally learned that he was a target of the criminal probe, the filing added. It noted that the SEC, which handles civil securities-law violations, and the Justice Department, which prosecutes criminal violations, worked closely together in the continuing four-year-old probe of Enron.

Yesterday's government response disputed the argument that a criminal probe couldn't use information gleaned from a civil investigation. And in the case of Mr. Skilling's Dec. 6, 2001, SEC deposition, the filing said that the Justice Department's Enron Task Force hadn't yet been formed.

Mr. Skilling's willingness to talk with the SEC was part of a controversial strategy to speak out that he followed in the months after Enron's collapse. In press interviews and testimony before Congress, he repeatedly denied taking part in or knowing of any wrongdoing at Enron. By contrast, most of his former colleagues stayed mum for fear that anything they said could later be used against them. Mr. Skilling's lawyers have pointed to his willingness to talk as evidence that he had nothing to hide.

Enron Prosecutors, After Plea Bargain, Can Reduce Technical Jargon In Trial (WSJ)

By John R. Emshwiller

The Wall Street Journal, January 4, 2006

The climactic courtroom battle in the Enron Corp. criminal war just got simpler -- and more complicated.

The plea bargain last week by former Enron Chief Accounting Officer Richard Causey gives federal prosecutors the chance to present a shorter and less technical case against Mr. Causey's two co-defendants, former company Chairman Kenneth Lay and former President Jeffrey Skilling. The pair's trial on conspiracy, fraud and other charges is scheduled to start in Houston on Jan. 30.

If Mr. Causey had remained in the case, lawyers for the Justice Department's special Enron Task Force faced the challenge of getting deep into complex accounting transactions that prosecutors contend were used to hide the energy titan's financial problems.

At the same time, however, Mr. Causey's securities-fraud plea presents both sides with tricky new tactical questions, ranging from whether to call the former accounting chief as a witness to how he should be portrayed to the jury.

Prosecutors long have worried about jurors getting lost in complex accounting issues, such as how to account for special-purpose entities, say people familiar with the matter. Such special-purpose entities were allegedly used by Enron to create bogus profits and hide investment losses.

When public attention began to focus on some of these suspect dealings in late 2001, investor confidence plummeted, and the company was forced to seek bankruptcy-law protection within weeks.

With the trial now involving just the two men who were the public faces of Enron -- each did a stint as chief executive -- the government's case can shift emphasis. Prosecutors can focus more on whether the consistently optimistic public statements made about Enron's financial condition by the men qualified as lies and, thus, a fraud upon investors.

Prosecutors contend that Mr. Skilling, as president and chief architect of Enron's spectacular rise in the 1990s, was the lead deceiver until his surprise resignation in August 2001. After that, Mr. Lay took over the task of putting out false information to the public about Enron's financial condition and business prospects, prosecutors contend.

Such a prosecutorial approach would put less emphasis on proving that a particular accounting treatment was fraudulent and more on proving that Messrs. Lay and Skilling knew Enron had financial problems and lied about them to prolong a scheme that was making them wealthy.

The indictment estimates that Mr. Lay received more than $200 million in compensation and stock profits in 1998 to 2001, while Mr. Skilling received more than $100 million.

The concept of a highly paid executive lying to protect himself is a concept that a juror can understand without having to sit through an introductory accounting course. Mr. Causey's departure "absolutely will simplify the case the government has to present," says Jacob Frenkel, a former Securities and Exchange Commission lawyer now in private practice in Rockville, Md.

Ironically, a major setback in the government's four-year-old Enron probe might have helped push prosecutors to the Causey plea deal, says Christopher Bebel, a former federal prosecutor now in private practice in Houston.

Last year, the Enron Task Force prosecuted several former executives of Enron's telecommunications unit, and the trial degenerated into an often mind-numbing exercise in technical jargon. The jury acquitted defendants on numerous counts and deadlocked on the rest.

That experience helped the government realize that it "must redouble its efforts to simplify the evidence" in the coming trial, says Mr. Bebel.

There's one small potential upside for Mr. Skilling and Mr. Lay that results from Mr. Causey no longer being at the defense table, observers say. If the government does provide persuasive evidence of accounting-related misdeeds, lawyers for the two remaining defendants could more easily argue that Mr. Causey hid the wrongdoing from them.

As defense counsel, "I wouldn't hesitate to paint Causey as someone...who didn't report violations," says Jonathan Halpern, a former federal prosecutor who is now in private practice in New York.

The Skilling and Lay camps haven't taken that course, so far.

Following Mr. Causey's plea to one count of securities fraud last week, lawyers for the two former top Enron executives painted him as an innocent man bludgeoned into a guilty plea by the pressure of the giant federal investigation and the threat of decades in prison.

Under his plea deal, Mr. Causey faces seven years in prison, which could be reduced to five if prosecutors feel he is particularly helpful in the continuing Enron investigation.

Before his plea deal, Mr. Causey had been working on a joint defense team with Messrs. Skilling and Lay. Their lawyers say that Mr. Causey repeatedly told them that he knew of no wrongdoing by his two former bosses. "He will not incriminate Jeff Skilling or Ken Lay," says Daniel Petrocelli, Mr. Skilling's lead defense lawyer.

Lawyers for Mr. Lay and Mr. Skilling say that crimes weren't committed at Enron, save for a few relatively small ones by the company's former chief financial officer, Andrew Fastow, who hid them from his fellow executives. Defense lawyers regularly attack the credibility of Mr. Fastow, who has a plea bargain with prosecutors and is expected to testify at the coming trial.

The most obvious form of help that Mr. Causey could provide the government would be to testify. But prosecutors often spend months or years questioning and requestioning a major witness, looking for holes in the testimony.

Mr. Fastow, for example, reached his plea deal nearly two years ago. Prosecutors will have only a matter of weeks to debrief Mr. Causey. That could make putting him on the stand a riskier proposition for the government.

Many observers think the government will take that risk, since even relatively tepid testimony by Mr. Causey could be helpful. Given the positive public statements uttered by Mr. Skilling and Mr. Lay about Enron, "it would be enough for Causey to take the witness stand and testify that there were many uncertainties attached" to Enron's internal financial analyses, says Mr. Bebel, the former prosecutor.

Alleged Fund Fraud Leads To Charges 6 Ex-Putnam Fiduciary Trust Execs Accused (USAT)

By Edward Iwata

USA Today, January 4, 2006

Six former executives of Putnam Fiduciary Trust have been charged with scheming to defraud corporate client Cardinal Health and a group of Putnam mutual funds of $4 million, the Securities and Exchange Commission said Tuesday.

The SEC civil complaint, filed Friday in U.S. District Court in Boston, accuses the executives of hiding a 2001 trading error that caused Cardinal Health's employee retirement assets — invested in several Putnam mutual funds — to miss out on $4 million in stock market gains. Putnam Fiduciary is the transfer agent for Putnam Investments, a large mutual fund company.

The complaint charges former senior managing director Karnig Durgarian; former vice president Ronald Hogan; and former managing directors Donald McCracken, Virginia Papa, Sandra Childs and Kevin Crain.

At least four of them plan to fight the charges, their attorneys said.

According to the SEC complaint, Cardinal Health transferred an undisclosed amount of retirement plan assets to Putnam on Jan. 2, 2001, to invest in Putnam mutual funds.

But for an unknown reason, the assets were not invested until the next day.

This one-day delay caused the retirement plan to be “deprived of nearly $4 million in market appreciation,” the complaint reads.

The SEC alleges that the defendants used “deception, illegal trade reversals and accounting machinations” to shift $3 million of the losses to shareholders of other Putnam mutual funds.

The defendants also “improperly allowed Cardinal Health's (retirement) plan to bear approximately $1 million of the loss without disclosing to Cardinal Health that they had done so,” the SEC alleges.

The conduct was discovered last January, the SEC said.

SEC officials decided not to charge Putnam because the company has cooperated fully with the investigation, according to David Bergers, an SEC enforcement official in Boston.

Putnam made full restitution of the $4 million, fired or disciplined employees involved and strengthened the company's financial oversight and compliance “to make sure a situation like this could not happen again,” Putnam Investments CEO Ed Haldeman said.

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Attorney Anthony Mirenda, who represents Crain, said in a statement, “Mr. Crain will fight this to clear his name because he did not participate in any fraud.”

Crain “proactively brought this situation to the attention of internal auditors and has cooperated in the government's investigation throughout,” Mirenda said.

The accounting transactions used to correct the errors were approved by higher-ups and were “the normal safeguards and internal controls at Putnam at the time,” Mirenda said.

SEC Charges 6 Ex-Putnam Officials (WSJ)

By John Hechinger And Charles Forelle

The Wall Street Journal, January 4, 2006

The Securities and Exchange Commission charged six former Putnam Investments executives with civil fraud, alleging they covered up a scheme that resulted in $4 million in losses to five Putnam mutual funds and the retirement plan of Cardinal Health Inc. in 2001.

Walter G. Ricciardi, the SEC's deputy director of enforcement and administrator of the Boston office, called the alleged behavior "egregious." The SEC said it wouldn't charge Putnam, of Boston, because of the company's "swift, extensive and extraordinary cooperation" in the agency's investigation.

In March 2004, Putnam, a unit of Marsh & McLennan Cos. of New York, and one of the nation's largest mutual-fund companies, disclosed some of the losses and the departure of two executives related to the incident.

The company said it discovered the losses as part of an internal review and reported it to regulators and clients. It said it made restitution to customers.

In 2003, Putnam installed new management, including current Chief Executive Charles Haldeman, after the company became the first fund firm to face unrelated civil-fraud charges in a share-trading scandal that later engulfed most of the biggest players in the mutual-fund industry.

In a statement, Mr. Haldeman said the company had strengthened controls since the losses at the retirement plan. "We have worked hard at Putnam to create a culture in which all of our colleagues value the importance of taking care of other people's money and putting our clients first," he said.

The most recent charges, filed Friday, concern executives at Putnam Fiduciary Trust Co., which does administrative work for the mutual-fund company.

In January 2001, Putnam mistakenly allowed a one-day delay in investing money on behalf of Cardinal Health's 401(k) and other retirement plans, according to the SEC complaint, filed in U.S. District Court in Boston. The markets rose sharply on that day, causing customers to lose out on $4 million in gains, the agency said.

Putnam didn't report the delay to the client, the SEC said. Instead, Putnam executives conspired to cover up the losses by backdating trades and using improper accounting maneuvers, regulators alleged. As a result, shareholders in Putnam Research Fund, George Putnam Fund of Boston and Putnam Asset Allocation Balanced Portfolio, Growth Portfolio and Conservative Portfolio improperly bore $3 million of those losses. The losses for individual shareholders were small. They were slightly more than a penny a share at the fund most affected, Putnam Research, and less for the other funds. Participants in Cardinal Health's plan lost $1 million, the SEC said. Cardinal Health, of Dublin, Ohio, declined to comment.

The SEC charged Karnig Durgarian, a former managing director and chief of operations for Putnam Fiduciary; Donald McCracken, a former managing director and head of global operations services; Virginia Papa, a former managing director and director of defined-contribution servicing; Sandra Childs, a former managing director responsible for compliance; Kevin Crain, a former managing director overseeing plan administration; and Ronald Hogan, a former vice president. The agency said it was seeking unspecified fines.

Frank A. Libby, an attorney for Mr. Durgarian, said his client "looks forward to his opportunity to contest the SEC's claims." Anthony Mirenda, an attorney for Mr. Crain, said his client had no knowledge of the accounting maneuvers, didn't participate in any fraud and has cooperated with investigators. Mr. Crain believed the retroactive transactions "were routinely used at Putnam to correct errors and that these transactions in particular had been approved by appropriate people senior to him," Mr. Mirenda said in a statement.

Mr. Hogan's attorney, Jamie L. Wacks, said Mr. Hogan cooperated with investigators, and believed the transactions were intended to correct errors and had been "processed with the usual safeguards and controls." Ms. Wacks called the SEC action "meritless" and says her client denies wrongdoing. Ms. Papa's attorney, Michael J. Connelly, said she "has not misled any client, manipulated any record or covered up anything." Gary Matsko, an attorney for Mr. McCracken, said his client had an "unblemished" career and denies wrongdoing. An attorney for Ms. Childs declined to comment.

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Putnam said it "took action against the individuals, "including termination." The company wouldn't be more specific, though it said all had left the company between January 2002 and July 2004. In January 2004, Mr. Crain, after being terminated from Putnam for other reasons, left a voice mail for an internal auditor, saying the transactions had the "fingerprints" of "financial fraud," according to the SEC complaint. The SEC said Putnam later terminated Messrs. Durgarian and Hogan and Ms. Papa, as well as retroactively dismissing "for cause" Mr. McCracken, who had left the company in 2002.

Ex-Stockbroker Charged With Profiting From Attorney Girlfriend's Inside Information (LAW/AP)

By Larry Neumeister, The Associated Press

AP, January 4, 2006

A former stockbroker made nearly $23,000 on a pending acquisition by a Silicon Valley company after using insider knowledge he learned from his girlfriend, an attorney involved in the deal, prosecutors said Tuesday.

Lee Edelman, 34, was indicted on securities fraud charges after his girlfriend, an associate at a large Manhattan law firm, told him in March 2004 that Applied Materials Inc. was in talks to acquire Metron Technology NV. Applied Materials, based in Santa Clara, Calif., builds semiconductor-making equipment, while Metron provides support services for the industry.

Metron's share price almost doubled on Aug. 16, 2004, when the deal was announced. Edelman, of New York, quickly sold his shares, making $22,786, according to the indictment in U.S. District Court in Manhattan.

The Securities and Exchange Commission, which filed civil insider trading charges against Edelman, said in a release that Edelman broke up with his girlfriend several weeks after he began buying Metron stock. The attorney was not identified in court papers and was not aware of Edelman's stock buys, investigators said.

Edelman, reached by telephone at home Tuesday, said he did nothing wrong.

"I'm innocent, and I'm going to fight it to the end," he said. "She never gave me any information whatsoever."

An initial court appearance had not been scheduled. Edelman faces up to 20 years in prison, if convicted.

According to the complaint, Edelman and his girlfriend had a history of sharing confidential work and personal information and that the girlfriend trusted and expected Edelman to keep information about her clients confidential.

In March 2004, the woman disclosed the names of the companies involved in the transaction to Edelman and told him he must keep them confidential. Three months later, Edelman accompanied her to collect six boxes of documents related to the acquisition, the SEC said. For the next several weeks, she reviewed documents, talked with colleagues and clients and did other work related to the deal on weekends and evenings with Edelman present, the SEC said.

Edelman allegedly bought 12,000 shares between July 1, 2004, and Aug. 13, 2004.

SEC Names Brian Cartwright Its New General Counsel (WSJ)

By Judith Burns

The Wall Street Journal, January 4, 2006

WASHINGTON -- The Securities and Exchange Commission announced Tuesday that securities lawyer and former astrophysicist Brian Cartwright will join the SEC on Jan. 23 as its new general counsel. Mr. Cartwright succeeds Giovanni Prezioso, who plans to return to the private sector early this year.

Mr. Cartwright, 58 years old, is a partner at the law firm of Latham & Watkins, in California, where he chaired the firm's public company practice and was one of five partners responsible for managing the firm. He holds a law degree from Harvard Law School, where he was President of the Harvard Law Review and winner of the Sears Prize. He served as law clerk to U.S. Supreme Court Justice Sandra Day O'Connor and U.S. Court of Appeals Judge Malcolm R. Wilkey of the D.C. Circuit.

Before becoming a lawyer, Mr. Cartwright had a career as an astrophysicist. After graduating from Yale University, he earned a Ph.D. in Physics from the University of Chicago and worked as a research physicist at the University of California at Berkeley's space sciences laboratory. He published numerous articles in scholarly journals including the Astrophysical Journal.

In a prepared statement announcing the appointment, SEC Chairman Christopher Cox predicted Mr. Cartwright would be a powerful champion for investors.

"His talent, tenacity, and insight will serve the Commission, the capital markets, and investors well," Mr. Cox said.

S.E.C. Names Counsel (NYT/REU)

By Reuters

The New York Times, January 4, 2006

WASHINGTON, Jan. 3 (Reuters) - Brian G. Cartwright, a securities lawyer who was previously an astrophysicist, has been named general counsel for the Securities and Exchange Commission, the agency said on Tuesday.

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Mr. Cartwright will take office on Jan. 23, succeeding Giovanni P. Prezioso, who said in November that he would step down this year to return to the private sector.

Mr. Cartwright, 58, is a partner at the international law firm of Latham & Watkins, which is based in California. The S.E.C. chairman, Christopher Cox, was a partner at the firm in the 1980's.

Mr. Cartwright graduated from Harvard Law School in 1980 and was a law clerk to Justice Sandra Day O'Connor. He was a research physicist in astrophysics at the University of California, Berkeley, from 1973 to 1977.

CRIMINAL LAW:

Analysis: Abramoff Plea May Rock GOP Boat (SEAPI)

By tom raum

Seattle Post-Intelligencer, January 4, 2006

WASHINGTON -- The plea deal worked out by Jack Abramoff could send seismic waves across the political landscape in this congressional election year. The Republicans, who control Congress and the White House, are likely to take the biggest hits.

The GOP has more seats to lose and has closer ties with the former lobbyist. But some Democrats with links to Abramoff and his associates are also expected to be snagged in the influence-peddling net.

While the full dimensions of the corruption probe are not yet clear, some political consultants and analysts are already comparing its damage potential to the 1992 House banking scandal that led to the retirement or ouster of 77 lawmakers.

"You don't have to be a political genius to sniff the smell of blood in the water," said GOP consultant Rich Galen.

Galen said even lawmakers in seemingly safe districts, and those "who don't have a reputation for being fast and loose with the rules," could be vulnerable if voters rise up in reproach "and everybody drops five or six points" in this year's midterm contests.

Abramoff, a former $100,000-plus fundraiser for President Bush with close ties to former House Majority Leader Tom DeLay, pleaded guilty on Tuesday to conspiracy, tax evasion and mail fraud. That cleared the way for his cooperation with federal prosecutors in bringing charges against former business and political associates.

The investigation is believed to involve up to 20 members of Congress and aides and possibly several administration officials.

The timing couldn't be worse, politically, especially for Republicans. Lawmakers who may be indicted could find themselves coming to trial this summer, just ahead of the midterm elections. Around the same time, I. Lewis "Scooter" Libby, former chief of staff to Vice President Dick Cheney, is expected to stand trial in the CIA leak case.

DeLay, who had to step down as majority leader in September after a grand jury in Texas indicted him in a campaign finance investigation, is awaiting a trial date. And former Rep. Randy "Duke" Cunningham, R-Calif., gave up his seat Dec. 1 after admitting he had accepted $2.4 million in bribes from defense contractors.

With so many trials and prosecutions in the works, speculation is swirling over whom Abramoff might bring down and on the possible fallout for others.

"Most seats in Congress are relatively safe this year. But they are not safe from a tsunami," said University of Virginia political scientist Larry Sabato, author of a book on political scandals. "Iraq, plus economic problems, plus these scandals, could produce a tsunami. That's what every incumbent on Capitol Hill has to fear."

Most Americans are convinced that corruption reaching into all levels of government is a deeply rooted problem. According to an AP-Ipsos poll last month, 88 percent say the problem is a serious one, with 51 percent calling it "very serious."

People need to know "that government is not for sale," Assistant Attorney General Alice S. Fisher said in pledging to pursue the investigation "wherever it goes."

For months, federal prosecutors have focused on whether Abramoff defrauded his Indian tribal clients of millions of dollars and used improper influence on members of Congress. Tribes represented by the lobbyist contributed millions of dollars in casino income to congressional campaigns.

Abramoff also took members of Congress on lavish overseas trips and provided sports tickets, golf fees, frequent meals, entertainment and jobs for lawmakers' relatives and aides.

Some lawmakers have already returned contributions. Others no doubt are nervously scouring their memories and appointment books.

For years, many lawmakers have shrugged off lobbyists' gifts as campaign contributions, harmless wining, dining and socializing. "Now you've got someone admitting exactly what the motivation was and explaining all the avenues they used," said Kent Cooper, a former Federal Election Commission official.

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"You're talking about standard operating procedure here in Washington suddenly being turned on its head and a key operator signing a plea agreement that he may have been involved in some kind of public corruption," said Cooper, who tracks lobbying and campaign contributions for the nonpartisan Political Money Line service.

The Democratic National Committee called the situation the latest installment of a Republican "culture of corruption." That notion was disputed by White House spokesman Scott McClellan, who denounced Abramoff's activities as "outrageous" and noted that the lobbyist and his clients contributed to both parties.

That may be so, said Norman Ornstein, a political analyst at the American Enterprise Institute, "but it will disproportionately affect Republicans. They are the majority party and because Abramoff is a conservative Republican."

Case Bringing New Scrutiny To A System And A Profession (WP)

By Jeffrey H. Birnbaum And Dan Balz

The Washington Post, January 4, 2006

The biggest corruption scandal to infect Congress in a generation took down one of the best-connected lobbyists in Washington yesterday. The questions echoing around the capital were what other careers -- and what other familiar ways of doing business -- are endangered.

Jack Abramoff represented the most flamboyant and extreme example of a brand of influence trading that flourished after the Republican takeover of the House of Representatives 11 years ago. Now, some GOP strategists fear that the fallout from his case could affect the party's efforts to keep control in the November midterm elections.

Abramoff was among the lobbyists most closely associated with the K Street Project, which was initiated by his friend Tom DeLay (R-Tex.), now the former House majority leader, once the GOP vaulted to power. It was an aggressive program designed to force corporations and trade associations to hire more GOP-connected lobbyists in what at times became an almost seamless relationship between Capitol Hill lawmakers and some firms that sought to influence them.

Now Abramoff has become a symbol of a system out of control. His agreement to plead guilty to three criminal counts and cooperate with prosecutors threatens to ensnare other lawmakers or their aides -- Republicans and possibly some Democrats. At a minimum, yesterday's developments put both sides of the lawmaker-lobbyist relationship on notice that some of the wilder customs of recent years -- lubricated with money, entertainment and access -- carry higher risks. In the post-Abramoff era, what once was accepted as business as usual may be seen as questionable or worse.

"In the short run, members of Congress will get allergic to lobbyists," said former representative Vin Weber (R-Minn.), now a lobbyist for Clark & Weinstock. "They'll be nervous about taking calls and holding meetings, to say nothing of lavish trips to Scotland. Those will be out. For a period of time now, members of Congress will be concerned about even legitimate contact with the lobbying world."

The initial impact of a scandal that earlier produced a guilty plea from Abramoff associate Michael Scanlon could be changes in the way lawmakers and lobbyists interact. In the longer term, said many lobbyists and others, Congress will be pressured to revisit and toughen rules on gifts and travel that lawmakers and members of their staffs may accept. Some former lawmakers said even bigger changes may be needed to restore public confidence in how Washington works.

Former House speaker Newt Gingrich (R-Ga.), who with Weber's help effectively used issues of corruption to wrest control of the House from the Democrats in 1994, said the Abramoff scandal should trigger a broader review in Congress of the way politicians finance campaigns and deal with lobbyists.

"I'm going to talk at length about the need for us to rethink not just lobbying but the whole process of elections, incumbency protection and the way in which the system has evolved," he said. "Which is very different from the way the American system is supposed to be like. I think Abramoff is just part of a large pattern that has got to be rethought."

Emotions ran high on K Street yesterday when news of Abramoff's plea deal began to break. "The Abramoff scandal is causing a reexamination of what lobbyists do in town," said R. Bruce Josten, executive vice president of the U.S. Chamber of Commerce. "I wouldn't be surprised to see lawmakers become cautious in meetings with lobbyists."

With an eye on November's elections, Republicans have sought to limit the damage to themselves by portraying the scandal as bipartisan, describing Abramoff as an equal-opportunity dispenser of campaign cash and largess.

So far, the public has not identified corruption as solely a Republican problem. A Washington Post-ABC News poll in November asked Americans whether they thought Democrats or Republicans were better on ethical matters; 16 percent said Democrats, 12 percent said Republicans, and 71 percent said there was not much difference between the parties.

But Republicans worry about two possibilities. The first is that Abramoff, known for his close ties to DeLay, mostly implicates Republicans as a result of his plea agreement. That could shift public attitudes sharply against the GOP. "People are uneasy about what else is out there," said one GOP strategist who requested anonymity to speak more candidly about the possible political fallout.

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Beyond that is a fear that the scandal and attention it could draw in the months before the election might further sour the public on Washington and Congress. As the party in power, Republicans know they stand to lose more if voters take retribution in November.

Regardless of the electoral implications, the Abramoff scandal may force changes on Capitol Hill in the form of tough new lobbying disclosure laws that even some lobbying advocates say it is time to consider. "There will be a push for increased oversight and disclosure of lobbying," said Douglas G. Pinkham, president of the Public Affairs Council, a lobbyist education group. "There needs to be greater transparency and better enforcement."

Sens. John McCain (R-Ariz.) and Russell Feingold (D-Wis.), who co-wrote campaign finance changes a few years ago, have introduced separate proposals that would crack down hard on lobbying as now practiced. Their ideas will serve as the starting point for what is expected to be a vigorous debate.

Some lobbyists reacted defensively yesterday, at pains to say that Abramoff was an exception to the way they do business. "The Abramoff style is so far afield from the normal course of business as to be irrelevant to me and probably most people in my line of work," said Joel Johnson, a Clinton White House official and now a lobbyist for the Glover Park Group.

"The whole Abramoff matter is atypical," agreed Ed Rogers of Barbour Griffith & Rogers. "It is not a lesson of how business is done in Washington."

John Jonas, a lobbyist at Patton Boggs, said he expects "less partying, less gifting, more awareness about compliance" with rules that have been "observed in the breach."

As for the perception of lobbying as a profession, "it's confirmed everybody's worst fears about lobbyists -- that they double-deal, that they're not aboveboard," Jonas said. "That hurts the legitimate practice of the profession."

Gingrich said Republican leaders in Congress should take the initiative to reform lobbying and campaign finance, rather than hoping to slip quietly past the current scandal. "Things have to be done to really rethink where the center of the political process is," he said. "Right now, the center is a lobbying and PAC [political action committee] system center, which is not healthy."

GOP Leaders Seek Distance From Abramoff (WP)

By Jonathan Weisman

The Washington Post, January 4, 2006

With a House Republican committee chairman implicated in the criminal case and the highest echelons of the Republican Party increasingly vulnerable to charges, GOP leaders moved yesterday to distance themselves from disgraced lobbyist Jack Abramoff and prepare to combat a growing corruption scandal.

Hours after Abramoff pleaded guilty to conspiracy, mail fraud and tax evasion charges, House Speaker J. Dennis Hastert (R-Ill.) announced that he will donate to charity the tens of thousands of dollars that he has received from Abramoff's Indian tribe clients. Top Republican strategists pushed GOP leaders to embrace legislation to curb the influence of lobbyists.

And former House speaker Newt Gingrich (R-Ga.) called on House Republicans to elect a new majority leader to permanently replace Rep. Tom DeLay (R-Tex.), Abramoff's most powerful ally in Washington, who faces a trial on unrelated criminal charges of violating Texas campaign laws.

"Unequivocally, the House Republicans need to select a new majority leader in late January or early February," said Gingrich, who cited revelations in The Washington Post that a public advocacy group organized by DeLay associates had been largely financed by Russian energy interests.

The plea agreement signed by Abramoff yesterday implicates only one lawmaker, Rep. Robert W. Ney (R-Ohio), but it indicates that future revelations would ensnare other public officials. The agreement refers broadly to trips, campaign contributions and entertainment offered to public officials "in exchange for agreements that the public officials would use their official positions and influence" for Abramoff's benefit. That suggests there were specific quid pro quos that could yield additional charges of bribery and public corruption.

Ney, the chairman of the House Administration Committee, which oversees the operations of the House, is never referenced by name, although Ney's spokesman confirmed that Ney is the "Representative #1" repeatedly mentioned in court documents outlining Abramoff's wrongdoing. The court documents depict "Representative #1" as accepting lavish gifts of travel, meals, entertainment and campaign contributions, then awarding congressional contracts to Abramoff's clients, inserting a statement of support in the Congressional Record, and even obtaining a travel visa for a relative of one of Abramoff's clients while in Russia on official business.

Ney spokesman Brian Walsh denied the charges, saying any official actions Ney had taken were based on "the merits and facts of the situation and not because of any improper influence from Jack Abramoff or anybody else."

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"At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities," Ney said in a statement.

Republican strategists expressed some relief that the damage could be limited. Carl Forti, a spokesman for the National Republican Congressional Committee, said that if Abramoff's revelations ensnare only one lawmaker and some unknown staff members, Democrats will have little chance of sparking a political revolt when voters go to the polls in November to elect a new Congress.

But now that Abramoff has agreed to cooperate with prosecutors in exchange for a lighter prison sentence, he could provide testimony highly damaging to other high-level lawmakers. DeLay is not mentioned, but court documents do single out his former deputy chief of staff, Tony C. Rudy. The documents detail 10 monthly payments totaling $50,000 that went to the wife of an aide identified as "Staffer A." In exchange, that aide, identified elsewhere as Rudy, helped torpedo Internet gambling legislation and a postal-rate increase, according to Abramoff's plea agreement.

Moreover, numerous references to Abramoff-financed trips to Scotland and the Northern Mariana Islands raised anew questions about DeLay's own trips to both locations with Abramoff.

Dick DeGuerin, an attorney for DeLay, said he is not concerned about the Abramoff investigation. DeLay has offered to cooperate with the Justice Department probe and has not been called in, he said.

"If Jack Abramoff tells the truth, what he'll do is clear the air, and everyone will see there's no connection between Jack Abramoff's money-dealing and Tom DeLay," DeGuerin said.

Yesterday, Travis County prosecutor Ronnie Earle, who has been overseeing the probe into illegal corporate donations in Texas, tried to find that connection by sending subpoenas to Abramoff's two former employers in Washington, seeking documents and any correspondence involving DeLay and certain contributions by Abramoff clients.

The subpoenas are based on evidence that the law firm Preston Gates Ellis LLP and several Abramoff clients, including the Mississippi Band of Choctaw Indians, made donations to Texans for a Republican Majority, a political action committee organized by DeLay and his associates. That committee has been indicted on charges of illegally using corporate funds, and Earle now appears to be seeking information on what the donors expected to get in return for their payments.

Even before the plea agreement was unveiled, the Democratic Congressional Campaign Committee had circulated a 1997 quote from DeLay hailing Abramoff as "one of my closest and dearest friends."

"Tom DeLay was majority leader of the House of Representatives," said DCCC Chairman Rahm Emanuel (Ill.), "and Tom DeLay said Jack Abramoff was his best friend, nobody else."

But Democrats could be ensnared by the Abramoff case, as well. The lobbyist oversaw at the law firm Greenberg Traurig LLP a team of two dozen lobbyists that included many Democrats. The biggest beneficiaries of campaign contributions directed by the Abramoff team included such high-ranking Democrats as then-Sen. Thomas A. Daschle (S.D.), Senate Minority Leader Harry M. Reid (Nev.) and Rep. Patrick J. Kennedy (R.I.), a former head of the House Democrats' campaign committee.

Some key Republican strategists have complained that GOP leaders have been slow in responding to a scandal that has been unfolding for months and in holding internal elections to permanently replace DeLay in the House leadership.

With Abramoff's plea, that may change. In November, The Post detailed a fundraiser held by Hastert at one of Abramoff's restaurants that netted from the lobbyist's law firm and tribal clients at least $21,500 for the speaker's political action committee. Since then, numerous lawmakers from both parties have returned such donations, but only yesterday did Hastert join the line.

"While these contributions were legal, he believes that it is appropriate to donate the money to charity," said Ron Bonjean, Hastert's spokesman.

Lobbying Plan Was Central To GOP's Political Strategy (LAT)

By Janet Hook And Mary Curtius

The Los Angeles Times, January 4, 2006

WASHINGTON — The corruption investigation surrounding lobbyist Jack Abramoff shows the significant political risk that Republican leaders took when they adopted what had once seemed a brilliant strategy for dominating Washington: turning the K Street lobbying corridor into a cog of the GOP political machine.

Abramoff thrived in the political climate fostered by GOP leaders, including Rep. Tom DeLay (R-Texas), who have methodically tried to tighten the links between the party in Congress and business lobbyists, through what has become known as the "K Street Project."

GOP leaders, seeking to harness the financial and political support of K Street, urged lobbyists to support their conservative agenda, give heavily to Republican politicians and hire Republicans for top trade association jobs. Abramoff obliged on every front, and his tentacles of influence reached deep into the upper echelons of Congress and the Bush administration.

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Now, in the wake of a plea agreement in which Abramoff will cooperate in an influence-peddling investigation that might target a number of lawmakers, some Republicans are saying that the party will need to take action to avoid being tarnished.

"This is going to be a huge black eye for our party," said Rep. Ray LaHood (R-Ill.), a senior member close to House Speaker J. Dennis Hastert (R-Ill.). "Denny's going to have to be very tough and really speak out against people who are indicted. He's going to have to do it quickly and decisively and frequently."

Hastert moved Tuesday to inoculate himself from the scandal by announcing that he would give to charity about $60,000 he received from Abramoff and his clients. He is the latest of several lawmakers who have returned or redirected money they received from Abramoff-related sources.

One Senate Republican aide, speaking on condition of anonymity, said Republicans soon will unveil ethics reform legislation in an effort to blunt criticism from Democrats that they have fostered a "culture of corruption" in Washington.

The controversy may also increase the prospect that Republicans will shake up their leadership after Congress reconvenes at the end of January. House Republican moderates are calling for new leadership elections to permanently replace DeLay, who stepped down temporarily as majority leader after he was indicted in an unrelated case.

"Let's get a permanent leadership and begin moving forward and overcome the problems that are on the table right now," said Sarah Chamberlain Resnick, executive director of the Republican Main Street Partnership, a caucus of GOP moderates in Congress.

Conservatives are worried about possible political fallout for all Republicans, not just those who might be implicated, once Abramoff starts cooperating with prosecutors.

"This is the one thing that could result in a change in who controls the Congress," said Paul Weyrich, a conservative activist.

Abramoff pleaded guilty Tuesday to corruption charges in connection with allegations that he bilked his Indian tribe clients and conspired to bribe a member of Congress. He also will plead guilty to charges in a separate case in Miami, in connection with a deal to buy a floating casino fleet, SunCruz Casinos.

Although Abramoff admitted Tuesday to illegal conduct in some of his dealings, much of what he did to influence Congress amounted to larger-than-life versions of legal practices common among lobbyists.

Abramoff did not just ply lawmakers with meals; he opened a restaurant and plied them with his meals. He did not simply hand out tickets to sporting events; he offered access to several luxury skyboxes. He did not arrange garden-variety golf outings; he brought golfers to the world's most exclusive courses.

"The connections between Congress, congressional staff and lobbyists have been a problem for many years," said Dennis Thompson, author of the book "Ethics in Congress."

"In the last few years it's gotten out of control," Thompson said. "But Abramoff has taken it to a new level."

For investigators, the question is whether any lawmakers returned Abramoff's favors by using their offices to benefit him or his clients, which could violate federal law.

Critics of the campaign finance system say it would be a kind of rough justice if Republicans were hobbled by their relationships with a lobbyist, because they worked so hard to increase coordination between their party and K Street.

Republicans said their efforts were no different than what Democrats did for years to raise money and organize support from their constituencies, including labor unions and civil rights advocates. But Democratic critics said the GOP went much further in linking political money to policy outcomes, and that Abramoff was a master at maneuvering in a system that required lobbyists to "pay to play" on Capitol Hill.

"Jack Abramoff is a classic example of the pay-to-play system carried out in the extreme," said Fred Wertheimer, head of Democracy 21, a campaign-finance watchdog group.

According to a study by the nonpartisan Center for Responsive Politics, 296 members of Congress since 1999 have received contributions from Abramoff, his Indian tribe clients or SunCruz Casinos. Abramoff and his wife contributed $204,253 — all of it to Republicans.

In addition, Abramoff also leaned on his Indian clients to give to key lawmakers. The center found that Abramoff's clients gave almost $4.2 million, more than half to Republicans.

His most famous golf outings took members, including DeLay and Rep. Bob Ney (R-Ohio), to the fabled St. Andrews course in Scotland. Such trips are against House rules if they are paid for by a lobbyist. DeLay and Ney said they believed the trips were properly paid for by a nonprofit group, but prosecutors are reportedly looking at whether Abramoff initially picked up some of the expenses.

Favors done for DeLay and Ney have drawn particular scrutiny because they took aggressive steps to help Abramoff or his clients on issues that seemed remote from their own constituents' interests. When Abramoff was trying to buy the Florida floating casino fleet, Ney inserted a statement in the Congressional Record critical of Abramoff's rival.

Abramoff had been hired to stall legislation raising the minimum wage for the U.S.-administered Northern Mariana Islands in the Pacific Ocean, and DeLay was credited with helping him do so. DeLay also was an ally in Abramoff's effort to fight legislation to allow the taxation of Indian tribe gaming revenue.

DeLay and Ney, like other lawmakers who helped Abramoff, said they took action on the merits, not because they received favors from him.

The last time Washington lobbying came under such broad legal scrutiny was in the Abscam scandal of 1980, when an FBI sting operation led to the conviction of seven members of Congress on corruption charges.

That episode was widely viewed as a scandal involving isolated individuals, the proverbial "bad apples."

But some critics of the current campaign finance system say that the Abramoff scandal could have broader significance if it is seen as an indictment of a corrupt political system, not just individuals.

Abramoff Pleads Guilty, Will Cooperate (AP)

By Mark Sherman and Curt Anderson

The Associated Press, January 4, 2006

WASHINGTON (AP) - Jack Abramoff, the lobbyist who spawned a congressional corruption scandal, pleaded guilty Tuesday to three felonies and pledged to cooperate in a criminal probe edging closer to former House Majority Leader Tom DeLay.

"I plead guilty, your honor," Abramoff said in flat, unemotional tones, accepting a plea bargain that said he had provided lavish trips, golf outings, meals and more to public officials "in exchange for a series of official acts."

In one case, he reported payments totaling $50,000 to the wife of a congressional aide to help block legislation for a client. The aide worked for DeLay, according to officials who spoke on condition of anonymity.

Public corruption aside, Abramoff admitted defrauding four Indian tribes and other clients, taking millions in kickbacks from a one-time business partner, misusing a charity he had established and failing to pay income taxes on millions of ill-gotten gains.

(AP) Assistant Attorney General for the Criminal Division Alice Fisher briefs reporters at the Justice...

Full ImageHe is expected to plead guilty to additional charges on Wednesday in Florida in connection with charges stemming from the 2000 purchase of a fleet of gambling boats.

At the Justice Department, officials said they intend to make use of the trove of e-mails and other material in Abramoff's possession as part of a probe that is believed to be focusing on as many as 20 members of Congress and aides.

"This investigation continues ... however long it takes, wherever it leads," said Alice Fisher, assistant attorney general.

Whatever the legal ramifications, there was swift political fallout at the dawn of an election year in which minority Democrats intend to make ethics a campaign issue.

In a turnabout, House Speaker Dennis Hastert, R-Ill., joined the roster of politicians announcing plans to donate Abramoff's campaign contributions to charity.

(AP) Assistant Attorney General for the Criminal Division Alice Fisher briefs reporters at the Justice...

Full ImageHouse Democratic Leader Nancy Pelosi said Abramoff's confession in court was "not a surprise because this Republican Congress is the most corrupt in history and the American people are paying the price."

Abramoff faces as much as 11 years in federal prison as well as fines in connection with his guilty pleas on charges of conspiracy, mail fraud and tax evasion. The precise penalty is to be determined in part by the extent of his cooperation with prosecutors. Together with his former business partner, Michael Scanlon, he is expected to face restitution costs of $25 million.

Abramoff also will be required to pay $1.7 million for unpaid taxes, officials said.

Scanlon pleaded guilty last November to corruption charges as part of the investigation that began 21 months ago.

The Bush administration's former chief procurement official, David H. Safavian, was charged last fall with making false statements and obstructing investigations into a 2002 golf outing. He has pleaded innocent.

(AP) Assistant Attorney General for the Criminal Division Alice Fisher briefs reporters at the Justice...

Full ImageThe court papers released in connection with Tuesday's plea offered these glimpses into Abramoff's activities:

- On behalf of clients eager to stop internet gambling and postal rate legislation, Abramoff paid $50,000 in 10 equal monthly payments beginning in June 2000 to the wife of a congressional aide identified as Staffer A. Based on other information made public, Staffer A was Tony Rudy, at the time a top aide to DeLay. His identity was confirmed by officials who spoke only on condition of anonymity, noting that the court papers did not name the aide.

DeLay's office had no immediate comment. The congressman has previously said any actions he took on legislation were consistent with his political philosophy.

Separately, DeLay is fighting state campaign finance charges in Texas, hoping to clear himself in time to reclaim his leadership post in Congress.

- Abramoff contradicted statements by Rep. Bob Ney, saying the Ohio Republican accepted a golfing trip to Scotland in 2002 with the knowledge that the lobbyist's Indian clients were paying for it. Ney is not mentioned by name, but his identity is clear from a description of his committee chairmanship. Ney issued a statement saying, "At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature" of his activities.

(AP) Jack Abramoff leaves Federal Court in Washington Tuesday, Jan. 3, 2006. The once-powerful lobbyist...

Full Image- Abramoff also said he had made a $10,000 donation to the National Republican Campaign Committee at Ney's request, part of what the plea agreement refers to as the "corruption of public officials."

- Court documents said Abramoff solicited $50,000 from a wireless telephone company and got Ney's agreement to push the company's application to install a wireless telephone infrastructure in the House of Representatives, a job Ney's committee would have overseen.

At the Justice Department, Fisher said that in one instance, "Abramoff was so bold as to take fees to assist one client when he was actually working for another client to defeat the first client's interests." Those clients were Indian tribes were from Texas and Louisiana, and the issue involved casino gambling.

Apart from his lobbying in Congress, Abramoff raised at least $100,000 for President Bush's 2004 re-election effort, earning the honorary title "pioneer" from the campaign.

White House spokesman Scott McClellan said he could not say whether Abramoff ever met Bush. McClellan said of Abramoff: "What he is reportedly acknowledging doing is unacceptable and outrageous."

(AP) Internal Revenue Service Commissioner Mark Emerson responds to questions from reporters at the...

Full Image"If laws were broken, he must be held to account for what he did," McClellan said.

Once a well-connected lobbyist able to command almost unimaginable fees - a Louisiana tribe once paid Scanlon and him more than $30 million over 26 months - Abramoff apologized after pleading guilty.

"Words will not ever be able to express my sorrow and my profound regret for all my actions and mistakes," he said. "I hope I can merit forgiveness from the Almighty and those I've wronged or caused to suffer."

Pressure had been intensifying on Abramoff to strike a deal with prosecutors since another former partner, Adam Kidan, pleaded guilty last month to fraud and conspiracy in connection with the 2000 SunCruz boat deal in Florida.

Capitol Offense Guilty Plea By Lobbyist Raises Prospect Of Wider Investigation (WSJ)

By Brody Mullins, David Rogers And Anne Marie Squeo

The Wall Street Journal, January 4, 2006

WASHINGTON -- Prominent Republican lobbyist Jack Abramoff pleaded guilty to three felonies and agreed to help prosecutors probing political corruption, raising the possibility of a wider investigation that could embroil powerful members of Congress.

Yet the fact that some Democrats also had dealings with Mr. Abramoff clouded the question of whether the scandal will have a sharp partisan impact in the November 2006 midterm elections.

Making the bribery case especially striking -- and worrisome for members of Congress -- is that some of its elements include transactions that occur in Washington every day. It is commonplace for lawmakers to solicit campaign donations from lobbyists, who routinely offer them in hopes of gaining advantage. Yet Mr. Abramoff also went far beyond routine practice by furnishing lawmakers with lavish trips, free meals and entertainment as well.

It remains unclear which lawmakers prosecutors are looking at, and also how persuasive Mr. Abramoff could be in helping to make potential cases against any of them stick. A onetime chairman of College Republicans -- a close ally of such party luminaries as Tom DeLay, Ralph Reed and Grover Norquist -- Mr. Abramoff says he has information that could implicate 60 lawmakers.

"The case is significant and the corruption scheme with Mr. Abramoff is very extensive," said Alice Fisher, assistant attorney general for the Justice Department's criminal division, at a news conference. She said prosecutors "will continue to follow it wherever it leads."

The plea deal follows a 21-month Justice Department investigation of whether Mr. Abramoff offered lawmakers and their aides gifts in exchange for helping his lobbying clients in Congress. Besides conspiring to bribe legislators this way, Mr. Abramoff pleaded guilty to bilking Indian tribes who were his lobbying clients, by arranging kickbacks from associates.

The sums he and several associates collected from Indian tribes and other clients evidently were huge. For the period 2001-2004 alone, those fees topped $80 million, investigators say. Mr. Abramoff also pleaded guilty to tax evasion.

The criminal information (used in lieu of an indictment) discussed only one legislator, citing this person as having been "provided a stream of things of value" in return for official favors. It said the things provided included campaign donations, a

lavish golf trip to Scotland, tickets to sporting events and other entertainments, and regular meals at a pricey Washington restaurant called Signatures that Mr. Abramoff once owned. (See the document1.)

Though the filing didn't name the congressman, the information pointed to Rep. Bob Ney, an Ohio Republican, and his office has acknowledged that he is the one meant. Rep. Ney, chairman of the House Administration Committee, said he helped Mr. Abramoff's clients on the merits, not because of any improper influence.

Lawyers involved in the case say that prosecutors are looking at Mr. Abramoff's dealings with at least three other members of Congress and more than a dozen current and former congressional aides. That in itself would make this the broadest federal corruption case involving Congress since Abscam, more than two decades ago, which resulted in bribery convictions of six lawmakers. Abscam was a probe in which Federal Bureau of Investigation agents posed as Arab sheiks or their representatives and offered bribes to members of Congress, transactions secretly filmed in some cases.

In a more recent case, Republican Rep. Randall "Duke" Cunningham of California resigned from Congress in November after pleading guilty to receiving $2.4 million in bribes from military contractors and evading more than $1 million in taxes.

At a minimum, Mr. Abramoff's plea agreement increases political pressure on Mr. DeLay, the Texas Republican who has stepped aside as House Majority Leader while under indictment in an unrelated corruption investigation in his home state. Former DeLay press secretary Michael Scanlon, later a business associate of Mr. Abramoff, pleaded guilty in late November to joining in a fraud and bribery scheme with Mr. Abramoff.

Mr. Abramoff's plea deal twice refers to another onetime DeLay aide, Tony Rudy, who later worked as a lobbyist under Mr. Abramoff. In the plea arrangement, Mr. Abramoff said he and lobbying partners of his attempted to bribe Mr. Rudy by paying his wife $50,000 in 10 equal payments from June 2000 to February 2001. Mr. Abramoff sought, in return, help both in stopping legislation regarding Internet gambling and in opposing postal rate increases, according to documents filed yesterday.

In fact, an Internet gambling bill failed in the House late that summer. And the alleged payments also followed a controversial golf trip by Mr. DeLay to Scotland in June 2000 organized by Mr. Abramoff, who hired an Arizona golf-tour company to make the arrangements.

Mr. DeLay said he had thought the trip was financed by a nonprofit conservative group, the National Center for Public Policy Research, not by Mr. Abramoff or his clients. But House gift rules say such trips are acceptable only if they are principally designed for information gathering; instead, records reviewed by The Wall Street Journal indicate that recreation was the principal reason for the Scottish leg of Mr. DeLay's trip to Britain that June.

Former DeLay staffers say Mr. Rudy was a principal contact for Mr. Abramoff in the leadership's office, and Amy Ridenour, the center's president, has said she is "somewhat hazy about how Scotland got into it." Mr. Rudy, who has retained a defense attorney, didn't immediately return calls seeking comment.

Richard Cullen, an attorney for Mr. DeLay, said that he "encourages people who have information to cooperate and tell the truth and has full confidence he will be exonerated."

There were immediate signs from some Republicans that Mr. Abramoff's plea might sink Mr. DeLay's hopes of reclaiming his post as majority leader. He has sought to put off election for a successor while he tries to gain vindication on the charges against him in Texas. But Republican Rep. Jim Leach of Iowa said the party would be "insane" not to move ahead with new elections. "This is arguably one of the most troubling scandals in modern times and it reflects very poorly on the Congress," Mr. Leach said.

Important Question

The most important political question is whether the case reflects equally poorly on both parties -- or boosts the Democrats' fight to reclaim control of Congress in November's elections. As the public's attitude toward Congress and the Bush administration soured throughout 2005, Democrats built a significant lead when Americans were asked which party they wanted to control Capitol Hill. In December's Wall Street Journal/NBC News poll, 46% preferred Democrats to be in charge; 38% said the Republicans.

Yet the same survey showed that public skepticism about politicians' integrity is bipartisan. Roughly eight in 10 called corruption "equally a problem among both parties," raising questions about whether Democrats can make headway with their argument that Republican rule has created "a culture of corruption."

"I do think it will have a dramatic effect on future elections for both parties," said Rep. Wayne Gilchrest, a Republican moderate from Maryland. "Part of it is going to be anti-incumbent. Part of it will be people who don't vote because there's no hope. Part of it will be disgust with Republicans, who seem to be indicted every other week." Democrats argue that even a general anti-incumbent backlash could benefit them, since Republicans now hold more seats.

Aside from Messrs. DeLay and Ney, prosecutors are believed to be examining two Republican lawmakers for their dealings with Mr. Abramoff, as well as more than a dozen current and former congressional aides. One is Rep. John Doolittle of

California. A spokeswoman for Rep. Doolittle has dismissed as "simply ridiculous" the idea that he "had some improper involvement" with Mr. Abramoff.

The other Republican lawmaker prosecutors are believed to be looking at is Sen. Conrad Burns of Montana. Mr. Burns, the largest Senate recipient of campaign donations from Mr. Abramoff and his clients, helped one Abramoff client get $3 million in federal money one year. In 2001, Mr. Abramoff flew two of Mr. Burns's aides to the Super Bowl; Mr. Abramoff also hired a pair of Mr. Burns's aides.

Mr. Burns said in a statement that "I've returned or donated to charity the contributions I've received from Abramoff and his clients and associates and to date, I have not been contacted by the U.S. Justice Department." If it asks, he will cooperate in any way possible, he said.

Republicans say Mr. Abramoff's dealings with Democrats, such as Senate Democratic Leader Harry Reid of Nevada and Democratic Sen. Byron Dorgan of North Dakota, will help blunt the partisan fallout. In 2002, Messrs. Reid and Dorgan sent separate letters asking the Interior Department to block an Indian tribe in Louisiana from opening a casino that would have competed with an existing casino operated by one of Mr. Abramoff's clients. The day after Mr. Reid sent his letter, Mr. Abramoff's client, a tribe called the Coushattas, sent a $5,000 contribution to one of Mr. Reid's fund-raising groups.

A spokesman for Mr. Reid said that "he has long opposed the expansion of off-reservation Indian gaming," and any official action he took was consistent with that view. The spokesman said Mr. Reid has never met Mr. Abramoff.

In 2002, Mr. Dorgan helped one of Mr. Abramoff's clients get $3 million in federal funding, and around the same time, Mr. Dorgan received $20,000 in campaign contributions from Mr. Abramoff's firm and clients. In fall 2003, Mr. Dorgan pushed Congress to consider granting federal recognition to a Massachusetts tribe that was an Abramoff client.

Mr. Dorgan has returned some $67,000 in donations he received from members of the lobbyist's firm and its clients, though he says all were legal and that he never met Mr. Abramoff. Yesterday Mr. Dorgan issued a statement taking credit for helping to expose "the corruption of Jack Abramoff" as a leader of the Senate Select Committee on Indian Affairs.

Congress may seek to inoculate itself from the scandal this year by pursuing legislation that would reform lobbying laws. Legislation proposed by Arizona Republican Sen. John McCain would require lobbyists to disclose more about their contacts with members of Congress and congressional aides. Other proposals would bar lawmakers and aides from accepting meals or gifts from lobbyists.

Mr. Abramoff faced a maximum sentence of 30 years, but under the terms of his plea agreement that is likely to be reduced to between 9 and 11 years, the Justice Department said. That sentence could be reduced further, depending on the level of cooperation he provides in the case, which began in March 2004. Mr. Abramoff agreed to pay $25 million in restitution to the Indian tribes he admitted defrauding and pay $1.7 million to the Internal Revenue Service for taxes he had avoided.

"Words will not be able to ever express how sorry I am for this," Mr. Abramoff said in court as he offered his plea. "I have profound regret and sorrow for the multitude of mistakes and harm I have caused."

According to the plea arrangement, Mr. Abramoff beginning in 2000 offered "Representative #1" and his staffers tickets to the Super Bowl, campaign contributions, meals and drinks and frequent "golf and related expenses" at Washington-area courses. In exchange, the agreement states, Representative #1 helped Mr. Abramoff and his clients 11 times.

In August 2001, it says, the legislator "used his position as chairman of a committee of the House to endorse and support a client of Abramoff as the provider of wireless telephone infrastructure to the House of Representatives." The legislator also helped Mr. Abramoff buy a casino-boat chain in Florida in 2000 and tried to add language to a bill that would have helped one of Mr. Abramoff's Native American clients, the plea deal says.

Rep. Ney, the man acknowledged by his own office to be Representative #1, said that "at the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities." A spokesman said Mr. Ney would "absolutely not" step aside as chairman of the House Administration Committee. The committee oversees election law as well as the day-to-day operations of the House. Mr. Ney, a former teacher, has represented a district in east-central Ohio since winning election in the Republicans' 1994 midterm election sweep.

'One Step at a Time'

Experts in Washington corruption cases said the language of the Abramoff plea deal makes clear the investigation will reach further. "It's not limited to Ney. The charges speak of 'public officials,' " said Stanley Brand, a veteran defense attorney and former Democratic counsel in the House. "It's a very, very tightly knit set of charges. They are not over pleading these cases. They are going one step at a time."

Campaign contributions aren't illegal unless there is an express agreement that the money is being paid in exchange for a particular action. That's one element that makes public-corruption cases difficult to bring, say former prosecutors. Unlike a crime such as robbery, there is often no clearly identifiable victim and usually little reason for either side to cooperate with law

enforcement. That's what makes the deal with Mr. Abramoff key to what Justice Department officials describe as a wide-ranging, ongoing investigation.

Enlisting his testimony "is a huge break," said Randall Eliason, a law professor at American University and former head of the public-corruption unit for the U.S. Attorney's office in Washington. "He was in the meetings. He was there when the deals, if any, took place and can say, 'I gave him this in exchange for this official action.' "

Prosecutors will need significant corroborating evidence to prove potential charges against Mr. Ney or other members of Congress. The lobbyists' guilty pleas themselves can be used by defense lawyers to impeach Mr. Abramoff's credibility, adding to the Justice Department's challenge in building additional cases.

The FBI has been engaged in an aggressive crackdown on public corruption, officials say. In the past two years, the bureau has helped convict more than 1,050 government employees accused of corrupt activities, including 177 federal officials.

US Lobbyist Admits Fraud And Bribe Plot (FT)

By Patti Waldmeir In Washington

Financial Times, January 4, 2006

Jack Abramoff, the Republican lobbyist and central figure in an influence-peddling scandal with reverberations throughout Washington, on Tuesday pleaded guilty to federal corruption charges and agreed to help prosecutors investigate the activities of top US lawmakers including Tom DeLay, the former House majority leader.

Mr Abramoff on Tuesday pleaded guilty to charges of conspiracy, mail fraud and tax evasion. He admitted to conspiring to defraud his lobbying clients, and trying to bribe lawmakers and congressional aides with campaign contributions, meals, trips and sports tickets. He is expected to serve about 10 years in prison.

According to the charges filed on Tuesday, Mr Abramoff and a former aide to Mr DeLay, Michael Scanlon, overbilled several Indian tribes who were their clients. They then diverted the money either into their own pockets, or used it to provide what the charges said was “a stream of things of value”, including a lavish golfing trip to Scotland, for a lawmaker and his staff.

No politicians are named in the papers filed on Tuesday by the Justice Department but prosecutors are understood to be investigating at least a dozen lawmakers, congressional aides and lobbyists, including Mr DeLay and Bob Ney of Ohio, a fellow Republican lawmaker.

Mr Abramoff’s long-awaited decision to plead guilty and co-operate with federal investigators will give the Justice Department powerful new ammunition in its probe of alleged patterns of corruption and bribery within the ranks of the Republican leadership.

Democrats are hoping to exploit the perception of a “culture of corruption” among Republican leaders in the November congressional elections, although some Democrats also received campaign contributions from Mr Abramoff.

The charges on Tuesday said: “It was a purpose of the conspiracy for defendant Abramoff, Scanlon and others to enrich themselves by obtaining substantial funds from their clients through fraud and concealment.”

Some of these funds were used to try to influence an unnamed congressman to “perform a series of official acts” including passing legislation.

Sports tickets and meals at Mr Abramoff’s upmarket Washington restaurant were lavished on lawmakers. “His activities went far beyond lawful lobbying,” said Alice Fisher, a top Justice Department official.

Tuesday’s charges are separate from charges pending against Mr Abramoff in Florida. He is expected to plead guilty to those as well.

Scott McClellan, White House spokesman, said that, “if laws were broken, [Mr Abramoff] must be held to account for what he did”.

Tremors Across Washington As Lobbyist Will Aid Inquiry (NYT)

By Sheryl Gay Stolberg

The New York Times, January 4, 2006

WASHINGTON, Jan. 3 - As a high-flying Republican lobbyist, Jack Abramoff has long been known as a mover and shaker in Washington. But when he cut a deal with federal prosecutors on Tuesday, he shook up this town as never before.

Not long ago, Mr. Abramoff was perhaps Washington's most aggressive - and, at $750 an hour, most highly compensated - deal maker, a flamboyant man who moved fluidly through the nexus of money and power. Now his decision to cooperate in a broadening corruption and bribery investigation has thrust him into the role of a corporate insider turning against the company that claimed just to be doing business as usual.

Even before Mr. Abramoff left the federal courthouse on Tuesday in a trench coat and fedora, nervous lawmakers of both parties, and even the White House, began trying to distance themselves from him.

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Speaker J. Dennis Hastert of Illinois announced that he would donate to charity $69,000 in campaign contributions directed to him by Mr. Abramoff.

The plea bargain also had immediate ripple effects for a lawmaker who was once Mr. Abramoff's closest ally in the Republican leadership, Representative Tom DeLay of Texas. Mr. DeLay, indicted on a count of money laundering in a separate campaign-related case in Texas, is trying to regain his post as House majority leader, but Mr. Abramoff's plea complicates his prospects.

Mr. Abramoff, 46, pleaded guilty to charges of conspiracy, fraud and tax evasion, and prosecutors said he used campaign contributions, lavish trips, meals and other perks to influence lawmakers and their aides. Court papers filed on Tuesday singled out just one member of Congress, "Representative No. 1," identified elsewhere as Representative Bob Ney, Republican of Ohio.

But that was cold comfort on Capitol Hill, where there was a sense of lawmakers and lobbyists' waiting for the other shoe to drop. In a city whose history is rife with scandal and the political price it exacts, from the F.B.I. sting operation known as Abscam to the savings and loans collapse involving "the Keating Five," some experts feared that the Abramoff investigation would eclipse all the rest.

While Mr. Abramoff is most closely linked to Republicans, even Democrats, many of whom also benefited from his largesse, acted skittish.

"We're talking about people who have longstanding careers in Congress who took contributions from somebody who knew somebody who knew somebody who knew Jack Abramoff," said a Democratic Congressional aide who insisted on anonymity so as not to drag his boss into the scandal. "Now they're panicked. The hope is that this investigation will root out the wrongdoing without innocent people getting hit with the ricochet."

Mr. Abramoff's plea bargain is scary to Washington's power brokers precisely because he was so entangled with so many of them.

His ties to Grover G. Norquist, a leading conservative strategist and president of Americans for Tax Reform, and Ralph Reed, the former director of the Christian Coalition who is now a candidate for lieutenant governor in Georgia, date from his college days.

He once worked as a lobbyist alongside David H. Safavian, who was the head of the White House procurement office until just before his arrest last fall in the Abramoff investigation. And Mr. Abramoff's former personal assistant once worked for Karl Rove, President Bush's chief political strategist.

At the White House, administration officials have been reluctant to comment on the case, referring questions to the Justice Department and declining to defend Mr. Safavian. But on Tuesday morning, the White House spokesman, Scott McClellan, denounced Mr. Abramoff's actions.

"What he is reportedly acknowledging doing is unacceptable and outrageous," Mr. McClellan said. "If laws were broken, he must be held to account and punished for what he did."

Some Democrats saw the plea bargain as good political news. They are trying to build their 2006 midterm campaigns around what they call the Republican "culture of corruption" and say Mr. Abramoff taps into that theme.

Minutes after his deal was announced, the Democratic Congressional Campaign Committee, which tries to help elect Democrats to Congress, trumpeted the news on its Web site. "Breaking News: Jack Abramoff to Plead Guilty," the headline said.

Publicly, Republicans insisted that they were not worried.

"I think there may have been some nervousness, but after reading the plea agreement today and seeing that only one person was named, there's got to be a little bit of relief out there," said Carl Forti, spokesman for the National Republican Congressional Committee.

But privately, some said they were concerned that the Justice Department might try to interpret bribery statutes more broadly than in the past. They fear a lesser standard of proof could ensnare lawmakers, lobbyists and aides, current and former.

"There's a lot of talk coming out of various quarters that the Justice Department is going to pursue a different definition of bribery, meaning that if somebody were to give a gift or a campaign contribution in the same time period as a member took an official action, that in and of itself would constitute bribery," said a former Republican leadership aide who insisted on anonymity. "That scares the bejesus out of people."

A one-time Hollywood filmmaker, Mr. Abramoff began his rise in Republican power circles in the 1980's, when he was chairman of the College Republicans National Committee. His staff included Mr. Norquist and Mr. Reed.

In 1994, when the Republicans reclaimed the House after 40 years, Mr. Abramoff rose to power with them. He used his contacts with Mr. DeLay and other prominent Republicans to build a lucrative lobbying and business enterprise that, at its peak, included a fancy restaurant, Signatures, with a special kosher kitchen. His primary clients were Indian tribes, which he has now acknowledged bilking.

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From complimentary meals at his restaurant to lavish golfing trips to Scotland, including one taken by Mr. Ney and another by Mr. DeLay, to lucrative skybox tickets at Washington sports events, Mr. Abramoff's largesse seemed to know no bounds.

According to the Center for Responsive Politics, an organization that tracks campaign contributions, he has directed more than $4.4 million since 1999 to candidates and campaign committees. The money came mostly from Mr. Abramoff's clients, but also directly from him and from a casino boat company that he once owned.

On Tuesday, a spokesman for Mr. Hastert said the speaker would join a growing list of members of Congress who have returned or donated money given them by Mr. Abramoff.

"The speaker believes that while these contributions were legal, it is appropriate to donate the money to charity," said the spokesman, Ron Bonjean.

Mr. DeLay, whose former press secretary, Michael Scanlon, was Mr. Abramoff's business partner and has also been indicted in connection with the investigation, has been working furiously to resolve the Texas case before the House reconvenes on Jan. 31.

The intent was to clear his name and forestall any call for leadership elections. But Republicans say even a legal victory in Texas could be overshadowed by Mr. Abramoff's case.

A spokesman for Mr. DeLay said that the lawmaker had nothing to fear from Mr. Abramoff's plea and that it should not be a factor in whether he should resume his position as majority leader.

"Mr. DeLay has been very clear that all of his actions were properly vetted and they were promptly and publicly disclosed in accordance with House ethics rules," the spokesman, Kevin Madden, said. "So there is no reason for him to be concerned."

The investigation is prompting people inside and outside Congress to change their behavior.

Mr. Hastert has raised the possibility of new ethics training for lawmakers.

Paul Miller, president of the 700-member American League of Lobbyists, said lawmakers and lobbyists were "taking a step backward and assessing how they are doing business and how they are operating."

Even as Mr. Miller acknowledged that Mr. Abramoff's case had tarnished his industry, he took pains to dispute the idea that Mr. Abramoff deserved the description "superlobbyist," so often bestowed on him in a city where money and influence speak louder than words and where when the mighty fall they fall hard.

"Jack Abramoff," Mr. Miller said, "is nothing more than a supercrook."

The Heat Is Now On Ohio Rep. Ney (LAT)

By Richard Simon, Times Staff Writer

The Los Angeles Times, January 4, 2006

WASHINGTON — In 2003, Rep. Bob Ney was in the news for helping lead the push to rename the French fries in the House cafeterias "freedom fries" to protest France's refusal to back the U.S. invasion of Iraq.

Now, the Ohio Republican is in the spotlight as "Representative #1" — the unnamed lawmaker in federal court documents released Tuesday who allegedly received favors from lobbyist Jack Abramoff in return for supporting legislation beneficial to one of Abramoff's clients. The documents were unveiled as part of the guilty plea Abramoff entered to several charges stemming from his lobbying activity.

Ney has repeatedly denied any wrongdoing; in a statement Tuesday, he said: "At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities."

But Abramoff's agreement to cooperate with federal investigators as part of his guilty plea raised the prospect that Ney could face indictment. At the least, the Abramoff scandal has cast a cloud over Ney's lengthy political career.

Ironically, Ney won his first elective office by defeating a Democrat who had been tainted by scandal — Wayne Hays.

Hays was serving in the Ohio Legislature when Ney upset him in 1980. Four years earlier, Hays had quit his seat in the U.S. House after Elizabeth Ray, who was on the payroll of the committee he headed, said she was being paid to serve as his mistress. At the time. Ray famously said she could not type or "even answer the phone."

Ney, 51, won his House seat in 1994, when a GOP landslide gave Republicans control of the House and Senate for the first time in 40 years.

In 2001, he became head of the Committee on House Administration, a position that deals with chores that capture little public attention but are important to colleagues, such as overseeing parking on Capitol Hill.

It was in his role as the panel's chairman that he ordered the name change for French fries.

He also helped write legislation that authorized more than $3.8 billion in federal aid to help state and local officials improve their voting systems — a bill passed by Congress after the Florida vote-counting debacle in the 2000 election.

Born in West Virginia, Ney graduated from Ohio State University in the mid-1970s. He spent 1978 in Iran teaching English and is the only House member who speaks fluent Farsi.

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During the last year, Ney has uncharacteristically broken with the GOP's House leadership on some key issues.

He was one of nine Republicans in the chamber to vote against a recently passed budget-cutting bill because of concern about its effect on his congressional district's steel industry and cuts to Medicaid. He also opposed the Central American Free Trade Agreement, and has been among a handful of Republicans working against reauthorization of the Patriot Act because of concerns about its effect on civil liberties.

Ney's district in eastern Ohio is heavily rural and picked up more Republican voters when it was redrawn after the 2000 census. He won reelection in 2004 with 66% of the vote.

Ney's spokesman, Brian Walsh, said Tuesday he expected the district's constituents to give the lawmaker the benefit of the doubt as the ethics scandal continued to unfold.

"I think many people in Washington these days presume someone to be guilty until proven innocent," Walsh said. "I think that's different in middle America."

Three Democrats already are vying for the right to oppose Ney in November. The campaign manager for one of the Democrats, Joe Sulzer, said the ethical allegations swirling around Ney were not yet "central in the way it is in D.C. right now" for most voters in the district.

But the Sulzer aide, Joe Abbey, added that he believed the Abramoff plea would "advance the issue tenfold" and sharpen questions of whether Ney was more focused on helping Abramoff than his constituents.

One Democratic official in Ney's district cautioned against counting out the lawmaker.

Mark Thomas, a Belmont County commissioner, noted that Ney helped secure more than $20 million for the area in a recently passed highway bill.

"I think the people in this district are taking the position that until he has been accused of whatever he may be accused of, and the facts come out, and he has an opportunity to respond," Thomas said, "we're going to be behind him as a congressman."

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Times staff writer Ronald Brownstein contributed to this report.

Abramoff Pleads Guilty To Fraud (REU-Y2)

By Andy Sullivan

Reuters, January 4, 2006

Lobbyist Jack Abramoff pleaded guilty to fraud charges on Tuesday and agreed to help U.S. prosecutors in a corruption probe that could involve several top Republican lawmakers, including former House Majority Leader Tom DeLay.

Abramoff pleaded guilty to conspiracy, mail fraud and tax evasion before a federal judge in Washington. He also will plead guilty to conspiracy and wire fraud in a separate case in Miami on Wednesday, his lawyer there said.

The long-expected plea will give prosecutors valuable ammunition as they seek to prove that DeLay of Texas, Republican Rep. Bob Ney (news, bio, voting record) of Ohio and other top lawmakers gave Abramoff and his lobbying clients favorable treatment in return for campaign contributions, Super Bowl tickets and other gifts.

"Abramoff provided these things of value with the intent and often with the understanding that his clients would receive the official action they wanted," Assistant Attorney General Alice Fisher said at a press conference. "As admitted by Abramoff, his actions often produced the official influence that he sought."

Republican and Democratic lawmakers seeking to distance themselves from Abramoff and his clients have returned more than $200,000 in campaign contributions in recent weeks.

Abramoff, 47, faces a maximum sentence of 30 years, but under the terms of the plea deal it will be reduced to between 9 1/2 and 11 years. The sentence could be reduced even further if Abramoff cooperates fully, a Justice Department official said.

As part of the plea deal, Abramoff together with former partner Michael Scanlon will pay at least $25 million in restitution, and Abramoff will pay $1.7 million to the Internal Revenue Service for tax evasion.

REGRET, SORROW

Wearing a double-breasted, charcoal-colored suit, Abramoff answered Judge Ellen Segal Huvelle's questions in a hushed voice.

"I have profound regret and sorrow for the multitude of mistakes and harm I have caused. All of my remaining days, I will feel tremendous sadness and regret for my conduct and for what I have done," Abramoff said in a prepared statement.

According to the charges, Abramoff directed his Indian-tribe clients to hire Scanlon's public-relations firm at steep costs. Scanlon, a former DeLay aide, then secretly kicked back 50 percent of the $53 million he earned to Abramoff.

The two used the money to shower golf trips, lavish dinners and other favors on lawmakers. They also kept much of it for themselves.

Scanlon pleaded guilty to conspiracy in November and has been cooperating with investigators.

According to the charges, one unidentified lawmaker agreed to support legislation sought by Abramoff, place statements supporting him in the Congressional Record -- the official daily report on congressional proceedings -- and give one of his clients a contract to provide wireless telephone service to the House of Representatives.

That description matches actions taken by Ney, who inserted comments supporting Abramoff into the Congressional Record and who oversees routine matters like wireless service in congressional buildings as chairman of the House Administration Committee.

Ney's attorney Mark Tuohey was not available for comment.

The Justice Department's Fisher would not say how many officials are implicated in the probe.

"We are going to follow this wherever it goes. We are going to expend the resources that are necessary to make sure that people know that government is not for sale," she said.

DeLay attorney Dick DeGuerin said the Abramoff investigation would not uncover any wrongdoing by his client.

"Everything that Tom DeLay has done is above board," he told MSNBC, adding that early on, DeLay had offered the Justice Department cooperation in the investigation.

The charges are separate from those pending against Abramoff in Florida, where he has been charged in connection with falsifying a loan in the purchase of a Florida casino cruise line.

In an e-mail, Abramoff attorney Neal Sonnett said that Abramoff would plead guilty in Miami on Wednesday to wire fraud and conspiracy to commit wire fraud, while other charges would be dropped as part of the plea deal.

The FBI launched its investigation of Abramoff and Scanlon in March 2004, said Chris Swecker, head of the FBI's criminal investigative division.

Abramoff first contacted the Justice Department to discuss a plea a year and a half ago, Abramoff's Washington attorney Abbe Lowell said.

Abramoff Pleads Guilty (WT)

By Jerry Seper

The Washington Times, January 4, 2006

Lobbyist Jack Abramoff pleaded guilty yesterday in federal court to charges of conspiracy, tax evasion and mail fraud, agreeing to cooperate in an ongoing investigation into influence peddling on Capitol Hill.

Abramoff admitted to U.S. District Judge Ellen Segal Huvelle he had taken part in a scheme involving the "corruption of public officials," saying he gave campaign contributions and funded lavish trips and other items "in exchange for certain official acts."

As part of the plea bargain, Abramoff agreed to pay at least $25 million in restitution -- which the government has described as the profits he concealed as part of the conspiracy.

"Words will not ever be able to express my sorrow and my profound regret for all my actions and mistakes," he told Judge Huvelle in the Washington courtroom. "I hope I can merit forgiveness from the Almighty and those I've wronged or caused to suffer."

It was not clear yesterday who might be targeted in the government probe, although both Republicans and Democrats have been the beneficiaries of Abramoff's lobbying activities. Since he was first identified as an investigative target, lawmakers from both parties have returned more than $200,000 in campaign contributions.

Assistant Attorney General Alice S. Fisher said the Justice Department will pursue the investigation "wherever it goes" and intended to "expend the resources to make sure people know that government is not for sale." Abbe Lowell, Abramoff's attorney, said his client will continue to work with investigators.

Democrats are expected to make ethics a centerpiece of this year's midterm election. After Mr. Abramoff's confession, House Minority Leader Nancy Pelosi called the Republican-led Congress the "most corrupt in history." Republican leaders were silent.

According to court documents, Abramoff and partner Michael Scanlon, a former aide to Rep. Tom DeLay, Texas Republican, conspired to defraud Indian tribes in six states of millions of dollars. Scanlon pleaded guilty to related charges in Miami in November.

The court documents also said Abramoff gave public officials and their relatives gifts of money, trips, meals and entertainment in return for favorable treatment of his clients. One member of the House, identified as Rep. Bob Ney, Ohio Republican, reportedly received a "lavish trip to Scotland to play golf on world-famous courses" and other benefits in exchange for support on various issues.

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The documents said Abramoff arranged for a $50,000 check to be sent through the mail from Texas to pay for the Scotland trip. Abramoff also is accused of arranging for one of Mr. Ney's former staff members to lobby the congressman in 2002 before the ex-staffer's one-year ban on lobbying had expired.

Mr. Ney has denied any wrongdoing, saying yesterday that at the time he dealt with Abramoff, "I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities." The congressman's attorney, Mark Tuohey, described the charges as "nothing new," saying they were included in a November plea agreement by Scanlon.

Also at issue are Abramoff's ties to Mr. DeLay, who accepted about $57,000 in campaign contributions as well as golf outings and other trips provided for or arranged by the lobbyist for lawmakers.

The documents also said Abramoff, who is expected to plead guilty to two additional federal charges in Florida stemming from a 2000 purchase of a fleet of gambling boats, filed a tax return for 2002 that concealed his illegal income.

Abramoff told Judge Huvelle "I plead guilty, your Honor" to each of three counts outlined in a November indictment. He had faced up to 30 years in prison, but prosecutors are expected to recommend 9½ years under terms of the plea bargain.

Prosecutors are thought to have finalized the Abramoff deal after a guilty plea by former partner Adam Kidan, who admitted Dec. 15 in federal court in Miami to committing mail and wire fraud in connection with the 2000 boat deal in Florida.

At the White House, spokesman Scott McClellan could not say yesterday whether Abramoff had ever met with President Bush, although the lobbyist and his associates logged more than 200 visits with administration officials and he raised $100,000 for Mr. Bush's 2004 re-election campaign.

Mr. McClellan called Abramoff's actions "unacceptable and outrageous." The spokesman said, "If laws were broken, he must be held to account for what he did."

House Speaker J. Dennis Hastert, Illinois Republican, joined the growing list of lawmakers who have either returned money received from Abramoff or given it to charities. Lawmakers who have done so include Rep. Ernest Istook, Oklahoma Republican; Rep. Denny Rehberg, Montana Republican; Sen. Sam Brownback, Kansas Republican; Sen. Max Baucus, Montana Democrat; Sen. Conrad Burns, Montana Republican; and Sen. Byron L. Dorgan, North Dakota Democrat.

G.O.P. Lobbyist Pleads Guilty In Deal With Prosecutors (NYT)

By Anne E. Kornblut

The New York Times, January 4, 2006

WASHINGTON, Jan. 3 - Jack Abramoff pleaded guilty to three felony counts in Washington today as part of a settlement with federal prosecutors, ending an intense, months-long negotiation over whether the Republican lobbyist would testify against his former colleagues.

Mr. Abramoff, 46, pleaded guilty to conspiracy, fraud, and tax evasion, setting the stage for prosecutors to begin using him as a cooperating witness against his former business and political colleagues. In exchange, Mr. Abramoff faces a maximum of about 10 years in prison in the Washington case.

The conspiracy charge included Mr. Abramoff's effort to influence at least one member of Congress and a Congressional staff member.

As United States District Judge Ellen S. Huvelle read each of the charges today, Mr. Abramoff answered softly, "I plead guilty, your honor."

"Your honor, words will not be able to ever express how sorry I am for this, and I have profound regret and sorrow for the multitude of mistakes and harm I have caused," he said. "All of my remaining days, I will feel tremendous sadness and regret for my conduct and for what I have done. I only hope that I can merit forgiveness from the Almighty and from those I have wronged or caused to suffer. I will work hard to earn that redemption."

At a news briefing this afternoon, Alice Fisher, an assistant attorney general, said Mr. Abramoff offered up gifts to government officials that included an all-expense paid trip to Scotland "to play golf on a world-famous course, tickets and travel to the Super Bowl in Florida, tickets for concerts and other events in Washington, repeated and regular meals at his upscale restaurant, and campaign contributions."

She said he provided these gifts "with the intent and often with the understanding that his clients would receive the official action they wanted."And, she said, "his actions often produced the official influence that he sought."

"Government officials and government action are not for sale," she said. "The Justice Department will aggressively investigate and prosecute these types of cases, which have a devastating impact on the public's trust of government. We will not shy away from that responsibility, no matter where the trail leads."

Official Washington has been on edge for months awaiting word of Mr. Abramoff's legal future. Once a masterful Republican lobbyist with close ties to the former House majority leader, Representative Tom DeLay, Mr. Abramoff earned tens of

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millions of dollars representing Indian casino interests and farflung entities like the Commonwealth of the Northern Marianas Islands.

Through a complicated web of financial arrangements, he helped funnel donations to his lawmaker friends' and their campaigns, and took members of Congress, mainly the Republicans in power, on lavish trips.

Mr. Abramoff is also scheduled to appear in Florida Wednesday in a related case, in which he was indicted last year. In that case, he is expected to plead guilty to fraud and conspiracy in connection with his purchase of the SunCruz casino boat line, and will face a maximum of about seven years' prison time.

Mr. Abramoff has been talking to investigators in the corruption case for many months, his lawyer, Abbe Lowell, said.

"Eighteen months ago, Mr. Abramoff first made contact with prosecutors to admit his wrongdoing and to seek forgiveness from those he has wronged," Mr. Lowell said today. "He intends to continue to work with the Justice Department and others to fully resolve all matters of interest, to provide restitution to anyone he has harmed, and to seek absolution from all."

Participants in the case, who spoke on condition of anonymity because of the sensitivity of the investigation, said Mr. Abramoff had provided a full picture of what evidence he could offer against other suspects.

On the corruption charge, prosecutors said in documents filed with the court today that Mr. Abramoff and his partner, Michael Scanlon, who reached a plea agreement with officials last year, conspired to "corruptly give, offer and promise things of value, including money, meals, trips and entertainment, to public officials and their relatives with the intent to influence, and in return for agreements to perform official acts benefiting" them and their clients.

The document details lavish gifts and contributions that Mr. Abramoff gave a House member, identified here only as "Representative #1."

Representative Bob Ney, a Republican of Ohio, acknowledged at the time of Mr. Scanlon's plea agreement that he was the person represented as Representative No. 1 in the documents in that case, but he has dismissed any suggestion that he was persuaded to do Mr. Scanlon's bidding because of campaign aid or perks like meals, entertainment or overseas travel.

Mr. Ney said in a statement today, "At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities," Reuters reported. Mr. Ney has not been charged.

The document also alleges that Mr. Abramoff bribed public officials, including "Representative #1," and his staff, when he funded a golfing trip to Scotland in exchange for the congressman's official actions to benefit his clients.

He is also accused of tax evasion for filing false documents and false entries to financial books and records, and filing a false income tax return in 2002, "all for the purpose of concealing additional unreported taxable income received by or on behalf of" himself, the documents state.

Mr. Abramoff is also accused of hiring congressional staffers and conspiring with them to lobby their former employers - including members of Congress - in violation of a one-year federal ban on such lobbying.

Mr. Abramoff's participation in Washington has taken place mostly below the radar, as prosecutors made the Miami case the focus of their public work and as Mr. Abramoff and his associates claimed they were preparing to stand trial, facing up to as many as 30 years in prison.

Though Mr. Abramoff's pleas in each location are separate, the deal reached with the Justice Department is all-encompassing, reducing the severe penalties Mr. Abramoff could have faced in either investigation, in exchange for his inside knowledge of certain lobbying work and legislative actions. One element of the deal is that he can serve prison time in the two cases concurrently, although the sentencing will not take place until much further along in the investigation.

The deal, a so-called "global" arrangement because it encompasses separate prosecutions in Florida and Washington, comes less than a week before Mr. Abramoff was scheduled to stand trial in the Miami case.

With Mr. Abramoff's cooperation, the Justice Department will have a potentially critical witness to alleged patterns of corruption or bribery within the Republican leadership ranks, which in some cases they believe also took the form of campaign donations and free meals at Mr. Abramoff's downtown restaurant, Signatures.

After more than two years of investigations, prosecutors have developed a list of at least a dozen lawmakers, congressional aides and lobbyists whose work appears suspect and who are now at the core of the case.

Already, prosecutors had a key witness in Mr. Scanlon, once press secretary to Mr. DeLay. When Mr. Scanlon reached a plea agreement last year, it put pressure on Mr. Abramoff to reach his own deal.

Now that Mr. Abramoff has done the same, one person involved in the case said: "When some people hear about this, they will clamor to cut a deal of their own."

‘Corruption … Very Extensive' Ex-lobbyist Abramoff Will Help Wide-ranging Investigation Involving A Dozen FBI Offices (USAT)

By Kevin Johnson And Jim Drinkard
USA Today, January 4, 2006

WASHINGTON — A little more than a year ago, Jack Abramoff was enjoying many of the benefits access to official Washington can provide.

There were multimillion-dollar lobbying fees to collect, Super Bowl tickets to distribute and lavish trips and dinners to host.

What set Abramoff (AY-bra-moff) apart from legitimate Washington power brokers, federal prosecutors say, was his willingness to exploit an extensive network of Capitol Hill contacts — from well-positioned congressional staffers to members of the Republican leadership — regardless of the rules.

"The corruption scheme with Mr. Abramoff is very extensive," Assistant Attorney General Alice Fisher said. "Government officials and governmental action are not for sale."

Abramoff's campaign of corruption officially ended Tuesday when he pleaded guilty to conspiracy, fraud and tax evasion. In addition to about 10 years in prison, he may be forced to repay more than $25 million, according to court documents.

Prosecutors say Abramoff's cooperation is central to a wide-ranging corruption investigation that stretches from Capitol Hill to congressional districts across the USA.

At least a dozen FBI field offices have been drawn into the inquiry, FBI Assistant Director Chris Swecker said. Authorities have declined to disclose the number of possible targets in the ongoing inquiry, but it goes beyond one member of Congress or his office. "No criminal resources of the FBI will be spared in support of this important mission," Swecker said.

The plea agreement outlined a scheme by which Abramoff and his secret partner, public relations operative Michael Scanlon, billed Indian tribes for exorbitant fees, then split the profits. Abramoff hid some of the money from the IRS by directing it to a non-profit group he established, the Capital Athletic Foundation.

Abramoff's share of the kickbacks from fees paid by four Indian tribes in Louisiana, Texas, Michigan and Mississippi came to more than $20 million, prosecutors said.

Abramoff and Scanlon also provided "a stream of things of value" to public officials to get their help. The stream included "foreign and domestic travel, golf fees, frequent meals, entertainment, election support … employment for relatives of officials and campaign contributions," court documents say.

Among the recipients were a House member identified by the lawmaker's attorney as Rep. Bob Ney, R-Ohio, and members of Ney's staff. They got trips to the Northern Marianas Islands in 2000, to the Super Bowl in Tampa in 2001, and to Scotland's storied St. Andrews golf course in 2002, according to the documents. Ney also held fundraising events at Abramoff's now-defunct Washington restaurant, Signatures.

In return, Ney and his aides put statements in the Congressional Record supportive of Abramoff's interests and helped an Abramoff client get a wireless telephone contract with the House of Representatives, the government charged. In a statement, Ney denied that he was influenced by Abramoff.

Abramoff also funneled $50,000 to the wife of an unnamed congressional aide in 2000 and 2001, in return for the aide's help in blocking legislation for a client.

Abramoff's guilty plea follows weeks of other scandal news involving government officials.

Republican Tom DeLay stepped down from his position as House majority leader last year after he was indicted on charges related to fundraising in a separate case in his home state of Texas. DeLay has close ties to Abramoff, who employed some of the Texan's former aides and paid for a separate golf trip to Scotland for DeLay. Randy "Duke" Cunningham resigned from the House in November after pleading guilty to taking at least $2.4 million in bribes from defense contractors.

The developments appear to be damaging Americans' perception of their elected representatives. A USA TODAY/CNN/Gallup Poll taken Dec. 16-18 found that 49% of American adults say they believe "most members of Congress are corrupt." That's 1 percentage point below the level of 1994, when voters turned control of Congress over to Republicans. The GOP appears to be tarred by scandal slightly more than the Democrats; 47% said "almost all" or "many" Republicans are corrupt, compared with 44% for Democrats.

Among registered voters, 55% said the issue of corruption will be the "most important" or a "very important" factor in their decision on whom to vote for next year. The poll has a margin of error of +/-3 to 5 percentage points, depending on the question.

White House spokesman Scott McClellan called Abramoff's confessed conduct "outrageous."

"He needs to be held to account, and he needs to be punished," McClellan said. Abramoff was among President Bush's Pioneers, who raised at least $100,000 for his re-election in 2004.

Many Millions In Kickbacks From Tribes (NYT)

By Michael Janofsky
The New York Times, January 4, 2006

DOJ_NMG_0008041

WASHINGTON, Jan. 3 - The kickbacks from one Indian tribe exceeded $11 million. From another, they surpassed $6 million. In less than three years, Jack Abramoff secretly netted more than $20 million from tribes in five states, a sum close to half of the $43.3 million they paid him and a partner to lobby on their behalf.

"These are staggering numbers, even by Washington standards," said Stanley Brand, a defense lawyer who specializes in criminal and ethical matters. "The big firms do very, very well, but they don't come close to these kinds of numbers."

The level to which Mr. Abramoff enriched himself at the expense of clients came into sharp focus on Tuesday as his plea agreement on federal charges of conspiracy, mail fraud and tax evasion was made public by the Justice Department.

The agreement referred to five business relationships Mr. Abramoff had with Indian tribes, and in each case he admitted to receiving a large percentage of the tribe's total spending as a kickback. As part of his plea, Mr. Abramoff agreed to repay his former clients $25 million.

Mr. Abramoff carried out his fraudulent schemes by persuading clients that they needed the lobbying services of firms run by a former business partner, Michael Scanlon, or by his own companies. Mr. Scanlon pleaded guilty in November to conspiring to bribe a member of Congress, and as part of his plea, he agreed to repay $19.6 million to the tribes that once retained him.

Mr. Abramoff's largest kickback came from a Louisiana tribe that used his services from early 2001 through the spring of 2004. In the plea agreement Mr. Abramoff said the tribe paid companies run by Mr. Scanlon $30,510,000. But through an agreement between Mr. Abramoff and Mr. Scanlon, they concealed a kickback of about $11,450,000 to Mr. Abramoff.

In another scheme, beginning in early 2001, a Mississippi tribe paid Mr. Scanlon about $14,765,000, ignorant of the "secret profit-sharing agreement" between Mr. Scanlon and Mr. Abramoff that sliced off nearly half of the total, about $6,364,000, as a kickback to Mr. Abramoff.

A Michigan tribe paid Mr. Scanlon about $3.5 million from the middle of 2002 to the fall of 2003, unaware of the "secret arrangement" that directed about $540,000, half the profit earned by Mr. Scanlon's companies, to Mr. Abramoff.

In a scheme that suggested how little they cared for the needs of their clients, Mr. Abramoff and Mr. Scanlon persuaded a Texas tribe in 2002 to hire them to help the tribe reopen its casino through federal legislation. According to the plea agreement, while the tribe paid $4.2 million for services arranged by Mr. Scanlon, the two men concealed from the Texas tribe that, at the same time, they had collected millions of dollars from the Louisiana tribe to oppose all gaming in the Texas Legislature.

They also did not tell the Texas tribe that $1,850,000 of their fees went directly to Mr. Abramoff "pursuant to his undisclosed arrangement with Mr. Scanlon."

In a final case cited by the plea agreement, a New Mexico tribe paid Mr. Scanlon $2.75 million, hiding from tribal officials that the lobbying firm's profit margin was about 80 percent and that $1,175,000 of the total was paid to Mr. Abramoff through his secret agreement with Mr. Scanlon.

Paul Miller, president of the American League of Lobbyists, a trade group with 700 members, said Mr. Abramoff was "in a league by himself" as a Washington lobbyist, a term he said he used reluctantly.

"Jack Abramoff, by my definition, is not a lobbyist," Mr. Miller said. "He knowingly defrauded clients. In my view, he is nothing more than a scam artist."

Tiguas Hope Abramoff Plea Helps In Reopening Of Casino (AP)

By SUZANNE GAMBOA, Associated Press

AP, January 4, 2006

The governor of the Texas Tigua tribe, which operated a gaming casino near El Paso for more than eight years, is hoping lobbyist Jack Abramoff's guilty pleas in a federal corruption scandal will be a catalyst for restarting the tribe's gaming.

Tigua Gov. Arturo Senclair said the tribe is looking forward to what members of Congress will tell investigators should any be charged in the unraveling scandal that led Abramoff to plead guilty Tuesday.

"Maybe once this whole thing is done and all the e-mails are uncovered ... maybe when Congress members do start talking, maybe we can come back and start working with the state" to reopen the casino, he said.

Abramoff pleaded guilty Tuesday to three felonies and pledged to cooperate with investigators looking into the lavish trips, golf outings, meals and other gifts he said he provided to public officials "in exchange for a series of official acts."

The plea agreement filed by Justice Department officials said Abramoff and his ex-business partner Michael Scanlon solicited the Tigua tribe — identified in the document as Texas Tribe #1 — to hire them to provide lobbying and grass roots services to reopen the tribe's casino. The tribe was paying fees to the Scanlon business.

The tribe was to pay $4.2 million in fees and make "additional and substantial" campaign contributions at the direction of Abramoff and Scanlon, the plea agreement said.

Abramoff had told the tribe he'd work for free, but never revealed that he got about half the net profits, or $1.85 million, from the Scanlon business.

The investigators said Abramoff and Scanlon never told the Tiguas that beginning in 2001 they collected millions of dollars from the Louisiana Coushatta tribe to oppose all gaming in the Texas Legislature, including a 2003 bill that could have reopened the Tiguas' Speaking Rock Casino.

"Abramoff knew that Texas Tribe #1 supported and promoted this legislation while he worked to prevent its passage for the benefit of his other client, the Louisiana tribe," according to the plea agreement.

The Tiguas were forced to close the casino in February 2002 under a federal court ruling in a 1999 lawsuit brought by then Attorney General John Cornyn, now a U.S. senator. Cornyn has said he filed the lawsuit to enforce Texas law.

E-mails and other records released by the Senate Indian Affairs Committee — which conducted its own investigation — have shown that Abramoff hired former Christian Coalition director Ralph Reed to drum up opposition to Texas tribes' casinos in 2001.

"When we entered the Abramoff web, the assumption was this is the way we get things done in Washington, attending dinners, attending sporting events in skyboxes and attending golf outings. That's the way things got done," Senclair said. "You are a tribe, playing by the rules of the game, not knowing that's not the way it should have been done."

Despite the developments in the investigation, Senclair said there is little celebration for the tribe.

"We're still out of money. We still haven't been given restitution for the full amount (paid to Abramoff)," Senclair said. "There's still sadness because the casino is shut down."

Abramoff Reached Beyond The Limits (LAT)

By Faye Fiore And Martha Groves

The Los Angeles Times, January 4, 2006

WASHINGTON — At Beverly Hills High School, Jack Abramoff's weightlifting prowess was the stuff of legend.

As a senior, he became the first member of the school's 2700 Club, lifting a combined total of 2,700 pounds in the power squat, dead lift, bench press, and clean and jerk.

His former football coach, Bill Stansbury, recalled a game against Inglewood when Abramoff legally blocked an opposing player and knocked him out cold.

Abramoff also helped organize charitable events, Stansbury said, among them a Quarter-Pounder-eating contest at a McDonald's, with some proceeds going to the American Cancer Society, and a celebrity basketball game to benefit a youth foundation.

Today, about 30 years later, Abramoff is at the center of a political scandal in Washington — the result, in part, of the same drive, interest in charitable organizations and excess that he showed in his youth.

During a decade as one of the capital's most successful lobbyists, commanding hourly rates as high as $750, Abramoff, 46, amassed a personal fortune while lavishing lawmakers and others with golf junkets, free meals and access to sports arena skyboxes.

Now, he has pleaded guilty to conspiring to defraud some of his lobbying clients and bribe a lawmaker. Federal investigators are probing whether other lawmakers improperly returned Abramoff's favors by using their offices to benefit him and his clients.

His reach into the Republican power structure was vast. Beleaguered former House Majority Leader Tom DeLay once described him as "one of my closest and dearest friends." Abramoff was one of the "pioneers" who raised more than $100,000 for President Bush's 2004 reelection campaign.

The son of a Diners Club executive, Abramoff moved with his family from Atlantic City, N.J., to Beverly Hills when he was 10.

Soon after, he experienced a religious epiphany. His family was Jewish but not particularly observant, not like the characters in "Fiddler on the Roof," which he had recently watched. The Orthodox traditions of his grandparents' generation had perished over the years, and Abramoff, at age 12, decided to be the one to unbury them.

He began walking to synagogue every Saturday and taught himself Hebrew, exhibiting early signs of the chin-to-chest drive that would later help catapult him to become one of the most well-connected Republican lobbyists in Washington.

At Beverly Hills High, he earned a reputation for ambition, hard work and commitment. He held the school record for the power squat, which he completed while holding 510 pounds on his back.

"Jack showed good leadership and was very dedicated, probably the strongest kid on the team," recalled Stansbury, who was the football team's offensive line coach when Abramoff played as the starting center. "For his size, he was extremely strong and very aggressive."

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Abramoff was president of the high school Lettermen's Club, said Stansbury, who is now a teacher and coach at Paso Robles High School. "Jack always had a clear mission of where he wanted to be and how he was going to get there. I had a lot of respect for Jack's work ethic."

Steven Herbert, a freelance journalist who writes for The Times' sports section and attended the same schools a year behind Abramoff, recalled an early setback for Abramoff. He ran for student council president at the Hawthorne School, a Beverly Hills elementary and middle school, in 1972. Heading into a runoff election, Abramoff was disqualified for exceeding the spending limit. The principal, Herbert recalled, penalized Abramoff for holding a party, stating it amounted to a campaign expenditure that pushed him over the limit.

In the handful of interviews Abramoff has granted over the last year, he has refused to discuss the federal probe of his lobbying work but has talked about his past, including the religious revelation in his adolescence.

"I felt a twinge of sadness that that culture had died out in our family," he told Mother Jones magazine last summer. Recalling the decision he made then: "I'll be the person to resurrect it."

He became as conservative in his politics as in his faith and forged early friendships that would help him ascend his party's ranks. While an undergraduate at Brandeis University in Massachusetts, he met Grover Norquist, a Harvard graduate student who went on to head Americans for Tax Reform. Their common passion for conservative activism led them to organize young Republicans in the 1980 election, which some believed helped Ronald Reagan score an upset in that famously Democratic state.

Norquist was the first of many prominent Republicans that Abramoff would befriend as he took on key political chores on behalf of the GOP.

Abramoff became national chairman of the student wing of the GOP, the College Republican National Committee, a position once held by Bush confidant Karl Rove. There, Abramoff forged his long friendship with activist Ralph Reed, who would years later turn the Christian Coalition into a major political force within the GOP.

In his mid-20s, Abramoff set out to spread the Reagan Doctrine. He became executive director of Citizens for America, Reagan's grass-roots lobbying group.

With Republicans out of power in the early 1990s, Abramoff took a break from full-time politics and returned to his West Coast roots. He spent 10 years as a movie producer and made several B-grade films, including 1989's anti-communist romp "Red Scorpion."

In business and in politics, "he was always the consummate entrepreneur," said Marshall Wittmann, a former conservative activist who knew Abramoff during his rise to power and who is now a fellow at the centrist Democratic Leadership Council.

Abramoff was drawn back into politics in 1994 when the GOP takeover of Congress created opportunities for a talented rainmaker. Washington was full of new GOP lawmakers, and lobbying firms were desperate for people with Republican contacts. With his old friends suddenly in high places and his ticket already punched as a Reagan devotee, Abramoff was in demand almost overnight. He soon acquired a list of top-drawer clients — Unisys Corp., Tyco International and the government of the Northern Mariana Islands, a remote Pacific commonwealth that lawmakers were eyeing for additional federal regulation.

Abramoff became a bona fide high roller. He bought a majority stake in Signatures, a high-end restaurant on Pennsylvania Avenue between the White House and Capitol Hill that was a hot spot for Republican lobbyists, members of Congress and political fundraisers. GOP lawmakers filled his private skyboxes at Redskin, Oriole and Wizard games.

He also showed an interest in charitable organizations. Concerned about the quality of Jewish education in the Washington area, he founded an Orthodox school and sent two of his children there.

A charitable organization he founded, the Capital Athletic Foundation, figures in the charges to which Abramoff entered guilty pleas Tuesday. Prosecutors said he induced a wireless telephone company to make $50,000 in payments to the foundation rather than pay a lobbying fee to the firm Abramoff worked for.

His most lucrative clients, though, were the Indian casino tribes he began to represent in the mid-1990s. Prosecutors say Abramoff and a partner conspired to defraud some of those tribes in five states, reaping millions of dollars from the scheme.

"Can you smell money?!" Abramoff wrote to his partner Michael P.S. Scanlon, a public relations consultant and former DeLay spokesman, regarding an Indian tribe rich with gambling casino profits. Scanlon recently pleaded guilty to federal conspiracy charges.

Abramoff at one point disparaged some of the tribal members who had made him rich, calling them "troglodytes" and "plain stupid … Morons."

Last year, Abramoff was forced to listen to those words in a hearing of the Senate Indian Affairs Committee. "Why would you want to work for people that you have that much contempt for?" one senator asked.

On the advice of his lawyer, Abramoff did not respond.

Abramoff Case Could Have Far-reaching Impact (KRT)

By Michelle Mittelstadt, Dallas Morning News
KRT, January 4, 2006

WASHINGTON - Fallen lobbyist Jack Abramoff's deal to cooperate in an influence-peddling investigation surely sent a chill Tuesday through Capitol Hill, where the Republican plied dozens of politicians with campaign contributions and favored some with lavish trips, Super Bowl tickets and pricey meals in exchange for legislative help.

"They have to be just sweating bullets," said Melanie Sloan, executive director of Citizens for Responsibility and Ethics in Washington, a watchdog group. "Anybody who ever had anything to do with Jack Abramoff has to be rethinking every minute, every conversation with him."

The Abramoff case may not be marked by the outright bribery of corruption sagas such as Abscam and Koreagate, where members of Congress pocketed envelopes stuffed with cash. But it has the potential to rank as one of Congress' worst scandals in decades because of the number of lawmakers and aides who could be ensnared - and because of the disgraced lobbyist's reach into the top rungs of the GOP leadership.

Abramoff, who was one of President Bush's top fundraisers and traded on his ties to former House Majority Leader Tom DeLay, pleaded guilty Tuesday to charges of conspiracy, mail fraud and tax evasion. It marked the latest twist in a corruption inquiry that is believed to be focusing on DeLay, R-Texas, and as many as 14 others on Capitol Hill.

"Government officials and government action are not for sale," said Assistant Attorney General Alice Fisher, who heads the Justice Department's Criminal Division. "The Justice Department will aggressively investigate and prosecute these types of cases, which have a devastating impact on the public's trust of government. We will not shy away from that responsibility, no matter where the trail leads."

One lawmaker who may be in the crosshairs is Rep. Bob Ney, R-Ohio, chairman of the House Administration Committee. In the Abramoff plea agreement, prosecutors detailed the legislative favors that Ney - identified only as "Representative No. 1" in court papers - performed for Abramoff's clients after receiving political contributions, overseas travel and other gifts.

"At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities," Ney said, denying wrongdoing.

Though Jack Abramoff has yet to become a household name, experts say the scandal could resonate with a public increasingly nervous about public corruption. An AP-Ipsos poll last month found that 88 percent of Americans believe corruption at all levels of government is a serious problem, with 51 percent calling it very serious.

"What makes a person like Abramoff so dangerous is he embodies and personifies problems that usually seem technical or abstract or too big to deal with," said Julian Zelizer, a Boston University history professor who wrote a book on congressional scandals. "Here you have a kind of villain that I think Americans might start paying attention to a bit."

And just as Republicans used ethics as a cudgel to end House Democrats' four-decade lock on power in 1994, Zelizer and other experts said the current scandal holds peril for the GOP even though some Democrats also received Abramoff's largesse.

"There is always the cliche `a pox on both your houses.' But I do think the party in power does take extra heat on these things," said Larry Noble, executive director of the Center for Responsive Politics, among the watchdog groups that tracked the $2.1 billion paid by corporations and special interests to lobby Washington last year.

The Abramoff scandal holds the potential for strengthening lobbying disclosure and campaign finance regulations, particularly if the investigation remains front-page news with politicians' indictments, Noble said.

At the very least, there could be more scrutiny of lobbying, which Center for Public Integrity executive director Roberta Baskin called the "fourth branch of government in Washington."

"It's like the sun coming up on K Street right now," Baskin said. "There is the possibility and hope of there being a lot more scrutiny and accountability."

But Danielle Brian, head of the Project on Government Oversight, predicted change would be slow without a public outcry to force lawmakers to action.

"I definitely am not looking to Congress to make the changes themselves," Brian said, noting that the House and Senate ethics committees have been largely moribund in recent years. "I don't see there is any evidence there is any real self-policing going on."

Lobbyist's Guilty Plea Signals Broadening Scandal In Washington (KRT)

By Steven Thomma And Alison Young
Knight Ridder, January 4, 2006

WASHINGTON - The nation's capital braced Tuesday for a mushrooming political scandal as a well-connected lobbyist pleaded guilty to federal criminal charges and prepared to testify about members of Congress caught in his web of corruption.

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Jack Abramoff, 46, invoked God as he apologized and pleaded guilty before a federal judge to one charge each of conspiracy, mail fraud and tax evasion. He faces a maximum of 30 years in prison - and another potential plea in a Florida indictment related to his purchase of a fleet of casino cruise ships from a man who was murdered a few months later.

By itself, the fall of a high-flying lobbyist who collected $80 million in fees from casino-rich Indian tribes, wined and dined politicians at his own upscale Washington restaurant, Signatures, and flew them abroad for golf outings was a dramatic tale.

But it was the likelihood that Abramoff now will help federal prosecutors go after members of Congress that gripped official Washington.

"This is going to grow and multiply," said Bill Mateja, a former top official in the Bush Justice Department who's now a Dallas lawyer. "If I were on Capitol Hill, I would be shaking in my boots. Because if anyone knows where the skeletons are buried, it's Jack Abramoff."

The Abramoff case could rival or surpass the 1980 Abscam case, in which an FBI sting trapped members of Congress taking bribes. Six members of the House of Representatives and one senator were convicted then.

It also could make it easier for Americans to see the free flow of money and lobbyist influence in Washington and affect the way they vote in this year's congressional elections. Democrats hope to benefit, but polls so far show both parties losing public esteem.

Justice Department officials said they hoped their extensive investigation would send a message about corruption.

"Government officials and government action are not for sale," said Alice Fisher, an assistant attorney general. "The Justice Department will aggressively investigate and prosecute these types of cases, which have a devastating impact on the public's trust of government."

The scandal threatens to engulf several high-ranking lawmakers from both major political parties, including:

- Rep. Bob Ney, R-Ohio, the chairman of the House Administration Committee, whose Web page identifies him as the "11th most powerful member of Congress." He took a golf trip to Scotland on Abramoff's tab, but says he did nothing wrong.

- Rep. Tom DeLay, R-Texas, who was forced to step down last fall as House majority leader when he was indicted on a campaign-finance charge that isn't related to the Abramoff case. DeLay denies any wrongdoing in taking overseas trips financed by Abramoff. His spokesman said Tuesday that all of DeLay's actions were approved by the House ethics committee.

- Rep. John Doolittle, R-Calif., the secretary of the House Republican Conference, who took campaign contributions from Abramoff and whose wife was hired by an Abramoff foundation. Doolittle denies that his intervention in a California Indian casino case, which would've helped Abramoff, was connected to his relations to the lobbyist.

- Sen. Harry Reid, D-Nev., the Senate minority leader, who's denied that his intercession in an Indian-casino case that would've helped Abramoff was linked to a $5,000 contribution from an Abramoff client.

"Abramoff probably had relationships with lots more members of Congress," said Melanie Sloan, a former federal prosecutor, the head of Citizens for Responsibility and Ethics in Washington and who's supported Democrats. "He's clearly been spilling his guts for several months."

Abramoff's lawyer, Abbe Lowell, said in a statement that his client "intends to continue to work with the Justice Department and others to fully resolve all matters of interest, to provide restitution to anyone he has harmed, and to seek absolution from all."

Abramoff would serve nine and a half to 11 years of his sentence under federal guidelines. That could be reduced further with his cooperation in the investigation. He also faces a fine of more than $750,000 and mandatory restitution estimated to be about $26.7 million - $1.7 million of that to the Internal Revenue Service for evading taxes, plus an undetermined amount of back taxes.

The lobbyist was contrite as he faced U.S. District Judge Ellen Segal Huvelle.

"Your honor, words will not be able to ever express how sorry I am for this, and I have profound regret and sorrow for the multitude of mistakes and harm I have caused," he said.

"All of my remaining days, I will feel tremendous sadness and regret for my conduct and for what I have done. I only hope that I can merit forgiveness from the Almighty and from those I have wronged or caused to suffer. I will work hard to earn that redemption."

The most far-reaching charge said Abramoff corruptly influenced public officials and their relatives.

"Abramoff and others would offer and provide things of value to public officials, including trips, campaign contributions, meals and entertainment in exchange for agreements that the public officials would use their official positions and influence to benefit defendant Abramoff's clients and ... businesses," the federal charge said.

It didn't identify any public officials by name.

But it did say Abramoff influenced a House Committee chairman identified as "Representative A." It said Abramoff used "a lavish trip to Scotland to play golf on world famous courses, tickets to sporting events ... regular meals at Abramoff's upscale restaurant, and campaign contributions" to win official favors from the congressman.

Representative A is apparently Ney.

An Abramoff partner, Michael Scanlon, who formerly had worked for DeLay, pleaded guilty in November to conspiring to bribe Ney. Ney has denied wrongdoing.

"At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities," Ney said in a statement.

The plea bargain also said Abramoff had defrauded several Indian tribes by charging them huge fees while lying about his work or the way that money was funneled to him. For example, it said he urged them to hire other firms while concealing that he got a 50 percent kickback from more than $54 million that the tribes paid those firms.

Abramoff greased his relationships with golf trips, meals at his restaurant and seats in his luxury skyboxes at Washington sports events. He and his clients also contributed freely to campaigns, $4.4 million since 2000, according to the nonpartisan Center for Responsive Politics.

With the investigation threatening to spread, several members of Congress recently returned campaign contributions to Abramoff, a trend that House Speaker Dennis Hastert, R-Ill., joined Tuesday evening. He announced that he'd return $70,000 in contributions from Abramoff-related clients, including Indian tribes.

Previously, Sen. Max Baucus, D-Mont., returned $18,892. That amount included $1,892, the value of seats in Abramoff's skybox at a Washington sports arena, which Baucus had used but never reported.

Sen. Byron Dorgan, D-N.D., gave back $67,000 in Abramoff-related donations.

Sen. Conrad Burns, R-Mont., returned more than $150,000 and summed up what probably is the prevailing attitude in Congress toward the once-popular lobbyist.

"This Abramoff guy is a bad guy," Burns told a Montana television station last month. "I hope he goes to jail and we never see him again. I wish he'd never been born, to be right honest with you."

Knight Ridder correspondents James Kuhnhenn and Maria Recio contributed to this report.

Lobbyist Admits Fraud And Bribe Plots (FT)

By Patti Waldmeirin Washington

Financial Times, January 4, 2006

Jack Abramoff, Republican lobbyist and central figure in an influence-peddling scandal with reverberations throughout Washington, yesterday pleaded guilty to federal corruption charges and agreed to help prosecutors investigate the activities of top US lawmakers including Tom DeLay, the former House majority leader.

Mr Abramoff yesterday pleaded guilty to conspiring to defraud his lobbying clients, breaking federal lobbying laws and conspiring to bribe lawmakers and congressional aides with campaign contributions, meals, trips and sports tickets. He is expected to serve about 10 years in prison.

According to the charges filed yesterday, Mr Abramoff and a former aide to Mr DeLay, Michael Scanlon, overbilled several Indian tribes who were their clients. They then diverted the money either into their own pockets, or used it to provide what the charges said was "a stream of things of value", including a lavish golfing trip to Scotland, for a lawmaker and his staff.

No politicians are named in the papers filed yesterday by the Justice Department, but prosecutors are understood to be investigating at least a dozen lawmakers, congressional aides and lobbyists, including Mr DeLay and Bob Ney of Ohio, a fellow Republican lawmaker.

Mr Abramoff's long-awaited decision to plead guilty and co-operate with federal investigators will give the Justice Department powerful new ammunition in its probe of alleged patterns of corruption and bribery within the ranks of the Republican leadership.

Democrats are hoping to exploit the perception of a "culture of corruption" among Republican leaders in November elections, although some Democrats also received campaign contributions from Mr Abramoff.

The charges yesterday said: "It was a purpose of the conspiracy for defendant Abramoff, Scanlon and others to enrich themselves by obtaining substantial funds from their clients through fraud and concealment."

Some of these funds were used to try to influence an unnamed Congressmanto "perform a series of official acts" including passing legislation. Sports tickets and meals at Mr Abramoff's upmarket Washington restaurant were lavished on lawmakers. The charges also included breaking lobbying laws by hiring congressional staffers to lobby their former bosses within a year of their employment on Capitol Hill.

Yesterday's charges are separate from those pending against Mr Abramoff in Florida, where he has been charged with conspiracy and wire fraud.

Scott McClellan, White House spokesman, said that "if laws were broken, [Mr Abramoff] must be held to account for what he did".

Lobbyist Abramoff Pleads Guilty To Conspiracy, Fraud (LAW)

By Andy Metzger, Legal Times

Legal Times, January 4, 2006

Scandal-plagued lobbyist Jack Abramoff pleaded guilty Tuesday to three counts of conspiracy, fraud and tax evasion as the Justice Department's investigation shifts away from Abramoff and toward lawmakers and Hill staffers who allegedly accepted what Abramoff now says were bribes.

The plea deal could send Abramoff to prison for nine to 12 years and will require him to pay about $25 million in restitution to his former Native American tribal clients that he admitted to defrauding. Abramoff is also expected to plead guilty later this week to fraud charges in Florida, bringing an end to both of the Justice Department's investigations into him.

In a deal that closely mirrors the one made in November by former business partner Michael Scanlon, who pleaded guilty to conspiracy charges, Abramoff admits to providing trips, entertainment, and campaign contributions to Rep. Bob Ney, R-Ohio, in return for several official favors. Ney is identified in the plea document as "Representative #1." (Ney's lawyer has stated that Ney is Representative #1).

Ney issued a statement Tuesday denying that he has done anything improper or illegal. "At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities," Ney said in the statement, which echoes his past remarks on the matter.

Abramoff also admitted to defrauding his tribal clients by directing them to pay millions of dollars to Scanlon's consulting and public relations company, but concealing that he received kickbacks from Scanlon equal to half of the profits -- an amount that exceeded $20 million. The charge that Abramoff defrauded Indian clients first surfaced in February 2004. Since then, the corruption investigation has widened to include Congress and members of the Bush administration. According to published reports, the Justice Department is currently investigating as many as 20 congressmen and Hill staffers.

At the hearing Tuesday in a Washington, D.C., federal courtroom, Abramoff appeared a hollow shell of the K Street power broker that he once was. Frowning and avoiding eye contact throughout the hearing with anyone except U.S. District Judge Ellen Segal Huvelle, Abramoff often seemed on the brink of tears as he sat quietly at the defense table. He answered Huvelle's questions in monosyllables and barely spoke above a whisper. In a prepared statement Abramoff delivered at the end of the hearing, he said: "Words will not be able to ever express how sorry I am for this, and I have profound regret and sorrow for the multitude of mistakes and harm I have caused. I only hope that I can merit forgiveness from the Almighty and from those I have wronged or caused to suffer."

Abramoff and his attorney, Abbe Lowell, did not answer questions after the hearing. Lowell released a statement saying his client had been in talks with the Justice Department for 18 months.

With Abramoff and his former business partner Scanlon both having cut plea deals to cooperate with prosecutors, all attention is now focused on Capitol Hill. According to published reports, lawmakers under investigation by the Justice Department include Ney, Rep. John Doolittle, R-Calif., Sen. Conrad Burns, R-Mont., and former House Majority Leader Tom DeLay, R-Texas.

In addition to identifying Ney, Abramoff also implicated two congressional staffers-turned-lobbyists who worked for him at Greenberg Traurig. In the plea document they are referred to only as Staffers "A" and "B."

In his plea Abramoff alleges that Staffer A solicited contributions from Abramoff's lobby clients for a charity that Abramoff controlled. Those funds were then used to finance a golf trip to Scotland attended by Ney. During the hearing Judge Huvelle stated that the activities of Staffer A's wife and her organization are also under investigation.

Abramoff also claims in his plea that Staffer B, a former Ney aide who joined Abramoff's team at Greenberg, was the conduit through which he communicated with Ney to arrange what Abramoff now says were corrupt acts.

Neil Volz, Ney's former chief of staff who worked for Abramoff at Greenberg and is now a lobbyist with Barnes & Thornburg, is under investigation by the Justice Department. Other lobbyists under investigation are Tony Rudy, a former DeLay staffer who worked at Greenberg for a year before joining Alexander Strategy Group. Rudy's wife, Lisa, operated Liberty Consulting, which did work for several Abramoff clients and associates. Edwin Buckham, another former DeLay staffer now at Alexander Strategy, and Kevin Ring, a former chief of staff for Doolittle who later went to work for Abramoff, are also being investigated by the Justice Department, according to several published reports.

Ring declined to comment, citing the ongoing investigation. The others did not return calls for comment before deadline.

Abramoff Pleads Guilty, Agrees To Aid Probe Into Congress (BOS)

By Michael Kranish, Globe Staff

The Boston Globe, January 4, 2006

WASHINGTON -- Lobbyist Jack Abramoff yesterday pleaded guilty to conspiracy, fraud, and tax evasion charges in one of the biggest corruption cases in recent Washington history, agreeing to cooperate with prosecutors who are investigating whether members of Congress took bribes from him in exchange for favors.

Abramoff admitted that he told Indian tribes to give money to a lobbying firm while hiding his own $20 million take and that he also tried to bribe public officials, the government said.

The plea bargain sent shockwaves through Capitol Hill as lawmakers awaited word on possible indictments of members of Congress. The government said Abramoff gave "money, meals, trips, and entertainment to public officials and their relatives . . . in return for agreements to perform official acts."

The indictment did not provide the name of any public official who took action after receiving money or gifts from Abramoff. But it does refer to Abramoff's collaboration with an unnamed member of Congress. Yesterday Representative Robert W. Ney, Republican of Ohio, issued a statement indicating that he was the unnamed member, and denied any wrongdoing.

In pleading guilty, Abramoff told US District Court Judge Ellen Huvelle: "Words will not ever be able to express my sorrow and my profound regret for all my actions and mistakes. I hope I can merit forgiveness from the Almighty and those I've wronged or caused to suffer."

The head of the Justice Department's criminal division, Alice S. Fisher, vowed to continue the investigation no matter where it leads.

"Government officials and government action are not for sale," she said at a news conference. "The Justice Department will aggressively investigate and prosecute these types of cases, which have a devastating impact on the public's trust of government."

The charges against Abramoff revolved around his scheme to collect $20 million from Indian tribes in Louisiana, Michigan, Mississippi, and Texas.

Separately, Abramoff today is expected to plead guilty to charges involving fraudulent financial dealings in seeking to purchase a Miami cruise ship company, a deal that was largely unrelated to his tribal lobbying.

Abramoff, 46, faces up to 30 years in jail for the Washington-based charges, but prosecutors said that could be cut to 9 1/2 years under sentencing guidelines, with a possible further reduction for cooperating with the government in cases against others. He is expected to pay $25 million in fines to his victims and $1.7 million in evaded federal taxes. Prison time from his Miami charges could be served concurrently with his Washington-based charges, a Justice official said.

The case has been the talk of Washington for months because Abramoff has been a close associate of many leading officials, most of them Republicans. Abramoff was a top fund-raiser for President Bush and worked closely with Tom DeLay, the former House majority leader who resigned his leadership post late last year after being indicted in a separate case alleging violation of Texas voting laws.

In addition, Abramoff had close dealings with such high-profile Republicans as antitax activist Grover G. Norquist and former Christian Coalition director Ralph Reed.

Abramoff's role unraveled partly because of hundreds of e-mails between Abramoff and various associates obtained by federal investigators. While Abramoff represented himself publicly as a pious man who worked on behalf of tribal interests, he described tribal leaders in one e-mail as "moronic," adding: "I'd love us to get our mitts on that moola!! Oh well, stupid folks get wiped out."

Prosecutors made the deal with Abramoff partly in hopes of gaining new information for their investigation into the activities of an undisclosed number of public officials, including members of Congress and congressional aides.

Abramoff urged tribes to give money to numerous public officials, and at least two dozen members of Congress have returned contributions related to Abramoff. Senator Conrad Burns, Republican of Montana, returned $150,000 just before Christmas. Senator Byron L. Dorgan, a North Dakota Democrat, returned $67,000. Both have denied wrongdoing.

Abramoff got his start in politics at Brandeis University in Massachusetts in 1980, organizing college Republicans and forming an alliance with a Weston native, Norquist, who was rallying GOP members at Harvard Business School. The pair moved to Washington, where they worked for the national party with another rising GOP star, Reed.

Abramoff's lobbying for tribes took off in the late 1990s, when some Republicans were pushing for a tax on Indian casino profits. Abramoff was hired by tribes to help kill the tax idea. Then Abramoff started collecting millions of dollars from tribes to help other casino interests.

The indictment cited four examples of how Abramoff exploited tribes, in conjunction with Capitol Campaign Strategies, the firm run by his partner, Michael Scanlon, a former DeLay press secretary who has pleaded guilty in a related case. The indictment declared that by concealing their conspiracy, Abramoff and Scanlon violated laws against fraudulent dealings. The two called the scheme "Gimmie Five," shorthand for Abramoff's collection of half of the profits:

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Abramoff advised the Mississippi band of Choctaw Indians to hire Capitol Campaign Strategies for $14 million without disclosing to the tribe that he had secretly arranged to receive $6.4 million in that arrangement.

Abramoff advised the Louisiana Coushatta tribe to pay his partner, Michael Scanlon, and others $31 million without disclosing to the tribe that he would receive $11.4 million.

Abramoff advised the Michigan Saginaw Chippewa tribe to pay Capitol Campaign Strategies $3.5 million without disclosing to the tribe that he would receive $540,000.

Abramoff persuaded the Texas Tigua tribe to pay Scanlon $4.2 million in its effort to win approval for reopening its casino, without disclosing to the tribe that Abramoff would receive $1.8 million and that Abramoff was working separately to oppose the Tigua's effort to reopen the casino.

No charges were filed related to the work by Abramoff's firm for the Mashpee Wampanoag tribe of Massachusetts, which paid $50,000 to two of Abramoff's partners as part of an effort to win federal recognition and possibly build a casino.

While Abramoff's dealings with the tribes were widely publicized during Senate hearings into his tribal lobbying, his relationships with members of Congress received far less scrutiny during that probe. As a result, there has been much tension on Capitol Hill about whether Abramoff would strike a deal and implicate lawmakers. Those fears may have been increased by a portion of the Abramoff indictment that refers to "bribery and . . . fraud involving public officials."

Much of the speculation yesterday was focused on Ney, the chairman of the Committee on House Administration. Ney's congressional website notes that he has been described as the 11th most powerful member of Congress.

The indictment says Abramoff "provided a stream of things of value to a Member of the United States House of Representatives (Representative #1) and his staff." The indictment says that gifts include "a lavish trip to Scotland to play on world famous courses, tickets to sporting events, and other entertainment," and campaign contributions.

Some of the money for the Scotland trip came from a $50,000 donation Abramoff arranged from the Tigua tribe, the indictment said.

In exchange for those gifts, the indictment says, the congressman worked on "advancing the application" by an Abramoff client to get a wireless telephone system installed in House offices.

As soon as Abramoff's plea bargain was released, Ney issued a statement alluding to his involvement with Abramoff in matters covered by the indictment, but denying any wrongdoing.

"At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities," Ney said in a statement yesterday. His spokesman added that "the truth will show that congressman Ney did nothing wrong."

Representative Martin T. Meehan, the Lowell Democrat, said he hoped that the plea bargain will lead Congress to tighten lobbying restrictions, just as the Watergate scandal prompted limits on campaign contributions. Meehan has proposed legislation that requires lobbyists to disclose meetings with members of Congress, among other measures.

"Given the plea bargain agreement, there is an assumption that there is more to this case than we know," Meehan said, when asked in a telephone interview about the state of concern about possible future indictments. "This agreement means that Abramoff's web of corruption will begin to unravel. That can only help our efforts to pass meaningful lobbying and ethics reforms."

The plea deal follows a number of high-profile cases affecting top Republicans, including the DeLay indictment, the indictment of former vice presidential chief of staff I. Lewis "Scooter" Libby in the CIA leak case, and a guilty plea on bribery charges by former US representative Randy "Duke" Cunningham.

Hastert Donates Abramoff-linked Money (CNN)

CNN.com, January 4, 2006

WASHINGTON (CNN) -- House Speaker Dennis Hastert became the latest lawmaker to dump campaign contributions from clients of high-flying lobbyist Jack Abramoff, giving about $70,000 to charity Tuesday.

The donation came after Abramoff pleaded guilty to corruption charges and agreed to cooperate with a federal corruption investigation in Washington.

"The speaker believes that while these contributions were legal, it is appropriate to donate the money to charity," a spokesman for the Illinois Republican, Ron Bonjean, said. Bonjean did not specify which group or groups would receive the money.

Abramoff pleaded guilty to conspiracy, fraud and tax evasion charges in an agreement with federal prosecutors that could have a wide-reaching effect in Washington. (Full story)

Abramoff is a former College Republican chairman with longstanding ties to top Republicans in Washington, including former House Majority Leader Tom DeLay, conservative activist Grover Norquist and former Christian Coalition chief Ralph Reed.

A source close to the probe said investigators are looking at about a half dozen members of Congress, while a senior government official told CNN the probe involves about two dozen lawmakers and staffers.

Sources told CNN that Abramoff might have thousands of e-mails in which he describes the influence-peddling in which he was involved and explains what lawmakers were doing in exchange for the money he was putting into their campaign coffers.

Abramoff's guilty plea comes as Democrats head into the 2006 congressional elections by blasting what they call a "culture of corruption" surrounding the Republican leadership.

About two-thirds of the more than $4.4 million in political donations from Abramoff, his clients and associates since 1998 went to Republicans, according to records compiled by the Center for Responsive Politics, a campaign-finance watchdog group. A search of Federal Election Commission records since 1998 found no personal donations from Abramoff to Democrats.

Republican Sen. Conrad Burns of Montana told The Washington Post in December that he would return $150,000 in contributions from Abramoff, his clients and associates. Burns is up for re-election in November, and state Democrats have been hammering him over his ties to the lobbyist.

DeLay's political action committee, Americans for a Republican Majority, has returned $5,000 from Abramoff, according to federal election records. The Texas congressman gave up his leadership post in September after his indictment on charges that he improperly steered corporate money into the state's 2002 legislative races -- a case unrelated to Abramoff's. DeLay's trial in Texas on money laundering charges is pending. He has pleaded not guilty.

And North Dakota Sen. Byron Dorgan said in December that he would return $67,000 in donations from Indian tribes Abramoff represented. Dorgan, the ranking Democrat on the Indian Affairs Committee that investigated Abramoff's dealings with his tribal clients, told a North Dakota newspaper that he would not keep any money that "could have been the result of any action Mr. Abramoff might have taken."

He praised the Justice Department for securing Abramoff's plea agreement, saying in a written statement Tuesday that it "confirms much of the work that we have done and much of what we have found."

CNN congressional correspondent Ed Henry contributed to this report.

Mr. Abramoff's Plea (WP)

The Washington Post, January 4, 2006

OMINOUSLY FOR members of Congress and their staffers who enjoyed themselves at his expense and then did his bidding, disgraced lobbyist Jack Abramoff agreed yesterday to plead guilty to conspiracy, mail fraud and tax evasion. His deal follows a similar plea by Michael Scanlon, Mr. Abramoff's partner in lobbying and in crime. Mr. Abramoff admitted to bilking his clients, deceiving his law firm, misusing charities and lying on his income taxes. He also admitted to bribing at least one member of Congress and his staff, plying them with perks and being more than amply thanked by their help for his clients. Now that the two biggest private-sector targets in this case have agreed to cooperate, prosecutors can concentrate on the public officials involved.

As outlined in the charges filed against Mr. Abramoff, he and Mr. Scanlon "provided a stream of things of value" to a member of Congress and his staff, "including but not limited to a lavish trip to Scotland to play golf on world-famous courses, tickets to sporting events and other entertainment, regular meals at defendant Abramoff's upscale restaurant, and campaign contributions for Representative #1, his political action committee, and other political committees on behalf of Representative #1." The public record makes clear that the unnamed representative is Rep. Robert W. Ney (R-Ohio), chairman of the House Administration Committee.

If the allegations are true, Mr. Ney ought to be not only ashamed but also embarrassed at how cheaply he and his staff could be bought. "In exchange for those things of value," the document dryly recites, the lobbyists obtained "agreements to support and pass legislation, agreements to place statements into the Congressional Record, meetings with defendant Abramoff's clients, and advancing the application of a client of defendant Abramoff for a license to install wireless telephone infrastructure in the House of Representatives."

Most of these details were already known. But Mr. Abramoff's cooperation -- he's been talking behind the scenes to prosecutors for months -- could expand prosecutors' knowledge about his entanglements with other officials. Notable among them are former House majority leader Tom DeLay (R-Tex.), who took three overseas trips with Mr. Abramoff and received more than $70,000 from the lobbyist, his associates and tribal clients, and the former second-ranking official at the Interior Department, J. Steven Griles, the recipient of an Abramoff job offer and a target of numerous Abramoff-initiated lobbying contacts.

Mr. Abramoff's plea -- he agreed to pay $25 million in restitution and faces a lengthy prison term -- wouldn't have come about without enterprising journalism, the tenacity of Sen. John McCain (R-Ariz.) and the skilled efforts of federal prosecutors. But one player remains notable for its absence: the House ethics committee, which has been silent and, for most of the past

year, dysfunctional. It is critical that the panel -- and its Senate counterpart, if appropriate -- rouse itself to deal with the scandal in its midst.

Reed Opponents Link Candidate To Abramoff Plea (AP)

By Doug Gross

AP, January 4, 2006

ATLANTA - Opponents of former Christian Coalition leader Ralph Reed in his bid for lieutenant governor wasted no time Tuesday tying the Republican to embattled lobbyist Jack Abramoff - who pleaded guilty to federal conspiracy, tax evasion and mail fraud charges.

Reed has said he regrets funding a multistate antigambling campaign with money from Abramoff's gambling-industry clients. Reed angered religious groups - considered his political base - when it was revealed that his work was paid for by Indian tribes with casinos who were trying to shut down would-be competitors.

Reed has not been accused of a crime.

A spokeswoman for Reed did not respond to several telephone calls and e-mails by The Associated Press seeking comment on Tuesday.

"The only thing I can say is that if you're Ralph Reed, you're awfully nervous right now," said Greg Hecht, a former state senator seeking the Democratic nomination for lieutenant governor. "When you get certain candidates that seem to intimate they hold a higher moral position than others, it becomes a real problem and this may just be one step in a line of difficulties for him."

Former state representative and Department of Human Resources commissioner Jim Martin, of Atlanta, also is seeking the Democratic nomination.

Brad Alexander, spokesman for state Sen. Casey Cagle - Reed's opponent in the Republican primary - said Cagle remains focused on his own agenda, but was quick to link Reed to Abramoff's plea.

"We have every confidence the ongoing Justice Department investigation will fully review the evidence and continue to seek appropriate legal remedies on behalf of all those wronged by Jack Abramoff, Ralph Reed, and the others involved in this matter," Alexander said.

Abramoff agreed Tuesday with U.S. District Court Judge Ellen Huvelle when she said he had engaged in a conspiracy involving "corruption of public officials." The lobbyist also agreed when she said he and others had engaged in a scheme to provide campaign contributions, trips and other items "in exchange for certain official acts."

Prosecutors also say Abramoff and lobbying partner Michael Scanlon, who pleaded guilty in November, conspired to defraud Indian tribes in Louisiana, Michigan, Mississippi, New Mexico and Texas of millions of dollars.

Abramoff reaped roughly $20 million in hidden profits from the scheme, according to the information.

In a speech posted on Reed's campaign Web site in December, he said a lot of good came from his antigambling efforts. "Nevertheless, had I known then what I know now, I would not have undertaken that work," he said.

A campaign spokesman said Reed made the speech Dec. 9 before a Christian youth group in Alpharetta.

Throughout A City, Lessons Of The Fall (WP)

By Dana Milbank

The Washington Post, January 4, 2006

It was just past noon yesterday, about the time Jack Abramoff would be sitting down to lunch at Signatures, the restaurant he owned at Eighth Street and Pennsylvania Avenue NW. Over the roasted waluu ($19) or perhaps a starter of Kobe pot stickers ($12), he would be securing favors for his lobbying clients from well-fed lawmakers.

But the doors were locked at Signatures yesterday, the political memorabilia removed from the walls, the tablecloths gone, trash on the floor, dishes stacked on tables and stools stored on the counter of the still-stocked bar. A Zagat sticker in the window prematurely promised: "Rated Excellent 2006."

Instead of a table at the now-defunct restaurant, Abramoff had a lunchtime appointment three blocks down Pennsylvania, at the federal courthouse. There, in black raincoat and fedora, he pleaded guilty to conspiracy, fraud and tax offenses that could cost him $25 million and put him behind bars for at a least a decade.

"I just want to say words will not ever be able to express my sorrow and my profound regret for all my actions and mistakes," Abramoff, slouched over the defense table, said quickly and softly into the microphone. "For all of my remaining days, I will feel tremendous sadness and regret for my conduct and for what I have done. I only hope that I can merit forgiveness from the Almighty and from those I have wronged or caused to suffer."

Abramoff cut a wretched figure as he shuffled into the courtroom of Judge Ellen Segal Huvelle. The once-athletic lobbyist was slouching, his newly overweight frame wrapped in a double-breasted suit. His hand shook when he took his oath. After his

plea, he closed his eyes and looked as if he were going to cry. He accepted soothing pats on the back from his lawyer. He clasped his hands together and rubbed fingers as if attempting to thumb-wrestle himself. Only the cufflinks and sharp blue tie hinted at the vast wealth and power Abramoff had amassed.

Abramoff was not alone in his misery. Away on an extended recess, lawmakers and staffers who were involved in the lobbyist's schemes had to worry that Abramoff would testify against them. And President Bush, who had returned to Washington with hopes of switching the debate to comfortable terrain such as taxes and terrorism, would be bumped out of the news by more scandal.

"Culture of corruption," howled House Minority Leader Nancy Pelosi (D-Calif.). Democratic National Committee Chairman Howard Dean demanded that Bush return more than $100,000 raised for him by Abramoff.

The lobbyist's old friends and beneficiaries only piled on. "Self-serving and fraudulent," charged Rep. Bob Ney (R-Ohio), aka "Representative #1" in court papers.

"Outrageous," said White House spokesman Scott McClellan.

In public, Abramoff's only defenders yesterday were of the $500-per-hour variety. Superlawyer Abbe Lowell, complete with pocket handkerchief, did his best to help his client. He lent him a pen. He poured him some Poland Spring water. He stood at Abramoff's side and guided his client as he went through the plea ceremony.

"I am 46 years old, Your Honor," Abramoff told the judge. "I graduated from Georgetown University Law School."

Without hesitation, the defendant said he was giving up his right to trial without the influence of drugs or mental illness. But when Huvelle went through his misdeeds, Abramoff's voice grew tight and quiet.

"You failed to disclose" payments?

"Yes, Your Honor."

"You committed fraud?"

"Yes, Your Honor."

There were "misrepresentations made" about Abramoff's Capital Athletic Foundation?

Here Lowell whispered to his client. "That and other entities, Your Honor," Abramoff answered.

He admitted the "golfing trip to Scotland" was not for charitable purposes and agreed that he engaged in a public corruption scheme. "Yes, Your Honor," Abramoff said in a near-whisper. He took a sip of water.

You "provided things of value for an official act?"

"Yes, Your Honor."

"You have committed tax evasion?"

"Yes, Your Honor."

You filed "false and fraudulent forms?"

"Yes, Your Honor."

The disgrace continued for half an hour as Abramoff stood in the well, his fingertips pressing the table. The prosecutor, Mary Butler, told the judge that the lobbyist's passport has been surrendered and that, when Abramoff makes his restitution, "we would not expect it to be less" than $25 million. At this, the defendant gripped the table tightly.

Although prosecutors are recommending 9 1/2 to 11 years in prison, Huvelle repeatedly warned Abramoff that she is "not bound by these guidelines" and could sentence him to up to 30 years.

Abramoff rubbed his neck. "Yes, Your Honor."

The plea hearing was over, but not the ordeal. About 100 reporters formed a gantlet down the narrow hallway, peppering Abramoff -- "A statement outside?" "Jack, any reaction?" -- and following him to a waiting Town Car. Cameras pressed to the car's window, trained on the unhappy man in the black fedora. Even the loyal Lowell, climbing into the car, let a fleeting smile escape.

Plea Deal Stokes Anxiety On Hill Superlobbyist Abramoff Agrees To Help In Inquiry Involving Lawmakers (USAT)

By Jim Drinkard And Kevin Johnson

USA Today, January 4, 2006

WASHINGTON — Former superlobbyist Jack Abramoff pleaded guilty Tuesday to three felony counts of fraud, conspiracy and tax evasion, agreeing to help prosecutors in a wide-ranging probe of corruption in Congress.

Abramoff told U.S. District Judge Ellen Segal Huvelle, “I plead guilty, your honor,” in a soft voice as each count was read. “All my remaining days, I will feel tremendous sadness and regret for my conduct,” he added before leaving the courtroom.

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Abramoff had close ties to Rep. Tom DeLay of Texas and other legislators. Over the past six years, Abramoff and Indian tribes he represented gave more than $4.4 million in political contributions to more than 240 lawmakers, nearly two-thirds to Republicans.

House Speaker Dennis Hastert, R-Ill., on Tuesday became the latest to unload Abramoff-tainted money, announcing he would give more than $60,000 to charity.

"The fear level on Capitol Hill, on a scale of 100, is 105," said Norman Ornstein of the American Enterprise Institute. "Anybody touched by Abramoff is having difficulty sleeping these days."

Abramoff, 46, also was to plead guilty to two counts of fraud today in a second case, involving a Florida business deal to buy a casino boat business. He was indicted last year in that case.

As part of Tuesday's plea deal, Abramoff will repay those he cheated, but it's unclear whether he can fully repay the $25 million in losses. He also is liable for $1.7 million in back taxes and penalties. The charges carry maximum penalties of 30 years in jail, but sentencing guidelines and his cooperation could bring that down to about 10 years.

A charging document accompanying the plea deal described an arrangement between Abramoff and a House member previously identified as Rep. Bob Ney, R-Ohio, by the lawmaker's attorney. The House member did favors for Abramoff clients in return for "a stream of things of value," including travel, meals and entertainment, the document says.

In a statement, Ney denied he had been influenced by Abramoff. "At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature" of his activities, the statement said.

The probe goes beyond Ney's office. At least 12 lawmakers, their aides or other officials are the focus of the probe, say two federal officials briefed on the matter but who aren't authorized to speak publicly about ongoing investigations. It's unclear how many congressional offices are involved.

Abramoff built his lobbying practice over the past decade, raking in millions of dollars from clients who sought to harness his close government ties, especially Congress' GOP majority.

His specialty was representing Indian tribes with gambling interests, promising to protect them from federal taxation and competition.

In Senate hearings last year, Abramoff was portrayed as a power broker run amok. Testimony from tribal leaders and e-mails between Abramoff and his partner, Michael Scanlon, showed how they enriched themselves from the $82 million they billed the tribes. Scanlon, a former DeLay aide, pleaded guilty in November to fraud and bribery.

Abramoff Deals, Congress Quakes (CSM)

By Linda Feldmann And Gail Russell Chaddock

The Christian Science Monitor, January 4, 2006

WASHINGTON - Washington's long-awaited "A-bomb" has gone off.

Super-lobbyist Jack Abramoff's guilty plea Tuesday to three felony counts sets the stage for the biggest congressional scandal perhaps in decades, certainly since the Republicans took over Congress 10 years ago, pledging clean government.

In exchange for his guilty pleas, in both the Washington case and a separate Florida case in which he was indicted last year, Mr. Abramoff will cooperate with federal prosecutors investigating members of Congress, Capitol Hill aides, and other lobbyists. Political players with ties to Abramoff and his network, who knew the lobbyist was preparing to cut a deal, have been sweating for months. Now they're sweating harder.

Though members of both parties are involved, analysts expect Republicans - who control both houses of Congress - to bear the brunt of the political fallout. Abramoff, who has close ties to former House majority leader Tom DeLay of Texas, allegedly funneled campaign donations to lawmakers, who were treated to lavish trips and meals, in exchange for official acts.

"It could end some careers," says Jennifer Duffy, an analyst at the non- partisan Cook Political report.

Stanley Brand, a Washington defense lawyer and former Democratic counsel to the House, predicts at least six members of Congress and at least as many staff will be convicted by the end of the year.

Besides Representative DeLay, who is already under indictment in Texas, other members who are already battling allegations over their associations with Abramoff include Sen. Conrad Burns (R) of Montana, Rep. Bob Ney (R) of Ohio, and Rep. John Doolittle (R) of California.

Federal campaign records show that about 220 members of Congress received some $1.7 million in political contributions from Abramoff and his associates and clients, including American Indian tribes, between 2001 and 2004. According to Bloomberg news service, 201 of those members are still in Congress; Republicans received 64 percent of that money.

Since the whiff of scandal began to emerge around Abramoff, members have been rushing to return his contributions or donate the money to charity. But not everyone who ever took Abramoff-related money or perks is guilty of wrongdoing.

"It's not enough to take a campaign contribution," says Mr. Brand. "What's criminal is accepting the contribution in return for an express agreement to perform an official act. Beyond campaign contributions, one can't accept bribes or gratuities of any kind in return for official acts." Members of the executive branch may also be implicated in the investigation, he says.

"The line between a bribe and a legal contribution is very thin, but it is that line that keeps you out of jail," says Larry Noble, executive director of the Center for Responsive Politics. "The critical element is whether there was an understanding or agreement to take specific action in return for the money."

Abramoff joins former associate Michael Scanlon, former press secretary to DeLay, as a witness for the prosecution. Mr. Scanlon reached a plea deal last year, which raised the stakes for Abramoff. The Department of Justice says the two men defrauded Indian tribes they represented out of tens of millions of dollars.

In exchange for the guilty plea and cooperation, Abramoff would probably get a reduced prison sentence. In the Washington case, he faces a maximum of 10 years; in the Florida case, in which he is pleading guilty to fraud and conspiracy in the purchase of a casino cruise line, he could get as many as seven years.

"Up until now, I've said it will involve just a few members," says Mr. Noble. "But if they've reached a plea agreement with Abramoff, it means he's turned over people higher than him, and they must have some pretty strong evidence.

The explosion of the Abramoff scandal also represents bad news for the White House, just as President Bush is preparing for his Jan. 31 State of the Union speech - an effort to build on the momentum he started last month, after a stumbling first year to his second term.

All of Washington is looking ahead to next November's midterm elections, and whether Congress's low approval ratings and Republican woes in particular can grow big enough to swing control of one or both houses of Congress to the Democrats. Polls show that so far, the Democrats' charge that Republicans have created a "culture of corruption" has not seeped into public consciousness. But, analysts say, the 2006 campaign has not started in earnest, and it's too soon to say how the public is perceiving the corruption message.

"This will crowd out a lot of the news about the new Bush agenda," says Paul Light, a political scientist at New York University. "He'll be going up to the Hill to present his agenda, and meanwhile you have six, 12, 20 members desperately trying to return money to Abramoff, and another bunch wondering how they will look in an orange jump suit."

If the Bush White House tries to minimize the scandal, "it feeds the view that Bush doesn't take ethics seriously," says Professor Light. Last year, a top White House aide, I. Lewis Libby, was indicted in the scandal surrounding the public revelation of a CIA agent's identity.

For Congress as an institution, the Abramoff scandal reinforces prevailing attitudes that are already set in stone, says Light, who has studied the issue of trust in politics. "The American public has become inured to congressional scandals, and as long as members are bringing home enough pork, they basically say, a pox on both their houses."

Lobbyist's Guilty Plea Signals Broadening Scandal In Washington (KRT)

By Steven Thomma And Alison Young

Knight Ridder, January 4, 2006

WASHINGTON - The nation's capital braced Tuesday for a mushrooming political scandal as a well-connected lobbyist pleaded guilty to federal criminal charges and prepared to testify about members of Congress caught in his web of corruption.

Jack Abramoff, 46, invoked God as he apologized and pleaded guilty before a federal judge to one charge each of conspiracy, mail fraud and tax evasion. He faces a maximum of 30 years in prison - and another potential plea in a Florida indictment related to his purchase of a fleet of casino cruise ships from a man who was murdered a few months later.

By itself, the fall of a high-flying lobbyist who collected $80 million in fees from casino-rich Indian tribes, wined and dined politicians at his own upscale Washington restaurant, Signatures, and flew them abroad for golf outings was a dramatic tale.

But it was the likelihood that Abramoff now will help federal prosecutors go after members of Congress that gripped official Washington.

"This is going to grow and multiply," said Bill Mateja, a former top official in the Bush Justice Department who's now a Dallas lawyer. "If I were on Capitol Hill, I would be shaking in my boots. Because if anyone knows where the skeletons are buried, it's Jack Abramoff."

The Abramoff case could rival or surpass the 1980 Abscam case, in which an FBI sting trapped members of Congress taking bribes. Six members of the House of Representatives and one senator were convicted then.

It also could make it easier for Americans to see the free flow of money and lobbyist influence in Washington and affect the way they vote in this year's congressional elections. Democrats hope to benefit, but polls so far show both parties losing public esteem.

Justice Department officials said they hoped their extensive investigation would send a message about corruption.

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"Government officials and government action are not for sale," said Alice Fisher, an assistant attorney general. "The Justice Department will aggressively investigate and prosecute these types of cases, which have a devastating impact on the public's trust of government."

The scandal threatens to engulf several high-ranking lawmakers from both major political parties, including:

- Rep. Bob Ney, R-Ohio, the chairman of the House Administration Committee, whose Web page identifies him as the "11th most powerful member of Congress." He took a golf trip to Scotland on Abramoff's tab, but says he did nothing wrong.

- Rep. Tom DeLay, R-Texas, who was forced to step down last fall as House majority leader when he was indicted on a campaign-finance charge that isn't related to the Abramoff case. DeLay denies any wrongdoing in taking overseas trips financed by Abramoff. His spokesman said Tuesday that all of DeLay's actions were approved by the House ethics committee.

- Rep. John Doolittle, R-Calif., the secretary of the House Republican Conference, who took campaign contributions from Abramoff and whose wife was hired by an Abramoff foundation. Doolittle denies that his intervention in a California Indian casino case, which would've helped Abramoff, was connected to his relations to the lobbyist.

- Sen. Harry Reid, D-Nev., the Senate minority leader, who's denied that his intercession in an Indian-casino case that would've helped Abramoff was linked to a $5,000 contribution from an Abramoff client.

"Abramoff probably had relationships with lots more members of Congress," said Melanie Sloan, a former federal prosecutor, the head of Citizens for Responsibility and Ethics in Washington and who's supported Democrats. "He's clearly been spilling his guts for several months."

Abramoff's lawyer, Abbe Lowell, said in a statement that his client "intends to continue to work with the Justice Department and others to fully resolve all matters of interest, to provide restitution to anyone he has harmed, and to seek absolution from all."

Abramoff would serve nine and a half to 11 years of his sentence under federal guidelines. That could be reduced further with his cooperation in the investigation. He also faces a fine of more than $750,000 and mandatory restitution estimated to be about $26.7 million - $1.7 million of that to the Internal Revenue Service for evading taxes, plus an undetermined amount of back taxes.

The lobbyist was contrite as he faced U.S. District Judge Ellen Segal Huvelle.

"Your honor, words will not be able to ever express how sorry I am for this, and I have profound regret and sorrow for the multitude of mistakes and harm I have caused," he said.

"All of my remaining days, I will feel tremendous sadness and regret for my conduct and for what I have done. I only hope that I can merit forgiveness from the Almighty and from those I have wronged or caused to suffer. I will work hard to earn that redemption."

The most far-reaching charge said Abramoff corruptly influenced public officials and their relatives.

"Abramoff and others would offer and provide things of value to public officials, including trips, campaign contributions, meals and entertainment in exchange for agreements that the public officials would use their official positions and influence to benefit defendant Abramoff's clients and ... businesses," the federal charge said.

It didn't identify any public officials by name.

But it did say Abramoff influenced a House Committee chairman identified as "Representative A." It said Abramoff used "a lavish trip to Scotland to play golf on world famous courses, tickets to sporting events ... regular meals at Abramoff's upscale restaurant, and campaign contributions" to win official favors from the congressman.

Representative A is apparently Ney.

An Abramoff partner, Michael Scanlon, who formerly had worked for DeLay, pleaded guilty in November to conspiring to bribe Ney. Ney has denied wrongdoing.

"At the time I dealt with Jack Abramoff, I obviously did not know, and had no way of knowing, the self-serving and fraudulent nature of Abramoff's activities," Ney said in a statement.

The plea bargain also said Abramoff had defrauded several Indian tribes by charging them huge fees while lying about his work or the way that money was funneled to him. For example, it said he urged them to hire other firms while concealing that he got a 50 percent kickback from more than $54 million that the tribes paid those firms.

Abramoff greased his relationships with golf trips, meals at his restaurant and seats in his luxury skyboxes at Washington sports events. He and his clients also contributed freely to campaigns, $4.4 million since 2000, according to the nonpartisan Center for Responsive Politics.

With the investigation threatening to spread, several members of Congress recently returned campaign contributions to Abramoff, a trend that House Speaker Dennis Hastert, R-Ill., joined Tuesday evening. He announced that he'd return $70,000 in contributions from Abramoff-related clients, including Indian tribes.

Previously, Sen. Max Baucus, D-Mont., returned $18,892. That amount included $1,892, the value of seats in Abramoff's skybox at a Washington sports arena, which Baucus had used but never reported.

Sen. Byron Dorgan, D-N.D., gave back $67,000 in Abramoff-related donations.

Sen. Conrad Burns, R-Mont., returned more than $150,000 and summed up what probably is the prevailing attitude in Congress toward the once-popular lobbyist.

"This Abramoff guy is a bad guy," Burns told a Montana television station last month. "I hope he goes to jail and we never see him again. I wish he'd never been born, to be right honest with you."

Knight Ridder correspondents James Kuhnhenn and Maria Recio contributed to this report.

Abramoff Pleads Guilty To 5 Criminal Charges (LAT)

By Walter F. Roche Jr. And Richard B. Schmitt

The Los Angeles Times, January 4, 2006

WASHINGTON — Pleading for forgiveness from "the Almighty and those I have wronged," an ashen Jack A. Abramoff, once the most powerful lobbyist on Capitol Hill, stood before a federal judge today and pleaded guilty to a vast scheme of fraud and tax evasion that could send him to prison for nine to 30 years.

Abramoff now becomes the chief witness for the prosecution in its influence-peddling probe of Congress that some say presages the biggest corruption scandal on Capitol Hill in nearly three decades. It has already ensnared at least one member of Congress and two former congressional aides, and could now lead into unknown territory.

The plea includes a requirement that Abramoff cooperate truthfully in the widespread probe of his actions over a decade-long period, a process that could significantly reduce his jail time. Abramoff also must make restitution of some $25 million and pay a little more than $1.7 million in back taxes to the IRS.

Speaking softly, at times barely above a whisper, Abramoff, 46, responded with simple "yes" and "no" answers as he entered the guilty pleas during a 50-minute session before U.S. Judge Ellen Segal Huvelle.

Abramoff wore a rumpled black suit and appeared pale as he stood beside his lawyer, Abbe Lowell, in the packed fourth-floor courtroom. At the end of the court session, Abramoff stood and, with the judge's permission, read from a folded piece of paper.

"I only hope that I can merit forgiveness from the Almighty and those I have wronged or caused to suffer," Abramoff said in his brief statement. "Words will not ever be able to express how sorry I am for this, and I have profound regret and sorrow for the multitude of mistakes and harm I have caused."

The indictment caps an intensive and sweeping investigation that the FBI launched in March 2004, and Abramoff's promised cooperation gives that probe a powerful impetus.

Justice Department officials said at a news conference that the fallen dealmaker had already begun sharing information and documents with them.

Officials declined to discuss additional charges, but said they were moving expeditiously, and some legal experts said they expected the agreement would lead to a cascading series of new charges.

"This is just the beginning," said Stanley Brand, a Washington lawyer and former general counsel of the House of Representatives.

"That is the pattern of the Justice Department. They start with the lobbyists and the outsiders, and they build into the public officials," he said. "The members of Congress are the highest point in the food chain."

The scandal is "about an eight on the Richter scale, and it is probably going to be a nine before it is all over," Brand said.

Abramoff's jail sentence will be set at a later date and will depend on his continued cooperation, according to Mary Butler, the lead prosecutor. The counts of conspiracy, fraud and tax evasion could mean a prison term of up to 30 years. But federal sentencing guidelines call for 9 to 11½ years, officials said.

Abramoff and his attorney left the courthouse without further comment.

Abramoff also has agreed to plead guilty to wire fraud charges in a case in Florida relating to the purchase of a fleet of casino gambling boats, according to Neil Sonnett, his attorney in that case.

The sentences in the two cases are expected to be served concurrently.

Under today's plea agreement, which mirrors charges brought earlier against one of his former partners, Michael P.S. Scanlon, Abramoff admitted to engaging in a conspiracy to defraud Indian tribes of more than $20 million through a secret kickback arrangement.

Scanlon already has entered a guilty plea to a parallel conspiracy charge and has promised to cooperate in the probe.

Abramoff also admitted to defrauding his former law firm, Greenberg Traurig, by having clients direct payments to entities he controlled, bypassing the firm.

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According to court documents, Abramoff and Scanlon hid the millions of dollars in fees by persuading Indian tribe clients with casino interests to pay consulting fees to companies and a nonprofit corporation that Abramoff had set up. The two then shared the excess profits "pursuant to their secret agreement."

Abramoff, according to the charges, lied to the tribes, telling them that he was working for nothing and, in some cases, denying any connection to the companies getting the payments. So bold were Abramoff and Scanlon in the scheme they called "Gimme Five," said a federal prosecutor, that in one case they simultaneously collected fees from two Indian tribes on the opposite sides of the same issue.

Though court documents refer only to "Representative One," the documents describe specific actions taken by Rep. Robert Ney (R-Ohio), the chairman of a key House committee.

Abramoff admitted to providing things of value to Ney and members of his staff, including "a lavish trip to Scotland to play golf on world famous courses, tickets to sporting events and other entertainment." In return, the documents state, Scanlon and Abramoff got Ney's agreement to support specific legislation and favor an Abramoff client seeking a contract to provide wireless phone services to the U.S. House.

Ney, whose actions also had been cited in the Scanlon case, issued a brief statement denying that he had done anything wrong.

"Congressman Ney has never done anything illegal or improper and the allegations in this plea agreement do not change this fact," said Ney's spokesman, Brian J. Walsh.

A prosecutor, citing the items Abramoff provided to Ney and his staff in return for specific actions, said, "That's not lobbying, that's a crime."

In addition to Ney, the documents filed today for the first time describe specific actions taken by two unnamed former congressional aides who worked in collaboration with Abramoff and Scanlon.

One, "Staffer A", solicited a Michigan Indian tribe to make a $25,000 payment to the Abramoff-controlled Capital Athletic Foundation. Abramoff then "used this money for his personal and professional benefit to partially pay for a golfing trip to Scotland for himself, public officials, members of his staff and others." That same staffer, according to court documents, solicited a distilled beverage company that had hired Abramoff's firm for a $25,000 payment that was funneled to the same nonprofit to fund the same overseas trip.

Another staffer, described as a former chief of staff to Ney and a former chief of staff to the House Administration Committee, was cited in the documents for violating a restriction barring former aides from lobbying their bosses for a year after leaving the public payroll.

Lobbyist Accepts Deal And Becomes Witness In Corruption Case (NYT)

By Anne E. Kornblut

The New York Times, January 4, 2006

WASHINGTON, Jan. 3 - Jack Abramoff pleaded guilty to three felony counts on Tuesday as part of a settlement with federal prosecutors, instantly becoming the star witness in a sweeping federal investigation into public corruption in Washington. The inquiry could involve as many as a dozen lawmakers, people involved in the case said.

Mr. Abramoff, 46, once a prominent Republican lobbyist, accepted a recommended reduced prison sentence of about 10 years in exchange for testifying against former associates in the influence-peddling case. The agreement also requires Mr. Abramoff to pay more than $26 million in tax penalties and restitution to former clients, although he has told associates he is broke.

The corruption inquiry involving Mr. Abramoff, potentially one of the most explosive in Congressional history, has expanded in recent months to encompass dozens of political operatives, including former Congressional aides and lobbyists suspected of arranging bribes in exchange for legislative work, participants in the case said.

His testimony, coupled with that of Michael Scanlon, a former Abramoff business associate who pleaded guilty in November, reaches into the executive and legislative branches and appears to be drawing an ever-tighter ring of evidence around the former House Republican majority leader, Tom DeLay, and other senior Congressional Republicans.

Standing hunched in a dark suit in front of a Federal District Court judge, his eyes downcast as the plea deal was announced, Mr. Abramoff bore little resemblance to the brash operative who in hundreds of e-mails messages obtained by prosecutors once boasted about his financial kickbacks, referring to them as a "gimme five" scheme.

Instead, in front of Judge Ellen Huvelle, Mr. Abramoff confessed to making "a multitude of mistakes" during a decade or so of lobbying work. In a soft, grainy voice, he pleaded guilty to defrauding at least four Indian tribes of tens of millions of dollars, enticing government officials with bribes and evading taxes.

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"All of my remaining days, I will feel tremendous sadness and regret for my conduct and for what I have done," Mr. Abramoff said. Emerging from the courthouse into a light drizzle wearing a black fedora, he slipped into a waiting car and was driven away. His next public appearance is scheduled for Wednesday in Florida, when he will plead guilty in a related case.

Mr. DeLay, who has taken in thousands in campaign donations from Mr. Abramoff and accompanied the lobbyist on a lavish golf trip to Scotland in 2000, has denied any wrongdoing. Richard Cullen, a former United States attorney representing Mr. DeLay, said his client "is confident that when the Department of Justice completes its investigation and gets to the bottom of this that they will conclude that he did nothing wrong." No lawmaker has been charged in the case.

Court documents filed Tuesday gave a snapshot of what Mr. Abramoff has been telling investigators during their plea negotiations over the last year and a half.

In one instance cited in court documents, Mr. Abramoff directed favors to a senior DeLay staff member - referred to in documents as "Staffer A," but identified by lawyers as Tony C. Rudy, now a Republican lobbyist. Those favors came in the form of payments to Mr. Rudy's wife, Lisa. Mr. Abramoff paid $50,000 to Lisa Rudy through a charity organization in exchange for her husband's "agreement to perform a series of official acts," the plea agreement said.

"Abramoff, Scanlon and others engaged in a course of conduct through which one or both of them offered and provided a stream of things of value to public officials in exchange for a series of official acts and influence," the agreement states.

Also mentioned in the plea agreement was a "Representative No. 1" who, along with members of his staff, accepted gifts, travel and free meals at Mr. Abramoff's restaurant, Signatures, in exchange for legislative help, including inserting a comment into the Congressional Record designed to help Mr. Abramoff with a business deal. Representative Bob Ney, Republican of Ohio, was identified as this figure after court documents were filed in connection with Mr. Scanlon's plea deal. Although Mr. Ney did not deny his association with Mr. Abramoff and Mr. Scanlon on Tuesday, he insisted, as he has in the past, that he was tricked by the two men into doing work on behalf of their lobbying clients.

According to people involved in the case, Mr. Ney's former chief of staff, Neil Volz, is referred to in the documents as "Staffer B," and is accused in the paperwork of violating the one-year lobbying ban after leaving Mr. Ney's office before beginning to lobby his former boss again. Lawyers for Mr. Rudy and Mr. Volz did not return calls seeking comment.

Mr. Abramoff helped funnel more than $1.5 million in campaign donations to hundreds of elected officials, more than half of them Republican, since 2000, according to analyses of his work. As prosecutors threatened to indict him - and ultimately, late Monday night, worked out a negotiated settlement after weeks of intense wrangling - the government's lawyers argued that Mr. Abramoff had gone past the routine business of campaign fund-raising and political glad-handing into the realm of bribery. Or, as Assistant Attorney General Alice S. Fisher put it on Tuesday, Mr. Abramoff "went far beyond lawful lobbying."

"Government officials and government action are not for sale," Ms. Fisher said, flanked by senior law enforcement officials at a news conference at the Justice Department.

As part of his all-encompassing settlement, Mr. Abramoff plans to plead guilty on Wednesday to two charges of conspiracy and fraud in a related case in Miami stemming from his purchase of a casino boat line, SunCruz Casinos, in 2000. He was scheduled to stand trial in that case next Monday.

That plea provides that all other charges against Mr. Abramoff in the case will be dropped, people familiar with the plea agreement said. He may face up to about seven years of prison time for the Florida charges, but that sentence can be served concurrently with the Washington sentence under the terms of his deal with Justice Department prosecutors. How much time Mr. Abramoff will spend in prison will be determined later, after he has fulfilled most of his obligation to help investigators.

Mr. Abramoff has been in talks with prosecutors for some 18 months, his lawyer in Washington, Abbe D. Lowell, said. According to people involved in the case, all of whom spoke on condition of anonymity because the broader investigation is continuing, Mr. Abramoff at times offered guidance to investigators as they pursued other targets.

According to participants in the case, he has shared information about David H. Safavian, a former Bush administration official indicted last year, and Tim Flanigan, the Tyco executive who withdrew his nomination as the second-in-command at the Justice Department after his ties to Mr. Abramoff came into question.

Tyco is also mentioned, although not by name, in the plea agreement. According to the court document, Mr. Abramoff sent a business proposal to "Company A," a manufacturing and services company identified by participants as Tyco. Mr. Abramoff "falsely advised" the company about the grass-roots company that he suggested they hire, and which in turn kicked back huge sums to Mr. Abramoff.

Mr. Abramoff told Tyco "that he was negotiating on their behalf" to try to save them money "when in fact he was simply setting a high price on services that he controlled and from which he would profit."

The publicly released court documents, followed by the Justice Department's news conference about the case, were designed as a "shot across the bow" to other potential suspects in the inquiry, a person involved said.

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"With most cases, the plea is the end, but with Abramoff, the plea is just the beginning," said an F.B.I. official who spoke on condition of anonymity, adding, "This one has legs."

Abramoff Pleads Guilty To 3 Counts (WP)

By Susan Schmidt And James V. Grimaldi

The Washington Post, January 4, 2006

Jack Abramoff, the once-powerful lobbyist at the center of a wide-ranging public corruption investigation, pleaded guilty yesterday to fraud, tax evasion and conspiracy to bribe public officials in a deal that requires him to provide evidence about members of Congress.

The plea deal could have enormous legal and political consequences for the lawmakers on whom Abramoff lavished luxury trips, skybox fundraisers, campaign contributions, jobs for their spouses, and meals at Signatures, the lobbyist's upscale restaurant.

In court papers, prosecutors refer to only one congressman: Rep. Robert W. Ney (R-Ohio). But Abramoff, who built a political alliance with House Republicans, including former majority leader Tom DeLay of Texas, has agreed to provide information and testimony about half a dozen House and Senate members, officials familiar with the inquiry said. He also is to provide evidence about congressional staffers, Interior Department workers and other executive branch officials, and other lobbyists.

"The corruption scheme with Mr. Abramoff is very extensive," Alice S. Fisher, head of the Justice Department's criminal division, said at a news conference with other high-ranking officials of the Internal Revenue Service and the FBI. "We're going to follow this wherever it goes."

Fisher declined to identify the officials under scrutiny. "We name people in indictments," she said, adding: "We are moving very quickly."

Among the allegations in the court documents is that Abramoff arranged for payments totaling $50,000 for the wife of an unnamed congressional staffer in return for the staffer's help in killing an Internet gambling measure. The Washington Post has previously reported that Tony Rudy, a former top aide to DeLay, worked with Abramoff to kill such a bill in 2000 before going to work for Abramoff.

Abramoff's appearance in U.S. District Court came nearly two years after his lobbying practices gained public notice because of the enormous payments -- eventually tallied at $82 million -- that he and a public relations partner received from casino-rich Indian tribes. Yesterday, he admitted defrauding four of those tribal clients out of millions of dollars. He also pleaded guilty to evading taxes, to conspiring to bribe lawmakers, and to conspiring to induce former Capitol Hill staffers to violate the one-year ban on lobbying their former bosses.

Under terms of his plea agreement, Abramoff can expect to receive a prison sentence of 9 1/2 to 11 years, and he is required to make restitution of $26.7 million to the IRS and to the Indian tribes he defrauded. Today he is to plead guilty to fraud and conspiracy counts in a related case in Florida involving his purchase of a casino cruise line.

Standing before U.S. District Judge Ellen Segal Huvelle in Washington yesterday, Abramoff looked sheepish and sad. "Your Honor, words will not be able to ever express how sorry I am for this, and I have profound regret and sorrow for the multitude of mistakes and harm I have caused," he said softly. "All of my remaining days, I will feel tremendous sadness and regret for my conduct and for what I have done. I only hope that I can merit forgiveness from the Almighty and from those I have wronged or caused to suffer."

Abramoff has been in extensive discussions with government lawyers for months leading up to yesterday's plea.

Ney, chairman of the House Administration Committee, is among the first of those expected to feel the fallout. In the court documents -- which identify him only as "Representative #1" -- Ney is accused of meeting with one of Abramoff's clients in Russia in 2003 to "influence the process for obtaining a [U.S.] visa" for one of the client's relatives and of agreeing to aid a California tribe represented by Abramoff on tax and post office issues.

Ney also placed comments in the Congressional Record backing Abramoff's efforts to gain control of the Florida gambling company, SunCruz Casinos, and offered legislative language sought by Abramoff that would have reopened a Texas tribe's shuttered casino.

The court papers said Ney advanced the prospects of an Abramoff client, a telecommunications company that won a contract to wire the House.

Two of Abramoff's former partners have already pleaded guilty and have promised to cooperate in the ongoing investigation of congressional corruption and are prepared to testify against Ney in connection with his aid in the SunCruz purchase. Prosecutors in Florida and Washington are in discussions about where a case against Ney should be brought, officials said.

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Ney reiterated yesterday that he had done nothing wrong and said he was misled by Abramoff.

One of Abramoff's former associates, Michael Scanlon, a onetime press aide to DeLay, was a secret partner in Abramoff's Indian tribal scheme. Abramoff not only charged the tribes lobbying fees but also urged them to hire Scanlon's public relations firm at hugely inflated prices. Scanlon, in turn, kicked back half of the money to Abramoff, who was thus able to conceal the funds from public disclosure and even from the lobbyist's law firm.

They spread tribal money around and sought legislative favors in return. Abramoff and Scanlon "offered and provided a stream of things of value to public officials in exchange for official acts and influence and agreements to provide official action and influence," a statement of facts attached to the plea agreement said. "These things of value included, but are not limited to, foreign and domestic travel, golf fees, frequent meals, entertainment, election support for candidates for government office, employment for relatives of officials and campaign contributions."

Among the things of interest to investigators are payments made by Abramoff and his colleagues to the wives of some lawmakers and actions taken by Rudy and other senior Capitol Hill aides, some of whom went to work for Abramoff at the law firm Greenberg Traurig LLP, lawyers and others familiar with the probe said.

Another person under scrutiny, sources said, is DeLay, who is facing separate campaign finance charges in his home state of Texas.

"Tom DeLay is not concerned that Mr. Abramoff is cooperating," said Richard Cullen, his attorney. "He urges everyone involved to cooperate in the investigation and to tell the truth." Cullen had no comment on allegations involving former DeLay aides Rudy and Scanlon.

Among the trips under scrutiny is a golf excursion to Scotland that DeLay and aides took with Abramoff in 2000 and a similar trip Ney took two years later.

DeLay has taken three overseas trips with Abramoff since 1997 -- to the Mariana Islands, Russia and Scotland -- and received more than $70,000 from Abramoff, his associates and tribal clients for his campaign committees.

Investigating DeLay could take up to a year and require the cooperation of other witnesses before issues surrounding the Texas Republican are resolved, according to people familiar with the case.

Sen. Conrad Burns (R-Mont.), Rep. John T. Doolittle (R-Calif.) and other legislators involved with Indian issues are among those being investigated, sources said.

A spokesman for Doolittle, whose wife received payments from Abramoff's lobbying firm, has previously said there was no connection with her husband's work. Burns's office has said his actions on behalf of Abramoff's tribal clients were in sync with his support for improving the lot of Indian tribes.

Also of interest to prosecutors is former deputy interior secretary J. Steven Griles, who held the job from 2001 to 2004. He has said he never tried to intercede on behalf of Abramoff's clients, but e-mails released by a Senate committee show more than half a dozen contacts Griles had with Abramoff or with a woman working as the lobbyist's go-between.

Prosecutors are continuing to investigate two of DeLay's top former deputies, Rudy and Edwin A. Buckham. Rudy is under investigation for assistance he allegedly provided Abramoff's lobbying clients while he was working for DeLay. Payments from Abramoff clients and associates to Liberty Consulting -- a political firm founded by Rudy's wife, Lisa -- are also under review by the Justice Department. Rudy did not return calls seeking comment yesterday.

Abramoff maintained a business relationship with Buckham, who runs the Alexander Strategy Group with Rudy. Among the areas of interest to prosecutors is client business directed to the Alexander Strategy Group when the firm was hiring the spouses of members of Congress, including DeLay's wife, Christine.

Christine DeLay was paid about $115,000 over three years while performing a special project -- contacting members of Congress to find out their favorite charity, according to her attorney.

Fisher, offering the Justice Department's first public comments on an inquiry that began in spring 2004, said that the Abramoff case is "very active and ongoing." She said the department is committed to making sure that people know "government is not for sale."

Abramoff Pleads Guilty To Federal Charges (Hchron)

By Micheal Hedges

Houston Chronicle, January 4, 2006

WASHINGTON — Prominent lobbyist Jack Abramoff, who had several ties to former House majority leader Tom DeLay of Sugar Land, pleaded guilty today to conspiracy, fraud and tax evasion charges,bringing a wide-ranging corruption probe to the doors of Congress.

As part of his plea bargain, Abramoff is expected to cooperate with prosecutors in their examination of the actions of several congressmen and their top aides. The charges could carry a prison sentence of up to 30 years.

The charges mentioned gifts and contributions to an unnamed House member who has been identified as Rep. Bob Ney, R-Ohio, chairman of the House Administration Committee, allegedly in return for favors.

Ney has not been charged. He and DeLay have denied wrongdoing.

Abramoff agreed with U.S. District Court Judge Ellen Huvelle when she said that he had engaged in a conspiracy involving "corruption of public officials." The lobbyist also agreed when she said he and others had engaged in a scheme to provide campaign contributions, trips and other items "in exchange for certain official acts."

Court papers said Abramoff corruptly gave "money, meals, trips and entertainment to public officials and their relatives with the intent to influence and in return for agreements to perform official acts" benefiting Abramoff, former business partner Michael Scanlon and their clients. The papers said Abramoff caused former congressional aides to lobby their former bosses within a one-year window of employment, during which they are barred from such activities.

Scanlon, DeLay's former press secretary, pleaded guilty in November.

Abramoff was also expected to plead guilty today to two criminal charges in Florida involving a 2000 purchase of a fleet of gambling boats.

U.S. District Judge Paul C. Huck has scheduled a telephone conference for later today on the Florida case.

Abramoff was pressured to plea bargain there when former partner, Adam Kidan pleaded guilty recently to fraud and conspiracy in connection with the SunCruz boat deal.

In Washington, prosecutors say Abramoff and Scanlon conspired to defraud their Indian tribe lobbying clients of about $82 million after being hired to pave the way for gambling casinos and to block others.

Last month, five members of Congress — Rep. Ernest Istook, R-Okla.; Sen. Sam Brownback, R-Kan.; Sen. Max Baucus, D-Mont.; Sen. Conrad Burns, R-Mont.; and Sen. Byron Dorgan, D-N.D. — returned or gave away campaign donations from Abramoff.

DeLay and Abramoff went on two trips together that have been reviewed by investigators, one to Britain in 2000 and one to the Northern Mariana Islands during the New Year's holiday of 1998. Also, Abramoff clients made donations to DeLay political organizations.

The two men are also linked through several former DeLay staff members who eventually became wealthy working with Abramoff.

DeLay once called Abramoff his best friend.

DeLay attorney Richard Cullen declined to comment Monday amid reports Abramoff would strike a deal with prosecutors.

He has said previously that there was no indication the congressman is in jeopardy from the Abramoff investigation.

"Mr. DeLay is not concerned about the potential of Mr. Abramoff cooperating with the government," Cullen said in a recent interview. "Mr. DeLay thinks everybody should be cooperating (with investigators) and telling the truth."

Cullen said he met with federal prosecutors early in the probe and offered them DeLay's cooperation. Asked if any DeLay records or documents had been subpoenaed by investigators, Cullen said no records were sought.

White House spokesman Scott McClellan today said he did not know whether Abramoff ever met President Bush. Of Abramoff, McClellan said, "What he is reportedly acknowledged doing is unacceptable and outrageous."

"If laws were broken, he must be held to account for what he did," McClellan added.

In October, Bush appointee David Safavian, former chief of staff of the General Services Administration, was indicted on charges he made false statements and obstructed a federal investigation into his dealings with lobbyist Abramoff.

Meanwhile, the prosecutor in the Texas money laundering case against DeLay issued subpoenas today looking for links between Abramoff and fundraising by the former majority leader.

District Attorney Ronnie Earle issued the subpoenas in Austin.

In the Texas case, Earle sought records from Abramoff's former employers, legal firms Greenberg Traurig LLP and Preston Gates Ellis & Rouvelas Meeds, LLP. He also subpoenaed records from a lawyer for the Mississippi Band of Choctaw Indians, a former Abramoff client, and from a representative for the Barona Band of Mission Indians, a California tribe.

Will DeLay Go Down With His Friend? (DMN)

By Todd J. Gillman

The Dallas Morning News, January 4, 2006

WASHINGTON – Former House Majority Leader Tom DeLay and lobbyist Jack Abramoff had been friends for years, trading easily on each other's success.

One rose to the pinnacle of power in Congress. The other became the most sought-after lobbyist in town. They built a politically potent network of former aides, lobbyists and comrades-in-arms.

DOJ_NMG_0008062

The question hanging over Washington on Tuesday: Could Mr. Abramoff's plummet and plea deal drag down his longtime ally?

"A lot of people, including Mr. DeLay's political enemies, are hoping that's the case. But I believe they'll be disappointed," said DeLay attorney Richard Cullen.

"DeLay has conducted himself consistently with the standards of conduct in the House and has violated no laws. So he's at peace in terms of where this investigation will end up, and it's premature to jump at the conclusion that Abramoff has information that's troubling to Mr. DeLay," Mr. Cullen said.

The Washington Post reported today that investigators have Mr. DeLay under scrutiny. The financial and political ties between the Sugar Land Republican and Mr. Abramoff are extensive, and their histories and causes are intertwined.

"There is no way this is good for him. How bad it will be will depend on what else we see happen," said Larry Noble, executive director of the Center for Responsive Politics, which studies campaign finance.

In court Tuesday, Mr. Abramoff – facing up to 11 years in prison and $27 million in restitution – confessed to providing all sorts of favors to just one lawmaker, and it wasn't Mr. DeLay. He told the court he'd provided the lawmaker, understood to be Ohio Republican Bob Ney, a "lavish trip to Scotland to play golf on world-famous courses, tickets to sporting events and other entertainment," meals at Mr. Abramoff's upscale restaurant and generous campaign donations – largesse he also bestowed on Mr. DeLay.

Targets unknown

Prosecutors cited several favors that Mr. Ney offered in return, including help with Mr. Abramoff's purchase of a fleet of casino ships. Justice Department and FBI officials have offered no such examples involving Mr. DeLay, and they wouldn't say whether they're digging or expect to learn of any in coming months.

Mr. Abramoff and Mr. DeLay worked closely on many projects, traveling together to the Mariana Islands, Russia and the United Kingdom, ostensibly under the auspices of a conservative Washington think tank, the National Center for Public Policy Research. Mr. Abramoff sat on the group's board, and reports surfaced that two of his clients each donated $25,000 to the nonprofit a day before the Britain junket.

House rules prohibit travel paid for by lobbyists or their clients, though Mr. DeLay and other lawmakers on the trip say they had no idea where the group got the funds.

Mr. Abramoff and his partner, former DeLay press secretary Michael Scanlon – who has also pleaded guilty and cooperated with federal prosecutors – routinely boasted of their connections with the majority leader when selling their services to Indian tribes and others.

The Marianas connection could also provide investigators an interesting trail. Mr. DeLay sought to protect the garment industry on the islands, an American commonwealth in the Pacific, from U.S. labor laws.

In 1999, during a power struggle in the local legislature, two former DeLay aides, Ed Buckham and Mr. Scanlon, went to Saipan to persuade two lawmakers to switch sides in a leadership vote, dangling promises of federal largesse for which Mr. DeLay reportedly paved the way later. The favored candidate won and later awarded Mr. Abramoff a contract worth $1.6 million.

During the Marianas visit, Mr. DeLay called Mr. Abramoff "one of my closest and dearest friends," though by early 2004, when a Senate committee had begun investigating the lobbyist, Mr. DeLay tried to distance himself, telling reporters that "if anybody is trading on my name to get clients or make money, that is wrong and they should stop it."

Mr. DeLay and Mr. Abramoff also collaborated closely on the K Street Project, an effort to pressure Washington's premier lobbying firms to shun Democrats and stock their staffs with GOP loyalists. At one point, the House ethics panel reprimanded Mr. DeLay for threatening retaliatory legislation against a trade group for hiring a Democrat as its top lobbyist.

Critics have raised questions about the $115,000 that the congressman's wife, Christine DeLay, was paid over four years by Alexander Strategy Group – a firm led by Mr. Buckham and other former DeLay aides that got client referrals from Mr. Abramoff – for researching the charitable preferences of lawmakers. The DeLays said the work was real and the pay justified.

In the clear?

Jan Baran, a Republican ethics lawyer who once represented Speaker Newt Gingrich, said the plea deal might carry no implications for Mr. DeLay.

"There's nothing in there that involves him or suggests his involvement. ... If the Justice Department has some information about other public officials, they presumably would have included it by now," he said.

He noted that courts are strict when it comes to enforcing bribery law. Prosecutors must prove quid pro quo – Latin for "something for something." Mr. DeLay got favors from Mr. Abramoff. But so did several hundred colleagues.

Bribery would require proving the legislators offered a specific legislative favor in exchange for the power lunches, golf outings, trips and campaign cash. Accepting such dining and activities without the promise of legislative action is routine and legal in Washington.

"Lawful lobbying does not include paying a public official a personal benefit with the understanding, explicit or implicit, that a certain official act will occur. That's not lobbying. That's a crime," said Assistant Attorney General Alice Fisher, carefully sidestepping the issue of which lawmakers the Justice Department is targeting.

Investigating Mr. DeLay could take up to a year and require the cooperation of other witnesses before issues surrounding him are resolved, people familiar with the case told The Post..

As speculation bubbled about what Mr. Abramoff could offer federal authorities, there was activity involving Mr. DeLay in Austin.

Travis County prosecutor Ronnie Earle obtained subpoenas Tuesday for donations from two former Abramoff law firms – Greenberg Traurig and Preston Gates – to Mr. DeLay's state political action committee, Texans for a Republican Majority.

The grand jury, which is investigating money-laundering allegations against Mr. DeLay and several lieutenants, also ordered records of campaign donations from Mr. Abramoff's biggest lobbying client, the Mississippi Band of Choctaw Indians.

Staff writers Michelle Mittelstadt and Allen Pusey in Washington, and Pete Slover in Austin, contributed to this report.

Abramoff's Plea Tightens Noose Around Some Necks (KHOU-TV)

By Shern-Min Chow

KHOU-TV, CBS 11, Houston, TX, January 4, 2006

A high-powered lobbyist with ties to congressman Tom Delay cut a tell-all deal with the Feds.

What does Jack Abramoff's guilty plea mean for DeLay?

No question that's the big question now. How will this impact the former House Majority Leader and word is, about a dozen other congressmen.

None of Tuesday's charges connect Abramoff and DeLay, but Travis County's prosecutor is now issuing subpoenas for records linking the Sugar Land Republican to the lobbyist.

Insiders believe the noose is tightening on some after Abramoff's guilty plea.

Jack Abramoff's guilty pleas, revealed among other things, a stunning fraud scheme. He admits to bilking Indian tribes of more than $60 million and getting nearly half of that in kickbacks.

"Abramoff admitted today to his participation in an extensive corruption shceme. Abramoff gave things of value to public officials including foreign and domestic trips, campaign contributions, excessive meal and entertainment," said Justice Department spokesperson Alice Fisher.

He says those gifts bought legislative favors for his clients.

"As admitted by Abramoff, his actions often produced the official influence he sought," said Fisher.

The immediate fallout to Congressman DeLay? Late Tuesday, his office announced he will donate funds from Abramoff to local charities.

His office says an accounting process is now underway.

DeLay has received at least $57,000 in political contributions from Abramoff, his lobbying associates or tribal clients.

Experts say federal prosecutors will now move onto congressional aides

"The noose is tightening and its tightening through the use of people who are in direct contact with members of Congress," said Stan Brand, former U.S. House Counsel.

Some of those aides also enjoyed the lavish trips. Insiders believe at least a dozen congressmen will be under fire from Abramoff's deal.

In a carefully orchestrated appearance, he told the federal court, "words will not ever be able to express my sorrow and my profound regret."

But the punishment may. Abramoff will pay $25 million in restitution, $1.7 million in unpaid taxes, and prosecutors will recommend a prison sentence of 9 to 11 years.

Wednesday, he appears in Florida on charges relating to a fleet of gambling boats. He's expected to plead guilty to 2 to 6 other charges.

DeLay May Face New Jeopardy As Abramoff Probers Target Ex-Aide (BLOOM)

By Michael Forsythe Jonathan D. Salant

Bloomberg, January 4, 2006

Jan. 4 (Bloomberg) -- Jack Abramoff's guilty plea yesterday pushed the federal investigation of the lobbyist deep into the office of former House Majority Leader Tom DeLay by implicating one of his top ex-staffers.

People close to the investigation identified the ``Staffer A'' mentioned on page 13 of Abramoff's 15-page plea agreement as DeLay's former deputy chief of staff, Tony Rudy. While a member of DeLay's staff, Rudy helped Abramoff stop a measure that

would have prohibited Internet gambling, according to the government. In return, Rudy's wife was paid $50,000 through a non-profit group, the government says. DeLay himself isn't named in the agreement.

The link to DeLay is at least the third to emerge in a 20- month investigation of Abramoff's ties with lawmakers, and it comes as DeLay, 58, fights separate money-laundering charges in Texas that forced him to step down as House majority leader.

Abramoff, 46, told a federal judge in Washington he will cooperate with prosecutors investigating political corruption.

``If I were DeLay, I would be very concerned," said Bill Mateja, a white-collar criminal-defense lawyer with Fish & Richardson PC in Dallas and formerly a senior counsel in the Justice Department's corporate criminal task force. ``A staffer is certainly a subject of the investigation. Whether it takes them all the way to DeLay, we'll have to wait and see."

Rudy didn't return a phone call seeking comment.

Legal Cloud

Abramoff's agreement to cooperate may scuttle DeLay's chances of returning as majority leader, because the Texas Republican may continue to be under a legal shadow for many more months. President George W. Bush said in an interview with Fox News Channel on Dec. 14 that he hoped Delay would be able to reclaim the majority leader's post because of his success in passing legislation.

``Do I? Yes, I do," the president said when asked whether he thought DeLay was innocent in the Texas case. He added, ``When he's over there, we get our votes through the House."

Abramoff's plea also increases the political jeopardy for Republicans in general during this election year, since most of the donations from the lobbyist and his former associates and clients went to members of that party.

Abramoff pleaded guilty yesterday to tax evasion, wire fraud and conspiring to corrupt public officials. He is set to plead guilty today to conspiracy and wire fraud in a separate case in federal court in Miami and will cooperate with prosecutors, according to a copy of the plea agreement obtained by Bloomberg News. The government will dismiss four other charges against him in connection with his purchase of a casino cruise-ship line in 2000, the agreement says.

Legislative Favors

The plea agreement in Washington charged Abramoff with conspiring to corrupt ``Representative #1," previously identified as Representative Robert Ney, an Ohio Republican, in return for legislative favors for the lobbyist's clients. Neither Ney nor DeLay has been charged.

``The corruption scheme with Mr. Abramoff is very extensive, and we will continue to follow it wherever it leads," Assistant Attorney General Alice Fisher told reporters. ``This case is very active and ongoing."

In November, former DeLay spokesman Michael Scanlon, Abramoff's business partner, pleaded guilty to helping the lobbyist defraud Indian-tribe clients of more than $50 million. Scanlon is also cooperating with investigators.

Not Concerned

DeLay's lawyer, Richard Cullen, said DeLay isn't concerned that Abramoff's plea arrangement will put the lawmaker in jeopardy.

``He's not apprehensive about this, because he knows he hasn't done anything wrong and he's confident that will be the ultimate conclusion," Cullen said.

Cullen said he couldn't comment on Rudy, saying DeLay has always demanded that his staff ``comply to the highest ethics and violate no laws. He would have no tolerance with staffers that did not obey the law."

About 220 lawmakers received at least $1.7 million in political donations from Abramoff, his associates and nine tribal clients between 2001 and 2004, according to a review of Federal Election Commission and Internal Revenue Service records. Of those, 201 are still in Congress. Republicans got $1.1 million, 64 percent of the total.

Many lawmakers are giving money back to Abramoff's clients or donating the funds to charity. House Speaker Dennis Hastert, an Illinois Republican, said yesterday he would donate his Abramoff-related money to charity. Hastert received $57,250 from Abramoff, his associates and his clients from 2001 to 2004, ranking fifth among all lawmakers. Republican Senator Conrad Burns of Montana, who ranked first, said last month he'd give donations he got from Abramoff to charity, and Democrat Byron Dorgan of North Dakota, who ranked fourth, said he would send Abramoff-related donations back to the tribes.

Top Recipient

DeLay was the top recipient of funds directly from Abramoff, having accepted $17,000 in donations from the lobbyist from 2001 to 2004.

The reference to Rudy in Abramoff's plea agreement suggests that the investigation is also zeroing in on Capitol Hill staff members as well as lawmakers.

Rudy went to work for Abramoff at the Greenberg Traurig LLP law firm in Washington in 2001. In 2000, Abramoff and former DeLay chief of staff Ed Buckham used their credit cards to underwrite a trip to the U.K. attended by DeLay and his wife, the Washington Post reported in April.

Before Rudy left DeLay's office, he helped Abramoff stop legislation curbing Internet gambling on behalf of eLottery Inc., the Washington Post reported in October.

Internet Gambling

Norwalk, Connecticut-based eLottery paid Abramoff's former firm, Preston Gates LLP, $720,000 in 2000. Preston Gates, Abramoff's employer at the time, said it was lobbying on legislation to ban Internet gambling. The legislation was defeated. DeLay was one of 44 Republicans to vote against the measure in July 2000, with 165 Republicans voting for it. The measure, which needed 270 votes to pass the House, failed by 15 votes.

At the time, Rudy's wife, Lisa, was being paid fees by Toward Tradition, a Seattle-based Orthodox Jewish nonprofit organization run by Rabbi Daniel Lapin, a friend of Abramoff's, the Post reported in October.

Rudy in June 2002 also solicited a $25,000 donation for Abramoff's Capital Athletic Foundation charity from a Cyprus-based importer of Russian vodka, the government charged. Abramoff then used that money to help pay for a Scotland golf trip. The foundation's ledgers, released in November by a Senate Committee investigating the lobbyist, showed Abramoff spent more than $160,000 on the August 2002 trip that was attended by Ney and other officials, including Christian activist Ralph Reed.

Representative Chris Shays, a Connecticut Republican, said in an e-mailed statement that ``Jack Abramoff's guilty plea and his close association with Tom DeLay underscore the need for a new majority leader in the Republican Party."

Shays said that ``it is time we make it clear that ethics are an essential part of how we do business and that our leadership needs to reflect this strong ethical conduct."

Lobbyist's Plea Likely To Expose Seamy Underside Of Congress (USAT)

USA Today, January 4, 2006

Jack Abramoff, the former lobbyist who pleaded guilty Tuesday to fraud and tax evasion, is a vivid illustration of Mark Twain's adage that truth is stranger than fiction. Abramoff got into lobbying after a stint making mediocre action movies. Once in the influence-peddling business, he made a quick fortune by defrauding Indian tribes, representing foreign dictators and cozying up to powerful lawmakers — often at a Pennsylvania Avenue restaurant he owned. (Related: Abramoff pleads guilty)

Perhaps some day someone will make a film about Abramoff. In the meantime, his plea has focused attention on an even more appalling spectacle: the lawmakers that were part of his network.

What is most shocking in the Abramoff case is not that he would want to make a fortune and spread it around to gain power and influence. It is that so many members of Congress would be so quick to accommodate him. As many as 20 lawmakers and senior staff members are believed to be under investigation. That makes Abramoff, who has agreed to cooperate with prosecutors, the most dangerous man in Washington right now.

Prosecutors say Abramoff "engaged in a pattern of corruptly providing things of value to public officials, including trips, campaign contributions, and meals and entertainment, with the intent to influence acts." Officials who were eager to take Abramoff's money are now scrambling to give it away.

The Abramoff scandal is likely to make 2006 the year a seamy underside of Congress comes into full public view. Barely a decade after the arrival of a reformist GOP Congress, the institution has fallen into one of its most tawdry periods ever, with members actively seeking favors in exchange for legislation that sells out the public interest for personal or partisan gain.

Some of their behavior is legal, though troubling. Today's Congress is more than willing to grant special tax breaks to companies and industries that provide the most bountiful political contributions and have the most influential lobbyists.

Some acts of individual lawmakers, though, might exceed even the minimal lobbying laws that govern their behavior. The Abramoff scandal, which touches both parties, shows a widespread sense of entitlement among lawmakers to some of the lifestyle perks that their better-paid lobbyist acquaintances enjoy.

One member of the House, Rep. Bob Ney, R-Ohio, figures prominently in the plea agreement under the pseudonym Representative #1. He is alleged to have acted on Abramoff's behalf 11 times. Former majority leader Tom DeLay, R-Texas, is likely to receive intense scrutiny for taking trips to the South Pacific, Scotland and elsewhere bankrolled by Abramoff's groups.

These, however, might be the tip of the too-long-ignored lobbying iceberg. Abramoff is far from the only Washington lobbyist who tried to join with members of Congress in cheating the public.

A full accounting will be a painful episode. It will bring shame to lawmakers and embarrassment to the nation. It will, we hope, lead to changes in the ways lobbyists are regulated and campaigns are financed. It's true that morality can't be legislated. Even so, a cleansing process triggered by the Abramoff scandal can help ensure that fewer members of Congress are beholden to corrupt special interests operating behind the scenes.

It's Not Personal, Jack, It's Strictly Business (NYT)

By Maureen Dowd

The New York Times, January 4, 2006

The sight of Jack Abramoff striding out of federal court here yesterday, looking like a stocky gangster from a 40's movie in black fedora and trench coat, may seem like the strongest evidence so far of how graft and hubris have overwhelmed the capital.

It could have been a scene from "The Godfather," a favorite film of the felonious lobbyist. The Washington Post reported that he "did business with people linked to the underworld," bilked Indian tribes of tens of millions and then lavished a bundle in tribal gambling profits on greedy members of Congress.

The Post said Mr. Abramoff loved to amuse colleagues by imitating Michael Corleone as he rejected a corrupt politician's demand for a share of Mafia gambling money: "Senator, you can have my answer now if you like. My offer is this: nothing."

But just because this is a scale of amorality and blatant sale of government that astonishes even Washington cynics, why look on the dark side?

The Abramoff plea bargain may have left his former business partners and political pals panicking, wondering if the rat will rat them out. The Republican congressmen Tom DeLay and Bob Ney are among the sleazy solons caught up in the scandal, and the House speaker, Dennis Hastert, scrambled yesterday to launder $69,000 in dirty Abramoff contributions, donating the wad to charity. And then there's Ralph Reed, the choirboy Bible thumper who used his links to Christian groups to immorally play Indian tribes off against each other.

But looking at the big picture, in some ways the imperial presidency is working out quite well for everyone.

Think about it: all those congressmen don't really need to do their jobs anymore. With the president able to make war more or less as he chooses, treat the enemy as he sees fit and snoop on Americans at will, our representatives have more time for the duty many are clearly best suited to: playing golf gratis in Scotland. (Remember how the White House press used to give poor Bill Clinton such a hard time about mere mulligans?)

Now that Dick Cheney has freed Congress from the bother of advising and/or consenting, lawmakers can work on new ways to game the system and wallow in the G.O.P.'s culture of corruption - while tut-tutting about the decline in American moral values.

Since the Republican-run Capitol doesn't have to worry about holding the Bush White House accountable for excesses in torture and spying and the other myriad ways it has placed itself above the law, congressmen have more leisure hours for Abramoff successors to treat them to some Redskins games and steak dinners.

Checks and balances are now as quaint as the Geneva Conventions. Congress is complicit in putting its thumb on the scale for the executive branch.

The Post reported that W. had taken advantage of an innovation started years ago by Samuel Alito Jr. to shore up executive privilege. As a young Justice Department lawyer in the Reagan administration, Mr. Alito created a strategy that has the president declare what laws mean when he signs them. Mr. Alito wanted the courts to focus as much on the president's interpretation of a law as on what he called "legislative intent."

W. has issued at least 108 such statements, The Post said, rejecting "provisions in bills that the White House regarded as interfering with its powers in national security, intelligence policy and law enforcement."

And since the imperial presidency is run by the vice president, W. has a lot of free time to do the things he likes to do. Confined with his wife and mother-in-law at the Crawford ranch, he spent his Christmas vacation mountain-biking and clearing brush.

He left the ranch for a brief visit at Brooke Army Medical Center in San Antonio, where he kidded in a way that again showed his jarring lack of empathy with the amputees from Iraq and Afghanistan: "As you can possibly see, I have an injury myself - not here at the hospital, but in combat with a cedar. I eventually won. The cedar gave me a little scratch. As a matter of fact, the colonel asked if I needed first aid when she first saw me. I was able to avoid any major surgical operations here, but thanks for your compassion, colonel."

W. also used the occasion to defend the Nixonian eavesdropping program that even made John Ashcroft and his deputy, James Comey, skittish. As The Times reported, Andy Card and Alberto Gonzales had to make an emergency trip to see the reluctant Mr. Ashcroft in the hospital in March 2004 to get the program recertified because Mr. Comey had balked.

You know you're in trouble when John Ashcroft is worried about overreaching.

Why Abramoff Matters (USAT)

USA Today, January 4, 2006

·What he knows could help bring criminal charges against at least 12 members of Congress or their aides.

·He paid for trips, donated campaign funds and did favors for Reps. Tom DeLay, Bob Ney and others.

Ex-Conyers Aide Arrested In Ghana On U.S. Fraud Charges (FREEP)

DOJ_NMG_0008067

By david ashenfelter and joel thurtell

Detroit Free Press, January 4, 2006

A former aide to Michigan Congressman John Conyers Jr. was arrested in the African nation of Ghana on Friday, eight months after he failed to show up for sentencing on charges of defrauding sponsors and vendors of a national conference for black farmers of more than $150,000 in 1999.

FBI spokeswoman Dawn Clenney said Dewayne Boyd, 49, of Detroit, was arrested by Ghanaian police on Friday.

She said Boyd was returned Sunday to New York, where he was to appear today in U.S. District Court in Brooklyn for a hearing to determine whether he will be returned to Michigan.

Boyd was convicted by a federal court jury in December 2004 of seven counts of fraud in the scam he ran while working for Conyers, a Michigan Democrat. There was no evidence that Conyers, D-Mich., was aware of the scam. Conyers fired Boyd in 2002.

Relatives Of Missing Cruise Passengers Form New Group (NSDY/AP)

By John Christoffersen, Associated Press Writer

Long Island Newsday, January 4, 2006

STAMFORD, Conn. -- Relatives of cruise passengers who disappeared on the high seas are forming a new group to seek industry reforms, saying they want to draw attention to how they were treated and the extent of crimes aboard the ships.

The group, which includes eight families so far, will seek a second hearing before Congress. The first hearing last month focused largely on the disappearance of George Allen Smith IV of Greenwich in the Mediterranean Sea last July, one of the latest in a string of disappearances in recent years.

"To me the number of disappearances plus the number of sexual assaults they admit to is alarming," said Brett Rivkind, a lawyer for Smith's family and the new group. "The only way they're going to change is by Congress regulating them."

In the past five years, the FBI opened 305 criminal cases on the high seas, Chris Swecker, assistant director of the FBI, testified at last month's congressional hearing. Sexual assaults on cruise ships comprised 45 percent of the cases, while physical assaults made up 22 percent and missing persons 10 percent, Swecker said.

Besides Smith's case, federal agents are investigating an alleged rape of a passenger on the same cruise, a cruise line spokeswoman said Tuesday.

"It's an allegation and we are cooperating with the FBI," Lynn Martenstein, spokeswoman for Royal Caribbean Cruises, told The Associated Press.

The alleged rape occurred three days after Smith disappeared from the ship, Martenstein said. She called the alleged rape a separate incident.

FBI officials declined to comment.

Smith, whose family is part of the new group, vanished July 5 from a Royal Caribbean ship in the Mediterranean Sea between Turkey and Greece. The FBI has been investigating, but no one has been charged and no body has been recovered.

Rivkind said the alleged rape victim told him the FBI was investigating the incident.

James Walker, an attorney for Smith's widow, Jennifer Hagel-Smith, said the alleged rape victim was not his client.

Industry officials estimated that 13 people have disappeared from cruise ships in the past two years. With more than 10 million passengers last year, that means less than one person per million went missing, according to the International Council of Cruise Lines.

The council said there are about 50 cruise ship crimes against U.S. citizens reported to the FBI annually, or one crime per 200,000 passengers.

"You are much safer on a cruise ship than you are in virtually any community in the United States," said Michael Crye, president of the council.

U.S. Rep. Christopher Shays, a Connecticut Republican who led the hearing, and other lawmakers question such statistics because they said the industry supplies its own data to the FBI and might be downplaying crime to keep its business thriving.

"If we're going to have an impact on what's going on, we need to join together," said Kendall Carver, whose daughter, Merrian Lynn Carver, disappeared from a cruise in Alaska in August 2004. "I think the public needs to know about it."

Smith's family contends he was a victim of foul play covered up by a cruise ship line eager to avoid bad publicity.

"The lack of information given by cruise lines is abysmal and I think that needs to change," Bree Smith, George Smith's sister, said Tuesday. "To be a victim of one of these crimes and never see any justice done, it adds insult to injury."

The cruise line has said it handled the incident appropriately and has cooperated fully with investigators.

The new group does not have a name yet, but is organizing through an e-mail, cruisevictims@cox.net.

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Recruiting Office Left Open 26 Times (MJS)

By JACQUELINE SEIBEL

Milwaukee Journal Sentinel, January 4, 2006

Town of Brookfield - Police officers making routine checks on area businesses found a door to the local military recruiting office open 26 times since July, officials said Tuesday after a weekend burglary of military uniforms was reported at the facility.

Authorities are linking the burglary with the theft of a government vehicle outside a military recruiting office in Indianapolis, a development that has prompted interest from federal, state and local law-enforcement agencies.

Police believe the back door to the office at 20101 W. Blue Mound Road, which contains recruiting services for the U.S. Army, Navy, Air Force, Marines and Coast Guard, was likely unlocked again over the weekend, police Capt. Tim Imler said.

Three military uniforms, including a dress uniform and combat fatigues; a government-owned car; and keys to several government vehicles were stolen here sometime between Saturday evening and the discovery of the burglary at 7 p.m. Monday, Imler said.

In the parking lot where the 2003 Oldsmobile Alero was stolen, near the West Point Cinemas, another stolen government car was recovered, Imler said. That Chevrolet Malibu from Indianapolis had no apparent damage and was still bearing its government-issued license plates.

Today, the FBI will process evidence found in the vehicle stolen from Indianapolis, Imler said.

Michael Johnson, a supervisory special agent in the FBI's Milwaukee office, said the bureau is investigating the crime, but only as theft of government property.

"We have no reason to believe it is tied to terrorism at this point," he said.

Because the car from the Indianapolis recruiting office was found in Waukesha County, authorities have concluded that the two break-ins are related, Johnson said.

Yet Imler said authorities do not know why recruiting offices appear to have been targeted, especially since the burglar left behind computers and cash.

Also, a car with government plates would not be useful to a thief who did not have accompanying government identification, Johnson said. Someone whose aim was to collect military uniforms would be unlikely to target a recruiting station.

"There usually aren't a lot of people working in a recruiter's office, so it's doubtful they're going to have a lot of uniforms," he said.

The Indianapolis Police Department did not return phone calls seeking comment, and an officer from that state's military recruiting headquarters would only confirm that a car had been stolen.

Assisting the Town of Brookfield police and the FBI in the investigation are the U.S. Departments of Defense and Homeland Security, U.S. Immigration and Customs Enforcement, and the Joint Terrorism Task Force, consisting of federal, state and local officials.

Defense Department spokesman Lt. Col. Brian Maka said Tuesday that he had not heard about the Town of Brookfield burglary or that there had been other problems at military recruitment offices.

Gina Barton of the Journal Sentinel staff contributed to this report.

FBI Investigates Break-in At Military Recruiting Center,170 (MH)

The Miami Herald, January 4, 2006

BROOKFIELD, Wis. - Marine uniforms and a military vehicle were stolen from an armed forces recruiting center over the weekend, police said Tuesday.

The break-in follows the theft of a car from a recruiting center in Indianapolis over the weekend. That car was found at the same Town of Brookfield recruiting center where the new thefts were reported, FBI Special Agent Mike Johnson said.

Two military uniforms and a maroon 2003 Oldsmobile Alero were missing from the Brookfield site, but computers, money and electronic equipment were left behind, authorities said.

The recovered vehicle is being processed for evidence, Johnson said. The FBI is involved because federal property was stolen.

The stolen uniforms include Marine dress coats and military fatigues and boots. The thief or thieves could be impersonating military personnel, Town of Brookfield police Capt. Tim Imler said.

Military Vehicle And Uniforms Stolen In WI (WFIE-TV)

WFIE-TV, January 4, 2006

Police say a military vehicle and uniforms have been stolen from a recruiting center in suburban Milwaukee.

DOJ_NMG_0008069

The break-in follows the theft of a car from a recruiting center in Indianapolis over the weekend. FBI Special Agent Mike Johnson says that car was found at the same recruiting center in Brookfield, Wisconsin where the new thefts were reported.

In the Town of Brookfield, police say a 2003 Olds Alero was taken, also two Marine dress coats and some military fatigues and boots.

Police warn that the thieves may try to impersonate military personnel.

Robbed At Gunpoint, Barry Harbors 'No Animosities' (WP)

By Del Quentin Wilber

The Washington Post, January 4, 2006

D.C. Council member and former mayor Marion Barry yesterday urged two young men who robbed him at gunpoint Monday night to turn themselves in to police, promising that he would urge authorities not to prosecute them.

"I have no animosities," Barry declared. "I don't even want you prosecuted, really. I love you. Give yourself up. Call the police. . . . I will do all I can to advocate non-prosecution."

Barry, 69, was held up in his kitchen about 9:30 p.m. Monday by two assailants who minutes earlier had helped him carry groceries from his car to his third-floor apartment in Southeast Washington. They pointed a gun at Barry's face and stole his wallet, which contained more than $200, his driver's license and two credit cards, police said.

The thieves apparently knew that Barry (D-Ward 8) was a longtime community leader, a fact that he said made the crime "kind of hurt" because he is well respected by so many people in the city. Barry was not injured in the holdup.

"There is a sort of an unwritten code in Washington, among the underworld and the hustlers and these other guys, that I am their friend," Barry said at an afternoon news conference in which he described the robbery in detail. "I don't advocate what they do. I advocate conditions to change what they do. I was a little hurt that this betrayal did happen."

D.C. police, who are battling a recent spike in holdups, said they were shocked that someone would knowingly rob a former mayor in his apartment. They have no suspects. A bystander found Barry's wallet -- without the cash -- on a nearby street. The billfold, driver's license and credit cards were returned yesterday to the council member, authorities said.

"I was very surprised, especially in the fact that the individuals knew who Mr. Barry was, and they went ahead and robbed him anyway," said D.C. Police Cmdr. Joel Maupin. "It shows that people don't care who you are -- they just want what you have."

Barry, a four-term mayor who returned to politics last year when he was elected to the council, called the news conference at the John A. Wilson Building, the District's city hall, to talk about the crime and to urge stiffer penalties for gun possession. Even as he characterized the city's problems with guns and violence as a "pandemic," he said he felt empathy for those who robbed him.

U.S. Attorney Kenneth L. Wainstein declined to comment on Barry's remarks. Prosecutors and police will make the call on whether to file charges against those responsible for the crime.

"As with all violent crimes, we will expend every effort in the investigation of this case, both to vindicate council member Barry's rights and to prevent the perpetrators from victimizing others in the future," Wainstein said.

Barry often has spoken out against street crime in a political career that goes back more than three decades. He was first elected mayor in 1978 and was reelected to second and third terms. He was in his third term when the FBI videotaped him smoking crack; he was convicted of one count of misdemeanor drug possession.

He settled in Ward 8 after completing a six-month prison sentence and won the council seat there in 1992, launching a comeback that eventually led to a fourth term as mayor. He recently pleaded guilty to two misdemeanor tax charges because he did not pay most of his income taxes after leaving the mayor's office in 1999. He is scheduled to be sentenced Jan. 18.

Monday's robbery was not the first time Barry has been the victim of violence. He was shot above the heart by a stray bullet during the 1977 takeover of city hall by a group of Hanafi Muslims -- an experience that he said was less scary than what happened at his home Monday evening.

"On March 7, 1977, in this very same building, I walked across the hall and heard something ring out," Barry remembered yesterday. "And I got hit in my chest. I didn't even have time to think.

"In this incident, I had a chance to see it. I was much more frightened, much more emotionally involved. It was a horrific experience to face a gun," Barry said. "I could see my life flash before me at that moment."

Monday's episode began about 9 p.m. when Barry returned from shopping for groceries at a Safeway store in Southwest Washington. He parked outside his beige-brick apartment building in the 2600 block of Douglas Place SE, part of a neighborhood that police say has problems with drug dealing and burglaries but generally is not affected by the level of violence in harder-hit areas of Barry's ward. The young men, whom Barry said he did not recognize, asked if they could help carry his bags upstairs.

"Mr. B, can we help you with your groceries?" Barry said one of the youths asked him.

Such requests are common, Barry said.

"When I go home in the evening or come out in the morning or weekend, the young people are all over me, asking for money, begging for money. 'Give me a dollar. Give me five dollars,' " Barry said. "So I try to make a practice of making them work for what they get."

Barry gave the young men several bags. After helping him, they asked if they could have some candy in a dish on a dining room table. He and the young men talked a bit. Barry then handed the two a few dollars and they left.

About 15 minutes later, they came back.

"I just let them in. That's how we do it over there. At least that's how I do it," Barry said.

Once inside the apartment, one of the men pulled out "a gun and pointed it at my face and pushed me into the kitchen," he said.

The assailants quickly fled with Barry's wallet. Police said they were stepping up patrols in the neighborhood to prevent other robberies and to gather information about the assailants.

Yesterday, Barry called for a summit among the city's leaders to address gun violence. And he said he will prod the council to pass a bill he introduced to stiffen penalties for carrying a gun in the District. The proposed legislation would also prohibit judges in most cases from granting pretrial release to defendants facing gun charges.

"Violence is everywhere," Barry said. "Guns are everywhere. This ought to be the number one priority in our city -- saving lives, getting guns off the street and rehabilitating young people."

Barry Robbed At SE Home By Men He Helped (WT)

By Matthew Cella

The Washington Times, January 4, 2006

Former D.C. Mayor Marion Barry was robbed at gunpoint in his Southeast apartment Monday night by two young men whom he had paid minutes earlier to help him carry groceries from his car.

Mr. Barry, 69, said he was not injured during the robbery, but felt downhearted about being robbed in the Ward 8 neighborhood he represents on the D.C. Council. He also said that he doesn't want authorities to prosecute the robbers, if they are caught, and that he "loves" them.

"I was really kind of hurt," Mr. Barry, a Democrat, said at a press conference yesterday at City Hall. "There's sort of an unwritten code in Washington among the underworld, the hustlers, and these other guys that I'm their friend.

"I don't advocate what they do, but I advocate the conditions to change what they do," he said.

Mr. Barry said his wallet containing his driver's license, credit cards and an undisclosed amount of cash was taken. Police later recovered the wallet, minus the cash.

Mr. Barry said he had been shopping and had a trunk full of groceries when he stopped his car in front of his apartment building in the 2600 block of Douglas Road SE at about 9:30 p.m.

He said two young men approached him, calling him "B," as the neighborhood's young people refer to him. The men asked him whether they could help carry his groceries upstairs.

Mr. Barry said he frequently pays young people who ask him for money in the neighborhood to perform such services, preferring that to a handout.

He said he made small talk with the men, one of whom identified himself as Marcus and told Mr. Barry that he lived across the street.

The men brought the groceries into Mr. Barry's apartment, and Mr. Barry gave each man some candy before they left. About 10 minutes later, he said, the two men came back to his door, and he thought nothing of letting them in.

"They had a gun, pointed it at my face and pushed me in the kitchen," he said, adding that his life flashed before his eyes when one of the men cocked the handgun while pointing it at his head.

Mr. Barry said that the apartment building has a secure outer door, but that it is often broken. He said he thought the door locked behind him when he came in.

Seventh District Cmdr. Joel Maupin said that he was "very surprised" to hear that Mr. Barry was robbed and that it might have been a crime of opportunity.

"It shows a lot of people really don't care who you are," he said. "All they want is to get what you have."

Mr. Barry said that he held no animosity toward the men who robbed him and that he would prefer they not be prosecuted if they were caught.

"For the young men who did this to me, I say to you, I don't hold any animosities, I don't even want you prosecuted really. I love you. Give yourself up. Call the police, let them know you engaged in this activity," he said.

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He said that getting guns off the streets should be the "No. 1 priority of this city" and that crime had reached crisis proportions.

Metropolitan Police Department Capt. C.V. Morris, head of the violent crimes branch, said he did not agree completely with Mr. Barry's assessment of crime in the District.

"I agree to an extent," Capt. Morris said. "We have a situation where, yes, a lot of our crimes are declining, but when you look at our robberies, our robberies are peaking. And it's all about guns. So I definitely understand this."

Through November, the most recent month for which statistics are available, preliminary police reports show that all categories of crime except for robbery had declined citywide. Robberies were up 5.8 percent.

In the 7th Police District, which includes Ward 8, robberies were up 15 percent, statistics show. Homicides and sexual assaults were each up 16.3 percent, statistics show.

Mr. Barry said he visited former council member Sandy Allen on Monday, hugged her and offered prayers two days after her grandson was killed in the same area.

Mr. Barry's first three terms as mayor ended with a 1990 crack cocaine arrest and six months in federal prison.

He returned to win the Ward 8 council seat in 1992 and then the mayor's office in 1994 for his fourth term. However, Congress in 1995 sapped most of the mayor's powers by instituting a control board to run the city. Mr. Barry declined to run again in 1998.

In 2002, Mr. Barry backed out of running for an at-large seat on the D.C. Council after U.S. Park Police reported finding "traces" of marijuana and cocaine in his illegally parked Jaguar. No charges were filed, and Mr. Barry has disputed the account.

In 2004, Mr. Barry was elected to the Ward 8 seat on the D.C. Council after he defeated Mrs. Allen, the incumbent Democrat, in the primary.

Recently, Mr. Barry pleaded guilty to two misdemeanor charges stemming from an investigation that revealed he did not file taxes from 1999 through 2004. His sentencing is scheduled for Jan. 18.

Witness: Fawell Assigned Him Campaign Work (AP)

By MIKE COLIAS, ASSOCIATED PRESS

AP, January 4, 2006

A former employee of the Illinois secretary of state's office testified Tuesday that he spent much of his time on the clock working on political campaigns, including George Ryan's runs for governor and secretary of state.

Brad Roseberry testified at the former governor's racketeering and fraud trial that Scott Fawell, Ryan's chief of staff when he was secretary of state, assigned him to do campaign work on numerous Republican campaigns from 1992 to 1999, when Roseberry was a state employee.

Roseberry said he spent much of his work time on campaigns for Ryan and other GOP candidates-- knocking on doors and putting up campaign signs-- in the months leading up to elections, even though taxpayers were paying his salary as a state employee.

"Toward the (election), it was virtually full time," said Roseberry, who testified under government immunity from prosecution for anything that he might say on the stand. It is illegal to do campaign work on state time.

Under cross-examination from lead defense attorney Dan K. Webb, Roseberry agreed numerous times that Ryan himself never directed him to do political work of any kind. Webb also insinuated that Roseberry might have fabricated some of what he told the FBI in exchange for his immunity.

Ryan, 71, and lobbyist Larry Warner, 67, are charged with racketeering, mail fraud and other offenses. The federal indictment says that when Ryan was secretary of state he steered big-money state leases and contracts to his friends, including Warner, and received gifts and free vacations.

Ryan and Warner say nothing they did was illegal.

Roseberry testified that he typically met with Fawell and other office workers to discuss campaign work and that he only recalled Ryan being present once, in 1992. He said he met with Ryan, Fawell and others at the secretary of state's office in Chicago to discuss Roseberry's work on a campaign for Bruce Clark, a Kankakee Republican and husband of Ryan's niece who was running for the Legislature.

"I told (Ryan) it would be a tough race," Roseberry said. "He said, 'I know that. Tell me something I don't know.'" Roseberry said the meeting lasted about 20 minutes, during which one supervisor suggested Roseberry take a leave of absence to work on Clark's campaign, but Fawell rejected the idea.

Webb questioned whether Roseberry might have concocted the story to improve his chances of avoiding jail time, saying it wasn't until Roseberry's fifth meeting with prosecutors, in January 2003, that he mentioned a meeting with Ryan.

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"Had you made up your mind going into that meeting that you needed to make something up about George Ryan or you were never going to get a grant of immunity?" Webb asked.

"No," Roseberry said.

Roseberry testified that the government granted him immunity a few weeks after he told prosecutors about the Ryan meeting.

Webb also tried to poke holes in Roseberry's credibility by asking him questions about his alcoholism, which Roseberry acknowledged led to an inability to remember details for much of the time he worked in the secretary of state's office. He said he quit drinking in 1996.

Earlier Tuesday, a former Cook County prosecutor said Ryan in 1992 cursed when he and then-Cook County State's Attorney Jack O'Malley suggested a way to prevent corruption within the secretary of state's office.

Patrick J. Quinn said the conversation took place just before a news conference at which Ryan and O'Malley were to discuss the indictment of two secretary of state's office supervisors who were charged with selling phony drivers licenses.

Quinn said that after he suggested the anti-fraud method, Ryan turned to O'Malley, cursed and then said, "Those are my guys."

Quinn, now an Illinois appellate judge, said O'Malley told Ryan he wasn't trying to tell him how to run his office but that the press would ask questions about how he would prevent future corruption.

Quinn quoted Ryan as saying: "Jack, you're going to go out there and look like a hero for catching these guys, and I'll look like a hero for helping you."

Judge: Jurors Won't Learn Of George Ryan's Death Penalty Reform (CHIT)

By Rudolph Bush And Matt O'connor, Tribune Staff Reporters

Chicago Tribune, January 4, 2006

After a week off for the holidays, the trial of former Gov. George Ryan resumed today with Ryan's defense pressing forcefully but failing to put evidence of his death penalty reform before the jury.

Julie Bauer, one of Ryan's attorneys, argued it was critical that prosecution witness and Illinois Appellate Judge Patrick Quinn be questioned about his opinion of Ryan's decision to commute all death sentences in Illinois.

Outside the presence of the jury, Quinn called Ryan's decision "illegal and immoral" but swore he bore no ill will toward Ryan that led him to cooperate with prosecutors.

Prosecutors sought only to have Quinn, a former assistant state's attorney, testify about an unrelated 1992 conversation he had with then-Secretary of State Ryan and Cook County State's Atty. Jack O'Malley.

With the jury seated before him, Quinn said that during the conversation, Ryan crudely rejected a suggestion that Quinn believed could curb corruption among secretary of state employees who took bribes to sell driver's licenses to motorists who had lost their licenses for driving drunk.

The conversation occurred after the arrest of two secretary of state supervisors for the alleged offense.

Just prior to a news conference announcing the investigation and arrests, Quinn told O'Malley of a plan to store driver's photos at the secretary of state's office to prevent the issuance of illegal licenses.

"Mr. O'Malley told Secretary Ryan, 'George, Quinn has a good idea how you can cut down on this in the future,'" Quinn testified. "Mr. Ryan turned to Mr. O'Malley and said, '(Expletive) you, Jack. These are my guys.'"

Outside the jury's presence, Ryan's attorney Julie Bauer argued that Quinn's potential bias toward Ryan over the Death Penalty issue should be explored.

Even before the trial began, the defense sought to bring out evidence of Ryan's Death penalty reform.

But today, U.S. District Judge Rebecca Pallmeyer again rejected the effort and upheld the prosecution's argument that Ryan's policy decisions were irrelevant in the corruption trial.

Also testifying today was Brad Roseberry, a former Ryan political operative and supervisor in the Secretary of State's office.

Testifying under immunity from prosecution, Roseberry told jurors that he routinely did political work on state time.

He also testified that after Ryan was re-elected secretary of state in 1994, he compiled a list of state employees who had worked on the campaign in anticipation they would receive raises and promotions for helping Ryan.

Roseberry himself received a 20-percent raise after the election and was promoted to a position that did not exist before the election, he said.

Witness: Ryan Ignored Fraud (CHIST)

By NATASHA KORECKI, Federal Courts Reporter

DOJ_NMG_0008073

Chicago Sun-Times, January 4, 2006

When a state prosecutor suggested a way to stop corruption in the secretary of state's office, George Ryan allegedly gave him a gruff response: "F--- you, Jack. These are my guys," Ryan told Cook County State's Attorney Jack O'Malley in May of 1992.

Illinois Appellate Court Judge Patrick Quinn, then O'Malley's public integrity chief, recalled the conversation Tuesday as he testified at Ryan's public corruption trial.

Ryan's reply came after Quinn conveyed an idea on cutting down on fraud in the secretary of state's office as he briefed Ryan and O'Malley before a news conference.

Quinn's office had just completed an investigation into the secretary of state's Midlothian licensing facility, charging employees with giving out driver's licenses to repeat DUI offenders in exchange for bribes. Quinn said O'Malley turned to him and said: "Why don't you tell George about that" idea to keep the fraud from occurring again.

Quinn testified he was surprised by Ryan's response.

"I would assume ... that Mr. Ryan would welcome any suggestions and, if nothing else, say: 'That sounds good. We will look into that,' " Quinn said. "That's what I would assume an elected official would say upon being presented with an idea about how to fight corruption -- to at least pay lip service to the idea that he'll cooperate."

When Ryan recoiled, O'Malley said Ryan might want to have a response ready in case reporters asked how he planned to stop bribes for licenses in the future, Quinn said.

"Jack, you're going to go out there and look like a hero for catching those guys and I'll look like a hero for helping you, and that's all anybody's going to ask," Ryan replied, according to Quinn.

O'Malley doesn't remember the exchange, according to Quinn and prosecutors. Quinn said at the time he told his supervisor about Ryan's response.

He said federal prosecutors later contacted him to ask about the alleged conversation; he didn't seek them out.

What role Ryan played

Prosecutors say Ryan's comeback epitomizes his take on rooting out corruption in his office. The trial, in its 14th week, entered the phase that explores what role Ryan played as investigations into corruption within his secretary of state's office intensified.

Ryan, 71, is charged with steering state contracts and leases to friends and taking cash, vacations and gifts in return. He's also charged with lying to the feds.

But Ryan's lawyers suggested Ryan rebuffed Quinn's idea because he didn't want to walk out and publicize a reform before he examined it. Years later, Ryan did revamp the secretary of state's computer system, digitizing all driver's licenses in an aim to cut back on fraud.

Outside of the jury's presence, Quinn, a judge for about nine years, ripped Ryan's 2003 decision to clear Death Row.

"It was absolutely illegal and immoral," he said.

The comment came as Ryan's lawyers sought to attack Quinn's credibility, painting him as an ex-prosecutor who had a beef with Ryan for commuting the sentences of criminals Quinn helped put behind bars.

Ryan lawyer Julie Bauer asked Quinn about his prosecution of Steve Manning, an ex-cop who landed on Death Row for murder. His conviction was later overturned by a higher court, and he was the 13th person to be let off of Death Row at a time when Illinois was mulling a moratorium on a troubled system here.

After hearing the testimony, U.S. District Judge Rebecca Pallmeyer ruled the jury couldn't hear it because it let lawyers expound on Ryan's policy decisions. She also said Ryan's 2003 decision to clear Death Row came years after Manning was released. Manning, who attended opening statements at Ryan's trial, won a $6.6 million jury verdict against the FBI last year for allegedly framing him in two crimes.

Doubts raised over memory

Also on Tuesday, former secretary of state worker Brad Roseberry said taxpayers paid for his salary as he did political work under Ryan from 1992 to 1999.

Roseberry, a court liaison for the secretary of state's office, testified that Ryan knew about him doing political work on state time at least at one point because Ryan was at a 1992 meeting where the issue was discussed.

But Roseberry said Ryan never told him to stay on the state payroll while he worked on political campaigns of Ryan and others.

Ryan attorney Dan Webb raised doubts about Roseberry's memory because he's a recovering alcoholic. Webb at one point asked if Roseberry concocted the meeting with Ryan to win an immunity order. Webb also asked if Roseberry drank a fifth of gin before that meeting. Roseberry said he couldn't recall.

Roseberry said the state later gave him a hefty raise as a reward for his political work.

Investigators Seek Info From Group On Doyle Donations (DULNT)

By Jr Ross

The Duluth News Tribune, January 4, 2006

MADISON, Wis. - State and federal investigators have asked a group that tracks campaign contributions for details on donations Gov. Jim Doyle received from utility interests, a company that won a state travel contract and a fundraiser held by a Department of Transportation official, the organization's executive director told The Associated Press.

Federal, state and local prosecutors announced last year they would review $20,000 in donations Doyle received from officials with Adelman Travel Systems shortly before and after the Milwaukee company won the state contract.

The requests of the Wisconsin Democracy Campaign indicate investigators are looking at a wider range of donations than they have previously let on.

Mike McCabe, the group's executive director, said investigators had specific questions on the timing of donations Doyle received but gave no indication about the scope of their probe. He said the group was approached because of its unique data base detailing campaign donations.

"If they went to the Elections Board and went pawing through campaign finance repots, it'd be like looking for needles in a haystack," said McCabe, whose group advocates for campaign finance reform. "They came to us because we can help them find those needles."

The Department of Justice, U.S. Attorney's Office in Milwaukee, Dane County district attorney and FBI declined to comment Tuesday when contacted by the AP.

Doyle spokesman Dan Leistikow said the governor's administration has complied with all requests for information from investigators and was confident they would find no wrongdoing.

"People can look at this all day long if they want to, but they're not going to find anything because the governor and his entire administration act with integrity and the people of Wisconsin know that," Leistikow said.

Attorney General Peg Lautenschlager, U.S. Attorney Steven Biskupic and Dane County District Attorney Brian Blanchard announced a joint review of Doyle's donations from Adelman executives following media reports on a contract that could be worth up to $750,000.

McCabe said FBI agents first approached him a year ago asking general questions about corruption in the Capitol but were not focusing on Doyle at the time. He said Department of Justice and the FBI began asking more specific questions about Doyle's donations in early fall, and the organization complied with requests for information in November.

McCabe said DOJ specifically asked about donations from the Wisconsin Public Service Corp. The group turned that information over to investigators and also used it as part of a report it put out publicly last month detailing the $41,550 that executives of WPS and Alliant Energy Corp. gave to Doyle in the six months after the state Public Service Commission rejected their sale of the Kewaunee nuclear plant to a Virginia company.

The three-member commission, which included two Doyle appointees, reversed its decision on March 17 and allowed the sale to go through.

Leistikow said the governor was not involved in the process to award the Adelman contract and pointed out the PSC is an independent agency. Those involved in the PSC's decision have denied any undue influence.

McCabe said investigators asked about donations collected at a fundraiser held in September by Ruben Anthony Jr., deputy secretary at the Department of Transportation. He invited dozens of employees of companies that vie for DOT engineering contracts.

The Ethics Board is reviewing that fundraiser, but McCabe said the Democracy Campaign could not provide details to investigators on those donations because they will not be reported until later this month.

DOT spokeswoman Peg Schmitt said investigators have not asked the agency for any documents.

Department of Administration spokesman Scott Larrivee said the agency, which oversaw the awarding of the Adelman contract, first turned over documents to investigators in October and has complied with other requests since then.

He referred questions about the content of the documents to investigators.

Council Urged To Investigate Mariano (PHI)

By Michael Currie Schaffer

The Philadelphia Inquirer, January 4, 2006

Philadelphia's leading good-government lobby is calling on City Council to hold hearings and set new conduct rules in response to FBI documents and grand jury testimony showing that electricians' union leader John J. Dougherty had great influence over the office of indicted Councilman Rick Mariano.

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The Committee of Seventy also asked for an investigation into Mariano's dismissal of three staffers who testified before a grand jury that indicted him on corruption charges. Committee president Zack Stalberg warned that lawsuits by wrongly fired employees could leave taxpayers on the hook.

"Mariano and Dougherty set a whole new standard for coziness and inappropriate insider behavior," Stalberg said of the revelations, which were first reported in The Inquirer and based on FBI reports and transcripts of grand jury testimony by Mariano aides as well as Dougherty and his political team.

Among other things, the documents reveal that:

Mariano never even interviewed his chief of staff, Walt DeTreux, before he was hired. Mariano left that task to one of Dougherty's political aides.

DeTreux took the job only on the condition that he "answer to the International Brotherhood of Electrical Workers," according to an FBI summary.

Mariano aide John Lisko said he regularly briefed Dougherty "on all legislative, political, and administrative activities" in the office.

Mariano's lawyer, Nino V. Tinari, said he supported the idea of setting rules. But he said his client had been unaware of the extent of Dougherty's influence and therefore was not responsible for inappropriate ties.

"How could he be culpable of something he wasn't even aware of?" Tinari said.

Dougherty, a likely 2007 mayoral candidate who serves as treasurer of the city Democratic Party, declined to comment. He told The Inquirer last month that he had not controlled Mariano and had in fact encouraged him to be more independent.

DeTreux has said that FBI interviewers misinterpreted his comments. He said he meant that he wanted to run the office without interference from Mariano, whose staff had been seen as bumbling and disorganized.

But Stalberg said the details demonstrated the need for a Council policy designed to "insulate Council members and their staff from special interests."

"We would all be outraged if a Council member became controlled by a local company that went so far as to install its own staff in his or her office," he wrote. "The public elects officials and expects them to be independent - not captive to a business or a union or anybody else."

Mariano was indicted Oct. 25 on charges that he accepted $30,000 in bribes from businessmen in exchange for legislative favors. If convicted, he faces 10 years in federal prison.

Prosecutors also examined as a case of possible witness intimidation Mariano's Oct. 21 firing of DeTreux and Lisko and last month's axing of staffer Anna Davila, all of whom spoke to the grand jury. No charges have been filed.

Tinari said the staffers were not fired for testifying.

In separate letters to U.S. Attorney Patrick Meehan, Philadelphia District Attorney Lynne M. Abraham, and City Controller Alan Butkovitz, Stalberg asked for an investigation into whether the firings were "consistent with city policy."

Butkovitz said he would be happy to investigate if the Mariano case weren't already being handled by the federal government.

"The problem with this is that the FBI's already heavily into this case, and I would just get in the way," he said. "From what I've heard, they'd have a fit."

Cathie Abookire, a spokeswoman for Abraham, said all questions related to the Mariano case would be referred to Meehan's office.

First Tennessee Waltz Trial Delayed As Dixon Seeks New Lawyer (AP)

By WOODY BAIRD, Associated Press Writer

AP, January 4, 2006

MEMPHIS, Tenn. (AP) -- Former state Sen. Roscoe Dixon told a federal judge Tuesday he is getting a new defense lawyer, a move that will delay the first scheduled trial for the Tennessee Waltz scandal by months.

Defense lawyer Walter Bailey stepped down after prosecutors raised questions about a potential conflict of interest with a government informant.

U.S. District Court Judge Jon McCalla said he expected Dixon's trial on charges of taking payoffs to influence legislation to be delayed at least two to three months. It had been set to begin Jan. 17.

The conflict of interest stemmed from work Bailey's law firm had done representing the informant, Tim Willis, in other legal matters.

Those cases involved issues that could be used to question the credibility and character of Willis, who is expected to be the prosecution's witness, but Bailey could have been limited in raising those questions because of his firm's previous work.

Outside the courthouse Dixon said he was initially disappointed in losing Bailey as his lawyer and seeing the trial delayed.

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"At first you want to hurry up and get it out of the way, but maybe this ordeal is about long suffering, patience, learning how to let God work things for you," Dixon said.

The former lawmaker, a Memphis Democrat, said he is looking for a new attorney.

In Recordings, Mobster Pierces Veil On Gambino Crime Family (NSDY/AP)

By Matt Apuzzo, Associated Press Writer

Long Island Newsday, January 4, 2006

NEW HAVEN, Conn. -- Mobster Victor Riccitelli wanted so badly to keep his recorded conversations with an FBI informant secret, he broke the mob's honor code and admitted his Mafia membership rather than have prosecutors play the tapes in court.

For the first time since Riccitelli and more than a dozen others were indicted in a landmark Mafia case in 2004, prosecutors recently offered the first clues as to why he was so insistent the tapes remain sealed: In them, he revealed the Gambino crime family hierarchy, placing ranks with names and explaining the upper echelon of one of the nation's most notorious crime syndicates.

Riccitelli, in conversations with a Stamford strip club owner working with the FBI, also described his Mafia induction ceremony, the secret ritual in which members swear a lifelong allegiance to the crime family.

"He said that a picture of a saint was placed in his hands and burned, and that he dumped the ashes in a dish," prosecutors wrote last week, describing the tapes in a memo to U.S. District Judge Janet Bond Arterton.

Riccitelli was scheduled to be sentenced for racketeering Tuesday but his case was delayed until Jan. 20. He faces six to eight years in prison and prosecutors want that tacked onto the end of his 13-year sentence for cocaine distribution _ all but ensuring that Riccitelli, 72 and a cancer patient, will die in prison.

Defense attorney John Einhorn did not return a message seeking a response to the prosecution memo.

The Gambino crime family, once led by John Gotti, allegedly runs illegal Connecticut gambling businesses that include sports betting, poker machines and the numbers racket, prosecutors said.

"The defendant is an incorrigible and possibly violent criminal whose life is marked by one constant: a never ending search for fresh opportunity to enrich himself illegally," prosecutors wrote.

In late 2003 _ when law enforcement officials were openly calling John Gotti's brother, Peter, the family boss _ Riccitelli was captured on tape explaining that Arnold "Zeke" Squittieri was in charge, with Anthony "The Genius" Megale serving as the No. 2 man and Joseph "Jo Jo" Corozzo as consigliere, or top adviser.

Megale, a Stamford man who pleaded guilty last year to racketeering in Connecticut and also faces charges in New York, handled much of the family's day-to-day operations, Riccitelli said.

"He's in New York every day. He's under the (expletive) fire," Riccitelli said. "It's the consigliere, the underboss and the boss. OK? The boss is a sweetheart, but he can't run around cause he's on parole. He'll go do what he gotta do now, don't get me wrong, but he can't go in the street where wise guys are because then he's gonna be seen."

Squittieri, of Englewood Cliffs, N.J., wasn't publicly identified as the Gambino boss until last year when prosecutors indicted him and Megale in New York and accused them of running the family. New York prosecutors have identified Corozzo as consigliere but he has not been charged as such.

It is unclear whether prosecutors will try to play the Riccitelli tapes at sentencing later this month. They were close to doing so in October when on the eve of trial Riccitelli tried again to have the tapes thrown out.

Prosecutors put John Sereno, the FBI agent who led the investigation, on the stand and let him explain how he wired his informant before every meeting. As prosecutors were about to hit the play button, Einhorn leapt up and objected.

A judge ruled that the tapes would be admitted, and Riccitelli leaned back in his chair and said, "That's it. No point."

He pleaded guilty that day.

Two Plead Guilty In Mortgage Fraud (CINE)

By Mike Boyer, Enquirer staff writer

The Cincinnati Enquirer, January 4, 2006

Two loan processors have agreed to plead guilty to fraud and other charges in the federal probe into mortgage fraud involving low-priced homes in Greater Cincinnati.

Ike Bronson, a former loan processor at Seven Hills Financial mortgage brokerage, has agreed to plead guilty to charges of bank fraud, conspiracy and filing a false tax return, in documents filed in U.S. District Court in Cincinnati.

Bryan Young, another loan processor, has agreed to plead guilty to bank fraud and conspiracy charges, according to court papers.

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More than three dozen people have entered guilty pleas in the ongoing probe by the Internal Revenue Service, the FBI and the U.S. Postal Inspection Service into the sale of more than $50 million in area real estate.

Bronson originated loans and recruited buyers for a number of properties sold at artificially inflated prices, according to investigators. He also was aware false information was submitted on mortgage loan applications.

Investigators said Bronson caused real or intended losses of more than $728,000 to financial institutions and failed to report $131,217 in income in 2003 as result of payoffs from fraudulent loan proceeds.

Young processed 15 to 20 loans that included false documents causing real or intended losses exceeding $255,000 for financial institutions, investigators said.

Both men waived a grand jury indictment and will appear in U.S. District Court on Jan. 12 to formally enter their pleas.

Separately, Erica Crum, a loan officer for two different mortgage companies, was sentenced last week in U.S. District Court to 37 months in prison and was fined $15,000, after admitting charges of conspiracy, bank fraud and money laundering.

She also was ordered not to seek employment in the mortgage industry and to pay restitution to be determined later.

Crum, who worked at Airline Union's Mortgage Co., in Springdale, until April 2002 and out of her home from then until May 2003 for Loan Star Mortgage, misrepresented to lenders the source of down payments purportedly made by borrowers, according to court papers.

She also engaged in at least 25 money-laundering transactions involving $393,626, investigators said.

CIVIL LAW:

U.S. Not Told Of 2 Deaths During Study Of Heart Drug (NYT)

By Stephanie Saul

The New York Times, January 4, 2006

The Scios unit of Johnson & Johnson yesterday added to the questions already clouding its heart failure medication Natrecor, saying the company had failed to tell federal regulators about the deaths of two patients in a clinical trial of the drug.

The two deaths were also omitted from a report of the trial published in October in The Journal of Emergency Medicine, the company said. That article reported 6 deaths within 30 days among 237 patients given Natrecor or other treatment in hospital emergency rooms in 2001 and early 2002. Five of those deaths were of people who had taken Natrecor.

The two additional deaths raised the total to seven among Natrecor patients, although Scios said yesterday that the difference did not change the safety assumptions about the drug.

Neither Scios nor Dr. W. Franklin Peacock 4th of the Cleveland Clinic, the principal investigator in the study, disclosed yesterday how the deaths had been omitted from the results, but said they had learned only recently that the deaths occurred within the 30-day study period. A final analysis of the results is under way and will be submitted to the Food and Drug Administration, said Mark Wolfe, a Scios spokesman. He said he did not yet know the causes of the two additional deaths.

But a spokeswoman for the Cleveland Clinic, Eileen Sheil, said that Dr. Peacock strongly believed that the deaths had been accidental and not related to problems with Natrecor.

Natrecor, which the F.D.A. approved in August 2001 for use in acutely ill heart-failure patients, became a big seller for Scios. Sales were helped by use of the product in less severely ill patients, known as off-label use, sometimes in outpatient clinics in cardiologists' offices.

After achieving sales of $400 million in 2004, though, Natrecor's growth failed to meet forecasts last year after questions arose about its safety and whether it was effective enough to justify a cost of about $500 a treatment, compared with much cheaper alternatives. The Justice Department is also investigating whether Scios promoted the drug for unapproved uses. And the government recently announced that Medicare and Medicaid would no longer cover the drug's outpatient use.

Scios consistently defended Natrecor's safety. But the failure of researchers to accurately collect and report the death data in the Natrecor trial comes amid questions elsewhere in the medical industry about the accuracy of studies of drugs and medical devices.

"When you're talking deaths in clinical trials, mistakes are not an option," said Dr. Arthur Caplan, a medical ethicist at the University of Pennsylvania. "It's just an area where we have to have absolute, foolproof reporting in place."

Last month, the drug maker Merck was accused of misrepresenting the results of a clinical trial of the painkiller Vioxx to minimize its heart risks. The study was published in November 2000, almost four years before Merck stopped selling the drug amid safety concerns.

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The Vioxx accusation came from Dr. Gregory D. Curfman, the editor of The New England Journal of Medicine, who said the authors of a Vioxx study had deleted data about strokes, heart attacks and other vascular problems suffered by some patients. Merck has denied mishandling the data submitted for publication.

While the findings of the Natrecor study were presented earlier at medical conferences, it was not until October that the complete results were published in The Journal of Emergency Medicine. At that time, Dr. Peacock and colleagues, who included a Scios executive, reported that five Natrecor patients had died within 30 days. The deaths included those from causes clearly not related to Natrecor use, including an accident, the study reported.

In the meantime, Scios had undertaken a retrospective review of the study to look at mortality in patients up to 180 days after treatment. It was during that review, according to the Scios spokesman, Mr. Wolfe, that the two additional deaths among Natrecor patients within the 30-day period were discovered. When the company learned of those deaths, it notified the F.D.A. and Dr. Peacock, Mr. Wolfe said.

Ms. Sheil, the spokeswoman for the Cleveland Clinic, said Dr. Peacock learned of the additional deaths in September and notified The Journal of Emergency Medicine, but the article had already been published. Its authors say they will update it once the analysis by Scios is completed, sometime in the next few months.

Agencies To Designate Chief FOIA Officers (FCW)

By Matthew D. Weigelt

Federal Computer Week, January 4, 2006

Federal agencies must designate a chief Freedom of Information Act officer by Jan. 13, and each new officer will review the agency's FOIA operations and develop an improvement plan by June, according to a memo.

Released Dec. 30 by the Office of Management and Budget, the memo states that each agency must send a report on its FOIA operations and its improvement plan to the Justice Department and OMB by June 14. Agencies will also post the improvement plans on their Web sites.

The chief FOIA officer will be responsible for agencywide compliance with FOIA and oversee the program's implementation, the memo states. The officer will designate several public liaisons and post their contact information on the agency's Web site. The liaisons will serve as supervisors who review concerns about services.

President Bush issued an executive order Dec. 14 that directs agency leaders to ensure citizen-centered and results-oriented FOIA operations. In fiscal 2006 and 2007 FOIA reports, agencies will include information regarding the milestones made in FOIA improvement plans.

OMB Issues Further Guidance On FOIA Executive Order (GCN)

By Rob Thormeyer, GCN Staff

Government Computer News, January 4, 2006

Agencies must designate a chief Freedom of Information Act officer by Jan. 13, as well as review and revise their FOIA processing requirements by mid-June, according to a memorandum from the Office of Management and Budget.

In the memorandum dated Dec. 30, 2005, OMB also required agencies to establish one or more FOIA service centers and place contact information for public liaisons on their Web sites.

On Dec. 14, 2005, President Bush via executive order directed agencies to streamline their FOIA processing by appointing a chief FOIA officer and making information about how they handle these requests available online within six months.

In the OMB memorandum, deputy director Joel Kaplan provided more specifics and said agency FOIA officers must review their information operations and draft an improvement plan with concrete milestones for fiscal 2006 and 2007.

The plan must be submitted to the Justice Department and OMB and posted on agency Web sites by June 14, Kaplan wrote.

AARP Edges Away From Drug Imports (HILL)

By Kelly Mccormack And Bob Cusack

The Hill, January 4, 2006

In a move that is already attracting criticism from some lawmakers, AARP last week softened its support of drug reimportation legislation by saying that the new Medicare drug benefit saves senior citizens more than buying pharmaceuticals from Canada.

The powerful consumer group has previously endorsed reimportating drugs, but its revised position could severely damage momentum for legislation pending in Congress.

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It could also alleviate political pressure on the White House and the pharmaceutical industry, which have opposed reimportation even though it is supported by a majority of members of Congress.

The group has enormous clout on Capitol Hill, playing a crucial role in passing the Medicare drug bill in 2003 and thwarting the GOP effort to reform Social Security last year.

AARP's press release on the matter, released over the holidays, did not get much attention last week. But the ramifications of it could be significant in the debate on the affordability of prescription drugs.

The new analysis, titled "The New Math: Cheaper than Canada? The drug benefit may be the better deal," used the government's Medicare plan finder to compare "stand alone" plans that cover all of a senior's prescription needs to the cost of acquiring drugs across the border. It concluded that seniors who enroll in a low-cost Medicare prescription-drug plan would save more in drug costs this year than if they were to buy the same drugs in Canada.

While Canadian drug prices are still cheaper than prices in the United States, AARP found that when a senior includes all out-of-pocket costs — premiums, deductibles and payments for medications — the price is lower.

AARP stressed that it continues to support reimportation legislation.

"The bottom line is drug prices are too high," said AARP spokesman Mark Kitchens. "The two ideas [reimportation and the Medicare drug benefit] are not mutually exclusive. Many Americans that are not on Medicare would benefit from reimportation. Medicare Part D is a tool that would make prescriptions more affordable."

But AARP CEO Bill Novelli adopted a different tone in the group's Dec. 29 release, saying, "Jan. 1 is truly a watershed day for many Americans who face the high cost of presciption drugs. Millions of Americans who have never had drug coverage can now save more money through Medicare Part D rather than turning to Canada to get their prescriptions."

Some congressional Democrats are still upset with Novelli for his role in AARP's backing of the GOP drug bill more than two years ago.

The AARP release added, "In conversations with potential enrollees, AARP is hearing that the focus has shifted from the legislation to choosing the best plan to suit their needs."

These statements triggered strong reactions from both sides of the aisle.

"AARP is selling Medicare drug coverage, so it's not surprising that they're pushing their own product," said Rep. Sherrod Brown (D-Ohio). "Now they are making an apples-to-oranges comparison between Medicare drug coverage and Canadian drug prices. Seniors deserve decent drug coverage, and every American deserves lower-priced drugs. That's the bottom line."

AARP is working with the insurance company UnitedHealth Group to offer prescription-drug coverage. More than two million seniors have signed up for drug plans offered by the AARP-backed insurer.

Senate Finance Committee Chairman Chuck Grassley (R-Iowa) said that the AARP study "drives home the point that the new Medicare prescription-drug benefit can help beneficiaries save some serious money on their prescription-drug bills." But he emphasized that the savings will not be realized by all beneficiaries.

"We need to continue to work on other ways to lower prescription drugs costs for all Americans," said Grassley. "We can't let up on making prescription drugs more affordable."

"Saying that Medicare drug plans 'cost less' than buying prescription drugs from other countries is misleading," said Jon Yarian, a spokesman for Rep. Gil Gutknecht's (R-Minn.). "The cost of the prescription drugs hasn't changed. The only difference is who bears the burden of the expense. American taxpayers will be paying for these 'savings.'"

Rep. Jo Ann Emerson (R-Mo.) said, "The fact remains that we still lack a comprehensive policy to address high prescription-drug prices in America when identical, safe and affordable medicines are readily available to Americans just over our borders."

The pharmaceutical industry was more optimistic about the potential savings in the Medicare prescription-drug benefit.

"Seniors shouldn't have to gamble with their lives by importing potentially dangerous, counterfeit prescription medicines," said the Pharmaceutical Research and Manufacturers of America Senior Vice President Ken Johnson. "Instead they should opt for a safer, more affordable option offered by Medicare.

CIVIL RIGHTS:

Guilty Plea In Strip Club Case (NSL)

By RUSSELL BEN-ALI, Star-Ledger Staff

Newark Star-Ledger, January 4, 2006

A Brooklyn woman accused of forcing Russian immigrants to dance nude in New Jersey strip clubs in a human trafficking ring run by her husband pleaded guilty yesterday to conspiracy charges in Newark federal court.

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Viktoriya I'lina , 41, a naturalized U.S. citizen from Russia, is the last of three defendants to plead guilty in a case that involved luring more than 25 women from Voronezh in Russia, sending them to work in strip clubs and forcing them to pay exorbitant fees to members of the ring.

Yesterday she admitted demanding $5,200 from one dancer and $2,600 from another, when the two women stopped dancing in the clubs.

I'lina pleaded guilty before Judge John C. Lifland to one count of conspiracy to commit extortion, which carries a maximum sentence of 20 years in prison and a fine of $250,000. She also pleaded guilty to visa fraud, which carries a maximum prison sentence of five years and a fine of $250,000.

But under federal sentencing guidelines, I'lina will likely face a term of 41 to 51 months in prison when sentenced on April 13, authorities said. She also agreed to forfeit $25,575 seized from her Brooklyn residence during a court-ordered search.

"As we did with her husband, we'll be seeking a sentence at the top of that range," U.S. Attorney Christopher J. Christie said in a statement. "For the treatment they imposed on these women, both of them deserve nothing less."

I'lina's attorney, Lawrence S. Lustberg , said he plans to file an extensive sentencing memorandum to prove that I'lina is less culpable than her co-conspirators.

"We'll also show that for many of the women who were involved, she actually treated them with decency and dignity," Lustberg said of his client. He described her as the mother of a high school girl who traveled to the U.S. after earning a medical degree in Russia and has spent most of the past three and a half years in jail or under house arrest.

I'lina's co-defendants included her husband, ring organizer Lev Trakhtenberg , a promoter of Russian cultural events, and former boxer Sergey Malchikov , known as the group's local enforcer. The Brooklyn trio was arrested by FBI agents in August 2002.

The ring illegally gained cultural exchange visas for more than 25 women whom they represented as members of the Moscow Southwest Theater, a Russian acting troupe that visited the University of Chicago as part of an exchange program, according to the U.S. Attorney's Office.

Once here, the victims were led to believe that their families in Russia would be harmed by mobsters if the women did not turn over much of their earnings from dancing up to 10 hours per day, six days per week in the clubs, authorities said.

Trachtenberg, a naturalized U.S. citizen, was sentenced last June to 60 months in prison for his role in the New Jersey ring. The sentence is to run concurrently with a 42-month sentence he received in Manhattan federal court, where he admitted last March to forcing one Russian woman into prostitution when she attempted to quit dancing.

Malchikov pleaded guilty to conspiracy to commit forced labor, visa fraud and extortion and was sentenced last June to 45 months in prison.

Despite the ring's breakup, forced labor remains a serious problem facing law enforcement.

"We believe that this (practice) is ongoing still in New Jersey, in terms of Russian women dancing in clubs, but nothing directly related to these three defendants," said Assistant U.S. Attorney Leslie Faye Schwartz , who prosecuted the three cases.

Ater Gets Justice Dept. OK To Take Over New Orleans Elections (AP)

AP, January 4, 2006

Secretary of State Al Ater moved closer to readying a new date for the postponed New Orleans mayoral and city council elections, gaining approval from the U.S. Justice Department for special authority to take control of the elections.

The Legislature, in a recent special session, gave the secretary of state special powers to develop an emergency elections plan during a declared disaster that would let Ater relocate or consolidate polling places and address shortages of elections workers and voting machines.

That new law required approval by the federal government under the Voting Rights Act, and Ater spokeswoman Jennifer Marusak said the approval was granted.

Gov. Kathleen Blanco postponed the Feb. 4 New Orleans elections after Ater said it was impossible to ready the devastated city and track down voters so soon after Hurricane Katrina. The storm had damaged polling places and scattered the city's voters and elections workers around the nation.

Ater agreed to hold the elections by April 29 if possible, as part of the settlement of a lawsuit against him and Blanco, but a series of bureaucratic hurdles remain before he can recommend a new election date to the governor.

The governor and two legislative committees must agree to Ater's takeover of the elections - an agreement expected to win easy approval.

Then, Ater must present his emergency elections plan for New Orleans, which needs approval from the full Louisiana Legislature and another layer of approval from the U.S. Justice Department, Marusak said.

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Ater is working on a tight schedule. To hold the mayoral and city council primary elections April 29, all those approvals must be in line by March 8, when the sign-up period for the elections must begin.

As part of the developing emergency elections plan, Ater's office is combing through a list of more than one million names submitted by the Federal Emergency Management Agency - people who sought FEMA hurricane aid - hoping to track down where Katrina evacuees have relocated since the storm forced thousands of people out of Louisiana.

Ater said he needed the information to notify evacuees of their voting rights and the way to request an absentee ballot for elections.

Marusak said elections officials hope to mail the information by February and plan to use the FEMA list to start media campaigns about voting rights in areas housing the largest number of hurricane evacuees.

Ex-Boss Demanded Sex, D.C. Parks And Recreation Workers Say (WP)

By Karlyn Barker

The Washington Post, January 4, 2006

The former chief of facility maintenance at the D.C. Department of Parks and Recreation allegedly kissed, fondled and demanded sexual favors from three women under his supervision, according to the women, who say the alleged harassment continued even after they told several supervisors at the agency.

The women are single mothers who were hired initially for maintenance jobs at $6.15 an hour under the District's welfare-to-work program. One former employee said she complained in person more than three years ago to Neil O. Albert, a former deputy mayor who was then the department's director.

The maintenance chief, Darnell Thompson Sr., 50, left his $66,000 position at the agency last summer after a current employee, Garrina Byrd, 28, filed a sexual harassment complaint against him with the city's Office of Human Rights.

"The Chief would grab my breasts or my behind and, if I had on a skirt, he would try to put his hand up my skirt," Byrd alleges in her complaint, filed in April. "I began to consent to the Chief's requests for sex because I was afraid that I would lose my employment."

Byrd, who was hired in 2001 and said Thompson's sexual harassment began in 2002, repeated her allegation last month at a D.C. Council committee's oversight hearing on the recreation department.

"Each time, he threatened to fire me if I didn't agree to his demands," Byrd testified. She told the panel that young women struggling to improve their lives should not be "forced to choose between their dignity and the need to make a living."

The District government has a "zero tolerance" policy that prohibits sexual harassment in the workplace and requires any supervisor who receives a complaint to make sure an investigation is conducted. Byrd's complaint has triggered mandatory training for the recreation department's 750 employees on what constitutes sexual harassment -- and what managers should do about it, said Kimberley Flowers, the department's new director.

The city has been criticized previously for failing to quickly address problems in the workplace. Five female deputies at the D.C. medical examiner's office filed complaints in 2003, alleging sexual harassment and racial discrimination, and later collected a settlement that totaled $250,000.

The allegations against Thompson are drawn from Byrd's complaint and from interviews with her and two former recreation department employees. The women alleged a range of sexual harassment incidents, most of which they said took place in Thompson's office at the facilities maintenance bureau at 1515 Half St. SW.

One woman, Annette Burns, said that Thompson tried to sexually assault her in 2002 when she was eight months pregnant -- and that she reported him to Albert. Demera Gaskins said Thompson came to recreation centers where she worked last year and pressured her for sex.

Thompson, hired in 1986, according to city records, declined to comment on the allegations when contacted by telephone at his home.

"I don't have any response," he said.

A spokeswoman for the District's Attorney General's Office, which is representing the Parks and Recreation Department, also would not comment.

Flowers and other city officials declined to discuss the allegations or say why Thompson left the agency, citing possible litigation and the confidentiality of personnel matters.

Allegations about Thompson were raised in April with the council's Committee on Education, Libraries and Recreation. Deborrah E. Jackson, an officer with the union representing non-management employees, said in an interview that she started hearing concerns about Thompson in 2001 and 2002 after the agency began hiring former welfare recipients, mostly women, for jobs that offered temporary work experience or "term" employment that could be renewed every 13 months.

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In a memorandum to council member Kathy Patterson (D-Ward 3), chairwoman of the panel, Jackson said there had been at least three sexual harassment allegations against Thompson. She wrote that Albert and another official, Neil Stanley, failed to heed the women's complaints.

"Neither of these administrators conducted in-house investigations," Jackson, president of the American Federation of Government Employees, Local 2741, told Patterson.

Albert and Stanley, however, said they took the allegations very seriously and investigated them.

"If the findings warranted it, the matter was referred to the Office of Human Rights," said Albert, who couldn't recall the specifics of any case. Albert left the agency in 2004 after three years to become a deputy mayor. He recently quit to run an education management company.

"Maybe someone didn't like the results, but it's not correct to say we didn't do anything about it," said Stanley, the agency's former general counsel who took over as interim director when Albert left. He is now a deputy director at the D.C. Department of Consumer and Regulatory Affairs.

Since January 2001, according to the Office of Human Rights, only one sexual harassment complaint -- Byrd's -- has been filed against the Department of Parks and Recreation. In the past three years, the office has received a total of 20 sexual harassment complaints from all District agencies.

Patterson said she called the Parks and Recreation Department twice about the sexual harassment allegations and about separate allegations that Thompson had brought a gun to work and threatened employees. She said that by the second call, Thompson was on administrative leave. He was dropped from the city payroll Aug. 19.

Byrd, Burns and Gaskins said they were thrilled to be hired as maintenance workers, assigned to pick up trash, rake leaves and clean recreation centers. The job paid only $6.15 to start. But it was their first steady employment, and the hours, 7 a.m. to 3:30 p.m., gave them time with their children.

Byrd alleged that her problems with Thompson began in 2002, when Thompson ordered her to pull up her shirt if she wanted to keep her job. She complied, she said, and was transferred that day from field work to the Half Street office. She answered phones, made calls -- and endured what she said in her council committee testimony was nearly three years of escalating sexual demands.

In her complaint, Byrd says she initially reported Thompson to a female supervisor, who told her to just tell him to stop.

"The touching progressed to the point where the Chief began asking for sex and when I refused, he threatened me by saying he would not extend my 13-month employment for another term," Byrd said in her complaint.

In an interview, Byrd alleged that Thompson called her into his office and showed her a termination letter.

"He asked me what was I willing to do to stay," and they then had intercourse on his desk, Byrd alleged, crying as she related the story. "I thought it would be one time and that I'd have a job and that would be the end of it."

Thompson, she alleged, began to demand a variety of sexual favors. He promoted her to a job as a clerical assistant, with a salary of $33,500 a year, even though she had no secretarial training. On Thompson's orders, she said, she spent more and more time in his office, fueling rumors that she was his girlfriend. That impression spread among co-workers when word got around that he had given Byrd $3,000 to buy a car.

She said that she did not ask for the money and that Thompson said nothing when he handed her the cash in an envelope outside the Half Street building. Thompson, she alleged, had been accused of sexually harassing another woman at work. Byrd said she regarded the cash as "hush money" so that she would not report him.

By last spring, Byrd said in an interview, she had begun refusing Thompson's sexual demands, and he showed her another termination letter. She said she discussed her problems with another supervisor, Julie Banks.

"She told me he had been threatening to fire her if she didn't have sex with him," said Banks, who urged Byrd to report Thompson.

On April 5, Byrd went to the department's headquarters on 16th Street NW and filed a complaint. That day, she was handed a letter that said she had received her "first and final" interview on her complaint, with no indication that anything would be done about it. The next day, she filed a complaint with the Office of Human Rights.

"You come into the workplace to get training and instead you get abused," said Gary T. Brown, an attorney for Byrd who also represents Burns. He said as welfare-to-work women, both were particularly vulnerable.

Burns, now 28, started at the agency in 2000. She said she began having problems with Thompson in 2002 after she became pregnant and he transferred her to clerical duties in his office. She said she complained to a male supervisor that Thompson was touching her inappropriately, but the behavior continued.

On April 30, 2002, Burns said, Thompson cornered her in his office, grabbed her left breast and tried to kiss her. She said she fled in tears. The next day, she said, she went to headquarters and met with Albert and Stanley. She was placed on administrative leave, then transferred to an office away from Thompson. She said she heard nothing more about her complaint.

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Burns, who had been hoping for a permanent job, was let go after her term employment ended.

"When I got terminated," she said, "I called Mr. Albert. He never called me back."

Albert recalled getting "one or two complaints" about Thompson. "We followed up on it immediately," he said.

Thompson was still the maintenance chief in 2004 when Gaskins, who was hired in 2003, alleges that he started making sexual demands. By then, she was a term employee with a salary of $12.95 an hour, and she said she agreed to his demands after he threatened to fire her.

"He was my boss," said Gaskins, now 25. "I pretty much had to do what he said."

But a few months later, when she began refusing, she said, Thompson handed her a termination letter, effective March 31 last year.

Johnnie Richardson, a work leader, said she heard complaints about Thompson from Gaskins and Byrd but didn't report him because she didn't believe the allegations.

Byrd returned to the Half Street office after Thompson was gone. Co-workers, she said, "have been horrible to me," and last month she was reassigned to another office with less convenient hours. She said she hopes her complaint will result in job training, a financial settlement and "someone taking responsibility."

Recently, Byrd said, she was among the employees summoned to a training session on how to recognize and prevent sexual harassment. The instructions, she said, "are four years too late."

Massachusetts Sued Over Gay Marriage Ruling (REU-Y2)

By Jason Szep

Reuters, January 4, 2006

Gay rights lawyers filed on Tuesday a lawsuit to stop a proposed ballot measure aimed at overturning a court decision that made Massachusetts the first and only U.S. state to legalize gay marriage.

The lawsuit by the Gay & Lesbian Advocates & Defenders (GLAD) said the state's attorney general erred when he ruled in September that Massachusetts voters could decide in a 2008 poll to redefine marriage as the union of one man and one woman.

They said the decision by Thomas Reilly, a Democrat who is likely to run for governor this year, was unconstitutional because ballot initiatives cannot reverse judicial decisions under the state's Constitution.

"The attorney general simply got it wrong," Gary Buseck, GLAD's legal director, said in a statement.

Reilly's office said his decision was legally sound, adding that Reilly does not personally favor banning same-sex marriage.

Massachusetts' highest court ruled in 2003 that it was unconstitutional to ban gay marriage, paving the way for America's first same-sex marriages in May the following year.

Since then, about 7,000 gays and lesbians have wed in the state, and gay rights advocates across the country have sought to encourage other states to legalize same-sex marriages.

Those efforts have largely failed, most recently in Texas, which in November became the 19th U.S. state to approve a constitutional ban on same-sex marriage.

Homosexual couples in at least seven states have filed lawsuits seeking the right to marry, while as many as 10 states could see campaigns this year for amendments to uphold marriage as the union of a man and a woman.

'AN ELECTRIFYING ISSUE'

In Massachusetts, VoteOnMarriage.org -- a coalition of conservative and Christian groups -- proposed the 2008 ballot initiative to amend the state constitution by defining marriage as exclusively between a man and a woman.

Between September 21 and November 23 last year, they gathered more than twice the number of voter signatures needed for state legislators to put the question to the public.

On Tuesday they predicted the lawsuit would be defeated.

"We don't think the suit is credible," said Kristian Mineau, president of the Massachusetts Family Institute, a backer of the initiative. "I think they were surprised at the magnitude of the number of signatures -- 170,000 -- which tells us what an electrifying issue this is with the people."

Conservatives and some religious groups say the issue is so important that voters should decide it, not the state Supreme Court.

Massachusetts' Republican governor, Mitt Romney, a devout Mormon with White House ambitions, supports their position.

The ballot initiative must be approved by 25 percent of the 200-member state Legislature this year and again in 2007 before it can go to voters.

If passed, it would not seek to annul marriage licenses already issued to same-sex couples.

GLAD said it expects the Massachusetts Supreme Judicial Court for Suffolk County to consider the lawsuit against Reilly in the next few months.

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Massachusetts Sued On Marriage Petition (WT)

By Cheryl Wetzstein

The Washington Times, January 4, 2006

A homosexual rights legal organization filed a lawsuit yesterday challenging a ruling that allowed a petition drive for a constitutional amendment that would end same-sex "marriages" in Massachusetts.

Massachusetts Attorney General Thomas Reilly "simply got it wrong" in September when he certified VoteOnMarriage.org's marriage amendment for a petition drive, said Gary Buseck, legal director of Gay & Lesbian Advocates & Defenders (GLAD), which filed its lawsuit before the Massachusetts Supreme Judicial Court.

Article 48 of the state constitution says citizens cannot use constitutional amendments to reverse judicial decisions. The sole purpose of the marriage amendment, Mr. Buseck said, is to reverse the court's 2003 Goodridge decision, which legalized same-sex "marriage" in Massachusetts.

The proposed marriage amendment would allow marriages only between one man and one woman.

Johanna Schulman, president of GLAD's board of directors, is the lawsuit's plaintiff. Mr. Reilly and William F. Galvin, secretary of the commonwealth, are named as defendants.

The lawsuit asks the court to find that Mr. Reilly erred when he certified the VoteOnMarriage.org amendment for a signature drive. It also asks the court to block Mr. Galvin from taking any "further steps" to get the proposal on a ballot.

This fall, backers of the VoteOnMarriage.org amendment collected about 170,000 signatures, roughly twice the number needed.

Mr. Galvin certified more than 123,000 signatures in December. GLAD attorneys expect that he will send the amendment to state lawmakers when they go into session today.

The amendment must be approved twice by lawmakers before it can go before voters in November 2008. If the amendment is passed, backers say, it would not nullify existing same-sex "marriages."

More than 6,500 same-sex couples have "married" since the Goodridge decision went into effect in May 2004.

A spokesman for Mr. Reilly said yesterday that although the attorney general doesn't support the marriage amendment personally, he thinks that allowing it to proceed was the right decision.

In an opinion column written in September, Mr. Reilly said he looked carefully at the history of Article 48.

Citizen petitions have been used since the early 1900s to amend the state constitution "in response to a court decision finding a law unconstitutional," Mr. Reilly wrote. Petitions may not be used to "put a law back into effect" after a court has found it unconstitutional, but citizens are clearly allowed to amend the constitution "going forward," he wrote.

The amendment "was drafted with sound legal advice from constitutional scholars, and as long as the constitution and recent precedent are followed," it should survive a court review, said Kris Mineau, head of the Massachusetts Family Institute and spokesman for VoteOnMarriage.org.

ANTITRUST:

MAGAZINE CIRCULATION-FRAUD CASE ENTERS PLEA NEGOTIATIONS (ADAGE)

By Nat Ives

AdAge.com, January 3, 2006

NEW YORK (AdAge.com) -- One of the publishing executives accused of circulation fraud at Laptop magazine has entered plea negotiations with the U.S. Justice Department, court documents filed in the case show.

Deal likely

Proceedings regarding the executive, John Jay Annis, are on hold through Jan. 30 while the parties try to hammer out a deal, which Judge Steven M. Gold has indicated he considers likely.

The U.S. attorney's office for the Eastern District of New York, which has been investigating circulation practices since schemes by Newsday and Hoy to inflate their numbers became public, secured the arrests of Edward D. Brown, president-publisher, Bedford Communications, and Mr. Annis, Bedford's circulation director, last October.

Bogus distribution

Prosecutors accused the pair of scheming to inflate circulation at Laptop magazine by hiring a distributor to accept 15,000 copies that they would claim as paid circulation -- whether or not they were ever distributed. The distributor they hired was really an undercover postal inspector, prosecutors said.

It is unclear what a plea arrangement would mean to the circulation investigation. According to the Bedford Web site, Mr. Annis serves as a circulation consultant to “several other publishing companies,” so he may have information of interest to

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prosecutors about magazines beyond Laptop. That could explain the surprising effort by the government to arrange an elaborate sting on executives at Bedford, a relatively small target.

No comment

The lead prosecutor on the case, Jonathan Edward Davis, declined to comment on any such speculation or other facets of the negotiations. An attorney for Mr. Annis did not respond to a message seeking comment.

The U.S. attorney's office has also subpoenaed Time Inc. for information on that company's bulk-distribution programs. Time Inc. disclosed the subpoena in September and said it was complying.

But a plea deal may produce nothing more than testimony against Mr. Brown or a quicker resolution of the case.

Mr. Brown's status is also unclear. After the original order for his arrest and a reported not-guilty plea, court documents do not mention him again and do not list an attorney for him. Mr. Brown did not return a call seeking comment.

Linens 'N Things Deal Gets US Antitrust Approval (NYT/REU)

By Reuters

The New York Times, January 4, 2006

Filed at 2:20 p.m. ET

WASHINGTON (Reuters) - U.S. antitrust authorities said on Tuesday they approved plans by Linens 'n Things Inc. (LIN.N) to be taken over by private equity firm Apollo Management L.P. and its affiliates.

Officials have completed their investigation of the $1.3 billion deal without taking action, the Federal Trade Commission said in a notice.

Linens 'n Things faces stiff competition from larger rival Bed Bath & Beyond Inc. (BBBY.O) and discounters such as Target Corp. (TGT.N), which have expanded home decor offerings.

Under the terms of the Apollo deal, financing is contingent upon Linens 'n Things reporting a fourth-quarter comparable sales decline of no more than 6 percent and earnings before interest, taxes, depreciation and amortization of not less than $140 million.

Cisco's Offer For Scientific-Atlanta Gets U.S. Antitrust Clearance (WSJ)

The Wall Street Journal, January 4, 2006

Cisco Systems Inc. received U.S. antitrust clearance for its offer to acquire Scientific-Atlanta Inc. for about $6.9 billion, or $43 a share.

The San Jose, Calif., networking titan said its bid still requires regulatory approvals in various foreign jurisdictions. Cisco agreed in November to acquire the maker of television set-top boxes, filling in the missing video element from its far-reaching effort to penetrate the consumer market.

Scientific-Atlanta, Lawrenceville, Ga., said its shareholders can vote on the proposed deal with Cisco at a special meeting Feb. 2. The companies expect the deal to close in Cisco's fiscal 2006 third quarter, which ends in April.

As of 4 p.m. composite trading on the Nasdaq Stock Market, Cisco was at $17.45, up 33 cents. As of 4 p.m. composite trading on the New York Stock Exchange, Scientific-Atlanta was at $42.90, off 17 cents.

Cisco Systems Says Regulatory Waiting Period For Acquisition Of Scientific-Atlanta Expires (AP)

AP, January 4, 2006

SAN JOSE, Calif. (AP) -- Network equipment maker Cisco Systems Inc. said the federal waiting period for its acquisition of cable television technology company Scientific-Atlanta Inc. has expired without regulators taking any action.

On Tuesday, the companies said the U.S. antitrust waiting period expired on Friday, though the deal is still subject to approval by authorities outside the United States.

Under the transaction announced in November, Cisco will acquire Scientific-Atlanta for $6.9 billion, or $43 per share in cash, and assumed options. Scientific-Atlanta's cash balance will reduce the cost of the deal for Cisco to about $5.3 billion.

The deal, which is expected to close by late April, is expected to fuel changes in how TV is distributed and watched as programming is increasingly shuttled to homes using the language of the Internet.

Scientific-Atlanta, a leading maker of cable boxes and the technology behind them, is expected to benefit as its customers -- cable and phone companies -- move toward Internet-based TV offerings. Cisco is the world's largest supplier of data networking gear.

Shares of San Jose-based Cisco rose 33 cents to close at $17.45 Tuesday on the Nasdaq Stock Market. Shares of Scientific-Atlanta fell 17 cents to close at $42.90 on the New York Stock Exchange.

Banking Against Wal-Mart (WSJ)

The Wall Street Journal, January 4, 2006

The Federal Deposit Insurance Corporation (FDIC) will soon have to make a big decision: whether to grant retail giant Wal-Mart a charter to enter the consumer banking business. You won't be surprised to learn that the idea of more banking competition is not universally popular with . . . bankers.

In particular, the Independent Community Bankers Association (ICBA) is raising a ruckus in Washington to keep big bad Wal-Mart locked out of their game. We have here a textbook case of a powerful corporate lobby rushing to its pals in Congress and their regulators, in this case the FDIC, and pleading for them to squash competition that might lower the prices of banking services.

At issue is whether Wal-Mart should be granted the authority to establish an Industrial Loan Company (ILC) in Utah. ILCs are state-chartered, quasi-banks that were originally designed a century ago to help low-income workers get cheap loans. ILCs can provide most banking services, such as check cashing, lending, and credit card processing. Target and General Electric have been granted an ILC with little controversy. But because Wal-Mart has been portrayed as America's latest corporate villain, its political hurdles are much higher.

If the bankers succeed in this protectionist gambit, the biggest loser won't be Wal-Mart, but rather consumers, particularly those in lower-income neighborhoods where competition in retail banking is traditionally scarce. Wal-Mart banking services in these areas might even solve the longstanding problems of red-lining and discriminatory lending practices. Wal-Mart already performs many bank-like functions that are especially popular in poor areas -- including wire transfers, money orders, paycheck cashing, and express bill payment services.

So it's especially notable that Congressman Barney Frank of Massachusetts and a gang of other Capitol Hill liberals have cast a skeptical eye toward Wal-Mart's entry into banking. If they decide to regulate Wal-Mart out of the industry, the end result will be higher banking service costs for the poor constituents they claim to represent.

The protest is all the more curious since Wal-Mart's immediate banking ambitions are quite modest. To head off the mounting opposition from the bankers, Wal-Mart insists that in the short term it merely wants to create an in-house banking affiliate so it can lower costs on credit card transactions at its stores. Traditionally, banks charge an interchange fee of roughly 2% on the cost of the retail credit/debit card transaction. Wal-Mart has determined that if it owns its own bank it can cut the transaction fee in half, and pass the cost-savings on to its customers who pay with Visa or MasterCard.

But why shouldn't Wal-Mart be permitted to engage in a whole range of banking services down the line, if it wishes to? That's the meaty policy issue at stake here: whether the traditional firewall between banks and commercial enterprises (i.e., the commercial lenders and the borrowers) should be officially torn down. The Gramm-Leach-Bliley Act of 1999 effectively abandoned this traditional separation between commerce and banking when it allowed securities and insurance firms to engage in most banking activities. This has all been part of a 25-year-long deregulation of banking that has led to huge increases in efficiency in American financial markets as well as vastly improved consumer services. (Remember the quaint notion of "banker's hours?")

Peter Wallison of the American Enterprise Institute notes that "the Gramm-Leach-Bliley Act has eviscerated the policy case against allowing commercial firms to affiliate with banks." Wal-Mart's entry into the mix would merely continue what has been a benign, pro-competition trend.

Would granting Wal-Mart its ILC status impose an unnecessary financial risk on the soundness of the banking system? The Community Bankers lobby warns that "Wal-Mart's entrance into banking would constitute a dangerous over-concentration of economic power that would skew market forces." What clearly undermines this argument is that in every other consumer market that Wal-Mart has entered, from hardware services to selling gas at the pump, the impact of its gaining market share has been to reduce prices, not to raise them.

Studies have found, for example, that in neighborhoods where Wal-Mart has entered the grocery business, its prices range from 8% to 27% below those charged at the incumbent grocery chains. Moreover, if there were a repeat of the kind of bank failures we witnessed in the late 1980s, financially sturdy Wal-Mart would be far less susceptible to the risk of closure (and FDIC deposit insurance payments to depositors) than small and less capitalized community banks.

It's always possible that Wal-Mart will fall on its face in banking. We suspect, however, that what really spooks the banking industry is the threat of more competition, more convenience and lower prices for financial services. But that should be welcome news to members of Congress and the regulators at the Federal Reserve Board and the FDIC if they truly care about the welfare of the banking consumer.

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ENVIRONMENT/INDIAN AFFAIRS:

No New Deaths In Oklahoma, But The Fires Cut A Grim Path (NYT)

By Ralph Blumenthal

The New York Times, January 4, 2006

SHAWNEE, Okla., Jan. 3 - Firefighters contained at least seven new and long-smoldering blazes across Oklahoma on Tuesday with no reported injuries, but hundreds of additional acres of drought-parched grassland and dozens of buildings were scorched or destroyed, officials reported.

Texas and New Mexico also fought holding actions against the fires, some apparently set, that have so far claimed at least two dead in Oklahoma and three dead in Texas and consumed more than half a million acres and more than 500 homes.

One fire in Shamrock off I-44 between Oklahoma City and Tulsa gutted an unoccupied school and resisted barrages of flame-retardant chemicals dropped from a four-engine tanker plane. At least 62 firefighters from Tennessee, Alabama, North Carolina and other states were deployed in six eastern Oklahoma sectors with bulldozers, tanker trucks and other heavy equipment.

"The grass is so dead - you might as well have matches sitting out there," said Troy Taylor, a truck driver from Ringgold, Tex., who saw a wall of flame advancing on him on Sunday and fled with his wife, Lori, and their children.

The fire, which began on Sunday and was still active Tuesday afternoon, burned a trail 25 miles long, destroying 41,000 acres and 32 buildings in two counties.

The Federal Emergency Management Agency authorized the use of federal disaster relief funds to help Texas, Oklahoma and New Mexico fight the fires. But Lt. Gov. Mary Fallin of New Mexico, in a visit to the incident command center in Shawnee that is serving as firefighting headquarters, said Oklahoma was still waiting for the White House response to the state's request for a federal declaration of emergency to cover some of the state's expenses.

"Contact has been made," said Ms. Fallin, a Republican running for Congress.

Some of the visiting firefighters spoke with relish of rushing to the aid of the stricken Southwest. Pete Moditz, a career forester from Selmer, Tenn., showed off his legs scratched red through his pants from brambles as he led a tractor plow through the fires. Water might knock down a fire, but "that," he said, pointing to the yellow monster on tank treads, "puts it out."

A wet spring combined with parched conditions for the last six months have made Texas, Oklahoma and New Mexico a giant tinderbox.

"We've got reports that this is the worst drought since 1956," said Judge James Kittrell of Montague County, whose jurisdiction includes Ringgold.

Thirty-three of Oklahoma's 77 counties have suffered fires, with damages put at $10 million. In Texas, since Dec. 26, 159 fires have destroyed 238 homes and 254,555 acres, according to the state's emergency management center.

In New Mexico, 14 grass fires burned up to 60,000 acres.

The fire in Ringgold was frighteningly fast, residents said, falling on the North Texas town at speeds of up to 60 miles per hour. "We decided if the flames made it to the railroad tracks, we were going to leave," said Mr. Taylor, the truck driver, pointing to a distant ridge.

"Ten minutes later, it was in our yard," Mr. Taylor said.

The billowing wall of four-foot flames had burned its way to U.S. 82, jumped the road and blazed across the Taylors' lawn right up to the house.

Around them they could hear the sounds of their town burning down: propane tanks exploding, tires popping, paint cans blowing lids.

"The fire was right next to the van when we left," Mr. Taylor said.

"It came so quick, it went around the buildings and went on," he said. Mr. Taylor, who had driven around the block, realized his house was all right, jumped out of his van and began putting out his lawn of flames.

Battle Over Property Rights Goes On, Despite Ruling (CSM)

By Warren Richey

The Christian Science Monitor, January 4, 2006

The moment of truth is yet to arrive in the now-famous Fort Trumbull neighborhood in New London, Conn.

Six months after the US Supreme Court ruled that the city could seize and demolish private homes to make way for a commercial development project, determined residents are still living in their homes in the targeted neighborhood.

There have been no bulldozers. No wrecking balls. No police officers dragging homeowners away. At least, not yet.

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Instead, the state of Connecticut has hired a mediator to try to find a more peaceful solution to the seven-year battle that has touched off a heated debate over the government's use of eminent domain to foster economic development.

To property rights activists across the nation, Fort Trumbull has become ground zero in that battle ever since the high court's 5-4 ruling. These activists are using outrage over the case to spearhead a reform movement aimed at passing laws to make it increasingly difficult for local and state governments to raze homes and turn the land over to private developers.

"It has to be one of the most vilified Supreme Court decisions in history - where people understood the issues, understood the result, and didn't like it," says Scott Sawyer, a member of the legal team representing the homeowners.

On the other side of the debate are government officials, planners, urban renewal experts, and development firms warning that many cities and towns need every tool at their disposal to help foster prosperity in the face of chronic economic decline. To these advocates, New London is a prime example of a small city with high unemployment, a stagnant tax base, and no large tracts of vacant land to support a major development project. Without the option of using eminent domain, the city's economic prospects would be bleak, they say.

"We won. We would like to move the project forward," says New London City Manager Richard Brown. "We are champing at the bit to get going."

There is nothing new about the constitutional issue at the center of the case. The Supreme Court has long recognized that there is no bar to government takings that may provide both public and private benefits.

But Kelo v. New London was different because of the players involved. The high court's two prior legal precedents involved monopolistic landowners in Hawaii and a department store owner in Washington, D.C. In contrast, Susette Kelo is a homeowner, like most US citizens. When the government took action against her, many Americans could imagine the government taking similar action against them. Kelo's pink cottage in Fort Trumbull has become an icon, Mr. Sawyer says, as recognizable to some as the Liberty Bell.

"It is the house that represents property rights in the United States," he says. "Why would you ever tear that down?"

Sawyer and others say they aren't sure what will happen next. City officials say the development project is still economically viable. All they need is a green light from the mediator and the state.

The city's redevelopment agency has spent much of its $70 million budget preparing a large portion of the 90-acre riverfront site for the planned hotel, office, and condo project. Land has been graded, roads built, and utilities installed. But major construction has not yet begun.

Some analysts suggest that the national backlash following the Supreme Court decision has made it even more difficult to find companies willing to move in. What firm wants to locate to a piece of property that will long be associated with the taking of people's homes? these analysts ask.

Nonetheless, the city's planning board has approved the hotel portion of the project, and there are talks under way for the Coast Guard to move its research and development center to a vacant office building on the site. The building is all that remains of the US Naval Undersea Warfare Center, which was shut down in 1996.

When that center closed, the federal government agreed to turn over the 32 acres of property to the city. Rather than focus on that tract alone, the city expanded its redevelopment plan by 58 acres, including the Fort Trumbull neighborhood.

The homeowners say they aren't opposed to redevelopment. But they don't see why the renewal project has to include the demolition of their homes.

It is difficult to overestimate the level of animosity between New London development officials and the homeowners. After enduring years of attempts to force them out, residents say the toughest test so far has been losing at the Supreme Court.

"It took a while to get a handle on it," says Matt Dery, whose family has lived on the same corner in Fort Trumbull for 100 years. But Mr. Dery says his discussion with the mediator has left him hopeful. "Things have a way of working themselves out. Maybe there is a higher power at work here - I'm sure there is," he says.

Dery's neighbor, Byron Athenian, is just taking it day by day. "It is kind of a strange way to live," says Mr. Athenian, who has resided for 10 years in the house with gray shingles owned by his mother. This past fall, a few months after the Supreme Court ruling, he received an eviction notice. "When I first got it, it was like 'Wow, they only gave me 30 days to leave,' " he says.

The city's redevelopment agency sent notices to all tenants living in rented properties in Fort Trumbull. The move got the attention of Connecticut Gov. M. Jodi Rell, who instructed the city to withdraw the notices. Since then, the feud has been in hiatus pending the work of the mediator.

But that hasn't stopped people from worrying about what might happen next.

"I think there could be civil disobedience if they moved in there with a wrecking ball," says Susan Munger, a member of the Coalition to Save the Fort Trumbull Neighborhood. "There has to be another way to resolve it that is satisfactory to the homeowners. Some of them don't have any intention of leaving."

As for a compromise, City Manager Brown isn't making any predictions. But he says New London badly needs a boost.

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"The forecast for economic assistance from the state of Connecticut to its urban areas is not any better for the upcoming year than it was for the past couple," he says. "We are going to be left on our own to develop new sources of revenue, so we need the project to move forward."

Prevention Is Key To Avian Or Seasonal Flu (WP)

The Washington Post, January 4, 2006

Avian flu has recently moved to the top of President Bush's health care agenda. But medical experts such as Susan J. Blumenthal have been warning for years that international travel, a weakened public health system and antiquated vaccines have made the prospect of an influenza pandemic a matter of when, not if.

Blumenthal, a former assistant surgeon general, in a recent speech in Washington warned that the H5N1 strain of the virus, now confined largely to birds, has the potential to develop into a deadly human virus. Already, the virus has "killed more birds than any in the history of the world," humans do not have immunity, it is striking younger victims and it has spread rapidly into at least 16 countries, she said.

A clinical professor of psychiatry at Georgetown and Tufts University schools of medicine, Blumenthal was the first deputy assistant secretary for women's health, from 1993 to 1997, and is an authority on global public health. She retired from the government last year.

In an interview, she talked about infectious diseases and chronic illnesses -- and what individuals and the government can do to reduce risk. She said one of the lessons of Hurricane Katrina is that the United States is not sufficiently prepared to deal with any number of crises, from a terrorist attack to a natural disaster to a pandemic.

-- Ceci Connolly

Q Why is a pandemic a matter of when, not if?

AEach generation has had a pandemic. The 1918 influenza pandemic killed 40 million people and infected 500 million. It was like a global blizzard over 18 months. With international trade and modern travel, the world is shrinking. . . . In 1969, the surgeon general announced the "war against infectious diseases is over." We thought we had conquered the microbe. But we've had 30 new diseases since 1972, including SARS [severe acute respiratory syndrome], monkey pox and Lyme disease.

How real is the threat of an avian flu pandemic?

On the question of are we more vulnerable, there is the group of people I call the ostriches and the Chicken Little. The ostriches point out that we have better science and public health than ever before, that we have not seen the H5N1 virus here. The Chicken Little say we do not have enough antiviral [medications]; we don't have a vaccine. The threat is probably somewhere in between.

How is the virus spread?

It begins in aquatic birds, moves to domestic poultry and then potentially to humans. . . . Asia is a hotbed [for H5N1] because people live in close proximity to poultry, and they lack a strong public health infrastructure. You can become infected through direct contact with poultry or contact with a surface that has poultry droppings or excretions. There have been about 135 human cases since 1997, which is relatively few.

Your speeches are alarming. Is that intentional?

Somewhat. If you give candid information, people make good decisions. But we also want it to be a wake-up call. People know they should eat right, exercise, get out of the way of a hurricane, but we don't always do those things. We know we shouldn't smoke, yet one out of five people do. It took Katrina and seeing some of the failures in not having state, federal and local preparedness not being coordinated to serve as a wake-up call to the concern of pandemic flu.

Are we prepared?

We're not sufficiently prepared if a pandemic were to strike us this year. We have a plan that outlines the major steps to be taken. Hopefully we'll have the time to develop new vaccines and stockpile antivirals. We don't have [the necessary] communications systems in place. We don't have a rapid diagnostic tool for using in the field, there is no cell-based vaccine nor the production systems that would be needed. . . . But we can't forget the [pandemics] that are currently with us.

Such as?

Forty million people worldwide are infected with the AIDS virus; 3 million die each year. One million children die of measles each year because they don't get a 70-cent vaccine. . . . In the United States, we have the highest infant mortality rate of the industrialized world. We spend twice as much as any other nation on health care, and we rank 18th in life expectancy and 35th in overall health status.

If there is an outbreak of avian flu, would there be a quarantine in the United States, and what would it look like?

What we would suggest is social distancing -- have people stay in their homes, not go to mass gatherings. It would be a real challenge. We have a generation of physicians who haven't trained in quarantine techniques. During the SARS outbreak, it

was health care professionals and students who violated the quarantine. If there is a pandemic, things could quickly degenerate into chaos. That's why it's important to rehearse for these things.

What should average Americans do to protect themselves against avian flu or other infectious diseases?

Get your seasonal flu shot. The seasonal flu causes 36,000 deaths in America and 500,000 worldwide. It translates into $37 billion in economic costs related to treatment. . . . Also get a pneumonia shot. Practice good hygiene, particularly around the holiday season when you are at a lot of parties shaking hands. Washing hands is one of the best public health interventions we have.

What would you put on the top of a public health agenda for 2006?

Smoking, certainly. If you thought there were a killer out there claiming the lives of one out of every five people, we'd have the FBI, CIA and police all out there tracking that terrorist. . . . Safe water. Water is one of the key health and political issues of the 21st century. [Unclean] water is the leading cause of death and disability in the world. Water impacts the economy; it's linked to energy, recreation, food. Katrina showed the importance of access to safe water. Sixty-five percent of our bodies are water.

You say in your speeches that we are a treatment-oriented society rather than a prevention-oriented society. Why is that noteworthy?

Small steps can bring big rewards. Losing five or 10 pounds can make you feel much better. Walking 10,000 steps a day. These can significantly decrease your risk for chronic illnesses. . . . On a public policy level, whether you're trying to prevent cancer, diabetes, a hurricane or bioterrorism, prevention is the cornerstone.

Buffalo Lawsuit Challenges A Casino Off Indian Land (NYT)

By David Staba

The New York Times, January 4, 2006

BUFFALO, Jan. 3 - In the latest salvo between local advocates and government officials over this city's future, a coalition of citizens' groups, churches, business people and lawyers filed a lawsuit in federal court on Tuesday to halt construction of an Indian casino on the Buffalo River waterfront.

The suit alleges that federal officials, including Interior Secretary Gale A. Norton, failed to abide by a 1988 law regulating gambling facilities established off reservation land when they approved the proposed Buffalo casino. The proposed facility is one of three gambling sites in this region allowed under a 2002 compact between New York State and the Seneca Nation.

In legal papers filed in Federal District Court, the plaintiffs - led by a group called Citizens Against Casino Gambling in Erie County - said that a Buffalo casino cannot be permitted under federal law, because the nine-acre site along the Buffalo River is not adjacent to an existing reservation and was not part of land claimed by the Seneca Nation.

In addition, the suit alleges that the approval process violated federal laws that require a study of the environmental impact of a proposed casino. The plaintiffs also say that demolition of a grain elevator at the proposed site would violate the National Historic Preservation Act.

"Some people have tried to make this into grain silos versus a casino, but this is a much more important issue," said Richard Lippes, one of the plaintiffs' lawyers. "These citizens aren't opposed to progress. They just want the right things to happen in the right way."

Barry E. Snyder, president of the Seneca Nation, was not available for comment Tuesday afternoon. But on Friday, he spoke dismissively of a possible lawsuit during the partial opening of a luxury hotel adjacent to the Senecas' existing casino in Niagara Falls.

"Lawsuits come and go - they don't interest me," Mr. Snyder was quoted as saying in The Buffalo News. "We took the opportunity to build a casino and hotel in Niagara Falls because no one else would do it. I've said the same of Buffalo, and we're going ahead. I'm a man of my word."

Proponents also maintain that the casino will create jobs as well as spur economic development in the long dormant area.

Several parties to the lawsuit, including Mr. Lippes and the Preservation Coalition of Erie County, also took part in recent years in two other significant civic lawsuits that sought to preserve land.

They were among the litigants who halted a state plan to build a marina, which would have been constructed atop limestone walls that were part of the original terminus of the Erie Canal, and a proposal by an international commission to build a steel bridge next to the Peace Bridge, which was built in 1927 and connects Buffalo to Fort Erie, Ontario.

In each instance, a judge ruled that the government agencies involved did not follow proper planning procedures. Both plans have since been revised. The waterfront plans, proposed by the Empire State Development Corporation, now include the restoration of the canal terminus and other historic elements. As for the bridge, a two-nation panel has recommended a sweeping cable-stayed bridge over the Niagara River.

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"In both cases, we got something better," said Mr. Lippes, who served as general counsel to the primary plaintiff in each case.

Like the waterfront and Peace Bridge suits, the legal challenge to the proposed Seneca Buffalo Creek Casino is being financed in part by the Margaret L. Wendt Foundation, which often provides money to educational or artistic organizations.

"We feel the need to make sure the laws are followed when making this kind of change to our community," said Janet Loew Day, a foundation trustee.

The plaintiffs said that taking the land for the proposed casino site off the tax rolls and creating, in essence, a tiny sovereign nation housing the casino would run counter to the canal restoration plans and other nascent development in the area.

FBI/DEA/ATF/USMS:

High-tech Gadgetry Pops Up In Drug Trade (KNOXNS)

By Jamie Satterfield

Knoxville (TN) News Sentinel, January 4, 2006

He couldn't help but show off a little.

With the eager customer watching, the alleged drug dealer waltzed into the bathroom of the East Knoxville house, flipped on the light and then pressed the switch into the wall. Up from the floor popped a secret compartment where drugs were kept hidden.

The customer must have seemed impressed because the alleged dealer gave him an impromptu tour of other hidden hatches used by his organization and even introduced the consumer to the "Kid" who crafted all of the devices.

Turns out, the customer was a rat.

This morsel of insider information on both the investigation and the inner workings of a large-scale Detroit-to-Knoxville drug trafficking organization is contained in an 83-page search warrant affidavit recently unsealed in U.S. District Court.

The search warrants obtained via the affidavit led to the November arrests of four men accused in a conspiracy case that Assistant U.S. Attorney Mike Winck has alleged in court records funneled hundreds of pounds of cocaine, crack and marijuana and thousands of ecstasy pills from the Motor City to Knoxville starting in May 2003.

The arrested - and later indicted - include alleged mastermind Robert "Party" Smith and the man Knoxville Police Department Investigator Bruce Conkey dubbed Smith's right-hand man, Stephen "Black" Ardis.

The search warrant affidavit broadens the suspect list in the alleged conspiracy to include at least a dozen other people, including both drug dealer suspects in Knoxville and supplier suspects in Detroit.

The lengthy document also reveals an organization that was, at times, as sophisticated as the make-believe cocaine kingpin Tony Montana of "Scarface" movie fame, who Conkey has testified was Smith's idol. At other times, the affidavit makes the group seem downright foolhardy.

Take the tour offered the informant, for instance.

It revealed a concerted effort by the alleged trafficking organization to spread out the risks of police raids by using a half-dozen different houses to handle the trade, the affidavit stated.

At some, deemed in the affidavit as "stash houses," drugs were stored. At others, termed in the affidavit as "crack houses," drugs were sold. If police hit any single place, the entire inventory of illegal wares would not be wiped out.

The group used sophisticated secret compartments, including the nifty pop-up box built into the floor of a bathroom at a house on Sunset Avenue, the affidavit alleged. Vehicles used to transport drugs also were equipped with hidden stash boxes, including a Ford Excursion described in the affidavit that had two secret compartments, one where the airbag should have been and another in the floor. Both were activated through cigarette lighters in the vehicle, the affidavit stated.

According to the affidavit, a man identified only as the "Kid" engineered hiding places for the alleged network's goody stash.

The alleged dealer who showed off the devices in August has not been charged. The affidavit makes clear he had no idea the customer he was trying to wow with his tour was working for Conkey and U.S. Drug Enforcement Administration Agent Todd Lee.

The pair, who led the probe, used five informants in all during their two-year investigation. Only two are now willing to testify, the affidavit stated.

Despite the high-tech gadgetry and constant use of code words to cloak the illegal goings-on of the group, Smith and Ardis apparently were clueless that Conkey and Lee were on their trail, the affidavit alleged.

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That changed in October when an unidentified woman called Ardis after Ardis drove past her home. She tipped him that one, maybe two, unmarked cars were tailing him, according to the affidavit.

"I can't believe you all didn't see them," she said.

Within days, secretly recorded phone conversations between Ardis and Smith showed not only that Ardis had figured out he was being followed but that the pursuing undercover officer was none other than "McConkey."

Conkey has for more than a decade managed to work undercover while having one of the most high-profile nicknames and reputations in the inner city.

Years ago, angry drug dealers who had accused Conkey of harassing them wrote and recorded a rap song about him, referring to him as "McConkey." The nickname stuck.

On Oct. 26, the affidavit alleges, Ardis called Smith to break the bad news that "McConkey" had been following him.

"I just now found out it was him," Ardis is quoted in the affidavit as saying.

Smith pressed Ardis on where he saw "McConkey" so they could move their operation, the affidavit alleged. But Ardis said it didn't matter where he moved. "McConkey" would find him, according to the affidavit.

" the (expletive) like Superman," Ardis said.

Days later, however, the pair were back in business, the affidavit alleged. Less than a month later, Conkey, Lee and a team of federal and local officers arrested them.

They are now awaiting trial, along with an alleged "mule" who authorities say ferried drugs for the pair and a person accused of being a customer. It's not clear if those named in the affidavit will be charged

Former State Prison Officer Faces Felony Drug Charges (AP)

Associated Press

AP, January 4, 2006

MISSOULA -- A federal grand jury here has indicted a former officer at the Montana State Prison on charges of attempting to distribute methamphetamine, heroin and marijuana.

Michael E. Short, 50, was arraigned in U.S. District Court in Missoula on Tuesday and was released without bail after pleading not guilty.

Prosecutors, the FBI and a state Corrections Department official declined to discuss specifics of the case, including whether Short is accused of trying to sell drugs to inmates. However, a statement from the U.S. attorney's office said the charges were the result of a joint investigation between the FBI and the Department of Corrections.

Corrections spokesman Bob Anez said only that Short worked at the prison for about 5 1/2 years before resigning in July 2005.

"Other than that, I can't comment beyond what is in the indictment because we don't want to do anything that would contaminate a jury pool should this case ever go to trial," Anez said.

It was not clear late Tuesday whether Short had hired an attorney.

The federal indictment, which is dated Dec. 8 but unsealed only upon Short's appearance Tuesday, charges Short with attempting to possess and attempting to distribute a quarter pound of marijuana and a half ounce of methampetamine on July 12, 2005, in the Deer Lodge and Anaconda area.

He faces a second charge of attempting to possess and attempting to distribute a quarter pound of marijuana, a half ounce of methamphetamine and 2 grams of heroin on July 16, 2005, in the same area. Short also is charged with being a drug user in possession of a firearm. All three charges are felonies.

Rhode Island Legalizes Medical Marijuana (NYT/AP)

By The Associated Press

The New York Times, January 4, 2006

PROVIDENCE, R.I. (AP) -- Rhode Island on Tuesday became the 11th state to legalize medical marijuana and the first since the U.S. Supreme Court ruled in June that patients who use the drug can still be prosecuted under federal law.

The House overrode a veto by Gov. Don Carcieri, 59-13, allowing people with illnesses such as cancer and AIDS to grow up to 12 marijuana plants or buy 2.5 ounces of marijuana to relieve their symptoms. Those who do are required to register with the state and get an identification card.

Federal law prohibits any use of marijuana, but Maine, Vermont, Alaska, California, Colorado, Hawaii, Montana, Nevada, Oregon and Washington allow it to be grown and used for medicinal purposes.

The U.S. high court ruled June 6 that people who smoke marijuana because their doctors recommend it can still be prosecuted under federal drug laws, even if their states allow it.

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Federal authorities, however, have conceded they are unlikely to prosecute many medicinal marijuana users.

"I'm sure everybody in this room knows at least one person who would have benefited from medical marijuana," Rep. Thomas Slater, who has cancer, told fellow lawmakers before the vote. Slater said he does not use marijuana now, but it could become part of his treatment in the future.

Carcieri, unhappy with the override, said the law fails to provide ways for users to buy marijuana legally and leaves Rhode Islanders open to federal prosecution.

"Users will be forced to purchase marijuana in the illegal street market, putting them at risk and complicating the difficult jobs that our law enforcement personnel must do every day," the governor said.

Tom Riley, a spokesman for the White House Office of National Drug Control Policy, said the vote showed "misguided and out-of-touch" views on the harms of marijuana.

"There's this notion from the '60s or the '70s that marijuana is a harmless drug," Riley said. "It's not."

Legislators Override Veto, Then Begin New Session (PROJO)

By Scott Mayerowitz, Katherine Gregg And Elizabeth Gudrais

The Providence Journal, January 4, 2006

PROVIDENCE -- Rhode Island became the 11th state yesterday to allow the use of marijuana to ease the pain of people suffering from serious and chronic illnesses such as AIDS and cancer.

Patients whose doctors or caregivers recommend marijuana will soon be able to possess up to 12 plants, or 2.5 ounces of marijuana. The new law protects them from arrest under state law, but does nothing to stop federal prosecution, leaving some critics to call the measure nothing more than a symbolic act.

The marijuana issue provided a dramatic start to the lawmakers' first day back in the State House in six months.

This year's legislative session began with an almost festive atmosphere. There were backslaps and smiles and tables full of food, despite simmering election-year tensions, especially those between House Speaker William J. Murphy's leadership team and an alliance of Republicans and dissident Democrats.

Murphy, D-West Warwick, vowed in the coming months to tackle -- among other things -- "responsible tax reform, a comprehensive energy strategy, a fair and livable working wage."

"The issues that we will face in this session are the issues that every Rhode Islander faces in their day-to-day lives," Murphy said.

BUT THE FOCUS yesterday was on marijuana.

Lawmakers had passed "medical marijuana" legislation in June, but the measure was vetoed by Governor Carcieri. The Senate overrode the veto the next day, but the House waited until yesterday to override, easily doing so with a 59-to-13 vote. Three members were absent and only 44 votes were needed for the override.

(Lawmakers have been officially on "recess" for the last six months, allowing for the override before officially adjourning yesterday and then opening a new session.)

"It's been a long wait and a lot of work, but this law will grant mercy and relief to the sick and suffering. Finally Rhode Island will stop denying sick people a proven means of relief from their pain," said the House sponsor, Rep. Thomas C. Slater, D-Providence, who has cancer.

Sen. Rhoda E. Perry, D-Providence, the Senate sponsor, called it a "progressive and compassionate piece of legislation." The bill carries the name of Edward O. Hawkins, Perry's nephew who died of AIDS.

Persuading his colleagues for an override, Slater said "Ten states have realized that it makes no sense in making people criminals for following their doctor's advice and relieving their pain." In those states, "The sky has not fallen and thousands of patients live in less pain."

House Minority Leader Robert A. Watson, R-East Greenwich, who supported and voted for the bill in the past, said that in his heart he wanted to pass the law but in the end he needed to stand behind the governor. Only 6 of the 14 other House Republicans joined Watson, voting to uphold the veto.

Carcieri's press secretary, Jeff Neal, said the governor continues to oppose the measure, saying it will "encourage criminal activity because it does not provide any means for the legal purchase of medical marijuana."

The Republican governor's office also said that "the definition of which medical conditions qualify one for use of marijuana is so broad that it would allow nearly any Rhode Islander to be a user."

Carcieri has said the bill "is full of loopholes" including a lack of standards for dosage and quality of the drugs, no legal source of the drug or marijuana seeds and allows patients and their caregivers to possess "staggering" amounts of marijuana.

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The White House Office of National Drug Control Policy also weighed in yesterday, saying that using marijuana is still against federal laws and the Food and Drug Administration does not consider the drug a safe and effective medicine for pain relief.

"It's largely symbolic. I don't think that it will have practical effect," Tom Riley, a spokesman in the office, said of Rhode Island's law.

Riley also said that the vast majority of people who serve time for marijuana possession are trafficking the drug.

Additionally, in June the U.S. Supreme Court ruled that state laws permitting the medicinal use of marijuana do not supersede federal laws.

Ten states already have similar laws: Alaska, California, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Vermont and Washington.

There are other states that have medical marijuana laws, but the Marijuana Policy Project, which has been pushing for the law here, says these 10 states are the only ones where the law makes a practical difference. The Marijuana Policy Project works to "minimize" laws that are intended to prohibit marijuana use.

Rhode Island, Hawaii and Vermont are the only three states where medical marijuana came through legislative action. The other states approved it through ballot initiatives.

The group's executive director, Rob Kampia, hailed yesterday's vote -- the first after the Supreme Court ruling -- as a major victory.

"We will continue to roll back the government's war on the sick and dying and the White House drug czar can't stop us any more than he can make water flow uphill," Kampia said in a statement.

THE DEPARTMENT OF HEALTH now has 90 days to create rules and regulations regarding the use of marijuana for medical purposes.

Once those rules are in place, people looking to use marijuana must first get a signed statement by a doctor stating that in their opinion "the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient."

The department then has 30 days to approve or deny the application and another 5 days to then issue identification cards to those approved.

Anybody with such a card is immune from state criminal and civil prosecution or any disciplinary action by employers as long as they do not possess more than the allowed quantities.

The law does nothing to protect people from arrest or prosecution under federal drug laws.

The plants must be stored in "an indoor facility." Authorized caregivers cannot have a felony conviction in their past. The Department of Health is required to report back to the legislature by Jan. 1, 2007, on the number of people who availed themselves of the program, and any problems arising from it. Unless lawmakers vote to keep the program going, it will expire on June 30, 2007.

The legislation does not provide a way for people to get the drug, leaving that to illegal channels.

AFTER PASSING THE marijuana legislation, lawmakers shifted to the session ahead.

During an opening speech, Murphy more than once urged his colleagues "to put aside petty politics and whatever personal agenda[s] we might have in this election year and get down to doing the work that we have been sent here to do."

"Let's do what's right, not what's politically expedient," Murphy said. "And, please, this is an election year. Let's work for six months together as a House of Representatives and worry about politics in June."

Watson quipped in response: "I would hope that we don't rid the room of all petty politics, because we do need to have some fun."

More seriously, Watson said: "A majority is judged best by how they treat the minority."

Over in the Senate, lawmakers took the highly unusual step of recommitting two bills that passed by both chambers last year but were never transmitted to the governor's desk.

Senate spokesman Greg Pare said the bills were never given to Carcieri because the Senate leadership tried, but failed, to work out a compromise and avoid vetoes on the bills.

So yesterday, the Senate essentially killed off the bills by sending them back to committee.

The first was a lobbying bill that would have exempted from disclosures certain sales and purchases -- namely, transactions carried out "in the ordinary course of business and for fair market value" -- made by people and companies seeking to influence the General Assembly.

The other would have allowed Beacon Mutual Insurance, the state's dominant worker's compensation insurer, to expand beyond Rhode Island's borders and go from a public nonprofit to a private for-profit company.

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Supporters Of Medical Marijuana Bill Concede Problems (PROJO)

By Felice J. Freyer

The Providence Journal, January 4, 2006

The medical marijuana law that passed yesterday allows doctors to recommend that patients obtain from illegal sources a drug of unknown potency and unknown purity.

This is not how doctors normally prescribe treatment.

But if the longstanding support of the Rhode Island Medical Society is any indication, many are willing to go this route -- because of the potential benefits to patients who can't get relief from pain, nausea, muscle spasms and other problems.

Even supporters of the concept, however, admit that it's "weird."

Under the new law, a doctor, a nurse practitioner or anyone else permitted to write prescriptions can sign a statement attesting that "the potential benefits of the medical use of marijuana would likely outweigh the health risks" for a patient with a "debilitating medical condition."

With this certification, the patient can apply for a card from the Health Department that prohibits prosecution by state authorities for growing or possessing marijuana. (Under a U.S. Supreme Court decision earlier this year, however, the federal government can prosecute.)

The law doesn't say where the marijuana will come from, but it's understood that patients or their caregivers will get it illegally from drug dealers, or grow it from seeds obtained illegally.

"It's a weird concept, isn't it?" said Dr. Margaret A. Sun, president of the Rhode Island Academy of Family Physicians, who testified in favor of the law before the General Assembly. "I'll give them a letter that it's OK for them to use medically, and then they're going to some alleyway and buy it on the street."

Before the law is put to use, the Health Department must write regulations. Sun hopes the regulations will provide some safeguards. Sun also is concerned about not knowing the strength or purity of the marijuana that patients may obtain. But she calls the law "a step in the right direction" for those who don't have an alternative.

Dr. Robert S. Crausman, chief administrative officer of the state Board of Medical Licensure and Discipline, disagrees. "It raises a world of issues for us," he said. "Our statute says it's unprofessional conduct to violate federal law. To create another law that allows doctors to violate federal law . . . puts our board in a very awkward circumstance.

"What other medications do doctors prescribe in this fashion?" said Crausman, who practices medicine part-time, specializing in lung diseases.

If a patient of his requested a medical certification to obtain marijuana, Crausman says he would probably decline because he wouldn't know where they were getting the marijuana plants. "I don't tell my patients on digoxin to take foxglove tea. . . . Aspirin comes from bark. When was the last time you took bark for a headache?"

In a 1999 review of medical marijuana, the Institute of Medicine of the National Academy of Sciences concluded that the active ingredients in marijuana had "potential therapeutic value" for pain relief, control of nausea and vomiting, and appetite stimulation. But it called smoking marijuana a crude way to deliver the medication, and one that also delivers harmful substances. Other than the hazards of smoking, the institute concluded, the side effects of marijuana are no worse than those of other medicines.

The new Rhode Island law allows marijuana use for cancer, glaucoma, HIV infection, AIDS, hepatitis C, or any condition causing wasting, chronic pain, severe nausea, seizures or muscle spasms.

Crausman acknowledged that marijuana contains "wonderful active ingredients," but he wishes they were available through pharmacies in a purified, regulated form. Meanwhile, he said, effective drugs are available for every condition and symptom that marijuana is said to treat -- including a pill containing the chief active ingredient in the plant.

But that pill often doesn't work because the drug isn't well-absorbed through the stomach. And many doctors and patients say that the existing medications don't work for everyone.

Sun, the family physician, said that her sister, who suffers from multiple sclerosis, smokes marijuana to relieve the muscle rigidity that sometimes makes her fall. "She'll take a puff or two of pot, wait 15 minutes, and get her muscles able to move more easily," Sun said.

"She's on a lot of medications, including muscle relaxers," Sun said. "They're very sedating. They work well, and eventually you become tolerant so you don't fall asleep. Then they don't work as well. . . . She finds that this is something that works well, works quickly and doesn't sedate her."

Among the patients in her East Providence practice, Sun said she doesn't have anyone she believes would benefit from smoking marijuana. "I'm sure there'll be people asking me for it," she added with a laugh. But doctors already face drug-seeking patients who want prescriptions for legal narcotics, she said.

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Dr. Thomas A. Bledsoe, an internist who is interim director of Brown Medical School's Center for Biomedical Ethics, called the new law "an unsatisfactory solution." But he said he might make use of it for certain patients, after explaining the risks and unknowns. "Patients who are competent have decision-making capacity," Bledsoe said. "I see my job as giving them advice and giving them information."

In terminal cancer patients, Bledsoe said, "The symptoms that [marijuana] can help with can be very nasty, very interfering with normal life. We're talking about the rest of their life, and it's short. Quality of life is very important."

Diane Lipscombe, a professor of neuroscience at Brown Medical School who studies the biology behind chronic pain, said that the classic drugs for pain relief simply don't work for millions of people.

Marijuana contains substances called cannabinoids that are also produced naturally in the body, just as the body produces natural opiates, she explained. The two substances work together in the brain to numb pain. Cannabinoids may enhance the effect of opiates, and they are of particular interest because they also affect peripheral nerves, not just the brain, she said.

"There are millions of people who have no effective treatment for pain," said Lipscombe. "All I can say is, anything that can help people who are in constant pain is a good thing."

Legislators Override Carcieri's Medical Marijuana Veto (PRBN)

Providence Business News, January 4, 2006

The state House of Representatives on Tuesday voted 59 to 13 to override a veto by Gov. Donald L. Carcieri of legislation passed last year to legalize medical marijuana, making Rhode Island the 11th state to allow people with certain illnesses to use the substance.

Federal law forbids marijuana use, but Alaska, California, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Vermont and Washington allow it to be grown and used for medicinal purposes. In June, the U.S. Supreme Court ruled that patients who used the drug in those states could still be prosecuted under federal law.

The new Rhode Island law allows people with severe illnesses such as cancer, AIDS, multiple sclerosis and hepatitis C, on a doctor's recommendation, to get registered with the state and get permission to grow up to 12 marijuana plants or buy up to 2.5 ounces of the drug.

The law is effective immediately, but the state Department of Health, which will register users and give them identification cards, still has 90 days to develop procedures to do so.

The medical marijuana bill was one of the highest-profile measures in last year's legislative session, but Carcieri vetoed the measure. The state Senate voted the override his veto the following day, but the House recessed without taking action, leaving the bill's fate up in the air. Legislators voted on Tuesday before convening the 2006 House session – the last possible time they could do it.

After the vote, Carcieri issued a statement saying the law "will encourage criminal activity," because it does not provide any means for the legal purchase of medical marijuana, forcing them to buy the drug in the illegal street market.

The governor also objected to the lack of "safeguards to protect the community," such as restrictions on where marijuana can be cultivated and stored, and he called the definition of eligible medical conditions as "so broad that it would allow nearly any Rhode Islander to be a user." Finally, Carcieri noted, "this bill appears to violate federal law."

The governor noted that along with himself, the state police, the state Department of Health, and the chief judge of the Rhode Island Family Court had opposed the law.

The full text of the law is posted here.

Flying Under The Radar (ABAJRNL)

By Stephanie Francis Ward

American Bar Association Journal, January 4, 2006

Coming off of a slow holiday diet of year-in-review articles calling attention to the biggest news of 2005, we call on you to take a look forward.

Place your hand on our crystal ball to see how our sources predict what legal news might be making headlines in the months to come.

To make our list, we first determined the most underrated, underreported and unappreciated issues affecting lawyers. And then we thought about how these topics are likely to play out in the future.

While the chosen list is far from comprehensive, it identifies developments that may indeed prove worthy of extra attention.

METH: PUBLIC DRUG ENEMY NO. 1

If you live in a small town and run into problems with the law, methamphetamine may be the first cause that authorities suspect. Some rural justice system officials estimate that the drug is a factor in up to 80 percent of their caseloads.

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"It fuels domestic violence, child abuse, thefts, burglaries and crimes of violence because the people who use it get so paranoid," says John Sarcone, the county attorney in Polk County, Iowa. "Most of these people have children, and there are a number of kids who get removed" from home.

Problems caused by meth have surpassed those caused by other popular drugs, such as crack cocaine, says Linda McKinney, the public defender for south central Missouri's 44th district. "I think meth in all of its forms has been much more destructive physically because it's a harder drug to kick," she says. In her experiences, first as a prosecutor and then as a public defender, she knows of only 10 instances where the defendants were able to break their addiction.

Prosecutors elsewhere make similar observations. And some say that while adult use is most common among the working class, juvenile use involves children from across the economic spectrum. Boys often try the drug due to peer pressure, while girls see it as a way to lose weight. Presiding Judge John G. Moody of Missouri's 44th Judicial Circuit reports seeing more juvenile defendants, some as young as 10, testing positive for the drug.

Studies back up personal experiences. In a survey of 500 law enforcement agencies, 58 percent of the respondents cited methamphetamine use as their county's biggest drug problem. In addition, 87 percent reported an increase in meth-related arrests in the past three years. The survey, published in 2005, was conducted by the National Association of Counties.

According to a 2004 study by the Office of National Drug Control Policy, 11.7 million Americans reported that they had used methamphetamine at least once. In another study by the agency, which focused on juveniles, 6.2 percent of high school seniors surveyed reported that they had tried the drug.

It's little wonder that meth has the attention of the nation's top law enforcement official. Last summer, in a speech to the National District Attorneys Association, Attorney General Alberto Gonzales said the illegal manufacture and use of the stimulant is the country's biggest drug problem.

While the drug is moving into urban areas, it's more prevalent in smaller, more rural communities, largely because it's cheap and easy to manufacture. A meth lab inventory might include pseudoephedrine, which is found in over-the-counter decongestants, and chemicals such as hydrogen peroxide, lye and red phosphorus.

Some of the ingredients are combined and cooked, creating the danger of explosion. The cooking process generates liquid and solid wastes that can contaminate buildings, soil and groundwater. "Here in Iowa, we call them Beavis and Butt-Head labs," Sarcone says.

Increased caseloads are straining resources for courts, prosecutors and public defenders. McKinney says the caseload in her district has gone from 50,000 a year to 100,000 a year. Of those cases, she says, about 80 percent involve methamphetamine use.

McKinney's office represents about 90 percent of the county's criminal defendants. She fears that some defendants eventually will have to be turned away because of the increasing caseload.

In March, Iowa passed a law that restricts the sale of nonprescription medications containing pseudoephedrine. One of the mandates is that retailers must keep such medications behind the counter or in a locked case. Sarcone says he's already seeing fewer shoplifting arrests, and he thinks the law also will lead to a reduction in manufacturing cases. It's one of several states to pass such a law.

"Pseudoephedrine laws, where the stuff is put behind the counter, are very effective," Sarcone says. He adds that a federal law, requiring all states to monitor sales of the drug, would be the most effective. "Without the ingredients you can't make it," he says. "It's like having the yeast to make the bread rise."

Drug courts also seem to help, mainly by reducing the number of repeat offenders. These courts focus on intensive programs to help defendants quit meth rather than do jail time.

In Twin Falls, Idaho, the county has operated such a program for three years. Prosecutor Grant P. Loebs says that about 50 percent to 60 percent of those who complete the program are staying clean. Still, he sees usage of the drug in about 90 percent of the county's presentencing reports.

Defendants who participate in drug courts have to take periodic drug tests and appear frequently before the judge. In Moody's court, participants are assigned a parole officer and a case manager, as well as a tracker, who handles drug testing.

"We try to get to know them, and they get to know that we are trying to help them," Moody says. "I try to praise them when they do well and act disappointed when they don't. It makes a difference."

THE FACT

Meth prices vary throughout the United States. At the distribution level, prices range from $3,500 per pound in parts of California and Texas to $21,000 per pound in the Southeast and Northeast regions of the country. Retail prices range from $400 to $3,000 per ounce.

Source:"Drug Trafficking in the United States," DEA

—Stephanie Francis Ward

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Afro-Colombians Driven Off Land In Cocaine War (LAT)

By Chris Kraul, Times Staff Writer

The Los Angeles Times, January 4, 2006

PEREIRA, Colombia — Armando Garces was reluctant to leave his mountain village even after right-wing militia members had gone door to door telling residents they had 48 hours to evacuate, or else. He didn't like being ordered to abandon the only home he had ever known.

Then a daylong gun battle erupted between the paramilitary fighters and leftist guerrillas over control of nearby coca crops and transit routes. Garces' town, nestled in Colombia's Pacific coast rain forest, was caught in the crossfire between the rebels above the town and militia members below it.

"We hid under our beds all day, and the next morning we were gone," said Garces, recalling the terrifying day in June when his township, Bajo Calima, became a battleground in the nation's long-running drug wars. "Everyone agreed it was time to look for some other future."

So the 25-year-old woodcutter, his wife, two children and about 500 other residents joined the swelling ranks of Colombia's internally displaced. More than 3 million people have been driven from their homes by the civil conflict between armed groups vying for political dominance and the control of crops, especially those linked to the nation's drug trade.

Only Sudan has more internally displaced citizens than Colombia, according to the Norwegian Refugee Council, a human rights group that has tracked the displaced around the globe for the Office of the United Nations High Commissioner for Refugees.

Although Colombia has had a large displaced population for two decades, its size has increased quickly in recent months, experts say, and a disproportionate number of them are, like Garces, Afro-Colombians. They are targeted because they lack political clout and sophistication at a time when their rural homes have become economically attractive.

Ricardo Esquivia, general coordinator of Arvidas, an advocacy group for the displaced in Sucre state, said most AfroColombians who own such land either lack full knowledge of their rights or the political power to enforce them. One factor working against Afro-Colombians is the 80% illiteracy rate in the areas where many live, said Esquivia, himself an Afro-Colombian.

"They are historically vulnerable and relegated [to a lower status] because they have never fully exercised their economic, social and cultural rights," said Jorge Rojas, a leading advocate for human rights and the displaced in Bogota, the capital.

Those rights include a constitutional provision that guarantees land title to rural Afro-Colombian communities that have organized loosely as a group and occupied their property for 10 years or more, said Luis Murillo, a former governor of Colombia's Choco state. Murillo, also an Afro-Colombian, estimates that 1 million Afro-Colombians, or one-third of those living in rural areas, have been forced off of their land.

The growth of the displaced has much to do with the changing logistics of Colombia's multibillion-dollar cocaine trade. The success of U.S.-sponsored spraying programs meant to eradicate coca leaf production in Colombia's Amazon basin has caused a shift in coca farming to more remote areas, including the coastal zone surrounding Bajo Calima, where Afro-Colombians are concentrated.

The port city of Buenaventura near Garces' hometown and the estuaries that drain into it have become the most important cocaine processing and transshipment centers in Colombia, U.S. law enforcement officials have said.

Garces and other residents were lucky to escape with their lives. In past years, both paramilitary and guerrilla groups in towns such as Bajo Calima have massacred thousands of people whom they suspected of helping the other side or just for being in the way.

Since July, Garces has lived in a shantytown called Plumon on the outskirts of Pereira, built into the side of a river canyon. It has no running water or electricity.

Internal refugees such as Garces put enormous pressure on towns where they have moved. "It's impossible to solve the housing problem. We are incapable," said Pereira City Manager German Dario Saldarriaga, whose town in the interior — about 120 miles northeast of Buenaventura and 105 miles west of Bogota — is struggling with 15,000 displaced residents, about half of them Afro-Colombian.

Pereira has built three new hospitals and is erecting nearly 1,000 housing units to accommodate the influx of displaced people, but needs 4,000 more houses to deal with the overflow. Meanwhile, crime has skyrocketed, Saldarriaga said.

"Sometimes we feel overwhelmed, but it's much worse in other cities like Medellin and Cali," he said.

Human rights groups inside and outside Colombia see a longer-term risk in the government's inability to stand up for the land rights of its citizens. Many say the voices of the displaced aren't being heard in Colombia's nascent peace process.

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Although kidnappings and killings have declined, the process that President Alvaro Uribe began in July 2003 to try to demobilize Colombia's armed factions doesn't do enough to ensure that the displaced may someday return to the millions of acres of land they have abandoned, said Lisa Haugaard of the Latin America Working Group, a coalition of religious and humanitarian agencies in Washington.

Haugaard and others fear that a law passed last summer outlining the terms of "reinsertion" of fighters into society will mean that most of the abandoned land, which totals 10 million acres, will simply remain in the hands of demobilized paramilitary fighters.

If that turns out to be the case, shantytowns such as Plumon, where Garces lives, and Bosques de Otun could become breeding grounds for a future generation of Colombian insurgents, she said.

"There is definitely a silence in the peace process on this question of land rights. Yet it will be dealt with in conflict and in a myriad of conflicting ways on the ground," Haugaard said.

Officials at the U.S. Embassy in Bogota fear that the problem of Colombia's displaced is a humanitarian time bomb and said the U.S. Agency for International Development's $30-million annual aid package is being redesigned to focus more on the needs of Afro-Colombians. That redesign is partially the result of pressure from the Congressional Black Caucus in the U.S.

"It's a huge crisis for a country already dealing with a lot of other crises at the same time," said a U.S. Embassy official who asked not to be identified.

Control of the drug trade isn't the only motive causing armed groups to push rural Afro-Colombians off their land. In Sucre state, where Esquivia works, about 60,000 have fled the countryside for the state capital, Sincelejo, to escape the bloody fight for control of avocado and palm plantations or simply for territorial dominance.

Adelina Zuniga left her 15-acre farm in Macayepa for Sincelejo two years ago after massacres of suspected guerrilla sympathizers in her town sent a chilling message. Having fled the countryside, her family initially slept 15 to a room in a Sincelejo shanty. She has now emerged as a leader of the displaced and pastor of a local evangelical church.

"People arrive with no place to stay, no work and bothered by the local police. Almost all the old folks who came with us have died of despondency. They go from being important to feeling useless. They see no solution," Zuniga said.

The influx has led to social problems, including teen prostitution and the growth of street gangs, said Esquivia of the Arvidas advocacy group.

Until security improves back home, Garces plans to stay put in Pereira's Plumon slum, where he has found work paying $2 a day picking coffee and loading sacks of cement onto trucks. Besides, people who have gone back to Bajo Calima have found nothing but a burned-out ghost town.

"I'm not going back to the war," he said.

Seeing Crime Guns Destroyed Gives Solace To Victims' Families (NYT)

By Pam Belluck

The New York Times, January 4, 2006

SOUTH PORTLAND, Me. - Kelly DeCambra made her way through a seven-inches-an-hour snowstorm to a dingy Maine State Police garage where, among the brake parts, transmissions and a flat-bed tow truck, she hoped to find a fragment of solace.

It would come in the form of a Ruger .44 Magnum Super Blackhawk revolver, caked with blood and the memory of Ms. DeCambra's son, 21-year-old Lionel St. Hilaire, who was shot to death with it last year.

The mother had come to watch the gun that was used to kill her son be sawed into pieces in an acrid plume of white-hot sparks.

Ms. DeCambra's act of witness was made possible by a law Maine enacted in 2001 that requires handguns used in homicides to be destroyed when they are no longer needed for evidence. Before that, guns were often sold or auctioned by police departments to raise money for other equipment.

Gun control advocates, gun rights supporters, and law enforcement officials say they believe that Maine is the only state where the police allow victims' relatives to watch a gun's destruction, and the acts of witness are arranged informally by the police, not spelled out in the law.

Supporters of the law, including the Maine Chiefs of Police Association, acknowledge that in a state like Maine, which in the last decade averaged about 20 homicides a year, destroying such weapons takes only a few guns out of circulation. But the requirement that crime guns be destroyed reflects a trend among police departments nationwide.

A few states, including New York and Wisconsin, require at least some guns to be destroyed, and others, like Washington, have rescinded bans on destroying guns used in crimes.

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Several municipalities have passed ordinances to prevent crime guns from being sold, and the International Association of Chiefs of Police passed a resolution six years ago encouraging police departments to destroy guns used in crimes .

"It's just a culmination of factors," said Gene Voegtlin, the association's legislative counsel, based in Alexandria, Va. "Did police agencies really want to be in a situation where they were offering guns back to the public? A lot of the weapons that are confiscated aren't necessarily the highest quality, so there are some safety issues involved, liability issues involved." The association's resolution urges police departments not to sell their old police guns or trade them in to a manufacturer for new ones, a practice that began to be common in the 1990's.

Efforts to prevent the resale of guns have been spurred partly by highly publicized crimes like those committed by Buford O. Furrow Jr., a white supremacist who in 1999 used a gun that had once belonged to the police department in Cosmopolis, Wash., to wound five people at a Jewish community center in Los Angeles and kill a Filipino-American postal worker.

Although some police departments destroy guns, often by melting them down, others, usually smaller departments, still sell them.

"You got to use every penny you can get," said Roberto Fulgueira, the police chief in Sweetwater, Fla., who last year traded in his officers' old Glocks and some crime guns, saying he needed about $15,000 for new Glocks for his 65 officers.

With the money, he said, "I bought all my men guns, I bought bulletproof vests, and I still have a credit."

Maine's law came about because of Debbie O'Brien, a Kennebunk woman whose 20-year-old son, Devin, was shot to death in 1996. When she learned that the state police would probably sell the gun used to kill her son, Ms. O'Brien said her reaction was, "Oh, my God, the police are here to help you and the next thing you know they're turning around and selling a gun, making money off my dead son."

Ms. O'Brien lobbied for the proposed law, saying that she told the state police, "Look, if you need money, let's do bake sales."

"You're in hell," she said. "You're just struggling to have a life, and then I realized that would include the gun."

William Harwood, a gun control advocate in Maine, and Robert M. Schwartz, executive director of the Maine Chiefs of Police Association, said the original proposal was for all crime guns to be destroyed. But because of the state's strong hunting lobby, they said, the final law included only handguns used in homicides.

"To be candid," Mr. Harwood said, "the legislation had as much symbolic importance as it does deterrence."

But the symbolism is powerful, said Ms. O'Brien, who watched the .22-caliber handgun used to kill her son be cut up six years after his death.

"It was just a very important day for my husband and I," she said. "This was a weapon that changed our lives."

For Ms. DeCambra, watching the destruction of the gun used to kill her son - even though it was done without ceremony in a stark garage - seemed the closest thing she could find to justice, and a way to ease her feelings of helplessness and guilt that she had not been there to help her son when he was gunned down by a woman's former boyfriend.

Ms. DeCambra said she never saw her son's body because it was already being autopsied by the time the police notified her.

She said she had been unable to see punishment imposed on her son's killer, Zachary Fenderson, who had found his ex-girlfriend with Mr. St. Hilaire one night, because Mr. Fenderson immediately shot and killed himself.

Ms. DeCambra said she was even thwarted when she tried to put up a cross in a wooded area across from the house where her son was killed. She said someone removed each cross she tried to erect - a wooden one, a steel one, even one anchored in cement. "I haven't had any control over anything," said Ms. DeCambra, 38, a bartender at Mulligan's in Biddeford, Me. "When I brought children into this world, it's my job to protect them, and I couldn't do that. I feel like I failed him."

Ms. DeCambra, who had her first child when she was 14 and who gave birth to Mr. St. Hilaire when she was 16, has had a rocky life, plagued with early drug use and health problems that required a pacemaker and several operations. Her son, she said, was molested as a child, acted out in school and was sent to residential treatment centers. At 12, she said, he was molested by a center staff member, who was convicted. At 18, he was jailed for two years for having sex with a 13-year-old girl.

"I'm the first one to say my son wasn't perfect," she said. "But he's not a monster. He was my son, and I loved him very much."

Seeking to grasp the enormity of her son's death, Ms. DeCambra asked for the crime scene photos of his body, which she keeps along with an evidence bag containing his crumpled clothes.

Seeing the gun destroyed seemed a tangible way to address her grief, and she brought along her 24-year-old daughter, her 18-year-old son and his pregnant fiancée, her 2-year-old granddaughter and two friends. Without fanfare, a state police detective, Jeff Linscott, brought out the long-barreled Ruger revolver. He said many victims' relatives do not attend gun destructions, recoiling at the thought of seeing the weapon.

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Ms. DeCambra hid her face and wept, her hands shaking, as a mechanic used a red chop saw to slice the gun four times, the pieces to be tossed on a scrap pile of used brake rotors and other metal parts.

"I have the same nightmare over and over," Ms. DeCambra said. "I'm watching him get shot, and I can't stop it. I need to do this."

Editorial: Mark Outcome, Not Start Of Weed And Seed Effort (MODBEE)

Modesto Bee, January 3, 2006

For many people, the new year started with music, dancing and hearty partying. There was no such hoopla for the Jan.1 launch of the Weed and Seed program in west Modesto.

That's appropriate. Weed and Seed is not a flash-in-the-pan kind of thing. It's a methodical, yearslong commitment to getting rid of gangs, drugs and other criminal elements, and then cultivating pride and revitalization in a neighborhood that has suffered from ugly stepsister treatment.

The program has been in the planning and wish stages since 2002. The city's first application for the U.S. Justice Department's Weed and Seed designation — and up to $1 million that comes with it — was rejected. Last summer, with the second application, the outcome was positive.

The Justice Department is promising tougher federal prosecution of people arrested for certain crimes. It also is insisting on proof of success. The California State University, Stanislaus, Center for Public Policy Studies is to assist with that measurement.

In fact, many organizations are tapped for Weed and Seed assistance. Some of the strategies are fairly obvious, such as stricter code enforcement to assure that trashy lots are cleaned up. But there are other, less predictable elements. For instance, volunteers are to provide income tax assistance to help residents recover some of the $2.5 million in earned income tax credits that have gone unclaimed in that ZIP code, 95351. The reclaimed money goes directly to the residents.

The neighborhood also is benefiting from significant private and public investments that tie nicely into the project. They include:

The city's $2 million makeover of the Maddux Youth Center in César Chávez Park. It was started last spring and is due for completion this year.

Plans for a $5 million Neighborhood Center at Marshall Park, off Sutter Avenue and just south of Paradise Road. The city is seeking bids for the project, which is to include a fire station and a police substation.

Installation of long-awaited sewer lines in the Robertson Road tract, a $2 million county project

Being part of the new Stanislaus County Enterprise Zone. Companies that locate or expand in the zone are eligible for tax breaks and other incentives.

Rising property values. Bob Schmal, a neighborhood resident active in the project, said there are almost no abandoned homes in the area anymore because there's such a demand for housing. Further, 60percent to 70 percent of the houses are owner-occupied, up from about 40percent a few years ago, Schmal said. As a result, there's a new attitude about the importance of upkeep.

For all the formal programs, the success of Weed and Seed will depend on people — especially the residents. The Stanislaus County Sheriff's Department is assigning deputy Noel Vento to the area; he's been effective in working with residents in Empire and south Modesto.

Sheriff's Lt. Jim Gordon is well aware that west Modesto residents have heard promises before. "We've told the neighborhood that we intend to make things better. We have to come through."

This effort is to affect more than the 15,000 residents of the designated area. Lessons learned here can be applied to other struggling neighborhoods.

The official launch of the Weed and Seed project isn't what's important. More significant is what has been accomplished by this time next year and the year after.

The mission of Weed and Seed is explainedon the Department of Justice Web site, www.ojp.usdoj.gov/ccdo/ws/welcome.html.

IMMIGRATION:

The Border's Vital Center (HILL)

The Hill, January 4, 2006

Republicans face one of the trickiest political problems they have faced as a party since Clinton pre-empted their program through triangulation and left them temporarily devoid of issues.

As the number of illegal immigrants mounts in the United States, the demands of the party's nativist constituency for tighter border controls and immigration enforcement threatens to put it at odds with America's rapidly growing Hispanic population, dooming the GOP to possible minority status not just in California and New York but in Texas and Florida as well.

The push-pull between Hispanic demands for respect and nativist concerns about job loss, crime, education costs and urban crowding, all exacerbated by illegal immigration, poses a huge problem for party leaders.

The obvious answer to demands for limits on immigration is the border fence passed by the House and pending in the Senate. Slated to extend over 700 miles of the U.S.-Mexico border at a cost upwards of $2 billion, the barrier, coupled with increased enforcement manpower and effective employer sanctions, will likely give the United States a means to control population inflows. But what of the economic, moral, foreign-policy and political issues a fence will raise?

Economically, Mexican illegal immigrants are not in search of welfare but come looking for work. That they find it is obvious. Otherwise how could they send $11 billion a year home to their families and why would they come in increasing numbers?

Clearly the American economy needs their services. On a micro-economic level, they do jobs Americans don't want at wages below what we would consider acceptable — and perhaps below those that are legal as well. On a macro level, their presence holds down labor costs and permits the Federal Reserve to take more chances with low interest rates than it could in an inflationary-wage market.

The obvious answer to these concerns is a grand bargain that couples the strictest border defense with a generous guest-worker program, granting legal status to Mexican immigrants and regulating their numbers, working conditions, and wages — and assuring that they contribute to Social Security and other taxes.

The foreign-policy implications of a fence are harder to handle. Already Latin resentment against the United States is fueling the rise of an oil- and cocaine-based leftist oligarchy throughout our hemisphere. Castro now has friends in power in Venezuela and Bolivia and moderate allies in Brazil, Uruguay and Argentina. In Peru, a leftist Chavez look-alike, Ollanta Humala, is leading in the presidential race. In Nicaragua, Daniel Ortega may be heading back to power by a gradual military coup. And in Mexico itself, a Chavez protégé, Andrés Manuel López Obrador, is leading in the polls for the July 2006 presidential race. Can you imagine having a border with a Chavez or a Castro, whose ability to disregard American concerns would be underscored by massive oil reserves?

But it is in the realm of domestic politics that the GOP would pay the highest price for a purely nativist policy. Texas has now become a majority-minority state, joining California. Can its wholesale flip to the Democratic Party be far behind? Not if the Republicans are seen as an anti-Hispanic party! Is the GOP really willing to make political war against the Latinos by rubbing their noses in a border fence when they now account for 14 percent of the population and will probably increase their share to 18 percent over the next 10 years?

The permanent political price the Republican Party would pay for this shortsightedness is reminiscent of the way it antagonized the African-American vote in the '60s. Remember that Dwight Eisenhower carried blacks in 1952 and 1956. John F. Kennedy only narrowly prevailed in the black community. It was not until Barry Goldwater and Richard Nixon, pursuing the Southern strategy at all costs, drove blacks into the arms of the Democrats that their votes were irretrievably lost. Is the GOP, driven by the anger of its base, going to make Hispanics permanent Democrats?

By moving away from English-only policies and reaching out to Hispanics, Bush has closed the gap among Latino voters. Gore carried them by 30 points, but Kerry only won among them by 10. But the border backlash may be undoing all this good work.

The obvious answer is to couple a fence with a good guest-worker program, with a citizenship track predicated on good behavior. But if the Republican Party allows the House bill to become law — a fence with no guest-worker program — it will be antagonize the vital Latino vote and consign itself to permanent minority status.

Morris, a former political adviser to Sen. Trent Lott (R-Miss.) and President Bill Clinton, is the author of Condi vs. Hillary: The Next Great Presidential Race.

TAX:

Federal Taxes Fall As Income Rises (WSJ)

By Robert Guy Matthews

The Wall Street Journal, January 4, 2006

Even as Americans' income rises, they are paying a smaller share of it in federal taxes, according to the latest statistical analysis by the Internal Revenue Service.

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At the same time, the growing number of people who are subject to the alternative minimum tax are paying an increasing share of the total amount of federal income taxes, according to the Treasury Department's Statistics of Income Bulletin, which was released late last month. The report analyzed individual 2003 income-tax returns and is the latest data available on individual tax returns.

Falling tax rates under the Economic Growth and Tax Relief Reconciliation Act of 2001 resulted in a 6.1% decrease in total individual income tax in 2003, to $748 billion, from 2002. But the portion of total taxes paid under the AMT rose 38.2%, to $9.47 billion.

The AMT is a controversial parallel tax that, in 2003, kicked in at $40,250 of taxable income for single and head of household filers, and $58,000 for married couples -- for taxpayers with large families or deductions for such expenses as state taxes. Once subject to the AMT, many filers lose important deductions such as state and local taxes and personal exemptions.

The AMT is estimated to have snared four million taxpayers in 2005. If Congress doesn't move to restrain the tax -- a bill that would do that is now pending in Congress -- this number would jump to 21.6 million taxpayers this year, and married couples with gross taxable income above $45,000 would be subject to it. For 2005, married couples began to pay the AMT at $58,000. The government collects an average of $2,770 more in taxes per household from those who have to pay the AMT, according to the U.S. Treasury Department.

The AMT was originally designed to ensure that high-income earners wouldn't be able to use deductions and exemptions to the extent that they would end up paying no taxes at the end of the year. While it still accounts for a small share of total tax receipts, each year more people are being forced to pay it -- and revenue from the AMT is becoming increasingly important to government coffers.

For years, Congress has elected to limit the scope of the tax to keep the tax from eventually hitting middle-income earners. But each year that step is taken, the costs of forgone tax revenue grow because the federal long-term budget already assumes the income from the tax. For 2006 alone, a limit on the AMT could cost the government as much as $12.22 billion in lost revenue.

Despite the AMT, the average tax rate for all 130.4 million returns in 2003 fell for all income groups. The only exception was for people with returns less than $10,000, which stayed the same as the year before.

The adjusted gross income reported on these returns totaled just over $6.2 trillion, a 2.9% increase from the year earlier. Taxable income, or the amount of money subject to taxes after deductions, increased 2.5% to $4.2 trillion in 2003. This was the third successive year that total income tax declined.

In addition, the IRS says, the number of individuals who itemized their deductions decreased for the first time since 1999. The main reason for this drop is because Congress ended what amounted to a marriage penalty for couples taking the standard deduction. In 2003, married taxpayers filing jointly could take a standard deduction of $9,500, equal to the double the $4,750 allotted for singles. In 2002, the standard deduction for married taxpayers totaled just $7,850. * * *

The IRS said last week that you need to get written documentation if you are donating a car worth more than $500.

Looking to crack down on taxpayers who overestimate the value of donated cars -- for which they can then take a deduction on their tax returns -- the IRS says that anyone who donated a vehicle after Jan. 1, 2005, would need the charity to give a written acknowledgment with the value attached. Generally, taxpayers' deductions are limited to the gross proceeds from the sale of the vehicle by the charity.

For charities who accepted donated vehicles in 2005, there is no need to have sold the vehicle in 2005 to receive a deduction. They can sell the vehicle in 2006 and still qualify for deduction under IRS rules.

Taxpayers, however, must deduct in the same year they make a donation. * * *

BRIEF: Nearly a million very small business owners will now be able to file employment taxes to the IRS just once a year instead of quarterly. Beginning now, employers who have employment tax liability of $1,000 or less can file using the new Form 944 instead of the old one, Form 941. The IRS says that some 950,000 employers will be able to qualify.

Two Feuding Gallery Owners Admit The Art Of Tax Evasion (NYT)

By Anemona Hartocollis

The New York Times, January 4, 2006

A feud between Upper East Side gallery owners whose clients include some of New York's wealthiest collectors has resulted in both admitting to tax violations.

The owners are Helen Fioratti and James Sansum, her former protégé. Mr. Sansum, 39, pleaded guilty yesterday to failing to pay income tax on personal purchases, like clothing and his poodle's veterinary bill, that he made using gallery credit cards while working for Ms. Fioratti. Prosecutors said the money should have been declared as compensation. He was sentenced to pay $58,000 in back taxes and to three years' probation.

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But the sentence fell far short of the 15 years in prison he faced under his original indictment, which accused him of stealing $568,000 in art, antiques, books and money from Ms. Fioratti.

Prosecutors said that Mr. Sansum was granted leniency after he volunteered information that led to the conviction of Ms. Fioratti on charges of evading sales tax on artwork sold at her gallery. Ms. Fioratti, 74, was sentenced last month to pay more than $550,000 in restitution. Mr. Sansum, according to prosecutors, claimed he learned how to cheat on his taxes from her.

Ms. Fioratti runs L'Antiquaire and the Connoisseur, at 36 East 73rd Street. It specializes in European art and counts Fords, Vanderbilts and the convicted Tyco executive L. Dennis Kozlowski among its clients. Ms. Fioratti hired Mr. Sansum in 1989 after he graduated from Harvard, where he was a classmate and friend of her daughter, Arianna.

In 2002, after resigning from Ms. Fioratti's gallery, Mr. Sansum opened James Sansum Fine and Decorative Art, just two blocks away at 1020 Lexington Avenue. Ms. Fioratti accused him of stealing art, including paintings by her daughter, to stock his new gallery. Mr. Sansum said the art had been given to him. He said he had been authorized to use gallery credit cards to supplement his $18,200 salary.

His supporters have said that Ms. Fioratti was retaliating for his defection, and that she was upset by the realization that he was gay. Ms. Fioratti's lawyer, Michael Miller, said yesterday that the suggestion that she was homophobic was nonsense. He said Ms. Fioratti had let Mr. Sansum live rent-free in her townhouse, giving him "a home when his personal world was falling apart," then was betrayed by him.

Mr. Sansum is suing Ms. Fioratti to force her to buy back his 6 percent share in her gallery. The value of that share is in dispute. Prosecutors said that Mr. Sansum had agreed to return four paintings by Ms. Fioratti's daughter; other disputed artworks will remain in the custody of the court until a judge decides who owns them.

CONGRESS-ADMINISTRATION:

Alito Hearing To Focus On Landmark Pa. Abortion Case (LAW/AP)

By Michael Rubinkam, The Associated Press

AP, January 4, 2006

Samuel Alito's decision as a U.S. federal appeals judge to uphold a 1980s Pennsylvania abortion restriction -- later overturned by the Supreme Court -- is likely to draw some of the toughest scrutiny at his upcoming confirmation hearing.

Pennsylvania lawmakers were among the first anywhere to approve restrictions on abortion -- including one that required women seeking the procedure to notify their husbands. Alito voted to uphold that requirement, but the Supreme Court disagreed, striking it down in a landmark 1992 decision.

Senators are expected to grill Alito about the case, Planned Parenthood v. Casey, at his Supreme Court confirmation hearing, scheduled to begin Jan. 9. They're also expected to ask him about memos he wrote in the 1980s in which he said the case of Roe v. Wade -- the 1973 decision that legalized abortion nationwide -- should be overturned.

While the Court's decision in Casey upheld a constitutional right to abortion, the justices gave states new powers to make it more difficult for women to end their pregnancies. For that reason, activists on both sides regard Casey as the Court's most important abortion case since Roe.

Since Casey, state legislatures have approved hundreds of new regulations that determine when, where and how women may get abortions.

Waiting periods, parental consent laws, informed consent requirements and other restrictions have become commonplace. According to NARAL Pro-Choice America, an abortion-rights group, states have passed more than 460 abortion measures since 1995, although not all of them survived court challenges.

"The Casey decision greatly weakened the standard of review by which restrictions on the right to choose would be viewed by the court," said Blake Cornish, NARAL legal director.

While disappointed that the Court failed to overturn Roe, anti-abortion activists seized on the Court's reasoning that states may pass restrictions so long as they do not present an "undue burden" to a woman seeking to end her pregnancy.

"The Casey decision obviously did not go as far as we would have wanted, but it did allow us to work on legislation that (resulted) in saving lives," said Mary Spaulding Balch, director of state legislation for National Right to Life, an anti-abortion group.

Casey arose from 1980s-era abortion laws that were among the first of their kind in the nation.

They required women to wait at least 24 hours for an abortion, to certify that they had informed their spouses of the intended procedure, and to receive information from a doctor about fetal development and abortion risks and alternatives. Another provision required teenagers to get permission from a parent or judge before ending their pregnancies.

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A three-judge panel of the 3rd U.S. Circuit Court of Appeals upheld most of the restrictions, but voted 2-1 to overturn husband notification, ruling that it presented an illegal barrier to women seeking abortions. The lone dissenter was Alito, who pointed out that the provision did not give husbands veto power over their spouses' decisions.

Although the Supreme Court rejected Alito's analysis, abortion-rights activists say the Casey decision gave them little to cheer about.

"Even though Roe stayed intact technically, Casey was the first challenge to Roe that started the erosion of Roe that is still going on now," said Dayle Steinberg, president and chief executive of Planned Parenthood of Southeastern Pennsylvania, the lead plaintiff in the case.

Jennifer Boulanger, who heads an abortion clinic that was a co-plaintiff in Casey, said women especially chafe at the 24-hour waiting period that the Court's ruling ushered in.

"Most women who are making this decision have thought about it for weeks. By the time they call us, they're ready. They don't want to have to wait any longer," said Boulanger, executive director of the Allentown Women's Center.

Anti-abortion activists say such rules have worked to reduce the number of abortions.

After Pennsylvania's first abortion restrictions took effect in the early 1980s, the number of abortions in the state declined sharply -- while rising nationwide. In the 1990s, the nation's abortion rate dropped as states began following Pennsylvania's lead.

"We were light years ahead of everybody else," said former state Rep. Stephen Freind, the architect of virtually all of Pennsylvania's abortion restrictions.

A 2004 study commissioned by the conservative Heritage Foundation found that abortion restrictions -- including parental involvement, informed consent, a ban on the type of late-term abortion known as partial-birth abortion, and a ban on Medicaid funding of abortion -- all helped reduce the number of abortions.

Abortion-rights activists cite other factors for the nationwide drop in abortions, including a decline in the number of unwanted pregnancies.

Alito Seen As Smart, Serious, Cautious (AP)

By NANCY BENAC, ASSOCIATED PRESS WRITER

AP, January 4, 2006

WASHINGTON -- Samuel Alito's ninth-grade Latin teacher still swoons at how beautifully he conjugated verbs. A fellow judge admires him as someone who won't use five words when two will do.

From the classroom to the courtroom to his neighborhood, President Bush's latest nominee for the Supreme Court leaves a distinct impression on people. Talk to those who know him best and a portrait emerges of a smart, serious, cautious young man who grew up to be a smart, serious, cautious judge.

His confirmation hearings begin next Monday.

Alito is hardly a social dynamo. But he is well-liked as a regular guy who doesn't lord it over others just because he's way smarter than truly regular guys.

Interest groups on the left portray him as an extremist eager to impose his conservative views on the nation. But among those who have worked closely with Alito over the years, even liberal Democrats tend to characterize him as fair-minded, measured and pleasant.

Joshua Schwartz, a George Washington University law professor who worked alongside him in the Reagan Justice Department but describes himself as a liberal Democrat, credits Alito with having "small-c conservative values."

"He's an incrementalist. He's cautious. He believes very deeply in hearing all sides of an argument before making a decision."

Alito got one of his first big career breaks in part because his father, too, had a reputation for evenhandedness.

In 1976, the young Alito's resume jumped out at federal appellate Judge Leonard Garth from among hundreds pouring in from would-be law clerks.

The judge had been so impressed by a presentation given years earlier by Alito's father, an Italian immigrant who became a New Jersey legislative aide, that he remembered the name and called the son in for an interview. Alito "served me precisely as I like law clerks to serve me, both as a sounding board and an incisive, analytical individual," says Garth, a moderate conservative appointed by Richard Nixon. "Sam is very reserved," Garth said, noting his thrifty way with words.

Now, Alito has been Garth's colleague on the 3rd U.S. Circuit Court of Appeals for 15 years in New Jersey.

"I think he is the brightest person on our court," says Garth, including himself.

Alito has long managed to be the smartypants who doesn't act like a smartypants.

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"I remember right where he sat: first row, second seat," says 91-year-old Grace Bolge, who taught him Latin at Reynolds Junior High in Hamilton Township outside Trenton. Alito easily nailed the nuances of verbs and the subtleties of proper translation, but never held himself out as better than the others, she recalls.

"There's a humbleness about him that I never saw in anybody else," says Bolge.

Decades later, Alito's law clerks voice similar sentiments.

Former clerk Katherine Huang remembers Alito dutifully taking phone messages for the whole office when everyone else took Good Friday off.

When one of Alito's fellow judges on the 3rd Circuit erected statues outside the entrance to her office, Alito's staff installed pink plastic flamingos at his doorway.

"He really enjoyed that," said Huang.

Alito, 55, credits his two college-age children with helping him keep his ego in check - "on a pretty much daily basis."

A neighbor, lawyer Hilary Brunell, says Alito displayed a restrained approach when they teamed up to coach high school students on a mock trial team that included Alito's son. Alito advocated much the same approach as they exchanged ideas about parenting, Brunell said.

"His attitude was that you can offer guidance and then it's up to the child to take it or not," she said.

Make no mistake, though, Alito can show flashes of pique.

His 91-year-old mother, Rose, says Alito was upset that he didn't get nominated for the Supreme Court earlier, when President Bush tapped Harriet Miers, who later withdrew her nomination. In 1988, when the National Law Journal ran a 211-word story suggesting that Alito had not had a good year as New Jersey's U.S. attorney, he penned a biting 522-word response that said the article "required the sacrifice of even minimal journalistic standards."

It was in his college years - first at Princeton, then Yale Law School - that Alito's conservative streak became apparent, though he was hardly outspoken.

Mark Dwyer, Alito's friend at Princeton and roommate at Yale, says it "wasn't in Sam's nature to sit around and chat about who should be elected" or what laws should be enacted. "I would have guessed that he was a natural supporter for Republican politicians and moderate to conservative, but not extreme conservative," says Dwyer.

At Yale, Dwyer remembers Alito as so tidy the roomies were known as the "two Felixes."

At Princeton, Dwyer and Alito chose to take their meals at Stevenson Hall, a university-run alternative to the private eating clubs that are somewhat akin to a fraternity system. Dwyer called it a "muted statement" against the selective nature of the clubs.

Marsha Levy-Warren, who graduated from Princeton a year after Alito in 1973 and was part of the university's first coed class, says he was known to be conservative but not noisy about it. While Princeton was not as restive as some other universities at the time, she says, anti-war and liberal sentiments nonetheless were strong, and students such as Alito who "stood kind of in the opposite camp were known."

As unrest mounted, the university set up a special committee of faculty, students and administrators to study how the school was governed. Stanley Kelley, the professor who chaired the committee, selected Alito as his staff assistant.

Kelley, now retired, said that in a highly charged environment, Alito didn't align himself with extreme views on either side.

"He chose to associate himself with the middle," said Kelley.

Alito himself painted a much sharper and conservative political self-portrait in completing a 1985 application for a job in the Reagan Justice Department. He wrote of being most influenced in the 1960s by the writings of William F. Buckley, the National Review and Barry Goldwater's 1964 campaign. He also cited his membership in the Concerned Alumni of Princeton, a conservative alumni group known for its opposition to opening the school to women and bringing in more minorities.

"That's all certainly news to me," says Dwyer. "I would remember if Sam had ever said anything pro-Goldwater."

Levy-Warren, a New York psychologist and psychoanalyst, said she finds Alito's disclosure of membership in Concerned Alumni of Princeton "distressing" and "painful," remembering CAP as a polarizing group that felt the school was moving in the "wrong direction" by welcoming women and minorities.

Alito now says he has no recollection of being a member of the group or participating in its activities.

As documents from Alito's past have trickled out, the judge's strongly conservative paper trail sometimes seems to clash with his more measured public comments.

He has been working to reassure senators that he maintains an open mind, despite pronouncements like those on the job application stating that he was "particularly proud" of his work on cases arguing that the Constitution does not protect the right to an abortion and opposing racial and ethnic quotas.

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"The idea that Alito maintains an open mind on reproductive rights is simply not credible," says Ralph Neas, president of the liberal People for the American Way. Marcia Greenberger, co-president of the National Women's Law Center, sees "a series of mounting inconsistent statements and evasions."

Sen. Edward Kennedy, D-Mass., said the seeming contradictions mean that Alito will have "an especially heavy burden at the hearings in January to explain the growing number of discrepancies between his current statements and his past actions."

But John McGinnis, a Northwestern law professor who worked with Alito in the Reagan Justice Department, says both the sharply worded documents and Alito's restrained public persona represent different facets of the same Alito.

"It's not such a strange dichotomy," he said. "His ideals are quite conservative and his ideas of how to realize them are quite institutionally pragmatic."

McGinnis describes Alito as having a "Burkean" conservative ideal, referring to Edmund Burke, the 18th century English statesman and philosopher who opposed hasty political changes in favor of gradual reforms.

Just such an approach is evident in a 1985 legal memo Alito wrote that counseled other lawyers in the Justice Department to gradually chip away at abortion rights rather than try to immediately overturn the landmark 1973 Roe v. Wade ruling.

Anthony Kronman, Alito's classmate at Yale and later dean of the law school there, points to Alito's statement on the 1985 job application that he had been drawn to Yale by the writings of Alexander Bickel, a constitutional law professor at the university.

"Bickel's leading virtue, the virtue that he celebrated and put on the highest level, was the virtue of prudence," says Kronman. "My hunch, my hope, is that Sam will prove to be a conservative of the Bickelian variety."

Anti-Alito Push Fails To Sway U.S. (WT)

By Charles Hurt

The Washington Times, January 4, 2006

Despite a major coordinated campaign, liberal interest groups have failed to convince the American public that the Senate should reject Supreme Court nominee Samuel A. Alito Jr.

Every major poll indicates that far more voters think Judge Alito should be confirmed than think he should be rejected. Though that support generally is lower than it was for John G. Roberts Jr. before his confirmation for chief justice in the fall, it is on par with the public support for Supreme Court nominees during the past 20 years.

"Since the nomination of Samuel Alito, left-wing groups have lashed out at him through a number of avenues in an attempt to derail his nomination," conservative activists Sean Rushton and Joseph Cella said in a memo to supporters. "The left's campaign has involved television, radio, print and Internet campaigns, public statements, the issuing of reports, and a van-based road tour. In all these media, the left failed to generate any substantive opposition to Judge Alito."

A poll conducted by The Washington Post just before Christmas, for instance, found 54 percent in favor of Judge Alito's confirmation, compared with 28 percent opposed. A CNN poll last month similarly found 49 percent favoring Judge Alito and 29 percent opposed.

Judge Alito's confirmation hearings before the Senate Judiciary Committee begin Monday.

Liberal interest groups started formulating opposition even before President Bush nominated Judge Alito in late October to replace retiring Justice Sandra Day O'Connor. Before Mr. Bush finished introducing his nominee in a White House ceremony, People for the American Way issued a statement promising to "wage a massive national effort to defeat the nominee."

Other groups quickly followed suit and urged senators to oppose the nomination. They also aired ads against Judge Alito in states such as Maine and Rhode Island, where Republican senators represent more liberal electorates.

"Rolling Justice," a caravan of Alito opponents organized by the liberal Alliance for Justice, traveled through key states to try to raise opposition to the nomination. The effectiveness of the campaign was not clear.

At a December stop in Craig, Colo., three Rolling Justice members stopped at a Holiday Inn to meet with locals. No one showed up.

In an e-mail to journalists yesterday, People For the American Way President Ralph G. Neas said the campaign against Judge Alito represented the most formidable progressive coalition since the defeat of Robert H. Bork's nomination to the high court in 1987.

He said public opinion will turn against Judge Alito once his record receives full attention.

"While the Senate Judiciary Committee hearings on Alito next week will be as civil as the John Roberts hearings, there is no question that there will be much more drama and tension," Mr. Neas said.

Today, the group plans to release a final version of its report on why Judge Alito should be blocked.

Also today, the National Italian American Foundation will kick off a nationwide campaign of supporters who, like Judge Alito, are of Italian descent.

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Independence A Key Issue In Roberts' First State Of Judiciary Report (LAW)

By Tony Mauro, Legal Times

Legal Times, January 4, 2006

The year 2005 was a stormy one for the judiciary, not only because of the death of Chief Justice William Rehnquist, but also because of clashes with Congress over the Terri Schiavo case, the politicking over judicial nominees, and issues such as Supreme Court citation of foreign laws and precedents.

Yet when Chief Justice John Roberts Jr. issued his first annual report on the state of the judiciary last week, he sidestepped those controversial questions and focused instead on what he saw as more bread-and-butter threats to judicial independence: low judicial salaries and high rental costs for courthouses. In doing so, he followed the precedent of predecessors Warren Burger and Rehnquist, who largely avoided controversial topics other than judicial salaries in their 30 years of annual reports.

Higher pay for judges and rent relief for courthouses, Roberts said, would have a "vanishingly small" impact on the overall federal budget but "would go a long way toward maintaining a strong and independent federal judiciary with the resources to administer justice efficiently and fairly. And that is priceless." Roberts also called for increased security for judges in the wake of violence aimed at federal and state judges last year.

Roberts issued the report three months into his tenure as chief justice, which he described as "a bit presumptuous," but said he did not want to break with the tradition of his predecessors.

Rep. Adam Schiff, D-Calif., co-chair of the Congressional Caucus on the Judicial Branch, supports Roberts' appeals, but expressed the hope that Roberts and the rest of the judiciary will do more to build public support for a more broadly defined brand of judicial independence.

"He could set a completely new tone and make an outreach to Congress and to the public to help the people understand that the judge's role is not to be popular," said Schiff. "He did not focus on that aspect of judicial independence." Schiff's caucus comprises two dozen members of Congress interested in improving relations between the legislative and congressional branches. The caucus has not yet met with Roberts, Schiff said.

The salary issue raised by Roberts is a recurring theme for chief justices; in 2002, as Roberts noted, the late Chief Justice William Rehnquist said he was 'beating a dead horse' by raising it. But the situation has only gotten worse, Roberts said, with the real pay of federal judges declining almost 24 percent since 1969. With a raise that began on Jan. 1, the annual salary of the chief justice went to $212,100. Associate justices are paid $203,000, while appeals judges get $175,100, and district court judges receive $165,200.

"There will always be a substantial difference in pay between successful government and private sector lawyers," Roberts acknowledged in his written report. "But if that difference remains too large -- as it is today -- the judiciary will over time cease to be made up of a diverse group of the nation's very best lawyers." Roberts noted that increasing numbers of judges are leaving the bench -- nine in the last year. "Every time a judge leaves the bench for a higher paying job, the independence fostered by life tenure is weakened," Roberts said.

The rent complaint is a newer but growing problem. During the 2005 fiscal year, the judiciary paid $926 million to the General Services Administration in rent, Roberts said, even though the GSA's actual cost of providing the space was $426 million. "The federal judiciary cannot continue to serve as a profit center for GSA," Roberts said. In part because of rising rents, about 1,500 jobs in the judicial branch were eliminated in the last two years.

In testimony before Congress last June, GSA official F. Joseph Moravec defended GSA rental policies as "an honest accounting of the cost of occupancy" for high quality courtroom space. The judiciary is the GSA's largest customer, he said, occupying 2,159 courtrooms and 39 million square feet, a threefold increase in the last 30 years. "It is high quality, functional space with befitting public areas, modern technological functionality and enhanced security features," said Moravec, commissioner of public building services.

Congress To Start Year With Unfinished Business (WT)

By Amy Fagan

The Washington Times, January 4, 2006

Congress will face key issues remaining from 2005 when they return later this month, including legislation to reduce entitlement spending, the future of the USA Patriot Act and a package of tax-cut extensions.

When the House returns Jan. 31, leaders initially will focus on clearing legislation that would collect about $40 billion in savings from entitlement programs across the government -- a top priority for congressional conservatives and President Bush.

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Final passage of the legislation was stymied last month after the Senate approved the final version with a few technical changes, meaning the House must reapprove it.

Ron Bonjean, spokesman for House Speaker J. Dennis Hastert, Illinois Republican, said House leaders "intend to move very quickly" on the spending cuts and an extension of the Patriot Act, followed by a final package that will extend tax cuts.

Congress failed to pass a permanent extension of the Patriot Act last year, opting at the last minute for a one-month extension.

A House Democratic aide said Democrats have been alerted to expect votes Feb. 1 on both the spending cuts and the Patriot Act.

The Senate is scheduled to return Jan. 18. Initial focus will be on the Patriot Act, an asbestos litigation-reform bill and the Supreme Court nomination of Judge Samuel A. Alito Jr., said Bob Stevenson, spokesman for Senate Majority Leader Bill Frist, Tennessee Republican.

Mr. Stevenson said the preference is to approve the Patriot Act without another temporary extension, but that the Senate Judiciary Committee already will be carrying a heavy load with the Alito nomination.

Jim Manley, spokesman for Senate Minority Leader Harry Reid, Nevada Democrat, said "bipartisan concerns" have been raised over the Patriot Act, but Mr. Reid hopes to get "a good compromise bill done as quickly as possible."

Congress also failed to produce a final package of tax-cut extensions last year.

The House and Senate each passed legislation extending many of the same expiring tax cuts, but the main component of each bill is different and a final compromise has not been crafted. The Senate bill's centerpiece would prevent millions more Americans from having to pay the alternative minimum tax. The House bill would extend the reduced tax rate for capital gains and dividends income.

Democrats have argued that the proposed spending cuts would hurt the poor and that extending the tax cuts would benefit the rich.

Mr. Manley said the juxtaposition of the spending cuts and tax cuts could make it "a difficult vote for many moderate Republicans."

Immigration also will be on the Senate agenda early this year. The House approved a border security bill in December. Mr. Stevenson said the Senate will debate the issue, but leaders haven't decided which immigration bill to bring to the floor.

Congress May Focus On Retirement Funds (WSJ)

By Joi Preciphs

The Wall Street Journal, January 4, 2006

WASHINGTON -- Congress is expected to take steps when it reconvenes this month to shore up private pensions, but almost half the workers in private industry won't benefit since their employers offer no retirement plans.

About 48 million full-time employees -- or 45% of the private-sector work force -- receive no pension benefits and their companies offer no retirement-savings programs. Their ranks are expected to grow as larger employers shed retirement obligations and many small businesses steer clear of them altogether.

Workers without retirement benefits are disproportionately Hispanic, young, single, less-educated and lower-paid than the work force in general, according to an analysis of government data by the Employee Benefit Research Institute, a nonpartisan think tank here. They work largely in the health-care, custodial, retail, manufacturing, construction, mining and agriculture industries, and for small companies across the economy.

Hortencia Lemus has worked for 30 years at an Angelica Textile Services laundry plant in Colton, Calif., with no retirement benefits. Concerned about how she will support herself after retirement, she and many co-workers went on strike Dec. 20 to press their demands. So far, no settlement has been reached.

"It's going to be hard to survive, and I'm getting older and it's going to be harder for me to find a job somewhere else," Ms. Lemus, a 48-year-old who speaks little English, said through a translator. "It is worrisome to think about looking for another job and starting brand new at a new place at our ages."

Small businesses, defined as companies employing fewer than 500 workers, employ almost half the private-sector work force and have the lowest rate of employer-sponsored retirement plans. Many business owners say they can't afford to fund both retirement and health benefits, and that their employees prefer health coverage.

Mike Sincavage owns an excavation company in Blakeslee, Pa., that employs five workers. Health-insurance costs jumped 27% this year, he said, not leaving much money to offer other benefits. Having health coverage is important to his workers, he said, as well as being able to maximize take-home pay.

"They said they would take care of their own retirement," Mr. Sincavage said. "In our type of business, the typical employee needs as much money in their pockets as they can have."

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But with Americans living longer, workers without pension plans or sufficient savings are vulnerable to sharp drops in living standards after retiring. More than half of all workers reported that apart from their homes, they had less than $25,000 in total savings and investments, according to an EBRI report last year. Many workers say they can't save more because of rising living expenses, the report said.

Americans long have relied on three sources of income in retirement: the government Social Security programs, employer-provided pension plans and their own savings. For several years, Congress has been trying various means of encouraging people to save more themselves, including such changes as the 1997 bill that created Roth individual retirement accounts.

As old-style defined-benefit pensions -- the ones that pay a set sum each month -- atrophy, some lawmakers and analysts have been urging Congress to expand government incentives to increase personal savings even though previous attempts have had limited success.

In 1996, Congress created the Savings Incentive Match Plan for Employees, or Simple plan, to encourage companies with fewer than 100 workers to set up retirement-savings plans. Administrative paperwork requirements for companies are reduced if they make matching contributions or offer 2% of each full-time worker's compensation to the plan. But relatively few eligible employers have taken advantage of the program, says Denny Dennis, senior research fellow at the National Federation of Independent Business, a 600,000 member small-business advocacy group.

Provisions in the 2001 Economic Growth and Tax Relief Reconciliation Act, or the Bush tax-cut bill, also offered tax incentives for retirement-plan sponsors and further simplified program rules, but an EBRI survey said the changes have done little to increase plan sponsorship among small employers.

"To some extent it's a 'rob Peter to pay Paul' kind of thing" for many businesses, Mr. Dennis said about weighing one kind of benefit against another that many smaller employers face. But with financial-service companies such as Charles Schwab Corp., Fidelity Investments and others recently announcing plans to eliminate certain account-servicing fees, he said, more companies would likely consider the option.

Kathy Stokes Murray, a spokeswoman for the Brookings Institution's Retirement Security Project initiative, says one option Congress could pursue is expanding the Saver's Tax Credit. Created in 1991, it provides families with annual incomes under $50,000 with an income-tax reduction equal to 50% of funds contributed to an individual retirement account or other qualified savings plan. Its current form, however, doesn't help lower-income families who don't owe taxes.

Although Capitol Hill lawmakers floated measures last year to make the credit permanent or extend its sunset to 2008 or 2009, Peter Orszag, a Brookings Institution economist, called the proposals "partial and incomplete" because none of them broaden eligibility for middle-income households or index the credit's adjusted gross income phase-out limits for inflation.

Maryland Democratic Rep. Ben Cardin, who supported making the Saver's Credit permanent in the pension-overhaul package recently passed by the House, said the idea of making the credit refundable so that more lower-income workers could benefit has encountered resistance from lawmakers who have a "philosophical opposition" to it. He says there is bipartisan interest in the issue, but supporters will have to win over congressional leaders to gain further changes.

Groups like the Retirement Security Project also are pushing to lift rules that make it difficult for lower-income people to set aside savings and continue to qualify for government benefits such as food stamps and Medicaid, the federal-state health-care program for the poor and disabled. The current asset rules, they say, "create disincentives for low-income working families to build savings."

The proposal also would help families with modest retirement savings who run into financial trouble, such as a job loss or major medical expense, and are forced to spend retirement savings because the money prevents them from qualifying for government aid.

"I think policy makers will address these issues in the near to immediate term," Mr. Orszag said. "It's not going to go away as the baby boomers continue to age. It's going to become increasingly more salient as the years go on."

Right Scales Back Election Year Agenda (HILL)

By By Jonathan Allen

The Hill, January 4, 2006

After a year in which many of their highest hopes were dashed, diminished or deferred, fiscal and social conservatives are compiling less ambitious legislative wish lists for 2006.

Republicans of all stripes looked at 2005, with expanded majorities in the House and Senate and President Bush just starting his second term, as a rare opportunity to win enactment of favored legislation.

But the new year is not seen that way at all. “The political reality is, generally speaking, that you have a tough time with big, ambitious ideas in an election year,” said former Rep. Pat Toomey (R-Pa.), the president of the anti-tax Club for Growth.

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No prize was bigger, or ultimately more elusive, last year than Bush's proposal to overhaul Social Security. But other desired, big-ticket legislative items, from a constitutional amendment banning same-sex marriage to an extension of the 15 percent tax rate on capital gains and dividends, also fell short.

Projected entitlement cuts were trimmed, a tax-cut package was pushed into the new year, and a reformation of the tax code never made it out of the legislative starting gate.

Many interest groups have scaled back their 2006 dockets, although few admit it.

"We decided a couple of religious-discrimination issues would be at the top of our agenda," said Jim Backlin, legislative director for the Christian Coalition. Among them are an effort to force cable companies to carry all local signals, particularly those of religious broadcasters, on their systems and one to support the use of Jesus' name in military chaplains' prayers.

The "must carry" broadcasting issue was the top priority for the group last year, according to its website. But the No. 2 item, a Social Security overhaul, is no longer on the list.

Last year's Christian Coalition agenda had 15 items; this year's version has just 10.

In some cases, new legislative wish lists look a lot like the old ones. Andrea Lafferty, executive director of the Traditional Values Coalition, disputed the notion that expectations for 2006 have been scaled back.

"In no way do I feel that we've lost momentum," said Lafferty, whose group remains focused on a litany of judiciary issues, including the confirmation of Judge Samuel Alito to the Supreme Court and constitutional amendments supporting the Pledge of Allegiance and banning gay marriage.

Lafferty chalks up stagnation on a number of the group's highest priorities last year to "the nature of the beast."

"Congress is not a fast-moving beast," she said.

Leaders at the Christian Coalition and Traditional Values Coalition, like those at other interest groups, lobbying shops and think tanks around town, will listen for their primary priorities when President Bush makes his State of the Union address late this month.

"We make our views known before the State of the Union each year," Backlin said.

"We're definitely hoping that the president will make mention of the success of adult stem-cell research," said Lanier Swann, director of government relations at Concerned Women for America. Many social conservatives are preparing for an early Senate battle over embryonic stem-cell research. Several activists pointed to the end-of-year enactment of legislation supporting cord-blood research as a major victory in 2005.

Fiscal conservatives will be parsing the president's words and the numbers behind them.

Brian Riedl, a federal budget expert at the Heritage Foundation, said he hopes Bush's speech has "a low price tag."

Typically, the State of the Union includes a long list of proposals that add up to a big cost for taxpayers, Riedl said.

"Instead, call for reductions in wasteful and unnecessary spending," Riedl advised. "Lay out a broad vision of why small government is good for taxpayers."

Riedl lauded lawmakers for what he called "cosmetic efforts" to rein in government spending in 2005. But in 2006, he said, "they need to do a better job of walking the walk."

While most of official Washington expects a tougher legislative road in a midterm election year, one tax lobbyist with close ties to the House and White House expressed hope that the approach of the end of Rep. Bill Thomas's (R-Calif.) tenure as Ways and Means chairman would prompt enactment of new tax laws.

"Thomas is trying to cement a legacy," the lobbyist said.

In addition to the Alito confirmation fight and abortion-related issues, social conservatives are gearing up for a Senate battle on immigration policy after House passage of a bill in 2005.

The issue tops the conservative Eagle Forum's Web page.

"Senators who are up for reelection in 2006 had better listen to the House votes," longtime conservative activist Phyllis Schlafly warned in a column.

Whatever their legislative goals, activists may not have much time to make them a reality before the next election.

"There is a shorter window," said Rep. Adam Putnam (R-Fla.). He said a string of legislative victories in 2005 was overshadowed by high expectations on Social Security, the enactment of laws just before long recesses and the devastation wrought by Hurricanes Katrina and Rita in the latter part of the year. A burgeoning lobbying scandal could easily be added to the list.

"Last year was the year for vision," Putnam said. "This next year's going to be a year for nose-to-the-grindstone, competent governance."

A Gentler Capitalism (WP)

By Harold Meyerson

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The Washington Post, January 4, 2006

On the field of ideology, 2005 was a lousy year for the American right. Twice -- in the president's proposal to privatize Social Security and in the government's failure to save New Orleans -- it confronted the public with the prospect of a radically reduced government. Twice, the public recoiled at the sight. In retrospect the year's biggest mystery is how George W. Bush thought he could privatize Social Security. Essentially Bush assumed the role of the national CEO who tells his workers he's dumping their defined-benefit pensions for some ill-defined 401(k) investment schemes. And essentially the American people responded with the same anger and anxiety that airline and auto employees have shown when their bosses reneged on their commitments of a secure retirement. The difference, of course, is that the American people have a lot more power as voters than they do as workers.

Bush's plan to scuttle Social Security was in tatters when Hurricane Katrina blew ashore. For Bush this was a double whammy, since FEMA's failure to respond to the storm underscored the image of a government that would not be there when needed. In today's America, where business has largely abandoned the guarantees of security it used to provide its employees, a similar abdication by government was clearly not what the public sought.

For the pervasive insecurity that is inextricably part of today's capitalism has become the dominant fact of modern life. "The fragmenting of big institutions has left many people's lives in a fragmented state: the places they work more resembling train stations than villages," writes sociologist Richard Sennett in "The Culture of the New Capitalism," a newly published collection of lectures he gave at Yale University in 2004. Throughout most of the 20th century, the insecurity endemic to capitalism was mitigated by business institutions organized, as Sennett's great predecessor Max Weber first noted, along military lines. The corporation gave the employee a place and a ladder, and in such a lifelong institution, Sennett notes, "it became possible to define what the stages of a career ought to be like, to correlate longtime service in a firm to specific steps of increased wealth."

Sennett is no apologist for the old corporate order, but it did impart a structure to people's work lives and a place to hone their crafts. The new workplace, by contrast, is a brave new world of short-term employment and relationships, where experience is not necessarily a virtue and institutional memory is sketchy at best. It may be a fine place for young workers, but "as middle age looms and children, mortgages and school fees appear, the need for structure and predictability in work grows greater." The frequent migration of executives from one firm to another, Sennett adds, imposes further costs on employees: "This managerial revolving door has meant that the steady, self-disciplined worker has lost his audience."

In the absence of a more structured work life, what Sennett sees is a more muddled sense of self. He finds that confusion among displaced middle-aged workers, but also among young college graduates who, compared with their counterparts of the 1970s, are less able to articulate their career goals. In an economy that disdains continuity, how exactly do you define "career"?

From his interviews with a wide range of workers, Sennett turns up a widespread resignation to these immense changes in economic life. That doesn't mean, though, that the American people aren't reacting to this profound shift in their lives, and their sense of their lives. The increased prominence of religion in American life over the past several decades, I'd surmise, is in part a reaction to this embattled sense of self. And if most Americans take globalization as a given, many are increasingly enraged at our relatively open borders and the immigrants who cross them. These are two responses to the new insecurity that the right has exploited, though neither does anything to reestablish a more benign economy.

For the left, what 2005 has demonstrated is that while Americans have no great love for government, they do expect it to provide a baseline of security -- the more so since the employer-provided benefits of the past 60 years are going the way of the dodo. That means that government-supported universal health insurance will soon be back on the nation's agenda. But that's the easy part. Rebuilding the kind of security that defined private-sector economic life for most of the past century, and that helped individuals define themselves, is a conundrum that's daunting even to contemplate.

And yet: The new capitalism disdains stability; human beings, on the whole, don't. And immodest as it may be to alter the terms of capitalism, it's a damned sight easier than changing human beings.

Bush Loyalist Takes Economics To The Political Stage (FT)

By Caroline Daniel

Financial Times, January 4, 2006

In the last two months, Faryar Shirzad has been to Kenya, Uganda, Mongolia, Japan, China, the UK and Russia. He has just returned from the gruelling World Trade Organisation talks in Hong Kong. The only solace is occasional business-class travel.

He has no regrets. As the US deputy national security adviser for international economics, Mr Shirzad says his job is “endlessly fascinating ... It is a real privilege to see a foreign government at the peak of preparedness as they interact with our government, to see the leader of a country sitting down with ours talking through the difficult issues of the day.”

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After three years at the National Security Council, Mr Shirzad was promoted to lead its international economic staff. To ensure better co-ordination between the economic and foreign policy halves of the White House, he reports to the National Economic Council.

Trade, and its impact on political freedom rather than just commercial interests, is a key theme for President George W. Bush. "Condoleezza Rice [US secretary of state] and Stephen Hadley [national security adviser] are both very cognisant of the degree to which economics are now a driving element of our position in the world and the conduct of international relations ... Both are very mindful of the importance of integrating the economic agenda into the broader national security agenda," says Mr Shirzad.

His portfolio includes oversight of international finance, trade, environment, energy, investment, development assistance, humanitarian assistance and disaster response, being the G8 "sherpa" – the president's personal representative to the G8 process – and managing his preparatory work for most of the large economic summits.

Grant Aldonis, former commerce under-secretary for international trade, who calls Mr Shirzad his "best professional friend", sums up his role: "He is the last guy the president talks to about international economic issues before a decision is made ... He is the consummate staffer. He reserved judgment, thought through problems and gave unvarnished advice."

A framed, handwritten note from the president is prominent on Mr Shirzad's office wall. He is proud but modest, saying he is too embarrassed to read the presidential praise aloud.

Mr Shirzad is attentive without being obsequious. He is seen as a good negotiator and is effusively loyal to Mr Bush, whom he lauds some ten times on different issues during the interview. The only long pause comes when asked if Mr Bush's decision to impose steel tariffs dented his image on free trade.

For all his discreet style, he is passionate about trade and in agreement with Mr Bush's view of freedom and the importance of democracy, drawn from his own life experience. He is the son of an Iranian diplomat, was born in London and lived in Pakistan and Rome. At 13, he was living in New York during the Iranian revolution in 1979 and vividly recalls the disruption for his family.

"My father had been consul-general, living in a big house, and we had to very quickly get out and assume a very low-profile existence. I cannot imagine what my parents went through, with four children, to lose their country, their job and most of their life assets. The thing we had going for us was our health, and the fact that we, by the grace of God, were in the United States."

The family moved to Bethesda, Maryland. His mother became a census-taker, checking up on families who hadn't filled out their 1980 census forms. He and his father lugged phone directories door to door. The family also set up a delicatessen and began stocking a few Iranian books.

Eventually the books took over so they sold the deli and started a book business, Iranbooks, which is still in operation today. "I think they at one point had the largest collection of Persian-language books outside Iran."

Continuing the career abruptly ended for his father, Mr Shirzad has forged a career in international affairs. He studied finance and went to Harvard graduate school to study public policy, before going to law school. He became a trade lawyer for seven years then served on the US Senate finance committee on the Republican staff.

"Bill Roth [Republican chair of the committee] was a very important influence. He was very much the embodiment of the greatest generation who went into public service at a young age and often at great personal sacrifice."

On the Hill he worked to get fast-track approval for trade deals for the president, which had been bogged down in a decade of partisan bickering. Mr Bush has since used this authority to pursue trade agreements in the Middle East with Morocco, Jordan, Bahrain, the UAE and Oman.

"We are seeing an agenda take hold in places like the Middle East, one that will have an enduring legacy beyond the time that the president is in office," he says. Officials are conscious of making the best use of that authority before it expires in 2007. "It is why the president has been so bold on the trade and WTO agenda."

Some trade analysts, however, argue that this record has come at a price, squandering political capital on obscure deals and leading to congressional fatigue at a time when Democrats are more resistant to supporting free trade agreements. The administration must also build support for a more ambitious Doha round.

Mr Aldonis says Mr Shirzad's challenge over the next year is to "mobilise political support when other themes are working against it, and find a strategy of appealing to internationalist Democrats. They came out of a nothing in Hong Kong and they have got a year left. How do they get out of the cul-de-sac of negotiations?".

Mr Shirzad, ever cautious, offers few clues. "We always have to worry about protectionism because politically it is an easy course for people to take. Trade legislation is hard work and politically difficult, but it is important."

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Pharmacists Deal With Medicare Confusion Computer Glitch, Missing Cards Among Troubles (USAT)

By Wendy Koch

USA Today, January 4, 2006

Pharmacists struggled with billing glitches and missing drug cards as they tried to fill prescriptions Tuesday under Medicare's new drug benefit, the most sweeping expansion to the program since its inception in 1965.

On the first full business day the benefit was available, pharmacists said some customers came in without cards or letters showing their eligibility and others were surprised that they had to pay full cost until meeting a deductible.

"We're trying everything we can to help, but people are confused," said Samuel Mogbo, a CVS drug store pharmacist in Chicago. He said some customers hadn't received their cards and others had lost them.

About 21 million senior and disabled Americans have some kind of prescription-drug benefit. The majority either kept coverage from former employers or stayed in a Medicare Advantage plan they had previously joined. About 6.2 million people were automatically enrolled in the new Medicare program because they had been in state programs for low-income people. About 1 million joined on their own.

Those eligible have until May 15 to sign up without penalty. They can choose from an array of plans.

At Linda's Pharmacy in Chicago, most customers had their cards and those who didn't returned home to get them, said pharmacist and owner Linda Dobson. She said the pharmacy experienced "minor" billing problems.

Robert Hayes, president of the Medicare Rights Center in New York City, blamed many of Monday's problems on the malfunction of a major computer database used by pharmacists to check eligibility.

At Scheer Drugs in the Bronx, where more than 90% of Medicare recipients are low-income seniors who were automatically enrolled, "it's chaos," pharmacist Bill Scheer said.

"People are falling through the holes," he said. "They need their medicine."

Larry Kocot, senior adviser to Medicare Administrator Mark McClellan, said sheer volume caused computer slowdowns Monday, but these problems had been resolved by Tuesday.

"This is going very well," said Gary Karr, spokesman for the Centers for Medicare and Medicaid Services. He blamed snags on heavy computer traffic, pharmacists forgetting billing details and beneficiaries not having cards. "It's not a magic system," he said.

"It is confusing, but consider the volume of change. … This is a massive undertaking," said Glenna Canitz, executive director of Bay Pharmacy in St. Petersburg, Fla. Her pharmacy, which has filled thousands of prescriptions under the new benefit, experienced some denials, but she considered them "opening-day glitches."

Medicare Expands Tier Pricing System Cancer, Arthritis, MS Drugs Fall In Highest Levels (USAT)

By Julie Appleby

USA Today, January 4, 2006

Medicare's drug benefit, expanding on a practice now in limited use in the private sector, requires patients to pay larger co-payments for expensive treatments, including some drugs for cancer, arthritis, multiple sclerosis and anemia.

In the private sector, some employers' insurance plans charge more for some so-called "lifestyle" drugs, such as impotence treatment Viagra or some allergy remedies.

But the Medicare program, which took effect Jan. 1, expands those charges into new territory: treatments for serious or life-threatening conditions.

While most working-age adults have insurance with two or three different "tiers" corresponding to how much they pay at the pharmacy for certain drugs — with generics the cheapest and brand-name drugs more — about 40% of the Medicare plans have four tiers, according to the analysis by Avalere Health, a for-profit research firm in Washington that did an analysis of the drugs earmarked for higher payments by patients. Fourteen percent have five tiers.

In comparison, 4% of workers with health insurance through their jobs have a fourth tier, according to a nationwide survey by the non-profit Kaiser Family Foundation.

In that fourth tier — where Medicare patients will most commonly pay 25% to 33% of the cost of the drug rather than a flat dollar amount — are such expensive treatments as Remicade and Enbrel for rheumatoid arthritis, Procrit and Aranesp for anemia and Copaxone and Betaseron for multiple sclerosis.

That differs, says Avalere President Daniel Mendelson and other benefit experts, from the drugs most commonly found in higher "tiers" in employer-offered plans. Often, those tiers are used by employers generally trying to get workers to think twice about taking expensive drugs for non-life-threatening conditions, such as hair loss, allergies or impotence.

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Tier systems caught on in the late 1990s among employer-offered insurance, initially as a way to get patients to choose lower-cost generic drugs over more expensive brand-name products.

The average co-payment now in private insurance is $10 for generics, $22 for brand-name drugs on an insurer's formulary and $35 for those not on the formulary, according to the Kaiser survey. The average co-payment for a fourth-tier drug is $74.

In Medicare, the tier prices vary, but generics are generally $10 or less, according to an analysis of 10 national plans by Avalere, while brand-name drugs range from $17 to $45 per prescription. Tier-four drugs are generally charged at 25% to 33% of the cost of the drug, although one national plan charges $50 to $69 per prescription.

Under one plan that charges 25% for drugs in the fourth tier, Medicare patients would pay $231 a month for anemia drug Aranesp, which is often used for cancer patients undergoing chemotherapy.

A patient taking Remicade for rheumatoid arthritis would pay $143 a month. The most expensive co-payment is in one national plan with a tier charging 75% of the cost of the drugs it places in that category, which include the breast cancer drug Herceptin (which would cost patients $1,991 a month), colon cancer drug Avastin ($1,839) and cancer drug Gemzar ($92).

Medicare officials say that most patients who did not have other drug coverage before will save substantially under the new program, even if their drugs are in the fourth tier. Instead of paying the full cost of the drug, the patient will have help from the government, especially after going through the "doughnut hole," which is the coverage gap during which the patient pays the full cost of the drugs until he or she has spent $3,600, after which the government pays 95% of the cost.

"In the case of Aranesp, the catastrophic (coverage) will start by the third month if the beneficiary has no other coverage," Peter Ashkenaz, spokesman for the Centers for Medicare and Medicaid Services, said in an e-mail. "Overall, the savings will be high."

But some patients may not be able to pay their way through the doughnut hole, says Kevin Brennan, senior vice president of policy for the Arthritis Foundation.

"They may be out of luck," he says.

In addition, most of the pharmaceutical assistance programs that offered free or low-cost drugs to lower-income patients will no longer do so for those with Medicare drug coverage.

Overall, Brennan says, the Medicare drug benefit is a step forward, but his organization says it will monitor it closely and may go to Medicare officials with suggestions for changes. His organization is also watching what private insurers do. Some may decide to create similar tier structures in their offerings to workers.

"We're really concerned about that," says Brennan, who takes an expensive arthritis drug he says has "changed my life as far as my ability to function" and fears such drugs may become too costly, even for those with insurance, if co-payments rise.

"We're looking at a real crisis," he says. "These are wonderful drugs that are tremendously innovative, but they are incredibly expensive. We as a country are going to have to figure out how to pay for them."

The American Cancer Society is also watching closely.

"Co-payments are an issue for us with any treatment for cancer," says Christy Schmidt, senior director of policy. "All insurance companies look at the bottom line and how to control costs. Medicare is often a leader in policy in the nation. We intend to watch this over time."

In 2002, a policy to charge cancer patients up to $550 per chemotherapy drug and up to $250 per radiation treatment was instituted by PacifiCare for its Medicare managed-care patients. After an outcry, the insurer dropped many of the charges.

The Cancer Society says it knows of no current plans that require special cancer co-payments.

But as ever-more-expensive drugs hit the market, more employers may begin to set up four-tier drug-benefit programs, says Dave Guilmette, managing director at benefits consulting firm Towers Perrin.

"It's a creative way to manage costs," says Guilmette. The Medicare drug program "will stimulate a lot more of this kind of design."

But he doesn't think many employers will place expensive treatments for life-threatening conditions in fourth tiers. Rather, he says, employers are more likely to require the use of disease-management programs or have insurers insist that patients try lower-cost drugs before moving on to higher-cost ones.

"These are people who are typically very sick and need the drugs," says Guilmette. "If you're asking them to pay 50% of something costing $20,000 a year, that isn't a competitive practice."

Eric Michael, pharmacy consultant with Mercer Health and Benefits, says that the fourth tier can make sense if employers and insurers are trying to get patients to realize the cost of expensive treatments, so long as there is an out-of-pocket maximum and the benefit is clearly explained.

He says some employers need to create such a tier to protect themselves from expensive new treatments that may treat both serious and non-serious conditions. Patients would pay more, for example, if they sought the expensive rheumatoid arthritis treatments Humira or Enbrel for a less serious use, such as for the cosmetic treatment of the rash caused by psoriasis.

"We need to make sure the drugs used are medically appropriate," he says. "A lot of plans are not putting those checks in place and are amazed when they spend $12,000 to $13,000 a year to cover a cosmetic thing."

Congress Drops 'Buy America' For Tankers (AP)

By Matthew Daly

The Associated Press, January 4, 2006

WASHINGTON — A defense bill approved by Congress would allow open competition for a multibillion-dollar contract to supply refueling tankers for the Air Force.

President Bush is expected to sign the measure, squelching an earlier House-approved bill that would have helped The Boeing Co. by keeping the Pentagon from buying military equipment from the parent company of European jet maker Airbus SAS.

Boeing lost the lucrative tanker contract in 2004 amid an ethics scandal.

"Buy America" language had been inserted by Rep. Duncan Hunter, R-Calif., chairman of the House Armed Services Committee. However, Hunter agreed to remove the provision last month at the request of Senate leaders and administration officials, who said it could spark retaliatory measures by other countries and limit Pentagon flexibility. Congress voted final passage Dec. 21.

Harald Stavenas, a spokesman for Hunter, said this week the lawmaker would fight for it in the future.

Chicago-based Boeing lost the tanker deal in 2004, after revelations that it had hired a top Air Force acquisitions official who later admitted giving the company preferential treatment.

The deal would have allowed the Air Force to buy or lease 100 Boeing 767 planes for use as tankers, but it was killed by Congress in the 2005 defense authorization bill. The Air Force has said it is likely to reopen the deal to competition, although no formal timeline has been set.

George Behan, chief of staff to Rep. Norm Dicks, D-Wash., said withdrawal of the buy-America clause was expected.

"There's no question there will be an open competition. The real question is whether the Pentagon will ever award the contract to a company that has a major European component, given the (U.S.) complaints about illegal subsidies the parent company is receiving," Behan said.

Dicks' district outside Seattle includes thousands of Boeing workers.

The House bill would have barred the Pentagon from purchasing goods and services from foreign companies that receive government subsidies. While no companies were named, lawmakers said the amendment was aimed at disqualifying Airbus' parent company from bidding on the tanker contract.

Airbus, which is 80 percent owned by the European Aeronautic Defence and Space Co., has long received subsidies from European governments, sparking tension between U.S. and European officials.

EADS, which is based in France and Germany, has said it plans to team with Northrop Grumman Corp. to offer a tanker version of its Airbus A330 passenger jet to produce a new generation of aerial refueling tankers. The contract could be worth at least $20 billion.

Boeing spokesman Doug Kennett said Tuesday that "Boeing welcomes fair competition and the opportunity to tender the best proposal possible."

Randy Belote, a spokesman for Northrop Grumman, said the California-based company believes its partnership with EADS would produce an American-made product. Last year, EADS said it would build a manufacturing plant in Mobile, Ala., if it wins the tanker contract.

Federal Raise Set At 3.44 Percent In D.C. Area; Raleigh-Durham Sees Highest Increase (WP)

By Stephen Barr

The Washington Post, January 4, 2006

Most federal employees will receive pay raises ranging from 2.83 percent to 5.62 percent this year, according to pay tables published by the Office of Personnel Management.

The lowest raises will go to General Schedule employees who are outside the boundaries of 31 specially designated locality pay areas. The highest raise will go to employees in Raleigh-Durham-Cary, N.C., which has been designated as a locality pay zone for the first time and is catching up with nonfederal salaries in that area.

As previously reported, the 2006 pay table for federal employees in the Washington-Baltimore area shows an increase of 3.44 percent in salaries (putting the average federal salary here at $80,425).

In addition to Raleigh-Durham, four other metro areas will receive higher raises than Washington-Baltimore area employees. They are:

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Hartford, Conn., 3.62 percent; Buffalo, 3.75 percent, also a new locality pay area; New York-Newark, 3.77 percent; and San Francisco-San Jose-Oakland, 3.95 percent.

Locality payments are supposed to close the gap between federal and nonfederal pay in 31 metro areas and a catchall category known as the "rest of the U.S." Locality adjustments reflect wage growth and labor markets and do not take into account cost of living, housing and other consumer prices.

Last year, the president's pay advisers calculated that federal employee pay, on average, lagged behind the private sector by 13.37 percent. Some Bush administration officials scoff at the use of the average, contending that some federal employees are paid in excess of private-sector salaries and some federal employees are not paid enough.

In addition to Raleigh-Durham and Buffalo, Phoenix has been designated as a locality pay area for the first time, and workers there will receive a 2.95 percent raise. In the three areas, officials determined that nonfederal salaries were above those paid for comparable GS positions.

Three areas have been removed as locality pay areas for 2006 and will receive transitional pay raises. They are: Kansas City, 2.25 percent; St. Louis, 2.49 percent; and Orlando, 2.8 percent.

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Cronyism And Crises (NYT)

The New York Times, January 4, 2006

Defying early forecasts of easy confirmation, the Senate recessed for the holidays without approving Ellen Sauerbrey, President Bush's lamentable choice to head an important State Department agency that coordinates emergency relief for refugees of foreign wars, persecution and natural disasters. Her nomination has yet to clear the Senate Foreign Relations Committee, raising at least a glimmer of hope that she may not get the job.

Like all too many Bush appointees, Ms. Sauerbrey has political connections that seem her most obvious credential. A former Maryland state legislator and a twice-defeated gubernatorial candidate, she served as state chairman of President Bush's 2000 campaign. She is a favorite of Mr. Bush's far-right base, having pursued an anti-abortion and anti-family-planning agenda in her current patronage post as the American representative to the United Nations Commission on the Status of Women.

Unlike previous appointees to head the State Department agency, the Bureau of Population, Refugees and Migration, Ms. Sauerbrey has zero experience in emergency management and refugee resettlement. In the wake of the bungled response to Hurricane Katrina by a similarly uncredentialed appointee, Congress has become more sensitive to charges of this kind of cronyism. A few weeks ago, the Foreign Relations Committee bowed to a request from Senator Barbara Boxer and put off its planned vote on Ms. Sauerbrey.

Ms. Boxer is not the only committee member concerned by Ms. Sauerbrey's thin résumé for overseeing a $1 billion bureau with life-and-death responsibilities for helping to set up refugee camps and arranging for adequate food and protection. Senators on both sides of the aisle are troubled, and the nomination's approval by the committee is not the sure thing it once seemed.

The worry now is that Mr. Bush will bypass the Senate and install Ms. Sauerbrey on his own by using a recess appointment, the same tactic he used to make John Bolton the United States ambassador to the United Nations. The president should do just the opposite. The Senate's delay is a chance for Mr. Bush to rethink Ms. Sauerbrey's elevation and find someone with solid credentials for the refugee job.

OTHER NEWS:

Only 1 W. Virginia Coal Miner Now Said Found Alive (REU)

Reuters, January 4, 2006

TALLMANSVILLE, West Virginia (Reuters) - Only one of 13 miners who were in a West Virginia coal mine when it was hit by an explosion was found alive, a company official told family members on Wednesday, after reports hours earlier that 12 had survived led to rejoicing.

Virginia Dean, whose uncle was in the mine, said, "Only one lived. They lied."

12 Found Alive In W.Va. Coal Mine (WP)

By Ann Scott Tyson

The Washington Post, January 4, 2006

DOJ_NMG_0008118

SAGO, W.Va., Jan. 3 -- A dozen miners trapped 12,000 feet into a mountainside since early Monday were found alive Tuesday night just hours after rescuers found the body of a 13th man, who died in an explosion in an adjacent coal mine that was sealed off in early December.

The bells at the Sago Baptist Church pealed, and joyous relatives rushed outside to celebrate their miracle: Miners surfacing after being in the cold, damp Sago Mine for 41 hours. Gov. Joe Manchin III said some would need medical attention.

"Everybody ran from the church screaming, 'They're alive! They're coming!' " said Loretta Ables, whose fianc, Fred Ware, was among the missing miners. She had lost hope when she learned about the dangerously high levels of carbon monoxide in the mine, but she was elated as she waited outside the church. "I feel great, very great."

The miners had apparently done what they had been taught to do: barricaded themselves in a pocket with breathable air and awaited rescue.

On Monday morning, a cart that takes miners deep into the mine had dropped the 13th miner off at his work station. It was 11,200 feet down the air intake channel, at the intersection of the sealed-off mine, where authorities think the blast occurred. Only 700 feet farther, the miners stopped the cart and walked off to begin work. They took their lunch buckets and gear. Their cart, undamaged by the blast, was still on the track.

Earlier Tuesday night, Manchin had held out hope for the 12, saying they "did not get the force of this blast."

"Our hopes are still high" for the other miners, the governor said. He said miracles happened in his state.

Bennett K. Hatfield, president of International Coal Group Inc., said: "We are clearly in a situation where we need a miracle, but miracles happen."

Federal regulators have cited the mine, in north-central West Virginia, more than 270 times in the past two years for safety violations, a third of them considered "significant and substantial," according to the Mine Safety and Health Administration. The problems included mine roofs that collapsed without warning, faulty tunnel supports and dangerous buildups of flammable coal dust. Recent violations included inadequate ventilation to dissipate dangerous gases.

Early Tuesday, rescuers drilled a 6 1/4 -inch hole 260 feet into an area near where the miners were thought to be. They measured carbon monoxide of 1,300 parts per million -- more than three times the level a person can safely breathe for 15 minutes.

After pounding on a pipe for 10 minutes, a common method for miners to communicate, rescuers lowered a microphone into the hole and picked up no response. A camera lowered into the hole showed no signs of wide-scale destruction such as a roof collapse from the explosion, making officials optimistic that rescuers would not have to dig through much debris.

Word of the deadly levels of gas in the mine left family members distraught. Some broke down sobbing, and others grew quietly somber.

"It's hard to hear they might not be coming out," said Michelle Mouser, a niece of Terry Helms, a fire boss who inspeced the mine for problems each day before the production crews entered. "It's real down," she said of the mood of relatives gathered at the church as she sat under a drizzly, overcast sky earlier Tuesday.

"My heart goes out to each and every one of them," said Vinnie Ables, 30, Tuesday night. "At first I had no hope, and then I started to pray."

Except for relatives and friends of Terry Helms, whose relatives had told reporters they suspected he was the 13th man since the body was found at his work station, there was jubilation. People at the church sang a familiar hymn, "How Great Thou Art," as other relatives sped to the scene to greet the miners.

"I got scared a lot of times, but I couldn't give up," Charlotte Weaver, wife of miner Jack Weaver, told the Associated Press. "We have an 11-year-old son, and I couldn't go home and tell him Daddy wasn't coming home." Through the day, mine officials moved to speed the advance of the eight-man rescue teams, especially after a 1,300-pound robot equipped with a special camera became bogged down in mud while exploring the mine. The teams pressed through dank five-foot-high tunnels, hastily repairing ventilation systems as they went, but forgoing other repairs.

Hatfield said damage in the mine "resembled" that of a methane explosion. Methane is naturally produced in coal mines and is highly combustible. The "very substantial" explosion occurred in the sealed-off mine near where Helms's body was found.

Although their entrapment was not similar, the joy at the rescue of the 12 mirrored the relief 3 1/2 years ago when nine miners were brought to the surface one by one after being trapped for more than four days at the Quecreek mine near Somerset, Pa. Mining experts credited improved training in helping the miners to save themselves in both the Quecreek and Sago incidents.

Over railroad tracks and down a winding road along the Buckhannon River near the mine, miners' family members waited with increasing anxiety, remembering the last time they saw their loved ones.

Sam Luntz, 61, recalled urging his brother-in-law, miner Martin Bennett, 50, to retire. "He was at my house on Christmas Eve, and we talked about retiring. He laughed and said he'll probably work at the mine for the rest of his life," Luntz said.

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Despite arthritis and the telltale cough of black lung disease, Bennett would not apply for disability benefits, Luntz said. His brother-in-law "loved his job."

Bennett's son is also a miner, but Luntz said it is unlikely he will return to the dangerous work, "especially if his dad don't come out alive."

In the hilly backwoods of West Virginia, mining runs in families for generations, and when disaster strikes -- this one is the biggest in recent local memory -- the community pulls together.

"Upshur County is like family -- when one person is hurt, we're pretty much all hurt," Sandy Fultz, an emergency medical technician and volunteer firefighter, said as she directed traffic near the mine.

Carmalita Rice, 19, a neighbor of missing miner Fred Ware, 59, said she knew the tall, thin widower was at risk the moment she heard the blast, which shook her bed. "We knew his schedule, so we knew he was in it," she said.

Helms's son Nick Helms, 25, said he was afraid to attend a briefing by mine officials. "Sometimes I can't get up the nerve to walk in. I'm scared of the news."

Terry Helms's fiance, Virginia Moore, said she packed his lunch bucket with sandwiches before he headed to work before dawn.

" 'Okay, babe. I'll see you tonight,' " she said he told her as he stepped into his red pickup truck.

"Be careful," she urged him.

From the morning darkness, he answered, "I will."

Relief Sweeps W.Va. Mining Town Families Learn 12 Miners Found Alive Underground (USAT)

By Tom Vanden Brook

USA Today, January 4, 2006

TALLMANSVILLE, W.Va. — Twelve miners trapped inside a coal mine for 42 hours were found alive shortly before midnight Tuesday, prompting screams of joy from family members in a nearby church.

“They're all alive!” screamed one woman as she ran out of the church, its bells ringing in the dark.

Harley Ables, 29, said Gov. Joe Manchin told the families that 12 of the 13 miners were OK and coming out. One miner had been found dead.

Earlier in the evening, Ben Hatfield, president of International Coal Group, which owns the mine, said rescuers had yet to find signs of the other miners. The vehicle they had been traveling in had been found abandoned.

Hatfield said at the time that it appeared that the other miners had survived the explosion Monday and had sought safety in another part of the mine.

“It's another glimmer of hope but raises the question of where the other miners could have gone,” Hatfield said.

Telling the miners' families that a body had been found, he said, was “about the hardest thing I've ever had to do.

Rescuers had to stop advancing through the mine shafts temporarily while they tried to restore ventilation sufficient to allow them to move farther, Hatfield said. The explosion disabled vents in the shaft.

“We remain hopeful there'll be some good news before it's all over, but hopes are certainly stretched thin,” he said.

Hatfield said he did not know how the unidentified miner died. The body was found about 700 feet from the vehicle. He said rescuers would keep looking for the others. He said there was no evidence of a roof cave-in or collapse in the mine, and the vehicle was not damaged or thrown off its track.

Prospects of finding the miners alive were bleak. Before reaching the body, the rescuers had drilled narrow holes into the mine, inserted air monitors and found levels of carbon monoxide more than three times the maximum regarded as safe. The deadly gas is a byproduct of combustion, such as an explosion.

A camera lowered down a narrow hole had found no signs of the miners. Drilling crews pounded on steel pipes but heard no sounds or response from the missing men.

The rescue crews were in the farthest reaches of the mine, 11,200 feet from its entrance, when they found the body.

The missing men were thought to be trapped 260 feet beneath the surface.

Waiting family members had retreated to the nearby Sago Baptist Church to pray and wait out the efforts. Hundreds had spent Monday night huddled in tents or wrapped in blankets in the cool, damp mountain air.

Key to hope for a miracle was whether adequate levels of oxygen in the mine and survival training could have allowed the miners to construct a shelter from the carbon monoxide.

Carbon monoxide poisons by entering the lungs through breathing and displacing oxygen from the bloodstream. It can kill swiftly and, because it is odorless and colorless, with little warning.

The cause of the explosion remained unclear, Hatfield said. Lara Ramsburg, a spokeswoman for Gov. Joe Manchin, said it may have been sparked by lightning.

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Jesse Stolzefels, 22 has worked in the mine for three years laying track for rail cars. It's a safe place to work, he said. “This was a freak accident,” he said.

The best hope for the missing men is that they would have constructed a barrier against the deadly gas after the explosion. Materials to build such a structure — wood and plastic sheeting — would have been available in the mine, Hatfield said.

“Essentially, they could have built a room around themselves for safety,” he said.

The explosion that trapped the miners occurred when the mine was reopening after being closed for the holidays. Ramsburg said two cars carrying miners were entering the mine when the blast occurred. The second car, carrying six miners, made it out after feeling the effects of the blast.

The accident recalled a similar drama four years ago when nine Pennsylvania coal miners were successfully rescued after being trapped for 77 hours in a flooded mineshaft 240 feet underground.

Town Pauses And Mourns One Who Did Not Return Son Remembers Hardworking, Unselfish Dad (USAT)

By Tom Vanden Brook

USA Today, January 4, 2006

TALLMANSVILLE, W.Va. — Nick Helms says he owes everything to his father: the clothes on his back, the food he eats.

Most important, says Helms, whose father Terry was among 13 miners trapped in the Sago Mine after an explosion on Monday, is the life he gave to his son.

“He gave his life in there,” he said of the mine, “so that I could go out and live mine.”

Helms, 25, was among scores of relatives and friends of the miners who gathered Tuesday in a chilly drizzle at the Sago Baptist Church, a white chapel snug against a hillside across the road from the mine. The church erupted in joy when news came that 12 of the miners had survived.

But the news wasn't good for Helms. The 13th miner, whose body was found before the 12 were discovered, was Terry Helms, said his niece, Michele Mouser.

“He was a great guy. He was willing to help anybody," she said.

Terry Helms' job at the mine was fire boss, the official responsible for monitoring conditions inside the mine and helping to ensure the miners' safety. Helms, 50, was well aware of the dangers in mining and worked to make certain his son, Nick, didn't follow in his footsteps, Nick said.

“He worked so hard so I wouldn't have to set foot in a coal mine,” said Nick Helms, who lives in Myrtle Beach, S.C. and hopes to become a professional golfer.

On Monday, when Nick Helms returned home from running errands, he had more than a dozen messages on his answering machine. He said he sensed his father might be in trouble.

His girlfriend finally reached him. Your dad's mine exploded, she told him. “I just about dropped on the floor,” he said.

While friends and relatives awaited word on the trapped miners, veteran miners dropped by to offer support. When asked why they keep going back into the mine, knowing what can happen, miner Ted Johnson, 40, said, “It's as good a paying job as you'll find in this area.”

Also prior to the news, clergy members and Red Cross counselors tried to comfort spouses and children. Piano music and singing could be heard.

“Wonderful hymns,” said Barbary Chaapel, 64, whose sister's former husband, Jack Weaver, 51, was among those trapped in the mine. “I'll Fly Away. Amazing Grace.”

Red Cross spokeswoman Cecelia Hart said about 25 volunteers were helping the miners' relatives and friends. “We're counseling; we're holding hands,” Hart said.

A few hundred yards from the church, rescue workers and reporters jammed the narrow country lane leading from the church to the mine.

A few miles away, in the county seat, Buckhannon, signs of support sprouted. “Pray for the miners and their families,” read the sign at Domino's Pizza.

Faith, and support of friends and family, are sustaining the miners' families, Chaapel said.

12 Miners Found Alive 41 Hours After Explosion (NYT)

By James Dao

The New York Times, January 4, 2006

SAGO, W.Va., Wednesday, Jan. 4 - Forty-one hours after an explosion trapped 13 men in a West Virginia coal mine here, family members and a state official said 12 of the miners had been found alive Tuesday night.

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Earlier Tuesday evening, the body of one miner was found 11,200 feet from the mine entrance, within a few hundred feet of a vehicle used to transport the workers deep into the mine, company officials said. The miner was not identified, and the cause of his death was unclear.

Joe Thornton, deputy secretary for the West Virginia Department of Military Affairs and Public Safety, said the rescued miners were being examined at the mine shortly before midnight and would soon be taken to nearby hospitals. Mr. Thornton said he did not know details of their medical condition.

Outside the Sago Baptist Church, where people had gathered across the street from the mine, family and friends of the miners hugged each other and shed tears of joy as they learned the news.

"It's a miracle," said Loretta Ables, who said her fiancé, Fred Ware, was among the survivors. "Everyone was telling us they were probably dead."

Earlier in the ordeal, air readings from a hole drilled 260 feet into the mine had revealed extremely high levels of toxic carbon monoxide, a likely byproduct of the explosion, mine company officials said.

After the one miner's body was found alone, Bennett K. Hatfield, the chief executive officer of International Coal Group, the mine's owner, said he considered it a hopeful sign that the other miners had abandoned the vehicle and found a safe pocket of air.

Terry Goff, a friend of one of the miners, said he learned that the miners were alive when the bell at the Baptist church began ringing just before midnight.

"People were rushing out, yelling, 'There's 12 alive!' " Mr. Goff said.

"When they found the body and said the carbon monoxide levels were high, I doubted my faith," he said, "but now we've got 12 men walking off that hill."

Throughout the day, trained rescue teams equipped with oxygen canisters had rotated through the mine, meticulously repairing the damaged ventilation system and combing through the mazelike corridors for the men.

Emotions seesawed throughout the day with each new piece of information. In the morning, hopes had run high that the miners, most of them highly experienced workers in their 40's and 50's, had barricaded themselves in a corridor with breathable air to wait for a rescue party.

By late afternoon, mine company officials said that with only a few thousand feet of mine left to search, the chances of the miners being alive seemed remote. But late in the evening, officials said the fact that 12 miners had apparently not been killed by the force of the explosion renewed hopes that they were alive.

Nick Helms, who waited all day for news of his father, Terry, said his father, a strapping 50-year-old, had endured numerous injuries in a 30-year career and hated mining because of the dangers, but refused to quit because the job put food on the table.

"He gave his life in there so I could go to the movies," Mr. Helms, 25, said of his father. Switching to the present tense, Mr. Helms added, "He is very selfless."

The explosion, which occurred at about 6:30 Monday morning in an unused part of the mine that had been sealed just last month, shook homes and woke people nearby. But it did not cause extensive damage inside the mine, company officials said.

Some concrete walls used to direct airflow had been knocked down by the force of the blast, but there were no cave-ins or piles of rubble from the explosion, officials said.

The real danger to the miners, officials said, would have come from the persistent high levels of carbon monoxide inside the mine.

A colorless, odorless gas, carbon monoxide impedes the body's ability to carry oxygen to vital organs. It can cause flulike symptoms like headaches and nausea, and in high enough quantities, it can kill a person in 15 minutes. Of particular danger to trapped miners, it can also cause confusion.

By Tuesday evening, monitors showed carbon dioxide readings of more than 300 parts per million in some sections of the mine, more than 10 times the amount considered safe, company officials said.

"The CO2 was the worst thing they could find," said Bruce E. Dial of Pineville, N.C., who worked as a federal mine safety official for more than 20 years.

Miners, after underground explosions or fires, are trained to find pockets of breathable air using special monitors, then barricade themselves in using a plastic-coated fabric known as brattice cloth.

Lewis Wade, a mine safety expert and senior science adviser for the National Institute for Occupational Safety and Health, said a well-sealed corridor could keep a miner alive for hours. "Explosions are devastating things," Mr. Wade said, "but miners are smart and resilient people."

Federal inspectors fined the Sago mine more than $24,000 for roughly 202 violations in 2005, according to federal records.

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The total monetary figure is likely to rise substantially because the federal mine-safety agency has yet to put a dollar figure on some citations.

The most serious of these citations are 16 "unwarrantable failure orders," which are problems that an operator knows exist but fails to correct.

Thirteen of these orders were issued in the past six months, federal records show.

"Under the Bush administration, the citing of unwarrantable failures has gone down dramatically," said Tony Oppegard, a top federal mine official in the Clinton administration and a former prosecutor of mine-safety violations in Kentucky. "So to see a rash of unwarrantable failures under this administration is a telling sign of a mine with serious safety problems."

Inspectors found dangerous accumulations of coal dust, which can be explosive. Other citations dealt with ventilation and firefighting equipment violations.

Since June, the mine has experienced 15 roof falls or wall collapses, with three causing injuries to miners, according to federal records. That is an unusually high number, Mr. Oppegard said, "and it's indicative of roof-control problems."

Asked about the violations on Tuesday, Mr. Hatfield said the mine's "bad history" had occurred before his company took it over last year, adding that dramatic improvements had been made since then.

The anxiety of the day was heightened by what seemed to be painfully slow progress by the rescue teams, which took the entire day to move 2,000 feet.

But, experts said, the teams had to proceed cautiously, frequently testing the air and repairing the ventilation system, because of an array of dangers. A weakened roof could have caved in, for instance, or trapped methane could have triggered a second explosion.

Dennis O'Dell, administrator of health and safety for the United Mine Workers of America, who was assisting in the search, said hasty rescue efforts had at times led to additional deaths. At the Blue Creek No. 5 Mine in Alabama in 2001, 10 men attempting to rescue trapped miners were killed in a second explosion.

"I know it's tough on families because every minute seems like an hour," Mr. O'Dell said. "It's just something you have to do. Everybody has done as good a job here as I have seen."

In one setback, a robot owned by the federal government became mired in mud inside the mine on Tuesday and was rendered unusable. Officials had hoped that the robot, equipped with lights, an air testing device and a video camera, would reach the trapped miners faster than human teams could.

The cause of the blast remained a mystery. Company officials said that the mine did not have a history of methane gas problems and that air testing conducted before the explosion found no evidence of methane, a highly combustible gas.

The apparent lack of methane led some mining experts to speculate that coal dust, which is highly combustible, caused the explosion. A spark from electrical equipment could ignite coal dust, they said.

Mr. Hatfield said the likelihood of a coal dust explosion seemed low because no work had been done in the mine over the weekend.

The trapped team was the first to enter the mine after the holiday layoff but had not begun work when the explosion occurred, he said. As a result, there would have been little or no coal dust in the air, he said.

Lightning was another possible cause. The explosion happened during a violent thunderstorm, and Mr. O'Dell said there had been incidents in which metal pipes extruding from underground mines had conducted lightning bolts. The bolts then ignited pockets of methane gas, he said.

A Timeline Of Key Events In The Sago Mine Explosion: (AP)

The Associated Press, January 4, 2006

A timeline of key events in the Sago Mine explosion:

Jan. 2:

– An early morning explosion traps 13 miners underground, but rescuers cannot enter for nearly 12 hours because dangerous levels of carbon monoxide are being vented.

– Rescue crews finally enter the mine on foot for fear of sparking another explosion.

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– The U.S. Mine Safety and Health Administration sends in a rescue robot, but it's abandoned after getting stuck in the mud.

Jan. 3:

– Rescuers keep pushing deeper into the mine shaft.

– A mine executive is “very discouraged” by air quality tests, which show carbon monoxide levels measured 1,300 parts per million, exceeding the maximum safe level of 400 parts per million.

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– West Virginia Governor Joe Manchin says it will take a miracle to find the missing miners alive.

– One body is discovered in the mine. The prospects of finding anyone alive appear increasingly bleak with no signs of life.

– Shortly before midnight, family members say they have been told that the other 12 miners are alive, 41 hours after the explosion.

– One miner is in critical condition at a hospital, and was “unconscious but moaning” when he was brought to St. Joseph's Hospital, a doctor says.

Jan 4:

– Three hours after word that 12 miners had survived, the mine company's chief executive officer makes a stunning announcement that news of 12 survivors was wrong. Just one person survived, he says, explaining the wrong information was a miscommunication between rescuers and the command centre overseeing rescue efforts.

– Chaos and fights break out in the church where the families had gathered to wait, says John Groves, whose brother Jerry Groves was trapped in the mine.

Bush Says Nation Praying For W. Va. Miners (AP)

By Nedra Pickler

The Associated Press, January 4, 2006

WASHINGTON — President Bush said Tuesday the nation was praying for 13 men trapped in a West Virginia coal mine and offered federal help to help bring them out, "hopefully in good condition."

"May God bless those who are trapped below the earth," Bush said from the White House as rescue crews scrambled to reach the miners 31 hours after they were trapped underground.

The miners were trapped early Monday 260 feet below the surface of the Sago Mine, located about 100 miles northeast of Charleston.

The president, speaking during a meeting with U.S. attorneys to seek renewal of the terror-fighting Patriot Act, said he called West Virginia Gov. Joe Manchin to offer support.

"I told him that Americans all across our country were praying for the miners who are trapped in the mine there in West Virginia," Bush said. "I told him that I appreciated the great outpouring of compassion from the West Virginia citizens toward those worried family members. I also assured him that the federal government will help the folks in West Virginia any way we can to bring those miners out of that mine, hopefully in good condition."

The Mine Safety and Health Administration had rescue and safety specialists on the scene, set up a mobile command center and brought in a rescue robot able to explore areas of the mine that wouldn't be safe for human rescuers. The robot was abandoned for human searchers after it became bogged down in mud within the mine. Federal officials also monitored gas samples.

Bush was being regularly briefed on the situation, White House spokesman Scott McClellan said earlier Tuesday.

In US Mines, The Safety Record Has Been On An Upswing (CSM)

By Mark Clayton

The Christian Science Monitor, January 4, 2006

The vigil at a coal mine in Tallmansville, W.Va., where dozens of well-wishers waited hour upon hour for word of 13 miners trapped 260 feet underground, is a scene that has become much more infrequent in coal country - a result of vast improvements in US mine safety.

For an industry that endured at least 1,000 fatalities a year through the 1930s and '40s, the death toll of 28 in 2004, the latest figure available, underscores the achievement of stricter government oversight and corporate compliance, experts and officials say.

Still, coal miners account for about half of all mining-related fatalities - an indication that the men and women who plumb America's coal seams continue to encounter hazardous, potentially deadly conditions like the explosion that rocked the International Coal Group (ICG) mine in West Virginia on Monday.

In 2003, 16 mining fatalities occurred in underground mining work with a fatality rate of 35.7 per 100,000 workers, according to the National Institute for Occupational Safety and Health. Of those, 11 occurred in coal operator mines. Coal contractors had the highest fatality rate, at 212.8 per 100,000 operator employees, the institute reports.

At press time Tuesday, hopes began to sag that the trapped miners would be rescued, after air-quality tests inside the mine showed carbon-monoxide readings triple the maximum safe level. Rescue workers also sent a camera into a hole drilled into the mine, to look for signs of the miners, and planned to move in a camera-equipped robot.

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The blast occurred at about 6:40 a.m. Monday, trapping the miners below the surface of the mine, located about 100 miles northeast of Charleston.

By early Tuesday, rescuers had penetrated more than 9,000 feet into the coal mine but returned to the surface before the drilling crew punched into the mine. Officials thought the rescue team should exit in case the drilling caused a buildup of carbon monoxide, said Ben Hatfield, chief executive officer of ICG.

The federal government is helping in the rescue efforts. "We are praying and hoping for the best," White House spokesman Scott McClellan said.

The Mine Safety and Health Administration (MSHA) has rescue and safety specialists on scene, has set up a command center, and has brought in a rescue robot able to explore areas that wouldn't be safe for human rescuers.

The notion that mining ranks among the most dangerous occupations, in terms of on-the-job fatalities and injuries, may be misguided. "Of the 5,559 total work-related fatalities that occurred in 2003, only 56 (about 1 percent) occurred in coal and mineral mining," according to the National Mining Association website, which used data from the MSHA and the Bureau of Labor Statistics to calculate the number. Mining, the website notes, appears far down the list, behind trade, transportation, and public utilities (25 percent), construction (20 percent), and farming, forestry, and fishing (13 percent).

Coal mine explosions are typically caused by buildups of naturally occurring methane gas. The danger increases in winter, when the barometric pressure can release the odorless, highly flammable gas. The mine had been idle Saturday and Sunday, for the New Year's holiday.

ICG acquired the Sago Mine last March when it bought Anker West Virginia Mining Co., which had been in bankruptcy. The Sago Mine had annual production of about 800,000 tons of coal, the company said.

Federal inspectors cited the mine for 46 alleged violations of federal mine health and safety rules during an 11-week review that ended Dec. 22, according to records.

The more serious alleged violations, resulting in proposed penalties of at least $250 each, involved steps for safeguarding against roof falls, and the mine's plan to control methane and breathable dust. The mine received 208 citations from MSHA during 2005, up from 68 citations in 2004.

Safety at the mine has improved since ICG took over, said Gene Kitts, a company senior vice president. "We think we are operating a safe mine. We have no real clue about what triggered this explosion."

A Mining Disaster (WP)

The Washington Post, January 4, 2006

THE MERE THOUGHT of being trapped at the bottom of a coal mine is horrible enough to send shivers down most people's backs. But after the explosion that trapped 13 men in a West Virginia coal mine early Monday, an equally chilling story of safety neglect may be emerging as well. According to Ellen Smith, editor of Mine Safety and Health News, the Sago coal mine, where the accident occurred, had an accident rate in 2004 that was three times higher than the national average. That record has since worsened: Last year, the mine's operators received 205 orders and citations for health and safety violations, 96 of which carried a "significant and substantial" risk of death or injury. In 2005 the mine was forced to halt operations 16 times after failing to comply with safety rules. Eight of those citations, which were among the most serious a mine can receive, occurred in the final quarter of the year.

Mining has never been a pristine or perfectly safe business. But there are mines in this country that operate safely and that receive no health and safety citations at all. At the very least, the safety problems at Sago should have caused officials at the Mine Safety and Health Administration, which is responsible for mine inspections, to take notice. Did they? We may never know. At the moment, a spokesman for the MSHA says it is "hard to say" whether the mine's record was unusual. Ms. Smith says the MSHA, which used to publish the results of its accident investigations, no longer does so. The Bush administration's preference for concealing formerly public information has, it seems, penetrated the mine safety inspection world, too.

Another question worth asking in the wake of this event is whether the culture of the MSHA has changed in the past six years. Once purely an enforcement agency, set up to make sure that mines followed safety regulations, the MSHA has in the past several years formed a series of "partnerships" with mining industry groups. In principle, such partnerships might help make mines safer. In practice, they might have allowed the agency to become too friendly with the businesses it regulates. When Congress comes back to town, we'd like to hear some open discussion about the health of the nation's mine inspections.

Black Gold Or Black Death? (NYT)

By Jeff Goodell

The New York Times, January 4, 2006

DOJ_NMG_0008125

IN recent years, one of the toughest turnaround jobs in American industry has been the effort to change the perception of coal from an industrial relic of 19th century to an energy source for the 21st century. The high-water mark of this makeover campaign may well have come last spring, when General Electric began its "ecomagination" advertising campaign touting its new clean coal technology. One ad featured glamorous, scantily clad models (male and female) shoveling coal in a dark mine while Tennessee Ernie Ford's version of "16 Tons," the great song about hard labor and corporate exploitation, played on the soundtrack. Near the end of the ad, a voice announced, "Harnessing the power of coal is looking more beautiful every day."

But there is nothing pretty about coal, as we have been grimly reminded by the plight of the 13 coal miners trapped by a mine collapse near Tallmansville, W.V. The American Lung Association estimates that 24,000 people die prematurely each year from power-plant pollution. In Appalachia, mountaintop removal mining - a method of mining in which the mountain is removed from the coal, rather than the coal removed from the mountain - has flattened some 380,000 acres in the region and destroyed more than 700 miles of streams.

Coal plants generate more than 130 million tons a year of combustion waste - fly ash, bottom ash, scrubber sludge - that is laced with toxic metals like arsenic and mercury and pumped into holding ponds and abandoned mines, where it can sometimes leak into aquifers and drinking water. Most important, coal plants are responsible for nearly 40 percent of the carbon dioxide released in the United States, meaning that if we're going to get a handle on global warming, we'll have to get a handle on coal.

Still, in recent years - thanks in part to skyrocketing natural gas prices, worries about dwindling oil supplies, regulatory rollbacks of the Bush administration - coal has become sexy. And it indeed has many virtues.

Coal is cheap and plentiful. Right now, more than half the electricity generated in America is produced with coal. America is often called "the Saudi Arabia of coal," with enough to last us for 250 years. Improvements in emission controls make new coal plants much cleaner than the old coal burners; 120 of these up-to-date plants are in the works right now. New technology allows coal to be liquefied into diesel, a possible substitute for oil.

There is also a strong cultural connection to the resurgence of coal, particularly in the producing areas: it is a red-state rock, a taking back of America from the silly blue-staters who believed the future would be powered by solar panels and switchgrass. I recently attended a rally for a new coal plant in the Midwest where boosters chanted, "Coal is U.S.A.! Coal is U.S.A.!"

Nothing, however, has been more important to the comeback of coal than the purported safety improvements in mining. The coal industry knows that as much as Americans may love a cheap kilowatt, they are not going to support burning coal if it results in people suffering miserable deaths in Appalachian coal mines. The industry works overtime to suggest that coal mining today has nothing in common with its dark and exploitative past. The old days of breaker boys (children who picked rocks out of the coal) and methane explosions are gone, the coal industry argues, and mining today is safe, well paid and professional.

Promotional literature published by the National Mining Association and other industry groups usually show miners as clean-faced men in close proximity to high-tech machinery - computer screens, global positioning systems, bright yellow haul trucks. The average salary of a coal miner, the association says, is $50,000 a year. According to one coal industry Web site, working in a coal mine today is as safe as working in a grocery store.

The people in Tallmansville know better. Coal mining remains a dirty and dangerous business, especially in regions of Appalachia where all the easy coal is gone and what's left is increasingly difficult and dangerous to mine. (Coal mining is indeed a fairly safe operation in the big strip mines of Wyoming, where the 70-foot seams of coal lie so close to the surface that, in places, you can practically dig it out with a spoon.)

In parts of West Virginia, Pennsylvania and Kentucky, some mines are so complex and tight the workers call them "dogholes." Working in an underground mine, especially one owned by a small non-union operator in Appalachia, is one of the few jobs in America that is nearly as dangerous as commercial fishing in Alaska.

Not long ago, I spoke with a coal miner who was spending eight hours a day in a coal seam in western Kentucky that was a mere 20 inches high. You can't even turn around in a mine like that, have to mine laying on your belly. I asked him how much he earned. "Not enough to buy a new truck," he told me.

If coal is indeed going to be taken seriously as a fuel source in the 21st century, it's up to federal and state regulators to make sure that even 20-inch dogholes are safe (and they can be, with the proper technology, worker skills and governmental oversight). A good first step would be to reverse the Bush administration's new privacy rules, which have made it tougher for outsiders to obtain federal inspectors' reports. Even better would be to increase fines and other penalties for operators who break the rules. In many cases the penalties for running a dangerous mine - the West Virginia mine had 208 federal citations in 2005, up from 68 in 2004 - amounted to little more than a slap on the wrist.

In the summer of 2002, outside the Quecreek Mine in Pennsylvania, I watched for three days as heroic men rescued nine co-workers who had been buried alive. There was no talk about the Saudi Arabia of coal there, no easy words about energy

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independence or the economic virtues of burning coal. Like the families who stood vigil in Tallmansville this week, they were people who understood the real price of cheap power.

US Federal Reserve Nearing End Of Tightening Cycle (FT)

By Christopher Swann In Washington

Financial Times, January 4, 2006

US stocks put on a turn of speed in the first trading day of the new year, after the minutes of the Federal Reserve's meeting in December added to confidence that rates were unlikely to rise much further.

The S&P 500 climbed 1.64 per cent, or 20.51 points, to 1,268.8 – its biggest daily gain in points terms since April – and gave a boost to investors after a lacklustre 2005 in which the index rose just 3 per cent.

The minutes of the Fed's December meeting, at which rates rose by a quarter point to 4.25 per cent, confirmed that the US central bank is now close to the end of a tightening cycle that has lasted a year and a half. The Fed has been raising rates in quarter point steps since an historic low of 1 per cent was reached in June 2004.

In December a majority of the Fed's Open Market Committee argued that "the number of additional firming steps required probably would not be large".

The minutes indicate that members of the committee believed that the level of interest rates was now neutral – neither fostering nor constraining economic growth.

"In these circumstances, the committee thought that policy should no longer be characterised as accommodative," the minutes said.

The Fed also sounded more relaxed about the outlook for inflation than in previous meetings, saying intense competition in the US market and subdued pay rises had helped contain price pressures.

The central bank said the economy had continued to expand at a solid rate at the end of last year, with inflationary pressures remaining subdued. "Overall and core consumer price inflation were projected to move higher in the first half of next year, reflecting the effects of higher energy prices, but then to trend lower as those effects ebb", it said.

The yield of the two-year Treasury bond fell six basis points in response to the minutes, to 4.34 per cent. Financial markets are still braced for a rate rise at this month's meeting, the last to be chaired by Alan Greenspan, outgoing chairman.

Some analysts cautioned that the market reaction was overdone. Marc Chandler, global head of currency strategy at Brown Brothers Harriman, said: "The market was predisposed to read the minutes with a dovish bias and, sure enough, it saw what it wanted to see."

Stephen Stanley, chief economist at RBS Greenwich Capital, was also sceptical, commenting that "we are left to debate the meaning of 'not large' today, whereas on December 13 we were trying to quantify 'some'."

But opinion remains divided about the likelihood of a further increase at Ben Bernanke's first meeting as chairman in March. Traders were pricing in a 60 per cent probability that rates would be raised to 4.75 per cent in March, down from an 80 per cent probability at the end of last year, said Ian Mr Morris, US economist at HSBC.

Fed Minutes Indicate Rate Increases Wrapping Up (USAT)

By Sue Kirchhoff

USA Today, January 4, 2006

WASHINGTON — The Federal Reserve is nearing the end of its 18-month drive to raise interest rates, with most central bank officials saying the number of additional increases needed to tame inflation "probably would not be large," according to minutes of a Dec. 13 meeting released Tuesday.

Members of the Fed's policymaking Open Market Committee differed on just how much further tightening was needed, saying the outlook was "becoming considerably less certain" and that future rate moves were more dependent on strength of economic data.

Though economists have widely predicted that the Fed will soon wrap up its campaign, the minutes rallied the stock and bond markets. The Dow Jones industrial average rose 129.91 points to 10,847.41.

"We needed confirmation just to make sure we were on the right page," says Kim Rupert of Action Economics. "We think there are several more (increases) ahead, although we do think they might pause after" the Jan. 31 meeting.

The Fed has been raising interest rates in quarter-point increments since June 2004 to fend off harmful inflation. Short-term rates, which were a low 1% in mid-2004, are now 4.25%.

Economists, like Fed officials, differ on when the central bank will decide that rates are at a neutral level that neither impedes nor over-stimulates growth. Most expect the Fed to raise rates by a quarter point on Jan. 31, which will also be retiring Fed Chairman Alan Greenspan's last day in office.

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White House economic adviser Ben Bernanke has been nominated to succeed Greenspan.

Some forecasters, such as Global Insight, predict another quarter-point increase in March.

The minutes indicate that some Fed members already consider interest rates within a broad range of the level needed to keep the economy operating close to potential.

According to the minutes, Fed economists expect the economy to slow slightly in 2006 from the strong pace of 2005. Still, output will be near potential the next two years, and the inflation rate should rise in the first half of 2006, due to energy prices, before ebbing again.

Hurricane-related rebuilding will boost the economy in the near term, but that will be muted by rising interest rates and a slowing housing market. At the same time, Fed officials worry that given strong growth and rising factory utilization, inflation could rise if the central bank is not responsive.

David Kelly of Putnam Investments expects a quarter-point move at the Jan. 31 meeting and hopes the Fed stops there. He says the risks of slower growth already outweigh those of higher inflation.

The economy grew at a 4.1% annual rate in the third quarter. A report Tuesday said manufacturing expanded more slowly last month.

Views On Rates Differ Within Fed (WP)

By Jeannine Aversa

The Washington Post, January 4, 2006

Federal Reserve policymakers differed last month on how much higher interest rates would need to rise to keep the economy and inflation on an even keel, but most believed the end of the nearly two-year rate-hike campaign probably wasn't far off.

Minutes of the Fed's closed-door meeting on Dec. 13, released yesterday, provided insight into the thinking of Fed policymakers. At that meeting, Fed officials made their most extensive recent changes in the wording of the central bank's policy statement, which economists and market analysts parse for clues about future rate moves.

"Views differed on how much future tightening might be required," the minutes said, explaining why changes were made to the Fed's policy statement released after the December meeting.

One of the most important changes was that the Fed dropped language -- contained in previous statements -- that described interest rates as being too low, or accommodative. Economists viewed that move as a sign the Fed was winding down its rate-raising campaign.

Fed Chairman Alan Greenspan and his colleagues decided at the December meeting to boost rates for the 13th time since June 2004 to prevent inflation from flaring up. They noted that the economy was growing solidly and that the labor market had gotten stronger, forces that could lead to a pickup in inflation.

"Although future action would depend on the incoming data, this characterization of the outlook for policy was seen by most members as indicating that, given the information now in hand, the number of additional firming steps required probably would not be large," the minutes stated.

On Wall Street, stocks were buoyed by the Fed's assessment. The Dow Jones industrials surged 129.91 points to close at 10,847.41.

The Fed's action in December left its key short-term rate, called the federal funds rate, at 4.25 percent, the highest in 4 1/2 years. The funds rate is the interest that banks charge each other on overnight loans and is the Fed's main tool to influence economic activity.

The rate increase was part of an 18-month process in which the Fed lifted rates from extraordinary low levels to more normal ones. Before the central bank began its rate-raising campaign, the funds rate had been sliced to 1 percent, a 46-year low, in an effort to help revive the economy after the 2001 recession, terrorist attacks and accounting scandals rocked Wall Street.

Throughout the Fed's rate-raising cycle, it had pledged in its policy statement to boost rates at a "measured" pace. Economists came to view that as quarter-percentage-point increments. The Fed's 13 rate increases thus far have all been quarter-point hikes.

At the December meeting, some members thought the word "measured" was no longer necessary, the minutes revealed. However, the Fed's policy statement released at the time kept that word.

"Its retention for this meeting was seen as potentially useful to preclude a possible misinterpretation" by financial markets that the Fed might need to act more aggressively in boosting rates, the minutes said.

Many economists predict the Fed will bump up rates again at the next meeting, on Jan 31. That's the first meeting of 2006 and the last before Greenspan retires that day after 18-plus years at the helm of the Fed.

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Some analysts believe another rate increase will come at the following meeting on March 28, which would mark the first one presided over by Ben S. Bernanke, who was nominated last year to replace Greenspan as Fed chairman.

On the housing market, Fed policymakers at the December meeting discussed "tentative signs that activity was beginning to slow," the minutes said. Thus far, housing barometers don't suggest "a significant weakening" in housing activity, the minutes said.

Policymakers also said the economy had bounced back from the Gulf Coast hurricanes. Hurricane-related rebuilding would boost economic activity, but this would be tempered by higher interest rates and subdued spending by consumers who may feel less wealthy as the housing market moderates, the minutes said.

Fed Suggests It's Close To Ending Run Of Rate Rises (WSJ)

By Greg Ip, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, January 4, 2006

WASHINGTON -- Federal Reserve officials are less worried about inflation and thus may raise interest rates just one or two more times in the next few months, minutes of their December meeting suggest.

"The number of additional [rate increases] required probably would not be large," according to a summary of the Dec. 13 meeting, released yesterday, with the customary three-week lag. (Text of the minutes1)

More clearly than the statement issued just after the meeting, the minutes signal that the Fed is nearing the end of a campaign that has raised the target for the federal-funds rate -- charged on overnight loans between banks -- to 4.25% from a 46-year low of 1% in June 2004, in 13 quarter-percentage-point steps.

The likelihood that the Fed is nearing an end to its tightening was reinforced yesterday by weaker-than-expected economic data. An index of manufacturing activity, based on a survey of factory purchasing managers, slipped in December, and construction spending grew less than expected in November as home-renovation outlays fell. In addition, some economists estimate that consumer spending was flat in the fourth quarter for the first time since 1991.

The prospect of an end to rate increases sent the Dow Jones Industrial Average soaring 129.91 points, or 1.21%, to 10847.41, its biggest point and percentage gain since late October. Bonds finished mixed, with the yield declining on two-year Treasurys, which are sensitive to expectations on Fed policy. The dollar lost ground, meanwhile, posting its biggest decline against the euro in three months.

The minutes said Fed officials' inflation concerns had "eased somewhat" since the previous meeting Nov. 1. They noted that slowing housing-price gains would restrain consumer spending, and that officials had to be "mindful of the lags in the effect" of past rate increases on the economy. These factors all weigh in favor of the Fed halting its policy-tightening soon.

To be sure, some factors are pushing in the other direction. The minutes cite concerns that higher energy prices could yet push underlying inflation higher, that business spending had accelerated, and that the "sustained period" of low interest rates may have boosted home prices and raised the risk of an overheating economy. "Views differed on how much further" rates might have to rise, the minutes cautioned.

Given these conflicting forces, Fed officials may further weaken their verbal commitment to future rate actions in the statement issued after their meeting Jan. 31, the last to be led by Chairman Alan Greenspan. Some Fed officials think that would give the incoming chairman, Ben Bernanke, more freedom to plot the policy he thinks best -- whether to stop raising rates immediately or to continue raising them at his first Fed meeting on March 28.

On Dec. 13, the Fed altered two key parts of its post-meeting statement. It abandoned the assertion that interest rates were "accommodative," or below a level that neither stimulates nor restrains growth. And instead of saying rates would continue to rise at "a pace that is likely to be measured," it said instead, "some further measured policy firming is likely to be needed."

Economists at the time generally saw the retention of the word "measured" as a reaffirmation of plans to keep raising rates at a quarter point per meeting. But Fed officials, according to the meeting minutes and in sentiments expressed since, actually meant to convey less certainty about further rate increases. They retained the word "measured" to prevent speculation that a half-percentage-point increase might be in the cards, and eliminated the word "pace" because they thought the word might imply two or more rate increases.

Yesterday's minutes and weaker economic data prompted some economists to reconsider their rate views. Peter Hooper, chief U.S. economist at Deutsche Bank, still expects the federal-funds rate to rise to 5% by spring, but he said the minutes put that forecast "at risk." Jan Hatzius, chief U.S. economist at Goldman Sachs, is also sticking to a forecast of 5% by mid-2006. But, Mr. Hatzius said the weak manufacturing report as well as Fed officials' apparent lack of worry about inflation "have increased the downside risk to our forecast a bit. It certainly could be 4.75%, although stopping at 4.5% would still require a significantly weaker set of numbers than we are expecting."

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In financial futures markets, expectations of Fed actions have changed very little since early December. Contracts based on the federal-funds rate reflect expectations that it will rise to 4.5% on Jan. 31 and put about 50% odds on a move to 4.75% on March 28, with no increases deemed likely thereafter.

Fed officials probably will tweak their post-meeting statement again on Jan. 31. Since most officials agree inflation is more likely to rise than fall and the inflation rate is near the high end of their "comfort zone," they may still want to signal a bias to tighter credit conditions. But because their actions will depend more on new economic data than in the past year and half, they may soften the commitment to raise rates further. For example, instead of saying further increases are "likely to be needed," the statement could say "may be needed."

The Institute for Supply Management, a group representing corporate purchasing managers, said yesterday that its index of manufacturing activity dropped to 54.2 in December from 58.1 in November and 59.1 in October. Readings above 50 indicate the manufacturing sector is expanding, and all parts of the index continue to exceed their 20-year averages.

Still, "the pace of growth has decelerated," Daniel J. Meckstroth, chief economist for the Manufacturers Alliance/MAPI, said. "Hurricanes Katrina and Rita disrupted transportation networks and supply chains in manufacturing at a time when inventories were already lean, setting off a scramble for materials in September, October and into November. By year end, manufacturers got caught up."

The ISM's new-orders index, a gauge of future manufacturing activity, fell to 55.5 in December, down from 59.8 in November, and the production index, which measures output, slipped to 57 from 60.6 in November. New orders from other countries, as measured by ISM's export index, slid to 53.3 last month, down from 59.2 in November.

Manufacturers, however, got some relief from elevated prices for raw materials, including energy. The prices index fell to 63 from 74 in November and 84 in October. Still, manufacturers remain wary about energy prices, said Norbert Ore, Georgia-Pacific Corp.'s procurement director, who oversees the ISM survey. Several managers, he said, indicated they plan to buy energy-saving equipment and materials.

Meanwhile, the Commerce Department said construction spending grew 0.2% in November to a seasonally adjusted $1.146 trillion annual rate after rising 0.8% in October.

Private-sector construction grew 0.2%, fueled primarily by 0.5% increase in non-residential construction while residential construction slipped 0.1%. Government construction increased 0.3%, led by increases in educational and highway spending.

--Joi Preciphs contributed to this article.

Write to Greg Ip at greg.ip@wsj.com2

Fed's Notes Offer Hope Of A Brake On Rates (NYT)

By Edmund L. Andrews

The New York Times, January 4, 2006

WASHINGTON, Jan. 3 - The Federal Reserve has set the stage for ending its 18-month campaign of raising interest rates, but officials signaled on Tuesday that they are entering a new period of uncertainty at the same time that Alan Greenspan prepares to retire as Fed chairman.

According to minutes released Tuesday from the Fed policy committee's meeting in December, officials agreed that they would probably have to push rates only a little higher before stopping.

"Given the information now in hand, the number of additional firming steps required probably would not be large," the summary said, ascribing that view to "most members" of the rate-setting Federal Open Market Committee.

On Wall Street, stock prices increased sharply in response. Major indexes rose more than 1 percent, with the Dow Jones industrial average up 129.91 points, or 1.2 percent, its largest one-day gain in a month.

The minutes also suggested, though, that investors might have gotten ahead of themselves.

For more than two years, the Fed has given investors explicit guidance about future rate decisions, most recently as it gradually pushed up interest rates from the lows of early 2004. But Fed committee members made clear at the December meeting that they were increasingly uncertain about both the potential course of the economy and the best way to communicate their intentions.

"Views differed on how much further tightening would be required," according to the minutes. "Members thought the policy outlook was becoming considerably less certain and that policy decisions going forward would depend to an increased extent on the implications of incoming economic data."

The ambiguity struck Peter Kretzmer, senior economist at Bank of America. "The markets really seized on the idea they were closer," he said, referring to an end of rate increases, "but when one thinks about it, they also highlighted just as clearly that there's uncertainty. What they really highlighted is that what they do will depend more on the data."

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The summary of last month's deliberations provided a wealth of new insights as the Fed prepares for the transition from Mr. Greenspan to Ben S. Bernanke, President Bush's nominee to be the next Fed chairman.

The meeting minutes confirmed that Fed officials became slightly less worried about inflation pressure, even though they expected high energy prices to push overall inflation somewhat higher for a while.

"Participants indicated that their concerns about near-term inflation pressures had eased somewhat," the minutes said. Policy makers said prices were being held in check by competition from foreign producers.

They also noted that labor costs had risen only moderately, despite strong economic growth. And they drew comfort from findings that the spike in oil prices last summer and fall had only a "muted" impact on consumer prices.

But Fed officials made it clear that they were divided about when to stop raising interest rates. They also labored mightily to preserve maneuvering room, warning that decisions would be heavily influenced by coming economic data.

"Views differed on how much further tightening would be required," according to the minutes. "Members thought the policy outlook was becoming considerably less certain and that policy decisions going forward would depend to an increased extent on the implications of incoming economic data."

Fed officials seemed to be warning that they might stop providing the hints on future policy decisions that they had been giving over the last two years, with phrases like a "measured" pace of rate increases.

Mr. Greenspan, who is to retire on Jan. 31 after 18 years at the helm of the Federal Reserve, has long warned that the Fed will not always tip its hand on future policy.

Mr. Bernanke, who is expected to win easy Senate approval as his successor, has argued for years that the central bank needs to be more "transparent." But he has not said that he favors advance guidance as a matter of principle.

Many analysts agree that the last two years have been unusually predictable, and that the Fed is now entering a new stage of uncertainty.

Robert DiClemente, chief United States economist at Citigroup, said: "It seems to me the consensus is less confident, and I sense that not only in the committee's own discussion but in the staff's backpedaling a bit on the outlook. It's indicative how people are more divided, and I think their willingness to guide market expectation has been diminished by that."

Two major factors made it much easier for Mr. Greenspan to offer guidance on the Fed's intentions over the last two years.

The first was that inflation remained low even while job creation and economic growth strengthened. That allowed the Fed to adjust policy gradually, without surprises.

The other was that the Fed had reduced interest rates far below normal from 2001 to 2004 in hope of invigorating a stalling economy. But by 2004, policy makers largely agreed that rates needed to be brought back to more usual levels.

Indeed, Mr. Greenspan told lawmakers early in 2004 that returning rates to normal, without disruption, would be his biggest policy challenge. "It's not a gimme putt," he remarked, borrowing a golf metaphor.

With the benchmark short-term interest rate, the Federal funds rate on overnight loans between banks, now at 4.25 percent, four times the level just 18 months ago, Fed officials are evidently getting close to at least a pause.

Based on prices for federal funds futures, investors are betting that the rate will climb to 4.5 percent at the next Fed policy meeting on Jan. 31, but then very little above that.

Still, several analysts said that investors might have read too much into the Fed's readiness for a pause, and predicted that the federal funds rate would reach 4.75 percent or even 5 percent this year.

Ian Shepherdson, chief United States economist at High Frequency Economics in Valhalla, N.Y., said the Fed was keeping its options open.

In a note to clients on Tuesday, Mr. Shepherdson wrote: "Clearly, there is a debate as to how much further tightening will be necessary. Still, this does not read like a Fed where everyone is looking for a reason to stop."

Stocks Start New Year With A Bang Dow, S& P, Nasdaq See Significant Gains (USAT)

By Matt Krantz

USA Today, January 4, 2006

Investors didn't waste any time putting a tepid 2005 behind them and celebrating the new year Tuesday by sending stocks sharply higher on 2006's first day of trading.

All three major stock indexes gained more than 1% after notes released from the Federal Reserve's last meeting indicated its 11/2-year-long campaign boosting interest rates might be near an end.

While a rally is always welcome on Wall Street, it's even more beloved in January. Market historians attach significance to the first trading days of the year, claiming they can predict how stocks will perform the rest of the year.

Even taken by itself, Tuesday's rally was a source of good cheer:

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·The tech-heavy Nasdaq composite index gained 38 points, or 1.7%, making it the best performer of all the major indexes. It was the index's biggest one-day percentage gain since July 8.

·The Dow Jones industrials, which fell 0.6% in 2005, sprang up 130 points, or 1.2%, to 10,847. Had that rally occurred a session earlier, the Dow would have ended 2005 up 0.6%.

·The Standard & Poor's 500-stock index rose 21 points, or 1.6%, to 1269, its biggest percentage gain since Oct. 28. It was the first time in more than a month that all three indexes gained 1% or more the same day.

While many investors were hoping for a strong finish to 2005, they were pleased to see the rally, albeit late. "I'm pretty surprised this didn't happen sooner," says Michelle Clayman, managing partner at New Amsterdam Partners.

Investors hope the rally can hang on for at least another four trading days due to the January "early warning system." The last 35 times the S&P 500 has gained in its first five days, the market has ended the year higher 30 times, with an average gain of 13.7%, says the 2006 Stock Trader's Almanac.

But it will take more than one good day to soothe investors.

Most investors, especially after seeing the Fed's notes, are assuming there are only one or two more increases in short-term rates coming, says David Joy, strategist at RiverSource Investments. But Joy fears inflation could heat up and force the Fed to move more aggressively. "It's too early to say inflation is absolutely not a problem," he says.

Al Goldman, strategist at A.G. Edwards, cautions investors from getting fixated on January, because a lot can happen the rest of the year. For instance, in 2005, the Nasdaq fell the first trading day of the year and didn't make it back above its first-day close until July 14.

"Would I rather have an up early January? You bet," Goldman says. But "you can't take it to the bank."

Dow Zooms Up 130 Points (WT)

The Washington Times, January 4, 2006

NEW YORK (AP) -- Wall Street had a bullish start to the new year yesterday, with the Dow Jones Industrial Average surging nearly 130 points after the Federal Reserve signaled a willingness to stop its campaign of interest rate increases in the near future.

In minutes from the Federal Reserve's Dec. 13 meeting, policy makers disagreed on exactly when to stop the policy of raising rates in quarter-percentage-point increments, but the Open Market Committee members did agree that an end was coming soon. The nation's benchmark rate stands at 4.25 percent, the result of quarter percentage point rises over the past 13 meetings dating back to June 2004.

Investors ended 2005 with the fear that the Fed would go too far in raising rates, choking off economic growth in its effort to stem inflation. That concern had kept stocks volatile for much of the year and stymied Wall Street's typical year-end rally. But the news of a possible policy shift was greeted with enthusiastic buying yesterday.

"Given the rise we saw, it shows you the importance of interest rates and what the Fed thinks," said Jay Suskind, head trader at Ryan Beck & Co. "This gives us hope that the Fed will be sensitive to the economy and we can get back to that nice 'Goldilocks' economy where growth is just right."

The Dow rose 129.91, or 1.21 percent, to 10,847.41.

Broader stock indicators also advanced sharply. The Standard & Poor's 500 Index added 20.51, or 1.64 percent, to 1,268.80, and the Nasdaq Composite Index gained 38.42, or 1.74 percent, to 2,243.74.

Bonds moved higher, with the yield on the 10-year Treasury note falling to 4.37 percent from 4.40 percent late Friday. The dollar was mixed against other major currencies, while gold prices rose sharply.

The Fed minutes helped stocks overcome a number of hurdles in early trading, including a sharp jump in energy prices prompted by wintry weather in the Northeast. A barrel of light crude settled at $63.14, up $2.06, on the New York Mercantile Exchange.

Wall Street remained concerned that the economy was already slowing after a pair of economic reports pointed to slowdowns in manufacturing and the red-hot housing market. The Institute for Supply Management's manufacturing index fell to 54.2 in December, less than the 57.5 reading expected by economists and off from 58.1 in November. In addition, the Commerce Department said construction spending rose 0.2 percent in November, far less than 0.7 percent gain expected.

Stocks also were weighed down in early trading because of negative news from a pair of Dow industrials. Wal-Mart Stores Inc. lost 57 cents to $46.23 as the retailer said its holiday sales will only approach the low end of its previous forecasts despite deep discounts used to lure buyers into the stores.

Fellow Dow component General Motors Corp. suffered after Banc of America Securities lowered its price target for the automaker to $13 per share from $16 per share, citing the likelihood of lower-than-expected savings on health care costs. Shares of the struggling automaker dropped 52 cents to $18.90.

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The negative economic data and Dow pressures made the sharp rise in late trading even more surprising, said Chris Johnson, manager of quantitative analysis at Schaeffer's Investment Research in Cincinnati, who questioned whether the market's thirst for gains, unfulfilled in December, fueled some over-exuberance.

"This is definitely a nice bounce here today, but there are a lot of stocks that have no reason to rally that have rallied," Mr. Johnson said. "I hope it sticks, but I'm going watch cautiously here over the next couple of days."

In other action, Poultry producer Pilgrim's Pride Corp. fell to a new 52-week low after the company slashed its first-quarter profit forecasts in response to lower prices in the United States and disappointing sales in Mexico. Pilgrim's Pride tumbled $7.80, or 24 percent, to $25.36.

Walgreen Co. rose $1.13 to $45.39 as the drugstore chain said higher generic drug sales helped push profits up 5 percent in the first quarter. The company beat Wall Street profit forecasts by a penny per share.

Fed Minutes Give Stocks Life (WSJ)

The Wall Street Journal, January 4, 2006

Stocks rallied Tuesday afternoon after minutes from the Federal Reserve's December meeting suggested that the end of the central bank's 18-month campaign to raise interest rates will happen sooner rather than later.

A year earlier, it was almost the exact opposite on Wall Street: Fed minutes suggested rate increases would continue far into 2005, and the Dow Jones Industrial Average slumped 98.65 points in heavy trading. That set the tone for stocks for the rest of the month and presaged a flat market for 2005, as the Fed fulfilled its promise and boosted rates by eight more times to 4.25%.

Now investors are hoping that, just like last year, early January trading will help set the tone for 2006.

FED FUEL

Stocks shot higher Tuesday after the Fed released minutes at 2 p.m. Eastern

Dow industrials

Nasdaq composite

The Dow industrials, limp before the release of the minutes, surged 129.91 points, or 1.21%, to 10847.41. Exxon Mobil jumped 4.1% amid a big advance by crude-oil prices. But financial stocks such as American Express and Citigroup, which would benefit from an end to the rate increases, also rallied.

The Standard & Poor's 500-stock index popped 20.51, or 1.64%, to 1268.80, helped by the rally in financials, which make up more than 20% of the index. Technology stocks, which benefit from low rates as consumers and companies spend more on new gadgets, led Tuesday's advance. The Nasdaq Composite Index, heavy with tech stocks, rocketed 38.42 points, or 1.74%, to 2243.74. Microsoft gained 2.6% and Intel rose 2.4%, also propping up the Dow average.

The dollar fell sharply against the euro and the yen, since the greenback usually benefits from higher interest rates.

Policy makers at the December meeting noted that inflationary pressures had "eased somewhat" since November and said "the number of additional firming steps required probably would not be large," the minutes say, though future actions are dependent on "incoming data." That raised hopes that the Fed, which boosted short-term rates by a quarter-point for the 13th-consecutive time last month, has only one more increase on tap. On Jan. 31, policy makers meet again in what will be the final meeting chaired by Alan Greenspan.

The Fed is broadly expected to nudge rates higher once again by a quarter-percentage point. Fed-funds futures contracts, bets on future moves by policy makers, reflected hopes that the increase will be the last. As of last Friday, the contracts priced in a 60% chance that rates would go to 4.75%. After the release of the minutes, those odds had fallen to 48%.

"Maybe it's only one and done for the Fed," said Ethan Harris, an economist at Lehman Brothers. Even if the Fed does raise rates more than once, he added, there is a "sense of relief that the end of the tunnel is in sight."

The market had a topsy-turvy start: Stocks opened higher in a rush of new-year enthusiasm that was quickly stamped out by reports on manufacturing activity and construction spending that failed to match Wall Street's expectations.

Commodities, which surged in 2005 amid rising demand from emerging economies such as China and India, continued their winning ways in 2006. Crude-oil prices, up 40% last year, rose $2.10 to $63.14 on the New York Mercantile Exchange following a weekend dispute between Russia and the Ukraine over natural-gas deliveries10. Comex gold futures rose $13.60 to $532.50 a troy ounce on the Nymex following an 18% rise last year.

Investors are keeping a close watch on stocks in the first few days of January, which often serve as guideposts for how the market will do during the rest of the year. According to the Stock Traders Almanac, the last 35 times the first five days of January have been positive on the S&P 500, the index posted full-year gains 86% of those times. The last 20 years the index has been negative during the first five days, it has posted a loss for the year half of those times.

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Traders also have their eye on the pesky yield curve -- the difference between short- and long-term interest rates -- which hurt stocks in the closing days of 2005. Short-term rates had moved higher than long-term rates, traditionally a sign of trouble for the economy. Early Tuesday, the curve was slightly "inverted," with short-term rates higher than long-term rates. But the curve returned to normal after the release of the Fed's minutes amid hopes that rates at the short side of the curve won't go much higher.

In major market action:

Stocks rose11. On the Big Board, where 1.8 billion shares traded, 2,617 stocks rose and 812 fell. On the Nasdaq Stock Market, where 2 billion shares traded, 1,908 rose and 1,206 declined.

Bonds advanced12. The benchmark 10-year Treasury note gained 5/32 point, or $1.56 for every $1,000 invested, to yield 4.375% Tuesday. The 30-year bond fell 11/32 to yield 4.560%. Yields move inversely to prices.

The dollar fell.13 It traded at 116.23 yen, off from 117.92 yen late Friday, while the euro rose to $1.2014 from $1.1826.

Capital-Spending Plays May Finally Pay Off (WSJ)

By Gregory Zuckerman

The Wall Street Journal, January 4, 2006

After a long lull, there are signs that companies are set to boost spending faster this year. The change could benefit many corporations, including Oracle Corp., Halliburton Co., Schlumberger Ltd. and Washington Group International Inc.

Capital expenditures, which include all kinds of spending that enhance a business's long-term prospects, such as buying or upgrading buildings or equipment, have been growing at a rate of about 11% in the U.S. for more than a year, though that has been edging up a bit lately.

But there are some signs that the spending is starting to rise faster, at least among larger, public companies. Companies in the Standard & Poor's 500-stock index increased their spending on capital expenditures during the third quarter of 2005 by 24%, compared with the same period in 2004, according to Thomson Financial, which tracks these figures. That is quite a change. After a surge in the late-1990s, capital expenditures for these larger companies declined on a year-over-year basis between the third quarter of 2001 and the fourth quarter of 2003, and have averaged about a 9% increase each quarter subsequently, according to Thomson.

A number of analysts expect a jump in this kind of spending in the next year. That is in part because U.S. companies are sitting on a record pile of cash, and many have pared their debt, giving them ample funds to boost spending. While many have used that largess to increase share buybacks, dividends and acquisitions, a jump in capital expenditures could be in store for 2006, some say, as the recovery grows long in the tooth and companies deal with capacity strains in their businesses.

"A lot of industries are hitting points where there's not a lot of existing capacity to meet demand," says Greg Jensen, co-chief investment officer at Bridgewater Associates, a money-management firm in Westport, Conn., with more than $140 billion in assets. "To meet demand, more companies will have to invest more."

To be sure, some investors have been anticipating a surge in corporate spending for some time, but the results have been largely underwhelming. Some caution that with interest rates going up and more companies forced to shore up pension plans, there may be more disappointment ahead for business spending. But a lot of the increased spending may take place in areas with higher growth prospects, such as in Asia, where manufacturers continue to move operations.

And if stock prices stay down, it will probably be more attractive for companies to repurchase shares -- or acquire competitors -- rather than spend more on so-called organic growth.

"We continue to believe [mergers and acquisitions] will be the preferred use of cash in 2006, especially at current valuation levels," says Jason Trennert, chief investment strategist at ISI Group Inc., a New York research firm. "But increases in cap-ex could also be a bigger part of the program than we originally thought."

The safest bets for beneficiaries of a spending increase: businesses catering to industries that saw windfall profits in 2005, such as the energy sector. Some analysts point to stocks such as Halliburton, Schlumberger and Ameron International Corp. as likely beneficiaries of spending from energy companies.

Some analysts, such as Tobias Levkovich of Citigroup Inc., urge investors to focus on technology companies such as Oracle, Intel Corp., International Business Machines Corp. and Microsoft Corp. They predict that more companies will increase their spending on software and other tech areas, which can improve productivity.

Many of these large tech stocks already are quite inexpensive, providing investors with a margin of safety in case the expected jump in capital expenditures fails to materialize. Oracle, for example, is expected to see earnings rise a strong 18% to 79 cents a share for its fiscal year ending May 2006, but trades just a tad above the overall market's multiple of earnings. Oracle's balance sheet sports $2.3 billion more cash than debt.

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A number of hedge funds have been buying up shares of Washington Group International, the construction and engineering company that saw revenue from mining projects jump more than 70% in the third quarter of 2005, compared with 2004's third quarter. That figure should keep rising amid the commodity boom.

Washington Group trades at about 21 times next year's expected earnings. That is a reasonable premium above the 14.5 price-earnings multiple of the S&P 500, considering analysts expect the company's profits to jump 28% to $2.52 a share in 2006 from $1.97 in 2005. The stock trades at less than two times its book value, an inexpensive price, and has a pristine balance sheet with no debt.

With Rosy Predictions, Pundits Missing 2006's Warning Signs (WP)

By Steven Pearlstein

The Washington Post, January 4, 2006

The columnist who tries to predict the future of the economy or the financial markets is a fool -- but no more so than the army of forecasters, money managers and economic policymakers who have been doing just that as part of the annual New Year ritual.

The consensus view, in case you've been on a beach reading Dan Silva spy novels these past two weeks and missed it, is that everything is going to be peachy-keen in 2006. Economic growth will slow only modestly from last year's unsustainable spurt; inflation will remain in check; the air will be let out gradually from the real-estate bubble; energy prices won't get any higher and probably will retreat a bit; the transition at the Fed will be seamless; the trade and budget deficits will shrink; the dollar may drift down, but only a bit; and stocks will post respectable gains.

Oh, and yes, purchases of new golf equipment will trim three strokes from your handicap.

Okay, so last year did turn out better than we worrywarts would have imagined. The economy's ability to withstand energy-price spikes, hurricanes and the Republican political meltdown was truly impressive. And yesterday's New Year rally on Wall Street demonstrated the widespread desire to believe in macroeconomic magic.

But reduce it to its bare essentials, and the story of 2005 was that oil producers proved just as willing to lend us the money to buy oil that we otherwise could not afford as the Japanese and Chinese have been to lend us the money to buy cars, jeans and flat-screen TVs. The arrival of this newest credit card from the Middle East may have allowed us to live above our means for yet another year. But let's not fall into the trap of confusing that with long-term economic health.

While the signals coming from the economic pundocracy may be solid green, the ones coming recently from the marketplace are flashing yellow. A middling Christmas season for retailers. A bicoastal housing boom that has already begun to abate, with an initial 10 to 15 percent drop in prices from speculative highs. A stock market that couldn't sustain a year-end rally despite record profits. A bond-market yield curve that makes it no more expensive to borrow money at a fixed rate for 30 years as for one year.

Other warning signs: A corporate sector unable to find a more profitable use for its record retained earnings than buying up its own stock or overpaying for questionable acquisitions. Hedge funds so flush with cash that they are lending money into a commercial real estate bubble, bidding up the price of gold and financing hostile takeovers. Pay packages for corporate executives and investment bankers up 30 percent in a year in which investors were lucky to eke out a 3 percent gain.

This is not to argue the economy is hurtling toward a crackup. The strength of the economy over the past year -- indeed, over the past 23 years, during which there have been but two relatively shallow recessions -- speaks eloquently of the resilience that comes with the globalization of trade and capital flows.

At the same time, I have a hard time squaring so many disquieting realities with a consensus forecast that has the economy gliding into some magical macroeconomic equilibrium.

A more likely scenario, it seems to me, is a 2006 in which the economic chickens finally come home to roost. Annual growth rates will fall from their current 3.7 percent to somewhere below 2 percent before the final quarter as government deficits are trimmed and households stop spending down their home equity. Inflation will reach 3.5 percent as key workers finally demand their fair share of productivity gains, health care and commodity prices continue to rise, higher energy costs work their way into the economy, and import prices spike in response to another steep drop in the value of the dollar. As economic growth slows, stocks will continue to drift sideways, snuffing out a nascent boom in corporate capital expenditures. Meanwhile, the long bull market in bonds will finally end as interest rates rise -- the result of heightened inflation expectations, continued monetary tightening by the Fed and a newfound reluctance of foreigners to invest their trade surpluses in dollar-denominated Treasury bonds.

The one likely bright spot in this scenario is the export sector, both manufacturing and service, which will benefit from a weaker dollar, continued robust growth in China, India, Eastern Europe and Latin America, and a revived Japanese economy.

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At the same time, additional risks include excessive lending to developing countries, a restructuring of the U.S. auto industry, a hit to corporate profits as a result of tighter pension rules and a banking crisis triggered by a collapse of several highly leveraged hedge funds. All of these are risks that Washington policymakers could address but in an hotly-contested election year probably won't.

Will things play out exactly this way? Surely not. But if history is any guide, the odds in favor of it are no worse, and probably a bit better, than the remarkably rosy scenario embraced by Washington and Wall Street.

Waiting For A Soft Landing (WP)

By Robert J. Samuelson

The Washington Post, January 4, 2006

At year's end I usually scan a stack of economic reports to see what lies ahead. Well, folks, according to most forecasts, we're headed for a swell year -- though a boring one. Typical is the forecast from the Organization for Economic Cooperation and Development in Paris. In 2006 the U.S. economy should grow 3.5 percent (about the same as in 2005), it says. Unemployment drops from today's 5 percent to 4.8 percent. Inflation remains tame, at 2.5 percent. The world economy also does well; international trade expands 9 percent.

All this good news is, of course, bad for the news business. The sunny predictions suggest two familiar economic catchphrases: "soft landing" and "Goldilocks economy." The Federal Reserve stops raising interest rates before it causes a recession; that's the soft landing. Economic growth is then fast enough to keep unemployment low and not so fast as to trigger higher inflation; that's the Goldilocks economy, not too hot or too cold.

Could anything darken the outlook? Here are five candidates:

Housing goes bust. Higher mortgage rates have already dampened demand and prices. From 5.6 percent in June, rates on 30-year fixed mortgages have increased to 6.3 percent. They may reach 6.7 percent by year-end 2006, says Orawin Velz of the Mortgage Bankers Association. A "bust" would involve sinking prices after some big gains: about 25 percent over the past two years. That could depress consumer confidence and spending. If rates on adjustable-rate mortgages (more than half of new loans in 2004) rose sharply, more homeowners might miss monthly payments. But most forecasts aren't glum. For 2006 the mortgage bankers expect average housing prices to rise 6 percent, almost equaling the increase in personal income.

The dollar "crashes." In 2005 the U.S. trade deficit was $712 billion, estimates Moody's Economy.com. That's up from $624 billion in 2004. The willingness of foreigners -- including central banks in China and elsewhere -- to invest their surplus dollars in American stocks and bonds raises U.S. share prices and reduces U.S. interest rates. A dollar sell-off could do the opposite, hurting housing (above) and consumer spending. Though plausible, similar warnings in the past were never borne out.

General Motors files for bankruptcy. Bankrupt Delphi -- GM's biggest parts supplier -- and the United Auto Workers are negotiating tensely over Delphi's demands for deep wage and benefit cuts. If the UAW were to strike, GM might also shut down and suffer massive losses. A four-month strike could cost GM $20 billion, estimates Jonathan Steinmetz of Morgan Stanley. GM would still have to pay workers and outstanding supplier bills. GM itself might file for bankruptcy. Because everyone -- GM, Delphi and the UAW -- has so much to lose, Steinmetz doubts a doomsday outcome. Delphi, the UAW and GM will settle.

Oil jumps to $85 a barrel. Energy economist Philip K. Verleger Jr. thinks prices could rise up to 25 percent from 2005's peaks, driven partly by a scramble for low-sulfur oil to meet stiffer U.S. air pollution rules for cars and trucks. Supply disruptions or refinery outages could also create scarcities. Still, the U.S. Energy Information Administration predicts steady prices of $63 a barrel for West Texas Intermediate crude -- roughly even with the second half of 2005. Nariman Behravesh of Global Insight sees $57 WTI by the year-end.

The "yield curve" of interest rates "inverts." An inversion means that short-term interest rates (say, on three-month Treasury bills) exceed longer-term interest rates (say, on 10-year Treasury bonds). Usually, short-term rates are lower, because the risk of lending for lengthier periods is greater. Since 1965 interest-rate inversions have occurred seven times -- and recessions have followed in five, notes Bill Dudley of Goldman Sachs. The reason: An inversion signals tight money. In 2006 Dudley expects another inversion as the Fed raises short-term rates. But he thinks we'll escape a recession, because the overall level of rates will remain low.

There are other potential pitfalls. Will China's surging economy produce an unpleasant surprise? Will the replacement of Alan Greenspan with Ben Bernanke go smoothly? But the larger story of the U.S. economy has been that it continually overcomes many reasons for it to falter. Consumers have spent freely, drawing money from appreciated stocks or homes. From 1995 to 2005 consumer spending rose an average of 3.8 percent annually, notes Susan Sterne of Economic Analysis Associates. That may cool with the housing boom.

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But something else will fill the gap. So say the standard forecasts. They're often right when predicting small shifts in the status quo. But they usually miss big changes, for good or ill. If something truly bad happens in 2006, you probably won't read about it first. Happy New Year.

Bush Backs Perry, But McClellan's For Mom (Hchron)

By julie mason

Houston Chronicle, January 4, 2006

WASHINGTON — The Texas governor's race is just getting started and already White House loyalties are divided, with President Bush backing Gov. Rick Perry and White House spokesman Scott McClellan supporting his mother, Carole Keeton Strayhorn.

"The president will support the Republican nominee, and it's pretty clear the Republican nominee will be his friend, Rick Perry," McClellan said today.

Strayhorn, the Texas comptroller elected as a Republican, announced Monday that she will run as an independent in the governor's race.

The White House spokesman is the youngest of her four sons.

"My mother cares deeply about Texas, and she has my full support," McClellan said.

By running as an independent, Strayhorn avoids facing the incumbent in a GOP primary battle that tends to favor the more conservative candidate.

Strayhorn, campaigning as "one tough grandma," said she is still a Republican and understands Bush's decision to support Perry.

Perry, who like Strayhorn was once a Democrat, served as lieutenant governor when Bush was governor.

"I respect what he's got to do, he is still my good friend," Strayhorn said of Bush during a campaign swing around the state. "He's got to do what he's got to do. My focus is Texas."

The president generally refrains from making endorsements in contested Republican primary races, but Perry did not draw a primary opponent this year. So Strayhorn's decision to run as an independent saves Bush from having to answer a lot of awkward questions about his choice in the primary.

"The president considers my mother a friend," McClellan said.

Before joining the White House staff in 2001, McClellan ran his mother's 1996 campaign for Texas railroad commissioner and her 1998 comptroller's race.

He said he has no plans to vacate his podium in the West Wing to help out his mother's campaign this year.

Instead, McClellan's brother, Brad, a former assistant Texas state attorney general, is running their mother's gubernatorial campaign.

Brad's twin, Dudley, is an attorney. Strayhorn's other son, Mark McClellan, is the administrator of the Centers for Medicare and Medicaid Services in the Bush administration.

"I am so pleased and proud of all my sons," Strayhorn said today. Bush is planning to actively campaign for Republican candidates this year. But his early backing of Perry probably won't be significant in the Texas race, said University of Houston political scientist Richard Murray.

"It would be huge news if he didn't support Perry," Murray said. "It's what you expected, and it will be marginally helpful for Perry. But it's only news if the president is breaking with someone from his own party."

Also running for governor as an independent is satirist Kinky Friedman. Former U.S. Reps. Chris Bell of Houston and Bob Gammage are the Democratic primary candidates.

Although he is supporting his mother in spirit, the White House spokesman can't actually vote for her. McClellan is registered to vote in Virginia.

Weld Is Criticized By D'Amato (NYT)

By Patrick D. Healy

The New York Times, January 4, 2006

Alfonse M. D'Amato, the former senator, sharply criticized a leading Republican candidate for governor, William F. Weld, saying last night that Mr. Weld was under the "cloud" of a federal investigation for once running a "sham college."

Mr. D'Amato, a Republican, also chastised Mr. Weld for resigning as governor of Massachusetts in 1997, before his second term was over, and then seeking to lead New York "without any real experience here."

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Speaking on NY1, where he is a paid commentator, Mr. D'Amato acknowledged that he did not feel "kindly" toward Mr. Weld, given that Mr. Weld had led the Justice Department's criminal division around the time that officials there began investigating Mr. D'Amato's brother, Armand, a lobbyist.

"You want to come and be the governor of New York without any real experience here, but you've got experience down in Tennessee running this institution that's being investigated up and down," Mr. D'Amato said. "It doesn't sound to me that this is the time and place, not with this cloud."

Mr. D'Amato also said that Attorney General Eliot Spitzer, who is seeking the Democratic nomination for governor, had done an "excellent" job in office.

Mr. D'Amato said Mr. Weld would have trouble explaining the "multimillion dollar looting" of Decker College in Kentucky, which collapsed in bankruptcy last fall after federal officials cut off student loan aid because of mismanagement concerns.

Mr. Weld was Decker's chief executive from last January to October. Mr. Weld has said that federal prosecutors have told his lawyer that he was not being investigated.

Spokesmen for Mr. Weld and the state Republican Party declined to comment last night. Mr. Weld did not return a telephone message.

Kaine's Transportation Forums Yield Much Talk, Little Consensus (WP)

By Steven Ginsberg

The Washington Post, January 4, 2006

Gov.-elect Timothy M. Kaine has spent the two months since his election gathering Virginians to discuss the traffic congestion problems that plague much of the state, but the forums, including one last night in Fairfax County, have failed to yield a consensus for any new action.

After talking with thousands of people about transportation issues in his most visible effort to prepare for the governorship, Kaine (D) remains committed to the proposals he outlined during the election campaign. He has used the 10 town hall meetings across the state more as a listening tour than as a forum to promote ideas.

The well-attended forums highlighted both the significance of traffic congestion in the lives of Virginians and the conflicting opinions on how to ease it.

"Everyone agrees there's a problem. No one seems to agree what the solutions are, and these meetings haven't gotten us there," said Prince William Board of County Supervisors Chairman Sean T. Connaughton (R), who attended a town hall in Manassas in November.

During his campaign, Kaine said he would ensure that money designated for roads and rails is not diverted to other priorities and pledged to help localities gain more power to regulate development and control traffic congestion.

Spokeswoman Delacey Skinner said Kaine intends to submit a plan in about two weeks that would primarily focus on those issues. The General Assembly convenes next Wednesday, and Kaine will be inaugurated Jan. 14.

Skinner said the town halls have given Kaine a chance to get "a very good sense of how urgent the problem is across the state."

Others said the urgency has been apparent for some time.

"Everybody knows what the priorities are," said Del. R. Steven Landes (R-Augusta), chairman of the House Republican Caucus. "I'm kind of befuddled about what his ideas are and what he wants to do. I guess it's almost like he's expecting the public to come up with a solution for transportation. He may be building momentum, but most people want to know what the plan is."

Fairfax Board Chairman Gerald E. Connolly (D) said the town halls are "building up a head of steam and putting pressure on members of the General Assembly." But he also said that "there have been very few specifics, and it would be nice if we heard more of that."

Landes said House leaders will present a transportation package that includes a proposal to increase fines for chronically bad drivers and that seeks to designate surplus state revenue for new projects. He added that House members oppose higher taxes, potentially setting up a showdown with the Senate, where members proposed a tax increase two years ago to pay for billions of dollars in transportation projects.

As at all the other town hall meetings, Northern Virginians at George Mason High School in Falls Church last night offered Kaine a range of often contradictory ideas for how best to release motorists from their traffic headaches. Some said expansion of Metro transit was critical, while others said widening roads was a must. Many said it was necessary to raise taxes to pay for projects; others preferred tolls or private-sector investment.

About the only thing the crowd of about 500 commuters, politicians, activists and others shared was a sentiment that something needs to be done -- and quickly -- to ease the daily frustration of getting around in Northern Virginia.

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"We need to address this issue and address it early," Kaine told them. "We just can't wait, because it gets tougher and tougher."

Several of the speakers praised Kaine's efforts to link land use and transportation.

"I highly applaud your stance. . . . We should definitely look at the impact [of development] on public facilities infrastructure," said Amy Tozzi of McLean.

The town halls and the focus on transportation have defined Kaine's time since Election Day, beginning with a pledge on the morning after his Nov. 8 victory to widen Interstate 66 inside the Capital Beltway and build a rail line to Dulles International Airport.

His town hall tour, which has attracted hundreds of frustrated commuters at nearly every site, started in Roanoke eight days after the election. It has included stops in Newport News, suburban Richmond, Manassas, Leesburg and Fredericksburg. Last night's was his first in Fairfax, the state's largest jurisdiction, and will be followed by a last one tomorrow in Virginia Beach.

At the forums and elsewhere, Kaine has repeatedly said that transportation problems are at a "crisis" stage and that he is targeting the 2006 General Assembly session as the time to make major improvements.

If the meetings have brightened the spotlight on transportation, they have done little to bring Virginians closer to agreement on what kinds of fixes to make and how to pay for them.

The crowd in Falls Church concentrated on the need for better transit service, a focus different from many of the other meetings.

"I'm very frustrated by the poor solutions we have for public transportation," said Jay Baker of Arlington County. "I wonder why there are so many miles of free roads and yet every passenger pays for every mile on Metro."

The town halls have also heightened the debate between those who see roads as essential to business growth and those who see them as generating suburban sprawl.

And in some cases, they have appeared to make prospects for change more difficult. At the Newport News meeting, commuters tallied a long list of reasons they don't want another water crossing in Hampton Roads, something state officials have labeled as vital and have been eagerly trying to build.

Gov. To Start Repaying Schools (LAT)

By Evan Halper And Duke Helfand

The Los Angeles Times, January 4, 2006

SACRAMENTO — Gov. Arnold Schwarzenegger offered an olive branch to educators Tuesday with a proposal to begin repaying money the state borrowed from schools in recent years to balance the budget.

The plan to give schools about $1.7 billion extra — paid for with unanticipated state revenue — will be part of the budget Schwarzenegger proposes next week. It signals an effort to patch up his shredded relationship with the state's major education groups as he seeks reelection in November.

"We have the money this year to give it to the education community," the governor told reporters after administration officials announced the proposal. "They deserve it."

The move comes eight weeks after Schwarzenegger ended a vigorous campaign for Proposition 76, which would have capped state spending and cost schools billions. That item, rejected by voters in the November special election, had prompted school groups to bankroll a series of bruising television ads that helped send the governor's approval rating plummeting.

Educators emerged from a meeting with Schwarzenegger on Tuesday to laud him for seeking common ground. But they said they're entitled to billions more; that his plan shortchanges schools of money they contributed to closing budget deficits in each of the last two years.

"This is a good start," said Scott Plotkin, executive director of the California School Boards Assn. "I think he's moving in the right direction."

But Plotkin said that although education groups "are not looking for another fight," they believe the state owes local districts $3.8 billion more.

School officials were also skeptical about the strings attached to Schwarzenegger's proposal: The governor wants some of the new money directed to his pet projects. Those include vocational education classes; grants to pay for new art, music and physical education programs; teacher training; and tutoring to help high school students pass exit exams.

"It's not always about how much money but how do you spend the money," he said.

Plotkin said local school officials are in a better position than the state to apportion the money effectively. Schools don't have the funds to pay for many of their students' most basic needs, he and others say, and they would rather be able to spend the money on such things as books and class-size reduction.

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Still, officials in the Los Angeles Unified School District welcomed the news that more money could be on the way. The district has weathered years of deep budget cuts.

Supt. Roy Romer said he would use additional state funds to reduce the size of middle school and high school math classes, many of which now hover at about 40 students. The money could also help cover escalating healthcare costs, he said.

"This is a step in the right direction. I'm encouraged by it," Romer said. "It's not the whole package. But it's going down the road a step. Obviously, the governor is trying to make up for the deal he did not keep before, and I applaud that effort."

That deal was made after the governor took office in fall 2003, as he struggled to balance his first budget. Schools agreed to give up $2 billion they were owed under voter-approved spending formulas in return for his pledge that all the money would be restored in coming years.

A year later, the state still had a deficit, and Schwarzenegger kept the reduction in place. Now, as the 2006-07 budget is readied, educators say the tab has grown to $5.5 billion — the amount schools would get if they had been fully funded since 2004.

Schwarzenegger has made several recent moves that position him closer to the political center as he prepares to launch his reelection campaign in earnest. He has also announced that he wants to cancel a scheduled tuition increase at state colleges and universities, raise the minimum wage and help Californians buy cheaper medicines.

In his State of the State address Thursday, he is expected to announce plans for a large borrowing program to improve transportation systems, hospitals, ports and levees. Tuesday he told reporters the money could also be used to build thousands of new schools and modernize others.

Legislative leaders, meanwhile, said they were encouraged by the education funding plan.

"This is a very positive step for the governor," said Assembly Speaker Fabian Nuñez (D-Los Angeles). "It does a lot to rebuild his relationship with us."

Nuñez, who in the past has sharply criticized the governor's education agenda, suggested that the Legislature and administration could devise a plan to pay back $5.5 billion over several years. If so, he said, "the sky might clear itself of the partisan bickering we dealt with last year," he said.

Administration officials, who contend that the governor never committed to paying that amount, said they are willing to talk about future funding.

Today, Schwarzenegger will visit a Los Angeles school to highlight a ballot initiative that he successfully championed before he was governor to fund after-school activities for students all over California. The measure is scheduled to take effect in the coming fiscal year, when the state will be required to spend $428 million for the program.

Nuñez and Senate President Pro Tem Don Perata (D-Oakland) say the state cannot afford the program, and they would like to put a measure on the ballot suspending it. "Voters approved this when the state had the money to pay for it," Nuñez said, but that is no longer the case.

In History Lesson, Less Can Be More (WP)

The Washington Post, January 4, 2006

It was just seven years ago, but for high school students, President Bill Clinton's impeachment is literally a subject for the history books.

Today's high school seniors were 10 or 11 at the height of the scandal, and today's middle-schoolers were approaching or entering first grade.

"This is very difficult for everybody, because it's so fresh," said Gilbert T. Sewall, director of the American Textbook Council, an independent group that reviews history texts. "It's easier to nail down history like the transcontinental railroad. With Clinton, you're dealing with material that has by no means been settled."

The House impeached Clinton on charges of lying to a federal grand jury and obstructing justice to conceal his affair with Monica S. Lewinsky, who was a White House intern when the relationship began. Clinton, who was acquitted in a Senate trial, was the second president impeached for conduct in office.

The impeachment is portrayed in the context of his two-term tenure -- a milestone event, but not one that overshadows how Clinton handled the economy, crime and health care.

The most commonly used texts give straightforward recaps of Clinton's toughest days, with some flavor of how it affected the nation. Absent are any lurid details about his relationship with Lewinsky that spiced up news reports and late-night talk shows as the scandal and impeachment played out in 1998 and early 1999.

"It should not be in the book for titillating purposes or settling scores," said Alan Brinkley, the Columbia University provost who has written or contributed to several history textbooks. "It should be in the book because of its significance to our recent history."

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The impeachment is covered briefly in middle school texts. "The American Journey," published by McGraw-Hill, offers a description that is representative of other accounts. "Although there was general agreement that the president had lied, Congress was divided over whether his actions justified impeachment," the book says.

In "The Americans," a high school text published by McDougal Littell, the topic merits two paragraphs. The same book gave more space to the impeachment of Andrew Johnson in 1868. "The American Vision," a McGraw-Hill high school book written by Brinkley and others, has five paragraphs on Clinton's impeachment and one on his legacy.

"Compression is a tremendous challenge," Brinkley said. "Five paragraphs on a topic is a lot for all but the most important issues."

"A History of the United States," a high school text published by Pearson Prentice Hall, refers to the impeachment scandal as "a sorry mess" that diminished Clinton and his rivals. Polls showed most Americans did not believe Clinton's "tortured explanations of his behavior," the book says, but also did not think his offenses warranted his removal.

By the time students get to college, the textbooks offer more sophisticated detail of the impeachment and the way it all changed American public life.

Yet at all levels, the salacious details of the Lewinsky affair are nowhere to be found.

Middle school texts describe it as "a personal relationship between the president and a White House intern." High school books describe it as Clinton's "improper relationship with a young White House intern" or say Clinton "denied having sexual relations" with an intern.

Students don't need the details to grasp the impeachment struggle, said Allan J. Lichtman, a presidential historian and professor at American University. But they do need textbooks that present the issue with as much depth as is practical, he said.

"The books not only influence the students, they influence the teachers," he said. "And given that many students don't go on to college -- and even those who do may not revisit the material -- the textbook may be their most significant impression."

Women Start 1st Islamic Sorority (WT)

By Julia Duin

The Washington Times, January 4, 2006

America's first Islamic sorority is more about God than being Greek.

There will be no beer at Gamma Gamma Chi functions, in obedience to Islamic law, nor will there be group fraternizing with the opposite sex.

"Partying is allowed in Islam, but it's how you party," said Althia Collins, an Alexandria businesswoman who has helped create it. "You can have fun with girls and it doesn't have to include men."

Thirteen women at the University of Kentucky will form the sorority's first college chapter this spring, and another group is waiting to start at the University of Maryland's Baltimore campus. A citywide chapter in the District, made up of women from several local universities, is also in the works.

Along with pledges, there will be prayer to Allah. Instead of hazing, there's hijab, the scarf some devout Muslim women wear. Covering one's hair is not mandated within Gamma Gamma Chi; in fact, four out of the five board members do not wear one.

Mrs. Collins' daughter, Imani Abdul-Haqq, came up with concept for Gamma Gamma Chi while rushing sororities at Guilford College in Greensboro, N.C.

As Mrs. Abdul-Haqq entered the room wearing her scarf, "They looked at her like she had three heads," Mrs. Collins said.

Plus, a lot of sororities had Christian roots or began meetings with a Christian prayer, which discomfited the daughter, who converted to Islam in 1999. Since then, she has designed a line of Islamic wear, including T-shirts for women with slogans like "Real Women Pray" and "NO, I am not oppressed."

Mrs. Collins has contributed $50,000 in cash or in-kind services to start up the sorority, and Mrs. Abdul-Haqq chose the Greek letters Gamma Gamma Chi because together they mean "women on earth for a period of time," dovetailing with Islamic teaching.

Although Gamma Gamma Chi is open to all, no non-Muslims have joined to date. But other Muslims have reacted well, Mrs. Abdul-Haqq said.

"They think it's due time we have a organization like this for Muslim women," she said, "which helps them grow as women, leaders and part of many communities. It also gives them a chance to network."

They've had inquiries from Sunni, Shi'ite and the Nation of Islam women.

Before joining, members must recite a creed, learn the sorority song and take part in a secret induction ceremony that deals with "the values of the sorority" such as sisterhood and philanthropy.

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Mrs. Collins converted in 1998, having grown up with a Baptist father and a mother who attended an African Methodist Episcopal Zion church. She began trying other churches during college, then, feeling restless, began investigating other faiths.

She began reading evangelistic texts about Islam during a visit to her sister, who had converted years before. Islam, she decided, appealed to her intellect, whereas Christianity seemed more concerned with the emotions.

"Besides," she said, "I really did not understand the Trinity."

To date, Gamma Gamma Chi has heard from young women in 18 states, Pakistan and the United Arab Emirates.

"I thought this was something revolutionary," Mrs. Collins said. "We are building a sorority established on the tradition of the sunnas; the ways of the prophet [Mohammed]."

Iran To Resume Its Nuclear Work; U.S. Warns Of Seeking Restraints (New York Times)

By Elaine Sciolino

New York Times, January 4, 2006

PARIS, Jan. 3 - Iran announced Tuesday that it planned to restart nuclear research, a move that jeopardized an agreement with the Europeans, complicated a Russian initiative and prompted an American threat.

The decision, contained in a brief letter delivered Tuesday to the International Atomic Energy Agency in Vienna, declared that Iran "has decided to resume" research and development "on the peaceful nuclear energy program" that was suspended under an agreement with France, Germany and Britain in late 2004.

The letter did not define the research, but said the activities would resume Monday and be conducted "in accordance with Iran's safeguards agreement" with the I.A.E.A., the nuclear monitoring agency of the United Nations.

"Research" has been a code word for experiments in enrichment of uranium at the previously secret facility at Natanz in central Iran. There is particular concern that Iran intends to reopen that site, perhaps to conduct modest enrichment experiments or even to manufacture and assemble centrifuges for enrichment, the most sensitive part of the nuclear fuel cycle.

Iran's move complicates a Russian initiative to break the deadlock over whether Iran has the right to enrich uranium. Russia has proposed that Iran be allowed to conduct uranium enrichment activities in Russia, as a way to guarantee that Iran's nuclear program is peaceful. A delegation from Moscow is scheduled to arrive in Tehran for talks this weekend, although Iranian officials have been less than enthusiastic about the proposal.

The United States warned Iran that it could face unspecified consequences if it resumed nuclear activities. "If Iran takes any further enrichment-related steps, the international community will have to consider additional measures to restrain Iran's nuclear ambitions," said Sean McCormack, a State Department spokesman.

After receiving the letter, I.A.E.A. officials described its contents to representatives of the 35 countries that make up its board, which could censure Iran by referring its case to the United Nations Security Council.

Iran has argued consistently that its decision to enter into an agreement with the Europeans to suspend all uranium conversion and enrichment activities was temporary, not required under its international treaty obligations and dependent on receiving a broad range of economic, technological, political and security incentives which it said have not been forthcoming. It has also insisted repeatedly that it has a sovereign right to develop the nuclear fuel cycle in its own territory.

Indeed, in defending Iran's decision, the letter said that the suspension of the country's nuclear-related activities under the European agreement had been "voluntary and non-legally binding."

But the United States, and to an increasing extent the Europeans, are convinced that Iran is determined to become a nuclear power and have taken a forceful stance in trying to ban Iran from conducting any nuclear activity that could help in a weapons program.

This most recent decision is certain to further erode foreign confidence in Iran's leadership.

The Iranian president, Mahmoud Ahmadinejad, has faced broad international condemnation recently for his inflammatory statements that the Holocaust is a myth and that Israel should be "wiped off the map." On Sunday, Mr. Ahmadinejad said Europe had decided to create Israel as a "Jewish camp" in the midst of Muslim countries as the best way to rid Europe of Jews.

Last August, Iran angered its European negotiating partners and the United States when it resumed the process of converting uranium at its site at Isfahan, a clear violation of the European agreement, but only a preliminary step in mastering the nuclear fuel cycle.

Criticism of Iran's decision to restart nuclear research and development activities was swift.

Besides the American threat, a statement from the British Foreign Office called Iran's letter "unhelpful and provocative," while Cristina Gallach, a spokeswoman for the European Union, branded it "a step in the wrong direction."

France called on Iran to reverse its decision. "We want Iran to abide by the suspension of all activities related to enrichment and reprocessing," a Foreign Ministry spokesman, Jean-Baptiste Mattei, told reporters.

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Mohamed ElBaradei, the director of the nuclear agency, also called on Iran in a statement to maintain "its suspension of all enrichment-related activity as a key confidence-building measure" and to resolve other issues about its nuclear program.

The I.A.E.A. has repeatedly criticized Iran for failing to fully cooperate with requests to open certain facilities to its inspectors.

The agency has summoned Iranian officials to a meeting in Vienna on Wednesday to explain their intentions on research.

In a proposal presented last spring to the three European governments, Iran outlined steps that it said would advance its nuclear program, while providing assurances that its program was peaceful. Among the proposals was the installation of 3,000 centrifuges at Natanz.

On Monday, the head of the national security commission in Parliament, Alaeddin Borujerdi, said in Tehran that Iran was "determined" to reactivate the Natanz facility.

Iran could be gambling that even if it restarts nuclear research activities, it would once again avoid international sanctions. Despite threats by both the United States and the Europeans to refer Iran to the Security Council for punitive action after it resumed activities at Isfahan, the countries were forced to back down in the face of opposition from China and Russia, which each have veto power there.

In Tehran on Tuesday, Mohammad Saeedi, the deputy head of the atomic energy agency, said on state television that Iran would resume research, without providing details.

He stressed that the research "has no connection with the production of nuclear fuel," but did not specify whether that ruled out all activities related to uranium enrichment.

He also portrayed the decision as one of national self-interest, explaining that the suspension of key nuclear activities under the agreement with the Europeans had hurt Iran. "During this period our experts incurred heavy losses and many of our researchers have lost their jobs," he said.

The letter to the I.A.E.A., which was signed with a scrawl, but without a typed name identifying the official, was written on stationery of the Permanent Mission of Iran to the United Nations in Vienna.

Parts of the letter were quoted in an I.A.E.A. news release while other parts were disclosed by a European diplomat who spoke on condition of anonymity because of the fears surrounding the nuclear issue.

US Warns Iran Against Resuming Nuclear Research (REU)

Reuters, January 4, 2006

WASHINGTON (Reuters) - The United States on Tuesday warned Iran against resuming atomic fuel research and development which it said would further Tehran's efforts to build nuclear bombs.

"If Iran takes any further enrichment-related steps, the international community will have to consider additional measures to restrain Iran's nuclear ambitions," State Department spokesman Sean McCormack said.

The United States suspects research and development work that Tehran said would restart on January 9 could help what Washington believes is its pursuit of a nuclear bomb, he told reporters.

Iran denies seeking nuclear weapons.

The United States has been pressing for months for Iran to be referred to the United Nations Security Council for possible sanctions because it says Iran has failed to dispel suspicions it is building a nuclear bomb.

International resistance to such a move has gradually been eroding as Iran has taken an increasingly hard line insisting on its right to develop peaceful nuclear programs to generate power.

Earlier on Tuesday, Iran said it would resume nuclear research and development which it suspended two years ago to defuse international pressure over its atomic ambitions.

Such work may include the manufacture and assembly of centrifuges used for uranium enrichment, the most sensitive part of the nuclear fuel cycle. It could also include some small-scale enrichment tests.

Diplomats said Tuesday's move, which follows Iran's resumption of uranium conversion in August, was a serious blow to diplomatic efforts to resolve the dispute.

Iran Says It Will Restart Nuclear Fuel Research (LAT)

By Maggie Farley And Tyler Marshall

The Los Angeles Times, January 4, 2006

UNITED NATIONS — Iran announced Tuesday that it would resume nuclear fuel research next week, provoking new concern from the U.N.'s nuclear watchdog agency and nations, including the United States, that are convinced Tehran is trying to build nuclear weapons.

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Iran delivered a letter to the International Atomic Energy Agency on Tuesday saying its nuclear body planned to resume research and development on its "peaceful nuclear energy program" on Jan. 9, ending a voluntary suspension of such activities since late 2003. In August, Iran restarted its work on the process to convert raw uranium into gas, and Tuesday's announcement was seen by some as an inflammatory effort to raise the stakes before another round of talks with European diplomats on Jan. 18.

"It has all the makings of another crisis," said a Western diplomat familiar with the negotiations. "Step by step, they are moving towards their goal. When will the Europeans say enough is enough?"

The letter did not specify what kind of research activities would be restarted, and IAEA chief Mohamed ElBaradei has asked Iran for clarification. In September, the nuclear agency's board of governors passed a resolution warning Iran that resumption of any enrichment and reprocessing activities would open the door to punitive action. Enrichment of the gas produces nuclear fuel that can be used in a civilian reactor or as material for a bomb.

The deputy chief of Iran's Atomic Energy Organization said Tuesday that the activities would not include enrichment of uranium at this time. "That will be a separate issue on which no decision has been made," Mohammed Saeedi told Iranian state television.

Iranian officials this week asked the IAEA to remove seals and cameras from a nuclear facility at Natanz to allow work to resume. The U.N. agency had installed them when Iran agreed to the suspension.

Although the work at Natanz may not prove to be a technical violation, Western diplomats who have been negotiating to keep Iran's nuclear program in check view the announcement as provocative. Both U.S. and European diplomats reacted sharply to Iran's statement.

At a routine briefing Tuesday, State Department spokesman Sean McCormack noted the IAEA was seeking clarification on the announcement. He warned that Iran could face punitive measures if any of its research activities were found to relate to uranium enrichment.

For more than two years, the Bush administration has been trying to persuade allies to refer Iran to the U.N. Security Council, where it could face political and economic sanctions. Tehran's declaration could bolster America's case.

"Our view is that if Iran takes any further enrichment-related steps, the international community will have to consider additional measures to constrain Iran's nuclear ambitions," McCormack told reporters. "Iran is trying to pursue nuclear weapons under the cover of a peaceful nuclear program."

He accused Iran of trying to drag out talks with Britain, France and Germany aimed at providing Tehran with peaceful nuclear energy, while attempting to develop its own expertise that it could use to build weapons. Those talks were suspended last summer after Iran declared it would resume a process of converting uranium into a gaseous substance — a key step toward enrichment.

In Paris, French Foreign Ministry spokesman Jean-Baptiste Mattei urged Tehran to hold to its earlier commitment to suspend "all enrichment and reprocessing activities."

The official also urged Tehran to seriously consider a Russian offer to guarantee a supply of safeguarded enriched uranium for the life of Iran's first civilian nuclear reactor nearing completion at Bushehr.

"We consider the time is short now, and that it is up to Iran to take the necessary decisions to relaunch a process of negotiations," Mattei said.

Tehran has sent mixed messages on the Russian proposal and a Foreign Ministry spokesman appeared to reject it Tuesday, saying that Iran wanted to keep control of the enrichment process.

Nonproliferation specialists in Washington viewed Tehran's announcement as the latest step in a strategy to gradually expand nuclear activities it had pledged to suspend, while stopping short of calling off the negotiations.

"Having pushed the envelope last year on uranium conversion and getting no resistance, they are trying to push again to get more," said Jon Wolfsthal, a nuclear nonproliferation specialist at the Center for Strategic and International Studies in Washington.

"The Iranians have calculated they can do anything shy of enrichment," he said.

Iran Announces Resumption Of Research On Nuclear Fuel (FT)

By Najmeh Bozorgmehr In Tehran

Financial Times, January 4, 2006

Iran said on Tuesday it would resume nuclear research, a move that is likely to provoke international concern.

Mohammad Saeedi, deputy to Iran's Atomic Energy Organisation, told state television the "resumption of research on nuclear fuel technology" had been notified to the International Atomic Energy Agency [IAEA] yesterday and would recommence

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within a couple of days. “Research has nothing to do with nuclear fuel production and is a separate issue, while no decision has yet been made about it [the latter],” Mr Saeedi said.

Mohamed ElBaradei, the IAEA secretary-general, informed the 35 countries on the UN watchdog agency’s board that it had received a note from Iran and was seeking clarification.

The US responded on by warning Iran against resuming atomic fuel research, saying it could help what Washington believes is Tehran’s pursuit of a nuclear weapon, Sean McCormack, State Department spokesman, said. “If Iran takes any further enrichment-related steps, the international community will have to consider additional measures to restrain Iran’s nuclear ambitions,” he said, without specifying what action the US might take.

Negotiations between Iran and the EU3 – Britain, France and Germany — collapsed in August after Iran rejected a European offer of incentives to abandon all its nuclear enrichment activities and resumed conversion activities at the Isfahan plant. Iran maintains that its nuclear work aims only to generate electricity.

A European diplomat in Tehran said the announcement was “vague” on the “nature and extent” of research activities. “If it’s related to enrichment activities it is very serious and a breach of IAEA resolution [in November].”

Last month, the EU held “talks about talks” with Iran in Vienna in an effort to woo Iran back to the negotiating table. Further talks are scheduled this month.

“Iran’s decision [on research] is because the two sides are setting a new base, a new agenda and new commitments for the new round of talks,” a senior Iranian official said. “The assembly of centrifuges could be Iran’s next step.” Part of the research might take place in Natanz, the main site for enrichment, he suggested.

As a way out of the impasse, Russia has proposed that Iran could enrich uranium on its soil and transfer the fuel to Iran for use in its nuclear plants. Iran has been careful not to reject the proposal outright in order to keep Russia on its side.

Tehran Will Restart Nuclear Fuel Research (WT/REU)

By Paul Hughes

The Washington Times, January 4, 2006

TEHRAN -- Iran announced yesterday that it would resume atomic fuel research and development next week, raising the specter of a new showdown with the West, which suspects that Tehran wants nuclear technology to build bombs.

The news coincided with strong hints from Iran's Foreign Ministry that Tehran would reject a Russian compromise proposal aimed at defusing Iran's nuclear row with the West.

The two developments were likely to spark renewed calls from Washington and the European Union for the case to be referred to the U.N. Security Council, which could impose political or economic sanctions.

"The Atomic Energy Organization of Iran has decided to resume from Jan. 9, 2006, [research and development] on the peaceful nuclear energy program which was suspended," Iran said in a note delivered to the International Atomic Energy Agency (IAEA) in Vienna, Austria.

Diplomats said the move, which follows Iran's resumption of uranium conversion in August, was a serious blow to diplomatic efforts to resolve the dispute over Iran's nuclear program.

"This does not help the process," said an EU diplomat, referring to efforts by the EU trio of Britain, Germany and France to find a negotiated solution to the standoff.

The United States yesterday warned Iran against resuming atomic fuel research.

"If Iran takes any further enrichment-related steps, the international community will have to consider additional measures to restrain Iran's nuclear ambitions," State Department spokesman Sean McCormack said in Washington.

The United States has been pressing for months for Iran to be referred to the Security Council for sanctions because it says Iran has failed to dispel suspicions that it is building a nuclear bomb.

A resumption of nuclear research and development, frozen voluntarily by Iran two years ago to defuse international pressure over its atomic ambitions, could include the manufacture and assembly of centrifuges used for uranium enrichment, the most sensitive part of the nuclear fuel cycle. It could also include some small-scale enrichment tests.

The IAEA found in 2003 that Iran had conducted considerable clandestine research, including enrichment tests and centrifuge assembly, since the mid-1980s. But the agency has not detected any clear proof that Tehran wants to build atomic weapons.

A Security Council referral vote could be held at the next meeting of the IAEA's 35-nation governing board, scheduled for March 6. At its last session in November, the board opted to put off any vote to give time for Russia's proposal to bear fruit.

IAEA chief Mohamed ElBaradei urged Iran to cooperate more with his agency and to keep diplomatic channels open. Meanwhile, he urged Iran to take "measures to build confidence and enable the resumption of dialogue with all concerned parties."

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Iran, which says its nuclear program will be used only for peaceful purposes, voluntarily suspended atomic research as well as all uranium processing and enrichment under negotiations with the EU trio that began in 2003.

Tehran began to roll back its suspension of nuclear work in August by restarting its uranium conversion plant at Isfahan, prompting the European nations to freeze talks with Iran. The talks resumed in December, and the sides are to meet again this month.

Mohammad Saeedi, deputy head of Iran's Atomic Energy Organization, stressed that the actual enrichment of uranium, done through injecting gas into centrifuges at Iran's unfinished Natanz facility, would not be resumed for now.

"That will be a separate issue on which no decision has yet been made," he told Iranian television.

Earlier yesterday, Foreign Ministry spokesman Hamid Reza Asefi was cool to a Russian proposal aimed at easing Western concerns that Iran could get its hands on bomb-grade, highly enriched uranium.

"The Russian proposal is ambiguous," Mr. Asefi told a weekly press conference. "If they want to propose enrichment [only] in Russia, we have said it is not acceptable. But if it is a complementary or parallel plan, we will study that."

A Russian delegation is expected in Tehran on Saturday to hold further talks on the proposal.

Iran Tells U.N. It Will Resume Nuclear Research (LAT/AP)

The Los Angeles Times, January 4, 2006

TEHRAN, Iran — Iran told the U.N. nuclear watchdog agency today it planned to resume nuclear fuel research after a 21/2-year hiatus, a vague declaration that was likely to be taken in the West as fresh evidence Tehran was trying to build an atomic weapon.

International Atomic Energy Agency head Mohamed Elbaradei said it was important that Tehran "maintains its suspension of all enrichment-related activity" as a way of reducing international suspicions about its nuclear plans.

Mohammad Saeedi, deputy head of the Atomic Energy Organization of Iran, said research would "resume in cooperation and coordination with the IAEA in the next few days," adding that it would "have little to do with the production of nuclear fuel."

Beyond that, he would not specify what type of research Tehran planned but claimed its nuclear program had suffered significantly during the research suspension. He said Iran could no longer keep its research scientists in limbo.

Iran has said it remains determined, at some point, to resume uranium enrichment, a process that can produce fuel for nuclear weapons.

The announcement, while vague, was certain to raise further concerns in the United States and among its European allies who believe Iran wants to build a nuclear arsenal. Tehran says its nuclear program is for electricity generation.

ElBaradei also called on Iran to "build confidence and enable the resumption of dialogue with all concerned parties."

The Iranian mission to the IAEA said Tehran has decided to resume from Feb. 9 research and development "on the peaceful nuclear energy program which has been suspended," ElBaradei told the agency's board.

A European diplomat accredited to the agency said it was too early to evaluate the significance of the move and whether it would scuttle talks planned for later this month.

The EU has previously said that any decision by Iran to resume work on its uranium enrichment program would be "the red line" that would end European attempts to negotiate differences with Iran.

Furthermore, the EU has said a resumption of work on the program would revive attempts to take Iran to the U.N. Security Council for violating the nuclear nonproliferation treaty.

But the diplomat, who demanded anonymity because he was not authorized to publicly discuss European Union strategy, said the Europeans needed details of precisely what Iran planned to research before making a decision on future talks.

Iran has come under heavy international pressure from the IAEA and the West to abandon its program to produce fuel for its Russian-built nuclear reactor that is due to come online this year and for its future nuclear power plants.

Iran has vowed it will never give up the right to produce nuclear fuel, which it says is guaranteed by the Nuclear Nonproliferation Treaty.

While refusing to permanently renounce uranium enrichment, Iran suspended many aspects of its nuclear fuel program in 2003 as a goodwill gesture during negotiations with the big three European powers, Britain, France and Germany.

The talks collapsed in August after Iran resumed uranium reprocessing activities, a step before enrichment, at its Uranium Conversion Facility in Isfahan, central Iran.

While the two sides resumed dialogue last month, talks have so far failed to resolve the dispute. More talks are scheduled for later this month.

Iran's decision to resume nuclear research coincided with the announcement by Asefi that Iran would reject a U.S. and European-backed Russian proposal to end the dispute if it required Tehran to cede the right to enrich uranium at home.

"The Russian proposal is ambiguous. We have to talk to the Russians to see what are the details," Asefi told reporters.

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"If it means enrichment be carried out (only) in Russia, we have said it is not acceptable. But if it is a complementary plan, we will study it," Asefi said.

Extremists within the increasingly hard-line Iranian government have denounced the Russian proposal as a "dirty trick."

Intelligence Report Says Iran Seeks Nuclear Bomb: Paper (REU)

Reuters, January 4, 2006

LONDON (Reuters) - Iran is secretly trying to obtain technology and expertise needed to build a nuclear weapon, according to a leaked intelligence report that threatens to deepen a rift with the West over its nuclear program.

Tehran's nuclear purchasing plans stretch from Europe to North Korea and the former Soviet states, Britain's Guardian newspaper said, citing a report by an unnamed European intelligence agency.

The 55-page report, dated July 1, 2005, draws on material gathered by British, French, German and Belgian agencies and has been used to brief European government ministers, the newspaper said.

The leaked report comes as Iran and the West remain locked in a standoff over Tehran's nuclear program.

The United States and the European Union fear Iran's civilian nuclear power program is a cover for making nuclear weapons. Iran says it needs nuclear technology to generate electricity.

The leaked intelligence report claims Iran has an advanced program designed to acquire nuclear expertise, training and equipment.

It also says Syria, Pakistan and North Korea are part of a global black market in illicit weapons parts.

The document says Iran has built a web of front companies, middlemen and academics whose job is to find the information and materials needed for nuclear, biological and chemical arsenals, according to the Guardian.

"In addition to sensitive goods, Iran continues intensively to seek the technology and know-how for military applications of all kinds," the newspaper quoted from the report.

'MISSILE DEVELOPMENT'

According to the Guardian, the document details Tehran's attempts to build a missile capable of reaching Israel and southern Europe.

Iranian scientists are building wind tunnels, navigation technology and acquiring calibration devices needed for advanced missiles, the document says.

It concludes that Syria and Pakistan have also been buying technology and chemicals needed to develop rocket programs and to enrich uranium, according to the Guardian.

The report concludes that scientists in Tehran are shopping for parts for a new ballistic missile with "import requests and acquisitions ... registered almost daily", the Guardian said.

The report's aim is to warn European Union companies from doing business with the front companies, the newspaper said. The report does not name Western firms or academics believed to have worked with Iran, North Korea, Syria or Pakistan.

On Tuesday, Iran said it would resume atomic fuel research and development next week.

That could lead to renewed calls from Washington and the European Union for the case to be referred to the U.N. Security Council, where Iran could face political or economic sanctions.

CIA Gave Iran Bomb Plans, Book Says (LAT)

By Josh Meyer

The Los Angeles Times, January 4, 2006

WASHINGTON — In a clumsy effort to sabotage Iran's nuclear program, the CIA in 2004 intentionally handed Tehran some top-secret bomb designs laced with a hidden flaw that U.S. officials hoped would doom any weapon made from them, according to a new book about the U.S. intelligence agency.

But the Iranians were tipped to the scheme by the Russian defector hired by the CIA to deliver the plans and may have gleaned scientific information useful for designing a bomb, writes New York Times reporter James Risen in "State of War: The Secret History of the CIA and the Bush Administration."

The clandestine CIA effort was just one of many alleged intelligence failures during the Bush administration, according to the book.

Risen also cites intelligence gaffes that fueled the Bush administration's case for war against Saddam Hussein, spawned a culture of torture throughout the U.S. military and encouraged the rise of heroin cultivation and trafficking in postwar Afghanistan.

Even before the book's release Tuesday, its main revelation — that President Bush authorized a secret effort by another intelligence outfit, the National Security Agency, to eavesdrop on unsuspecting Americans without court-approved warrants — had created a storm of controversy when it was reported last month in the New York Times in an article coauthored by Risen.

In the book, Risen says he based his accounts on interviews with dozens of intelligence officials who, while unnamed, had proved reliable in the past.

Bush has confirmed the existence of the program, but condemned the newspaper for the December report and for its use of confidential sources.

The CIA added its own criticism Tuesday, saying the book contains "serious inaccuracies."

The NSA domestic spying controversy is at the heart of an intensifying debate over whether the president has overstepped his authority in fighting the U.S.-declared war on terrorism by not adequately consulting or allowing oversight from Congress and the courts.

The Justice Department disclosed Friday that it was conducting a criminal investigation to find out who leaked classified details of the domestic spying program.

The book's release date was moved up in the wake of the NSA controversy, and it provides additional details of that domestic spying effort, in which Bush did not seek permission for domestic wiretaps from the Foreign Intelligence Surveillance Court.

The New York Times delayed for a year publication of its article on the NSA's domestic spying, in part because of personal requests from the president. Critics have questioned whether the paper could have published the information before last year's presidential election if it had decided against a delay. Newspaper officials have refused to comment on reasons for the delay or on the exact timing.

Top New York Times officials also refused to publish a news article about the reported CIA plot to give intentionally flawed nuclear plans to Iran, according to a person briefed on the newspaper's conversations by one of the participants. That person said the New York Times withheld publication at the request of the White House and former CIA Director George J. Tenet.

U.S. officials have long maintained that Iran's rulers want to develop nuclear weapons, but Tehran has insisted that it seeks to develop only a civilian nuclear energy program. Whatever the case, the CIA was desperate to counter what it believed was a clandestine nuclear program, and turned to a Russian defector who had once been a nuclear scientist in the former Soviet republics, according to the book.

The book says the CIA worked with the U.S.-based defector to concoct a story about how he was destitute, but in possession of valuable nuclear weapons blueprints that had been secreted out of Russia.

CIA officials had concerns about the man's temperament, Risen says, but sent the defector and the blueprints to Vienna anyway, with orders to hand-deliver them to someone at Tehran's diplomatic mission to the International Atomic Energy Agency, or IAEA, the U.N. nuclear watchdog.

His CIA handlers never imagined that the Russian defector would tip off the Iranians to the fatal flaw that they had hidden deep within the blueprints. But that, the book adds, is exactly what the Russian did, in part because the CIA failed to send anybody to accompany him out of fear that it might make the Iranians suspicious.

The book does not say whether Iran used the plans, but reports that a senior Iranian official visiting Vienna appears to have taken them immediately to Tehran after the defector dropped them off.

"He [the Russian] was the front man for what may have been one of the most reckless operations in the modern history of the CIA, one that may have helped put nuclear weapons in the hands of a charter member of what President George W. Bush has called the axis of evil," the book contends.

Two nuclear weapons experts who say that they have no knowledge about whether the covert effort described in the book occurred added that a deliberate flaw in the plans could have been easily found by the Iranians.

"Iran has excellent scientists and any information related to weapons designs could move its program ahead," said a European nuclear weapons expert, who refused to allow his name to be used because his government prohibits comments on nuclear weapons or designs.

David Albright, a former weapons inspector for the IAEA, agreed with the other expert that the plans could have shaved many years off Iran's nuclear effort.

"I wouldn't call it a colossal failure" by the CIA, said Albright, now president of the Institute for Science and International Security in Washington. "But I don't quite understand the purpose of it, why you would want to hand something like this to the Iranians. It's unlikely to work."

According to the book, the CIA effort to sabotage Iran's nuclear effort came on the heels of another massive intelligence failure, in which a CIA officer mistakenly sent an Iranian agent a trove of information that could help identify nearly every one of the spy agency's undercover operatives in Iran.

The Iranian was a double agent who turned over the data to Iranian authorities. They used it to dismantle the CIA's spy network inside the country and arrest or possibly kill an unknown number of U.S. agents, the book says.

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White House Won't Undo N. Korea Sanctions (AP)

By Barry Schweid

The Associated Press, January 4, 2006

WASHINGTON — The Bush administration on Tuesday rejected a North Korean demand that it lift sanctions as a way of possibly resuming stalled nuclear disarmament talks.

The two issues are unrelated, State Department spokesman Sean McCormack said. "I don't see in what way they are preventing North Korea from going back to the six-party talks."

The sanctions were imposed for alleged currency counterfeiting and other illegal activities.

"While under U.S. sanctions, it's impossible to sit face-to-face and discuss abandoning our nuclear deterrent," said the Rodong Sinmun, the North's ruling Workers Party newspaper, in a Korean-language commentary carried by the official Korean Central News Agency.

"The U.S. sanctions are obviously the fundamental element that disrupts the six-party talks," the newspaper said.

McCormack said it was important and reasonable for the United States to protect American currency. "We, the United States, as well as other countries are going to take steps to stop, inhibit or prevent illicit activities," he said.

The negotiations are designed to halt North Korea's nuclear weapons program. The six nations, which include Japan, China, South Korea and Russia, as well as the United States and North Korea, agreed to return to the negotiations as soon as possible, McCormack said.

"We are prepared to do so, and we look forward to the resumption of those talks," he said.

As for the alleged violations, McCormack said the United States had offered North Korea a briefing and was turned down.

White House Supports Lebanon-Syria Probe (AP)

By Barry Schweid

The Associated Press, January 4, 2006

WASHINGTON — The Bush administration urged U.N. investigators Tuesday to look into an allegation by a former Syrian vice president that President Bashar Assad had threatened former Lebanese Prime Minister Rafik Hariri several months before Hariri was assassinated.

The allegation was made last week by former Vice President Abdul-Halim Khaddam, who left Syria several months ago.

Khaddam said Assad warned Hariri months before his assassination last year that he would "crush whoever attempts to overturn our decision" to extend the term of Lebanon's pro-Syrian president.

Hariri, a billionaire Lebanese nationalist who sought to assist his country wiggle free from Syrian control, was assassinated last February in Beirut. The blast killed 20 other people and helped accelerate U.N. demands that Syria release its grip on its smaller neighbor.

Referring to Khaddam's allegation, State Department spokesman Sean McCormack said, "I think his remarks warrant further investigation" by the United Nations.

Mehlis already has implicated senior Syrian officials in Hariri's assassination. Syria has dismissed the charges as unfounded.

"I think that Mr. Khaddam's remarks raise some deeply troubling issues as to what exactly was going on during the period in time in question," McCormack said.

"They raise serious questions about who in the Syrian government may have been involved in the assassination," he said.

Bush Hopes Palestinian Election Goes Forward (REU-Y2)

Reuters, January 4, 2006

President George W. Bush wants Palestinian elections to go forward as scheduled this month with no delay and thinks Palestinians should be allowed to vote in East Jerusalem, a White House official said on Tuesday.

Bush is hoping the January 25 vote will mark a step forward in his vision of two states, Israel and Palestine, living side by side in peace.

The vote is widely seen as a referendum on Palestinian President Mahmoud Abbas's rule following Israel's withdrawal from Gaza last year, which raised hopes of ending fighting and of founding a Palestinian state.

"It's our desire to see the elections go forward as scheduled," said a White House spokesman.

Israel has threatened to bar Palestinians from voting in East Jerusalem. Israel had allowed voting in East Jerusalem in the last Palestinian parliamentary election in 1996.

"We believe that people must have access to the ballot," the White House spokesman said. "Arrangements have been made in the past to ensure that those persons can vote and we believe some arrangements should be possible at this time."

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U.S. Envoys To Help Resolve Vote Dispute (WT)

By Nicholas Kralev

The Washington Times, January 4, 2006

The United States said yesterday that it was sending envoys to the Middle East to help resolve a dispute that threatens to derail this month's Palestinian elections.

The dispatch of two senior diplomats was announced as campaigning officially began in the Palestinian territories, although electioneering in East Jerusalem was blocked by Israeli police.

Israel has said it will not permit voting in the city because of the participation in the process of the militant group Hamas. Palestinian Authority President Mahmoud Abbas warned Monday that the election would not take place if Israel carried out its threat.

"We see no reason why those elections should not proceed on Jan. 25," State Department spokesman Sean McCormack said in Washington yesterday.

"We believe that the Palestinian Authority should be concentrating on preparations for those elections, so that the Palestinian people can vote in an atmosphere that is free from violence or coercion or intimidation."

Mr. McCormack noted that Israel had threatened previously to bar voting in East Jerusalem, which it annexed in the 1967 Middle East war, but that the two sides had been able to reach an agreement.

"We see no reason why the Palestinian Authority and the Israeli government shouldn't be able to come to some similar kind of accommodation for this round of voting, and we are going to be working with [them]," he said.

C. David Welch, assistant secretary of state for Near Eastern affairs, and Elliott Abrams, a deputy national security adviser for the region at the White House, will travel to Israel and the Palestinian territories today to meet with officials on both sides, Mr. McCormack said.

"We believe that these elections should be for all the Palestinian people within the parameters as defined by the Palestinian Authority," he said.

In East Jerusalem, which the Palestinians want to be the capital of their future state, Israeli police yesterday beat some Palestinian campaigners with clubs and arrested seven, including a local leader of Mr. Abbas' Fatah movement, wire service reports said.

Police spokesman Shmuel Ben-Ruby was quoted as saying the men had been released on bail after being questioned on "illegal activity by the Palestinian Authority in Jerusalem."

Israel allowed voting in East Jerusalem in the last Palestinian parliamentary elections in 1996, which Hamas boycotted.

Former Israeli Prime Minister Shimon Peres, who has joined current leader Ariel Sharon's new coalition, told the Al Jazeera television network that a decision on voting in East Jerusalem had not been made.

"We are waiting to see what will happen on the Palestinian side," he said, referring to internal Palestinian violence in the Gaza Strip that also has threatened the elections.

Palestinians Campaign For An Election That May Not Be Held (NYT)

By Steven Erlanger

The New York Times, January 4, 2006

JERUSALEM, Jan. 3 - Campaigning for Palestinian legislative elections opened Tuesday despite doubts about whether the vote will actually take place on Jan. 25.

With the Palestinian president, Mahmoud Abbas, on a tour of the Persian Gulf, Deputy Prime Minister Nabil Shaath cited the late Yasir Arafat, who died in November 2004, in kicking off the campaign for a riven Fatah movement.

Speaking by Mr. Arafat's tomb in Ramallah, on the West Bank, and using his nom de guerre, Mr. Shaath said, "With your permission, Abu Ammar, we will continue to fly the flag of Fatah and head to victory."

In a development that may roil the parallel Israeli political campaign, Israeli Channel 10 reported Tuesday night that the police had evidence that would show that the family of Prime Minister Ariel Sharon had received $3 million from a wealthy Austrian, Martin Schlaff, in connection with his 1999 campaign. The money is thought to be connected to a $1.5 million loan from a South African businessman that is suspected of being used to refund illegal campaign contributions.

In a separate case, one of Mr. Sharon's sons, Omri, resigned from Parliament on Tuesday before his sentencing later this month for unrelated financing violations and falsification of documents from his father's 1999 campaign.

In opening the campaign, Mr. Shaath admitted that "Fatah has made mistakes and we must work to correct them." But he also warned that the radical Islamic movement Hamas, taking part in the elections for the first time, could win if Fatah failed to unite.

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He questioned Hamas's ability to govern the Palestinians and deal with Israel - which considers Hamas a terrorist group, and which Hamas does not recognize. "How will negotiations with Israel be managed under Hamas?" Mr. Shaath asked. "How will they pay salaries and ensure security? What will they do for women?"

Still, Fatah's biggest problems are its own divisions and a reputation for cronyism, mismanagement and corruption, coupled with its failure to achieve an independent Palestinian state through negotiation and compromise.

Fatah is looking for reasons to postpone the elections, because of fears that Hamas will win more than 40 percent of the 132 seats at stake and become either the most powerful political force or a sizable blocking minority in the future legislature. Many Fatah veterans would rather have no election than hand over such power to Hamas.

Hamas opposes another delay in the vote, having already agreed to Mr. Abbas's request to move the election from July to this month.

Israel, which opposes letting Hamas take part in the elections, has not yet decided whether to allow Palestinians in East Jerusalem to vote by postal ballot, as they have done in previous elections, when Hamas did not take part.

A senior Israeli official said, however, that Israel would help Palestinians in East Jerusalem who wanted to vote outside the city. In the past, he said, only 5,000 of the 120,000 or so eligible Palestinian voters in Jerusalem had been allowed to vote in post offices, and only 1,200 of them have done so, with a vast majority voting outside the city.

The issue has important symbolic value. Mr. Abbas said Monday that if voting were not allowed in East Jerusalem, it would be impossible to hold the elections. Israel clearly does not want to be blamed for any postponement, but also does not want to sanction the election.

"The post offices are there, and if we decide to have them open, then they'll be open," the Israeli official said. "We're waiting for the right moment to announce what our position is, and now is not the right moment. We're making assessments on a daily basis."

Mr. Sharon, 77, is to go into the hospital on Thursday for an operation under general anesthesia to plug a small hole in his heart that may have been a factor in the stroke he suffered Dec. 18. He will spend the night in the hospital and will temporarily cede his powers to his deputy, Ehud Olmert, for what is expected to be a three-hour period of operation and recovery.

Palestinians Kick Off Campaign Amid Signs Of 2nd Postponement (WP)

By Scott Wilson

The Washington Post, January 4, 2006

JERUSALEM, Jan. 3 -- The leading Palestinian political parties kicked off campaigns for parliament on Tuesday, but there was a growing possibility that balloting would be postponed as two prominent candidates had confrontations with Israeli authorities in East Jerusalem, where Israel has prohibited election activities.

Mustafa Barghouti, a former presidential candidate and leader of the Independent Palestine movement, was detained by Israeli police while campaigning in Jerusalem's Old City and held for about five hours. Police said Barghouti had the proper permit to enter East Jerusalem, annexed by Israel after the 1967 Middle East war.

Israeli police also dispersed a rally for the Third Way movement outside the Old City's Damascus Gate. Hanan Ashrawi, a member of the Palestinian parliament from the Jerusalem district, was speaking at the event when police intervened. Ashrawi said police briefly detained one of her aides for obstructing a police officer.

"I'm seriously concerned over how this campaign has begun, and not only because of the highhanded manner of the Israelis," Ashrawi said in a telephone interview. "I'm also worried about our own domestic realities and the breakdown of law and order. There appears to be an emerging anarchy."

Palestinians are scheduled to vote on Jan. 25 for a new 132-seat legislature. There was a festive atmosphere in many parts of the West Bank, but several candidates in East Jerusalem faced problems, including some members of the governing Fatah movement who were detained.

The Palestinian leader, Mahmoud Abbas, suggested Monday that he might postpone the election because of Israel's ban on voting in East Jerusalem. It would be the second time Abbas has delayed the vote, which was initially scheduled for July.

The warning by Abbas angered candidates of the Islamic Resistance Movement, or Hamas. Recent public opinion polls project that Hamas, which does not recognize Israel, would win between 30 and 40 percent of the vote, second only to Abbas's secular Fatah movement. Hamas has never competed in national elections, but was highly successful in municipal races over the past year and has been popular because of its social service programs.

"We have told them that postponing the election will lead to a vacuum and to a dark future," Ismael Haniyeh, a top Hamas candidate, told reporters in the Gaza Strip. "Postponing the election is not the solution."

The makeup of the new parliament will likely have little bearing on Palestinian policy, which will remain firmly in Abbas's control. But the results would help gauge both the popularity of Hamas, whose armed wing has carried out numerous attacks on

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Israeli soldiers and civilians during the most recent uprising that began in September 2000, and Fatah's unity as it endures a divisive generational power struggle.

Israeli officials have banned voting and electioneering in East Jerusalem because of the participation of Hamas, saying a 1996 agreement with Palestinian leaders about the election process prohibited the involvement of groups that do not recognize Israel.

"This time Hamas, a terrorist group, is participating," said an official in Prime Minister Ariel Sharon's office. "Because of this we cannot cooperate with the elections. This is our policy not only in East Jerusalem but throughout the process." The official spoke on condition he not be further identified.

A number of Palestinian politicians have called on the Bush administration to pressure Israel into allowing the vote to take place in East Jerusalem, an important symbol for Israelis and Palestinians, each of whom claim Jerusalem as their capital.

Barghouti, who lost the presidential race to Abbas a year ago, echoed that demand after his arrest. "Israel is trying to obstruct free elections in Jerusalem, and by doing so obstructing the process everywhere," he said.

After Israel, Who Can Run Gaza? (CSM)

By Rafael D. Frankel

The Christian Science Monitor, January 4, 2006

GAZA CITY - As the first year devoid of an Israeli presence since 1967 dawns in the Gaza Strip, armed militias roam the streets freely, foreigners are kidnapped with regularity, and the measure of a man in this coastal territory is not his political title, or even the size of his house, but the number of AK-47-wielding bodyguards he employs.

When Israel left Gaza four months ago, full control over the 1.3 million people was ostensibly transferred to the Palestinian Authority (PA). But its authority in this coastal territory has deteriorated to such a state of anarchy, that the best-armed gangs or families are effectively the law now.

"Yasser Arafat left a terrible legacy of violence behind him where people are always acting outside the law," says Eyad Sarraj, a Palestinian political analyst and a candidate in the Jan. 25 elections. "Now, with him gone, everyone is fighting for his power."

Tuesday, Palestinian parties launched their election campaigns across Gaza and the West Bank with parades, posters, and banners. This is the latest manifestation of the central Palestinian power struggle between the Islamic militant group Hamas and the ruling Fatah Party.

With Palestinian Legislative Council elections scheduled in three weeks, the violence in Gaza has heightened as dozens of armed factions, most claiming ties to Fatah, jostle for control. On Monday, even the Palestinian police donned masks and shot their guns in the air in a mass protest against the PA's lack of will to give police permission to aggressively tackle the escalating crime.

All throughout the days here gun shots ring out. From time to time, explosions from homemade bombs, rockets, and the countering Israeli artillery fire echo through the graffiti-ridden streets.

But the police Monday had an additional demand of PA President Mahmoud Abbas, one that is being made increasingly by leaders of his Fatah Party: delay the elections. "We are in a dangerous situation in which any attempt to hold elections might bring about battles between armed factions and the police," PA Police Chief Ala Hosni told the Israeli newspaper Haaretz.

After insisting for weeks that elections would go ahead as scheduled, Mr. Abbas said for the first time on Monday that he would consider delaying the vote; not because of the violence, but due to the question of whether Israel would bar Palestinians in East Jerusalem from voting.

Despite previous ambiguous statements from Prime Minister Ariel Sharon, Israeli government spokesman Raanan Gissin says Israel will not stand in the way of Palestinians living in Jerusalem from casting ballots.

"We will find a way to fulfill our obligations to allow them to exercise their right to vote," Mr. Gissin says. While the exact formula has not yet been decided, he says, it would likely be similar to the 1996 Palestinian elections when Israel allowed mail-in balloting from Jerusalem as well as easier access to areas in the West Bank with voting booths.

(Under the 1993 Oslo Accords, Palestinian political activities are prohibited in Jerusalem, as is participation in the PA by parties, such as Hamas, that do not recognize Israel's right to exist.)

"The Palestinians are looking for an excuse to blame Israel because they are incapable of controlling their own streets," Gissin says. "If they decide they want to cancel the election, they do it on their own merit, they can't hang it on us."

Mr. Sarraj, who is running for a seat in the Palestinian legislature with the Wahad [Promise] Party, says the PA's lack of law enforcement in Gaza and the talk about voting problems in East Jerusalem are calculated moves by Abbas to provide "excuses" to delay elections he knows Fatah will fair poorly in.

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After the strong showing by Hamas in recent municipal elections in Palestinian cities, Abbas is worried that not only will Fatah lose substantial ground in the legislature, it may lose control of that body altogether, Sarraj says.

Of all the militant Palestinian groups, Hamas has been responsible for the most Israeli deaths in terrorist attacks. Yet in a move to increase its political standing, Hamas has largely kept to the terms of a cease-fire it agreed to with Abbas last February.

On Monday, an official Hamas statement demanded that "the excuse of the security situation and anarchy in the Palestinian Authority not be used to postpone the elections."

And it won't be, says Saeb Erekat, the chief Palestinian negotiator who often speaks for the PA. "President Abbas knows the catastrophic consequences of postponing the elections," he says. As long as Israel provides the same voting access as it did in 1996, Mr. Erekat says, the elections will go ahead as planned - Israel should "not stand in the way" of that process.

As for the violence on Gaza's streets, Erekat says that while "every effort is being made to contain" it, the PA was not sure who was behind the rash of shootings and government office takeovers by masked gunmen.

British human rights worker Kate Burton and her visiting parents were kidnapped last Wednesday by a previously unknown group of gunmen and released two days later.

"It's impossible to say who has guns in Gaza anymore," Erekat says. "The ballots are the only thing that can stop the violence at this point."

Power Shift Set During Procedure For Sharon (WT/AP)

By Josef Federman

The Washington Times, January 4, 2006

JERUSALEM -- Prime Minister Ariel Sharon will hand over power to his deputy during a heart procedure this week, his office said yesterday, the first time an Israeli leader has agreed to give up his authority because of illness.

Mr. Sharon's office played down concerns about the 77-year-old leader's health, saying the procedure to close a small hole in his heart, including a period when he will be under general anesthesia, will last only three hours. However, officials canceled the weekly Cabinet meeting Sunday to give Mr. Sharon an extra day to recover.

Vice Prime Minister Ehud Olmert will take over during the procedure, Mr. Sharon's office said.

Doctors discovered the hole after Mr. Sharon suffered a mild stroke Dec. 18. The hole, measuring about one-eighth of an inch, apparently led to the stroke by allowing a small blood clot to reach Mr. Sharon's brain.

Although Mr. Sharon temporarily lost the ability to speak, his doctors said the prime minister suffered no lasting damage. He has resumed his full workload, and doctors say tomorrow's procedure, called a heart catheterization, will virtually eliminate the risk of a similar stroke.

The process of transferring power is spelled out in a 1992 law. But tomorrow will mark the first time in Israel's 57-year history that a leader has yielded his authority because of an illness, said legal commentator Moshe Negbi. In previous cases, including lengthy illnesses suffered by Golda Meir in the 1970s and Menachem Begin in the 1980s, their ailments were hidden from the public.

Last month's stroke has put the health of Mr. Sharon, who turns 78 next month, on the political agenda as he seeks a third term in March 28 elections.

Mr. Sharon recently quit the hard-line Likud Party to head a new centrist party, Kadima (Forward), in the upcoming election.

The health scare appears to have had no effect on the party's prospects. Opinion polls forecast a strong victory for Kadima, and show Likud far behind.

Benjamin Netanyahu, a former prime minister elected to lead Likud last month, said yesterday he would not make an issue out of Mr. Sharon's health during the campaign.

Israel Undergoes Political ‘revolution' Alignments Shift As Sharon Leaves Likud (USAT)

By Matthew Gutman

USA Today, January 4, 2006

TEL AVIV, Israel — Two months ago, politics in the Carmel Market, a gantlet of clothing stalls, butcher shops and spice kiosks, was straightforward. The small shop owners here are staunchly conservative and have supported Israel's largest party, Likud, for decades.

However, dramatic turns in Israeli politics over the past couple of months have reshaped the country's politics. The ruling Likud Party, a fixture in Israeli politics for more than 30 years, is struggling after its leader, Prime Minister Ariel Sharon, left to form the centrist Kadima Party. The center-left Labor Party elected a socialist who vows to inject life into the faction.

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Today, even in Likud bastions such as the Carmel Market, there is a political realignment. “Like my father, my family and most everyone here in the market, I used to vote Likud,” says Yoni Ben-Yonatan, 24, owner of a dollar store. “But there have been so many changes. … I will stick with Sharon. My father won't.”

The recent political changes are “nothing short of a revolution,” says Asher Cohen, a professor of political science at Bar-Ilan University in Tel Aviv. “Here you have a sitting prime minister dumping the party he helped found 30 years ago to create an entirely new party.”

Sharon was a key player in the establishment of Likud in 1973. The working-class people who populate open air markets such as Carmel have long provided Likud's support, Cohen says.

Likud swept to power in 1977. Since that victory, Likud prime ministers have governed Israel for 20 of the past 28 years. The decision by Sharon to leave the party has left Likud severely weakened and its future uncertain.

Sharon's new party is so popular that “it blows the two giants of Israeli politics (Labor and Likud) right out of the water,” Cohen says.

Most voters seem to have chosen Sharon, a former general who as defense minister engineered Israel's invasion of Lebanon in 1982, over the party he helped create.

A recent poll in the Israeli daily newspaper Maariv showed that if elections were held now, Likud would drop from its current 40 seats to 16. According to the poll findings, Sharon's Kadima Party would win 40 of the 120 seats in the Knesset, Israel's parliament, making Kadima the largest of Israel's many political parties. National elections are scheduled for March 28.

“Sharon has the experience, he has the toughness, and only he can balance right and left and eventually bring us a real peace with the Palestinians,” says Ben-Yonatan, who served in an elite Israeli army unit.

In announcing his new party, Sharon claimed he was abandoning Likud because the party's powerful right wing undermined his efforts to pursue peace with the Palestinians. Sharon supports the U.S.-brokered “road map” peace plan that would lead to creation of a Palestinian state.

Sharon also railed at Likud's 3,000-strong Central Committee, which set the party's political agenda. Sharon has blamed committee members for increasing political corruption in Israel.

Sharon's health complicates matters. On Dec. 18, the chronically overweight Sharon, 77, was hospitalized for two days for a mild stroke.

On Thursday, doctors are to seal a small hole in his heart that might have led to his stroke. His deputy, Ehud Olmert, will assume the prime minister's duties while Sharon undergoes the procedure, which should take three hours.

After Sharon abandoned the party, Likud elected hawkish former prime minister Benjamin Netanyahu, 56, as its chairman. Netanyahu condemned Sharon's withdrawal from Gaza and parts of the West Bank and is campaigning on a hard-line platform that would grant a Palestinian state on only a fraction of West Bank land.

Israel's Labor Party has taken a turn leftward with the election of Amir Peretz, 53, a union leader. He unseated Labor Party leader Shimon Peres, 82, in primaries Nov. 9.

Peretz has vowed to raise the minimum wage and taxes on the wealthy. He packed his shadow Cabinet with social crusaders, such as Shelly Yechimovitch, a former news personality who often expressed her socialist politics on TV.

Peretz says Israel should accede to most Palestinian demands for creating an independent state before moving on to issues such as eradicating child poverty and unemployment. Convinced that Peretz could not bring peace with the Palestinians, Peres and three other prominent party veterans joined Sharon's new party.

It remains unclear whether Sharon's party, bolstered by moderate defectors from Labor and Likud, will mean Israeli politics are moving to the center. With no activists or party infrastructure, Kadima's life span could be as short or as long as Sharon's desire to rule, Cohen says.

Sharon's strength, says Asher Arian, a fellow at Jerusalem-based think-tank Israeli Democracy Institute, “is being more in tune with Israeli public opinion than anyone else.”

Ashcroft Helps Israelis On Korean Weapons Deal (HILL)

By Jonathan E. Kaplan

The Hill, January 4, 2006

Israel’s major aerospace company hired former U.S. Attorney General John Ashcroft’s lobbying firm late last month to help secure the U.S. government’s approval to sell a weapons system to the South Korean Air Force, according to lobbying disclosure records.

The South Koreans are choosing between an early-warning radar system built by Israel Aircraft Industries (IAI) and a similar, more expensive system built by Chicago-based Boeing Co. The radar systems enhance an air force’s ability to track enemy fighter jets during combat.

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U.S. law requires Israel, and any other country seeking to resell American military technology, to secure approval from the Department of State's Directorate of Defense Trade Controls. That agency can also consult with the Pentagon on whether to issue an export license. A State Department spokesman declined to comment.

Boeing already has the U.S. government's approval.

The South Koreans initially had intended to make a decision by Dec. 31, but the government told the companies last month that it would delay its final decision until May 2006, which gives the Israeli company an additional four months to get the U.S. government's blessing.

Boeing officials based in Seoul, South Korea, expressed disappointment with the four-month delay in news reports in that country and Israel. The Jerusalem Post reported last month that Alexander Vershbow, the U.S. ambassador to South Korea, met with the South Korean defense minister and pushed for Boeing. The $1 billion deal has garnered little attention in the U.S. media and in Congress.

In 2005, Boeing contributed $642,877 to Republican and Democratic lawmakers' political action committees and campaign committees, according to politicalmoneyline.com. The firm reported spending $4.9 million on lobbying in 2004.

A spokesman for Rep. Norm Dicks (D-Wash.), who traditionally aids Boeing because the company has a large presence in his district, said he was not aware of the sale and had not been contacted by Boeing on the matter. Spokespeople for Speaker Dennis Hastert (R-Ill.), Rep. Mark Kirk (R-Ill.) and Washington Democratic Sens. Patty Murray and Maria Cantwell did not return calls for comment.

South Korea, the world's 11th largest economy, has been investing heavily in its military in recent years. The U.S. ally has developed its own fighter plane and battle tank and launched an aircraft carrier, destroyers and submarines, said John Pike of GlobalSecurity.org, an intelligence research company.

"The [surveillance] technology makes a tremendous difference whether you have airplanes like this," Pike said, adding that not having the system is like having a "football team without a coach and captain. It is night-and-day in terms of efficiency and effectiveness of air power. Any serious, self-respecting country wants them or wants to get them."

The Ashcroft Group and IAI signed a nondisclosure agreement, said spokeswoman Juleanna Glover Weiss, and IAI officials based in D.C. and Tel Aviv said the company does not comment on its consultants.

Ashcroft has built a lucrative lobbying practice since starting last summer. Public records also show that Oracle; ChoicePoint, a company that sells data to police and federal law-enforcement agencies; and the American Institute of Certified Public Accountants have hired Ashcroft.

Public records do not disclose how much IAI is paying Ashcroft. The records show that IAI also hired Morris Amitay for $20,000.

"I am not going to comment," Amitay said, referring to questions about the potential deal to IAI's office in Arlington, Va.

While it is not unusual for foreign governments to hire Washington lobbyists to navigate the executive-branch bureaucracy, Congress has a record of inserting itself into commercial transactions, especially when national-security issues are concerned. For example, the House overwhelmingly passed two resolutions last year encouraging the Bush administration to stop a potential merger between a Chinese oil company and Unocal, a U.S. oil company.

Israel has come under criticism from the U.S. government for selling arms to countries hostile to the United States, such as China and South Africa. In 2000, pressure from the Clinton administration and Congress stopped Israel from selling its Phalcon radar system to the Chinese.

"Past Israeli behavior does not inspire confidence," said Loren Thompson of the Lexington Institute, adding that past actions could spark Congressional action.

The United States suspended cooperation with Israel last year on some long-term military projects after Israel announced plans to sell China spare parts for Harpy Drone unmanned aerial vehicles. The United States and Israel signed a memorandum of understanding in August to regulate future arms sales between Israel and other countries.

Boeing has sold its surveillance system to the Australian and Turkish governments, said a D.C.-based Boeing official, who declined further comment. Last year, the Israelis sold the Phalcon system to India's air force, and, previously, they sold the Phalcon system to the Chilean air force.

The United States approved $22.4 billion in licenses to sell arms in 2004; Israel accounted for $1.33 billion in sales. Japan and Great Britain were the largest buyers of U.S. weapons, according to a State Department report

Rice To Visit Indonesia, Australia (REU-Y2)

Reuters, January 4, 2006

Secretary of State Condoleezza Rice will visit Indonesia and Australia, strong U.S. allies in fighting terrorism, from January 7-12, the State Department said on Tuesday.

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Rice will first go to Indonesia, the world's most populous Muslim nation, for talks with President Susilo Bambang Yudhoyono and other ministers, said spokesman Sean McCormack.

Both sides will discuss a range of issues, including U.S. support for "Indonesia's democratic development," cooperation in tackling the threat of avian flu and progress in recovery efforts after the devastating tsunami in December 2004.

They will also likely look at military relations between Indonesia and the United States, which have become closer as a reward for Jakarta's cooperation in the war on terrorism and against al Qaeda-linked militants.

In November, Washington announced it was restoring military ties, despite objections from human rights groups which said monitoring of armed forces would need to be tightened.

U.S. military ties were cut back after Indonesian troops shot at demonstrators in East Timor in 1991, killing dozens, when the tiny territory was ruled by Jakarta.

They were then severed after pro-Jakarta militias backed by elements in the military sacked East Timor in 1999 when the territory voted for independence.

In Australia, Rice will meet foreign ministers from Japan and Australia as part of a new "strategic dialogue" between the three countries, McCormack said.

Rice will also take part in a meeting between the United States and five Asia-Pacific countries that announced a pact last July to cut greenhouse gases that falls outside the Kyoto Protocol on climate change.

Critics say the pact, the Asia-Pacific Partnership for Clean Development and Climate, is ineffectual and merely serves the needs of industrialized nations.

The pact, which involves the United States, Australia, China, Japan, India and South Korea, looks at how to develop technologies to reduce greenhouse gas emissions rather than having specific targets.

Expediting Homes For Tsunami Victims (WP)

By Ellen Nakashima

The Washington Post, January 4, 2006

MEUDANGGHON, Indonesia -- In a field along Sumatra's west coast, a group of villagers gathered under a blue tarp, peering at a laptop computer. The screen displayed a design of a simple brick house.

"Everyone okay with this?" asked Dave Hodgkin, a relief aid consultant. "Any changes? If you want a bigger window, tell us."

"Don't change anything," a woman in a black head scarf quickly responded. "It'll slow things down."

Hodgkin works with Fauna & Flora International, a British group that is preparing to build homes in this isolated village of 60 households in Aceh province, the area hit hardest by the tsunami of more than a year ago. Similar scenes have been taking place across Aceh over the past several months as aid workers help survivors plan entire communities.

Stung by intense criticism of a slow rebuilding effort after the Dec. 26, 2004, undersea earthquake and resulting tsunami, the Indonesian government and relief agencies are moving to pick up the pace. After building about 16,000 houses in 2005, Indonesia is undertaking what officials call the world's largest reconstruction effort ever after a natural disaster. The goal is to build 80,000 homes by the end of this year and a total of 120,000 by mid-2007.

Interviews with officials and survivors indicate that accelerating the rebuilding process will not be easy. Not all of the houses built in 2005 have been occupied, according to the Rehabilitation and Reconstruction Agency for Aceh and Nias, known by its Indonesian initials BRR. Nias is an island off the Sumatran coast and was heavily damaged by an earthquake last March.

More than 60,000 people still live in tents. Another 50,000 are in barracks or other forms of temporary shelter. Several hundred thousand are living with friends and family, but many will need homes of their own.

"Until the last person moves out of the barracks into their own house, that last person will say that we are slow," according to Kuntoro Mangkusubroto, director of the government relief agency.

But beginning this year, he said, there will be 5,000 housing starts a month. Officials said the increased pace will bring logistical challenges. Building 120,000 houses will require 13.7 million cubic meters of concrete, gravel and wood -- or 1.7 million truckloads of material, officials said. It will be trucked, shipped and in some cases flown by helicopter to remote areas, said Sudirman Said, BRR spokesman.

Moving the material will be hampered by the lack of transportation facilities. The tsunami and earthquake wrecked most of Aceh's ports, highways and bridges. Officials expect a port restoration at Meulaboh to be completed by February, but others will take longer.

One recent morning, on the eastern outskirts of Banda Aceh, the provincial capital, a single cargo ship loaded with sugar was docked at Malahayati port's only jetty. Two other ships, one carrying cement, idled in the harbor. The port can dock only one ship at a time.

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"This is the main supply line for all the villages along the coast" of northern Aceh and part of its western coast, said Jan Roos, project manager for a construction firm hired by the Dutch government to enlarge the port. The Dutch are spending $8.2 million to dredge the harbor, build a second jetty and make other improvements. By October, Roos said, the port should be able to handle up to three ships.

Another port has been reopened for passenger ferries on the western side of the capital. But cargo ships still cannot land at the Ulee Lheue port, also to the west. Instead, the U.N. World Food Program and other relief agencies are using special landing craft that can pull up to shore, lower a ramp and unload.

Still, a landing craft must travel up to 18 hours from Ulee Lheue to Calang down the Sumatran west coast, a trip that used to take only 3 1/2 hours on the West Coast Highway before the tsunami battered it and dumped large chunks into the sea.

The United States is spending $245 million to repair the highway, the largest infrastructure project in Aceh and the most complex. Land has shifted in many parts of the island, and in some areas 500 yards of beach are submerged or washed away. "The road now in many places is next to the ocean and has to be relocated," said William Frej, the Indonesia director of the U.S. Agency for International Development.

The road will be rebuilt up to five miles inland, he said. USAID officials hope it will be finished by 2008.

The only hitch is that some villagers, eager to be settled, are rebuilding close to the shore, near their old fishing grounds. But Frej said he thought many would ultimately move.

"The road is unquestionably the economic backbone of Aceh," he said. "I would suspect that many of the villages, when the road is completed, will be relocated much closer to the road."

Zainal Abidin, 55, who lost his wife and three of their six children in the tsunami, lives about 150 yards from the sea in Leupung on the west coast. He does not want to move. He went back to the site of his old village and has lived in a tent for almost a year.

Now, he said, "all I want is to have a house in my old place."

But a relief agency that has promised houses for the village is clearing fields near a hill inland. The leader of the village says only about half the people are willing to move.

Another challenge is obtaining land titles for an estimated 300,000 people affected by the tsunami. The BRR, with the help of large donors led by the World Bank, will help people secure their property rights and establish a land database. Holding a land deed will also help those who need loan collateral to start a business, said Eddy Purwanto, a BRR official.

"The idea is to reconstruct ownership," he said, "but also to get them out of the cycle of poverty."

Officials said that one of the most difficult challenges is managing expectations. After the tsunami, with record donations pouring in and 500,000 people in need of shelter, hopes were raised that houses would be built quickly.

"Total destruction is total destruction and it takes time to rebuild -- and I'm not even referring to Katrina," said Scott Campbell, Aceh director for Catholic Relief Services. "I'm referring to Hurricanes Ivan and Charlie and others over a year old where people are still not in permanent houses. And this is coming from a country where there's loads of resources and infrastructure."

In recognition that many people here are going to have to wait until 2007 for permanent houses, international Red Cross groups, the United Nations and the BRR are building 20,000 transitional homes of galvanized steel. Officials hope to move most people out of tents by April.

In what is left of the village of Meudangghon, a mile from the sea, 30 families live in tents on a field once lush with mango, durian and orange trees. Thirty other families are in barracks in the nearest town, 45 minutes away by motorbike and ferry.

The villagers plan to rebuild on higher ground about 1 1/2 miles inland, near a mountain. The land they will build on belongs to several villagers, who have agreed to sell to their neighbors, with the local government putting up the money, said Helen Barnes, the project manager of Fauna & Flora in Aceh.

Mohammad Nasir, the village head, said the planning process has taken a long time. But he said he believes it will be worth it.

"I have faith," he said. "I am optimistic this will work."

Police In India Make An Arrest In Scholar's Death (NYT)

By Saritha Rai

The New York Times, January 4, 2006

BANGALORE, India, Jan. 3 - The police in southern India on Tuesday announced the arrest of a suspect in the shooting of a well-known scholar here as anxiety rose over the possibility of terrorist attacks aimed at the region's high-technology industries.

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Heightening tensions across this relatively prosperous belt of the country, the police said they had also uncovered plots to attack outsourcing companies after arresting four other suspects possibly connected to Islamic militant groups during the past two weeks.

The police were put on high alert in a number of cities, installing checkpoints and searching people and cars in Bangalore, Hyderabad and Madras, all flourishing cities where hundreds of outsourcing companies offer services to Western clients.

The measures taken in Hyderabad coincided with a visit to the city by Prime Minister Manmohan Singh to open the Indian Science Congress, the country's biggest meeting of scientists and scholars.

Wire reports quoted Mr. Singh as saying that terrorists were singling out India's research institutes because of the country's growing technical and scientific prowess. "The symbols and temples of our knowledge society are today being targeted by terrorists," Mr. Singh told scientists at the conference.

Ajit Kumar Mohanty, the police commissioner in Hyderabad, said the police had been "even more vigilant" since arrests two days ago revealed plans for an attack at Hi-Tech City, where most of Hyderabad's technology companies are based.

On Sunday, the Hyderabad police arrested two men suspected of being part of larger networks and seized a large quantity of explosives. Reports quoted the police as saying that the men had given details of their plans to attack technology companies by using bombs detonated by cellphones.

The first of a series of recent arrests was made in mid-December.

The police said Tuesday that they believed more such groups were holed up in the city.

Last week a gunman shot dead a retired professor, M. C. Puri, and wounded four others in the offices of the Indian Institute of Science, the country's premier science and technology institution. On Tuesday, the Bangalore police announced the arrest on Sunday of a suspect, Abdul Rahman, 35, saying he was known for "a very strong connection" to the Lashkar-e-Taiba, a militant organization based in Pakistan.

China Releases Investigative Reporter Whose Jailing Had Upset U.S. (WP)

By Philip P. Pan

The Washington Post, January 4, 2006

BEIJING, Jan. 3 -- The Chinese government released a prominent investigative reporter from prison Tuesday, even as it has been intensifying a crackdown on the press. The early release appeared intended to mollify the Bush administration, which had included the journalist on a short list of political prisoners whose cases it raises regularly with Chinese officials.

Jiang Weiping, 50, who spent the last five years in prison after writing a series of hard-hitting articles on government corruption for a magazine in Hong Kong, was granted a sentence reduction for good behavior and released one year before his term was set to end, according to his wife, Li Yanling.

Several human rights groups had campaigned for Jiang's release, including the New York-based Committee to Protect Journalists, which honored him with its international press freedom award in 2001.

The release was the first of a prominent political prisoner by the Chinese government in more than nine months. It came several weeks after U.S. officials expressed frustration over China's failure to free a prisoner as a gesture of goodwill in advance of President Bush's visit to Beijing in November.

Jiang was on a list of 13 prisoners that U.S. officials handed the Chinese during a 2002 meeting between Bush and Jiang Zemin, China's president at the time. Senior U.S. officials pressed for the prisoner's release in several subsequent meetings, and the U.S. ambassador to China, Clark T. Randt Jr., raised the case in speeches.

John Kamm, executive director of the San Francisco-based Dui Hua Foundation, which lobbies Chinese officials on behalf of political prisoners, said the decision could signal a new readiness by the Chinese government to address U.S. criticism of its human rights record after a period in which it appeared unwilling to make concessions.

Jiang Weiping, a former bureau chief for the Hong Kong newspaper Wen Hui Bao, was arrested in December 2000 after writing a series of articles for the magazine Frontline that exposed corruption among senior officials in the northeastern province of Liaoning. He was then sentenced to eight years in prison on charges of revealing state secrets and inciting subversion. A higher court later reduced the sentence to six years.

Jiang's supporters said he was targeted by party officials upset by his reporting, which helped uncover some of China's largest and most colorful corruption cases in recent memory. He reported, for example, that one local mayor used state money to buy apartments for 29 mistresses, and that another official lost nearly $3.6 million in public funds in casinos in Macau. That official was later arrested and executed.

Jiang also reported that one of the Communist Party's rising stars, Bo Xilai, covered up corruption among friends and relatives during his years as mayor of the city of Dalian. Bo, who is the son of the party elder Bo Yibo, was serving as the Liaoning governor when Jiang's reports were published, and is now China's trade minister.

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Jiang's release came as the government has been stepping up a crackdown on freedom of expression that began nearly two years ago. Last week, Liaoning authorities upheld the conviction of Zheng Yichun, an Internet essayist who has been sentenced to seven years in prison for writing articles criticizing the government. The same day, propaganda officials fired the editor in chief of one of the nation's most daring newspapers, the Beijing News, prompting as many as 100 journalists there to stage a one-day strike.

Last month, prosecutors concerned about the release of state secrets indicted a researcher for the New York Times, Zhao Yan, on charges related to his reporting for the newspaper. Prosecutors were also expected to make a decision this week about whether to pursue a case against a Singapore newspaper journalist, Ching Cheong, who has been detained since April on suspicion of espionage.

Australia Revisits Drug-price Cap (WSJ)

By Veronica Brooks

The Wall Street Journal, January 4, 2006

CANBERRA, Australia -- Mark Vaile, Australia's trade minister and acting prime minister, said the government may remove an amendment included in the Australia-U.S. free-trade agreement designed to contain drug prices if pharmaceutical makers can prove the provision is "commercially detrimental."

The so-called evergreening amendment was negotiated by Australia's major opposition Labor in 2004 as a condition of the center-left party's support for the trade treaty and is designed to prevent drug companies from extending medicine patents so as to delay cheaper generic versions coming to market.

Australia's free-trade agreement with the world's biggest economy came into force at the start of 2005 and will be the subject of a formal review in March.

The Australian newspaper reported yesterday that the influential U.S. pharmaceutical industry is pushing Canberra to scrap the safeguard amendment.

"I am sure that the American side, particularly industry in America, would like to have a discussion about the way those amendments, and the provisions of those amendments are operating," Mr. Vaile told Australian Broadcasting Corp. radio.

"But the point needs to be made that they would have to prove that those amendments are being commercially detrimental, which we don't believe they are.

"Under the Australian system, innovative drug companies get a very liberal dose of protection under the patent arrangements," he added. "They do have opportunities for patent extensions if there is a significant improvement in the benefits that flow from that drug, but through our process of certification and the [Therapeutic Goods Administration] we don't allow the abuse of the system."

Under Labor's amendment to the free-trade-treaty legislation, drug companies misusing the patent system to delay the release of cheaper generic pharmaceuticals face fines of as much as A$10 million (US$7.3 million), have to pay damages for any losses to the generic-drug manufacturer, and repay extra costs to federal and state governments.

Labor insisted the government adopt the amendments, adamant that safeguards were required to preserve access to affordable medicines under Canberra's A$6-billion-a-year Pharmaceutical Benefits Scheme.

Bush Administration Criticizes Russia (Ap)

By barry scwhied

The Associated Press, January 4, 2006

The Bush administration criticized Russia on Tuesday for imposing limits on natural gas supplies to Europe by reducing Ukraine's share through a pipeline that carries about 80 percent of Russian gas exports to the West.

A decision by Russia to restore most of the gas it had withheld Monday in a pricing dispute "does not resolve the issue," State Department spokesman Sean McCormack said.

Noting that Europe was in the midst of winter's cold, McCormack decried "the use of energy for political purposes."

He noted that Ukraine, a former Soviet republic, was due to hold parliamentary elections. And yet, McCormack also said he was not trying to discern Russia's motives in limiting supplies and proposing a sharp boost in gas prices.

McCormack said State Department officials were talking to both governments to try to help resolve the dispute.

Russia has acussed Ukraine of trying to steal its share of gas from Europe, an allegation that Ukraine rejects and the State Department declined to address.

Russian Natural Gas Streams Through Ukraine Once Again (WSJ)

The Wall Street Journal, January 4, 2006

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Russian natural gas flowed across Ukraine to countries throughout Europe yesterday, banishing the specter of immediate and prolonged shortages because of Moscow's price dispute with Kiev.

But relief was tempered by the realization that the Continent's dependence on Russian natural gas means it is vulnerable to future energy crises. (See related article1.) European officials also criticized Russia's behavior and called for a diplomatic resolution with Ukraine.

Calling Russia's decision to cut off gas shipments to Ukraine on Sunday "hasty," European Union Energy Commissioner Andris Piebalgs told BBC World, "I think Russia has overplayed this issue. We have never had such a situation in the 40 years since Russia and the previous Soviet Union made gas supplies."

Demanding Ukraine agree to end years of paying below-market prices for gas, Russia Sunday cut off shipments to the country, which also carries 80% of Russia's gas exports to Europe. After European customers began reporting steep declines in the flow of Russian gas, Moscow on Monday put more gas into the pipeline.

A spokesman for Russian state-controlled gas monopoly OAO Gazprom, which supplies a quarter of Europe's gas and aims to increase those sales, also admitted that the still-simmering crisis "absolutely has a negative impact on Russia's image and reputation."

Across Europe, officials were calling for steps to reduce dependence on Russian fuel. Poland, whose energy dependency on Russia is a legacy of its former status as a satellite of Moscow, launched an urgent search for new suppliers of natural gas. "I've instructed the economy minister to urgently prepare investment decisions allowing us to diversify gas supplies," Prime Minister Kazimierz Marcinkiewicz said.

Mr. Piebalgs said, "The situation has shown how vulnerable the union is to shortages of gas supply." A meeting today of representatives of EU member states and the gas industry will discuss how they would deal with future threats to Europe's supply. The Continent has few alternatives for supply with Norway producing at capacity and British gas fields in decline.

Both Russia and Ukraine showed interest yesterday in resolving the gas cutoff, which led to Monday's Europe-wide shortages, Russian accusations that Ukraine was at fault for stealing Europe-bound gas and Ukrainian denials. Gazprom said talks were planned with Ukrainian officials, though there was no sign of a compromise.

While European officials said the conflict is an economic one over prices, the crisis has clear political overtones. Under a 2004 deal with the previous government in Kiev, Moscow had agreed to continue to supply inexpensive fuel to Ukraine through 2009. But after pro-Western President Viktor Yushchenko took office early last year, Moscow has sought to raise the prices to world-market levels. The sides differ on what the terms of the contracts mean.

Gazprom officials said there is no valid contract for shipments to Ukraine this year and warned that the gas titan might not be able to continue to keep up supplies for European customers if demand in Ukraine -- now low because of unseasonably warm weather -- rises. Ukrainian officials said they were taking only gas they are entitled to under past agreements.

Gas Halt May Produce Big Ripples In European Policy (NYT)

By Mark Landler

The New York Times, January 4, 2006

FRANKFURT, Jan. 3 - Russia's shutdown of natural gas lines to Ukraine lasted less than 48 hours, but the repercussions could last far longer in Western Europe, which also relies heavily on Russian gas.

Even as the flow of gas to Germany, France and other countries resumed at normal levels by Tuesday evening, public officials and energy experts called on the Continent to rethink its energy policy.

Russia's standoff with Ukraine has exposed a deep European dependence on Russia, the officials and experts said. To reduce that vulnerability, they said, Europe should seek out other gas suppliers and develop alternative fuels, like clean-burning coal, nuclear power and renewable energy.

"If Russia is prepared to run the risk of cutting off supplies to its neighbors if they have a disagreement, how reliable are they as a supplier?" said William Ramsay, deputy executive director of the International Energy Agency, which advises 26 industrialized nations. "You have to ask the question."

Russia is virtually the sole supplier of gas to large swaths of Central and Eastern Europe, and to close neighbors like Finland. France and Italy buy between a quarter and a third of their imported gas from Russia.

In Germany, which is by far Russia's largest customer and has made energy the cornerstone of a broad economic alliance with Moscow, some experts said the standoff might even have political implications.

"Germany's alliance with Russia was not just conceived as a commercial deal, but as a way to integrate Russia into Europe," said Alexander Rahr, a Russia expert at the German Council on Foreign Relations in Berlin. "This could be in jeopardy if the gas dispute continues."

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The European Union, he said, is likely to rush to Ukraine's defense in its dispute with Russia over gas prices, giving Germany little choice but to fall in line. And Russia can no longer count on the friendship between President Vladimir V. Putin and Gerhard Schröder, who stepped down as German chancellor in November.

Mr. Schröder's successor, Angela Merkel, has not commented publicly on the dispute between Moscow and Kiev. But her economics minister, Michael Glos, said Monday that Germany would increase its Russian gas purchases only if Moscow proved itself to be a dependable supplier.

Mr. Glos also rekindled a debate over Germany's larger energy policy, saying the new government ought to reconsider the Schröder government's plan to phase out nuclear power by 2021.

Mrs. Merkel supports extending the life of Germany's nuclear plants. But during negotiations to form a government, she was unable to persuade the Social Democrats with whom she shares power to shelve the planned phase-out, which had been championed by Mr. Schröder's coalition partner, the Green Party.

"The latest developments show how important it is to draw on a balanced, broad energy mix," Mr. Glos said in a statement on Monday. In a radio interview, he added, "The German nuclear power plants were doomed by the Red-Green coalition to be switched off only for political reasons."

Some experts predicted that Russia's recent actions would strengthen Mrs. Merkel's hand. Germany imports more than 40 percent of its gas from Russia, and within hours of the shutdown, the largest German supplier, E.ON Ruhrgas, said it was not getting its normal amounts of gas.

"We understand that Russia cannot continue to subsidize Ukraine with very cheap gas, given rising market prices," the company's chairman, Burckhard Bergmann, said in a statement. "But it is also important to raise prices to the international market level in steps that Ukraine can cope with."

Mr. Bergmann's careful tone is not surprising, given his company's complex ties with Russia. Ruhrgas owns a stake in Gazprom, Russia's gas monopoly, in addition to being one of its main customers. It is also a partner with Gazprom in a $4.7 billion project to build a pipeline from Russia, under the Baltic Sea, to Germany and other parts of Western Europe.

Mr. Schröder brokered that deal with Mr. Putin shortly before he left office. He later accepted a job as the chairman of the board of a Russian-German consortium that is building the pipeline - a decision that drew withering criticism from across the political spectrum here.

Experts note that the energy alliance between Germany and Russia originated under Helmut Kohl, Mrs. Merkel's political mentor, not Mr. Schröder - a fact the chancellor is sure to recall when she visits Moscow this month. She is unlikely to derail an arrangement that has profited both nations.

"She might tell them when she goes there about the mess one can make by using energy as a political tool," said Mr. Rahr. "But she will do nothing to question the energy alliance between Germany and Russia."

Other experts argue that the European Union should negotiate an agreement with Russia that guarantees fair prices to all its members. Otherwise, there will be further disputes like this one.

While many here said they welcomed a debate over energy policy, some worried that it would be limited to perennial topics like nuclear power rather than forward-looking issues, like renewable energy.

Ukraine, for example, has the most potential of any European country to generate energy from crops, grasses and trees, often referred to as biomass, because of its rich soil and low population density, according to Hermann Scheer, president of the European Association for Renewable Energy.

"Those who prolong the current energy system are simply provoking things like the gas dispute," he said.

Ukrainians Angry Over Moscow Gas Dispute (AP)

The Associated Press, January 4, 2006

KIEV, Ukraine — Disgruntled Ukrainians thronged Bessarabsky Market in downtown Kiev in freezing temperatures Tuesday to buy electric heaters after a natural gas cutoff by Russia brought on by a pricing dispute.

The halt of Russian gas supplies that began Sunday has not yet caused major heating problems, but Kiev residents feared the two sides were far from a resolution. Russian and Ukrainian officials agreed Tuesday to resume talks on the issue.

Residents of the capital largely blamed Russia, which wants Ukraine to pay four times more for gas than it did last year.

"It's Russia's revamped imperialism behind all this. They believe that with the cutoff of gas they can dominate us," said Valentyn Vasilyev, 32, who was among those buying a heater.

"Thanks to Russia I am now wasting handsome money on an electric heater. But Muscovites will not win this time," said 46-year-old Olena Kostenko, wiping her nose as it started to snow.

For the vendor doing a brisk trade at the open-air stand, the gas dispute has been good news. He sold 10 heaters in less than an hour, for $21 each.

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"I regret I didn't have more of these," said Yuriy, who gave only his first name because he feared legal problems for selling unlicensed goods. "People are buying like crazy."

Nearby a poster read, "Do not buy Russian goods," and "Do not give money to Russian oppressors."

The cutoff also reduced gas supplies to Europe, which gets about a quarter of its gas from Ukraine, though the European countries most affected _ Hungary, Austria, Slovakia and Slovenia _ reported supplies were back to normal Tuesday.

In Washington, State Department spokesman Sean McCormack criticized Russia for "the use of energy for political purposes."

Noting that Europe was in the midst of winter's cold, McCormack said the decision by Russia to restore most of the gas it had withheld Monday to European countries "does not resolve the issue,"

The gas dispute highlights Ukraine's dependence on Russia as the key supplier to its energy inefficient industries. It also demonstrates Russia's opposition to Ukraine's attempts to break out of the Kremlin's sphere of influence and join the European Union and NATO.

Ukraine's tilt toward the West since President Viktor Yushchenko took office a year ago has irritated the Kremlin.

Ukraine's Foreign Ministry has characterized the gas dispute as an attempt by Moscow to wreck Ukraine's economy as the country tries to integrate into Western Europe.

Some Ukrainians, however, mainly pensioners with strong emotional ties to the former Soviet Union, still believe the country's future lies in the renewal of centuries-long economic, ethnic, religious and cultural links with Russia.

"What are we without Russia? A wasteland, nothing. You argue with a bear and it will ultimately eat you," retired army officer Mykola Kostenyk said.

Many communities in Ukraine's west reported a decrease in gas supplies and local providers said they would stop heating schools during the winter holidays.

In the key western city of Lviv, several factories reported shifting from gas to coal or oil as their primary energy source.

On Tuesday, a pro-Russian opposition bloc loyal to Ukraine's first post-Soviet president, Leonid Kravchuk, demanded an urgent parliamentary session about the gas dispute and said a new caretaker government should be appointed until March parliamentary elections.

In a statement, Kravchuk's bloc said the current Cabinet, loyal to Yushchenko and Prime Minister Yuriy Yekhanurov, "cannot be an effective participant in any talks with the Russian side, including the gas issue."

Yushchenko and his allies "took a deliberately hostile position toward Russia on a broad range of international issues," the statement said.

Meanwhile, the office of the prosecutor general ordered a probe into the activities of all companies responsible for storing and securing gas supplies throughout Ukraine and overseeing "all the activities related with rational use of energy," a statement said.

Gas Price Dispute Worries Europeans (WT)

By Andrew Borowiec And David R. Sands

The Washington Times, January 4, 2006

A bitter pricing dispute with Ukraine that briefly disrupted Russia's natural-gas supplies to Europe has fueled fears over Moscow's growing clout as an energy supplier to the Continent.

Gas shipments through Ukraine to Europe returned to normal yesterday -- a day after they were severely restricted in the pricing fight -- but doubts about Russia's reliability and intentions as an energy supplier dominated the European press.

"Welcome to the new Cold War," wrote the London Times, describing Moscow's leading role as energy supplier "Russia's most powerful weapon in its post-Soviet arsenal."

The dispute put in sharp relief two contrasting priorities of Russian President Vladimir Putin's foreign policy: his desire to use Russia's energy reserves to cement ties to Europe and his willingness to use those same resources to bring Ukraine's pro-Western government to heel.

Vladimir Socor, an analyst with the Jamestown Foundation, said Mr. Putin's goals in the dispute are "twofold."

He wants to "defeat Ukraine's [pro-Western] Orange political camp in the upcoming political elections and compel Ukraine to turn its transit-pipeline system into a Russian-Ukrainian consortium," Mr. Socor wrote in an analysis of the crisis.

Analysts said yesterday Moscow may have underestimated how badly the shutdown will damage its reputation in Europe, which now gets a quarter of its natural gas from Russia. The dispute also comes just as Russia assumes for the first time the chairmanship of the Group of Eight industrial powers.

London's Daily Mail called Russia's G-8 presidency "a travesty the West will come to regret," while in Paris, the conservative Le Figaro's headline proclaimed: "Putin plunges Europe into difficulty."

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European Union officials said yesterday there was no immediate supply crisis, but EU Energy Commissioner Andris Piebalgs told reporters that "the situation has shown how vulnerable the Union is to shortages of gas supply."

Representatives of the 25 EU member states and the gas industry meet today in Brussels on ways to deal with future threats to Europe's gas supply.

Russian and Ukrainian energy officials began separate talks yesterday in Moscow to discuss the dispute.

The showdown pushed up world oil prices in New York and London markets.

Russian officials deny a political motive in the showdown, saying they switched off Ukraine's gas because Kiev rejected an abrupt, fourfold increase in gas prices to market levels. Russia also accuses Kiev of siphoning off pipeline shipments meant for European customers.

The Bush administration, which has strongly backed new Ukrainian President Viktor Yushchenko, said Gazprom's sharp price increase "raises questions about the use of energy to exert political pressure," according to State Department spokesman Sean McCormack.

"Such a change should be introduced over time, rather than suddenly and unilaterally," Mr. McCormack said.

EU Could Step In To Help Solve Gas Dispute (FT)

By Sarah Laitner In Brussels And Tom Warner In Kiev

Financial Times, January 4, 2006

Energy experts meet on Wednesday in Brussels to thrash out the EU's response to the Russia-Ukraine gas dispute after the stand-off led to a cut in European supplies.

European diplomats in Kiev said the EU could be prepared to play a more proactive role to help solve the dispute.

The threat to European supplies has renewed the debate over whether the EU needs a common energy policy to address its growing dependence on imported oil and gas.

The European Commission on Tuesday defended itself against criticism that it should have reacted more rapidly to the disruption when Russia cut the amount of gas it exports via a pipeline in Ukraine. Gas supplies to France fell 30 per cent on Monday, while countries in eastern Europe that rely heavily on Russian exports saw even bigger falls. The Commission insisted the dispute was between a gas supplier and transit operator.

Brussels has few weapons in its arsenal to respond to threats to EU supplies because energy policies are largely dealt with by the member states.

Tony Blair, British prime minister, raised eyebrows in October when he called for a common EU energy policy that included countries co-ordinating efforts to negotiate with suppliers.

“For far too long we have been in the situation where, in a haphazard and random way energy needs and energy priorities are simply determined in each country according to its needs, but without any sense of the collective power we could have in Europe if we were prepared to pool our energy and our resources,” Mr Blair told the European parliament.

But member states have been reluctant to extend Brussels’ powers over such a sensitive area as energy.

Predictions that two thirds of Europe's total energy and three quarters of its gas will be imported by 2020 are likely to spur calls for greater co-ordination to secure supplies.

Part of the difficulty lies in defining what a common European energy policy would be. The EU has spent more than a decade liberalising gas and electricity markets to create a single pan-European market, efforts which have been hampered by structural weaknesses in Europe's energy network and a lack of competition.

But member states have reacted coolly to ideas such as Commission control over strategic oil reserves or direction from Brussels on nuclear power options.

In a paper prepared for the British presidency of the EU, which ended last month, Prof Dieter Helm of Oxford University suggested measures such as creation of an EU gas security and storage regime and a European information exchange on future capacity plans.

Ukraine Concedes It Took Gas From Pipeline But Says It Had The Contractual Right (NYT)

By Andrew E. Kramer

The New York Times, January 4, 2006

KIEV, Ukraine, Jan. 3 - Ukraine conceded Tuesday that it had withdrawn natural gas from its pipeline system that Russia said was intended for export to Europe, but said it had a contractual right to the fuel under an agreement with the Central Asian nation of Turkmenistan.

Both Russia and Turkmenistan export natural gas through Russian pipelines to Ukraine, which customarily takes some for its own use and ships the rest on to other European countries. But Russia cut the flow through the pipeline on Sunday, ostensibly

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in a dispute with Ukraine over pricing and transit fees. That set off alarm bells throughout Europe during the winter heating season and shook world energy markets' confidence in Russia.

Russia placed blame for the shortages on Ukraine, saying it stole gas intended for export, but under pressure from European governments, Russia restored full flow to the pipeline on Monday. Despite the bickering, the two countries resumed negotiations on gas prices on Tuesday.

Nevertheless, the price of crude oil leapt by more than $2 a barrel on Tuesday in afternoon trading on the New York Mercantile Exchange, fed by concerns over Russia's reliability. Crude oil prices rose to a two-month high of $63.80 a barrel at midday before pulling back slightly.

While admitting that they took their usual allotment of gas on Tuesday, Ukrainian officials dismissed Russian claims that the gas had been stolen. Mikola Goncharuk, a member of the board of Ukraine's natural gas company, Naftogaz, said at a news conference in Kiev that his company had indeed drawn down gas from the pipeline system, but under a contract with Turkmenistan. Russian export gas, he said, was untouched.

"We are demanding the full volume of gas from Turkmenistan today," Mr. Goncharuk said. "For now we can get by without Russian gas."

Gazprom, Russia's government-owned gas company, insists that the pipeline carries only Russian gas for export to Europe.

Meanwhile, the political fallout continued from Russia's brief gas embargo, which was widely regarded in Europe as punishment of Ukraine for its rejection of Moscow in elections last year and its continued turn to the West and away from the Russian orbit.

In Washington, the State Department spokesman criticized Russia's use of energy as a foreign policy tool, while Austria and other Central and Eastern European countries agreed to make the diversification of energy supplies a priority, though they did not say how they would achieve it.

The European Union's top energy official said Tuesday that the pricing dispute could fester for weeks to come, jeopardizing one of the Continent's primary sources of energy. Andris Piebalgs, the energy commissioner, said the agreement by the two sides to resume talks on the issue was "just a temporary calmdown," according to the Bloomberg news agency.

Each side in the dispute has plausibly blamed the other because the pipeline system, a great achievement of the Soviet Union's postwar industrial expansion, was built as a unified web. After the Soviet Union broke up, the successor states divided the gas flow through treaties and commercial agreements that grew more complex each year.

Companies subsidized others, shrewd businessmen made millions or billions exploiting price discrepancies, gas utilities became government slush funds and corruption blossomed.

The gas is sometimes mingled in the web of pipes. In the argument on Tuesday, Ukraine said some of the gas entering its pipeline system had been bought from Turkmenistan and shipped by an intermediary company. Mr. Goncharuk said his company paid last Friday for 126 million cubic meters a day of gas from Turkmenistan, for an unspecified period.

He said that Ukraine therefore had a right to withdraw that volume of gas from its pipelines, but that it had chosen to take only 90 million cubic meters out of concern for the security of natural gas flows to Europe during the winter.

The Russian minister of industry and energy, Viktor Khristenko, said Tuesday that Gazprom had contracted the entire export capacity of Turkmenistan for the first quarter of 2006, the Dow Jones news service reported.

In statements carried in the Russian news media, Turkmenistan's mercurial and authoritarian leader, Saparmurat Niyazov, who presides over a closed nation deep in Central Asia, shed little light on the dispute. He has confirmed sales to Ukraine without elaborating on the discrepancy with Gazprom's statements. Gazprom controls the pipeline leading north from his country.

Mr. Goncharuk also asserted that Ukraine had a right to withdraw additional gas from the pipelines in lieu of transit fees from Russia under a barter agreement reached in 2004 and in force in 2005.

Volodymyr R. Sidenko, chief economist at the Institute of Economic Forecasting in the Ukrainian Academy of Sciences, said: "Ukraine considers if we have not arrived at any agreement, the old one is in effect. The Russian side rejects these arguments."

Meanwhile, the gas dispute has already dented Ukraine's energy-intensive economy. Chemical and metallurgical industries slowed production to reduce demand by 15 to 20 percent, according to a statement by the Ukrainian government.

While Kiev scored points for withstanding what European nations almost universally regarded as Russia's intimidation tactics, its energy troubles are far from over.

Natural gas-guzzling steel mills and chemical plants earn much of Ukraine's export revenues. Outdated and inefficient, many have scraped by since the collapse of the Soviet Union only because of cheap energy from Russia. Market-rate energy prices, which Ukrainian officials acknowledge they must pay eventually, could plunge Ukraine back into recession, officials here have said.

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On average, metallurgical plants would become unprofitable at natural gas prices above $105 per 1,000 cubic meters, according to estimates by Mr. Sidenko. The chemical industry would be unprofitable at prices above $85, he said.

Under the 2005 contract, negotiated before the Orange Revolution, Ukraine pays $50 per 1,000 cubic meters. Gazprom is asking for $220 to $230 now, about double what most other former Soviet states pay.

Gazprom Says Gas Supplies Back on (REU)

By Christian Lowe

Reuters, January 4, 2006

MOSCOW (Reuters) - Russia's gas deliveries to European customers returned to normal on Tuesday as it traded insults with former ally Ukraine over who was to blame for supply disruptions across the continent.

Russian energy officials were set to meet counterparts from Ukraine on Tuesday to discuss the dispute but there was no sign of a softening of tone on either side in a dispute with clear political overtones.

Russia switched off Ukraine's gas when Kiev rejected a big hike in prices. It was forced to turn the taps back on after key European partners complained their supplies had been hit too and chided Moscow for using energy as a political tool.

Relations between the ex-Soviet allies, already strained after Ukraine elected a West-leaning leader a year ago, have now hit a new low with the gas dispute.

Russia has accused Ukraine of stealing gas intended for other European countries. Ukraine says Russia is lying.

The crisis has lent new urgency to efforts by European states to reevaluate their energy policy to ensure supplies are secure. EU energy officials meet for emergency talks on Wednesday.

Italy, Germany and France said their gas supplies from Russia were back to normal after Russia's state-run Gazprom pushed extra gas into the system to make up for the earlier shortfall.

However, Gazprom warned there was still a risk of supply disruptions to Europe if Ukraine continues to steal gas.

"There is still a danger that the situation could develop in such a way that we are not going to be in a position to compensate," Gazprom deputy CEO Alexander Medvedev told Reuters in an interview.

Ukraine has said it will help itself to Russian gas piped across its territory if temperatures dip below freezing.

MEETING PLANNED

Senior officials from Gazprom and Ukraine's state Naftogaz company were to meet later on Tuesday for the first time since negotiations collapsed in the final hours of 2005.

But the gulf between them was huge. In Moscow and Kiev, everyone from gas executives, television anchors, prime ministers and foreign ministry spokesmen lined up to blame the other side for the crisis.

Russia said it was Ukraine's fault by refusing to pay the same prices as its European neighbours, rejecting a last-minute compromise offered by Putin and then stealing Europe's gas when Gazprom, in exasperation, finally turned the taps off.

Ukraine was just as vehement. "The fact is that Gazprom officials are lying," said Naftogaz Ukrainy spokesman Eduard Zanyuk.

Ukraine said the Kremlin was punishing it for daring to pull away from its sphere of influence.

The Kremlin has made no secret of its dislike of the West-leaning stand of Ukraine's President Viktor Yushchenko who rose to power a year ago after mass protests forced a rerun of an election initially won by a Moscow-backed candidate.

Moscow is demanding an increase in the price Ukraine pays for its gas to $230 (133 pounds) per 1,000 cubic metres from the current $50 price that is rooted in Soviet-era subsidies.

Ukraine says such a big hike will badly damage its economy.

Ukraine's gross domestic product may fall by 5 percent and inflation rise to 27-30 percent in 2006 if the price for Russian gas increases to $230, a senior government official was quoted as saying on Tuesday by Unian news agency.

ENERGY RETHINK

The wobble in gas supplies sent a chill through capitals and energy markets, with some analysts saying the disruption had hurt Russia's credibility as a dependable supplier of energy.

Prices for oil -- Russia's other major money earner -- jumped a dollar to just over $60 a barrel as consumers feared the row could yet crimp fuel supplies to Europe. In Britain -- Europe's only major, freely traded gas market -- wholesale prices rose as much as 8 percent on Tuesday.

Tony Blair's spokesman said the British Prime Minister has long believed the EU needed a more coherent energy policy to meet the challenges of energy supply and security.

"These events have underlined the Prime Minister's thinking in making that argument," said the spokesman.

Noe Van Hulst, a director with energy watchdog the International Energy Agency, said Russia was playing a risky game.

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"From the Russians' perspective, it's not in their long term interest to put their reputation (as a reliable energy supplier) ... at risk. It's dangerous," Van Hulst told Reuters.

It was unclear how the row would play out politically for Ukraine's Yushchenko.

His supporters say by cutting off gas Moscow had tried to put his administration in a bad light ahead of a March parliamentary election, when his biggest challengers will be the pro-Moscow parties.

But some analysts said the crisis would cost the pro-Moscow opposition support if voters view Russia's actions as aggressive and unfriendly.

Russia's Energy Politics (WP)

The Washington Post, January 4, 2006

RUSSIAN PRESIDENT Vladimir Putin once again has overplayed his hand. In his zeal to reestablish Moscow's dominion over Ukraine, he has, as he did during the Orange Revolution, triggered an international crisis that could end up weakening rather than strengthening Russia's international position. Mr. Putin hoped that by shutting off gas supplies to Ukraine on Sunday, he could undermine its democratic and pro-Western government. Instead, he has provided a timely wake-up call to Western European countries dependent on Russian energy supplies. Those nations now see how Mr. Putin understands the question of "energy security," which he would make one of the principal topics for discussion by the Group of Eight this year.

For Ukraine and other former Soviet republics, Russia's crude use of energy for political ends is an old story. For years Moscow has been using its control over natural gas to reward neighbors who submit to its political diktat, such as Belarus, and punish those who seek greater independence, such as Georgia and Moldova. It has also been trying to gain control over pipelines carrying gas and oil, as well as electricity networks, by using gas as a lever. That leverage is considerable: Russia holds more than a quarter of the world's gas supplies and is a major supplier to virtually every country in Europe.

Ukraine used to be one of Moscow's pampered clients. In 2004, as part of his overt attempt to install a pro-Moscow puppet as Ukrainian president, Mr. Putin promised to heavily subsidize Ukraine's gas for years to come. But his meddling catalyzed the Orange Revolution, which gave Ukraine a democratic government determined to preserve its independence. So now Mr. Putin, acting baldly through the state-controlled company Gazprom, is seeking to quadruple the price Ukraine pays just weeks before parliamentary elections in which pro-Moscow parties are bidding to regain power. In partially shutting down supplies on Sunday, Mr. Putin calculated that Ukraine would allow Russian gas free transit to countries farther west through the same pipeline -- or, if it did not, that Western governments would blame Kiev.

Instead, when gas pressure fell off sharply yesterday in Vienna, Rome and Paris, it was Mr. Putin who was reproached -- including by such customers as Germany, which recently agreed to a controversial plan for a new pipeline under the Baltic Sea. Mr. Putin was forced to back down, though the underlying price dispute with Ukraine remains unresolved. He has a sensible way out of the conflict, which the Bush administration is urging on him: a negotiation in which Ukraine agrees to a gradual shift toward world market prices. Poland and the Baltic countries have cut such deals with Russia in the past -- though the prices they pay Gazprom are nowhere near what Mr. Putin proposed to charge Ukraine.

Even if Mr. Putin adopts this course, Western countries should absorb an important lesson. Without a prosperous or technologically advanced economy and with greatly reduced military strength, Mr. Putin hopes to restore Russia's world-power status through its control of gas. That inevitably means manipulating supplies to other countries for political ends. Western countries that do not wish to receive Mr. Putin's ultimatums -- from Germany, France and Britain to the United States, which is being pressed by Russia to line up as a major customer for new Arctic gas fields -- should realize that dependence on Russian gas is not consistent with "energy security." Instead they should develop alternative sources of supply, or a greater emphasis on nuclear energy. Russia cannot be allowed to hold its neighbors, or the world, hostage during a future cold winter.

Russia Shoots Itself In The Foot (NYT)

The New York Times, January 4, 2006

If President Vladimir Putin wants to convince the world that Russia is a more reliable energy supplier than the Middle East, playing and losing a game of chicken with Ukraine was not the way to go. Mr. Putin tried to use a pricing dispute between Gazprom, Russia's behemoth, and Naftogaz of Ukraine to punish President Viktor Yushchenko for Ukraine's westward leanings. Instead, he gave Russia another black eye and antagonized Europe.

When Gazprom turned down the natural gas spigot a notch, Ukraine simply took what it needed, leaving Europe short of fuel, furious and anxious. That's not a great start for Mr. Putin's turn at the head of the Group of 8, especially since energy security was to be his theme song.

Not that the conflict reflects that well on Ukraine. Russia has long charged wildly different rates to former Soviet republics, depending on their degree of loyalty or usefulness. Thus Belarus, which ceded control of all its pipelines to Russia and is firmly in

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the Kremlin's orbit, pays $47 per 1,000 cubic meters, while Estonia and Latvia, both in the European Union and NATO, pay about $120. The average price in Western Europe is expected to go over $250 this year. Ukraine had been paying $50, and using the energy wastefully and corruptly. Mr. Yushchenko has also been using cheap fuel as a lure for Western investors. Well, if Ukraine wants to play in the West, it may soon have to pay like the West.

Russia is still a more secure energy supplier than the Middle East. But Europe and the United States should remind Mr. Putin that energy security is a two-way street. Ukraine has no permanent right to a gas subsidy, but as long as Mr. Putin uses pricing to reward and punish, he undermines Russia's claim to be a reliable, businesslike supplier.

Morales Aligns Himself With Castro, Chavez (AP)

By Christopher Toothaker

The Associated Press, January 4, 2006

CARACAS, Venezuela — President Hugo Chavez offered Bolivia's president-elect diesel fuel, trade benefits and help in financing his social reforms as the two leftists cemented ties, reasserting their opposition to U.S. policy in Latin America.

Fresh from a visit with Cuba's Fidel Castro, Evo Morales said in Caracas at the start of a seven-nation world tour that he and the Venezuelan leader were uniting in a "fight against neoliberalism and imperialism."

Morales' next stops are Spain, France, Belgium, South Africa, China and Brazil — but not Washington. Morales' spokesman says he was not invited to Washington, where officials have expressed concern of the growing alliance between Morales, Chavez and Castro.

The Venezuelan leader received him with full military honors as well as hugs and smiles. Crowds of leftist, pro-government supporters cheered as Morales and Chavez arrived at the National Pantheon in downtown Caracas, then headed to a private meeting at Miraflores Palace.

Morales, who takes office as Bolivia's first Indian president on Jan. 22, predicted more leftist leaders would come to power in the region Tuesday in Caracas.

"The time of the people has arrived. This is the new millenium of the people," he said before leaving later that evening for Spain.

During the trip, Morales is expected to discuss with other leaders Bolivia's vast natural gas holdings — the second largest in South America — which he has said he wants to nationalize. But he says he would leave alone foreign oil and gas companies.

The trip is also designed to show that the coca-growing protest organizer has the presidential grit to hold his own on the world stage and tackle the deep problems of his country, including poverty and political instability.

At a joint news conference, Chavez said Venezuela would supply 150,000 barrels of diesel fuel monthly to Bolivia to supplant the impoverished country's imports.

"I won't accept you paying us a cent, you are going to pay us in agricultural products," said Chavez, adding that the offer was worth $180 million a year.

Chavez also said Venezuela will donate $30 million to Morales' government following his Jan. 22 inauguration.

In praising Castro and Chavez on Tuesday, he clearly established Washington's fiercest Latin American critics as his models.

"We are here to resolve social problems, economic problems," Morales said. "This movement is not only in Bolivia; Fidel in Cuba and Hugo in Venezuela are logging triumphs in social movements and leftist policies."

"We are going to change Bolivia. We are going to change Latin America," Morales said.

Chavez referred to the three leftist leaders as "an axis of good" — a play on President Bush's reference to North Korea, Iran and prewar Iraq as the "axis of evil."

Just back from his first trip abroad over the weekend — to communist Cuba — Morales met on Monday with U.S. Ambassador David Greenlee. Representatives of both sides said the meeting was private and declined to give details.

Morales vowed during his campaign to be Washington's "nightmare," but has said he is open to developing relations with the United States. American officials, too, have said they hope to work with Morales.

"We'll see what kinds of policies President Morales pursues," State Department spokesman Sean McCormack said. "And, based on that, we'll see what kind of relationship the United States and Bolivia will have."

Chavez says he is leading a socialist revolution and has taken increasing control of the oil and gas industry.

High oil prices and the greater share of industry profits have allowed him to fund growing social programs, a goal Morales says he shares.

Morales' opposition to U.S.-led efforts to eradicate coca cultivation in his Andean nation also have alarmed Washington. Coca is the source of cocaine, but Bolivia's Indians also use it for hunger suppression and medicinal purposes.

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Morales tended llamas as a young boy and rose to power at the head of street demonstrations that toppled two presidents, demanding that more power be transferred from the country's long-ruling lighter-skinned elite to Bolivia's poor Indian majority.

Peru Asks Chile To Extradite Fujimori To Face A Range Of Charges (NYT)

By Larry Rohter And Pascale Bonnefoy

The New York Times, January 4, 2006

SANTIAGO, Chile, Jan. 3 - The government of Peru formally requested Tuesday that Chile extradite former President Alberto Fujimori, who governed Peru during the 1990's and has been held in custody here ever since he unexpectedly arrived two months ago from exile in Japan.

Mr. Fujimori, 67, is wanted in Peru on more than a dozen counts of corruption and violating human rights. The accusations against him range from bearing the responsibility for death squad killings and unauthorized wiretaps to paying bribes and siphoning money from government ministries.

In the past, Mr. Fujimori has denied all of the charges against him, saying they are part of a political campaign to discredit him. Peru is scheduled to hold an election for president in April, and though Mr. Fujimori has been ruled ineligible because of the charges, he had declared himself a candidate and was apparently on his way back to Peru to campaign when he landed here in November.

Relations between Chile and Peru have been tense for more than a century, and remain so because of disagreements over maritime boundaries. But at a news conference, the Chilean foreign minister, Ignacio Walker, said the Fujimori case was a purely legal matter, not an affair of state. "The courts offer guarantees of complete impartiality," he said. "This should not perturb our bilateral relations in any way."

Leaders of Peruvian human rights organizations and relatives of death-squad victims came from Lima to lobby for extradition. "We hope that the Chilean courts will act as consistently as they have recently with Pinochet," said Francisco Soberón, a member of one such group, referring to the former Chilean dictator who has been stripped of his immunity from prosecution for human rights abuses and corruption offenses.

Under Chilean law, government lawyers will now question Mr. Fujimori about the charges against him. Eventually, the case will move to the Chilean Supreme Court, which may take months to rule. "We are convinced there is more than enough evidence than what the Chilean Supreme Court normally requires for an indictment," José Miguel Vivanco, the executive director of Human Rights Watch, said in an interview here. "Denial of extradition would be incomprehensible, inexcusable."

When Mr. Fujimori arrived here, he was given a 90-day tourist visa, which expires Feb. 7. Theoretically, Chile's president, Ricardo Lagos, could decide not to renew the visa and have Mr. Fujimori expelled to Peru.

There are, however, local legal precedents that work in Mr. Fujimori's favor, including some involving both Nazi war criminals and former associates of Mr. Fujimori. When Argentine judges recently sought the arrest and extradition of one of that country's former presidents, Carlos Saúl Menem, after he went into exile here, Chilean courts turned down their requests.

Mr. Fujimori, in fact, has hired Mr. Menem's lawyer, Gabriel Zaliasnik. Mr. Zaliasnik said last month that his client had come here because he "thought that the Chilean authorities would not discriminate against him" but that they would "treat him the same way they did with respect to Carlos Menem."

Hours after his arrival here, Mr. Fujimori was detained because of the charges he faces, and remains in custody at a police training school. His lawyer said Mr. Fujimori had been learning to play guitar and cultivating a small rose garden, but the Peruvian authorities complain that he has also been using meetings with relatives and associates to direct his supporters' actions back home.

Peru Asks Chile To Extradite Fujimori (WP)

By Monte Reel

The Washington Post, January 4, 2006

BUENOS AIRES, Jan. 3 -- Peru's government on Tuesday formally asked Chile to extradite former president Alberto Fujimori and handed over 12 boxes of evidence that it said links him to human rights violations and corruption.

Fujimori was arrested on Nov. 7 in Chile, after defying an international warrant and returning to South America from Japan, which had granted him asylum when he fled Peru in 2000 during a corruption scandal. At the time of his arrest, Fujimori said he had hoped to return to Peru to run for president in this year's election.

The Peruvian government is seeking to prosecute Fujimori on 12 charges of crimes alleged to have been committed during his 1990-2000 presidency, including responsibility for a death squad accused of killing 25 people in two incidents. He also is accused of torture, illegal telephone surveillance, misuse of government funds and bribery. Fujimori denies all the charges.

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Officials said the evidence presented to the Chilean Foreign Ministry includes testimony from many former Fujimori allies, several of whom have been tried in recent years for acts committed during Fujimori's authoritarian administration. Among those convicted were cabinet ministers, an ex-armed forces chief and Vladimiro Montesinos, a former intelligence chief who has been sentenced to 15 years on corruption and arms-dealing charges.

A Chilean Supreme Court judge is to rule on whether the evidence meets the main requirement for extradition -- establishing probable cause for a trial on charges considered serious crimes in both Peru and Chile.

"My sense is that there is enough evidence for any reasonable court to justify Fujimori's extradition," said Jose Miguel Vivanco, Americas director of New York-based Human Rights Watch. "Many key members of Fujimori's government have consistently implicated him in cases that are clearly crimes in Peru and also in Chile."

The Peruvian government also asked that Chile continue to detain Fujimori, who is being held at a correctional officers academy in Santiago, the capital. A spokesman for Fujimori in Lima, the Peruvian capital, told the Reuters news agency that his attorneys were seeking his release.

The extradition process could be lengthy, with many observers predicting deliberations that could stretch over several months and possibly more than a year. A judge on Chile's Supreme Court, Orlando Alvarez, is to review the evidence and question Fujimori and other witnesses. His decision could be appealed to a panel of five justices, which would issue a final decision.

Even though the Peruvian Congress banned Fujimori from running for president until at least 2011, the former leader had announced his intention to run before his arrest. His backers have continued to promote his candidacy, holding rallies on his behalf. Supporters praise Fujimori for having crushed the violent Shining Path rebel group and controlling hyperinflation with austere fiscal policies.

Blair Presses Bush On Engine Deal (REU-Y2)

By Jim Wolf

Reuters, January 4, 2006

British Prime Minister Tony Blair has written to U.S. President George W. Bush to try to save a multibillion-dollar contract to develop an engine for the F-35 Joint Strike Fighter, the Pentagon's costliest warplane program, people familiar with the matter said on Tuesday.

"A letter went from the prime minister to the president shortly before Christmas," said a person who asked not to be identified because of the matter's sensitivity.

At issue is a Pentagon plan, reported last week but in the works for more than a month, to kill a $2.4 billion General Electric Co.-Rolls-Royce Plc contract to develop an alternate turbofan engine for the fighter.

Pratt & Whitney, a United Technologies Corp. unit, is building the engine that will go in the first F-35s, a family of single-engine, radar-evading aircraft being built by Lockheed Martin Corp..

Proponents of an alternate engine have cited potential savings through competition. They also describe it as a hedge against having to ground the fleet in case of engine trouble. But developing a second engine has boosted development costs, something the Pentagon is under pressure to pare.

SALES IN THE BALANCE

If upheld by the White House and Congress in budget wrangling, canceling the project could mean tens of billions of dollars in extra sales over decades for Pratt & Whitney.

Saving the alternate engine program "was the purpose of (Blair's) letter," another person familiar the matter said.

"We're gratified by the efforts of our partner, Rolls-Royce, which has shared concerns with the U.K. government," said Rick Kennedy, a spokesman for Cincinnati, Ohio-based GE/Aviation, a GE division.

Rolls-Royce described the alternate engine program in a statement as "an important collaboration" between the United States and the United Kingdom but declined to comment on the Pentagon's cancellation plan.

The White House did not return a phone call seeking comment. Steve Atkins, a spokesman for the British Embassy in Washington, said: "We don't comment on confidential government-to-government correspondence."

Blair, Bush's staunchest foreign partner on Iraq, is well-placed to save the GE-Rolls-Royce engine. Britain has committed at least $2 billion to co-development of the F-35, the most of any of the project's eight foreign partners.

GE and Rolls-Royce, one of Britain's premier brands, won the $2.4 billion development contract in July. It is due to run through September 2013. The big money is in spares and maintenance over the engines' projected 40-year lifespan.

"Any letter from Blair is likely to get the president's very close attention," said Loren Thompson of the Arlington, Virginia-based Lexington Institute, a research group with close ties to the Pentagon and military contractors.

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If the Pentagon sticks to its decision, GE probably would exit the business of building tactical fighter engines, Thompson said.

The F-35 is due to be the Pentagon's biggest purchase ever at an estimated $256 billion. The Pentagon plans to buy as many as 2,480 in three variants for the U.S. Air Force, Navy, Marine Corps and the British Royal Navy.

In addition, hundreds or thousands may be sold overseas, generating demand for at least 4,000 engines over coming decades, with each engine costing several million dollars.

The F-135 co-development partners include Britain, the United States, Italy, the Netherlands, Turkey, Canada, Australia, Denmark and Norway.

France To End State Of Emergency (WP)

By Molly Moore

The Washington Post, January 4, 2006

PARIS, Jan. 3 -- The French government on Wednesday will end the state of national emergency it imposed eight weeks ago to counter the violence and arson that erupted in more than 300 cities and towns across the country, President Jacques Chirac said Tuesday.

The original declaration was "essential," but "strictly temporary," Chirac told his cabinet Tuesday, but he added that "considering the situation of these past several weeks, I decided to end it." The government had planned to keep the measure in force for another six weeks.

During three weeks of unrest in late October and November, youths and young men of predominantly Arab and African descent set fire to an estimated 10,000 cars and attacked 255 schools, 233 other public buildings and scores of private businesses, according to police figures obtained by the French newspaper Le Monde.

Nearly 5,000 people were arrested and 400 were sentenced to jail terms in France's worst civil unrest since student demonstrations nearly four decades ago.

After nearly two weeks in which French police were unable to control the guerrilla-style tactics of the rioters, the government imposed a state of emergency using a law enacted half a century ago during France's unsuccessful war against rebels in its former colony of Algeria.

The law's activation, which was opposed by human rights organizations, socialist political leaders and other groups, gave police broad authority to conduct searches without warrants and impose curfews.

Officials feared a resurgence of problems on New Year's Eve, when -- even in calm years -- youths in poor suburban communities traditionally set cars ablaze in rituals of protest. On Saturday night, 25,000 extra police officers were deployed throughout the country in suburban neighborhoods where France's subsidized housing projects are located, as well as around famous landmarks such as the Eiffel Tower in Paris.

Police said the 425 car burnings recorded around the country Saturday night were fewer than officials had feared, though the number was higher than the 333 blazes set during the previous New Year's Eve. "The situation today is not completely satisfactory, as was shown Dec. 31," a government spokesman, Jean-Francois Cope, told reporters after the president's meeting with the cabinet. He said, however, that the violence had subsided significantly.

It is unclear whether the emergency measures had a significant impact on the violence, according to community leaders. Only a handful of towns imposed curfews. The large number of arrests, which were allowed under the special law, and the intervention of parents and community leaders with youths curbed the violence in many neighborhoods, other observers said.

Chirac, largely a lame duck in what is likely his last year as president, urged the cabinet to do more to address the country's high unemployment, one of the biggest problems facing the people who were responsible for the rioting. Since the violence abated, however, Chirac's government has initiated few programs to address the discrimination and joblessness faced by immigrant communities.

European Upturn Looks Set To Continue (WSJ)

By Marcus Walker

The Wall Street Journal, January 4, 2006

BERLIN – Europe's economic upturn looks set to continue into 2006, as a manufacturing survey showed another improvement in business conditions and Germany reported a sharp drop in unemployment.

Manufacturing output and new orders in the 12 countries that use the euro as their currency are running at their highest for 18 months, according to the Purchasing Managers' Index for December. Strong global demand for European goods, coupled with a weaker euro, is helping European industry to lead a broadening economic recovery, economists say.

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But analysts warn that a strengthening euro and an expected moderation of U.S. economic growth could limit the life of Europe's upswing, unless domestic demand improves too. Germany's labor office treated the surprisingly sharp drop in joblessness in December -- down 110,000 on a seasonally adjusted basis -- as a hopeful sign of greater demand for labor. The drop took the unemployment rate in Europe's biggest economy to 11.2%.

Employment in Germany isn't rising as fast as the number of people claiming unemployment benefits is falling, however. During last year, the number of jobs that contributed to social-security funds was consistently down from a year earlier. Employment and vacancies fell fractionally in November. Much of Germany's recent decline in unemployment is due to state-sponsored or subsidized job schemes.

But the rate at which German companies are shedding workers has slowed, says Thorsten Polleit, an economist at Barclays Capital in Frankfurt. "What we're seeing is, at best, stagnation," he says.

Elsewhere in Europe, industry is planning to add modestly to its payrolls, according to the PMI survey. Overall, the PMI rose to 53.4 in December from 52.8 a month earlier and beating expectations. A score of over 50 indicates that the manufacturing sector is growing. "Although not consistent with strong industrial-production growth in a historical context, the trend improvement in the manufacturing sector remains clear," Swiss bank UBS wrote in a research report.

German and Italian industry reported the strongest rises in output and new orders, while French manufacturers reported only slight improvement. Coming after a dip in French business confidence in the Insee survey last month, the data added to evidence that the French economy, one of the euro zone's growth drivers in recent years, is weakening, while Germany's economy is improving on the back of soaring exports.

Outside the euro zone, the manufacturing PMI in the U.K. showed little change in December -- although that beat expectations of worsening conditions. The British economy is struggling to maintain its relatively high growth rates of the past decade, amid a slowdown in consumer spending. The British government hopes that business investment will contribute more to growth, but economists see little sign of that happening so far.

Mexico Investigates Death Of Man Shot In U.S. By Border Patrol Agent (NYT)

By Ginger Thompson

The New York Times, January 4, 2006

MEXICO CITY, Jan. 3 - The Mexican authorities are investigating the death of an 18-year-old Mexican man shot by a United States Border Patrol agent after he had illegally crossed the border into California.

Witnesses told Mexican authorities that the man, Guillermo Martínez Rodríguez, was shot Friday. A brother and two other men traveling with him helped him to return to Tijuana, where he died in a hospital a day later.

Todd Fraser, a spokesman for the Border Patrol, acknowledged the shooting in a telephone interview on Tuesday, saying that an agent had "come under attack by an assailant who was throwing rocks." The agent "fired back in self-defense," Mr. Fraser said. Then, he said, the migrant climbed back over the fence and fled into Mexico.

Mr. Fraser said he did not have a figure for the number of migrants shot by American border agents last year, but he said the number of rock attacks by migrants against agents in the San Diego area had increased to 218 incidents in 2005, from 112 in 2004. "The rock attacks are increasing, and that is attributed to the increased enforcement by our agents," he said. "Smugglers are getting frustrated because they can't get their loads through, and that results in more attacks on our officers."

Mexican authorities, however, said the shooting reflected a growing hostility in the United States toward migrants. The authorities have used the shooting to draw attention to a law passed by Congress last month that would strengthen controls along the border and mandate the construction of miles of steel fences that Mexicans have likened to the Berlin Wall.

Mexico has condemned the proposed law as "shameful," saying it does not recognize the contributions of undocumented workers to the American economy. Previous border enforcement efforts, Mexican authorities say, have not stopped migrants, but have pushed them onto isolated and inhospitable routes.

Luis Cabrera, Mexico's consul in San Diego, said the shooting "goes against the spirit of cooperation that should exist along the border."

Fatal Shooting Of Mexican By Agent At Border Probed (WT)

By Jerry Seper

The Washington Times, January 4, 2006

Police officials in San Diego are investigating the shooting death of a Mexican national by a U.S. Border Patrol agent, who fired a shot at the man after being targeted in a rock attack.

Border Patrol spokesman Todd Fraser yesterday said the agent, an eight-year veteran whose name was withheld, came under attack Friday after approaching the man along fences on the U.S.-Mexico border near the San Ysidro, Calif., port of entry.

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He said the man was standing on the U.S. side of the fence at the time of the 7:25 p.m. encounter, but returned to Mexico after the shooting.

Mr. Fraser said the unidentified agent fired in self-defense, trying to protect himself from what agents in the area describe as a "rocking," during which agents and their vehicles are pelted with large rocks or chunks of cement blocks. He said the agent, fearing for his life, fired one round at the man, who then fled back to Mexico. He said the agent was not sure at the time whether the man had been hit.

The shooting victim has been identified by Mexican officials as Guillermo Martinez Rodriguez, an 18-year-old who checked himself into a Tijuana, Mexico, hospital after the incident but died four hours later. He reportedly was struck by a single gunshot to the back of his right shoulder.

Mexican government officials denounced the shooting, including Ruben Aguilar, chief spokesman for Mexican President Vicente Fox, who said it "does no more than provide evidence that only a law that guarantees legal entry and is respectful of human rights can resolve the migratory problem both countries face."

The Mexican government has vigorously opposed efforts by U.S. officials to bring tighter security measures or build more fences along the border, even publishing and distributing documents last year showing migrants how to illegally enter the United States.

More than 1 million illegal aliens, mostly Mexican nationals, were apprehended by the Border Patrol last year.

San Diego police homicide Lt. Kevin Rooney said detectives are investigating the shooting and results of the probe will be forwarded to the U.S. Attorney's Office in San Diego for review.

Lt. Rooney said the shooting occurred between two border fences and that the agent, who was checking a report of illegal border crossers in the area, arrived in a marked vehicle and saw a man "holding a makeshift ladder as he stood near the northernmost fence."

He said the agent ran toward the migrant, who retreated to the south and "scooped up what the agent believed to be several rocks."

"As the agent unholstered his duty weapon, the male cocked his arm and made a throwing motion toward the agent. The agent fired at the male, who grabbed his arm and fled down a grade that leads to the primary border fence," he said.

A total of 218 rocking incidents occurred on the San Diego border last year, injuring more than a dozen agents. The rockings have gotten so violent that Border Patrol agents in San Diego now ride in "war wagons," vehicles fitted with custom-made steel screens and bars.

Mexico's federal attorney general's office said it also is investigating the incident, targeting "whomever is found to have been responsible," although a statement released by the office does not say if it plans to bring charges in the case and if so, against whom.

The attorney general's statement said Mr. Martinez Rodriguez, a native of Guadalajara who recently moved to Tijuana, was with four other persons when he was shot.

Mr. Fraser said that acts of violence have been on the rise all along the U.S.-Mexico border, adding that others who sought to throw large rocks at agents have been shot at, but he had no information on how many had been hit or if any had been injured or killed.

In July, rising border violence prompted the governors of California, Texas and six Mexican border states to pledge during a meeting to work together to attempt to stem the problem.

Sorry, But AIDS Testing Is Critical (WP)

By Richard Holbrooke

The Washington Post, January 4, 2006

A month ago, on World AIDS Day, I wrote that despite all the public rhetoric about progress, "we are not winning the war on AIDS" and that the "very best that can be said is that we are losing at a slightly lower rate" [op-ed, Nov. 29]. I thought this was fairly obvious, given the fact that on each World AIDS Day since the first one 18 years ago, the number of people who are HIV-positive has increased. I thought it was even more obvious from just one stunning fact: that of the 12,000 people who will be infected in the next 24 hours around the world, over 90 percent will not learn they are sick until roughly 2013, when they develop full-blown AIDS. Meanwhile, not knowing their status, they will unintentionally spread it to other people over the next eight years, and these people will spread it to still more, and so on.

Given this situation, I suggested that current strategies are clearly not working, especially on prevention. While continuing to support increased funding for treatment of those who already have AIDS, I argued that far more emphasis should be put on detection and testing so that people learn their status and then, with counseling, change their behavior if they are HIV-positive, thus reducing the spread of the HIV virus.

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This may sound simple, even self-evident, to those not involved with the issue on a regular basis, but no column I have written for this newspaper provoked a greater reaction. To listen to some of the criticism you would think I had called for mandatory testing and quarantining of people with AIDS. "This man is out of control," wrote one prominent AIDS activist under the headline, "Someone stop this man." I was accused of "championing a conservative, traditionalist public health approach, which is simply looking to identify the infected and contain them."

Such criticism ignored my strong public advocacy over the past six years of much more funding for treatment. But far more distressing were the assertions of "progress" from world leaders and editorial pages. Originally designed to put pressure on public officials, World AIDS Day has turned into an empty rhetorical ritual in which world leaders issue high-minded statements, after which they let another year of living ever more dangerously pass.

Although there were plenty of calls for more funding for treatment, so far as I am aware no one suggested new prevention strategies or even admitted that today's approaches are not working. Current policies on prevention are simple enough: Conservatives emphasize promoting abstinence (which is why a minimum of 30 percent of the American contribution to the effort is earmarked for that purpose), while liberals stress the use of condoms and the need to avoid needle-sharing. Of course, any of these practices, if followed rigorously, will prevent the spread of AIDS, but none is ever going to be used by enough people to reverse the spread of the disease. It is a classic case of American "red state-blue state" politics and ideology trumping the brutal reality on the ground, or, more accurately, in a bedroom or alleyway.

I have been told repeatedly, for more than four years, that the case for testing is not proven. But isn't it obvious that AIDS will continue to spread more rapidly as long as 90 percent of those affected do not know their status? Wouldn't greater knowledge of one's status -- held in the strictest confidence (an essential part of any testing program) -- greatly modify behavior, both for those who are HIV-positive and for the large majority who, even in the worst-hit areas, are not infected? And wouldn't the greatest beneficiaries of widespread testing be women, who are all too often helpless victims but who do not know either their own status or that of any man in their life -- and who have no way of getting their men to be tested?

Yet the dedicated and committed professional community engaged in this desperate struggle, including UNAIDS and the World Health Organization, still refuses to make testing a top priority. (One commendable exception is Randall Tobias, the Bush administration's special envoy on AIDS, who makes it a practice to be publicly tested -- if possible with a local official -- in every country he visits; he well may be the most tested person on Earth.)

Why, in general, is the issue played down? I believe it is partly a case of a mind-set that was locked in 20 years ago, at the dawn of the AIDS crisis. Stigmatization was a huge problem then, even in the United States, and antiretroviral drugs were not yet available.

But times have changed, and so has the nature of the disease and the way it is spreading. (The greatest step forward in prevention would be the development of an effective microbicide that women could self-administer, but that goal is still eluding researchers.)

Recently there has been encouraging action in three small African nations -- Lesotho, Botswana and Malawi -- which have started making testing routine and officially encouraged (but not mandatory). Lesotho's new policy, creatively called KYS, or "Know Your Status," is especially worth watching because it is a formal, widespread national effort. If it works, perhaps the high priests of the worldwide effort on AIDS will stop listening to their own echoes and unexamined assumptions -- and take action. If ever there were a place where an ounce of prevention was worth a ton of cure, this is it.

The writer, a former U.S. ambassador to the United Nations, is president of the Global Business Coalition on HIV/AIDS, a nongovernmental organization, and writes a monthly column for The Post.

Wish They All Could Be Like Estonia (WSJ)

By Mary Anastasia O'grady

The Wall Street Journal, January 4, 2006

With the 1989 fall of the Berlin Wall the world witnessed a backlash against the overintrusive state. A rallying cry in favor of economic liberalization went up around much of the globe. Some governments -- notably in Eastern Europe -- used the momentum to push deep, structural reform. Others -- notably in Latin America -- bungled the opportunity.

Is there any way to explain why it is that some countries have been able to restructure their economies so radically while others have been left in the clutches of special interests?

The 2006 Index of Economic Freedom, published today by the Heritage Foundation and The Wall Street Journal, provides powerful clues. The annual report surveys 157 countries, grading property rights protection, the regulatory environment, tax rates, fiscal policy, government intervention in the economy, monetary policy, black markets and trade policy, assigning each a numerical rating. Each country falls into one of four categories: "free," "mostly free," "mostly unfree" and "repressed." The chart shows this year's results.

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DETAILS

See a country index of economic freedom for 2006.

As they do every year, the index authors observe the average per capita income of countries in each category. Not surprisingly, over the years, they have found a strong relationship between economic freedom and prosperity. Yet there is something more that can be observed in this pattern: Countries that liberalize quickly and thoroughly achieve resounding successes, politically and economically. Conversely, gradualism risks stagnation and even reversals, because the benefits are not evident enough to impress the electorate and generate a momentum in their favor.

Take, for example, the difference between the wealth of "repressed" economies and "mostly unfree" economies. The per capita GDP of the former is $4,239 while of the latter it is a tad lower at $4,058. This suggests that reforms that move a country one step up in economic liberty, on average, produce no material benefit to the population.

The jump from "mostly unfree" to "mostly free" yields a much better return but still leaves a country not particularly well-off. "Mostly free" countries have a per capita GDP of $13,530, while "free" countries have, on average, a per capita GDP of over $30,000.

This matters the most in democracies, where leadership needs to produce results if liberalization is to stick. Clearly, it's not the absolute income level that generates support for reforms but the growth in living standards that seems to hold the key. Halfhearted measures generate immense resentment from the "losers" of the old system but often don't yield large enough gains to create a constituency to support the changes.

For evidence of this, compare seventh-place Estonia, a tiny nation that undertook revolutionary reform in the mid-1990s, with Chile, rated 14th this year and often considered the poster child of economic liberty in the developing world.

Chile has been in various stages of economic reform since the 1973 coup that ousted Salvador Allende, who was threatening to take the country over the communist cliff. The return to democracy in 1989 brought about a series of left-of-center governments that, while boasting that they had not turned back the economic liberalism of the Pinochet dictatorship, slowed the pace of reform dramatically. The current socialist presidency of Ricardo Lagos even reversed liberalization in labor markets.

Meanwhile in Estonia, as former Prime Minister Mart Laar likes to explain, the post-Soviet period has been marked by rapid, deep reform. Communism was so reviled that policy makers, almost instinctively, chose its direct opposite and promptly enshrined the preference in law.

The results may explain why political support for economic liberalism continues in Estonia, while in Chile free markets are under assault even by center-right politicians. The difference is the rate of change of progress for citizens. In 2004, with reforms kicking in, Estonia's per capita GDP was almost $7,500, nearly double what it was in 2001 -- $3,951, when the country ranked 14th in the Index of Economic Freedom. In Chile, after 30 years of reform, per capita GDP remains below $5,900, edging up only slightly from $4,784 in 2001, when Chile ranked 13th.

The tale of two small nations tells a wider global story. Is it any wonder for example that Brazilians, who after almost two decades of being told they are converting to a market economy, widely reject the notion? Improvements have occurred, for instance in monetary stability, but the country is still ranked "mostly unfree," with a per capita GDP of $3,500. Maybe Mr. Laar could pay them a visit.

Ms. O'Grady is member of the Journal's editorial board. She is co-editor, with Marc A. Miles and Kim R. Holmes, of the 2006 Index of Economic Freedom (422 pages, $24.95), available at 1-800-975-8625.

Social Insecurity Crisis (NYT)

By Thomas L. Friedman

The New York Times, January 4, 2006

The year 2006 is just four days old, but I'm already prepared to nominate the natural resource of the year, the one that will have the most decisive impact on international relations - and that is undoubtedly oil.

Look at all the global trends involving oil (or gas) today, and they are all bad: the former leader of Germany gets voted out of office and goes to work for the president of Russia, running a pipeline company owned by Russia. The oil-for-food scandal tarnishes the U.N. The president of Iran, feeling so emboldened by the billions of dollars flowing into his country thanks to $60-a-barrel oil, engages in repeated rants about how the Holocaust was a myth. Vladimir Putin's oil-fueled government in Russia steadily erodes civil liberties at home, while using its energy clout abroad to try to punish Ukraine and to deflect U.N. pressure on Syria for its murderous campaign against Lebanese democrats and on Iran for its work to develop a nuclear bomb. I could go on. Do you have all day?

If you look at these trends, three things come to mind: They are all negative, they are all going to get worse with another year of $60-a-barrel oil, and the only force on the planet with the will and the way to neutralize their worst effects is America.

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But here's the rub: America's refusal to have a serious energy policy makes these problems only more severe, and its refusal to have a serious entitlement policy - reforming Social Security and Medicare before they totally devour the U.S. budget - is only going to sap America's ability to play the global governing role that is so necessary for world stability.

To put it another way, our energy gluttony is strengthening the worst forces in the world and our entitlement gluttony is going to weaken our capacity to deal with those forces. As the Johns Hopkins University foreign affairs specialist Michael Mandelbaum puts it: "The greatest threat to America's role in the world today is not China. It's Medicare."

In a smart and original new book, "The Case for Goliath: How America Acts as the World's Government in the 21st Century," Mr. Mandelbaum argues that while U.S. foreign policy is hardly perfect, it is America - through its vast military deployments, diplomatic engagements and vital role in buttressing the global economy and its rules - that provides the basic governance that keeps the world stable and on a decent track.

Most countries in the world like this situation, he contends. They like it because they know that the U.S. is not a predatory power, so they are not afraid of the order it provides. They like it because this global order is helpful to every country in the world, but the cost of it is borne largely by U.S. taxpayers. And they like it because they can criticize the U.S. and still enjoy all the benefits it provides.

The best evidence for all this, Mr. Mandelbaum notes, is the fact that no military coalition has ever formed to counter America's global governing role - as happened with other hegemonic powers in history.

In Mr. Mandelbaum's view, America "is not the lion of the international system, terrorizing and preying on smaller, weaker animals in order to survive itself. It is, rather, the elephant, which supports a wide variety of other creatures - smaller mammals, birds and insects - by generating nourishment for them as it goes about the business of feeding itself."

No other country could play this crucial stabilizing role. But its continuation depends on "American taxpayers' being willing to keep paying for it," Mr. Mandelbaum said - and that gets us back to our runaway entitlements.

USA Today recently quoted David Walker, the U.S. comptroller general, as saying we are about to be hit by "a demographic tsunami" that will "never recede." The baby boomers total 77 million, and their first wave turns 60 this year. Unless we trim the Medicare and Social Security benefits promised to these boomers, the paper noted, America's "national debt will grow more than $3 trillion through 2010, to $11.2 trillion. ... The interest alone would cost $561 billion in 2010, the same as the Pentagon [budget]."

The same as the Pentagon's! So either Social Security and Medicare shrink or the Pentagon shrinks - because higher taxes seem to be out of the question for now. If history is any guide, Americans will prefer Social Security and Medicare over paying to make the world safe for China, India, Russia and Iran to pursue their interests.

If so, the world may soon test out one of the most important theses of Mr. Mandelbaum's book: that the greatest threat to global stability is "not too much American power, but too little."

Crowded Foreign-Policy Calendar Will Test Bush's Management Skills (WSJ)

By Frederick Kempe

The Wall Street Journal, January 4, 2006

For those who may have forgotten during the untidiness of the past couple of years, President Bush was once billed as America's first "MBA President." This Harvard business grad ('75), in contrast to predecessor Bill Clinton, was to have been more disciplined both personally and in running his government.

Yet the messy Iraq war aftermath, the botched Katrina hurricane response in New Orleans and the expanding U.S. deficit have raised global concerns about Oval Office management. "What's in question is the traditional image of us as an effective country," says Fred Bergsten of the Institute for International Economics.

What President Bush has going for him is unappreciated momentum flowing off 2005, a more successful year than most realize1. And a dramatic 2005 shift of policy responsibility to Condoleezza Rice's State Department has also improved foreign-policy coordination and execution. That said, Mr. Bush faces an overcrowded agenda – the schedule includes decisive challenges in Germany, Iraq, Ukraine, China, India, the United Nations and more -- that could make 2006 one of the most significant foreign-policy years since the Cold War.

For President Bush, how he manages the second year of his second term will determine whether he can look forward to building a historic legacy in 2007-2008, his last two years of office, or instead be engaged in a lame duck's damage control. He also dare not forget the lessons of 9/11 and Katrina: It's the surprises that may shape history. "I worry less about the knowns than the unknowns," says Simon Serfaty of the Center for Strategic and International Studies.

With that in mind, here's an abridged 2006 Thinking Global calendar for the world's most important chief executive to help him stay on schedule and effectively manage the coming year. * * *

JAN. 12-13: Angela Merkel's Visit

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Administration officials recognize the importance of newly elected German Chancellor Angela Merkel's visit to Washington well enough to have scheduled an "extended" meeting with the president, including lunch. That's this White House's equivalent of royal treatment.

One of the administration's smartest moves in 2005 was launching the year with an offensive to repair and deepen relations with Europe, which remains central to all of the U.S.'s challenges from fighting terrorism to advancing world trade. Working with Europe becomes easier in 2006 now that Ms. Merkel's election has removed one of the world leaders Mr. Bush trusted least, Gerhard Schroeder. (Jacques Chirac will have to wait until 2007 elections.)

Ms. Merkel's free market and Atlanticist instincts can help enormously, but she rules precariously over a right-left coalition in a country that's turned viciously anti-Bush. Jackson Janes of the American Institute of Contemporary German Studies warns that too much presidential warmth could backfire in a country where no one wants Ms. Merkel to be the president's lapdog.

A Merkel who looks statesmanlike while disagreeing with Mr. Bush this month might serve U.S. long-term interests better than an obedient ally.

JAN. 26: The Palestinian Democracy Gamble

The Palestinian Authority holds parliamentary elections that will test whether the U.S. was right to pressure Israel to lift its opposition to the participation of Hamas in the balloting. Hamas, still considered a terrorist organization by the EU and the U.S., performed well in local elections last year partly because voters consider it to be more honest than the corrupt, ruling Fatah party.

Whether Hamas winds in a landslide, as some fear, or emerges at the very least as a strong opposition, the real test will be whether the Bush administration is gambling right that it will moderate its behavior as it joins the political process. Will parliamentary democracy be as satisfying to Hamas as suicide terrorism and a charter that still calls for Israel's destruction?

The Palestinian outcome will influence Israel's own landmark elections March 28. Israel's former Prime Minister Ariel Sharon will lead a new centrist party, Kadima, with the unlikely support of long-time Labour Party rival Shimon Peres, against former right-wing Likud party allies that split over his Gaza withdrawal.

FEBRUARY: Building an Indian Strategic Partnership

Bush administration officials are already privately speaking of the U.S. president's planned visit to India in February as historic. They say one of their administration's lasting legacies will be a new strategic relationship with the world's most populous democracy and one of its fastest growing economies.

Yet this is the stuff of long-term, delicate diplomacy. The U.S., in a wide-reaching July agreement with India, essentially recognized India as a nuclear state, departing from previous nonproliferation policy. Its hope is that the country will now politically reposition itself from longtime leader of the essentially anti-American non-aligned countries to a member of the community of democracies fighting terrorism, supporting freedom and, if necessary, counter-balancing China.

For starters, however, Washington is hoping India will find a way to satisfy its July agreement to separate its military and civilian nuclear operations and make them more transparent before the president rolls into town.

MARCH: Bringing Ukraine Into the West

Ukraine's March parliamentary elections are Europe's most important this year.

The Russian decision to cut off natural gas to Ukraine on Jan. 1, even if quickly reversed, made the stakes of Ukraine's March parliamentary elections all the more apparent. A revanchist Russia is increasingly ready to use its energy weapon to punish overly independent neighbors. A successful Ukrainian vote could put the dagger in residual Kremlin imperial ambitions to Kiev.

Alexander Motyl of Rutgers University says the West's best response is to embrace Ukraine even more resolutely. The U.S. should lift the Jackson-Vanik trade restrictions (the Senate has voted to lift, but the House has not), follow the EU lead and declare Ukraine a market economy, sign a bilateral agreement with Ukraine as a precondition of its WTO membership and begin a process that would make Ukraine a NATO member by the end of the Bush administration.

Which party wins voting in March isn't as important as a general acceptance that elections are free and fair and that Ukraine's democratic institutions continue to grow and resist Moscow's meddling.

APRIL: Managing the Chinese Rise

The next six-month review of China by the U.S. Treasury is due at some point in April or May. Last time around, the Treasury opted not to label China as a "currency manipulator," which could have triggered legislative action. But it will be increasingly more difficult for the Bush White House to avoid this course without suffering 2006 congressional trade action against Beijing.

With the U.S. trade deficit continuing to rise along with protectionism pressures, Mr. Bergsten, the economist, believes the time has come for the Bush administration to get tough with the Chinese who are maintaining their currency at a 25-30 % discount by his calculations. That in turn has prompted other Asian countries to maintain currencies "massively undervalued against the dollar."

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If China won't budge, Mr. Bergsten suggests mobilizing the G-7, all of which is suffering, to take China to the WTO on the grounds that its undervalued currency is an improper trade subsidy. Yuan revaluation will help U.S. trade figures less than many might hope, so the larger point is whether the U.S. can coax China to play more by international rules.

JUNE: The Iraqi Tipping Point

Deadlines are always difficult to set for anything in the Mideast, but end-June is a fair bet as a tipping point for Iraq. The most important test following December's encouraging election is how quickly Iraqi officials can take to form a government and whether Sunnis will finally accept they are a minority and Shiites can be an enlightened and not vengeful majority.

The constitution established no deadline for the newly elected national assembly to appoint a government, but almost everyone agrees that the longer it takes the more it will feed the insurgency. That's exactly what happened after last January's elections.

So watch how deftly the gifted U.S. Ambassador Zalmay Khalilzad can speed along government deals at a time when the locals remain hard-pressed to even accept December's electoral results. The year will be critical to Iraq's balance between progress and civil war – and that outcome will be central to Mr. Bush's Republican party in November's midterm elections and, more importantly to the administration's larger cause of Mideast transformation.

JULY: Saving World Trade Talks

The best that could be said for world trade talks in Hong Kong last December was that the participants avoided a breakdown. The problem this year is that the body most capable of breaking the deadline, the G-8, has as its president dysfunctional Russia, a country neither democratic nor in the World Trade Organization.

All the more reason, says Mr. Bergsten, that the West should press Mr. Putin to prove his worth by making his July G-8 summit in St. Petersburg one devoted to closing differences among developed country leaders so that one can avoid the first breakdown in global trade talks since 1930. "The trade ministers will never resolve this," he says. "It's too deeply political."

SEPTEMBER: A Reformed or a Resigned U.N.

By the time of the September General Assembly of the United Nations in New York, the world is likely to know whether the organization has been capable of reforming itself or not. In 2006, the U.N. will either grow more relevant or more marginalized, but the status quo can't hold following the oil-for-food corruption scandal and breakdown over the Iraq war.

It will either respond to new global demands on its resources by making itself more efficient and effective, or be kicking the can down the road endangering the institution itself. By the end of 2006's first quarter, the U.N. will either have embraced the reform agenda set last September by giving the Secretary General more rapid-response management authority or it will opt for continued, consensual mediocrity.

By December, U.N. members will pick a new secretary general for the next five years. Watch to see whether they pick someone capable of leading an increasingly challenged organization that has had a surge of peacekeeping operations -- to 18 -- and is bracing for crises ranging from a possible pandemic to natural disasters and war-driven genocide.

OCTOBER: Dealing With Iran's Nuclear Program

By October 2006, Iran's first nuclear power plant, the Bushehr facility, is likely to come on stream. Mr. Sefarty of the Center for International and Strategic Studies predicts that may also be about the time that matters heat up over Iran's nuclear ambitions in Washington. Current Western efforts to get Moscow to negotiate a deal with Iran to reprocess its fuel in Russia are less about gaining Teheran's unlikely agreement to such a far-fetched plan and more about winning Russia's support at the U.N. should Iran be referred to the Security Council.

The good news is that the world's nuclear experts don't think Iran can produce a bomb for another few years. The bad news is that the reason is that Teheran is working on a more comprehensive program for a sustained capability rather than trying to produce a quick bomb or two.

The bottom line: months of negotiations with the world's two most egregious proliferators, Iran and North Korea, are producing little more than further negotiations. The U.S. is likely in 2006 to get off the sidelines to more energetically join European states pressuring an Iranian leader who is openly calling for Israel's destruction or relocation to Alaska or Bavaria. Don't expect any military fireworks, but increased diplomatic heat may bring matters to a boil ahead of congressional elections.

NOVEMBER-DECEMBER: The Midterm Elections

The key 2006 test of whether the MBA president has restored U.S. credibility for effectiveness will be mid-term congressional elections, coming long after memories of Katrina mishandling have faded. Of foreign-policy issues, Iraqi has the post potential to swing voters, with policy toward China of increasing importance and the Iranian threat as a possible emerging issue.

Don't rule out a Republican setback, which wouldn't be unusual for such elections in a presidential second term. Yet Mr. Bush's majority in the House is 231 to 202, difficult to overturn even with all seats up for grabs, given the power of incumbency.

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The Republican lead in the Senate is 55 to 44 with one independent. With 15 Republicans and some 18 Democrats are up for re-election, it would take a very bad Bush year to endanger his party's majority.

Expect a good Republican outcome if the U.S. economy remains strong, if the Iraq situation improves and the president can announce troop reductions, if China has given some ground on trade and currency revaluation, and if the president has managed any nasty surprises.

If Mr. Bush retains his majority, expect his final two years, when driving domestic change is always difficult, to focus on establishing his place in history as a man who has taken down tyrants and promoted Mideast transformation.

Yet if the past is any guide, the main event of the year might not appear above. Just as 9/11 shaped his first term and Katrina tarnished the first year of his second one, it's a fair bet that his management ability in 2006 will be most severely tested by something unscheduled and unpredictable.

DOJ_NMG_0008178

Williams, Jan

From: Williams, Jan

Sent: Wednesday, January 4, 2006 12:32 PM

To: Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bradbury, Steve; Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Malloy, Sandra; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roberts, Crystal; Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Sanchez, William J (CRT); Tamargo, Mauricio J; Tandy, Karen P; Wooldridge, Sue Ellen (ENRD)

Subject: The Morning Update: 1/4/06

Attachments: tmp.htm

Importance: Low

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EST The Pentagon | Arlington, Virginia

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'The enemy has not gone away. They're still there. And I expect Congress to understand that we're still at war, and they got to give us the tools necessary to win this war <http://news.yahoo.com/s/ap/20060104/ap_on_go_pr_wh/bush_patriot_act;_ylt=AnprLX9tGXGxBRowiAbqkMlp24cA;_ylu=X3oDMTBiMW04NW9mBHNlYwMlJVRPUCUl> ,' he said.
Later, outside the West Wing, district attorneys cited several cases in which the Patriot Act had played a crucial role, from staging an undercover sting on California weapons dealers attempting to sell Stinger missiles to securing convictions of major terrorist financiers in New York. 'We use it each and every day to protect our country against terrorists and criminals,' said Ken Wainstein, district attorney for the District of Columbia." (Jennifer Loven, "Bush Pushes For Patriot Act Renewal," The Associated Press, 1/3/06)

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U.S. Attorneys Discuss Patriot Act Meeting With The President <http://www.whitehouse.gov/news/releases/2006/01/20060103-3.html>

Press Briefing By Scott McClellan <http://www.whitehouse.gov/news/releases/2006/01/20060103-1.html>

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Press Briefing By Scott McClellan

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Williams, Jan

From: Williams, Jan

Sent: Thursday, January 5, 2006 8:15 AM

To: Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Sanchez, William J (CRT); Tamargo, Mauricio J; Tandy, Karen P; Wooldridge, Sue Ellen (ENRD); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roberts, Crystal; Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William

Subject: The Morning Update: 1/5/06

Attachments: tmp.htm

Importance: Low

The Morning Update

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EST Defense, Former Secretaries of State and Former Secretaries of Defense

The White House | Washington, DC

10:20 am: THE PRESIDENT participates in a Photo Opportunity with the Secretary of State,

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The White House | Washington, DC

3:20 pm: THE PRESIDENT and Mrs. Bush participate in a signing of H.R. 3402, the Violence

EST Against Women and Department of Justice Reauthorization Act of 2005

The White House | Washington, DC

3:45 pm: THE PRESIDENT makes remarks to the U.S. University Presidents Summit on

EST International Education

U.S. Department of State | Washington, DC

From Today's Morning Headlines

At The Pentagon, President Bush Addresses The Importance Of The Missions In Iraq And Afghanistan. "President Bush predicted today that 2006 would be a year of progress in Iraq and Afghanistan, which he called 'the two major fronts in this war on terror.' ... Mr. Bush, speaking at the Pentagon after a meeting with his top military advisers, said that if the Iraqis themselves 'continue to make progress on the security and political side that we expect,' the United States may be able to withdraw even more troops. 'But my decisions will be based upon conditions on the ground and the recommendation of our commanders, not based by false political timetables in Washington,' Mr. Bush said. 'I'm not going to let politics get in the way of doing the right thing in Iraq, <http://www.nytimes.com/2006/01/04/international/middleeast/04cnd-prexy.
html> and the American people have got to understand that.'" (David Stout, "Bush Predicts A Year Of Progress In Iraq And Afghanistan," The New York Times, 1/5/06)

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commander in Iraq, as well as Zalmay Khalilzad, the American ambassador there. 'The president initiated an effort to broaden the outreach,' White House spokesman Scott McClellan said. 'It is an opportunity to talk about our plan for victory in Iraq, and the progress we're making and the challenges ahead.' <http://news.yahoo.com/s/nm/iraq_bush_dc;_ylt=As6c9CfdIa_Zdysy.mtOnfes0N
UE;_ylu=X3oDMTA2Z2szazkxBHNlYwN0bQ--> " ("Bush Reaches Beyond Inner Circle On Iraq Policy," Reuters, 1/5/06)

Vice President Cheney Says The United States Must Remain Committed To Fighting The War On Terror. "Vice President Dick Cheney on Wednesday strongly defended a secret domestic eavesdropping operation and said that had it been in place before the September 11 attacks the Pentagon might have been spared. ... He said as the memory of September 11 faded, some politicians were 'yielding to the temptation to downplay the ongoing threat to our country and to back away from the business at hand.' 'The enemy that struck on 9/11 is weakened and fractured yet it is still lethal and planning to hit us again. Either we are serious about fighting this war or we are not, <http://news.yahoo.com/s/nm/20060104/pl_nm/security_cheney_dc;_ylt=Al8_e
f99HtuJWm.9o7UtJiYa.3QA;_ylu=X3oDMTBiMW04NW9mBHNlYwMlJVRPUCUl> ' Cheney told the Heritage Foundation think tank." (Patricia Wilson, "Cheney Strongly Backs Eavesdropping Operation," Reuters, 1/4/06)

As A Former FBI Special Agent, Rep. Michael Oxley (R-OH) Writes That NSA Surveillance Of Suspected Terrorists Is A Critical Tool In The War On Terror. "But my position is also based on personal experience. As special agent of the FBI, I conducted wiretaps. They were wrapped in layers of legal

protections and never done without probable cause. Our law enforcement and intelligence professionals do not want useless information that takes them off the trail of criminals and terrorists. Some in the national media want to frame this as a debate on the domestic liberties of American citizens. But these are international phone calls and e-mails involving al-Qaida members and sympathizers prepared to attack again if they can. <http://www.limanews.com/story.php?IDnum=21021> I spend more time thinking about protecting the lives of millions of Americans than I do worrying about Osama bin Laden's civil rights." (Rep. Michael G. Oxley, Letter To The Editor, "President Right To Fight Terrorists," Lima News, 12/31/05)

The President And Mrs. Bush Send Best Wishes And Hopes To Israeli Prime Minister Ariel Sharon And His Family. "President George W. Bush said on Wednesday after Israeli Prime Minister Ariel Sharon had a stroke that 'we are praying for his recovery' and analysts said the crisis would further slow Bush's Mideast peace policy. ... 'Laura and I share the concerns of the Israeli people about Prime Minister Ariel Sharon's health, and we are praying for his recovery,' <http://news.yahoo.com/s/nm/20060105/pl_nm/israel_sharon_usa_dc;_ylt=Apm BUyeGo_bLAw_cZIo__SBZ.3QA;_ylu=X3oDMTBiMW04NW9mBHNlYwMlJVRPUCUl> Bush said in a written statement. 'Prime Minister Sharon is a man of courage and peace. On behalf of all Americans, we send our best wishes and hopes to the prime minister and his family,' Bush added." (Steve Holland, "Bush On Sharon: 'We Are Praying For His Recovery,'" Reuters, 1/4/06)

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Standards-Based Education Reform Yields Gains On National Achievement Tests. "More than a decade of effort to provide standards-based education reform has yielded gains, especially in mathematics, <http://washingtontimes.com/national/20060104-114050-5515r.htm> on national achievement tests in the fourth and eighth grades, a report shows. The 'Quality Counts 2006' report, released yesterday by Education Week newspaper, showed marked progress, both nationally and locally, in closing achievement gaps in math between white students and minorities and between poor and non-poor students." (Joyce Howard Price, "Math Performance Improving In Tests," The Washington Times, 1/5/06)

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President Discusses War On Terror Following Pentagon Briefing <http://www.whitehouse.gov/news/releases/2006/01/20060104.html>

* In Focus: National Security <http://www.whitehouse.gov/infocus/nationalsecurity/>
* In Focus: Defense <http://www.whitehouse.gov/infocus/defense/>

Remarks By The Vice President On Iraq And The War On Terror <http://www.whitehouse.gov/news/releases/2006/01/20060104-2.html>

President's Statement On Health Of Israeli Prime Minister Ariel Sharon <http://www.whitehouse.gov/news/releases/2006/01/20060104-6.html>

Statement On Death Of His Highness Shaykh Maktoum Bin Rashid Al Maktoum <http://www.whitehouse.gov/news/releases/2006/01/20060104-5.html>

Setting The Record Straight: Critics Launch Attacks Against Program to Detect and Prevent Terrorist Attacks <http://www.whitehouse.gov/news/releases/2006/01/20060104-7.html>

Ask The White House - Ken Wainstein, United States Attorney, District of Columbia Discusses The Patriot Act.
<http://www.whitehouse.gov/ask/20060104.html>

Press Briefing By Scott McClellan
<http://www.whitehouse.gov/news/releases/2006/01/20060104-1.html>

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Reyes, Luis (SMO)

From:	Reyes, Luis (SMO)
Sent:	Thursday, January 05, 2006 10:43 AM
To:	Swenson, Lily F; Gorsuch, Neil M; Brand, Rachel; Hertling, Richard; Pacold, Martha M; Holland, Eric W; Seidel, Rebecca
Subject:	Fw: Draft DOJ Human Trafficking Report
Attachments:	DOJ HT Report 1.04.06 Draft Narrative.wpd

Here is the latest draft of this. Pls see email below from Omar on comment period (fairly tight). Thanks!

-----Original Message-----
From: Vargas, Omar (CRT) <Omar.Vargas@crt.usdoj.gov>
To: Vargas, Omar (CRT) <Omar.Vargas@crt.usdoj.gov>; Hertling, Richard <Richard.Hertling@SMOJMD .USDOJ.gov>; Rothenberg, Laurence E <Laurence.E.Rothenberg@SMOJMD.USDOJ.gov>; Roth, Monique <Monique.Roth@usdoj.gov>; Thacker, Stephanie <Stephanie.Thacker@usdoj.gov>; Oosterbaan, Andrew <Andrew.Oosterbaan@usdoj.gov>; McHenry, Teresa <Teresa.McHenry@usdoj.gov>; Voris, Natalie (USAEO) <Natalie.Voris@usdoj.gov>; Hagy, David, W. <David.Hagy@usdoj.gov>; Bottner, Andrea <Andrea.Bottner@usdoj.gov>; Kaplan, Jennifer <Jennifer.Kaplan@usdoj.gov>; Scott-Finan, Nancy <Nancy.Scott-Finan@SMOJMD.USDOJ.gov>; Ho-Gonzalez, William <William.Ho-Gonzalez@usdoj.gov>; Kockritz, Janis <Janis.Kockritz@usdoj.gov>; Hagen, Leslie A. (USAEO) <Leslie.Hagen@usdoj.gov>; Placido, Anthony P. <Anthony.P.Placido@usdoj.gov>; Bell, T March (CRT) <T.March.Bell@crt.usdoj. gov>; Allred, David (CRT) <David.Allred@crt.usdoj.gov>; Burch, Jim <Jim.Burch@usdoj.gov>; Roberts, Marilyn <Marilyn.Roberts@usdoj.gov>; Darke Schmitt, Katherine <Katherine.Darke.Schmitt@usdoj.gov >; Cammarata, Pam <Pam.Cammarata@usdoj.gov>; david.johnson3@ic.fbi.gov <david.johnson3@ic.fbi.gov>; kerri.galvin@ic.fbi.gov <kerri.galvin@ic.fbi.gov>; lmball@usa.net <lmball@usa.net>; stansstrauss@comcast.net <stansstrauss@comcast.net>; Grenadier, Lorna (CRT) <Lorna.Grenadier@crt.usdoj.gov>; Troup, Linda M (CRT) <Linda.Troup@crt.usdoj.gov>; Frost, Joye <Joye.Frost@usdoj.gov>
CC: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Schlozman, Brad (CRT) <Brad.Schlozman@crt.usdoj.gov>; Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>; Little, Kimani (CRT) <Kimani.Little@crt.usdoj.gov>
Sent: Wed Jan 04 22:24:47 2006
Subject: RE: Draft DOJ Human Trafficking Report

Good evening!

Attached for your review is the second draft of the Department's report on human trafficking. Your comments on the first draft have been enormously helpful and you'll see that many of your suggestions have been incorporated into this draft. Over the next few days, we will continue to work with individual components on footnote citations and outstanding pieces of information. While we proceed with wrapping up a few loose ends, we ask for your comment on this draft to be transmitted to me no later than COB, Friday, January 6. In addition, please recall that we requested back-up documents to be

delivered to us by January 3 (see the email below).

As you may already know, we are facing a tight schedule and this review will be your last opportunity to provide substantive comment. On Tuesday, January 10, we will circulate a final draft, requesting a response by Wednesday, January 11. We intend to have this document finalized and to the printer by Thursday January 12.

This report is turning into a document that we all can be proud of! Feel free to call me with any questions.

Many Thanks,

Omar

PS- Go Texas, up by 6!

-----Original Message-----
From: Vargas, Omar (CRT)
Sent: Wednesday, December 21, 2005 11:49 AM
To: Vargas, Omar (CRT); Hertling, Richard; Rothenberg, Laurence E; Roth, Monique; Thacker, Stephanie; Oosterbaan, Andrew; McHenry, Teresa; Voris, Natalie (USAEO); Hagy, David, W.; Bottner, Andrea; Kaplan, Jennifer; Scott-Finan, Nancy; Ho-Gonzalez, William; Kockritz, Janis; Hagen, Leslie A. (USAEO); Placido, Anthony P.; Bell, T March (CRT); Allred, David (CRT); Burch, Jim; Roberts, Marilyn; Darke Schmitt, Katherine; Cammarata, Pam; 'david.johnson3@ic.fbi.gov'; 'kerri.galvin@ic.fbi.gov '; 'lmball@usa.net'; 'stansstrauss@comcast.net'; Grenadier, Lorna (CRT); Troup, Linda M (CRT); Frost, Joye
Cc: Reyes, Luis (SMO); Schlozman, Brad (CRT); Comisac, Rena (CRT); Little, Kimani (CRT)
Subject: RE: Draft DOJ Human Trafficking Report

Everyone:

A follow-up to last night's email.

First, please find attached versions of the documents we circulated yesterday formatted in MS Word.

Second, as discussed during our last meeting, please gather support documentation for the information contained in this report that pertains to your agencies. We ask that you maintain two sets of copies of these back-up documents (one for yourselves and one for us) and provide a copy to our office no later than COB January 3, 2006. Again, you are welcomed to call me with any questions.

Thanks, Omar

<< File: DOJ HT Report.12.20.05 Draft MS WORD.doc >>
<< File: DOJ HT Report Task List 12.20.05 MS WORD.doc >>

-----Original Message-----
From: Vargas, Omar (CRT)
Sent: Tuesday, December 20, 2005 9:30 PM
To: Hertling, Richard; Rothenberg, Laurence E; Roth, Monique; Thacker, Stephanie; Oosterbaan,

Andrew; McHenry, Teresa; Voris, Natalie (USAEO); Hagy, David, W.; Bottner, Andrea; Kaplan, Jennifer; Scott-Finan, Nancy; Ho-Gonzalez, William; Kockritz, Janis; Hagen, Leslie A. (USAEO); Placido, Anthony P.; Bell, T March (CRT); Allred, David (CRT); Burch, Jim; Roberts, Marilyn; Darke Schmitt, Katherine; Cammarata, Pam; 'david.johnson3@ic.fbi.gov'; 'kerri.galvin@ic.fbi.gov
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Cc: Reyes, Luis (SMO); Schlozman, Brad (CRT); Comisac, Rena (CRT); Little, Kimani (CRT)
Subject: Draft DOJ Human Trafficking Report

Everyone:

We greatly appreciate the hard work you have expended towards this draft report. It looks pretty good, but there is some work left to do. Attached for your review and comment is a first draft of the report. Also attached is a "tasking document" with follow-up questions and requests for additional information that will greatly enhance our final product. We ask that you supply us with your responses no later than COB Friday, December 23. We will then circulate a second draft of the report the week after next, once again asking for your review and comment. Please remember that the purpose of this report is to provide the general public with information regarding the Department's activities to implement the President's directives to combat human trafficking. Feel free to call me with any questions.

Many Thanks,

Omar

<< File: DOJ HT Report. 12.20.05. Draft Narrative.wpd >> << File: DOJ HT Report Task List.12.20.05.wpd >>

Department of Justice
Report on Activities to Combat Human Trafficking
Fiscal Years 2001-2005

I. An Introduction to Human Trafficking

Human trafficking is a pernicious crime that violates the fundamental principles of our society. For traffickers, victims are commodities to be traded and exploited in any market. Human trafficking is the modern-day form of slavery. It requires the use of force, fraud, or coercion by a trafficker to compel a person into, or hold someone in, an employment situation in which he or she will be criminally exploited. Trafficking may occur when victims are transported across borders or within a nation, or may not involve transportation at all. Victims, often women, are usually lured by promises of well-paying jobs. Once deprived of the opportunity to return home or communicate with their family, victims are generally held through force or threats in situations of sexual exploitation or forced labor. Human trafficking offenses thus transgress the victim's human liberty in violation of the Thirteenth Amendment's guarantee of freedom. As such, trafficking offends the core civil rights on which our Constitution and our country are based.

> Human life is the gift of our Creator -- and it should never be for sale. It takes a special kind of depravity to exploit and hurt the most vulnerable members of society. Human traffickers rob children of their innocence, they expose them to the worst of life before they have seen much of life.
>
> –President George W. Bush, July 16, 2004

By statute, a victim of a "severe form of trafficking in persons" is entitled to certain public programs and benefits. A severe form of trafficking must include the recruitment, harboring, transportation, provision, or obtaining of a person for one of the three following purposes:

- Labor or services, through the use of force, fraud, or coercion; or
- A commercial sex act, through the use of force, fraud, or coercion; or
- If the person is under 18 years of age, any commercial sex act, regardless of whether any form of coercion is involved.[1]

Since 2001, the Department of Justice has achieved an impressive record of prosecuting defendants for holding their victims in compelled service in such diverse areas as prostitution, field labor, domestic service, concubinage, "exotic dancing," pornography, garment factory "sweatshops," and street peddling. From fiscal year 2001 through fiscal year 2005, the Civil Rights Division and United States Attorneys'

Insert Graphic Depicting Rate of Increase FY '96-'05

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[1] Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, § 103(8), 114 Stat. 1464 (signed into law on October 28, 2000; codified as amended at 22 U.S.C. § 7102 (8)).

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Offices filed 91 trafficking cases, a 405% increase over the number of trafficking cases filed from fiscal years 1996 through 2000. In these cases, Department attorneys charged 248 trafficking defendants, a 210% increase over the previous five fiscal years. In addition, prosecutors with the Civil Rights Division and United States Attorneys' Offices convicted 140 defendants of trafficking-related crimes, a 109% increase over the previous five years.

Traffickers take advantage of the victims' hopes for a better life, preying on or even creating vulnerabilities that they can exploit. For example, in *United States v. Satia*, Louisa Satia and her husband, Kevin Nanji, used a false passport to bring 14 year-old "R.O." from Cameroon, where R.O. had worked for Satia's mother since the age of 12. R.O. was lured by the promise of an American education. Satia and Nanji refused to send the girl to school, however, and instead forced her to work for them as a maid and as a nanny to their young children. R.O. was not permitted to leave Satia and Nanji's apartment alone, except to take out the trash and walk the children to the school bus stop. Satia hit R.O. routinely, poked R.O. in the eyes, sprayed window cleanser on R.O., poured cola and glue in R.O.'s hair, and threatened her with deportation even though they were the ones who had brought her to the country illegally. Nanji made repeated sexual advances toward the girl. Apart from keeping R.O. in a condition of involuntary servitude, Satia solicited numerous people to sell their identities to her so that she could create false passports and routinely arranged false marriages as part of an immigration fraud scheme. In 2002, after their conviction at trial of involuntary servitude, the defendants were sentenced to 9 years in prison and ordered to pay $105,300 in restitution.[2]

Traffickers may lure their victims into otherwise legitimate labor or into the sex industry. For instance, in a pathbreaking case in Florida, *United States v. Cadena*, Mexican women and girls as young as 14 years of age were brought to the United States with promises of good jobs as waitresses and landscapers, only to be held as slaves in a high-volume prostitution operation.[3] The Cadena family would hold the women in their service by shooting into the ground at their feet, threatening their families, beating them, and raping them as punishment if they tried to run away. The ringleader and six other men were convicted of involuntary servitude and sentenced to up to 15 years of incarceration. The *Cadena* case is ongoing, and Federal Bureau of Investigation and Departmental prosecutors and victim-witness specialists have continued to prosecute Cadena family members and assist the survivors. In 2002, one of the family members was apprehended at the United States-Mexico border and pled guilty to conspiracy to enslave the women and girls. With the cooperation of the Mexican Government, the Department secured the conviction of one of the Cadena brothers in Mexico in 2002, where he was sentenced to 24 years of incarceration. In 2005, the Federal Bureau of Investigation and the Department's Office of International Affairs achieved the arrest in 2005 of yet another member of the family; trial is pending in Mexico as of the time of this report and an request for extradition prepared by the Office of International Affairs is pending. The *Cadena* victims have been assisted by a non-governmental organization that is funded by the Department's Office for Victims of Crime, and with the help of the case agents, prosecutors, and victim/witness staff, they have been able to bring their children and custodial parents to the United States.

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[2] *United States v. Satia*, No. 00-590 (D. Md. 2002)

[3] *United States v. Cadena*, [insert case information].

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Any specific instance of human trafficking may involve a range of other criminal activity that is not limited to federal anti-human trafficking laws, such as inter-state transportation for prostitution, money laundering, and racketeering. Trafficking indictments often reflect this. For instance, in *United States v. Zavala*, Mariluz Zavala, who in November 2005 received a 15 year prison sentence for enslaving Peruvian workers in Long Island, New York, was charged with a multi-object conspiracy, where the Department alleged that she and her co-conspirators had conspired to commit forced labor and involuntary servitude by withholding immigration documents. The Department also charged her with extortion and falsifying immigration documents, criminal violations that are not found in federal anti-human trafficking law.[4] In forced prostitution cases, such as *United States v. Reyes-Rojas*,[5] where two brothers were charged with sex trafficking, additional charges often include inter-state transportation for prostitution under the law known commonly as the "The Mann Act,"[6] and harboring people for prostitution. In cases like *United States v. Maksimenko*, where a Lithuanian man pled guilty to for enslaving Ukranian women in strip clubs through force and threats, trafficking charges are predicate acts under the Racketeer Influenced and Corrupt Organizations (RICO) statutes,[7] and accordingly can sustain money laundering charges for transactions carried out with the proceeds of, or in furtherance, of a trafficking scheme.

Sometimes, when a trafficking situation has occurred but there is not sufficient evidence with which to establish a trafficking offense, the Mann Act and immigration statutes can be powerful tools to vindicate the federal interest. The case of *United States v. Reddy* is a good example of this.[8] In that case, which was uncovered before the passage of the TVPA[9] the investigation revealed that, for over ten years, defendant Lakireddy Bali Reddy, a wealthy San Francisco Bay Area businessman, maintained a number of young girls and women as a quasi-harem for his sexual gratification and to work in his household and business enterprises. These victims were predominantly from families of lower castes in India and were brought into the United States by way of fraudulent employment offers or sham marriages. Members of Reddy's family posed as relatives of the victims to assist in their fraudulent migration. His scheme came to light after a teenage girl died of carbon monoxide poisoning in the apartment where he had sequestered her, her sister, and another girl. In 2001, Reddy pled guilty to transporting his victims in interstate and foreign commerce for illegal sexual activity. He was sentenced to more than 8 years in prison and ordered to pay $2,000,000 in restitution to four of his victims. The victims received benefits and services under the TVPA and today remain safely in the United States.

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4 *United States v. Zavala*, [insert case information].

5 *United States v. Reyes-Rojas*, [insert case information].

6 18 U.S.C. § 2421.

7 Racketeer Influenced and Corrupt Organizations (RICO), Pub L. No. 91-452, 84 Stat. 941.

8 *United States v. Reddy*, [insert case information].

9 TVPA, Pub. L. No. 106-386.

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II. An Administration Priority

Early in this Administration, the President identified the eradication of human trafficking as a priority. Two particular actions by the President focused Federal resources on trafficking. First, in February 2002, the President issued Executive Order 13257, creating a cabinet-level Interagency Task Force to Monitor and Combat Trafficking in Persons. The President ordered that the Task Force be chaired by the Secretary of State and be comprised of the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Director of Central Intelligence, the Director of the Office of Management and Budget, and the Administrator of the United States Agency for International Development.[10] The President took this action to ensure that the TVPA was fully implemented in a coordinated fashion throughout the federal government.[11]

> Slavery, human trafficking, and sexual servitude are crimes that wrench our hearts. They rob human beings of freedom. They strike at our nation's belief in the potential of every life. They are crimes that demand swift and implacable prosecution of the predators. They are crimes that deserve warmth and compassion for the victims.
>
> -Attorney General John Ashcroft, January 29, 2004

Second, also in February 2002, the President issued National Security Presidential Directive 22 (NSPD-22) to identify human trafficking as an important national security matter as well as to instruct federal agencies to strengthen their collective efforts, capabilities, and coordination to support the President's goal of abolishing human trafficking.[12] NSPD-22 states that human trafficking a transnational threat that is an affront to the principles on which this country stands. The relationship of human trafficking to organized crime, especially transnational criminal syndicates, fosters official corruption and threatens the rule of law.[13] The clandestine movement of persons across borders also poses terrorism and public health concerns. The United States Attorney's Office for the District of Montana, for example, treats every border incursion as potentially related to terrorism and, in 2004, was involved in a joint operation with the Royal Canadian Mounted Police and the Canadian Border Services Agency that resulted in the identification of a dozen Korean women believed to be destined for the sex trade, 80% of whom tested positive for tuberculosis. The syndicates that recruit and move these victims are often the same ones that are responsible for other trans-border crimes, like smuggling. Traffickers can and will move any type of cargo, human or otherwise, for profit. The fight against trafficking is

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[10] Exec. Order No. 13257, 3 C.F.R. 13257 (2002).

[11] The President subsequently issued an Executive Order amending Executive Order 13257 on March 18, 2004, conforming it to the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, 117 Stat. 2875.

[12] National Security Presidential Directive Memorandum Regarding Combating Trafficking In Persons, (Feb. 25, 2002) Parts of NSPD-22 are classified and cannot be released to the public.

[13] *Id.*

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therefore a critical element of United States foreign policy, requiring full use of the tools of diplomacy and the cooperation of American and foreign law enforcement.

Moreover, NSPD-22 views the abolition of prostitution, the driving force behind sex trafficking, as integral to the abolition of human trafficking. Regarding the United States's policy towards prostitution, NSPD-22 states:

> The United States opposes prostitution and any related activities, including pimping, pandering, and/or maintaining brothels as contributing to the phenomenon of trafficking in persons. These activities are inherently harmful and dehumanizing. The United States Government's position is that these activities should not be regulated as a legitimate form of work for any human being.[14]

NSPD-22 created a three-point plan of action:

1. Implementing Training in Federal Agencies

The President required all federal agencies to ensure that their own personnel were trained and equipped to carry out their anti-trafficking responsibilities and that their personnel coordinated with counterparts in other agencies. Further, NSPD-22 stated that the United States has a zero-tolerance policy with regard to trafficking by United States Government employees and contractors, who are to be educated about trafficking and investigated, prosecuted, and punished for engaging in it.

2. **Developing Cooperation With State and Local Law Enforcement in the United States**

The President recognized that state and local law enforcement are critical to federal efforts to combat human trafficking. NSPD-22 instructs federal agencies to vigorously enforce laws against traffickers, and to provide training and assistance to state and local law enforcement to assist them in recognizing victims and to hold perpetrators accountable for their crimes.

3. Integrating and Coordinating International Programs

The President required all federal agencies to coordinate foreign assistance programs, including funding to governmental and non-governmental organizations and public awareness programs, to combat trafficking in persons. NSPD-22 also required agencies to ensure that contractors receiving United States funding through international programs do not engage in trafficking activities. The President also directed agencies to work to prevent future victimization by reducing the vulnerability of individuals to trafficking, particularly through the expansion of educational and economic opportunities and the protection and promotion of human rights. The President further directed federal agencies to employ diplomatic and foreign policy tools to encourage other nations and multilateral organizations to work with the United States to combat this crime, to draft

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[14] *Id.*

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and enforce laws against trafficking, and to hold accountable those who engage in this crime.[15]

In 2003, Congress passed and President Bush signed the reauthorization of the TVPA, known as the Trafficking Victims Protection Reauthorization Act (TVPRA).[16] The TVPRA of 2003 codified the President's Interagency Task Force to Monitor and Combat Trafficking in Persons by creating the Senior Policy Operating Group (SPOG), which meets quarterly. The TVPRA slightly expanded the SPOG's authority, particularly as it concerns inter-agency coordination to develop the capacity of foreign nations, both source and destination countries, to combat trafficking; to examine the role of sex tourism in human trafficking; and to foster consultation with governmental and non-governmental organizations regarding implementation of the TVPRA.

The Attorney General has been an engaged member of the SPOG, and the Department supports the committee in a variety of ways. In 2004, for example, the Civil Rights Division and the Office of Justice Programs participated a SPOG subcommittee charged with designing the President's international human trafficking initiative. Currently, the Civil Rights Division, the Criminal Division, Office of Legal Policy, and the Office for Victims of Crime are members of the SPOG Subcommittee on Domestic Trafficking. The National Institute of Justice, a component of the Office of Justice Programs, is a member of the SPOG Subcommittee on Research, which shares information regarding research grants and other activities by each SPOG member agency. This subcommittee is also studying the issue of accurately estimating the number of trafficking victims within the United States. In addition, the Office of Justice Programs, the Department's principal grant-making agency, and the Office on Violence Against Women participate in the interagency grant information-sharing process of the SPOG. The grant information-sharing process is designed to provide SPOG member agencies with an opportunity to review and comment on proposed grant awards, helping to ensure that domestic and international grant programs are coordinated across the federal government. Finally, the Office of Legal Policy chairs the SPOG Subcommittee on Regulations, a working group charged with the development of federal regulations to implement the TVPRA.

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[15] *Id.*

[16] Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, 117 Stat. 2875 (2003) (signed into law by President Bush on December 19, 2003).

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III. Scope of the Problem

A. How Many Victims and Who are They?

It is extremely difficult to quantify the number of victims trafficked globally and into the United States each year. Some estimates indicate that as many as 800,000 people are trafficked across international borders annually, with up to 17,500 victims trafficked into our country each year.[17] Clearly, the problem is of sufficient magnitude that a continued dedication of substantial resources to this enforcement area is very much in order.

Despite our record number of investigations and prosecutions, there is a noted disparity between the estimated number of victims and those who have been found and assisted. The Department realizes that it must address the incongruity between some estimates and the less than 1,000 victims that have been rescued through the efforts of federal, state, and local law enforcement since 2003, when services for trafficking victims were first made available under the TVPA. Though the possible reasons for this disparity vary, the difference nevertheless signals the need to carefully scrutinize the estimated number of trafficking victims to assure that it reflects as accurately as possible the true number of human trafficking victims within our country.

Some estimates may overstate the extent of the problem and conflate human trafficking with the smuggling and harboring of illegal aliens or with the related crime of migrant prostitution. Trafficking victims are not all illegal aliens; human trafficking is distinct from human smuggling. Trafficking victims may be United States citizens, legal residents, or visitors. For example, *United States v. Pipkins* was the first case in which the Department successfully prosecuted two pimps for trafficking women and girls, all American citizens.[18] Prostitution alone is not trafficking; but where, as here, it involved the use of force or coercion to prevent people from leaving the enterprise, it becomes trafficking. Human smuggling, on the other hand, is the facilitation, transportation, attempted transportation, or illegal entry of a person or persons across an international border, in violation of American immigration laws. Many of those illegally entering the United States are smuggled, not trafficked.[19] Smuggling may occur clandestinely or through deception, such as the use of fraudulent passports or other immigration documents.[20] Human smugglers enter into a contractual relationship with those they will illegally transport into our country. The smuggler is often paid a considerable amount of money for his services and the relationship normally ends once the smuggled person has entered the United States and the debt is paid.

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17 U.S. Dept. of Justice, Assessment of U.S. Gov't Activities to Combat Trafficking in Persons, Fiscal Year 2003 (2004); Office to Monitor and Combat Trafficking in Persons, U.S. Dept. of State, Ann. Rep. (2005).

18 *United States v. Pipkins,* 378 F. 3d 1281 (11th Cir. 2004).

19 The Human Smuggling and Trafficking Center, Fact Sheet: Distinctions Between Human Smuggling and Human Trafficking (2005).

20 *Id.*

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Identifying and assisting victims of human trafficking are difficult tasks, and consequently, the Department does not have reliable figures regarding the number of victims who may be in the United States. Trafficking victims who have been rescued in connection with federal government activities over the past several years have come from more than 50 different countries, with the disproportionate majority coming from Latin America.[21] But several factors contribute to the difficulty of identifying trafficking victims. Human trafficking, like many other crimes, often requires that the victim and the criminal enterprise remain in the shadows of our communities. Moreover, victims often suffer from paralyzing fear and are reluctant to seek help, further exacerbating the problem. Traffickers prey on the meek and destitute, coercing and deceiving them into hiding.

Another explanation for this disparity is that victims may be helped by state and local law enforcement activities that the Department does not know about, or, in some instances, state and local officials may not realize that they have uncovered trafficking victims. Under our federal system of government, state and local governments may prosecute these cases under other criminal laws. Furthermore, although a particular prosecution by the Department may only result in the rescue of one or a few victims, it is reasonable to assume that enterprises that have been in business for several years have victimized hundreds of people.

The Department is committed to discussing and refining methodologies for estimating the number of victims that may yield more reliable results. The enactment of anti-trafficking crimes at the state level, many of which are based on the Department's model anti-trafficking statute, is a heartening trend, as the men and women in state and local law enforcement far outnumber the federal resources available to combat this problem.[22] As with domestic violence and sexual abuse, it is local police and prosecutors who will investigate and prosecute the lion's share of trafficking cases in the coming years. The Department is committed to supporting these partners in expanding the victim-centered approach it has developed.

B. The Department Responds to this Crime with A Victim-Centered Approach

Typically, federal prosecutors learn about a crime from the victim, from the eyewitness, or through an investigation. For traffickers to be successful, they must hide their crime from law enforcement by hiding their victims and their collaborators. Those who benefit from trafficking – men who frequent prostitutes and those who benefit from the low cost labor that the traffickers broker – are often momentary beneficiaries, and may not even know that the victim is being held in compelled service. Thus, the only remaining eyewitness is often the victim. To prevent their workforce from running away and to forestall detection, traffickers have an incentive to instill

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[21] U.S. Dept. of Justice, Assessment of U.S. Gov't Activities to Combat Trafficking in Persons, Fiscal Year 2003 (2004); U.S. Dept. of Justice, Assessment of U.S. Gov't Activities to Combat Trafficking in Persons, Fiscal Year 2004 (2005).

[22] The Department's model state law is discussed below in detail at ____. A copy of the model state law is available as an appendix to this report and on the internet at http://www.usdoj.gov/crt/crim/model_state_law.pdf.

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fear in their victims– fear of American law enforcement, fear of their captors, and fear of anyone they meet in their unfamiliar settings. Many victims are far from their country of origin and their families. They do not speak English and are more likely than not to lack any legal immigration status. Traffickers prey on the unsettled aspects of their lives, playing victims against each other and fostering collaboration.

Victims of trafficking often live and are forced to work in linguistic and social isolation. They fear the threat of exposure and feel shame about the work they are forced to do, particularly when that work includes sexual abuse. They also fear continued violence or the threat of reprisals against loved ones. They can develop a psychological dependence on the trafficker or others. Immigrant victims of human trafficking often face a special set of circumstances that keep them in the shadows of our nation's communities. Traffickers will often withhold from immigrant victims of trafficking their immigration documents. Immigrant victims may have a fear of American law enforcement , do not understand their rights, and fear risking default on monies owed their captors, as well as the collateral effect that may have on their families back home. The result is that victims will rarely self-report and so they must be pro-actively found.

While relying on the victims to give testimony about their suffering – the same duty American law requires of any witness – the Department places a premium on addressing the victims' need for recovery. Agents, prosecutors, and victim/witness staff work with, and are intensifying their relationships with, victim service providers. These groups, often experienced faith or community-based organizations that have previously served immigrant or abused populations, can help keep the victims safe, meet their medical and housing needs, and help them find an equilibrium in their lives through job training, language classes, and life-skills counseling. Victim-centered prosecutions that recognize that the government's interest in these cases stems from the violation of the fundamental right of freedom. Moreover, victim-centered prosecutions are essential to the liberation and care of victims. In vindicating the survivor's right to be free, federal prosecutors must give him or her the opportunity to use that freedom and the support to make it meaningful. The Department's approach flows from our nation's foundational principles – respect for human dignity and one's civil rights.

"It's there fault that I lost my friends, my parents....My story is very long. It took me about a year to reach my parents....They (the defendants) don't repent for everything they did to me, for all the damage they did to me. They hit me....They thought they were big shorts. I tried to defend myself but couldn't. I tried to escape...."

–An in-court statement by S.A.H., a victim in *United States v. Jimenez-Calderon*

Federal law enforcement are committed to combating human trafficking with a victim-centered approach. Federal investigators and prosecutors, including Federal Bureau of Investigation and Bureau of Immigration and Customs Enforcement agents and Assistant United States Attorneys, immediately refer a victim to victim-witness specialists who begin to provide the appropriate referrals to victim service providers, often grantees that are funded through the Office for Victims of Crime and the Department of Health and Human Services Office of Refugee Resettlement. The Civil Rights Division and the Office for Victims of Crime work together to ensure that grantees are available to provide services to victims. In addition, because trafficking victims may

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avail themselves of victim services providers funded through other Departmental components, such as the Office on Violence Against Women and the Bureau of Justice Assistance, grantees of these offices are trained on providing assistance to victims of human trafficking.

Department components regularly promote a victim-centered response and educate other law enforcement agencies and victim service providers about the dynamics of trafficking and the need for pro-active investigations in an effort to increase awareness and outreach to new partners, with the ultimate goal of preventing victimization. For example:

- Since 2002, Civil Rights Division staff have trained federal, state, and local law enforcement officers and victim service providers about proactive victim-centered investigations. In addition, Criminal Section lawyers are educating prosecutors and other law enforcement officials across the country on the criminal provisions of the new trafficking statute and providing practical guidance on investigating and prosecuting these difficult cases, as well as assisting localities to establish regional working groups to better coordinate and focus anti-trafficking law enforcement efforts. The Section continues to organize and lead training efforts at the Justice Department's national training facility for federal investigators and prosecutors from around the country, as well as victim-witness coordinators from U. S. Attorneys' offices.

- Since January 2003, nearly 40,000 law enforcement officers, attorneys, social service providers, advocates, medical and mental health professionals, and community members have been trained by the Office for Victims of Crime and Bureau of Justice Assistance grantees. Moreover, the Bureau of Justice Assistance's law enforcement training emphasizes that code enforcement officials, fire marshals, and other persons that may have access to where victims are being held should be trained on signs of human trafficking.

- The Federal Bureau of Investigation's Civil Rights Unit and various United States Attorneys' Offices have also participated in dozens of regional Department of Justice sponsored human trafficking training conferences hosted throughout the country, in cities including Los Angeles, California; Houston, Texas; New Haven, Connecticut; Portland, Oregon; St. Louis, Missouri; San Diego, California; San Francisco, California; and Tampa, Florida.

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IV. Tools for Investigating and Prosecuting Human Trafficking

The Prosecutor's Tool Box

Involuntary servitude
Labor wage and hour laws
Mann Act
PROTECT Act
RICO Act
Trafficking Victims Protection Act
Trafficking Victims Protection Reauthorization Act of 2003
Trafficking Victims Protection Reauthorization Act of 2005

The Department's meaningful success in combating human trafficking would not be possible without the enactment of several statutes by Congress. Prior to 2000, trafficking cases were prosecuted under a number of federal criminal statutes including the involuntary servitude statutes,[23] the Mann Act,[24] and labor laws concerning workplace conditions and compensation.[25] The Mann Act statutes were formerly thought of as the primary federal anti-trafficking tool, when "trafficking" was perceived as interstate transportation for prostitution, as opposed to the modern definition, which focuses on compelled service. The involuntary servitude statutes set forth a variety of substantive crimes covering the slave trade, involuntary servitude, peonage. Sections 1584 and 1581, of Title 18 of the United States Code, which respectively criminalize involuntary servitude and peonage, are the primary statutes used in involuntary servitude and trafficking prosecutions. Section 1583, which criminalizes kidnaping victims into slavery, likewise remains a useful tool in modern federal prosecutions. Prior to the TVPA, these statutes did not always treat the workers involved as victims and enforcement authority for each of these possible anti-trafficking tools was scattered across the United States Government, leading to differing outcomes depending on which charges were brought or which agency learned of the allegations of abuse.

Today, the centerpiece of United States Government efforts is the TVPA.[26] The TVPA provided for a range of new protections and assistance for victims of trafficking in persons who comply with law enforcement investigations; it expanded the crimes and enhanced the penalties available to federal investigators and prosecutors pursuing traffickers; and it expanded United States activities internationally to prevent victims from being trafficked in the first place.

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[23] *See* 18 U.S.C. §§ 1581-1588. These statutes are still used when appropriate and were updated and supplemented by the restitution, forfeiture, and attempt provisions enacted in the TVPA.

[24] *See* 18 U.S.C. §§ 2421-2424.

[25] *E.g.*, Migrant and Seasonal Agricultural Worker Protection Act, Pub. L. No. 97-470, 96 Stat. 2583 (1983) (codified as amended at 29 U.S.C. § 1851).

[26] TVPA, Pub. L. No. 106-386.

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Protections and Assistance for Victims

The TVPA authorized a dedicated stream of funding for victim services and provides for immigration relief for severe forms of trafficking.[27] Under the TVPA, a victim is certified by the Department of Health and Human Services as eligible for services funded by any federal or state program or activity, such as the Departments of Agriculture, Health and Human Services, and Labor or the Legal Services Corporation. Department of Health and Human Services certification is granted after consultation with the Department's law enforcement officials, including investigators and prosecutors, that the victim meets the statutory definition of a "victim of a severe form of trafficking" and is also cooperating with the federal law enforcement investigation. The TVPA also authorized the Department to fund and provide training and technical assistance to law enforcement agencies and victim service providers.

The Department's Office for Victims of Crime directs its funding to support services for pre-certified victims and may, in special circumstances, fund organizations that provide services to certified victims. Pre-certified victims are those victims who have been identified by law enforcement in connection with an investigation and are awaiting Department of Health and Human Services certification that they are a victim of a severe form of trafficking. This is significant because pre-certified victims are not entitled to the same publicly funded benefits that certified victims are, yet the need for services is most acute at this stage. Secondarily, providing those services enables victims, in most instances, to cooperate with law enforcement to investigate and prosecute their human traffickers. A safe and healthy victim is better able to articulate to investigators and a court what has happened to her. Indeed, a survivor of trafficking can often be one of the most effective anti-trafficking tools as an advocate and a provider of services for victims.

Insert images of trafficker mug-shots

Defined Crimes and Enhanced the Penalties

The TVPA,[28] defined human trafficking as a crime, crated stiff sentences, and provided prosecutors with definitions of terms used to describe the offense such as "coercion," and "commercial sex act."[29] Traffickers that use force, fraud or coercion may be sentenced to up to a term of up to life imprisonment.[30]

Prevention

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[27] A more detailed discussion about victim services programs administered by the Department of Justice is below in Part VI "The Department's Collateral Attack on Human Traffickers," Section B "Restoring a Victim's Dignity."

[28] *See*, 18 U.S.C. §§ 1589-1594.

[29] 22 U.S.C.§ 7102.

[30] *See*, 18 U.S.C. 1591.

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Insert Image of Bilateral Safety Corridor Coalition Public Awareness Calendar

The TVPA has given the Department the tools needed to increase public awareness within our communities, particularly among law enforcement and social services agencies, as well as internationally. The Department's activities, including those undertaken by non-governmental organizations that receive grants from the Office for Victims of Crime, aim to prevent victimization through public awareness and outreach are discussed below in Part VI "The Department's Collateral Attack on Human Traffickers," Section C "Public Awareness Supports Pro-Active Investigations."

Subsequently, in 2003, Congress, with the President's support, re-authorized the TVPA,[31] enhancing penalties and adding responsibilities to the United States Government's anti-trafficking portfolio, such as new public awareness campaigns to combat sex tourism and some refinements to the federal criminal law. Significantly, Congress included trafficking among the terms that constitute money laundering and racketeering, under the RICO statute. Prosecutors have used this effective tool to dismantle trafficking schemes. It also created a mandatory restitution section and a forfeiture provision. These sections work together to ensure that defendants convicted of trafficking in persons receive sentences that reflect the seriousness of their crimes. The TVPRA has produced reals results in the field, yielding penalties three and four times those obtained under smuggling or harboring statutes and under historical servitude and trafficking statutes, as discussed earlier in this section.

Graphic depicting rate of sentences in trafficking cases

It also clarified the provision that victims meet the statutory requirement to comply with law enforcement investigations by allowing victims to assist with law enforcement efforts, such as providing investigators with important factual testimony, and it relieved victims under the age of 18 from meeting this requirement altogether. Congress also created a new civil action that allows trafficking victims to sue their traffickers in federal district court. Specifically, the TVPRA of

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[31] TVPRA Pub. L. No. 108-193.

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2003 gave victims of human trafficking the right to bring federal civil suits against their traffickers for actual and punitive damages.

The account of a Philippine teacher from a rural village is illustrative of how civil suits are an important aspect in fighting human trafficking when prosecutors are unable or have insufficient evidence to bring forward a criminal prosecution. In August 2004, a Santa Monica jury awarded her $825,000 for her enslavement by Judd Jackson, a Sony Pictures executive, and his wife, Beth.[32] The Philippine teacher thought she was coming to the United States to work as a travel companion to an elderly woman. Instead, her passport was taken away and she was enslaved. The Jacksons made her clean their home, provide meticulous care for their dogs, and sleep on the dining room floor. After a little more than one year of working from 5:30 a.m. to as late as 10 p.m., a neighbor called the police and the victim was referred to the Coalition to Abolish Slavery and Trafficking (CAST), a grantee of the Department's Office for Victims of Crime human trafficking victim services program. The victim is now an advocate on behalf of trafficking victims, speaking publicly about the evils of human trafficking.

On January __, President Bush signed into law the Trafficking Victims' Protection Reauthorization of 2005 (TVPRA of 2005). In addition to reauthorizing the TVPRA, the law enhances our ability to combat trafficking in persons by extending our prosecutorial tools and providing new protections for victims. In important enhancements to prosecutorial tools, the bill establishes extra-territorial authority for prosecution of trafficking in persons offenses committed by federal contractors abroad or persons accompanying them and adds trafficking in persons as predicates for the offense of document servitude, where one's identity papers, such a foreign birth certificate, passport, or immigration documents are withheld by the trafficker and used to coerce or compel the trafficking victim. The TVPRA of 2005 also promotes efforts to fight domestic trafficking in persons. It requires a comprehensive research and statistical review and analysis of incidents of trafficking and commercial sex acts within the United States and annual conferences, to be conducted by the Department for the benefit of state and local law enforcement, other governmental agencies, and non-governmental organizations, on domestic trafficking in fiscal years 2006, 2007, and 2008 and biennially thereafter.

In addition, the TVPRA of 2005 establishes a grant program to develop, expand, and strengthen assistance programs for United States citizens and permanent residents who have been subjected to trafficking and establishes a pilot program to create residential treatment facilities for children subjected to trafficking. It also creates a new grant program for state and local law enforcement authorities to investigate and prosecute trafficking of U.S. citizens and permanent residents, including efforts to reduce demand for commercial sex acts. Furthermore, the TVPRA of 2005 contains new requirements for data collection that will promote effective responses to trafficking. These include study by the Human Smuggling and Trafficking Center, an inter-agency program discussed in more detail below, of the relationship between trafficking and terrorism and of the abduction and enslavement of children as soldiers, and development of a mechanism for quantifying the number of victims of trafficking.

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[32] [Insert case citation.]

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The President, also in 2003, signed into law, the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003, the law known as the PROTECT Act. The PROTECT Act, developed with the assistance of experts in the Department's Child Exploitation and Obscenity Section of the Criminal Division (CEOS), has given the Department's prosecutors several new tools to combat sex trafficking and child prostitution. The Act makes it a crime for a United States citizen to travel in foreign commerce and engage in illicit sexual activity with minors,[33] and now includes an attempt provision.[34] Moreover, this Act facilitated prosecutions by eliminating the requirement that the Department prove that the traveler-predator intended to have sex with a child prior to traveling.

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[33] Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today (PROTECT) Act of 2003, Pub. L. No. 108-21, 117 Stat. 650.

[34] PROTECT Act, Pub. L. No. 108-21 (codified as amended at 18 U.S.C. § 2423(c)).

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V. Halting Human Trafficking with a Record Number of Aggressive Investigations and Prosecutions

Since 2001, the Department has achieved a record number of human trafficking investigations and prosecutions through a unique victim-centered approach that focuses on three important themes: sex trafficking, labor trafficking, and child sex trafficking. Prosecutions of sex and labor trafficking depend for their success on the elements of force, fraud, or coercion that render the victim's role involuntary. Because trafficking is modern day slavery, then-Attorney General John Ashcroft designated the Civil Rights Division, in early 2001, as the principal architect of the Department's comprehensive response to human trafficking. The Civil Rights Division has collaborated with the Federal Bureau of Investigation, United States Attorneys' Offices, the Criminal Division, and the Office of Justice Programs to uncover and investigate these criminal enterprises, to prosecute and hold traffickers accountable for their criminal conduct, and, most importantly, to rescue victims and return to them their dignity.

In 2004, the Federal Bureau of Investigation took an important step towards the vigorous investigation of trafficking crimes when it launched the Involuntary Servitude and Slavery/Trafficking in Persons Initiative. This Initiative has achieved important results in the manner in which the Bureau uncovers and investigates these cases in coordination with the Civil Rights and Criminal Divisions. Specifically, the Bureau's Civil Rights Unit, the primary Bureau agency charged with investigating federal civil rights statutes:

- Developed and disseminated a general human trafficking investigative protocol to all FBI field offices;
- Implemented commercial sex trafficking intelligence collection requirements and disseminated those requirements to every Bureau Field Intelligence Group;
- Established a mechanism for the Bureau to properly classify cases as human trafficking, alien smuggling, or child prostitution;
- Expanded the Bureau's outreach to national human trafficking victim advocacy organizations, such as The Freedom Network and the International Justice Mission to establish contacts and leverage partnerships.
- Commenced, in October 2005, human trafficking threat assessments in each of the nation's 56 Bureau Field Offices. The threat assessments are intended to help the Bureau determine the nature and scope of human trafficking and to develop a more informed response to this criminal activity. Field Offices will be guided by this analysis in determining whether to establish or enhance their participation in local anti-human trafficking task forces, including establishing relationships with local non-governmental organizations and more aggressive involvement in investigations by federal, state and local law enforcement;[35] and
- Created, in November 2005, a case tracking database to track and maintain important human trafficking related data from the Bureau's Field Offices regarding the

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[35] Fed. Bureau of Invest., Human Trafficking Initiative Elec. Commc'n to all Field Offices (Oct. 21, 2005).

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Department's prosecutorial decisions, identifying emerging trends and reporting significant events in the field to the Bureau's Civil Rights Unit.

A. Sex Trafficking

"We have all the ingredients they want....We have a migrant workforce and a legal sex trade."

-Gerald Gardner, Nevada Deputy Attorney General and Las Vegas Office Chief, at a press conference inaugurating the Department's Las Vegas Anti-Human Trafficking Task Force, *Las Vegas Sun*, September 29, 2004

Human trafficking typically manifests itself in compelled service either for forced labor or in the "sex industry." Sadly, in both areas, sexual abuse of female victims is common.

Sex trafficking is both a crime and phenomenon. The TVPA's "sex trafficking" statute[36] makes it illegal to use force or coercion to obtain persons for commercial sexual activity, with special provisions regarding the involvement of minors. Other activities that the Department considers part of the phenomenon of sex trafficking, such as servitude for non-commercial sexual activity or compelled service in strip clubs or other non-prostitution sectors of the sex industry, are properly prosecuted under traditional slavery statutes or even the forced labor statute, but are no less components of sex trafficking than commercial sexual activity.

The increase in sex trafficking cases filed and prosecuted by the Civil Rights Division and United States Attorneys' Offices over the past five years is staggering. Between fiscal years 2001 and 2005, federal prosecutors filed 68 cases of sex trafficking, a 870% increase over the seven cases the Civil Rights Division and United States Attorneys' Offices filed between fiscal years 1996 and 2000. Also during that same time period, the Civil Rights Division and United States Attorneys' Offices charged 187 defendants with sex trafficking, a 450% increase over the 34 defendants` charged between fiscal years 1996 and 2000. In addition to the new records set in investigations and prosecutions of sex trafficking, the Civil Rights Division and United States Attorneys' Offices have achieved impressive results in convicting traffickers. From fiscal years 2001 to 2005, federal prosecutors obtained the convictions of 109 sex trafficking defendants, a 445% increase over the 20 defendants convicted during the previous five fiscal year period.

Insert graphic depicting the rate of increase FY '96-'05.

Sex trafficking may occur in any American community–urban, suburban or rural–and involves

[36] 18 U.S.C. § 1591.

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both aliens and United States citizens. Sex trafficking can occur in bars, farm worker camps, and sex entertainment and prostitution enterprises. The traffickers are endlessly inventive. While the public stereotype of these cases involve large scale international organized crime syndicates, forced prostitution cases often involve groups of family members or even individual pimps. In *United States v. Jimenez-Calderon,* a group of family members recruited women and girls from the Mexican state of Tlaxclala to come to the United States with promises of love, only to hold them in prostitution through force and threats to them and to their families in Mexico.[37] The lead defendant in *Jimenez-Calderon* received a sentence of 17 years of incarceration following her guilty plea.[38]

Cases involving United States citizen victims that might not have been brought under the Mann Act are now being brought using the TVPA sex trafficking statute, which does not require interstate travel. In *United States v. Gates and Heyward*, two persons pled guilty in 2004 to sex trafficking for running an internet prostitution business from their home, at times using girls as young as 14 to perform sexual acts. Defendant Gates, who beat the women who disobeyed him and provided drugs to support some of the women's addictions, was sentenced to more than 14 ½ years in prison. His co-defendant girlfriend, Heyward, received a sentence of 9 years of incarceration.[39]

Many cases involving individuals from countries of the former Soviet republic in the past few years have involved compelled service in "exotic dancing." In *United States v. Gasanov,* a husband and wife were convicted at trial and sentenced to serving five years in prison and paying $516,150 in restitution for bringing Uzbeki women to El Paso, Texas, under the guise of a student researcher exchange program, only to hold them in compelled service in strip clubs by confiscating their immigration documents, known as document servitude, and making threats against their families.[40] In *United States v. Maksimenko*, five persons have pled guilty as of December 19, 2005, for their roles in a scheme to enslave Ukrainian women in Detroit-area strip clubs through threats and extortion.[41]

Sometimes victims are held in sexual slavery without any commercial aspect. In *United States v. Soto*, eight men were convicted in 2003 for their roles in an alien smuggling organization that would hold vulnerable alien women as "concubines," forcing them to cook, clean, and submit to the sexual demands of the alien smugglers through force, threats, and punitive rape. The lead defendant in the *Soto* case was sentenced to 23 years of incarceration following his guilty plea.[42]

In some communities, women are imported to work as "bargirls." While this is not technically sex trafficking under the TVPA, as it does not involve a sex act, the women are treated as sex

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37 *United States v. Jiminez-Calderon*, No. 02-00553-3, (D.N.J. 2003).
38 *Id.*
39 *United States v. Gates and Heyward*, [insert case information].
40 *United States v. Gazanov*, [insert case information].
41 *United States v. Maksimento*, [insert case information].
42 *United States v. Soto*, [insert case information].

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objects and forced to entertain male bar patrons, dancing and drinking with them at their pleasure. In *United States v. Kang*, for example, a Korean couple lured Korean women to New York City with promises of good jobs as hostesses in the their nightclub, but subjected them to physical abuse, held them for repayment of a $10,000 debt, and attempted to force them into prostitution.[43] Seven defendants have pled guilty to forced labor and obstruction of justice charges. The defendants include a Federal Air Marshal and a Department of Homeland Security agent, who attempted to force one of the victims to get on a flight to South Korea to keep her from testifying against the Kangs.[44] In another "bargirl" case, *United States v. Molina,* six Hondurans in Ft. Worth, Texas, received sentences of up to 5 years and 3 months of incarceration following their guilty pleas for harboring the women and making them repay their alien smuggling debts by entertaining the male patrons of the defendants' bars.[45]

B. Labor Trafficking

Labor trafficking occurs when a victim is forced to work in an area of the economy that would otherwise be a legal form of labor, absent the coercion. This phenomenon commonly is found in farms, factories, and households. Similar to sex trafficking, if a person is subjected to coercive force such that he cannot leave his employer's service, he is considered a victim regardless of whether he initially chose to perform that type of work, or even if he receives some pay for his labor. There is no requirement that the victim be transported by the defendant.

The increase in labor trafficking cases brought by the Civil Rights Division and United States Attorneys' Offices over the past five years is also significant. Between fiscal years 2001 and 2005, the Civil Rights Division and United States Attorneys' Offices filed 23 labor trafficking cases, an increase of 110% over the 11 labor trafficking cases the federal prosecutors filed between fiscal years 1996 and 2000. In these cases, 61 defendants were charged with labor trafficking, an increase of 33% over the 46 defendants the charged during the previous five fiscal year period.

Insert graphic depicting the rate of increase FY '96-'05.

As in sex trafficking cases, vulnerable United States citizens may find themselves trapped in a forced labor situation, unable to escape because of threats or coercion. For example, in *United States v. Michael Lee*, the defendants recruited homeless African-American men for their orange-picking operation. Once employed, the workers were involuntarily retained by beatings, threats, and a "company store" debt run up by short-term loans for rent, food, cigarettes, and cocaine. The defendants were convicted in 2001 and received prison terms of up to 4 ½ years of incarceration.[46]

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43 *United States v. Kang*,[insert case information].

44 *Id*.

45 *United States v. Molina*, [insert case information].

46 *United States v. Michael Lee*, [insert case information].

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Forced labor situations often appear in parts of the agricultural sector that require "stoop labor." One such case, *United States v. Garcia*,[47] involved the first successful defense of the TVPA against a constitutional challenge. In that case, four defendants received sentences of up to nearly 4 years of incarceration in 2005 for recruiting young undocumented Mexican aliens from the Arizona border and transporting them to New York with false promises of good wages, only to force them to work in the fields for little or no pay and house them in overcrowded and filthy conditions through threats to turn them over to the Border Patrol.[48] In their constitutional challenge, the defendants argued that the TVPA was unconstitutionally vague, inviting arbitrary and discriminatory enforcement, and that Congress exceeded its authority in enacting it because it did not involve interstate commerce. A federal district court disagreed and found that the TVPA's terms were clear and provide adequate notice of the conduct it prohibits.[49] It also found that Congress had the power to enact the TVPA under the Thirteenth Amendment to the Constitution.[50]

Insert Image of "Ramos Van Attack"

In another example of forced "stoop labor," three brothers were convicted in 2002 in *United States v. Ramos*[51] for using threats and debt bondage to hold migrant workers in their employment for the duration of the harvesting season, and for assaulting the owner of a transportation service to cut off any avenue of escape the workers might have had from the area. The Ramos brothers were sentenced to 15 years of incarceration and ordered to forfeit $3 million

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47 *United States v. Garcia*, No. 02-110, 2003 WL 22938040 (W.D.N.Y. 2003).

48 *Garcia*, 2003 WL 22938040.

49 *Id*. at 2.

50 *Id.*

51 *United States v. Ramos*, [insert case information].

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in proceeds from their slavery operation.

Domestic servant cases continue to be a regular part of the Department's forced labor portfolio. Sadly, in many of these cases the young female victims are subjected not only to long hours and low pay for their work as nannies and maids, but suffer sexual abuse at the hands of their captors as well.

For instance, in *United States v. Mubang*,[52] a Cameroonian woman was convicted of bringing an eleven year-old girl to the United States illegally and under false pretenses. Once the girl was in America, she was forced to care for the defendant's two children and perform all the household chores without pay. The defendant forced the victim to comply by beating her with a broken metal broom stick and a cable cord, forbidding her from speaking of her employment conditions to anyone, forbidding her from leaving the house or opening the door to anyone, and interfering with her mail. Mubang fled the country soon after her conviction but was returned to the United States in 2005 through the assistance of the Cameroonian government. She is currently serving a sentence of 17 ½ years of incarceration.

Similarly, in 2004, in *United States v. Trisanti*, a Los Angeles woman was convicted of involuntary servitude for trafficking two victims into the United States from Indonesia and forcing them to work as domestic servants through threats and physical violence. Trisanti was sentenced to 46 months in prison and ordered to pay $203,000 in restitution.[53]

C. Child Sex Trafficking

"Our society has no place for those who prey on children and no tolerance for child prostitution or sex trafficking."

–Attorney General Alberto R. Gonzales, December 16, 2005.

Within the Department, CEOS historically has taken the leading role in overseeing the prosecution of cases of sex trafficking of minors. Sex trafficking in children occurs when persons under the age of 18 are provided or obtained for a commercial sex act. Prior to the passage of the TVPA, this aspect of human trafficking was traditionally dealt with by law enforcement under the label "Commercial Sexual Exploitation of Children" (CSEC), and all states have statutes criminalizing child prostitution. It is a continuing challenge to incorporate long-established child protective services, family court, and anti-CSEC activities and programs into the anti-trafficking effort.

Usually, when people commit crimes, the best the criminal justice system can do is punish the offender and occasionally have him repay the out-of-pocket expenses of the victims. This plea not only does that, but attempts to give the victims future opportunities for treatment, counseling, and even an education.

-Tim Burgess, United States Attorney for the District of Alaska, stating the plea agreement in *United States v. Boehm* on March 19, 2004.

[52] *United States v. Mubang*, [insert case information].

[53] *United States v. Trisanti*, [insert case information].

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Like other forms of trafficking, child sex trafficking can occur in any community. The TVPA supplemented the Mann Act, which prohibits the interstate transportation of persons for prostitution, by extending federal jurisdiction to situations in which the pimps did not cross a state line with their minor victims. In recent years, the Department has prosecuted cases of child sex trafficking across the nation. In *United States v Boehm*,[54] for example, four persons pled guilty to sex trafficking of children, among other charges. In 2001, Boehm, along with his co-defendants, agreed to distribute cocaine and cocaine base to persons under the age of 21 and to recruit minors for sexual purposes in exchange for money and crack cocaine. All five defendants were sentenced to terms of imprisonment ranging from 3 years to more than 13 years and Boehm, as part of his plea agreement, also forfeited his residence and provided $1.2 million in trust for the future benefit of his victims.[55] The trust fund will compensate Boehm's victims for expenses to drug treatment, counseling and can be used for educational and professional training expenses.

An important vehicle for the Department's efforts to combat child sex trafficking is the Federal Bureau of Investigation's Innocence Lost Initiative. Launched in 2003, the Innocence Lost Initiative is implemented by the Bureau's Violent Crimes and Major Offenders Section, in partnership with CEOS, United States Attorneys' Offices, and the National Center for Missing and Exploited Children (NCMEC) to address the problem of domestic child prostitution in the United States. The Department's Office of Juvenile Justice and Delinquency Prevention has supported NCMEC's training activities in connection with this Initiative with an approximate total of $126,000 since 2004. The Violent Crimes and Major Offenders Section first identified 14 Bureau Field Offices located in areas where there is a high incidence of prostituted children. The Section then asked each of these offices to establish a task force to address the problem through a variety of federal criminal statutes including the Mann Act, TVPA, and RICO,[56] where appropriate, to neutralize the entire criminal enterprise. The Section asked the remaining 42 Bureau Field Offices to assess whether the localities they serve have a substantial child prostitution problem.

Insert map of Initiative Lost Task Force locations

As of September 30, 2005, Innocence Lost Initiative Task Forces have been instituted in Atlantic City, New Jersey; Boston, Massachusetts; Chicago, Illinois; Detroit, Michigan; Harrisburg, Pennsylvania; Houston, Texas; Indianapolis, Indiana; Los Angeles, California; Miami, Florida; Tampa, Florida; Toledo, Ohio; Portland, Oregon; San Francisco, California; and Washington, D.C. In connection with this initiative, federal law enforcement agencies, prosecutors, and social service providers from were brought to NCMEC's Washington, D.C.-area offices, where the

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54 *United States v. Boehm*, [insert case information].

55 *Id.*

56 RICO, 18 U.S.C. § 1961, *et seq*.

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groups from the same jurisdiction were trained together in order to cultivate cooperation, partnership, and an effective integration among the critical enforcement entities in each city. To date, more than 350 key personnel have been trained. As a result of the Department's substantial investigatory efforts through this Initiative, CEOS has seen a marked increase in the number of requests from both Assistant United States Attorneys and Bureau agents in the field for advice, guidance, and co-counsel on child prostitution cases.

More importantly, on December 16, 2005, Attorney General Alberto R. Gonzales announced that more than 30 child victims were recently identified in connection with the latest phase of Innocence Lost, bringing the total of child victims identified to more than 200 since the Innocence Lost Initiative began. This latest effort resulted in the arrest of 19 individuals. Between 2004 and 2005, the Innocence Lost Initiative has resulted in 139 open investigations, 505 arrests, 60 complaints, 70 indictments, and 67 convictions.

Child sex trafficking may also involve child sex tourism, which occurs when individuals travel to foreign countries to engage in sexual acts with children, who are often the victims of trafficking. As with non-coerced child prostitution, CEOS has taken the leading role in overseeing the development of anti-sex tourism policies and resulting prosecutions. United States Attorneys' Offices nationwide, with guidance or co-counsel assistance from CEOS, have obtained at least 50 sex tourism indictments or complaints and a minimum of 29 convictions between 2003 and 2005 under the PROTECT Act, with approximately 60 investigations currently pending.

In 2003, in the first prosecution under the PROTECT Act, Michael Clark, who had been arrested in Cambodia for sexually abusing two Cambodian boys (ages 10 and 13), was charged with attempting to engage in illicit sexual conduct after travel in foreign commerce. Clark pled guilty to the charges and was sentenced to 8 years of imprisonment. In connection with his plea, Clark reserved the right to appeal the constitutionality of the PROTECT Act, arguing that Congress exceeded its power to enact criminal laws that do not involve interstate commerce and that criminalizing activities in a foreign country violate his right to due process and international law. Clarks' appeal is currently pending before the Ninth Circuit Court of Appeals.[57]

Also in 2003, in *United States v. Russell,*[58] an American man was prosecuted when an investigation revealed that he had traveled to the Philippines on numerous occasions over a two-year period in order to engage in sexual acts with children and to produce child pornography for the purpose of importation into the United States. At least three Philippine children have been identified as victims of Russell, who pled guilty and was sentenced to more than 3 years of imprisonment.

D. Inter-Agency Coordination

Implementation of the President's directive to combat human trafficking requires meaningful

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[57] *United States v. Clark,* 315 F. Supp. 2d 1127 (W.D. Wash. 2004).

[58] *United States v. Russell*, [insert case information].

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inter-agency coordination. Much of the coordination has been accomplished through the President's Inter-Agency Task Force to Monitor and Combat Trafficking in Persons, and subsequently the Senior Policy Operating Group, discussed above. In connection with these efforts, the Department has engaged with other federal agencies to create additional vehicles of inter-agency coordination.

The most significant achievement in this regard is the Department's support of the Human Smuggling and Trafficking Center, administered by the Department of Homeland Security and led by a steering committee comprised of representatives from the Department, including the Federal Bureau of Investigation, and the Department of Homeland Security. The Center provides a mechanism to bring together federal agency representatives from policy, law enforcement, intelligence, and diplomatic areas to work together on a full-time basis to achieve increased effectiveness among federal law enforcement and to convert intelligence about human trafficking, alien smuggling, and clandestine terrorist travel into effective law enforcement activities. Analysts accomplish this function by identifying issues related to migrant smuggling or trafficking in persons and then forward their findings to the relevant federal agencies or interagency organizations for consideration and appropriate action. The Center has been under development since mid-2004 and shortly thereafter started initial operations. It is poised to become fully functional in the very near future.

In addition, the Department in July 2004 entered into a Memorandum of Understanding with the Department of Homeland Security and the Department of Health and Human Services streamlining protocols for the Health and Human Services ("HHS") certification of victims (or in the case of minors, eligibility letters) rescued in connection with Department of Justice or Homeland Security law enforcement efforts. A determination by HHS that victims have suffered a "severe form of trafficking" enables these individuals to qualify for federally funded or administered benefits and services to the same extent as refugees.[59] The agreement also marked an important step towards the coordination of treatment of potential trafficking victims by agents of the Departments of Homeland Security and Justice through better information sharing. It is important to note that at least 30% of the investigations filed by the Department since 2001 were initiated by agents of the Bureau of Immigration and Customs Enforcement.

E. Coordination Within the Department of Justice

The Department's anti-trafficking investigative and prosecution strategy requires effective intra-agency collaboration to bring the specialties of each component to bear on these multi-faceted, complex, and labor-intensive criminal cases. The following components are important contributors to the Department's activities in support of the President's directive to combat human trafficking:

- The Civil Rights Division, particularly its Criminal Section
- The Criminal Division, particularly its Asset Forfeiture and Money Laundering Section,

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[59] TVPA, 22 U.S.C. §§ 7105(b)(1)(A), (B), and (E).

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Child Exploitation and Obscenity Section, Domestic Security Section, International Criminal Investigative Training and Assistance Program, Office of International Affairs, Office of Overseas Prosecutorial Development, Assistance and Training, and Organized Crime and Racketeering Section

- The Executive Office of United States Attorneys and United States Attorneys' Offices nationwide
- The Federal Bureau of Investigation, and its Field Offices
- The Office of Community Oriented Policing Services
- The Office of Justice Programs, particularly its Bureau of Justice Assistance, Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and Office for Victims of Crime
- The Office of Legal Policy
- The Office of Legislative Affairs
- The Office on Violence Against Women

Representatives from the Civil Rights Division, the Criminal Division, and the Federal Bureau of Investigation meet periodically to share information and to identify ways to leverage resources to identify and combat trafficking in persons, among other criminal activity. In addition, the Office of Legal Policy convenes regular meetings of Department of Justice components to coordinate the development of policies regarding the Department's anti-human trafficking activities. The Criminal Section of the Civil Rights Division, in early 2003, authored a comprehensive legal monograph on trafficking issues to assist United States Attorney personnel in the field to prosecute trafficking cases more effectively. The monograph has been distributed at the Department's training center, the National Advocacy Center, at human trafficking training workshops.

Both the Civil Rights Division and CEOS publish newsletters that provide valuable information regarding human trafficking prosecutions, case analysis, and developments that are important to the work of other Departmental components and the non-governmental organizations that advocate on behalf of trafficking victims. The Civil Rights Division provides investigators, prosecutors, and victim assistance professionals with technical assistance regarding human trafficking and keeps the field of trafficking victim advocates informed about the Division's efforts to prevent and prosecute this crime. And, since 2003, the quarterly CEOS newsletter has discussed issues of sex tourism and trafficking in all but two editions.

From the time that the TVPA was enacted, the Department recognized that alien smuggling, document fraud, and various forms of human trafficking, while constituting separate offenses, can be integrally related, as discussed above.[60] The trafficking of victims across international borders virtually always involves alien smuggling, also possibly including some type of fraud or misrepresentation. Perhaps the most direct manifestation of cooperation between the Civil Rights and Criminal Divisions is that in 2002 the Civil Rights Division detailed several experienced attorneys to the Criminal Division's Alien Smuggling Task Force for a three-year period. Over

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[60] *See*, Part I "An Introduction to Human Trafficking."

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the past three years, Civil Rights prosecutors have targeted the criminal infrastructure that makes international trafficking possible. Examples include successful prosecutions involving the fraudulent adoption of Cambodian babies, the sexual exploitation of Estonian women employed in massage parlors, and large-scale fraudulent leasing of foreign workers to major U.S. companies. The three-year details, which recently ended, demonstrate the concrete, effective results that can be obtained through innovative approaches to anti-trafficking cooperation.

The Department has taken a number of steps to ensure that its components are well trained in the Department's strategy of victim-centered, proactive investigations:

- In October 2002, the Civil Rights Division organized comprehensive anti-trafficking training for federal prosecutors and agents at the Department's training facility, the National Advocacy Center, in Columbia, South Carolina. Approximately 150 federal prosecutors and agents attended the training.

- In November 2002 the Attorney General issued "blue sheets" for prosecutors, outlining the new TVPA crimes and adding guidance regarding the prosecution of such crimes to the U.S. Attorneys' Manual. The "blue sheets" highlight human trafficking as a priority and provide a comprehensive source of information and resources within the Department and with related agencies.

- In fiscal year 2003, the Civil Rights Division provided periodic training at the Federal Bureau of Investigation training center in Quantico, Virginia for Bureau and Immigration and Customs Enforcement agents.

- In January 2004, the Civil Rights Division and the Executive Office of United States Attorneys' Office of Legal Education hosted a comprehensive training session for federal agents and prosecutors at the Department's National Advocacy Center. Furthermore, the Civil Rights Division actively participates in human trafficking training sessions at United States Attorneys' Offices as part of the regular curriculum offered to Federal Bureau of Investigation, Department of Homeland Security Bureau of Immigration and Customs Enforcement, and Department of State Diplomatic Security Service agents.

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VI. The Department's Collateral Attack on Human Traffickers

A. Multi-Disciplinary Task Force Initiative

The Department has designed, developed, and instituted locally based, multi-disciplinary task forces to investigate and prosecute human trafficking cases. These task forces embody the Department's victim-centered approach because they are specifically engineered to aid in uncovering victims, providing them with immediate protection and support, and then working with them to further investigate and prosecute the trafficker.

In July 2004, the Department hosted the first ever National Training Conference on Human Trafficking: *Rescuing Women and Children From Slavery*, in Tampa, Florida. The National Conference was designed to introduce the model of victim-centered investigations and the concept of human trafficking prosecutions through the creation of local task forces. Hosted by the Department and with a keynote speech by President Bush, the conference brought together more than 500 attendees, consisting of 21 teams of about 20 state, local, and federal officials who were willing to thereafter work together to combat human trafficking in their respective communities across America. Teams included the following members: United States Attorneys or designated Assistant United States Attorneys; Bureau of Immigration and Customs Enforcement Special Agents-In-Charge; Federal Bureau of Investigation Special Agents-In-Charge; local law enforcement agency special crimes and victim units; state and local prosecutors; and governmental and non-governmental organizations, especially faith and community-based victim service providers. The Department invited teams from the following jurisdictions that the Civil Rights Division identified as the most intense trafficking jurisdictions in the country at that time: Atlanta, Charlotte, Chicago, El Paso, Houston, Las Vegas, Long Island, Los Angeles, Miami, Newark, New Orleans, New York City, Washington, D.C., Philadelphia, Phoenix, Richmond, San Diego, San Francisco, St. Louis, Seattle, and Tampa.

President Bush, along with then-Attorney General John Ashcroft, announced this important new initiative on July 16, 2004 at the Department's National Conference on Human Trafficking, where the President condemned human trafficking as an affront to America's fundamental values and committed his Administration to combating trafficking on every level at home and abroad. Regarding domestic efforts to combat trafficking, the President remarked, "*We're supporting organizations that rescue the victims, passing stronger anti-trafficking laws, and warning travelers that they will be held to account for supporting this modern form of slavery. Women and children should never be exploited for pleasure or greed, anywhere on Earth*."

Then-Attorney General John Ashcroft set forth the Department's comprehensive anti-trafficking strategy: protecting the victims, prosecuting the perpetrators, and partnership-building that addresses, attacks, and prevents human trafficking. The Attorney General also noted that the Bush Administration had, up to that time, provided more than $35 million in funding to community-based service providers that aid trafficking victims, and he announced a further $14 million in support of the Department's task force initiative. Concurrently with the National Conference, the Department issued a funding solicitation, entitled *Law Enforcement and Service Provider Multi-disciplinary Anti-Trafficking Task Forces*. The solicitation urged applicants to

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leverage existing federally-funded victim services efforts and to mirror the victim-focused federal, state, and non-governmental partnership that was the theme of the Conference. In the fall of 2004, the Bureau of Justice Assistance and the Office for Victims of Crime issued a joint solicitation for concept papers to continue the coordinated law enforcement task forces and victim services initiatives. Federal funds made available through this solicitation were intended to support task forces or supplemental funding of current trafficking victim service providers in areas with pre-existing Bureau of Justice Assistance-funded task forces.

"The conference program provided a model of collaboration among service providers and law enforcement and underscored the necessity of teamwork in working to keep victims of trafficking front and center in both the prosecution and service delivery areas-it was a great kick off for the task force initiative."

-Florrie Burke, Senior Director of International Programs, Anti-Trafficking Program, SOLACE Program for Survivors of Torture

Task forces add to the Department's law enforcement resources the intelligence and expertise of locally-based immigration agents, local community- and faith-based social service providers, and local law enforcement, particularly special crimes and vice squads. These task forces recognize that local authorities, often more than federal officials, may be in the best position to find trafficking victims because of their familiarity with their jurisdictions, but might need the training and support of the federal government to recognize this crime for what it is. The Department has too often seen in federal investigations police reports indicating that local officers responded to complaints but failed to stop the ongoing exploitation of trafficking victims simply because they were not trained to recognize trafficking situations. The task force approach leverages local knowledge and staff resources with strong federal statutes. Indeed, victims rescued in *United States v. Reddy*,[61] *United States v. Molina,*[62] and *United States v. Ramos*[63] were brought to the Department's attention through the activities of state and local law enforcement. Moreover, they

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[61] *See*, Part I "An Introduction to Human Trafficking" above for a discussion about *United States v. Reddy*.

[62] *See,* Part V "Halting Human Trafficking with a Record Number of Aggressive Investigations and Prosecutions," section B "Labor Trafficking" above for a discussion about *United State v. Molina*.

[63] *See,* Part V "Halting Human Trafficking with a Record Number of Aggressive Investigations and Prosecutions," section B "Labor Trafficking" above for a discussion about *United State v. Ramos*.

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serve as a way to incorporate the non-governmental crime victim services organizations, funded by federal grant awards, into the law enforcement activities in their area. Local community- and faith-based organizations are essential to reaching those victims in communities that are isolated by geography, culture, or language.

The task force convened by the United States Attorney's Office for the Northern District of Texas presents an illustration. In 2004, the United States Attorney for the Northern District of Texas established a working group consisting of representatives from the police departments of the Dallas-Fort Worth area, including Arlington, Coppell, Garland, Grant, Prarie, Irving, and Richardson, and representatives from the Federal Bureau of Investigation, Bureau of Immigration and Customs Enforcement, Internal Revenue Service, and Department of Labor. The group's faith and community-based partners include several charitable organizations such as Catholic Charities and Mosaic Family Services, Inc., which received a grant from the Department of provide victim services and to assist with the formation and implementation of this program.

Just prior to the conference, the Department had begun work on eight task forces. Immediately following the National Conference, the Department embarked on a 20-city training initiative designed to reinforce the training received at the National Conference and to institute nearly two dozen task forces. Within a year of the National Conference, 18 task forces were operating with Departmental support. There are now 32 task forces.

Insert graphic of the United States depicting the location of the 32 jurisdictions with task forces.

Each of the 32 task forces, funded in part through $13 million in grants from the Department's Bureau of Justice Assistance and the Office for Victims of Crime since fiscal year 2004, is coordinated through the local United States Attorney's Office and includes representatives of local FBI field offices and Bureau of Immigration and Customs Enforcement as well state and local law enforcement and social services agencies. In order to receive Department of Justice funding support and the assistance of the local United States Attorney, local law enforcement agencies and victim service providers are required to enter into a Memorandum of Understanding with all task force members committing themselves to collaborating together on investigations and assistance to victims. Applicants were invited to design task forces that best suited the needs of their local communities, and many task forces involve faith-based and other community organizations in their work. At their core, task forces include the local United States Attorney's Office; Federal Bureau of Investigation Field Offices; Immigration and Customs Enforcement agents; state and local law enforcement agencies; and social services agencies, including community-based victim services providers. As of June 2005, with reporting based only on the first six months of operation by the 18 task forces that existed at that time, 61 victims of severe trafficking had been identified and many more victims were rescued from environments where trafficking was occurring.

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The Houston (Harris County, Texas) trafficking task force provides a meaningful illustration of the work and potential of the Department's multi-disciplinary task forces. In 2004, concerned that trafficking might fall into the cracks between civil rights and organized crime enforcement programs, the United States Attorney's Office for the Southern District of Texas formed the Human Trafficking Rescue Alliance with the Federal Bureau of Investigation, Bureau of Immigration and Customs Enforcement, Harris County Sheriff's Department, and a number of non-governmental organizations who had recently come together on the issue. The Rescue Alliance began with listening sessions of the stakeholders and moved to joint training for law enforcement and other community groups. Rescue Alliance members attended the Department's National Training Conference on Human Trafficking in Florida in July 2004, and pledged themselves to work together to combat trafficking. When the Bureau of Justice Assistance called for grant proposals, the working group was ready with a task force proposal that built upon and solidified their relationships. As the profile of this issue has grown, so has the demand for training on the part of state and local law enforcement, and the most recent training opportunity sponsored by this task force in November 2005 drew more than 300 participants. The United States Attorney's Office worked closely with the Civil Rights Division on training and task force development. As a result, they were able to transition seamlessly into jointly prosecuting cases when they arose. The regular meetings of the Rescue Alliance have solidified the relationship of the law enforcement participants with the Office for Victims of Crime and Health and Human Services victim-services grantees such as the YMCA of Houston and Catholic Charities.

Insert image of Houston Chronicle Article,
8/14/04 regarding creation of task force

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of the Rescue Alliance has been to place Harris County Sheriff's Deputies with vice-squad experience in Federal Bureau of Investigation and Immigration and Customs Enforcement Field Offices on the squads tasked with trafficking investigations. Especially in the Federal Bureau of Investigation office, having a full-
time investigator with extensive knowledge of the local landscape was invaluable, and his activities served as a catalyst for the other agents on the task force to work pro-actively to identify and dismantle trafficking rings. The inclusion of agents from the Texas Alcohol and Beverage Commission has proven instrumental in the success of the Rescue Alliance.

As a result of operations by the Rescue Alliance, two large-scale trafficking operations resulted

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in federal human trafficking indictments in the Houston area in the fall of 2005 -- one involving allegations of Mexican women and girls forced into prostitution and another involving allegations that dozens of Central American women and girls were held in peonage in a "bargirl" operation. These prosecutions, which are pending at the time of this report,[64] could not have happened without the interagency approach and close cooperation with non-governmental service providers and advocacy groups that was fostered and intensified through the Bureau of Justice Assistance grant. The Rescue Alliance is an example of an energized and successful task force effort that successfully blends state, local, and federal personnel, across traditional organized crime and civil rights approaches, to work with the non-governmental community to act in the best interests of the victim while seeking justice.

The Bureau of Justice Assistance, in collaboration with other federal partners, provides ongoing training and technical assistance to task forces. In 2005, the Bureau of Justice Assistance, in collaboration with the Civil Rights Division, the Office for Victims of Crime, and other experts, developed a specific training curriculum for law enforcement officers nationwide who may come into contact with trafficking victims, entitled *Human Trafficking in the United States, Promoting Law Enforcement Awareness*. The curriculum is a flexible, one-day training course educating law enforcement officers about the basics of the phenomenon of human trafficking and a victim-centered approach to proactive investigation of potential cases. The curriculum provides an introduction to human trafficking, its victims, and offenders; a legal overview with a focus on the TVPA; investigative considerations and techniques; an overview of the role of victim service providers; the need for victim services and the types of services available; and immigration matters, including the role of immigration officials and remedies available to victims. The training program also reviews lessons on understanding the need for a formal multi-disciplinary approach towards human trafficking and an understanding of the important role of the community in law enforcement efforts. The training curriculum is unique in that it incorporates multimedia learning and each participant is provided with multimedia resources to be used in training other officers and building greater community awareness and support. The course is taught by seasoned investigators who have handled trafficking cases as well as national experts on trafficking issues.

In February 2005, the Bureau of Justice Assistance convened a conference of the 22 nascent task forces that had been instituted by that time. More than 115 individuals attended. Federal participants in the conference included representatives from within the Department as well the Departments of Homeland Security and Health and Human Services. The focus of the conference was to explain the degree of collaboration needed among federal, state, and local law enforcement, prosecution, and victim services agencies in order to effectively rescue victims and prosecute traffickers. Task force members

> The Human Trafficking Task Forces are just the approach we need to combat human trafficking. With all of us working as a team we will be more effective in this endeavor than we would be if we tried to combat human trafficking individually.
>
> – Lt. Bill Rule, Collier County Sheriff's Office, Victim Services Bureau

[64] An indictment contains only charges and is not evidence of guilt. The defendants in these and any other cases cited in this report in which convictions have not been obtained are presumed innocent and are entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

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were trained using the *Human Trafficking in the United States, Promoting Law Enforcement Awareness* curriculum, described above. Future cross-training of task force members will enable the Department to build on that effort by sharing best practices and linking the groups' efforts across geographical lines.

B. Restoring Victims' Dignity

As discussed above[65], the Department places a premium on the recovery of trafficking victims. Federal investigators and prosecutors will therefore immediately refer a victim to victim service professionals for immediate care. In many cases, the referral process and the provision of services is expedited through relationships already established by task force partners. Some task forces have created innovative ways to connect victims identified through law enforcement activity with services. The United States Attorney's Office for the Middle District of Florida, for example, developed a compendium of victim service providers for use by task force members in Fort Myers, Jacksonville, and Tampa. The task force in Indianapolis, Indiana, coordinated through the United States Attorney's Office for the District of Indiana, has as partner the Indianapolis Family Justice Center. The Family Justice Center, created in connection with President Bush's Family Justice Initiative, a program that is administered by the Office on Violence Against Women, co-locates services to families involved in domestic violence. Making this Center the coordinator of services to victims of human trafficking makes the response to victims more efficient and effective.

Once potential cases of trafficking are uncovered, victims may become eligible for important services that help to keep them safe as they recover from their victimization. Trafficking victims, like all crime victims, may be eligible for services and benefits under the Victims of Crime Act, a program administered by the Office for Victims of Crime.[66] The TVPA, as amended, created new protections for alien victims.[67] Under the TVPA, victims are afforded:

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[65] *See*, Part III "The Department Responds to this Crime with a Victim-Centered Approach."

[66] The Crime Victims Fund, established by the Victims of Crime Act of 1984 (VOCA), is a major source of funding for victim services throughout the nation. The Office for Victims of Crime administers the Fund and distributes funding to the states on a formula basis to support crime victim assistance and crime victim compensation programs. Victim assistance includes lifeline victim services such as crisis intervention, emergency shelter and transportation, counseling, and criminal justice system advocacy. Crime victim compensation is a direct reimbursement to or on behalf of a crime victim for expenses such as medical costs. Trafficking victims may be eligible for support under the Crime Victims Fund, the TVPA, or both of these programs, depending on the circumstances of their cases and, in the case of the Crime Victims Fund, the specific guidelines of the state agency that administers the program.

[67] TVPA, Pub. L. No. 106-386 § 107(b)(1) (codified at 22 U.S.C. § 7105(b)(1)).

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- Immigration relief, in the form of an administrative change in immigration status known as "continued presence" as well as a temporary, non-immigrant visa known as the "T visa;"
- Access to refugee benefits;
- Adequate shelter, care, and protection;
- Legal assistance;
- Information & translation services; and
- Mandatory restitution.[68]

The TVPA authorizes similar victim services programs to be administered by the Department of Health and Human Services, thus requiring a significant amount of coordination between the Office for Victims of Crime and the Department of Health and Human Services. In 2004, the Office for Victims of Crime initiated regular coordination meetings with the Office of Refugee Resettlement, its counterpart agency at HHS, known as the Human Trafficking Victim Services Coordination Working Group. This coordination is specifically intended to avoid any duplication in services to trafficking victims as both HHS and the Office for Victims crime may fund grantees that provide services to pre-certified victims. Consequently, grantees funded by the Office for Victims of Crime under the TVPA only provide services to victims of trafficking before they are certified as victims of a "severe form of trafficking" by the Department of Health and Human Services.

Insert quote from a victim impact statement

Since fiscal year 2003, the Office for Victims of Crime has funded 20 victim service providers to assist pre-certified victims of trafficking in the United States, one grant to the Headquarters of the Salvation Army to work with their territorial divisions to provide shelter to trafficking victims, and one grant to an organization provide technical assistance. Since January 2003, Office for Victims of Crime-funded grantees have served 741 pre-certified trafficking victims. The Department, in cooperation with other law enforcement agencies, have assisted 687 victims to obtain continued presence immigration status, allowing them to remain in the country and to receive benefits and services.

The period between being rescued and receiving certification is the time when victims are most vulnerable and typically have a host of needs that includes housing, clothing, and food; medical, dental, and psychological care; legal assistance and immigration advocacy; and interpretation services. However, few organizations or communities have the resources to provide or fund these services. The Office for Victims of Crime grant program helps communities fill this critical service gap and, in the process, supports victims' abilities to cooperate with law enforcement. Immigrant victims are offered culturally and linguistically appropriate services and may, if needed, petition for T visas that would allow them to remain in the United States legally. Some organizations are specifically prepared to provide immediate, critical assistance in crisis situations until the services of a local victim service provider can be put in place.

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[68] *Id.*

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The Office for Victims of Crime supports the work of the victim service providers it funds with technical assistance that is made available through workshops, on-site consultation, and via the internet. Training and technical assistance includes mentoring guides and safety protocols for both providers and clients. Grantees also provide training to local police and non-governmental organizations. Since fiscal year 2003, approximately 38,635 persons have been trained through the efforts of Office for Victims of Crime grantees. Training topics have included the dynamics of trafficking, the legal definition of trafficking under the TVPA, legal rights and services for trafficking victims, and cultural considerations in serving these victims. More important, the Office for Victims of Crime and the National Institute of Justice are studying effective approaches to victim service delivery and plan to publish an evaluation of field-tested services in 2006.

In addition to the work of the Office for Victims of Crime, the Office on Violence Against Women has, since 2001, funded more than $700,000 for technical assistance projects that assist Office on Violence Against Women grantees in providing services to trafficking victims. For example, Legal Momentum's Immigrant Women Program provides technical assistance to Office on Violence Against Women grantees to foster their ability to serve immigrant victims of domestic violence, sexual assault, and stalking. Because trafficking victims may seek services from Office on Violence Against Women grantees if they have also been a victim of domestic violence, sexual assault, or stalking, the Immigrant Women Program training workshops educate grantees about the availability of T- and U-visas, identifying whether a victim has been trafficked, barriers faced by trafficking victims who seek services, and conducting outreach to potential victims of trafficking. In addition, Legal Momentum has developed a nationwide directory of experts working with immigrant victims of domestic violence, sexual assault and stalking, which may be of use to trafficking victims who are also victims of these crimes. Nearly 950 attorneys and advocates have attended these workshops and another 150 will be trained within the next year. Another example is the Family Violence Prevention Fund, which used Office on Violence Against Women funding in 2003 to establish a project aimed at improving collaborative responses to trafficked victims of domestic violence and sexual assault. The main goal of the project was to build multi-disciplinary collaborations between service providers and law enforcement to effectively and appropriately assist trafficking victims in Georgia and Washington. Plans are underway to expand the project into Alaska.

C. Public Awareness Supports Pro-Active Investigations

Public awareness is essential to proactive investigations that uncover victims. In fact, the prosecutions in *United States v. Kil Soo Lee*[69], which resulted in the single largest rescue of

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[69] In this case, the Korean owner of a sweatshop in American Samoa held 200 Vietnamese and Chinese factory workers, who were brought to American Samoa to work as sewing machine operators in the Daewoosa Samoa garment factory in involuntary servitude. The workers were deprived of food, beaten, and physically restrained in order to force them to work for up to two years. Lee was convicted in 2001, and in June 2005 he was sentenced to 40 years in prison.

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trafficking victims in the Department's history, and *United States v. Soto*[70] were brought to the attention of federal law enforcement through referrals by non-governmental organizations that work with populations at risk for trafficking. The Department works to motivate communities, especially anti-human trafficking task forces, to increase awareness among law enforcement, various government inspectors (especially health code, wage and hour, and occupational safety and health agents), hospitals and other medical providers, social services agencies, and community- and faith-based organizations.

Increased outreach and public awareness is critical to the investigation and prosecution of human trafficking cases. Since 2003, the Department has made available a brochure describing its processes and resources to assist non-governmental organizations in dealing with trafficking victims and the Department in a more efficient way. Through outreach, America's communities – particularly immigrant communities – are better educated about this crime and how to report possible cases. Moreover, increased public awareness about this crime and the benefits available to its victims can eliminate important aspects of the leverage that traffickers hold over their victims.

As a result, all components speak publicly about trafficking and the Department's activities to combat this crime to state, local, and foreign legislators, law enforcement officers, prosecutors, and non-governmental victim advocacy and services organizations. The Civil Rights Division, for example, has delivered more than 200 presentations around the nation since fiscal year 2001. Office for Victims of Crime grants to 21 human trafficking victim service providers under the TVPA include funding to increase public awareness in the communities they serve. Civil Rights Division representatives continuously emphasize the important role that faith and community-based organizations can play. Because of their proximity to the communities they serve, they can provide immense intelligence about potential criminal enterprises and trafficking victims, provide immediate, crisis care, and long term programs that help to prevent further victimization. The Federal Bureau of Investigation Civil Rights Unit has appeared on national television and local radio programs which highlight, define, and expose trafficking to the general public, including CNBC, Donny Deutche's The Big Idea, and WMAL AM 630's "Danger Zone" with Richard Carlson, a Washington, D.C.-area radio program. The Civil Rights Unit has also provided human trafficking-related training presentations at various non-governmental conferences, such as the International Association of Labor Standards Annual Conference in

> "We must make it as easy as possible for these victims to know that aid and comfort have arrived. The Catholic Coalition to Combat Trafficking...also conducts public outreach and advocates on behalf of victims.... I will also ask our pastors to communicate the goals of this campaign to every active religious and layperson.... There should be no zones where this mission of love and redemption does not reach."
>
> -Archbishop John J. Myers, Archdiocese of Newark, at the National Training Conference on Human Trafficking, July 16, 2004.

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[70] *See,* Part V "Halting Human Trafficking with a Record Number of Aggressive Investigations and Prosecutions," section B "Labor Trafficking" above for a discussion about *United States v. Soto.*

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Memphis, Tennessee, and the National Organization of Women's Annual Conference in Los Angeles, California.

United States Attorneys' Offices are also involved in providing outreach and education about human trafficking within their districts. The United States Attorney's Office for the Southern District of California, for example, has hosted five conferences on human trafficking since October 2001. Each of these conferences have provided training about applicable statutes and resources available for victims, including contact information for potential victims, to local law enforcement and non-governmental organizations serving trafficking victims. These conferences have resulted in long-standing relationships between federal prosecutors and law enforcement, state and local police, and numerous local service-providers, such as the Bilateral Safety Corridor Coalition. Another example is the efforts of the United States Attorney's Office for the District of Connecticut, which convened a meeting in May 2004 of federal and state agencies to determine why human trafficking cases has not been prosecuted in this jurisdiction. By September 2004, this office convened a training conference intended to educate federal, state, and local law enforcement and victim service providers about human trafficking and how to identify resources, including federal grant opportunities. The result of these efforts has been the creation of an anti-human trafficking task force that includes the Connecticut State Police, Federal Bureau of Investigation, Immigration and Customs Enforcement, Social Security Administration, State Department's Diplomatic Security Service, and United States Coast Guard as well as non-governmental organizations serving trafficking victims.

CEOS participated in a joint project to develop a brochure and posters designed to curb child sex tourism. Its partners include the Department of Homeland Security's Bureau of Immigration and Customs Enforcement; the Department of State's Office to Monitor and Combat Trafficking in Persons; and a number of non-governmental organizations, such as the National Center for Missing and Exploited Children, End Child Prostitution, Child Pornography and the Sexual Exploitation of Children, World Vision, and Rape, Abuse, & Incest National Network. The proposed brochure and poster are intended to be widely distributed both within the United States as well as abroad in an effort to combat the problem. The section is also actively engaged in promoting the Department's strategy of multi-disciplinary cooperation that emphasizes the victim-centered approach to combating domestic child prostitution with non-governmental organizations such as the United States Conference of Catholic Bishops.

The victims of sex trade see little of life before they see the very worst of life -- an underground of brutality and lonely fear. Those who create these victims and profit from their suffering must be severely punished. Those who patronize this industry debase themselves and deepen the misery of others. And governments that tolerate this trade are tolerating a form of slavery.

–President George W. Bush, speaking to the United Nation's General Assembly, September 23, 2003

D. Promoting Foreign Criminalization and Prosecution of Human Trafficking

As discussed above,[71] the President has directed federal agencies to use all diplomatic and foreign assistance tools in the nation's effort to abolish

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human trafficking. The Department has had an important role in advancing this directive. The Department's primary goal in this regard is to promote the efforts of foreign governments to criminalize human trafficking and to enhance their capacity to investigate and prosecute these crimes.

In September 2003, in an address to the United Nations General Assembly, President Bush announced a $50 million international initiative to combat human trafficking. This initiative will increase the capacity of several source and destination countries to combat trafficking. Specifically, the President's initiative aims to replicate our victim-centered prosecutions through multi-disciplinary task forces and increased outreach in Cambodia, India, Indonesia, Mexico, Moldova, and Tanzania.

The Department has been actively involved in the design, development, and implementation of this initiative. Working primarily through the Civil Rights Division, the Department coordinated with the Departments of Health and Human Services, Labor, and State, as well as the United States Agency for International Development, to develop the capacity of foreign governments to investigate and prosecute human trafficking cases, and to develop partnerships with non-governmental organizations to prevent the vulnerable from becoming victims through outreach and education as well as to protect and rehabilitate victims. The inter-agency working group found the lessons learned by the Civil Rights Division in its prosecution of trafficking cases and its organization of trafficking task forces a valuable model for the implementation of the President's international initiative. The objective of the initiative thus became the institution of multi-disciplinary efforts to combat human trafficking in particular geographic regions. In practice, this would mean that programs to promote awareness raising, victim shelters, and police and prosecutor training would be established and supported in a collaborative effort by each of the participating federal agencies. The Department designs country assessments to help the United States Government better understand the nature of the trafficking problem in a particular area and to inventory what efforts were currently underway.

Foreign Country
Human Trafficking Assessments By the Department of Justice

- What is the current statutory framework;
- What is the capacity of police to investigate trafficking offenses;
- What is the level of prosecutorial skill and interest in trafficking victims;
- What is the current state of services for victim shelter and restoration by both governmental and non-governmental organizations;
- What is the current level of cooperation between prospective anti trafficking team members, and;
- What is the level of political will and interest among those government officials who would be the implementers of the plan.

The first task is to gain a foundational understanding of human trafficking within the host country by answering such questions as: Who are the victims and where do they come from? What kind of coercion is used to control the victims? What are the historical and cultural factors that

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[71] *See*, Part II "An Administration Priority."

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The first task is to gain a foundational understanding of human trafficking within the host country by answering such questions as: Who are the victims and where do they come from? What kind of coercion is used to control the victims? What are the historical and cultural factors that influence trafficking or the response to it? Is there trafficking of minors into sexual exploitation? what industries tend to have labor trafficking? Next, the Department's trafficking experts design a matrix of the necessary tools that would be required to rescue particular victims, place them into restorative care, and hold perpetrators accountable.

Once the assessment is completed, the United States Government, through the local United States Embassy, and the host government enter into a Letter of Agreement (LOA) that states the roles and responsibilities of both parties and the level of funding to be provided in connection with the President's initiative. Department team members then coordinate with the other federal agencies to deploy training and other capacity building and to assign to the host country personnel from the United States Government to provide expertise and mentoring to those working on the anti-trafficking project. A primary goal of every LOA entered into in connection with the President's initiative is the Department's imperative to rescue victims and hold perpetrators accountable. The President's initiative was designed to place a clear emphasis on results that change lives for victims and their families.

The United States Government's work with the Mexican Government in connection with this initiative presents a useful illustration of the Department's work. Since 2003, the Department's Civil Rights Division, along with Criminal Division's International Criminal Investigative Training and Assistance Program, has been actively conducting country planning sessions in both Mexico and Indonesia, and has detailed a Civil Rights Division attorney to the United States Embassy in Moldova, in connection with the President's international human trafficking initiative. In Mexico, a significant number of senior United States law enforcement specialists met repeatedly over the past year with their counterparts from the Mexican Government before a final Letter of Agreement was signed in mid 2005. As a result, both partners have a clear understanding of how the President's program will be implemented. One significant factor in the United States-Mexico anti-trafficking partnership is the agreement to work together on cases that involve criminal trafficking enterprises that are active on both sides for the border.

The Department's experts have also assisted their counterparts in other countries with assistance in developing a victim-centered response to human trafficking through meetings and training workshops. For example, many foreign governments host their own training in partnership with the United States Embassy. Lasting a week to two weeks, the Department's attorneys and investigators teach critical skills such as evidence gathering, pro-active investigations, and victim interviews. Workshops provide an opportunity to practice skills and learn new law enforcement methods that reflect the lessons Department has learned in investigating and prosecuting these cases. The Department's consistent theme in each of these events is to present the crime of human trafficking as a multi-disciplinary challenge requiring collaboration among governmental and non-governmental agencies. The Department has learned that a critical need in many developing countries is the ability to develop a framework for governmental and non-governmental organizations to collaborate, particularly as it concerns the protection of victims

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and programs to prevent further victimization.

Department experts also participate in regional, multilateral consultations between law enforcement executives that promote international cooperation between the country of victim origin and the destination country, such as the Southeast European Cooperative Initiative. Attendees at workshops conducted by the Department are often law enforcement executives who can and do take information and put it into practice. In one recent example, Department lawyers relied upon contacts made through these training sessions, to assist a country in arresting recruiters who held the children of trafficking victims as hostages to prevent the victims from providing evidence to assist in a United States prosecution.

Since fiscal year 2003, the Federal Bureau of Investigation has participated in the Southeast European Cooperative Initiative as the lead observer on human trafficking and has detailed agents to Albania, Bulgaria, and Romania to work on trafficking issues. The Regional Center for Combating Trans-Border Crime in Bucharest, Romania, coordinates southeastern European police and customs regional actions for preventing and combating trans-border crime, including trafficking in persons and migrant smuggling. The following twelve countries are actively involved with the Center: Albania, the Federation of Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Hungary, Macedonia, Moldova, Romania, Serbia and Montenegro, Slovenia and Turkey.

Another important Departmental component in the international arena is the Office of International Affairs of the Criminal Division, which serves as the link between federal, state, and local anti-trafficking efforts and foreign prosecution and judicial authorities. Good working partnerships with foreign governments have been essential to the Department's efforts to combat human trafficking. The Office of International Affairs' most significant contribution to United States Government anti-trafficking efforts has been to assist in gathering evidence from abroad and to assist foreign prosecutors in gathering evidence located in our country. For example, in *United States v. Carreto*,[72] Mexican nationals were accused of recruiting uneducated women and girls from impoverished areas of Mexico and compelling them to prostitute themselves in both Mexico and New York. Carreto's victims were forced to service up to 20 men a day as prostitutes and were beaten if they did not make enough money during a single day or if they attempted to hide the money they made. One victim was also forced to have an abortion.[73] The Office of International Affairs, in collaboration with the United States Attorney's Office for the Southern District of New York, helped secure testimony, as well as documentary and physical evidence, gathered by Mexican authorities in their investigations of the Carretos' transnational operation. Similarly, the Office of International Affairs secured evidence and testimony from Russia in support of a federal prosecution by the United States Attorney's Office for the Eastern District of California of a defendant in California accused of trafficking her niece into the United States and forcing her to be used in prostitution.[74] In another case, the Office of International Affairs assisted a European country investigating a trafficking scheme involving Europe and

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[72] *United States v. Carreto*, [insert case information].

[73] *Id.*

[74] *Id.*

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Eastern Europe. The Department sent to that country evidence obtained pursuant to searches in the United States of locations where the targets were believed to have stored potential evidence of their crimes.

The Office of International Affairs also works to extradite traffickers from foreign nations to the United States or from our country to foreign nations for prosecution. On September 28, YYYY, Mexico provisionally arrested a Mexican national pursued by the United States Attorney's Office for the Southern District of Florida on charges including conspiracy, alien smuggling, and transporting women and minors for purposes of prostitution between August 1996 and February 1998. The victims, who reportedly did not know their fate until they arrived in the United States, were not allowed to leave the brothels until they paid a smuggling fee to the accused, who allegedly took 70% of the prostitution proceeds.

Dismantling transnational human trafficking networks requires a willingness and ability to work closely with our foreign partners in countries where victims are recruited. Consequently, the Civil Rights and Criminal Divisions are actively involved in outreach and providing technical assistance to foreign governments and non-governmental organizations. Since 2002, Civil Rights Division officials have addressed international gatherings convened in countries such as Guatemala, the Dominican Republic, Suriname, China, Indonesia, Cambodia, Thailand, Azerbaijan, Ukraine, Moldova, El Salvador, Mexico, Canada, Hungary, Philippines, Japan, Colombia, India, South Africa, and Brazil to encourage a coordinated response to human trafficking worldwide. These events are attended by foreign law enforcement executives, prosecutors, judges, and non-governmental organizations that advocate on behalf of or provide assistance to trafficking victims.

Insert graphic depicting the rise in the number of OPDAT/ICITAP programs by fiscal year, FY 2001-2005.

The Criminal Division's Office of Overseas Prosecutorial Development, Assistance and Training and its International Criminal Investigative Training and Assistance Program work to build effective partnerships with other law enforcement agencies sharing the goal of eradicating predatory trafficking groups. Between fiscal years 2001 and 2005, these office conducted a total of programs involving 25 countries. Other components of the Department, including the Federal Bureau of Investigation, the Civil Rights Division, and the Office for Victims of Crime, often assist these efforts by providing technical assistance and informational briefings with foreign delegations. Since the passage of the TVPA, Civil Rights Division lawyers have participated in numerous training and outreach programs, speaking at more programs last year and the year before than ever before in countries such as Cambodia, Singapore, Bangkok, Austria, and Mexico.

In addition, some United States Attorney Offices, particularly in connection with their local Task Forces, have been involved in training and educating visitors from foreign governmental and non-governmental organizations about strategies to combat human trafficking. Representatives of the United States Attorney's Office for the Middle District of Florida, for example, along with

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its task force members from the Collier County Sheriff's Office, the Immigrant Rights Advocacy Center, and the Florida State University Center for the Advancement of Human Rights, traveled to Central America in late 2004 to educate governmental leaders about the efforts of their task force to combat human trafficking and provide assistance to its victims. An additional example is that of the United States Attorney's Office for the Western District of Washington, where the Seattle offices of the Bureau of Immigration and Customs Enforcement, the Federal Bureau of Investigation, and the United States Department of Labor's Office of the Inspector General have worked together to share information about efforts to combat human trafficking with officials and visitors from countries such as Brazil, Germany, Mexico, France, Italy, and Spain, and with organizations like the World Affairs Council.

The Department also works with foreign governments to adopt legislation that aids in the investigation and prosecution of traffickers and the protection of victims. Through the Office of Overseas Prosecutorial Development, Assistance and Training, the Department's trafficking experts in the Civil Rights Division, CEOS and United States Attorneys' Offices assist foreign governments with the development and ratification of anti-human trafficking legislation to help ensure that foreign governments adopt laws that are victim-centered and compliant with Palermo Protocol.[75] For example, in fiscal year 2004 alone, Civil Rights Division attorneys and its victim-witness coordinator have conducted training sessions and have assisted in drafting trafficking legislation in Asia, Africa, Europe, the Caribbean, North America, and South America, in coordination with the Office of Overseas Prosecutorial Development, Assistance and Training. These training sessions emphasize the Department's experience in investigating and prosecuting these cases, collecting evidence, and keeping the victim safe. In fiscal year 2004, the Office of Overseas Prosecutorial Development, Assistance and Training and the International Criminal Investigative Training and Assistance Program assisted 7 foreign nations with legislation that directly or indirectly furthered anti-human trafficking efforts in fiscal year 2004.

The Office of Overseas Prosecutorial Development, Assistance and Training provides substantial technical assistance based on a victim-centered strategy known commonly as the "Three Ps of Trafficking in Persons: Prevention, Protection and Prosecution." Technical assistance by this office includes educating and developing joint projects with foreign law enforcement officials geared to strengthening their capacity to prevent transnational trafficking; protect victim witnesses and thereby encourage their participation in investigations and prosecutions; and effectively investigate and prosecute trafficking cases. This office also works with host countries on developing evidence collection techniques which can generate evidence usable in prosecutions – either here in the United States or in a foreign country.

The Federal Bureau of Investigation, working through the Office of Overseas Prosecutorial Development, Assistance and Training, has provided training programs in Suriname and Ghana. In fiscal year 2004, the FBI trained 50 international visitors, including officials from Australia,

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[75] Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, Dec. 3, 2005.

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India, Pakistan, South Africa, Haiti, and England. In addition, the Bureau's Civil Rights and the Asian Criminal Enterprise and Crimes Against Children Units conducted a training session at the British Embassy in January 2005 during a program jointly sponsored by the British Embassy and Women in Federal Law Enforcement.

Insert Graphic of Globe Showing international efforts

Another component of the President's international human trafficking program are activities to prevent victimization. An important step towards prevention is the Department's efforts to increase international public awareness about human trafficking. Raising the visibility of human trafficking and the efforts of the United States government to combat it encourages foreign governments to take victim-centered action to prevent, uncover, and prosecute cases of human trafficking. International public awareness is increased through activities of the Civil Rights Division, the Federal Bureau of Investigation, the Office of Justice Programs, the Office on Violence Against Women, and United States Attorneys' Office working through the Office of Overseas Prosecutorial Development, Assistance and Training and the International Criminal Investigative Training and Assistance Program, in connection with briefings for foreign delegations and training programs. These training programs provide foreign parties – law enforcement officials, prosecutors, legislators, and non-governmental organizations – with information about the strategies the Department has employed to combat trafficking. Federal investigators and prosecutors, mostly Civil Rights Division attorneys, share lessons learned in prosecuting these cases, building local multi-disciplinary task forces, and providing services and protection for victims.

In addition, to the Department's efforts concerning human trafficking, CEOS has trained attorneys and investigators from numerous countries on sex trafficking of children. CEOS staff have trained individuals from: the Council of Baltic States (11 Baltic nations), Albania, Angola, Armenia, Austria, the Balkans, Belgium, Belize, Bosnia, Brazil, Bulgaria, China, Costa Rica, Croatia, Czech Republic, El Salvador, Ecuador, Georgia, Germany, Guinea, Hungary, Indonesia, Israel, Japan, Korea, Lithuania, Latvia, Macedonia, Mexico, Montenegro, Nigeria, Panama, the Philippines, Poland, Romania, Russia, Senegal, Serbia, Slovenia, South Africa, Suriname, Thailand, the United Kingdom, and Ukraine, among others.

E. Fostering State, Local and Non-Governmental Activities to Combat Human Trafficking

The Department's work with state and local governmental agencies, particularly activities to expand anti-trafficking law enforcement authority, is intended to harness the almost one million state and local law enforcement officers who might come into contact with trafficking

States, governors, and legislatures can help by adopting anti-trafficking laws. The Justice Department has created a model state anti-trafficking law, and I intend to send a copy of it to every governor and legislative leader in those 40-plus states that do not yet have their own anti-trafficking laws.

-Attorney General Alberto R. Gonzales at the Hoover Institution Board of Overseers Conference, February 28, 2005

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victims. In 2004, the Department developed and introduced a model state law at the National Training Conference on Human Trafficking because many states do not have laws that criminalize this activity. At that time, only four states - Texas, Florida, Missouri, and Washington - had state laws against trafficking. The model state law reflects lessons learned through the Department's prosecutions, especially enforcement of the TVPA by the Civil Rights Division. Adoption of the model statute would promote a uniform national legal strategy to combat human trafficking.

On July 21, 2004, the United States Senate unanimously passed a resolution, authored by Texas Senator John Cornyn, endorsing the Department's model state anti-trafficking statute and encouraging states to adopt it. The Senate resolution also singled out for praise the Civil Rights Division in its prosecution of human trafficking crimes and lauded the Department's National Conference on Human Trafficking. In March 2005, Attorney General Gonzales sent letters to state governors and legislative leaders explaining the scope of the trafficking problem, pointing to the need for state assistance to the federal government in fighting trafficking, and urging them to adopt the model. Department officials have since promoted the model law, and Civil Rights Division attorneys continue to provide technical assistance regarding the model state law to state legislators and related organizations, such as the National Foundation for Women Legislators. To date, 15 states have enacted anti-trafficking legislation, many of which reflect the Department's model criminal statute.

Insert Graphic of states that have adopted anti-trafficking laws.

As discussed above,[76] outreach and technical assistance are critical to uncovering this insidious crime. The Civil Rights Division, along with the Criminal Division, the Federal Bureau of Investigation, the Office of Justice Programs, the Office on Violence Against Women, and United States Attorneys' Offices, works actively to increase awareness among local law enforcement and community- and faith-based organizations through training presentations and the provision of technical assistance. The strategy employed by each of these components reinforces a

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[76] *See*, Part III "Scope of the Problem," section B "The Department Responds to the Crime with A Victim-Centered Approach."

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victim-centered approach to prosecutions and the collaborative work of task forces. Examples of the Department's activities to increase awareness of human trafficking among state and local governmental agencies, non-governmental organizations, and in our nation's communities include the following:

- An attorney in the Civil Rights Division authored an August 2002 article in *Police Chief Magazine*, entitled *Working Together to Stop Modern-Day Slavery*. The article outlined ways for local law enforcement during the course of their usual investigations to identify trafficking cases.

Insert *Police Chief Magazine* Image Here

- In fiscal year 2003, the Civil Rights Division conducted training sessions in the Washington, D.C. metropolitan area, New York City, Chicago, San Diego, Atlanta, Dallas, and several other cities and with numerous non-governmental organizations such as the U.S. Conference of Catholic Bishops, Women in Federal Law Enforcement and the National Organization of Black Law Enforcement Executives.

- An attorney in the Civil Rights Division authored a December 2003 article in *Police Chief Magazine*, entitled, *Human Trafficking: A Guide to Detecting, Investigating, and Punishing Modern-Day Slavery*. The article gave an overview of federal anti-trafficking efforts and urged increased cooperation among state, local, and federal law enforcement officials.

- In fiscal year 2004, the Civil Rights Division conducted more than fifty training sessions around the United States at conferences and meetings in cities such as Albuquerque, Baltimore, Chicago, Houston, Los Angeles, Newark, New Jersey, and Salt Lake City.

- With funding from the Office on Violence Against Women, the International Association of Chiefs of Police is developing a training package for local law enforcement officers, including a guidebook on the identification and investigation of human trafficking crimes and a roll call training video with a discussion guide to accompany the guidebook.

- The International Association of Chiefs of Police National Law Enforcement Leadership Initiative, in connection with a $200,000 cooperative agreement with the Office on Violence Against Women, is planning a summit of law enforcement leaders in the summer of 2006 to continue to extend the level of awareness of and commitment to combating human trafficking.

- The Bureau of Justice Assistance, in collaboration with the Office of Community Oriented Policing Services (COPS), initiated, in fiscal year 2005, a program to educate local law enforcement about human trafficking through the COPS Regional Community

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Policing Institutes at a cost of $245,000. In 2005, COPS conducted three "train-the-trainer" sessions for 300 law enforcement trainers, including members of the then-existing 18 multi-disciplinary task forces, with the human trafficking curriculum developed by the Bureau of Justice Assistance. This program will be expanded in 2006 to hold at least five sessions, educating 5,100 law enforcement personnel.

- Also in fiscal year 2005 and independent of the Bureau of Justice Assistance, COPS sponsored an additional 6 training sessions for nearly 700 law enforcement officers, non-law enforcement governmental officials, and community-based organizations.

- The National Institute of Justice is supporting research that will provide a clear perspective on the current state of law enforcement's understanding of human trafficking. The research will identify current law enforcement responses to human trafficking; the implications of such responses for victims; and best practices and lessons learned by law enforcement and the partners with whom they collaborate on trafficking cases (e.g., victims service providers, attorneys, etc.).

- The Office of Juvenile Justice and Delinquency Prevention, through the National Center for Missing and Exploited Children and the Fox Valley Technical College, provides training on topics such as child maltreatment, runaway and missing children, the protection of children, and domestic trafficking of children for sexual purposes. Since 1998, this training program has reached more than 64,000 local law enforcement officers, prosecutors, and community service providers.

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VII. Conclusion

The Department has achieved incredible success in carrying out President Bush's directive to combat human trafficking. Under this Administration, the Department has been aggressive and effective in its effort to halt human trafficking. Prosecutorial activity has increased four-fold when compared to the last four years of the previous administration. The Department also has been innovative in its approach, by developing a multi-disciplinary victim-centered approach to uncovering human trafficking schemes, rescuing and protecting victims and working with foreign, governmental and non-governmental partners to prevent further victimization. Moreover, the Department has harnessed the diverse tools found within its components through intra-agency coordination that is primarily driven by the Civil Rights Division. There is however, much work to be done.

Because the fundamental liberties of a human trafficking victim are violated by traffickers, the Civil Rights Division will continue to lead the Department's efforts to combat this heinous crime, working with federal investigators and prosecutors as well as victim services organizations both here and abroad. With the new tools found in the TVPRA of 2005, the Department will continue work with its federal, state and local partners to expand the reach and intensity of anti-human trafficking task forces and encourage states to criminalize sex, labor and child sex trafficking.

DOJ_NMG_0008249

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Thursday, January 05, 2006 10:47 AM
To:	Elwood, Courtney; Sampson, Kyle; Scolinos, Tasia; Moschella, William; Mercer, Bill (ODAG); Roberts, Crystal
Cc:	Reyes, Luis (SMO)
Subject:	FW: Draft DOJ Human Trafficking Report
Attachments:	DOJ HT Report 1.04.06 Draft Narrative.wpd

Thought you may want to review this, as well. As you'll see we have a very strong story to tell and be proud of. Any comments on substance or thoughts about launching this publicly/on hill/with groups, etc. would be appreciated in context of the plans we've discussed in SI meetings. NMG

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, January 05, 2006 10:43 AM
To: Swenson, Lily F; Gorsuch, Neil M; Brand, Rachel; Hertling, Richard; Pacold, Martha M; Holland, Eric W; Seidel, Rebecca
Subject: Fw: Draft DOJ Human Trafficking Report

Here is the latest draft of this. Pls see email below from Omar on comment period (fairly tight). Thanks!

-----Original Message-----
From: Vargas, Omar (CRT) <Omar.Vargas@crt.usdoj.gov>
To: Vargas, Omar (CRT) <Omar.Vargas@crt.usdoj.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Rothenberg, Laurence E <Laurence.E.Rothenberg@SMOJMD.USDOJ.gov>; Roth, Monique <Monique.Roth@usdoj.gov>; Thacker, Stephanie <Stephanie.Thacker@usdoj.gov>; Oosterbaan, Andrew <Andrew.Oosterbaan@usdoj.gov>; McHenry, Teresa <Teresa.McHenry@usdoj.gov>; Voris, Natalie (USAEO) <Natalie.Voris@usdoj.gov>; Hagy, David, W. <David.Hagy@usdoj.gov>; Bottner, Andrea <Andrea.Bottner@usdoj.gov>; Kaplan, Jennifer <Jennifer.Kaplan@usdoj.gov>; Scott-Finan, Nancy <Nancy.Scott-Finan@SMOJMD.USDOJ.gov>; Ho-Gonzalez, William <William.Ho-Gonzalez@usdoj.gov>; Kockritz, Janis <Janis.Kockritz@usdoj.gov>; Hagen, Leslie A. (USAEO) <Leslie.Hagen@usdoj.gov>; Placido, Anthony P. <Anthony.P.Placido@usdoj.gov>; Bell, T March (CRT) <T.March.Bell@crt.usdoj.gov>; Allred, David (CRT) <David.Allred@crt.usdoj.gov>; Burch, Jim <Jim.Burch@usdoj.gov>; Roberts, Marilyn <Marilyn.Roberts@usdoj.gov>; Darke Schmitt, Katherine <Katherine.Darke.Schmitt@usdoj.gov>; Cammarata, Pam <Pam.Cammarata@usdoj.gov>; david.johnson3@ic.fbi.gov <david.johnson3@ic.fbi.gov>; kerri.galvin@ic.fbi.gov <kerri.galvin@ic.fbi.gov>; lmball@usa.net <lmball@usa.net>; stansstrauss@comcast.net <stansstrauss@comcast.net>; Grenadier, Lorna (CRT) <Lorna.Grenadier@crt.usdoj.gov>; Troup, Linda M (CRT) <Linda.Troup@crt.usdoj.gov>; Frost, Joye <Joye.Frost@usdoj.gov>
CC: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Schlozman, Brad (CRT) <Brad.Schlozman@crt.usdoj.gov>; Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>; Little, Kimani (CRT) <Kimani.Little@crt.usdoj.gov>
Sent: Wed Jan 04 22:24:47 2006

Subject: RE: Draft DOJ Human Trafficking Report

Good evening!

Attached for your review is the second draft of the Department's report on human trafficking. Your comments on the first draft have been enormously helpful and you'll see that many of your suggestions have been incorporated into this draft. Over the next few days, we will continue to work with individual components on footnote citations and outstanding pieces of information. While we proceed with wrapping up a few loose ends, we ask for your comment on this draft to be transmitted to me no later than COB, Friday, January 6. In addition, please recall that we requested back-up documents to be delivered to us by January 3 (see the email below).

As you may already know, we are facing a tight schedule and this review will be your last opportunity to provide substantive comment. On Tuesday, January 10, we will circulate a final draft, requesting a response by Wednesday, January 11. We intend to have this document finalized and to the printer by Thursday January 12.

This report is turning into a document that we all can be proud of! Feel free to call me with any questions.

Many Thanks,

Omar

PS- Go Texas, up by 6!

-----Original Message-----
From: Vargas, Omar (CRT)
Sent: Wednesday, December 21, 2005 11:49 AM
To: Vargas, Omar (CRT); Hertling, Richard; Rothenberg, Laurence E; Roth, Monique; Thacker, Stephanie; Oosterbaan, Andrew; McHenry, Teresa; Voris, Natalie (USAEO); Hagy, David, W.; Bottner, Andrea; Kaplan, Jennifer; Scott-Finan, Nancy; Ho-Gonzalez, William; Kockritz, Janis; Hagen, Leslie A. (USAEO); Placido, Anthony P.; Bell, T March (CRT); Allred, David (CRT); Burch, Jim; Roberts, Marilyn; Darke Schmitt, Katherine; Cammarata, Pam; 'david.johnson3@ic.fbi.gov'; 'kerri.galvin@ic.fbi.gov '; 'lmball@usa.net'; 'stansstrauss@comcast.net'; Grenadier, Lorna (CRT); Troup, Linda M (CRT); Frost, Joye
Cc: Reyes, Luis (SMO); Schlozman, Brad (CRT); Comisac, Rena (CRT); Little, Kimani (CRT)
Subject: RE: Draft DOJ Human Trafficking Report

Everyone:

A follow-up to last night's email.

First, please find attached versions of the documents we circulated yesterday formatted in MS Word.

Second, as discussed during our last meeting, please gather support documentation for the information contained in this report that pertains to your agencies. We ask that you maintain two sets of copies of

contained in this report that pertains to your agencies. We ask that you maintain two sets of copies of these back-up documents (one for yourselves and one for us) and provide a copy to our office no later than COB January 3, 2006. Again, you are welcomed to call me with any questions.

Thanks, Omar

<< File: DOJ HT Report.12.20.05 Draft MS WORD.doc >>
<< File: DOJ HT Report Task List 12.20.05 MS WORD.doc >>

-----Original Message-----
From: Vargas, Omar (CRT)
Sent: Tuesday, December 20, 2005 9:30 PM
To: Hertling, Richard; Rothenberg, Laurence E; Roth, Monique; Thacker, Stephanie; Oosterbaan, Andrew; McHenry, Teresa; Voris, Natalie (USAEO); Hagy, David, W.; Bottner, Andrea; Kaplan, Jennifer; Scott-Finan, Nancy; Ho-Gonzalez, William; Kockritz, Janis; Hagen, Leslie A. (USAEO); Placido, Anthony P.; Bell, T March (CRT); Allred, David (CRT); Burch, Jim; Roberts, Marilyn; Darke Schmitt, Katherine; Cammarata, Pam; 'david.johnson3@ic.fbi.gov'; 'kerri.galvin@ic.fbi.gov
'; 'lmball@usa.net'; 'stansstrauss@comcast.net'; Grenadier, Lorna (CRT); Troup, Linda M (CRT); Frost, Joye
Cc: Reyes, Luis (SMO); Schlozman, Brad (CRT); Comisac, Rena (CRT); Little, Kimani (CRT)
Subject: Draft DOJ Human Trafficking Report

Everyone:

We greatly appreciate the hard work you have expended towards this draft report. It looks pretty good, but there is some work left to do. Attached for your review and comment is a first draft of the report. Also attached is a "tasking document" with follow-up questions and requests for additional information that will greatly enhance our final product. We ask that you supply us with your responses no later than COB Friday, December 23. We will then circulate a second draft of the report the week after next, once again asking for your review and comment. Please remember that the purpose of this report is to provide the general public with information regarding the Department's activities to implement the President's directives to combat human trafficking. Feel free to call me with any questions.

Many Thanks,

Omar

<< File: DOJ HT Report. 12.20.05. Draft Narrative.wpd >> << File: DOJ HT Report Task List.12.20.05.wpd >>

Department of Justice
Report on Activities to Combat Human Trafficking
Fiscal Years 2001-2005

I. An Introduction to Human Trafficking

Human trafficking is a pernicious crime that violates the fundamental principles of our society. For traffickers, victims are commodities to be traded and exploited in any market. Human trafficking is the modern-day form of slavery. It requires the use of force, fraud, or coercion by a trafficker to compel a person into, or hold someone in, an employment situation in which he or she will be criminally exploited. Trafficking may occur when victims are transported across borders or within a nation, or may not involve transportation at all. Victims, often women, are usually lured by promises of well-paying jobs. Once deprived of the opportunity to return home or communicate with their family, victims are generally held through force or threats in situations of sexual exploitation or forced labor. Human trafficking offenses thus transgress the victim's human liberty in violation of the Thirteenth Amendment's guarantee of freedom. As such, trafficking offends the core civil rights on which our Constitution and our country are based.

> Human life is the gift of our Creator -- and it should never be for sale. It takes a special kind of depravity to exploit and hurt the most vulnerable members of society. Human traffickers rob children of their innocence, they expose them to the worst of life before they have seen much of life.
>
> –President George W. Bush, July 16, 2004

By statute, a victim of a "severe form of trafficking in persons" is entitled to certain public programs and benefits. A severe form of trafficking must include the recruitment, harboring, transportation, provision, or obtaining of a person for one of the three following purposes:

- Labor or services, through the use of force, fraud, or coercion; or
- A commercial sex act, through the use of force, fraud, or coercion; or
- If the person is under 18 years of age, any commercial sex act, regardless of whether any form of coercion is involved.[1]

Since 2001, the Department of Justice has achieved an impressive record of prosecuting defendants for holding their victims in compelled service in such diverse areas as prostitution, field labor, domestic service, concubinage, "exotic dancing," pornography, garment factory "sweatshops," and street peddling. From fiscal year 2001 through fiscal year 2005, the Civil Rights Division and United States Attorneys'

Insert Graphic Depicting Rate of Increase FY '96-'05

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[1] Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, § 103(8), 114 Stat. 1464 (signed into law on October 28, 2000; codified as amended at 22 U.S.C. § 7102 (8)).

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Offices filed 91 trafficking cases, a 405% increase over the number of trafficking cases filed from fiscal years 1996 through 2000. In these cases, Department attorneys charged 248 trafficking defendants, a 210% increase over the previous five fiscal years. In addition, prosecutors with the Civil Rights Division and United States Attorneys' Offices convicted 140 defendants of trafficking-related crimes, a 109% increase over the previous five years.

Traffickers take advantage of the victims' hopes for a better life, preying on or even creating vulnerabilities that they can exploit. For example, in *United States v. Satia*, Louisa Satia and her husband, Kevin Nanji, used a false passport to bring 14 year-old "R.O." from Cameroon, where R.O. had worked for Satia's mother since the age of 12. R.O. was lured by the promise of an American education. Satia and Nanji refused to send the girl to school, however, and instead forced her to work for them as a maid and as a nanny to their young children. R.O. was not permitted to leave Satia and Nanji's apartment alone, except to take out the trash and walk the children to the school bus stop. Satia hit R.O. routinely, poked R.O. in the eyes, sprayed window cleanser on R.O., poured cola and glue in R.O.'s hair, and threatened her with deportation even though they were the ones who had brought her to the country illegally. Nanji made repeated sexual advances toward the girl. Apart from keeping R.O. in a condition of involuntary servitude, Satia solicited numerous people to sell their identities to her so that she could create false passports and routinely arranged false marriages as part of an immigration fraud scheme. In 2002, after their conviction at trial of involuntary servitude, the defendants were sentenced to 9 years in prison and ordered to pay $105,300 in restitution.[2]

Traffickers may lure their victims into otherwise legitimate labor or into the sex industry. For instance, in a pathbreaking case in Florida, *United States v. Cadena*, Mexican women and girls as young as 14 years of age were brought to the United States with promises of good jobs as waitresses and landscapers, only to be held as slaves in a high-volume prostitution operation.[3] The Cadena family would hold the women in their service by shooting into the ground at their feet, threatening their families, beating them, and raping them as punishment if they tried to run away. The ringleader and six other men were convicted of involuntary servitude and sentenced to up to 15 years of incarceration. The *Cadena* case is ongoing, and Federal Bureau of Investigation and Departmental prosecutors and victim-witness specialists have continued to prosecute Cadena family members and assist the survivors. In 2002, one of the family members was apprehended at the United States-Mexico border and pled guilty to conspiracy to enslave the women and girls. With the cooperation of the Mexican Government, the Department secured the conviction of one of the Cadena brothers in Mexico in 2002, where he was sentenced to 24 years of incarceration. In 2005, the Federal Bureau of Investigation and the Department's Office of International Affairs achieved the arrest in 2005 of yet another member of the family; trial is pending in Mexico as of the time of this report and an request for extradition prepared by the Office of International Affairs is pending. The *Cadena* victims have been assisted by a non-governmental organization that is funded by the Department's Office for Victims of Crime, and with the help of the case agents, prosecutors, and victim/witness staff, they have been able to bring their children and custodial parents to the United States.

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[2] *United States v. Satia*, No. 00-590 (D. Md. 2002)

[3] *United States v. Cadena*, [insert case information].

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Any specific instance of human trafficking may involve a range of other criminal activity that is not limited to federal anti-human trafficking laws, such as inter-state transportation for prostitution, money laundering, and racketeering. Trafficking indictments often reflect this. For instance, in *United States v. Zavala*, Mariluz Zavala, who in November 2005 received a 15 year prison sentence for enslaving Peruvian workers in Long Island, New York, was charged with a multi-object conspiracy, where the Department alleged that she and her co-conspirators had conspired to commit forced labor and involuntary servitude by withholding immigration documents. The Department also charged her with extortion and falsifying immigration documents, criminal violations that are not found in federal anti-human trafficking law.[4] In forced prostitution cases, such as *United States v. Reyes-Rojas*,[5] where two brothers were charged with sex trafficking, additional charges often include inter-state transportation for prostitution under the law known commonly as the "The Mann Act,"[6] and harboring people for prostitution. In cases like *United States v. Maksimenko*, where a Lithuanian man pled guilty to for enslaving Ukranian women in strip clubs through force and threats, trafficking charges are predicate acts under the Racketeer Influenced and Corrupt Organizations (RICO) statutes,[7] and accordingly can sustain money laundering charges for transactions carried out with the proceeds of, or in furtherance, of a trafficking scheme.

Sometimes, when a trafficking situation has occurred but there is not sufficient evidence with which to establish a trafficking offense, the Mann Act and immigration statutes can be powerful tools to vindicate the federal interest. The case of *United States v. Reddy* is a good example of this.[8] In that case, which was uncovered before the passage of the TVPA[9] the investigation revealed that, for over ten years, defendant Lakireddy Bali Reddy, a wealthy San Francisco Bay Area businessman, maintained a number of young girls and women as a quasi-harem for his sexual gratification and to work in his household and business enterprises. These victims were predominantly from families of lower castes in India and were brought into the United States by way of fraudulent employment offers or sham marriages. Members of Reddy's family posed as relatives of the victims to assist in their fraudulent migration. His scheme came to light after a teenage girl died of carbon monoxide poisoning in the apartment where he had sequestered her, her sister, and another girl. In 2001, Reddy pled guilty to transporting his victims in interstate and foreign commerce for illegal sexual activity. He was sentenced to more than 8 years in prison and ordered to pay $2,000,000 in restitution to four of his victims. The victims received benefits and services under the TVPA and today remain safely in the United States.

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4 *United States v. Zavala*, [insert case information].

5 *United States v. Reyes-Rojas*, [insert case information].

6 18 U.S.C. § 2421.

7 Racketeer Influenced and Corrupt Organizations (RICO), Pub L. No. 91-452, 84 Stat. 941.

8 *United States v. Reddy*, [insert case information].

9 TVPA, Pub. L. No. 106-386.

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II. An Administration Priority

Early in this Administration, the President identified the eradication of human trafficking as a priority. Two particular actions by the President focused Federal resources on trafficking. First, in February 2002, the President issued Executive Order 13257, creating a cabinet-level Interagency Task Force to Monitor and Combat Trafficking in Persons. The President ordered that the Task Force be chaired by the Secretary of State and be comprised of the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Director of Central Intelligence, the Director of the Office of Management and Budget, and the Administrator of the United States Agency for International Development.[10] The President took this action to ensure that the TVPA was fully implemented in a coordinated fashion throughout the federal government.[11]

> Slavery, human trafficking, and sexual servitude are crimes that wrench our hearts. They rob human beings of freedom. They strike at our nation's belief in the potential of every life. They are crimes that demand swift and implacable prosecution of the predators. They are crimes that deserve warmth and compassion for the victims.
>
> -Attorney General John Ashcroft, January 29, 2004

Second, also in February 2002, the President issued National Security Presidential Directive 22 (NSPD-22) to identify human trafficking as an important national security matter as well as to instruct federal agencies to strengthen their collective efforts, capabilities, and coordination to support the President's goal of abolishing human trafficking.[12] NSPD-22 states that human trafficking a transnational threat that is an affront to the principles on which this country stands. The relationship of human trafficking to organized crime, especially transnational criminal syndicates, fosters official corruption and threatens the rule of law.[13] The clandestine movement of persons across borders also poses terrorism and public health concerns. The United States Attorney's Office for the District of Montana, for example, treats every border incursion as potentially related to terrorism and, in 2004, was involved in a joint operation with the Royal Canadian Mounted Police and the Canadian Border Services Agency that resulted in the identification of a dozen Korean women believed to be destined for the sex trade, 80% of whom tested positive for tuberculosis. The syndicates that recruit and move these victims are often the same ones that are responsible for other trans-border crimes, like smuggling. Traffickers can and will move any type of cargo, human or otherwise, for profit. The fight against trafficking is

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[10] Exec. Order No. 13257, 3 C.F.R. 13257 (2002).

[11] The President subsequently issued an Executive Order amending Executive Order 13257 on March 18, 2004, conforming it to the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, 117 Stat. 2875.

[12] National Security Presidential Directive Memorandum Regarding Combating Trafficking In Persons, (Feb. 25, 2002) Parts of NSPD-22 are classified and cannot be released to the public.

[13] *Id.*

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therefore a critical element of United States foreign policy, requiring full use of the tools of diplomacy and the cooperation of American and foreign law enforcement.

Moreover, NSPD-22 views the abolition of prostitution, the driving force behind sex trafficking, as integral to the abolition of human trafficking. Regarding the United States's policy towards prostitution, NSPD-22 states:

> The United States opposes prostitution and any related activities, including pimping, pandering, and/or maintaining brothels as contributing to the phenomenon of trafficking in persons. These activities are inherently harmful and dehumanizing. The United States Government's position is that these activities should not be regulated as a legitimate form of work for any human being.[14]

NSPD-22 created a three-point plan of action:

1. Implementing Training in Federal Agencies

The President required all federal agencies to ensure that their own personnel were trained and equipped to carry out their anti-trafficking responsibilities and that their personnel coordinated with counterparts in other agencies. Further, NSPD-22 stated that the United States has a zero-tolerance policy with regard to trafficking by United States Government employees and contractors, who are to be educated about trafficking and investigated, prosecuted, and punished for engaging in it.

2. **Developing Cooperation With State and Local Law Enforcement in the United States**

The President recognized that state and local law enforcement are critical to federal efforts to combat human trafficking. NSPD-22 instructs federal agencies to vigorously enforce laws against traffickers, and to provide training and assistance to state and local law enforcement to assist them in recognizing victims and to hold perpetrators accountable for their crimes.

3. Integrating and Coordinating International Programs

The President required all federal agencies to coordinate foreign assistance programs, including funding to governmental and non-governmental organizations and public awareness programs, to combat trafficking in persons. NSPD-22 also required agencies to ensure that contractors receiving United States funding through international programs do not engage in trafficking activities. The President also directed agencies to work to prevent future victimization by reducing the vulnerability of individuals to trafficking, particularly through the expansion of educational and economic opportunities and the protection and promotion of human rights. The President further directed federal agencies to employ diplomatic and foreign policy tools to encourage other nations and multilateral organizations to work with the United States to combat this crime, to draft

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[14] *Id.*

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and enforce laws against trafficking, and to hold accountable those who engage in this crime.[15]

In 2003, Congress passed and President Bush signed the reauthorization of the TVPA, known as the Trafficking Victims Protection Reauthorization Act (TVPRA).[16] The TVPRA of 2003 codified the President's Interagency Task Force to Monitor and Combat Trafficking in Persons by creating the Senior Policy Operating Group (SPOG), which meets quarterly. The TVPRA slightly expanded the SPOG's authority, particularly as it concerns inter-agency coordination to develop the capacity of foreign nations, both source and destination countries, to combat trafficking; to examine the role of sex tourism in human trafficking; and to foster consultation with governmental and non-governmental organizations regarding implementation of the TVPRA.

The Attorney General has been an engaged member of the SPOG, and the Department supports the committee in a variety of ways. In 2004, for example, the Civil Rights Division and the Office of Justice Programs participated a SPOG subcommittee charged with designing the President's international human trafficking initiative. Currently, the Civil Rights Division, the Criminal Division, Office of Legal Policy, and the Office for Victims of Crime are members of the SPOG Subcommittee on Domestic Trafficking. The National Institute of Justice, a component of the Office of Justice Programs, is a member of the SPOG Subcommittee on Research, which shares information regarding research grants and other activities by each SPOG member agency. This subcommittee is also studying the issue of accurately estimating the number of trafficking victims within the United States. In addition, the Office of Justice Programs, the Department's principal grant-making agency, and the Office on Violence Against Women participate in the interagency grant information-sharing process of the SPOG. The grant information-sharing process is designed to provide SPOG member agencies with an opportunity to review and comment on proposed grant awards, helping to ensure that domestic and international grant programs are coordinated across the federal government. Finally, the Office of Legal Policy chairs the SPOG Subcommittee on Regulations, a working group charged with the development of federal regulations to implement the TVPRA.

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[15] *Id.*

[16] Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, 117 Stat. 2875 (2003) (signed into law by President Bush on December 19, 2003).

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III. Scope of the Problem

A. How Many Victims and Who are They?

It is extremely difficult to quantify the number of victims trafficked globally and into the United States each year. Some estimates indicate that as many as 800,000 people are trafficked across international borders annually, with up to 17,500 victims trafficked into our country each year.[17] Clearly, the problem is of sufficient magnitude that a continued dedication of substantial resources to this enforcement area is very much in order.

Despite our record number of investigations and prosecutions, there is a noted disparity between the estimated number of victims and those who have been found and assisted. The Department realizes that it must address the incongruity between some estimates and the less than 1,000 victims that have been rescued through the efforts of federal, state, and local law enforcement since 2003, when services for trafficking victims were first made available under the TVPA. Though the possible reasons for this disparity vary, the difference nevertheless signals the need to carefully scrutinize the estimated number of trafficking victims to assure that it reflects as accurately as possible the true number of human trafficking victims within our country.

Some estimates may overstate the extent of the problem and conflate human trafficking with the smuggling and harboring of illegal aliens or with the related crime of migrant prostitution. Trafficking victims are not all illegal aliens; human trafficking is distinct from human smuggling. Trafficking victims may be United States citizens, legal residents, or visitors. For example, *United States v. Pipkins* was the first case in which the Department successfully prosecuted two pimps for trafficking women and girls, all American citizens.[18] Prostitution alone is not trafficking; but where, as here, it involved the use of force or coercion to prevent people from leaving the enterprise, it becomes trafficking. Human smuggling, on the other hand, is the facilitation, transportation, attempted transportation, or illegal entry of a person or persons across an international border, in violation of American immigration laws. Many of those illegally entering the United States are smuggled, not trafficked.[19] Smuggling may occur clandestinely or through deception, such as the use of fraudulent passports or other immigration documents.[20] Human smugglers enter into a contractual relationship with those they will illegally transport into our country. The smuggler is often paid a considerable amount of money for his services and the relationship normally ends once the smuggled person has entered the United States and the debt is paid.

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17 U.S. Dept. of Justice, Assessment of U.S. Gov't Activities to Combat Trafficking in Persons, Fiscal Year 2003 (2004); Office to Monitor and Combat Trafficking in Persons, U.S. Dept. of State, Ann. Rep. (2005).

18 *United States v. Pipkins,* 378 F. 3d 1281 (11th Cir. 2004).

19 The Human Smuggling and Trafficking Center, Fact Sheet: Distinctions Between Human Smuggling and Human Trafficking (2005).

20 *Id.*

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Identifying and assisting victims of human trafficking are difficult tasks, and consequently, the Department does not have reliable figures regarding the number of victims who may be in the United States. Trafficking victims who have been rescued in connection with federal government activities over the past several years have come from more than 50 different countries, with the disproportionate majority coming from Latin America.[21] But several factors contribute to the difficulty of identifying trafficking victims. Human trafficking, like many other crimes, often requires that the victim and the criminal enterprise remain in the shadows of our communities. Moreover, victims often suffer from paralyzing fear and are reluctant to seek help, further exacerbating the problem. Traffickers prey on the meek and destitute, coercing and deceiving them into hiding.

Another explanation for this disparity is that victims may be helped by state and local law enforcement activities that the Department does not know about, or, in some instances, state and local officials may not realize that they have uncovered trafficking victims. Under our federal system of government, state and local governments may prosecute these cases under other criminal laws. Furthermore, although a particular prosecution by the Department may only result in the rescue of one or a few victims, it is reasonable to assume that enterprises that have been in business for several years have victimized hundreds of people.

The Department is committed to discussing and refining methodologies for estimating the number of victims that may yield more reliable results. The enactment of anti-trafficking crimes at the state level, many of which are based on the Department's model anti-trafficking statute, is a heartening trend, as the men and women in state and local law enforcement far outnumber the federal resources available to combat this problem.[22] As with domestic violence and sexual abuse, it is local police and prosecutors who will investigate and prosecute the lion's share of trafficking cases in the coming years. The Department is committed to supporting these partners in expanding the victim-centered approach it has developed.

B. The Department Responds to this Crime with A Victim-Centered Approach

Typically, federal prosecutors learn about a crime from the victim, from the eyewitness, or through an investigation. For traffickers to be successful, they must hide their crime from law enforcement by hiding their victims and their collaborators. Those who benefit from trafficking – men who frequent prostitutes and those who benefit from the low cost labor that the traffickers broker – are often momentary beneficiaries, and may not even know that the victim is being held in compelled service. Thus, the only remaining eyewitness is often the victim. To prevent their workforce from running away and to forestall detection, traffickers have an incentive to instill

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[21] U.S. Dept. of Justice, Assessment of U.S. Gov't Activities to Combat Trafficking in Persons, Fiscal Year 2003 (2004); U.S. Dept. of Justice, Assessment of U.S. Gov't Activities to Combat Trafficking in Persons, Fiscal Year 2004 (2005).

[22] The Department's model state law is discussed below in detail at ____. A copy of the model state law is available as an appendix to this report and on the internet at http://www.usdoj.gov/crt/crim/model_state_law.pdf.

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fear in their victims– fear of American law enforcement, fear of their captors, and fear of anyone they meet in their unfamiliar settings. Many victims are far from their country of origin and their families. They do not speak English and are more likely than not to lack any legal immigration status. Traffickers prey on the unsettled aspects of their lives, playing victims against each other and fostering collaboration.

Victims of trafficking often live and are forced to work in linguistic and social isolation. They fear the threat of exposure and feel shame about the work they are forced to do, particularly when that work includes sexual abuse. They also fear continued violence or the threat of reprisals against loved ones. They can develop a psychological dependence on the trafficker or others. Immigrant victims of human trafficking often face a special set of circumstances that keep them in the shadows of our nation's communities. Traffickers will often withhold from immigrant victims of trafficking their immigration documents. Immigrant victims may have a fear of American law enforcement , do not understand their rights, and fear risking default on monies owed their captors, as well as the collateral effect that may have on their families back home. The result is that victims will rarely self-report and so they must be pro-actively found.

While relying on the victims to give testimony about their suffering – the same duty American law requires of any witness – the Department places a premium on addressing the victims' need for recovery. Agents, prosecutors, and victim/witness staff work with, and are intensifying their relationships with, victim service providers. These groups, often experienced faith or community-based organizations that have previously served immigrant or abused populations, can help keep the victims safe, meet their medical and housing needs, and help them find an equilibrium in their lives through job training, language classes, and life-skills counseling. Victim-centered prosecutions that recognize that the government's interest in these cases stems from the violation of the fundamental right of freedom. Moreover, victim-centered prosecutions are essential to the liberation and care of victims. In vindicating the survivor's right to be free, federal prosecutors must give him or her the opportunity to use that freedom and the support to make it meaningful. The Department's approach flows from our nation's foundational principles – respect for human dignity and one's civil rights.

"It's there fault that I lost my friends, my parents....My story is very long. It took me about a year to reach my parents....They (the defendants) don't repent for everything they did to me, for all the damage they did to me. They hit me....They thought they were big shorts. I tried to defend myself but couldn't. I tried to escape...."

–An in-court statement by S.A.H., a victim in *United States v. Jimenez-Calderon*

Federal law enforcement are committed to combating human trafficking with a victim-centered approach. Federal investigators and prosecutors, including Federal Bureau of Investigation and Bureau of Immigration and Customs Enforcement agents and Assistant United States Attorneys, immediately refer a victim to victim-witness specialists who begin to provide the appropriate referrals to victim service providers, often grantees that are funded through the Office for Victims of Crime and the Department of Health and Human Services Office of Refugee Resettlement. The Civil Rights Division and the Office for Victims of Crime work together to ensure that grantees are available to provide services to victims. In addition, because trafficking victims may

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avail themselves of victim services providers funded through other Departmental components, such as the Office on Violence Against Women and the Bureau of Justice Assistance, grantees of these offices are trained on providing assistance to victims of human trafficking.

Department components regularly promote a victim-centered response and educate other law enforcement agencies and victim service providers about the dynamics of trafficking and the need for pro-active investigations in an effort to increase awareness and outreach to new partners, with the ultimate goal of preventing victimization. For example:

- Since 2002, Civil Rights Division staff have trained federal, state, and local law enforcement officers and victim service providers about proactive victim-centered investigations. In addition, Criminal Section lawyers are educating prosecutors and other law enforcement officials across the country on the criminal provisions of the new trafficking statute and providing practical guidance on investigating and prosecuting these difficult cases, as well as assisting localities to establish regional working groups to better coordinate and focus anti-trafficking law enforcement efforts. The Section continues to organize and lead training efforts at the Justice Department's national training facility for federal investigators and prosecutors from around the country, as well as victim-witness coordinators from U. S. Attorneys' offices.

- Since January 2003, nearly 40,000 law enforcement officers, attorneys, social service providers, advocates, medical and mental health professionals, and community members have been trained by the Office for Victims of Crime and Bureau of Justice Assistance grantees. Moreover, the Bureau of Justice Assistance's law enforcement training emphasizes that code enforcement officials, fire marshals, and other persons that may have access to where victims are being held should be trained on signs of human trafficking.

- The Federal Bureau of Investigation's Civil Rights Unit and various United States Attorneys' Offices have also participated in dozens of regional Department of Justice sponsored human trafficking training conferences hosted throughout the country, in cities including Los Angeles, California; Houston, Texas; New Haven, Connecticut; Portland, Oregon; St. Louis, Missouri; San Diego, California; San Francisco, California; and Tampa, Florida.

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IV. Tools for Investigating and Prosecuting Human Trafficking

The Prosecutor's Tool Box

Involuntary servitude
Labor wage and hour laws
Mann Act
PROTECT Act
RICO Act
Trafficking Victims Protection Act
Trafficking Victims Protection Reauthorization Act of 2003
Trafficking Victims Protection Reauthorization Act of 2005

The Department's meaningful success in combating human trafficking would not be possible without the enactment of several statutes by Congress. Prior to 2000, trafficking cases were prosecuted under a number of federal criminal statutes including the involuntary servitude statutes,[23] the Mann Act,[24] and labor laws concerning workplace conditions and compensation.[25] The Mann Act statutes were formerly thought of as the primary federal anti-trafficking tool, when "trafficking" was perceived as interstate transportation for prostitution, as opposed to the modern definition, which focuses on compelled service. The involuntary servitude statutes set forth a variety of substantive crimes covering the slave trade, involuntary servitude, peonage. Sections 1584 and 1581, of Title 18 of the United States Code, which respectively criminalize involuntary servitude and peonage, are the primary statutes used in involuntary servitude and trafficking prosecutions. Section 1583, which criminalizes kidnaping victims into slavery, likewise remains a useful tool in modern federal prosecutions. Prior to the TVPA, these statutes did not always treat the workers involved as victims and enforcement authority for each of these possible anti-trafficking tools was scattered across the United States Government, leading to differing outcomes depending on which charges were brought or which agency learned of the allegations of abuse.

Today, the centerpiece of United States Government efforts is the TVPA.[26] The TVPA provided for a range of new protections and assistance for victims of trafficking in persons who comply with law enforcement investigations; it expanded the crimes and enhanced the penalties available to federal investigators and prosecutors pursuing traffickers; and it expanded United States activities internationally to prevent victims from being trafficked in the first place.

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[23] *See* 18 U.S.C. §§ 1581-1588. These statutes are still used when appropriate and were updated and supplemented by the restitution, forfeiture, and attempt provisions enacted in the TVPA.

[24] *See* 18 U.S.C. §§ 2421-2424.

[25] *E.g.*, Migrant and Seasonal Agricultural Worker Protection Act, Pub. L. No. 97-470, 96 Stat. 2583 (1983) (codified as amended at 29 U.S.C. § 1851).

[26] TVPA, Pub. L. No. 106-386.

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Protections and Assistance for Victims

The TVPA authorized a dedicated stream of funding for victim services and provides for immigration relief for severe forms of trafficking.[27] Under the TVPA, a victim is certified by the Department of Health and Human Services as eligible for services funded by any federal or state program or activity, such as the Departments of Agriculture, Health and Human Services, and Labor or the Legal Services Corporation. Department of Health and Human Services certification is granted after consultation with the Department's law enforcement officials, including investigators and prosecutors, that the victim meets the statutory definition of a "victim of a severe form of trafficking" and is also cooperating with the federal law enforcement investigation. The TVPA also authorized the Department to fund and provide training and technical assistance to law enforcement agencies and victim service providers.

The Department's Office for Victims of Crime directs its funding to support services for pre-certified victims and may, in special circumstances, fund organizations that provide services to certified victims. Pre-certified victims are those victims who have been identified by law enforcement in connection with an investigation and are awaiting Department of Health and Human Services certification that they are a victim of a severe form of trafficking. This is significant because pre-certified victims are not entitled to the same publicly funded benefits that certified victims are, yet the need for services is most acute at this stage. Secondarily, providing those services enables victims, in most instances, to cooperate with law enforcement to investigate and prosecute their human traffickers. A safe and healthy victim is better able to articulate to investigators and a court what has happened to her. Indeed, a survivor of trafficking can often be one of the most effective anti-trafficking tools as an advocate and a provider of services for victims.

Insert images of trafficker mug-shots

Defined Crimes and Enhanced the Penalties

The TVPA,[28] defined human trafficking as a crime, crated stiff sentences, and provided prosecutors with definitions of terms used to describe the offense such as "coercion," and "commercial sex act."[29] Traffickers that use force, fraud or coercion may be sentenced to up to a term of up to life imprisonment.[30]

Prevention

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[27] A more detailed discussion about victim services programs administered by the Department of Justice is below in Part VI "The Department's Collateral Attack on Human Traffickers," Section B "Restoring a Victim's Dignity."

[28] *See*, 18 U.S.C. §§ 1589-1594.

[29] 22 U.S.C.§ 7102.

[30] *See*, 18 U.S.C. 1591.

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Insert Image of Bilateral Safety Corridor Coalition Public Awareness Calendar

The TVPA has given the Department the tools needed to increase public awareness within our communities, particularly among law enforcement and social services agencies, as well as internationally. The Department's activities, including those undertaken by non-governmental organizations that receive grants from the Office for Victims of Crime, aim to prevent victimization through public awareness and outreach are discussed below in Part VI "The Department's Collateral Attack on Human Traffickers," Section C "Public Awareness Supports Pro-Active Investigations."

Subsequently, in 2003, Congress, with the President's support, re-authorized the TVPA,[31] enhancing penalties and adding responsibilities to the United States Government's anti-trafficking portfolio, such as new public awareness campaigns to combat sex tourism and some refinements to the federal criminal law. Significantly, Congress included trafficking among the terms that constitute money laundering and racketeering, under the RICO statute. Prosecutors have used this effective tool to dismantle trafficking schemes. It also created a mandatory restitution section and a forfeiture provision. These sections work together to ensure that defendants convicted of trafficking in persons receive sentences that reflect the seriousness of their crimes. The TVPRA has produced reals results in the field, yielding penalties three and four times those obtained under smuggling or harboring statutes and under historical servitude and trafficking statutes, as discussed earlier in this section.

Graphic depicting rate of sentences in trafficking cases

It also clarified the provision that victims meet the statutory requirement to comply with law enforcement investigations by allowing victims to assist with law enforcement efforts, such as providing investigators with important factual testimony, and it relieved victims under the age of 18 from meeting this requirement altogether. Congress also created a new civil action that allows trafficking victims to sue their traffickers in federal district court. Specifically, the TVPRA of

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[31] TVPRA Pub. L. No. 108-193.

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2003 gave victims of human trafficking the right to bring federal civil suits against their traffickers for actual and punitive damages.

The account of a Philippine teacher from a rural village is illustrative of how civil suits are an important aspect in fighting human trafficking when prosecutors are unable or have insufficient evidence to bring forward a criminal prosecution. In August 2004, a Santa Monica jury awarded her $825,000 for her enslavement by Judd Jackson, a Sony Pictures executive, and his wife, Beth.[32] The Philippine teacher thought she was coming to the United States to work as a travel companion to an elderly woman. Instead, her passport was taken away and she was enslaved. The Jacksons made her clean their home, provide meticulous care for their dogs, and sleep on the dining room floor. After a little more than one year of working from 5:30 a.m. to as late as 10 p.m., a neighbor called the police and the victim was referred to the Coalition to Abolish Slavery and Trafficking (CAST), a grantee of the Department's Office for Victims of Crime human trafficking victim services program. The victim is now an advocate on behalf of trafficking victims, speaking publicly about the evils of human trafficking.

On January __, President Bush signed into law the Trafficking Victims' Protection Reauthorization of 2005 (TVPRA of 2005). In addition to reauthorizing the TVPRA, the law enhances our ability to combat trafficking in persons by extending our prosecutorial tools and providing new protections for victims. In important enhancements to prosecutorial tools, the bill establishes extra-territorial authority for prosecution of trafficking in persons offenses committed by federal contractors abroad or persons accompanying them and adds trafficking in persons as predicates for the offense of document servitude, where one's identity papers, such a foreign birth certificate, passport, or immigration documents are withheld by the trafficker and used to coerce or compel the trafficking victim. The TVPRA of 2005 also promotes efforts to fight domestic trafficking in persons. It requires a comprehensive research and statistical review and analysis of incidents of trafficking and commercial sex acts within the United States and annual conferences, to be conducted by the Department for the benefit of state and local law enforcement, other governmental agencies, and non-governmental organizations, on domestic trafficking in fiscal years 2006, 2007, and 2008 and biennially thereafter.

In addition, the TVPRA of 2005 establishes a grant program to develop, expand, and strengthen assistance programs for United States citizens and permanent residents who have been subjected to trafficking and establishes a pilot program to create residential treatment facilities for children subjected to trafficking. It also creates a new grant program for state and local law enforcement authorities to investigate and prosecute trafficking of U.S. citizens and permanent residents, including efforts to reduce demand for commercial sex acts. Furthermore, the TVPRA of 2005 contains new requirements for data collection that will promote effective responses to trafficking. These include study by the Human Smuggling and Trafficking Center, an inter-agency program discussed in more detail below, of the relationship between trafficking and terrorism and of the abduction and enslavement of children as soldiers, and development of a mechanism for quantifying the number of victims of trafficking.

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[32] [Insert case citation.]

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The President, also in 2003, signed into law, the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003, the law known as the PROTECT Act. The PROTECT Act, developed with the assistance of experts in the Department's Child Exploitation and Obscenity Section of the Criminal Division (CEOS), has given the Department's prosecutors several new tools to combat sex trafficking and child prostitution. The Act makes it a crime for a United States citizen to travel in foreign commerce and engage in illicit sexual activity with minors,[33] and now includes an attempt provision.[34] Moreover, this Act facilitated prosecutions by eliminating the requirement that the Department prove that the traveler-predator intended to have sex with a child prior to traveling.

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[33] Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today (PROTECT) Act of 2003, Pub. L. No. 108-21, 117 Stat. 650.

[34] PROTECT Act, Pub. L. No. 108-21 (codified as amended at 18 U.S.C. § 2423(c)).

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V. Halting Human Trafficking with a Record Number of Aggressive Investigations and Prosecutions

Since 2001, the Department has achieved a record number of human trafficking investigations and prosecutions through a unique victim-centered approach that focuses on three important themes: sex trafficking, labor trafficking, and child sex trafficking. Prosecutions of sex and labor trafficking depend for their success on the elements of force, fraud, or coercion that render the victim's role involuntary. Because trafficking is modern day slavery, then-Attorney General John Ashcroft designated the Civil Rights Division, in early 2001, as the principal architect of the Department's comprehensive response to human trafficking. The Civil Rights Division has collaborated with the Federal Bureau of Investigation, United States Attorneys' Offices, the Criminal Division, and the Office of Justice Programs to uncover and investigate these criminal enterprises, to prosecute and hold traffickers accountable for their criminal conduct, and, most importantly, to rescue victims and return to them their dignity.

In 2004, the Federal Bureau of Investigation took an important step towards the vigorous investigation of trafficking crimes when it launched the Involuntary Servitude and Slavery/Trafficking in Persons Initiative. This Initiative has achieved important results in the manner in which the Bureau uncovers and investigates these cases in coordination with the Civil Rights and Criminal Divisions. Specifically, the Bureau's Civil Rights Unit, the primary Bureau agency charged with investigating federal civil rights statutes:

- Developed and disseminated a general human trafficking investigative protocol to all FBI field offices;
- Implemented commercial sex trafficking intelligence collection requirements and disseminated those requirements to every Bureau Field Intelligence Group;
- Established a mechanism for the Bureau to properly classify cases as human trafficking, alien smuggling, or child prostitution;
- Expanded the Bureau's outreach to national human trafficking victim advocacy organizations, such as The Freedom Network and the International Justice Mission to establish contacts and leverage partnerships.
- Commenced, in October 2005, human trafficking threat assessments in each of the nation's 56 Bureau Field Offices. The threat assessments are intended to help the Bureau determine the nature and scope of human trafficking and to develop a more informed response to this criminal activity. Field Offices will be guided by this analysis in determining whether to establish or enhance their participation in local anti-human trafficking task forces, including establishing relationships with local non-governmental organizations and more aggressive involvement in investigations by federal, state and local law enforcement;[35] and
- Created, in November 2005, a case tracking database to track and maintain important human trafficking related data from the Bureau's Field Offices regarding the

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[35] Fed. Bureau of Invest., Human Trafficking Initiative Elec. Commc'n to all Field Offices (Oct. 21, 2005).

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Department's prosecutorial decisions, identifying emerging trends and reporting significant events in the field to the Bureau's Civil Rights Unit.

A. Sex Trafficking

"We have all the ingredients they want....We have a migrant workforce and a legal sex trade."

-Gerald Gardner, Nevada Deputy Attorney General and Las Vegas Office Chief, at a press conference inaugurating the Department's Las Vegas Anti-Human Trafficking Task Force, *Las Vegas Sun*, September 29, 2004

Human trafficking typically manifests itself in compelled service either for forced labor or in the "sex industry." Sadly, in both areas, sexual abuse of female victims is common.

Sex trafficking is both a crime and phenomenon. The TVPA's "sex trafficking" statute[36] makes it illegal to use force or coercion to obtain persons for commercial sexual activity, with special provisions regarding the involvement of minors. Other activities that the Department considers part of the phenomenon of sex trafficking, such as servitude for non-commercial sexual activity or compelled service in strip clubs or other non-prostitution sectors of the sex industry, are properly prosecuted under traditional slavery statutes or even the forced labor statute, but are no less components of sex trafficking than commercial sexual activity.

The increase in sex trafficking cases filed and prosecuted by the Civil Rights Division and United States Attorneys' Offices over the past five years is staggering. Between fiscal years 2001 and 2005, federal prosecutors filed 68 cases of sex trafficking, a 870% increase over the seven cases the Civil Rights Division and United States Attorneys' Offices filed between fiscal years 1996 and 2000. Also during that same time period, the Civil Rights Division and United States Attorneys' Offices charged 187 defendants with sex trafficking, a 450% increase over the 34 defendants` charged between fiscal years 1996 and 2000. In addition to the new records set in investigations and prosecutions of sex trafficking, the Civil Rights Division and United States Attorneys' Offices have achieved impressive results in convicting traffickers. From fiscal years 2001 to 2005, federal prosecutors obtained the convictions of 109 sex trafficking defendants, a 445% increase over the 20 defendants convicted during the previous five fiscal year period.

Insert graphic depicting the rate of increase FY '96-'05.

Sex trafficking may occur in any American community–urban, suburban or rural–and involves

[36] 18 U.S.C. § 1591.

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both aliens and United States citizens. Sex trafficking can occur in bars, farm worker camps, and sex entertainment and prostitution enterprises. The traffickers are endlessly inventive. While the public stereotype of these cases involve large scale international organized crime syndicates, forced prostitution cases often involve groups of family members or even individual pimps. In *United States v. Jimenez-Calderon,* a group of family members recruited women and girls from the Mexican state of Tlaxclala to come to the United States with promises of love, only to hold them in prostitution through force and threats to them and to their families in Mexico.[37] The lead defendant in *Jimenez-Calderon* received a sentence of 17 years of incarceration following her guilty plea.[38]

Cases involving United States citizen victims that might not have been brought under the Mann Act are now being brought using the TVPA sex trafficking statute, which does not require interstate travel. In *United States v. Gates and Heyward*, two persons pled guilty in 2004 to sex trafficking for running an internet prostitution business from their home, at times using girls as young as 14 to perform sexual acts. Defendant Gates, who beat the women who disobeyed him and provided drugs to support some of the women's addictions, was sentenced to more than 14 ½ years in prison. His co-defendant girlfriend, Heyward, received a sentence of 9 years of incarceration.[39]

Many cases involving individuals from countries of the former Soviet republic in the past few years have involved compelled service in "exotic dancing." In *United States v. Gasanov,* a husband and wife were convicted at trial and sentenced to serving five years in prison and paying $516,150 in restitution for bringing Uzbeki women to El Paso, Texas, under the guise of a student researcher exchange program, only to hold them in compelled service in strip clubs by confiscating their immigration documents, known as document servitude, and making threats against their families.[40] In *United States v. Maksimenko*, five persons have pled guilty as of December 19, 2005, for their roles in a scheme to enslave Ukrainian women in Detroit-area strip clubs through threats and extortion.[41]

Sometimes victims are held in sexual slavery without any commercial aspect. In *United States v. Soto*, eight men were convicted in 2003 for their roles in an alien smuggling organization that would hold vulnerable alien women as "concubines," forcing them to cook, clean, and submit to the sexual demands of the alien smugglers through force, threats, and punitive rape. The lead defendant in the *Soto* case was sentenced to 23 years of incarceration following his guilty plea.[42]

In some communities, women are imported to work as "bargirls." While this is not technically sex trafficking under the TVPA, as it does not involve a sex act, the women are treated as sex

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37 *United States v. Jiminez-Calderon*, No. 02-00553-3, (D.N.J. 2003).
38 *Id.*
39 *United States v. Gates and Heyward*, [insert case information].
40 *United States v. Gazanov*, [insert case information].
41 *United States v. Maksimento*, [insert case information].
42 *United States v. Soto*, [insert case information].

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objects and forced to entertain male bar patrons, dancing and drinking with them at their pleasure. In *United States v. Kang*, for example, a Korean couple lured Korean women to New York City with promises of good jobs as hostesses in the their nightclub, but subjected them to physical abuse, held them for repayment of a $10,000 debt, and attempted to force them into prostitution.[43] Seven defendants have pled guilty to forced labor and obstruction of justice charges. The defendants include a Federal Air Marshal and a Department of Homeland Security agent, who attempted to force one of the victims to get on a flight to South Korea to keep her from testifying against the Kangs.[44] In another "bargirl" case, *United States v. Molina,* six Hondurans in Ft. Worth, Texas, received sentences of up to 5 years and 3 months of incarceration following their guilty pleas for harboring the women and making them repay their alien smuggling debts by entertaining the male patrons of the defendants' bars.[45]

B. Labor Trafficking

Labor trafficking occurs when a victim is forced to work in an area of the economy that would otherwise be a legal form of labor, absent the coercion. This phenomenon commonly is found in farms, factories, and households. Similar to sex trafficking, if a person is subjected to coercive force such that he cannot leave his employer's service, he is considered a victim regardless of whether he initially chose to perform that type of work, or even if he receives some pay for his labor. There is no requirement that the victim be transported by the defendant.

The increase in labor trafficking cases brought by the Civil Rights Division and United States Attorneys' Offices over the past five years is also significant. Between fiscal years 2001 and 2005, the Civil Rights Division and United States Attorneys' Offices filed 23 labor trafficking cases, an increase of 110% over the 11 labor trafficking cases the federal prosecutors filed between fiscal years 1996 and 2000. In these cases, 61 defendants were charged with labor trafficking, an increase of 33% over the 46 defendants the charged during the previous five fiscal year period.

Insert graphic depicting the rate of increase FY '96-'05.

As in sex trafficking cases, vulnerable United States citizens may find themselves trapped in a forced labor situation, unable to escape because of threats or coercion. For example, in *United States v. Michael Lee*, the defendants recruited homeless African-American men for their orange-picking operation. Once employed, the workers were involuntarily retained by beatings, threats, and a "company store" debt run up by short-term loans for rent, food, cigarettes, and cocaine. The defendants were convicted in 2001 and received prison terms of up to 4 ½ years of incarceration.[46]

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43 *United States v. Kang*,[insert case information].

44 *Id*.

45 *United States v. Molina*, [insert case information].

46 *United States v. Michael Lee*, [insert case information].

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Forced labor situations often appear in parts of the agricultural sector that require "stoop labor." One such case, *United States v. Garcia*,[47] involved the first successful defense of the TVPA against a constitutional challenge. In that case, four defendants received sentences of up to nearly 4 years of incarceration in 2005 for recruiting young undocumented Mexican aliens from the Arizona border and transporting them to New York with false promises of good wages, only to force them to work in the fields for little or no pay and house them in overcrowded and filthy conditions through threats to turn them over to the Border Patrol.[48] In their constitutional challenge, the defendants argued that the TVPA was unconstitutionally vague, inviting arbitrary and discriminatory enforcement, and that Congress exceeded its authority in enacting it because it did not involve interstate commerce. A federal district court disagreed and found that the TVPA's terms were clear and provide adequate notice of the conduct it prohibits.[49] It also found that Congress had the power to enact the TVPA under the Thirteenth Amendment to the Constitution.[50]

Insert Image of "Ramos Van Attack"

In another example of forced "stoop labor," three brothers were convicted in 2002 in *United States v. Ramos*[51] for using threats and debt bondage to hold migrant workers in their employment for the duration of the harvesting season, and for assaulting the owner of a transportation service to cut off any avenue of escape the workers might have had from the area. The Ramos brothers were sentenced to 15 years of incarceration and ordered to forfeit $3 million

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47 *United States v. Garcia*, No. 02-110, 2003 WL 22938040 (W.D.N.Y. 2003).

48 *Garcia*, 2003 WL 22938040.

49 *Id*. at 2.

50 *Id.*

51 *United States v. Ramos*, [insert case information].

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in proceeds from their slavery operation.

Domestic servant cases continue to be a regular part of the Department's forced labor portfolio. Sadly, in many of these cases the young female victims are subjected not only to long hours and low pay for their work as nannies and maids, but suffer sexual abuse at the hands of their captors as well.

For instance, in *United States v. Mubang*,[52] a Cameroonian woman was convicted of bringing an eleven year-old girl to the United States illegally and under false pretenses. Once the girl was in America, she was forced to care for the defendant's two children and perform all the household chores without pay. The defendant forced the victim to comply by beating her with a broken metal broom stick and a cable cord, forbidding her from speaking of her employment conditions to anyone, forbidding her from leaving the house or opening the door to anyone, and interfering with her mail. Mubang fled the country soon after her conviction but was returned to the United States in 2005 through the assistance of the Cameroonian government. She is currently serving a sentence of 17 ½ years of incarceration.

Similarly, in 2004, in *United States v. Trisanti*, a Los Angeles woman was convicted of involuntary servitude for trafficking two victims into the United States from Indonesia and forcing them to work as domestic servants through threats and physical violence. Trisanti was sentenced to 46 months in prison and ordered to pay $203,000 in restitution.[53]

C. Child Sex Trafficking

"Our society has no place for those who prey on children and no tolerance for child prostitution or sex trafficking."

–Attorney General Alberto R. Gonzales, December 16, 2005.

Within the Department, CEOS historically has taken the leading role in overseeing the prosecution of cases of sex trafficking of minors. Sex trafficking in children occurs when persons under the age of 18 are provided or obtained for a commercial sex act. Prior to the passage of the TVPA, this aspect of human trafficking was traditionally dealt with by law enforcement under the label "Commercial Sexual Exploitation of Children" (CSEC), and all states have statutes criminalizing child prostitution. It is a continuing challenge to incorporate long-established child protective services, family court, and anti-CSEC activities and programs into the anti-trafficking effort.

Usually, when people commit crimes, the best the criminal justice system can do is punish the offender and occasionally have him repay the out-of-pocket expenses of the victims. This plea not only does that, but attempts to give the victims future opportunities for treatment, counseling, and even an education.

-Tim Burgess, United States Attorney for the District of Alaska, announcing the plea agreement in *United States v. Boehm* on March 19, 2004.

[52] *United States v. Mubang*, [insert case information].

[53] *United States v. Trisanti*, [insert case information].

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Like other forms of trafficking, child sex trafficking can occur in any community. The TVPA supplemented the Mann Act, which prohibits the interstate transportation of persons for prostitution, by extending federal jurisdiction to situations in which the pimps did not cross a state line with their minor victims. In recent years, the Department has prosecuted cases of child sex trafficking across the nation. In *United States v Boehm*,[54] for example, four persons pled guilty to sex trafficking of children, among other charges. In 2001, Boehm, along with his co-defendants, agreed to distribute cocaine and cocaine base to persons under the age of 21 and to recruit minors for sexual purposes in exchange for money and crack cocaine. All five defendants were sentenced to terms of imprisonment ranging from 3 years to more than 13 years and Boehm, as part of his plea agreement, also forfeited his residence and provided $1.2 million in trust for the future benefit of his victims.[55] The trust fund will compensate Boehm's victims for expenses to drug treatment, counseling and can be used for educational and professional training expenses.

An important vehicle for the Department's efforts to combat child sex trafficking is the Federal Bureau of Investigation's Innocence Lost Initiative. Launched in 2003, the Innocence Lost Initiative is implemented by the Bureau's Violent Crimes and Major Offenders Section, in partnership with CEOS, United States Attorneys' Offices, and the National Center for Missing and Exploited Children (NCMEC) to address the problem of domestic child prostitution in the United States. The Department's Office of Juvenile Justice and Delinquency Prevention has supported NCMEC's training activities in connection with this Initiative with an approximate total of $126,000 since 2004. The Violent Crimes and Major Offenders Section first identified 14 Bureau Field Offices located in areas where there is a high incidence of prostituted children. The Section then asked each of these offices to establish a task force to address the problem through a variety of federal criminal statutes including the Mann Act, TVPA, and RICO,[56] where appropriate, to neutralize the entire criminal enterprise. The Section asked the remaining 42 Bureau Field Offices to assess whether the localities they serve have a substantial child prostitution problem.

Insert map of Initiative Lost Task Force locations

As of September 30, 2005, Innocence Lost Initiative Task Forces have been instituted in Atlantic City, New Jersey; Boston, Massachusetts; Chicago, Illinois; Detroit, Michigan; Harrisburg, Pennsylvania; Houston, Texas; Indianapolis, Indiana; Los Angeles, California; Miami, Florida; Tampa, Florida; Toledo, Ohio; Portland, Oregon; San Francisco, California; and Washington, D.C. In connection with this initiative, federal law enforcement agencies, prosecutors, and social service providers from were brought to NCMEC's Washington, D.C.-area offices, where the

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54 *United States v. Boehm*, [insert case information].

55 *Id.*

56 RICO, 18 U.S.C. § 1961, *et seq*.

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groups from the same jurisdiction were trained together in order to cultivate cooperation, partnership, and an effective integration among the critical enforcement entities in each city. To date, more than 350 key personnel have been trained. As a result of the Department's substantial investigatory efforts through this Initiative, CEOS has seen a marked increase in the number of requests from both Assistant United States Attorneys and Bureau agents in the field for advice, guidance, and co-counsel on child prostitution cases.

More importantly, on December 16, 2005, Attorney General Alberto R. Gonzales announced that more than 30 child victims were recently identified in connection with the latest phase of Innocence Lost, bringing the total of child victims identified to more than 200 since the Innocence Lost Initiative began. This latest effort resulted in the arrest of 19 individuals. Between 2004 and 2005, the Innocence Lost Initiative has resulted in 139 open investigations, 505 arrests, 60 complaints, 70 indictments, and 67 convictions.

Child sex trafficking may also involve child sex tourism, which occurs when individuals travel to foreign countries to engage in sexual acts with children, who are often the victims of trafficking. As with non-coerced child prostitution, CEOS has taken the leading role in overseeing the development of anti-sex tourism policies and resulting prosecutions. United States Attorneys' Offices nationwide, with guidance or co-counsel assistance from CEOS, have obtained at least 50 sex tourism indictments or complaints and a minimum of 29 convictions between 2003 and 2005 under the PROTECT Act, with approximately 60 investigations currently pending.

In 2003, in the first prosecution under the PROTECT Act, Michael Clark, who had been arrested in Cambodia for sexually abusing two Cambodian boys (ages 10 and 13), was charged with attempting to engage in illicit sexual conduct after travel in foreign commerce. Clark pled guilty to the charges and was sentenced to 8 years of imprisonment. In connection with his plea, Clark reserved the right to appeal the constitutionality of the PROTECT Act, arguing that Congress exceeded its power to enact criminal laws that do not involve interstate commerce and that criminalizing activities in a foreign country violate his right to due process and international law. Clarks' appeal is currently pending before the Ninth Circuit Court of Appeals.[57]

Also in 2003, in *United States v. Russell,*[58] an American man was prosecuted when an investigation revealed that he had traveled to the Philippines on numerous occasions over a two-year period in order to engage in sexual acts with children and to produce child pornography for the purpose of importation into the United States. At least three Philippine children have been identified as victims of Russell, who pled guilty and was sentenced to more than 3 years of imprisonment.

D. Inter-Agency Coordination

Implementation of the President's directive to combat human trafficking requires meaningful

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[57] *United States v. Clark,* 315 F. Supp. 2d 1127 (W.D. Wash. 2004).

[58] *United States v. Russell*, [insert case information].

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inter-agency coordination. Much of the coordination has been accomplished through the President's Inter-Agency Task Force to Monitor and Combat Trafficking in Persons, and subsequently the Senior Policy Operating Group, discussed above. In connection with these efforts, the Department has engaged with other federal agencies to create additional vehicles of inter-agency coordination.

The most significant achievement in this regard is the Department's support of the Human Smuggling and Trafficking Center, administered by the Department of Homeland Security and led by a steering committee comprised of representatives from the Department, including the Federal Bureau of Investigation, and the Department of Homeland Security. The Center provides a mechanism to bring together federal agency representatives from policy, law enforcement, intelligence, and diplomatic areas to work together on a full-time basis to achieve increased effectiveness among federal law enforcement and to convert intelligence about human trafficking, alien smuggling, and clandestine terrorist travel into effective law enforcement activities. Analysts accomplish this function by identifying issues related to migrant smuggling or trafficking in persons and then forward their findings to the relevant federal agencies or interagency organizations for consideration and appropriate action. The Center has been under development since mid-2004 and shortly thereafter started initial operations. It is poised to become fully functional in the very near future.

In addition, the Department in July 2004 entered into a Memorandum of Understanding with the Department of Homeland Security and the Department of Health and Human Services streamlining protocols for the Health and Human Services ("HHS") certification of victims (or in the case of minors, eligibility letters) rescued in connection with Department of Justice or Homeland Security law enforcement efforts. A determination by HHS that victims have suffered a "severe form of trafficking" enables these individuals to qualify for federally funded or administered benefits and services to the same extent as refugees.[59] The agreement also marked an important step towards the coordination of treatment of potential trafficking victims by agents of the Departments of Homeland Security and Justice through better information sharing. It is important to note that at least 30% of the investigations filed by the Department since 2001 were initiated by agents of the Bureau of Immigration and Customs Enforcement.

E. Coordination Within the Department of Justice

The Department's anti-trafficking investigative and prosecution strategy requires effective intra-agency collaboration to bring the specialties of each component to bear on these multi-faceted, complex, and labor-intensive criminal cases. The following components are important contributors to the Department's activities in support of the President's directive to combat human trafficking:

- The Civil Rights Division, particularly its Criminal Section
- The Criminal Division, particularly its Asset Forfeiture and Money Laundering Section,

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[59] TVPA, 22 U.S.C. §§ 7105(b)(1)(A), (B), and (E).

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Child Exploitation and Obscenity Section, Domestic Security Section, International Criminal Investigative Training and Assistance Program, Office of International Affairs, Office of Overseas Prosecutorial Development, Assistance and Training, and Organized Crime and Racketeering Section

- The Executive Office of United States Attorneys and United States Attorneys' Offices nationwide
- The Federal Bureau of Investigation, and its Field Offices
- The Office of Community Oriented Policing Services
- The Office of Justice Programs, particularly its Bureau of Justice Assistance, Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and Office for Victims of Crime
- The Office of Legal Policy
- The Office of Legislative Affairs
- The Office on Violence Against Women

Representatives from the Civil Rights Division, the Criminal Division, and the Federal Bureau of Investigation meet periodically to share information and to identify ways to leverage resources to identify and combat trafficking in persons, among other criminal activity. In addition, the Office of Legal Policy convenes regular meetings of Department of Justice components to coordinate the development of policies regarding the Department's anti-human trafficking activities. The Criminal Section of the Civil Rights Division, in early 2003, authored a comprehensive legal monograph on trafficking issues to assist United States Attorney personnel in the field to prosecute trafficking cases more effectively. The monograph has been distributed at the Department's training center, the National Advocacy Center, at human trafficking training workshops.

Both the Civil Rights Division and CEOS publish newsletters that provide valuable information regarding human trafficking prosecutions, case analysis, and developments that are important to the work of other Departmental components and the non-governmental organizations that advocate on behalf of trafficking victims. The Civil Rights Division provides investigators, prosecutors, and victim assistance professionals with technical assistance regarding human trafficking and keeps the field of trafficking victim advocates informed about the Division's efforts to prevent and prosecute this crime. And, since 2003, the quarterly CEOS newsletter has discussed issues of sex tourism and trafficking in all but two editions.

From the time that the TVPA was enacted, the Department recognized that alien smuggling, document fraud, and various forms of human trafficking, while constituting separate offenses, can be integrally related, as discussed above.[60] The trafficking of victims across international borders virtually always involves alien smuggling, also possibly including some type of fraud or misrepresentation. Perhaps the most direct manifestation of cooperation between the Civil Rights and Criminal Divisions is that in 2002 the Civil Rights Division detailed several experienced attorneys to the Criminal Division's Alien Smuggling Task Force for a three-year period. Over

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[60] *See*, Part I "An Introduction to Human Trafficking."

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the past three years, Civil Rights prosecutors have targeted the criminal infrastructure that makes international trafficking possible. Examples include successful prosecutions involving the fraudulent adoption of Cambodian babies, the sexual exploitation of Estonian women employed in massage parlors, and large-scale fraudulent leasing of foreign workers to major U.S. companies. The three-year details, which recently ended, demonstrate the concrete, effective results that can be obtained through innovative approaches to anti-trafficking cooperation.

The Department has taken a number of steps to ensure that its components are well trained in the Department's strategy of victim-centered, proactive investigations:

- In October 2002, the Civil Rights Division organized comprehensive anti-trafficking training for federal prosecutors and agents at the Department's training facility, the National Advocacy Center, in Columbia, South Carolina. Approximately 150 federal prosecutors and agents attended the training.

- In November 2002 the Attorney General issued "blue sheets" for prosecutors, outlining the new TVPA crimes and adding guidance regarding the prosecution of such crimes to the U.S. Attorneys' Manual. The "blue sheets" highlight human trafficking as a priority and provide a comprehensive source of information and resources within the Department and with related agencies.

- In fiscal year 2003, the Civil Rights Division provided periodic training at the Federal Bureau of Investigation training center in Quantico, Virginia for Bureau and Immigration and Customs Enforcement agents.

- In January 2004, the Civil Rights Division and the Executive Office of United States Attorneys' Office of Legal Education hosted a comprehensive training session for federal agents and prosecutors at the Department's National Advocacy Center. Furthermore, the Civil Rights Division actively participates in human trafficking training sessions at United States Attorneys' Offices as part of the regular curriculum offered to Federal Bureau of Investigation, Department of Homeland Security Bureau of Immigration and Customs Enforcement, and Department of State Diplomatic Security Service agents.

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VI. The Department's Collateral Attack on Human Traffickers

A. Multi-Disciplinary Task Force Initiative

The Department has designed, developed, and instituted locally based, multi-disciplinary task forces to investigate and prosecute human trafficking cases. These task forces embody the Department's victim-centered approach because they are specifically engineered to aid in uncovering victims, providing them with immediate protection and support, and then working with them to further investigate and prosecute the trafficker.

In July 2004, the Department hosted the first ever National Training Conference on Human Trafficking: *Rescuing Women and Children From Slavery*, in Tampa, Florida. The National Conference was designed to introduce the model of victim-centered investigations and the concept of human trafficking prosecutions through the creation of local task forces. Hosted by the Department and with a keynote speech by President Bush, the conference brought together more than 500 attendees, consisting of 21 teams of about 20 state, local, and federal officials who were willing to thereafter work together to combat human trafficking in their respective communities across America. Teams included the following members: United States Attorneys or designated Assistant United States Attorneys; Bureau of Immigration and Customs Enforcement Special Agents-In-Charge; Federal Bureau of Investigation Special Agents-In-Charge; local law enforcement agency special crimes and victim units; state and local prosecutors; and governmental and non-governmental organizations, especially faith and community-based victim service providers. The Department invited teams from the following jurisdictions that the Civil Rights Division identified as the most intense trafficking jurisdictions in the country at that time: Atlanta, Charlotte, Chicago, El Paso, Houston, Las Vegas, Long Island, Los Angeles, Miami, Newark, New Orleans, New York City, Washington, D.C., Philadelphia, Phoenix, Richmond, San Diego, San Francisco, St. Louis, Seattle, and Tampa.

President Bush, along with then-Attorney General John Ashcroft, announced this important new initiative on July 16, 2004 at the Department's National Conference on Human Trafficking, where the President condemned human trafficking as an affront to America's fundamental values and committed his Administration to combating trafficking on every level at home and abroad. Regarding domestic efforts to combat trafficking, the President remarked, "*We're supporting organizations that rescue the victims, passing stronger anti-trafficking laws, and warning travelers that they will be held to account for supporting this modern form of slavery. Women and children should never be exploited for pleasure or greed, anywhere on Earth*."

Then-Attorney General John Ashcroft set forth the Department's comprehensive anti-trafficking strategy: protecting the victims, prosecuting the perpetrators, and partnership-building that addresses, attacks, and prevents human trafficking. The Attorney General also noted that the Bush Administration had, up to that time, provided more than $35 million in funding to community-based service providers that aid trafficking victims, and he announced a further $14 million in support of the Department's task force initiative. Concurrently with the National Conference, the Department issued a funding solicitation, entitled *Law Enforcement and Service Provider Multi-disciplinary Anti-Trafficking Task Forces*. The solicitation urged applicants to

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leverage existing federally-funded victim services efforts and to mirror the victim-focused federal, state, and non-governmental partnership that was the theme of the Conference. In the fall of 2004, the Bureau of Justice Assistance and the Office for Victims of Crime issued a joint solicitation for concept papers to continue the coordinated law enforcement task forces and victim services initiatives. Federal funds made available through this solicitation were intended to support task forces or supplemental funding of current trafficking victim service providers in areas with pre-existing Bureau of Justice Assistance-funded task forces.

"The conference program provided a model of collaboration among service providers and law enforcement and underscored the necessity of teamwork in working to keep victims of trafficking front and center in both the prosecution and service delivery areas-it was a great kick off for the task force initiative."

-Florrie Burke, Senior Director of International Programs, Anti-Trafficking Program, SOLACE Program for Survivors of Torture

Task forces add to the Department's law enforcement resources the intelligence and expertise of locally-based immigration agents, local community- and faith-based social service providers, and local law enforcement, particularly special crimes and vice squads. These task forces recognize that local authorities, often more than federal officials, may be in the best position to find trafficking victims because of their familiarity with their jurisdictions, but might need the training and support of the federal government to recognize this crime for what it is. The Department has too often seen in federal investigations police reports indicating that local officers responded to complaints but failed to stop the ongoing exploitation of trafficking victims simply because they were not trained to recognize trafficking situations. The task force approach leverages local knowledge and staff resources with strong federal statutes. Indeed, victims rescued in *United States v. Reddy*,[61] *United States v. Molina,*[62] and *United States v. Ramos*[63] were brought to the Department's attention through the activities of state and local law enforcement. Moreover, they

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[61] *See*, Part I "An Introduction to Human Trafficking" above for a discussion about *United States v. Reddy*.

[62] *See,* Part V "Halting Human Trafficking with a Record Number of Aggressive Investigations and Prosecutions," section B "Labor Trafficking" above for a discussion about *United State v. Molina*.

[63] *See,* Part V "Halting Human Trafficking with a Record Number of Aggressive Investigations and Prosecutions," section B "Labor Trafficking" above for a discussion about *United State v. Ramos*.

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serve as a way to incorporate the non-governmental crime victim services organizations, funded by federal grant awards, into the law enforcement activities in their area. Local community- and faith-based organizations are essential to reaching those victims in communities that are isolated by geography, culture, or language.

The task force convened by the United States Attorney's Office for the Northern District of Texas presents an illustration. In 2004, the United States Attorney for the Northern District of Texas established a working group consisting of representatives from the police departments of the Dallas-Fort Worth area, including Arlington, Coppell, Garland, Grant, Prarie, Irving, and Richardson, and representatives from the Federal Bureau of Investigation, Bureau of Immigration and Customs Enforcement, Internal Revenue Service, and Department of Labor. The group's faith and community-based partners include several charitable organizations such as Catholic Charities and Mosaic Family Services, Inc., which received a grant from the Department of provide victim services and to assist with the formation and implementation of this program.

Just prior to the conference, the Department had begun work on eight task forces. Immediately following the National Conference, the Department embarked on a 20-city training initiative designed to reinforce the training received at the National Conference and to institute nearly two dozen task forces. Within a year of the National Conference, 18 task forces were operating with Departmental support. There are now 32 task forces.

Insert graphic of the United States depicting the location of the 32 jurisdictions with task forces.

Each of the 32 task forces, funded in part through $13 million in grants from the Department's Bureau of Justice Assistance and the Office for Victims of Crime since fiscal year 2004, is coordinated through the local United States Attorney's Office and includes representatives of local FBI field offices and Bureau of Immigration and Customs Enforcement as well state and local law enforcement and social services agencies. In order to receive Department of Justice funding support and the assistance of the local United States Attorney, local law enforcement agencies and victim service providers are required to enter into a Memorandum of Understanding with all task force members committing themselves to collaborating together on investigations and assistance to victims. Applicants were invited to design task forces that best suited the needs of their local communities, and many task forces involve faith-based and other community organizations in their work. At their core, task forces include the local United States Attorney's Office; Federal Bureau of Investigation Field Offices; Immigration and Customs Enforcement agents; state and local law enforcement agencies; and social services agencies, including community-based victim services providers. As of June 2005, with reporting based only on the first six months of operation by the 18 task forces that existed at that time, 61 victims of severe trafficking had been identified and many more victims were rescued from environments where trafficking was occurring.

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The Houston (Harris County, Texas) trafficking task force provides a meaningful illustration of the work and potential of the Department's multi-disciplinary task forces. In 2004, concerned that trafficking might fall into the cracks between civil rights and organized crime enforcement programs, the United States Attorney's Office for the Southern District of Texas formed the Human Trafficking Rescue Alliance with the Federal Bureau of Investigation, Bureau of Immigration and Customs Enforcement, Harris County Sheriff's Department, and a number of non-governmental organizations who had recently come together on the issue. The Rescue Alliance began with listening sessions of the stakeholders and moved to joint training for law enforcement and other community groups. Rescue Alliance members attended the Department's National Training Conference on Human Trafficking in Florida in July 2004, and pledged themselves to work together to combat trafficking. When the Bureau of Justice Assistance called for grant proposals, the working group was ready with a task force proposal that built upon and solidified their relationships. As the profile of this issue has grown, so has the demand for training on the part of state and local law enforcement, and the most recent training opportunity sponsored by this task force in November 2005 drew more than 300 participants. The United States Attorney's Office worked closely with the Civil Rights Division on training and task force development. As a result, they were able to transition seamlessly into jointly prosecuting cases when they arose. The regular meetings of the Rescue Alliance have solidified the relationship of the law enforcement participants with the Office for Victims of Crime and Health and Human Services victim-services grantees such as the YMCA of Houston and Catholic Charities.

Insert image of Houston Chronicle Article,
8/14/04 regarding creation of task force

One
novel
aspect
of the Rescue Alliance has been to place Harris County Sheriff's Deputies with vice-squad experience in Federal Bureau of Investigation and Immigration and Customs Enforcement Field Offices on the squads tasked with trafficking investigations. Especially in the Federal Bureau of Investigation office, having a full-time investigator with extensive knowledge of the local landscape was invaluable, and his activities served as a catalyst for the other agents on the task force to work pro-actively to identify and dismantle trafficking rings. The inclusion of agents from the Texas Alcohol and Beverage Commission has proven instrumental in the success of the Rescue Alliance.

As a result of operations by the Rescue Alliance, two large-scale trafficking operations resulted

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in federal human trafficking indictments in the Houston area in the fall of 2005 -- one involving allegations of Mexican women and girls forced into prostitution and another involving allegations that dozens of Central American women and girls were held in peonage in a "bargirl" operation. These prosecutions, which are pending at the time of this report,[64] could not have happened without the interagency approach and close cooperation with non-governmental service providers and advocacy groups that was fostered and intensified through the Bureau of Justice Assistance grant. The Rescue Alliance is an example of an energized and successful task force effort that successfully blends state, local, and federal personnel, across traditional organized crime and civil rights approaches, to work with the non-governmental community to act in the best interests of the victim while seeking justice.

The Bureau of Justice Assistance, in collaboration with other federal partners, provides ongoing training and technical assistance to task forces. In 2005, the Bureau of Justice Assistance, in collaboration with the Civil Rights Division, the Office for Victims of Crime, and other experts, developed a specific training curriculum for law enforcement officers nationwide who may come into contact with trafficking victims, entitled *Human Trafficking in the United States, Promoting Law Enforcement Awareness*. The curriculum is a flexible, one-day training course educating law enforcement officers about the basics of the phenomenon of human trafficking and a victim-centered approach to proactive investigation of potential cases. The curriculum provides an introduction to human trafficking, its victims, and offenders; a legal overview with a focus on the TVPA; investigative considerations and techniques; an overview of the role of victim service providers; the need for victim services and the types of services available; and immigration matters, including the role of immigration officials and remedies available to victims. The training program also reviews lessons on understanding the need for a formal multi-disciplinary approach towards human trafficking and an understanding of the important role of the community in law enforcement efforts. The training curriculum is unique in that it incorporates multimedia learning and each participant is provided with multimedia resources to be used in training other officers and building greater community awareness and support. The course is taught by seasoned investigators who have handled trafficking cases as well as national experts on trafficking issues.

In February 2005, the Bureau of Justice Assistance convened a conference of the 22 nascent task forces that had been instituted by that time. More than 115 individuals attended. Federal participants in the conference included representatives from within the Department as well the Departments of Homeland Security and Health and Human Services. The focus of the conference was to explain the degree of collaboration needed among federal, state, and local law enforcement, prosecution, and victim services agencies in order to effectively rescue victims and prosecute traffickers. Task force members

> The Human Trafficking Task Forces are just the approach we need to combat human trafficking. With all of us working as a team we will be more effective in this endeavor than we would be if we tried to combat human trafficking individually.
>
> – Lt. Bill Rule, Collier County Sheriff's Office, Victim Services Bureau

[64] An indictment contains only charges and is not evidence of guilt. The defendants in these and any other cases cited in this report in which convictions have not been obtained are presumed innocent and are entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

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were trained using the *Human Trafficking in the United States, Promoting Law Enforcement Awareness* curriculum, described above. Future cross-training of task force members will enable the Department to build on that effort by sharing best practices and linking the groups' efforts across geographical lines.

B. Restoring Victims' Dignity

As discussed above[65], the Department places a premium on the recovery of trafficking victims. Federal investigators and prosecutors will therefore immediately refer a victim to victim service professionals for immediate care. In many cases, the referral process and the provision of services is expedited through relationships already established by task force partners. Some task forces have created innovative ways to connect victims identified through law enforcement activity with services. The United States Attorney's Office for the Middle District of Florida, for example, developed a compendium of victim service providers for use by task force members in Fort Myers, Jacksonville, and Tampa. The task force in Indianapolis, Indiana, coordinated through the United States Attorney's Office for the District of Indiana, has as partner the Indianapolis Family Justice Center. The Family Justice Center, created in connection with President Bush's Family Justice Initiative, a program that is administered by the Office on Violence Against Women, co-locates services to families involved in domestic violence. Making this Center the coordinator of services to victims of human trafficking makes the response to victims more efficient and effective.

Once potential cases of trafficking are uncovered, victims may become eligible for important services that help to keep them safe as they recover from their victimization. Trafficking victims, like all crime victims, may be eligible for services and benefits under the Victims of Crime Act, a program administered by the Office for Victims of Crime.[66] The TVPA, as amended, created new protections for alien victims.[67] Under the TVPA, victims are afforded:

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[65] *See*, Part III "The Department Responds to this Crime with a Victim-Centered Approach."

[66] The Crime Victims Fund, established by the Victims of Crime Act of 1984 (VOCA), is a major source of funding for victim services throughout the nation. The Office for Victims of Crime administers the Fund and distributes funding to the states on a formula basis to support crime victim assistance and crime victim compensation programs. Victim assistance includes lifeline victim services such as crisis intervention, emergency shelter and transportation, counseling, and criminal justice system advocacy. Crime victim compensation is a direct reimbursement to or on behalf of a crime victim for expenses such as medical costs. Trafficking victims may be eligible for support under the Crime Victims Fund, the TVPA, or both of these programs, depending on the circumstances of their cases and, in the case of the Crime Victims Fund, the specific guidelines of the state agency that administers the program.

[67] TVPA, Pub. L. No. 106-386 § 107(b)(1) (codified at 22 U.S.C. § 7105(b)(1)).

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- Immigration relief, in the form of an administrative change in immigration status known as "continued presence" as well as a temporary, non-immigrant visa known as the "T visa;"
- Access to refugee benefits;
- Adequate shelter, care, and protection;
- Legal assistance;
- Information & translation services; and
- Mandatory restitution.[68]

The TVPA authorizes similar victim services programs to be administered by the Department of Health and Human Services, thus requiring a significant amount of coordination between the Office for Victims of Crime and the Department of Health and Human Services. In 2004, the Office for Victims of Crime initiated regular coordination meetings with the Office of Refugee Resettlement, its counterpart agency at HHS, known as the Human Trafficking Victim Services Coordination Working Group. This coordination is specifically intended to avoid any duplication in services to trafficking victims as both HHS and the Office for Victims crime may fund grantees that provide services to pre-certified victims. Consequently, grantees funded by the Office for Victims of Crime under the TVPA only provide services to victims of trafficking before they are certified as victims of a "severe form of trafficking" by the Department of Health and Human Services.

Insert quote from a victim impact statement

Since fiscal year 2003, the Office for Victims of Crime has funded 20 victim service providers to assist pre-certified victims of trafficking in the United States, one grant to the Headquarters of the Salvation Army to work with their territorial divisions to provide shelter to trafficking victims, and one grant to an organization provide technical assistance. Since January 2003, Office for Victims of Crime-funded grantees have served 741 pre-certified trafficking victims. The Department, in cooperation with other law enforcement agencies, have assisted 687 victims to obtain continued presence immigration status, allowing them to remain in the country and to receive benefits and services.

The period between being rescued and receiving certification is the time when victims are most vulnerable and typically have a host of needs that includes housing, clothing, and food; medical, dental, and psychological care; legal assistance and immigration advocacy; and interpretation services. However, few organizations or communities have the resources to provide or fund these services. The Office for Victims of Crime grant program helps communities fill this critical service gap and, in the process, supports victims' abilities to cooperate with law enforcement. Immigrant victims are offered culturally and linguistically appropriate services and may, if needed, petition for T visas that would allow them to remain in the United States legally. Some organizations are specifically prepared to provide immediate, critical assistance in crisis situations until the services of a local victim service provider can be put in place.

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[68] *Id.*

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The Office for Victims of Crime supports the work of the victim service providers it funds with technical assistance that is made available through workshops, on-site consultation, and via the internet. Training and technical assistance includes mentoring guides and safety protocols for both providers and clients. Grantees also provide training to local police and non-governmental organizations. Since fiscal year 2003, approximately 38,635 persons have been trained through the efforts of Office for Victims of Crime grantees. Training topics have included the dynamics of trafficking, the legal definition of trafficking under the TVPA, legal rights and services for trafficking victims, and cultural considerations in serving these victims. More important, the Office for Victims of Crime and the National Institute of Justice are studying effective approaches to victim service delivery and plan to publish an evaluation of field-tested services in 2006.

In addition to the work of the Office for Victims of Crime, the Office on Violence Against Women has, since 2001, funded more than $700,000 for technical assistance projects that assist Office on Violence Against Women grantees in providing services to trafficking victims. For example, Legal Momentum's Immigrant Women Program provides technical assistance to Office on Violence Against Women grantees to foster their ability to serve immigrant victims of domestic violence, sexual assault, and stalking. Because trafficking victims may seek services from Office on Violence Against Women grantees if they have also been a victim of domestic violence, sexual assault, or stalking, the Immigrant Women Program training workshops educate grantees about the availability of T- and U-visas, identifying whether a victim has been trafficked, barriers faced by trafficking victims who seek services, and conducting outreach to potential victims of trafficking. In addition, Legal Momentum has developed a nationwide directory of experts working with immigrant victims of domestic violence, sexual assault and stalking, which may be of use to trafficking victims who are also victims of these crimes. Nearly 950 attorneys and advocates have attended these workshops and another 150 will be trained within the next year. Another example is the Family Violence Prevention Fund, which used Office on Violence Against Women funding in 2003 to establish a project aimed at improving collaborative responses to trafficked victims of domestic violence and sexual assault. The main goal of the project was to build multi-disciplinary collaborations between service providers and law enforcement to effectively and appropriately assist trafficking victims in Georgia and Washington. Plans are underway to expand the project into Alaska.

C. Public Awareness Supports Pro-Active Investigations

Public awareness is essential to proactive investigations that uncover victims. In fact, the prosecutions in *United States v. Kil Soo Lee*[69], which resulted in the single largest rescue of

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[69] In this case, the Korean owner of a sweatshop in American Samoa held 200 Vietnamese and Chinese factory workers, who were brought to American Samoa to work as sewing machine operators in the Daewoosa Samoa garment factory in involuntary servitude. The workers were deprived of food, beaten, and physically restrained in order to force them to work for up to two years. Lee was convicted in 2001, and in June 2005 he was sentenced to 40 years in prison.

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trafficking victims in the Department's history, and *United States v. Soto*[70] were brought to the attention of federal law enforcement through referrals by non-governmental organizations that work with populations at risk for trafficking. The Department works to motivate communities, especially anti-human trafficking task forces, to increase awareness among law enforcement, various government inspectors (especially health code, wage and hour, and occupational safety and health agents), hospitals and other medical providers, social services agencies, and community- and faith-based organizations.

Increased outreach and public awareness is critical to the investigation and prosecution of human trafficking cases. Since 2003, the Department has made available a brochure describing its processes and resources to assist non-governmental organizations in dealing with trafficking victims and the Department in a more efficient way. Through outreach, America's communities – particularly immigrant communities – are better educated about this crime and how to report possible cases. Moreover, increased public awareness about this crime and the benefits available to its victims can eliminate important aspects of the leverage that traffickers hold over their victims.

As a result, all components speak publicly about trafficking and the Department's activities to combat this crime to state, local, and foreign legislators, law enforcement officers, prosecutors, and non-governmental victim advocacy and services organizations. The Civil Rights Division, for example, has delivered more than 200 presentations around the nation since fiscal year 2001. Office for Victims of Crime grants to 21 human trafficking victim service providers under the TVPA include funding to increase public awareness in the communities they serve. Civil Rights Division representatives continuously emphasize the important role that faith and community-based organizations can play. Because of their proximity to the communities they serve, they can provide immense intelligence about potential criminal enterprises and trafficking victims, provide immediate, crisis care, and long term programs that help to prevent further victimization. The Federal Bureau of Investigation Civil Rights Unit has appeared on national television and local radio programs which highlight, define, and expose trafficking to the general public, including CNBC, Donny Deutche's The Big Idea, and WMAL AM 630's "Danger Zone" with Richard Carlson, a Washington, D.C.-area radio program. The Civil Rights Unit has also provided human trafficking-related training presentations at various non-governmental conferences, such as the International Association of Labor Standards Annual Conference in

"We must make it as easy as possible for these victims to know that aid and comfort have arrived. The Catholic Coalition to Combat Trafficking...also conducts public outreach and advocates on behalf of victims.... I will also ask our pastors to communicate the goals of this campaign to every active religious and layperson.... There should be no zones where this mission of love and redemption does not reach."

-Archbishop John J. Myers, Archdiocese of Newark, at the National Training Conference on Human Trafficking, July 16, 2004.

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[70] *See,* Part V "Halting Human Trafficking with a Record Number of Aggressive Investigations and Prosecutions," section B "Labor Trafficking" above for a discussion about *United States v. Soto.*

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Memphis, Tennessee, and the National Organization of Women's Annual Conference in Los Angeles, California.

United States Attorneys' Offices are also involved in providing outreach and education about human trafficking within their districts. The United States Attorney's Office for the Southern District of California, for example, has hosted five conferences on human trafficking since October 2001. Each of these conferences have provided training about applicable statutes and resources available for victims, including contact information for potential victims, to local law enforcement and non-governmental organizations serving trafficking victims. These conferences have resulted in long-standing relationships between federal prosecutors and law enforcement, state and local police, and numerous local service-providers, such as the Bilateral Safety Corridor Coalition. Another example is the efforts of the United States Attorney's Office for the District of Connecticut, which convened a meeting in May 2004 of federal and state agencies to determine why human trafficking cases has not been prosecuted in this jurisdiction. By September 2004, this office convened a training conference intended to educate federal, state, and local law enforcement and victim service providers about human trafficking and how to identify resources, including federal grant opportunities. The result of these efforts has been the creation of an anti-human trafficking task force that includes the Connecticut State Police, Federal Bureau of Investigation, Immigration and Customs Enforcement, Social Security Administration, State Department's Diplomatic Security Service, and United States Coast Guard as well as non-governmental organizations serving trafficking victims.

CEOS participated in a joint project to develop a brochure and posters designed to curb child sex tourism. Its partners include the Department of Homeland Security's Bureau of Immigration and Customs Enforcement; the Department of State's Office to Monitor and Combat Trafficking in Persons; and a number of non-governmental organizations, such as the National Center for Missing and Exploited Children, End Child Prostitution, Child Pornography and the Sexual Exploitation of Children, World Vision, and Rape, Abuse, & Incest National Network. The proposed brochure and poster are intended to be widely distributed both within the United States as well as abroad in an effort to combat the problem. The section is also actively engaged in promoting the Department's strategy of multi-disciplinary cooperation that emphasizes the victim-centered approach to combating domestic child prostitution with non-governmental organizations such as the United States Conference of Catholic Bishops.

The victims of sex trade see little of life before they see the very worst of life -- an underground of brutality and lonely fear. Those who create these victims and profit from their suffering must be severely punished. Those who patronize this industry debase themselves and deepen the misery of others. And governments that tolerate this trade are tolerating a form of slavery.

–President George W. Bush, speaking to the United Nation's General Assembly, September 23, 2003

D. Promoting Foreign Criminalization and Prosecution of Human Trafficking

As discussed above,[71] the President has directed federal agencies to use all diplomatic and foreign assistance tools in the nation's effort to abolish

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human trafficking. The Department has had an important role in advancing this directive. The Department's primary goal in this regard is to promote the efforts of foreign governments to criminalize human trafficking and to enhance their capacity to investigate and prosecute these crimes.

In September 2003, in an address to the United Nations General Assembly, President Bush announced a $50 million international initiative to combat human trafficking. This initiative will increase the capacity of several source and destination countries to combat trafficking. Specifically, the President's initiative aims to replicate our victim-centered prosecutions through multi-disciplinary task forces and increased outreach in Cambodia, India, Indonesia, Mexico, Moldova, and Tanzania.

The Department has been actively involved in the design, development, and implementation of this initiative. Working primarily through the Civil Rights Division, the Department coordinated with the Departments of Health and Human Services, Labor, and State, as well as the United States Agency for International Development, to develop the capacity of foreign governments to investigate and prosecute human trafficking cases, and to develop partnerships with non-governmental organizations to prevent the vulnerable from becoming victims through outreach and education as well as to protect and rehabilitate victims. The inter-agency working group found the lessons learned by the Civil Rights Division in its prosecution of trafficking cases and its organization of trafficking task forces a valuable model for the implementation of the President's international initiative. The objective of the initiative thus became the institution of multi-disciplinary efforts to combat human trafficking in particular geographic regions. In practice, this would mean that programs to promote awareness raising, victim shelters, and police and prosecutor training would be established and supported in a collaborative effort by each of the participating federal agencies. The Department designs country assessments to help the United States Government better understand the nature of the trafficking problem in a particular area and to inventory what efforts were currently underway.

Foreign Country
Human Trafficking Assessments By the Department of Justice

- What is the current statutory framework;
- What is the capacity of police to investigate trafficking offenses;
- What is the level of prosecutorial skill and interest in trafficking victims;
- What is the current state of services for victim shelter and restoration by both governmental and non-governmental organizations;
- What is the current level of cooperation between prospective anti trafficking team members, and;
- What is the level of political will and interest among those government officials who would be the implementers of the plan.

The first task is to gain a foundational understanding of human trafficking within the host country by answering such questions as: Who are the victims and where do they come from? What kind of coercion is used to control the victims? What are the historical and cultural factors that

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[71] *See*, Part II "An Administration Priority."

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The first task is to gain a foundational understanding of human trafficking within the host country by answering such questions as: Who are the victims and where do they come from? What kind of coercion is used to control the victims? What are the historical and cultural factors that influence trafficking or the response to it? Is there trafficking of minors into sexual exploitation? what industries tend to have labor trafficking? Next, the Department's trafficking experts design a matrix of the necessary tools that would be required to rescue particular victims, place them into restorative care, and hold perpetrators accountable.

Once the assessment is completed, the United States Government, through the local United States Embassy, and the host government enter into a Letter of Agreement (LOA) that states the roles and responsibilities of both parties and the level of funding to be provided in connection with the President's initiative. Department team members then coordinate with the other federal agencies to deploy training and other capacity building and to assign to the host country personnel from the United States Government to provide expertise and mentoring to those working on the anti-trafficking project. A primary goal of every LOA entered into in connection with the President's initiative is the Department's imperative to rescue victims and hold perpetrators accountable. The President's initiative was designed to place a clear emphasis on results that change lives for victims and their families.

The United States Government's work with the Mexican Government in connection with this initiative presents a useful illustration of the Department's work. Since 2003, the Department's Civil Rights Division, along with Criminal Division's International Criminal Investigative Training and Assistance Program, has been actively conducting country planning sessions in both Mexico and Indonesia, and has detailed a Civil Rights Division attorney to the United States Embassy in Moldova, in connection with the President's international human trafficking initiative. In Mexico, a significant number of senior United States law enforcement specialists met repeatedly over the past year with their counterparts from the Mexican Government before a final Letter of Agreement was signed in mid 2005. As a result, both partners have a clear understanding of how the President's program will be implemented. One significant factor in the United States-Mexico anti-trafficking partnership is the agreement to work together on cases that involve criminal trafficking enterprises that are active on both sides for the border.

The Department's experts have also assisted their counterparts in other countries with assistance in developing a victim-centered response to human trafficking through meetings and training workshops. For example, many foreign governments host their own training in partnership with the United States Embassy. Lasting a week to two weeks, the Department's attorneys and investigators teach critical skills such as evidence gathering, pro-active investigations, and victim interviews. Workshops provide an opportunity to practice skills and learn new law enforcement methods that reflect the lessons Department has learned in investigating and prosecuting these cases. The Department's consistent theme in each of these events is to present the crime of human trafficking as a multi-disciplinary challenge requiring collaboration among governmental and non-governmental agencies. The Department has learned that a critical need in many developing countries is the ability to develop a framework for governmental and non-governmental organizations to collaborate, particularly as it concerns the protection of victims

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and programs to prevent further victimization.

Department experts also participate in regional, multilateral consultations between law enforcement executives that promote international cooperation between the country of victim origin and the destination country, such as the Southeast European Cooperative Initiative. Attendees at workshops conducted by the Department are often law enforcement executives who can and do take information and put it into practice. In one recent example, Department lawyers relied upon contacts made through these training sessions, to assist a country in arresting recruiters who held the children of trafficking victims as hostages to prevent the victims from providing evidence to assist in a United States prosecution.

Since fiscal year 2003, the Federal Bureau of Investigation has participated in the Southeast European Cooperative Initiative as the lead observer on human trafficking and has detailed agents to Albania, Bulgaria, and Romania to work on trafficking issues. The Regional Center for Combating Trans-Border Crime in Bucharest, Romania, coordinates southeastern European police and customs regional actions for preventing and combating trans-border crime, including trafficking in persons and migrant smuggling. The following twelve countries are actively involved with the Center: Albania, the Federation of Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Hungary, Macedonia, Moldova, Romania, Serbia and Montenegro, Slovenia and Turkey.

Another important Departmental component in the international arena is the Office of International Affairs of the Criminal Division, which serves as the link between federal, state, and local anti-trafficking efforts and foreign prosecution and judicial authorities. Good working partnerships with foreign governments have been essential to the Department's efforts to combat human trafficking. The Office of International Affairs' most significant contribution to United States Government anti-trafficking efforts has been to assist in gathering evidence from abroad and to assist foreign prosecutors in gathering evidence located in our country. For example, in *United States v. Carreto*,[72] Mexican nationals were accused of recruiting uneducated women and girls from impoverished areas of Mexico and compelling them to prostitute themselves in both Mexico and New York. Carreto's victims were forced to service up to 20 men a day as prostitutes and were beaten if they did not make enough money during a single day or if they attempted to hide the money they made. One victim was also forced to have an abortion.[73] The Office of International Affairs, in collaboration with the United States Attorney's Office for the Southern District of New York, helped secure testimony, as well as documentary and physical evidence, gathered by Mexican authorities in their investigations of the Carretos' transnational operation. Similarly, the Office of International Affairs secured evidence and testimony from Russia in support of a federal prosecution by the United States Attorney's Office for the Eastern District of California of a defendant in California accused of trafficking her niece into the United States and forcing her to be used in prostitution.[74] In another case, the Office of International Affairs assisted a European country investigating a trafficking scheme involving Europe and

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[72] *United States v. Carreto*, [insert case information].

[73] *Id.*

[74] *Id.*

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Eastern Europe. The Department sent to that country evidence obtained pursuant to searches in the United States of locations where the targets were believed to have stored potential evidence of their crimes.

The Office of International Affairs also works to extradite traffickers from foreign nations to the United States or from our country to foreign nations for prosecution. On September 28, YYYY, Mexico provisionally arrested a Mexican national pursued by the United States Attorney's Office for the Southern District of Florida on charges including conspiracy, alien smuggling, and transporting women and minors for purposes of prostitution between August 1996 and February 1998. The victims, who reportedly did not know their fate until they arrived in the United States, were not allowed to leave the brothels until they paid a smuggling fee to the accused, who allegedly took 70% of the prostitution proceeds.

Dismantling transnational human trafficking networks requires a willingness and ability to work closely with our foreign partners in countries where victims are recruited. Consequently, the Civil Rights and Criminal Divisions are actively involved in outreach and providing technical assistance to foreign governments and non-governmental organizations. Since 2002, Civil Rights Division officials have addressed international gatherings convened in countries such as Guatemala, the Dominican Republic, Suriname, China, Indonesia, Cambodia, Thailand, Azerbaijan, Ukraine, Moldova, El Salvador, Mexico, Canada, Hungary, Philippines, Japan, Colombia, India, South Africa, and Brazil to encourage a coordinated response to human trafficking worldwide. These events are attended by foreign law enforcement executives, prosecutors, judges, and non-governmental organizations that advocate on behalf of or provide assistance to trafficking victims.

Insert graphic depicting the rise in the number of OPDAT/ICITAP programs by fiscal year, FY 2001-2005.

The Criminal Division's Office of Overseas Prosecutorial Development, Assistance and Training and its International Criminal Investigative Training and Assistance Program work to build effective partnerships with other law enforcement agencies sharing the goal of eradicating predatory trafficking groups. Between fiscal years 2001 and 2005, these office conducted a total of programs involving 25 countries. Other components of the Department, including the Federal Bureau of Investigation, the Civil Rights Division, and the Office for Victims of Crime, often assist these efforts by providing technical assistance and informational briefings with foreign delegations. Since the passage of the TVPA, Civil Rights Division lawyers have participated in numerous training and outreach programs, speaking at more programs last year and the year before than ever before in countries such as Cambodia, Singapore, Bangkok, Austria, and Mexico.

In addition, some United States Attorney Offices, particularly in connection with their local Task Forces, have been involved in training and educating visitors from foreign governmental and non-governmental organizations about strategies to combat human trafficking. Representatives of the United States Attorney's Office for the Middle District of Florida, for example, along with

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its task force members from the Collier County Sheriff's Office, the Immigrant Rights Advocacy Center, and the Florida State University Center for the Advancement of Human Rights, traveled to Central America in late 2004 to educate governmental leaders about the efforts of their task force to combat human trafficking and provide assistance to its victims. An additional example is that of the United States Attorney's Office for the Western District of Washington, where the Seattle offices of the Bureau of Immigration and Customs Enforcement, the Federal Bureau of Investigation, and the United States Department of Labor's Office of the Inspector General have worked together to share information about efforts to combat human trafficking with officials and visitors from countries such as Brazil, Germany, Mexico, France, Italy, and Spain, and with organizations like the World Affairs Council.

The Department also works with foreign governments to adopt legislation that aids in the investigation and prosecution of traffickers and the protection of victims. Through the Office of Overseas Prosecutorial Development, Assistance and Training, the Department's trafficking experts in the Civil Rights Division, CEOS and United States Attorneys' Offices assist foreign governments with the development and ratification of anti-human trafficking legislation to help ensure that foreign governments adopt laws that are victim-centered and compliant with Palermo Protocol.[75] For example, in fiscal year 2004 alone, Civil Rights Division attorneys and its victim-witness coordinator have conducted training sessions and have assisted in drafting trafficking legislation in Asia, Africa, Europe, the Caribbean, North America, and South America, in coordination with the Office of Overseas Prosecutorial Development, Assistance and Training. These training sessions emphasize the Department's experience in investigating and prosecuting these cases, collecting evidence, and keeping the victim safe. In fiscal year 2004, the Office of Overseas Prosecutorial Development, Assistance and Training and the International Criminal Investigative Training and Assistance Program assisted 7 foreign nations with legislation that directly or indirectly furthered anti-human trafficking efforts in fiscal year 2004.

The Office of Overseas Prosecutorial Development, Assistance and Training provides substantial technical assistance based on a victim-centered strategy known commonly as the "Three Ps of Trafficking in Persons: Prevention, Protection and Prosecution." Technical assistance by this office includes educating and developing joint projects with foreign law enforcement officials geared to strengthening their capacity to prevent transnational trafficking; protect victim witnesses and thereby encourage their participation in investigations and prosecutions; and effectively investigate and prosecute trafficking cases. This office also works with host countries on developing evidence collection techniques which can generate evidence usable in prosecutions – either here in the United States or in a foreign country.

The Federal Bureau of Investigation, working through the Office of Overseas Prosecutorial Development, Assistance and Training, has provided training programs in Suriname and Ghana. In fiscal year 2004, the FBI trained 50 international visitors, including officials from Australia,

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[75] Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, Dec. 3, 2005.

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India, Pakistan, South Africa, Haiti, and England. In addition, the Bureau's Civil Rights and the Asian Criminal Enterprise and Crimes Against Children Units conducted a training session at the British Embassy in January 2005 during a program jointly sponsored by the British Embassy and Women in Federal Law Enforcement.

Insert Graphic of Globe Showing international efforts

Another component of the President's international human trafficking program are activities to prevent victimization. An important step towards prevention is the Department's efforts to increase international public awareness about human trafficking. Raising the visibility of human trafficking and the efforts of the United States government to combat it encourages foreign governments to take victim-centered action to prevent, uncover, and prosecute cases of human trafficking. International public awareness is increased through activities of the Civil Rights Division, the Federal Bureau of Investigation, the Office of Justice Programs, the Office on Violence Against Women, and United States Attorneys' Office working through the Office of Overseas Prosecutorial Development, Assistance and Training and the International Criminal Investigative Training and Assistance Program, in connection with briefings for foreign delegations and training programs. These training programs provide foreign parties – law enforcement officials, prosecutors, legislators, and non-governmental organizations – with information about the strategies the Department has employed to combat trafficking. Federal investigators and prosecutors, mostly Civil Rights Division attorneys, share lessons learned in prosecuting these cases, building local multi-disciplinary task forces, and providing services and protection for victims.

In addition, to the Department's efforts concerning human trafficking, CEOS has trained attorneys and investigators from numerous countries on sex trafficking of children. CEOS staff have trained individuals from: the Council of Baltic States (11 Baltic nations), Albania, Angola, Armenia, Austria, the Balkans, Belgium, Belize, Bosnia, Brazil, Bulgaria, China, Costa Rica, Croatia, Czech Republic, El Salvador, Ecuador, Georgia, Germany, Guinea, Hungary, Indonesia, Israel, Japan, Korea, Lithuania, Latvia, Macedonia, Mexico, Montenegro, Nigeria, Panama, the Philippines, Poland, Romania, Russia, Senegal, Serbia, Slovenia, South Africa, Suriname, Thailand, the United Kingdom, and Ukraine, among others.

E. Fostering State, Local and Non-Governmental Activities to Combat Human Trafficking

The Department's work with state and local governmental agencies, particularly activities to expand anti-trafficking law enforcement authority, is intended to harness the almost one million state and local law enforcement officers who might come into contact with trafficking

States, governors, and legislatures can help by adopting anti-trafficking laws. The Justice Department has created a model state anti-trafficking law, and I intend to send a copy of it to every governor and legislative leader in those 40-plus states that do not yet have their own anti-trafficking laws.

-Attorney General Alberto R. Gonzales at the Hoover Institution Board of Overseers Conference, February 28, 2005

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victims. In 2004, the Department developed and introduced a model state law at the National Training Conference on Human Trafficking because many states do not have laws that criminalize this activity. At that time, only four states - Texas, Florida, Missouri, and Washington - had state laws against trafficking. The model state law reflects lessons learned through the Department's prosecutions, especially enforcement of the TVPA by the Civil Rights Division. Adoption of the model statute would promote a uniform national legal strategy to combat human trafficking.

On July 21, 2004, the United States Senate unanimously passed a resolution, authored by Texas Senator John Cornyn, endorsing the Department's model state anti-trafficking statute and encouraging states to adopt it. The Senate resolution also singled out for praise the Civil Rights Division in its prosecution of human trafficking crimes and lauded the Department's National Conference on Human Trafficking. In March 2005, Attorney General Gonzales sent letters to state governors and legislative leaders explaining the scope of the trafficking problem, pointing to the need for state assistance to the federal government in fighting trafficking, and urging them to adopt the model. Department officials have since promoted the model law, and Civil Rights Division attorneys continue to provide technical assistance regarding the model state law to state legislators and related organizations, such as the National Foundation for Women Legislators. To date, 15 states have enacted anti-trafficking legislation, many of which reflect the Department's model criminal statute.

Insert Graphic of states that have adopted anti-trafficking laws.

As discussed above,[76] outreach and technical assistance are critical to uncovering this insidious crime. The Civil Rights Division, along with the Criminal Division, the Federal Bureau of Investigation, the Office of Justice Programs, the Office on Violence Against Women, and United States Attorneys' Offices, works actively to increase awareness among local law enforcement and community- and faith-based organizations through training presentations and the provision of technical assistance. The strategy employed by each of these components reinforces a

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[76] *See*, Part III "Scope of the Problem," section B "The Department Responds to the Crime with A Victim-Centered Approach."

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victim-centered approach to prosecutions and the collaborative work of task forces. Examples of the Department's activities to increase awareness of human trafficking among state and local governmental agencies, non-governmental organizations, and in our nation's communities include the following:

- An attorney in the Civil Rights Division authored an August 2002 article in *Police Chief Magazine*, entitled *Working Together to Stop Modern-Day Slavery*. The article outlined ways for local law enforcement during the course of their usual investigations to identify trafficking cases.

Insert *Police Chief Magazine* Image Here

- In fiscal year 2003, the Civil Rights Division conducted training sessions in the Washington, D.C. metropolitan area, New York City, Chicago, San Diego, Atlanta, Dallas, and several other cities and with numerous non-governmental organizations such as the U.S. Conference of Catholic Bishops, Women in Federal Law Enforcement and the National Organization of Black Law Enforcement Executives.

- An attorney in the Civil Rights Division authored a December 2003 article in *Police Chief Magazine*, entitled, *Human Trafficking: A Guide to Detecting, Investigating, and Punishing Modern-Day Slavery*. The article gave an overview of federal anti-trafficking efforts and urged increased cooperation among state, local, and federal law enforcement officials.

- In fiscal year 2004, the Civil Rights Division conducted more than fifty training sessions around the United States at conferences and meetings in cities such as Albuquerque, Baltimore, Chicago, Houston, Los Angeles, Newark, New Jersey, and Salt Lake City.

- With funding from the Office on Violence Against Women, the International Association of Chiefs of Police is developing a training package for local law enforcement officers, including a guidebook on the identification and investigation of human trafficking crimes and a roll call training video with a discussion guide to accompany the guidebook.

- The International Association of Chiefs of Police National Law Enforcement Leadership Initiative, in connection with a $200,000 cooperative agreement with the Office on Violence Against Women, is planning a summit of law enforcement leaders in the summer of 2006 to continue to extend the level of awareness of and commitment to combating human trafficking.

- The Bureau of Justice Assistance, in collaboration with the Office of Community Oriented Policing Services (COPS), initiated, in fiscal year 2005, a program to educate local law enforcement about human trafficking through the COPS Regional Community

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Policing Institutes at a cost of $245,000. In 2005, COPS conducted three "train-the-trainer" sessions for 300 law enforcement trainers, including members of the then-existing 18 multi-disciplinary task forces, with the human trafficking curriculum developed by the Bureau of Justice Assistance. This program will be expanded in 2006 to hold at least five sessions, educating 5,100 law enforcement personnel.

- Also in fiscal year 2005 and independent of the Bureau of Justice Assistance, COPS sponsored an additional 6 training sessions for nearly 700 law enforcement officers, non-law enforcement governmental officials, and community-based organizations.

- The National Institute of Justice is supporting research that will provide a clear perspective on the current state of law enforcement's understanding of human trafficking. The research will identify current law enforcement responses to human trafficking; the implications of such responses for victims; and best practices and lessons learned by law enforcement and the partners with whom they collaborate on trafficking cases (e.g., victims service providers, attorneys, etc.).

- The Office of Juvenile Justice and Delinquency Prevention, through the National Center for Missing and Exploited Children and the Fox Valley Technical College, provides training on topics such as child maltreatment, runaway and missing children, the protection of children, and domestic trafficking of children for sexual purposes. Since 1998, this training program has reached more than 64,000 local law enforcement officers, prosecutors, and community service providers.

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VII. Conclusion

The Department has achieved incredible success in carrying out President Bush's directive to combat human trafficking. Under this Administration, the Department has been aggressive and effective in its effort to halt human trafficking. Prosecutorial activity has increased four-fold when compared to the last four years of the previous administration. The Department also has been innovative in its approach, by developing a multi-disciplinary victim-centered approach to uncovering human trafficking schemes, rescuing and protecting victims and working with foreign, governmental and non-governmental partners to prevent further victimization. Moreover, the Department has harnessed the diverse tools found within its components through intra-agency coordination that is primarily driven by the Civil Rights Division. There is however, much work to be done.

Because the fundamental liberties of a human trafficking victim are violated by traffickers, the Civil Rights Division will continue to lead the Department's efforts to combat this heinous crime, working with federal investigators and prosecutors as well as victim services organizations both here and abroad. With the new tools found in the TVPRA of 2005, the Department will continue work with its federal, state and local partners to expand the reach and intensity of anti-human trafficking task forces and encourage states to criminalize sex, labor and child sex trafficking.

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[redacted]@apprisemedia.com

From: [redacted]@apprisemedia.com
Sent: Thursday, January 05, 2006 3:52 PM
To: Gorsuch, Neil M
Subject: FW: Detainee Treatment Roundtable
Attachments: [redacted]CV.doc
Importance: High

Neil
Haven't heard back from you - can you pleas give a call today about our CFR event. I understand that your buddy Waxman has left his prior position - I assume that rules him out for participating.

I spoke with [redacted] who said that given [redacted] departure and the timing of the event, he didn't want to send someone to the event officially. He suggested that we reach out to General [redacted] from the USAF directly. Do you know [redacted] I placed a call but have not heard back.

Col Mansoor, the Council Fellow, suggested pro [redacted] I checked [redacted] out on the internet -- he seems fair and balanced and is sanctioned by both [redacted] Do you know him? I wanted to touch base with you before reaching out to him.

I am around today and tonight although out of pocket 8-9 pm this evening.

[redacted]

-----Original Message-----
From: [redacted]@cfr.org [mailto [redacted]@cfr.org]
Sent: Tuesday, December 06, 2005 10:39 AM
To: [redacted]
Cc: [redacted]@cfr.org
Subject: Re: Detainee Treatment Roundtable

[redacted]

The JAG Corps and West Point are planning to send [redacted] down for the panel. They just called. Do you want to speak to him directly? Let me know how I can help. Here is the info:

Cheers,
[redacted]

|----------|
| | | [redacted] | | | | | | [redacted] | | | | | U.S. Military Academy; 646 Swift Road; West Point, NY 10996-1905 | | | | | Office phone: 845 [redacted] fax: 845-[redacted] office e-mail: | [redacted]@usma.edu | |

(See attached file: Solis CV.doc)

[redacted]

Council on Foreign Relations
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<[redacted]@appri To
semedia.com> <[redacted]@cfr.org>
cc
12/01/2005 07:47 <[redacted]@cfr.org>,
PM [redacted]@cfr.org>,
<ngorsuch@khhte.com>
Subject
Re: Detainee Treatment Roundtable

[redacted]

Thanks for forwarding. These all look like compelling participants, and I believe Neil Gorsuch, (who is coordinating with me), knows some of the presenters listed below.

Should we follow up with [redacted]
or the suggested panelists first?

[redacted]

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]@cfr.org <[redacted]@cfr.org>
To: [redacted] <[redacted]@apprisemedia.com>
CC: cquinn@cfr.org <[redacted]@cfr.org>; [redacted]@cfr.org <[redacted]@cfr.org>
Sent: Thu Dec 01 13:06:43 2005

Sent: Thu Dec 01 15:00:45 2005
Subject: Detainee Treatment Roundtable

[redacted]

See e-mail below. I think one of these consultants would be a good possibility for the panel discussion on 12 Dec. I'll let you make contact.

[redacted]

[redacted]

Council on Foreign Relations
58 East 68th Street, New York, NY 10021 Tel (212)[redacted] Fax (212)[redacted] http://www.cfr.org

----- Forwarded by [redacted] on 12/01/2005 03:30 PM -----

[redacted] <[redacted]@osd.mil>

12/01/2005 03:28 PM
To
"[redacted]@cfr.org'" <[redacted]@cfr.org> cc
"[redacted]@osd.gov'" <[redacted]@osd.gov> Subject
BRIEFING PROPOSAL

[redacted]

Delighted to touch base again after several years being in the trenches.
I'm working as the policy advisor for the Office of Detainee Affairs under the Office of Secretary of Defense. We do policy for the Department of Defense related to detainee issues Part of our charter is outreach and we have an outreach presentation related to our operations in Guantanamo Bay which I believe would be an interesting forum/presentation for the Council.
The four presenters are:

1. [redacted] Office of the Secretary of Defense (DASD-DA) 2. [redacted] Office for the Administrative Review of the Detention of Enemy Combatants (OARDEC) 3. [redacted] Legal Adviser to the Appointing Authority, Office of Military Commissions (OMC)

4 [redacted] Joint Chiefs of Staff (JCS) Given the dates of the presentation organizational substitutes may be used, but the format will be the same.
The panel is called "the Guantanamo Bay Detainee Policies, Proceses and Operations brief".
The brief is approximately 50 minutes is length and followed by a 30 minute Q and A session. Of course a closed door non attribution session with the Council experts is also possible.

Please discuss with your colleagues and let's discuss. My telephone number is: [redacted] Hope you are enjoying my favorite town and look forward to seeing you in the near future.

Cheers,
[redacted]

GARY D. SOLIS

Visiting Professor of Law, Department of Law
U.S. Military Academy; 646 Swift Road; West Point, NY 10996-1905
Office phone: 849-[redacted] fax: 845-[redacted] office e-mai[redacted]@usma.edu

EDUCATION

Ph.D.	The London School of Economics & Political Science Overseas Research Student's Award, for "outstanding merit and research potential"	1992	Dissertation: The Uniform Code of Military Justice and the 1949 Geneva Conventions
LL.M.	The George Washington University National Law Center	1978	Criminal Law
J.D.	The University of California at Davis, King Hall Distinguished Alumnus Award, October 2001	1971	Law
B.A.	San Diego State College	1963	Sociology

PROFESSIONAL POSITIONS

Visiting Professor of Law, United States Military Academy, West Point, New York — 2004 – present
Program Director, Law of War instruction

Adjunct Professor of Law, Georgetown University Law Center, Washington, D.C. — 2002 – present
Seminar in The Law of Armed Conflict.

Adjunct Professor of Law, Catholic University's Columbus School of Law, Washington, D.C. — 2004
Seminar in the Law of Armed Conflict

Chief of Oral History, History & Museums Division, United States Marine Corps — 2001 – 2004
Responsible for collecting and accessioning interviews of Marine Corps personnel, and others, to support the writing of operational histories. Awarded the Department of the Navy's Meritorious Civilian Service Medal (2004).

Associate Professor of Law, United States Military Academy, West Point, New York — 1996-2001
Program Director, Law of War instruction. Courses taught: Law of War For Commanders; Constitutional and Military Law; International Criminal Law. Awarded 1998 Phi Kappa Phi Distinguished Teaching Award; U.S. Army's Superior Civilian Service Medal (2000); U.S. Army's Meritorious Civilian Service Medal (2001).

Law Teacher, Department of Law, The London School of Economics & Political Science — 1993-1996
Courses taught: British Criminal Law; British Commercial Law

PUBLICATIONS

Books:

Son Thang: An American War Crime (Annapolis, MD: Naval Institute Press, 1997) 340 pp., photos, maps, append., notes, index. Bantam paperback edition, 1998. Marine Corps Heritage Foundation's Greene Award as year's best book; U.S. Naval Institute's Author of the Year; nominated: U.K.'s Royal United Services Institute For Defense Studies' Westminster Medal

Marines and Military Law in Vietnam: Trial By Fire (Washington, D.C.: GPO, 1989) 295 pp., photos, maps, append., notes, index. An official U.S. Marine Corps history

Book chapters:

"Military Justice and Civilian Clemency," chapter in John Norton Moore, Robert Turner, eds., *The Real Lessons of the Vietnam War* (Durham NC: Carolina Academic Press, 2002).

"Military Commissions and Terrorists," chapter in Eugene R. Fidell, Dwight H. Sullivan, eds., *Evolving Military Justice* (Annapolis, MD: Naval Institute Press, 2002).

"Military Commission Instruction No. 3, Responsibilities of the Chief Prosecutor," chapter in *Military Commission Instructions Sourcebook* (Nat'l Institute of Military Justice, Washington D.C., 2003).

Peer reviewed articles:

"Obedience to Orders: History and Abuses at Abu Ghraib Prison," 2-4 *Journal of International Criminal Justice* (Dec. 2004) 988-998.

"Military Justice, Civilian Clemency: The Sentencing of Marine Corps War Crimes in Vietnam," 10:1 *Transnational Law & Contemporary Problems*, 59-84 (Apr 2001).

"Obedience of Orders and the Law of War: Judicial Application in American Forums," 15:2 *American University International Law Review*, 481-526 (March 2000).

"CAAF Roping at the Jurisdictional Rodeo: *Clinton v. Goldsmith*," co-authored with Prof. John Winkle, 162 *Military Law Review* 219 (Dec. 1999).

"*Sub Judice* Rules and Perceptions of the Law: Another Viewpoint," 11 *Commonwealth Judicial Journal* 6 (Dec. 1995)

Other Articles:

"Dialysis for a Prisoner of War." *Hastings Center Report*, vol. 34, no. 6 (Dec. 2004). Co-authored with Col. Daniel Zupan.

"Duty, Honor, Country and *Semper Fidelis*." *Naval History* magazine (Oct., 2003). Nominated, 2004 Marine Corps Heritage Foundation's Heinl Award, for year's best non-fiction article.

"The Last Marine Out of Kosovo," *Fortitudine* magazine, 20xxx1, Oct. 2003.

Commentary: "'Enemy Combatants' Should Worry Us." U.S. Naval Institute's *Proceedings*, 2 (Dec. 2002).

The Washington Post, op-ed, "Even A 'Bad Man' Has Rights," A-19, 25 June 2002.

"Terrorists, Due Process, and Military Commissions." *Marine Corps Gazette,* 46-48 (Feb. 2002)

"Are We Really At War?" U.S. Naval Institute's *Proceedings*, 34-40 (January, 2002).

The Washington Post, op-ed, "The Law of War," A-17, 30 April 2001.

Recent book reviews:

Commandants of the Marine Corps, Allan Millett, Jack Shulimson, eds. In Jan. 2005 *The Journal of Military History*.

Judge Advocates in Vietnam: Army Lawyers in Southeast Asia, 1959-1975, by Col. Frederic L. Borch. In July 2004 *The Journal of Military History*.

Tanks on the Beaches: A Marine Tanker in the Pacific War, by Robert M. Neiman & Kenneth W. Estes. In 33 *Military History of the West* 63 (2003).

The Vietnam War on Trial: The My Lai Massacre and Court-Martial of Lt. Calley, by Michal R. Belnap. In April 2003 *The Journal of Military History.*

Law and War: An American Story, by Peter Maguire. In July 2002 *On Point*, journal of the Army Historical Foundation.

Ungentlemanly Acts, by Louise Barnett. In *The Review of Politics*, Jan. 2002.

Morals Under the Gun: The Cardinal Virtues, Military Ethics, and American Society, by James H. Toner, in Jan. 2001 *Proceedings*, journal of the U.S. Naval Institute.

Pursuing Military Justice, by Jonathan Lurie. In *American Journal of Legal History*, Feb. 2001.

Obeying Orders, by Mark Osiel. In *The Review of Politics*, Jan 2001.

EXPERT WITNESS TESTIMONY

United States v. Sgt. Gary Pittman, a Marine Corps general court-martial involving charges of dereliction of duty and multiple assaults of Iraqi prisoners at Camp White Horse, Iraq. 22-25 August 2004.

MILITARY EXPERIENCE

Twenty-six years active U.S. Marine Corps commissioned service (1963-1989), eighteen as a judge advocate. Seventeen months Vietnam field duty, including platoon and (twice) company command. As a judge advocate, tried 433 criminal cases. Chief prosecutor, 1st Marine Division and 3d Marine Division. Staff Judge Advocate, Headquarters, Fleet Marine Forces, Atlantic. As general court-martial judge, presided in 330 jury and bench trials. Chief of Military Law Branch at Headquarters, U.S. Marine Corps.

SELECTED PAPERS, SPEECHES, AND LECTURES

Harvard Law School. Conference speaker/panelist. "Humanity Under Fire: Time to Revise the Geneva Conventions?" Boston, Massachusetts. 11 April 2005.

Georgetown University Law Center. Conference speaker/panelist. "Outsourcing Warfare: Defense Contractor Accountability for Human Rights Abuses" Washington D.C. 9 April 2005.

American University's, Washington College of Law. Conference: The Geneva Conventions & the Rules of War in the Post-9/11 World. Panel chair and participant on two panels: "The Role of Private Contractors in 21st Century War," and "Protection of Civilians in Hostilities." Washington D.C., 24 March, 2005.

University of Mississippi. Guest lecturer, Honors seminar, Genocide and Memory: "International Humanitarian Law, War Crimes and Societal Responses. Oxford. 2 March, 2005.

Society for Military History, annual conference. Panel chair and commentator: "Meeting Terrorism: Military Approaches, New and Old. Charleston, S.C. 25 Feb. 2005.

Georgetown University Law Center. Guest lecturer, seminar on Strategic Intelligence and Public Policy. Washington, D.C. 17 Feb. 2005.

The Association of the Bar of the City of New York, Military Law Section. Lecture. "The Law of Armed Conflict, *Hamdan v. Rumsfeld*, and the United States. 1 Dec. 2004.

U.S. Marine Corps Command & Staff College. Lecture: "Command Responsibility in Combat." Quantico, Virginia, 29 Oct. 2004.

American University's Washington School of Law. Seminar instructor, American Intelligence Law and Foreign Policy. Washington, D.C., 28 Oct. 2004.

International Institute of Humanitarian Law, San Remo, Italy. Instructor, Advanced Course, International Human Rights Law. 11-15 Oct. 2004.

Georgetown University Law Center. Lecture to Joint Seminar in Law and Philosophy: War. 13 September 2004.

United States Naval Academy. Lecture, Naval Postgraduate School's Leadership Education and Development Program, "When Things Go Wrong." Annapolis, Maryland, 27 August 2004.

The Smithsonian Institution. Resident Associate Lecture Series. Panelist: "From Pearl Harbor to Tokyo: The Pacific Campaign of World War II." Washington D.C., 24 July 2004.

The Smithsonian Institution. Resident Associate Lecture Series. Six-lecture series, "Battlefield Law of War." Washington D.C., 8 June to 13 July, 2004.

The Library of Congress, Public Affairs Veteran's Forum lecture series. "The Law of War, Abu Ghraib, and War Crimes." Washington, D.C., 10 June, 2004.

U.S. Marine Corps Command & Staff College. Lecture: "Command Responsibility in Combat." Quantico, Virginia, 2 June, 2004.

American Bar Association, International Law Section. Semi-annual Meeting speaker. "Military Commissions in International Law – A Practitioner's Primer." New York City, 16 April, 2004.

United States Naval Academy. Speech: "Military Commissions and Cuban Detentions." 2004 Distinguished Speaker Series. 12 April 2004.

International Institute of Humanitarian Law, San Remo, Italy. Guest lecturer and instructor, 4th Military Academies Law of War competition. 28 March – 2 April 2004.

Stetson University College of Law. Lectures: Military Commissions and the Law; The Constitution and Military Commissions. Gulfport Florida, 23-24 Sept. 2003.

United States Naval Academy. Lecture: Naval Postgraduate School's Leadership Education and Development Program, "Leadership in Military Culture." 10 Sept 2003.

Virginia State Bar Association annual conference. Panel chair and commentator: "Terrorists, Military Commissions and American Law." Virginia Beach, Virginia. 20 June, 2003.

Society of Military History annual conference. Panel chair and commentator: "9-11: A View From the Pentagon," Knoxville, Kentucky. 2 May 2003.

American University, Washington College of Law – Center for Human Rights and Humanitarian Law. "The Legal Standing of the Call to War." Law conference lecture. 3 April 2003.

Georgetown University Law Center. Speech to law faculty: "Why Is the U.S. Afraid of the International Criminal Court?" 27 March 2003.

International Institute of Humanitarian Law, San Remo, Italy. Guest lecturer, 98th Military Officer's Course, 7-13 March 2003.

United States Naval Academy. Lecture: Marine option midshipmen conference: "Decide Now!" 14 Nov., 2002.

Boston College School of Law. Panel: "Military Commissions; Their History and Their Law." Boston, Massachusetts. 17 September, 2002.

U.S. Marine Corps Command & Staff College. Lecture: "Law of War For the Military User." Quantico, Virginia. 29 August, 2002.

Virginia State Bar Association annual conference. Lecture: "Judging Terrorists: Military Tribunals or Criminal Courtrooms?" Virginia Beach, Virginia. 15 June, 2002.

Judicial Conference of the United States Court of Appeals for the Armed Forces. Paper and speech: "My Lai and the International Criminal Court," expansion of a paper delivered on 5 April. George Washington University, Washington, D.C. 15 May, 2002.

U.S. Marine Corps Command & Staff College. Lecture: "Son Thang and Senator Kerrey: Vietnam War Crimes." Quantico, Virginia. 2 May, 2002.

New York Military Affairs Society. Paper: "Proportionality: A History," City University of New York, New York City, NY. 26 April, 2002.

University of Richmond School of Law. Speaker and panel participant. Symposium, *Political Assassination as an Instrument of National Policy*. Richmond, Virginia. 11-12 April, 2002.

Society of Military History annual conference. Paper: "My Lai and the International Criminal Court," Madison, Wisconsin. 5 April, 2002.

United States Military Academy. Paper, "West Point Marines," USMA History Symposium, West Point, New York. 8 March, 2002.

United States Naval Academy. Lecture for Center For the Study of Professional Military Ethics: "Ethics For the Junior Officer." Annapolis, Maryland. 20 Feb., 2002.

United States Naval Academy. Lecture to Naval Postgraduate School course students: "Leadership in Military **Culture." Annapolis, Maryland. 19 Feb.2000.**

Washington, D.C. Bar Association, Military Law Section. Lecture: Military Commissions in U.S. History. Washington, D.C. 30 Nov., 2001.

Catholic University, School of Law. Lecture: "Trying War Crimes." Washington, D.C. 18 July 2001.

Royal Military College of Canada. Lecture: "My Lai and Its Legal Fallout." Kingston, Ontario, Canada. 5 March 2001.

New York Military Affairs Symposium. City University of New York. Paper: "Proportionality and Major General Barry McCaffrey in Desert Storm." New York City, New York. 3 Nov. 2000.

Center for National Security Law, University of Virginia School of Law. Lecture: "Vietnam War Crimes." Charlottesville, Virginia. 18 October 2000.

United States Military Academy, The Military Ethics Forum. Lecture: "Discipline in Combat." West Point, New York. 4 October, 2000.

Association of the Bar of the City of New York. Speaker: "Teaching the Law of War." New York City, New York. 3 May 2000.

University of Virginia School of Law, Center for National Security Law. Paper/panelist: "Military Justice, Civilian Clemency: Sentences of Marine Corps War Crimes in South Vietnam." Charlottesville, VA. 29 April 2000.

Judicial Conference of the United States Court of Appeals of the Armed Forces. Paper: "Obedience to Orders and the Law of War: The Once and Future War Crimes Defense." Washington, D.C. 7 May 1999.

Texas Tech University. The Vietnam Center's Third Triennial Vietnam Symposium. Paper: "The Punishment of Vietnam War Crimes." Lubbock, Texas. 17 April 1999.

National Institute of Military Justice. Conference on Military Law. Presenter: "Current Topics in American Military Law." London, England. 12 Dec. 1998.

University of Virginia School of Law, Center For National Security Law. Lecture: "My Lai and Hue: Two War Crimes." Charlottesville, Virginia. 19 Oct 1998.

Bard College, *Accounting for Atrocities: Prosecuting War Crimes Fifty Years After Nuremberg*. Paper and conference panelist: "Yamashita Had It Coming." Norfolk, Virginia. 5 Oct. 1998.

New York Military Affairs Symposium. City University of New York. Lecture: "Changing Currents in Military Law." New York City, New York. 25 Sept. 1998.

Siena College World War II symposium. Paper and conference panelist: "Obedience to Orders: How World War II Changed America's View of the Soldier's Legal Defense." Siena, New York. 4 June 1998.

United States Naval Academy. Phi Alpha Theta annual awards speaker. "The First Amendment and the Military Writer." Annapolis, Maryland. 23 April 1998.

Fordham University School of Law. Lecture: "Humanitarian Law: The Military Viewpoint." New York City, New York. 3 Feb. 1998.

University of Virginia School of Law, **Center For National Security Law**. Lecture: "Legal and Policy Issues of the Indo-China War." Charlottesville, Virginia. 22 Oct. 1997.

The Judge Advocate General's School, U.S. Army. 45th Graduate Course. Paper: "Military Justice in the Combat Zone." Charlottesville, Virginia. 14 April 1997.

McCormick Foundation Conference. Panel chair, *The Vietnam War, 1965-75,*and speaker: "Cambodia and Laos: the Hidden War." Chicago, Illinois. 6 March 1997.

Columbia University, Department of History. Lecture: "Law of War and Air Warfare in World War II." New York City, New York. 18 Nov. 1996.

PROFESSIONAL MEMBERSHIPS

The Bar of the Supreme Court of Virginia (Vice-chair, Military Law Section's Board of Governors, Virginia State Bar, elected to 1998-2001 and 2001-2004 terms); and the bars of the states of Pennsylvania, Maryland, Texas, and the District of Columbia; also, the bars of the United States Court of Appeals for the Armed Forces, the United States Court of Veterans Appeals, and the Supreme Court of the United States.

National Clearinghouse for Science, Technology and the Law (Advisory Council member)

American Bar Association

American Society of International Law (member, Membership Committee of ASIL's Lieber Society)

Phi Kappa Phi national academic honor society. Elected to membership 1999, U.S. Military Academy.

Associate Member, Association of Graduates of the United States Military Academy

NATIONAL/ INTERNATIONAL MEDIA INVOLVEMENT

National Public Radio (Washington D.C.) Commentary on proving murder in the combat zone. Aired 14 June 2005.
BBC World Service radio. Commentary on women in the Iraqi combat zone. 15 May 2005.
National Public Radio (Boston) "On Point." Discussion of senior accountability for military excesses in Iraq. 29 March 2005.
National Public Radio (Washington D.C.) Commentary on defining torture. Aired 18 March 2005.
National Public Radio (Washington D.C.) Commentary on lack of pervasiveness of criminality in U.S. forces in Iraq. 18 Feb. 2005.
War Stories. Fox Television News channel. "The Nuremberg and Tokyo War Crimes Trials." Aired 13 Feb. 2005.
National Public Radio (Boston) "All Things Considered." Discussion of legal attacks on military homosexual policy. 6 Dec. 2004.
The Association of the Bar of the city of New York. A talk before the Military Affairs Committee on the law applicable in Iraq, and the status of detainees, in light of the November *Hamdan* decision.
National Public Radio (Washington D.C.) Commentary on progress of Guantanamo military commissions. 23 Oct. 2004.
National Public Radio (Washington D.C.) Commentary on military justice and PFC Lynndie England's Abu Ghraib Article 32 investigation. Aired 3 August 2004.
Fox Daytime News. Televised interview on the trial of Saddam Hussein. 2 July 2004.
Fox Daytime News. Televised interview on Supreme Court's Guantanamo decision. 28 June 2004.
Sky News, London, U.K. Televised interview, on Supreme Court's Guantanamo decision. 28 June 2004.
CNN Late Night News. Televised interview regarding courts-martial of American Abu Ghraib accused. 20 June 2004.
National Public Radio (Washington D.C.) Discussion of torture, in military law and in international law. 21 May 2004.
National Public Radio (Washington D.C.) Discussion of the U.S. court-martial system. 19 May 2004.
"Nightline," ABC Network News. Commentary on the moral basis of the law of war. 19 May 2004.
National Public Radio (Los Angeles) Commentary on application of Geneva Conventions in Iraqi prisons. 18 May 2004.
National Public Radio (Washington D.C.) Commentary on application of the law of war in Iraq. 18 May 2004.
CNN Evening News. Televised discussion of Geneva Convention applicability in Iraq during the war's occupation phase. 7 May 2004.
National Public Radio (Washington D.C.) Commentary on U.S. court-martial procedure. Aired 6 May 2004.
CNBC News, with John Sigenthaler. Televised discussion of Abu Ghraib prison offenses. 3 May 2004
The News Hour, with Jim Lehrer. Televised discussion of Abu Ghraib prison offenses. 3 May 2004.
CBS Late Night News: "Up to the Minute." Televised commentary on applicability of Geneva Conventions in Iraq. 4 May 2004.
National Public Radio (Washington D.C.) Commentary on Marine Corps oral history program in Operation Iraqi Freedom. Aired 19 March 2004.
British Broadcasting Corporation (BBC) World News. Televised interview regarding the significance of Vietnam on 2004 presidential election. Aired 5 March 2004.
National Public Radio (Washington D.C.). Commentary regarding the first charges against Guantanamo detainees. 25 Feb. 2004.
Fox Evening News. Televised interview regarding trial of terrorists in federal courts rather than by military commission. 8 Feb. 2004.
National Public Radio (Washington D.C.). Commentary on military lawyers' *amicus* brief to U.S. Supreme Court in Guantanamo cases. 15 Jan. 2004.
Fox Daytime News. Televised interview, on trying Saddam Hussein. 17 Dec. 2003.
CNN Evening News. Paula Zahn interview, on torture and interrogating Saddam Hussein. 15 Dec. 2003.
Canadian Broadcasting Corporation. News World Today radio interview. LtCol. West Iraqi torture case. 3 Dec. 2003.
ARD Television News, Germany. Morning national news, on U.S. military commissions. Aired 2 Dec. 2003.
The History Channel. Interview: "The Real JAG." Courts-martial in the Vietnam combat zone. Aired 2 Nov. 2003.
ARD Television, Germany. Morning national news, on U.S. military commissions. Aired 3 July 2003.
Canadian Broadcasting Corporation. Eleven affiliated radio station interviews: court-martial of U.S. pilot who bombed Canadians. 26 June 2003.
Canadian Broadcasting Corporation. News World Today. Television interview: court-martial of U.S. pilot. 26 June 2003.
Fox Evening News. Televised interview on fragging in military history. Aired 12 April 2003.
National Public Radio. (Los Angeles) "To the Point," on the 1949 Geneva Conventions. 2 April 2003.
National Public Radio. (Washington, D.C.) "Diane Rheme Show," on the 1949 Geneva POW Convention. Aired 24 March 2003.
A&E Television Network. "The Point: Military Law," on military commissions. Aired 2 Feb. 2003.

ABC Television, Australia. Interview: No Gun Ri, Korea, 1950. Washington, D.C. Aired 5 Aug., 2002.

Fox Television News. Washington, D.C. *Greta van Susteren: On the Record*. 5 July 2002.

National Public Radio. (Boston) "Connections." With Prof. Ruth Wedgewood, on the lawfulness of military commissions. Washington, D.C. 31 January, 2002.

The History Channel. Interview: "The 50th Anniversary of the Uniform Code of Military Justice." New York City. 24 June 2001.

CBS Evening News. Television interview: Bob Kerrey is not a war criminal. From Cornwall, New York. 28 April 2001.

CNN Evening News. Television interview: Bob Kerrey is not a war criminal. From Cornwall, New York. 28 April 2001.

Good Morning America, ABC. Interview: Bob Kerrey is not a war criminal. New York City. 26 April 2001.

Heckerk@dodgc.osd.mil

From:	Heckerk@dodgc.osd.mil
Sent:	Thursday, January 5, 2006 4:18 PM
To:	Henry, Terry (CIV); Loeb, Robert (CIV)
Cc:	Gorsuch, Neil M; jimenezf@dodgc.osd.mil
Subject:	FW: Military Commission Web Site Updates
Attachments:	tmp.htm; al Bahlul delayed to 0900 11 Jan 06 (2 pages).pdf; Khadr delayed to 1430 11 Jan 06 (2 pages).pdf

Karen L. Hecker
Office of the DoD General Counsel (Legal Counsel)

Room 3B652
(703) 571-9349 (DSN 671)
(703) 614-6745 (fax)

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-----Original Message-----
From: Harvey, Mark, Mr, DoD OGC
Sent: Thursday, January 05, 2006 16:17
To: Taitt, John, Mr, DoD OGC; Hecker, Karen, Ms DoD OGC
Subject: FW: Military Commission Web Site Updates

Karen and John,

Please inform DoJ that the Presiding Officer has delayed both cases slightly. I have sent the attachments to the DoD PAO. Both the attachments are the same document, just renamed to avoid confusing the DoD PAO web master.

Mark
-----Original Message-----
From: Harvey, Mark, Mr, DoD OGC
Sent: Thursday, January 05, 2006 16:14
To: Shavers, Michael, Maj, OASD-PA
Cc: Boomer, Jane, MAJ, DoD OGC; Hemingway, Thomas, BG, DoD OGC; Chapman, Michael, Mr, DoD OGC
Subject: Military Commission Web Site Updates

Please update the two web pages as indicated below.

Ali Hamza Ahmed Suleiman AL BAHLUL:
<http://www.defenselink.mil/news/Jun2004/d20040629ABCO.pdf> Charge Sheets,
<http://www.defenselink.mil/news/commissions_exhibits_bahlul.html>
Commissions Transcripts, Exhibits, and Allied Papers, <http://www.defenselink.mil/news/presiding_alBahlul.html> Presiding Officer Orders,
<http://www.defenselink.mil/news/Sep2005/commissions_scheduling_bahlul.html>
Commission Scheduling

Please add the attachment to both the Commissions <http://www.defenselink.mil/news/commissions_exhibits_bahlul.html>
Transcripts, Exhibits, and Allied Papers, and Commission <http://www.defenselink.mil/news/Sep2005/commissions_scheduling_bahlul.html>
Scheduling

It should look as follows on the web page:

DATE EVENT
4 Jan 2006 Presiding Officer delays hearing from January 9, 2006 at 10 a.m. to January 10, 2006 at 9 a.m.

Omar Ahmed KHADR; Charge
<http://www.defenselink.mil/news/Nov2005/d20051104khadr.pdf> Sheets, Commissions
<http://www.defenselink.mil/news/commissions_exhibits_khadr.html>
Transcripts, Exhibits, and Allied Papers, Presiding Officer Orders, Commission
<http://www.defenselink.mil/news/Jan2006/d20060104khadrhearing.pdf>
Scheduling

Please add the attachment to both
<http://www.defenselink.mil/news/commissions_exhibits_khadr.html>
Commissions Transcripts, Exhibits, and Allied Papers, and Commission <http://www.defenselink.mil/news/Jan2006/d20060104khadrhearing.pdf>
Scheduling

It should look as follows on the web page:

DATE EVENT
4 Jan 2006 Presiding Officer delays hearing from January 11, 2006 at 10 a.m. to January 11, 2006 at 2:30 p.m.

Harvey, [redacted] Mr, DoD OGC

From: Hodges, Keith [redacted]

Sent: Thursday, January 05, 2006 15:14

To: Davis, Morris, COL, DoD OGC; Sullivan, Dwight, COL, DoD OGC; Altenburg, John, Mr, DoD OGC; Hemingw[redacted] Harvey, [redacted] Mr, DoD OGC; Boomer, Jane, MAJ, DoD OGC; [redacted]

Cc: [redacted]

Subject: Rescheduling of Start-Times - Jan 06 Sessions of the Commission

SUBJECT: Rescheduling of Start-Times - Jan 06 Sessions of the Commission

1. The Presiding Officers have been informed by the Staff Judge Advocate, JTF-Guantanamo, that 10 January 2005 is the first day of the Islamic feast of Eid ul-Adha, the Feast of the Sacrifice, and that this is an important Holy day.

2. Though the Presiding Officers are not aware of any request by counsel or an accused that proceedings not be held on that day, the Presiding Officer believes that the significance of this day dictates honoring it even in the absence of a specific request.

3. In recognition of this important Holy day, no session of the Commission will be held on 10 Jan. The session originally scheduled in the case of US v. al Bahlul for 10 Jan will be held at 0900, 11 Jan. The session originally scheduled in the case of US v. Khadr for 11 Jan is moved to 1430, 11 Jan.

3. Counsel and other Commission participants should not change their current travel plans. The Presiding Officers and counsel need the flexibility to hold conferences or conduct additional sessions throughout the period 1300, 9 Jan through the close of business, 12 Jan. Though no session will be held on 10 Jan, counsel may be directed to be present at a conference on that day.

FOR THE PRESIDING OFFICERS
Keith Hodges
Assistant to the Presiding Officers
Military Commission
[redacted]

1/5/2006

Harvey, [redacted] Mr, DoD OGC

From: Hodges, Keith [redacted]

Sent: Thursday, January 05, 2006 15:14

To: Davis, Morris, COL, DoD OGC; Sullivan, Dwight, COL, DoD OGC; Altenburg, John, Mr, DoD OGC; Hemingw[redacted] Harvey, [redacted] Mr, DoD OGC; Boomer, Jane, MAJ, DoD OGC; [redacted]

Cc: [redacted]

Subject: Rescheduling of Start-Times - Jan 06 Sessions of the Commission

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FOR THE PRESIDING OFFICERS
Keith Hodges
Assistant to the Presiding Officers
Military Commission
[redacted]

1/5/2006

Karen L. Hecker
Office of the DoD General Counsel (Legal Counsel)

Room 3B652
(703) 571-9349 (DSN 671)
(703) 614-6745 (fax)

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-----Original Message-----
From: Harvey, Mark, Mr, DoD OGC
Sent: Thursday, January 05, 2006 16:17
To: Taitt, John, Mr, DoD OGC; Hecker, Karen, Ms DoD OGC
Subject: FW: Military Commission Web Site Updates

Karen and John,

Please inform DoJ that the Presiding Officer has delayed both cases slightly. I have sent the attachments to the DoD PAO. Both the attachments are the same document, just renamed to avoid confusing the DoD PAO web master.

Mark
-----Original Message-----
From: Harvey, Mark, Mr, DoD OGC
Sent: Thursday, January 05, 2006 16:14
To: Shavers, Michael, Maj, OASD-PA
Cc: Boomer, Jane, MAJ, DoD OGC; Hemingway, Thomas, BG, DoD OGC; Chapman, Michael, Mr, DoD OGC
Subject: Military Commission Web Site Updates

Please update the two web pages as indicated below.

Ali Hamza Ahmed Suleiman **AL BAHLUL**: Charge Sheets, Commissions Transcripts, Exhibits, and Allied Papers, Presiding Officer Orders, Commission Scheduling

Please add the attachment to both the Commissions Transcripts, Exhibits, and Allied Papers, and Commission Scheduling

It should look as follows on the web page:

DATE	EVENT
4 Jan 2006	Presiding Officer delays hearing from January 9, 2006 at 10 a.m. to January 10, 2006 at 9 a.m.

Omar Ahmed **KHADR**; Charge Sheets, Commissions Transcripts, Exhibits, and Allied Papers, Presiding Officer Orders, Commission Scheduling

Please add the attachment to both Commissions Transcripts, Exhibits, and Allied Papers, and Commission Scheduling

It should look as follows on the web page:

DATE	EVENT
4 Jan 2006	Presiding Officer delays hearing from January 11, 2006 at 10 a.m. to January 11, 2006 at 2:30 p.m.

WittenSM@state.gov

From: WittenSM@state.gov
Sent: Thursday, January 5, 2006 5:23 PM
To: Gorsuch, Neil M
Cc: HodgkinsonSL@state.gov
Subject: FW: Bongo and Abramoff
Attachments: tmp.htm; Bongo and Abramoff news articles.doc; Bongo and Abramoff NYT.doc

Neil - Thanks for you help on this. Here is the collection of articles I mentioned.

You can reach me on (202) 647-6051. You can reach Sandy Hodgkinson on (202) 647-5543.

> _____
> From: Sherer, Joan M
> Sent: Thursday, January 05, 2006 11:56 AM
> To: Witten, Samuel M; Hodgkinson, Sandra L
> Subject: Bongo and Abramoff
>
> Sam,
>
> I'm attaching 2 files with articles about President Bongo of Gabon and > Jack Abramoff. If you want additional articles let me know. I culled the > result list down to the articles I thought were more substantive.
>
> <<Bongo and Abramoff news articles.doc>> <<Bongo and Abramoff NYT.doc>>
>
> Joan Sherer
> U.S. Dept. of State
> Ralph J. Bunche Library
> 2201 C St., NW, Room 3239
> Washington, DC 20520
> ph. (202) 647-1146
> fax (202) 647-2971
> shererjm@state.gov
>
>

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Global News Wire - Asia Africa Intelligence Wire
Copyright 2005 The Statesman Ltd
The Statesman (India)

November 12, 2005

LENGTH: 384 words

HEADLINE: WHEN BONGO MET BUSH

BODY:

Rupert Cornwell in Washington Nov. 11. More trouble swirled around the disgraced Republican lobbyist Mr Jack Abramoff yesterday, after reports that he sought $ 9m from the leader of the west African country of Gabon to organise a White House meeting with President Mr George Bush. The episode was revealed in documents released by a senate committee investigating other dubious dealings of the scandal-battered Mr **Abramoff,** most vividly a personal letter from the lobbyist to President Mr Omar **Bongo,** dated 28 July 2003. Mr **Abramoff** informed the Gabonese leader that his lobbying firm had already been approached by a neighbouring nation which had offered money to launch a major lobbying effort in Washington, its centrepiece a meeting with Mr Bush. But Mr Abramoff wrote that he had been assured that Gabon still wanted to use the services of his firm, and would match its neighbours offer. The documents, obtained by leading US newspapers, show that the lobbyist drew up a draft contract for Gabon to pay $ 9m . There is no evidence that the deal was consummated, and no suggestion that Mr **Abramoff** had any role in organising the Oval Office meeting between Mr Bush and President **Bongo,** on 26 May 2004, 10 months after the initial pitch. But the allegation will add to the atmosphere of sleaze now surrounding the Republican party establishment in Washington. It also throws fascinating light on the brazen modus operandi of super-rich lobbyists such as Mr Abramoff, as they traded on their connections. In the letter, according to excerpts in the Washington Post, Mr Abramoff proposed flying to Gabon after a mid-August golfing trip to Scotland with the Congressmen and Senators I take there each year. But, he made clear, Gabon would have pay a part, perhaps 10%, of the agreed fee up front. Most damaging of all perhaps, David Safavian, a former registered agent for President Bongo in Washington, was forced to resign as a White House budget official days before he was charged with lying to federal agents about his own links to the lobby ist. Though there is no evidence that Mr Abramoff set up the meeting between presidents Bush and Bongo, there are plenty of precedents. Mr Billy Carter was a lobbyist for Libya when his brother Jimmy was President in the 1970s. The Independent

JOURNAL-CODE: FSTN

LOAD-DATE: November 11, 2005

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Global News Wire
Copyright 2005 Voxant Inc
Capitol Hill Press Releases

November 11, 2005

LENGTH: 549 words

HEADLINE: PELOSI AND WAXMAN REQUEST DOCUMENTS RELATING TO ABRAMOFF'S

BODY:

For Immediate Release

Pelosi and Waxman Request Documents Relating to Abramoff's Request for $ 9 Million to Arrange Meeting with Bush

Contact: Brendan Daly, 202-226-7616

November 11, 2005

Washington, D.C. - House Democratic Leader Nancy Pelosi and Congressman Henry Waxman, Ranking Member on the Government Reform Committee, sent the a letter this morning to Harriet Miers, Counsel to the President, requesting that she provide Congress with documents relating to lobbyist Jack **Abramoff's** request for $ 9 million to arrange a meeting between President Bush and Omar **Bongo,** President of Gabon.

Below is the text of the letter:

November 11, 2005

Ms. Harriet Miers

Counsel to the President

The White House

1600 Pennsylvania Avenue, NW

Washington, D.C. 20500

Dear Ms. Miers:

Yesterday's New York Times reported that President Bush met with Gabon's President Omar **Bongo** in May 2004, ten months after lobbyist Jack **Abramoff** asked President **Bongo** for $ 9 million to arrange such a meeting. Mr. **Abramoff's** offer and the size of the requested payment raise questions about what role Mr. **Abramoff** may have played in the scheduling of this meeting between President Bush and President **Bongo.**

We are writing to request that you provide us with all White House and State Department documents and correspondence regarding the arrangement of the meeting.

According to the Times, a draft agreement between Mr. Abramoff and Gabon dated August 7, 2003, asked for $ 9 million in lobbying fees to pay for a "public relations effort related to promoting Gabon and securing a visit for President Bongo with the President of the United States."[1] The Times reports that this draft agreement came just 10 days after Mr. Abramoff wrote to President Bongo on July 28, 2003, suggesting that "he had unusual influence to arrange a meeting with President Bush." In that letter, Mr. Abramoff noted: "Without advance resources, I have been cautiously working to obtain a visit for the president to Washington to see President Bush."

White House spokesman Trent Duffy told the Times that arrangements for the visit by the President of Gabon were not unusual and went through "normal staffing channels." However, it is impossible for Congress and the public to assess this assertion without access further documentation from the White House.

We therefore request the following documents:

* All records relating to any contacts or communications between White House staff and Jack Abramoff, the firm Greenberg Traurig, and the firm GrassRoots Interactive regarding a visit by representatives of Gabon.

* All records relating to any contacts or communications between the State Department and Jack Abramoff, the firm Greenberg Traurig, and the firm GrassRoots Interactive regarding a visit by representatives of Gabon.

* All records relating to any direct contacts or communications between White House staff and representatives of Gabon.

* All records relating to any direct contacts or communications between the State Department and representatives of Gabon.

We request that you provide these materials by November 30, 2005.

Sincerely,

Nancy Pelosi Henry A. Waxman

House Democratic Leader Ranking Member,

Government Reform Committee

JOURNAL-CODE: WCAR

LOAD-DATE: November 14, 2005

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Global News Wire - Europe Intelligence Wire
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The Independent

November 11, 2005

LENGTH: 609 words

HEADLINE: THE PRESIDENT, THE DICTATOR AND A $ 9M DEMAND FOR OVAL OFFICE CHAT

BYLINE: Rupert Cornwell in Washington

BODY:

More trouble swirled around the disgraced Republican lobbyist Jack Abramoff yesterday, after reports that he sought $ 9m from the leader of the west African country of Gabon to organise a White House meeting with President George Bush.

The episode was revealed in documents released by a senate committee investigating other dubious dealings of the scandal- battered Mr **Abramoff,** most vividly a personal letter from the lobbyist to President Omar **Bongo,** dated 28 July 2003. Mr **Abramoff** informed the Gabonese leader that his lobbying firm had already been approached by 'a neighbouring nation' which had offered money to launch a major lobbying effort in Washington, its centrepiece a meeting with Mr Bush.

But Mr Abramoff wrote that he had been assured that Gabon still wanted to use the services of his firm, and would match its neighbour's offer.

The documents, obtained by leading US newspapers, show that the lobbyist drew up a draft contract for Gabon to pay $ 9m to the privilege.

There is no evidence that the deal was consummated, and no suggestion that Mr Abramoff had any role in organising the Oval Office meeting between Mr Bush and President Bongo, on 26 May 2004, 10 months after the initial pitch. But the allegation will add to the atmosphere of sleaze now surrounding the Republican party establishment in Washington.

It also throws fascinating light on the brazen modus operandi of super- rich lobbyists such as Mr Abramoff, as they traded on their connections with senior figures in the administration and Congress to bring in lucrative new business.

In the letter, according to excerpts in the Washington Post, Mr Abramoff proposed flying to Gabon after a mid-August golfing trip to Scotland with 'the Congressmen and Senators I take there each year'. But, he made clear, Gabon would have pay a part, 'perhaps 10%', of the agreed fee up front.

And if the lobbyist did travel to Africa, it would be in a private aircraft 'which bears a substantial cost, unfortunately', also to be paid up front.

Politely, Mr Abramoff made clear that he would take his talents elsewhere if Gabon did put money on the table. 'I would be quite unpopular at my firm if I were to forgo a multimillion-dollar form offer on the hope of a similar opportunity elsewhere.'

The letter ends 'with high regard and much admiration ... sincerely yours, Jack Abramoff, Senior Director, Government Affairs'.

The missive was among documents released by the Senate Indian Affairs Committee, which is investigating how Mr Abramoff and an associate extracted more than $ 66m from various native American tribes anxious to protect their gambling businesses. He is said to have described his clients as 'monkeys', 'troglodytes' and 'idiots'.

But the lobbyist's problems do not end there. Months ago, he was charged with wire fraud in connection with a 2000 deal involving floating casinos in Florida.

In the summer, Timothy Flanigan, President Bush's nomination as deputy attorney general, was forced to withdraw after his ties with Mr Abramoff were revealed.

Most damaging of all perhaps, David Safavian, a former registered agent for President Bongo in Washington, was forced to resign as a White House budget official days before he was charged with lying to federal agents about his own links to the lobbyist.

Though there is no evidence that Mr Abramoff set up the meeting between presidents Bush and Bongo, there are plenty of precedents. Billy Carter was a lobbyist for Libya when his brother Jimmy was President in the 1970s. Small countries regularly engage lobbyists to boost their profile in Washington.

JOURNAL-CODE: FIND

LOAD-DATE: November 11, 2005

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US Fed News

November 11, 2005 Friday 11:51 PM EST

LENGTH: 526 words

HEADLINE: REPS. PELOSI, WAXMAN REQUEST DOCUMENTS RELATING TO ABRAMOFF'S REQUEST FOR $9 MILLION TO ARRANGE MEETING WITH BUSH

BYLINE: US Fed News

DATELINE: WASHINGTON

BODY:

House Minority Leader Nancy Pelosi, D-Calif., issued the text of the following letter:

House Democratic Leader Nancy Pelosi and Rep. Henry Waxman, Ranking Member on the Government Reform Committee, sent the a letter this morning to Harriet Miers, Counsel to the President, requesting that she provide Congress with documents relating to lobbyist Jack **Abramoff's** request for $9 million to arrange a meeting between President Bush and Omar **Bongo,** President of Gabon.

Below is the text of the letter:

November 11, 2005

Ms. Harriet Miers

Counsel to the President

The White House

1600 Pennsylvania Avenue, NW

Washington, D.C. 20500

Dear Ms. Miers:

Yesterday's New York Times reported that President Bush met with Gabon's President Omar Bongo in May 2004, ten months after lobbyist Jack Abramoff asked President Bongo for $9 million to arrange such a meeting. Mr. Abramoff's offer and the size of the requested payment raise questions about what role Mr. Abramoff may have played in the scheduling of this meeting between President Bush and President Bongo.

We are writing to request that you provide us with all White House and State Department documents a nd correspondence regarding the arrangement of the meeting.

According to the Times, a draft agreement between Mr. Abramoff and Gabon dated August 7, 2003, asked for $9 million in lobbying fees to pay for a "public relations effort related to promoting Gabon and securing a visit for President Bongo with the President of the United States."[1] The Times reports that this draft agreement came just 10 days after Mr. Abramoff wrote to President Bongo on July 28, 2003, suggesting that "he had unusual influence to arrange a meeting with President Bush." In that letter, Mr. Abramoff noted: "Without advance resources, I have been cautiously working to obtain a visit for the president to Washington to see President Bush."

White House spokesman Trent Duffy told the Times that arrangements for the visit by the President of Gabon were not unusual and went through "normal staffing channels." However, it is impossible for Congress and the public to assess this assertion without access further documentation from the White House.

We therefore request the following documents:

* All records relating to any contacts or communications between White House staff and Jack Abramoff, the firm Greenberg Traurig, and the firm GrassRoots Interactive regarding a visit by representatives of Gabon.

* All records relating to any contacts or communications between the State Department and Jack Abramoff, the firm Greenberg Traurig, and the firm GrassRoots Interactive regarding a visit by representatives of Gabon.

* All records relating to any direct contacts or communications between White House staff and representatives of Gabon.

* All records relating to any direct contacts or communications between the State Department and representatives of Gabon.

We request that you provide these materials by November 30, 2005.

Sincerely,

Nancy Pelosi

House Democratic Leader

Henry A. Waxman

Ranking Member,

Government Reform Committee

Contact: Brendan Daly and Jennifer Crider, 202/226-7616.

LOAD-DATE: November 14, 2005

Copyright 2005 Bulletin News Network, Inc.
The Frontrunner

November 10, 2005 Thursday

SECTION: WASHINGTON NEWS

LENGTH: 141 words

HEADLINE: Abramoff Sought $9 Million To Arrange Meeting With Bush

BODY:

Newly disclosed documents show that lobbyist Jack **Abramoff** asked the President Omar **Bongo** of Gabon for $9 million to arrange a meeting with President Bush The New York Times (11/10, Shenon, 1.19M) reports that **Bongo** "met with President Bush in the Oval Office on May 26, 2004, 10 months after Mr. **Abramoff** made the offer. There has been no evidence in the public record that Mr. **Abramoff** had any role in organizing the meeting or that he received any money or had a signed contract with Gabon. White House and State Department officials described Mr. Bush's meeting with President **Bongo,** whose government is regularly accused by the United States of human rights abuses, as routine. The officials said they knew of no involvement by Mr. **Abramoff** in the arrangements. Officials at Gabon's embassy in Washington did not respond to written questions."

LOAD-DATE: November 10, 2005

Copyright 2005 The New York Times Company
The New York Times

November 10, 2005 Thursday
Late Edition - Final

SECTION: Section A; Column 3; National Desk; Pg. 1

LENGTH: 1361 words

HEADLINE: Lobbyist Sought $9 Million to Set Bush Meeting

BYLINE: By PHILIP SHENON

DATELINE: WASHINGTON, Nov. 9

BODY:

The lobbyist Jack Abramoff asked for $9 million in 2003 from the president of a West African nation to arrange a meeting with President Bush and directed his fees to a Maryland company now under federal scrutiny, according to newly disclosed documents.

The African leader, President Omar **Bongo** of Gabon, met with President Bush in the Oval Office on May 26, 2004, 10 months after Mr. **Abramoff** made the offer. There has been no evidence in the public record that Mr. **Abramoff** had any role in organizing the meeting or that he received any money or had a signed contract with Gabon.

White House and State Department officials described Mr. Bush's meeting with President **Bongo,** whose government is regularly accused by the United States of human rights abuses, as routine. The officials said they knew of no involvement by Mr. **Abramoff** in the arrangements. Officials at Gabon's embassy in Washington did not respond to written questions.

"This went through normal staffing channels," said Trent Duffy, a White House spokesman, who said the meeting was "part of the president's outreach to the continent of Africa."

A document from Mr. Abramoff's files that was released last week by a Senate committee shows that in the summer of 2003 he pushed to sign President Bongo as a client, even offering to travel to Gabon immediately after an August golfing vacation to Scotland "with the congressmen and senators I take there each year."

The documents also show that Mr. Abramoff and his colleagues drew up a draft contract that called for $9 million in fees to be paid to GrassRoots Interactive, the small Maryland lobbying company that his former colleagues say he controlled.

Documents, including copies of canceled checks, show that millions of dollars flowed through the company's accounts in 2003, the year it was created, including at least $2.3 million to a California consulting firm that used the same address as the law office of Mr. Abramoff's brother, Robert. A separate check for $400,000 was made out to Kay Gold, another Abramoff family company.

Mr. Abramoff, a Republican fund-raiser who once was one of the most powerful lobbyists in Washington, has been indicted in Florida on federal fraud charges. He is also under investigation by a federal grand jury in Washington and two Senate committees.

The grand jury inquiry initially centered on accusations that Mr. Abramoff had defrauded a group of Indian tribes out of tens of millions of dollars in lobbying fees connected to their gambling operations, including steep fees for work that was never performed.

But federal law enforcement officials say that inquiry has broadened, with prosecutors examining other issues, including Mr. Abramoff's relationship with GrassRoots and other small consulting firms and charities he controlled. Congressional investigators have questioned whether he used them to hide income to avoid paying taxes and to evade disclosure rules for lobbyists. Federal law requires lobbyists for foreign governments to register with the Justice Department.

A spokesman for Mr. Abramoff had no comment on GrassRoots or the lobbyist's contacts with President Bongo. Robert Abramoff did not return repeated phone calls. GrassRoots has no listed telephone number in Silver Spring, Md., where it had been based.

In a draft agreement with Gabon dated Aug. 7, 2003, Mr. Abramoff and his associates asked that $9 million in lobbying fees be paid through wire transfers -- three of them, each for $3 million -- to GrassRoots instead of the Washington offices of Greenberg Traurig, the large lobbying firm where he did most of his work. The agreement promised a "public relations effort related to promoting Gabon and securing a visit for President Bongo with the president of the United States."

In seeking meetings at the White House or on Capitol Hill, foreign leaders, especially those from small nations, regularly turn to Washington lobbyists, especially those who claim connections to the government because of political or family ties.

Billy Carter, President Jimmy Carter's brother, was a registered agent for Libya during his brother's presidency. During the Clinton administration, Anthony Rodham, whose sister, Senator Hillary Rodham Clinton, was the first lady, acknowledged that he had been offered a six-figure payment by supporters of the president of Paraguay to arrange a meeting with President Bill Clinton.

GrassRoots Interactive came under scrutiny on Capitol Hill in recent months when the Senate Judiciary Committee considered President Bush's nomination of a senior lawyer at Tyco International, a former lobbying client of Mr. Abramoff, as the No. 2 official at the Justice Department.

The lawyer, Timothy E. Flanigan, told the committee that at Mr. Abramoff's suggestion he had directed $2 million to GrassRoots from Tyco for lobbying on the company's behalf.

Instead, Mr. Flanigan said he learned last year that Mr. Abramoff had directed the money to "entities" that the lobbyist controlled and that Tyco was the victim of a "major fraud." After weeks of controversy over his ties to Mr. Abramoff, Mr. Flanigan withdrew his nomination as deputy attorney general last month.

Mr. Abramoff's ties to Gabon were first revealed in a letter that was among hundreds of pages of documents from Mr. Abramoff's files that were released last week by the Senate Indian Affairs Committee, which has conducted a year-long investigation of his lobbying for Indian tribes.

When he first approached Gabon, Mr. Abramoff was not new to issues involving West Africa.

He had been a Washington lobbyist for President Mobutu Sese Seko, the repressive leader of neighboring Congo, called Zaire at the time. He also had connections to Gabon through a former business partner, David Safavian, who was a registered agent in Washington for President Bongo. Mr. Safavian, a former White House budget official, was arrested in September on charges of lying about his ties to Mr. Abramoff.

The three-page letter released by the Senate panel was written to Mr. Bongo on Greenberg Traurig stationery and dated July 28, 2003; Mr. Abramoff suggested that he had unusual influence to arrange a meeting with President Bush.

"Without advance resources, I have been cautiously working to obtain a visit for the president to Washington to see President Bush," Mr. Abramoff wrote. "As you know, we were, in advance of the war in Iraq, able to secure a tentative date for this meeting; however, the war canceled all such scheduled visits."

Mr. Abramoff said he was willing to travel to Gabon to meet with Mr. Bongo to discuss the contract if the government would arrange for a private plane.

"It must be on the basis by which I travel anywhere, being in a private aircraft, which bears a substantial cost unfortunately," he said. "I am confident that we will have a long, productive and warm relationship, but good relationships are built on firm understandings at the outset."

Other documents obtained by The New York Times show that Mr. Abramoff and his colleagues prepared two draft agreements, both dated Aug. 7, 2003, that outlined the lobbying plan for Gabon.

One called for GrassRoots to receive $9 million in lobbying fees; the other called for Greenberg Traurig to receive $1 million, all of it in 2003.

A spokeswoman for Greenberg Traurig said the firm had no comment. "We don't comment on whom we do or don't represent," said Jill Perry, a spokeswoman for the firm, which forced Mr. Abramoff to resign last year.

Maryland state records show that GrassRoots were established in 2003 by Edward B. Miller, a Republican lawyer who is now deputy chief of staff to Gov. Robert L. Ehrlich Jr. of Maryland. Samuel Hook, a former partner of Mr. Abramoff from Greenberg Traurig, took over it in September 2003.

Mr. Ehrlich's office has said that Mr. Miller is cooperating in the Justice Department investigation. Aron Raskas, a lawyer speaking for Mr. Miller, said Mr. Miller had no knowledge of any project involving Gabon.

Mr. Hook's lawyer, Alyza D. Lewin, said that "Mr. Abramoff solely controlled G.R.I.," a reference to GrassRoots Interactive.

URL: http://www.nytimes.com

GRAPHIC: Photo: President Omar Bongo of Gabon met with President Bush in 2004. (Photo by Shawn Thew/European Pressphoto Agency)(pg. A20)

LOAD-DATE: November 10, 2005

Copyright 2005 The Washington Post
The Washington Post

November 10, 2005 Thursday
Final Edition

SECTION: A Section; A27

LENGTH: 750 words

HEADLINE: August in Libreville?

BODY:

Members of Congress who accompanied former K Street lobbying powerhouse Jack Abramoff on golf trips to Scotland in the summer of 2003 might have looked for another junket instead if they had seen this three-page pitch letter **Abramoff** wrote on July 28 that year to Gabonese President Omar **Bongo.**

Abramoff's lobbying activities for his firm Greenberg Traurig LLP, including trips he arranged for members of Congress, are the subject of a criminal investigation as well as an inquiry by the Senate Indian Affairs Committee, which included this letter in documents released last week.

-- Sue Schmidt

Excerpts from Abramoff's letter:

Dear Mr. President,

. . . Our firm is one of the very top lobbying and public affairs law firms in the nation. We have a wealth of powerful corporate and government clients who keep our team of lobbyists very active. Our success rate is exceptional.

. . . I have been cautiously working to obtain a visit for the President . . . to see President Bush, the Congress and policy and opinion makers in the United States. As you know, we were, in advance of the war in Iraq, able to secure a tentative date for this meeting, however, the war cancelled all such scheduled visits, with the exception of the critical US war allies.

Since the time of the war, we have been discussing a rescheduling of the meeting. . . .

Our firm was approached by a neighboring nation which also desired such a meeting, and indeed much more than a meeting. Of course, our firm's main strength is not in just setting up meetings, but in changing and impacting US policy, so to the neighbor, the meeting is important, but merely the tip of the iceberg.

The neighbor has offered to put up the resources which are necessary to not only secure a meeting, but more importantly, to commence a policy effort in Washington which could impact America's Africa policy in limited ways. These resources are substantial and would be used to build a support network for the neighbor which would enable the decision makers to move the neighbor up on the priority list. . . .

Roger [an unidentified friend who suggested this letter] told me not to make a decision yet. . . . [He] told me that Gabon still wished our services and would match the offer of the neighbor. I told him that I am being called incessantly by the neighbor so, if this was a real offer, we needed to confirm it quickly. I have a fiduciary obligation to the firm to confirm possible representations with great certitude.

. . . I suggested that I visit Gabon after my trip to Scotland in mid August, but that in order for me to preserve this and be able to turn down the neighbor's offer, we had to commence the representation, even in small part, perhaps ten percent . . . . Please bear in mind that the neighbor's proposal was to pay the entire amount up front.

. . . [As] with all my clients around the world, if I am required to travel, it must be on the basis by which I travel anywhere, being in a private aircraft, which bears a substantial cost unfortunately. . . . I have always insisted -- even to clients whom I have represented for many years -- that the costs are covered in advance. . . .

. . . I would be quite unpopular at my firm if I were to forego a multi-million dollar firm offer on the hope of a similar opportunity elsewhere.

I suggested again that we commence with a small amount, so that I can secure the firm, and we can commence what will be a very difficult task of achieving the meeting. . . .

I am willing to visit after my visit to Scotland with the Congressmen and Senators I take there each year. It is possible that they will want to join me in Gabon, which would be an extra bonus. . . . [In] order to do this, we must commence the effort as soon as possible and I must know that the extra costs of prolonging my trip can be covered in advance.

I am sorry for all of these logistical details, but we are a firm in high demand and it is my responsibility to ensure that our business approach is prudent. I am confident that we will have a long, productive and warm relationship, but good relationships are built on firm understandings at the outset.

. . . I do need to resolve this one way or another with the neighbor by next week. At that time, I will have delayed them for almost three weeks beyond when they wished to commence the representation. . . .

With high regard and much admiration, I am

Sincerely yours,

Jack Abramoff

Senior Director, Government Affairs

LOAD-DATE: November 10, 2005

Copyright 2005 The New York Times Company
The New York Times

November 16, 2005 Wednesday
Late Edition - Final

SECTION: Section A; Column 1; Editorial Desk; Pg. 22

LENGTH: 309 words

HEADLINE: The Links of Influence Peddling

BODY:

Little did Representative Tom DeLay and other lawmakers dream that in frolicking on the golf junkets of Jack **Abramoff,** the indicted Republican superlobbyist, the influential politicians might, in effect, be caddying for his avaricious lobbying reach.

It turns out that Mr. **Abramoff,** the subject of multiple investigations, initiated a typically brazen $9 million proposal that he use his influence to secure a White House visit for President Omar Bongo of **Gabon.** In an expansive letter to his target, Mr. **Abramoff** suggested that he could visit President Bongo "after my visit to Scotland with the congressmen and senators I take there each year." He said, "It is possible they will want to join me in **Gabon,** which will be an extra bonus."

President **Gabon** did visit President Bush, but there is no evidence so far that Mr. **Abramoff** actually played the broker or that he packed his lawmaker playmates off to **Gabon.** There is indisputable evidence, however, that his braggadocio about feting lawmakers on the links was true -- now embarrassingly so, as investigations detail how Mr. **Abramoff** milked those connections to project an aura of all-purpose political power.

The largely uncontrolled lobbying world of Washington deserves all the attention it is getting by way of Mr. **Abramoff,** who seems to have styled his shop after "Glengarry Glen Ross." A worthy bill to end the scandalous privately financed junketeering -- $18 million worth by 600 lawmakers in the last five years -- and closely track lobbyists' money and influence has been submitted by two Democratic representatives, Martin Meehan of Massachusetts and Rahm Emanuel of Illinois. As the Republican majority grows anxious about next year's elections and the public's increasing disapproval of Congress, it would be wise to resort to lobbying reform as the last refuge of ex-junketeers.

URL: http://www.nytimes.com

LOAD-DATE: November 16, 2005

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The New York Times

November 12, 2005 Saturday
Late Edition - Final

SECTION: Section A; Column 3; National Desk; Pg. 16

LENGTH: 494 words

HEADLINE: Democrats Seek Documents on Lobbyist and Bush Meeting

BYLINE: By PHILIP SHENON

DATELINE: WASHINGTON, Nov. 11

BODY:

House Democratic leaders called on the White House on Friday to release documents showing whether a powerful Republican lobbyist had a role in arranging an Oval Office meeting last year between President Bush and the president of the West African nation of **Gabon,** whose government had been asked by the lobbyist to pay $9 million to help arrange such a meeting.

In a letter to the White House counsel's office, the House Democratic leader, Representative Nancy Pelosi of California, and the senior Democrat on the Government Reform Committee, Representative Henry A. Waxman of California, said they wanted copies of "all records relating to any connections between White House staff" and the lobbyist, Jack **Abramoff,** "regarding a visit by representatives of **Gabon.**"

The White House and the State Department have said that the meeting with President Omar Bongo of **Gabon** on May 26, 2004, was routine and that there was no evidence of any involvement by Mr. **Abramoff.**

"However," Ms. Pelosi and Mr. Waxman wrote, "it is impossible for Congress and the public to assess this assertion without further documentation from the White House."

The White House has said the meeting had special importance because **Gabon** held the presidency of the United Nations General Assembly last year and because of the Bush administration's interest in AIDS prevention in Africa. The **Gabon** Embassy in Washington has not responded to written questions from The New York Times about the meeting.

A spokeswoman for Mr. **Abramoff,** who is under indictment in Florida and under investigation by a federal grand jury in Washington, would not discuss the lobbyist's approach to President Bongo, whose government has often been criticized by the State Department as having a poor record on human rights.

The White House had no comment Friday on whether it would release documents to the House Democrats, who also requested material from the State Department about President Bongo's meeting.

A White House spokesman, Trent Duffy, said, "President Bush met with President Bongo because he believes in good U.S.-Africa relations, and if Democrats question that, that's their business."

Mr. **Abramoff's** contacts with **Gabon** were disclosed last week when the Senate Indian Affairs Committee, which is investigating his lobbying for Indian tribes and their gambling operations, released hundreds of pages of documents from his files, including a July 2003 letter in which Mr. **Abramoff** wrote to President Bongo to urge **Gabon** to hire him as a lobbyist.

Other documents obtained by The Times show that Mr. **Abramoff** and his colleagues drew up a draft contract in August 2003 that called for **Gabon** to pay $9 million for a "public relations effort related to promoting **Gabon** and securing a visit for President Bongo with the president of the United States."

There is no evidence in the public record to show that Mr. **Abramoff** completed a contract with **Gabon** or received any money from it.

URL: http://www.nytimes.com

LOAD-DATE: November 12, 2005

Neil - Thanks for you help on this. Here is the collection of articles I mentioned.

You can reach me on (202) 647-6051. You can reach Sandy Hodgkinson on (202) 647-5543.

From: Sherer, Joan M

Sent: Thursday, January 05, 2006 11:56 AM

To: Witten, Samuel M; Hodgkinson, Sandra L

Subject: Bongo and Abramoff

Sam,

I'm attaching 2 files with articles about President Bongo of Gabon and Jack Abramoff. If you want additional articles let me know. I culled the result list down to the articles I thought were more substantive.

<<Bongo and Abramoff news articles.doc>> <<Bongo and Abramoff NYT.doc>>

Joan Sherer
U.S. Dept. of State
Ralph J. Bunche Library
2201 C St., NW, Room 3239
Washington, DC 20520
ph. (202) 647-1146
fax (202) 647-2971
shererjm@state.gov

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, January 5, 2006 7:07 PM
To: '[redacted]@apprisemedia.com'
Subject: RE: Detainee Treatment Roundtable

Sorry. Wild week. Can I call you at 1130 tomorrow?

-----Original Message-----
From: [redacted]@apprisemedia.com [mailto [redacted]@apprisemedia.com]
Sent: Thursday, January 05, 2006 3:52 PM
To: Gorsuch, Neil M
Subject: FW: Detainee Treatment Roundtable
Importance: High

Neil
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I spoke with [redacted] who said that given [redacted] departure and the timing of the event, he didn't want to send someone to the event officially. He suggested that we reach out to General Hemmingway from the USAF directly. Do you know Hemmingway? I placed a call but have not heard back.

[redacted] suggested pro [redacted] I checked [redacted] out on the internet -- he seems fair and balanced and is sanctioned by both JAG and West Point. Do you know him? I wanted to touch base with you before reaching out to him.

I am around today and tonight although out of pocket 8-9 pm this evening.

[redacted]

-----Original Message-----
From: [redacted]@cfr.org [mailto [redacted]@cfr.org]
Sent: Tuesday, December 06, 2005 10:39 AM
To: [redacted]
Cc: [redacted]@cfr.org
Subject: Re: Detainee Treatment Roundtable

[redacted]

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Cheers,
[redacted]

[redacted]

|----------|
| | | [redacted] | | | | | | [redacted] | | | | | | U.S. Military Academy; 646 Swift Road; West Point, NY 10996-1905 | | | | | Office phone: 845-[redacted] fax: 845-[redacted] office e-mail: | | [redacted]@usma.edu | |

(See attached file: Solis CV.doc)

[redacted]

Council on Foreign Relations
58 East 68th Street
New York, NY 10021
(212-[redacted]
[redacted]@cfr.org
http://www.cfr.org

[redacted]

<[redacted]@appri To
semedia.com> <[redacted]@cfr.org>
cc
12/01/2005 07:47 <[redacted]@cfr.org>,
PM <[redacted]@cfr.org>,
<ngorsuch@khhte.com>
Subject
Re: Detainee Treatment Roundtable

[redacted]

Thanks for forwarding. These all look like compelling participants, and I believe Neil Gorsuch, (who is coordinating with me), knows some of the presenters listed below.

Should we follow up with [redacted]
or the suggested panelists first?

[redacted]

Sent from my BlackBerry Wireless Handheld

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From: [redacted]@cfr.org <[redacted]@cfr.org>
To: [redacted] <[redacted]@apprisemedia.com>
CC: [redacted]@cfr.org <[redacted]@cfr.org>; [redacted]@cfr.org <[redacted]@cfr.org>
Sent: Thu Dec 01 13:06:43 2005
Subject: Detainee Treatment Roundtable

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[redacted]

[redacted]

Council on Foreign Relations
58 East 68th Street, New York, NY 10021 Tel (212) [redacted] Fax (212) [redacted] http://www.cfr.org

----- Forwarded by Evans Revere/NY/CFR on 12/01/2005 03:30 PM -----

[redacted] <[redacted]@osd.mil>

12/01/2005 03:28 PM
To
"'erevere@cfr.org'" <erevere@cfr.org> cc
'[redacted]@osd.gov'" <[redacted]@osd.gov> Subject
BRIEFING PROPOSAL

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Please discuss with your colleagues and let's discuss. My telephone number is: [redacted] Hope you are enjoying my favorite town and look forward to seeing you in the near future.

Cheers,
[redacted]

[redacted]@apprisemedia.com

From: [redacted]@apprisemedia.com
Sent: Friday, January 06, 2006 7:49 AM
To: Gorsuch, Neil M
Subject: Re: Detainee Treatment Roundtable
Attachments: tmp.htm

I have a conf call then. But 11 or 12 noon is open.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov <Neil.Gorsuch@usdoj.gov>
To [redacted] <[redacted]@apprisemedia.com>
Sent: Thu Jan 05 16:06:12 2006
Subject: RE: Detainee Treatment Roundtable

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(See attached file: Solis CV.doc)

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[redacted]

[redacted]

U.S. Military Academy; 646 Swift Road; West Point, NY 10996-1905

Office phone: 845 [redacted] fax: 845- [redacted] office e-mail:

| [redacted]@usma.edu |
|

(See attached file: Solis CV.doc)

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T[redacted]@apprisemedia.com>
CC [redacted]@cfr.org <cquinn@cfr.org>; [redacted]@cfr.org <[redacted]@cfr.org>
Sent: Thu Dec 01 13:06:43 2005
Subject: Detainee Treatment Roundtable

[redacted]

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Pete

COL Peter R. Mansoor
Senior Military Fellow
Council on Foreign Relations
58 East 68th Street, New York, NY 10021 Tel (212 Fax (212) http://www.cfr.org

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Cheers.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, January 6, 2006 7:59 AM
To: [redacted]@apprisemedia.com'
Subject: Re: Detainee Treatment Roundtable

How about 2?

-----Original Message-----
From: [redacted]@apprisemedia.com <[redacted]@apprisemedia.com>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Jan 06 07:49:12 2006
Subject: Re: Detainee Treatment Roundtable

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-----Original Message-----
From: [redacted]@cfr.org [mailto[redacted]@cfr.org]
Sent: Tuesday, December 06, 2005 10:39 AM
To: Michael Behringer
Cc: [redacted]@cfr.org
Subject: Re: Detainee Treatment Roundtable

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12/01/2005 03:28 PM

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Miller, Charles S

From: Miller, Charles S
Sent: Friday, January 6, 2006 11:03 AM
To: Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wiggins, Mike; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 1/6/06 Civil Division News

State files for summary judgment on base-closing lawsuit

Yemeni's journey: From bin Laden to Guantánamo

The perils of whistleblowing

AP

1/6/06

State files for summary judgment on base-closing lawsuit

NASHVILLE, Tenn. Copyright 2005 The Associated Press. All rights reserved. This material may not be published, broadcast, rewritten or redistributed. -- The state of Tennessee has filed a motion for summary judgment in its lawsuit against the Department of Defense to keep the 118th Airlift Wing in Nashville, Gov. Phil Bredesen announced Thursday.

The suit seeks to reverse an initial recommendation by the independent Base Realignment and Closure Commission that the Tennessee Air National Guard unit be dissolved and its eight C-130 Hercules planes sent to other states.

But the BRAC panel amended its recommendation in the final version passed by Congress in October, delaying any relocation of the wing's planes for five years.

The state is continuing to pursue the suit, in which Bredesen contends it's against the law for an Air National Guard unit to be relocated or withdrawn from a state without consent or approval from the governor, who acts as commander in chief of the state's Guard forces.

Attorney General Paul Summers filed the motion last week.

"Federal law says the Governor has the final say in whether a unit stays or goes, and I'm doing everything I can to ensure the 118th continues to call Nashville home," Bredesen said Thursday in a statement.

The 118th Airlift Wing's medical squadron aided in the evacuation of medical patients from the Gulf Coast region in the wake of Hurricane Katrina last August. The governor has said the unit is vital to quick disaster response in Tennessee.

END

International Herald-Tribune

1/6/06

Yemeni's journey: From bin Laden to Guantánamo

In 1996, Salim Hamdan, a 26-year-old Yemeni, was working part-time as a taxi driver, dividing his modest income between the mattress he rented in a crowded boardinghouse in the dirty, bustling city of Sana and his daily supply of khat leaves, the stimulant that most Yemeni men chew by the fistful.

Then one day the low-hanging horizon of his life lifted: He was recruited for jihad. He joined about 35 other Muslims, mostly Yemenis, who were preparing to leave for Tajikistan to fight alongside that country's small Islamic insurgency against its Russian-backed government. One of the group's leaders was a self-assured young man named Nasser al-Bahri.

Hamdan, an orphaned only child who had the rough equivalent of a fourth-grade education, wasn't especially religious and had no grand plans for his life other than the hope that he might someday be married, but he nevertheless initially embraced the idea of becoming a holy warrior.

It did not hurt that the trip was to be paid for - Bahri told him that the group had raised money from a handful of Saudi-based Muslim charities - and that Hamdan would also receive a salary.

After six months roaming Afghanistan's mountainous terrain, the jihadis were turned back at the Tajik border. At loose ends, one suggested that they go see a man named Osama bin Laden, a well-known sheik among radical Islamists who led a militant group of itinerant Muslim holy warriors called Al Qaeda.

They made their way to bin Laden's home in Farm Hada, a mountain village outside Jalalabad. Seventeen of the original 35 decided to stay, Hamdan and Bahri among them.

For the next several years, both men worked for bin Laden, first in Farm Hada, then, when he relocated for security reasons in 1997, at a better-fortified compound in the desert outside Kandahar. In 1999, Bahri and Hamdan's lives became further entwined. At bin Laden's urging and with his financial help, they married Yemeni sisters in Sana and returned to Afghanistan with their new wives.

By Sept. 11, 2001, however, Bahri and Hamdan's paths had diverged. Bahri was in prison in Yemen for his suspected links to Al Qaeda's bombing of an American naval destroyer, the Cole, in 2000. Hamdan was still with bin Laden, though not for long.

In late November 2001, with the U.S. military campaign in Afghanistan well under way, Hamdan was picked up near the border of Pakistan by a group of Afghan warlords. They hogtied him with electrical wire and within a matter of days turned him over to the Americans for a $5,000 bounty.

The interrogations started, and Hamdan was soon identified as Saqr al-Jedawi, his alias during his years with bin Laden. He spent the next six months in U.S. prison camps in Bagram and Kandahar before being flown to Guantánamo Bay in May 2002.

Today, he lives in a cell in Guantánamo, 6 by 9 feet, or 2 by 3 meters, awaiting trial by a special military tribunal established by U.S. presidential order in the aftermath of Sept. 11. If everything goes according to the government's plans, the Bush administration will prosecute Hamdan for violating the laws of war by conspiring to commit acts of terrorism against the United States.

The government has revealed little about its case against Hamdan - this portrait is drawn principally from his lawyers, family members, and a former Qaeda operative - but it has charged him with serious offenses, including transporting weapons and serving as a bodyguard to bin Laden. If convicted on all charges, Hamdan could receive a life sentence.

Hamdan's attorneys, a government-appointed U.S. Navy lawyer and a professor at Georgetown University Law Center, do not deny that their client worked directly for bin Laden. But they play down his importance to Al Qaeda, portraying him as an employee, an uneducated and far-from-devout driver and mechanic, who was grateful for a paycheck but generally ignorant of the terrorist enterprise for which he worked.

Also, they say that the tribunals, known officially as military commissions, are illegal - and they have sued the U.S. government to block them from going forward.

This spring, the detainee's lawyers will have the chance to make their case to the Supreme Court, when it hears Hamdan v. Rumsfeld.

The name of the case alone guarantees that it will be one of the most closely watched arguments of the year, and the eventual ruling will have far-reaching implications not just for Hamdan and the rest of the Guantánamo detainees, but also for presidential war powers - and quite possibly for the future of democracy in the Middle East.

If the "war on terror" is, at its heart, a battle to show the Islamic world that there is an alternative to oppressive theocracies and autocratic dictators, nothing is more important than how the U.S. government dispenses justice to detainees like Salim Hamdan.

Until now, America's wartime practice has been to hold on to captured combatants until the end of hostilities, when there is no longer a threat of them returning to the battlefield. In this case, though, the battlefield is unmapped and the hostilities could continue for decades.

For the moment, the government has broadly classified nearly all of the more than 500 detainees at Guantánamo as enemy combatants, but eventually it will to have to start sorting them out.

This will entail answering some difficult questions. Are all Muslim men who answered the call to jihad equally guilty? Which detainees represent a threat to the United States? Who is worth prosecuting, and how?

In a three-page military order issued Nov. 13, 2001, President George W. Bush authorized the special tribunals before which Salim Hamdan and other non-American enemy combatants are to be tried. The trials will be held in Guantánamo before panels of three to seven military officers selected by an administration appointee.

The administration opted for these special tribunals over the U.S. criminal courts for a number of practical reasons. Broadly speaking, certain rights that would be considered fundamental in a civilian court would not apply.

If defendants were suspected terrorists, for instance, they could not very well be permitted to see all the evidence against them, as some of it would no doubt be classified for national security reasons.

Practical considerations aside, the creation of the nation's first war crimes tribunals since World War II

sent a symbolic message, putting the war against Islamic extremism in the same class as the war against Nazism.

The tribunals also fit with the Bush administration's larger strategy to reassert and expand presidential authority in the aftermath of Sept. 11.

The executive branch would have complete control. Congress - the body empowered by the Constitution to convene military tribunals - not only was left out of the decision to establish them; it also was not consulted on how the tribunals would work.

Instead, the administration's lawyers wrote all of the rules, from the composition of the panels to the standards for admissible evidence to the definition of a war crime.

The judiciary branch was also cut out of the process: Contested verdicts would be reviewed not by a U.S. court of appeals but by a three-member panel picked by Defense Secretary Donald Rumsfeld.

The first batch of defendants for the tribunals, Hamdan and three others, were carefully selected and then repeatedly vetted on their journey up the chain of command. Case summaries were passed from the military lawyers assigned to the prosecution team to the Pentagon's adviser for the tribunals to Paul Wolfowitz, then deputy defense secretary, and to Bush.

Hamdan was originally slated to be the first Arab tried. The formal charge being brought against him is conspiracy, which the administration defines as having "joined an enterprise of persons who shared a common criminal purpose."

The government is certainly aware that the first trials will be closely scrutinized, and it seems quite unlikely that it would choose a case that was not airtight.

Whatever evidence the government may have against Hamdan, it is hard to believe he could have worked for bin Laden for five years, through several high-profile terrorist attacks, without the knowledge of Al Qaeda's intentions or bin Laden's trust. And given that he has admitted to being a driver, the progression to transporting weapons is hardly a leap.

Yet it seems clear that Hamdan was not a high-ranking officer of Al Qaeda. By the time the United States decided to try him in 2003, there were certainly people in custody suspected of more serious crimes. Why not prosecute the more heinous offenders first?

Like the government, Hamdan's lawyers see him as much more than a detainee; to them, he represents the pretext for a historic and unconstitutional presidential power grab.

As Hamdan's lawyers and other critics see it, the administration, by unilaterally creating the tribunals, defining the offenses and handpicking the judges and juries, is not only denying detainees fair trials, it is also violating bedrock principles of the American government.

Neal Katyal, the architect of Hamdan's defense, draws a sharp distinction between waging war, an act over which the president should have broad authority, and meting out justice. He has written more than a thousand pages of briefs arguing that the president has neither the authority to create the tribunals without explicit congressional approval nor the right to deny Hamdan status as a prisoner of war, and in so doing strip him of protections guaranteed by the Geneva Conventions.

Katyal's arguments found traction in federal court in Washington in autumn of 2004. Just as Hamdan's second round of preliminary hearings was getting under way at Guantánamo, Judge James Robertson, a former naval officer, ruled in his favor, declaring the tribunals illegal and abruptly halting the proceedings 30 minutes after they had begun.

In July 2005, however, a three-judge appeals panel that included John Roberts Jr., now chief justice of

the Supreme Court, overturned the decision.

Katyal and his co-counsel, Lieutenant Commander Charles Swift, petitioned the Supreme Court for review, and in November, after delaying action on the case for several weeks, the court announced that it would hear Hamdan v. Rumsfeld.

This was not the final word. No sooner had the Supreme Court agreed to consider Hamdan's case than a Republican senator from South Carolina, Lindsey Graham, introduced a last-minute amendment to a defense-authorization bill explicitly denying all Guantánamo detainees habeas corpus rights, or access to the U.S. federal courts.

This had been the administration's intent from the moment it started sketching out its legal strategy in the war on terror in the aftermath of Sept. 11, but the last time the issue came before the Supreme Court, in the spring of 2004 in another detainee case, the court ruled against the president (with a loud dissent from Justice Antonin Scalia).

Now Graham was effectively interceding on the administration's behalf in what amounted to an end run around the Supreme Court.

Days later, however, Senator Carl Levin, a Michigan Democrat, persuaded Graham to change the wording of the amendment so that it would not derail pending cases, including Hamdan v. Rumsfeld. It has since passed both the House and the Senate and now awaits the president's signature, which is expected any day.

For his part, Hamdan's immediate concerns have more to do with day-to-day life at Guantánamo Bay - how much time detainees are permitted to exercise and at what time of day, what books they are allowed to read, what comfort items they are allowed to keep in their cells - than with the future of his historic lawsuit against the U.S. government.

Shortly after the Supreme Court agreed to hear Hamdan v. Rumsfeld, Swift visited Hamdan's cell armed with several front-page newspaper articles about the development.

When Swift delivered the news, Hamdan smiled. Within a matter of minutes, though, his mood had visibly darkened, Swift says. Then Hamdan asked him, "What is this exactly that I've won?"

END

In-Pharma Trechnologist.com

1/6/06

The perils of whistleblowing

The firing of Dr Peter Rost by Pfizer highlights the position that employees can be faced with if they take a stand on what they believe to be illegal activity in the companies they work for.

The choices in such a situation are limited – quit and find a new job; turn a blind eye and in doing so risk becoming party to the activity; or act, and risk jeopardizing their career.

The outspoken ex-Pfizer exec, who has long been a thorn in Pfizer's side as an advocate of drug re-importation – to which Pfizer is greatly opposed – was fired on 1 December 2005 after a False Claims Act civil case, launched by Dr Rost against Pfizer/Pharmacia on 3 June 2003, was unsealed.

Dr Rost accused Pfizer/Pharmacia of defrauding the Medicare Program by off-label promotion of Genotropin, a prescription growth hormone.

His complaint alleges that Genotropin was promoted for its anti-aging effects in adults and for unapproved genetic disorders in children, and that this off-label marketing produced $50 million in illegal Genotropin sales, 25 per cent of the total.

An email, made available on the Green & Savits' website, sent from Dr Rost to Marie-Caroline Sainpy, senior vice president, Pfizer on 21 January 2003 stated:

"Pharmacia has been actively promoting Genotropin for more than 5 years, mainly for anti-ageing purposes. For growth hormone, this is a felony. Pharmacia sales reps who did not agree to off-label promotion were fired, or other adverse action was taken against them. We also have compliance records from sales reps indicating in writing that they had been forced to do off-label promotion. Pharmacia also actively encouraged off-label promotions by through favourable contracts with distributors and doctors exclusively working in the anti-ageing area. Pharmacia also paid kickbacks, sometimes in the form of "consulting agreements" of up to $50,000."

In the US it can be a federal crime for any growth hormone to be promoted off-label because of the significant abuse potential associated with growth hormones and the harm they can have if taken incorrectly.

According to Dr Rost, filing against his own employer was a matter on which he had *"no choice". "I tried for months through meetings and written correspondence to get the company to act but when they did not I had to take matters into my own hands."*

"Off-label promotion of growth hormone can carry up to a 5-year jail term. I risked going to jail if I knew about this and did not act," alleged Dr Rost.

This civil claim was kept sealed until November 2005. Once it was opened, the US attorney's office in Boston decided not to intervene. However, Dr Rost now intends to pursue the claim against Pfizer/Pharmacia, funding the legal challenge himself.

According to Dr Rost, the Justice Department does not intervene in 70-80 per cent of these types of cases due to lack of resources. *"If they thought it was without merit they could dismiss it, which they haven't,"* he alleged.

If Dr Rost were to win his civil case, Pfizer would be fined a large sum and the government will retain 75-80 per cent as compensation. The remainder would be paid to Dr Rost as a bonus.

Pfizer has since filed a motion to dismiss Dr Rost's civil case. It argues that it was Pfizer lawyers, not Rost, who were the true whistleblowers - informing federal officials of Genotropin irregularities in letters via email, before Rost filed the proper legal paperwork.

A letter, made available on the Green & Savitt's website, sent by Jeffrey Kindler, Pfizer's vice-chairman and general counsel, dated May 28, 2003, and received by Dr Rost on June 9, 2003, acknowledged and validated Rost's disclosure of the company's illegal marketing conduct, stating:

"I recognize that, with your assistance, Pharmacia examined these issues in 2002 and made significant changes to correct the issues you raised. Nevertheless we are making additional changes to the endocrine care business based on our review, which we are also in the process of disclosing to the relevant government authorities."

The issue that will now be argued in court is whether the general letters sent to the government by Pfizer constitutes sufficient notification to the government or not, Jon Green, Green & Savits' law firm told In-PharmaTechnologist.com.

Rost said that in addition to the civil case that he will be pursuing, a criminal investigation of Genotropin has been underway, led by Susan Winkler, assistant US Attorney, Boston.

"I have testified twice before a grand jury in Boston, and several of my colleagues have also testified," he

said.

If the Justice Department decides from this testimony that there is sufficient evidence to pursue the matter further, they will call an indictment against the employees involved, with the risk of large fines and possible jail time. The current status of this criminal case could not, however, be confirmed by In-PharmaTechnologist.com.

Pfizer settled a similar criminal lawsuit, initiated by whistleblower Dr David Franklin, after the company pleaded guilty to criminal fraud in the promotion of Neurontin, and agreed to pay $430 million last year.

In 2003, Dr Rost also settled a whistle-blower lawsuit against Wyeth for an undisclosed amount. He made allegations about wages and unpaid taxes in Wyeth's operations he oversaw in Sweden, Denmark and Norway from 1999 to 2001 before landing at Pharmacia. He would comment no further on the matter.

Dr Rost has also now launched an unfair dismissal case against Pfizer, following the company's decision to fire him last month.

"Whether or not Pfizer have the False Claims Act civil case dismissed has no bearing on the recent unfair dismissal case launched by Rost against Pfizer," said Green.

"The unfair dismissal case is based around the fact that after he began raising these issues of illegal activity to Pfizer in Oct 2003, he was told a few months later that there would be no position for him in the company," said Green.

In New Jersey, there's a statute called the Conscientious employee protection act (CEPA) where if an employee raises concerns pertaining to what they believe are illegal activities conducted by the company, even if these turn out to be unfounded, employees cannot punish them or retaliate in any way, Green explained.

According to the unfair dismissal complaint, when Pfizer acquired Pharmacia in 2002, Rost was then a vice president at Pharmacia who was initially informed by Pfizer that *"there is no question whatsoever on our side with your being considered for several positions."*

Prior to the takeover in 2002, Dr Rost's supervisor Magriet Gabriel-Regis, group vice president, Pharmacia, met with Marie-Caroline Sainpy, senior vice president, Pfizer and recommended his continued employment.

According to his end of year review in 2002 written by Gabriel-Regis, *"Peter brought a tremendous difference to the department. He has effected a major reorganization, reanalyzed many aspects of the business and essentially rebuilt plans from the ground up. His significant role and the energy he has devoted will pay off even more in the future. Peter is a key leader with potential for an even larger senior marketing role or a high-level role within operations."*

However, in January 2003 The New York Times published a front-page article describing how Rost had launched a whistleblower lawsuit against his former employee Wyeth. Shortly after, Pfizer informed Dr Rost that it would not be offering him a position within the company, according to the legal complaint on the Green & Savits' website.

Paul Fitzhenry, a Pfizer spokesman claimed that the latest unfair dismissal lawsuit was *"baseless"* and that Pfizer would *"vigorously defend the case."*

Pfizer said it had kept Dr Rost on the payroll until this month to avoid any associated complications while the False Claims Act was being investigated against Pfizer.

Had there been no lawsuit, Rost would have been given severance pay and released in 2003, when his vice president's position at Pharmacia was eliminated as part of the merger between the two companies, claimed Fitzhenry.

Commenting on the situation, Dr Rost said *"I don't enjoy having to sue people – for 20 years prior to all this mess I have had no contact for lawyers."*

"I am now looking for another job so that I can support myself and my family however the big pharma companies are reluctant to interview me for any positions," he said.

END

Williams, Jan

From: Williams, Jan
Sent: Friday, January 06, 2006 4:06 PM
To: Tamargo, Mauricio J; Spagnoli, Deborah A. (USPC); Herraiz, Domingo S.; Flores, Robert; Gillis, John; 'mdavis@who.eop.gov'; /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bradbury, Steve; Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roberts, Crystal; Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford

Subject: Breakfast Hosted by the Attorney General

U.S. Department of Justice
Senior Executive Service and Schedule C Appointees

You are Invited to a Breakfast Reception
hosted by Attorney General Gonzales

Wednesday, January 18, 2006
10:00 a.m. - 10:45 a.m.
Attorney General's Conference Room
Fifth Floor, RFK Main Building

$5.00 Cost at the Door
R.S.V.P. Required
Please respond by Thursday, January 12, at NOON to Jan Williams

USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Monday, January 09, 2006 8:08 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing for Monday, January 09, 2006
Attachments:	agnb060109.pdf; agnb060109.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: MONDAY, JANUARY 9, 2006 7:45 AM EST

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TERRORISM NEWS:

Specter Has Asked Gonzales Testify On Warrantless Eavesdropping. USA Today/AP (1/9) reports Sen. Arlen Specter, the chairman of the Senate Judiciary Committee, "said he has asked Attorney General Alberto Gonzales to testify publicly on the legality of eavesdropping without warrants on phone conversations between terrorism suspects overseas and in the USA. A prominent conservative on the committee said he is troubled by the legal arguments the Bush administration has given for establishing the National Security Agency (NSA) program. President Bush has pointed to the congressional resolution that authorized him to use force against Iraq as allowing him to order the domestic spying." Sen. Sam Brownback said Sunday, "There was no discussion in anything that I was around that gave the president a broad surveillance authority with that resolution."

DOJ_NMG_0008364

DNC Files FOIA Request On Domestic Spying. The Washington Times (1/9, McCaslin, 90K) reports in its "Inside the Beltway" column, "A Freedom of Information Act (FOIA) request by the Democratic National Committee (DNC) -- demanding the White House release Justice Department memos outlining whatever authority there is for President Bush, during the war on terrorism, to spy on certain people in the United States without court oversight -- has been hand-delivered to Justice Department headquarters by DNC General Counsel Joe Sandler. Actually, it took three DNC officials to load up, haul and deliver the FOIAs, as there were 160,000 separate requests -- each printed and boxed up -- signed by party supporters in the past two weeks. The Justice Department has 20 days to respond, although the DNC says it could be sooner depending on the outcome of a secret Foreign Intelligence Surveillance Act court hearing this week on the legal authority for the domestic-wiretapping program.'

Brownback Says 9/11 Resolution Did Not Give Bush "Broad Surveillance Authority." Asked on ABC's This Week (1/8, Stephanopoulos) if he was "confident that the administration has issued lawfully" in allowing the NSA to conduct domestic surveillance, Sen. Sam Brownback said, ": I think we need to hold hearings on it and we're going to. … I am troubled by what the basis for the grounds that the administration says that they did these on, the legal basis, and I think we need to look at that far more broadly and understand it a great deal. I think this is something that bears looking into and us to be able to establish a policy within constitutional frameworks of what a president can or cannot do." Asked if he thought "the 9/11 resolution gave the president the authority for this program," Brownback answered, "It didn't, in my vote. I voted for that resolution. … There was no discussion in anything that I was around that that gave the president a broad surveillance authority with that resolution."

Risen Commends Those Who Leaked NSA Story. New York Times reporter James Risen, appearing on NBC's Meet the Press (1/8. Russert), was asked how he came to learn of the existence of the NSA's secret domestic surveillance program, Risen responded, "People in the government who had been told about it or were involved in it came to me because they were deeply troubled. They felt that there was something going wrong in the government; they believed that there was illegal activity. And my colleague, Eric Lichtblau of the New York Times, also began to hear the same thing from other people. And we happened to sit next to each other in the Washington bureau of the New York Times, and we began to compare notes, and we realized we were hearing about the same thing. … I think that these people who came forward did so in the best tradition of whistleblowing, and they did so for the best reasons, and that is because they believed that there was illegal activity going on. Whether it was illegal or not is something that will now have to be determined."

Risen Book Filled With Stories From Disgruntled Intelligence Officials. The Financial Times (1/9, Alden) reviews James Risen's "State of War," reporting, "President George W. Bush has his own establishment problem, as reporter James Risen's new book State of War makes clear. Like [Bob] Woodward before him, Risen has been on the receiving end of leaks from career national security officials who are deeply unhappy with the current administration. Mr Bush declared war on the bureaucracy after September 11 2001 and it is fighting back. Risen and his New York Times colleague Eric Lichtblau revealed last month that Mr Bush secretly authorised the National Security Agency to intercept telephone and e-mail communications on US soil, an explosive story that has sparked a national debate over presidential powers. The anonymous sources, who are now the target of a Bush administration leak investigation, were nearly a dozen current and former government officials." Bush "has paid a high price for alienating those institutions." The "biggest reckoning may come at the hands of the CIA, which has been decimated by defections during the Bush years. … The professionals have fought back, revealing more and more of how the intelligence was manipulated." The Times says the book's chapters are filled with stories "from disgruntled spooks who believe the war on terrorism has been badly mishandled from the outset. Such criticisms will not surprise the agency's many neo-conservative detractors, who see it as too hidebound by timidity and bureaucratic inertia to operate in a war in which the old rulebooks no longer apply."

HOMELAND RESPONSE:

Goss Redoubling Efforts To Stop CIA Leaks. Time (1/16, Waller, Burger, Bennett) reports in its "Notebook" column, "Angered by recent leaks of information about sensitive intelligence operations, CIA Director Porter Goss is redoubling efforts to get his spooks to keep their mouths shut.

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At staff meetings last week, CIA managers at the agency's Langley, Va., headquarters told employees that the leaking had got out of control and needed to stop." Time adds, "The Bush Administration seems apoplectic over the revelations in November about the CIA's secret network of terrorist-interrogation prisons and the disclosure in the New York Times last month that the President authorized the National Security Agency (NSA) to eavesdrop on the phone calls of some Americans without a warrant. The latter report was also in State of War, a book by Times reporter James Risen." Goss "is concerned about the potential effects of books written by those with inside knowledge of agency operations. … Goss has banned current CIA officers from publishing books and ordered stricter reviews of retirees' books." Time adds that "there are efforts within the government to identify leakers. The Justice Department is investigating who gave away the NSA secrets. While such probes rarely succeed, the department's new willingness to subpoena reporters and their records could change that."

Newsweek (1/16) adds in its "Periscope" column that the intelligence community "is also furious over disclosures in New York Times reporter James Risen's 'State of War' about a Clinton-era CIA plot, Operation Merlin. Risen writes that a former Russian nuclear scientist on the agency payroll was to take Russian nuke blueprints (acquired by the CIA) and leak them to Iran. The catch: they contained faulty info that the CIA hoped Iran would incorporate in a bomb design. But the initiative went awry when the scientist noticed the flaws and told the Iranians to look closely at the blueprints." Current and former US intel officials "complain that while the scheme Risen cites may have ended years ago, similar tactics could be used today. They say the book…puts bad guys on guard."

WAR NEWS:

Bremer Says Bush, Rumsfeld Ignored His Request For More Troops. The Los Angeles Times/Reuters (1/9) reports, "L. Paul Bremer III, who led the U.S. civilian occupation authority in Iraq after the 2003 invasion, said he had urged President Bush and Defense Secretary Donald H. Rumsfeld to increase postwar troop strength in the country, but his pleas were ignored." In an interview on NBC Television broadcast Sunday night, "Bremer said he sent a memo to Rumsfeld suggesting that half a million soldiers would be needed, three times the number deployed by the Bush administration. 'I never had any reaction from him,' the former diplomat told NBC's Brian Williams on "Dateline." Reuters adds, "Although he never heard back from his direct boss, Bremer said he discussed his concerns with Bush, who told him he would seek troops from other countries, but did not mention increasing US forces."

Bremer Book Hits Stores Today. The Washington Post (1/9, A17, Kamen, 744K) reports in its "In the Loop" column, "Today's the day that L. Paul 'Jerry' Bremer 's book, 'My Year in Iraq: The Struggle to Build a Future of Hope,' goes on sale. Early buzz was that the former Iraq reconstruction chief and Medal of Freedom winner is going to say that Washington ordered him to disband the Iraqi military -- widely seen as perhaps the most colossal strategic blunder of the Iraq war. There's also said to be some score-settling with a senior Pentagon official whose last name rhymes with 'held.'"

At Least 14 Killed In Suicide Attack At Iraqi Interior Ministry. Reuters (1/9) reports, "At least 14 people were killed and 20 wounded in an apparent suicide attack on the Iraqi Interior Ministry in Baghdad on Monday, police said. Police told Reuters two suicide bombers appeared to have blown themselves up outside the building. It was not immediately clear how many of the dead and wounded included civilians."

Blackhawk Crash, Insurgent Action Result In 17 US Troop Deaths In Iraq. ABC World News Tonight (1/8, lead story, 3:15, Woodruff) began its broadcast with "the deadliest helicopter crash in Iraq since last January," which it called "the worst incident in a bloody weekend for Americans. Seventeen were killed. Most of them died when a Blackhawk helicopter went down near Tal Afar, killing 12 people including two civilians on the ground. Five Marines died in separate attacks." ABC (Nauert) added, "A senior military official here in Baghdad tells ABC News tonight that hostile fire does not appear to be the cause of the crash. But at this point, they cannot rule anything out."

NBC Nightly News (1/8, story 2, 1:30, Seigenthaler) reported that the Blackhawk "went down eight miles west of town killing for your and eight passengers onboard. The cause of the crash is unknown, but rain and low visibility was reported at the time." Meanwhile, "there were separate incidents in and near the city of Fallujah. Three died from gunshot wounds and two others by homemade bombs.

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Since the beginning of the year 30 servicemen had have been killed in Iraq. … A recent rise in insurgent activity coincides with a rotation of forces in Iraq."

Many newspapers run brief, similar reports on the crash, among them USA Today (1/9, Diamond, 2.31M), Washington Post (1/9, A1, Hernandez, Sebti, 744K), Los Angeles Times (1/9, Kraul, Daragahi, 958K), New York Times (1/9, Oppel Jr., 1.19M), Washington Times/AP (1/9, Quinn). Knight Ridder (1/9, Hannah), Reuters (1/9, Long) and Bloomberg (1/9, Critchlow) also report the story.

Shiite Iraqis Receiving Militia Training In Iran. The Washington Times (1/9, Behn, 90K) reports, "Shi'ite clerics are recruiting young Iraqis to go to neighboring Iran for political indoctrination and militia training, said the uncle of one young man who recently returned from a one-month session. Upon the return of the young man -- whose name has been withheld from this article to protect his family -- he was recruited into the armed wing of the pro-Iranian Supreme Council for Islamic Revolution in Iraq (SCIRI) political party, the uncle said." The claim "is consistent with remarks by U.S. Ambassador to Iraq Zalmay Khalilzad, who has repeatedly warned about Iranian meddling in Iraq's affairs." The National Council of Resistance of Iran (NCRI), "an exiled opposition group -- also charges that Tehran has been training Iraqi and other nationals in intelligence gathering and terrorist operations at garrisons across Iran."

Study Estimates Iraq War Costs Could Exceed $2 Trillion. A study by Columbia University economist Joseph E. Stiglitz and Harvard lecturer Linda Bilmes to be released today in Boston at a conference of economists and social scientists estimates the cost of the war in Iraq is far higher than the Administration has projected. The Boston Globe (1/9, Bender, 484K) reports, "The cost of the Iraq war could top $2 trillion after factoring in long-term healthcare for wounded US veterans, rebuilding a worn-down military, and accounting for other unforeseen bills and economic losses, according to a new analysis." That "far exceeds projections made by the Bush administration." It "is more than four times what the war was expected to cost through 2006 -- around $500 billion, according to congressional budget data."

The Washington Times/UPI (1/9) quotes Stiglitz saying, "Shortly before the war, when administration economist Larry Lindsey suggested that the costs might range between $100 and $200 billion, administration spokesmen quickly distanced themselves from those numbers. … But in retrospect, it appears that Lindsey's numbers represented a gross underestimate of the actual costs."

Time (1/16, Donnelly) reports in its "Notebook" column, "U.S. Military Officers often complain privately that the American people don't fully appreciate the costs -- human or economic -- of the Iraq war. A new paper by Harvard budget expert Linda Bilmes and Nobel-prizewinning Columbia economist Joseph Stiglitz may help address that. It claims that the final cost to the U.S. could be $2 trillion -- 10 times as high as the worst-case scenario of $200 billion suggested by a White House official before the war. The discrepancy is in part because of Bilmes and Stiglitz's holistic accounting methods. Their tally goes far beyond the traditional budget lines of the Pentagon, which says $173 billion was spent through September 2005. For instance, the paper includes estimates for the lifetime cost of disability payments and health care for some 16,000 injured soldiers, increased recruitment budgets, and -- since the government has not reined in spending or raised taxed -- debt financing for war expenditures. The paper also counts macroeconomic effects like the rising price of oil."

Iraqi Government Said To Be Vulnerable To Military Coup. In an op-ed for the Los Angeles Times (1/9, 958K) Aaron Belkin, associate professor of political science at UC Santa Barbara, writes, "But the mere fact of an election cannot change a fundamental truth about Iraq: Saddam Hussein governed as a brutal dictator not simply because he was cruel but also because of the treacherous political landscape that destabilized his relationship with his own military . Hussein was highly vulnerable to a military coup, and future Iraqi leaders will be just as susceptible. Regardless of the election's outcome, a coup will probably follow a U.S. pullout, and Iraq will again be ruled by a dictator."

US Ambassador Outlines Challenges For Iraq. Zalmay Khalilzad, the US ambassador to Iraq, writes in the Wall Street Journal (1/9, 2.11M) that "for Iraq to succeed there must be cross-ethnic and cross-sectarian cooperation that will lead to a national compact on three key issues dividing Iraq's communities and factions. First, as leaders from all communities have agreed, there has to be a government of national unity, which includes all major players

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-- including Sunni Arabs. … Second, the constitution will likely need to be amended in the coming year to broaden support. Iraqi leaders have begun discussing technical adjustments to make the political system resulting from the constitution more workable; compromises on some substantive issues such as federalization in Arab regions of Iraq; and a bill of assurances emphasizing national unity and individual rights. In addition, the outside world is waiting to see how welcoming Iraq will be to much-needed investment that can bring jobs and technology to Iraq. Third, Iraq's leaders will need to work together to reform security institutions and eliminate a number of militias and other armed groups."

Debaathification Committee Divides Iraqis. The Washington Post (1/9, A14, Spinner, 744K) reports from Baghdad on "sculptures" that had been "erected as symbols of prosperity and power under Saddam Hussein," all of which have been removed. Says the Post, "In a decision in October that has polarized residents of the capital, the officially sanctioned Debaathification Committee ordered the removal of memorials and monuments it deemed offensive. The move has brought a sensitive issue into sharp focus: How much of the era of Hussein, now on trial for crimes against humanity, should be preserved for posterity? The committee, which also vets former members of the Hussein government for inclusion in the current government, drew up the edict on the monuments, labeled Document 900, in secret. It has never been made public."

Zarqawi Claims Bin Laden Ordered Rocket Attack Against Israel. AFP (1/9) reports Abu Musab al-Zarqawi, "said in an audio tape put onto the Internet that rockets had been fired at Israel from Lebanon last month 'on the instructions' of the network's overall chief Osama bin Laden. … The tape was placed on the site normally used by his group, the Organization of Al-Qaeda in Mesopotamia, which had claimed responsibility for the rockets in an on-line statement on December 29." AFP notes, "Israel the previous day had carried out an air strike against a base of a Syrian-backed Palestinian group on the southern outskirts of Beirut in retaliation for cross-border Katyusha rocket attacks on northern Israel."

Retired US Army Officers Endorse Planned Withdrawal Of Forces From Afghanistan. Retired Army Lt. Col. Gordon Cucullu and Retired Maj. Gen. Paul E.Vallely write in the Washington Times (1/9, 90K), "In what may be a late Christmas present to some members of the famed 10th Mountain Division headquartered in Camp Drum, N.Y., Pentagon officials announced that the 4th Brigade that had been scheduled to deploy en masse to Afghanistan would now only send a smaller element. At the moment a battalion task force from the 4th Brigade is scheduled to deploy, a considerably smaller number than originally scheduled. Why the cutback? Simple, as Secretary of Defense Donald Rumsfeld has said from the outset, 'we'll stay as long as we're needed, not a day more.' At this point NATO has 'stood up to the mission' in the words of a senior Defense official, and is taking responsibility for the southern area of Afghanistan." They conclude, "Combat commanders consistently recommend a logical, effective strategy that injects common sense and military professionalism into a situation dominated by political gamesmanship, hysteria, disinformation and irrational hatred of the president, the military and the country. To be victorious, America can't yank the rug out, as we did to our Vietnamese allies, but must implement a deliberate, calculated force adjustment of the kind that marked our successful disengagement from other historic battlefields. This is the recipe for victory, and the approach now ongoing in Afghanistan demonstrates and reinforces its validity."

CORPORATE SCANDALS:

Compliance Panels Add Teeth To Industry's Self-Policing Efforts. The Wall Street Journal (1/9, Lublin) reports, "Scott Gilbert, the top compliance cop at Marsh & McLennan Cos., wanted to speed up training about new ethics rules for staffers at one Marsh unit. So he asked the unit's leaders to describe their plans to the board of directors' new compliance committee last September." The Journal continues, "Board-level presentations 'focus the attention of management,' says Mr. Gilbert, whom the New York financial giant hired as its first chief compliance officer in January 2005. A compliance committee 'is a very useful thing,' he adds." The Journal adds, "Others agree. A small but growing number of major corporations are creating board-level compliance panels to oversee how well their companies are obeying legal, regulatory and ethical requirements. Twenty-two Standard & Poor's 500 companies, mainly in the fields of health care and financial services, have board committees primarily focused on compliance and legal

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issues, up from 15 in 2003, according to an analysis by recruiters Spencer Stuart. … Compliance committees typically seek to ensure that employees don't run afoul of mandates such as antibribery laws, worker-safety rules and whistle-blower protections adopted after business scandals. They enhance the clout of managers who enforce compliance, keep tabs on compliance programs and lighten the load of audit committees."

NYTimes Says SEC Must Remain Serious About Punishing Top Corporate Officers. An editorial in the New York Times (1/9, 1.19M) says, "The Securities and Exchange Commission, under its chairman, Christopher Cox, took an important step in the fight against corporate malfeasance last week. By issuing guidelines on when and why it would impose fines, the commission added transparency to an oft-criticized process. … The new guidelines say the decision to levy a fine will hinge on whether the corporation and its shareholders were unjustly enriched." The Times adds, "The new guidelines were unanimous, which is good. We're glad that Mr. Cox has the entire commission moving in one direction. … But the new guidelines will work only if the commissioners remain serious about pursuing punishment against top officers."

CRIMINAL LAW:

Abramoff Case Could Expose Largest Influence-Peddling Scheme In Decades. U.S. News and World Report (1/16, Pound) that the "big question" in Washington is "not what happens to [Jack] Abramoff but whom he'll bring down with him. The list of those with potential problems is long indeed and starts with" former House Majority Leader Tom DeLay. After DeLay, "there's a handful of lesser congressional fry, perhaps a senator, and enough current and former congressional aides to field a baseball team." US News adds, "People with knowledge of the federal investigation of Abramoff say prosecutors are focusing on Rep. Bob Ney. … A decision on a Ney indictment could come within weeks, sources say. Ney denies any wrongdoing." US News adds, "Some old Washington hands believe that when the case finally fades from the headlines, it will go down as the biggest influence-peddling scheme to hit the nation's capital in decades."

In its cover package, Time (1/16, Tumulty) adds that the Abramoff investigation "could become one of the biggest corruption probes in U.S. history, possibly putting dozens of lawmakers in legal or political jeopardy." Time continues, "In an internal e-mail obtained by TIME, the director of the FBI's Washington field office, Michael Mason, congratulated some 15 agents and 15 support staff members under him on the case for 'a huge accomplishment' in squeezing Abramoff to make a deal after 18 months of investigation and negotiation, one that made 'a huge contribution to ensuring the very integrity of our government.' But he added that 'the case is far from over.' Another official involved with the probe told TIME that investigators are viewing Abramoff as 'the middle guy,' suggesting there are bigger targets in their sights."

Administration Moves To Account For Every Abramoff Visit To White House. In a separate article in its cover package, Time (1/16, Cooper, Allen) reports, "Bracing for the worst, Administration officials obtained from the Secret Service a list of all the times Abramoff entered the White House complex, and they scrambled to determine the reason for each visit. Bush aides are also trying to identify all the photos that may exist of the two men together. Abramoff attended Hanukkah and holiday events at the White House, according to an aide who has seen the list. Press secretary Scott McClellan said Abramoff might have attended large gatherings with Bush but added, 'The President does not know him, nor does the President recall ever meeting him.'" Time adds, "In the end, Bush may be saved by the textured relationship he has long had with well-heeled donors, who raised $300 million for his 2004 campaign, the most expensive one in the nation's history. When the President is traveling, he does not like to have contributors or local officials in his cars, planes or holding rooms unless they are there for a good reason, and he sometimes questions his underlings sharply if someone he considers extraneous is admitted. To make sure that doesn't happen, chief of staff Andrew Card has set up an elaborate vetting system that keeps people from sidling up to the President to suggest or hand anything to him."

Tension Said To Be "Palpable" As Abramoff Probe Sends "Shudders" Through Washington. Time (1/16, Tumulty) reports in its cover package, "A high-level source tells TIME that prosecutors will…focus much of their energies on the lesser and easier-to-prove charge of 'honest services mail fraud,' for which they have to show only that a lawmaker has acted in his personal interest or that of another individual but not of his constituents in return for improper gain. That lowering of the bar for criminal-corruption cases is sending

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shudders from the Capitol to the lobbying corridor of K Street. And none of that even begins to address the question of whether those who dined, traveled and socialized with Abramoff might have violated Congress's own loophole-ridden rules." All of which "explains why lobbying and ethics reform suddenly seem so popular on Capitol Hill, with lawmakers vying to outdo one another, as they always do in moments like these, with proposals they insist would clean up the system once and for all." Newsweek (1/16, Isikoff, Bailey, Thomas) adds, "It is not clear how many (if any) solons will wind up in jail because of their friendship with Abramoff. Bribery is very hard to prove. Congressman Ney…says he was duped into performing favors for Abramoff's clients." Newsweek adds that "panic on Capitol Hill was palpable; lawmakers scrambled to give away or return their campaign donations from Abramoff and his clients, led by House Speaker Dennis Hastert ($67,000). All denied any wrongdoing."

Boehner Challenges Accuracy Of "Abramoff Connection" Database. Roll Call (1/9, Newmyer) reports, "With lawmakers rushing to scrub their images clean by returning or donating to charity campaign money from former lobbyist Jack Abramoff and his clients," Rep. John Boehner is "calling for a timeout." On Friday, he "challenged the Center for Responsive Politics to remove his name from a database that the watchdog group had posted on its Web site tallying amounts that Members of Congress have received from Abramoff and his clients. According to the database, Abramoff and his associates had showered $32,400 in campaign contributions on Boehner. The problem, Boehner said, was that 'to the very best of my knowledge, I have never received a penny from Jack Abramoff, directly or indirectly.' Instead, he said the CRP was unfairly crediting to Abramoff's influence all donations the Ohio Republican had received from the former lobbyist's American Indian tribe clients." Boehner wrote, "I suspect there are many other Members of Congress who find themselves in this situation as well, surprised to have been identified publicly as having an 'Abramoff connection' when in fact no such connection exists." But CRP Executive Director Larry Noble "defended the legitimacy of a database he said was produced in response to intense public and media interest. He said the center will refine the database but for the time being would not remove the information about contributions to Boehner."

Abramoff Scandal Has Yet To Affect Political Polls. The Washington Times (1/9, Lambro, 90K) reports that the Abramoff scandal "so far has yielded little political impact, pollsters and campaign strategists say. While one recent poll showed Democrats with a slight edge going into this fall's midterm congressional elections, several observers say there is no indication that the scandal surrounding Abramoff" has "begun to influence voters' perceptions." Pollster John Zogby said, "It's too soon in terms of the story really breaking into the public imagination. It's less than a week old. Prior to that it was purely an inside the Washington Beltway story."

Greenberg Traurig Avoids Abramoff Fallout. Under the headline "Lobbyist's Firm Escapes Fallout From A Scandal," the New York Times (1/9, Glater, Kornblut, 1.19M) reports that Greenberg Traurig, which was a "politically well-connected law firm long before" Abramoff joined it, has "rushed to distance itself from Mr. Abramoff, appease his clients and work closely with prosecutors. In the process it has earned praise for its cooperation" from Sen. John McCain, has "kept alive the possibility of suing Mr. Abramoff for its losses and negotiated financial settlements with most of Mr. Abramoff's victims." Former federal prosecutor David Schertler said, "They have taken the new approach that most corporations or institutions take in today's world, which is just completely cooperate with the investigation."

Abramoff Represented Magazine Publishers Association. The New York Times (1/9, Seelye, 1.19M) reports that while "the press has spilled plenty of ink writing" about Abramoff, "little noticed is that among Mr. Abramoff's many clients was the press itself, at least part of it. In 2000, he represented the Magazine Publishers Association, and it turns out that some of the association's money may have been funneled to Mr. Abramoff's political allies. In documents last week in which Mr. Abramoff pleaded guilty to mail fraud and conspiracy to bribe public officials, he revealed that he and an unidentified Congressional aide worked to stave off an increase in postal rates -- a significant benefit for an industry that depends on the postal service." The magazine association "paid at least $1.4 million from 2000 to 2003 to Preston Gates Ellis & Rouvelas Meeds, the lobbying firm where Mr. Abramoff was the chief lobbyist."

Cornyn Says Reed "Apparently" Was "Bilking" Indian Clients. Sen. John Cornyn was asked on NBC's Meet the Press (1/8. Russert) if he intended to return a $1000 contribution he received from "associates of Jack Abramoff…and Ralph Reed," Cornyn replied, "It was a legal contribution. I don't plan on giving it back. … I had no knowledge of where Reed and Abramoff was somehow

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claiming credit [for actions taken by Cornyn] and then bilking their Indian clients for millions of dollars, apparently. And I certainly disapprove of that, did not know anything about it."

Lobbyists Continue Practices Despite Abramoff Scandal. The Legal Times (1/9, Palmer) reports, "If Washington lobbyists were feeling abashed last week after Jack Abramoff entered multiple guilty pleas, somebody forgot to tell the power-lunch crowd at the Palm. … Late last week the downtown chophouse, which serves as one of the de facto hubs of the lobbying universe, was alive with back-slapping bonhomie. Kenneth Duberstein held court at a center table for more than two hours, while Hilary Rosen passed by, clenching the end piece of her sunglasses with her teeth, and Grover Norquist worked a circuit at the back tables. It might have been expected that the ghost of Abramoff, Banquo-like, might hover over his former colleagues, but, all in all, it was business as usual." The Times continues, "And why not? Despite Abramoff pleading guilty to three counts of conspiracy, fraud, and tax evasion last week in Washington, and much speechifying on the Hill about fundamental lobbying reforms, it's still the busy season on K Street as lobbyists seek to secure earmarks for the 2007 spending bills. … And while lawmakers and watchdog groups scolded and fretted, the lobbyists themselves were busy working overtime trying to assuage clients' fears and put as much distance as possible between themselves and Abramoff's exploding star. … 'Jack Abramoff is an aberration, more the exception than the rule,' says William Morley, head of MWW Group's lobbying operation. 'On K Street, lobbyists are going to continue to do what they did before.' … That was a sentiment that echoed around Washington's influence community as lobbyists maintain that, so far at least, there hasn't been the lawmaker backlash on Capitol Hill that has been predicted in some circles."

Abramoff Prosecutor Seen As Low-Profile, Detail-Oriented. The Legal Times (1/9, McLure) reports, "After Jack Abramoff stepped before a D.C. federal judge to plead guilty to tax evasion, mail fraud, and a conspiracy 'involving public officials' last week, the face of the Justice Department was Assistant Attorney General Alice Fisher, who appeared before the cameras at a post-hearing news conference and declared that 'combating public corruption is a top priority of mine.' … But one person the newly appointed Fisher didn't credit during her victory lap was Mary Butler, the lawyer who actually quarterbacked the DOJ team during its 18-month investigation of Abramoff." The Times continues, "Butler, 49, is a career prosecutor with extensive experience handling public corruption cases. The Justice Department denied a request to interview Butler, but friends, former colleagues, and defense lawyers who have squared off against her describe her as a determined and evenhanded prosecutor who immerses herself in her job. … And that may be bad news for anyone caught up in the Abramoff investigation. … 'She's one of the special ones who will turn over every piece of paper, look at every credit card receipt and phone bill,' says Joshua Berman, a partner at Sonnenschein Nath & Rosenthal who worked with Butler at the DOJ's Public Integrity Division. 'She's really good at crossing t's and dotting i's.'" The Times notes, "That meticulousness has helped extract guilty pleas from both Abramoff and his associate Michael Scanlon, a former public relations executive. Those pleas have focused public attention on lawmakers with ties to the pair, a group that, so far, includes Reps. Tom DeLay (R-Texas), Bob Ney (R-Ohio), John Doolittle (R-Calif.), and Dana Rohrbacher (R-Calif.) and Sens. Conrad Burns (R-Mont.) and Harry Reid (D-Nev.). … But Butler's gone after public officials before. She got her start as a prosecutor in 1987, in the U.S. Attorney's Office for the Southern District of Florida, a region as rich in corruption cases as it is in saw grass. During her 12-year tenure there, Butler helped run a tax evasion and money laundering case against executives of the Bank of Credit and Commerce International, won the conviction of a Drug Enforcement Administration supervisor for the theft of $1 million in undercover funds, and nailed a local banker for lying to a grand jury about bribes paid to the mayor of Miami Beach."

Abramoff Judge Called Compassionate, Tough. The Legal Times (1/9, Kelley) reports, "Judge Ellen Segal Huvelle has a reputation for compassion in the courtroom, especially when dealing with defendants who confess, cooperate, and convey remorse. But lawyers who know the federal judge say she's not afraid to dole out harsh punishments, either. 'You can't pigeonhole Judge Huvelle,' says Kevin Baine, a partner with Williams & Connolly and a former colleague of Huvelle's from her days at the firm. 'She approaches every case on the merits.'" The Times continues, "In the case of fallen lobbyist Jack Abramoff, it's too early to tell how the judge will come down on the one-time king of K Street, who last week pleaded guilty before Huvelle to three felony counts of conspiracy, fraud, and tax evasion in the U.S. District Court for the District of Columbia." The Times adds, "The deal reached between Abramoff and the Justice

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Department recommends a prison term of between nine and 11 years and restitution of more than $25 million. In exchange, Abramoff has agreed to cooperate with the government's ongoing investigation, which published reports indicate could include as many as 20 lawmakers as well as their wives and staffers. According to local court rules, Huvelle likely would handle any additional criminal cases related to the Abramoff scandal, which means a number of Washington power players could end up in her courtroom. Huvelle already is overseeing the case of Michael Scanlon, Abramoff's former business partner who pleaded guilty to conspiracy charges in November."

Dean Says No Democrats Took Donations From Abramoff. DNC Chairman Howard Dean, asked on CNN's Late Edition (1/8, Blitzer) if "Democrats who took money from Jack Abramoff…should give that money to charity or give it back," said, "There are no Democrats who took money from Jack Abramoff, not one, not one single Democrat. Every person named in this scandal is a Republican. Every person under investigation is a Republican. Every person indicted is a Republican. This is a Republican finance scandal. There is no evidence that Jack Abramoff ever gave any Democrat any money. And we've looked through all of those FEC reports to make sure that's true. … Senator Byron Dorgan and some others took money from Indian tribes. They're not agents of Jack Abramoff. There's no evidence that I've seen that Jack Abramoff directed any contributions to Democrats. I know the Republican National Committee would like to get the Democrats involved in this. They're scared. They should be scared. They haven't told the truth. They have misled the American people. And now it appears they're stealing from Indian tribes. The Democrats are not involved in this."

DOJ Said To Have Intensified Anti-Corruption Probes. Roll Call (1/9, Kane, Bresnahan) reports, "The Justice Department's political corruption unit has launched an aggressive effort to better coordinate probes across several agencies, increased training in undercover and surveillance techniques for investigators, and pushed the envelope by pursuing what the unit's top prosecutor calls 'marginal cases.'" In the process, "the Public Integrity Section, as it's formally known, has more than doubled the number of federal corruption cases it has brought to the courts in the past four years, re-energizing an office that watchdog groups complained had grown stale in the previous decade." Moreover, "both in terms of the quantity of cases and the speed with which the prosecutors are moving, Justice's corruption cops have stoked more fear in the halls of Congress and among other public officials than their predecessors had in at least a generation." Roll Call adds, "Congressional Democrats have applauded the aggressive efforts of the Justice Department, contending that more than a decade of GOP control on Capitol Hill and five years of Republican grip on the White House have created an arrogant 'culture of corruption.' Republicans, meanwhile, have countered that the scandals touch both parties. "

Lawmakers Nervous Over Reports Cunningham Wore FBI Wire. Time (1/16, Burger, Bennett) reports in its "Notebook" column that speculation over who ex-Rep. Duke Cunningham spoke with while wearing a wire "is making members of Congress nervous. As TIME.com reported last week, Cunningham…wore a wire to aid the Justice Department investigation just before his plea. The FBI is still probing defense contractors, and a private-sector source says Cunningham was wired while meeting a rep from at least one firm, possibly to get dirt on other members of Congress."

Probe Finds Houston DNA Lab Near "Total Breakdown." The Washington Times (1/9, Aynesworth) reports, "A lengthy investigation into the Houston Police Department's DNA laboratory has concluded that the operation has been 'near a total breakdown' in recent years and still doesn't come close to being acceptable." The Times continues, "Meanwhile, the Harris County district attorney, several defense attorneys and outside investigators are re-examining hundreds of convictions -- some of them death-penalty cases -- to discover how many innocent people have been affected. … Some have called for a federal investigation." The Times adds, "Last week, a team of forensic evidence specialists headed by lawyer Michael R. Bromwich returned a scathing 82-page report to Houston officials. Hired by the city of Houston, the Bromwich team had been examining forensic-driven cases handled by the suspect laboratory between 1987 and 2002. … The investigators reported a 'disturbing and pervasive pattern' wherein lab analysts did not report evidence that would have benefited suspects and even falsified evidence. … A review of 67 cases involving sample DNA resulted in 'major issues' with

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40 percent of the original Houston crime-lab analyses. Three of these involved death-row prosecutions."

NYTimes Editor Killed In DC Street Robbery. David E. Rosenbaum, a retired reporter and editor for The New York Times, died Sunday from injuries suffered when he was struck on the head and robbed Friday night in Northwest Washington. The New York Times (1/9, Purdum, 1.19M) reports, "Mr. Rosenbaum served at various times as chief Congressional correspondent, chief domestic policy correspondent, chief economics correspondent, assistant news editor and business editor in the Washington bureau of The Times."

The Washington Post (1/9, B1, Weil, Lengel, 744K) reports, "Rosenbaum, 63, died at 7:10 p.m. at Howard University Hospital, where he was treated for a head injury suffered during the attack on Gramercy Street NW, said Philip Taubman, chief of the Times's Washington bureau. … D.C. police were canvassing the neighborhood yesterday for clues in the attack, which occurred in a quiet section between Connecticut and Wisconsin avenues. No arrests had been made."

Crime In DC's Adams Morgan Neighborhood Down. The Washington Times (1/9, Doolittle) reports, "Robbery and assault in the District's 3rd Police District, which includes Adams Morgan, jumped last fall, by as much as 46 percent, but new measures have reversed the trend." The Times continues, "Other crimes, such as theft, also spiked in September and October but dropped the last two months of the year. … 'Simple assaults are sort of a way of life at 3 a.m. in the morning in this area,' said Bryan Weaver, a member of Advisory Neighborhood Commission (ANC) 1C whose single-member district includes much of the area in which the crimes occur. 'On any given night, we only have six or seven officers assigned to our [police service area]. But unlike other [police service areas] we are dealing with six or seven thousand people coming in from other parts of the city and Virginia and Maryland to drink or dance.'" The Times adds, "The increase in crime since 2004, police said, is due to a variety of factors, including an increase in visitors to the Adams Morgan area and certain repeat offenders' being on the loose again after serving jail time. … Police Cmdr. Larry McCoy, who is in charge of the 3rd District, blames much of the crime on career criminals released from prison and returning to their old neighborhoods -- neighborhoods that, in many cases, are more affluent than when they left. … Area robberies increased to 141 in September, compared with 96 during the same month in 2004. In October, theft in the area rose from 160 in 2004 to 179 last year. In November, assaults with a deadly weapon climbed from 45 to 55 compared with the same month in 2004."

FBI Withdraws From Utah Internet Sex Predator Task Force. Under the headline "FBI Breaks With Utah Sex-Crime Task Force," The Salt Lake Tribune (1/7, A4, Israelsen, Rosetta) reports, "A territorial spat between the FBI and the Utah Attorney General's Office has effectively killed a highly touted state-federal task force that cracked down on Internet sex predators and child-porn purveyors. The FBI has informed Utah Attorney General Mark Shurtleff that it will no longer be part of the multi-agency Internet Crimes Against Children Task Force, known as ICAC. … Shurtleff said a letter sent to his office by the FBI did not state a reason for the estrangement. He assumed it was because his office recently pulled its ICAC investigators out of the FBI's downtown building, where state investigators complained security was too restrictive." FBI SAC Timothy Fuhrman "acknowledged it was difficult for some of the task force members to get into the FBI building because his agency requires lengthy background checks on anyone who enters. … However, Fuhrman said, his office is not going to reduce its investigation of Internet child sex crimes. 'We're not part of that task force, but we're going to continue working with them,' Fuhrman said. 'They're not going to be side by side with us doing the same things.'"

The AP (1/7) reports, "A territorial spat between the FBI and the Utah Attorney General's Office" caused the split. Fuhrman "acknowledges the security difficulty, but said there were other complications to remaining part of the task force, including the FBI's own federal Internet crime initiative, Innocent Images. 'We just couldn't accommodate the restrictions that exist within Innocent Images with the Internet Crimes Against Children Task Force,' Fuhrman said. 'I wish we could have worked it out.' Although the FBI is dropping out of the joint task force, Fuhrman said that doesn't mean the agency is relaxing its efforts to fight Internet sex crimes." The AP notes, "In 2002, the task was awarded the FBI Director's Award as the best Internet sex crimes unit nationwide. Shurtleff said he's disappointed by the FBI's decision."

Virginia Woman Uses DNA To Find Out Who Killed Her Cat. The Washington Post (1/9, A1, Brulliard)

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reports, "Marylin Christian found Cody under the tree in front of their Loudoun County (VA) home, his white fur covered in saliva. She scooped up the lifeless remains of the cat whose friendship she had counted on for 13 years and sat under the tree, sobbing, for two hours. … The next day, Christian set out to discover what, or who, had killed Cody -- no matter what." The Post continues, "When a veterinarian said the culprit had to be a dog, she canvassed her rural Lovettsville neighborhood in search of a suspect. After she spotted a bouncy 4-year-old German shepherd mix named Lucky, she asked authorities to declare him dangerous. And when Loudoun animal control officials dropped the case, she took a cue from television's legal dramas: She hired a California DNA laboratory to analyze evidence -- dog saliva and fur -- that ultimately linked Lucky to the incident. … Yet despite the strong forensic evidence -- and a five-month saga that has tested the fragility of neighborly relations and pitted motherly instincts against carnivorous ones -- Lucky remains free." The Post adds, "Christian said that since Cody was killed, she has repeatedly asked Lucky's owners, Sean and Janet Daryabeygi, to return the dog to the local animal shelter, where they adopted him in the summer. The Daryabeygis think she is asking too much. They said Lucky would never harm a human, though they do not dispute that he could have been a cat killer."

CIVIL LAW:

11th Circuit Reinstates $54.6 Million Award To Salvadoran Torture Victims. The Miami Daily Business Review (1/9, Jones) reports, "A federal appeals court has reversed its own decision and affirmed a $54.6 million judgment awarded to three immigrants from El Salvador who claimed that members of that country's military kidnapped and tortured them." The Review continues, "A West Palm Beach jury awarded the money in July 2002, but the award hinged on a key ruling, made by U.S. District Judge Daniel T.K. Hurley, that a 10-year statute of limitations for filing claims such as those alleged in the case could be extended if the defendants were somehow prevented or discouraged from filing within the required 10-year period. Such an extension is referred to as 'equitable tolling.' Hurley held that the 10-year statute of limitations should begin in 1992, when El Salvador's civil war ended in a peace agreement. … The panel of the 11th U.S. Circuit Court of Appeals made no mention of why it had reversed itself." The Review adds, "In a February 2005 decision, the panel felt conditions in El Salvador did not preclude the defendants from filing their lawsuit within 10 years. Upon further review, the panel said the overwhelming evidence showed conditions did prevent the plaintiffs from seeking justice within the 10-year period."

CIVIL RIGHTS:

San Francisco Police Officer's Video Stirs Ire. The New York Times (1/9, Marshall) reports, "The police officer whose amateur video raised concerns among city officials about racism, sexism and homophobia within the San Francisco Police Department is hoping his filmmaking skills can help undo the damage and refocus the debate. But critics suggest he is making matters worse." The Times continues, "The officer, Andrew Cohen, was temporarily suspended last month along with 23 other officers connected to the video, which depicted uniformed and plainclothes officers in skits that mocked the homeless, gay men and lesbians, African-Americans and others. … Though reinstated, the police officers remain under investigation in the making of the videotape, and Officer Cohen and some others have been reassigned." The Times adds, "Now Officer Cohen has embarked on a one-man public relations effort to promote a 28-minute video - which he started working on two years ago and calls a serious documentary - that shows the difficulties of police work in some of the city's most crime-ridden and violent neighborhoods. … Peter Ragone, a spokesman for Mayor Gavin Newsom, said that Officer Cohen was 'acting unilaterally' in publicizing his new video and that the mayor and Police Chief Heather Fong had no part in the effort. Mr. Ragone said many people, including fellow officers, had asked Officer Cohen to 'stop trying to promote himself.' … Whatever the intent, Mr. Ragone added: 'It doesn't change the fact that we have videos that make fun of Chief Fong's Asian heritage and segments that have a white officer running over a black homeless woman. There is simply nothing funny about it.'"

Crackdown On Worldwide Prostitution Rackets Urged. In an op-ed in the Wall Street Journal (1/9), Colette De Troy, coordinator of the European Women's Lobby's Policy Action Center on Violence Against Women, based in Brussels, and Mary McPhail, EWL's secretary general, write, "The sex industry is big business, and getting

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bigger. World-wide profits from prostitution exceed $12 billion annually. Of course, the women generally see very little of this money. The sex traders, whether legal 'sex entrepreneurs' or illegal pimps, are the biggest beneficiaries." De Troy and McPhail continues, "Many countries have tried different approaches to control or limit its growth, from legalization to regulation, with decidedly mixed results. But with the sex 'business" spawning cross-border trafficking in women and children and boosting organized crime across Europe, we can no longer turn a blind eye to this problem. .. Some 'progressive' campaigners have, especially over the past 15 years, argued that the legalization and regulation of prostitution could reduce trafficking and help combat organized crime and money laundering that usually come with it. … But can we consider 'sex work' like any other mainstream economic activity, whose profits should be integrated into the nation's GDP, maybe even giving training for young people or the unemployed? … The answer is a definite no. The sex trade is predominantly in the economic interests of sex traders and takes place at the expense of the prostitutes. What's more, while liberalization may have opened up new revenue sources for the government, it has done little to combat trafficking or organized crime. … Strategies to confront trafficking need to address the needs of the women whose rights are violated as well as targeting the pimps, clients and others who benefit from the sex trade. Saying 'no' to trafficking and exploitation of women by pimps and clients has nothing to do with 'conservative' sexual politics. On the contrary. It is those who legalize the sex industry and legitimize the reduction of women to mere objects who pursue archaic politics -- no matter how 'progressive' they claim to be."

Cato Official Says Florida Voucher Decision Has National Implications. Andrew J. Coulson, director of the Cato Institute's Center for Educational Freedom, writes in the Wall Street Journal (1/9, 2.11M) "If you think kids are all the same, and that monopolies are the key to quality and efficiency, consider moving to Florida. As of this week, a uniform government bureaucracy is the only legal approach to public education in the Sunshine State. For six years, students in Florida's failing public schools have been able to switch to a private school of their parents' choosing, using the state funds allocated for their education. No longer. The 'Opportunity Scholarship' voucher program was struck down last Thursday by the state Supreme Court in a sweeping decision with national implications." The Court ruled that "school vouchers violate the "uniformity" clause of Florida's Constitution. Far from being an arcane and forgotten technicality, this clause was amended and re-approved by voters just eight years ago: It mandates, among other things, 'a uniform, efficient, safe, secure and high quality system of free public schools that allows students to obtain a high quality education.'' Coulson adds, "Every other state with a school choice program and a uniformity clause untested in its courts can expect to feel the heat. Arizona, which has education tax credits and charter schools, is apt to be a prime target. Minnesota, Colorado, Oregon and North Carolina, among others, all have uniformity clauses and at least one school-choice program vulnerable to attack. Meanwhile, come this June, the more than 700 mostly low-income students currently in Florida's Opportunity Scholarship voucher program may be herded back into the very public schools that vouchers allowed them to flee. Unless the Constitution of Florida -- and other states -- is amended, they may not be the only ones."

ANTITRUST:

Boston Scientific Makes Formal $25 Billion Guidant Bid. The Wall Street Journal (1/9, Westphal, Burton, Berman) reports, "Boston Scientific Corp. made a formal offer to buy Guidant Corp. for $72 a share, and said it had found a buyer for several Guidant units -- a move that it expects will allow for quicker antitrust clearance if its offer is accepted. The formal bid, valued at $25 billion in cash and stock, takes the…medical-device company one step closer to becoming one of the world's largest cardiac-device makers." J&J's original $25.4 billion offer "was reduced to about $22 billion after Guidant's difficulties," and analysts say a J&J counteroffer of $70 a share "could sway Guidant shareholders to stick with the current merger plan." But, last night, J&J "said it believes it has made 'a better offer,' partly because its deal would be completed more quickly."

USA Today (1/9, Appleby) reports, "The move escalates Boston Scientific's effort to top a pending bid from medical product giant Johnson & Johnson. Both companies are seeking Indianapolis-based Guidant for its stake in the $10 billion-a-year market for heart rhythm devices such as pacemakers and defibrillators. … Under terms of the Boston Scientific agreement, Abbott would pay Boston $3.8 billion for certain Guidant product lines, including catheters, guide

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wires and other devices used in vascular surgery. Abbott would pay $500 million more if a type of Guidant cardiac stent wins regulatory approval."

The AP (1/9, Jewell) reports, "Boston Scientific, which is seeking to trump Johnson & Johnson's smaller bid for Guidant, on Sunday presented a definitive proposal that largely mirrors its initial Dec. 5 offer. … But the No. 1 maker of drug-coated heart stents added a twist by announcing a related deal with Abbott Laboratories Inc. Natick, Mass.-based Boston Scientific will sell Guidant's vascular intervention and endovascular businesses to Abbott if its Guidant acquisition is successful." The AP adds, "J&J is a close No. 2 to Boston Scientific in drug-coated stents, and both companies are responding to growing competition in that market by dueling to acquire Guidant's lucrative pacemaker and defibrillator business. … Boston Scientific hopes to derail a process begun more than a year ago when J&J first bid for Guidant. J&J reduced its offer in November after Guidant suffered a spate of product recalls and related lawsuits and investigations."

Dow Jones Newswires (1/8) reports, "Boston Scientific's offer also would quadruple the company's debt load - from about $2.5 billion as of Sept. 30 to about $10.5 - although the company says it has arranged financing. And acceptance of Boston Scientific's proposal would require payment of a $625 million break-up penalty to J&J, the AP reported."

Bloomberg (1/9, Goldstein) reports, "Boston Scientific said it plans a first-quarter closing. The company would pay the $625 million fee that Guidant would owe J&J for terminating their merger agreement. … In July, Guidant recalled 28,000 pacemakers that were subject to failure. Pacemakers implanted in a patient's chest use an electrical signal to regulate a flagging heartbeat. Implanted defibrillators, about the size of an iPod, send electric shocks to restart a faltering heart. Analysts said Guidant may never achieve the market share it had before the recalls."

Abbot Deal Expected To "Satisfy" Regulators. The New York Times (1/9, Sorkin, Feder) adds Boston Scientific agreed to sell two of its units, "its vascular intervention and endovascular businesses, to Abbott Laboratories for $3.8 billion to satisfy regulators if it reaches a merger agreement with Guidant." Such a move is expected to spur criticism by Medtronic. The Financial Times (1/9, Politi) sets the price of Boston Scientific's two businesses at $4.3 billion. Bloomberg (1/7, News) reports that Guidant expects "a proposed $21.5 billion takeover by Johnson & Johnson to be completed in the first quarter."

Constellation-FPL Merger Caps Shattuck's Rise To Top. The Washington Post (1/9, D1, Rosenwald) reports, "Mayo A. Shattuck III is the kind of guy put on earth to run companies and make multibillion-dollar deals, like last month's $11 billion planned merger of the company he runs, Baltimore's Constellation Energy Group, with FPL Group of Florida." The Post continues, "Shattuck was raised near Boston, the descendant of two Mayo A. Shattucks, both of whom attended Harvard. His father was managing partner of State Street Research & Management Co., an old Boston money manager, and he also ran Harvard's endowment. Shattuck III, with his third multibillion-dollar merger under his belt, is now 51. His eldest son works at Goldman Sachs & Co. His name is Mayo A. Shattuck IV. … The lineage is one of New England privilege, but it is also a pedigree that Shattuck III has sometimes chosen to flout. He has a contrarian side, and those who know him well say it accounts for much of his success. It began when Shattuck was a teenager, and he did not do something that everyone in his family expected he would do. He did not, horror of horrors, attend Harvard." The Post adds, "While choosing Williams over Harvard may seem to some like choosing between different patterns of silver spoons, it was a choice that Shattuck's father suffered with some heartbreak. But his father, who died a short time later, acknowledged being proud of his son for having the courage to buck family custom, and Shattuck's decision may have taught him a lesson he would never have learned by following his family through Harvard Yard: When everyone is doing the same thing, advantage might present itself the other way. … As it did when he took over as chief executive of Constellation Energy Group in Baltimore four years ago. Enron Corp., which was one of the pioneers of the deregulated energy business with its high-risk energy trading operations, was collapsing, causing energy companies to dart in the other direction. Not Shattuck. He dove right in, becoming the dominant player in the sector and quickly tripling his company's revenue. … Shattuck's running of Constellation did not hit the mean. Analysts and industry observers say his strategy to buy energy assets and sell power competitively when almost everybody else would not transformed Constellation from something of an also-ran into the country's largest provider of commercial and industrial power, with revenue of $12.5 billion in 2004.

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Last month, he capped the turnaround with the deal to merge the firm with FPL Group."

Banks May Widen Real Estate Role. The Wall Street Journal (1/9, Schroeder) reports, "Two major banks received the green light from regulators to develop and own large hotel and office properties, potentially opening the door wider for banks to the commercial real-estate business beyond their traditional role as lenders." The Journal continues, "National banking laws generally bar banks from owning and developing commercial real estate unless the buildings are predominantly occupied by employees doing bank business. City skylines are dominated by headquarters buildings owned and financed by banks. Many banks rent out some office and first-floor retail space in their buildings, and such arrangements have been approved as lawful." The Journal adds, "While banks long have been excluded from all but the financing end of the real-estate business, they are trying to enter other aspects, such as developing projects and competing in the housing market. … Regulators have been wary of allowing bank portfolios to have a high concentration of loans in the volatile commercial real-estate market, for fear a sudden economic downturn could impair bank capital. There also are strict rules for real estate acquired by banks through foreclosure to be liquidated quickly. National bank regulators say they will soon publish interagency guidance directing lenders to meet certain capital, underwriting and risk-management standards to match loan growth. … But recently the Comptroller of the Currency, a unit of the Treasury Department that regulates national banks, incrementally broadened its interpretation of permissible development activities. In postings on its Web site, the OCC approved major real-estate projects by two banks that go beyond the scope of typical bank real-estate development. The banks aren't identified by name, but officials say the institutions referenced are PNC Financial Services Group Inc., of Pittsburgh, and Bank of America Corp., of Charlotte, N.C."

ENVIRONMENT/INDIAN AFFAIRS:

First Funerals Held For West Virginia Miners. NBC Nightly News (1/8, lead story, 2:00, Seigenthaler) and ABC World News Tonight (1/8, story 2, 2:00, Woodruff) both gave prominent coverage to the first funerals of the 12 miners who died following last week's explosion at West Virginia's Sago Mine. Both also reported that survivor Randall McCloy's condition is beginning to improve.

Mining Association Expects Hearings On Mine Safety. Roll Call (1/9, Newmyer, Ackley) reports in its "K Street Files" column, "After the mine explosion in West Virginia last week that killed 12 miners and seriously injured another, the National Mining Association is girding for possible Congressional hearings on mine safety. Carol Raulston, senior vice president of communications for the National Mining Association, said the Mining Safety and Health Administration is conducting an investigation into the Sago mine explosion and her group is waiting on its findings."

Dye Affirms Administration Commitment To Mine Safety. David G. Dye, acting assistant secretary of Labor for Mine Safety and Health, writes in USA Today (1/9, 2.31M), "We deeply grieve the deaths of the 12 miners at the Sago Mine in West Virginia and offer our heartfelt sympathy to their families. … The Mine Safety and Health Administration (MSHA) is staffed by dedicated professionals, many of whom come from mining families and have a passion for protecting miners. Over the past several years, we have expanded enforcement, safety training and partnerships with labor unions and operators to push toward our goal of getting every miner home safely after every shift. This goal is shared by relevant state agencies and inspection professionals, who are also responsible for mine safety enforcement and investigation." Dye adds, "In close coordination with West Virginia, the MSHA's comprehensive investigation will determine what caused the Sago Mine explosion. If any health and safety standards were violated, we would take enforcement action. As always, we will make the full investigative report available to the families and the public. We will take every step — including looking at our own performance — to make sure this tragedy never happens again."

USA Today Blames Complacency For Mine Disaster. In an accompanying editorial, USA Today (1/9, 2.31M) says, "On Sunday, as miners were being laid to rest after an explosion last week that killed 12 at West Virginia's Sago Mine, investigators were seeking the cause of yet another tragedy. But one culprit is clear: complacency. As mining fatalities have dropped in the past decade, federal regulators and judges have failed to use the tools they have to rein in those who don't comply with the law and force needed change." USA adds, "In the past year, government records show, the Sago Mine was cited repeatedly for failing to

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enforce basic safety precautions. … The number of what the MSHA calls 'high-dollar fines' ($10,000 or more) has dropped since the Bush administration took office in 2001. … Watchdogs muffed other opportunities to ensure safety. In 2003, the Government Accountability Office found that over the past decade, inspectors had often failed to ensure that violations were corrected by deadlines." USA concludes, "Miners deserve the safety level that only strict regulation and tough enforcement can provide. It shouldn't take another Farmington, Scotia or Sago for Washington to make that happen."

Kurtz Criticizes Media's Handling Of Mine Disaster Story. Howard Kurtz writes in his "Media Notes" column in the Washington Post (1/9, C1, 744K), "It was the most heart-rending and humiliating botch of a life-and-death story in modern memory, yet most journalists, naturally, aren't blaming themselves. It was everyone else's fault, they say. We just published and broadcast what we were told, and it turned out to be wrong. Tragically wrong, as in the Washington Post headline in Wednesday's late editions: '12 Found Alive in W.Va. Coal Mine.' Or USA Today's banner: '"Alive!" Miners Beat the Odds.' Or the Atlanta Journal-Constitution: '12 Miners Alive.' Or Newsday: 'Miracle in the Mine.' All the cable news networks got it wrong as well, such as MSNBC's Rita Cosby: 'We have some stunning news. NBC News and the Associated Press have just confirmed information that the 12 miners, remember 12 were missing, that they are alive. This is incredible news.' Hours later came the chilling confirmation that all but one were dead.' … In this case, a misunderstood or misspoken message from rescuers in the mine was relayed to a command center and then to anxious family members, who told reporters. While the mining company's refusal to correct the misinformation for hours is inexplicable, the situation was exacerbated by the journalistic reluctance to say the facts are unconfirmed and we just don't know. Experienced journalists should have understood that early, fragmentary information in times of crisis is often wrong." Kurtz adds, "The larger issue is that much of the press has abandoned reporting on health and safety regulation until disaster strikes. How many reporters have dug into the Labor Department's Mine Safety and Health Administration, which under the Bush administration was run by a former Utah mine manager until last year? About as many as did pieces, before Hurricane Katrina, on why a former Arabian horse official was running the dysfunctional bureaucracy of the Federal Emergency Management Agency. Heck of a job."

Three Tribal Colleges Join Federal Library Program. Roll Call (1/9, Brotherton) reports, "Three tribal college libraries were added last month to the Federal Depository Library Program, which seeks to ensure that the public has free and ready access to federal documents." Roll Call continues, "Little Priest Tribal College in Nebraska, along with Peck Community College and Salish Kootenai College in Montana, are the first American Indian libraries to join more than 1,250 depository institutions in the program, which is run by the Government Printing Office." Roll Call adds, "While the bulk of government information overseen by the GPO is available online, membership in the program will ensure staff at the three libraries will be trained in research, said Judy Russell, superintendent of documents. … 'What they are going to do is make this information more useful and more visible to the average person,' Russell said." Roll Call notes, "The GPO is in charge of the production and distribution of information for the federal government. The agency provides research assistance in locating and using information at its eclectic mix of depository libraries. … Tribal libraries had never applied to become depositories, Russell said. But after the GPO held a strategy session regarding the needs of these libraries this past fall, the three colleges joined the program."

FBI/DEA/ATF/USMS:

Marijuana Advocates Push Legalization Initiatives In Colorado, Nevada. Marijuana legalization advocates are hoping to use the momentum from their surprise victory in Denver to win statewide ballot initiatives in Colorado and Nevada. The Washington Times (1/9, Richardson, 90K) reports, "Colorado activists announced a drive two weeks ago aimed at bringing a clone of Denver's Initiative 100 before voters statewide in November. Initiative 100 allows adults in the city to possess small amounts of marijuana. And activists in Nevada, who have secured a place for a legalization measure on the state ballot in November, are taking heart in the success of Initiative 100, which captured 54 percent of the vote in the Nov. 1 election. … If the measures pass, Colorado and Nevada would become the first states to win voter approval for marijuana legalization. Alaska allows adults to possess up to 4 ounces of

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marijuana in their homes, thanks to court decisions upholding privacy rights, but voters defeated a 2004 initiative that would have abolished all penalties for possession and regulated marijuana sales."

Massachusetts Lawmakers Consider Legalizing Medical Marijuana. According to The Eagle Tribune (1/8, Mason), "Massachusetts could become the fourth New England state to legalize medical marijuana under a plan before state lawmakers. On the heels of Rhode Island's approval last week of medical marijuana use, lawmakers [in Boston] are pushing a measure, with the support of some North of Boston legislators, that would allow doctors to treat patients with marijuana. Backers say people who suffer from debilitating pain and chronic diseases should be able to gain relief without fear of arrest, something 11 states have approved. But the initiative faces high hurdles. It is opposed by the Romney administration. Local lawmakers, aware of the plague of opiate addiction in the Merrimack Valley, want to ensure access to medical marijuana is airtight."

Convicted Medical Marijuana Activist Ordered To Leave Canada. The AP (1/8) reports, "An internationally known medical marijuana activist has been ordered to leave Canada, where he sought refuge after he was convicted in Placer County [California] of possessing peyote and magic mushrooms in 2000. Steve Kubby helped write and pass California's Proposition 215 medical marijuana law — approved by voters in 1996 — was the Libertarian candidate for governor in 1998 and served as national director of the American Medical Marijuana Assn. Kubby said he would suffer and could die of a rare form of adrenal cancer if he returns to Placer County and isn't allowed to smoke marijuana daily while serving a 120-day jail sentence. He could face more jail time for fleeing the country. The conviction came after Placer County deputies said they found small amounts of mescaline and psilocybin, along with 265 marijuana plants, while raiding Kubby's Olympic Valley home in 1999. Canadian Border Services last month ordered Kubby and his family to leave by Thursday. He goes back to a Canadian court Monday to seek a delay."

Georgia Protestors Call For End To "Operation Meth Merchant" Prosecution. The AP (1/8, Gross) reports that several hundred people "rallied Sunday for an end to prosecution in what federal agents have dubbed 'Operation Meth Merchant.' … In June, 49 people and 16 corporations, most of them in northwest Georgia, were charged with supplying everyday items - from antifreeze to cold medicine - to informants who claimed they were using the products to make methamphetamine. … Supporters of the accused, including the American Civil Liberties Union, say the sting was rife with problems. They say several defendants were not even in the country at the time they are accused of illegally selling the ingredients and that informants used obscure drug slang, which the clerks, some of whom speak limited English, did not understand. … Federal prosecutors say race and ethnicity had no role in their investigation. The say Meth Merchant was aimed at curbing a deadly problem in a region that has been inundated with the drug in recent years." Atlanta's WXIA-TV, the Columbus, Georgia Ledger-Enquirer, and India's Press Trust published in newspapers and/or posted on Web sites the AP story.

Mexican Drug Cartel Said To Be Weaker But Still In Control Of Trafficking. The San Diego Union-Tribune (1/8, Cearley) reports, "Mexico's top investigator of organized crime has talked about the region's Arellano Félix drug trafficking group as if it were a thing of the past in this border city. But some drug trafficking experts in Mexico and the United States say the cartel still controls the passage of drugs through Tijuana, even if it is weaker after a five-year offensive by Mexican government. 'These things take on a capability to modify and evolve,' said Alan Poleszak, assistant special agent in charge of the U.S. Drug Enforcement Administration's San Diego office. Tijuana human rights activist Victor Clark, who closely follows drug trends, said a part of the problem is the 20-year-old cartel's continued collaboration with certain members of law enforcement. … The condition of the Arellano cartel is significant to the region because during its heyday, U.S. authorities estimated that it was responsible for 40 percent of all cocaine that entered the United States illegally. The cartel is known to torture and kill people who don't cooperate, such as Mexican police or rival drug trafficking groups that fail to pay them fees. Still, U.S. officials say they are seeing concrete results from years of investigations and collaborative efforts with Mexican authorities. … As of May, the Mexican Attorney General's Office announced that 107 suspected members of organized crime had been arrested in Baja California since President Vicente Fox took office in 2000.

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Most of the detained are suspected Arellanos, including much of their top management."

Trial To Begin In March For Doctor Accused Of Giving NFL Players Steroids. The New York Times (1/8, Bernstein) reports in its sports section, "The first full month of the National Football League off-season is March, but it will hardly be a quiet break for the Carolina Panthers or for the league. That is when the trial of Dr. James Shortt is expected to begin in Columbia, S.C., and a potentially damaging connect-the-dots could be revealed involving the Panthers and illegal steroids. The federal investigation of Shortt, who has been indicted on 43 counts involving the distribution of steroids, has already touched the team and the N.F.L. There have been reports, led by The State newspaper in Columbia, that as many as nine former or current Panthers saw Shortt. There have been allegations that some received illegal prescriptions for steroids during the 2003 season. … Marty Hurney, Carolina's general manager, said last March that some Panthers were sought by the Drug Enforcement Administration as witnesses in the investigation. There is no word yet if players will be called to testify during the coming trial. But whatever is revealed about the players and the N.F.L. testing process, Wadler said he did not expect this trial to become a watershed for the sport or steroids testing. 'Do you realize how many watershed moments there have been over the last few years?' he said. 'We're not going through a moment, we're going through a process. And this is an ongoing process. This is just one more notch in the belt.'"

IMMIGRATION:

Kondracke Says Bush Should Have "Frank Chat" With Radio Hosts About Immigration. Morton Kondracke writes in Roll Call (1/9) that President Bush "should call in his radio talk-show supporters for a frank chat about immigration. Bill O'Reilly, Sean Hannity, Rush Limbaugh, Hugh Hewitt and Laura Ingraham…are the ones fueling Republican uproar over illegal immigration. Yet they support Bush ardently and they ought to be open to an argument from him — an argument that happens to be correct — that the only way the United States is truly going to solve the problem of illegal immigration is with a comprehensive plan, like his, that not only controls the borders but creates legal means for immigrants to work. Bush also needs to make the argument to GOP House Members, who voted overwhelmingly last month for an enforcement-only bill that beefed up border security, made it a felony to be an illegal alien and authorized building a fence along some of the border with Mexico. … House Members went home able to tell angry constituents that they'd cracked down on immigration, but the truth is they've done nothing. No bill has passed the Senate and what's in the offing is a stalemate — unless Bush can rally his party to do something sensible." Kondracke adds, "It's up to Bush to avoid stalemate — and there are lots of good arguments he can use to pull his party together. … Doing the right thing is win-win for Republicans, if only Bush can convince Sean Hannity."

TAX:

Mallaby Argues For Rolling Back Bush Tax Cuts. Sebastian Mallaby writes in the Washington Post (1/9, A19, 744K) that the "Bush-Cheney combo" has "gone into chest-thumping overdrive," on the economy, "seizing the latest news on the housing-fueled expansion to say what brilliant boys they are." Mallaby adds, "I want to focus instead on Democrats' response to the Bush chest-thumping. For, much as on the Iraq war, Democrats are muddled. They are letting the administration off the hook." Democrats "should home in on two clearer problems. First, the Bush tax cuts have put the federal government on an unsustainable footing. Running a large budget deficit -- arguably, any budget deficit -- is recklessly imprudent when a roaring economy should be delivering a surplus and when baby boomers are on the eve of retirement. Second, although the squeeze on the middle class may be exaggerated, the squeeze on the unskilled is not. … Democrats should focus their complaints on these two problems, particularly since the obvious solution is politically convenient. To begin grappling with the budget deficit, the nation must repeal most of the Bush tax cuts; to grapple with inequality, it should begin by making the tax system more progressive -- which would again mean rolling back some of the Bush cuts."

CONGRESS-ADMINISTRATION:

Alito Confirmation Hearings Begin Today. The hearings for Supreme Court nominee Samuel Alito get underway today. The AP (1/9, Holland) reports, "After

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receiving some last-minute encouragement from Bush at a White House breakfast Monday, Alito was scheduled to head to Capitol Hill for the start of nomination hearings by the Senate Judiciary Committee. Ten-minute opening statements by the panel's 18 members were likely to consume the session, with direct questioning of Alito beginning Tuesday and expected to last at least two days." Judiciary Chairman Arlen Specter "said Sunday he will wrap up the hearings this week. He has called for a committee vote Jan. 17."

The media consensus this morning appears to be that Alito will be confirmed. Reuters (1/9, Ferraro), for example, predicts the nominee will face "fierce questioning," but he is "is expected to survive…and win confirmation," barring "an unforeseen bombshell." The Financial Times (1/9, Waldmeir) says that "so far at least there are few signs that the Senate confirmation hearings…will prompt the ideological conflagration long predicted by the pundits." In the end, Alito "seems likely to be confirmed because two months of diligent digging have revealed little more than what many Americans have suspected from the beginning: that Mr Alito is a conservative."

The Los Angeles Times (1/9, Reynolds, 958K) reports Jennifer Duffy, "who studies the Senate for the nonpartisan Cook Political Report, said she expected Alito to gain confirmation to the high court, but by no more than a handful of votes. 'He's going to have to make a really big mistake, or Democrats are going to have to succeed in turning him into a boogeyman, or he will be confirmed,' Duffy said." Congressional "strategists on both sides said they shared Duffy's view of the vote count." But "with Republicans weakened, most recently by the influence-peddling scandal surrounding former lobbyist Jack Abramoff, some Democrats are mulling whether to try to thwart Alito's confirmation through a filibuster, a tactic in which a minority party can block a vote by refusing to end debate."

Sen. Lindsey Graham, on Fox News Sunday (1/8, Hume), contended that Alito "is the most qualified person to be nominated for the Supreme Court in 70 years in terms of judicial experience. He's been on the court for 15 years, and there's absolutely no indication that he's an ideologue, a person who will ignore the law to enact their own personal agenda. So he's a solid conservative, and I think he'll be confirmed, probably on a party line vote in the committee." Bloomberg (1/9, Larkin) reports Specter "said on CNN's 'Late Edition' program that he has 'not seen any rational basis' for a filibuster." Graham "said a filibuster of a Supreme Court nominee wouldn't be supported in the Senate."

USA Today (1/9, Biskupic, 2.31M) says "some Democratic senators, including Sens. Charles Schumer of New York and Edward Kennedy of Massachusetts, have complained about Alito's views against abortion rights and warned that Alito could help roll back a range of civil rights protections." Schumer "recently questioned whether Alito would seek limits on presidential power." Kennedy is quotes sating, "I think there is a steep hill to climb for Judge Alito at the hearings." However, "Democrats who might oppose the nominee have a climb, too. Republicans control 55 votes in the 100-member Senate, close to the 60 votes necessary to shut down a filibuster if Democrats try to block floor action on Alito."

The Washington Times (1/9, Hurt, 90K) says Democrats "said yesterday that they may block the Supreme Court nomination of Judge Samuel A. Alito Jr., depending on the answers the nominee gives at his Senate Judiciary Committee confirmation hearings, which begin today." Schumer said that if Alito "refuses to answer questions on issues that Democrats deem vital, the party will be more likely to block the nomination." Majority Leader Bill Frist "has said all along that he would employ the 'nuclear option.'"

Sen. Ted. Kennedy, appearing on ABC's This Week (1/8, Stephanopoulos), said, "I think Judge Alito has a lot to respond to in the Judiciary Committee. I think whether his success or failure is really going to be his performance in the Judiciary Committee, not just for the members of the Judiciary Committee but for the American people. … I've had the good opportunity to read through Judge Alito's opinions, more than 300 of those, and no one can read through those opinions and not find out that there's a basic hostility to…individual rights, a welcoming to executive authority and power even when it's excessive, and also the fact that he has so identified with major corporate interests at the expense of individual interests.

Sen. Dianne Feinstein, on Fox News Sunday (1/8, Hume), said, "My question is are his views, let's say, on abortion the same as they were in 1985 when he wrote in an application, the Constitution does not protect a woman's rights in this area. Now, if that's true and he still holds to that, this will make him a very difficult nominee for many of us."

DNC Chairman Howard Dean, on CNN's Late Edition (1/8, Blitzer) said, "There are a couple of problems with Judge Alito. First of all, he appears to be outside the mainstream of

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where most Americans are on privacy for individuals, not just women's issues, but strip searching, OK'ing a strip search of a 10-year-old, these kinds of things. The other thing which is also troubling is the conflict of interest case where he owned $400,000 worth of mutual funds and was willing to sit on a case involving the company. His order was later vacated. Now, he promised the American people when he was confirmed that he would recuse himself."

Sen. John Cronyn writes in the Washington Times (1/9, 90K), "The Senate judicial confirmation process has, in the recent past, been both emotional and divisive. That should not be the case, and we should certainly not engage in or indulge any debate which distorts or misrepresents the record of an individual with as fine a record as that of Judge Alito. Let us commit ourselves to a fair process -- with full investigation, full questioning, full debate and an up-or-down vote."

The Legal Times (1/9, Mauro) reports, "Even his closest friends say Supreme Court nominee Samuel Alito Jr. is a shyer, blander version of Chief Justice John Roberts Jr. -- and Roberts himself was described as shy and bland when he was nominated to the high court." The Times continues, "Be that as it may, Alito's Senate confirmation hearings, which begin this week, will be anything but bland or dull. After a long holiday truce, the battle over Alito's nomination suddenly flared again last week, with dueling D.C. press conferences, partisan advertisements, and e-mail campaigns creating the illusion, if not the real prospect, that Alito is in for a far tougher time than Roberts. Groups ranging from the Hip Hop Caucus to the National Italian American Foundation weighed in, suggesting that at the eleventh hour, the Alito nomination was finally generating strong interest." The Times adds, "What had once shaped up as a one-note debate over Alito's seemingly undeniable personal opposition to abortion rights has been overtaken by a range of other issues, most notably his expansive view of executive branch power -- a suddenly less palatable position in light of President George W. Bush's controversial domestic eavesdropping initiative and his lower popularity poll numbers. … Add to that the fact that Alito is up to replace swing vote Justice Sandra Day O'Connor -- whereas conservative Roberts replaced the late conservative William Rehnquist -- and fireworks are in the offing."

"Strongest Ammunition" Against Alito Could Come From Nominee's Memos. The Washington Post (1/9, A10, Babington, 744K) reports Senate Democrats "are expected to attack…Alito Jr. on multiple fronts at the confirmation hearing that opens at noon today, but their strongest ammunition is likely to come from the nominee's own hand." Alito "wrote two memos in 1985 that rocked political circles when they were made public last November. In one, an application for a promotion in the Reagan administration, Alito wrote that 'the Constitution does not protect a right to an abortion.' … The other memo outlined a strategy for attacking the landmark 1973 court ruling that legalized abortion nationwide, asking: 'What can be made of this opportunity to advance the goals of bringing about the eventual overruling of Roe v. Wade and, in the meantime, of mitigating its effects?'"

Abortion, Executive Power Likely To Be Focus Of Alito Hearings. ABC and NBC previewed what ABC World News Tonight (1/8, story 5, :45, Woodruff) said "could be the toughest confirmation hearings for a Supreme Court nominee in decades," adding that abortion "is expected to be the most-contentious issue at the hearings, which begin tomorrow." NBC Nightly News (1/8, story 5, 2:00, Seigenthaler) also said abortion will be a key topic, but added that "judicial liberties" and "executive power" will both be subjects for inquiry. Sen. Sam Brownback: "Presidential authority, he should talk about the Constitution. Specific cases he shouldn't comment on." Jordan: "Another supporter said he should not be expected to make promises about how he would rule on executive power cases." Sen. John Cornyn: "There has been movement long security and civil liberties. I think clearly Judge Alito believes, as we all do, that civil liberties are important." Jordan: "But the top Democrat says documents from his career have already shown he is inclined to expand executive power." Sen. Patrick Leahy: "He has spoken on presidential powers. He has done that since he was a judge. So he has no reason why he can't speak to it now."

Asked on CBS's Face the Nation (1/8, Schieffer) if the "issue of presidential power going to dominate these hearings the way the issue of abortion dominated the Roberts hearings." Sen. Arlen Specter replied, "I believe that presidential power will be very, very important. You have what appears to be a conflict between the president's claim of executive war powers to eavesdrop without a warrant, a conflict with what Congress has done on the Foreign Intelligence Surveillance Act, and I think it is a fair inquiry, and I intend to press the question with Judge Alito as to how he would approach these issues on a jurisprudential base. But I do not think that you can put aside the issue of a woman's right to choose. I think that that…is still the bigger question."

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The New York Times (1/9, Liptak, 1.19M) offers "A Primer On The Alito Hearings," contrasting the Alito hearings with those last fall for nominee John Roberts. The Times highlights abortion and the right to privacy, the limits of presidential power, and the scope of congressional authority, as the key questions for Alito. Similarly, the Christian Science Monitor (1/9, Chaddock, 61K) says Alito can expected to be confronted with "issues ranging from the scope of abortion rights and government regulation to how vigorously the federal courts will enforce civil rights. … As he did in the Roberts hearing, Sen. Arlen Specter (R) of Pennsylvania, who chairs the Senate Judiciary Committee, will lead off with a question on abortion rights, aides say. But he plans to quickly segue to Alito's views on presidential power during times of war."

NBC Nightly News (1/8, story 6, 2:30, Seigenthaler) also ran an "In Depth" feature on abortion and Supreme Court nominees over the 33 years since Roe v. Wade, reporting that John Paul Stevens "was nominated and over time he became a dependable vote to uphold it. Sandra Day O'Connor took fire from conservatives on abortion," but President Reagan "came to her defense. … But as a Justice she reaffirmed a woman's right to choose. As nominee, Scalia voiced moderation. As a justice he voted to overturn it. Another Reagan nominee, Kennedy, affirmed the very basis of Roe v. Wade. When the first President Bush nominated David Souter, abortion was 'Topic A.' … But as a Justice, he has reaffirmed Roe v. Wade, infuriating conservatives to this day. … Abortion was part of the fight over Clarence Thomas who as a nominee wouldn't talk about it. As a Justice he voted to overturn it. Bill Clinton remains the only Democrat since Roe v. Wade to appoint Supreme Court Justices. Both have supported abortion rights. Now as George W. Bush shapes the court, abortion remains at center states. John Roberts is now Chief Justice Roberts. And it is Samuel Alito's opportunity to answer questions -- or not."

Time (1/16, Bacon, Allen) reports that as Supreme Court nominee Samuel Alito's confirmation hearings begin this week "Senators and viewers will be asking, Is this the man of the memos, whose paper trail includes provocative passages against abortion and in favor of Executive power that have given Democrats and liberal interest groups the ammunition to portray him as a dangerous activist? Or would the high court be getting the more opaque and reserved scholar described by friends and co-workers and suggested by some of his later work?" Time adds that amid reports of the NSA's secret domestic surveillance program, "Democrats have shifted their concern to Alito's robust defense of Executive power. In a 2000 speech, for instance, Alito argued that the framers viewed the Executive Branch of government 'as necessary to balance the huge power of the legislature and the factions that may gain control over it.' Massachusetts Senator Ted Kennedy has said he would question Alito about a 1984 memo in which he argued the Attorney General should be immune from lawsuits even if he authorized illegal domestic wiretapping."

Newsweek (1/16) reports in its "Periscope" column that when Alito's confirmation hearings begin "TV viewers are going to need a translator. For example, Sen. Arlen Specter, chairman of the Senate Judiciary Committee, will probably begin by quizzing Alito about stare decisis (rough Latin meaning: 'let the decision stand'), the judicial rule under which the Supreme Court follows its own precedents -- until five or more justices want to junk one of them." Specter "wants Alito to affirm the court's 1973 decision in Roe v. Wade that created a woman's right to an abortion. So Specter's first question might be: 'Judge Alito, could you tell us your philosophy toward stare decisis?' Translation: Can I get you to promise -- or even hint -- that you will leave the abortion ruling alone?" Newsweek adds that Democrats "will try to paint Alito as a slippery character with a 'credibility problem' and a radical conservative agenda." A Democratic senator "might ask: 'Judge Alito, in one dissent you upheld the strip search by police of a 10-year-old girl, even though the other judges, including conservatives, said the search went way too far.' Translation: How can we trust you to protect the civil liberties of all Americans? Alito will say that the "strip search" was not really that, but rather a female police officer asking the girl and her mother to remove selected articles of clothing in a bathroom as part of a search for illegal drugs conducted with a warrant. Translation: You're twisting the context to smear me."

Morning After Pill Shifts Abortion Debate, Likely To Impact Alito Hearings. The Wall Street Journal (1/9, Cummings, 2.11M) reports, "The abortion debate in America's courts is shifting into new medical and legal terrain, thanks to the escalating battle over the so-called morning-after pill, and it is likely to become an issue in Supreme Court nominee Judge Samuel Alito's confirmation hearings, which start today. The controversy hinges on one of the most elemental questions in the debate: when pregnancy begins. … The distinction is of immense importance in an

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emerging battle between religious conservatives and some women's groups over access to emergency contraception." The Journal adds, "Senate Judiciary Committee Chairman Arlen Specter (R., Pa.) and Sen. Dianne Feinstein (D., Calif.) both are expected to press Judge Alito on his legal analysis of abortion and contraception rights during his confirmation hearings. Ms. Feinstein on Friday cited women's reproductive rights first on a list of issues she plans to explore. … Judge Alito hasn't been asked about whether he considers the morning-after pill an abortifacient."

"Religious Right" Leaders Rally For Alito. The Washington Post (1/9, A10, Edsall, 744K) reports, "Republicans and leaders of the religious right gathered in a black church," Philadelphia's Greater Exodus Baptist, Sunday night to build support for Alito "as part of their effort to block gay marriage, end abortion and restore religious expression in the public square." Sen. Rick Santorum said the" elevation of Alito to the top court is crucial because 'extremely liberal justices [are] destroying traditional morality.' The battle, he said, is against Democrats on the Senate Judiciary Committee who are determined to 'continue the far left judicial activism on the Supreme Court.'" Greater Exodus pastor Herbert H. Lusk II told the gathering of about 600, "My friends, don't fool with the church because the church has buried a million critics. And those the church has not buried, the church has made funeral arrangement for." Reuters (1/9) reports that the Rev. Jerry Falwell, speaking at the event, said confirming Alito "would be the biggest victory for his constituency in three decades. 'What we've worked on for 30 years, to mobilize people of faith and value in this country, what we've done through these years is coming to culmination right now,' Falwell said.

The Pittsburgh Post Gazette (1/9, Reston) reports that during the program, which organizers said was broadcast to 80 million viewers through Christian broadcast stations and church telecasts, Santorum "said 'extreme liberal judges' are 'destroying traditional morality and creating a new moral code.' 'The Supreme Court has become the supreme branch of the government imposing its unrestrained will on all of the people,' Mr. Santorum said. 'The only way to restore this Republic our founders envisioned is to elevate honorable jurists like Samuel Alito who will help replace the hubris of this court with humility and respect for the common sense of the American people.'"

The Philadelphia Inquirer (1/9, Budoff, 423K) adds Falwell "described…Bush's nomination of Alito as the culmination of a lengthy effort to 'mobilize people of faith and values.'" The event "was billed as an effort to turn around an increasingly secularized society. But it also provided a high-profile forum to tout Alito as a justice who would exercise judicial restraint and halt restrictions on religious expression in public."

Alito First Showed Conservative Stripes In Reagan Justice Department. The Washington Post (1/9, A1, Becker, Russakoff, 744K) looks back at Alito's tenure in the Reagan Justice Department, where he "proved himself" by "distilling their agenda to reshape the nation's civil rights laws and overturn abortion rights into brilliantly analytical legal strategies. Much like his father, who had served both parties in a politically riven New Jersey legislature, he won the trust of the president's most ardent loyalists as well as the career civil servants who were often at war with them."

The New York Times (1/9, Kirkpatrick, 1.19M) runs a similar look back at the Reagan era, examining how Alito and Roberts once worked out of "cramped offices along the same hallway on the fifth floor of the Justice Department's headquarters. … A quarter-century later, their contrasting styles will be on display again this week in the Senate hearings on the Supreme Court nomination of Judge Alito." But if Roberts "had the more political job then, it is now Judge Alito who faces more political opposition, in part because of statements he made in 1985 to persuade the administration's leaders that he, too, was a conservative at heart."

Concerned Women For America's LaRue "Battling" Over Court's Future. The Washington Post (1/9, C1, Davis, 744K) profiles Concerned Women for America Chief Counsel Jan LaRue, "a street fighter -- a Christian one, armed with a law degree. Lately, LaRue has been battling over the future of the Supreme Court." LaRue is known "for her legal acumen, assertion of principles over politics, and debating style, which has been described as fierce, tough and even ruthless. LaRue likes to say she believes in being direct without being brutal." She "took the long road to Washington, arriving by way of darkness and light. Her life story is a dramatic one that includes molestation, self-described heavy drinking and promiscuity, and dropping out of high school. And, she will tell you with great regret, she had an illegal abortion. She eventually ended up a divorcee and a single mom before she found another man to love and a God to save her."

Alito Confirmation Battle Goes Far Beyond The Beltway. The Legal Times (1/9, Goldman) reports, "It was

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9:35 in the morning, and after a bad night's sleep in Little Rock (AR)'s best hotel, David Moore was already facing his second interview of the day. … It wasn't the usual routine for the confirmed academic, a former Justice Department lawyer who is now a professor at the University of Kentucky College of Law. … But on this Tuesday morning, the only thing on his résumé that really mattered — and the reason he left his wife and two small children behind in the middle of a vacation in Phoenix — was that he was a former clerk to Samuel Alito Jr." The Times continues, "Moore had flown to Arkansas because it is home to Sen. Mark Pryor, a first-term Democrat who is a member of the 'Gang of 14' and a key vote in Alito's upcoming confirmation battle. … And while Pryor will ultimately make his own decision (which many believe will be to break ranks with his own party and vote to confirm), a little persuasion in that direction from some of Arkansas' 2.7 million citizens couldn't hurt. … And in the hierarchy of vouching for a high court nominee, few have more credibility than a former Alito law clerk. Almost without exception, Alito's 54 former charges have been happy to sing the praises of their former boss, who, after 15 years on the U.S. Court of Appeals for the 3rd Circuit, has compiled a disparate, but intensely loyal, collection of acolytes. … Last week, in anticipation of Alito's Jan. 9 hearings, 20 former Alito clerks were sent out to stump in 18 states by Progress for America, perhaps the most well-heeled of the pro-Alito groups. There they usually went head-to-head with statewide anti-Alito coalitions organized by left-leaning groups (in Arkansas it was the local chapter of People For the American Way)."

NYTimes Commentators Pose "Thirty Questions For Alito." On its op-ed page, the New York Times runs "Thirty Questions For Alito" from a variety of commentators. Leonard A. Leo of the Federalist Society asks about the fallibility of the High Court and the principle of judicial restraint; Yale Law School's Kenji Yoshino asks about abortion and the constitutional protection of "rights that do not appear in the text of the document itself," University of California at Berkeley's John Yoo asks if the 9/11 attacks put the US "in a state of war with Al Qaeda and its allies," and what Alito feels is the "worst example of constitutional interpretation rendered by the Supreme Court in the last 30 years," author Scott Turow asks for Alito's take on Bush v. Gore; and Florida International University's Stanley Fish inquires about several points of constitutional theory.

Dean Says Alito Should Be Rejected Over Ethics Concerns. Tying his opposition to Alito's nomination to recent allegations of GOP ethical abuses DNC Chairman Howard Dean in an op-ed in the Baltimore Sun (1/9, 296K) writes, "It's been widely acknowledged that President Bush had a bad year in 2005." One problem "America faces as a result is the White House's willingness to make decisions based on what benefits the administration politically rather than what's right for America." Judge Samuel Alito's nomination "is just one example of this. The president hopes to make up ground with his right-wing base instead of appointing someone who will have the confidence of a wide range of Americans." Americans "should shudder at the prospect of an ethically tone-deaf judge sitting on the one institution in Washington not yet in the pocket of the extremists who comprise the right wing of the Republican Party" because a "culture of corruption, arrogance of power and insensitivity to the appearance of conflict of interest has plagued key Republican officeholders for the past five years."

More Commentary On Alito Hearings. The Wall Street Journal (1/9, 2.11M) editorializes, "Alito's Supreme Court confirmation trial finally begins today, and don't look for John Roberts redux. If you listen to the rhetoric coming from liberal Democrats in recent days, it's clear they're spoiling for a fight. … And since they know it will be next to impossible to beat him on credentials or judicial philosophy, the main line of attack looks to be on Judge Alito's integrity. The strategy is to sling mud in the hope that something will stick. … We trust [Senate Republicans] won't let the Kennedy Democrats get away with the borking they clearly would like to attempt. Republicans also have a rare, high-profile chance to make the case for the Constitutional role for judges that the Founders intended. This confirmation is probably the most important thing the Senate will do this election year. Too bad it's shaping up to be more of a character attack than a debate over judicial philosophy."

The Washington Post (1/9, A18, 744K) editorializes, "Alito, in any formal sense, is obviously well qualified -- as the American Bar Association recently recognized. Allegations of impropriety on his part seem trivial, and the ideological questions about him are well known. … It is quite clear already that Judge Alito would be a conservative justice. The question is whether he will emerge in these hearings as one energetically committed to remaking federal law to restrain congressional power, expand presidential authority and read individual constitutional rights narrowly or as a cautious judge who is mindful of the limits of judicial power. Both judicial

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personalities show up in his writings at times. The question for the Senate will be: Which is the real Samuel Alito?"

The Los Angeles Times (1/9, 958K) editorializes that while Alito's "position on abortion rights garnered much of the attention in the aftermath of his nomination to the Supreme Court last fall, the top priority of senators at his confirmation hearing this week should be to ascertain whether the judge sufficiently appreciates the proper constitutional balance of power among the three branches of government. It is a timely issue, as President Bush insists on expanding the executive branch's power to conduct the war on terrorism. … In contrast to his willingness to expand the powers of the presidency beyond its constitutional boundaries, Alito has been more traditionally conservative in narrowly defining the powers of Congress as set out in the Constitution. … Senators should ask Alito to expand on his understanding of the federal government's power to regulate interstate commerce, the source of much of its authority. Oh, and yes, they should also ask him about his views on abortion rights."

USA Today (1/9, 2.31M) editorializes, "In a 1985 application for a political promotion at the Justice Department, Alito said that as a student, he developed an interest in constitutional law 'motivated in large part by disagreement with the Warren Court decisions.' He singled out high court rulings involving criminal procedure, separation of church and state, and even the principle of one person/one vote. In the same memo, Alito enthusiastically embraced the argument that the Constitution does not protect a woman's right to an abortion -- a contention that has been consistently rejected by the court for more than 30 years. Alito's paper trail as a government lawyer and federal judge raises doubts as to whether he would respect those and other court precedents. … He needs to provide reassurance that he would not strip away protections the Supreme Court has guaranteed."

Florida Federal Judges Reject Request To End Secret Case Transfers. The Miami Daily Business Review (1/9, Kay) reports, "South Florida's federal judges have declined to change their current system of transferring cases to one another outside the random assignment process, despite concerns raised by the federal public defender that the current system could open the door to forum shopping by litigants." The Review continues, "In a meeting last Wednesday to vote on whether to change their internal operating procedures, the judges blasted a proposal by Federal Public Defender Kathleen M. Williams to impose restrictions on their ability to transfer cases among themselves. … 'You're asking us to change the present policy, which has been in effect for many years ... and to complicate the system,' said U.S. District Judge Donald L. Graham. 'If I'm ill on a Sunday night and I know Judge Moreno is free Monday morning for a trial, why can't I call him and ask him to cover?'" The Review adds, "The judges' informal method of transferring cases among each other came to light when the Daily Business Review discovered that the court had its own unpublished internal operating procedures that allow them to make such transfers. The procedure was discovered while the Review was reporting on the wholesale transfer of his criminal docket by Senior Judge James Lawrence King to another judge so he could avoid a conflict of interest. .. After the Review's article appeared, the court decided to make these so-called 'secret rules' public and post them on its Web site. … A local rules committee, headed by Miami lawyer Thomas Meeks, a partner at Zuckerman Spaeder, was asked by the judges to review the court's unpublished procedures and ensure that they conformed with the published rules that guide attorneys who practice before the court. Meeks suggested minor changes that the judges adopted, but agreed with the judges that their case transfer system should not be changed. … A public hearing was held Wednesday before the court adopted the previously unpublished internal rules. Williams was the only one to speak at the hearing, which was attended by nearly the entire bench that serves the Southern District of Florida."

Bush Made 17 More Recess Appointments Last Week. The Wall Street Journal (1/9, Cooper, 2.11M) reports, "President Bush bypassed the Senate to make 17 recess appointments to administration posts last week, relying on a constitutional prerogative that lame-duck presidents have exercised to break political logjams on Capitol Hill." Though he has used the method "less than two-term predecessors Bill Clinton and Ronald Reagan," Bush "has shown a willingness to do so to fill administration ranks. … Including last week's appointments, Mr. Bush has used the device 123 times in the past five years. Mr. Clinton made 140 recess appointments during eight years in office, and Mr. Reagan made 243." The Journal adds, "Last week's appointments include Hans von Spakovsky to the Federal Election Commission, a former Republican Party official who sparked controversy with Democrats for pushing Georgia to

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require voters to produce government-issued identification before voting -- a requirement critics say is racist." Julie Myers, "who some Republicans and Democrats said lacked experience for the position, was appointed to head the Bureau of Immigration and Customs Enforcement." Bush also "installed Gordon England as deputy secretary of defense, bypassing holds that two Republican senators put on the appointment. Some senators had questioned whether Mr. England's former employer presented a conflict: He once worked for defense contractor General Dynamics Corp. Dorrance Smith, a former producer for ABC News, was appointed assistant secretary of defense for public affairs over objections by Democratic senators about an opinion article in which Mr. Smith questioned the patriotism of US television networks that broadcast footage from pan-Arab television network al-Jazeera. Benjamin Powell was appointed general counsel to intelligence chief John Negroponte."

NYTimes Blasts Bush Recess Appointments. In an editorial, the New York Times (1/9, 1.19M) says, "It is disturbing that…Bush has exhibited a grandiose vision of executive power that leaves little room for public debate, the concerns of the minority party or the supervisory powers of the courts." But "it is just plain baffling to watch him take the same regal attitude toward a Congress in which his party holds solid majorities in both houses. Seizing the opportunity presented by the Congressional holiday break," Bush "announced 17 recess appointments -- a constitutional gimmick that allows a president to appoint someone when Congress is in recess to a job that normally requires Senate approval. The appointee serves until the next round of Congressional elections." Reagan and Clinton "made scores of recess appointments. But both of them faced a Congress controlled by the opposition party, while the Senate has been under Republican control for Mr. Bush's entire five years in office." The Times adds, "Bush's record in this area owes less to unreasonable Democrats than to the low caliber of some of his choices, his disinterest in bipartisan consensus and his aversion to any form of accountability, whether to the Senate, the courts or the public."

Bush Seeks To Revive Compassionate Conservative Reputation. The Boston Globe (1/9 Easton, 484K) says President Bush "is seeking to resurrect his early reputation as a compassionate conservative who reaches across the aisle, according to officials close to the White House. … With his State of the Union address three weeks away, White House policy and speech shops are busily crafting a message that portrays Bush as a bold leader but avoids the kind of far-reaching and divisive reform proposals -- such as turning illegal immigrants into guest workers or overhauling Social Security -- that previously landed him in hot water with key voters. … In the coming weeks, the president will continue to advertise progress in Iraq, and the war on terror, as well as highlighting good economic news. … But the public will also hear the president talk more about education initiatives to bridge the wage gap, as well as conservative ideas to address poverty, especially as New Orleans recovers from Hurricane Katrina, according to officials close to the White House. Meanwhile, Bush will continue to approach unlikely audiences." Republican strategists "say Bush's 2006 agenda will reflect the reality that his party needs to retain control of Congress in the face of burgeoning ethics scandals and continued fallout in public opinion polls over the Iraq war. … President Bush, strategists say, needs to be careful not to anger his conservative base, as he did when he proposed a guest-worker immigrant program. Immigration, officials say, is an issue he will continue to approach gingerly, mostly talking broadly about border security."

DeLay Abandons Effort To Return As Majority Leader. Newsweek (1/16, Isikoff, Bailey, Thomas) says the scandal surrounding lobbyist Jack Abramoff "will cost Congressman DeLay his post as House Majority leader. DeLay had been hoping to get out from under a weak money-laundering charge in an unrelated Texas prosecution in time to retain his leadership role for the coming year. Now, with the Abramoff inquiry likely to drag on, DeLay has announced he is stepping down."

In its cover package, Time (1/16, Tumulty) reports, "The once feared DeLay, whose office had been Abramoff's biggest claim to access and influence on Capitol Hill, announced he would resign as House majority leader. 'I have always acted in an ethical manner within the rules of our body and the laws of our land,' DeLay wrote in a letter to his G.O.P. colleagues, but added, 'I cannot allow our adversaries to divide and distract our attention.' Because of his tightfisted regime that rewarded loyalists and punished detractors, his departure is sure to set off not just a fight for his old job but also some ugly score settling."

Bush's Inner Circle Sees DeLay As "Necessary Burden." In a separate article in its cover package, Time

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(1/16, Cooper, Allen) reports on the "longtime chill" between President Bush and DeLay, noting that the distance between the two is "sure to grow with former lobbyist Jack Abramoff's guilty plea. Both camps describe the two conservative Texan's relationship as professional 'an alliance, not a friendship.' 'DeLay admires Bush's leadership but still thinks of himself as the strongest conservative on the block,' a DeLay friend says. 'They perceive DeLay as a bull in a china shop. They appreciate him as their protector and retriever.'" Time adds that "top Bush advisers tell TIME, the President's inner circle always treated DeLay as a necessary burden."

Blunt, Boehner Running For House Majority Leader. Reuters (1/9, Zargham) reports US Rep. Roy Blunt, "an ally of Rep. Tom DeLay, sought to permanently replace the indicted Texan as majority leader of the House of Representatives on Sunday but faced a challenge from fellow Republican John Boehner, who has had major differences with DeLay." A leadership election "is expected to be held the week of January 30." Blunt "has served as acting majority leader since DeLay was forced to give up the job in September but Boehner is considered a formidable foe, a leadership aide said." DeLay on Sunday "accused Democrats of 'character assassination' and said they were trying to portray him as guilty by association in the influence-peddling scandal involving Republican lobbyist Jack Abramoff. 'Time was the enemy,' DeLay told Fox News on Sunday when asked what prompted his decision not to try to return as majority leader."

The Financial Times (1/9, Yeager) says Blunt "has close ties to Mr DeLay and to K Street…and has been criticised for a series of mis-steps on the House floor in recent months." Boehner "rose to the Republican leadership ranks with Newt Gingrich, the former speaker, but was ousted from his post in 1998. … Several other congressmen are thought to be considering bids, including Mike Pence, the outspoken leader of a group of about 100 conservatives in the House, and Jerry Lewis, a veteran lawmaker who leads the powerful appropriations committee."

The Washington Times (1/9, Dinan, 90K) says that "already, a difference between" Blunt and Boehner "over lobbying reform, a hot topic among many members in the wake of guilty pleas by lobbyist Jack Abramoff." Boehner "said the current system works and pointed to Abramoff's guilty plea as an indication of that. 'Adding more new rules isn't the answer,' Mr. Boehner told the Fox News Channel." Blunt, however, "has made lobbying reform a key part of his pitch to fellow members."

The New York Times (1/9, Hulse, 1.19M) says "the Bush administration and its Congressional allies braced for a potentially divisive internal battle at the start of a crucial campaign year. … For the White House, the leadership fight will complicate President Bush's efforts to press ahead with his political recovery effort after a difficult 2005. It is also likely to distract attention from the agenda he plans to set out in the State of the Union address, which he is expected to deliver on Jan. 31, in the same week as the leadership vote." Bush "had hoped to use January to accomplish two big goals: win the confirmation battle over Judge Samuel A. Alito Jr.'s nomination to the Supreme Court, and show voters that he is overwhelmingly focused on the war in Iraq and the economy."

However, the Christian Science Monitor (1/9, Chaddock, 61K) reports that "from a public-relations standpoint, the decision by Mr. DeLay not to keep his post as House majority leader may give Republicans a boost ahead of this year's midterm elections. After all, he had gone from whip to whipping boy amid complaints that he embodied corruption in Congress" But "by losing DeLay's leadership, Republicans also lose his fundraising prowess and peerless talent for enforcing party discipline on key bills."

USA Today (1/9, Kiely, 2.31M) also says DeLay's "decision to step aside may make it more difficult for Republicans to win close votes in the House. DeLay had a proven record of being able to obtain a victory in a close vote. But the decision also removes a target for Democrats." On Sunday, House Minority Leader Nancy Pelosi "said a "culture of corruption" among Republicans in Washington remains pervasive, even without DeLay." But "the National Republican Senatorial Committee says Democrats also have taken money from donors linked to Abramoff."

Kristol Recommends Pence Or Shadegg. Bill Kristol of The Weekly Standard, on Fox News Sunday (1/8, Hume), said, "The key for the Republicans now…is not to replace DeLay with someone else who has been, fairly or unfairly -- is viewed as being part of this degeneration of the conservative cause from a movement to a business to a racket. … I think it might be time for a fresh face there, someone like Mike Pence, the young, very conservative -- not very conservative -- conservative and aggressive and articulate congressman from Indiana -- someone to come in and put a fresh face on the Republican majority of the House. … I think someone like

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Pence or John Shadegg from Arizona would help the Republicans re-seize once again the mantle of reformers."

Cornyn Hedges When Asked Whether DeLay Ought To Seek Re-Election. Asked on NBC's Meet the Press (1/8. Russert) if it would be "better for the Republican Party if Tom DeLay did not seek re-election," Sen. John Cornyn did not answer yes or no, but said, "I think what would be best if we allow the process to run its course, the charges against him -- there's a lot of informed judgment that he actually will be acquitted of those charges. … But the truth is, right now, all we know is that individuals, like Mr. Abramoff have plead guilty. Others are standing on their right, a presumption of innocence and insisting on a trial."

Texas Columnist Says Earle Prosecution Has Little Impact On DeLay's Fortunes. In a Wall Street Journal (1/9, 2.11M) op-ed, San Antonio Express-News columnist Jonathan Gurwitz writes, "Poor Ronnie Earle. For more than three years, the Democratic district attorney from Travis County has waged a prosecutorial campaign to bring down Tom DeLay. After strong-arming three different grand juries in Austin last fall, Mr. Earle was finally able to obtain a rickety, three-count indictment of Mr. DeLay for violations of state campaign finance laws. … But the indictment, meager as it is, was sufficient under House Republican rules to force Mr. DeLay to step down temporarily from his position as majority leader. … DeLay's political fortunes are in free fall. And until the full extent of the Abramoff scandal is known, it's not at all clear how far that plunge will take him. What is clear is that his re-election bid -- and, in a broader sense, Republican control of Congress -- is likely to have very little to do with Mr. Earle's legal charades in Austin and everything to do with Mr. DeLay's ethical quandary in Washington."

In Wake Of Scandals, GOP Leaders Ponder Lobbying Reforms. The Christian Science Monitor (1/9, Feldmann, 61K) reports, "In the wake of lobbyist Jack Abramoff's guilty plea on corruption charges, one point seems clear: Congress is now keenly interested in looking at how lobbyists do business, and may well make reforms by next November's elections. Suddenly, everyone on Capitol Hill wants higher standards." For Republican leaders, "the danger is looking like Johnny-come-latelies on reform." For Democrats, "eager to regain control of at least one chamber of Congress this fall, the Abramoff scandal presents a golden opportunity to hammer home their point about a 'GOP culture of corruption.'" The Monitor adds, "From the lobbying industry's perspective, what's clearly needed -- before anyone changes the rules of the game -- is beefed-up oversight."

Roll Call (1/9, Newmyer) also says Republican lawmakers are "scrambling to lay out their plans for cleaning up Congress and to stanch the political bleeding from a widening election-year scandal." In the Senate, "Conrad Burns (Mont.) became the first Republican to back a measure by Sen. John McCain (R-Ariz.) that would impose new disclosure requirements on Members and lobbyists. Burns, locked in a tough re-election fight, is under scrutiny from federal prosecutors for his ties to Abramoff." Meanwhile, "Sen. Rick Santorum (R-Pa.) is consulting with colleagues about what shape his own reform package should take."

The Wall Street Journal (1/9, Rogers, 2.11M) adds Speaker Dennis Hastert "returns to the Capitol tomorrow after canceling a trip to India, and he has given House Rules Committee Chairman David Dreier (R., Calif.) a broad mandate to reach out to Democrats and to Sen. John McCain (R., Ariz.) on overhaul proposals." In an interview, the speaker, "a former high-school civics teacher, spoke of the initiative in personal terms: 'The House needs to exude integrity, and we need to make some changes. ... This is not something that's knee-jerk,' Mr. Hastert said." Hastert also "looks willing to embrace portions of a bipartisan Senate bill introduced by Mr. McCain." The Washington Post (1/9, A2, Weisman, 744K) runs a similar story under the headline "Hastert Moves To Tighten Rules On Lobbyists," in which it says the Speaker's move "comes months after House Democrats, led by Reps. Martin T. Meehan (Mass.) and Rahm Emanuel (Ill.), and Republican Rep. Christopher Shays (Conn.), unveiled proposals to mandate more disclosure of lobbying contacts, ban most lobbyist-sponsored trips and lengthen the time former House members and staff must wait before taking up lobbying."

Lobbying Reforms Expected To Pass This Year. U.S. News and World Report (1/16, Pound) says the Abramoff scandal "has so unnerved many Republican lawmakers that lobbying reforms are expected to pass this year. Among other changes, such reforms are likely to curb privately funded junkets for lawmakers and require more disclosure by lobbyists of funds spent to influence legislation."

WSJournal Says DeLay Successor Should Reinvigorate GOP's Commitment To Reform. An editorial in the Wall Street Journal (1/9, 2.11M) says that by taking himself out of the race for house Majority Leader, Rep. Tom DeLay has "given his GOP colleagues a chance to

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reinvigorate their leadership, assuming they're alert enough to realize the dangers facing their majority this November. On first glance, we're not sure they are. Speaker Dennis Hastert's response this weekend was to issue a press release declaring his sudden passion for 'lobbying reform.' … The idea seems to be that a ban on lobbyist-paid golf junkets or limits on the House floor privileges of former Members of Congress will prevent the next Jack Abramoff." The Journal adds, "The real House GOP problem isn't about lobbyists so much as it is the atrophying of its principles. As their years in power have stretched on, House Republicans have become more passionate about retaining power than in using that power to change or limit the federal government. … As House Republicans consider replacing Mr. DeLay, they need to choose someone who will reinvigorate their commitment to reforming Washington. And this may mean more change than they'd otherwise prefer entering an election year."

More Commentary. Jeffrey Birnbaum writes in the Washington Post (1/9, D1, 744K), "In an earlier column I recommended that registered lobbyists be barred from raising money for politicians -- at least during congressional sessions -- and I stand by that suggestion. The notion isn't as crazy as it sounds. Several states already have a similar rule and, as we'll see in spades this year, all sorts of new restrictions will be debated in Congress and some of them will almost surely pass as an antidote to the anti-Washington feelings that the Abramoff affair has stirred. … Wider restrictions on lobbyists are coming as well, and many of them may involve campaign contributions. Both House Speaker J. Dennis Hastert (R-Ill.) and Senate Majority Leader Bill Frist (R-Tenn.) have delegated colleagues to devise new lobbying-disclosure legislation. But the bill to watch is authored by Sen. John McCain (R-Ariz.) and Rep. Christopher Shays (R-Conn.). Under it, lobbying firms and organizations would have to disclose each fundraising event they host or sponsor for federal candidates and the total amount raised at each such event. The legislation would also require lobbyists to report on their lobbying forms the donations they make to members of Congress and at events that honor members or entities that they created or support. In addition, the bill would force lobbyists to disclose on quarterly reports any gifts worth more than $20 that they gave to lawmakers or their aides, including meals and tickets to events. Sen. Russell Feingold (D-Wis.) has a separate plan that would go much further. He would outright ban gifts to lawmakers and staff and would prohibit lobbyists from financing or attending trips with members of Congress. Don't expect any new law to be that extreme, but the fact that he could even countenance such ideas is an indication how serious the problem has become."

Ruth Marcus writes in the Washington Post (1/9, A19, 744K) notes that lawmakers "with enough clout and party committees" host "getaways all the time: ski weekends in Vail, summer jaunts to Nantucket, Super Bowl outings, golf tournaments with this or that committee chair. … In these heady days after the Jack Abramoff plea and Tom DeLay's departure from the GOP leadership, Democrats like to decry the (as they see it) Republican-only 'culture of corruption.' At least as troubling is the capital's more pervasive, and certainly more bipartisan, culture of coziness, epitomized" by such fundraisers. It is "this latter problem that ought to be foremost in lawmakers' minds as they scramble to write new rules to govern their dealings with lobbyists. Even the strongest rules can't stop a lobbyist or lawmaker bent on corruption; see, e.g., not only Abramoff but also former California congressman Randy Cunningham, who pleaded guilty to taking $2.4 million in bribes from defense contractors. Certainly, the more disclosure that is required, the fewer temptations that a lobbyist can legally dangle in front of a lawmaker and the less the opportunity for criminal mischief. But where lobbying reform could have its most cleansing effect is not with the crooks in Congress or the private sector but with those who play, more or less, by the rules of a fundamentally flawed system."

VA Regional Offices Found To Be Giving Incorrect Information. Department of Veterans Affairs data indicates that people who call the department's regional offices are more likely to receive completely wrong answers than completely right ones. The Washington Post (1/9, A17, 744K) reports, "To see how well department employees answer typical questions from the public, VA benefits experts in 2004 called each of the 57 regional offices, which process disability claims. The mystery callers, saying they were relatives or friends of veterans inquiring about possible benefits, made 1,089 calls. Almost half the time they got answers that the department said were either completely incorrect or minimally correct. According to an internal memo on the mystery-caller program that is buried deep in the VA Web site, 22 percent of the answers the callers got were 'completely incorrect,' 23 percent were 'minimally correct' and 20 percent were 'partially correct.' Nineteen percent of the answers were 'completely correct,' and 16

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percent 'mostly correct.' The program also found that some VA workers were dismissive of some callers and unhelpful or rude to others."

Some Pentagon Analysts Said To Be Skeptical About TRICARE Savings. Syndicated "Military Update" columnist Tom Philpott writes in the Tacoma News (1/7) about "a few Pentagon analysts" who believe the Bush administration will face "a new credibility" gap if TRICARE officials tell Congress it expects to generate $25 billion in savings from raising fees and deductibles on health plans for retirees under 65. Such a figure may draw "skepticism" because 78% of it hinges on an assumption that 600,000 beneficiaries, "facing the higher fees, would stop using TriCare and shift to employer-provided health plans." But, some TRICARE officials don't subscribe to the expected shift since "most employer plans still will cost more."

Novak Says Rove Appears To Have Blundered With New Medicare Drug Benefit. Syndicated columnist Robert Novak (1/9) writes that "a few brave souls in the Bush administration admit" that President Bush's "Medicare drug benefit that went into effect Jan. 1 looks like a political blunder of far-reaching consequences. Furthermore, these critics assign major responsibility to Karl Rove. The hideous complexity of the scheme, which has the effect of discouraging seniors from signing up, is only the beginning of difficulties it entails for the president and his party. It will further swell the budget deficit without commensurate political benefits" and "may prove a severe liability for Republicans facing an increasingly hazardous midterm election in November." Rove's "aim was to entice low-to-middle income seniors who vote heavily Democratic and complain about the cost of prescription drugs. That political maneuver was translated by bureaucrats and health-care technicians into a government program so difficult to understand that someone now receiving any prescription drug care would be inclined to stick with the present program even if it seems inadequate." Novak adds that now, with Bush set "to begin his sixth year in office, Medicare drug benefits come into play, a major new entitlement that offends Bush's friends and does not placate his foes. There is not much at this point that can be done about it, except to try to convince seniors and conservatives that the program is really not that bad."

Private Sector Council To Focus On Fixing Federal Procurement System. The Washington Post (1/9, B2, Barr, 744K) reports in its "Federal Diary" column, "With little fanfare over the past two decades, the Private Sector Council has helped federal agencies -- on a one-on-one basis -- fix their business and management problems. The coming year, however, will see the council adding a new dimension and trying to become a catalyst for change, by focusing on government-wide issues, starting with the federal procurement system. … The Private Sector Council is in the planning stages on how to launch an ambitious project to promote change in federal procurement practices, [president Howard] Weizmann said. Tentative plans call for holding half-day seminars and rounding up experts who can talk about best practices, he said. But the goal is not just to talk about "reformation" but also to identify changes that can improve how the government buys about $320 billion in goods and services annually and then test those changes at agencies willing to serve as models, he said."

Cost Of Postage Stamp Increases By Two Cents. The cost of a US postage stamp rose two cents yesterday, marking the first postal increase in nearly four years. The Washington Post (1/9, A17, Lee, 744K) says the next price jump "may come a lot sooner than that. … The increasing popularity of e-mail and online bill paying has cut into mail volume, while the Postal Service must deliver to an ever-increasing number of addresses (up by 2 million last year). The Postal Service faces competition from United Parcel Service and FedEx, private companies that, unlike the post office, are not legally bound to deliver to every address six days a week. … Although such challenges are expected to drive up postal rates in the future, officials in the Postal Service and in the mailing industry say the current increase is the product of a political impasse in Capitol Hill, not postal operations."

OTHER NEWS:

Wage Gains Remain Below Pre-2001 Recession Levels. American workers are beginning to see wage gains, but USA Today (1/9, Kirchhoff, 2.31M) says the increases are "well below the levels prior to the 2001 recession." USA reports, "Wage growth is starting to pick up,

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with hourly earnings rising 5 cents in December to $16.34, seasonally adjusted, the Labor Department said Friday. Hourly wages rose 3.1% in the 12 months ended in December, the fastest pace since spring 2003. While improving, wage growth appears to remain below consumer inflation, which advanced 3.5% in the 12 months ended in November."

Greenspan Credits Globalization With Keeping Inflation, Wage Growth Low. The Wall Street Journal (1/9, lp, 2.11M) reports "Buried in the minutes of the Federal Reserve's Dec. 13 policy meeting, released last week, was this bland observation: Fed officials 'noted that robust competition -- including from foreign producers...[was] helping to contain cost and price pressures.' Markets largely ignored the sentence, but it's one of the most important factors guiding Fed Chairman Alan Greenspan in his final weeks at the helm of the nation's central bank. Mr. Greenspan has marveled at how inflation and wage growth have stayed low even as the economy continues to grow robustly and the jobless rate falls below 5%, a level that has often driven up wages and prices. Searching for an explanation, he has hit on globalization. If the Fed thinks growing imports, outsourcing and international investment are holding a lid on wages and prices, then interest rates can be lower than they otherwise would. Indeed, as the minutes show, this is one reason the Fed seems to think it can stop raising rates soon." The Journal adds, "Greenspan's views are clearly rubbing off on his colleagues. 'Globalization has acted as a tail wind for the Fed's -- and other central banks' -- efforts to hold down inflation,' Federal Reserve Bank of Dallas President Richard Fisher said Friday."

Analysis Says Investors Should Focus On FOMC Pronouncements. The Wall Street Journal (1/9, Blackstone, 2.11M) says, "Investors seeking clues about future U.S. monetary policy, as well as big market moves, should focus on pronouncements from the Federal Open Market Committee as a whole and not individual members of the Federal Reserve policy body, according to an analysis by a current and a former Fed economist. 'Our results suggest that committee-wide communications have a larger market effect and are more accurate than speeches by individual FOMC members,' Vincent Reinhart, head of the Fed's Monetary Affairs Division, and Brian Sack of Macroeconomic Advisers LLC, and a former Fed economist, wrote in a paper presented Saturday at the annual meeting of the American Economic Association in Boston."

OECD Predicts Moderate Growth For World's Richest Economies. The Wall Street Journal (1/9, Hannon, 2.11M) reports, "The Organization for Economic Cooperation and Development said its leading indicator of economic activity rose in November for the sixth straight month, signaling that moderate growth lies ahead in 30 of the world's richest economies. … The indicator is designed to provide early signals of turning points between the expansion and slowdown of industrial activity. The composite leading indicator for the U.S. rose to 105 from 104.3, and its six-month rate of change increased for the second straight month."

Dow Nears Close Above 11,000. The Dow Jones Industrial Average is at a 41/2 year high and is nearing its first close above 11,000 since June 7, 2001. USA Today (1/9, Shell, 2.31M) reports that the ability of the Dow, which is less than 41 points shy of closing above 11,000, "to quickly rebound from its 0.6% loss in 2005 is key. Analysts say the resurgence has the potential to deliver a psychological boost to skeptical investors still smarting over lackluster returns last year and those still gun-shy from the brutal bear market earlier in the decade." According to USA a close above 11,000 could lift investor confidence, signal an end to the trading range which has kept the Dow "trapped in a narrow, 600-point band since July" and confirm broader market strength."

Meanwhile, the Wall Street Journal (1/9, Browning, 2.11M) says, "Major indexes, such as the Dow Jones Industrial Average and the Nasdaq Composite Index, have been rallying lately to multiyear highs but haven't reached record highs in almost six years. Small stocks, on the other hand, have been hitting repeated records. So have indexes of foreign stocks, energy stocks, banking stocks, transportation stocks and stocks whose value closely tracks the economy. … Some people see the strength of these less-followed groups as a very bullish sign for the market. It suggests that, even though gains in the big indexes have slowed or even disappeared in the past two years, the underlying market is resilient. Others reach the opposite conclusion: The failure of the major indexes to lead the market is a sign of the continued hangover at big companies after the excesses of the late 1990s, suggesting that the recent bull market may be running its course. Either way, one thing is clear: In general, the place to be over the past year hasn't been with the rich and the famous. Even after their New Year's surge, the Dow industrials are up just 1.6% since the end of 2004. The Standard & Poor's midcap index, tracking midsize stocks, has climbed 15%. The Dow Jones World Stock Index, not

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including U.S. stocks, has jumped 20%. The Dow Jones Transportation Average, fueled by soaring trucking concerns, has advanced 11%."

Dollar Gets Off To Slow Start In 2006. In the first two days of trading after last Monday's holiday, the US dollar fell 2.5% against, marking its largest two-decline against the European currency. According to the Wall Street Journal (1/9, Karmin, 2.11M), despite a "surprisingly strong performance in 2005," the dollar has "tumbled out of the gate in what some worry may be an ominous sign for 2006. … The U.S. currency hit three-month lows against the euro and Swiss franc Friday morning, and in late New York trading, the dollar was down 0.4% against the euro at $1.2154. It fell even harder against the yen, sliding 1.3% to 114.4165 yen. That approached a three-month low against the Japanese currency, too."

Schwarzenegger Aims To Rebuild State, Image With Large Public Works Plan. Following up on reports from last week, the Christian Science Monitor (1/9, Wood, 61K) relates that California Gov. Arnold Schwarzenegger (R) "has decided that the proper path to California's future -- and his own rehabilitation -- is dotted with new bridges, highways, and levees ... and carpool lanes, commuter rails, and crime labs ... and schools and prisons, and ports. Two months after voters rejected a series of Schwarzenegger-backed government reforms, and months before his own reelection primary in June, he has announced a 10-year, $222 billion plan to shore up the state's crumbling infrastructure. … 'The governor is switching from concepts to concrete,' says Jack Pitney, political scientist a Claremont McKenna College. … With approval ratings at 32 percent, Schwarzenegger is recasting himself in a role in which he can point to tangible accomplishments come election time next November, say Pitney and others. … 'He is moving back to the center where he was elected, because voters did not take kindly to his becoming more partisan and going around Democratic opponents to the people,' says Sherry Jeffe, political scientist at the University of Southern California. 'As the incumbent coming up for reelection, he has to produce a record to run on. That's what this is about.'"

Governor, Son Suffer Minor Injuries In Motorcycle Collision With Car. The Los Angeles Times (1/9, Krikorian, 958K) reports that Schwarzenegger "and his 12-year-old son were slightly injured Sunday afternoon when their motorcycle collided with a car near the family's home in Brentwood, his office said. The low-speed collision occurred about 3:15 p.m. when Schwarzenegger was riding his Harley-Davidson with his oldest son, Patrick, traveling in the motorcycle's sidecar, according to Margita Thompson, the governor's press secretary." Schwarzenegger "and his son were taken to St. John's Hospital in Santa Monica. Both were released after being treated for minor cuts and bruises, Thompson said, noting that the governor received 15 stitches in his lip. The governor and his oldest son were wearing helmets at the time of the accident, Thompson said. The other driver, she added, was not injured."

Maryland GOP Hoping To Build On Ehrlich's Election Success. The Washington Post (1/9, A1, Mosk, 744K) reports that Maryland Republicans are hoping to build on Gov. Robert Ehrlich's (R) 2002 election win. The Post relates, "True party realignment remains a distant goal, they say, but the political season that begins as the General Assembly convenes Wednesday will be guided by their desire for lasting influence in state affairs." Maryland GOP officials "said the party is borrowing many of the ideas that started Virginia down the path to realignment three decades ago. In addition to their focus on the Maryland governor's race, they believe the bid by Lt. Gov. Michael S. Steele (R) to capture an open U.S. Senate seat could provide inroads into the state's most reliable Democratic voters: African Americans. The GOP is targeting the state's populous blue-collar suburbs and fast-growing exurbs, where party leaders hope to pick up as many as 14 seats in the House of Delegates and seven in the Senate this November. And they're already contemplating 2010, when a win in the governor's column could give them control over redistricting and crack open a state where, just a few years ago, Republicans felt like foreigners."

Ehrlich To Propose 15% Reduction In Property Tax Rate. The Washington Post (1/9, B1, Wagner, 744K) reports that Gov. Ehrlich "today will propose reducing the state property tax rate by 15 percent -- a 2-cent rate cut -- and expanding a tax break that helps low-income homeowners pay their bills. The election-year proposal would roll back part, but not all, of a property tax increase initiated by Ehrlich (R) in 2003 to help fill a gaping budget hole that he inherited upon taking office. Aides said Ehrlich will also call on local leaders to reduce property taxes they collect by similar percentages -- a move that would have a far greater effect on homeowners because localities rely much more heavily on the levy than the state does." Ehrlich "will argue at an event in

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Baltimore County this morning that a reduction in the state property tax of 2 cents per $100 in assessed value is justified because a reversal in Maryland's fiscal outlook has resulted in a surplus of more than $1 billion." The Post notes, "The move would save the owner of a $400,000 home $80 next year and cost the state about $98 million in lost revenue, Ehrlich's aides said. Given the rise in home values, most tax bills probably would still rise despite the proposed rate cut."

Warner Critical Of DC "Partisanship." The Washington Times (1/9, Bellantoni, 90K) reports that outgoing Virginia Gov. Mark Warner "thinks President Bush and the U.S. Congress could learn some lessons from Virginia, such as lawmakers putting aside partisanship to get the job done." Warner "said cooperation has led Virginia lawmakers to improve the state's finances and enabled them to fund much-needed projects, such as the cleanup of the Chesapeake Bay. 'In Washington, people are more interested in scoring partisan points than getting things done, and I think there is a real yearning in this country for action,'" Warner said in an interview. Warner added, "To a degree, both parties are guilty. … If it's not absolutely their way, they say they'd rather have no action than their ideologically pure solutions. I think that's crazy." After leaving office on Saturday, Warner "immediately will start working full time on his Northern Virginia-based political action committee called Forward Together. His goal for the PAC is to find and fund candidates who he thinks can move the nation forward." Warner "supporters have no doubt that the PAC is a first step toward Mr. Warner's seeking the U.S. presidency in 2008." But Warner "said he's not sure of his next step. 'I haven't decided what, if anything, I am going to do in politics, I really haven't,' he said."

In Split With Bush, McClellan Backs His Mother For Texas Governor. The New York Times (1/9, Bumiller, 1.19M) reports in its "White House Letter" column that the split between President Bush, who is supporting incumbent Republican Gov. Rick Perry in the Texas governor's race, and White House Press Secretary Scott McClellan, who is supporting his mother, state comptroller Carole Keeton Strayhorn is "just the latest chapter in Mr. McClellan's nearly four decades in politics with his mother, who is as voluble as her son is restrained. Still, Ms. Strayhorn's most recent endeavor is one of the more bizarre moments in Texas politics and also in the West Wing." The Times adds, "Mr. McClellan, the youngest of Ms. Strayhorn's four sons, was 9 when his mother, then a Democrat, was first elected mayor of Austin, a nonpartisan position. Over the next six years, from 1977 to 1983, she served three terms. In most of that time she was a single mother who wove her children into her public life. … Mr. McClellan went on to graduate from the University of Texas and to run three more successful campaigns for his mother: her election and re-election as a Texas railroad commissioner and her election as comptroller." The Times also reports, "As for the White House press secretary, he said that 'the president considers my mother a friend,' but that he himself had no immediate plans to work in his mother's campaign or, for that matter, to leave his job anytime soon."

Food Industry Makes Progress In Effort To Ban State Labeling Laws. The food industry has made progress in its efforts to urge Congress and the federal government to ban state food labeling laws. According to the Wall Street Journal (1/9, Zhang, 2.11M), state laws "are often tougher than federal Food and Drug Administration rules or cover substances not regulated by federal law. … A bill that would override many such laws sailed through the House Energy and Commerce Committee in December, and its sponsors include more than half the members of the House. A Senate version hasn't been introduced and it's unclear if the bill will move soon, but it already has set off a firestorm, pitting the food industry against consumer activists and state food-safety officials."

More Companies Phasing Out Pension Plans. ABC World News Tonight (1/8, story 6, :45, Woodruff) reported, "More and more American companies are phasing out pension plans for their employees. On Friday, IBM announced it will shift more than 1,000 workers from traditional pensions to 401(k) retirement plans." ABC (Stark) added, "IBM says beginning in 2008, it will freeze the traditional benefits for its thousands of US workers and shift its work force to a less-generous 401(k) plan, saving the company almost $3 billion a year. Last month, it was Verizon; before that, Motorola, Hewlett Packard and Sears. Traditional defined-benefit pension plans are a vanishing piece of the American dream."

Workers May Find Movement Away From Traditional Pensions Difficult. According to the New York Times (1/9, Walsh, 1.19M), "For many workers, the

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movement away from traditional pensions is going to be difficult. Already there are signs that people are retiring later, or taking other jobs to support themselves in old age. Participation in a pension plan is involuntary, but most 401(k) plans let employees decide whether to contribute any money - or none at all. Research shows that many people fail to put money into their retirement accounts, or invest it poorly once it is there."

Charitable Donors Defy Predictions. Despite predictions from nonprofit groups that the billions of dollars Americans gave to relief funds last year in the wake of the South Asia tsunami, Hurricane Katrina and the Pakistan earthquake would result in "donor fatigue," the Washington Post (1/9, B1, Salmon, 744K) reports that 2005 "was very good to many nonprofit organizations in the Washington area and elsewhere." Anthony De Cristofaro, executive director of the Combined Federal Campaign of the National Capital Area, the annual fundraising drive among local federal employees, "said he expects the fund drive, which will conclude at the end of the month, to comfortably top last year's total of $56 million. The Jewish Federation of Greater Washington had an exceptional year, said chief executive Misha Galperin. Gifts to the federation's endowment fund doubled to $18.3 million, contributions to its annual fundraising drive climbed by $2 million to $24 million and the federation raised $1.6 million for tsunami and Katrina relief funds, he said." The Post adds,, "The news is also good nationally." According to the Chronicle of Philanthropy, "many of the nation's biggest charities are raising as much or more than they did in the late 1990s, when the strong economy and booming stock market boosted charitable donations a startling 50 percent from 1996 to 2000."

Sharon's Doctors Prepare To Ease Him Out Of Coma. USA Today (1/9, Gutman, 2.31M) reports, "Advisers said Sunday that Ariel Sharon was waging a fierce comeback from a life-threatening stroke. Doctors planned to start easing the Israeli leader out of a medically induced coma today. Shlomo Mor Yosef, director of Hadassah University Hospital, said Sunday that a CT scan of Sharon's brain showed improvement and that his vital signs were normal. He said Sharon, 77, remained in critical condition."

The Washington Post (1/9, A12, Wilson, 744K) reports, "Doctors plan to begin the delicate process of reviving Israeli Prime Minister Ariel Sharon from a medically induced coma Monday and start assessing the scope of any brain damage he might have suffered during a massive stroke last week. Sharon, 77, underwent a scheduled brain scan Sunday so doctors could measure intracranial pressure and look for new bleeding. The results showed the condition of his brain had improved slightly, a determination consistent with two previous scans taken since the last emergency surgery to stop hemorrhaging. The director of Hadassah-Ein Kerem Hospital, where Sharon is being treated, said the most recent test showed that the level of swelling in Sharon's brain had declined overnight. His overall condition remains critical but stable."

The New York Times (1/9, Altman, 1.19M) reports, "As Israeli doctors try to bring Prime Minister Ariel Sharon gradually out of a medically induced coma today, they will be seeking clues to the severity of the damage from the potentially deadly hemorrhagic stroke he suffered last week. The doctors are expected to massage and pinch Mr. Sharon's skin, vigorously rub his chest and ask him to perform simple tasks like blinking as part of their examination to begin to determine the degree of paralysis and impairment of his intellectual skills. Doctors have said they assume there will be some impairment."

Sharon Seen As Unable To Ever Return To Office. NBC Nightly News (1/8, story 3, 2:00, Fletcher) added, "Taking Sharon out of his induced coma will give the nation a better idea whether" Sharon's "60-year career…is over. … Experts agree there is no chance he will return to his job as prime minister." The Washington Times/AP (1/9, Nessman) reports, "One of Mr. Sharon's doctors said that even if the prime minister survives, he would not be able to return to office. Acting Prime Minister Ehud Olmert told the Cabinet he would work to carry on Mr. Sharon's political legacy."

The New York Times (1/9, Erlanger, Kraft, 1.19M) reports, "Israel continued its nervous watch over the sickbed of Prime Minister Ariel Sharon on Sunday, with television reporters educating the country about his condition using plastic models of brains and exploring hypotheses about whether he should have had different treatment before his devastating stroke on Wednesday. Israeli politicians, normally an obstreperous and aggressive bunch, maintained a self-imposed moratorium on political campaigning out of respect for the stricken prime minister - and out of a sense that the country would not reward those who returned to the normal slash-and-burn style too soon."

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The Christian Science Monitor (1/9, Prusher, Mitnick, 61K) reports, "But Sunday, as Prime Minister Ariel Sharon lay in a drug-induced coma, many here wondered whether Olmert, now acting prime minister, has the leadership qualities to assume Mr. Sharon's mantle, and takeover the newly fashioned centrist party, Kadima. A crucial election for Israel is scheduled for late March."

White House Preparing For Post-Sharon Era. ABC World News Tonight (1/8, story 4, 3:15, Woodruff) reported, "Few expect Sharon to go back to work after his stroke. So, tonight, Washington and Israel are preparing to go back to work without Sharon at its leader." ABC (Reynolds) added, "With Ariel Sharon incapacitated, there is no question that the United States has lost an influential partner in a strategically-important region. And George Bush has lost a friend." Yossi Klein Halevi, Shalem Center: "Bush not only likes Sharon personally, but admires him…as a military hero." Reynolds: "It will be hard, if not impossible, for whomever emerges from Israel's March elections as a successor to Sharon, to approximate that close, personal bond with Bush. Acting Prime Minister, Ehud Olmert, would try to continue Sharon's policies and may enjoy white house support. But he lacks a rapport" with Bush. That "spells more trouble for the road map to peace that the Bush Administration has championed, even though it has, so far, led nowhere."

The Christian Science Monitor (1/9, LaFranchi, 61K) reports, "In its five years, the Bush administration has been reluctant to press for bold steps from the parties, and it's unlikely to alter that pattern now, many experts say. Officially, neither the White House nor the State Department is offering much diplomatic direction for the post-Sharon era, suggesting that doing so would be distasteful as the prime minister fights for his life. Secretary of State Condoleezza Rice postponed a trip to Australia in order to be in Washington at a crucial juncture in Middle East affairs, while diplomatic sources said the White House was quietly making contingency plans in the event of Sharon's passing."

Sharon's Accomplishments Recounted. The Washington Post's (1/9) Lally Weymouth writes, "In power, Sharon showed that the charm could often trump the steeliness -- or at least mask it long enough for him to forge both a consensus in Israel and a close relationship with the American government. One of the marks of great leadership is the capacity to undo what one has done if it can contribute to the greater good. Sharon had the courage to dismantle the very settlements he had built."

Arab-Israeli Peace Deal Seen As Unlikely In Bush's Second Term. Time (1/16, McGeary) reports, "The political instability confronting both Israelis and Palestinians jeopardizes Washington's hopes of salvaging some kind of Arab-Israeli peace deal by the end of President George W. Bush's second term. Having hitched their strategy to the success of Sharon's policy of separation from the Palestinians, Administration officials scrambled to put a positive spin on the somber events in Jerusalem. … A senior State Department official says the U.S. believes that 'progress is still possible' without Sharon. Whether that remains true will depend on how Israelis handle a crisis that so few saw coming."

Sharon Called "Bold And Cunning Defender" Of Israel. In its cover package, U.S. News and World Report (1/16, Derfner) examines the legacy of Israeli Prime Minister Ariel Sharon, noting that "no one in modern times transformed this country as much as Ariel Sharon did. And no Israeli leader transformed himself as did the legendary fighter once he finally, after a half century of great deeds and misdeeds on the battlefield, became prime minister." Sharon "was a bold and cunning defender of his tiny nation in a hostile, dangerous part of the world."

Candidates To Succeed Sharon Quietly Preparing For Campaign. A story in Newsweek's (1/16) cover package says the entrants in Israel's upcoming elections are, as "quietly as possible, not wanting to seem disrespectful," preparing "for the run of their lives." Newsweek provides a short profile of the candidates. Newsweek reports, "Political partnerships don't get much tighter than the team of Ariel Sharon and Ehud Olmert, 60. The two men made a great match, even though their personalities were strikingly different. In contrast to the career warrior, the former Jerusalem mayor is a scholar, with diplomas in philosophy, psychology and law. But the pair worked together seamlessly." The Labor Party "has big dreams of regaining its long-lost ruling-party status, and Peretz, a social democrat, has pledged that if he wins the top job in the March elections, he'll produce a peace agreement within four years." Justice Minister Tzipi Livni "was among the first Likud members who jumped to Kadima. The 47-year-old attorney supports the idea of territorial handovers as the only way to forestall the day when Arabs outnumber Jews in Israel." Former Labor Leader Shimon Peres "is still in the game." Polls "are saying that Peres (despite longstanding public doubts about his toughness on terror) could outdo Olmert as Kadima's pilot in

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March." Netanyahu "could step into the leadership vacuum—if he can move toward the political center without looking like an abject opportunist."

Olmert Seen As Sharon's Alter Ego. In a separate story in its cover package, U.S. News and World Report (1/16) says "the closest Ariel Sharon had to an alter ego is the man now taking his place as prime minister, Ehud Olmert. … The electoral question is whether the politicians and voters who had followed Sharon to Kadima will stand by Olmert. The initial indications are yes. All of the politicians who bolted Likud and Labor have declared their loyalty to him as the new party's new leader." US News adds, "Kadima held its lead in the first opinion poll following Sharon's major stroke. It also showed that the only Kadima member more popular than Olmert is Shimon Peres, 82, who left the Labor Party after losing the leadership to Amir Peretz in a November showdown. Peretz has since stumbled."

Observers Say Netanyahu Must Move To Center To Gain Wide Backing. In a separate story in its cover package, Newsweek (1/16, Peraino, Ephron, Bartholet) reports that observers "believe that [Benjamin] Netanyahu will have to move toward the center to garner wide backing, and that is dangerous for him. In some ways, Netanyahu is the anti-Sharon: a slick talker and American-style campaigner who enjoys political theater. He's telegenic, smart and articulate. But he also has a reputation as an opportunist." Newsweek adds, "Yet none of Sharon's potential successors in Kadima has much magnetism, either. Peres certainly has great stature, but he is seen by many as unreliable on security issues. Olmert has been a fixture in Israeli politics for years, and he is a longtime proponent of unilateral action to leave parts of the occupied territories. … But he benefited from being close to Sharon."

Gaza Said To Have Descended Into Near-Anarchy. The New York Times (1/9, Smith, 1.19M) reports, "In Gaza City on Saturday night, one man was killed during a gun battle between armed militants and the police, while elsewhere in town another armed group threatened to destroy the local offices of the satellite television station Al Arabiya, which is based in Dubai. The men were angry at the station for broadcasting a documentary that suggested that female Palestinian suicide bombers had been put under pressure by male relatives. Farther south that same day, gunmen cordoned off a neighborhood in Khan Yunis, Gaza's second largest city, while members of a well-known drug-smuggling family battled with the Palestinian police. Eleven policemen were reported wounded. And in Rafah, along the Egyptian border, armed men from the Abu Taha family stopped cars on Sunday, checking identification papers in hopes of catching members of Al Masri, the rival family with which they have been waging a deadly feud. While the world is watching Prime Minister Ariel Sharon's fight for life and wondering who will govern Israel in his absence, people in Gaza are far more preoccupied with growing lawlessness and tension between armed factions since Israel's withdrawal."

Iran Ready To Resume Nuclear Program. The Washington Times/AP (1/9, Karimi) reports, "Iran said yesterday that inspectors from the U.N. nuclear-watchdog agency would remove seals from some nuclear facilities by today, opening the way for Tehran to resume research on fuel production. The development heightened concerns in the West that Iran was moving toward building atomic weapons. … Inspectors from the International Atomic Energy Agency (IAEA) arrived in Tehran on Saturday to remove seals they had affixed to the research sites after Iran voluntarily agreed to stop all enrichment-related activities more than two years ago as a confidence-building measure."

Reuters (1/9, Hafezi) reports, "Iran said it was ready to remove U.N. seals at some atomic research and development sites on Monday, a move that would raise the stakes in Tehran's dispute with the West over its nuclear program. European Union and U.S. officials say that, if Iran goes ahead with the move, diplomatic efforts to settle the issue would be endangered and that could lead to Tehran being referred to the U.N. Security Council for possible sanctions."

EU, IAEA Urge Iran To Rethink Nuclear Program's Resumption. The Financial Times (1/9, Smyth, Minder) reports, "The move brought predictable condemnation from the European Union, which has led international negotiations with Tehran over its nuclear programme. … Iranian and EU officials are due to meet on January 18 in Vienna. Iran has backed away from a comprehensive suspension of nuclear activities begun two years ago to calm international fears it wanted to develop atomic weapons. It is now approaching the most sensitive suspended part of the programme, the actual enrichment of uranium. The nature and extent of the resumed research and development remained unclear yesterday, with the International Atomic Energy Agency, the

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UN watchdog, seeking clarification after Iranian officials failed to appear for a meeting in Vienna last Thursday. Mohamed ElBaradei, head of the agency, urged Iran to co-operate with the UN agency in an interview with the UK's Sky News."

Iran, Russia To Continue Enrichment Discussions Next Month. The AP (1/9) reports, "Russian officials, meanwhile, conferred with Iranian counterparts here about Moscow's proposal that both countries conduct uranium enrichment, a process that can produce nuclear fuel for reactors or weapons, on Russian territory. They agreed to continue those talks next month."

Jordan Passes Measure Preventing Surrender Of US Citizens To ICC. Reuters (1/9) reports, "Jordan's parliament on Sunday approved a law that prevents Amman handing over U.S. citizens accused of war crimes to the international criminal court, lawmakers said. … Jordan's pro-government 110-seat parliament voted by a large majority in favor of the law which was viewed by rights bodies and some deputies as a violation of Jordan's obligations under the court's founding Rome Statute and eroded its sovereignty. Lawmakers said the law requires Jordan to refuse to hand over to the ICC persons accused of war crimes if they are U.S. nationals and non-nationals working for the U.S. government. Instead, Jordan would be required to surrender them to the custody of the U.S. government, in apparent contravention to Jordan's obligations to the ICC."

King Abdullah To Participate In National Prayer Breakfast. The Washington Times (1/9, Duin, 90K) reports, "Jordan's King Abdullah II, whose interfaith efforts over the past year impressed Catholics, Jews and Muslims alike, will have a supporting role at this year's National Prayer Breakfast, according to a key aide. … Plans are to have the king offer a prayer or say a few words at the Feb. 2 breakfast, then give the keynote speech at a lunch for evangelical leaders that same day."

Georgian President Says Russia Exerts Energy Control Over Former Soviet States. Mikheil Saakashvili, President of the Republic of Georgia, writes in the Washington Post (1/9, A19, 744K), "Last week Russia announced that it would halt and then -- not long after -- that it was restarting natural gas shipments to Ukraine. It was a momentary crisis that should have wide-ranging ramifications for the economic security of Europe and raise questions about any notion of a role for Russia as a reliable energy supplier. Russia's arbitrary cutoff sent a clear message to the European Union: There can be no energy security when an undependable neighbor is willing and able to use its energy resources as a weapon in political influence. … Russia uses not only its energy supplies but also the vast energy transportation network that former Soviet states inherited -- and depend on -- to exercise energy control." Saakashvilli adds, "For Georgians, our path is clear: We are moving aggressively to diversify our energy sources and transportation networks. The recently completed Baku-Tbilisi-Ceyhan pipeline, which brings natural gas from Azerbaijan to Turkey and crosses Georgia is a critical piece of this effort. For Europe, the Black Sea states hold the key for new routes to bring in energy supplies from the Middle East and Central Asia. We are willing to work closely both with our European partners and with Russia to make the whole system transparent, predictable and immune to -- or insulated from -- political shocks."

Haitian Elections Postponed Again. The Christian Science Monitor (1/9, Harman, 61K) reports, "Sunday was supposed to be election day in Haiti. Only it never happened. Again. … Preparations for the first vote here since a rebellion ousted President Jean-Bertrand Aristide nearly two years ago have fallen short. 'The best you can say is that this process has been a political, technical, logistical, and financial fiasco,' says Mark Schneider, senior vice president of the International Crisis Group in Washington, D.C. Originally scheduled for Nov. 6, and subsequently postponed four times, Sunday's voting day came and went here without a vote being cast. Constitutionally, a new government must be in place by Feb. 7. That will not happen, but officials announced Sunday that Feb. 7 will be the new election date."

Haitian Business Leaders Call For General Strike. USA Today (1/9, Harman, 2.31M) reports, "Business leaders called for a general strike today, two days after the commander of the U.N. peacekeeping force in Haiti was found dead of an apparent suicide. The strike, orchestrated by Haiti's largest business association, was organized before the death of Lt. Gen. Urano Teixeira da Matta Bacellar on Saturday. It was called to protest growing lawlessness and to pressure the multinational United Nations force under Bacellar's command to get tough with gangs. … The

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Brazilian commander's death comes amid growing anarchy in the capital, particularly in the sprawling Cité Soleil slum."

Turkey Says Half-Dozen More May Have Bird Flu. ABC World News Tonight (1/8, story 8, 2:30, Woodruff) reported that Turkish health officials "say they believe half a dozen more people may have been infected with the deadly bird flu" in the "first cases from the virus of birds jumping to humans outside of China and Southeast Asia."

The Washington Post (1/9, A16, Sipress, 744K) reports "the preliminary test results, which must still be confirmed by the World Health Organization, came days after a teenage brother and sister from a village in the far east of Turkey died from the H5N1 strain of bird flu in the first confirmed human cases of the disease outside Southeast Asia and China. Bird flu was also suspected in the death of a third sibling, but test results remain inconclusive. Turkish medical authorities reported Sunday that as many as 10 Turks have been infected. Some of these cases have appeared in family clusters, raising concern that the disease might have begun spreading more easily among people. But international health experts said they find it more likely that the human cases in Turkey were caused by contact with infected birds, when children were playing with slaughtered chickens or crawling into henhouses, for example."

The New York Times (1/9, Rosenthal, 1.19M) reports, "A flurry of new reports of avian influenza in humans and animals emerged Sunday from various parts of Turkey, and international health officials said they had come to believe that the disease had been simmering in the eastern part of the country for months, even though it was reported there only in late December. A team of experts, including representatives of the World Health Organization, accompanied by the Turkish health minister, was scrambling to determine the full extent of the outbreaks. The group was heading by bus on Sunday to the worst-hit areas in and around the city of Van, where the airport was closed by severe weather."

Russia, Iran Take Steps To Diminish Exposure. The Financial Times (1/9, Boland, Jack) reports, "Iran closed a border crossing with Turkey on Sunday and senior Russian health officials advised holidaymakers against visiting the country as the bird flu virus spread to the outskirts of the capital Ankara. … Turkey has been culling poultry for days to try to contain the bird flu outbreak.'

Conservatives Continue To Lead In Run-Up To Canadian Elections. USA Today (1/9, 2.31M) reports, "After 12 years of Liberal Party rule in Canada, Conservatives are making a contest of national elections Jan. 23. Liberal Prime Minister Paul Martin squares off tonight in a nationally televised debate with Conservative Party leader Stephen Harper. Pollsters say Harper's underdog Conservatives have seized the momentum in the campaign. Canada last had a Conservative-led government under Brian Mulroney in 1993. … Although all the results are within the margins of error, five recent national polls show Conservatives leading by 2-5 percentage points. The latest poll, released Sunday by SES Research, shows Conservatives would get 34% of the vote and Liberals 32% if elections were held now. The far-left New Democratic Party (NDP), the separatist Bloc Quebecois and the Green Party split the remainder. A large number of Canadians — 17% — are undecided and could determine the outcome of the elections, according to the SES poll done for CPAC, a public affairs cable TV channel similar to C-SPAN."

Man Shot At Border Is Top News In Mexico. Under the headline "At Border, Fatal Shot Still Rings," the Los Angeles Times (1/9, Marosi, 958K) reports, "From his rickety apartment in the shanty-lined hills of Colonia Libertad, Giovanni Rubio said he witnessed a Border Patrol agent fatally shoot a man who had crossed onto US soil. 'We want him electrocuted, and we want to watch,' said Rubio, 22, referring to the agent whose actions sparked an international furor. Homeland Security Secretary Michael Chertoff, visiting San Diego last week, offered his own take on the increasingly volatile situation on the border: 'Anybody who assaults an agent is asking for trouble.' The differing reactions to the shooting on one of the most violence-prone stretches along the 2,000-mile border with Mexico illustrate the deepening cultural gulf between two nations separated by an increasingly fortified frontier." The Times adds, "In Mexico, the Dec. 30 shooting of Guillermo Martinez Rodriguez, 18, topped media coverage all last week — 'Shot in the back,' blared one headline — and prompted President Vicente Fox's administration to make a formal request for an investigation. … Mexican media have portrayed Martinez as a hard-working father of two who had crossed into the US in search of work. But Border Patrol officials said Martinez was a smuggler who had been arrested 11 times on suspicion of guiding migrants across the border."

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In Caracas, Belafonte Calls Bush "Greatest Terrorist In The World." The AP (1/9, James) reports, "The American singer and activist Harry Belafonte called President Bush "the greatest terrorist in the world" on Sunday and said millions of Americans support the socialist revolution of Venezuelan leader Hugo Chavez. Belafonte led a delegation of Americans including the actor Danny Glover and the Princeton University scholar Cornel West that met the Venezuelan president for more than six hours late Saturday."

Hun Sen Cracking Down On Cambodia's Remaining Opposition Groups. The New York Times (1/9, Mydans, 1.19M) reports that in Cambodia the "harshest political crackdown in years is under way" with "some analysts" describing it as "the final stage in Prime Minister Hun Sen's drive to consolidate unchallenged power. Over the past year, he has choked off the last effective political opposition while continuing to marginalize the monarchy, manipulate the courts and intimidate labor unions and other civic groups. … Now, with a series of arrests and lawsuits on defamation and related charges, Mr. Hun Sen is for the first time directly attacking the human rights groups that, by default, serve as a de facto democratic opposition."

Brazil Succeeds In Creating Cost-Effective Ethanol. The Wall Street Journal (1/9, A1, Luhnow, Samor, 2.11M) reports, "After nearly three decades of work, Brazil has succeeded where much of the industrialized world has failed: It has developed a cost-effective alternative to gasoline." Ethanol made from sugar cane is "an option that's available at 29,000 gas stations from Rio to the Amazon. A comparable tank of gasoline would have cost him $36. … At current prices, Brazil can make ethanol for about $1 a gallon, according to the World Bank. That compares with the international price of gasoline of about $1.50 a gallon. Even though ethanol gets less mileage than gasoline, in Brazil it's still cheaper per mile driven. As a result, ethanol now accounts for as much as 20% of Brazil's transport fuel market."

More Than Two Million Muslims In Mecca For Hajj. ABC World News Tonight (1/8, story 8, 2:30, Woodruff) reported that "more than two million Muslims" are making the ritual hajj in Mecca. The "pilgrimage has been marred by the deaths of 76 people, when a pilgrims' hostel collapsed."

John Paul II's Assailant To Be Freed This Week. NBC Nightly News (1/8, story 4, 1:00, Seigenthaler) reported that Mehmet Ali Agca, who tried to assassinate Pope John Paul II in 1981, "is expected to be freed from a Turkish prison sometime this week." The Pope "publicly forgave his attacker, who later was pardoned at the Pontiff's urging."

The New York Times (1/9, Arsu, 1.19M) reports Agca "served 19 years in Italy for shooting the pope and then was sent back to Turkey, in 2000, and has been in prison since then for killing Abdi Ipekci, a newspaper editor, in 1979."

The Washington Post (1/9, A12, Hacaoglu, 744K) reports, "His motive for shooting John Paul in the abdomen on May 13, 1981, remains unclear."

US, South Korea Urged To Enter Into Free Trade Agreement. In an op-ed for the Financial Times (1/9) William Rhodes, chairman of the US-Korea Business Council and senior vice-chairman of Citigroup, writes, "In recent months, there has been increasing discussion among business and government leaders in the US and South Korea about launching negotiations for a free trade agreement. This would bring major economic benefits to both the US and South Korea, the world's tenth largest economy, and strengthen one of America's most important Asian alliances. For many years, economic ties between South Korea and the US have been close – it is America's seventh largest trading partner. China recently surpassed the US as South Korea's largest export market, although the US continues to be the largest source of foreign investment into South Korea, mainly in financial services and manufacturing."

Multinational Trade Organizations Said To Have Lost Power. The Washington Post (1/9, A18, 744K) editorializes, "The latest round of tariff-cutting talks under the auspices of the WTO is stalling, not because countries oppose trade but because they do not want to make concessions in this multilateral forum. Ambitions to deepen the WTO's power to settle disputes beyond trade into labor and environmental issues have (fortunately) fizzled, while WTO rulings against protectionist European food regulation or American cotton subsidies don't (unfortunately) cause those policies to be reformed quickly. The same story holds for NAFTA. In the 1990s there was talk of building NAFTA tribunals on labor and the environment into influential voices. It hasn't happened."

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NYTimes Criticizes US Corporation's Support For Indonesian Military. The New York Times (1/9, 1.19M) editorializes, "Freeport-McMoRan, an American company that operates a giant open-pit copper and gold mine in Papua, is a major contributor to Indonesia's economy. The company is also one of Indonesia's most reckless polluters and a source of hard cash - cash the company concedes is protection money - for the Indonesian military, which has one of the worst human rights records anywhere. … Freeport's environmental record and its support for the Indonesian military have caused rumbles in Washington, particularly among human rights advocates like Patrick Leahy." The Times concludes, "Setting aside for the moment Freeport's environmental horror show, the company is not doing Indonesia's civilian authorities any favors by underwriting the generals. Freeport describes its payments as an essential cost of doing business. But it appears not to have measured the costs to democracy."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"Linked Charities Bank On The Chavez Name."
"Mission Missing Its Mark."
"Hopes Founder On 'Big Lie'."
"Polar Bears Face New Toxic Threat: Flame Retardants."
"GOP Puts Lobbying Scandal In Bull's-Eye."
"At Border, Fatal Shot Still Rings."
"U.S. Crash In Iraq Kills 12."

USA Today:

"Goodbyes Begin For W.Va. Miners."
"Fatal Crashes."
"'Next frontier' In Heart Disease: Undoing It."
"17 Killed In Crash, Attacks In Iraq."

New York Times:

"Diabetes and Its Awful Toll Quietly Emerge As A Crisis."
"More Companies Ending Promises For Retirement."
"Lobbyist's Firm Escapes Fallout From A Scandal."
"Issues And (Possible) Answers: A Primer On The Alito Hearings."
"A Commitment To Marriage, And To New Orleans."

Washington Post:

"12 Killed In N. Iraq Helicopter Crash."
"Colleges Learn To Be Good Neighbors."
"Cat Owner Turns To DNA In Pet Whodunit, But Case Isn't Closed."
"Hearings Today."
"Proving His Mettle In Reagan Justice Dept.."
"GOP Plots Ascent On Ehrlich's Heels."

Washington Times:

"Boehner Takes On Blunt."
"Iraqis Recieve Training In Iran."
"Schumer Warns Of Filibuster Of Alito."
"Military Academics See Less Harassmanent."
"Adams Morgan Crime Down With More Police."
"Jordan's King To Speak At US Prayer Breakfast."
"Italian Court To Decide If Teaching Jesus Breaks Law."

Detroit Free Press:

"Car Wars '06 Begin."
"New Models Position Lincoln To Chase Cadillac."

Atlanta Journal-Constitution:

"12 Troops Die In Iraq Copter Crash."
"Bill Would Channel Schools' Spending."
"Democrats Threaten Filibuster Alito."
"Shock Jock Boosts Stock Of Burgeoning Satellite Studio."

Dallas Morning News:

"Young's Next Stop Is NFL."
"Alito Memos Likely Targets."
"Letter Confirms Site Of Bluesman's Recordings."
"Copter Crash Caps Bad Week In Iraq."
"Minorities Don't Feel Top-Ticket Excitement."
"DeLay Ends Leadership Fight."

Houston Chronicle:

"Attempt To Bring Sharon Out Of Coma Begins."
"Poll: Most Texans Back Stem Cell Research."
"Bit Of New Orleans For Isle Mardi Gras."
"Patience Only Remedy For Drug Plan Confusion."
"Peer Pressure Shifting Driver's Ed Gears."
"U.S. Helicopter Crash Kills 12 In Iraq."
"Race For GOP Whip Is On."

Story Lineup From Last Night's Network News:

ABC: Iraq Helicopter Crash; WV Miner Funerals; WV Mine Survivor; Sharon Condition; Alito Confirmation; Alito Rally; CO Wildfires; Pension Plans; Healing Prayer Study; Muslim Pilgrimage; Avian Flu-Turkey; Prince William-Military.
CBS: Preempted By NFL Playoffs.

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NBC: WV Mine Accident; Iraqi Violence; Sharon Condition; Pope Assassin; Alito Confirmation; Abortion Stances; Detroit Auto Show; New Orleans Colleges Reopen.

Story Lineup From This Morning's Radio News Broadcasts:

ABC: WV-coal miners' funerals; Israel-Sharon's condition; Alito hearings; Schwarzenegger-motorcycle accident.

CBS: Israel-Sharon's condition; WV-coal miners' funerals; Schwarzenegger-motorcycle accident; Alito hearings; Young-NFL draft.

NPR: Alito hearings; Israel-Sharon's condition; WV-coal miners' funerals; Gas prices; Iran-nuke program; Atlanta-Asians protest meth sting; NFL Playoffs.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH – 7:15 a.m. Breakfast with Supreme Court Nominee Samuel A. Alito.

10:25 a.m. Remarks on No Child Left Behind, North Glen Elementary School, Glen Burnie, Md.

VICE PRESIDENT CHENEY – No public schedule.

US Senate: JUDICIARY _ 12 p.m. Full Committee. Begins confirmation hearing for Supreme Court nominee Judge Samuel Alito. Opening statements by senators, formal introduction of Alito, Alito's opening statement. Location: Room 216, Hart.

US House: No scheduled events.

Other. DISPARITIES-HEALTH _ Health and Human Services' Office of Minority Health convenes a three day national leadership summit on eliminating racial, ethnic and physically challenged disparities in health. With Michael Leavitt, Secretary of Health and Human Services, Jennifer Howse, president, March of Dimes; Sandra Gadsen, president, National Medical Association; and others. 8:30 a.m. - 9:30 a.m. Keynote address by HHS Secretary Michael Leavitt on improving the quality of healthcare for all Americans. 9:30 a.m. - 10:30 a.m. Highlights from Carolyn Clancy, MD, Director, Agency for Healthcare Research and Quality, on the National Healthcare Disparities Report. 10:45 a.m. - 12 p.m. Keynote and closing remarks, Dr. Christina Beato, acting assistant Secretary for Health. Location: Grand Hyatt Hotel, 1000 H St. NW. Contacts: Linda Allen, 703-231-3363

ABORTION-ALITO _ 9 a.m. The Traditional Values Coalition holds a news conference where women hurt by abortion speak out on the need for Supreme Court justices who will reverse Roe V. Wade. With Andrea Lafferty, TVC; Anne Newman, Operation Outcry; Karen Bodle, Harrisburg, PA; Luana Stoltenberg, Davenport, IA; and others. Location: In front of the Supreme Court. Contacts: Amy Skeen, 202-547-8570

NEW ORLEANS-KATRINA _ 12 p.m. - 1 p.m. National Press Club newsmaker on "New Orleans and the Nation After Katrina: A Changing Story." With Jason Berry, music columnist, New Orleans Magazine, and Lolis Eric Elie, New Orleans Times-Picayune. Location: National Press Club, 14th and F Sts. NW. Contacts: Ron Baygents, 202-250-1635

JAPAN-POLITICS _ 3 p.m. - 4:30 p.m. The Center for Strategic and International Studies hosts remarks on Japanese politics and bureaucracy by Kazuo Aichi, newly returned to office after a 20 year absence, member of the Japanese House of Representatives. Location: B-1 conference room, CSIS, 1800 K St. NW. Contacts: Andrew Schwartz, 202-775-3242

IRAQ-KIMMITT _ 6 p.m. - 7:30 p.m. Deputy Treasury Secretary Robert Kimmitt will discuss the Treasury's view of the Iraqi economy and economic aspects of reconstruction. Part of the Council on Foreign Relations series, "Iraq: The Way Forward." Location: CFR, 1779 Massachusetts Ave., NW. Contacts: n/a, 202-518-3428. Notes: RSVP required. Council members and accredited journalists only. Reception at 6 pm, meeting begins 6:30 pm.

VIETNAM-AWARDS _ 6 p.m. - 8 p.m. 6 p.m. - 8 p.m. Vietnam Dream for Success holds an award ceremony to recognize contributions to educational opportunities for disadvantaged children and women in Vietnam. First Lavang Awards will be presented to Jan Scruggs, Vietnam Veterans Memorial Fund founder, for his work for landmine removal and educational support in Vietnam; and Father Vincent Rigdon, director of the Office of the Missions, Archdiocese of Washington. Location: French Embassy, 4101 Reservoir Rd, NW. Contacts: Lisa Gough (VVMF), 202-393-0090 ext 109

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: MONDAY, JANUARY 9, 2006 7:45 AM EST

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TERRORISM NEWS:

Specter Has Asked Gonzales Testify On Warrantless Eavesdropping. USA Today/AP (1/9) reports Sen. Arlen Specter, the chairman of the Senate Judiciary Committee, "said he has asked Attorney General Alberto Gonzales to testify publicly on the legality of eavesdropping without warrants on phone conversations between terrorism suspects overseas and in the USA. A prominent conservative on the committee said he is troubled by the legal arguments the Bush administration has given for establishing the National Security Agency (NSA) program. President Bush has pointed to the congressional resolution that authorized him to use force against Iraq as allowing him to order the domestic spying." Sen. Sam Brownback said Sunday, "There was no discussion in anything that I was around that gave the president a broad surveillance authority with that resolution."

DNC Files FOIA Request On Domestic Spying. The Washington Times (1/9, McCaslin, 90K) reports in its "Inside the Beltway" column, "A Freedom of Information Act (FOIA) request by the Democratic National Committee (DNC) -- demanding the White House release Justice Department memos outlining whatever authority there is for President Bush, during the war on terrorism, to spy on certain people in the United States without court oversight -- has been hand-delivered to Justice Department headquarters by DNC General Counsel Joe Sandler. Actually, it took three DNC officials to load up, haul and deliver the FOIAs, as there were 160,000 separate requests -- each printed and boxed up -- signed by party supporters in the past two weeks. The Justice Department has 20 days to respond, although the DNC says it could be sooner depending on the outcome of a secret Foreign Intelligence Surveillance Act court hearing this week on the legal authority for the domestic-wiretapping program.'

Brownback Says 9/11 Resolution Did Not Give Bush "Broad Surveillance Authority." Asked on ABC's This Week (1/8, Stephanopoulos) if he was "confident that the administration has issued lawfully" in allowing the NSA to conduct domestic surveillance, Sen. Sam Brownback said, ": I think we need to hold hearings on it and we're going to. … I am troubled by what the basis for the grounds that the administration says that they did these on, the legal basis, and I think we need to look at that far more broadly and understand it a great deal. I think this is something that bears looking into and us to be able to establish a policy within constitutional frameworks of what a president can or cannot do." Asked if he thought "the 9/11 resolution gave the president the authority for this program," Brownback answered, "It didn't, in my vote. I voted for that resolution. … There was no discussion in anything that I was around that

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that gave the president a broad surveillance authority with that resolution."

Risen Commends Those Who Leaked NSA Story. New York Times reporter James Risen, appearing on NBC's Meet the Press (1/8. Russert), was asked how he came to learn of the existence of the NSA's secret domestic surveillance program, Risen responded, "People in the government who had been told about it or were involved in it came to me because they were deeply troubled. They felt that there was something going wrong in the government; they believed that there was illegal activity. And my colleague, Eric Lichtblau of the New York Times, also began to hear the same thing from other people. And we happened to sit next to each other in the Washington bureau of the New York Times, and we began to compare notes, and we realized we were hearing about the same thing. … I think that these people who came forward did so in the best tradition of whistleblowing, and they did so for the best reasons, and that is because they believed that there was illegal activity going on. Whether it was illegal or not is something that will now have to be determined."

Risen Book Filled With Stories From Disgruntled Intelligence Officials. The Financial Times (1/9, Alden) reviews James Risen's "State of War," reporting, "President George W. Bush has his own establishment problem, as reporter James Risen's new book State of War makes clear. Like [Bob] Woodward before him, Risen has been on the receiving end of leaks from career national security officials who are deeply unhappy with the current administration. Mr Bush declared war on the bureaucracy after September 11 2001 and it is fighting back. Risen and his New York Times colleague Eric Lichtblau revealed last month that Mr Bush secretly authorised the National Security Agency to intercept telephone and e-mail communications on US soil, an explosive story that has sparked a national debate over presidential powers. The anonymous sources, who are now the target of a Bush administration leak investigation, were nearly a dozen current and former government officials." Bush "has paid a high price for alienating those institutions." The "biggest reckoning may come at the hands of the CIA, which has been decimated by defections during the Bush years. … The professionals have fought back, revealing more and more of how the intelligence was manipulated." The Times says the book's chapters are filled with stories "from disgruntled spooks who believe the war on terrorism has been badly mishandled from the outset. Such criticisms will not surprise the agency's many neo-conservative detractors, who see it as too hidebound by timidity and bureaucratic inertia to operate in a war in which the old rulebooks no longer apply."

HOMELAND RESPONSE:

Goss Redoubling Efforts To Stop CIA Leaks. Time (1/16, Waller, Burger, Bennett) reports in its "Notebook" column, "Angered by recent leaks of information about sensitive intelligence operations, CIA Director Porter Goss is redoubling efforts to get his spooks to keep their mouths shut. At staff meetings last week, CIA managers at the agency's Langley, Va., headquarters told employees that the leaking had got out of control and needed to stop." Time adds, "The Bush Administration seems apoplectic over the revelations in November about the CIA's secret network of terrorist-interrogation prisons and the disclosure in the New York Times last month that the President authorized the National Security Agency (NSA) to eavesdrop on the phone calls of some Americans without a warrant. The latter report was also in State of War, a book by Times reporter James Risen." Goss "is concerned about the potential effects of books written by those with inside knowledge of agency operations. … Goss has banned current CIA officers from publishing books and ordered stricter reviews of retirees' books." Time adds that "there are efforts within the government to identify leakers. The Justice Department is investigating who gave away the NSA secrets. While such probes rarely succeed, the department's new willingness to subpoena reporters and their records could change that."

Newsweek (1/16) adds in its "Periscope" column that the intelligence community "is also furious over disclosures in New York Times reporter James Risen's 'State of War' about a Clinton-era CIA plot, Operation Merlin. Risen writes that a former Russian nuclear scientist on the agency payroll was to take Russian nuke blueprints (acquired by the CIA) and leak them to Iran. The catch: they contained faulty info that the CIA hoped Iran would incorporate in a bomb design. But the initiative went awry when the scientist noticed the flaws and told the Iranians to look closely at the blueprints." Current and former US intel officials "complain that while the scheme Risen cites may have ended years ago, similar tactics could be used today. They say the book…puts bad guys on guard."

WAR NEWS:

Bremer Says Bush, Rumsfeld Ignored His Request For More Troops. The Los Angeles Times/Reuters (1/9) reports, "L. Paul Bremer III, who led the U.S. civilian occupation authority in Iraq after the 2003 invasion, said he had urged President Bush and Defense Secretary Donald H. Rumsfeld to increase postwar troop strength in the country, but his pleas were ignored." In an interview on NBC Television broadcast Sunday night, "Bremer said he sent a memo to Rumsfeld suggesting that

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half a million soldiers would be needed, three times the number deployed by the Bush administration. 'I never had any reaction from him,' the former diplomat told NBC's Brian Williams on "Dateline." Reuters adds, "Although he never heard back from his direct boss, Bremer said he discussed his concerns with Bush, who told him he would seek troops from other countries, but did not mention increasing US forces."

Bremer Book Hits Stores Today. The Washington Post (1/9, A17, Kamen, 744K) reports in its "In the Loop" column, "Today's the day that L. Paul 'Jerry' Bremer 's book, 'My Year in Iraq: The Struggle to Build a Future of Hope,' goes on sale. Early buzz was that the former Iraq reconstruction chief and Medal of Freedom winner is going to say that Washington ordered him to disband the Iraqi military -- widely seen as perhaps the most colossal strategic blunder of the Iraq war. There's also said to be some score-settling with a senior Pentagon official whose last name rhymes with 'held.'"

At Least 14 Killed In Suicide Attack At Iraqi Interior Ministry. Reuters (1/9) reports, "At least 14 people were killed and 20 wounded in an apparent suicide attack on the Iraqi Interior Ministry in Baghdad on Monday, police said. Police told Reuters two suicide bombers appeared to have blown themselves up outside the building. It was not immediately clear how many of the dead and wounded included civilians."

Blackhawk Crash, Insurgent Action Result In 17 US Troop Deaths In Iraq. ABC World News Tonight (1/8, lead story, 3:15, Woodruff) began its broadcast with "the deadliest helicopter crash in Iraq since last January," which it called "the worst incident in a bloody weekend for Americans. Seventeen were killed. Most of them died when a Blackhawk helicopter went down near Tal Afar, killing 12 people including two civilians on the ground. Five Marines died in separate attacks." ABC (Nauert) added, "A senior military official here in Baghdad tells ABC News tonight that hostile fire does not appear to be the cause of the crash. But at this point, they cannot rule anything out."

NBC Nightly News (1/8, story 2, 1:30, Seigenthaler) reported that the Blackhawk "went down eight miles west of town killing for your and eight passengers onboard. The cause of the crash is unknown, but rain and low visibility was reported at the time." Meanwhile, "there were separate incidents in and near the city of Fallujah. Three died from gunshot wounds and two others by homemade bombs. Since the beginning of the year 30 servicemen had have been killed in Iraq. … A recent rise in insurgent activity coincides with a rotation of forces in Iraq."

Many newspapers run brief, similar reports on the crash, among them USA Today (1/9, Diamond, 2.31M), Washington Post (1/9, A1, Hernandez, Sebti, 744K), Los Angeles Times (1/9, Kraul, Daragahi, 958K), New York Times (1/9, Oppel Jr., 1.19M), Washington Times/AP (1/9, Quinn). Knight Ridder (1/9, Hannah), Reuters (1/9, Long) and Bloomberg (1/9, Critchlow) also report the story.

Shiite Iraqis Receiving Militia Training In Iran. The Washington Times (1/9, Behn, 90K) reports, "Shi'ite clerics are recruiting young Iraqis to go to neighboring Iran for political indoctrination and militia training, said the uncle of one young man who recently returned from a one-month session. Upon the return of the young man -- whose name has been withheld from this article to protect his family -- he was recruited into the armed wing of the pro-Iranian Supreme Council for Islamic Revolution in Iraq (SCIRI) political party, the uncle said." The claim "is consistent with remarks by U.S. Ambassador to Iraq Zalmay Khalilzad, who has repeatedly warned about Iranian meddling in Iraq's affairs." The National Council of Resistance of Iran (NCRI), "an exiled opposition group -- also charges that Tehran has been training Iraqi and other nationals in intelligence gathering and terrorist operations at garrisons across Iran."

Study Estimates Iraq War Costs Could Exceed $2 Trillion. A study by Columbia University economist Joseph E. Stiglitz and Harvard lecturer Linda Bilmes to be released today in Boston at a conference of economists and social scientists estimates the cost of the war in Iraq is far higher than the Administration has projected. The Boston Globe (1/9, Bender, 484K) reports, "The cost of the Iraq war could top $2 trillion after factoring in long-term healthcare for wounded US veterans, rebuilding a worn-down military, and accounting for other unforeseen bills and economic losses, according to a new analysis." That "far exceeds projections made by the Bush administration." It "is more than four times what the war was expected to cost through 2006 -- around $500 billion, according to congressional budget data."

The Washington Times/UPI (1/9) quotes Stiglitz saying, "Shortly before the war, when administration economist Larry Lindsey suggested that the costs might range between $100 and $200 billion, administration spokesmen quickly distanced themselves from those numbers. … But in retrospect, it appears that Lindsey's numbers represented a gross underestimate of the actual costs."

Time (1/16, Donnelly) reports in its "Notebook" column, "U.S. Military Officers often complain privately that the American people don't fully appreciate the costs -- human or economic -- of the Iraq war. A new paper by Harvard budget expert Linda Bilmes and Nobel-prizewinning Columbia economist Joseph Stiglitz may help address that. It claims that the final cost to the U.S. could be $2 trillion -- 10 times as

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high as the worst-case scenario of $200 billion suggested by a White House official before the war. The discrepancy is in part because of Bilmes and Stiglitz's holistic accounting methods. Their tally goes far beyond the traditional budget lines of the Pentagon, which says $173 billion was spent through September 2005. For instance, the paper includes estimates for the lifetime cost of disability payments and health care for some 16,000 injured soldiers, increased recruitment budgets, and -- since the government has not reined in spending or raised taxed -- debt financing for war expenditures. The paper also counts macroeconomic effects like the rising price of oil."

Iraqi Government Said To Be Vulnerable To Military Coup. In an op-ed for the Los Angeles Times (1/9, 958K) Aaron Belkin, associate professor of political science at UC Santa Barbara, writes, "But the mere fact of an election cannot change a fundamental truth about Iraq: Saddam Hussein governed as a brutal dictator not simply because he was cruel but also because of the treacherous political landscape that destabilized his relationship with his own military . Hussein was highly vulnerable to a military coup, and future Iraqi leaders will be just as susceptible. Regardless of the election's outcome, a coup will probably follow a U.S. pullout, and Iraq will again be ruled by a dictator."

US Ambassador Outlines Challenges For Iraq. Zalmay Khalilzad, the US ambassador to Iraq, writes in the Wall Street Journal (1/9, 2.11M) that "for Iraq to succeed there must be cross-ethnic and cross-sectarian cooperation that will lead to a national compact on three key issues dividing Iraq's communities and factions. First, as leaders from all communities have agreed, there has to be a government of national unity, which includes all major players -- including Sunni Arabs. … Second, the constitution will likely need to be amended in the coming year to broaden support. Iraqi leaders have begun discussing technical adjustments to make the political system resulting from the constitution more workable; compromises on some substantive issues such as federalization in Arab regions of Iraq; and a bill of assurances emphasizing national unity and individual rights. In addition, the outside world is waiting to see how welcoming Iraq will be to much-needed investment that can bring jobs and technology to Iraq. Third, Iraq's leaders will need to work together to reform security institutions and eliminate a number of militias and other armed groups."

Debaathification Committee Divides Iraqis. The Washington Post (1/9, A14, Spinner, 744K) reports from Baghdad on "sculptures" that had been "erected as symbols of prosperity and power under Saddam Hussein," all of which have been removed. Says the Post, "In a decision in October that has polarized residents of the capital, the officially sanctioned Debaathification Committee ordered the removal of memorials and monuments it deemed offensive. The move has brought a sensitive issue into sharp focus: How much of the era of Hussein, now on trial for crimes against humanity, should be preserved for posterity? The committee, which also vets former members of the Hussein government for inclusion in the current government, drew up the edict on the monuments, labeled Document 900, in secret. It has never been made public."

Zarqawi Claims Bin Laden Ordered Rocket Attack Against Israel. AFP (1/9) reports Abu Musab al-Zarqawi, "said in an audio tape put onto the Internet that rockets had been fired at Israel from Lebanon last month 'on the instructions' of the network's overall chief Osama bin Laden. … The tape was placed on the site normally used by his group, the Organization of Al-Qaeda in Mesopotamia, which had claimed responsibility for the rockets in an on-line statement on December 29." AFP notes, "Israel the previous day had carried out an air strike against a base of a Syrian-backed Palestinian group on the southern outskirts of Beirut in retaliation for cross-border Katyusha rocket attacks on northern Israel."

Retired US Army Officers Endorse Planned Withdrawal Of Forces From Afghanistan. Retired Army Lt. Col. Gordon Cucullu and Retired Maj. Gen. Paul E.Vallely write in the Washington Times (1/9, 90K), "In what may be a late Christmas present to some members of the famed 10th Mountain Division headquartered in Camp Drum, N.Y., Pentagon officials announced that the 4th Brigade that had been scheduled to deploy en masse to Afghanistan would now only send a smaller element. At the moment a battalion task force from the 4th Brigade is scheduled to deploy, a considerably smaller number than originally scheduled. Why the cutback? Simple, as Secretary of Defense Donald Rumsfeld has said from the outset, 'we'll stay as long as we're needed, not a day more.' At this point NATO has 'stood up to the mission' in the words of a senior Defense official, and is taking responsibility for the southern area of Afghanistan." They conclude, "Combat commanders consistently recommend a logical, effective strategy that injects common sense and military professionalism into a situation dominated by political gamesmanship, hysteria, disinformation and irrational hatred of the president, the military and the country. To be victorious, America can't yank the rug out, as we did to our Vietnamese allies, but must implement a deliberate, calculated force adjustment of the kind that marked our successful disengagement from other historic battlefields. This is the recipe for victory, and the

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approach now ongoing in Afghanistan demonstrates and reinforces its validity."

CORPORATE SCANDALS:

Compliance Panels Add Teeth To Industry's Self-Policing Efforts. The Wall Street Journal (1/9, Lublin) reports, "Scott Gilbert, the top compliance cop at Marsh & McLennan Cos., wanted to speed up training about new ethics rules for staffers at one Marsh unit. So he asked the unit's leaders to describe their plans to the board of directors' new compliance committee last September." The Journal continues, "Board-level presentations 'focus the attention of management,' says Mr. Gilbert, whom the New York financial giant hired as its first chief compliance officer in January 2005. A compliance committee 'is a very useful thing,' he adds." The Journal adds, "Others agree. A small but growing number of major corporations are creating board-level compliance panels to oversee how well their companies are obeying legal, regulatory and ethical requirements. Twenty-two Standard & Poor's 500 companies, mainly in the fields of health care and financial services, have board committees primarily focused on compliance and legal issues, up from 15 in 2003, according to an analysis by recruiters Spencer Stuart. … Compliance committees typically seek to ensure that employees don't run afoul of mandates such as antibribery laws, worker-safety rules and whistle-blower protections adopted after business scandals. They enhance the clout of managers who enforce compliance, keep tabs on compliance programs and lighten the load of audit committees."

NYTimes Says SEC Must Remain Serious About Punishing Top Corporate Officers. An editorial in the New York Times (1/9, 1.19M) says, "The Securities and Exchange Commission, under its chairman, Christopher Cox, took an important step in the fight against corporate malfeasance last week. By issuing guidelines on when and why it would impose fines, the commission added transparency to an oft-criticized process. … The new guidelines say the decision to levy a fine will hinge on whether the corporation and its shareholders were unjustly enriched." The Times adds, "The new guidelines were unanimous, which is good. We're glad that Mr. Cox has the entire commission moving in one direction. … But the new guidelines will work only if the commissioners remain serious about pursuing punishment against top officers."

CRIMINAL LAW:

Abramoff Case Could Expose Largest Influence-Peddling Scheme In Decades. U.S. News and World Report (1/16, Pound) that the "big question" in Washington is "not what happens to [Jack] Abramoff but whom he'll bring down with him. The list of those with potential problems is long indeed and starts with" former House Majority Leader Tom DeLay. After DeLay, "there's a handful of lesser congressional fry, perhaps a senator, and enough current and former congressional aides to field a baseball team." US News adds, "People with knowledge of the federal investigation of Abramoff say prosecutors are focusing on Rep. Bob Ney. … A decision on a Ney indictment could come within weeks, sources say. Ney denies any wrongdoing." US News adds, "Some old Washington hands believe that when the case finally fades from the headlines, it will go down as the biggest influence-peddling scheme to hit the nation's capital in decades."

In its cover package, Time (1/16, Tumulty) adds that the Abramoff investigation "could become one of the biggest corruption probes in U.S. history, possibly putting dozens of lawmakers in legal or political jeopardy." Time continues, "In an internal e-mail obtained by TIME, the director of the FBI's Washington field office, Michael Mason, congratulated some 15 agents and 15 support staff members under him on the case for 'a huge accomplishment' in squeezing Abramoff to make a deal after 18 months of investigation and negotiation, one that made 'a huge contribution to ensuring the very integrity of our government.' But he added that 'the case is far from over.' Another official involved with the probe told TIME that investigators are viewing Abramoff as 'the middle guy,' suggesting there are bigger targets in their sights."

Administration Moves To Account For Every Abramoff Visit To White House. In a separate article in its cover package, Time (1/16, Cooper, Allen) reports, "Bracing for the worst, Administration officials obtained from the Secret Service a list of all the times Abramoff entered the White House complex, and they scrambled to determine the reason for each visit. Bush aides are also trying to identify all the photos that may exist of the two men together. Abramoff attended Hanukkah and holiday events at the White House, according to an aide who has seen the list. Press secretary Scott McClellan said Abramoff might have attended large gatherings with Bush but added, 'The President does not know him, nor does the President recall ever meeting him.'" Time adds, "In the end, Bush may be saved by the textured relationship he has long had with well-heeled donors, who raised $300 million for his 2004 campaign, the most expensive one in the nation's history. When the President is traveling, he does not like to have contributors or local

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officials in his cars, planes or holding rooms unless they are there for a good reason, and he sometimes questions his underlings sharply if someone he considers extraneous is admitted. To make sure that doesn't happen, chief of staff Andrew Card has set up an elaborate vetting system that keeps people from sidling up to the President to suggest or hand anything to him."

Tension Said To Be "Palpable" As Abramoff Probe Sends "Shudders" Through Washington. Time (1/16, Tumulty) reports in its cover package, "A high-level source tells TIME that prosecutors will…focus much of their energies on the lesser and easier-to-prove charge of 'honest services mail fraud,' for which they have to show only that a lawmaker has acted in his personal interest or that of another individual but not of his constituents in return for improper gain. That lowering of the bar for criminal-corruption cases is sending shudders from the Capitol to the lobbying corridor of K Street. And none of that even begins to address the question of whether those who dined, traveled and socialized with Abramoff might have violated Congress's own loophole-ridden rules." All of which "explains why lobbying and ethics reform suddenly seem so popular on Capitol Hill, with lawmakers vying to outdo one another, as they always do in moments like these, with proposals they insist would clean up the system once and for all." Newsweek (1/16, Isikoff, Bailey, Thomas) adds, "It is not clear how many (if any) solons will wind up in jail because of their friendship with Abramoff. Bribery is very hard to prove. Congressman Ney…says he was duped into performing favors for Abramoff's clients." Newsweek adds that "panic on Capitol Hill was palpable; lawmakers scrambled to give away or return their campaign donations from Abramoff and his clients, led by House Speaker Dennis Hastert ($67,000). All denied any wrongdoing."

Boehner Challenges Accuracy Of "Abramoff Connection" Database. Roll Call (1/9, Newmyer) reports, "With lawmakers rushing to scrub their images clean by returning or donating to charity campaign money from former lobbyist Jack Abramoff and his clients," Rep. John Boehner is "calling for a timeout." On Friday, he "challenged the Center for Responsive Politics to remove his name from a database that the watchdog group had posted on its Web site tallying amounts that Members of Congress have received from Abramoff and his clients. According to the database, Abramoff and his associates had showered $32,400 in campaign contributions on Boehner. The problem, Boehner said, was that 'to the very best of my knowledge, I have never received a penny from Jack Abramoff, directly or indirectly.' Instead, he said the CRP was unfairly crediting to Abramoff's influence all donations the Ohio Republican had received from the former lobbyist's American Indian tribe clients." Boehner wrote, "I suspect there are many other Members of Congress who find themselves in this situation as well, surprised to have been identified publicly as having an 'Abramoff connection' when in fact no such connection exists." But CRP Executive Director Larry Noble "defended the legitimacy of a database he said was produced in response to intense public and media interest. He said the center will refine the database but for the time being would not remove the information about contributions to Boehner."

Abramoff Scandal Has Yet To Affect Political Polls. The Washington Times (1/9, Lambro, 90K) reports that the Abramoff scandal "so far has yielded little political impact, pollsters and campaign strategists say. While one recent poll showed Democrats with a slight edge going into this fall's midterm congressional elections, several observers say there is no indication that the scandal surrounding Abramoff" has "begun to influence voters' perceptions." Pollster John Zogby said, "It's too soon in terms of the story really breaking into the public imagination. It's less than a week old. Prior to that it was purely an inside the Washington Beltway story."

Greenberg Traurig Avoids Abramoff Fallout. Under the headline "Lobbyist's Firm Escapes Fallout From A Scandal," the New York Times (1/9, Glater, Kornblut, 1.19M) reports that Greenberg Traurig, which was a "politically well-connected law firm long before" Abramoff joined it, has "rushed to distance itself from Mr. Abramoff, appease his clients and work closely with prosecutors. In the process it has earned praise for its cooperation" from Sen. John McCain, has "kept alive the possibility of suing Mr. Abramoff for its losses and negotiated financial settlements with most of Mr. Abramoff's victims." Former federal prosecutor David Schertler said, "They have taken the new approach that most corporations or institutions take in today's world, which is just completely cooperate with the investigation."

Abramoff Represented Magazine Publishers Association. The New York Times (1/9, Seelye, 1.19M) reports that while "the press has spilled plenty of ink writing" about Abramoff, "little noticed is that among Mr. Abramoff's many clients was the press itself, at least part of it. In 2000, he represented the Magazine Publishers Association, and it turns out that some of the association's money may have been funneled to Mr. Abramoff's political allies. In documents last week in which Mr. Abramoff pleaded guilty to mail fraud and conspiracy to bribe public officials, he revealed that he and an unidentified Congressional aide worked to stave off an increase in postal rates -- a significant benefit for an industry that depends on the postal service." The magazine association "paid at least $1.4 million from 2000 to 2003 to Preston Gates Ellis & Rouvelas Meeds, the lobbying firm where Mr. Abramoff was the chief lobbyist."

Cornyn Says Reed "Apparently" Was "Bilking" Indian Clients. Sen. John Cornyn was asked on NBC's Meet the Press (1/8. Russert) if he intended to return a $1000 contribution he received from "associates of Jack Abramoff…and Ralph Reed," Cornyn replied, "It was a legal

contribution. I don't plan on giving it back. … I had no knowledge of where Reed and Abramoff was somehow claiming credit [for actions taken by Cornyn] and then bilking their Indian clients for millions of dollars, apparently. And I certainly disapprove of that, did not know anything about it."

Lobbyists Continue Practices Despite Abramoff Scandal. The Legal Times (1/9, Palmer) reports, "If Washington lobbyists were feeling abashed last week after Jack Abramoff entered multiple guilty pleas, somebody forgot to tell the power-lunch crowd at the Palm. … Late last week the downtown chophouse, which serves as one of the de facto hubs of the lobbying universe, was alive with back-slapping bonhomie. Kenneth Duberstein held court at a center table for more than two hours, while Hilary Rosen passed by, clenching the end piece of her sunglasses with her teeth, and Grover Norquist worked a circuit at the back tables. It might have been expected that the ghost of Abramoff, Banquo-like, might hover over his former colleagues, but, all in all, it was business as usual." The Times continues, "And why not? Despite Abramoff pleading guilty to three counts of conspiracy, fraud, and tax evasion last week in Washington, and much speechifying on the Hill about fundamental lobbying reforms, it's still the busy season on K Street as lobbyists seek to secure earmarks for the 2007 spending bills. … And while lawmakers and watchdog groups scolded and fretted, the lobbyists themselves were busy working overtime trying to assuage clients' fears and put as much distance as possible between themselves and Abramoff's exploding star. … 'Jack Abramoff is an aberration, more the exception than the rule,' says William Morley, head of MWW Group's lobbying operation. 'On K Street, lobbyists are going to continue to do what they did before.' … That was a sentiment that echoed around Washington's influence community as lobbyists maintain that, so far at least, there hasn't been the lawmaker backlash on Capitol Hill that has been predicted in some circles."

Abramoff Prosecutor Seen As Low-Profile, Detail-Oriented. The Legal Times (1/9, McLure) reports, "After Jack Abramoff stepped before a D.C. federal judge to plead guilty to tax evasion, mail fraud, and a conspiracy 'involving public officials' last week, the face of the Justice Department was Assistant Attorney General Alice Fisher, who appeared before the cameras at a post-hearing news conference and declared that 'combating public corruption is a top priority of mine.' … But one person the newly appointed Fisher didn't credit during her victory lap was Mary Butler, the lawyer who actually quarterbacked the DOJ team during its 18-month investigation of Abramoff." The Times continues, "Butler, 49, is a career prosecutor with extensive experience handling public corruption cases. The Justice Department denied a request to interview Butler, but friends, former colleagues, and defense lawyers who have squared off against her describe her as a determined and evenhanded prosecutor who immerses herself in her job. … And that may be bad news for anyone caught up in the Abramoff investigation. … 'She's one of the special ones who will turn over every piece of paper, look at every credit card receipt and phone bill,' says Joshua Berman, a partner at Sonnenschein Nath & Rosenthal who worked with Butler at the DOJ's Public Integrity Division. 'She's really good at crossing t's and dotting i's.'" The Times notes, "That meticulousness has helped extract guilty pleas from both Abramoff and his associate Michael Scanlon, a former public relations executive. Those pleas have focused public attention on lawmakers with ties to the pair, a group that, so far, includes Reps. Tom DeLay (R-Texas), Bob Ney (R-Ohio), John Doolittle (R-Calif.), and Dana Rohrbacher (R-Calif.) and Sens. Conrad Burns (R-Mont.) and Harry Reid (D-Nev.). … But Butler's gone after public officials before. She got her start as a prosecutor in 1987, in the U.S. Attorney's Office for the Southern District of Florida, a region as rich in corruption cases as it is in saw grass. During her 12-year tenure there, Butler helped run a tax evasion and money laundering case against executives of the Bank of Credit and Commerce International, won the conviction of a Drug Enforcement Administration supervisor for the theft of $1 million in undercover funds, and nailed a local banker for lying to a grand jury about bribes paid to the mayor of Miami Beach."

Abramoff Judge Called Compassionate, Tough. The Legal Times (1/9, Kelley) reports, "Judge Ellen Segal Huvelle has a reputation for compassion in the courtroom, especially when dealing with defendants who confess, cooperate, and convey remorse. But lawyers who know the federal judge say she's not afraid to dole out harsh punishments, either. 'You can't pigeonhole Judge Huvelle,' says Kevin Baine, a partner with Williams & Connolly and a former colleague of Huvelle's from her days at the firm. 'She approaches every case on the merits.'" The Times continues, "In the case of fallen lobbyist Jack Abramoff, it's too early to tell how the judge will come down on the one-time king of K Street, who last week pleaded guilty before Huvelle to three felony counts of conspiracy, fraud, and tax evasion in the U.S. District Court for the District of Columbia." The Times adds, "The deal reached between Abramoff and the Justice Department recommends a prison term of between nine and 11 years and restitution of more than $25 million. In exchange, Abramoff has agreed to cooperate with the government's ongoing investigation, which published reports indicate could include as many as 20 lawmakers as well as their wives and staffers. According to local court rules, Huvelle likely would handle any additional criminal cases related to the Abramoff scandal, which means a number of Washington power players could end up in her courtroom. Huvelle already is overseeing the case of Michael Scanlon, Abramoff's former business partner who pleaded guilty to conspiracy charges in November."

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Dean Says No Democrats Took Donations From Abramoff. DNC Chairman Howard Dean, asked on CNN's Late Edition (1/8, Blitzer) if "Democrats who took money from Jack Abramoff…should give that money to charity or give it back," said, "There are no Democrats who took money from Jack Abramoff, not one, not one single Democrat. Every person named in this scandal is a Republican. Every person under investigation is a Republican. Every person indicted is a Republican. This is a Republican finance scandal. There is no evidence that Jack Abramoff ever gave any Democrat any money. And we've looked through all of those FEC reports to make sure that's true. … Senator Byron Dorgan and some others took money from Indian tribes. They're not agents of Jack Abramoff. There's no evidence that I've seen that Jack Abramoff directed any contributions to Democrats. I know the Republican National Committee would like to get the Democrats involved in this. They're scared. They should be scared. They haven't told the truth. They have misled the American people. And now it appears they're stealing from Indian tribes. The Democrats are not involved in this."

DOJ Said To Have Intensified Anti-Corruption Probes. Roll Call (1/9, Kane, Bresnahan) reports, "The Justice Department's political corruption unit has launched an aggressive effort to better coordinate probes across several agencies, increased training in undercover and surveillance techniques for investigators, and pushed the envelope by pursuing what the unit's top prosecutor calls 'marginal cases.'" In the process, "the Public Integrity Section, as it's formally known, has more than doubled the number of federal corruption cases it has brought to the courts in the past four years, re-energizing an office that watchdog groups complained had grown stale in the previous decade." Moreover, "both in terms of the quantity of cases and the speed with which the prosecutors are moving, Justice's corruption cops have stoked more fear in the halls of Congress and among other public officials than their predecessors had in at least a generation." Roll Call adds, "Congressional Democrats have applauded the aggressive efforts of the Justice Department, contending that more than a decade of GOP control on Capitol Hill and five years of Republican grip on the White House have created an arrogant 'culture of corruption.' Republicans, meanwhile, have countered that the scandals touch both parties. "

Lawmakers Nervous Over Reports Cunningham Wore FBI Wire. Time (1/16, Burger, Bennett) reports in its "Notebook" column that speculation over who ex-Rep. Duke Cunningham spoke with while wearing a wire "is making members of Congress nervous. As TIME.com reported last week, Cunningham…wore a wire to aid the Justice Department investigation just before his plea. The FBI is still probing defense contractors, and a private-sector source says Cunningham was wired while meeting a rep from at least one firm, possibly to get dirt on other members of Congress."

Probe Finds Houston DNA Lab Near "Total Breakdown." The Washington Times (1/9, Aynesworth) reports, "A lengthy investigation into the Houston Police Department's DNA laboratory has concluded that the operation has been 'near a total breakdown' in recent years and still doesn't come close to being acceptable." The Times continues, "Meanwhile, the Harris County district attorney, several defense attorneys and outside investigators are re-examining hundreds of convictions -- some of them death-penalty cases -- to discover how many innocent people have been affected. … Some have called for a federal investigation." The Times adds, "Last week, a team of forensic evidence specialists headed by lawyer Michael R. Bromwich returned a scathing 82-page report to Houston officials. Hired by the city of Houston, the Bromwich team had been examining forensic-driven cases handled by the suspect laboratory between 1987 and 2002. … The investigators reported a 'disturbing and pervasive pattern' wherein lab analysts did not report evidence that would have benefited suspects and even falsified evidence. … A review of 67 cases involving sample DNA resulted in 'major issues' with 40 percent of the original Houston crime-lab analyses. Three of these involved death-row prosecutions."

NYTimes Editor Killed In DC Street Robbery. David E. Rosenbaum, a retired reporter and editor for The New York Times, died Sunday from injuries suffered when he was struck on the head and robbed Friday night in Northwest Washington. The New York Times (1/9, Purdum, 1.19M) reports, "Mr. Rosenbaum served at various times as chief Congressional correspondent, chief domestic policy correspondent, chief economics correspondent, assistant news editor and business editor in the Washington bureau of The Times."

The Washington Post (1/9, B1, Weil, Lengel, 744K) reports, "Rosenbaum, 63, died at 7:10 p.m. at Howard University Hospital, where he was treated for a head injury suffered during the attack on Gramercy Street NW, said Philip Taubman, chief of the Times's Washington bureau. … D.C. police were canvassing the neighborhood yesterday for clues in the attack, which occurred in a quiet section between Connecticut and Wisconsin avenues. No arrests had been made."

Crime In DC's Adams Morgan Neighborhood Down. The Washington Times (1/9, Doolittle) reports, "Robbery and assault in the District's 3rd Police District, which includes Adams Morgan, jumped last fall, by as much as 46 percent,

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but new measures have reversed the trend." The Times continues, "Other crimes, such as theft, also spiked in September and October but dropped the last two months of the year. … 'Simple assaults are sort of a way of life at 3 a.m. in the morning in this area,' said Bryan Weaver, a member of Advisory Neighborhood Commission (ANC) 1C whose single-member district includes much of the area in which the crimes occur. 'On any given night, we only have six or seven officers assigned to our [police service area]. But unlike other [police service areas] we are dealing with six or seven thousand people coming in from other parts of the city and Virginia and Maryland to drink or dance.'" The Times adds, "The increase in crime since 2004, police said, is due to a variety of factors, including an increase in visitors to the Adams Morgan area and certain repeat offenders' being on the loose again after serving jail time. … Police Cmdr. Larry McCoy, who is in charge of the 3rd District, blames much of the crime on career criminals released from prison and returning to their old neighborhoods -- neighborhoods that, in many cases, are more affluent than when they left. … Area robberies increased to 141 in September, compared with 96 during the same month in 2004. In October, theft in the area rose from 160 in 2004 to 179 last year. In November, assaults with a deadly weapon climbed from 45 to 55 compared with the same month in 2004."

FBI Withdraws From Utah Internet Sex Predator Task Force. Under the headline "FBI Breaks With Utah Sex-Crime Task Force," The Salt Lake Tribune (1/7, A4, Israelsen, Rosetta) reports, "A territorial spat between the FBI and the Utah Attorney General's Office has effectively killed a highly touted state-federal task force that cracked down on Internet sex predators and child-porn purveyors. The FBI has informed Utah Attorney General Mark Shurtleff that it will no longer be part of the multi-agency Internet Crimes Against Children Task Force, known as ICAC. … Shurtleff said a letter sent to his office by the FBI did not state a reason for the estrangement. He assumed it was because his office recently pulled its ICAC investigators out of the FBI's downtown building, where state investigators complained security was too restrictive." FBI SAC Timothy Fuhrman "acknowledged it was difficult for some of the task force members to get into the FBI building because his agency requires lengthy background checks on anyone who enters. … However, Fuhrman said, his office is not going to reduce its investigation of Internet child sex crimes. 'We're not part of that task force, but we're going to continue working with them,' Fuhrman said. 'They're not going to be side by side with us doing the same things.'"

The AP (1/7) reports, "A territorial spat between the FBI and the Utah Attorney General's Office" caused the split. Fuhrman "acknowledges the security difficulty, but said there were other complications to remaining part of the task force, including the FBI's own federal Internet crime initiative, Innocent Images. 'We just couldn't accommodate the restrictions that exist within Innocent Images with the Internet Crimes Against Children Task Force,' Fuhrman said. 'I wish we could have worked it out.' Although the FBI is dropping out of the joint task force, Fuhrman said that doesn't mean the agency is relaxing its efforts to fight Internet sex crimes." The AP notes, "In 2002, the task was awarded the FBI Director's Award as the best Internet sex crimes unit nationwide. Shurtleff said he's disappointed by the FBI's decision."

Virginia Woman Uses DNA To Find Out Who Killed Her Cat. The Washington Post (1/9, A1, Brulliard) reports, "Marylin Christian found Cody under the tree in front of their Loudoun County (VA) home, his white fur covered in saliva. She scooped up the lifeless remains of the cat whose friendship she had counted on for 13 years and sat under the tree, sobbing, for two hours. … The next day, Christian set out to discover what, or who, had killed Cody -- no matter what." The Post continues, "When a veterinarian said the culprit had to be a dog, she canvassed her rural Lovettsville neighborhood in search of a suspect. After she spotted a bouncy 4-year-old German shepherd mix named Lucky, she asked authorities to declare him dangerous. And when Loudoun animal control officials dropped the case, she took a cue from television's legal dramas: She hired a California DNA laboratory to analyze evidence -- dog saliva and fur -- that ultimately linked Lucky to the incident. … Yet despite the strong forensic evidence -- and a five-month saga that has tested the fragility of neighborly relations and pitted motherly instincts against carnivorous ones -- Lucky remains free." The Post adds, "Christian said that since Cody was killed, she has repeatedly asked Lucky's owners, Sean and Janet Daryabeygi, to return the dog to the local animal shelter, where they adopted him in the summer. The Daryabeygis think she is asking too much. They said Lucky would never harm a human, though they do not dispute that he could have been a cat killer."

CIVIL LAW:

11th Circuit Reinstates $54.6 Million Award To Salvadoran Torture Victims. The Miami Daily Business Review (1/9, Jones) reports, "A federal appeals court has reversed its own decision and affirmed a $54.6 million judgment awarded to three immigrants from El Salvador who claimed that members of that country's military kidnapped and tortured them." The Review continues, "A West Palm Beach jury awarded the money in July 2002, but the award hinged on a key ruling, made by U.S. District

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Judge Daniel T.K. Hurley, that a 10-year statute of limitations for filing claims such as those alleged in the case could be extended if the defendants were somehow prevented or discouraged from filing within the required 10-year period. Such an extension is referred to as 'equitable tolling.' Hurley held that the 10-year statute of limitations should begin in 1992, when El Salvador's civil war ended in a peace agreement. … The panel of the 11th U.S. Circuit Court of Appeals made no mention of why it had reversed itself." The Review adds, "In a February 2005 decision, the panel felt conditions in El Salvador did not preclude the defendants from filing their lawsuit within 10 years. Upon further review, the panel said the overwhelming evidence showed conditions did prevent the plaintiffs from seeking justice within the 10-year period."

CIVIL RIGHTS:

San Francisco Police Officer's Video Stirs Ire. The New York Times (1/9, Marshall) reports, "The police officer whose amateur video raised concerns among city officials about racism, sexism and homophobia within the San Francisco Police Department is hoping his filmmaking skills can help undo the damage and refocus the debate. But critics suggest he is making matters worse." The Times continues, "The officer, Andrew Cohen, was temporarily suspended last month along with 23 other officers connected to the video, which depicted uniformed and plainclothes officers in skits that mocked the homeless, gay men and lesbians, African-Americans and others. … Though reinstated, the police officers remain under investigation in the making of the videotape, and Officer Cohen and some others have been reassigned." The Times adds, "Now Officer Cohen has embarked on a one-man public relations effort to promote a 28-minute video - which he started working on two years ago and calls a serious documentary - that shows the difficulties of police work in some of the city's most crime-ridden and violent neighborhoods. … Peter Ragone, a spokesman for Mayor Gavin Newsom, said that Officer Cohen was 'acting unilaterally' in publicizing his new video and that the mayor and Police Chief Heather Fong had no part in the effort. Mr. Ragone said many people, including fellow officers, had asked Officer Cohen to 'stop trying to promote himself.' … Whatever the intent, Mr. Ragone added: 'It doesn't change the fact that we have videos that make fun of Chief Fong's Asian heritage and segments that have a white officer running over a black homeless woman. There is simply nothing funny about it.'"

Crackdown On Worldwide Prostitution Rackets Urged. In an op-ed in the Wall Street Journal (1/9), Colette De Troy, coordinator of the European Women's Lobby's Policy Action Center on Violence Against Women, based in Brussels, and Mary McPhail, EWL's secretary general, write, "The sex industry is big business, and getting bigger. World-wide profits from prostitution exceed $12 billion annually. Of course, the women generally see very little of this money. The sex traders, whether legal 'sex entrepreneurs' or illegal pimps, are the biggest beneficiaries." De Troy and McPhail continues, "Many countries have tried different approaches to control or limit its growth, from legalization to regulation, with decidedly mixed results. But with the sex 'business" spawning cross-border trafficking in women and children and boosting organized crime across Europe, we can no longer turn a blind eye to this problem. .. Some 'progressive' campaigners have, especially over the past 15 years, argued that the legalization and regulation of prostitution could reduce trafficking and help combat organized crime and money laundering that usually come with it. … But can we consider 'sex work' like any other mainstream economic activity, whose profits should be integrated into the nation's GDP, maybe even giving training for young people or the unemployed? … The answer is a definite no. The sex trade is predominantly in the economic interests of sex traders and takes place at the expense of the prostitutes. What's more, while liberalization may have opened up new revenue sources for the government, it has done little to combat trafficking or organized crime. … Strategies to confront trafficking need to address the needs of the women whose rights are violated as well as targeting the pimps, clients and others who benefit from the sex trade. Saying 'no' to trafficking and exploitation of women by pimps and clients has nothing to do with 'conservative' sexual politics. On the contrary. It is those who legalize the sex industry and legitimize the reduction of women to mere objects who pursue archaic politics -- no matter how 'progressive' they claim to be."

Cato Official Says Florida Voucher Decision Has National Implications. Andrew J. Coulson, director of the Cato Institute's Center for Educational Freedom, writes in the Wall Street Journal (1/9, 2.11M) "If you think kids are all the same, and that monopolies are the key to quality and efficiency, consider moving to Florida. As of this week, a uniform government bureaucracy is the only legal approach to public education in the Sunshine State. For six years, students in Florida's failing public schools have been able to switch to a private school of their parents' choosing, using the state funds allocated for their education. No longer. The 'Opportunity Scholarship' voucher program was struck down last Thursday by the state Supreme Court in a sweeping decision with national implications." The Court ruled that "school vouchers violate the "uniformity" clause of Florida's Constitution. Far from being an arcane and forgotten technicality, this clause was amended and re-approved by

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voters just eight years ago: It mandates, among other things, 'a uniform, efficient, safe, secure and high quality system of free public schools that allows students to obtain a high quality education.'' Coulson adds, "Every other state with a school choice program and a uniformity clause untested in its courts can expect to feel the heat. Arizona, which has education tax credits and charter schools, is apt to be a prime target. Minnesota, Colorado, Oregon and North Carolina, among others, all have uniformity clauses and at least one school-choice program vulnerable to attack. Meanwhile, come this June, the more than 700 mostly low-income students currently in Florida's Opportunity Scholarship voucher program may be herded back into the very public schools that vouchers allowed them to flee. Unless the Constitution of Florida -- and other states -- is amended, they may not be the only ones."

ANTITRUST:

Boston Scientific Makes Formal $25 Billion Guidant Bid. The Wall Street Journal (1/9, Westphal, Burton, Berman) reports, "Boston Scientific Corp. made a formal offer to buy Guidant Corp. for $72 a share, and said it had found a buyer for several Guidant units -- a move that it expects will allow for quicker antitrust clearance if its offer is accepted. The formal bid, valued at $25 billion in cash and stock, takes the…medical-device company one step closer to becoming one of the world's largest cardiac-device makers." J&J's original $25.4 billion offer "was reduced to about $22 billion after Guidant's difficulties," and analysts say a J&J counteroffer of $70 a share "could sway Guidant shareholders to stick with the current merger plan." But, last night, J&J "said it believes it has made 'a better offer,' partly because its deal would be completed more quickly."

USA Today (1/9, Appleby) reports, "The move escalates Boston Scientific's effort to top a pending bid from medical product giant Johnson & Johnson. Both companies are seeking Indianapolis-based Guidant for its stake in the $10 billion-a-year market for heart rhythm devices such as pacemakers and defibrillators. … Under terms of the Boston Scientific agreement, Abbott would pay Boston $3.8 billion for certain Guidant product lines, including catheters, guide wires and other devices used in vascular surgery. Abbott would pay $500 million more if a type of Guidant cardiac stent wins regulatory approval."

The AP (1/9, Jewell) reports, "Boston Scientific, which is seeking to trump Johnson & Johnson's smaller bid for Guidant, on Sunday presented a definitive proposal that largely mirrors its initial Dec. 5 offer. … But the No. 1 maker of drug-coated heart stents added a twist by announcing a related deal with Abbott Laboratories Inc. Natick, Mass.-based Boston Scientific will sell Guidant's vascular intervention and endovascular businesses to Abbott if its Guidant acquisition is successful." The AP adds, "J&J is a close No. 2 to Boston Scientific in drug-coated stents, and both companies are responding to growing competition in that market by dueling to acquire Guidant's lucrative pacemaker and defibrillator business. … Boston Scientific hopes to derail a process begun more than a year ago when J&J first bid for Guidant. J&J reduced its offer in November after Guidant suffered a spate of product recalls and related lawsuits and investigations."

Dow Jones Newswires (1/8) reports, "Boston Scientific's offer also would quadruple the company's debt load - from about $2.5 billion as of Sept. 30 to about $10.5 - although the company says it has arranged financing. And acceptance of Boston Scientific's proposal would require payment of a $625 million break-up penalty to J&J, the AP reported."

Bloomberg (1/9, Goldstein) reports, "Boston Scientific said it plans a first-quarter closing. The company would pay the $625 million fee that Guidant would owe J&J for terminating their merger agreement. … In July, Guidant recalled 28,000 pacemakers that were subject to failure. Pacemakers implanted in a patient's chest use an electrical signal to regulate a flagging heartbeat. Implanted defibrillators, about the size of an iPod, send electric shocks to restart a faltering heart. Analysts said Guidant may never achieve the market share it had before the recalls."

Abbot Deal Expected To "Satisfy" Regulators. The New York Times (1/9, Sorkin, Feder) adds Boston Scientific agreed to sell two of its units, "its vascular intervention and endovascular businesses, to Abbott Laboratories for $3.8 billion to satisfy regulators if it reaches a merger agreement with Guidant." Such a move is expected to spur criticism by Medtronic. The Financial Times (1/9, Politi) sets the price of Boston Scientific's two businesses at $4.3 billion. Bloomberg (1/7, News) reports that Guidant expects "a proposed $21.5 billion takeover by Johnson & Johnson to be completed in the first quarter."

Constellation-FPL Merger Caps Shattuck's Rise To Top. The Washington Post (1/9, D1, Rosenwald) reports, "Mayo A. Shattuck III is the kind of guy put on earth to run companies and make multibillion-dollar deals, like last month's $11 billion planned merger of the company he runs, Baltimore's Constellation Energy Group, with FPL Group of Florida." The Post continues, "Shattuck was raised near Boston, the descendant of two Mayo A. Shattucks, both of whom attended Harvard. His father was managing partner of State Street Research & Management Co., an old Boston money manager, and he also ran Harvard's endowment. Shattuck III, with his third multibillion-dollar merger under his belt, is now 51. His eldest son works at Goldman Sachs & Co. His name is Mayo A. Shattuck IV. … The lineage is one

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of New England privilege, but it is also a pedigree that Shattuck III has sometimes chosen to flout. He has a contrarian side, and those who know him well say it accounts for much of his success. It began when Shattuck was a teenager, and he did not do something that everyone in his family expected he would do. He did not, horror of horrors, attend Harvard." The Post adds, "While choosing Williams over Harvard may seem to some like choosing between different patterns of silver spoons, it was a choice that Shattuck's father suffered with some heartbreak. But his father, who died a short time later, acknowledged being proud of his son for having the courage to buck family custom, and Shattuck's decision may have taught him a lesson he would never have learned by following his family through Harvard Yard: When everyone is doing the same thing, advantage might present itself the other way. … As it did when he took over as chief executive of Constellation Energy Group in Baltimore four years ago. Enron Corp., which was one of the pioneers of the deregulated energy business with its high-risk energy trading operations, was collapsing, causing energy companies to dart in the other direction. Not Shattuck. He dove right in, becoming the dominant player in the sector and quickly tripling his company's revenue. … Shattuck's running of Constellation did not hit the mean. Analysts and industry observers say his strategy to buy energy assets and sell power competitively when almost everybody else would not transformed Constellation from something of an also-ran into the country's largest provider of commercial and industrial power, with revenue of $12.5 billion in 2004. Last month, he capped the turnaround with the deal to merge the firm with FPL Group."

Banks May Widen Real Estate Role. The Wall Street Journal (1/9, Schroeder) reports, "Two major banks received the green light from regulators to develop and own large hotel and office properties, potentially opening the door wider for banks to the commercial real-estate business beyond their traditional role as lenders." The Journal continues, "National banking laws generally bar banks from owning and developing commercial real estate unless the buildings are predominantly occupied by employees doing bank business. City skylines are dominated by headquarters buildings owned and financed by banks. Many banks rent out some office and first-floor retail space in their buildings, and such arrangements have been approved as lawful." The Journal adds, "While banks long have been excluded from all but the financing end of the real-estate business, they are trying to enter other aspects, such as developing projects and competing in the housing market. … Regulators have been wary of allowing bank portfolios to have a high concentration of loans in the volatile commercial real-estate market, for fear a sudden economic downturn could impair bank capital. There also are strict rules for real estate acquired by banks through foreclosure to be liquidated quickly. National bank regulators say they will soon publish interagency guidance directing lenders to meet certain capital, underwriting and risk-management standards to match loan growth. … But recently the Comptroller of the Currency, a unit of the Treasury Department that regulates national banks, incrementally broadened its interpretation of permissible development activities. In postings on its Web site, the OCC approved major real-estate projects by two banks that go beyond the scope of typical bank real-estate development. The banks aren't identified by name, but officials say the institutions referenced are PNC Financial Services Group Inc., of Pittsburgh, and Bank of America Corp., of Charlotte, N.C."

ENVIRONMENT/INDIAN AFFAIRS:

First Funerals Held For West Virginia Miners. NBC Nightly News (1/8, lead story, 2:00, Seigenthaler) and ABC World News Tonight (1/8, story 2, 2:00, Woodruff) both gave prominent coverage to the first funerals of the 12 miners who died following last week's explosion at West Virginia's Sago Mine. Both also reported that survivor Randall McCloy's condition is beginning to improve.

Mining Association Expects Hearings On Mine Safety. Roll Call (1/9, Newmyer, Ackley) reports in its "K Street Files" column, "After the mine explosion in West Virginia last week that killed 12 miners and seriously injured another, the National Mining Association is girding for possible Congressional hearings on mine safety. Carol Raulston, senior vice president of communications for the National Mining Association, said the Mining Safety and Health Administration is conducting an investigation into the Sago mine explosion and her group is waiting on its findings."

Dye Affirms Administration Commitment To Mine Safety. David G. Dye, acting assistant secretary of Labor for Mine Safety and Health, writes in USA Today (1/9, 2.31M), "We deeply grieve the deaths of the 12 miners at the Sago Mine in West Virginia and offer our heartfelt sympathy to their families. … The Mine Safety and Health Administration (MSHA) is staffed by dedicated professionals, many of whom come from mining families and have a passion for protecting miners. Over the past several years, we have expanded enforcement, safety training and partnerships with labor unions and operators to push toward our goal of getting every miner home safely after every shift. This goal is shared by relevant state agencies and inspection professionals, who are also responsible for mine safety enforcement and investigation." Dye adds, "In close coordination with West Virginia, the MSHA's comprehensive investigation will determine what caused the Sago Mine explosion. If any health and safety standards were violated, we would take

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enforcement action. As always, we will make the full investigative report available to the families and the public. We will take every step — including looking at our own performance — to make sure this tragedy never happens again."

USA Today Blames Complacency For Mine Disaster. In an accompanying editorial, USA Today (1/9, 2.31M) says, "On Sunday, as miners were being laid to rest after an explosion last week that killed 12 at West Virginia's Sago Mine, investigators were seeking the cause of yet another tragedy. But one culprit is clear: complacency. As mining fatalities have dropped in the past decade, federal regulators and judges have failed to use the tools they have to rein in those who don't comply with the law and force needed change." USA adds, "In the past year, government records show, the Sago Mine was cited repeatedly for failing to enforce basic safety precautions. … The number of what the MSHA calls 'high-dollar fines' ($10,000 or more) has dropped since the Bush administration took office in 2001. … Watchdogs muffed other opportunities to ensure safety. In 2003, the Government Accountability Office found that over the past decade, inspectors had often failed to ensure that violations were corrected by deadlines." USA concludes, "Miners deserve the safety level that only strict regulation and tough enforcement can provide. It shouldn't take another Farmington, Scotia or Sago for Washington to make that happen."

Kurtz Criticizes Media's Handling Of Mine Disaster Story. Howard Kurtz writes in his "Media Notes" column in the Washington Post (1/9, C1, 744K), "It was the most heart-rending and humiliating botch of a life-and-death story in modern memory, yet most journalists, naturally, aren't blaming themselves. It was everyone else's fault, they say. We just published and broadcast what we were told, and it turned out to be wrong. Tragically wrong, as in the Washington Post headline in Wednesday's late editions: '12 Found Alive in W.Va. Coal Mine.' Or USA Today's banner: '"Alive!" Miners Beat the Odds.' Or the Atlanta Journal-Constitution: '12 Miners Alive.' Or Newsday: 'Miracle in the Mine.' All the cable news networks got it wrong as well, such as MSNBC's Rita Cosby: 'We have some stunning news. NBC News and the Associated Press have just confirmed information that the 12 miners, remember 12 were missing, that they are alive. This is incredible news.' Hours later came the chilling confirmation that all but one were dead.' … In this case, a misunderstood or misspoken message from rescuers in the mine was relayed to a command center and then to anxious family members, who told reporters. While the mining company's refusal to correct the misinformation for hours is inexplicable, the situation was exacerbated by the journalistic reluctance to say the facts are unconfirmed and we just don't know. Experienced journalists should have understood that early, fragmentary information in times of crisis is often wrong." Kurtz adds, "The larger issue is that much of the press has abandoned reporting on health and safety regulation until disaster strikes. How many reporters have dug into the Labor Department's Mine Safety and Health Administration, which under the Bush administration was run by a former Utah mine manager until last year? About as many as did pieces, before Hurricane Katrina, on why a former Arabian horse official was running the dysfunctional bureaucracy of the Federal Emergency Management Agency. Heck of a job."

Three Tribal Colleges Join Federal Library Program. Roll Call (1/9, Brotherton) reports, "Three tribal college libraries were added last month to the Federal Depository Library Program, which seeks to ensure that the public has free and ready access to federal documents." Roll Call continues, "Little Priest Tribal College in Nebraska, along with Peck Community College and Salish Kootenai College in Montana, are the first American Indian libraries to join more than 1,250 depository institutions in the program, which is run by the Government Printing Office." Roll Call adds, "While the bulk of government information overseen by the GPO is available online, membership in the program will ensure staff at the three libraries will be trained in research, said Judy Russell, superintendent of documents. … 'What they are going to do is make this information more useful and more visible to the average person,' Russell said." Roll Call notes, "The GPO is in charge of the production and distribution of information for the federal government. The agency provides research assistance in locating and using information at its eclectic mix of depository libraries. … Tribal libraries had never applied to become depositories, Russell said. But after the GPO held a strategy session regarding the needs of these libraries this past fall, the three colleges joined the program."

FBI/DEA/ATF/USMS:

Marijuana Advocates Push Legalization Initiatives In Colorado, Nevada. Marijuana legalization advocates are hoping to use the momentum from their surprise victory in Denver to win statewide ballot initiatives in Colorado and Nevada. The Washington Times (1/9, Richardson, 90K) reports, "Colorado activists announced a drive two weeks ago aimed at bringing a clone of Denver's Initiative 100 before voters statewide in November. Initiative 100 allows adults in the city to possess small amounts of marijuana. And activists in Nevada, who have secured a place for a legalization measure on the state ballot in November, are taking heart in the success of Initiative 100, which captured 54 percent of the vote in the Nov. 1 election. … If the measures pass, Colorado and

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Nevada would become the first states to win voter approval for marijuana legalization. Alaska allows adults to possess up to 4 ounces of marijuana in their homes, thanks to court decisions upholding privacy rights, but voters defeated a 2004 initiative that would have abolished all penalties for possession and regulated marijuana sales."

Massachusetts Lawmakers Consider Legalizing Medical Marijuana. According to The Eagle Tribune (1/8, Mason), "Massachusetts could become the fourth New England state to legalize medical marijuana under a plan before state lawmakers. On the heels of Rhode Island's approval last week of medical marijuana use, lawmakers [in Boston] are pushing a measure, with the support of some North of Boston legislators, that would allow doctors to treat patients with marijuana. Backers say people who suffer from debilitating pain and chronic diseases should be able to gain relief without fear of arrest, something 11 states have approved. But the initiative faces high hurdles. It is opposed by the Romney administration. Local lawmakers, aware of the plague of opiate addiction in the Merrimack Valley, want to ensure access to medical marijuana is airtight."

Convicted Medical Marijuana Activist Ordered To Leave Canada. The AP (1/8) reports, "An internationally known medical marijuana activist has been ordered to leave Canada, where he sought refuge after he was convicted in Placer County [California] of possessing peyote and magic mushrooms in 2000. Steve Kubby helped write and pass California's Proposition 215 medical marijuana law — approved by voters in 1996 — was the Libertarian candidate for governor in 1998 and served as national director of the American Medical Marijuana Assn. Kubby said he would suffer and could die of a rare form of adrenal cancer if he returns to Placer County and isn't allowed to smoke marijuana daily while serving a 120-day jail sentence. He could face more jail time for fleeing the country. The conviction came after Placer County deputies said they found small amounts of mescaline and psilocybin, along with 265 marijuana plants, while raiding Kubby's Olympic Valley home in 1999. Canadian Border Services last month ordered Kubby and his family to leave by Thursday. He goes back to a Canadian court Monday to seek a delay."

Georgia Protestors Call For End To "Operation Meth Merchant" Prosecution. The AP (1/8, Gross) reports that several hundred people "rallied Sunday for an end to prosecution in what federal agents have dubbed 'Operation Meth Merchant.' … In June, 49 people and 16 corporations, most of them in northwest Georgia, were charged with supplying everyday items - from antifreeze to cold medicine - to informants who claimed they were using the products to make methamphetamine. … Supporters of the accused, including the American Civil Liberties Union, say the sting was rife with problems. They say several defendants were not even in the country at the time they are accused of illegally selling the ingredients and that informants used obscure drug slang, which the clerks, some of whom speak limited English, did not understand. … Federal prosecutors say race and ethnicity had no role in their investigation. The say Meth Merchant was aimed at curbing a deadly problem in a region that has been inundated with the drug in recent years." Atlanta's WXIA-TV, the Columbus, Georgia Ledger-Enquirer, and India's Press Trust published in newspapers and/or posted on Web sites the AP story.

Mexican Drug Cartel Said To Be Weaker But Still In Control Of Trafficking. The San Diego Union-Tribune (1/8, Cearley) reports, "Mexico's top investigator of organized crime has talked about the region's Arellano Félix drug trafficking group as if it were a thing of the past in this border city. But some drug trafficking experts in Mexico and the United States say the cartel still controls the passage of drugs through Tijuana, even if it is weaker after a five-year offensive by Mexican government. 'These things take on a capability to modify and evolve,' said Alan Poleszak, assistant special agent in charge of the U.S. Drug Enforcement Administration's San Diego office. Tijuana human rights activist Victor Clark, who closely follows drug trends, said a part of the problem is the 20-year-old cartel's continued collaboration with certain members of law enforcement. … The condition of the Arellano cartel is significant to the region because during its heyday, U.S. authorities estimated that it was responsible for 40 percent of all cocaine that entered the United States illegally. The cartel is known to torture and kill people who don't cooperate, such as Mexican police or rival drug trafficking groups that fail to pay them fees. Still, U.S. officials say they are seeing concrete results from years of investigations and collaborative efforts with Mexican authorities. … As of May, the Mexican Attorney General's Office announced that 107 suspected members of organized crime had been arrested in Baja California since President Vicente Fox took office in 2000. Most of the detained are suspected Arellanos, including much of their top management."

Trial To Begin In March For Doctor Accused Of Giving NFL Players Steroids. The New York Times (1/8, Bernstein) reports in its sports section, "The first full month of the National Football League off-season is March, but it will hardly be a quiet break for the Carolina Panthers or for the league. That is when the trial of Dr. James Shortt is expected to begin in Columbia, S.C., and a potentially damaging connect-the-dots could be revealed involving the Panthers and illegal steroids. The federal investigation of

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Shortt, who has been indicted on 43 counts involving the distribution of steroids, has already touched the team and the N.F.L. There have been reports, led by The State newspaper in Columbia, that as many as nine former or current Panthers saw Shortt. There have been allegations that some received illegal prescriptions for steroids during the 2003 season. … Marty Hurney, Carolina's general manager, said last March that some Panthers were sought by the Drug Enforcement Administration as witnesses in the investigation. There is no word yet if players will be called to testify during the coming trial. But whatever is revealed about the players and the N.F.L. testing process, Wadler said he did not expect this trial to become a watershed for the sport or steroids testing. 'Do you realize how many watershed moments there have been over the last few years?' he said. 'We're not going through a moment, we're going through a process. And this is an ongoing process. This is just one more notch in the belt.'"

IMMIGRATION:

Kondracke Says Bush Should Have "Frank Chat" With Radio Hosts About Immigration. Morton Kondracke writes in Roll Call (1/9) that President Bush "should call in his radio talk-show supporters for a frank chat about immigration. Bill O'Reilly, Sean Hannity, Rush Limbaugh, Hugh Hewitt and Laura Ingraham…are the ones fueling Republican uproar over illegal immigration. Yet they support Bush ardently and they ought to be open to an argument from him — an argument that happens to be correct — that the only way the United States is truly going to solve the problem of illegal immigration is with a comprehensive plan, like his, that not only controls the borders but creates legal means for immigrants to work. Bush also needs to make the argument to GOP House Members, who voted overwhelmingly last month for an enforcement-only bill that beefed up border security, made it a felony to be an illegal alien and authorized building a fence along some of the border with Mexico. … House Members went home able to tell angry constituents that they'd cracked down on immigration, but the truth is they've done nothing. No bill has passed the Senate and what's in the offing is a stalemate — unless Bush can rally his party to do something sensible." Kondracke adds, "It's up to Bush to avoid stalemate — and there are lots of good arguments he can use to pull his party together. … Doing the right thing is win-win for Republicans, if only Bush can convince Sean Hannity."

TAX:

Mallaby Argues For Rolling Back Bush Tax Cuts. Sebastian Mallaby writes in the Washington Post (1/9, A19, 744K) that the "Bush-Cheney combo" has "gone into chest-thumping overdrive," on the economy, "seizing the latest news on the housing-fueled expansion to say what brilliant boys they are." Mallaby adds, "I want to focus instead on Democrats' response to the Bush chest-thumping. For, much as on the Iraq war, Democrats are muddled. They are letting the administration off the hook." Democrats "should home in on two clearer problems. First, the Bush tax cuts have put the federal government on an unsustainable footing. Running a large budget deficit -- arguably, any budget deficit -- is recklessly imprudent when a roaring economy should be delivering a surplus and when baby boomers are on the eve of retirement. Second, although the squeeze on the middle class may be exaggerated, the squeeze on the unskilled is not. … Democrats should focus their complaints on these two problems, particularly since the obvious solution is politically convenient. To begin grappling with the budget deficit, the nation must repeal most of the Bush tax cuts; to grapple with inequality, it should begin by making the tax system more progressive -- which would again mean rolling back some of the Bush cuts."

CONGRESS-ADMINISTRATION:

Alito Confirmation Hearings Begin Today. The hearings for Supreme Court nominee Samuel Alito get underway today. The AP (1/9, Holland) reports, "After receiving some last-minute encouragement from Bush at a White House breakfast Monday, Alito was scheduled to head to Capitol Hill for the start of nomination hearings by the Senate Judiciary Committee. Ten-minute opening statements by the panel's 18 members were likely to consume the session, with direct questioning of Alito beginning Tuesday and expected to last at least two days." Judiciary Chairman Arlen Specter "said Sunday he will wrap up the hearings this week. He has called for a committee vote Jan. 17."

The media consensus this morning appears to be that Alito will be confirmed. Reuters (1/9, Ferraro), for example, predicts the nominee will face "fierce questioning," but he is "is expected to survive…and win confirmation," barring "an unforeseen bombshell." The Financial Times (1/9, Waldmeir) says that "so far at least there are few signs that the Senate confirmation hearings…will prompt the ideological conflagration long predicted by the pundits." In the end, Alito "seems likely to be confirmed because two months of diligent digging have revealed little more than what many Americans

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have suspected from the beginning: that Mr Alito is a conservative."

The Los Angeles Times (1/9, Reynolds, 958K) reports Jennifer Duffy, "who studies the Senate for the nonpartisan Cook Political Report, said she expected Alito to gain confirmation to the high court, but by no more than a handful of votes. 'He's going to have to make a really big mistake, or Democrats are going to have to succeed in turning him into a boogeyman, or he will be confirmed,' Duffy said." Congressional "strategists on both sides said they shared Duffy's view of the vote count." But "with Republicans weakened, most recently by the influence-peddling scandal surrounding former lobbyist Jack Abramoff, some Democrats are mulling whether to try to thwart Alito's confirmation through a filibuster, a tactic in which a minority party can block a vote by refusing to end debate."

Sen. Lindsey Graham, on Fox News Sunday (1/8, Hume), contended that Alito "is the most qualified person to be nominated for the Supreme Court in 70 years in terms of judicial experience. He's been on the court for 15 years, and there's absolutely no indication that he's an ideologue, a person who will ignore the law to enact their own personal agenda. So he's a solid conservative, and I think he'll be confirmed, probably on a party line vote in the committee." Bloomberg (1/9, Larkin) reports Specter "said on CNN's 'Late Edition' program that he has 'not seen any rational basis' for a filibuster." Graham "said a filibuster of a Supreme Court nominee wouldn't be supported in the Senate."

USA Today (1/9, Biskupic, 2.31M) says "some Democratic senators, including Sens. Charles Schumer of New York and Edward Kennedy of Massachusetts, have complained about Alito's views against abortion rights and warned that Alito could help roll back a range of civil rights protections." Schumer "recently questioned whether Alito would seek limits on presidential power." Kennedy is quotes sating, "I think there is a steep hill to climb for Judge Alito at the hearings." However, "Democrats who might oppose the nominee have a climb, too. Republicans control 55 votes in the 100-member Senate, close to the 60 votes necessary to shut down a filibuster if Democrats try to block floor action on Alito."

The Washington Times (1/9, Hurt, 90K) says Democrats "said yesterday that they may block the Supreme Court nomination of Judge Samuel A. Alito Jr., depending on the answers the nominee gives at his Senate Judiciary Committee confirmation hearings, which begin today." Schumer said that if Alito "refuses to answer questions on issues that Democrats deem vital, the party will be more likely to block the nomination." Majority Leader Bill Frist "has said all along that he would employ the 'nuclear option.'"

Sen. Ted. Kennedy, appearing on ABC's This Week (1/8, Stephanopoulos), said, "I think Judge Alito has a lot to respond to in the Judiciary Committee. I think whether his success or failure is really going to be his performance in the Judiciary Committee, not just for the members of the Judiciary Committee but for the American people. … I've had the good opportunity to read through Judge Alito's opinions, more than 300 of those, and no one can read through those opinions and not find out that there's a basic hostility to…individual rights, a welcoming to executive authority and power even when it's excessive, and also the fact that he has so identified with major corporate interests at the expense of individual interests.

Sen. Dianne Feinstein, on Fox News Sunday (1/8, Hume), said, "My question is are his views, let's say, on abortion the same as they were in 1985 when he wrote in an application, the Constitution does not protect a woman's rights in this area. Now, if that's true and he still holds to that, this will make him a very difficult nominee for many of us."

DNC Chairman Howard Dean, on CNN's Late Edition (1/8, Blitzer) said, "There are a couple of problems with Judge Alito. First of all, he appears to be outside the mainstream of where most Americans are on privacy for individuals, not just women's issues, but strip searching, OK'ing a strip search of a 10-year-old, these kinds of things. The other thing which is also troubling is the conflict of interest case where he owned $400,000 worth of mutual funds and was willing to sit on a case involving the company. His order was later vacated. Now, he promised the American people when he was confirmed that he would recuse himself."

Sen. John Cronyn writes in the Washington Times (1/9, 90K), "The Senate judicial confirmation process has, in the recent past, been both emotional and divisive. That should not be the case, and we should certainly not engage in or indulge any debate which distorts or misrepresents the record of an individual with as fine a record as that of Judge Alito. Let us commit ourselves to a fair process -- with full investigation, full questioning, full debate and an up-or-down vote."

The Legal Times (1/9, Mauro) reports, "Even his closest friends say Supreme Court nominee Samuel Alito Jr. is a shyer, blander version of Chief Justice John Roberts Jr. -- and Roberts himself was described as shy and bland when he was nominated to the high court." The Times continues, "Be that as it may, Alito's Senate confirmation hearings, which begin this week, will be anything but bland or dull. After a long holiday truce, the battle over Alito's nomination suddenly flared again last week, with dueling D.C. press conferences, partisan advertisements, and e-mail campaigns creating the illusion, if not the real prospect, that Alito is in for a far tougher time than Roberts. Groups ranging from the Hip Hop Caucus to the National Italian American Foundation weighed in, suggesting that at the eleventh hour, the Alito nomination was finally generating strong interest." The Times adds, "What had once shaped up as a one-note debate over Alito's seemingly undeniable personal opposition to abortion rights

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has been overtaken by a range of other issues, most notably his expansive view of executive branch power -- a suddenly less palatable position in light of President George W. Bush's controversial domestic eavesdropping initiative and his lower popularity poll numbers. … Add to that the fact that Alito is up to replace swing vote Justice Sandra Day O'Connor -- whereas conservative Roberts replaced the late conservative William Rehnquist -- and fireworks are in the offing."

"Strongest Ammunition" Against Alito Could Come From Nominee's Memos. The Washington Post (1/9, A10, Babington, 744K) reports Senate Democrats "are expected to attack…Alito Jr. on multiple fronts at the confirmation hearing that opens at noon today, but their strongest ammunition is likely to come from the nominee's own hand." Alito "wrote two memos in 1985 that rocked political circles when they were made public last November. In one, an application for a promotion in the Reagan administration, Alito wrote that 'the Constitution does not protect a right to an abortion.' … The other memo outlined a strategy for attacking the landmark 1973 court ruling that legalized abortion nationwide, asking: 'What can be made of this opportunity to advance the goals of bringing about the eventual overruling of Roe v. Wade and, in the meantime, of mitigating its effects?'"

Abortion, Executive Power Likely To Be Focus Of Alito Hearings. ABC and NBC previewed what ABC World News Tonight (1/8, story 5, :45, Woodruff) said "could be the toughest confirmation hearings for a Supreme Court nominee in decades," adding that abortion "is expected to be the most-contentious issue at the hearings, which begin tomorrow." NBC Nightly News (1/8, story 5, 2:00, Seigenthaler) also said abortion will be a key topic, but added that "judicial liberties" and "executive power" will both be subjects for inquiry. Sen. Sam Brownback: "Presidential authority, he should talk about the Constitution. Specific cases he shouldn't comment on." Jordan: "Another supporter said he should not be expected to make promises about how he would rule on executive power cases." Sen. John Cornyn: "There has been movement long security and civil liberties. I think clearly Judge Alito believes, as we all do, that civil liberties are important." Jordan: "But the top Democrat says documents from his career have already shown he is inclined to expand executive power." Sen. Patrick Leahy: "He has spoken on presidential powers. He has done that since he was a judge. So he has no reason why he can't speak to it now."

Asked on CBS's Face the Nation (1/8, Schieffer) if the "issue of presidential power going to dominate these hearings the way the issue of abortion dominated the Roberts hearings." Sen. Arlen Specter replied, "I believe that presidential power will be very, very important. You have what appears to be a conflict between the president's claim of executive war powers to eavesdrop without a warrant, a conflict with what Congress has done on the Foreign Intelligence Surveillance Act, and I think it is a fair inquiry, and I intend to press the question with Judge Alito as to how he would approach these issues on a jurisprudential base. But I do not think that you can put aside the issue of a woman's right to choose. I think that that…is still the bigger question."

The New York Times (1/9, Liptak, 1.19M) offers "A Primer On The Alito Hearings," contrasting the Alito hearings with those last fall for nominee John Roberts. The Times highlights abortion and the right to privacy, the limits of presidential power, and the scope of congressional authority, as the key questions for Alito. Similarly, the Christian Science Monitor (1/9, Chaddock, 61K) says Alito can expected to be confronted with "issues ranging from the scope of abortion rights and government regulation to how vigorously the federal courts will enforce civil rights. … As he did in the Roberts hearing, Sen. Arlen Specter (R) of Pennsylvania, who chairs the Senate Judiciary Committee, will lead off with a question on abortion rights, aides say. But he plans to quickly segue to Alito's views on presidential power during times of war."

NBC Nightly News (1/8, story 6, 2:30, Seigenthaler) also ran an "In Depth" feature on abortion and Supreme Court nominees over the 33 years since Roe v. Wade, reporting that John Paul Stevens "was nominated and over time he became a dependable vote to uphold it. Sandra Day O'Connor took fire from conservatives on abortion," but President Reagan "came to her defense. … But as a Justice she reaffirmed a woman's right to choose. As nominee, Scalia voiced moderation. As a justice he voted to overturn it. Another Reagan nominee, Kennedy, affirmed the very basis of Roe v. Wade. When the first President Bush nominated David Souter, abortion was 'Topic A.' … But as a Justice, he has reaffirmed Roe v. Wade, infuriating conservatives to this day. … Abortion was part of the fight over Clarence Thomas who as a nominee wouldn't talk about it. As a Justice he voted to overturn it. Bill Clinton remains the only Democrat since Roe v. Wade to appoint Supreme Court Justices. Both have supported abortion rights. Now as George W. Bush shapes the court, abortion remains at center states. John Roberts is now Chief Justice Roberts. And it is Samuel Alito's opportunity to answer questions -- or not."

Time (1/16, Bacon, Allen) reports that as Supreme Court nominee Samuel Alito's confirmation hearings begin this week "Senators and viewers will be asking, Is this the man of the memos, whose paper trail includes provocative passages against abortion and in favor of Executive power that have given Democrats and liberal interest groups the ammunition to portray him as a dangerous activist? Or would the high court be getting the more opaque and reserved scholar described by friends and co-workers and suggested by some of his later work?" Time adds that amid reports of the NSA's secret domestic surveillance program, "Democrats have shifted their concern to Alito's robust defense of Executive power. In a 2000 speech, for instance, Alito argued

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that the framers viewed the Executive Branch of government 'as necessary to balance the huge power of the legislature and the factions that may gain control over it.' Massachusetts Senator Ted Kennedy has said he would question Alito about a 1984 memo in which he argued the Attorney General should be immune from lawsuits even if he authorized illegal domestic wiretapping."

Newsweek (1/16) reports in its "Periscope" column that when Alito's confirmation hearings begin "TV viewers are going to need a translator. For example, Sen. Arlen Specter, chairman of the Senate Judiciary Committee, will probably begin by quizzing Alito about stare decisis (rough Latin meaning: 'let the decision stand'), the judicial rule under which the Supreme Court follows its own precedents -- until five or more justices want to junk one of them." Specter "wants Alito to affirm the court's 1973 decision in Roe v. Wade that created a woman's right to an abortion. So Specter's first question might be: 'Judge Alito, could you tell us your philosophy toward stare decisis?' Translation: Can I get you to promise -- or even hint -- that you will leave the abortion ruling alone?" Newsweek adds that Democrats "will try to paint Alito as a slippery character with a 'credibility problem' and a radical conservative agenda." A Democratic senator "might ask: 'Judge Alito, in one dissent you upheld the strip search by police of a 10-year-old girl, even though the other judges, including conservatives, said the search went way too far.' Translation: How can we trust you to protect the civil liberties of all Americans? Alito will say that the "strip search" was not really that, but rather a female police officer asking the girl and her mother to remove selected articles of clothing in a bathroom as part of a search for illegal drugs conducted with a warrant. Translation: You're twisting the context to smear me."

Morning After Pill Shifts Abortion Debate, Likely To Impact Alito Hearings. The Wall Street Journal (1/9, Cummings, 2.11M) reports, "The abortion debate in America's courts is shifting into new medical and legal terrain, thanks to the escalating battle over the so-called morning-after pill, and it is likely to become an issue in Supreme Court nominee Judge Samuel Alito's confirmation hearings, which start today. The controversy hinges on one of the most elemental questions in the debate: when pregnancy begins. … The distinction is of immense importance in an emerging battle between religious conservatives and some women's groups over access to emergency contraception." The Journal adds, "Senate Judiciary Committee Chairman Arlen Specter (R., Pa.) and Sen. Dianne Feinstein (D., Calif.) both are expected to press Judge Alito on his legal analysis of abortion and contraception rights during his confirmation hearings. Ms. Feinstein on Friday cited women's reproductive rights first on a list of issues she plans to explore. … Judge Alito hasn't been asked about whether he considers the morning-after pill an abortifacient."

"Religious Right" Leaders Rally For Alito. The Washington Post (1/9, A10, Edsall, 744K) reports, "Republicans and leaders of the religious right gathered in a black church," Philadelphia's Greater Exodus Baptist, Sunday night to build support for Alito "as part of their effort to block gay marriage, end abortion and restore religious expression in the public square." Sen. Rick Santorum said the" elevation of Alito to the top court is crucial because 'extremely liberal justices [are] destroying traditional morality.' The battle, he said, is against Democrats on the Senate Judiciary Committee who are determined to 'continue the far left judicial activism on the Supreme Court.'" Greater Exodus pastor Herbert H. Lusk II told the gathering of about 600, "My friends, don't fool with the church because the church has buried a million critics. And those the church has not buried, the church has made funeral arrangement for." Reuters (1/9) reports that the Rev. Jerry Falwell, speaking at the event, said confirming Alito "would be the biggest victory for his constituency in three decades. 'What we've worked on for 30 years, to mobilize people of faith and value in this country, what we've done through these years is coming to culmination right now,' Falwell said.

The Pittsburgh Post Gazette (1/9, Reston) reports that during the program, which organizers said was broadcast to 80 million viewers through Christian broadcast stations and church telecasts, Santorum "said 'extreme liberal judges' are 'destroying traditional morality and creating a new moral code.' 'The Supreme Court has become the supreme branch of the government imposing its unrestrained will on all of the people,' Mr. Santorum said. 'The only way to restore this Republic our founders envisioned is to elevate honorable jurists like Samuel Alito who will help replace the hubris of this court with humility and respect for the common sense of the American people.'"

The Philadelphia Inquirer (1/9, Budoff, 423K) adds Falwell "described…Bush's nomination of Alito as the culmination of a lengthy effort to 'mobilize people of faith and values.'" The event "was billed as an effort to turn around an increasingly secularized society. But it also provided a high-profile forum to tout Alito as a justice who would exercise judicial restraint and halt restrictions on religious expression in public."

Alito First Showed Conservative Stripes In Reagan Justice Department. The Washington Post (1/9, A1, Becker, Russakoff, 744K) looks back at Alito's tenure in the Reagan Justice Department, where he "proved himself" by "distilling their agenda to reshape the nation's civil rights laws and overturn abortion rights into brilliantly analytical legal strategies. Much like his father, who had served both parties in a politically riven New Jersey legislature, he won the trust of the president's most ardent loyalists as well as the career civil servants who were often at war with them."

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The New York Times (1/9, Kirkpatrick, 1.19M) runs a similar look back at the Reagan era, examining how Alito and Roberts once worked out of "cramped offices along the same hallway on the fifth floor of the Justice Department's headquarters. … A quarter-century later, their contrasting styles will be on display again this week in the Senate hearings on the Supreme Court nomination of Judge Alito." But if Roberts "had the more political job then, it is now Judge Alito who faces more political opposition, in part because of statements he made in 1985 to persuade the administration's leaders that he, too, was a conservative at heart."

Concerned Women For America's LaRue "Battling" Over Court's Future. The Washington Post (1/9, C1, Davis, 744K) profiles Concerned Women for America Chief Counsel Jan LaRue, "a street fighter -- a Christian one, armed with a law degree. Lately, LaRue has been battling over the future of the Supreme Court." LaRue is known "for her legal acumen, assertion of principles over politics, and debating style, which has been described as fierce, tough and even ruthless. LaRue likes to say she believes in being direct without being brutal." She "took the long road to Washington, arriving by way of darkness and light. Her life story is a dramatic one that includes molestation, self-described heavy drinking and promiscuity, and dropping out of high school. And, she will tell you with great regret, she had an illegal abortion. She eventually ended up a divorcee and a single mom before she found another man to love and a God to save her."

Alito Confirmation Battle Goes Far Beyond The Beltway. The Legal Times (1/9, Goldman) reports, "It was 9:35 in the morning, and after a bad night's sleep in Little Rock (AR)'s best hotel, David Moore was already facing his second interview of the day. … It wasn't the usual routine for the confirmed academic, a former Justice Department lawyer who is now a professor at the University of Kentucky College of Law. … But on this Tuesday morning, the only thing on his résumé that really mattered — and the reason he left his wife and two small children behind in the middle of a vacation in Phoenix — was that he was a former clerk to Samuel Alito Jr." The Times continues, "Moore had flown to Arkansas because it is home to Sen. Mark Pryor, a first-term Democrat who is a member of the 'Gang of 14' and a key vote in Alito's upcoming confirmation battle. … And while Pryor will ultimately make his own decision (which many believe will be to break ranks with his own party and vote to confirm), a little persuasion in that direction from some of Arkansas' 2.7 million citizens couldn't hurt. … And in the hierarchy of vouching for a high court nominee, few have more credibility than a former Alito law clerk. Almost without exception, Alito's 54 former charges have been happy to sing the praises of their former boss, who, after 15 years on the U.S. Court of Appeals for the 3rd Circuit, has compiled a disparate, but intensely loyal, collection of acolytes. … Last week, in anticipation of Alito's Jan. 9 hearings, 20 former Alito clerks were sent out to stump in 18 states by Progress for America, perhaps the most well-heeled of the pro-Alito groups. There they usually went head-to-head with statewide anti-Alito coalitions organized by left-leaning groups (in Arkansas it was the local chapter of People For the American Way)."

NYTimes Commentators Pose "Thirty Questions For Alito." On its op-ed page, the New York Times runs "Thirty Questions For Alito" from a variety of commentators. Leonard A. Leo of the Federalist Society asks about the fallibility of the High Court and the principle of judicial restraint; Yale Law School's Kenji Yoshino asks about abortion and the constitutional protection of "rights that do not appear in the text of the document itself," University of California at Berkeley's John Yoo asks if the 9/11 attacks put the US "in a state of war with Al Qaeda and its allies," and what Alito feels is the "worst example of constitutional interpretation rendered by the Supreme Court in the last 30 years," author Scott Turow asks for Alito's take on Bush v. Gore; and Florida International University's Stanley Fish inquires about several points of constitutional theory.

Dean Says Alito Should Be Rejected Over Ethics Concerns. Tying his opposition to Alito's nomination to recent allegations of GOP ethical abuses DNC Chairman Howard Dean in an op-ed in the Baltimore Sun (1/9, 296K) writes, "It's been widely acknowledged that President Bush had a bad year in 2005." One problem "America faces as a result is the White House's willingness to make decisions based on what benefits the administration politically rather than what's right for America." Judge Samuel Alito's nomination "is just one example of this. The president hopes to make up ground with his right-wing base instead of appointing someone who will have the confidence of a wide range of Americans." Americans "should shudder at the prospect of an ethically tone-deaf judge sitting on the one institution in Washington not yet in the pocket of the extremists who comprise the right wing of the Republican Party" because a "culture of corruption, arrogance of power and insensitivity to the appearance of conflict of interest has plagued key Republican officeholders for the past five years."

More Commentary On Alito Hearings. The Wall Street Journal (1/9, 2.11M) editorializes, "Alito's Supreme Court confirmation trial finally begins today, and don't look for John Roberts redux. If you listen to the rhetoric coming from liberal Democrats in recent days, it's clear they're spoiling for a fight. … And since they know it will be next to impossible to beat him on credentials or judicial philosophy, the main line of attack looks to be on Judge Alito's integrity. The strategy is to sling mud in the hope that something will stick. … We trust [Senate Republicans] won't let the Kennedy Democrats get away with the borking they clearly would like to attempt. Republicans also have a rare, high-profile chance to make the case for the Constitutional role for judges that the

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Founders intended. This confirmation is probably the most important thing the Senate will do this election year. Too bad it's shaping up to be more of a character attack than a debate over judicial philosophy."

The Washington Post (1/9, A18, 744K) editorializes, "Alito, in any formal sense, is obviously well qualified -- as the American Bar Association recently recognized. Allegations of impropriety on his part seem trivial, and the ideological questions about him are well known. … It is quite clear already that Judge Alito would be a conservative justice. The question is whether he will emerge in these hearings as one energetically committed to remaking federal law to restrain congressional power, expand presidential authority and read individual constitutional rights narrowly or as a cautious judge who is mindful of the limits of judicial power. Both judicial personalities show up in his writings at times. The question for the Senate will be: Which is the real Samuel Alito?"

The Los Angeles Times (1/9, 958K) editorializes that while Alito's "position on abortion rights garnered much of the attention in the aftermath of his nomination to the Supreme Court last fall, the top priority of senators at his confirmation hearing this week should be to ascertain whether the judge sufficiently appreciates the proper constitutional balance of power among the three branches of government. It is a timely issue, as President Bush insists on expanding the executive branch's power to conduct the war on terrorism. … In contrast to his willingness to expand the powers of the presidency beyond its constitutional boundaries, Alito has been more traditionally conservative in narrowly defining the powers of Congress as set out in the Constitution. … Senators should ask Alito to expand on his understanding of the federal government's power to regulate interstate commerce, the source of much of its authority. Oh, and yes, they should also ask him about his views on abortion rights."

USA Today (1/9, 2.31M) editorializes, "In a 1985 application for a political promotion at the Justice Department, Alito said that as a student, he developed an interest in constitutional law 'motivated in large part by disagreement with the Warren Court decisions.' He singled out high court rulings involving criminal procedure, separation of church and state, and even the principle of one person/one vote. In the same memo, Alito enthusiastically embraced the argument that the Constitution does not protect a woman's right to an abortion -- a contention that has been consistently rejected by the court for more than 30 years. Alito's paper trail as a government lawyer and federal judge raises doubts as to whether he would respect those and other court precedents. … He needs to provide reassurance that he would not strip away protections the Supreme Court has guaranteed."

Florida Federal Judges Reject Request To End Secret Case Transfers. The Miami Daily Business Review (1/9, Kay) reports, "South Florida's federal judges have declined to change their current system of transferring cases to one another outside the random assignment process, despite concerns raised by the federal public defender that the current system could open the door to forum shopping by litigants." The Review continues, "In a meeting last Wednesday to vote on whether to change their internal operating procedures, the judges blasted a proposal by Federal Public Defender Kathleen M. Williams to impose restrictions on their ability to transfer cases among themselves. … 'You're asking us to change the present policy, which has been in effect for many years ... and to complicate the system,' said U.S. District Judge Donald L. Graham. 'If I'm ill on a Sunday night and I know Judge Moreno is free Monday morning for a trial, why can't I call him and ask him to cover?'" The Review adds, "The judges' informal method of transferring cases among each other came to light when the Daily Business Review discovered that the court had its own unpublished internal operating procedures that allow them to make such transfers. The procedure was discovered while the Review was reporting on the wholesale transfer of his criminal docket by Senior Judge James Lawrence King to another judge so he could avoid a conflict of interest. .. After the Review's article appeared, the court decided to make these so-called 'secret rules' public and post them on its Web site. … A local rules committee, headed by Miami lawyer Thomas Meeks, a partner at Zuckerman Spaeder, was asked by the judges to review the court's unpublished procedures and ensure that they conformed with the published rules that guide attorneys who practice before the court. Meeks suggested minor changes that the judges adopted, but agreed with the judges that their case transfer system should not be changed. … A public hearing was held Wednesday before the court adopted the previously unpublished internal rules. Williams was the only one to speak at the hearing, which was attended by nearly the entire bench that serves the Southern District of Florida."

Bush Made 17 More Recess Appointments Last Week. The Wall Street Journal (1/9, Cooper, 2.11M) reports, "President Bush bypassed the Senate to make 17 recess appointments to administration posts last week, relying on a constitutional prerogative that lame-duck presidents have exercised to break political logjams on Capitol Hill." Though he has used the method "less than two-term predecessors Bill Clinton and Ronald Reagan," Bush "has shown a willingness to do so to fill administration ranks. … Including last week's appointments, Mr. Bush has used the device 123 times in the past five years. Mr. Clinton made 140 recess appointments during eight years in office, and Mr. Reagan made 243." The Journal adds, "Last week's appointments include Hans von Spakovsky to the Federal

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Election Commission, a former Republican Party official who sparked controversy with Democrats for pushing Georgia to require voters to produce government-issued identification before voting -- a requirement critics say is racist." Julie Myers, "who some Republicans and Democrats said lacked experience for the position, was appointed to head the Bureau of Immigration and Customs Enforcement." Bush also "installed Gordon England as deputy secretary of defense, bypassing holds that two Republican senators put on the appointment. Some senators had questioned whether Mr. England's former employer presented a conflict: He once worked for defense contractor General Dynamics Corp. Dorrance Smith, a former producer for ABC News, was appointed assistant secretary of defense for public affairs over objections by Democratic senators about an opinion article in which Mr. Smith questioned the patriotism of US television networks that broadcast footage from pan-Arab television network al-Jazeera. Benjamin Powell was appointed general counsel to intelligence chief John Negroponte."

NYTimes Blasts Bush Recess Appointments. In an editorial, the New York Times (1/9, 1.19M) says, "It is disturbing that…Bush has exhibited a grandiose vision of executive power that leaves little room for public debate, the concerns of the minority party or the supervisory powers of the courts." But "it is just plain baffling to watch him take the same regal attitude toward a Congress in which his party holds solid majorities in both houses. Seizing the opportunity presented by the Congressional holiday break," Bush "announced 17 recess appointments -- a constitutional gimmick that allows a president to appoint someone when Congress is in recess to a job that normally requires Senate approval. The appointee serves until the next round of Congressional elections." Reagan and Clinton "made scores of recess appointments. But both of them faced a Congress controlled by the opposition party, while the Senate has been under Republican control for Mr. Bush's entire five years in office." The Times adds, "Bush's record in this area owes less to unreasonable Democrats than to the low caliber of some of his choices, his disinterest in bipartisan consensus and his aversion to any form of accountability, whether to the Senate, the courts or the public."

Bush Seeks To Revive Compassionate Conservative Reputation. The Boston Globe (1/9 Easton, 484K) says President Bush "is seeking to resurrect his early reputation as a compassionate conservative who reaches across the aisle, according to officials close to the White House. … With his State of the Union address three weeks away, White House policy and speech shops are busily crafting a message that portrays Bush as a bold leader but avoids the kind of far-reaching and divisive reform proposals -- such as turning illegal immigrants into guest workers or overhauling Social Security -- that previously landed him in hot water with key voters. … In the coming weeks, the president will continue to advertise progress in Iraq, and the war on terror, as well as highlighting good economic news. … But the public will also hear the president talk more about education initiatives to bridge the wage gap, as well as conservative ideas to address poverty, especially as New Orleans recovers from Hurricane Katrina, according to officials close to the White House. Meanwhile, Bush will continue to approach unlikely audiences." Republican strategists "say Bush's 2006 agenda will reflect the reality that his party needs to retain control of Congress in the face of burgeoning ethics scandals and continued fallout in public opinion polls over the Iraq war. … President Bush, strategists say, needs to be careful not to anger his conservative base, as he did when he proposed a guest-worker immigrant program. Immigration, officials say, is an issue he will continue to approach gingerly, mostly talking broadly about border security."

DeLay Abandons Effort To Return As Majority Leader. Newsweek (1/16, Isikoff, Bailey, Thomas) says the scandal surrounding lobbyist Jack Abramoff "will cost Congressman DeLay his post as House Majority leader. DeLay had been hoping to get out from under a weak money-laundering charge in an unrelated Texas prosecution in time to retain his leadership role for the coming year. Now, with the Abramoff inquiry likely to drag on, DeLay has announced he is stepping down."

In its cover package, Time (1/16, Tumulty) reports, "The once feared DeLay, whose office had been Abramoff's biggest claim to access and influence on Capitol Hill, announced he would resign as House majority leader. 'I have always acted in an ethical manner within the rules of our body and the laws of our land,' DeLay wrote in a letter to his G.O.P. colleagues, but added, 'I cannot allow our adversaries to divide and distract our attention.' Because of his tightfisted regime that rewarded loyalists and punished detractors, his departure is sure to set off not just a fight for his old job but also some ugly score settling."

Bush's Inner Circle Sees DeLay As "Necessary Burden." In a separate article in its cover package, Time (1/16, Cooper, Allen) reports on the "longtime chill" between President Bush and DeLay, noting that the distance between the two is "sure to grow with former lobbyist Jack Abramoff's guilty plea. Both camps describe the two conservative Texan's relationship as professional 'an alliance, not a friendship.' 'DeLay admires Bush's leadership but still thinks of himself as the strongest conservative on the block,' a DeLay friend says. 'They perceive DeLay as a bull in a china shop. They appreciate him as their protector and retriever.'"

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Time adds that "top Bush advisers tell TIME, the President's inner circle always treated DeLay as a necessary burden."

Blunt, Boehner Running For House Majority Leader. Reuters (1/9, Zargham) reports US Rep. Roy Blunt, "an ally of Rep. Tom DeLay, sought to permanently replace the indicted Texan as majority leader of the House of Representatives on Sunday but faced a challenge from fellow Republican John Boehner, who has had major differences with DeLay." A leadership election "is expected to be held the week of January 30." Blunt "has served as acting majority leader since DeLay was forced to give up the job in September but Boehner is considered a formidable foe, a leadership aide said." DeLay on Sunday "accused Democrats of 'character assassination' and said they were trying to portray him as guilty by association in the influence-peddling scandal involving Republican lobbyist Jack Abramoff. 'Time was the enemy,' DeLay told Fox News on Sunday when asked what prompted his decision not to try to return as majority leader."

The Financial Times (1/9, Yeager) says Blunt "has close ties to Mr DeLay and to K Street…and has been criticised for a series of mis-steps on the House floor in recent months." Boehner "rose to the Republican leadership ranks with Newt Gingrich, the former speaker, but was ousted from his post in 1998. … Several other congressmen are thought to be considering bids, including Mike Pence, the outspoken leader of a group of about 100 conservatives in the House, and Jerry Lewis, a veteran lawmaker who leads the powerful appropriations committee."

The Washington Times (1/9, Dinan, 90K) says that "already, a difference between" Blunt and Boehner "over lobbying reform, a hot topic among many members in the wake of guilty pleas by lobbyist Jack Abramoff." Boehner "said the current system works and pointed to Abramoff's guilty plea as an indication of that. 'Adding more new rules isn't the answer,' Mr. Boehner told the Fox News Channel." Blunt, however, "has made lobbying reform a key part of his pitch to fellow members."

The New York Times (1/9, Hulse, 1.19M) says "the Bush administration and its Congressional allies braced for a potentially divisive internal battle at the start of a crucial campaign year. … For the White House, the leadership fight will complicate President Bush's efforts to press ahead with his political recovery effort after a difficult 2005. It is also likely to distract attention from the agenda he plans to set out in the State of the Union address, which he is expected to deliver on Jan. 31, in the same week as the leadership vote." Bush "had hoped to use January to accomplish two big goals: win the confirmation battle over Judge Samuel A. Alito Jr.'s nomination to the Supreme Court, and show voters that he is overwhelmingly focused on the war in Iraq and the economy."

However, the Christian Science Monitor (1/9, Chaddock, 61K) reports that "from a public-relations standpoint, the decision by Mr. DeLay not to keep his post as House majority leader may give Republicans a boost ahead of this year's midterm elections. After all, he had gone from whip to whipping boy amid complaints that he embodied corruption in Congress" But "by losing DeLay's leadership, Republicans also lose his fundraising prowess and peerless talent for enforcing party discipline on key bills."

USA Today (1/9, Kiely, 2.31M) also says DeLay's "decision to step aside may make it more difficult for Republicans to win close votes in the House. DeLay had a proven record of being able to obtain a victory in a close vote. But the decision also removes a target for Democrats." On Sunday, House Minority Leader Nancy Pelosi "said a "culture of corruption" among Republicans in Washington remains pervasive, even without DeLay." But "the National Republican Senatorial Committee says Democrats also have taken money from donors linked to Abramoff."

Kristol Recommends Pence Or Shadegg. Bill Kristol of The Weekly Standard, on Fox News Sunday (1/8, Hume), said, "The key for the Republicans now…is not to replace DeLay with someone else who has been, fairly or unfairly -- is viewed as being part of this degeneration of the conservative cause from a movement to a business to a racket. … I think it might be time for a fresh face there, someone like Mike Pence, the young, very conservative -- not very conservative -- conservative and aggressive and articulate congressman from Indiana -- someone to come in and put a fresh face on the Republican majority of the House. … I think someone like Pence or John Shadegg from Arizona would help the Republicans re-seize once again the mantle of reformers."

Cornyn Hedges When Asked Whether DeLay Ought To Seek Re-Election. Asked on NBC's Meet the Press (1/8. Russert) if it would be "better for the Republican Party if Tom DeLay did not seek re-election," Sen. John Cornyn did not answer yes or no, but said, "I think what would be best if we allow the process to run its course, the charges against him -- there's a lot of informed judgment that he actually will be acquitted of those charges. … But the truth is, right now, all we know is that individuals, like Mr. Abramoff have plead guilty. Others are standing on their right, a presumption of innocence and insisting on a trial."

Texas Columnist Says Earle Prosecution Has Little Impact On DeLay's Fortunes. In a Wall Street Journal (1/9, 2.11M) op-ed, San Antonio Express-News columnist Jonathan Gurwitz writes, "Poor Ronnie Earle. For more than three years, the Democratic district attorney from Travis County has waged a prosecutorial campaign to bring down Tom DeLay. After strong-arming three different grand juries in Austin last fall, Mr. Earle was finally able to obtain a rickety, three-count indictment of Mr. DeLay for violations of state campaign finance laws. … But the indictment, meager as it is, was sufficient under House Republican rules to force Mr. DeLay to step down temporarily from his position as majority leader. … DeLay's political fortunes are in free fall. And until

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the full extent of the Abramoff scandal is known, it's not at all clear how far that plunge will take him. What is clear is that his re-election bid -- and, in a broader sense, Republican control of Congress -- is likely to have very little to do with Mr. Earle's legal charades in Austin and everything to do with Mr. DeLay's ethical quandary in Washington."

In Wake Of Scandals, GOP Leaders Ponder Lobbying Reforms. The Christian Science Monitor (1/9, Feldmann, 61K) reports, "In the wake of lobbyist Jack Abramoff's guilty plea on corruption charges, one point seems clear: Congress is now keenly interested in looking at how lobbyists do business, and may well make reforms by next November's elections. Suddenly, everyone on Capitol Hill wants higher standards." For Republican leaders, "the danger is looking like Johnny-come-latelies on reform." For Democrats, "eager to regain control of at least one chamber of Congress this fall, the Abramoff scandal presents a golden opportunity to hammer home their point about a 'GOP culture of corruption.'" The Monitor adds, "From the lobbying industry's perspective, what's clearly needed -- before anyone changes the rules of the game -- is beefed-up oversight."

Roll Call (1/9, Newmyer) also says Republican lawmakers are "scrambling to lay out their plans for cleaning up Congress and to stanch the political bleeding from a widening election-year scandal." In the Senate, "Conrad Burns (Mont.) became the first Republican to back a measure by Sen. John McCain (R-Ariz.) that would impose new disclosure requirements on Members and lobbyists. Burns, locked in a tough re-election fight, is under scrutiny from federal prosecutors for his ties to Abramoff." Meanwhile, "Sen. Rick Santorum (R-Pa.) is consulting with colleagues about what shape his own reform package should take."

The Wall Street Journal (1/9, Rogers, 2.11M) adds Speaker Dennis Hastert "returns to the Capitol tomorrow after canceling a trip to India, and he has given House Rules Committee Chairman David Dreier (R., Calif.) a broad mandate to reach out to Democrats and to Sen. John McCain (R., Ariz.) on overhaul proposals." In an interview, the speaker, "a former high-school civics teacher, spoke of the initiative in personal terms: 'The House needs to exude integrity, and we need to make some changes. ... This is not something that's knee-jerk,' Mr. Hastert said." Hastert also "looks willing to embrace portions of a bipartisan Senate bill introduced by Mr. McCain." The Washington Post (1/9, A2, Weisman, 744K) runs a similar story under the headline "Hastert Moves To Tighten Rules On Lobbyists," in which it says the Speaker's move "comes months after House Democrats, led by Reps. Martin T. Meehan (Mass.) and Rahm Emanuel (Ill.), and Republican Rep. Christopher Shays (Conn.), unveiled proposals to mandate more disclosure of lobbying contacts, ban most lobbyist-sponsored trips and lengthen the time former House members and staff must wait before taking up lobbying."

Lobbying Reforms Expected To Pass This Year. U.S. News and World Report (1/16, Pound) says the Abramoff scandal "has so unnerved many Republican lawmakers that lobbying reforms are expected to pass this year. Among other changes, such reforms are likely to curb privately funded junkets for lawmakers and require more disclosure by lobbyists of funds spent to influence legislation."

WSJournal Says DeLay Successor Should Reinvigorate GOP's Commitment To Reform. An editorial in the Wall Street Journal (1/9, 2.11M) says that by taking himself out of the race for house Majority Leader, Rep. Tom DeLay has "given his GOP colleagues a chance to reinvigorate their leadership, assuming they're alert enough to realize the dangers facing their majority this November. On first glance, we're not sure they are. Speaker Dennis Hastert's response this weekend was to issue a press release declaring his sudden passion for 'lobbying reform.' … The idea seems to be that a ban on lobbyist-paid golf junkets or limits on the House floor privileges of former Members of Congress will prevent the next Jack Abramoff." The Journal adds, "The real House GOP problem isn't about lobbyists so much as it is the atrophying of its principles. As their years in power have stretched on, House Republicans have become more passionate about retaining power than in using that power to change or limit the federal government. … As House Republicans consider replacing Mr. DeLay, they need to choose someone who will reinvigorate their commitment to reforming Washington. And this may mean more change than they'd otherwise prefer entering an election year."

More Commentary. Jeffrey Birnbaum writes in the Washington Post (1/9, D1, 744K), "In an earlier column I recommended that registered lobbyists be barred from raising money for politicians -- at least during congressional sessions -- and I stand by that suggestion. The notion isn't as crazy as it sounds. Several states already have a similar rule and, as we'll see in spades this year, all sorts of new restrictions will be debated in Congress and some of them will almost surely pass as an antidote to the anti-Washington feelings that the Abramoff affair has stirred. … Wider restrictions on lobbyists are coming as well, and many of them may involve campaign contributions. Both House Speaker J. Dennis Hastert (R-Ill.) and Senate Majority Leader Bill Frist (R-Tenn.) have delegated colleagues to devise new lobbying-disclosure legislation. But the bill to watch is authored by Sen. John McCain (R-Ariz.) and Rep. Christopher Shays (R-Conn.). Under it, lobbying firms and organizations would have to disclose each fundraising event they host or sponsor for federal candidates and the total amount raised at each such event. The legislation would also require lobbyists to report on their lobbying forms the donations they make to members of Congress and at events that honor members or entities

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that they created or support. In addition, the bill would force lobbyists to disclose on quarterly reports any gifts worth more than $20 that they gave to lawmakers or their aides, including meals and tickets to events. Sen. Russell Feingold (D-Wis.) has a separate plan that would go much further. He would outright ban gifts to lawmakers and staff and would prohibit lobbyists from financing or attending trips with members of Congress. Don't expect any new law to be that extreme, but the fact that he could even countenance such ideas is an indication how serious the problem has become."

Ruth Marcus writes in the Washington Post (1/9, A19, 744K) notes that lawmakers "with enough clout and party committees" host "getaways all the time: ski weekends in Vail, summer jaunts to Nantucket, Super Bowl outings, golf tournaments with this or that committee chair. … In these heady days after the Jack Abramoff plea and Tom DeLay's departure from the GOP leadership, Democrats like to decry the (as they see it) Republican-only 'culture of corruption.' At least as troubling is the capital's more pervasive, and certainly more bipartisan, culture of coziness, epitomized" by such fundraisers. It is "this latter problem that ought to be foremost in lawmakers' minds as they scramble to write new rules to govern their dealings with lobbyists. Even the strongest rules can't stop a lobbyist or lawmaker bent on corruption; see, e.g., not only Abramoff but also former California congressman Randy Cunningham, who pleaded guilty to taking $2.4 million in bribes from defense contractors. Certainly, the more disclosure that is required, the fewer temptations that a lobbyist can legally dangle in front of a lawmaker and the less the opportunity for criminal mischief. But where lobbying reform could have its most cleansing effect is not with the crooks in Congress or the private sector but with those who play, more or less, by the rules of a fundamentally flawed system."

VA Regional Offices Found To Be Giving Incorrect Information. Department of Veterans Affairs data indicates that people who call the department's regional offices are more likely to receive completely wrong answers than completely right ones. The Washington Post (1/9, A17, 744K) reports, "To see how well department employees answer typical questions from the public, VA benefits experts in 2004 called each of the 57 regional offices, which process disability claims. The mystery callers, saying they were relatives or friends of veterans inquiring about possible benefits, made 1,089 calls. Almost half the time they got answers that the department said were either completely incorrect or minimally correct. According to an internal memo on the mystery-caller program that is buried deep in the VA Web site, 22 percent of the answers the callers got were 'completely incorrect,' 23 percent were 'minimally correct' and 20 percent were 'partially correct.' Nineteen percent of the answers were 'completely correct,' and 16 percent 'mostly correct.' The program also found that some VA workers were dismissive of some callers and unhelpful or rude to others."

Some Pentagon Analysts Said To Be Skeptical About TRICARE Savings. Syndicated "Military Update" columnist Tom Philpott writes in the Tacoma News (1/7) about "a few Pentagon analysts" who believe the Bush administration will face "a new credibility" gap if TRICARE officials tell Congress it expects to generate $25 billion in savings from raising fees and deductibles on health plans for retirees under 65. Such a figure may draw "skepticism" because 78% of it hinges on an assumption that 600,000 beneficiaries, "facing the higher fees, would stop using TriCare and shift to employer-provided health plans." But, some TRICARE officials don't subscribe to the expected shift since "most employer plans still will cost more."

Novak Says Rove Appears To Have Blundered With New Medicare Drug Benefit. Syndicated columnist Robert Novak (1/9) writes that "a few brave souls in the Bush administration admit" that President Bush's "Medicare drug benefit that went into effect Jan. 1 looks like a political blunder of far-reaching consequences. Furthermore, these critics assign major responsibility to Karl Rove. The hideous complexity of the scheme, which has the effect of discouraging seniors from signing up, is only the beginning of difficulties it entails for the president and his party. It will further swell the budget deficit without commensurate political benefits" and "may prove a severe liability for Republicans facing an increasingly hazardous midterm election in November." Rove's "aim was to entice low-to-middle income seniors who vote heavily Democratic and complain about the cost of prescription drugs. That political maneuver was translated by bureaucrats and health-care technicians into a government program so difficult to understand that someone now receiving any prescription drug care would be inclined to stick with the present program even if it seems inadequate." Novak adds that now, with Bush set "to begin his sixth year in office, Medicare drug benefits come into play, a major new entitlement that offends Bush's friends and does not placate his foes. There is not much at this point that can be done about it, except to try to convince seniors and conservatives that the program is really not that bad."

Private Sector Council To Focus On Fixing Federal Procurement System. The Washington Post (1/9, B2, Barr, 744K) reports in its "Federal Diary" column, "With little fanfare over the past two decades, the Private Sector Council has helped federal agencies -- on a one-on-one basis -- fix their business and management problems. The coming year, however, will see the council adding a new

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dimension and trying to become a catalyst for change, by focusing on government-wide issues, starting with the federal procurement system. … The Private Sector Council is in the planning stages on how to launch an ambitious project to promote change in federal procurement practices, [president Howard] Weizmann said. Tentative plans call for holding half-day seminars and rounding up experts who can talk about best practices, he said. But the goal is not just to talk about "reformation" but also to identify changes that can improve how the government buys about $320 billion in goods and services annually and then test those changes at agencies willing to serve as models, he said."

Cost Of Postage Stamp Increases By Two Cents. The cost of a US postage stamp rose two cents yesterday, marking the first postal increase in nearly four years. The Washington Post (1/9, A17, Lee, 744K) says the next price jump "may come a lot sooner than that. … The increasing popularity of e-mail and online bill paying has cut into mail volume, while the Postal Service must deliver to an ever-increasing number of addresses (up by 2 million last year). The Postal Service faces competition from United Parcel Service and FedEx, private companies that, unlike the post office, are not legally bound to deliver to every address six days a week. … Although such challenges are expected to drive up postal rates in the future, officials in the Postal Service and in the mailing industry say the current increase is the product of a political impasse in Capitol Hill, not postal operations."

OTHER NEWS:

Wage Gains Remain Below Pre-2001 Recession Levels. American workers are beginning to see wage gains, but USA Today (1/9, Kirchhoff, 2.31M) says the increases are "well below the levels prior to the 2001 recession." USA reports, "Wage growth is starting to pick up, with hourly earnings rising 5 cents in December to $16.34, seasonally adjusted, the Labor Department said Friday. Hourly wages rose 3.1% in the 12 months ended in December, the fastest pace since spring 2003. While improving, wage growth appears to remain below consumer inflation, which advanced 3.5% in the 12 months ended in November."

Greenspan Credits Globalization With Keeping Inflation, Wage Growth Low. The Wall Street Journal (1/9, Ip, 2.11M) reports "Buried in the minutes of the Federal Reserve's Dec. 13 policy meeting, released last week, was this bland observation: Fed officials 'noted that robust competition -- including from foreign producers...[was] helping to contain cost and price pressures.' Markets largely ignored the sentence, but it's one of the most important factors guiding Fed Chairman Alan Greenspan in his final weeks at the helm of the nation's central bank. Mr. Greenspan has marveled at how inflation and wage growth have stayed low even as the economy continues to grow robustly and the jobless rate falls below 5%, a level that has often driven up wages and prices. Searching for an explanation, he has hit on globalization. If the Fed thinks growing imports, outsourcing and international investment are holding a lid on wages and prices, then interest rates can be lower than they otherwise would. Indeed, as the minutes show, this is one reason the Fed seems to think it can stop raising rates soon." The Journal adds, "Greenspan's views are clearly rubbing off on his colleagues. 'Globalization has acted as a tail wind for the Fed's -- and other central banks' -- efforts to hold down inflation,' Federal Reserve Bank of Dallas President Richard Fisher said Friday."

Analysis Says Investors Should Focus On FOMC Pronouncements. The Wall Street Journal (1/9, Blackstone, 2.11M) says, "Investors seeking clues about future U.S. monetary policy, as well as big market moves, should focus on pronouncements from the Federal Open Market Committee as a whole and not individual members of the Federal Reserve policy body, according to an analysis by a current and a former Fed economist. 'Our results suggest that committee-wide communications have a larger market effect and are more accurate than speeches by individual FOMC members,' Vincent Reinhart, head of the Fed's Monetary Affairs Division, and Brian Sack of Macroeconomic Advisers LLC, and a former Fed economist, wrote in a paper presented Saturday at the annual meeting of the American Economic Association in Boston."

OECD Predicts Moderate Growth For World's Richest Economies. The Wall Street Journal (1/9, Hannon, 2.11M) reports, "The Organization for Economic Cooperation and Development said its leading indicator of economic activity rose in November for the sixth straight month, signaling that moderate growth lies ahead in 30 of the world's richest economies. … The indicator is designed to provide early signals of turning points between the expansion and slowdown of industrial activity. The composite leading indicator for the U.S. rose to 105 from 104.3, and its six-month rate of change increased for the second straight month."

Dow Nears Close Above 11,000. The Dow Jones Industrial Average is at a 41/2 year high and is nearing its first close above 11,000 since June 7, 2001. USA Today (1/9, Shell, 2.31M) reports that the ability of the Dow, which is less than 41 points shy of closing above 11,000, "to quickly rebound from its 0.6% loss in 2005 is key. Analysts say the resurgence has the potential to deliver a psychological boost to skeptical investors still smarting over lackluster returns last year and those still gun-shy from the brutal bear market earlier in the decade." According to USA a close above

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11,000 could lift investor confidence, signal an end to the trading range which has kept the Dow "trapped in a narrow, 600-point band since July" and confirm broader market strength."

Meanwhile, the Wall Street Journal (1/9, Browning, 2.11M) says, "Major indexes, such as the Dow Jones Industrial Average and the Nasdaq Composite Index, have been rallying lately to multiyear highs but haven't reached record highs in almost six years. Small stocks, on the other hand, have been hitting repeated records. So have indexes of foreign stocks, energy stocks, banking stocks, transportation stocks and stocks whose value closely tracks the economy. … Some people see the strength of these less-followed groups as a very bullish sign for the market. It suggests that, even though gains in the big indexes have slowed or even disappeared in the past two years, the underlying market is resilient. Others reach the opposite conclusion: The failure of the major indexes to lead the market is a sign of the continued hangover at big companies after the excesses of the late 1990s, suggesting that the recent bull market may be running its course. Either way, one thing is clear: In general, the place to be over the past year hasn't been with the rich and the famous. Even after their New Year's surge, the Dow industrials are up just 1.6% since the end of 2004. The Standard & Poor's midcap index, tracking midsize stocks, has climbed 15%. The Dow Jones World Stock Index, not including U.S. stocks, has jumped 20%. The Dow Jones Transportation Average, fueled by soaring trucking concerns, has advanced 11%."

Dollar Gets Off To Slow Start In 2006. In the first two days of trading after last Monday's holiday, the US dollar fell 2.5% against, marking its largest two-decline against the European currency. According to the Wall Street Journal (1/9, Karmin, 2.11M), despite a "surprisingly strong performance in 2005," the dollar has "tumbled out of the gate in what some worry may be an ominous sign for 2006. … The U.S. currency hit three-month lows against the euro and Swiss franc Friday morning, and in late New York trading, the dollar was down 0.4% against the euro at $1.2154. It fell even harder against the yen, sliding 1.3% to 114.4165 yen. That approached a three-month low against the Japanese currency, too."

Schwarzenegger Aims To Rebuild State, Image With Large Public Works Plan. Following up on reports from last week, the Christian Science Monitor (1/9, Wood, 61K) relates that California Gov. Arnold Schwarzenegger (R) "has decided that the proper path to California's future -- and his own rehabilitation -- is dotted with new bridges, highways, and levees ... and carpool lanes, commuter rails, and crime labs ... and schools and prisons, and ports. Two months after voters rejected a series of Schwarzenegger-backed government reforms, and months before his own reelection primary in June, he has announced a 10-year, $222 billion plan to shore up the state's crumbling infrastructure. … 'The governor is switching from concepts to concrete,' says Jack Pitney, political scientist a Claremont McKenna College. … With approval ratings at 32 percent, Schwarzenegger is recasting himself in a role in which he can point to tangible accomplishments come election time next November, say Pitney and others. … 'He is moving back to the center where he was elected, because voters did not take kindly to his becoming more partisan and going around Democratic opponents to the people,' says Sherry Jeffe, political scientist at the University of Southern California. 'As the incumbent coming up for reelection, he has to produce a record to run on. That's what this is about.'"

Governor, Son Suffer Minor Injuries In Motorcycle Collision With Car. The Los Angeles Times (1/9, Krikorian, 958K) reports that Schwarzenegger "and his 12-year-old son were slightly injured Sunday afternoon when their motorcycle collided with a car near the family's home in Brentwood, his office said. The low-speed collision occurred about 3:15 p.m. when Schwarzenegger was riding his Harley-Davidson with his oldest son, Patrick, traveling in the motorcycle's sidecar, according to Margita Thompson, the governor's press secretary." Schwarzenegger "and his son were taken to St. John's Hospital in Santa Monica. Both were released after being treated for minor cuts and bruises, Thompson said, noting that the governor received 15 stitches in his lip. The governor and his oldest son were wearing helmets at the time of the accident, Thompson said. The other driver, she added, was not injured."

Maryland GOP Hoping To Build On Ehrlich's Election Success. The Washington Post (1/9, A1, Mosk, 744K) reports that Maryland Republicans are hoping to build on Gov. Robert Ehrlich's (R) 2002 election win. The Post relates, "True party realignment remains a distant goal, they say, but the political season that begins as the General Assembly convenes Wednesday will be guided by their desire for lasting influence in state affairs." Maryland GOP officials "said the party is borrowing many of the ideas that started Virginia down the path to realignment three decades ago. In addition to their focus on the Maryland governor's race, they believe the bid by Lt. Gov. Michael S. Steele (R) to capture an open U.S. Senate seat could provide inroads into the state's most reliable Democratic voters: African Americans. The GOP is targeting the state's populous blue-collar suburbs and fast-growing exurbs, where party leaders hope to pick up as many as 14 seats in the House of Delegates and seven in the Senate this November. And they're already contemplating 2010, when a win in the governor's column could give them control over redistricting

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and crack open a state where, just a few years ago, Republicans felt like foreigners."

Ehrlich To Propose 15% Reduction In Property Tax Rate. The Washington Post (1/9, B1, Wagner, 744K) reports that Gov. Ehrlich "today will propose reducing the state property tax rate by 15 percent -- a 2-cent rate cut -- and expanding a tax break that helps low-income homeowners pay their bills. The election-year proposal would roll back part, but not all, of a property tax increase initiated by Ehrlich (R) in 2003 to help fill a gaping budget hole that he inherited upon taking office. Aides said Ehrlich will also call on local leaders to reduce property taxes they collect by similar percentages -- a move that would have a far greater effect on homeowners because localities rely much more heavily on the levy than the state does." Ehrlich "will argue at an event in Baltimore County this morning that a reduction in the state property tax of 2 cents per $100 in assessed value is justified because a reversal in Maryland's fiscal outlook has resulted in a surplus of more than $1 billion." The Post notes, "The move would save the owner of a $400,000 home $80 next year and cost the state about $98 million in lost revenue, Ehrlich's aides said. Given the rise in home values, most tax bills probably would still rise despite the proposed rate cut."

Warner Critical Of DC "Partisanship." The Washington Times (1/9, Bellantoni, 90K) reports that outgoing Virginia Gov. Mark Warner "thinks President Bush and the U.S. Congress could learn some lessons from Virginia, such as lawmakers putting aside partisanship to get the job done." Warner "said cooperation has led Virginia lawmakers to improve the state's finances and enabled them to fund much-needed projects, such as the cleanup of the Chesapeake Bay. 'In Washington, people are more interested in scoring partisan points than getting things done, and I think there is a real yearning in this country for action,'" Warner said in an interview. Warner added, "To a degree, both parties are guilty. … If it's not absolutely their way, they say they'd rather have no action than their ideologically pure solutions. I think that's crazy." After leaving office on Saturday, Warner "immediately will start working full time on his Northern Virginia-based political action committee called Forward Together. His goal for the PAC is to find and fund candidates who he thinks can move the nation forward." Warner "supporters have no doubt that the PAC is a first step toward Mr. Warner's seeking the U.S. presidency in 2008." But Warner "said he's not sure of his next step. 'I haven't decided what, if anything, I am going to do in politics, I really haven't,' he said."

In Split With Bush, McClellan Backs His Mother For Texas Governor. The New York Times (1/9, Bumiller, 1.19M) reports in its "White House Letter" column that the split between President Bush, who is supporting incumbent Republican Gov. Rick Perry in the Texas governor's race, and White House Press Secretary Scott McClellan, who is supporting his mother, state comptroller Carole Keeton Strayhorn is "just the latest chapter in Mr. McClellan's nearly four decades in politics with his mother, who is as voluble as her son is restrained. Still, Ms. Strayhorn's most recent endeavor is one of the more bizarre moments in Texas politics and also in the West Wing." The Times adds, "Mr. McClellan, the youngest of Ms. Strayhorn's four sons, was 9 when his mother, then a Democrat, was first elected mayor of Austin, a nonpartisan position. Over the next six years, from 1977 to 1983, she served three terms. In most of that time she was a single mother who wove her children into her public life. … Mr. McClellan went on to graduate from the University of Texas and to run three more successful campaigns for his mother: her election and re-election as a Texas railroad commissioner and her election as comptroller." The Times also reports, "As for the White House press secretary, he said that 'the president considers my mother a friend,' but that he himself had no immediate plans to work in his mother's campaign or, for that matter, to leave his job anytime soon."

Food Industry Makes Progress In Effort To Ban State Labeling Laws. The food industry has made progress in its efforts to urge Congress and the federal government to ban state food labeling laws. According to the Wall Street Journal (1/9, Zhang, 2.11M), state laws "are often tougher than federal Food and Drug Administration rules or cover substances not regulated by federal law. … A bill that would override many such laws sailed through the House Energy and Commerce Committee in December, and its sponsors include more than half the members of the House. A Senate version hasn't been introduced and it's unclear if the bill will move soon, but it already has set off a firestorm, pitting the food industry against consumer activists and state food-safety officials."

More Companies Phasing Out Pension Plans. ABC World News Tonight (1/8, story 6, :45, Woodruff) reported, "More and more American companies are phasing out pension plans for their employees. On Friday, IBM announced it will shift more than 1,000 workers from traditional pensions to 401(k) retirement plans." ABC (Stark) added, "IBM says beginning in 2008, it will freeze the traditional benefits for its thousands of US workers and shift its work force to a less-generous 401(k) plan, saving the company almost $3 billion a year. Last month, it was Verizon; before that, Motorola, Hewlett Packard and Sears. Traditional defined-benefit pension plans are a vanishing piece of the American dream."

Workers May Find Movement Away From Traditional Pensions Difficult. According to the New York

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Times (1/9, Walsh, 1.19M), "For many workers, the movement away from traditional pensions is going to be difficult. Already there are signs that people are retiring later, or taking other jobs to support themselves in old age. Participation in a pension plan is involuntary, but most 401(k) plans let employees decide whether to contribute any money - or none at all. Research shows that many people fail to put money into their retirement accounts, or invest it poorly once it is there."

Charitable Donors Defy Predictions. Despite predictions from nonprofit groups that the billions of dollars Americans gave to relief funds last year in the wake of the South Asia tsunami, Hurricane Katrina and the Pakistan earthquake would result in "donor fatigue," the Washington Post (1/9, B1, Salmon, 744K) reports that 2005 "was very good to many nonprofit organizations in the Washington area and elsewhere." Anthony De Cristofaro, executive director of the Combined Federal Campaign of the National Capital Area, the annual fundraising drive among local federal employees, "said he expects the fund drive, which will conclude at the end of the month, to comfortably top last year's total of $56 million. The Jewish Federation of Greater Washington had an exceptional year, said chief executive Misha Galperin. Gifts to the federation's endowment fund doubled to $18.3 million, contributions to its annual fundraising drive climbed by $2 million to $24 million and the federation raised $1.6 million for tsunami and Katrina relief funds, he said." The Post adds,, "The news is also good nationally." According to the Chronicle of Philanthropy, "many of the nation's biggest charities are raising as much or more than they did in the late 1990s, when the strong economy and booming stock market boosted charitable donations a startling 50 percent from 1996 to 2000."

Sharon's Doctors Prepare To Ease Him Out Of Coma. USA Today (1/9, Gutman, 2.31M) reports, "Advisers said Sunday that Ariel Sharon was waging a fierce comeback from a life-threatening stroke. Doctors planned to start easing the Israeli leader out of a medically induced coma today. Shlomo Mor Yosef, director of Hadassah University Hospital, said Sunday that a CT scan of Sharon's brain showed improvement and that his vital signs were normal. He said Sharon, 77, remained in critical condition."

The Washington Post (1/9, A12, Wilson, 744K) reports, "Doctors plan to begin the delicate process of reviving Israeli Prime Minister Ariel Sharon from a medically induced coma Monday and start assessing the scope of any brain damage he might have suffered during a massive stroke last week. Sharon, 77, underwent a scheduled brain scan Sunday so doctors could measure intracranial pressure and look for new bleeding. The results showed the condition of his brain had improved slightly, a determination consistent with two previous scans taken since the last emergency surgery to stop hemorrhaging. The director of Hadassah-Ein Kerem Hospital, where Sharon is being treated, said the most recent test showed that the level of swelling in Sharon's brain had declined overnight. His overall condition remains critical but stable."

The New York Times (1/9, Altman, 1.19M) reports, "As Israeli doctors try to bring Prime Minister Ariel Sharon gradually out of a medically induced coma today, they will be seeking clues to the severity of the damage from the potentially deadly hemorrhagic stroke he suffered last week. The doctors are expected to massage and pinch Mr. Sharon's skin, vigorously rub his chest and ask him to perform simple tasks like blinking as part of their examination to begin to determine the degree of paralysis and impairment of his intellectual skills. Doctors have said they assume there will be some impairment."

Sharon Seen As Unable To Ever Return To Office. NBC Nightly News (1/8, story 3, 2:00, Fletcher) added, "Taking Sharon out of his induced coma will give the nation a better idea whether" Sharon's "60-year career…is over. … Experts agree there is no chance he will return to his job as prime minister." The Washington Times/AP (1/9, Nessman) reports, "One of Mr. Sharon's doctors said that even if the prime minister survives, he would not be able to return to office. Acting Prime Minister Ehud Olmert told the Cabinet he would work to carry on Mr. Sharon's political legacy."

The New York Times (1/9, Erlanger, Kraft, 1.19M) reports, "Israel continued its nervous watch over the sickbed of Prime Minister Ariel Sharon on Sunday, with television reporters educating the country about his condition using plastic models of brains and exploring hypotheses about whether he should have had different treatment before his devastating stroke on Wednesday. Israeli politicians, normally an obstreperous and aggressive bunch, maintained a self-imposed moratorium on political campaigning out of respect for the stricken prime minister - and out of a sense that the country would not reward those who returned to the normal slash-and-burn style too soon."

The Christian Science Monitor (1/9, Prusher, Mitnick, 61K) reports, "But Sunday, as Prime Minister Ariel Sharon lay in a drug-induced coma, many here wondered whether Olmert, now acting prime minister, has the leadership qualities to assume Mr. Sharon's mantle, and takeover the newly fashioned centrist party, Kadima. A crucial election for Israel is scheduled for late March."

White House Preparing For Post-Sharon Era. ABC World News Tonight (1/8, story 4, 3:15, Woodruff) reported, "Few expect Sharon to go back to work after his stroke. So, tonight, Washington and Israel are preparing to go back to work without Sharon at its leader." ABC (Reynolds) added, "With Ariel Sharon incapacitated, there is no question that the United States has lost an influential partner in a strategically-

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important region. And George Bush has lost a friend." Yossi Klein Halevi, Shalem Center: "Bush not only likes Sharon personally, but admires him…as a military hero." Reynolds: "It will be hard, if not impossible, for whomever emerges from Israel's March elections as a successor to Sharon, to approximate that close, personal bond with Bush. Acting Prime Minister, Ehud Olmert, would try to continue Sharon's policies and may enjoy white house support. But he lacks a rapport" with Bush. That "spells more trouble for the road map to peace that the Bush Administration has championed, even though it has, so far, led nowhere."

The Christian Science Monitor (1/9, LaFranchi, 61K) reports, "In its five years, the Bush administration has been reluctant to press for bold steps from the parties, and it's unlikely to alter that pattern now, many experts say. Officially, neither the White House nor the State Department is offering much diplomatic direction for the post-Sharon era, suggesting that doing so would be distasteful as the prime minister fights for his life. Secretary of State Condoleezza Rice postponed a trip to Australia in order to be in Washington at a crucial juncture in Middle East affairs, while diplomatic sources said the White House was quietly making contingency plans in the event of Sharon's passing."

Sharon's Accomplishments Recounted. The Washington Post's (1/9) Lally Weymouth writes, "In power, Sharon showed that the charm could often trump the steeliness -- or at least mask it long enough for him to forge both a consensus in Israel and a close relationship with the American government. One of the marks of great leadership is the capacity to undo what one has done if it can contribute to the greater good. Sharon had the courage to dismantle the very settlements he had built."

Arab-Israeli Peace Deal Seen As Unlikely In Bush's Second Term. Time (1/16, McGeary) reports, "The political instability confronting both Israelis and Palestinians jeopardizes Washington's hopes of salvaging some kind of Arab-Israeli peace deal by the end of President George W. Bush's second term. Having hitched their strategy to the success of Sharon's policy of separation from the Palestinians, Administration officials scrambled to put a positive spin on the somber events in Jerusalem. … A senior State Department official says the U.S. believes that 'progress is still possible' without Sharon. Whether that remains true will depend on how Israelis handle a crisis that so few saw coming."

Sharon Called "Bold And Cunning Defender" Of Israel. In its cover package, U.S. News and World Report (1/16, Derfner) examines the legacy of Israeli Prime Minister Ariel Sharon, noting that "no one in modern times transformed this country as much as Ariel Sharon did. And no Israeli leader transformed himself as did the legendary fighter once he finally, after a half century of great deeds and misdeeds on the battlefield, became prime minister." Sharon "was a bold and cunning defender of his tiny nation in a hostile, dangerous part of the world."

Candidates To Succeed Sharon Quietly Preparing For Campaign. A story in Newsweek's (1/16) cover package says the entrants in Israel's upcoming elections are, as "quietly as possible, not wanting to seem disrespectful," preparing "for the run of their lives." Newsweek provides a short profile of the candidates. Newsweek reports, "Political partnerships don't get much tighter than the team of Ariel Sharon and Ehud Olmert, 60. The two men made a great match, even though their personalities were strikingly different. In contrast to the career warrior, the former Jerusalem mayor is a scholar, with diplomas in philosophy, psychology and law. But the pair worked together seamlessly." The Labor Party "has big dreams of regaining its long-lost ruling-party status, and Peretz, a social democrat, has pledged that if he wins the top job in the March elections, he'll produce a peace agreement within four years." Justice Minister Tzipi Livni "was among the first Likud members who jumped to Kadima. The 47-year-old attorney supports the idea of territorial handovers as the only way to forestall the day when Arabs outnumber Jews in Israel." Former Labor Leader Shimon Peres "is still in the game." Polls "are saying that Peres (despite longstanding public doubts about his toughness on terror) could outdo Olmert as Kadima's pilot in March." Netanyahu "could step into the leadership vacuum—if he can move toward the political center without looking like an abject opportunist."

Olmert Seen As Sharon's Alter Ego. In a separate story in its cover package, U.S. News and World Report (1/16) says "the closest Ariel Sharon had to an alter ego is the man now taking his place as prime minister, Ehud Olmert. … The electoral question is whether the politicians and voters who had followed Sharon to Kadima will stand by Olmert. The initial indications are yes. All of the politicians who bolted Likud and Labor have declared their loyalty to him as the new party's new leader." US News adds, "Kadima held its lead in the first opinion poll following Sharon's major stroke. It also showed that the only Kadima member more popular than Olmert is Shimon Peres, 82, who left the Labor Party after losing the leadership to Amir Peretz in a November showdown. Peretz has since stumbled."

Observers Say Netanyahu Must Move To Center To Gain Wide Backing. In a separate story in its cover package, Newsweek (1/16, Peraino, Ephron, Bartholet) reports that observers "believe that [Benjamin] Netanyahu will have to move toward the center to garner wide backing, and that is dangerous for him. In some ways, Netanyahu is the anti-Sharon: a slick talker and American-style campaigner who enjoys political theater. He's telegenic, smart and articulate. But he also has a reputation as an opportunist." Newsweek adds, "Yet none of Sharon's potential successors in Kadima has much magnetism, either. Peres certainly has

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great stature, but he is seen by many as unreliable on security issues. Olmert has been a fixture in Israeli politics for years, and he is a longtime proponent of unilateral action to leave parts of the occupied territories. … But he benefited from being close to Sharon."

Gaza Said To Have Descended Into Near-Anarchy. The New York Times (1/9, Smith, 1.19M) reports, "In Gaza City on Saturday night, one man was killed during a gun battle between armed militants and the police, while elsewhere in town another armed group threatened to destroy the local offices of the satellite television station Al Arabiya, which is based in Dubai. The men were angry at the station for broadcasting a documentary that suggested that female Palestinian suicide bombers had been put under pressure by male relatives. Farther south that same day, gunmen cordoned off a neighborhood in Khan Yunis, Gaza's second largest city, while members of a well-known drug-smuggling family battled with the Palestinian police. Eleven policemen were reported wounded. And in Rafah, along the Egyptian border, armed men from the Abu Taha family stopped cars on Sunday, checking identification papers in hopes of catching members of Al Masri, the rival family with which they have been waging a deadly feud. While the world is watching Prime Minister Ariel Sharon's fight for life and wondering who will govern Israel in his absence, people in Gaza are far more preoccupied with growing lawlessness and tension between armed factions since Israel's withdrawal."

Iran Ready To Resume Nuclear Program. The Washington Times/AP (1/9, Karimi) reports, "Iran said yesterday that inspectors from the U.N. nuclear-watchdog agency would remove seals from some nuclear facilities by today, opening the way for Tehran to resume research on fuel production. The development heightened concerns in the West that Iran was moving toward building atomic weapons. … Inspectors from the International Atomic Energy Agency (IAEA) arrived in Tehran on Saturday to remove seals they had affixed to the research sites after Iran voluntarily agreed to stop all enrichment-related activities more than two years ago as a confidence-building measure."

Reuters (1/9, Hafezi) reports, "Iran said it was ready to remove U.N. seals at some atomic research and development sites on Monday, a move that would raise the stakes in Tehran's dispute with the West over its nuclear program. European Union and U.S. officials say that, if Iran goes ahead with the move, diplomatic efforts to settle the issue would be endangered and that could lead to Tehran being referred to the U.N. Security Council for possible sanctions."

EU, IAEA Urge Iran To Rethink Nuclear Program's Resumption. The Financial Times (1/9, Smyth, Minder) reports, "The move brought predictable condemnation from the European Union, which has led international negotiations with Tehran over its nuclear programme. … Iranian and EU officials are due to meet on January 18 in Vienna. Iran has backed away from a comprehensive suspension of nuclear activities begun two years ago to calm international fears it wanted to develop atomic weapons. It is now approaching the most sensitive suspended part of the programme, the actual enrichment of uranium. The nature and extent of the resumed research and development remained unclear yesterday, with the International Atomic Energy Agency, the UN watchdog, seeking clarification after Iranian officials failed to appear for a meeting in Vienna last Thursday. Mohamed ElBaradei, head of the agency, urged Iran to co-operate with the UN agency in an interview with the UK's Sky News."

Iran, Russia To Continue Enrichment Discussions Next Month. The AP (1/9) reports, "Russian officials, meanwhile, conferred with Iranian counterparts here about Moscow's proposal that both countries conduct uranium enrichment, a process that can produce nuclear fuel for reactors or weapons, on Russian territory. They agreed to continue those talks next month."

Jordan Passes Measure Preventing Surrender Of US Citizens To ICC. Reuters (1/9) reports, "Jordan's parliament on Sunday approved a law that prevents Amman handing over U.S. citizens accused of war crimes to the international criminal court, lawmakers said. … Jordan's pro-government 110-seat parliament voted by a large majority in favor of the law which was viewed by rights bodies and some deputies as a violation of Jordan's obligations under the court's founding Rome Statute and eroded its sovereignty. Lawmakers said the law requires Jordan to refuse to hand over to the ICC persons accused of war crimes if they are U.S. nationals and non-nationals working for the U.S. government. Instead, Jordan would be required to surrender them to the custody of the U.S. government, in apparent contravention to Jordan's obligations to the ICC."

King Abdullah To Participate In National Prayer Breakfast. The Washington Times (1/9, Duin, 90K) reports, "Jordan's King Abdullah II, whose interfaith efforts over the past year impressed Catholics, Jews and Muslims alike, will have a supporting role at this year's National Prayer Breakfast, according to a key aide. … Plans are to have the king offer a prayer or say a few words at the Feb. 2 breakfast, then give the keynote speech at a lunch for evangelical leaders that same day."

Georgian President Says Russia Exerts Energy Control Over Former Soviet States. Mikheil Saakashvili, President of the Republic of Georgia, writes in the Washington Post (1/9, A19, 744K), "Last week Russia announced that it would halt and then -- not long after -- that it

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was restarting natural gas shipments to Ukraine. It was a momentary crisis that should have wide-ranging ramifications for the economic security of Europe and raise questions about any notion of a role for Russia as a reliable energy supplier. Russia's arbitrary cutoff sent a clear message to the European Union: There can be no energy security when an undependable neighbor is willing and able to use its energy resources as a weapon in political influence. … Russia uses not only its energy supplies but also the vast energy transportation network that former Soviet states inherited -- and depend on -- to exercise energy control." Saakashvilli adds, "For Georgians, our path is clear: We are moving aggressively to diversify our energy sources and transportation networks. The recently completed Baku-Tbilisi-Ceyhan pipeline, which brings natural gas from Azerbaijan to Turkey and crosses Georgia is a critical piece of this effort. For Europe, the Black Sea states hold the key for new routes to bring in energy supplies from the Middle East and Central Asia. We are willing to work closely both with our European partners and with Russia to make the whole system transparent, predictable and immune to -- or insulated from -- political shocks."

Haitian Elections Postponed Again. The Christian Science Monitor (1/9, Harman, 61K) reports, "Sunday was supposed to be election day in Haiti. Only it never happened. Again. … Preparations for the first vote here since a rebellion ousted President Jean-Bertrand Aristide nearly two years ago have fallen short. 'The best you can say is that this process has been a political, technical, logistical, and financial fiasco,' says Mark Schneider, senior vice president of the International Crisis Group in Washington, D.C. Originally scheduled for Nov. 6, and subsequently postponed four times, Sunday's voting day came and went here without a vote being cast. Constitutionally, a new government must be in place by Feb. 7. That will not happen, but officials announced Sunday that Feb. 7 will be the new election date."

Haitian Business Leaders Call For General Strike. USA Today (1/9, Harman, 2.31M) reports, "Business leaders called for a general strike today, two days after the commander of the U.N. peacekeeping force in Haiti was found dead of an apparent suicide. The strike, orchestrated by Haiti's largest business association, was organized before the death of Lt. Gen. Urano Teixeira da Matta Bacellar on Saturday. It was called to protest growing lawlessness and to pressure the multinational United Nations force under Bacellar's command to get tough with gangs. … The Brazilian commander's death comes amid growing anarchy in the capital, particularly in the sprawling Cité Soleil slum."

Turkey Says Half-Dozen More May Have Bird Flu. ABC World News Tonight (1/8, story 8, 2:30, Woodruff) reported that Turkish health officials "say they believe half a dozen more people may have been infected with the deadly bird flu" in the "first cases from the virus of birds jumping to humans outside of China and Southeast Asia."

The Washington Post (1/9, A16, Sipress, 744K) reports "the preliminary test results, which must still be confirmed by the World Health Organization, came days after a teenage brother and sister from a village in the far east of Turkey died from the H5N1 strain of bird flu in the first confirmed human cases of the disease outside Southeast Asia and China. Bird flu was also suspected in the death of a third sibling, but test results remain inconclusive. Turkish medical authorities reported Sunday that as many as 10 Turks have been infected. Some of these cases have appeared in family clusters, raising concern that the disease might have begun spreading more easily among people. But international health experts said they find it more likely that the human cases in Turkey were caused by contact with infected birds, when children were playing with slaughtered chickens or crawling into henhouses, for example."

The New York Times (1/9, Rosenthal, 1.19M) reports, "A flurry of new reports of avian influenza in humans and animals emerged Sunday from various parts of Turkey, and international health officials said they had come to believe that the disease had been simmering in the eastern part of the country for months, even though it was reported there only in late December. A team of experts, including representatives of the World Health Organization, accompanied by the Turkish health minister, was scrambling to determine the full extent of the outbreaks. The group was heading by bus on Sunday to the worst-hit areas in and around the city of Van, where the airport was closed by severe weather."

Russia, Iran Take Steps To Diminish Exposure. The Financial Times (1/9, Boland, Jack) reports, "Iran closed a border crossing with Turkey on Sunday and senior Russian health officials advised holidaymakers against visiting the country as the bird flu virus spread to the outskirts of the capital Ankara. … Turkey has been culling poultry for days to try to contain the bird flu outbreak.'

Conservatives Continue To Lead In Run-Up To Canadian Elections. USA Today (1/9, 2.31M) reports, "After 12 years of Liberal Party rule in Canada, Conservatives are making a contest of national elections Jan. 23. Liberal Prime Minister Paul Martin squares off tonight in a nationally televised debate with Conservative Party leader Stephen Harper. Pollsters say Harper's underdog Conservatives have seized the momentum in the campaign. Canada last had a Conservative-led government under Brian Mulroney in 1993. … Although all the results are within the margins of error, five recent national polls show Conservatives leading by 2-5 percentage points. The latest poll, released Sunday by SES

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Research, shows Conservatives would get 34% of the vote and Liberals 32% if elections were held now. The far-left New Democratic Party (NDP), the separatist Bloc Quebecois and the Green Party split the remainder. A large number of Canadians — 17% — are undecided and could determine the outcome of the elections, according to the SES poll done for CPAC, a public affairs cable TV channel similar to C-SPAN."

Man Shot At Border Is Top News In Mexico. Under the headline "At Border, Fatal Shot Still Rings," the Los Angeles Times (1/9, Marosi, 958K) reports, "From his rickety apartment in the shanty-lined hills of Colonia Libertad, Giovanni Rubio said he witnessed a Border Patrol agent fatally shoot a man who had crossed onto US soil. 'We want him electrocuted, and we want to watch,' said Rubio, 22, referring to the agent whose actions sparked an international furor. Homeland Security Secretary Michael Chertoff, visiting San Diego last week, offered his own take on the increasingly volatile situation on the border: 'Anybody who assaults an agent is asking for trouble.' The differing reactions to the shooting on one of the most violence-prone stretches along the 2,000-mile border with Mexico illustrate the deepening cultural gulf between two nations separated by an increasingly fortified frontier." The Times adds, "In Mexico, the Dec. 30 shooting of Guillermo Martinez Rodriguez, 18, topped media coverage all last week — 'Shot in the back,' blared one headline — and prompted President Vicente Fox's administration to make a formal request for an investigation. … Mexican media have portrayed Martinez as a hard-working father of two who had crossed into the US in search of work. But Border Patrol officials said Martinez was a smuggler who had been arrested 11 times on suspicion of guiding migrants across the border."

In Caracas, Belafonte Calls Bush "Greatest Terrorist In The World." The AP (1/9, James) reports, "The American singer and activist Harry Belafonte called President Bush "the greatest terrorist in the world" on Sunday and said millions of Americans support the socialist revolution of Venezuelan leader Hugo Chavez. Belafonte led a delegation of Americans including the actor Danny Glover and the Princeton University scholar Cornel West that met the Venezuelan president for more than six hours late Saturday."

Hun Sen Cracking Down On Cambodia's Remaining Opposition Groups. The New York Times (1/9, Mydans, 1.19M) reports that in Cambodia the "harshest political crackdown in years is under way" with "some analysts" describing it as "the final stage in Prime Minister Hun Sen's drive to consolidate unchallenged power. Over the past year, he has choked off the last effective political opposition while continuing to marginalize the monarchy, manipulate the courts and intimidate labor unions and other civic groups. … Now, with a series of arrests and lawsuits on defamation and related charges, Mr. Hun Sen is for the first time directly attacking the human rights groups that, by default, serve as a de facto democratic opposition."

Brazil Succeeds In Creating Cost-Effective Ethanol. The Wall Street Journal (1/9, A1, Luhnow, Samor, 2.11M) reports, "After nearly three decades of work, Brazil has succeeded where much of the industrialized world has failed: It has developed a cost-effective alternative to gasoline." Ethanol made from sugar cane is "an option that's available at 29,000 gas stations from Rio to the Amazon. A comparable tank of gasoline would have cost him $36. … At current prices, Brazil can make ethanol for about $1 a gallon, according to the World Bank. That compares with the international price of gasoline of about $1.50 a gallon. Even though ethanol gets less mileage than gasoline, in Brazil it's still cheaper per mile driven. As a result, ethanol now accounts for as much as 20% of Brazil's transport fuel market."

More Than Two Million Muslims In Mecca For Hajj. ABC World News Tonight (1/8, story 8, 2:30, Woodruff) reported that "more than two million Muslims" are making the ritual hajj in Mecca. The "pilgrimage has been marred by the deaths of 76 people, when a pilgrims' hostel collapsed."

John Paul II's Assailant To Be Freed This Week. NBC Nightly News (1/8, story 4, 1:00, Seigenthaler) reported that Mehmet Ali Agca, who tried to assassinate Pope John Paul II in 1981, "is expected to be freed from a Turkish prison sometime this week." The Pope "publicly forgave his attacker, who later was pardoned at the Pontiff's urging."

The New York Times (1/9, Arsu, 1.19M) reports Agca "served 19 years in Italy for shooting the pope and then was sent back to Turkey, in 2000, and has been in prison since then for killing Abdi Ipekci, a newspaper editor, in 1979."

The Washington Post (1/9, A12, Hacaoglu, 744K) reports, "His motive for shooting John Paul in the abdomen on May 13, 1981, remains unclear."

US, South Korea Urged To Enter Into Free Trade Agreement. In an op-ed for the Financial Times (1/9) William Rhodes, chairman of the US-Korea Business Council and senior vice-chairman of Citigroup, writes, "In recent months, there has been increasing discussion among business and government leaders in the US and South Korea about launching negotiations for a free trade agreement. This would bring major economic benefits to both the US and South Korea, the world's tenth largest economy, and strengthen one of America's most important Asian alliances. For many years, economic ties between South Korea and the

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US have been close – it is America's seventh largest trading partner. China recently surpassed the US as South Korea's largest export market, although the US continues to be the largest source of foreign investment into South Korea, mainly in financial services and manufacturing."

Multinational Trade Organizations Said To Have Lost Power. The Washington Post (1/9, A18, 744K) editorializes, "The latest round of tariff-cutting talks under the auspices of the WTO is stalling, not because countries oppose trade but because they do not want to make concessions in this multilateral forum. Ambitions to deepen the WTO's power to settle disputes beyond trade into labor and environmental issues have (fortunately) fizzled, while WTO rulings against protectionist European food regulation or American cotton subsidies don't (unfortunately) cause those policies to be reformed quickly. The same story holds for NAFTA. In the 1990s there was talk of building NAFTA tribunals on labor and the environment into influential voices. It hasn't happened."

NYTimes Criticizes US Corporation's Support For Indonesian Military. The New York Times (1/9, 1.19M) editorializes, "Freeport-McMoRan, an American company that operates a giant open-pit copper and gold mine in Papua, is a major contributor to Indonesia's economy. The company is also one of Indonesia's most reckless polluters and a source of hard cash - cash the company concedes is protection money - for the Indonesian military, which has one of the worst human rights records anywhere. … Freeport's environmental record and its support for the Indonesian military have caused rumbles in Washington, particularly among human rights advocates like Patrick Leahy." The Times concludes, "Setting aside for the moment Freeport's environmental horror show, the company is not doing Indonesia's civilian authorities any favors by underwriting the generals. Freeport describes its payments as an essential cost of doing business. But it appears not to have measured the costs to democracy."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Linked Charities Bank On The Chavez Name."
"Mission Missing Its Mark."
"Hopes Founder On 'Big Lie'."
"Polar Bears Face New Toxic Threat: Flame Retardants."
"GOP Puts Lobbying Scandal In Bull's-Eye."
"At Border, Fatal Shot Still Rings."
"U.S. Crash In Iraq Kills 12."

USA Today:
"Goodbyes Begin For W.Va. Miners."
"Fatal Crashes."
"'Next frontier' In Heart Disease: Undoing It."
"17 Killed In Crash, Attacks In Iraq."

New York Times:
"Diabetes and Its Awful Toll Quietly Emerge As A Crisis."
"More Companies Ending Promises For Retirement."
"Lobbyist's Firm Escapes Fallout From A Scandal."
"Issues And (Possible) Answers: A Primer On The Alito Hearings."
"A Commitment To Marriage, And To New Orleans."

Washington Post:
"12 Killed In N. Iraq Helicopter Crash."
"Colleges Learn To Be Good Neighbors."
"Cat Owner Turns To DNA In Pet Whodunit, But Case Isn't Closed."
"Hearings Today."
"Proving His Mettle In Reagan Justice Dept.."
"GOP Plots Ascent On Ehrlich's Heels."

Washington Times:
"Boehner Takes On Blunt."
"Iraqis Recieve Training In Iran."
"Schumer Warns Of Filibuster Of Alito."
"Military Academics See Less Harassmanent."
"Adams Morgan Crime Down With More Police."
"Jordan's King To Speak At US Prayer Breakfast."
"Italian Court To Decide If Teaching Jesus Breaks Law."

Detroit Free Press:
"Car Wars '06 Begin."
"New Models Position Lincoln To Chase Cadillac."

Atlanta Journal-Constitution:
"12 Troops Die In Iraq Copter Crash."
"Bill Would Channel Schools' Spending."
"Democrats Threaten Filibuster Alito."
"Shock Jock Boosts Stock Of Burgeoning Satellite Studio."

Dallas Morning News:
"Young's Next Stop Is NFL."
"Alito Memos Likely Targets."
"Letter Confirms Site Of Bluesman's Recordings."
"Copter Crash Caps Bad Week In Iraq."
"Minorities Don't Feel Top-Ticket Excitement."
"DeLay Ends Leadership Fight."

Houston Chronicle:
"Attempt To Bring Sharon Out Of Coma Begins."
"Poll: Most Texans Back Stem Cell Research."
"Bit Of New Orleans For Isle Mardi Gras."
"Patience Only Remedy For Drug Plan Confusion."
"Peer Pressure Shifting Driver's Ed Gears."

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"U.S. Helicopter Crash Kills 12 In Iraq."
"Race For GOP Whip Is On."

Story Lineup From Last Night's Network News:
ABC: Iraq Helicopter Crash; WV Miner Funerals; WV Mine Survivor; Sharon Condition; Alito Confirmation; Alito Rally; CO Wildfires; Pension Plans; Healing Prayer Study; Muslim Pilgrimage; Avian Flu-Turkey; Prince William-Military.
CBS: Preempted By NFL Playoffs.
NBC: WV Mine Accident; Iraqi Violence; Sharon Condition; Pope Assassin; Alito Confirmation; Abortion Stances; Detroit Auto Show; New Orleans Colleges Reopen.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: WV-coal miners' funerals; Israel-Sharon's condition; Alito hearings; Schwarzenegger-motorcycle accident.
CBS: Israel-Sharon's condition; WV-coal miners' funerals; Schwarzenegger-motorcycle accident; Alito hearings; Young-NFL draft.
NPR: Alito hearings; Israel-Sharon's condition; WV-coal miners' funerals; Gas prices; Iran-nuke program; Atlanta-Asians protest meth sting; NFL Playoffs.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH – 7:15 a.m. Breakfast with Supreme Court Nominee Samuel A. Alito.

10:25 a.m. Remarks on No Child Left Behind, North Glen Elementary School, Glen Burnie, Md.

VICE PRESIDENT CHENEY – No public schedule.

US Senate: JUDICIARY _ 12 p.m. Full Committee. Begins confirmation hearing for Supreme Court nominee Judge Samuel Alito. Opening statements by senators, formal introduction of Alito, Alito's opening statement. Location: Room 216, Hart.

US House: No scheduled events.

Other. DISPARITIES-HEALTH _ Health and Human Services' Office of Minority Health convenes a three day national leadership summit on eliminating racial, ethnic and physically challenged disparities in health. With Michael Leavitt, Secretary of Health and Human Services, Jennifer Howse, president, March of Dimes; Sandra Gadsen, president, National Medical Association; and others. 8:30 a.m. - 9:30 a.m. Keynote address by HHS Secretary Michael Leavitt on improving the quality of healthcare for all Americans. 9:30 a.m. - 10:30 a.m. Highlights from Carolyn Clancy, MD, Director, Agency for Healthcare Research and Quality, on the National Healthcare Disparities Report. 10:45 a.m. - 12 p.m. Keynote and closing remarks, Dr. Christina Beato, acting assistant Secretary for Health. Location: Grand Hyatt Hotel, 1000 H St. NW. Contacts: Linda Allen, 703-231-3363

ABORTION-ALITO _ 9 a.m. The Traditional Values Coalition holds a news conference where women hurt by abortion speak out on the need for Supreme Court justices who will reverse Roe V. Wade. With Andrea Lafferty, TVC; Anne Newman, Operation Outcry; Karen Bodle, Harrisburg, PA; Luana Stoltenberg, Davenport, IA; and others. Location: In front of the Supreme Court. Contacts: Amy Skeen, 202-547-8570

NEW ORLEANS-KATRINA _ 12 p.m. - 1 p.m. National Press Club newsmaker on "New Orleans and the Nation After Katrina: A Changing Story." With Jason Berry, music columnist, New Orleans Magazine, and Lolis Eric Elie, New Orleans Times-Picayune. Location: National Press Club, 14th and F Sts. NW. Contacts: Ron Baygents, 202-250-1635

JAPAN-POLITICS _ 3 p.m. - 4:30 p.m. The Center for Strategic and International Studies hosts remarks on Japanese politics and bureaucracy by Kazuo Aichi, newly returned to office after a 20 year absence, member of the Japanese House of Representatives. Location: B-1 conference room, CSIS, 1800 K St. NW. Contacts: Andrew Schwartz, 202-775-3242

IRAQ-KIMMITT _ 6 p.m. - 7:30 p.m. Deputy Treasury Secretary Robert Kimmitt will discuss the Treasury's view of the Iraqi economy and economic aspects of reconstruction. Part of the Council on Foreign Relations series, "Iraq: The Way Forward." Location: CFR, 1779 Massachusetts Ave., NW. Contacts: n/a, 202-518-3428. Notes: RSVP required. Council members and accredited journalists only. Reception at 6 pm, meeting begins 6:30 pm.

VIETNAM-AWARDS _ 6 p.m. - 8 p.m. 6 p.m. - 8 p.m. Vietnam Dream for Success holds an award ceremony to recognize contributions to educational opportunities for disadvantaged children and women in Vietnam. First Lavang Awards will be presented to Jan Scruggs, Vietnam Veterans Memorial Fund founder, for his work for landmine removal and educational support in Vietnam; and Father Vincent Rigdon, director of the Office of the Missions, Archdiocese of Washington. Location: French Embassy, 4101 Reservoir Rd, NW. Contacts: Lisa Gough (VVMF), 202-393-0090 ext 109

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: SUNDAY, JANUARY 8, 2006 7:45 AM EST

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TERRORISM NEWS:

Poll: Most Want Court OK For Gov't Taps (AP-Y2)

By Katherine Shrader

AP, January 8, 2006

A majority of Americans want the Bush administration to get court approval before eavesdropping on people inside the United States, even if those calls might involve suspected terrorists, an AP-Ipsos poll shows.

Over the past three weeks, President Bush and top aides have defended the electronic monitoring program they secretly launched shortly after Sept. 11, 2001, as a vital tool to protect the nation from al-Qaida and its affiliates.

Yet 56 percent of respondents in an AP-Ipsos poll said the government should be required to first get a court warrant to eavesdrop on the overseas calls and e-mails of U.S. citizens when those communications are believed to be tied to terrorism.

Agreeing with the White House, some 42 percent of those surveyed do not believe the court approval is necessary.

"We're at war," Bush said during a New Year's Day visit to San Antonio. "And as commander in chief, I've got to use the resources at my disposal, within the law, to protect the American people. ... It's a vital, necessary program."

According to the poll, age matters in how people view the monitoring. Nearly two-thirds of those between age 18 to 29 believe warrants should be required, while people 65 and older are evenly divided.

Party affiliation is a factor, too. Almost three-fourths of Democrats and one-third of Republicans want to require court warrants.

Cynthia Ice-Bones, 32, a Republican from Sacramento, Calif., said knowing about the program made her feel a bit safer. "I think our security is so important that we don't need warrants. If you're doing something we shouldn't be doing, then you ought to be caught," she said.

But Peter Ahr of Caldwell, N.J., a religious studies professor at Seton Hall University, said he could not find a justification for skipping judicial approvals. Nor did he believe the administration's argument that such a step would impair terrorism investigations.

"We're a nation of laws. ... That means that everybody has to live by the law, including the administration," said Ahr, 64, a Democrat who argues for checks and balances. "For the administration to simply go after wiretaps on their own without anyone else's say-so is a violation of that principle."

The eavesdropping is run by the secretive National Security Agency, the government's code-makers and code-breakers.

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Charles Franklin, a political science professor at the University of Wisconsin-Madison, said most people think that the eavesdropping is aimed at foreign terrorists, even when the surveillance is conducted inside the country.

"They are willing to give the president quite a lot of leeway on this when it comes to the war on terror," said Franklin, who closely follows public opinion.

Some members of Congress have raised concerns about the president's actions, but none of those lawmakers who have been briefed on the program has called for its immediate halt.

The chairman of the Senate Judiciary Committee, GOP Sen. Arlen Specter of Pennsylvania, has promised hearings this year. Five members of the Senate Intelligence Committee, including GOP Sens. Olympia Snowe of Maine and Chuck Hagel of Nebraska, have called for immediate inquiries.

On top of that, a memorandum circulated Friday from two legal analysts at the Congressional Research Service concluded that the justification for the monitoring may not be as strong as the administration has argued.

The NSA's activity "may present an exercise of presidential power at its lowest ebb," the 44-page memo said.

Bush based his eavesdropping orders on his presidential powers under the Constitution and a September 2001 congressional resolution authorizing him to use military force in the fight against terrorism.

The administration says the program is reviewed every 45 days and that Bush personally reauthorizes it. His top legal advisers argue its justification is sound.

The issue is full of grays for some people interviewed for the poll, including homebuilder Harlon Bennett, 21, a political independent from Wellston, Okla. He does not think the government should need warrants for suspected terrorists.

"Of course," he added, "we all could be suspected terrorists."

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Associated Press writers Will Lester and Elizabeth White contributed to this report.

Eavesdropping Poll Quotes (AP-Y2)

By The Associated Press

AP, January 8, 2006

Comments from some of the people interviewed last week for an Associated Press-Ipsos poll on public attitudes about eavesdropping on communications between people in the U.S. and suspected terrorists:

"I believe in people's privacy but I believe in protection, too. If something's not right I think he'd (Bush) have a right to do it. If there's a dangerous situation I don't think he's got to ask anybody." — Tanya Fowler, 46, of Rock Hill, S.C.

"One thing as an American is: I value my freedom. That's guaranteed to me in the Constitution. President Bush has clearly violated at least two articles of the Constitution. He's no better than the terrorists he's supposedly fighting." — Scott Smith, 41, of Gloucester, Mass.

"We've got people that are attacking our country and we can't just let them do so without resisting them and trying to figure out what they're doing." — Gordon Tanner, 70, of Somerville, Ala.

"I think the laws apply to him like they do to everybody else. Controls are in place for a reason, they should be abided by. The wiretapping was warranted, but there's a right way to do things. Rules apply to everybody." — Diane Nardone, 50, of Westerly, R.I.

"There should be an investigation first before shutting it down — they might be in the middle of discovering something." — Dee Fowler, 39, of Iowa City, Iowa.

"I think they should have to get warrants. There are pros and cons to both sides. It's hard to tell who would be potential bad guys." — Harlon Bennett, 21, of Wellston, Okla.

Our Presidential Era: Who Can Check The President? (NYT)

By Noah Feldman

The New York Times, January 8, 2006

I. OUR PRESIDENTIAL ERA

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Not since Watergate has the question of presidential power been as salient as it is today. The recent revelation that President George W. Bush ordered secret wiretaps in the United States without judicial approval has set off the latest round of arguments over what the president can and cannot do in the name of his office. Over the past few years, the war on terror has led to the use of executive orders to authorize renditions and the detention of enemy combatants without trial - for which the Bush administration has been called to account by our European allies. The treatment of detainees has also given rise to concerns in Congress about the prerogatives of the chief executive: both houses recently voted to limit the president's authority to employ C.I.A. or other executive agents to engage in cruel and inhumane interrogations. The limits of presidential power will almost surely be a major topic of discussion during Samuel A. Alito Jr.'s Supreme Court confirmation hearings, which are scheduled to begin this week.

The stakes of the debate could hardly be higher: nothing is more basic to the operation of a constitutional government than the way it allocates power. Yet in an important sense, the debate is already long over. By historical standards, even the Bush administration's critics subscribe to the idea of a pre-eminent president. Administrative agencies at the president's command are widely understood to be responsible for everything from disaster relief to drug approval to imposing clean-air standards; and the president can unleash shock and awe on his own initiative. Such "presidentialism" seems completely normal to most Americans, since it is the only arrangement most of us have ever known.

For better or worse, though, this is not the system envisioned by the framers of the Constitution. The framers meant for the legislative branch to be the most important actor in the federal government: Congress was to make the laws and the president was empowered only to execute them. The very essence of a republic was that it would be governed through a deliberative legislature, composed carefully to reflect both popular will and elite limits on that will. The framers would no sooner have been governed by a democratically elected president than by a king who got his job through royal succession.

The transformation of the United States from a traditional republic to a democratic nation run in large measure by a single executive took a couple of hundred years. Constitutional evolution, like its counterpart in the natural world, has occurred sometimes gradually and sometimes in catastrophic jolts, like those brought about by war or economic crisis. The process has not been entirely linear: presidential power grabs have often been followed by a Congressional backlash, as in the wake of Richard Nixon's presidency. But the overall winner has unquestionably been the president, who has reached heights of power that the framers would scarcely have imagined. The modern presidency, as expressed in the policies of the administration of George W. Bush, provides the strongest piece of evidence that we are governed by a fundamentally different Constitution from that of the framers. While any constitution must evolve over time to meet new circumstances and challenges, there is reason to think that, when it comes to presidential power over national security, the latest developments have gone too far.

The rise of the presidency began with the Louisiana Purchase, which in 1803 doubled the landmass of the United States. History taught the framers that, just as Rome changed from republic to empire with conquest of new lands, territorial acquisition would lead to the centralization of political power. Sure enough, Thomas Jefferson's decision to buy the territory without seeking a constitutional amendment or advance Congressional approval amounted to a huge expansion of presidential authority. Jefferson entered office as a skeptic of the national government's power and even privately suggested that the purchase was unconstitutional. In overcoming his own republican instincts and arranging the purchase secretly, he demonstrated how the office of the presidency would come to serve its own interests, swaying the men holding it to strengthen not simply their own authority but also that of the institution itself.

Three decades later, Andrew Jackson's presidency marked another leap forward in presidential power. His contribution was his claim to represent the country, in its entirety, more directly and democratically than the congeries of local politicians who made up Congress. This rhetorical stance, coupled with the expansion of voting rights to white men without property, gave him the political muscle to veto the national bank and stand up to Congress in the name of the common men who had voted for him.

By the middle of the 19th century, with the admission to the Union of Florida, Texas and California, the United States became a continental empire. Such an empire called for an "imperial presidency," as Arthur M. Schlesinger Jr. suggested in his classic 1973 book of the same name. With the onset of the Civil War, the threat to the nascent empire led Abraham Lincoln to govern without Congress and to suspend access to the courts. When in 1898 William McKinley conquered the Philippines and

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chose to rule it, the imperial metaphor became still more apt: the United States had become, for the first time, the proprietor of whole nations whose peoples would never vote in its elections and whose governors reported directly to the president.

In the 20th century, the Great Depression helped propel the presidency to its current level of dominance. The administrative agencies that were created during Franklin Delano Roosevelt's New Deal were a response to the tremendous complexity and growth of the national economy. An overwhelmingly Democratic Congress went along with the Roosevelt administration, giving the agencies broad discretion in regulating the economy and addressing workers' welfare. Over time, as the agencies expanded to administer health and safety regulations, Congress realized that it was more convenient to pass the buck to agencies than to deal with hard policy questions on its own. A congressman could take credit for an agency's action when it was convenient and blame the agencies when they adopted policies that his constituents disliked. It is now taken for granted that the president is in charge of the vast administrative apparatus that makes most of the important domestic-policy decisions in the country.

Today, of course, the main arena for the extension of presidential power is the realm of national security. The president's power to use force has grown enormously since the founding. The framers worried that a standing army at the president's beck and call would encourage him to subvert legislative independence by force, and so the Second Amendment gave Americans a right to bear arms in order to form well-ordered militias that would protect "a free state" - not only from the incursions of foreign powers but also from an overweening central government. Until the 20th century, a president who called the military into action did not have much to work with.

But as America emerged as a world power, Congress began to ignore the framers' concern, enhancing the size and might of the regular army until presidents could enter even major conflicts on their own. Presidents from both parties used the ongoing hostilities of the cold war to strengthen their military prerogatives during the conflicts in Korea and Vietnam. Despite the passage of the War Powers Act of 1973, which tried to reassert Congress's role in going to war, the presidency ended up more powerful than it had been before; no president has acknowledged the act's constitutionality. Even Bill Clinton was able to bomb Kosovo without asking Congress for permission.

The administration of George W. Bush, emboldened by the Sept. 11 attacks and the backing of a Republican Congress, has sought to further extend presidential power over national security. Most of the expansion has taken place in secret, making Congressional or judicial supervision particularly difficult. Administration lawyers have gone so far as to claim that the president as commander in chief is not bound by laws that ban torture because he is empowered by the Constitution to fight the nation's wars however he sees fit. A memo from the Department of Justice to the White House counsel dated Aug. 1, 2002, argued that any attempt to apply Congress's anti-torture law "in a manner that interferes with the president's direction of such core war matters as detention and interrogation of enemy combatants thus would be unconstitutional."

The administration has also suggested, in other memos, that the president may violate international treaties if necessary to fight the war on terror. By these lights, the United Nations Convention Against Torture, the leading anti-torture treaty, could constitutionally be violated even though the United States signed and ratified it, and even though the Constitution declares treaties to be "the supreme law of the land." Meanwhile, the administration takes the view that the anti-torture treaty does not apply to its actions outside the United States as a matter of law, but only, as Secretary of State Condoleezza Rice recently stated on a trip to Europe, "as a matter of U.S. policy." When added to the newly declared presidential right to arrest American citizens wherever they might be and detain them without trial as enemy combatants, these claims add up to what is easily the most aggressive formulation of presidential power in our history.

For the last four years, a Republican Congress has done almost nothing to rein in the expansion of presidential power. This abdication of responsibility has been even more remarkable than the president's assumption of new powers. In recent months, though, Bush's relative unpopularity, as reflected in opinion polls, has emboldened Congress to take some steps toward reasserting its oversight role. In addition to the new anti-torture legislation, there is talk of requiring regular reports on secret detentions; and last month Congress nearly allowed the U.S.A. Patriot Act to lapse, granting only a five-week extension instead of the full renewal sought by the administration. Still, political logic dictates that, as long as Republicans control Congress, its oversight will be cautiously managed so as not to harm the party or the party's next presidential candidate. And even accounting

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for a legislative backlash, history suggests that the presidency ultimately emerges stronger after a president makes new claims of his constitutional authority.

So what, if anything, should be done? If presidential power has been taken too far, who, if anyone, can impose limits on it?

II. WHAT THE COURT HAS DONE - AND MAY DO

The Supreme Court would seem to be the natural place to look for a restoration of the constitutional balance of powers. While Congress sat on its hands for most of the last five years, the court took on some of the most contentious problems of presidential power in a set of landmark decisions concerning detainees being held as enemy combatants. These cases were not just about civil liberties. They were also about the relative powers of Congress and the president under wartime conditions, and the court treated them as such.

The court's response to these crucial issues was to propose what is in effect a compromise between presidential power and Congressional authority. The most significant case concerned the detention of Yaser Esam Hamdi, an American citizen captured in Afghanistan and then held without trial in the United States. In June 2004, the court rejected the administration's view that it was authorized to arrest an enemy combatant anywhere and hold him indefinitely without trial. (The administration's argument was endorsed by Justice Clarence Thomas.) But the court also did not adopt the opposing view, expressed in a stinging dissent written by Justice Antonin Scalia, that an American citizen may not be detained without trial in the United States so long as the courts are open and Congress has not exercised its power to suspend the writ of habeas corpus.

Instead, the court concluded - over the disagreement of Justice David Souter - that Congress had in fact authorized the detention of enemy combatants, including American citizens. Yet at the same time, the court held that a suspected enemy combatant must be afforded the basic right to due process: to be given notice of the accusation against him and an opportunity to rebut that accusation before "a neutral decision maker." When push came to shove, however, the administration never gave Hamdi the hearing that the court promised him: he was "released" to Saudi Arabia without a hearing of any kind, on the condition that he renounce his United States citizenship.

The court's opinion in Hamdi's case seemed to exert a gravitational pull on the status and rights of the detainees at Guantánamo Bay. In a parallel case, the court addressed the Guantánamo issue only to say that those detainees - who are not United States citizens - were covered by the legal right to seek habeas corpus. The administration argued that since Guantánamo was part of Cuba, the habeas corpus statute did not apply there. When the court rejected this argument, the administration seemed to draw the lesson that it had better provide some sort of hearings for the Guantánamo detainees, as the court required for Hamdi. The administration decided to give those detainees hearings before commissions made up of military officers for the limited purpose of deciding whether they were, in fact, enemies of the United States. Not surprisingly, almost all these hearings have resulted in continued detention: only 38 of the more than 500 detainees were found not to be enemy combatants

Whatever their practical shortcomings, the court's decisions regarding Hamdi and the Guantánamo detainees still registered as a limitation on the unbridled presidential power that the administration asserted. But today, the Supreme Court that decided the detention cases is no more. Chief Justice William H. Rehnquist has since died and been replaced by John G. Roberts Jr.; and Justice Sandra Day O'Connor has offered her resignation contingent on the confirmation of her successor. If Samuel Alito takes her place, he and Roberts could change the balance significantly.

The change in the court's makeup is potentially significant, for the litigation of presidential power is just gathering steam. In addition to the likelihood that the court will hear a third prominent case concerning detention - that of Jose Padilla, an American citizen arrested at O'Hare Airport in 2002 and then detained in the United States without trial - it may well consider cases concerning the tapping of private conversations between terror suspects in the United States and persons abroad.

The revelation that President Bush directed the National Security Agency to eavesdrop (and use data-mining technology) on such communications without seeking warrants has raised the question of whether the president had the power to do so. The Foreign Intelligence Surveillance Act, or FISA, prohibits surveillance of this sort without a special warrant, so the administration has proffered several other justifications of its policy. It has argued that when Congress authorized the president to use force after Sept. 11, it implicitly repealed FISA's ban on warrantless surveillance. And it has also maintained that the president had the inherent constitutional authority to intercept the communications of foreign powers and their agents - regardless of whether

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Congress prohibited it. Reminiscent of the administration's position regarding torture, this argument relies upon the idea that the Constitution assigns certain foreign-affairs responsibilities to the president that exclude Congress from having any say in how he might exercise them.

As with the use of torture, the use of secret intelligence outside of the ordinary legal process makes it difficult even to discover the violation, much less challenge it legally. But that does not mean that the issue will not come before the Supreme Court. Although you would imagine that prosecutors are not using secret evidence in criminal trials in which defendants could invoke their Fourth Amendment rights against unlawful search and seizure, defendants in terror trials are now asking courts to force the government to disclose whether such illegal surveillance occurred. Released detainees have already filed civil suits against the government charging torture, detentions and renditions to foreign countries by United States personnel. Such suits could now include claims for unlawful surveillance. Civil-liberties advocates will also bring challenges to the surveillance practices that the president has now acknowledged. And when a new administration is elected, it is not impossible that criminal prosecutions could be brought against the intelligence officials who illegally authorized the wiretaps.

If the issue does reach the court by one or more of these avenues, there is good reason to suspect that both Roberts and Alito, should he be confirmed, will be operating under the influence of an expansive conception of presidential power. Both are products of a conservative movement that has provided the legal justifications for various aspects of the Bush revolution, and both held intensely political jobs in previous Republican administrations. Two decades ago, as a deputy assistant attorney general, Alito argued in a memo that the president should issue "signing statements" when approving legislation - an effort to give the president influence over the courts' power to say what the laws mean. And Roberts, while serving as an appeals court judge, joined an opinion in Hamdan v. Rumsfeld upholding the military commissions being used to try Guantánamo detainees. The court held that the Geneva Convention does not, on its own, create a private right that can be litigated in the courts - a position consistent with wide presidential authority but also conventional wisdom among United States courts dealing with treaty issues. (I submitted a friend-of the-court brief in that case on the right to confront witnesses and evidence.) Past experience does not, of course, necessarily determine a justice's views on the court. But given their profiles and clues from their writings, it is in any case extremely unlikely that the combination of Roberts and Alito would be less deferential to presidential power than the combination of O'Connor and Rehnquist.

III. HOW CONGRESS CAN REDEEM ITSELF

Even if the Supreme Court were inclined to resist efforts to expand presidential power, the truth is that the court cannot do much to restore Congressional authority. We often imagine that the court serves as a sort of neutral umpire controlling the warring political branches. But this is mostly myth. The justices of the Supreme Court are themselves actors in the struggle for power, and when they intervene, they think carefully about how their decisions will affect the court's own legitimacy and authority. Even when the court weighs in on the side of Congress, it often elevates its own powers at Congress's expense. By the very act of interpreting existing laws and declaring something to be within Congress's power (and not the president's), the court affirms that it, not Congress, is the entity capable of making the president listen. Likewise, when Congress allows the court to resolve a power struggle between itself and the executive branch, it effectively concedes that it lacks the will to use its own arsenal of tools to pressure the president.

Consider what happens when Congress actually tries to engage in oversight - for instance, demanding that the president turn over documents concerning prewar intelligence about weapons of mass destruction in Iraq. The president refuses, citing "executive privilege" - a term, by the way, absent in the text of the Constitution. What can Congress do when the president ignores its dictates? One option would be to stop cooperating with the presidential agenda on other issues. Another would be to suspend financing for some relevant program. Holding hearings would be a way to possibly broaden public awareness (though hearings are difficult to carry off without relevant documentation). The ultimate sanction, of course, would be to initiate impeachment proceedings. All of these approaches have costs, though. They would require coordinated action by the Congress and would draw public scrutiny to the issue. By going to the court and asking it to enforce a subpoena - or better, waiting for public-interest groups to do so, as with Vice President Dick Cheney's energy advisory commission - Congress avoids most of these costs.

Once the Supreme Court hears a case involving the balance of powers, the situation actually becomes worse for Congress. The court may find for the president. And even if the court does find that Congress's powers trump those of the

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president, and the president complies with its ruling, the logical implication is that the president is listening to the court when he was not willing to listen to Congress. This concern was evident in Scalia's dissent in the Hamdi case, in which he asserted that an American citizen in his home country is always entitled to a judicial hearing justifying detention - unless Congress suspends the writ of habeas corpus. To Scalia, the case was about Congress and the president: the former had not authorized the latter to detain citizens without a hearing. Yet far from functioning as a vote of confidence in Congress, Scalia's dissent made Congress look like the patsies that they had been throughout the Guantánamo detentions. Scalia was clearly angry at the president for violating a basic constitutional principle, to be sure. But his anger also reflected his frustration with Congress's reluctance to stand up for its rights.

So how can Congress redeem itself? It could start by clarifying that, in authorizing the president to use force after Sept. 11, it did not mean to give him a blank check to violate existing laws without even telling Congress about the violations. Then it could pass new laws that leave no doubt that it intends to bind the president and his staff on matters relating, for example, to the conduct of war. Senator John McCain's torture bill, for instance, seeks to do just that. In the face of repeated presidential assertions that inhumane treatment does not count as torture and that the president cannot be constrained when it comes to interrogation, the law expressly prohibits cruel interrogation techniques.

But laws that bind the president are, on their own, not enough. Congress must also create meaningful oversight programs with bite to make sure the laws on the books are actually obeyed. The recent proposed bill demanding regular reports from the director of national intelligence about detentions abroad is a step in this direction, but only a step. Without specific provisions stating the content of the testimony that the executive branch must provide, Congress is just asking for the president to elicit an opinion from his lawyers permitting him to ignore the law and then to violate the law secretly. Lest that seem far-fetched, recall that such memos were in fact elicited in the war on terror, and that the violations of our anti-torture laws that took place (according to any reasonable reading of those laws) occurred in facilities whose very existence was classified as a matter of national security. Indeed, even McCain's bill, which prohibits "cruel, inhuman or degrading treatment," could be gutted in practice by an interpretation limiting the meaning of those terms so as to permit existing interrogation techniques.

The chief advantage of oversight hearings is that officials must appear and testify under oath as to what the administration is in fact doing. A lie to a Congressional committee constitutes perjury. Disillusioning as it may be to admit, the threat of prison is probably the only sanction that can reliably assure that executive-branch officials, protected by secrecy laws and presidential orders that may themselves be classified, will come clean about what is going on in the war on terror. Even the most conscientious officials may make ambiguous statements that disclose only part of the truth, and that misleadingly - as when Condoleezza Rice answered questions about rendition and torture at a press conference in Ukraine in December.

Beyond oversight, a newly assertive Congress would also have to create ways to sanction the president if laws were violated. Ordinary criminal prosecution will rarely do the trick, since Congress cannot expect the president to initiate proceedings against himself or his employees for violating a law that he thinks is unconstitutional. The steps for enforcement should therefore come in part, at least, from Congress itself, which could specify upfront, for instance, that if a president were to violate the law, Congress would withdraw financing from certain programs or initiate impeachment proceedings.

With midterm elections coming in the fall, and the president's popularity having fallen, Congress may already be gearing up to take some such steps, as with the request for regular reporting on detention and Iraq and McCain's torture bill. A future Congress controlled by the Democrats would doubtless do much more. But the War Powers Act of 1973 provides a cautionary tale. Without strong and credible evidence that Congress will follow through, the laws Congress passes to limit the president can enter constitutional limbo, their status unknown and their effect uncertain.

The Supreme Court can do little to help Congress along this path, but the court could make the work of restoration harder for Congress were it to rule in favor of the Bush administration's theories of executive power. The judicial approval of an inherent executive power to torture or eavesdrop, laws to the contrary notwithstanding, would be a huge blow to Congress.

The allocation of power within the government is not determined simply by reading the Constitution and figuring out what it says. To the contrary, the balance of powers is established through a game of give and take, a struggle in which each branch fends for itself. An excellent example is the Supreme Court's ruling in Bush v. Gore. The important fact about that decision was not that in assuring President Bush's election, it inaugurated a period of single-party government. It was, rather, that the court

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deliberately chose to intervene in a process laid out in the Constitution for dealing with electoral disputes - a process according to which Congress, not the court, was given the power to choose the president. Bush would likely have ended up president in either case; but once the court wrested from Congress the constitutional power to decide who won, few in Congress seriously disputed the legitimacy of its actions. The court had spoken, and its decision was treated as final.

The lesson for the balance of powers is a deep one: the prize of power goes to the bold. Right now, the presidency and its supporters have the upper hand. For Congress to regain some of its constitutional prominence, the court will have to keep a level head, and the representatives themselves will have to be willing to take some chances. Such an effort need not be restricted to national security issues - it would be nice if Congress also took more responsibility for making many of the hard domestic policy choices that it currently leaves to administrative agencies. But the national security problem is more pressing, and for the moment it offers Congress the best chance to redeem itself from its recent inaction.

It is customary, when making a plea on behalf of Congress, to give the legislature special consideration because it is the branch originally designed to represent the people. But this is not wholly justified: after all, nowadays the people directly elect the president, and the politicization of Supreme Court nominations ensures a fair amount of popular input into the composition of the court. It is also not certain that a rejuvenated Congress would be more effective in supervising the president than the Supreme Court. The real reason, then, to hope that Congress will resurrect its lost powers is that the balance of powers remains, as the framers thought, the best guarantor of liberty in a constitutional government. The basic fact of presidential power is now irreversible. No one denies that a strong executive is needed to respond to the threat of terrorism. But this just means that the presidency requires greater vigilance than ever to prevent violations of liberty.

No court alone can do the job of protecting liberty from the exercise of executive power. For that most important of tasks, the people's elected representatives need to be actively involved. When we let them abdicate this role, the violations start to multiply, and we get the secret surveillance and the classified renditions and the unnamed torture that we all recognize as un-American. Our Constitution has changed enormously over the last two centuries, and it is sure to change much more in the future. Just how it changes, though, is up to us.

While Congress Slept (LAT)

The Los Angeles Times, January 8, 2006

THE PERFORMANCE OF CONGRESS during much of the Bush administration has been, to put it kindly, undistinguished. But revelations that the National Security Agency may have violated the law by secretly eavesdropping on U.S. citizens offer Republican congressional leaders a chance to redeem themselves — and their institution.

It remains to be seen whether the spymasters were merely overzealous in their efforts to track international terrorists or deliberately snooped on Americans. Congressional hearings on the NSA affair may answer that question. What is alarmingly clear, however, is that President Bush has consistently overreached in his claim to expanded powers as commander in chief during wartime. It is up to Congress to restrain those powers. His duty to protect the nation does not place him above the law.

Bush's claim to disturbingly broad wartime powers first surfaced in the infamous 2002 "torture memo" written by John Yoo, then a lawyer in the Justice Department and now a professor at UC Berkeley's Boalt Hall School of Law.

The most quoted part of the memo is its definition of torture as only the extreme standard of pain accompanying "serious physical injury such as death or organ failure." The much scarier part comes a dozen pages earlier, with this assertion of unfettered presidential wartime power: "In light of the president's complete authority over the conduct of war, without a clear statement otherwise, we will not read a criminal statute as infringing on the president's ultimate authority in these areas." Translation: Fighting a war is more important than obeying the law. If a law interferes with our strategy, we can ignore it.

Was Bush chastened by the political repudiation of a 90-9 vote in the Senate in favor of Arizona Republican Sen. John McCain's amendment banning torture? Not in the least. When he signed the law, Bush announced that "the executive branch shall construe [the law] in a manner consistent with the constitutional authority of the president … as commander in chief" to further the goal "of protecting the American people from further terrorist attacks." Translation: We can override this law whenever necessary.

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Congress also stood by when the administration overreached with its novel definition of enemy combatants, who are not entitled to challenge their own detention. Congress could have intervened, but instead the courts have had to sort out the mess. Even after the bipartisan outrage that greeted the NSA spying, the only official protest Congress could muster was a short delay in the renewal of the Patriot Act.

Now the president claims that even the special court set up to issue secret warrants to authorize wiretapping for national security purposes gives him insufficient powers to fight terrorists. Translation: When the courts are inconvenient, we will bypass that branch of government too.

Terrorism presents the U.S. with an enemy unlike any we have seen before. Most Americans agree with Bush that intelligence-gathering on Al Qaeda and its spawn may require more extensive investigative authorities. But the more sweeping the powers granted the executive branch, the more vital it is that Congress provide meaningful oversight. The irony is that the Republican-dominated Congress would likely grant Bush the extraordinary powers he seeks — if only the president would request them through legislation, instead of trying to claim them by fiat.

The struggle against terrorism will not end soon, and the choices we make in fighting it will help define us as a nation for decades. To allow any president to invent the law as he goes along is to invite contempt for the law for many presidencies to come.

Secret's Out: NSA Is Listening To America (BSUN)

By Douglas Birch, Sun Staff

The Baltimore Sun, January 8, 2006

Several years ago, officials at the National Security Agency, the secretive "Puzzle Palace" on the Baltimore-Washington Expressway, sought to reassure taxpayers that the agency had long since repudiated its Vietnam-era spying on U.S. citizens.

They insisted that the movie Enemy of the State, which portrayed NSA as using its formidable technology to track and eavesdrop on Americans, was the stuff of Hollywood fantasy.

Now NSA stands accused of abetting the White House in what civil liberties activists and others describe as a frontal assault on the constitutional right to privacy.

The program reportedly traced thousands of calls from phones linked to terror suspects to and from locations in the United States, and then listened in on many of those conversations - all without seeking warrants from a special foreign intelligence court. E-mails were also tracked and read, according to news reports.

"I've stuck up for NSA innumerable times, saying I didn't believe they were engaged in illegal activity," said James Bamford, author of two acclaimed books on the NSA, The Puzzle Palace and Body of Secrets. But now, he said, there is no question that after the Sept. 11 attacks the agency broke the law.

Revelations about the warrantless surveillance effort, he said, have thrown the nation's largest and most secretive intelligence-gathering organization into turmoil.

"Most of the people I've dealt with there had no idea this was going on, and they were very shocked and disappointed that suddenly they're back to where they were 30 years ago, dealing with questions of domestic spying," he said.

Don Weber, an NSA spokesman, said in a telephone interview last week that the agency can't comment on operational issues in the interests of national security.

The surveillance effort will be subject to congressional hearings, expected to begin in the next several weeks.

Sen. Arlen Specter of Pennsylvania, the Republican chairman of the Senate Judiciary Committee, told The New York Times that he planned to hold hearings on the surveillance program after confirmation hearings for Judge Samuel A. Alito Jr. to the Supreme Court. Those hearings are expected to stretch into late January or early February.

According to reports in The New York Times and elsewhere, NSA launched the program almost immediately after the September 2001 attacks, before President Bush issued a secret order authorizing it.

Bamford and others contend that, with or without presidential approval, the program was conducted in violation of the 1978 Foreign Intelligence Surveillance Act.

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That law prohibits NSA from intercepting calls or other electronic communications to or from a U.S. citizen or resident alien without a warrant from the Foreign Intelligence Surveillance Court.

Bamford, who holds a law degree, said the statute was written "to prevent exactly what just happened." Some critics are calling the president's authorization of the program an impeachable offense.

"The eventual outcome will be a special prosecutor," predicted Bamford. "Of course it's an impeachable offense."

The Bush administration, meanwhile, has stood stalwartly by the program, saying that president had the authority to authorize it based on his powers as commander in chief of the armed forces.

Not only has the White House refused to cancel the program, the government has launched an investigation against the whistle-blowers who leaked the story to the Times.

To its defenders, the NSA program was not just legal. It was a vital and necessary part of the efforts to prevent another Sept. 11-style attack.

"It was an integral and important part of the nation's counter-terrorism toolkit," said John E. McLaughlin, who served as deputy director of the CIA from 2000 to 2004 and was briefed on the program.

"People should understand this wasn't a huge drift net hanging over Detroit or Florida or California, scooping up communications," said McLaughlin, now retired from the CIA and a visiting scholar at the Johns Hopkins University School of Advanced International Studies.

"There had to be a foreign connection, and there had to be a reasonable belief that one of the parties involved had to be in contact with a terrorist or was a terrorist. So the whole idea that this was the NSA pawing through great volumes of information among Americans was not right."

Vice President Dick Cheney, in a speech at the Heritage Foundation last week, said that the program was "fully consistent with the constitutional responsibilities and legal authority of the president and with the civil liberties of the American people."

If it had been in place before Sept. 11, he said, two of the hijackers who flew a jet into the Pentagon might have been captured.

But to critics, the alleged abuses are so serious that they eclipse even concerns of future terror attacks.

"What makes this such an urgent matter is that it calls into question the rule of law," said Steven Aftergood, the director of the Project on Government Secrecy at the Federation of American Scientists.

"If the president is at liberty to circumvent the law, then where does his authority stop?" he said. "We have already seen American citizens detained as enemy combatants. We have seen international conventions against torture reinterpreted to permit extreme forms of interrogation. We are in the process of undermining the rules which define us as a democracy. And that makes this scary."

The upcoming hearings, planned for the intelligence and judiciary committees in the Senate and House, will lead lawmakers into the NSA's arcane world of electronic eavesdropping, where information is measured in billions of bits and data is mined like veins of precious metal.

Congress will focus on a few key questions: What kinds of surveillance did the agency conduct? Were legislators fully informed about the program? Were abuses committed? And, of course: Was the program legal?

The search for answers might be difficult.

For one thing, the strategies and hardware NSA uses are among the American government's most closely held secrets, and it is not clear to what extent the administration will be willing to discuss them.

"If someone insists on going into the details of how this was done and precisely what was done, it will become harder to chase and capture terrorists and deter them," McLaughlin said.

The mere disclosure of the program's existence, he said, has harmed the war against terror. "I'm a little surprised that there has been so little concern about the impact on our counter-terrorism capabilities," he said. "It will be less effective, because the bad guys are on notice."

Another key issue is whether Congress was fully informed about the surveillance efforts. The administration insists it was. Some legislators aren't so sure.

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"Leaders of Congress have been briefed more than a dozen times" on the NSA program, Cheney said last week. "I have personally presided over most of those briefings."

Yet critics say the highly technical briefings may have left some Congressional leaders more confused than enlightened, perhaps as part of a deliberate White House strategy.

"As you know, I am neither a technician nor an attorney," Sen. John D. Rockefeller IV, a West Virginia Democrat, wrote Cheney hours after a July 2003 briefing on the NSA surveillance program. "Given the security restrictions associated with this information, and my inability to consult staff or counsel on my own, I feel unable to fully evaluate, much less endorse these activities."

One former senior administration official familiar with NSA issues rejected this criticism. "I was in at least one of those briefings, and what I recall is that the program was very thoroughly explained to them," said the official, who commented on condition that he not be identified.

Ruth Wedgewood of Johns Hopkins' School of Advanced International Studies, who sits on Secretary of Defense Donald H. Rumsfeld's Defense Policy Advisory Board, said the White House probably felt it had no choice but to limit access to the information.

"It really is a problem of, how do you inform people and not have stuff leak immediately?" she said.

Civil liberties advocates ask why, if expanded NSA surveillance powers were needed, the White House didn't simply seek them.

The Foreign Intelligence Service Act has been expanded twice since Sept. 11, once in the original Patriot Act and a second time in December 2004.

But McLaughlin said that any effort to change the law "would probably have involved a debate that would have risked exposing the methods and techniques of the program, and would therefore have rendered it" less effective.

Others asked how the NSA could possibly have asked for court permission to track thousands of calls in real time, as it may have done.

Wedgewood pointed out that the 1978 surveillance act, known as FISA, was written in an era before e-mail, the Internet and the widespread use of desktop computers.

"The new technology was something the FISA wasn't necessarily designed to encompass," she said.

Congress may look at possible connections between the NSA's surveillance effort and the Total Information Awareness program, created by the Defense Advanced Research Projects Agency, or DARPA, in January 2002.

DARPA set out to perfect the tools of "data mining" - the trolling of public computer databases in a hunt for suspicious patterns that could point to terrorist activity. At the time, the agency insisted it was merely a research project.

The DARPA program was led by Adm. John M. Poindexter, a key figure in the Iran-Contra scandal of the 1980s, in which the proceeds from the secret sale of arms to Iran were diverted to right-wing Nicaraguan rebels.

Shortly after The New York Times disclosed existence of the program, DARPA abandoned it. Poindexter later left the government.

No matter what the hearings find, they will almost certainly draw the veil a little further from the secretive agency.

"The facts of the operation are still obscure, and every day we seem to learn something new," said Aftergood of the Federation of American Scientists.

Now, he said, it is up to the government to justify what it has done. "The burden really falls on the NSA and the administration to re-establish its credibility," Aftergood said. "Because this whole operation is at odds with what they have been telling us for years."

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The Wiretappers That Couldn't Shoot Straight (NYT)

By Frank Rich

The New York Times, January 8, 2006

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ALMOST two weeks before The New York Times published its scoop about our government's extralegal wiretapping, the cable network Showtime blew the whole top-secret shebang. In its mini-series "Sleeper Cell," about Islamic fundamentalist terrorists in Los Angeles, the cell's ringleader berates an underling for chatting about an impending operation during a phone conversation with an uncle in Egypt. "We can only pray that the N.S.A. is not listening," the leader yells at the miscreant, who is then stoned for his blabbing.

If fictional terrorists concocted by Hollywood can figure out that the National Security Agency is listening to their every call, guess what? Real-life terrorists know this, too. So when a hyperventilating President Bush rants that the exposure of his warrant-free wiretapping in a newspaper is shameful and puts "our citizens at risk" by revealing our espionage playbook, you have to wonder what he is really trying to hide. Our enemies, as America has learned the hard way, are not morons. Even if Al Qaeda hasn't seen "Sleeper Cell" because it refuses to spring for pay cable, it has surely assumed from the get-go that the White House would ignore legal restraints on eavesdropping, just as it has on detainee jurisprudence and torture.

That the White House's over-the-top outrage about the Times scoop is a smokescreen contrived to cover up something else is only confirmed by Dick Cheney's disingenuousness. In last week's oration at a right-wing think tank, he defended warrant-free wiretapping by saying it could have prevented the 9/11 attacks. Really? Not with this administration in charge. On 9/10 the N.S.A. (lawfully) intercepted messages in Arabic saying, "The match is about to begin," and, "Tomorrow is zero hour." You know the rest. Like all the chatter our government picked up during the president's excellent brush-clearing Crawford vacation of 2001, it was relegated to mañana; the N.S.A. didn't rouse itself to translate those warnings until 9/12.

Given that the reporters on the Times story, James Risen and Eric Lichtblau, wrote that nearly a dozen current and former officials had served as their sources, there may be more leaks to come, and not just to The Times. Sooner or later we'll find out what the White House is really so defensive about.

Perhaps it's the obvious: the errant spying ensnared Americans talking to Americans, not just Americans talking to jihadists in Afghanistan. In a raw interview transcript posted on MSNBC's Web site last week - and quickly seized on by John Aravosis of AmericaBlog - the NBC News foreign affairs correspondent Andrea Mitchell asked Mr. Risen if he knew whether the CNN correspondent Christiane Amanpour might have been wiretapped. (Mr. Risen said, "I hadn't heard that.") Surely a pro like Ms. Mitchell wasn't speculating idly. NBC News, which did not broadcast this exchange and later edited it out of the Web transcript, said Friday it was still pursuing the story.

If the Bush administration did indeed eavesdrop on American journalists and political opponents (Ms. Amanpour's husband, Jamie Rubin, was a foreign policy adviser to the Kerry campaign), it's déjà Watergate all over again. But even now we can see that there's another, simpler - and distinctly Bushian - motive at play here, hiding in plain sight.

That motive is not, as many liberals would have it, a simple ideological crusade to gut the Bill of Rights. Real conservatives, after all, are opposed to Big Brother; even the staunch Bush ally Grover Norquist has criticized the N.S.A.'s overreaching. The highest priority for the Karl Rove-driven presidency is instead to preserve its own power at all costs. With this gang, political victory and the propaganda needed to secure it always trump principles, even conservative principles, let alone the truth. Whenever the White House most vociferously attacks the press, you can be sure its No. 1 motive is to deflect attention from embarrassing revelations about its incompetence and failures.

That's why Paul Wolfowitz, in a 2004 remark for which he later apologized, dismissed reporting on the raging insurgency in Iraq as "rumors" he attributed to a Baghdad press corps too "afraid to travel." That's also why the White House tried in May to blame lethal anti-American riots in Afghanistan and Pakistan on a single erroneous Newsweek item about Koran desecration - as if 200-odd words in an American magazine could take the fall for the indelible photos from Abu Ghraib.

Such is the blame-shifting game Mr. Cheney was up to last week. By dragging 9/11 into his defense of possibly unconstitutional bugging, he was hoping to rewrite history to absolve the White House of its bungling. And no wonder. He knows all too well that the timing of Mr. Bush's signing of the secret executive order to initiate the desperate tactic of warrant-free N.S.A. eavesdropping - early 2002, according to Mr. Risen's new book, "State of War" - is nothing if not a giant arrow pointing to one of the administration's most catastrophic failures. It was only weeks earlier, in December 2001, that we had our best crack at nailing Osama bin Laden in Tora Bora and blew it.

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What went down that fateful December is recalled in particularly gripping fashion in a just published book, "Jawbreaker," which, like Mr. Risen's book, is rising on the best-seller list at an inopportune moment for this White House. "Jawbreaker" is the self-told story of a veteran clandestine officer, Gary Berntsen, who was the pivotal C.I.A. field commander in the hunt for bin Laden. Mr. Berntsen is a fervent Bush loyalist, but his honest account doesn't do the president any favors. "We needed U.S. soldiers on the ground!" he writes, to "block a possible Al Qaeda escape into Afghanistan!" But his request to Centcom for 800 Army Rangers to do the job went unheeded.

We don't know whether the Bush order relaxing legal controls on the N.S.A. was in part a Hail Mary pass to help compensate for that disaster. Either way, all the subsequent wiretaps in the world have not brought bin Laden back dead or alive. Though the White House says that its warrantless surveillance has saved lives by stopping other terrorists since then, Mr. Bush has exaggerated victories against Al Qaeda as often as he has the battle-readiness of Iraqi troops. After he claimed in an October speech that America and its allies had foiled 10 Qaeda plots since 9/11, USA Today reported that "at least" 6 of the 10 had been preliminary ideas for attacks rather than actual planned attacks.

The louder the reports of failures on this president's watch, the louder he tries to drown them out by boasting that he has done everything "within the law" to keep America safe and by implying that his critics are unpatriotic, if not outright treasonous. Mr. Bush certainly has good reason to pump up the volume now. In early December the former 9/11 commissioners gave the federal government a report card riddled with D's and F's on terrorism preparedness.

The front line of defense against terrorism is supposed to be the three-year-old, $40-billion-a-year Homeland Security Department, but news of its ineptitude, cronyism and no-bid contracts has only grown since Katrina. The Washington Post reported that one Transportation Security Administration contract worth up to $463 million had gone to a brand-new company that (coincidentally, we're told) contributed $122,000 to a powerful Republican congressman, Harold Rogers of Kentucky. An independent audit by the department's own inspector general, largely unnoticed during Christmas week, found everything from FEMA to border control in some form of disarray.

Yet even as this damning report was released, the president forced cronies into top jobs in immigration enforcement and state and local preparedness with recess appointments that bypassed Congressional approval. Last week the department had the brilliance to leave Las Vegas off its 2006 list of 35 "high threat" urban areas - no doubt because Mohammed Atta was so well behaved there when plotting the 9/11 attacks.

THE warrantless eavesdropping is more of the same incompetence. Like our physical abuse of detainees and our denial of their access to due process, this flouting of the law may yet do as much damage to fighting the war on terrorism as it does to civil liberties. As the First Amendment lawyer Martin Garbus wrote in The Huffington Post, every defense lawyer representing a terrorism suspect charged in the four years since Mr. Bush's N.S.A. decree can challenge the legality of the prosecution's evidence. "The entire criminal process will be brought to a standstill," Mr. Garbus explains, as the government refuses to give the courts information on national security grounds, inviting the dismissal of entire cases, and judges "up and down the appellate ladder" issue conflicting rulings.

Far from "bringing justice to our enemies," as Mr. Bush is fond of saying, he may once again be helping them escape the way he did at Tora Bora. The president who once promised to bring a "culture of responsibility" to Washington can and will blame The Times and the rest of the press for his failures. But maybe, if only for variety's sake, the moment has come to find a new scapegoat. I nominate Showtime.

Report On FBI May Strengthen Lawsuit Against Agency (AP)

By WILLIAM McCALL

AP, January 8, 2006

A Justice Department report that faulted the FBI for sloppy work may strengthen a lawsuit filed against the agency by a Portland man who was arrested after his fingerprints were mistakenly identified during the investigation into the 2004 Madrid train bombings.

Attorneys for Brandon Mayfield "don't have to argue a particular violation of Mayfield's religious rights or First Amendment rights," said Robert Precht, who represented defendants in the 1994 World Trade Center bombing in New York.

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"They only have to argue the government engaged in blatant misconduct," said Precht.

Other legal experts agree that the Justice Department report does not undercut Mayfield's lawsuit — and may help it.

In the report released on Friday, Justice Department Inspector General Glenn Fine faulted the FBI for mistakenly matching a fingerprint found on a bag of detonators near the Madrid bombing site to those of Mayfield.

The report said no "intentional misconduct by FBI employees" was found, but said there were "performance issues by various FBI employees ... that helped cause the errors in the Mayfield case."

Mayfield was jailed for two weeks in May 2004 — even though Spanish investigators disagreed with the FBI's fingerprint analysis. The FBI acknowledged the mistake on May 24 and apologized to Mayfield.

He sued the Justice Department and the FBI in October 2004, claiming he was singled out because of his Muslim faith and that searches of his home and other locations were in violation of the Fourth Amendment of the U.S. Constitution, which protects against unreasonable search and seizure.

If Mayfield can show that FBI experts were under pressure to make an identification without being certain — which the FBI and the Justice Department have denied — then he may be able to establish a pattern of misconduct, Precht said.

He said the Justice Department report leaves open questions about the possibility of pressure on forensic experts.

"Once the government or the prosecutor's office or an (FBI) supervisor says we think this guy may be guilty, the whole machinery of government goes to work to find the evidence that supports that," Precht said. "People do these things naturally. That's why we have safeguards about the presumption of innocence."

Michael Greenberger, a University of Maryland law professor and director of its Center for Health and Homeland Security, said the delay in correcting the mistake may be ammunition for Mayfield to argue there was pressure.

"They should have figured out sooner those were not his fingerprints," Greenberger said.

Brian Roehrkasse, a Justice Department spokesman in Washington, D.C., said the agency could not comment on the pending lawsuit and he referred questions about the report to the FBI.

The agency, in a statement released with the inspector general's report, said Mayfield's mistaken arrest "was based on an extremely unusual confluence of events."

The FBI said it has changed its procedures at the recommendation of an international panel of experts in order to prevent a similar mistake.

Precht, who recently left the University of Michigan to return to private practice in New York, said the pressure on investigators and prosecutors is enormous once they believe they have the right suspect.

"This is a textbook example of people having assumed a person's guilt, and then they look for evidence to confirm it," Precht said.

Veteran trial lawyer Gerry Spence, who is representing Mayfield, has argued the FBI targeted the former Army officer because he is a convert to Islam.

The inspector general's report concluded that religion played no role in the initial, mistaken fingerprint identification because the FBI experts did not know Mayfield was a Muslim, or that his wife is Egyptian or that he represented other Muslims as an attorney.

The report noted, however, that "whether Mayfield's religion was a factor in the (FBI) laboratory's failure to revisit its identification and discover the error in the weeks following the initial identification is a more difficult question."

Elden Rosenthal, a Portland lawyer also representing Mayfield, said the case raises important issues of protecting constitutional rights during the government's war on terrorism.

"Those of us concerned about civil liberties always sound like we're talking about abstract concepts," Rosenthal said. "Here is a concrete example of why civil liberties should not be allowed to take a back seat to the war on terror."

In Mayfield's case, Rosenthal said the FBI won approval from a secret court established by the Foreign Intelligence Surveillance Act, or FISA, to plant electronic "bugs" in the Mayfield home and his law office, execute repeated "sneak and peek" searches of his home and office, and place wiretaps on his phones.

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Despite the inspector general's conclusion the FBI could have gotten FISA approval for surveillance without the Patriot Act, the report found that changes made by the act permitted access to more information about Mayfield than could have been obtained without it, said Dave Fidanque, executive director of the Oregon chapter of the American Civil Liberties Union.

"The inspector general's report confirms for the first time that Mayfield's home, and probably his office, were 'bugged,'" Fidanque said.

Greenberger said the Mayfield case may provide the first opportunity to test whether Patriot Act provisions on surveillance and searches violate the Constitution.

"Everybody has been waiting for a case where these kinds of searches under the Patriot Act can be brought to a court's attention by somebody who has standing to raise it — and Mayfield has that standing," Greenberger said.

"There's a big, big constitutional issue here," he said.

Intelligence Bill's Passage Not Guaranteed In Senate (WT)

By Shaun Waterman, United Press International

The Washington Times, January 8, 2006

For the first time in 27 years, congressional officials fear that an Intelligence Authorization Act will not be passed before the session ends.

Lawmakers and staff from both parties said the bill was blocked in the Senate before the holiday recess by a Republican lawmaker involved in a dispute about amendments that would require reports on secret detention facilities and access to prewar intelligence briefings on Iraq.

Now some fear that further efforts to pass the bill will become captive to the debate over the Bush administration's use of warrantless national security wiretaps.

"I think we might have missed an opportunity at the end of last year," said one Democratic Senate aide who deals with intelligence issues. "The window might have closed by now."

The annual authorization bill, which has passed every year since the establishment of the House and Senate committees on intelligence in 1978, provides the framework within which intelligence agencies carry out their missions and spend the money Congress appropriates for them.

Congressional officials say that if the bill fails this year, several important reforms and innovations will be shelved.

Its authors say this year's bill would set up an inspector general for the nation's new spy chief, strengthen counterterrorism information-sharing by temporarily suspending parts of the Privacy Act, and make the directors of the three biggest-spending military intelligence agencies subject to Senate confirmation.

The bill has been blocked by a senator who exercised the right to remain anonymous, Republican staff said.

Because of the way Senate rules are designed to ensure that debate is difficult to curtail, moving a bill through the chamber expeditiously requires a parliamentary procedure known as unanimous consent. A single objection can force Senate managers to contemplate a lengthy floor debate and effectively preclude consideration of a bill altogether if they think the legislative agenda is too crowded.

Before the recess, Sen. John D. Rockefeller IV of West Virginia, the senior Democrat on the Select Committee on Intelligence, said the bill was blocked to prevent passage of three amendments added with the consent of committee Chairman Pat Roberts, Kansas Republican.

Two of the amendments deal with reports to Congress about the purported overseas network of secret CIA detention facilities. Director of National Intelligence John D. Negroponte would submit a report about the facilities, and intelligence agency inspectors general would describe the welfare of individual detainees. These classified reports would be submitted to the intelligence committees of both chambers.

The third amendment requires the White House to give the two committees copies of presidential daily briefing items about Iraq from Jan. 20, 1997 -- the beginning of President Clinton's second term -- to March 19, 2003 -- the date of the U.S. invasion.

The Bush Administration Vs. Salim Hamdan (NYT)

By Jonathan Mahler

The New York Times, January 8, 2006

In 1996, Salim Hamdan, a 26-year-old Yemeni with a thick mustache and kinky black hair, was working part time as a taxi driver, dividing his modest income between the mattress he rented in a crowded boardinghouse in the dirty, bustling city of Sana and his daily supply of khat leaves, the stimulant that most Yemeni men chew by the fistful. Then one day the low-hanging horizon of his life lifted: he was recruited for jihad. He joined about 35 other Muslims, mostly Yemenis, who were preparing to leave for Tajikistan to fight alongside that country's small Islamic insurgency against its Russian-backed government.

One of the group's leaders was a self-assured young man named Nasser al-Bahri. Hamdan, an orphaned only child from a rural tribal village in southern Yemen, was naturally drawn to strong personalities. Although two years his junior, al-Bahri, who grew up in an upper-middle-class family in Jidda, Saudi Arabia, was far more worldly and sophisticated than Hamdan and was without question the most educated person he had ever met. Al-Bahri had studied business in college, but he was also deeply steeped in the Koran, having become a devout Muslim as a teenager in rebellion against his bourgeois upbringing. He spoke comfortably and forcefully about the plight of Muslims all over the world, and he had traveled extensively, to places as far as Bosnia and Somalia, to defend his oppressed Islamic brethren.

Hamdan, who had the rough equivalent of a fourth-grade education, wasn't especially religious and had no grand plans for his life other than the hope that he might someday be married, but he nevertheless embraced the idea of becoming a holy warrior. It didn't hurt that the trip was to be paid for - al-Bahri told him that the group had raised money from a handful of Saudi-based Muslim charities - and that Hamdan would also receive a salary.

The jihadis convened in Jalalabad, Afghanistan, and started working their way north toward Tajikistan, first by jeep and then, when the roads were impassable, on foot. After six months traversing Afghanistan's mountainous, often snow-covered terrain, they were turned back at the Tajik border.

At loose ends, one of the jihadis suggested that they go see a man named Osama bin Laden, a well-known sheik among radical Islamists who led a militant group of itinerant Muslim holy warriors called Al Qaeda. Having only recently been expelled from Sudan, bin Laden had relocated to Afghanistan, where he planned to rebuild Al Qaeda with the help of his new hosts, the Taliban. Bin Laden earned his reputation during the anti-Soviet campaign in Afghanistan in the 1980's, but he was now enlisting soldiers for his new crusade to drive the United States from the Arabian Peninsula.

Al-Bahri, Hamdan and the rest of the group made their way back through Afghanistan to bin Laden's home in Farm Hada, a village outside Jalalabad, not far from the Khyber Pass. They arrived in late 1996 shortly before Ramadan, the holiest time of year. For three days, bin Laden preached to his prospective recruits about the religious imperative of reversing America's corrosive presence in the gulf. Seventeen of the original 35 jihadis decided to stay; Hamdan and al-Bahri were among them.

For the next several years, both men worked for bin Laden, first in Farm Hada, then, when he relocated for security reasons in 1997, to a better-fortified compound in the desert outside Kandahar. In 1999, al-Bahri and Hamdan's lives became further entwined. At bin Laden's urging and with his financial help, they married Yemeni sisters in Sana and returned to Afghanistan with their new wives.

By Sept. 11, 2001, however, al-Bahri and Hamdan's paths had diverged. Al-Bahri was in prison in Yemen for his suspected links to Al Qaeda's bombing of an American Naval destroyer, the U.S.S. Cole, in 2000. Hamdan was still with bin Laden, though not for long. In late November 2001, with America's military campaign in Afghanistan well under way, he was picked up near the border of Pakistan by a group of Afghan warlords. They hogtied him with electrical wire and within a matter of days turned him over to the Americans for a $5,000 bounty. The interrogations started, and Hamdan was soon identified as Saqr al-Jedawi, his alias during his years with bin Laden. He spent the next six months in U.S. prison camps in Bagram and Kandahar, before being flown to Guantánamo Bay in May 2002.

Today, Salim Hamdan lives in a 6-by-9-foot cell in Guantánamo, awaiting trial by a special military tribunal established by presidential order in the aftermath of 9/11. If everything goes according to the government's plans, the Bush administration will prosecute Hamdan for violating the laws of war by conspiring to commit acts of terrorism against the United States. The government has revealed little about its case against Hamdan - my portrait is drawn principally from his lawyers, family members and al-Bahri - but it has charged him with serious offenses, including transporting weapons and serving as a bodyguard to bin Laden. If convicted on all charges, Hamdan could receive a life sentence.

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Hamdan's attorneys, a government-appointed Navy lawyer and a professor at Georgetown University Law Center, don't deny that their client worked directly for bin Laden, but they play down his importance to Al Qaeda, portraying him as an employee, an uneducated and far-from-devout driver and mechanic who was grateful for a paycheck but generally ignorant of the terrorist enterprise for which he worked. Moreover, they say that the tribunals, known officially as military commissions, are illegal and have sued the American government to block them from going forward.

This spring, the detainee's lawyers will have the chance to make their case to the Supreme Court, when it hears Hamdan v. Rumsfeld. The name alone guarantees that it will be one of the most closely watched arguments of the year, and the eventual ruling will have far-reaching implications not just for Hamdan and the rest of the Guantánamo detainees, but also for presidential war powers and quite possibly for the future of democracy in the Middle East. If the war on terror is, at its heart, a battle to show the Islamic world that there is an alternative to oppressive theocracies and autocratic dictators, nothing is more important than how the United States government dispenses justice to detainees like Salim Hamdan. Until now, America's wartime practice has been to hold onto captured combatants until the end of hostilities, when there is no longer a threat of them returning to the battlefield. In this case, though, the battlefield is unmapped and the hostilities could continue for decades. For the moment, the government has broadly classified nearly all of the more than 500 detainees at Guantánamo as enemy combatants, but eventually it's going to have to start sorting them out. This will entail answering some difficult questions. Are all Muslim men who answered the call to jihad equally guilty? Which detainees represent a threat to the United States? Who is worth prosecuting, and how?

Just outside the Old City of Sana, a maze of densely packed, intricately adorned stone houses and centuries-old shops that rise like drip castles from narrow cobblestone streets, sits the modern Martyrs' Mosque. If the Old City evokes Yemen's prosperous, cosmopolitan days at the center of the world's spice trade, the Martyrs' Mosque, an imposing, ash-colored monolith, speaks to its present as the poorest and most primitive of the Arabian Peninsula states.

The big open square that fronts the mosque is a gathering place for the dispossessed. Homeless people lie on flattened cardboard boxes with gasoline cans repurposed as water jugs beside them. Dababs, minivans stuffed with passengers, career around Sana's crowded streets, jockeying for fares. Drivers struggle to be heard above the music issuing from loudspeakers on the three-wheeled cycles pedaled by cassette vendors. The smells of grilling meat and corn on the cob commingle with perfumed oil, urine and exhaust.

There are no women in sight here, only young men and boys, a reflection of Yemen's conservative Islamic culture. And although roughly 40 percent of all Yemeni men are unemployed, everyone here seems to be in a big hurry, hustling around, often holding hands, always in standard Yemeni dress: sandals, white robes and Western-style blazers with the labels showing on the outside of the left sleeve, just above the cuff. Long curved daggers known as jambiyas, reminders of the country's enduring tribal culture, hang from belts. Cheeks bulge with khat, which brightens the mood and sends the mind in every direction, an apt emblem of the combination of aimlessness and restlessness on display.

Ten years ago, Salim Hamdan was one of these men. He was born in about 1970 (no one, including Hamdan himself, knows for sure), hundreds of miles from Sana in the Wadi Hadhramaut, a 100-mile oasis in the mountainous desert of southeastern Yemen. His father was a farmer and shopkeeper, and the family lived modestly in a small, mud-brick home in a cliff town overhanging the fertile valley below. He was still a child when his parents died from illness, one a few years after the other. With no other family nearby, Hamdan went to live with relatives in Mukalla, a bleak port city of about 150,000 on Yemen's southern coast. By that point, Hamdan had already quit school, which is not unusual in Hadhramaut, where the imperatives of helping your family earn money far outweigh the comparatively abstract virtues of an education.

Within a few years he was on his own, living on the streets of Mukalla and working odd jobs. In 1990, Yemen, which had long been divided into two separate nations, the Islamic north and Marxist south, was officially unified. Hamdan, who was then 20, joined the mass migration north in search of work. There was a widespread sense that Sana, the new nation's capital, would soon be booming. As it turned out, the job prospects were not so promising, particularly for someone with Hamdan's limited qualifications. He soon found his way to the Martyrs' Mosque - where he picked up work driving a dabab - and then, six years later, to jihad.

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Jihad - literally, "struggle" - is a slippery concept, one that has been subjected to almost endless interpretation, violent and nonviolent alike, emanating from a Muslim's basic religious duty to encourage the spread of Islam. In recent years, though, it often has come to be understood as a violent religious crusade against the United States. Hamdan and al-Bahri's routes to jihad could not have been more different, but in many ways each is emblematic of the men's respective countries, which represent the two biggest contingents at Guantánamo. In Saudi Arabia, jihad resonated with particular force with the educated, affluent and devout; in Yemen, it exerted an especially strong pull on the country's poor. Nearly half of the country's population lives below the poverty line; unlike its neighbors in the gulf, Yemen has very little oil, and what it does have is hoarded by the government. "Unless they are the sons of sheiks or political leaders, the young people have no way to use their energies," Nabil al-Sofee, a former spokesman for Islah, Yemen's Islamic party, told me recently in his office in Sana. "The one option that is in front of anyone who wants to achieve anything is jihad."

Jihad has an almost mythic appeal in Yemen. Its roots run all the way back to the seventh century, when the Prophet Muhammad is said to have declared, "Allah, give me fighters from behind me," his back turned conspicuously to Yemen. In its more modern incarnation, jihad can be traced to 1967, when Yemen was still divided and the British withdrew from its southern half. Finally free of its longtime occupiers, South Yemen quickly established ties to the Soviet Union, Cuba and China, and in 1970 became the Arab world's first Communist state.

South Yemen's new identity inaugurated two decades of hostilities with North Yemen, a Muslim state whose allegiances were to Saudi Arabia and Egypt. It didn't take long for North Yemen's rulers - including the president of today's unified Yemen, Ali Abdullah Saleh - to exploit the conflict's religious undertones. By the time the Soviets invaded Afghanistan in 1979, many young North Yemenis already accepted that it was their duty as Muslims to confront Communist unbelievers. And so, over the next several years, scores of young Yemeni men answered their clerics' calls for jihad. Afghanistan's mujahedeen received support from many Arab countries, in addition to the United States, but the Yemenis were among the fiercest of the so-called Afghan-Arab fighters. Unlike the jihadis from wealthier states in the Persian Gulf, they were accustomed to hard living, and the rugged, mountainous terrain of Afghanistan was similar to that of Yemen.

When the Soviets withdrew from Afghanistan in 1989, the leaders of many Arab countries, understandably worried about the combustible mix of religious zealotry and combat experience in which these men had been steeped, discouraged the jihadis from returning home. North Yemen, for its part, not only welcomed back its own fighters, it opened its borders to jihadis from other Arab countries as well. The heroic stature of these fighters was cemented in 1994, when the still-simmering tensions between Yemen's Islamists and Marxists erupted into a full-fledged civil war and President Saleh called on the ex-jihadis to help defeat the Communists. The north emerged victorious, and Saleh rewarded many of these men for their efforts. For his help mobilizing the troops, Sheik Abdul Majid al-Zindani, an ex-Arab-Afghan warrior and bin Laden's onetime spiritual mentor, was awarded the chancellorship of Iman University in Sana, a platform from which he has since steered countless young Yemeni men toward the path of jihad.

The Yemeni government did little to stanch the flow of jihadis, even in the face of increasing international pressure. A consummate pragmatist, President Saleh gave the U.S. permission to use its ports to refuel in the 1990's, but to the Arab world he presented himself as a leader who was not afraid to stand up to the West. In the wake of the attack on the U.S.S. Cole in Yemen in 2000, Saleh scoffed at rumors that the U.S. was planning to intensify its military presence in the country: "Yemen is a graveyard for the invaders," he told Al Jazeera. After 9/11, however, President Saleh went to Washington to pledge his support for the war on terror. But having spent so many years nurturing and exploiting the country's culture of jihad, he had to be careful about how he went about dismantling it. Extraditing Islamic radicals, or even putting them in jail for more than a couple of years, would provoke the country's powerful extremist element.

The centerpiece of Saleh's solution was to appoint a respected jurist and cleric, Hamoud al-Hitar, to meet with imprisoned extremists and persuade them that Islam does not, in fact, condone acts of terrorism. When I visited al-Hitar at his heavily guarded home in Sana one night last fall, he explained to me how the so-called Committee on Thoughtful Dialogue works. He called it "intellectual surgery" and described it as a simple process: he leads radicals through a series of questions about their beliefs, using the Koran or the hadith, a collection of the Prophet Muhammad's teachings, to show them how they have been misled. At the end of the program, those participants who vow not to take part in future acts of terrorism are granted presidential

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pardons and set free. To the obvious question - Why believe that they'll honor the vow? - Judge al-Hitar gave the obvious answer: These are men who take their ideology seriously; they would never sign a pledge renouncing their beliefs if they didn't mean it. A couple of years ago, President Saleh released hundreds of men with connections to Al Qaeda under the auspices of Judge al-Hitar's dialogue program. One of those men was Nasser al-Bahri.

Al-Bahri declined to see me for the better part of the two weeks I spent in Yemen. Then, the night before I was scheduled to fly home, he agreed to meet me the following evening at a relative's home in Sana. A tall, rangy man with a receding hairline and a neatly trimmed beard, al-Bahri looked older than his 33 years. He sat on a floor cushion, his long legs extending from the bottom of his creaseless white robe. Early in our conversation, which lasted more than five hours, the power failed. For the rest of the night, the narrow room was illuminated by two candles. Al-Bahri apologized for excusing himself repeatedly to urinate, explaining that he was diabetic.

According to al-Bahri, his decision to renounce Al Qaeda and terrorism had nothing to do with Judge al-Hitar's dialogue program, which he doubts has truly changed any minds. Rather, he said that during his two years in prison in Yemen, almost half of which was spent in solitary confinement, he had the chance to do a lot of reading and thinking. He continues to believe that America is oppressing and exploiting Muslims, but he no longer accepts that the random murder of innocent people is a legitimate expression of jihad, which, he said, "has its time and place, like prayer." There was also the issue of maturity. "When we reach our 30's, we come to regret what we did in our 20's," he told me matter-of-factly, like an ex-campus radical reflecting on a minor act of civil disobedience in his distant past.

Al-Bahri was not eager to talk about Hamdan; because he feels responsible for his brother-in-law's fate, he said that discussing him was too depressing. Not surprisingly, what he did say distanced Hamdan from the military operations of Al Qaeda. Al-Bahri described Hamdan as almost childlike, a cheerful, simple-minded man. According to al-Bahri, Hamdan at first seemed excited about jihad, but he lacked both the zeal of a holy warrior and the religious grounding or inclination to grasp the ideology of the movement. As al-Bahri tells it, Hamdan went to Tajikistan for jihad but stayed in Afghanistan because working as a driver and mechanic in bin Laden's motor pool paid better than driving a dabab in Sana.

If al-Bahri was quick to exonerate Hamdan, he showed no hesitation implicating himself as a senior member of what may be the most notorious terrorist organization the world has ever known. Al-Bahri sounded neither nostalgic nor remorseful talking about his years as one of bin Laden's chief bodyguards; he could have been a retired executive dispassionately recollecting his years with the firm. Yet he was, in one sense, cautious: while he was willing to answer any question I asked, he explicitly disassociated himself from each specific attack that took place during his time with bin Laden.

Al-Bahri's future had come into focus as a teenager in Jidda, when he first fell under the influence of radical Saudi clerics. "I saw that my function was to carry guns and defend Muslims wherever they were," he told me. "That was the holy work that would lead me to paradise." Having grown up in Saudi Arabia, Islam's holiest land, he responded personally when he heard bin Laden describe his country as an agent of the Americans and pledge to drive America from the Arabian Peninsula. What's more, al-Bahri had left Saudi Arabia for Bosnia in the early 90's and had been without the guidance of a religious leader ever since. In bin Laden, al-Bahri said, he had found "a new spiritual father."

Al-Bahri rose quickly through the ranks of Al Qaeda. Under the alias Abu Jandal, he helped create new training camps that bore little resemblance to the kind he attended as a young man in Bosnia, where jihadis learned such conventional skills as assembling and firing weapons and reading maps. The focus now was on fighting in cities and preparing for martyrdom operations, which meant learning how to blend in with local populations and attack civilian targets. Bin Laden was clear about the goals. "He would say over and over again that we must carry out painful attacks on the United States until it becomes like an agitated bull," al-Bahri recalled, "and when the bull comes to our region, he won't be familiar with the land, but we will." During the late 90's, al-Bahri fought with the Taliban against the Northern Alliance and served as one of bin Laden's personal bodyguards during his frequent tours of Qaeda training camps around Afghanistan.

After the attacks on the U.S. embassies in East Africa in the summer of 1998, al-Bahri said, bin Laden placed him in charge of the organization's guest houses in Kabul and Kandahar, where it was his duty to help inspire and train new recruits to undertake terrorist operations against the United States. It was at this point, al-Bahri says, that he started having second thoughts

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about Al Qaeda, not because he doubted its mission, but because he wasn't convinced these recruits were prepared to carry it out.

Jihad, it occurred to al-Bahri, had evolved from a genuine religious mission to a cattle call for any and all Muslims. Even years later, having renounced terrorism, he seemed irritated by what he characterized as Al Qaeda's failures of management. "We were getting young people who were not committed to jihad, also very young people, 15 or 16 years old," he told me. "What could we do with them? I said we should accept only religious young people. Only the religious understand what jihad means. But my voice was not being heard." Al-Bahri told me that bin Laden knew he was becoming disillusioned, and that's why he encouraged him and Hamdan to marry sisters in 1999; in al-Bahri's interpretation, by tying him to Hamdan, who had fewer options and was thus less likely to leave, bin Laden would have a better chance of keeping al-Bahri in the fold.

During the summer of 2000, Hamdan and al-Bahri came back to Sana for a brother-in-law's wedding. Within a matter of weeks, several Qaeda operatives in a small boat filled with explosives rammed the U.S.S. Cole, which was on a refueling stop in Yemen. Shortly after the attack, Yemeni intelligence agents started rounding up suspected extremists. Al-Bahri tried to flee but was arrested at the airport trying to return to Afghanistan. Hamdan had already taken his wife and her parents on a pilgrimage to Mecca, and word quickly reached him in Saudi Arabia that if he came back to Yemen he'd be picked up, too. Instead, he went back to bin Laden, taking his wife with him.

In the wake of Sept. 11, al-Bahri told me, three F.B.I. agents came to the prison where he was being held in Yemen to interrogate him. The transcripts from their interviews are classified, but al-Bahri says they were mainly interested in the structure and ideology of Al Qaeda. Asked if bin Laden had access to chemical or nuclear weapons, al-Bahri replied that bin Laden had something far more powerful: men who are determined to complete their covenant with God and carry out martyrdom operations against the United States.

Detainees' lawyers estimate that there are currently about 100 Yemeni prisoners in Guantánamo. If even a fraction of this many Americans had been imprisoned in a foreign country for four years, the vast majority without charges, there would be a national outcry. In Yemen, however, most of the detainees' families are completely in the dark. Half of the people in the country are illiterate. Those who can read find few stories about Guantánamo. Many of the papers are state-run, and the rest are under intense pressure to toe the government line. President Saleh knows that drawing attention to the detainees would only further inflame anti-American sentiments and in so doing create more problems for him.

A Yemeni human rights group called HOOD has a rough list of Yemenis who are being held at Guantánamo and has made contact with some of their relatives, but the families are not in communication with anyone in the U.S. government. The detainees' defense lawyers periodically come to Yemen to meet with the families who have authorized them to represent their relatives, though in some cases the detainees themselves doubt their American lawyers' good intentions. While I was in Yemen, I spent several days visiting the families of detainees with David H. Remes, a partner at the Washington firm Covington & Burling, which represents 17 of the Yemenis at Guantánamo. Remes prefaced several of his meetings by saying that their sons, brothers or husbands would be very angry if they knew he was there.

Hamdan, too, sent word through his lawyers that he didn't want me to contact his family, but I was able to get in touch with his wife's brother, Muhammad al-Qala, through HOOD. Al-Qala, a staff sergeant in the Yemeni army, invited me to his home to meet his sister, Hamdan's wife, Um Fatima. Since her husband's arrest, she and her two daughters have been living with her brother, his family and their mother in a cramped two-story stone house in central Sana. Hamdan's lawyers came to Yemen about a year and a half ago to see her, and the lawyer's interpreter is in fairly regular contact with al-Qala, but no one whom Hamdan left behind seems to have any real sense of the gravity of his situation or the significance of his case: what could a superpower like the United States possibly want with Salim?

Sitting perfectly straight on the shiny, floral-patterned blue floor cushions that lined the small upstairs living room in her brother's home, Um Fatima spoke for three hours through an interpreter about her husband. Al-Qala, a stocky man with a dark mustache and glassy, expressionless eyes, sat beside her chain-smoking Marlboros and working on a big wad of khat. Um Fatima and Hamdan's two daughters, 6 and 4, raced in and out in T-shirts and sweatpants. Um Fatima's full-length covering revealed only her eyes, but the difficulty of talking about her husband was evident; several times, she became so upset that she had to excuse herself and leave the room.

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Um Fatima and Hamdan were married in Sana in 1999. She had not met him before their wedding day but was nevertheless a happy bride. They stayed in Sana for a few months before returning to Afghanistan. Um Fatima was reluctant to go, and was shocked at the conditions once they arrived. Their mud-brick home had dirt floors and no running water or electricity. It was also remote: Tarnak Farms, the walled Qaeda complex in which they lived, was tucked into a vast expanse of treeless desert and brush about 30 minutes outside Kandahar. Um Fatima's days were spent alone inside the house with her infant daughter. Hamdan, she told me, would return in the early evenings, often with clothes stained with grease from his work fixing the various cars and trucks used on the farm. Um Fatima said she would occasionally complain to him about their life there. "Salim would always tell me to be patient, that someday we would return to Yemen," she said.

In her telling, Um Fatima was doing hardship duty for a few years so that her husband could earn good money working for a sheik she'd never heard of. Even now, years later, the fact that she had lived inside the walls of a heavily fortified Qaeda compound while her husband worked for the most infamous terrorist of our time does not seem to have penetrated her version of reality.

Um Fatima last saw her husband on Nov. 24, 2001. She was eight months pregnant. At the time, U.S. forces were closing in on Kandahar, the Taliban's last stronghold in Afghanistan. Hamdan, who had been away for a couple of months with bin Laden, had recently returned to take Um Fatima and their daughter to Pakistan. In a borrowed car, with American B-52's circling the skies overhead, they made their way through the Maruf mountains toward the border. Hamdan decided to let Um Fatima cross into Pakistan alone; security was tight, and even if the border guards had no idea that he worked for bin Laden, being a Yemeni man trying to leave was enough to cause suspicion. He told her he would find another way through and come find her in a few days.

Over the course of the next few weeks, as Um Fatima traveled deeper into Pakistan in the back of a pickup truck with a group of Afghan refugees, she gradually lost hope that she would ever see her husband again. Entering her ninth month of pregnancy, she became so hysterical, she told me, that some sympathetic strangers in Karachi bought her a plane ticket home. At the airport in Sana, she was interrogated for five hours about her husband's whereabouts. Um Fatima said she assumed he was dead.

Two and a half months later, she received a letter from him on International Committee of the Red Cross stationery. "My sweetheart, peace and blessings be upon you," it began. "I did not die. Allah prescribed a new life for me. Now I am a detainee with the Americans.. . ."

Um Fatima showed me all of the letters she has received from Hamdan since then. Later that night, the interpreter who read the dozen or so letters to me told me how unusual they were. Yemeni men tend to be commanding and aloof with their wives. Hamdan's letters were emotive, like those of a longing schoolboy. There are drawings of his dagger ("please take care of my jambiya for me"), simple poems ("the bird danced and the bird sang. . .") and the promise to "see each other very, very, very, very, very soon, God willing."

In a three-page military order issued on Nov. 13, 2001, President Bush authorized the special tribunals before which Salim Hamdan and other non-American enemy combatants are to be tried. The trials will held in Guantánamo before panels of three to seven military officers selected by an administration appointee. Two-thirds of a majority will be required for non-death-penalty convictions. (A death sentence requires unanimity.) These are war-crimes tribunals, though unlike the recent international tribunals in Rwanda and the former Yugoslavia, the list of offenses pertain to acts of terrorism rather than genocide.

The administration opted for these special tribunals over the U.S. criminal courts for a number of practical reasons. Broadly speaking, certain rights that would be considered fundamental in a civilian court wouldn't apply. If defendants were suspected terrorists, for instance, they couldn't very well be permitted to see all the evidence against them as some of it would no doubt be classified for national-security reasons.

Practical considerations aside, the creation of the nation's first war-crimes tribunals since World War II sent a symbolic message, putting the war against Islamic extremism in the same class as the war against Nazism. Moreover, the tribunals fit with the Bush administration's larger strategy to reassert and expand presidential authority in the aftermath of 9/11. The executive branch would have complete control. Not only was Congress - the body empowered by the Constitution to convene military tribunals - left out of the decision to establish them, but it also wasn't consulted on how the tribunals would work. Instead, the

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administration's lawyers wrote all of the rules, from the composition of the panels to the standards for admissible evidence to the definition of a war crime. The judiciary branch was also cut out of the process: contested verdicts would be reviewed not by a federal court of appeals but by a three-member panel picked by Defense Secretary Donald H. Rumsfeld.

The first batch of defendants for the tribunals, Hamdan and three others, were carefully selected and then repeatedly vetted on their journey up the chain of command. Case summaries were passed from the military lawyers assigned to the prosecution team to the Pentagon's adviser for the tribunals to Paul D. Wolfowitz, then deputy defense secretary, to President Bush. Hamdan was originally slated to be the first Arab tried.

While the government has not accused Hamdan of being a member of Al Qaeda per se, it does say that he picked up and delivered weapons for use by Qaeda associates, trained at a Qaeda camp and served as a bodyguard and driver for bin Laden. The formal charge being brought against him is conspiracy, which the administration defines as having "joined an enterprise of persons who shared a common criminal purpose." In a sense, the conspiracy charge is a logical one for prosecuting members of organizations like Al Qaeda that deliberately subdivide tasks and inform very few people about operations. "To capture the nature of some enterprises, to deconstruct what makes them effective, you have to focus on the different kinds of contributions, from the target spotter to the weapons transporter to the financier," says Ruth Wedgwood, a law professor at Johns Hopkins who helped the Pentagon revise some of the rules for the tribunals.

In the U.S. criminal courts, conspiracy is especially popular among prosecutors going after organized-crime rings; it gives them leverage to lean on foot soldiers to testify against their superiors. In the context of war-crimes tribunals, however, conspiracy becomes more complicated. Because it can be applied to people at every level, it can create a moral equivalence between low-level players and leaders. This very issue came up at Nuremberg, when an assistant attorney general in the Roosevelt administration attacked a Pentagon proposal to file conspiracy charges against German foot soldiers because it might, in the world's eyes, weaken the impact of the charges against the Nazi leaders. (The proposal was never adopted.) What's more, because conspiracy is such a broad, catch-all charge, it's an easy one for prosecutors to fall back on when their proof of guilt is thin. The U.S. criminal-court system has numerous protections against this - jury trials, judges who are insulated from politics, access to an independent court of appeals - most of which are absent from the tribunals. "In the American criminal system, we can have a conspiracy doctrine because we have this unique set of vibrant protections," says Neal Katyal, a Georgetown law professor, the architect of Hamdan's lawsuit against the Bush administration and a champion of the conspiracy charge in the criminal context. "But when it comes to war-crimes trials, the international consensus is that conspiracy is a no-no. When the U.S. Congress itself defined war crimes in two statutes in 1996 and 1997, it didn't include conspiracy."

Brig. Gen. Thomas L. Hemingway, an Air Force judge advocate general who is currently serving as the Pentagon's adviser on the tribunals, wouldn't discuss the government's evidence against Hamdan other than to point out that the prosecution has already given the defense 18,000 pages of discovery, including incriminating photographs and summaries of Hamdan's numerous statements to interrogators. "You want a one-word characterization of the case against Hamdan?" General Hemingway asked me. "Solid."

The government is certainly aware that the first trials will be closely scrutinized, and it seems improbable that it would choose a case that wasn't airtight. Hamdan's story also has narrative appeal. Unlike the vast majority of enemy combatants, who came to Afghanistan with the cresting wave of jihadis after 1999, he worked for bin Laden from 1996 until his capture in November 2001, a stretch of time that spanned not just 9/11 but also the 1998 attacks on two U.S. embassies in East Africa and the 2000 bombing of the U.S.S. Cole. And while many jihadis never even met bin Laden, Hamdan has not disputed working directly for him. A skilled prosecutor could turn his trial into the history of Al Qaeda's decade-long war against America and in so doing illuminate the nature of our enemy; the tribunals will be open to the press, except for when classified evidence is presented. Whatever evidence the government may have against Hamdan, it's hard to believe he could have worked for bin Laden for five years, through several high-profile terrorist attacks, without the knowledge of Al Qaeda's intentions or bin Laden's trust. And given that he has admitted to being a driver, the progression to transporting weapons is hardly a leap.

Yet it seems clear that Hamdan was not a high-ranking officer of Al Qaeda. By the time the United States decided to try him in 2003, there were certainly people in custody suspected of more serious crimes. Why not prosecute the more heinous offenders first? The government won't discuss how it settled on Hamdan, but it's easy to make some logical inferences. It stands

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to reason that the more hard-core the suspected terrorist, the more useful the information he possessed. The government may not have been done questioning the "highest value" detainees when it decided to issue its first indictments. (Hamdan's once-regular interrogations, which started almost immediately after his arrest and continued for the better part of two years, ceased in early 2004, shortly before the government announced that he'd been selected for trial.) The United States was also entering uncharted waters with the tribunals; terrorism is not yet codified as a war crime in international law. It's possible that the government wanted to wait to try its most prized detainees until it had the opportunity to test its legal theories on smaller players.

The treatment of the prisoners may have been a factor as well. Lawyers for the administration had long since built their legal defense of coercive interrogations. Nevertheless, for the first tribunals the government may have wanted "clean" - as in not mistreated or tortured - defendants, both to avoid embarrassment and to prevent issues about the veracity of their statements to interrogators. This, however, is not a point that Hamdan's lawyers intend to concede. Hamdan has already implied in an affidavit that some of his statements were coerced. He says he was punched and kicked after failing to answer certain questions, and that one of his interrogators placed a pistol on the table between them during their sessions.

In late November, a few weeks after the Supreme Court agreed to hear Hamdan v. Rumsfeld, Hamdan was moved from his regular cellblock in Camp Delta to a separate, smaller cellblock called Tango. When his lawyers learned about the development in early December, they were not pleased. Not only had Hamdan's relocation violated the explicit order of a federal judge that he be kept among the general population at Delta, but he also would be right next to Ali Hamza Ahmed Sulayman al-Bahlul, a supposed Qaeda propagandist with a reputation for turning other detainees against their U.S. attorneys. "He's getting put with a known advocate for firing lawyers - against a federal order - and I don't even get told about it?" Katyal's co-counsel, Navy Lt. Cmdr. Charles Swift, told me after Hamdan's move. Swift and Katyal promptly filed an emergency motion to have their client returned to a normal cellblock, and the authorities at Guantánamo complied.

Many detainees assume that their lawyers are American spies, a suspicion fed by the fact that nearly every document or letter that they bring in or take out of the camp has to pass through military censors. Hamdan's lawyers say they have a good relationship with him; still, they worry about losing him to what they consider to be the prison's more radical element. So while Katyal plots strategy from his office near Capitol Hill in Georgetown, Swift, a voluble, boyish-looking 44-year-old Navy JAG, shuttles back and forth to Guantánamo Bay with their interpreter, Charles Schmitz, a soft-spoken professor of geography and an expert in Yemeni culture, to reassure their client that they are on his side and to persuade him to have faith in a legal system that he doesn't understand.

It was hard enough for Swift, who was appointed by the government, to earn Hamdan's confidence when he first started meeting with him - in his Navy uniform - in early 2004; he now finds himself having to constantly earn it back. As the indefinite detentions of hundreds of Muslim men, many of whom were already predisposed to Islamic extremism, enters its fifth year, Guantánamo is turning into an anti-American hothouse. For the government, the radicalization of Guantánamo is a complicated issue. The main form of protest in the camps is the hunger strike, and a prisoner's starving himself to death would turn Guantánamo, already a public-relations problem, into a full-scale disaster. (As of Dec. 30, more than 30 detainees had been hospitalized and were being force-fed.) Radicalization also undermines one of the principal goals of imprisonment: deterrence. As Guantánamo's critics like to say, "If you weren't a terrorist when you went in, you will be when you're let out."

But radicalization has its advantages for the Bush administration too. Last summer, some detainees told their American lawyers that they would no longer meet with them, and a number went so far as to formally fire them. The government considers the legions of adversarial defense attorneys working pro bono for the detainees - from corporate lawyers to human-rights lawyers to law professors - to be an impediment to their ability to prosecute the war on terror. Among other things, the lawyers have filed hundreds of habeas corpus petitions in order to challenge their clients' continued detention without recourse.

More broadly, radicalization helps validate Guantánamo's existence. The more anti-American the detainees become, the greater the danger they pose and thus the more necessary it is to continue to detain them. So when Swift first heard about the decision to move Hamdan next to al-Bahul, he wondered whether it wasn't deliberate. "If they succeed in radicalizing Salim," he said, "then they've justified his trial." (The Pentagon would not comment on why an individual detainee might have been moved.)

Last August, Hamdan joined a prisonwide hunger strike to protest the conditions on Guantánamo. The detainees' numerous demands included the return of religious books that had been taken from them. When Swift next visited Hamdan in

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late August, he found him unusually intransigent. For two days, Hamdan refused to meet with him altogether. Not long after Swift returned home to Northern Virginia, he got a call from another lawyer at Guantánamo informing him that Hamdan, a slight man to begin with, had passed out from dehydration in his cell and was taken to the medical clinic at Delta and put on an IV drip. Swift flew back down to Guantánamo Bay almost immediately and managed to persuade Hamdan to start eating again by appealing to the same sense of solidarity that he says prompted him to join the strike in the first place. The best way to help his fellow detainees, Swift told him, was not to martyr himself but to follow through on their challenge to the system.

Like the government, Hamdan's lawyers also see him as much more than a detainee; to them, he represents the pretext for a historic and unconstitutional presidential power grab. As Hamdan's lawyers and other critics see it, the administration, by unilaterally creating the tribunals, defining the offenses and handpicking the panels, is not only denying detainees fair trials, it is also violating bedrock principles of the American government. To put an even finer point on it, they say the Bush administration is undermining the very values it purports to be defending in its war against Islamic extremism. They would like to see Hamdan and other enemy combatants tried before a traditional military court, a pre-existing legal system approved by Congress with built-in provisions for the complications that arise during wartime.

Katyal, who served as Vice President Gore's co-counsel in the suit over the 2000 election, draws a sharp distinction between waging war, an act over which the president should have broad authority, and meting out justice. And so, working at his own expense with research support from a loose network of law students from Georgetown, Yale and the University of Michigan along with attorneys from the law firm Perkins Coie, Katyal has written more than a thousand pages of briefs arguing that the president has neither the authority to create the tribunals without explicit Congressional approval nor the right to deny Hamdan status as a prisoner of war, and in so doing strip him of protections guaranteed by the Geneva Conventions. "The Geneva Conventions were written precisely to make it difficult for political leaders facing political pressure to suspend basic rights and P.O.W. protections," Katyal says. "The moment we let a president say he can determine whether someone is a prisoner of war, other countries are going to start doing it back to us."

Katyal's arguments found traction in federal court in Washington in the fall of 2004. Just as Hamdan's second round of preliminary hearings were getting under way at Guantánamo, Judge James Robertson, a former Naval officer, ruled in his favor, declaring the tribunals illegal and abruptly halting the proceedings 30 minutes after they had begun. In July 2005, however, a three-judge appeals panel that included John G. Roberts Jr., now chief justice of the Supreme Court, overturned the decision. Katyal and Swift petitioned the Supreme Court for review, and in November, after delaying action on the case for several weeks, the court announced that it would hear Hamdan v. Rumsfeld.

This was not the final word, though. No sooner had the Supreme Court agreed to consider Hamdan's case than a Republican senator from South Carolina, Lindsey Graham, introduced a last-minute amendment to a defense-authorization bill explicitly denying all Guantánamo detainees habeas corpus rights, or access to the U.S. federal courts. This had been the administration's intent from the moment it started sketching out its legal strategy in the war on terror in the aftermath of 9/11, but the last time the issue came before the Supreme Court, in the spring of 2004 in another detainee case, the court ruled against the president (with a loud dissent from Justice Scalia). Now Graham was effectively interceding on the administration's behalf in what amounted to an end run around the Supreme Court.

Days later, however, Senator Carl Levin, a Michigan Democrat, persuaded Graham to change the wording of the amendment so that it would not derail pending cases, including Hamdan v. Rumsfeld. It has since passed both the House and the Senate and at press time awaited the president's signature.

What about the hundreds of detainees who have not yet filed suits protesting their imprisonments? Aside from trial or continuing detention, the only option for the United States is to send them back to their respective nations. To date, it has released about 260 men, including a handful of Yemenis, all of whom remain in prison in Yemen, no doubt at the behest of the Bush administration. But Yemen is an unpredictable ally. In November, the United States suspended it from an aid program worth hundreds of millions of dollars, citing enduring governmental corruption, fiscal irresponsibility and the failure to enact democratic reform. Meanwhile, Islamic fundamentalism continues to gather strength in Yemen. Recently, three of the country's best-known extremists, including al-Zindani, one of bin Laden's spiritual mentors, called for a new coalition dedicated to confronting Islam's enemies and promoting Muslim values. The ongoing detention of 100 Yemenis at Guantánamo Bay may only help their cause

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and increase their leverage with President Saleh. So the United States finds itself trapped between two unappealing choices: hold these men as the potentially endless war against terrorism goes on, or return them to a breeding ground for Islamic radicalism in Yemen.

For his part, Hamdan's immediate concerns have more to do with day-to-day life at Guantánamo Bay - how much time detainees are permitted to exercise and at what time of day, what books they are allowed to read, what comfort items they are allowed to keep in their cells - than with the future of his historic lawsuit against the United States government. As Schmitz, his interpreter, told me recently, "The most important thing to him is what we can deliver in the camp, and that is zip."

Shortly after the Supreme Court agreed to hear Hamdan v. Rumsfeld, Swift visited Hamdan's cell armed with several front-page newspaper articles about the development. When Swift delivered the news, Hamdan smiled. Within a matter of minutes, though, his mood had visibly darkened, Swift says. Then Hamdan asked him, "What is this exactly that I've won?"

Germany's Merkel Says Guantanamo Should Be Shut (REU)

By Karin Strohecker

Reuters, January 8, 2006

BERLIN (Reuters) - German Chancellor Angela Merkel, in an interview published days before her first visit to the United States, said Washington should close its Guantanamo Bay prison camp and find other ways of dealing with terror suspects.

"An institution like Guantanamo can and should not exist in the longer term," Merkel said in an interview with the weekly magazine Der Spiegel published on Saturday. "Different ways and means must be found for dealing with these prisoners."

Merkel has vowed to repair ties with the United States, severely strained over the U.S.-led Iraq invasion, which her predecessor Gerhard Schroeder strongly opposed.

But her comments to Der Spiegel -- also covering ties with Moscow and the European Union -- suggested she would not shy away from speaking out on issues where disagreement exists.

There is widespread skepticism in Germany about the way the United States is fighting its "war on terror", compounded by the recent scandal over the CIA's abduction and detention of German citizen Khaled el-Masri -- later acknowledged to be a mistake.

Guantanamo Bay, the U.S. detention center in Cuba denounced by human rights activists and many governments, is deeply unpopular in Germany.

Merkel travels to Washington next week for her first visit since becoming chancellor in November, and will meet U.S. President George W. Bush on Friday.

Merkel told Der Spiegel she expected to speak to Bush about the fight against terrorism. "But I want to accentuate that our relationship with the U.S. will not be reduced to talking about fighting terrorism and the Iraq war," she added.

NO FRIENDSHIP WITH RUSSIA

Merkel described relations with the United States as a "friendship", but said the term "strategic partnership" would be more fitting to describe Germany's relationship with Moscow.

"I don't think we share as many of the same values yet with Russia as we do with the United States," she said. "But we have a huge interest in seeing Russia develop in a sensible way."

Merkel, who will meet President Vladimir Putin in Moscow days after her Washington trip, often criticized Schroeder when she was in opposition for forging "exclusive" ties with Russia at the expense of relations with smaller EU countries.

In the interview she said developments like the new law giving the Kremlin more control over non-governmental organizations worried her, while the recent row between Ukraine and Russia over gas prices, which has made Germans question their own heavy reliance on Russia for gas, had reinforced the need for stable relations.

"We need to do everything to save as much energy as possible and diversify our sources," she said, adding that Germany would avoid letting Russia be its only supplier.

Supplies to the 25-nation EU, which imports a quarter of its gas from Russia, were hit after Russian gas monopoly Gazprom cut deliveries to Ukraine on January 1 to push its demand for a fourfold price rise. The two neighbors reached a compromise 5-year supply deal earlier this week.

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On the European Union, Merkel said the issue of the bloc's constitution could be tackled when Germany took over the EU presidency in 2007, though much groundwork was needed.

"We need to have an all-encompassing discussion again," Merkel said. "I think it would be good if Europe stayed with the thought of having a constitution. I will lobby for that."

Learning Languages (WP)

The Washington Post, January 8, 2006

WITH A CERTAIN amount of fanfare Thursday, President Bush launched the National Security Language Initiative, designed to expand Americans' knowledge of critical foreign languages such as Arabic, Chinese, Russian, Hindi and Farsi. Before a group of 120 university presidents, he described learning foreign languages as a "kind gesture" toward other cultures, as well as an important facet of American security: "We need intelligence officers who, when somebody says something in Arabic or Farsi or Urdu, knows what they're talking about."

We applaud Mr. Bush's sentiments, though the lateness and modesty of this initiative are perplexing. It has been clear for more than four years, since Sept. 11, 2001, that Americans are horrifically deficient in knowledge about those parts of the world that now most threaten us, as well as about those that may pose important security challenges in the future. Yet the initiative will receive funding only in the 2007 budget -- if, of course, Congress approves. Although the State Department issued a fact sheet describing the new program's impressive goals, department officials conceded that only 15 public schools in this country teach Arabic at the moment. Although 200 million Chinese students study English, there are also only about 2,000 teachers of Chinese in the United States. There's a long way to go.

Department officials also referred to the launch of Sputnik, the first Soviet satellite, whose appearance in the sky inspired national concern about the "knowledge gap" between the United States and the Soviet Union and a new emphasis on science and Russian-language education in this country. Sputnik was launched in 1957. President Dwight D. Eisenhower signed the National Defense Education Act, which funded science education, in 1958. He also set up the National Aeronautics and Space Administration in 1958 -- a year after Sputnik, not four or five. The administration should move as fast as possible to make up for lost time.

PATRIOT ACT:

Time To Ask: Who Are We? (WP)

By Jim Hoagland

The Washington Post, January 8, 2006

President Bush concentrated in recent speeches on answering a question key to his war on global terrorism: Who is the enemy? But events and institutions conspire now to force Bush and all Americans to address a different question: Who are we?

Are we a nation in which the rule of law prevails even in times of emergency? Or has the coming of a new millennium, new technologies and the terrorist attacks of Sept. 11, 2001, altered the underlying values and norms of American society in ways we have not had time to understand, much less codify?

Such broad questions peek out of the rising challenges from Congress, the courts, the media and others to Bush's insistence on the need for greater secrecy and far-reaching presidential powers to counter wartime dangers.

The Supreme Court is not likely to address those societal questions directly when it decides in the near future on the imprisonment, without access to the courts, of Jose Padilla, an American citizen as well as an al Qaeda suspect. And newspaper exposs on secret CIA prisons abroad and warrantless surveillance by the National Security Agency at home don't pose those big thoughts upfront. But the undercurrent of a historic identity check runs through those and other recent events.

The sense of a restoring of balance could be glimpsed even in the case of lobbyist Jack Abramoff, which in its own squalid way suggests the ending of a particularly self-indulgent moment in Washington history.

Eras flash by with startling velocity in today's hyper-connected, hyper-informed global society. The first five-year slice of the 21st century came to an end last weekend as Abramoff was striking a bargain with prosecutors to plead guilty to fraud, tax

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evasion and conspiracy charges. Coincidence? Or a wave of excess cresting and starting to recede? Here's why I think it is the latter:

A millennium mentality -- a psychological bubble in which people convince themselves that things are suddenly and irrevocably different, that old rules and laws don't apply to this particular moment/decade/generation -- dominated and helped corrupt the years on both sides of the changing of the century. Think of it as the too-many-zeroes syndrome.

That attitudinal matrix -- Germans call it zeitgeist -- spread across and out of the U.S. stock market and then hung on longer in global politics and business, especially after Sept. 11 and the U.S. response suggested that the world had spun onto a different, far more threatening axis.

Americans demanded that President Bush change the world and the nation, with Congress forcing an ill-conceived Department of Homeland Security on the administration and passing the USA Patriot Act in a whatever-it-takes rush. Bush and Vice President Cheney, it must be said, were eager to go in that direction anyway -- and have stayed on it longer than many in Congress, the media or the courts seem able or willing to sustain in the absence of new attacks at home.

Laws are not immutable. What is reasonable behavior, by the state or by individuals, changes as circumstances change. Courts exist to decide that. But the acceptance of the rule of law serves to root societies in their most innate and entrenched values. In times of significant upheaval -- such as these times -- the rule of law anchors what should not be changed in haste and superficiality.

The Padilla case is a good illustration of what I mean. Padilla was arrested in 2002 under suspicion of plotting to set off a "dirty" radioactive device in Chicago. Designated by Bush as an enemy combatant, he was held for three years without charges and for much of that time without access to counsel.

He turns out to have been a much smaller and less dangerous fish, according to charges finally filed against him in late November. That the Justice Department did not move much more quickly -- and less grudgingly -- to extend him his constitutional rights undercuts the administration's claim that it does everything in its power to respect the rule of law consistent with national security.

What happened in the Padilla case amounts to disrespect for the rule of law -- as does the failure over four years to amend the 1978 federal statute that prohibits warrantless eavesdropping.

Such disrespect for established legal tradition is a clear if implicit statement from the president and his aides about whom they think Americans are becoming in this stressful era of change and danger. But it is a question they alone will not get to settle.

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Editorial: How To Fix The Patriot Act: Maintain Checks And Balances On Government (DMN)

The Dallas Morning News, January 8, 2006

President Bush assembled an impressive coterie of federal prosecutors at the White House last week to step up pressure on Congress to reauthorize the Patriot Act and to chide lawmakers for postponing a decision on the anti-terror legislation to early next month.

Make no mistake. The Patriot Act is an essential tool in this nation's defense strategy, particularly because it gives intelligence agencies the authority to share vital information about suspected terrorists and their activities. The president is right to push for Congress to do more than kick the can down the road.

But House leadership and the president are pushing a version of the legislation that fails to strike a proper balance between protecting America and infringing on civil liberties. These significant shortcomings must – and can – be fixed.

To its credit, the current version would allow the most controversial provisions to lapse again in four years, giving Congress and the American public another opportunity to assess the Patriot Act's impact on the war on terror and civil liberties. A periodic discussion about the scope and effectiveness of emergency anti-terror powers is a crucial part of maintaining checks on the power of the executive branch.

That's why Congress included the review provision when it authorized the Patriot Act in the shadow of the 9-11 attacks. The recent controversy over domestic spying illustrates why these checks and balances are mandatory.

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In other areas, the legislation doesn't meet the bar on protecting civil liberties. These changes should be made before passage:

Section 213

The current Patriot Act allows the government to conduct sneak-and-peek searches (also known, along with section 215, as the library provision) of homes and businesses without notice. The version the House leadership and the president are pushing would require notification within 30 days of the search and require the government to provide the court with updates before the notification delay can be extended. The government would be required to publicly report on the use of delayed-notice search warrants.

We recommend requiring the government to notify a person of a search within seven days, subject to special circumstance extensions, to better protect civil liberties.

Section 215

Under the Patriot Act, the government can use a secret court order to obtain copies of private medical, financial, educational and other records without connecting that person to terrorism. The government has only to assert that the information sought is relevant; the organization receiving the request is effectively barred from challenging the order or talking about it.

The version that the House leadership wants requires high-level approval for requests for sensitive categories of records such as library records and medical records, and it permits a judge to deny or modify a government request.

The measure also requires public reporting of the number of section 215 orders; certain additional classified reporting to congressional committees; and auditing by the Inspector General of the Justice Department's use of section 215.

We recommend also adding a provision requiring the government to connect a person to terrorism before combing through records and finding a more effective way for targets to challenge government assertions. These additional safeguards will discourage far-reaching fishing expeditions that could entangle innocent Americans.

National Security Letters

Most criminal investigations require a judge to authorize law enforcement to obtain documents or conduct searches. Not so with the National Security Letter, which allows government investigators to examine the records of suspected threats without first obtaining court approval.

We recommend meaningful court oversight of this process, to avoid the potential for abuse.

Extraneous provisions

The version that the House and president are backing includes new anti-drug policies and ex post facto changes to death penalty law that in some instances are unrelated to terrorism.

We recommend removing these changes, which are controversial on their face. The Patriot Act should be a clean, unfettered bill, not a repository for pet legislation.

Most of the Patriot Act should not worry Americans, who understand that civil liberties – especially in a time of national emergency – aren't without limits.

The common-sense revisions outlined here to provide clear and fair due process would shore up the concerns of all but the most ideologically driven civil libertarians.

HOMELAND RESPONSE:

Hurricane Fraud Suspects Held (WT)

By Audrey Hudson

The Washington Times, January 8, 2006

A federal task force has arrested 143 persons nationwide for bribery, extortion and fraudulent claims on hurricane disaster funding, and at least 1,000 investigations are ongoing in New Orleans.

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"Unfortunately, we see it with every disaster, but we're working very closely with the inspector general and Homeland Security and U.S. attorneys to prosecute every single case we come across," said Nicol Andrews, Federal Emergency Management Agency spokeswoman.

Most of the cases involve false claims to aid earmarked for victims of hurricanes Katrina and Rita, but several extortion cases already are in the court system.

In St. Tammany Parish outside New Orleans, Councilman Joe Impastato was indicted last month on charges of extortion and money laundering.

Federal officials say Mr. Impastato pressured one debris removal contractor to hire a second contractor with whom he would share in half the profits. When the prime contractor declined, the official threatened to withhold parish payments for other work.

U.S. Attorney Jim Letten called the indictment "a clear and unambiguous signal of federal law enforcement's commitment to seek out, punish and deter corrupt and self-serving conduct by public officials who use their positions to unjustly enrich themselves at the expense of the citizens they serve."

In Georgia, three persons have been indicted by a grand jury for pretending to be Red Cross officials to solicit donations, and in a related gambling operation to sell tickets for a fake lottery to raise money for Katrina victims.

The Hurricane Katrina Fraud Task Force created by Attorney General Alberto R. Gonzales after the storms devastated the Gulf Coast is investigating and prosecuting disaster-related federal crimes such as identity theft, procurement, insurance and charity fraud.

A Justice Department spokesman said arrests in 117 separate cases spanned 22 different districts.

In addition, the Homeland Security Inspector General's office is reviewing an estimated 350 contracts worth nearly $5 billion, and investigating more than 300 possible criminal cases, which so far have netted 51 arrests, 67 indictments and five convictions.

More than 7,000 calls have been logged on the inspector's general hot line to report fraud.

All Parts Of New Orleans Included In Rebuilding Plan (NYT)

By Gary Rivlin

The New York Times, January 8, 2006

NEW ORLEANS, Jan. 7 - The city's official blueprint for redevelopment after Hurricane Katrina, to be released on Wednesday, will recommend that residents be allowed to return and rebuild anywhere they like, no matter how damaged or vulnerable the neighborhood, according to several members of the mayor's rebuilding commission.

The proposal appears to put the city's rebuilding panel on a collision course with its state counterpart, which will control at least some of the flow of federal rebuilding money to the city.

The primary author of the plan, Joseph C. Canizaro, said teams of outside experts would try to help residents of each neighborhood decide whether to rebuild or relocate. Those teams would help increase the odds of success for those residents who decided to return, Mr. Canizaro said.

The commission will propose that the city should discourage homeowners from rebuilding in the hardest hit areas until a plan can be hammered out, but will not forbid them from doing so.

But ultimately, the areas that fail to attract a critical mass of residents in 12 months will probably not survive as residential neighborhoods, Mr. Canizaro said, and are likely to end up as marshland as the city's population declines and its footprint shrinks.

People who rebuild in those areas will be forced to leave, according to the proposal. Though such a requirement would be emotionally wrenching, the commission will propose a buyout program to compensate those people at the market price before Hurricane Katrina, but it is not clear whether there will be federal financing for such a program.

Assuming the commission's recommendations are formally adopted by Mayor C. Ray Nagin, the plan will defer for a year one of the most contentious issues in the city's struggle to recover from the flooding that followed the hurricane: the fate of the most heavily damaged and flood-prone neighborhoods.

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Many residents of low-lying neighborhoods like the Lower Ninth Ward and New Orleans East have said they are determined to rebuild their ravaged blocks, while some experts have argued that such areas are better returned to marshland for safety and economic reasons. Some civic leaders who had hoped the mayor's panel, the 17-member Bring Back New Orleans Commission, would take a firm stand on the issue expressed disappointment.

"There are some very tough decisions that have to be made here, and no one relishes making them," said Janet R. Howard, chief executive of the Bureau of Governmental Research, a nonprofit policy organization based in New Orleans. "But to say that people should invest their money and invest their energies and put all their hope into rebuilding and then in a year we'll re-evaluate, that's no plan at all."

At least one member of the state panel, the Louisiana Recovery Authority, has echoed that sentiment.

"Someone has to be tough, to stand up and to tell the truth," Sean Reilly, a member of the state commission, said in a speech this week. "Every neighborhood in New Orleans will not be able to come back safe."

Andy Kopplin, executive director of the state commission, declined to comment on the specifics of the city's report, which "hasn't been formally presented to us."

But he said his agency, when doling out federal dollars, would favor plans that emphasized safety and the wise use of precious resources.

"We want to make sure they invest in a smart way that provides a good return on investment," Mr. Kopplin said, adding that at the same time plans should be "true to the aspirations of local communities."

Mr. Canizaro, a prominent real estate developer here, acknowledged the possibility that Hurricane Katrina could spell the death of more than one New Orleans neighborhood. He cited a study by the Rand Corporation that estimated that in three years the city would have a population of no more than 275,000, down more than 40 percent from its pre-hurricane population of 465,000.

"It doesn't take a genius to figure if you're only going to have 40 or 50 percent of your original population, then there's going to be shrinking in the amount of land that's going to be needed," Mr. Canizaro said.

Yet deciding which neighborhoods should not be rebuilt involves far more than the cold rationale of geographic and demographic data, Mr. Canizaro said, especially considering the historic racial tensions in New Orleans. The hurricane devastated the lives of white and black alike, but the waters that roared though much of the city disproportionately flooded its predominantly black eastern half.

"Unfortunately, a lot of poor African-Americans had everything they own destroyed here," Mr. Canizaro said. "So we have to be careful about dictating what's going to happen, especially me as a white man. What's important is we give people an opportunity to determine their future, as best we can."

It is not clear, though, that people who choose to return to devastated neighborhoods will find much to surround them. The city has not promised full services to every neighborhood, and there may be no grocery stores or schools for miles.

It is not even certain that lenders will agree to grant mortgages in those neighborhoods without some guarantees that residents will be there for longer than a year.

The final report, as described by several commissioners, will include several ideas designed to stimulate the city's economy and culture, including a proposal to construct a light rail system and a plan to establish New Orleans as a world center of neuroscience research.

The commission will also recommend that the city create a redevelopment authority to serve as a land bank for blighted or abandoned properties and a vehicle through which federal funds will flow.

By creating an independent authority appointed by elected officials in all levels of government, several commissioners said, the hope is to insulate the redevelopment process from politics.

The most contentious issue, however, will be the redevelopment of neighborhoods. That battle began in earnest in November, when the Urban Land Institute, a prominent planning group based in Washington, proposed that the city temporarily ban redevelopment of properties in those areas hardest hit by flooding, including large tracts of New Orleans East, the Lower Ninth Ward and Lakeview.

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The suggestion was rejected by residents of those neighborhoods and their political representatives. Last month, the City Council passed a nonbinding resolution stating that residents should be free to rebuild immediately wherever they choose.

The notion that residents have a right to rebuild anywhere proved too starry-eyed for Alden J. McDonald Jr., a member of the mayor's commission and the chief executive of Liberty Bank and Trust, the city's largest black-owned bank. Though most of the bank's customers lived in the most damaged parts of town, and though Mr. McDonald himself owns a home in New Orleans East, he said it would be cruel to encourage people to move back "without first giving them all the facts."

"We really need to ask what kind of community it will be if there aren't adequate services," he said.

Mr. Canizaro, who as chairman of the commission's planning committee has found himself at the center of this debate, floated a compromise proposal at a commission meeting in mid-December: let people rebuild anywhere they want, then re-evaluate progress in three years. That way the market, and not planners, would determine which neighborhoods would come back.

The general sentiment, however, was that three years was too long, so Mr. Canizaro countered by shrinking the evaluation period to a year.

Critics of his plan say that if the city floods again in the near future, damaging rebuilt neighborhoods in the same places, there will be little sympathy and few federal dollars. But Mr. Canizaro said the prospect of a fortified flood control system, promised by the Bush administration, made him confident that the city would not suffer the same devastation from a storm similar to Hurricane Katrina.

That confidence, however, is not universal. Michael M. Liffmann, the associate executive director of the Louisiana Sea Grant College at Louisiana State University, which studies land-use issues along the Gulf Coast, said most experts agreed that the roughly one-quarter to one-third of the city located dangerously below sea level should not be rebuilt.

"There are parts of New Orleans that are not fit for human habitation," Mr. Liffmann said. "They never were and never will be. But these are as much social calls as they are scientific ones."

Evacuees' Hotel Bill $19 Million FEMA Paid For Housing At Over 650 State Lodges (AJC)

By Yolanda Rodríguez

The Atlanta Journal-Constitution, January 8, 2006

Georgia hotels have billed taxpayers more than $19 million to house evacuees who fled after hurricanes Katrina and Rita ravaged the Gulf Coast last year.

And taxpayers will continue to foot the bill for as long as the Federal Emergency Management Agency continues its policy of housing evacuees in hotels.

So far, the federal agency has spent $325 million on hotel rooms across the nation, and it has been sharply criticized for the high cost of the hotels and for how it has handled the emergency.

Federal officials once hoped to have all evacuees out of hotels by Saturday, but under a federal judge's ruling, FEMA is required to keep the hotel program running until at least Feb. 7.

In Georgia, FEMA paid for rooms at more than 650 hotels — from the Ritz-Carlton in Atlanta, to the Econo Lodge in Decatur, to a $35-a-night room in Lowndes County.

Records obtained by The Atlanta Journal-Constitution through a federal Freedom of Information Act request provide the first public accounting of the local spending.

The records show the rooms averaged $67.47 a night (or more than $2,000 a month) and were booked in Georgia between Oct. 27, when FEMA took over housing evacuees from the American Red Cross, and Dec. 23. Most of the money was spent in metro Atlanta, and FEMA paid for 286,000 bookings.

Those records also show evacuees who arrived in the state were housed just about everywhere:

Some stayed at the Butler Street YMCA in Atlanta, with rooms costing an average $18.12 nightly. FEMA was billed about $1,015 for rooms at the YMCA.

The Ritz-Carlton on Peachtree Road in Buckhead billed FEMA $1,190 for rooms. But those rooms weren't nearly as expensive as one might think. They cost an average of $132.25 nightly, according to the records.

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The most expensive rooms were at the Embassy Suites on Peachtree Road in Buckhead. It charged an average $159.46 per room.

According to the FEMA records, the full-service hotel billed the federal government about $81,485.

Gretchen Demetrops, general manager of the Embassy Suites, would not comment on the room charges and referred all questions to the Hilton Hotels Corp. office in Memphis.

In an e-mailed response, Dawn Ray, senior manager for brand communications for Embassy Suites Hotels/Hilton Hotels Corp., said the Embassy Suites "is an upscale hotel brand, and that is a competitive rate for the Atlanta market, particularly in the Buckhead area."

"The hotel did in fact charge a $159 rate for some guests, among a variety of other rates. That was not a discounted rate."

But who decided where evacuees would stay — and how much taxpayers would spend to foot the bill?

Tara Inn tops list

At the Tara Inn & Suites in Jonesboro, the first evacuees began arriving at the hotel Sept. 10, nearly two weeks after Hurricane Katrina hit.

Often, they learned of the 126-room hotel through word of mouth, said Jeff Kashani, the owner.

By Dec. 23, according to the records, FEMA had spent more at the Tara Inn & Suites than at any other hotel in the state.

The independently owned hotel billed FEMA about $312,728 — or about $78 per night per room.

According to the hotel's Web site, rooms there start at $59 for a single queen for a Sunday-Thursday stay.

The most expensive room starts at $129 for a king Jacuzzi suite for stays on Fridays and Saturdays.

Kashani said he was surprised to hear that the Tara Inn & Suites topped the list.

He said the hotel, which began operating in January 2003, charged FEMA the best rates it could — between $59 and $99. He noted that the rooms are suites and have kitchenettes.

Hotel employees also cooked Thanksgiving dinner for the evacuees, and the hotel and its staff donated Christmas gifts for the families, he said.

"We try to be nice," Kashani said.

Felecia Perry, the general manager, said 116 adults and 42 children are still staying at the Tara Inn.

The hotel was packed with evacuees from September through November, Perry said. It maxed out on hurricane evacuees with about 200 people in 60 rooms.

"Our rates are good," Perry said. "We go overboard with extras. We buy groceries and clothing if people are in need."

While some evacuees stayed at the Tara Inn & Suites, others were making reservations at hotels across the state, painting a somewhat disorganized picture of the scramble to suddenly house some of the 43,500 people who arrived in Georgia after they were displaced

Evacuees "were making reservations just like you and me," said Ray, of the Embassy Suites Hotels/Hilton Hotels Corp.

Ray said her hotels charged the federal government "pretty competitive" rates — and the price of the rooms did not go down once FEMA began paying for them.

Cost variation

But what about the wide disparity in room rates?

Mark Woodworth, executive vice president of PKF Consulting, a hotel advisory firm, said that disparity is based on several factors.

"The quality of the property goes a long way to explain the difference in prices and just how full or empty the hotels were at the time these rooms were needed," Woodworth said.

— Staff writers Craig Schneider and Leon Stafford and database editor David A. Milliron contributed to this article.

Katrina Evacuees Seek Jobs, Anchors (LAT)

By Tomas Alex Tizon

The Los Angeles Times, January 8, 2006

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HOUSTON — The two women never met but probably crossed paths in an abandoned supermarket — now a disaster recovery center — on the south side of town where railroad tracks crisscross the terrain.

Monique Moses and Pauline Gallien spend lots of time at the center, on opposite sides of the partition. Moses is a Hurricane Katrina evacuee from New Orleans. She is looking for a job. Gallien is a longtime Houstonian whose job is to find jobs for people like Moses. Right now, neither is having much success.

Their frustration embodies the question now facing this East Texas metropolis, which took in more evacuees — an estimated 200,000 — than any city outside of Louisiana: What is to be done with the thousands who, with their basic needs met, face the most vital step in their long-term recovery?

"I need to work," says Moses, 26. "I can't be like them that sit on their butts all day. I gotta have something to do. I just don't know if this is the place I can do it."

Before Katrina wrecked her hometown, Moses worked as a shift manager at a Radley's restaurant. Both her apartment and the restaurant were destroyed.

Four months after Katrina, she and her two daughters are resettled in southwest Houston. Her girls, ages 5 and 6, are enrolled in school, and their apartment has most of the accouterments of a home. The only missing piece is a livelihood to keep it all together.

Moses says she has pounded the pavement and filled out applications everywhere: McDonald's, Wendy's and the Home Depot, to name a few places. She has worn her best "customer service" face, smiling until her cheeks hurt. Day after day.

Only one employer, a Jack-in-the-Box, gave her an interview. The manager offered $6 an hour, and Moses told him she needed at least $8 an hour to survive. He never called back.

Her only lifeline has been the disaster-recovery center operated by the Federal Emergency Management Agency. She has come to know the building well: a flat, sprawling, swarming place where workers from dozens of organizations stand by to help evacuees on almost every aspect of reestablishing their lives.

Moses has gone there seeking help on numerous fronts — housing, transportation, insurance claims — but never stopped at the cluster of tables devoted to placing people in jobs. Moses, like many evacuees, has never used an employment service.

If she had stopped, she probably would have met Gallien.

Gallien, 40, works for a nonprofit employment agency called the WorkSource, whose main service is matching clients with jobs listed in a database. Gallien's station sits near the front entrance of the FEMA center.

From 8:30 a.m. to 5 p.m. Monday through Saturday, WorkSource staffers sit behind folding tables, equipped with the barest of tools — a notepad, telephone and computer — greeting every evacuee with, "How can I help you?"

Even now, Gallien and her three colleagues see 100 to 130 evacuees a day. Some need help filling out unemployment forms or putting together a resume; many have just moved into more stable housing and are beginning to seek work.

"The typical person we're seeing now is lower-skilled, a menial worker or restaurant worker, with a lower education level, not as strong in the communication skills," Gallien says. "A lot of times they got by doing odd jobs and got paid on the side, so they don't have an employment history."

Gallien says these clients "face a real challenge" in Houston, where about 20% of residents live below the poverty line.

"Houston was full of people with the same backgrounds before the evacuees got here," she says. "For every low-skilled evacuee, there are two Houston people with the same skill level competing for the same job."

A recent federal survey suggests that 21% of Katrina evacuees actively seeking work are still unemployed.

The proportion could be higher in Houston, where the job market, so tied to energy production, remains tight. The city's unemployment rate, roughly 6% in November, has consistently hovered above the national average.

"The folks with skills in the oil and gas industry found jobs," says M. Ray Perryman, head of a Texas economics analysis company. "People who fill low-wage, service- and retail-type jobs — it might take awhile for the economy to absorb them."

A reciprocal relationship has long existed between New Orleans and Houston, 327 miles apart. Houstonians traveled to New Orleans for culture and cuisine; New Orleanians went to Houston for jobs and better schools.

So when the storm hit, and New Orleanians needed a place to go, Houston put out the welcome mat and busloads of evacuees headed in this direction.

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Houston, population 2 million, offered the most generous resettlement program of any large U.S. city.

An enormous city-led task force, using a voucher program, paid for 12 months of housing for more than 100,000 evacuees.

In mid-December, Mayor Bill White declared that Houston was "full."

It's not clear whether FEMA will help pay for proposed expansion of city services to handle the increase in population.

The Houston Police Department has requested 400 new officers, school districts have pleaded for additional teachers, and social service agencies have outlined the need for more funding.

But all the talk of expansion may be moot if evacuees don't stay.

As many as 50,000 evacuees have already left the city, according to city officials.

"How many stay depends a lot on how many find jobs," Gallien says. "The answer to that question nobody knows yet."

Moses is mulling over a Plan B. "I can't find work, we can't stay," she says.

She has no emotional tie to Houston — a government-hired bus driver brought her and 50 other evacuees to the Astrodome a day after Katrina. She has been here ever since. She's not sure she even likes this city, which seems to have no real center.

In fact, this flat, humid, sprawling metropolis is the largest U.S. city without zoning laws, and the lack thereof has created numerous indistinct commercial districts and helter-skelter neighborhoods.

The Moses family moved into an apartment complex in the southwest, a once middle-class area turning into a lower-middle-class neighborhood of small, sagging houses. The Pines of Westbury is made up of 940 units divided among cubic two-story brick buildings evenly spaced over 5 acres. Most residents are black or Latino. Katrina evacuees occupy about 90 units.

It's 2:30 in the afternoon, and Moses keeps glancing at her watch.

Her apartment is a hangout for evacuees at the Pines, and she's expecting a small group to come over. She sinks into her couch, lets out a sigh and wonders out loud what happened to all her FEMA money.

"It went fast," she says incredulously.

Aside from the housing voucher that allowed her to move into this complex, she got $2,000 in emergency funds and another $2,358 for move-in costs. The money went toward furniture, clothing and groceries. Then she rented a car for a month to look for work. That cost a grand.

Since then, job-hunting by bus has worn her out.

There's a knock at the door. It's her boyfriend, Lionel Robinson, 35, just back from Laredo, Texas. He lives at the Pines too, just around the corner. Like Moses, Robinson is a New Orleans native who lost everything to Katrina, including a job he treasured. He was a city bus driver making close to $50,000 a year.

Recently Robinson landed a job as a long-haul truck driver making 37 cents a mile. One recent week, he drove only 1,200 miles, including the trip to Laredo, earning $444 before taxes. "Not enough," he says.

He, too, is looking for another job.

Within minutes, Moses' girls come through the door with a neighbor and two young cousins. One of Moses' aunts arrives with a teenage daughter. Hugs and how-are-yous are exchanged. Soon the apartment bustles with chatter.

The adults gather around the dining table, and the subject quickly turns to the future.

They are all in the same boat: dislocated, scratching for income and feeling uncertain about everything.

"We can't stay here," says evacuee Rosezina Jefferson, Moses' oldest friend from New Orleans. She moved into the Pines with Moses' help. "I might stay here for a minute, but one way or another, I'm going back home."

"There is no more home," Moses says. "Home ain't home no more."

Moses has another idea: road trip.

The others turn silent.

Moses says if she and Robinson don't have good jobs by next summer, she'll take the insurance money she's been waiting for — her car was destroyed by the flood — and use it to pay for a job-seeking, home-finding road trip all over Louisiana.

She'd leave the kids with their father, and she and Jefferson and Robinson would hit the highway for a month. They'd go to smaller cities like Lafayette and Lake Charles, places closer to New Orleans.

"A road trip? For a month?" Jefferson says.

"A road trip," says Robinson, considering the idea.

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You must have a plan, Moses says.

And the plan is, "Come June, July, August, we're getting in a car and going. If there's nothing for us here, we'll have to find it somewhere else."

WAR NEWS:

Iraq's Shiites And Kurds Said To Need Sunnis For Coalition (NYT)

By Richard A. Oppel Jr.

The New York Times, January 8, 2006

BAGHDAD, Iraq, Jan. 7 - The leading Kurdish and Shiite political groups probably did not win enough seats in last month's national parliamentary elections to form a governing coalition on their own, and will have to persuade some Sunni Arab legislators to join their alliance, a Western diplomat here said Saturday.

It will take a two-thirds majority in the 275-seat Iraqi Parliament to form a new government and appoint an executive branch. Final results from the Dec. 15 election are not expected until later this month, but the dominant Shiite alliance is thought to have won less than half the seats in the new Parliament. The Kurds and Sunni Arabs are believed to have won roughly 20 percent each.

The popular view among political parties here and the Iraqi news media has been that the Shiites and Kurds will likely have enough seats to form a government on their own, if by only a very small margin.

However, the Western diplomat said Saturday that an analysis of preliminary election results indicated that the Shiites and Kurds would need to include others to reach a two-thirds majority.

The preliminary results, the diplomat said, "suggest that together the Shia and the Kurds cannot reach two-thirds by themselves."

"I emphasize those are unofficial returns," the diplomat said. "So far, the trend that you can extrapolate out of the unofficial returns is that it doesn't look like they got it. They need the Sunni votes to get to their two-thirds majority."

Sunni Arabs are not the only non-Kurdish and non-Shiite alliances to gain seats in Parliament. The political slate put together by the former interim prime minister, Ayad Allawi, a secular Shiite, is believed to have won close to 10 percent of the seats.

Even though he is a Shiite, Mr. Allawi has often been at odds with the more conservative and Islamist Shiite leadership, and he is also a former member of the Baath Party. Some members of the governing Shiite coalition have said they would include Sunnis in their government before agreeing to carve out a place for Mr. Allawi.

American officials say that the best hope to stabilize Iraq's shaky security and political situation and help deflate the insurgency is for Sunni Arabs to have a meaningful role in the new government that convinces the Sunni population that they have a voice in how the country is run.

Tensions between Sunni Arabs and the ruling Shiite groups remain high, however. Shiites have accused Sunni political leaders of encouraging violence, while Sunni groups say Shiite-controlled security forces have been carrying out torture and assassinations against Sunnis.

In fact, the Western diplomat said some Sunni political leaders had discussed setting up "neighborhood self-defense forces" - armed local Sunni militias - to protect Sunni residents against assaults from Shiite policemen and troops. The diplomat said he was not aware of any such Sunni forces being put into action, however.

President Jalal Talabani said Saturday that he believed it would not take nearly as long as the three months it took last spring to reach agreement on the composition of a new government.

Mr. Talabani said the Kurds had held productive meetings in recent days with the Shiites, with Mr. Allawi's party and with the largest Sunni Arab party, the Iraqi Consensus Front.

Mr. Talabani, who met Saturday with Foreign Minister Jack Straw of Britain, said that once the final election results were released, "forming the next government will not take a long time."

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Diplomats Protest Iraq Violence (WP)

By Nelson Hernandez

The Washington Post, January 8, 2006

BAGHDAD, Jan. 7 -- In a series of public statements Saturday, Western officials condemned a wave of recent attacks in Iraq, saying the violence was intended to derail Iraqi efforts to form a government based on national unity.

At the same time, Iraq's president, Jalal Talabani, said that Shiite, Sunni Arab and Kurdish political groups were working toward that end. In a meeting in the capital with Jack Straw, the British foreign secretary, he said Iraqi parties had agreed in principle on a coalition of national unity, the Associated Press reported.

But a Western diplomat who briefed reporters here said he expected a "complicated negotiation" involving several sides now that Sunni Arab parties appear to have won enough seats in recent elections to play a role in the process of forming a government.

It was a change, he said, from the two-sided political environment that followed elections last January. In that election, Sunni Arabs, who represent about 20 percent of Iraq's population, turned out in very small numbers, yielding the political initiative to Shiite and Kurdish parties.

"Last spring, it was the Shia and the Kurds. It was a very straightforward negotiation," said the diplomat, who gave the briefing on condition he not be named. "This time it may have three, four, even five sides to it."

He said that talks about a coalition government were now in an "exploratory" stage and that once final election results were announced near the end of the month, negotiations would shift "from second to fifth gear sort of overnight."

Sen. Barack Obama (D-Ill.), who was in Iraq Saturday as part of a visiting congressional delegation, also stressed the importance of forming a government quickly.

"It seems to me you've got a six-month window in which a national unity government has to be formed," in addition to finalizing the country's constitution, making major progress in repairing its infrastructure and improving security, Obama said in an interview. "Time is not necessarily on our side."

Ultimately, Obama said, "there has to be a recognition on the part of the Sunnis that they're a minority of the population." In turn, he said, the Shiite majority needs to recognize the rights of Sunni Arabs.

But the Western diplomat said the insurgent attacks Wednesday and Thursday, which killed nearly 200 Iraqis and 11 U.S. service members, were intended to drive a wedge between Sunni Arabs and Shiites.

Two attacks on Saturday appeared to fit the same pattern. A suicide car bomber blew himself up next to an Interior Ministry police patrol, killing one officer and wounding 11 people, the Associated Press reported. A few hours later, gunmen fired on a car in Baghdad, killing a woman and wounding two men, the news service reported.

The Western diplomat noted, however, that one recent attack -- on a police recruiting station in Ramadi on Thursday -- killed dozens of Sunni Arabs and appeared to have broken the patience of tribal leaders who have provided support to insurgent groups.

People in the region are "now publicly calling for an end to the violence," he said. "I don't want to declare victory, because there's a long way to go, but something different is happening."

Special correspondent Omar Fekeiki contributed to this report.

Unity Government At Hand, Iraqi Says (WT/AP)

By Jason Straziuso, Associated Press

The Washington Times, January 8, 2006

BAGHDAD -- Iraq's fractious political groups are moving ahead to shape a national-unity government, progress that should help stop the carnage of the past several days, the prime minister and other leaders said yesterday.

Iraq's Kurdish president, Jalal Talabani, predicted that a new government could be formed within weeks. He made the comments after meeting with visiting British Foreign Secretary Jack Straw, who said Iraqis remain optimistic about their future despite suffering through a violent week, when nearly 200 people were killed in two days, including 11 U.S. troops.

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In an effort to help draw Sunni Arabs into the political process as a way to dampen the violence, U.S. officials for months have been communicating directly or through channels with members of the disaffected minority connected to the insurgency.

A Western diplomat yesterday reported a recent "uptick" in those contacts. Those insurgents "sense that the political process does protect the Sunni community's interest," the diplomat said, speaking on the condition of anonymity because of the sensitivity of the issue. A similar "uptick" in communication occurred after parliamentary elections last year, he said.

A U.S. official said the coalition does not talk to foreign terrorists or supporters of Saddam Hussein's ousted regime, but said it was important to isolate extremists from the broader Sunni Arab community. He also spoke only on the condition of anonymity because of the sensitivity of the topic.

Meeting with Mr. Straw in Baghdad, Mr. Talabani said Shi'ite, Sunni Arab and Kurdish political groups had agreed in principle on a national-unity government that could be formed within a few weeks. Western diplomats in Baghdad have speculated that a government could be in place by the second half of February.

"Everyone is expecting to have it as soon as possible, but you know the devil is in the details," Mr. Talabani said.

He said it should be easier to form a new government than it was after the Jan. 30 elections last year, when it took nearly three months.

"We are expecting within weeks, God willing, we will be able to form the government," he said.

Mr. Talabani and other Kurdish leaders met over the New Year's holiday with Sunni Arab and Shi'ite political leaders. The meetings in northern Irbil helped shape agreement on the general outlines of a broad-based coalition government.

Prime Minister Ibrahim al-Jaafari, a member of the Shi'ite alliance and head of the Dawa party, said in a separate meeting with Mr. Straw that the Shi'ite "alliance and the coalition of Kurdistan and the other tickets, fortunately, are keen to make a national unity government."

"That common feeling will make the process easier," he said.

Mr. Straw said earlier that the situation in Iraq remained violent, but its politicians were optimistic.

"I was trying to avoid any kind of pretense about the situation here in Iraq," Mr. Straw told British Broadcasting Corp. radio. "It is very difficult. People are being killed by terrorism."

Violence was greatly diminished yesterday. Four persons were killed in attacks around the country, and police found the bodies of four females, blindfolded and handcuffed, who apparently had been shot to death in Baghdad, officials said.

Almost 200 people were killed in attacks Wednesday and Thursday.

Thousands of angry Shi'ites also demonstrated against the wave of bloodshed and what they claimed was American support for Sunni Arab politicians in Baghdad's Sadr City slum on Friday.

Final results from the elections could be released this week and could be fully certified by the end of the month after any appeals are heard. Some Sunni Arabs have protested that the vote was tainted by fraud.

The results are expected to show the religious Shi'ite United Iraqi Alliance with a strong lead. The Shi'ites will need to form a coalition government, however, with support from Kurdish and Sunni Arab political groups.

Lawmakers Call On Iraq To Shape Up (LAT)

By Borzou Daragahi

The Los Angeles Times, January 8, 2006

BAGHDAD — A bipartisan congressional delegation that included Sen. Barack Obama (D-Ill.) had a blunt assessment Saturday for Iraq's political leaders: Shape up, or America will ship out.

The continued U.S. commitment to Iraq is becoming a tougher sell back home, said the four lawmakers, and unless Iraqis start showing signs of progress by creating a broad-based government and security forces that incorporate all of Iraq's ethnic and sectarian groups, Americans will lose patience, they said.

"It's going to be hard to convince American taxpayers to pour water into a leaky bucket," said Obama, a member of the Senate Foreign Relations Committee. He spoke briefly with a small group of reporters inside former Iraqi President Saddam Hussein's Republican Palace, which is now used as an annex for the U.S. Embassy.

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Obama, with Sen. Christopher S. Bond (R-Mo.), Sen. Evan Bayh (D-Ind.) and Rep. Harold E. Ford Jr. (D-Tenn.), arrived in Iraq on Saturday for a whirlwind trip that included meetings with American intelligence and reconstruction specialists and Iraqi election officials in the capital's U.S.-protected Green Zone. They plan visits today with troops in outlying provinces.

Although the lawmakers said their constituents were proud of America's accomplishments in Iraq, they were loath to commit further U.S. money and troops if the Iraqi government elected last month did not include all the country's ethnic and political factions.

"We are willing to continue to help them as long as they are willing to move forward toward a national unity government," said Bond, known as a backer of the U.S. military. "We are not here to participate in something that is dominated by one particular party or one particular sect."

To date, Congress has approved more than $300 billion for the wars in Iraq and Afghanistan, according to the Congressional Research Service. And lawmakers say the Pentagon is drafting a request for as much as $100 billion more.

With 2006 midterm elections on the horizon and American opinion polls showing wavering enthusiasm for involvement in Iraq, pressure has been building on members of Congress and President Bush to demonstrate progress or to craft an exit plan.

Bayh, who is eyeing a 2008 White House bid, outlined half a dozen milestones that he and his colleagues said they would like to see Iraqis achieve over the next six months to be able to convince American voters that the continued commitment to Iraq was worthwhile.

Among the goals were the quick formation of a government, signs of economic progress, acceptance of the political process by Sunni Arabs and the formation of a civil service and security forces that reflect Iraq's various ethnic and sectarian groups.

Iraqis must ask themselves some tough questions, Bayh said: "Do the Iraqis want to live together in one country? Are they willing to make the tough political compromises necessary to bring that about? If they don't, in spite of all our help [the conflict] will not end."

It remains unclear how much sway U.S. officials will have over the new Iraqi government, which appears set to be dominated Shiite Islamists with ties to Iran and by autonomy-minded Kurds.

After a week marked by major insurgent attacks, little violence was reported Saturday. Police special forces on patrol in eastern Baghdad were hit by a car bomb, injuring four commandos and five civilians.

The Real Choice In Iraq (WP)

By Zbigniew Brzezinski

The Washington Post, January 8, 2006

"Bring 'em on."

-- President Bush on Iraqi insurgents, summer 2003

The insurgency is "in its last throes."

-- Vice President Cheney,

summer 2005

" . . . there are only two options before our country: victory or defeat."

-- President Bush, Christmas 2005

The administration's rhetorical devolution speaks for itself. Yet, with some luck and with a more open decision-making process in the White House, greater political courage on the part of Democratic leaders and even some encouragement from authentic Iraqi leaders, the U.S. war in Iraq could (and should) come to an end within a year.

"Victory or defeat" is, in fact, a false strategic choice. In using this formulation, the president would have the American people believe that their only options are either "hang in and win" or "quit and lose." But the real, practical choice is this: "persist but not win" or "desist but not lose."

Victory, as defined by the administration and its supporters -- i.e., a stable and secular democracy in a unified Iraqi state, with the insurgency crushed by the American military assisted by a disciplined, U.S.-trained Iraqi national army -- is unlikely. The U.S. force required to achieve it would have to be significantly larger than the present one, and the Iraqi support for a U.S.-led

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counterinsurgency would have to be more motivated. The current U.S. forces (soon to be reduced) are not large enough to crush the anti-American insurgency or stop the sectarian Sunni-Shiite strife. Both problems continue to percolate under an inconclusive but increasingly hated foreign occupation.

Moreover, neither the Shiites nor the Kurds are likely to subordinate their specific interests to a unified Iraq with a genuine, single national army. As the haggling over the new government has already shown, the two dominant forces in Iraq -- the religious Shiite alliance and the separatist Kurds -- share a common interest in preventing a restoration of Sunni domination, with each determined to retain a separate military capacity for asserting its own specific interests, largely at the cost of the Sunnis. A truly national army in that context is a delusion. Continuing doggedly to seek "a victory" in that fashion dooms America to rising costs in blood and money, not to mention the intensifying Muslim hostility and massive erosion of America's international legitimacy, credibility and moral reputation.

The administration's definition of "defeat" is similarly misleading. Official and unofficial spokesmen often speak in terms that recall the apocalyptic predictions made earlier regarding the consequences of American failure to win in Vietnam: dominoes falling, the region exploding and U.S. power discredited. An added touch is the notion that the Iraqi insurgents will then navigate the Atlantic and wage terrorism on the American homeland.

The real choice that needs to be faced is between:

An acceptance of the complex post-Hussein Iraqi realities through a relatively prompt military disengagement -- which would include a period of transitional and initially even intensified political strife as the dust settled and as authentic Iraqi majorities fashioned their own political arrangements.

An inconclusive but prolonged military occupation lasting for years while an elusive goal is pursued.

It is doubtful, to say the least, that America's domestic political support for such a futile effort could long be sustained by slogans about Iraq's being "the central front in the global war on terrorism."

In contrast, a military disengagement by the end of 2006, derived from a more realistic definition of an adequate outcome, could ensure that desisting is not tantamount to losing. In an Iraq dominated by the Shiites and the Kurds -- who together account for close to 75 percent of the population -- the two peoples would share a common interest in Iraq's independence as a state. The Kurds, with their autonomy already amounting in effect to quasi-sovereignty, would otherwise be threatened by the Turks. And the Iraqi Shiites are first of all Arabs; they have no desire to be Iran's satellites. Some Sunnis, once they were aware that the U.S. occupation was drawing to a close and that soon they would be facing an overwhelming Shiite-Kurdish coalition, would be more inclined to accommodate the new political realities, especially when deprived of the rallying cry of resistance to a foreign occupier.

In addition, it is likely that both Kuwait and the Kurdish regions of Iraq would be amenable to some residual U.S. military presence as a guarantee against a sudden upheaval. Once the United States terminated its military occupation, some form of participation by Muslim states in peacekeeping in Iraq would be easier to contrive, and their involvement could also help to cool anti-American passions in the region.

In any case, as Iraqi politics gradually become more competitive, it is almost certain that the more authentic Iraqi leaders (not handpicked by the United States) -- to legitimate their claim to power -- will begin to demand publicly a firm date for U.S. withdrawal. That is all to the good. In fact, they should be quietly encouraged to do so, because that would increase their popular support while allowing the United States to claim a soberly redefined "Mission Accomplished."

The requisite first step to that end is for the president to break out of his political cocoon. His policymaking and his speeches are the products of the true believers around him who are largely responsible for the mess in Iraq. They have a special stake in their definition of victory, and they reinforce his convictions instead of refining his judgments. The president badly needs to widen his circle of advisers. Why not consult some esteemed Republicans and Democrats not seeking public office -- say, Warren Rudman or Colin Powell or Lee Hamilton or George Mitchell -- regarding the definition of an attainable yet tolerable outcome in Iraq?

Finally, Democratic leaders should stop equivocating while carping. Those who want to lead in 2008 are particularly unwilling to state clearly that ending the war soon is both desirable and feasible. They fear being labeled as unpatriotic. Yet

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defining a practical alternative would provide a politically effective rebuttal to those who mindlessly seek an unattainable "victory." America needs a real choice regarding its tragic misadventure in Iraq.

The writer was national security adviser to President Jimmy Carter.

Saddam's Terror Training Camps (WKLYSTD)

By Stephen F. Hayes

Weekly Standard, January 16, 2006

THE FORMER IRAQI REGIME OF Saddam Hussein trained thousands of radical Islamic terrorists from the region at camps in Iraq over the four years immediately preceding the U.S. invasion, according to documents and photographs recovered by the U.S. military in postwar Iraq. The existence and character of these documents has been confirmed to THE WEEKLY STANDARD by eleven U.S. government officials.

The secret training took place primarily at three camps--in Samarra, Ramadi, and Salman Pak--and was directed by elite Iraqi military units. Interviews by U.S. government interrogators with Iraqi regime officials and military leaders corroborate the documentary evidence. Many of the fighters were drawn from terrorist groups in northern Africa with close ties to al Qaeda, chief among them Algeria's GSPC and the Sudanese Islamic Army. Some 2,000 terrorists were trained at these Iraqi camps each year from 1999 to 2002, putting the total number at or above 8,000. Intelligence officials believe that some of these terrorists returned to Iraq and are responsible for attacks against Americans and Iraqis. According to three officials with knowledge of the intelligence on Iraqi training camps, White House and National Security Council officials were briefed on these findings in May 2005; senior Defense Department officials subsequently received the same briefing.

The photographs and documents on Iraqi training camps come from a collection of some 2 million "exploitable items" captured in postwar Iraq and Afghanistan. They include handwritten notes, typed documents, audiotapes, videotapes, compact discs, floppy discs, and computer hard drives. Taken together, this collection could give U.S. intelligence officials and policymakers an inside look at the activities of the former Iraqi regime in the months and years before the Iraq war.

The discovery of the information on jihadist training camps in Iraq would seem to have two major consequences: It exposes the flawed assumptions of the experts and U.S. intelligence officials who told us for years that a secularist like Saddam Hussein would never work with Islamic radicals, any more than such jihadists would work with an infidel like the Iraqi dictator. It also reminds us that valuable information remains buried in the mountain of documents recovered in Afghanistan and Iraq over the past four years.

Nearly three years after the U.S. invasion of Iraq, only 50,000 of these 2 million "exploitable items" have been thoroughly examined. That's 2.5 percent. Despite the hard work of the individuals assigned to the "DOCEX" project, the process is not moving quickly enough, says Michael Tanji, a former Defense Intelligence Agency official who helped lead the document exploitation effort for 18 months. "At this rate," he says, "if we continue to approach DOCEX in a linear fashion, our great-grandchildren will still be sorting through this stuff."

Most of the 50,000 translated documents relate directly to weapons of mass destruction programs and scientists, since David Kay and his Iraq Survey Group--who were among the first to analyze the finds--considered those items top priority. "At first, if it wasn't WMD, it wasn't translated. It wasn't exploited," says a former military intelligence officer who worked on the documents in Iraq.

"We had boxloads of Iraqi Intelligence records--their names, their jobs, all sorts of detailed information," says the former military intelligence officer. "In an insurgency, wouldn't that have been helpful?"

How many of those unexploited documents might help us better understand the role of Iraq in supporting transregional terrorists? How many of those documents might provide important intelligence on the very people--Baathists, former regime officials, Saddam Fedayeen, foreign fighters trained in Iraq--that U.S. soldiers are fighting in Iraq today? Is what we don't know literally killing us?

ON NOVEMBER 17, 2005, Michigan representative Pete Hoekstra wrote to John Negroponte, the director of national intelligence. Hoekstra is chairman of the House Intelligence Committee. He provided Negroponte a list of 40 documents

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recovered in postwar Iraq and Afghanistan and asked to see them. The documents were translated or summarized, given titles by intelligence analysts in the field, and entered into a government database known as HARMONY. Most of them are unclassified.

For several weeks, Hoekstra was promised a response. He finally got one on December 28, 2005, in a meeting with General Michael Hayden, principal deputy director of national intelligence. Hayden handed Hoekstra a letter from Negroponte that promised a response after January 1, 2006. Hoekstra took the letter, read it, and scribbled his terse response. "John--Unacceptable." Hoekstra told Hayden that he would expect to hear something before the end of the year. He didn't.

"I can tell you that I'm reaching the point of extreme frustration," said Hoekstra, in a phone interview last Thursday. His exasperated tone made the claim unnecessary. "It's just an indication that rather than having a nimble, quick intelligence community that can respond quickly, it's still a lumbering bureaucracy that can't give the chairman of the intelligence committee answers relatively quickly. Forget quickly, they can't even give me answers slowly."

On January 6, however, Hoekstra finally heard from Negroponte. The director of national intelligence told Hoekstra that he is committed to expediting the exploitation and release of the Iraqi documents. According to Hoekstra, Negroponte said: "I'm giving this as much attention as anything else on my plate to make this work."

Other members of Congress--including Rep. Dana Rohrabacher and Senators Rick Santorum and Pat Roberts--also demanded more information from the Bush administration on the status of the vast document collection. Santorum and Hoekstra have raised the issue personally with President Bush. This external pressure triggered an internal debate at the highest levels of the administration. Following several weeks of debate, a consensus has emerged: The vast majority of the 2 million captured documents should be released publicly as soon as possible.

Defense Secretary Donald Rumsfeld has convened several meetings in recent weeks to discuss the Pentagon's role in expediting the release of this information. According to several sources familiar with his thinking, Rumsfeld is pushing aggressively for a massive dump of the captured documents. "He has a sense that public vetting of this information is likely to be as good an astringent as any other process we could develop," says Pentagon spokesman Larry DiRita.

The main worry, says DiRita, is that the mainstream press might cherry-pick documents and mischaracterize their meaning. "There is always the concern that people would be chasing a lot of information good or bad, and when the Times or the Post splashes a headline about some sensational-sounding document that would seem to 'prove' that sanctions were working, or that Saddam was just a misunderstood patriot, or some other nonsense, we'd spend a lot of time chasing around after it."

This is a view many officials attributed to Undersecretary of Defense for Intelligence Steve Cambone. (Cambone, through a spokesman, declined to be interviewed.) For months, Cambone has argued internally against expediting the release of the documents. "Cambone is the problem," says one former Bush administration official who wants the documents released. "He has blocked this every step of the way." In what is perhaps a sign of a changing dynamic within the administration, Cambone is now saying that he, like his boss, favors a broad document release.

Although Hoekstra, too, has been pushing hard for the quick release of all of the documents, he is currently focusing his efforts simply on obtaining the 40 documents he asked for in November. "There comes a time when the talking has to stop and I get the documents. I requested these documents six weeks ago and I have not seen a single piece of paper yet."

Is Hoekstra being unreasonable? I asked Michael Tanji, the former DOCEX official with the Defense Intelligence Agency, how long such a search might take. His answer: Not long. "The retrieval of a HARMONY document is a trivial thing assuming one has a serial number or enough keyword terms to narrow down a search [Hoekstra did]. If given the task when they walked in the door, one person should be able to retrieve 40 documents before lunch."

Tanji should know. He left DIA last year as the chief of the media exploitation division in the office of document exploitation. Before that, he started and managed a digital forensics and intelligence fusion program that used the data obtained from DOCEX operations. He began his career as an Army signals intelligence [SIGINT] analyst. In all, Tanji has worked for 18 years in intelligence and dealt with various aspects of the media exploitation problem for about four years.

We discussed the successes and failures of the DOCEX program, the relative lack of public attention to the project, and what steps might be taken to expedite the exploitation of the documents in the event the push to release all of the documents loses momentum.

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TWS: In what areas is the project succeeding? In what areas is the project failing?

Tanji: The level of effort applied to the DOCEX problems in Iraq and Afghanistan to date is a testament to the will and work ethic of people in the intelligence community. They've managed to find a number of golden nuggets amongst a vast field of rock in what I would consider a respectable amount of time through sheer brute force. The flip side is that it is a brute-force effort. For a number of reasons--primarily time and resources--there has not been much opportunity to step back, think about a smarter way to solve the problem, and then apply various solutions. Inasmuch as we've won in Iraq and Saddam and his cronies are in the dock, now would be a good time to put some fresh minds on the problem of how you turn DOCEX into a meaningful and effective information-age intelligence tool.

TWS: Why haven't we heard more about this project? Aren't most of the Iraqi documents unclassified?

Tanji: Until a flood of captured material came rushing in after the start of Operation Enduring Freedom [in October 2001], DOCEX was a backwater: unglamorous, not terribly career enhancing, and from what I had heard always one step away from being mothballed.

The classification of documents obtained for exploitation varies based on the nature of the way they were obtained and by whom. There are some agencies that tend to classify everything regardless of how it was acquired. I could not give you a ratio of unclassified to classified documents.

In my opinion the silence associated with exploitation work is rooted in the nature of the work. In addition to being tedious and time-consuming, it is usually done after the shooting is over. We place a higher value on intelligence information that comes to us before a conflict begins. Confirmation that we were right (or proof that we were wrong) after the fact is usually considered history. That some of this information may be dated doesn't mean it isn't still valuable.

TWS: The project seems overwhelmed at the moment, with a mere 50,000 documents translated completely out of a total of 2 million. What steps, in your view, should be taken to expedite the process?

Tanji: I couldn't say what the total take of documents or other forms of media is, though numbers in the millions are probably not far off.

In a sense the exploitation process is what it is; you have to put eyes on paper (or a computer screen) to see what might be worth further translation or deeper analysis. It is a time-consuming process that has no adequate mechanical solution. Machine translation software is getting better, but it cannot best a qualified human linguist, of which we have very few.

Tackling the computer media problem is a lot simpler in that computer language (binary) is universal, so searching for key words, phrases, and the names of significant personalities is fairly simple. Built to deal with large-scale data sets, a forensic computer system can rapidly separate wheat from chaff. The current drawback is that the computer forensics field is dominated by a law-enforcement mindset, which means the approach to the digital media problem is still very linear. As most of this material has come to us without any context ("hard drives found in Iraq" was a common label attached to captured media) that approach means our great-grandchildren will still be dealing with this problem.

Dealing with the material as the large and nebulous data set that it is and applying a contextual appliqué after exploitation--in essence, recreating the Iraqi networks as they were before Operation Iraqi Freedom began--would allow us to get at the most significant data rapidly for technical analysis, and allow for a political analysis to follow in short order. If I were looking for both a quick and powerful fix I'd get various Department of Energy labs involved; they're used to dealing with large data sets and have done great work in the data mining and rendering fields.

TWS: To read some of the reporting on Iraq, one might come away with the impression that Saddam Hussein was something of a benign (if not exactly benevolent) dictator who had no weapons of mass destruction and no connections to terrorism. Does the material you've seen support this conventional wisdom?

Tanji: I am subject to a nondisclosure agreement, so I would rather not get into details. I will say that the intelligence community has scraped the surface of much of what has been captured in Iraq and in my view a great deal more deep digging is required. Critics of the war often complain about the lack of "proof"--a term that I had never heard used in the intelligence lexicon until we ousted Saddam--for going to war. There is really only one way to obtain "proof" and that is to carry out a thorough and detailed examination of what we've captured.

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TWS: I've spoken with several officials who have seen unclassified materials indicating the former Iraqi regime provided significant support--including funding and training--to transregional terrorists, including Palestinian Islamic Jihad, Ansar al Islam, Algeria's GSPC, and the Sudanese Islamic Army. Did you see any of this?

Tanji: My obligations under a nondisclosure agreement prevent me from getting into this kind of detail.

Other officials familiar with the captured documents were less cautious. "As much as we overestimated WMD, it appears we underestimated [Saddam Hussein's] support for transregional terrorists," says one intelligence official.

Speaking of Ansar al Islam, the al Qaeda-linked terrorist group that operated in northern Iraq, the former high-ranking military intelligence officer says: "There is no question about the fact that AI had reach into Baghdad. There was an intelligence connection between that group and the regime, a financial connection between that group and the regime, and there was an equipment connection. It may have been the case that the IIS [Iraqi Intelligence Service] support for AI was meant to operate against the [anti-Saddam] Kurds. But there is no question IIS was supporting AI."

The official continued: "[Saddam] used these groups because he was interested in extending his influence and extending the influence of Iraq. There are definite and absolute ties to terrorism. The evidence is there, especially at the network level. How high up in the government was it sanctioned? I can't tell you. I don't know whether it was run by Qusay [Hussein] or [Izzat Ibrahim] al-Duri or someone else. I'm just not sure. But to say Iraq wasn't involved in terrorism is flat wrong."

STILL, some insist on saying it. Since early November, Senator Carl Levin has been spotted around Washington waving a brief excerpt from a February 2002 Defense Intelligence Agency assessment of Iraq. The relevant passage reads: "Saddam's regime is intensely secular and is wary of Islamic revolutionary movements. Moreover, Baghdad is unlikely to provide assistance to a group it cannot control."

Levin treats these two sentences as definitive proof that Bush administration officials knew that Saddam's regime was unlikely to work with Islamic fundamentalists and ignored the intelligence community's assessment to that effect. Levin apparently finds the passage so damning that he specifically requested that it be declassified.

I thought of Levin's two sentences last Wednesday and Thursday as I sat in a Dallas courtroom listening to testimony in the deportation hearing of Ahmed Mohamed Barodi, a 42-year-old Syrian-born man who's been living in Texas for the last 15 years. I thought of Levin's sentences, for example, when Barodi proudly proclaimed his membership in the Syrian Muslim Brotherhood, and again when Barodi, dressed in loose-fitting blue prison garb, told Judge J. Anthony Rogers about the 21 days he spent in February 1982 training with other members of the Syrian Muslim Brotherhood at a camp in Iraq.

The account he gave in the courtroom was slightly less alarming than the description of the camp he had provided in 1989, on his written application for political asylum in the United States. In that document, Barodi described the instruction he received in Iraq as "guerrilla warfare training." And in an interview in February 2005 with Detective Scott Carr and special agent Sam Montana, both from the federal Joint Terrorism Task Force, Barodi said that the Iraqi regime provided training in the use of firearms, rocket-propelled grenades, and document forgery.

Barodi comes from Hama, the town that was leveled in 1982 by the armed forces of secular Syrian dictator Hafez Assad because it was home to radical Islamic terrorists who had agitated against his regime. The massacre took tens of thousands of lives, but some of the extremists got away.

Many of the most radical Muslim Brotherhood refugees from Hama were welcomed next door--and trained--in Saddam Hussein's Iraq. Spanish investigators believe that Ghasoub Ghalyoun, the man they have accused of conducting surveillance for the 9/11 attacks, who also has roots in the Syrian Muslim Brotherhood, was trained in an Iraqi terrorist camp in the early 1980s. Ghalyoun mentions this Iraqi training in a 2001 letter to the head of Syrian intelligence, in which he seeks reentry to Syria despite his long affiliation with the Muslim Brotherhood.

Reaching out to Islamic radicals was, in fact, one of the first moves Saddam Hussein made upon taking power in 1979. That he did not do it for ideological reasons is unimportant. As Barodi noted at last week's hearing, "He used us and we used him."

Throughout the 1980s, including the eight years of the Iran-Iraq war, Saddam cast himself as a holy warrior in his public rhetoric to counter the claims from Iran that he was an infidel. This posturing continued during and after the first Gulf war in 1990-91. Saddam famously ordered "Allahu Akbar" (God is Great) added to the Iraqi flag. Internally, he launched "The Faith

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Campaign," which according to leading Saddam Hussein scholar Amatzia Baram included the imposition of sharia (Islamic law). According to Baram, "The Iraqi president initiated laws forbidding the public consumption of alcohol and introduced enhanced compulsory study of the Koran at all educational levels, including Baath Party branches."

Hussein Kamel, Saddam's son-in-law who defected to Jordan in 1995, explained these changes in an interview with Rolf Ekeus, then head of the U.N. weapons inspection program. "The government of Iraq is instigating fundamentalism in the country," he said, adding, "Every party member has to pass a religious exam. They even stopped party meetings for prayers."

And throughout the decade, the Iraqi regime sponsored "Popular Islamic Conferences" at the al Rashid Hotel that drew the most radical Islamists from throughout the region to Baghdad. Newsweek's Christopher Dickey, who covered one of those meetings in 1993, would later write: "Islamic radicals from all over the Middle East, Africa and Asia converged on Baghdad to show their solidarity with Iraq in the face of American aggression." One speaker praised "the mujahed Saddam Hussein, who is leading this nation against the nonbelievers." Another speaker said, "Everyone has a task to do, which is to go against the American state." Dickey continued:

Every time I hear diplomats and politicians, whether in Washington or the capitals of Europe, declare that Saddam Hussein is a "secular Baathist ideologue" who has nothing do with Islamists or with terrorist calls to jihad, I think of that afternoon and I wonder what they're talking about. If that was not a fledgling Qaeda itself at the Rashid convention, it sure was Saddam's version of it.

In the face of such evidence, Carl Levin and other critics of the Iraq war trumpet deeply flawed four-year-old DIA analyses. Shouldn't the senator instead use his influence to push for the release of Iraqi documents that will help establish what, exactly, the Iraqi regime was doing in the years before the U.S. invasion?

Stephen F. Hayes is a senior writer at The Weekly Standard.

U.S. Soldiers Question Use Of More Armor (AP-Y2)

By Ryan Lenz

AP, January 8, 2006

U.S. soldiers in the field were not all supportive of a Pentagon study that found improved body armor saves lives, with some troops arguing Saturday that more armor would hinder combat effectiveness.

The unreleased study examined 93 fatal wounds to Marines from the start of the Iraq war in March 2003 through June 2005. It concluded 74 of them were bullet or shrapnel wounds to shoulders or torso areas unprotected by traditional ceramic armor plating.

Soldiers from the 101st Airborne Division's 3rd Brigade "Rakkasans" are required to wear an array of protective clothing they refer to as their "happy gear," ranging from Kevlar drapes over their shoulders and sides, to knee pads and fire-resistant uniforms.

But many soldiers say they feel encumbered by the weight and restricted by fabric that does not move as they do. They frequently joke as they strap on their equipment before a patrol, and express relief when they return and peel it off.

Second Lt. Josh Suthoff, 23, of Jefferson City, Mo., said he already sacrifices enough movement when he wears the equipment. More armor would only increase his chances of getting killed, he said.

"You can slap body armor on all you want, but it's not going to help anything. When it's your time, it's your time," said Suthoff, a platoon leader in the brigade's 1st Squadron, 33rd Cavalry Regiment. "I'd go out with less body armor if I could."

The study and their remarks highlight the difficulty faced by the Army and Marine Corps in providing the best level of body armor protection in a war against an insurgency whose tactics are constantly changing.

Both the Army and the Marines have weighed the expected payoff in additional safety from extra armor against the measurable loss of combat effectiveness from too much armor.

According to a summary of the Armed Forces Medical Examiner's study obtained Friday evening by The Associated Press, the 93 Marines who died from a primary lethal injury of the torso were among 401 Marines who died from combat injuries in Iraq between the start of the war and June 2005.

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A military advocacy group, Soldiers for Truth, posted an article about the study on its Web site this week. On Friday evening, The New York Times reported in its online edition that the study for the first time shows the cost in lives lost from inadequate armor.

Autopsy reports and photographic records were analyzed to help the military determine possible body armor redesign.

Of 39 fatal torso wounds in which the bullet or shrapnel entered the Marine's body outside of the ceramic armor plate protecting the chest and back, 31 were close to the plate's edge, according to the study, which was conducted last summer.

Some soldiers felt unhappy that ceramic plates to protect their sides and shoulders were available, but not offered, when they deployed for Iraq in September.

"If it's going to protect a soldier or save his life, they definitely should have been afforded the opportunity to wear it," said Staff Sgt. Shaun Benoit, 26, of Conneaut, Ohio. "I want to know where there was a break in communication."

Others questioned the effectiveness of additional body armor.

"It's the Army's responsibility to get soldiers the armor they need. But that doesn't mean those deaths could have been prevented," said Spc. Robert Reid, 21, of Atlanta.

Sen. Barack Obama, D-Ill., who was in Iraq on Saturday, said military leaders told him that body armor has improved since the initial invasion in 2003 and that the military hoped to gradually transition to the improved armor.

The debate between protection versus mobility has dominated military doctrine since the Middle Ages, when knights wrapped themselves in metal suits for battle, said Capt. Jamey Turner, 35, of Baton Rouge, La., a commander in the 1st Squadron, 33rd Cavalry Regiment.

The issue comes up daily on the battlefield in Iraq, and soldiers need to realize there is no such thing as 100 percent protection, he said.

"You've got to sacrifice some protection for mobility," he added. "If you cover your entire body in ceramic plates, you're just not going to be able to move."

Others in the regiment said the issue of protecting soldiers with more body armor is of greater concern at home than among soldiers in Iraq, who have seen firsthand how life and death hang on a sliver of luck when an improvised explosive device hits a Humvee.

"These guys over here are husbands, sons and daughters. It's understandable people at home would want all the protection in the world for us. But realistically, it just don't work," said Sgt. Paul Hare, 40, of Tucumcari, N.M.

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AP Military Writer Robert Burns in Washington contributed to this report.

Marines Without Armor (NYT)

The New York Times, January 8, 2006

American marines are a proud, tough bunch. They expect to be sent into the most dangerous battles and expect enemy fighters to come at them with everything they have. But they also expect, and have every right to expect, the Pentagon to provide them with the most effective armor available to maximize their chances of staying alive and in one piece. An investigative article in Saturday's Times by our colleague Michael Moss makes painfully clear that the Pentagon has let these brave warriors down.

A secret Defense Department study reveals that more extensive armor, of a kind available since 2003, could have saved the lives of some 80 percent of the marines killed by upper body wounds in Iraq between 2003 and 2005. That amounts to scores of needlessly lost lives - hundreds if Army deaths attributable to inadequate armor are counted as well. The ceramic armor plates in question cost about $260 a set.

Marines in the field have been clamoring for additional body armor (and vehicle armor) almost since the Iraq war began. Military officials initially turned them down because of concerns that the added weight might constrict movement. Once the study results came in last summer, Marine Corps leaders belatedly reversed themselves and started speeding armor to the troops.

Still, as of last month, less than 10 percent of the 28,000 sets of armor plates on order had actually reached the Marines in Iraq. Similar delays have plagued deliveries of improved vehicle armor. And the much larger Army contingent in Iraq has faced even more extensive delays.

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The Pentagon buys some truly wondrous space-age weaponry with its half-trillion-dollar annual budgets. If the cold war ever resumes, the American military will certainly be prepared. Meantime, surely enough spare change can be found in that vast budget to accelerate deliveries of lifesaving armor to the marines and soldiers coming under fire today, and every day, in Iraq.

For Returning Unit In Iraq, A Battle With Doubts (BOS)

By Thanassis Cambanis

The Boston Globe, January 8, 2006

KIRKUK, Iraq -- Captain John McLaughlin's company of combat veterans has returned to Iraq. They have brought far fewer illusions this time around, exchanging unalloyed enthusiasm for Operation Iraqi Freedom in the spring of 2003 for a mix of professionalism, resignation, and cynicism.

The enlisted men from the 101st Airborne Division now know much more about the country, confidently factoring in competing ethnic agendas as they navigate the claims of Kurds, Arab Sunnis and Shi'ites, and Turkomen.

Most dismiss the American debate over the merits of the war as irrelevant, many of them saying they fight out of loyalty to the Army even if they think its mission in Iraq is unrealistic. Most profess no love for Iraq and its people.

When these air assault paratroopers returned to Iraq in October, the theater of battle was barely recognizable to them.

In April 2003, the Second Battalion 327th Infantry of the 101st fought its way through the nastiest combat of the Iraq invasion, leaping out of helicopters to fight Saddam Hussein loyalists in Najaf and Mosul, where they eventually established a forward-fire base south of the city and stayed until February 2004.

The division suffered 59 deaths that year. They returned to their post at Fort Campbell, Ky., for a year and a half before returning to Iraq in October.

But 2003 seems like ages ago to the young veterans.

The battalion that arrived in Kirkuk -- about two-thirds of them veterans of Iraq or Afghanistan -- found a base so cushy that commanders worry the soldiers will go soft, forgetting they're stationed in a war zone. Instead of sleeping on the floors of gutted warehouses, eating military rations, and burning their own sewage in trenches behind their quarters, soldiers now benefit from the infrastructure of a long occupation.

FOB Warrior, as the air base is known, boasts hot showers, a dining hall, a gym, a swimming pool, two barbershops, and a beauty parlor that gives massages. There's a Burger King and a 24-hour Green Beans Coffee shop, where soldiers line up for chai lattes and brownies in the middle of the night.

The permanence of facilities at the Kirkuk base also hints of a mission without end.

The surrounding city is still a deadly place -- less lethal than Fallujah but more so than the Shi'ite south. On this tour, 26 soldiers from the 101st had been killed by mid-December.

After the 2003 invasion, US troops had clear marching orders: Catch Hussein and his lieutenants and stabilize Iraq. During the first few months, criminal gangs posed the greatest law-and-order challenge, not insurgents.

Some returning soldiers said that while they once believed they could quickly train Iraqi police to replace American troops, they've now set their sights much lower, hoping perhaps to set a decent example for police and soldiers they train but don't entirely trust.

"Regardless of whether this is the great march of democracy or protecting the shores of America, whether I bought into that or not, it doesn't matter," McLaughlin said late one night at his command post after returning from a long day of meetings with Iraqi police chiefs and army commanders. "My obligation as a soldier, as an officer, as a leader is to do the mission to the best of my ability. That's the only saving grace out of the whole thing."

During a four-day visit by a Globe reporter to the Kirkuk base, soldiers and their commanders -- most of them returning veterans -- said they see the Iraq mission as less ambitious, less achievable, and more stressful than they did almost three years ago.

The soldiers still work at battle rhythm, always on call and with no days off. And while still dangerous, their daily routine involves patrolling between Kirkuk's police stations and army bases, investigating assassinations and bomb attacks against Iraqis -- and, often, investigating the very Iraqi security forces they're trying to train.

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An unclear enemy

Everywhere he looks, McLaughlin sees ambiguity. As he and his troops see it, most Iraqis don't like the Americans and tolerate their presence only when American interests coincide with their own.

In that sea of doubt, there are a few safe harbors.

For McLaughlin's Charlie Company, one is the putrid settlement they call the Gypsy Camp, an abandoned factory inhabited by squatters that doubles as a brothel.

McLaughlin enjoys the company of his soldiers, trading jokes delivered in his thick Boston accent. But he's intense while on the job, which is most of the time. While riding in his Humvee, he listens to updates from southern Kirkuk through an earpiece while chatting with the driver, gunner, sergeant, and interpreter who ride with him.

All of the city's major ethnic groups -- Kurds, Arabs, Turkomen -- share contempt for the gypsies. To McLaughlin, they represent the most blameless victims of the complex conflict in Iraq, and their mistreatment at the hands of Iraq's American-trained security forces reflects the greatest pitfall of the US Army's new mission: that Iraqi authorities might abuse their growing powers.

Many of the Iraqi soldiers and police McLaughlin trains violate the ban on visiting the brothel. In mid-December, Iraqi soldiers allegedly beat several of the women and burned the tents the squatters had pitched behind the dingy, half-finished shell of a building.

"If we aren't here to protect these people, who are we here for?" McLaughlin asked during a visit to the camp.

Families live in a row of tents, while the prostitutes, wearing heavy makeup, magenta scarves, and velveteen pantaloons, stand in the factory entryway.

When McLaughlin pulled up in his Humvee to investigate the day after the Iraqi raid, four Iraqi soldiers tried to flee down a side road. McLaughlin's driver blocked their way.

The incident exemplifies the military's new mission in Iraq: The top priority is no longer to kill insurgents and search neighborhoods. Now, US troops are supposed to pour their energy into training Iraqi forces to do the job.

McLaughlin's superiors in Kirkuk boast that two-thirds of all patrols combine US and Iraqi forces and that within three months Iraqi units -- like the one that McLaughlin suspects routinely raids the brothel -- will be ready to take the lead policing Kirkuk.

The soldiers in the 101st Airborne have taken on this training mission with an arsenal they didn't have the first time they fought in Iraq. Most of the officers know rudimentary Arabic and have learned to spend time developing personal relationships with local police and army officers who can provide intelligence. They drink tea with their Iraqi counterparts and encourage them to concentrate on their mission.

On one Saturday morning patrol, McLaughlin grilled two police chiefs about an array of attacks and insurgent cells, prompting them to follow up specific leads and steering them back on track when they tried to shift the conversation away from crime and toward meaningless platitudes about Iraqi politics.

He also confronted the Iraqi Army company about the gypsies.

"We -- you, me, police -- we're all here to secure everybody within the city, and that includes the gypsies," McLaughlin thundered at a young Iraqi Army lieutenant. "By going down there and slapping them around, burning down their tent, it makes you look no better than a criminal."

Boredom and bureaucracy

Sergeant Matt Somma and Private Gregory Miller patrol together in a heavily armored Humvee that's prone to roll over. It's a much safer cocoon than the doorless Humvees that Somma patrolled in at the beginning of the Iraq war in the northern city of Mosul.

Both men came to Kirkuk in October with a vivid sense of Iraq.

Somma, 22, fought his way through some of the worst battles of 2003 and stayed until the end of February 2004. He sees no other life for himself but the army.

The Iraq war in its present phase, however, bores him: There's too much politics and not enough shooting for his taste.

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As a team leader within his platoon, Somma spends much of his time enforcing new safety regulations for soldiers, making sure they're wearing goggles, they unload their guns when they return to base, and they don't let down their guard just because the conflict doesn't summon so much adrenaline.

"It kind of sucks sometimes," Somma said of the bureaucratic aspects of his job.

Tall, skinny, with a hooked nose, Somma towers over the other men in his platoon. He walks with a swagger and keeps up a constant verbal patter like a stage musician -- the only other career he says appeals to him. On patrol, he plays a game called "What are you thinking?" with the other sergeants on the radio, mixing absurd observations about the Iraqis in their area of operations, lyrics, and references to American television shows.

Somma also focuses much of his energy on the video game "Age of Empires III," which he plays on his laptop while huddled in his wooden bunk. Somma dedicates most waking hours when he's not on patrol to the game, in which he directs a civilization trying to conquer 17th-century America.

Miller, his platoon's old man at 27, quit his job as a diving instructor last year to fulfill a promise he made to his best childhood friend, Matt Brown, whom he refers to as his brother. Brown, an Army officer deployed in central Iraq a year ago, lost an eye when insurgents ambushed his convoy.

"I promised my brother that if he got hurt, I would join the Army," Miller said. "Eight months later, here I am. I knew what I was getting into."

The pace of life on deployment is draining, but it's also addictive. Somma said he wants a break from the Army to go to college but can't imagine blending back into civilian society. He and Miller both said they feel alienated by a society where they believe people don't take individual responsibility.

In Iraq, despite the murkiness of the mission, they have found crystal clarity in their relationship to their own unit -- so much so that on his last deployment Somma didn't take any of the leave to which he was entitled.

Somma said the Iraq war is slowly becoming like Korea or Germany for career military personnel, a grueling ticket that everyone committed to the Army will have to punch. Even though this deployment has seen more soldiers from the 101st killed per month than in 2003, the mission feels more like work and less like war to Somma.

"There's not much contact" with the enemy, Somma said while driving his Humvee late one night down a rutted dirt road in the Arab section of Kirkuk. "Nothing's 100 percent safe, but Kirkuk is a pretty safe city."

He compared it wistfully to Mosul, where he was stationed last time and where his division won accolades for killing top Ba'athists, including Hussein's sons. "Mosul was just chaotic when we were there," he said with a smile.

A false sense of security

At Kirkuk Air Base, combat soldiers live on the far end of the airstrip. The support units and contractors -- the majority of whom never go "outside the wire" -- live on the other side.

A flier posted in nearly every building warns soldiers against taking false comfort from the amenities: "Quality of Life Warning!!!" it reads. "Quality of life on FOB Warrior is excellent. DO NOT get complacent and get lulled into a false sense of security. We are in a dangerous place and there are people outside of the FOB who want to kill you. Stay alert, stay alive!"

"Last time, we got here and there was nothing. It was weird coming back and seeing all this," Somma said.

On his last tour, Captain McLaughlin lived in an ammunition bunker with no power and no air conditioning. Now he has his own room with a door, a desk, a cot, and a shelf for his book of Tennyson poems and a library of other tomes he still hasn't gotten to -- "Don Quixote," a history of Islam, a polemic about reform in the Arab world.

Soldiers in Somma's platoon inherited a wireless Internet network set up by an Iraqi contractor. Commanders ordered it dismantled after Christmas, in part because it seemed too cushy.

Sophisticated soldiers and an Iraq mission no longer geared toward the climactic moment of national elections constitute a tough challenge for McLaughlin's company leadership: how to keep soldiers motivated when their success can be measured only through the goal of improving Iraqi security forces?

The answer, they say, is to think narrow.

"The guys look for small, incremental little victories," said the company's first lieutenant, Brett Bean.

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First Sergeant Jason Larson, who turned 35 on Christmas Day and has spent 15 years in the Army, said he had always thought the Army would be his last job. But the inevitability of returning to Iraq, he said, has persuaded him to leave the military when his contract runs out in five years.

"I won't stay a day longer, even if I have to go work as a greeter at Wal-Mart," Larson said.

In a war without any benchmarks coming up, he said, commanders have to constantly refine their message to soldiers, billing small turning points like the improvement of an Iraqi battalion as major victories. "For us, the challenge will be to keep everyone focused," he said.

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Marine Battalion Taking 3rd Tour To Iraq (LAT)

By Tony Perry

The Los Angeles Times, January 8, 2006

CAMP PENDLETON — In the predawn chill of Saturday morning, Anna Plank of Huntington Beach was here to see her 21-year-old son, Marine Cpl. Jason Plank, begin the trip back to Iraq for his third tour of duty.

The waiting and worrying never get easier for the families of Marines, particularly those of the 3rd Battalion, 5th Marine Regiment, 1st Marine Division, which has a reputation for drawing the most dangerous of assignments.

"You pray a lot and you stay busy, and you wait for those phone calls and letters to arrive," Anna Plank said.

But there is something else that family members pray never arrives: an official car with an officer or senior enlisted man, possibly accompanied by a chaplain. That's how the Marine Corps notifies families that a loved one has been killed.

"During his last deployment, I saw an official car in the neighborhood, and I immediately ran upstairs and closed the door as if that could stop it," said Plank, a tear on her cheek at the memory. "But it wasn't that, thank God."

Among the hundreds of family members who gathered to see 300 Marines and sailors board buses that would take them to a nearby airport, fear of the "knock on the door" was a shared experience.

"I remember one day an officer came to our office complex and my heart stopped; it just stopped," said Julie Galaviz of Whittier, whose son, Lance Cpl. Joshua Tallis, 21, is returning to Iraq for a third tour.

The 3-5, as it is known, is the first battalion from Camp Pendleton to depart for Iraq as the 1st Marine Expeditionary Force begins to relieve troops from Camp Lejeune, N.C., in violence-plagued Al Anbar province west of Baghdad.

In 2003, three Marines from the battalion were killed in Iraq. In 2004, 19 were killed, most in the November fight to wrest control of Fallouja from the insurgents. The 3-5 was one of the lead units in the assault.

Now the battalion is returning to Fallouja for a seven-month deployment to help train Iraqi security forces, although that assignment could change if U.S. commanders order an assault on insurgent strongholds.

An estimated two-thirds of the battalion's 1,000 Marines have made at least one deployment to Iraq. Like the Marines, family members have developed strategies for survival.

"You need to surround yourself with friends and family, and stay focused," said Lauren Maricic, 23, of Ontario whose boyfriend, Cpl. Miles Nelson, 21, is returning for a third tour.

"And the friends and family members have to be ready to get a phone call at 2 o'clock in the morning if you need support," she said.

Anna Goad, 23, of Irvine and her husband, Cpl. Michael Goad, 25, were sharing a last hug as the buses rolled into sight and Marines began grabbing their rifles. Sergeants began barking orders, and the tears and tension among family members increased.

"Everybody is afraid of the knock on the door," Anna Goad said. "But it's absolutely not going to happen to us. I know that."

Donna Meyers, 72, and her husband, A.J., 76, drove from their home in Riverbank, Calif., near Modesto, to say goodbye to their grandson Rich, making his third tour. She wears his picture on a chain around her neck.

"We lost one boy from his group last time, and it was hard, real hard," Donna Meyers said. "Rich met his mother."

On Thursday night, Tallis' family met at his grandmother's house in Pico Rivera for a dinner with his favorite foods: barbecued ribs, rice pilaf, scalloped potatoes, strawberry ice cream and more.

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On Friday, Tallis visited with the family priest at St. Bruno's Catholic Church in Whittier for a blessing.

Hayley Lynn, 18, of La Crescenta married Lance Cpl. Chad Lynn, 19, on Tuesday at a chapel in Las Vegas. As his departure to Iraq for his first tour grew closer, she extracted a promise.

"He promised me that he wouldn't die," she said.

Army Captain Employed Daring, Intellect (WP)

By Eric Rich

The Washington Post, January 8, 2006

Christopher P. Petty barely squeaked by as a high school student in Virginia, his father said, but he thrived amid the rigors of military culture, rising to the rank of captain and commanding an artillery battalion in Iraq.

"It's just kind of a typical American story where . . . the combination of life and experience in the military turns him completely around to where he's a model officer," said Paul R. Petty, a retired CIA officer.

Petty, 33, was killed in Najaf on Thursday along with four other soldiers when an improvised explosive detonated near their Humvee, the Defense Department said. He was three weeks into his second tour of duty in Iraq.

Petty was a father of two -- Oliver, 3, and Owen, 3 months -- and he and his wife, Deborah, had lived near Fort Hood, Tex., where he was assigned to the 4th Infantry Division.

Because of his father's work, Petty grew up overseas. He was born in Berlin and lived in Austria, Finland and Jamaica. He was a graduate of James Madison High School in Vienna and attended Marshall University in Huntington, W.Va., where he was enrolled in the ROTC program.

He was commissioned in the Army upon graduation. Ed Petty, an artillery officer in World War II, pinned his own second lieutenant's bars and crossed cannon artillery insignia on his grandson at the commissioning.

Petty's unit entered Iraq just days after the initial invasion, engaging some of the last Republican Guard elements near Tikrit in the north.

Stationed not far from the Iranian border, his father said, Petty served informally as a civil affairs officer with the responsibility of running local elections and formally as the artillery coordinator for his battalion. Petty devised a clever method, one that he employed daringly, for responding to frequent mortar attacks, his father said. Petty would calculate the mortars' trajectories by examining impact craters and tail fins, then determine from where the rounds had been fired.

"He'd go out where they were impacting, sometimes while they were still coming in," Petty said.

During that year-long deployment, his battalion suffered only one casualty, his father said. The insurgency has since grown stronger, and Petty was aware that he would return to a more dangerous country, his father said.

Yesterday, he recalled when his son, in middle school, was on a Vienna soccer team with the son of Redskins coach Joe Gibbs.

The soccer coach didn't show up one day. Gibbs stepped in, leading the underdog team to victory. "They trounced these other guys, who were touted to win by huge margins," Paul Petty said. "Those boys -- they were on cloud nine."

Staff researcher Magda Jean-Louis contributed to this report.

Case Dropped Against U.S. Officer In Beating Deaths Of Afghan Inmates (NYT)

By Tim Golden

The New York Times, January 8, 2006

The Army has dropped its case against the only officer to face criminal charges in connection with the beating deaths of two prisoners held by the United States in Afghanistan, military officials said yesterday.

The officer, Capt. Christopher M. Beiring, led a reservist military police company that was guarding the main American detention center in Afghanistan when the two men were killed within days of each other in December 2002. The prisoners died after guards kneed them repeatedly in the legs while each was shackled to the ceiling of his cell.

Captain Beiring, 39, had been charged with lying to investigators and being derelict in his duties, in part by neglecting after the first death to order his soldiers to stop chaining up prisoners by the arms at the behest of military interrogators who wanted to deprive them of sleep before questioning.

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"They certainly had a case to investigate - two guys died," Captain Beiring said yesterday in an interview. "And, obviously, some soldiers did some stuff wrong and needed to be punished. But I think it got blown out of proportion. At some point, they were just playing politics."

The collapse of the case is the latest and most embarrassing of several setbacks for the team of Army prosecutors that has been working for more than a year on the deaths, which occurred at the military detention center in Bagram, 40 miles north of Kabul.

Captain Beiring is the third member of the 377th Military Police Company, based in Cincinnati and Bloomington, Ind., to have had charges dismissed before trial. Four enlisted soldiers in the unit have been acquitted, two others pleaded guilty to assault and one was convicted of assault, maiming and other charges.

Four former interrogators from the 519th Military Intelligence Battalion, based at Fort Bragg, N.C., have pleaded guilty to charges including assault, maltreatment and dereliction of duty.

In Captain Beiring's case, the decision by the commander of the Army's Air Defense Artillery Center at Fort Bliss, Tex., where the Bagram cases are being tried, followed the recommendation of an investigating judge that it not proceed to a court-martial.

A spokeswoman for Fort Bliss, Jean Offutt, said Captain Beiring was issued a letter of reprimand on Friday. Captain Beiring said that the letter contained accusations of dereliction of duty and that he would formally rebut them.

The judge who oversaw the pretrial inquiry, Lt. Col. Thomas S. Berg, sharply criticized the prosecutors' case, concluding in a 22-page report that they had failed to present sufficient evidence to support any of the charges.

The accusation that Captain Beiring lied about his efforts to train his soldiers after they arrived in Afghanistan was based on "one slightly ambiguous response" in one of the half-dozen sworn statements he gave to various military investigators, Colonel Berg noted. He added that Captain Beiring's response was then "significantly misquoted" by the prosecutors in the charges they filed.

Colonel Berg, the investigating judge, also dismissed two charges of dereliction of duty against Captain Beiring. In those charges, prosecutors had argued that the captain had failed to properly train his soldiers to handle the detainees and to order them to stop chaining prisoners overhead after the first one died.

Though Colonel Berg noted that the company had scarcely been trained for its specific mission at Bagram, he said Captain Beiring had sought and was denied more training before his company deployed. The unit spent barely a day learning from the company it replaced before that unit left Afghanistan.

Colonel Berg said that "substantial evidence" also showed that Captain Beiring did, in fact, instruct his junior and noncommissioned officers to stop the overhead chaining of detainees after two more senior officers insisted that he do so. The fact that a second prisoner died while similarly shackled "only shows that someone else either did not get the word about standing restraints or, more likely, got the word and chose to disregard it."

"Captain Beiring was sorely challenged at every step," Colonel Berg concluded. "He may not have done his duty perfectly, but he did it well."

Ms. Offutt, the Fort Bliss spokeswoman, said charges of abuse and other crimes against another former Bagram interrogator, Pfc. Damien M. Corsetti, would go forward to a general court-martial. One more reservist from Captain Beiring's company, Sgt. Alan J. Driver Jr., is scheduled to be tried next month.

A Man Does Not Ask A Man About His Wife (NYT)

By Eric Schmitt

The New York Times, January 8, 2006

KANDAHAR, Afghanistan

FOR the United States military here, there is the daily fight against Taliban rebels and there is perhaps the even more challenging task of winning the trust and confidence of the Afghan people.

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So when American soldiers burned the bodies of two dead Taliban fighters in a village near here in October and then used their charred and smoking corpses in an impromptu propaganda campaign against the insurgents and their sympathizers, senior commanders and Pentagon officials scrambled to head off a backlash against the United States in the Islamic world.

Two junior officers who had the bodies burned for what they said were hygienic reasons were reprimanded for showing a lack of cultural and religious understanding. The operational commander in Afghanistan, Maj. Gen. Jason K. Kamiya, said the officers had been unaware that Islamic tenets banned cremation and considered the burning of human bodies to be a desecration.

Two noncommissioned officers who used a loudspeaker to harangue nearby Taliban militants while standing over the bodies were also disciplined.

American forces receive some cultural sensitivity training before arriving here, but with new troops rotating through every 7 to 12 months, the instruction can be spotty and inconsistent.

In an effort to prevent incidents like the body burnings, the military command here has distributed cultural sensitivity cards to the 19,000 American troops in Afghanistan. Each wallet-size card is a laminated, fold-up guide of cultural dos and don'ts. The military distributed similar cards in Iraq last year. Excerpts from the Afghanistan version follow.

•

Death and Burial

A non-Muslim must not perform the burial rites for a dead Muslim.

One should not allow the remains to be eaten by birds or animals.

One should not remove the clothes of a Muslim including a Muslim fighter K.I.A. (killed in action).

One should not allow the remains to be left unburied beyond 72 hours at a maximum.

In the event that no one claims the remains after three days, consider what course of action would be most respectful of the dead and Muslim sensibilities. You may put the remains in a plastic body bag.

Islam and Prayer

Treat the Koran as a sacred book by handling it with utmost respect. (The Koran is usually wrapped in an attractive cloth and put in a high, prominent position in the home.)

Respect such religious objects as prayer rugs and prayer beads.

Respect those at prayer by not playing music or making noise during prayer time.

Do not walk in front of someone at prayer.

Remove your shoes when visiting a mosque when on any official tour approved by military authorities and the host nation.

Do not initiate religious discussions or judge the beliefs and practices of Muslims. Do not enter into debates about religion.

Absolutely do not proselytize.

Do not ask a Muslim if he is a Sunni or Shiite.

Interest in Islam can best be shown by simply listening to any Muslim informant.

Refrain from derogatory comments about any religion.

Do not call an Afghan "Hajji," "Mullah," or "Akhund" unless it is a known honorific of the person in question.

Searching and Questioning

Identify, show respect to and communicate with elders. Work with elders to accomplish your mission.

When searching houses or compounds put at least one elder with the women of his household.

Do not unnecessarily humiliate men by forcing them onto the ground in front of their families.

Males must not touch or search women. Only female soldiers or police may search women.

Males may never ask a man about his wife, daughters or sisters. Females can.

Do not yell or use profanity. It is a sign of weakness, poor upbringing and lack of discipline.

Manners and Gestures

Use common courtesy: say "please" (lutfan) and "thank you" (tushakor), address women as "mother" (mader) or "sister" (khwahar), and address elders as "sir" (agha sahib).

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When entering a room full of men shake hands and greet everyone. When you do not recognize a person, he will feel slighted.

When offered a seat of honor, decline graciously and accept only when offered again.

If someone brings you a chair to sit on, accept it even if you would rather stand. He is honoring you.

Do not argue, but strive for consensus. Majority rule is not the norm for solving issues or problems.

When a guest do not focus complimentary comments on your host's possessions as he/she will feel culturally obligated to give them to you. Do not, for example, over-compliment the quality of needlework, rugs, pictures, etc., in the host's home.

Do not stare at women, touch them or try to shake a woman's hand (unless she extends her hand first).

Do not react negatively if Afghan men kiss, embrace or hold hands. This is polite behavior in Afghan society.

Show kindness to children. You may praise them by saying, "In the name of God. ..." (naam-i-Khuda. ...)

Speak about your families. Afghans like to know you have them.

Food, Drink and Dress

If you are eating something, offer to share.

Eat with your right hand as much as possible.

When visiting a home or office, if someone brings you hot tea and snacks, accept graciously.

If a stranger offers you food, say "No, thank you" and only accept if he continues to offer the item.

Do not offer Afghans/Muslims pork or shellfish products.

Do not drink alcoholic beverages in front of Afghans/Muslims. General Order No. 1 prohibits alcohol.

Dress modestly. Do not wear shorts. Men should not go shirtless.

Do not show the soles of your shoes to Afghans. Tuck your feet under you legs. ...

Miscellany

When purchasing items in the bazaar, bargain with the vendor. You lose respect when you pay exorbitant prices.

Do not display sexually explicit pictures.

This Isn't Called The [Blank] Era For Nothing (WP)

By Richard N. Haass

The Washington Post, January 8, 2006

"Why do they call us the Middle Ages when nothing yet comes after us?" This is the plaintive question King Arthur asks in the hit Broadway musical comedy "Spamalot."

The frustrated monarch has a point. Those living in what we now call the Middle Ages did not describe their time that way, any more than those who came before them saw their period as "dark" or those who came after them woke up every morning cheering their good fortune for being alive in the middle of a renaissance.

But in modern times, eras aren't always named in hindsight. People in the 1930s knew they were living through the Great Depression. The Cold War came into vogue as a phrase several decades before it ended. The Sixties weren't even in the history books yet when people began using the name of the decade to describe those tumultuous times.

What about our era then? Here we are, more than 16 years after the Berlin Wall began to crumble, and this period still lacks a name. Calling it the post-Cold War era is an admission that we know what came before but not where we are, much less where we are heading.

It's not that people haven't tried to name this era. Books have dubbed it an "age of anxiety," an "age of sacred terror," an "information age" or the "genomics age," to name just a few. But these names often seem as much a matter of marketing as a true description of our times.

The names that truly stick to past eras are those that capture a defining characteristic: A breakthrough technology (the Stone, the Bronze or the nuclear age); political features (the age of reform, revolution, world war or empire); philosophical outlook (the age of enlightenment, reason or innocence); or economic trends (the Gilded Age, the Roaring Twenties or the Great Depression).

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That this era lacks a name suggests that it still lacks a defining characteristic. Perhaps globalization comes closest, encompassing the increasing volume, speed and importance of flows across borders of people, ideas, greenhouse gases, manufactured goods, dollars, euros, television and radio signals, drugs, germs, e-mails, weapons and a good deal else. But globalization does not describe many features of the contemporary world, be they technological, political, religious or philosophical.

All of these things will help shape our era, but none will have greater impact on how we view it, and what we call it, than relations between the United States and other great powers.

The United States emerged from the Cold War as the world's most powerful country, the first among unequals. And that has prompted some people in my field to call ours the unipolar era. But this is a misreading of the current international context. Primacy is not the same as unipolarity. We are the preeminent power, but hardly the only one. There may not be a single alternative pole as was the case during the Cold War, but there are multiple, independent actors, not only countries but groups of individuals, some of whom are hostile and virtually all of whom resist U.S. designs. The result is that the United States on its own cannot stave off terrorism, force North Korea and Iran to eschew nuclear weapons, bring democracy to Iraq or the rest of the Arab world, deliver or impose peace between Israelis and Palestinians, or sustain its standard of living without importing oil and dollars.

So if this is an era defined fully by neither globalization nor American control, what is it then? There are three main possibilities.

Ideally, this would turn out to be an era of prolonged peace and prosperity, in which great power conflict becomes a thing of the past. Free markets and democracy would spread, and the energies of governments would be devoted to combating challenges to international order rather than combating one another. Each power's recognition that its own self-interest requires it to work with others would give birth to unprecedented cooperation. Call it the Age of Integration.

In such an epoch, nations would rally together and intervene to prevent or stop genocides and combat terrorism. Major powers would provide other countries with access to enriched uranium and plutonium for peaceful nuclear energy purposes as long as these raw materials were not diverted for military ends. The World Trade Organization would be extended to cover virtually all aspects of manufacturing, agriculture and services; tariffs, quotas and subsidies would be eliminated. Cooperation would be extended to deal with disease and global warming.

A second possibility is that this moment in history will later be seen as the inter-Cold War era, bracketed on one end by a four-decade struggle between the United States and the Soviet Union, and on the other by a struggle between the United States and China. This is the prediction of latter-day cold warriors who see a clash between today's principal power and a rising China as all but inevitable.

Subscribers to this theory predict a clash over Taiwan or a clash arising from the mismanagement of relations between two powerful and dynamic countries. A U.S.-China Cold War, like the previous one, would be dangerous, costly and distracting from other priorities. The United States needs China's assistance to deal with regional challenges (such as North Korea's nuclear aspirations) and global ones (such as avian flu and climate change). China, for its part, needs diplomatic calm so that it can focus on economic modernization.

A third possibility is even worse: a Second Dark Ages, characterized by the spread of nuclear weapons to North Korea, Iran and beyond; terrorism that increases in frequency and destructiveness; virulent infectious disease; mounting protectionism; and a substantially warmer planet. Conflict would become more common, as would the failure of states and a rise in poverty.

The United States could not wall itself off from such a world; we cannot become a gated country. As was the case during the world wars in the last century, even before globalization became a phenomenon, isolation would not be an option. Our standard of living would decline as trade withered and investment dried up. Civil liberties would be curtailed so that Americans could better cope with the threat from within. The world would become a more dangerous place and American society would be worse off.

Therefore, working out the name and nature for our era is an exercise in strategy, not taxonomy. We can help determine how the future turns out. Looking back on the inter-war period during the middle of the 20th century, World War II seems unavoidable. But it took the rise of National Socialism and the failure of appeasement to bring about the second global conflict.

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More recently, the Cold War may have been all but inevitable given the nature of the Soviet and Communist challenge. But neither the course nor the outcome of the Cold War was fated; it could have turned hot, it could have been lost, or it could still be going on.

This tells us that history remains anything but ordained. What individuals and countries choose to do matters, none more so than the United States. There is a great deal of discretion in foreign policy. Iraq was a textbook example -- it was a war of choice. Tax cuts and increased spending are also matters of choice, as is the absence of an energy policy that limits American dependence on imported oil and gas.

It is not clear how President Bush will use the remaining three years of his presidency, much less who will succeed him. The good news is that the United States, more than any other country, has the power to make this an era of cooperation and avoid the start of a new cold war -- or worse. The worrisome news is that, 16 years after the Cold War's end, the United States has done more to squander than exploit the opportunity at hand.

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Richard Haass, director of the State Department's policy planning staff from 2001 to 2003, is president of the Council on Foreign Relations and author of "The Opportunity: America's Moment to Alter History's Course" (Public Affairs).

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S.D. Judges' Actions May Set National Precedent (SFAL)

By DAN HAUGEN

Sioux Falls (SD) Argus Leader, January 8, 2006

The appointment of an interim U.S. attorney for South Dakota last month is raising complex questions about whether a federal agency overstepped its authority.

The naming of Steven K. Mullins to the position has fueled a politically charged dispute about who serves in a key role as the state's chief prosecutor for federal crimes.

Mullins, an Oklahoma lawyer, was appointed to the position Dec. 22 by the U.S. Department of Justice. But three federal judges in South Dakota say a judge from this state - not the Justice Department - should name the interim U.S. attorney.

If a legal challenge about Mullins' appointment goes far enough, the rule that allows judges to appoint interim lawyers could be thrown out as unconstitutional, according to experts in constitutional law.

"This is no different than the legislature endowing the justice branch to appoint the secretary of defense on an interim basis," said Bruce Fein, a constitutional lawyer and consultant in Washington. He served as deputy attorney general under President Reagan.

Fein said the Justice Department acted properly in the South Dakota appointment, and larger concerns are created by judges appointing prosecutors.

"This is quite unusual for a judge to say, hell, I want my own man in there as U.S. attorney. Yes, then you should run for president," Fein said.

Meierhenry choice 'not acceptable' Mullins replaces Michelle Tapken, another interim attorney whose term was set to expire Dec. 24.

Federal rules say when an interim U.S. attorney's term expires, it's up to a district's chief judge to make an appointment.

But Tapken resigned before her 120-day term was up, and the Justice Department immediately swore in Mullins for the job.

"All this sounds like it's trying to circumvent the statutes," said Robert Bennett, a professor and former dean of the Northwestern University School of Law.

Other legal observers offered dramatically different opinions this week on the unusual skirmish going on between South Dakota's federal judges and executive branch officials in Washington, D.C.

Chief Judge Lawrence Piersol attempted to appoint attorney Mark Meierhenry to the interim U.S. attorney role. A Justice Department executive told Piersol, though, that "this was not acceptable to the Attorney General," according to court documents.

Another federal judge, Karen Schreier of Rapid City, then intervened and ordered Mullins to appear in court Jan. 17 to explain why Meierhenry should not serve as interim U.S. attorney instead.

Whose judicial authority is valid? Judge Charles Kornmann of Aberdeen said the conditions leading up to Mullins' hiring leave some uncertainty about whether his authority is valid and whether cases he prosecuted could later be called into question.

Kornmann's concerns surfaced last week during an unrelated criminal case.

"Everybody wants to make sure that this appointment is proper for the administration of justice and that actions can't be attacked by people who have been convicted. It's not any big battle. It's a legal matter," Meierhenry said.

Meierhenry added that he has no aspirations to permanently fill the position.

John Eastman, director of the Center of Constitutional Jurisprudence in Claremont, Calif., said cases tried under Mullins are not at risk because of his authority.

"It might be challenged, but I would think the challenge would not succeed," Eastman said. "It's perfectly acceptable for a person in that role to resign, and for the Justice Department to appoint somebody new."

Questions about the intent of the law The Justice Department followed the letter of the law when it appointed Mullins over Judge Piersol's selection, Eastman said.

It's possible, though, a court could decide the Justice Department violated the intent of the law, said Bennett of Northwestern University.

"I could imagine a court saying the whole point (of the 120-day interim term limit) was to limit executive appointment without Senate approval," Bennett said.

The U.S. Constitution gives presidents the power to appoint federal attorneys to head each of the nation's 94 district offices.

No Bush appointment creates void, debate The president's appointments become official only after the Senate gives its approval. Appointing consecutive interim attorneys "is a way of filling the gap when you haven't got that," Bennett said.

Elizabeth Smith, a political science professor at the University of South Dakota, said it's an unusual situation that the code doesn't appear to anticipate.

"It's a situation that I've never seen before," Smith said.

The rules assume by the end of one interim appointment, the president will have made a permanent appointment.

President Bush has not appointed anybody to fill the position, so the U.S. Department of Justice and the district court are left trying to decide which one is in charge.

"As I look at the situation, it seems the clearest resolution is the political branches get together and make an appointment," she said.

Brian Roehrkasse, a spokes-man for the Department of Justice, said the department does not comment on such issues.

"We are working hard with the court to reach an accommodation," he said.

Reach Dan Haugen at 331-2335.

CORPORATE SCANDALS:

Call It The Deal Of A Lifetime (NYT)

By Landon Thomas Jr.

The New York Times, January 8, 2006

MOST mornings these days, Michael J. Kopper wakes up early, slips on a pair of khakis and hops into his Nissan sport utility vehicle for the short commute from his duplex in a Houston suburb to his job at Legacy Community Health Services, a community clinic. The Prada suits gather lint in his closet, and the shiny BMW 530 has been sold.

Mr. Kopper's work is different now: At Enron, he was a financial sophisticate who manufactured a series of arcane partnerships that paid him millions and helped to sink the company, which filed for bankruptcy in 2001. At Legacy, which provides health care and counseling services to H.I.V. patients and other chronically ill people, Mr. Kopper is a salaried grant writer who solicits financial support for the clinic.

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It has been a wrenching professional and personal reversal for Mr. Kopper, who three years ago became the first Enron executive to plead guilty to criminal charges and cut a deal with the government. Mr. Kopper was also the first high-ranking Enron employee to publicly admit to lying and stealing - in his case, more than $16 million - from the company.

Mr. Kopper's money-making schemes, hatched together with Andrew S. Fastow, the former chief financial officer, lie at the root of the mercenary culture that propelled Enron to unforeseen heights while also paving the way for its Icarus-like descent.

The partnerships were feats of financial alchemy that became a dumping ground for Enron's flagging assets and helped sustain the growing fabulism of the company's accounting as a wide-eyed investing world watched in wonder. The partnerships also transformed Mr. Kopper from a by-the-books child of the New York suburbs with an expertise in accounting into a high-stepping Texas deal maker with a hankering for fast cars and big houses.

Despite all of this, there is a possibility that Mr. Kopper, who just turned 41, could end up spending not one day in prison, because of the crucial role he has played in helping the government build its case against more senior executives, such as Mr. Fastow; Kenneth L. Lay, the former chairman; Jeffrey K. Skilling, the former chief executive; and Richard A. Causey, the former chief accounting officer. Mr. Lay and Mr. Skilling are scheduled to stand trial on fraud and conspiracy charges later this month.

Certainly, Mr. Kopper's circumstances have changed in the last three years. A year ago, he moved out of the $1.5 million dream house with its glass stairways and its contemporary Japanese motif that he had designed with his longtime partner, William D. Dodson. Mr. Kopper has recently pegged his net worth at around $100,000, and he now lives on the second story of a modest duplex for which he paid $380,000; he rents out the bottom floor to help meet his expenses.

Even so, Mr. Kopper manages to lead a bit of the good life. Despite spending hundreds of hours in conference rooms in Houston and Washington briefing government prosecutors on Enron's inner workings, Mr. Kopper, known as a compulsive jet-setter during his Enron days, has remained an enthusiastic traveler. He has visited Phoenix and played golf in Boca Raton, Fla., with his father, a former magazine publisher at Times Mirror, and has gone on ski vacations in Colorado.

Mr. Kopper and Mr. Dodson, who has not been charged, declined to comment for this article, although friends and former colleagues did.

Mr. Kopper's deal with the government and the chance that he might have a reduced term or serve no jail time at all - he has not yet been sentenced - have angered people who blame him and Mr. Fastow for destroying the life savings of many former Enron employees and sending to prison others who had just the briefest brush with the company.

"Of all the deals Kopper made, his best was the plea deal," said Richard J. Schaeffer, a defense lawyer who cross-examined him during the trial of the Enron and Merrill Lynch executives who were convicted of bolstering Enron's earnings by letting the company fraudulently appear to sell barges in Nigeria for a profit. "He was the magician behind these deals," Mr. Schaeffer added. "His sense of greed had overtaken him. He had this brilliant mind and dedicated it to this partnership of evil."

This public caricature of Mr. Kopper as a malevolent financial sorcerer seems at odds with his middle-class roots. Indeed, his road to the heart of the Enron scandal was unusual. Born in Brooklyn and reared in Woodmere on Long Island, Mr. Kopper was always driven by an extra spurt of ambition and yearning for the big time that for years seemed to lie just beyond his grasp, people who know him say. Writing in his yearbook at Lawrence High School in 1982, his aspiration seemed simple, if not a bit vague: "To be successful in all my endeavors."

HE first enrolled at tiny Muhlenberg College in Allentown, Pa., but transferred to Duke, where he earned a bachelor's degree in economics. He also earned a degree in accounting and finance from the London School of Economics, and then began working as a loan officer at Chemical Bank in New York.

But his appetite for deal-making lead him to Toronto Dominion Bank, where he cut his teeth as a financier, working on a number of project-finance deals with energy companies - including, in the early 1990's, Enron. It was then that he met Mr. Fastow. The two men hit it off immediately. Both were young, hard-working and ambitious numbers guys with an appetite for deals and a desire to strike it rich as soon as possible, people who know both men say. It did not take long for Mr. Kopper, an eager Nick Carraway susceptible to the lure of Mr. Fastow's Gatsby, to join his mentor in Houston in 1994.

Enron was developing a reputation as a freewheeling, innovative company, and its aggressive, meritocratic culture seemed the perfect fit for Mr. Kopper, who was looking to unleash his own pent-up professional and materialistic ambitions, former

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colleagues say. Once there, he became even closer to Mr. Fastow, going to temple with him and his wife, Leah, and socializing with them after work.

It was not until 1996 that Mr. Fastow and Mr. Kopper created their first off-balance-sheet partnership, which they called Alpine Investors. Mr. Kopper would make no money from this partnership, which was designed to buy underperforming power plants from Enron, but he would make money in 1997 with RADR, another off-the-books deal formed to buy wind farms that Enron wanted to sell.

Supposedly independent, RADR was financed with Enron money and controlled by Mr. Kopper and Mr. Fastow. They and some of their friends got payouts from the partnership, ultimately at Enron's expense. In that way, RADR was a template for more fraudulent schemes.

Mr. Kopper had begun dating Mr. Dodson, who worked in the finance department at Continental Airlines and also wanted to become an investor. But he was making only about $100,000 a year at Continental, so Mr. Kopper borrowed some money from Mr. Fastow - the amount has not been made public - and lent it to Mr. Dodson, according to Mr. Kopper's own testimony.

RADR was remarkably lucrative. In just four months, at virtually no risk, Mr. Kopper took in $40,000 from the deal. Mr. Fastow's $419,000 loan generated $62,850 in interest - an annualized return of 45 percent. It is not clear how much Mr. Dodson made. Enron's shareholders, meanwhile, footed the bill for the enterprise, which was designed to deceive them about the precarious state of Enron's balance sheet.

But it would be the next partnership, Chewco, also started in 1997, that would pay Mr. Kopper and Mr. Dodson an even more munificent return. "We made, after taxes, roughly $10.5 million," Mr. Kopper recounted to a defense lawyer during the trial in September 2004 on the separate Nigerian deal. (Mr. Kopper would collect more than $16 million from at least five partnerships that he and Mr. Fastow created over six years; with help from Mr. Dodson, he has paid $12 million back to the government, according to Creed C. Black Jr., Mr. Dodson's lawyer. Mr. Fastow collected more than $40 million, according to court documents.)

As the money rolled in, Mr. Kopper indulged his taste for sleek foreign cars and exotic vacations and cultivated a more risqué demeanor in and about the company. He wore expensive suits and shirts with zippers that seemed to creep lower and lower the more successful he became, his former colleagues at Enron remember. He told one colleague that he had a collection of 20 designer eyeglasses. Generally aloof with his colleagues, he made more of an effort to fit in, serving on an Enron diversity committee.

Of all the partnerships, it was perhaps Southampton, named after the opulent Houston suburb in which he lived, that came the closest to defining the corruptive, get-rich-quick and risk-free spirit of the off-balance-sheet entities at Enron. With three bankers from Greenwich NatWest, a British investment bank that did work for Enron, Mr. Kopper and Mr. Fastow created the partnership in 2000 to buy out the interests of Enron and NatWest in another entity, inserting themselves in the middle and deceiving both Enron and NatWest as to what they needed to pay.

ON the stand last year, Mr. Kopper described the essence of the deal in a flat, analytical style. "We stood between the two parties in order to skim money off of it," Mr. Kopper said, his face blank and voice devoid of emotion. How much did he make on the deal? "Four and a half million dollars," he said.

"That's a pretty good return on $25,000, isn't it?" a defense lawyer responded.

Yes, it was, Mr. Kopper said.

The lawyer asked how long it took to cobble together such a rich, efficient transaction. "Not that many hours," Mr. Kopper said. "Maybe 10 to 12 hours of work."

Honing in, the lawyer asked, "You wanted to make just a ton of money."

In a monotone, Mr. Kopper said simply, "Yes."

By 2001, Mr. Kopper had his ton of money and was starting work on a new house in a wealthy Houston suburb with Mr. Dodson. Mr. Kopper had also bought out Mr. Fastow for full control of yet another off-balance-sheet entity created at Enron, LJM2. No longer would he be just another accounting executive; as general partner of LJM2, he would preside over a fast-growing private equity fund with some of the best names in high finance as investors.

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But Mr. Kopper's time in the sun would be short-lived. With Enron's collapse in December 2001, he quickly came under the scrutiny of prosecutors and regulators who immediately questioned the propriety and legality of the myriad funds. The pressure became intense. Always a slender man, he began to lose weight, and when he pleaded guilty in 2002, he said he was taking medication for stress and anxiety.

As a government witness, Mr. Kopper, by all accounts, has been a success. At the barge trial last year, he powerfully evoked the financial cravings of Mr. Fastow, calling him "very greedy" and recounting examples of him giggling with childlike glee as he closed various deals.

The government has not put Mr. Kopper on the list of witnesses it expects to call in the trial of Mr. Lay and Mr. Skilling, but the defense has. Lawyers involved in the case say that Mr. Kopper may not even be called, given his lack of direct interaction with Mr. Skilling and Mr. Lay. While the partnerships are expected to be a centerpiece of the trial, Mr. Fastow will be in a better position to discuss them and how they connect to Mr. Lay and Mr. Skilling.

Friends of Mr. Kopper say he rarely speaks of Enron matters these days. He has ignored the imprecations cast at him by Mr. Lay, who has said that Enron was destroyed by the rogue actions of Mr. Fastow and Mr. Kopper - a view expressed by many members of Houston's business elite.

Always a bit of an outsider, Mr. Kopper is now even more of one. He is precluded by his plea agreement from speaking with Mr. Fastow and spends most of his time with Mr. Dodson and a small circle of friends from Enron.

And while he declined to comment for this article, his departing words in his 1982 high school yearbook seem to hold true today. Quoting from the song "Summer, Highland Falls" by Billy Joel, he wrote:

"We are always what our situations hand us. It's either sadness or euphoria."

Nacchio Could Point To Board's Actions (DENP)

By Andy Vuong, Denver Post Staff Writer

Denver Post, January 8, 2006

Former Qwest chief executive Joe Nacchio - accused of criminal insider trading for selling $100.8 million worth of Qwest stock in 2001 - may have a simple yet powerful defense for the sales: The board made him do it.

Qwest publicly stated on several occasions between September 2000 and February 2001 that its board of directors had ordered Nacchio to unload millions' worth of company shares.

Legal experts say the board's actions and company statements at the time could be vital to Nacchio's defense.

"He would argue that what he was doing was with full knowledge and authorization of the board," said Douglas McNabb, senior principal of McNabb Associates, a Washington, D.C.-based criminal defense law firm not involved in the Nacchio case. "That's huge."

Federal prosecutors are expected to argue that even if Nacchio was told to unload Qwest stock, the 42 stock sales he made between January and May 2001 were illegal because he was aware of key information about the company's financial condition that wasn't publicly available.

They likely will also assert that Nacchio accelerated his stock sales instead of following the board's order to systematically divest his position. To obtain a conviction, prosecutors would have to convince a jury beyond a reasonable doubt that Nacchio dumped stock while he knew Qwest's financial condition was much weaker than he claimed publicly.

Nacchio, of Mendham, N.J., has pleaded not guilty. A discovery hearing - where the prosecution and defense may disclose to each other additional details about their cases - is scheduled for Jan. 20.

The stakes are high for both sides as the case unfolds.

For the Justice Department, the Nacchio prosecution is the culmination of a sweeping probe of Qwest that has spanned four years.

If convicted, Nacchio faces up to 10 years in prison and a $1 million fine on each of the 42 counts against him. The government is also seeking the $100.8 million Nacchio grossed on the stock sales - plus other fines.

The dollar amount and number of counts against Nacchio make it one of the single largest criminal insider-trading cases.

Federal prosecutors and Nacchio's defense attorneys declined comment for this story.

Nacchio stopped selling

In August 2000, after Qwest had acquired Denver-based Baby Bell US West, Nacchio exercised 550,000 stock options at $5.50 apiece and sold the shares at prices ranging from $49.05 to $53.34.

In September 2000, when those sales were disclosed publicly, a company spokesman said that the Qwest board had directed Nacchio to sell some of his shares every quarter because it didn't want his ownership stake to get too large.

"Joe has no choice - he is required to sell a portion of his position," Tyler Gronbach, Qwest's spokesman at the time, said in a Denver Post article on Sept. 15, 2000.

Nacchio held 18 million stock options throughout 2000.

Gronbach, who left Qwest last October to work for R.H. Donnelley Corp. in Cary, N.C., did not return calls for comment.

The Denver Post last week asked Qwest for minutes of board meetings that would shed light on Nacchio's stock sales. The company declined but gave this statement: "We continue in our efforts to cooperate with the government in connection with the investigation."

In February 2001, the company issued a news release announcing a program in which Nacchio would systematically sell 6.1 million shares over the next 28 months at the board's behest.

Under the program, Nacchio was to exercise and sell 11,500 stock options daily from Feb. 20, 2001, to June 30, 2003, the date when the stock options would have expired. He was to sell the stock regardless of its price.

"The Qwest board asked Nacchio to commit to the program to avoid the bunching of sales during and at the end of the exercise period," according to the Feb. 16, 2001, news release.

Experts say such programs are a common way for insiders to sell stock systematically without raising concerns on Wall Street and among the investing public.

On eight trading days, Nacchio exercised

Advertisement

11,500 stock options each day at a price of $5.50 apiece and sold those shares at a price ranging from $34.84 to $38.12. However, he scrapped the sales program two weeks after it was announced - reportedly because Qwest's stock was slipping below $35.

"I will not continue to sell shares daily at these prices given the current uncertainty in the markets," Nacchio said in a statement on March 2, 2001.

Nacchio's statements and actions in this period are critical.

Between Jan. 2, 2001, and May 29, 2001, the government alleges, Nacchio committed illegal insider trading by selling more than 2.5 million Qwest shares for $100.8 million while he knew the company's financial condition was weaker than disclosed.

Insiders at public companies - such as Nacchio at Qwest during that time - are required to sign Securities and Exchange Commission disclosures that they knew of no "material adverse information" about the company when selling stock.

Nacchio was forced out of Qwest in June 2002 as the company's deteriorating financial condition became known. Qwest stock traded as low as $1.11 in August 2002. It was later forced to restate $2.5 billion in revenues.

What he knew is critical

The board's mandate to Nacchio to sell shares is "a good fact for the defense," said Jay Brown, a former Securities and Exchange attorney and law professor at the University of Denver.

Brown added that Nacchio can still be convicted for insider trading on stock sales made under the board's mandate if he had knowledge of material, nonpublic information at the time.

"Certainly the defense would use any information that tends to negate Nacchio's intent to commit any wrongful activity," said Eric Yaffe, a former federal prosecutor now in private practice with Gray Plant Mooty in Washington, D.C.

"But the question is, are there other issues or factors and other evidence of which the government is aware of" that would counteract the information, Yaffe said.

Former Qwest chief financial officer Robin Szeliga has pleaded guilty to one count of illegal insider trading and agreed to help with the prosecution's case against Nacchio.

The government charged Szeliga with illegal insider trading for an April 30, 2001, stock sale in which she sold 10,000 Qwest shares at $41 a share. On the same day, Nacchio sold 110,000 shares for $41.12, a transaction cited in his criminal indictment.

Last month, former Qwest executive vice president Marc Weisberg reached a plea deal on one charge of wire fraud and agreed to cooperate with prosecutors.

Former Qwest president Afshin Mohebbi also may testify for the government.

In October 2004, Qwest agreed to pay $250 million to settle SEC charges alleging financial fraud. In November 2005, the company agreed to pay $400 million to settle a class-action shareholder lawsuit.

No past or present Qwest board member has been charged as part of the federal government's probe into Qwest.

Several former board members who served during Nacchio's tenure didn't return calls seeking comment.

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G.O.P. Finds Hope In Spitzer's Hard Edge (NYT)

By Patrick D. Healy

The New York Times, January 8, 2006

Attorney General Eliot Spitzer entered 2006 with huge advantages in his race to become the first Democratic governor of New York in 12 years: nearly $18 million on hand, a 70 percent popularity rating, and so much success fighting corporate fraud that he is one of the nation's most powerful prosecutors.

Yet for the first time since Mr. Spitzer declared for office a year ago, New York Republican leaders are now expressing hope that they can exploit what they view as a weak spot in the armor: his temperament, or, more precisely, his temper.

And, for the first time in a long time, some Democrats appear worried for Mr. Spitzer, and are trying to portray his tough style as an asset. Meanwhile, Mr. Spitzer is expressing new regret about his behavior.

Stories about Mr. Spitzer's blunt, brash style have circulated in business and political circles for years. Yet few spilled into the news media until last month, when John C. Whitehead, a Wall Street power broker whom Gov. George E. Pataki named as chairman of the Lower Manhattan Redevelopment Commission, said that Mr. Spitzer had told him that there was "a war between us" because he had criticized Mr. Spitzer as an overzealous, overreaching prosecutor.

Mr. Whitehead made his complaints known in a letter to The Wall Street Journal, and The New York Post ran articles on the dispute last month, including one with a front-page headline that said Mr. Spitzer was a "Liar!"

Since then, the issue of Mr. Spitzer's personality has begun to emerge in political circles, with Republicans circulating reports of his behavior in several disagreements over the last several years.

A spokesman for Representative Sue Kelly, a Republican, said Mr. Spitzer had acted like a thug during one argument by saying that he would cause trouble for her in her district if she continued to oppose legislation he favored.

Three fellow Democrats confirmed that he turned hot-tempered when they challenged him.

And in a quarrel with the attorney general of California, Mr. Spitzer told him that he was a kid from the Bronx who was willing to "step outside" to settle fights, according to a magazine article.

Democrats have sought to portray the encounters as simply reflecting the tough, no-nonsense approach that Mr. Spitzer takes toward his work.

Mr. Spitzer disputed some aspects of these anecdotes. But he also expressed his first measure of doubt about his aggressive manner since he was elected in 1998.

"On occasion, I look back and say, 'I wish I could take some of my words back,' " Mr. Spitzer said in an interview. He declined to list instances in which he thought he had been intemperate or overreacted, but said: "Have my answers or responses sometimes been disproportionate? I guess I'd be disingenuous - there have been moments, there are times I would look back and say, maybe that didn't merit that kind of response."

Mr. Spitzer stood by his actions in his legal cases. Yet describing himself, he used a range of words: passionate, intense, vociferous and sensitive. He used the phrase "kids in a sandbox" to describe a heated argument last spring with a possible

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Republican rival in the governor's race, Tom Golisano. But Mr. Spitzer said he had never threatened people, nor made his disputes personal.

He also said for the first time that he regretted his exchange with Mr. Whitehead. The two men disagree on whether Mr. Spitzer used the word war: Mr. Whitehead stood by it in an interview, while Mr. Spitzer said he was at war with some people whom Mr. Whitehead was defending, but not with the man himself.

"I have enormous respect for John Whitehead," Mr. Spitzer said. "So I absolutely regret that he and I, at this moment, are seeing things a bit differently, and I will work to repair that." Asked if he had handled the exchange badly, Mr. Spitzer said, "Looking at how it is played out, I think it would be hard to say this was wisely handled."

Temperament has rarely surfaced as an issue in Mr. Spitzer's past races. But when he was running for attorney general in 1998, he and former Mayor Rudolph W. Giuliani tangled after Mr. Spitzer said that Mr. Giuliani governed like "a dictator." Mr. Spitzer narrowly won that race, against Dennis C. Vacco, the Republican.

Mr. Spitzer was re-elected overwhelmingly in 2002, in a race that drew scant attention and preceded some of his most contentious lawsuits and that came at a time when his enemies were not so numerous.

Republican politicians said they planned to make his temperament an issue in the 2006 campaign, hoping to portray him as unlikable, arrogant, and a poor coalition-builder.

"He has never been challenged like he will be in this race for governor," said William F. Weld, a Republican candidate for governor, in a recent interview. "I think once the case is made against him, voters will see a very different Eliot Spitzer."

Some Democratic office-holders in Albany, meanwhile, were swapping tales of their own about Mr. Spitzer as they prepared for Gov. George E. Pataki's final legislative session. Their main concern is that Republican adversaries will portray Mr. Spitzer as thin-skinned; privately, some worry that the hothouse of the governor's race could bring out rough edges of his personality.

Steven Sanders, a former Democratic assemblyman and an ally of Mr. Spitzer's, recalled that when he challenged Mr. Spitzer's tactics on a lawsuit over equity in public school financing, Mr. Spitzer turned sharp and said he was not interested in "a back-and-forth discussion." Mr. Sanders recounted the anecdote to suggest that Mr. Spitzer "really has that direct, relentless quality that Rudy Giuliani has, and maybe at times that comes across as too brusque, too abrupt, maybe even threatening in some ways. He simply takes his responsibilities and standing his ground seriously."

Assemblyman Richard L. Brodsky, who confirmed fighting with Mr. Spitzer because the attorney general pressed him to back off a legal dispute before the state, said that Mr. Spitzer's successes were more important than personality issues.

"Let's be fair: We all have rough edges, but this is a guy who has fundamentally altered international markets for the good," said Mr. Brodsky, who is running for attorney general this year.

Mr. Spitzer acknowledged that he has argued with Democratic allies - Assemblywoman Catherine Nolan also confirmed a shouting match over a local issue - but he said that the disagreements were substantive, and that they all were friends at the end of the day. Mr. Sanders, Mr. Brodsky and Ms. Nolan all concurred.

Of the occasions that turned contentious, Mr. Spitzer said: "I've always tried - and not always succeeded after the fact - to patch up the relationship. This is never personal to me, never."

Some Democrats were far more critical of Mr. Spitzer's behavior, though none were willing to speak on the record because they said they did not want to anger the man they believe will be the next New York governor. The party has largely united around Mr. Spitzer's candidacy, and he is preparing to announce a large fund-raising war chest on Jan. 15 - at least $18 million - that rivals his poll numbers in impressiveness.

Yet at least one Democrat, Nassau County Executive Thomas R. Suozzi, is taking heart from the anecdotes about Mr. Spitzer, as he prepares to announce an exploratory committee for governor, according to party members who have spoken to him. Mr. Suozzi's political aide declined to comment.

Mr. Suozzi is drawing help from Spitzer adversaries like Kenneth G. Langone, a co-founder of Home Depot, who said in an interview that he has raised about $1 million for Mr. Suozzi in just the last few weeks. Mr. Spitzer's office has accused Mr. Langone and others of misleading fellow New York Stock Exchange members about the compensation paid to Richard A. Grasso, the former stock exchange chairman.

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Beyond the charges, Mr. Langone says he is furious over a remark that Mr. Spitzer made about him in 2004 to Jack Welch, the former General Electric leader.

Mr. Spitzer said in the interview that he told Mr. Welch, "Ken's kind of like a vampire - you kind of have to put a stake through his heart to stop him."

Mr. Langone said Mr. Welch told him that Mr. Spitzer wanted to drive a stake through his heart; Mr. Spitzer denied that he used those words, and Mr. Welch did not respond to a message left on his cellphone.

Mr. Spitzer is under intense scrutiny right now because polls show him as the leading candidate. His advisers also acknowledged that they wanted to boost his favorability ratings among women, and that his image now cuts both ways: strong and tough, but aggressive and stern, too.

The argument with Representative Kelly occurred in 2003, when she and Mr. Spitzer sparred over the phone about a piece of legislation that would have hampered Mr. Spitzer's white-collar investigations. Her spokesman at the time, Rob Ostrander, told The Poughkeepsie Journal that Mr. Spitzer acted like a "thug" by threatening to come into her Westchester district and cause problems for her.

Her current spokesman, Kevin Callahan, said Mrs. Kelly stands by the "thug" description, but added that she and Mr. Spitzer had worked together since then. Mrs. Kelly declined to comment.

Mr. Spitzer said the thug characterization was unfair. He said the conversation grew heated because he thought "her position was really bad for consumers." He added: "I said something like, 'I really disagree with you, and I'll tell the voters about it.'"

Mr. Spitzer's warnings may seem like threats to some, said Stephen Cutler, the former director of enforcement with the U.S. Securities and Exchange Commission.

He recalled how Mr. Spitzer was "very, very angry" when the S.E.C. settled a securities fraud lawsuit against Putnam Investments, the mutual fund giant, without the sort of fines or monetary penalties that Mr. Spitzer wanted.

"He said, 'Look, I'm going to have to do what I'm going to have to do. I'm going to go out publicly and make life uncomfortable for you and the S.E.C.,' " said Mr. Cutler, who clashed frequently with Mr. Spitzer but said they remained friendly.

While arguments have usually been over policy, Mr. Spitzer said his sense of humor could backfire on him, too. In another incident, he said he was "joking" when, according to The American Lawyer magazine, his argument with the California attorney general, Bill Lockyer over a financial dispute turned heated and Mr. Spitzer said: "You want to step outside, that's fine! I grew up in the Bronx!"

"Of all the anecdotes, that has been the most misconstrued," Mr. Spitzer said. "It was more joking, fun." The magazine said its account was based on several unnamed people who witnessed the exchange. Mr. Lockyer did not return a phone message.

A breakfast last spring at the Waldorf-Astoria with Mr. Golisano also turned sour as he accused Mr. Spitzer, both sides confirm, of being "in the pocket" of Assembly Speaker Sheldon Silver and the Albany Democratic establishment.

According to an aide to Mr. Golisano, Mr. Spitzer replied that he would "crush" him in an election. "I didn't say, 'I'll crush you,' I said 'I think I'll beat you, let's put a bet on it,'" Mr. Spitzer recalled. "It's like kids in a sandbox."

Mr. Spitzer said he believed that voters would ultimately appreciate that his results in office - hundreds of millions of dollars recouped for New York - required a certain intensity.

He said a similar intensity was needed to overhaul Albany, and besides, he said, it would be pointless to try to deny who he was.

"I don't want to strip my personality so far down to be neutered and I don't seem human," he said.

CRIMINAL LAW:

Dems Charge GOP Has Corrupted Congress (AP-Y2)

AP, January 8, 2006

Democrats accused Republican congressional leaders of corrupting the government, claiming on Saturday that their party has higher ethical standards.

"Under Republican guidance, America has truly been put up for sale to the highest bidder," Rep. Louise Slaughter, D-N.Y., said in her party's weekly radio address.

Congress was consumed this week by the corruption scandal around lobbyist Jack Abramoff, who pleaded guilty and is cooperating in a wide-ranging probe that could involve up to 20 members of Congress and their aides.

Politicians from both parties have rushed to unload donations from Abramoff or his clients, while others have decided to keep such donations, insisting they did nothing wrong.

Slaughter painted the Abramoff case and an earlier guilty plea by former Rep. Randy "Duke" Cunningham, R-Calif., as part of a broader pattern of misconduct by Republicans under the sway of highly paid lobbyists.

"Sadly, the legacy of Republican rule has been the fundamental degradation of our democratic institutions and the abandonment of our core principles," Slaughter said.

"Lobbyists are now writing the bills passed by Congress," she contended. "They have infiltrated every aspect of our government. Their money and donations shape the opinions of corrupt lawmakers in a way that public opinion no longer does."

Slaughter said the unethical influence of lobbyists has affected everything from the Iraq war to energy policy to the new Medicare prescription drug plan.

The 10-term congresswoman said her party will "uphold the highest standards of integrity."

Repeating a Democratic tag line, Slaughter said, "Together, America can do better."

Democrats Want Sweeping House Ethics Investigation (REU-Y2)

Reuters, January 8, 2006

Democrats seized on a mushrooming scandal involving a disgraced lobbyist on Saturday to call for sweeping ethics probes in the Republican-led House of Representatives.

Rep. Louise Slaughter, a New York Democrat, said lobbyists had multiplied by the thousands in recent years to the point where there were now 63 of them for every lawmaker. She said they were using their campaign donations to influence policy and even write laws.

Slaughter called on the House ethics committee to investigate corruption cases involving lawmakers with links to Jack Abramoff, the lobbyist who pleaded guilty this week in a U.S. corruption probe.

"The House ethics committee, after a year of inaction, must get to work immediately to investigate pending ethics and corruption cases in the House, including those involving members with ties to Jack Abramoff," she said in the Democrats' weekly radio address.

"This is a necessary first step to restore a high ethical standard to the Congress," Slaughter said.

There was no immediate comment from a spokesman for the ethics committee, chaired by Rep. Doc Hastings, a Washington Republican.

But Republicans have sought to cast the Abramoff case as a bipartisan scandal, noting that some Democrats also received donations from Abramoff's clients and associates.

Abramoff pleaded guilty to fraud charges and admitted that he gave golf trips, sports tickets and other gifts to lawmakers in return for special treatment.

The case has deepened the woes of former House Majority Leader Tom DeLay, a Texas Republican whom Abramoff describes as a close friend. It has spurred a debate in the Republican Party over whether DeLay should return to his leadership post even if cleared of money-laundering charges in a separate case in Texas.

Democrats hope to turn the Abramoff scandal into a major election-year issue that could help them win back control of the House in the November elections.

DeLay Ends Bid To Regain Post As G.O.P. Leader (NYT)

By Carl Hulse

The New York Times, January 8, 2006

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WASHINGTON, Jan. 7 - Representative Tom DeLay, under pressure from colleagues and swept into an election-year lobbying scandal, abandoned his effort to remain House majority leader on Saturday. The move touched off a battle for the House Republican leadership in a campaign season tinged by corruption.

In letters sent Saturday to fellow House Republicans and Speaker J. Dennis Hastert, Mr. DeLay said he supported the call for an election of a new leader and was stepping aside to avoid becoming a political liability as Republicans face a determined Democratic challenge to their majority.

"The job of majority leader and the mandate of the Republican majority are too important to be hamstrung, even for a few months, by personal distractions," Mr. DeLay said in the letter to Mr. Hastert, the man he personally picked to take the speaker's job in a previous round of leadership turmoil in 1998. In his letter to the Republican conference, Mr. DeLay said he had "always acted in an ethical manner within the rules of our body and the laws of our land."

Though his allies just hours earlier had suggested Mr. DeLay would resist moves to oust him, his aides said he came to a different conclusion on his own Saturday morning in Texas as he assessed his waning support and the potential damage to House Republicans. He then telephoned Mr. Hastert to deliver his decision, according to a House leadership aide who did not want to be identified discussing private conversations.

Mr. Hastert said Republicans would hold a leadership election after they return for the State of the Union address on Jan. 31. "It is an honorable decision and the right decision for the House Republican conference," he said of Mr. DeLay's announcement. Mr. DeLay acted after a group of House Republicans on Friday began circulating a petition calling for an election to bar him from the post. The move came after the lobbyist Jack Abramoff, a former DeLay ally, pleaded guilty on Tuesday to criminal corruption charges in a case that could also involve other former senior DeLay aides.

Mr. DeLay intends to seek re-election to his seat representing the Houston suburbs and reclaim his position on the Appropriations Committee, but he will no longer wield the power that for years made him one of the most influential Republicans in the capital.

His decision immediately kicked off a potentially divisive fight over who should become the new leader - a chief face of the party as well as the senior floor strategist.

Representative Roy Blunt of Missouri, the No. 3 elected Republican who has been filling in for Mr. DeLay since his September indictment in Texas in a campaign-finance case, began rounding up support by telephone, arguing that his success in pushing through difficult budget and spending legislation in the past few months had proved his abilities and earned him the job permanently.

But Representative John A. Boehner of Ohio, a well-liked lawmaker who has served in the leadership before, was expected to announce his own candidacy as early as Sunday.

Others could also throw in their names, including Representatives Mike Pence of Indiana, Mike Rogers of Michigan and Jerry Lewis of California. Should Mr. Blunt prevail in the majority leader's fight, that would create a vacancy for majority whip and lawmakers were also preparing for a potential contest for that post. Mr. Rogers was seen as a possible candidate along with Representatives Eric Cantor of Virginia, the appointed deputy whip, and Zach Wamp of Tennessee. Lawmakers and top aides said there seemed to be no mounting challenge to either Mr. Hastert or Representative Deborah Pryce of Ohio, the chairwoman of the party conference.

A White House spokeswoman, Erin Healy, reading from an official statement, said, "We respect Congressman DeLay's decision to put the interests of the American people, the House of Representatives and the Republican Party first. We look forward to continuing to work with Speaker Hastert and all House Republicans to build upon the important accomplishments we have achieved on behalf of the American people to make America safer and more prosperous."

It was not clear whether Bush administration officials played any role in pushing Mr. DeLay out, and Republicans who consulted with the White House and leadership on Capitol Hill said events had unfolded strictly within Congress.

Mr. DeLay stepped down from the post in the fall after his indictment in Texas on campaign-related charges of money laundering. But he was aggressively battling those accusations, and many of his colleagues considered the case partisan. But the Abramoff plea and the potential involvement in that case of others who had been close to Mr. DeLay shifted the political dynamic.

House Republicans have stood by Mr. DeLay, who became majority leader in 2002 after serving for years as the party whip, despite a series of rebukes by the House ethics committee and a ferocious courtship of the lobbying industry that brought him under attack for having too heavy a hand in encouraging firms to hire favored Republican lobbyists. Democrats have complained for years about Mr. DeLay's iron control of the House, his unwillingness to engage the minority party and his ethical conduct. One Democratic leader said Saturday that his decision to step down would not spare Republicans from attacks over ethics.

"The culture of corruption is so pervasive in the Republican conference that a single person stepping down is not nearly enough to clean up the Republican Congress," said Representative Nancy Pelosi of California, the Democratic leader.

Those backing the petition drive for a new leader had hoped that Mr. DeLay would take himself out of the fight rather than have to be forced out by his colleagues. Kevin Madden, a spokesman for Mr. DeLay, said he made his choice after talking with his staff and other advisers and weighing his options.

"He doesn't see this as being broken," Mr. Madden said. "I think it is something that he sees as being best for the conference."

DeLay Steps Down Permanently As House Majority Leader (KRT)

By James Kuhnhenn

Knight Ridder, January 8, 2006

WASHINGTON - Tom DeLay, the pugnacious Texas Republican dogged by ethics complaints, stepped down permanently as House majority leader Saturday, the first political casualty of a blossoming Washington lobbying scandal.

Maintaining that he has "always acted in an ethical manner," DeLay nonetheless told House Republican lawmakers in a letter that he was permanently stepping down because "I cannot allow our adversaries to divide and distract our attention."

DeLay was forced to step down temporarily as leader in September when he was indicted by a Texas grand jury on charges that he broke state campaign finance laws. But the final straw came last week when Jack Abramoff, a once-powerful Republican lobbyist with close ties to DeLay, pleaded guilty to corruption charges.

DeLay reached his decision Saturday in Texas, a day after two House Republicans initiated a drive to keep DeLay from reclaiming his leadership post and to hold elections to replace him permanently.

DeLay will keep a seat on the powerful House Appropriations Committee, which distributes government money, and plans to run for re-election. But the departure from the leadership of a key figure in pushing President Bush's agenda for the past five years could hobble the White House in the future. DeLay's stepping down may be some help to House Republicans, who've benefited from DeLay's tactical and fundraising prowess, but have also seen their popularity plummet nationally amid headline-making scandals in which he often had a role.

An Associated Press-Ipsos poll released Friday showed the American public favored Democrats over Republicans 49 percent to 36 percent for Congress. Democrats need 15 seats in the 435-member House of Representatives to win control.

Delay's resignation from the leadership threw the House into an unpredictable phase that will test House Speaker Dennis Hastert, R-Ill. Hastert is well regarded by his colleagues, but the House Republican caucus was already stirring with demands for greater leadership changes.

"We don't just need new leaders, we need a major course correction," Rep. Jeff Flake, R-Ariz., one of the two lawmakers who prompted the effort to replace DeLay, said in an interview Saturday.

Even before DeLay reached his decision, Rep. Melissa Hart, R-Pa., demanded Friday in a statement that the Republican House membership "needs the ability to reassess the leadership team as a whole."

Hastert, who abruptly canceled a foreign trip he was to embark upon Monday, said he would schedule leadership elections for the week of Jan. 31. A top leadership aide, speaking on the condition of anonymity because of the sensitivity of the elections, said current plans are only to fill DeLay's vacancy, not other leadership posts.

A leadership fight could disrupt the House's handling of some important upcoming legislative issues. Among them are the renewal of the anti-terrorism Patriot Act, which expires Feb. 3, reductions in planned spending for anti-poverty programs and billions of dollars in tax cuts.

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DeLay, in a letter to Hastert, indicated that it was best for the party if he stepped aside. "The job of majority leader and the mandate of the Republican majority are too important to be hamstrung, even for a few months, by personal distractions," he wrote.

Hastert, in a statement, said Delay's was "an honorable decision and the right decision for the House Republican Conference."

Democrats showed no signs of relenting after DeLay stepped down.

"By forcing out Tom DeLay, Republicans have addressed a party problem but not the institutional problem of corruption that most troubles the American people," said Rep. Rahm Emanuel, D-Ill., the chairman of the campaign arm of the House Democrats.

House Democratic Leader Nancy Pelosi said: "The culture of corruption is so pervasive in the Republican conference that a single person stepping down is not nearly enough to clean up the Republican Congress."

Flake said rank-and-file Republicans will insist on elections that force leadership candidates to propose fundamental changes in the ways that legislators work. Flake has called for an end to targeted legislative provisions, called earmarks, that lawmakers insert into bills to help their congressional districts or special interests. Earmarks are a favorite of lobbyists seeking special legislative treatment.

Flake said even Hastert's fate could hang on the elections. "It really depends on how willing the speaker is to align himself with a reform agenda," Flake said.

Among the leading candidates to replace DeLay are Roy Blunt of Missouri and John Boehner of Ohio. Blunt stepped in to become acting majority leader after DeLay was indicted in Texas. Boehner is chairman of the House Committee on Education and the Workforce and was once a member of the leadership team.

In statements issued Saturday, Blunt and Boehner both praised DeLay as one of the party's most effective leaders. But while Boehner noted that he and DeLay "have had our differences over the years," Blunt described DeLay as "my good friend."

Republicans Seek Elections To Replace DeLay (FT)

By Holly Yeager In Washington

Financial Times, January 8, 2006

As Washington assesses the impact of the lobbyist Jack Abramoff's guilty plea this week to charges of bribery, tax evasion and fraud, one early casualty has emerged: Tom DeLay, the former majority leader of the House of Representatives.

Mr DeLay, a central figure in the conservative movement, was forced to step down from his leadership post in September after a Texas prosecutor indicted him on unrelated money-laundering charges. He had hoped to resolve that matter quickly and resume his duties.

But the case against Mr Abramoff, who has close ties to Mr DeLay, along with a guilty plea to corruption charges by Michael Scanlon, a former DeLay aide, and the potential involvement of other former aides – as well as the continuing legal battle in Texas – appear to have scuppered that plan.

Several rank-and-file Republicans in the House said on Friday they would circulate a petition in the next few days calling for leadership elections to formally replace Mr DeLay, who many fear could become a liability in the November 2006 mid-term elections.

Newt Gingrich, the former House speaker who led the Republican takeover of Congress in 1994, said this week that while Mr DeLay must defend himself in court, “the House Republican party has a different set of interests and [they] involve having a new majority leader”.

The Wall Street Journal editorial page weighed in on Friday, saying Mr DeLay and the Republicans “should move on separately”.

John Green, director of the Bliss Institute of Applied Politics at the University of Akron, said: “Just for purely practical reasons, the Republicans are not going to want him back in the leadership position.”

Just as the high costs of Hurricane Katrina prompted a backlash among fiscal conservatives in the Republican party, the Abramoff scandal is prompting a broader self-examination among Republicans. “The party that swept to power on term limits,

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spending restraint and reform has become the party of incumbency, 6,371 highway-bill 'earmarks', and K Street [the site of many lobbyists' offices]," the Journal said.

But replacing Mr DeLay poses challenges."Whatever one may think of his politics, he was very good at rounding up votes," said Mr Green.

Roy Blunt, who has filled in for Mr DeLay since September, is considered the frontrunner to succeed him. But Mr Blunt has been criticised for what are seen as mis-steps on the House floor.

A leadership campaign threatens to expose divisions within the Republican caucus, between Mr DeLay's allies and other factions, and between fiscal conservatives and moderates.

Republicans have pointed out that politicians from both parties had ties to Mr Abramoff. Dozens of lawmakers, as well as President George W. Bush, have said they will return political contributions from Mr Abramoff or donate the funds to charity.

Charlie Cook, a political analyst, says the full impact of the case will depend on how many, and which, politicians Mr Abramoff implicates. "So far, the vast majority of voters have no earthly idea who Abramoff is, and they don't see his troubles as primarily a Republican problem."

Democratic Leader Takes Anti-Corruption Message To GOP Turf (WP)

By Chris Cillizza

The Washington Post, January 8, 2006

Harry M. Reid is heading into the belly of the beast.

The Senate minority leader will spend much of this week traveling to "red states" -- those that voted for George W. Bush in 2004 -- to campaign for candidates, raise cash and bash Republicans on the issue of corruption.

Dubbed by his office "Reid's Red State Tour," the three-day journey will take the Nevada senator through Arizona, Colorado, Utah, Idaho and Nebraska. He will be in Phoenix and Denver on Tuesday, Salt Lake City and Pocatello on Wednesday and Omaha on Thursday. It is one of several such campaign swings Reid has planned between now and the November midterm elections, according to his office.

In each state Reid will conduct events seeking to highlight the need to "restore honest leadership in Washington, D.C.," said his spokesman Jim Manley.

But Reid also has a pecuniary motive. He plans to raise money for the Democratic Senatorial Campaign Committee at each of his five stops.

Take, for example, his jaunt to Nebraska. According to an itinerary of the visit, Reid will join Sen. Ben Nelson (D-Neb.) to "send a strong message that Americans don't have to accept more of the same corruption and cronyism that pervades Washington today." Left off the itinerary is a DSCC event in Omaha hosted by Reid that Nelson plans to attend.

With official Washington clamoring to deal with the fallout from last week's plea agreement by fallen lobbyist Jack Abramoff, Reid's trip comes at an opportune time for a party whose members are seeking to cast themselves as outsiders to corruption.

"Americans everywhere want elected officials who will fight for them," Reid said. "We're ready to clean up Washington, and we're going to make our case across this country."

Republican National Committee spokeswoman Tracey Schmitt drew a different conclusion when informed of Reid's travels.

"You can take Harry Reid out of Washington, but you can't take the Washington out of Harry Reid," Schmitt said. "Does he plan to brag about killing the Patriot Act or shutting down the United States Senate?"Vegas Mayor Ready to Gamble on Senate Bid?

Meanwhile, back in Sin City, the Senate minority leader confirmed last week that he has spoken to Las Vegas Mayor Oscar Goodman (D) about possibly challenging Sen. John Ensign (R-Nev.) in 2006.

Harry M. Reid told the Associated Press that he was "happy to give [Goodman] any advice or counsel that he needs or wants." Sen. Charles E. Schumer (D-N.Y.), chairman of the Democratic Senatorial Campaign Committee, has also spoken with Goodman about a potential candidacy. Jack Carter, son of former president Jimmy Carter, is also considering a bid against Ensign.

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DSCC spokesman Phil Singer said Goodman and Carter are "quality" candidates, and pointed to a Zogby International poll conducted online last fall that showed Ensign with a 45 percent to 42.5 percent edge over Goodman. "If Ensign thought he'd have an easy ride in 2006, he was mistaken," Singer added.

"We're very confident that Senator Ensign will be reelected based on his strong record in the Senate and the great work he has done for the state of Nevada," responded National Republican Senatorial Committee spokesman Brian Nick.

A Goodman Senate bid would set off a political circus worthy of a Vegas casino.

Long before being elected mayor in 1999, Goodman was a high-profile -- and controversial -- figure in Las Vegas as the lead attorney for a number of high-profile Mafia figures, including Meyer Lansky and Tony "The Ant" Spilotro. Goodman has embraced the "what happens here stays here" motto of his city as its mayor -- he is regularly accompanied by showgirls and has a weak spot for Elvis impersonators.

Putting aside Goodman's flamboyant personality, if Reid is seen as advocating a bid by the mayor it could signal a break in the unstated truce that has been in effect between him and Ensign since Ensign won a Senate seat in 2000. Asked whether Reid was encouraging Goodman to enter the race, spokeswoman Tessa Hafen said -- carefully -- that the minority leader "was not trying to convince Goodman to run."Frist Looks Northward for Rebound

Seeking to right his presidential bid after a calamitous 2005, Senate Majority Leader Bill Frist will headline the Lincoln-Reagan Day Dinner in Hampstead, N.H., on Feb. 3.

The visit to the Granite State -- home of the first-in-the-nation presidential primary -- will be the Tennessee Republican's second since early December, when he made stops in Manchester, Concord and Portsmouth.

With Frist beginning his final year in the Senate, expect his attentions to turn more and more to the presidential race. In an e-mail sent last week from his Volunteer PAC leadership committee, Frist urged supporters to attend a presidential 2008 straw poll to be at the Southern Republican Leadership Conference in Memphis in March.

Cillizza is a staff writer for washingtonpost.com. His online column on politics, The Fix, appears daily athttp://www.washingtonpost.com/thefix.

Scandal Exposes Washington's Underside (AP-Y2)

By Laurie Kellman

AP, January 8, 2006

A luxury skybox for sports fans in Congress. A dinner party that raises thousands of dollars for a political candidate. Helpful suggestions on how the guest of honor might phrase a letter to the president or a Cabinet secretary.

Alone and even in modest combinations, all are examples of business as usual in Washington's billion-dollar world of government, lobbying and campaign finance.

What makes it work is discretion.

What's blown the lid on it now is lobbyist Jack Abramoff's excesses.

It's the unwritten rules as much as the written ones that Abramoff broke: Don't gloat, don't be too greedy, don't say out loud what you're doing, and don't ever, ever, put in writing what you don't have to.

There is one other clear difference between Abramoff's actions and those of other lobbyists.

"He defrauded his clients. That's a big difference," said Kathleen Clark, a government ethics expert at the Washington University law school in St. Louis.

Abramoff, who faces up to 11 years in prison after pleading guilty last week to conspiracy, mail fraud and tax evasion charges, also got caught. A maze of campaign finance laws and lobbying rules makes it hard to prove a lawmaker took an official action under a "quid pro quo" agreement with a generous lobbyist.

"The scandal with Abramoff is just the enormity of it," said Roberta Baskin, executive director of the Center for Public Integrity, a private ethics watchdog group. "Who knows if there are others like him out there or not."

If so, it's unlikely they had all of Abramoff's trappings:

_Foreign golf trips arranged for former House Majority Leader Tom DeLay, R-Texas, and the chairman of the House Administration Committee, Rep. Bob Ney, R-Ohio.

_Fundraisers at his skybox or at his upscale Signatures restaurant on Pennsylvania Avenue exactly half way between the Capitol and the White House.

_Job offers for top Bush administration officials and senior aides of congressional leaders and committee chairmen.

"He's exceptional in that he was pushing so many levers at once," said Frank Clemente, director of Public Citizen's Congress Watch.

More may be known soon.

Under a plea deal with federal prosecutors, Abramoff's e-mails and other documents will be the stuff of federal court proceedings that will expose the mysterious and protected world of Washington lobbying.

Because the law requires limited transparency of lobbyist-lawmaker dealings, the differences between Abramoff and other lobbyists are not entirely clear.

Lobbyists, legislators, campaign fundraisers and presidential appointees frequently wear different hats over the course of their careers. It's been pretty much that way since the nation's beginning. Even public integrity watchdogs acknowledge that lobbyists, properly regulated, are important advocates in the American system of government.

The ethical boundaries get blurred when people play two or more parts, often in the same day.

Rainmakers raise colossal amounts of money that candidates need to wage and win campaigns. Lobbyists try to persuade lawmakers and presidentially appointed officials to take actions that benefit their clients. Often they are one and the same.

What is hard to prove is whether lobbyists press officials — and whether the officials agree — to pony up these official acts out of gratitude for campaign money or other gifts of value, such as skybox seats and exotic trips. The law says such a quid pro quo only can be proved when explicitly uttered or written down.

Hence, the unwritten rules: Whatever events or contributions might have preceded a public policy decision that benefits the lobbyist's clients, don't talk about it and don't put anything in writing that isn't required.

Abramoff violated both, and the law, in vivid detail.

"Is life great or what!!" he exulted in an e-mail to an associate with whom he pocketed $66 million from six American Indian tribes seeking influence in Washington.

In a series of e-mails and other documents, Abramoff explained that in 2002 he and an associate secretly funneled millions of dollars to consultant Ralph Reed, a former Christian Coalition leader, to help shut down a Texas casino operated by the Tigua Indians.

Then Abramoff persuaded the Tiguas to hire him and his associate, public relations consultant Michael Scanlon, to help reopen the casino.

"The annoying losers are the only ones which have this kind of money and part with it so quickly," Abramoff wrote to Scanlon.

Abramoff also explained how some of the money would be doled out: "He (Scanlon) divided the $5 million into three piles: $1 million for actual expenses and $2 million for each of us."

White House Watch: (PPG)

By Ann McFeatters

Pittsburgh Post-Gazette, January 8, 2006

WASHINGTON -- Tempting as it is to say a pox on all their houses, we are confronted with the question of the extent of corruption in Washington's political circles.

Are government officials and actions, in fact, for sale?

The once-flamboyant, multi-hatted Jack Abramoff, whose name is now synonymous with political turpitude, survived and thrived because many powerful members of Congress eagerly accepted his contributions to their re-election campaigns.

Politicians from President Bush on down through the ranks of Congress took the Abramoff largess because they wanted to be re-elected. To stay in power, pols raise millions of dollars to defeat opponents.

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There are no vicuna coats in this scandal, as far as we know (fur being politically incorrect at the moment). No call-girl ring has been busted on Capitol Hill (albeit the aphrodisiac of power will be with us until the end of time). But this latest spate of revealed corruption will do far more harm because it is so entrenched, so sophisticated and so sickening.

What lobbyists such as Mr. Abramoff seek is a seat at the table when laws are written and regulations are finalized so that their clients' interests hold sway.

There is not one aspect of human life untouched by congressional hands. The air we breathe, the food we eat, the cars we drive, the medicines we take, how we invest our money, the way we die, the care we get when we're sick or old -- it all is regulated, and Congress has oversight over everything.

We do not yet know whether the latest West Virginia coal-mine tragedy was caused by violation of safety rules. We do know that the Bush administration has not issued one significant coal-mine safety regulation in five years. We do know that despite promising mammoth increases in penalties for safety violations, the administration has yet to act to demand them. We do know that the first person the administration put in charge of mine safety came from the mining industry and had vehement views on the need to get government off its back. We do know that congressional oversight on mine safety has been abysmal.

There is a line between excessive regulation, which stultifies business expansion, and too light a federal hand on business, which means the worker and the consumer get shafted.

This administration has worked hard to lift the heavy hands of federal regulators off the shoulders of big business (less so off small business). Strident voices such as Ralph Nader's have been loudly complaining, but for many reasons have been ignored.

Sometimes critics cried wolf too often. Sometimes the intricacies of the issues they raised were too daunting for all but the most dedicated zealots to unravel. And when fewer people buy newspapers, there are fewer reporters paid to dig into mounds of arcane records searching for evidence of fraud and abuse. (TV sometimes tries, but is woefully unable to commit the needed manpower to investigative reporting.)

There is a noble purpose to lobbying. No legislator can be adequately familiar with every aspect of every bill. Lobbyists from all sides of an issue -- for example, for the coal company, for the worker and for the environmental group -- compete to get their interests written into legislation. What is unfair and illegal is when lobbyists with big bucks spread them around in a way calculated to get the votes of lawmakers.

Some lawmakers refuse to have anything to do with the bad lobbyists who lurk on Capitol Hill. They are the good guys. The legislators who took money from Mr. Abramoff and his ilk convinced themselves they were just doing what "everybody else does" to stay in office so they can "do good" and pass legislation that matters. Most of them did not take the money to get rich -- for one thing, that's too easily traced. Many of them passionately believe in what they are doing.

But what these witless co-conspirators have done is further undermine public confidence, chisel away at the credibility of government and give comfort to enemies convinced the democratic system is no better than any other and maybe even worse.

Assistant Attorney General Alice Fisher said the Abramoff pleas of guilty to felonious bribing of lawmakers, evasion of taxes and bilking of clients show that "government officials and government action are not for sale."

But as the investigation continues into how many webs Jack Abramoff has spun, we have no confidence her statement is true.

Can I Lobby You? (WP)

By Jan Witold Baran

The Washington Post, January 8, 2006

If you typed the word "lobbyist" into the Google News search engine last week, the first page of 8,670 search results would have included dozens of headlines that screamed out "Lobbyist's Guilty Plea Sends Out Shock Waves Through US Congress," "Bush Campaign Getting Rid of Lobbyist's Money" and "Kennedy Among Leading Recipients of Convicted Lobbyist's Clients." The referenced lobbyist is, of course, Jack Abramoff. In spreading the news to America and the world, most news organizations deemed it sufficient to simply inform the public in headlines that a "lobbyist" had pleaded guilty. The insinuation is that there must be something inherently sinister because a lobbyist is involved. The nature of his guilt is treated as self-evident.

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Perhaps this scandal will eventually be called the Abramoff affair, but for now it is a lobbying scandal. If Shakespeare lived today, perhaps he would write, "First shoot all the lobbyists." Yet in the midst of the current furor, reports do not mention that there are thousands of lobbyists in Washington who are honorable and honest people and who render a service that is both critical to a democratic society and enshrined in our Constitution.

There is irony here. The same constitutional provision that ensures the press may proclaim a lobbyist's guilty plea also protects the act of lobbying. The First Amendment is well-known for guaranteeing freedom of speech, freedom of press, freedom of assembly and freedom of religion. Often overlooked in its litany of fundamental civil liberties is the right "to petition the Government for a redress of grievances." It is this distinct clause that prevents Congress and the president from enacting a law that bans lobbying. It is a right that should not be taken lightly and that should not be eroded by the fraudulent acts of a single lobbyist.

The Washington lobbying community was aghast to learn of Abramoff's methods and practices . Bilking a handful of Native American tribes of more than $80 million in four years is shocking. Mocking those same clients in e-mails is unconscionable and disrespectful. Renting suites or skyboxes in at least three professional sports arenas is exceptional even among the most prosperous D.C. firms. Firms typically do not rent such suites because the price of tickets now regularly exceeds the limits on gifts to legislators. Most corporate offices in Washington have instituted compliance systems to ensure that their lobbyists do not exceed gift limits. For all these reasons, lobbyists are appalled at Abramoff's practice of extravagant wining and dining (at his own restaurant!), orchestrating lavish trips and offering campaign contributions in exchange for specific official acts. There may be others who bend the rules, but Abramoff retired the cup for outrageous conduct in the name of lobbying.

We have laws to prevent such corruption. If members of Congress were caught breaking those laws, they would be prosecuted and punished -- but we wouldn't abolish their seats and deprive their constituents of representation.

The framers of the Constitution recognized that citizens must be free to make appeals to those who govern and who make policies, laws and regulations that affect the citizenry. Obviously, most citizens are not physically located at the seat of government, may not know how government works, and are busy doing things other than lobbying. For those reasons, when they need help in making their petitions, they retain representatives who can more effectively seek redress on their behalf. In other words, ordinary folks need representatives to talk to their representatives.

While officials may prefer to legislate without being importuned by those affected or by their representatives, that is not the way laws should be made in an open democratic society. The founders sought to ensure the public interest by promoting pluralism and protecting the participation of all. How then can it be surprising that there are now more than 27,000 registered lobbyists petitioning on behalf of business, labor, the environment, education, abortion rights, the elderly, the poor, ethnic groups and more?

Daniel Webster may have become America's first lobbyist when he was retained as an attorney by business interests while also serving as the U.S. senator from New Hampshire. Legislators could wear two hats in those days. But the practice of employing lobbyists did not gain steam until the Grant administration. It was then that agents of private interests lingered in the lobby of the Willard Hotel a short walk from the Treasury Department and the White House in the hopes of buttonholing residing government officials and members of Congress to seek redress of some grievance. Hence the term "lobbyist." That certainly is easier to say than "grievance petitioner."

The size of the lobbyist population is proportional to the size of government. During the Civil War, the White House staff consisted of two personal secretaries to President Abraham Lincoln. Today the Executive Office of the President budgets for more than 900 employees. Lincoln was lobbied, but usually for a job in the postal service. There were many fewer legislators than today and the members had no staff. Currently there are more than 30,000 employees in Congress -- not coincidentally, that's just slightly more than the number of registered lobbyists. As the size and functions of government have grown, society has discovered more "grievances" to petition. In particular, spending by government has led to more petitions for one's perceived fair share.

Lobbying was not subject to any regulation until 1946, when the first lobbying law was passed. That initial effort required registration and reporting by lobbyists and the organizations that employed them. However, the legislation was poorly drafted. By 1954, the Supreme Court interpreted the statute so narrowly (in order to avoid violating the First Amendment right to lobby) that

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the law no longer provided meaningful reporting and could not be enforced. During the era of Lyndon B. Johnson, lobbyists and legislators formed an increasingly symbiotic relationship. According to biographer Robert Caro, then-Senate majority leader Johnson freely availed himself of the corporate aircraft of a major Texas construction firm, and to the extent that he relaxed, he did so at the Middleburg estate of the firm's lobbyist.

Eventually, attempts were made to tame the gift-giving and to subject lobbyists to public disclosure. Congress adopted ethics rules in the late 1950s and gradually tightened them. In 1995 the Lobbying Disclosure Act (LDA) for the first time implemented clear requirements for registration and reporting. One major reason we know that Jack Abramoff was a lobbyist and who his clients were is the information on his lobbying reports.

Just because we have laws and ethics rules, however, doesn't guarantee that people, including lobbyists, will abide by them. Nor will lobbying laws prevent a lobbyist from committing crimes such as Abramoff's. He defrauded his Indian tribe clients, law firms and financial institutions, and the American taxpayer (by not paying taxes). He also admitted to conspiring to bribe a public official. That crime is the most reprehensible in that it betrays both honest government and his profession. It is like a lawyer paying off a judge or a jury. A lobbyist, like a lawyer, must ply his profession with advocacy and facts, not with gratuities or bribes.

While laws and rules do not stop crimes and rule breakers, both are vital to establishing and maintaining public confidence in the lobbying process. Congress, in particular, must take steps to reduce the excesses that Abramoff represents while preserving the right of effective lobbying. Here are four places to start:

Enforce current House and Senate ethics rules. After reading about Abramoff's wining, dining and entertaining, many Americans would be surprised to learn that both the House and the Senate have rules that generally limit gifts, including meals, to $49.99. However, neither congressional offices nor the ethics committees actually enforce those rules, thus making a mockery of them. Congressional officials, particularly staff, should be required to certify annually that they have not received improper gifts and such certifications should be subject to laws that make false statements a crime.

Tighten up those rules . There has been much attention paid to the expensive foreign trips taken by some officials at private expense. In Congress, but not in the executive branch, officials may accept luxurious travel, accommodations and meals anywhere in the world as long the trip has some official purpose, such as giving a speech or participating in a conference. This practice must be modified or eliminated. If a trip is justified and necessary for official reasons, then it should be modest and financed by the government. If some trips continue to be privately financed, there should be limits and officials must make prompt, complete and public disclosure, preferably on a government Web site.

Require lobbyists to itemize gifts and entertainment on lobbying reports. The current LDA requires the reporting of the total amount of money spent by lobbyists, but no itemization of expenses. Itemizing gifts and entertainment over, let's say, $20 would highlight which government officials accept such blandishments and whether they are adhering to their own ethics rules. Lobbyists and their clients are not subject to the congressional ethics rules but are subject to the LDA and other statutes that prohibit bribes and gratuities.

Promote an ethical culture. The character and leadership of government officials are the most important ingredients in setting examples and demanding ethical behavior. There are, however, additional steps. Any manager working at a major corporation will tell you that he or she must participate in mandatory educational compliance programs. Workers are required to know what the rules are, what the company policies are and to demonstrate that they know. No less should be expected of government officials. Congress needs to implement a mandatory annual compliance education program and no one should receive a paycheck unless he or she has completed the program.

The above steps will not eliminate the possibility of another future lobbyist who is determined to bribe or an official who seeks emoluments. Renegades and schemers unfortunately exist. But these suggestions would help increase consciousness about the rules, encourage ethical behavior and perhaps reduce the possibility of another Abramoff operating on his scale for so long without someone blowing the whistle.

The targets of my suggestions are government officials, our leaders. It is incumbent upon them to pay their share of a dinner check and to decline a ticket to a sporting event that violates any gift limit. If they seek the social company of lobbyists they should abide by the rules or go Dutch. By the same token lobbyists must abide by the laws and act ethically, as most do, even in the era of Jack Abramoff's excesses.

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Go Ahead, Try To Stop K Street (NYT)

By Todd S. Purdum

The New York Times, January 8, 2006

WASHINGTON

IN 1872, some Republican elders, revolted by the rampant influence peddling of Ulysses S. Grant's administration, challenged him for re-election. "He has used the public service of the government as a machinery of corruption and personal influence," they complained, and "shown himself deplorably unequal to the task imposed on him by the necessities of the country."

Jack Abramoff's trading room was his Signatures restaurant, not the front of the old Willard Hotel, where favor seekers so besieged Grant that he helped popularize the label - lobbyist - that still clings to their descendants with a pejorative sting. But Mr. Abramoff's guilty plea last week to charges of fraud, tax evasion and conspiracy to bribe public officials prompted similar revulsion among some of the Grand Old Party's canniest hands.

"I think as this thing unfolds, it'll be so disgusting, and the Republicans will be under such pressure from their base, that they will have to undertake substantial reform," said Newt Gingrich, the former House speaker (who himself had to pay $300,000 to settle a 1997 ethics case). "This is like Watergate."

But will things really change? After all, Grant himself won a second term, despite the failings that would eventually leave his legacy forever tainted, and his chief Republican antagonist, Horace Greeley, died defeated and insane three weeks after the election. Is corruption just a part of Washington's DNA? What else explains the grim resignation of Washington veterans who wonder when, not whether, some scandal will arise?

"The history of civilization, for starters," said Fred Wertheimer, president of Democracy 21, an ethics group. "This kind of problem is faced by all societies throughout all of history. It comes and goes in cycles, and becomes most prevalent when the activities are viewed as O.K. by the society where it's taking place."

For watchdogs like Mr. Wertheimer, and for many Democrats, such tolerance dates to the Republican takeover of Congress in the mid-1990's, when new leaders like Representative Tom DeLay of Texas began a campaign to fill the capital's K Street corridor with Republican lobbyists, and made it plain that those seeking to influence legislation would have to "pay to play," in the form of political contributions and other largesse.

Mr. DeLay, who was himself indicted last year in Texas on unrelated campaign finance charges and forced to step down from his post as House majority leader, has long had close ties to Mr. Abramoff. Now Mr. Abramoff's guilty plea increases the likelihood that Mr. DeLay will lose his leadership post for good, and raises the prospect that he - and other lawmakers - may be enmeshed in new legal troubles. The sheer scale of Mr. Abramoff's misdeeds - millions of dollars in kickbacks from Indian tribes, a luxury golf outing for politicians to Scotland, misuse of a tax-exempt foundation - make this an extraordinary case.

"There are all sorts of things that have gone on of the same generic kind," said Harry C. McPherson, who came to Washington 50 years ago this month as a Senate aide to Lyndon B. Johnson and has plied his trade as a lawyer-lobbyist since leaving the White House in 1969. "But this is truly a situation where the degree changes everything. It converts something that purists about government would find unpleasant into the utterly unacceptable - into crime."

But the problem is broader than Mr. Abramoff, Mr. DeLay or even the inherent potential for abuse in one-party rule of all three branches of government. It also has to do with the astounding growth of the lobbying industry, a growth that has tracked the growth of the federal government itself. The rise of government regulation - first in the New Deal and then in the 1960's and 70's - spawned a parallel rise in the private sector's efforts to master the new system. Between the early 1970's and the mid-1980's, the number of trade associations doubled; in the first half of the 1980's alone, the number of registered lobbyists quadrupled, according to The Washington Monthly.

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A study by the Center for Public Integrity found that in the early 1990's, political donations from 19 major industries - including

pharmaceuticals, defense, commercial banking and accounting - were split about evenly between the two parties.

By 2003, the Republicans held a 2-to-1 advantage. Since 1998, the center found, more than 2,200 former federal employees had registered as federal lobbyists, as had nearly 275 former White House aides and nearly 250 former members of Congress. Many rules governing their conduct remain deliberately vague, and the House Ethics Committee has been paralyzed because of dysfunction and partisan disputes.

"The scandal here is not that the rules were broken; the scandal is the rules themselves," said Representative Martin T. Meehan, Democrat of Massachusetts, who with a Republican colleague, Christopher Shays of Connecticut, and Senators John McCain and Russell D. Feingold, has been a leader in pressing to overhaul campaign finance and ethics rules. "Lobbying is part of our system, but there is a set of ethical standards and rules that ought to be followed."

Together with Representative Rahm Emanuel of Illinois and Mr. Feingold, Mr. Meehan has introduced legislation that would, among other things, require lobbyists to file quarterly financial disclosures, instead of semiannual ones and to disclose just whom in the government they lobbied. Former members of Congress would also not be able to lobby their colleagues for two years, as opposed to the current one year. Members would be required to submit detailed itineraries and descriptions of expenses for privately sponsored travel.

Mr. Gingrich has offered more ideas. He would allow unlimited fund-raising in members' states or districts, but bar fund-raising within the District of Columbia, and would require that all contacts between lobbyists and elected and appointed officials be posted weekly on the Internet. And he would shrink a government that has only grown further with post Sept. 11, 2001, spending.

"There is $2.6 trillion spent in Washington, with the authority to regulate everything in your life," he said. "Guess what? People will spend unheard-of amounts of money to influence that. The underlying problems are big government and big money."

Of course, the record suggests that for every loophole any new law might close, lobbyists will find a way to open another. The ban on so-called "soft money" contributions to political parties led to the rise of new special-interest spending groups, for example. Entrenched industries - and entrenched incumbents of both parties - can be expected to resist change that would threaten the way they know how to do business.

For their part, some lobbyists hope legislators intent on reform resist painting with too broad a brush.

"A lot of what we do is an enormous educational effort, to avoid what we consider even well-meaning but wrong-headed legislation," said Joseph Tasker, senior vice president for government affairs of the Information Technology Association of America, which represents companies like I.B.M. and Microsoft, on issues including privacy, piracy and Internet security.

"Congressmen don't know things; they're not experts in technology," he said. "In the mid-1990's, we were meeting with a Congressman about high-definition TV standards and we were talking about pixels and so on, and he said, 'Fellas, look, I'm trying to stay with you here, but one of the first times I ever took a ride on an airplane was when I came to Washington to take my seat and I remember looking out the window and I thought part of the wing was falling off when we landed, because the flaps came up.' "

And, this being Washington, even the best-intentioned efforts to stick to the rules can lead to overreaching silliness.

In 2004, David McKean, a veteran Senate aide, published a critically praised book on Thomas "Tommy the Cork" Corcoran, perhaps the most successful Washington lobbyist of the 20th century. But the Senate ethics committee advised him not to disclose on the dust jacket the name of the senator he worked for, John Kerry, lest he be seen as using his position for commercial gain.

The restriction hampered his ability to promote his book. Indeed, when a Washington bookstore inadvertently identified Mr. McKean's position in an advertisement, he had to cancel an appearance there. A very small victory, one would guess, for the capital's reputation.

Returning 'Good' Money After Bad Misses Point On Ethics (LAT)

By Ronald Brownstein

DOJ_NMG_0008517

The Los Angeles Times, January 8, 2006

Not to be excessively contrarian, but why exactly are members of Congress rushing to return campaign contributions from the clients of disgraced lobbyist Jack Abramoff?

It's easy to see why many recipients of the $204,253 Abramoff has personally donated since 1999, all to Republicans, are sending back the money after the lobbyist pleaded guilty last week to multiple felony counts. No one likes their name in a ledger with an admitted crook.

But the rationale is less apparent for returning contributions from Abramoff clients, primarily Indian tribes, who haven't been accused of breaking any laws and are mostly, if somewhat excessively, portrayed as victims in the scandal.

Sending back the tribes' money isn't only silly, it's destructive to the cause of reforming Washington. It perpetuates the fiction that "bad" contributions can be segregated from "good" contributions in some orderly fashion that allows politicians to raise millions without compromising their independence.

It's important to understand what was unique, and what more conventional, about Abramoff's activities. The unique aspect of his operation — the portion central to his criminal plea — was his exorbitant charges to his clients and the kickbacks he took from their payments to his partner, Michael P.S. Scanlon. But the way he advised his clients to advance their political causes differed more in degree than kind from the capital's business as usual.

According to testimony before the Senate Committee on Indian Affairs, Indian tribes came to Abramoff with a variety of interests, mostly revolving around gambling. In the mid-1990s, the Mississippi Choctaws hired him to kill federal legislation taxing Indian casinos. The Louisiana Coushattas hired him to block potential competitors, both by encouraging Texas officials to bar Indian gambling in that state and by pressuring the U.S. Interior Department to refuse authorization for casinos from rival tribes. The Tiguas hired him to pass federal legislation specifically reopening their El Paso casino — after the campaign Abramoff ran in Texas for the Coushatta tribe supported its closure.

These Indian tribes were not innocents. Most of the money they paid Abramoff apparently went to block potential competition from rival casinos. The Tiguas turned to Washington to evade Texas' clear desire to bar Indian casino gambling inside its borders.

And yet, in the manner they pursued these goals, the tribes weren't much different from anyone else operating in Washington. As a parade of tribal officials told the Indian Affairs Committee, they contributed money not only to dozens of legislators, but also to an assortment of conservative groups — such as Grover Norquist's Americans for Tax Reform and the Council of Republicans for Environmental Advocacy — because Abramoff told them the donations would win them friends in high places.

"Sometimes [Abramoff] did say that we need to make these contributions" in order to advance causes, one tribal official told the Senate committee last summer. "Other times, [Abramoff said] it was just a good organization, and [donating] will make somebody else happy."

Every day, in offices all around Washington, lobbyists provide exactly that advice to clients representing virtually every economic and social interest imaginable. As Abramoff told the New Republic magazine last year: "I didn't create the system. This is the system we have."

That's too self-serving: The ongoing investigation will determine whether legislators crossed the line of bribery by undertaking specific actions as a quid pro quo for contributions or other favors from Abramoff. (In one of his pleas, he essentially admitted attempting to bribe one House member, who has been identified as Republican Rep. Bob Ney of Ohio.) But the vast majority of contributions legislators in both parties received from Abramoff's Indian clients looks no different, legally or even morally, than the money they collect from all other interests jostling on Capitol Hill.

That's why the rush to refund the money is so misguided. By returning the Indian money, the recipients are trying to claim vigilance against suspect contributions.

But political money doesn't sort itself into black and white categories of appropriate and inappropriate; much of it, like the money from the tribes, is gray. It usually comes not with explicit demands but with implied expectations that every legislator must weigh. Is the Indian money really more suspect than the massive pharmaceutical contributions that influenced a prescription

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drug law that barred Medicare from bargaining for lower drug prices? In practice, the choices are not as clear-cut as legislators imply by returning the Indian dollars while keeping so many other donations that could provoke similar ethics questions.

The problems of special-interest influence in Washington can't be resolved through selective spasms of morality when a scandal erupts. Nor are tougher restrictions on lobbying or campaign contributions likely to eliminate abuses. Money flows toward power like a river to the ocean; no dam can be built high enough to permanently separate them. A century of often valuable, but inevitably porous, political reform makes that clear.

Because so many of the ethics choices in Washington are gray, they most often raise questions not about politicians' honesty, but about their judgment in balancing contributors' priorities against the public interest. And the key to promoting good judgment isn't new lobbying rules, or even criminal indictments, but electoral consequences for bad judgment.

Ultimately, the responsibility for policing Washington belongs not to prosecutors but to voters. The surest way for Americans to discourage elected officials from providing undue favors to special interests is to vote out some of those who do. The verdict that could transform Washington most won't come from a jury box — but from voters at the ballot box.

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Ronald Brownstein's column appears every Sunday. See current and past Brownstein columns on The Times' website at latimes.com/brownstein.

Reputed Mob Enforcer Gives Not Guilty Plea (CHIT)

By Rudolph Bush, Tribune Staff Reporter. Tribune Staff Reporter Matthew Walberg Contributed To This Report

Chicago Tribune, January 8, 2006

Walking with a cane and reportedly suffering diabetes and skin cancer, reputed mob enforcer Frank "The German" Schweihs pleaded not guilty Friday in his first court appearance in Chicago since he was captured Dec. 16.

Schweihs, 75, was a fugitive for eight months before the FBI arrested him and saw him returned here to face racketeering charges linked to murder and extortion. With Schweihs, 12 other men are charged in a sweeping mob case that sprung from a federal investigation dubbed Operation Family Secrets. The case ties the men to 18 unsolved Outfit murders as well as loan sharking and illegal gambling charges spanning four decades, authorities said.

All of those charged are in custody except alleged mob boss Joey "The Clown" Lombardo. An agent from Louisville arrested Schweihs outside an apartment in the small town of Berea, Ky. FBI agents are trying to piece together what Schweihs did and where he hid while on the run, authorities said.

Lombardo and Schweihs are accused of the 1974 murder of Daniel Seifert, a Bensenville businessman who had been scheduled to testify.

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Feds, Family Come Out To See 'The German' (CHIST)

By STEVE WARMBIR AND NATASHA KORECKI, Staff Reporters

Chicago Sun-Times, January 7, 2006

Aging reputed Outfit hitman Frank "The German" Schweihs could once inspire shudders of fear by entering a room.

On Friday, as he hobbled with a cane into a federal courtroom in Chicago after eight months on the lam, he was more of a curiosity.

A row of FBI agents observed him from the back row.

His daughter, Barbara, gave him an anxious smile from her courtroom seat.

And sitting beside her were two men who eyed him with disgust. The men were family members of a man Schweihs is accused of killing more than three decades ago -- government witness Daniel Seifert, who was shotgunned to death in front of his family.

The family members declined to comment later, not wanting to jeopardize the case.

Pleads not guilty to murder

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Schweihs, who turns 76 next month, was arrested last month, found living with his girlfriend in a small town outside Lexington, Ky. He had been in hiding since April, when federal prosecutors charged him and other alleged mobsters, including the reputed head of the Chicago Outfit, James Marcello, in a racketeering conspiracy involving 18 mob hits. Still at large is Joey "The Clown" Lombardo.

Schweihs, wearing an orange jail jumpsuit, sat down and wisecracked to his attorney, feigning puzzlement over how many reporters were packed into the courtroom.

"Slow day for news," quipped his prominent Loop attorney, Dennis Berkson.

Schweihs pleaded not guilty to the charges against him. He is being held without bond and faces life in prison if convicted.

"First I'm seeing this judge," Schweihs said as he looked over the indictment against him. "I've never seen this before."

'A lot of rumor'

The man once considered an alleged rising star in the Outfit cupped his hand to his ear at times to hear the judge better.

Besides bad hearing, Schweihs has skin cancer, a bad heart and diabetes, his attorney said. But his mind is still sharp.

"There are a lot of things said about him," Berkson said outside the courtroom. "There's a lot of rumor and innuendo which are absolutely ridiculous. He believes when all the evidence comes in, he'll be acquitted."

Reputed Mob Enforcer Pleads Not Guilty In Federal Court (AP)

By MIKE ROBINSON, Associated Press

AP, January 6, 2006

CHICAGO - A reputed mob enforcer who eluded a federal manhunt for eight months before FBI agents swooped down on him in central Kentucky three weeks ago pleaded not guilty Friday to racketeering and extortion charges.

"Why is all the news media here?" Frank "The German" Schweihs asked as he waited for U.S. Magistrate Judge Arlander Keys to call his case.

"I don't know, slow day," defense attorney Dennis Berkson said with a straight face.

Schweihs, 75, the craggy, tough-looking alleged enforcer who according to prosecutors squeezed "street-tax" payments out of strip joints, leaned on a cane as he stood in court.

He is one of 14 reputed mob figures under indictment in the FBI's Operation Family Secrets investigation of long-unsolved murders.

Schweihs is also one of two defendants who slipped out of sight eight months ago just before federal prosecutors unveiled the indictment, which outlines an alleged 15-year racketeering conspiracy that included at least 19 slayings.

The other fugitive, Joseph "Joey the Clown" Lombardo, is still on the lam.

Chicago FBI agents got a tip in mid-December concerning the whereabouts of Schweihs and agents arrested him without incident Dec. 16 outside his Berea, Ky., apartment about 40 miles south of Lexington.

Schweihs' homecoming was attended by Robert D. Grant, special agent in charge of the FBI's Chicago office and about a dozen other agents, including members of the FBI's organized-crime squad who spent years working on the Family Secrets investigation.

Keys ordered Schweihs to appear before U.S. District Judge James B. Zagel on Jan. 17 when the other defendants are also due in court for a status hearing.

Schweihs was shown a copy of the indictment and he said it was the first time that he had seen it. After Assistant U.S. Attorney Mitchell A. Mars read the charges, Keys asked Schweihs if he had understood them.

"I didn't understand it but I heard what he said," Schweihs said.

Schweihs was then taken back to the Metropolitan Correctional Center where he is to be held pending trial. Schweihs could get life in prison if convicted of the racketeering charges.

Several female friends including his sister Barbara were on hand for the hearing.

"Good-bye, Frank," one said as husky marshals led Schweihs out the door in handcuffs.

Berkson told reporters after the hearing that Schweihs was eager for his day in court and "believes that when all of the evidence is in he will be acquitted."

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Mob Mentality En Mass: (BOSH)

By Michele McPhee

Boston Herald, January 8, 2006

The Genovese crime family - the nation's most powerful underworld enterprise - has put the city of Springfield in a lethal stranglehold, corrupting local politicians, draining federal funds from city coffers and operating a chain of strip joints, according to 32 indictments handed up since 2001 and interviews with local law enforcement.

Indeed, investigators believe there are more wiseguys and mob associates in the Springfield area - roughly 50 in all - than in any other part of the country, including Genovese family strongholds in Brooklyn and the Bronx. The buttonmen live in bucolic Hamden County communities like Chicopee and Ware, and ply their underworld trade on seedy Springfield streets, investigators said.

"The influence of the mob contributed to the demise, or the downfall, of a once flourishing city. Our goal is to bring the city back through investigating the corruption and ensuring that federal funds go to the entities or individuals that the monies were intended to go to," Special Agent Michael O'Reilly, head of the Springfield's FBI office, said in an interview last week. "Not lining the pockets of wiseguys or corrupt politicians."

Genovese influence has been the target of several FBI raids on Springfield City Hall and administrative offices, investigators say. At least a dozen former city employees have been indicted, and five of them have been convicted since 2001 on federal charges ranging from racketeering to money laundering to influence peddling, O'Reilly said.

The city is on the verge of receivership and its coffers are under the control of a special board appointed by Gov. Mitt Romney. Springfield's new mayor, Charles Ryan, says he's working to root out public corruption.

In October, former Mayor Michael Albano's chief of staff, Anthony Ardolino, 36, was busted on federal tax and witness tampering charges, said U.S. Attorney Michael Sullivan. His brother Chester, 39, a former Springfield cop, also was indicted in the case. [continue]

Crackdown Exposes Toledo As A Hub Of Teen Prostitution (TOLB)

By ROBIN ERB and ROBERT A de BOER, BLADE STAFF WRITERS

Toledo Blade (OH), January 8, 2006

First of three parts

If the brutal world of teenage prostitution were a legitimate business, Toledo would be among its top employment agencies.

It has supplied top management — iron-fisted pimps who demanded worker productivity and loyalty.

It has supplied middle management — adult hookers under orders to beat discipline into underearning or renegade prostitutes.

And, most shocking of all, Toledo supplied the product — girls as young as 12, sometimes kidnapped, always sold for sex.

"I know the FBI is concentrating on Toledo, and I know Toledo is one of the top cities in the country for teen prostitution," said Celia Williamson, a University of Toledo professor known nationally for research of prostitutes.

Deb Hodges, a top Lucas County Juvenile Court official, agreed: "We had one of the federal investigators tell us that Toledo was the No. 1 recruiting spot in the United States. ... It was mind-boggling."

Until recently, it was also largely undetected.

"We here in Toledo had no idea that this was going on," said Dave Bauer, an assistant U.S. attorney in Toledo. One big problem, he said, is that underage prostitution is "a mobile business."

Recruited here, the girls didn't stay long. Pimps quickly shuttled them across the country, and "they would quite easily fly under our radar screens," Mr. Bauer said.

Federal investigators last month charged 31 men and women with herding teens - including at least nine girls from the metro Toledo area - across state lines as sex slaves in a highly profitable and violent prostitution ring.

These were neither street- walkers nor escort-service girls, authorities said. Instead, the teens were rotated among motels, truck stops, and highway welcome centers.

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But while the feds are able to lay out the inner workings of the Toledo-based prostitution ring, they can't explain why a handful of local pimps became such big players on the national scene, providing girls to more than a dozen states stretching from California to the nation's capital.

"Everybody has been saying, 'Why Toledo? Why Toledo?' And we don't know why," said John Stossel, one of the FBI agents leading the investigation.

The indictments, part of a massive child-prostitution crackdown the feds called "Innocence Lost," spelled out the sophistication and high level of organization among pimps who managed the business: setting prices, establishing work schedules, and negotiating turf.

Zoom | Photo Reprints Gordon Zubrod, an assistant federal prosecutor in Harrisburg, Pa., called it a "loose confederacy" of pimps, each with his own turf but enough reason to get along.

"They're all homeboys from Toledo, and it's to their benefit to cooperate," he said.

The local network expanded two years ago, after the feds cracked down on another national sex-for-hire operation in Oklahoma City.

The Toledo defendants, many of whom had operated the sex trade for years, "stepped into the vacuum," Mr. Zubrod said. "This opened the door."

Brutal business

It's a business that traffics in human misery.

"The cruelty has been astounding," Mr. Zubrod said. "Most of the women will have testimony [ranging] from having been pistol-whipped to having bones broken."

It's clear how pimps benefit: The indictments track coast-to-coast wire transfers totaling hundreds of thousands of dollars. But what lures girls too young for admission to R-rated movies into this Triple-X world?

A few are kidnapped and forced into the sex trade by violence. For many others, "prostitution is a continuation of the victim's sexual exploitation, not the beginning," FBI Assistant Director Chris Swecker said at a Justice Department news conference last month in Washington announcing the arrests.

For these girls, he and others said, it's a simple trade-off: Prostitution looks better than a home life of neglect or abuse. A man who seems kind and attentive - at least at first - can be irresistible.

Still other girls leave home "for the thrill of it," stumbling into forced prostitution along the way, said Jim Anderson, one of the Toledo Police Department's missing-persons detectives. "They're 14, 15 years old. What do they really know at that age?"

Rebellion

Denise was 14 then. She knew.

A girlfriend told Denise, whose real name is not being used at her request.

"She said, 'I met this guy and he's a pimp … He's got all these ho's and they work for him and they give him their money.' "

To the South Toledo teen, the scenario sounded "fascinating" - or at least like an escape hatch from a home she said she shared with a hooker mother who was often drunk or high. Maybe, Denise speculated, that's why her mother never noticed that two family friends had molested the teen for years.

One day Denise found her mother crying at the kitchen table. "Why didn't you tell me?" she asked her child.

But in Denise's mind, the better question was: How could you not have known?

"I think I was hardened. I didn't cry," Denise recalled. "I think that's when the resentment began toward my mother."

She skipped school. She smoked dope. She was "deep into rebelling."

And one day, she simply didn't come home.

Standing at a pay phone at a church festival, she punched in the phone number for the pimp she got from her girlfriend.

"He was in Harrisburg. I tell him about the [latest] altercation with my mom. I said, 'Can I come out with you?' He said, 'You know what you'll be doing?' "

She knew.

"He said, 'You know you'll be prostituting?' "

She knew.

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"He said, 'You know you're going to have to give me the money?' I said, 'Yeah, I want to be there.' "

A smack in the face

Hours after Denise stepped off the bus in Harrisburg, Pa., it wasn't the transactional sex that surprised her.

It was the violence.

Even now, seven years out of the business and removed from the control of any pimp, she still regards split lips and black eyes as mere occupational hazards.

"He was pretty good to me," she said of her pimp. "I can count on two hands the times he hit me."

Other girls, she added, had less merciful pimps and less luck with johns.

"I know girls who didn't make it out alive," she said.

Denise's story wasn't outlined in the recent indictments, but it might as well have been. In the world of paid sex, brutality is a standard means of maintaining a business structure - or, as prostitution researcher Ms. Williamson described it, "the rapes and the beatings and the stabbings and the brandings."

Ironically, investigators said it was the pimps who complained about working conditions.

"Both my hands were swelled up because I beat the bitch so much," the feds quoted one accused pimp as saying. That same man ended another beating only when he fractured his own hand, authorities said.

Another defendant confided to a fellow pimp that he beat a hooker for pulling in only $700 for a night's work.

Still another, authorities said, broke a woman's nose - an assault he'd been accused of twice before in Toledo. And in 2004, under investigation for a hooker's murder for which he was later exonerated, he talked bluntly with authorities in Indiana about pimp discipline.

"He said, 'Sometimes the only thing to get her attention is to hit her in the face,' " said Lt. Clarke Fine of the Hendricks County Sheriff's Office, near Indianapolis.

The brutality outlined in the indictments could indeed represent a long-standing practice of controlling women through force.

At least four of the Toledo men previously were accused of violence. In separate court cases, local police said these men, acting independently of one another:

Locked a minor behind an "iron door" and raped her.

Used a chain to beat another woman's face and body "for approximately three hours."

Kidnapped a female and forced her to perform oral sex until she finally managed to leap "from [the] moving auto at Summit and Cherry."

Smashed a bottle against a young girl's head.

The latest indictments claimed violence was sometimes even delegated to veteran prostitutes.

In another business setting, they might be called executive assistants. In the sex trade, they're known as "bottom bitches" - part enforcer, part cashier, and part recruiter.

Prosecutor Zubrod said these women will, "under orders, attack another prostitute and beat [her] with their fists or stab her or any number of things."

Fake IDs, real money

If Toledo was a recruitment hot spot, Harrisburg was its distribution center. Like no place else in the country, five major highways meet in the city, delivering an unending supply of paying customers.

"You can't do that in Chicago or L.A. or Atlanta," Mr. Zubrod said.

Wire transfers of tens of thousands of dollars - for food, fuel, clothes, and lodging - allowed the girls to crisscross the country.

Outfitted with fake identities, they remained as invisible as the underground economy in which they operated.

Denise picked up the routine quickly once she arrived in Harrisburg. Arrested? Never give your real name or age.

"You go to grown-up jail. You go to grown-up court. And you pay grown-up money. Then you're back to work," she said.

In one case last spring, a pimp turned to rote memorization to train two kidnapped Toledo teens.

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"I know as far as the Social Security numbers and the IDs, both of the girls had to write on seven pieces of paper, front and back, on every single line, all their false information," the mother of one of the girls told The Blade.

Pimps monitored each other's product and services, purchasing women from one another and sharing trade secrets.

One inquired about another pimp's profits, according to the affidavit, which said "[he] replied that he had made a $10,000 down payment on a Cadillac and still had $17,000 left."

It was the "sophistication and the organization of the whole network" that stunned Mike Brennan, a longtime Lucas County juvenile probation officer.

"I was blind-sided by the magnitude of it. When I got a call from a federal prosecutor [about the network], I was like, 'Yeah, yeah, it's probably some overzealous prosecutor.' "

Now, he said, he has a keener understanding of how these men exploit children for a living.

"These aren't dummies we're dealing with," he said.

Too old for this

Now 26, Denise relaxed in her living room recently, her two girls playing on the floor and a Christmas tree in the corner.

In the end, she said, it was the gun pressed to the back of her neck that pushed her out of the business for good. The night it happened, she was six months' pregnant and tired.

She'd climbed into the tractor-trailer too willingly, relaxing her guard after the driver offered $60 for a $50 sex act.

Instead, she saw the flash of a silver handgun. He sneered. She pleaded for her life.

"You know what? I'm pregnant. Please don't do this."

He raped her and said she was lucky.

"I killed bitches," she remembered him saying. "I'm going to let you live.'"

Screaming, she ran from the truck.

She knew her pimp would find her. He did. She knew he would beat her. He did.

"He found me at a hotel. It was the worst he ever beat me."

From a hospital later that night, the battered mother-to-be sneaked out a back exit. If he found her again, she'd deal with it then. For now, she wanted out.

Anyway, she reasoned, she was getting too old for all this.

She was 18.

Young Duo Put Waltz In Motion (MCA)

By Marc Perrusquia, Contact

Memphis Commercial Appeal, January 8, 2006

They look like a pair of fraternity brothers off to toilet paper the chancellor's yard.

Fresh-faced FBI agents Brian Burns and Mark Jackson are young -- neither is over 35 -- but they are no pranksters.

They are the case agents on the Tennessee Waltz, the undercover FBI sting that leveled corruption charges against 10 current and former public officials.

Together with a veteran prosecutor, they've changed the political landscape in Tennessee.

"I'll never forget that Thursday morning when the arrests happened,'' said Ron Ramsey, the state Senate Republican leader. Ramsey watched last May as, one by one, colleagues were led away in handcuffs from hotels and offices surrounding Nashville's Legislative Plaza.

"The FBI spread their net pretty wide ... That was one elaborate sting operation."

Ripples from the Waltz will be felt this week in Nashville when the General Assembly meets in special session to consider unprecedented ethics reforms, and again in Memphis where a series of criminal trials are scheduled over the coming year.

Pieces of the secretive FBI investigation continue to dribble out, but the story of its birth remains largely untold.

For years, insiders had complained of systemic, entrenched political corruption in Memphis and across Tennessee, yet despite occasional news media exposes, authorities were unable or unwilling to rein it in.

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That began to change three years ago after two young, idealistic FBI agents arrived in Memphis. And when the local U.S. Attorney's Office agreed for the first time in years to put a prosecutor full-time on political corruption, things began to happen.

Still, it took a little luck -- chancing upon a political insider who agreed to wear a wire -- before authorities got the OK from the U.S. Justice Department in Washington to launch an undercover sting unprecedented in Tennessee.

FBI stings have effectively countered corruption in places such as Chicago and Mississippi, where 55 county supervisors went to jail in a sting called Operation Pretense in the 1980s.

Corruption stings are clandestine operations in which agents pose as crooks and bait public officials with bribes. By their very nature they can be messy, ethically and legally, and consequently are used sparingly.

In the Waltz's aftermath, complaints about unfairness and race -- nearly all the defendants are black -- are bubbling up. And recent articles on an Internet news site pose questions about the case's key informant.

So far, three Waltz defendants have pleaded guilty. With seven more awaiting trial, the case's ultimate impact remains to be seen.

Reforms like those before the legislature are a typical consequence of corruption probes, yet, ultimately, a society must change its culture to have true impact, experts say.

"It works at least for a little while," said James R. Crockett, a University of Southern Mississippi professor who wrote a book on Operation Pretense and his state's legendary corruption.

"Without vigilance, (corruption) gradually creeps back in."

The FBI's lead agent on the Tennessee Waltz, Brian Burns, 35, first tried his hand as a pharmacist before a radical career change led him to join the FBI seven years ago.

His Waltz partner, Mark Jackson, 32, was a Naval intelligence officer, who likewise changed paths, joined the FBI and landed in Memphis.

Reporters who converged on Memphis last May to cover the indictments of five leading state legislators got a taste of the clean-cut Jackson when he testified in initial hearings.

Jackson told how the FBI had set up a bogus company called E-Cycle Management and paid lawmakers cash bribes to draw up legislation favorable to the company. Jackson testified that he was within a block when undercover agents met with and secretly taped lawmakers.

Emerging from that hearing was a surveillance tape of then State Sen. John Ford allegedly stuffing cash into his pocket and bragging, "You're talking to the guy that makes the deals."

Records soon revealed Burns' role was managing the case's key informant, political insider Tim Willis, paid $6,000 a month to pose as a lobbyist for E-Cycle.

FBI spokesman George Bolds said Burns and Jackson would not give interviews for this story, and as long as the Tennessee Waltz prosecutions remain open, no one at the FBI would comment on the case.

Yet, for all its growth and aspirations for the big league, Memphis remains at heart a small town, a gossipy place where secrets are hard to keep. In pursuing corruption here in recent years, Burns and Jackson have crossed paths with scores of citizens and public figures, many whose lips aren't nearly as tightly sealed.

Interviews and available public records show the FBI agents, often working closely with veteran federal prosecutor Tim DiScenza, have pursued crooks in Shelby County government, the Memphis Police Department's evidence room and subsidized day care.

"If I had a son, I'd want him to be just like Brian -- and Mark," said County Commissioner John Willingham, who said he's had encounters with the agents that he can't publicly discuss.

"They're young. They're brilliant. They're the kind of people who can take a thread, turn it into a rope, and hang you with it."

Brian Burns had just turned 30 and was as lanky as a teenager when he began showing up at federal court hearings in Memphis five years ago.

An FBI agent with just two years of experience under his belt, he'd relocated from his native New York and was trying to find his way in a southern city known for its peculiar variety of back-slapping public corruption as well as its famous music and barbecue.

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More often than not, Burns could be seen toting a bulky box of records under one arm as he slipped into a back row and listened as lawyers argued over a pressing case of the day, the Cherokee day care scandal.

No one knew it then, but Burns was on a path to the Tennessee Waltz and a collision with Ford, who has pleaded not guilty to taking $55,000 in Waltz bribes.

In 2001, Cherokee Children and Family Services, a private, nonprofit company, signed an exclusive state contract within months of its formation and began handling millions of government dollars intended to pay for day care for poor children in Shelby County.

Ford's sister and girlfriend quickly found jobs at Cherokee, and centers opened by Ford's brother quickly filled with state-subsidized children. Ford sold insurance to Cherokee and even co-signed on loans at one state-funded center -- all the while chairing a Senate committee that oversaw the state's day care operations.

With Burns doing much of the legwork, an FBI and Internal Revenue Service probe ended in convictions against five Cherokee associates, including executive director WillieAnn Madison, who was found guilty of embezzlement, money laundering and tax evasion.

Though called before a grand jury, Ford was never charged.

When Ford's conduct was questioned in Nashville, Doug Henry, the senate's cigar-chomping ethics chairman, said he could do nothing because he'd received no written complaints.

How much of this was filed away in Burns' head or in FBI files can't be known.

But as Burns fanned out in pursuit of local corruption, it became clear to those who saw him in action that he was thorough, idealistic and committed to his work.

"I honestly felt like this was a young man who was legitimately concerned about cleaning up the state of affairs," said former Juvenile Court Clerk C.R. 'Bob' Martin, who crossed paths with Burns on the case that led to Tim Willis, the Waltz informant.

"He really seemed to feel the public was due a report on these things."

Invariably, those who agreed to talk about Burns described him as decent and easy-going, though tough when needed. One individual who went to jail after a Burns investigation said he couldn't help but like him, describing him as non-threatening, a manner that worked well in etiquette-conscious Memphis.

On a warm June day in 2002, 14 state and federal agents poured into then-Juvenile Court Clerk Shep Wilbun's office, investigating allegations of theft and fraudulent billing.

Authorities eventually charged -- then cleared -- Wilbun of a scheme to pay hush money to a female employee.

But when Darrell Catron, one of Wilbun's top aides, pleaded guilty to an embezzlement scheme, the FBI hit the jackpot. That led agents to Willis, a politically connected felon who had received more than $30,000 from Juvenile Court for dubious consulting services.

By February 2003, Willis, who maintained close ties to the politically prominent Ford and Hooks families and had friends at all levels of government, was working for the FBI.

Because eight of the 10 Waltz defendants are black -- nine of 10 are Democrats -- there are claims that the operation unfairly targeted minorities.

The Chattanooga Times-Free Press quoted African-American leaders in October as saying the probe was one-sided -- an accusation denied by federal authorities.

Sentiments flared after the first arrests. The Economist of London reported the development in its U.S. edition under the headline, "Tennesleaze: Southern Politics." In a prayer in the Senate chamber, Lt. Gov. John Wilder called the FBI's sting tactics "wrong, and that's not Your way."

Defense attorney Micheal Scholl, who represented Wilbun and is now representing Ford -- both are black -- said he couldn't comment on the ongoing case.

But he's argued strenuously that Wilbun never broke any laws, and he vows an aggressive defense for Ford, saying he's not ruling out any defense strategy.

Accusations of unfair targeting -- or entrapment -- often ensue after undercover investigations, though none of the Waltz defendants has raised it as a legal defense yet.

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To prevent such claims, Justice Department rules require agents passing bribes to public officials to first document "predication" -- evidence that an official was predisposed to corruption.

A Justice Department Inspector General report last September found that the FBI did a good job nationwide adhering to rules governing predication, yet lacked adequate controls to ensure that FBI headquarters and U.S. Attorneys are notified on a timely basis.

In the landmark Mississippi sting, Operation Pretense, in which agents posing as corrupt businessmen paid bribes to county supervisors across the state, predication was established when a cooperating witness identified as many as 35 supervisors to whom he'd personally paid kickbacks.

Confidential informants pose another source of worry when running stings, and the September Inspector General's report found guideline violations in 87 percent of informant files reviewed.

An Internet news site, NashvillePost.com, published interviews in December with Waltz informant Willis, painting the portrait of a man seemingly out of control -- cursing, bragging of supposed payoffs to another official and openly discussing sensitive details.

Recognizing that informants, who are often criminals, pose special concerns, the Justice Department ramped up protections in 2001, requiring greater oversight by supervisors.

Regardless of how the Tennessee Waltz saga ends, Southern Mississippi's Crockett said any reform will be worthless unless values change.

"The culture here was a good ol' boy culture," said Crockett, an accounting professor who wrote the 2003 book "Operation Pretense: The FBI's Sting on County Corruption in Mississippi."

"The good ol' boys will say (to newly elected officials), 'Look, this is how it works.' They just get sucked right into it."

CIVIL LAW:

Cigarette Company Profits Are Still Smoking (MH)

By Thomas Mulier And Chris Burritt

The Miami Herald, January 8, 2006

Tobacco companies worldwide faced tighter government restrictions on smoking and cigarette advertisements last year, as well as declining numbers of smokers and higher taxes.

Yet shares of the three biggest companies -- Altria Group, British American Tobacco and Japan Tobacco -- are surging to records. Profits are rising as cigarette makers expand in poorer countries such as Indonesia and Russia, where smokers are switching to more expensive brands.

The addictive nature of nicotine also helped manufacturers raise prices, something most consumer-goods companies are struggling to do.

"These companies have a nice exposure to emerging markets," said Concepcion Moreno, who helps Brussels-based Petercam Asset Management oversee $14.2 billion, including shares in Altadis, British American and Imperial Tobacco Group. ``This is also an industry with very inelastic demand. The pricing power is strong."

Tobacco stocks probably will extend their gains in 2006, even if they fail to outperform the market as much as they did last year, she and other investors said.

New York-based Altria's shares returned 28 percent last year including dividends. London-based British American advanced 52 percent and Japan Tobacco of Tokyo jumped 49 percent, also including dividends. The stocks outperformed the respective benchmark indexes for their countries.

Sweden banned smoking in restaurants in June and Spain approved a workplace smoking ban that took effect yesterday. The U.K. and Germany raised tobacco taxes in 2005.

Nine U.S. states, including the two that grow the most tobacco -- North Carolina and Kentucky -- also increased cigarette levies, according to Bonnie Herzog, a Citigroup Inc. analyst.

TARGETING SMOKERS

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A European Union ban on tobacco ads and sports sponsorships by cigarette companies took effect in July. The percentage of adults smoking in Japan fell for a 10th year.

"Even though governments have been attacking tobacco companies, there's still a hard core of smokers," said David Liston, who helps Barclays Private Clients in London manage about $34.5 billion. He prefers British American ``because it's the biggest emerging markets play."

British American, whose brands include Lucky Strike and Kent, has said earnings growth has been beating its forecast because it's selling more cigarettes in Russia, Pakistan and Bangladesh.

Japan Tobacco, the maker of Mild Seven and Peace cigarettes, said profit in the first half of its fiscal year was boosted by its expansion in Russia, Iran and Ukraine.

Altria's Philip Morris International in May bought Indonesia's third-largest cigarette maker, PT HM Sampoerna, for about $5 billion. Altria also announced plans to start a joint venture to sell its Marlboro cigarettes across China.

At the same time, legal risk in the United States is dropping and investors are realizing consumers often respond to public smoking bans by smoking in different places rather than quitting, said Michael Smith, an analyst at JPMorgan Chase & Co. in London.

Altria may split off its tobacco businesses from its Kraft Foods business this year once the biggest remaining lawsuits against Philip Morris are concluded, analysts predict.

COURT CASES

The Illinois Supreme Court in December reversed the verdict in the Price "lights" case, one of the major cases against Philip Morris USA. The prior decision was that the company should pay $10.1 billion to smokers of "light" cigarettes who claimed the company misled them about health risks.

"This was the major litigation case they had to get through," said David Dreman, who oversees $15 billion at Dreman Value Management in Jersey City, N.J., including 14.6 million Altria shares as of Sept. 30. The company probably is worth between $90 and $95 a share broken up into units, he said, versus a current price of $74.72. ``That's still a fair amount of upside."

The number of suits against Philip Morris USA has declined from 10-year highs, Altria Chief Executive Louis Camilleri told analysts on Nov. 9 at a Morgan Stanley conference in New York.

With the Illinois ruling reversed, Altria's breakup hinges on the resolution of the Justice Department's racketeering suit against U.S. tobacco companies and the Engle class-action suit in Florida, analysts said.

Camilleri declined to speculate when a breakup might happen.

BIG SURPRISE

Tobacco companies have surprised investors who expected cigarette makers would struggle more with anti-tobacco laws in Western Europe and U.S. litigation.

Altria in October forecast that 2005 earnings per share would rise as much as 12 percent to $5.10, as it reported third-quarter profit that beat analysts' expectations. British American Chief Executive Paul Adams said the same month that 2005 would be a "vintage" year as the company was on track to post record profit. Nine-month earnings per share rose 23 percent.

Japan Tobacco on Oct. 31 raised its full-year profit target and said it expects a record $1.6 billion.

CIVIL RIGHTS:

10 Held In Alleged Prostitution Ring (LAT)

From Times Staff And Wire Reports

The Los Angeles Times, January 8, 2006

Ten people have been arrested in what police called a prostitution ring that involved women smuggled from Asia.

Among those taken into custody late Friday at a house in the 5000 block of Progresso Street were Duc Tuan Dinh, 34, of Santa Ana, suspected of operating 10 brothels throughout Orange County, two alleged associates, six suspected prostitutes and a suspected customer, police said.

The Westminster Police Department spearheaded the seven-month investigation that culminated in Friday's arrests.

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Governor Sticks By Vouchers (ORS)

By John Kennedy And Jim Stratton

The Orlando Sentinel, January 8, 2006

A day after the Florida Supreme Court struck down a key part of Gov. Jeb Bush's school-voucher program, Bush said Friday that he would support a constitutional amendment to salvage the plan that gives tax money to students attending private schools.

He said elected officials have every right to look for new ways to accomplish the goals of the voucher program, which provides state scholarships to students who wish to leave struggling public schools for private ones.

"I think they [Supreme Court justices] got it wrong," said Bush, who was in Orlando speaking to the Tiger Bay political club. "The Legislature has every right" to craft a law or ask voters to "modify the constitution if it's appropriate."

"That's the way the system works," Bush said.

Before defending his voucher program, the governor unveiled a $565 million plan to boost hurricane preparedness in the state. Among the plan's provisions are a $5.3 million public-information campaign, $30 million to install permanent generators at special-needs shelters and almost $70 million to ensure that county emergency management centers can withstand hurricanes.

The plan, financed with state and federal money, also would again allow for a sales tax holiday for hurricane supplies.

Hurricane readiness "has to be the first priority, the first priority before anything else," the governor said.

On Friday, however, attention was focused on the court decision that struck down the voucher program. The ruling overturned one of the governor's prized programs and suggested two larger voucher programs might also be open to legal attack.

About 700 students are on so-called opportunity scholarships, but the two others cover more than 30,000 children.

The decision has left Bush and Republican legislative leaders looking for a way to keep alive the first-in-the-nation statewide voucher plan.

"It's way too early to write the obituary for opportunity scholarships in Florida," said Senate President Tom Lee, R-Brandon. "But we've got to have some time to deliberate what step to take next."

Bush and lawmakers say they have essentially two options for saving the program: Pursue a constitutional amendment, or expand the state's $88 million corporate tax-credit program for student scholarships.

Current law allows corporations to receive tax credits for providing private-school scholarships to low-income students. Legislators might seek to expand that program though it too may ultimately be challenged in court -- to cover the more than 700 students in the program affected by this week's ruling. Preliminary estimates have put the expansion at $3 million.

Senate Judiciary Chairman Daniel Webster, R-Winter Garden, is among those wrestling with how to craft a voucher program that will meet constitutional muster.

Webster said that asking voters in November to approve private-school vouchers is a possibility and may be the likely course taken by supporters. He conceded that "it may be a tough sell" with voters.

Webster also acknowledged that at the moment he didn't see any clear state law changes that could accommodate the court's 5-2 ruling.

"It was a pretty broad decision," he said.

Bush has criticized the process to amend the constitution, saying it ties the Legislature's hands.

For Bush, the voucher defeat is part of a string of setbacks dealt him by the state's highest court, including the 2000 presidential election, abortion issues, budget matters, the death penalty and even the case of Terri Schiavo, the brain-damaged Clearwater woman whose case roiled Congress and the U.S. Supreme Court last spring.

The most recent decision, however, may undo a program that had been shaping up as a central part of the governor's legacy.

"The Supreme Court of Florida has effectively reached up and poked [Bush] in the eye, and that's wrong," said John Thrasher, a Tallahassee lobbyist who was House speaker during Bush's first year in office.

Bush has already revived the Foundation for Florida's Future, the nonprofit organization he used to advance his public policies and political career before being elected governor in 1998.

Thrasher said that rallying support for vouchers would be a task suited to the group, which is being led by Bush allies, including his former campaign finance director, Ann Herberger.

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But the foundation's executive director, Mandy Fletcher, said Friday that, like others involved in the voucher issue, the organization had not yet decided on its immediate goals.

"It was very unfortunate what happened," Fletcher said of the court ruling. "But at this point, I don't really know what we might be looking to do."

John Kennedy, who reported from Tallahassee, can be reached at jkennedy@orlandosentinel.com or 850-222-5564. Jim Stratton, who reported from Orlando, can be reached at jstratton@orlandosentinel.com or 407-420-5379.

ANTITRUST:

Pentagon Said To OK Rocket-launch Joint Venture (REU-Y2)

By Jim Wolf

Reuters, January 8, 2006

The U.S. Defense Department has conditionally approved a controversial plan that would let Lockheed Martin Corp. and Boeing Co. -- its top suppliers -- merge their struggling government-rocket launch ventures, a well-placed industry consultant said on Saturday.

In exchange, the Pentagon is demanding anti-trust protections sought by Northrop Grumman Corp. among others, said Loren Thompson of the Lexington Institute, an Arlington, Virginia, research group with close ties to the Pentagon and industry.

Final federal approval must come from the Federal Trade Commission, which has been awaiting a recommendation from the Pentagon, normally loath to endorse a quasi-monopoly.

A Pentagon spokesman, Army Major Paul Swiergosz, had no immediate comment on the conditional approval, first reported by the Wall Street Journal.

Bethesda, Maryland-based Lockheed, the Pentagon's number one supplier, said it was continuing to give the government information about what it called the very complex proposal.

"We're very optimistic about the deal and the benefits it will bring to our customers, to our shareholders and to our employees," said Jeff Adams, a spokesman.

Chicago-based Boeing, the Pentagon's second-biggest supplier, said it had not received any official word that a go-ahead was imminent.

"We continue to work with the government to answer lingering questions and are optimistic that we'll be given the approval to move forward with the joint venture," said Dan Beck, a spokesman.

Los Angeles-based Northrop did not immediately return phone calls seeking comment. Northrop does not build rockets but competes for U.S. government satellite business and is eager to make sure that a Lockheed-Boeing link-up does not give them unfair advantages in satellite competitions.

Thompson, citing officials from the companies, said safeguards being sought by the Pentagon were not "showstoppers."

He said the deal was tentatively approved by Kenneth Krieg, the Pentagon's acquisition chief, after a December 16 meeting with Ronald Sega, the Air Force undersecretary who is the Pentagon's executive agent for space.

Lockheed and Boeing, fierce rivals for rocket launches, agreed in May 2005 to create a 50-50 venture that would combine the production, engineering, test and launch operations for U.S. government launches of Boeing Delta and Lockheed Atlas rockets, subject to government approval.

They said at the time that the merger would save the government $100 million to $150 million annually and projected it would have closed by the end of last year.

To be known as the United Launch Alliance, the venture would end a drawn-out legal battle over the theft of internal Lockheed rocket documents that allegedly helped Boeing win rocket-launch work in the 1990s.

Closely held Space Exploration Technologies Corp. (SpaceX) of El Segundo, California, a rocket startup, has sued Boeing and Lockheed, charging they conspired to corner the market on U.S. government launches, and sought to block the merger.

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At issue is competition to launch weather satellites for the National Oceanic and Atmospheric Administration, science satellites for the National Atmospheric and Space Administration, spy satellites for the National Security Agency and communications satellites for the Air Force.

Funeral Industry Conspiring To Keep Prices High, Suit Says (HC)

By HARVEY RICE, Houston Chronicle

Houston Chronicle, January 8, 2006

Chip Beresford says he feels torn.

On one hand, he feels loyalty to the business in which he has prospered: the funeral industry.

On the other, he thinks he has suffered an injustice from funeral homes that he says have hurt him because they consider his prices too low.

Now Beresford — owner of The Pine Box in Houston, one of the largest distributors of caskets in Texas — is considering whether to join an antitrust lawsuit that aims to reduce funeral prices nationwide. The lawsuit, if it succeeds, could force the nation's largest funeral businesses to refund billions of dollars to consumers.

Beresford says he has been on the receiving end of some of the anticompetitive behavior alleged in the lawsuit. Some funeral homes that are unhappy about his prices, which often are hundreds of dollars less than theirs, refuse to use his caskets, he says.

"They disparaged me," he said. "They disparaged my product."

Nevertheless, he is reluctant to join casket retailer Pioneer Valley Casket Co., Inc. of Whately, Mass., in a lawsuit that has been combined with lawsuits filed by consumers.

The combined lawsuits accuse the world's largest funeral-service company, Houston-based Service Corp. International, of conspiring with competitors, independent funeral homes and the country's largest casket maker to fix prices and drive independent retailers such as Beresford out of business.

It alleges that the defendants have overcharged consumers by "hundreds of millions, if not billions, of dollars."

Beresford, a licensed funeral director who once ran a funeral home, said joining the lawsuit would feel like "suing my brother."

"I've been through the same school, the same experiences," he said. "Yet, I open this business up — which is legal to do, according to the rules of the industry — and they fight me, tooth and nail. And it's all over greed."

The consumers and Pioneer Valley are asking U.S. District Judge Kenneth Hoyt of Houston to declare their lawsuits class actions, on behalf of consumers and independent casket retailers, respectively.

The nonprofit watchdog group Funeral Consumers Alliance, headquartered in Burlington, Vt., is the lead plaintiff in the consumer lawsuits. It alleges a conspiracy to fix casket prices by SCI, competing funeral-home chain operators Alderwoods Group Inc. and Stewart Enterprises Inc., and the country's largest casket maker, the Batesville Casket Co.

"I would expect and hope (the lawsuits) would open that market and it would make competition for the sale of caskets more open and free," said Joshua Slocum, Funeral Consumers Alliance executive director.

SCI spokesman Terry Hemeyer said, "The allegations in the case are contrary to SCI's policies and training, and we expect to vigorously defend this matter."

Alderwoods and Stewart did not respond to requests for comment. A spokeswoman for Batesville parent company Hillenbrand Industries, also a defendant, declined to comment.

Pressure tactics allegedThe lawsuits allege that the three national chains and independent funeral homes are pressuring Batesville to allow only licensed funeral homes to sell its caskets. Matthew Cantor, one of the lead attorneys for the consumer lawsuits, says Batesville's restrictions prevent retailers from selling its caskets, the most popular brand, thus making it easier for funeral homes to mark up casket prices by as much as 650 percent.

Doggett Whitaker — past president of the National Funeral Directors Association, which the retailers' lawsuit accuses of aiding the conspiracy — said Batesville has a long-standing policy of selling only to licensed funeral directors.

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"I can't say whether it's a good policy or a bad policy, but I can say these companies have a right to decide who they want to sell to," Whitaker said.

He also questioned whether the Batesville brand is important to consumers. "I have never had an individual walk into my funeral home and specifically ask for a named casket," he said.

The lawsuits also accuse funeral homes of disparaging caskets sold by independent retailers, telling customers the handles will fall off or the bottoms drop out.

The funeral industry suffered a blow to its reputation after Jessica Mitford wrote The American Way of Death in 1963, accusing many funeral homes of taking advantage of grieving families to pile on expensive and unneeded services.

In The American Way of Death Revisited, published in 1998, two years after her death, Mitford described a largely unreformed industry that had outfoxed the Federal Trade Commission.

She singled out SCI, accusing it of pumping up prices for caskets and funerals.

The consumer lawsuits mirror some of Mitford's claims, saying many funeral homes are violating the FTC's "funeral rule" to pile on expensive services.

Refrigeration fees

Plaintiffs Gloria Jaccarino Bender and Anthony Jaccarino accuse a Staten Island, N.Y., funeral home of selling them a casket for $2,095 even though they asked to have their mother's body cremated.

Slocum, the Funeral Consumers Alliance director, said some funeral homes charge $75 to $400 per day for refrigerating a body, although the cost to a funeral home is about $3 per day.

He said he still finds numerous violations of the FTC funeral rule, designed to halt such practices, that went into effect in 1984.

"There is no excuse, 20 years after the funeral rule, for these rampant violations," Slocum said.

Consumers are finding similar practices in Houston, said Derrick Wayne, a board member of the Funeral Consumers Alliance of Houston.

Corporate and independent funeral homes alike engage in practices such as charging as much as $1,495 for embalming, although it can be done for $200, Wayne said.

He noted that, in many cases, funeral directors fail to mention that Texas law does not require embalming.

'An old accusation'In response to lower prices offered by independent casket retailers, funeral homes are charging less for caskets but boosting the prices of other services to make up the difference, Wayne said.

Scott Gilligan, National Funeral Directors Association general counsel, said most funeral homes do not take advantage of their customers.

"It's an old accusation," he said. "It's just not true. The funeral-home industry depends on repeat business. No industry is impacted more by reputation than the funeral industry."

He also denied funeral homes make unfair profits.

"The fact of the matter is that funeral-home profits have fallen steadily," Gilligan said. "They used to be 9 percent. Now they are down to around 7 percent."

Profits are falling because there are too many funeral homes, said Lamar Hankins, a San Marcos lawyer and Funeral Consumer Alliance board member who helped prepare the antitrust lawsuit.

"The death rate just doesn't support the funeral homes that we have," Hankins said. "They are apt to charge these big prices for everything to pay the bills they get."

Moved to HoustonBefore landing in Houston, the antitrust lawsuit was filed in San Francisco earlier this year. SCI successfully moved to consolidate cases and transfer them to Houston after five nearly identical lawsuits were filed in other parts of the country.

At SCI's request, Judge Hoyt agreed to add two cases recently: another from San Francisco and one from Brownsville, the only Texas lawsuit.

Attorneys say the legal wrangling probably will drag on for years before coming to trial. Jenelle Welling, an attorney for Pioneer Valley, says the lawsuits strike so directly at SCI's core business practices that a settlement is unlikely.

"They think their business model is critical to their survival, and I'm essentially asking them to change their business model," Welling said.

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Realtors' Bubble May Be Bursting (LAT)

Jonathan Chait

The Los Angeles Times, January 8, 2006

IF YOU HAVE ever sold your house, chances are you had to pay somewhere around 6% to real estate agents. You were robbed. And the people who robbed you are, naturally, determined to keep on robbing you and everybody else for as long as possible. But some people are starting to push back.

The purported reason we have real estate agents is that they perform needed services. To some extent, they do. If you're selling, they show your house to buyers. If you're buying, they advise you what to look for.

For both, they navigate you through a complex transaction. That's all well and good.

The trouble is that in most places, the agents have formed a quasi-monopoly by agreeing within the industry to charge a fixed commission. It's almost impossible to find a real estate agent who will offer to sell your house for less than the going rate.

In most contexts this practice is called price fixing, and it's illegal. The agents usually have more subtle ways of doing it. Regulations are usually set by state boards, which themselves usually consist of real estate agents. They typically pass regulations barring rebates or forbidding agents from offering a la carte services or flat fees.

In most cases, regulation isn't needed. Agents may compete with one another for customers, but they need one another to drum up business. If you're selling a house, you need other agents to bring customers to your door.

"One can get ostracized very easily," says Albert Foer of the American Antitrust Institute, "if one is seen as a price cutter."

Some of the fees collected by agents are legitimate. But some represent pure parasitic leeching. Comparing the fees charged in countries with less-powerful real estate agents suggests that fees in the United States ought to be about half as high as they are. Given that these commissions amount to at least $60 billion a year, that's a lot of blood being sucked out of the home market.

OVER THE LAST couple of years, there have been signs that the customers aren't willing to hand over thousands of dollars anymore. Why? One reason is the hot housing market. As prices get higher and higher, agents earn more and more without having to do more.

The second is the rise of the Internet. In most markets, broadening access to information has increased competition and reduced prices. Think about, say, the way you can search for used books online, or buy plane tickets without going to a travel agent. The Internet revolution has left real estate mostly untouched.

Some online competitors are trying to cut the real estate agents out of the action. The Realtors association is fighting back by denying those firms access to its databases of homes for sale. In some cases, the consumers are taking matters into their own hands. Last week, Jeff Bailey of the New York Times reported that some good folk in Madison, Wis., have taken it upon themselves to create a thriving for-sale-by-owner website and an alternative listing service. Sellers can list a house for a rock-bottom fee of $150.

Real estate agents are naturally furious. "It's a commission-avoidance scheme," sputtered one who works for Wisconsin's largest real estate broker. As if when I sell my house I have some patriotic duty to fork over a chunk of the sale to a third party.

The phrase itself — "commission-avoidance scheme" — is revealing. You've heard of mobsters hitting up store owners, but rarely do they have the gall to complain that merchants who go to the police are running a "protection-money-avoidance scheme." In the real estate agents' minds, they're not the ones running a scheme. The schemers are the people buying and selling houses to one another. A free market, in other words. How sinister!

ENVIRONMENT/INDIAN AFFAIRS:

Sago Puts Spotlight On Safety Strategy (WP)

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By Joby Warrick

The Washington Post, January 8, 2006

Two winters ago, what had been a mediocre safety record at West Virginia's Sago Mine grew dramatically worse. Over 23 months beginning in February 2004, two dozen miners were hurt in a string of accidents, some of them caused by rock chunks falling from the mine ceiling. Federal safety inspectors slapped the mine with citations 273 times, or an average of once every 2 1/2 days.

Despite this record, the price paid by Sago's operators was light. Government regulators never publicly discussed shutting down the mine and never sought criminal sanctions. The biggest single fine was $440, about 0.0004 percent of the $110 million net profit reported last year by the mine's current owner, International Coal Group Inc.

Whether the mine's documented safety problems played a role in Monday's fatal accident is still unknown. But Sago's recent history illustrates what mine-safety experts say is a long-standing flaw in enforcement of federal mining regulations. While inspectors issue a blizzard of paper citations each year, these violations rarely translate into serious penalties, even for the worst offenders, according to government records and interviews with current and former regulators. Large fines are rare, and the most serious sanctions -- such as mine closure -- are almost never used, documents show.

This pattern has been even more pronounced under the Bush administration, which came into office with a promise to forge cooperative ties between regulators and the mining industry. During the past five years, the number of mines referred to the Justice Department for criminal prosecution has dropped steadily, from 38 in 2000 to 12 last year.

Meanwhile, inspectors who sought to impose large fines on coal companies have seen those penalties whittled down by agency negotiators and administrative law judges. Last year, the operator of a Brookwood, Ala., coal mine, where 13 miners were killed in a September 2001 explosion, saw its fine reduced from $435,000 to $3,000 -- a 99 percent reduction. The Alabama disaster was the nation's deadliest coal-mining accident in the past two decades, nearly equaled by Monday's Sago explosion that left 12 miners dead.

"There are simply not enough incentives for safety built into the regulatory and compensation system," said Emily A. Spieler, an occupational safety expert and dean of Northeastern University's School of Law. "Pressure on regulatory agencies to allow unsafe businesses to operate is enormous, and the incentives to comply with regulations are small if the regulatory agency does not issue large fines."

The chief enforcer of federal mining laws, the U.S. Mine Safety and Health Administration, defends its performance, pointing to a steady decline in the number of deaths and injuries in coal mines in recent years. Some of the decline has been attributed to increased mechanization, though both industry and union officials acknowledge improvements in safety practices.

"While MSHA has also pursued cooperative health and safety partnerships with labor unions, mine operators and industry associations, it has consistently backed up those compliance assistance efforts with strong enforcement against unsafe operators," agency spokesman Dirk Fillpot said in a prepared statement. Reporters inquiring about the agency's record were referred to the statement.

MSHA contends that its oversight is as least as robust as that of previous administrations, but the record is mixed. The total number of hours spent by inspectors inside coal mines has gone up, but the percentage of violations classified by inspectors as serious -- "significant and substantial," in agency jargon -- has declined.

Comparisons with previous administrations are complex, because mining methods have changed and the number of underground mines has steadily decreased.

But agency critics, including several former MSHA officials, say relatively light sanctions, coupled with the current administration's more collegial approach to regulation, make it harder for inspectors to force noncompliant companies to change.

"There was a dramatic shift in MSHA's philosophy in 2001, with a new emphasis on cooperation by the enforcers," said J. Davitt McAteer, who headed the agency under the Clinton administration, "and it came at a cost of less enforcement of the statute."

MSHA enforces safety laws through the efforts of more than 350 inspectors who review safety plans for individual mines and conduct inspections to ensure the rules are followed. Penalties can range from a warning for minor offenses, such as incomplete

paperwork, to fines for "significant and substantial" infractions. More serious violations can potentially result in escalating fines, criminal prosecution or even the shut-down of all, or parts, of a mine.

At the Sago Mine, near the central West Virginia town of Tallmansville, the increase in safety violations in early 2004 quickly drew the attention of agency inspectors. During the two years that followed, regulators dramatically increased their oversight, writing citations for such problems as falling rocks and excessive levels of highly flammable coal dust. The 273 violations recorded in two years included 16 that were labeled "unwarrantable failures," a designation generally reserved for the most serious safety infractions, or those for which the operator had previously been warned.

The operator of the mine during most of the period was Anker West Virginia Mining Co., which was acquired in November by International Coal Group Inc. ICG officials say they have worked with MSHA to correct safety problems since acquiring the mine. A spokesman declined to comment further, saying the company's focus remains the Sago accident.

According to agency records, federal inspectors issued a total of 18 "withdrawal records" against Sago, forcing the company to temporarily suspend some operations. But in each case, mining was allowed to resume after Sago officials took steps to correct the problems, MSHA documents show. Over two years, the company racked up more than $24,000 in fines, although the individual penalties were all less than $450, and many were $60. The average fine was $150.

Former agency officials say the MSHA regional office that oversees West Virginia mines was unusually aggressive and might eventually have forced the mine to clean up or face a shutdown. But ultimately the agency's response was too little, too late, said Jack Spadaro, a retired agency inspector and engineer in West Virginia.

"The mine should have simply been closed," said Spadaro, who was granted federal whistle-blower status after being demoted four years ago because of what Spadaro says were disagreements with MSHA officials over his aggressive enforcement of safety laws. "The fines were absolutely absurd, but that's all the inspectors can do. The only other option they have is a closure order, and the managers in Washington won't let them close a mine."

Weaknesses in enforcement were the subject of criticism long before the Sago accident. In 2003, the Government Accountability Office faulted MSHA for failing to follow through when it found violations. Moreover, the agency's Washington leadership did "not provide adequate oversight" to ensure that inspectors were enforcing compliance, the GAO concluded.

Former MSHA officials and leaders of the United Mine Workers of America, which represents unionized coal miners, have accused the agency's Bush-appointed leaders of being too closely allied with the industry. They note that MSHA's first leader under President Bush, David D. Lauriski, was a former coal industry executive who advocated a less confrontational style and gave inspectors a less-intimidating job title: "compliance assistance specialists."

Under Bush, 17 of 26 regulations proposed by the Clinton administration were dropped or withdrawn, and the agency began a series of high-profile "cooperative alliance" agreements with industry to promote safety through education, posters and other voluntary programs. Bush-appointed officials leaders say they withdrew the Clinton proposals to pursue their own regulatory agenda.

The agency eliminated or scaled back programs favored by unions and watchdog groups that allowed public access to records related to safety performance and accident investigations. For example, MSHA halted the release of notes from mine inspections, which the agency had routinely released under the Freedom of Information Act for a quarter-century. It also shifted many routine accident investigations into closed-door proceedings, in some cases denying entry even to union officials and lawyers representing injured mineworkers, say union officials and former agency employees.

Joseph Main, a retired UMW health and safety official, said he worried that MSHA's investigation of the Sago accident would focus only on the source of the initial explosion -- instead of seeking answers to the broader questions about mine safety.

"The explosion is just one piece of it," Main said. "They should investigate all the factors that led to the deaths of these men, including the failure of the safety net that was supposed to be in place. If those other questions aren't answered, we will have more Sagos in the future."

Staff writer Cindy Skrzycki, researcher Alice Crites and database editor Sarah Cohen contributed to this report.

Miners Steering Next Generation To Different Jobs (NYT)

By Rick Lyman

DOJ_NMG_0008535

The New York Times, January 8, 2006

SAGO, W.Va., Jan. 7 - Mark Rankin worked in the deep mines for 23 years until a back injury put him on disability, and he said that if he ever had a son, he sure would not have wanted him to follow his father into the precarious ground.

As it was, his daughter's husband, 28-year-old David Lewis, was the youngest of the 12 men found dead this week, huddled together behind a makeshift barricade to keep out the toxic fumes in Sago Mine No. 1.

"He was only working in the mines for a while, to help my girl get through graduate school," said Mr. Rankin, 48.

"If I had a son, I'd have told him, if you can find something else, anything else, you should do it. It's a dangerous world down there."

For those not intimate with the realities of modern coal mining, the ages of the men who died at Sago may have come as a surprise - one in his 20's, one in his 30's, one in his 40's, eight in their 50's and a 61-year-old - a crew of mostly aging veterans, a majority of whom had first put on their miner's hats around the time the Vietnam War was ending.

But that, government and union officials say, is typical for a mining crew these days.

Despite a sharp rise in mining employment, spurred by a doubling in coal prices since 2002, most of the men went into the mines during the last big coal-price surge, in the 1970's, and then struggled through three decades of roller-coaster prices, layoffs and mine closings.

Interviews with more than a dozen current and former West Virginia coal miners - almost all of them middle-aged - revealed a common story line: parents who had urged them to stay out of the mines matching their own reluctance to see their children go underground.

But there is more than reluctance behind the aging of the mine work force.

Many of those West Virginia coal miners hired in the 70's lost their jobs in subsequent downturns. But their names remained on lists, called panels, and the requirement was that those miners be given first shot at any new jobs that opened at union mines.

"The result was that most of the guys hired back first were from that same age group who came into the mines in the 70's," said Terry Osborne, an international vice president at large of the United Mine Workers who is based in nearby Morgantown. "Only recently have we gotten to the point where some mines have exhausted their panels and are free to hire younger men."

With higher coal prices, more mines are being opened and more crews put into existing mines. The federal Energy Information Administration said employment in the industry grew 7.5 percent last year.

Coal mine owners understand that it is a tough industry, and that their aging work force requires them to attract younger employees. Certainly, they say, the images and stories coming out of West Virginia this week will not make that task any easier.

Nick Helms, 25, said his 50-year-old father, Terry, whose body was the first found in Sago No. 1, did not like the harsh conditions underground and wanted better for his son, urging him to pursue his dream of becoming a professional golfer.

"He told me bluntly that I would never step foot in a coal mine," said Mr. Helms, who has moved to South Carolina to try to carve out a golf career. "He didn't want me to do what he did."

And after hearing their parents talk about cave-ins and fires and generally dangerous conditions - there have been 150 coal-mine deaths since 2000, though the records had been improving, with only 21 deaths in 2005 - and living through round after round of layoffs and mine closings, many young people are less than eager to join the parade.

"I love my job," said Joe Reynolds, 48, who works underground at Federal Mine No. 2 in Fairview. "If I was 19 again, I'd take it again. But it's not for everyone."

Mr. Osborne thinks it is generational. "These Pac-Man kids, with their video games, they don't want to get dirty," he said. "I can't blame them, I guess. Truth is, that's what you do with your kids from Day 1, is tell them, 'Don't go into the mines.' "

The Census Bureau puts the average age for workers in the mining industry at 46, but union officials say that is a little misleading, as it includes management personnel and those working in offices and other above-ground support jobs, who are often younger.

"I'd say, around here at least, the age of the average miner you'd see actually working underground is in his mid-50's," Mr. Osborne said.

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Only about half of the nation's coal miners are unionized, and nonunion mine owners are under no obligation to hire laid-off union workers, said David Kameras, a union spokesman. But they often do, the miners said, if only to avoid the cost and delay of training inexperienced men.

In addition, under mining regulations, trainees, known as "red hats" for their protective headgear, must have at least one certified miner, known as "black hats," with them as they learn the job underground.

"When I started in the mines, back in the 1975, we were mostly all red hats," said John Palmer, 50, a general laborer at Federal No. 9 in Fairview. "Now you're seeing some young red hats again, but you've got one group of new guys in their late 20's and a bigger group of older guys, like me, in their 50's. We missed a generation in there somewhere."

Mr. Palmer is a big, blustery man with a booming voice who wore a sweatshirt reading "This is what the world's greatest grandpa looks like." He said he was glad he went into coal mining and would do it again.

"When I was a boy, growing up with nothing, my family never even got out of Carolina," he said, referring to a nearby mining town. "Now I make $50,000 a year, give or take, and I can take my family to the ocean."

But he has a 19-year-old son who is not in the mines. "He works for the gas company, and I thank God," Mr. Palmer said.

Census figures show that the median wage for coal miners in construction and extraction jobs in 2004 was $38,550, and $41,280 for those in more specialized maintenance and repair jobs.

But for those in the bigger mines who are willing to put in overtime, union officials said, wages closer to Mr. Palmer's are common.

It is quite an incentive for young men growing up in a sparsely populated region like rural West Virginia, where comparable paying jobs are hard to find.

"My grandfather was a miner, my uncles were miners, my father-in-law was a miner and my great-uncle was a miner," said Mr. Rankin, who was injured in 2000 and left the mines on disability in 2002. "But when I was a boy, my great-grandmother kept telling me, over and over, 'Promise me that you won't go down into the mines.' I promised her, but I didn't keep my promise."

Mr. Rankin dropped out of high school in the middle of the hiring surges of the 1970's and first tried to find work outside the mines. But in the end, he went to the mines, and he says he is glad he did, though he does have regrets about his great-grandmother.

"She'd have rolled over in her grave if she knew I was working in the mines," he said.

Under Strain, Towns Prepare For 12 Funerals (NYT)

By Felicity Barringer

The New York Times, January 8, 2006

BUCKHANNON, W.Va., Jan. 7 - Daisies, carnations and black ribbons, arranged in baskets, vases and wreaths, covered the floor of Anita's Flowers on South Florida Street here on Saturday - tributes to the family of Jerry Groves, one of the 12 miners who died in the Sago Mine.

Two women, faces drawn, moved between the ringing phone and the back room, taking orders and trying to fulfill them at the same time. They did not have time to talk.

Flowers are the universal language of remembrance, and when grief is not just personal and communal, but public and national, florists' fingers cannot position stems fast enough.

Here in Buckhannon and in nearby Sago, Tallmansville and Philippi, family and friends made final preparations Saturday for the first of the funerals on Sunday for the 12 men whose deaths have focused national attention on these small places, straining them to the utmost.

"Most funeral homes in our area will not be able to accommodate the abundance of people," said Bruce Tomblyn, an owner of the Tomblyn-Whitescarver funeral home in Buckhannon, as he prepared for services for one miner, Jesse Jones. At least six funerals will be held tomorrow.

At the Stemple-Forman Funeral Home in Philippi, Gov. Joe Manchin III, who lost his uncle in a mining accident, was an early visitor on Saturday, said Gary E. Schoonover, the owner of the funeral home.

Amid the mourning, there was a glimmer of good news.

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Physicians treating Randal McCloy Jr., 27, the lone survivor of the mine accident, said on Saturday that his condition had improved enough to transfer him from a hospital in Pittsburgh to a hospital closer to home in Morgantown, W.Va.

"He has gotten consistently better," said Dr. Richard Shannon, chairman of medicine at Allegheny General Hospital in Pittsburgh. But Dr. Shannon quickly added, "He is not yet out of the woods."

Mr. McCloy was taken to the Pittsburgh hospital on Thursday to receive special hyperbaric oxygen treatments to alleviate the effects of oxygen deprivation on his heart, brain and other organs.

Also Saturday, another miner's note was made public.

James Bennett, a shuttle-car operator in the group of trapped miners, gave a chronology of his final hours, writing that he was alive but losing air at least 10 hours after the underground explosion.

"Each time he documented, you could tell it was getting worse," Mr. Bennett's daughter, Anne Merideth, told The Associated Press. "Later on down the note, he said that it was getting dark. It was getting smoky. They were losing air."

The final entry was made at 4:25 p.m. Another 31 hours passed before a rescue team arrived.

Tribe Seeks Land N.J. Sold In 1801 (PHI)

By Troy Graham

The Philadelphia Inquirer, January 8, 2006

Two centuries later, a band of Native Americans want back the land they say the state of New Jersey sold out from under them in 1801.

In a federal lawsuit filed last month in Camden, they demanded that everyone now living on the former Brotherton Reservation be evicted.

The only problem: The 3,044-acre reservation now makes up about 85 percent of Shamong Township, Burlington County.

Since no one wants to bulldoze a community of 6,500 people, the tribe is offering a compromise. Instead, it will accept two 1,500-acre plots of state land - one in Bergen County and one in Burlington County.

On each site, the Unalachtigo Band of the Nanticoke-Lenni Lenape Nation proposes building casinos with 45,000 slot machines, then sharing the revenue with the state and other tribes.

"Some people tell us there's no way in the world we'll get it," said Brent Thomas, the tribal chairman. "I have to be cautiously optimistic; otherwise, I wouldn't be able to get up in the morning."

Thomas, who used to publish an art investors' guide, has devoted himself full-time to tribal government since 1998, when the Unalachtigo Band was reorganized with the express purpose of pursuing Indian gambling, now a $19 billion industry.

Relying on some of the nation's earliest laws, Thomas and his 108-member band, many of whom live in poverty in and around Bridgeton, Cumberland County, are chasing billions of dollars of development in an industry full of heavyweight players.

Despite the odds against the band, Thomas sees gambling as the best way to maintain the tribe, salvage the remnants of its culture, and provide for elders living in squalor.

"We can't sit idly by while people in our community are dying," he said. "We can help ourselves if they would just get out of our way."

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Thomas likes to take visitors to the windswept spot on the Delaware River where his ancestors crossed into New Jersey in 1634, fleeing war with the Susquehanna.

The council fire - the seat of tribal government for the Lenape people - was situated in nearby Fairton, where Thomas was raised. It's now a golf course.

But, like many Native Americans in the region, Thomas didn't grow up with a strong sense of his heritage. His older relatives recall a time when they were encouraged to hide their ethnicity, fearing the government would force them to move out West.

"The hardest thing in our community is to be open about your identity," he said.

Then, in the late 1990s, Thomas made a business trip to the museum at the Foxwoods casino, run by the Mashantucket Pequot Tribal Nation, in Connecticut.

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"I go up there for a meeting with these guys, and they look like me," he said. "To see the living standards, the health care, the housing, of course we want it... . Not because we want it, but because we need it."

With the coming explosion of Pennsylvania slot machines in 2007, Thomas hopes New Jersey won't be able to take a pass on the allure of Indian gambling.

"For New Jersey to regain its prominence, it needs the next wave of gaming, which is what we offer," he said.

And when people ask how a small tribe, struggling to pay for basic necessities, is going to build a gambling empire, Thomas points across the river.

"The state of Pennsylvania isn't investing a dime, and look at the development they're getting," he said.

But not everyone agrees that gambling is the best way for tribes to flourish. A larger, 2,500-member tribe of Nanticoke Lenni-Lenape, who have established a cultural center and make appearances at local schools, adamantly opposes gambling. In fact, this tribe's laws ban any business that "profits from the promotion of vice."

"We are absolutely, 100 percent separate from the Unalachtigo Band," said the Rev. John Norwood, a Nanticoke Lenni-Lenape tribal member. "Our goal has never been gaming, nor is it to seize property and throw people off the land."

Mark Gould, the chief, said casinos have been a divisive force in many gaming tribes.

"We are a very spirituality-based tribe," he said. "We have been a very poor tribe all our lives, but if we're going to keep the families together, we have to follow the spiritual line."

He said Thomas' pursuit of gambling had injured "every Native American in New Jersey," and had made his tribe's efforts to win grants and work with local governments more difficult.

"We're very insulted when people believe that just because you're Indian, you want a casino," Norwood said.

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Under a 1758 treaty, the Brotherton Reservation was to be held in trust for the Lenape Indians. When New Jersey sold the land in 1801, the state violated the treaty and a 1790 law that gave the federal government authority over Indian land transactions, the lawsuit alleges.

In 1996, the Delaware Tribe of Western Oklahoma - descendants of the inhabitants of the Brotherton Reservation - began investigating a claim to the land. U.S. Rep. Jim Saxton (R., N.J.) took the matter seriously enough to introduce legislation in 1999 that would have retroactively ratified the Brotherton sale. The bill never passed.

The Unalachtigo entered the fray by suing the state in 2001. Last year, a state appellate court ruled that the case must be heard in federal court.

Nonetheless, the three-judge panel offered the opinion that, under New Jersey law, the sale of the reservation would have been valid.

"There is no question here that the Lenni Lenape not only assented to the sale of their land, but requested it, and... received full value," the court said.

Thomas said that was not correct. He argues that the land was actually sold by members of the Stockbridge-Munsee Band of the Mohican Nation, not the Lenape for whom the land was to be reserved.

"They tried to lump us all in together, and you can't do that," he said.

Either way, the journey from a land claim to a Foxwoods-scale operation could be arduous.

Blake Watson, an Indian-law expert at the University of Dayton School of Law in Ohio, said some courts have begun to rule that Indian land claims are too old, even though there is no statute of limitations.

Even if the Lenape won state land - in court or through a settlement - that doesn't mean they can open casinos. Tribes that want gambling have to be federally recognized, Watson said. The Lenapes are not.

Thomas argued - and Watson agreed - that the process is so badly broken that it could take more than 20 years to become recognized.

Thomas points to two other options: A U.S. District Court judge in New York recently recognized the Shinnecock Nation as legitimate even though that tribe had not gone through the recognition bureaucracy. It's still unclear, however, whether the Shinnecocks can now have gaming, Watson said. And, the Pequots won federal recognition through an act of Congress - the only tribe to do so.

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"The odds of winning these land claims are increasingly problematic. They've got a lot of hurdles," Watson said. "It's possible for them to win a land claim and still not get gaming."

To Thomas, the issue of proving the tribe's legitimacy should be moot. But, just in case, he has an affidavit from a University of Pennsylvania archaeologist tracing the tribe's lineage back to the Brotherton Reservation.

"Everyone knows who we are," Thomas said. "The question is: What does the state want us to be?"

Thomas paused before answering his own question.

"Quiet."

FBI/DEA/ATF/USMS:

Guns Flow Easily Into Mexico From The U.S. (LAT)

By Héctor Tobar

The Los Angeles Times, January 8, 2006

NUEVO LAREDO, Mexico — The most popular instruments of robbery, torture, homicide and assassination in this violence-racked border city are imported from the United States.

"Warning," reads the sign greeting motorists on the U.S. side as they approach the Rio Grande that separates the two countries here. "Illegal to carry firearms/ammunition into Mexico. Penalty, prison."

The signs have done little to stop what U.S. and Mexican officials say is a steady and growing commerce of illicit firearms in Mexico — 9-millimeter pistols, shotguns, AK-47s, grenade launchers. An estimated 95% of weapons confiscated from suspected criminals in Mexico were first sold legally in the United States, officials in both countries say.

Guns are the essential tools of a war among underworld crime syndicates that claimed between 1,400 and 2,500 lives in 2005, according to tallies by various newspapers and magazines.

The biggest criminals in Mexico are engaged in an arms race, with an armor-piercing machine gun as the new must-have weapon for the cartels fighting one another for control of the lucrative trade in narcotics, U.S. and Mexican officials say.

In 2005, Nuevo Laredo residents endured the specter of more than 100 suspected drug-cartel executions in their city, and the release of a horrific videotape in which a suspected drug-cartel gunman executes a "prisoner." The city has become a tragic symbol of the gun violence sweeping through the entire country.

"It's obvious where all the arms are coming from," said Higenio Ibarra Murillo, a Nuevo Laredo business owner in the city's historic downtown district. "We don't make any guns or rifles here" in Mexico.

Buying a weapon legally is extremely difficult in Mexico. The country's defense secretary issues all gun licenses — the wait is a year or more, and the cost about $1,900. Licenses must be renewed every two years.

There are fewer than 2,500 registered gun owners in the entire country. Yet Mexican police confiscate an average of 256 weapons every day from suspects, officials from the attorney general's office said recently.

Javier Ortiz Campos of Mexico's Federal Preventive Police says traces by the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives on weapons confiscated in Mexico often lead to the gun shops, gun shows and flea markets of Texas. The U.S. state has some of the most liberal gun laws in the country and a porous, 1,240-mile-long border with Mexico.

"Over there they even sell guns at Wal-Mart," Ortiz Campos said. The weapons confiscated in Mexico come mostly from U.S. border cities such as Laredo, El Paso and Brownsville, he said. But many come also from Houston and San Antonio.

"We're finding a lot of weapons from Houston, because the buyers get a better price there than at the border," Ortiz Campos said.

Organized-crime groups in Mexico often buy their weapons in bulk via "straw purchasers" in Texas, where there is no limit on the number of firearms a resident can purchase, said a U.S. official who asked not to be named.

Typically, the Mexican buyer will pay a Texas resident $50 to $100 to acquire the weapons, the official said.

In one case, Mexican and U.S. authorities working together traced 80 confiscated firearms to a Mexican national who paid Texas residents to buy weapons on his behalf, the official said.

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Police recovered one 9-millimeter handgun last year at the scene of a shootout between officers and suspected drug-cartel hit men outside the Mexican border town of Reynosa. A trace of the weapon by ATF agents led to another Texas man who had bought 160 weapons. That man is facing gun-trafficking charges in the U.S.

Last year, ATF officials in Arizona arrested a man trying to buy 30 U.S. military hand grenades. The man told undercover agents the grenades were intended for drug traffickers in the northern Mexican state of Sonora. In August, a Tucson man was charged with smuggling AK-47s and AK-47 parts into Mexico.

Large caches of weapons routinely turn up here and in other border communities. Twenty assault rifles were seized in Tijuana on Dec. 20; that same day, Mexican army troops in the state of Sinaloa detained a group of men who were armed with five AK-47 rifles and one AR-15 rifle.

In Nuevo Laredo last month, Mexican police stumbled upon an arsenal in the hands of suspected organized crime members that included grenades, semiautomatic handguns and seven AR-15 assault rifles.

No store in Nuevo Laredo sells handguns or rifles over the counter. But if you take a 15-minute walk over the border to Laredo, you'll find the Bushmaster AR-15 rifle on sale at one gun store for $1,199.

The salespeople at the store speak Spanish, but the sign over a display case of semiautomatic handguns is in English: "If guns are outlawed, only outlaws will have guns."

The slogan, popular with U.S. gun-rights activists, certainly seems to apply on the other side of the border. Only one person has a private gun permit in the entire Mexican state of Tamaulipas, which includes Nuevo Laredo. Yet guns seem to be everywhere.

On the impoverished edges of the city, small-time drug dealers protect their investments with semiautomatics. And many law-abiding citizens can tell of an encounter with armed bandits.

Businessman Jose Luis Ortiz Cardenas witnessed an attempted carjacking by armed robbers last year outside a grocery store he owns. And he'll never forget the notorious 2003 shootout a few blocks from the cantina he operates downtown — the shooting spread to the bridge leading to the United States.

"It was a hail of bullets, federal agents firing at other federal agents, hit men firing at other hit men, with bazookas and everything," the cantina owner said.

Mexican police have, in recent years, confiscated a handful of bazookas from organized-crime groups. Mexican and U.S. officials say a very small amount of military surplus from recent wars in Central America has found its way into Mexico. But U.S. officials say a bazooka recovered recently from suspected drug cartel hit men in Mexico was traced to an Army depot in Arkansas — the weapon had been deposited there and last accounted for in 1967.

Assault rifles such as the AR-15 and the AK-47 are by far the most popular weapons imported into Mexico by the drug cartels, police official Ortiz Campos said.

The AR-15 is the civilian, semiautomatic equivalent of the M-16 used by U.S. troops since the Vietnam War. The AK-47 was designed by Mikhail Kalashnikov for the Soviet army in 1947. In Mexican street slang both are known as "el cuerno de chivo" — "the goat's horn" — for the distinctive shape of their bullet clips.

"For the narco-traffickers, it's like their good-luck charm," Ortiz Campos said. The drug cartels favor the AK-47 for the same reason the Soviet army did: its ruggedness and versatility.

"With that weapon, you can do incredible things," Ortiz Campos said. The AK-47 is not only powerful, it's also idiot-proof, he added. "It will fire underwater. It will fire when it's covered with mud."

The AK-47 appears in several narcocorrido songs about bad men and their adventures. The song "The Terrifying Cuerno de Chivo" by the group Los Incomparables de Tijuana was made into a movie of the same name.

"Its barrel is decorated, the butt and the trigger too," the lyrics say. "Inlaid with silver all around, it's a weapon fit for a man of courage…. It's an instrument of death."

Assault rifles that are sold legally in the U.S. are not fully automated. But officials say that there are gunsmiths in Mexico who are adapting the weapons to make them fully automatic.

"We have found a few in Mexico that have been converted by a machinist," the U.S. official said. "This tells us someone with vast experience in weaponry is working here."

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U.S. and Mexican officials say they are also concerned by the presence of .50-caliber machine guns in Mexico. Originally designed as antiaircraft weapons, the guns are used by cartels because they can penetrate armor.

"We think these weapons are used by the cartels to attack each other" rather than the police, Ortiz Campos said.

"Ten or 15 years ago, you rarely saw a .50-caliber weapon" in Mexico, the U.S. official said. "Now they're popping up everywhere."

U.S. officials say their Mexican counterparts are working harder than ever to fight the weapons trafficking. Mexican federal officials cooperate extensively with the ATF in tracing illicit weapons.

"The Mexicans are eager to see prosecutions for gun trafficking go forward in the U.S.," the American official said. "It's a different attitude than in the past."

Still, the gun violence continues to take on new, disturbing dimensions. Television viewers across Mexico were horrified last month by the airing of a video in which members of the one cartel competing for control of the drug trade in Nuevo Laredo torture hit men from another cartel. The video, obtained by the Dallas Morning News, ends with one of the hit men being executed with a shot to the head from a 9-millimeter pistol.

As Nuevo Laredo becomes a war zone, its streets are increasingly empty. For the most part, tourists are avoiding the city, frightened by the kidnapping and disappearance of several Americans here.

"The one consolation we have is that we know it can't get any worse than it is right now," business owner Ortiz Cardenas said. "We've hit rock bottom."

Anti-drug Task Force Funding Slashed (RPE)

By CLAIRE VITUCCI, Washington Bureau

Riverside (CA) Press-Enterprise, January 8, 2006

WASHINGTON - Law-enforcement agencies across the nation and Inland area could find it tougher to crack down on methamphetamine due to cuts in a popular federal grant program.

Funding for Byrne Grants, which help finance drug task forces that often focus on methamphetamine, was cut by $200 million.

The Bush Administration had eliminated funding for the program, saying it and other grant programs were ineffective. But Congress restored $606 million for Byrne Grants in the 2006 fiscal year as part of a Justice Department spending bill. The grant program received $804 million in fiscal 2005. That amount was also a reduction from the previous year.

California received $31.6 million in Byrne Grant funding in 2004. It's not yet clear how much the state will receive in 2006, but law enforcement officials say they're bracing for a big reduction -- as much as 35 percent, said Rick Oules, Director of Law Enforcement for the California Department of Justice.

Oules said the state is already planning to cut 20 positions and trim some crime-lab services. He said officials are concerned about how the cuts will affect local anti-drug task forces, which receive a majority of funding from the Byrne Grant program. There are 44 drug task forces throughout California.

Sen. Dianne Feinstein, D-California, and co-chairwoman of the new Senate Anti-Meth Caucus, said cutting the Byrne grant program is short-sighted.

"It means fewer cops on the street, less money to combat the nation's drug epidemic, and a heavier burden on local law enforcement," Feinstein said in a statement. Task forces "make thousands of arrests each year. But these task forces will most likely be cut as a result of these cuts."

Leaders of task forces in Riverside and San Bernardino counties say they've already been hurt by past cuts.

Last year the Coachella Valley Narcotics Task Force lost 37 percent of its grant money, which it uses to pay partial salaries for detectives from nearby police agencies and for a deputy district attorney who prosecutes narcotics cases.

Because of the cuts, the task force had to use asset forfeiture money to pay for surveillance and other operations. Also, local law-enforcement agencies had to pay more of the personnel costs, said Cmdr. Fred Fierro, who heads the task force.

Lt. Greg Garland of the San Bernardino County Sheriff's Department Narcotics Division, said the county's drug task force received $823,532 last year, which was down from $1.25 million received the year before.

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The task force had to redistribute people and resources, Garland said.

"If we get cut, somebody's got to go," he said.

Garland said if all of the federal money were to go away it would likely mean the end of the task force. The federal funds are used to pay for criminalists, salaries, surveillance, overtime, training and district attorney services.

This year's Byrne Grant funding from Congress was part of a $57.9 billion spending bill for the federal departments of Commerce, Justice and State.

The bill has $20 million for the Drug Enforcement Administration to help local jurisdictions to clean up toxic meth labs. Another $63.59 million would go toward investigation, interdiction and dismantling drug laboratories in meth "hot spots" across the country where the drug is most prevalent.

But with growing attention on the methamphetamine epidemic there needs to be more funding made available to fight it, said Joe Dunn, associate legislative director with the National Association of Counties, who is based in Washington.

Tom Ackerman with the Belo Capital Bureau contributed to this report.

IMMIGRATION:

Texas Tangle (TWNHLL)

By Robert Novak

Novak Column, January 8, 2006

WASHINGTON -- The decision by State Comptroller Carole Keeton Strayhorn to run for governor of Texas as an independent requires President Bush to oppose her and support Gov. Rick Perry. Strayhorn is the mother of two trusted Bush aides, while Perry's relationship with the president has been cool.

The White House had signaled it would not take sides in a Republican primary between Strayhorn and Perry. White House press secretary Scott McClellan and Bush administration Medicare and Medicaid administrator Mark McClellan are sons of Strayhorn.

Strayhorn decided to go independent when it became clear she could not win a Republican primary, according to Texas sources. Her opposition to Perry in the general election evoked outrage from state Republican leaders who claimed betrayal by Strayhorn, who in 1985 moved from the Democratic to the Republican Party.

ALITO CAMPAIGN MIX-UP

A new fund-raising appeal by the Committee for Justice (CFJ) on behalf of Judge Samuel Alito's confirmation for the Supreme Court mistakenly contained the name of former White House counsel C. Boyden Gray, President Bush's nominee for U.S. ambassador to the European Union (EU).

Gray's nomination is in trouble in the Senate, partly because of Democratic protest over his activities as founder of the CFJ. He had resigned from the group, and consequently his name on the fund-raising letter raised eyebrows.

When this column pointed out to CFJ executive director Sean Rushton that Gray's name was still on the money appeal, Rushton replied he was unaware of that and it must have been a case of the fund-raising contractor using old stationery. He later said the letter has been withdrawn and any money raised with Gray's name on the appeal was being returned.

REPUBLICAN LOYALTY

The White House is dispatching Vice President Dick Cheney to raise money for embattled Republican Sen. Mike DeWine of Ohio, who has voted against President Bush on key legislative issues.

Cheney will address a $1,000-a-ticket Capitol Hill Club reception on Jan. 26 that is intended to raise $100,000 for DeWine's campaign for a third term. DeWine most recently opposed Bush and Senate Republican leaders on the budget bill and on drilling for oil in the Arctic National Wildlife Refuge. Invitations to the fund-raiser have been mailed to major Bush contributors.

With Republican control of the Senate at stake, DeWine faces potential difficulty for re-election. Democratic candidates include Rep. Sherrod Brown and Iraq War veteran Paul Hackett, who last year ran a close race in a heavily Republican congressional district.

SURGEON GENERAL POLITICIAN

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National Republican leaders are recruiting Vice Adm. Richard Carmona, surgeon general of the United States, to cut off a congressional bid in a closely contested Arizona district by a foe of President Bush's immigration policies.

The Tucson district was put up for grabs when moderate Republican Rep. Jim Kolbe announced recently he would not seek a 12th term. The leading Republican candidate has been former State Rep. Randy Graf, who in 2004 took 43 percent of the primary vote while spending only $90,000 by advocating a hard-line immigration policy.

Kolbe is not expected to support Graf if he is nominated in an evenly balanced district that Bush carried with 53 percent. Dr. Wayne Peate, a fellow physician and friend of Carmona, filed his candidacy Monday and raised speculation that Carmona will not run.

IMMIGRATION SPLIT

A bipartisan guest worker proposal being worked on in the Western Governors' Association (WGA) promises to expose further the split over immigration in both political parties, but particularly among Republicans.

Arizona Gov. Janet Napolitano, a Democrat, and Utah Gov. Jon Huntsman, a Republican, are working on the WGA proposal. In addition to the guest worker initiative, the proposal is expected to include increased border enforcement and reimbursements to states of expenses resulting from illegal immigration.

This Napolitano-Huntsman plan, if finished in time, will be presented at the WGA's annual Washington breakfast late in February. It would immediately be attacked by Republican immigration hard-liners in Congress.

Robert Novak is a television personality and a columnist who writes Inside Report.

Few Drawn To Illegal Immigration Protests (AP)

By MICHAEL R. BLOOD

Associated Press, January 8, 2006

Illegal immigration protests organized across the country Saturday drew small numbers, and some were outnumbered and out-shouted by those who support immigrant rights.

The so-called "Stop the Invasion" protests were organized in 19 states, demanding the government increase border security and penalize employers who hire illegal workers.

"We are keeping the debate on illegal immigration in the forefront of the American consciousness," said Joseph Turner of Save Our State, who was among about two dozen protesters who waved American flags outside a home-supply store in a Los Angeles suburb.

But Turner's group in Glendale was surrounded by more than 100 drum-beating supporters who chanted, "Racists go home." The two groups traded shouts and obscene gestures for more than an hour. One man was arrested for assault, police said.

In Farmingville, N.Y., where immigration-related violence erupted several times in recent years, only about a dozen protesters showed up and argued against the growing number of day laborers on eastern Long Island.

Paul Streitz, who organized the demonstrations, said members believe illegal immigrants are taking jobs from citizens while driving down property values.

"This is not a racist thing," said Daniel Anastasia, 46, a construction worker from Westchester, N.Y. "We pay taxes, they don't. I get paid what the union says. The contractor pays them cash. It's not fair to me."

In Framingham, Mass., near Boston, a small group protesting illegal immigration was met by a much larger group of counter-demonstrators, some of whom surrounded them and temporarily disrupted the protest.

"What they are doing is just harassing people who are out here to go to work every day, and they're doing it in a hateful manner, which is against everything this country stands for," said Manuel Olivera, pastor of the nearby New Life Presbyterian Community Church.

In Danbury, Conn., about 50 people calling themselves the Connecticut Citizens for Immigration Control spent about two hours chanting and holding signs that read "Arrest Illegal Employers." Several dozen people held a counterprotest across the street.

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In Las Vegas, John Holiday, 43, and his son, Conner, 9, held signs near a convenience store where undocumented workers are picked up by employers. The boy, who held a sign that read "Our lawmakers encourage lawbreaking," said illegal immigration has divided the country.

"Do you think the problem will be over when I grow up?" Conner asked.

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Associated Press writer Ken Ritter in Las Vegas contributed to this report.

Rallies Draw Dueling Protesters In Clashes Over Illegal Immigration (LAT)

By Rich Connell And David Haldane

The Los Angeles Times, January 8, 2006

Hundreds of protesters squared off in tense and boisterous confrontations Saturday at Southern California day laborer sites, as activists opposing illegal immigration stepped up a nationwide effort to cut off jobs for undocumented workers.

The protests pitted members of the Minuteman Project and similar groups that seek tighter borders against counter-demonstrators outside home improvement stores in Glendale, Lake Forest, Laguna Beach and Rancho Cucamonga. The demonstrations included drum thumping, shouting and dueling efforts to videotape the opposition.

But the protests were largely peaceful. A protester was arrested in Glendale on suspicion of misdemeanor assault after allegedly shoving an anti-illegal immigration organizer.

The National Day of Protest, planned by a coalition fighting illegal immigration, included demonstrations in several other states. It was the latest in a series aimed at cities that support day laborer hiring sites, as well as contractors, homeowners and others who hire undocumented workers.

In Glendale, at one of the largest protests, about 150 people carrying signs and banners lined the street outside a Home Depot.

The city helped create a day laborer hiring center next to the store where dozens of men, many of them undocumented, regularly gather looking for work.

"They're aiding and abetting … a crime," said Joseph Turner, executive director of Save Our State. The hiring center operates legally and is needed to address a community problem, city officials say.

Turner carried a large American flag and was accompanied by about 25 supporters. But his group was far outnumbered by opponents, some of whom loudly chanted, "Racists, go home."

"They want to kick whites out of our country," Turner said of some counter-protesters. "Millions of illegal aliens is not good for our society."

Members of the Mexica Movement, which contends that North America's indigenous people were robbed of their land and culture by 16th century immigrants from Europe, engaged in heated nose-to-nose exchanges with Turner and his supporters.

In south Orange County's Lake Forest, across the street from a Ganahl Lumber store where laborers look for work, protesters and counter-protesters in roughly equal numbers engaged in similar sidewalk debates.

"It's immoral to blame people of color" for economic problems, shouted Sharon Tipton of Trabuco Canyon, holding a sign featuring a swastika and the slogan "Heil Gilchrist." It was a reference to Jim Gilchrist, co-founder of the anti-illegal immigrant Minuteman Project. "That's what they did in Nazi Germany, blaming a particular group," she said.

A man who identified himself only as Kelly, and who said he was a Minuteman, shouted back: "The issue has nothing to do with race, but with following the law."

Deborah, an illegal immigration opponent who declined to give her last name because she said she feared reprisals, complained about the laborers who gather near the store.

"You can't walk by here without being harassed," she said, describing herself as a 42-year-old single mother. "I have to warn my kids to stay away."

In Laguna Beach, the two sides — one of which included Gilchrist — hurled a steady steam of insults and taunts at each other across Laguna Canyon Road.

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Gilchrist, surrounded by about 50 supporters, said the porous border "is an invitation to terrorists who would bring us harm. It's a matter of losing security and losing the rule of law as a governing mechanism. We are literally being invaded and colonized."

Gilchrist drew 25% of the vote last month in an Orange County congressional race, running under the banner of the American Independent Party.

Many day laborers were quiet and frustrated observers of the clashes.

"Hopefully, it will be over soon so we can go back to work," David Gonzalez, a father of two watching the Glendale protest from inside the hiring center, said in Spanish. "I don't understand a lot about politics, but I know we don't come here to hurt anyone."

He said employers "need us. We do the most difficult jobs."

The Silence In Herndon (WP)

The Washington Post, January 8, 2006

MAYBE IT WAS just the holiday season. But in the three weeks since a day-laborer center opened in the town of Herndon -- the same center that elicited the wrath of anti-illegal-immigrant forces from coast to coast -- the main vibe coming from the town is . . . silence. True, three weeks is too brief a period to draw ironclad conclusions. But signs suggest that the center has brought calm to a situation previously marked by disorder.

It's important to remember how it was in Herndon: scores of day laborers milling about the parking lot of a 7-Eleven, jostling around the cars and pickup trucks of prospective employers -- a survival-of-the-fittest scrum masquerading as an employment bazaar. Because the site lacked any procedure to determine who would be picked for work, mayhem broke out sporadically as workers competed for jobs. In the absence of public toilets, some of them urinated outdoors. There were complaints of drunkenness, rowdy behavior and harassment of women.

At the new day-laborer center at a former police station about a mile from the 7-Eleven, 100 or so workers make their way early each morning, sign in and are issued lottery-style tickets. An orderly drawing of the tickets determines which workers get priority for the jobs available each day. A code of conduct, drawn up by the workers themselves, sets out 30 rules governing behavior and procedures. Disciplinary action, including banishment from the center, can be imposed for trespassing, drunkenness, drugs, weapons, theft, noise, trash, vandalism, sexual harassment, lack of cleanliness, fighting and disorderly conduct, among other sins. English lessons are planned. And the 7-Eleven? It's back to being just a convenience store, and its parking lot is now used only for parking.

Contrast that with the situation across the Potomac in Gaithersburg, where a burst of citizen opposition -- and bungling by local authorities -- has at least temporarily derailed plans for a similar center. That has left several dozen immigrant day workers to gather each day at the town's Grace United Methodist Church, where the arrival of prospective employers, and the lack of any established rules, sometimes provokes scenes reminiscent of the bad old days at Herndon's 7-Eleven. A Gaithersburg task force is studying what to do next and where to locate a proposed center. Most important, the task force is soliciting public input.

The real test for Herndon's new center will come in a few months, with the spring surge in demand for day labor. The center is surely not a panacea for Northern Virginia's dilemma of dealing with undocumented immigrants, nor has it eliminated all opposition. Even now, a handful of vigilantes calling themselves "Minutemen" arrive at the Herndon center each morning to take photographs and shoot video footage and otherwise harass the workers and employers there.

Still, the experience in Herndon, as well as in Silver Spring, Wheaton, Arlington and other places with established day-laborer shelters, suggests the obvious: Dedicated centers are far preferable to chaotic spectacles in the parking lots of convenience stores and churches. Many of the workers at the centers are illegal immigrants, whose swelling numbers attest to the federal failure to control the nation's borders and enact sensible laws. But it is equally true that there is enormous demand for low-wage workers in the Washington area's booming suburban labor markets. As long as that is the reality, day-laborer centers are a big improvement on the alternative.

Democrats Criticize Appointment At Immigration Agency (NYT)

By Rachel L. Swarns

The New York Times, January 8, 2006

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WASHINGTON, Jan. 7 - Senate Democrats this week sharply criticized President Bush's decision to install Julie L. Myers, a White House official, as head of the nation's immigration enforcement agency despite concerns on the part of some about her qualifications for the job.

Ms. Myers, a 36-year-old lawyer, will be sworn in on Monday. She currently serves as the president's special assistant for personnel and previously worked as an assistant secretary at the Department of Commerce. She has never managed a large department or dealt extensively with immigration issues.

When Mr. Bush nominated Ms. Myers last year, Democratic and Republican senators raised concerns about her lack of experience, and her Senate confirmation appeared to be in doubt. Some critics said they feared that her political connections, rather than her qualifications, had driven the decision to select her to lead the bureau of Immigration and Customs Enforcement, which has 15,000 employees and a budget of about $4 billion.

On Wednesday, Mr. Bush bypassed the Senate confirmation process and used his power of recess appointment to install Ms. Myers as director of the bureau, which is part of the Department of Homeland Security. The department's secretary, Michael Chertoff, praised Ms. Myers, saying that she possessed "the experience, judgment and determination" necessary for the job.

But some Senate Democrats said they were still concerned about her ability to manage the bureau. The agency has been beset by controversies, including accusations of mismanagement of its budget and questions about its effectiveness in enforcing immigration laws.

At the Department of Commerce, Ms. Myers supervised a unit of 170 employees.

Senator Joseph I. Lieberman, Democrat of Connecticut, said on Friday that Ms. Myers "really was not qualified for the position." Mr. Lieberman said Congress had intended the position to be held by someone with at least five years' management experience.

"In my opinion, she lacks the management background," he said. "And one of her key responsibilities is to enforce immigration laws, and she has virtually no immigration experience."

Daniel K. Akaka, Democrat of Hawaii, echoed those concerns. "The head of I.C.E. should be an individual who has demonstrated extensive executive-level leadership and the ability to manage a budget through reorganizations and budget cycles," Mr. Akaka said. "Ms. Myers has not demonstrated this ability."

Erin Healy, a spokeswoman for the White House, countered that Ms. Myers had "extensive law enforcement experience," noting that she had also served as chief of staff for the criminal division in the Justice Department and as a federal prosecutor in New York.

"She's tried criminal cases and worked with customs agents on everything from drug smuggling to money laundering," Ms. Healy said. "So to say that Julie does not have the prerequisite experience to lead I.C.E., it simply ignores her extensive background working with law enforcement, immigration and customs.

"This position has been vacant for far too long," Ms. Healy continued. "It's essential that the agency has the leadership it needs."

Mr. Bush nominated Ms. Myers for the position in June, but the decision first stirred a furor in September after Hurricane Katrina, as the administration faced criticism about the performance of Michael D. Brown, then the director of the Federal Emergency Management Agency.

Mr. Brown, a Republican without prior experience in managing disasters, was brought to Washington by a friend, Joe M. Allbaugh, his predecessor at FEMA.

Ms. Myers, who has held a variety of federal jobs over the last four years, drew attention because of her ties to the White House and some senior officials. She is a niece of Gen. Richard B. Myers, who recently stepped down as chairman of the Joint Chiefs of Staff, and the wife of John Wood, Mr. Chertoff's chief of staff.

Criticism of her nomination was not limited to the comments of Democrats. In September, National Review, an influential conservative publication, urged Mr. Bush to withdraw Ms. Myers's nomination. In an editorial, the magazine compared her to Mr. Brown and called her "another unqualified nominee for a vital position in the Department of Homeland Security."

"The president's supporters can look forward to serving in his administration, but certain key jobs ought to be reserved for candidates whose personal connections don't outweigh their professional qualifications," the editorial said.

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Russ Knocke, a spokesman for the Department of Homeland Security, said that Ms. Myers's critics were ignoring her experience in pursuing financial, narcotics and weapons crimes, experience that he said would be critical to an agency that is increasingly focused on breaking sophisticated smuggling rings.

Several Senate Republicans also voiced support for Ms. Myers on Friday, though not without raising some concerns about her qualifications and the appointment process.

Senator George V. Voinovich, Republican of Ohio, who had raised sharp questions about Ms. Myers's qualifications in September, said on Friday that she was "intelligent and highly driven" with "the potential to be an effective leader."

"Though I would have preferred that Ms. Myers had more management experience," Mr. Voinovich said that "as a former mayor and governor, I feel strongly that managers should have the flexibility to hire their own team, and then be held accountable for the results."

Senator Susan Collins, Republican of Maine, has also praised Ms. Myers, saying that she "would bring experience and the confidence of Secretary Chertoff to this mission." But on Friday, Ms. Collins expressed concern about Mr. Bush's decision to bypass the Senate confirmation process.

"It was disappointing to her that the White House circumvented the normal nomination process," said Jen Burita, a spokeswoman for Ms. Collins.

TAX:

Bush Urges Congress To Save Tax Cuts (AP-Y2)

By Deb Riechmann

AP, January 8, 2006

Boasting that the economy is strong and growing, President Bush urged Congress on Saturday to save tax cuts from expiring and adopt the first spending restraints in nearly a decade on such benefit programs as Medicaid, Medicare and student loans.

In his weekly radio address, Bush said the federal budget faces the challenge of long-term deficits driven by mandatory spending on those entitlement programs.

"We do not need to cut entitlements, but we do need to slow their growth," he said.

Before leaving for the holidays, the Republican-controlled Senate passed legislation to cut federal deficits by $39.7 billion. The measure passed by the narrowest of margins, 51-50, with Vice President Dick Cheney casting the deciding vote.

The legislation, the product of a year's labors by the White House and congressional Republicans, imposes the first restraints in nearly a decade in benefit programs.

"Congress needs to finish its work on this important bill," Bush said. "By passing the first reduction in the growth of entitlement spending in nearly a decade, Congress will send a clear signal that the people's representatives can be good stewards of the people's money."

The bill would take on, for the first time since 1997, the growth of federal benefit programs such as Medicaid, Medicare for the elderly and student loan subsidies.

It is part of a campaign by Republican leaders to burnish their party's budget-cutting credentials as they try to reduce a deficit swelled by spending on the Iraq war, Hurricane Katrina and an earlier round of tax cuts.

Opponents said the bill will hurt the middle class.

The GOP is advancing "an ideologically driven, extreme, radical budget," Senate Democratic Leader Harry Reid of Nevada said after the bill passed. "It caters to lobbyists and an elite group of ultraconservative ideologues here in Washington, all at the expense of middle-class Americans."

In his broadcast, Bush also called on Congress to make permanent all the tax cuts passed at his urging earlier in his administration. Most are due to expire before or at the end of 2010.

With GOP leaders having had little success making the cuts permanent, the House and Senate are debating bills to extend some through the end of the decade.

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Democrats particularly oppose extending the lower rates for capital gains and dividends.

"Some people in Washington said these tax cuts would hurt the economy," Bush said. "The day the House voted for tax relief in May 2003, one Democratic leader declared it a 'reckless and irresponsible tax plan that will undermine opportunity in our country.'

"Since those words were spoken, our economy has added more than 4.6 million new jobs for the American people," Bush said.

The president was referring to a comment made by House minority leader Nancy Pelosi, D-Calif., during a floor debate.

Bush Pressures Congress On Spending, Tax Cuts (REU-Y2)

By Steve Holland

Reuters, January 8, 2006

President George W. Bush pressed the U.S. Congress on Saturday to cut nearly $40 billion in spending and extend tax cuts, steps he said will help keep the U.S. economy on track.

"To keep our economy strong and secure the American Dream for future generations, leaders in Washington must make sound decisions," Bush said in his weekly radio address.

With Vice President Dick Cheney casting a tie-breaking vote in a hectic pre-holiday session, the U.S. Senate last month approved a bill that would cut spending on social welfare and other programs by $39.7 billion.

But small, last-minute changes pushed by Democrats mean the bill must go back to the U.S. House of Representatives for another vote, delaying final approval until late January or February.

"By passing the first reduction in the growth of entitlement spending in nearly a decade, Congress will send a clear signal that the people's representatives can be good stewards of the people's money," Bush said.

Democrats criticize Bush for seeking cuts in spending on programs that help poorer Americans, while seeking to extend tax cuts that they contend help mostly the rich.

At the same time, Bush is putting finishing touches on a new budget blueprint for fiscal 2007 starting October 1 that White House budget director Joshua Bolten has said will emphasize restraint.

Bush's Republicans and opposition Democrats disagree on the strength of the U.S. economy. The White House says economic growth is strong, job growth is steady and consumer confidence is up.

Democrats complain the average American is suffering from stagnant wages while costs for gasoline, health care and housing have have soared.

The two sides are divided over extending some of the tax cuts that Bush pushed through Congress in his first term, The White House disputes the Democrats' contention that the cuts unfairly favor the wealthiest Americans.

The Republican-controlled House voted last month to extend for two years 15 percent tax rates for capital gains and dividends and are set to expire in 2008.

But the battle over tax cuts is far from over and likely to be debated on the campaign trail during the 2006 midterm elections.

Bush said letting tax cuts expire would amount to a tax increase.

"Inaction by the Congress will mean a tax increase on the American people. When you hear people in Washington say we don't need to make the tax relief permanent, what they're really saying is they're going to raise your taxes," Bush said.

Democrats said Bush was ignoring signs the economy was not working for average Americans.

"It's obvious that at the start of this election year, the Bush economy is an albatross for the administration and Republicans in Congress," said Massachusetts Sen. Edward Kennedy. "People are anxious about their standard of living."

Hot Tubs And Cold Moralizing (WP)

By George F. Will

The Washington Post, January 8, 2006

"The taxing power of government must be used to provide revenues for legitimate government purposes. It must not be used to regulate the economy or bring about social change."

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-- President Ronald Reagan State of the Union Message Feb. 18, 1981

"(b) no portion of the proceeds of such issue is to be used to provide (including the provision of land for) any private or commercial golf course, country club, massage parlor, hot tub facility, sun-tan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises."

-- Title 26 Internal Revenue Code (tax exemption requirements for qualified redevelopment bonds)

Well, yes, certainly no massage parlors. Or hot tubs, of course; one shudders to think what happens in those. And tanning facilities, too, are the devil's playgrounds. As for racetracks, although state governments promoting their lotteries are America's most energetic advocates of gambling, government should err on the side of caution when protecting whatever this tax provision protects by frowning on racetracks, hot tubs and other things.

This peculiar wrinkle in the tax code, first approved the year after President Reagan said the tax code should not be used to leverage social change, makes certain projects ineligible to be financed by industrial redevelopment bonds that are subsidized by preferential tax treatment. This provision recently popped back into the news, thanks to Hurricane Katrina.

That ill wind blew some (barely) offshore casinos onto the shores of the Gulf Coast. As part of the plan to "rebuild," as the saying goes, the damaged coast, such bonds are going to be issued. But not promiscuously. Some legislators do not want tax-subsidized bonds to finance the rebuilding of casinos.

Not that the casinos need help: They are rebounding briskly, even expanding. Still, government has a sorry record of dispensing billions in corporate welfare for flourishing businesses.

It is mysterious why states or localities that want casinos operating nearby -- and providing jobs and tax revenue -- also want them afloat, a few feet from a riverbank or ocean shore. (Mississippi has just decided to let them come ashore.) Does the narrow band of water provide a prophylactic against sin? The communities already have weighed the sin against the jobs and revenue and found the sin congenial.

But such awkward questions arise when government begins moralizing, especially about the minutiae of life, such as hot tubs. Which brings us to Reagan's 1981 statement about inappropriate uses of the tax code.

He disliked government's using the code to conduct industrial policy, picking commercial winners and losers, which is a recipe for what is called "lemon socialism" -- tax subsidies for failing businesses that the market says should fail. Regarding the second part of Reagan's statement, any tax code is going to shape society. But he opposed manipulating the tax code to stigmatize this or that consumer preference. Which is what the code's anti-hot-tub provision does.

One wonders: Why did the social improvers who used the code to put the government, in its majesty, on record against hot tubs and tanning facilities not extend their list of disapproved choices? Their list looks morally lax.

Really stern social conservatives probably favor explicitly proscribing government assistance to lots of things, most of them somehow involving sex. Government could preen about being too moral to subsidize, with tax-preferred bonds, economic projects that include bookstores that sell Judy Blume novels, or hotels that offer in-room pornography. And wouldn't it be fun to find the words "lap dance" in the nation's tax code?

As strongly as social conservatives deplore commercialized sex, liberals deplore cigarettes, Big Macs, firearms, fur coats, SUVs, pornography not printed on recycled paper, pornographic movies produced by nonunion studios, holiday trees provocatively labeled "Christmas trees" and much more.

But do we really want to march down this road paved with moral pronouncements? When government uses subsidies to moralize, as with tax preferences for bonds that can be used to finance this but not that, government is speaking. It is expressing opinions about what is and is not wholesome. And once government starts venting such opinions, how does it stop?

Government could spare itself the stress of moralizing about so many things if it decided that the choices people make with their money is their, not its, business. And government could avoid having opinions about so many things if it would quit subsidizing so many things.

When, for example, the valuation and allocation of money through bonds is left to the market, government can be reticent. And reticent government sounds wonderful.

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CONGRESS-ADMINISTRATION:

Hearings A Test For Democrats And Alito (NYT)

By Sheryl Gay Stolberg

The New York Times, January 8, 2006

WASHINGTON, Jan. 7 - The showdown begins Monday at high noon.

Even before Judge Samuel A. Alito Jr. arrives on Capitol Hill for his Supreme Court confirmation hearings, Democrats on the Senate Judiciary Committee appear lined up solidly against him. The big question is whether they will try to block the nomination by filibuster, and if so, which side will be left standing when the political dust settles.

For Judge Alito, the son of an Italian immigrant who grew up in the New Jersey suburbs with a dream of being a major league baseball pitcher, the hearings are a hurdle between him and an even bigger dream.

After months of meeting senators privately and staying mum before the press, the hearings will provide him with a forum to emerge from the shadow of the previous nominee, Chief Justice John G. Roberts Jr.

The hearings, expected to last four days or more, will also give Judge Alito his first opportunity to confront Democratic critics, who plan to spotlight the issue of domestic spying as much as abortion. How he answers their questions, on topics like his 1985 statement that the Constitution does not protect a right to abortion, will determine whether Democrats try to keep him from the job.

The Democrats, hoping to pick up seats in this year's midterm elections, have almost as much at stake as the nominee himself. They are under intense pressure from liberal advocacy groups to oppose Judge Alito, and they are acutely aware that if he is confirmed to succeed Justice Sandra Day O'Connor, a critical swing vote, he could tilt American jurisprudence in a more conservative direction for decades.

Yet a filibuster would be risky business, and Democrats know it.

Senator Charles E. Schumer, a New York Democrat and a member of the Judiciary Committee, said there was a consensus among Democrats that although "it's hard to block a nominee, blocking this nominee is a possibility." But Mr. Schumer said no decision would be made until the hearings were over.

"Because he has had some very strong statements, he is under an obligation to accept or refute those, and if he just tries to avoid them the assumption will be made that he still believes them. That puts him in a difficult position," Mr. Schumer said. "On the other hand, blocking a nominee is a big deal. So who knows? Everyone's waiting."

The hearings before the 18-member Judiciary Committee - 10 Republicans and 8 Democrats - will unfold against a political landscape that is vastly changed since last fall, when Chief Justice Roberts was confirmed by a Senate vote of 78 to 22.

Washington today is consumed with the revelation that President Bush authorized the National Security Agency to eavesdrop on Americans, and the issue of domestic spying will be a prominent feature of the Alito hearings, perhaps as much so as abortion.

For Mr. Bush, who needs the kind of victory on Capitol Hill that an Alito confirmation could provide, the hearings may offer a welcome distraction from the troubles of the Republican Party, which has been buffeted by criticism over the economy, the war in Iraq, the domestic spying program, the Jack Abramoff scandal and, on Saturday, the decision by Representative Tom DeLay to step down permanently as House majority leader.

Norman Ornstein, a resident scholar at the American Enterprise Institute who studies Congress, said Mr. Bush would benefit from a "sharp-edged ideological battle" over Judge Alito. "He wants something that rallies his base with more enthusiasm," Mr. Ornstein said.

And nothing rallies the bases of both parties like the issue of judges. For conservatives, who have fought for decades to curb what they regard as the liberal activism of the judiciary, the Alito nomination is a sweet reward. For liberals, it is terrifying.

Republicans, outside observers like Mr. Ornstein and even some Democrats say the odds are in favor of Judge Alito, unless he performs badly or a bombshell is dropped. Yet if history is any guide, there are no guarantees.

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"It's amazing how often the conventional wisdom in this town is wrong," said Ralph Neas, president of People for the American Way, a liberal advocacy group that led the opposition to the 1987 nomination of Robert Bork and is leading the opposition to Judge Alito. "Going into the Bork hearings, Bork was favored to win confirmation. He was decisively rejected, 58 to 42."

Though no Democrats have announced how they will vote, it is clear that Judge Alito will attract even less support from them than Judge Roberts did. On the Judiciary Committee, three Democrats - Senators Russell D. Feingold and Herb Kohl of Wisconsin and Patrick J. Leahy of Vermont, the panel's senior Democrat - voted to confirm Chief Justice Roberts.

In a recent interview, Mr. Leahy made clear that he was far less comfortable with Judge Alito.

"Judge Alito, who are you?" Senator Leahy said in mock conversation with the nominee, after explaining that he spent nearly three hours with Chief Justice Roberts before his hearings but had had only one brief meeting with Judge Alito. "You're going to be on there, taking the seat of the one person who has demonstrated that she's willing to be a swing vote. To what extent are you willing to show the same kind of independence?"

But the polls work in Judge Alito's favor; they have found that a majority of Americans support his confirmation. The midterm elections could also help his chances, because Democrats facing re-election in Republican-leaning states will be loath to oppose the nomination or join a filibuster. With 44 Democrats and one independent in the Senate, and 41 votes required to sustain a filibuster, the margins are slim.

At the same time, the Senate has already fought a filibuster battle. Last year, when Democrats were blocking some of President Bush's judicial nominees, the Republican leadership threatened to change Senate rules to bar filibusters of judges. Democrats, in turn, threatened to grind business to a halt. A meltdown was averted when a group of seven Democrats and seven Republicans signed a pact saying they would filibuster judicial nominees only under "extraordinary circumstances."

Republicans say they expect that pact to hold.

"I really have some doubts, now that everyone has backed away from the table and taken their guns away, whether there is sufficient support of a filibuster, particularly in light of this nominee and his qualifications," said Senator John Cornyn, Republican of Texas.

And even some Democrats argue privately that a filibuster fight would not be worth it. They say the party should focus on issues that resonate more strongly with voters. To that end, Democrats intend to use the Alito hearings to put a spotlight on domestic spying.

A string of Democratic senators, including Mr. Schumer, Mr. Leahy, Mr. Feingold and Edward M. Kennedy of Massachusetts, have signaled their intention to question Judge Alito on the spying issue. They will try to draw a link between the program and a 1984 memo in which Judge Alito, then a lawyer for the Reagan administration, argued that the attorney general should be immune from lawsuits for ordering wiretaps without a court order.

"There is no question that the question of executive powers in time of war, in the context of the terrorist threat, will be central to the Alito hearings," Mr. Feingold said, adding, "I would be surprised if it wasn't one of the most important topics."

On that score, Democrats will get a boost from the Republican chairman of the Judiciary Committee, Senator Arlen Specter of Pennsylvania, who intends to hold hearings on the domestic spying program and who intends to question Judge Alito about whether Congress should have been informed.

But Mr. Specter, an ardent supporter of abortion rights, said in an interview that the spying issue will be second on his agenda; as was the case with the Roberts hearings, the chairman will raise his first questions about abortion.

"I intend to begin the hearing with the question of his 1985 statement that the Constitution does not protect the right to abortion," Mr. Specter said, adding, "I think in the popular mind, the woman's right to choose is still the dominant issue."

Alito's Future Hinges On Past (HCHRON)

By PATTY REINERT

Houston Chronicle, January 8, 2006

DOJ_NMG_0008552

WASHINGTON - Since President Bush nominated Judge Samuel Alito to the U.S. Supreme Court in October, lawyers and journalists have pored over hundreds of his court decisions and thousands of pages from his work as a Reagan administration lawyer.

Activists have spent heavily on TV, radio and Internet ads opposing or supporting Alito to replace retiring Justice Sandra Day O'Connor. Liberal groups petitioned senators last week to reject the nominee while Christian conservatives backing the judge gathered on Capitol Hill in prayer for him and to consecrate the Hart Senate Office Building room where his confirmation hearings will take place.

When Alito enters the room Monday, members of the Senate Judiciary Committee will greet him with promised civility — and a week's worth of intense questioning.

Alito's confirmation hearings are expected to be much more contentious than those held last fall for Chief Justice John Roberts, in part because more is at stake.

Roberts replaced a fellow conservative on the court, the late Chief Justice William Rehnquist. But Alito, a reliable conservative, could move the court dramatically to the right because he would succeed centrist O'Connor. She has been the court's most active swing voter, often siding with court liberals to provide the decisive vote on abortion rights, affirmative action, the death penalty and privacy.

No one is saying Alito's nomination is in any trouble. The American Bar Association has given the 55-year-old conservative appeals-court judge its highest rating, "well-qualified." The committee screening him is composed of 10 Republicans and eight Democrats, and Republicans dominate the full Senate, which will have the final say.

With 15 years on the federal bench, Alito is the most experienced judge to be nominated to the high court in decades. Supporters and colleagues praise his intellect, his careful legal reasoning and his allegiance to the law and to Supreme Court precedent.

"The portrait that is drawn of him by those who know him and know his writings is of a man of great intelligence, integrity, fairness, humility and justice," said Wendy Wright of the conservative group Concerned Women for America, which supports the nomination.

Even Alito's most strident detractors, including Seth Rosenthal of the liberal group Alliance for Justice, concede he has a brilliant legal mind and is technically well-qualified to do the job.

Regardless, Democrats have warned that they might delay a committee vote on Alito's confirmation or mount a filibuster to block a vote on the Senate floor. Their decision, they said, will depend on how forthcoming the nominee is during the hearings and how well he is able to explain his court rulings and a handful of 20-year-old memos on the volatile issues of abortion rights, voting rights and affirmative action.

"Many Democrats, and even some Republicans, and certainly a large number of the American people want to hear his views on these issues," said committee member Sen. Charles Schumer, D-N.Y. "We don't want to see him duck."

Republicans and Democrats said they intend to grill Alito on those issues as well as on a key question that could quickly come before the high court: How much power should a president have in times of war?

The question, prompted in part by Bush's acknowledgment that he authorized spying on U.S. citizens without obtaining court warrants, is expected to dominate the hearings.

"The role of executive power is of enormous importance and consequence in this hearing," said Sen. Edward Kennedy, D-Mass., another Judiciary Committee member, and Alito's record shows he has given a "virtually unlimited green light to authorities."

"The question is: Is there any limit to executive authority and power that this nominee will recognize?" Kennedy said.

Tough questions expectedJudiciary Chairman Arlen Specter, a moderate Republican from Pennsylvania who supports abortion rights and has expressed outrage over the Bush administration's spying activities, has warned Alito to expect extensive questioning on those topics.

Alito, a Princeton- and Yale-educated lawyer who worked in the Reagan Justice Department before becoming a U.S. attorney in New Jersey and later a judge, has a long paper trail, giving senators plenty to ask about.

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Perhaps most troubling to members of both parties are Alito's Reagan-era writings, in which he expressed support for chipping away at, and eventually overturning, the Supreme Court's landmark ruling in Roe v. Wade, the 1973 case that legalized abortion nationwide.

In memos and a 1985 job application for a promotion within the Justice Department, Alito said he was particularly proud of his work on the abortion issue, as well as his efforts to limit affirmative action.

Later, as a federal appeals judge on the 3rd U.S. Circuit Court of Appeals, Alito said a Pennsylvania abortion law was valid even though it required women seeking abortion to first inform their husbands. He compared the law's spousal notification to parental notification in cases in which minors seek abortion. The Supreme Court threw out the spousal notification provision, with O'Connor writing that women should not be equated with minors and do not lose their constitutional rights because they marry.

Alito will be closely questioned on his Reagan-era writings on executive power, in which he embraced what he called the supremacy of the executive and legislative branches and criticized the judiciary's attempts to be a check on the presidency.

Alito urged then-President Reagan to include "signing statements" whenever he signed a bill into law, arguing that the president could use the documents to lay out his interpretation to counter the Congressional Record, which explains Congress' intentions.

Executive powerIn a 1986 memo, Alito wrote that the attorney general should be immune from prosecution for authorizing illegal wiretaps, a position that likely will draw many questions this week in the context of Bush's authorization of controversial wiretaps.

Since the 1950s, the Supreme Court has held that the Constitution's balance of powers among the three branches of government should not give way to the president's commander-in-chief powers, even in wartime. In the most recent case, in which the high court said detainees at a Navy prison camp in Guantanamo Bay, Cuba, could challenge their detentions in federal courts, O'Connor wrote that "a state of war is not a blank check for the President."

Another issue could be voting rights. The young Alito, working in the U.S. Solicitor General's Office, said his interest in constitutional law was sparked, in part, by his disagreement with the Supreme Court's decisions on reapportionment, which established the principle of "one person, one vote."

Before those decisions, there was no requirement that every vote counted equally, and many state voting maps were drawn to give ballots cast by voters in one district more weight than voters in other parts of a state.

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A Guide To The Hearings (MINNST)

By Eric Black

Minneapolis Star Tribune, January 8, 2006

Here is a look at some of the legal issues and language likely to take center stage when the Senate Judiciary Committee starts questioning Supreme Court nominee Samuel Alito on Monday.

The future of Roe

Roe vs. Wade, the 1973 Supreme Court ruling that established a woman's right to choose whether to have an abortion is the 600-pound gorilla looming over Supreme Court nomination battles. Activists on both sides none too subtly seek evidence that a prospective justice will vote for or against the fundamental Roe ruling.

Alito will not provide the vote necessary to reverse Roe. But he may provide the fourth vote, leaving Roe opponents one vote short.

Two justices are out-of-the-closet Roe opponents. Chief Justice John Roberts left court-watchers in doubt about how he would vote. Alito will almost certainly try to likewise leave us in doubt. This may be tougher for him, because, in a 1985 letter seeking a promotion in the Reagan-era Justice Department, he stated flatly: "The Constitution does not protect a right to an abortion."

Lesser restrictions on abortion rights

Alito is widely expected to have an immediate impact on court rulings affecting restrictions on abortion rights.

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The current Supreme Court doctrine is that laws limiting abortions cannot place an "undue burden" on a woman's right to choose. The court has picked and chosen among potential restrictions, often on 5-4 decisions with the swing vote coming from Sandra Day O'Connor, whom Alito would replace.

For example, in 2000, O'Connor cast the fifth vote and wrote the opinion that struck down a Nebraska effort to ban the late-term abortion procedure that opponents call "partial-birth abortion."

Alito has, in some cases during his judicial career, been more sympathetic than O'Connor to abortion restrictions. In a 1991 dissent, he voted to uphold a Pennsylvania law requiring a woman to inform her husband before getting an abortion. The Supreme Court in 1992, with O'Connor opining that the husband notification requirement was an undue burden, struck down that requirement on a 5-4 vote.

In 2003, President Bush signed a law outlawing partial-birth abortion nationwide. The Supreme Court will consider a court challenge to it this term. If Alito has replaced O'Connor by the time that case is argued, it is widely predicted that the court will uphold the ban on the late-term procedure.

Church and state

An analysis of Alito's record on First Amendment cases shows strong support for religious expression and less concern for the wall between church and state.

"I expect that a Justice Alito would be a strong voice for religious liberty," said Prof. Michael Stoke Paulsen of the University of Minnesota Law School.

Paulsen, a conservative who has known Alito since 1984, said Alito "has vigorously defended the equal free speech rights of religious persons and groups and has resisted efforts to discriminate against them based on their religious identity or the religious content of what they have to say."

In one case, a New Jersey kindergartner wanted to put up a poster in the classroom on which he had drawn a picture of Jesus. As a first grader, the same child wanted to read to the class from a book of Bible stories. The school took down the poster and prevented the boy from reading the stories.

The majority of Alito's appellate court colleagues upheld the school's action. Alito dissented, arguing that the school was violating the boy's First Amendment freedom to express his religion.

"I do not see him striking down government displays of the Ten Commandments, as Justice O'Connor has done," Paulsen said.

Warrantless wiretaps

The controversy over the Bush administration's policy of eavesdropping on domestic conversations without a judge's approval in hopes of finding terrorists could spill into the Alito hearings.

Senate Judiciary Chairman Arlen Specter has expressed alarm over the practice and seems likely to ask Alito whether he agrees with Bush that, in the context of the terrorism threat, a president's status as commander in chief provides constitutional authorization for warrantless wiretaps that would otherwise violate the Fourth Amendment.

Alito doesn't have much of a record on national security issues. As a judge, he has shown an overwhelming tendency to favor the powers of police and prosecutors against claims by defendants.

But as a government lawyer, Alito did write a 1984 memo arguing that government officials who order warrantless wiretaps in a terrorism-related case should be immune from lawsuits.

From Bork to Miers

The history of Supreme Court nominees appearing at Senate confirmation hearings is shorter than you might think. The practice became common only in the mid-1950s, and the history relevant to this week's hearing is even shorter.

The conventional wisdom is that Judge Robert Bork's 1987 hearing wrote the book on how to not to get confirmed. Bork was too feisty, outspoken, controversial and too clear about his opposition to Roe.

The 1990 nomination of David Souter taught conservatives a different lesson. Souter, who spent years as a state judge in New Hampshire, had said and written little about federal issues. Conservatives were encouraged to take it on faith that he would be a conservative justice.

He was confirmed with 90 votes. But Souter has become part of the court's liberal wing and is a solid Roe supporter.

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That precedent helps explain the conservative revolt against Bush's nomination of his longtime associate Harriet Miers. Because Miers had a scanty public record, many conservatives decided they needed more than a wink and nod, even from a conservative president.

Roberts got rave reviews and won easy confirmation. Some of his attributes seemed to be a humble, easygoing style, a solid résumé and a deft balance that left people who prefer different outcomes all thinking he might see things their way.

It's widely expected that Alito will try to display many of the same qualities, and that if he does, he will be confirmed fairly easily.

University of Minnesota Law Prof. David Stras, a former clerk for Justice Clarence Thomas, agrees that Alito will try to follow "the Roberts playbook" and will probably be confirmed. But Stras is bothered by how hearings have become empty exercises.

"Confirmation is turning into such a song and dance, post-Bork," he said. "You really learn nothing because there's this playbook that allows you to get confirmed by saying nothing."

In Alito Battle, Issues Of Presidential Power Thrust To Forefront (LAT)

By David G. Savage

The Los Angeles Times, January 8, 2006

WASHINGTON — Twenty years ago, a Reagan administration lawyer proposed that when the president signed a bill passed by Congress, he should use the occasion to declare how he interpreted it.

"The president's understanding of the bill should be just as important as that of Congress," wrote Samuel A. Alito Jr. in a 1986 memo. Spelling out those thoughts "would increase the power of the executive to shape the law," he added.

President Bush put that idea to work two weeks ago in a little-noticed statement that followed his signing of the muchcelebrated McCain amendment, which forbids cruel, inhumane or degrading treatment of prisoners here and abroad.

His words appeared to turn a legislative defeat into a White House victory. Bush said he would back the torture ban so long as it didn't conflict with his "constitutional authority" as commander in chief and his need to "protect the American people from further terrorist attacks."

Moreover, Bush asserted that the measure would preclude federal courts from hearing all claims of mistreatment from prisoners abroad, a point disputed by some Senate Democrats.

This week, as Alito goes before the Senate Judiciary Committee, it will be seen whether Bush's boldness in asserting powers of the presidency has complicated the confirmation prospects for his nominee to the Supreme Court. Along with abortion rights, executive power has moved to the forefront in the battle over Alito's confirmation.

Democrats are questioning whether the prospective justice could be trusted to enforce the rule of law when the president says he is not bound by it. Bush's lawyers assert the commander in chief has an "inherent authority" to act despite the law when he is seeking to defend the nation's security during wartime.

"Does he believe in any checks on presidential power?" asked Sen. Charles E. Schumer (D-N.Y.) in previewing his questions. "Does he believe that warrantless wiretapping of Americans is constitutional?"

This surveillance issue was thrust onto the agenda last month when Bush acknowledged that he had authorized the National Security Agency, without seeking court permission, to intercept international phone calls or computer messages of people in the United States who had "known links" to terrorists abroad.

In 1978, Congress made it illegal for the government to conduct electronic surveillance in the U.S. without a judicial warrant. Bush's lawyers did not explain why the NSA did not seek warrants from the special court created to weigh such requests.

Some computer experts familiar with the NSA operations say they believe the agency is regularly scanning thousands of calls and messages. In that event, it would be impractical, perhaps impossible, for officials to obtain individual warrants.

The secret NSA wiretapping order is not the only time Bush has said he stands above Congress and the courts.

In 2002, Bush said he could order the military to arrest and indefinitely detain Americans who were "enemy combatants" without charging them with a crime or giving them a chance to assert their innocence.

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That same year, his lawyers said that as commander in chief, the president was free to order harsh treatment, even torture, to obtain crucial information from prisoners. This was so, they said, despite federal laws and U.S. treaties that prohibited the use of torture in all circumstances.

That White House position, along with widespread reports of abuse of terrorism suspects in U.S. military prisons, gave rise to the McCain amendment banning torture. Initially, the measure was strongly opposed by Bush, who decided to sign it after meeting with McCain and in the face of overwhelming support by Congress.

Sen. Edward M. Kennedy (D-Mass.) said Alito would be quizzed about Bush's apparent willingness to defy Congress even as he signed the McCain amendment into law.

"The president goes ahead and signs it, and then says he retains the inherent power to go out and torture just like before," Kennedy said. "It reflects an arrogance of power and a contemptuous attitude toward Congress."

For his part, McCain issued a terse statement saying the new law did not include "a presidential waiver on the restrictions" against torture and inhumane treatment. "We believe the president understands Congress' intent," said McCain and Sen. John W. Warner (R-Va.), chairman of the Armed Services Committee. "Our committee intends through strict oversight to monitor the administration's implementation of the law."

Though Alito will be caught up in the dispute over the NSA wiretapping and the McCain amendment, it is not clear whether he shares the view that the president has a nearly unchecked power to protect national security.

For the last 15 years, Alito has been a judge on the U.S. 3rd Circuit Court of Appeals in Philadelphia. That court does not get many cases that test the limits of the president's power.

A revealing statement came in November 2000 when Alito spoke at a Federalist Society meeting, reflecting on his time in the Reagan administration.

"We were strong proponents of the theory of the unitary executive, that all federal executive power is vested by the Constitution in the president," Alito said. "And I thought then, and I still think, that this theory best captures the meaning of the Constitution's text and structure."

In a sense, the "unitary executive" theory states the obvious. There is only one president. But many of its Reagan-era proponents applied this theory to say independent government agencies were unconstitutional because they were not under the direct control of the president.

Since the New Deal of the 1930s, Congress has created such independent agencies to regulate certain industries. The agencies include the Securities and Exchange Commission, which regulates the stock market; the Federal Communications Commission, which regulates broadcasters and the telecommunications industry; and the Federal Election Commission, which regulates campaigns. The most influential independent body may be the Federal Reserve Board, which regulates banking and the money supply.

Alito did not say whether he believes such independent agencies violate the Constitution, but senators say they intend to ask him about how he would apply the unitary executive theory.

Neil Kinkopf, a law professor at Georgia State University in Atlanta who served in the Clinton administration, said he hoped the senators would ask Alito about the president's power to shape the law through the use of bill-signing statements.

Kinkopf described Bush's statement on the McCain amendment as "cryptic, but ominous. It threatens our basic constitutional structure if the executive can make the law in the guise of executing the law," he said.

But Alito's supporters say it is unfair to link his Reagan-era memos to the current controversies.

"In every administration — Democratic and Republican — the lawyers believe in a robust understanding of the president's powers," said Charles J. Cooper, who recruited Alito in 1986 to be his deputy director to his legal staff under Atty. Gen. Edwin M. Meese III. "That doesn't begin to answer the legal separation-of-powers question he would face as a justice. And his habit of mind is to be careful, neutral and very balanced."

Another big issue probably facing Alito at this week's hearings is abortion.

Sen. Arlen Specter (R-Pa.), the Judiciary Committee chairman, is a supporter of abortion rights, and he said he was troubled to learn in November that Alito had voiced strong opposition to Roe vs. Wade, the ruling that legalized abortion nationwide.

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In 1985, Alito filed a job application with the Reagan White House in which he said he was "particularly proud" of the role he had played in the administration's effort to persuade the Supreme Court "that the Constitution does not protect a right to abortion."

This forthright statement will make it hard for Alito to avoid discussing his views on abortion. In September, then-nominee John G. Roberts Jr. steered around the topic by asserting that he was simply a lawyer representing his client when he served in the Reagan and George H.W. Bush administrations.

By contrast, Alito's memo made clear that he agreed with the Reagan administration's public position that Roe vs. Wade should be overruled.

That effort to overturn the ruling ultimately fell short by one vote when two Reagan appointees — Justices Sandra Day O'Connor and Anthony M. Kennedy — joined a 5-4 majority to affirm the abortion right in 1992.

If confirmed, Alito would succeed O'Connor.

CAP Critic Dropped From Alito Witness List (DP)

By Mark Stefanski

Daily Princetonia, January 8, 2006

An alumnus tapped by Democrats to testify in next week's Senate hearings on Samuel Alito '72 will no longer appear, removing the only witness slated to speak specifically about a controversial conservative alumni group of which Alito was a member.

Stephen Dujack '76, an environmental writer, had been outspoken in his condemnation of the group, Concerned Alumni of Princeton, which during the 1970s criticized the University's move to coeducation and adoption of affirmative action. Opponents of Alito's nomination to the Supreme Court had seized on his membership in the group to show that he is out-of-step with mainstream America on core issues.

Though it wasn't immediately clear why Dujack was removed from the Democrats' witness list, some observers believe he was vulnerable to attacks over an April 2003 Los Angeles Times column he wrote that compared animals killed in slaughterhouses with victims of the Holocaust.

On Friday, the office of Sen. John Cornyn (R-Tex.), a strong Alito backer, circulated copies of the column. By that evening, Dujack's name had been removed from a full list of witnesses released by the judiciary committee.

The column has not been specifically cited as the reason for Dujack's removal from the witness list, and he said he still plans to submit written testimony about the alumni group to the judiciary committee to tell senators "how awful this organization was."

"I'm going to want to explain why those of us who know the organization can be filled with revulsion at hearing that a person who was selected to go our nation's high court was proud of his membership in that organization," Dujack said in an email.

Politics professor and prominent conservative constitutional scholar Robert George described Dujack as "an example of a witness Republicans would be able to beat up pretty badly."

"I noticed conservative websites were just salivating because [Dujack] just seemed like such an obvious target," George said. "They could use him to say, 'Look these people against Alito are just these extreme people on the left.' "

Spokesmen for senior senators on the judiciary committee could not be reached for comment.

Dujack said in an email interview that the column has since brought him great grief and that he was only trying to defend something his late grandfather, Nobel laureate Isaac Bashevis Singer, had said about animal rights. Singer was a vegetarian and an advisory board member of a group called "Concern for Helping Animals in Israel."

"I haven't read any of the critiques thus far that mention my grandfather or anything about all of that stuff — just this short sound-bite stuff," Dujack said.

He added, "I regret very much having written that article. It's caused so much pain to people that I didn't intend to, so many who suffered like my family and worse ... That's the only thing I've written that I wish I could pull back. We all make mistakes sometimes."

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Dujack has been replaced by two speakers who will discuss other topics, leaving nobody to speak about the alumni group, which has caused a storm of controversy since a 1985 application for a job at the Justice Department listing Alito's membership in the group was released in November.

But Dujack and other opponents believe that his CAP membership will still be an issue. "The issue is 'in play,' which was all that I had tried to accomplish when I set out — and I seem to have succeeded," Dujack said.

Judith Schaeffer '74, deputy legal director for People for the American Way, a liberal advocacy group that opposes Alito's confirmation, agreed that the issue will not soon disappear.

"It shouldn't at all," she said. "What [Dujack's] had to say is there and in writing. It's not just him, but the record is demonstrable."

This latest development follows a string of criticisms and questions from the press and Democrats about Alito and CAP, which was founded in 1972 and had become largely defunct by 1987.

Two weeks ago, Sen. Ted Kennedy (D-Mass.), a judiciary committee member who has described CAP as "anti-black" and "anti-women," asked committee chairman Sen. Arlen Specter (R-Pen.) to make a formal request for access to the archives of one of CAP's founders, hoping to learn more about Alito's involvement in the group. (See full story.)

On Friday, the Drudge Report citied anonymous Senate Democratic aides as saying that tying Alito to CAP was a Democratic strategy to derail his nomination. The report said the aides would make mention of racist comments in Prospect, the alumni group's magazine, and that it didn't matter that Alito had no part in writing them or any connection to them.

Drudge also reported that "Alito will testify that he joined CAP as a protest over Princeton policy that would not allow the ROTC on campus," but did not cite a source.

Opinion pieces in The New York Times and The Washington Post this weekend, including one by Kennedy, again make mention of CAP to raise questions about Alito's nomination.

Arguing that the Senate should "explore Judge Alito's honesty" because of suggestions that "he will bend the truth when it suits his purposes," an editorial in Sunday's New York Times said: "Judge Alito has said he does not recall being in an ultraconservative group called Concerned Alumni of Princeton, which opposed coeducation and affirmative action. That is odd, since he boasted of his membership in that same 1985 job application."

Trying to rebuff concerns about his involvement with CAP, Alito said in a statement last month to the judiciary committee that despite his Justice Department job application, "I have no recollection of being a member, of attending meetings, or otherwise participating in the activities of the group."

Supporters of CAP say the group was dedicated to increasing alumni involvement in University governance and tempering Nassau Hall's left-wing tendencies.

Fox News analyst and former New Jersey superior court judge Andrew Napolitano '72, a former CAP board member, said last month that he has "zero recollection" of Alito participating in the group. "His recollection and mine — which is that there's no recollection of him attending any of this stuff — are the same," Napolitano said.

Supporters of Alito's nomination inside and outside of the Senate have praised his intelligence and experience, among other factors. The nonpartisan American Bar Association this week gave Alito a unanimous "well qualified" rating.

"The President has selected a man with impeccable qualifications to serve on the Supreme Court," Cornyn has said previously of the nomination. "Judge Alito has served as a federal court of appeals judge for the last 15 years — giving him more judicial experience than any Supreme Court nominee in more than 70 years."

Dujack, a former associate editor at the Princeton Alumni Weekly, has publicly written about CAP in The Daily Princetonian and the Newark Star-Ledger since news of Alito's nomination.

In a Nov. 22 op-ed for The Daily Princetonian, he wrote that Alito "will have to explain how he permitted himself to belong to an organization that was overtly racist and sexist for its entire 14-year existence — at times passionately so, too." (See full story.)

Dujack is scheduled to speak on campus Jan. 13 at an event sponsored by the College Democrats.

Alito Advocacy Fills Air Of Swing States (WP)

By Amy Goldstein

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The Washington Post, January 8, 2006

Three days before Thanksgiving, a trio of former law clerks to Samuel A. Alito Jr. did a "fly-in" to Portland, Maine, to tout the Supreme Court nominee in a strategy organized by the conservative group Progress for America. Two weeks later, a minivan filled with Mainers who oppose Alito traveled the coast from Bar Harbor to Kittery, gathering petition signatures as part of a "Rolling Justice Tour" coordinated by a coalition of left-leaning national groups.

Maine's newspapers have carried dozens of letters to the editor about the nomination, the result of choreographed media campaigns. And this weekend, the last before Alito's Senate confirmation hearing begins tomorrow, the state's television stations are airing ads paid for by Washington-based organizations that portray Alito as a "man of honor, integrity, principle" -- or, alternately, as part of a dangerous right-wing takeover of the Supreme Court.

With two moderate Republican senators who support abortion rights -- senators whose views of this nominee, in other words, are especially uncertain -- Maine is one of several states that the dueling forces in the debate over Alito have targeted for what Brookings Institution scholar Thomas E. Mann calls an artificial grass-roots -- or "Astroturf" -- campaign.

On both sides, organizations based in the nation's capital are pouring money, manpower and advocacy expertise into these states, trying to stir up authentic passions among constituents who might influence Senate votes.

"We don't fire the guns. We are just positioning them," said Chris Myers, executive director of Progress for America, which is spending $100,000 for several days of ads in Maine as well as in Louisiana and North Dakota, two other swing states. As part of the indirect strategy of mobilizing local opinion leaders, the group has enlisted in Maine a popular radio talk show host, a longtime local lawyer and the campaign treasurer of the senior senator, Olympia J. Snowe (R).

Local groups for or against Alito have been created in many states. In addition to Maine, much of the advocacy is being aimed at moderate Republicans including Senate Judiciary Committee Chairman Arlen Specter (Pa.) and Lincoln D. Chafee (R.I.), as well as Democrats from relatively conservative states, including Mary Landrieu (La.), Ken Salazar (Colo.), Bill Nelson (Fla.), Blanche Lincoln and Mark Pryor of Arkansas, and Kent Conrad and Byron L. Dorgan of North Dakota.

Whether the funds and energy national organizations are investing in the Alito debate will prove effective is unclear. Traditionally, public attention on Supreme Court nominations crests once a confirmation hearing begins.

On the eve of Alito's hearing, the intense advocacy efforts in Maine so far are not "having much impact at all," according to Steve Abbott, chief of staff to Sen. Susan Collins (R). "I don't hear the chatter, when I go out to eat, when I go to the gym," said Abbott, who lives in Portland and commutes to work on Capitol Hill. As television ads have proliferated in the days before Alito's hearing, Collins has been out of earshot on a trip to Antarctica.

In part, the campaigns for and against Alito are getting muffled because Maine, like other swing states in inexpensive media markets, is saturated with advocacy. "One week, it's ANWR [Alaskan oil-drilling] up here, the next week it's prescription drugs. Everything that comes up, the groups take to the airways in Maine," Abbott said. "We've reached the point it's just turned to clutter."

This winter, the future of the Supreme Court is a back-seat issue in Maine, according to several state politics-watchers who say residents are more focused on the immediate problems of high fuel oil prices and possible electricity shortages.

"The reality is, there are people who are on the far sides of the debate who are using this nomination as a battle over a whole host of issues and a lot of sort of tangential issues," said Richard A. Bennett, a former state Senate president who is treasurer of Snowe's reelection campaign this year and has been speaking out on Alito's behalf. "I really doubt that most ordinary citizens in Maine -- certainly the ones I've spoken to -- I really doubt they are being really attentive right now."

Senators, meanwhile, bristle at the suggestion that their vote can be influenced by Washington-directed issue campaigns. "As far as I am concerned, they are wasting their money," Conrad said.

Snowe and Collins pride themselves on being heirs to a long independent streak in their state's politics, unswayable by interest groups, said Christian P. Potholm, a professor of government at Bowdoin College. "For the two Maine senators, both sides would be better off if they just took the money and threw it into the Potomac River," Potholm said. "The advocacy groups don't care, but it's likely to be counterproductive."

Leaders of the most visible such groups dispute the sentiment that their efforts may prove ineffective.

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Starting with the failed nomination of Robert H. Bork in 1987, interest groups have applied campaign-style techniques to Supreme Court confirmations, and both sides had been waiting more than a decade to release their pent-up forces. No vacancy on the court had materialized for 11 years until last summer's nomination of John G. Roberts Jr., now the chief justice.

"This is a splendid example of shoe-leather democracy," said Ralph G. Neas, president of the liberal group People for the American Way, who has worked on every Supreme Court confirmation debate for three decades.

Neas said a coalition of about 70 groups opposing Alito has accomplished important steps in the pre-hearing phase. He said the coalition has defined the issues in the nomination, encouraged senators to remain undecided until the hearing, and raised money -- in addition to mobilizing its base.

In Maine, the scores of people who signed anti-Alito petitions along the route of the Rolling Justice tour included many who knew of the project because they already were on e-mail lists of MoveOn.org.

"I travel in a very politically engaged circle of people, and I think that people are very concerned" about his nomination, said Susan Dorr, a real estate broker who is a former state legislator and town selectman in Camden. She said she was one of about a dozen people who turned out when the tour passed through there.

Mike Duddy, a Portland lawyer and co-chairman of Mainers for Judge Alito, said that he offered to work with national groups, believing, "if there is not some presence on the ground to keep a level-headed voice, the opponents would completely occupy what would otherwise be a vacuum."

So far, he has been taking reporters' calls or appearing on talk radio perhaps once a week, but he has not attended any large pro-Alito events. "From my point of view . . . the level of interest seems to be muted," Duddy said. "I don't think it's completely ignored. Neither do I think it's the first thing people are thinking about."

Among Evangelicals, A Kinship With Jews (WP)

By Alan Cooperman

The Washington Post, January 8, 2006

DANVILLE, Va. -- Everyone who worships at the Tabernacle quickly learns three facts about its deeply conservative pastor. He comes from a broken home. He rides a canary-yellow Harley. And he loves the Jews.

There is some murmuring about the motorcycle. But the 2,500 members of this Bible-believing, tradition-respecting Southern Baptist church in southern Virginia have embraced everything else about the Rev. Lamarr Mooneyham.

Out of his painful childhood experiences, Mooneyham, 57, preaches passionately about the importance of home. Out of his reading of the Bible, he preaches with equal passion about God's continuing devotion to the Jewish people.

"I feel jealous sometimes. This term that keeps coming up in the Old Book -- the Chosen, the Chosen," says the minister, who has made three trips to Israel and named his sons Isaac, Jacob and Joseph. "I'm a pardoned gentile, but I'm not one of the Chosen People. They're the apple of his eye."

Scholars of religion call this worldview "philo-Semitism," the opposite of anti-Semitism. It is a burgeoning phenomenon in evangelical Christian churches across the country, a hot topic in Jewish historical studies and a wellspring of support for Israel.

Yet many Jews are nervous about evangelicals' intentions. In recent weeks, leaders of three of the nation's largest Jewish groups -- the Anti-Defamation League, the American Jewish Committee and the Union for Reform Judaism -- have decried what they see as a mounting threat to the separation of church and state from evangelicals emboldened by the belief that they have an ally in the White House and an opportunity to shift the Supreme Court.

"Make no mistake: We are facing an emerging Christian right leadership that intends to 'Christianize' all aspects of American life, from the halls of government to the libraries, to the movies, to recording studios, to the playing fields and locker rooms . . . from the military to SpongeBob SquarePants," the ADL's national director, Abraham H. Foxman, said in a Nov. 3 speech.

Julie Galambush, a former American Baptist minister who converted to Judaism 11 years ago, has seen both sides of the divide. She said many Jews suspect that evangelicals' support for Israel is rooted in a belief that the return of Jews to the promised land will trigger the Second Coming of Jesus, the battle of Armageddon and mass conversion.

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"That hope is felt and expressed by Christians as a kind, benevolent hope," said Galambush, author of "The Reluctant Parting," a new book on the Jewish roots of Christianity. "But believing that someday Jews will stop being Jews and become Christians is still a form of hoping that someday there will be no more Jews."

The result is a paradox -- warming evangelical attitudes toward Jews at a time of rising Jewish concern about evangelicals -- that could be a turning point in the uneasy alliance between Jewish and Christian groups that ardently back Israel but disagree on much else.

The Rev. Donald E. Wildmon, chairman of the evangelical American Family Association, warned in a Dec. 5 radio broadcast that Foxman was "in a bind" because the "strongest supporters Israel has are members of the religious right -- the people he's fighting."

"The more he says that 'you people are destroying this country,' you know, some people are going to begin to get fed up with this and say, 'Well, all right then. If that's the way you feel, then we just won't support Israel anymore,' " Wildmon said.

Philo-Semitism is far from universal among the 60 million to 90 million U.S. adults who identify themselves as born-again or evangelical Christians. But it has strong roots, not only in the Hebrew scriptures shared by both faiths but also in the belief that today's Jews and Christians have common antagonists, such as secularism, consumerism and militant Islam.

In his sermons, Mooneyham returns again and again to God's promise to Abraham in Genesis 12: "I will bless those who bless you, and curse him who curses you."

It is a theme echoed in many conversations at the Tabernacle, a plain red-brick church in a community that has seen one factory after another close, yet where the congregation made a Christmas offering of $25,000 to help pay for the immigration of Russian Jews to Israel.

"I believe everyone in this church felt it was the best thing we've ever done with missionary money, to help the Jewish people go home," said Dorothy Pawlowski, 72, who tithes to the church.

And it is a message being passed to the next generation. On Thursday nights, J.J. Vogltanz, a deacon, uses a Christian textbook to lead his three home-schooled children in science experiments designed to illustrate Bible verses. One of the first things he taught them about Jesus, he said, was that "he was a Jew."

Asked whether he also taught his children that the Jews rejected Jesus, Vogltanz, 34, paused. "I'm not sure it's constructive to assign blame," he said.

Mark A. Noll, a professor of Christian thought at Wheaton College, a center of evangelical scholarship in Illinois, said evangelicals are beginning to move away from supersessionism -- the centuries-old belief that with the coming of Jesus, God ended his covenant with the Jews and transferred it to the Christian church.

Since the 1960s, the Roman Catholic Church and some Protestant denominations have renounced supersessionism and stressed their belief that the covenant between God and the Jewish people remains in effect.

Evangelicals generally have not taken that step, but "among what you might call the evangelical intelligentsia, questions of supersessionism have come onto the table," Noll said. "It's in play among evangelicals in the way that it was in mainline Protestantism and Catholicism -- but wasn't among evangelicals -- 30 or 40 years ago."

At Fuller Theological Seminary, an evangelical training ground in Pasadena, Calif., President Richard J. Mouw hosted a kosher breakfast for 20 rabbis a week before Christmas. "More and more, we're inviting Jews as guest lecturers," Mouw said. "We're looking at rabbinic literature and how we can better understand the Bible through rabbinic eyes. That's a real push for us."

Jacques Berlinerblau, a visiting professor of Jewish civilization at Georgetown University, said the rise of philo-Semitism in the United States has led Jewish scholars to look back at previous periods of philo-Semitism, such as in Amsterdam in the mid-17th century. He said revisionists are increasingly challenging the standard "lachrymose version" of Jewish history, questioning whether persecution has been the norm and tolerance the exception, or vice versa.

Still, some Jews think that philo-Semitism is just the flip side of anti-Semitism.

"Both are Semitisms: That is, both install the Jews at the center of history. One regards this centrality positively, the other regards it negatively. But both are forms of obsession about the Jews," said Leon Wieseltier, a Jewish scholar and literary editor of the New Republic.

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The Southern Baptist Convention, to which the Tabernacle belongs, passed a resolution in 1867 calling on its members to convert Jews and renewed that call as recently as 1996. Its former president, Bailey Smith, declared in 1980 that "God Almighty does not hear the prayer of a Jew," and it currently supports about 15 congregations of messianic Jews, who are popularly associated with the organization Jews for Jesus.

So Mooneyham has a ready answer for Jews who doubt his motives: "I think they have a right to be suspicious of just about everybody, given the history."

He also has a personal story. The pivotal moment of Mooneyham's childhood came at age 7 when his parents, in the middle of a divorce, took him and his three sisters to a church parking lot in Burlington, N.C., and parceled them out to relatives for a few weeks. Those few weeks turned into years. The family never came together again.

Nearly 45 years later, the pastor was watching television before a Sunday morning church service when he came upon an infomercial by Rabbi Yechiel Z. Eckstein, founder of a group called the International Fellowship of Christians and Jews. Eckstein was standing in Israel with an elderly woman from Russia who said she was finally home.

"She started crying, he started crying, and I started crying," Mooneyham said. "Then I said, 'Lord, help me, because I'm really going to throw my congregation a curveball today. We're going to help Jews -- we're not going to witness to them, we're just going to help them. Because I know what home means.' "

Since that day five years ago, according to Eckstein, the Tabernacle has sent more than $175,000 to the fellowship, which has a donor base of 400,000 Christians and has contributed more than $100 million to Israeli causes.

"I can only say that what we've done should speak for itself, because we've given and we've asked nothing in return," Mooneyham said. "And that's the way it will stay."

A Search For Order, An Answer In The Law (WP)

By Dale Russakoff And Jo Becker

The Washington Post, January 8, 2006

It was May 3, 1971, the crest of the antiwar movement, and Washington was clogged with thousands of denim-and-fatigues-clad protesters demanding an end to the Vietnam War. Blocks from the Capitol, but far from the action, a handful of Princeton University undergraduates in sport coats found themselves in the wood-paneled chambers of Justice John M. Harlan.

Most saw the visit as a detour from their real purpose: to meet generals, lawmakers and diplomats and debate the justness of the war. One young man even dozed off.

But not Samuel A. Alito Jr. Harlan was the one person he wanted to meet when Princeton's politics society arranged the trip. Now the clean-cut young man with dark-rimmed glasses was transfixed by the justice whose dissents from landmark liberal rulings of the Supreme Court had become his guideposts.

"The rest of us didn't grasp Harlan's significance," said George Pieler, then president of the politics society. "The only reason I did was that Sam had told me."

Years later, Alito would write that his distress over the court's liberal activism under Chief Justice Earl Warren in the 1960s had propelled him to study constitutional law. Along the way, he would embrace Harlan's view that the court was usurping power that the Constitution had reserved for lawmakers.

At the time of the visit, this vision was hardly in vogue. After all, it was the Warren Court that had stepped in when legislators would not and declared segregated schools unconstitutional.

But Alito was not one to be swayed by fashion. As protest movements shook the world around him in the 1960s and 1970s, he held fast to the respect for authority he learned growing up in a New Jersey suburb in the 1950s.

Like many conservatives of his generation, Alito was inspired by the presidential campaign of Sen. Barry M. Goldwater (R-Ariz.), stimulated by William F. Buckley Jr.'s National Review, alarmed by the discord over the war in Vietnam and disenchanted with the liberal bias of college campuses.

But rather than turn to activism, he found in the study of law a framework for what troubled him. The early years of his journey were deeply private and intellectual. But he later found company, particularly in the Reagan Justice Department, incubator of scores of leading conservative legal practitioners, including Chief Justice John G. Roberts Jr.

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In articles today and tomorrow, The Washington Post will explore the forces, people and ideas that helped shape Alito and hastened his rise in the law. The articles are based on Alito's writings, government documents and more than 100 interviews, including the first extensive one with his family. Like other Supreme Court nominees, Alito did not comment.

The Senate confirmation hearings that begin tomorrow on President Bush's nomination of Alito to the seat of retiring Justice Sandra Day O'Connor represent a milestone not only for him but also for the conservative movement that grew up as he did.Like Father, Like Son

He was born at mid-century to Italian Americans from the proud, immigrant enclave of Chambersburg in Trenton, N.J.

"When the first baby came, I said, 'Sam, our children are going to be the smartest children in Hamilton Township,' " Rose Alito, now 91, recalled in an interview at the two-story, red-brick home in the Trenton suburb where she and Samuel Alito Sr. raised a Supreme Court nominee.

From the beginning, she said, the boy took after his father, a scholarly and reserved man who directed New Jersey's nonpartisan Office of Legislative Services. Perennially pipe-puffing, with thick white hair that gave him a look of distinction, the elder Alito spoke reverentially of the importance of exhaustive, bias-free research in the making of law.

"It was never about what he felt; it was what the law was," recalled former New Jersey governor Thomas H. Kean (R).

The father ingrained exacting standards in his children. "My father would assist us in learning how to write well," said Rosemary Alito, the nominee's sister. "He'd say, 'No, this is wrong, this is wrong, this is wrong. Go write it again.' And I'd go write it again. And he'd look at it again. And he'd review it and give me corrections until he'd find it to be perfect."

The elder Alito was tight-lipped about his own leanings. Some published reports have said he was a Republican; others, a Democrat. Co-workers said he joked that he was "a political eunuch." Asked for the real story, Rose Alito -- a Republican who was a Democrat until 1987 -- and Rosemary Alito, a Republican and a leading employment lawyer, looked blankly at each other, answering with shrugs.

Alito Senior, whose death in 1987 left his son too distraught to deliver a eulogy, had always vacuumed up knowledge. Before working for the legislature, he taught ancient history, physics, math and English at Trenton Central High and had scored so high on an Army aptitude test it raised suspicions of cheating. Similarly, the younger Alito was so far ahead of peers at Hamilton-East Steinert High School that he skewed the grade curve. And, like his father, he kept a lot to himself.

"He was always listening to students' comments, my comments -- analyzing, evaluating, but silently. Kind of inscrutable at times," said Elaine Tarr, his 10th-grade English teacher.

Classmates still speak of his unusual blend of braininess, modesty and quietly hilarious wit. He played baseball, was a star debater, edited the school paper and was elected student council president with an uncharacteristically wacky campaign using posters of women having their hair colored and the slogan "I'll just DYE if Sam isn't elected. Alito for President."

Behind the gentle demeanor was a boy bent on winning. "Oh yes, very competitive!" said his mother. His rivalry with a champion debater at Trenton Central High named Jeffrey Laurenti was so fierce that Alito would not say his opponent's full name -- a relationship highlighted by the caption beside Alito's yearbook photograph: "Jeffrey Who?"

Friends and family members say Alito embraced the respect for authority that was ubiquitous in the 1950s from home to school to Our Lady of Sorrows Catholic Church. Asked if he ever rebelled, Rosemary Alito exclaimed, "Oh my goodness, he never did anything rebellious at all!"

His middle school Latin teacher, Grace Bolge, said she saw in his passion for that language a love of order and rules. "He liked structure and rigidity," she said. "I think that's why he liked debate. It was timed, it was regulated, there were rules for when you could speak and how you spoke."

The order that defined Alito's early years began to give way in the 1960s. Rose Alito does not remember her reaction as the Second Vatican Council loosened the top-down authority of the Roman Catholic Church. But she made clear her displeasure at another change in religious practice: the 1963 Supreme Court decision banning public school Bible reading and prayer, which began Alito's school days through sixth grade.

"I was teaching then, and it used to irk me," she said. "I read poems that had something to do with the atmosphere and the trees when we were not permitted to read the Bible."

As a federal appellate judge, Alito would repeatedly rule for more religious expression in public spheres.

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In 1964, the Supreme Court transformed the legislature that Sam Alito Sr. served, ruling in Reynolds v. Sims that the Constitution required individual legislative districts to have essentially equal numbers of voters -- one man, one vote. The opinion prompted a dissent from Harlan that, according to a friend and former colleague Douglas W. Kmiec, is one of the nominee's favorites.

"The Constitution is not a panacea for every blot upon the public welfare, nor should this Court, ordained as a judicial body, be thought of as a general haven for reform movements," Harlan wrote. "This Court . . . does not serve its high purpose when it exceeds its authority, even to satisfy justified impatience with the political process."

The elder Alito became the New Jersey legislature's redistricting expert, drawing district lines that shifted power from sparsely populated rural counties to cities and suburbs. In the process, the state Senate turned Democratic for the first time in 52 years. As always, Alito Senior expressed no opinion of the result.

At about this time, politics and government became a fascination for his son, and, according to a job application to the Reagan administration, he was impressed by Goldwater's 1964 presidential campaign, a crusade against communism and Washington's dictates to the states in areas including civil rights and public school prayer. Alito became a regular viewer of Buckley's "Firing Line" television program.

Fellow high school debater James Castranova remembers Alito speaking with enthusiasm about reading Buckley's National Review, the opinion journal credited with helping to launch the modern conservative movement. He also recalled Alito's excitement when then-California Gov. Ronald Reagan, a rising conservative star, was roundly deemed the winner of a 1967 televised debate with then-Sen. Robert F. Kennedy (D-N.Y.).

"He was just fascinated that Reagan was able to get the better of Bobby Kennedy," Castranova said.

Castranova emphasized that Alito never trumpeted his views, lest he jeopardize his father's reputation for impartiality. In the 1968 yearbook of Victor McDonald, a vocal supporter of Richard M. Nixon, Alito teased: "Who will replace you next year as Steinert High School's biggest reactionary? I doubt anybody can be as FAR RIGHT as you."'Tradition, Order and Authority'

Former Princeton professor Dennis F. Thompson, now at Harvard, remembers a freshman named Sam Alito from 37 years ago for one reason: He was a conservative.

Thompson assigned students in his political theory class to develop a world view of their own, drawing on philosophers. A tide of liberal and left-wing visions rolled in, with a notable exception. "It wasn't conservative in terms of political issues of the day," Thompson recalled of Alito's paper. "It was more about principles -- a respect for tradition, order and authority."

As the antiwar movement engulfed Princeton, Alito stood outside the fray, finding mentors in books and journals of ideas. In the spring of 1970, after the United States invaded Cambodia, students voted overwhelmingly to postpone classes to campaign against the war.

Classmate Richard R. Clifton, now a 9th Circuit appellate judge, remembers Alito had a different concern. Alito thought that a majority vote to suspend classes would be unfair to a minority who wanted to study. "He was very frustrated," Alito's wife, Martha, said he told her. "He wanted his education."

Many students joined selective-admissions dining clubs dominated by sons of the rich, but Alito chose instead the anti-elitist Stevenson Hall (named for Democrat Adlai E. Stevenson), which welcomed all comers. Friends knew Alito as a confirmed anti-snob, flashing a dry, acerbic wit at any sign of pomposity.

He immersed himself in the study of law, history and politics -- and again debate. His closest friends were all, like him, studious majors in Princeton's Woodrow Wilson School who dined at Stevenson, where they were more likely to debate John Rawls's "A Theory of Justice" than Vietnam. Still, "I knew he was greatly bothered by all the upheaval of the '60s," said Ken Burns, now a lawyer in San Francisco.

Alito had a ringside seat on an ambitious student-faculty effort to make Princeton's decision making more responsive to change, to head off student protest. The chairman of the project, professor Stanley Kelley, who knew Alito's academic work, hired him to take notes and do research while passions flared.

The university approved the group's recommendations, giving students much more influence over tenure, curriculum, dorm curfew and other policies. (A conservative alumni group that Alito listed among his affiliations in a 1985 job application,

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Concerned Alumni of Princeton, would later say the effort had turned Princeton over to left-wing students.) Kelley said Alito never expressed a view of the deliberations.

Samuel Lipsman, an outspoken leftist who headed Princeton's debate panel, knew Alito's leanings, but only because he asked him directly. "I knew he was conservative and he supported the president and defended the war, but he didn't carry signs even metaphorically," said Lipsman, who nominated Alito to succeed him as debate panel president. "He never antagonized."

Alito's good friend and fellow debater, Andrew P. Napolitano, a self-described "notorious campus conservative" and now a Fox News commentator, said Lipsman knew more than he did: "I do not recall hearing a conservative peep out of Sam's mouth."

But in Alito's mind, he would later write, a conservative legal philosophy was forming by his junior year when he read the works of Yale law professor Alexander M. Bickel, a pioneering critic of the Warren Court. At a time when many intellectuals embraced liberal judicial activism as a force for good, Bickel announced in a book titled "The Supreme Court and the Idea of Progress" that the Warren Court's most sacrosanct rulings -- including Brown v. Board of Education and one man, one vote -- were badly reasoned, based not on the Constitution, but on the egalitarian visions of individual justices. A moderate to liberal Democrat, Bickel wrote that no matter how noble the result, this unelected branch was threatening democracy.

Bickel's views ignited profound unease and even fury in intellectual circles, where the Warren Court was seen as having protected individual rights from being trampled by the majority. Yale activists burned Bickel in effigy in 1969.

For Alito, however, discovering Bickel proved a seminal moment. He would write later that he had objected even as a young man to the Warren Court's rulings, particularly on reapportionment, criminal procedure and public school prayer. Bickel specifically critiqued these decisions, arguing that legislatures, not courts, should execute complex social changes, even if they came more slowly. His vision meshed with Alito's desire for orderly change.

His senior year, Alito crossed paths again with his old debating rival, Jeffrey Laurenti, then a graduate student at Princeton. From similar beginnings as Italian American Catholics raised with moral certainty and respect for authority, they had taken different roads. Laurenti had turned against the Vietnam War and the president. "The scales were falling slowly from my eyes. I was groping," he said. "I don't know that Sam was."

Alito was delving into the history and workings of the Supreme Court. Charles A. Miller, then a Princeton assistant professor of constitutional law, said Alito so loved reading Supreme Court opinions that he persuaded the teacher to completely revise the syllabus of one seminar so that he could take it again.

Alito wrote his research paper for Miller on Justice Oliver Wendell Holmes, who once famously had summed up his philosophy of judicial restraint: "If my fellow citizens want to go to hell, I will help them. It's my job."

Miller was amazed by the college senior's ability "to embrace historical, philosophical and political material and modes of reasoning," according to the 1972 law school recommendation he wrote. "The logic and precision that Mr. Alito uses in both oral and written presentation is almost palpable. None of it is aggressive, indeed sometimes it is self-effacing," Miller wrote, using adjectives Alito's admirers use today.

"It's easy to say I'm prescient," said Miller, now retired, "but I think what's more true is this guy is very consistent."The Calling of the Law

Yale Law School in 1972 was a temple of legal liberalism, and Alito soon began to feel that some professors were giving him an incomplete view of the law. He would later tell his friend Kmiec that he turned to reading extensively on his own.

"There was this note of regret in his voice that very few of them [professors] seemed to be saying things that he could readily agree with," said Kmiec, now a professor at Pepperdine University Law School.

Bickel soon became gravely ill, unable to teach. His devoted friend on the faculty, Robert H. Bork, was carrying the conservative torch, arguing that the only principled way to interpret the Constitution was to stick to the precise words of the Framers and what they meant at that time.

Bork taught that there was no constitutional basis for rights to privacy, abortion, or one man, one vote, and he criticized court-ordered busing to achieve school desegregation as judicial meddling. Classmates do not recall Alito's reaction to Roe v. Wade in 1973, but he would later write that the decision had no basis in the Constitution. Alito's mother has told reporters that he personally opposes abortion; Alito has not commented on his personal views.

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Bork said in an interview that he remembers only one student -- John R. Bolton, now the U.S. ambassador to the United Nations -- who then expressed conservative views openly. "The rest of them kept their heads down," Bork said.

Alito's Yale roommate and Princeton classmate Mark Dwyer said his friend had hoped to have Bork for constitutional law, but ended up with Charles Reich, author of an unofficial bible of the protest movement, "The Greening of America."

Alito applied to be a Supreme Court clerk after law school. But, said his wife, Martha, "it was not to be at that time in his life." Instead, he went home to New Jersey to clerk for Appeals Court Judge Leonard I. Garth in Newark, a 3rd Circuit judicial craftsman in the mold of Alito's hero, Justice Harlan.

In contrast to his intellectual estrangement from Yale, Alito found in Garth a sort of father in the law. Former clerks describe him as a judge who asks himself before deciding any case whether an elected branch of government could resolve it instead.

"Judge Garth and Sam had the same philosophy, and they spoke the same language," said Kenneth Prochnow, Alito's co-clerk in 1976 and 1977.

There was another link. Alito's father had testified before Garth as a demographic expert in a 1972 New Jersey reapportionment case. "It was an extraordinary circumstance because rarely do you remember witnesses," Garth said. "But I was terribly impressed with him. I told Sam about it, and I think he was justifiably proud."

Garth, who once rated Alito 16 1/2 out of 10 as a clerk, said they used to buy a bag of peanuts and "take long walks in Newark, just the two of us, hashing out cases."

Alito was back in an orderly world after seven years in liberal cauldrons. He moved home with his parents and assumed the role of lector, or reader, at Sunday Mass at Our Lady of Sorrows.

Prochnow remembers his surprise when he realized after the 1976 presidential election that his co-clerk was a Republican. "Sam was disappointed that Jimmy Carter won," Prochnow said. "That was very strange for me, because in the environment I'd been in since 1968, I don't think I'd met any Republicans," he said, referring to his time at Columbia University and New York University Law School. "I can only imagine what it was like for Sam to have developed and held his philosophy, which must have been a minority and unpopular position, in the environments he'd been in."

Comfortable in the monastic, intellectual world of appeals -- a more solitary and research-oriented practice than the free-for-all of trial work -- Alito went to work after his clerkship in the appellate section of the U.S. attorney's office in Newark. His skills quickly made him the go-to lawyer on the most sensitive cases. One involved a top-secret exchange of two convicted Russian spies for five Russian dissidents. The intricacies kept him in the library for days, plumbing law books, as well as a Russian dictionary.

Near the end of the process, another staffer breezed by him in the library stacks, calling out offhandedly, "Hey, Sam, I heard you learned Russian over the weekend."

Martha Bomgardner, a young librarian in the U.S. attorney's office, overheard his quiet and upright-sounding answer: "I don't think that's something to talk about."

"Oh, this is a smart one," she thought.

She told friends she would marry him by the following April. But he was uncommonly shy, and despite multiple daily trips to the library, did not ask her out for 13 months. "He is judicious," she said recently with a laugh.

They had dated about a year when he got an offer from the U.S. solicitor general. The office is arguably the most respected law firm in the country, representing the U.S. government before the Supreme Court. Alito left for Washington in August 1981. "I thought that would be the end," Bomgardner said.

Four years later, Martha Bomgardner would become Martha Alito and Samuel Alito Jr. would be on a very different course.

Research editor Lucy Shackelford and researcher Madonna Lebling contributed to this report.

Alito's Challenge (WP)

By David S. Broder

The Washington Post, January 8, 2006

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The two names uppermost on the minds of official Washington at this moment represent polar extremes of reputation. Disgraced lobbyist Jack Abramoff is an admitted felon and a certified sleaze. Supreme Court nominee Judge Samuel Alito is an upright, ethical and highly respected jurist, as modest in his habits as Abramoff is flamboyant.

Abramoff's operations have been thoroughly exposed by the reporting of my colleagues at The Post and in the plea agreements he signed with federal prosecutors, sending tremors of anxiety through the ranks of congressional Republicans and a few Democrats as well.

Alito's work, as a member of the Philadelphia-based U.S. Court of Appeals for the 3rd Circuit, will become much more familiar to the nation when the Senate Judiciary Committee holds its hearings this week on his nomination to succeed Justice Sandra Day O'Connor.

The question that confronts the senators is whether Alito has an agenda that is every bit as well-defined as that for which the Indian tribes and others hired Abramoff -- but vastly larger in significance.

The goals for which Abramoff connived were petty -- a gambling license here, a contract there. The issues with which Alito has wrestled in his 15 years on the federal bench are much more consequential: the relationship between individuals and the state, the regulatory authority of the federal government, the balance of power between the president and Congress, the protection of civil rights.

On all these issues, Alito has compiled a record that can be read -- and is read by many legal scholars -- as reflecting a consistent and reasoned preference for governmental authority, especially presidential power, and a restrictive view of individual rights.

University of Chicago law professor Cass Sunstein, for example, concluded a study of Alito's dissents with the observation that "there is a good chance that Alito will be with Justices [Antonin] Scalia and [Clarence] Thomas in their attempts to move constitutional law in some respects to what it was a long time ago."

If that reading is correct, then the confirmation of Alito as O'Connor's successor would shift the current Supreme Court balance decisively to the right.

For senators who share President Bush's often-expressed desire to see that happen, the confirmation of Alito presents no conflict. Moreover, his "highly qualified" rating from the American Bar Association underlines the near-universal belief that his intellect and temperament commend him for the bench.

But others face a harder task in weighing the Alito nomination. They may well ask: At a time when the administration is asserting a broad right to conduct warrantless wiretaps of Americans' phone calls, do we really need a Supreme Court that takes an expansionist view of presidential authority? In an era of corporate corruption, do we want to restrict consumers' and workers' ability to turn to the courts for help?

But the evidence on Alito's motivations is not one-sided. At the suggestion of White House allies, I spoke with two of his former colleagues who presented compelling personal testimony that he is not a man driven by a personal or ideological agenda.

Robert Del Tufo was the Jimmy Carter-appointed U.S. attorney in New Jersey who employed Alito in the 1970s to handle difficult appellate cases. "There is no ideological bent that I can perceive," he told me. "He is a balanced human being with great sensitivity for human values and a scholar who analyzes the law and always stays with it."

Susan Sullivan of San Francisco clerked for Alito during the year he wrote his controversial Casey opinion, upholding portions of a Pennsylvania statute restricting abortion, a decision later overturned by the Supreme Court. Sullivan, who describes herself as "a social progressive who is pro-choice and anti-death penalty," says, "In general I would react with suspicion to any nominee of this administration. But having worked with him, I know he does not work toward a specific result. He is not intent on advancing his own agenda. He approaches cases in a very impartial way."

When John Roberts came before the Judiciary Committee for confirmation as chief justice, with barely more than two years of judicial opinions behind him, he was thoroughly believable in disclaiming any particular agenda. All Republicans and half the Democrats saw him, as I did, as an embodiment of judicial impartiality.

Maybe Alito can establish a similar claim for himself in these hearings. But he has a lot of convincing to do.

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Alito's Moment (LAT)

By Edward Lazarus

The Los Angeles Times, January 8, 2006

SUPREME COURT nominations are as old as the republic, but the modern history of the battles over court appointments begins in 1987. That's when the Senate rejected Robert H. Bork, the conservative appellate judge who President Reagan nominated to replace Justice Lewis F. Powell Jr., the swing-voting centrist on what was then, as now, a closely divided court.

Nominees had failed to win Senate approval before Bork. The Senate turned down Clement Haynsworth in 1969 and G. Harold Carswell a year later, President Nixon's first two choices to replace Justice Abe Fortas.

Nor was Bork's nomination unprecedented in the dramatic political shift it portended if he had been confirmed. In 1962, President Kennedy's choice of liberal Arthur J. Goldberg to replace conservative Felix Frankfurter moved an already fairly progressive Warren court significantly to the left, clearing the way for a civil rights and civil liberties revolution.

Still, the Bork hearings were the first in which political-interest groups, recognizing the huge importance of controlling the federal judiciary, defeated a potentially court-altering nominee by using campaign-style tactics to turn the confirmation proceedings into a popularity contest and a national referendum on the Constitution's meaning.

Bork never knew what hit him. He lost because Senate Democrats successfully cast him as an arrogant hyper-intellectual who espoused a judicial philosophy — in particular, his rejection of a constitutional "right to privacy" — out of tune with mainstream America. Every Supreme Court nomination since reflects the lessons that each side drew from the experience.

This was especially true in the fight, one-sided as it was, over John G. Roberts Jr.'s nomination to replace William H. Rehnquist as chief justice. Some Senate Democrats and liberal interest groups tried mightily to reprise the 1987 strategy and portray Roberts as an out-of-the-mainstream, anti-privacy ideologue. But Republicans were ready with an effective counterstrategy that quickly quelled any nascent opposition.

Indeed, Roberts, by design, was the archetypical "reverse Bork" — a congenial, telegenic nominee with an impressive pedigree but as slim a track record as feasible on hot-button issues. And he arrived at his confirmation hearings armed with a reverse-Bork strategy:

• Ameliorate past criticisms of popular liberal precedents, especially Roe vs. Wade, by emphasizing respect for precedent;

• neutralize previous expressions of personal opinion on controversial issues by drawing a bright line between personal beliefs and judicial philosophy;

• avoid an ideological battle by declining to answer problematic questions on grounds that the issues raised might be the subject of future cases;

• and mount a public-relations campaign of your own.

With Samuel A. Alito Jr.'s confirmation hearings Monday, it remains unclear whether either side has made significant strategic adjustments based on Roberts' experience.

The administration has stuck with the winning Roberts playbook, albeit this time with a nominee who, thanks to 15 years on the federal bench, has a more extensive track record. For instance, Alito's handlers have tried to overcome the nominee's deeply felt and repeated hostility toward Roe vs. Wade by emphasizing his reverence for precedent and modest conception of the judicial role.

More generally, they've attempted to downplay his record as a sometimes hard-edged conservative on such issues as race and gender discrimination, states' rights and the separation of church and state by casting Alito as congenial, open-minded and keenly aware of the need to divorce personal beliefs from legal interpretations. No doubt Alito will seek to exhibit these qualities when refusing, as did Roberts, to answer problematic questions.

Senate Democrats have not revealed any new strategies after completely failing to force Roberts to elaborate on his judicial ideology or otherwise penetrate the nominee's carefully crafted and beautifully delivered responses. They certainly have more to work with this time.

Early in his career, Alito did not hide his sometimes radical legal views, including hostility toward the now universally accepted one-person/one-vote standard for voting apportionment. He wrote several judicial decisions that are easily caricatured,

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such as a dissent supporting the legality of a strip-search of a 10-year-old girl and another arguing that Congress does not have authority under the "commerce clause" to restrict the transfer and possession of machine guns.

And no one expects Alito to be as effective testifying as Roberts was.

But to defeat Alito, Senate Democrats will need more than a clutch of 20-year-old policy memos and unsettling judicial opinions. They will have to portray Alito as a genuine threat to some core American value — and not merely to the right to privacy, on which all the moves and countermoves are already choreographed.

President Bush's decision to engage in warrantless wiretapping of Americans in apparent violation of the statute regulating spying for national-security purposes raises a constitutional issue of staggering importance. In undertaking this program — and other policies on the use of torture, detention and the designation of enemy combatants — in its prosecution of the war on terror, the administration asserts an inherent constitutional authority to commit acts that Congress has explicitly deemed criminal.

The question of whether the president is, to put it bluntly, above ordinary law whenever he invokes his constitutional authority as commander in chief will have to be decided by the Supreme Court. Whether it will transform the political landscape remains unclear. But it may be the only issue on which Alito is truly vulnerable. He is on record supporting a very broad view of presidential authority and, as a judge, has shown great deference to the acts of executive branch officials, including advocating legal immunity for the attorney general against lawsuits charging him with illegal wiretapping.

Alito will resist questions on these matters on grounds that presidential authority will be the subject of cases on which he would sit.

But the president's power to flout the will of Congress in secret, and solely on his say-so, should be an issue of transcendent importance. If Senate Democrats pursue it, Alito may face the prospect of separating himself from the president who nominated him or risk a filibuster.

Judging Samuel Alito (NYT)

The New York Times, January 8, 2006

Judicial nominations are not always motivated by ideology, but the nomination of Judge Samuel Alito certainly was. President Bush's previous choice to fill Justice Sandra Day O'Connor's seat on the Supreme Court, Harriet Miers, was hounded into withdrawing by the far right, primarily because she appeared to hold moderate views on a variety of legal issues. President Bush placated Ms. Miers's conservative critics by nominating Judge Alito, who has long been one of their favorites.

Judge Alito's confirmation hearings begin tomorrow. He may be able to use them to reassure the Senate that he will be respectful of rights that Americans cherish, but he has a lengthy and often troubling record he will have to explain away. As a government lawyer, he worked to overturn Roe v. Wade. He has disturbing beliefs on presidential power - a critical issue for the country right now. He has worked to sharply curtail Congress's power to pass laws and protect Americans. He may not even believe in "one person one vote."

The White House has tried to create an air of inevitability around Judge Alito's confirmation. But the public is skeptical. In a new Harris poll, just 34 percent of those surveyed said they thought he should be confirmed, while 31 percent said he should not, and 34 percent were unsure. Nearly 70 percent said they would oppose Judge Alito's nomination if they thought he would vote to make abortion illegal - which it appears he might well do.

If President Bush had chosen a pragmatic, mainstream conservative like Justice O'Connor to fill the seat, these confirmation hearings would be a breeze. But now, the Senate has a duty to delve into the many areas in which Judge Alito's record suggests he is an extremist, including:

ABORTION Judge Alito has not only opposed Roe v. Wade, he has also worked to overturn it. When he applied for a promotion in the Reagan administration in 1985, he wrote that he was "particularly proud" of his legal arguments "that the Constitution does not protect a right to an abortion." In meetings with senators, Judge Alito has talked about his respect for Roe, but he has said nothing to discourage his supporters on the religious right who back him because they believe he will vote to overturn it. The American people have a right to know, unambiguously, where Judge Alito stands on Roe.

PRESIDENTIAL POWER The continuing domestic wiretapping scandal shows that the Bush administration has a dangerous view of its own powers, and the Supreme Court is the most important check on such excesses. But Judge Alito has

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some disturbing views about handing the president even more power. He has argued that courts interpreting statutes should consider the president's intent when he signed the law to be just as important as Congress's intent in writing and passing the law. It is a radical suggestion that indicates he has an imperial view of presidential power.

CONGRESSIONAL POWER While Judge Alito seems intent on expanding the president's power, he has called for sharply reducing the power of Congress. In United States v. Rybar, he wrote a now-infamous dissent arguing that Congress exceeded its power in passing a law that banned machine guns. As a Reagan administration lawyer, he argued that Congress did not have the power to pass the Truth in Mileage Act to protect consumers from odometer fraud.

ONE PERSON ONE VOTE Judge Alito said in his 1985 application that he had become interested in constitutional law as a student partly because of his opposition to the Warren court's reapportionment rulings, which created the "one person one vote" standard. He seems to still have believed as a 35-year-old lawyer that these cases, which made legislative districts much more fair, came out the wrong way. •

There are other areas - including civil rights, sex discrimination, the environment and criminal law - where Judge Alito's record appears extreme. The Senate should question him closely on all of them.

The Senate should also explore Judge Alito's honesty. According to a senator he met with, he tried to dismiss his statement about the Constitution's not protecting abortion as merely part of a job application, which suggests he will bend the truth when it suits his purposes. Judge Alito has said he does not recall being in an ultraconservative group called Concerned Alumni of Princeton, which opposed co-education and affirmative action. That is odd, since he boasted of his membership in that same 1985 job application. The tortuous history of his promise to Congress to recuse himself in cases involving the Vanguard companies, which he ultimately failed to do, should also be explored.

Judge Alito's nomination is often presented as an abortion rights showdown, but it is much more than that. Those who care about the broad range of rights and liberties that Americans now have, and about honesty in government, should tune into the hearings starting tomorrow - and call their senators with their reactions to what they hear.

Our Legal Guardians (LAT)

By Cass R. Sunstein

The Los Angeles Times, January 8, 2006

THE QUESTION underpinning all others at Supreme Court nominee Samuel A. Alito Jr.'s confirmation hearings Monday involves the role of the court in our society. Should it be "active" or "passive"? Should it defer to the president or to Congress?

Although such questions can be rephrased in many ways, the answer to them all should be straightforward: The Supreme Court's most important function is to vindicate the law and, in that way, to commit the United States to the rule of law, rather than of individual human beings. That means holding government — legislative and executive — accountable. This role matters in ordinary times, but it is crucial when the political pressure on the court is most intense. Consider:

• One of the nation's greatest presidents, Abraham Lincoln, suspended the writ of habeas corpus in the midst of the Civil War. The nation's chief justice, Roger B. Taney, invalidated the suspension on grounds that only Congress could do that.

• During the Depression, another great president, Franklin D. Roosevelt, fired a member of the Federal Trade Commission. The Supreme Court ruled that Roosevelt acted illegally and in violation of Congress' will.

• During the Korean War, President Truman seized the country's steel mills on grounds that the war effort would be jeopardized if the steel industry went on strike. The top court struck down Truman's action, ruling that the president needed Congress' authorization and that even the president must obey the law.

• In 2004, the court rejected President Bush's claim that in the war on terror, enemy combatants may be detained without a hearing. Carefully holding the president to the Constitution's requirements, it said that the founding document "most assuredly envisions a role for all three branches when individual liberties are at stake."

In protecting the rule of law, the Supreme Court's mere existence is every bit as important as its rulings. Government officials at all levels know the court might hold them to account if they discriminate on the basis of race, sex or religion, or violate the nation's environmental laws, or implement policies that infringe on free speech or the right to private property.

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It is important to recognize that many of the court's most important decisions involve ordinary law, not the Constitution (except indirectly). During the Cold War, the court ruled that the secretary of State could not deny a passport to a communist because Congress had not granted the secretary the power to deny a passport on political grounds. More recently, it unanimously endorsed a broad reading of the Clean Air Act that required pollution controls that some members of the Bush administration didn't like. In areas involving consumer protection, energy policy, national security, animal welfare, automobile safety, telecommunications and much more, the Supreme Court greatly increases the likelihood that government will obey the law.

In all this, the court performs an indispensable democratic function simply because the law has been enacted by the people's representatives. But when it is working well, the court does much more to promote democracy. Most important, it safeguards freedom of speech and the right to vote, thus protecting what could be called the internal morality of democracy. A well-functioning system of self-government does not simply follow the majority's desires. At a minimum, it also immunizes political dissent and ensures the right of citizens to select their representatives.

To say this is not to say that the court has always performed its role well. In two different ways, it can sometimes badly serve the nation. The first — and the worse — is by striking down the decisions of the elected branches of government through judgments that reflect the justices' own views on public policy. The second is to capitulate to political will and allow the elected branches to violate the law.

In 1857, the court ruled, wrongly, that the Constitution entrenched slavery and thus banned freeing slaves in the Louisiana Territory. In the early decades of the 20th century, it held, wrongly, that the Constitution bans minimum-wage laws, maximum-hour laws and other government efforts to assist workers. The question of reproductive choice is much more controversial. But many people believe, not implausibly, that the court also was wrong to protect the right to choose abortion.

Since 1995, the Supreme Court has struck down more than 30 acts of Congress, including provisions of the Violence Against Women Act, the Americans with Disabilities Act and the Age Discrimination in Employment Act. In taking these stands and in striking down affirmative action programs and campaign finance regulation, the court has probably exceeded its proper bounds.

Nor is it difficult to find cases in which the court did not take the Constitution seriously enough. In 1896, it ruled that the Constitution permits racial segregation. In 1944, it allowed Japanese Americans on the West Coast to be placed in internment camps. Many people believe, not implausibly, that the court was wrong to uphold a Georgia law banning same-sex sodomy in 1986 — and that the court was right to overrule that ruling in 2003.

But more often than not, the court's independent role has served U.S. government exceedingly well.

The more important point is far broader. The rule of law cannot maintain itself on the goodwill of officials, even those who are democratically elected and accountable to the public. The rule of law is an immense but fragile achievement. In our system, the Supreme Court's most crucial role is to protect that achievement.

DeLay Ends Bid To Regain Post As GOP Leader (WP)

By Jonathan Weisman

The Washington Post, January 8, 2006

Rep. Tom DeLay (Tex.), one of the most powerful and feared Republican leaders in Washington, abandoned his quest to regain his House majority leader post yesterday, bowing to pressure from fellow Republicans worried about the growing corruption and campaign finance scandals linked to his office.

DeLay's announcement in his home town of Sugar Land ends his decade-long tenure as a legislative juggernaut and conservative ideologue who revolutionized the relationship between power and money in Washington. It also cleared the way for a leadership contest that could further shake up the House GOP team going into an uncertain election year. House Speaker J. Dennis Hastert (Ill.) said Republicans will choose a new majority leader and other officers the week of Jan. 30, when members return for President Bush's State of the Union address.

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House Majority Whip Roy Blunt (Mo.), who has served as acting majority leader since September, when DeLay was forced to step down after his indictment on campaign finance charges, will ask his colleagues to make his post permanent. Sources close to House Education and the Workforce Committee Chairman John A. Boehner (Ohio) confirmed he will challenge Blunt.

But dark horse candidates are likely to emerge, including the ideological conservative Rep. Mike Pence (Ind.) and veteran House Appropriations Committee Chairman Jerry Lewis (Calif.).

"There has been this desperate plea for someone to take charge," said Charles Cook, an independent political analyst. Republicans "are looking for some leadership, someone that has some sense of what they ought to be doing."

DeLay, 58, who served as House majority whip for eight years before becoming majority leader in late 2002, had resolved to return to the leadership since he was indicted by a Texas grand jury on charges of money laundering and conspiracy linked to his efforts to finance state political campaigns. DeLay contended the indictments were a political vendetta by the Democratic Travis County prosecutor, Ronnie Earle, and until recently most Republicans supported that view.

But last week's guilty pleas by Republican lobbyist and DeLay ally Jack Abramoff dramatically changed the political climate, according to many lawmakers and political experts. A source close to the Republican leadership said DeLay was counseled by senior Republicans, including House Rules Committee Chairman David Dreier (Calif.), but that DeLay ultimately made the decision, calling Hastert yesterday morning.

"I am writing to inform you of my decision to permanently step aside as majority leader, and of my belief that the best interests of the conference would be served by the election of a new leader as soon as possible," DeLay wrote in a letter to Hastert. "The job of majority leader and the mandate of the Republican majority are too important to be hamstrung, even for a few months, by personal distractions."

He vowed to reclaim his seat on the Appropriations Committee and to run for reelection in what appears to be a difficult race against a former House member, Democrat Nick Lampson, and possibly a primary challenger in former representative Steve Stockman.

In a second letter to his colleagues calling for a leadership election, DeLay said, "During my time in Congress, I have always acted in an ethical manner within the rules of our body and the laws of our land. I am fully confident time will bear this out. However, we live in serious times and the United States House of Representatives must be focused on the job of protecting our nation and meeting the daily challenges facing the American people. History has proven that when House Republicans are united and focused, success follows."

DeLay has maintained he has nothing to fear from the Abramoff corruption and bribery inquiry. But federal investigators signaled they are inching closer to his office when, on Tuesday, they highlighted the activities of his former deputy chief of staff, Tony C. Rudy, in Abramoff's plea agreement.

Although DeLay's hard-edged political style and tactics frequently drew complaints over the years, his political and legal problems first began to emerge in 2004. At that time, he was admonished by the House ethics committee for holding a social event with energy industry officials as the House was considering an energy bill and for enlisting the Federal Aviation Administration to track down Texas Democratic lawmakers fleeing the state to avoid a vote on a congressional redistricting bill DeLay helped draft.

DeLay's court fight in Texas, which he had hoped would be quickly resolved, has been dragging on, complicating any return to the GOP leadership, but it was Abramoff's plea agreement with prosecutors that ultimately forced DeLay's downfall.

"DeLay is the first political casualty of Abramoff affair," said Republican political strategist Rich Galen. "I don't think there's any question about that."

DeLay's departure deprives House Republicans of their strongest leader and an unparalleled political tactician, said Stuart Rothenberg, a congressional expert. Since he stepped down in late September, the party has had a series of high-profile embarrassments in failing to pass legislation. Republican moderates split with conservatives on the key issues of immigration, social policy and spending. The ensuing sense of drift, as much as the scandals, fueled a rank-and-file desire for change, Cook said.

"Republicans never drifted aimlessly while Tom DeLay was in charge, and the last three months have just been a horror show," Cook said.

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DeLay's decision also deprives Democrats of the political villain they have been cultivating since the departure of House Speaker Newt Gingrich (R-Ga.) in 1998, Cook and Rothenberg said. Democrats will try to keep the public focused on DeLay, Rothenberg said, and yesterday they did just that, giving the departing leader an unfriendly farewell.

"For years, at the expense of the American people, the House Republicans have enabled and benefited from the Republican culture of corruption engineered by Tom DeLay," said House Minority Leader Nancy Pelosi (D-Calif.). "The culture of corruption is so pervasive in the Republican conference that a single person stepping down is not nearly enough to clean up the Republican Congress."

Just how anxious Republicans are to avoid such charges could determine the next leadership team, political analysts said. Blunt enters the race as the favorite, with the current chief deputy whip, Rep. Eric I. Cantor (Va.), expected to take over as House majority whip. But some members question Blunt's effectiveness in passing legislation, while some conservatives doubt his commitment to a strong GOP policy agenda, House members and GOP strategists said. If members think that the departure of DeLay from the scene is not enough to satisfy voters that the party is taking the scandals seriously enough, then Blunt's bid to become leader might be threatened.

The other likely candidate, Boehner, is a former member of the House leadership with close ties to Washington's lobbying community and may have difficulty picking up the banner of reform, Rothenberg said.

That could give an opening to a dark horse, perhaps Pence, the chairman of the conservative Republican Study Committee, or Rep. John Shadegg (Ariz.), another conservative seen by many as a more collegial candidate than Pence.

"Congressman Shadegg has been approached by a number of members, including both conservatives and moderates, who have encouraged him to consider seeking this position," Shadegg spokesman Michael Steel said of the majority leader's post. "He is, of course, honored and flattered. However, there are a lot factors involved. There are others who are interested in the position, some of whom may already have substantial support. He is seeking further input from his colleagues in the conference, and has not made any decision."

Rep. Mike Rogers (R-Mich.) may have signaled his bid for a leadership post when he issued a statement on DeLay's departure before anyone else, GOP political strategists said. Rogers, formerly an FBI agent who focused on public corruption, would be attractive to members looking for a new image.

"It all depends on how frightened the members are, how much of a statement they need to make that they're shaking up their leadership and embracing a statement of change and reform," Rothenberg said.

DeLay Ends Leadership Fight (DMN)

By Todd J. Gillman

The Dallas Morning News, January 8, 2006

WASHINGTON – Unable to shake his legal troubles and with colleagues in open revolt over a widening corruption scandal, Rep. Tom DeLay gave up his claim Saturday to the powerful job of House majority leader.

FILE Tom DeLay

Mr. DeLay had been forced to temporarily step aside in September after his indictment on state money laundering and campaign finance charges, but he defiantly hung on until events spun beyond his control. Jack Abramoff, a lobbyist he once called a close friend, cut a deal last week to tell the FBI everything he knows about bribery in Congress. And Friday, dozens of GOP House members mounted a revolt by demanding elections to replace Mr. DeLay permanently.

"The job of majority leader is too important to be hamstrung by personal distractions," Mr. DeLay told supporters at a hastily called event Saturday afternoon at Sugar Land City Hall, with his wife, Christine, at his side. "In the 21 years I have been in Congress, I have always acted in an ethical manner within the rules of the House and the laws of our land, and time once again will bear out that truth."

He vowed to continue to seek re-election to his Houston-area district despite the lobbying scandal and his impending state trial.

The decision will mean a scramble among House Republicans, who will choose a successor Jan. 31 when they return to work. But analysts and Democrats said it won't let the party off the hook.

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"It takes a little of bit of the taint of scandal away from the Republicans ... but we'll see who gets caught up in Abramoff's web," said James Thurber, director of the Center for Congressional and Presidential Studies at American University.

The Fallout

Rep. Tom DeLay has decided he won't try to reclaim his job as majority leader of the House. The following are some of the things that could affect.

His re-election campaign: Mr. DeLay says he'll seek a 12th term from his Houston-area district. Three Republicans have filed to run against him in the March 7 primary, and they've made ethics a central theme. So has Democrat Nick Lampson, a former congressman who lost his Beaumont-based seat after redistricting and will run for Mr. DeLay's seat. Former GOP Rep. Steve Stockman said last week that he'll run as an independent, and if he makes it onto the November ballot, he could siphon conservative support from Mr. DeLay, who won with just 55 percent in 2004 against an unknown Democrat. Because Mr. DeLay is no longer majority leader, it's unclear how much money will pour into the race on either side.

His criminal charges: The decision is unlikely to affect the charges he faces in Travis County. Mr. DeLay's attorneys had wanted a quick trial to clear the way for him to return as majority leader.

Republicans: Mr. DeLay's decision may help House Republicans, who've benefited from his tactical and fundraising prowess but have also seen their popularity plummet nationally amid headline-making scandals in which he often had a role.

Democrats: They no longer can target Mr. DeLay as a top Republican leader, but his troubles still give them ammo for the midterm elections.

Texas: The Lone Star State loses some congressional clout, but it still has President Bush and plenty of other Texans throughout the administration.

From staff and wire reports

Democrats were hardly willing to accept the news and move on.

"For years, at the expense of the American people, the House Republicans have enabled and benefited from the Republican culture of corruption engineered by Tom DeLay. ... A single person stepping down is not nearly enough to clean up the Republican Congress," said House Democratic leader Nancy Pelosi.

Abramoff's shadow

When Mr. Abramoff's ex-partner, former DeLay aide Michael Scanlon, agreed a few weeks ago to cooperate with prosecutors, the pressure began to grow exponentially. Lawmakers focused on the likelihood that Mr. Abramoff would seek a plea deal and cooperate with investigators, which he did. Tuesday, he pleaded guilty to fraud, bribery of another House member and tax evasion.

Mr. Abramoff provided lavish overseas trips and a great deal of campaign cash to Mr. DeLay, and federal authorities are reportedly looking at the ties between the lobbyist and Mr. DeLay, other lawmakers and congressional aides.

"When you get photographs of Abramoff coming out of court, it just drives home to members how immediate the threat is," said Stuart Rothenberg, publisher of the nonpartisan Rothenberg Political Report , calling Mr. DeLay's decision "an attempt obviously to remove him as a major issue from the midterm elections."

A host of Republicans issued laudatory statements, but few had tried to talk him out of quitting.

Speaker Dennis Hastert had prolonged Mr. DeLay's survival for months, tamping down demands for an election to replace him permanently after his indictment Sept. 28 and scheduling an unusually long six-week winter recess to give Mr. DeLay time to fight the Travis County money laundering charges.

No details have emerged about whether Mr. Hastert eventually urged Mr. DeLay to quit. But when a coalition of moderates and some conservatives began circulating a petition Friday to force a leadership election when the House returns to work Jan. 31, the speaker made no effort to discourage them.

"I respect Congressman Tom DeLay's judgment to step down as majority leader of the House of Representatives. It is an honorable decision and the right decision for the House Republican Conference," Mr. Hastert said Saturday.

Wielding clout

Mr. DeLay has been admonished by the House ethics committee three times for ethical lapses.

DallasNews.com/extra

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Letter: DeLay to Speaker Hastert

Timeline: DeLay's career in Congress

Who's next?

Video: Tom DeLay addresses questions of ethics surrounding his staff

In 2004, he drew two admonishments, for appearing to provide "special access" to a Kansas utility firm in exchange for a $25,000 political contribution and for offering to help the candidacy of Michigan lawmaker's son if the lawmaker provided a crucial vote on Medicare.

In 1999, the panel chastised Mr. DeLay for threatening a major trade group that hired a former Democratic congressman as its top executive.

For DeLay watchers, it was all part of the lawmaker's push-the-envelope style.

As majority leader for just over three years, Mr. DeLay became more powerful in the view of many historians than any predecessor since Texan Sam Rayburn in the 1930s, or perhaps Joseph Cannon in the early 1900s. Both became House speakers.

But Mr. DeLay was always too hot for that post, too in-your-face and in the modern age, not quite telegenic enough. He rarely made himself available for the Sunday talk show circuit, though he excelled as a strategist.

His signal institutional effect was in transforming the balance of power within the House. Committee chairmen now face term limits and owe their jobs to a handful of party leaders. The close alliance he forged with K Street – the army of well-paid lobbyists, many of them former lawmakers and aides – allowed him to steer money toward favored candidates, maintaining the GOP majority and ensuring personal loyalty.

"He was stronger than Jim Wright, stronger than Tip O'Neill, stronger than others," Dr. Thurber said. "He couldn't be speaker, but he became a very influential figure. And controversial. ... That is ultimately his downfall."

One colleague who joined Mr. DeLay at his announcement Saturday, Rep. Kevin Brady, R-The Woodlands, called Mr. DeLay "a force of nature" and said he will "remain a true conservative leader," though "Texas will miss his influence as majority leader."

Redrawing the lines

Mr. DeLay also orchestrated the mid-decade redrawing of the Texas political landscape.

Redistricting flipped six House districts from Democrats to Republicans, bolstering the GOP's slim majority but touching off legal fights on many fronts. Redistricting required the skills of a chessmaster or a Napoleon – selling donors on an untested stratagem, electing enough new Republicans to the Texas Legislature, pressuring a reluctant governor and lieutenant governor to take on the issue, and ultimately winning.

But the tactics drew the attention of Travis County District Attorney Ronnie Earle, a Democrat, and Mr. DeLay and several aides face felony charges stemming from their efforts. Mr. DeLay has denied the charges.

"He was his own worst enemy," Dr. Thurber said. "His arrogance with respect to his power and the power of the money he was bringing in for the campaigns to helped people and hurt people – I think he lost sight of sound judgment."

Before his days as a politician, Mr. DeLay owned a pest exterminating business. The red tape and taxes drove him to distraction, he has said, and he ended up running for the Texas House, where he made friends easily with colleagues in both parties, and acquired the nickname "Hot Tub Tom." Along the way he realized he was neglecting his family and partying too much. He went to Congress 21 years ago, taking on a far more partisan edge and moving up GOP ranks quickly.

Newt Gingrich led the GOP takeover in 1994 and became speaker. Mr. DeLay ran for the No. 3 job, majority whip. Mr. Hastert ran Mr. DeLay's campaign and became his chief deputy.

Over the next eight years as whip, Mr. DeLay collected and exercised growing clout through a network of more than 60 deputy and assistant whips. During late-night sessions, he served meals to members, and he lent his office for hundreds of meetings. No one catered to the rank and file better, and no one had a better sense of their needs, moods and pressure points.

He took on a new nickname, "The Hammer," because those who crossed him learned to regret it. Moderates were passed over for chairmanships. Critics lost pork-barrel projects.

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When Mr. Gingrich was forced out after electoral setbacks in 1998, the speaker's job went to Mr. DeLay's lieutenant, the affable Mr. Hastert. Naturally, Mr. DeLay was seen as the power behind the speaker.

And when Dallas-area Rep. Dick Armey retired as majority leader, the post went easily to Mr. DeLay.

AP Surrounded by supporters in Sugar Land, Rep. Tom DeLay announced his decision to abandon his bid to remain as House majority leader Saturday.

Political scientist Earl Black of Rice University in Houston called Mr. DeLay the last of a breed: the Southern Republicans who led the House since 1994, with bases in safe districts that gave them maneuvering room to push conservative causes without political risk.

"It's just an example of the ferocious nature of national politics. Any mistakes that leaders make are certainly going to be pounced on," Dr. Black said.

Many foes

Mr. DeLay certainly made enemies along the way. Democrats despised him as an unyielding and extremely effective opponent who preferred a one-vote victory on a divisive bill to a wide margin on a piece of compromise legislation.

And Mr. Gingrich never forgot that in 1997, Mr. DeLay was an active plotter in an attempt to oust the speaker. Mr. DeLay was contrite when the plot failed. But last week, after Mr. Abramoff's guilty plea, Mr. Gingrich was the most prominent Republican to call for Mr. DeLay's resignation.

"It's obvious that Gingrich played a major role in this. He disliked DeLay and was just laying in wait to even the score," said Martin Frost, a Dallas Democrat who lost his House seat after 24 years because of redistricting.

He said the combination of Mr. DeLay's legal troubles and the prospect of what Mr. Abramoff might tell prosecutors pushed Mr. DeLay past the point of survival.

But Mr. DeLay was more effective than any likely successor, and it will be hard for the party to shake off the taint he's brought.

"He held them together through intimidations and threats," Mr. Frost said. "They're going to have to do a lot more than this. The entire Republican Party is in trouble."

But Rep. John Carter, R-Round Rock, one of Mr. DeLay's staunchest defenders, said he was disappointed that "some weak sisters" in the House GOP let their worries spin out of control.

"Without any evidence, people were hanging Abramoff around his neck," Mr. Carter said. "It's a sad day for Texas to lose the majority leader, but there were a lot of people who thought he ought to leave. I'm very disappointed. He's losing this over something that, when this issue is resolved in Austin, he will be exonerated."

Rep. Michael Burgess, R-Flower Mound, called the decision "one of innumerable selfless acts on his part. ... Leadership is not merely a position but an innate quality that Tom has in spades."

1 Fix, More Problems For GOP (LAT)

By Janet Hook, Times Staff Writer

The Los Angeles Times, January 8, 2006

WASHINGTON — Rep. Tom DeLay's decision to stop battling for his former House leadership job helps remove a huge distraction from Republican efforts to recover from a stormy 2005 that put President Bush and the party on the defensive.

But DeLay's Saturday announcement that he was giving up his bid may create as many problems as it solves.

It has set off a divisive power struggle to succeed him as the House's permanent majority leader — and could spark the overthrow of other leaders.

Also, whoever is picked to succeed DeLay will be thrust into a job that, now more than ever, requires the kind of iron-fisted leadership that was the Texas Republican's trademark.

Bush's second-term priorities — overhauling Social Security and rewriting the tax code — have faltered, and Republicans are struggling to refocus on an agenda of cutting taxes, reducing federal spending and cracking down on illegal immigration. But the fate of these initiatives is cloudy.

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House Republicans had shown signs of splintering late last year, after DeLay was forced to temporarily give up his leadership post because of his indictment in Texas on money laundering charges.

"While Tom DeLay was a public-relations nightmare, he also was a strong leader, a talented vote counter, arm twister and strategist," said Charlie Cook, a Washington political analyst who publishes the nonpartisan Cook Political Report. "Since he stepped down three months ago, it's been a horror show for House Republicans."

DeLay was clearly missed by his colleagues, but he also had become damaged goods. And after former lobbyist Jack Abramoff, who had close ties to DeLay, pleaded guilty last week to corruption charges and sent many Republicans running for political cover, it became clear to some that DeLay would have to go if the GOP had any hope of changing the subject in this year's congressional campaigns.

"You don't want that kind of distraction moving forward in 2006," said Bill McInturff, a Republican pollster. Now, every Republican House member "doesn't have to go around answering the question, 'Do you think Tom DeLay should resign?' "

Instead, Republicans face another political question: How much more do they need to do — in making leadership changes and embracing legislative initiatives such as tighter rules for lobbyists — to truly distance their party from the taint of the Abramoff scandal?

Some Republicans believe an aggressive anti-corruption agenda is needed. They argue that although DeLay may no longer loom as a leadership figure, his imprint will remain on the way the party raises money and conducts legislative strategy.

Over the last decade, DeLay built powerful new connections between the party and Washington's "K Street" lobbying corridor, harnessing the finances and political support of various interest groups behind a conservative agenda. His skill in doing so gave the GOP strong fundraising advantages, but it created an atmosphere of coziness that Abramoff was able to exploit.

Some of the House's junior Republican members are saying that if the GOP wants to burnish its image with the public, perhaps fresh faces should be brought into the leadership ranks. Although House Speaker J. Dennis Hastert (R-Ill.) appeared secure in his post, other leaders might be challenged.

Rep. Thaddeus McCotter (R-Mich.) called Saturday for a "potential housecleaning" and full disclosure of GOP leaders' relationships with lobbyists.

"We have to reaffirm that the people who are in positions of leadership have the credentials, the moral credibility, to lead," he said.

Still, the Republicans initially being mentioned as contenders for majority leader have been close to DeLay and are skilled players in the political fundraising machine he established.

Rep. Roy Blunt of Missouri, the majority whip temporarily serving as majority leader, is a DeLay protege who received $8,500 in campaign contributions linked to Abramoff. Last week, he announced he would give that amount to charity.

In June 2003, the Washington Post reported that Blunt had tried to insert into legislation a provision benefiting Philip Morris USA Co. at a time when he had a close personal relationship with its lobbyist and when his son worked for the cigarette maker.

Another possible candidate for majority leader, Rep. John Boehner of Ohio, also had financial links to Abramoff.

According to the nonpartisan Center for Responsive Politics, he received $32,500 in campaign contributions from Abramoff and the lobbyist's clients — more than DeLay did.

And in the mid-1990s, Boehner was criticized by public interest groups for passing out campaign contributions from tobacco companies to lawmakers on the House floor.

If Blunt or Boehner became majority leader, it would leave them open to Democratic charges that they remain steeped in a "culture of corruption" in Washington.

"Neither [Blunt nor Boehner] presents a stark change in the leadership," said a Republican strategist who asked not to be named when discussing the two lawmakers. "There is a certain amount of sympathy for generation-skipping, for reaching outside the leadership circle entirely" in finding a successor to DeLay.

That approach, however, would risk delegating power to a lawmaker with less experience in the complex business of running the House.

The challenges of that job became clear when Blunt took over temporarily from DeLay. The House struggled to pass crucial budget bills and postponed final action on Bush's tax cut proposals.

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"There is a lot of concern about who can actually do the job," said former Rep. Vin Weber (R-Minn.), who remains in close touch with party leaders. "It has become clear that DeLay was the centerpiece holding the [House] Republican majority together. People understand they have to run the place. It's not just about PR."

Some Republicans believe that Bush might have to step into the breach and play a more aggressive role in advancing his legislative agenda.

"He may have to take a little bit more time and a little bit more involvement in getting some of the tough part of this agenda through," said Rep. Lynn Westmoreland (R-Ga.).

Whatever Republicans do in their new leadership elections, the team that emerges probably will benefit from shedding the shaky status of the temporary leadership structure that has been in place.

"It's very sad for [DeLay], but I think it's an opportunity for clarity and a sense of mission for an election year," said Mark Isakowitz, a Republican lobbyist close to House leaders.

DeLay Halts Bid To Regain House Post (BOS)

By Rick Klein

The Boston Globe, January 8, 2006

WASHINGTON -- Faced with increasing anger from his fellow Republicans, Representative Tom DeLay of Texas announced yesterday that he will no longer seek to regain his post as majority leader. The decision brought an end to the leadership career of one of the most powerful and polarizing members of Congress.

DeLay's announcement was made less than 24 hours after moderate and conservative lawmakers began circulating a petition demanding that he be permanently replaced as majority leader. That effort was launched after the indictment of Jack Abramoff, in a scandal that threatens to envelop a wide range of lawmakers.

The move sets the stage for a potentially divisive vote next month in which Republicans will choose a new majority leader, the second-ranking leadership post in the House of Representatives, as November's congressional elections approach. Within hours of DeLay's announcement, several candidates were reported to be contacting colleagues to line up support.

In a letter to his fellow Republicans, DeLay said he remains confident that he would be cleared of wrongdoing. But he said he recognized that Republicans must choose a new majority leader to move beyond the distractions that his legal woes have brought.

"The United States House of Representatives must be focused on the job of protecting our nation and meeting the daily challenges facing the American people," DeLay wrote.

"History has proven that when House Republicans are united and focused, success follows," DeLay continued. "While we wage these important battles, I cannot allow our adversaries to divide and distract our attention."

DeLay's ties to Abramoff are drawing close scrutiny, and the Texas Republican is also under indictment in an unrelated matter involving allegations of money laundering in a campaign-financing plan. Under House Republican rules, that indictment forced him to resign as majority leader on a temporary basis, but until yesterday DeLay had insisted that he would return after being cleared.

The New York Times reported on its website yesterday that prosecutors are also looking at questions of influence-peddling by a lobbying firm founded by Edwin A. Buckham, a close DeLay friend and his former chief of staff. The firm promoted the idea that it could deliver access to DeLay, and paid DeLay's wife $115,000 in consulting fees, the Times reported.

DeLay said he would continue to serve in his suburban Houston district. He will seek a 12th term this fall, in what promises to be a tough campaign against Nick Lampson, a Democrat and a former congressman.

The move robs Republicans of one of their most talented and aggressive vote-counters, as the GOP agenda has begun to stall and as President Bush and congressional leaders wrestle with sagging approval ratings.

While members pushed to oust DeLay in part out of fear about their own reelection prospects this fall, the revolt that led DeLay to step aside could send the opposite message to voters. DeLay's decision to resign on the heels of the Abramoff plea might suggest a "hint of guilt," said Julian Zelizer, a congressional historian at Boston University.

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"The dam has broken," Zelizer said. "Democrats clearly have a big opportunity to develop the theme of Republicans and the culture of corruption. This is a big blow to the Republican Party."

But rank-and-file Republicans had a different read on the political landscape. Selecting a new majority leader will allow Republicans to distance themselves from the scandals that swirled around DeLay, and to develop changes in ethics laws that would show a renewed commitment to responsible governance, said Representative Charles F. Bass, a New Hampshire Republican who has led efforts to hold new elections.

"The person who replaces Tom DeLay as permanent majority leader needs to define an agenda for the party that works, and have some specific ideas about what we need to do with ethics," Bass said.

"It's bad news for the Democrats and good news for Republicans and the integrity of the political process," added Bass.

The House speaker, J. Dennis Hastert had tried to keep the party's divisions under wraps by keeping the majority leader's post open for DeLay while he sought to weather his legal storm. After DeLay was indicted in September, Hastert orchestrated a power-sharing arrangement in which the majority whip, Roy Blunt of Missouri, took over DeLay's job temporarily, and in which other members assumed Blunt's responsibilities.

But with the 2006 elections looming, in which all 435 House seats are on the ballot, moderate Republicans grew increasingly concerned about being tarred by their association with DeLay. They teamed with a younger crop of conservative House members who have chafed at DeLay's hard-nosed leadership style and what they viewed as straying from the party's goals of fiscal discipline and high ethical standards.

The frustrations culminated in the petition drive demanding new leadership elections, launched Friday morning by Bass, a moderate, and Representative Jeff Flake of Arizona, a conservative.

Within hours, Flake and Bass had gathered more than half of the 50 signatures they needed to force a meeting to discuss new elections, and word quickly spread among GOP House members that they would gather 50 by early this week.

DeLay initially dismissed talk of a new election. His spokesman issued a statement Friday afternoon expressing DeLay's confidence that he continued to enjoy the support of a majority of House Republicans.

But any chance that DeLay might have had of hanging on seemed to evaporate by Friday evening. Mindful of the dissension within his caucus, a Hastert aide issued a statement saying that the speaker had always said he would allow members to revisit the leadership situation in early 2006.

It was not an endorsement of a new election. But the statement was an unmistakable signal that Hastert would not lend his political weight to helping his lieutenant regain the post.

"The speaker knew that a leadership election was going to happen," Flake said. "I was happy to see that Tom DeLay did the right thing, and I applaud him for it. This is the best thing for the party."

Hastert said yesterday that a new majority leader would be elected in the week of Jan. 31, when the House is scheduled to begin its 2006 session. He applauded DeLay's move.

"It is an honorable decision and the right decision for the House Republican Conference," Hastert said in a statement. "We expect that Tom will continue to help House Republicans succeed with our agenda as we move forward this year."

Democrats served notice that they still intend to use DeLay as an election issue, along with other high-profile ethics-related cases.

Representative Rahm Emanuel, chairman of the Democratic Congressional Campaign Committee, said the GOP cannot run from what he described as a philosophy' that caters to special interests.

"By forcing out Tom DeLay, Republicans have addressed a party problem, but not the institutional problem of corruption that most troubles the American people," said Emanuel, an Illinois Democrat.

"With the permanence of their special-interest philosophy, a change in the Republican cast of characters simply doesn't matter," Emanuel added in a statement.

Hastert is expected to back Blunt for majority leader, but the race could be a free-for-all. Representative John A. Boehner an Ohio Republican and chairman of the House Education and Workforce Committee, is expected to be a front-runner. Boehner made calls to his supporters yesterday, and a source close to the congressman said he is likely to run.

Other potential candidates are Representatives Mike Pence, of Indiana and chairman of the conservative Republican Study Committee; Jerry Lewis, of California and chairman of the House Appropriations Committee; and John B. Shadegg, of Arizona, chairman of the House Republican Policy Committee.

Flake said the party needs a full debate about its future and the caucus would benefit from electing a leader who represents a clean break with the current regime. He said he has made no commitments.

"Speaker Hastert wants a united front," Flake said. "But we really can't have that here, because we need the candidates to put together a reform agenda, and say, 'Here's the course correction that I envision.' We don't just need new leaders; we need a course correction, and unless we have it, we're going to be in the minority."

DeLay Gives Up Bid To Reclaim House Post (AP-Y2)

By David Espo

AP, January 8, 2006

Rep. Tom DeLay, the defiant face of a conservative revolution in Congress, stepped down as House majority leader on Saturday under pressure from Republicans staggered by an election-year corruption scandal.

"During my time in Congress, I have always acted in an ethical manner within the rules of our body and the laws of our land," the Texas lawmaker told fellow Republicans in a letter informing them of his decision.

Still, referring to criminal charges he faces in his home state, he added, "I cannot allow our adversaries to divide and distract our attention."

DeLay temporarily gave up his leadership post after he was charged, but always insisted he would reclaim his duties after clearing his name.

His turnabout cleared the way for leadership elections among Republicans buffeted by poor polls and by lobbyist Jack Abramoff's confessions of guilt on corruption charges in connection with congressional wining and dining.

The race to replace Delay as majority leader began taking shape immediately, with Reps. Roy Blunt of Missouri, the GOP whip, and John Boehner of Ohio, a former member of the leadership, making clear their intentions to run. Rep. Jerry Lewis of California declined to say whether he would join them.

Speaker Dennis Hastert, his own grip on power secure, said he expects elections to be held when lawmakers return to the Capitol the week of Jan. 31. That set the stage for several weeks of political maneuvering, and the possibility of a wholesale shuffle in the leadership lineup 10 months before midterm elections.

Democrats, eager to take control of the House in November, reacted to DeLay's announcement with studied indifference.

"The culture of corruption is so pervasive in the Republican conference that a single person stepping down is not nearly enough to clean up the Republican Congress," said Rep. Nancy Pelosi of California, the Democratic leader.

Added Rep. Rahm Emanuel of Illinois, chairman of the House Democratic campaign organization: "With the permanence of their special interest philosophy, a change in the Republican cast of characters simply doesn't matter."

Democrats must gain 15 seats in November to win control of the 435-member House.

At a news conference in Texas, DeLay said he had called Hastert, R-Ill., on Saturday to inform him of his decision. "Our success in lowering taxes, creating jobs, growing the economy and providing effective national security was helped by Tom Delay's leadership," the speaker said in a statement.

The 58-year-old DeLay, an exterminator before his election to Congress in 1984, said he intends to seek re-election next fall. "I plan to run a very vigorous campaign and I plan to win it," he told reporters in Texas.

The voters aside, his political future will hinge not only on the outcome of the Texas allegations, but on the future of the Abramoff investigation.

Michael Scanlon, a former DeLay aide and an Abramoff business partner, pleaded guilty in the fall to corruption charges. In court papers, the lobbyist said he had once paid $50,000 to the wife of another former DeLay aide to help kill legislation opposed by his clients.

DeLay has been a fixture in the Republican leadership since the GOP won its majority in the 1994 election landslide.

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An outsider at first, he muscled his way up the hierarchy when he won election as whip over the hand-picked choice of then-Speaker Newt Gingrich, R-Ga.

When Gingrich nearly fell in a coup more than three years later, DeLay went before fellow Republicans at a private meeting and emotionally confessed his role in the plotting. He prospered politically, moving up to become majority leader, the No. 2 post, in 1999.

Contrition was never a quality he displayed to his adversaries — Democrats, outside interest groups and others who sought to check the advance of the conservative GOP agenda he promoted.

DeLay raised millions of dollars for the campaigns of fellow House Republicans, conservatives and moderates alike, earning their gratitude regardless of their ideology. He courted controversy almost reflexively, including his involvement in an attempt to force corporations and industry groups to hire more Republican lobbyists.

He rarely backed down.

DeLay was the driving force behind President Clinton's impeachment in 1999, weeks after Republicans lost seats at the polls in a campaign in which they tried to make an issue of Clinton's personal behavior.

DeLay's downfall began at home in Texas, when he led a drive to redraw the state's congressional district boundaries and increase the number of GOP seats in the U.S. House. He succeeded, but was soon ensnared in an investigation involving the use of corporate funds in the campaigns of Texas legislators who had participated in the redistricting.

Flashing his trademark defiance, DeLay attacked prosecutor Ronnie Earle as an "unabashed partisan zealot." He pledged repeatedly to clear his name and said he would reclaim his duties as majority leader by the end of January.

The scandal spawned by Abramoff intervened, though.

Within two days of the lobbyist's appearances in federal court last week, GOP lawmakers began circulating petitions calling for elections. Hastert immediately made clear he would not stand in the way.

`After the Abramoff thing we got critical mass," said Rep. Jeff Flake, R-Ariz., who long had advocated new leadership.

While Flake is a conservative in a safe congressional district, others suddenly calling for change were more moderate Republicans who could face difficult re-election campaigns this fall.

New Mexico's Heather Wilson was among them.

She said three of DeLay's "former senior staff members have admitted or have been implicated in corrupt and illegal activities to get money for themselves by influencing legislation. Whether or not Mr. DeLay was involved himself or knew this was going on, he is responsible for his office."

DeLay Ends Bid To Reclaim Majority Leader Post (REU-Y2)

By Richard Cowan

Reuters, January 8, 2006

U.S. Rep. Tom DeLay, now under indictment in Texas and tainted by a corruption scandal, told fellow House of Representatives Republicans on Saturday that he will not try to reclaim his job as majority leader.

"Today I have asked Speaker (Dennis) Hastert to convene our conference for the purpose of electing a new majority leader," DeLay, a close ally of President George W. Bush and one of the most powerful conservatives in Congress, said in a letter to House Republican leaders.

Later, at a Sugar Land, Texas, appearance surrounded by supporters, DeLay said he would remain in Congress and campaign for re-election in November. "In 21 years in Congress I have always acted in an ethical manner ... and time once again will bear out that truth."

"The job of majority leader is too important to be hamstrung by personal distractions," he said.

DeLay's decision to resign after three years of tumultuous reign as majority leader set off a scramble among at least a handful of Republicans who want to capture the second most powerful post in the House.

Whoever wins will face the difficult job of steering the party past the influence-peddling scandal involving Republican lobbyist Jack Abramoff that has rocked Washington just as all 435 members of the House gear up for November elections.

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Abramoff earlier this week pleaded guilty to fraud charges and admitted that he gave golf trips, sports tickets and other gifts to lawmakers in return for special treatment.

His potential cooperation with federal investigators left lawmakers rattled and many returned campaign contributions from Abramoff clients.

House Minority Leader Nancy Pelosi, a California Democrat, said DeLay had "engineered" a "culture of corruption ... so pervasive in the Republican conference that a single person stepping down is not nearly enough to clean up the Republican Congress."

The White House, which earlier in the week said it would be shedding some Abramoff campaign contributions, supported DeLay's action. "We respect Congressman DeLay's decision to put the interests of the American people, the House of Representatives and the Republican Party first," said spokeswoman Erin Healy.

HOUSE JOB OPEN

Acting Majority Leader Roy Blunt of Missouri is expected to seek DeLay's job on a more permanent basis. Blunt took over the job in September when DeLay was forced to temporarily resign after being indicted in his home state of Texas in a campaign finance case. Those charges were unrelated to the Abramoff scandal.

At the time, DeLay insisted that he would be cleared in the Texas case and would retake the powerful majority leader job.

Ohio Republican John Boehner, chairman of an education and labor committee, is also expected to mount a strong challenge for majority leader.

Hastert, an Illinois Republican, said the elections likely will held during the week of January 31 when the House reconvenes after a long winter break.

Some House Republicans have talked about the need to elect all new leaders, but key lawmakers this week said they did not think Hastert would be challenged.

DeLay, 58, known around Washington as "The Hammer" for his tight control of the House and ability to vanquish political opponents, said in a letter to Hastert he will "work to clear my name of the baseless charges leveled against me."

He also said he will reclaim his seat on the powerful House Appropriations Committee, which controls much of federal spending, including a major NASA space center in his district.

DeLay's decision to leave the Republican leadership came after a group of moderate and conservative House Republicans abandoned their leader and called for elections to replace him.

DeLay's support among rank-and-file Republicans evaporated after Abramoff's guilty pleas this week. At least two former aides of DeLay are entangled in the Abramoff scandal and DeLay has referred to the former lobbyist as a close friend.

In his resignation letter, DeLay said he had "always acted in an ethical manner within the rules of our body and the laws of our land. I am fully confident time will bear this out."

DeLay, who has blamed his legal troubles on partisan Democrats, said he "cannot allow our adversaries to divide and distract our attention" from legislative work.

DeLay Says He Won't Seek To Return As Majority Leader (Update4) (BLOOM)

By Laura Litvan

Bloomberg, January 8, 2006

Jan. 7 (Bloomberg) -- Former House Majority Leader Tom DeLay said he will abandon his drive to return to the post of No. 2 House Republican, bowing to the growing clamor in his party for elections to replace him and setting up a succession battle.

In a letter to House Speaker Dennis Hastert and a separate letter to all House Republican colleagues, DeLay for the first time acknowledged that a legal battle in Texas is unlikely to be resolved anytime soon, and said it is time for his party to move ahead without him.

``The job of majority leader and the mandate of the Republican majority are too important to be hamstrung, even for a few months, by personal distractions," DeLay wrote in his letter to Hastert.

DeLay, a Texas Republican, said he will seek re-election and return to a seat on the House Appropriations Committee. DeLay said he will continue to work to clear his name ``of the baseless charges leveled against me."

``I will continue to serve my constituents," DeLay said in comments this afternoon to reporters and about 60 supporters in his district at Sugar Land City Hall in Sugar Land, Texas, about 20 miles southwest of Houston. ``I plan to run a very vigorous campaign. I plan to win it."

Hastert said in a statement that House Republicans will hold elections the week of Jan. 31, when the House returns to work for 2006.

``It is an honorable decision and the right decision for the House Republican Conference," Hastert said of DeLay's decision.

Federal Investigation

DeLay faces money-laundering charges in Texas, and a guilty plea Jan. 3 by Republican lobbyist Jack Abramoff threatens to draw DeLay and other lawmakers into a federal corruption probe. DeLay was forced under House Republican caucus rules to step aside as majority leader in late September after his indictment by a Texas grand jury, and House Majority Whip Roy Blunt has been holding both roles temporarily.

Blunt has indicated that he would like to run in leadership elections to replace DeLay. Both Blunt and another candidate, House Education and Workforce Committee Chairman John Boehner of Ohio, put out statements praising DeLay, a Republican leader since 1992 and majority leader for three years.

``My belief is that Tom will eventually be cleared and exonerated, and my hope is that our conference will one day again benefit from Tom's rare commitment to the principles of smaller government and freedom for which all Republicans fight," Boehner said in an e-mailed statement.

Midterm Elections

Republicans, who control the White House and both houses of Congress, face midterm elections in November. All 435 seats in the U.S. House of Representatives are up for grabs and a third of the U.S. Senate. Democrats are angling to use DeLay's legal troubles and ethics questions involving other Republicans as an issue in this year's elections.

House Democratic Leader Nancy Pelosi said DeLay's decision shouldn't resolve concerns of those who question whether the Republican party is ensnared in a ``culture of corruption."

``For years, at the expense of the American people, the House Republicans have enabled and benefited from the Republican culture of corruption engineered by Tom DeLay," Pelosi said. ``The culture of corruption is so pervasive in the Republican conference that a single person stepping down is not nearly enough to clean up the Republican Congress."

New Poll

A new poll released today by AP-Ipsos suggests Democrats may have an opening. The Jan. 3-5 poll of 1,001 adults found that 49 preferred to see Democrats control Congress, while 36 percent want to see Republicans stay in charge. The poll had a margin of error of plus or minus 3 percentage points.

DeLay made his decision a day after two House Republicans -- Charles Bass of New Hampshire and Jeff Flake of Arizona -- began circulating a petition among House Republicans needed to start the election process.

DeLay had requested a speedy trial in Texas in an effort to resolve that case, which stems from allegations of illegal fundraising to help elect more Republicans to the Texas statehouse in 2002. Still, he faces a second potential problem after Abramoff pleaded guilty this week to tax evasion, wire fraud and conspiring to corrupt public officials in cases in Washington and Miami.

Golfing Trip

Abramoff is cooperating as prosecutors investigate possible corruption of members of Congress, their aides and former staffers. While DeLay has not been directly implicated, he went on a golfing trip to the U.K. with the lobbyist in 2000. In October, investigators questioned the staff of former British Prime Minister Margaret Thatcher over a visit DeLay made to her office while on the U.K. trip.

DeLay's former deputy chief of staff, Tony Rudy, has been identified by people close to the investigation as one of the subjects of the probe. DeLay's attorney, Robert Cullen, insists that his client has little to fear in the Justice Department's corruption probe.

Once employed as a pest exterminator, DeLay entered Congress two decades ago after six years in the Texas statehouse. He is the only remaining House leader who served with former Speaker Newt Gingrich after Republicans retook the House in 1994. He initially served as the party's vote-counting ``whip," and his arm-twisting skills earned him the nickname ``The Hammer."

Top Fundraiser

DeLay has been one of the top fundraisers for his party, and consolidated his party's power by demanding that corporations and trade associations hire more Republicans as lobbyists. The tide began to turn against him after his efforts to help Republicans control the statehouse in Texas to redraw congressional district boundaries to favor Republicans. While Republicans picked up five additional U.S. House seats in that state in 2004 as a result of his effort, it triggered charges related to allegedly illegal use of corporate donations to elect statehouse candidates.

DeLay's re-election to his Houston-area district isn't assured. He won his 2004 re-election with 55 percent of the vote. He faces three Republican primary challengers and a general election against former Democratic Representative Nick Lampson. Lampson is one of the Democrats who lost his seat after the DeLay-directed redistricting, and the campaign is becoming a national cause for Democratic donors.

Chris Bell, a former Democratic Congressman who filed one of the original ethics complaints against DeLay and lost his seat after the Texas districts were redrawn, said in a telephone interview that ``today's announcement represents a victory for ethics reform."

``While Tom DeLay was in power there was no way ethics reform would have been possible," said Bell, who is a candidate for governor in the Texas Democratic primary in March. ``You can't put partisanship above everything else."

Reaction To DeLay Announcement (AP-Y2)

By The Associated Press

AP, January 8, 2006

Reaction to Rep. Tom DeLay's announcement Saturday that he will abandon his bid to reclaim his post as majority leader:

"We respect Congressman DeLay's decision to put the interests of the American people, the House of Representatives and the Republican Party first." — White House spokeswoman Erin Healy.

"It is an honorable decision and the right decision for the House Republican Conference ... We expect that Tom will continue to help House Republicans succeed with our agenda as we move forward this year." — House Speaker Dennis Hastert, R-Ill.

"For years, at the expense of the American people, the House Republicans have enabled and benefited from the Republican culture of corruption engineered by Tom DeLay. The culture of corruption is so pervasive in the Republican conference that a single person stepping down is not nearly enough to clean up the Republican Congress." — House Democratic leader Nancy Pelosi of California.

"My belief is that Tom will eventually be cleared and exonerated, and my hope is that our conference will one day again benefit from Tom's rare commitment to the principles of smaller government and freedom for which all Republicans fight." — Rep. John Boehner, R-Ohio, who is considered likely to seek the job of majority leader.

"Tom DeLay bears much of the responsibility for the culture of corruption Republicans have created in Washington, D.C., but his removal from House leadership alone will not end the pervasive cronyism and corruption that he and Washington Republicans created." — Senate Democratic leader Harry Reid of Nevada.

"My good friend Tom DeLay has made a very difficult decision. ... It is my firm belief that he will beat these baseless charges and will continue to be a strong, effective and committed leader in our efforts to protect our country, limit the scope of government, and win the battle of ideas. ... I know Tom's legacy as one of the most effective Republican leaders in history is assured." — Rep. Roy Blunt, R-Mo, the GOP whip who temporarily has filled in for DeLay and is likely to run for the job.

"I look forward to the democratic process of choosing a new majority leader who will ensure that integrity, honesty, and ethical accountability are central tenants of government operations in Washington." — Rep. Charlie Bass, R-N.H., one of the leaders of the effort to have a new election for majority leader.

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"We don't just need new leaders, we need a course correction. This is deeper than just who stands at the head of the party. We have created a system here ... that just breeds corruption. ... We just cannot continue with this trend." — Rep. Jeff Flake, R-Ariz., who worked with Bass on pressing for a new election.

"I applaud his decision. It's a good decision. When we return in January, I look forward to a newly elected leadership team." — Rep. Shelley Moore Capito, R-W.Va.

"Tom really has been an effective leader, but he's always been very controversial. It's a decision he feels that is in the best interest of the conference." — Rep. Paul Gillmor, R-Ohio.

"I think it was inevitable. The momentum in the House Republican conference was moving that way. It was presenting problems in moving the agenda forward." — Rep. Pat Tiberi, R-Ohio.

"Cleaning up the pervasive culture of corruption in Washington requires more than shuffling the Republican leadership. It requires cleaning the House. As long as DeLay 'wanna-be's' are in control, America will suffer from their arrogance." — Rep. Lloyd Doggett, D-Texas

"Today's decision, although difficult, continues Tom DeLay's commitment to put his nation, his constituents, his colleagues and his party first." — RNC Chairman Ken Mehlman.

"Tom DeLay is doing the right thing by permanently stepping down. It's time for a more mainstream leader that reflects the views and ethics of the American people and will make restoring Americans' faith in government their top priority." — Rep. Christopher Shays, R-Conn.

Analysis: GOP Woes Don't End With DeLay (AP-Y2)

By Jennifer Loven

AP, January 8, 2006

Republicans worried about their party's future have succeeded in pushing embattled former Majority Leader Tom DeLay off the stage. Even so, the Republicans' election-year troubles are far from over.

Need a reminder?

President Bush, the titular head of the GOP, is waging an unpopular war in Iraq and presiding over a nation with lingering economic anxieties. He suffers from approval ratings around 40 percent — near record lows for his presidency. Questionable stock transactions by the top Republican in the Senate, Majority Leader Bill Frist of Tennessee, are under investigation. A special prosecutor's probe continues into whether Bush administration officials outed a CIA operative in retribution for her husband's Iraq war criticism. A secret anti-terror program that Bush approved to eavesdrop on people inside the United States without warrants is raising concerns about overly broad presidential powers.

Potentially most damaging is an influence-peddling scandal on Capitol Hill.

Last week's guilty pleas to corruption and tax evasion charges by the central figure in the scandal, disgraced lobbyist Jack Abramoff, are anything but the last chapter. Abramoff is cooperating in a wide-ranging investigation that could ensnare dozens of lawmakers with close ties to the generous and powerful lobbyist, including DeLay and House Administration Committee Chairman Bob Ney, R-Ohio.

Ross Baker, a political science professor at Rutgers University, called it a "partywide crisis" that the GOP has problems with its leadership in all three areas of the federal government that it controls.

"The removal of DeLay from the leadership doesn't end their problems with scandal and, more broadly, with running the House," said Norm Ornstein with the conservative American Enterprise Institute. "That's their challenge, is to begin to get their policy act together. And they're going to have to do it with just Republicans because Democrats are going to be against them."

Republican domination of Congress is at stake in the November elections. Indeed, a new Associated Press-Ipsos poll found that 49 percent of those surveyed said they would prefer to see Democrats take control of Congress, compared with 36 percent who want a continued Republican majority.

With that in mind, Saturday's decision by DeLay to abandon his bid to resume his No. 2 post in the House was welcomed by Republicans.

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The man Democrats love to hate is battling campaign finance charges in Texas that had forced him to step aside as majority leader. Maintaining his innocence, he had said he intended to take his leadership position back once cleared of the charges. DeLay changed his tune under pressure from fellow Republicans that only grew as the Abramoff case mushroomed.

At the White House, where aides had insisted for weeks that the famously effective DeLay retained the president's support, there was a sharp pivot. "We respect Congressman DeLay's decision to put the interests of the American people, the House of Representatives and the Republican Party first," Bush spokeswoman Erin Healy said.

Democrats have made clear they plan to make GOP corruption a centerpiece campaign theme. They pounced.

"Tom DeLay bears much of the responsibility for the culture of corruption Republicans have created in Washington, D.C., but his removal from House leadership alone will not end the pervasive cronyism and corruption that he and Washington Republicans created," said Senate Democratic Leader Harry Reid of Nevada.

The anti-corruption tact gives Democrats the opportunity to overcome bad fractures within their party as well as their lack of a cohesive message. An AP-Ipsos poll last month showed that 88 percent of Americans say that corruption reaching into all levels of government is a serious problem.

Bush had hoped to rescue both his and his party's political fortunes by turning a new page in 2006 and focusing on immigration reform, good economic news and turning around public opinion on Iraq.

But I. Lewis "Scooter" Libby, former chief of staff to Vice President Dick Cheney, is expected to stand trial in the CIA leak case this summer, just ahead of the midterm elections. The special prosecutor's inquiry continues, leaving the fate of other senior White House officials, notably Bush's deputy chief of staff and political guru Karl Rove, in doubt.

And the election for a new House majority leader will serve as a reminder of the GOP's troubles right when Bush is unveiling his election-year agenda. The House reconvenes the week of Jan. 30, with the election likely to be held right away. Bush's annual State of the Union address is tentatively scheduled for that week.

Missouri Rep. Roy Blunt, the GOP whip who temporarily has filled in for DeLay and is expected to run to permanently take his place, also could suffer from his association with Abramoff. He was among many lawmakers who refunded or gave to charity some or all of the donations they received from Abramoff, his associates or clients.

Though House Speaker Dennis Hastert's position seems secure, some are calling for a wider leadership shake up that would be messy and distracting. "The conference needs the ability to reassess the leadership team as a whole," said Rep. Melissa Hart, R-Pa.

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EDITOR'S NOTE: Jennifer Loven has reported from Washington for nine years. Associated Press writer Douglass K. Daniel contributed to this analysis.

Tenacious Tom DeLay Has Had Wild Ride (AP-Y2)

By Donna Cassata And Laurie Kellman

AP, January 8, 2006

Ever disciplined, Tom DeLay even stage-managed one of the lowest moments of his life.

Summoned to a Texas court last fall, DeLay was fingerprinted and photographed like a common criminal. But what a mug shot.

Immaculately groomed in jacket and tie, DeLay grinned from ear to ear, looking more like he had just won the lottery, rather than someone who was facing charges of money laundering.

That was the point: control the message and your enemies can't use it against you.

Democrats gleefully have sought to make the Texas Republican the poster boy for bad Republican behavior. They sorely will miss DeLay's departure from the national stage.

DeLay often operated close to the ethical edge in his ascension to the powerful job of House majority leader.

Relying on political prowess, arm-twisting and devotion to his GOP majority, DeLay tightened the Republican grip on the House in his seven years as Republican whip, the party's No. 3 leadership post. And he delivered for President Bush. The fellow Texans were political partners, but never were close.

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DeLay first harnessed his acrimony for government regulations in the late 1970s and rode it into the Texas House and Congress. During his stint in the Texas Legislature, he was known as "Hot Tub Tom" for his partying ways.

Now he is a born-again Christian whose skill as a tenacious political strategist has allowed him to outmaneuver Democrats, pack Congress with more Republicans and push through some major pieces of Bush's legislative agenda.

When he rose to majority leader in 2003, DeLay sought to soften his image. He dumped his "wet look" hairstyle, filled a gap in his teeth and opened up more with the media.

Called "the Hammer" for his hard-nosed approach — his Capitol office has two leather bullwhips — the 58-year-old former pest exterminator has ensured House passage of much of Bush's legislative agenda, including tax cuts, trade agreements and a Medicare prescription drug plan.

His brass-knuckle tactics drew the ire of Democrats, Washington lobbyists and good-government types.

The House ethics committee admonished DeLay on three separate occasions in 2004. In addition to the Texas charges, a federal investigation is pursuing DeLay's ties to disgraced lobbyist Jack Abramoff.

DeLay has denied any wrongdoing, telling fellow House Republicans in a letter Saturday, "During my time in Congress, I have always acted in an ethical manner within the rules of our body and the laws of our land. I am fully confident time will bear this out."

In an April letter to supporters, DeLay borrowed a phrase coined by a long-ago besieged President Clinton, arguing his opponents' only agenda "is the politics of personal destruction." To which DeLay added, "and the criminalization of politics."

DeLay has come through for Bush even though DeLay once assailed the first President Bush for breaking his pledge not to increase taxes in 1990, and took heat from George W. Bush in the 2000 campaign for House efforts to disperse earned income tax payments to low-income families monthly instead of in one lump sum.

If DeLay has to hold a 15-minute vote open for the better part of an hour to twist arms, he will do it, as he did in securing House approval of Bush's Central American Free Trade Agreement in July by a razor-thin margin of two votes.

Lobbyists do not escape his version of hardball politics.

DeLay complained to the Electronic Industries Alliance over its hiring of former Democratic Rep. Dave McCurdy of Oklahoma as its president. DeLay subsequently was rebuked by the ethics committee for badgering a lobbying organization.

To win passage of the Medicare prescription drug bill, DeLay promised a lawmaker that if he would vote for the measure, DeLay would back a run for Congress by the lawmaker's son. The lawmaker refused, but DeLay was admonished again by the ethics committee for making the offer.

"His devotion to the cause has led him to push the envelope as hard as possible and not hold back," said Gary C. Jacobson, a professor of political science at the University of California at San Diego.

DeLay has worked tirelessly to increase the Republican majority in the House since the GOP swept out the Democrats in 1994. He has raised tens of millions for Republican candidates and used his own leadership political action committee to shower cash on GOP hopefuls.

In 2002, he helped buck the historic trend of midterm congressional election losses for the party controlling the White House; instead Republicans gained in the House.

He strong-armed a redistricting plan for Texas that led to the defeat of five Democrats in the state in 2004. The ethics panel rebuked DeLay for using the Federal Aviation Administration in the search for Texas Democratic lawmakers trying to avoid a vote on the redistricting proposal.

DeLay was unabashed. "I'm the majority leader and we want more seats," he said.

Elected to the House in 1984 from the Houston suburbs, DeLay chafed under Democratic rule for a decade before the GOP seized control. Then, in 1998, he led the charge in impeaching Clinton over the sex scandal involving a White House intern.

He might have been House speaker in 1998 after Rep. Newt Gingrich, R-Ga., stepped down and Rep. Bob Livingston, R-La., stunningly bowed out, but DeLay acknowledged that he was "too nuclear" to take the top job. He instead ensured that his deputy, Rep. Dennis Hastert, R-Ill., became speaker.

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A fierce conservative, DeLay energized the Republican base last year when he pushed for Congress to intervene in the case of a brain-damaged Florida woman, Terri Schiavo, in a direct challenge to a Florida court's authority. For the most part, the general public questioned the congressional action and the GOP took a hit in opinion polls.

DeLay has raised one daughter and three foster children with his wife, Christine.

DeLay Ends His Drive To Regain Post (LAT)

By Mary Curtius And Richard Simon

The Los Angeles Times, January 8, 2006

WASHINGTON — Former House Majority Leader Tom DeLay, indicted in Texas last fall and under scrutiny in a blossoming political scandal on Capitol Hill, abandoned on Saturday his effort to regain his leadership post.

His decision touched off a race to succeed him in a Republican Party beset by ethics problems. And it followed days of political turmoil and soul-searching within the GOP, sparked by Tuesday's guilty pleas to corruption-related charges by lobbyist Jack Abramoff, once a close DeLay associate.

In a letter released Saturday, DeLay said he agreed with growing calls among Republicans for a new, permanent majority leader to be chosen soon.

"The job of majority leader is too important to be hamstrung by personal distractions," a tired-looking DeLay said later in the day during a public appearance in his hometown of Sugar Land, Texas.

He also pledged to stay in Congress and run a "vigorous" campaign for reelection in November for the Houston-area seat he has held since 1984.

DeLay, for years widely viewed as Congress' most influential Republican, stepped down as majority leader after he was charged in September with violating campaign finance laws in Texas. Insisting he expected to be found not guilty early this year, DeLay said he would then seek to reclaim the post.

House Republicans — many of whom agreed with DeLay's assertion that the Texas charges were politically motivated — had been willing to give him time to resolve that case. Instead of naming a permanent successor in September, they appointed Rep. Roy Blunt of Missouri to be temporary majority leader.

One reason the party so supported him was his work over the last decade to increase campaign contributions to Republican coffers. Key to that was the "K Street Project," an initiative through which Washington's lobbying community was persuaded to increase their donations to the GOP.

Another reason was his ability to deliver unified votes for the party's legislative agenda — he has long has been known in Washington as "The Hammer," a testament to his brass-knuckles political style.

But the Abramoff guilty pleas transformed DeLay-related political calculations. By the end of last week, pressure within GOP ranks was growing for him to relinquish any claim on the majority leader post.

Among the crimes Abramoff acknowledged were bilking Indian tribal clients out of tens of millions of dollars and attempting to influence congressional lawmakers with lavish trips, gifts and campaign contributions. He is cooperating with federal investigators who are examining his ties to DeLay, other lawmakers, and current and former congressional staff members.

As a result, many House Republicans up for reelection this year began worrying about the political fallout of keeping alive DeLay's leadership hopes.

"You know how people talk about the captain being willing to go down with the ship?" said one Republican lawmaker, speaking on condition of anonymity because the issue is politically sensitive.

"Well, in this case, it would have been the ship going down with the captain."

Among those pressuring DeLay to support the selection of a new majority leader was House Speaker J. Dennis Hastert (R-Ill.), DeLay's longtime political ally.

According to a lawmaker close to the speaker, Hastert dispatched emissaries to Sugar Land — where DeLay, 58, was hunkered down with family members and his closest advisors — to urge him to give up for the good of the party. The lawmaker spoke on condition of anonymity when discussing Hastert's role in the matter.

Ron Bonjean, Hastert's spokesman, said DeLay phoned the speaker Saturday morning to tell him of his decision.

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Hastert, in a statement, said DeLay's decision was "honorable … and the right decision for the House Republican Conference."

A White House statement expressed "respect" for DeLay's decision "to put the interests of the American people, the House of Representatives and the Republican Party first."

Hastert canceled plans to lead a congressional delegation to Asia and the Egypt starting Monday. The vote on a new majority leader is to be held the first week of February.

Several Republicans said Saturday that Hastert's position as speaker remains secure but that other leadership jobs could be contested as part of the battle for majority leader.

The campaign for that post was in full swing by Saturday afternoon. Senior staff members for several lawmakers opened their Capitol Hill offices and the political horse-trading commenced.

At least one GOP congressman received a call from Rep. John Boehner (R-Ohio) seeking support to become majority leader. Boehner (pronounced BAY-ner), 56, chairman of the House Committee on Education and the Workforce, helped win passage of President Bush's No Child Left Behind Act. Before being elected to Congress in 1990, he ran a plastics and packing company.

He was elected House Republican Conference chairman, the chamber's No. 4 GOP spot, in 1994. An ally of ex-Speaker Newt Gingrich (R-Ga.), he lost the conference post in 1998 to a DeLay-backed candidate.

Blunt, 55, the acting majority leader, is expected to seek the job on a permanent basis.

First elected to Congress in 1996, the low-key Blunt is less combative than DeLay. It was with DeLay's support in late 2002 that he won the No. 3 House post, majority whip — the person responsible for corralling the votes to promote the party's agenda. Blunt is a former Missouri secretary of state who was for four years president of his alma mater Southwest Baptist University in Bolivar, Mo.

Others who are considered possible contenders include Rep. Thomas M. Reynolds (R-N.Y.), chairman of the National Republican Congressional Committee.

"This is a workday," said a delighted Rep. Charles Bass (R-N.H.). "I'm already getting calls from candidates seeking my support, and there are conference calls going on everywhere."

Bass, a moderate, had joined with Rep. Jeff Flake (R-Ariz.), a conservative, in circulating a letter Friday seeking an election for a permanent majority leader.

He and Flake normally are at far ends of the political spectrum, Bass noted, but they agreed that the party needed to take bold action to rid itself of the taint of scandal.

"I just didn't want to be any part of a caucus that was supporting, in any way, the kind of behavior that is alleged to have occurred between Jack Abramoff and perhaps a number of members of Congress," Bass said.

Bass and other Republicans said they would question candidates for the majority post closely about ethics concerns.

"The criteria for me and the litmus test for me is going to be [that] we have to elect leaders who are not tainted by the Abramoff scandal," said Rep. Ray LaHood (R-Ill.), who is close to Hastert. "The last thing we need is to elect new leaders and then a few months down the road have them under investigation for being involved with Jack Abramoff."

Amid such comments, Hastert was expected to announce as early as today proposals to tighten the rules governing lobbying of Congress.

Democrats are gearing up for a major challenge to DeLay in November's election. He won reelection in 2004 with 55% of the vote — a relatively poor showing for a longtime incumbent — and Democrats are prepared to pour money into this year's race.

"He's losing Republican support here in the district, and he's apparently lost it in Washington, D.C., as well," said Mike Malaise, campaign manager for Democrat Nick Lampson, a former congressman who is DeLay's likely opponent.

DeLay, the former owner of a pest extermination business, served as House majority whip for seven years and became majority leader in 2002. DeLay forged a highly disciplined coalition that focused on cutting taxes and promoting causes dear to the party's social conservative base.

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Although they were not personally close, Delay and President Bush forged an effective political partnership, with DeLay playing a key role in pushing through much of the administration's first-term legislative agenda.

But DeLay's hard-charging tactics sometimes brought him close to — or over — the ethical line. In 2004, he was rebuked three times by the House Ethics Committee for ethics lapses. Then, in 2005, a series of stories in the Washington Post and other newspapers detailed DeLay's ties to Abramoff, a flamboyant lobbyist who boasted of his ties to the Republican leadership.

It was disclosed that Delay had taken a trip to an expensive Scottish golf resort with Abramoff that was funded by the lobbyist's tribal clients, in violation of House ethics rules. DeLay said he thought the trip was financed by a conservative think tank, and he denied any wrongdoing.

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Times staff writer Janet Hook contributed to this report.

Ethics Issues Snared GOP's Champion (WP)

By R. Jeffrey Smith And Juliet Eilperin

The Washington Post, January 8, 2006

Standing before a crowd of applauding House Republicans in the Capitol Hill Club last March, then-Majority Leader Tom DeLay (Tex.) inscribed $1.8 million on a giant check and signed his name at the bottom with the flourish of a game show host. The tally, representing funds to be given to the campaigns of 10 Republican lawmakers, was yet another cache collected by one of the premier money machines ever to function on Capitol Hill.

It worked simply. On one side of the machine, a hose vacuumed the pockets of large corporations, wealthy individuals and legions of lobbyists on K Street, all instructed by DeLay to contribute only to Republicans. Out the other side, at some later date, came legislation of interest to many of the donors. Inside the machine, twisting its knobs and pulling its levers, was DeLay -- who was unabashed about his pay-to-play philosophy and relentless in enforcing his political rules.

DeLay's tenure in the congressional leadership, which came to a decisive end with his announcement yesterday that he would not try to regain the leadership post, was marked by an extraordinary record of political accomplishment. From Dec. 6, 1994, until last year, the former pest exterminator from a Houston suburb was the go-to guy in the House for legislative favors, perks, committee chairmanships and election cash.

"Tom DeLay and I have had our differences over the years, but he is one of the most effective and gifted leaders the Republican Party has ever known," said Rep. John A. Boehner (Ohio), who served in the leadership just below DeLay when the GOP, for the first time in recent years, won a majority in the House. He is likely to run for DeLay's now vacated slot as majority leader.

As President Bush noted recently, when DeLay was in the saddle, the administration's priorities were enacted by the House. Under his prodding, that body became in effect a single-party institution, with negligible Democratic influence in any aspect of its operations, from hearings to appropriations.

But DeLay's leadership was undermined over time by a blurring of ethical lines in the handling of money by his aides and advisers, his taste for the lifestyle of the super-rich, and his take-no-prisoners approach to political disputes in a town built on compromise. A lawmaker who cast himself as an icon of moral conservatism, DeLay came increasingly to be regarded as a symbol of special-interest lawmaking. With an election looming in 11 months, his colleagues began to fear the consequences.

Although DeLay was admonished by the House ethics committee as early as 1999 for retaliating against a trade association that hired a Democrat, for the most part his rigidly partisan style was welcomed by Republicans. Not until 2004 did the first major cracks in the DeLay political edifice appear. In three reports, the House Committee on Standards of Official Conduct rebuked him for asking federal aviation officials to intervene in a Texas political spat, for improperly pressuring a fellow Republican to vote for a Medicare drug bill, and for creating the appearance that Westar Energy Inc. received special consideration in exchange for campaign donations.

The committee called on him to "temper your future actions to assure you are in compliance" with House ethics rules. But DeLay blamed the rebukes on malevolent Democrats, and his supporters retaliated by ousting the Republican chairman of the committee and tying up its operations in a prolonged dispute over staffing.

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More serious damage was done by an ethics inquiry in DeLay's home state, which led last September to his felony indictment and forced him to step aside temporarily under party rules. At issue was one of DeLay's more brilliant achievements, hailed by his fellow Republicans for solidifying their control of the House -- orchestrating a party takeover in the Texas legislature that led to an extraordinary redrawing of congressional districts and the election of five more Texas Republicans to Congress in 2004.

Charges of DeLay's involvement in money laundering associated with that state Republican victory in 2002 are unproved, and many campaign finance lawyers consider the Texas case to be weak. But DeLay's name has also figured prominently in a second ethics probe -- this one in Washington, under the aegis of a federal task force looking at the links between money and favors associated with lobbyist Jack Abramoff.

Abramoff, whom DeLay once termed "one of my closest and dearest friends," pleaded guilty Tuesday to conspiracy, mail fraud and tax evasion and promised to cooperate with investigators. Michael Scanlon, DeLay's former spokesman, pleaded guilty Nov. 21 to conspiracy to bribe public officials and likewise promised cooperation. Prosecutors are meanwhile looking at actions taken by ex-DeLay aides Tony C. Rudy and Edwin A. Buckham on behalf of Abramoff's clients. No one knows where these inquiries will lead, and uncertainty is always the enemy of political strength.

DeLay, now 58, gained a biology degree at the University of Houston and pursued a political career out of opposition to regulation of the pesticide industry. He first came to Congress in 1985, but it was not until a decade later that Buckham, Rudy, Scanlon, and Abramoff played key roles in DeLay's ascent in the GOP hierarchy, a rise underpinned by the steady infusion of corporate cash into Republican political campaigns.

DeLay was blunt about his emphasis on fundraising from the outset -- he and then-Rep. Richard K. Armey (Tex.) each promised in a leadership meeting before the 1994 election to raise half a million dollars for party hopefuls, and DeLay traveled to dozens of House districts, cementing ties to many challengers who won office that fall.

After the historic 1994 elections, when many like-minded conservatives swept into the House, DeLay capitalized on his fundraising prowess in a successful race for majority whip against Rep. Robert S. Walker (Pa.). Walker, who was Rep. Newt Gingrich's best friend and an expert in parliamentary maneuvering, was initially favored to win the contest -- at a time when Gingrich was poised to win election as speaker. But DeLay had distributed so much money that he overtook Walker, securing the votes of 52 out of the 73 freshmen in the Class of 1994.

Walker later decried what he considered the excessive influence of fundraising committees such as DeLay's Americans for a Republican Majority Political Action Committee (ARMPAC), which, he said, caused the outcome to be determined by money, not talent. But his colleagues largely shrugged their shoulders. Over the next decade, they accepted nearly $4.5 million in contributions from ARMPAC, which drew its funds heavily from tobacco, energy, railroad and communications interests.

Throughout his tenure in the leadership, DeLay frequently traveled to golf resorts and costly hotels for meetings with lobbyists at ARMPAC's expense; he also preferred traveling on corporate jets instead of commercial airlines. But DeLay was not selfish -- he earned the gratitude of many colleagues by extending the same perquisites to them in exchange for their votes.

According to his former colleagues, DeLay's office functioned at times like a hotel concierge, arranging corporate jets, private cars, fishing trips and other expense-paid travel during congressional breaks, key votes and party conventions, all financed by wealthy donors with interests before Congress.

DeLay's own travel has played a role in his undoing, as investigators have begun delving into the circumstances of trips that DeLay took with Abramoff to Moscow in 1997 and to Scotland and London in 2000. The first trip preceded an unusual million-dollar donation -- which former associates say originated with Russian energy executives -- to a group linked to DeLay; on the second trip, Abramoff and Buckham -- both registered lobbyists -- used their credit cards to pay for some of DeLay's expenses, in apparent conflict with ethics rules. DeLay says he was unaware of the precise financial arrangements for the travel.

Research database editor Derek Willis and researcher Magda Jean-Louis contributed to this report.

Ties To Abramoff Weave Intricate Web (HCHRON)

By MICHAEL HEDGES

Houston Chronicle, January 8, 2006

DOJ_NMG_0008592

WASHINGTON - When a top Justice Department official outlined the public corruption allegations against lobbyist Jack Abramoff, she almost seemed to be describing his cozy relationship with Rep. Tom DeLay.

Abramoff provided public officials with overseas trips, campaign contributions and excessive meals "with the intent ... that the public official would act to benefit Abramoff or his clients," Alice Fisher, head of the department's criminal division, said last week.

Partly to clear his name in the Abramoff affair, DeLay gave up on Saturday his quest to be reinstated as House majority leader. But federal prosecutors' outline of the scandal does not fit DeLay in one crucial respect:

So far, there is no known conclusive evidence that DeLay, the Republican from Sugar Land, performed political favors for Abramoff in return.

Establishing a quid pro quo is necessary to prove political bribery.

To make a case against DeLay, who is among the lawmakers said to be under investigation now that the lobbyist is cooperating with federal authorities, prosecutors must first piece together his complicated relationship with Abramoff, which grew on trips to Pacific islands, Russia and a golf course in Scotland.

The men were introduced in 1994 by conservative Rabbi Daniel Lapin, co-chair of the American Alliance of Jews and Christians, which he created with former GOP presidential candidate Gary Bauer.

DeLay, with strong ties to the Christian right, and Abramoff, an Orthodox Jew, apparently hit it off. Within a few years, DeLay would refer to Abramoff as one of his closest friends.

As a prominent lobbyist in Washington, Abramoff had much to gain from ties to lawmakers such as DeLay. Likewise, as prosecutors, records and news accounts show, Abramoff had lots to offer, including a nearly endless stream of money provided by his clients.

In the mid-1990s, Abramoff persuaded Russian oil and gas clients to donate $1 million to a conservative advocacy group called the U.S. Family Network, which was set up by former DeLay chief of staff Edwin Buckham and collected $2.5 million in its five years of operation.

According to the Washington Post, Buckham told the former head of the U.S. Family Network — the organization had a single full-time employee — that the Russians gave the money to influence DeLay's vote on international aid to Russia. DeLay has denied that his vote was influenced improperly.

The U.S. Family Network received a half-million dollars from garment manufacturers in the Northern Mariana Islands with ties to Abramoff and a quarter-million dollars from Indian tribes he represented.

The money was used to buy radio ads attacking Democrats and to purchase a town house on Capitol Hill near DeLay's office that, according to the Post, DeLay associates called the "safe house." DeLay used it for his own campaign fundraising, the newspaper reported.

Trip to Russia

DeLay's wife, Christine, worked for three years for a lobbying firm run by Buckham, receiving a monthly salary of $3,200, a total of $115,200.

The firm, the Alexander Strategy Group, received hundreds of thousands of dollars in fees from the U.S. Family Network, money almost entirely derived from Abramoff clients.

Christine DeLay compiled a list of favorite charities of members of Congress, according to DeLay's attorney.

DeLay maintained contacts with Russian executives connected to the energy firm NaftaSib, who were paying Abramoff huge sums to promote their interests in Washington.

In August 1997, DeLay took a trip to Russia that, according to his financial disclosure statements, was underwritten by the National Center for Public Policy Research. Abramoff was an officer on the center's board, and during the trip DeLay met with the Russians who were paying large fees to Abramoff.

Although the president of the policy center said the group funded the trip, she conceded that an international law firm working to promote the interests of Abramoff's Russian clients covered its costs with a payment of about $165,000.

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The Russian businessmen were eager to assure that their country's economy was supported by International Monetary Fund loans made from funds contributed by the United States. In 1998, DeLay voted for a foreign aid bill that included funds to replenish the IMF. DeLay has said that vote was based on his determination of what was best for his constituents.

Toasting Abramoff

Four months after the Russian trip, DeLay, accompanied by his wife and three aides, visited Saipan, in the Northern Marianas. There DeLay made the widely quoted toast to Abramoff as "one of my closest and dearest friends." The visit was funded by the U.S. territory's government and a trade group representing clothing manufacturers.

The Marianas government had paid Abramoff millions of dollars to lobby Congress in a successful fight to preserve the islands' exemption from U.S. minimum-wage and immigration laws while still being able to claim that clothes produced there were "made in the U.S.A."

DeLay sided with the Marianas government's position — a vote that a spokesman said was consistent with his long-held views on trade.

About two years later, DeLay and Abramoff went to the British Isles. The travel party included DeLay's wife, his chief of staff Susan Hirschmann and her husband, and DeLay aide Tony Rudy.

The weeklong tour included a meeting in London with former British Prime Minister Margaret Thatcher, but it was largely recreational, with a four-day golfing trip to Scotland, where DeLay played at the famed St. Andrews course.

The trip also provided Abramoff's Russian client, NaftaSib general manager Alex Koulakovsky, a chance to spend time with DeLay.

The lavish tour cost about $70,000 for the officials, according to House documents. Among the expenses: a suite at the Four Seasons in London for the DeLays (total cost $4,285), along with thousands of dollars' worth of meals and golf fees.

Again, the National Center for Public Policy Research picked up the tab. Indian tribes who were Abramoff clients because of their interest in gambling legislation donated $50,000 to the NCPPR on the day the trip commenced.

Investigators are looking into whether that was a veiled effort to influence DeLay on Indian gaming bills. DeLay has said he thought the trip was an appropriate fact-finding mission funded by a legal nonprofit group.

Looking at staff members

A DeLay-Abramoff tie that has investigators' attention involves Rudy, the former DeLay deputy chief of staff.

Rudy is reportedly working with federal investigators probing Abramoff's web of corruption.

In court documents, Rudy is described as "Staffer A," who helped Abramoff stop legislation on Internet gambling and postal rate increases that would have hurt Abramoff clients. Rudy at the time was working on DeLay's staff.

In return, Abramoff funneled $50,000 to Rudy's wife, court documents said. The money was "obtained from [Abramoff's] clients who would and did benefit from Staffer A's official actions," prosecutors said. Rudy left Congress in 2000 to work directly for Abramoff.

DeLay attorney Richard Cullen denies wrongdoing by the Sugar Land Republican and said the lawmaker had no knowledge of Rudy's activities on behalf of Abramoff's clients.

Bill Mateja, a former senior Justice Department lawyer involved in corporate fraud cases in Washington and now in private practice in Dallas, said staffers such as Rudy would be of keen interest to prosecutors.

Pleading guilty

"They are the one who makes things run. And clearly [prosecutors] will want to know whether they were ordered by members of Congress to kill these bills," Mateja said. "You would certainly think the member would know. It would be unusual for a staff member to work to kill a bill without the member ordering that."

Abramoff's lobbying for Indian tribes led to his convictions on the fraud and conspiracy charges. Michael Scanlon, a former DeLay spokesman and later an Abramoff business partner, also has pleaded guilty to fraud charges connected to the bilking of the tribes.

The two men played a con game on the tribes, with Abramoff claiming to work for free while steering them to Scanlon for public relations work. The men then secretly split fees of at least $80 million.

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Investigators are looking into why four Indian tribes were willing to pay so much to Abramoff and Scanlon to win gambling rights. In testimony before congressional committees and e-mail released by Congress, Abramoff said he told the tribes they were buying the influence of important congressional leaders, including DeLay.

Contributing to DeLay

Bernie Sprague, of the Saginaw Chippewa tribe, testified that he had told federal investigators that Abramoff instructed him to make large contributions to a charity controlled by Abramoff as a way to "impress Tom DeLay."

To buttress his ties to DeLay, Abramoff frequently contributed to the former majority leader's projects, giving about $60,000 to political committees controlled by DeLay since 2000. Abramoff clients also donated a total of $22,500 to a DeLay foundation set up to help abused children.

Some donations went to Texans for a Republican Majority, the political action committee whose spending on Texas legislative races led to indictments against DeLay. He was forced to step aside as majority leader when a grand jury lodged the charges in September.

Was money buying favors?

Now prosecutors in Washington have to determine whether the donations by Abramoff and his clients were part of a con job by Abramoff to secure big fees or whether the lobbyist used the money in an effort to buy favors.

"To charge a public official requires a certain level of intent and knowledge by the public official" that they are being bribed, said Noel Hillman, head of the Justice Department's public corruption section. Hillman described an official's "mental state" as being crucial to the decision by prosecutors to bring criminal charges.

Cullen said DeLay has made a formal offer to cooperate with investigators. So far, they have not approached DeLay for any records or asked him any questions, Cullen said. That is in contrast with Rep. Bob Ney, R-Ohio, who has been described in court proceedings in a way that makes it clear he is a target of the investigation.

For prosecutors in the bewilderingly complex investigation, one of the legal hurdles is proving a crime occurred in the time frame when it can be prosecuted. A statute of limitations of five years for most white-collar fraud offenses limits liability to actions after early 2001. The only exception would be if prosecutors can show an ongoing conspiracy.

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Officials Focus On A 2nd Firm Tied To DeLay (NYT)

By Anne E. Kornblut And Glen Justice

The New York Times, January 8, 2006

WASHINGTON, Jan. 7 - Having secured a guilty plea from the lobbyist Jack Abramoff, prosecutors are entering a new phase of the corruption investigation in Washington and are focusing on a lobbying firm that has even closer ties to Tom DeLay, the former House majority leader who is under scrutiny in the scandal.

The firm, Alexander Strategy Group, is of particular interest to investigators because it was founded by Edwin A. Buckham, a close friend of Mr. DeLay's and his former chief of staff, and has been a lucrative landing spot for several former members of the DeLay staff, people who are directly involved in the case have said.

Although the firm's name has circulated in connection with the case for many months, prosecutors' questions about Mr. Buckham and Alexander Strategy - which did not respond to requests for comment - have intensified recently, participants in the case said.

The firm openly promoted the idea that it could deliver access to Mr. DeLay, who has denied any wrongdoing but abruptly announced Saturday that he would not try to regain his leadership post. Now the very connections with Mr. DeLay that formed the backbone of Alexander Strategy, put together with Mr. Abramoff's help, have put the future of the firm in doubt.

While doing business with lobbyists is routine for most lawmakers, investigators are looking at the extent to which Mr. DeLay and other lawmakers may have accepted trips, campaign donations and other favors from Alexander Strategy, and in turn tried to help the business.

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Still, prosecutors may have a difficult time reaching the high legal threshold required in a bribery case, in which it must be established that lawmakers performed official acts in exchange for specific favors, rather than as a result of an ongoing relationship with an outside lobbyist.

It is unclear whether any single action by the firm has caught investigators' attention so much as its overall pattern of activity.

Details of the ties between Alexander Strategy, Mr. DeLay and Mr. Abramoff - who pleaded guilty last week in federal court and is cooperating with investigators - have already begun to trickle out. Alexander Strategy paid Mr. DeLay's wife $115,000 in consulting fees while conducting business with Mr. Abramoff's firm. Mr. Abramoff also referred clients to Mr. Buckham.

Mr. Buckham and the firm also shared clients - among them an entity in Malaysia and the Choctaw Indian tribe in Mississippi - with Mr. Abramoff, who in his plea agreement admitted to using corrupting tactics with lawmakers on behalf of his clients. Mr. Abramoff also admitted to having defrauded his Indian clients of millions of dollars. At one point, Mr. Buckham even sought to hire Mr. Abramoff himself, participants in the case said.

Mr. Buckham and at least one member of his firm worked with domestic and overseas clients who prosecutors suspect helped funnel money and perks to Mr. DeLay, his fund-raising operations and other lawmakers in ways intended to curry favor with the Republican leadership.

And at one time, Americans for a Republican Majority, or Armpac, the leadership committee that raised money for Mr. DeLay, was run out of the offices of Alexander Strategy.

But the firm's web of contacts on Capitol Hill reaches past Mr. DeLay, making Alexander Strategy a potentially useful resource as investigators examine other lawmakers.

The firm's name surfaced at the periphery of the corruption investigation into Representative Randy Cunningham, Republican of California. Mr. Cunningham resigned after pleading guilty to accepting bribes from a defense contractor that did business with Alexander Strategy.

For years, Alexander Strategy was one of the crown jewels of the so-called K Street project, an effort Republicans began after taking control of Congress in 1994 to dominate the lobbying industry. The hope, exemplified by Mr. Buckham's company, was for Republican lobbyists to harness the power of their corporate clients to help keep the party in power for years to come.

The successful history of Alexander Strategy since its founding in the late 1990's offers a window into the nexus of Mr. Abramoff, Mr. DeLay and the lobbying world over the last decade or so of Republican control of Congress.

As Mr. DeLay grew more powerful in Congress, the lobbying firm rose in prominence on K Street, building an impressive roster of clients for such a young company and earning, according to records, about $8.8 million lobbying in 2004. That ranked it in the middle of the pack among Washington's largest lobbying firms, but its client list - including Microsoft, United Parcel Service, Time Warner, Freddie Mac and Eli Lilly & Company - suggests what was, at least at one time, a powerful and well-connected operation.

And Mr. DeLay, so intertwined with the lobbying world that his extensive network of allies and former aides scattered throughout town is nicknamed "DeLay Inc.," responded more quickly to calls from Alexander Strategy than he did for any other firm, former aides of his said.

One element prosecutors are trying to understand is what role Mr. DeLay played in sending business to the company. There is evidence, one participant in the case said, that it was "you hire these guys because Tom DeLay tells you to."

Mr. Buckham also ran the U.S. Family Network, a self-styled grassroots organization tied to Mr. DeLay that, according to The Washington Post, was financed almost entirely by clients and associates of Mr. Abramoff. People involved in the case said they expected investigators to examine whether Mr. DeLay cast a vote in Congress in exchange for donations to the network.

Another critical component of the investigation is the activities of Tony C. Rudy, a former DeLay deputy chief of staff who went to work with Mr. Abramoff as a lobbyist before joining Mr. Buckham at Alexander Strategy, where he still works. Mr. Rudy is mentioned - named only as "Staffer A" - in Mr. Abramoff's plea agreement, and investigators are looking into whether he helped secure legislative favors for Mr. Abramoff's clients in exchange for gifts and the promise of a future job while he was still on the DeLay staff.

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Mr. Buckham and others from the firm have not responded to inquiries, and Mr. DeLay, through his spokesman, has said he is innocent of wrongdoing. Although investigators are looking at as many as a dozen lawmakers in the inquiry, they have not brought charges against them.

Richard Cullen, a lawyer for Mr. DeLay, pointed out that Mr. Rudy had not been named outright in any court documents.

"But if it turns out to be Mr. Rudy," Mr. Cullen said, "and if what Mr. Rudy did turns out to have been in any way improper, Tom DeLay is going to be very sad and very disappointed. Because he will feel betrayed, and he expects much, much more from his staff than activities like that."

As a result of Mr. Buckham's ties with Mr. DeLay and Mr. Abramoff, investigators are "keenly interested" in him, especially in connection with deals he may have brokered with Mr. DeLay and other lawmakers after going into the private sector, one participant in the case said.

"He allows the connection to be made to DeLay," another participant said of Mr. Buckham. All participants in the case were granted anonymity in interviews because Justice Department officials do not want people talking about it publicly.

Alexander Strategy's name has also surfaced in the course of a corruption investigation that implicates the defense lobbyist Brent Wilkes, who is an unnamed co-conspirator in the criminal case against former Representative Cunningham. Mr. Cunningham pleaded guilty in December to accepting $2.4 million in bribes from Mr. Wilkes and others. Mr. Wilkes's firm, Group W, also hired Alexander Strategy to do lobbying work, and Mr. DeLay used a plane partly owned by Mr. Wilkes.

The scandals swirling around the Alexander franchise, composed of roughly two dozen lobbyists at its offices on the waterfront in Georgetown, have delighted its former rivals while triggering concerns in the lobbying community that the entire business may be tarred.

Dick Armey, the former Republican House majority leader, who now works for the firm DLA Piper Rudnick Gray Cary and who clashed with Mr. DeLay in the House, invoked Charles Dickens, likening Mr. DeLay to Fagin and Mr. Buckham to the Artful Dodger in "Oliver Twist."

"Tom DeLay sent Buckham downtown to set up shop and start a branch office on K Street," Mr. Armey said. "The whole idea was, 'What's in it for us?' That's what I thought at the time, and I've seen nothing in the way they've conducted themselves since then to dissuade me from that point of view."

Mr. DeLay and a group of like-minded Republicans have spent years promoting Republicans for top lobbying positions in an attempt to counter decades in which Democrats controlled both Congress and K Street. The effort has caused several dustups over the years.

Mr. DeLay was rebuked by the House ethics committee in 1999 after allegedly badgering a trade association that chose a Democrat as its president, rather than the Republican candidate he favored.

Mr. DeLay's political action committee paid Alexander Strategy more than $300,000 for fund-raising and consulting services from 2000 to 2003, according to the Center for Public Integrity, a nonprofit group that tracks money in politics. In addition to Mr. Rudy, the firm also employed Karl Gallant, who headed Mr. DeLay's political action committee.

The firm has already been dropped by one client, MGM Mirage, the casino and resort giant, which retained it in 2004, paying about $350,000 to help block a maneuver by an Indian tribe in Michigan.

At the end of last year, MGM ended the relationship. Alan Feldman, a spokesman for MGM, said that the project had ended and that the firm's services were no longer needed. But Mr. Feldman acknowledged that the scrutiny surrounding Alexander Strategy was a concern. "It would be dishonest to say that it didn't come up in discussions," he said.

Other lobbyists and participants in the case said it would be difficult for the firm to survive this type of scrutiny with all of its clients and relationships intact.

"It's a double-edged sword, being known as DeLay Inc.," said one Republican lobbyist. "They are on the sharp edge of the sword now."

DeLay's War At Home (TIME)

By HILARY HYLTON

Time, January 8, 2006

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As Tom DeLay steps into the shadows of the congressional leadership in Washington, the spotlight on his fight for survival shifts to his legal battle and reelection effort in Texas. Unless the 11-term congressman and former House GOP leader wins an unexpected victory in the state's highest court in the next few weeks, he'll spend the next year facing off against a zealous prosecutor and Republican and Democratic challengers for his House seat.

Even as Washington on Friday awaited DeLay's relinquishment of the majority leader's role, Texas tea leaf readers saw more trouble ahead. A new Republican challenger, already dubbed the "dragonslayer" by one Houston political columnist, launched his campaign for the part's nomination in Delay's hometown of Sugarland. Coincidentally, Delay reportedly signaled his intention to reclaim his seat on the powerful Appropriations Committee, a valued position for a congressman seeking reelection.

Attorney Tom Campbell, a Bob Dole campaign leader and administration appointee and backer of President George H.W. Bush announced he would run as a fiscal and social conservative. Campbell, a Mormon and self-styled environmentalist who voted for DeLay in 2004, has deep party connections and access to heavyweight fundraisers that make him a credible threat to the embattled former Majority Leader. "Tom DeLay's 'win at all cost' brand of politics has cost us far too much to let it continue," Campbell says on his campaign website.

DeLay also faces a Democratic challenge from former congressman Nick Lampson, who lost his seat after his district was redrawn during the 2004 DeLay-inspired redistricting of Texas congressional seats. Although Lampson is unopposed in the Democratic primary, the field is further crowded by the entry of an independent in the form of former GOP Congressman and DeLay supporter Steve Stockman, a far-right conservative defeated after a single term by Lampson. Stockman told the conservative Human Events magazine this week that by running as an independent he would attack Lampson "like a pit bull" and criticize Lampson's "ethical lapses....that's something Tom can't do under the present circumstances."

DeLay opponents cite recent polls showing that the former Majority Leader's support in his district has fallen below 50%, but that is exactly where his numbers stood in 2004, in a widely touted poll just days before he won reelection with 55 percent of the vote.

DeLay's attorney, Dick DeGuerin, accuses prosecutor Ronnie Earle, a Democrat, of seeking advantage from national trends by subpoenaing representatives of law firms and Indian tribes connected to lobbyist Jack Abramoff and records from lobbyists connected to disgraced Republican congressman Duke Cunningham — individuals, says DeGuerin, who have no direct ties to the campaign finance charges against his client.

DeGuerin told TIME his client is in fighting spirit."He's very upbeat, he's going about his business." Right now, his best hopes lie an appeal to the state's highest court to throw out the charges or order the trial judge to go forward with a speedy trial, but University of Texas law professor George Dix said that, while DeGuerin's motions are "very good, very interesting, ...with some sophisticated arguments and some really good bull****," intervention by the high court would be very unusual. Word from the court will likely come before the new GOP House leadership vote in late January. If DeLay fails to end the case there, the hope of a trial before the March Texas primary is a long shot, and in a state with no party registration, that primary will be open to disenchanted Republicans and disgruntled Democrats alike.

DeLay Won't Reclaim House Post (HCHRON)

By BENNETT ROTH and SAMANTHA LEVINE

Houston Chronicle, January 8, 2006

WASHINGTON - Entangled in criminal investigations of political activities in Texas and Washington, U.S. Rep. Tom DeLay abandoned claims to his House majority leader's post Saturday, a dramatic reversal for the former pest-control company owner who rose to the height of power in Congress.

DeLay reached the decision Saturday morning after consulting in the past two days with family and advisers, according to a spokesman, then announced his plans in separate letters to House Speaker Dennis Hastert and his GOP colleagues, and to supporters and reporters at Sugar Land City Hall.

"The job of majority leader and the mandate of the Republican majority are too important to be hamstrung, even for a few months, by personal distractions," he wrote Hastert.

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DeLay's release of any hold on a House leadership role capped a tumultuous week in which GOP lawmakers increasingly voiced concerns that he has become an election-year liability because of ties to former lobbyist Jack Abramoff. As part of a plea bargain unveiled in federal court Tuesday, Abramoff agreed to testify against members of Congress and their aides in the Washington corruption probe stemming from his representation of Indian tribes and other clients.

In Fort Bend County, DeLay told supporters he will continue to seek re-election this year in his suburban Houston district, where he faces competition in the March party primary and the November general election.

"I plan to run a vigorous campaign, and I plan to win it," DeLay told the crowd.

In the letter to Republican lawmakers, DeLay proclaimed his innocence of any impropriety.

"During my time in Congress, I have always acted in an ethical manner within the rules of our body and the laws of our land. I am fully confident time will bear this out," he said.

He has been scolded multiple times by the House ethics panel, however.

In Houston, civic and business leaders increasingly relied on DeLay to deliver federal funds and political favors for area projects and programs such as those at the Johnson Space Center. However, he tangled with city officials because of his opposition, until recently, to using federal money for Metro's rail projects.

Diminished ability

In a telephone interview with the Houston Chronicle, DeLay said Saturday that his absence from the leadership could diminish his ability to help the region.

"The majority leader controls what comes to the floor, and the Houston-Galveston area has benefited from that. That changes now," he said.

Critics who "never gave me an even shake ought to think about that," he remarked.

He said he would reclaim his seat on the powerful Appropriations Committee, where he first honed the legislative skills that brought him to the pinnacle of the House.

DeLay blamed Travis County prosecutor Ronnie Earle for forcing him to give up his post temporarily, saying the Democrat used legal maneuvers to postpone DeLay's trial on campaign-finance violations.

"It became quite evident that Ronnie Earle was successful in delaying the process," DeLay said. "The longer I was hanging out there, the more trouble he was causing."

DeLay stepped aside as majority leader in September, in accordance with House rules, after a Travis County grand jury indicted him. Until Saturday, he sought a quick acquittal or dismissal of the charges on the way to reclaiming the top job.

DeLay told the Chronicle on Saturday that in recent days he discussed his situation with GOP leaders, including Hastert, and considered several options, including resigning from Congress.

In the end he decided against quitting Congress because "I still have a lot to contribute to the Houston-Galveston area," he said.

His decision is expected to trigger a fierce succession battle for leadership, with several GOP lawmakers expected to challenge Rep. Roy Blunt, the Missouri Republican who replaced DeLay on a temporary basis.

Rep. John Boehner, R-Ohio, chairman of the House Education Committee, is expected to announce his candidacy for majority leader today. DeLay said he won't endorse anyone as a successor.

House Republican leaders, who as recently as last month refused to consider replacing DeLay permanently, praised his decision to step down.

"It is an honorable decision and the right decision for the House Republican Conference," Hastert remarked. He said he expects to schedule the majority-leader election for the first week of February.

Other Republicans who were openly critical of DeLay in recent weeks expressed relief that they could install a new leader unshaded by an ethical cloud.

"I look forward to the democratic process of choosing a new majority leader who will ensure that integrity, honesty and ethical accountability are central tenets of government operations in Washington," Rep. Charlie Bass, R-N.H., said.

GOP petition drive

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Bass, along with Rep. Jeff Flake, R-Ariz., spearheaded a petition drive among Republican lawmakers late last week to force a new leadership election.

DeLay dismissed the significance of the criticism within the GOP, saying it reflected the views of only 20 or 30 members.

"I enjoyed incredibly strong support," he said.

In recent statements, President Bush defended DeLay, who has been a crucial ally in pushing the White House legislative agenda. But the administration signaled Saturday that it is ready to move on.

"We respect Congressman DeLay's decision to put the interests of the American people, the House of Representatives and the Republican Party first," Bush spokeswoman Erin Healy said.

For Democrats, DeLay's absence from the leadership is a double-edged sword. His skill at rounding up congressional votes frequently deprived the minority party of legislative successes, but Democrats also had made him their poster child for an emerging campaign theme attacking a "culture of corruption" in the GOP-run Congress.

"The culture of corruption is so pervasive in the Republican conference that a single person stepping down is not nearly enough to clean up the Republican Congress," House Democratic leader Rep. Nancy Pelosi, D-Calif., said Saturday.

DeLay's Texas criminal case probably will remain pending by the time Congress resumes business at the end of the month. But for many lawmakers, the turning point for DeLay's fate as a leader came when the Justice Department announced the plea agreement with Abramoff.

He is expected to provide incriminating information about members of Congress and their staffers who were involved in his lobbying schemes.

DeLay, never mentioned as a target of the investigation before the lobbyist admitted guilt, has been closely associated with Abramoff for more than a decade. The lawmaker took three foreign trips with the lobbyist, who used his clients' funds to defray a sizable portion of the costs in a way that DeLay has said was legal.

Former DeLay staffers figure prominently in the investigation. For instance, Michael Scanlon, his former spokesman, worked with Abramoff, agreed to a plea deal in November and is cooperating with investigators. DeLay's former deputy chief of staff, Tony Rudy, is referred to as "Staffer A" in the Abramoff case and reportedly is cooperating with authorities.

DeLay's support among Republicans at home will remain strong, said Jared Woodfill, chairman of the Harris County Republican Party.

"Ultimately, it is not good for him to be outside of the leadership," Woodfill said, "but politically, I think he will be just fine. The people of the district know him quite well, and they will send him back to D.C."

However, recent polls show that DeLay is likely to face a bruising and expensive re-election battle in a redrawn district that includes many voters who are relatively unfamiliar with him.

He faces a well-financed Democratic opponent, Nick Lampson, who lost his Beaumont-area congressional seat in 2004 as a result of DeLay's redistricting scheme. Former Republican U.S. Rep. Steve Stockman of Friendswood has signed up for the November ballot as an independent candidate for DeLay's job.

Chronicle reporter Eric Hanson contributed to this report from Sugar Land.

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Supporters Point To DeLay's Impact On 22nd District (HCHRON)

By ERIC HANSON

Houston Chronicle, January 8, 2006

SUGAR LAND - After using a letter to tell his congressional colleagues about his new political plans, U.S. Rep. Tom DeLay surrounded himself with supporters Saturday on the sun-drenched steps of his hometown's City Hall as he read a similar statement to reporters.

About 70 other people turned out to show solidarity with their veteran congressman. A few held DeLay re-election-campaign signs as the congressman delivered prepared remarks with his wife, Christine, at his side.

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DeLay explained to the news media that he is abandoning hopes of being House majority leader again. But first there was a procession of sorts and speeches by other politicians.

Having gathered inside Sugar Land City Hall with DeLay, his supporters started the event by lining up outside on the steps. DeLay followed, with other elected officials.

Sugar Land Mayor David Wallace took the podium and credited DeLay with advancing mobility projects such as the renovation of U.S. 59 and improvements at Sugar Land Regional Airport.

"You are very effective in fighting for the city of Sugar Land, for Fort Bend County and for this region, and we want to say thank you," Wallace said.

Wallace was followed by U.S. Rep. Kevin Brady, R-The Woodlands, who said DeLay will remain a fixture of power in the House of Representatives.

"I would caution those to not write this political obituary just yet," Brady said.

"Tom DeLay is a force of nature. He is a true conservative leader and will remain a conservative and effective leader in the U.S. House of Representatives," Brady said to loud applause.

Brady also said DeLay has a profound impact on getting federal funds for highways, NASA and the area's medical and science communities.

"We are not losing a majority leader. We are gaining a member of Congress who can devote full-time as he has for so long to expanding freedoms, to strengthening families, to delivering for Texas and delivering the most effective voice for this congressional district in Houston," Brady said. "Tom, we love you."

DeLay said he would continue to work for the people of the 22nd District, which stretches across Fort Bend, Harris, Brazoria and Galveston counties.

"I have worked very hard to meet their needs and serve their values in Washington," DeLay said. "Those needs and values will now best be served by allowing House Republicans to set a new course and to unite behind a new and focused leader."

DeLay also reminded supporters of this year's election.

"As you know, I am still a candidate for re-election this November, and I plan to run a very vigorous campaign, and I plan to win it," he said.

He has opposition in the Republican primary in March and the general election in the fall.

The only reference DeLay made to the Texas indictments he is facing was a statement that he has always obeyed the law.

"In the 21 years I have been in Congress, I have always acted in an ethical manner within the rules of the House and the laws of our land. And time once again will bear out that truth," he said.

However, DeLay has been scolded several times by the House Ethics Committee.

After his remarks, he and the crowd went back into City Hall without taking questions.

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DeLay Likely To Win Party Nomination In 22nd District (HCHRON)

By KRISTEN MACK

Houston Chronicle, January 8, 2006

U.S. Rep. Tom DeLay's departure from the House leadership shrinks his national stature, but he is still likely to win his party's nomination in the 22nd District and will be a formidable candidate for re-election, supporters and a key opponent said Saturday.

"He had to take a position for the betterment of the Republican Party and to the detriment of the Houston area," said Fort Bend County Republican Party Chairman Eric Thode. "There's never been a question about his re-election. It's only been fomented by those that are delusional."

DeLay was forced to step aside as House majority leader last year when he was indicted in Travis County on charges relating to campaign fundraising for 2002 legislative races.

On Saturday, under mounting pressure from Republican House members, he abandoned his bid to regain the post, setting the stage for GOP House leadership elections.

DeLay faces three opponents in the March 7 Republican primary.

Biggest challenge

In November, he also may face former Republican Rep. Steve Stockman, who has filed as an independent. Stockman will need to petition for a place on the ballot — which also will include the Libertarian Party nominee and possibly one other independent who has already filed. It is too late for anyone else to file as an independent.

But DeLay's biggest challenge comes from former U.S. Rep. Nick Lampson, who is unopposed in the Democratic primary.

Lampson and GOP leaders expect that DeLay easily will win his party's nomination over challengers Pat Baig, Tom Campbell and Michael Fjetland.

"Not one has any money, following or name ID," Thode said. "We are 100 percent behind DeLay and will continue to stand behind him."

In an unusual move last summer, the Fort Bend and Harris County Republican parties passed resolutions supporting DeLay. Traditionally party leaders remain publicly neutral about contests in their party primaries.

DeLay's situation presents a special circumstance, Harris County GOP Chairman Jared Woodfill said Saturday.

"Because of the circumstances and all DeLay has done for our agenda, principles and values, we are going to stand with him while he is under attack," Woodfill said.

Woodfill said the 22nd Congressional District will suffer because DeLay has lost his position of power, a fall Woodfill blames on a "politically motivated partisan prosecutor who has been able to shake up our leadership."

Travis County District Attorney Ronnie Earle, whose office is prosecuting DeLay, is a Democrat.

But DeLay will continue to be an effective representative of the district, Woodfill said, predicting DeLay will win the primary and the November general election.

Primary opponent Campbell, a lawyer, said DeLay did the right thing by ending his bid for the House majority-leader position.

"Tom has become preoccupied with a whole series of issues that make it difficult for him to continue to serve in leadership positions," Campbell said. "If he hadn't made the decision, he would not have enough votes to become the majority leader. Tom's days as a Washington power broker are coming to a close."

Internal party pressure

DeLay should withdraw from the race and focus on his own issues while the Republican Party focuses on returning to its roots, Campbell said.

"We need to clean our house in March, and if we don't, we run the risk of losing the House in November," Campbell said.

Lampson, who expects DeLay to be his Republican opponent, said he anticipates a tough race but thinks the residents of the district are ready for new leadership.

DeLay can no longer use the "partisan witch-hunt argument" to explain his problems, Lampson said.

Although the state case is prosecuted by a Democrat, an unrelated federal investigation by the Republican administration's Justice Department has touched DeLay and others in Congress. It centers on lobbyist Jack Abramoff, who has a long history of ties to DeLay and other Republicans.

And fellow Republicans in Congress began pushing late last week for DeLay to abandon efforts to regain his leadership position.

"There had to have been a great deal of pressure from his own party, whose members lost confidence in him, to make him step down," Lampson said.

Rice University political scientist Bob Stein said DeLay's hopes to be part of the House leadership unraveled in the past 24 hours under pressure from within his party.

"Republicans are worried about midterm elections," Stein said.

The question now, he said, is whether residents of the district view DeLay's departure from the leadership as a significant political liability.

"The only thing that's ironic about it, is it leaves the state without a single member of the delegation, on either side, as part of the leadership," Stein said. "The very thing DeLay sought to provide, a place at the table for Texas, is all lost now. Texas is just as hurt by this as the Republican Party."

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DeLay Ends Bid To Regain Leader's Post (WT)

By Stephen Dinan

The Washington Times, January 8, 2006

Rep. Tom DeLay permanently gave up leadership of House Republicans yesterday, setting off a new leadership race that is shaping up as a referendum on the direction of the Republican Party in Congress.

"The job of majority leader is too important to be hamstrung by personal distractions," the Texas Republican told reporters after he sent letters to his colleagues and House Speaker J. Dennis Hastert informing them of his decision. He said he will remain in Congress and seek re-election in his district in November.

Mr. Hastert said leadership elections will be held the week of Jan. 30, giving candidates about three weeks to campaign to fill Mr. DeLay's former position.

Both the acting majority leader, Rep. Roy Blunt of Missouri, and Rep. John A. Boehner of Ohio, the chairman of the Education and the Workforce Committee, are expected to run. Unidentified sources close to Mr. Blunt last night released a list of six members who will publicly campaign for him, and a source close to Mr. Boehner countered with seven Republicans who will actively campaign on his behalf.

By running for the leader's spot, Mr. Blunt leaves open the majority whip's slot, and candidates were lining up to run for it as well.

A spokesman for Rep. John Shadegg of Arizona, also a potential candidate, said yesterday that members have been asking him to run, though he has made no decision.

Democrats said Mr. DeLay's announcement doesn't end Republicans' political peril over charges of corruption.

"By forcing out Tom DeLay, Republicans have addressed a party problem, but not the institutional problem of corruption that most troubles the American people," said Rep. Rahm Emanuel of Illinois, the chairman of the Democratic Congressional Campaign Committee.

To prepare for the leadership elections, Mr. Blunt and Mr. Hastert both bowed out of a congressional delegation scheduled to leave tomorrow for a two-week trip to Asia.

Mr. DeLay had stepped aside temporarily as House Republicans' floor leader after he was indicted in Texas on Sept. 28. He said he would clear his name and reclaim his leader's post within months, but his situation worsened last week after lobbyist Jack Abramoff pleaded guilty to corruption charges and agreed to tell prosecutors about his connections to members of Congress.

Mr. DeLay said he has always acted within ethics rules, but he faced falling support among the conservative activists who had been his biggest boosters. Moreover, two other Republican members of Congress -- Rep. Charles Bass of New Hampshire and Rep. Jeff Flake of Arizona -- began to gather petition signatures to force new leadership elections.

"Today's been a very good day for Republicans and our conference and Congress," Mr. Bass said yesterday. He said the recent ethical and criminal charges have not helped Republicans or Democrats, and the leadership elections are healthy for everyone.

"This is a serious problem, this Abramoff thing, for Republicans and Democrats. But it's not the Democrats that are leading the country right now," he said, adding that the ethics issues will be paramount in the new leadership elections. "The standards all members should look for in the replacement leadership need to be high."

Mr. Flake said the new elections must be about more than just new faces.

"We need to make sure this is a proper election and not just an affirmation of the interim structure," he said, calling for a "course correction."

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While the ethics charges may have been the latest issue, Mr. Flake said there had been a growing realization among some members that under Mr. DeLay, the party had lost its way on other issues.

"I think for a lot of people they're thinking, 'Why are we trying so hard to keep him?' His view has obviously changed over the years about government," Mr. Flake said in a telephone interview before Mr. DeLay made his announcement.

Republican strategist Michael McKenna said resentment against some of Mr. DeLay's comments last year on federal spending and the 2003 vote on adding a prescription-drug program to Medicare hurt Mr. DeLay among his conference.

"Tom DeLay's legal problem simply provided an opportunity for that resentment to come to the front," he said, adding that the upcoming elections will be a battle for the fundamental direction House Republicans will take.

Mr. McKenna said one figure to watch in the elections is Rep. Mike Pence of Indiana, who is chairman of the Republican Study Committee (RSC), a group of 100 conservatives. As chairman of the RSC, Mr. Pence has become a major political force.

"A large chunk of that caucus is going to be looking to him for cues about how to think about this choice," Mr. McKenna said.

Mr. Pence and many other Republicans released statements yesterday that praised Mr. DeLay for his three years as majority leader and eight years as majority whip and for putting the interests of the party first by stepping down.

DeLay's Own Tactics May Have Hurt Him (HCHRON)

By JULIE MASON

Houston Chronicle, January 8, 2006

WASHINGTON - In his nearly 20-year climb to the No. 2 job in the House, U.S. Rep. Tom DeLay has deployed a cunning and toughness that may have cost him friends but often won the battle — until now.

In his announcement that he would step down as House majority leader permanently, the vaunted counter of House floor votes may have calculated that this time, he lacked the votes to remain viable as a candidate for restoration to leadership.

In many ways, the Sugar Land Republican has been brought up short by the partisan, no-holds-barred political culture he helped create in the House, observers said.

"He shifted the game of politics from one of comity to one of ruling from an ironclad, 'with-us-or-against-us' philosophy," said Bob Stein, Rice University political scientist and pollster. "He felt you had to choose sides, and being neutral wasn't allowed. Over time, he just accrued too many enemies."

In 1984, DeLay shaved his mustache after a study by developer Bob Perry found Republicans with facial hair were not electable. He won a seat in Congress soon after, and a career of doing what it took to win was off and running.

DeLay's pugnacious style quickly earned him a reputation in the House, where Texans such as former House Speaker Sam Rayburn, also a onetime Democratic majority leader, generally had made a trademark of forging coalitions and building bridges across the aisle.

But DeLay's preferred method was different. As a campaigner and on the House floor, DeLay spoke with firebrand contempt for Democrats, especially liberals.

Although fiercely partisan, DeLay has rarely flinched from holding prominent members of his own party accountable when they violated what he believed were key tenets of conservatism.

In 1990, DeLay was among the most vocal critics of former President George H.W. Bush's decision to relent on a campaign pledge to create no new taxes. He also turned on former ally Newt Gingrich in a failed plot to oust the then-speaker.

DeLay, who denies wrongdoing in political activities that have brought criminal investigations, has been under a near-constant ethical cloud since 1993, when he was shown on national TV wearing knickers and playing golf on a trip paid for by lobbyists.

In 1995, DeLay was central to launching the K Street Project, an effort to pressure lobbying and trade organizations, generally headquartered on Washington's K Street, to hire more Republicans.

His tough gamesmanship on the lobbying issue drew notice in 1998, when DeLay led House Republicans in holding up a vote on intellectual property rights, apparently to punish a trade association supporting the bill for its plans to hire a top Democratic lobbyist.

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The incident earned him an admonishment from the House Ethics Committee. It was just one of the many probes and investigations into DeLay's fundraising and political activities through the years.

Largely undaunted, DeLay raised $15 million in 1999 for GOP candidates, which helped pave his path to House leadership. He was sued the next year by Democratic leaders claiming he was extorting funds from donors. The case was dropped with both sides declaring victory.

Throughout, DeLay has remained defiant and seemingly unconcerned by criticism, saying in 2003, shortly after he was elected majority leader, "I have just never worried about what people think of me or what the critics say."

He added, "I don't see myself as mean-spirited. I'm just passionate."

His most recent years spent as majority leader brought some of DeLay's more high-profile moments in Congress as he proved indispensable to the advancement of President Bush's legislative agenda and helped obtain — or block — funding for Houston projects, depending on his view of them.

When the House took up major Medicare changes in 2003, DeLay encouraged fiscal conservatives to hold out for a law that would give private health-insurance companies incentives to compete for Medicare dollars.

The House passed the bill to provide a prescription-drug benefit by one vote after some controversial arm-twisting on wavering GOP members by DeLay and other House leaders.

The next year, DeLay was admonished again by the House Ethics Committee, which found he offered to support the House candidacy of Michigan Republican Nick Smith's son in return for the lawmaker's vote on the Medicare drug benefit.

Last year DeLay's interest was drawn by the case of Terri Schiavo, a Florida woman in a brain-dead state whose husband was seeking permission from the courts to take her off life support.

DeLay led an effort in Congress to pass an emergency law granting a federal court review of the Schiavo case, only to see the U.S. Supreme Court refuse to intervene.

Her feeding tube was removed by court order, and Schiavo died 13 days later. DeLay, in remarks he later apologized for, essentially threatened the judges who allowed it to happen.

"The time will come for the men responsible for this to answer for their behavior," DeLay said.

Last year it was also DeLay's turn to be reminded by conservatives about party tenets of fiscal responsibility. After saying that hurricane-relief funds should be provided generously, DeLay later joined the move to cut the federal budget to allow it.

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Possible Successors To Tom Delay (AP-Y2)

AP, January 8, 2006

A look at two Republicans who may seek the House majority leader post vacated by Rep. Tom DeLay, R-Texas:

ROY BLUNT of MISSOURI:

Low key and affable in public, Blunt presents a marked contrast to the hard-driving DeLay, whom Blunt succeeded as House Republican whip in 2003 and now may seek to ascend to the second-ranking post of majority leader.

Blunt, 56, has risen rapidly through his party's ranks since winning election to Missouri's 7th District in 1996. DeLay, who was the GOP whip at the time, tapped Blunt as his top deputy in 1999. Blunt became whip, in charge of counting and nailing down votes, when DeLay became majority leader in 2003.

Blunt took over as acting majority leader in September when DeLay, indicted by a Texas grand jury on charges of conspiring to violate political fundraising laws, was forced to step aside.

Blunt's early tenure was marked by uneven success as Republicans struggled to pass a deficit-cutting bill, then suffered the defeat of a bill to cut spending on social programs.

Republicans rebounded quickly, passing the deficit bill after making changes to mollify party moderates, then resurrecting the spending measure.

While different in style from the stridently partisan DeLay, Blunt is equally conservative and took a leading role in moving President Bush's tax cut packages through the House. As whip, Blunt took the lead last year in the uphill struggle to secure votes needed to pass the Central America Free Trade Agreement.

Blunt was raised on a farm near Springfield, Mo., the son of a dairy farmer and a state legislator. After teaching high school government and history, Blunt became involved in Republican politics. In 1984, Blunt became his state's first Republican secretary of state in more than 50 years.

Blunt lost in the GOP primary for governor in 1992. For the next four years, he was president of his alma mater, Southwest Baptist University. In 1996, when the Republican incumbent retired, Blunt easily captured a seat in Congress from his solidly Republican district.

Blunt garnered some controversy when he unsuccessfully tried to slip a measure into the 2002 bill creating the Homeland Security Department that would have benefited tobacco giant Philip Morris. At the time Blunt had a personal relationship with a lobbyist for the company, Abigail Perlman. Blunt divorced his wife of 35 years and married Perlman in 2003.

Blunt has three children, including Matt Blunt, who was elected Missouri governor last year.

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JOHN BOEHNER OF OHIO:

Boehner came to Congress 15 years ago as a crusader against what he saw as the excesses of Democratic power. He was elected to the leadership when Republicans gained a majority in the 1994 election landslide. Boehner lost his post in the hierarchy four years later amid internal struggles following a coup attempt against then-Speaker Newt Gingrich.

As chairman of the House Education and the Workforce Committee, Boehner helped shepherd Bush's No Child Left Behind education bill through the House. In 2002, Bush traveled to Boehner's district on Ohio's western border to sign the measure into law.

Boehner has a strong conservative record, but has also shown an ability to reach across party lines. He pushed pension legislation through the House last year, attracting nearly 300 votes after a last-minute accommodation with the United Auto Workers.

Boehner, 56, was born in Cincinnati to a family of 12 children. He ran a successful plastics and packaging company before winning local and state elections in the 1980s and capturing his seat in Congress in 1990.

During his freshmen year, Boehner became part of the "Gang of Seven" that went after the ethical lapses, mainly of the Democratic majority, including the House Bank scandal. It turned out that lawmakers were writing checks to the House's internal bank without the money to back them up.

Boehner and his wife, Debbie, have two daughters.

After Tom DeLay (WP)

The Washington Post, January 8, 2006

TEXAS REPUBLICAN Tom DeLay's decision yesterday to permanently relinquish the majority leader's post was necessary but not sufficient for the health of the House majority he dominated for so long.

It's necessary because, notwithstanding his assertion yesterday that "I have always acted in an ethical manner," Mr. DeLay is an ethical recidivist unfit to lead. If the repeated admonishments of the House ethics committee weren't enough to convince his colleagues, consider some of the latest disclosures: The Post's R. Jeffrey Smith reported on a DeLay-linked group, the U.S. Family Network, that appears to have secretly received $1 million from Russian oil and gas executives seeking to induce Mr. DeLay to support a loan bailout for Russia. Foreign companies and individuals aren't permitted to make campaign contributions; such back-door influence buying is especially pernicious.

In addition, according to the guilty plea entered by Jack Abramoff, the former lobbyist arranged for payments totaling $50,000 to the wife of "Staffer A" -- identified as Tony C. Rudy, Mr. DeLay's former deputy chief of staff -- in exchange for Mr. Rudy's help in defeating an Internet gambling bill. The stench surrounding Mr. DeLay had been growing more pungent daily; his decision had the air of inevitability.

But House Republicans need not only to shed Mr. DeLay; they also need to change the way their party has operated under his leadership and that of House Speaker J. Dennis Hastert

(R-Ill.) and others. For a start, Congress should strengthen the rules governing lobbying, requiring fuller disclosure of the ties between lawmakers and lobbyists. Mr. DeLay did all he could to thicken those bonds, with his K Street project to install more

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Republicans in key lobbying jobs and his bullying lists of how much lobbyists were giving to each side. More sunlight -- disclosure of the amounts of money steered to lawmakers, the gifts lavished on members and staff -- would have gone a long way to disinfect Mr. Abramoff and to diminish the impact of Mr. DeLay's political hammer.

As Mr. DeLay's golf outings and other excursions demonstrated, the prohibition on travel paid for by an individual lobbyist makes little sense when corporations and other groups that lobby Congress can foot the bill and send their lobbyists along for the ride. The rules about privately funded travel should be tightened to bar lawmakers and staff from accepting reimbursement for trips underwritten, directly or indirectly, by entities that engage in lobbying.

Nor should these changes be limited to the House; the systemic vulnerabilities exploited by Mr. Abramoff are equally evident in the Senate. It is time to consider whether, in this age of partisan division, the existing congressional ethics process can be made to work or whether a different model is required.

Further, earmarks inserted in the dead of night to fund lawmakers' pet projects -- and secure their votes for measures -- are an invitation to abuse. So is, in violation of House rules, unveiling mammoth bills just hours before a scheduled vote. So, too, is the all-too-routine habit of making significant changes to legislation after it emerges from committee and then eliminating, or drastically limiting, lawmakers' ability to offer amendments on the floor. Representative democracy can't function when these practices prevail.

And there is a more fundamental question that the Abramoff mess, and the DeLay departure, ought to prompt House leaders to ask themselves -- or that voters may ask, and answer, for them: What is the purpose of the Republican majority? Is it simply, as some of the leadership's behavior would suggest, to amass, cement and retain power by whatever means necessary? Or, as Republicans claimed when they came to power a decade ago, do they stand for something: a different method of doing business, a belief in limited government, commitment to spending restraint? If there is a role for the Republican machine other than self-perpetuation, it's awfully hard to discern right now. That, as much as anything, ought to be what the upcoming leadership elections are about.

States Intervene After Drug Plan Hits Early Snags (NYT)

By Robert Pear

The New York Times, January 8, 2006

WASHINGTON, Jan. 7 - Low-income Medicare beneficiaries around the country were often overcharged, and some were turned away from pharmacies without getting their medications, in the first week of Medicare's new drug benefit. The problems have prompted emergency action by some states to protect their citizens.

Although there are no hard numbers, concerns expressed by state officials and complaints from pharmacists suggest a widespread pattern of problems.

At least four states - Maine, New Hampshire, North Dakota and Vermont - acted this week to make sure poor people received the drugs they were promised but could not obtain through the federal Medicare program.

Gov. Jim Douglas of Vermont, a Republican, said the state would pay drug claims for low-income people until the federal government fixed problems in the new program, known as Part D of Medicare. Michael K. Smith, the state's secretary of human services, said, "The federal system simply is not working."

On Thursday, the Vermont Legislature passed a bill declaring, "There is a public health emergency due to the federal implementation of Medicare Part D, which has resulted in serious operational problems, causing Vermonters to be turned away at the pharmacy without the drugs they need."

Many factors contributed to the initial chaos. Some people who enrolled in Medicare drug plans did not have any proof of coverage. Pharmacists could not get the information needed to verify eligibility for drug benefits and low-income subsidies. Insurance companies and their pharmacy benefit managers were swamped with calls, so pharmacists often had to wait an hour or more on telephone help lines.

Federal officials promised improvements, but state officials were growing impatient.

In Maine, Gov. John Baldacci, a Democrat, agreed to pay drug claims to provide medications for those in need. Since Tuesday, the state has incurred $2 million of expenses for Medicare beneficiaries.

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On Friday, Gov. John Hoeven of North Dakota, a Republican, said he had to act because "some low-income elderly and disabled individuals can't get their prescriptions filled through their Medicare drug plans."

In New Hampshire, Gov. John Lynch, a Democrat, signed an executive order authorizing the state to pay drug claims that he said should have been covered by Medicare. Republican leaders of the state legislature called a special session to provide the money. The start of the Medicare drug program "has been a nightmare for many of our citizens," Governor Lynch said.

"Many are being charged unaffordable co-payments for prescription drugs - co-pays much higher than they are supposed to be. Too many of them are leaving pharmacies without their prescriptions."

Thomas T. Noland Jr., a spokesman for Humana Inc., a major national insurer, said that some problems were "to be expected in a new program with lots of new enrollment taking effect all at once."

Cynthia G. Tudor, a senior Medicare official, told insurers on Wednesday that they must "immediately make improvements" to "ensure that all beneficiaries get their prescriptions filled at the point of sale."

In a memorandum to insurers, Ms. Tudor said she had received "numerous reports" that they were "inappropriately denying some scripts," or claims. In many cases, she said, insurers are not providing the data that pharmacies need to file claims and get paid.

Dr. Mark B. McClellan, administrator of the federal Centers for Medicare and Medicaid Services, said on Saturday that he was working closely with states to address their concerns and to help individual patients. "We are filling close to a million prescriptions a day, including hundreds of thousands for low-income beneficiaries," Dr. McClellan said. "Many, many people are getting the prescriptions they need."

But in an interview on Friday, Stan Rosenstein, the Medicaid director in California, said: "We are hearing more and more complaints. A significant number of people are not getting their prescriptions. That has us very troubled."

Drug benefits are delivered by private insurers under contract to Medicare. The federal government is supposed to compute the subsidy available to each low-income beneficiary. But Michael Polzin, a spokesman for Walgreens drug stores, said that, in many cases, that information had not been shared with insurers or pharmacists.

Under Medicare rules, each drug plan is supposed to have a transition policy, providing a temporary supply - typically 30 days - of any prescription that a person was previously taking. But customer service representatives at Medicare's toll-free telephone number said they knew nothing of this requirement, and beneficiaries said it had been virtually impossible to take advantage of it.

Nationwide, 6.2 million low-income people receive both Medicare and Medicaid. About 1.1 million of them live in California. They tend to have many chronic illnesses and high drug costs. Cheryl Meronk, manager of the health insurance counseling program in Orange County, Calif., said she was referring people to hospital emergency rooms because they had been unable to get urgently needed medications through Medicare.

Under the standard Medicare drug benefit, which took effect on Jan. 1, the patient pays a $250 deductible and 25 percent of the next $2,000 in annual drug costs.

Over the last year, Medicare officials repeatedly assured poor people that they would receive extra help, so they would not have to pay any deductible and their co-payments would not exceed $5 a prescription.

But Carol A. Herrmann-Steckel, commissioner of the Alabama Medicaid Agency, said that Medicare beneficiaries with very low incomes had often been required to pay the full $250 deductible and co-payments far exceeding $5. "One beneficiary borrowed the money," she said. "Another charged the $250 on a credit card because she was in such dire need of the medicine."

Beverly R. Churchwell, an aide to the Alabama commissioner, said: "Some Medicare beneficiaries have not been able to get their medications. They are being turned away at the pharmacy."

John J. Morris, 42, of Ware, Mass., who has diabetes and multiple sclerosis, signed up for a Medicare drug plan on Nov. 16. The insurer told him his co-payments would not exceed $5, he said, but at the pharmacy this week, he was told he had to pay $23 for each of three drugs.

"I could not afford it," Mr. Morris said, "so I was not able to get my insulin or my M.S. drug."

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In Oregon, Sandy K. Hata, a field manager for the State Department of Human Services, said: "We've had calls from people in tears who could not get their medications. These people were being asked to pay a $250 deductible and hundreds of dollars in co-payments."

Jane-ellen A. Weidanz, the Medicare project manager at the Oregon Department of Human Services, said, the $250 deductible "is hitting people very hard," adding: "People are very angry and very upset. They are yelling at us. They feel that we lied to them. They feel Medicare lied to them. They feel they cannot trust anything we say about this program."

Texas reported a similar problem. Low-income beneficiaries are "being charged incorrect (high) co-payments," the state's Health and Human Services Commission said in an e-mail message to the Dallas office of the federal Medicare agency.

In Oklahoma, low-income Medicare beneficiaries were often charged the $250 deductible. "They are being treated as if they were in a higher income bracket," said Mike Fogarty, chief executive of the Oklahoma Health Care Authority. "It's a common problem."

Steven E. Hahn, a spokesman for AARP, which offers a drug plan insured by UnitedHealth Group, said he knew that some low-income people had had difficulty getting medications. "We are taking this very seriously," he said. "This is a global problem, a systemwide problem, for all plan sponsors."

Elizabeth L. Stone, 86, who lives alone in an apartment in Manchester, N.H., is enrolled in both Medicare and Medicaid, has arthritis and a thyroid ailment and is in a wheelchair. She tried to use the new Medicare benefit to fill a prescription this week, but failed.

"I did not get any medication," Ms. Stone said. "People at the pharmacy would not give it to me because they do not know how they will be reimbursed."

Another low-income beneficiary, Terence J. Stevens, 65, of Lakeland, Fla., said he signed up for the drug plan on Nov. 15, the first day on which enrollment was allowed. His plan tried to charge him a $47 co-payment for a drug to treat irregular heartbeats and high blood pressure. Mr. Stevens said he was unable to pay and did not get the drug.

In Alabama, William M. Beasley, a pharmacist and a Democratic member of the State House of Representatives, said, "I have had more difficulty trying to process claims for Medicare recipients than I've had with any other insurer in 43 years as a pharmacist."

Seniors Aided In Medicare Drug Plan Changes (FREEP)

By KATIE MERX

Detroit Free Press, January 8, 2006

Isaac Penson signed up for a Medicare prescription drug plan before the new year with help from someone at his church, but he didn't realize he'd have to pay a $250 out-of-pocket deductible before the plan he chose would pay for any drugs or that the plan he chose wouldn't cover his blood-pressure medicine.

The 84-year-old Detroiter doesn't have $250. And he ran out of his blood-pressure medicine, Norvasc, earlier this week. He takes it to keep his high blood pressure from causing a heart attack, stroke or kidney problems.

The cash price for 30 Norvasc tablets is about $50. He can't afford that, either.

Now, with help from the Michigan Medicare Medicaid Assistance Program this week, Penson was able to change to a plan he can afford.

The new plan doesn't have a $250 deductible and allows him to fill each of his prescriptions for a $15 co-pay. The catch is that he can't use the new plan until next month.

Penson is one of a large number of seniors who are going without vital medicines or paying for them out of pocket because of glitches in the new Medicare drug benefit system and confusion over how it works. The good news, though, is there is time and assistance to help seniors switch to a plan that works for them.

The Medicare drug benefit, which took effect on Jan. 1, is supposed to improve access to prescription drugs for seniors and disabled people by helping them pay for their medication. Enrollment without a penalty of higher premiums continues through May 15.

It's the first time Medicare has offered to help pay for prescription drugs.

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More than 1.5 million Michiganders and 40 million other Americans are eligible for the new benefit. The Centers for Medicare & Medicaid Services says more than half of all eligible people nationwide have enrolled.

But implementation of the new benefit has Medicare beneficiaries and pharmacists twirling in a sea of confusion and frustration.

"Some people with Medicare -- seniors and people with disabilities -- are experiencing challenges in that they selected a plan and didn't realize it had a $250 deductible," said Mary Johnson, executive director of the Michigan Medicare Medicaid Assistance Program.

More than half of the new Medicare drug plans carry $250 deductibles.

Other enrollees believed the plans they signed up for covered their specific medications, but now are finding the prescriptions aren't covered or that their doctors have to file a special application before the drug plan will pay for them.

The new benefits have overwhelmed many enrollees because they've had to choose from among dozens of plans provided by a slew of private companies. Each plan covers a different mix of drugs, is affiliated with its own network of pharmacies, and charges its own monthly premiums and co-pays.

The Centers for Medicare and Medicaid Services reports that more than 1 million people have received prescriptions through the drug benefit since it took effect on Sunday.

But pharmacists report that many people who believe they enrolled haven't been so lucky.

Many people enrolled before the end of the year, but never received confirmation or a benefits card, pharmacists said.

In many cases, couples that sent their applications in on the same day find that one spouse already has received a benefits card and the other hasn't.

And the national computer system that's supposed to verify Medicare drug plan enrollment is so overloaded that pharmacists have been unable to verify benefits for many of their patients, said Al Knaak, head pharmacist and a part owner at Village Pharmacy II in Ann Arbor.

Pharmacists also report that they're having difficulty getting through by computer or telephone to the insurance companies running the drug plans.

"The wait on line with some of the insurance companies is up to 30 minutes now," Knaak said. "Sometimes you can't get through. It's becoming more chaotic as the week goes on."

"Our call volume has gone up during the course of the week," said Louanne Bakk, director of access and benefits assistance at the Area Agency on Aging in Southfield. The agency has been fielding calls from dozens of seniors and disabled people trying to navigate the new Medicare drug benefit.

Village Pharmacy, like many small and large pharmacies, is providing patients with two or three days of medication while they attempt to verify benefits.

"Sometimes if we call first thing in the morning or late in the evening, we're able to get through," Knaak said. If they're lucky, the patients receive their card before they run out of the emergency supply, he said. That's the easiest way to verify enrollment.

Walgreen Co. spokeswoman Tiffani Bruce said the system was overwhelmed by the initial demand, but the situation seemed to be improving by the second half of the week.

"I'm really looking for it to get better next week," Knaak said.

Contact KATIE MERX at 313-222-8762 or kmerx@freepress.com.

OTHER NEWS:

U.S. Plans For Future Without Sharon (AP-Y2)

By Barry Schweid

AP, January 8, 2006

In deference to an ailing ally, the Bush administration is saying little publicly about how it intends to fan flickering Mideast peace hopes if Israeli Prime Minister Ariel Sharon remains incapacitated or does not survive.

Privately, American officials are gathering their thoughts and making some tentative moves despite uncertainty about who would succeed the 77-year-old prime minister.

Sharon remained in serious condition Saturday after undergoing his second brain operation in two days on Friday, two days after suffering a major stroke and bleeding in his brain.

Secretary of State Condoleezza Rice cleared her schedule, canceling visits to Indonesia and Australia to remain in Washington and on top of the situation.

"She thought it was the right thing to do, to be here with her foreign policy team," said State Department spokesman Sean McCormack.

And even as administration officials awaited developments in Jerusalem, they were trying to address the deteriorating security situation in Gaza. The U.S. security coordinator, Maj. Gen. Keith Dayton, has returned to the region to try to get a handle on violence in the Palestinian territory.

"There is no central authority," said Edward S. Walker, a former U.S. ambassador to Israel and to Egypt. "It is not a question of terrorism, but pure, outright criminal behavior."

Administration officials decline to acknowledge that they inevitably have to look beyond Sharon. Spokesman McCormack said only that "our focus is on our solidarity with the Israeli people in what is a tough time."

But Walker, a longtime diplomat in the Middle East and Washington, said in an interview that the first thing U.S. officials must be thinking about is what President Bush would say at a funeral. And Bush's attendance is essential, he said.

"They are mapping out a strategy," Walker said. "They have to be ready to move."

U.S. officials "are going to have to pin down" Ehud Olmert, who temporarily took the reins of power from Sharon and could be a top contender for prime minister in a previously scheduled March 28 election.

Before Sharon was stricken, polls pointed to victory for Kadima, the centrist political party Sharon founded after he broke with many of his longtime supporters in the hard-line Likud.

Benjamin Netanyahu, a former prime minister generally placed to the right of Sharon, is a likely contender for the top job.

Walker said he thought the administration favored Kadima, but added: "They cannot get too enmeshed in the election campaign."

Daniel Kurtzer, also a former U.S. ambassador to Israel and to Egypt, said there were probably two things on the minds of administration officials.

One is how to stabilize the situation, Kurtzer said in an interview. He said that means "ensuring that the leadership that emerges in the post-Sharon era continues along the line Sharon has laid out — a tough response to terrorism, but flexibility and creativity in peacemaking."

The second, Kurtzer said, is that the administration would be "laying down markers on the Arab side, particularly with the Palestinians, not to take advantage of what they might perceive to be a period of instability in Israel."

The retired diplomat added, "My guess is that the administration is working on both to try to prevent a downward spiral."

Mideast history is instructive, with predictions often off the mark. But there are constants: U.S. efforts to maintain order and keep Israel and the Arabs on a peace track.

Sharon illustrates how events in the Middle East often defy expectations. The tough, unyielding ex-general wound up endorsing Palestinian statehood and withdrawing all Jewish settlers from Gaza and part of the West Bank.

Nearly three decades ago, Menachem Begin, another dedicated hardliner, agreed to relinquish Sinai to Egypt in exchange for a peace treaty.

The Arab leader he negotiated with, Anwar Sadat, had vowed only months before the accord that peace with Israel was a worthy objective, but not until the next generation.

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EDITOR'S NOTE: Barry Schweid has reported on the Middle East since 1973.

Scan Shows Slight Improvement In Condition Of Israel's Sharon (WP)

By Scott Wilson

DOJ_NMG_0008611

The Washington Post, January 8, 2006

JERUSALEM, Jan. 7 -- Israeli Prime Minister Ariel Sharon remained in critical condition Saturday, but a new round of tests revealed a slight improvement in the physical state of his brain.

Despite some positive signs, including evidence suggesting that the side of his brain controlling speech remains unharmed, doctors cautioned that it was too soon to tell whether Sharon would survive the massive stroke and extensive hemorrhaging he has endured in recent days.

"We as people are optimists," said Shlomo Mor-Yosef, director of the Hadassah-Ein Kerem Hospital, where Sharon is being treated. "But I can't say that he is out of danger. His condition is still serious. But the scan shows slight improvement."

Sharon, 77, suffered a stroke Wednesday night caused by a blood clot that went to his brain. Doctors have performed three rounds of surgery struggling to control the resulting hemorrhaging, likely caused in part by blood-thinning medication Sharon was taking for a stroke he suffered last month.

The report by Mor-Yosef Saturday evening was the second consecutive assessment of the prime minister's condition that announced no new bleeding and a reduction in dangerous swelling that could cause permanent brain damage.

But whether Sharon, who has dominated Israeli's politics since becoming prime minister nearly five years ago, will recover and do so with his faculties intact remains uncertain.

"The team at Hadassah Hospital, along with the prime minister and the Sharon family, are fighting to save the prime minister's life," Mor-Yosef said.

Sharon's doctors were to meet Sunday morning to decide when to begin rousing him from a coma, medically induced to give his brain a chance to recover from the trauma of the stroke and repeated surgeries.

Only when he is conscious, Mor-Yosef said, will doctors be able to evaluate Sharon's brain function and any possible damage he has sustained.

Sharon underwent a scheduled brain scan Saturday morning to check for bleeding and to measure pressure inside his skull. A day earlier, a CT scan -- a special multiple X-ray screening process that allows viewing of interior body parts -- revealed fresh hemorrhaging and a spike in pressure. Sharon was rushed into five hours of emergency surgery.

The operation, in which a catheter was inserted to drain fluid from his skull, stanched the bleeding and reduced swelling. Mor-Yosef said the swelling declined further Saturday and that the prime minister's vital signs, including blood pressure and urine production, were within "normal ranges."

The tests also revealed that the left side of Sharon's brain appeared to be undamaged, a potentially auspicious sign for his recovery.

Sharon's hemorrhaging occurred on the right side of his brain, meaning he will likely suffer at least some paralysis on the left side of his body if he survives.

But doctors had also feared that the swelling caused by the bleeding may have squeezed the left side of the brain against the skull, causing damage to areas that control speech, faculties of analysis, and fine motor skills such as writing in a right-handed person. Sharon is right handed, according to one of the doctors treating him.

"The only thing we can say is that the left side of the prime minister's brain remains intact," Mor-Yosef said. "We will only know what this means when they wake the prime minister up gradually."

Much of the country paused for the Jewish Sabbath on a rain-blown Saturday, and many of Israel's rabbis continued calling on the nation to pray for Sharon's recovery.

His stroke has caused upheaval in Israel's political system, and his grave but stable condition has frozen many of the decisions that will determine who might replace him should he be unable to return to office.

"It looks as if his acute state is moving to what we'd call the sub-acute state," said Avi Cohen, a neurosurgeon at Soroka Medical Center in the southern Israeli city of Beersheba who is not directly involved in Sharon's case. "Given the picture of the left side of his brain, he might be able to speak and to write."

Cohen echoed Mor-Yosef, however, in saying it was still hard to know what injury Sharon's brain has suffered. He said doctors would wake him up very slowly and may only keep him conscious long enough to run initial tests to measure brain function.

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"They are not in a hurry," Cohen said. "That's just the way it should be."

Arabs Ponder Life After Sharon (WT)

By Joshua Mitnick

The Washington Times, January 8, 2006

TEL AVIV -- With Prime Minister Ariel Sharon lying in critical condition over the weekend after suffering a stroke on Wednesday, Palestinians and the broader Arab world have looked on with apprehension.

A brain scan on Mr. Sharon yesterday showed a slight easing of swelling, said Dr. Shlomo Mor-Yosef, director of Hadassah Hospital in Jerusalem.

Dr. Jose Cohen, one of the neurosurgeons treating the prime minister, was quoted by Israeli radio as saying he thought Mr. Sharon would recover from the massive stroke he suffered and emerge in relatively good shape, but that after such a shock there would undoubtedly be cognitive damage.

Doctors were to decide today when to lift the prime minister's medically induced coma to examine the extent of the neurological damage.

The incapacitation of Mr. Sharon has stunned Israel's Arab neighbors. Yesterday, King Abdullah of Jordan telephoned acting Prime Minister Ehud Olmert to express his concern about Mr. Sharon's health, and a day earlier Egyptian President Hosni Mubarak called to say that bilateral relations would continue to improve, the Israeli daily Ha'aretz reported.

To be sure, most throughout the Arab world aren't forgiving Mr. Sharon for his tough response to the latest Palestinian uprising, or the massacre of Palestinian refugees in the Sabra and Shatila refugee camps during Israel's 1982 invasion of Lebanon.

Video of Gazans passing out candy in response to the news of Mr. Sharon's stroke reflected widely shared sentiment that considers the Israeli prime minister to be a war criminal, analysts said.

And yet, the rehabilitation of Mr. Sharon's international reputation during his five years in office has also affected Palestinian views of the Israeli leader. Writing in the Palestinian daily Al-Ayyam, editor Abdel Nasser A-Najar compared Mr. Sharon to Palestinian leader Yasser Arafat and bemoaned the rising insecurity left behind by the two.

"The political map in both Israel and Palestine looks very complicated, with their borders intertwined and unclear. Even the road map looks like it is hibernating towards its death," he said.

"After Sharon, the Israeli people will live in a state of vacuum and confusion not different from the state that the Palestinians had undergone after Yasser Arafat's death. It will take years before both the Israelis and the Palestinians find leaders like Arafat and Sharon."

Mr. Sharon's stature as the chief political patron who helped the spread of Jewish settlements will probably overshadow, among Palestinians, his decision to relinquish Gaza.

Palestinians complain that the Gaza withdrawal has left residents cooped up in the tiny coastal strip while freeing Israel's hand to complete the construction of its separation barrier through the West Bank and bolstering existing Jewish settlements there. At the same time, they don't believe Mr. Sharon was prepared to renew peace negotiations that were halted just after he entered office five years ago.

"The Palestinians look at him as the master of unilateralism," said Palestinian legislator Hanan Ashrawi.

And yet, Mr. Sharon retains a special status among Palestinians for being the first Israeli prime minister able to evacuate Jewish settlements in Gaza and the West Bank.

"He hasn't negotiated, but he has dismantled the settlements, which was a precedent, and we can't ignore that. To people who look at it as a precedent, it's important that the settlements be dismantled to prove that settlements aren't a permanent feature of the landscape."

Palestinian negotiator Saeb Erekat expressed concern that the political vacuum in Israel would contribute to tension on the eve of a Palestinian parliamentary election scheduled for Jan. 25.

The transition from Mr. Sharon to Mr. Olmert may allow a dispute over the voting status of Palestinian residents of East Jerusalem to fester, and ultimately delay the election, Mr. Erekat warned.

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"Sharon's illness will affect us more than anyone else as Palestinians. He is the one occupying our land," Mr. Erekat said. "I am worrying that the competition that will replace Sharon will build more settlements and more walls."

With Sharon Ill, Palestinians Face Own Travails (NYT)

By Steven Erlanger

The New York Times, January 8, 2006

JERUSALEM, Jan. 7 - The sudden political disappearance of Prime Minister Ariel Sharon, struggling for life after a massive stroke, has thrown the future of any peace process with the Palestinians into question. But the Palestinian Authority itself is in such disarray that it may be incapable of negotiating on terms any Israeli leader could accept.

There is spreading chaos, a sense of deterioration and growing concern among both Palestinians and Israelis that the Palestinian Authority, nearly bankrupt and facing a huge budget deficit, may look like a failed state even before it becomes one.

Life for ordinary Palestinians is becoming harder, with less security and optimism than a year ago. The Israelis pulled out of Gaza - a thrilling moment for many Palestinians - but the territory has become practically lawless, not a model for a future state, and Palestinian voters seem set to punish the divided Fatah movement that monopolizes the Palestinian Authority.

Legislative elections on Jan. 25 are expected to bring the radical Islamic group Hamas, dedicated to a continuing armed struggle against Israeli occupation, into a significant share of power in the authority.

"All the chaos is coming from inside the Palestinian Authority and Fatah," said Khaled Duzdar, a Palestinian analyst at the Israel/Palestine Center for Research and Information. "Fatah almost seems to be working on behalf of Hamas. This is the lowest the Palestinian Authority has reached."

The splitting of the main Palestinian faction Fatah and the participation of Hamas and its militants in the authority are serious questions that any new Israeli leader will have to confront right away.

By itself, the victory of Hamas or its achievement of a blocking minority within the authority could be enough to put an end to the long-moribund "road map," the peace plan drafted and endorsed by the United States, as well as the Israelis and the Palestinians. Hamas is committed to keeping its armed wing and its weapons, and says it is running in this campaign "to protect the resistance." One of the road map's first requirements is that the authority disarm all militants, including Hamas, Islamic Jihad and Al Aksa Martyrs Brigades, which is affiliated with Fatah itself.

The Palestinian Authority's president, Mahmoud Abbas, has promised Israel and Washington to disarm the militants after the elections, but no American or Israeli policy maker or intelligence analyst interviewed over the last two months believes that he will be able to do so, and most think he is unlikely even to try.

So, outside of considerations of Israeli leadership, progress toward peace seems unlikely. That can only add to the Israeli inclination to sit tight and manage the current situation while continuing unilateral disengagement from the Palestinians, like the construction of the separation barrier.

"We have an ailing prime minister and the Palestinians have an ailing Authority, and both are on life support," said a senior Israeli intelligence officer, who could not be identified because of the nature of his work. "We have never been through such a period of anarchy in the Palestinian Authority. As far as security is concerned, the Authority is nominal - anyone in the territories does what they please."

In Gaza City recently, Ahmad el-Balawi, 20, said he had turned to Hamas from Fatah because of the corruption of the authority, the lack of jobs and the deterioration of ordinary life. "We are Muslims, and we need change," he said at his father's toy shop festooned with plastic guns. "We've had experience with Fatah, unfortunately."

Bashir el-Balawi, 46, his father, said: "The majority of them are Hamas now. It's because of the current situation, with no jobs and no safety and the corruption." Asked why he sells so many toy rifles, he threw up his hands. "The kids have fallen in love with weapons, it's just weapons they want, no other toys, they think they will fight against Israel." Does that depress him? "Not really," he said. "They want to feel powerful and free."

There are problems for Israel's interim leadership, too. Mr. Abbas has promised Hamas that the elections will not be postponed, but he has also said that if Israel will not allow Palestinians to vote in East Jerusalem, annexed by Israel after the 1967

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war, the elections would be impossible. Israel does not want to be blamed for postponing the elections, especially since the Bush administration has called for them to go ahead.

Mr. Sharon had the stature to stand up to Washington on this issue, if he chose. It may be a harder choice for the acting prime minister, Ehud Olmert, whose performance will be watched closely by Israeli voters. He may want to show his independence from Washington and make a symbolic stand against Hamas participation by banning voting in East Jerusalem, but he would do that only if Mr. Abbas privately wanted him to.

The Palestinian Authority is in deep financial trouble regardless of how the elections proceed. It is spending almost its entire yearly revenue of some $1 billion on salaries, which were recently raised despite cries of alarm from donor countries and the World Bank. According to the authority's former finance minister, Salam Fayad, who quit in protest to run for election, it is essentially out of money, and unable to raise more funds from banks.

Donor countries at an aid meeting in London in mid-December refused to release a semiannual $60 million in aid because, said Nigel Roberts, the regional director of the World Bank, the Palestinians had broken their commitments to fiscal responsibility. "The Palestinian Authority is in imminent functional bankruptcy," Mr. Roberts said. "In any given month now, they might find themselves unable to pay their basic salaries and minimal operational costs."

In 2006, the Palestinian Authority is facing a deficit of about $900 million. It can hope for about $300 million to $350 million in additional funds from the Arab world and donor countries this year - presuming that they can work out another restructuring program with an authority run or dominated by Hamas. But even that would leave a net deficit of around $600 million.

The combination of the security chaos in Gaza and in large parts of the West Bank, the involvement of Hamas and the accumulated troubles of the Palestinian Authority is likely to drive off foreign investors, Mr. Roberts said. Yet it is only investment and job creation that can offer enough jobs for the growing population of young men.

Overall Palestinian unemployment is about 23 percent, but some 75 percent of young men from 16 to 25 years old in refugee camps are unemployed. Hiring some of them into the security services, which Mr. Abbas has done, makes political sense. The checkpoints and the barrier cost the Palestinian economy about 5 percent real growth every year, Mr. Roberts said. That is a major toll, given that 10 percent real growth would be needed to solve the unemployment problem.

In 1999, before this intifada and the Israeli response, the Palestinian Authority had a balanced budget and needed no outside support. Now, even though revenues have recovered to where they were in 1999, the deficit has ballooned. "You can't hire all these people and then increase their wages, that's what's broken the bank," Mr. Roberts said. "The salary bill is so high in relation to resources there are only two options, and both are unsavory. They have to cut salaries or cut staff."

Maj. Gen. Aharon Zeevi-Farkash, the departing director of Israeli military intelligence, said bluntly, "We are facing a real revolution in the Palestinian Authority." The clash of generations - the older group like Mr. Abbas, who went into exile with the late Yasir Arafat; the middle generation like Mahmoud Dahlan and Marwan Barghouti, who grew up under occupation; and the young generation of gunmen empowered by five years of armed conflict - is pulling Fatah apart, he said.

Fatah's divisions are accelerated by a reputation for corruption, arrogance and cronyism, and an inability - despite 70,000 men listed as part of the official Palestinian security services - to provide law and order. This has been fertile ground for Hamas, which is running under the slogan "Change and Reform."

Khalil Shikaki, director of the Palestinian Center for Policy and Survey Research, the most respected polling agency in the territories, said, "There is tremendous fragmentation evident in Fatah, with Fatah candidates competing with each other and the Fatah leadership impotent in stopping it."

Hamas, he said, "wants to win and is running like it wants to win," partly to resolve an old battle with the secular Fatah, partly "as a defeat for the accommodationists who want peace with Israel and follow the American lead, and partly as a victory for Islam everywhere."

Hamas wants to respond to demands for reform in the Palestinian Authority, Mr. Shikaki said. "Hamas wants to rise to the challenge. They've built a tremendous constituency and need to deliver."

But on the issue of Israel, neither Mr. Shikaki nor Mr. Duzdar, the Palestinian analyst, thinks Hamas will change its spots. "Anyone who thinks Hamas will become pragmatic if they win and it will be easier to settle the conflict is unrealistic," Mr. Duzdar said. "Hamas will never shift or change its charter or agenda. They want to have an impact on the Palestinian Authority from the

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inside, to be a tough opposition within the legislature and maybe cripple Abu Mazen and the Palestinian Authority in future negotiations," he said, referring to Mr. Abbas.

The Israeli intelligence officer said: "Hamas wants Israel gone and they want to keep the means of terror. Yet they are allowed into the political process by those who believe that afterwards, for some unknown reason, Hamas will change its soul or that Abu Mazen can deal with them. Hamas wants to enter the Palestinian Authority to promote its goals, not to change them."

Mr. Shikaki's latest poll, which incorporates constituency voting as well as votes for party lists, indicates that Fatah should win half the 132 seats at stake, with Hamas winning some 39 percent of them. About 14 seats will go to independents, some of them Hamas supporters, he said.

Mr. Duzdar and the senior Israeli intelligence officer say they think Hamas will do better than Mr. Shikaki's polls indicate and will get 45 percent or more of the seats - if the election is allowed to proceed. Senior Fatah members do not want to hand over so much power to Hamas, and there is a wide expectation that election day could be violent.

Israel and its policies in the occupied territories are partly to blame for Mr. Abbas's troubles, Mr. Shikaki said. "Israel could have helped him more," he said. "He did after all put the cease-fire in place. Wasn't this sufficient for Israelis to take more risks? To remove checkpoints, ease the economy, dismantle illegal outposts, freeze settlements, help Abu Mazen rebuild the security forces? But Israelis decided to take as little risk as possible."

Mr. Abbas showed little resolve himself, Mr. Shikaki admits, and embraced the old Fatah bosses rather than bringing along the next generation. "Israel certainly shares some responsibility and blame," Mr. Duzdar said. "But after they withdrew from Gaza, there is no reason for the Palestinian Authority to blame Israel for failing to provide law and order there."

Mr. Shikaki said: "If I were Israeli, I'd be very, very worried watching the rise of Hamas and the fragmentation of Fatah. It limits Israel's options in the West Bank in a big way. Even the simple task of unilateral withdrawal would be a nightmare without Fatah and a reliable Palestinian partner. With Hamas in control, unilateral withdrawals from the West Bank would be seen as a victory for Hamas."

His Condition Slightly Improved, A Comatose Sharon Faces The Risk Of Serious Infections (NYT)

By Steven Erlanger And Lawrence K. Altman

The New York Times, January 8, 2006

JERUSALEM, Jan. 7 - A scan of Prime Minister Ariel Sharon's brain on Saturday showed "very slight signs of improvement" but no real change in his condition, which remains stable but critical, a hospital official said Saturday evening.

After three days of a medically induced coma and three operations to stop bleeding and reduce pressure that arose in his brain from a major stroke on Wednesday, Mr. Sharon, 77, is facing a new set of risks.

The risks, which stem from his immobility since the stroke, include development of life-threatening infections like pneumonia, urinary tract infections and bed sores.

It is standard care to move the arms and legs of stroke patients to prevent muscle atrophy and contractions. Hospital workers also move patients and use special mattresses to prevent bed sores.

But Mr. Sharon's bulk would make such care more difficult and increase his risks for complications, according to stroke experts not involved in his care.

Dr. Shlomo Mor-Yosef, the director of Hadassah Ein Kerem Hospital, said Saturday that Mr. Sharon's blood pressure, heart rate and other "vital signs were within normal limits." Mr. Sharon is breathing with the aid of a mechanical respirator.

The hospital has disclosed only limited information about Mr. Sharon's care, making it difficult for independent stroke experts to estimate the severity of brain damage and to follow the case. In addition, conflicting reports form the hospital have added to the confusion.

On Saturday, for example, Dr. Mor-Yosef said that a CT scan obtained earlier in the day showed further reduction in the swelling of Mr. Sharon's brain and said that the pressure had returned to normal.

But on Friday, he had said Mr. Sharon's brain pressure had returned to normal after a third operation to stop bleeding in the brain.

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On Saturday, he made no mention of continued bleeding. He also said the left side of Mr. Sharon's brain "looked better" than the right. But he did not say whether he meant that the structure of the left brain seemed normal or whether it was only less damaged than the right.

Later on Saturday, Dr. Jose Cohen, a member of the team monitoring Mr. Sharon, rated his prospects of survival as "very high," Israel's Channel 2 television reported, according to Reuters. "I am pretty optimistic about it. We are praying there won't be complications, like catching an infection," Dr. Cohen was quoted as saying. But he stressed that Mr. Sharon would not be unscathed, saying, "To say that after a severe impact like this one there would not be cognitive problems is just not acknowledging reality."

On Sunday, Mr. Sharon's medical team will consider when to try to wake him from the induced coma. Until that effort is made, doctors cannot determine how much damage the stroke has caused in terms of paralysis and intellectual functions.

Many Israelis prayed for Mr. Sharon on the Jewish Sabbath while his two sons, Omri and Gilad, kept a vigil by his bedside.

Separately, the imprisoned Palestinian politician Marwan Barghouti warned against any move to use Mr. Sharon's illness as a reason to postpone Palestinian legislative elections scheduled for Jan. 25.

"The Palestinian Authority should avoid making any connection between the health of Sharon and the election date," he said in a statement published in Palestinian newspapers. "The election is a national Palestinian issue and it must not be linked to any foreign concerns such as what is happening in Israel with Sharon."

Mr. Barghouti, who heads the list of Fatah Party candidates despite serving multiple life sentences in Israel for his role in the killing of five Israeli civilians, also criticized the conduct of members of Al Aksa Martyrs Brigades, an armed offshoot of Fatah, who carried out violent protests in the Gaza Strip this week.

The gunmen were ultimately successful in forcing the Palestinian Authority to release Alaa al-Hams, who had been arrested for kidnapping a British family.

On Saturday in Gaza, 10 Palestinians were wounded, including 8 police officers, in gun battles in Deir al Balah, when the police tried to make an arrest. One wounded police officer was said to be in serious condition.

In the West Bank, clashes flared briefly between Palestinian gunmen and Israeli soldiers in the northern city of Jenin. Also in Jenin, Al Aksa Martyrs Brigades ordered international observers overseeing this month's Palestinian election to leave the city. "We are sorry to tell you that you must leave Jenin as soon as possible," said a statement to the observers, most of them European.

Ten Voices On The New Era (NYT)

By Peter Edidin

The New York Times, January 8, 2006

ONE constant, in calls to the Middle East on Thursday and Friday, was the background noise of a television, set to a program that was reporting on the condition of Ariel Sharon.

Whether the person being called was a Palestinian or an Israeli, to the left or right on the political spectrum, Mr. Sharon's sudden and unexpected removal from power and to a critical care ward in a Jerusalem hospital had focused them all on the magnitude of his influence and the enormous gap left by his absence.

In Washington, too, the prime minister's incapacitation managed to overshadow even a looming Supreme Court nomination fight and major controversies over influence peddling and domestic spying.

One reason for the extraordinary degree of interest is simply historical. Mr. Sharon is one of the last of the legendary generation - which included Moshe Dayan, David Ben-Gurion, Yitzhak Rabin and others - who founded Israel in 1948. And he has figured in virtually every major event in the nation's history.

Mr. Sharon fought in every Israeli war, led the invasion of Lebanon, was judged indirectly responsible for the massacre of Palestinian men, women and children by Lebanese Christian forces in the Sabra and Shatila refugee camps in 1982, masterminded the settlement movement in the Gaza Strip and the West Bank, helped to bring the conservative Likud Party to power under Menachem Begin, overturning the long dominance of the Labor Party.

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The point is, he has always been there - large, outspoken, sure of himself and infuriating to many, including many Israelis. When he came to power as prime minister in 2001, much of world opinion assumed that the peace process between the Palestinians and Israel was simply at an end.

And yet, in an astonishing act, Mr. Sharon, the most resolute opponent of Arab demands, decided that the nation's security and its future required that Israel relinquish control over the Gaza Strip to the Palestinians. Most observers believe he would have soon followed by withdrawing from parts of the West Bank, too.

To carry out his vision of disengagement and partition, Mr. Sharon created, out of little beyond the force of his personality, a new centrist party called Kadima. And until his stroke, polls showed him - and the array of prominent politicians who had flocked to his banner - well ahead in the parliamentary elections scheduled for March.

How much further he would have gone in pursuing a comprehensive, final peace with the Palestinians is unclear, but many believe that is precisely what he hoped to achieve.

The question now, again assuming that Mr. Sharon is unable to return to power, is what his legacy will be. Will Kadima survive without him, prosper in the elections and, under the leadership of Ehud Olmert, the acting prime minister, go on to realize Mr. Sharon's plans? Or will Likud, under the leadership of the hard-right former prime minister, Benjamin Netanyahu, return to power? Will the Labor Party make new gains?

And will the Palestinians and the Arab nations, deprived of Mr. Sharon as a useful bogeyman, begin to put their own houses in order and deal more constructively with Israel?

A number of Middle East experts and policy makers were asked in phone interviews to offer their own initial, off-the-cuff answers to these and other questions. If nothing else, their responses illustrate how large is the space that Mr. Sharon occupied until last week.

History Interrupted (NYT)

By James Bennet

The New York Times, January 8, 2006

"LOOK, the Jews are not easy people," Ariel Sharon, one of the least easy of people, said late one evening in 2004 on his farm in southern Israel. "Maybe that's the reason they managed to exist, I would say, for thousands of years." He chuckled.

"You cannot defeat Jews," Israel's prime minister went on. "You can maneuver them. You maneuver them, they maneuver you. I would say it's endless maneuvers."

It is hard to imagine Mr. Sharon's own gambits at an end. Having outmaneuvered Jew and gentile, enemy and ally alike, Mr. Sharon at 77 was losing ground at this writing to the invincible opponent he had also cheated more than once. It should have surprised no one - though it did - that he was caught, in this struggle, in mid-maneuver. Having torn up the Jewish settlements he founded in the Gaza Strip, he had been on his way to tearing apart the right-wing party he founded, Likud, in favor of a new, centrist party that was going to do - well, it may be that only Mr. Sharon knew exactly what, and some wondered if even he did.

He almost certainly planned to pull some Israeli settlers out of parts of the West Bank, but how soon, and from which areas? Did he envision signing a peace agreement with the Palestinians from behind the West Bank barrier he mapped out? One that would provide them sovereignty in a viable state? Or did he want to cage the Palestinians in barricaded enclaves like Gaza? Its ends still unknown, its ultimate achievements still uncertain, one of the most audacious exercises of leadership in Israel's history came to an abrupt close at a moment of resounding ambiguity.

"We will never know the real answer," said Tzaly Reshef, a founder of the left-wing Israeli group Peace Now. He said that his own feelings about Mr. Sharon were mixed. "Some good friends who share my views remember only the last two years," he said. "I remember the whole history of Sharon."

"He didn't have a lot of limitations, moral or otherwise," Mr. Reshef said. Yet - partly because of those qualities - Mr. Reshef did not have mixed emotions about the loss of Mr. Sharon as a leader. "I think it is a big tragedy that we lose him now," he said. The same "power and personality," he said, that caused Mr. Sharon to command the bloody invasion of Lebanon in 1982 "could maybe have made him the savior of Israel in the next four years."

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Maybe Mr. Sharon had confided all in his deputy prime minister, Ehud Olmert. Maybe, in a locked chest on the farm, he had squirreled away a map of his planned disposition of territory. But, Mr. Sharon being Mr. Sharon, no one could rule out another feint. Besides, the interplay of Israeli and Palestinian blows and posturing has proved resistant to fixed road maps of any one's devising; prospects for changing the pattern had come to rest more on the creative leadership of the brutal, cunning figure who just exited, stage center.

What Mr. Sharon might have done is a question of more than academic interest. Lacking his credentials, politicians who follow will compete for his legacy and so contest its interpretation. "Everybody's going to fight for the mantle of Ariel Sharon," said Jon Alterman, director of the Middle East program at the Center for Strategic and International Studies. "I think partly because he covered such a wide swath of the middle of Israeli politics there are going to be innumerable theories of what he might have done."

Israel has never fought a war without Ariel Sharon in the front lines or in command, or both. Even Israelis who held him responsible for the massacre of Palestinians at Sabra and Shatila during the Lebanon War or the deaths of Arab civilians during his commando raids of the 1950's trusted him to concede territory because they believed that, as he often said, he would never take a risk with their security.

As a leader, Mr. Sharon - his first name means "Lion of God" - was everything he seemed, and its opposite. He was blunt in speech and subtle in aim, sloppy in appearance and meticulous in preparation, grandfatherly in demeanor and ruthless in reality. In their 1973 study, "The Israeli Army," Edward Luttwak and Dan Horowitz concluded that he "concealed one of the finest tactical minds in the Army behind the carefully cultivated image of a simple fighting soldier."

It is the effort to conceal that is telling. His nickname, "the Bulldozer," reflected only his most obvious features - the fists, not the brain. He was underestimated even when he ran for prime minister five years ago, when potential opponents, including Benjamin Netanyahu, stood aside in the expectation that Mr. Sharon would keep the seat warm, quickly fall from power, and make a successor look good by comparison.

Those entangled by his tactics often came away revolted. "The biggest liar this side of the Mediterranean," the American diplomat Philip Habib, who on behalf of Ronald Reagan tried to end Israel's 1982 Lebanon invasion, said of Mr. Sharon, who was then defense minister. Mr. Sharon was a man of fixed ends - Israel's security, as he saw it, and its inextricable adjuncts, his own military and political success - and infinitely flexible means. That was the bitter lesson learned by Israeli settlers who moved into Gaza on his encouragement and out of it on his orders.

Mr. Sharon called his new party Kadima, or Forward, without ever saying just where it was headed. Both the indefatigable dove, Shimon Peres, and hawks like Shaul Mofaz, the defense minister, flocked to him. A poll released just before Mr. Sharon was stricken Wednesday showed Kadima crushing the established Likud and Labor Parties. Mr. Sharon had not even prepared a parliamentary list for elections, ranking his party leaders in order of importance. They must now sort it all out on their own.

Mr. Sharon was no mere blur, of course. He used ambiguity to hold the political center but he held that political center in order to shape it. He reversed the logic for ending the Israeli-Palestinian conflict that was adopted by his predecessors Yitzhak Rabin and Ehud Barak: While those prime ministers sought security through peace agreements, Mr. Sharon insisted, as he put it, that only security could bring peace. The Palestinians would have to lay down arms before negotiations could begin.

As a result, Israelis endorsed Mr. Sharon's conviction that the Palestinian leadership, unable or unwilling to crack down on militants, could not now be a peace partner. And so they overwhelmingly backed his approach of unilaterally setting Israel's boundaries, withdrawing from Gaza in what he assured voters was their own interest.

Palestinians and Mr. Sharon's left-wing critics said his approach was calculatedly self-fulfilling. In their eyes, his refusal to talk undermined Palestinian pragmatists, who needed negotiated achievements to build domestic support. To them, Israeli incursions and blockades crippled the very security forces that were supposed to act against terrorists. Mr. Sharon's unilateralism, they said, empowered militants, who pointed to it in arguing that the violence of the second intifada had achieved something that 10 years of negotiations never did - the evacuation of Israeli settlements.

Mr. Sharon was fairly clear about whether he saw this unilateralism leading to a peace agreement. He wanted an agreement, he said, provided the Palestinians could meet his demands for his security. His senior aides used to joke that, to do so, the Palestinians would have to become Swedes. For years, Mr. Sharon said he wanted a long-term interim agreement, a sort

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of standstill arrangement that would end the fighting, reduce the friction between the two peoples and help them, somehow, become comfortable with each other. Only after many years, he argued, would there be enough trust for real peace. In any final deal, he wanted to hold all of Jerusalem and Israel's biggest West Bank settlements.

Mr. Sharon liked to quote advice his mother gave him in the early 1980's, when he was negotiating with the Egyptians: "Do not trust them! You cannot trust a piece of paper!"

In that conversation at his farm, in the summer of 2004, Mr. Sharon cautioned, "Here, in this region here, declarations, speeches, words, are worthless." It was, he said, "an empire of lies." Yet even Mr. Reshef said Mr. Sharon would ultimately have been open to negotiating peace with the Palestinians, if they pulled themselves together.

Rather than words, Mr. Sharon believed in action, in land, and in history as he saw it, and he saw it all around him. That evening at his farm, he described riding through the terraced West Bank hills near the city of Ramallah. He would narrow his eyes, he said, to block out the electrical lines and imagine warriors of the ancient Israeli tribe of Benjamin "with spears, running there on those terraces."

Arabs, he added, did not build the terraces. "Those terraces are old Jewish terraces," he said.

Mr. Sharon has earned his own place in that glorious, sad story, and in the debate that may never die.

Specialists To Plan Next Step For Sharon (LAT)

By Ken Ellingwood

The Los Angeles Times, January 8, 2006

JERUSALEM — Doctors said Israeli Prime Minister Ariel Sharon remained in critical condition in a medically induced coma Saturday as fresh tests showed that swelling in his brain had eased slightly after a massive stroke three days earlier.

Dr. Shlomo Mor-Yosef, director of Hadassah University Medical Center, said during an evening briefing that specialists at the hospital in various medical fields would gather today to plan a course of action.

Sharon's life remained in danger after the severe bleeding of the hemorrhagic stroke. One matter to be decided is when doctors will begin trying to wake the prime minister from the coma by gradually reducing the dosage of anesthetics. Only then can they get a clear idea of the extent of brain damage the 77-year-old Sharon has suffered as a result of the stroke, his second in a month.

Assessing the extent of damage, and to what degree Sharon will be able to function, "is indeed the question we would all like answered," Mor-Yosef said during a briefing that was somewhat more detailed than previous ones.

Sharon underwent a CT scan early Saturday to allow his physicians to check for swelling or renewed bleeding after the cerebral hemorrhage and three operations since Wednesday night.

Mor-Yosef said the scan showed a "slight improvement" in swelling, adding that the left side of the brain appeared to have been spared the damage caused to the right side. Speech functions are centered in the left side.

Mor-Yosef said various vital signs — intracranial pressure, blood pressure and pulse rate — were within "normal limits." But he cautioned that Sharon's condition remained grave.

"It's still critical and stable," he said in English.

He said that after today's meeting among medical specialists, "we will decide about management for the next 24 hours."

Later, one of Sharon's surgeons told Israel's Channel Two that Sharon's chances of survival were "very high," but that cognitive damage was likely, Associated Press reported.

The briefing was the hospital's first since Friday, when Sharon was rushed into surgery for a third time to stanch new bleeding. Doctors performed back-to-back operations after Sharon suffered the stroke late Wednesday.

He had been scheduled for surgery at Hadassah the following day to repair a small hole in his heart that is thought to have contributed to a minor stroke on Dec. 18.

Doctors said the earlier stroke had caused no lasting damage. He was sent home two days later and was taking blood-thinning medications, which made it more difficult for doctors to stop hemorrhaging during the subsequent episode.

Doctors have described the most recent damage as extensive, and the reports have left little hope that Sharon would ever return to office. His deputy, Vice Premier Ehud Olmert, has filled in as prime minister since Wednesday.

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Olmert joined Sharon in bolting from the conservative Likud Party two months ago to form a centrist movement that supports steps to resolve the conflict with the Palestinians.

Olmert is considered the person most likely to lead the new party, Kadima, in national elections scheduled to take place in March. But it is not clear whether Olmert or anyone else in Kadima can muster the same support that the party commanded under Sharon. Polls have shown the party with large leads over the left-leaning Labor Party and Likud.

A pair of surveys taken since Sharon's latest stroke indicated that the party would suffer only a minor dip in support under Olmert, but those findings may be an unreliable gauge because public sympathy for the prime minister remains high.

Olmert was reportedly planning to meet again with Shimon Peres in an effort to persuade him to stay with Kadima and to ignore Labor's calls for him to return to the party he once led. Peres is said to be seeking assurances for a senior post if he stays with Kadima and Olmert becomes prime minister.

Peres, 82, joined Kadima after losing the Labor leadership post to Amir Peretz, a fiery union leader. Analysts say Olmert would gain much from an endorsement by Peres, who is widely respected in Israel and abroad despite repeatedly losing elections.

Even Pat Robertson's Friends Are Wondering... (NYT)

By Laurie Goodstein

The New York Times, January 8, 2006

EVERY day, two people pay particularly close attention to Pat Robertson's religious news and variety show, "The 700 Club." They have notepads in hand, and the VCR set on "record."

They work in Washington at two of the nation's most ardent enemies of the Christian right: People for the American Way and Americans United for Separation of Church and State. They lay in wait for Mr. Robertson to say something truly jaw-dropping - like his suggestion on Thursday that Ariel Sharon's stroke was divine punishment for "dividing God's land," and giving away Gaza to the Palestinians.

Within hours of such comments, the remarks are disseminated by e-mail to journalists around the country, and soon video clips of Mr. Robertson are the subject of news broadcasts and nationwide ridicule.

Mr. Robertson, who has made provocative comments since he first came on the scene, has in recent months made news repeatedly. Last August, he suggested that the United States assassinate Hugo Chávez, the leftist Venezuelan president. "It's a whole lot cheaper than starting a war, and I don't think any oil shipments will stop," he said.

In September he mused about whether the abortion rate in America could have provoked Hurricane Katrina and the terrorist attacks on the United States.

The news media avidly reported his comments, but are they worthy of attention? Do conservative Christians still follow Mr. Robertson in large numbers?

Certainly, his following seems to have diminished. Mr. Robertson's political machine, the Christian Coalition, once a powerhouse at mobilizing voters, is limping along since he resigned as president five years ago, fending off a long waiting list of creditors, its presence in the capital reduced to a post office box.

His old friends and allies in the conservative Christian movement are cringing with embarrassment, giving interviews ruing his remarks. "He speaks for an ever-diminishing number of American evangelicals, and that process accelerates every time he makes a statement like this," said Richard Land, president of the Southern Baptist Convention's Ethics and Religious Liberty Commission.

Os Guinness, a prominent Christian writer and social critic, said: " I know hundreds of people who are just terminally frustrated with the idiotic public statements of Jerry Falwell and Pat Robertson and the idea that these people represent us. They don't."

Donald Wildmon, the founder and head of American Family Association and American Family Radio, said: "Pat's comments were most unfortunate. I don't think this served our cause very well."

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But dismissing Mr. Robertson at this point in his long career would be wrong. Whether his colleagues wish it or not, he remains a force among religious conservatives. At 75, Mr. Robertson still regularly appears on his show. And he remains connected to both Regent University and the American Center for Law and Justice, growing institutions that he founded.

"Among the elites in the movement, they're getting impatient with him and probably are past the point of being able to take him anymore," said Mark J. Rozell, a professor of public policy at George Mason University who has followed Mr. Robertson for years. "But there is a real strong core of activists throughout the country who support and like Pat Robertson, might even agree with some of the things he says, though they might like him to express his views a little more delicately."

For instance, many conservative Christians agree in principle with his comments about the Middle East - the Scriptures, they agree, call for a unified Israel.

Mr. Robertson's daily program, "The 700 Club," is carried in most markets nationwide on ABC Family and the Trinity Broadcasting networks, and drew an average audience of 828,000 viewers in the last quarter of 2005, according to Nielsen Media Research. While he cannot compete with "American Idol," he had more viewers than CNBC or MSNBC in prime time.

As a host, Mr. Robertson regularly draws guests like Republican leaders Bill Frist, Rick Santorum, Tom DeLay and Sam Brownback. Last week, he bantered with Fred Barnes, a Fox commentator and executive editor of The Weekly Standard. The show is also a prime advertising vehicle for Christian books, music and other products.

Mr. Guinness, the writer, said that while he has refused invitations to appear on Mr. Robertson's program, out of principle, "I know a good number who go on because they want to sell their books."

Those who know him say they are puzzled why Mr. Robertson continues to discredit himself - and the cause - with the kind of intemperate remarks that play in media roundups alongside those from the president of Iran.

Mr. Robertson refused interview requests on Friday. The Christian Broadcasting Network issued a statement defending Mr. Robertson, and accusing People for the American way of taking his comments out of context "on an ongoing basis" and circulating them "in an attempt to discredit him."

Mr. Robertson did not appear on "The 700 Club" on Friday. Instead it was hosted, as it often is, by his son, Gordon. He prayed for God to heal Mr. Sharon.

US Concerned Over Violence Flare-up In Sri Lanka (AFP-Y2)

AFP, January 8, 2006

US Secretary of State Condoleezza Rice has voiced concern over a flare-up of violence in Sri Lanka, and hopes Colombo and Tamil Tiger rebels will resume talks to reinforce their fragile truce, the State Department said.

Washington plans to dispatch a senior official to the troubled tropical Indian Ocean island soon to discuss the conflict, the department said Friday.

Rice "expressed concern over the recent upsurge in violence in northern and eastern Sri Lanka" during talks with visiting Sri Lankan Foreign Minister Mangala Samaraweera on Thursday, State Department spokesman Sean McCormack told reporters.

In the latest violence, at least five Sri Lankan sailors were killed and 10 others were missing and presumed dead early Saturday following the sinking of a navy gunboat in a suspected suicide bombing.

The attack was the first sinking of a high-powered naval gunboat since a Norwegian-brokered truce between Colombo and the rebel Liberation Tigers of Tamil Eelam (LTTE) went into effect from February 2002.

Rice and Samaraweera discussed the current status of the Sri Lankan peace process and the importance of strengthening the ceasefire, McCormack said.

"Secretary Rice reiterated the United States hope that talks between the Sri Lankan government and the Liberation Tigers of Tamil Eelam on ways to strengthen the ceasefire could resume soon," he said.

"She also lauded the Sri Lankan government for its restraint in the face of the Tamil Tigers' provocations."

Rice said the United States, co-chair of the Sri Lanka Donors Group along with Japan, the European Union and Norway, remained committed to working with Sri Lanka "to defeat terrorism and to promote peace."

Washington has tagged the LTTE as a terrorist organization.

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Rice told her Sri Lankan counterpart that State Department Undersecretary Nicholas Burns "does intend to travel" to Sri Lanka to discuss prospects of restoring peace.

"I think he's (Burns) going to talk about a number of different issues: talk about facilitating the peace between the government and the LTTE, as well as other issues of regional concern," McCormack said.

Amid the upsurge in violence, many are concerned Sri Lanka would descend again into civil war.

President Mahinda Rajapakse won November polls promising a brand new peace process that would have sidelined Norwegian peacebrokers. But he has now invited Oslo to continue its role, despite staunch opposition by his allies.

LTTE chief Velupillai Prabhakaran had warned that unless Colombo -- which has already ruled out a separate homeland for minority Tamils -- gives them wide autonomy, the Tigers would "intensify their struggle."

Rice praised Norway's "important role" in trying to facilitate the peace process even as Oslo struggled to bring the two parties to the table following a dispute over the venue of potential peace talks.

Citing the most recent attack, Samaraweera appealed for concerted international pressure on Tamil Tiger rebels to bring them back to the negotiating table.

"They are a brutal terror machine but having said that, we must bring them (the rebels) into the mainstream and terrorism must be wiped out," he said.

Asked on the possibility of retaliation, Samaraweera said, "there will come a point when the public could be provoked into action and the government may not be able to control."

The three-decade-old ethnic conflict between the majority Sinhalese and minority Tamils has claimed over 60,000 lives. Four major peace attempts and several ceasefires have collapsed in the past.

Bomb Kills 13 On Navy Boat In Sri Lanka (NYT)

By Shimali Senanayake And Somini Sengupta

The New York Times, January 8, 2006

COLOMBO, Sri Lanka, Jan. 7 - A suicide bomber destroyed a Sri Lankan gunboat early Saturday, the authorities said, and European cease-fire monitors warned that such an expansion of violence could lead to a return of full-scale war between the government and Tamil Tiger rebels.

The incident, in which 13 of the 15 sailors aboard are believed to have been killed, was the most lethal attack at sea here since a 2002 cease-fire agreement between the government and the Liberation Tigers of Tamil Eelam, who have been fighting for a separate homeland for more than 20 years.

"If the L.T.T.E. is behind this, then they are pushing the situation closer to war," said Hagrup Haukland of Norway, the chief monitor of the truce brokered by Norway in 2002. "I am very worried. I have never been so worried about the situation."

A speedboat laden with explosives rammed the Israeli-built gunboat shortly after midnight, the navy said, sinking the vessel, which carried a 15-member crew. Fishermen plucked 2 sailors from the water, but the 13 others were feared dead.

The Tamil Tigers denied responsibility for the attack.

Sri Lanka's foreign minister, Mangala Samaraweera, in Washington for talks with Secretary of State of State Condoleezza Rice, told reporters that such incidents risked a major expansion of the conflict, Agence France-Presse reported. "There will come a point when the public could be provoked into action and the government may not be able to control," he said.

The boat sank amid spiraling violence; nearly 50 police officers and soldiers were killed in December alone, the bloodiest month since the truce began. On Monday, five ethnic Tamil students were killed in Trincomalee in eastern Sri Lanka. The military said they died in a botched grenade explosion, but the rebels accused the military of shooting them.

The attack on Saturday was the first time a navy gunboat had been sunk since the 2002 cease-fire agreement. "It's almost like an undeclared war," a military spokesman, Brig. Prasad Samarasinghe, said.

Russians Visit Iran On Nuclear Plan (NYT)

By Agence France-presse

The New York Times, January 8, 2006

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TEHRAN, Jan. 7 (Agence France-Presse) - Russian envoys met with Iranian officials on Saturday to try to persuade Tehran to accept a compromise for ending a standoff with the West over Iran's plans to press ahead with its nuclear development program, state television said.

Moscow is proposing that Iran carry out uranium enrichment on Russian territory to allay Western fears that the work could lead to Iran's producing a nuclear bomb. Both the European Union and the United States have backed the proposal in principle, but it has so far been rebuffed by Iran.

The spokesman for Iran's top security body, Hossein Entezami, was quoted by state television as saying that the talks involved "joint enrichment on Russian territory and also enrichment on Iranian soil."

Mr. Entezami also said that inspectors from the United Nations' International Atomic Energy Agency had arrived here to monitor Iran's resumption of nuclear research next week, though it was not clear what that research would entail.

In Vienna, a spokesman for the agency said that it had still not received details of Iran's plans and that until such clarification was provided, the inspectors' presence in Tehran should be considered routine.

In recent weeks, Iranian officials first hinted that they might consider the Russian plan but later insisted that any deal recognize Iran's right to carry out enrichment in Iran. "If it says that enrichment can only happen in Russia, it's not acceptable," a Foreign Ministry spokesman, Hamid Reza Asefi, said Tuesday.

Iran's Top Mullah May Be On Our Side (LAT)

By Dariush Zahedi And Ali Ezzatyar

The Los Angeles Times, January 8, 2006

THE UNITED STATES has a surprising ally in its impatience with the new Iranian president. Since his inauguration, Mahmoud Ahmadinejad's pugnacious demeanor has not only roiled the international community but also a significant portion of Iran's ruling elite. A coalition of traditional conservatives, pragmatists and reformists is emerging within the government to oppose Ahmadinejad's brand of governance. With Iran saying it will resume nuclear fuel research, the U.S. should do all in its power to boost the bargaining power of these more moderate Iranian leaders.

The rise of the anti-Ahmadinejad faction defies the expectations of Iran analysts, who believed that the post-Khatami era would produce a monolithic conservative bloc in control of most major levers of power. Instead, the coalition is strengthening and attracting many of the regime's powerful personalities, perhaps even the supreme leader, Ayatollah Ali Khamenei. Evidence of the latter is Khamenei's recent decree giving the Expediency Council, a non-elected body headed by former President Hashemi Rafsanjani, oversight of the presidency.

Ahmadinejad's primary supporters have always been the rank and file of the country's paramilitary forces. Renowned for their fearlessness and passionate commitment to the populist ideals of the Islamic revolution, they had not dominated government before or since Ayatollah Ruhollah Khomeini's death in 1989.

The political struggle of Iran's security establishment has come full circle with Ahmadinejad's rise, which makes dealing with Tehran more difficult. The paramilitaries are the ultimate guarantors of the regime's survival. Their leaders wield enormous influence in the Islamic Republic's coercive security establishment, particularly those associated with the Revolutionary Guards. The militants also dominate the volunteer, or Basiji, militia force, believed to have more than 1 million members.

The paramilitaries are not fully tied to any one of the groups vying for power in Iran. Rather, they seek to influence domestic and foreign policy through their numbers and martial strength. They know international tensions that heighten security threats to Iran enhance their status in the power struggle. Although Ahmadinejad owes his presidency to allies in the guards and the Basiji forces, they are not totally beholden to him.

The unlikely counterbalance to Ahmadinejad could be Khamenei. He has frequently cultivated the paramilitaries since his elevation and relied on them to consolidate his power. But should the radicals attempt to direct policy without his explicit consent, Khamenei could move toward pragmatists allied with Rafsanjani and reformist supporters of former President Mohammad Khatami. The two former presidents don't want one of their few achievements in the last 16 years — Iran's moderately improved relations with the outside world — to disappear.

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Contrary to popular belief, the traditional conservative clerical establishment is apprehensive about the possibility of violence inside and outside Iran. It generally opposes an aggressive foreign policy and, having some intimate ties with Iran's dependent capitalist class, is appalled at the rapid slide of the economy since Ahmadinejad's inauguration. The value of Tehran's stock market has plunged $10 billion, the nation's vibrant real estate market has withered and capital outflows are increasing.

Khamenei has intimated his readiness to distance himself from the radicals. Apart from authorizing nonpresidential bodies to supervise the three branches of government, he has instructed the Supreme Council for National Security to more fully cooperate with the International Atomic Energy Agency in the development of Iran's nuclear program. These moves have strengthened his institutional power and helped prevent Ahmadinejad's administration from undermining the regime's credibility.

Here is where the United States comes in. The history of U.S.-Iran relations shows that the more Washington chastises Tehran for its nuclear ambitions, the more it plays into the hands of the radicals by riling up fear and nationalist sentiment. Instead, the U.S. needs to offer Iran an acceptable face-saving mechanism to allow it to master, under appropriate international supervision, the nuclear fuel cycle. A seed planted now could even grow into the long-awaited detente between the two countries and help the U.S. extricate itself from Iraq.

Assad Said To Reject Questioning In U.N. Inquiry (LAT/REU)

From Reuters

The Los Angeles Times, January 8, 2006

BEIRUT — Syrian President Bashar Assad has rejected a request to be interviewed by a United Nations commission investigating the assassination of former Lebanese Prime Minister Rafik Hariri, diplomatic sources said Saturday.

Syria told the U.N. commission the request violates the country's sovereignty, the sources said.

The decision is likely to intensify international pressure on the Damascus regime, given a U.N. Security Council resolution in October threatening to take unspecified action if Syria failed to fully cooperate with the inquiry.

A spokeswoman for the U.N. investigation confirmed that Syria had replied to a request to meet Assad and Foreign Minister Farouq Shara, among other officials, but refused to elaborate.

Asked whether Syria had rejected the request to meet Assad, one diplomatic source said, "Yes, that's true." The source added, "The main point is that Syria said the request violates the principles of sovereignty."

The diplomats, who asked not to be named, said Damascus has responded positively to "one part of the request" but declined to give further details. Diplomats said earlier that Syria had agreed to allow the commission to meet with Shara.

In an interview published Saturday by Egyptian weekly newspaper El Osboa, Assad hinted that he would be immune from questioning by U.N. investigators.

"There was a previous request, when the committee proposed to come to Syria at the end of last summer to listen to Syrian witnesses, as they call them. At that time, they requested to meet with President Bashar, and the president of the republic has international immunity," Assad said in the interview.

The inquiry has implicated senior Syrian officials and their Lebanese allies in the Feb. 14 killing of Hariri and 22 others in Beirut. Syria has denied any role, but the assassination sparked mass protests in Beirut, forcing Damascus to bow to world pressure and end its 29-year military presence in Lebanon in April.

Europe Comes To Terms With Need For Russian Gas (NYT)

By Mark Landler

The New York Times, January 8, 2006

FRANKFURT, Jan. 7 - President Vladimir V. Putin's decision to switch off Russia's natural gas spigot to Ukraine on New Year's Day is being widely judged a ham-handed miscalculation, because in the end it only proved how much Europe was prepared to help an independent-minded Ukraine resist Russian bullying. But realists here argue that Europe needs to draw some lessons as well.

There is plenty of evidence that Mr. Putin overplayed his hand and was humiliated when Europe forced him to turn the gas back on. He underestimated Ukraine's leverage as the primary conduit for Russian gas exports to Europe, and Europe's

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influence as the major consumer of Russian gas. He also misjudged how much his decision would erode the confidence Germany, France, Italy and other countries had in Russia's trustworthiness as a supplier.

But now that the gas is flowing again - under a tenuous new deal on pricing in which Ukraine and Russia each gave a little ground - the experts are saying another lesson is becoming clear.

Since Europe, they say, still has no alternative to Russia's gas, it must learn to live with Russia's peculiar habits as a political and commercial partner.

Despite its demise as a superpower, Russia is not content to be an economic player that follows the West's lead in political matters. It insists on acting like a global power with a mind of its own, and it views its natural resources as a tool for furthering its political goals - perhaps its last best tool, now that its military and its decrepit industrial base have proved so poorly matched to the West's.

"Europe has to recalibrate itself, not to the idea of a growing, democratic Russia, but to a Russia that is behaving according to its sense of its national interests," said John C. Kornblum, a former American ambassador to Germany who is now a banker in Berlin. "It is not concerned about winning prizes in the West."

That does not mean giving in to Russian threats. It means expecting Russia to put political spin on an economic policy, and being ready to resist, if necessary. It also means that Europe should feel free to link politics to its own economic bargaining - for example, prodding Russia on human rights or democracy as part of the price of remaining a customer.

Lecturing Russia on the evils of using energy as a political weapon makes little sense, given that it derives so much of its hard currency from oil and gas, and Europe's dependence is only likely to increase.

Europe can strengthen its hand by exploring how to curb its dependency, either by finding other gas suppliers or developing alternative fuel sources. Germany is already talking about extending the life of nuclear plants. Last week, President Jacques Chirac said France would build the prototype for a fourth generation of nuclear plants. The goal, he said, is that by 2020, French trains will not use a drop of gasoline.

But such a strategy has limits. Nuclear plants supply only 14 percent of Europe's energy, compared with 23 percent for gas, and the role of gas is expected to increase. Windmills, solar panels and the like are long-term solutions; for the foreseeable future, households from Munich to Milan will rely on Russian gas to ward off the winter cold.

Since Europe's current relationship with Russia has been shaped in large part by Germany - it pioneered economic ties with Moscow during the cold war, and is by far the largest consumer of Russian gas - any new understanding between Russia and Europe will probably have to begin with Germany.

"Germany had the idea that energy could be the guarantor of good relations," said Wolfgang Eichwede, an expert on Russia at the University of Bremen. "The lesson is that relations have to be not only reliable but balanced."

The new German government spoke openly last week about the first part of that formula, when its economics minister, Michael Glos, raised questions about Russia's dependability and said the time had come for Germany to explore other sources of energy.

Chancellor Angela Merkel is expected to discuss the matter when she has her first meeting with Mr. Putin on Jan. 16. Mrs. Merkel, a conservative who was raised in the former East Germany and speaks Russian, is believed to be more of a pessimist about how much to expect from Russia than was her Socialist predecessor, Gerhard Schröder.

"She does not have a romantic view of Russia," said Alexander Rahr, an expert on Russia at the German Council on Foreign Relations. "I don't think she especially likes Russia, but she understands it."

Mr. Schröder cultivated a friendship with Mr. Putin and adopted a Russian child, which became a metaphor for the cozy links he wanted between Germany and Russia. Last month, he became the chairman of a Russian-German consortium that is building a $5 billion gas pipeline from Russia to Germany, a deal he had brokered as chancellor.

Depending on one's perspective, this pipeline is either a shrewd way to avoid the complications of receiving Russian gas via middle countries like Ukraine or Poland, or a mistake that would make Germany even more dependent on Russia.

Skeptics argue that it would be a good thing, not just for Europe but for the relationship, to keep a country like Ukraine as a buffer between the supplier and ultimate customer.

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"The more flags that are planted in a pipeline, the harder it is to cut off," said William C. Ramsay, the deputy executive director of the International Energy Agency in Paris.

In the end, few experts here believe that Europe is in genuine danger of having Russia turn off the tap. The European market is too vital for Russia, and both sides have already invested too much in the plants and pipes that carry the gas. Managing the relationship is the issue.

"Pipelines are like kids in a marriage," said Jérôme Guillet, a French banker and an expert in natural gas. "The seller cannot sell his gas elsewhere; the buyer cannot buy gas elsewhere. The two sides are welded together."

Such marriages work best, the realists argue, when both partners have no illusions about changing the other.

British Liberal Quits As Party Leader (NYT)

By Sarah Lyall

The New York Times, January 8, 2006

LONDON, Jan. 7 - The leader of the Liberal Democratic Party, Charles Kennedy, who admitted last week that he had a drinking problem, resigned as party leader on Saturday in the face of growing criticism in his own party.

Mr. Kennedy, who is not giving up his seat in Parliament, had vowed to fight for his job as party leader, declaring that his drinking was under control and that he had been sober for two months. But his position became increasingly untenable as more and more party members, in Parliament and in the country at large, publicly declared their opposition to his continuing as leader.

On Friday, 25 of Mr. Kennedy's parliamentary colleagues said they would resign from their policy positions if Mr. Kennedy remained as party leader. A poll conducted by the BBC television program "Newsnight" found that more than half the Liberal Democrats in Parliament said that Mr. Kennedy's position as leader had become unsustainable.

Britain is a hard-drinking country, and voters generally find nothing to complain about if politicians enjoy a glass or two. But Mr. Kennedy, sometimes called Champagne Charlie, has long been dogged by rumors that he drank to excess, particularly when he missed important debates in Parliament. His aides have invariably blamed illness or scheduling conflicts for such lapses.

After becoming party leader in 1999, Mr. Kennedy repeatedly and publicly denied that he had trouble with alcohol. He finally admitted that he had been receiving help for a drinking problem after being confronted with damning evidence from Channel 4 News. The Liberal Democrats - Britain's third-largest party. after Labor and the Conservatives - won 62 seats in Parliament in the 2005 election, the party's largest representation since the 1920's.

Party officials said Mr. Kennedy's deputy, Sir Menzies Campbell, would serve as acting leader until the party decided how to go about selecting a permanent leader.

Leader Of British Political Party Steps Down (LAT)

By John Daniszewski

The Los Angeles Times, January 8, 2006

LONDON — Charles Kennedy, leader of Britain's third-largest political party, gave in to demands of colleagues and resigned Saturday, two days after being forced to acknowledge a drinking problem.

Kennedy, 46, who had helped raise the Liberal Democrats to the highest level of any third party in British politics since the 1920s, saw his career brought down after a weeks-long campaign by colleagues, who insisted that they were doing it for his good and the good of their party.

Although he said he had not had a drink in two months and was receiving professional help, an ultimatum came in the form of a letter signed by 25 of the 62 Liberal Democrat members of Parliament. They said they would not support him as leader after Monday.

"I am standing down as leader," Kennedy told reporters Saturday at the party's headquarters. "When nominations open for the leadership of the party, I shall not now be putting my name forward."

He said he had received support from rank and file party members but recognized that it was insufficient. "It has become clear that such support is not reflected strongly enough across the parliamentary party."

In 2003, Kennedy was the only British opposition leader to protest Prime Minister Tony Blair's decision to go to war in Iraq.

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Although Kennedy's resignation was not expected to bring about any major shift in British politics, his slow political demise has dominated headlines here for a week.

Alcohol abuse and the penchant of many young Britons to engage in binge drinking have become a serious social issue in recent years. British politicians often were known to be heavy drinkers, but the case of Kennedy indicates that such behavior is no longer to be countenanced.

Liberal Democrats began speaking anonymously against Kennedy a few weeks before the Christmas holiday. Using euphemisms, they said such things as he had been "off his game, "tired" or "unfocused" recently.

The attacks began immediately after the Conservatives chose a new leader: charismatic 39-year-old David Cameron, who gave the party a fresh look and political boost. That led some senior Liberal Democrats to think that that their party should change as well to position itself for the next elections, likely to be held in 2009 or 2010.

After insisting that he intended to remain in his post, Kennedy called a news conference Thursday when his office learned that broadcast reporters were about to break the news that he had sought treatment for alcohol abuse. His acknowledgment contradicted earlier denials that he drank excessively.

At that stage, Kennedy said he intended to fight to retain his post, but he agreed to schedule a leadership election if anyone wished to challenge him.

That stance did not satisfy critics, many of whom came out against him more openly Friday, insisting that he spare himself and the party by agreeing to step down.

Kennedy said he would spend the weekend reflecting, but gave in late Saturday, apparently concluding that his position was irrevocably damaged.

A red-haired Scotsman and Roman Catholic from the Highlands near Inverness, Kennedy was the youngest member of Parliament when he was elected to the House of Commons 22 years ago.

Although under Kennedy the Liberal Democrats increased their representation in Parliament, many thought the party should have done better in last year's election, in light of widespread disillusionment with the war in Iraq, which had been backed by both by the Labor and the Conservative parties. To many voters, it seemed, Kennedy lacked the gravity to be considered a potential prime minister.

The Liberal Democrats were formed in 1987 when the Liberal Party, which traced its history to the 19th century, merged with the Social Democratic Party, made up of moderates who had broken away from the Labor Party a few years earlier.

Gandhi-Quoting Yuppie Shakes Stuffiness From Britain's Tories (WP)

By Kevin Sullivan

The Washington Post, January 8, 2006

LONDON -- He's a 39-year-old young urban professional who quotes Gandhi, fights poverty with activist rocker Bob Geldof, wants to stand up to big business and is so worried about global warming that he's planning to erect a wind turbine on his roof.

Meet David Cameron, Conservative.

Since his election last month as Conservative Party leader, Cameron has shaken up his party like a man beating a carpet with a stick. Sitting atop an organization that has been sputtering since no-nonsense Prime Minister Margaret Thatcher left office in 1990, Cameron has startled Britain with policy pronouncements and stylistic flourishes rare for a leader of the Tories, as the party is known.

His supporters are betting that combination will make him a formidable challenger to succeed Prime Minister Tony Blair. While some Conservatives worry that he has abandoned their party's "middle England" core values, many more said Cameron is a shot of adrenaline for a party disheartened after three consecutive elections losses to Blair's Labor Party.

"Because of Cameron, there's a new sort of feel -- there's an excitement, there's a feeling we can win," said Laurence Robertson, a Tory member of Parliament. "The man in the pub, the man in the street, they are taking an interest for the first time in a long time in what we are doing."

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Robertson and other Conservatives said Labor was frightened by Cameron, but several Labor MPs said they were closer to amused. "He's making all these touchy-feely statements, but none of it is backed up," said Labor MP Fraser Kemp. "The British Tory party is still a pretty right-wing organization. The new-gloss paint is going to fade."

Since taking over, Cameron has worked frenetically to stay in the public eye, turning an annual British cultural phenomenon to his advantage.

From just before Christmas until just after New Year's, virtually every business in Britain shuts down. While Blair decamped to a vacation at Sharm el-Sheikh, a resort in Egypt, Cameron worked during the holiday lull and kept public attention focused squarely on himself.

One day he signed up Geldof as an anti-poverty adviser, the next he demanded that employers address the "morally wrong" gender gap in pay, and then he distanced himself from Thatcher -- a venerated Tory icon -- by saying he "will not be the prisoner of an ideological past."

He rode a bike to work. He surveyed endangered waterways. Then came full-page advertisements in New Year's Day newspapers trumpeting his political call to arms:

"As the world is changing, so must we," Cameron wrote, calling change "the central objective in 2006 of a modern, compassionate Conservative Party." He said he wanted "every single member and supporter of the Conservative Party to remember that personal commitment is the most powerful way to bring about change: As Gandhi said, 'We must be the change we want to see in the world.' "

Labor MP Stephen Byers predicted that Cameron's positions would "melt like snow on a summer day" after the initial excitement about his leadership wore off. "It's not terribly clear the values and principles that have led him to the positions where they are at the moment," Byers said. "It looks like short-term political expediency is driving him."

Michael Gove, a Tory MP, said Cameron was using his "modern, informal, accessible and relaxed" style to refocus the party's image. He said the Conservatives in recent years have tended to accentuate the "grim, tough, efficient, austere, no-nonsense" aspects of their economic policies, while underplaying party policies that are "inclusive, compassionate and socially concerned."

Another Tory MP, John Hayes, said Conservative positions have often been misinterpreted: "The problem is that people see us as self-interested and greedy and uninterested in their needs. People see David Cameron as a regular guy who puts their interests first."

Cameron has said that many of his proposals are designed to challenge Labor for the political middle ground. He has already abandoned party positions he helped draft before last May's general elections. During the campaign, the Tories ran ads on immigration that critics said bordered on xenophobic, but Cameron has now called for a more welcoming stance.

In a speech Wednesday, he scrapped another proposal he helped draft, a health care plan that would allow some people to opt out of the National Health Service. Now, calling that essentially a taxpayer-funded perk for the wealthy, Cameron is advocating a strengthening of the health service for all -- a position much closer to Labor's.

Britain's next general election will take place in 2010 at the latest, and perhaps sooner if Blair decides to step aside, as many political analysts have predicted.

A recent Ipsos Mori poll showed the Conservatives leading Labor 37 to 35 percent when voters were asked which party they would support if the general election were held immediately. But on an individual basis, the poll showed Cameron trailing Chancellor Gordon Brown, Labor's most likely candidate for prime minister, by four points, 31 to 27 percent.

Cameron's blitz of activity over the holidays finally seemed to get to Blair. Even before he returned from the beach, his office posted a "day in the life" video on its official Web site. The folksy, 3 1/2 -minute clip shows Blair kicking a soccer ball with schoolchildren, mugging with foreign heads of state, visiting a hospital. Blair narrates from his desk and discusses the rigors of the job.

While he has said little about Cameron directly, he appears to be taking at least a gentle shot at him when he says: "Being leader of the opposition does not prepare you quite adequately for the difficulty of doing the prime minister's job."

Denmark Is Unlikely Front In Islam-West Culture War (NYT)

DOJ_NMG_0008629

By Dan Bilefsky

The New York Times, January 8, 2006

COPENHAGEN - When the Danish newspaper Jyllands-Posten published 12 cartoons of the Prophet Muhammad, including one in which he is shown wearing a turban shaped as a bomb with a burning fuse, it expected a strong reaction in this country of 5.4 million people.

But the paper was unprepared for the global furor that ensued, including demonstrations in the Indian-controlled part of Kashmir, death threats against the artists, condemnation from 11 Muslim countries and a rebuke from the United Nations.

"The cartoons did nothing that transcends the cultural norms of secular Denmark, and this was not a provocation to insult Muslims," said Flemming Rose, cultural editor of Jyllands-Posten, Denmark's largest newspaper, which has declined to apologize for the drawings.

"But if we talk of freedom of speech, even if it was a provocation, that does not make our right to do it any less legitimate before the law," he added in an interview from Miami. He spent months living under police protection in Denmark.

As countries across Europe grapple with how to assimilate their growing Muslim populations in the post-9/11 world, Denmark has become an unlikely flashpoint in the escalating culture wars between Islam and the West. The publication of the cartoons in late September has provoked a fierce national debate over whether Denmark's famously liberal laws on free speech have gone too far.

It also has tested the patience of Denmark's 200,000 Muslims. Many of them say the cartoons reflect an intensifying anti-immigrant climate that is stigmatizing minorities and radicalizing young Muslims.

In Norrebro, an ethnically mixed neighborhood of Copenhagen where the philosopher Soren Kierkegaard is buried and where kebab stands dot the tree-lined streets, Imam Ahmed Abu-Laban, a leader among Denmark's Muslims, bristles at what he calls the "Islam phobia" gripping the country. He asserted that the cartoons had been calculated to incite Muslims because it was well known that in Islam depictions of the prophet were considered blasphemy.

"We are being mentally tortured," Imam Ahmed said at his mosque, an anonymous building that looks more like an apartment complex than a house of worship. "The cartoons are an insult against Islam, an attempt by right-wing forces in this country to get a rise out of the Muslim community and so portray us as against Danish values."

Mr. Rose, once a journalist in Iran, said he decided to commission the cartoons for Jyllands-Posten when he heard that Danish cartoonists were too scared of Muslim fundamentalists to illustrate a new children's biography of Muhammad.

Annoyed at the self-censorship he said had overtaken Europe since the Dutch filmmaker Theo van Gogh was murdered last year by a Muslim radical for criticizing Islam's treatment of women, Mr. Rose said he decided to test Denmark's free speech norms.

The cartoons were published amid the growth of an anti-immigrant sentiment in Denmark, reflected in the rise of the far-right Danish People's Party. The party, which holds 13 percent of the seats in the Danish Parliament, has helped to push through the toughest anti-immigration rules on the Continent, including a rule preventing Danish citizens age 24 or younger from bringing in spouses from outside Denmark.

Soren Krarup, a retired priest and leading voice in the party, said the Muslim response to the cartoons showed that Islam was not compatible with Danish customs. He said Jesus had been satirized in Danish literature and popular culture for centuries - including a recent much-publicized Danish painting of Jesus with an erection - so why not Muhammad? He also argues that Muslims must learn to integrate.

"Muslims who come here reject our culture," he said. "Muslim immigration is a way for Muslims to conquer us, just as they have done for the past 1,400 years."

Muslim leaders say that such talk helped create the atmosphere that allowed the cartoons to be published. And they contend that it is alienating the people the Danish People's Party says it wants to assimilate.

In a sign that some Muslims are becoming radicalized, Danish counterterrorism officials say more young Danish Muslims are being drawn to Hizb ut-Tahrir, or the Party of Liberation, which seeks the unification of all Muslim countries under one leader and Shariah, the Islamic legal code. The group, which distributes literature at mosques and on the Internet, is banned in most of the Muslim world, as well as in Russia and Germany.

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But because its main weapon is ideology rather than explosives, Danish officials say, it is allowed to operate in Denmark under the same permissive rules that allowed the publication of the cartoons. Under Danish law, inciting someone to commit an act of terror is illegal, but spouting vitriol against the West or satirizing Muhammad is not. The State Prosecutor's Office investigated the group in spring 2004 and decided not to ban it because it had not broken the law.

The free speech debate and the concerns over Hizb ut-Tahrir swept through Denmark's public schools last month when the imam's 17-year-old son, Taim, was expelled from Vester Borgerdyd School, after teachers overheard him giving sermons calling for the destruction of Israel and assailing Danish democracy during Friday Prayer at the school. The imam said his son became radicalized after being recruited by Hizb ut-Tahrir.

He said he opposed his son's sermons and had told his son to leave the house for defying him. But he also criticized the ruling that followed: a committee of mostly Christian rectors banned Friday Prayer at public schools across Denmark.

"They are trying to turn Denmark into a banana republic," said Imam Ahmed. "How is it O.K. to publish the cartoons, yet my son is portrayed as an ayatollah?"

At Vester Borgerdyd School, where the walls are lined with photographs of smiling students in Muslim dress, the headmistress, Anne Birgitte Rasmussen, said that Taim Abu-Laban had attracted a following and that she had feared his sermons would raise tensions among the school's more moderate Muslims.

"The tone of the political debate in this country, the talk about Muslims and immigrants, is making it very difficult for us," she said.

Mr. Rose, the editor, said free speech, no matter how radical, should be allowed to flourish, from all varieties of perspectives.

"Muslims should be allowed to burn the Danish flag in a public square if that's within the boundaries of the law," he said. "Though I think this would be a strange signal to the Danish people who have hosted them."

The French Disconnection (NYT)

By Corinne Maier

The New York Times, January 8, 2006

Paris

WHAT'S going on over there?" my foreign friends have been asking me, concerned about the news coming from France. A justified worry: our impoverished suburbs, or banlieues, were the scene, starting on Oct. 27 and stretching into November, of an urban agitation that turned to a riot. There were thousands of burned cars, public buildings looted, confrontations with the police, a state of emergency that ended only on Wednesday. Paris and then the provinces were affected; we hadn't seen anything like these disturbances since the famous uprising of May 1968. What has happened to the picture-postcard Paris that was the setting for "Amélie"?

The experience has put all of France into a funk, even with the lifting of the state of emergency after New Year's passed relatively peacefully (cars were set afire, but not substantially more than in previous years). In truth, though, people, who - like me - live in the center of Paris, didn't really see that much; they watched the spectacle of the disorder on television. They discovered places they ordinarily wouldn't even be able to find on a map: ghettoes where France has relegated immigrants and their descendants, gloomy blocks that resemble bombed-out sections of Chechnya. They learned that high unemployment (close to 40 percent in some places), racism, drugs, disastrous urban policy and police brutality were making everything worse.

But no one has been truly astonished by the violence. "It was bound to happen," as my local bookseller, who lives in the suburbs, says. What surprised - and relieved - Parisians was that Paris proper was mostly spared: the Eiffel Tower is still there, the Arc de Triomphe hasn't budged, thank goodness.

The reality is that Paris and its "difficult" banlieues are two worlds that are completely foreign to each other. They don't even speak the same language: polished, accent-free French on one side, the verlan, or "reversed" speech, of the housing projects on the other. The suburbs are on fire? So? The Left Bank intellectuals didn't have much to do with these rioters without demands and without leaders.

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Away from the banlieues, everything stayed calm, in contrast with the image of France portrayed in the foreign news media. "Paris Is Burning!" was a common headline; a major German newspaper predicted that the intifada was imminent. The Americans and the British covered the violence with as much avidity as some of them had denounced the French decision not to fight in Iraq; was France, they asked with glee, going to be forced to wage its own battle with Islam? We French expected a little more empathy considering the 1992 Los Angeles riots, when the authorities responded in force, and the city experienced curfews, 8,000 arrests, and scores of deaths.

In France, the death toll was almost nonexistent, perhaps because, as the saying goes, "Here, everything ends with songs" - that is, it all works out in the end. Still, an arsenal of repression was put in place. It has a rather unpleasant name, the state of emergency, established by a 1955 law that sought to restore order in French-controlled Algeria, racked by violence in the years before it won independence.

This legal parenthesis brought searches without warrants, curfews, restrictions on comings and goings. All in all, though, the authorities were prudent in the use of these extraordinary powers, even in the banlieues; to say that France suffered under the yoke of oppression during the state of emergency would be an exaggeration, and the French, fatalists for the most part, protested little.

Nonetheless, those few weeks of violence left us bitter. The riots were undoubtedly a reflection of French failure. Failure of the politicians, yes: Jacques Chirac, president since 1995, has been unable to reform society. But also failure of the "French model," which asserts that all inequalities, all differences, can be resolved in that shopworn religion called the Republic. Today all France, even the middle classes, suffers from a feeling that things won't get better, from an inability to make plans for the future. It's the big topic at dinner parties.

Fortunately, in Paris there is always something to do when one is feeling blue. Everyone in town has been talking about an exhibition at the Grand Palais consecrated to ... melancholy. Whether called melancholy, or ennui, depression or "spleen," this sensation was wonderfully defined by Victor Hugo as "the enjoyment of being sad." Welcome to Paris, city of melancholy. You have until Jan. 16 to visit the exhibition. Otherwise, you'll have to go to, well, the suburbs.

Bird Flu Appeal To Turks (NYT/REU)

By Reuters

The New York Times, January 8, 2006

DOGUBAYAZIT, Turkey, Jan. 7 (Reuters) - Prime Minister Recep Tayyip Erdogan urged Turks on Friday not to hide poultry to avoid bird flu culls, and promised that the government would spend what was necessary to fight the spread of the disease and to compensate farmers for slaughtered stocks.

"We should not panic," CNN-Turk reported him as saying. "Our people should not be making efforts to hide chickens, turkeys or geese."

The European Commission said it had confirmed that the bird flu in Turkey was the deadly H5N1 strain. A World Health Organization team is headed for eastern Turkey, where three people have died and 26 are under observation, an unusual cluster of cases that raises the possibility that the virus has become more contagious for humans.

Aid Suspended To Two Pakistan Quake Areas (AP-Y2)

By Burt Herman

AP, January 8, 2006

The United Nations said Saturday it has suspended aid missions to two parts of Pakistan's quake-hit Kashmir region where dozens of survivors stormed two U.N. helicopters and forced an airlift out of the devastated area.

The U.N. said it canceled planned flights into Bana Mula and Leepa, both more than 60 miles southwest of Muzaffarabad. It was investigating the incident and evaluating the possibility of relocating villagers to lower-lying areas.

On Friday, more than 50 survivors forced the pilots of two U.N. helicopters to take them to Muzaffarabad and Abbottabad, a hub for relief activities. One air safety officer was assaulted, the U.N. said, without elaborating.

Pakistan, meanwhile, said it had prepared several contingency relief camps stocked with food to cope with any wave of refugees heading to lower ground during the harsh Himalayan winter.

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Days of heavy storms have dumped up to 9 feet of snow in some areas of Kashmir and northwestern Pakistan, forcing the suspension of helicopter flights and aid deliveries. The Pakistan Meteorological Department warned of more snowfall over the next 72 hours.

"It's a bitter winter," said Maj. Gen. Khalid Nawaz Khan, the commander of the Pakistan military in Kashmir. "Things are being taken care of. We are prepared for any contingency."

Officials and aid agencies have warned the weather could cause a second wave of deaths or force more evacuations from higher up in the Himalayas.

The Oct. 8 quake killed some 87,000 people and left 3.5 million homeless, mostly in Kashmir and Pakistan's northwestern region. Control over Kashmir is divided between India and Pakistan, both of which claim it in its entirety.

Helicopters are vital for the mammoth relief effort, particularly since this week's heavy snows blocked roads, hampering aid delivery for several days. All roads into the Kaghan and Siran Valleys in Pakistan's Northwestern Frontier Province are blocked, the U.N. said late Friday.

"We're going to hit more bad weather, no question," said Keith Ursel, the World Food Program quake operations manager. "We have to send specialist teams to clear up the snow before we can land our choppers too."

The World Food Program is feeding 400,000 survivors.

Kashmir Quake Survivors Bemoan Lack Of Aid (NYT/AP)

By The Associated Press

The New York Times, January 8, 2006

CHIKAR, Kashmir, Jan. 5 (AP) - The terraced paths through this mountain town are slick with ice. Tents crammed with families have collapsed under the snow. A truck mired in a muddy landslide recently blocked the main road into town. And winter has just barely begun.

Camped on a steep hillside, the five members of the Butt family are surviving after the loss of their patriarch. Their shelter is a tarp propped up by branches, and they spend nights shivering under a single blanket each.

Three months after an earthquake killed more than 80,000 people and left 3.5 million homeless in the region, families across Pakistani-controlled Kashmir are coping with winter's first brush in the Himalayas. Health officials say illnesses are on the rise, but insist the situation has not yet become alarming.

For now, the weather has improved. The sun shone brilliantly Thursday in Chikar, a town of 6,000 people where residents say about 700 people died in the quake on Oct. 8. Water from melting snow dripped flowed down paths through the town, which is draped across several hillsides at an about 5,100 feet.

There were signs of normalcy. The market set up near the rubble of buildings that slid off a hilltop when the quake hit was bustling with spices and baked goods. And preparations were under way for a wedding, one of about 30 that locals say have taken place since the quake.

Getting into the town was complicated by a truck stuck in mud from a landslide caused by recent rain and snow. Residents placed dry straw under its back wheels to get traction, while others pulled on a rope from the front - all to no avail. The truck was finally towed out by several vans.

Residents said they had lost electricity for four days since the bad weather struck, and many tents collapsed under the snow, including one belonging to the family of Muhammad Younas, 15, who was staying with four relatives on Sunday night when their tarp tumbled down. No one was injured and they found shelter with other relatives.

Next to their collapsed tent stood a bare wooden frame intended to be a weatherproof home, but it stood in the snow without metal siding. Similar uncompleted shelters could be seen across the town, and residents complained freely about what they said was a lack of aid.

Azher Bukhari, 35, a shopkeeper whose home and business were destroyed, was walking the snowy paths wearing sandals. He said it was a form of protest against the Pakistani Army's failure to provide aid. "The government isn't paying attention to this area," Mr. Bukhari said.

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The military has given out more than 50,000 shelters in Kashmir areas that lie above 5,000 feet, said Maj. Farooq Nasir, an army spokesman in Muzaffarabad. Families where the men have died will also get help assembling the temporary structures, he said.

But families in which men survived are required to build their own shelters with materials provided.

Among those yet to receive shelter are the Butt family - a mother, three daughters and a son. They were camped near their former home, which collapsed on the family's patriarch, 50, killing him.

The family huddled inside a dark makeshift shelter provided by former neighbors. The mother, Mehrfazoon, 45, said she had spent a day at the nearby military camp, waiting for supplies. "We were given nothing," said a daughter, Nayab, 13. "We are living from hand to mouth."

U.N. Cuts Quake Aid Missions

ISLAMABAD, Pakistan, Jan. 7 (AP) - The United Nations said Saturday that it had halted quake aid missions to two parts of Pakistani-controlled Kashmir, where more than 50 survivors had stormed two helicopters, forcing an airlift out of the area. The United Nations said it was evaluating the possibility of relocating villagers to lower-lying areas.

India Digitizes Age-Old Wisdom (WP)

By John Lancaster

The Washington Post, January 8, 2006

NEW DELHI -- In a drafty government institute, Nighat Anjum reads from a dog-eared textbook on traditional Indian medicine and acquaints herself with the miracle fruit known as aamla, which is said to be useful in treating heart palpitations, immune disorders, bed-wetting and memory lapses.

Tapping on a computer keyboard, the 27-year-old physician enters its properties in a database that eventually will contain more than 100,000 such traditional remedies -- the collective wisdom of the ancient healing arts known as ayurveda , unani and siddha , the latter based on the teachings of the Hindu god Shiva.

Other entries include powdered nightingale droppings (a skin lightener and laxative), nightingale flesh (an aphrodisiac), ostrich fat (for aches and pains), ostrich blood (for inflammation), charred sea crab (constipation, ulcers, cataracts and dental stains), honey (for improving vision), tumeric (for treating wounds and rashes) and coconut milk (urinary tract infections).

Employing about 150 doctors and technicians, the four-year, $2 million effort is aimed at protecting India's traditional remedies from theft by multinational drug companies in a practice known here as bio-piracy. The database will also include hundreds of yoga poses so that foreigners cannot copyright them as their own.

Though Indian officials can point to just a handful of such intellectual-property cases involving traditional medicine, they say the threat is bound to grow as foreign drug companies seek to cut soaring research-and-development costs by finding new products among natural remedies that have been used in India, China and other developing countries for millennia.

More broadly, the compilation of the Traditional Knowledge Digital Library reflects a nationalistic pride in India's ancient scientific heritage as well as its citizens' continuing faith in herbal and other natural treatments that often are viewed with skepticism in the West.

Indian officials say the data-collection effort will promote the commercialization of traditional Indian remedies, help validate their scientific underpinnings and encourage collaboration between Indian and foreign pharmaceutical companies.

In doing so, they say, the project will spur the development of a uniquely Indian health-care industry that blends 21st-century technology with spirituality and the wisdom of ages in the same way that Brahmin traditions of Sanskrit and mathematics helped set the stage for India's information-technology boom.

"India's strength is civilization, and its culture and knowledge," said V.K. Gupta, the director of the National Institute of Science Communication and Information Resources in New Delhi, which is overseeing the project. "The moment we revisit that, the power of India is unimaginable."

In a telephone interview from Washington, Mark Grayson, a spokesman for Pharmaceutical Researchers and Manufacturers of America, the drug-industry lobbying group, described the Indian project as "a solution in search of a problem."

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He said "there is no evidence of bio-piracy," noting that most modern drugs are developed from chemicals with the aid of computers, rather than from natural substances.

At the same time, he said, the Indian effort could "inhibit drug development" by discouraging companies from developing new cures from plants whose medicinal uses India now claims as protected intellectual property. The drug industry is opposing India's efforts to amend World Trade Organization rules to protect such ancient remedies.

The most popular traditional medical system in India is ayurveda, which is rooted in Hinduism -- its original Sanskrit formulations were recorded 2,000 years ago on palm leaves -- and aims to restore the "balance" between body and spirit. Despite the growing influence of Western medicine, ayurveda remains the dominant form of treatment in many parts of rural India, where access to conventional care is often limited.

Even in such major cities as New Delhi, which boasts several world-class medical facilities, ayurveda is widely embraced. Pharmacies stock ayurvedic remedies alongside antibiotics and other conventional treatments. Bollywood stars hawk ayurvedic medicines from billboards. And a generation of middle-class children has grown up on morning spoonfuls of Chyvanprasam, a jam-like ayurvedic supplement.

"Ayurvedic medicine has no side effects," said Sheema Rajesh, a 31-year-old soldier's wife from southern India who was seeking treatment for jaundice the other day at an ayurvedic clinic in the capital. "It's made from natural things, and from the time we were small, we've been taking these medicines, so we believe in them."

A politician's charge last week that a line of ayurvedic cures peddled by one of India's most popular television gurus had been adulterated with human bone made the front pages of Indian newspapers -- and sparked an attack by the guru's followers on the politician's Communist Party office in New Delhi.

Besides ayurvedic medicine, the database also is recording remedies from unani, a system that was introduced to the subcontinent 4,000 years ago by the Greeks. Unani is based on the theory that sickness is caused by an imbalance in "the four humors" -- black bile, yellow bile, blood and phlegm -- that define human temperament, according to Anjum, the unani doctor who was entering the data on the aamla fruit.

The system relies heavily on herbs and is "very effective," she said.

Siddha, which was first practiced in southern India by followers of Lord Shiva, employs medicines made from herbs, animal parts, metals and minerals. "Even though it is coming from supernatural power, so much is scientifically proved," said Muthu Kumar, a Siddha expert who is working for the database project.

Gupta, the project director, said the need for the database became apparent in 1995, when two Indian-born scientists in Mississippi were granted a U.S. patent on the use of tumeric, a common spice, to heal wounds. The move sparked protests from the Indian government, which cited ancient Sanskrit texts describing the use of tumeric for the same purpose. The patent was revoked.

To create the database, Gupta's team since 2001 has been poring over ancient texts in Sanskrit, Urdu, Persian and Arabic in search of traditional formulas. Working in drab cubicles and enduring frequent power cuts, the specialists enter the formulas in alphanumeric code, which is then translated automatically into English, Japanese, French, German and Spanish.

Sometime this year, the complete library will be made available to foreign patent offices on a secure Web site. Indian officials hope the patent offices will use the database in evaluating whether to grant patents on natural remedies.

"This traditional knowledge has been validated in the laboratory of life," Gupta said, with the zeal of a true believer. "It has been nurtured and grown in India for 4,000 years."

China Takes Aim At Corruption (WP)

By Edward Cody

The Washington Post, January 8, 2006

BEIJING, Jan. 7 -- In the face of rising discontent over corruption, China's senior Communist Party leaders called on members Saturday to work harder to stop bribery among businessmen and local officials in the country's thousands of cities, counties and villages.

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The appeal, in a communique issued after a two-day meeting of the party's Central Discipline Inspection Committee that was attended by President Hu Jintao, seemed to take particular aim at corrupt rural officials whose illegal dealings have helped generate a wave of riots and peasant unrest over the past two years. Much of the violence has stemmed from anger over land confiscations in which, farmers allege, village or county officials took money from business developers in return for favorable deals.

"More anti-corruption education will be carried out among grass-roots officials, while the procedures for selecting officials for promotion will be stricter," the official New China News Agency quoted the communique as saying.

As China moves from socialism toward a market economy, local party officials have adopted economic growth as their main goal, creating a de facto alliance with private businessmen. In the shared race for profits, opportunities for corruption have become numerous. As a result, the party officials called upon to fight the corruption are in most instances the very ones involved in it.

Hu warned his fellow Communist leaders that "the fight against corruption is a long-term, complicated and arduous task," the news agency reported.

The committee also singled out the spread of bribery in China's health system, a source of increasingly angry grumbling among people in the city and countryside alike. Doctors and hospitals have taken to demanding payoffs, above and beyond normal fees, before proceeding with medical care, Chinese complain. Among people who once enjoyed free medical coverage, this practice has produced particular outrage.

Li Xi, the Health Ministry's discipline inspection leader, said 1,248 people in the medical profession were punished during 2005 for malfeasance that involved payments totaling more than $1.3 million, the agency reported.

Appeals Court, Reversing Itself, Holds 2 Salvadoran Generals Liable In Torture Case (NYT)

By Julia Preston

The New York Times, January 8, 2006

A federal appeals court has reversed its own ruling and upheld a $54.6 million jury verdict against two retired generals from El Salvador who were held responsible in a 2002 trial for the torture of three Salvadorans during the country's civil war in the 1980's.

The opinion, issued Wednesday by the United States Court of Appeals for the 11th Circuit in Atlanta, was a surprising turn in decade-long efforts by American human rights groups to punish abuses that occurred during the conflict between the United States-backed security forces and leftist guerrillas in El Salvador.

A three-judge appeals panel acted without prompting from lawyers for either side to overturn a ruling it issued on Feb. 28. 2005, that nullified the trial verdict against the two generals, José Guillermo García and Carlos Eugenio Vides Casanova.

The new appeals opinion seems likely to be the decisive step in years of litigation against the generals. During the war, Mr. García and Mr. Vides Casanova served as defense minister, the highest post in the military, with strong support from the United States.

They have been living in South Florida since 1989. In a separate civil trial in Florida in 2000, they were acquitted of responsibility for the killings of four American churchwomen by soldiers in El Salvador in 1980.

The three plaintiffs in the second trial, held in West Palm Beach, suffered lasting injuries from torture by troops under the generals' command.

In its initial ruling, the appeals panel threw out the jury verdict, finding that the district court had improperly extended the 10-year statute of limitations that applied in the case. The claims were brought under the Torture Victim Protection Act, a controversial law that human rights groups have used to bring notoriously violent foreign leaders to face justice in American courts.

But on June 24, 2005, the appeals judges announced in a letter that they had made two factual errors in their opinion, incorrectly recording both the date when the case was first filed - actually May 11, 1999 - and the date when General Vides Casanova stepped down as defense minister - May 31, 1989.

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Using the correct dates and re-examining the trial record, the judges decided to agree with the district court that the case was filed within the statute of limitations. The panel concluded that the statute should begin to run in 1992, when the government and the rebels signed a peace accord that ended the war.

Before that, the judges wrote, "the very regime against whom the plaintiffs leveled their accusations remained intent on maintaining its power at any cost and acted with impunity to so do." The three judges were Gerald B. Tjoflat, Edward E. Carnes, and Anne C. Conway.

Kurt Klaus Jr., who represented both retired generals, said he was dumbfounded by the reversal. "I have never, ever heard of such a thing," he said. "I am so shocked, I feel like quitting my practice and moving to El Salvador to grow coca and coffee."

He said he would consult with the former generals to see if they wanted to pursue further appeals. He said both clients had been left essentially bankrupt by legal costs.

"In the war against communism, they did what the United States government wanted them to do and paid them to do," Mr. Klaus said.

Mr. Vides Casanova has placed about $270,000 in an escrow account awaiting the outcome of the appeals, said Moira Feeney, a spokeswoman for the Center for Justice and Accountability in San Francisco, which represented the defendants.

Neris González, a Salvadoran Roman Catholic church worker who testified at the trial that she endured 12 days of torture, said in a statement that the decision showed "that the Salvadoran military bears responsibility for what we, as a people, suffered."

Chief Of U.N. Troops In Haiti Is Found Dead In Hotel Room (NYT)

By Ginger Thompson

The New York Times, January 8, 2006

MEXICO CITY, Jan. 7 - The commander of the United Nations peacekeeping force in Haiti was found shot to death in his hotel room early Saturday, casting more doubt on the beleaguered mission's capacity to restore order in crime-plagued Haiti as authorities struggle to organize presidential elections.

Initial reports indicated that the commander, Gen. Urano Teixeira Da Matta Bacellar, had committed suicide. He was found wearing shorts and a T-shirt, and his gun was in his hand, the authorities said. The body was found in the general's hotel room at the Hotel Montana in Port-au-Prince, the capital.

Chief Mario Andresol of the Haitian National Police said he could not confirm the death was a suicide until after an investigation. "The general died a violent death," he said. "At this time I can't go into more detail." An unidentified official at the United Nations mission in Haiti later confirmed that the general had died from a self-inflicted gunshot wound, The Associated Press reported.

The shooting came at the end of a week of intense public criticism of the Brazilian-led United Nations Mission in Haiti, commissioned nearly two years ago after an armed rebellion, months of violent political clashes and heavy pressure by the United States that forced President Jean-Bertrand Aristide from office. Since that time, critics of the mission have complained that the violence and political fighting have gotten worse.

Kidnappings peaked over the Christmas holiday to as many as 12 a day, authorities reported, including attacks against journalists and aid workers. Some 10 United Nations soldiers and police officers have died in the line of duty. Haitian business leaders have blamed the United Nations for failing to use the force necessary to stop the street gangs and drug-trafficking organizations responsible for much of the violence.

The security problems have had a devastating impact on Haiti's ability to overcome its latest political crisis. The first round of the presidential elections, already postponed three times and then set for Sunday, were put off again. United Nations authorities have cited persistent fighting within Haiti's electoral council for the delays.

Meanwhile, leaders of Haiti's interim government, which was installed by the United States, have blamed the postponements on failures by international agencies to meet deadlines to distribute voter identification cards and to establish polling places.

Preparations for the elections have already cost an estimated $60 million, most of it from the European Union, Canada and the United States. The authorities estimate they will need at least $14 million more.

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On Friday, the United Nations Security Council urged Haiti to set Feb. 7 as the date for the first round of elections. It was unclear Saturday whether the general's death would force the United Nations to withdraw that demand.

David Wimhurst, a United Nations spokesman in Haiti, refused to answer questions by telephone on Saturday. A statement by the agency praised General Bacellar's 39 years of service to the Brazilian Armed Forces and to the United Nations mission in Haiti, known in official shorthand as Minustah.

"His untimely death and sacrifice in the cause of peace," the statement read, "will not weaken the resolve of Minustah and the international community to ensure the will of the Haitian people prevails and Haiti joins the democratic community of nations."

UN Commander In Haiti Dies In Apparent Suicide (REU-Y2)

By Joseph Guyler Delva

Reuters, January 8, 2006

The commander of the United Nations' peacekeeping force in Haiti was found dead in his hotel room on Saturday after apparently shooting himself in the head, U.N. officials said.

Brazilian Lt. Gen. Urano Teixeira Da Matta Bacellar's death comes as the troubled Caribbean country struggles to organize its first presidential election since a monthlong armed revolt ousted then-president Jean-Bertrand Aristide in February 2004.

The general, 58, who had been in command of the 9,000-strong U.N. force in Haiti since the end of August, appeared to have been alone in his suite at the Montana hotel in the capital Port-au-Prince at the time of the shooting.

His gun was found near his body, which was dressed in shorts and a white T-shirt, witnesses said.

"It is unfortunate and devastating to see such a good and honorable general killed in such circumstances," Brazil's ambassador to Haiti, Paulo Cordeiro de Andrade Pinto, told Reuters as he left the hotel.

The Brazilian army initially referred to the incident as a "firearm accident." The army later released a statement saying the armed forces "profoundly lamented" the death of the general, who was a career military officer, and that it would cooperate with the police investigation.

The general's sister, Bartira Bacellar, told TV Band in his home state of Rio Grande do Sul that the family was devastated. "We always accompanied his career, for which he had lots of enthusiasm," she said.

Brazil was expected to send an air force aircraft to pick up his body on Sunday.

A spokesman for U.N. Secretary-General Kofi Annan said Annan was "shocked and saddened" and that an investigation was under way.

PERSISTENT VIOLENCE

The U.N. mission, known by its acronym MINUSTAH, was sent to Haiti to keep the peace between supporters and foes of Aristide after the 2004 revolt.

But the country of 8.5 million people has continued to be afflicted by political violence and a wave of kidnappings has swept through Port-au-Prince despite the presence of the Brazilian-led U.N. troops and police.

The business sector, which vigorously opposed Aristide, and the interim government have called on the U.N. force to be more aggressive in taking on street gangs that control many of the sprawling slums in Port-au-Prince. Many of the gangs are seen as supporters of the exiled Aristide.

In contrast, civil and leftist groups in Brazil have criticized the U.N. force for being too aggressive in patrolling the slums. Dozens of civilians have been caught in the cross-fire during gunfights between U.N. troops and gangs.

U.N. mission head Juan Gabriel Valdes announced on Friday that U.N. troops would occupy the Cite Soleil slum, the capital's most dangerous ghetto, and warned that civilians could be harmed.

"We are going to intervene in the coming days. I think there'll be collateral damage but we have to impose our force, there is no other way," Valdes told a local radio station. His comments on collateral damage alarmed civic groups in Haiti.

Bacellar had opposed Valdes' plan for Cite Soleil, some U.N. officials said.

The presidential election was originally scheduled for November but has been put off repeatedly and now is expected to take place in February.

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Haiti's interim authorities have blamed the U.N. mission and the Organization of American States for the delays, a charge both organizations refute.

(Additional reporting by Terry Wade in Sao Paulo)

U.N. Chief In Haiti Found Dead (LAT)

By Carol J. Williams

The Los Angeles Times, January 8, 2006

MIAMI — The commander of the U.N. peacekeeping force in Haiti was found dead at an upscale hotel in the country's capital early Saturday with an apparently self-inflicted gunshot wound to the head, officials in Port-au-Prince said.

The death of Lt. Gen. Urano Teixeira Da Matta Bacellar, a Brazilian, seemed likely to further complicate the world body's long-thwarted efforts to bring stability to violence-racked Haiti and to organize elections.

Haiti has been without an elected leader since President Jean-Bertrand Aristide fled an armed rebellion in February 2004. Presidential and parliamentary elections were to have been held in November but have been repeatedly delayed by the U.S.-backed interim leadership.

Bacellar, 58, was found in his suite at the Hotel Montana with a gunshot wound to the head and his service revolver nearby, according to Radio Metropole and other news agencies at the scene. Reuters quoted unidentified diplomats, Haitian police and U.N. sources as saying the general was alone at the time of the shooting and that they believed it was a suicide.

In a dispatch from Sao Paulo, the Brazilian army initially said the general's death was the result of a "firearms accident." In a later statement, the army said Brazilians "profoundly lamented" Bacellar's death and that army investigators would travel to Haiti today to conduct their own review of the shooting.

Chilean Gen. Eduardo Aldunate was put in charge of the military mission until Brazil replaces the commander of its 1,200 troops in Haiti, the largest contingent of the 7,265-strong U.N. military deployment.

The contemplative soldier with snow-white hair and black eyebrows inherited command Aug. 31 and had witnessed a recent deterioration of security in the capital's teeming, gang-controlled slums.

An official of Haiti's Provisional Electoral Council, Rosemond Pradel, last week blamed the U.N. mission for the latest postponement of elections, citing its failure to halt escalating slum violence and a rash of kidnappings. Pradel confirmed that the vote scheduled for today was being called off but said no new election date could be set because of persistent security and organizational problems.

Alarmed by the delays, the U.N. Security Council and the Organization of American States convened special sessions Friday during which they instructed Haitian officials to cease infighting and to hold elections no later than Feb. 7.

The OAS said in a statement that it saw "no valid technical reasons to continue postponing the elections" and that security issues "in no way justify further delay."

A U.S. diplomat in Port-au-Prince said the State Department considered the Feb. 7 deadline feasible and did not believe Bacellar's death would affect the electoral calendar.

"In my view, the technical answers to elections are all fairly clear and should pose no impediment. Neither should the unfortunate demise of Gen. Bacellar," said Elizabeth Spehar, the OAS elections coordinator in Port-au-Prince.

But Haitians point to the daily gunfights in gang-controlled neighborhoods such as Cite Soleil and Bel Air and abductions for ransom as dangers preventing the set-up of polling places in the most populous areas. Almost half of the 3.4 million who registered to vote still haven't received their ID cards or been told where they will cast their ballots.

Expressing the international community's mounting impatience, U.N. mission chief Juan Gabriel Valdes warned Friday that the troops under Bacellar's command and some of the 1,700-plus U.N. police in Haiti would occupy Cite Soleil to break up the crime and kidnapping rings.

Bacellar, as well as his Brazilian predecessor in the mission's command, had been on record as opposing any use of U.N. force that could endanger bystanders. In an October interview with The Times, Bacellar said his troops stayed out of certain areas of the capital "to avoid collateral damage."

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A serious and outwardly serene career soldier, Bacellar described his mission in strictly military terms, discussing deployments, patrolling and readiness while professing little knowledge of the United Nations' longer-term political objectives of seating a legitimate government.

Spain Holds General After Remarks (NYT)

By Renwick McLean

The New York Times, January 8, 2006

MADRID, Jan. 7 - A Spanish Army general was put under house arrest on Saturday after he suggested that military intervention might be necessary to quell demands for greater autonomy from the northeastern region of Catalonia, the Defense Ministry said.

Recalling the dispute over Catalan autonomy that was a partial cause of the Spanish Civil War in the 1930's, Lt. Gen. José Mena Aguado, 63, said on Friday night that history appeared to be repeating itself as the nation debated Catalonia's recent requests for more self-government, and that the military was ready to act.

"It is our obligation to warn that there could be serious consequences for the armed forces as an institution and for its members if the Statute of Catalonia is approved in its proposed form," he said during a speech to members of the military in Seville.

"The Constitution establishes a series of impassable limits for any statute of autonomy," he said, referring to the type of law that describes the relationship between Spain's regional governments and Madrid. "But if those limits are exceeded, which thankfully is unthinkable at this time, it would be necessary to apply Article 8 of the Constitution."

Article 8 establishes that the armed forces are responsible for defending Spain's "territorial integrity" and "the constitutional order."

The proposed statute, which was approved overwhelmingly by the Catalan regional Parliament in September, says that Catalonia is a nation unto itself whose powers of self-government are not restricted by the Spanish Constitution.

Critics of the proposal, who include both liberal and conservative politicians, say it could set the stage for an eventual declaration of independence if it were passed in its current form.

Although democracy has taken root in Spain since the death of Gen. Francisco Franco in 1975, the military's history of intervening to settle political disputes continues to cast a shadow over Spanish politics. Today, many Spaniards remain wary of a strong military, and refuse to support significant increases in military spending.

Most political parties immediately condemned General Mena's comments, although a spokesman for the conservative Popular Party, the main opposition group in Parliament, said that statements like his were inevitable because Prime Minister José Luis Rodríguez Zapatero had failed to vigorously oppose the Catalan proposal.

In comments to the Spanish news agency Europa Press, the spokesman, Gabriel Elorriaga, said that Mr. Zapatero had stood idle while the Catalan proposal created a "serious constitutional crisis."

Mr. Zapatero has said that the proposal is unconstitutional and must be modified before he will support it.

Catalonia, a region of about seven million people in Spain's northeastern corner, has been home to a potent separatist movement for more than 100 years.

The region is one of Spain's economic engines, and supporters of more autonomy say that it provides Spain with much more than it gets in return, particularly in taxes that go to support poorer regions, like Andalucia and Extremadura.

In announcing the detention of General Mena on Saturday, the Defense Ministry said it would propose to Mr. Zapatero that the general, who is scheduled to retire in March, be relieved of his command.

During his speech on Friday, Mr. Mena, who was scheduled to retire in March, suggested that others in the military shared his views.

"I have an obligation to know the feelings, concerns, and preoccupations of my subordinates," he said. "It is their express wish that I transmit them to the top authorities of the Army and to make them public."

Serbia Begins Prosecuting Some War Crimes Cases (NYT)

By Nicholas Wood

DOJ_NMG_0008640

The New York Times, January 8, 2006

BELGRADE, Serbia - Slowly, Serbia is prosecuting some of the war crimes cases from the Kosovo fighting of 1999 and the 1992-95 conflict in Bosnia, even while it has failed to deliver major suspects to the tribunal in The Hague.

Seven cases have been brought to trial so far. In the past two years, five of them in a war crimes court that has been financed partly by the United States. Prosecutors say they have plans to bring dozens more cases to trial. They and others following the cases say the trials suggest that the country is beginning, at least tentatively, to acknowledge its recent history.

These trials have highlighted some of the most brutal acts reportedly carried out by Serbian forces during wars in Croatia, Bosnia and Kosovo.

The accusations include the massacre of 192 Croatian men taken from a hospital where they were seeking refuge in the town of Vukovar in 1991 and the killing of an extended Albanian family in Kosovo in 1999, when 45 people, including 14 children, a pregnant woman and a 90-year-old woman, were attacked with grenades and then shot.

"It points to the readiness of the state and judiciary to face the past," said Dragoljub Stankovic, one of five deputy prosecutors assigned to Serbia's war crimes department.

Despite such claims and praise from some of the victims' families and human rights groups, there have been notable omissions.

While The Hague tribunal has indicted senior Serbian police and army officers for crimes committed during the 1999 Kosovo conflict, the Serbian courts have focused on midranking officers, human rights groups and diplomats here say. As a result, they say a large number of senior officers have not been challenged about their role in the war.

Also, one prominent case, involving the killing of three American brothers in 1999, appears to be stuck.

"In my opinion, many commanders of police stations were involved in or ordered killings in Kosovo," said Natasa Kandic, a lawyer and the director of the Humanitarian Law Center, a human rights group based in Belgrade.

Some senior police and army officers accused by human rights groups of ordering the crimes, or failing to prevent them, have remained at their posts.

The officers include Goran Radosavljevic, who was the commander of Serbia's special units during the Kosovo fighting and was recently the commander of the Serbian gendarmerie. In addition, the senior police officer in charge of war crimes investigations, Vozdan Gagic, was a member of the joint police and army command during the Kosovo campaign, a position in which he would have known about war crimes taking place, Ms. Kandic said.

"It was impossible for him not to know," she said.

Both Mr. Radosavljevic and Mr. Gagic have denied any involvement in war crimes.

"The army and the police are powerful, and barely reformed, institutions," said Bogdan Ivanisevic, the Human Rights Watch representative in Belgrade. "Addressing the responsibility of the senior officers would be quite a bite for the prosecutors, something they could do only if they felt supported by the government."

The case of the Americans involves the Bytyqi brothers, ethnic Albanians from Long Island who had been among 400 or so Albanian-Americans who had gone to join the fighting in Kosovo in 1999. Their bodies were found in a mass grave near a police training camp in 2001. Their hands were bound behind their backs and they had bullet wounds in the back of the head.

Prosecutors believe they know most of the details about the days leading up to their killing. They say the brothers were held by the Serbian police after they strayed across Kosovo's boundary on June 26, 1999, just weeks after the end of the Kosovo conflict. The three, Ylli, Agron and Mehmet Bytyqi, were in their 20's. They were ordered jailed for 15 days.

While they were serving their sentences, two members of a special police unit came to move them from jail to their training camp, according to testimony given to prosecutors by Sreten Popovic, then deputy commander of the camp. Mr. Popovic said he acted after hearing from Serbia's assistant minister for internal affairs, Gen. Vlastimir Djordjevic.

Mr. Popovic, who is currently the commander of the gendarmerie in Nis, Serbia's third-largest city, has so far escaped prosecution. The investigation into the brothers' deaths shows little sign of reaching trial soon.

Officials at the United States Embassy in Belgrade said they believed that the brothers had been killed because they were American and members of the Kosovo Liberation Army. They say prosecutors have sufficient evidence to bring the case to trial.

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R. Nicholas Burns, the State Department's under secretary for political affairs, said in a recent interview that the outcome of the investigation into the Bytyqi brothers' deaths would influence the United States government's view as to Serbia's willingness to handle domestic war crimes cases.

"The authorities already have collected substantial evidence relating to the illegal detention and/or killings," he said. "It is time to bring the perpetrators to justice."

Bosnian Was Killed After Firing Shots, Peacekeepers Say (NYT)

By Nicholas Wood

The New York Times, January 8, 2006

LJUBLJANA, Slovenia, Jan. 7 - A woman killed by peacekeeping troops in Bosnia on Thursday was shot after she and her 11-year-son fired on soldiers seeking the arrest of her husband, a Bosnian Serb war crimes suspect, a military official in the Bosnian capital, Sarajevo, said Friday.

The woman, Rada Abazovic, was declared dead shortly after she was taken to a hospital in Rogatica in southeastern Bosnia on Thursday, several hours after the gun battle outside the Abazovic family home in nearby Bjelogorci, in which her son, Dragoljub, was wounded.

Her husband, Dragomir Abazovic, who stands accused by a Bosnian court of committing war crimes during the 1992-95 Bosnian conflict, had tried to flee but was cornered by troops and shot himself in the head, the official said. Hospital officials said he was in serious condition.

The shooting of Mrs. Abazovic and her son was widely criticized by Serbian politicians in Bosnia and Serbia, including the Serbian member of Bosnia's tripartite presidency, Dragan Cavic, who accused the European Union-led peacekeeping force of using indiscriminate force resulting in the death and injury of innocent victims.

The nationality of the troops involved has not been disclosed. Italian carabinieri, military police officers who are part of the United Nations peacekeeping force, were photographed later at the scene of the shooting.

But on Friday, a spokesman for the European Union-led mission, which took over from NATO troops at the end of 2004, said Mrs. Abazovic had opened fire on the commander of the unit seeking her husband's arrest as he tried to escape.

"She fired short bursts from an automatic weapon, a Kalashnikov AK-47," said the spokesman, Lt. Cmdr. Jem Thomas, in a telephone interview, giving an account based on a debriefing of the unit's commander, whom he did not name. "Soon after, she was joined by a boy."

"When she was about to run out, she gave the weapon to her son, who continued shooting while she looked for more ammunition."

He said troops were then ordered to shoot both Mrs. Abazovic and her son. "She was immobilized," he said, "with one shot." The boy, he said, was also "shot and immobilized."

Mrs. Abazovic was estimated to have used four magazines of ammunition, Commander Thomas said.

A Bosnian Serb police spokesman would not comment on that account, or say whether the autopsy on Mrs. Abazovic had provided evidence that she had fired a gun. "I am unable to talk about it," said the spokesman, Radovan Pejic. "All the evidence has been given to the prosecutor."

In Kenya, 'Why Does This Keep Happening?' (WP)

By Emily Wax

The Washington Post, January 8, 2006

NAIROBI, Jan. 7 -- On New Year's Day, groups of angry Masai herders attempted to drive their emaciated cattle onto the manicured lawns of the presidential residence so their animals could graze on the thick carpets of green grass in the morning sun.

With a drought turning their fields and pastures into dusty gray wastelands, and with millions of people in the region facing a food shortage, the herders wanted to make a point, organizers of the action said.

"Africa is not so poor that it doesn't have enough food or grazing land to feed itself. There's plenty of food here," said Ben Ole Koissaba, a leader of the Masai, one of the largest and most powerful tribes in Kenya. "Many countries around the world face

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drought, but people don't starve. We think it's ludicrous for the government to treat its citizens this way. Why does this keep happening?"

Many are asking that question as yet another drought threatens lives and destroys crops and livestock here. About 11 million people in Kenya, Ethiopia, Djibouti and Somalia are "on the brink of starvation," the United Nations said this week. In northeastern Kenya, at least 40 people, most of them children, have died from malnutrition and related illnesses since December, according to the Kenya Red Cross.

Enough food is grown in Kenya to feed all of its population of 33 million, but many citizens, especially the country's poor subsistence farmers, cannot afford it. When the rains ceased last year, the farmers were left with parched crops, hungry livestock and nothing to eat.

"The month of December 2005 will be remembered for a long time to come by Kenyans as a time when people were starving to death while others were feasting," said Gullet Abbas, secretary general of the Kenya Red Cross Society.

Feeding centers for children younger than 5 are filling up in northern Kenya, Abbas said. Cattle, goats and camels are growing thin. On Thursday, 3,000 herdsmen moved their 20,000 head of cattle across the border into Uganda to look for green pastures, according to reports on national television. Governments have warned that power shortages are possible because of lower water levels at Kenyan and Tanzanian dams, which the countries depend on to generate electricity.

"The current drought is more severe at most locations than the droughts of 1984, 1999 and 2000," Joseph Mukabana, director of the Kenya Meteorological Department, said in a full-page paid commentary in the Daily Nation, Kenya's largest newspaper. "Food relief efforts may need to go beyond December 2006 in some parts of the country."

Late Friday, President Mwai Kibaki ordered the government to purchase "all available" corn in the country in an emergency operation to stave off more deaths. The cabinet has "termed as the country's current number one priority the provision of food for Kenyans," Kibaki's office said in a statement.

The Kenya Red Cross Society and the Famine Early Warning Systems Network, a monitoring group, have criticized the government for failing to do more to prepare for the drought, saying that officials knew more than a year ago that such conditions would develop.

Some experts predict that the cycles of drought and food shortages will continue on the world's poorest continent until governments here develop more permanent, sustainable solutions.

"During these emergencies, we don't talk enough about development and what really needs to happen here," said Nancy Mutunga, the country director for the Famine Early Warning group. "Shouldn't we be building more water irrigation systems and developing more long-term solutions so this doesn't keep happening every few years?"

"If we don't talk about underdevelopment, we may just carry on with these cycles affecting herding and farming households every few years," she said. "These families are poor and live on the edge. Their wealth is dependent only on their livestock and crops. They have to diversify that."

Kibaki has asked the international community for more food aid. The U.S. Embassy, which contributed 62,890 metric tons of relief food last year, said it was eager to help again.

Too much food aid, however, can cause the price of locally grown food to fall, leaving farmers without enough income to purchase seeds for the next season, experts say.

"Making food available for the farmers, though welcome, is short-term and short-lived," said Tom Kagwe, who writes about famines and development in Africa for the Daily Nation. "It cannot provide the long-term solutions to the country's food shortage."

There are many reasons for food shortages in Africa. Sometimes war plays a role. In rebel-controlled eastern Congo, for instance, thousands of banana and mango trees produce more fruit than local people can consume. But the excess food never makes it to markets or drought-stricken regions because the roads are destroyed and armed militiamen loot the supplies or tax them heavily.

In northern Uganda, people displaced by fighting between the government and the Lord's Resistance Army, a rebel group, languish in camps, looking out at the land they used to farm. Fields that once produced abundant amounts of yams, peanuts and corn are barren.

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In Kenya, a peaceful and stable country, development has been hindered by corruption and mismanagement, according to Transparency International, a watchdog group that ranks Kenya as one of the most corrupt countries in the world.

Ole Koissaba, the Masai leader, said he was furious that the president turned the herders away from his residence. Even former president Daniel arap Moi, an authoritarian leader who ruled for 24 years, allowed the Masai to graze their cattle near the state house during a drought of 2002, Ole Koissaba pointed out.

"The new leadership cares more about politics than pastoralists, and now it can't do the correct things to save the lives, long term, of its own citizens," he said, adding there should be more international pressure on African governments to develop sound agricultural policies. "No African wants things to stay in this cycle of dysfunction."

A Paradise Drowning (NYT)

By Nicholas D. Kristof

The New York Times, January 8, 2006

MALE, Maldives

When President Bush visits India next month, he should add a whistle-stop at this gorgeous chain of tropical islands southwest of India, for they are a window into the future if we continue to spew carbon into the environment.

These palm-lined islands, where colored fish and small sharks play in the coral reefs, are a paradise. But old-timers point to myriad changes wrought by the rising seas, and the government is already moving some inhabitants from the lowest atolls to those that are a bit more elevated.

Alas, the high point in this entire nation of 1,200 islands is only eight feet above sea level. So people here worry that eventually the entire nation may have to move, making the Maldives perhaps the first country in the world to be destroyed by global warming. (Tuvalu and Kiribati, both small Pacific island nations, are other contenders for the title of the first modern nation to be drowned.)

"There is a realistic threat that we could be the first environmental refugees in the world," said Mohamed H. Shareef, the chief government spokesman.

He notes that some scientific models have suggested that the seas may rise in this century by two or three feet, as polar ice caps melt and seawater warms and expands. He adds, "As 75 percent of the total land area of the Maldives is under three and a half feet, our islands would be submerged to such an extent that we would have to relocate."

The tsunami a year ago offered a glimpse of what may come: when the waters reached their peak, most of the Maldives disappeared under the Indian Ocean for a few minutes.

One reason for Mr. Bush to drop by is that the Maldives may be the most pro-American Muslim country in the world. Local tolerance and pragmatism are exemplified by the attitude toward liquor: don't drink it, but overcharge foreigners for it.

But the more important reason for Mr. Bush to come is not geopolitical but environmental. He should witness a paradise that is gravely threatened by irresponsible environmental policies in the U.S. - the world's leading source of greenhouse gases - and other major carbon emitters. As evidence mounts that climate change is real, is caused by humans and is accelerating because of feedback loops in nature, I find it astonishing that the U.S. still refuses to adopt serious measures to curb greenhouse gases.

Granted, there is considerable uncertainty about the scale of the damage we are inflicting on the earth. But that's no reason to play Russian roulette with our biosphere.

So we must encourage conservation and fuel efficiency, support alternative forms of energy like wind, solar and biofuels, and - I'll get hate mail about this - grudgingly accept nuclear power, because it doesn't produce greenhouse gases. We should also adopt a carbon tax, and join the Kyoto process of binding curbs on emissions.

A visit to the Maldives is sobering because it juxtaposes extraordinary beauty and extraordinary fragility. The islands have perfect white sand beaches, and the most exclusive resorts here charge several thousand dollars per room per night. And yet the luxury rooms are on sandbars barely peeking above the horizon. When the tide is coming in, you have the creepy feeling that unless it stops very quickly, you'll be left treading water in the middle of the Indian Ocean.

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Local people say that the rising seas have already led to severe erosion on some islands, to wells filling with saltwater, and to storms' becoming more violent.

"My island sits lower in the water now, because of rising seas," said Hasan Ibraahim, a fisherman from the island of Kandholhudhoo. Twice a year, he said, waves now wash over the island - and so, after the tsunami, the government decided to relocate the island's entire population.

He's sad to say goodbye to the land of his ancestors, but after the tsunami it was three days before he found his 8-year-old daughter and 5-year-old son - and he doesn't want to live through that nightmare again.

So Mr. Bush should come and talk to fishermen who endure the mutating climate every day - and then he should ponder the implications of rising seas for Florida, the Carolinas, Long Island. The Maldives may be the canary in the world's coal mine.

"Our message to the U.S. is as simple as this," said Mr. Shareef, the government spokesman. "Sea level rise is not just a phenomenon which is just going to engulf the Maldives and then stop. If it affects us tomorrow, it will affect you the day after."

Northern Ire (WP)

By Anna Morgan

The Washington Post, January 8, 2006

TORONTO Barely 18 months ago, Canadian party leaders were out campaigning for better health care policies, a cure for Quebec's nationalist aspirations and an end to government corruption scandals. But since the minority government put in place in June 2004 lost a no-confidence vote late last November, the politicians have been back out on the stump, preparing for a new election on Jan. 23. This time, though, running in the two coldest months of winter, they've been using that familiar demon -- the United States and all its evils -- as the fuel to heat Canadian voters to a frenzy.

There's no denying that Canadians are in an even more anti-American mood than usual, thanks to the Iraq war and the Bush administration's perceived arrogance. And politicians here are playing to that mood. In a blatant appeal for votes, candidates of every stripe, led by Prime Minister Paul Martin and his ruling Liberal Party, are taking aim at Washington, blasting it for taxing Canadian lumber imports, for failing to fight global warming, for lax gun-control laws, for dealing inappropriately with the war on terrorism. And all the while, they're studiously ignoring Canada's own homegrown issues.

America-bashing became such a central part of the election landscape last month that U.S. ambassador David H. Wilkins warned that Canadian-American relations could take a turn for the worse if party leaders didn't back off. But his words only prompted Canadian politicians to lash back with admonitions of their own. Even Stephen Harper, leader of the Conservatives, the party generally most sympathetic to the United States, declared: "I don't think foreign ambassadors should be expressing their views or intervening in an election."

In keeping with a long political tradition, the United States ignores Canada whenever possible. Nonetheless, the issues between the two countries just keep piling up. Leading the way is the softwood lumber dispute. Three years ago, the United States began imposing import duties on Canadian lumber after American producers complained that the Canadian government was all but subsidizing the lumber industry. Canada objected, and last August, arbitrators for the North American Free Trade Agreement decided in its favor. But Americans still have not fully complied with the NAFTA ruling to lift the duties, so Prime Minister Martin has made confronting Washington on this score a main issue of his campaign, even though lumber represents less than 3 percent of Canadian exports to the United States.

While American non-compliance with NAFTA may be a legitimate beef for Canadians, politicians have also been indulging in some inflated rhetoric on other fronts where Canada isn't on such solid ground. The specific attack to which Wilkins responded, for example, had to do with the Kyoto environmental accord. In welcoming a United Nations conference on global warming in Montreal last month, Martin criticized the United States for not signing the agreement and urged it to pay attention to the "global conscience."

In doing so, he conveniently neglected to mention that Canada, which is one of the accord's major promoters, so far hasn't complied with its emission reduction requirements. The United States, in fact, has done a better job in dealing with greenhouse gases. A U.S. Department of Energy report released in December noted that American emissions for 2004 were 16 percent

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higher than in 1990. A similar study prepared by Environment Canada reported that greenhouse gas emissions rose 24 percent here between 1990 and 2003. But in the current election environment, the prime minister knows that it is hot air that really counts.

The Liberal Party has been determined to divert attention from a corruption scandal that has left it weakened in every province. It is using its anti-American foreign policy as an election tool, continuously reminding Canadians that the Liberal government kept the country out of the Iraq war and the North American missile defense system. Some pundits say that Martin, with no ammunition against opposition candidates, has decided to run against George W. Bush.

The opposition has also played the America card. The Conservatives, who support deep tax cuts, Thatcheresque deregulation of the economy and a set of family values that could attract the vote of any evangelical minister, are sympathetic with Bush's foreign policies but vow never to mimic them. At the other end of the spectrum, the quasi-socialist New Democratic Party has candidates who are so anti-American that they sometimes sound like an undergraduate student forum, performing stunts such as conducting "citizens' weapons inspections" of American military bases in Washington state. The one thing all the candidates have in common is their strenuous assertions that they will not tolerate being bullied, even if they have to make up the bullying.

Although the government boasts about its non-cooperation with the Americans on Iraq, it is desperate to keep quiet its cooperation on the war on terrorism. Under the Liberals, Canada enacted Patriot Act-style legislation with the Anti-Terrorism Act of 2001. Recently, it resisted calls to repeal provisions for increased police surveillance and far-reaching powers of arrest and detention. Federal authorities are currently holding five suspects under so-called security certificates, which allow non-Canadians to be held indefinitely if a judge is convinced they are a threat. These policies, however, have been kept low-key, for fear of an anti-government backlash in public opinion.

The problem is that silence on these issues during the campaign plays into the growing anti-American sentiment and may eventually hinder attempts to deal with terrorism. The best example of this is the case of Abdullah Khadr, the Canadian media's current cause celebre. Khadr is one of several Toronto-born sons of an Egyptian terrorist who was killed in a shootout with police in Pakistan. U.S. authorities suspect Abdullah of being a weapons supplier for al Qaeda and part of a group that planned to assassinate Pakistani President Pervez Musharraf. On Dec. 2, he came back to Canada after 14 months in a Pakistani prison and was soon arrested on an extradition warrant, issued at the request of the United States, for conspiracy to murder Americans abroad.

Abdullah's 19-year-old brother, Omar, has also been in the news, as the youngest person held in Guantanamo Bay, for allegedly throwing a grenade that killed a U.S. Army medic in Afghanistan. The clan's mother has given interviews saying she detests Western values and that the only reason the family has returned to Canada is for the subsidized health care. One would think few families could be less popular with the liberal-minded Canadian public.

And yet in his current extradition battle, Abdullah is clearly winning in the court of public opinion, if not in the court of law. A number of prominent columnists and CBC News are questioning whether Canada should cooperate with the U.S. government in this or any other terrorism case.

Politicians here know that Canadians love to read, talk and debate about U.S. transgressions. Newspaper articles point to ethnic profiling at airports and long border waits as evidence that the war on terrorism is a sham, and that Americans are simply looking for excuses to harass Canadians for the country's multicultural society. But just as it chooses to ignore weaknesses in Canada's environmental policy, the public is also disinclined to take seriously the country's problems with terrorism. Those problems may not be as exaggerated as some Americans think they are -- just recently Montana's Sen. Conrad Burns reiterated, then retracted, the popular myth that the 9/11 hijackers got into the United States through Canada -- but they are certainly real.

The so-called millennium bomber, Ahmed Ressam, who planned to bomb Los Angeles airport on New Year's Eve 2000, did come from Canada. In another notorious case, Mohammed Zeki Mahjoub was arrested in Toronto after being accused of belonging to a militant group with ties to an Egyptian Islamic Jihad organization. Though he denied those links, Mahjoub admitted he worked closely with Osama bin Laden himself during his years in Sudan. The judge at Mahjoub's first hearing quoted from a report issued by the Canadian Security Intelligence Services that "there are more terrorist cells operating in Canada than in any other country outside the Middle East."

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Worry about alienating key constituencies in a hairline election has silenced politicians here on these important issues. But Canada-U.S. relations could reach a turning point if they're not addressed. Over the past five years, Canada has stopped extraditing people to the United States if they face the death penalty. The increasing popularity of the notion that international terrorism suspects also should not be extradited have led to some serious concerns about the heavily trafficked border.

It's not just that Canada is starting to look like a safe haven for America's Most Wanted; it's that America may be starting to view Canada as a less-than-benign neighbor. U.S. Customs and Immigration this year imposed passport requirements on visiting Canadians for the first time, and there is talk of fingerprinting at the border as well. At some point, the truck traffic that carries up to 70 percent of Canadian exports south will start to bog down in security inspections. That's when Canadians' anti-American bark will really start to bite.

In this electoral season, the public is looking for bellicose rhetoric, but Canada's security cries out for sober management. Whoever is elected will have to work publicly with the United States, not just against it, to reduce anti-American sentiment while addressing the problem of terrorism and cross-border control. If the real need for cooperation with Canada's southern neighbor can't temper the public's demand for criticism, the nation will be in for some stormy weather in the next few years.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: SUNDAY, JANUARY 8, 2006 7:45 AM EST

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TERRORISM NEWS:

Poll: Most Want Court OK For Gov't Taps (AP-Y2)

By Katherine Shrader

AP, January 8, 2006

A majority of Americans want the Bush administration to get court approval before eavesdropping on people inside the United States, even if those calls might involve suspected terrorists, an AP-Ipsos poll shows.

Over the past three weeks, President Bush and top aides have defended the electronic monitoring program they secretly launched shortly after Sept. 11, 2001, as a vital tool to protect the nation from al-Qaida and its affiliates.

Yet 56 percent of respondents in an AP-Ipsos poll said the government should be required to first get a court warrant to eavesdrop on the overseas calls and e-mails of U.S. citizens when those communications are believed to be tied to terrorism.

Agreeing with the White House, some 42 percent of those surveyed do not believe the court approval is necessary.

"We're at war," Bush said during a New Year's Day visit to San Antonio. "And as commander in chief, I've got to use the resources at my disposal, within the law, to protect the American people. ... It's a vital, necessary program."

According to the poll, age matters in how people view the monitoring. Nearly two-thirds of those between age 18 to 29 believe warrants should be required, while people 65 and older are evenly divided.

Party affiliation is a factor, too. Almost three-fourths of Democrats and one-third of Republicans want to require court warrants.

Cynthia Ice-Bones, 32, a Republican from Sacramento, Calif., said knowing about the program made her feel a bit safer. "I think our security is so important that we don't need warrants. If you're doing something we shouldn't be doing, then you ought to be caught," she said.

But Peter Ahr of Caldwell, N.J., a religious studies professor at Seton Hall University, said he could not find a justification for skipping judicial approvals. Nor did he believe the administration's argument that such a step would impair terrorism investigations.

"We're a nation of laws. ... That means that everybody has to live by the law, including the administration," said Ahr, 64, a Democrat who argues for checks and balances. "For the administration to simply go after wiretaps on their own without anyone else's say-so is a violation of that principle."

The eavesdropping is run by the secretive National Security Agency, the government's code-makers and code-breakers.

Charles Franklin, a political science professor at the University of Wisconsin-Madison, said most people think that the eavesdropping is aimed at foreign terrorists, even when the surveillance is conducted inside the country.

"They are willing to give the president quite a lot of leeway on this when it comes to the war on terror," said Franklin, who closely follows public opinion.

Some members of Congress have raised concerns about the president's actions, but none of those lawmakers who have been briefed on the program has called for its immediate halt.

The chairman of the Senate Judiciary Committee, GOP Sen. Arlen Specter of Pennsylvania, has promised hearings this year. Five members of the Senate Intelligence Committee, including GOP Sens. Olympia Snowe of Maine and Chuck Hagel of Nebraska, have called for immediate inquiries.

On top of that, a memorandum circulated Friday from two legal analysts at the Congressional Research Service concluded that the justification for the monitoring may not be as strong as the administration has argued.

The NSA's activity "may present an exercise of presidential power at its lowest ebb," the 44-page memo said.

Bush based his eavesdropping orders on his presidential powers under the Constitution and a September 2001 congressional resolution authorizing him to use military force in the fight against terrorism.

The administration says the program is reviewed every 45 days and that Bush personally reauthorizes it. His top legal advisers argue its justification is sound.

The issue is full of grays for some people interviewed for the poll, including homebuilder Harlon Bennett, 21, a political independent from Wellston, Okla. He does not think the government should need warrants for suspected terrorists.

"Of course," he added, "we all could be suspected terrorists."

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Associated Press writers Will Lester and Elizabeth White contributed to this report.

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Eavesdropping Poll Quotes (AP-Y2)

By The Associated Press

AP, January 8, 2006

Comments from some of the people interviewed last week for an Associated Press-Ipsos poll on public attitudes about eavesdropping on communications between people in the U.S. and suspected terrorists:

"I believe in people's privacy but I believe in protection, too. If something's not right I think he'd (Bush) have a right to do it. If there's a dangerous situation I don't think he's got to ask anybody." — Tanya Fowler, 46, of Rock Hill, S.C.

"One thing as an American is: I value my freedom. That's guaranteed to me in the Constitution. President Bush has clearly violated at least two articles of the Constitution. He's no better than the terrorists he's supposedly fighting." — Scott Smith, 41, of Gloucester, Mass.

"We've got people that are attacking our country and we can't just let them do so without resisting them and trying to figure out what they're doing." — Gordon Tanner, 70, of Somerville, Ala.

"I think the laws apply to him like they do to everybody else. Controls are in place for a reason, they should be abided by. The wiretapping was warranted, but there's a right way to do things. Rules apply to everybody." — Diane Nardone, 50, of Westerly, R.I.

"There should be an investigation first before shutting it down — they might be in the middle of discovering something." — Dee Fowler, 39, of Iowa City, Iowa.

"I think they should have to get warrants. There are pros and cons to both sides. It's hard to tell who would be potential bad guys." — Harlon Bennett, 21, of Wellston, Okla.

Our Presidential Era: Who Can Check The President? (NYT)

By Noah Feldman

The New York Times, January 8, 2006

I. OUR PRESIDENTIAL ERA

Not since Watergate has the question of presidential power been as salient as it is today. The recent revelation that President George W. Bush ordered secret wiretaps in the United States without judicial approval has set off the latest round of arguments over what the president can and cannot do in the name of his office. Over the past few years, the war on terror has led to the use of executive orders to authorize renditions and the detention of enemy combatants without trial - for which the Bush administration has been called to account by our European allies. The treatment of detainees has also given rise to concerns in Congress about the prerogatives of the chief executive: both houses recently voted to limit the president's authority to employ C.I.A. or other executive agents to engage in cruel and inhumane interrogations. The limits of presidential power will almost surely be a major topic of discussion during Samuel A. Alito Jr.'s Supreme Court confirmation hearings, which are scheduled to begin this week.

The stakes of the debate could hardly be higher: nothing is more basic to the operation of a constitutional government than the way it allocates power. Yet in an important sense, the debate is already long over. By historical standards, even the Bush administration's critics subscribe to the idea of a pre-eminent president. Administrative agencies at the president's command are widely understood to be responsible for everything from disaster relief to drug approval to imposing clean-air standards; and the president can unleash shock and awe on his own initiative. Such "presidentialism" seems completely normal to most Americans, since it is the only arrangement most of us have ever known.

For better or worse, though, this is not the system envisioned by the framers of the Constitution. The framers meant for the legislative branch to be the most important actor in the federal government: Congress was to make the laws and the president was empowered only to execute them. The very essence of a republic was that it would be governed through a deliberative legislature, composed carefully to reflect both popular will and elite limits on that will. The framers would no sooner have been governed by a democratically elected president than by a king who got his job through royal succession.

The transformation of the United States from a traditional republic to a democratic nation run in large measure by a single executive took a couple of hundred years. Constitutional evolution, like its counterpart in the natural world, has occurred sometimes gradually and sometimes in catastrophic jolts, like those brought about by war or economic crisis. The process has not been entirely linear: presidential power grabs have often been followed by a Congressional backlash, as in the wake of Richard Nixon's presidency. But the overall winner has unquestionably been the president, who has reached heights of power that the framers would scarcely have imagined. The modern presidency, as expressed in the policies of the administration of George W. Bush, provides the strongest piece of evidence that we are governed by a fundamentally different Constitution from

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that of the framers. While any constitution must evolve over time to meet new circumstances and challenges, there is reason to think that, when it comes to presidential power over national security, the latest developments have gone too far.

The rise of the presidency began with the Louisiana Purchase, which in 1803 doubled the landmass of the United States. History taught the framers that, just as Rome changed from republic to empire with conquest of new lands, territorial acquisition would lead to the centralization of political power. Sure enough, Thomas Jefferson's decision to buy the territory without seeking a constitutional amendment or advance Congressional approval amounted to a huge expansion of presidential authority. Jefferson entered office as a skeptic of the national government's power and even privately suggested that the purchase was unconstitutional. In overcoming his own republican instincts and arranging the purchase secretly, he demonstrated how the office of the presidency would come to serve its own interests, swaying the men holding it to strengthen not simply their own authority but also that of the institution itself.

Three decades later, Andrew Jackson's presidency marked another leap forward in presidential power. His contribution was his claim to represent the country, in its entirety, more directly and democratically than the congeries of local politicians who made up Congress. This rhetorical stance, coupled with the expansion of voting rights to white men without property, gave him the political muscle to veto the national bank and stand up to Congress in the name of the common men who had voted for him.

By the middle of the 19th century, with the admission to the Union of Florida, Texas and California, the United States became a continental empire. Such an empire called for an "imperial presidency," as Arthur M. Schlesinger Jr. suggested in his classic 1973 book of the same name. With the onset of the Civil War, the threat to the nascent empire led Abraham Lincoln to govern without Congress and to suspend access to the courts. When in 1898 William McKinley conquered the Philippines and chose to rule it, the imperial metaphor became still more apt: the United States had become, for the first time, the proprietor of whole nations whose peoples would never vote in its elections and whose governors reported directly to the president.

In the 20th century, the Great Depression helped propel the presidency to its current level of dominance. The administrative agencies that were created during Franklin Delano Roosevelt's New Deal were a response to the tremendous complexity and growth of the national economy. An overwhelmingly Democratic Congress went along with the Roosevelt administration, giving the agencies broad discretion in regulating the economy and addressing workers' welfare. Over time, as the agencies expanded to administer health and safety regulations, Congress realized that it was more convenient to pass the buck to agencies than to deal with hard policy questions on its own. A congressman could take credit for an agency's action when it was convenient and blame the agencies when they adopted policies that his constituents disliked. It is now taken for granted that the president is in charge of the vast administrative apparatus that makes most of the important domestic-policy decisions in the country.

Today, of course, the main arena for the extension of presidential power is the realm of national security. The president's power to use force has grown enormously since the founding. The framers worried that a standing army at the president's beck and call would encourage him to subvert legislative independence by force, and so the Second Amendment gave Americans a right to bear arms in order to form well-ordered militias that would protect "a free state" - not only from the incursions of foreign powers but also from an overweening central government. Until the 20th century, a president who called the military into action did not have much to work with.

But as America emerged as a world power, Congress began to ignore the framers' concern, enhancing the size and might of the regular army until presidents could enter even major conflicts on their own. Presidents from both parties used the ongoing hostilities of the cold war to strengthen their military prerogatives during the conflicts in Korea and Vietnam. Despite the passage of the War Powers Act of 1973, which tried to reassert Congress's role in going to war, the presidency ended up more powerful than it had been before; no president has acknowledged the act's constitutionality. Even Bill Clinton was able to bomb Kosovo without asking Congress for permission.

The administration of George W. Bush, emboldened by the Sept. 11 attacks and the backing of a Republican Congress, has sought to further extend presidential power over national security. Most of the expansion has taken place in secret, making Congressional or judicial supervision particularly difficult. Administration lawyers have gone so far as to claim that the president as commander in chief is not bound by laws that ban torture because he is empowered by the Constitution to fight the nation's wars however he sees fit. A memo from the Department of Justice to the White House counsel dated Aug. 1, 2002, argued that any attempt to apply Congress's anti-torture law "in a manner that interferes with the president's direction of such core war matters as detention and interrogation of enemy combatants thus would be unconstitutional."

The administration has also suggested, in other memos, that the president may violate international treaties if necessary to fight the war on terror. By these lights, the United Nations Convention Against Torture, the leading anti-torture treaty, could constitutionally be violated even though the United States signed and ratified it, and even though the Constitution declares treaties to be "the supreme law of the land." Meanwhile, the administration takes the view that the anti-torture treaty does not apply to its actions outside the United States as a matter of law, but only, as Secretary of State Condoleezza Rice recently stated

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on a trip to Europe, "as a matter of U.S. policy." When added to the newly declared presidential right to arrest American citizens wherever they might be and detain them without trial as enemy combatants, these claims add up to what is easily the most aggressive formulation of presidential power in our history.

For the last four years, a Republican Congress has done almost nothing to rein in the expansion of presidential power. This abdication of responsibility has been even more remarkable than the president's assumption of new powers. In recent months, though, Bush's relative unpopularity, as reflected in opinion polls, has emboldened Congress to take some steps toward reasserting its oversight role. In addition to the new anti-torture legislation, there is talk of requiring regular reports on secret detentions; and last month Congress nearly allowed the U.S.A. Patriot Act to lapse, granting only a five-week extension instead of the full renewal sought by the administration. Still, political logic dictates that, as long as Republicans control Congress, its oversight will be cautiously managed so as not to harm the party or the party's next presidential candidate. And even accounting for a legislative backlash, history suggests that the presidency ultimately emerges stronger after a president makes new claims of his constitutional authority.

So what, if anything, should be done? If presidential power has been taken too far, who, if anyone, can impose limits on it?

II. WHAT THE COURT HAS DONE - AND MAY DO

The Supreme Court would seem to be the natural place to look for a restoration of the constitutional balance of powers. While Congress sat on its hands for most of the last five years, the court took on some of the most contentious problems of presidential power in a set of landmark decisions concerning detainees being held as enemy combatants. These cases were not just about civil liberties. They were also about the relative powers of Congress and the president under wartime conditions, and the court treated them as such.

The court's response to these crucial issues was to propose what is in effect a compromise between presidential power and Congressional authority. The most significant case concerned the detention of Yaser Esam Hamdi, an American citizen captured in Afghanistan and then held without trial in the United States. In June 2004, the court rejected the administration's view that it was authorized to arrest an enemy combatant anywhere and hold him indefinitely without trial. (The administration's argument was endorsed by Justice Clarence Thomas.) But the court also did not adopt the opposing view, expressed in a stinging dissent written by Justice Antonin Scalia, that an American citizen may not be detained without trial in the United States so long as the courts are open and Congress has not exercised its power to suspend the writ of habeas corpus.

Instead, the court concluded - over the disagreement of Justice David Souter - that Congress had in fact authorized the detention of enemy combatants, including American citizens. Yet at the same time, the court held that a suspected enemy combatant must be afforded the basic right to due process: to be given notice of the accusation against him and an opportunity to rebut that accusation before "a neutral decision maker." When push came to shove, however, the administration never gave Hamdi the hearing that the court promised him: he was "released" to Saudi Arabia without a hearing of any kind, on the condition that he renounce his United States citizenship.

The court's opinion in Hamdi's case seemed to exert a gravitational pull on the status and rights of the detainees at Guantánamo Bay. In a parallel case, the court addressed the Guantánamo issue only to say that those detainees - who are not United States citizens - were covered by the legal right to seek habeas corpus. The administration argued that since Guantánamo was part of Cuba, the habeas corpus statute did not apply there. When the court rejected this argument, the administration seemed to draw the lesson that it had better provide some sort of hearings for the Guantánamo detainees, as the court required for Hamdi. The administration decided to give those detainees hearings before commissions made up of military officers for the limited purpose of deciding whether they were, in fact, enemies of the United States. Not surprisingly, almost all these hearings have resulted in continued detention: only 38 of the more than 500 detainees were found not to be enemy combatants

Whatever their practical shortcomings, the court's decisions regarding Hamdi and the Guantánamo detainees still registered as a limitation on the unbridled presidential power that the administration asserted. But today, the Supreme Court that decided the detention cases is no more. Chief Justice William H. Rehnquist has since died and been replaced by John G. Roberts Jr.; and Justice Sandra Day O'Connor has offered her resignation contingent on the confirmation of her successor. If Samuel Alito takes her place, he and Roberts could change the balance significantly.

The change in the court's makeup is potentially significant, for the litigation of presidential power is just gathering steam. In addition to the likelihood that the court will hear a third prominent case concerning detention - that of Jose Padilla, an American citizen arrested at O'Hare Airport in 2002 and then detained in the United States without trial - it may well consider cases concerning the tapping of private conversations between terror suspects in the United States and persons abroad.

The revelation that President Bush directed the National Security Agency to eavesdrop (and use data-mining technology) on such communications without seeking warrants has raised the question of whether the president had the power to do so. The Foreign Intelligence Surveillance Act, or FISA, prohibits surveillance of this sort without a special warrant, so the administration

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has proffered several other justifications of its policy. It has argued that when Congress authorized the president to use force after Sept. 11, it implicitly repealed FISA's ban on warrantless surveillance. And it has also maintained that the president had the inherent constitutional authority to intercept the communications of foreign powers and their agents - regardless of whether Congress prohibited it. Reminiscent of the administration's position regarding torture, this argument relies upon the idea that the Constitution assigns certain foreign-affairs responsibilities to the president that exclude Congress from having any say in how he might exercise them.

As with the use of torture, the use of secret intelligence outside of the ordinary legal process makes it difficult even to discover the violation, much less challenge it legally. But that does not mean that the issue will not come before the Supreme Court. Although you would imagine that prosecutors are not using secret evidence in criminal trials in which defendants could invoke their Fourth Amendment rights against unlawful search and seizure, defendants in terror trials are now asking courts to force the government to disclose whether such illegal surveillance occurred. Released detainees have already filed civil suits against the government charging torture, detentions and renditions to foreign countries by United States personnel. Such suits could now include claims for unlawful surveillance. Civil-liberties advocates will also bring challenges to the surveillance practices that the president has now acknowledged. And when a new administration is elected, it is not impossible that criminal prosecutions could be brought against the intelligence officials who illegally authorized the wiretaps.

If the issue does reach the court by one or more of these avenues, there is good reason to suspect that both Roberts and Alito, should he be confirmed, will be operating under the influence of an expansive conception of presidential power. Both are products of a conservative movement that has provided the legal justifications for various aspects of the Bush revolution, and both held intensely political jobs in previous Republican administrations. Two decades ago, as a deputy assistant attorney general, Alito argued in a memo that the president should issue "signing statements" when approving legislation - an effort to give the president influence over the courts' power to say what the laws mean. And Roberts, while serving as an appeals court judge, joined an opinion in Hamdan v. Rumsfeld upholding the military commissions being used to try Guantánamo detainees. The court held that the Geneva Convention does not, on its own, create a private right that can be litigated in the courts - a position consistent with wide presidential authority but also conventional wisdom among United States courts dealing with treaty issues. (I submitted a friend-of the-court brief in that case on the right to confront witnesses and evidence.) Past experience does not, of course, necessarily determine a justice's views on the court. But given their profiles and clues from their writings, it is in any case extremely unlikely that the combination of Roberts and Alito would be less deferential to presidential power than the combination of O'Connor and Rehnquist.

III. HOW CONGRESS CAN REDEEM ITSELF

Even if the Supreme Court were inclined to resist efforts to expand presidential power, the truth is that the court cannot do much to restore Congressional authority. We often imagine that the court serves as a sort of neutral umpire controlling the warring political branches. But this is mostly myth. The justices of the Supreme Court are themselves actors in the struggle for power, and when they intervene, they think carefully about how their decisions will affect the court's own legitimacy and authority. Even when the court weighs in on the side of Congress, it often elevates its own powers at Congress's expense. By the very act of interpreting existing laws and declaring something to be within Congress's power (and not the president's), the court affirms that it, not Congress, is the entity capable of making the president listen. Likewise, when Congress allows the court to resolve a power struggle between itself and the executive branch, it effectively concedes that it lacks the will to use its own arsenal of tools to pressure the president.

Consider what happens when Congress actually tries to engage in oversight - for instance, demanding that the president turn over documents concerning prewar intelligence about weapons of mass destruction in Iraq. The president refuses, citing "executive privilege" - a term, by the way, absent in the text of the Constitution. What can Congress do when the president ignores its dictates? One option would be to stop cooperating with the presidential agenda on other issues. Another would be to suspend financing for some relevant program. Holding hearings would be a way to possibly broaden public awareness (though hearings are difficult to carry off without relevant documentation). The ultimate sanction, of course, would be to initiate impeachment proceedings. All of these approaches have costs, though. They would require coordinated action by the Congress and would draw public scrutiny to the issue. By going to the court and asking it to enforce a subpoena - or better, waiting for public-interest groups to do so, as with Vice President Dick Cheney's energy advisory commission - Congress avoids most of these costs.

Once the Supreme Court hears a case involving the balance of powers, the situation actually becomes worse for Congress. The court may find for the president. And even if the court does find that Congress's powers trump those of the president, and the president complies with its ruling, the logical implication is that the president is listening to the court when he was not willing to listen to Congress. This concern was evident in Scalia's dissent in the Hamdi case, in which he asserted that an American citizen in his home country is always entitled to a judicial hearing justifying detention - unless Congress suspends

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the writ of habeas corpus. To Scalia, the case was about Congress and the president: the former had not authorized the latter to detain citizens without a hearing. Yet far from functioning as a vote of confidence in Congress, Scalia's dissent made Congress look like the patsies that they had been throughout the Guantánamo detentions. Scalia was clearly angry at the president for violating a basic constitutional principle, to be sure. But his anger also reflected his frustration with Congress's reluctance to stand up for its rights.

So how can Congress redeem itself? It could start by clarifying that, in authorizing the president to use force after Sept. 11, it did not mean to give him a blank check to violate existing laws without even telling Congress about the violations. Then it could pass new laws that leave no doubt that it intends to bind the president and his staff on matters relating, for example, to the conduct of war. Senator John McCain's torture bill, for instance, seeks to do just that. In the face of repeated presidential assertions that inhumane treatment does not count as torture and that the president cannot be constrained when it comes to interrogation, the law expressly prohibits cruel interrogation techniques.

But laws that bind the president are, on their own, not enough. Congress must also create meaningful oversight programs with bite to make sure the laws on the books are actually obeyed. The recent proposed bill demanding regular reports from the director of national intelligence about detentions abroad is a step in this direction, but only a step. Without specific provisions stating the content of the testimony that the executive branch must provide, Congress is just asking for the president to elicit an opinion from his lawyers permitting him to ignore the law and then to violate the law secretly. Lest that seem far-fetched, recall that such memos were in fact elicited in the war on terror, and that the violations of our anti-torture laws that took place (according to any reasonable reading of those laws) occurred in facilities whose very existence was classified as a matter of national security. Indeed, even McCain's bill, which prohibits "cruel, inhuman or degrading treatment," could be gutted in practice by an interpretation limiting the meaning of those terms so as to permit existing interrogation techniques.

The chief advantage of oversight hearings is that officials must appear and testify under oath as to what the administration is in fact doing. A lie to a Congressional committee constitutes perjury. Disillusioning as it may be to admit, the threat of prison is probably the only sanction that can reliably assure that executive-branch officials, protected by secrecy laws and presidential orders that may themselves be classified, will come clean about what is going on in the war on terror. Even the most conscientious officials may make ambiguous statements that disclose only part of the truth, and that misleadingly - as when Condoleezza Rice answered questions about rendition and torture at a press conference in Ukraine in December.

Beyond oversight, a newly assertive Congress would also have to create ways to sanction the president if laws were violated. Ordinary criminal prosecution will rarely do the trick, since Congress cannot expect the president to initiate proceedings against himself or his employees for violating a law that he thinks is unconstitutional. The steps for enforcement should therefore come in part, at least, from Congress itself, which could specify upfront, for instance, that if a president were to violate the law, Congress would withdraw financing from certain programs or initiate impeachment proceedings.

With midterm elections coming in the fall, and the president's popularity having fallen, Congress may already be gearing up to take some such steps, as with the request for regular reporting on detention and Iraq and McCain's torture bill. A future Congress controlled by the Democrats would doubtless do much more. But the War Powers Act of 1973 provides a cautionary tale. Without strong and credible evidence that Congress will follow through, the laws Congress passes to limit the president can enter constitutional limbo, their status unknown and their effect uncertain.

The Supreme Court can do little to help Congress along this path, but the court could make the work of restoration harder for Congress were it to rule in favor of the Bush administration's theories of executive power. The judicial approval of an inherent executive power to torture or eavesdrop, laws to the contrary notwithstanding, would be a huge blow to Congress.

The allocation of power within the government is not determined simply by reading the Constitution and figuring out what it says. To the contrary, the balance of powers is established through a game of give and take, a struggle in which each branch fends for itself. An excellent example is the Supreme Court's ruling in Bush v. Gore. The important fact about that decision was not that in assuring President Bush's election, it inaugurated a period of single-party government. It was, rather, that the court deliberately chose to intervene in a process laid out in the Constitution for dealing with electoral disputes - a process according to which Congress, not the court, was given the power to choose the president. Bush would likely have ended up president in either case; but once the court wrested from Congress the constitutional power to decide who won, few in Congress seriously disputed the legitimacy of its actions. The court had spoken, and its decision was treated as final.

The lesson for the balance of powers is a deep one: the prize of power goes to the bold. Right now, the presidency and its supporters have the upper hand. For Congress to regain some of its constitutional prominence, the court will have to keep a level head, and the representatives themselves will have to be willing to take some chances. Such an effort need not be restricted to national security issues - it would be nice if Congress also took more responsibility for making many of the hard domestic policy choices that it currently leaves to administrative agencies. But the national security problem is more pressing, and for the moment it offers Congress the best chance to redeem itself from its recent inaction.

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It is customary, when making a plea on behalf of Congress, to give the legislature special consideration because it is the branch originally designed to represent the people. But this is not wholly justified: after all, nowadays the people directly elect the president, and the politicization of Supreme Court nominations ensures a fair amount of popular input into the composition of the court. It is also not certain that a rejuvenated Congress would be more effective in supervising the president than the Supreme Court. The real reason, then, to hope that Congress will resurrect its lost powers is that the balance of powers remains, as the framers thought, the best guarantor of liberty in a constitutional government. The basic fact of presidential power is now irreversible. No one denies that a strong executive is needed to respond to the threat of terrorism. But this just means that the presidency requires greater vigilance than ever to prevent violations of liberty.

No court alone can do the job of protecting liberty from the exercise of executive power. For that most important of tasks, the people's elected representatives need to be actively involved. When we let them abdicate this role, the violations start to multiply, and we get the secret surveillance and the classified renditions and the unnamed torture that we all recognize as un-American. Our Constitution has changed enormously over the last two centuries, and it is sure to change much more in the future. Just how it changes, though, is up to us.

While Congress Slept (LAT)

The Los Angeles Times, January 8, 2006

THE PERFORMANCE OF CONGRESS during much of the Bush administration has been, to put it kindly, undistinguished. But revelations that the National Security Agency may have violated the law by secretly eavesdropping on U.S. citizens offer Republican congressional leaders a chance to redeem themselves — and their institution.

It remains to be seen whether the spymasters were merely overzealous in their efforts to track international terrorists or deliberately snooped on Americans. Congressional hearings on the NSA affair may answer that question. What is alarmingly clear, however, is that President Bush has consistently overreached in his claim to expanded powers as commander in chief during wartime. It is up to Congress to restrain those powers. His duty to protect the nation does not place him above the law.

Bush's claim to disturbingly broad wartime powers first surfaced in the infamous 2002 "torture memo" written by John Yoo, then a lawyer in the Justice Department and now a professor at UC Berkeley's Boalt Hall School of Law.

The most quoted part of the memo is its definition of torture as only the extreme standard of pain accompanying "serious physical injury such as death or organ failure." The much scarier part comes a dozen pages earlier, with this assertion of unfettered presidential wartime power: "In light of the president's complete authority over the conduct of war, without a clear statement otherwise, we will not read a criminal statute as infringing on the president's ultimate authority in these areas." Translation: Fighting a war is more important than obeying the law. If a law interferes with our strategy, we can ignore it.

Was Bush chastened by the political repudiation of a 90-9 vote in the Senate in favor of Arizona Republican Sen. John McCain's amendment banning torture? Not in the least. When he signed the law, Bush announced that "the executive branch shall construe [the law] in a manner consistent with the constitutional authority of the president … as commander in chief" to further the goal "of protecting the American people from further terrorist attacks." Translation: We can override this law whenever necessary.

Congress also stood by when the administration overreached with its novel definition of enemy combatants, who are not entitled to challenge their own detention. Congress could have intervened, but instead the courts have had to sort out the mess. Even after the bipartisan outrage that greeted the NSA spying, the only official protest Congress could muster was a short delay in the renewal of the Patriot Act.

Now the president claims that even the special court set up to issue secret warrants to authorize wiretapping for national security purposes gives him insufficient powers to fight terrorists. Translation: When the courts are inconvenient, we will bypass that branch of government too.

Terrorism presents the U.S. with an enemy unlike any we have seen before. Most Americans agree with Bush that intelligence-gathering on Al Qaeda and its spawn may require more extensive investigative authorities. But the more sweeping the powers granted the executive branch, the more vital it is that Congress provide meaningful oversight. The irony is that the Republican-dominated Congress would likely grant Bush the extraordinary powers he seeks — if only the president would request them through legislation, instead of trying to claim them by fiat.

The struggle against terrorism will not end soon, and the choices we make in fighting it will help define us as a nation for decades. To allow any president to invent the law as he goes along is to invite contempt for the law for many presidencies to come.

Secret's Out: NSA Is Listening To America (BSUN)

By Douglas Birch, Sun Staff

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The Baltimore Sun, January 8, 2006

Several years ago, officials at the National Security Agency, the secretive "Puzzle Palace" on the Baltimore-Washington Expressway, sought to reassure taxpayers that the agency had long since repudiated its Vietnam-era spying on U.S. citizens.

They insisted that the movie Enemy of the State, which portrayed NSA as using its formidable technology to track and eavesdrop on Americans, was the stuff of Hollywood fantasy.

Now NSA stands accused of abetting the White House in what civil liberties activists and others describe as a frontal assault on the constitutional right to privacy.

The program reportedly traced thousands of calls from phones linked to terror suspects to and from locations in the United States, and then listened in on many of those conversations - all without seeking warrants from a special foreign intelligence court. E-mails were also tracked and read, according to news reports.

"I've stuck up for NSA innumerable times, saying I didn't believe they were engaged in illegal activity," said James Bamford, author of two acclaimed books on the NSA, The Puzzle Palace and Body of Secrets. But now, he said, there is no question that after the Sept. 11 attacks the agency broke the law.

Revelations about the warrantless surveillance effort, he said, have thrown the nation's largest and most secretive intelligence-gathering organization into turmoil.

"Most of the people I've dealt with there had no idea this was going on, and they were very shocked and disappointed that suddenly they're back to where they were 30 years ago, dealing with questions of domestic spying," he said.

Don Weber, an NSA spokesman, said in a telephone interview last week that the agency can't comment on operational issues in the interests of national security.

The surveillance effort will be subject to congressional hearings, expected to begin in the next several weeks.

Sen. Arlen Specter of Pennsylvania, the Republican chairman of the Senate Judiciary Committee, told The New York Times that he planned to hold hearings on the surveillance program after confirmation hearings for Judge Samuel A. Alito Jr. to the Supreme Court. Those hearings are expected to stretch into late January or early February.

According to reports in The New York Times and elsewhere, NSA launched the program almost immediately after the September 2001 attacks, before President Bush issued a secret order authorizing it.

Bamford and others contend that, with or without presidential approval, the program was conducted in violation of the 1978 Foreign Intelligence Surveillance Act.

That law prohibits NSA from intercepting calls or other electronic communications to or from a U.S. citizen or resident alien without a warrant from the Foreign Intelligence Surveillance Court.

Bamford, who holds a law degree, said the statute was written "to prevent exactly what just happened." Some critics are calling the president's authorization of the program an impeachable offense.

"The eventual outcome will be a special prosecutor," predicted Bamford. "Of course it's an impeachable offense."

The Bush administration, meanwhile, has stood stalwartly by the program, saying that president had the authority to authorize it based on his powers as commander in chief of the armed forces.

Not only has the White House refused to cancel the program, the government has launched an investigation against the whistle-blowers who leaked the story to the Times.

To its defenders, the NSA program was not just legal. It was a vital and necessary part of the efforts to prevent another Sept. 11-style attack.

"It was an integral and important part of the nation's counter-terrorism toolkit," said John E. McLaughlin, who served as deputy director of the CIA from 2000 to 2004 and was briefed on the program.

"People should understand this wasn't a huge drift net hanging over Detroit or Florida or California, scooping up communications," said McLaughlin, now retired from the CIA and a visiting scholar at the Johns Hopkins University School of Advanced International Studies.

"There had to be a foreign connection, and there had to be a reasonable belief that one of the parties involved had to be in contact with a terrorist or was a terrorist. So the whole idea that this was the NSA pawing through great volumes of information among Americans was not right."

Vice President Dick Cheney, in a speech at the Heritage Foundation last week, said that the program was "fully consistent with the constitutional responsibilities and legal authority of the president and with the civil liberties of the American people."

If it had been in place before Sept. 11, he said, two of the hijackers who flew a jet into the Pentagon might have been captured.

But to critics, the alleged abuses are so serious that they eclipse even concerns of future terror attacks.

"What makes this such an urgent matter is that it calls into question the rule of law," said Steven Aftergood, the director of the Project on Government Secrecy at the Federation of American Scientists.

"If the president is at liberty to circumvent the law, then where does his authority stop?" he said. "We have already seen American citizens detained as enemy combatants. We have seen international conventions against torture reinterpreted to permit extreme forms of interrogation. We are in the process of undermining the rules which define us as a democracy. And that makes this scary."

The upcoming hearings, planned for the intelligence and judiciary committees in the Senate and House, will lead lawmakers into the NSA's arcane world of electronic eavesdropping, where information is measured in billions of bits and data is mined like veins of precious metal.

Congress will focus on a few key questions: What kinds of surveillance did the agency conduct? Were legislators fully informed about the program? Were abuses committed? And, of course: Was the program legal?

The search for answers might be difficult.

For one thing, the strategies and hardware NSA uses are among the American government's most closely held secrets, and it is not clear to what extent the administration will be willing to discuss them.

"If someone insists on going into the details of how this was done and precisely what was done, it will become harder to chase and capture terrorists and deter them," McLaughlin said.

The mere disclosure of the program's existence, he said, has harmed the war against terror. "I'm a little surprised that there has been so little concern about the impact on our counter-terrorism capabilities," he said. "It will be less effective, because the bad guys are on notice."

Another key issue is whether Congress was fully informed about the surveillance efforts. The administration insists it was. Some legislators aren't so sure.

"Leaders of Congress have been briefed more than a dozen times" on the NSA program, Cheney said last week. "I have personally presided over most of those briefings."

Yet critics say the highly technical briefings may have left some Congressional leaders more confused than enlightened, perhaps as part of a deliberate White House strategy.

"As you know, I am neither a technician nor an attorney," Sen. John D. Rockefeller IV, a West Virginia Democrat, wrote Cheney hours after a July 2003 briefing on the NSA surveillance program. "Given the security restrictions associated with this information, and my inability to consult staff or counsel on my own, I feel unable to fully evaluate, much less endorse these activities."

One former senior administration official familiar with NSA issues rejected this criticism. "I was in at least one of those briefings, and what I recall is that the program was very thoroughly explained to them," said the official, who commented on condition that he not be identified.

Ruth Wedgewood of Johns Hopkins' School of Advanced International Studies, who sits on Secretary of Defense Donald H. Rumsfeld's Defense Policy Advisory Board, said the White House probably felt it had no choice but to limit access to the information.

"It really is a problem of, how do you inform people and not have stuff leak immediately?" she said.

Civil liberties advocates ask why, if expanded NSA surveillance powers were needed, the White House didn't simply seek them.

The Foreign Intelligence Service Act has been expanded twice since Sept. 11, once in the original Patriot Act and a second time in December 2004.

But McLaughlin said that any effort to change the law "would probably have involved a debate that would have risked exposing the methods and techniques of the program, and would therefore have rendered it" less effective.

Others asked how the NSA could possibly have asked for court permission to track thousands of calls in real time, as it may have done.

Wedgewood pointed out that the 1978 surveillance act, known as FISA, was written in an era before e-mail, the Internet and the widespread use of desktop computers.

"The new technology was something the FISA wasn't necessarily designed to encompass," she said.

Congress may look at possible connections between the NSA's surveillance effort and the Total Information Awareness program, created by the Defense Advanced Research Projects Agency, or DARPA, in January 2002.

DARPA set out to perfect the tools of "data mining" - the trolling of public computer databases in a hunt for suspicious patterns that could point to terrorist activity. At the time, the agency insisted it was merely a research project.

The DARPA program was led by Adm. John M. Poindexter, a key figure in the Iran-Contra scandal of the 1980s, in which the proceeds from the secret sale of arms to Iran were diverted to right-wing Nicaraguan rebels.

Shortly after The New York Times disclosed existence of the program, DARPA abandoned it. Poindexter later left the government.

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No matter what the hearings find, they will almost certainly draw the veil a little further from the secretive agency.

"The facts of the operation are still obscure, and every day we seem to learn something new," said Aftergood of the Federation of American Scientists.

Now, he said, it is up to the government to justify what it has done. "The burden really falls on the NSA and the administration to re-establish its credibility," Aftergood said. "Because this whole operation is at odds with what they have been telling us for years."

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The Wiretappers That Couldn't Shoot Straight (NYT)

By Frank Rich

The New York Times, January 8, 2006

ALMOST two weeks before The New York Times published its scoop about our government's extralegal wiretapping, the cable network Showtime blew the whole top-secret shebang. In its mini-series "Sleeper Cell," about Islamic fundamentalist terrorists in Los Angeles, the cell's ringleader berates an underling for chatting about an impending operation during a phone conversation with an uncle in Egypt. "We can only pray that the N.S.A. is not listening," the leader yells at the miscreant, who is then stoned for his blabbing.

If fictional terrorists concocted by Hollywood can figure out that the National Security Agency is listening to their every call, guess what? Real-life terrorists know this, too. So when a hyperventilating President Bush rants that the exposure of his warrant-free wiretapping in a newspaper is shameful and puts "our citizens at risk" by revealing our espionage playbook, you have to wonder what he is really trying to hide. Our enemies, as America has learned the hard way, are not morons. Even if Al Qaeda hasn't seen "Sleeper Cell" because it refuses to spring for pay cable, it has surely assumed from the get-go that the White House would ignore legal restraints on eavesdropping, just as it has on detainee jurisprudence and torture.

That the White House's over-the-top outrage about the Times scoop is a smokescreen contrived to cover up something else is only confirmed by Dick Cheney's disingenuousness. In last week's oration at a right-wing think tank, he defended warrant-free wiretapping by saying it could have prevented the 9/11 attacks. Really? Not with this administration in charge. On 9/10 the N.S.A. (lawfully) intercepted messages in Arabic saying, "The match is about to begin," and, "Tomorrow is zero hour." You know the rest. Like all the chatter our government picked up during the president's excellent brush-clearing Crawford vacation of 2001, it was relegated to mañana; the N.S.A. didn't rouse itself to translate those warnings until 9/12.

Given that the reporters on the Times story, James Risen and Eric Lichtblau, wrote that nearly a dozen current and former officials had served as their sources, there may be more leaks to come, and not just to The Times. Sooner or later we'll find out what the White House is really so defensive about.

Perhaps it's the obvious: the errant spying ensnared Americans talking to Americans, not just Americans talking to jihadists in Afghanistan. In a raw interview transcript posted on MSNBC's Web site last week - and quickly seized on by John Aravosis of AmericaBlog - the NBC News foreign affairs correspondent Andrea Mitchell asked Mr. Risen if he knew whether the CNN correspondent Christiane Amanpour might have been wiretapped. (Mr. Risen said, "I hadn't heard that.") Surely a pro like Ms. Mitchell wasn't speculating idly. NBC News, which did not broadcast this exchange and later edited it out of the Web transcript, said Friday it was still pursuing the story.

If the Bush administration did indeed eavesdrop on American journalists and political opponents (Ms. Amanpour's husband, Jamie Rubin, was a foreign policy adviser to the Kerry campaign), it's déjà Watergate all over again. But even now we can see that there's another, simpler - and distinctly Bushian - motive at play here, hiding in plain sight.

That motive is not, as many liberals would have it, a simple ideological crusade to gut the Bill of Rights. Real conservatives, after all, are opposed to Big Brother; even the staunch Bush ally Grover Norquist has criticized the N.S.A.'s overreaching. The highest priority for the Karl Rove-driven presidency is instead to preserve its own power at all costs. With this gang, political victory and the propaganda needed to secure it always trump principles, even conservative principles, let alone the truth. Whenever the White House most vociferously attacks the press, you can be sure its No. 1 motive is to deflect attention from embarrassing revelations about its incompetence and failures.

That's why Paul Wolfowitz, in a 2004 remark for which he later apologized, dismissed reporting on the raging insurgency in Iraq as "rumors" he attributed to a Baghdad press corps too "afraid to travel." That's also why the White House tried in May to blame lethal anti-American riots in Afghanistan and Pakistan on a single erroneous Newsweek item about Koran desecration - as if 200-odd words in an American magazine could take the fall for the indelible photos from Abu Ghraib.

Such is the blame-shifting game Mr. Cheney was up to last week. By dragging 9/11 into his defense of possibly unconstitutional bugging, he was hoping to rewrite history to absolve the White House of its bungling. And no wonder. He knows all too well that the timing of Mr. Bush's signing of the secret executive order to initiate the desperate tactic of warrant-free N.S.A.

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eavesdropping - early 2002, according to Mr. Risen's new book, "State of War" - is nothing if not a giant arrow pointing to one of the administration's most catastrophic failures. It was only weeks earlier, in December 2001, that we had our best crack at nailing Osama bin Laden in Tora Bora and blew it.

What went down that fateful December is recalled in particularly gripping fashion in a just published book, "Jawbreaker," which, like Mr. Risen's book, is rising on the best-seller list at an inopportune moment for this White House. "Jawbreaker" is the self-told story of a veteran clandestine officer, Gary Berntsen, who was the pivotal C.I.A. field commander in the hunt for bin Laden. Mr. Berntsen is a fervent Bush loyalist, but his honest account doesn't do the president any favors. "We needed U.S. soldiers on the ground!" he writes, to "block a possible Al Qaeda escape into Afghanistan!" But his request to Centcom for 800 Army Rangers to do the job went unheeded.

We don't know whether the Bush order relaxing legal controls on the N.S.A. was in part a Hail Mary pass to help compensate for that disaster. Either way, all the subsequent wiretaps in the world have not brought bin Laden back dead or alive. Though the White House says that its warrantless surveillance has saved lives by stopping other terrorists since then, Mr. Bush has exaggerated victories against Al Qaeda as often as he has the battle-readiness of Iraqi troops. After he claimed in an October speech that America and its allies had foiled 10 Qaeda plots since 9/11, USA Today reported that "at least" 6 of the 10 had been preliminary ideas for attacks rather than actual planned attacks.

The louder the reports of failures on this president's watch, the louder he tries to drown them out by boasting that he has done everything "within the law" to keep America safe and by implying that his critics are unpatriotic, if not outright treasonous. Mr. Bush certainly has good reason to pump up the volume now. In early December the former 9/11 commissioners gave the federal government a report card riddled with D's and F's on terrorism preparedness.

The front line of defense against terrorism is supposed to be the three-year-old, $40-billion-a-year Homeland Security Department, but news of its ineptitude, cronyism and no-bid contracts has only grown since Katrina. The Washington Post reported that one Transportation Security Administration contract worth up to $463 million had gone to a brand-new company that (coincidentally, we're told) contributed $122,000 to a powerful Republican congressman, Harold Rogers of Kentucky. An independent audit by the department's own inspector general, largely unnoticed during Christmas week, found everything from FEMA to border control in some form of disarray.

Yet even as this damning report was released, the president forced cronies into top jobs in immigration enforcement and state and local preparedness with recess appointments that bypassed Congressional approval. Last week the department had the brilliance to leave Las Vegas off its 2006 list of 35 "high threat" urban areas - no doubt because Mohammed Atta was so well behaved there when plotting the 9/11 attacks.

THE warrantless eavesdropping is more of the same incompetence. Like our physical abuse of detainees and our denial of their access to due process, this flouting of the law may yet do as much damage to fighting the war on terrorism as it does to civil liberties. As the First Amendment lawyer Martin Garbus wrote in The Huffington Post, every defense lawyer representing a terrorism suspect charged in the four years since Mr. Bush's N.S.A. decree can challenge the legality of the prosecution's evidence. "The entire criminal process will be brought to a standstill," Mr. Garbus explains, as the government refuses to give the courts information on national security grounds, inviting the dismissal of entire cases, and judges "up and down the appellate ladder" issue conflicting rulings.

Far from "bringing justice to our enemies," as Mr. Bush is fond of saying, he may once again be helping them escape the way he did at Tora Bora. The president who once promised to bring a "culture of responsibility" to Washington can and will blame The Times and the rest of the press for his failures. But maybe, if only for variety's sake, the moment has come to find a new scapegoat. I nominate Showtime.

Report On FBI May Strengthen Lawsuit Against Agency (AP)

By WILLIAM McCALL

AP, January 8, 2006

A Justice Department report that faulted the FBI for sloppy work may strengthen a lawsuit filed against the agency by a Portland man who was arrested after his fingerprints were mistakenly identified during the investigation into the 2004 Madrid train bombings.

Attorneys for Brandon Mayfield "don't have to argue a particular violation of Mayfield's religious rights or First Amendment rights," said Robert Precht, who represented defendants in the 1994 World Trade Center bombing in New York.

"They only have to argue the government engaged in blatant misconduct," said Precht.

Other legal experts agree that the Justice Department report does not undercut Mayfield's lawsuit — and may help it.

In the report released on Friday, Justice Department Inspector General Glenn Fine faulted the FBI for mistakenly matching a fingerprint found on a bag of detonators near the Madrid bombing site to those of Mayfield.

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The report said no "intentional misconduct by FBI employees" was found, but said there were "performance issues by various FBI employees ... that helped cause the errors in the Mayfield case."

Mayfield was jailed for two weeks in May 2004 — even though Spanish investigators disagreed with the FBI's fingerprint analysis. The FBI acknowledged the mistake on May 24 and apologized to Mayfield.

He sued the Justice Department and the FBI in October 2004, claiming he was singled out because of his Muslim faith and that searches of his home and other locations were in violation of the Fourth Amendment of the U.S. Constitution, which protects against unreasonable search and seizure.

If Mayfield can show that FBI experts were under pressure to make an identification without being certain — which the FBI and the Justice Department have denied — then he may be able to establish a pattern of misconduct, Precht said.

He said the Justice Department report leaves open questions about the possibility of pressure on forensic experts.

"Once the government or the prosecutor's office or an (FBI) supervisor says we think this guy may be guilty, the whole machinery of government goes to work to find the evidence that supports that," Precht said. "People do these things naturally. That's why we have safeguards about the presumption of innocence."

Michael Greenberger, a University of Maryland law professor and director of its Center for Health and Homeland Security, said the delay in correcting the mistake may be ammunition for Mayfield to argue there was pressure.

"They should have figured out sooner those were not his fingerprints," Greenberger said.

Brian Roehrkasse, a Justice Department spokesman in Washington, D.C., said the agency could not comment on the pending lawsuit and he referred questions about the report to the FBI.

The agency, in a statement released with the inspector general's report, said Mayfield's mistaken arrest "was based on an extremely unusual confluence of events."

The FBI said it has changed its procedures at the recommendation of an international panel of experts in order to prevent a similar mistake.

Precht, who recently left the University of Michigan to return to private practice in New York, said the pressure on investigators and prosecutors is enormous once they believe they have the right suspect.

"This is a textbook example of people having assumed a person's guilt, and then they look for evidence to confirm it," Precht said.

Veteran trial lawyer Gerry Spence, who is representing Mayfield, has argued the FBI targeted the former Army officer because he is a convert to Islam.

The inspector general's report concluded that religion played no role in the initial, mistaken fingerprint identification because the FBI experts did not know Mayfield was a Muslim, or that his wife is Egyptian or that he represented other Muslims as an attorney.

The report noted, however, that "whether Mayfield's religion was a factor in the (FBI) laboratory's failure to revisit its identification and discover the error in the weeks following the initial identification is a more difficult question."

Elden Rosenthal, a Portland lawyer also representing Mayfield, said the case raises important issues of protecting constitutional rights during the government's war on terrorism.

"Those of us concerned about civil liberties always sound like we're talking about abstract concepts," Rosenthal said. "Here is a concrete example of why civil liberties should not be allowed to take a back seat to the war on terror."

In Mayfield's case, Rosenthal said the FBI won approval from a secret court established by the Foreign Intelligence Surveillance Act, or FISA, to plant electronic "bugs" in the Mayfield home and his law office, execute repeated "sneak and peek" searches of his home and office, and place wiretaps on his phones.

Despite the inspector general's conclusion the FBI could have gotten FISA approval for surveillance without the Patriot Act, the report found that changes made by the act permitted access to more information about Mayfield than could have been obtained without it, said Dave Fidanque, executive director of the Oregon chapter of the American Civil Liberties Union.

"The inspector general's report confirms for the first time that Mayfield's home, and probably his office, were 'bugged,'" Fidanque said.

Greenberger said the Mayfield case may provide the first opportunity to test whether Patriot Act provisions on surveillance and searches violate the Constitution.

"Everybody has been waiting for a case where these kinds of searches under the Patriot Act can be brought to a court's attention by somebody who has standing to raise it — and Mayfield has that standing," Greenberger said.

"There's a big, big constitutional issue here," he said.

Intelligence Bill's Passage Not Guaranteed In Senate (WT)

By Shaun Waterman, United Press International

The Washington Times, January 8, 2006

For the first time in 27 years, congressional officials fear that an Intelligence Authorization Act will not be passed before the session ends.

Lawmakers and staff from both parties said the bill was blocked in the Senate before the holiday recess by a Republican lawmaker involved in a dispute about amendments that would require reports on secret detention facilities and access to prewar intelligence briefings on Iraq.

Now some fear that further efforts to pass the bill will become captive to the debate over the Bush administration's use of warrantless national security wiretaps.

"I think we might have missed an opportunity at the end of last year," said one Democratic Senate aide who deals with intelligence issues. "The window might have closed by now."

The annual authorization bill, which has passed every year since the establishment of the House and Senate committees on intelligence in 1978, provides the framework within which intelligence agencies carry out their missions and spend the money Congress appropriates for them.

Congressional officials say that if the bill fails this year, several important reforms and innovations will be shelved.

Its authors say this year's bill would set up an inspector general for the nation's new spy chief, strengthen counterterrorism information-sharing by temporarily suspending parts of the Privacy Act, and make the directors of the three biggest-spending military intelligence agencies subject to Senate confirmation.

The bill has been blocked by a senator who exercised the right to remain anonymous, Republican staff said.

Because of the way Senate rules are designed to ensure that debate is difficult to curtail, moving a bill through the chamber expeditiously requires a parliamentary procedure known as unanimous consent. A single objection can force Senate managers to contemplate a lengthy floor debate and effectively preclude consideration of a bill altogether if they think the legislative agenda is too crowded.

Before the recess, Sen. John D. Rockefeller IV of West Virginia, the senior Democrat on the Select Committee on Intelligence, said the bill was blocked to prevent passage of three amendments added with the consent of committee Chairman Pat Roberts, Kansas Republican.

Two of the amendments deal with reports to Congress about the purported overseas network of secret CIA detention facilities. Director of National Intelligence John D. Negroponte would submit a report about the facilities, and intelligence agency inspectors general would describe the welfare of individual detainees. These classified reports would be submitted to the intelligence committees of both chambers.

The third amendment requires the White House to give the two committees copies of presidential daily briefing items about Iraq from Jan. 20, 1997 -- the beginning of President Clinton's second term -- to March 19, 2003 -- the date of the U.S. invasion.

The Bush Administration Vs. Salim Hamdan (NYT)

By Jonathan Mahler

The New York Times, January 8, 2006

In 1996, Salim Hamdan, a 26-year-old Yemeni with a thick mustache and kinky black hair, was working part time as a taxi driver, dividing his modest income between the mattress he rented in a crowded boardinghouse in the dirty, bustling city of Sana and his daily supply of khat leaves, the stimulant that most Yemeni men chew by the fistful. Then one day the low-hanging horizon of his life lifted: he was recruited for jihad. He joined about 35 other Muslims, mostly Yemenis, who were preparing to leave for Tajikistan to fight alongside that country's small Islamic insurgency against its Russian-backed government.

One of the group's leaders was a self-assured young man named Nasser al-Bahri. Hamdan, an orphaned only child from a rural tribal village in southern Yemen, was naturally drawn to strong personalities. Although two years his junior, al-Bahri, who grew up in an upper-middle-class family in Jidda, Saudi Arabia, was far more worldly and sophisticated than Hamdan and was without question the most educated person he had ever met. Al-Bahri had studied business in college, but he was also deeply steeped in the Koran, having become a devout Muslim as a teenager in rebellion against his bourgeois upbringing. He spoke comfortably and forcefully about the plight of Muslims all over the world, and he had traveled extensively, to places as far as Bosnia and Somalia, to defend his oppressed Islamic brethren.

Hamdan, who had the rough equivalent of a fourth-grade education, wasn't especially religious and had no grand plans for his life other than the hope that he might someday be married, but he nevertheless embraced the idea of becoming a holy warrior. It didn't hurt that the trip was to be paid for - al-Bahri told him that the group had raised money from a handful of Saudi-based Muslim charities - and that Hamdan would also receive a salary.

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The jihadis convened in Jalalabad, Afghanistan, and started working their way north toward Tajikistan, first by jeep and then, when the roads were impassable, on foot. After six months traversing Afghanistan's mountainous, often snow-covered terrain, they were turned back at the Tajik border.

At loose ends, one of the jihadis suggested that they go see a man named Osama bin Laden, a well-known sheik among radical Islamists who led a militant group of itinerant Muslim holy warriors called Al Qaeda. Having only recently been expelled from Sudan, bin Laden had relocated to Afghanistan, where he planned to rebuild Al Qaeda with the help of his new hosts, the Taliban. Bin Laden earned his reputation during the anti-Soviet campaign in Afghanistan in the 1980's, but he was now enlisting soldiers for his new crusade to drive the United States from the Arabian Peninsula.

Al-Bahri, Hamdan and the rest of the group made their way back through Afghanistan to bin Laden's home in Farm Hada, a village outside Jalalabad, not far from the Khyber Pass. They arrived in late 1996 shortly before Ramadan, the holiest time of year. For three days, bin Laden preached to his prospective recruits about the religious imperative of reversing America's corrosive presence in the gulf. Seventeen of the original 35 jihadis decided to stay; Hamdan and al-Bahri were among them.

For the next several years, both men worked for bin Laden, first in Farm Hada, then, when he relocated for security reasons in 1997, to a better-fortified compound in the desert outside Kandahar. In 1999, al-Bahri and Hamdan's lives became further entwined. At bin Laden's urging and with his financial help, they married Yemeni sisters in Sana and returned to Afghanistan with their new wives.

By Sept. 11, 2001, however, al-Bahri and Hamdan's paths had diverged. Al-Bahri was in prison in Yemen for his suspected links to Al Qaeda's bombing of an American Naval destroyer, the U.S.S. Cole, in 2000. Hamdan was still with bin Laden, though not for long. In late November 2001, with America's military campaign in Afghanistan well under way, he was picked up near the border of Pakistan by a group of Afghan warlords. They hogtied him with electrical wire and within a matter of days turned him over to the Americans for a $5,000 bounty. The interrogations started, and Hamdan was soon identified as Saqr al-Jedawi, his alias during his years with bin Laden. He spent the next six months in U.S. prison camps in Bagram and Kandahar, before being flown to Guantánamo Bay in May 2002.

Today, Salim Hamdan lives in a 6-by-9-foot cell in Guantánamo, awaiting trial by a special military tribunal established by presidential order in the aftermath of 9/11. If everything goes according to the government's plans, the Bush administration will prosecute Hamdan for violating the laws of war by conspiring to commit acts of terrorism against the United States. The government has revealed little about its case against Hamdan - my portrait is drawn principally from his lawyers, family members and al-Bahri - but it has charged him with serious offenses, including transporting weapons and serving as a bodyguard to bin Laden. If convicted on all charges, Hamdan could receive a life sentence.

Hamdan's attorneys, a government-appointed Navy lawyer and a professor at Georgetown University Law Center, don't deny that their client worked directly for bin Laden, but they play down his importance to Al Qaeda, portraying him as an employee, an uneducated and far-from-devout driver and mechanic who was grateful for a paycheck but generally ignorant of the terrorist enterprise for which he worked. Moreover, they say that the tribunals, known officially as military commissions, are illegal and have sued the American government to block them from going forward.

This spring, the detainee's lawyers will have the chance to make their case to the Supreme Court, when it hears Hamdan v. Rumsfeld. The name alone guarantees that it will be one of the most closely watched arguments of the year, and the eventual ruling will have far-reaching implications not just for Hamdan and the rest of the Guantánamo detainees, but also for presidential war powers and quite possibly for the future of democracy in the Middle East. If the war on terror is, at its heart, a battle to show the Islamic world that there is an alternative to oppressive theocracies and autocratic dictators, nothing is more important than how the United States government dispenses justice to detainees like Salim Hamdan. Until now, America's wartime practice has been to hold onto captured combatants until the end of hostilities, when there is no longer a threat of them returning to the battlefield. In this case, though, the battlefield is unmapped and the hostilities could continue for decades. For the moment, the government has broadly classified nearly all of the more than 500 detainees at Guantánamo as enemy combatants, but eventually it's going to have to start sorting them out. This will entail answering some difficult questions. Are all Muslim men who answered the call to jihad equally guilty? Which detainees represent a threat to the United States? Who is worth prosecuting, and how?

Just outside the Old City of Sana, a maze of densely packed, intricately adorned stone houses and centuries-old shops that rise like drip castles from narrow cobblestone streets, sits the modern Martyrs' Mosque. If the Old City evokes Yemen's prosperous, cosmopolitan days at the center of the world's spice trade, the Martyrs' Mosque, an imposing, ash-colored monolith, speaks to its present as the poorest and most primitive of the Arabian Peninsula states.

The big open square that fronts the mosque is a gathering place for the dispossessed. Homeless people lie on flattened cardboard boxes with gasoline cans repurposed as water jugs beside them. Dababs, minivans stuffed with passengers, career around Sana's crowded streets, jockeying for fares. Drivers struggle to be heard above the music issuing from loudspeakers on

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the three-wheeled cycles pedaled by cassette vendors. The smells of grilling meat and corn on the cob commingle with perfumed oil, urine and exhaust.

There are no women in sight here, only young men and boys, a reflection of Yemen's conservative Islamic culture. And although roughly 40 percent of all Yemeni men are unemployed, everyone here seems to be in a big hurry, hustling around, often holding hands, always in standard Yemeni dress: sandals, white robes and Western-style blazers with the labels showing on the outside of the left sleeve, just above the cuff. Long curved daggers known as jambiyas, reminders of the country's enduring tribal culture, hang from belts. Cheeks bulge with khat, which brightens the mood and sends the mind in every direction, an apt emblem of the combination of aimlessness and restlessness on display.

Ten years ago, Salim Hamdan was one of these men. He was born in about 1970 (no one, including Hamdan himself, knows for sure), hundreds of miles from Sana in the Wadi Hadhramaut, a 100-mile oasis in the mountainous desert of southeastern Yemen. His father was a farmer and shopkeeper, and the family lived modestly in a small, mud-brick home in a cliff town overhanging the fertile valley below. He was still a child when his parents died from illness, one a few years after the other. With no other family nearby, Hamdan went to live with relatives in Mukalla, a bleak port city of about 150,000 on Yemen's southern coast. By that point, Hamdan had already quit school, which is not unusual in Hadhramaut, where the imperatives of helping your family earn money far outweigh the comparatively abstract virtues of an education.

Within a few years he was on his own, living on the streets of Mukalla and working odd jobs. In 1990, Yemen, which had long been divided into two separate nations, the Islamic north and Marxist south, was officially unified. Hamdan, who was then 20, joined the mass migration north in search of work. There was a widespread sense that Sana, the new nation's capital, would soon be booming. As it turned out, the job prospects were not so promising, particularly for someone with Hamdan's limited qualifications. He soon found his way to the Martyrs' Mosque - where he picked up work driving a dabab - and then, six years later, to jihad.

Jihad - literally, "struggle" - is a slippery concept, one that has been subjected to almost endless interpretation, violent and nonviolent alike, emanating from a Muslim's basic religious duty to encourage the spread of Islam. In recent years, though, it often has come to be understood as a violent religious crusade against the United States. Hamdan and al-Bahri's routes to jihad could not have been more different, but in many ways each is emblematic of the men's respective countries, which represent the two biggest contingents at Guantánamo. In Saudi Arabia, jihad resonated with particular force with the educated, affluent and devout; in Yemen, it exerted an especially strong pull on the country's poor. Nearly half of the country's population lives below the poverty line; unlike its neighbors in the gulf, Yemen has very little oil, and what it does have is hoarded by the government. "Unless they are the sons of sheiks or political leaders, the young people have no way to use their energies," Nabil al-Sofee, a former spokesman for Islah, Yemen's Islamic party, told me recently in his office in Sana. "The one option that is in front of anyone who wants to achieve anything is jihad."

Jihad has an almost mythic appeal in Yemen. Its roots run all the way back to the seventh century, when the Prophet Muhammad is said to have declared, "Allah, give me fighters from behind me," his back turned conspicuously to Yemen. In its more modern incarnation, jihad can be traced to 1967, when Yemen was still divided and the British withdrew from its southern half. Finally free of its longtime occupiers, South Yemen quickly established ties to the Soviet Union, Cuba and China, and in 1970 became the Arab world's first Communist state.

South Yemen's new identity inaugurated two decades of hostilities with North Yemen, a Muslim state whose allegiances were to Saudi Arabia and Egypt. It didn't take long for North Yemen's rulers - including the president of today's unified Yemen, Ali Abdullah Saleh - to exploit the conflict's religious undertones. By the time the Soviets invaded Afghanistan in 1979, many young North Yemenis already accepted that it was their duty as Muslims to confront Communist unbelievers. And so, over the next several years, scores of young Yemeni men answered their clerics' calls for jihad. Afghanistan's mujahedeen received support from many Arab countries, in addition to the United States, but the Yemenis were among the fiercest of the so-called Afghan-Arab fighters. Unlike the jihadis from wealthier states in the Persian Gulf, they were accustomed to hard living, and the rugged, mountainous terrain of Afghanistan was similar to that of Yemen.

When the Soviets withdrew from Afghanistan in 1989, the leaders of many Arab countries, understandably worried about the combustible mix of religious zealotry and combat experience in which these men had been steeped, discouraged the jihadis from returning home. North Yemen, for its part, not only welcomed back its own fighters, it opened its borders to jihadis from other Arab countries as well. The heroic stature of these fighters was cemented in 1994, when the still-simmering tensions between Yemen's Islamists and Marxists erupted into a full-fledged civil war and President Saleh called on the ex-jihadis to help defeat the Communists. The north emerged victorious, and Saleh rewarded many of these men for their efforts. For his help mobilizing the troops, Sheik Abdul Majid al-Zindani, an ex-Arab-Afghan warrior and bin Laden's onetime spiritual mentor, was awarded the chancellorship of Iman University in Sana, a platform from which he has since steered countless young Yemeni men toward the path of jihad.

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The Yemeni government did little to stanch the flow of jihadis, even in the face of increasing international pressure. A consummate pragmatist, President Saleh gave the U.S. permission to use its ports to refuel in the 1990's, but to the Arab world he presented himself as a leader who was not afraid to stand up to the West. In the wake of the attack on the U.S.S. Cole in Yemen in 2000, Saleh scoffed at rumors that the U.S. was planning to intensify its military presence in the country: "Yemen is a graveyard for the invaders," he told Al Jazeera. After 9/11, however, President Saleh went to Washington to pledge his support for the war on terror. But having spent so many years nurturing and exploiting the country's culture of jihad, he had to be careful about how he went about dismantling it. Extraditing Islamic radicals, or even putting them in jail for more than a couple of years, would provoke the country's powerful extremist element.

The centerpiece of Saleh's solution was to appoint a respected jurist and cleric, Hamoud al-Hitar, to meet with imprisoned extremists and persuade them that Islam does not, in fact, condone acts of terrorism. When I visited al-Hitar at his heavily guarded home in Sana one night last fall, he explained to me how the so-called Committee on Thoughtful Dialogue works. He called it "intellectual surgery" and described it as a simple process: he leads radicals through a series of questions about their beliefs, using the Koran or the hadith, a collection of the Prophet Muhammad's teachings, to show them how they have been misled. At the end of the program, those participants who vow not to take part in future acts of terrorism are granted presidential pardons and set free. To the obvious question - Why believe that they'll honor the vow? - Judge al-Hitar gave the obvious answer: These are men who take their ideology seriously; they would never sign a pledge renouncing their beliefs if they didn't mean it. A couple of years ago, President Saleh released hundreds of men with connections to Al Qaeda under the auspices of Judge al-Hitar's dialogue program. One of those men was Nasser al-Bahri.

Al-Bahri declined to see me for the better part of the two weeks I spent in Yemen. Then, the night before I was scheduled to fly home, he agreed to meet me the following evening at a relative's home in Sana. A tall, rangy man with a receding hairline and a neatly trimmed beard, al-Bahri looked older than his 33 years. He sat on a floor cushion, his long legs extending from the bottom of his creaseless white robe. Early in our conversation, which lasted more than five hours, the power failed. For the rest of the night, the narrow room was illuminated by two candles. Al-Bahri apologized for excusing himself repeatedly to urinate, explaining that he was diabetic.

According to al-Bahri, his decision to renounce Al Qaeda and terrorism had nothing to do with Judge al-Hitar's dialogue program, which he doubts has truly changed any minds. Rather, he said that during his two years in prison in Yemen, almost half of which was spent in solitary confinement, he had the chance to do a lot of reading and thinking. He continues to believe that America is oppressing and exploiting Muslims, but he no longer accepts that the random murder of innocent people is a legitimate expression of jihad, which, he said, "has its time and place, like prayer." There was also the issue of maturity. "When we reach our 30's, we come to regret what we did in our 20's," he told me matter-of-factly, like an ex-campus radical reflecting on a minor act of civil disobedience in his distant past.

Al-Bahri was not eager to talk about Hamdan; because he feels responsible for his brother-in-law's fate, he said that discussing him was too depressing. Not surprisingly, what he did say distanced Hamdan from the military operations of Al Qaeda. Al-Bahri described Hamdan as almost childlike, a cheerful, simple-minded man. According to al-Bahri, Hamdan at first seemed excited about jihad, but he lacked both the zeal of a holy warrior and the religious grounding or inclination to grasp the ideology of the movement. As al-Bahri tells it, Hamdan went to Tajikistan for jihad but stayed in Afghanistan because working as a driver and mechanic in bin Laden's motor pool paid better than driving a dabab in Sana.

If al-Bahri was quick to exonerate Hamdan, he showed no hesitation implicating himself as a senior member of what may be the most notorious terrorist organization the world has ever known. Al-Bahri sounded neither nostalgic nor remorseful talking about his years as one of bin Laden's chief bodyguards; he could have been a retired executive dispassionately recollecting his years with the firm. Yet he was, in one sense, cautious: while he was willing to answer any question I asked, he explicitly disassociated himself from each specific attack that took place during his time with bin Laden.

Al-Bahri's future had come into focus as a teenager in Jidda, when he first fell under the influence of radical Saudi clerics. "I saw that my function was to carry guns and defend Muslims wherever they were," he told me. "That was the holy work that would lead me to paradise." Having grown up in Saudi Arabia, Islam's holiest land, he responded personally when he heard bin Laden describe his country as an agent of the Americans and pledge to drive America from the Arabian Peninsula. What's more, al-Bahri had left Saudi Arabia for Bosnia in the early 90's and had been without the guidance of a religious leader ever since. In bin Laden, al-Bahri said, he had found "a new spiritual father."

Al-Bahri rose quickly through the ranks of Al Qaeda. Under the alias Abu Jandal, he helped create new training camps that bore little resemblance to the kind he attended as a young man in Bosnia, where jihadis learned such conventional skills as assembling and firing weapons and reading maps. The focus now was on fighting in cities and preparing for martyrdom operations, which meant learning how to blend in with local populations and attack civilian targets. Bin Laden was clear about the goals. "He would say over and over again that we must carry out painful attacks on the United States until it becomes like an

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agitated bull," al-Bahri recalled, "and when the bull comes to our region, he won't be familiar with the land, but we will." During the late 90's, al-Bahri fought with the Taliban against the Northern Alliance and served as one of bin Laden's personal bodyguards during his frequent tours of Qaeda training camps around Afghanistan.

After the attacks on the U.S. embassies in East Africa in the summer of 1998, al-Bahri said, bin Laden placed him in charge of the organization's guest houses in Kabul and Kandahar, where it was his duty to help inspire and train new recruits to undertake terrorist operations against the United States. It was at this point, al-Bahri says, that he started having second thoughts about Al Qaeda, not because he doubted its mission, but because he wasn't convinced these recruits were prepared to carry it out.

Jihad, it occurred to al-Bahri, had evolved from a genuine religious mission to a cattle call for any and all Muslims. Even years later, having renounced terrorism, he seemed irritated by what he characterized as Al Qaeda's failures of management. "We were getting young people who were not committed to jihad, also very young people, 15 or 16 years old," he told me. "What could we do with them? I said we should accept only religious young people. Only the religious understand what jihad means. But my voice was not being heard." Al-Bahri told me that bin Laden knew he was becoming disillusioned, and that's why he encouraged him and Hamdan to marry sisters in 1999; in al-Bahri's interpretation, by tying him to Hamdan, who had fewer options and was thus less likely to leave, bin Laden would have a better chance of keeping al-Bahri in the fold.

During the summer of 2000, Hamdan and al-Bahri came back to Sana for a brother-in-law's wedding. Within a matter of weeks, several Qaeda operatives in a small boat filled with explosives rammed the U.S.S. Cole, which was on a refueling stop in Yemen. Shortly after the attack, Yemeni intelligence agents started rounding up suspected extremists. Al-Bahri tried to flee but was arrested at the airport trying to return to Afghanistan. Hamdan had already taken his wife and her parents on a pilgrimage to Mecca, and word quickly reached him in Saudi Arabia that if he came back to Yemen he'd be picked up, too. Instead, he went back to bin Laden, taking his wife with him.

In the wake of Sept. 11, al-Bahri told me, three F.B.I. agents came to the prison where he was being held in Yemen to interrogate him. The transcripts from their interviews are classified, but al-Bahri says they were mainly interested in the structure and ideology of Al Qaeda. Asked if bin Laden had access to chemical or nuclear weapons, al-Bahri replied that bin Laden had something far more powerful: men who are determined to complete their covenant with God and carry out martyrdom operations against the United States.

Detainees' lawyers estimate that there are currently about 100 Yemeni prisoners in Guantánamo. If even a fraction of this many Americans had been imprisoned in a foreign country for four years, the vast majority without charges, there would be a national outcry. In Yemen, however, most of the detainees' families are completely in the dark. Half of the people in the country are illiterate. Those who can read find few stories about Guantánamo. Many of the papers are state-run, and the rest are under intense pressure to toe the government line. President Saleh knows that drawing attention to the detainees would only further inflame anti-American sentiments and in so doing create more problems for him.

A Yemeni human rights group called HOOD has a rough list of Yemenis who are being held at Guantánamo and has made contact with some of their relatives, but the families are not in communication with anyone in the U.S. government. The detainees' defense lawyers periodically come to Yemen to meet with the families who have authorized them to represent their relatives, though in some cases the detainees themselves doubt their American lawyers' good intentions. While I was in Yemen, I spent several days visiting the families of detainees with David H. Remes, a partner at the Washington firm Covington & Burling, which represents 17 of the Yemenis at Guantánamo. Remes prefaced several of his meetings by saying that their sons, brothers or husbands would be very angry if they knew he was there.

Hamdan, too, sent word through his lawyers that he didn't want me to contact his family, but I was able to get in touch with his wife's brother, Muhammad al-Qala, through HOOD. Al-Qala, a staff sergeant in the Yemeni army, invited me to his home to meet his sister, Hamdan's wife, Um Fatima. Since her husband's arrest, she and her two daughters have been living with her brother, his family and their mother in a cramped two-story stone house in central Sana. Hamdan's lawyers came to Yemen about a year and a half ago to see her, and the lawyer's interpreter is in fairly regular contact with al-Qala, but no one whom Hamdan left behind seems to have any real sense of the gravity of his situation or the significance of his case: what could a superpower like the United States possibly want with Salim?

Sitting perfectly straight on the shiny, floral-patterned blue floor cushions that lined the small upstairs living room in her brother's home, Um Fatima spoke for three hours through an interpreter about her husband. Al-Qala, a stocky man with a dark mustache and glassy, expressionless eyes, sat beside her chain-smoking Marlboros and working on a big wad of khat. Um Fatima and Hamdan's two daughters, 6 and 4, raced in and out in T-shirts and sweatpants. Um Fatima's full-length covering revealed only her eyes, but the difficulty of talking about her husband was evident; several times, she became so upset that she had to excuse herself and leave the room.

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Um Fatima and Hamdan were married in Sana in 1999. She had not met him before their wedding day but was nevertheless a happy bride. They stayed in Sana for a few months before returning to Afghanistan. Um Fatima was reluctant to go, and was shocked at the conditions once they arrived. Their mud-brick home had dirt floors and no running water or electricity. It was also remote: Tarnak Farms, the walled Qaeda complex in which they lived, was tucked into a vast expanse of treeless desert and brush about 30 minutes outside Kandahar. Um Fatima's days were spent alone inside the house with her infant daughter. Hamdan, she told me, would return in the early evenings, often with clothes stained with grease from his work fixing the various cars and trucks used on the farm. Um Fatima said she would occasionally complain to him about their life there. "Salim would always tell me to be patient, that someday we would return to Yemen," she said.

In her telling, Um Fatima was doing hardship duty for a few years so that her husband could earn good money working for a sheik she'd never heard of. Even now, years later, the fact that she had lived inside the walls of a heavily fortified Qaeda compound while her husband worked for the most infamous terrorist of our time does not seem to have penetrated her version of reality.

Um Fatima last saw her husband on Nov. 24, 2001. She was eight months pregnant. At the time, U.S. forces were closing in on Kandahar, the Taliban's last stronghold in Afghanistan. Hamdan, who had been away for a couple of months with bin Laden, had recently returned to take Um Fatima and their daughter to Pakistan. In a borrowed car, with American B-52's circling the skies overhead, they made their way through the Maruf mountains toward the border. Hamdan decided to let Um Fatima cross into Pakistan alone; security was tight, and even if the border guards had no idea that he worked for bin Laden, being a Yemeni man trying to leave was enough to cause suspicion. He told her he would find another way through and come find her in a few days.

Over the course of the next few weeks, as Um Fatima traveled deeper into Pakistan in the back of a pickup truck with a group of Afghan refugees, she gradually lost hope that she would ever see her husband again. Entering her ninth month of pregnancy, she became so hysterical, she told me, that some sympathetic strangers in Karachi bought her a plane ticket home. At the airport in Sana, she was interrogated for five hours about her husband's whereabouts. Um Fatima said she assumed he was dead.

Two and a half months later, she received a letter from him on International Committee of the Red Cross stationery. "My sweetheart, peace and blessings be upon you," it began. "I did not die. Allah prescribed a new life for me. Now I am a detainee with the Americans.. . ."

Um Fatima showed me all of the letters she has received from Hamdan since then. Later that night, the interpreter who read the dozen or so letters to me told me how unusual they were. Yemeni men tend to be commanding and aloof with their wives. Hamdan's letters were emotive, like those of a longing schoolboy. There are drawings of his dagger ("please take care of my jambiya for me"), simple poems ("the bird danced and the bird sang. . .") and the promise to "see each other very, very, very, very, very soon, God willing."

In a three-page military order issued on Nov. 13, 2001, President Bush authorized the special tribunals before which Salim Hamdan and other non-American enemy combatants are to be tried. The trials will held in Guantánamo before panels of three to seven military officers selected by an administration appointee. Two-thirds of a majority will be required for non-death-penalty convictions. (A death sentence requires unanimity.) These are war-crimes tribunals, though unlike the recent international tribunals in Rwanda and the former Yugoslavia, the list of offenses pertain to acts of terrorism rather than genocide.

The administration opted for these special tribunals over the U.S. criminal courts for a number of practical reasons. Broadly speaking, certain rights that would be considered fundamental in a civilian court wouldn't apply. If defendants were suspected terrorists, for instance, they couldn't very well be permitted to see all the evidence against them as some of it would no doubt be classified for national-security reasons.

Practical considerations aside, the creation of the nation's first war-crimes tribunals since World War II sent a symbolic message, putting the war against Islamic extremism in the same class as the war against Nazism. Moreover, the tribunals fit with the Bush administration's larger strategy to reassert and expand presidential authority in the aftermath of 9/11. The executive branch would have complete control. Not only was Congress - the body empowered by the Constitution to convene military tribunals - left out of the decision to establish them, but it also wasn't consulted on how the tribunals would work. Instead, the administration's lawyers wrote all of the rules, from the composition of the panels to the standards for admissible evidence to the definition of a war crime. The judiciary branch was also cut out of the process: contested verdicts would be reviewed not by a federal court of appeals but by a three-member panel picked by Defense Secretary Donald H. Rumsfeld.

The first batch of defendants for the tribunals, Hamdan and three others, were carefully selected and then repeatedly vetted on their journey up the chain of command. Case summaries were passed from the military lawyers assigned to the prosecution team to the Pentagon's adviser for the tribunals to Paul D. Wolfowitz, then deputy defense secretary, to President Bush. Hamdan was originally slated to be the first Arab tried.

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While the government has not accused Hamdan of being a member of Al Qaeda per se, it does say that he picked up and delivered weapons for use by Qaeda associates, trained at a Qaeda camp and served as a bodyguard and driver for bin Laden. The formal charge being brought against him is conspiracy, which the administration defines as having "joined an enterprise of persons who shared a common criminal purpose." In a sense, the conspiracy charge is a logical one for prosecuting members of organizations like Al Qaeda that deliberately subdivide tasks and inform very few people about operations. "To capture the nature of some enterprises, to deconstruct what makes them effective, you have to focus on the different kinds of contributions, from the target spotter to the weapons transporter to the financier," says Ruth Wedgwood, a law professor at Johns Hopkins who helped the Pentagon revise some of the rules for the tribunals.

In the U.S. criminal courts, conspiracy is especially popular among prosecutors going after organized-crime rings; it gives them leverage to lean on foot soldiers to testify against their superiors. In the context of war-crimes tribunals, however, conspiracy becomes more complicated. Because it can be applied to people at every level, it can create a moral equivalence between low-level players and leaders. This very issue came up at Nuremberg, when an assistant attorney general in the Roosevelt administration attacked a Pentagon proposal to file conspiracy charges against German foot soldiers because it might, in the world's eyes, weaken the impact of the charges against the Nazi leaders. (The proposal was never adopted.) What's more, because conspiracy is such a broad, catch-all charge, it's an easy one for prosecutors to fall back on when their proof of guilt is thin. The U.S. criminal-court system has numerous protections against this - jury trials, judges who are insulated from politics, access to an independent court of appeals - most of which are absent from the tribunals. "In the American criminal system, we can have a conspiracy doctrine because we have this unique set of vibrant protections," says Neal Katyal, a Georgetown law professor, the architect of Hamdan's lawsuit against the Bush administration and a champion of the conspiracy charge in the criminal context. "But when it comes to war-crimes trials, the international consensus is that conspiracy is a no-no. When the U.S. Congress itself defined war crimes in two statutes in 1996 and 1997, it didn't include conspiracy."

Brig. Gen. Thomas L. Hemingway, an Air Force judge advocate general who is currently serving as the Pentagon's adviser on the tribunals, wouldn't discuss the government's evidence against Hamdan other than to point out that the prosecution has already given the defense 18,000 pages of discovery, including incriminating photographs and summaries of Hamdan's numerous statements to interrogators. "You want a one-word characterization of the case against Hamdan?" General Hemingway asked me. "Solid."

The government is certainly aware that the first trials will be closely scrutinized, and it seems improbable that it would choose a case that wasn't airtight. Hamdan's story also has narrative appeal. Unlike the vast majority of enemy combatants, who came to Afghanistan with the cresting wave of jihadis after 1999, he worked for bin Laden from 1996 until his capture in November 2001, a stretch of time that spanned not just 9/11 but also the 1998 attacks on two U.S. embassies in East Africa and the 2000 bombing of the U.S.S. Cole. And while many jihadis never even met bin Laden, Hamdan has not disputed working directly for him. A skilled prosecutor could turn his trial into the history of Al Qaeda's decade-long war against America and in so doing illuminate the nature of our enemy; the tribunals will be open to the press, except for when classified evidence is presented. Whatever evidence the government may have against Hamdan, it's hard to believe he could have worked for bin Laden for five years, through several high-profile terrorist attacks, without the knowledge of Al Qaeda's intentions or bin Laden's trust. And given that he has admitted to being a driver, the progression to transporting weapons is hardly a leap.

Yet it seems clear that Hamdan was not a high-ranking officer of Al Qaeda. By the time the United States decided to try him in 2003, there were certainly people in custody suspected of more serious crimes. Why not prosecute the more heinous offenders first? The government won't discuss how it settled on Hamdan, but it's easy to make some logical inferences. It stands to reason that the more hard-core the suspected terrorist, the more useful the information he possessed. The government may not have been done questioning the "highest value" detainees when it decided to issue its first indictments. (Hamdan's once-regular interrogations, which started almost immediately after his arrest and continued for the better part of two years, ceased in early 2004, shortly before the government announced that he'd been selected for trial.) The United States was also entering uncharted waters with the tribunals; terrorism is not yet codified as a war crime in international law. It's possible that the government wanted to wait to try its most prized detainees until it had the opportunity to test its legal theories on smaller players.

The treatment of the prisoners may have been a factor as well. Lawyers for the administration had long since built their legal defense of coercive interrogations. Nevertheless, for the first tribunals the government may have wanted "clean" - as in not mistreated or tortured - defendants, both to avoid embarrassment and to prevent issues about the veracity of their statements to interrogators. This, however, is not a point that Hamdan's lawyers intend to concede. Hamdan has already implied in an affidavit that some of his statements were coerced. He says he was punched and kicked after failing to answer certain questions, and that one of his interrogators placed a pistol on the table between them during their sessions.

In late November, a few weeks after the Supreme Court agreed to hear Hamdan v. Rumsfeld, Hamdan was moved from his regular cellblock in Camp Delta to a separate, smaller cellblock called Tango. When his lawyers learned about the

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development in early December, they were not pleased. Not only had Hamdan's relocation violated the explicit order of a federal judge that he be kept among the general population at Delta, but he also would be right next to Ali Hamza Ahmed Sulayman al-Bahlul, a supposed Qaeda propagandist with a reputation for turning other detainees against their U.S. attorneys. "He's getting put with a known advocate for firing lawyers - against a federal order - and I don't even get told about it?" Katyal's co-counsel, Navy Lt. Cmdr. Charles Swift, told me after Hamdan's move. Swift and Katyal promptly filed an emergency motion to have their client returned to a normal cellblock, and the authorities at Guantánamo complied.

Many detainees assume that their lawyers are American spies, a suspicion fed by the fact that nearly every document or letter that they bring in or take out of the camp has to pass through military censors. Hamdan's lawyers say they have a good relationship with him; still, they worry about losing him to what they consider to be the prison's more radical element. So while Katyal plots strategy from his office near Capitol Hill in Georgetown, Swift, a voluble, boyish-looking 44-year-old Navy JAG, shuttles back and forth to Guantánamo Bay with their interpreter, Charles Schmitz, a soft-spoken professor of geography and an expert in Yemeni culture, to reassure their client that they are on his side and to persuade him to have faith in a legal system that he doesn't understand.

It was hard enough for Swift, who was appointed by the government, to earn Hamdan's confidence when he first started meeting with him - in his Navy uniform - in early 2004; he now finds himself having to constantly earn it back. As the indefinite detentions of hundreds of Muslim men, many of whom were already predisposed to Islamic extremism, enters its fifth year, Guantánamo is turning into an anti-American hothouse. For the government, the radicalization of Guantánamo is a complicated issue. The main form of protest in the camps is the hunger strike, and a prisoner's starving himself to death would turn Guantánamo, already a public-relations problem, into a full-scale disaster. (As of Dec. 30, more than 30 detainees had been hospitalized and were being force-fed.) Radicalization also undermines one of the principal goals of imprisonment: deterrence. As Guantánamo's critics like to say, "If you weren't a terrorist when you went in, you will be when you're let out."

But radicalization has its advantages for the Bush administration too. Last summer, some detainees told their American lawyers that they would no longer meet with them, and a number went so far as to formally fire them. The government considers the legions of adversarial defense attorneys working pro bono for the detainees - from corporate lawyers to human-rights lawyers to law professors - to be an impediment to their ability to prosecute the war on terror. Among other things, the lawyers have filed hundreds of habeas corpus petitions in order to challenge their clients' continued detention without recourse.

More broadly, radicalization helps validate Guantánamo's existence. The more anti-American the detainees become, the greater the danger they pose and thus the more necessary it is to continue to detain them. So when Swift first heard about the decision to move Hamdan next to al-Bahul, he wondered whether it wasn't deliberate. "If they succeed in radicalizing Salim," he said, "then they've justified his trial." (The Pentagon would not comment on why an individual detainee might have been moved.)

Last August, Hamdan joined a prisonwide hunger strike to protest the conditions on Guantánamo. The detainees' numerous demands included the return of religious books that had been taken from them. When Swift next visited Hamdan in late August, he found him unusually intransigent. For two days, Hamdan refused to meet with him altogether. Not long after Swift returned home to Northern Virginia, he got a call from another lawyer at Guantánamo informing him that Hamdan, a slight man to begin with, had passed out from dehydration in his cell and was taken to the medical clinic at Delta and put on an IV drip. Swift flew back down to Guantánamo Bay almost immediately and managed to persuade Hamdan to start eating again by appealing to the same sense of solidarity that he says prompted him to join the strike in the first place. The best way to help his fellow detainees, Swift told him, was not to martyr himself but to follow through on their challenge to the system.

Like the government, Hamdan's lawyers also see him as much more than a detainee; to them, he represents the pretext for a historic and unconstitutional presidential power grab. As Hamdan's lawyers and other critics see it, the administration, by unilaterally creating the tribunals, defining the offenses and handpicking the panels, is not only denying detainees fair trials, it is also violating bedrock principles of the American government. To put an even finer point on it, they say the Bush administration is undermining the very values it purports to be defending in its war against Islamic extremism. They would like to see Hamdan and other enemy combatants tried before a traditional military court, a pre-existing legal system approved by Congress with built-in provisions for the complications that arise during wartime.

Katyal, who served as Vice President Gore's co-counsel in the suit over the 2000 election, draws a sharp distinction between waging war, an act over which the president should have broad authority, and meting out justice. And so, working at his own expense with research support from a loose network of law students from Georgetown, Yale and the University of Michigan along with attorneys from the law firm Perkins Coie, Katyal has written more than a thousand pages of briefs arguing that the president has neither the authority to create the tribunals without explicit Congressional approval nor the right to deny Hamdan status as a prisoner of war, and in so doing strip him of protections guaranteed by the Geneva Conventions. "The Geneva Conventions were written precisely to make it difficult for political leaders facing political pressure to suspend basic rights and

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P.O.W. protections," Katyal says. "The moment we let a president say he can determine whether someone is a prisoner of war, other countries are going to start doing it back to us."

Katyal's arguments found traction in federal court in Washington in the fall of 2004. Just as Hamdan's second round of preliminary hearings were getting under way at Guantánamo, Judge James Robertson, a former Naval officer, ruled in his favor, declaring the tribunals illegal and abruptly halting the proceedings 30 minutes after they had begun. In July 2005, however, a three-judge appeals panel that included John G. Roberts Jr., now chief justice of the Supreme Court, overturned the decision. Katyal and Swift petitioned the Supreme Court for review, and in November, after delaying action on the case for several weeks, the court announced that it would hear Hamdan v. Rumsfeld.

This was not the final word, though. No sooner had the Supreme Court agreed to consider Hamdan's case than a Republican senator from South Carolina, Lindsey Graham, introduced a last-minute amendment to a defense-authorization bill explicitly denying all Guantánamo detainees habeas corpus rights, or access to the U.S. federal courts. This had been the administration's intent from the moment it started sketching out its legal strategy in the war on terror in the aftermath of 9/11, but the last time the issue came before the Supreme Court, in the spring of 2004 in another detainee case, the court ruled against the president (with a loud dissent from Justice Scalia). Now Graham was effectively interceding on the administration's behalf in what amounted to an end run around the Supreme Court.

Days later, however, Senator Carl Levin, a Michigan Democrat, persuaded Graham to change the wording of the amendment so that it would not derail pending cases, including Hamdan v. Rumsfeld. It has since passed both the House and the Senate and at press time awaited the president's signature.

What about the hundreds of detainees who have not yet filed suits protesting their imprisonments? Aside from trial or continuing detention, the only option for the United States is to send them back to their respective nations. To date, it has released about 260 men, including a handful of Yemenis, all of whom remain in prison in Yemen, no doubt at the behest of the Bush administration. But Yemen is an unpredictable ally. In November, the United States suspended it from an aid program worth hundreds of millions of dollars, citing enduring governmental corruption, fiscal irresponsibility and the failure to enact democratic reform. Meanwhile, Islamic fundamentalism continues to gather strength in Yemen. Recently, three of the country's best-known extremists, including al-Zindani, one of bin Laden's spiritual mentors, called for a new coalition dedicated to confronting Islam's enemies and promoting Muslim values. The ongoing detention of 100 Yemenis at Guantánamo Bay may only help their cause and increase their leverage with President Saleh. So the United States finds itself trapped between two unappealing choices: hold these men as the potentially endless war against terrorism goes on, or return them to a breeding ground for Islamic radicalism in Yemen.

For his part, Hamdan's immediate concerns have more to do with day-to-day life at Guantánamo Bay - how much time detainees are permitted to exercise and at what time of day, what books they are allowed to read, what comfort items they are allowed to keep in their cells - than with the future of his historic lawsuit against the United States government. As Schmitz, his interpreter, told me recently, "The most important thing to him is what we can deliver in the camp, and that is zip."

Shortly after the Supreme Court agreed to hear Hamdan v. Rumsfeld, Swift visited Hamdan's cell armed with several front-page newspaper articles about the development. When Swift delivered the news, Hamdan smiled. Within a matter of minutes, though, his mood had visibly darkened, Swift says. Then Hamdan asked him, "What is this exactly that I've won?"

Germany's Merkel Says Guantanamo Should Be Shut (REU)

By Karin Strohecker

Reuters, January 8, 2006

BERLIN (Reuters) - German Chancellor Angela Merkel, in an interview published days before her first visit to the United States, said Washington should close its Guantanamo Bay prison camp and find other ways of dealing with terror suspects.

"An institution like Guantanamo can and should not exist in the longer term," Merkel said in an interview with the weekly magazine Der Spiegel published on Saturday. "Different ways and means must be found for dealing with these prisoners."

Merkel has vowed to repair ties with the United States, severely strained over the U.S.-led Iraq invasion, which her predecessor Gerhard Schroeder strongly opposed.

But her comments to Der Spiegel -- also covering ties with Moscow and the European Union -- suggested she would not shy away from speaking out on issues where disagreement exists.

There is widespread skepticism in Germany about the way the United States is fighting its "war on terror", compounded by the recent scandal over the CIA's abduction and detention of German citizen Khaled el-Masri -- later acknowledged to be a mistake.

Guantanamo Bay, the U.S. detention center in Cuba denounced by human rights activists and many governments, is deeply unpopular in Germany.

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Merkel travels to Washington next week for her first visit since becoming chancellor in November, and will meet U.S. President George W. Bush on Friday.

Merkel told Der Spiegel she expected to speak to Bush about the fight against terrorism. "But I want to accentuate that our relationship with the U.S. will not be reduced to talking about fighting terrorism and the Iraq war," she added.

NO FRIENDSHIP WITH RUSSIA

Merkel described relations with the United States as a "friendship", but said the term "strategic partnership" would be more fitting to describe Germany's relationship with Moscow.

"I don't think we share as many of the same values yet with Russia as we do with the United States," she said. "But we have a huge interest in seeing Russia develop in a sensible way."

Merkel, who will meet President Vladimir Putin in Moscow days after her Washington trip, often criticized Schroeder when she was in opposition for forging "exclusive" ties with Russia at the expense of relations with smaller EU countries.

In the interview she said developments like the new law giving the Kremlin more control over non-governmental organizations worried her, while the recent row between Ukraine and Russia over gas prices, which has made Germans question their own heavy reliance on Russia for gas, had reinforced the need for stable relations.

"We need to do everything to save as much energy as possible and diversify our sources," she said, adding that Germany would avoid letting Russia be its only supplier.

Supplies to the 25-nation EU, which imports a quarter of its gas from Russia, were hit after Russian gas monopoly Gazprom cut deliveries to Ukraine on January 1 to push its demand for a fourfold price rise. The two neighbors reached a compromise 5-year supply deal earlier this week.

On the European Union, Merkel said the issue of the bloc's constitution could be tackled when Germany took over the EU presidency in 2007, though much groundwork was needed.

"We need to have an all-encompassing discussion again," Merkel said. "I think it would be good if Europe stayed with the thought of having a constitution. I will lobby for that."

Learning Languages (WP)

The Washington Post, January 8, 2006

WITH A CERTAIN amount of fanfare Thursday, President Bush launched the National Security Language Initiative, designed to expand Americans' knowledge of critical foreign languages such as Arabic, Chinese, Russian, Hindi and Farsi. Before a group of 120 university presidents, he described learning foreign languages as a "kind gesture" toward other cultures, as well as an important facet of American security: "We need intelligence officers who, when somebody says something in Arabic or Farsi or Urdu, knows what they're talking about."

We applaud Mr. Bush's sentiments, though the lateness and modesty of this initiative are perplexing. It has been clear for more than four years, since Sept. 11, 2001, that Americans are horrifically deficient in knowledge about those parts of the world that now most threaten us, as well as about those that may pose important security challenges in the future. Yet the initiative will receive funding only in the 2007 budget -- if, of course, Congress approves. Although the State Department issued a fact sheet describing the new program's impressive goals, department officials conceded that only 15 public schools in this country teach Arabic at the moment. Although 200 million Chinese students study English, there are also only about 2,000 teachers of Chinese in the United States. There's a long way to go.

Department officials also referred to the launch of Sputnik, the first Soviet satellite, whose appearance in the sky inspired national concern about the "knowledge gap" between the United States and the Soviet Union and a new emphasis on science and Russian-language education in this country. Sputnik was launched in 1957. President Dwight D. Eisenhower signed the National Defense Education Act, which funded science education, in 1958. He also set up the National Aeronautics and Space Administration in 1958 -- a year after Sputnik, not four or five. The administration should move as fast as possible to make up for lost time.

PATRIOT ACT:

Time To Ask: Who Are We? (WP)

By Jim Hoagland

The Washington Post, January 8, 2006

President Bush concentrated in recent speeches on answering a question key to his war on global terrorism: Who is the enemy? But events and institutions conspire now to force Bush and all Americans to address a different question: Who are we?

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Are we a nation in which the rule of law prevails even in times of emergency? Or has the coming of a new millennium, new technologies and the terrorist attacks of Sept. 11, 2001, altered the underlying values and norms of American society in ways we have not had time to understand, much less codify?

Such broad questions peek out of the rising challenges from Congress, the courts, the media and others to Bush's insistence on the need for greater secrecy and far-reaching presidential powers to counter wartime dangers.

The Supreme Court is not likely to address those societal questions directly when it decides in the near future on the imprisonment, without access to the courts, of Jose Padilla, an American citizen as well as an al Qaeda suspect. And newspaper exposs on secret CIA prisons abroad and warrantless surveillance by the National Security Agency at home don't pose those big thoughts upfront. But the undercurrent of a historic identity check runs through those and other recent events.

The sense of a restoring of balance could be glimpsed even in the case of lobbyist Jack Abramoff, which in its own squalid way suggests the ending of a particularly self-indulgent moment in Washington history.

Eras flash by with startling velocity in today's hyper-connected, hyper-informed global society. The first five-year slice of the 21st century came to an end last weekend as Abramoff was striking a bargain with prosecutors to plead guilty to fraud, tax evasion and conspiracy charges. Coincidence? Or a wave of excess cresting and starting to recede? Here's why I think it is the latter:

A millennium mentality -- a psychological bubble in which people convince themselves that things are suddenly and irrevocably different, that old rules and laws don't apply to this particular moment/decade/generation -- dominated and helped corrupt the years on both sides of the changing of the century. Think of it as the too-many-zeroes syndrome.

That attitudinal matrix -- Germans call it zeitgeist -- spread across and out of the U.S. stock market and then hung on longer in global politics and business, especially after Sept. 11 and the U.S. response suggested that the world had spun onto a different, far more threatening axis.

Americans demanded that President Bush change the world and the nation, with Congress forcing an ill-conceived Department of Homeland Security on the administration and passing the USA Patriot Act in a whatever-it-takes rush. Bush and Vice President Cheney, it must be said, were eager to go in that direction anyway -- and have stayed on it longer than many in Congress, the media or the courts seem able or willing to sustain in the absence of new attacks at home.

Laws are not immutable. What is reasonable behavior, by the state or by individuals, changes as circumstances change. Courts exist to decide that. But the acceptance of the rule of law serves to root societies in their most innate and entrenched values. In times of significant upheaval -- such as these times -- the rule of law anchors what should not be changed in haste and superficiality.

The Padilla case is a good illustration of what I mean. Padilla was arrested in 2002 under suspicion of plotting to set off a "dirty" radioactive device in Chicago. Designated by Bush as an enemy combatant, he was held for three years without charges and for much of that time without access to counsel.

He turns out to have been a much smaller and less dangerous fish, according to charges finally filed against him in late November. That the Justice Department did not move much more quickly -- and less grudgingly -- to extend him his constitutional rights undercuts the administration's claim that it does everything in its power to respect the rule of law consistent with national security.

What happened in the Padilla case amounts to disrespect for the rule of law -- as does the failure over four years to amend the 1978 federal statute that prohibits warrantless eavesdropping.

Such disrespect for established legal tradition is a clear if implicit statement from the president and his aides about whom they think Americans are becoming in this stressful era of change and danger. But it is a question they alone will not get to settle.

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Editorial: How To Fix The Patriot Act: Maintain Checks And Balances On Government (DMN)

The Dallas Morning News, January 8, 2006

President Bush assembled an impressive coterie of federal prosecutors at the White House last week to step up pressure on Congress to reauthorize the Patriot Act and to chide lawmakers for postponing a decision on the anti-terror legislation to early next month.

Make no mistake. The Patriot Act is an essential tool in this nation's defense strategy, particularly because it gives intelligence agencies the authority to share vital information about suspected terrorists and their activities. The president is right to push for Congress to do more than kick the can down the road.

But House leadership and the president are pushing a version of the legislation that fails to strike a proper balance between protecting America and infringing on civil liberties. These significant shortcomings must – and can – be fixed.

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To its credit, the current version would allow the most controversial provisions to lapse again in four years, giving Congress and the American public another opportunity to assess the Patriot Act's impact on the war on terror and civil liberties. A periodic discussion about the scope and effectiveness of emergency anti-terror powers is a crucial part of maintaining checks on the power of the executive branch.

That's why Congress included the review provision when it authorized the Patriot Act in the shadow of the 9-11 attacks. The recent controversy over domestic spying illustrates why these checks and balances are mandatory.

In other areas, the legislation doesn't meet the bar on protecting civil liberties. These changes should be made before passage:

Section 213

The current Patriot Act allows the government to conduct sneak-and-peek searches (also known, along with section 215, as the library provision) of homes and businesses without notice. The version the House leadership and the president are pushing would require notification within 30 days of the search and require the government to provide the court with updates before the notification delay can be extended. The government would be required to publicly report on the use of delayed-notice search warrants.

We recommend requiring the government to notify a person of a search within seven days, subject to special circumstance extensions, to better protect civil liberties.

Section 215

Under the Patriot Act, the government can use a secret court order to obtain copies of private medical, financial, educational and other records without connecting that person to terrorism. The government has only to assert that the information sought is relevant; the organization receiving the request is effectively barred from challenging the order or talking about it.

The version that the House leadership wants requires high-level approval for requests for sensitive categories of records such as library records and medical records, and it permits a judge to deny or modify a government request.

The measure also requires public reporting of the number of section 215 orders; certain additional classified reporting to congressional committees; and auditing by the Inspector General of the Justice Department's use of section 215.

We recommend also adding a provision requiring the government to connect a person to terrorism before combing through records and finding a more effective way for targets to challenge government assertions. These additional safeguards will discourage far-reaching fishing expeditions that could entangle innocent Americans.

National Security Letters

Most criminal investigations require a judge to authorize law enforcement to obtain documents or conduct searches. Not so with the National Security Letter, which allows government investigators to examine the records of suspected threats without first obtaining court approval.

We recommend meaningful court oversight of this process, to avoid the potential for abuse.

Extraneous provisions

The version that the House and president are backing includes new anti-drug policies and ex post facto changes to death penalty law that in some instances are unrelated to terrorism.

We recommend removing these changes, which are controversial on their face. The Patriot Act should be a clean, unfettered bill, not a repository for pet legislation.

Most of the Patriot Act should not worry Americans, who understand that civil liberties – especially in a time of national emergency – aren't without limits.

The common-sense revisions outlined here to provide clear and fair due process would shore up the concerns of all but the most ideologically driven civil libertarians.

HOMELAND RESPONSE:

Hurricane Fraud Suspects Held (WT)

By Audrey Hudson

The Washington Times, January 8, 2006

A federal task force has arrested 143 persons nationwide for bribery, extortion and fraudulent claims on hurricane disaster funding, and at least 1,000 investigations are ongoing in New Orleans.

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"Unfortunately, we see it with every disaster, but we're working very closely with the inspector general and Homeland Security and U.S. attorneys to prosecute every single case we come across," said Nicol Andrews, Federal Emergency Management Agency spokeswoman.

Most of the cases involve false claims to aid earmarked for victims of hurricanes Katrina and Rita, but several extortion cases already are in the court system.

In St. Tammany Parish outside New Orleans, Councilman Joe Impastato was indicted last month on charges of extortion and money laundering.

Federal officials say Mr. Impastato pressured one debris removal contractor to hire a second contractor with whom he would share in half the profits. When the prime contractor declined, the official threatened to withhold parish payments for other work.

U.S. Attorney Jim Letten called the indictment "a clear and unambiguous signal of federal law enforcement's commitment to seek out, punish and deter corrupt and self-serving conduct by public officials who use their positions to unjustly enrich themselves at the expense of the citizens they serve."

In Georgia, three persons have been indicted by a grand jury for pretending to be Red Cross officials to solicit donations, and in a related gambling operation to sell tickets for a fake lottery to raise money for Katrina victims.

The Hurricane Katrina Fraud Task Force created by Attorney General Alberto R. Gonzales after the storms devastated the Gulf Coast is investigating and prosecuting disaster-related federal crimes such as identity theft, procurement, insurance and charity fraud.

A Justice Department spokesman said arrests in 117 separate cases spanned 22 different districts.

In addition, the Homeland Security Inspector General's office is reviewing an estimated 350 contracts worth nearly $5 billion, and investigating more than 300 possible criminal cases, which so far have netted 51 arrests, 67 indictments and five convictions.

More than 7,000 calls have been logged on the inspector's general hot line to report fraud.

All Parts Of New Orleans Included In Rebuilding Plan (NYT)

By Gary Rivlin

The New York Times, January 8, 2006

NEW ORLEANS, Jan. 7 - The city's official blueprint for redevelopment after Hurricane Katrina, to be released on Wednesday, will recommend that residents be allowed to return and rebuild anywhere they like, no matter how damaged or vulnerable the neighborhood, according to several members of the mayor's rebuilding commission.

The proposal appears to put the city's rebuilding panel on a collision course with its state counterpart, which will control at least some of the flow of federal rebuilding money to the city.

The primary author of the plan, Joseph C. Canizaro, said teams of outside experts would try to help residents of each neighborhood decide whether to rebuild or relocate. Those teams would help increase the odds of success for those residents who decided to return, Mr. Canizaro said.

The commission will propose that the city should discourage homeowners from rebuilding in the hardest hit areas until a plan can be hammered out, but will not forbid them from doing so.

But ultimately, the areas that fail to attract a critical mass of residents in 12 months will probably not survive as residential neighborhoods, Mr. Canizaro said, and are likely to end up as marshland as the city's population declines and its footprint shrinks.

People who rebuild in those areas will be forced to leave, according to the proposal. Though such a requirement would be emotionally wrenching, the commission will propose a buyout program to compensate those people at the market price before Hurricane Katrina, but it is not clear whether there will be federal financing for such a program.

Assuming the commission's recommendations are formally adopted by Mayor C. Ray Nagin, the plan will defer for a year one of the most contentious issues in the city's struggle to recover from the flooding that followed the hurricane: the fate of the most heavily damaged and flood-prone neighborhoods.

Many residents of low-lying neighborhoods like the Lower Ninth Ward and New Orleans East have said they are determined to rebuild their ravaged blocks, while some experts have argued that such areas are better returned to marshland for safety and economic reasons. Some civic leaders who had hoped the mayor's panel, the 17-member Bring Back New Orleans Commission, would take a firm stand on the issue expressed disappointment.

"There are some very tough decisions that have to be made here, and no one relishes making them," said Janet R. Howard, chief executive of the Bureau of Governmental Research, a nonprofit policy organization based in New Orleans. "But to

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say that people should invest their money and invest their energies and put all their hope into rebuilding and then in a year we'll re-evaluate, that's no plan at all."

At least one member of the state panel, the Louisiana Recovery Authority, has echoed that sentiment.

"Someone has to be tough, to stand up and to tell the truth," Sean Reilly, a member of the state commission, said in a speech this week. "Every neighborhood in New Orleans will not be able to come back safe."

Andy Kopplin, executive director of the state commission, declined to comment on the specifics of the city's report, which "hasn't been formally presented to us."

But he said his agency, when doling out federal dollars, would favor plans that emphasized safety and the wise use of precious resources.

"We want to make sure they invest in a smart way that provides a good return on investment," Mr. Kopplin said, adding that at the same time plans should be "true to the aspirations of local communities."

Mr. Canizaro, a prominent real estate developer here, acknowledged the possibility that Hurricane Katrina could spell the death of more than one New Orleans neighborhood. He cited a study by the Rand Corporation that estimated that in three years the city would have a population of no more than 275,000, down more than 40 percent from its pre-hurricane population of 465,000.

"It doesn't take a genius to figure if you're only going to have 40 or 50 percent of your original population, then there's going to be shrinking in the amount of land that's going to be needed," Mr. Canizaro said.

Yet deciding which neighborhoods should not be rebuilt involves far more than the cold rationale of geographic and demographic data, Mr. Canizaro said, especially considering the historic racial tensions in New Orleans. The hurricane devastated the lives of white and black alike, but the waters that roared though much of the city disproportionately flooded its predominantly black eastern half.

"Unfortunately, a lot of poor African-Americans had everything they own destroyed here," Mr. Canizaro said. "So we have to be careful about dictating what's going to happen, especially me as a white man. What's important is we give people an opportunity to determine their future, as best we can."

It is not clear, though, that people who choose to return to devastated neighborhoods will find much to surround them. The city has not promised full services to every neighborhood, and there may be no grocery stores or schools for miles.

It is not even certain that lenders will agree to grant mortgages in those neighborhoods without some guarantees that residents will be there for longer than a year.

The final report, as described by several commissioners, will include several ideas designed to stimulate the city's economy and culture, including a proposal to construct a light rail system and a plan to establish New Orleans as a world center of neuroscience research.

The commission will also recommend that the city create a redevelopment authority to serve as a land bank for blighted or abandoned properties and a vehicle through which federal funds will flow.

By creating an independent authority appointed by elected officials in all levels of government, several commissioners said, the hope is to insulate the redevelopment process from politics.

The most contentious issue, however, will be the redevelopment of neighborhoods. That battle began in earnest in November, when the Urban Land Institute, a prominent planning group based in Washington, proposed that the city temporarily ban redevelopment of properties in those areas hardest hit by flooding, including large tracts of New Orleans East, the Lower Ninth Ward and Lakeview.

The suggestion was rejected by residents of those neighborhoods and their political representatives. Last month, the City Council passed a nonbinding resolution stating that residents should be free to rebuild immediately wherever they choose.

The notion that residents have a right to rebuild anywhere proved too starry-eyed for Alden J. McDonald Jr., a member of the mayor's commission and the chief executive of Liberty Bank and Trust, the city's largest black-owned bank. Though most of the bank's customers lived in the most damaged parts of town, and though Mr. McDonald himself owns a home in New Orleans East, he said it would be cruel to encourage people to move back "without first giving them all the facts."

"We really need to ask what kind of community it will be if there aren't adequate services," he said.

Mr. Canizaro, who as chairman of the commission's planning committee has found himself at the center of this debate, floated a compromise proposal at a commission meeting in mid-December: let people rebuild anywhere they want, then re-evaluate progress in three years. That way the market, and not planners, would determine which neighborhoods would come back.

The general sentiment, however, was that three years was too long, so Mr. Canizaro countered by shrinking the evaluation period to a year.

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Critics of his plan say that if the city floods again in the near future, damaging rebuilt neighborhoods in the same places, there will be little sympathy and few federal dollars. But Mr. Canizaro said the prospect of a fortified flood control system, promised by the Bush administration, made him confident that the city would not suffer the same devastation from a storm similar to Hurricane Katrina.

That confidence, however, is not universal. Michael M. Liffmann, the associate executive director of the Louisiana Sea Grant College at Louisiana State University, which studies land-use issues along the Gulf Coast, said most experts agreed that the roughly one-quarter to one-third of the city located dangerously below sea level should not be rebuilt.

"There are parts of New Orleans that are not fit for human habitation," Mr. Liffmann said. "They never were and never will be. But these are as much social calls as they are scientific ones."

Evacuees' Hotel Bill $19 Million FEMA Paid For Housing At Over 650 State Lodges (AJC)

By Yolanda Rodríguez

The Atlanta Journal-Constitution, January 8, 2006

Georgia hotels have billed taxpayers more than $19 million to house evacuees who fled after hurricanes Katrina and Rita ravaged the Gulf Coast last year.

And taxpayers will continue to foot the bill for as long as the Federal Emergency Management Agency continues its policy of housing evacuees in hotels.

So far, the federal agency has spent $325 million on hotel rooms across the nation, and it has been sharply criticized for the high cost of the hotels and for how it has handled the emergency.

Federal officials once hoped to have all evacuees out of hotels by Saturday, but under a federal judge's ruling, FEMA is required to keep the hotel program running until at least Feb. 7.

In Georgia, FEMA paid for rooms at more than 650 hotels — from the Ritz-Carlton in Atlanta, to the Econo Lodge in Decatur, to a $35-a-night room in Lowndes County.

Records obtained by The Atlanta Journal-Constitution through a federal Freedom of Information Act request provide the first public accounting of the local spending.

The records show the rooms averaged $67.47 a night (or more than $2,000 a month) and were booked in Georgia between Oct. 27, when FEMA took over housing evacuees from the American Red Cross, and Dec. 23. Most of the money was spent in metro Atlanta, and FEMA paid for 286,000 bookings.

Those records also show evacuees who arrived in the state were housed just about everywhere:

Some stayed at the Butler Street YMCA in Atlanta, with rooms costing an average $18.12 nightly. FEMA was billed about $1,015 for rooms at the YMCA.

The Ritz-Carlton on Peachtree Road in Buckhead billed FEMA $1,190 for rooms. But those rooms weren't nearly as expensive as one might think. They cost an average of $132.25 nightly, according to the records.

The most expensive rooms were at the Embassy Suites on Peachtree Road in Buckhead. It charged an average $159.46 per room.

According to the FEMA records, the full-service hotel billed the federal government about $81,485.

Gretchen Demetrops, general manager of the Embassy Suites, would not comment on the room charges and referred all questions to the Hilton Hotels Corp. office in Memphis.

In an e-mailed response, Dawn Ray, senior manager for brand communications for Embassy Suites Hotels/Hilton Hotels Corp., said the Embassy Suites "is an upscale hotel brand, and that is a competitive rate for the Atlanta market, particularly in the Buckhead area."

"The hotel did in fact charge a $159 rate for some guests, among a variety of other rates. That was not a discounted rate."

But who decided where evacuees would stay — and how much taxpayers would spend to foot the bill?

Tara Inn tops list

At the Tara Inn & Suites in Jonesboro, the first evacuees began arriving at the hotel Sept. 10, nearly two weeks after Hurricane Katrina hit.

Often, they learned of the 126-room hotel through word of mouth, said Jeff Kashani, the owner.

By Dec. 23, according to the records, FEMA had spent more at the Tara Inn & Suites than at any other hotel in the state.

The independently owned hotel billed FEMA about $312,728 — or about $78 per night per room.

According to the hotel's Web site, rooms there start at $59 for a single queen for a Sunday-Thursday stay.

The most expensive room starts at $129 for a king Jacuzzi suite for stays on Fridays and Saturdays.

Kashani said he was surprised to hear that the Tara Inn & Suites topped the list.

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He said the hotel, which began operating in January 2003, charged FEMA the best rates it could — between $59 and $99. He noted that the rooms are suites and have kitchenettes.

Hotel employees also cooked Thanksgiving dinner for the evacuees, and the hotel and its staff donated Christmas gifts for the families, he said.

"We try to be nice," Kashani said.

Felecia Perry, the general manager, said 116 adults and 42 children are still staying at the Tara Inn.

The hotel was packed with evacuees from September through November, Perry said. It maxed out on hurricane evacuees with about 200 people in 60 rooms.

"Our rates are good," Perry said. "We go overboard with extras. We buy groceries and clothing if people are in need."

While some evacuees stayed at the Tara Inn & Suites, others were making reservations at hotels across the state, painting a somewhat disorganized picture of the scramble to suddenly house some of the 43,500 people who arrived in Georgia after they were displaced

Evacuees "were making reservations just like you and me," said Ray, of the Embassy Suites Hotels/Hilton Hotels Corp.

Ray said her hotels charged the federal government "pretty competitive" rates — and the price of the rooms did not go down once FEMA began paying for them.

Cost variation

But what about the wide disparity in room rates?

Mark Woodworth, executive vice president of PKF Consulting, a hotel advisory firm, said that disparity is based on several factors.

"The quality of the property goes a long way to explain the difference in prices and just how full or empty the hotels were at the time these rooms were needed," Woodworth said.

— Staff writers Craig Schneider and Leon Stafford and database editor David A. Milliron contributed to this article.

Katrina Evacuees Seek Jobs, Anchors (LAT)

By Tomas Alex Tizon

The Los Angeles Times, January 8, 2006

HOUSTON — The two women never met but probably crossed paths in an abandoned supermarket — now a disaster recovery center — on the south side of town where railroad tracks crisscross the terrain.

Monique Moses and Pauline Gallien spend lots of time at the center, on opposite sides of the partition. Moses is a Hurricane Katrina evacuee from New Orleans. She is looking for a job. Gallien is a longtime Houstonian whose job is to find jobs for people like Moses. Right now, neither is having much success.

Their frustration embodies the question now facing this East Texas metropolis, which took in more evacuees — an estimated 200,000 — than any city outside of Louisiana: What is to be done with the thousands who, with their basic needs met, face the most vital step in their long-term recovery?

"I need to work," says Moses, 26. "I can't be like them that sit on their butts all day. I gotta have something to do. I just don't know if this is the place I can do it."

Before Katrina wrecked her hometown, Moses worked as a shift manager at a Radley's restaurant. Both her apartment and the restaurant were destroyed.

Four months after Katrina, she and her two daughters are resettled in southwest Houston. Her girls, ages 5 and 6, are enrolled in school, and their apartment has most of the accouterments of a home. The only missing piece is a livelihood to keep it all together.

Moses says she has pounded the pavement and filled out applications everywhere: McDonald's, Wendy's and the Home Depot, to name a few places. She has worn her best "customer service" face, smiling until her cheeks hurt. Day after day.

Only one employer, a Jack-in-the-Box, gave her an interview. The manager offered $6 an hour, and Moses told him she needed at least $8 an hour to survive. He never called back.

Her only lifeline has been the disaster-recovery center operated by the Federal Emergency Management Agency. She has come to know the building well: a flat, sprawling, swarming place where workers from dozens of organizations stand by to help evacuees on almost every aspect of reestablishing their lives.

Moses has gone there seeking help on numerous fronts — housing, transportation, insurance claims — but never stopped at the cluster of tables devoted to placing people in jobs. Moses, like many evacuees, has never used an employment service.

If she had stopped, she probably would have met Gallien.

Gallien, 40, works for a nonprofit employment agency called the WorkSource, whose main service is matching clients with jobs listed in a database. Gallien's station sits near the front entrance of the FEMA center.

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From 8:30 a.m. to 5 p.m. Monday through Saturday, WorkSource staffers sit behind folding tables, equipped with the barest of tools — a notepad, telephone and computer — greeting every evacuee with, "How can I help you?"

Even now, Gallien and her three colleagues see 100 to 130 evacuees a day. Some need help filling out unemployment forms or putting together a resume; many have just moved into more stable housing and are beginning to seek work.

"The typical person we're seeing now is lower-skilled, a menial worker or restaurant worker, with a lower education level, not as strong in the communication skills," Gallien says. "A lot of times they got by doing odd jobs and got paid on the side, so they don't have an employment history."

Gallien says these clients "face a real challenge" in Houston, where about 20% of residents live below the poverty line.

"Houston was full of people with the same backgrounds before the evacuees got here," she says. "For every low-skilled evacuee, there are two Houston people with the same skill level competing for the same job."

A recent federal survey suggests that 21% of Katrina evacuees actively seeking work are still unemployed.

The proportion could be higher in Houston, where the job market, so tied to energy production, remains tight. The city's unemployment rate, roughly 6% in November, has consistently hovered above the national average.

"The folks with skills in the oil and gas industry found jobs," says M. Ray Perryman, head of a Texas economics analysis company. "People who fill low-wage, service- and retail-type jobs — it might take awhile for the economy to absorb them."

A reciprocal relationship has long existed between New Orleans and Houston, 327 miles apart. Houstonians traveled to New Orleans for culture and cuisine; New Orleanians went to Houston for jobs and better schools.

So when the storm hit, and New Orleanians needed a place to go, Houston put out the welcome mat and busloads of evacuees headed in this direction.

Houston, population 2 million, offered the most generous resettlement program of any large U.S. city.

An enormous city-led task force, using a voucher program, paid for 12 months of housing for more than 100,000 evacuees.

In mid-December, Mayor Bill White declared that Houston was "full."

It's not clear whether FEMA will help pay for proposed expansion of city services to handle the increase in population.

The Houston Police Department has requested 400 new officers, school districts have pleaded for additional teachers, and social service agencies have outlined the need for more funding.

But all the talk of expansion may be moot if evacuees don't stay.

As many as 50,000 evacuees have already left the city, according to city officials.

"How many stay depends a lot on how many find jobs," Gallien says. "The answer to that question nobody knows yet."

Moses is mulling over a Plan B. "I can't find work, we can't stay," she says.

She has no emotional tie to Houston — a government-hired bus driver brought her and 50 other evacuees to the Astrodome a day after Katrina. She has been here ever since. She's not sure she even likes this city, which seems to have no real center.

In fact, this flat, humid, sprawling metropolis is the largest U.S. city without zoning laws, and the lack thereof has created numerous indistinct commercial districts and helter-skelter neighborhoods.

The Moses family moved into an apartment complex in the southwest, a once middle-class area turning into a lower-middle-class neighborhood of small, sagging houses. The Pines of Westbury is made up of 940 units divided among cubic two-story brick buildings evenly spaced over 5 acres. Most residents are black or Latino. Katrina evacuees occupy about 90 units.

It's 2:30 in the afternoon, and Moses keeps glancing at her watch.

Her apartment is a hangout for evacuees at the Pines, and she's expecting a small group to come over. She sinks into her couch, lets out a sigh and wonders out loud what happened to all her FEMA money.

"It went fast," she says incredulously.

Aside from the housing voucher that allowed her to move into this complex, she got $2,000 in emergency funds and another $2,358 for move-in costs. The money went toward furniture, clothing and groceries. Then she rented a car for a month to look for work. That cost a grand.

Since then, job-hunting by bus has worn her out.

There's a knock at the door. It's her boyfriend, Lionel Robinson, 35, just back from Laredo, Texas. He lives at the Pines too, just around the corner. Like Moses, Robinson is a New Orleans native who lost everything to Katrina, including a job he treasured. He was a city bus driver making close to $50,000 a year.

Recently Robinson landed a job as a long-haul truck driver making 37 cents a mile. One recent week, he drove only 1,200 miles, including the trip to Laredo, earning $444 before taxes. "Not enough," he says.

He, too, is looking for another job.

Within minutes, Moses' girls come through the door with a neighbor and two young cousins. One of Moses' aunts arrives with a teenage daughter. Hugs and how-are-yous are exchanged. Soon the apartment bustles with chatter.

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The adults gather around the dining table, and the subject quickly turns to the future.

They are all in the same boat: dislocated, scratching for income and feeling uncertain about everything.

"We can't stay here," says evacuee Rosezina Jefferson, Moses' oldest friend from New Orleans. She moved into the Pines with Moses' help. "I might stay here for a minute, but one way or another, I'm going back home."

"There is no more home," Moses says. "Home ain't home no more."

Moses has another idea: road trip.

The others turn silent.

Moses says if she and Robinson don't have good jobs by next summer, she'll take the insurance money she's been waiting for — her car was destroyed by the flood — and use it to pay for a job-seeking, home-finding road trip all over Louisiana.

She'd leave the kids with their father, and she and Jefferson and Robinson would hit the highway for a month. They'd go to smaller cities like Lafayette and Lake Charles, places closer to New Orleans.

"A road trip? For a month?" Jefferson says.

"A road trip," says Robinson, considering the idea.

You must have a plan, Moses says.

And the plan is, "Come June, July, August, we're getting in a car and going. If there's nothing for us here, we'll have to find it somewhere else."

WAR NEWS:

Iraq's Shiites And Kurds Said To Need Sunnis For Coalition (NYT)

By Richard A. Oppel Jr.

The New York Times, January 8, 2006

BAGHDAD, Iraq, Jan. 7 - The leading Kurdish and Shiite political groups probably did not win enough seats in last month's national parliamentary elections to form a governing coalition on their own, and will have to persuade some Sunni Arab legislators to join their alliance, a Western diplomat here said Saturday.

It will take a two-thirds majority in the 275-seat Iraqi Parliament to form a new government and appoint an executive branch. Final results from the Dec. 15 election are not expected until later this month, but the dominant Shiite alliance is thought to have won less than half the seats in the new Parliament. The Kurds and Sunni Arabs are believed to have won roughly 20 percent each.

The popular view among political parties here and the Iraqi news media has been that the Shiites and Kurds will likely have enough seats to form a government on their own, if by only a very small margin.

However, the Western diplomat said Saturday that an analysis of preliminary election results indicated that the Shiites and Kurds would need to include others to reach a two-thirds majority.

The preliminary results, the diplomat said, "suggest that together the Shia and the Kurds cannot reach two-thirds by themselves."

"I emphasize those are unofficial returns," the diplomat said. "So far, the trend that you can extrapolate out of the unofficial returns is that it doesn't look like they got it. They need the Sunni votes to get to their two-thirds majority."

Sunni Arabs are not the only non-Kurdish and non-Shiite alliances to gain seats in Parliament. The political slate put together by the former interim prime minister, Ayad Allawi, a secular Shiite, is believed to have won close to 10 percent of the seats.

Even though he is a Shiite, Mr. Allawi has often been at odds with the more conservative and Islamist Shiite leadership, and he is also a former member of the Baath Party. Some members of the governing Shiite coalition have said they would include Sunnis in their government before agreeing to carve out a place for Mr. Allawi.

American officials say that the best hope to stabilize Iraq's shaky security and political situation and help deflate the insurgency is for Sunni Arabs to have a meaningful role in the new government that convinces the Sunni population that they have a voice in how the country is run.

Tensions between Sunni Arabs and the ruling Shiite groups remain high, however. Shiites have accused Sunni political leaders of encouraging violence, while Sunni groups say Shiite-controlled security forces have been carrying out torture and assassinations against Sunnis.

In fact, the Western diplomat said some Sunni political leaders had discussed setting up "neighborhood self-defense forces" - armed local Sunni militias - to protect Sunni residents against assaults from Shiite policemen and troops. The diplomat said he was not aware of any such Sunni forces being put into action, however.

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President Jalal Talabani said Saturday that he believed it would not take nearly as long as the three months it took last spring to reach agreement on the composition of a new government.

Mr. Talabani said the Kurds had held productive meetings in recent days with the Shiites, with Mr. Allawi's party and with the largest Sunni Arab party, the Iraqi Consensus Front.

Mr. Talabani, who met Saturday with Foreign Minister Jack Straw of Britain, said that once the final election results were released, "forming the next government will not take a long time."

Diplomats Protest Iraq Violence (WP)

By Nelson Hernandez

The Washington Post, January 8, 2006

BAGHDAD, Jan. 7 -- In a series of public statements Saturday, Western officials condemned a wave of recent attacks in Iraq, saying the violence was intended to derail Iraqi efforts to form a government based on national unity.

At the same time, Iraq's president, Jalal Talabani, said that Shiite, Sunni Arab and Kurdish political groups were working toward that end. In a meeting in the capital with Jack Straw, the British foreign secretary, he said Iraqi parties had agreed in principle on a coalition of national unity, the Associated Press reported.

But a Western diplomat who briefed reporters here said he expected a "complicated negotiation" involving several sides now that Sunni Arab parties appear to have won enough seats in recent elections to play a role in the process of forming a government.

It was a change, he said, from the two-sided political environment that followed elections last January. In that election, Sunni Arabs, who represent about 20 percent of Iraq's population, turned out in very small numbers, yielding the political initiative to Shiite and Kurdish parties.

"Last spring, it was the Shia and the Kurds. It was a very straightforward negotiation," said the diplomat, who gave the briefing on condition he not be named. "This time it may have three, four, even five sides to it."

He said that talks about a coalition government were now in an "exploratory" stage and that once final election results were announced near the end of the month, negotiations would shift "from second to fifth gear sort of overnight."

Sen. Barack Obama (D-Ill.), who was in Iraq Saturday as part of a visiting congressional delegation, also stressed the importance of forming a government quickly.

"It seems to me you've got a six-month window in which a national unity government has to be formed," in addition to finalizing the country's constitution, making major progress in repairing its infrastructure and improving security, Obama said in an interview. "Time is not necessarily on our side."

Ultimately, Obama said, "there has to be a recognition on the part of the Sunnis that they're a minority of the population." In turn, he said, the Shiite majority needs to recognize the rights of Sunni Arabs.

But the Western diplomat said the insurgent attacks Wednesday and Thursday, which killed nearly 200 Iraqis and 11 U.S. service members, were intended to drive a wedge between Sunni Arabs and Shiites.

Two attacks on Saturday appeared to fit the same pattern. A suicide car bomber blew himself up next to an Interior Ministry police patrol, killing one officer and wounding 11 people, the Associated Press reported. A few hours later, gunmen fired on a car in Baghdad, killing a woman and wounding two men, the news service reported.

The Western diplomat noted, however, that one recent attack -- on a police recruiting station in Ramadi on Thursday -- killed dozens of Sunni Arabs and appeared to have broken the patience of tribal leaders who have provided support to insurgent groups.

People in the region are "now publicly calling for an end to the violence," he said. "I don't want to declare victory, because there's a long way to go, but something different is happening."

Special correspondent Omar Fekeiki contributed to this report.

Unity Government At Hand, Iraqi Says (WT/AP)

By Jason Straziuso, Associated Press

The Washington Times, January 8, 2006

BAGHDAD -- Iraq's fractious political groups are moving ahead to shape a national-unity government, progress that should help stop the carnage of the past several days, the prime minister and other leaders said yesterday.

Iraq's Kurdish president, Jalal Talabani, predicted that a new government could be formed within weeks. He made the comments after meeting with visiting British Foreign Secretary Jack Straw, who said Iraqis remain optimistic about their future despite suffering through a violent week, when nearly 200 people were killed in two days, including 11 U.S. troops.

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In an effort to help draw Sunni Arabs into the political process as a way to dampen the violence, U.S. officials for months have been communicating directly or through channels with members of the disaffected minority connected to the insurgency.

A Western diplomat yesterday reported a recent "uptick" in those contacts. Those insurgents "sense that the political process does protect the Sunni community's interest," the diplomat said, speaking on the condition of anonymity because of the sensitivity of the issue. A similar "uptick" in communication occurred after parliamentary elections last year, he said.

A U.S. official said the coalition does not talk to foreign terrorists or supporters of Saddam Hussein's ousted regime, but said it was important to isolate extremists from the broader Sunni Arab community. He also spoke only on the condition of anonymity because of the sensitivity of the topic.

Meeting with Mr. Straw in Baghdad, Mr. Talabani said Shi'ite, Sunni Arab and Kurdish political groups had agreed in principle on a national-unity government that could be formed within a few weeks. Western diplomats in Baghdad have speculated that a government could be in place by the second half of February.

"Everyone is expecting to have it as soon as possible, but you know the devil is in the details," Mr. Talabani said.

He said it should be easier to form a new government than it was after the Jan. 30 elections last year, when it took nearly three months.

"We are expecting within weeks, God willing, we will be able to form the government," he said.

Mr. Talabani and other Kurdish leaders met over the New Year's holiday with Sunni Arab and Shi'ite political leaders. The meetings in northern Irbil helped shape agreement on the general outlines of a broad-based coalition government.

Prime Minister Ibrahim al-Jaafari, a member of the Shi'ite alliance and head of the Dawa party, said in a separate meeting with Mr. Straw that the Shi'ite "alliance and the coalition of Kurdistan and the other tickets, fortunately, are keen to make a national unity government."

"That common feeling will make the process easier," he said.

Mr. Straw said earlier that the situation in Iraq remained violent, but its politicians were optimistic.

"I was trying to avoid any kind of pretense about the situation here in Iraq," Mr. Straw told British Broadcasting Corp. radio. "It is very difficult. People are being killed by terrorism."

Violence was greatly diminished yesterday. Four persons were killed in attacks around the country, and police found the bodies of four females, blindfolded and handcuffed, who apparently had been shot to death in Baghdad, officials said.

Almost 200 people were killed in attacks Wednesday and Thursday.

Thousands of angry Shi'ites also demonstrated against the wave of bloodshed and what they claimed was American support for Sunni Arab politicians in Baghdad's Sadr City slum on Friday.

Final results from the elections could be released this week and could be fully certified by the end of the month after any appeals are heard. Some Sunni Arabs have protested that the vote was tainted by fraud.

The results are expected to show the religious Shi'ite United Iraqi Alliance with a strong lead. The Shi'ites will need to form a coalition government, however, with support from Kurdish and Sunni Arab political groups.

Lawmakers Call On Iraq To Shape Up (LAT)

By Borzou Daragahi

The Los Angeles Times, January 8, 2006

BAGHDAD — A bipartisan congressional delegation that included Sen. Barack Obama (D-Ill.) had a blunt assessment Saturday for Iraq's political leaders: Shape up, or America will ship out.

The continued U.S. commitment to Iraq is becoming a tougher sell back home, said the four lawmakers, and unless Iraqis start showing signs of progress by creating a broad-based government and security forces that incorporate all of Iraq's ethnic and sectarian groups, Americans will lose patience, they said.

"It's going to be hard to convince American taxpayers to pour water into a leaky bucket," said Obama, a member of the Senate Foreign Relations Committee. He spoke briefly with a small group of reporters inside former Iraqi President Saddam Hussein's Republican Palace, which is now used as an annex for the U.S. Embassy.

Obama, with Sen. Christopher S. Bond (R-Mo.), Sen. Evan Bayh (D-Ind.) and Rep. Harold E. Ford Jr. (D-Tenn.), arrived in Iraq on Saturday for a whirlwind trip that included meetings with American intelligence and reconstruction specialists and Iraqi election officials in the capital's U.S.-protected Green Zone. They plan visits today with troops in outlying provinces.

Although the lawmakers said their constituents were proud of America's accomplishments in Iraq, they were loath to commit further U.S. money and troops if the Iraqi government elected last month did not include all the country's ethnic and political factions.

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"We are willing to continue to help them as long as they are willing to move forward toward a national unity government," said Bond, known as a backer of the U.S. military. "We are not here to participate in something that is dominated by one particular party or one particular sect."

To date, Congress has approved more than $300 billion for the wars in Iraq and Afghanistan, according to the Congressional Research Service. And lawmakers say the Pentagon is drafting a request for as much as $100 billion more.

With 2006 midterm elections on the horizon and American opinion polls showing wavering enthusiasm for involvement in Iraq, pressure has been building on members of Congress and President Bush to demonstrate progress or to craft an exit plan.

Bayh, who is eyeing a 2008 White House bid, outlined half a dozen milestones that he and his colleagues said they would like to see Iraqis achieve over the next six months to be able to convince American voters that the continued commitment to Iraq was worthwhile.

Among the goals were the quick formation of a government, signs of economic progress, acceptance of the political process by Sunni Arabs and the formation of a civil service and security forces that reflect Iraq's various ethnic and sectarian groups.

Iraqis must ask themselves some tough questions, Bayh said: "Do the Iraqis want to live together in one country? Are they willing to make the tough political compromises necessary to bring that about? If they don't, in spite of all our help [the conflict] will not end."

It remains unclear how much sway U.S. officials will have over the new Iraqi government, which appears set to be dominated Shiite Islamists with ties to Iran and by autonomy-minded Kurds.

After a week marked by major insurgent attacks, little violence was reported Saturday. Police special forces on patrol in eastern Baghdad were hit by a car bomb, injuring four commandos and five civilians.

The Real Choice In Iraq (WP)

By Zbigniew Brzezinski

The Washington Post, January 8, 2006

"Bring 'em on."

-- President Bush on Iraqi insurgents, summer 2003

The insurgency is "in its last throes."

-- Vice President Cheney,

summer 2005

" . . . there are only two options before our country: victory or defeat."

-- President Bush, Christmas 2005

The administration's rhetorical devolution speaks for itself. Yet, with some luck and with a more open decision-making process in the White House, greater political courage on the part of Democratic leaders and even some encouragement from authentic Iraqi leaders, the U.S. war in Iraq could (and should) come to an end within a year.

"Victory or defeat" is, in fact, a false strategic choice. In using this formulation, the president would have the American people believe that their only options are either "hang in and win" or "quit and lose." But the real, practical choice is this: "persist but not win" or "desist but not lose."

Victory, as defined by the administration and its supporters -- i.e., a stable and secular democracy in a unified Iraqi state, with the insurgency crushed by the American military assisted by a disciplined, U.S.-trained Iraqi national army -- is unlikely. The U.S. force required to achieve it would have to be significantly larger than the present one, and the Iraqi support for a U.S.-led counterinsurgency would have to be more motivated. The current U.S. forces (soon to be reduced) are not large enough to crush the anti-American insurgency or stop the sectarian Sunni-Shiite strife. Both problems continue to percolate under an inconclusive but increasingly hated foreign occupation.

Moreover, neither the Shiites nor the Kurds are likely to subordinate their specific interests to a unified Iraq with a genuine, single national army. As the haggling over the new government has already shown, the two dominant forces in Iraq -- the religious Shiite alliance and the separatist Kurds -- share a common interest in preventing a restoration of Sunni domination, with each determined to retain a separate military capacity for asserting its own specific interests, largely at the cost of the Sunnis. A truly national army in that context is a delusion. Continuing doggedly to seek "a victory" in that fashion dooms America to rising costs in blood and money, not to mention the intensifying Muslim hostility and massive erosion of America's international legitimacy, credibility and moral reputation.

The administration's definition of "defeat" is similarly misleading. Official and unofficial spokesmen often speak in terms that recall the apocalyptic predictions made earlier regarding the consequences of American failure to win in Vietnam: dominoes

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falling, the region exploding and U.S. power discredited. An added touch is the notion that the Iraqi insurgents will then navigate the Atlantic and wage terrorism on the American homeland.

The real choice that needs to be faced is between:

An acceptance of the complex post-Hussein Iraqi realities through a relatively prompt military disengagement -- which would include a period of transitional and initially even intensified political strife as the dust settled and as authentic Iraqi majorities fashioned their own political arrangements.

An inconclusive but prolonged military occupation lasting for years while an elusive goal is pursued.

It is doubtful, to say the least, that America's domestic political support for such a futile effort could long be sustained by slogans about Iraq's being "the central front in the global war on terrorism."

In contrast, a military disengagement by the end of 2006, derived from a more realistic definition of an adequate outcome, could ensure that desisting is not tantamount to losing. In an Iraq dominated by the Shiites and the Kurds -- who together account for close to 75 percent of the population -- the two peoples would share a common interest in Iraq's independence as a state. The Kurds, with their autonomy already amounting in effect to quasi-sovereignty, would otherwise be threatened by the Turks. And the Iraqi Shiites are first of all Arabs; they have no desire to be Iran's satellites. Some Sunnis, once they were aware that the U.S. occupation was drawing to a close and that soon they would be facing an overwhelming Shiite-Kurdish coalition, would be more inclined to accommodate the new political realities, especially when deprived of the rallying cry of resistance to a foreign occupier.

In addition, it is likely that both Kuwait and the Kurdish regions of Iraq would be amenable to some residual U.S. military presence as a guarantee against a sudden upheaval. Once the United States terminated its military occupation, some form of participation by Muslim states in peacekeeping in Iraq would be easier to contrive, and their involvement could also help to cool anti-American passions in the region.

In any case, as Iraqi politics gradually become more competitive, it is almost certain that the more authentic Iraqi leaders (not handpicked by the United States) -- to legitimate their claim to power -- will begin to demand publicly a firm date for U.S. withdrawal. That is all to the good. In fact, they should be quietly encouraged to do so, because that would increase their popular support while allowing the United States to claim a soberly redefined "Mission Accomplished."

The requisite first step to that end is for the president to break out of his political cocoon. His policymaking and his speeches are the products of the true believers around him who are largely responsible for the mess in Iraq. They have a special stake in their definition of victory, and they reinforce his convictions instead of refining his judgments. The president badly needs to widen his circle of advisers. Why not consult some esteemed Republicans and Democrats not seeking public office -- say, Warren Rudman or Colin Powell or Lee Hamilton or George Mitchell -- regarding the definition of an attainable yet tolerable outcome in Iraq?

Finally, Democratic leaders should stop equivocating while carping. Those who want to lead in 2008 are particularly unwilling to state clearly that ending the war soon is both desirable and feasible. They fear being labeled as unpatriotic. Yet defining a practical alternative would provide a politically effective rebuttal to those who mindlessly seek an unattainable "victory." America needs a real choice regarding its tragic misadventure in Iraq.

The writer was national security adviser to President Jimmy Carter.

Saddam's Terror Training Camps (WKLYSTD)

By Stephen F. Hayes

Weekly Standard, January 16, 2006

THE FORMER IRAQI REGIME OF Saddam Hussein trained thousands of radical Islamic terrorists from the region at camps in Iraq over the four years immediately preceding the U.S. invasion, according to documents and photographs recovered by the U.S. military in postwar Iraq. The existence and character of these documents has been confirmed to THE WEEKLY STANDARD by eleven U.S. government officials.

The secret training took place primarily at three camps--in Samarra, Ramadi, and Salman Pak--and was directed by elite Iraqi military units. Interviews by U.S. government interrogators with Iraqi regime officials and military leaders corroborate the documentary evidence. Many of the fighters were drawn from terrorist groups in northern Africa with close ties to al Qaeda, chief among them Algeria's GSPC and the Sudanese Islamic Army. Some 2,000 terrorists were trained at these Iraqi camps each year from 1999 to 2002, putting the total number at or above 8,000. Intelligence officials believe that some of these terrorists returned to Iraq and are responsible for attacks against Americans and Iraqis. According to three officials with knowledge of the intelligence on Iraqi training camps, White House and National Security Council officials were briefed on these findings in May 2005; senior Defense Department officials subsequently received the same briefing.

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The photographs and documents on Iraqi training camps come from a collection of some 2 million "exploitable items" captured in postwar Iraq and Afghanistan. They include handwritten notes, typed documents, audiotapes, videotapes, compact discs, floppy discs, and computer hard drives. Taken together, this collection could give U.S. intelligence officials and policymakers an inside look at the activities of the former Iraqi regime in the months and years before the Iraq war.

The discovery of the information on jihadist training camps in Iraq would seem to have two major consequences: It exposes the flawed assumptions of the experts and U.S. intelligence officials who told us for years that a secularist like Saddam Hussein would never work with Islamic radicals, any more than such jihadists would work with an infidel like the Iraqi dictator. It also reminds us that valuable information remains buried in the mountain of documents recovered in Afghanistan and Iraq over the past four years.

Nearly three years after the U.S. invasion of Iraq, only 50,000 of these 2 million "exploitable items" have been thoroughly examined. That's 2.5 percent. Despite the hard work of the individuals assigned to the "DOCEX" project, the process is not moving quickly enough, says Michael Tanji, a former Defense Intelligence Agency official who helped lead the document exploitation effort for 18 months. "At this rate," he says, "if we continue to approach DOCEX in a linear fashion, our great-grandchildren will still be sorting through this stuff."

Most of the 50,000 translated documents relate directly to weapons of mass destruction programs and scientists, since David Kay and his Iraq Survey Group--who were among the first to analyze the finds--considered those items top priority. "At first, if it wasn't WMD, it wasn't translated. It wasn't exploited," says a former military intelligence officer who worked on the documents in Iraq.

"We had boxloads of Iraqi Intelligence records--their names, their jobs, all sorts of detailed information," says the former military intelligence officer. "In an insurgency, wouldn't that have been helpful?"

How many of those unexploited documents might help us better understand the role of Iraq in supporting transregional terrorists? How many of those documents might provide important intelligence on the very people--Baathists, former regime officials, Saddam Fedayeen, foreign fighters trained in Iraq--that U.S. soldiers are fighting in Iraq today? Is what we don't know literally killing us?

ON NOVEMBER 17, 2005, Michigan representative Pete Hoekstra wrote to John Negroponte, the director of national intelligence. Hoekstra is chairman of the House Intelligence Committee. He provided Negroponte a list of 40 documents recovered in postwar Iraq and Afghanistan and asked to see them. The documents were translated or summarized, given titles by intelligence analysts in the field, and entered into a government database known as HARMONY. Most of them are unclassified.

For several weeks, Hoekstra was promised a response. He finally got one on December 28, 2005, in a meeting with General Michael Hayden, principal deputy director of national intelligence. Hayden handed Hoekstra a letter from Negroponte that promised a response after January 1, 2006. Hoekstra took the letter, read it, and scribbled his terse response. "John--Unacceptable." Hoekstra told Hayden that he would expect to hear something before the end of the year. He didn't.

"I can tell you that I'm reaching the point of extreme frustration," said Hoekstra, in a phone interview last Thursday. His exasperated tone made the claim unnecessary. "It's just an indication that rather than having a nimble, quick intelligence community that can respond quickly, it's still a lumbering bureaucracy that can't give the chairman of the intelligence committee answers relatively quickly. Forget quickly, they can't even give me answers slowly."

On January 6, however, Hoekstra finally heard from Negroponte. The director of national intelligence told Hoekstra that he is committed to expediting the exploitation and release of the Iraqi documents. According to Hoekstra, Negroponte said: "I'm giving this as much attention as anything else on my plate to make this work."

Other members of Congress--including Rep. Dana Rohrabacher and Senators Rick Santorum and Pat Roberts--also demanded more information from the Bush administration on the status of the vast document collection. Santorum and Hoekstra have raised the issue personally with President Bush. This external pressure triggered an internal debate at the highest levels of the administration. Following several weeks of debate, a consensus has emerged: The vast majority of the 2 million captured documents should be released publicly as soon as possible.

Defense Secretary Donald Rumsfeld has convened several meetings in recent weeks to discuss the Pentagon's role in expediting the release of this information. According to several sources familiar with his thinking, Rumsfeld is pushing aggressively for a massive dump of the captured documents. "He has a sense that public vetting of this information is likely to be as good an astringent as any other process we could develop," says Pentagon spokesman Larry DiRita.

The main worry, says DiRita, is that the mainstream press might cherry-pick documents and mischaracterize their meaning. "There is always the concern that people would be chasing a lot of information good or bad, and when the Times or the Post splashes a headline about some sensational-sounding document that would seem to 'prove' that sanctions were working, or that Saddam was just a misunderstood patriot, or some other nonsense, we'd spend a lot of time chasing around after it."

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This is a view many officials attributed to Undersecretary of Defense for Intelligence Steve Cambone. (Cambone, through a spokesman, declined to be interviewed.) For months, Cambone has argued internally against expediting the release of the documents. "Cambone is the problem," says one former Bush administration official who wants the documents released. "He has blocked this every step of the way." In what is perhaps a sign of a changing dynamic within the administration, Cambone is now saying that he, like his boss, favors a broad document release.

Although Hoekstra, too, has been pushing hard for the quick release of all of the documents, he is currently focusing his efforts simply on obtaining the 40 documents he asked for in November. "There comes a time when the talking has to stop and I get the documents. I requested these documents six weeks ago and I have not seen a single piece of paper yet."

Is Hoekstra being unreasonable? I asked Michael Tanji, the former DOCEX official with the Defense Intelligence Agency, how long such a search might take. His answer: Not long. "The retrieval of a HARMONY document is a trivial thing assuming one has a serial number or enough keyword terms to narrow down a search [Hoekstra did]. If given the task when they walked in the door, one person should be able to retrieve 40 documents before lunch."

Tanji should know. He left DIA last year as the chief of the media exploitation division in the office of document exploitation. Before that, he started and managed a digital forensics and intelligence fusion program that used the data obtained from DOCEX operations. He began his career as an Army signals intelligence [SIGINT] analyst. In all, Tanji has worked for 18 years in intelligence and dealt with various aspects of the media exploitation problem for about four years.

We discussed the successes and failures of the DOCEX program, the relative lack of public attention to the project, and what steps might be taken to expedite the exploitation of the documents in the event the push to release all of the documents loses momentum.

TWS: In what areas is the project succeeding? In what areas is the project failing?

Tanji: The level of effort applied to the DOCEX problems in Iraq and Afghanistan to date is a testament to the will and work ethic of people in the intelligence community. They've managed to find a number of golden nuggets amongst a vast field of rock in what I would consider a respectable amount of time through sheer brute force. The flip side is that it is a brute-force effort. For a number of reasons--primarily time and resources--there has not been much opportunity to step back, think about a smarter way to solve the problem, and then apply various solutions. Inasmuch as we've won in Iraq and Saddam and his cronies are in the dock, now would be a good time to put some fresh minds on the problem of how you turn DOCEX into a meaningful and effective information-age intelligence tool.

TWS: Why haven't we heard more about this project? Aren't most of the Iraqi documents unclassified?

Tanji: Until a flood of captured material came rushing in after the start of Operation Enduring Freedom [in October 2001], DOCEX was a backwater: unglamorous, not terribly career enhancing, and from what I had heard always one step away from being mothballed.

The classification of documents obtained for exploitation varies based on the nature of the way they were obtained and by whom. There are some agencies that tend to classify everything regardless of how it was acquired. I could not give you a ratio of unclassified to classified documents.

In my opinion the silence associated with exploitation work is rooted in the nature of the work. In addition to being tedious and time-consuming, it is usually done after the shooting is over. We place a higher value on intelligence information that comes to us before a conflict begins. Confirmation that we were right (or proof that we were wrong) after the fact is usually considered history. That some of this information may be dated doesn't mean it isn't still valuable.

TWS: The project seems overwhelmed at the moment, with a mere 50,000 documents translated completely out of a total of 2 million. What steps, in your view, should be taken to expedite the process?

Tanji: I couldn't say what the total take of documents or other forms of media is, though numbers in the millions are probably not far off.

In a sense the exploitation process is what it is; you have to put eyes on paper (or a computer screen) to see what might be worth further translation or deeper analysis. It is a time-consuming process that has no adequate mechanical solution. Machine translation software is getting better, but it cannot best a qualified human linguist, of which we have very few.

Tackling the computer media problem is a lot simpler in that computer language (binary) is universal, so searching for key words, phrases, and the names of significant personalities is fairly simple. Built to deal with large-scale data sets, a forensic computer system can rapidly separate wheat from chaff. The current drawback is that the computer forensics field is dominated by a law-enforcement mindset, which means the approach to the digital media problem is still very linear. As most of this material has come to us without any context ("hard drives found in Iraq" was a common label attached to captured media) that approach means our great-grandchildren will still be dealing with this problem.

Dealing with the material as the large and nebulous data set that it is and applying a contextual appliqué after exploitation--in essence, recreating the Iraqi networks as they were before Operation Iraqi Freedom began--would allow us to get at the most

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significant data rapidly for technical analysis, and allow for a political analysis to follow in short order. If I were looking for both a quick and powerful fix I'd get various Department of Energy labs involved; they're used to dealing with large data sets and have done great work in the data mining and rendering fields.

TWS: To read some of the reporting on Iraq, one might come away with the impression that Saddam Hussein was something of a benign (if not exactly benevolent) dictator who had no weapons of mass destruction and no connections to terrorism. Does the material you've seen support this conventional wisdom?

Tanji: I am subject to a nondisclosure agreement, so I would rather not get into details. I will say that the intelligence community has scraped the surface of much of what has been captured in Iraq and in my view a great deal more deep digging is required. Critics of the war often complain about the lack of "proof"--a term that I had never heard used in the intelligence lexicon until we ousted Saddam--for going to war. There is really only one way to obtain "proof" and that is to carry out a thorough and detailed examination of what we've captured.

TWS: I've spoken with several officials who have seen unclassified materials indicating the former Iraqi regime provided significant support--including funding and training--to transregional terrorists, including Palestinian Islamic Jihad, Ansar al Islam, Algeria's GSPC, and the Sudanese Islamic Army. Did you see any of this?

Tanji: My obligations under a nondisclosure agreement prevent me from getting into this kind of detail.

Other officials familiar with the captured documents were less cautious. "As much as we overestimated WMD, it appears we underestimated [Saddam Hussein's] support for transregional terrorists," says one intelligence official.

Speaking of Ansar al Islam, the al Qaeda-linked terrorist group that operated in northern Iraq, the former high-ranking military intelligence officer says: "There is no question about the fact that AI had reach into Baghdad. There was an intelligence connection between that group and the regime, a financial connection between that group and the regime, and there was an equipment connection. It may have been the case that the IIS [Iraqi Intelligence Service] support for AI was meant to operate against the [anti-Saddam] Kurds. But there is no question IIS was supporting AI."

The official continued: "[Saddam] used these groups because he was interested in extending his influence and extending the influence of Iraq. There are definite and absolute ties to terrorism. The evidence is there, especially at the network level. How high up in the government was it sanctioned? I can't tell you. I don't know whether it was run by Qusay [Hussein] or [Izzat Ibrahim] al-Duri or someone else. I'm just not sure. But to say Iraq wasn't involved in terrorism is flat wrong."

STILL, some insist on saying it. Since early November, Senator Carl Levin has been spotted around Washington waving a brief excerpt from a February 2002 Defense Intelligence Agency assessment of Iraq. The relevant passage reads: "Saddam's regime is intensely secular and is wary of Islamic revolutionary movements. Moreover, Baghdad is unlikely to provide assistance to a group it cannot control."

Levin treats these two sentences as definitive proof that Bush administration officials knew that Saddam's regime was unlikely to work with Islamic fundamentalists and ignored the intelligence community's assessment to that effect. Levin apparently finds the passage so damning that he specifically requested that it be declassified.

I thought of Levin's two sentences last Wednesday and Thursday as I sat in a Dallas courtroom listening to testimony in the deportation hearing of Ahmed Mohamed Barodi, a 42-year-old Syrian-born man who's been living in Texas for the last 15 years. I thought of Levin's sentences, for example, when Barodi proudly proclaimed his membership in the Syrian Muslim Brotherhood, and again when Barodi, dressed in loose-fitting blue prison garb, told Judge J. Anthony Rogers about the 21 days he spent in February 1982 training with other members of the Syrian Muslim Brotherhood at a camp in Iraq.

The account he gave in the courtroom was slightly less alarming than the description of the camp he had provided in 1989, on his written application for political asylum in the United States. In that document, Barodi described the instruction he received in Iraq as "guerrilla warfare training." And in an interview in February 2005 with Detective Scott Carr and special agent Sam Montana, both from the federal Joint Terrorism Task Force, Barodi said that the Iraqi regime provided training in the use of firearms, rocket-propelled grenades, and document forgery.

Barodi comes from Hama, the town that was leveled in 1982 by the armed forces of secular Syrian dictator Hafez Assad because it was home to radical Islamic terrorists who had agitated against his regime. The massacre took tens of thousands of lives, but some of the extremists got away.

Many of the most radical Muslim Brotherhood refugees from Hama were welcomed next door--and trained--in Saddam Hussein's Iraq. Spanish investigators believe that Ghasoub Ghalyoun, the man they have accused of conducting surveillance for the 9/11 attacks, who also has roots in the Syrian Muslim Brotherhood, was trained in an Iraqi terrorist camp in the early 1980s. Ghalyoun mentions this Iraqi training in a 2001 letter to the head of Syrian intelligence, in which he seeks reentry to Syria despite his long affiliation with the Muslim Brotherhood.

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Reaching out to Islamic radicals was, in fact, one of the first moves Saddam Hussein made upon taking power in 1979. That he did not do it for ideological reasons is unimportant. As Barodi noted at last week's hearing, "He used us and we used him."

Throughout the 1980s, including the eight years of the Iran-Iraq war, Saddam cast himself as a holy warrior in his public rhetoric to counter the claims from Iran that he was an infidel. This posturing continued during and after the first Gulf war in 1990-91. Saddam famously ordered "Allahu Akbar" (God is Great) added to the Iraqi flag. Internally, he launched "The Faith Campaign," which according to leading Saddam Hussein scholar Amatzia Baram included the imposition of sharia (Islamic law). According to Baram, "The Iraqi president initiated laws forbidding the public consumption of alcohol and introduced enhanced compulsory study of the Koran at all educational levels, including Baath Party branches."

Hussein Kamel, Saddam's son-in-law who defected to Jordan in 1995, explained these changes in an interview with Rolf Ekeus, then head of the U.N. weapons inspection program. "The government of Iraq is instigating fundamentalism in the country," he said, adding, "Every party member has to pass a religious exam. They even stopped party meetings for prayers."

And throughout the decade, the Iraqi regime sponsored "Popular Islamic Conferences" at the al Rashid Hotel that drew the most radical Islamists from throughout the region to Baghdad. Newsweek's Christopher Dickey, who covered one of those meetings in 1993, would later write: "Islamic radicals from all over the Middle East, Africa and Asia converged on Baghdad to show their solidarity with Iraq in the face of American aggression." One speaker praised "the mujahed Saddam Hussein, who is leading this nation against the nonbelievers." Another speaker said, "Everyone has a task to do, which is to go against the American state." Dickey continued:

Every time I hear diplomats and politicians, whether in Washington or the capitals of Europe, declare that Saddam Hussein is a "secular Baathist ideologue" who has nothing do with Islamists or with terrorist calls to jihad, I think of that afternoon and I wonder what they're talking about. If that was not a fledgling Qaeda itself at the Rashid convention, it sure was Saddam's version of it.

In the face of such evidence, Carl Levin and other critics of the Iraq war trumpet deeply flawed four-year-old DIA analyses. Shouldn't the senator instead use his influence to push for the release of Iraqi documents that will help establish what, exactly, the Iraqi regime was doing in the years before the U.S. invasion?

Stephen F. Hayes is a senior writer at The Weekly Standard.

U.S. Soldiers Question Use Of More Armor (AP-Y2)

By Ryan Lenz

AP, January 8, 2006

U.S. soldiers in the field were not all supportive of a Pentagon study that found improved body armor saves lives, with some troops arguing Saturday that more armor would hinder combat effectiveness.

The unreleased study examined 93 fatal wounds to Marines from the start of the Iraq war in March 2003 through June 2005. It concluded 74 of them were bullet or shrapnel wounds to shoulders or torso areas unprotected by traditional ceramic armor plating.

Soldiers from the 101st Airborne Division's 3rd Brigade "Rakkasans" are required to wear an array of protective clothing they refer to as their "happy gear," ranging from Kevlar drapes over their shoulders and sides, to knee pads and fire-resistant uniforms.

But many soldiers say they feel encumbered by the weight and restricted by fabric that does not move as they do. They frequently joke as they strap on their equipment before a patrol, and express relief when they return and peel it off.

Second Lt. Josh Suthoff, 23, of Jefferson City, Mo., said he already sacrifices enough movement when he wears the equipment. More armor would only increase his chances of getting killed, he said.

"You can slap body armor on all you want, but it's not going to help anything. When it's your time, it's your time," said Suthoff, a platoon leader in the brigade's 1st Squadron, 33rd Cavalry Regiment. "I'd go out with less body armor if I could."

The study and their remarks highlight the difficulty faced by the Army and Marine Corps in providing the best level of body armor protection in a war against an insurgency whose tactics are constantly changing.

Both the Army and the Marines have weighed the expected payoff in additional safety from extra armor against the measurable loss of combat effectiveness from too much armor.

According to a summary of the Armed Forces Medical Examiner's study obtained Friday evening by The Associated Press, the 93 Marines who died from a primary lethal injury of the torso were among 401 Marines who died from combat injuries in Iraq between the start of the war and June 2005.

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A military advocacy group, Soldiers for Truth, posted an article about the study on its Web site this week. On Friday evening, The New York Times reported in its online edition that the study for the first time shows the cost in lives lost from inadequate armor.

Autopsy reports and photographic records were analyzed to help the military determine possible body armor redesign.

Of 39 fatal torso wounds in which the bullet or shrapnel entered the Marine's body outside of the ceramic armor plate protecting the chest and back, 31 were close to the plate's edge, according to the study, which was conducted last summer.

Some soldiers felt unhappy that ceramic plates to protect their sides and shoulders were available, but not offered, when they deployed for Iraq in September.

"If it's going to protect a soldier or save his life, they definitely should have been afforded the opportunity to wear it," said Staff Sgt. Shaun Benoit, 26, of Conneaut, Ohio. "I want to know where there was a break in communication."

Others questioned the effectiveness of additional body armor.

"It's the Army's responsibility to get soldiers the armor they need. But that doesn't mean those deaths could have been prevented," said Spc. Robert Reid, 21, of Atlanta.

Sen. Barack Obama, D-Ill., who was in Iraq on Saturday, said military leaders told him that body armor has improved since the initial invasion in 2003 and that the military hoped to gradually transition to the improved armor.

The debate between protection versus mobility has dominated military doctrine since the Middle Ages, when knights wrapped themselves in metal suits for battle, said Capt. Jamey Turner, 35, of Baton Rouge, La., a commander in the 1st Squadron, 33rd Cavalry Regiment.

The issue comes up daily on the battlefield in Iraq, and soldiers need to realize there is no such thing as 100 percent protection, he said.

"You've got to sacrifice some protection for mobility," he added. "If you cover your entire body in ceramic plates, you're just not going to be able to move."

Others in the regiment said the issue of protecting soldiers with more body armor is of greater concern at home than among soldiers in Iraq, who have seen firsthand how life and death hang on a sliver of luck when an improvised explosive device hits a Humvee.

"These guys over here are husbands, sons and daughters. It's understandable people at home would want all the protection in the world for us. But realistically, it just don't work," said Sgt. Paul Hare, 40, of Tucumcari, N.M.

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AP Military Writer Robert Burns in Washington contributed to this report.

Marines Without Armor (NYT)

The New York Times, January 8, 2006

American marines are a proud, tough bunch. They expect to be sent into the most dangerous battles and expect enemy fighters to come at them with everything they have. But they also expect, and have every right to expect, the Pentagon to provide them with the most effective armor available to maximize their chances of staying alive and in one piece. An investigative article in Saturday's Times by our colleague Michael Moss makes painfully clear that the Pentagon has let these brave warriors down.

A secret Defense Department study reveals that more extensive armor, of a kind available since 2003, could have saved the lives of some 80 percent of the marines killed by upper body wounds in Iraq between 2003 and 2005. That amounts to scores of needlessly lost lives - hundreds if Army deaths attributable to inadequate armor are counted as well. The ceramic armor plates in question cost about $260 a set.

Marines in the field have been clamoring for additional body armor (and vehicle armor) almost since the Iraq war began. Military officials initially turned them down because of concerns that the added weight might constrict movement. Once the study results came in last summer, Marine Corps leaders belatedly reversed themselves and started speeding armor to the troops.

Still, as of last month, less than 10 percent of the 28,000 sets of armor plates on order had actually reached the Marines in Iraq. Similar delays have plagued deliveries of improved vehicle armor. And the much larger Army contingent in Iraq has faced even more extensive delays.

The Pentagon buys some truly wondrous space-age weaponry with its half-trillion-dollar annual budgets. If the cold war ever resumes, the American military will certainly be prepared. Meantime, surely enough spare change can be found in that vast budget to accelerate deliveries of lifesaving armor to the marines and soldiers coming under fire today, and every day, in Iraq.

For Returning Unit In Iraq, A Battle With Doubts (BOS)

By Thanassis Cambanis

The Boston Globe, January 8, 2006

DOJ_NMG_0008688

KIRKUK, Iraq -- Captain John McLaughlin's company of combat veterans has returned to Iraq. They have brought far fewer illusions this time around, exchanging unalloyed enthusiasm for Operation Iraqi Freedom in the spring of 2003 for a mix of professionalism, resignation, and cynicism.

The enlisted men from the 101st Airborne Division now know much more about the country, confidently factoring in competing ethnic agendas as they navigate the claims of Kurds, Arab Sunnis and Shi'ites, and Turkomen.

Most dismiss the American debate over the merits of the war as irrelevant, many of them saying they fight out of loyalty to the Army even if they think its mission in Iraq is unrealistic. Most profess no love for Iraq and its people.

When these air assault paratroopers returned to Iraq in October, the theater of battle was barely recognizable to them.

In April 2003, the Second Battalion 327th Infantry of the 101st fought its way through the nastiest combat of the Iraq invasion, leaping out of helicopters to fight Saddam Hussein loyalists in Najaf and Mosul, where they eventually established a forward-fire base south of the city and stayed until February 2004.

The division suffered 59 deaths that year. They returned to their post at Fort Campbell, Ky., for a year and a half before returning to Iraq in October.

But 2003 seems like ages ago to the young veterans.

The battalion that arrived in Kirkuk -- about two-thirds of them veterans of Iraq or Afghanistan -- found a base so cushy that commanders worry the soldiers will go soft, forgetting they're stationed in a war zone. Instead of sleeping on the floors of gutted warehouses, eating military rations, and burning their own sewage in trenches behind their quarters, soldiers now benefit from the infrastructure of a long occupation.

FOB Warrior, as the air base is known, boasts hot showers, a dining hall, a gym, a swimming pool, two barbershops, and a beauty parlor that gives massages. There's a Burger King and a 24-hour Green Beans Coffee shop, where soldiers line up for chai lattes and brownies in the middle of the night.

The permanence of facilities at the Kirkuk base also hints of a mission without end.

The surrounding city is still a deadly place -- less lethal than Fallujah but more so than the Shi'ite south. On this tour, 26 soldiers from the 101st had been killed by mid-December.

After the 2003 invasion, US troops had clear marching orders: Catch Hussein and his lieutenants and stabilize Iraq. During the first few months, criminal gangs posed the greatest law-and-order challenge, not insurgents.

Some returning soldiers said that while they once believed they could quickly train Iraqi police to replace American troops, they've now set their sights much lower, hoping perhaps to set a decent example for police and soldiers they train but don't entirely trust.

"Regardless of whether this is the great march of democracy or protecting the shores of America, whether I bought into that or not, it doesn't matter," McLaughlin said late one night at his command post after returning from a long day of meetings with Iraqi police chiefs and army commanders. "My obligation as a soldier, as an officer, as a leader is to do the mission to the best of my ability. That's the only saving grace out of the whole thing."

During a four-day visit by a Globe reporter to the Kirkuk base, soldiers and their commanders -- most of them returning veterans -- said they see the Iraq mission as less ambitious, less achievable, and more stressful than they did almost three years ago.

The soldiers still work at battle rhythm, always on call and with no days off. And while still dangerous, their daily routine involves patrolling between Kirkuk's police stations and army bases, investigating assassinations and bomb attacks against Iraqis -- and, often, investigating the very Iraqi security forces they're trying to train.

An unclear enemy

Everywhere he looks, McLaughlin sees ambiguity. As he and his troops see it, most Iraqis don't like the Americans and tolerate their presence only when American interests coincide with their own.

In that sea of doubt, there are a few safe harbors.

For McLaughlin's Charlie Company, one is the putrid settlement they call the Gypsy Camp, an abandoned factory inhabited by squatters that doubles as a brothel.

McLaughlin enjoys the company of his soldiers, trading jokes delivered in his thick Boston accent. But he's intense while on the job, which is most of the time. While riding in his Humvee, he listens to updates from southern Kirkuk through an earpiece while chatting with the driver, gunner, sergeant, and interpreter who ride with him.

All of the city's major ethnic groups -- Kurds, Arabs, Turkomen -- share contempt for the gypsies. To McLaughlin, they represent the most blameless victims of the complex conflict in Iraq, and their mistreatment at the hands of Iraq's American-trained security forces reflects the greatest pitfall of the US Army's new mission: that Iraqi authorities might abuse their growing powers.

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Many of the Iraqi soldiers and police McLaughlin trains violate the ban on visiting the brothel. In mid-December, Iraqi soldiers allegedly beat several of the women and burned the tents the squatters had pitched behind the dingy, half-finished shell of a building.

"If we aren't here to protect these people, who are we here for?" McLaughlin asked during a visit to the camp.

Families live in a row of tents, while the prostitutes, wearing heavy makeup, magenta scarves, and velveteen pantaloons, stand in the factory entryway.

When McLaughlin pulled up in his Humvee to investigate the day after the Iraqi raid, four Iraqi soldiers tried to flee down a side road. McLaughlin's driver blocked their way.

The incident exemplifies the military's new mission in Iraq: The top priority is no longer to kill insurgents and search neighborhoods. Now, US troops are supposed to pour their energy into training Iraqi forces to do the job.

McLaughlin's superiors in Kirkuk boast that two-thirds of all patrols combine US and Iraqi forces and that within three months Iraqi units -- like the one that McLaughlin suspects routinely raids the brothel -- will be ready to take the lead policing Kirkuk.

The soldiers in the 101st Airborne have taken on this training mission with an arsenal they didn't have the first time they fought in Iraq. Most of the officers know rudimentary Arabic and have learned to spend time developing personal relationships with local police and army officers who can provide intelligence. They drink tea with their Iraqi counterparts and encourage them to concentrate on their mission.

On one Saturday morning patrol, McLaughlin grilled two police chiefs about an array of attacks and insurgent cells, prompting them to follow up specific leads and steering them back on track when they tried to shift the conversation away from crime and toward meaningless platitudes about Iraqi politics.

He also confronted the Iraqi Army company about the gypsies.

"We -- you, me, police -- we're all here to secure everybody within the city, and that includes the gypsies," McLaughlin thundered at a young Iraqi Army lieutenant. "By going down there and slapping them around, burning down their tent, it makes you look no better than a criminal."

Boredom and bureaucracy

Sergeant Matt Somma and Private Gregory Miller patrol together in a heavily armored Humvee that's prone to roll over. It's a much safer cocoon than the doorless Humvees that Somma patrolled in at the beginning of the Iraq war in the northern city of Mosul.

Both men came to Kirkuk in October with a vivid sense of Iraq.

Somma, 22, fought his way through some of the worst battles of 2003 and stayed until the end of February 2004. He sees no other life for himself but the army.

The Iraq war in its present phase, however, bores him: There's too much politics and not enough shooting for his taste.

As a team leader within his platoon, Somma spends much of his time enforcing new safety regulations for soldiers, making sure they're wearing goggles, they unload their guns when they return to base, and they don't let down their guard just because the conflict doesn't summon so much adrenaline.

"It kind of sucks sometimes," Somma said of the bureaucratic aspects of his job.

Tall, skinny, with a hooked nose, Somma towers over the other men in his platoon. He walks with a swagger and keeps up a constant verbal patter like a stage musician -- the only other career he says appeals to him. On patrol, he plays a game called "What are you thinking?" with the other sergeants on the radio, mixing absurd observations about the Iraqis in their area of operations, lyrics, and references to American television shows.

Somma also focuses much of his energy on the video game "Age of Empires III," which he plays on his laptop while huddled in his wooden bunk. Somma dedicates most waking hours when he's not on patrol to the game, in which he directs a civilization trying to conquer 17th-century America.

Miller, his platoon's old man at 27, quit his job as a diving instructor last year to fulfill a promise he made to his best childhood friend, Matt Brown, whom he refers to as his brother. Brown, an Army officer deployed in central Iraq a year ago, lost an eye when insurgents ambushed his convoy.

"I promised my brother that if he got hurt, I would join the Army," Miller said. "Eight months later, here I am. I knew what I was getting into."

The pace of life on deployment is draining, but it's also addictive. Somma said he wants a break from the Army to go to college but can't imagine blending back into civilian society. He and Miller both said they feel alienated by a society where they believe people don't take individual responsibility.

In Iraq, despite the murkiness of the mission, they have found crystal clarity in their relationship to their own unit -- so much so that on his last deployment Somma didn't take any of the leave to which he was entitled.

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Somma said the Iraq war is slowly becoming like Korea or Germany for career military personnel, a grueling ticket that everyone committed to the Army will have to punch. Even though this deployment has seen more soldiers from the 101st killed per month than in 2003, the mission feels more like work and less like war to Somma.

"There's not much contact" with the enemy, Somma said while driving his Humvee late one night down a rutted dirt road in the Arab section of Kirkuk. "Nothing's 100 percent safe, but Kirkuk is a pretty safe city."

He compared it wistfully to Mosul, where he was stationed last time and where his division won accolades for killing top Ba'athists, including Hussein's sons. "Mosul was just chaotic when we were there," he said with a smile.

A false sense of security

At Kirkuk Air Base, combat soldiers live on the far end of the airstrip. The support units and contractors -- the majority of whom never go "outside the wire" -- live on the other side.

A flier posted in nearly every building warns soldiers against taking false comfort from the amenities: "Quality of Life Warning!!!" it reads. "Quality of life on FOB Warrior is excellent. DO NOT get complacent and get lulled into a false sense of security. We are in a dangerous place and there are people outside of the FOB who want to kill you. Stay alert, stay alive!"

"Last time, we got here and there was nothing. It was weird coming back and seeing all this," Somma said.

On his last tour, Captain McLaughlin lived in an ammunition bunker with no power and no air conditioning. Now he has his own room with a door, a desk, a cot, and a shelf for his book of Tennyson poems and a library of other tomes he still hasn't gotten to -- "Don Quixote," a history of Islam, a polemic about reform in the Arab world.

Soldiers in Somma's platoon inherited a wireless Internet network set up by an Iraqi contractor. Commanders ordered it dismantled after Christmas, in part because it seemed too cushy.

Sophisticated soldiers and an Iraq mission no longer geared toward the climactic moment of national elections constitute a tough challenge for McLaughlin's company leadership: how to keep soldiers motivated when their success can be measured only through the goal of improving Iraqi security forces?

The answer, they say, is to think narrow.

"The guys look for small, incremental little victories," said the company's first lieutenant, Brett Bean.

First Sergeant Jason Larson, who turned 35 on Christmas Day and has spent 15 years in the Army, said he had always thought the Army would be his last job. But the inevitability of returning to Iraq, he said, has persuaded him to leave the military when his contract runs out in five years.

"I won't stay a day longer, even if I have to go work as a greeter at Wal-Mart," Larson said.

In a war without any benchmarks coming up, he said, commanders have to constantly refine their message to soldiers, billing small turning points like the improvement of an Iraqi battalion as major victories. "For us, the challenge will be to keep everyone focused," he said.

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Marine Battalion Taking 3rd Tour To Iraq (LAT)

By Tony Perry

The Los Angeles Times, January 8, 2006

CAMP PENDLETON — In the predawn chill of Saturday morning, Anna Plank of Huntington Beach was here to see her 21-year-old son, Marine Cpl. Jason Plank, begin the trip back to Iraq for his third tour of duty.

The waiting and worrying never get easier for the families of Marines, particularly those of the 3rd Battalion, 5th Marine Regiment, 1st Marine Division, which has a reputation for drawing the most dangerous of assignments.

"You pray a lot and you stay busy, and you wait for those phone calls and letters to arrive," Anna Plank said.

But there is something else that family members pray never arrives: an official car with an officer or senior enlisted man, possibly accompanied by a chaplain. That's how the Marine Corps notifies families that a loved one has been killed.

"During his last deployment, I saw an official car in the neighborhood, and I immediately ran upstairs and closed the door as if that could stop it," said Plank, a tear on her cheek at the memory. "But it wasn't that, thank God."

Among the hundreds of family members who gathered to see 300 Marines and sailors board buses that would take them to a nearby airport, fear of the "knock on the door" was a shared experience.

"I remember one day an officer came to our office complex and my heart stopped; it just stopped," said Julie Galaviz of Whittier, whose son, Lance Cpl. Joshua Tallis, 21, is returning to Iraq for a third tour.

The 3-5, as it is known, is the first battalion from Camp Pendleton to depart for Iraq as the 1st Marine Expeditionary Force begins to relieve troops from Camp Lejeune, N.C., in violence-plagued Al Anbar province west of Baghdad.

In 2003, three Marines from the battalion were killed in Iraq. In 2004, 19 were killed, most in the November fight to wrest control of Fallouja from the insurgents. The 3-5 was one of the lead units in the assault.

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Now the battalion is returning to Fallouja for a seven-month deployment to help train Iraqi security forces, although that assignment could change if U.S. commanders order an assault on insurgent strongholds.

An estimated two-thirds of the battalion's 1,000 Marines have made at least one deployment to Iraq. Like the Marines, family members have developed strategies for survival.

"You need to surround yourself with friends and family, and stay focused," said Lauren Maricic, 23, of Ontario whose boyfriend, Cpl. Miles Nelson, 21, is returning for a third tour.

"And the friends and family members have to be ready to get a phone call at 2 o'clock in the morning if you need support," she said.

Anna Goad, 23, of Irvine and her husband, Cpl. Michael Goad, 25, were sharing a last hug as the buses rolled into sight and Marines began grabbing their rifles. Sergeants began barking orders, and the tears and tension among family members increased.

"Everybody is afraid of the knock on the door," Anna Goad said. "But it's absolutely not going to happen to us. I know that."

Donna Meyers, 72, and her husband, A.J., 76, drove from their home in Riverbank, Calif., near Modesto, to say goodbye to their grandson Rich, making his third tour. She wears his picture on a chain around her neck.

"We lost one boy from his group last time, and it was hard, real hard," Donna Meyers said. "Rich met his mother."

On Thursday night, Tallis' family met at his grandmother's house in Pico Rivera for a dinner with his favorite foods: barbecued ribs, rice pilaf, scalloped potatoes, strawberry ice cream and more.

On Friday, Tallis visited with the family priest at St. Bruno's Catholic Church in Whittier for a blessing.

Hayley Lynn, 18, of La Crescenta married Lance Cpl. Chad Lynn, 19, on Tuesday at a chapel in Las Vegas. As his departure to Iraq for his first tour grew closer, she extracted a promise.

"He promised me that he wouldn't die," she said.

Army Captain Employed Daring, Intellect (WP)

By Eric Rich

The Washington Post, January 8, 2006

Christopher P. Petty barely squeaked by as a high school student in Virginia, his father said, but he thrived amid the rigors of military culture, rising to the rank of captain and commanding an artillery battalion in Iraq.

"It's just kind of a typical American story where . . . the combination of life and experience in the military turns him completely around to where he's a model officer," said Paul R. Petty, a retired CIA officer.

Petty, 33, was killed in Najaf on Thursday along with four other soldiers when an improvised explosive detonated near their Humvee, the Defense Department said. He was three weeks into his second tour of duty in Iraq.

Petty was a father of two -- Oliver, 3, and Owen, 3 months -- and he and his wife, Deborah, had lived near Fort Hood, Tex., where he was assigned to the 4th Infantry Division.

Because of his father's work, Petty grew up overseas. He was born in Berlin and lived in Austria, Finland and Jamaica. He was a graduate of James Madison High School in Vienna and attended Marshall University in Huntington, W.Va., where he was enrolled in the ROTC program.

He was commissioned in the Army upon graduation. Ed Petty, an artillery officer in World War II, pinned his own second lieutenant's bars and crossed cannon artillery insignia on his grandson at the commissioning.

Petty's unit entered Iraq just days after the initial invasion, engaging some of the last Republican Guard elements near Tikrit in the north.

Stationed not far from the Iranian border, his father said, Petty served informally as a civil affairs officer with the responsibility of running local elections and formally as the artillery coordinator for his battalion. Petty devised a clever method, one that he employed daringly, for responding to frequent mortar attacks, his father said. Petty would calculate the mortars' trajectories by examining impact craters and tail fins, then determine from where the rounds had been fired.

"He'd go out where they were impacting, sometimes while they were still coming in," Petty said.

During that year-long deployment, his battalion suffered only one casualty, his father said. The insurgency has since grown stronger, and Petty was aware that he would return to a more dangerous country, his father said.

Yesterday, he recalled when his son, in middle school, was on a Vienna soccer team with the son of Redskins coach Joe Gibbs.

The soccer coach didn't show up one day. Gibbs stepped in, leading the underdog team to victory. "They trounced these other guys, who were touted to win by huge margins," Paul Petty said. "Those boys -- they were on cloud nine."

Staff researcher Magda Jean-Louis contributed to this report.

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Case Dropped Against U.S. Officer In Beating Deaths Of Afghan Inmates (NYT)

By Tim Golden

The New York Times, January 8, 2006

The Army has dropped its case against the only officer to face criminal charges in connection with the beating deaths of two prisoners held by the United States in Afghanistan, military officials said yesterday.

The officer, Capt. Christopher M. Beiring, led a reservist military police company that was guarding the main American detention center in Afghanistan when the two men were killed within days of each other in December 2002. The prisoners died after guards kneed them repeatedly in the legs while each was shackled to the ceiling of his cell.

Captain Beiring, 39, had been charged with lying to investigators and being derelict in his duties, in part by neglecting after the first death to order his soldiers to stop chaining up prisoners by the arms at the behest of military interrogators who wanted to deprive them of sleep before questioning.

"They certainly had a case to investigate - two guys died," Captain Beiring said yesterday in an interview. "And, obviously, some soldiers did some stuff wrong and needed to be punished. But I think it got blown out of proportion. At some point, they were just playing politics."

The collapse of the case is the latest and most embarrassing of several setbacks for the team of Army prosecutors that has been working for more than a year on the deaths, which occurred at the military detention center in Bagram, 40 miles north of Kabul.

Captain Beiring is the third member of the 377th Military Police Company, based in Cincinnati and Bloomington, Ind., to have had charges dismissed before trial. Four enlisted soldiers in the unit have been acquitted, two others pleaded guilty to assault and one was convicted of assault, maiming and other charges.

Four former interrogators from the 519th Military Intelligence Battalion, based at Fort Bragg, N.C., have pleaded guilty to charges including assault, maltreatment and dereliction of duty.

In Captain Beiring's case, the decision by the commander of the Army's Air Defense Artillery Center at Fort Bliss, Tex., where the Bagram cases are being tried, followed the recommendation of an investigating judge that it not proceed to a court-martial.

A spokeswoman for Fort Bliss, Jean Offutt, said Captain Beiring was issued a letter of reprimand on Friday. Captain Beiring said that the letter contained accusations of dereliction of duty and that he would formally rebut them.

The judge who oversaw the pretrial inquiry, Lt. Col. Thomas S. Berg, sharply criticized the prosecutors' case, concluding in a 22-page report that they had failed to present sufficient evidence to support any of the charges.

The accusation that Captain Beiring lied about his efforts to train his soldiers after they arrived in Afghanistan was based on "one slightly ambiguous response" in one of the half-dozen sworn statements he gave to various military investigators, Colonel Berg noted. He added that Captain Beiring's response was then "significantly misquoted" by the prosecutors in the charges they filed.

Colonel Berg, the investigating judge, also dismissed two charges of dereliction of duty against Captain Beiring. In those charges, prosecutors had argued that the captain had failed to properly train his soldiers to handle the detainees and to order them to stop chaining prisoners overhead after the first one died.

Though Colonel Berg noted that the company had scarcely been trained for its specific mission at Bagram, he said Captain Beiring had sought and was denied more training before his company deployed. The unit spent barely a day learning from the company it replaced before that unit left Afghanistan.

Colonel Berg said that "substantial evidence" also showed that Captain Beiring did, in fact, instruct his junior and noncommissioned officers to stop the overhead chaining of detainees after two more senior officers insisted that he do so. The fact that a second prisoner died while similarly shackled "only shows that someone else either did not get the word about standing restraints or, more likely, got the word and chose to disregard it."

"Captain Beiring was sorely challenged at every step," Colonel Berg concluded. "He may not have done his duty perfectly, but he did it well."

Ms. Offutt, the Fort Bliss spokeswoman, said charges of abuse and other crimes against another former Bagram interrogator, Pfc. Damien M. Corsetti, would go forward to a general court-martial. One more reservist from Captain Beiring's company, Sgt. Alan J. Driver Jr., is scheduled to be tried next month.

A Man Does Not Ask A Man About His Wife (NYT)

By Eric Schmitt

The New York Times, January 8, 2006

DOJ_NMG_0008693

KANDAHAR, Afghanistan

FOR the United States military here, there is the daily fight against Taliban rebels and there is perhaps the even more challenging task of winning the trust and confidence of the Afghan people.

So when American soldiers burned the bodies of two dead Taliban fighters in a village near here in October and then used their charred and smoking corpses in an impromptu propaganda campaign against the insurgents and their sympathizers, senior commanders and Pentagon officials scrambled to head off a backlash against the United States in the Islamic world.

Two junior officers who had the bodies burned for what they said were hygienic reasons were reprimanded for showing a lack of cultural and religious understanding. The operational commander in Afghanistan, Maj. Gen. Jason K. Kamiya, said the officers had been unaware that Islamic tenets banned cremation and considered the burning of human bodies to be a desecration.

Two noncommissioned officers who used a loudspeaker to harangue nearby Taliban militants while standing over the bodies were also disciplined.

American forces receive some cultural sensitivity training before arriving here, but with new troops rotating through every 7 to 12 months, the instruction can be spotty and inconsistent.

In an effort to prevent incidents like the body burnings, the military command here has distributed cultural sensitivity cards to the 19,000 American troops in Afghanistan. Each wallet-size card is a laminated, fold-up guide of cultural dos and don'ts. The military distributed similar cards in Iraq last year. Excerpts from the Afghanistan version follow.

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Death and Burial

A non-Muslim must not perform the burial rites for a dead Muslim.

One should not allow the remains to be eaten by birds or animals.

One should not remove the clothes of a Muslim including a Muslim fighter K.I.A. (killed in action).

One should not allow the remains to be left unburied beyond 72 hours at a maximum.

In the event that no one claims the remains after three days, consider what course of action would be most respectful of the dead and Muslim sensibilities. You may put the remains in a plastic body bag.

Islam and Prayer

Treat the Koran as a sacred book by handling it with utmost respect. (The Koran is usually wrapped in an attractive cloth and put in a high, prominent position in the home.)

Respect such religious objects as prayer rugs and prayer beads.

Respect those at prayer by not playing music or making noise during prayer time.

Do not walk in front of someone at prayer.

Remove your shoes when visiting a mosque when on any official tour approved by military authorities and the host nation.

Do not initiate religious discussions or judge the beliefs and practices of Muslims. Do not enter into debates about religion.

Absolutely do not proselytize.

Do not ask a Muslim if he is a Sunni or Shiite.

Interest in Islam can best be shown by simply listening to any Muslim informant.

Refrain from derogatory comments about any religion.

Do not call an Afghan "Hajji," "Mullah," or "Akhund" unless it is a known honorific of the person in question.

Searching and Questioning

Identify, show respect to and communicate with elders. Work with elders to accomplish your mission.

When searching houses or compounds put at least one elder with the women of his household.

Do not unnecessarily humiliate men by forcing them onto the ground in front of their families.

Males must not touch or search women. Only female soldiers or police may search women.

Males may never ask a man about his wife, daughters or sisters. Females can.

Do not yell or use profanity. It is a sign of weakness, poor upbringing and lack of discipline.

Manners and Gestures

Use common courtesy: say "please" (lutfan) and "thank you" (tushakor), address women as "mother" (mader) or "sister" (khwahar), and address elders as "sir" (agha sahib).

When entering a room full of men shake hands and greet everyone. When you do not recognize a person, he will feel slighted.

When offered a seat of honor, decline graciously and accept only when offered again.

If someone brings you a chair to sit on, accept it even if you would rather stand. He is honoring you.

Do not argue, but strive for consensus. Majority rule is not the norm for solving issues or problems.

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When a guest do not focus complimentary comments on your host's possessions as he/she will feel culturally obligated to give them to you. Do not, for example, over-compliment the quality of needlework, rugs, pictures, etc., in the host's home.

Do not stare at women, touch them or try to shake a woman's hand (unless she extends her hand first).

Do not react negatively if Afghan men kiss, embrace or hold hands. This is polite behavior in Afghan society.

Show kindness to children. You may praise them by saying, "In the name of God. ..." (naam-i-Khuda. ...)

Speak about your families. Afghans like to know you have them.

Food, Drink and Dress

If you are eating something, offer to share.

Eat with your right hand as much as possible.

When visiting a home or office, if someone brings you hot tea and snacks, accept graciously.

If a stranger offers you food, say "No, thank you" and only accept if he continues to offer the item.

Do not offer Afghans/Muslims pork or shellfish products.

Do not drink alcoholic beverages in front of Afghans/Muslims. General Order No. 1 prohibits alcohol.

Dress modestly. Do not wear shorts. Men should not go shirtless.

Do not show the soles of your shoes to Afghans. Tuck your feet under you legs. ...

Miscellany

When purchasing items in the bazaar, bargain with the vendor. You lose respect when you pay exorbitant prices.

Do not display sexually explicit pictures.

This Isn't Called The [Blank] Era For Nothing (WP)

By Richard N. Haass

The Washington Post, January 8, 2006

"Why do they call us the Middle Ages when nothing yet comes after us?" This is the plaintive question King Arthur asks in the hit Broadway musical comedy "Spamalot."

The frustrated monarch has a point. Those living in what we now call the Middle Ages did not describe their time that way, any more than those who came before them saw their period as "dark" or those who came after them woke up every morning cheering their good fortune for being alive in the middle of a renaissance.

But in modern times, eras aren't always named in hindsight. People in the 1930s knew they were living through the Great Depression. The Cold War came into vogue as a phrase several decades before it ended. The Sixties weren't even in the history books yet when people began using the name of the decade to describe those tumultuous times.

What about our era then? Here we are, more than 16 years after the Berlin Wall began to crumble, and this period still lacks a name. Calling it the post-Cold War era is an admission that we know what came before but not where we are, much less where we are heading.

It's not that people haven't tried to name this era. Books have dubbed it an "age of anxiety," an "age of sacred terror," an "information age" or the "genomics age," to name just a few. But these names often seem as much a matter of marketing as a true description of our times.

The names that truly stick to past eras are those that capture a defining characteristic: A breakthrough technology (the Stone, the Bronze or the nuclear age); political features (the age of reform, revolution, world war or empire); philosophical outlook (the age of enlightenment, reason or innocence); or economic trends (the Gilded Age, the Roaring Twenties or the Great Depression).

That this era lacks a name suggests that it still lacks a defining characteristic. Perhaps globalization comes closest, encompassing the increasing volume, speed and importance of flows across borders of people, ideas, greenhouse gases, manufactured goods, dollars, euros, television and radio signals, drugs, germs, e-mails, weapons and a good deal else. But globalization does not describe many features of the contemporary world, be they technological, political, religious or philosophical.

All of these things will help shape our era, but none will have greater impact on how we view it, and what we call it, than relations between the United States and other great powers.

The United States emerged from the Cold War as the world's most powerful country, the first among unequals. And that has prompted some people in my field to call ours the unipolar era. But this is a misreading of the current international context. Primacy is not the same as unipolarity. We are the preeminent power, but hardly the only one. There may not be a single alternative pole as was the case during the Cold War, but there are multiple, independent actors, not only countries but groups of individuals, some of whom are hostile and virtually all of whom resist U.S. designs. The result is that the United States on its own cannot stave off terrorism, force North Korea and Iran to eschew nuclear weapons, bring democracy to Iraq or the rest of the

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Arab world, deliver or impose peace between Israelis and Palestinians, or sustain its standard of living without importing oil and dollars.

So if this is an era defined fully by neither globalization nor American control, what is it then? There are three main possibilities.

Ideally, this would turn out to be an era of prolonged peace and prosperity, in which great power conflict becomes a thing of the past. Free markets and democracy would spread, and the energies of governments would be devoted to combating challenges to international order rather than combating one another. Each power's recognition that its own self-interest requires it to work with others would give birth to unprecedented cooperation. Call it the Age of Integration.

In such an epoch, nations would rally together and intervene to prevent or stop genocides and combat terrorism. Major powers would provide other countries with access to enriched uranium and plutonium for peaceful nuclear energy purposes as long as these raw materials were not diverted for military ends. The World Trade Organization would be extended to cover virtually all aspects of manufacturing, agriculture and services; tariffs, quotas and subsidies would be eliminated. Cooperation would be extended to deal with disease and global warming.

A second possibility is that this moment in history will later be seen as the inter-Cold War era, bracketed on one end by a four-decade struggle between the United States and the Soviet Union, and on the other by a struggle between the United States and China. This is the prediction of latter-day cold warriors who see a clash between today's principal power and a rising China as all but inevitable.

Subscribers to this theory predict a clash over Taiwan or a clash arising from the mismanagement of relations between two powerful and dynamic countries. A U.S.-China Cold War, like the previous one, would be dangerous, costly and distracting from other priorities. The United States needs China's assistance to deal with regional challenges (such as North Korea's nuclear aspirations) and global ones (such as avian flu and climate change). China, for its part, needs diplomatic calm so that it can focus on economic modernization.

A third possibility is even worse: a Second Dark Ages, characterized by the spread of nuclear weapons to North Korea, Iran and beyond; terrorism that increases in frequency and destructiveness; virulent infectious disease; mounting protectionism; and a substantially warmer planet. Conflict would become more common, as would the failure of states and a rise in poverty.

The United States could not wall itself off from such a world; we cannot become a gated country. As was the case during the world wars in the last century, even before globalization became a phenomenon, isolation would not be an option. Our standard of living would decline as trade withered and investment dried up. Civil liberties would be curtailed so that Americans could better cope with the threat from within. The world would become a more dangerous place and American society would be worse off.

Therefore, working out the name and nature for our era is an exercise in strategy, not taxonomy. We can help determine how the future turns out. Looking back on the inter-war period during the middle of the 20th century, World War II seems unavoidable. But it took the rise of National Socialism and the failure of appeasement to bring about the second global conflict.

More recently, the Cold War may have been all but inevitable given the nature of the Soviet and Communist challenge. But neither the course nor the outcome of the Cold War was fated; it could have turned hot, it could have been lost, or it could still be going on.

This tells us that history remains anything but ordained. What individuals and countries choose to do matters, none more so than the United States. There is a great deal of discretion in foreign policy. Iraq was a textbook example -- it was a war of choice. Tax cuts and increased spending are also matters of choice, as is the absence of an energy policy that limits American dependence on imported oil and gas.

It is not clear how President Bush will use the remaining three years of his presidency, much less who will succeed him. The good news is that the United States, more than any other country, has the power to make this an era of cooperation and avoid the start of a new cold war -- or worse. The worrisome news is that, 16 years after the Cold War's end, the United States has done more to squander than exploit the opportunity at hand.

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Richard Haass, director of the State Department's policy planning staff from 2001 to 2003, is president of the Council on Foreign Relations and author of "The Opportunity: America's Moment to Alter History's Course" (Public Affairs).

DOJ:

S.D. Judges' Actions May Set National Precedent (SFAL)

By DAN HAUGEN

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Sioux Falls (SD) Argus Leader, January 8, 2006

The appointment of an interim U.S. attorney for South Dakota last month is raising complex questions about whether a federal agency overstepped its authority.

The naming of Steven K. Mullins to the position has fueled a politically charged dispute about who serves in a key role as the state's chief prosecutor for federal crimes.

Mullins, an Oklahoma lawyer, was appointed to the position Dec. 22 by the U.S. Department of Justice. But three federal judges in South Dakota say a judge from this state - not the Justice Department - should name the interim U.S. attorney.

If a legal challenge about Mullins' appointment goes far enough, the rule that allows judges to appoint interim lawyers could be thrown out as unconstitutional, according to experts in constitutional law.

"This is no different than the legislature endowing the justice branch to appoint the secretary of defense on an interim basis," said Bruce Fein, a constitutional lawyer and consultant in Washington. He served as deputy attorney general under President Reagan.

Fein said the Justice Department acted properly in the South Dakota appointment, and larger concerns are created by judges appointing prosecutors.

"This is quite unusual for a judge to say, hell, I want my own man in there as U.S. attorney. Yes, then you should run for president," Fein said.

Meierhenry choice 'not acceptable' Mullins replaces Michelle Tapken, another interim attorney whose term was set to expire Dec. 24.

Federal rules say when an interim U.S. attorney's term expires, it's up to a district's chief judge to make an appointment.

But Tapken resigned before her 120-day term was up, and the Justice Department immediately swore in Mullins for the job.

"All this sounds like it's trying to circumvent the statutes," said Robert Bennett, a professor and former dean of the Northwestern University School of Law.

Other legal observers offered dramatically different opinions this week on the unusual skirmish going on between South Dakota's federal judges and executive branch officials in Washington, D.C.

Chief Judge Lawrence Piersol attempted to appoint attorney Mark Meierhenry to the interim U.S. attorney role. A Justice Department executive told Piersol, though, that "this was not acceptable to the Attorney General," according to court documents.

Another federal judge, Karen Schreier of Rapid City, then intervened and ordered Mullins to appear in court Jan. 17 to explain why Meierhenry should not serve as interim U.S. attorney instead.

Whose judicial authority is valid? Judge Charles Kornmann of Aberdeen said the conditions leading up to Mullins' hiring leave some uncertainty about whether his authority is valid and whether cases he prosecuted could later be called into question.

Kornmann's concerns surfaced last week during an unrelated criminal case.

"Everybody wants to make sure that this appointment is proper for the administration of justice and that actions can't be attacked by people who have been convicted. It's not any big battle. It's a legal matter," Meierhenry said.

Meierhenry added that he has no aspirations to permanently fill the position.

John Eastman, director of the Center of Constitutional Jurisprudence in Claremont, Calif., said cases tried under Mullins are not at risk because of his authority.

"It might be challenged, but I would think the challenge would not succeed," Eastman said. "It's perfectly acceptable for a person in that role to resign, and for the Justice Department to appoint somebody new."

Questions about the intent of the law The Justice Department followed the letter of the law when it appointed Mullins over Judge Piersol's selection, Eastman said.

It's possible, though, a court could decide the Justice Department violated the intent of the law, said Bennett of Northwestern University.

"I could imagine a court saying the whole point (of the 120-day interim term limit) was to limit executive appointment without Senate approval," Bennett said.

The U.S. Constitution gives presidents the power to appoint federal attorneys to head each of the nation's 94 district offices.

No Bush appointment creates void, debate The president's appointments become official only after the Senate gives its approval. Appointing consecutive interim attorneys "is a way of filling the gap when you haven't got that," Bennett said.

Elizabeth Smith, a political science professor at the University of South Dakota, said it's an unusual situation that the code doesn't appear to anticipate.

"It's a situation that I've never seen before," Smith said.

The rules assume by the end of one interim appointment, the president will have made a permanent appointment.

President Bush has not appointed anybody to fill the position, so the U.S. Department of Justice and the district court are left trying to decide which one is in charge.

"As I look at the situation, it seems the clearest resolution is the political branches get together and make an appointment," she said.

Brian Roehrkasse, a spokes-man for the Department of Justice, said the department does not comment on such issues.

"We are working hard with the court to reach an accommodation," he said.

Reach Dan Haugen at 331-2335.

CORPORATE SCANDALS:

Call It The Deal Of A Lifetime (NYT)

By Landon Thomas Jr.

The New York Times, January 8, 2006

MOST mornings these days, Michael J. Kopper wakes up early, slips on a pair of khakis and hops into his Nissan sport utility vehicle for the short commute from his duplex in a Houston suburb to his job at Legacy Community Health Services, a community clinic. The Prada suits gather lint in his closet, and the shiny BMW 530 has been sold.

Mr. Kopper's work is different now: At Enron, he was a financial sophisticate who manufactured a series of arcane partnerships that paid him millions and helped to sink the company, which filed for bankruptcy in 2001. At Legacy, which provides health care and counseling services to H.I.V. patients and other chronically ill people, Mr. Kopper is a salaried grant writer who solicits financial support for the clinic.

It has been a wrenching professional and personal reversal for Mr. Kopper, who three years ago became the first Enron executive to plead guilty to criminal charges and cut a deal with the government. Mr. Kopper was also the first high-ranking Enron employee to publicly admit to lying and stealing - in his case, more than $16 million - from the company.

Mr. Kopper's money-making schemes, hatched together with Andrew S. Fastow, the former chief financial officer, lie at the root of the mercenary culture that propelled Enron to unforeseen heights while also paving the way for its Icarus-like descent.

The partnerships were feats of financial alchemy that became a dumping ground for Enron's flagging assets and helped sustain the growing fabulism of the company's accounting as a wide-eyed investing world watched in wonder. The partnerships also transformed Mr. Kopper from a by-the-books child of the New York suburbs with an expertise in accounting into a high-stepping Texas deal maker with a hankering for fast cars and big houses.

Despite all of this, there is a possibility that Mr. Kopper, who just turned 41, could end up spending not one day in prison, because of the crucial role he has played in helping the government build its case against more senior executives, such as Mr. Fastow; Kenneth L. Lay, the former chairman; Jeffrey K. Skilling, the former chief executive; and Richard A. Causey, the former chief accounting officer. Mr. Lay and Mr. Skilling are scheduled to stand trial on fraud and conspiracy charges later this month.

Certainly, Mr. Kopper's circumstances have changed in the last three years. A year ago, he moved out of the $1.5 million dream house with its glass stairways and its contemporary Japanese motif that he had designed with his longtime partner, William D. Dodson. Mr. Kopper has recently pegged his net worth at around $100,000, and he now lives on the second story of a modest duplex for which he paid $380,000; he rents out the bottom floor to help meet his expenses.

Even so, Mr. Kopper manages to lead a bit of the good life. Despite spending hundreds of hours in conference rooms in Houston and Washington briefing government prosecutors on Enron's inner workings, Mr. Kopper, known as a compulsive jet-setter during his Enron days, has remained an enthusiastic traveler. He has visited Phoenix and played golf in Boca Raton, Fla., with his father, a former magazine publisher at Times Mirror, and has gone on ski vacations in Colorado.

Mr. Kopper and Mr. Dodson, who has not been charged, declined to comment for this article, although friends and former colleagues did.

Mr. Kopper's deal with the government and the chance that he might have a reduced term or serve no jail time at all - he has not yet been sentenced - have angered people who blame him and Mr. Fastow for destroying the life savings of many former Enron employees and sending to prison others who had just the briefest brush with the company.

"Of all the deals Kopper made, his best was the plea deal," said Richard J. Schaeffer, a defense lawyer who cross-examined him during the trial of the Enron and Merrill Lynch executives who were convicted of bolstering Enron's earnings by letting the company fraudulently appear to sell barges in Nigeria for a profit. "He was the magician behind these deals," Mr. Schaeffer added. "His sense of greed had overtaken him. He had this brilliant mind and dedicated it to this partnership of evil."

This public caricature of Mr. Kopper as a malevolent financial sorcerer seems at odds with his middle-class roots. Indeed, his road to the heart of the Enron scandal was unusual. Born in Brooklyn and reared in Woodmere on Long Island, Mr. Kopper

was always driven by an extra spurt of ambition and yearning for the big time that for years seemed to lie just beyond his grasp, people who know him say. Writing in his yearbook at Lawrence High School in 1982, his aspiration seemed simple, if not a bit vague: "To be successful in all my endeavors."

HE first enrolled at tiny Muhlenberg College in Allentown, Pa., but transferred to Duke, where he earned a bachelor's degree in economics. He also earned a degree in accounting and finance from the London School of Economics, and then began working as a loan officer at Chemical Bank in New York.

But his appetite for deal-making lead him to Toronto Dominion Bank, where he cut his teeth as a financier, working on a number of project-finance deals with energy companies - including, in the early 1990's, Enron. It was then that he met Mr. Fastow. The two men hit it off immediately. Both were young, hard-working and ambitious numbers guys with an appetite for deals and a desire to strike it rich as soon as possible, people who know both men say. It did not take long for Mr. Kopper, an eager Nick Carraway susceptible to the lure of Mr. Fastow's Gatsby, to join his mentor in Houston in 1994.

Enron was developing a reputation as a freewheeling, innovative company, and its aggressive, meritocratic culture seemed the perfect fit for Mr. Kopper, who was looking to unleash his own pent-up professional and materialistic ambitions, former colleagues say. Once there, he became even closer to Mr. Fastow, going to temple with him and his wife, Leah, and socializing with them after work.

It was not until 1996 that Mr. Fastow and Mr. Kopper created their first off-balance-sheet partnership, which they called Alpine Investors. Mr. Kopper would make no money from this partnership, which was designed to buy underperforming power plants from Enron, but he would make money in 1997 with RADR, another off-the-books deal formed to buy wind farms that Enron wanted to sell.

Supposedly independent, RADR was financed with Enron money and controlled by Mr. Kopper and Mr. Fastow. They and some of their friends got payouts from the partnership, ultimately at Enron's expense. In that way, RADR was a template for more fraudulent schemes.

Mr. Kopper had begun dating Mr. Dodson, who worked in the finance department at Continental Airlines and also wanted to become an investor. But he was making only about $100,000 a year at Continental, so Mr. Kopper borrowed some money from Mr. Fastow - the amount has not been made public - and lent it to Mr. Dodson, according to Mr. Kopper's own testimony.

RADR was remarkably lucrative. In just four months, at virtually no risk, Mr. Kopper took in $40,000 from the deal. Mr. Fastow's $419,000 loan generated $62,850 in interest - an annualized return of 45 percent. It is not clear how much Mr. Dodson made. Enron's shareholders, meanwhile, footed the bill for the enterprise, which was designed to deceive them about the precarious state of Enron's balance sheet.

But it would be the next partnership, Chewco, also started in 1997, that would pay Mr. Kopper and Mr. Dodson an even more munificent return. "We made, after taxes, roughly $10.5 million," Mr. Kopper recounted to a defense lawyer during the trial in September 2004 on the separate Nigerian deal. (Mr. Kopper would collect more than $16 million from at least five partnerships that he and Mr. Fastow created over six years; with help from Mr. Dodson, he has paid $12 million back to the government, according to Creed C. Black Jr., Mr. Dodson's lawyer. Mr. Fastow collected more than $40 million, according to court documents.)

As the money rolled in, Mr. Kopper indulged his taste for sleek foreign cars and exotic vacations and cultivated a more risqué demeanor in and about the company. He wore expensive suits and shirts with zippers that seemed to creep lower and lower the more successful he became, his former colleagues at Enron remember. He told one colleague that he had a collection of 20 designer eyeglasses. Generally aloof with his colleagues, he made more of an effort to fit in, serving on an Enron diversity committee.

Of all the partnerships, it was perhaps Southampton, named after the opulent Houston suburb in which he lived, that came the closest to defining the corruptive, get-rich-quick and risk-free spirit of the off-balance-sheet entities at Enron. With three bankers from Greenwich NatWest, a British investment bank that did work for Enron, Mr. Kopper and Mr. Fastow created the partnership in 2000 to buy out the interests of Enron and NatWest in another entity, inserting themselves in the middle and deceiving both Enron and NatWest as to what they needed to pay.

ON the stand last year, Mr. Kopper described the essence of the deal in a flat, analytical style. "We stood between the two parties in order to skim money off of it," Mr. Kopper said, his face blank and voice devoid of emotion. How much did he make on the deal? "Four and a half million dollars," he said.

"That's a pretty good return on $25,000, isn't it?" a defense lawyer responded.

Yes, it was, Mr. Kopper said.

The lawyer asked how long it took to cobble together such a rich, efficient transaction. "Not that many hours," Mr. Kopper said. "Maybe 10 to 12 hours of work."

Honing in, the lawyer asked, "You wanted to make just a ton of money."

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In a monotone, Mr. Kopper said simply, "Yes."

By 2001, Mr. Kopper had his ton of money and was starting work on a new house in a wealthy Houston suburb with Mr. Dodson. Mr. Kopper had also bought out Mr. Fastow for full control of yet another off-balance-sheet entity created at Enron, LJM2. No longer would he be just another accounting executive; as general partner of LJM2, he would preside over a fast-growing private equity fund with some of the best names in high finance as investors.

But Mr. Kopper's time in the sun would be short-lived. With Enron's collapse in December 2001, he quickly came under the scrutiny of prosecutors and regulators who immediately questioned the propriety and legality of the myriad funds. The pressure became intense. Always a slender man, he began to lose weight, and when he pleaded guilty in 2002, he said he was taking medication for stress and anxiety.

As a government witness, Mr. Kopper, by all accounts, has been a success. At the barge trial last year, he powerfully evoked the financial cravings of Mr. Fastow, calling him "very greedy" and recounting examples of him giggling with childlike glee as he closed various deals.

The government has not put Mr. Kopper on the list of witnesses it expects to call in the trial of Mr. Lay and Mr. Skilling, but the defense has. Lawyers involved in the case say that Mr. Kopper may not even be called, given his lack of direct interaction with Mr. Skilling and Mr. Lay. While the partnerships are expected to be a centerpiece of the trial, Mr. Fastow will be in a better position to discuss them and how they connect to Mr. Lay and Mr. Skilling.

Friends of Mr. Kopper say he rarely speaks of Enron matters these days. He has ignored the imprecations cast at him by Mr. Lay, who has said that Enron was destroyed by the rogue actions of Mr. Fastow and Mr. Kopper - a view expressed by many members of Houston's business elite.

Always a bit of an outsider, Mr. Kopper is now even more of one. He is precluded by his plea agreement from speaking with Mr. Fastow and spends most of his time with Mr. Dodson and a small circle of friends from Enron.

And while he declined to comment for this article, his departing words in his 1982 high school yearbook seem to hold true today. Quoting from the song "Summer, Highland Falls" by Billy Joel, he wrote:

"We are always what our situations hand us. It's either sadness or euphoria."

Nacchio Could Point To Board's Actions (DENP)

By Andy Vuong, Denver Post Staff Writer

Denver Post, January 8, 2006

Former Qwest chief executive Joe Nacchio - accused of criminal insider trading for selling $100.8 million worth of Qwest stock in 2001 - may have a simple yet powerful defense for the sales: The board made him do it.

Qwest publicly stated on several occasions between September 2000 and February 2001 that its board of directors had ordered Nacchio to unload millions' worth of company shares.

Legal experts say the board's actions and company statements at the time could be vital to Nacchio's defense.

"He would argue that what he was doing was with full knowledge and authorization of the board," said Douglas McNabb, senior principal of McNabb Associates, a Washington, D.C.-based criminal defense law firm not involved in the Nacchio case. "That's huge."

Federal prosecutors are expected to argue that even if Nacchio was told to unload Qwest stock, the 42 stock sales he made between January and May 2001 were illegal because he was aware of key information about the company's financial condition that wasn't publicly available.

They likely will also assert that Nacchio accelerated his stock sales instead of following the board's order to systematically divest his position. To obtain a conviction, prosecutors would have to convince a jury beyond a reasonable doubt that Nacchio dumped stock while he knew Qwest's financial condition was much weaker than he claimed publicly.

Nacchio, of Mendham, N.J., has pleaded not guilty. A discovery hearing - where the prosecution and defense may disclose to each other additional details about their cases - is scheduled for Jan. 20.

The stakes are high for both sides as the case unfolds.

For the Justice Department, the Nacchio prosecution is the culmination of a sweeping probe of Qwest that has spanned four years.

If convicted, Nacchio faces up to 10 years in prison and a $1 million fine on each of the 42 counts against him. The government is also seeking the $100.8 million Nacchio grossed on the stock sales - plus other fines.

The dollar amount and number of counts against Nacchio make it one of the single largest criminal insider-trading cases.

Federal prosecutors and Nacchio's defense attorneys declined comment for this story.

Nacchio stopped selling

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In August 2000, after Qwest had acquired Denver-based Baby Bell US West, Nacchio exercised 550,000 stock options at $5.50 apiece and sold the shares at prices ranging from $49.05 to $53.34.

In September 2000, when those sales were disclosed publicly, a company spokesman said that the Qwest board had directed Nacchio to sell some of his shares every quarter because it didn't want his ownership stake to get too large.

"Joe has no choice - he is required to sell a portion of his position," Tyler Gronbach, Qwest's spokesman at the time, said in a Denver Post article on Sept. 15, 2000.

Nacchio held 18 million stock options throughout 2000.

Gronbach, who left Qwest last October to work for R.H. Donnelley Corp. in Cary, N.C., did not return calls for comment.

The Denver Post last week asked Qwest for minutes of board meetings that would shed light on Nacchio's stock sales. The company declined but gave this statement: "We continue in our efforts to cooperate with the government in connection with the investigation."

In February 2001, the company issued a news release announcing a program in which Nacchio would systematically sell 6.1 million shares over the next 28 months at the board's behest.

Under the program, Nacchio was to exercise and sell 11,500 stock options daily from Feb. 20, 2001, to June 30, 2003, the date when the stock options would have expired. He was to sell the stock regardless of its price.

"The Qwest board asked Nacchio to commit to the program to avoid the bunching of sales during and at the end of the exercise period," according to the Feb. 16, 2001, news release.

Experts say such programs are a common way for insiders to sell stock systematically without raising concerns on Wall Street and among the investing public.

On eight trading days, Nacchio exercised

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11,500 stock options each day at a price of $5.50 apiece and sold those shares at a price ranging from $34.84 to $38.12. However, he scrapped the sales program two weeks after it was announced - reportedly because Qwest's stock was slipping below $35.

"I will not continue to sell shares daily at these prices given the current uncertainty in the markets," Nacchio said in a statement on March 2, 2001.

Nacchio's statements and actions in this period are critical.

Between Jan. 2, 2001, and May 29, 2001, the government alleges, Nacchio committed illegal insider trading by selling more than 2.5 million Qwest shares for $100.8 million while he knew the company's financial condition was weaker than disclosed.

Insiders at public companies - such as Nacchio at Qwest during that time - are required to sign Securities and Exchange Commission disclosures that they knew of no "material adverse information" about the company when selling stock.

Nacchio was forced out of Qwest in June 2002 as the company's deteriorating financial condition became known. Qwest stock traded as low as $1.11 in August 2002. It was later forced to restate $2.5 billion in revenues.

What he knew is critical

The board's mandate to Nacchio to sell shares is "a good fact for the defense," said Jay Brown, a former Securities and Exchange attorney and law professor at the University of Denver.

Brown added that Nacchio can still be convicted for insider trading on stock sales made under the board's mandate if he had knowledge of material, nonpublic information at the time.

"Certainly the defense would use any information that tends to negate Nacchio's intent to commit any wrongful activity," said Eric Yaffe, a former federal prosecutor now in private practice with Gray Plant Mooty in Washington, D.C.

"But the question is, are there other issues or factors and other evidence of which the government is aware of" that would counteract the information, Yaffe said.

Former Qwest chief financial officer Robin Szeliga has pleaded guilty to one count of illegal insider trading and agreed to help with the prosecution's case against Nacchio.

The government charged Szeliga with illegal insider trading for an April 30, 2001, stock sale in which she sold 10,000 Qwest shares at $41 a share. On the same day, Nacchio sold 110,000 shares for $41.12, a transaction cited in his criminal indictment.

Last month, former Qwest executive vice president Marc Weisberg reached a plea deal on one charge of wire fraud and agreed to cooperate with prosecutors.

Former Qwest president Afshin Mohebbi also may testify for the government.

In October 2004, Qwest agreed to pay $250 million to settle SEC charges alleging financial fraud. In November 2005, the company agreed to pay $400 million to settle a class-action shareholder lawsuit.

No past or present Qwest board member has been charged as part of the federal government's probe into Qwest.
Several former board members who served during Nacchio's tenure didn't return calls seeking comment.
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G.O.P. Finds Hope In Spitzer's Hard Edge (NYT)

By Patrick D. Healy
The New York Times, January 8, 2006

Attorney General Eliot Spitzer entered 2006 with huge advantages in his race to become the first Democratic governor of New York in 12 years: nearly $18 million on hand, a 70 percent popularity rating, and so much success fighting corporate fraud that he is one of the nation's most powerful prosecutors.

Yet for the first time since Mr. Spitzer declared for office a year ago, New York Republican leaders are now expressing hope that they can exploit what they view as a weak spot in the armor: his temperament, or, more precisely, his temper.

And, for the first time in a long time, some Democrats appear worried for Mr. Spitzer, and are trying to portray his tough style as an asset. Meanwhile, Mr. Spitzer is expressing new regret about his behavior.

Stories about Mr. Spitzer's blunt, brash style have circulated in business and political circles for years. Yet few spilled into the news media until last month, when John C. Whitehead, a Wall Street power broker whom Gov. George E. Pataki named as chairman of the Lower Manhattan Redevelopment Commission, said that Mr. Spitzer had told him that there was "a war between us" because he had criticized Mr. Spitzer as an overzealous, overreaching prosecutor.

Mr. Whitehead made his complaints known in a letter to The Wall Street Journal, and The New York Post ran articles on the dispute last month, including one with a front-page headline that said Mr. Spitzer was a "Liar!"

Since then, the issue of Mr. Spitzer's personality has begun to emerge in political circles, with Republicans circulating reports of his behavior in several disagreements over the last several years.

A spokesman for Representative Sue Kelly, a Republican, said Mr. Spitzer had acted like a thug during one argument by saying that he would cause trouble for her in her district if she continued to oppose legislation he favored.

Three fellow Democrats confirmed that he turned hot-tempered when they challenged him.

And in a quarrel with the attorney general of California, Mr. Spitzer told him that he was a kid from the Bronx who was willing to "step outside" to settle fights, according to a magazine article.

Democrats have sought to portray the encounters as simply reflecting the tough, no-nonsense approach that Mr. Spitzer takes toward his work.

Mr. Spitzer disputed some aspects of these anecdotes. But he also expressed his first measure of doubt about his aggressive manner since he was elected in 1998.

"On occasion, I look back and say, 'I wish I could take some of my words back,' " Mr. Spitzer said in an interview. He declined to list instances in which he thought he had been intemperate or overreacted, but said: "Have my answers or responses sometimes been disproportionate? I guess I'd be disingenuous - there have been moments, there are times I would look back and say, maybe that didn't merit that kind of response."

Mr. Spitzer stood by his actions in his legal cases. Yet describing himself, he used a range of words: passionate, intense, vociferous and sensitive. He used the phrase "kids in a sandbox" to describe a heated argument last spring with a possible Republican rival in the governor's race, Tom Golisano. But Mr. Spitzer said he had never threatened people, nor made his disputes personal.

He also said for the first time that he regretted his exchange with Mr. Whitehead. The two men disagree on whether Mr. Spitzer used the word war: Mr. Whitehead stood by it in an interview, while Mr. Spitzer said he was at war with some people whom Mr. Whitehead was defending, but not with the man himself.

"I have enormous respect for John Whitehead," Mr. Spitzer said. "So I absolutely regret that he and I, at this moment, are seeing things a bit differently, and I will work to repair that." Asked if he had handled the exchange badly, Mr. Spitzer said, "Looking at how it is played out, I think it would be hard to say this was wisely handled."

Temperament has rarely surfaced as an issue in Mr. Spitzer's past races. But when he was running for attorney general in 1998, he and former Mayor Rudolph W. Giuliani tangled after Mr. Spitzer said that Mr. Giuliani governed like "a dictator." Mr. Spitzer narrowly won that race, against Dennis C. Vacco, the Republican.

Mr. Spitzer was re-elected overwhelmingly in 2002, in a race that drew scant attention and preceded some of his most contentious lawsuits and that came at a time when his enemies were not so numerous.

Republican politicians said they planned to make his temperament an issue in the 2006 campaign, hoping to portray him as unlikable, arrogant, and a poor coalition-builder.

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"He has never been challenged like he will be in this race for governor," said William F. Weld, a Republican candidate for governor, in a recent interview. "I think once the case is made against him, voters will see a very different Eliot Spitzer."

Some Democratic office-holders in Albany, meanwhile, were swapping tales of their own about Mr. Spitzer as they prepared for Gov. George E. Pataki's final legislative session. Their main concern is that Republican adversaries will portray Mr. Spitzer as thin-skinned; privately, some worry that the hothouse of the governor's race could bring out rough edges of his personality.

Steven Sanders, a former Democratic assemblyman and an ally of Mr. Spitzer's, recalled that when he challenged Mr. Spitzer's tactics on a lawsuit over equity in public school financing, Mr. Spitzer turned sharp and said he was not interested in "a back-and-forth discussion." Mr. Sanders recounted the anecdote to suggest that Mr. Spitzer "really has that direct, relentless quality that Rudy Giuliani has, and maybe at times that comes across as too brusque, too abrupt, maybe even threatening in some ways. He simply takes his responsibilities and standing his ground seriously."

Assemblyman Richard L. Brodsky, who confirmed fighting with Mr. Spitzer because the attorney general pressed him to back off a legal dispute before the state, said that Mr. Spitzer's successes were more important than personality issues.

"Let's be fair: We all have rough edges, but this is a guy who has fundamentally altered international markets for the good," said Mr. Brodsky, who is running for attorney general this year.

Mr. Spitzer acknowledged that he has argued with Democratic allies - Assemblywoman Catherine Nolan also confirmed a shouting match over a local issue - but he said that the disagreements were substantive, and that they all were friends at the end of the day. Mr. Sanders, Mr. Brodsky and Ms. Nolan all concurred.

Of the occasions that turned contentious, Mr. Spitzer said: "I've always tried - and not always succeeded after the fact - to patch up the relationship. This is never personal to me, never."

Some Democrats were far more critical of Mr. Spitzer's behavior, though none were willing to speak on the record because they said they did not want to anger the man they believe will be the next New York governor. The party has largely united around Mr. Spitzer's candidacy, and he is preparing to announce a large fund-raising war chest on Jan. 15 - at least $18 million - that rivals his poll numbers in impressiveness.

Yet at least one Democrat, Nassau County Executive Thomas R. Suozzi, is taking heart from the anecdotes about Mr. Spitzer, as he prepares to announce an exploratory committee for governor, according to party members who have spoken to him. Mr. Suozzi's political aide declined to comment.

Mr. Suozzi is drawing help from Spitzer adversaries like Kenneth G. Langone, a co-founder of Home Depot, who said in an interview that he has raised about $1 million for Mr. Suozzi in just the last few weeks. Mr. Spitzer's office has accused Mr. Langone and others of misleading fellow New York Stock Exchange members about the compensation paid to Richard A. Grasso, the former stock exchange chairman.

Beyond the charges, Mr. Langone says he is furious over a remark that Mr. Spitzer made about him in 2004 to Jack Welch, the former General Electric leader.

Mr. Spitzer said in the interview that he told Mr. Welch, "Ken's kind of like a vampire - you kind of have to put a stake through his heart to stop him."

Mr. Langone said Mr. Welch told him that Mr. Spitzer wanted to drive a stake through his heart; Mr. Spitzer denied that he used those words, and Mr. Welch did not respond to a message left on his cellphone.

Mr. Spitzer is under intense scrutiny right now because polls show him as the leading candidate. His advisers also acknowledged that they wanted to boost his favorability ratings among women, and that his image now cuts both ways: strong and tough, but aggressive and stern, too.

The argument with Representative Kelly occurred in 2003, when she and Mr. Spitzer sparred over the phone about a piece of legislation that would have hampered Mr. Spitzer's white-collar investigations. Her spokesman at the time, Rob Ostrander, told The Poughkeepsie Journal that Mr. Spitzer acted like a "thug" by threatening to come into her Westchester district and cause problems for her.

Her current spokesman, Kevin Callahan, said Mrs. Kelly stands by the "thug" description, but added that she and Mr. Spitzer had worked together since then. Mrs. Kelly declined to comment.

Mr. Spitzer said the thug characterization was unfair. He said the conversation grew heated because he thought "her position was really bad for consumers." He added: "I said something like, 'I really disagree with you, and I'll tell the voters about it.'"

Mr. Spitzer's warnings may seem like threats to some, said Stephen Cutler, the former director of enforcement with the U.S. Securities and Exchange Commission.

He recalled how Mr. Spitzer was "very, very angry" when the S.E.C. settled a securities fraud lawsuit against Putnam Investments, the mutual fund giant, without the sort of fines or monetary penalties that Mr. Spitzer wanted.

"He said, 'Look, I'm going to have to do what I'm going to have to do. I'm going to go out publicly and make life uncomfortable for you and the S.E.C.,' " said Mr. Cutler, who clashed frequently with Mr. Spitzer but said they remained friendly.

While arguments have usually been over policy, Mr. Spitzer said his sense of humor could backfire on him, too. In another incident, he said he was "joking" when, according to The American Lawyer magazine, his argument with the California attorney general, Bill Lockyer over a financial dispute turned heated and Mr. Spitzer said: "You want to step outside, that's fine! I grew up in the Bronx!"

"Of all the anecdotes, that has been the most misconstrued," Mr. Spitzer said. "It was more joking, fun." The magazine said its account was based on several unnamed people who witnessed the exchange. Mr. Lockyer did not return a phone message.

A breakfast last spring at the Waldorf-Astoria with Mr. Golisano also turned sour as he accused Mr. Spitzer, both sides confirm, of being "in the pocket" of Assembly Speaker Sheldon Silver and the Albany Democratic establishment.

According to an aide to Mr. Golisano, Mr. Spitzer replied that he would "crush" him in an election. "I didn't say, 'I'll crush you,' I said 'I think I'll beat you, let's put a bet on it,'" Mr. Spitzer recalled. "It's like kids in a sandbox."

Mr. Spitzer said he believed that voters would ultimately appreciate that his results in office - hundreds of millions of dollars recouped for New York - required a certain intensity.

He said a similar intensity was needed to overhaul Albany, and besides, he said, it would be pointless to try to deny who he was.

"I don't want to strip my personality so far down to be neutered and I don't seem human," he said.

CRIMINAL LAW:

Dems Charge GOP Has Corrupted Congress (AP-Y2)

AP, January 8, 2006

Democrats accused Republican congressional leaders of corrupting the government, claiming on Saturday that their party has higher ethical standards.

"Under Republican guidance, America has truly been put up for sale to the highest bidder," Rep. Louise Slaughter, D-N.Y., said in her party's weekly radio address.

Congress was consumed this week by the corruption scandal around lobbyist Jack Abramoff, who pleaded guilty and is cooperating in a wide-ranging probe that could involve up to 20 members of Congress and their aides.

Politicians from both parties have rushed to unload donations from Abramoff or his clients, while others have decided to keep such donations, insisting they did nothing wrong.

Slaughter painted the Abramoff case and an earlier guilty plea by former Rep. Randy "Duke" Cunningham, R-Calif., as part of a broader pattern of misconduct by Republicans under the sway of highly paid lobbyists.

"Sadly, the legacy of Republican rule has been the fundamental degradation of our democratic institutions and the abandonment of our core principles," Slaughter said.

"Lobbyists are now writing the bills passed by Congress," she contended. "They have infiltrated every aspect of our government. Their money and donations shape the opinions of corrupt lawmakers in a way that public opinion no longer does."

Slaughter said the unethical influence of lobbyists has affected everything from the Iraq war to energy policy to the new Medicare prescription drug plan.

The 10-term congresswoman said her party will "uphold the highest standards of integrity."

Repeating a Democratic tag line, Slaughter said, "Together, America can do better."

Democrats Want Sweeping House Ethics Investigation (REU-Y2)

Reuters, January 8, 2006

Democrats seized on a mushrooming scandal involving a disgraced lobbyist on Saturday to call for sweeping ethics probes in the Republican-led House of Representatives.

Rep. Louise Slaughter, a New York Democrat, said lobbyists had multiplied by the thousands in recent years to the point where there were now 63 of them for every lawmaker. She said they were using their campaign donations to influence policy and even write laws.

Slaughter called on the House ethics committee to investigate corruption cases involving lawmakers with links to Jack Abramoff, the lobbyist who pleaded guilty this week in a U.S. corruption probe.

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"The House ethics committee, after a year of inaction, must get to work immediately to investigate pending ethics and corruption cases in the House, including those involving members with ties to Jack Abramoff," she said in the Democrats' weekly radio address.

"This is a necessary first step to restore a high ethical standard to the Congress," Slaughter said.

There was no immediate comment from a spokesman for the ethics committee, chaired by Rep. Doc Hastings, a Washington Republican.

But Republicans have sought to cast the Abramoff case as a bipartisan scandal, noting that some Democrats also received donations from Abramoff's clients and associates.

Abramoff pleaded guilty to fraud charges and admitted that he gave golf trips, sports tickets and other gifts to lawmakers in return for special treatment.

The case has deepened the woes of former House Majority Leader Tom DeLay, a Texas Republican whom Abramoff describes as a close friend. It has spurred a debate in the Republican Party over whether DeLay should return to his leadership post even if cleared of money-laundering charges in a separate case in Texas.

Democrats hope to turn the Abramoff scandal into a major election-year issue that could help them win back control of the House in the November elections.

DeLay Ends Bid To Regain Post As G.O.P. Leader (NYT)

By Carl Hulse

The New York Times, January 8, 2006

WASHINGTON, Jan. 7 - Representative Tom DeLay, under pressure from colleagues and swept into an election-year lobbying scandal, abandoned his effort to remain House majority leader on Saturday. The move touched off a battle for the House Republican leadership in a campaign season tinged by corruption.

In letters sent Saturday to fellow House Republicans and Speaker J. Dennis Hastert, Mr. DeLay said he supported the call for an election of a new leader and was stepping aside to avoid becoming a political liability as Republicans face a determined Democratic challenge to their majority.

"The job of majority leader and the mandate of the Republican majority are too important to be hamstrung, even for a few months, by personal distractions," Mr. DeLay said in the letter to Mr. Hastert, the man he personally picked to take the speaker's job in a previous round of leadership turmoil in 1998. In his letter to the Republican conference, Mr. DeLay said he had "always acted in an ethical manner within the rules of our body and the laws of our land."

Though his allies just hours earlier had suggested Mr. DeLay would resist moves to oust him, his aides said he came to a different conclusion on his own Saturday morning in Texas as he assessed his waning support and the potential damage to House Republicans. He then telephoned Mr. Hastert to deliver his decision, according to a House leadership aide who did not want to be identified discussing private conversations.

Mr. Hastert said Republicans would hold a leadership election after they return for the State of the Union address on Jan. 31. "It is an honorable decision and the right decision for the House Republican conference," he said of Mr. DeLay's announcement. Mr. DeLay acted after a group of House Republicans on Friday began circulating a petition calling for an election to bar him from the post. The move came after the lobbyist Jack Abramoff, a former DeLay ally, pleaded guilty on Tuesday to criminal corruption charges in a case that could also involve other former senior DeLay aides.

Mr. DeLay intends to seek re-election to his seat representing the Houston suburbs and reclaim his position on the Appropriations Committee, but he will no longer wield the power that for years made him one of the most influential Republicans in the capital.

His decision immediately kicked off a potentially divisive fight over who should become the new leader - a chief face of the party as well as the senior floor strategist.

Representative Roy Blunt of Missouri, the No. 3 elected Republican who has been filling in for Mr. DeLay since his September indictment in Texas in a campaign-finance case, began rounding up support by telephone, arguing that his success in pushing through difficult budget and spending legislation in the past few months had proved his abilities and earned him the job permanently.

But Representative John A. Boehner of Ohio, a well-liked lawmaker who has served in the leadership before, was expected to announce his own candidacy as early as Sunday.

Others could also throw in their names, including Representatives Mike Pence of Indiana, Mike Rogers of Michigan and Jerry Lewis of California. Should Mr. Blunt prevail in the majority leader's fight, that would create a vacancy for majority whip and lawmakers were also preparing for a potential contest for that post. Mr. Rogers was seen as a possible candidate along with Representatives Eric Cantor of Virginia, the appointed deputy whip, and Zach Wamp of Tennessee. Lawmakers and top aides

said there seemed to be no mounting challenge to either Mr. Hastert or Representative Deborah Pryce of Ohio, the chairwoman of the party conference.

A White House spokeswoman, Erin Healy, reading from an official statement, said, "We respect Congressman DeLay's decision to put the interests of the American people, the House of Representatives and the Republican Party first. We look forward to continuing to work with Speaker Hastert and all House Republicans to build upon the important accomplishments we have achieved on behalf of the American people to make America safer and more prosperous."

It was not clear whether Bush administration officials played any role in pushing Mr. DeLay out, and Republicans who consulted with the White House and leadership on Capitol Hill said events had unfolded strictly within Congress.

Mr. DeLay stepped down from the post in the fall after his indictment in Texas on campaign-related charges of money laundering. But he was aggressively battling those accusations, and many of his colleagues considered the case partisan. But the Abramoff plea and the potential involvement in that case of others who had been close to Mr. DeLay shifted the political dynamic.

House Republicans have stood by Mr. DeLay, who became majority leader in 2002 after serving for years as the party whip, despite a series of rebukes by the House ethics committee and a ferocious courtship of the lobbying industry that brought him under attack for having too heavy a hand in encouraging firms to hire favored Republican lobbyists. Democrats have complained for years about Mr. DeLay's iron control of the House, his unwillingness to engage the minority party and his ethical conduct. One Democratic leader said Saturday that his decision to step down would not spare Republicans from attacks over ethics.

"The culture of corruption is so pervasive in the Republican conference that a single person stepping down is not nearly enough to clean up the Republican Congress," said Representative Nancy Pelosi of California, the Democratic leader.

Those backing the petition drive for a new leader had hoped that Mr. DeLay would take himself out of the fight rather than have to be forced out by his colleagues. Kevin Madden, a spokesman for Mr. DeLay, said he made his choice after talking with his staff and other advisers and weighing his options.

"He doesn't see this as being broken," Mr. Madden said. "I think it is something that he sees as being best for the conference."

DeLay Steps Down Permanently As House Majority Leader (KRT)

By James Kuhnhenn

Knight Ridder, January 8, 2006

WASHINGTON - Tom DeLay, the pugnacious Texas Republican dogged by ethics complaints, stepped down permanently as House majority leader Saturday, the first political casualty of a blossoming Washington lobbying scandal.

Maintaining that he has "always acted in an ethical manner," DeLay nonetheless told House Republican lawmakers in a letter that he was permanently stepping down because "I cannot allow our adversaries to divide and distract our attention."

DeLay was forced to step down temporarily as leader in September when he was indicted by a Texas grand jury on charges that he broke state campaign finance laws. But the final straw came last week when Jack Abramoff, a once-powerful Republican lobbyist with close ties to DeLay, pleaded guilty to corruption charges.

DeLay reached his decision Saturday in Texas, a day after two House Republicans initiated a drive to keep DeLay from reclaiming his leadership post and to hold elections to replace him permanently.

DeLay will keep a seat on the powerful House Appropriations Committee, which distributes government money, and plans to run for re-election. But the departure from the leadership of a key figure in pushing President Bush's agenda for the past five years could hobble the White House in the future. DeLay's stepping down may be some help to House Republicans, who've benefited from DeLay's tactical and fundraising prowess, but have also seen their popularity plummet nationally amid headline-making scandals in which he often had a role.

An Associated Press-Ipsos poll released Friday showed the American public favored Democrats over Republicans 49 percent to 36 percent for Congress. Democrats need 15 seats in the 435-member House of Representatives to win control.

Delay's resignation from the leadership threw the House into an unpredictable phase that will test House Speaker Dennis Hastert, R-Ill. Hastert is well regarded by his colleagues, but the House Republican caucus was already stirring with demands for greater leadership changes.

"We don't just need new leaders, we need a major course correction," Rep. Jeff Flake, R-Ariz., one of the two lawmakers who prompted the effort to replace DeLay, said in an interview Saturday.

Even before DeLay reached his decision, Rep. Melissa Hart, R-Pa., demanded Friday in a statement that the Republican House membership "needs the ability to reassess the leadership team as a whole."

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Hastert, who abruptly canceled a foreign trip he was to embark upon Monday, said he would schedule leadership elections for the week of Jan. 31. A top leadership aide, speaking on the condition of anonymity because of the sensitivity of the elections, said current plans are only to fill DeLay's vacancy, not other leadership posts.

A leadership fight could disrupt the House's handling of some important upcoming legislative issues. Among them are the renewal of the anti-terrorism Patriot Act, which expires Feb. 3, reductions in planned spending for anti-poverty programs and billions of dollars in tax cuts.

DeLay, in a letter to Hastert, indicated that it was best for the party if he stepped aside. "The job of majority leader and the mandate of the Republican majority are too important to be hamstrung, even for a few months, by personal distractions," he wrote.

Hastert, in a statement, said Delay's was "an honorable decision and the right decision for the House Republican Conference."

Democrats showed no signs of relenting after DeLay stepped down.

"By forcing out Tom DeLay, Republicans have addressed a party problem but not the institutional problem of corruption that most troubles the American people," said Rep. Rahm Emanuel, D-Ill., the chairman of the campaign arm of the House Democrats.

House Democratic Leader Nancy Pelosi said: "The culture of corruption is so pervasive in the Republican conference that a single person stepping down is not nearly enough to clean up the Republican Congress."

Flake said rank-and-file Republicans will insist on elections that force leadership candidates to propose fundamental changes in the ways that legislators work. Flake has called for an end to targeted legislative provisions, called earmarks, that lawmakers insert into bills to help their congressional districts or special interests. Earmarks are a favorite of lobbyists seeking special legislative treatment.

Flake said even Hastert's fate could hang on the elections. "It really depends on how willing the speaker is to align himself with a reform agenda," Flake said.

Among the leading candidates to replace DeLay are Roy Blunt of Missouri and John Boehner of Ohio. Blunt stepped in to become acting majority leader after DeLay was indicted in Texas. Boehner is chairman of the House Committee on Education and the Workforce and was once a member of the leadership team.

In statements issued Saturday, Blunt and Boehner both praised DeLay as one of the party's most effective leaders. But while Boehner noted that he and DeLay "have had our differences over the years," Blunt described DeLay as "my good friend."

Republicans Seek Elections To Replace DeLay (FT)

By Holly Yeager In Washington

Financial Times, January 8, 2006

As Washington assesses the impact of the lobbyist Jack Abramoff's guilty plea this week to charges of bribery, tax evasion and fraud, one early casualty has emerged: Tom DeLay, the former majority leader of the House of Representatives.

Mr DeLay, a central figure in the conservative movement, was forced to step down from his leadership post in September after a Texas prosecutor indicted him on unrelated money-laundering charges. He had hoped to resolve that matter quickly and resume his duties.

But the case against Mr Abramoff, who has close ties to Mr DeLay, along with a guilty plea to corruption charges by Michael Scanlon, a former DeLay aide, and the potential involvement of other former aides – as well as the continuing legal battle in Texas – appear to have scuppered that plan.

Several rank-and-file Republicans in the House said on Friday they would circulate a petition in the next few days calling for leadership elections to formally replace Mr DeLay, who many fear could become a liability in the November 2006 mid-term elections.

Newt Gingrich, the former House speaker who led the Republican takeover of Congress in 1994, said this week that while Mr DeLay must defend himself in court, “the House Republican party has a different set of interests and [they] involve having a new majority leader”.

The Wall Street Journal editorial page weighed in on Friday, saying Mr DeLay and the Republicans “should move on separately”.

John Green, director of the Bliss Institute of Applied Politics at the University of Akron, said: “Just for purely practical reasons, the Republicans are not going to want him back in the leadership position.”

Just as the high costs of Hurricane Katrina prompted a backlash among fiscal conservatives in the Republican party, the Abramoff scandal is prompting a broader self-examination among Republicans. “The party that swept to power on term limits,

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spending restraint and reform has become the party of incumbency, 6,371 highway-bill 'earmarks', and K Street [the site of many lobbyists' offices]," the Journal said.

But replacing Mr DeLay poses challenges."Whatever one may think of his politics, he was very good at rounding up votes," said Mr Green.

Roy Blunt, who has filled in for Mr DeLay since September, is considered the frontrunner to succeed him. But Mr Blunt has been criticised for what are seen as mis-steps on the House floor.

A leadership campaign threatens to expose divisions within the Republican caucus, between Mr DeLay's allies and other factions, and between fiscal conservatives and moderates.

Republicans have pointed out that politicians from both parties had ties to Mr Abramoff. Dozens of lawmakers, as well as President George W. Bush, have said they will return political contributions from Mr Abramoff or donate the funds to charity.

Charlie Cook, a political analyst, says the full impact of the case will depend on how many, and which, politicians Mr Abramoff implicates. "So far, the vast majority of voters have no earthly idea who Abramoff is, and they don't see his troubles as primarily a Republican problem."

Democratic Leader Takes Anti-Corruption Message To GOP Turf (WP)

By Chris Cillizza

The Washington Post, January 8, 2006

Harry M. Reid is heading into the belly of the beast.

The Senate minority leader will spend much of this week traveling to "red states" -- those that voted for George W. Bush in 2004 -- to campaign for candidates, raise cash and bash Republicans on the issue of corruption.

Dubbed by his office "Reid's Red State Tour," the three-day journey will take the Nevada senator through Arizona, Colorado, Utah, Idaho and Nebraska. He will be in Phoenix and Denver on Tuesday, Salt Lake City and Pocatello on Wednesday and Omaha on Thursday. It is one of several such campaign swings Reid has planned between now and the November midterm elections, according to his office.

In each state Reid will conduct events seeking to highlight the need to "restore honest leadership in Washington, D.C.," said his spokesman Jim Manley.

But Reid also has a pecuniary motive. He plans to raise money for the Democratic Senatorial Campaign Committee at each of his five stops.

Take, for example, his jaunt to Nebraska. According to an itinerary of the visit, Reid will join Sen. Ben Nelson (D-Neb.) to "send a strong message that Americans don't have to accept more of the same corruption and cronyism that pervades Washington today." Left off the itinerary is a DSCC event in Omaha hosted by Reid that Nelson plans to attend.

With official Washington clamoring to deal with the fallout from last week's plea agreement by fallen lobbyist Jack Abramoff, Reid's trip comes at an opportune time for a party whose members are seeking to cast themselves as outsiders to corruption.

"Americans everywhere want elected officials who will fight for them," Reid said. "We're ready to clean up Washington, and we're going to make our case across this country."

Republican National Committee spokeswoman Tracey Schmitt drew a different conclusion when informed of Reid's travels.

"You can take Harry Reid out of Washington, but you can't take the Washington out of Harry Reid," Schmitt said. "Does he plan to brag about killing the Patriot Act or shutting down the United States Senate?"Vegas Mayor Ready to Gamble on Senate Bid?

Meanwhile, back in Sin City, the Senate minority leader confirmed last week that he has spoken to Las Vegas Mayor Oscar Goodman (D) about possibly challenging Sen. John Ensign (R-Nev.) in 2006.

Harry M. Reid told the Associated Press that he was "happy to give [Goodman] any advice or counsel that he needs or wants." Sen. Charles E. Schumer (D-N.Y.), chairman of the Democratic Senatorial Campaign Committee, has also spoken with Goodman about a potential candidacy. Jack Carter, son of former president Jimmy Carter, is also considering a bid against Ensign.

DSCC spokesman Phil Singer said Goodman and Carter are "quality" candidates, and pointed to a Zogby International poll conducted online last fall that showed Ensign with a 45 percent to 42.5 percent edge over Goodman. "If Ensign thought he'd have an easy ride in 2006, he was mistaken," Singer added.

"We're very confident that Senator Ensign will be reelected based on his strong record in the Senate and the great work he has done for the state of Nevada," responded National Republican Senatorial Committee spokesman Brian Nick.

A Goodman Senate bid would set off a political circus worthy of a Vegas casino.

Long before being elected mayor in 1999, Goodman was a high-profile -- and controversial -- figure in Las Vegas as the lead attorney for a number of high-profile Mafia figures, including Meyer Lansky and Tony "The Ant" Spilotro. Goodman has

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embraced the "what happens here stays here" motto of his city as its mayor -- he is regularly accompanied by showgirls and has a weak spot for Elvis impersonators.

Putting aside Goodman's flamboyant personality, if Reid is seen as advocating a bid by the mayor it could signal a break in the unstated truce that has been in effect between him and Ensign since Ensign won a Senate seat in 2000. Asked whether Reid was encouraging Goodman to enter the race, spokeswoman Tessa Hafen said -- carefully -- that the minority leader "was not trying to convince Goodman to run."Frist Looks Northward for Rebound

Seeking to right his presidential bid after a calamitous 2005, Senate Majority Leader Bill Frist will headline the Lincoln-Reagan Day Dinner in Hampstead, N.H., on Feb. 3.

The visit to the Granite State -- home of the first-in-the-nation presidential primary -- will be the Tennessee Republican's second since early December, when he made stops in Manchester, Concord and Portsmouth.

With Frist beginning his final year in the Senate, expect his attentions to turn more and more to the presidential race. In an e-mail sent last week from his Volunteer PAC leadership committee, Frist urged supporters to attend a presidential 2008 straw poll to be at the Southern Republican Leadership Conference in Memphis in March.

Cillizza is a staff writer for washingtonpost.com. His online column on politics, The Fix, appears daily athttp://www.washingtonpost.com/thefix.

Scandal Exposes Washington's Underside (AP-Y2)

By Laurie Kellman

AP, January 8, 2006

A luxury skybox for sports fans in Congress. A dinner party that raises thousands of dollars for a political candidate. Helpful suggestions on how the guest of honor might phrase a letter to the president or a Cabinet secretary.

Alone and even in modest combinations, all are examples of business as usual in Washington's billion-dollar world of government, lobbying and campaign finance.

What makes it work is discretion.

What's blown the lid on it now is lobbyist Jack Abramoff's excesses.

It's the unwritten rules as much as the written ones that Abramoff broke: Don't gloat, don't be too greedy, don't say out loud what you're doing, and don't ever, ever, put in writing what you don't have to.

There is one other clear difference between Abramoff's actions and those of other lobbyists.

"He defrauded his clients. That's a big difference," said Kathleen Clark, a government ethics expert at the Washington University law school in St. Louis.

Abramoff, who faces up to 11 years in prison after pleading guilty last week to conspiracy, mail fraud and tax evasion charges, also got caught. A maze of campaign finance laws and lobbying rules makes it hard to prove a lawmaker took an official action under a "quid pro quo" agreement with a generous lobbyist.

"The scandal with Abramoff is just the enormity of it," said Roberta Baskin, executive director of the Center for Public Integrity, a private ethics watchdog group. "Who knows if there are others like him out there or not."

If so, it's unlikely they had all of Abramoff's trappings:

_Foreign golf trips arranged for former House Majority Leader Tom DeLay, R-Texas, and the chairman of the House Administration Committee, Rep. Bob Ney, R-Ohio.

_Fundraisers at his skybox or at his upscale Signatures restaurant on Pennsylvania Avenue exactly half way between the Capitol and the White House.

_Job offers for top Bush administration officials and senior aides of congressional leaders and committee chairmen.

"He's exceptional in that he was pushing so many levers at once," said Frank Clemente, director of Public Citizen's Congress Watch.

More may be known soon.

Under a plea deal with federal prosecutors, Abramoff's e-mails and other documents will be the stuff of federal court proceedings that will expose the mysterious and protected world of Washington lobbying.

Because the law requires limited transparency of lobbyist-lawmaker dealings, the differences between Abramoff and other lobbyists are not entirely clear.

Lobbyists, legislators, campaign fundraisers and presidential appointees frequently wear different hats over the course of their careers. It's been pretty much that way since the nation's beginning. Even public integrity watchdogs acknowledge that lobbyists, properly regulated, are important advocates in the American system of government.

The ethical boundaries get blurred when people play two or more parts, often in the same day.

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Rainmakers raise colossal amounts of money that candidates need to wage and win campaigns. Lobbyists try to persuade lawmakers and presidentially appointed officials to take actions that benefit their clients. Often they are one and the same.

What is hard to prove is whether lobbyists press officials — and whether the officials agree — to pony up these official acts out of gratitude for campaign money or other gifts of value, such as skybox seats and exotic trips. The law says such a quid pro quo only can be proved when explicitly uttered or written down.

Hence, the unwritten rules: Whatever events or contributions might have preceded a public policy decision that benefits the lobbyist's clients, don't talk about it and don't put anything in writing that isn't required.

Abramoff violated both, and the law, in vivid detail.

"Is life great or what!!" he exulted in an e-mail to an associate with whom he pocketed $66 million from six American Indian tribes seeking influence in Washington.

In a series of e-mails and other documents, Abramoff explained that in 2002 he and an associate secretly funneled millions of dollars to consultant Ralph Reed, a former Christian Coalition leader, to help shut down a Texas casino operated by the Tigua Indians.

Then Abramoff persuaded the Tiguas to hire him and his associate, public relations consultant Michael Scanlon, to help reopen the casino.

"The annoying losers are the only ones which have this kind of money and part with it so quickly," Abramoff wrote to Scanlon.

Abramoff also explained how some of the money would be doled out: "He (Scanlon) divided the $5 million into three piles: $1 million for actual expenses and $2 million for each of us."

White House Watch: (PPG)

By Ann McFeatters

Pittsburgh Post-Gazette, January 8, 2006

WASHINGTON -- Tempting as it is to say a pox on all their houses, we are confronted with the question of the extent of corruption in Washington's political circles.

Are government officials and actions, in fact, for sale?

The once-flamboyant, multi-hatted Jack Abramoff, whose name is now synonymous with political turpitude, survived and thrived because many powerful members of Congress eagerly accepted his contributions to their re-election campaigns.

Politicians from President Bush on down through the ranks of Congress took the Abramoff largess because they wanted to be re-elected. To stay in power, pols raise millions of dollars to defeat opponents.

There are no vicuna coats in this scandal, as far as we know (fur being politically incorrect at the moment). No call-girl ring has been busted on Capitol Hill (albeit the aphrodisiac of power will be with us until the end of time). But this latest spate of revealed corruption will do far more harm because it is so entrenched, so sophisticated and so sickening.

What lobbyists such as Mr. Abramoff seek is a seat at the table when laws are written and regulations are finalized so that their clients' interests hold sway.

There is not one aspect of human life untouched by congressional hands. The air we breathe, the food we eat, the cars we drive, the medicines we take, how we invest our money, the way we die, the care we get when we're sick or old -- it all is regulated, and Congress has oversight over everything.

We do not yet know whether the latest West Virginia coal-mine tragedy was caused by violation of safety rules. We do know that the Bush administration has not issued one significant coal-mine safety regulation in five years. We do know that despite promising mammoth increases in penalties for safety violations, the administration has yet to act to demand them. We do know that the first person the administration put in charge of mine safety came from the mining industry and had vehement views on the need to get government off its back. We do know that congressional oversight on mine safety has been abysmal.

There is a line between excessive regulation, which stultifies business expansion, and too light a federal hand on business, which means the worker and the consumer get shafted.

This administration has worked hard to lift the heavy hands of federal regulators off the shoulders of big business (less so off small business). Strident voices such as Ralph Nader's have been loudly complaining, but for many reasons have been ignored.

Sometimes critics cried wolf too often. Sometimes the intricacies of the issues they raised were too daunting for all but the most dedicated zealots to unravel. And when fewer people buy newspapers, there are fewer reporters paid to dig into mounds of arcane records searching for evidence of fraud and abuse. (TV sometimes tries, but is woefully unable to commit the needed manpower to investigative reporting.)

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There is a noble purpose to lobbying. No legislator can be adequately familiar with every aspect of every bill. Lobbyists from all sides of an issue -- for example, for the coal company, for the worker and for the environmental group -- compete to get their interests written into legislation. What is unfair and illegal is when lobbyists with big bucks spread them around in a way calculated to get the votes of lawmakers.

Some lawmakers refuse to have anything to do with the bad lobbyists who lurk on Capitol Hill. They are the good guys. The legislators who took money from Mr. Abramoff and his ilk convinced themselves they were just doing what "everybody else does" to stay in office so they can "do good" and pass legislation that matters. Most of them did not take the money to get rich -- for one thing, that's too easily traced. Many of them passionately believe in what they are doing.

But what these witless co-conspirators have done is further undermine public confidence, chisel away at the credibility of government and give comfort to enemies convinced the democratic system is no better than any other and maybe even worse.

Assistant Attorney General Alice Fisher said the Abramoff pleas of guilty to felonious bribing of lawmakers, evasion of taxes and bilking of clients show that "government officials and government action are not for sale."

But as the investigation continues into how many webs Jack Abramoff has spun, we have no confidence her statement is true.

Can I Lobby You? (WP)

By Jan Witold Baran

The Washington Post, January 8, 2006

If you typed the word "lobbyist" into the Google News search engine last week, the first page of 8,670 search results would have included dozens of headlines that screamed out "Lobbyist's Guilty Plea Sends Out Shock Waves Through US Congress," "Bush Campaign Getting Rid of Lobbyist's Money" and "Kennedy Among Leading Recipients of Convicted Lobbyist's Clients." The referenced lobbyist is, of course, Jack Abramoff. In spreading the news to America and the world, most news organizations deemed it sufficient to simply inform the public in headlines that a "lobbyist" had pleaded guilty. The insinuation is that there must be something inherently sinister because a lobbyist is involved. The nature of his guilt is treated as self-evident.

Perhaps this scandal will eventually be called the Abramoff affair, but for now it is a lobbying scandal. If Shakespeare lived today, perhaps he would write, "First shoot all the lobbyists." Yet in the midst of the current furor, reports do not mention that there are thousands of lobbyists in Washington who are honorable and honest people and who render a service that is both critical to a democratic society and enshrined in our Constitution.

There is irony here. The same constitutional provision that ensures the press may proclaim a lobbyist's guilty plea also protects the act of lobbying. The First Amendment is well-known for guaranteeing freedom of speech, freedom of press, freedom of assembly and freedom of religion. Often overlooked in its litany of fundamental civil liberties is the right "to petition the Government for a redress of grievances." It is this distinct clause that prevents Congress and the president from enacting a law that bans lobbying. It is a right that should not be taken lightly and that should not be eroded by the fraudulent acts of a single lobbyist.

The Washington lobbying community was aghast to learn of Abramoff's methods and practices . Bilking a handful of Native American tribes of more than $80 million in four years is shocking. Mocking those same clients in e-mails is unconscionable and disrespectful. Renting suites or skyboxes in at least three professional sports arenas is exceptional even among the most prosperous D.C. firms. Firms typically do not rent such suites because the price of tickets now regularly exceeds the limits on gifts to legislators. Most corporate offices in Washington have instituted compliance systems to ensure that their lobbyists do not exceed gift limits. For all these reasons, lobbyists are appalled at Abramoff's practice of extravagant wining and dining (at his own restaurant!), orchestrating lavish trips and offering campaign contributions in exchange for specific official acts. There may be others who bend the rules, but Abramoff retired the cup for outrageous conduct in the name of lobbying.

We have laws to prevent such corruption. If members of Congress were caught breaking those laws, they would be prosecuted and punished -- but we wouldn't abolish their seats and deprive their constituents of representation.

The framers of the Constitution recognized that citizens must be free to make appeals to those who govern and who make policies, laws and regulations that affect the citizenry. Obviously, most citizens are not physically located at the seat of government, may not know how government works, and are busy doing things other than lobbying. For those reasons, when they need help in making their petitions, they retain representatives who can more effectively seek redress on their behalf. In other words, ordinary folks need representatives to talk to their representatives.

While officials may prefer to legislate without being importuned by those affected or by their representatives, that is not the way laws should be made in an open democratic society. The founders sought to ensure the public interest by promoting pluralism and protecting the participation of all. How then can it be surprising that there are now more than 27,000 registered

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lobbyists petitioning on behalf of business, labor, the environment, education, abortion rights, the elderly, the poor, ethnic groups and more?

Daniel Webster may have become America's first lobbyist when he was retained as an attorney by business interests while also serving as the U.S. senator from New Hampshire. Legislators could wear two hats in those days. But the practice of employing lobbyists did not gain steam until the Grant administration. It was then that agents of private interests lingered in the lobby of the Willard Hotel a short walk from the Treasury Department and the White House in the hopes of buttonholing residing government officials and members of Congress to seek redress of some grievance. Hence the term "lobbyist." That certainly is easier to say than "grievance petitioner."

The size of the lobbyist population is proportional to the size of government. During the Civil War, the White House staff consisted of two personal secretaries to President Abraham Lincoln. Today the Executive Office of the President budgets for more than 900 employees. Lincoln was lobbied, but usually for a job in the postal service. There were many fewer legislators than today and the members had no staff. Currently there are more than 30,000 employees in Congress -- not coincidentally, that's just slightly more than the number of registered lobbyists. As the size and functions of government have grown, society has discovered more "grievances" to petition. In particular, spending by government has led to more petitions for one's perceived fair share.

Lobbying was not subject to any regulation until 1946, when the first lobbying law was passed. That initial effort required registration and reporting by lobbyists and the organizations that employed them. However, the legislation was poorly drafted. By 1954, the Supreme Court interpreted the statute so narrowly (in order to avoid violating the First Amendment right to lobby) that the law no longer provided meaningful reporting and could not be enforced. During the era of Lyndon B. Johnson, lobbyists and legislators formed an increasingly symbiotic relationship. According to biographer Robert Caro, then-Senate majority leader Johnson freely availed himself of the corporate aircraft of a major Texas construction firm, and to the extent that he relaxed, he did so at the Middleburg estate of the firm's lobbyist.

Eventually, attempts were made to tame the gift-giving and to subject lobbyists to public disclosure. Congress adopted ethics rules in the late 1950s and gradually tightened them. In 1995 the Lobbying Disclosure Act (LDA) for the first time implemented clear requirements for registration and reporting. One major reason we know that Jack Abramoff was a lobbyist and who his clients were is the information on his lobbying reports.

Just because we have laws and ethics rules, however, doesn't guarantee that people, including lobbyists, will abide by them. Nor will lobbying laws prevent a lobbyist from committing crimes such as Abramoff's. He defrauded his Indian tribe clients, law firms and financial institutions, and the American taxpayer (by not paying taxes). He also admitted to conspiring to bribe a public official. That crime is the most reprehensible in that it betrays both honest government and his profession. It is like a lawyer paying off a judge or a jury. A lobbyist, like a lawyer, must ply his profession with advocacy and facts, not with gratuities or bribes.

While laws and rules do not stop crimes and rule breakers, both are vital to establishing and maintaining public confidence in the lobbying process. Congress, in particular, must take steps to reduce the excesses that Abramoff represents while preserving the right of effective lobbying. Here are four places to start:

Enforce current House and Senate ethics rules. After reading about Abramoff's wining, dining and entertaining, many Americans would be surprised to learn that both the House and the Senate have rules that generally limit gifts, including meals, to $49.99. However, neither congressional offices nor the ethics committees actually enforce those rules, thus making a mockery of them. Congressional officials, particularly staff, should be required to certify annually that they have not received improper gifts and such certifications should be subject to laws that make false statements a crime.

Tighten up those rules . There has been much attention paid to the expensive foreign trips taken by some officials at private expense. In Congress, but not in the executive branch, officials may accept luxurious travel, accommodations and meals anywhere in the world as long the trip has some official purpose, such as giving a speech or participating in a conference. This practice must be modified or eliminated. If a trip is justified and necessary for official reasons, then it should be modest and financed by the government. If some trips continue to be privately financed, there should be limits and officials must make prompt, complete and public disclosure, preferably on a government Web site.

Require lobbyists to itemize gifts and entertainment on lobbying reports. The current LDA requires the reporting of the total amount of money spent by lobbyists, but no itemization of expenses. Itemizing gifts and entertainment over, let's say, $20 would highlight which government officials accept such blandishments and whether they are adhering to their own ethics rules. Lobbyists and their clients are not subject to the congressional ethics rules but are subject to the LDA and other statutes that prohibit bribes and gratuities.

Promote an ethical culture. The character and leadership of government officials are the most important ingredients in setting examples and demanding ethical behavior. There are, however, additional steps. Any manager working at a major corporation will tell you that he or she must participate in mandatory educational compliance programs. Workers are required to

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know what the rules are, what the company policies are and to demonstrate that they know. No less should be expected of government officials. Congress needs to implement a mandatory annual compliance education program and no one should receive a paycheck unless he or she has completed the program.

The above steps will not eliminate the possibility of another future lobbyist who is determined to bribe or an official who seeks emoluments. Renegades and schemers unfortunately exist. But these suggestions would help increase consciousness about the rules, encourage ethical behavior and perhaps reduce the possibility of another Abramoff operating on his scale for so long without someone blowing the whistle.

The targets of my suggestions are government officials, our leaders. It is incumbent upon them to pay their share of a dinner check and to decline a ticket to a sporting event that violates any gift limit. If they seek the social company of lobbyists they should abide by the rules or go Dutch. By the same token lobbyists must abide by the laws and act ethically, as most do, even in the era of Jack Abramoff's excesses.

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Go Ahead, Try To Stop K Street (NYT)

By Todd S. Purdum

The New York Times, January 8, 2006

WASHINGTON

IN 1872, some Republican elders, revolted by the rampant influence peddling of Ulysses S. Grant's administration, challenged him for re-election. "He has used the public service of the government as a machinery of corruption and personal influence," they complained, and "shown himself deplorably unequal to the task imposed on him by the necessities of the country."

Jack Abramoff's trading room was his Signatures restaurant, not the front of the old Willard Hotel, where favor seekers so besieged Grant that he helped popularize the label - lobbyist - that still clings to their descendants with a pejorative sting. But Mr. Abramoff's guilty plea last week to charges of fraud, tax evasion and conspiracy to bribe public officials prompted similar revulsion among some of the Grand Old Party's canniest hands.

"I think as this thing unfolds, it'll be so disgusting, and the Republicans will be under such pressure from their base, that they will have to undertake substantial reform," said Newt Gingrich, the former House speaker (who himself had to pay $300,000 to settle a 1997 ethics case). "This is like Watergate."

But will things really change? After all, Grant himself won a second term, despite the failings that would eventually leave his legacy forever tainted, and his chief Republican antagonist, Horace Greeley, died defeated and insane three weeks after the election. Is corruption just a part of Washington's DNA? What else explains the grim resignation of Washington veterans who wonder when, not whether, some scandal will arise?

"The history of civilization, for starters," said Fred Wertheimer, president of Democracy 21, an ethics group. "This kind of problem is faced by all societies throughout all of history. It comes and goes in cycles, and becomes most prevalent when the activities are viewed as O.K. by the society where it's taking place."

For watchdogs like Mr. Wertheimer, and for many Democrats, such tolerance dates to the Republican takeover of Congress in the mid-1990's, when new leaders like Representative Tom DeLay of Texas began a campaign to fill the capital's K Street corridor with Republican lobbyists, and made it plain that those seeking to influence legislation would have to "pay to play," in the form of political contributions and other largesse.

Mr. DeLay, who was himself indicted last year in Texas on unrelated campaign finance charges and forced to step down from his post as House majority leader, has long had close ties to Mr. Abramoff. Now Mr. Abramoff's guilty plea increases the likelihood that Mr. DeLay will lose his leadership post for good, and raises the prospect that he - and other lawmakers - may be enmeshed in new legal troubles. The sheer scale of Mr. Abramoff's misdeeds - millions of dollars in kickbacks from Indian tribes, a luxury golf outing for politicians to Scotland, misuse of a tax-exempt foundation - make this an extraordinary case.

"There are all sorts of things that have gone on of the same generic kind," said Harry C. McPherson, who came to Washington 50 years ago this month as a Senate aide to Lyndon B. Johnson and has plied his trade as a lawyer-lobbyist since leaving the White House in 1969. "But this is truly a situation where the degree changes everything. It converts something that purists about government would find unpleasant into the utterly unacceptable - into crime."

But the problem is broader than Mr. Abramoff, Mr. DeLay or even the inherent potential for abuse in one-party rule of all three branches of government. It also has to do with the astounding growth of the lobbying industry, a growth that has tracked

the growth of the federal government itself. The rise of government regulation - first in the New Deal and then in the 1960's and 70's - spawned a parallel rise in the private sector's efforts to master the new system. Between the early 1970's and the mid-1980's, the number of trade associations doubled; in the first half of the 1980's alone, the number of registered lobbyists quadrupled, according to The Washington Monthly.

A study by the Center for Public Integrity found that in the early 1990's, political donations from 19 major industries - including

pharmaceuticals, defense, commercial banking and accounting - were split about evenly between the two parties.

By 2003, the Republicans held a 2-to-1 advantage. Since 1998, the center found, more than 2,200 former federal employees had registered as federal lobbyists, as had nearly 275 former White House aides and nearly 250 former members of Congress. Many rules governing their conduct remain deliberately vague, and the House Ethics Committee has been paralyzed because of dysfunction and partisan disputes.

"The scandal here is not that the rules were broken; the scandal is the rules themselves," said Representative Martin T. Meehan, Democrat of Massachusetts, who with a Republican colleague, Christopher Shays of Connecticut, and Senators John McCain and Russell D. Feingold, has been a leader in pressing to overhaul campaign finance and ethics rules. "Lobbying is part of our system, but there is a set of ethical standards and rules that ought to be followed."

Together with Representative Rahm Emanuel of Illinois and Mr. Feingold, Mr. Meehan has introduced legislation that would, among other things, require lobbyists to file quarterly financial disclosures, instead of semiannual ones and to disclose just whom in the government they lobbied. Former members of Congress would also not be able to lobby their colleagues for two years, as opposed to the current one year. Members would be required to submit detailed itineraries and descriptions of expenses for privately sponsored travel.

Mr. Gingrich has offered more ideas. He would allow unlimited fund-raising in members' states or districts, but bar fund-raising within the District of Columbia, and would require that all contacts between lobbyists and elected and appointed officials be posted weekly on the Internet. And he would shrink a government that has only grown further with post Sept. 11, 2001, spending.

"There is $2.6 trillion spent in Washington, with the authority to regulate everything in your life," he said. "Guess what? People will spend unheard-of amounts of money to influence that. The underlying problems are big government and big money."

Of course, the record suggests that for every loophole any new law might close, lobbyists will find a way to open another. The ban on so-called "soft money" contributions to political parties led to the rise of new special-interest spending groups, for example. Entrenched industries - and entrenched incumbents of both parties - can be expected to resist change that would threaten the way they know how to do business.

For their part, some lobbyists hope legislators intent on reform resist painting with too broad a brush.

"A lot of what we do is an enormous educational effort, to avoid what we consider even well-meaning but wrong-headed legislation," said Joseph Tasker, senior vice president for government affairs of the Information Technology Association of America, which represents companies like I.B.M. and Microsoft, on issues including privacy, piracy and Internet security.

"Congressmen don't know things; they're not experts in technology," he said. "In the mid-1990's, we were meeting with a Congressman about high-definition TV standards and we were talking about pixels and so on, and he said, 'Fellas, look, I'm trying to stay with you here, but one of the first times I ever took a ride on an airplane was when I came to Washington to take my seat and I remember looking out the window and I thought part of the wing was falling off when we landed, because the flaps came up.' "

And, this being Washington, even the best-intentioned efforts to stick to the rules can lead to overreaching silliness.

In 2004, David McKean, a veteran Senate aide, published a critically praised book on Thomas "Tommy the Cork" Corcoran, perhaps the most successful Washington lobbyist of the 20th century. But the Senate ethics committee advised him not to disclose on the dust jacket the name of the senator he worked for, John Kerry, lest he be seen as using his position for commercial gain.

The restriction hampered his ability to promote his book. Indeed, when a Washington bookstore inadvertently identified Mr. McKean's position in an advertisement, he had to cancel an appearance there. A very small victory, one would guess, for the capital's reputation.

Returning 'Good' Money After Bad Misses Point On Ethics (LAT)

By Ronald Brownstein

The Los Angeles Times, January 8, 2006

Not to be excessively contrarian, but why exactly are members of Congress rushing to return campaign contributions from the clients of disgraced lobbyist Jack Abramoff?

It's easy to see why many recipients of the $204,253 Abramoff has personally donated since 1999, all to Republicans, are sending back the money after the lobbyist pleaded guilty last week to multiple felony counts. No one likes their name in a ledger with an admitted crook.

But the rationale is less apparent for returning contributions from Abramoff clients, primarily Indian tribes, who haven't been accused of breaking any laws and are mostly, if somewhat excessively, portrayed as victims in the scandal.

Sending back the tribes' money isn't only silly, it's destructive to the cause of reforming Washington. It perpetuates the fiction that "bad" contributions can be segregated from "good" contributions in some orderly fashion that allows politicians to raise millions without compromising their independence.

It's important to understand what was unique, and what more conventional, about Abramoff's activities. The unique aspect of his operation — the portion central to his criminal plea — was his exorbitant charges to his clients and the kickbacks he took from their payments to his partner, Michael P.S. Scanlon. But the way he advised his clients to advance their political causes differed more in degree than kind from the capital's business as usual.

According to testimony before the Senate Committee on Indian Affairs, Indian tribes came to Abramoff with a variety of interests, mostly revolving around gambling. In the mid-1990s, the Mississippi Choctaws hired him to kill federal legislation taxing Indian casinos. The Louisiana Coushattas hired him to block potential competitors, both by encouraging Texas officials to bar Indian gambling in that state and by pressuring the U.S. Interior Department to refuse authorization for casinos from rival tribes. The Tiguas hired him to pass federal legislation specifically reopening their El Paso casino — after the campaign Abramoff ran in Texas for the Coushatta tribe supported its closure.

These Indian tribes were not innocents. Most of the money they paid Abramoff apparently went to block potential competition from rival casinos. The Tiguas turned to Washington to evade Texas' clear desire to bar Indian casino gambling inside its borders.

And yet, in the manner they pursued these goals, the tribes weren't much different from anyone else operating in Washington. As a parade of tribal officials told the Indian Affairs Committee, they contributed money not only to dozens of legislators, but also to an assortment of conservative groups — such as Grover Norquist's Americans for Tax Reform and the Council of Republicans for Environmental Advocacy — because Abramoff told them the donations would win them friends in high places.

"Sometimes [Abramoff] did say that we need to make these contributions" in order to advance causes, one tribal official told the Senate committee last summer. "Other times, [Abramoff said] it was just a good organization, and [donating] will make somebody else happy."

Every day, in offices all around Washington, lobbyists provide exactly that advice to clients representing virtually every economic and social interest imaginable. As Abramoff told the New Republic magazine last year: "I didn't create the system. This is the system we have."

That's too self-serving: The ongoing investigation will determine whether legislators crossed the line of bribery by undertaking specific actions as a quid pro quo for contributions or other favors from Abramoff. (In one of his pleas, he essentially admitted attempting to bribe one House member, who has been identified as Republican Rep. Bob Ney of Ohio.) But the vast majority of contributions legislators in both parties received from Abramoff's Indian clients looks no different, legally or even morally, than the money they collect from all other interests jostling on Capitol Hill.

That's why the rush to refund the money is so misguided. By returning the Indian money, the recipients are trying to claim vigilance against suspect contributions.

But political money doesn't sort itself into black and white categories of appropriate and inappropriate; much of it, like the money from the tribes, is gray. It usually comes not with explicit demands but with implied expectations that every legislator must weigh. Is the Indian money really more suspect than the massive pharmaceutical contributions that influenced a prescription drug law that barred Medicare from bargaining for lower drug prices? In practice, the choices are not as clear-cut as legislators imply by returning the Indian dollars while keeping so many other donations that could provoke similar ethics questions.

The problems of special-interest influence in Washington can't be resolved through selective spasms of morality when a scandal erupts. Nor are tougher restrictions on lobbying or campaign contributions likely to eliminate abuses. Money flows toward power like a river to the ocean; no dam can be built high enough to permanently separate them. A century of often valuable, but inevitably porous, political reform makes that clear.

Because so many of the ethics choices in Washington are gray, they most often raise questions not about politicians' honesty, but about their judgment in balancing contributors' priorities against the public interest. And the key to promoting good judgment isn't new lobbying rules, or even criminal indictments, but electoral consequences for bad judgment.

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Ultimately, the responsibility for policing Washington belongs not to prosecutors but to voters. The surest way for Americans to discourage elected officials from providing undue favors to special interests is to vote out some of those who do. The verdict that could transform Washington most won't come from a jury box — but from voters at the ballot box.

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Ronald Brownstein's column appears every Sunday. See current and past Brownstein columns on The Times' website at latimes.com/brownstein.

Reputed Mob Enforcer Gives Not Guilty Plea (CHIT)

By Rudolph Bush, Tribune Staff Reporter. Tribune Staff Reporter Matthew Walberg Contributed To This Report

Chicago Tribune, January 8, 2006

Walking with a cane and reportedly suffering diabetes and skin cancer, reputed mob enforcer Frank "The German" Schweihs pleaded not guilty Friday in his first court appearance in Chicago since he was captured Dec. 16.

Schweihs, 75, was a fugitive for eight months before the FBI arrested him and saw him returned here to face racketeering charges linked to murder and extortion. With Schweihs, 12 other men are charged in a sweeping mob case that sprung from a federal investigation dubbed Operation Family Secrets. The case ties the men to 18 unsolved Outfit murders as well as loan sharking and illegal gambling charges spanning four decades, authorities said.

All of those charged are in custody except alleged mob boss Joey "The Clown" Lombardo. An agent from Louisville arrested Schweihs outside an apartment in the small town of Berea, Ky. FBI agents are trying to piece together what Schweihs did and where he hid while on the run, authorities said.

Lombardo and Schweihs are accused of the 1974 murder of Daniel Seifert, a Bensenville businessman who had been scheduled to testify.

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Feds, Family Come Out To See 'The German' (CHIST)

By STEVE WARMBIR AND NATASHA KORECKI, Staff Reporters

Chicago Sun-Times, January 7, 2006

Aging reputed Outfit hitman Frank "The German" Schweihs could once inspire shudders of fear by entering a room.

On Friday, as he hobbled with a cane into a federal courtroom in Chicago after eight months on the lam, he was more of a curiosity.

A row of FBI agents observed him from the back row.

His daughter, Barbara, gave him an anxious smile from her courtroom seat.

And sitting beside her were two men who eyed him with disgust. The men were family members of a man Schweihs is accused of killing more than three decades ago -- government witness Daniel Seifert, who was shotgunned to death in front of his family.

The family members declined to comment later, not wanting to jeopardize the case.

Pleads not guilty to murder

Schweihs, who turns 76 next month, was arrested last month, found living with his girlfriend in a small town outside Lexington, Ky. He had been in hiding since April, when federal prosecutors charged him and other alleged mobsters, including the reputed head of the Chicago Outfit, James Marcello, in a racketeering conspiracy involving 18 mob hits. Still at large is Joey "The Clown" Lombardo.

Schweihs, wearing an orange jail jumpsuit, sat down and wisecracked to his attorney, feigning puzzlement over how many reporters were packed into the courtroom.

"Slow day for news," quipped his prominent Loop attorney, Dennis Berkson.

Schweihs pleaded not guilty to the charges against him. He is being held without bond and faces life in prison if convicted.

"First I'm seeing this judge," Schweihs said as he looked over the indictment against him. "I've never seen this before."

'A lot of rumor'

The man once considered an alleged rising star in the Outfit cupped his hand to his ear at times to hear the judge better.

Besides bad hearing, Schweihs has skin cancer, a bad heart and diabetes, his attorney said. But his mind is still sharp.

"There are a lot of things said about him," Berkson said outside the courtroom. "There's a lot of rumor and innuendo which are absolutely ridiculous. He believes when all the evidence comes in, he'll be acquitted."

Reputed Mob Enforcer Pleads Not Guilty In Federal Court (AP)

By MIKE ROBINSON, Associated Press

AP, January 6, 2006

CHICAGO - A reputed mob enforcer who eluded a federal manhunt for eight months before FBI agents swooped down on him in central Kentucky three weeks ago pleaded not guilty Friday to racketeering and extortion charges.

"Why is all the news media here?" Frank "The German" Schweihs asked as he waited for U.S. Magistrate Judge Arlander Keys to call his case.

"I don't know, slow day," defense attorney Dennis Berkson said with a straight face.

Schweihs, 75, the craggy, tough-looking alleged enforcer who according to prosecutors squeezed "street-tax" payments out of strip joints, leaned on a cane as he stood in court.

He is one of 14 reputed mob figures under indictment in the FBI's Operation Family Secrets investigation of long-unsolved murders.

Schweihs is also one of two defendants who slipped out of sight eight months ago just before federal prosecutors unveiled the indictment, which outlines an alleged 15-year racketeering conspiracy that included at least 19 slayings.

The other fugitive, Joseph "Joey the Clown" Lombardo, is still on the lam.

Chicago FBI agents got a tip in mid-December concerning the whereabouts of Schweihs and agents arrested him without incident Dec. 16 outside his Berea, Ky., apartment about 40 miles south of Lexington.

Schweihs' homecoming was attended by Robert D. Grant, special agent in charge of the FBI's Chicago office and about a dozen other agents, including members of the FBI's organized-crime squad who spent years working on the Family Secrets investigation.

Keys ordered Schweihs to appear before U.S. District Judge James B. Zagel on Jan. 17 when the other defendants are also due in court for a status hearing.

Schweihs was shown a copy of the indictment and he said it was the first time that he had seen it. After Assistant U.S. Attorney Mitchell A. Mars read the charges, Keys asked Schweihs if he had understood them.

"I didn't understand it but I heard what he said," Schweihs said.

Schweihs was then taken back to the Metropolitan Correctional Center where he is to be held pending trial. Schweihs could get life in prison if convicted of the racketeering charges.

Several female friends including his sister Barbara were on hand for the hearing.

"Good-bye, Frank," one said as husky marshals led Schweihs out the door in handcuffs.

Berkson told reporters after the hearing that Schweihs was eager for his day in court and "believes that when all of the evidence is in he will be acquitted."

Mob Mentality En Mass: (BOSH)

By Michele McPhee

Boston Herald, January 8, 2006

The Genovese crime family - the nation's most powerful underworld enterprise - has put the city of Springfield in a lethal stranglehold, corrupting local politicians, draining federal funds from city coffers and operating a chain of strip joints, according to 32 indictments handed up since 2001 and interviews with local law enforcement.

Indeed, investigators believe there are more wiseguys and mob associates in the Springfield area - roughly 50 in all - than in any other part of the country, including Genovese family strongholds in Brooklyn and the Bronx. The buttonmen live in bucolic Hamden County communities like Chicopee and Ware, and ply their underworld trade on seedy Springfield streets, investigators said.

"The influence of the mob contributed to the demise, or the downfall, of a once flourishing city. Our goal is to bring the city back through investigating the corruption and ensuring that federal funds go to the entities or individuals that the monies were intended to go to," Special Agent Michael O'Reilly, head of the Springfield's FBI office, said in an interview last week. "Not lining the pockets of wiseguys or corrupt politicians."

Genovese influence has been the target of several FBI raids on Springfield City Hall and administrative offices, investigators say. At least a dozen former city employees have been indicted, and five of them have been convicted since 2001 on federal charges ranging from racketeering to money laundering to influence peddling, O'Reilly said.

The city is on the verge of receivership and its coffers are under the control of a special board appointed by Gov. Mitt Romney. Springfield's new mayor, Charles Ryan, says he's working to root out public corruption.

In October, former Mayor Michael Albano's chief of staff, Anthony Ardolino, 36, was busted on federal tax and witness tampering charges, said U.S. Attorney Michael Sullivan. His brother Chester, 39, a former Springfield cop, also was indicted in the case. [continue]

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Crackdown Exposes Toledo As A Hub Of Teen Prostitution (TOLB)

By ROBIN ERB and ROBERTA de BOER, BLADE STAFF WRITERS

Toledo Blade (OH), January 8, 2006

First of three parts

If the brutal world of teenage prostitution were a legitimate business, Toledo would be among its top employment agencies.

It has supplied top management — iron-fisted pimps who demanded worker productivity and loyalty.

It has supplied middle management — adult hookers under orders to beat discipline into underearning or renegade prostitutes.

And, most shocking of all, Toledo supplied the product — girls as young as 12, sometimes kidnapped, always sold for sex.

"I know the FBI is concentrating on Toledo, and I know Toledo is one of the top cities in the country for teen prostitution," said Celia Williamson, a University of Toledo professor known nationally for research of prostitutes.

Deb Hodges, a top Lucas County Juvenile Court official, agreed: "We had one of the federal investigators tell us that Toledo was the No. 1 recruiting spot in the United States. ... It was mind-boggling."

Until recently, it was also largely undetected.

"We here in Toledo had no idea that this was going on," said Dave Bauer, an assistant U.S. attorney in Toledo. One big problem, he said, is that underage prostitution is "a mobile business."

Recruited here, the girls didn't stay long. Pimps quickly shuttled them across the country, and "they would quite easily fly under our radar screens," Mr. Bauer said.

Federal investigators last month charged 31 men and women with herding teens - including at least nine girls from the metro Toledo area - across state lines as sex slaves in a highly profitable and violent prostitution ring.

These were neither street- walkers nor escort-service girls, authorities said. Instead, the teens were rotated among motels, truck stops, and highway welcome centers.

But while the feds are able to lay out the inner workings of the Toledo-based prostitution ring, they can't explain why a handful of local pimps became such big players on the national scene, providing girls to more than a dozen states stretching from California to the nation's capital.

"Everybody has been saying, 'Why Toledo? Why Toledo?' And we don't know why," said John Stossel, one of the FBI agents leading the investigation.

The indictments, part of a massive child-prostitution crackdown the feds called "Innocence Lost," spelled out the sophistication and high level of organization among pimps who managed the business: setting prices, establishing work schedules, and negotiating turf.

Zoom | Photo Reprints Gordon Zubrod, an assistant federal prosecutor in Harrisburg, Pa., called it a "loose confederacy" of pimps, each with his own turf but enough reason to get along.

"They're all homeboys from Toledo, and it's to their benefit to cooperate," he said.

The local network expanded two years ago, after the feds cracked down on another national sex-for-hire operation in Oklahoma City.

The Toledo defendants, many of whom had operated the sex trade for years, "stepped into the vacuum," Mr. Zubrod said. "This opened the door."

Brutal business

It's a business that traffics in human misery.

"The cruelty has been astounding," Mr. Zubrod said. "Most of the women will have testimony [ranging] from having been pistol-whipped to having bones broken."

It's clear how pimps benefit: The indictments track coast-to-coast wire transfers totaling hundreds of thousands of dollars. But what lures girls too young for admission to R-rated movies into this Triple-X world?

A few are kidnapped and forced into the sex trade by violence. For many others, "prostitution is a continuation of the victim's sexual exploitation, not the beginning," FBI Assistant Director Chris Swecker said at a Justice Department news conference last month in Washington announcing the arrests.

For these girls, he and others said, it's a simple trade-off: Prostitution looks better than a home life of neglect or abuse. A man who seems kind and attentive - at least at first - can be irresistible.

Still other girls leave home "for the thrill of it," stumbling into forced prostitution along the way, said Jim Anderson, one of the Toledo Police Department's missing-persons detectives. "They're 14, 15 years old. What do they really know at that age?"

Rebellion

Denise was 14 then. She knew.

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A girlfriend told Denise, whose real name is not being used at her request.

"She said, 'I met this guy and he's a pimp … He's got all these ho's and they work for him and they give him their money.' "

To the South Toledo teen, the scenario sounded "fascinating" - or at least like an escape hatch from a home she said she shared with a hooker mother who was often drunk or high. Maybe, Denise speculated, that's why her mother never noticed that two family friends had molested the teen for years.

One day Denise found her mother crying at the kitchen table. "Why didn't you tell me?" she asked her child.

But in Denise's mind, the better question was: How could you not have known?

"I think I was hardened. I didn't cry," Denise recalled. "I think that's when the resentment began toward my mother."

She skipped school. She smoked dope. She was "deep into rebelling."

And one day, she simply didn't come home.

Standing at a pay phone at a church festival, she punched in the phone number for the pimp she got from her girlfriend.

"He was in Harrisburg. I tell him about the [latest] altercation with my mom. I said, 'Can I come out with you?' He said, 'You know what you'll be doing?' "

She knew.

"He said, 'You know you'll be prostituting?' "

She knew.

"He said, 'You know you're going to have to give me the money?' I said, 'Yeah, I want to be there.' "

A smack in the face

Hours after Denise stepped off the bus in Harrisburg, Pa., it wasn't the transactional sex that surprised her.

It was the violence.

Even now, seven years out of the business and removed from the control of any pimp, she still regards split lips and black eyes as mere occupational hazards.

"He was pretty good to me," she said of her pimp. "I can count on two hands the times he hit me."

Other girls, she added, had less merciful pimps and less luck with johns.

"I know girls who didn't make it out alive," she said.

Denise's story wasn't outlined in the recent indictments, but it might as well have been. In the world of paid sex, brutality is a standard means of maintaining a business structure - or, as prostitution researcher Ms. Williamson described it, "the rapes and the beatings and the stabbings and the brandings."

Ironically, investigators said it was the pimps who complained about working conditions.

"Both my hands were swelled up because I beat the bitch so much," the feds quoted one accused pimp as saying. That same man ended another beating only when he fractured his own hand, authorities said.

Another defendant confided to a fellow pimp that he beat a hooker for pulling in only $700 for a night's work.

Still another, authorities said, broke a woman's nose - an assault he'd been accused of twice before in Toledo. And in 2004, under investigation for a hooker's murder for which he was later exonerated, he talked bluntly with authorities in Indiana about pimp discipline.

"He said, 'Sometimes the only thing to get her attention is to hit her in the face,' " said Lt. Clarke Fine of the Hendricks County Sheriff's Office, near Indianapolis.

The brutality outlined in the indictments could indeed represent a long-standing practice of controlling women through force.

At least four of the Toledo men previously were accused of violence. In separate court cases, local police said these men, acting independently of one another:

Locked a minor behind an "iron door" and raped her.

Used a chain to beat another woman's face and body "for approximately three hours."

Kidnapped a female and forced her to perform oral sex until she finally managed to leap "from [the] moving auto at Summit and Cherry."

Smashed a bottle against a young girl's head.

The latest indictments claimed violence was sometimes even delegated to veteran prostitutes.

In another business setting, they might be called executive assistants. In the sex trade, they're known as "bottom bitches" - part enforcer, part cashier, and part recruiter.

Prosecutor Zubrod said these women will, "under orders, attack another prostitute and beat [her] with their fists or stab her or any number of things."

Fake IDs, real money

If Toledo was a recruitment hot spot, Harrisburg was its distribution center. Like no place else in the country, five major highways meet in the city, delivering an unending supply of paying customers.

"You can't do that in Chicago or L.A. or Atlanta," Mr. Zubrod said.

Wire transfers of tens of thousands of dollars - for food, fuel, clothes, and lodging - allowed the girls to crisscross the country.

Outfitted with fake identities, they remained as invisible as the underground economy in which they operated.

Denise picked up the routine quickly once she arrived in Harrisburg. Arrested? Never give your real name or age.

"You go to grown-up jail. You go to grown-up court. And you pay grown-up money. Then you're back to work," she said.

In one case last spring, a pimp turned to rote memorization to train two kidnapped Toledo teens.

"I know as far as the Social Security numbers and the IDs, both of the girls had to write on seven pieces of paper, front and back, on every single line, all their false information," the mother of one of the girls told The Blade.

Pimps monitored each other's product and services, purchasing women from one another and sharing trade secrets.

One inquired about another pimp's profits, according to the affidavit, which said "[he] replied that he had made a $10,000 down payment on a Cadillac and still had $17,000 left."

It was the "sophistication and the organization of the whole network" that stunned Mike Brennan, a longtime Lucas County juvenile probation officer.

"I was blind-sided by the magnitude of it. When I got a call from a federal prosecutor [about the network], I was like, 'Yeah, yeah, it's probably some overzealous prosecutor.' "

Now, he said, he has a keener understanding of how these men exploit children for a living.

"These aren't dummies we're dealing with," he said.

Too old for this

Now 26, Denise relaxed in her living room recently, her two girls playing on the floor and a Christmas tree in the corner.

In the end, she said, it was the gun pressed to the back of her neck that pushed her out of the business for good. The night it happened, she was six months' pregnant and tired.

She'd climbed into the tractor-trailer too willingly, relaxing her guard after the driver offered $60 for a $50 sex act.

Instead, she saw the flash of a silver handgun. He sneered. She pleaded for her life.

"You know what? I'm pregnant. Please don't do this."

He raped her and said she was lucky.

"I killed bitches," she remembered him saying. "I'm going to let you live.'"

Screaming, she ran from the truck.

She knew her pimp would find her. He did. She knew he would beat her. He did.

"He found me at a hotel. It was the worst he ever beat me."

From a hospital later that night, the battered mother-to-be sneaked out a back exit. If he found her again, she'd deal with it then. For now, she wanted out.

Anyway, she reasoned, she was getting too old for all this.

She was 18.

Young Duo Put Waltz In Motion (MCA)

By Marc Perrusquia, Contact

Memphis Commercial Appeal, January 8, 2006

They look like a pair of fraternity brothers off to toilet paper the chancellor's yard.

Fresh-faced FBI agents Brian Burns and Mark Jackson are young -- neither is over 35 -- but they are no pranksters.

They are the case agents on the Tennessee Waltz, the undercover FBI sting that leveled corruption charges against 10 current and former public officials.

Together with a veteran prosecutor, they've changed the political landscape in Tennessee.

"I'll never forget that Thursday morning when the arrests happened," said Ron Ramsey, the state Senate Republican leader. Ramsey watched last May as, one by one, colleagues were led away in handcuffs from hotels and offices surrounding Nashville's Legislative Plaza.

"The FBI spread their net pretty wide ... That was one elaborate sting operation."

Ripples from the Waltz will be felt this week in Nashville when the General Assembly meets in special session to consider unprecedented ethics reforms, and again in Memphis where a series of criminal trials are scheduled over the coming year.

Pieces of the secretive FBI investigation continue to dribble out, but the story of its birth remains largely untold.

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For years, insiders had complained of systemic, entrenched political corruption in Memphis and across Tennessee, yet despite occasional news media exposes, authorities were unable or unwilling to rein it in.

That began to change three years ago after two young, idealistic FBI agents arrived in Memphis. And when the local U.S. Attorney's Office agreed for the first time in years to put a prosecutor full-time on political corruption, things began to happen.

Still, it took a little luck -- chancing upon a political insider who agreed to wear a wire -- before authorities got the OK from the U.S. Justice Department in Washington to launch an undercover sting unprecedented in Tennessee.

FBI stings have effectively countered corruption in places such as Chicago and Mississippi, where 55 county supervisors went to jail in a sting called Operation Pretense in the 1980s.

Corruption stings are clandestine operations in which agents pose as crooks and bait public officials with bribes. By their very nature they can be messy, ethically and legally, and consequently are used sparingly.

In the Waltz's aftermath, complaints about unfairness and race -- nearly all the defendants are black -- are bubbling up. And recent articles on an Internet news site pose questions about the case's key informant.

So far, three Waltz defendants have pleaded guilty. With seven more awaiting trial, the case's ultimate impact remains to be seen.

Reforms like those before the legislature are a typical consequence of corruption probes, yet, ultimately, a society must change its culture to have true impact, experts say.

"It works at least for a little while," said James R. Crockett, a University of Southern Mississippi professor who wrote a book on Operation Pretense and his state's legendary corruption.

"Without vigilance, (corruption) gradually creeps back in."

The FBI's lead agent on the Tennessee Waltz, Brian Burns, 35, first tried his hand as a pharmacist before a radical career change led him to join the FBI seven years ago.

His Waltz partner, Mark Jackson, 32, was a Naval intelligence officer, who likewise changed paths, joined the FBI and landed in Memphis.

Reporters who converged on Memphis last May to cover the indictments of five leading state legislators got a taste of the clean-cut Jackson when he testified in initial hearings.

Jackson told how the FBI had set up a bogus company called E-Cycle Management and paid lawmakers cash bribes to draw up legislation favorable to the company. Jackson testified that he was within a block when undercover agents met with and secretly taped lawmakers.

Emerging from that hearing was a surveillance tape of then State Sen. John Ford allegedly stuffing cash into his pocket and bragging, "You're talking to the guy that makes the deals."

Records soon revealed Burns' role was managing the case's key informant, political insider Tim Willis, paid $6,000 a month to pose as a lobbyist for E-Cycle.

FBI spokesman George Bolds said Burns and Jackson would not give interviews for this story, and as long as the Tennessee Waltz prosecutions remain open, no one at the FBI would comment on the case.

Yet, for all its growth and aspirations for the big league, Memphis remains at heart a small town, a gossipy place where secrets are hard to keep. In pursuing corruption here in recent years, Burns and Jackson have crossed paths with scores of citizens and public figures, many whose lips aren't nearly as tightly sealed.

Interviews and available public records show the FBI agents, often working closely with veteran federal prosecutor Tim DiScenza, have pursued crooks in Shelby County government, the Memphis Police Department's evidence room and subsidized day care.

"If I had a son, I'd want him to be just like Brian -- and Mark," said County Commissioner John Willingham, who said he's had encounters with the agents that he can't publicly discuss.

"They're young. They're brilliant. They're the kind of people who can take a thread, turn it into a rope, and hang you with it."

Brian Burns had just turned 30 and was as lanky as a teenager when he began showing up at federal court hearings in Memphis five years ago.

An FBI agent with just two years of experience under his belt, he'd relocated from his native New York and was trying to find his way in a southern city known for its peculiar variety of back-slapping public corruption as well as its famous music and barbecue.

More often than not, Burns could be seen toting a bulky box of records under one arm as he slipped into a back row and listened as lawyers argued over a pressing case of the day, the Cherokee day care scandal.

No one knew it then, but Burns was on a path to the Tennessee Waltz and a collision with Ford, who has pleaded not guilty to taking $55,000 in Waltz bribes.

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In 2001, Cherokee Children and Family Services, a private, nonprofit company, signed an exclusive state contract within months of its formation and began handling millions of government dollars intended to pay for day care for poor children in Shelby County.

Ford's sister and girlfriend quickly found jobs at Cherokee, and centers opened by Ford's brother quickly filled with state-subsidized children. Ford sold insurance to Cherokee and even co-signed on loans at one state-funded center -- all the while chairing a Senate committee that oversaw the state's day care operations.

With Burns doing much of the legwork, an FBI and Internal Revenue Service probe ended in convictions against five Cherokee associates, including executive director WillieAnn Madison, who was found guilty of embezzlement, money laundering and tax evasion.

Though called before a grand jury, Ford was never charged.

When Ford's conduct was questioned in Nashville, Doug Henry, the senate's cigar-chomping ethics chairman, said he could do nothing because he'd received no written complaints.

How much of this was filed away in Burns' head or in FBI files can't be known.

But as Burns fanned out in pursuit of local corruption, it became clear to those who saw him in action that he was thorough, idealistic and committed to his work.

"I honestly felt like this was a young man who was legitimately concerned about cleaning up the state of affairs," said former Juvenile Court Clerk C.R. 'Bob' Martin, who crossed paths with Burns on the case that led to Tim Willis, the Waltz informant.

"He really seemed to feel the public was due a report on these things."

Invariably, those who agreed to talk about Burns described him as decent and easy-going, though tough when needed. One individual who went to jail after a Burns investigation said he couldn't help but like him, describing him as non-threatening, a manner that worked well in etiquette-conscious Memphis.

On a warm June day in 2002, 14 state and federal agents poured into then-Juvenile Court Clerk Shep Wilbun's office, investigating allegations of theft and fraudulent billing.

Authorities eventually charged -- then cleared -- Wilbun of a scheme to pay hush money to a female employee.

But when Darrell Catron, one of Wilbun's top aides, pleaded guilty to an embezzlement scheme, the FBI hit the jackpot. That led agents to Willis, a politically connected felon who had received more than $30,000 from Juvenile Court for dubious consulting services.

By February 2003, Willis, who maintained close ties to the politically prominent Ford and Hooks families and had friends at all levels of government, was working for the FBI.

Because eight of the 10 Waltz defendants are black -- nine of 10 are Democrats -- there are claims that the operation unfairly targeted minorities.

The Chattanooga Times-Free Press quoted African-American leaders in October as saying the probe was one-sided -- an accusation denied by federal authorities.

Sentiments flared after the first arrests. The Economist of London reported the development in its U.S. edition under the headline, "Tennesleaze: Southern Politics." In a prayer in the Senate chamber, Lt. Gov. John Wilder called the FBI's sting tactics "wrong, and that's not Your way."

Defense attorney Micheal Scholl, who represented Wilbun and is now representing Ford -- both are black -- said he couldn't comment on the ongoing case.

But he's argued strenuously that Wilbun never broke any laws, and he vows an aggressive defense for Ford, saying he's not ruling out any defense strategy.

Accusations of unfair targeting -- or entrapment -- often ensue after undercover investigations, though none of the Waltz defendants has raised it as a legal defense yet.

To prevent such claims, Justice Department rules require agents passing bribes to public officials to first document "predication" -- evidence that an official was predisposed to corruption.

A Justice Department Inspector General report last September found that the FBI did a good job nationwide adhering to rules governing predication, yet lacked adequate controls to ensure that FBI headquarters and U.S. Attorneys are notified on a timely basis.

In the landmark Mississippi sting, Operation Pretense, in which agents posing as corrupt businessmen paid bribes to county supervisors across the state, predication was established when a cooperating witness identified as many as 35 supervisors to whom he'd personally paid kickbacks.

Confidential informants pose another source of worry when running stings, and the September Inspector General's report found guideline violations in 87 percent of informant files reviewed.

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An Internet news site, NashvillePost.com, published interviews in December with Waltz informant Willis, painting the portrait of a man seemingly out of control -- cursing, bragging of supposed payoffs to another official and openly discussing sensitive details.

Recognizing that informants, who are often criminals, pose special concerns, the Justice Department ramped up protections in 2001, requiring greater oversight by supervisors.

Regardless of how the Tennessee Waltz saga ends, Southern Mississippi's Crockett said any reform will be worthless unless values change.

"The culture here was a good ol' boy culture," said Crockett, an accounting professor who wrote the 2003 book "Operation Pretense: The FBI's Sting on County Corruption in Mississippi."

"The good ol' boys will say (to newly elected officials), 'Look, this is how it works.' They just get sucked right into it."

CIVIL LAW:

Cigarette Company Profits Are Still Smoking (MH)

By Thomas Mulier And Chris Burritt

The Miami Herald, January 8, 2006

Tobacco companies worldwide faced tighter government restrictions on smoking and cigarette advertisements last year, as well as declining numbers of smokers and higher taxes.

Yet shares of the three biggest companies -- Altria Group, British American Tobacco and Japan Tobacco -- are surging to records. Profits are rising as cigarette makers expand in poorer countries such as Indonesia and Russia, where smokers are switching to more expensive brands.

The addictive nature of nicotine also helped manufacturers raise prices, something most consumer-goods companies are struggling to do.

"These companies have a nice exposure to emerging markets," said Concepcion Moreno, who helps Brussels-based Petercam Asset Management oversee $14.2 billion, including shares in Altadis, British American and Imperial Tobacco Group. ``This is also an industry with very inelastic demand. The pricing power is strong."

Tobacco stocks probably will extend their gains in 2006, even if they fail to outperform the market as much as they did last year, she and other investors said.

New York-based Altria's shares returned 28 percent last year including dividends. London-based British American advanced 52 percent and Japan Tobacco of Tokyo jumped 49 percent, also including dividends. The stocks outperformed the respective benchmark indexes for their countries.

Sweden banned smoking in restaurants in June and Spain approved a workplace smoking ban that took effect yesterday. The U.K. and Germany raised tobacco taxes in 2005.

Nine U.S. states, including the two that grow the most tobacco -- North Carolina and Kentucky -- also increased cigarette levies, according to Bonnie Herzog, a Citigroup Inc. analyst.

TARGETING SMOKERS

A European Union ban on tobacco ads and sports sponsorships by cigarette companies took effect in July. The percentage of adults smoking in Japan fell for a 10th year.

"Even though governments have been attacking tobacco companies, there's still a hard core of smokers," said David Liston, who helps Barclays Private Clients in London manage about $34.5 billion. He prefers British American ``because it's the biggest emerging markets play."

British American, whose brands include Lucky Strike and Kent, has said earnings growth has been beating its forecast because it's selling more cigarettes in Russia, Pakistan and Bangladesh.

Japan Tobacco, the maker of Mild Seven and Peace cigarettes, said profit in the first half of its fiscal year was boosted by its expansion in Russia, Iran and Ukraine.

Altria's Philip Morris International in May bought Indonesia's third-largest cigarette maker, PT HM Sampoerna, for about $5 billion. Altria also announced plans to start a joint venture to sell its Marlboro cigarettes across China.

At the same time, legal risk in the United States is dropping and investors are realizing consumers often respond to public smoking bans by smoking in different places rather than quitting, said Michael Smith, an analyst at JPMorgan Chase & Co. in London.

Altria may split off its tobacco businesses from its Kraft Foods business this year once the biggest remaining lawsuits against Philip Morris are concluded, analysts predict.

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COURT CASES

The Illinois Supreme Court in December reversed the verdict in the Price "lights" case, one of the major cases against Philip Morris USA. The prior decision was that the company should pay $10.1 billion to smokers of "light" cigarettes who claimed the company misled them about health risks.

"This was the major litigation case they had to get through," said David Dreman, who oversees $15 billion at Dreman Value Management in Jersey City, N.J., including 14.6 million Altria shares as of Sept. 30. The company probably is worth between $90 and $95 a share broken up into units, he said, versus a current price of $74.72. ``That's still a fair amount of upside."

The number of suits against Philip Morris USA has declined from 10-year highs, Altria Chief Executive Louis Camilleri told analysts on Nov. 9 at a Morgan Stanley conference in New York.

With the Illinois ruling reversed, Altria's breakup hinges on the resolution of the Justice Department's racketeering suit against U.S. tobacco companies and the Engle class-action suit in Florida, analysts said.

Camilleri declined to speculate when a breakup might happen.

BIG SURPRISE

Tobacco companies have surprised investors who expected cigarette makers would struggle more with anti-tobacco laws in Western Europe and U.S. litigation.

Altria in October forecast that 2005 earnings per share would rise as much as 12 percent to $5.10, as it reported third-quarter profit that beat analysts' expectations. British American Chief Executive Paul Adams said the same month that 2005 would be a "vintage" year as the company was on track to post record profit. Nine-month earnings per share rose 23 percent.

Japan Tobacco on Oct. 31 raised its full-year profit target and said it expects a record $1.6 billion.

CIVIL RIGHTS:

10 Held In Alleged Prostitution Ring (LAT)

From Times Staff And Wire Reports

The Los Angeles Times, January 8, 2006

Ten people have been arrested in what police called a prostitution ring that involved women smuggled from Asia.

Among those taken into custody late Friday at a house in the 5000 block of Progresso Street were Duc Tuan Dinh, 34, of Santa Ana, suspected of operating 10 brothels throughout Orange County, two alleged associates, six suspected prostitutes and a suspected customer, police said.

The Westminster Police Department spearheaded the seven-month investigation that culminated in Friday's arrests.

Governor Sticks By Vouchers (ORS)

By John Kennedy And Jim Stratton

The Orlando Sentinel, January 8, 2006

A day after the Florida Supreme Court struck down a key part of Gov. Jeb Bush's school-voucher program, Bush said Friday that he would support a constitutional amendment to salvage the plan that gives tax money to students attending private schools.

He said elected officials have every right to look for new ways to accomplish the goals of the voucher program, which provides state scholarships to students who wish to leave struggling public schools for private ones.

"I think they [Supreme Court justices] got it wrong," said Bush, who was in Orlando speaking to the Tiger Bay political club. "The Legislature has every right" to craft a law or ask voters to "modify the constitution if it's appropriate."

"That's the way the system works," Bush said.

Before defending his voucher program, the governor unveiled a $565 million plan to boost hurricane preparedness in the state. Among the plan's provisions are a $5.3 million public-information campaign, $30 million to install permanent generators at special-needs shelters and almost $70 million to ensure that county emergency management centers can withstand hurricanes.

The plan, financed with state and federal money, also would again allow for a sales tax holiday for hurricane supplies.

Hurricane readiness "has to be the first priority, the first priority before anything else," the governor said.

On Friday, however, attention was focused on the court decision that struck down the voucher program. The ruling overturned one of the governor's prized programs and suggested two larger voucher programs might also be open to legal attack.

About 700 students are on so-called opportunity scholarships, but the two others cover more than 30,000 children.

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The decision has left Bush and Republican legislative leaders looking for a way to keep alive the first-in-the-nation statewide voucher plan.

"It's way too early to write the obituary for opportunity scholarships in Florida," said Senate President Tom Lee, R-Brandon. "But we've got to have some time to deliberate what step to take next."

Bush and lawmakers say they have essentially two options for saving the program: Pursue a constitutional amendment, or expand the state's $88 million corporate tax-credit program for student scholarships.

Current law allows corporations to receive tax credits for providing private-school scholarships to low-income students. Legislators might seek to expand that program though it too may ultimately be challenged in court -- to cover the more than 700 students in the program affected by this week's ruling. Preliminary estimates have put the expansion at $3 million.

Senate Judiciary Chairman Daniel Webster, R-Winter Garden, is among those wrestling with how to craft a voucher program that will meet constitutional muster.

Webster said that asking voters in November to approve private-school vouchers is a possibility and may be the likely course taken by supporters. He conceded that "it may be a tough sell" with voters.

Webster also acknowledged that at the moment he didn't see any clear state law changes that could accommodate the court's 5-2 ruling.

"It was a pretty broad decision," he said.

Bush has criticized the process to amend the constitution, saying it ties the Legislature's hands.

For Bush, the voucher defeat is part of a string of setbacks dealt him by the state's highest court, including the 2000 presidential election, abortion issues, budget matters, the death penalty and even the case of Terri Schiavo, the brain-damaged Clearwater woman whose case roiled Congress and the U.S. Supreme Court last spring.

The most recent decision, however, may undo a program that had been shaping up as a central part of the governor's legacy.

"The Supreme Court of Florida has effectively reached up and poked [Bush] in the eye, and that's wrong," said John Thrasher, a Tallahassee lobbyist who was House speaker during Bush's first year in office.

Bush has already revived the Foundation for Florida's Future, the nonprofit organization he used to advance his public policies and political career before being elected governor in 1998.

Thrasher said that rallying support for vouchers would be a task suited to the group, which is being led by Bush allies, including his former campaign finance director, Ann Herberger.

But the foundation's executive director, Mandy Fletcher, said Friday that, like others involved in the voucher issue, the organization had not yet decided on its immediate goals.

"It was very unfortunate what happened," Fletcher said of the court ruling. "But at this point, I don't really know what we might be looking to do."

John Kennedy, who reported from Tallahassee, can be reached at jkennedy@orlandosentinel.com or 850-222-5564. Jim Stratton, who reported from Orlando, can be reached at jstratton@orlandosentinel.com or 407-420-5379.

ANTITRUST:

Pentagon Said To OK Rocket-launch Joint Venture (REU-Y2)

By Jim Wolf

Reuters, January 8, 2006

The U.S. Defense Department has conditionally approved a controversial plan that would let Lockheed Martin Corp. and Boeing Co. -- its top suppliers -- merge their struggling government-rocket launch ventures, a well-placed industry consultant said on Saturday.

In exchange, the Pentagon is demanding anti-trust protections sought by Northrop Grumman Corp. among others, said Loren Thompson of the Lexington Institute, an Arlington, Virginia, research group with close ties to the Pentagon and industry.

Final federal approval must come from the Federal Trade Commission, which has been awaiting a recommendation from the Pentagon, normally loath to endorse a quasi-monopoly.

A Pentagon spokesman, Army Major Paul Swiergosz, had no immediate comment on the conditional approval, first reported by the Wall Street Journal.

Bethesda, Maryland-based Lockheed, the Pentagon's number one supplier, said it was continuing to give the government information about what it called the very complex proposal.

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"We're very optimistic about the deal and the benefits it will bring to our customers, to our shareholders and to our employees," said Jeff Adams, a spokesman.

Chicago-based Boeing, the Pentagon's second-biggest supplier, said it had not received any official word that a go-ahead was imminent.

"We continue to work with the government to answer lingering questions and are optimistic that we'll be given the approval to move forward with the joint venture," said Dan Beck, a spokesman.

Los Angeles-based Northrop did not immediately return phone calls seeking comment. Northrop does not build rockets but competes for U.S. government satellite business and is eager to make sure that a Lockheed-Boeing link-up does not give them unfair advantages in satellite competitions.

Thompson, citing officials from the companies, said safeguards being sought by the Pentagon were not "showstoppers."

He said the deal was tentatively approved by Kenneth Krieg, the Pentagon's acquisition chief, after a December 16 meeting with Ronald Sega, the Air Force undersecretary who is the Pentagon's executive agent for space.

Lockheed and Boeing, fierce rivals for rocket launches, agreed in May 2005 to create a 50-50 venture that would combine the production, engineering, test and launch operations for U.S. government launches of Boeing Delta and Lockheed Atlas rockets, subject to government approval.

They said at the time that the merger would save the government $100 million to $150 million annually and projected it would have closed by the end of last year.

To be known as the United Launch Alliance, the venture would end a drawn-out legal battle over the theft of internal Lockheed rocket documents that allegedly helped Boeing win rocket-launch work in the 1990s.

Closely held Space Exploration Technologies Corp. (SpaceX) of El Segundo, California, a rocket startup, has sued Boeing and Lockheed, charging they conspired to corner the market on U.S. government launches, and sought to block the merger.

At issue is competition to launch weather satellites for the National Oceanic and Atmospheric Administration, science satellites for the National Atmospheric and Space Administration, spy satellites for the National Security Agency and communications satellites for the Air Force.

Funeral Industry Conspiring To Keep Prices High, Suit Says (HC)

By HARVEY RICE, Houston Chronicle

Houston Chronicle, January 8, 2006

Chip Beresford says he feels torn.

On one hand, he feels loyalty to the business in which he has prospered: the funeral industry.

On the other, he thinks he has suffered an injustice from funeral homes that he says have hurt him because they consider his prices too low.

Now Beresford — owner of The Pine Box in Houston, one of the largest distributors of caskets in Texas — is considering whether to join an antitrust lawsuit that aims to reduce funeral prices nationwide. The lawsuit, if it succeeds, could force the nation's largest funeral businesses to refund billions of dollars to consumers.

Beresford says he has been on the receiving end of some of the anticompetitive behavior alleged in the lawsuit. Some funeral homes that are unhappy about his prices, which often are hundreds of dollars less than theirs, refuse to use his caskets, he says.

"They disparaged me," he said. "They disparaged my product."

Nevertheless, he is reluctant to join casket retailer Pioneer Valley Casket Co., Inc. of Whately, Mass., in a lawsuit that has been combined with lawsuits filed by consumers.

The combined lawsuits accuse the world's largest funeral-service company, Houston-based Service Corp. International, of conspiring with competitors, independent funeral homes and the country's largest casket maker to fix prices and drive independent retailers such as Beresford out of business.

It alleges that the defendants have overcharged consumers by "hundreds of millions, if not billions, of dollars."

Beresford, a licensed funeral director who once ran a funeral home, said joining the lawsuit would feel like "suing my brother."

"I've been through the same school, the same experiences," he said. "Yet, I open this business up — which is legal to do, according to the rules of the industry — and they fight me, tooth and nail. And it's all over greed."

The consumers and Pioneer Valley are asking U.S. District Judge Kenneth Hoyt of Houston to declare their lawsuits class actions, on behalf of consumers and independent casket retailers, respectively.

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The nonprofit watchdog group Funeral Consumers Alliance, headquartered in Burlington, Vt., is the lead plaintiff in the consumer lawsuits. It alleges a conspiracy to fix casket prices by SCI, competing funeral-home chain operators Alderwoods Group Inc. and Stewart Enterprises Inc., and the country's largest casket maker, the Batesville Casket Co.

"I would expect and hope (the lawsuits) would open that market and it would make competition for the sale of caskets more open and free," said Joshua Slocum, Funeral Consumers Alliance executive director.

SCI spokesman Terry Hemeyer said, "The allegations in the case are contrary to SCI's policies and training, and we expect to vigorously defend this matter."

Alderwoods and Stewart did not respond to requests for comment. A spokeswoman for Batesville parent company Hillenbrand Industries, also a defendant, declined to comment.

Pressure tactics allegedThe lawsuits allege that the three national chains and independent funeral homes are pressuring Batesville to allow only licensed funeral homes to sell its caskets. Matthew Cantor, one of the lead attorneys for the consumer lawsuits, says Batesville's restrictions prevent retailers from selling its caskets, the most popular brand, thus making it easier for funeral homes to mark up casket prices by as much as 650 percent.

Doggett Whitaker — past president of the National Funeral Directors Association, which the retailers' lawsuit accuses of aiding the conspiracy — said Batesville has a long-standing policy of selling only to licensed funeral directors.

"I can't say whether it's a good policy or a bad policy, but I can say these companies have a right to decide who they want to sell to," Whitaker said.

He also questioned whether the Batesville brand is important to consumers. "I have never had an individual walk into my funeral home and specifically ask for a named casket," he said.

The lawsuits also accuse funeral homes of disparaging caskets sold by independent retailers, telling customers the handles will fall off or the bottoms drop out.

The funeral industry suffered a blow to its reputation after Jessica Mitford wrote The American Way of Death in 1963, accusing many funeral homes of taking advantage of grieving families to pile on expensive and unneeded services.

In The American Way of Death Revisited, published in 1998, two years after her death, Mitford described a largely unreformed industry that had outfoxed the Federal Trade Commission.

She singled out SCI, accusing it of pumping up prices for caskets and funerals.

The consumer lawsuits mirror some of Mitford's claims, saying many funeral homes are violating the FTC's "funeral rule" to pile on expensive services.

Refrigeration fees

Plaintiffs Gloria Jaccarino Bender and Anthony Jaccarino accuse a Staten Island, N.Y., funeral home of selling them a casket for $2,095 even though they asked to have their mother's body cremated.

Slocum, the Funeral Consumers Alliance director, said some funeral homes charge $75 to $400 per day for refrigerating a body, although the cost to a funeral home is about $3 per day.

He said he still finds numerous violations of the FTC funeral rule, designed to halt such practices, that went into effect in 1984.

"There is no excuse, 20 years after the funeral rule, for these rampant violations," Slocum said.

Consumers are finding similar practices in Houston, said Derrick Wayne, a board member of the Funeral Consumers Alliance of Houston.

Corporate and independent funeral homes alike engage in practices such as charging as much as $1,495 for embalming, although it can be done for $200, Wayne said.

He noted that, in many cases, funeral directors fail to mention that Texas law does not require embalming.

'An old accusation'In response to lower prices offered by independent casket retailers, funeral homes are charging less for caskets but boosting the prices of other services to make up the difference, Wayne said.

Scott Gilligan, National Funeral Directors Association general counsel, said most funeral homes do not take advantage of their customers.

"It's an old accusation," he said. "It's just not true. The funeral-home industry depends on repeat business. No industry is impacted more by reputation than the funeral industry."

He also denied funeral homes make unfair profits.

"The fact of the matter is that funeral-home profits have fallen steadily," Gilligan said. "They used to be 9 percent. Now they are down to around 7 percent."

Profits are falling because there are too many funeral homes, said Lamar Hankins, a San Marcos lawyer and Funeral Consumer Alliance board member who helped prepare the antitrust lawsuit.

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"The death rate just doesn't support the funeral homes that we have," Hankins said. "They are apt to charge these big prices for everything to pay the bills they get."

Moved to HoustonBefore landing in Houston, the antitrust lawsuit was filed in San Francisco earlier this year. SCI successfully moved to consolidate cases and transfer them to Houston after five nearly identical lawsuits were filed in other parts of the country.

At SCI's request, Judge Hoyt agreed to add two cases recently: another from San Francisco and one from Brownsville, the only Texas lawsuit.

Attorneys say the legal wrangling probably will drag on for years before coming to trial. Jenelle Welling, an attorney for Pioneer Valley, says the lawsuits strike so directly at SCI's core business practices that a settlement is unlikely.

"They think their business model is critical to their survival, and I'm essentially asking them to change their business model," Welling said.

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Realtors' Bubble May Be Bursting (LAT)

Jonathan Chait

The Los Angeles Times, January 8, 2006

IF YOU HAVE ever sold your house, chances are you had to pay somewhere around 6% to real estate agents. You were robbed. And the people who robbed you are, naturally, determined to keep on robbing you and everybody else for as long as possible. But some people are starting to push back.

The purported reason we have real estate agents is that they perform needed services. To some extent, they do. If you're selling, they show your house to buyers. If you're buying, they advise you what to look for.

For both, they navigate you through a complex transaction. That's all well and good.

The trouble is that in most places, the agents have formed a quasi-monopoly by agreeing within the industry to charge a fixed commission. It's almost impossible to find a real estate agent who will offer to sell your house for less than the going rate.

In most contexts this practice is called price fixing, and it's illegal. The agents usually have more subtle ways of doing it. Regulations are usually set by state boards, which themselves usually consist of real estate agents. They typically pass regulations barring rebates or forbidding agents from offering a la carte services or flat fees.

In most cases, regulation isn't needed. Agents may compete with one another for customers, but they need one another to drum up business. If you're selling a house, you need other agents to bring customers to your door.

"One can get ostracized very easily," says Albert Foer of the American Antitrust Institute, "if one is seen as a price cutter."

Some of the fees collected by agents are legitimate. But some represent pure parasitic leeching. Comparing the fees charged in countries with less-powerful real estate agents suggests that fees in the United States ought to be about half as high as they are. Given that these commissions amount to at least $60 billion a year, that's a lot of blood being sucked out of the home market.

OVER THE LAST couple of years, there have been signs that the customers aren't willing to hand over thousands of dollars anymore. Why? One reason is the hot housing market. As prices get higher and higher, agents earn more and more without having to do more.

The second is the rise of the Internet. In most markets, broadening access to information has increased competition and reduced prices. Think about, say, the way you can search for used books online, or buy plane tickets without going to a travel agent. The Internet revolution has left real estate mostly untouched.

Some online competitors are trying to cut the real estate agents out of the action. The Realtors association is fighting back by denying those firms access to its databases of homes for sale. In some cases, the consumers are taking matters into their own hands. Last week, Jeff Bailey of the New York Times reported that some good folk in Madison, Wis., have taken it upon themselves to create a thriving for-sale-by-owner website and an alternative listing service. Sellers can list a house for a rock-bottom fee of $150.

Real estate agents are naturally furious. "It's a commission-avoidance scheme," sputtered one who works for Wisconsin's largest real estate broker. As if when I sell my house I have some patriotic duty to fork over a chunk of the sale to a third party.

The phrase itself — "commission-avoidance scheme" — is revealing. You've heard of mobsters hitting up store owners, but rarely do they have the gall to complain that merchants who go to the police are running a "protection-money-avoidance scheme." In the real estate agents' minds, they're not the ones running a scheme. The schemers are the people buying and selling houses to one another. A free market, in other words. How sinister!

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ENVIRONMENT/INDIAN AFFAIRS:

Sago Puts Spotlight On Safety Strategy (WP)

By Joby Warrick

The Washington Post, January 8, 2006

Two winters ago, what had been a mediocre safety record at West Virginia's Sago Mine grew dramatically worse. Over 23 months beginning in February 2004, two dozen miners were hurt in a string of accidents, some of them caused by rock chunks falling from the mine ceiling. Federal safety inspectors slapped the mine with citations 273 times, or an average of once every 2 1/2 days.

Despite this record, the price paid by Sago's operators was light. Government regulators never publicly discussed shutting down the mine and never sought criminal sanctions. The biggest single fine was $440, about 0.0004 percent of the $110 million net profit reported last year by the mine's current owner, International Coal Group Inc.

Whether the mine's documented safety problems played a role in Monday's fatal accident is still unknown. But Sago's recent history illustrates what mine-safety experts say is a long-standing flaw in enforcement of federal mining regulations. While inspectors issue a blizzard of paper citations each year, these violations rarely translate into serious penalties, even for the worst offenders, according to government records and interviews with current and former regulators. Large fines are rare, and the most serious sanctions -- such as mine closure -- are almost never used, documents show.

This pattern has been even more pronounced under the Bush administration, which came into office with a promise to forge cooperative ties between regulators and the mining industry. During the past five years, the number of mines referred to the Justice Department for criminal prosecution has dropped steadily, from 38 in 2000 to 12 last year.

Meanwhile, inspectors who sought to impose large fines on coal companies have seen those penalties whittled down by agency negotiators and administrative law judges. Last year, the operator of a Brookwood, Ala., coal mine, where 13 miners were killed in a September 2001 explosion, saw its fine reduced from $435,000 to $3,000 -- a 99 percent reduction. The Alabama disaster was the nation's deadliest coal-mining accident in the past two decades, nearly equaled by Monday's Sago explosion that left 12 miners dead.

"There are simply not enough incentives for safety built into the regulatory and compensation system," said Emily A. Spieler, an occupational safety expert and dean of Northeastern University's School of Law. "Pressure on regulatory agencies to allow unsafe businesses to operate is enormous, and the incentives to comply with regulations are small if the regulatory agency does not issue large fines."

The chief enforcer of federal mining laws, the U.S. Mine Safety and Health Administration, defends its performance, pointing to a steady decline in the number of deaths and injuries in coal mines in recent years. Some of the decline has been attributed to increased mechanization, though both industry and union officials acknowledge improvements in safety practices.

"While MSHA has also pursued cooperative health and safety partnerships with labor unions, mine operators and industry associations, it has consistently backed up those compliance assistance efforts with strong enforcement against unsafe operators," agency spokesman Dirk Fillpot said in a prepared statement. Reporters inquiring about the agency's record were referred to the statement.

MSHA contends that its oversight is as least as robust as that of previous administrations, but the record is mixed. The total number of hours spent by inspectors inside coal mines has gone up, but the percentage of violations classified by inspectors as serious -- "significant and substantial," in agency jargon -- has declined.

Comparisons with previous administrations are complex, because mining methods have changed and the number of underground mines has steadily decreased.

But agency critics, including several former MSHA officials, say relatively light sanctions, coupled with the current administration's more collegial approach to regulation, make it harder for inspectors to force noncompliant companies to change.

"There was a dramatic shift in MSHA's philosophy in 2001, with a new emphasis on cooperation by the enforcers," said J. Davitt McAteer, who headed the agency under the Clinton administration, "and it came at a cost of less enforcement of the statute."

MSHA enforces safety laws through the efforts of more than 350 inspectors who review safety plans for individual mines and conduct inspections to ensure the rules are followed. Penalties can range from a warning for minor offenses, such as incomplete paperwork, to fines for "significant and substantial" infractions. More serious violations can potentially result in escalating fines, criminal prosecution or even the shut-down of all, or parts, of a mine.

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At the Sago Mine, near the central West Virginia town of Tallmansville, the increase in safety violations in early 2004 quickly drew the attention of agency inspectors. During the two years that followed, regulators dramatically increased their oversight, writing citations for such problems as falling rocks and excessive levels of highly flammable coal dust. The 273 violations recorded in two years included 16 that were labeled "unwarrantable failures," a designation generally reserved for the most serious safety infractions, or those for which the operator had previously been warned.

The operator of the mine during most of the period was Anker West Virginia Mining Co., which was acquired in November by International Coal Group Inc. ICG officials say they have worked with MSHA to correct safety problems since acquiring the mine. A spokesman declined to comment further, saying the company's focus remains the Sago accident.

According to agency records, federal inspectors issued a total of 18 "withdrawal records" against Sago, forcing the company to temporarily suspend some operations. But in each case, mining was allowed to resume after Sago officials took steps to correct the problems, MSHA documents show. Over two years, the company racked up more than $24,000 in fines, although the individual penalties were all less than $450, and many were $60. The average fine was $150.

Former agency officials say the MSHA regional office that oversees West Virginia mines was unusually aggressive and might eventually have forced the mine to clean up or face a shutdown. But ultimately the agency's response was too little, too late, said Jack Spadaro, a retired agency inspector and engineer in West Virginia.

"The mine should have simply been closed," said Spadaro, who was granted federal whistle-blower status after being demoted four years ago because of what Spadaro says were disagreements with MSHA officials over his aggressive enforcement of safety laws. "The fines were absolutely absurd, but that's all the inspectors can do. The only other option they have is a closure order, and the managers in Washington won't let them close a mine."

Weaknesses in enforcement were the subject of criticism long before the Sago accident. In 2003, the Government Accountability Office faulted MSHA for failing to follow through when it found violations. Moreover, the agency's Washington leadership did "not provide adequate oversight" to ensure that inspectors were enforcing compliance, the GAO concluded.

Former MSHA officials and leaders of the United Mine Workers of America, which represents unionized coal miners, have accused the agency's Bush-appointed leaders of being too closely allied with the industry. They note that MSHA's first leader under President Bush, David D. Lauriski, was a former coal industry executive who advocated a less confrontational style and gave inspectors a less-intimidating job title: "compliance assistance specialists."

Under Bush, 17 of 26 regulations proposed by the Clinton administration were dropped or withdrawn, and the agency began a series of high-profile "cooperative alliance" agreements with industry to promote safety through education, posters and other voluntary programs. Bush-appointed officials leaders say they withdrew the Clinton proposals to pursue their own regulatory agenda.

The agency eliminated or scaled back programs favored by unions and watchdog groups that allowed public access to records related to safety performance and accident investigations. For example, MSHA halted the release of notes from mine inspections, which the agency had routinely released under the Freedom of Information Act for a quarter-century. It also shifted many routine accident investigations into closed-door proceedings, in some cases denying entry even to union officials and lawyers representing injured mineworkers, say union officials and former agency employees.

Joseph Main, a retired UMW health and safety official, said he worried that MSHA's investigation of the Sago accident would focus only on the source of the initial explosion -- instead of seeking answers to the broader questions about mine safety.

"The explosion is just one piece of it," Main said. "They should investigate all the factors that led to the deaths of these men, including the failure of the safety net that was supposed to be in place. If those other questions aren't answered, we will have more Sagos in the future."

Staff writer Cindy Skrzycki, researcher Alice Crites and database editor Sarah Cohen contributed to this report.

Miners Steering Next Generation To Different Jobs (NYT)

By Rick Lyman

The New York Times, January 8, 2006

SAGO, W.Va., Jan. 7 - Mark Rankin worked in the deep mines for 23 years until a back injury put him on disability, and he said that if he ever had a son, he sure would not have wanted him to follow his father into the precarious ground.

As it was, his daughter's husband, 28-year-old David Lewis, was the youngest of the 12 men found dead this week, huddled together behind a makeshift barricade to keep out the toxic fumes in Sago Mine No. 1.

"He was only working in the mines for a while, to help my girl get through graduate school," said Mr. Rankin, 48.

"If I had a son, I'd have told him, if you can find something else, anything else, you should do it. It's a dangerous world down there."

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For those not intimate with the realities of modern coal mining, the ages of the men who died at Sago may have come as a surprise - one in his 20's, one in his 30's, one in his 40's, eight in their 50's and a 61-year-old - a crew of mostly aging veterans, a majority of whom had first put on their miner's hats around the time the Vietnam War was ending.

But that, government and union officials say, is typical for a mining crew these days.

Despite a sharp rise in mining employment, spurred by a doubling in coal prices since 2002, most of the men went into the mines during the last big coal-price surge, in the 1970's, and then struggled through three decades of roller-coaster prices, layoffs and mine closings.

Interviews with more than a dozen current and former West Virginia coal miners - almost all of them middle-aged - revealed a common story line: parents who had urged them to stay out of the mines matching their own reluctance to see their children go underground.

But there is more than reluctance behind the aging of the mine work force.

Many of those West Virginia coal miners hired in the 70's lost their jobs in subsequent downturns. But their names remained on lists, called panels, and the requirement was that those miners be given first shot at any new jobs that opened at union mines.

"The result was that most of the guys hired back first were from that same age group who came into the mines in the 70's," said Terry Osborne, an international vice president at large of the United Mine Workers who is based in nearby Morgantown. "Only recently have we gotten to the point where some mines have exhausted their panels and are free to hire younger men."

With higher coal prices, more mines are being opened and more crews put into existing mines. The federal Energy Information Administration said employment in the industry grew 7.5 percent last year.

Coal mine owners understand that it is a tough industry, and that their aging work force requires them to attract younger employees. Certainly, they say, the images and stories coming out of West Virginia this week will not make that task any easier.

Nick Helms, 25, said his 50-year-old father, Terry, whose body was the first found in Sago No. 1, did not like the harsh conditions underground and wanted better for his son, urging him to pursue his dream of becoming a professional golfer.

"He told me bluntly that I would never step foot in a coal mine," said Mr. Helms, who has moved to South Carolina to try to carve out a golf career. "He didn't want me to do what he did."

And after hearing their parents talk about cave-ins and fires and generally dangerous conditions - there have been 150 coal-mine deaths since 2000, though the records had been improving, with only 21 deaths in 2005 - and living through round after round of layoffs and mine closings, many young people are less than eager to join the parade.

"I love my job," said Joe Reynolds, 48, who works underground at Federal Mine No. 2 in Fairview. "If I was 19 again, I'd take it again. But it's not for everyone."

Mr. Osborne thinks it is generational. "These Pac-Man kids, with their video games, they don't want to get dirty," he said. "I can't blame them, I guess. Truth is, that's what you do with your kids from Day 1, is tell them, 'Don't go into the mines.' "

The Census Bureau puts the average age for workers in the mining industry at 46, but union officials say that is a little misleading, as it includes management personnel and those working in offices and other above-ground support jobs, who are often younger.

"I'd say, around here at least, the age of the average miner you'd see actually working underground is in his mid-50's," Mr. Osborne said.

Only about half of the nation's coal miners are unionized, and nonunion mine owners are under no obligation to hire laid-off union workers, said David Kameras, a union spokesman. But they often do, the miners said, if only to avoid the cost and delay of training inexperienced men.

In addition, under mining regulations, trainees, known as "red hats" for their protective headgear, must have at least one certified miner, known as "black hats," with them as they learn the job underground.

"When I started in the mines, back in the 1975, we were mostly all red hats," said John Palmer, 50, a general laborer at Federal No. 9 in Fairview. "Now you're seeing some young red hats again, but you've got one group of new guys in their late 20's and a bigger group of older guys, like me, in their 50's. We missed a generation in there somewhere."

Mr. Palmer is a big, blustery man with a booming voice who wore a sweatshirt reading "This is what the world's greatest grandpa looks like." He said he was glad he went into coal mining and would do it again.

"When I was a boy, growing up with nothing, my family never even got out of Carolina," he said, referring to a nearby mining town. "Now I make $50,000 a year, give or take, and I can take my family to the ocean."

But he has a 19-year-old son who is not in the mines. "He works for the gas company, and I thank God," Mr. Palmer said.

Census figures show that the median wage for coal miners in construction and extraction jobs in 2004 was $38,550, and $41,280 for those in more specialized maintenance and repair jobs.

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But for those in the bigger mines who are willing to put in overtime, union officials said, wages closer to Mr. Palmer's are common.

It is quite an incentive for young men growing up in a sparsely populated region like rural West Virginia, where comparable paying jobs are hard to find.

"My grandfather was a miner, my uncles were miners, my father-in-law was a miner and my great-uncle was a miner," said Mr. Rankin, who was injured in 2000 and left the mines on disability in 2002. "But when I was a boy, my great-grandmother kept telling me, over and over, 'Promise me that you won't go down into the mines.' I promised her, but I didn't keep my promise."

Mr. Rankin dropped out of high school in the middle of the hiring surges of the 1970's and first tried to find work outside the mines. But in the end, he went to the mines, and he says he is glad he did, though he does have regrets about his great-grandmother.

"She'd have rolled over in her grave if she knew I was working in the mines," he said.

Under Strain, Towns Prepare For 12 Funerals (NYT)

By Felicity Barringer

The New York Times, January 8, 2006

BUCKHANNON, W.Va., Jan. 7 - Daisies, carnations and black ribbons, arranged in baskets, vases and wreaths, covered the floor of Anita's Flowers on South Florida Street here on Saturday - tributes to the family of Jerry Groves, one of the 12 miners who died in the Sago Mine.

Two women, faces drawn, moved between the ringing phone and the back room, taking orders and trying to fulfill them at the same time. They did not have time to talk.

Flowers are the universal language of remembrance, and when grief is not just personal and communal, but public and national, florists' fingers cannot position stems fast enough.

Here in Buckhannon and in nearby Sago, Tallmansville and Philippi, family and friends made final preparations Saturday for the first of the funerals on Sunday for the 12 men whose deaths have focused national attention on these small places, straining them to the utmost.

"Most funeral homes in our area will not be able to accommodate the abundance of people," said Bruce Tomblyn, an owner of the Tomblyn-Whitescarver funeral home in Buckhannon, as he prepared for services for one miner, Jesse Jones. At least six funerals will be held tomorrow.

At the Stemple-Forman Funeral Home in Philippi, Gov. Joe Manchin III, who lost his uncle in a mining accident, was an early visitor on Saturday, said Gary E. Schoonover, the owner of the funeral home.

Amid the mourning, there was a glimmer of good news.

Physicians treating Randal McCloy Jr., 27, the lone survivor of the mine accident, said on Saturday that his condition had improved enough to transfer him from a hospital in Pittsburgh to a hospital closer to home in Morgantown, W.Va.

"He has gotten consistently better," said Dr. Richard Shannon, chairman of medicine at Allegheny General Hospital in Pittsburgh. But Dr. Shannon quickly added, "He is not yet out of the woods."

Mr. McCloy was taken to the Pittsburgh hospital on Thursday to receive special hyperbaric oxygen treatments to alleviate the effects of oxygen deprivation on his heart, brain and other organs.

Also Saturday, another miner's note was made public.

James Bennett, a shuttle-car operator in the group of trapped miners, gave a chronology of his final hours, writing that he was alive but losing air at least 10 hours after the underground explosion.

"Each time he documented, you could tell it was getting worse," Mr. Bennett's daughter, Anne Merideth, told The Associated Press. "Later on down the note, he said that it was getting dark. It was getting smoky. They were losing air."

The final entry was made at 4:25 p.m. Another 31 hours passed before a rescue team arrived.

Tribe Seeks Land N.J. Sold In 1801 (PHI)

By Troy Graham

The Philadelphia Inquirer, January 8, 2006

Two centuries later, a band of Native Americans want back the land they say the state of New Jersey sold out from under them in 1801.

In a federal lawsuit filed last month in Camden, they demanded that everyone now living on the former Brotherton Reservation be evicted.

The only problem: The 3,044-acre reservation now makes up about 85 percent of Shamong Township, Burlington County.

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Since no one wants to bulldoze a community of 6,500 people, the tribe is offering a compromise. Instead, it will accept two 1,500-acre plots of state land - one in Bergen County and one in Burlington County.

On each site, the Unalachtigo Band of the Nanticoke-Lenni Lenape Nation proposes building casinos with 45,000 slot machines, then sharing the revenue with the state and other tribes.

"Some people tell us there's no way in the world we'll get it," said Brent Thomas, the tribal chairman. "I have to be cautiously optimistic; otherwise, I wouldn't be able to get up in the morning."

Thomas, who used to publish an art investors' guide, has devoted himself full-time to tribal government since 1998, when the Unalachtigo Band was reorganized with the express purpose of pursuing Indian gambling, now a $19 billion industry.

Relying on some of the nation's earliest laws, Thomas and his 108-member band, many of whom live in poverty in and around Bridgeton, Cumberland County, are chasing billions of dollars of development in an industry full of heavyweight players.

Despite the odds against the band, Thomas sees gambling as the best way to maintain the tribe, salvage the remnants of its culture, and provide for elders living in squalor.

"We can't sit idly by while people in our community are dying," he said. "We can help ourselves if they would just get out of our way."

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Thomas likes to take visitors to the windswept spot on the Delaware River where his ancestors crossed into New Jersey in 1634, fleeing war with the Susquehanna.

The council fire - the seat of tribal government for the Lenape people - was situated in nearby Fairton, where Thomas was raised. It's now a golf course.

But, like many Native Americans in the region, Thomas didn't grow up with a strong sense of his heritage. His older relatives recall a time when they were encouraged to hide their ethnicity, fearing the government would force them to move out West.

"The hardest thing in our community is to be open about your identity," he said.

Then, in the late 1990s, Thomas made a business trip to the museum at the Foxwoods casino, run by the Mashantucket Pequot Tribal Nation, in Connecticut.

"I go up there for a meeting with these guys, and they look like me," he said. "To see the living standards, the health care, the housing, of course we want it... . Not because we want it, but because we need it."

With the coming explosion of Pennsylvania slot machines in 2007, Thomas hopes New Jersey won't be able to take a pass on the allure of Indian gambling.

"For New Jersey to regain its prominence, it needs the next wave of gaming, which is what we offer," he said.

And when people ask how a small tribe, struggling to pay for basic necessities, is going to build a gambling empire, Thomas points across the river.

"The state of Pennsylvania isn't investing a dime, and look at the development they're getting," he said.

But not everyone agrees that gambling is the best way for tribes to flourish. A larger, 2,500-member tribe of Nanticoke Lenni-Lenape, who have established a cultural center and make appearances at local schools, adamantly opposes gambling. In fact, this tribe's laws ban any business that "profits from the promotion of vice."

"We are absolutely, 100 percent separate from the Unalachtigo Band," said the Rev. John Norwood, a Nanticoke Lenni-Lenape tribal member. "Our goal has never been gaming, nor is it to seize property and throw people off the land."

Mark Gould, the chief, said casinos have been a divisive force in many gaming tribes.

"We are a very spirituality-based tribe," he said. "We have been a very poor tribe all our lives, but if we're going to keep the families together, we have to follow the spiritual line."

He said Thomas' pursuit of gambling had injured "every Native American in New Jersey," and had made his tribe's efforts to win grants and work with local governments more difficult.

"We're very insulted when people believe that just because you're Indian, you want a casino," Norwood said.

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Under a 1758 treaty, the Brotherton Reservation was to be held in trust for the Lenape Indians. When New Jersey sold the land in 1801, the state violated the treaty and a 1790 law that gave the federal government authority over Indian land transactions, the lawsuit alleges.

In 1996, the Delaware Tribe of Western Oklahoma - descendants of the inhabitants of the Brotherton Reservation - began investigating a claim to the land. U.S. Rep. Jim Saxton (R., N.J.) took the matter seriously enough to introduce legislation in 1999 that would have retroactively ratified the Brotherton sale. The bill never passed.

The Unalachtigo entered the fray by suing the state in 2001. Last year, a state appellate court ruled that the case must be heard in federal court.

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Nonetheless, the three-judge panel offered the opinion that, under New Jersey law, the sale of the reservation would have been valid.

"There is no question here that the Lenni Lenape not only assented to the sale of their land, but requested it, and... received full value," the court said.

Thomas said that was not correct. He argues that the land was actually sold by members of the Stockbridge-Munsee Band of the Mohican Nation, not the Lenape for whom the land was to be reserved.

"They tried to lump us all in together, and you can't do that," he said.

Either way, the journey from a land claim to a Foxwoods-scale operation could be arduous.

Blake Watson, an Indian-law expert at the University of Dayton School of Law in Ohio, said some courts have begun to rule that Indian land claims are too old, even though there is no statute of limitations.

Even if the Lenape won state land - in court or through a settlement - that doesn't mean they can open casinos. Tribes that want gambling have to be federally recognized, Watson said. The Lenapes are not.

Thomas argued - and Watson agreed - that the process is so badly broken that it could take more than 20 years to become recognized.

Thomas points to two other options: A U.S. District Court judge in New York recently recognized the Shinnecock Nation as legitimate even though that tribe had not gone through the recognition bureaucracy. It's still unclear, however, whether the Shinnecocks can now have gaming, Watson said. And, the Pequots won federal recognition through an act of Congress - the only tribe to do so.

"The odds of winning these land claims are increasingly problematic. They've got a lot of hurdles," Watson said. "It's possible for them to win a land claim and still not get gaming."

To Thomas, the issue of proving the tribe's legitimacy should be moot. But, just in case, he has an affidavit from a University of Pennsylvania archaeologist tracing the tribe's lineage back to the Brotherton Reservation.

"Everyone knows who we are," Thomas said. "The question is: What does the state want us to be?"

Thomas paused before answering his own question.

"Quiet."

FBI/DEA/ATF/USMS:

Guns Flow Easily Into Mexico From The U.S. (LAT)

By Héctor Tobar

The Los Angeles Times, January 8, 2006

NUEVO LAREDO, Mexico — The most popular instruments of robbery, torture, homicide and assassination in this violence-racked border city are imported from the United States.

"Warning," reads the sign greeting motorists on the U.S. side as they approach the Rio Grande that separates the two countries here. "Illegal to carry firearms/ammunition into Mexico. Penalty, prison."

The signs have done little to stop what U.S. and Mexican officials say is a steady and growing commerce of illicit firearms in Mexico — 9-millimeter pistols, shotguns, AK-47s, grenade launchers. An estimated 95% of weapons confiscated from suspected criminals in Mexico were first sold legally in the United States, officials in both countries say.

Guns are the essential tools of a war among underworld crime syndicates that claimed between 1,400 and 2,500 lives in 2005, according to tallies by various newspapers and magazines.

The biggest criminals in Mexico are engaged in an arms race, with an armor-piercing machine gun as the new must-have weapon for the cartels fighting one another for control of the lucrative trade in narcotics, U.S. and Mexican officials say.

In 2005, Nuevo Laredo residents endured the specter of more than 100 suspected drug-cartel executions in their city, and the release of a horrific videotape in which a suspected drug-cartel gunman executes a "prisoner." The city has become a tragic symbol of the gun violence sweeping through the entire country.

"It's obvious where all the arms are coming from," said Higenio Ibarra Murillo, a Nuevo Laredo business owner in the city's historic downtown district. "We don't make any guns or rifles here" in Mexico.

Buying a weapon legally is extremely difficult in Mexico. The country's defense secretary issues all gun licenses — the wait is a year or more, and the cost about $1,900. Licenses must be renewed every two years.

There are fewer than 2,500 registered gun owners in the entire country. Yet Mexican police confiscate an average of 256 weapons every day from suspects, officials from the attorney general's office said recently.

Javier Ortiz Campos of Mexico's Federal Preventive Police says traces by the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives on weapons confiscated in Mexico often lead to the gun shops, gun shows and flea markets of Texas. The U.S. state has some of the most liberal gun laws in the country and a porous, 1,240-mile-long border with Mexico.

"Over there they even sell guns at Wal-Mart," Ortiz Campos said. The weapons confiscated in Mexico come mostly from U.S. border cities such as Laredo, El Paso and Brownsville, he said. But many come also from Houston and San Antonio.

"We're finding a lot of weapons from Houston, because the buyers get a better price there than at the border," Ortiz Campos said.

Organized-crime groups in Mexico often buy their weapons in bulk via "straw purchasers" in Texas, where there is no limit on the number of firearms a resident can purchase, said a U.S. official who asked not to be named.

Typically, the Mexican buyer will pay a Texas resident $50 to $100 to acquire the weapons, the official said.

In one case, Mexican and U.S. authorities working together traced 80 confiscated firearms to a Mexican national who paid Texas residents to buy weapons on his behalf, the official said.

Police recovered one 9-millimeter handgun last year at the scene of a shootout between officers and suspected drug-cartel hit men outside the Mexican border town of Reynosa. A trace of the weapon by ATF agents led to another Texas man who had bought 160 weapons. That man is facing gun-trafficking charges in the U.S.

Last year, ATF officials in Arizona arrested a man trying to buy 30 U.S. military hand grenades. The man told undercover agents the grenades were intended for drug traffickers in the northern Mexican state of Sonora. In August, a Tucson man was charged with smuggling AK-47s and AK-47 parts into Mexico.

Large caches of weapons routinely turn up here and in other border communities. Twenty assault rifles were seized in Tijuana on Dec. 20; that same day, Mexican army troops in the state of Sinaloa detained a group of men who were armed with five AK-47 rifles and one AR-15 rifle.

In Nuevo Laredo last month, Mexican police stumbled upon an arsenal in the hands of suspected organized crime members that included grenades, semiautomatic handguns and seven AR-15 assault rifles.

No store in Nuevo Laredo sells handguns or rifles over the counter. But if you take a 15-minute walk over the border to Laredo, you'll find the Bushmaster AR-15 rifle on sale at one gun store for $1,199.

The salespeople at the store speak Spanish, but the sign over a display case of semiautomatic handguns is in English: "If guns are outlawed, only outlaws will have guns."

The slogan, popular with U.S. gun-rights activists, certainly seems to apply on the other side of the border. Only one person has a private gun permit in the entire Mexican state of Tamaulipas, which includes Nuevo Laredo. Yet guns seem to be everywhere.

On the impoverished edges of the city, small-time drug dealers protect their investments with semiautomatics. And many law-abiding citizens can tell of an encounter with armed bandits.

Businessman Jose Luis Ortiz Cardenas witnessed an attempted carjacking by armed robbers last year outside a grocery store he owns. And he'll never forget the notorious 2003 shootout a few blocks from the cantina he operates downtown — the shooting spread to the bridge leading to the United States.

"It was a hail of bullets, federal agents firing at other federal agents, hit men firing at other hit men, with bazookas and everything," the cantina owner said.

Mexican police have, in recent years, confiscated a handful of bazookas from organized-crime groups. Mexican and U.S. officials say a very small amount of military surplus from recent wars in Central America has found its way into Mexico. But U.S. officials say a bazooka recovered recently from suspected drug cartel hit men in Mexico was traced to an Army depot in Arkansas — the weapon had been deposited there and last accounted for in 1967.

Assault rifles such as the AR-15 and the AK-47 are by far the most popular weapons imported into Mexico by the drug cartels, police official Ortiz Campos said.

The AR-15 is the civilian, semiautomatic equivalent of the M-16 used by U.S. troops since the Vietnam War. The AK-47 was designed by Mikhail Kalashnikov for the Soviet army in 1947. In Mexican street slang both are known as "el cuerno de chivo" — "the goat's horn" — for the distinctive shape of their bullet clips.

"For the narco-traffickers, it's like their good-luck charm," Ortiz Campos said. The drug cartels favor the AK-47 for the same reason the Soviet army did: its ruggedness and versatility.

"With that weapon, you can do incredible things," Ortiz Campos said. The AK-47 is not only powerful, it's also idiot-proof, he added. "It will fire underwater. It will fire when it's covered with mud."

The AK-47 appears in several narcocorrido songs about bad men and their adventures. The song "The Terrifying Cuerno de Chivo" by the group Los Incomparables de Tijuana was made into a movie of the same name.

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"Its barrel is decorated, the butt and the trigger too," the lyrics say. "Inlaid with silver all around, it's a weapon fit for a man of courage…. It's an instrument of death."

Assault rifles that are sold legally in the U.S. are not fully automated. But officials say that there are gunsmiths in Mexico who are adapting the weapons to make them fully automatic.

"We have found a few in Mexico that have been converted by a machinist," the U.S. official said. "This tells us someone with vast experience in weaponry is working here."

U.S. and Mexican officials say they are also concerned by the presence of .50-caliber machine guns in Mexico. Originally designed as antiaircraft weapons, the guns are used by cartels because they can penetrate armor.

"We think these weapons are used by the cartels to attack each other" rather than the police, Ortiz Campos said.

"Ten or 15 years ago, you rarely saw a .50-caliber weapon" in Mexico, the U.S. official said. "Now they're popping up everywhere."

U.S. officials say their Mexican counterparts are working harder than ever to fight the weapons trafficking. Mexican federal officials cooperate extensively with the ATF in tracing illicit weapons.

"The Mexicans are eager to see prosecutions for gun trafficking go forward in the U.S.," the American official said. "It's a different attitude than in the past."

Still, the gun violence continues to take on new, disturbing dimensions. Television viewers across Mexico were horrified last month by the airing of a video in which members of the one cartel competing for control of the drug trade in Nuevo Laredo torture hit men from another cartel. The video, obtained by the Dallas Morning News, ends with one of the hit men being executed with a shot to the head from a 9-millimeter pistol.

As Nuevo Laredo becomes a war zone, its streets are increasingly empty. For the most part, tourists are avoiding the city, frightened by the kidnapping and disappearance of several Americans here.

"The one consolation we have is that we know it can't get any worse than it is right now," business owner Ortiz Cardenas said. "We've hit rock bottom."

Anti-drug Task Force Funding Slashed (RPE)

By CLAIRE VITUCCI, Washington Bureau

Riverside (CA) Press-Enterprise, January 8, 2006

WASHINGTON - Law-enforcement agencies across the nation and Inland area could find it tougher to crack down on methamphetamine due to cuts in a popular federal grant program.

Funding for Byrne Grants, which help finance drug task forces that often focus on methamphetamine, was cut by $200 million.

The Bush Administration had eliminated funding for the program, saying it and other grant programs were ineffective. But Congress restored $606 million for Byrne Grants in the 2006 fiscal year as part of a Justice Department spending bill. The grant program received $804 million in fiscal 2005. That amount was also a reduction from the previous year.

California received $31.6 million in Byrne Grant funding in 2004. It's not yet clear how much the state will receive in 2006, but law enforcement officials say they're bracing for a big reduction -- as much as 35 percent, said Rick Oules, Director of Law Enforcement for the California Department of Justice.

Oules said the state is already planning to cut 20 positions and trim some crime-lab services. He said officials are concerned about how the cuts will affect local anti-drug task forces, which receive a majority of funding from the Byrne Grant program. There are 44 drug task forces throughout California.

Sen. Dianne Feinstein, D-California, and co-chairwoman of the new Senate Anti-Meth Caucus, said cutting the Byrne grant program is short-sighted.

"It means fewer cops on the street, less money to combat the nation's drug epidemic, and a heavier burden on local law enforcement," Feinstein said in a statement. Task forces "make thousands of arrests each year. But these task forces will most likely be cut as a result of these cuts."

Leaders of task forces in Riverside and San Bernardino counties say they've already been hurt by past cuts.

Last year the Coachella Valley Narcotics Task Force lost 37 percent of its grant money, which it uses to pay partial salaries for detectives from nearby police agencies and for a deputy district attorney who prosecutes narcotics cases.

Because of the cuts, the task force had to use asset forfeiture money to pay for surveillance and other operations. Also, local law-enforcement agencies had to pay more of the personnel costs, said Cmdr. Fred Fierro, who heads the task force.

Lt. Greg Garland of the San Bernardino County Sheriff's Department Narcotics Division, said the county's drug task force received $823,532 last year, which was down from $1.25 million received the year before.

The task force had to redistribute people and resources, Garland said.

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"If we get cut, somebody's got to go," he said.

Garland said if all of the federal money were to go away it would likely mean the end of the task force. The federal funds are used to pay for criminalists, salaries, surveillance, overtime, training and district attorney services.

This year's Byrne Grant funding from Congress was part of a $57.9 billion spending bill for the federal departments of Commerce, Justice and State.

The bill has $20 million for the Drug Enforcement Administration to help local jurisdictions to clean up toxic meth labs. Another $63.59 million would go toward investigation, interdiction and dismantling drug laboratories in meth "hot spots" across the country where the drug is most prevalent.

But with growing attention on the methamphetamine epidemic there needs to be more funding made available to fight it, said Joe Dunn, associate legislative director with the National Association of Counties, who is based in Washington.

Tom Ackerman with the Belo Capital Bureau contributed to this report.

IMMIGRATION:

Texas Tangle (TWNHLL)

By Robert Novak

Novak Column, January 8, 2006

WASHINGTON -- The decision by State Comptroller Carole Keeton Strayhorn to run for governor of Texas as an independent requires President Bush to oppose her and support Gov. Rick Perry. Strayhorn is the mother of two trusted Bush aides, while Perry's relationship with the president has been cool.

The White House had signaled it would not take sides in a Republican primary between Strayhorn and Perry. White House press secretary Scott McClellan and Bush administration Medicare and Medicaid administrator Mark McClellan are sons of Strayhorn.

Strayhorn decided to go independent when it became clear she could not win a Republican primary, according to Texas sources. Her opposition to Perry in the general election evoked outrage from state Republican leaders who claimed betrayal by Strayhorn, who in 1985 moved from the Democratic to the Republican Party.

ALITO CAMPAIGN MIX-UP

A new fund-raising appeal by the Committee for Justice (CFJ) on behalf of Judge Samuel Alito's confirmation for the Supreme Court mistakenly contained the name of former White House counsel C. Boyden Gray, President Bush's nominee for U.S. ambassador to the European Union (EU).

Gray's nomination is in trouble in the Senate, partly because of Democratic protest over his activities as founder of the CFJ. He had resigned from the group, and consequently his name on the fund-raising letter raised eyebrows.

When this column pointed out to CFJ executive director Sean Rushton that Gray's name was still on the money appeal, Rushton replied he was unaware of that and it must have been a case of the fund-raising contractor using old stationery. He later said the letter has been withdrawn and any money raised with Gray's name on the appeal was being returned.

REPUBLICAN LOYALTY

The White House is dispatching Vice President Dick Cheney to raise money for embattled Republican Sen. Mike DeWine of Ohio, who has voted against President Bush on key legislative issues.

Cheney will address a $1,000-a-ticket Capitol Hill Club reception on Jan. 26 that is intended to raise $100,000 for DeWine's campaign for a third term. DeWine most recently opposed Bush and Senate Republican leaders on the budget bill and on drilling for oil in the Arctic National Wildlife Refuge. Invitations to the fund-raiser have been mailed to major Bush contributors.

With Republican control of the Senate at stake, DeWine faces potential difficulty for re-election. Democratic candidates include Rep. Sherrod Brown and Iraq War veteran Paul Hackett, who last year ran a close race in a heavily Republican congressional district.

SURGEON GENERAL POLITICIAN

National Republican leaders are recruiting Vice Adm. Richard Carmona, surgeon general of the United States, to cut off a congressional bid in a closely contested Arizona district by a foe of President Bush's immigration policies.

The Tucson district was put up for grabs when moderate Republican Rep. Jim Kolbe announced recently he would not seek a 12th term. The leading Republican candidate has been former State Rep. Randy Graf, who in 2004 took 43 percent of the primary vote while spending only $90,000 by advocating a hard-line immigration policy.

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Kolbe is not expected to support Graf if he is nominated in an evenly balanced district that Bush carried with 53 percent. Dr. Wayne Peate, a fellow physician and friend of Carmona, filed his candidacy Monday and raised speculation that Carmona will not run.

IMMIGRATION SPLIT

A bipartisan guest worker proposal being worked on in the Western Governors' Association (WGA) promises to expose further the split over immigration in both political parties, but particularly among Republicans.

Arizona Gov. Janet Napolitano, a Democrat, and Utah Gov. Jon Huntsman, a Republican, are working on the WGA proposal. In addition to the guest worker initiative, the proposal is expected to include increased border enforcement and reimbursements to states of expenses resulting from illegal immigration.

This Napolitano-Huntsman plan, if finished in time, will be presented at the WGA's annual Washington breakfast late in February. It would immediately be attacked by Republican immigration hard-liners in Congress.

Robert Novak is a television personality and a columnist who writes Inside Report.

Few Drawn To Illegal Immigration Protests (AP)

By MICHAEL R. BLOOD

Associated Press, January 8, 2006

Illegal immigration protests organized across the country Saturday drew small numbers, and some were outnumbered and out-shouted by those who support immigrant rights.

The so-called "Stop the Invasion" protests were organized in 19 states, demanding the government increase border security and penalize employers who hire illegal workers.

"We are keeping the debate on illegal immigration in the forefront of the American consciousness," said Joseph Turner of Save Our State, who was among about two dozen protesters who waved American flags outside a home-supply store in a Los Angeles suburb.

But Turner's group in Glendale was surrounded by more than 100 drum- beating supporters who chanted, "Racists go home." The two groups traded shouts and obscene gestures for more than an hour. One man was arrested for assault, police said.

In Farmingville, N.Y., where immigration-related violence erupted several times in recent years, only about a dozen protesters showed up and argued against the growing number of day laborers on eastern Long Island.

Paul Streitz, who organized the demonstrations, said members believe illegal immigrants are taking jobs from citizens while driving down property values.

"This is not a racist thing," said Daniel Anastasia, 46, a construction worker from Westchester, N.Y. "We pay taxes, they don't. I get paid what the union says. The contractor pays them cash. It's not fair to me."

In Framingham, Mass., near Boston, a small group protesting illegal immigration was met by a much larger group of counter-demonstrators, some of whom surrounded them and temporarily disrupted the protest.

"What they are doing is just harassing people who are out here to go to work every day, and they're doing it in a hateful manner, which is against everything this country stands for," said Manuel Olivera, pastor of the nearby New Life Presbyterian Community Church.

In Danbury, Conn., about 50 people calling themselves the Connecticut Citizens for Immigration Control spent about two hours chanting and holding signs that read "Arrest Illegal Employers." Several dozen people held a counterprotest across the street.

In Las Vegas, John Holiday, 43, and his son, Conner, 9, held signs near a convenience store where undocumented workers are picked up by employers. The boy, who held a sign that read "Our lawmakers encourage lawbreaking," said illegal immigration has divided the country.

"Do you think the problem will be over when I grow up?" Conner asked.

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Associated Press writer Ken Ritter in Las Vegas contributed to this report.

Rallies Draw Dueling Protesters In Clashes Over Illegal Immigration (LAT)

By Rich Connell And David Haldane

The Los Angeles Times, January 8, 2006

Hundreds of protesters squared off in tense and boisterous confrontations Saturday at Southern California day laborer sites, as activists opposing illegal immigration stepped up a nationwide effort to cut off jobs for undocumented workers.

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The protests pitted members of the Minuteman Project and similar groups that seek tighter borders against counter-demonstrators outside home improvement stores in Glendale, Lake Forest, Laguna Beach and Rancho Cucamonga. The demonstrations included drum thumping, shouting and dueling efforts to videotape the opposition.

But the protests were largely peaceful. A protester was arrested in Glendale on suspicion of misdemeanor assault after allegedly shoving an anti-illegal immigration organizer.

The National Day of Protest, planned by a coalition fighting illegal immigration, included demonstrations in several other states. It was the latest in a series aimed at cities that support day laborer hiring sites, as well as contractors, homeowners and others who hire undocumented workers.

In Glendale, at one of the largest protests, about 150 people carrying signs and banners lined the street outside a Home Depot.

The city helped create a day laborer hiring center next to the store where dozens of men, many of them undocumented, regularly gather looking for work.

"They're aiding and abetting … a crime," said Joseph Turner, executive director of Save Our State. The hiring center operates legally and is needed to address a community problem, city officials say.

Turner carried a large American flag and was accompanied by about 25 supporters. But his group was far outnumbered by opponents, some of whom loudly chanted, "Racists, go home."

"They want to kick whites out of our country," Turner said of some counter-protesters. "Millions of illegal aliens is not good for our society."

Members of the Mexica Movement, which contends that North America's indigenous people were robbed of their land and culture by 16th century immigrants from Europe, engaged in heated nose-to-nose exchanges with Turner and his supporters.

In south Orange County's Lake Forest, across the street from a Ganahl Lumber store where laborers look for work, protesters and counter-protesters in roughly equal numbers engaged in similar sidewalk debates.

"It's immoral to blame people of color" for economic problems, shouted Sharon Tipton of Trabuco Canyon, holding a sign featuring a swastika and the slogan "Heil Gilchrist." It was a reference to Jim Gilchrist, co-founder of the anti-illegal immigrant Minuteman Project. "That's what they did in Nazi Germany, blaming a particular group," she said.

A man who identified himself only as Kelly, and who said he was a Minuteman, shouted back: "The issue has nothing to do with race, but with following the law."

Deborah, an illegal immigration opponent who declined to give her last name because she said she feared reprisals, complained about the laborers who gather near the store.

"You can't walk by here without being harassed," she said, describing herself as a 42-year-old single mother. "I have to warn my kids to stay away."

In Laguna Beach, the two sides — one of which included Gilchrist — hurled a steady steam of insults and taunts at each other across Laguna Canyon Road.

Gilchrist, surrounded by about 50 supporters, said the porous border "is an invitation to terrorists who would bring us harm. It's a matter of losing security and losing the rule of law as a governing mechanism. We are literally being invaded and colonized."

Gilchrist drew 25% of the vote last month in an Orange County congressional race, running under the banner of the American Independent Party.

Many day laborers were quiet and frustrated observers of the clashes.

"Hopefully, it will be over soon so we can go back to work," David Gonzalez, a father of two watching the Glendale protest from inside the hiring center, said in Spanish. "I don't understand a lot about politics, but I know we don't come here to hurt anyone."

He said employers "need us. We do the most difficult jobs."

The Silence In Herndon (WP)

The Washington Post, January 8, 2006

MAYBE IT WAS just the holiday season. But in the three weeks since a day-laborer center opened in the town of Herndon -- the same center that elicited the wrath of anti-illegal-immigrant forces from coast to coast -- the main vibe coming from the town is . . . silence. True, three weeks is too brief a period to draw ironclad conclusions. But signs suggest that the center has brought calm to a situation previously marked by disorder.

It's important to remember how it was in Herndon: scores of day laborers milling about the parking lot of a 7-Eleven, jostling around the cars and pickup trucks of prospective employers -- a survival-of-the-fittest scrum masquerading as an employment bazaar. Because the site lacked any procedure to determine who would be picked for work, mayhem broke out sporadically as

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workers competed for jobs. In the absence of public toilets, some of them urinated outdoors. There were complaints of drunkenness, rowdy behavior and harassment of women.

At the new day-laborer center at a former police station about a mile from the 7-Eleven, 100 or so workers make their way early each morning, sign in and are issued lottery-style tickets. An orderly drawing of the tickets determines which workers get priority for the jobs available each day. A code of conduct, drawn up by the workers themselves, sets out 30 rules governing behavior and procedures. Disciplinary action, including banishment from the center, can be imposed for trespassing, drunkenness, drugs, weapons, theft, noise, trash, vandalism, sexual harassment, lack of cleanliness, fighting and disorderly conduct, among other sins. English lessons are planned. And the 7-Eleven? It's back to being just a convenience store, and its parking lot is now used only for parking.

Contrast that with the situation across the Potomac in Gaithersburg, where a burst of citizen opposition -- and bungling by local authorities -- has at least temporarily derailed plans for a similar center. That has left several dozen immigrant day workers to gather each day at the town's Grace United Methodist Church, where the arrival of prospective employers, and the lack of any established rules, sometimes provokes scenes reminiscent of the bad old days at Herndon's 7-Eleven. A Gaithersburg task force is studying what to do next and where to locate a proposed center. Most important, the task force is soliciting public input.

The real test for Herndon's new center will come in a few months, with the spring surge in demand for day labor. The center is surely not a panacea for Northern Virginia's dilemma of dealing with undocumented immigrants, nor has it eliminated all opposition. Even now, a handful of vigilantes calling themselves "Minutemen" arrive at the Herndon center each morning to take photographs and shoot video footage and otherwise harass the workers and employers there.

Still, the experience in Herndon, as well as in Silver Spring, Wheaton, Arlington and other places with established day-laborer shelters, suggests the obvious: Dedicated centers are far preferable to chaotic spectacles in the parking lots of convenience stores and churches. Many of the workers at the centers are illegal immigrants, whose swelling numbers attest to the federal failure to control the nation's borders and enact sensible laws. But it is equally true that there is enormous demand for low-wage workers in the Washington area's booming suburban labor markets. As long as that is the reality, day-laborer centers are a big improvement on the alternative.

Democrats Criticize Appointment At Immigration Agency (NYT)

By Rachel L. Swarns

The New York Times, January 8, 2006

WASHINGTON, Jan. 7 - Senate Democrats this week sharply criticized President Bush's decision to install Julie L. Myers, a White House official, as head of the nation's immigration enforcement agency despite concerns on the part of some about her qualifications for the job.

Ms. Myers, a 36-year-old lawyer, will be sworn in on Monday. She currently serves as the president's special assistant for personnel and previously worked as an assistant secretary at the Department of Commerce. She has never managed a large department or dealt extensively with immigration issues.

When Mr. Bush nominated Ms. Myers last year, Democratic and Republican senators raised concerns about her lack of experience, and her Senate confirmation appeared to be in doubt. Some critics said they feared that her political connections, rather than her qualifications, had driven the decision to select her to lead the bureau of Immigration and Customs Enforcement, which has 15,000 employees and a budget of about $4 billion.

On Wednesday, Mr. Bush bypassed the Senate confirmation process and used his power of recess appointment to install Ms. Myers as director of the bureau, which is part of the Department of Homeland Security. The department's secretary, Michael Chertoff, praised Ms. Myers, saying that she possessed "the experience, judgment and determination" necessary for the job.

But some Senate Democrats said they were still concerned about her ability to manage the bureau. The agency has been beset by controversies, including accusations of mismanagement of its budget and questions about its effectiveness in enforcing immigration laws.

At the Department of Commerce, Ms. Myers supervised a unit of 170 employees.

Senator Joseph I. Lieberman, Democrat of Connecticut, said on Friday that Ms. Myers "really was not qualified for the position." Mr. Lieberman said Congress had intended the position to be held by someone with at least five years' management experience.

"In my opinion, she lacks the management background," he said. "And one of her key responsibilities is to enforce immigration laws, and she has virtually no immigration experience."

Daniel K. Akaka, Democrat of Hawaii, echoed those concerns. "The head of I.C.E. should be an individual who has demonstrated extensive executive-level leadership and the ability to manage a budget through reorganizations and budget cycles," Mr. Akaka said. "Ms. Myers has not demonstrated this ability."

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Erin Healy, a spokeswoman for the White House, countered that Ms. Myers had "extensive law enforcement experience," noting that she had also served as chief of staff for the criminal division in the Justice Department and as a federal prosecutor in New York.

"She's tried criminal cases and worked with customs agents on everything from drug smuggling to money laundering," Ms. Healy said. "So to say that Julie does not have the prerequisite experience to lead I.C.E., it simply ignores her extensive background working with law enforcement, immigration and customs.

"This position has been vacant for far too long," Ms. Healy continued. "It's essential that the agency has the leadership it needs."

Mr. Bush nominated Ms. Myers for the position in June, but the decision first stirred a furor in September after Hurricane Katrina, as the administration faced criticism about the performance of Michael D. Brown, then the director of the Federal Emergency Management Agency.

Mr. Brown, a Republican without prior experience in managing disasters, was brought to Washington by a friend, Joe M. Allbaugh, his predecessor at FEMA.

Ms. Myers, who has held a variety of federal jobs over the last four years, drew attention because of her ties to the White House and some senior officials. She is a niece of Gen. Richard B. Myers, who recently stepped down as chairman of the Joint Chiefs of Staff, and the wife of John Wood, Mr. Chertoff's chief of staff.

Criticism of her nomination was not limited to the comments of Democrats. In September, National Review, an influential conservative publication, urged Mr. Bush to withdraw Ms. Myers's nomination. In an editorial, the magazine compared her to Mr. Brown and called her "another unqualified nominee for a vital position in the Department of Homeland Security."

"The president's supporters can look forward to serving in his administration, but certain key jobs ought to be reserved for candidates whose personal connections don't outweigh their professional qualifications," the editorial said.

Russ Knocke, a spokesman for the Department of Homeland Security, said that Ms. Myers's critics were ignoring her experience in pursuing financial, narcotics and weapons crimes, experience that he said would be critical to an agency that is increasingly focused on breaking sophisticated smuggling rings.

Several Senate Republicans also voiced support for Ms. Myers on Friday, though not without raising some concerns about her qualifications and the appointment process.

Senator George V. Voinovich, Republican of Ohio, who had raised sharp questions about Ms. Myers's qualifications in September, said on Friday that she was "intelligent and highly driven" with "the potential to be an effective leader."

"Though I would have preferred that Ms. Myers had more management experience," Mr. Voinovich said that "as a former mayor and governor, I feel strongly that managers should have the flexibility to hire their own team, and then be held accountable for the results."

Senator Susan Collins, Republican of Maine, has also praised Ms. Myers, saying that she "would bring experience and the confidence of Secretary Chertoff to this mission." But on Friday, Ms. Collins expressed concern about Mr. Bush's decision to bypass the Senate confirmation process.

"It was disappointing to her that the White House circumvented the normal nomination process," said Jen Burita, a spokeswoman for Ms. Collins.

TAX:

Bush Urges Congress To Save Tax Cuts (AP-Y2)

By Deb Riechmann

AP, January 8, 2006

Boasting that the economy is strong and growing, President Bush urged Congress on Saturday to save tax cuts from expiring and adopt the first spending restraints in nearly a decade on such benefit programs as Medicaid, Medicare and student loans.

In his weekly radio address, Bush said the federal budget faces the challenge of long-term deficits driven by mandatory spending on those entitlement programs.

"We do not need to cut entitlements, but we do need to slow their growth," he said.

Before leaving for the holidays, the Republican-controlled Senate passed legislation to cut federal deficits by $39.7 billion. The measure passed by the narrowest of margins, 51-50, with Vice President Dick Cheney casting the deciding vote.

The legislation, the product of a year's labors by the White House and congressional Republicans, imposes the first restraints in nearly a decade in benefit programs.

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"Congress needs to finish its work on this important bill," Bush said. "By passing the first reduction in the growth of entitlement spending in nearly a decade, Congress will send a clear signal that the people's representatives can be good stewards of the people's money."

The bill would take on, for the first time since 1997, the growth of federal benefit programs such as Medicaid, Medicare for the elderly and student loan subsidies.

It is part of a campaign by Republican leaders to burnish their party's budget-cutting credentials as they try to reduce a deficit swelled by spending on the Iraq war, Hurricane Katrina and an earlier round of tax cuts.

Opponents said the bill will hurt the middle class.

The GOP is advancing "an ideologically driven, extreme, radical budget," Senate Democratic Leader Harry Reid of Nevada said after the bill passed. "It caters to lobbyists and an elite group of ultraconservative ideologues here in Washington, all at the expense of middle-class Americans."

In his broadcast, Bush also called on Congress to make permanent all the tax cuts passed at his urging earlier in his administration. Most are due to expire before or at the end of 2010.

With GOP leaders having had little success making the cuts permanent, the House and Senate are debating bills to extend some through the end of the decade.

Democrats particularly oppose extending the lower rates for capital gains and dividends.

"Some people in Washington said these tax cuts would hurt the economy," Bush said. "The day the House voted for tax relief in May 2003, one Democratic leader declared it a 'reckless and irresponsible tax plan that will undermine opportunity in our country.'

"Since those words were spoken, our economy has added more than 4.6 million new jobs for the American people," Bush said.

The president was referring to a comment made by House minority leader Nancy Pelosi, D-Calif., during a floor debate.

Bush Pressures Congress On Spending, Tax Cuts (REU-Y2)

By Steve Holland

Reuters, January 8, 2006

President George W. Bush pressed the U.S. Congress on Saturday to cut nearly $40 billion in spending and extend tax cuts, steps he said will help keep the U.S. economy on track.

"To keep our economy strong and secure the American Dream for future generations, leaders in Washington must make sound decisions," Bush said in his weekly radio address.

With Vice President Dick Cheney casting a tie-breaking vote in a hectic pre-holiday session, the U.S. Senate last month approved a bill that would cut spending on social welfare and other programs by $39.7 billion.

But small, last-minute changes pushed by Democrats mean the bill must go back to the U.S. House of Representatives for another vote, delaying final approval until late January or February.

"By passing the first reduction in the growth of entitlement spending in nearly a decade, Congress will send a clear signal that the people's representatives can be good stewards of the people's money," Bush said.

Democrats criticize Bush for seeking cuts in spending on programs that help poorer Americans, while seeking to extend tax cuts that they contend help mostly the rich.

At the same time, Bush is putting finishing touches on a new budget blueprint for fiscal 2007 starting October 1 that White House budget director Joshua Bolten has said will emphasize restraint.

Bush's Republicans and opposition Democrats disagree on the strength of the U.S. economy. The White House says economic growth is strong, job growth is steady and consumer confidence is up.

Democrats complain the average American is suffering from stagnant wages while costs for gasoline, health care and housing have have soared.

The two sides are divided over extending some of the tax cuts that Bush pushed through Congress in his first term, The White House disputes the Democrats' contention that the cuts unfairly favor the wealthiest Americans.

The Republican-controlled House voted last month to extend for two years 15 percent tax rates for capital gains and dividends and are set to expire in 2008.

But the battle over tax cuts is far from over and likely to be debated on the campaign trail during the 2006 midterm elections.

Bush said letting tax cuts expire would amount to a tax increase.

"Inaction by the Congress will mean a tax increase on the American people. When you hear people in Washington say we don't need to make the tax relief permanent, what they're really saying is they're going to raise your taxes," Bush said.

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Democrats said Bush was ignoring signs the economy was not working for average Americans.

"It's obvious that at the start of this election year, the Bush economy is an albatross for the administration and Republicans in Congress," said Massachusetts Sen. Edward Kennedy. "People are anxious about their standard of living."

Hot Tubs And Cold Moralizing (WP)

By George F. Will

The Washington Post, January 8, 2006

"The taxing power of government must be used to provide revenues for legitimate government purposes. It must not be used to regulate the economy or bring about social change."

-- President Ronald Reagan State of the Union Message Feb. 18, 1981

"(b) no portion of the proceeds of such issue is to be used to provide (including the provision of land for) any private or commercial golf course, country club, massage parlor, hot tub facility, sun-tan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises."

-- Title 26 Internal Revenue Code (tax exemption requirements for qualified redevelopment bonds)

Well, yes, certainly no massage parlors. Or hot tubs, of course; one shudders to think what happens in those. And tanning facilities, too, are the devil's playgrounds. As for racetracks, although state governments promoting their lotteries are America's most energetic advocates of gambling, government should err on the side of caution when protecting whatever this tax provision protects by frowning on racetracks, hot tubs and other things.

This peculiar wrinkle in the tax code, first approved the year after President Reagan said the tax code should not be used to leverage social change, makes certain projects ineligible to be financed by industrial redevelopment bonds that are subsidized by preferential tax treatment. This provision recently popped back into the news, thanks to Hurricane Katrina.

That ill wind blew some (barely) offshore casinos onto the shores of the Gulf Coast. As part of the plan to "rebuild," as the saying goes, the damaged coast, such bonds are going to be issued. But not promiscuously. Some legislators do not want tax-subsidized bonds to finance the rebuilding of casinos.

Not that the casinos need help: They are rebounding briskly, even expanding. Still, government has a sorry record of dispensing billions in corporate welfare for flourishing businesses.

It is mysterious why states or localities that want casinos operating nearby -- and providing jobs and tax revenue -- also want them afloat, a few feet from a riverbank or ocean shore. (Mississippi has just decided to let them come ashore.) Does the narrow band of water provide a prophylactic against sin? The communities already have weighed the sin against the jobs and revenue and found the sin congenial.

But such awkward questions arise when government begins moralizing, especially about the minutiae of life, such as hot tubs. Which brings us to Reagan's 1981 statement about inappropriate uses of the tax code.

He disliked government's using the code to conduct industrial policy, picking commercial winners and losers, which is a recipe for what is called "lemon socialism" -- tax subsidies for failing businesses that the market says should fail. Regarding the second part of Reagan's statement, any tax code is going to shape society. But he opposed manipulating the tax code to stigmatize this or that consumer preference. Which is what the code's anti-hot-tub provision does.

One wonders: Why did the social improvers who used the code to put the government, in its majesty, on record against hot tubs and tanning facilities not extend their list of disapproved choices? Their list looks morally lax.

Really stern social conservatives probably favor explicitly proscribing government assistance to lots of things, most of them somehow involving sex. Government could preen about being too moral to subsidize, with tax-preferred bonds, economic projects that include bookstores that sell Judy Blume novels, or hotels that offer in-room pornography. And wouldn't it be fun to find the words "lap dance" in the nation's tax code?

As strongly as social conservatives deplore commercialized sex, liberals deplore cigarettes, Big Macs, firearms, fur coats, SUVs, pornography not printed on recycled paper, pornographic movies produced by nonunion studios, holiday trees provocatively labeled "Christmas trees" and much more.

But do we really want to march down this road paved with moral pronouncements? When government uses subsidies to moralize, as with tax preferences for bonds that can be used to finance this but not that, government is speaking. It is expressing opinions about what is and is not wholesome. And once government starts venting such opinions, how does it stop?

Government could spare itself the stress of moralizing about so many things if it decided that the choices people make with their money is their, not its, business. And government could avoid having opinions about so many things if it would quit subsidizing so many things.

When, for example, the valuation and allocation of money through bonds is left to the market, government can be reticent. And reticent government sounds wonderful.

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CONGRESS-ADMINISTRATION:

Hearings A Test For Democrats And Alito (NYT)

By Sheryl Gay Stolberg

The New York Times, January 8, 2006

WASHINGTON, Jan. 7 - The showdown begins Monday at high noon.

Even before Judge Samuel A. Alito Jr. arrives on Capitol Hill for his Supreme Court confirmation hearings, Democrats on the Senate Judiciary Committee appear lined up solidly against him. The big question is whether they will try to block the nomination by filibuster, and if so, which side will be left standing when the political dust settles.

For Judge Alito, the son of an Italian immigrant who grew up in the New Jersey suburbs with a dream of being a major league baseball pitcher, the hearings are a hurdle between him and an even bigger dream.

After months of meeting senators privately and staying mum before the press, the hearings will provide him with a forum to emerge from the shadow of the previous nominee, Chief Justice John G. Roberts Jr.

The hearings, expected to last four days or more, will also give Judge Alito his first opportunity to confront Democratic critics, who plan to spotlight the issue of domestic spying as much as abortion. How he answers their questions, on topics like his 1985 statement that the Constitution does not protect a right to abortion, will determine whether Democrats try to keep him from the job.

The Democrats, hoping to pick up seats in this year's midterm elections, have almost as much at stake as the nominee himself. They are under intense pressure from liberal advocacy groups to oppose Judge Alito, and they are acutely aware that if he is confirmed to succeed Justice Sandra Day O'Connor, a critical swing vote, he could tilt American jurisprudence in a more conservative direction for decades.

Yet a filibuster would be risky business, and Democrats know it.

Senator Charles E. Schumer, a New York Democrat and a member of the Judiciary Committee, said there was a consensus among Democrats that although "it's hard to block a nominee, blocking this nominee is a possibility." But Mr. Schumer said no decision would be made until the hearings were over.

"Because he has had some very strong statements, he is under an obligation to accept or refute those, and if he just tries to avoid them the assumption will be made that he still believes them. That puts him in a difficult position," Mr. Schumer said. "On the other hand, blocking a nominee is a big deal. So who knows? Everyone's waiting."

The hearings before the 18-member Judiciary Committee - 10 Republicans and 8 Democrats - will unfold against a political landscape that is vastly changed since last fall, when Chief Justice Roberts was confirmed by a Senate vote of 78 to 22.

Washington today is consumed with the revelation that President Bush authorized the National Security Agency to eavesdrop on Americans, and the issue of domestic spying will be a prominent feature of the Alito hearings, perhaps as much so as abortion.

For Mr. Bush, who needs the kind of victory on Capitol Hill that an Alito confirmation could provide, the hearings may offer a welcome distraction from the troubles of the Republican Party, which has been buffeted by criticism over the economy, the war in Iraq, the domestic spying program, the Jack Abramoff scandal and, on Saturday, the decision by Representative Tom DeLay to step down permanently as House majority leader.

Norman Ornstein, a resident scholar at the American Enterprise Institute who studies Congress, said Mr. Bush would benefit from a "sharp-edged ideological battle" over Judge Alito. "He wants something that rallies his base with more enthusiasm," Mr. Ornstein said.

And nothing rallies the bases of both parties like the issue of judges. For conservatives, who have fought for decades to curb what they regard as the liberal activism of the judiciary, the Alito nomination is a sweet reward. For liberals, it is terrifying.

Republicans, outside observers like Mr. Ornstein and even some Democrats say the odds are in favor of Judge Alito, unless he performs badly or a bombshell is dropped. Yet if history is any guide, there are no guarantees.

"It's amazing how often the conventional wisdom in this town is wrong," said Ralph Neas, president of People for the American Way, a liberal advocacy group that led the opposition to the 1987 nomination of Robert Bork and is leading the opposition to Judge Alito. "Going into the Bork hearings, Bork was favored to win confirmation. He was decisively rejected, 58 to 42."

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Though no Democrats have announced how they will vote, it is clear that Judge Alito will attract even less support from them than Judge Roberts did. On the Judiciary Committee, three Democrats - Senators Russell D. Feingold and Herb Kohl of Wisconsin and Patrick J. Leahy of Vermont, the panel's senior Democrat - voted to confirm Chief Justice Roberts.

In a recent interview, Mr. Leahy made clear that he was far less comfortable with Judge Alito.

"Judge Alito, who are you?" Senator Leahy said in mock conversation with the nominee, after explaining that he spent nearly three hours with Chief Justice Roberts before his hearings but had had only one brief meeting with Judge Alito. "You're going to be on there, taking the seat of the one person who has demonstrated that she's willing to be a swing vote. To what extent are you willing to show the same kind of independence?"

But the polls work in Judge Alito's favor; they have found that a majority of Americans support his confirmation. The midterm elections could also help his chances, because Democrats facing re-election in Republican-leaning states will be loath to oppose the nomination or join a filibuster. With 44 Democrats and one independent in the Senate, and 41 votes required to sustain a filibuster, the margins are slim.

At the same time, the Senate has already fought a filibuster battle. Last year, when Democrats were blocking some of President Bush's judicial nominees, the Republican leadership threatened to change Senate rules to bar filibusters of judges. Democrats, in turn, threatened to grind business to a halt. A meltdown was averted when a group of seven Democrats and seven Republicans signed a pact saying they would filibuster judicial nominees only under "extraordinary circumstances."

Republicans say they expect that pact to hold.

"I really have some doubts, now that everyone has backed away from the table and taken their guns away, whether there is sufficient support of a filibuster, particularly in light of this nominee and his qualifications," said Senator John Cornyn, Republican of Texas.

And even some Democrats argue privately that a filibuster fight would not be worth it. They say the party should focus on issues that resonate more strongly with voters. To that end, Democrats intend to use the Alito hearings to put a spotlight on domestic spying.

A string of Democratic senators, including Mr. Schumer, Mr. Leahy, Mr. Feingold and Edward M. Kennedy of Massachusetts, have signaled their intention to question Judge Alito on the spying issue. They will try to draw a link between the program and a 1984 memo in which Judge Alito, then a lawyer for the Reagan administration, argued that the attorney general should be immune from lawsuits for ordering wiretaps without a court order.

"There is no question that the question of executive powers in time of war, in the context of the terrorist threat, will be central to the Alito hearings," Mr. Feingold said, adding, "I would be surprised if it wasn't one of the most important topics."

On that score, Democrats will get a boost from the Republican chairman of the Judiciary Committee, Senator Arlen Specter of Pennsylvania, who intends to hold hearings on the domestic spying program and who intends to question Judge Alito about whether Congress should have been informed.

But Mr. Specter, an ardent supporter of abortion rights, said in an interview that the spying issue will be second on his agenda; as was the case with the Roberts hearings, the chairman will raise his first questions about abortion.

"I intend to begin the hearing with the question of his 1985 statement that the Constitution does not protect the right to abortion," Mr. Specter said, adding, "I think in the popular mind, the woman's right to choose is still the dominant issue."

Alito's Future Hinges On Past (HCHRON)

By PATTY REINERT

Houston Chronicle, January 8, 2006

WASHINGTON - Since President Bush nominated Judge Samuel Alito to the U.S. Supreme Court in October, lawyers and journalists have pored over hundreds of his court decisions and thousands of pages from his work as a Reagan administration lawyer.

Activists have spent heavily on TV, radio and Internet ads opposing or supporting Alito to replace retiring Justice Sandra Day O'Connor. Liberal groups petitioned senators last week to reject the nominee while Christian conservatives backing the judge gathered on Capitol Hill in prayer for him and to consecrate the Hart Senate Office Building room where his confirmation hearings will take place.

When Alito enters the room Monday, members of the Senate Judiciary Committee will greet him with promised civility — and a week's worth of intense questioning.

Alito's confirmation hearings are expected to be much more contentious than those held last fall for Chief Justice John Roberts, in part because more is at stake.

Roberts replaced a fellow conservative on the court, the late Chief Justice William Rehnquist. But Alito, a reliable conservative, could move the court dramatically to the right because he would succeed centrist O'Connor. She has been the

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court's most active swing voter, often siding with court liberals to provide the decisive vote on abortion rights, affirmative action, the death penalty and privacy.

No one is saying Alito's nomination is in any trouble. The American Bar Association has given the 55-year-old conservative appeals-court judge its highest rating, "well-qualified." The committee screening him is composed of 10 Republicans and eight Democrats, and Republicans dominate the full Senate, which will have the final say.

With 15 years on the federal bench, Alito is the most experienced judge to be nominated to the high court in decades. Supporters and colleagues praise his intellect, his careful legal reasoning and his allegiance to the law and to Supreme Court precedent.

"The portrait that is drawn of him by those who know him and know his writings is of a man of great intelligence, integrity, fairness, humility and justice," said Wendy Wright of the conservative group Concerned Women for America, which supports the nomination.

Even Alito's most strident detractors, including Seth Rosenthal of the liberal group Alliance for Justice, concede he has a brilliant legal mind and is technically well-qualified to do the job.

Regardless, Democrats have warned that they might delay a committee vote on Alito's confirmation or mount a filibuster to block a vote on the Senate floor. Their decision, they said, will depend on how forthcoming the nominee is during the hearings and how well he is able to explain his court rulings and a handful of 20-year-old memos on the volatile issues of abortion rights, voting rights and affirmative action.

"Many Democrats, and even some Republicans, and certainly a large number of the American people want to hear his views on these issues," said committee member Sen. Charles Schumer, D-N.Y. "We don't want to see him duck."

Republicans and Democrats said they intend to grill Alito on those issues as well as on a key question that could quickly come before the high court: How much power should a president have in times of war?

The question, prompted in part by Bush's acknowledgment that he authorized spying on U.S. citizens without obtaining court warrants, is expected to dominate the hearings.

"The role of executive power is of enormous importance and consequence in this hearing," said Sen. Edward Kennedy, D-Mass., another Judiciary Committee member, and Alito's record shows he has given a "virtually unlimited green light to authorities."

"The question is: Is there any limit to executive authority and power that this nominee will recognize?" Kennedy said.

Tough questions expectedJudiciary Chairman Arlen Specter, a moderate Republican from Pennsylvania who supports abortion rights and has expressed outrage over the Bush administration's spying activities, has warned Alito to expect extensive questioning on those topics.

Alito, a Princeton- and Yale-educated lawyer who worked in the Reagan Justice Department before becoming a U.S. attorney in New Jersey and later a judge, has a long paper trail, giving senators plenty to ask about.

Perhaps most troubling to members of both parties are Alito's Reagan-era writings, in which he expressed support for chipping away at, and eventually overturning, the Supreme Court's landmark ruling in Roe v. Wade, the 1973 case that legalized abortion nationwide.

In memos and a 1985 job application for a promotion within the Justice Department, Alito said he was particularly proud of his work on the abortion issue, as well as his efforts to limit affirmative action.

Later, as a federal appeals judge on the 3rd U.S. Circuit Court of Appeals, Alito said a Pennsylvania abortion law was valid even though it required women seeking abortion to first inform their husbands. He compared the law's spousal notification to parental notification in cases in which minors seek abortion. The Supreme Court threw out the spousal notification provision, with O'Connor writing that women should not be equated with minors and do not lose their constitutional rights because they marry.

Alito will be closely questioned on his Reagan-era writings on executive power, in which he embraced what he called the supremacy of the executive and legislative branches and criticized the judiciary's attempts to be a check on the presidency.

Alito urged then-President Reagan to include "signing statements" whenever he signed a bill into law, arguing that the president could use the documents to lay out his interpretation to counter the Congressional Record, which explains Congress' intentions.

Executive powerIn a 1986 memo, Alito wrote that the attorney general should be immune from prosecution for authorizing illegal wiretaps, a position that likely will draw many questions this week in the context of Bush's authorization of controversial wiretaps.

Since the 1950s, the Supreme Court has held that the Constitution's balance of powers among the three branches of government should not give way to the president's commander-in-chief powers, even in wartime. In the most recent case, in which the high court said detainees at a Navy prison camp in Guantanamo Bay, Cuba, could challenge their detentions in federal courts, O'Connor wrote that "a state of war is not a blank check for the President."

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Another issue could be voting rights. The young Alito, working in the U.S. Solicitor General's Office, said his interest in constitutional law was sparked, in part, by his disagreement with the Supreme Court's decisions on reapportionment, which established the principle of "one person, one vote."

Before those decisions, there was no requirement that every vote counted equally, and many state voting maps were drawn to give ballots cast by voters in one district more weight than voters in other parts of a state.

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A Guide To The Hearings (MINNST)

By Eric Black

Minneapolis Star Tribune, January 8, 2006

Here is a look at some of the legal issues and language likely to take center stage when the Senate Judiciary Committee starts questioning Supreme Court nominee Samuel Alito on Monday.

The future of Roe

Roe vs. Wade, the 1973 Supreme Court ruling that established a woman's right to choose whether to have an abortion is the 600-pound gorilla looming over Supreme Court nomination battles. Activists on both sides none too subtly seek evidence that a prospective justice will vote for or against the fundamental Roe ruling.

Alito will not provide the vote necessary to reverse Roe. But he may provide the fourth vote, leaving Roe opponents one vote short.

Two justices are out-of-the-closet Roe opponents. Chief Justice John Roberts left court-watchers in doubt about how he would vote. Alito will almost certainly try to likewise leave us in doubt. This may be tougher for him, because, in a 1985 letter seeking a promotion in the Reagan-era Justice Department, he stated flatly: "The Constitution does not protect a right to an abortion."

Lesser restrictions on abortion rights

Alito is widely expected to have an immediate impact on court rulings affecting restrictions on abortion rights.

The current Supreme Court doctrine is that laws limiting abortions cannot place an "undue burden" on a woman's right to choose. The court has picked and chosen among potential restrictions, often on 5-4 decisions with the swing vote coming from Sandra Day O'Connor, whom Alito would replace.

For example, in 2000, O'Connor cast the fifth vote and wrote the opinion that struck down a Nebraska effort to ban the late-term abortion procedure that opponents call "partial-birth abortion."

Alito has, in some cases during his judicial career, been more sympathetic than O'Connor to abortion restrictions. In a 1991 dissent, he voted to uphold a Pennsylvania law requiring a woman to inform her husband before getting an abortion. The Supreme Court in 1992, with O'Connor opining that the husband notification requirement was an undue burden, struck down that requirement on a 5-4 vote.

In 2003, President Bush signed a law outlawing partial-birth abortion nationwide. The Supreme Court will consider a court challenge to it this term. If Alito has replaced O'Connor by the time that case is argued, it is widely predicted that the court will uphold the ban on the late-term procedure.

Church and state

An analysis of Alito's record on First Amendment cases shows strong support for religious expression and less concern for the wall between church and state.

"I expect that a Justice Alito would be a strong voice for religious liberty," said Prof. Michael Stoke Paulsen of the University of Minnesota Law School.

Paulsen, a conservative who has known Alito since 1984, said Alito "has vigorously defended the equal free speech rights of religious persons and groups and has resisted efforts to discriminate against them based on their religious identity or the religious content of what they have to say."

In one case, a New Jersey kindergartner wanted to put up a poster in the classroom on which he had drawn a picture of Jesus. As a first grader, the same child wanted to read to the class from a book of Bible stories. The school took down the poster and prevented the boy from reading the stories.

The majority of Alito's appellate court colleagues upheld the school's action. Alito dissented, arguing that the school was violating the boy's First Amendment freedom to express his religion.

"I do not see him striking down government displays of the Ten Commandments, as Justice O'Connor has done," Paulsen said.

Warrantless wiretaps

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The controversy over the Bush administration's policy of eavesdropping on domestic conversations without a judge's approval in hopes of finding terrorists could spill into the Alito hearings.

Senate Judiciary Chairman Arlen Specter has expressed alarm over the practice and seems likely to ask Alito whether he agrees with Bush that, in the context of the terrorism threat, a president's status as commander in chief provides constitutional authorization for warrantless wiretaps that would otherwise violate the Fourth Amendment.

Alito doesn't have much of a record on national security issues. As a judge, he has shown an overwhelming tendency to favor the powers of police and prosecutors against claims by defendants.

But as a government lawyer, Alito did write a 1984 memo arguing that government officials who order warrantless wiretaps in a terrorism-related case should be immune from lawsuits.

From Bork to Miers

The history of Supreme Court nominees appearing at Senate confirmation hearings is shorter than you might think. The practice became common only in the mid-1950s, and the history relevant to this week's hearing is even shorter.

The conventional wisdom is that Judge Robert Bork's 1987 hearing wrote the book on how to not to get confirmed. Bork was too feisty, outspoken, controversial and too clear about his opposition to Roe.

The 1990 nomination of David Souter taught conservatives a different lesson. Souter, who spent years as a state judge in New Hampshire, had said and written little about federal issues. Conservatives were encouraged to take it on faith that he would be a conservative justice.

He was confirmed with 90 votes. But Souter has become part of the court's liberal wing and is a solid Roe supporter.

That precedent helps explain the conservative revolt against Bush's nomination of his longtime associate Harriet Miers. Because Miers had a scanty public record, many conservatives decided they needed more than a wink and nod, even from a conservative president.

Roberts got rave reviews and won easy confirmation. Some of his attributes seemed to be a humble, easygoing style, a solid résumé and a deft balance that left people who prefer different outcomes all thinking he might see things their way.

It's widely expected that Alito will try to display many of the same qualities, and that if he does, he will be confirmed fairly easily.

University of Minnesota Law Prof. David Stras, a former clerk for Justice Clarence Thomas, agrees that Alito will try to follow "the Roberts playbook" and will probably be confirmed. But Stras is bothered by how hearings have become empty exercises.

"Confirmation is turning into such a song and dance, post-Bork," he said. "You really learn nothing because there's this playbook that allows you to get confirmed by saying nothing."

In Alito Battle, Issues Of Presidential Power Thrust To Forefront (LAT)

By David G. Savage

The Los Angeles Times, January 8, 2006

WASHINGTON — Twenty years ago, a Reagan administration lawyer proposed that when the president signed a bill passed by Congress, he should use the occasion to declare how he interpreted it.

"The president's understanding of the bill should be just as important as that of Congress," wrote Samuel A. Alito Jr. in a 1986 memo. Spelling out those thoughts "would increase the power of the executive to shape the law," he added.

President Bush put that idea to work two weeks ago in a little-noticed statement that followed his signing of the muchcelebrated McCain amendment, which forbids cruel, inhumane or degrading treatment of prisoners here and abroad.

His words appeared to turn a legislative defeat into a White House victory. Bush said he would back the torture ban so long as it didn't conflict with his "constitutional authority" as commander in chief and his need to "protect the American people from further terrorist attacks."

Moreover, Bush asserted that the measure would preclude federal courts from hearing all claims of mistreatment from prisoners abroad, a point disputed by some Senate Democrats.

This week, as Alito goes before the Senate Judiciary Committee, it will be seen whether Bush's boldness in asserting powers of the presidency has complicated the confirmation prospects for his nominee to the Supreme Court. Along with abortion rights, executive power has moved to the forefront in the battle over Alito's confirmation.

Democrats are questioning whether the prospective justice could be trusted to enforce the rule of law when the president says he is not bound by it. Bush's lawyers assert the commander in chief has an "inherent authority" to act despite the law when he is seeking to defend the nation's security during wartime.

"Does he believe in any checks on presidential power?" asked Sen. Charles E. Schumer (D-N.Y.) in previewing his questions. "Does he believe that warrantless wiretapping of Americans is constitutional?"

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This surveillance issue was thrust onto the agenda last month when Bush acknowledged that he had authorized the National Security Agency, without seeking court permission, to intercept international phone calls or computer messages of people in the United States who had "known links" to terrorists abroad.

In 1978, Congress made it illegal for the government to conduct electronic surveillance in the U.S. without a judicial warrant. Bush's lawyers did not explain why the NSA did not seek warrants from the special court created to weigh such requests.

Some computer experts familiar with the NSA operations say they believe the agency is regularly scanning thousands of calls and messages. In that event, it would be impractical, perhaps impossible, for officials to obtain individual warrants.

The secret NSA wiretapping order is not the only time Bush has said he stands above Congress and the courts.

In 2002, Bush said he could order the military to arrest and indefinitely detain Americans who were "enemy combatants" without charging them with a crime or giving them a chance to assert their innocence.

That same year, his lawyers said that as commander in chief, the president was free to order harsh treatment, even torture, to obtain crucial information from prisoners. This was so, they said, despite federal laws and U.S. treaties that prohibited the use of torture in all circumstances.

That White House position, along with widespread reports of abuse of terrorism suspects in U.S. military prisons, gave rise to the McCain amendment banning torture. Initially, the measure was strongly opposed by Bush, who decided to sign it after meeting with McCain and in the face of overwhelming support by Congress.

Sen. Edward M. Kennedy (D-Mass.) said Alito would be quizzed about Bush's apparent willingness to defy Congress even as he signed the McCain amendment into law.

"The president goes ahead and signs it, and then says he retains the inherent power to go out and torture just like before," Kennedy said. "It reflects an arrogance of power and a contemptuous attitude toward Congress."

For his part, McCain issued a terse statement saying the new law did not include "a presidential waiver on the restrictions" against torture and inhumane treatment. "We believe the president understands Congress' intent," said McCain and Sen. John W. Warner (R-Va.), chairman of the Armed Services Committee. "Our committee intends through strict oversight to monitor the administration's implementation of the law."

Though Alito will be caught up in the dispute over the NSA wiretapping and the McCain amendment, it is not clear whether he shares the view that the president has a nearly unchecked power to protect national security.

For the last 15 years, Alito has been a judge on the U.S. 3rd Circuit Court of Appeals in Philadelphia. That court does not get many cases that test the limits of the president's power.

A revealing statement came in November 2000 when Alito spoke at a Federalist Society meeting, reflecting on his time in the Reagan administration.

"We were strong proponents of the theory of the unitary executive, that all federal executive power is vested by the Constitution in the president," Alito said. "And I thought then, and I still think, that this theory best captures the meaning of the Constitution's text and structure."

In a sense, the "unitary executive" theory states the obvious. There is only one president. But many of its Reagan-era proponents applied this theory to say independent government agencies were unconstitutional because they were not under the direct control of the president.

Since the New Deal of the 1930s, Congress has created such independent agencies to regulate certain industries. The agencies include the Securities and Exchange Commission, which regulates the stock market; the Federal Communications Commission, which regulates broadcasters and the telecommunications industry; and the Federal Election Commission, which regulates campaigns. The most influential independent body may be the Federal Reserve Board, which regulates banking and the money supply.

Alito did not say whether he believes such independent agencies violate the Constitution, but senators say they intend to ask him about how he would apply the unitary executive theory.

Neil Kinkopf, a law professor at Georgia State University in Atlanta who served in the Clinton administration, said he hoped the senators would ask Alito about the president's power to shape the law through the use of bill-signing statements.

Kinkopf described Bush's statement on the McCain amendment as "cryptic, but ominous. It threatens our basic constitutional structure if the executive can make the law in the guise of executing the law," he said.

But Alito's supporters say it is unfair to link his Reagan-era memos to the current controversies.

"In every administration — Democratic and Republican — the lawyers believe in a robust understanding of the president's powers," said Charles J. Cooper, who recruited Alito in 1986 to be his deputy director to his legal staff under Atty. Gen. Edwin M. Meese III. "That doesn't begin to answer the legal separation-of-powers question he would face as a justice. And his habit of mind is to be careful, neutral and very balanced."

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Another big issue probably facing Alito at this week's hearings is abortion.

Sen. Arlen Specter (R-Pa.), the Judiciary Committee chairman, is a supporter of abortion rights, and he said he was troubled to learn in November that Alito had voiced strong opposition to Roe vs. Wade, the ruling that legalized abortion nationwide.

In 1985, Alito filed a job application with the Reagan White House in which he said he was "particularly proud" of the role he had played in the administration's effort to persuade the Supreme Court "that the Constitution does not protect a right to abortion."

This forthright statement will make it hard for Alito to avoid discussing his views on abortion. In September, then-nominee John G. Roberts Jr. steered around the topic by asserting that he was simply a lawyer representing his client when he served in the Reagan and George H.W. Bush administrations.

By contrast, Alito's memo made clear that he agreed with the Reagan administration's public position that Roe vs. Wade should be overruled.

That effort to overturn the ruling ultimately fell short by one vote when two Reagan appointees — Justices Sandra Day O'Connor and Anthony M. Kennedy — joined a 5-4 majority to affirm the abortion right in 1992.

If confirmed, Alito would succeed O'Connor.

CAP Critic Dropped From Alito Witness List (DP)

By Mark Stefanski

Daily Princetonia, January 8, 2006

An alumnus tapped by Democrats to testify in next week's Senate hearings on Samuel Alito '72 will no longer appear, removing the only witness slated to speak specifically about a controversial conservative alumni group of which Alito was a member.

Stephen Dujack '76, an environmental writer, had been outspoken in his condemnation of the group, Concerned Alumni of Princeton, which during the 1970s criticized the University's move to coeducation and adoption of affirmative action. Opponents of Alito's nomination to the Supreme Court had seized on his membership in the group to show that he is out-of-step with mainstream America on core issues.

Though it wasn't immediately clear why Dujack was removed from the Democrats' witness list, some observers believe he was vulnerable to attacks over an April 2003 Los Angeles Times column he wrote that compared animals killed in slaughterhouses with victims of the Holocaust.

On Friday, the office of Sen. John Cornyn (R-Tex.), a strong Alito backer, circulated copies of the column. By that evening, Dujack's name had been removed from a full list of witnesses released by the judiciary committee.

The column has not been specifically cited as the reason for Dujack's removal from the witness list, and he said he still plans to submit written testimony about the alumni group to the judiciary committee to tell senators "how awful this organization was."

"I'm going to want to explain why those of us who know the organization can be filled with revulsion at hearing that a person who was selected to go our nation's high court was proud of his membership in that organization," Dujack said in an email.

Politics professor and prominent conservative constitutional scholar Robert George described Dujack as "an example of a witness Republicans would be able to beat up pretty badly."

"I noticed conservative websites were just salivating because [Dujack] just seemed like such an obvious target," George said. "They could use him to say, 'Look these people against Alito are just these extreme people on the left.' "

Spokesmen for senior senators on the judiciary committee could not be reached for comment.

Dujack said in an email interview that the column has since brought him great grief and that he was only trying to defend something his late grandfather, Nobel laureate Isaac Bashevis Singer, had said about animal rights. Singer was a vegetarian and an advisory board member of a group called "Concern for Helping Animals in Israel."

"I haven't read any of the critiques thus far that mention my grandfather or anything about all of that stuff — just this short sound-bite stuff," Dujack said.

He added, "I regret very much having written that article. It's caused so much pain to people that I didn't intend to, so many who suffered like my family and worse ... That's the only thing I've written that I wish I could pull back. We all make mistakes sometimes."

Dujack has been replaced by two speakers who will discuss other topics, leaving nobody to speak about the alumni group, which has caused a storm of controversy since a 1985 application for a job at the Justice Department listing Alito's membership in the group was released in November.

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But Dujack and other opponents believe that his CAP membership will still be an issue. "The issue is 'in play,' which was all that I had tried to accomplish when I set out — and I seem to have succeeded," Dujack said.

Judith Schaeffer '74, deputy legal director for People for the American Way, a liberal advocacy group that opposes Alito's confirmation, agreed that the issue will not soon disappear.

"It shouldn't at all," she said. "What [Dujack's] had to say is there and in writing. It's not just him, but the record is demonstrable."

This latest development follows a string of criticisms and questions from the press and Democrats about Alito and CAP, which was founded in 1972 and had become largely defunct by 1987.

Two weeks ago, Sen. Ted Kennedy (D-Mass.), a judiciary committee member who has described CAP as "anti-black" and "anti-women," asked committee chairman Sen. Arlen Specter (R-Pen.) to make a formal request for access to the archives of one of CAP's founders, hoping to learn more about Alito's involvement in the group. (See full story.)

On Friday, the Drudge Report citied anonymous Senate Democratic aides as saying that tying Alito to CAP was a Democratic strategy to derail his nomination. The report said the aides would make mention of racist comments in Prospect, the alumni group's magazine, and that it didn't matter that Alito had no part in writing them or any connection to them.

Drudge also reported that "Alito will testify that he joined CAP as a protest over Princeton policy that would not allow the ROTC on campus," but did not cite a source.

Opinion pieces in The New York Times and The Washington Post this weekend, including one by Kennedy, again make mention of CAP to raise questions about Alito's nomination.

Arguing that the Senate should "explore Judge Alito's honesty" because of suggestions that "he will bend the truth when it suits his purposes," an editorial in Sunday's New York Times said: "Judge Alito has said he does not recall being in an ultraconservative group called Concerned Alumni of Princeton, which opposed coeducation and affirmative action. That is odd, since he boasted of his membership in that same 1985 job application."

Trying to rebuff concerns about his involvement with CAP, Alito said in a statement last month to the judiciary committee that despite his Justice Department job application, "I have no recollection of being a member, of attending meetings, or otherwise participating in the activities of the group."

Supporters of CAP say the group was dedicated to increasing alumni involvement in University governance and tempering Nassau Hall's left-wing tendencies.

Fox News analyst and former New Jersey superior court judge Andrew Napolitano '72, a former CAP board member, said last month that he has "zero recollection" of Alito participating in the group. "His recollection and mine — which is that there's no recollection of him attending any of this stuff — are the same," Napolitano said.

Supporters of Alito's nomination inside and outside of the Senate have praised his intelligence and experience, among other factors. The nonpartisan American Bar Association this week gave Alito a unanimous "well qualified" rating.

"The President has selected a man with impeccable qualifications to serve on the Supreme Court," Cornyn has said previously of the nomination. "Judge Alito has served as a federal court of appeals judge for the last 15 years — giving him more judicial experience than any Supreme Court nominee in more than 70 years."

Dujack, a former associate editor at the Princeton Alumni Weekly, has publicly written about CAP in The Daily Princetonian and the Newark Star-Ledger since news of Alito's nomination.

In a Nov. 22 op-ed for The Daily Princetonian, he wrote that Alito "will have to explain how he permitted himself to belong to an organization that was overtly racist and sexist for its entire 14-year existence — at times passionately so, too." (See full story.)

Dujack is scheduled to speak on campus Jan. 13 at an event sponsored by the College Democrats.

Alito Advocacy Fills Air Of Swing States (WP)

By Amy Goldstein

The Washington Post, January 8, 2006

Three days before Thanksgiving, a trio of former law clerks to Samuel A. Alito Jr. did a "fly-in" to Portland, Maine, to tout the Supreme Court nominee in a strategy organized by the conservative group Progress for America. Two weeks later, a minivan filled with Mainers who oppose Alito traveled the coast from Bar Harbor to Kittery, gathering petition signatures as part of a "Rolling Justice Tour" coordinated by a coalition of left-leaning national groups.

Maine's newspapers have carried dozens of letters to the editor about the nomination, the result of choreographed media campaigns. And this weekend, the last before Alito's Senate confirmation hearing begins tomorrow, the state's television stations are airing ads paid for by Washington-based organizations that portray Alito as a "man of honor, integrity, principle" -- or, alternately, as part of a dangerous right-wing takeover of the Supreme Court.

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With two moderate Republican senators who support abortion rights -- senators whose views of this nominee, in other words, are especially uncertain -- Maine is one of several states that the dueling forces in the debate over Alito have targeted for what Brookings Institution scholar Thomas E. Mann calls an artificial grass-roots -- or "Astroturf" -- campaign.

On both sides, organizations based in the nation's capital are pouring money, manpower and advocacy expertise into these states, trying to stir up authentic passions among constituents who might influence Senate votes.

"We don't fire the guns. We are just positioning them," said Chris Myers, executive director of Progress for America, which is spending $100,000 for several days of ads in Maine as well as in Louisiana and North Dakota, two other swing states. As part of the indirect strategy of mobilizing local opinion leaders, the group has enlisted in Maine a popular radio talk show host, a longtime local lawyer and the campaign treasurer of the senior senator, Olympia J. Snowe (R).

Local groups for or against Alito have been created in many states. In addition to Maine, much of the advocacy is being aimed at moderate Republicans including Senate Judiciary Committee Chairman Arlen Specter (Pa.) and Lincoln D. Chafee (R.I.), as well as Democrats from relatively conservative states, including Mary Landrieu (La.), Ken Salazar (Colo.), Bill Nelson (Fla.), Blanche Lincoln and Mark Pryor of Arkansas, and Kent Conrad and Byron L. Dorgan of North Dakota.

Whether the funds and energy national organizations are investing in the Alito debate will prove effective is unclear. Traditionally, public attention on Supreme Court nominations crests once a confirmation hearing begins.

On the eve of Alito's hearing, the intense advocacy efforts in Maine so far are not "having much impact at all," according to Steve Abbott, chief of staff to Sen. Susan Collins (R). "I don't hear the chatter, when I go out to eat, when I go to the gym," said Abbott, who lives in Portland and commutes to work on Capitol Hill. As television ads have proliferated in the days before Alito's hearing, Collins has been out of earshot on a trip to Antarctica.

In part, the campaigns for and against Alito are getting muffled because Maine, like other swing states in inexpensive media markets, is saturated with advocacy. "One week, it's ANWR [Alaskan oil-drilling] up here, the next week it's prescription drugs. Everything that comes up, the groups take to the airways in Maine," Abbott said. "We've reached the point it's just turned to clutter."

This winter, the future of the Supreme Court is a back-seat issue in Maine, according to several state politics-watchers who say residents are more focused on the immediate problems of high fuel oil prices and possible electricity shortages.

"The reality is, there are people who are on the far sides of the debate who are using this nomination as a battle over a whole host of issues and a lot of sort of tangential issues," said Richard A. Bennett, a former state Senate president who is treasurer of Snowe's reelection campaign this year and has been speaking out on Alito's behalf. "I really doubt that most ordinary citizens in Maine -- certainly the ones I've spoken to -- I really doubt they are being really attentive right now."

Senators, meanwhile, bristle at the suggestion that their vote can be influenced by Washington-directed issue campaigns. "As far as I am concerned, they are wasting their money," Conrad said.

Snowe and Collins pride themselves on being heirs to a long independent streak in their state's politics, unswayable by interest groups, said Christian P. Potholm, a professor of government at Bowdoin College. "For the two Maine senators, both sides would be better off if they just took the money and threw it into the Potomac River," Potholm said. "The advocacy groups don't care, but it's likely to be counterproductive."

Leaders of the most visible such groups dispute the sentiment that their efforts may prove ineffective.

Starting with the failed nomination of Robert H. Bork in 1987, interest groups have applied campaign-style techniques to Supreme Court confirmations, and both sides had been waiting more than a decade to release their pent-up forces. No vacancy on the court had materialized for 11 years until last summer's nomination of John G. Roberts Jr., now the chief justice.

"This is a splendid example of shoe-leather democracy," said Ralph G. Neas, president of the liberal group People for the American Way, who has worked on every Supreme Court confirmation debate for three decades.

Neas said a coalition of about 70 groups opposing Alito has accomplished important steps in the pre-hearing phase. He said the coalition has defined the issues in the nomination, encouraged senators to remain undecided until the hearing, and raised money -- in addition to mobilizing its base.

In Maine, the scores of people who signed anti-Alito petitions along the route of the Rolling Justice tour included many who knew of the project because they already were on e-mail lists of MoveOn.org.

"I travel in a very politically engaged circle of people, and I think that people are very concerned" about his nomination, said Susan Dorr, a real estate broker who is a former state legislator and town selectman in Camden. She said she was one of about a dozen people who turned out when the tour passed through there.

Mike Duddy, a Portland lawyer and co-chairman of Mainers for Judge Alito, said that he offered to work with national groups, believing, "if there is not some presence on the ground to keep a level-headed voice, the opponents would completely occupy what would otherwise be a vacuum."

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So far, he has been taking reporters' calls or appearing on talk radio perhaps once a week, but he has not attended any large pro-Alito events. "From my point of view . . . the level of interest seems to be muted," Duddy said. "I don't think it's completely ignored. Neither do I think it's the first thing people are thinking about."

Among Evangelicals, A Kinship With Jews (WP)

By Alan Cooperman

The Washington Post, January 8, 2006

DANVILLE, Va. -- Everyone who worships at the Tabernacle quickly learns three facts about its deeply conservative pastor. He comes from a broken home. He rides a canary-yellow Harley. And he loves the Jews.

There is some murmuring about the motorcycle. But the 2,500 members of this Bible-believing, tradition-respecting Southern Baptist church in southern Virginia have embraced everything else about the Rev. Lamarr Mooneyham.

Out of his painful childhood experiences, Mooneyham, 57, preaches passionately about the importance of home. Out of his reading of the Bible, he preaches with equal passion about God's continuing devotion to the Jewish people.

"I feel jealous sometimes. This term that keeps coming up in the Old Book -- the Chosen, the Chosen," says the minister, who has made three trips to Israel and named his sons Isaac, Jacob and Joseph. "I'm a pardoned gentile, but I'm not one of the Chosen People. They're the apple of his eye."

Scholars of religion call this worldview "philo-Semitism," the opposite of anti-Semitism. It is a burgeoning phenomenon in evangelical Christian churches across the country, a hot topic in Jewish historical studies and a wellspring of support for Israel.

Yet many Jews are nervous about evangelicals' intentions. In recent weeks, leaders of three of the nation's largest Jewish groups -- the Anti-Defamation League, the American Jewish Committee and the Union for Reform Judaism -- have decried what they see as a mounting threat to the separation of church and state from evangelicals emboldened by the belief that they have an ally in the White House and an opportunity to shift the Supreme Court.

"Make no mistake: We are facing an emerging Christian right leadership that intends to 'Christianize' all aspects of American life, from the halls of government to the libraries, to the movies, to recording studios, to the playing fields and locker rooms . . . from the military to SpongeBob SquarePants," the ADL's national director, Abraham H. Foxman, said in a Nov. 3 speech.

Julie Galambush, a former American Baptist minister who converted to Judaism 11 years ago, has seen both sides of the divide. She said many Jews suspect that evangelicals' support for Israel is rooted in a belief that the return of Jews to the promised land will trigger the Second Coming of Jesus, the battle of Armageddon and mass conversion.

"That hope is felt and expressed by Christians as a kind, benevolent hope," said Galambush, author of "The Reluctant Parting," a new book on the Jewish roots of Christianity. "But believing that someday Jews will stop being Jews and become Christians is still a form of hoping that someday there will be no more Jews."

The result is a paradox -- warming evangelical attitudes toward Jews at a time of rising Jewish concern about evangelicals -- that could be a turning point in the uneasy alliance between Jewish and Christian groups that ardently back Israel but disagree on much else.

The Rev. Donald E. Wildmon, chairman of the evangelical American Family Association, warned in a Dec. 5 radio broadcast that Foxman was "in a bind" because the "strongest supporters Israel has are members of the religious right -- the people he's fighting."

"The more he says that 'you people are destroying this country,' you know, some people are going to begin to get fed up with this and say, 'Well, all right then. If that's the way you feel, then we just won't support Israel anymore,' " Wildmon said.

Philo-Semitism is far from universal among the 60 million to 90 million U.S. adults who identify themselves as born-again or evangelical Christians. But it has strong roots, not only in the Hebrew scriptures shared by both faiths but also in the belief that today's Jews and Christians have common antagonists, such as secularism, consumerism and militant Islam.

In his sermons, Mooneyham returns again and again to God's promise to Abraham in Genesis 12: "I will bless those who bless you, and curse him who curses you."

It is a theme echoed in many conversations at the Tabernacle, a plain red-brick church in a community that has seen one factory after another close, yet where the congregation made a Christmas offering of $25,000 to help pay for the immigration of Russian Jews to Israel.

"I believe everyone in this church felt it was the best thing we've ever done with missionary money, to help the Jewish people go home," said Dorothy Pawlowski, 72, who tithes to the church.

And it is a message being passed to the next generation. On Thursday nights, J.J. Vogltanz, a deacon, uses a Christian textbook to lead his three home-schooled children in science experiments designed to illustrate Bible verses. One of the first things he taught them about Jesus, he said, was that "he was a Jew."

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Asked whether he also taught his children that the Jews rejected Jesus, Vogltanz, 34, paused. "I'm not sure it's constructive to assign blame," he said.

Mark A. Noll, a professor of Christian thought at Wheaton College, a center of evangelical scholarship in Illinois, said evangelicals are beginning to move away from supersessionism -- the centuries-old belief that with the coming of Jesus, God ended his covenant with the Jews and transferred it to the Christian church.

Since the 1960s, the Roman Catholic Church and some Protestant denominations have renounced supersessionism and stressed their belief that the covenant between God and the Jewish people remains in effect.

Evangelicals generally have not taken that step, but "among what you might call the evangelical intelligentsia, questions of supersessionism have come onto the table," Noll said. "It's in play among evangelicals in the way that it was in mainline Protestantism and Catholicism -- but wasn't among evangelicals -- 30 or 40 years ago."

At Fuller Theological Seminary, an evangelical training ground in Pasadena, Calif., President Richard J. Mouw hosted a kosher breakfast for 20 rabbis a week before Christmas. "More and more, we're inviting Jews as guest lecturers," Mouw said. "We're looking at rabbinic literature and how we can better understand the Bible through rabbinic eyes. That's a real push for us."

Jacques Berlinerblau, a visiting professor of Jewish civilization at Georgetown University, said the rise of philo-Semitism in the United States has led Jewish scholars to look back at previous periods of philo-Semitism, such as in Amsterdam in the mid-17th century. He said revisionists are increasingly challenging the standard "lachrymose version" of Jewish history, questioning whether persecution has been the norm and tolerance the exception, or vice versa.

Still, some Jews think that philo-Semitism is just the flip side of anti-Semitism.

"Both are Semitisms: That is, both install the Jews at the center of history. One regards this centrality positively, the other regards it negatively. But both are forms of obsession about the Jews," said Leon Wieseltier, a Jewish scholar and literary editor of the New Republic.

The Southern Baptist Convention, to which the Tabernacle belongs, passed a resolution in 1867 calling on its members to convert Jews and renewed that call as recently as 1996. Its former president, Bailey Smith, declared in 1980 that "God Almighty does not hear the prayer of a Jew," and it currently supports about 15 congregations of messianic Jews, who are popularly associated with the organization Jews for Jesus.

So Mooneyham has a ready answer for Jews who doubt his motives: "I think they have a right to be suspicious of just about everybody, given the history."

He also has a personal story. The pivotal moment of Mooneyham's childhood came at age 7 when his parents, in the middle of a divorce, took him and his three sisters to a church parking lot in Burlington, N.C., and parceled them out to relatives for a few weeks. Those few weeks turned into years. The family never came together again.

Nearly 45 years later, the pastor was watching television before a Sunday morning church service when he came upon an infomercial by Rabbi Yechiel Z. Eckstein, founder of a group called the International Fellowship of Christians and Jews. Eckstein was standing in Israel with an elderly woman from Russia who said she was finally home.

"She started crying, he started crying, and I started crying," Mooneyham said. "Then I said, 'Lord, help me, because I'm really going to throw my congregation a curveball today. We're going to help Jews -- we're not going to witness to them, we're just going to help them. Because I know what home means.' "

Since that day five years ago, according to Eckstein, the Tabernacle has sent more than $175,000 to the fellowship, which has a donor base of 400,000 Christians and has contributed more than $100 million to Israeli causes.

"I can only say that what we've done should speak for itself, because we've given and we've asked nothing in return," Mooneyham said. "And that's the way it will stay."

A Search For Order, An Answer In The Law (WP)

By Dale Russakoff And Jo Becker

The Washington Post, January 8, 2006

It was May 3, 1971, the crest of the antiwar movement, and Washington was clogged with thousands of denim-and-fatigues-clad protesters demanding an end to the Vietnam War. Blocks from the Capitol, but far from the action, a handful of Princeton University undergraduates in sport coats found themselves in the wood-paneled chambers of Justice John M. Harlan.

Most saw the visit as a detour from their real purpose: to meet generals, lawmakers and diplomats and debate the justness of the war. One young man even dozed off.

But not Samuel A. Alito Jr. Harlan was the one person he wanted to meet when Princeton's politics society arranged the trip. Now the clean-cut young man with dark-rimmed glasses was transfixed by the justice whose dissents from landmark liberal rulings of the Supreme Court had become his guideposts.

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"The rest of us didn't grasp Harlan's significance," said George Pieler, then president of the politics society. "The only reason I did was that Sam had told me."

Years later, Alito would write that his distress over the court's liberal activism under Chief Justice Earl Warren in the 1960s had propelled him to study constitutional law. Along the way, he would embrace Harlan's view that the court was usurping power that the Constitution had reserved for lawmakers.

At the time of the visit, this vision was hardly in vogue. After all, it was the Warren Court that had stepped in when legislators would not and declared segregated schools unconstitutional.

But Alito was not one to be swayed by fashion. As protest movements shook the world around him in the 1960s and 1970s, he held fast to the respect for authority he learned growing up in a New Jersey suburb in the 1950s.

Like many conservatives of his generation, Alito was inspired by the presidential campaign of Sen. Barry M. Goldwater (R-Ariz.), stimulated by William F. Buckley Jr.'s National Review, alarmed by the discord over the war in Vietnam and disenchanted with the liberal bias of college campuses.

But rather than turn to activism, he found in the study of law a framework for what troubled him. The early years of his journey were deeply private and intellectual. But he later found company, particularly in the Reagan Justice Department, incubator of scores of leading conservative legal practitioners, including Chief Justice John G. Roberts Jr.

In articles today and tomorrow, The Washington Post will explore the forces, people and ideas that helped shape Alito and hastened his rise in the law. The articles are based on Alito's writings, government documents and more than 100 interviews, including the first extensive one with his family. Like other Supreme Court nominees, Alito did not comment.

The Senate confirmation hearings that begin tomorrow on President Bush's nomination of Alito to the seat of retiring Justice Sandra Day O'Connor represent a milestone not only for him but also for the conservative movement that grew up as he did.Like Father, Like Son

He was born at mid-century to Italian Americans from the proud, immigrant enclave of Chambersburg in Trenton, N.J.

"When the first baby came, I said, 'Sam, our children are going to be the smartest children in Hamilton Township,' " Rose Alito, now 91, recalled in an interview at the two-story, red-brick home in the Trenton suburb where she and Samuel Alito Sr. raised a Supreme Court nominee.

From the beginning, she said, the boy took after his father, a scholarly and reserved man who directed New Jersey's nonpartisan Office of Legislative Services. Perennially pipe-puffing, with thick white hair that gave him a look of distinction, the elder Alito spoke reverentially of the importance of exhaustive, bias-free research in the making of law.

"It was never about what he felt; it was what the law was," recalled former New Jersey governor Thomas H. Kean (R).

The father ingrained exacting standards in his children. "My father would assist us in learning how to write well," said Rosemary Alito, the nominee's sister. "He'd say, 'No, this is wrong, this is wrong, this is wrong. Go write it again.' And I'd go write it again. And he'd look at it again. And he'd review it and give me corrections until he'd find it to be perfect."

The elder Alito was tight-lipped about his own leanings. Some published reports have said he was a Republican; others, a Democrat. Co-workers said he joked that he was "a political eunuch." Asked for the real story, Rose Alito -- a Republican who was a Democrat until 1987 -- and Rosemary Alito, a Republican and a leading employment lawyer, looked blankly at each other, answering with shrugs.

Alito Senior, whose death in 1987 left his son too distraught to deliver a eulogy, had always vacuumed up knowledge. Before working for the legislature, he taught ancient history, physics, math and English at Trenton Central High and had scored so high on an Army aptitude test it raised suspicions of cheating. Similarly, the younger Alito was so far ahead of peers at Hamilton-East Steinert High School that he skewed the grade curve. And, like his father, he kept a lot to himself.

"He was always listening to students' comments, my comments -- analyzing, evaluating, but silently. Kind of inscrutable at times," said Elaine Tarr, his 10th-grade English teacher.

Classmates still speak of his unusual blend of braininess, modesty and quietly hilarious wit. He played baseball, was a star debater, edited the school paper and was elected student council president with an uncharacteristically wacky campaign using posters of women having their hair colored and the slogan "I'll just DYE if Sam isn't elected. Alito for President."

Behind the gentle demeanor was a boy bent on winning. "Oh yes, very competitive!" said his mother. His rivalry with a champion debater at Trenton Central High named Jeffrey Laurenti was so fierce that Alito would not say his opponent's full name -- a relationship highlighted by the caption beside Alito's yearbook photograph: "Jeffrey Who?"

Friends and family members say Alito embraced the respect for authority that was ubiquitous in the 1950s from home to school to Our Lady of Sorrows Catholic Church. Asked if he ever rebelled, Rosemary Alito exclaimed, "Oh my goodness, he never did anything rebellious at all!"

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His middle school Latin teacher, Grace Bolge, said she saw in his passion for that language a love of order and rules. "He liked structure and rigidity," she said. "I think that's why he liked debate. It was timed, it was regulated, there were rules for when you could speak and how you spoke."

The order that defined Alito's early years began to give way in the 1960s. Rose Alito does not remember her reaction as the Second Vatican Council loosened the top-down authority of the Roman Catholic Church. But she made clear her displeasure at another change in religious practice: the 1963 Supreme Court decision banning public school Bible reading and prayer, which began Alito's school days through sixth grade.

"I was teaching then, and it used to irk me," she said. "I read poems that had something to do with the atmosphere and the trees when we were not permitted to read the Bible."

As a federal appellate judge, Alito would repeatedly rule for more religious expression in public spheres.

In 1964, the Supreme Court transformed the legislature that Sam Alito Sr. served, ruling in Reynolds v. Sims that the Constitution required individual legislative districts to have essentially equal numbers of voters -- one man, one vote. The opinion prompted a dissent from Harlan that, according to a friend and former colleague Douglas W. Kmiec, is one of the nominee's favorites.

"The Constitution is not a panacea for every blot upon the public welfare, nor should this Court, ordained as a judicial body, be thought of as a general haven for reform movements," Harlan wrote. "This Court . . . does not serve its high purpose when it exceeds its authority, even to satisfy justified impatience with the political process."

The elder Alito became the New Jersey legislature's redistricting expert, drawing district lines that shifted power from sparsely populated rural counties to cities and suburbs. In the process, the state Senate turned Democratic for the first time in 52 years. As always, Alito Senior expressed no opinion of the result.

At about this time, politics and government became a fascination for his son, and, according to a job application to the Reagan administration, he was impressed by Goldwater's 1964 presidential campaign, a crusade against communism and Washington's dictates to the states in areas including civil rights and public school prayer. Alito became a regular viewer of Buckley's "Firing Line" television program.

Fellow high school debater James Castranova remembers Alito speaking with enthusiasm about reading Buckley's National Review, the opinion journal credited with helping to launch the modern conservative movement. He also recalled Alito's excitement when then-California Gov. Ronald Reagan, a rising conservative star, was roundly deemed the winner of a 1967 televised debate with then-Sen. Robert F. Kennedy (D-N.Y.).

"He was just fascinated that Reagan was able to get the better of Bobby Kennedy," Castranova said.

Castranova emphasized that Alito never trumpeted his views, lest he jeopardize his father's reputation for impartiality. In the 1968 yearbook of Victor McDonald, a vocal supporter of Richard M. Nixon, Alito teased: "Who will replace you next year as Steinert High School's biggest reactionary? I doubt anybody can be as FAR RIGHT as you.'"Tradition, Order and Authority'

Former Princeton professor Dennis F. Thompson, now at Harvard, remembers a freshman named Sam Alito from 37 years ago for one reason: He was a conservative.

Thompson assigned students in his political theory class to develop a world view of their own, drawing on philosophers. A tide of liberal and left-wing visions rolled in, with a notable exception. "It wasn't conservative in terms of political issues of the day," Thompson recalled of Alito's paper. "It was more about principles -- a respect for tradition, order and authority."

As the antiwar movement engulfed Princeton, Alito stood outside the fray, finding mentors in books and journals of ideas. In the spring of 1970, after the United States invaded Cambodia, students voted overwhelmingly to postpone classes to campaign against the war.

Classmate Richard R. Clifton, now a 9th Circuit appellate judge, remembers Alito had a different concern. Alito thought that a majority vote to suspend classes would be unfair to a minority who wanted to study. "He was very frustrated," Alito's wife, Martha, said he told her. "He wanted his education."

Many students joined selective-admissions dining clubs dominated by sons of the rich, but Alito chose instead the anti-elitist Stevenson Hall (named for Democrat Adlai E. Stevenson), which welcomed all comers. Friends knew Alito as a confirmed anti-snob, flashing a dry, acerbic wit at any sign of pomposity.

He immersed himself in the study of law, history and politics -- and again debate. His closest friends were all, like him, studious majors in Princeton's Woodrow Wilson School who dined at Stevenson, where they were more likely to debate John Rawls's "A Theory of Justice" than Vietnam. Still, "I knew he was greatly bothered by all the upheaval of the '60s," said Ken Burns, now a lawyer in San Francisco.

Alito had a ringside seat on an ambitious student-faculty effort to make Princeton's decision making more responsive to change, to head off student protest. The chairman of the project, professor Stanley Kelley, who knew Alito's academic work, hired him to take notes and do research while passions flared.

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The university approved the group's recommendations, giving students much more influence over tenure, curriculum, dorm curfew and other policies. (A conservative alumni group that Alito listed among his affiliations in a 1985 job application, Concerned Alumni of Princeton, would later say the effort had turned Princeton over to left-wing students.) Kelley said Alito never expressed a view of the deliberations.

Samuel Lipsman, an outspoken leftist who headed Princeton's debate panel, knew Alito's leanings, but only because he asked him directly. "I knew he was conservative and he supported the president and defended the war, but he didn't carry signs even metaphorically," said Lipsman, who nominated Alito to succeed him as debate panel president. "He never antagonized."

Alito's good friend and fellow debater, Andrew P. Napolitano, a self-described "notorious campus conservative" and now a Fox News commentator, said Lipsman knew more than he did: "I do not recall hearing a conservative peep out of Sam's mouth."

But in Alito's mind, he would later write, a conservative legal philosophy was forming by his junior year when he read the works of Yale law professor Alexander M. Bickel, a pioneering critic of the Warren Court. At a time when many intellectuals embraced liberal judicial activism as a force for good, Bickel announced in a book titled "The Supreme Court and the Idea of Progress" that the Warren Court's most sacrosanct rulings -- including Brown v. Board of Education and one man, one vote -- were badly reasoned, based not on the Constitution, but on the egalitarian visions of individual justices. A moderate to liberal Democrat, Bickel wrote that no matter how noble the result, this unelected branch was threatening democracy.

Bickel's views ignited profound unease and even fury in intellectual circles, where the Warren Court was seen as having protected individual rights from being trampled by the majority. Yale activists burned Bickel in effigy in 1969.

For Alito, however, discovering Bickel proved a seminal moment. He would write later that he had objected even as a young man to the Warren Court's rulings, particularly on reapportionment, criminal procedure and public school prayer. Bickel specifically critiqued these decisions, arguing that legislatures, not courts, should execute complex social changes, even if they came more slowly. His vision meshed with Alito's desire for orderly change.

His senior year, Alito crossed paths again with his old debating rival, Jeffrey Laurenti, then a graduate student at Princeton. From similar beginnings as Italian American Catholics raised with moral certainty and respect for authority, they had taken different roads. Laurenti had turned against the Vietnam War and the president. "The scales were falling slowly from my eyes. I was groping," he said. "I don't know that Sam was."

Alito was delving into the history and workings of the Supreme Court. Charles A. Miller, then a Princeton assistant professor of constitutional law, said Alito so loved reading Supreme Court opinions that he persuaded the teacher to completely revise the syllabus of one seminar so that he could take it again.

Alito wrote his research paper for Miller on Justice Oliver Wendell Holmes, who once famously had summed up his philosophy of judicial restraint: "If my fellow citizens want to go to hell, I will help them. It's my job."

Miller was amazed by the college senior's ability "to embrace historical, philosophical and political material and modes of reasoning," according to the 1972 law school recommendation he wrote. "The logic and precision that Mr. Alito uses in both oral and written presentation is almost palpable. None of it is aggressive, indeed sometimes it is self-effacing," Miller wrote, using adjectives Alito's admirers use today.

"It's easy to say I'm prescient," said Miller, now retired, "but I think what's more true is this guy is very consistent."The Calling of the Law

Yale Law School in 1972 was a temple of legal liberalism, and Alito soon began to feel that some professors were giving him an incomplete view of the law. He would later tell his friend Kmiec that he turned to reading extensively on his own.

"There was this note of regret in his voice that very few of them [professors] seemed to be saying things that he could readily agree with," said Kmiec, now a professor at Pepperdine University Law School.

Bickel soon became gravely ill, unable to teach. His devoted friend on the faculty, Robert H. Bork, was carrying the conservative torch, arguing that the only principled way to interpret the Constitution was to stick to the precise words of the Framers and what they meant at that time.

Bork taught that there was no constitutional basis for rights to privacy, abortion, or one man, one vote, and he criticized court-ordered busing to achieve school desegregation as judicial meddling. Classmates do not recall Alito's reaction to Roe v. Wade in 1973, but he would later write that the decision had no basis in the Constitution. Alito's mother has told reporters that he personally opposes abortion; Alito has not commented on his personal views.

Bork said in an interview that he remembers only one student -- John R. Bolton, now the U.S. ambassador to the United Nations -- who then expressed conservative views openly. "The rest of them kept their heads down," Bork said.

Alito's Yale roommate and Princeton classmate Mark Dwyer said his friend had hoped to have Bork for constitutional law, but ended up with Charles Reich, author of an unofficial bible of the protest movement, "The Greening of America."

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Alito applied to be a Supreme Court clerk after law school. But, said his wife, Martha, "it was not to be at that time in his life." Instead, he went home to New Jersey to clerk for Appeals Court Judge Leonard I. Garth in Newark, a 3rd Circuit judicial craftsman in the mold of Alito's hero, Justice Harlan.

In contrast to his intellectual estrangement from Yale, Alito found in Garth a sort of father in the law. Former clerks describe him as a judge who asks himself before deciding any case whether an elected branch of government could resolve it instead.

"Judge Garth and Sam had the same philosophy, and they spoke the same language," said Kenneth Prochnow, Alito's co-clerk in 1976 and 1977.

There was another link. Alito's father had testified before Garth as a demographic expert in a 1972 New Jersey reapportionment case. "It was an extraordinary circumstance because rarely do you remember witnesses," Garth said. "But I was terribly impressed with him. I told Sam about it, and I think he was justifiably proud."

Garth, who once rated Alito 16 1/2 out of 10 as a clerk, said they used to buy a bag of peanuts and "take long walks in Newark, just the two of us, hashing out cases."

Alito was back in an orderly world after seven years in liberal cauldrons. He moved home with his parents and assumed the role of lector, or reader, at Sunday Mass at Our Lady of Sorrows.

Prochnow remembers his surprise when he realized after the 1976 presidential election that his co-clerk was a Republican. "Sam was disappointed that Jimmy Carter won," Prochnow said. "That was very strange for me, because in the environment I'd been in since 1968, I don't think I'd met any Republicans," he said, referring to his time at Columbia University and New York University Law School. "I can only imagine what it was like for Sam to have developed and held his philosophy, which must have been a minority and unpopular position, in the environments he'd been in."

Comfortable in the monastic, intellectual world of appeals -- a more solitary and research-oriented practice than the free-for-all of trial work -- Alito went to work after his clerkship in the appellate section of the U.S. attorney's office in Newark. His skills quickly made him the go-to lawyer on the most sensitive cases. One involved a top-secret exchange of two convicted Russian spies for five Russian dissidents. The intricacies kept him in the library for days, plumbing law books, as well as a Russian dictionary.

Near the end of the process, another staffer breezed by him in the library stacks, calling out offhandedly, "Hey, Sam, I heard you learned Russian over the weekend."

Martha Bomgardner, a young librarian in the U.S. attorney's office, overheard his quiet and upright-sounding answer: "I don't think that's something to talk about."

"Oh, this is a smart one," she thought.

She told friends she would marry him by the following April. But he was uncommonly shy, and despite multiple daily trips to the library, did not ask her out for 13 months. "He is judicious," she said recently with a laugh.

They had dated about a year when he got an offer from the U.S. solicitor general. The office is arguably the most respected law firm in the country, representing the U.S. government before the Supreme Court. Alito left for Washington in August 1981. "I thought that would be the end," Bomgardner said.

Four years later, Martha Bomgardner would become Martha Alito and Samuel Alito Jr. would be on a very different course.

Research editor Lucy Shackelford and researcher Madonna Lebling contributed to this report.

Alito's Challenge (WP)

By David S. Broder

The Washington Post, January 8, 2006

The two names uppermost on the minds of official Washington at this moment represent polar extremes of reputation. Disgraced lobbyist Jack Abramoff is an admitted felon and a certified sleaze. Supreme Court nominee Judge Samuel Alito is an upright, ethical and highly respected jurist, as modest in his habits as Abramoff is flamboyant.

Abramoff's operations have been thoroughly exposed by the reporting of my colleagues at The Post and in the plea agreements he signed with federal prosecutors, sending tremors of anxiety through the ranks of congressional Republicans and a few Democrats as well.

Alito's work, as a member of the Philadelphia-based U.S. Court of Appeals for the 3rd Circuit, will become much more familiar to the nation when the Senate Judiciary Committee holds its hearings this week on his nomination to succeed Justice Sandra Day O'Connor.

The question that confronts the senators is whether Alito has an agenda that is every bit as well-defined as that for which the Indian tribes and others hired Abramoff -- but vastly larger in significance.

The goals for which Abramoff connived were petty -- a gambling license here, a contract there. The issues with which Alito has wrestled in his 15 years on the federal bench are much more consequential: the relationship between individuals and the

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state, the regulatory authority of the federal government, the balance of power between the president and Congress, the protection of civil rights.

On all these issues, Alito has compiled a record that can be read -- and is read by many legal scholars -- as reflecting a consistent and reasoned preference for governmental authority, especially presidential power, and a restrictive view of individual rights.

University of Chicago law professor Cass Sunstein, for example, concluded a study of Alito's dissents with the observation that "there is a good chance that Alito will be with Justices [Antonin] Scalia and [Clarence] Thomas in their attempts to move constitutional law in some respects to what it was a long time ago."

If that reading is correct, then the confirmation of Alito as O'Connor's successor would shift the current Supreme Court balance decisively to the right.

For senators who share President Bush's often-expressed desire to see that happen, the confirmation of Alito presents no conflict. Moreover, his "highly qualified" rating from the American Bar Association underlines the near-universal belief that his intellect and temperament commend him for the bench.

But others face a harder task in weighing the Alito nomination. They may well ask: At a time when the administration is asserting a broad right to conduct warrantless wiretaps of Americans' phone calls, do we really need a Supreme Court that takes an expansionist view of presidential authority? In an era of corporate corruption, do we want to restrict consumers' and workers' ability to turn to the courts for help?

But the evidence on Alito's motivations is not one-sided. At the suggestion of White House allies, I spoke with two of his former colleagues who presented compelling personal testimony that he is not a man driven by a personal or ideological agenda.

Robert Del Tufo was the Jimmy Carter-appointed U.S. attorney in New Jersey who employed Alito in the 1970s to handle difficult appellate cases. "There is no ideological bent that I can perceive," he told me. "He is a balanced human being with great sensitivity for human values and a scholar who analyzes the law and always stays with it."

Susan Sullivan of San Francisco clerked for Alito during the year he wrote his controversial Casey opinion, upholding portions of a Pennsylvania statute restricting abortion, a decision later overturned by the Supreme Court. Sullivan, who describes herself as "a social progressive who is pro-choice and anti-death penalty," says, "In general I would react with suspicion to any nominee of this administration. But having worked with him, I know he does not work toward a specific result. He is not intent on advancing his own agenda. He approaches cases in a very impartial way."

When John Roberts came before the Judiciary Committee for confirmation as chief justice, with barely more than two years of judicial opinions behind him, he was thoroughly believable in disclaiming any particular agenda. All Republicans and half the Democrats saw him, as I did, as an embodiment of judicial impartiality.

Maybe Alito can establish a similar claim for himself in these hearings. But he has a lot of convincing to do.

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Alito's Moment (LAT)

By Edward Lazarus

The Los Angeles Times, January 8, 2006

SUPREME COURT nominations are as old as the republic, but the modern history of the battles over court appointments begins in 1987. That's when the Senate rejected Robert H. Bork, the conservative appellate judge who President Reagan nominated to replace Justice Lewis F. Powell Jr., the swing-voting centrist on what was then, as now, a closely divided court.

Nominees had failed to win Senate approval before Bork. The Senate turned down Clement Haynsworth in 1969 and G. Harold Carswell a year later, President Nixon's first two choices to replace Justice Abe Fortas.

Nor was Bork's nomination unprecedented in the dramatic political shift it portended if he had been confirmed. In 1962, President Kennedy's choice of liberal Arthur J. Goldberg to replace conservative Felix Frankfurter moved an already fairly progressive Warren court significantly to the left, clearing the way for a civil rights and civil liberties revolution.

Still, the Bork hearings were the first in which political-interest groups, recognizing the huge importance of controlling the federal judiciary, defeated a potentially court-altering nominee by using campaign-style tactics to turn the confirmation proceedings into a popularity contest and a national referendum on the Constitution's meaning.

Bork never knew what hit him. He lost because Senate Democrats successfully cast him as an arrogant hyper-intellectual who espoused a judicial philosophy — in particular, his rejection of a constitutional "right to privacy" — out of tune with mainstream America. Every Supreme Court nomination since reflects the lessons that each side drew from the experience.

This was especially true in the fight, one-sided as it was, over John G. Roberts Jr.'s nomination to replace William H. Rehnquist as chief justice. Some Senate Democrats and liberal interest groups tried mightily to reprise the 1987 strategy and

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portray Roberts as an out-of-the-mainstream, anti-privacy ideologue. But Republicans were ready with an effective counterstrategy that quickly quelled any nascent opposition.

Indeed, Roberts, by design, was the archetypical "reverse Bork" — a congenial, telegenic nominee with an impressive pedigree but as slim a track record as feasible on hot-button issues. And he arrived at his confirmation hearings armed with a reverse-Bork strategy:

· Ameliorate past criticisms of popular liberal precedents, especially Roe vs. Wade, by emphasizing respect for precedent;

· neutralize previous expressions of personal opinion on controversial issues by drawing a bright line between personal beliefs and judicial philosophy;

· avoid an ideological battle by declining to answer problematic questions on grounds that the issues raised might be the subject of future cases;

· and mount a public-relations campaign of your own.

With Samuel A. Alito Jr.'s confirmation hearings Monday, it remains unclear whether either side has made significant strategic adjustments based on Roberts' experience.

The administration has stuck with the winning Roberts playbook, albeit this time with a nominee who, thanks to 15 years on the federal bench, has a more extensive track record. For instance, Alito's handlers have tried to overcome the nominee's deeply felt and repeated hostility toward Roe vs. Wade by emphasizing his reverence for precedent and modest conception of the judicial role.

More generally, they've attempted to downplay his record as a sometimes hard-edged conservative on such issues as race and gender discrimination, states' rights and the separation of church and state by casting Alito as congenial, open-minded and keenly aware of the need to divorce personal beliefs from legal interpretations. No doubt Alito will seek to exhibit these qualities when refusing, as did Roberts, to answer problematic questions.

Senate Democrats have not revealed any new strategies after completely failing to force Roberts to elaborate on his judicial ideology or otherwise penetrate the nominee's carefully crafted and beautifully delivered responses. They certainly have more to work with this time.

Early in his career, Alito did not hide his sometimes radical legal views, including hostility toward the now universally accepted one-person/one-vote standard for voting apportionment. He wrote several judicial decisions that are easily caricatured, such as a dissent supporting the legality of a strip-search of a 10-year-old girl and another arguing that Congress does not have authority under the "commerce clause" to restrict the transfer and possession of machine guns.

And no one expects Alito to be as effective testifying as Roberts was.

But to defeat Alito, Senate Democrats will need more than a clutch of 20-year-old policy memos and unsettling judicial opinions. They will have to portray Alito as a genuine threat to some core American value — and not merely to the right to privacy, on which all the moves and countermoves are already choreographed.

President Bush's decision to engage in warrantless wiretapping of Americans in apparent violation of the statute regulating spying for national-security purposes raises a constitutional issue of staggering importance. In undertaking this program — and other policies on the use of torture, detention and the designation of enemy combatants — in its prosecution of the war on terror, the administration asserts an inherent constitutional authority to commit acts that Congress has explicitly deemed criminal.

The question of whether the president is, to put it bluntly, above ordinary law whenever he invokes his constitutional authority as commander in chief will have to be decided by the Supreme Court. Whether it will transform the political landscape remains unclear. But it may be the only issue on which Alito is truly vulnerable. He is on record supporting a very broad view of presidential authority and, as a judge, has shown great deference to the acts of executive branch officials, including advocating legal immunity for the attorney general against lawsuits charging him with illegal wiretapping.

Alito will resist questions on these matters on grounds that presidential authority will be the subject of cases on which he would sit.

But the president's power to flout the will of Congress in secret, and solely on his say-so, should be an issue of transcendent importance. If Senate Democrats pursue it, Alito may face the prospect of separating himself from the president who nominated him or risk a filibuster.

Judging Samuel Alito (NYT)

The New York Times, January 8, 2006

Judicial nominations are not always motivated by ideology, but the nomination of Judge Samuel Alito certainly was. President Bush's previous choice to fill Justice Sandra Day O'Connor's seat on the Supreme Court, Harriet Miers, was hounded into withdrawing by the far right, primarily because she appeared to hold moderate views on a variety of legal issues. President Bush placated Ms. Miers's conservative critics by nominating Judge Alito, who has long been one of their favorites.

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Judge Alito's confirmation hearings begin tomorrow. He may be able to use them to reassure the Senate that he will be respectful of rights that Americans cherish, but he has a lengthy and often troubling record he will have to explain away. As a government lawyer, he worked to overturn Roe v. Wade. He has disturbing beliefs on presidential power - a critical issue for the country right now. He has worked to sharply curtail Congress's power to pass laws and protect Americans. He may not even believe in "one person one vote."

The White House has tried to create an air of inevitability around Judge Alito's confirmation. But the public is skeptical. In a new Harris poll, just 34 percent of those surveyed said they thought he should be confirmed, while 31 percent said he should not, and 34 percent were unsure. Nearly 70 percent said they would oppose Judge Alito's nomination if they thought he would vote to make abortion illegal - which it appears he might well do.

If President Bush had chosen a pragmatic, mainstream conservative like Justice O'Connor to fill the seat, these confirmation hearings would be a breeze. But now, the Senate has a duty to delve into the many areas in which Judge Alito's record suggests he is an extremist, including:

ABORTION Judge Alito has not only opposed Roe v. Wade, he has also worked to overturn it. When he applied for a promotion in the Reagan administration in 1985, he wrote that he was "particularly proud" of his legal arguments "that the Constitution does not protect a right to an abortion." In meetings with senators, Judge Alito has talked about his respect for Roe, but he has said nothing to discourage his supporters on the religious right who back him because they believe he will vote to overturn it. The American people have a right to know, unambiguously, where Judge Alito stands on Roe.

PRESIDENTIAL POWER The continuing domestic wiretapping scandal shows that the Bush administration has a dangerous view of its own powers, and the Supreme Court is the most important check on such excesses. But Judge Alito has some disturbing views about handing the president even more power. He has argued that courts interpreting statutes should consider the president's intent when he signed the law to be just as important as Congress's intent in writing and passing the law. It is a radical suggestion that indicates he has an imperial view of presidential power.

CONGRESSIONAL POWER While Judge Alito seems intent on expanding the president's power, he has called for sharply reducing the power of Congress. In United States v. Rybar, he wrote a now-infamous dissent arguing that Congress exceeded its power in passing a law that banned machine guns. As a Reagan administration lawyer, he argued that Congress did not have the power to pass the Truth in Mileage Act to protect consumers from odometer fraud.

ONE PERSON ONE VOTE Judge Alito said in his 1985 application that he had become interested in constitutional law as a student partly because of his opposition to the Warren court's reapportionment rulings, which created the "one person one vote" standard. He seems to still have believed as a 35-year-old lawyer that these cases, which made legislative districts much more fair, came out the wrong way. ·

There are other areas - including civil rights, sex discrimination, the environment and criminal law - where Judge Alito's record appears extreme. The Senate should question him closely on all of them.

The Senate should also explore Judge Alito's honesty. According to a senator he met with, he tried to dismiss his statement about the Constitution's not protecting abortion as merely part of a job application, which suggests he will bend the truth when it suits his purposes. Judge Alito has said he does not recall being in an ultraconservative group called Concerned Alumni of Princeton, which opposed co-education and affirmative action. That is odd, since he boasted of his membership in that same 1985 job application. The tortuous history of his promise to Congress to recuse himself in cases involving the Vanguard companies, which he ultimately failed to do, should also be explored.

Judge Alito's nomination is often presented as an abortion rights showdown, but it is much more than that. Those who care about the broad range of rights and liberties that Americans now have, and about honesty in government, should tune into the hearings starting tomorrow - and call their senators with their reactions to what they hear.

Our Legal Guardians (LAT)

By Cass R. Sunstein

The Los Angeles Times, January 8, 2006

THE QUESTION underpinning all others at Supreme Court nominee Samuel A. Alito Jr.'s confirmation hearings Monday involves the role of the court in our society. Should it be "active" or "passive"? Should it defer to the president or to Congress?

Although such questions can be rephrased in many ways, the answer to them all should be straightforward: The Supreme Court's most important function is to vindicate the law and, in that way, to commit the United States to the rule of law, rather than of individual human beings. That means holding government — legislative and executive — accountable. This role matters in ordinary times, but it is crucial when the political pressure on the court is most intense. Consider:

· One of the nation's greatest presidents, Abraham Lincoln, suspended the writ of habeas corpus in the midst of the Civil War. The nation's chief justice, Roger B. Taney, invalidated the suspension on grounds that only Congress could do that.

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· During the Depression, another great president, Franklin D. Roosevelt, fired a member of the Federal Trade Commission. The Supreme Court ruled that Roosevelt acted illegally and in violation of Congress' will.

· During the Korean War, President Truman seized the country's steel mills on grounds that the war effort would be jeopardized if the steel industry went on strike. The top court struck down Truman's action, ruling that the president needed Congress' authorization and that even the president must obey the law.

· In 2004, the court rejected President Bush's claim that in the war on terror, enemy combatants may be detained without a hearing. Carefully holding the president to the Constitution's requirements, it said that the founding document "most assuredly envisions a role for all three branches when individual liberties are at stake."

In protecting the rule of law, the Supreme Court's mere existence is every bit as important as its rulings. Government officials at all levels know the court might hold them to account if they discriminate on the basis of race, sex or religion, or violate the nation's environmental laws, or implement policies that infringe on free speech or the right to private property.

It is important to recognize that many of the court's most important decisions involve ordinary law, not the Constitution (except indirectly). During the Cold War, the court ruled that the secretary of State could not deny a passport to a communist because Congress had not granted the secretary the power to deny a passport on political grounds. More recently, it unanimously endorsed a broad reading of the Clean Air Act that required pollution controls that some members of the Bush administration didn't like. In areas involving consumer protection, energy policy, national security, animal welfare, automobile safety, telecommunications and much more, the Supreme Court greatly increases the likelihood that government will obey the law.

In all this, the court performs an indispensable democratic function simply because the law has been enacted by the people's representatives. But when it is working well, the court does much more to promote democracy. Most important, it safeguards freedom of speech and the right to vote, thus protecting what could be called the internal morality of democracy. A well-functioning system of self-government does not simply follow the majority's desires. At a minimum, it also immunizes political dissent and ensures the right of citizens to select their representatives.

To say this is not to say that the court has always performed its role well. In two different ways, it can sometimes badly serve the nation. The first — and the worse — is by striking down the decisions of the elected branches of government through judgments that reflect the justices' own views on public policy. The second is to capitulate to political will and allow the elected branches to violate the law.

In 1857, the court ruled, wrongly, that the Constitution entrenched slavery and thus banned freeing slaves in the Louisiana Territory. In the early decades of the 20th century, it held, wrongly, that the Constitution bans minimum-wage laws, maximum-hour laws and other government efforts to assist workers. The question of reproductive choice is much more controversial. But many people believe, not implausibly, that the court also was wrong to protect the right to choose abortion.

Since 1995, the Supreme Court has struck down more than 30 acts of Congress, including provisions of the Violence Against Women Act, the Americans with Disabilities Act and the Age Discrimination in Employment Act. In taking these stands and in striking down affirmative action programs and campaign finance regulation, the court has probably exceeded its proper bounds.

Nor is it difficult to find cases in which the court did not take the Constitution seriously enough. In 1896, it ruled that the Constitution permits racial segregation. In 1944, it allowed Japanese Americans on the West Coast to be placed in internment camps. Many people believe, not implausibly, that the court was wrong to uphold a Georgia law banning same-sex sodomy in 1986 — and that the court was right to overrule that ruling in 2003.

But more often than not, the court's independent role has served U.S. government exceedingly well.

The more important point is far broader. The rule of law cannot maintain itself on the goodwill of officials, even those who are democratically elected and accountable to the public. The rule of law is an immense but fragile achievement. In our system, the Supreme Court's most crucial role is to protect that achievement.

DeLay Ends Bid To Regain Post As GOP Leader (WP)

By Jonathan Weisman

The Washington Post, January 8, 2006

Rep. Tom DeLay (Tex.), one of the most powerful and feared Republican leaders in Washington, abandoned his quest to regain his House majority leader post yesterday, bowing to pressure from fellow Republicans worried about the growing corruption and campaign finance scandals linked to his office.

DeLay's announcement in his home town of Sugar Land ends his decade-long tenure as a legislative juggernaut and conservative ideologue who revolutionized the relationship between power and money in Washington. It also cleared the way for a leadership contest that could further shake up the House GOP team going into an uncertain election year. House Speaker J.

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Dennis Hastert (Ill.) said Republicans will choose a new majority leader and other officers the week of Jan. 30, when members return for President Bush's State of the Union address.

House Majority Whip Roy Blunt (Mo.), who has served as acting majority leader since September, when DeLay was forced to step down after his indictment on campaign finance charges, will ask his colleagues to make his post permanent. Sources close to House Education and the Workforce Committee Chairman John A. Boehner (Ohio) confirmed he will challenge Blunt.

But dark horse candidates are likely to emerge, including the ideological conservative Rep. Mike Pence (Ind.) and veteran House Appropriations Committee Chairman Jerry Lewis (Calif.).

"There has been this desperate plea for someone to take charge," said Charles Cook, an independent political analyst. Republicans "are looking for some leadership, someone that has some sense of what they ought to be doing."

DeLay, 58, who served as House majority whip for eight years before becoming majority leader in late 2002, had resolved to return to the leadership since he was indicted by a Texas grand jury on charges of money laundering and conspiracy linked to his efforts to finance state political campaigns. DeLay contended the indictments were a political vendetta by the Democratic Travis County prosecutor, Ronnie Earle, and until recently most Republicans supported that view.

But last week's guilty pleas by Republican lobbyist and DeLay ally Jack Abramoff dramatically changed the political climate, according to many lawmakers and political experts. A source close to the Republican leadership said DeLay was counseled by senior Republicans, including House Rules Committee Chairman David Dreier (Calif.), but that DeLay ultimately made the decision, calling Hastert yesterday morning.

"I am writing to inform you of my decision to permanently step aside as majority leader, and of my belief that the best interests of the conference would be served by the election of a new leader as soon as possible," DeLay wrote in a letter to Hastert. "The job of majority leader and the mandate of the Republican majority are too important to be hamstrung, even for a few months, by personal distractions."

He vowed to reclaim his seat on the Appropriations Committee and to run for reelection in what appears to be a difficult race against a former House member, Democrat Nick Lampson, and possibly a primary challenger in former representative Steve Stockman.

In a second letter to his colleagues calling for a leadership election, DeLay said, "During my time in Congress, I have always acted in an ethical manner within the rules of our body and the laws of our land. I am fully confident time will bear this out. However, we live in serious times and the United States House of Representatives must be focused on the job of protecting our nation and meeting the daily challenges facing the American people. History has proven that when House Republicans are united and focused, success follows."

DeLay has maintained he has nothing to fear from the Abramoff corruption and bribery inquiry. But federal investigators signaled they are inching closer to his office when, on Tuesday, they highlighted the activities of his former deputy chief of staff, Tony C. Rudy, in Abramoff's plea agreement.

Although DeLay's hard-edged political style and tactics frequently drew complaints over the years, his political and legal problems first began to emerge in 2004. At that time, he was admonished by the House ethics committee for holding a social event with energy industry officials as the House was considering an energy bill and for enlisting the Federal Aviation Administration to track down Texas Democratic lawmakers fleeing the state to avoid a vote on a congressional redistricting bill DeLay helped draft.

DeLay's court fight in Texas, which he had hoped would be quickly resolved, has been dragging on, complicating any return to the GOP leadership, but it was Abramoff's plea agreement with prosecutors that ultimately forced DeLay's downfall.

"DeLay is the first political casualty of Abramoff affair," said Republican political strategist Rich Galen. "I don't think there's any question about that."

DeLay's departure deprives House Republicans of their strongest leader and an unparalleled political tactician, said Stuart Rothenberg, a congressional expert. Since he stepped down in late September, the party has had a series of high-profile embarrassments in failing to pass legislation. Republican moderates split with conservatives on the key issues of immigration, social policy and spending. The ensuing sense of drift, as much as the scandals, fueled a rank-and-file desire for change, Cook said.

"Republicans never drifted aimlessly while Tom DeLay was in charge, and the last three months have just been a horror show," Cook said.

DeLay's decision also deprives Democrats of the political villain they have been cultivating since the departure of House Speaker Newt Gingrich (R-Ga.) in 1998, Cook and Rothenberg said. Democrats will try to keep the public focused on DeLay, Rothenberg said, and yesterday they did just that, giving the departing leader an unfriendly farewell.

"For years, at the expense of the American people, the House Republicans have enabled and benefited from the Republican culture of corruption engineered by Tom DeLay," said House Minority Leader Nancy Pelosi (D-Calif.). "The culture of

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corruption is so pervasive in the Republican conference that a single person stepping down is not nearly enough to clean up the Republican Congress."

Just how anxious Republicans are to avoid such charges could determine the next leadership team, political analysts said. Blunt enters the race as the favorite, with the current chief deputy whip, Rep. Eric I. Cantor (Va.), expected to take over as House majority whip. But some members question Blunt's effectiveness in passing legislation, while some conservatives doubt his commitment to a strong GOP policy agenda, House members and GOP strategists said. If members think that the departure of DeLay from the scene is not enough to satisfy voters that the party is taking the scandals seriously enough, then Blunt's bid to become leader might be threatened.

The other likely candidate, Boehner, is a former member of the House leadership with close ties to Washington's lobbying community and may have difficulty picking up the banner of reform, Rothenberg said.

That could give an opening to a dark horse, perhaps Pence, the chairman of the conservative Republican Study Committee, or Rep. John Shadegg (Ariz.), another conservative seen by many as a more collegial candidate than Pence.

"Congressman Shadegg has been approached by a number of members, including both conservatives and moderates, who have encouraged him to consider seeking this position," Shadegg spokesman Michael Steel said of the majority leader's post. "He is, of course, honored and flattered. However, there are a lot factors involved. There are others who are interested in the position, some of whom may already have substantial support. He is seeking further input from his colleagues in the conference, and has not made any decision."

Rep. Mike Rogers (R-Mich.) may have signaled his bid for a leadership post when he issued a statement on DeLay's departure before anyone else, GOP political strategists said. Rogers, formerly an FBI agent who focused on public corruption, would be attractive to members looking for a new image.

"It all depends on how frightened the members are, how much of a statement they need to make that they're shaking up their leadership and embracing a statement of change and reform," Rothenberg said.

DeLay Ends Leadership Fight (DMN)

By Todd J. Gillman

The Dallas Morning News, January 8, 2006

WASHINGTON – Unable to shake his legal troubles and with colleagues in open revolt over a widening corruption scandal, Rep. Tom DeLay gave up his claim Saturday to the powerful job of House majority leader.

FILE Tom DeLay

Mr. DeLay had been forced to temporarily step aside in September after his indictment on state money laundering and campaign finance charges, but he defiantly hung on until events spun beyond his control. Jack Abramoff, a lobbyist he once called a close friend, cut a deal last week to tell the FBI everything he knows about bribery in Congress. And Friday, dozens of GOP House members mounted a revolt by demanding elections to replace Mr. DeLay permanently.

"The job of majority leader is too important to be hamstrung by personal distractions," Mr. DeLay told supporters at a hastily called event Saturday afternoon at Sugar Land City Hall, with his wife, Christine, at his side. "In the 21 years I have been in Congress, I have always acted in an ethical manner within the rules of the House and the laws of our land, and time once again will bear out that truth."

He vowed to continue to seek re-election to his Houston-area district despite the lobbying scandal and his impending state trial.

The decision will mean a scramble among House Republicans, who will choose a successor Jan. 31 when they return to work. But analysts and Democrats said it won't let the party off the hook.

"It takes a little of bit of the taint of scandal away from the Republicans ... but we'll see who gets caught up in Abramoff's web," said James Thurber, director of the Center for Congressional and Presidential Studies at American University.

The Fallout

Rep. Tom DeLay has decided he won't try to reclaim his job as majority leader of the House. The following are some of the things that could affect.

His re-election campaign: Mr. DeLay says he'll seek a 12th term from his Houston-area district. Three Republicans have filed to run against him in the March 7 primary, and they've made ethics a central theme. So has Democrat Nick Lampson, a former congressman who lost his Beaumont-based seat after redistricting and will run for Mr. DeLay's seat. Former GOP Rep. Steve Stockman said last week that he'll run as an independent, and if he makes it onto the November ballot, he could siphon conservative support from Mr. DeLay, who won with just 55 percent in 2004 against an unknown Democrat. Because Mr. DeLay is no longer majority leader, it's unclear how much money will pour into the race on either side.

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His criminal charges: The decision is unlikely to affect the charges he faces in Travis County. Mr. DeLay's attorneys had wanted a quick trial to clear the way for him to return as majority leader.

Republicans: Mr. DeLay's decision may help House Republicans, who've benefited from his tactical and fundraising prowess but have also seen their popularity plummet nationally amid headline-making scandals in which he often had a role.

Democrats: They no longer can target Mr. DeLay as a top Republican leader, but his troubles still give them ammo for the midterm elections.

Texas: The Lone Star State loses some congressional clout, but it still has President Bush and plenty of other Texans throughout the administration.

From staff and wire reports

Democrats were hardly willing to accept the news and move on.

"For years, at the expense of the American people, the House Republicans have enabled and benefited from the Republican culture of corruption engineered by Tom DeLay. ... A single person stepping down is not nearly enough to clean up the Republican Congress," said House Democratic leader Nancy Pelosi.

Abramoff's shadow

When Mr. Abramoff's ex-partner, former DeLay aide Michael Scanlon, agreed a few weeks ago to cooperate with prosecutors, the pressure began to grow exponentially. Lawmakers focused on the likelihood that Mr. Abramoff would seek a plea deal and cooperate with investigators, which he did. Tuesday, he pleaded guilty to fraud, bribery of another House member and tax evasion.

Mr. Abramoff provided lavish overseas trips and a great deal of campaign cash to Mr. DeLay, and federal authorities are reportedly looking at the ties between the lobbyist and Mr. DeLay, other lawmakers and congressional aides.

"When you get photographs of Abramoff coming out of court, it just drives home to members how immediate the threat is," said Stuart Rothenberg, publisher of the nonpartisan Rothenberg Political Report , calling Mr. DeLay's decision "an attempt obviously to remove him as a major issue from the midterm elections."

A host of Republicans issued laudatory statements, but few had tried to talk him out of quitting.

Speaker Dennis Hastert had prolonged Mr. DeLay's survival for months, tamping down demands for an election to replace him permanently after his indictment Sept. 28 and scheduling an unusually long six-week winter recess to give Mr. DeLay time to fight the Travis County money laundering charges.

No details have emerged about whether Mr. Hastert eventually urged Mr. DeLay to quit. But when a coalition of moderates and some conservatives began circulating a petition Friday to force a leadership election when the House returns to work Jan. 31, the speaker made no effort to discourage them.

"I respect Congressman Tom DeLay's judgment to step down as majority leader of the House of Representatives. It is an honorable decision and the right decision for the House Republican Conference," Mr. Hastert said Saturday.

Wielding clout

Mr. DeLay has been admonished by the House ethics committee three times for ethical lapses.

DallasNews.com/extra

Letter: DeLay to Speaker Hastert

Timeline: DeLay's career in Congress

Who's next?

Video: Tom DeLay addresses questions of ethics surrounding his staff

In 2004, he drew two admonishments, for appearing to provide "special access" to a Kansas utility firm in exchange for a $25,000 political contribution and for offering to help the candidacy of Michigan lawmaker's son if the lawmaker provided a crucial vote on Medicare.

In 1999, the panel chastised Mr. DeLay for threatening a major trade group that hired a former Democratic congressman as its top executive.

For DeLay watchers, it was all part of the lawmaker's push-the-envelope style.

As majority leader for just over three years, Mr. DeLay became more powerful in the view of many historians than any predecessor since Texan Sam Rayburn in the 1930s, or perhaps Joseph Cannon in the early 1900s. Both became House speakers.

But Mr. DeLay was always too hot for that post, too in-your-face and in the modern age, not quite telegenic enough. He rarely made himself available for the Sunday talk show circuit, though he excelled as a strategist.

His signal institutional effect was in transforming the balance of power within the House. Committee chairmen now face term limits and owe their jobs to a handful of party leaders. The close alliance he forged with K Street – the army of well-paid

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lobbyists, many of them former lawmakers and aides – allowed him to steer money toward favored candidates, maintaining the GOP majority and ensuring personal loyalty.

"He was stronger than Jim Wright, stronger than Tip O'Neill, stronger than others," Dr. Thurber said. "He couldn't be speaker, but he became a very influential figure. And controversial. ... That is ultimately his downfall."

One colleague who joined Mr. DeLay at his announcement Saturday, Rep. Kevin Brady, R-The Woodlands, called Mr. DeLay "a force of nature" and said he will "remain a true conservative leader," though "Texas will miss his influence as majority leader."

Redrawing the lines

Mr. DeLay also orchestrated the mid-decade redrawing of the Texas political landscape.

Redistricting flipped six House districts from Democrats to Republicans, bolstering the GOP's slim majority but touching off legal fights on many fronts. Redistricting required the skills of a chessmaster or a Napoleon – selling donors on an untested stratagem, electing enough new Republicans to the Texas Legislature, pressuring a reluctant governor and lieutenant governor to take on the issue, and ultimately winning.

But the tactics drew the attention of Travis County District Attorney Ronnie Earle, a Democrat, and Mr. DeLay and several aides face felony charges stemming from their efforts. Mr. DeLay has denied the charges.

"He was his own worst enemy," Dr. Thurber said. "His arrogance with respect to his power and the power of the money he was bringing in for the campaigns to helped people and hurt people – I think he lost sight of sound judgment."

Before his days as a politician, Mr. DeLay owned a pest exterminating business. The red tape and taxes drove him to distraction, he has said, and he ended up running for the Texas House, where he made friends easily with colleagues in both parties, and acquired the nickname "Hot Tub Tom." Along the way he realized he was neglecting his family and partying too much. He went to Congress 21 years ago, taking on a far more partisan edge and moving up GOP ranks quickly.

Newt Gingrich led the GOP takeover in 1994 and became speaker. Mr. DeLay ran for the No. 3 job, majority whip. Mr. Hastert ran Mr. DeLay's campaign and became his chief deputy.

Over the next eight years as whip, Mr. DeLay collected and exercised growing clout through a network of more than 60 deputy and assistant whips. During late-night sessions, he served meals to members, and he lent his office for hundreds of meetings. No one catered to the rank and file better, and no one had a better sense of their needs, moods and pressure points.

He took on a new nickname, "The Hammer," because those who crossed him learned to regret it. Moderates were passed over for chairmanships. Critics lost pork-barrel projects.

When Mr. Gingrich was forced out after electoral setbacks in 1998, the speaker's job went to Mr. DeLay's lieutenant, the affable Mr. Hastert. Naturally, Mr. DeLay was seen as the power behind the speaker.

And when Dallas-area Rep. Dick Armey retired as majority leader, the post went easily to Mr. DeLay.

AP Surrounded by supporters in Sugar Land, Rep. Tom DeLay announced his decision to abandon his bid to remain as House majority leader Saturday.

Political scientist Earl Black of Rice University in Houston called Mr. DeLay the last of a breed: the Southern Republicans who led the House since 1994, with bases in safe districts that gave them maneuvering room to push conservative causes without political risk.

"It's just an example of the ferocious nature of national politics. Any mistakes that leaders make are certainly going to be pounced on," Dr. Black said.

Many foes

Mr. DeLay certainly made enemies along the way. Democrats despised him as an unyielding and extremely effective opponent who preferred a one-vote victory on a divisive bill to a wide margin on a piece of compromise legislation.

And Mr. Gingrich never forgot that in 1997, Mr. DeLay was an active plotter in an attempt to oust the speaker. Mr. DeLay was contrite when the plot failed. But last week, after Mr. Abramoff's guilty plea, Mr. Gingrich was the most prominent Republican to call for Mr. DeLay's resignation.

"It's obvious that Gingrich played a major role in this. He disliked DeLay and was just laying in wait to even the score," said Martin Frost, a Dallas Democrat who lost his House seat after 24 years because of redistricting.

He said the combination of Mr. DeLay's legal troubles and the prospect of what Mr. Abramoff might tell prosecutors pushed Mr. DeLay past the point of survival.

But Mr. DeLay was more effective than any likely successor, and it will be hard for the party to shake off the taint he's brought.

"He held them together through intimidations and threats," Mr. Frost said. "They're going to have to do a lot more than this. The entire Republican Party is in trouble."

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But Rep. John Carter, R-Round Rock, one of Mr. DeLay's staunchest defenders, said he was disappointed that "some weak sisters" in the House GOP let their worries spin out of control.

"Without any evidence, people were hanging Abramoff around his neck," Mr. Carter said. "It's a sad day for Texas to lose the majority leader, but there were a lot of people who thought he ought to leave. I'm very disappointed. He's losing this over something that, when this issue is resolved in Austin, he will be exonerated."

Rep. Michael Burgess, R-Flower Mound, called the decision "one of innumerable selfless acts on his part. ... Leadership is not merely a position but an innate quality that Tom has in spades."

1 Fix, More Problems For GOP (LAT)

By Janet Hook, Times Staff Writer

The Los Angeles Times, January 8, 2006

WASHINGTON — Rep. Tom DeLay's decision to stop battling for his former House leadership job helps remove a huge distraction from Republican efforts to recover from a stormy 2005 that put President Bush and the party on the defensive.

But DeLay's Saturday announcement that he was giving up his bid may create as many problems as it solves.

It has set off a divisive power struggle to succeed him as the House's permanent majority leader — and could spark the overthrow of other leaders.

Also, whoever is picked to succeed DeLay will be thrust into a job that, now more than ever, requires the kind of iron-fisted leadership that was the Texas Republican's trademark.

Bush's second-term priorities — overhauling Social Security and rewriting the tax code — have faltered, and Republicans are struggling to refocus on an agenda of cutting taxes, reducing federal spending and cracking down on illegal immigration. But the fate of these initiatives is cloudy.

House Republicans had shown signs of splintering late last year, after DeLay was forced to temporarily give up his leadership post because of his indictment in Texas on money laundering charges.

"While Tom DeLay was a public-relations nightmare, he also was a strong leader, a talented vote counter, arm twister and strategist," said Charlie Cook, a Washington political analyst who publishes the nonpartisan Cook Political Report. "Since he stepped down three months ago, it's been a horror show for House Republicans."

DeLay was clearly missed by his colleagues, but he also had become damaged goods. And after former lobbyist Jack Abramoff, who had close ties to DeLay, pleaded guilty last week to corruption charges and sent many Republicans running for political cover, it became clear to some that DeLay would have to go if the GOP had any hope of changing the subject in this year's congressional campaigns.

"You don't want that kind of distraction moving forward in 2006," said Bill McInturff, a Republican pollster. Now, every Republican House member "doesn't have to go around answering the question, 'Do you think Tom DeLay should resign?' "

Instead, Republicans face another political question: How much more do they need to do — in making leadership changes and embracing legislative initiatives such as tighter rules for lobbyists — to truly distance their party from the taint of the Abramoff scandal?

Some Republicans believe an aggressive anti-corruption agenda is needed. They argue that although DeLay may no longer loom as a leadership figure, his imprint will remain on the way the party raises money and conducts legislative strategy.

Over the last decade, DeLay built powerful new connections between the party and Washington's "K Street" lobbying corridor, harnessing the finances and political support of various interest groups behind a conservative agenda. His skill in doing so gave the GOP strong fundraising advantages, but it created an atmosphere of coziness that Abramoff was able to exploit.

Some of the House's junior Republican members are saying that if the GOP wants to burnish its image with the public, perhaps fresh faces should be brought into the leadership ranks. Although House Speaker J. Dennis Hastert (R-Ill.) appeared secure in his post, other leaders might be challenged.

Rep. Thaddeus McCotter (R-Mich.) called Saturday for a "potential housecleaning" and full disclosure of GOP leaders' relationships with lobbyists.

"We have to reaffirm that the people who are in positions of leadership have the credentials, the moral credibility, to lead," he said.

Still, the Republicans initially being mentioned as contenders for majority leader have been close to DeLay and are skilled players in the political fundraising machine he established.

Rep. Roy Blunt of Missouri, the majority whip temporarily serving as majority leader, is a DeLay protege who received $8,500 in campaign contributions linked to Abramoff. Last week, he announced he would give that amount to charity.

In June 2003, the Washington Post reported that Blunt had tried to insert into legislation a provision benefiting Philip Morris USA Co. at a time when he had a close personal relationship with its lobbyist and when his son worked for the cigarette maker.

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Another possible candidate for majority leader, Rep. John Boehner of Ohio, also had financial links to Abramoff.

According to the nonpartisan Center for Responsive Politics, he received $32,500 in campaign contributions from Abramoff and the lobbyist's clients — more than DeLay did.

And in the mid-1990s, Boehner was criticized by public interest groups for passing out campaign contributions from tobacco companies to lawmakers on the House floor.

If Blunt or Boehner became majority leader, it would leave them open to Democratic charges that they remain steeped in a "culture of corruption" in Washington.

"Neither [Blunt nor Boehner] presents a stark change in the leadership," said a Republican strategist who asked not to be named when discussing the two lawmakers. "There is a certain amount of sympathy for generation-skipping, for reaching outside the leadership circle entirely" in finding a successor to DeLay.

That approach, however, would risk delegating power to a lawmaker with less experience in the complex business of running the House.

The challenges of that job became clear when Blunt took over temporarily from DeLay. The House struggled to pass crucial budget bills and postponed final action on Bush's tax cut proposals.

"There is a lot of concern about who can actually do the job," said former Rep. Vin Weber (R-Minn.), who remains in close touch with party leaders. "It has become clear that DeLay was the centerpiece holding the [House] Republican majority together. People understand they have to run the place. It's not just about PR."

Some Republicans believe that Bush might have to step into the breach and play a more aggressive role in advancing his legislative agenda.

"He may have to take a little bit more time and a little bit more involvement in getting some of the tough part of this agenda through," said Rep. Lynn Westmoreland (R-Ga.).

Whatever Republicans do in their new leadership elections, the team that emerges probably will benefit from shedding the shaky status of the temporary leadership structure that has been in place.

"It's very sad for [DeLay], but I think it's an opportunity for clarity and a sense of mission for an election year," said Mark Isakowitz, a Republican lobbyist close to House leaders.

DeLay Halts Bid To Regain House Post (BOS)

By Rick Klein

The Boston Globe, January 8, 2006

WASHINGTON -- Faced with increasing anger from his fellow Republicans, Representative Tom DeLay of Texas announced yesterday that he will no longer seek to regain his post as majority leader. The decision brought an end to the leadership career of one of the most powerful and polarizing members of Congress.

DeLay's announcement was made less than 24 hours after moderate and conservative lawmakers began circulating a petition demanding that he be permanently replaced as majority leader. That effort was launched after the indictment of Jack Abramoff, in a scandal that threatens to envelop a wide range of lawmakers.

The move sets the stage for a potentially divisive vote next month in which Republicans will choose a new majority leader, the second-ranking leadership post in the House of Representatives, as November's congressional elections approach. Within hours of DeLay's announcement, several candidates were reported to be contacting colleagues to line up support.

In a letter to his fellow Republicans, DeLay said he remains confident that he would be cleared of wrongdoing. But he said he recognized that Republicans must choose a new majority leader to move beyond the distractions that his legal woes have brought.

"The United States House of Representatives must be focused on the job of protecting our nation and meeting the daily challenges facing the American people," DeLay wrote.

"History has proven that when House Republicans are united and focused, success follows," DeLay continued. "While we wage these important battles, I cannot allow our adversaries to divide and distract our attention."

DeLay's ties to Abramoff are drawing close scrutiny, and the Texas Republican is also under indictment in an unrelated matter involving allegations of money laundering in a campaign-financing plan. Under House Republican rules, that indictment forced him to resign as majority leader on a temporary basis, but until yesterday DeLay had insisted that he would return after being cleared.

The New York Times reported on its website yesterday that prosecutors are also looking at questions of influence-peddling by a lobbying firm founded by Edwin A. Buckham, a close DeLay friend and his former chief of staff. The firm promoted the idea that it could deliver access to DeLay, and paid DeLay's wife $115,000 in consulting fees, the Times reported.

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DeLay said he would continue to serve in his suburban Houston district. He will seek a 12th term this fall, in what promises to be a tough campaign against Nick Lampson, a Democrat and a former congressman.

The move robs Republicans of one of their most talented and aggressive vote-counters, as the GOP agenda has begun to stall and as President Bush and congressional leaders wrestle with sagging approval ratings.

While members pushed to oust DeLay in part out of fear about their own reelection prospects this fall, the revolt that led DeLay to step aside could send the opposite message to voters. DeLay's decision to resign on the heels of the Abramoff plea might suggest a "hint of guilt," said Julian Zelizer, a congressional historian at Boston University.

"The dam has broken," Zelizer said. "Democrats clearly have a big opportunity to develop the theme of Republicans and the culture of corruption. This is a big blow to the Republican Party."

But rank-and-file Republicans had a different read on the political landscape. Selecting a new majority leader will allow Republicans to distance themselves from the scandals that swirled around DeLay, and to develop changes in ethics laws that would show a renewed commitment to responsible governance, said Representative Charles F. Bass, a New Hampshire Republican who has led efforts to hold new elections.

"The person who replaces Tom DeLay as permanent majority leader needs to define an agenda for the party that works, and have some specific ideas about what we need to do with ethics," Bass said.

"It's bad news for the Democrats and good news for Republicans and the integrity of the political process," added Bass.

The House speaker, J. Dennis Hastert had tried to keep the party's divisions under wraps by keeping the majority leader's post open for DeLay while he sought to weather his legal storm. After DeLay was indicted in September, Hastert orchestrated a power-sharing arrangement in which the majority whip, Roy Blunt of Missouri, took over DeLay's job temporarily, and in which other members assumed Blunt's responsibilities.

But with the 2006 elections looming, in which all 435 House seats are on the ballot, moderate Republicans grew increasingly concerned about being tarred by their association with DeLay. They teamed with a younger crop of conservative House members who have chafed at DeLay's hard-nosed leadership style and what they viewed as straying from the party's goals of fiscal discipline and high ethical standards.

The frustrations culminated in the petition drive demanding new leadership elections, launched Friday morning by Bass, a moderate, and Representative Jeff Flake of Arizona, a conservative.

Within hours, Flake and Bass had gathered more than half of the 50 signatures they needed to force a meeting to discuss new elections, and word quickly spread among GOP House members that they would gather 50 by early this week.

DeLay initially dismissed talk of a new election. His spokesman issued a statement Friday afternoon expressing DeLay's confidence that he continued to enjoy the support of a majority of House Republicans.

But any chance that DeLay might have had of hanging on seemed to evaporate by Friday evening. Mindful of the dissension within his caucus, a Hastert aide issued a statement saying that the speaker had always said he would allow members to revisit the leadership situation in early 2006.

It was not an endorsement of a new election. But the statement was an unmistakable signal that Hastert would not lend his political weight to helping his lieutenant regain the post.

"The speaker knew that a leadership election was going to happen," Flake said. "I was happy to see that Tom DeLay did the right thing, and I applaud him for it. This is the best thing for the party."

Hastert said yesterday that a new majority leader would be elected in the week of Jan. 31, when the House is scheduled to begin its 2006 session. He applauded DeLay's move.

"It is an honorable decision and the right decision for the House Republican Conference," Hastert said in a statement. "We expect that Tom will continue to help House Republicans succeed with our agenda as we move forward this year."

Democrats served notice that they still intend to use DeLay as an election issue, along with other high-profile ethics-related cases.

Representative Rahm Emanuel, chairman of the Democratic Congressional Campaign Committee, said the GOP cannot run from what he described as a philosophy' that caters to special interests.

"By forcing out Tom DeLay, Republicans have addressed a party problem, but not the institutional problem of corruption that most troubles the American people," said Emanuel, an Illinois Democrat.

"With the permanence of their special-interest philosophy, a change in the Republican cast of characters simply doesn't matter," Emanuel added in a statement.

Hastert is expected to back Blunt for majority leader, but the race could be a free-for-all. Representative John A. Boehner an Ohio Republican and chairman of the House Education and Workforce Committee, is expected to be a front-runner. Boehner made calls to his supporters yesterday, and a source close to the congressman said he is likely to run.

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Other potential candidates are Representatives Mike Pence, of Indiana and chairman of the conservative Republican Study Committee; Jerry Lewis, of California and chairman of the House Appropriations Committee; and John B. Shadegg, of Arizona, chairman of the House Republican Policy Committee.

Flake said the party needs a full debate about its future and the caucus would benefit from electing a leader who represents a clean break with the current regime. He said he has made no commitments.

"Speaker Hastert wants a united front," Flake said. "But we really can't have that here, because we need the candidates to put together a reform agenda, and say, 'Here's the course correction that I envision.' We don't just need new leaders; we need a course correction, and unless we have it, we're going to be in the minority."

DeLay Gives Up Bid To Reclaim House Post (AP-Y2)

By David Espo

AP, January 8, 2006

Rep. Tom DeLay, the defiant face of a conservative revolution in Congress, stepped down as House majority leader on Saturday under pressure from Republicans staggered by an election-year corruption scandal.

"During my time in Congress, I have always acted in an ethical manner within the rules of our body and the laws of our land," the Texas lawmaker told fellow Republicans in a letter informing them of his decision.

Still, referring to criminal charges he faces in his home state, he added, "I cannot allow our adversaries to divide and distract our attention."

DeLay temporarily gave up his leadership post after he was charged, but always insisted he would reclaim his duties after clearing his name.

His turnabout cleared the way for leadership elections among Republicans buffeted by poor polls and by lobbyist Jack Abramoff's confessions of guilt on corruption charges in connection with congressional wining and dining.

The race to replace Delay as majority leader began taking shape immediately, with Reps. Roy Blunt of Missouri, the GOP whip, and John Boehner of Ohio, a former member of the leadership, making clear their intentions to run. Rep. Jerry Lewis of California declined to say whether he would join them.

Speaker Dennis Hastert, his own grip on power secure, said he expects elections to be held when lawmakers return to the Capitol the week of Jan. 31. That set the stage for several weeks of political maneuvering, and the possibility of a wholesale shuffle in the leadership lineup 10 months before midterm elections.

Democrats, eager to take control of the House in November, reacted to DeLay's announcement with studied indifference.

"The culture of corruption is so pervasive in the Republican conference that a single person stepping down is not nearly enough to clean up the Republican Congress," said Rep. Nancy Pelosi of California, the Democratic leader.

Added Rep. Rahm Emanuel of Illinois, chairman of the House Democratic campaign organization: "With the permanence of their special interest philosophy, a change in the Republican cast of characters simply doesn't matter."

Democrats must gain 15 seats in November to win control of the 435-member House.

At a news conference in Texas, DeLay said he had called Hastert, R-Ill., on Saturday to inform him of his decision. "Our success in lowering taxes, creating jobs, growing the economy and providing effective national security was helped by Tom Delay's leadership," the speaker said in a statement.

The 58-year-old DeLay, an exterminator before his election to Congress in 1984, said he intends to seek re-election next fall. "I plan to run a very vigorous campaign and I plan to win it," he told reporters in Texas.

The voters aside, his political future will hinge not only on the outcome of the Texas allegations, but on the future of the Abramoff investigation.

Michael Scanlon, a former DeLay aide and an Abramoff business partner, pleaded guilty in the fall to corruption charges. In court papers, the lobbyist said he had once paid $50,000 to the wife of another former DeLay aide to help kill legislation opposed by his clients.

DeLay has been a fixture in the Republican leadership since the GOP won its majority in the 1994 election landslide.

An outsider at first, he muscled his way up the hierarchy when he won election as whip over the hand-picked choice of then-Speaker Newt Gingrich, R-Ga.

When Gingrich nearly fell in a coup more than three years later, DeLay went before fellow Republicans at a private meeting and emotionally confessed his role in the plotting. He prospered politically, moving up to become majority leader, the No. 2 post, in 1999.

Contrition was never a quality he displayed to his adversaries — Democrats, outside interest groups and others who sought to check the advance of the conservative GOP agenda he promoted.

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DeLay raised millions of dollars for the campaigns of fellow House Republicans, conservatives and moderates alike, earning their gratitude regardless of their ideology. He courted controversy almost reflexively, including his involvement in an attempt to force corporations and industry groups to hire more Republican lobbyists.

He rarely backed down.

DeLay was the driving force behind President Clinton's impeachment in 1999, weeks after Republicans lost seats at the polls in a campaign in which they tried to make an issue of Clinton's personal behavior.

DeLay's downfall began at home in Texas, when he led a drive to redraw the state's congressional district boundaries and increase the number of GOP seats in the U.S. House. He succeeded, but was soon ensnared in an investigation involving the use of corporate funds in the campaigns of Texas legislators who had participated in the redistricting.

Flashing his trademark defiance, DeLay attacked prosecutor Ronnie Earle as an "unabashed partisan zealot." He pledged repeatedly to clear his name and said he would reclaim his duties as majority leader by the end of January.

The scandal spawned by Abramoff intervened, though.

Within two days of the lobbyist's appearances in federal court last week, GOP lawmakers began circulating petitions calling for elections. Hastert immediately made clear he would not stand in the way.

`After the Abramoff thing we got critical mass," said Rep. Jeff Flake, R-Ariz., who long had advocated new leadership.

While Flake is a conservative in a safe congressional district, others suddenly calling for change were more moderate Republicans who could face difficult re-election campaigns this fall.

New Mexico's Heather Wilson was among them.

She said three of DeLay's "former senior staff members have admitted or have been implicated in corrupt and illegal activities to get money for themselves by influencing legislation. Whether or not Mr. DeLay was involved himself or knew this was going on, he is responsible for his office."

DeLay Ends Bid To Reclaim Majority Leader Post (REU-Y2)

By Richard Cowan

Reuters, January 8, 2006

U.S. Rep. Tom DeLay, now under indictment in Texas and tainted by a corruption scandal, told fellow House of Representatives Republicans on Saturday that he will not try to reclaim his job as majority leader.

"Today I have asked Speaker (Dennis) Hastert to convene our conference for the purpose of electing a new majority leader," DeLay, a close ally of President George W. Bush and one of the most powerful conservatives in Congress, said in a letter to House Republican leaders.

Later, at a Sugar Land, Texas, appearance surrounded by supporters, DeLay said he would remain in Congress and campaign for re-election in November. "In 21 years in Congress I have always acted in an ethical manner ... and time once again will bear out that truth."

"The job of majority leader is too important to be hamstrung by personal distractions," he said.

DeLay's decision to resign after three years of tumultuous reign as majority leader set off a scramble among at least a handful of Republicans who want to capture the second most powerful post in the House.

Whoever wins will face the difficult job of steering the party past the influence-peddling scandal involving Republican lobbyist Jack Abramoff that has rocked Washington just as all 435 members of the House gear up for November elections.

Abramoff earlier this week pleaded guilty to fraud charges and admitted that he gave golf trips, sports tickets and other gifts to lawmakers in return for special treatment.

His potential cooperation with federal investigators left lawmakers rattled and many returned campaign contributions from Abramoff clients.

House Minority Leader Nancy Pelosi, a California Democrat, said DeLay had "engineered" a "culture of corruption ... so pervasive in the Republican conference that a single person stepping down is not nearly enough to clean up the Republican Congress."

The White House, which earlier in the week said it would be shedding some Abramoff campaign contributions, supported DeLay's action. "We respect Congressman DeLay's decision to put the interests of the American people, the House of Representatives and the Republican Party first," said spokeswoman Erin Healy.

HOUSE JOB OPEN

Acting Majority Leader Roy Blunt of Missouri is expected to seek DeLay's job on a more permanent basis. Blunt took over the job in September when DeLay was forced to temporarily resign after being indicted in his home state of Texas in a campaign finance case. Those charges were unrelated to the Abramoff scandal.

At the time, DeLay insisted that he would be cleared in the Texas case and would retake the powerful majority leader job.

Ohio Republican John Boehner, chairman of an education and labor committee, is also expected to mount a strong challenge for majority leader.

Hastert, an Illinois Republican, said the elections likely will held during the week of January 31 when the House reconvenes after a long winter break.

Some House Republicans have talked about the need to elect all new leaders, but key lawmakers this week said they did not think Hastert would be challenged.

DeLay, 58, known around Washington as "The Hammer" for his tight control of the House and ability to vanquish political opponents, said in a letter to Hastert he will "work to clear my name of the baseless charges leveled against me."

He also said he will reclaim his seat on the powerful House Appropriations Committee, which controls much of federal spending, including a major NASA space center in his district.

DeLay's decision to leave the Republican leadership came after a group of moderate and conservative House Republicans abandoned their leader and called for elections to replace him.

DeLay's support among rank-and-file Republicans evaporated after Abramoff's guilty pleas this week. At least two former aides of DeLay are entangled in the Abramoff scandal and DeLay has referred to the former lobbyist as a close friend.

In his resignation letter, DeLay said he had "always acted in an ethical manner within the rules of our body and the laws of our land. I am fully confident time will bear this out."

DeLay, who has blamed his legal troubles on partisan Democrats, said he "cannot allow our adversaries to divide and distract our attention" from legislative work.

DeLay Says He Won't Seek To Return As Majority Leader (Update4) (BLOOM)

By Laura Litvan

Bloomberg, January 8, 2006

Jan. 7 (Bloomberg) -- Former House Majority Leader Tom DeLay said he will abandon his drive to return to the post of No. 2 House Republican, bowing to the growing clamor in his party for elections to replace him and setting up a succession battle.

In a letter to House Speaker Dennis Hastert and a separate letter to all House Republican colleagues, DeLay for the first time acknowledged that a legal battle in Texas is unlikely to be resolved anytime soon, and said it is time for his party to move ahead without him.

``The job of majority leader and the mandate of the Republican majority are too important to be hamstrung, even for a few months, by personal distractions," DeLay wrote in his letter to Hastert.

DeLay, a Texas Republican, said he will seek re-election and return to a seat on the House Appropriations Committee. DeLay said he will continue to work to clear his name ``of the baseless charges leveled against me."

``I will continue to serve my constituents," DeLay said in comments this afternoon to reporters and about 60 supporters in his district at Sugar Land City Hall in Sugar Land, Texas, about 20 miles southwest of Houston. ``I plan to run a very vigorous campaign. I plan to win it."

Hastert said in a statement that House Republicans will hold elections the week of Jan. 31, when the House returns to work for 2006.

``It is an honorable decision and the right decision for the House Republican Conference," Hastert said of DeLay's decision.

Federal Investigation

DeLay faces money-laundering charges in Texas, and a guilty plea Jan. 3 by Republican lobbyist Jack Abramoff threatens to draw DeLay and other lawmakers into a federal corruption probe. DeLay was forced under House Republican caucus rules to step aside as majority leader in late September after his indictment by a Texas grand jury, and House Majority Whip Roy Blunt has been holding both roles temporarily.

Blunt has indicated that he would like to run in leadership elections to replace DeLay. Both Blunt and another candidate, House Education and Workforce Committee Chairman John Boehner of Ohio, put out statements praising DeLay, a Republican leader since 1992 and majority leader for three years.

``My belief is that Tom will eventually be cleared and exonerated, and my hope is that our conference will one day again benefit from Tom's rare commitment to the principles of smaller government and freedom for which all Republicans fight," Boehner said in an e-mailed statement.

Midterm Elections

Republicans, who control the White House and both houses of Congress, face midterm elections in November. All 435 seats in the U.S. House of Representatives are up for grabs and a third of the U.S. Senate. Democrats are angling to use DeLay's legal troubles and ethics questions involving other Republicans as an issue in this year's elections.

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House Democratic Leader Nancy Pelosi said DeLay's decision shouldn't resolve concerns of those who question whether the Republican party is ensnared in a ``culture of corruption."

``For years, at the expense of the American people, the House Republicans have enabled and benefited from the Republican culture of corruption engineered by Tom DeLay," Pelosi said. ``The culture of corruption is so pervasive in the Republican conference that a single person stepping down is not nearly enough to clean up the Republican Congress."

New Poll

A new poll released today by AP-Ipsos suggests Democrats may have an opening. The Jan. 3-5 poll of 1,001 adults found that 49 preferred to see Democrats control Congress, while 36 percent want to see Republicans stay in charge. The poll had a margin of error of plus or minus 3 percentage points.

DeLay made his decision a day after two House Republicans -- Charles Bass of New Hampshire and Jeff Flake of Arizona -- began circulating a petition among House Republicans needed to start the election process.

DeLay had requested a speedy trial in Texas in an effort to resolve that case, which stems from allegations of illegal fundraising to help elect more Republicans to the Texas statehouse in 2002. Still, he faces a second potential problem after Abramoff pleaded guilty this week to tax evasion, wire fraud and conspiring to corrupt public officials in cases in Washington and Miami.

Golfing Trip

Abramoff is cooperating as prosecutors investigate possible corruption of members of Congress, their aides and former staffers. While DeLay has not been directly implicated, he went on a golfing trip to the U.K. with the lobbyist in 2000. In October, investigators questioned the staff of former British Prime Minister Margaret Thatcher over a visit DeLay made to her office while on the U.K. trip.

DeLay's former deputy chief of staff, Tony Rudy, has been identified by people close to the investigation as one of the subjects of the probe. DeLay's attorney, Robert Cullen, insists that his client has little to fear in the Justice Department's corruption probe.

Once employed as a pest exterminator, DeLay entered Congress two decades ago after six years in the Texas statehouse. He is the only remaining House leader who served with former Speaker Newt Gingrich after Republicans retook the House in 1994. He initially served as the party's vote-counting ``whip," and his arm-twisting skills earned him the nickname ``The Hammer."

Top Fundraiser

DeLay has been one of the top fundraisers for his party, and consolidated his party's power by demanding that corporations and trade associations hire more Republicans as lobbyists. The tide began to turn against him after his efforts to help Republicans control the statehouse in Texas to redraw congressional district boundaries to favor Republicans. While Republicans picked up five additional U.S. House seats in that state in 2004 as a result of his effort, it triggered charges related to allegedly illegal use of corporate donations to elect statehouse candidates.

DeLay's re-election to his Houston-area district isn't assured. He won his 2004 re-election with 55 percent of the vote. He faces three Republican primary challengers and a general election against former Democratic Representative Nick Lampson. Lampson is one of the Democrats who lost his seat after the DeLay-directed redistricting, and the campaign is becoming a national cause for Democratic donors.

Chris Bell, a former Democratic Congressman who filed one of the original ethics complaints against DeLay and lost his seat after the Texas districts were redrawn, said in a telephone interview that ``today's announcement represents a victory for ethics reform."

``While Tom DeLay was in power there was no way ethics reform would have been possible," said Bell, who is a candidate for governor in the Texas Democratic primary in March. ``You can't put partisanship above everything else."

Reaction To DeLay Announcement (AP-Y2)

By The Associated Press

AP, January 8, 2006

Reaction to Rep. Tom DeLay's announcement Saturday that he will abandon his bid to reclaim his post as majority leader:

"We respect Congressman DeLay's decision to put the interests of the American people, the House of Representatives and the Republican Party first." — White House spokeswoman Erin Healy.

"It is an honorable decision and the right decision for the House Republican Conference ... We expect that Tom will continue to help House Republicans succeed with our agenda as we move forward this year." — House Speaker Dennis Hastert, R-Ill.

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"For years, at the expense of the American people, the House Republicans have enabled and benefited from the Republican culture of corruption engineered by Tom DeLay. The culture of corruption is so pervasive in the Republican conference that a single person stepping down is not nearly enough to clean up the Republican Congress." — House Democratic leader Nancy Pelosi of California.

"My belief is that Tom will eventually be cleared and exonerated, and my hope is that our conference will one day again benefit from Tom's rare commitment to the principles of smaller government and freedom for which all Republicans fight." — Rep. John Boehner, R-Ohio, who is considered likely to seek the job of majority leader.

"Tom DeLay bears much of the responsibility for the culture of corruption Republicans have created in Washington, D.C., but his removal from House leadership alone will not end the pervasive cronyism and corruption that he and Washington Republicans created." — Senate Democratic leader Harry Reid of Nevada.

"My good friend Tom DeLay has made a very difficult decision. ... It is my firm belief that he will beat these baseless charges and will continue to be a strong, effective and committed leader in our efforts to protect our country, limit the scope of government, and win the battle of ideas. ... I know Tom's legacy as one of the most effective Republican leaders in history is assured." — Rep. Roy Blunt, R-Mo, the GOP whip who temporarily has filled in for DeLay and is likely to run for the job.

"I look forward to the democratic process of choosing a new majority leader who will ensure that integrity, honesty, and ethical accountability are central tenants of government operations in Washington." — Rep. Charlie Bass, R-N.H., one of the leaders of the effort to have a new election for majority leader.

"We don't just need new leaders, we need a course correction. This is deeper than just who stands at the head of the party. We have created a system here ... that just breeds corruption. ... We just cannot continue with this trend." — Rep. Jeff Flake, R-Ariz., who worked with Bass on pressing for a new election.

"I applaud his decision. It's a good decision. When we return in January, I look forward to a newly elected leadership team." — Rep. Shelley Moore Capito, R-W.Va.

"Tom really has been an effective leader, but he's always been very controversial. It's a decision he feels that is in the best interest of the conference." — Rep. Paul Gillmor, R-Ohio.

"I think it was inevitable. The momentum in the House Republican conference was moving that way. It was presenting problems in moving the agenda forward." — Rep. Pat Tiberi, R-Ohio.

"Cleaning up the pervasive culture of corruption in Washington requires more than shuffling the Republican leadership. It requires cleaning the House. As long as DeLay 'wanna-be's' are in control, America will suffer from their arrogance." — Rep. Lloyd Doggett, D-Texas

"Today's decision, although difficult, continues Tom DeLay's commitment to put his nation, his constituents, his colleagues and his party first." — RNC Chairman Ken Mehlman.

"Tom DeLay is doing the right thing by permanently stepping down. It's time for a more mainstream leader that reflects the views and ethics of the American people and will make restoring Americans' faith in government their top priority." — Rep. Christopher Shays, R-Conn.

Analysis: GOP Woes Don't End With DeLay (AP-Y2)

By Jennifer Loven

AP, January 8, 2006

Republicans worried about their party's future have succeeded in pushing embattled former Majority Leader Tom DeLay off the stage. Even so, the Republicans' election-year troubles are far from over.

Need a reminder?

President Bush, the titular head of the GOP, is waging an unpopular war in Iraq and presiding over a nation with lingering economic anxieties. He suffers from approval ratings around 40 percent — near record lows for his presidency. Questionable stock transactions by the top Republican in the Senate, Majority Leader Bill Frist of Tennessee, are under investigation. A special prosecutor's probe continues into whether Bush administration officials outed a CIA operative in retribution for her husband's Iraq war criticism. A secret anti-terror program that Bush approved to eavesdrop on people inside the United States without warrants is raising concerns about overly broad presidential powers.

Potentially most damaging is an influence-peddling scandal on Capitol Hill.

Last week's guilty pleas to corruption and tax evasion charges by the central figure in the scandal, disgraced lobbyist Jack Abramoff, are anything but the last chapter. Abramoff is cooperating in a wide-ranging investigation that could ensnare dozens of lawmakers with close ties to the generous and powerful lobbyist, including DeLay and House Administration Committee Chairman Bob Ney, R-Ohio.

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Ross Baker, a political science professor at Rutgers University, called it a "partywide crisis" that the GOP has problems with its leadership in all three areas of the federal government that it controls.

"The removal of DeLay from the leadership doesn't end their problems with scandal and, more broadly, with running the House," said Norm Ornstein with the conservative American Enterprise Institute. "That's their challenge, is to begin to get their policy act together. And they're going to have to do it with just Republicans because Democrats are going to be against them."

Republican domination of Congress is at stake in the November elections. Indeed, a new Associated Press-Ipsos poll found that 49 percent of those surveyed said they would prefer to see Democrats take control of Congress, compared with 36 percent who want a continued Republican majority.

With that in mind, Saturday's decision by DeLay to abandon his bid to resume his No. 2 post in the House was welcomed by Republicans.

The man Democrats love to hate is battling campaign finance charges in Texas that had forced him to step aside as majority leader. Maintaining his innocence, he had said he intended to take his leadership position back once cleared of the charges. DeLay changed his tune under pressure from fellow Republicans that only grew as the Abramoff case mushroomed.

At the White House, where aides had insisted for weeks that the famously effective DeLay retained the president's support, there was a sharp pivot. "We respect Congressman DeLay's decision to put the interests of the American people, the House of Representatives and the Republican Party first," Bush spokeswoman Erin Healy said.

Democrats have made clear they plan to make GOP corruption a centerpiece campaign theme. They pounced.

"Tom DeLay bears much of the responsibility for the culture of corruption Republicans have created in Washington, D.C., but his removal from House leadership alone will not end the pervasive cronyism and corruption that he and Washington Republicans created," said Senate Democratic Leader Harry Reid of Nevada.

The anti-corruption tact gives Democrats the opportunity to overcome bad fractures within their party as well as their lack of a cohesive message. An AP-Ipsos poll last month showed that 88 percent of Americans say that corruption reaching into all levels of government is a serious problem.

Bush had hoped to rescue both his and his party's political fortunes by turning a new page in 2006 and focusing on immigration reform, good economic news and turning around public opinion on Iraq.

But I. Lewis "Scooter" Libby, former chief of staff to Vice President Dick Cheney, is expected to stand trial in the CIA leak case this summer, just ahead of the midterm elections. The special prosecutor's inquiry continues, leaving the fate of other senior White House officials, notably Bush's deputy chief of staff and political guru Karl Rove, in doubt.

And the election for a new House majority leader will serve as a reminder of the GOP's troubles right when Bush is unveiling his election-year agenda. The House reconvenes the week of Jan. 30, with the election likely to be held right away. Bush's annual State of the Union address is tentatively scheduled for that week.

Missouri Rep. Roy Blunt, the GOP whip who temporarily has filled in for DeLay and is expected to run to permanently take his place, also could suffer from his association with Abramoff. He was among many lawmakers who refunded or gave to charity some or all of the donations they received from Abramoff, his associates or clients.

Though House Speaker Dennis Hastert's position seems secure, some are calling for a wider leadership shake up that would be messy and distracting. "The conference needs the ability to reassess the leadership team as a whole," said Rep. Melissa Hart, R-Pa.

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EDITOR'S NOTE: Jennifer Loven has reported from Washington for nine years. Associated Press writer Douglass K. Daniel contributed to this analysis.

Tenacious Tom DeLay Has Had Wild Ride (AP-Y2)

By Donna Cassata And Laurie Kellman

AP, January 8, 2006

Ever disciplined, Tom DeLay even stage-managed one of the lowest moments of his life.

Summoned to a Texas court last fall, DeLay was fingerprinted and photographed like a common criminal. But what a mug shot.

Immaculately groomed in jacket and tie, DeLay grinned from ear to ear, looking more like he had just won the lottery, rather than someone who was facing charges of money laundering.

That was the point: control the message and your enemies can't use it against you.

Democrats gleefully have sought to make the Texas Republican the poster boy for bad Republican behavior. They sorely will miss DeLay's departure from the national stage.

DeLay often operated close to the ethical edge in his ascension to the powerful job of House majority leader.

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Relying on political prowess, arm-twisting and devotion to his GOP majority, DeLay tightened the Republican grip on the House in his seven years as Republican whip, the party's No. 3 leadership post. And he delivered for President Bush. The fellow Texans were political partners, but never were close.

DeLay first harnessed his acrimony for government regulations in the late 1970s and rode it into the Texas House and Congress. During his stint in the Texas Legislature, he was known as "Hot Tub Tom" for his partying ways.

Now he is a born-again Christian whose skill as a tenacious political strategist has allowed him to outmaneuver Democrats, pack Congress with more Republicans and push through some major pieces of Bush's legislative agenda.

When he rose to majority leader in 2003, DeLay sought to soften his image. He dumped his "wet look" hairstyle, filled a gap in his teeth and opened up more with the media.

Called "the Hammer" for his hard-nosed approach — his Capitol office has two leather bullwhips — the 58-year-old former pest exterminator has ensured House passage of much of Bush's legislative agenda, including tax cuts, trade agreements and a Medicare prescription drug plan.

His brass-knuckle tactics drew the ire of Democrats, Washington lobbyists and good-government types.

The House ethics committee admonished DeLay on three separate occasions in 2004. In addition to the Texas charges, a federal investigation is pursuing DeLay's ties to disgraced lobbyist Jack Abramoff.

DeLay has denied any wrongdoing, telling fellow House Republicans in a letter Saturday, "During my time in Congress, I have always acted in an ethical manner within the rules of our body and the laws of our land. I am fully confident time will bear this out."

In an April letter to supporters, DeLay borrowed a phrase coined by a long-ago besieged President Clinton, arguing his opponents' only agenda "is the politics of personal destruction." To which DeLay added, "and the criminalization of politics."

DeLay has come through for Bush even though DeLay once assailed the first President Bush for breaking his pledge not to increase taxes in 1990, and took heat from George W. Bush in the 2000 campaign for House efforts to disperse earned income tax payments to low-income families monthly instead of in one lump sum.

If DeLay has to hold a 15-minute vote open for the better part of an hour to twist arms, he will do it, as he did in securing House approval of Bush's Central American Free Trade Agreement in July by a razor-thin margin of two votes.

Lobbyists do not escape his version of hardball politics.

DeLay complained to the Electronic Industries Alliance over its hiring of former Democratic Rep. Dave McCurdy of Oklahoma as its president. DeLay subsequently was rebuked by the ethics committee for badgering a lobbying organization.

To win passage of the Medicare prescription drug bill, DeLay promised a lawmaker that if he would vote for the measure, DeLay would back a run for Congress by the lawmaker's son. The lawmaker refused, but DeLay was admonished again by the ethics committee for making the offer.

"His devotion to the cause has led him to push the envelope as hard as possible and not hold back," said Gary C. Jacobson, a professor of political science at the University of California at San Diego.

DeLay has worked tirelessly to increase the Republican majority in the House since the GOP swept out the Democrats in 1994. He has raised tens of millions for Republican candidates and used his own leadership political action committee to shower cash on GOP hopefuls.

In 2002, he helped buck the historic trend of midterm congressional election losses for the party controlling the White House; instead Republicans gained in the House.

He strong-armed a redistricting plan for Texas that led to the defeat of five Democrats in the state in 2004. The ethics panel rebuked DeLay for using the Federal Aviation Administration in the search for Texas Democratic lawmakers trying to avoid a vote on the redistricting proposal.

DeLay was unabashed. "I'm the majority leader and we want more seats," he said.

Elected to the House in 1984 from the Houston suburbs, DeLay chafed under Democratic rule for a decade before the GOP seized control. Then, in 1998, he led the charge in impeaching Clinton over the sex scandal involving a White House intern.

He might have been House speaker in 1998 after Rep. Newt Gingrich, R-Ga., stepped down and Rep. Bob Livingston, R-La., stunningly bowed out, but DeLay acknowledged that he was "too nuclear" to take the top job. He instead ensured that his deputy, Rep. Dennis Hastert, R-Ill., became speaker.

A fierce conservative, DeLay energized the Republican base last year when he pushed for Congress to intervene in the case of a brain-damaged Florida woman, Terri Schiavo, in a direct challenge to a Florida court's authority. For the most part, the general public questioned the congressional action and the GOP took a hit in opinion polls.

DeLay has raised one daughter and three foster children with his wife, Christine.

DeLay Ends His Drive To Regain Post (LAT)

By Mary Curtius And Richard Simon

The Los Angeles Times, January 8, 2006

WASHINGTON — Former House Majority Leader Tom DeLay, indicted in Texas last fall and under scrutiny in a blossoming political scandal on Capitol Hill, abandoned on Saturday his effort to regain his leadership post.

His decision touched off a race to succeed him in a Republican Party beset by ethics problems. And it followed days of political turmoil and soul-searching within the GOP, sparked by Tuesday's guilty pleas to corruption-related charges by lobbyist Jack Abramoff, once a close DeLay associate.

In a letter released Saturday, DeLay said he agreed with growing calls among Republicans for a new, permanent majority leader to be chosen soon.

"The job of majority leader is too important to be hamstrung by personal distractions," a tired-looking DeLay said later in the day during a public appearance in his hometown of Sugar Land, Texas.

He also pledged to stay in Congress and run a "vigorous" campaign for reelection in November for the Houston-area seat he has held since 1984.

DeLay, for years widely viewed as Congress' most influential Republican, stepped down as majority leader after he was charged in September with violating campaign finance laws in Texas. Insisting he expected to be found not guilty early this year, DeLay said he would then seek to reclaim the post.

House Republicans — many of whom agreed with DeLay's assertion that the Texas charges were politically motivated — had been willing to give him time to resolve that case. Instead of naming a permanent successor in September, they appointed Rep. Roy Blunt of Missouri to be temporary majority leader.

One reason the party so supported him was his work over the last decade to increase campaign contributions to Republican coffers. Key to that was the "K Street Project," an initiative through which Washington's lobbying community was persuaded to increase their donations to the GOP.

Another reason was his ability to deliver unified votes for the party's legislative agenda — he has long has been known in Washington as "The Hammer," a testament to his brass-knuckles political style.

But the Abramoff guilty pleas transformed DeLay-related political calculations. By the end of last week, pressure within GOP ranks was growing for him to relinquish any claim on the majority leader post.

Among the crimes Abramoff acknowledged were bilking Indian tribal clients out of tens of millions of dollars and attempting to influence congressional lawmakers with lavish trips, gifts and campaign contributions. He is cooperating with federal investigators who are examining his ties to DeLay, other lawmakers, and current and former congressional staff members.

As a result, many House Republicans up for reelection this year began worrying about the political fallout of keeping alive DeLay's leadership hopes.

"You know how people talk about the captain being willing to go down with the ship?" said one Republican lawmaker, speaking on condition of anonymity because the issue is politically sensitive.

"Well, in this case, it would have been the ship going down with the captain."

Among those pressuring DeLay to support the selection of a new majority leader was House Speaker J. Dennis Hastert (R-Ill.), DeLay's longtime political ally.

According to a lawmaker close to the speaker, Hastert dispatched emissaries to Sugar Land — where DeLay, 58, was hunkered down with family members and his closest advisors — to urge him to give up for the good of the party. The lawmaker spoke on condition of anonymity when discussing Hastert's role in the matter.

Ron Bonjean, Hastert's spokesman, said DeLay phoned the speaker Saturday morning to tell him of his decision.

Hastert, in a statement, said DeLay's decision was "honorable … and the right decision for the House Republican Conference."

A White House statement expressed "respect" for DeLay's decision "to put the interests of the American people, the House of Representatives and the Republican Party first."

Hastert canceled plans to lead a congressional delegation to Asia and the Egypt starting Monday. The vote on a new majority leader is to be held the first week of February.

Several Republicans said Saturday that Hastert's position as speaker remains secure but that other leadership jobs could be contested as part of the battle for majority leader.

The campaign for that post was in full swing by Saturday afternoon. Senior staff members for several lawmakers opened their Capitol Hill offices and the political horse-trading commenced.

At least one GOP congressman received a call from Rep. John Boehner (R-Ohio) seeking support to become majority leader. Boehner (pronounced BAY-ner), 56, chairman of the House Committee on Education and the Workforce, helped win

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passage of President Bush's No Child Left Behind Act. Before being elected to Congress in 1990, he ran a plastics and packing company.

He was elected House Republican Conference chairman, the chamber's No. 4 GOP spot, in 1994. An ally of ex-Speaker Newt Gingrich (R-Ga.), he lost the conference post in 1998 to a DeLay-backed candidate.

Blunt, 55, the acting majority leader, is expected to seek the job on a permanent basis.

First elected to Congress in 1996, the low-key Blunt is less combative than DeLay. It was with DeLay's support in late 2002 that he won the No. 3 House post, majority whip — the person responsible for corralling the votes to promote the party's agenda. Blunt is a former Missouri secretary of state who was for four years president of his alma mater Southwest Baptist University in Bolivar, Mo.

Others who are considered possible contenders include Rep. Thomas M. Reynolds (R-N.Y.), chairman of the National Republican Congressional Committee.

"This is a workday," said a delighted Rep. Charles Bass (R-N.H.). "I'm already getting calls from candidates seeking my support, and there are conference calls going on everywhere."

Bass, a moderate, had joined with Rep. Jeff Flake (R-Ariz.), a conservative, in circulating a letter Friday seeking an election for a permanent majority leader.

He and Flake normally are at far ends of the political spectrum, Bass noted, but they agreed that the party needed to take bold action to rid itself of the taint of scandal.

"I just didn't want to be any part of a caucus that was supporting, in any way, the kind of behavior that is alleged to have occurred between Jack Abramoff and perhaps a number of members of Congress," Bass said.

Bass and other Republicans said they would question candidates for the majority post closely about ethics concerns.

"The criteria for me and the litmus test for me is going to be [that] we have to elect leaders who are not tainted by the Abramoff scandal," said Rep. Ray LaHood (R-Ill.), who is close to Hastert. "The last thing we need is to elect new leaders and then a few months down the road have them under investigation for being involved with Jack Abramoff."

Amid such comments, Hastert was expected to announce as early as today proposals to tighten the rules governing lobbying of Congress.

Democrats are gearing up for a major challenge to DeLay in November's election. He won reelection in 2004 with 55% of the vote — a relatively poor showing for a longtime incumbent — and Democrats are prepared to pour money into this year's race.

"He's losing Republican support here in the district, and he's apparently lost it in Washington, D.C., as well," said Mike Malaise, campaign manager for Democrat Nick Lampson, a former congressman who is DeLay's likely opponent.

DeLay, the former owner of a pest extermination business, served as House majority whip for seven years and became majority leader in 2002. DeLay forged a highly disciplined coalition that focused on cutting taxes and promoting causes dear to the party's social conservative base.

Although they were not personally close, Delay and President Bush forged an effective political partnership, with DeLay playing a key role in pushing through much of the administration's first-term legislative agenda.

But DeLay's hard-charging tactics sometimes brought him close to — or over — the ethical line. In 2004, he was rebuked three times by the House Ethics Committee for ethics lapses. Then, in 2005, a series of stories in the Washington Post and other newspapers detailed DeLay's ties to Abramoff, a flamboyant lobbyist who boasted of his ties to the Republican leadership.

It was disclosed that Delay had taken a trip to an expensive Scottish golf resort with Abramoff that was funded by the lobbyist's tribal clients, in violation of House ethics rules. DeLay said he thought the trip was financed by a conservative think tank, and he denied any wrongdoing.

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Times staff writer Janet Hook contributed to this report.

Ethics Issues Snared GOP's Champion (WP)

By R. Jeffrey Smith And Juliet Eilperin

The Washington Post, January 8, 2006

Standing before a crowd of applauding House Republicans in the Capitol Hill Club last March, then-Majority Leader Tom DeLay (Tex.) inscribed $1.8 million on a giant check and signed his name at the bottom with the flourish of a game show host. The tally, representing funds to be given to the campaigns of 10 Republican lawmakers, was yet another cache collected by one of the premier money machines ever to function on Capitol Hill.

It worked simply. On one side of the machine, a hose vacuumed the pockets of large corporations, wealthy individuals and legions of lobbyists on K Street, all instructed by DeLay to contribute only to Republicans. Out the other side, at some later date,

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came legislation of interest to many of the donors. Inside the machine, twisting its knobs and pulling its levers, was DeLay -- who was unabashed about his pay-to-play philosophy and relentless in enforcing his political rules.

DeLay's tenure in the congressional leadership, which came to a decisive end with his announcement yesterday that he would not try to regain the leadership post, was marked by an extraordinary record of political accomplishment. From Dec. 6, 1994, until last year, the former pest exterminator from a Houston suburb was the go-to guy in the House for legislative favors, perks, committee chairmanships and election cash.

"Tom DeLay and I have had our differences over the years, but he is one of the most effective and gifted leaders the Republican Party has ever known," said Rep. John A. Boehner (Ohio), who served in the leadership just below DeLay when the GOP, for the first time in recent years, won a majority in the House. He is likely to run for DeLay's now vacated slot as majority leader.

As President Bush noted recently, when DeLay was in the saddle, the administration's priorities were enacted by the House. Under his prodding, that body became in effect a single-party institution, with negligible Democratic influence in any aspect of its operations, from hearings to appropriations.

But DeLay's leadership was undermined over time by a blurring of ethical lines in the handling of money by his aides and advisers, his taste for the lifestyle of the super-rich, and his take-no-prisoners approach to political disputes in a town built on compromise. A lawmaker who cast himself as an icon of moral conservatism, DeLay came increasingly to be regarded as a symbol of special-interest lawmaking. With an election looming in 11 months, his colleagues began to fear the consequences.

Although DeLay was admonished by the House ethics committee as early as 1999 for retaliating against a trade association that hired a Democrat, for the most part his rigidly partisan style was welcomed by Republicans. Not until 2004 did the first major cracks in the DeLay political edifice appear. In three reports, the House Committee on Standards of Official Conduct rebuked him for asking federal aviation officials to intervene in a Texas political spat, for improperly pressuring a fellow Republican to vote for a Medicare drug bill, and for creating the appearance that Westar Energy Inc. received special consideration in exchange for campaign donations.

The committee called on him to "temper your future actions to assure you are in compliance" with House ethics rules. But DeLay blamed the rebukes on malevolent Democrats, and his supporters retaliated by ousting the Republican chairman of the committee and tying up its operations in a prolonged dispute over staffing.

More serious damage was done by an ethics inquiry in DeLay's home state, which led last September to his felony indictment and forced him to step aside temporarily under party rules. At issue was one of DeLay's more brilliant achievements, hailed by his fellow Republicans for solidifying their control of the House -- orchestrating a party takeover in the Texas legislature that led to an extraordinary redrawing of congressional districts and the election of five more Texas Republicans to Congress in 2004.

Charges of DeLay's involvement in money laundering associated with that state Republican victory in 2002 are unproved, and many campaign finance lawyers consider the Texas case to be weak. But DeLay's name has also figured prominently in a second ethics probe -- this one in Washington, under the aegis of a federal task force looking at the links between money and favors associated with lobbyist Jack Abramoff.

Abramoff, whom DeLay once termed "one of my closest and dearest friends," pleaded guilty Tuesday to conspiracy, mail fraud and tax evasion and promised to cooperate with investigators. Michael Scanlon, DeLay's former spokesman, pleaded guilty Nov. 21 to conspiracy to bribe public officials and likewise promised cooperation. Prosecutors are meanwhile looking at actions taken by ex-DeLay aides Tony C. Rudy and Edwin A. Buckham on behalf of Abramoff's clients. No one knows where these inquiries will lead, and uncertainty is always the enemy of political strength.

DeLay, now 58, gained a biology degree at the University of Houston and pursued a political career out of opposition to regulation of the pesticide industry. He first came to Congress in 1985, but it was not until a decade later that Buckham, Rudy, Scanlon, and Abramoff played key roles in DeLay's ascent in the GOP hierarchy, a rise underpinned by the steady infusion of corporate cash into Republican political campaigns.

DeLay was blunt about his emphasis on fundraising from the outset -- he and then-Rep. Richard K. Armey (Tex.) each promised in a leadership meeting before the 1994 election to raise half a million dollars for party hopefuls, and DeLay traveled to dozens of House districts, cementing ties to many challengers who won office that fall.

After the historic 1994 elections, when many like-minded conservatives swept into the House, DeLay capitalized on his fundraising prowess in a successful race for majority whip against Rep. Robert S. Walker (Pa.). Walker, who was Rep. Newt Gingrich's best friend and an expert in parliamentary maneuvering, was initially favored to win the contest -- at a time when Gingrich was poised to win election as speaker. But DeLay had distributed so much money that he overtook Walker, securing the votes of 52 out of the 73 freshmen in the Class of 1994.

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Walker later decried what he considered the excessive influence of fundraising committees such as DeLay's Americans for a Republican Majority Political Action Committee (ARMPAC), which, he said, caused the outcome to be determined by money, not talent. But his colleagues largely shrugged their shoulders. Over the next decade, they accepted nearly $4.5 million in contributions from ARMPAC, which drew its funds heavily from tobacco, energy, railroad and communications interests.

Throughout his tenure in the leadership, DeLay frequently traveled to golf resorts and costly hotels for meetings with lobbyists at ARMPAC's expense; he also preferred traveling on corporate jets instead of commercial airlines. But DeLay was not selfish -- he earned the gratitude of many colleagues by extending the same perquisites to them in exchange for their votes.

According to his former colleagues, DeLay's office functioned at times like a hotel concierge, arranging corporate jets, private cars, fishing trips and other expense-paid travel during congressional breaks, key votes and party conventions, all financed by wealthy donors with interests before Congress.

DeLay's own travel has played a role in his undoing, as investigators have begun delving into the circumstances of trips that DeLay took with Abramoff to Moscow in 1997 and to Scotland and London in 2000. The first trip preceded an unusual million-dollar donation -- which former associates say originated with Russian energy executives -- to a group linked to DeLay; on the second trip, Abramoff and Buckham -- both registered lobbyists -- used their credit cards to pay for some of DeLay's expenses, in apparent conflict with ethics rules. DeLay says he was unaware of the precise financial arrangements for the travel.

Research database editor Derek Willis and researcher Magda Jean-Louis contributed to this report.

Ties To Abramoff Weave Intricate Web (HCHRON)

By MICHAEL HEDGES

Houston Chronicle, January 8, 2006

WASHINGTON - When a top Justice Department official outlined the public corruption allegations against lobbyist Jack Abramoff, she almost seemed to be describing his cozy relationship with Rep. Tom DeLay.

Abramoff provided public officials with overseas trips, campaign contributions and excessive meals "with the intent ... that the public official would act to benefit Abramoff or his clients," Alice Fisher, head of the department's criminal division, said last week.

Partly to clear his name in the Abramoff affair, DeLay gave up on Saturday his quest to be reinstated as House majority leader. But federal prosecutors' outline of the scandal does not fit DeLay in one crucial respect:

So far, there is no known conclusive evidence that DeLay, the Republican from Sugar Land, performed political favors for Abramoff in return.

Establishing a quid pro quo is necessary to prove political bribery.

To make a case against DeLay, who is among the lawmakers said to be under investigation now that the lobbyist is cooperating with federal authorities, prosecutors must first piece together his complicated relationship with Abramoff, which grew on trips to Pacific islands, Russia and a golf course in Scotland.

The men were introduced in 1994 by conservative Rabbi Daniel Lapin, co-chair of the American Alliance of Jews and Christians, which he created with former GOP presidential candidate Gary Bauer.

DeLay, with strong ties to the Christian right, and Abramoff, an Orthodox Jew, apparently hit it off. Within a few years, DeLay would refer to Abramoff as one of his closest friends.

As a prominent lobbyist in Washington, Abramoff had much to gain from ties to lawmakers such as DeLay. Likewise, as prosecutors, records and news accounts show, Abramoff had lots to offer, including a nearly endless stream of money provided by his clients.

In the mid-1990s, Abramoff persuaded Russian oil and gas clients to donate $1 million to a conservative advocacy group called the U.S. Family Network, which was set up by former DeLay chief of staff Edwin Buckham and collected $2.5 million in its five years of operation.

According to the Washington Post, Buckham told the former head of the U.S. Family Network — the organization had a single full-time employee — that the Russians gave the money to influence DeLay's vote on international aid to Russia. DeLay has denied that his vote was influenced improperly.

The U.S. Family Network received a half-million dollars from garment manufacturers in the Northern Mariana Islands with ties to Abramoff and a quarter-million dollars from Indian tribes he represented.

The money was used to buy radio ads attacking Democrats and to purchase a town house on Capitol Hill near DeLay's office that, according to the Post, DeLay associates called the "safe house." DeLay used it for his own campaign fundraising, the newspaper reported.

Trip to Russia

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DeLay's wife, Christine, worked for three years for a lobbying firm run by Buckham, receiving a monthly salary of $3,200, a total of $115,200.

The firm, the Alexander Strategy Group, received hundreds of thousands of dollars in fees from the U.S. Family Network, money almost entirely derived from Abramoff clients.

Christine DeLay compiled a list of favorite charities of members of Congress, according to DeLay's attorney.

DeLay maintained contacts with Russian executives connected to the energy firm NaftaSib, who were paying Abramoff huge sums to promote their interests in Washington.

In August 1997, DeLay took a trip to Russia that, according to his financial disclosure statements, was underwritten by the National Center for Public Policy Research. Abramoff was an officer on the center's board, and during the trip DeLay met with the Russians who were paying large fees to Abramoff.

Although the president of the policy center said the group funded the trip, she conceded that an international law firm working to promote the interests of Abramoff's Russian clients covered its costs with a payment of about $165,000.

The Russian businessmen were eager to assure that their country's economy was supported by International Monetary Fund loans made from funds contributed by the United States. In 1998, DeLay voted for a foreign aid bill that included funds to replenish the IMF. DeLay has said that vote was based on his determination of what was best for his constituents.

Toasting Abramoff

Four months after the Russian trip, DeLay, accompanied by his wife and three aides, visited Saipan, in the Northern Marianas. There DeLay made the widely quoted toast to Abramoff as "one of my closest and dearest friends." The visit was funded by the U.S. territory's government and a trade group representing clothing manufacturers.

The Marianas government had paid Abramoff millions of dollars to lobby Congress in a successful fight to preserve the islands' exemption from U.S. minimum-wage and immigration laws while still being able to claim that clothes produced there were "made in the U.S.A."

DeLay sided with the Marianas government's position — a vote that a spokesman said was consistent with his long-held views on trade.

About two years later, DeLay and Abramoff went to the British Isles. The travel party included DeLay's wife, his chief of staff Susan Hirschmann and her husband, and DeLay aide Tony Rudy.

The weeklong tour included a meeting in London with former British Prime Minister Margaret Thatcher, but it was largely recreational, with a four-day golfing trip to Scotland, where DeLay played at the famed St. Andrews course.

The trip also provided Abramoff's Russian client, NaftaSib general manager Alex Koulakovsky, a chance to spend time with DeLay.

The lavish tour cost about $70,000 for the officials, according to House documents. Among the expenses: a suite at the Four Seasons in London for the DeLays (total cost $4,285), along with thousands of dollars' worth of meals and golf fees.

Again, the National Center for Public Policy Research picked up the tab. Indian tribes who were Abramoff clients because of their interest in gambling legislation donated $50,000 to the NCPPR on the day the trip commenced.

Investigators are looking into whether that was a veiled effort to influence DeLay on Indian gaming bills. DeLay has said he thought the trip was an appropriate fact-finding mission funded by a legal nonprofit group.

Looking at staff members

A DeLay-Abramoff tie that has investigators' attention involves Rudy, the former DeLay deputy chief of staff.

Rudy is reportedly working with federal investigators probing Abramoff's web of corruption.

In court documents, Rudy is described as "Staffer A," who helped Abramoff stop legislation on Internet gambling and postal rate increases that would have hurt Abramoff clients. Rudy at the time was working on DeLay's staff.

In return, Abramoff funneled $50,000 to Rudy's wife, court documents said. The money was "obtained from [Abramoff's] clients who would and did benefit from Staffer A's official actions," prosecutors said. Rudy left Congress in 2000 to work directly for Abramoff.

DeLay attorney Richard Cullen denies wrongdoing by the Sugar Land Republican and said the lawmaker had no knowledge of Rudy's activities on behalf of Abramoff's clients.

Bill Mateja, a former senior Justice Department lawyer involved in corporate fraud cases in Washington and now in private practice in Dallas, said staffers such as Rudy would be of keen interest to prosecutors.

Pleading guilty

"They are the one who makes things run. And clearly [prosecutors] will want to know whether they were ordered by members of Congress to kill these bills," Mateja said. "You would certainly think the member would know. It would be unusual for a staff member to work to kill a bill without the member ordering that."

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Abramoff's lobbying for Indian tribes led to his convictions on the fraud and conspiracy charges. Michael Scanlon, a former DeLay spokesman and later an Abramoff business partner, also has pleaded guilty to fraud charges connected to the bilking of the tribes.

The two men played a con game on the tribes, with Abramoff claiming to work for free while steering them to Scanlon for public relations work. The men then secretly split fees of at least $80 million.

Investigators are looking into why four Indian tribes were willing to pay so much to Abramoff and Scanlon to win gambling rights. In testimony before congressional committees and e-mail released by Congress, Abramoff said he told the tribes they were buying the influence of important congressional leaders, including DeLay.

Contributing to DeLay

Bernie Sprague, of the Saginaw Chippewa tribe, testified that he had told federal investigators that Abramoff instructed him to make large contributions to a charity controlled by Abramoff as a way to "impress Tom DeLay."

To buttress his ties to DeLay, Abramoff frequently contributed to the former majority leader's projects, giving about $60,000 to political committees controlled by DeLay since 2000. Abramoff clients also donated a total of $22,500 to a DeLay foundation set up to help abused children.

Some donations went to Texans for a Republican Majority, the political action committee whose spending on Texas legislative races led to indictments against DeLay. He was forced to step aside as majority leader when a grand jury lodged the charges in September.

Was money buying favors?

Now prosecutors in Washington have to determine whether the donations by Abramoff and his clients were part of a con job by Abramoff to secure big fees or whether the lobbyist used the money in an effort to buy favors.

"To charge a public official requires a certain level of intent and knowledge by the public official" that they are being bribed, said Noel Hillman, head of the Justice Department's public corruption section. Hillman described an official's "mental state" as being crucial to the decision by prosecutors to bring criminal charges.

Cullen said DeLay has made a formal offer to cooperate with investigators. So far, they have not approached DeLay for any records or asked him any questions, Cullen said. That is in contrast with Rep. Bob Ney, R-Ohio, who has been described in court proceedings in a way that makes it clear he is a target of the investigation.

For prosecutors in the bewilderingly complex investigation, one of the legal hurdles is proving a crime occurred in the time frame when it can be prosecuted. A statute of limitations of five years for most white-collar fraud offenses limits liability to actions after early 2001. The only exception would be if prosecutors can show an ongoing conspiracy.

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Officials Focus On A 2nd Firm Tied To DeLay (NYT)

By Anne E. Kornblut And Glen Justice

The New York Times, January 8, 2006

WASHINGTON, Jan. 7 - Having secured a guilty plea from the lobbyist Jack Abramoff, prosecutors are entering a new phase of the corruption investigation in Washington and are focusing on a lobbying firm that has even closer ties to Tom DeLay, the former House majority leader who is under scrutiny in the scandal.

The firm, Alexander Strategy Group, is of particular interest to investigators because it was founded by Edwin A. Buckham, a close friend of Mr. DeLay's and his former chief of staff, and has been a lucrative landing spot for several former members of the DeLay staff, people who are directly involved in the case have said.

Although the firm's name has circulated in connection with the case for many months, prosecutors' questions about Mr. Buckham and Alexander Strategy - which did not respond to requests for comment - have intensified recently, participants in the case said.

The firm openly promoted the idea that it could deliver access to Mr. DeLay, who has denied any wrongdoing but abruptly announced Saturday that he would not try to regain his leadership post. Now the very connections with Mr. DeLay that formed the backbone of Alexander Strategy, put together with Mr. Abramoff's help, have put the future of the firm in doubt.

While doing business with lobbyists is routine for most lawmakers, investigators are looking at the extent to which Mr. DeLay and other lawmakers may have accepted trips, campaign donations and other favors from Alexander Strategy, and in turn tried to help the business.

Still, prosecutors may have a difficult time reaching the high legal threshold required in a bribery case, in which it must be established that lawmakers performed official acts in exchange for specific favors, rather than as a result of an ongoing relationship with an outside lobbyist.

It is unclear whether any single action by the firm has caught investigators' attention so much as its overall pattern of activity.

Details of the ties between Alexander Strategy, Mr. DeLay and Mr. Abramoff - who pleaded guilty last week in federal court and is cooperating with investigators - have already begun to trickle out. Alexander Strategy paid Mr. DeLay's wife $115,000 in consulting fees while conducting business with Mr. Abramoff's firm. Mr. Abramoff also referred clients to Mr. Buckham.

Mr. Buckham and the firm also shared clients - among them an entity in Malaysia and the Choctaw Indian tribe in Mississippi - with Mr. Abramoff, who in his plea agreement admitted to using corrupting tactics with lawmakers on behalf of his clients. Mr. Abramoff also admitted to having defrauded his Indian clients of millions of dollars. At one point, Mr. Buckham even sought to hire Mr. Abramoff himself, participants in the case said.

Mr. Buckham and at least one member of his firm worked with domestic and overseas clients who prosecutors suspect helped funnel money and perks to Mr. DeLay, his fund-raising operations and other lawmakers in ways intended to curry favor with the Republican leadership.

And at one time, Americans for a Republican Majority, or Armpac, the leadership committee that raised money for Mr. DeLay, was run out of the offices of Alexander Strategy.

But the firm's web of contacts on Capitol Hill reaches past Mr. DeLay, making Alexander Strategy a potentially useful resource as investigators examine other lawmakers.

The firm's name surfaced at the periphery of the corruption investigation into Representative Randy Cunningham, Republican of California. Mr. Cunningham resigned after pleading guilty to accepting bribes from a defense contractor that did business with Alexander Strategy.

For years, Alexander Strategy was one of the crown jewels of the so-called K Street project, an effort Republicans began after taking control of Congress in 1994 to dominate the lobbying industry. The hope, exemplified by Mr. Buckham's company, was for Republican lobbyists to harness the power of their corporate clients to help keep the party in power for years to come.

The successful history of Alexander Strategy since its founding in the late 1990's offers a window into the nexus of Mr. Abramoff, Mr. DeLay and the lobbying world over the last decade or so of Republican control of Congress.

As Mr. DeLay grew more powerful in Congress, the lobbying firm rose in prominence on K Street, building an impressive roster of clients for such a young company and earning, according to records, about $8.8 million lobbying in 2004. That ranked it in the middle of the pack among Washington's largest lobbying firms, but its client list - including Microsoft, United Parcel Service, Time Warner, Freddie Mac and Eli Lilly & Company - suggests what was, at least at one time, a powerful and well-connected operation.

And Mr. DeLay, so intertwined with the lobbying world that his extensive network of allies and former aides scattered throughout town is nicknamed "DeLay Inc.," responded more quickly to calls from Alexander Strategy than he did for any other firm, former aides of his said.

One element prosecutors are trying to understand is what role Mr. DeLay played in sending business to the company. There is evidence, one participant in the case said, that it was "you hire these guys because Tom DeLay tells you to."

Mr. Buckham also ran the U.S. Family Network, a self-styled grassroots organization tied to Mr. DeLay that, according to The Washington Post, was financed almost entirely by clients and associates of Mr. Abramoff. People involved in the case said they expected investigators to examine whether Mr. DeLay cast a vote in Congress in exchange for donations to the network.

Another critical component of the investigation is the activities of Tony C. Rudy, a former DeLay deputy chief of staff who went to work with Mr. Abramoff as a lobbyist before joining Mr. Buckham at Alexander Strategy, where he still works. Mr. Rudy is mentioned - named only as "Staffer A" - in Mr. Abramoff's plea agreement, and investigators are looking into whether he helped secure legislative favors for Mr. Abramoff's clients in exchange for gifts and the promise of a future job while he was still on the DeLay staff.

Mr. Buckham and others from the firm have not responded to inquiries, and Mr. DeLay, through his spokesman, has said he is innocent of wrongdoing. Although investigators are looking at as many as a dozen lawmakers in the inquiry, they have not brought charges against them.

Richard Cullen, a lawyer for Mr. DeLay, pointed out that Mr. Rudy had not been named outright in any court documents.

"But if it turns out to be Mr. Rudy," Mr. Cullen said, "and if what Mr. Rudy did turns out to have been in any way improper, Tom DeLay is going to be very sad and very disappointed. Because he will feel betrayed, and he expects much, much more from his staff than activities like that."

As a result of Mr. Buckham's ties with Mr. DeLay and Mr. Abramoff, investigators are "keenly interested" in him, especially in connection with deals he may have brokered with Mr. DeLay and other lawmakers after going into the private sector, one participant in the case said.

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"He allows the connection to be made to DeLay," another participant said of Mr. Buckham. All participants in the case were granted anonymity in interviews because Justice Department officials do not want people talking about it publicly.

Alexander Strategy's name has also surfaced in the course of a corruption investigation that implicates the defense lobbyist Brent Wilkes, who is an unnamed co-conspirator in the criminal case against former Representative Cunningham. Mr. Cunningham pleaded guilty in December to accepting $2.4 million in bribes from Mr. Wilkes and others. Mr. Wilkes's firm, Group W, also hired Alexander Strategy to do lobbying work, and Mr. DeLay used a plane partly owned by Mr. Wilkes.

The scandals swirling around the Alexander franchise, composed of roughly two dozen lobbyists at its offices on the waterfront in Georgetown, have delighted its former rivals while triggering concerns in the lobbying community that the entire business may be tarred.

Dick Armey, the former Republican House majority leader, who now works for the firm DLA Piper Rudnick Gray Cary and who clashed with Mr. DeLay in the House, invoked Charles Dickens, likening Mr. DeLay to Fagin and Mr. Buckham to the Artful Dodger in "Oliver Twist."

"Tom DeLay sent Buckham downtown to set up shop and start a branch office on K Street," Mr. Armey said. "The whole idea was, 'What's in it for us?' That's what I thought at the time, and I've seen nothing in the way they've conducted themselves since then to dissuade me from that point of view."

Mr. DeLay and a group of like-minded Republicans have spent years promoting Republicans for top lobbying positions in an attempt to counter decades in which Democrats controlled both Congress and K Street. The effort has caused several dustups over the years.

Mr. DeLay was rebuked by the House ethics committee in 1999 after allegedly badgering a trade association that chose a Democrat as its president, rather than the Republican candidate he favored.

Mr. DeLay's political action committee paid Alexander Strategy more than $300,000 for fund-raising and consulting services from 2000 to 2003, according to the Center for Public Integrity, a nonprofit group that tracks money in politics. In addition to Mr. Rudy, the firm also employed Karl Gallant, who headed Mr. DeLay's political action committee.

The firm has already been dropped by one client, MGM Mirage, the casino and resort giant, which retained it in 2004, paying about $350,000 to help block a maneuver by an Indian tribe in Michigan.

At the end of last year, MGM ended the relationship. Alan Feldman, a spokesman for MGM, said that the project had ended and that the firm's services were no longer needed. But Mr. Feldman acknowledged that the scrutiny surrounding Alexander Strategy was a concern. "It would be dishonest to say that it didn't come up in discussions," he said.

Other lobbyists and participants in the case said it would be difficult for the firm to survive this type of scrutiny with all of its clients and relationships intact.

"It's a double-edged sword, being known as DeLay Inc.," said one Republican lobbyist. "They are on the sharp edge of the sword now."

DeLay's War At Home (TIME)

By HILARY HYLTON

Time, January 8, 2006

As Tom DeLay steps into the shadows of the congressional leadership in Washington, the spotlight on his fight for survival shifts to his legal battle and reelection effort in Texas. Unless the 11-term congressman and former House GOP leader wins an unexpected victory in the state's highest court in the next few weeks, he'll spend the next year facing off against a zealous prosecutor and Republican and Democratic challengers for his House seat.

Even as Washington on Friday awaited DeLay's relinquishment of the majority leader's role, Texas tea leaf readers saw more trouble ahead. A new Republican challenger, already dubbed the "dragonslayer" by one Houston political columnist, launched his campaign for the part's nomination in Delay's hometown of Sugarland. Coincidentally, Delay reportedly signaled his intention to reclaim his seat on the powerful Appropriations Committee, a valued position for a congressman seeking reelection.

Attorney Tom Campbell, a Bob Dole campaign leader and administration appointee and backer of President George H.W. Bush announced he would run as a fiscal and social conservative. Campbell, a Mormon and self-styled environmentalist who voted for DeLay in 2004, has deep party connections and access to heavyweight fundraisers that make him a credible threat to the embattled former Majority Leader. "Tom DeLay's 'win at all cost' brand of politics has cost us far too much to let it continue," Campbell says on his campaign website.

DeLay also faces a Democratic challenge from former congressman Nick Lampson, who lost his seat after his district was redrawn during the 2004 DeLay-inspired redistricting of Texas congressional seats. Although Lampson is unopposed in the Democratic primary, the field is further crowded by the entry of an independent in the form of former GOP Congressman and DeLay supporter Steve Stockman, a far-right conservative defeated after a single term by Lampson. Stockman told the

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conservative Human Events magazine this week that by running as an independent he would attack Lampson "like a pit bull" and criticize Lampson's "ethical lapses....that's something Tom can't do under the present circumstances."

DeLay opponents cite recent polls showing that the former Majority Leader's support in his district has fallen below 50%, but that is exactly where his numbers stood in 2004, in a widely touted poll just days before he won reelection with 55 percent of the vote.

DeLay's attorney, Dick DeGuerin, accuses prosecutor Ronnie Earle, a Democrat, of seeking advantage from national trends by subpoenaing representatives of law firms and Indian tribes connected to lobbyist Jack Abramoff and records from lobbyists connected to disgraced Republican congressman Duke Cunningham — individuals, says DeGuerin, who have no direct ties to the campaign finance charges against his client.

DeGuerin told TIME his client is in fighting spirit."He's very upbeat, he's going about his business." Right now, his best hopes lie an appeal to the state's highest court to throw out the charges or order the trial judge to go forward with a speedy trial, but University of Texas law professor George Dix said that, while DeGuerin's motions are "very good, very interesting, ...with some sophisticated arguments and some really good bull****," intervention by the high court would be very unusual. Word from the court will likely come before the new GOP House leadership vote in late January. If DeLay fails to end the case there, the hope of a trial before the March Texas primary is a long shot, and in a state with no party registration, that primary will be open to disenchanted Republicans and disgruntled Democrats alike.

DeLay Won't Reclaim House Post (HCHRON)

By BENNETT ROTH and SAMANTHA LEVINE

Houston Chronicle, January 8, 2006

WASHINGTON - Entangled in criminal investigations of political activities in Texas and Washington, U.S. Rep. Tom DeLay abandoned claims to his House majority leader's post Saturday, a dramatic reversal for the former pest-control company owner who rose to the height of power in Congress.

DeLay reached the decision Saturday morning after consulting in the past two days with family and advisers, according to a spokesman, then announced his plans in separate letters to House Speaker Dennis Hastert and his GOP colleagues, and to supporters and reporters at Sugar Land City Hall.

"The job of majority leader and the mandate of the Republican majority are too important to be hamstrung, even for a few months, by personal distractions," he wrote Hastert.

DeLay's release of any hold on a House leadership role capped a tumultuous week in which GOP lawmakers increasingly voiced concerns that he has become an election-year liability because of ties to former lobbyist Jack Abramoff. As part of a plea bargain unveiled in federal court Tuesday, Abramoff agreed to testify against members of Congress and their aides in the Washington corruption probe stemming from his representation of Indian tribes and other clients.

In Fort Bend County, DeLay told supporters he will continue to seek re-election this year in his suburban Houston district, where he faces competition in the March party primary and the November general election.

"I plan to run a vigorous campaign, and I plan to win it," DeLay told the crowd.

In the letter to Republican lawmakers, DeLay proclaimed his innocence of any impropriety.

"During my time in Congress, I have always acted in an ethical manner within the rules of our body and the laws of our land. I am fully confident time will bear this out," he said.

He has been scolded multiple times by the House ethics panel, however.

In Houston, civic and business leaders increasingly relied on DeLay to deliver federal funds and political favors for area projects and programs such as those at the Johnson Space Center. However, he tangled with city officials because of his opposition, until recently, to using federal money for Metro's rail projects.

Diminished ability

In a telephone interview with the Houston Chronicle, DeLay said Saturday that his absence from the leadership could diminish his ability to help the region.

"The majority leader controls what comes to the floor, and the Houston-Galveston area has benefited from that. That changes now," he said.

Critics who "never gave me an even shake ought to think about that," he remarked.

He said he would reclaim his seat on the powerful Appropriations Committee, where he first honed the legislative skills that brought him to the pinnacle of the House.

DeLay blamed Travis County prosecutor Ronnie Earle for forcing him to give up his post temporarily, saying the Democrat used legal maneuvers to postpone DeLay's trial on campaign-finance violations.

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"It became quite evident that Ronnie Earle was successful in delaying the process," DeLay said. "The longer I was hanging out there, the more trouble he was causing."

DeLay stepped aside as majority leader in September, in accordance with House rules, after a Travis County grand jury indicted him. Until Saturday, he sought a quick acquittal or dismissal of the charges on the way to reclaiming the top job.

DeLay told the Chronicle on Saturday that in recent days he discussed his situation with GOP leaders, including Hastert, and considered several options, including resigning from Congress.

In the end he decided against quitting Congress because "I still have a lot to contribute to the Houston-Galveston area," he said.

His decision is expected to trigger a fierce succession battle for leadership, with several GOP lawmakers expected to challenge Rep. Roy Blunt, the Missouri Republican who replaced DeLay on a temporary basis.

Rep. John Boehner, R-Ohio, chairman of the House Education Committee, is expected to announce his candidacy for majority leader today. DeLay said he won't endorse anyone as a successor.

House Republican leaders, who as recently as last month refused to consider replacing DeLay permanently, praised his decision to step down.

"It is an honorable decision and the right decision for the House Republican Conference," Hastert remarked. He said he expects to schedule the majority-leader election for the first week of February.

Other Republicans who were openly critical of DeLay in recent weeks expressed relief that they could install a new leader unshaded by an ethical cloud.

"I look forward to the democratic process of choosing a new majority leader who will ensure that integrity, honesty and ethical accountability are central tenets of government operations in Washington," Rep. Charlie Bass, R-N.H., said.

GOP petition drive

Bass, along with Rep. Jeff Flake, R-Ariz., spearheaded a petition drive among Republican lawmakers late last week to force a new leadership election.

DeLay dismissed the significance of the criticism within the GOP, saying it reflected the views of only 20 or 30 members.

"I enjoyed incredibly strong support," he said.

In recent statements, President Bush defended DeLay, who has been a crucial ally in pushing the White House legislative agenda. But the administration signaled Saturday that it is ready to move on.

"We respect Congressman DeLay's decision to put the interests of the American people, the House of Representatives and the Republican Party first," Bush spokeswoman Erin Healy said.

For Democrats, DeLay's absence from the leadership is a double-edged sword. His skill at rounding up congressional votes frequently deprived the minority party of legislative successes, but Democrats also had made him their poster child for an emerging campaign theme attacking a "culture of corruption" in the GOP-run Congress.

"The culture of corruption is so pervasive in the Republican conference that a single person stepping down is not nearly enough to clean up the Republican Congress," House Democratic leader Rep. Nancy Pelosi, D-Calif., said Saturday.

DeLay's Texas criminal case probably will remain pending by the time Congress resumes business at the end of the month. But for many lawmakers, the turning point for DeLay's fate as a leader came when the Justice Department announced the plea agreement with Abramoff.

He is expected to provide incriminating information about members of Congress and their staffers who were involved in his lobbying schemes.

DeLay, never mentioned as a target of the investigation before the lobbyist admitted guilt, has been closely associated with Abramoff for more than a decade. The lawmaker took three foreign trips with the lobbyist, who used his clients' funds to defray a sizable portion of the costs in a way that DeLay has said was legal.

Former DeLay staffers figure prominently in the investigation. For instance, Michael Scanlon, his former spokesman, worked with Abramoff, agreed to a plea deal in November and is cooperating with investigators. DeLay's former deputy chief of staff, Tony Rudy, is referred to as "Staffer A" in the Abramoff case and reportedly is cooperating with authorities.

DeLay's support among Republicans at home will remain strong, said Jared Woodfill, chairman of the Harris County Republican Party.

"Ultimately, it is not good for him to be outside of the leadership," Woodfill said, "but politically, I think he will be just fine. The people of the district know him quite well, and they will send him back to D.C."

However, recent polls show that DeLay is likely to face a bruising and expensive re-election battle in a redrawn district that includes many voters who are relatively unfamiliar with him.

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He faces a well-financed Democratic opponent, Nick Lampson, who lost his Beaumont-area congressional seat in 2004 as a result of DeLay's redistricting scheme. Former Republican U.S. Rep. Steve Stockman of Friendswood has signed up for the November ballot as an independent candidate for DeLay's job.

Chronicle reporter Eric Hanson contributed to this report from Sugar Land.

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Supporters Point To DeLay's Impact On 22nd District (HCHRON)

By ERIC HANSON

Houston Chronicle, January 8, 2006

SUGAR LAND - After using a letter to tell his congressional colleagues about his new political plans, U.S. Rep. Tom DeLay surrounded himself with supporters Saturday on the sun-drenched steps of his hometown's City Hall as he read a similar statement to reporters.

About 70 other people turned out to show solidarity with their veteran congressman. A few held DeLay re-election-campaign signs as the congressman delivered prepared remarks with his wife, Christine, at his side.

DeLay explained to the news media that he is abandoning hopes of being House majority leader again. But first there was a procession of sorts and speeches by other politicians.

Having gathered inside Sugar Land City Hall with DeLay, his supporters started the event by lining up outside on the steps. DeLay followed, with other elected officials.

Sugar Land Mayor David Wallace took the podium and credited DeLay with advancing mobility projects such as the renovation of U.S. 59 and improvements at Sugar Land Regional Airport.

"You are very effective in fighting for the city of Sugar Land, for Fort Bend County and for this region, and we want to say thank you," Wallace said.

Wallace was followed by U.S. Rep. Kevin Brady, R-The Woodlands, who said DeLay will remain a fixture of power in the House of Representatives.

"I would caution those to not write this political obituary just yet," Brady said.

"Tom DeLay is a force of nature. He is a true conservative leader and will remain a conservative and effective leader in the U.S. House of Representatives," Brady said to loud applause.

Brady also said DeLay has a profound impact on getting federal funds for highways, NASA and the area's medical and science communities.

"We are not losing a majority leader. We are gaining a member of Congress who can devote full-time as he has for so long to expanding freedoms, to strengthening families, to delivering for Texas and delivering the most effective voice for this congressional district in Houston," Brady said. "Tom, we love you."

DeLay said he would continue to work for the people of the 22nd District, which stretches across Fort Bend, Harris, Brazoria and Galveston counties.

"I have worked very hard to meet their needs and serve their values in Washington," DeLay said. "Those needs and values will now best be served by allowing House Republicans to set a new course and to unite behind a new and focused leader."

DeLay also reminded supporters of this year's election.

"As you know, I am still a candidate for re-election this November, and I plan to run a very vigorous campaign, and I plan to win it," he said.

He has opposition in the Republican primary in March and the general election in the fall.

The only reference DeLay made to the Texas indictments he is facing was a statement that he has always obeyed the law.

"In the 21 years I have been in Congress, I have always acted in an ethical manner within the rules of the House and the laws of our land. And time once again will bear out that truth," he said.

However, DeLay has been scolded several times by the House Ethics Committee.

After his remarks, he and the crowd went back into City Hall without taking questions.

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DeLay Likely To Win Party Nomination In 22nd District (HCHRON)

By KRISTEN MACK

Houston Chronicle, January 8, 2006

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U.S. Rep. Tom DeLay's departure from the House leadership shrinks his national stature, but he is still likely to win his party's nomination in the 22nd District and will be a formidable candidate for re-election, supporters and a key opponent said Saturday.

"He had to take a position for the betterment of the Republican Party and to the detriment of the Houston area," said Fort Bend County Republican Party Chairman Eric Thode. "There's never been a question about his re-election. It's only been fomented by those that are delusional."

DeLay was forced to step aside as House majority leader last year when he was indicted in Travis County on charges relating to campaign fundraising for 2002 legislative races.

On Saturday, under mounting pressure from Republican House members, he abandoned his bid to regain the post, setting the stage for GOP House leadership elections.

DeLay faces three opponents in the March 7 Republican primary.

Biggest challenge

In November, he also may face former Republican Rep. Steve Stockman, who has filed as an independent. Stockman will need to petition for a place on the ballot — which also will include the Libertarian Party nominee and possibly one other independent who has already filed. It is too late for anyone else to file as an independent.

But DeLay's biggest challenge comes from former U.S. Rep. Nick Lampson, who is unopposed in the Democratic primary.

Lampson and GOP leaders expect that DeLay easily will win his party's nomination over challengers Pat Baig, Tom Campbell and Michael Fjetland.

"Not one has any money, following or name ID," Thode said. "We are 100 percent behind DeLay and will continue to stand behind him."

In an unusual move last summer, the Fort Bend and Harris County Republican parties passed resolutions supporting DeLay. Traditionally party leaders remain publicly neutral about contests in their party primaries.

DeLay's situation presents a special circumstance, Harris County GOP Chairman Jared Woodfill said Saturday.

"Because of the circumstances and all DeLay has done for our agenda, principles and values, we are going to stand with him while he is under attack," Woodfill said.

Woodfill said the 22nd Congressional District will suffer because DeLay has lost his position of power, a fall Woodfill blames on a "politically motivated partisan prosecutor who has been able to shake up our leadership."

Travis County District Attorney Ronnie Earle, whose office is prosecuting DeLay, is a Democrat.

But DeLay will continue to be an effective representative of the district, Woodfill said, predicting DeLay will win the primary and the November general election.

Primary opponent Campbell, a lawyer, said DeLay did the right thing by ending his bid for the House majority-leader position.

"Tom has become preoccupied with a whole series of issues that make it difficult for him to continue to serve in leadership positions," Campbell said. "If he hadn't made the decision, he would not have enough votes to become the majority leader. Tom's days as a Washington power broker are coming to a close."

Internal party pressure

DeLay should withdraw from the race and focus on his own issues while the Republican Party focuses on returning to its roots, Campbell said.

"We need to clean our house in March, and if we don't, we run the risk of losing the House in November," Campbell said.

Lampson, who expects DeLay to be his Republican opponent, said he anticipates a tough race but thinks the residents of the district are ready for new leadership.

DeLay can no longer use the "partisan witch-hunt argument" to explain his problems, Lampson said.

Although the state case is prosecuted by a Democrat, an unrelated federal investigation by the Republican administration's Justice Department has touched DeLay and others in Congress. It centers on lobbyist Jack Abramoff, who has a long history of ties to DeLay and other Republicans.

And fellow Republicans in Congress began pushing late last week for DeLay to abandon efforts to regain his leadership position.

"There had to have been a great deal of pressure from his own party, whose members lost confidence in him, to make him step down," Lampson said.

Rice University political scientist Bob Stein said DeLay's hopes to be part of the House leadership unraveled in the past 24 hours under pressure from within his party.

"Republicans are worried about midterm elections," Stein said.

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The question now, he said, is whether residents of the district view DeLay's departure from the leadership as a significant political liability.

"The only thing that's ironic about it, is it leaves the state without a single member of the delegation, on either side, as part of the leadership," Stein said. "The very thing DeLay sought to provide, a place at the table for Texas, is all lost now. Texas is just as hurt by this as the Republican Party."

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DeLay Ends Bid To Regain Leader's Post (WT)

By Stephen Dinan

The Washington Times, January 8, 2006

Rep. Tom DeLay permanently gave up leadership of House Republicans yesterday, setting off a new leadership race that is shaping up as a referendum on the direction of the Republican Party in Congress.

"The job of majority leader is too important to be hamstrung by personal distractions," the Texas Republican told reporters after he sent letters to his colleagues and House Speaker J. Dennis Hastert informing them of his decision. He said he will remain in Congress and seek re-election in his district in November.

Mr. Hastert said leadership elections will be held the week of Jan. 30, giving candidates about three weeks to campaign to fill Mr. DeLay's former position.

Both the acting majority leader, Rep. Roy Blunt of Missouri, and Rep. John A. Boehner of Ohio, the chairman of the Education and the Workforce Committee, are expected to run. Unidentified sources close to Mr. Blunt last night released a list of six members who will publicly campaign for him, and a source close to Mr. Boehner countered with seven Republicans who will actively campaign on his behalf.

By running for the leader's spot, Mr. Blunt leaves open the majority whip's slot, and candidates were lining up to run for it as well.

A spokesman for Rep. John Shadegg of Arizona, also a potential candidate, said yesterday that members have been asking him to run, though he has made no decision.

Democrats said Mr. DeLay's announcement doesn't end Republicans' political peril over charges of corruption.

"By forcing out Tom DeLay, Republicans have addressed a party problem, but not the institutional problem of corruption that most troubles the American people," said Rep. Rahm Emanuel of Illinois, the chairman of the Democratic Congressional Campaign Committee.

To prepare for the leadership elections, Mr. Blunt and Mr. Hastert both bowed out of a congressional delegation scheduled to leave tomorrow for a two-week trip to Asia.

Mr. DeLay had stepped aside temporarily as House Republicans' floor leader after he was indicted in Texas on Sept. 28. He said he would clear his name and reclaim his leader's post within months, but his situation worsened last week after lobbyist Jack Abramoff pleaded guilty to corruption charges and agreed to tell prosecutors about his connections to members of Congress.

Mr. DeLay said he has always acted within ethics rules, but he faced falling support among the conservative activists who had been his biggest boosters. Moreover, two other Republican members of Congress -- Rep. Charles Bass of New Hampshire and Rep. Jeff Flake of Arizona -- began to gather petition signatures to force new leadership elections.

"Today's been a very good day for Republicans and our conference and Congress," Mr. Bass said yesterday. He said the recent ethical and criminal charges have not helped Republicans or Democrats, and the leadership elections are healthy for everyone.

"This is a serious problem, this Abramoff thing, for Republicans and Democrats. But it's not the Democrats that are leading the country right now," he said, adding that the ethics issues will be paramount in the new leadership elections. "The standards all members should look for in the replacement leadership need to be high."

Mr. Flake said the new elections must be about more than just new faces.

"We need to make sure this is a proper election and not just an affirmation of the interim structure," he said, calling for a "course correction."

While the ethics charges may have been the latest issue, Mr. Flake said there had been a growing realization among some members that under Mr. DeLay, the party had lost its way on other issues.

"I think for a lot of people they're thinking, 'Why are we trying so hard to keep him?' His view has obviously changed over the years about government," Mr. Flake said in a telephone interview before Mr. DeLay made his announcement.

Republican strategist Michael McKenna said resentment against some of Mr. DeLay's comments last year on federal spending and the 2003 vote on adding a prescription-drug program to Medicare hurt Mr. DeLay among his conference.

"Tom DeLay's legal problem simply provided an opportunity for that resentment to come to the front," he said, adding that the upcoming elections will be a battle for the fundamental direction House Republicans will take.

Mr. McKenna said one figure to watch in the elections is Rep. Mike Pence of Indiana, who is chairman of the Republican Study Committee (RSC), a group of 100 conservatives. As chairman of the RSC, Mr. Pence has become a major political force.

"A large chunk of that caucus is going to be looking to him for cues about how to think about this choice," Mr. McKenna said.

Mr. Pence and many other Republicans released statements yesterday that praised Mr. DeLay for his three years as majority leader and eight years as majority whip and for putting the interests of the party first by stepping down.

DeLay's Own Tactics May Have Hurt Him (HCHRON)

By JULIE MASON

Houston Chronicle, January 8, 2006

WASHINGTON - In his nearly 20-year climb to the No. 2 job in the House, U.S. Rep. Tom DeLay has deployed a cunning and toughness that may have cost him friends but often won the battle — until now.

In his announcement that he would step down as House majority leader permanently, the vaunted counter of House floor votes may have calculated that this time, he lacked the votes to remain viable as a candidate for restoration to leadership.

In many ways, the Sugar Land Republican has been brought up short by the partisan, no-holds-barred political culture he helped create in the House, observers said.

"He shifted the game of politics from one of comity to one of ruling from an ironclad, 'with-us-or-against-us' philosophy," said Bob Stein, Rice University political scientist and pollster. "He felt you had to choose sides, and being neutral wasn't allowed. Over time, he just accrued too many enemies."

In 1984, DeLay shaved his mustache after a study by developer Bob Perry found Republicans with facial hair were not electable. He won a seat in Congress soon after, and a career of doing what it took to win was off and running.

DeLay's pugnacious style quickly earned him a reputation in the House, where Texans such as former House Speaker Sam Rayburn, also a onetime Democratic majority leader, generally had made a trademark of forging coalitions and building bridges across the aisle.

But DeLay's preferred method was different. As a campaigner and on the House floor, DeLay spoke with firebrand contempt for Democrats, especially liberals.

Although fiercely partisan, DeLay has rarely flinched from holding prominent members of his own party accountable when they violated what he believed were key tenets of conservatism.

In 1990, DeLay was among the most vocal critics of former President George H.W. Bush's decision to relent on a campaign pledge to create no new taxes. He also turned on former ally Newt Gingrich in a failed plot to oust the then-speaker.

DeLay, who denies wrongdoing in political activities that have brought criminal investigations, has been under a near-constant ethical cloud since 1993, when he was shown on national TV wearing knickers and playing golf on a trip paid for by lobbyists.

In 1995, DeLay was central to launching the K Street Project, an effort to pressure lobbying and trade organizations, generally headquartered on Washington's K Street, to hire more Republicans.

His tough gamesmanship on the lobbying issue drew notice in 1998, when DeLay led House Republicans in holding up a vote on intellectual property rights, apparently to punish a trade association supporting the bill for its plans to hire a top Democratic lobbyist.

The incident earned him an admonishment from the House Ethics Committee. It was just one of the many probes and investigations into DeLay's fundraising and political activities through the years.

Largely undaunted, DeLay raised $15 million in 1999 for GOP candidates, which helped pave his path to House leadership. He was sued the next year by Democratic leaders claiming he was extorting funds from donors. The case was dropped with both sides declaring victory.

Throughout, DeLay has remained defiant and seemingly unconcerned by criticism, saying in 2003, shortly after he was elected majority leader, "I have just never worried about what people think of me or what the critics say."

He added, "I don't see myself as mean-spirited. I'm just passionate."

His most recent years spent as majority leader brought some of DeLay's more high-profile moments in Congress as he proved indispensable to the advancement of President Bush's legislative agenda and helped obtain — or block — funding for Houston projects, depending on his view of them.

When the House took up major Medicare changes in 2003, DeLay encouraged fiscal conservatives to hold out for a law that would give private health-insurance companies incentives to compete for Medicare dollars.

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The House passed the bill to provide a prescription-drug benefit by one vote after some controversial arm-twisting on wavering GOP members by DeLay and other House leaders.

The next year, DeLay was admonished again by the House Ethics Committee, which found he offered to support the House candidacy of Michigan Republican Nick Smith's son in return for the lawmaker's vote on the Medicare drug benefit.

Last year DeLay's interest was drawn by the case of Terri Schiavo, a Florida woman in a brain-dead state whose husband was seeking permission from the courts to take her off life support.

DeLay led an effort in Congress to pass an emergency law granting a federal court review of the Schiavo case, only to see the U.S. Supreme Court refuse to intervene.

Her feeding tube was removed by court order, and Schiavo died 13 days later. DeLay, in remarks he later apologized for, essentially threatened the judges who allowed it to happen.

"The time will come for the men responsible for this to answer for their behavior," DeLay said.

Last year it was also DeLay's turn to be reminded by conservatives about party tenets of fiscal responsibility. After saying that hurricane-relief funds should be provided generously, DeLay later joined the move to cut the federal budget to allow it.

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Possible Successors To Tom Delay (AP-Y2)

AP, January 8, 2006

A look at two Republicans who may seek the House majority leader post vacated by Rep. Tom DeLay, R-Texas:

ROY BLUNT of MISSOURI:

Low key and affable in public, Blunt presents a marked contrast to the hard-driving DeLay, whom Blunt succeeded as House Republican whip in 2003 and now may seek to ascend to the second-ranking post of majority leader.

Blunt, 56, has risen rapidly through his party's ranks since winning election to Missouri's 7th District in 1996. DeLay, who was the GOP whip at the time, tapped Blunt as his top deputy in 1999. Blunt became whip, in charge of counting and nailing down votes, when DeLay became majority leader in 2003.

Blunt took over as acting majority leader in September when DeLay, indicted by a Texas grand jury on charges of conspiring to violate political fundraising laws, was forced to step aside.

Blunt's early tenure was marked by uneven success as Republicans struggled to pass a deficit-cutting bill, then suffered the defeat of a bill to cut spending on social programs.

Republicans rebounded quickly, passing the deficit bill after making changes to mollify party moderates, then resurrecting the spending measure.

While different in style from the stridently partisan DeLay, Blunt is equally conservative and took a leading role in moving President Bush's tax cut packages through the House. As whip, Blunt took the lead last year in the uphill struggle to secure votes needed to pass the Central America Free Trade Agreement.

Blunt was raised on a farm near Springfield, Mo., the son of a dairy farmer and a state legislator. After teaching high school government and history, Blunt became involved in Republican politics. In 1984, Blunt became his state's first Republican secretary of state in more than 50 years.

Blunt lost in the GOP primary for governor in 1992. For the next four years, he was president of his alma mater, Southwest Baptist University. In 1996, when the Republican incumbent retired, Blunt easily captured a seat in Congress from his solidly Republican district.

Blunt garnered some controversy when he unsuccessfully tried to slip a measure into the 2002 bill creating the Homeland Security Department that would have benefited tobacco giant Philip Morris. At the time Blunt had a personal relationship with a lobbyist for the company, Abigail Perlman. Blunt divorced his wife of 35 years and married Perlman in 2003.

Blunt has three children, including Matt Blunt, who was elected Missouri governor last year.

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JOHN BOEHNER OF OHIO:

Boehner came to Congress 15 years ago as a crusader against what he saw as the excesses of Democratic power. He was elected to the leadership when Republicans gained a majority in the 1994 election landslide. Boehner lost his post in the hierarchy four years later amid internal struggles following a coup attempt against then-Speaker Newt Gingrich.

As chairman of the House Education and the Workforce Committee, Boehner helped shepherd Bush's No Child Left Behind education bill through the House. In 2002, Bush traveled to Boehner's district on Ohio's western border to sign the measure into law.

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Boehner has a strong conservative record, but has also shown an ability to reach across party lines. He pushed pension legislation through the House last year, attracting nearly 300 votes after a last-minute accommodation with the United Auto Workers.

Boehner, 56, was born in Cincinnati to a family of 12 children. He ran a successful plastics and packaging company before winning local and state elections in the 1980s and capturing his seat in Congress in 1990.

During his freshmen year, Boehner became part of the "Gang of Seven" that went after the ethical lapses, mainly of the Democratic majority, including the House Bank scandal. It turned out that lawmakers were writing checks to the House's internal bank without the money to back them up.

Boehner and his wife, Debbie, have two daughters.

After Tom DeLay (WP)

The Washington Post, January 8, 2006

TEXAS REPUBLICAN Tom DeLay's decision yesterday to permanently relinquish the majority leader's post was necessary but not sufficient for the health of the House majority he dominated for so long.

It's necessary because, notwithstanding his assertion yesterday that "I have always acted in an ethical manner," Mr. DeLay is an ethical recidivist unfit to lead. If the repeated admonishments of the House ethics committee weren't enough to convince his colleagues, consider some of the latest disclosures: The Post's R. Jeffrey Smith reported on a DeLay-linked group, the U.S. Family Network, that appears to have secretly received $1 million from Russian oil and gas executives seeking to induce Mr. DeLay to support a loan bailout for Russia. Foreign companies and individuals aren't permitted to make campaign contributions; such back-door influence buying is especially pernicious.

In addition, according to the guilty plea entered by Jack Abramoff, the former lobbyist arranged for payments totaling $50,000 to the wife of "Staffer A" -- identified as Tony C. Rudy, Mr. DeLay's former deputy chief of staff -- in exchange for Mr. Rudy's help in defeating an Internet gambling bill. The stench surrounding Mr. DeLay had been growing more pungent daily; his decision had the air of inevitability.

But House Republicans need not only to shed Mr. DeLay; they also need to change the way their party has operated under his leadership and that of House Speaker J. Dennis Hastert

(R-Ill.) and others. For a start, Congress should strengthen the rules governing lobbying, requiring fuller disclosure of the ties between lawmakers and lobbyists. Mr. DeLay did all he could to thicken those bonds, with his K Street project to install more Republicans in key lobbying jobs and his bullying lists of how much lobbyists were giving to each side. More sunlight -- disclosure of the amounts of money steered to lawmakers, the gifts lavished on members and staff -- would have gone a long way to disinfect Mr. Abramoff and to diminish the impact of Mr. DeLay's political hammer.

As Mr. DeLay's golf outings and other excursions demonstrated, the prohibition on travel paid for by an individual lobbyist makes little sense when corporations and other groups that lobby Congress can foot the bill and send their lobbyists along for the ride. The rules about privately funded travel should be tightened to bar lawmakers and staff from accepting reimbursement for trips underwritten, directly or indirectly, by entities that engage in lobbying.

Nor should these changes be limited to the House; the systemic vulnerabilities exploited by Mr. Abramoff are equally evident in the Senate. It is time to consider whether, in this age of partisan division, the existing congressional ethics process can be made to work or whether a different model is required.

Further, earmarks inserted in the dead of night to fund lawmakers' pet projects -- and secure their votes for measures -- are an invitation to abuse. So is, in violation of House rules, unveiling mammoth bills just hours before a scheduled vote. So, too, is the all-too-routine habit of making significant changes to legislation after it emerges from committee and then eliminating, or drastically limiting, lawmakers' ability to offer amendments on the floor. Representative democracy can't function when these practices prevail.

And there is a more fundamental question that the Abramoff mess, and the DeLay departure, ought to prompt House leaders to ask themselves -- or that voters may ask, and answer, for them: What is the purpose of the Republican majority? Is it simply, as some of the leadership's behavior would suggest, to amass, cement and retain power by whatever means necessary? Or, as Republicans claimed when they came to power a decade ago, do they stand for something: a different method of doing business, a belief in limited government, commitment to spending restraint? If there is a role for the Republican machine other than self-perpetuation, it's awfully hard to discern right now. That, as much as anything, ought to be what the upcoming leadership elections are about.

States Intervene After Drug Plan Hits Early Snags (NYT)

By Robert Pear

DOJ_NMG_0008792

The New York Times, January 8, 2006

WASHINGTON, Jan. 7 - Low-income Medicare beneficiaries around the country were often overcharged, and some were turned away from pharmacies without getting their medications, in the first week of Medicare's new drug benefit. The problems have prompted emergency action by some states to protect their citizens.

Although there are no hard numbers, concerns expressed by state officials and complaints from pharmacists suggest a widespread pattern of problems.

At least four states - Maine, New Hampshire, North Dakota and Vermont - acted this week to make sure poor people received the drugs they were promised but could not obtain through the federal Medicare program.

Gov. Jim Douglas of Vermont, a Republican, said the state would pay drug claims for low-income people until the federal government fixed problems in the new program, known as Part D of Medicare. Michael K. Smith, the state's secretary of human services, said, "The federal system simply is not working."

On Thursday, the Vermont Legislature passed a bill declaring, "There is a public health emergency due to the federal implementation of Medicare Part D, which has resulted in serious operational problems, causing Vermonters to be turned away at the pharmacy without the drugs they need."

Many factors contributed to the initial chaos. Some people who enrolled in Medicare drug plans did not have any proof of coverage. Pharmacists could not get the information needed to verify eligibility for drug benefits and low-income subsidies. Insurance companies and their pharmacy benefit managers were swamped with calls, so pharmacists often had to wait an hour or more on telephone help lines.

Federal officials promised improvements, but state officials were growing impatient.

In Maine, Gov. John Baldacci, a Democrat, agreed to pay drug claims to provide medications for those in need. Since Tuesday, the state has incurred $2 million of expenses for Medicare beneficiaries.

On Friday, Gov. John Hoeven of North Dakota, a Republican, said he had to act because "some low-income elderly and disabled individuals can't get their prescriptions filled through their Medicare drug plans."

In New Hampshire, Gov. John Lynch, a Democrat, signed an executive order authorizing the state to pay drug claims that he said should have been covered by Medicare. Republican leaders of the state legislature called a special session to provide the money. The start of the Medicare drug program "has been a nightmare for many of our citizens," Governor Lynch said.

"Many are being charged unaffordable co-payments for prescription drugs - co-pays much higher than they are supposed to be. Too many of them are leaving pharmacies without their prescriptions."

Thomas T. Noland Jr., a spokesman for Humana Inc., a major national insurer, said that some problems were "to be expected in a new program with lots of new enrollment taking effect all at once."

Cynthia G. Tudor, a senior Medicare official, told insurers on Wednesday that they must "immediately make improvements" to "ensure that all beneficiaries get their prescriptions filled at the point of sale."

In a memorandum to insurers, Ms. Tudor said she had received "numerous reports" that they were "inappropriately denying some scripts," or claims. In many cases, she said, insurers are not providing the data that pharmacies need to file claims and get paid.

Dr. Mark B. McClellan, administrator of the federal Centers for Medicare and Medicaid Services, said on Saturday that he was working closely with states to address their concerns and to help individual patients. "We are filling close to a million prescriptions a day, including hundreds of thousands for low-income beneficiaries," Dr. McClellan said. "Many, many people are getting the prescriptions they need."

But in an interview on Friday, Stan Rosenstein, the Medicaid director in California, said: "We are hearing more and more complaints. A significant number of people are not getting their prescriptions. That has us very troubled."

Drug benefits are delivered by private insurers under contract to Medicare. The federal government is supposed to compute the subsidy available to each low-income beneficiary. But Michael Polzin, a spokesman for Walgreens drug stores, said that, in many cases, that information had not been shared with insurers or pharmacists.

Under Medicare rules, each drug plan is supposed to have a transition policy, providing a temporary supply - typically 30 days - of any prescription that a person was previously taking. But customer service representatives at Medicare's toll-free telephone number said they knew nothing of this requirement, and beneficiaries said it had been virtually impossible to take advantage of it.

Nationwide, 6.2 million low-income people receive both Medicare and Medicaid. About 1.1 million of them live in California. They tend to have many chronic illnesses and high drug costs. Cheryl Meronk, manager of the health insurance counseling program in Orange County, Calif., said she was referring people to hospital emergency rooms because they had been unable to get urgently needed medications through Medicare.

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Under the standard Medicare drug benefit, which took effect on Jan. 1, the patient pays a $250 deductible and 25 percent of the next $2,000 in annual drug costs.

Over the last year, Medicare officials repeatedly assured poor people that they would receive extra help, so they would not have to pay any deductible and their co-payments would not exceed $5 a prescription.

But Carol A. Herrmann-Steckel, commissioner of the Alabama Medicaid Agency, said that Medicare beneficiaries with very low incomes had often been required to pay the full $250 deductible and co-payments far exceeding $5. "One beneficiary borrowed the money," she said. "Another charged the $250 on a credit card because she was in such dire need of the medicine."

Beverly R. Churchwell, an aide to the Alabama commissioner, said: "Some Medicare beneficiaries have not been able to get their medications. They are being turned away at the pharmacy."

John J. Morris, 42, of Ware, Mass., who has diabetes and multiple sclerosis, signed up for a Medicare drug plan on Nov. 16. The insurer told him his co-payments would not exceed $5, he said, but at the pharmacy this week, he was told he had to pay $23 for each of three drugs.

"I could not afford it," Mr. Morris said, "so I was not able to get my insulin or my M.S. drug."

In Oregon, Sandy K. Hata, a field manager for the State Department of Human Services, said: "We've had calls from people in tears who could not get their medications. These people were being asked to pay a $250 deductible and hundreds of dollars in co-payments."

Jane-ellen A. Weidanz, the Medicare project manager at the Oregon Department of Human Services, said, the $250 deductible "is hitting people very hard," adding: "People are very angry and very upset. They are yelling at us. They feel that we lied to them. They feel Medicare lied to them. They feel they cannot trust anything we say about this program."

Texas reported a similar problem. Low-income beneficiaries are "being charged incorrect (high) co-payments," the state's Health and Human Services Commission said in an e-mail message to the Dallas office of the federal Medicare agency.

In Oklahoma, low-income Medicare beneficiaries were often charged the $250 deductible. "They are being treated as if they were in a higher income bracket," said Mike Fogarty, chief executive of the Oklahoma Health Care Authority. "It's a common problem."

Steven E. Hahn, a spokesman for AARP, which offers a drug plan insured by UnitedHealth Group, said he knew that some low-income people had had difficulty getting medications. "We are taking this very seriously," he said. "This is a global problem, a systemwide problem, for all plan sponsors."

Elizabeth L. Stone, 86, who lives alone in an apartment in Manchester, N.H., is enrolled in both Medicare and Medicaid, has arthritis and a thyroid ailment and is in a wheelchair. She tried to use the new Medicare benefit to fill a prescription this week, but failed.

"I did not get any medication," Ms. Stone said. "People at the pharmacy would not give it to me because they do not know how they will be reimbursed."

Another low-income beneficiary, Terence J. Stevens, 65, of Lakeland, Fla., said he signed up for the drug plan on Nov. 15, the first day on which enrollment was allowed. His plan tried to charge him a $47 co-payment for a drug to treat irregular heartbeats and high blood pressure. Mr. Stevens said he was unable to pay and did not get the drug.

In Alabama, William M. Beasley, a pharmacist and a Democratic member of the State House of Representatives, said, "I have had more difficulty trying to process claims for Medicare recipients than I've had with any other insurer in 43 years as a pharmacist."

Seniors Aided In Medicare Drug Plan Changes (FREEP)

By KATIE MERX

Detroit Free Press, January 8, 2006

Isaac Penson signed up for a Medicare prescription drug plan before the new year with help from someone at his church, but he didn't realize he'd have to pay a $250 out-of-pocket deductible before the plan he chose would pay for any drugs or that the plan he chose wouldn't cover his blood-pressure medicine.

The 84-year-old Detroiter doesn't have $250. And he ran out of his blood-pressure medicine, Norvasc, earlier this week. He takes it to keep his high blood pressure from causing a heart attack, stroke or kidney problems.

The cash price for 30 Norvasc tablets is about $50. He can't afford that, either.

Now, with help from the Michigan Medicare Medicaid Assistance Program this week, Penson was able to change to a plan he can afford.

The new plan doesn't have a $250 deductible and allows him to fill each of his prescriptions for a $15 co-pay. The catch is that he can't use the new plan until next month.

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Penson is one of a large number of seniors who are going without vital medicines or paying for them out of pocket because of glitches in the new Medicare drug benefit system and confusion over how it works. The good news, though, is there is time and assistance to help seniors switch to a plan that works for them.

The Medicare drug benefit, which took effect on Jan. 1, is supposed to improve access to prescription drugs for seniors and disabled people by helping them pay for their medication. Enrollment without a penalty of higher premiums continues through May 15.

It's the first time Medicare has offered to help pay for prescription drugs.

More than 1.5 million Michiganders and 40 million other Americans are eligible for the new benefit. The Centers for Medicare & Medicaid Services says more than half of all eligible people nationwide have enrolled.

But implementation of the new benefit has Medicare beneficiaries and pharmacists twirling in a sea of confusion and frustration.

"Some people with Medicare -- seniors and people with disabilities -- are experiencing challenges in that they selected a plan and didn't realize it had a $250 deductible," said Mary Johnson, executive director of the Michigan Medicare Medicaid Assistance Program.

More than half of the new Medicare drug plans carry $250 deductibles.

Other enrollees believed the plans they signed up for covered their specific medications, but now are finding the prescriptions aren't covered or that their doctors have to file a special application before the drug plan will pay for them.

The new benefits have overwhelmed many enrollees because they've had to choose from among dozens of plans provided by a slew of private companies. Each plan covers a different mix of drugs, is affiliated with its own network of pharmacies, and charges its own monthly premiums and co-pays.

The Centers for Medicare and Medicaid Services reports that more than 1 million people have received prescriptions through the drug benefit since it took effect on Sunday.

But pharmacists report that many people who believe they enrolled haven't been so lucky.

Many people enrolled before the end of the year, but never received confirmation or a benefits card, pharmacists said.

In many cases, couples that sent their applications in on the same day find that one spouse already has received a benefits card and the other hasn't.

And the national computer system that's supposed to verify Medicare drug plan enrollment is so overloaded that pharmacists have been unable to verify benefits for many of their patients, said Al Knaak, head pharmacist and a part owner at Village Pharmacy II in Ann Arbor.

Pharmacists also report that they're having difficulty getting through by computer or telephone to the insurance companies running the drug plans.

"The wait on line with some of the insurance companies is up to 30 minutes now," Knaak said. "Sometimes you can't get through. It's becoming more chaotic as the week goes on."

"Our call volume has gone up during the course of the week," said Louanne Bakk, director of access and benefits assistance at the Area Agency on Aging in Southfield. The agency has been fielding calls from dozens of seniors and disabled people trying to navigate the new Medicare drug benefit.

Village Pharmacy, like many small and large pharmacies, is providing patients with two or three days of medication while they attempt to verify benefits.

"Sometimes if we call first thing in the morning or late in the evening, we're able to get through," Knaak said. If they're lucky, the patients receive their card before they run out of the emergency supply, he said. That's the easiest way to verify enrollment.

Walgreen Co. spokeswoman Tiffani Bruce said the system was overwhelmed by the initial demand, but the situation seemed to be improving by the second half of the week.

"I'm really looking for it to get better next week," Knaak said.

Contact KATIE MERX at 313-222-8762 or kmerx@freepress.com.

OTHER NEWS:

U.S. Plans For Future Without Sharon (AP-Y2)

By Barry Schweid

AP, January 8, 2006

In deference to an ailing ally, the Bush administration is saying little publicly about how it intends to fan flickering Mideast peace hopes if Israeli Prime Minister Ariel Sharon remains incapacitated or does not survive.

Privately, American officials are gathering their thoughts and making some tentative moves despite uncertainty about who would succeed the 77-year-old prime minister.

Sharon remained in serious condition Saturday after undergoing his second brain operation in two days on Friday, two days after suffering a major stroke and bleeding in his brain.

Secretary of State Condoleezza Rice cleared her schedule, canceling visits to Indonesia and Australia to remain in Washington and on top of the situation.

"She thought it was the right thing to do, to be here with her foreign policy team," said State Department spokesman Sean McCormack.

And even as administration officials awaited developments in Jerusalem, they were trying to address the deteriorating security situation in Gaza. The U.S. security coordinator, Maj. Gen. Keith Dayton, has returned to the region to try to get a handle on violence in the Palestinian territory.

"There is no central authority," said Edward S. Walker, a former U.S. ambassador to Israel and to Egypt. "It is not a question of terrorism, but pure, outright criminal behavior."

Administration officials decline to acknowledge that they inevitably have to look beyond Sharon. Spokesman McCormack said only that "our focus is on our solidarity with the Israeli people in what is a tough time."

But Walker, a longtime diplomat in the Middle East and Washington, said in an interview that the first thing U.S. officials must be thinking about is what President Bush would say at a funeral. And Bush's attendance is essential, he said.

"They are mapping out a strategy," Walker said. "They have to be ready to move."

U.S. officials "are going to have to pin down" Ehud Olmert, who temporarily took the reins of power from Sharon and could be a top contender for prime minister in a previously scheduled March 28 election.

Before Sharon was stricken, polls pointed to victory for Kadima, the centrist political party Sharon founded after he broke with many of his longtime supporters in the hard-line Likud.

Benjamin Netanyahu, a former prime minister generally placed to the right of Sharon, is a likely contender for the top job.

Walker said he thought the administration favored Kadima, but added: "They cannot get too enmeshed in the election campaign."

Daniel Kurtzer, also a former U.S. ambassador to Israel and to Egypt, said there were probably two things on the minds of administration officials.

One is how to stabilize the situation, Kurtzer said in an interview. He said that means "ensuring that the leadership that emerges in the post-Sharon era continues along the line Sharon has laid out — a tough response to terrorism, but flexibility and creativity in peacemaking."

The second, Kurtzer said, is that the administration would be "laying down markers on the Arab side, particularly with the Palestinians, not to take advantage of what they might perceive to be a period of instability in Israel."

The retired diplomat added, "My guess is that the administration is working on both to try to prevent a downward spiral."

Mideast history is instructive, with predictions often off the mark. But there are constants: U.S. efforts to maintain order and keep Israel and the Arabs on a peace track.

Sharon illustrates how events in the Middle East often defy expectations. The tough, unyielding ex-general wound up endorsing Palestinian statehood and withdrawing all Jewish settlers from Gaza and part of the West Bank.

Nearly three decades ago, Menachem Begin, another dedicated hardliner, agreed to relinquish Sinai to Egypt in exchange for a peace treaty.

The Arab leader he negotiated with, Anwar Sadat, had vowed only months before the accord that peace with Israel was a worthy objective, but not until the next generation.

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EDITOR'S NOTE: Barry Schweid has reported on the Middle East since 1973.

Scan Shows Slight Improvement In Condition Of Israel's Sharon (WP)

By Scott Wilson

The Washington Post, January 8, 2006

JERUSALEM, Jan. 7 -- Israeli Prime Minister Ariel Sharon remained in critical condition Saturday, but a new round of tests revealed a slight improvement in the physical state of his brain.

Despite some positive signs, including evidence suggesting that the side of his brain controlling speech remains unharmed, doctors cautioned that it was too soon to tell whether Sharon would survive the massive stroke and extensive hemorrhaging he has endured in recent days.

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"We as people are optimists," said Shlomo Mor-Yosef, director of the Hadassah-Ein Kerem Hospital, where Sharon is being treated. "But I can't say that he is out of danger. His condition is still serious. But the scan shows slight improvement."

Sharon, 77, suffered a stroke Wednesday night caused by a blood clot that went to his brain. Doctors have performed three rounds of surgery struggling to control the resulting hemorrhaging, likely caused in part by blood-thinning medication Sharon was taking for a stroke he suffered last month.

The report by Mor-Yosef Saturday evening was the second consecutive assessment of the prime minister's condition that announced no new bleeding and a reduction in dangerous swelling that could cause permanent brain damage.

But whether Sharon, who has dominated Israeli's politics since becoming prime minister nearly five years ago, will recover and do so with his faculties intact remains uncertain.

"The team at Hadassah Hospital, along with the prime minister and the Sharon family, are fighting to save the prime minister's life," Mor-Yosef said.

Sharon's doctors were to meet Sunday morning to decide when to begin rousing him from a coma, medically induced to give his brain a chance to recover from the trauma of the stroke and repeated surgeries.

Only when he is conscious, Mor-Yosef said, will doctors be able to evaluate Sharon's brain function and any possible damage he has sustained.

Sharon underwent a scheduled brain scan Saturday morning to check for bleeding and to measure pressure inside his skull. A day earlier, a CT scan -- a special multiple X-ray screening process that allows viewing of interior body parts -- revealed fresh hemorrhaging and a spike in pressure. Sharon was rushed into five hours of emergency surgery.

The operation, in which a catheter was inserted to drain fluid from his skull, stanched the bleeding and reduced swelling. Mor-Yosef said the swelling declined further Saturday and that the prime minister's vital signs, including blood pressure and urine production, were within "normal ranges."

The tests also revealed that the left side of Sharon's brain appeared to be undamaged, a potentially auspicious sign for his recovery.

Sharon's hemorrhaging occurred on the right side of his brain, meaning he will likely suffer at least some paralysis on the left side of his body if he survives.

But doctors had also feared that the swelling caused by the bleeding may have squeezed the left side of the brain against the skull, causing damage to areas that control speech, faculties of analysis, and fine motor skills such as writing in a right-handed person. Sharon is right handed, according to one of the doctors treating him.

"The only thing we can say is that the left side of the prime minister's brain remains intact," Mor-Yosef said. "We will only know what this means when they wake the prime minister up gradually."

Much of the country paused for the Jewish Sabbath on a rain-blown Saturday, and many of Israel's rabbis continued calling on the nation to pray for Sharon's recovery.

His stroke has caused upheaval in Israel's political system, and his grave but stable condition has frozen many of the decisions that will determine who might replace him should he be unable to return to office.

"It looks as if his acute state is moving to what we'd call the sub-acute state," said Avi Cohen, a neurosurgeon at Soroka Medical Center in the southern Israeli city of Beersheba who is not directly involved in Sharon's case. "Given the picture of the left side of his brain, he might be able to speak and to write."

Cohen echoed Mor-Yosef, however, in saying it was still hard to know what injury Sharon's brain has suffered. He said doctors would wake him up very slowly and may only keep him conscious long enough to run initial tests to measure brain function.

"They are not in a hurry," Cohen said. "That's just the way it should be."

Arabs Ponder Life After Sharon (WT)

By Joshua Mitnick

The Washington Times, January 8, 2006

TEL AVIV -- With Prime Minister Ariel Sharon lying in critical condition over the weekend after suffering a stroke on Wednesday, Palestinians and the broader Arab world have looked on with apprehension.

A brain scan on Mr. Sharon yesterday showed a slight easing of swelling, said Dr. Shlomo Mor-Yosef, director of Hadassah Hospital in Jerusalem.

Dr. Jose Cohen, one of the neurosurgeons treating the prime minister, was quoted by Israeli radio as saying he thought Mr. Sharon would recover from the massive stroke he suffered and emerge in relatively good shape, but that after such a shock there would undoubtedly be cognitive damage.

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Doctors were to decide today when to lift the prime minister's medically induced coma to examine the extent of the neurological damage.

The incapacitation of Mr. Sharon has stunned Israel's Arab neighbors. Yesterday, King Abdullah of Jordan telephoned acting Prime Minister Ehud Olmert to express his concern about Mr. Sharon's health, and a day earlier Egyptian President Hosni Mubarak called to say that bilateral relations would continue to improve, the Israeli daily Ha'aretz reported.

To be sure, most throughout the Arab world aren't forgiving Mr. Sharon for his tough response to the latest Palestinian uprising, or the massacre of Palestinian refugees in the Sabra and Shatila refugee camps during Israel's 1982 invasion of Lebanon.

Video of Gazans passing out candy in response to the news of Mr. Sharon's stroke reflected widely shared sentiment that considers the Israeli prime minister to be a war criminal, analysts said.

And yet, the rehabilitation of Mr. Sharon's international reputation during his five years in office has also affected Palestinian views of the Israeli leader. Writing in the Palestinian daily Al-Ayyam, editor Abdel Nasser A-Najar compared Mr. Sharon to Palestinian leader Yasser Arafat and bemoaned the rising insecurity left behind by the two.

"The political map in both Israel and Palestine looks very complicated, with their borders intertwined and unclear. Even the road map looks like it is hibernating towards its death," he said.

"After Sharon, the Israeli people will live in a state of vacuum and confusion not different from the state that the Palestinians had undergone after Yasser Arafat's death. It will take years before both the Israelis and the Palestinians find leaders like Arafat and Sharon."

Mr. Sharon's stature as the chief political patron who helped the spread of Jewish settlements will probably overshadow, among Palestinians, his decision to relinquish Gaza.

Palestinians complain that the Gaza withdrawal has left residents cooped up in the tiny coastal strip while freeing Israel's hand to complete the construction of its separation barrier through the West Bank and bolstering existing Jewish settlements there. At the same time, they don't believe Mr. Sharon was prepared to renew peace negotiations that were halted just after he entered office five years ago.

"The Palestinians look at him as the master of unilateralism," said Palestinian legislator Hanan Ashrawi.

And yet, Mr. Sharon retains a special status among Palestinians for being the first Israeli prime minister able to evacuate Jewish settlements in Gaza and the West Bank.

"He hasn't negotiated, but he has dismantled the settlements, which was a precedent, and we can't ignore that. To people who look at it as a precedent, it's important that the settlements be dismantled to prove that settlements aren't a permanent feature of the landscape."

Palestinian negotiator Saeb Erekat expressed concern that the political vacuum in Israel would contribute to tension on the eve of a Palestinian parliamentary election scheduled for Jan. 25.

The transition from Mr. Sharon to Mr. Olmert may allow a dispute over the voting status of Palestinian residents of East Jerusalem to fester, and ultimately delay the election, Mr. Erekat warned.

"Sharon's illness will affect us more than anyone else as Palestinians. He is the one occupying our land," Mr. Erekat said. "I am worrying that the competition that will replace Sharon will build more settlements and more walls."

With Sharon Ill, Palestinians Face Own Travails (NYT)

By Steven Erlanger

The New York Times, January 8, 2006

JERUSALEM, Jan. 7 - The sudden political disappearance of Prime Minister Ariel Sharon, struggling for life after a massive stroke, has thrown the future of any peace process with the Palestinians into question. But the Palestinian Authority itself is in such disarray that it may be incapable of negotiating on terms any Israeli leader could accept.

There is spreading chaos, a sense of deterioration and growing concern among both Palestinians and Israelis that the Palestinian Authority, nearly bankrupt and facing a huge budget deficit, may look like a failed state even before it becomes one.

Life for ordinary Palestinians is becoming harder, with less security and optimism than a year ago. The Israelis pulled out of Gaza - a thrilling moment for many Palestinians - but the territory has become practically lawless, not a model for a future state, and Palestinian voters seem set to punish the divided Fatah movement that monopolizes the Palestinian Authority.

Legislative elections on Jan. 25 are expected to bring the radical Islamic group Hamas, dedicated to a continuing armed struggle against Israeli occupation, into a significant share of power in the authority.

"All the chaos is coming from inside the Palestinian Authority and Fatah," said Khaled Duzdar, a Palestinian analyst at the Israel/Palestine Center for Research and Information. "Fatah almost seems to be working on behalf of Hamas. This is the lowest the Palestinian Authority has reached."

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The splitting of the main Palestinian faction Fatah and the participation of Hamas and its militants in the authority are serious questions that any new Israeli leader will have to confront right away.

By itself, the victory of Hamas or its achievement of a blocking minority within the authority could be enough to put an end to the long-moribund "road map," the peace plan drafted and endorsed by the United States, as well as the Israelis and the Palestinians. Hamas is committed to keeping its armed wing and its weapons, and says it is running in this campaign "to protect the resistance." One of the road map's first requirements is that the authority disarm all militants, including Hamas, Islamic Jihad and Al Aksa Martyrs Brigades, which is affiliated with Fatah itself.

The Palestinian Authority's president, Mahmoud Abbas, has promised Israel and Washington to disarm the militants after the elections, but no American or Israeli policy maker or intelligence analyst interviewed over the last two months believes that he will be able to do so, and most think he is unlikely even to try.

So, outside of considerations of Israeli leadership, progress toward peace seems unlikely. That can only add to the Israeli inclination to sit tight and manage the current situation while continuing unilateral disengagement from the Palestinians, like the construction of the separation barrier.

"We have an ailing prime minister and the Palestinians have an ailing Authority, and both are on life support," said a senior Israeli intelligence officer, who could not be identified because of the nature of his work. "We have never been through such a period of anarchy in the Palestinian Authority. As far as security is concerned, the Authority is nominal - anyone in the territories does what they please."

In Gaza City recently, Ahmad el-Balawi, 20, said he had turned to Hamas from Fatah because of the corruption of the authority, the lack of jobs and the deterioration of ordinary life. "We are Muslims, and we need change," he said at his father's toy shop festooned with plastic guns. "We've had experience with Fatah, unfortunately."

Bashir el-Balawi, 46, his father, said: "The majority of them are Hamas now. It's because of the current situation, with no jobs and no safety and the corruption." Asked why he sells so many toy rifles, he threw up his hands. "The kids have fallen in love with weapons, it's just weapons they want, no other toys, they think they will fight against Israel." Does that depress him? "Not really," he said. "They want to feel powerful and free."

There are problems for Israel's interim leadership, too. Mr. Abbas has promised Hamas that the elections will not be postponed, but he has also said that if Israel will not allow Palestinians to vote in East Jerusalem, annexed by Israel after the 1967 war, the elections would be impossible. Israel does not want to be blamed for postponing the elections, especially since the Bush administration has called for them to go ahead.

Mr. Sharon had the stature to stand up to Washington on this issue, if he chose. It may be a harder choice for the acting prime minister, Ehud Olmert, whose performance will be watched closely by Israeli voters. He may want to show his independence from Washington and make a symbolic stand against Hamas participation by banning voting in East Jerusalem, but he would do that only if Mr. Abbas privately wanted him to.

The Palestinian Authority is in deep financial trouble regardless of how the elections proceed. It is spending almost its entire yearly revenue of some $1 billion on salaries, which were recently raised despite cries of alarm from donor countries and the World Bank. According to the authority's former finance minister, Salam Fayad, who quit in protest to run for election, it is essentially out of money, and unable to raise more funds from banks.

Donor countries at an aid meeting in London in mid-December refused to release a semiannual $60 million in aid because, said Nigel Roberts, the regional director of the World Bank, the Palestinians had broken their commitments to fiscal responsibility. "The Palestinian Authority is in imminent functional bankruptcy," Mr. Roberts said. "In any given month now, they might find themselves unable to pay their basic salaries and minimal operational costs."

In 2006, the Palestinian Authority is facing a deficit of about $900 million. It can hope for about $300 million to $350 million in additional funds from the Arab world and donor countries this year - presuming that they can work out another restructuring program with an authority run or dominated by Hamas. But even that would leave a net deficit of around $600 million.

The combination of the security chaos in Gaza and in large parts of the West Bank, the involvement of Hamas and the accumulated troubles of the Palestinian Authority is likely to drive off foreign investors, Mr. Roberts said. Yet it is only investment and job creation that can offer enough jobs for the growing population of young men.

Overall Palestinian unemployment is about 23 percent, but some 75 percent of young men from 16 to 25 years old in refugee camps are unemployed. Hiring some of them into the security services, which Mr. Abbas has done, makes political sense. The checkpoints and the barrier cost the Palestinian economy about 5 percent real growth every year, Mr. Roberts said. That is a major toll, given that 10 percent real growth would be needed to solve the unemployment problem.

In 1999, before this intifada and the Israeli response, the Palestinian Authority had a balanced budget and needed no outside support. Now, even though revenues have recovered to where they were in 1999, the deficit has ballooned. "You can't

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hire all these people and then increase their wages, that's what's broken the bank," Mr. Roberts said. "The salary bill is so high in relation to resources there are only two options, and both are unsavory. They have to cut salaries or cut staff."

Maj. Gen. Aharon Zeevi-Farkash, the departing director of Israeli military intelligence, said bluntly, "We are facing a real revolution in the Palestinian Authority." The clash of generations - the older group like Mr. Abbas, who went into exile with the late Yasir Arafat; the middle generation like Mahmoud Dahlan and Marwan Barghouti, who grew up under occupation; and the young generation of gunmen empowered by five years of armed conflict - is pulling Fatah apart, he said.

Fatah's divisions are accelerated by a reputation for corruption, arrogance and cronyism, and an inability - despite 70,000 men listed as part of the official Palestinian security services - to provide law and order. This has been fertile ground for Hamas, which is running under the slogan "Change and Reform."

Khalil Shikaki, director of the Palestinian Center for Policy and Survey Research, the most respected polling agency in the territories, said, "There is tremendous fragmentation evident in Fatah, with Fatah candidates competing with each other and the Fatah leadership impotent in stopping it."

Hamas, he said, "wants to win and is running like it wants to win," partly to resolve an old battle with the secular Fatah, partly "as a defeat for the accommodationists who want peace with Israel and follow the American lead, and partly as a victory for Islam everywhere."

Hamas wants to respond to demands for reform in the Palestinian Authority, Mr. Shikaki said. "Hamas wants to rise to the challenge. They've built a tremendous constituency and need to deliver."

But on the issue of Israel, neither Mr. Shikaki nor Mr. Duzdar, the Palestinian analyst, thinks Hamas will change its spots. "Anyone who thinks Hamas will become pragmatic if they win and it will be easier to settle the conflict is unrealistic," Mr. Duzdar said. "Hamas will never shift or change its charter or agenda. They want to have an impact on the Palestinian Authority from the inside, to be a tough opposition within the legislature and maybe cripple Abu Mazen and the Palestinian Authority in future negotiations," he said, referring to Mr. Abbas.

The Israeli intelligence officer said: "Hamas wants Israel gone and they want to keep the means of terror. Yet they are allowed into the political process by those who believe that afterwards, for some unknown reason, Hamas will change its soul or that Abu Mazen can deal with them. Hamas wants to enter the Palestinian Authority to promote its goals, not to change them."

Mr. Shikaki's latest poll, which incorporates constituency voting as well as votes for party lists, indicates that Fatah should win half the 132 seats at stake, with Hamas winning some 39 percent of them. About 14 seats will go to independents, some of them Hamas supporters, he said.

Mr. Duzdar and the senior Israeli intelligence officer say they think Hamas will do better than Mr. Shikaki's polls indicate and will get 45 percent or more of the seats - if the election is allowed to proceed. Senior Fatah members do not want to hand over so much power to Hamas, and there is a wide expectation that election day could be violent.

Israel and its policies in the occupied territories are partly to blame for Mr. Abbas's troubles, Mr. Shikaki said. "Israel could have helped him more," he said. "He did after all put the cease-fire in place. Wasn't this sufficient for Israelis to take more risks? To remove checkpoints, ease the economy, dismantle illegal outposts, freeze settlements, help Abu Mazen rebuild the security forces? But Israelis decided to take as little risk as possible."

Mr. Abbas showed little resolve himself, Mr. Shikaki admits, and embraced the old Fatah bosses rather than bringing along the next generation. "Israel certainly shares some responsibility and blame," Mr. Duzdar said. "But after they withdrew from Gaza, there is no reason for the Palestinian Authority to blame Israel for failing to provide law and order there."

Mr. Shikaki said: "If I were Israeli, I'd be very, very worried watching the rise of Hamas and the fragmentation of Fatah. It limits Israel's options in the West Bank in a big way. Even the simple task of unilateral withdrawal would be a nightmare without Fatah and a reliable Palestinian partner. With Hamas in control, unilateral withdrawals from the West Bank would be seen as a victory for Hamas."

His Condition Slightly Improved, A Comatose Sharon Faces The Risk Of Serious Infections (NYT)

By Steven Erlanger And Lawrence K. Altman

The New York Times, January 8, 2006

JERUSALEM, Jan. 7 - A scan of Prime Minister Ariel Sharon's brain on Saturday showed "very slight signs of improvement" but no real change in his condition, which remains stable but critical, a hospital official said Saturday evening.

After three days of a medically induced coma and three operations to stop bleeding and reduce pressure that arose in his brain from a major stroke on Wednesday, Mr. Sharon, 77, is facing a new set of risks.

The risks, which stem from his immobility since the stroke, include development of life-threatening infections like pneumonia, urinary tract infections and bed sores.

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It is standard care to move the arms and legs of stroke patients to prevent muscle atrophy and contractions. Hospital workers also move patients and use special mattresses to prevent bed sores.

But Mr. Sharon's bulk would make such care more difficult and increase his risks for complications, according to stroke experts not involved in his care.

Dr. Shlomo Mor-Yosef, the director of Hadassah Ein Kerem Hospital, said Saturday that Mr. Sharon's blood pressure, heart rate and other "vital signs were within normal limits." Mr. Sharon is breathing with the aid of a mechanical respirator.

The hospital has disclosed only limited information about Mr. Sharon's care, making it difficult for independent stroke experts to estimate the severity of brain damage and to follow the case. In addition, conflicting reports form the hospital have added to the confusion.

On Saturday, for example, Dr. Mor-Yosef said that a CT scan obtained earlier in the day showed further reduction in the swelling of Mr. Sharon's brain and said that the pressure had returned to normal.

But on Friday, he had said Mr. Sharon's brain pressure had returned to normal after a third operation to stop bleeding in the brain.

On Saturday, he made no mention of continued bleeding. He also said the left side of Mr. Sharon's brain "looked better" than the right. But he did not say whether he meant that the structure of the left brain seemed normal or whether it was only less damaged than the right.

Later on Saturday, Dr. Jose Cohen, a member of the team monitoring Mr. Sharon, rated his prospects of survival as "very high," Israel's Channel 2 television reported, according to Reuters. "I am pretty optimistic about it. We are praying there won't be complications, like catching an infection," Dr. Cohen was quoted as saying. But he stressed that Mr. Sharon would not be unscathed, saying, "To say that after a severe impact like this one there would not be cognitive problems is just not acknowledging reality."

On Sunday, Mr. Sharon's medical team will consider when to try to wake him from the induced coma. Until that effort is made, doctors cannot determine how much damage the stroke has caused in terms of paralysis and intellectual functions.

Many Israelis prayed for Mr. Sharon on the Jewish Sabbath while his two sons, Omri and Gilad, kept a vigil by his bedside.

Separately, the imprisoned Palestinian politician Marwan Barghouti warned against any move to use Mr. Sharon's illness as a reason to postpone Palestinian legislative elections scheduled for Jan. 25.

"The Palestinian Authority should avoid making any connection between the health of Sharon and the election date," he said in a statement published in Palestinian newspapers. "The election is a national Palestinian issue and it must not be linked to any foreign concerns such as what is happening in Israel with Sharon."

Mr. Barghouti, who heads the list of Fatah Party candidates despite serving multiple life sentences in Israel for his role in the killing of five Israeli civilians, also criticized the conduct of members of Al Aksa Martyrs Brigades, an armed offshoot of Fatah, who carried out violent protests in the Gaza Strip this week.

The gunmen were ultimately successful in forcing the Palestinian Authority to release Alaa al-Hams, who had been arrested for kidnapping a British family.

On Saturday in Gaza, 10 Palestinians were wounded, including 8 police officers, in gun battles in Deir al Balah, when the police tried to make an arrest. One wounded police officer was said to be in serious condition.

In the West Bank, clashes flared briefly between Palestinian gunmen and Israeli soldiers in the northern city of Jenin. Also in Jenin, Al Aksa Martyrs Brigades ordered international observers overseeing this month's Palestinian election to leave the city. "We are sorry to tell you that you must leave Jenin as soon as possible," said a statement to the observers, most of them European.

Ten Voices On The New Era (NYT)

By Peter Edidin

The New York Times, January 8, 2006

ONE constant, in calls to the Middle East on Thursday and Friday, was the background noise of a television, set to a program that was reporting on the condition of Ariel Sharon.

Whether the person being called was a Palestinian or an Israeli, to the left or right on the political spectrum, Mr. Sharon's sudden and unexpected removal from power and to a critical care ward in a Jerusalem hospital had focused them all on the magnitude of his influence and the enormous gap left by his absence.

In Washington, too, the prime minister's incapacitation managed to overshadow even a looming Supreme Court nomination fight and major controversies over influence peddling and domestic spying.

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One reason for the extraordinary degree of interest is simply historical. Mr. Sharon is one of the last of the legendary generation - which included Moshe Dayan, David Ben-Gurion, Yitzhak Rabin and others - who founded Israel in 1948. And he has figured in virtually every major event in the nation's history.

Mr. Sharon fought in every Israeli war, led the invasion of Lebanon, was judged indirectly responsible for the massacre of Palestinian men, women and children by Lebanese Christian forces in the Sabra and Shatila refugee camps in 1982, masterminded the settlement movement in the Gaza Strip and the West Bank, helped to bring the conservative Likud Party to power under Menachem Begin, overturning the long dominance of the Labor Party.

The point is, he has always been there - large, outspoken, sure of himself and infuriating to many, including many Israelis. When he came to power as prime minister in 2001, much of world opinion assumed that the peace process between the Palestinians and Israel was simply at an end.

And yet, in an astonishing act, Mr. Sharon, the most resolute opponent of Arab demands, decided that the nation's security and its future required that Israel relinquish control over the Gaza Strip to the Palestinians. Most observers believe he would have soon followed by withdrawing from parts of the West Bank, too.

To carry out his vision of disengagement and partition, Mr. Sharon created, out of little beyond the force of his personality, a new centrist party called Kadima. And until his stroke, polls showed him - and the array of prominent politicians who had flocked to his banner - well ahead in the parliamentary elections scheduled for March.

How much further he would have gone in pursuing a comprehensive, final peace with the Palestinians is unclear, but many believe that is precisely what he hoped to achieve.

The question now, again assuming that Mr. Sharon is unable to return to power, is what his legacy will be. Will Kadima survive without him, prosper in the elections and, under the leadership of Ehud Olmert, the acting prime minister, go on to realize Mr. Sharon's plans? Or will Likud, under the leadership of the hard-right former prime minister, Benjamin Netanyahu, return to power? Will the Labor Party make new gains?

And will the Palestinians and the Arab nations, deprived of Mr. Sharon as a useful bogeyman, begin to put their own houses in order and deal more constructively with Israel?

A number of Middle East experts and policy makers were asked in phone interviews to offer their own initial, off-the-cuff answers to these and other questions. If nothing else, their responses illustrate how large is the space that Mr. Sharon occupied until last week.

History Interrupted (NYT)

By James Bennet

The New York Times, January 8, 2006

"LOOK, the Jews are not easy people," Ariel Sharon, one of the least easy of people, said late one evening in 2004 on his farm in southern Israel. "Maybe that's the reason they managed to exist, I would say, for thousands of years." He chuckled.

"You cannot defeat Jews," Israel's prime minister went on. "You can maneuver them. You maneuver them, they maneuver you. I would say it's endless maneuvers."

It is hard to imagine Mr. Sharon's own gambits at an end. Having outmaneuvered Jew and gentile, enemy and ally alike, Mr. Sharon at 77 was losing ground at this writing to the invincible opponent he had also cheated more than once. It should have surprised no one - though it did - that he was caught, in this struggle, in mid-maneuver. Having torn up the Jewish settlements he founded in the Gaza Strip, he had been on his way to tearing apart the right-wing party he founded, Likud, in favor of a new, centrist party that was going to do - well, it may be that only Mr. Sharon knew exactly what, and some wondered if even he did.

He almost certainly planned to pull some Israeli settlers out of parts of the West Bank, but how soon, and from which areas? Did he envision signing a peace agreement with the Palestinians from behind the West Bank barrier he mapped out? One that would provide them sovereignty in a viable state? Or did he want to cage the Palestinians in barricaded enclaves like Gaza? Its ends still unknown, its ultimate achievements still uncertain, one of the most audacious exercises of leadership in Israel's history came to an abrupt close at a moment of resounding ambiguity.

"We will never know the real answer," said Tzaly Reshef, a founder of the left-wing Israeli group Peace Now. He said that his own feelings about Mr. Sharon were mixed. "Some good friends who share my views remember only the last two years," he said. "I remember the whole history of Sharon."

"He didn't have a lot of limitations, moral or otherwise," Mr. Reshef said. Yet - partly because of those qualities - Mr. Reshef did not have mixed emotions about the loss of Mr. Sharon as a leader. "I think it is a big tragedy that we lose him now," he said. The same "power and personality," he said, that caused Mr. Sharon to command the bloody invasion of Lebanon in 1982 "could maybe have made him the savior of Israel in the next four years."

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Maybe Mr. Sharon had confided all in his deputy prime minister, Ehud Olmert. Maybe, in a locked chest on the farm, he had squirreled away a map of his planned disposition of territory. But, Mr. Sharon being Mr. Sharon, no one could rule out another feint. Besides, the interplay of Israeli and Palestinian blows and posturing has proved resistant to fixed road maps of any one's devising; prospects for changing the pattern had come to rest more on the creative leadership of the brutal, cunning figure who just exited, stage center.

What Mr. Sharon might have done is a question of more than academic interest. Lacking his credentials, politicians who follow will compete for his legacy and so contest its interpretation. "Everybody's going to fight for the mantle of Ariel Sharon," said Jon Alterman, director of the Middle East program at the Center for Strategic and International Studies. "I think partly because he covered such a wide swath of the middle of Israeli politics there are going to be innumerable theories of what he might have done."

Israel has never fought a war without Ariel Sharon in the front lines or in command, or both. Even Israelis who held him responsible for the massacre of Palestinians at Sabra and Shatila during the Lebanon War or the deaths of Arab civilians during his commando raids of the 1950's trusted him to concede territory because they believed that, as he often said, he would never take a risk with their security.

As a leader, Mr. Sharon - his first name means "Lion of God" - was everything he seemed, and its opposite. He was blunt in speech and subtle in aim, sloppy in appearance and meticulous in preparation, grandfatherly in demeanor and ruthless in reality. In their 1973 study, "The Israeli Army," Edward Luttwak and Dan Horowitz concluded that he "concealed one of the finest tactical minds in the Army behind the carefully cultivated image of a simple fighting soldier."

It is the effort to conceal that is telling. His nickname, "the Bulldozer," reflected only his most obvious features - the fists, not the brain. He was underestimated even when he ran for prime minister five years ago, when potential opponents, including Benjamin Netanyahu, stood aside in the expectation that Mr. Sharon would keep the seat warm, quickly fall from power, and make a successor look good by comparison.

Those entangled by his tactics often came away revolted. "The biggest liar this side of the Mediterranean," the American diplomat Philip Habib, who on behalf of Ronald Reagan tried to end Israel's 1982 Lebanon invasion, said of Mr. Sharon, who was then defense minister. Mr. Sharon was a man of fixed ends - Israel's security, as he saw it, and its inextricable adjuncts, his own military and political success - and infinitely flexible means. That was the bitter lesson learned by Israeli settlers who moved into Gaza on his encouragement and out of it on his orders.

Mr. Sharon called his new party Kadima, or Forward, without ever saying just where it was headed. Both the indefatigable dove, Shimon Peres, and hawks like Shaul Mofaz, the defense minister, flocked to him. A poll released just before Mr. Sharon was stricken Wednesday showed Kadima crushing the established Likud and Labor Parties. Mr. Sharon had not even prepared a parliamentary list for elections, ranking his party leaders in order of importance. They must now sort it all out on their own.

Mr. Sharon was no mere blur, of course. He used ambiguity to hold the political center but he held that political center in order to shape it. He reversed the logic for ending the Israeli-Palestinian conflict that was adopted by his predecessors Yitzhak Rabin and Ehud Barak: While those prime ministers sought security through peace agreements, Mr. Sharon insisted, as he put it, that only security could bring peace. The Palestinians would have to lay down arms before negotiations could begin.

As a result, Israelis endorsed Mr. Sharon's conviction that the Palestinian leadership, unable or unwilling to crack down on militants, could not now be a peace partner. And so they overwhelmingly backed his approach of unilaterally setting Israel's boundaries, withdrawing from Gaza in what he assured voters was their own interest.

Palestinians and Mr. Sharon's left-wing critics said his approach was calculatedly self-fulfilling. In their eyes, his refusal to talk undermined Palestinian pragmatists, who needed negotiated achievements to build domestic support. To them, Israeli incursions and blockades crippled the very security forces that were supposed to act against terrorists. Mr. Sharon's unilateralism, they said, empowered militants, who pointed to it in arguing that the violence of the second intifada had achieved something that 10 years of negotiations never did - the evacuation of Israeli settlements.

Mr. Sharon was fairly clear about whether he saw this unilateralism leading to a peace agreement. He wanted an agreement, he said, provided the Palestinians could meet his demands for his security. His senior aides used to joke that, to do so, the Palestinians would have to become Swedes. For years, Mr. Sharon said he wanted a long-term interim agreement, a sort of standstill arrangement that would end the fighting, reduce the friction between the two peoples and help them, somehow, become comfortable with each other. Only after many years, he argued, would there be enough trust for real peace. In any final deal, he wanted to hold all of Jerusalem and Israel's biggest West Bank settlements.

Mr. Sharon liked to quote advice his mother gave him in the early 1980's, when he was negotiating with the Egyptians: "Do not trust them! You cannot trust a piece of paper!"

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In that conversation at his farm, in the summer of 2004, Mr. Sharon cautioned, "Here, in this region here, declarations, speeches, words, are worthless." It was, he said, "an empire of lies." Yet even Mr. Reshef said Mr. Sharon would ultimately have been open to negotiating peace with the Palestinians, if they pulled themselves together.

Rather than words, Mr. Sharon believed in action, in land, and in history as he saw it, and he saw it all around him. That evening at his farm, he described riding through the terraced West Bank hills near the city of Ramallah. He would narrow his eyes, he said, to block out the electrical lines and imagine warriors of the ancient Israeli tribe of Benjamin "with spears, running there on those terraces."

Arabs, he added, did not build the terraces. "Those terraces are old Jewish terraces," he said.

Mr. Sharon has earned his own place in that glorious, sad story, and in the debate that may never die.

Specialists To Plan Next Step For Sharon (LAT)

By Ken Ellingwood

The Los Angeles Times, January 8, 2006

JERUSALEM — Doctors said Israeli Prime Minister Ariel Sharon remained in critical condition in a medically induced coma Saturday as fresh tests showed that swelling in his brain had eased slightly after a massive stroke three days earlier.

Dr. Shlomo Mor-Yosef, director of Hadassah University Medical Center, said during an evening briefing that specialists at the hospital in various medical fields would gather today to plan a course of action.

Sharon's life remained in danger after the severe bleeding of the hemorrhagic stroke. One matter to be decided is when doctors will begin trying to wake the prime minister from the coma by gradually reducing the dosage of anesthetics. Only then can they get a clear idea of the extent of brain damage the 77-year-old Sharon has suffered as a result of the stroke, his second in a month.

Assessing the extent of damage, and to what degree Sharon will be able to function, "is indeed the question we would all like answered," Mor-Yosef said during a briefing that was somewhat more detailed than previous ones.

Sharon underwent a CT scan early Saturday to allow his physicians to check for swelling or renewed bleeding after the cerebral hemorrhage and three operations since Wednesday night.

Mor-Yosef said the scan showed a "slight improvement" in swelling, adding that the left side of the brain appeared to have been spared the damage caused to the right side. Speech functions are centered in the left side.

Mor-Yosef said various vital signs — intracranial pressure, blood pressure and pulse rate — were within "normal limits." But he cautioned that Sharon's condition remained grave.

"It's still critical and stable," he said in English.

He said that after today's meeting among medical specialists, "we will decide about management for the next 24 hours."

Later, one of Sharon's surgeons told Israel's Channel Two that Sharon's chances of survival were "very high," but that cognitive damage was likely, Associated Press reported.

The briefing was the hospital's first since Friday, when Sharon was rushed into surgery for a third time to stanch new bleeding. Doctors performed back-to-back operations after Sharon suffered the stroke late Wednesday.

He had been scheduled for surgery at Hadassah the following day to repair a small hole in his heart that is thought to have contributed to a minor stroke on Dec. 18.

Doctors said the earlier stroke had caused no lasting damage. He was sent home two days later and was taking blood-thinning medications, which made it more difficult for doctors to stop hemorrhaging during the subsequent episode.

Doctors have described the most recent damage as extensive, and the reports have left little hope that Sharon would ever return to office. His deputy, Vice Premier Ehud Olmert, has filled in as prime minister since Wednesday.

Olmert joined Sharon in bolting from the conservative Likud Party two months ago to form a centrist movement that supports steps to resolve the conflict with the Palestinians.

Olmert is considered the person most likely to lead the new party, Kadima, in national elections scheduled to take place in March. But it is not clear whether Olmert or anyone else in Kadima can muster the same support that the party commanded under Sharon. Polls have shown the party with large leads over the left-leaning Labor Party and Likud.

A pair of surveys taken since Sharon's latest stroke indicated that the party would suffer only a minor dip in support under Olmert, but those findings may be an unreliable gauge because public sympathy for the prime minister remains high.

Olmert was reportedly planning to meet again with Shimon Peres in an effort to persuade him to stay with Kadima and to ignore Labor's calls for him to return to the party he once led. Peres is said to be seeking assurances for a senior post if he stays with Kadima and Olmert becomes prime minister.

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Peres, 82, joined Kadima after losing the Labor leadership post to Amir Peretz, a fiery union leader. Analysts say Olmert would gain much from an endorsement by Peres, who is widely respected in Israel and abroad despite repeatedly losing elections.

Even Pat Robertson's Friends Are Wondering... (NYT)

By Laurie Goodstein

The New York Times, January 8, 2006

EVERY day, two people pay particularly close attention to Pat Robertson's religious news and variety show, "The 700 Club." They have notepads in hand, and the VCR set on "record."

They work in Washington at two of the nation's most ardent enemies of the Christian right: People for the American Way and Americans United for Separation of Church and State. They lay in wait for Mr. Robertson to say something truly jaw-dropping - like his suggestion on Thursday that Ariel Sharon's stroke was divine punishment for "dividing God's land," and giving away Gaza to the Palestinians.

Within hours of such comments, the remarks are disseminated by e-mail to journalists around the country, and soon video clips of Mr. Robertson are the subject of news broadcasts and nationwide ridicule.

Mr. Robertson, who has made provocative comments since he first came on the scene, has in recent months made news repeatedly. Last August, he suggested that the United States assassinate Hugo Chávez, the leftist Venezuelan president. "It's a whole lot cheaper than starting a war, and I don't think any oil shipments will stop," he said.

In September he mused about whether the abortion rate in America could have provoked Hurricane Katrina and the terrorist attacks on the United States.

The news media avidly reported his comments, but are they worthy of attention? Do conservative Christians still follow Mr. Robertson in large numbers?

Certainly, his following seems to have diminished. Mr. Robertson's political machine, the Christian Coalition, once a powerhouse at mobilizing voters, is limping along since he resigned as president five years ago, fending off a long waiting list of creditors, its presence in the capital reduced to a post office box.

His old friends and allies in the conservative Christian movement are cringing with embarrassment, giving interviews ruing his remarks. "He speaks for an ever-diminishing number of American evangelicals, and that process accelerates every time he makes a statement like this," said Richard Land, president of the Southern Baptist Convention's Ethics and Religious Liberty Commission.

Os Guinness, a prominent Christian writer and social critic, said: " I know hundreds of people who are just terminally frustrated with the idiotic public statements of Jerry Falwell and Pat Robertson and the idea that these people represent us. They don't."

Donald Wildmon, the founder and head of American Family Association and American Family Radio, said: "Pat's comments were most unfortunate. I don't think this served our cause very well."

But dismissing Mr. Robertson at this point in his long career would be wrong. Whether his colleagues wish it or not, he remains a force among religious conservatives. At 75, Mr. Robertson still regularly appears on his show. And he remains connected to both Regent University and the American Center for Law and Justice, growing institutions that he founded.

"Among the elites in the movement, they're getting impatient with him and probably are past the point of being able to take him anymore," said Mark J. Rozell, a professor of public policy at George Mason University who has followed Mr. Robertson for years. "But there is a real strong core of activists throughout the country who support and like Pat Robertson, might even agree with some of the things he says, though they might like him to express his views a little more delicately."

For instance, many conservative Christians agree in principle with his comments about the Middle East - the Scriptures, they agree, call for a unified Israel.

Mr. Robertson's daily program, "The 700 Club," is carried in most markets nationwide on ABC Family and the Trinity Broadcasting networks, and drew an average audience of 828,000 viewers in the last quarter of 2005, according to Nielsen Media Research. While he cannot compete with "American Idol," he had more viewers than CNBC or MSNBC in prime time.

As a host, Mr. Robertson regularly draws guests like Republican leaders Bill Frist, Rick Santorum, Tom DeLay and Sam Brownback. Last week, he bantered with Fred Barnes, a Fox commentator and executive editor of The Weekly Standard. The show is also a prime advertising vehicle for Christian books, music and other products.

Mr. Guinness, the writer, said that while he has refused invitations to appear on Mr. Robertson's program, out of principle, "I know a good number who go on because they want to sell their books."

Those who know him say they are puzzled why Mr. Robertson continues to discredit himself - and the cause - with the kind of intemperate remarks that play in media roundups alongside those from the president of Iran.

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Mr. Robertson refused interview requests on Friday. The Christian Broadcasting Network issued a statement defending Mr. Robertson, and accusing People for the American way of taking his comments out of context "on an ongoing basis" and circulating them "in an attempt to discredit him."

Mr. Robertson did not appear on "The 700 Club" on Friday. Instead it was hosted, as it often is, by his son, Gordon. He prayed for God to heal Mr. Sharon.

US Concerned Over Violence Flare-up In Sri Lanka (AFP-Y2)

AFP, January 8, 2006

US Secretary of State Condoleezza Rice has voiced concern over a flare-up of violence in Sri Lanka, and hopes Colombo and Tamil Tiger rebels will resume talks to reinforce their fragile truce, the State Department said.

Washington plans to dispatch a senior official to the troubled tropical Indian Ocean island soon to discuss the conflict, the department said Friday.

Rice "expressed concern over the recent upsurge in violence in northern and eastern Sri Lanka" during talks with visiting Sri Lankan Foreign Minister Mangala Samaraweera on Thursday, State Department spokesman Sean McCormack told reporters.

In the latest violence, at least five Sri Lankan sailors were killed and 10 others were missing and presumed dead early Saturday following the sinking of a navy gunboat in a suspected suicide bombing.

The attack was the first sinking of a high-powered naval gunboat since a Norwegian-brokered truce between Colombo and the rebel Liberation Tigers of Tamil Eelam (LTTE) went into effect from February 2002.

Rice and Samaraweera discussed the current status of the Sri Lankan peace process and the importance of strengthening the ceasefire, McCormack said.

"Secretary Rice reiterated the United States hope that talks between the Sri Lankan government and the Liberation Tigers of Tamil Eelam on ways to strengthen the ceasefire could resume soon," he said.

"She also lauded the Sri Lankan government for its restraint in the face of the Tamil Tigers' provocations."

Rice said the United States, co-chair of the Sri Lanka Donors Group along with Japan, the European Union and Norway, remained committed to working with Sri Lanka "to defeat terrorism and to promote peace."

Washington has tagged the LTTE as a terrorist organization.

Rice told her Sri Lankan counterpart that State Department Undersecretary Nicholas Burns "does intend to travel" to Sri Lanka to discuss prospects of restoring peace.

"I think he's (Burns) going to talk about a number of different issues: talk about facilitating the peace between the government and the LTTE, as well as other issues of regional concern," McCormack said.

Amid the upsurge in violence, many are concerned Sri Lanka would descend again into civil war.

President Mahinda Rajapakse won November polls promising a brand new peace process that would have sidelined Norwegian peacebrokers. But he has now invited Oslo to continue its role, despite staunch opposition by his allies.

LTTE chief Velupillai Prabhakaran had warned that unless Colombo -- which has already ruled out a separate homeland for minority Tamils -- gives them wide autonomy, the Tigers would "intensify their struggle."

Rice praised Norway's "important role" in trying to facilitate the peace process even as Oslo struggled to bring the two parties to the table following a dispute over the venue of potential peace talks.

Citing the most recent attack, Samaraweera appealed for concerted international pressure on Tamil Tiger rebels to bring them back to the negotiating table.

"They are a brutal terror machine but having said that, we must bring them (the rebels) into the mainstream and terrorism must be wiped out," he said.

Asked on the possibility of retaliation, Samaraweera said, "there will come a point when the public could be provoked into action and the government may not be able to control."

The three-decade-old ethnic conflict between the majority Sinhalese and minority Tamils has claimed over 60,000 lives. Four major peace attempts and several ceasefires have collapsed in the past.

Bomb Kills 13 On Navy Boat In Sri Lanka (NYT)

By Shimali Senanayake And Somini Sengupta

The New York Times, January 8, 2006

COLOMBO, Sri Lanka, Jan. 7 - A suicide bomber destroyed a Sri Lankan gunboat early Saturday, the authorities said, and European cease-fire monitors warned that such an expansion of violence could lead to a return of full-scale war between the government and Tamil Tiger rebels.

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The incident, in which 13 of the 15 sailors aboard are believed to have been killed, was the most lethal attack at sea here since a 2002 cease-fire agreement between the government and the Liberation Tigers of Tamil Eelam, who have been fighting for a separate homeland for more than 20 years.

"If the L.T.T.E. is behind this, then they are pushing the situation closer to war," said Hagrup Haukland of Norway, the chief monitor of the truce brokered by Norway in 2002. "I am very worried. I have never been so worried about the situation."

A speedboat laden with explosives rammed the Israeli-built gunboat shortly after midnight, the navy said, sinking the vessel, which carried a 15-member crew. Fishermen plucked 2 sailors from the water, but the 13 others were feared dead.

The Tamil Tigers denied responsibility for the attack.

Sri Lanka's foreign minister, Mangala Samaraweera, in Washington for talks with Secretary of State of State Condoleezza Rice, told reporters that such incidents risked a major expansion of the conflict, Agence France-Presse reported. "There will come a point when the public could be provoked into action and the government may not be able to control," he said.

The boat sank amid spiraling violence; nearly 50 police officers and soldiers were killed in December alone, the bloodiest month since the truce began. On Monday, five ethnic Tamil students were killed in Trincomalee in eastern Sri Lanka. The military said they died in a botched grenade explosion, but the rebels accused the military of shooting them.

The attack on Saturday was the first time a navy gunboat had been sunk since the 2002 cease-fire agreement. "It's almost like an undeclared war," a military spokesman, Brig. Prasad Samarasinghe, said.

Russians Visit Iran On Nuclear Plan (NYT)

By Agence France-presse

The New York Times, January 8, 2006

TEHRAN, Jan. 7 (Agence France-Presse) - Russian envoys met with Iranian officials on Saturday to try to persuade Tehran to accept a compromise for ending a standoff with the West over Iran's plans to press ahead with its nuclear development program, state television said.

Moscow is proposing that Iran carry out uranium enrichment on Russian territory to allay Western fears that the work could lead to Iran's producing a nuclear bomb. Both the European Union and the United States have backed the proposal in principle, but it has so far been rebuffed by Iran.

The spokesman for Iran's top security body, Hossein Entezami, was quoted by state television as saying that the talks involved "joint enrichment on Russian territory and also enrichment on Iranian soil."

Mr. Entezami also said that inspectors from the United Nations' International Atomic Energy Agency had arrived here to monitor Iran's resumption of nuclear research next week, though it was not clear what that research would entail.

In Vienna, a spokesman for the agency said that it had still not received details of Iran's plans and that until such clarification was provided, the inspectors' presence in Tehran should be considered routine.

In recent weeks, Iranian officials first hinted that they might consider the Russian plan but later insisted that any deal recognize Iran's right to carry out enrichment in Iran. "If it says that enrichment can only happen in Russia, it's not acceptable," a Foreign Ministry spokesman, Hamid Reza Asefi, said Tuesday.

Iran's Top Mullah May Be On Our Side (LAT)

By Dariush Zahedi And Ali Ezzatyar

The Los Angeles Times, January 8, 2006

THE UNITED STATES has a surprising ally in its impatience with the new Iranian president. Since his inauguration, Mahmoud Ahmadinejad's pugnacious demeanor has not only roiled the international community but also a significant portion of Iran's ruling elite. A coalition of traditional conservatives, pragmatists and reformists is emerging within the government to oppose Ahmadinejad's brand of governance. With Iran saying it will resume nuclear fuel research, the U.S. should do all in its power to boost the bargaining power of these more moderate Iranian leaders.

The rise of the anti-Ahmadinejad faction defies the expectations of Iran analysts, who believed that the post-Khatami era would produce a monolithic conservative bloc in control of most major levers of power. Instead, the coalition is strengthening and attracting many of the regime's powerful personalities, perhaps even the supreme leader, Ayatollah Ali Khamenei. Evidence of the latter is Khamenei's recent decree giving the Expediency Council, a non-elected body headed by former President Hashemi Rafsanjani, oversight of the presidency.

Ahmadinejad's primary supporters have always been the rank and file of the country's paramilitary forces. Renowned for their fearlessness and passionate commitment to the populist ideals of the Islamic revolution, they had not dominated government before or since Ayatollah Ruhollah Khomeini's death in 1989.

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The political struggle of Iran's security establishment has come full circle with Ahmadinejad's rise, which makes dealing with Tehran more difficult. The paramilitaries are the ultimate guarantors of the regime's survival. Their leaders wield enormous influence in the Islamic Republic's coercive security establishment, particularly those associated with the Revolutionary Guards. The militants also dominate the volunteer, or Basiji, militia force, believed to have more than 1 million members.

The paramilitaries are not fully tied to any one of the groups vying for power in Iran. Rather, they seek to influence domestic and foreign policy through their numbers and martial strength. They know international tensions that heighten security threats to Iran enhance their status in the power struggle. Although Ahmadinejad owes his presidency to allies in the guards and the Basiji forces, they are not totally beholden to him.

The unlikely counterbalance to Ahmadinejad could be Khamenei. He has frequently cultivated the paramilitaries since his elevation and relied on them to consolidate his power. But should the radicals attempt to direct policy without his explicit consent, Khamenei could move toward pragmatists allied with Rafsanjani and reformist supporters of former President Mohammad Khatami. The two former presidents don't want one of their few achievements in the last 16 years — Iran's moderately improved relations with the outside world — to disappear.

Contrary to popular belief, the traditional conservative clerical establishment is apprehensive about the possibility of violence inside and outside Iran. It generally opposes an aggressive foreign policy and, having some intimate ties with Iran's dependent capitalist class, is appalled at the rapid slide of the economy since Ahmadinejad's inauguration. The value of Tehran's stock market has plunged $10 billion, the nation's vibrant real estate market has withered and capital outflows are increasing.

Khamenei has intimated his readiness to distance himself from the radicals. Apart from authorizing nonpresidential bodies to supervise the three branches of government, he has instructed the Supreme Council for National Security to more fully cooperate with the International Atomic Energy Agency in the development of Iran's nuclear program. These moves have strengthened his institutional power and helped prevent Ahmadinejad's administration from undermining the regime's credibility.

Here is where the United States comes in. The history of U.S.-Iran relations shows that the more Washington chastises Tehran for its nuclear ambitions, the more it plays into the hands of the radicals by riling up fear and nationalist sentiment. Instead, the U.S. needs to offer Iran an acceptable face-saving mechanism to allow it to master, under appropriate international supervision, the nuclear fuel cycle. A seed planted now could even grow into the long-awaited detente between the two countries and help the U.S. extricate itself from Iraq.

Assad Said To Reject Questioning In U.N. Inquiry (LAT/REU)

From Reuters

The Los Angeles Times, January 8, 2006

BEIRUT — Syrian President Bashar Assad has rejected a request to be interviewed by a United Nations commission investigating the assassination of former Lebanese Prime Minister Rafik Hariri, diplomatic sources said Saturday.

Syria told the U.N. commission the request violates the country's sovereignty, the sources said.

The decision is likely to intensify international pressure on the Damascus regime, given a U.N. Security Council resolution in October threatening to take unspecified action if Syria failed to fully cooperate with the inquiry.

A spokeswoman for the U.N. investigation confirmed that Syria had replied to a request to meet Assad and Foreign Minister Farouq Shara, among other officials, but refused to elaborate.

Asked whether Syria had rejected the request to meet Assad, one diplomatic source said, "Yes, that's true." The source added, "The main point is that Syria said the request violates the principles of sovereignty."

The diplomats, who asked not to be named, said Damascus has responded positively to "one part of the request" but declined to give further details. Diplomats said earlier that Syria had agreed to allow the commission to meet with Shara.

In an interview published Saturday by Egyptian weekly newspaper El Osboa, Assad hinted that he would be immune from questioning by U.N. investigators.

"There was a previous request, when the committee proposed to come to Syria at the end of last summer to listen to Syrian witnesses, as they call them. At that time, they requested to meet with President Bashar, and the president of the republic has international immunity," Assad said in the interview.

The inquiry has implicated senior Syrian officials and their Lebanese allies in the Feb. 14 killing of Hariri and 22 others in Beirut. Syria has denied any role, but the assassination sparked mass protests in Beirut, forcing Damascus to bow to world pressure and end its 29-year military presence in Lebanon in April.

Europe Comes To Terms With Need For Russian Gas (NYT)

By Mark Landler

The New York Times, January 8, 2006

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FRANKFURT, Jan. 7 - President Vladimir V. Putin's decision to switch off Russia's natural gas spigot to Ukraine on New Year's Day is being widely judged a ham-handed miscalculation, because in the end it only proved how much Europe was prepared to help an independent-minded Ukraine resist Russian bullying. But realists here argue that Europe needs to draw some lessons as well.

There is plenty of evidence that Mr. Putin overplayed his hand and was humiliated when Europe forced him to turn the gas back on. He underestimated Ukraine's leverage as the primary conduit for Russian gas exports to Europe, and Europe's influence as the major consumer of Russian gas. He also misjudged how much his decision would erode the confidence Germany, France, Italy and other countries had in Russia's trustworthiness as a supplier.

But now that the gas is flowing again - under a tenuous new deal on pricing in which Ukraine and Russia each gave a little ground - the experts are saying another lesson is becoming clear.

Since Europe, they say, still has no alternative to Russia's gas, it must learn to live with Russia's peculiar habits as a political and commercial partner.

Despite its demise as a superpower, Russia is not content to be an economic player that follows the West's lead in political matters. It insists on acting like a global power with a mind of its own, and it views its natural resources as a tool for furthering its political goals - perhaps its last best tool, now that its military and its decrepit industrial base have proved so poorly matched to the West's.

"Europe has to recalibrate itself, not to the idea of a growing, democratic Russia, but to a Russia that is behaving according to its sense of its national interests," said John C. Kornblum, a former American ambassador to Germany who is now a banker in Berlin. "It is not concerned about winning prizes in the West."

That does not mean giving in to Russian threats. It means expecting Russia to put political spin on an economic policy, and being ready to resist, if necessary. It also means that Europe should feel free to link politics to its own economic bargaining - for example, prodding Russia on human rights or democracy as part of the price of remaining a customer.

Lecturing Russia on the evils of using energy as a political weapon makes little sense, given that it derives so much of its hard currency from oil and gas, and Europe's dependence is only likely to increase.

Europe can strengthen its hand by exploring how to curb its dependency, either by finding other gas suppliers or developing alternative fuel sources. Germany is already talking about extending the life of nuclear plants. Last week, President Jacques Chirac said France would build the prototype for a fourth generation of nuclear plants. The goal, he said, is that by 2020, French trains will not use a drop of gasoline.

But such a strategy has limits. Nuclear plants supply only 14 percent of Europe's energy, compared with 23 percent for gas, and the role of gas is expected to increase. Windmills, solar panels and the like are long-term solutions; for the foreseeable future, households from Munich to Milan will rely on Russian gas to ward off the winter cold.

Since Europe's current relationship with Russia has been shaped in large part by Germany - it pioneered economic ties with Moscow during the cold war, and is by far the largest consumer of Russian gas - any new understanding between Russia and Europe will probably have to begin with Germany.

"Germany had the idea that energy could be the guarantor of good relations," said Wolfgang Eichwede, an expert on Russia at the University of Bremen. "The lesson is that relations have to be not only reliable but balanced."

The new German government spoke openly last week about the first part of that formula, when its economics minister, Michael Glos, raised questions about Russia's dependability and said the time had come for Germany to explore other sources of energy.

Chancellor Angela Merkel is expected to discuss the matter when she has her first meeting with Mr. Putin on Jan. 16. Mrs. Merkel, a conservative who was raised in the former East Germany and speaks Russian, is believed to be more of a pessimist about how much to expect from Russia than was her Socialist predecessor, Gerhard Schröder.

"She does not have a romantic view of Russia," said Alexander Rahr, an expert on Russia at the German Council on Foreign Relations. "I don't think she especially likes Russia, but she understands it."

Mr. Schröder cultivated a friendship with Mr. Putin and adopted a Russian child, which became a metaphor for the cozy links he wanted between Germany and Russia. Last month, he became the chairman of a Russian-German consortium that is building a $5 billion gas pipeline from Russia to Germany, a deal he had brokered as chancellor.

Depending on one's perspective, this pipeline is either a shrewd way to avoid the complications of receiving Russian gas via middle countries like Ukraine or Poland, or a mistake that would make Germany even more dependent on Russia.

Skeptics argue that it would be a good thing, not just for Europe but for the relationship, to keep a country like Ukraine as a buffer between the supplier and ultimate customer.

"The more flags that are planted in a pipeline, the harder it is to cut off," said William C. Ramsay, the deputy executive director of the International Energy Agency in Paris.

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In the end, few experts here believe that Europe is in genuine danger of having Russia turn off the tap. The European market is too vital for Russia, and both sides have already invested too much in the plants and pipes that carry the gas. Managing the relationship is the issue.

"Pipelines are like kids in a marriage," said Jérôme Guillet, a French banker and an expert in natural gas. "The seller cannot sell his gas elsewhere; the buyer cannot buy gas elsewhere. The two sides are welded together."

Such marriages work best, the realists argue, when both partners have no illusions about changing the other.

British Liberal Quits As Party Leader (NYT)

By Sarah Lyall

The New York Times, January 8, 2006

LONDON, Jan. 7 - The leader of the Liberal Democratic Party, Charles Kennedy, who admitted last week that he had a drinking problem, resigned as party leader on Saturday in the face of growing criticism in his own party.

Mr. Kennedy, who is not giving up his seat in Parliament, had vowed to fight for his job as party leader, declaring that his drinking was under control and that he had been sober for two months. But his position became increasingly untenable as more and more party members, in Parliament and in the country at large, publicly declared their opposition to his continuing as leader.

On Friday, 25 of Mr. Kennedy's parliamentary colleagues said they would resign from their policy positions if Mr. Kennedy remained as party leader. A poll conducted by the BBC television program "Newsnight" found that more than half the Liberal Democrats in Parliament said that Mr. Kennedy's position as leader had become unsustainable.

Britain is a hard-drinking country, and voters generally find nothing to complain about if politicians enjoy a glass or two. But Mr. Kennedy, sometimes called Champagne Charlie, has long been dogged by rumors that he drank to excess, particularly when he missed important debates in Parliament. His aides have invariably blamed illness or scheduling conflicts for such lapses.

After becoming party leader in 1999, Mr. Kennedy repeatedly and publicly denied that he had trouble with alcohol. He finally admitted that he had been receiving help for a drinking problem after being confronted with damning evidence from Channel 4 News. The Liberal Democrats - Britain's third-largest party. after Labor and the Conservatives - won 62 seats in Parliament in the 2005 election, the party's largest representation since the 1920's.

Party officials said Mr. Kennedy's deputy, Sir Menzies Campbell, would serve as acting leader until the party decided how to go about selecting a permanent leader.

Leader Of British Political Party Steps Down (LAT)

By John Daniszewski

The Los Angeles Times, January 8, 2006

LONDON — Charles Kennedy, leader of Britain's third-largest political party, gave in to demands of colleagues and resigned Saturday, two days after being forced to acknowledge a drinking problem.

Kennedy, 46, who had helped raise the Liberal Democrats to the highest level of any third party in British politics since the 1920s, saw his career brought down after a weeks-long campaign by colleagues, who insisted that they were doing it for his good and the good of their party.

Although he said he had not had a drink in two months and was receiving professional help, an ultimatum came in the form of a letter signed by 25 of the 62 Liberal Democrat members of Parliament. They said they would not support him as leader after Monday.

"I am standing down as leader," Kennedy told reporters Saturday at the party's headquarters. "When nominations open for the leadership of the party, I shall not now be putting my name forward."

He said he had received support from rank and file party members but recognized that it was insufficient. "It has become clear that such support is not reflected strongly enough across the parliamentary party."

In 2003, Kennedy was the only British opposition leader to protest Prime Minister Tony Blair's decision to go to war in Iraq.

Although Kennedy's resignation was not expected to bring about any major shift in British politics, his slow political demise has dominated headlines here for a week.

Alcohol abuse and the penchant of many young Britons to engage in binge drinking have become a serious social issue in recent years. British politicians often were known to be heavy drinkers, but the case of Kennedy indicates that such behavior is no longer to be countenanced.

Liberal Democrats began speaking anonymously against Kennedy a few weeks before the Christmas holiday. Using euphemisms, they said such things as he had been "off his game, "tired" or "unfocused" recently.

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The attacks began immediately after the Conservatives chose a new leader: charismatic 39-year-old David Cameron, who gave the party a fresh look and political boost. That led some senior Liberal Democrats to think that that their party should change as well to position itself for the next elections, likely to be held in 2009 or 2010.

After insisting that he intended to remain in his post, Kennedy called a news conference Thursday when his office learned that broadcast reporters were about to break the news that he had sought treatment for alcohol abuse. His acknowledgment contradicted earlier denials that he drank excessively.

At that stage, Kennedy said he intended to fight to retain his post, but he agreed to schedule a leadership election if anyone wished to challenge him.

That stance did not satisfy critics, many of whom came out against him more openly Friday, insisting that he spare himself and the party by agreeing to step down.

Kennedy said he would spend the weekend reflecting, but gave in late Saturday, apparently concluding that his position was irrevocably damaged.

A red-haired Scotsman and Roman Catholic from the Highlands near Inverness, Kennedy was the youngest member of Parliament when he was elected to the House of Commons 22 years ago.

Although under Kennedy the Liberal Democrats increased their representation in Parliament, many thought the party should have done better in last year's election, in light of widespread disillusionment with the war in Iraq, which had been backed by both by the Labor and the Conservative parties. To many voters, it seemed, Kennedy lacked the gravity to be considered a potential prime minister.

The Liberal Democrats were formed in 1987 when the Liberal Party, which traced its history to the 19th century, merged with the Social Democratic Party, made up of moderates who had broken away from the Labor Party a few years earlier.

Gandhi-Quoting Yuppie Shakes Stuffiness From Britain's Tories (WP)

By Kevin Sullivan

The Washington Post, January 8, 2006

LONDON -- He's a 39-year-old young urban professional who quotes Gandhi, fights poverty with activist rocker Bob Geldof, wants to stand up to big business and is so worried about global warming that he's planning to erect a wind turbine on his roof.

Meet David Cameron, Conservative.

Since his election last month as Conservative Party leader, Cameron has shaken up his party like a man beating a carpet with a stick. Sitting atop an organization that has been sputtering since no-nonsense Prime Minister Margaret Thatcher left office in 1990, Cameron has startled Britain with policy pronouncements and stylistic flourishes rare for a leader of the Tories, as the party is known.

His supporters are betting that combination will make him a formidable challenger to succeed Prime Minister Tony Blair. While some Conservatives worry that he has abandoned their party's "middle England" core values, many more said Cameron is a shot of adrenaline for a party disheartened after three consecutive elections losses to Blair's Labor Party.

"Because of Cameron, there's a new sort of feel -- there's an excitement, there's a feeling we can win," said Laurence Robertson, a Tory member of Parliament. "The man in the pub, the man in the street, they are taking an interest for the first time in a long time in what we are doing."

Robertson and other Conservatives said Labor was frightened by Cameron, but several Labor MPs said they were closer to amused. "He's making all these touchy-feely statements, but none of it is backed up," said Labor MP Fraser Kemp. "The British Tory party is still a pretty right-wing organization. The new-gloss paint is going to fade."

Since taking over, Cameron has worked frenetically to stay in the public eye, turning an annual British cultural phenomenon to his advantage.

From just before Christmas until just after New Year's, virtually every business in Britain shuts down. While Blair decamped to a vacation at Sharm el-Sheikh, a resort in Egypt, Cameron worked during the holiday lull and kept public attention focused squarely on himself.

One day he signed up Geldof as an anti-poverty adviser, the next he demanded that employers address the "morally wrong" gender gap in pay, and then he distanced himself from Thatcher -- a venerated Tory icon -- by saying he "will not be the prisoner of an ideological past."

He rode a bike to work. He surveyed endangered waterways. Then came full-page advertisements in New Year's Day newspapers trumpeting his political call to arms:

"As the world is changing, so must we," Cameron wrote, calling change "the central objective in 2006 of a modern, compassionate Conservative Party." He said he wanted "every single member and supporter of the Conservative Party to

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remember that personal commitment is the most powerful way to bring about change: As Gandhi said, 'We must be the change we want to see in the world.' "

Labor MP Stephen Byers predicted that Cameron's positions would "melt like snow on a summer day" after the initial excitement about his leadership wore off. "It's not terribly clear the values and principles that have led him to the positions where they are at the moment," Byers said. "It looks like short-term political expediency is driving him."

Michael Gove, a Tory MP, said Cameron was using his "modern, informal, accessible and relaxed" style to refocus the party's image. He said the Conservatives in recent years have tended to accentuate the "grim, tough, efficient, austere, no-nonsense" aspects of their economic policies, while underplaying party policies that are "inclusive, compassionate and socially concerned."

Another Tory MP, John Hayes, said Conservative positions have often been misinterpreted: "The problem is that people see us as self-interested and greedy and uninterested in their needs. People see David Cameron as a regular guy who puts their interests first."

Cameron has said that many of his proposals are designed to challenge Labor for the political middle ground. He has already abandoned party positions he helped draft before last May's general elections. During the campaign, the Tories ran ads on immigration that critics said bordered on xenophobic, but Cameron has now called for a more welcoming stance.

In a speech Wednesday, he scrapped another proposal he helped draft, a health care plan that would allow some people to opt out of the National Health Service. Now, calling that essentially a taxpayer-funded perk for the wealthy, Cameron is advocating a strengthening of the health service for all -- a position much closer to Labor's.

Britain's next general election will take place in 2010 at the latest, and perhaps sooner if Blair decides to step aside, as many political analysts have predicted.

A recent Ipsos Mori poll showed the Conservatives leading Labor 37 to 35 percent when voters were asked which party they would support if the general election were held immediately. But on an individual basis, the poll showed Cameron trailing Chancellor Gordon Brown, Labor's most likely candidate for prime minister, by four points, 31 to 27 percent.

Cameron's blitz of activity over the holidays finally seemed to get to Blair. Even before he returned from the beach, his office posted a "day in the life" video on its official Web site. The folksy, 3 1/2 -minute clip shows Blair kicking a soccer ball with schoolchildren, mugging with foreign heads of state, visiting a hospital. Blair narrates from his desk and discusses the rigors of the job.

While he has said little about Cameron directly, he appears to be taking at least a gentle shot at him when he says: "Being leader of the opposition does not prepare you quite adequately for the difficulty of doing the prime minister's job."

Denmark Is Unlikely Front In Islam-West Culture War (NYT)

By Dan Bilefsky

The New York Times, January 8, 2006

COPENHAGEN - When the Danish newspaper Jyllands-Posten published 12 cartoons of the Prophet Muhammad, including one in which he is shown wearing a turban shaped as a bomb with a burning fuse, it expected a strong reaction in this country of 5.4 million people.

But the paper was unprepared for the global furor that ensued, including demonstrations in the Indian-controlled part of Kashmir, death threats against the artists, condemnation from 11 Muslim countries and a rebuke from the United Nations.

"The cartoons did nothing that transcends the cultural norms of secular Denmark, and this was not a provocation to insult Muslims," said Flemming Rose, cultural editor of Jyllands-Posten, Denmark's largest newspaper, which has declined to apologize for the drawings.

"But if we talk of freedom of speech, even if it was a provocation, that does not make our right to do it any less legitimate before the law," he added in an interview from Miami. He spent months living under police protection in Denmark.

As countries across Europe grapple with how to assimilate their growing Muslim populations in the post-9/11 world, Denmark has become an unlikely flashpoint in the escalating culture wars between Islam and the West. The publication of the cartoons in late September has provoked a fierce national debate over whether Denmark's famously liberal laws on free speech have gone too far.

It also has tested the patience of Denmark's 200,000 Muslims. Many of them say the cartoons reflect an intensifying anti-immigrant climate that is stigmatizing minorities and radicalizing young Muslims.

In Norrebro, an ethnically mixed neighborhood of Copenhagen where the philosopher Soren Kierkegaard is buried and where kebab stands dot the tree-lined streets, Imam Ahmed Abu-Laban, a leader among Denmark's Muslims, bristles at what he calls the "Islam phobia" gripping the country. He asserted that the cartoons had been calculated to incite Muslims because it was well known that in Islam depictions of the prophet were considered blasphemy.

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"We are being mentally tortured," Imam Ahmed said at his mosque, an anonymous building that looks more like an apartment complex than a house of worship. "The cartoons are an insult against Islam, an attempt by right-wing forces in this country to get a rise out of the Muslim community and so portray us as against Danish values."

Mr. Rose, once a journalist in Iran, said he decided to commission the cartoons for Jyllands-Posten when he heard that Danish cartoonists were too scared of Muslim fundamentalists to illustrate a new children's biography of Muhammad.

Annoyed at the self-censorship he said had overtaken Europe since the Dutch filmmaker Theo van Gogh was murdered last year by a Muslim radical for criticizing Islam's treatment of women, Mr. Rose said he decided to test Denmark's free speech norms.

The cartoons were published amid the growth of an anti-immigrant sentiment in Denmark, reflected in the rise of the far-right Danish People's Party. The party, which holds 13 percent of the seats in the Danish Parliament, has helped to push through the toughest anti-immigration rules on the Continent, including a rule preventing Danish citizens age 24 or younger from bringing in spouses from outside Denmark.

Soren Krarup, a retired priest and leading voice in the party, said the Muslim response to the cartoons showed that Islam was not compatible with Danish customs. He said Jesus had been satirized in Danish literature and popular culture for centuries - including a recent much-publicized Danish painting of Jesus with an erection - so why not Muhammad? He also argues that Muslims must learn to integrate.

"Muslims who come here reject our culture," he said. "Muslim immigration is a way for Muslims to conquer us, just as they have done for the past 1,400 years."

Muslim leaders say that such talk helped create the atmosphere that allowed the cartoons to be published. And they contend that it is alienating the people the Danish People's Party says it wants to assimilate.

In a sign that some Muslims are becoming radicalized, Danish counterterrorism officials say more young Danish Muslims are being drawn to Hizb ut-Tahrir, or the Party of Liberation, which seeks the unification of all Muslim countries under one leader and Shariah, the Islamic legal code. The group, which distributes literature at mosques and on the Internet, is banned in most of the Muslim world, as well as in Russia and Germany.

But because its main weapon is ideology rather than explosives, Danish officials say, it is allowed to operate in Denmark under the same permissive rules that allowed the publication of the cartoons. Under Danish law, inciting someone to commit an act of terror is illegal, but spouting vitriol against the West or satirizing Muhammad is not. The State Prosecutor's Office investigated the group in spring 2004 and decided not to ban it because it had not broken the law.

The free speech debate and the concerns over Hizb ut-Tahrir swept through Denmark's public schools last month when the imam's 17-year-old son, Taim, was expelled from Vester Borgerdyd School, after teachers overheard him giving sermons calling for the destruction of Israel and assailing Danish democracy during Friday Prayer at the school. The imam said his son became radicalized after being recruited by Hizb ut-Tahrir.

He said he opposed his son's sermons and had told his son to leave the house for defying him. But he also criticized the ruling that followed: a committee of mostly Christian rectors banned Friday Prayer at public schools across Denmark.

"They are trying to turn Denmark into a banana republic," said Imam Ahmed. "How is it O.K. to publish the cartoons, yet my son is portrayed as an ayatollah?"

At Vester Borgerdyd School, where the walls are lined with photographs of smiling students in Muslim dress, the headmistress, Anne Birgitte Rasmussen, said that Taim Abu-Laban had attracted a following and that she had feared his sermons would raise tensions among the school's more moderate Muslims.

"The tone of the political debate in this country, the talk about Muslims and immigrants, is making it very difficult for us," she said.

Mr. Rose, the editor, said free speech, no matter how radical, should be allowed to flourish, from all varieties of perspectives.

"Muslims should be allowed to burn the Danish flag in a public square if that's within the boundaries of the law," he said. "Though I think this would be a strange signal to the Danish people who have hosted them."

The French Disconnection (NYT)

By Corinne Maier

The New York Times, January 8, 2006

Paris

WHAT'S going on over there?" my foreign friends have been asking me, concerned about the news coming from France. A justified worry: our impoverished suburbs, or banlieues, were the scene, starting on Oct. 27 and stretching into November, of an urban agitation that turned to a riot. There were thousands of burned cars, public buildings looted, confrontations with the police,

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a state of emergency that ended only on Wednesday. Paris and then the provinces were affected; we hadn't seen anything like these disturbances since the famous uprising of May 1968. What has happened to the picture-postcard Paris that was the setting for "Amélie"?

The experience has put all of France into a funk, even with the lifting of the state of emergency after New Year's passed relatively peacefully (cars were set afire, but not substantially more than in previous years). In truth, though, people, who - like me - live in the center of Paris, didn't really see that much; they watched the spectacle of the disorder on television. They discovered places they ordinarily wouldn't even be able to find on a map: ghettoes where France has relegated immigrants and their descendants, gloomy blocks that resemble bombed-out sections of Chechnya. They learned that high unemployment (close to 40 percent in some places), racism, drugs, disastrous urban policy and police brutality were making everything worse.

But no one has been truly astonished by the violence. "It was bound to happen," as my local bookseller, who lives in the suburbs, says. What surprised - and relieved - Parisians was that Paris proper was mostly spared: the Eiffel Tower is still there, the Arc de Triomphe hasn't budged, thank goodness.

The reality is that Paris and its "difficult" banlieues are two worlds that are completely foreign to each other. They don't even speak the same language: polished, accent-free French on one side, the verlan, or "reversed" speech, of the housing projects on the other. The suburbs are on fire? So? The Left Bank intellectuals didn't have much to do with these rioters without demands and without leaders.

Away from the banlieues, everything stayed calm, in contrast with the image of France portrayed in the foreign news media. "Paris Is Burning!" was a common headline; a major German newspaper predicted that the intifada was imminent. The Americans and the British covered the violence with as much avidity as some of them had denounced the French decision not to fight in Iraq; was France, they asked with glee, going to be forced to wage its own battle with Islam? We French expected a little more empathy considering the 1992 Los Angeles riots, when the authorities responded in force, and the city experienced curfews, 8,000 arrests, and scores of deaths.

In France, the death toll was almost nonexistent, perhaps because, as the saying goes, "Here, everything ends with songs" - that is, it all works out in the end. Still, an arsenal of repression was put in place. It has a rather unpleasant name, the state of emergency, established by a 1955 law that sought to restore order in French-controlled Algeria, racked by violence in the years before it won independence.

This legal parenthesis brought searches without warrants, curfews, restrictions on comings and goings. All in all, though, the authorities were prudent in the use of these extraordinary powers, even in the banlieues; to say that France suffered under the yoke of oppression during the state of emergency would be an exaggeration, and the French, fatalists for the most part, protested little.

Nonetheless, those few weeks of violence left us bitter. The riots were undoubtedly a reflection of French failure. Failure of the politicians, yes: Jacques Chirac, president since 1995, has been unable to reform society. But also failure of the "French model," which asserts that all inequalities, all differences, can be resolved in that shopworn religion called the Republic. Today all France, even the middle classes, suffers from a feeling that things won't get better, from an inability to make plans for the future. It's the big topic at dinner parties.

Fortunately, in Paris there is always something to do when one is feeling blue. Everyone in town has been talking about an exhibition at the Grand Palais consecrated to ... melancholy. Whether called melancholy, or ennui, depression or "spleen," this sensation was wonderfully defined by Victor Hugo as "the enjoyment of being sad." Welcome to Paris, city of melancholy. You have until Jan. 16 to visit the exhibition. Otherwise, you'll have to go to, well, the suburbs.

Bird Flu Appeal To Turks (NYT/REU)

By Reuters

The New York Times, January 8, 2006

DOGUBAYAZIT, Turkey, Jan. 7 (Reuters) - Prime Minister Recep Tayyip Erdogan urged Turks on Friday not to hide poultry to avoid bird flu culls, and promised that the government would spend what was necessary to fight the spread of the disease and to compensate farmers for slaughtered stocks.

"We should not panic," CNN-Turk reported him as saying. "Our people should not be making efforts to hide chickens, turkeys or geese."

The European Commission said it had confirmed that the bird flu in Turkey was the deadly H5N1 strain. A World Health Organization team is headed for eastern Turkey, where three people have died and 26 are under observation, an unusual cluster of cases that raises the possibility that the virus has become more contagious for humans.

Aid Suspended To Two Pakistan Quake Areas (AP-Y2)

DOJ_NMG_0008814

By Burt Herman

AP, January 8, 2006

The United Nations said Saturday it has suspended aid missions to two parts of Pakistan's quake-hit Kashmir region where dozens of survivors stormed two U.N. helicopters and forced an airlift out of the devastated area.

The U.N. said it canceled planned flights into Bana Mula and Leepa, both more than 60 miles southwest of Muzaffarabad. It was investigating the incident and evaluating the possibility of relocating villagers to lower-lying areas.

On Friday, more than 50 survivors forced the pilots of two U.N. helicopters to take them to Muzaffarabad and Abbottabad, a hub for relief activities. One air safety officer was assaulted, the U.N. said, without elaborating.

Pakistan, meanwhile, said it had prepared several contingency relief camps stocked with food to cope with any wave of refugees heading to lower ground during the harsh Himalayan winter.

Days of heavy storms have dumped up to 9 feet of snow in some areas of Kashmir and northwestern Pakistan, forcing the suspension of helicopter flights and aid deliveries. The Pakistan Meteorological Department warned of more snowfall over the next 72 hours.

"It's a bitter winter," said Maj. Gen. Khalid Nawaz Khan, the commander of the Pakistan military in Kashmir. "Things are being taken care of. We are prepared for any contingency."

Officials and aid agencies have warned the weather could cause a second wave of deaths or force more evacuations from higher up in the Himalayas.

The Oct. 8 quake killed some 87,000 people and left 3.5 million homeless, mostly in Kashmir and Pakistan's northwestern region. Control over Kashmir is divided between India and Pakistan, both of which claim it in its entirety.

Helicopters are vital for the mammoth relief effort, particularly since this week's heavy snows blocked roads, hampering aid delivery for several days. All roads into the Kaghan and Siran Valleys in Pakistan's Northwestern Frontier Province are blocked, the U.N. said late Friday.

"We're going to hit more bad weather, no question," said Keith Ursel, the World Food Program quake operations manager. "We have to send specialist teams to clear up the snow before we can land our choppers too."

The World Food Program is feeding 400,000 survivors.

Kashmir Quake Survivors Bemoan Lack Of Aid (NYT/AP)

By The Associated Press

The New York Times, January 8, 2006

CHIKAR, Kashmir, Jan. 5 (AP) - The terraced paths through this mountain town are slick with ice. Tents crammed with families have collapsed under the snow. A truck mired in a muddy landslide recently blocked the main road into town. And winter has just barely begun.

Camped on a steep hillside, the five members of the Butt family are surviving after the loss of their patriarch. Their shelter is a tarp propped up by branches, and they spend nights shivering under a single blanket each.

Three months after an earthquake killed more than 80,000 people and left 3.5 million homeless in the region, families across Pakistani-controlled Kashmir are coping with winter's first brush in the Himalayas. Health officials say illnesses are on the rise, but insist the situation has not yet become alarming.

For now, the weather has improved. The sun shone brilliantly Thursday in Chikar, a town of 6,000 people where residents say about 700 people died in the quake on Oct. 8. Water from melting snow dripped flowed down paths through the town, which is draped across several hillsides at an about 5,100 feet.

There were signs of normalcy. The market set up near the rubble of buildings that slid off a hilltop when the quake hit was bustling with spices and baked goods. And preparations were under way for a wedding, one of about 30 that locals say have taken place since the quake.

Getting into the town was complicated by a truck stuck in mud from a landslide caused by recent rain and snow. Residents placed dry straw under its back wheels to get traction, while others pulled on a rope from the front - all to no avail. The truck was finally towed out by several vans.

Residents said they had lost electricity for four days since the bad weather struck, and many tents collapsed under the snow, including one belonging to the family of Muhammad Younas, 15, who was staying with four relatives on Sunday night when their tarp tumbled down. No one was injured and they found shelter with other relatives.

Next to their collapsed tent stood a bare wooden frame intended to be a weatherproof home, but it stood in the snow without metal siding. Similar uncompleted shelters could be seen across the town, and residents complained freely about what they said was a lack of aid.

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Azher Bukhari, 35, a shopkeeper whose home and business were destroyed, was walking the snowy paths wearing sandals. He said it was a form of protest against the Pakistani Army's failure to provide aid. "The government isn't paying attention to this area," Mr. Bukhari said.

The military has given out more than 50,000 shelters in Kashmir areas that lie above 5,000 feet, said Maj. Farooq Nasir, an army spokesman in Muzaffarabad. Families where the men have died will also get help assembling the temporary structures, he said.

But families in which men survived are required to build their own shelters with materials provided.

Among those yet to receive shelter are the Butt family - a mother, three daughters and a son. They were camped near their former home, which collapsed on the family's patriarch, 50, killing him.

The family huddled inside a dark makeshift shelter provided by former neighbors. The mother, Mehrfazoon, 45, said she had spent a day at the nearby military camp, waiting for supplies. "We were given nothing," said a daughter, Nayab, 13. "We are living from hand to mouth."

U.N. Cuts Quake Aid Missions

ISLAMABAD, Pakistan, Jan. 7 (AP) - The United Nations said Saturday that it had halted quake aid missions to two parts of Pakistani-controlled Kashmir, where more than 50 survivors had stormed two helicopters, forcing an airlift out of the area. The United Nations said it was evaluating the possibility of relocating villagers to lower-lying areas.

India Digitizes Age-Old Wisdom (WP)

By John Lancaster

The Washington Post, January 8, 2006

NEW DELHI -- In a drafty government institute, Nighat Anjum reads from a dog-eared textbook on traditional Indian medicine and acquaints herself with the miracle fruit known as aamla, which is said to be useful in treating heart palpitations, immune disorders, bed-wetting and memory lapses.

Tapping on a computer keyboard, the 27-year-old physician enters its properties in a database that eventually will contain more than 100,000 such traditional remedies -- the collective wisdom of the ancient healing arts known as ayurveda , unani and siddha , the latter based on the teachings of the Hindu god Shiva.

Other entries include powdered nightingale droppings (a skin lightener and laxative), nightingale flesh (an aphrodisiac), ostrich fat (for aches and pains), ostrich blood (for inflammation), charred sea crab (constipation, ulcers, cataracts and dental stains), honey (for improving vision), tumeric (for treating wounds and rashes) and coconut milk (urinary tract infections).

Employing about 150 doctors and technicians, the four-year, $2 million effort is aimed at protecting India's traditional remedies from theft by multinational drug companies in a practice known here as bio-piracy. The database will also include hundreds of yoga poses so that foreigners cannot copyright them as their own.

Though Indian officials can point to just a handful of such intellectual-property cases involving traditional medicine, they say the threat is bound to grow as foreign drug companies seek to cut soaring research-and-development costs by finding new products among natural remedies that have been used in India, China and other developing countries for millennia.

More broadly, the compilation of the Traditional Knowledge Digital Library reflects a nationalistic pride in India's ancient scientific heritage as well as its citizens' continuing faith in herbal and other natural treatments that often are viewed with skepticism in the West.

Indian officials say the data-collection effort will promote the commercialization of traditional Indian remedies, help validate their scientific underpinnings and encourage collaboration between Indian and foreign pharmaceutical companies.

In doing so, they say, the project will spur the development of a uniquely Indian health-care industry that blends 21st-century technology with spirituality and the wisdom of ages in the same way that Brahmin traditions of Sanskrit and mathematics helped set the stage for India's information-technology boom.

"India's strength is civilization, and its culture and knowledge," said V.K. Gupta, the director of the National Institute of Science Communication and Information Resources in New Delhi, which is overseeing the project. "The moment we revisit that, the power of India is unimaginable."

In a telephone interview from Washington, Mark Grayson, a spokesman for Pharmaceutical Researchers and Manufacturers of America, the drug-industry lobbying group, described the Indian project as "a solution in search of a problem." He said "there is no evidence of bio-piracy," noting that most modern drugs are developed from chemicals with the aid of computers, rather than from natural substances.

At the same time, he said, the Indian effort could "inhibit drug development" by discouraging companies from developing new cures from plants whose medicinal uses India now claims as protected intellectual property. The drug industry is opposing India's efforts to amend World Trade Organization rules to protect such ancient remedies.

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The most popular traditional medical system in India is ayurveda, which is rooted in Hinduism -- its original Sanskrit formulations were recorded 2,000 years ago on palm leaves -- and aims to restore the "balance" between body and spirit. Despite the growing influence of Western medicine, ayurveda remains the dominant form of treatment in many parts of rural India, where access to conventional care is often limited.

Even in such major cities as New Delhi, which boasts several world-class medical facilities, ayurveda is widely embraced. Pharmacies stock ayurvedic remedies alongside antibiotics and other conventional treatments. Bollywood stars hawk ayurvedic medicines from billboards. And a generation of middle-class children has grown up on morning spoonfuls of Chyvanprasam, a jam-like ayurvedic supplement.

"Ayurvedic medicine has no side effects," said Sheema Rajesh, a 31-year-old soldier's wife from southern India who was seeking treatment for jaundice the other day at an ayurvedic clinic in the capital. "It's made from natural things, and from the time we were small, we've been taking these medicines, so we believe in them."

A politician's charge last week that a line of ayurvedic cures peddled by one of India's most popular television gurus had been adulterated with human bone made the front pages of Indian newspapers -- and sparked an attack by the guru's followers on the politician's Communist Party office in New Delhi.

Besides ayurvedic medicine, the database also is recording remedies from unani, a system that was introduced to the subcontinent 4,000 years ago by the Greeks. Unani is based on the theory that sickness is caused by an imbalance in "the four humors" -- black bile, yellow bile, blood and phlegm -- that define human temperament, according to Anjum, the unani doctor who was entering the data on the aamla fruit.

The system relies heavily on herbs and is "very effective," she said.

Siddha, which was first practiced in southern India by followers of Lord Shiva, employs medicines made from herbs, animal parts, metals and minerals. "Even though it is coming from supernatural power, so much is scientifically proved," said Muthu Kumar, a Siddha expert who is working for the database project.

Gupta, the project director, said the need for the database became apparent in 1995, when two Indian-born scientists in Mississippi were granted a U.S. patent on the use of tumeric, a common spice, to heal wounds. The move sparked protests from the Indian government, which cited ancient Sanskrit texts describing the use of tumeric for the same purpose. The patent was revoked.

To create the database, Gupta's team since 2001 has been poring over ancient texts in Sanskrit, Urdu, Persian and Arabic in search of traditional formulas. Working in drab cubicles and enduring frequent power cuts, the specialists enter the formulas in alphanumeric code, which is then translated automatically into English, Japanese, French, German and Spanish.

Sometime this year, the complete library will be made available to foreign patent offices on a secure Web site. Indian officials hope the patent offices will use the database in evaluating whether to grant patents on natural remedies.

"This traditional knowledge has been validated in the laboratory of life," Gupta said, with the zeal of a true believer. "It has been nurtured and grown in India for 4,000 years."

China Takes Aim At Corruption (WP)

By Edward Cody

The Washington Post, January 8, 2006

BEIJING, Jan. 7 -- In the face of rising discontent over corruption, China's senior Communist Party leaders called on members Saturday to work harder to stop bribery among businessmen and local officials in the country's thousands of cities, counties and villages.

The appeal, in a communique issued after a two-day meeting of the party's Central Discipline Inspection Committee that was attended by President Hu Jintao, seemed to take particular aim at corrupt rural officials whose illegal dealings have helped generate a wave of riots and peasant unrest over the past two years. Much of the violence has stemmed from anger over land confiscations in which, farmers allege, village or county officials took money from business developers in return for favorable deals.

"More anti-corruption education will be carried out among grass-roots officials, while the procedures for selecting officials for promotion will be stricter," the official New China News Agency quoted the communique as saying.

As China moves from socialism toward a market economy, local party officials have adopted economic growth as their main goal, creating a de facto alliance with private businessmen. In the shared race for profits, opportunities for corruption have become numerous. As a result, the party officials called upon to fight the corruption are in most instances the very ones involved in it.

Hu warned his fellow Communist leaders that "the fight against corruption is a long-term, complicated and arduous task," the news agency reported.

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The committee also singled out the spread of bribery in China's health system, a source of increasingly angry grumbling among people in the city and countryside alike. Doctors and hospitals have taken to demanding payoffs, above and beyond normal fees, before proceeding with medical care, Chinese complain. Among people who once enjoyed free medical coverage, this practice has produced particular outrage.

Li Xi, the Health Ministry's discipline inspection leader, said 1,248 people in the medical profession were punished during 2005 for malfeasance that involved payments totaling more than $1.3 million, the agency reported.

Appeals Court, Reversing Itself, Holds 2 Salvadoran Generals Liable In Torture Case (NYT)

By Julia Preston

The New York Times, January 8, 2006

A federal appeals court has reversed its own ruling and upheld a $54.6 million jury verdict against two retired generals from El Salvador who were held responsible in a 2002 trial for the torture of three Salvadorans during the country's civil war in the 1980's.

The opinion, issued Wednesday by the United States Court of Appeals for the 11th Circuit in Atlanta, was a surprising turn in decade-long efforts by American human rights groups to punish abuses that occurred during the conflict between the United States-backed security forces and leftist guerrillas in El Salvador.

A three-judge appeals panel acted without prompting from lawyers for either side to overturn a ruling it issued on Feb. 28. 2005, that nullified the trial verdict against the two generals, José Guillermo García and Carlos Eugenio Vides Casanova.

The new appeals opinion seems likely to be the decisive step in years of litigation against the generals. During the war, Mr. García and Mr. Vides Casanova served as defense minister, the highest post in the military, with strong support from the United States.

They have been living in South Florida since 1989. In a separate civil trial in Florida in 2000, they were acquitted of responsibility for the killings of four American churchwomen by soldiers in El Salvador in 1980.

The three plaintiffs in the second trial, held in West Palm Beach, suffered lasting injuries from torture by troops under the generals' command.

In its initial ruling, the appeals panel threw out the jury verdict, finding that the district court had improperly extended the 10-year statute of limitations that applied in the case. The claims were brought under the Torture Victim Protection Act, a controversial law that human rights groups have used to bring notoriously violent foreign leaders to face justice in American courts.

But on June 24, 2005, the appeals judges announced in a letter that they had made two factual errors in their opinion, incorrectly recording both the date when the case was first filed - actually May 11, 1999 - and the date when General Vides Casanova stepped down as defense minister - May 31, 1989.

Using the correct dates and re-examining the trial record, the judges decided to agree with the district court that the case was filed within the statute of limitations. The panel concluded that the statute should begin to run in 1992, when the government and the rebels signed a peace accord that ended the war.

Before that, the judges wrote, "the very regime against whom the plaintiffs leveled their accusations remained intent on maintaining its power at any cost and acted with impunity to so do." The three judges were Gerald B. Tjoflat, Edward E. Carnes, and Anne C. Conway.

Kurt Klaus Jr., who represented both retired generals, said he was dumbfounded by the reversal. "I have never, ever heard of such a thing," he said. "I am so shocked, I feel like quitting my practice and moving to El Salvador to grow coca and coffee."

He said he would consult with the former generals to see if they wanted to pursue further appeals. He said both clients had been left essentially bankrupt by legal costs.

"In the war against communism, they did what the United States government wanted them to do and paid them to do," Mr. Klaus said.

Mr. Vides Casanova has placed about $270,000 in an escrow account awaiting the outcome of the appeals, said Moira Feeney, a spokeswoman for the Center for Justice and Accountability in San Francisco, which represented the defendants.

Neris González, a Salvadoran Roman Catholic church worker who testified at the trial that she endured 12 days of torture, said in a statement that the decision showed "that the Salvadoran military bears responsibility for what we, as a people, suffered."

Chief Of U.N. Troops In Haiti Is Found Dead In Hotel Room (NYT)

By Ginger Thompson

The New York Times, January 8, 2006

DOJ_NMG_0008818

MEXICO CITY, Jan. 7 - The commander of the United Nations peacekeeping force in Haiti was found shot to death in his hotel room early Saturday, casting more doubt on the beleaguered mission's capacity to restore order in crime-plagued Haiti as authorities struggle to organize presidential elections.

Initial reports indicated that the commander, Gen. Urano Teixeira Da Matta Bacellar, had committed suicide. He was found wearing shorts and a T-shirt, and his gun was in his hand, the authorities said. The body was found in the general's hotel room at the Hotel Montana in Port-au-Prince, the capital.

Chief Mario Andresol of the Haitian National Police said he could not confirm the death was a suicide until after an investigation. "The general died a violent death," he said. "At this time I can't go into more detail." An unidentified official at the United Nations mission in Haiti later confirmed that the general had died from a self-inflicted gunshot wound, The Associated Press reported.

The shooting came at the end of a week of intense public criticism of the Brazilian-led United Nations Mission in Haiti, commissioned nearly two years ago after an armed rebellion, months of violent political clashes and heavy pressure by the United States that forced President Jean-Bertrand Aristide from office. Since that time, critics of the mission have complained that the violence and political fighting have gotten worse.

Kidnappings peaked over the Christmas holiday to as many as 12 a day, authorities reported, including attacks against journalists and aid workers. Some 10 United Nations soldiers and police officers have died in the line of duty. Haitian business leaders have blamed the United Nations for failing to use the force necessary to stop the street gangs and drug-trafficking organizations responsible for much of the violence.

The security problems have had a devastating impact on Haiti's ability to overcome its latest political crisis. The first round of the presidential elections, already postponed three times and then set for Sunday, were put off again. United Nations authorities have cited persistent fighting within Haiti's electoral council for the delays.

Meanwhile, leaders of Haiti's interim government, which was installed by the United States, have blamed the postponements on failures by international agencies to meet deadlines to distribute voter identification cards and to establish polling places.

Preparations for the elections have already cost an estimated $60 million, most of it from the European Union, Canada and the United States. The authorities estimate they will need at least $14 million more.

On Friday, the United Nations Security Council urged Haiti to set Feb. 7 as the date for the first round of elections. It was unclear Saturday whether the general's death would force the United Nations to withdraw that demand.

David Wimhurst, a United Nations spokesman in Haiti, refused to answer questions by telephone on Saturday. A statement by the agency praised General Bacellar's 39 years of service to the Brazilian Armed Forces and to the United Nations mission in Haiti, known in official shorthand as Minustah.

"His untimely death and sacrifice in the cause of peace," the statement read, "will not weaken the resolve of Minustah and the international community to ensure the will of the Haitian people prevails and Haiti joins the democratic community of nations."

UN Commander In Haiti Dies In Apparent Suicide (REU-Y2)

By Joseph Guyler Delva

Reuters, January 8, 2006

The commander of the United Nations' peacekeeping force in Haiti was found dead in his hotel room on Saturday after apparently shooting himself in the head, U.N. officials said.

Brazilian Lt. Gen. Urano Teixeira Da Matta Bacellar's death comes as the troubled Caribbean country struggles to organize its first presidential election since a monthlong armed revolt ousted then-president Jean-Bertrand Aristide in February 2004.

The general, 58, who had been in command of the 9,000-strong U.N. force in Haiti since the end of August, appeared to have been alone in his suite at the Montana hotel in the capital Port-au-Prince at the time of the shooting.

His gun was found near his body, which was dressed in shorts and a white T-shirt, witnesses said.

"It is unfortunate and devastating to see such a good and honorable general killed in such circumstances," Brazil's ambassador to Haiti, Paulo Cordeiro de Andrade Pinto, told Reuters as he left the hotel.

The Brazilian army initially referred to the incident as a "firearm accident." The army later released a statement saying the armed forces "profoundly lamented" the death of the general, who was a career military officer, and that it would cooperate with the police investigation.

The general's sister, Bartira Bacellar, told TV Band in his home state of Rio Grande do Sul that the family was devastated. "We always accompanied his career, for which he had lots of enthusiasm," she said.

Brazil was expected to send an air force aircraft to pick up his body on Sunday.

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A spokesman for U.N. Secretary-General Kofi Annan said Annan was "shocked and saddened" and that an investigation was under way.

PERSISTENT VIOLENCE

The U.N. mission, known by its acronym MINUSTAH, was sent to Haiti to keep the peace between supporters and foes of Aristide after the 2004 revolt.

But the country of 8.5 million people has continued to be afflicted by political violence and a wave of kidnappings has swept through Port-au-Prince despite the presence of the Brazilian-led U.N. troops and police.

The business sector, which vigorously opposed Aristide, and the interim government have called on the U.N. force to be more aggressive in taking on street gangs that control many of the sprawling slums in Port-au-Prince. Many of the gangs are seen as supporters of the exiled Aristide.

In contrast, civil and leftist groups in Brazil have criticized the U.N. force for being too aggressive in patrolling the slums. Dozens of civilians have been caught in the cross-fire during gunfights between U.N. troops and gangs.

U.N. mission head Juan Gabriel Valdes announced on Friday that U.N. troops would occupy the Cite Soleil slum, the capital's most dangerous ghetto, and warned that civilians could be harmed.

"We are going to intervene in the coming days. I think there'll be collateral damage but we have to impose our force, there is no other way," Valdes told a local radio station. His comments on collateral damage alarmed civic groups in Haiti.

Bacellar had opposed Valdes' plan for Cite Soleil, some U.N. officials said.

The presidential election was originally scheduled for November but has been put off repeatedly and now is expected to take place in February.

Haiti's interim authorities have blamed the U.N. mission and the Organization of American States for the delays, a charge both organizations refute.

(Additional reporting by Terry Wade in Sao Paulo)

U.N. Chief In Haiti Found Dead (LAT)

By Carol J. Williams

The Los Angeles Times, January 8, 2006

MIAMI — The commander of the U.N. peacekeeping force in Haiti was found dead at an upscale hotel in the country's capital early Saturday with an apparently self-inflicted gunshot wound to the head, officials in Port-au-Prince said.

The death of Lt. Gen. Urano Teixeira Da Matta Bacellar, a Brazilian, seemed likely to further complicate the world body's long-thwarted efforts to bring stability to violence-racked Haiti and to organize elections.

Haiti has been without an elected leader since President Jean-Bertrand Aristide fled an armed rebellion in February 2004. Presidential and parliamentary elections were to have been held in November but have been repeatedly delayed by the U.S.-backed interim leadership.

Bacellar, 58, was found in his suite at the Hotel Montana with a gunshot wound to the head and his service revolver nearby, according to Radio Metropole and other news agencies at the scene. Reuters quoted unidentified diplomats, Haitian police and U.N. sources as saying the general was alone at the time of the shooting and that they believed it was a suicide.

In a dispatch from Sao Paulo, the Brazilian army initially said the general's death was the result of a "firearms accident." In a later statement, the army said Brazilians "profoundly lamented" Bacellar's death and that army investigators would travel to Haiti today to conduct their own review of the shooting.

Chilean Gen. Eduardo Aldunate was put in charge of the military mission until Brazil replaces the commander of its 1,200 troops in Haiti, the largest contingent of the 7,265-strong U.N. military deployment.

The contemplative soldier with snow-white hair and black eyebrows inherited command Aug. 31 and had witnessed a recent deterioration of security in the capital's teeming, gang-controlled slums.

An official of Haiti's Provisional Electoral Council, Rosemond Pradel, last week blamed the U.N. mission for the latest postponement of elections, citing its failure to halt escalating slum violence and a rash of kidnappings. Pradel confirmed that the vote scheduled for today was being called off but said no new election date could be set because of persistent security and organizational problems.

Alarmed by the delays, the U.N. Security Council and the Organization of American States convened special sessions Friday during which they instructed Haitian officials to cease infighting and to hold elections no later than Feb. 7.

The OAS said in a statement that it saw "no valid technical reasons to continue postponing the elections" and that security issues "in no way justify further delay."

A U.S. diplomat in Port-au-Prince said the State Department considered the Feb. 7 deadline feasible and did not believe Bacellar's death would affect the electoral calendar.

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"In my view, the technical answers to elections are all fairly clear and should pose no impediment. Neither should the unfortunate demise of Gen. Bacellar," said Elizabeth Spehar, the OAS elections coordinator in Port-au-Prince.

But Haitians point to the daily gunfights in gang-controlled neighborhoods such as Cite Soleil and Bel Air and abductions for ransom as dangers preventing the set-up of polling places in the most populous areas. Almost half of the 3.4 million who registered to vote still haven't received their ID cards or been told where they will cast their ballots.

Expressing the international community's mounting impatience, U.N. mission chief Juan Gabriel Valdes warned Friday that the troops under Bacellar's command and some of the 1,700-plus U.N. police in Haiti would occupy Cite Soleil to break up the crime and kidnapping rings.

Bacellar, as well as his Brazilian predecessor in the mission's command, had been on record as opposing any use of U.N. force that could endanger bystanders. In an October interview with The Times, Bacellar said his troops stayed out of certain areas of the capital "to avoid collateral damage."

A serious and outwardly serene career soldier, Bacellar described his mission in strictly military terms, discussing deployments, patrolling and readiness while professing little knowledge of the United Nations' longer-term political objectives of seating a legitimate government.

Spain Holds General After Remarks (NYT)

By Renwick McLean

The New York Times, January 8, 2006

MADRID, Jan. 7 - A Spanish Army general was put under house arrest on Saturday after he suggested that military intervention might be necessary to quell demands for greater autonomy from the northeastern region of Catalonia, the Defense Ministry said.

Recalling the dispute over Catalan autonomy that was a partial cause of the Spanish Civil War in the 1930's, Lt. Gen. José Mena Aguado, 63, said on Friday night that history appeared to be repeating itself as the nation debated Catalonia's recent requests for more self-government, and that the military was ready to act.

"It is our obligation to warn that there could be serious consequences for the armed forces as an institution and for its members if the Statute of Catalonia is approved in its proposed form," he said during a speech to members of the military in Seville.

"The Constitution establishes a series of impassable limits for any statute of autonomy," he said, referring to the type of law that describes the relationship between Spain's regional governments and Madrid. "But if those limits are exceeded, which thankfully is unthinkable at this time, it would be necessary to apply Article 8 of the Constitution."

Article 8 establishes that the armed forces are responsible for defending Spain's "territorial integrity" and "the constitutional order."

The proposed statute, which was approved overwhelmingly by the Catalan regional Parliament in September, says that Catalonia is a nation unto itself whose powers of self-government are not restricted by the Spanish Constitution.

Critics of the proposal, who include both liberal and conservative politicians, say it could set the stage for an eventual declaration of independence if it were passed in its current form.

Although democracy has taken root in Spain since the death of Gen. Francisco Franco in 1975, the military's history of intervening to settle political disputes continues to cast a shadow over Spanish politics. Today, many Spaniards remain wary of a strong military, and refuse to support significant increases in military spending.

Most political parties immediately condemned General Mena's comments, although a spokesman for the conservative Popular Party, the main opposition group in Parliament, said that statements like his were inevitable because Prime Minister José Luis Rodríguez Zapatero had failed to vigorously oppose the Catalan proposal.

In comments to the Spanish news agency Europa Press, the spokesman, Gabriel Elorriaga, said that Mr. Zapatero had stood idle while the Catalan proposal created a "serious constitutional crisis."

Mr. Zapatero has said that the proposal is unconstitutional and must be modified before he will support it.

Catalonia, a region of about seven million people in Spain's northeastern corner, has been home to a potent separatist movement for more than 100 years.

The region is one of Spain's economic engines, and supporters of more autonomy say that it provides Spain with much more than it gets in return, particularly in taxes that go to support poorer regions, like Andalucia and Extremadura.

In announcing the detention of General Mena on Saturday, the Defense Ministry said it would propose to Mr. Zapatero that the general, who is scheduled to retire in March, be relieved of his command.

During his speech on Friday, Mr. Mena, who was scheduled to retire in March, suggested that others in the military shared his views.

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"I have an obligation to know the feelings, concerns, and preoccupations of my subordinates," he said. "It is their express wish that I transmit them to the top authorities of the Army and to make them public."

Serbia Begins Prosecuting Some War Crimes Cases (NYT)

By Nicholas Wood

The New York Times, January 8, 2006

BELGRADE, Serbia - Slowly, Serbia is prosecuting some of the war crimes cases from the Kosovo fighting of 1999 and the 1992-95 conflict in Bosnia, even while it has failed to deliver major suspects to the tribunal in The Hague.

Seven cases have been brought to trial so far. In the past two years, five of them in a war crimes court that has been financed partly by the United States. Prosecutors say they have plans to bring dozens more cases to trial. They and others following the cases say the trials suggest that the country is beginning, at least tentatively, to acknowledge its recent history.

These trials have highlighted some of the most brutal acts reportedly carried out by Serbian forces during wars in Croatia, Bosnia and Kosovo.

The accusations include the massacre of 192 Croatian men taken from a hospital where they were seeking refuge in the town of Vukovar in 1991 and the killing of an extended Albanian family in Kosovo in 1999, when 45 people, including 14 children, a pregnant woman and a 90-year-old woman, were attacked with grenades and then shot.

"It points to the readiness of the state and judiciary to face the past," said Dragoljub Stankovic, one of five deputy prosecutors assigned to Serbia's war crimes department.

Despite such claims and praise from some of the victims' families and human rights groups, there have been notable omissions.

While The Hague tribunal has indicted senior Serbian police and army officers for crimes committed during the 1999 Kosovo conflict, the Serbian courts have focused on midranking officers, human rights groups and diplomats here say. As a result, they say a large number of senior officers have not been challenged about their role in the war.

Also, one prominent case, involving the killing of three American brothers in 1999, appears to be stuck.

"In my opinion, many commanders of police stations were involved in or ordered killings in Kosovo," said Natasa Kandic, a lawyer and the director of the Humanitarian Law Center, a human rights group based in Belgrade.

Some senior police and army officers accused by human rights groups of ordering the crimes, or failing to prevent them, have remained at their posts.

The officers include Goran Radosavljevic, who was the commander of Serbia's special units during the Kosovo fighting and was recently the commander of the Serbian gendarmerie. In addition, the senior police officer in charge of war crimes investigations, Vozdan Gagic, was a member of the joint police and army command during the Kosovo campaign, a position in which he would have known about war crimes taking place, Ms. Kandic said.

"It was impossible for him not to know," she said.

Both Mr. Radosavljevic and Mr. Gagic have denied any involvement in war crimes.

"The army and the police are powerful, and barely reformed, institutions," said Bogdan Ivanisevic, the Human Rights Watch representative in Belgrade. "Addressing the responsibility of the senior officers would be quite a bite for the prosecutors, something they could do only if they felt supported by the government."

The case of the Americans involves the Bytyqi brothers, ethnic Albanians from Long Island who had been among 400 or so Albanian-Americans who had gone to join the fighting in Kosovo in 1999. Their bodies were found in a mass grave near a police training camp in 2001. Their hands were bound behind their backs and they had bullet wounds in the back of the head.

Prosecutors believe they know most of the details about the days leading up to their killing. They say the brothers were held by the Serbian police after they strayed across Kosovo's boundary on June 26, 1999, just weeks after the end of the Kosovo conflict. The three, Ylli, Agron and Mehmet Bytyqi, were in their 20's. They were ordered jailed for 15 days.

While they were serving their sentences, two members of a special police unit came to move them from jail to their training camp, according to testimony given to prosecutors by Sreten Popovic, then deputy commander of the camp. Mr. Popovic said he acted after hearing from Serbia's assistant minister for internal affairs, Gen. Vlastimir Djordjevic.

Mr. Popovic, who is currently the commander of the gendarmerie in Nis, Serbia's third-largest city, has so far escaped prosecution. The investigation into the brothers' deaths shows little sign of reaching trial soon.

Officials at the United States Embassy in Belgrade said they believed that the brothers had been killed because they were American and members of the Kosovo Liberation Army. They say prosecutors have sufficient evidence to bring the case to trial.

R. Nicholas Burns, the State Department's under secretary for political affairs, said in a recent interview that the outcome of the investigation into the Bytyqi brothers' deaths would influence the United States government's view as to Serbia's willingness to handle domestic war crimes cases.

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"The authorities already have collected substantial evidence relating to the illegal detention and/or killings," he said. "It is time to bring the perpetrators to justice."

Bosnian Was Killed After Firing Shots, Peacekeepers Say (NYT)

By Nicholas Wood

The New York Times, January 8, 2006

LJUBLJANA, Slovenia, Jan. 7 - A woman killed by peacekeeping troops in Bosnia on Thursday was shot after she and her 11-year-son fired on soldiers seeking the arrest of her husband, a Bosnian Serb war crimes suspect, a military official in the Bosnian capital, Sarajevo, said Friday.

The woman, Rada Abazovic, was declared dead shortly after she was taken to a hospital in Rogatica in southeastern Bosnia on Thursday, several hours after the gun battle outside the Abazovic family home in nearby Bjelogorci, in which her son, Dragoljub, was wounded.

Her husband, Dragomir Abazovic, who stands accused by a Bosnian court of committing war crimes during the 1992-95 Bosnian conflict, had tried to flee but was cornered by troops and shot himself in the head, the official said. Hospital officials said he was in serious condition.

The shooting of Mrs. Abazovic and her son was widely criticized by Serbian politicians in Bosnia and Serbia, including the Serbian member of Bosnia's tripartite presidency, Dragan Cavic, who accused the European Union-led peacekeeping force of using indiscriminate force resulting in the death and injury of innocent victims.

The nationality of the troops involved has not been disclosed. Italian carabinieri, military police officers who are part of the United Nations peacekeeping force, were photographed later at the scene of the shooting.

But on Friday, a spokesman for the European Union-led mission, which took over from NATO troops at the end of 2004, said Mrs. Abazovic had opened fire on the commander of the unit seeking her husband's arrest as he tried to escape.

"She fired short bursts from an automatic weapon, a Kalashnikov AK-47," said the spokesman, Lt. Cmdr. Jem Thomas, in a telephone interview, giving an account based on a debriefing of the unit's commander, whom he did not name. "Soon after, she was joined by a boy."

"When she was about to run out, she gave the weapon to her son, who continued shooting while she looked for more ammunition."

He said troops were then ordered to shoot both Mrs. Abazovic and her son. "She was immobilized," he said, "with one shot." The boy, he said, was also "shot and immobilized."

Mrs. Abazovic was estimated to have used four magazines of ammunition, Commander Thomas said.

A Bosnian Serb police spokesman would not comment on that account, or say whether the autopsy on Mrs. Abazovic had provided evidence that she had fired a gun. "I am unable to talk about it," said the spokesman, Radovan Pejic. "All the evidence has been given to the prosecutor."

In Kenya, 'Why Does This Keep Happening?' (WP)

By Emily Wax

The Washington Post, January 8, 2006

NAIROBI, Jan. 7 -- On New Year's Day, groups of angry Masai herders attempted to drive their emaciated cattle onto the manicured lawns of the presidential residence so their animals could graze on the thick carpets of green grass in the morning sun.

With a drought turning their fields and pastures into dusty gray wastelands, and with millions of people in the region facing a food shortage, the herders wanted to make a point, organizers of the action said.

"Africa is not so poor that it doesn't have enough food or grazing land to feed itself. There's plenty of food here," said Ben Ole Koissaba, a leader of the Masai, one of the largest and most powerful tribes in Kenya. "Many countries around the world face drought, but people don't starve. We think it's ludicrous for the government to treat its citizens this way. Why does this keep happening?"

Many are asking that question as yet another drought threatens lives and destroys crops and livestock here. About 11 million people in Kenya, Ethiopia, Djibouti and Somalia are "on the brink of starvation," the United Nations said this week. In northeastern Kenya, at least 40 people, most of them children, have died from malnutrition and related illnesses since December, according to the Kenya Red Cross.

Enough food is grown in Kenya to feed all of its population of 33 million, but many citizens, especially the country's poor subsistence farmers, cannot afford it. When the rains ceased last year, the farmers were left with parched crops, hungry livestock and nothing to eat.

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"The month of December 2005 will be remembered for a long time to come by Kenyans as a time when people were starving to death while others were feasting," said Gullet Abbas, secretary general of the Kenya Red Cross Society.

Feeding centers for children younger than 5 are filling up in northern Kenya, Abbas said. Cattle, goats and camels are growing thin. On Thursday, 3,000 herdsmen moved their 20,000 head of cattle across the border into Uganda to look for green pastures, according to reports on national television. Governments have warned that power shortages are possible because of lower water levels at Kenyan and Tanzanian dams, which the countries depend on to generate electricity.

"The current drought is more severe at most locations than the droughts of 1984, 1999 and 2000," Joseph Mukabana, director of the Kenya Meteorological Department, said in a full-page paid commentary in the Daily Nation, Kenya's largest newspaper. "Food relief efforts may need to go beyond December 2006 in some parts of the country."

Late Friday, President Mwai Kibaki ordered the government to purchase "all available" corn in the country in an emergency operation to stave off more deaths. The cabinet has "termed as the country's current number one priority the provision of food for Kenyans," Kibaki's office said in a statement.

The Kenya Red Cross Society and the Famine Early Warning Systems Network, a monitoring group, have criticized the government for failing to do more to prepare for the drought, saying that officials knew more than a year ago that such conditions would develop.

Some experts predict that the cycles of drought and food shortages will continue on the world's poorest continent until governments here develop more permanent, sustainable solutions.

"During these emergencies, we don't talk enough about development and what really needs to happen here," said Nancy Mutunga, the country director for the Famine Early Warning group. "Shouldn't we be building more water irrigation systems and developing more long-term solutions so this doesn't keep happening every few years?"

"If we don't talk about underdevelopment, we may just carry on with these cycles affecting herding and farming households every few years," she said. "These families are poor and live on the edge. Their wealth is dependent only on their livestock and crops. They have to diversify that."

Kibaki has asked the international community for more food aid. The U.S. Embassy, which contributed 62,890 metric tons of relief food last year, said it was eager to help again.

Too much food aid, however, can cause the price of locally grown food to fall, leaving farmers without enough income to purchase seeds for the next season, experts say.

"Making food available for the farmers, though welcome, is short-term and short-lived," said Tom Kagwe, who writes about famines and development in Africa for the Daily Nation. "It cannot provide the long-term solutions to the country's food shortage."

There are many reasons for food shortages in Africa. Sometimes war plays a role. In rebel-controlled eastern Congo, for instance, thousands of banana and mango trees produce more fruit than local people can consume. But the excess food never makes it to markets or drought-stricken regions because the roads are destroyed and armed militiamen loot the supplies or tax them heavily.

In northern Uganda, people displaced by fighting between the government and the Lord's Resistance Army, a rebel group, languish in camps, looking out at the land they used to farm. Fields that once produced abundant amounts of yams, peanuts and corn are barren.

In Kenya, a peaceful and stable country, development has been hindered by corruption and mismanagement, according to Transparency International, a watchdog group that ranks Kenya as one of the most corrupt countries in the world.

Ole Koissaba, the Masai leader, said he was furious that the president turned the herders away from his residence. Even former president Daniel arap Moi, an authoritarian leader who ruled for 24 years, allowed the Masai to graze their cattle near the state house during a drought of 2002, Ole Koissaba pointed out.

"The new leadership cares more about politics than pastoralists, and now it can't do the correct things to save the lives, long term, of its own citizens," he said, adding there should be more international pressure on African governments to develop sound agricultural policies. "No African wants things to stay in this cycle of dysfunction."

A Paradise Drowning (NYT)

By Nicholas D. Kristof

The New York Times, January 8, 2006

MALE, Maldives

When President Bush visits India next month, he should add a whistle-stop at this gorgeous chain of tropical islands southwest of India, for they are a window into the future if we continue to spew carbon into the environment.

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These palm-lined islands, where colored fish and small sharks play in the coral reefs, are a paradise. But old-timers point to myriad changes wrought by the rising seas, and the government is already moving some inhabitants from the lowest atolls to those that are a bit more elevated.

Alas, the high point in this entire nation of 1,200 islands is only eight feet above sea level. So people here worry that eventually the entire nation may have to move, making the Maldives perhaps the first country in the world to be destroyed by global warming. (Tuvalu and Kiribati, both small Pacific island nations, are other contenders for the title of the first modern nation to be drowned.)

"There is a realistic threat that we could be the first environmental refugees in the world," said Mohamed H. Shareef, the chief government spokesman.

He notes that some scientific models have suggested that the seas may rise in this century by two or three feet, as polar ice caps melt and seawater warms and expands. He adds, "As 75 percent of the total land area of the Maldives is under three and a half feet, our islands would be submerged to such an extent that we would have to relocate."

The tsunami a year ago offered a glimpse of what may come: when the waters reached their peak, most of the Maldives disappeared under the Indian Ocean for a few minutes.

One reason for Mr. Bush to drop by is that the Maldives may be the most pro-American Muslim country in the world. Local tolerance and pragmatism are exemplified by the attitude toward liquor: don't drink it, but overcharge foreigners for it.

But the more important reason for Mr. Bush to come is not geopolitical but environmental. He should witness a paradise that is gravely threatened by irresponsible environmental policies in the U.S. - the world's leading source of greenhouse gases - and other major carbon emitters. As evidence mounts that climate change is real, is caused by humans and is accelerating because of feedback loops in nature, I find it astonishing that the U.S. still refuses to adopt serious measures to curb greenhouse gases.

Granted, there is considerable uncertainty about the scale of the damage we are inflicting on the earth. But that's no reason to play Russian roulette with our biosphere.

So we must encourage conservation and fuel efficiency, support alternative forms of energy like wind, solar and biofuels, and - I'll get hate mail about this - grudgingly accept nuclear power, because it doesn't produce greenhouse gases. We should also adopt a carbon tax, and join the Kyoto process of binding curbs on emissions.

A visit to the Maldives is sobering because it juxtaposes extraordinary beauty and extraordinary fragility. The islands have perfect white sand beaches, and the most exclusive resorts here charge several thousand dollars per room per night. And yet the luxury rooms are on sandbars barely peeking above the horizon. When the tide is coming in, you have the creepy feeling that unless it stops very quickly, you'll be left treading water in the middle of the Indian Ocean.

Local people say that the rising seas have already led to severe erosion on some islands, to wells filling with saltwater, and to storms' becoming more violent.

"My island sits lower in the water now, because of rising seas," said Hasan Ibraahim, a fisherman from the island of Kandholhudhoo. Twice a year, he said, waves now wash over the island - and so, after the tsunami, the government decided to relocate the island's entire population.

He's sad to say goodbye to the land of his ancestors, but after the tsunami it was three days before he found his 8-year-old daughter and 5-year-old son - and he doesn't want to live through that nightmare again.

So Mr. Bush should come and talk to fishermen who endure the mutating climate every day - and then he should ponder the implications of rising seas for Florida, the Carolinas, Long Island. The Maldives may be the canary in the world's coal mine.

"Our message to the U.S. is as simple as this," said Mr. Shareef, the government spokesman. "Sea level rise is not just a phenomenon which is just going to engulf the Maldives and then stop. If it affects us tomorrow, it will affect you the day after."

Northern Ire (WP)

By Anna Morgan

The Washington Post, January 8, 2006

TORONTO Barely 18 months ago, Canadian party leaders were out campaigning for better health care policies, a cure for Quebec's nationalist aspirations and an end to government corruption scandals. But since the minority government put in place in June 2004 lost a no-confidence vote late last November, the politicians have been back out on the stump, preparing for a new election on Jan. 23. This time, though, running in the two coldest months of winter, they've been using that familiar demon -- the United States and all its evils -- as the fuel to heat Canadian voters to a frenzy.

There's no denying that Canadians are in an even more anti-American mood than usual, thanks to the Iraq war and the Bush administration's perceived arrogance. And politicians here are playing to that mood. In a blatant appeal for votes, candidates of every stripe, led by Prime Minister Paul Martin and his ruling Liberal Party, are taking aim at Washington, blasting it

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for taxing Canadian lumber imports, for failing to fight global warming, for lax gun-control laws, for dealing inappropriately with the war on terrorism. And all the while, they're studiously ignoring Canada's own homegrown issues.

America-bashing became such a central part of the election landscape last month that U.S. ambassador David H. Wilkins warned that Canadian-American relations could take a turn for the worse if party leaders didn't back off. But his words only prompted Canadian politicians to lash back with admonitions of their own. Even Stephen Harper, leader of the Conservatives, the party generally most sympathetic to the United States, declared: "I don't think foreign ambassadors should be expressing their views or intervening in an election."

In keeping with a long political tradition, the United States ignores Canada whenever possible. Nonetheless, the issues between the two countries just keep piling up. Leading the way is the softwood lumber dispute. Three years ago, the United States began imposing import duties on Canadian lumber after American producers complained that the Canadian government was all but subsidizing the lumber industry. Canada objected, and last August, arbitrators for the North American Free Trade Agreement decided in its favor. But Americans still have not fully complied with the NAFTA ruling to lift the duties, so Prime Minister Martin has made confronting Washington on this score a main issue of his campaign, even though lumber represents less than 3 percent of Canadian exports to the United States.

While American non-compliance with NAFTA may be a legitimate beef for Canadians, politicians have also been indulging in some inflated rhetoric on other fronts where Canada isn't on such solid ground. The specific attack to which Wilkins responded, for example, had to do with the Kyoto environmental accord. In welcoming a United Nations conference on global warming in Montreal last month, Martin criticized the United States for not signing the agreement and urged it to pay attention to the "global conscience."

In doing so, he conveniently neglected to mention that Canada, which is one of the accord's major promoters, so far hasn't complied with its emission reduction requirements. The United States, in fact, has done a better job in dealing with greenhouse gases. A U.S. Department of Energy report released in December noted that American emissions for 2004 were 16 percent higher than in 1990. A similar study prepared by Environment Canada reported that greenhouse gas emissions rose 24 percent here between 1990 and 2003. But in the current election environment, the prime minister knows that it is hot air that really counts.

The Liberal Party has been determined to divert attention from a corruption scandal that has left it weakened in every province. It is using its anti-American foreign policy as an election tool, continuously reminding Canadians that the Liberal government kept the country out of the Iraq war and the North American missile defense system. Some pundits say that Martin, with no ammunition against opposition candidates, has decided to run against George W. Bush.

The opposition has also played the America card. The Conservatives, who support deep tax cuts, Thatcheresque deregulation of the economy and a set of family values that could attract the vote of any evangelical minister, are sympathetic with Bush's foreign policies but vow never to mimic them. At the other end of the spectrum, the quasi-socialist New Democratic Party has candidates who are so anti-American that they sometimes sound like an undergraduate student forum, performing stunts such as conducting "citizens' weapons inspections" of American military bases in Washington state. The one thing all the candidates have in common is their strenuous assertions that they will not tolerate being bullied, even if they have to make up the bullying.

Although the government boasts about its non-cooperation with the Americans on Iraq, it is desperate to keep quiet its cooperation on the war on terrorism. Under the Liberals, Canada enacted Patriot Act-style legislation with the Anti-Terrorism Act of 2001. Recently, it resisted calls to repeal provisions for increased police surveillance and far-reaching powers of arrest and detention. Federal authorities are currently holding five suspects under so-called security certificates, which allow non-Canadians to be held indefinitely if a judge is convinced they are a threat. These policies, however, have been kept low-key, for fear of an anti-government backlash in public opinion.

The problem is that silence on these issues during the campaign plays into the growing anti-American sentiment and may eventually hinder attempts to deal with terrorism. The best example of this is the case of Abdullah Khadr, the Canadian media's current cause celebre. Khadr is one of several Toronto-born sons of an Egyptian terrorist who was killed in a shootout with police in Pakistan. U.S. authorities suspect Abdullah of being a weapons supplier for al Qaeda and part of a group that planned to assassinate Pakistani President Pervez Musharraf. On Dec. 2, he came back to Canada after 14 months in a Pakistani prison and was soon arrested on an extradition warrant, issued at the request of the United States, for conspiracy to murder Americans abroad.

Abdullah's 19-year-old brother, Omar, has also been in the news, as the youngest person held in Guantanamo Bay, for allegedly throwing a grenade that killed a U.S. Army medic in Afghanistan. The clan's mother has given interviews saying she detests Western values and that the only reason the family has returned to Canada is for the subsidized health care. One would think few families could be less popular with the liberal-minded Canadian public.

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And yet in his current extradition battle, Abdullah is clearly winning in the court of public opinion, if not in the court of law. A number of prominent columnists and CBC News are questioning whether Canada should cooperate with the U.S. government in this or any other terrorism case.

Politicians here know that Canadians love to read, talk and debate about U.S. transgressions. Newspaper articles point to ethnic profiling at airports and long border waits as evidence that the war on terrorism is a sham, and that Americans are simply looking for excuses to harass Canadians for the country's multicultural society. But just as it chooses to ignore weaknesses in Canada's environmental policy, the public is also disinclined to take seriously the country's problems with terrorism. Those problems may not be as exaggerated as some Americans think they are -- just recently Montana's Sen. Conrad Burns reiterated, then retracted, the popular myth that the 9/11 hijackers got into the United States through Canada -- but they are certainly real.

The so-called millennium bomber, Ahmed Ressam, who planned to bomb Los Angeles airport on New Year's Eve 2000, did come from Canada. In another notorious case, Mohammed Zeki Mahjoub was arrested in Toronto after being accused of belonging to a militant group with ties to an Egyptian Islamic Jihad organization. Though he denied those links, Mahjoub admitted he worked closely with Osama bin Laden himself during his years in Sudan. The judge at Mahjoub's first hearing quoted from a report issued by the Canadian Security Intelligence Services that "there are more terrorist cells operating in Canada than in any other country outside the Middle East."

Worry about alienating key constituencies in a hairline election has silenced politicians here on these important issues. But Canada-U.S. relations could reach a turning point if they're not addressed. Over the past five years, Canada has stopped extraditing people to the United States if they face the death penalty. The increasing popularity of the notion that international terrorism suspects also should not be extradited have led to some serious concerns about the heavily trafficked border.

It's not just that Canada is starting to look like a safe haven for America's Most Wanted; it's that America may be starting to view Canada as a less-than-benign neighbor. U.S. Customs and Immigration this year imposed passport requirements on visiting Canadians for the first time, and there is talk of fingerprinting at the border as well. At some point, the truck traffic that carries up to 70 percent of Canadian exports south will start to bog down in security inspections. That's when Canadians' anti-American bark will really start to bite.

In this electoral season, the public is looking for bellicose rhetoric, but Canada's security cries out for sober management. Whoever is elected will have to work publicly with the United States, not just against it, to reduce anti-American sentiment while addressing the problem of terrorism and cross-border control. If the real need for cooperation with Canada's southern neighbor can't temper the public's demand for criticism, the nation will be in for some stormy weather in the next few years.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

CRS Report Challenges Legality Of NSA Terrorist Monitoring Program. The Washington Post (1/7, A1, Leonnig, 744K) in a front page story reports, "A report by Congress's research arm concluded yesterday that the administration's justification for the warrantless eavesdropping authorized by President Bush conflicts with existing law and hinges on weak legal arguments." The CRS report "rebuts the central assertions made recently by Bush and Attorney General Alberto R. Gonzales about the president's authority to order secret intercepts of telephone and e-mail exchanges between people inside the United States and their contacts abroad." The "nonpartisan assessment" prompted "Democratic lawmakers and civil liberties advocates to repeat calls yesterday for Congress to conduct hearings on the monitoring program and attempt to halt it." It

The New York Times (1/7, A1, Lichtblau, Shane, 1.19M) in a front page story says the report, "requested by several members of Congress, reached no bottom-line conclusions on the legality of the program, in part because it said so many details remained classified. But it raised numerous doubts about the power to bypass Congress in ordering such operations, saying the legal rationale 'does not seem to be as well grounded' as the administration's lawyers have argued." In addition to Democrats, former 9/11 Commission co-chairman Thomas Kean "weighed in for the first time in the debate. Mr. Kean said he counted himself among those who doubted the legality of the program. He

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said in an interview that the administration did not inform his commission about the program and that he wished it had."

Knight Ridder (1/7, Landay) notes the report "said Congress passed an amendment to a 1968 law and included language in FISA that made the act the 'exclusive means' by which the government could conduct electronic surveillance." And it "found that while gathering intelligence is 'an important facet of fighting a battle, it is not clear that the collection of intelligence constitutes a use of force.'"

The Los Angeles Times (1/7, Gorman, 958K) reports, "The report's authors conclude that, based on what is now known about the secret NSA operation, 'it appears unlikely' that a court would find that Congress had given Bush the authority to initiate such a program." The authors "said the Bush administration's argument, taken to its logical conclusion, would put no limit on what the government could do. In addition, they said: 'It is not clear that the collection of intelligence constitutes a use of force.'

The AP (1/7, Shrader) quotes Sen. Frank Lautenberg saying "It looks like the president's wiretapping was not only illegal, but likely targeted innocent Americans who did nothing more than place a phone call." Bloomberg (1/7, Bliss) also reports on the CRS report.

Cheney Rationale For NSA Monitoring Questioned. Wall Street Journal national political editor John Harwood said on PBS's Now (1/6, Matthews) "I certainly hope that Charles and Dick Cheney are right, that it's not an accident we haven't been attacked again. But it seems a bit of a stretch to say that the avoiding the FISA court in making these decisions unilaterally is the difference between being serious and not serious in the war on terror."

Washington Post Political Editor John Harris said on MSNBC's Hardball (1/6, Matthews), referring to the note Sen. Rockefeller wrote in longhand to Vice President Cheney saying he had great misgivings in the briefing he'd gotten on the domestic surveillance, that Cheney "didn't care. It's not really oversight. In very general terms, it's sort of telling them what they're doing but not asking for permission."

Chris Matthews commented on MSNBC's Hardball (1/6, Matthews), that "I'm sure that [note] ruined Dick Cheney's day."

Roberts Criticizes Continued Public Airing Of NSA Debate. The Kansas City Star (1/7, Helling, 286K) reports, "The continuing focus on a controversial federal eavesdropping program could 'endanger American lives,' Sen. Pat Roberts said Friday. 'What I'm worried about is the al-Qaida reading all of these press accounts as a cascade of further stories and speculation come out, and we lose the capability (of NSA communication intercepts),' said the Intelligence Committee chairman, who has been regularly briefed on the program."

NSA Director Rejects Concerns About Terrorist Monitoring Program. Reuters (1/7) reports NSA Director Lt. Gen. Keith Alexander "told employees last month that NSA officials had not violated U.S. law by participating in an agency program that eavesdrops on U.S. citizens without judicial oversight, newly released documents show." In a December 22 message Alexander said, "Media coverage surmises that administration and agency officials may have acted unlawfully -- notions I reject, categorically!" He added, "Overall, we are not concerned. … Our operations are carefully deliberated and measured; they are within the law; and they are nobly executed with strict oversight."

Administration Accused Of Undermining War On Terrorism. Daniel Klaidman in a Newsweek (1/7) web exclusive claims "the White House's devotion to presidential power has undermined the war on terror." Klaidman continues, "The administration's biggest mistakes in fighting the war on terror have been the product of a willful defiance of the traditional rules of warfare. Bush understood instinctively that the United States needed more creative thinking and a new flexibility to prevail against an enemy as vicious and unconventional as Al Qaeda. But a small, powerful group of ideologically committed Bush administration officials, led by Vice President Dick Cheney, had a more far-reaching agenda: to prove at virtually every turn that the Constitution vests in the president near unfettered powers in the conduct of national security policy. The principle became such an article of faith that upholding it often trumped the wisdom -- and necessity -- of individual policies. Playing out behind the scenes was a bitter struggle between the proponents of presidential supremacy during wartime and traditionalists, often career civil servants, who wanted to maintain the balance of power. A healthy tension between the two should serve as an important check on overreaching by ideologues or on the indolence of time-serving bureaucrats."

WSJ Defends Administration Authorization Of Terrorist Monitoring. The Wall Street Journal (1/7, 2.11M) editorializes, "The Bush Administration's use of warrantless wiretaps in the war on terrorism continues to generate controversy, and Congress is planning hearings. Some of the loopier elements of the Democratic Party have even

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suggested the wiretaps are grounds for impeachment. But the more we learn about the practice, the clearer it is that the White House has been right to employ and defend it." The Journal concludes, "The upside of the coming Congressional hearings, we guess, is that Americans will get a lesson in the Constitution's separation of powers. We're confident they'll come away believing the Founders were right to the give the President broad war-fighting -- including surveillance -- powers."

Bush Asserts Right To Bypass Detainee Torture Limits. Knight Ridder (1/7, Hutcheson, Kuhnhenn) reports, "President Bush agreed with great fanfare last month to accept a ban on torture, but he later quietly reserved the right to ignore it, even as he signed it into law." He "said he would interpret the new law in keeping with his expansive view of presidential power. He did it by issuing a bill-signing statement -- a little-noticed device that has become a favorite tool of presidential power in the Bush White House." He "has used signing statements to reject, revise or put his spin on more than 500 legislative provisions. Experts say he has been far more aggressive than any previous president in using the statements to claim sweeping executive power - and not just on national security issues."

Hayat Trial Set To Begin Feb. 14. The Lodi News-Sentinel (1/7, Bohm) reports Hamid and Umer Hayat "will stand trial Feb. 14. Over the objections of government prosecutors, a federal judge on Friday set the trial date…and also laid out a fast-moving schedule for pre-trial motions and hearings. Trial testimony will likely take 20 court days — not counting jury selection, opening statements, rebuttal and closing arguments — Assistant U.S. Attorney Robert Tice-Raskin told the judge." The News-Sentinel adds, "The two men were arrested during an intense FBI investigation in Lodi. Three other men, including two leaders of the Lodi Muslim Mosque, were detained on immigration violations and have since been deported." The AP (1/7) notes, "Assistant U.S. Atty. S. Robert Tice-Raskin argued that more time was needed because some evidence against the pair was obtained using methods so secret that they can't be disclosed in open court or to anyone without a security clearance."

US "Leaning Toward" Al Arian Retrial. The AP (1/7) reports, "Federal prosecutors, still stinging from Sami Al-Arian's acquittal on eight terrorism counts last month, said Friday they are leaning toward retrying the former college professor and a co-defendant on charges that their jury could not decide. … Asked whether the government could start in late March or April," Assistant US Attorney Terry Zitek "said it was 'theoretically possible,' but that he would like more time to prepare. The judge said conflicts in the court's schedule meant the only alternative start date would be August." The Tampa Tribune (1/7, Silvestrini) notes, "Kevin Beck, a federal public defender representing Al-Arian co-defendant Hatim Fariz, said discussions are being held on 'ways we can avoid a trial.' He said his client will not agree to testify against Al-Arian. 'I can tell you that unabashedly,' he said."

Muslim Civil Rights Advocates Rally For Al Arian's Release. The Tampa Tribune (1/7, Silvestrini) also reports that at a rally outside the Tampa courthouse on Friday, "national Muslim leaders rallied to demand a resolution of the case. … Muslim civil rights activists from California and Washington shared the podium. Ahmed Younis, national director of the Muslim Public Affairs Council, said the Al-Arian case thrust America back into the court of public opinion. Younis said 'a tsunami came upon the Muslim community since 9/11.'" The Orlando Sentinel (1/7, Gutierrez) adds that "dozens of supporters as well as Muslim and Christian activists braved the cold, blustery winds to demand that he be freed. … Like other Muslim-American leaders who flew in from around the country to speak on Al-Arian's behalf, Nihad Awad said Al-Arian was the victim of a politically charged environment three years ago that resulted in the persecution of Muslims." Awad said, "Most of these cases are done for political reasons. ... I think the government is abusing the system," and "signs in the crowd included 'Liberty and Justice For All,' 'Free Al-Arian,' 'All Religions Believe in Justice,' and 'The Patriot Act is Watching You.'"

Spy Satellite Chief To Resign After Dispute With Rumsfeld. Reuters (1/7) reports National Geospatial-Intelligence Agency director James Clapper "will leave his post in June, officials said on Friday." He will resign "three months short of his fifth anniversary as head of the defense department operation, officials said." According to the Baltimore Sun, he "was being forced out after angering Secretary of Defense Donald Rumsfeld on an issue involving intelligence reform." Reuters notes, "The Sun quoted an unnamed former official as saying that Clapper earned Rumsfeld's ire in 2004 by telling Congress his agency would not be ill-served by the creation of a director of national

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intelligence, or DNI, a post created by post-September 11 reforms that was initially opposed by Pentagon officials."

DOJ IG Inquiry Finds No Misconduct In FBI Probe Of Suspected Terrorist. The New York Times (1/7, Stout, 1.19M) reports, "Overconfidence in its own fingerprint-identification technology and sloppy paperwork contributed to the F.B.I.'s wrongly implicating a Portland, Ore., lawyer in the deadly 2004 Madrid train bombing, a Justice Department investigation said Friday." Yet the DOJ IG's investigation "said there had been no misconduct by the Federal Bureau of Investigation and no abuse of the antiterrorism USA Patriot Act in the case of the lawyer, Brandon Mayfield." While "Mayfield's Islamic faith was not a factor in the initial stages of the bombing investigation, when F.B.I. technicians erroneously concluded that a print found on a plastic bag near the Madrid attack scene matched one of Mr. Mayfield's, it may have slowed his ultimate exoneration, the Justice Department inquiry found." The FBI "said Friday that it was pleased that the inspector general had found no official wrongdoing and no violation of the antiterrorism law."

The Washington Post (1/7, A6, Eggen, 744K) reports, "One of Mayfield's attorneys, Gerry Spence, said in a news release yesterday that Fine's report shows 'the FBI acted with gross negligence' in targeting and arresting his client, and misled the federal courts in doing so." And "Mayfield was quoted in the statement as saying that the report confirms he was 'the victim of religious profiling.'" But the "FBI disagreed, emphasizing that Fine had concluded that Mayfield's Muslim faith was not a factor in the initial identification of him by fingerprint examiners. The bureau said Mayfield's arrest 'was based on an extremely unusual confluence of events,' primarily the remarkable similarity between his fingerprints from military service and the latent print found in Spain, which was eventually matched to an Algerian national, Ouhnane Daoud." The Washington Times (1/7, Seper, 90K), the Los Angeles Times (1/7, Tizon, 958K) and the AP (1/7, Sherman) also reports on the DOJ IG's report.

The Chicago Tribune (1/7, Zajac) reports that the IG's findings "likely will fuel the debate about adding civil liberties protections to the Patriot Act, portions of which are set to expire Feb. 3. … Rep. James Sensenbrenner (R-Wis.), chairman of the House Judiciary Committee and a supporter of the the law, said in a statement the report 'should finally end the baseless accusation lodged by Patriot Act opponents that federal law-enforcement officials used this anti-terrorism law to violate the civil liberties of Brandon Mayfield.' … But Reps. John Conyers of Michigan and Robert Scott of Virginia, two top Democrats on the judiciary panel, wrote Sensenbrenner to urge congressional hearings on the report."

The Oregonian (1/7, Saker, Goldsmith) reports, "In a statement Friday, the FBI pointed out that after the Mayfield case, the bureau invited an independent board of experts to propose changes in how the FBI examines fingerprints, which the FBI has undertaken. … In addition, the inspector general's report 'found no evidence of misconduct on the part of any FBI employees involved in this investigation,' the statement said."" The Oregonian adds, "The FBI did not use the Patriot Act to obtain the court warrants to spy on and search Mayfield without his knowledge. But the law did allow the FBI to share intelligence from the wiretaps and searches with law enforcers, which 'amplified the consequences of the FBI's fingerprint misidentification.' … The U.S. attorney's office in Portland wrote affidavits containing inaccurate and ambiguous information that led a federal judge to believe that Spanish police had agreed with the FBI's fingerprint identification of Mayfield when they had only agreed to conduct another examination."

California Father And Son To Be Tried On Terrorism Charges In February. The Los Angeles Times/AP (1/7) reports, "A father and son from Lodi will be tried on terrorism-related charges beginning Feb. 14. A federal judge set the date Friday over the objection of prosecutors. Assistant U.S. Atty. S. Robert Tice-Raskin argued that more time was needed because some evidence against the pair was obtained using methods so secret that they can't be disclosed in open court or to anyone without a security clearance. Umer Hayat, 47, was arrested in June and charged with lying to the FBI by denying that his son attended an Al Qaeda training camp in Pakistan during 2003 and 2004. His son, 23-year-old Hamid Hayat, was arrested the same day and faces charges of supporting terrorism and lying to investigators."

Padilla To Plead Not Guilty To Federal Charges. The Miami Herald (1/7, Weaver) reports, "Former 'enemy combatant' Jose Padilla next week will plead not guilty to charges he joined terrorists in an Islamic holy war abroad, his attorney said Friday outside the Miami federal courthouse. … But the criminal charges outlined in an

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indictment against Padilla are completely unrelated to the 'dirty bomber' accusation that landed the former Broward resident in U.S. military detention for about four years. … 'This case started in an unusual way, but I'm happy today it's in a criminal court proceeding,' said New York lawyer Andrew Patel, who is representing Padilla with the Federal Public Defender's Office in Miami. 'Mr. Padilla is being treated like any other American citizen in the criminal justice system.'" The Herald continues, "Padilla's status as an enemy combatant changed on Thursday with his transfer from a South Carolina naval brig to the Miami Federal Detention Center. The move was made immediately following this week's U.S. Supreme Court decision that allowed Padilla's transfer into the criminal justice system. The decision represented a victory for the Bush administration. … Padilla, 35, will have both an arraignment and bond hearing Thursday. He is charged with being a recruit for a North American terrorist cell with South Florida links that allegedly aided an Islamic jihad abroad. The trial is in September. If convicted, he faces a life sentence."

The South Florida Sun-Sentinel (1/7, Blum) reports, "One day after his release from a 3 1/2 year military detention, alleged al-Qaida operative José Padilla appeared for a second time in Miami federal court on charges that he was part of a South Florida-based terror cell. … The former Broward County resident seemed animated during the brief hearing, at one point turning to wave to his mother and two other family members sitting in the front row of the packed courtroom." The Sun-Sentinel adds, "At the start of the hearing, federal Magistrate Judge Barry Gelber informed Padilla, 35, of the accusations against him, including a charge that he was part of a conspiracy to 'murder, kidnap and maim persons in a foreign country.' Then, following a request from Padilla's attorneys, Gelber postponed a formal arraignment until Jan. 12. … Prosecutor Stephanie Pell stated that the government intends to oppose bail, leading Gelber to say, 'Why am I not surprised?' The Sun-Sentinel notes, "The Bush administration has made it clear that it considers Padilla one of the most dangerous men in America. In 2002, federal agents arrested Padilla at O'Hare International Airport. At that time the White House designated him an 'enemy combatant' and claimed that the former Chicago gang member had plotted to detonate a radioactive bomb on U.S. soil. Government lawyers argued that Padilla was a captured fighter, not a criminal defendant, and could be held without charges."

Padilla's Plea Hearing Rescheduled For Thursday. The Los Angeles Times (1/7, Dahlburg, 958K) reports, "Terrorism suspect Jose Padilla, held 3 1/2 years by the government without charges, was supposed to get his chance Friday to answer the felony counts brought against him as an alleged backer of Islamic war overseas. But the judge postponed the procedure until next week. U.S. Magistrate Judge Barry L. Garber rescheduled for Thursday Padilla's plea and the hearing to determine whether he should be freed on bond. The delay is to give newly appointed lawyers from the federal public defender's office in Miami time to confer with a New York City attorney who had already been representing Padilla. Andrew G. Patel, the New York lawyer, told reporters that Padilla, 35, an alleged Al Qaeda operative, would plead not guilty to charges that he and four co-defendants plotted to support Islamic jihad abroad."

UK Dramatically Expanding Automatic License Plate Recognition System. The Washington Post (1/7, A1, Jordan) reports UK "law enforcement agencies are drastically increasing the number of cameras that read license plates and are building a national database that designers say will make it possible to determine in seconds whether a car zooming by has insurance, was stolen or was seen near a crime scene. The plate recognition system will rely on thousands of cameras on stationary poles and in mobile police vans, which will patrol highways and back roads. … Some human rights groups are fighting the new project, calling it a dangerous step toward a Big Brother society." The Post notes Automatic Number Plate Recognition system national coordinator John Dean "said FBI officials asked him about the ANPR system on Tuesday, and officials from Australia, Canada and many European countries have also inquired about it."

PATRIOT ACT:

Cheney Calls For Patriot Act Reauthorization In Speech On Military Base. The Lawrence Journal-World (1/7, Taylor) reports that Vice President Dick Cheney's visited Fort Leavenworth, "awarding the Combat Action Badges and presiding over a re-enlistment ceremony for five other soldiers." Cheney also "delivered a 20-minute speech in which he called for renewal of the Patriot Act, praised the assembled soldiers for their efforts and sacrifices,

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and told the audience of about 1,400 people that the United States would win the war on terror."

The Wichita Eagle (1/7, Cannon, Bormann, 98K) adds that Cheney was a "confident optimist" who "touted robust economic numbers," the government's "varied approaches to fighting terrorism," and "defended the recently revealed practice of eavesdropping without court warrants."

HOMELAND RESPONSE:

Chertoff Vows To Strengthen Border Security. The Washington Times (1/7, Seper, 90K) reports Department of Homeland Security Secretary Michael Chertoff "says he will crack down on alien smugglers at two border crossings near San Diego by sending more prosecutors to the area and providing increased jail space for those arrested. Mr. Chertoff's comments came during speaking engagements at the San Ysidro and Otay Mesa, Calif., ports of entry, in the same area where a Mexican national -- identified by law-enforcement authorities as a suspected alien smuggler -- was fatally shot Dec. 30 by a U.S. Border Patrol agent who the Mexican purportedly targeted in a rock-throwing attack." The Times notes, Chertoff "gave no cost estimates for the program and provided few details on how it would work, but he said it would begin in the San Diego area and later shift to other regions. It was unclear how many prosecutors would be added or how an increase in the number of cases they would handle would be financed with existing resources. He said the plan would include an increased law-enforcement presence on the border, renewed efforts at intelligence sharing with other law-enforcement agencies, increased technology and the use of dogs to locate people hidden in vehicles."

Local Law Enforcement's Cooperation Is Part Of New Plan. The AP (1/7, Spagat) reports Chertoff "has declared a crackdown on immigrant smugglers at two California border crossings from Tijuana, Mexico. … In a potentially controversial twist, Chertoff said Thursday state and local officials would participate in the crackdown. Proponents of tougher enforcement have long advocated a larger role for local law enforcement, but critics say local agencies should stick to fighting crime, not enforcing immigration laws."

DeLay Toured Border Region With Chertoff. The Dallas Morning News (1/7, McLemore) reports, "In an effort to take back the border from Mexican drug gangs…Chertoff rolled out the newest series of enforcement and security task forces here Friday. The latest effort in the Homeland Security Department's Secure Border Initiative will focus on investigations of cross-border crime by Mexican drug and human-trafficking organizations. It is modeled on U.S. Immigration and Customs Enforcement's Operation Blackjack, unveiled in Laredo last summer. And it includes an unprecedented level of interaction with Mexican agencies. In his first visit to the Laredo area, Mr. Chertoff took a tour of the rough terrain used by drug smugglers and illegal immigrants to enter the U.S. He was accompanied by U.S. Rep. Tom DeLay, R-Sugar Land, and other members of the Texas congressional delegation."

Katrina Recovery Chief Says Operation Was Successful, Given Constraints. Time (1/7) publishes an interview with Coast Guard Vice Admiral Thad Allen. Allen said, "I think we were successful given the resources we had" in dealing with Katrina's aftermath. He attributes his not becoming "a lightning rod for criticism" despite it being a "fairly loaded situation" to trying "to be transparent. And to make people aware of the constraints we were under." He adds that before our next disaster, "We need to create a clear command and control structure that runs from the federal government to the state."

New Orleans Delays Demolitions For Court Case. The New York Times (1/7, Nossiter, 1.19M) reports that New Orleans "officials agreed in court on Friday not to demolish any storm-damaged houses until" a federal judge hears "arguments in a suit over whether the city can demolish houses without homeowners' permission." Demolition "emerged as the sharpest edge of an emotional debate over which neighborhoods should be rebuilt" and "is likely to remain an emotional flashpoint, pitting opponents, including housing advocates, politicians and some residents." The "sides cannot even agree on what constitutes a house," with advocates arguing that "piles of rubble" shouldn't be moved until "dispersed residents" get "the chance to search for their possessions."

The Washington Post (1/7, A2, 744K) adds, "The city reserved the right to clear away perhaps 100 smashed homes that were pushed by the floodwaters into the streets." Opponents worry "that the demolitions would destroy black neighborhoods, marking the beginning of what some see as an effort to push out the city's black population."

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New Orleans Mayor, Council Agree On FEMA Trailer Placements. The Washington Post/AP (1/7, Deslatte) reports, "New Orleans Mayor Ray Nagin and two city council members said Friday they have agreed on temporary housing sites for thousands of families that requested assistance after Hurricane Katrina. Gov. Kathleen Blanco brought in a mediator and representatives of the Federal Emergency Management Agency to meet with Nagin and the council members at the governor's home." FEMA's head "blamed the dispute" over placement "for holding up the placement of thousands of temporary homes."

WAR NEWS:

US Officials Seek To Create Split Between Iraqi Insurgents And Radical Terrorists. The New York Times (1/7, Filkins, Tavernise, 1.19M) reports, "American officials are talking with local Iraqi insurgent leaders to exploit a rift that has opened between homegrown insurgents and radical groups like Al Qaeda, and to draw the local leaders into the political process, according to a Western diplomat, an Iraqi political leader and an Iraqi insurgent leader." Battles "between Iraqi groups and Al Qaeda have broken out in several cities across the Sunni Triangle, including Taji, Yusefiya, Qaim and Ramadi, and they appear to have intensified in recent months, according to interviews with insurgents and with American and Iraqi officials."

US Commander Outlines Strategy For Bringing Stability To Iraq. The AP (1/7, Burns) reports, "Local Iraqi police forces will be re-established this year in cities and towns across restive Anbar province, where the insurgency had prevented it earlier, a senior American commander said Friday." In an interview Marine Maj. Gen. Stephen Johnson said it "will be part of a broad strategy for bringing greater stability to western Iraq, bolstering Iraqis' confidence in their new government and undermining the insurgency." The AP adds, "If successful, the addition of local police also would lessen the security burden on U.S. troops, who are training Iraqi security forces across the country so U.S. forces can begin to leave this year."

Eleven US Soldiers Killed In Iraq. ABC's World News Tonight (1/6, story 4, :10, Vargas) reported, "In Iraq, the military said six more U.S. Troops have been killed, bringing to 11 the number killed in the wave of violence that swept the country yesterday. In Baghdad, thousands of Shiites turned out for demonstrations protesting suicide attacks that killed more than 100 Iraqis yesterday."

The CBS Evening News (1/6, story 4, :30, Schieffer) reported, "In Iraq today the military said that six more American soldiers and Marines were killed yesterday, most by suicide bombers or roadside bombs. That is in addition to a previous report of five soldiers killed yesterday. It means a total of 11, one of the worst days in the war for the U.S. forces."

The New York Times (1/7, Oppel, 1.19M) and stories from other sources report, "Thursday was the deadliest day in Iraq in months, as suicide bombers in Karbala and Ramadi killed at least 130 people. Among the 70 killed in Ramadi were two Americans -- a marine and a soldier. Shortly before the suicide blast in Karbala, a roadside bomb outside the city exploded and killed five American soldiers." And "the American military announced Friday that the previous day's toll also included two marines who had been killed in Falluja by small-arms fire and two soldiers who had been killed in Baghdad by a roadside bomb."

US Dismisses Concerns Violence Will Lead To Civil War. AFP (1/7) reports, "The United States played down a dramatic surge in violence in Iraq and said political progress would eventually defuse sectarian tensions. After one of Iraq's bloodiest day since the fall of Saddam Hussein's regime in 2003, a top US military officer said the violence would not trigger a civil war or disrupt political negotiations for a unity government." On CNN Gen. George Casey said the recent increase in attacks was "an anomaly." But experts have said the insurgency "remains as potent as ever and could get stronger."

Shiite Leaders Urge Restraint After Deadly Attacks. The Washington Times/Reuters (1/7, Jumaili) reports, "Iraqis buried their dead yesterday following a day of carnage that left some Shi'ite Muslims demanding revenge against the Sunni Arab militants they blame for a suicide bombing in their holy city of Karbala." But "Shi'ite religious and political leaders urged restraint, telling followers to place their faith in the next government, slowly emerging from the Dec. 15 election and set to be dominated by Shi'ite parties."

The Los Angeles Times (1/7, Daragahi, 958K) reports, "Tensions remained high across Iraq on Friday as security was tightened around mosques on the Muslim day of worship amid fraying relations between Iraq's Shiites and Sunni Arabs." Yet "a measure of placidity returned to the streets,

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where at least 120 Iraqis were killed in suicide bombings Thursday, as clerics delivered sermons tinged with notes of defiance as well as calls for calm."

The Washington Post/AP (1/7, Quinn) reports, "The rallies and threats by the Iraq's largest Shiite religious party to react with force if the militant attacks continue have renewed fears that paramilitary militias -- now thought to make up part of some elite police units -- would take to the streets and carry out reprisals." But on CNN Robert Ford, the U.S. Embassy's political councilor, said "I don't think the Shiite leadership wants to slip into broader civil strife and neither does the Sunni Arab leadership." Ford maintained that the recent attacks "were a sign that the political process was drawing Sunni Arab groups into politics and away from insurgency -- which has angered radical militants."

Iraqi Leaders To Discuss Formation Of Inclusive Government. The Washington Times/Reuters (1/7, Jumaili) in an article on Iraqi reaction to the latest violence also notes, "After a series of recent bilateral meetings in Iraq's Kurdish-dominated north, political leaders have agreed to meet in Baghdad soon to push their plan for an inclusive government that includes all Iraq's sects and ethnic groups."

New Zawahiri Tape Claims Bush Admits Defeat In Iraq. ABC's World News Tonight (1/6, story 3, :10, Vargas) reported, "Osama bin Laden's right-hand man Ayman al Zawahiri ridiculed the U.S. in a videotape that surfaced today. He says the decision to withdraw troops from Iraq this year a victory for the insurgency and for Muslims around the world."

The Washington Post (1/7, A12, Hernandez, 744K) reports on the video Zawahiri "said President Bush had admitted defeat in Iraq by announcing plans to reduce the American troop presence in the country, saying the move would be a victory for Islam." He "warned Americans that 'as long as you do not deal with Muslim nations with understanding and respect, you will still go from one disaster to another. And your calamity will not end, unless you leave our lands and stop stealing our resources and stop supporting the bad rulers in our countries.'"

Bremer Says US Unprepared For Insurgency. The Washington Post/Reuters (1/7, A4) reports that in an interview for "Dateline NBC" which will air Sunday night "L. Paul Bremer, who led the civilian occupation authority in Iraq after the 2003 invasion, told NBC-TV that the United States did not anticipate the insurgency in the country, the network said yesterday." In the interview he recount "the decision to disband the Iraqi army quickly after the U.S. arrival in Baghdad, a move many experts consider a major miscalculation. When asked who was to blame for the deaths of thousands of Iraqis and Americans after the official end of combat, he said, 'We really didn't see the insurgency coming,' NBC said in a news release." He "said he raised his concerns about the numbers and quality of forces with President Bush, Defense Secretary Donald H. Rumsfeld and senior military officials" and "that he did everything he could do in Iraq and that 'the president, in the end, is responsible for making decisions,' according to the network."

Study Reveals More Body Armor Would Have Prevented Many US Casualties. The New York Times (1/7, Moss, 1.19M) reports, "A secret Pentagon study has found that as many as 80 percent of the marines who have been killed in Iraq from wounds to the upper body could have survived if they had had extra body armor. Such armor has been available since 2003, but until recently the Pentagon has largely declined to supply it to troops despite calls from the field for additional protection, according to military officials." It "shows the cost in lives from inadequate armor, even as the Pentagon continues to publicly defend its protection of the troops."

The Washington Post (1/7, A5, Tyson, 744K) reports, "The medical examiner study analyzed a random sample of 93 Marine deaths from torso wounds and found that 60 percent of the fatalities were caused by gunshots. 'As many as 42 percent of the Marine casualties who died from isolated torso injuries could have been prevented with improved protection in the areas surrounding the plated areas of the vest. Nearly 23 percent might have benefited from protection along the mid-axillary line of the lateral chest. Another 15 percent died from impacts through the unprotected shoulder and upper arm.'"

The AP (1/7, Burns) adds, "The findings underscore the difficulty facing the Army and Marine Corps in providing the optimum level of body armor protection in a war against an insurgency whose tactics are constantly changing."

Suth Korean Lobbyist Arrested In Oil For Food Probe. The New York Times (1/7, Preston, 1.19M) reports, "Tongsun Park, a lobbyist from South Korea who was a central figure in the Congressional bribery scandal in the

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1970's known as Koreagate, was arrested yesterday in Houston on charges that he worked illegally to secure favorable treatment for Iraq under the United Nations oil-for-food program, federal authorities said." US attorney Michael Garcia "announced that Mr. Park was arrested in Houston by F.B.I. agents, but provided no information about how he was found. Mr. Park's whereabouts had been unknown since he was first indicted on April 14, 2005, for his role in the program."

Murtha Accuses Military Of Blaming Recruiting Woes On Him. The AP (1/7, Hefling) reports, "Rep. John Murtha says the military is blaming him for a recruitment slump instead of recognizing mistakes that have led to an enlistment shortage." Murtha said, "They're trying to direct attention away from their problems."

Civilian Killed By IED In Afghanistan. The Washington Post/AP (1/7) reports, "A roadside bomb blew up Saturday as a van packed with police cadets and trainers was driving through an eastern Afghan city, killing a passer-by and wounding a police colonel and driver, officials said." Officials "initially thought the blast may have been the work of a suicide attacker but later concluded it was a roadside bomb, said Abdul Jabar, a senior police officer in Jalalabad city where the attacks occurred." The AP adds, "The two wounded were rushed to a hospital in Jalalabad and were in stable condition. The other 18 people in the van were unhurt, Jabar said."

Dowd Criticizes Bush For Brevity Of Meeting With Former Foreign Policy Leaders. Maureen Dowd in her column in the New York Times (1/7, 1.19M) writes, "It may seem disturbing at first, that with several hundreds of years' worth of foreign policy at his elbows, and a bloody, thorny mess in Iraq, Mr. Bush would devote mere moments to letting some fresh air into his House of Pain." Bush "just spent six straight days mountain-biking and brush clearing in Crawford. He couldn't devote 60 minutes to getting our kids home rather than just a few for a 'Message: I Care' photo-op faking sincerity?"

CORPORATE SCANDALS:

Former Wal-Mart Official To Plead Guilty To Defrauding Company. The New York Times (1/7, Barbaro) reports, "The former vice chairman of Wal-Mart Stores, Thomas M. Coughlin, has agreed to plead guilty to federal charges that he defrauded the company of at least $350,000, people close to the negotiations said yesterday." The Times continues, "Mr. Coughlin, once the retailer's No. 2 executive, was ousted last year amid accusations that he used fake invoices and misappropriated gift cards to pay for items like contact lenses and a custom-made dog kennel. … He has agreed to plead guilty to five counts of wire fraud and one count of tax evasion, people close to the inquiry said, and is scheduled to enter the pleas this month in federal court in Fort Smith, Ark." The Times adds, "Defense lawyers and prosecutors expect Mr. Coughlin to be sentenced to slightly more than two years in prison, said people close to the case, who spoke on condition of anonymity because the investigation into the matter is still open. The court is also expected to order Mr. Coughlin to make restitution to Wal-Mart for benefits he received and money he misappropriated. … The guilty plea casts considerable doubt on Mr. Coughlin's assertion that he used company money to reimburse himself for a secret campaign, approved by senior executives, to pay union members for information about their organization drives, a potential violation of federal law. … Mr. Coughlin is still expected to advance that argument before a judge during sentencing. A person close to the matter said that the plea agreement explicitly mentions a plan to use Wal-Mart's money to buy information that would disrupt efforts to unionize Wal-Mart Stores."

The Wall Street Journal (1/7, Bandler) reports, "The deal, if it holds, will bring down the curtain on a bizarre chapter in Wal-Mart's history. Mr. Coughlin, a Wal-Mart legend who was a protégé and former hunting buddy of founder Sam Walton, left the company early last year amid accusations that he misappropriated as much as $500,000 from Wal-Mart through fraudulent reimbursements and improper use of gift cards." The Journal adds, "Although Mr. Coughlin took home millions of dollars in compensation, documents reviewed by The Wall Street Journal suggest that he secretly had the retailer pay for a range of his personal expenses, including hunting vacations, a $2,590 dog enclosure at his home and a $1,359 pair of handmade alligator boots." The Journal adds, "The most explosive aspect of the drama may remain unresolved. Mr. Coughlin is expected to claim that, in part, he was reimbursing himself for a secret scheme to fund an antiunion spy operation. … But federal prosecutors for the U.S. Attorney's Office for the

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Western District of Arkansas have found no evidence that Mr. Coughlin was part of any clandestine intelligence operation directed at unions, according to someone familiar with the investigation. Wal-Mart has said it has also investigated the matter and found Mr. Coughlin's claims to be untrue."

The Washington Post (1/7, D1, Joyce, Johnson) reports, "Coughlin, who was the No. 2 executive at the company until January 2005, was ousted from the board last March over allegations of financial improprieties estimated to have cost up to $500,000. A six-week investigation prompted the company to fire three other employees. Jared Bowen, a former vice president who was fired, is suing the company, claiming he was fired illegally in retaliation for blowing the whistle on Coughlin. The company responded that Bowen participated in the same acts he challenged. … Wal-Mart's investigation focused on the alleged unauthorized use of corporate gift cards and suspect expense reports. The company said it reported the matter to the U.S. attorney for the Western District of Arkansas based on the findings of the investigation."

Five Indicted Over San Diego Pension System Scheme. The New York Times (1/7, Broder) reports, "San Diego's legal and financial troubles deepened on Friday as a federal grand jury handed up fraud and conspiracy indictments against five current and former officials of the city's pension system." The Times continues, "The charges centered on a 2002 decision by the 13-member San Diego City Employees' Retirement System to enact a plan to increase significantly the pension benefits of city employees, including all the defendants, while failing to provide sufficient money to keep the pension fund solvent." The Times adds, "Federal prosecutors said the five defendants had conspired to hide the details of the proposal from other members of the pension board as part of a scheme to enrich themselves and cover up the financial danger to the pension system posed by the plan. … The decision helped to push the city to the brink of bankruptcy and led to the resignation of Mayor Dick Murphy last spring. The San Diego retirement system now has a deficit of at least $1.4 billion, and the city is unable to borrow in the capital markets. … The local United States attorney, Carol Lam, said the five pension fund officials had violated their obligations to city retirees and the taxpaying public. … 'The defendants had a duty to act in the best interest of the city retirement system,' Ms. Lam said in a statement accompanying release of the indictments. 'They breached that duty by engaging in self-dealing, ignoring conflicts of interest and exploiting their positions to the detriment of the retirement system.'"

The Los Angeles Times (1/7, Perry) reports, "Former pension board members Ronald Saathoff, Cathy Lexin and Teresa Webster — along with former board administrator Lawrence Grissom and the panel's current attorney, Loraine Chapin — were named in a 20-count indictment charging them with wire fraud, mail fraud and conspiracy. … The five are accused of using their positions to approve pension boosts for themselves and others while saddling the system with a 'dangerous practice' that depended on a bull market on Wall Street to keep the pension plan solvent. When the technology bubble burst, the pension system's deficit ballooned." The Times adds, "According to the indictment, Saathoff, longtime president of the local firefighters union, received a pension boost of $25,000 a year in exchange for voting to endorse a plan whereby the City Council would continue to rely on the investment plan rather than increasing payments from the city budget. … Increasing payments to the pension fund would have meant cutting services to residents, a politically risky move. When the stock market declined, the council faced the prospect of making a $100-million 'balloon payment' to keep the system funded at the level the council thought prudent, the indictment said."

Causey Not Yet On Enron Prosecutors' Trial Witness List. The Washington Post (1/7, D3, Johnson) reports, "Prosecutors in the fraud trial against former Enron Corp. leaders have not yet decided whether to call the Houston company's former accounting chief as a witness, according to court papers filed late yesterday." The Post continues, "Richard A. Causey pleaded guilty to a single count of securities fraud last week. Representatives from the Justice Department's Enron Task Force said at the time that they were continuing to debrief him as a possible witness against former chief executives Kenneth L. Lay and Jeffrey K. Skilling, with whom he had been scheduled to be tried." The Post adds, "Under the terms of his plea deal, Causey could shave as much as two years off a seven-year prison sentence if prosecutors determine he cooperated with their investigation. … Causey's name did not appear on a list of 61 witnesses submitted yesterday by government lawyers. But prosecutors 'reserve the right' to add others to the lineup before the Jan. 30 trial, they wrote. … In all, prosecutors cut 17 witnesses from an earlier list, an acknowledgement that

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Causey's plea allows them to sidestep weeks of complicated accounting testimony that might confound a jury."

2nd Circuit Rejects Martha Stewart's Appeal. The New York Times (1/7, Barbaro) reports, "As Martha Stewart served time at the red-brick federal prison in West Virginia, as she lived under court-ordered confinement on her farm in New York and even when she began politely firing aspiring employees on 'The Apprentice,' she quietly pursued an appeal of her conviction, hoping to prove her oft-proclaimed innocence. … But it was not to be - at least not this time." The Times continues, "A federal appeals court yesterday upheld the conviction of Ms. Stewart, the founder of Martha Stewart Living Omnimedia, and her former stockbroker, Peter E. Bacanovic, for lying about a lucrative stock sale. … The United States Court of Appeals for the Second Circuit, in Manhattan, rejected arguments, put forth by lawyers for both defendants, that their trial was tainted by prosecutorial misconduct, juror misconduct, extraneous influence on the jury and erroneous jury instructions." The times adds, "In one sense, neither Ms. Stewart nor Mr. Bacanovic had much riding on the outcome of the decision; both have already served their prison sentences. … But the appeal was a last-ditch effort - and by most accounts, this will be their last - to clear their names."

SEC May Delay New Trading Rules. The Wall Street Journal (1/7, Lucchetti) reports, "The Securities and Exchange Commission, prompted by Wall Street firms, is considering whether to delay new trading rules scheduled to go into effect this summer that, among other things, will require that investors' trades be completed at the best price that can be executed immediately." The Journal continues, "The SEC is weighing whether to give the firms another one or two months to prepare for the challenge of getting all their trading systems ready, according to people familiar with the regulator's talks with Wall Street firms about the matter. An SEC spokesman said 'the commission hasn't taken any action with regard to delaying the implementation dates' but declined to comment on whether the SEC was considering a delay. In addition to eliminating the 'best price' protection from orders handled manually on exchanges such as the New York Stock Exchange, the new regulation will alter the way dealers and exchanges interact. … Under the so-called trade-through rule, trading desks and exchanges will have to distinguish all their orders between those that are being handled manually on the floor and those that will be handled electronically. Manual trades won't necessarily get the best price currently available under the new rules. The other major change entails preparing for so-called sweep orders, which will quickly be sent across markets to get good prices when various exchanges have shares to buy or sell at a price that benefits investors."

Sarbanes-Oxley Said To Have Increased Class Action Suits. The Wall Street Journal (1/7, 2.11M) editorializes, "Should Congress ever take a break from congratulating itself on passing Sarbanes-Oxley, it might take a look at a new study released this week about the number of companies sued in securities class actions last year. The Members might then want to think about moving their money into bonds. At first glance, the study from Stanford University and Cornerstone Research seems to be good news, noting that the number of class-action suits filed in 2005 dropped to 176 from 213 in 2004 -- a 17% decrease. … So what then accounts for those 176 suits? Try . . . Sarbanes-Oxley. It appears the tort bar is now using the law's strict financial-reporting requirements as its latest excuse to sue. A whopping 89% of the suits alleged misrepresentations in financial documents, while 82% claimed false forward-looking statements. Lawyers have certainly used financial documents as a reason to sue in the past, but this year's notable uptick in the number of suits filed that cite this cause of action suggests that the tort bar has found a whole new line of business."

CRIMINAL LAW:

Cunningham Said To Have Worn A Wire. Time (1/7, Burger) reports that sources say ex-Rep. Duke Cunningham "wore a wire to help investigators gather evidence against others just before copping his own plea" to taking bribes. It is unknown who he met with while wearing the wire and it "is the source of furious -- and nervous -- speculation by congressional Republicans." K. Lee Blalack, a Cunningham lawyer, "refused to confirm or deny the story," and "an FBI spokesman declined comment."

Politicians React To Abramoff Scandal By Proposing Lobbying Reform. Knight Ridder (1/7, Thomma) reports, "Politicians fearing fallout from Abramoff's criminal excesses now insist that they have to make the rules tougher." Although "Abramoff violated all the rules, many

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members of Congress say the solution to the scandal is to toughen them."

The AP (1/7, Abrams) adds, "Bills dealing with lobbying ethics that have been dormant for months are getting a new look as lawmakers digest the consequences of Abramoff pleading guilty to corruption and tax evasion charges, and his agreement to cooperate in an influence-peddling investigation that could taint dozens of members of Congress." House Republican leadership aides "said there was a good chance that lobbying legislation will get a vote this year."

Tribe Wants Politicians To Return Abramoff Contributions, Not Donate It. The AP (1/7, Gamboa) reports, "The Tigua tribe of El Paso wants campaign contributions it gave while employing disgraced lobbyist Jack Abramoff returned to the tribe, not given to charity. Arturo Senclair, governor of the tribe officially known as the Ysleta Del Sur Pueblo, said Friday that the tribe isn't demanding its donations back but that anyone returning money should check with the Tiguas first." Senclair says "the tribe needs that money," citing decreased federal funds and rising unemployment.

Feingold Returning Possibly Abramoff Associated Donations. The Milwaukee Journal Sentinel (1/7, Schultze, 266K) reports, "The campaign of Sen. Russ Feingold (D-Wis.) announced Friday it had returned four donations totaling $1,600 that Feingold had received from associates of disgraced lobbyist Jack Abramoff in 2002-'04" in order to "avoid even the appearance of a conflict," although the senator is "unaware of any connection between Abramoff and the donations to Feingold."

Charities Benefit From Divesting Of Abramoff Tainted Funds. The Washington Post (1/7, B3, Salmon, 744K) reports, "Charities in the Washington area and across the country are reaping the benefits of the Jack Abramoff case as legislators distancing themselves from the convicted lobbyist dump campaign contributions linked to him and donate the money to worthy causes." The charities argue there is "nothing wrong with accepting the money, despite its origins."

Tribes See Repeat Of Exploitation In Abramoff Misdeeds. The Washington Post (1/7, A1, Whoriskey, 744K) reports, "Led on by what they say were his false promises of political access, leaders of the Coushatta Tribe of Louisiana, which is based here, paid Abramoff and his partners about $32 million for lobbying and other services," but, "by their accounting, they got very little in return. It was thievery, tribal members said, that echoes the historic losses of Native Americans to European settlers." Even more "rankling to many Coushattas" than the monetary loss "is the knowledge that Abramoff had, in released e-mails, referred to some of his Native American clients as 'monkeys,' 'troglodytes' and 'morons.'"

FBI Arrests "Koreagate" Lobbyist On Oil-For-Food Charges. The New York Times (1/7, Preston) reports, "Tongsun Park, a lobbyist from South Korea who was a central figure in the Congressional bribery scandal in the 1970's known as Koreagate, was arrested yesterday in Houston on charges that he worked illegally to secure favorable treatment for Iraq under the United Nations oil-for-food program, federal authorities said." US Attorney Michael Garcia "announced that Mr. Park was arrested in Houston by F.B.I. agents, but provided no information about how he was found." The Times notes that a new indictment unsealed Friday alleges, "Park began working with an Iraqi-American businessman, Samir Vincent, as early as 1992 to represent the interests of Saddam Hussein's government in negotiations at the United Nations to set up the program. … The complaint says that Mr. Park was paid at least $2 million, most of it in cash, by the Iraqi government. Much of the cash was delivered to Mr. Park in New York in Iraqi diplomatic pouches, the complaint says."

Reuters (1/7, Trotta) reports Park "was arrested…on accusations of acting as an unregistered agent of Saddam Hussein's former government among others charges," as well as "conspiring to commit wire fraud and to launder criminal proceeds. 'Park actively lobbied U.N. officials to establish the program, while extracting millions of dollars from profiteering Iraqi officials,' the FBI chief in New York, Mark Mershon, said in the statement. Mershon called the oil-for-food program 'a cash cow masquerading as humanitarian aid.' The U.S. authorities say Park met in 1993 with the high-ranking U.N. official at his Manhattan apartment to set the terms of the program. That meeting included an unnamed collaborator who is now cooperating with the investigation."

The Houston Chronicle (1/7, Ivanovich, Fowler) reports, "Park was arrested in Houston around noon, New York FBI spokeswoman Christine Monaco said. Bush Intercontinental Airport was Park's entry point into the United States. But Monaco could not say where Park was coming from or where he was headed. Park was brought to the Federal Detention

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Center in downtown Houston, where he will stay until an appearance Monday before a U.S. magistrate judge." The Chronicle adds that Mershon "said Park was 'instrumental in the corruption of the U.N. Oil-for-Food Program, which ultimately proved to be a cash cow masquerading as a humanitarian aid program.'" BBC News (1/6) also notes Mershon "said Mr Park 'actively lobbied' UN officials to set up the oil-for-food scheme, while ensuring he was handsomely rewarded for doing so by Iraqi officials. … The programme was 'a cash cow masquerading as humanitarian aid', said Mr Mershon."

The AP (1/7) and The (UK) Daily Telegraph (1/7, Sherwell) also report Park's arrest, as does The Washington Post (1/7, A18) in "Nation in Brief."

Former Chicago Forestry Official Expected To Plead Guilty In Hired Truck Probe. The Chicago Tribune (1/7) reports, "A former supervisor in the city's Department of Streets and Sanitation is expected to plead guilty in federal court to obstructing justice for directing an underling to lie to federal agents, his lawyer said Friday. Attorney Barry Pechter declined to say, however, if Bruno Bertucci, formerly with the Bureau of Forestry, has been cooperating with federal authorities. In September Bertucci was accused in a criminal complaint of sharing in a $5,000 bribe for arranging for the removal of two healthy trees in the way of a construction project in Lincoln Park in 2004. … The charges were an offshoot of the ongoing probe of the city's scandal-ridden Hired Truck Program." The Tribune notes, "A member of the crew sent to remove the trees later cooperated with the FBI and secretly tape-recorded a meeting in which Bertucci told him to lie to federal agents, according to the charges."

SCOTUS To Hear Search Case. The New York Times (1/7, Greenhouse) reports, "The Supreme Court agreed on Friday to try to define, more precisely than in the past, the emergencies that can justify a warrantless police entry into a private home." The Times continues, "The case is an appeal filed by the State of Utah from a Utah Supreme Court decision early last year that four Brigham City police officers violated the Fourth Amendment's prohibition against unreasonable search and seizure by entering a home to break up a fight.:" The Times adds, "The police, who went to the home in response to a neighbor's complaint about a loud party, did not have a warrant and did not announce their presence before walking through an open back door. They arrested three occupants for disorderly conduct, intoxication and contributing to the delinquency of a minor by allowing a teenager to drink. … The Utah trial court, appeals court and Supreme Court all ruled that the evidence of alcohol consumption could not be introduced at trial because of the illegal police entry."

The AP (1/7) reports, "States supporting Utah in the case are Alabama, Arizona, Colorado, Delaware, Hawaii, Kansas, Michigan, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Oregon, Vermont and Washington."

Maryland Governor's Plan Would Toughen Sex-Offender Laws. The Washington Post (1/7, B2, Mosk) reports, "Maryland Gov. Robert L. Ehrlich Jr. has produced a plan to combat sexual predators that would dramatically increase the number of convicted sex offenders who must submit to lifetime electronic monitoring." The Post continues, "Ehrlich presented the package of initiatives yesterday, saying he will institute some of them on his own and bring several others to legislators when they convene Wednesday for the start of the General Assembly session." The Post adds, "The Republican governor laid out his plans at Glendale Elementary School in Anne Arundel County, a school that was recently in the news when a quick-thinking secretary used the state's online registry to identify a man lurking on school property. She quickly alerted authorities, and he was arrested. … Among Ehrlich's proposals will be one that makes it illegal for a convicted child sex offender to enter school grounds without permission, or live within 1,000 feet of a school or day-care facility. … The governor's plan adds to a mix of get-tough proposals, including several from Democrats, that are headed for the legislature. All of them have drawn the attention of the American Civil Liberties Union, which plans to review them for constitutional concerns. … Ehrlich acknowledged yesterday that he expects resistance from civil libertarians but compared the trade-off to the one made when Congress passed the Patriot Act."

Mob Informant's Widow Sues Over Alleged FBI Agents' Complicity In Murder. The AP (1/8, Hays) reports, "No one disputes that Nicholas Grancio died in a gangland-style shooting. But a lawsuit filed by Grancio's wife, Maria, and an investigation by state prosecutors have

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renewed questions about whether the gangster who ordered his killing in broad daylight more than a decade ago had an unlikely ally: an FBI agent. The lawsuit, filed Friday, alleges that R. Lindley DeVecchio called off a surveillance team that was tailing Grancio in 1992 at the request of his trusted Mafia informant. … The case 'is about the corrupt and unlawful relationship between law enforcement and a ruthless killer and career criminal that went unchecked for years and led to the cold-blooded murder of a man,' court documents say." The AP adds, "Named as defendants are DeVecchio and a current FBI agent, Christopher Favo. The lawsuit, which seeks unspecified damages, alleges that Favo, at DeVecchio's direction, ordered the surveillance team to retreat." The Washington Post (1/8, A10) runs a truncated version of the AP story in "Nation in Brief."

New York Hit Man Claims FBI Agent Tied To Mob Slaying. The New York Daily News (1/7, Martinez, Sherman) reports, "Stone-cold mafia hit man Larry Mazza said he always knew his boss had a direct pipeline to law enforcement - he just didn't know it was an FBI agent." The News continues, "Mazza told the Daily News yesterday that he has agreed to tell a Brooklyn grand jury everything he knows about the relationship between his boss, Greg Scarpa, and FBI agent Lindley DeVecchio." The News adds, "Scarpa would have numerous conversations with an unnamed law enforcement snitch, whom Scarfa referred to as his 'girlfriend,' recalled Mazza, standing outside his Florida condo. … 'I didn't know who it was at the time,' said Mazza, now a personnel trainer and fitness buff. … 'We knew it was law enforcement and that's all we knew,' Mazza, 45, told The News. … 'The way it was done, we would pull over to phone booths. We used cell phones and two-way radios to be in contact with DeVecchio. It was a constant back and forth,' he said. … Those alleged conversations between Scarpa and DeVecchio are a focal point of the Brooklyn district attorney's probe into whether DeVecchio helped Scarpa murder rivals during the Colombo crime family's bloody civil war in the early 1990s."

Rowland Probe Reportedly Targets Anson. The AP (1/6) reports, "Federal prosecutors who sent former (Connecticut) Gov. John G. Rowland to prison are investigating whether a former public works commissioner lied under oath during the Rowland probe, The Associated Press has learned." The AP continues, "Investigators recently informed Tunxis Plantation, a Farmington country club, that they are preparing grand jury subpoenas for two of its employees, according to a person directly involved with the matter who spoke on the condition of anonymity because grand jury matters are secret by law." The AP adds, "Prosecutors plan to ask if former DPW Commissioner Theodore Anson golfed for free at Tunxis or received any other benefit from the company and compare those answers to Anson's grand jury testimony from the Rowland investigation, the source said. Beginning in 2003, Anson testified multiple times in the corruption investigation. … The Justice Department… declined comment but Assistant U.S. Attorney Nora Dannehy has said that investigators have not closed the book on corruption in the Rowland administration."

Warner Orders DNA Testing To Determine If Executed Man Was Innocent. Both CBS and NBC ran segments on Virginia governor Mark Warner's decision to do DNA testing to determine if an innocent man was executed in 1992. CBS included an interview with the governor. ABC's World News Tonight (1/6, story 6, 3:00, Vargas) reported, "Virginia's governor Mark Warner has taken the extraordinary step of ordering DNA tests to determine if a man executed for murder was, in fact, innocent. Since 1993, 14 death row inmates have been cleared by sophisticated DNA testing. The Virginia case marks the first time the test could exonerate someone already put to death."

The CBS Evening News (1/6, story 7, 2:00, Stewart) reported, "It's been 13 years since the state of Virginia executed Roger Keith Coleman. It's now only a matter of days before they find out whether they killed the wrong man. New DNA testing could make Coleman, convicted of murdering his sister-in-law, the first man in the United States cleared by genetic testing after his execution. Outgoing governor Mark Warner ordered the tests as well as new tests on potentially thousands of other cases because he said, new science demands it." Gov. Mark Warner: "In my mind it was the only morally justifiable thing to do."

The Washington Post (1/7, A10, Glod, 744K) reports, "Forensic scientist Edward Blake kept vials of genetic evidence from the 1981 rape and murder of a young Virginia woman in a refrigerator at his California laboratory for more than 15 years. He even ignored a judge's order to send the samples back to Virginia because he feared they would be destroyed. … Ellen Qualls, a Warner spokeswoman, said yesterday that the samples Blake preserved are the only

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evidence known to remain in Coleman's case. Other evidence -- including blood-drenched clothing and other samples from the victim's body -- could not be located by Virginia State Police, Qualls said. Virginia law does not require evidence to be saved after an execution."

SCOTUS To Hear Death Row Inmate's Appeal Based On DNA Evidence. The Washington Post (1/7, A1, Lane, 744K) reports, "It has been nearly two decades since the body of Carolyn Muncey was discovered under some brush. … Not long after her slaying, authorities charged Paul Gregory House, a paroled rapist from Utah who lived nearby, with her murder. In February 1986, a local jury convicted him and sentenced him to death. Long after the trial, DNA tests were performed on Muncey's clothes. They proved that body fluids on the clothes belonged not to House, as authorities believed and told the jury, but to the victim's husband, Hubert Muncey Jr. On Wednesday, the Supreme Court will hear oral arguments in House's case, the first in which a death row inmate has come to the high court with DNA evidence claiming innocence. The justices' intervention takes place at a time when DNA evidence may be changing the way Americans think about criminal justice, including the death penalty; last week Virginia Gov. Mark R. Warner (D) ordered DNA testing in the case of a man executed in 1992, to see whether he was wrongly put to death."

CIVIL LAW:

SCOTUS To Hear Several Important Business-Related Cases. The Wall Street Journal (1/7, Anderson, 2.11M) reports, "The Supreme Court's business docket has mushroomed into a formidable set of cases with the potential for a big financial impact on corporations and the way companies handle legal disputes. The beefed-up docket has evolved since the Supreme Court began its 2005-06 term in October, when the justices had granted only a few business-related appeals. Since then, the high court has agreed to hear several high-profile cases that, depending on how the justices rule, could have a major impact on the business sector. … The biggest cases include appeals on the constitutionality of state and local business-incentive tax credits, standards for civil racketeering lawsuits against corporations, rights of health-insurance companies to sue to recover costs from third parties and standards for patent injunctions in technology-innovation disputes. Other important issues on the docket deal with securities lawsuits, arbitration, wetlands regulation, campaign-finance spending, bankruptcy and employer retaliation."

CIVIL RIGHTS:

Florida Courts Ruling Against Vouchers Compared To Segregation. The New York Times (1/7, 1.19M) John Tierney writes, "Democrats once went to court to desegregate schools. But in Florida they've been fighting to kick black students out of integrated schools, and they've succeeded, thanks to the Democratic majority on the State Supreme Court. The court's decision on Thursday was a legally incoherent but politically creative solution to a delicate problem. Ever since Florida's pioneering statewide voucher program began, Democrats have been struggling to deal with the program's success.'

Attorney Decries Attorneys' Fees In Wal-Mart Bias Case. In an op-ed in the Wall Street Journal (1/7, Eric S. Dreiband, an attorney at Akin Gump Strauss Hauer & Feld who served as general counsel of the Equal Employment Opportunity Commission from 2003 to 2005, writes, "Sometimes 'rough justice' becomes injustice. Dukes v. Wal-Mart, the largest employment discrimination case in American history, is such a case. It threatens to deprive millions of women of the protections of the civil rights laws, and to deny due process both to victims of sex discrimination and to Wal-Mart. Congress should enact legislation that clarifies the standards that govern in civil rights class actions so that these injustices do not happen again. If Congress fails to act, class action cases like Dukes, will continue to enrich class action lawyers and to deny civil rights protections to millions of Americans." Dreiband continues, "The Dukes case was brought in a San Francisco federal court by six women on behalf of an estimated 1.5 to 1.7 million women who are former or current Wal-Mart employees. The plaintiffs allege that the corporation engages in a 'pattern or practice' of sex discrimination in pay and promotions against women who have worked in Wal-Mart stores since 1998. In 2004, U.S. District Judge Martin Jenkins certified the case as a class action, based on the theory -- really, a complete fiction -- that these six individuals could speak for millions of women they do not know, have never met, and will never meet." Dreiband adds, "In the more than four years since the plaintiffs filed the case, one story after another has purported to describe how Wal-Mart engages in widespread sex

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discrimination against women. The plaintiffs, however, have not proven that Wal-Mart violated their civil rights or anyone else's, and probably never will, because federal courts are divided about the standards that govern employment discrimination class actions and the law is in disarray. Accordingly, the case will almost certainly be settled before a jury hears one word of testimony, as Wal-Mart seeks to avoid the uncertainty of continued litigation. … And then, of course, there is the issue of attorneys' fees. The lawyers who brought the case stand to make hundreds of millions of dollars, perhaps more, while each class member will receive a small amount. Consider, for example, a settlement of $2 billion. This is a staggering sum, but, given that Wal-Mart's exposure exceeds $500 billion, a $2 billion settlement would be less than one-half of 1% of the amount sought. Each class member would, on average, receive less than $1,200." Dreiband concludes, "The district court described this as 'rough justice,' proclaiming that it was 'better than the alternative of no remedy at all for any class member.' The better approach, however, is justice for actual victims of discrimination, not a system that requires an employer to throw trivial amounts of money at millions of individuals and hundreds of millions of dollars or more at a few lawyers. This kind of 'rough justice,' under which any real victim loses her right to bring her own case for real justice while the lawyers become wealthy and move on to their next class action, makes a mockery of the civil rights laws. Congress should put a stop to this."

Florida Governor Names Prosecutor For 1964 Racial Slaying Case. The St. Petersburg Times (1/7, Heller, Brink) reports, "The long legal road in the 1964 killing of Johnnie Mae Chappell took another turn on Friday when Gov. Jeb Bush assigned a special prosecutor to the case." The Times continues, "Bush's decision comes despite another finding from the Florida Department of Law Enforcement that it would not be viable to bring new charges. … Bush assigned William Cervone, the state attorney for the 8th Circuit, which includes Gainesville, for one year. Cervone can request more time if he needs it." The Times adds, "The move encouraged Chappell's youngest son, who has tried for years to persuade authorities to charge three men in the killing. … 'The family is gratified that there's going to be a fresh look at the case by a special prosecutor,' said Robert Spohrer, whose high-profile Jacksonville law firm is representing Shelton Chappell for free. 'We hope that another grand jury will be convened because the first grand jury in 1964 found four men indictable in this case, and we have the same evidence today.'" The Times notes, "Bush's decision perplexed Duval County State Attorney Harry Shorstein, who had jurisdiction over the case. It is rare for a governor to involuntarily remove a state attorney from a case. … 'In my judgment it is outrageous to relieve someone who has as strong a record of civil rights prosecution and trial advocacy ... as I have exhibited in my career,' Shorstein wrote in a statement. … Mrs. Chappell, a black woman, was shot and left to bleed to death as she walked home from work as a maid for a white family. The killing came during riots in Jacksonville in March 1964 as black protesters demonstrated at hotels and restaurants." … A grand jury indicted four suspects on first-degree murder charges, but only one went to trial. A jury convicted the confessed shooter, J.W. Rich, of manslaughter, and he spent three years in prison."

DOJ Approves Changes To Louisiana Election Laws. The New Orleans Times-Picayune (1/7, Anderson) reports, "Elections law changes passed in last year's two legislative sessions have won approval from the U.S. Justice Department, including a measure to allow 'early voting' and another that would punish voter registration drive organizers who do not turn over the names of the new voters to local registrars within 30 days." The Times-Picayune continues, "Under the federal Voting Rights Act, Louisiana and other Deep South states must get federal approval to any changes in election laws or voting procedures to ensure that the changes are not racially discriminatory. … Jennifer Marusak, a spokeswoman for Secretary of State Al Ater, said the Justice Department blessing means the new laws can now be put into effect. Most were added to the books Jan. 1, but could not be implemented until federal officials approved." The Times-Picayune adds, "The 'early voting law' by Rep. Wayne Waddell, R-Shreveport, essentially repeals the statute requiring voters casting an absentee ballot to attest that they would be unable to vote in person on election day. … Officials said that many voters made up excuses for the sake of convenience. The six-day absentee voting period remains, beginning 12 days before the election."

ANTITRUST:

Alabama Hospice Groups Hit With Antitrust Suit. The Birmingham News (1/7, Faulk) reports, "A civil

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lawsuit claiming two hospice groups violated Alabama antitrust laws has been filed by a company that was denied state approval to build a 50-bed center for dying patients in Carbon Hill." The News continues, "West Walker Hospice Inc. filed the lawsuit Tuesday in Walker County Circuit Court against New Beacon Hospice and the Alabama Hospice Organization, its members and its executive director, David Stone." The News adds, "The lawsuit claims New Beacon and the Alabama Hospice Organization conspired to fix the price or limit the number of hospice beds for the terminally ill in the state. It accused them of restraining trade, or attempting to, and monopolizing or trying to monopolize hospice beds. … New Beacon, a nonprofit organization, is a ministry of Baptist Health System and St. Vincent's Hospital. Baptist Walker Medical Center, a part of the Baptist system, originally opposed West Walker's proposed center but later withdrew its objections in an agreement with West Walker. … West Walker is not suing Baptist because of that earlier agreement, the lawsuit says. But the lawsuit claims Walker Baptist was a co-conspirator with New Beacon and the Alabama Hospice Organization in attempting to restrict trade."

Ohio AG Not Interested In Fighting Newspaper Merger. The Athens (OH) News (1/7, Phillips) reports, "The Ohio Attorney General's office apparently will not try to interfere with a merger between two national alternative newspaper chains, though some observers fear the joining of the chains could eventually have fallout for media in our state." The News continues, "The Athens NEWS, while not directly affected by the marriage of Village Voice Media and New Times Media, has joined other independent alternative newspapers in expressing opposition to the merger. The deal creates a chain with newspapers in 17 major urban markets around the country. … 'It's further erosion of the diversification of media,' said NEWS Publisher Bruce Mitchell. 'The more chains that are formed, the less independent editorial voices there are. We're against the consolidation of media in general, and this merger specifically.'" The News adds, "The NEWS also has become a small part of the story, through an e-mail the paper sent to the Ohio AG expressing the paper's opposition. … In a letter to NEWS Editor Terry Smith on Dec. 6, Alan C. Witten, an attorney with Ohio Attorney General Jim Petro, responded to Smith's e-mail opposing the merger. … Smith sent the e-mail in response to a campaign by the San Francisco Bay Guardian, an alternative newspaper that opposes the merger and is trying to whip up opposition to it among independent alternative newsweeklies. … In his letter, Witten, an anti-trust attorney, noted that in 2003, Petro's office sued Village Voice Media and New Times Media over a deal the two chains had worked out to give each other alternative newspaper monopolies in two cities, Cleveland and Los Angeles. … Each chain ran a weekly alternative newspaper in each city, which competed with the other chain's paper there. The way the deal worked, New Times agreed to shut down its Cleveland paper, the Free Times, in exchange for Village Voice's closing down its Los Angeles paper. This left each chain as the sole publisher of an alternative newspaper in each city. … The Ohio AG investigated the case with help from the California AG and the U.S. Department of Justice. The lawsuit in Cuyahoga County Common Pleas Court was settled by a consent decree."

ENVIRONMENT:

Bush Administration Said To Have Relaxed Mining Regulations. Knight Ridder (1/7, Borenstein, Johnson, Mueller) reports, "Since the Bush administration took office in 2001, it has been more lenient toward mining companies facing serious safety violations, issuing fewer and smaller major fines and collecting less than half of the money that violators owed, a Knight Ridder Newspapers investigation has found. At one point last year, the Mine Safety and Health Administration fined a coal company a scant $440 for a 'significant and substantial' violation that ended in the death of a Kentucky man. The firm, International Coal Group Inc., is the same company that owns the Sago mine in West Virginia, where 12 workers died earlier this week. The $440 fine remains unpaid. Relaxed mine safety enforcement is widespread, according to a Knight Ridder analysis of federal records and interviews with former and current federal safety officials, even though deaths and injuries from mining accidents have hovered near record low levels in the past few years."

Investigators Continue To Analyze Mine Disaster. CBS and ABC both began their broadcasts with in-depth coverage of this week's mine disaster. ABC included an investigative report on the mine's safety violations and interviewed prominent financier Wilbur Ross, whose company International Coal Group, bought the Sago mine two months ago. ABC's World News Tonight (1/6, lead story, 5:30, Vargas) reported, "Families have claimed their loved

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one's bodies and union officials have said the mine was not operating safely. Federal investigators are on the scene. They are examining allegations of safety problems and they're looking into why it took 90 minutes for anyone at the mine to call for help. There is also new evidence about what may have caused that initial explosion." ABC went on to report, "Since the deadly accident in the mine there have been many questions about the people who own the Sago mine and how they operated it. A company called the International Coal Group took over the Sago mine only two months ago. But it appears its billionaire chairman was well aware of the mine's extensive safety problems."

The CBS Evening News (1/6, lead story, 3:00, Schieffer) reported, "As the families prepare to bury their dead investigators are honing in on just why this accident happened, and if, in fact, the miners could have been saved after the explosion that sent the poison gas spewing in the mine."

NBC Nightly News (1/6, story 2, Williams) reported. "The company says it notified state and federal authorities within 45 minutes. But they say they will look at that timeline and see if time would have made a difference."

The New York Times (1/7, A1, Dao, Barringer, 1.19M) reports, "As state and federal investigators began a sweeping investigation of the accident, they have begun grappling with some of the most perplexing questions to have been raised about mine safety in memory."

FBI/DEA/ATF/USMS:

ATF Probes Virginia Gun Thefts. The Charlottesville (VA) Daily Progress (1/6, McKenzie) reports, "The Albemarle County (VA) police and the U.S. Bureau of Alcohol, Tobacco and Firearms are investigating the Thursday morning theft of $7,000 worth of handguns from an Albemarle County store." The Daily Progress continues, "The joint probe began Thursday afternoon after police officers responded to a burglar alarm at Mountain River Outdoors on U.S. 29. … 'The officer responded at about 4:15 a.m. and discovered the side door had been forced in and an audible alarm,' said Lt. John Teixeira of the county police. 'There were 13 handguns taken of a variety of sizes, from .22-caliber to 9mm and .40-caliber weapons.'" The Daily Progress adds, "A county K-9 officer arrived with a police dog but officers could not find any suspects, Teixeira said. … ATF agents are joining the county in the investigation and are offering a $5,000 reward for information that leads to an arrest and conviction, Teixeira said."

Stricter Federal Gun Access Laws Urged. In an op-ed in the Boston Globe (1/7), John Rosenthal, cofounder of the groups Stop Handgun Violence, Common Sense About Kids and Guns, and the American Hunters and Shooters Association, writes, "Given the huge number of easily accessible and virtually unregulated guns in the United States, it is surprising there aren't more than 30,000 gun deaths and 100,000 gun injuries each year. Most US cities have experienced an increase in gun violence, and this deadly trend is likely to continue until we enact uniform national gun laws that address easy access to guns by criminals and confront race, poverty, and the lack of economic opportunity in our poorest neighborhoods." Rosenthal continues, "Although Massachusetts has enacted one of the most effective gun violence prevention laws and initiatives in the country, it is surrounded by states where it's easy to buy and sell guns. Moreover, the federal government has allowed easy access to guns and actually restricts law enforcement's ability to reduce the number of gun traffickers. Indeed, there are no federal minimum mandatory gun trafficking statutes, and the US Justice Department requires that the FBI destroy National Instant Check gun purchase records after 24 hours -- making it nearly impossible for police to track gun traffickers and illegal multiple gun sale patterns. This is largely due to the influence of the National Rifle Association and the gun lobby over Congress and the Bush administration. As a result, what few national gun laws that do exist are rendered useless. Sadly, law enforcement is unnecessarily at risk because criminals have easy access to more powerful weapons than police are issued." Rosenthal adds, "So what's the answer to gun trafficking and the increasing gun violence in urban centers? … The federal government must enact uniform gun laws similar to what has worked in Massachusetts. … The federal government must also create economic opportunities, job training, and mentoring programs and close the 'equity' gap for the poor urban neighborhoods where virtually all the gun violence and gang activity take place. … These solutions require the political will and courage to stand up to the greed, ignorance, and shortsightedness of the gun lobby and their supporters in Congress and the White House. We must recognize that if gun violence were killing mostly suburban white kids and not urban kids of color, there would be an uproar that Congress

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and the president could not ignore. There should be an uproar to quiet the sound of gunshots in our inner cities."

IMMIGRATION:

Poll Finds Georgians Support Stricter Immigration Laws, Guest Worker Program. The Atlanta Journal-Constitution (1/7, Campos, 430K) reports, "Do something about illegal immigration. That's the message Georgians are sending to state lawmakers, through a new poll conducted for The Atlanta Journal-Constitution. A majority of Georgians want the Legislature — which convenes on Monday for its annual session — to tackle the issue, the Zogby International poll indicates. Georgians support a high-profile legislative plan to bar illegal immigrants from receiving state services, and a strong majority — 80 percent — want employers who use illegal immigrants to be punished. But Georgians also support a federal proposal to create a guest worker program that would allow illegal immigrants to work in the United States for a fixed period, the poll found.' … Seventy-two percent of respondents said they support a temporary worker program that would require illegal immigrants to register with the government in order to hold jobs in the U.S. on a limited basis."

TAX:

Court Shuts Down Arizona Tax Firm. The Arizona Republic (1/7, Wagner) reports, "A husband and wife in Mesa (AZ) have been ordered to shut down their tax preparation business and provide information to the government on more than 250 clients who received unwarranted refunds from the Internal Revenue Service." The Republic continues, "U.S. District Judge David Campbell issued a permanent injunction against Beverly J. and Darrell J. Hill, proprietors of Superior Claims Management, according to a Justice Department news release." The Republic adds, "The Hills are accused of operating an Internet site, www.getmytaxesback.com, that recruited customers by offering to recover previously paid taxes. … A Justice Department complaint said they filed phony returns to obtain more than $1.2 million in refunds for clients, who paid a 25 percent fee for the service."

CONGRESS-ADMINISTRATION:

Seven Federal Judges To Testify On Behalf Of Alito. The New York Times (1/7, Stolberg, 1.19M) reports, "In an unusual move, Senate Republicans have called seven federal judges, all of them colleagues of Judge Samuel A. Alito Jr. on the United States Court of Appeals for the Third Circuit, to testify as character witnesses for him next week at his Supreme Court confirmation hearings. It is rare for sitting federal judges to testify on behalf of judicial nominees, not to mention a Supreme Court nominee. Rarer still is the appearance of an entire panel of judges." The Times notes, "The judges' testimony could shed light on one area of controversy, Judge Alito's failure to recuse himself from cases involving Vanguard, a mutual fund company that manages his investments, as he had earlier pledged to do. One judge, Judge Edward R. Becker, said he intended to raise the Vanguard issue.

The AP (1/7, Espo) reports, "The decision also raises the possibility that Democrats on the panel will be able to question Anthony J. Scirica, chief judge of the 3rd U.S. Circuit Court of Appeals, about instances in which Alito participated in cases involving an investment company despite once having promised to avoid them."

The Washington Post (1/7, A5, Babington, 744K) reports Senate Judiciary Committee Chairman Arlen Specter " said yesterday that he agreed to allow the judges…to address the panel because they can speak to some of the most contentious issues surrounding the nominee. 'They will testify about his approach to judging, as to whether he has an agenda, as to whether he is ideological, whether he pushes any specific point of view,' Specter said in an interview." The Post adds, "Specter said he sees no conflict of interest for either Alito -- who, if confirmed, would review the rulings of the judges expected to praise him next week -- or for the judges, who might want warm ties with a Supreme Court justice able to rule on their decisions that are appealed to the nation's highest court."

Senators From Both Parties To "Grill" Alito On Executive Power Questions. Knight Ridder (1/7, Kuhnhenn, Henderson) reports Alito's confirmation hearings "will thrust him into a confrontation over whether a president can ignore Congress in the name of fighting terrorism. … Senators from both parties will grill Alito over the reach of executive power and the tension between national security

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and civil liberties. … Two days after Bush acknowledged the secret surveillance program, Specter was the first Judiciary Committee member to put Alito on notice in writing that he would be questioned about the limits of presidential power during times of war. Sen. Lindsey Graham, R-S.C., a Judiciary Committee member, also said he intends to focus questions on issues of executive power."

The AP (1/7, Holland), in a piece titled, "What To Expect From Alito Hearings," reports, "The questioning of Alito is likely to be more intense than it was in September for Chief Justice John Roberts since Alito would replace retiring Justice Sandra Day O'Connor, a moderate swing vote and the court's first female justice. Alito has been a federal appellate judge for 15 years and has written considerably more opinions than Roberts. … Alito also was clearer about his opinions on abortion than Roberts was as a young government lawyer."

Anti-Alito Groups To Run Ads In States With Centrist Democratic Senators. The AP (1/7, Espo) reports, "Republicans hold the upper hand in their drive to confirm Alito. GOP strategists have said they remain concerned about no more than three members of their own party as they look ahead to a final confirmation vote in the Senate, Sens. Lincoln Chafee of Rhode Island and Maine Sens. Susan Collins and Olympia Snowe. On the other hand, groups working to maximize opposition to Alito have indicated concerns about the intentions of six or more Democrats, most if not all of them from Republican-leaning states. Underscoring the concern, Independentcourt.org said that in addition to airing on cable television nationwide, its new ad would run in Arkansas and South Dakota, with three Democratic senators between them. Similarly, the group said it will run radio ads on African-American stations in Louisiana, which has one Democratic senator, as well as Arkansas."

Alito Opponents Protest In Florida. The Miami Herald (1/7, Olkon) reports, "With confirmation hearings for U.S. Supreme Court nominee Samuel Alito set to begin Monday, local leaders from the NAACP and the National Organization for Women met at the U.S. courthouse on Broward Boulevard to protest his candidacy." The Herald continues, "A coalition of liberal groups are campaigning to stop the federal appeals court judge from Philadelphia from taking the seat occupied by retiring Supreme Court Judge Sandra Day O'Connor. … 'Given Judge Alito's past indifference to the impact race and racism has on our society, the NAACP is firmly and formally opposing his nomination,' Fort Lauderdale NAACP President Marsha Ellison said Friday." The Herald adds, "During his tenure at the Justice Department in the 1980s, Alito wrote of an opposition to 'racial quotas.' … A Knight Ridder review of Alito's published opinions found that he seldom sided with an employee alleging discrimination. … Ellison was joined by Juvais J. Harrington, president of the Miami-Dade branch of the NAACP, Brad Brown, the political action chair of the NAACP in Miami-Dade and Bertha E. Smith, president of the Broward chapter of NOW. Smith said her primary fear is that Alito would work to reverse the 1973 Roe v. Wade abortion ruling."

Democrats Announce Their Witness List. Reuters (1/7, Ferraro) notes, "Democrats announced their list of witnesses on Thursday. They include include a constitutional law expert, a veteran civil rights lawyer and Kate Michelman, a former president of NARAL Pro-Choice America, an abortion-rights group. They also called John Flym, a retired law professor who represented a plaintiff who sued the mutual fund company Vanguard in a case that Alito helped handle in 2002.

Dujack Dropped As Witness. The Washington Times (1/7, Dinan, 90K) reports, "A freelance writer who compared the Holocaust to eating meat in a 2003 column was pulled yesterday from Senate Democrats' list of witnesses who they want to testify next week against Supreme Court nominee Judge Samuel A. Alito Jr. The move came just a day after Stephen R. Dujack was announced as a witness and hours after Senate Republicans and conservative bloggers attacked his credibility for writing that the way people treat animals was akin to Nazis' treatment of Jews. … Democrats had hoped Mr. Dujack, who like Judge Alito is a Princeton graduate, would highlight the judge's former membership in Concerned Alumni of Princeton, a group that Mr. Dujack said 'existed primarily to oppose the presence of women and minorities' at the university." Tracy Schmaler, a spokeswoman for Sen. Patrick Leahy "said in addition to removing Mr. Dujack, Democrats were adding two new witnesses: Rep. Debbie Wasserman-Schultz, Florida Democrat, and Theodore M. Shaw, president of the NAACP Legal Defense and Educational Fund, Inc."

Santorum, Dobson To Headline Pro-Alito Rally. The AP (1/7, Hefling) reports Sen. Rick Santorum and Focus on the Family founder James Dobson "will headline a rally Sunday for conservatives in Philadelphia one day before the start of confirmation hearings for Supreme Court nominee

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Samuel Alito. The Family Research Council, which is backing the event dubbed 'Justice Sunday III,' said on its Web site that organizers were defending religious liberty and 'raising the alarm over liberal secularists' attempts to expel prayer and people of faith from the public square.'"

The Philadelphia Inquirer (1/7, Stoiber, 423K) reports, "Ministers from Philadelphia, New York and Washington yesterday criticized plans by religious conservatives to hold a nationally broadcast rally tomorrow at an African American church on North Broad Street on the eve of confirmation hearings for Supreme Court nominee Samuel A. Alito Jr. The Rev. Barry Lynn, executive director of Americans United for Separation of Church and State in Washington and a United Church of Christ minister, called the gathering nothing more than 'a big play' by its conveners 'to gain control over the one branch of government they don't now control.'"

Alito's Background And Temperament Contrasted With O'Connor's. The AP (1/7, Holland) reports, "Supreme Court nominee Samuel Alito and Justice Sandra Day O'Connor have starkly different backgrounds and personal styles -- and views on major issues. … She's a former politician, known for her social skills and feistiness. Alito, a former prosecutor, is reserved and scholarly.

Thernstrom Defends Alito's Record On Voting Rights Cases. In an letter to the editor of the New York Times (1/7, 1.19M) Abigail Thernstrom, vice chairwoman of the United States Commission on Civil Rights, writes, "In 'Question for Alito: What About One Person One Vote?' (Editorial Observer, Jan. 3), Adam Cohen depicts questioning the one-person-one-vote principle as 'a radical position,' and suggests that perhaps Judge Samuel A. Alito Jr. is 'an elitist' and 'antidemocratic.' And yet Justices Felix Frankfurter and John Marshall Harlan - no 'radicals' - both expressed deep misgivings about the Warren Court's mid-1960's apportionment decisions. The Constitution said nothing about mathematically equal districts. … Nevertheless, one person one vote is now settled law, as Judge Alito has said. Mr. Cohen argues that a Justice Alito might be able to 'forge a conservative Supreme Court majority to overturn the reapportionment cases.' The notion that either he or any other members of the Court would now move to undo the reapportionment revolution is fanciful - and irresponsible."

Kennedy Previews His Questions For Alito. In an op-ed for the Washington Post (1/7, 744K) Se. Edward Kennedy writes, "As Judge Samuel Alito approaches his confirmation hearings next week, the more we learn about him, the more questions we have about the credibility of his assurances to us." Kennedy specifically mentions Alito's DOJ "job application" from 1985, his membership in Concerned Alumni of Princeton and his "failure to recuse himself in the Vanguard case." Kennedy concludes, "'Credibility' has rarely been an issue for Supreme Court nominees, but it is clearly a major issue for Alito."

Liberals Encouraged To Not "Bork" Alito. In an op-ed for the New York Times (1/7, 1.19M) attorney Caren Deane Thomas writes, "When I recently received an invitation to a reunion of my Yale Law School class, it stirred memories of the astounding group of students I found when I arrived there in 1972. Bill and Hillary Rodham Clinton are the most famous, of course, but my classmates also include someone else who has made news lately: Sam Alito. When Judge Alito was nominated to the United States Supreme Court, my fellow alumni began contacting one another, contemplating the elevation of one of our own to the highest judicial dais in the land. Sam was remembered fondly and with admiration. But an issue of conscience emerged - namely, whether respect for Sam could be squared with the deep qualms many of us feel about the Bush administration and its failings. One classmate sent out an anguished e-mail message begging us to fight at all costs a nomination born of such a regime." Thomas concludes, "The president took the high road on this nomination. He juggled his politics and his public relations, and while I don't like either, I have to be grateful for the quality of lawyer, and individual, who emerged as the nominee. We have to decide whether the unfortunate tradition begun with Robert Bork's nomination should be continued indefinitely or whether, with the wisdom of hindsight, we exhume it only when absolutely warranted. Liberals among us have got to get real - to press for the finest jurists a conservative administration is willing to offer, and to spend our capital in that pursuit."

Alito Compared To Brandeis. In an op-ed for the Wall Street Journal (1/7, 2.11M) Princeton professor Ken Kersch writes on Woodrow Wilson's nomination of Louis Brandeis. According to Kersch, "The parallels between President Bush's nomination of Samuel Alito and Wilson's nomination of Brandeis, while not perfect, are instructive. The charges that the nominee has strong ties to a political movement, ties that will render him 'biased' in cases involving the most contentious issues he is likely to face, leaves today's Republicans nonplussed -- just as they did the Democrats in Wilson's day."

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WPost Praises Some Of Alito's Dissents. The Washington Post (1/7, 744K) editorializes, "the many dissents of Judge Samuel A. Alito Jr. offer an unusual window into his judicial personality. In political terms, a preponderance of them are ideologically predictable -- that is, there are many cases in which Judge Alito takes an approach that would yield results more conservative than those reached by his colleagues and few in which he dissents from the left. In legal terms, his work is careful and measured, and while we disagree with his analysis in some cases, in others it seems admirable. … Judge Alito's dissents are not the work of an unblinking ideologue. He dissented, for example, on behalf of a race discrimination claimant concerning the length of a statute of limitations and on behalf of a claim of federal jurisdiction under a consumer protection law. He dissented on behalf of the plaintiff in a medical malpractice lawsuit in which the defendant doctors argued that the victim of their error, who died as a result of their advice, was foolish to follow it -- a moving rebuke to colleagues who overturned a jury verdict in her favor. Judge Alito's dissents offer much with which we disagree. But they are the work of a serious and scholarly judge whose arguments deserve respect -- a respect evident among his colleagues even when their positions differ."

Bush Credits Economic Agenda For Strong Economy. President Bush and a number of other top Administration officials launched a nationwide effort touting the Administration's economic policies and crediting them with recent positive economic developments. Media reports on the economy were generally positive. According to the Labor Department the US added 108,000 jobs in last month and the unemployment rate edged down to 4.9 percent. That job creation was much lower than expected, but the Labor Department also said the US added far more jobs in November, 305,000, than it had estimated. The Administration's efforts were widely reported in major US newspapers where Administration officials visited, but local and national TV coverage was limited. Both CBS and ABC paired the news concerning the unemployment rate in the US with reports on IBM's decision to drop its defined-benefit pension plan.

The CBS Evening News (1/6, story 2, 2:00, Schieffer) reported, "Many people are discovering that those new jobs do not come with everything they used to." CBS added, "Overall the economy added more than 400,000 jobs in November and December. Touring the Chicago board of trade today the President was crowing about those numbers." President Bush: "In 2005 the American economy turned in a performance that is the envy of the industrialized world." CBS continued, "But the jobs you find aren't likely to come with the benefits workers have taken for granted. IBM which funds the country's third largest corporate pension plan is the latest major company to freeze pension benefits for its U.S. employees. Big Blue will offer them only a 401 k plan after 2008. While the President said today…" President Bush: "We've got to have a private pension system that is fully funded." Bill Cheney, Chief Economist at John Hancock: "There is no guarantee the job you are in is going to last or even that the employer will survive."

The New York Times (1/7, Andrews, Stevenson, 1.19M) reports, "The United States generated about 200,000 new jobs a month in the last part of 2005, a healthy pace that President Bush immediately used on Friday as part of a broader campaign to promote his economic record and agenda of tax cuts, tighter limits on government spending and more trade." He "and his top team spread out across the country on Friday to celebrate what administration officials see as a largely unappreciated success amid gloomy news about the war in Iraq, criminal investigations into prominent Republicans and a sense among many people that the economy is not as good as the numbers say it is." Bush cited "data not only on job creation, but also on gains in productivity and homeownership. Then, he used his appearance to demand that Congress extend his major tax cuts on wages and on dividends, capital gains and estate taxes."

The Chicago Tribune (1/7, Silva, Pearson, 643K) reports, "Attempting to make the most of mixed economic progress, President Bush came to Chicago on Friday with an impassioned pitch for the tax cuts he secured during his first term and a demand that Congress make those cuts permanent."

The Washington Post (1/7, A3, Vandehei, Henderson, 744K) reports, "The figures offered a well-timed boost to President Bush, who touted them here in his latest outing in a campaign to convince Americans that his tax and budget policies are working, despite polling that shows widespread unease about the economy." But Democratic lawmakers "said the unease is justified, noting that job growth in December was slower than many economists expected and citing Labor Department data showing that, for the average worker, prices are rising faster than wages." He "did not

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unveil any new policies but called on Congress to make permanent many of the tax cuts enacted during his first term and to cut spending more."

The Wall Street Journal (1/7, McKinnon, 2.11M) reports, "To make sure no one missed the point, the White House dispatched 23 other administration officials to do the same thing around the country." The "extraordinary" effort was "aimed at closing what the White House views as a troubling disconnect between the robust U.S. economy and many ordinary Americans' wariness. That is especially worrisome to Republicans as they head into a congressional election year when jobs, immigration, health care and pensions are likely to be big issues." The Administration officials traveled across the country "to reassure Americans on their economic worries. But as their itineraries suggested, there are still a lot of sources of concern, despite strong growth and employment numbers."

The Atlanta Journal Constitution (1/7, Herman) in an article titled "December Job Tally Disappoints" reports, "Ruy Teixeira, senior fellow at the Century Foundation, in an analysis of the 2006 challenges facing Bush, noted that recent polls showed that six in 10 Americans rate the nation's economic condition as fair or poor. And more than half see it as a bad time to find a good job." But Deputy Treasury Secretary Robert Kimmitt in Atlanta "touted the economy's performance and discounted worries about a threat coming from a popping 'bubble' in housing." Kimmitt said, "It merits attention, but it does not merit concern."

The Los Angeles Times (1/7, Gerstenzang, Havemann, 958K) in an article titled "Job Growth Sluggish as Bush Trumpets Economy" notes that "polls indicate that a majority of Americans do not share the president's enthusiasm." Experts "said the actual state of the economy lay somewhere between the administration's rosy account and the Democrats' gloomier one. 'The surprise,' said Sung Won Sohn, president and chief executive of Hanmi Bank in Los Angeles, 'has been the resilience the economy has shown despite the hurricanes, the jump in oil prices and higher interest rates.' But he found some bearish signs in Friday's report, including a decline in the total number of hours worked and a shrinking share of industries hiring new workers."

Focusing on how Bush used his speech on the economy to contrast his policies with Democrats, the Washington Times (1/7, A1, Sammon, 90K) in a front page story reports, "Bush yesterday mocked Democrats who falsely predicted his tax cuts would ruin the economy and cited new job creation numbers as evidence that the cuts should be made permanent." He "also took the unusual step of resurrecting a quote from House Minority Leader Nancy Pelosi…who predicted in May 2003 that the president's tax cuts would be cause economic disaster." Bush said, "She said, 'Today the Congress of the United States will vote on a reckless, irresponsible tax plan that will undermine opportunity in our country.' … Since that congresswoman had uttered those words, the economy has added more than 4.5 million new jobs."

Similarly, the AP (1/7, Loven) says Bush "opened a sharp election-year attack against Democrats, who he said would devastate the economy and turn back recent job gains by blocking free trade and raising taxes." He "pulled no punches." His "approval ratings on the economy remain low at 39 percent -- close to his record-lowest rating in November of 37 percent." Reuters (1/7, Zakaria) reports on Bush's economic speech and the AP (1/7) also publishes a brief list of quotes by Bush and top Administration officials on the economy and the Democrats' response.

The Pittsburgh Post-Gazette (1/7, Boselovic, 261K) reports, "The Bush administration moved quickly to seize the upper hand on yesterday's jobs news, focusing more on the two-month average than on December's sluggish job growth. President Bush -- in appearances in Chicago, where he touted tax cuts and other administration economic policies and attacked Democrats for opposing them -- proclaimed that December's employment report showed that the 'American economy heads into 2006 with a full head of steam.'" And Energy Secretary Sam Bodman "appeared at FedEx Ground's headquarters in Moon, where U.S. Reps. Melissa Hart, R-Bradford Woods, and Tim Murphy, R-Upper St. Clair, were hosting a regional summit on energy."

The Kansas City Star (1/7, Stafford, 286K) notes, "Various market analysts described the jobs picture as 'sturdy,' 'good,' and 'showing moderate growth.' The Bush administration seized on the report as more evidence that the economy was doing well."

The AP (1/7, Aversa) says "Bush, in speeches around the country, including an appearance in Chicago yesterday, has shifted into a campaignlike mode to shine a spotlight on the economy's good points."

Local newscasts occasionally reported on President Bush's speech in Chicago. The President was portrayed as pushing an optimistic view of the economy, although some

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stories said Mr. Bush was keeping attention off the conflict in Iraq. Some examples: KPNX-TV Phoenix (1/6, 5:09 p.m.) reported, "Shrugging off a weaker than expected jobs report, be President Bush headed to the Midwest today to talk about his economic agenda for the new year."

WBAL-TV Baltimore (1/6, 5:15 p.m.) reported, "President Bush and his economic team hit the road to try to pain a rosy picture of what he calls a strong economy." WVIT-TV Hartford (1/6, 5:27 p.m.) reported, "The President is pushing his plan to help the economy."

WAGA-TV Atlanta (1/6, 10:24 p.m.) reported, "President Bush shifted away from Iraq, speaking about the economy. The President expressed optimism about the economy based on the job growth numbers." KMSP-TV Minneapolis (1/6, 5:05 p.m.) reported, "He diverted the spotlight away from Iraq."

Administration Expected To Focus On Targeted Tax Cuts Rather Than More "Ambitious" Tax Reform. In a preview of the Administration's plans for Bush's 2006 economic agenda the Washington Post (1/7, A3, Vandehei, Henderson, 744K) in its coverage of Bush's speech also notes, "White House aides continue to fine-tune the policy agenda Bush will unveil later this month, constrained by politics and a tight budget for nonmilitary spending. Bush advisers have shelved plans for an ambitious tax reform agenda, fearing it would flop politically, but still plan to roll out a few new targeted tax and budget plans in the State of the Union address."

And the Wall Street Journal (1/7, Harwood, 2.11M) reports that to sustain his upward movement in the polls, "Bush will promote his tax-cutting policies as critical to keeping the economy humming. After the failed 2005 attempt at a bold overhaul of Social Security through private accounts, however, neither the White House nor congressional Republicans have much appetite for the sweeping tax-code changes they envisioned earlier. 'The mood will be for what's achievable,' says Rep. Roy Blunt. … That means action -- before the April 15 tax-filing deadline -- on extensions of previously enacted cuts in dividend and capital-gains taxes, and a fix in the alternative minimum tax to shield middle-income taxpayers." The President will also "emphasize budget discipline. … If Republicans can hold together on final passage of last year's deficit-reduction bill -- delayed by a Democratic parliamentary maneuver -- the administration will begin the process anew with its 2007 spending proposal in early February. White House Budget Director Joshua Bolten hasn't given up on curbing the entitlement programs of Medicaid, Medicare and Social Security. But true to the sober zeitgeist of the party of 2006, he adds, 'Those changes can be effected in increments.'" But most important "is progress on the Iraq war, which soured the public mood in 2005. Successful Iraqi elections have encouraged the White House enough to announce a modest troop drawdown. Republicans believe that whittling down the contingent of U.S. soldiers will buoy Mr. Bush's popularity."

Bush Seeks To Contrast Economic Policies With Democrats. And the New York Times (1/7, Andrews, Stevenson, 1.19M) notes, "Mr. Bush has been eager to highlight his differences with Democrats over economic policy. He has sought to set up a contrast between what the White House says is a job-creating agenda and a Democratic approach that White House officials say would lead to higher taxes, a further surge in spending on domestic programs and a drift toward protectionism. Republicans say they expect Mr. Bush to make those assertions increasingly in coming months and include them in his State of Union address, tentatively scheduled for Jan. 31."

Cheney, Top Administration Officials Echo Bush's Economic Message. Vice President Dick Cheney's remarks were briefly noted in most major newspapers. The New York Times (1/7, Andrews, Stevenson, 1.19M) notes, "Bush and his aides have said…that the economy's performance showed their approach was creating jobs." At a Kansas Harley-Davidson factory Cheney said, "Some in Washington said these tax cuts would not work" and "it's getting pretty hard for the critics to make the case that somehow these tax cuts weren't good for the economy."

The Washington Times (1/7, A1, Sammon, 90K) in its front page story on Bush's speech also notes Bush's "comments were echoed by Mr. Cheney, who ridiculed Democrats during a visit to a Harley-Davidson plant in Kansas City, Mo." Cheney said, "The American economy is on the move, and that is because we did not listen to the pessimists." Sen. Edward Kenney "scoffed at such criticism," saying, ""The administration's constant response is to grant more tax breaks for the wealthy," and he "predicted the economy would hurt the GOP in the midterm elections." Yet "Cheney was unapologetic about the administration's demands that the tax cuts be made permanent, even hinting that additional cuts might be needed." Cheney said, "With the new year beginning, soon people will start receiving their W-2 forms in the mail. … It's always a bit of a shock to see how big a piece

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the federal government took off the top of your earnings over the past year."

The Atlanta Journal Constitution (1/7, Herman) notes that despite concerns about wages, "Cheney was greeted by workers happy about their economic situation. Kevin Herrera, a paint shop manager, didn't vote for Bush but agreed with the administration view that the economy is good." And "Craig Jenkins, sporting a well-worn Machinists for Kerry shirt, said, 'Yeah, right now everything is fine with my family.'" Yet, "Jenkins, still no Bush fan, said he knows many people are out of work and that the president has done nothing to stem the flow of jobs from America."

The Kansas City Star (1/7, Canon, Bormann, 286K) reports, "Vice President Dick Cheney on Friday came to Kansas City as the confident optimist. He touted robust economic numbers and the administration's varied approaches to fighting terrorism -- saying President Bush is to be credited for the country's post-Sept. 11 prosperity and security." One "official for the International Association of Machinists and Aerospace Workers said that there was no campaign to organize a protest, and that the union has an agreement with Harley that it would not distribute political literature at the plant. But the union issued a news release that said Harley-Davidson's success has come 'despite Bush administration' policies that allow too many imports to flow into the country."

The Philadelphia Inquirer (1/7, Weber, 423K) reports, "The Bush administration needs to make sure its tax policies don't give younger workers less of an incentive to change jobs as they move through their careers, Deputy Treasury Secretary Robert Kimmitt said Friday." At "a Commerce Club speech in Atlanta, Kimmitt said that unlike a generation ago, people leaving college are more apt to work for several different employers over time rather than just one. That could make it harder for them to maintain quality health and pension benefits without the right government policies, he said."

The Baltimore Sun (1/7, Hopkins, 296K) reports, 'An economic public-relations blitz by the Bush administration yesterday included a stop at Johns Hopkins Medicine in Baltimore, where Labor Secretary Elaine L. Chao promoted a jobs training program and the 'good news for America's workers.'" But "it wasn't ideal timing for the full-court press. Labor Department numbers released earlier in the day showed the nation's employers adding 108,000 jobs last month, less than expected and weaker than needed to keep up with population growth." Yet, "it came on the heels of a strong, 305,000-job increase in November…and so Chao accentuated the positive."

The Washington Post (1/7, A3, Vandehei, Henderson, 744K) adds, "Cheney was touring a Harley-Davidson plant in Missouri and touting the economy despite a bad foot that forced him to use a cane. Treasury Secretary John W. Snow and several other officials also fanned out to talk about low unemployment numbers and a growing economy."

The vice president's speech and motorcycle plant tour was often covered by local television newscasts in Missouri, usually in the morning before the actual tour. Those stations that mentioned the speech after the event often commented on Mr. Cheney's use of a cane. Some examples: WGEM-TV Quincy (1/6, 5:04 p.m.) reported, "Vice president Dick Cheney is walking with the help of a cane. He used the cane today as he toured a Harley-Davidson motorcycle factory in Kansas City." Later, the station reported that the Vice President, "credited…tax cuts for economic growth."

KRCG-TV Columbia (1/6, 5:27 a.m.) reported, "Vice President Dick Cheney will pay a visit to the 'show me' state today. In Kansas City, Cheney will tour a Harley Davidson motorcycle assembly plant. He's also scheduled to give a speech on the economy." The AP (1/7) also reports on Cheney's need to use a cane.

Wall Street Reacts Positively To New Unemployment Figures. NBC Nightly News (1/6, story 3, Williams) reported. "The unemployment rate ticked down. Wall Street liked those numbers. The Dow was up more than 77 points on today's trading. NASDAQ gained almost 29. For the week the Dow was up almost 242 points in all. NASDAQ had a good week, up 100 points."

Economy Strong Despite Hurricanes, High Energy Prices. In its coverage of the Administration's effort to highlight the positive news for the US economy the New York Times (1/7, Andrews, Stevenson, 1.19M) notes, "By almost all measures, last year was a good one for the American economy. The economy expanded by about 3.6 percent in 2005, the fourth consecutive year of solid growth, despite the soaring energy prices and the destruction caused by Hurricane Katrina." But many experts said "that Mr. Bush's policies were not the primary reason for the economy's strength." Global Insight chief economist Narimen Behravesh said, "Tax cuts had very little to do with it. … You had a housing boom, which had very little to do with tax cuts, driving

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consumer spending. We also had before this year the dollar coming down, which helped drive up exports."

And the Washington Post (1/7, A3, Vandehei, Henderson, 744K) in its coverage adds, "The data reinforced other signs that the economy was growing at a healthy pace as it entered the new year despite the turmoil caused by hurricanes and higher energy prices."

ABC's World News Tonight (1/6, story 7, :10, Vargas) reported, "In economic news, unemployment fell to under 5% last month. The government said today that 108,000 new jobs were added to the economy in December. Fewer than analysts expected. Overall, 2 million new jobs were added in 2005, despite higher oil prices and the devastating hurricanes." ABC's World News Tonight (1/6, story 8, :10, Vargas) then reported, "Even with the solid economic growth, another huge American corporation is expected to phase out pension plans for employees. IBM announced in 2008 it will shift 117,000 workers from traditional pension plans to 401k retirement plan. The move is part of a growing trend by financially healthy companies to save money by eliminating lifetime pensions for worker."

Bush Acknowledges Loss Of Manufacturing Jobs. The AP (1/7, Carpenter) reports, "President Bush's choice of the Midwest as backdrop for a speech Friday touting the nation's economy put the spotlight on a region with an improving but still-mixed economic performance." The continuing "loss of manufacturing jobs has been a sore spot throughout the region, as Bush acknowledged." The AP notes, "Focusing only briefly on the Midwest, he pointed to the creation of jobs nationwide and the decline in unemployment, and said manufacturers will benefit if trade restrictions around the world are eased as he has urged."

Bush Calls For Passage Of Asbestos Lawsuit Reform Bill. Reuters (1/7) reports in his speech touring the US economy in Chicago "Bush called on Friday for Congress to curb asbestos lawsuits this year, saying the United States needed to reform its legal system to better compete in the global economy." He "said Americans needed to understand that frivolous injury lawsuits were a drag on the U.S. economy." Bush said, "To make sure this is the most competitive country in the world, we've got to get rid of some of these junk lawsuits that are running capital out of America."

NYTimes Dismisses Bush's Claims About Health Of Economy. The New York Times (1/7, 1.19M) editorializes, "Responding to yesterday's government report showing paltry job creation in December, Treasury Secretary John Snow urged Americans not to overreact to one month's snapshot, but to focus on the bigger picture. But that picture is not so pretty." And the long-term prospects are "even uglier. Job growth in the current period is the worst by far of the four comparable economic upturns since the 1960's: 2.7 percent versus the 7.8 percent tallied in the weakest of those earlier recoveries." So "President Bush cherry-picked his way through the latest economic figures in his speech yesterday before the Economic Club of Chicago, rattling off numbers without context. The president's prescription -- more tax cuts -- has failed in the past to create a robust job market and is still not the right answer."

New Medicare Drug Benefit's Roll-Out Beset By Problems. The CBS Evening News (1/6, story 7, 2:00, Schieffer) reported, "After months of controversy the new Medicare prescription drug benefit has been getting its first reality check this week, ever since the law was passed critics have complained that it would lead to confusion. Well, for at least one group of beneficiaries that seems to be true." CBS went on to report, "It was a very tough week for low income seniors who were supposed to be covered by the new Medicare drug benefit. Time after time these seniors were told they indeed have insurance under the system, just not for the specific drugs they use. … When we visited Grubs Pharmacy two blocks from the U.S. Capitol, not one senior citizen we tracked had a prescription filled smoothly."

The Los Angeles Times (1/7, Alonso-Zaldivar, 958K) reports, "California health officials reported Friday that database errors and overloaded telephone help lines were spreading confusion and frustration among seniors seeking vital medicines under the new Medicare prescription program. While some warned of a looming crisis, Medicare officials and insurance companies called for patience and promised swift relief. California pharmacists, on the frontline of the new program, complained that improvements are coming too slowly. … Most of those affected are low-income seniors and disabled people." The Times adds, "While acknowledging problems, federal officials defended the new program and said hundreds of thousands of seniors have been getting their prescriptions without incident, many at lower cost. The drug benefit is considered one of the Bush administration's main domestic policy achievements."

Knight Ridder (1/7, Pugh) reports, "Many of Medicare's poorest and most sickly patients are going without their medications because of administrative glitches,

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misinformation and confusion surrounding the new Medicare prescription drug benefit. Experts had warned that many of the 6.4 million low-income people who get benefits from Medicare and Medicaid could miss out on their life-sustaining medicines when their drug coverage shifted on Jan. 1 from Medicaid to private plans sponsored by Medicare. In interviews, advocates for the elderly as well as lawmakers and seniors themselves indicated that that's happening. … Medicare's contingency plan for patients who aren't enrolled in drug plans also is proving problematic. The agency wants pharmacists to give these customers short-term refills at no cost and bill Medicare later. But some pharmacists don't know about the agreement, and others are balking because they fear they won't be reimbursed."

The Minneapolis Star Tribune (1/7, Wolfe, 424K) reports, "Medicare officials said Friday they will try over the weekend to fix problems that have left hundreds of poor Minnesotans unable to get their prescription drugs. But problems are continuing, with some low-income people on both Medicare and Medicaid – 'dual eligibles' -- struggling to find a pharmacist who will fill prescriptions under a new Medicare drug benefit that took effect this year. While other Medicare beneficiaries also are having some problems, the situation is acute for those who also are on Medicaid."

Grassley To Investigate Medicare Employees' Travel Expenses. Reuters (1/7) reports, "A top Republican lawmaker called for an investigation into Medicare travel expenses on Friday after documents showed some employees attended conferences hosted by contractors at a Florida resort. Medicare officials said they were taking the concerns seriously, but that the conferences were not very expensive because they were held in June during the state's off-peak season." Senate Finance Committee Chairman Sen. Charles Grassley "said the employees were responsible for overseeing $300 million in Medicare contracts to investigate complaints."

HHS Advises Americans On Avian Flu Precautions. The Washington Post/Reuters (1/7, A2) reports, "There is no vaccine and drugs are in short supply, but Americans may be able to ride out any pandemic of bird flu if they stock up on supplies and keep their children clean, the government said yesterday. The Department of Health and Human Services checklist illustrates how little can be done to prevent widespread illness and disruption if H5N1 avian influenza causes a pandemic -- a global epidemic -- this year. … Experts say the best way to wait out a pandemic, which could last months, is to stay away from other people and keep close to home. 'During a pandemic, if you cannot get to a store, or if stores are out of supplies, it will be important for you to have extra supplies on hand. This can be useful in other types of emergencies, such as power outages and disasters,' the HHS guide says."

Federal Officials Seek Deal With Texas Food Stamp Agency. The Dallas Morning News (1/7, Dodge) reports, "Federal food stamp officials this week made a peace offering to their Texas counterparts that could avoid a delay in nutrition benefits to the state's neediest residents. Now, it's up to officials at the Texas Health and Human Services Agency to decide whether they will accept the deal. The state officials would need to sign an application that has been written on their behalf by officials at the Department of Agriculture's Food and Nutrition Service. If they don't, Texans applying under a pilot program set to begin in two weeks could see a delay of a week or more in their food stamp benefits."

DeLay Seen As Unlikely To Regain Leadership Post. The CBS Evening News (1/6, story 3, 1:00, Schieffer) reported, "There are some new developments tonight on the Washington bribery scandal involving congressman Tom DeLay. CBS' Gloria Borger continued, "Tonight two house republicans are circulating a petition that will call for new elections that would permanently replace Tom DeLay in the house leadership. Now sources close to the house republican leadership tell CBS News tonight that these new elections are all but inevitable. And that Tom DeLay himself is slowly coming to the conclusion that he is not going to be able to reclaim his leadership post."

The New York Times (1/7, Hulse, 1.19M) reports, "In the wake of Tuesday's guilty plea to corruption charges by the lobbyist Jack Abramoff," some "rebellious…House Republicans moved Friday to bar Representative Tom DeLay of Texas from regaining his position as majority leader, demanding a vote to replace him permanently at the top of the party hierarchy." Arizona Rep. Jeff Flake and New Hampshire Rep. Charles Bass "began circulating a petition on Friday to collect 50 signatures needed to call a party leadership election," and have "commitments from about two dozen lawmakers." In an new election, "the rank-and-file

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could push for more if enough lawmakers conclude a broader shake-up is warranted," and "a divisive leadership battle has the potential to roil the House just as President Bush and Congressional Republicans are unveiling their election-year agenda."

The Washington Post (1/7, A4, Weisman, 744K) adds, "Prominent Republicans have begun counseling DeLay that he should renounce claims to the majority leader's post, for the good of the party and for the good of his long-term political career," and "even DeLay aides and supporters acknowledge that time is running out on a comeback."

The Los Angeles Times (1/7, Curtius, Simon, 958K) adds that the petition "indicated how quickly DeLay's broad and deep support among Republicans has collapsed following this week's guilty pleas by lobbyist Jack Abramoff," and "opposition to DeLay's return as majority leader has united some conservative and moderate House Republicans who normally are at loggerheads over policy issues."

The AP (1/7, Espo) adds, "Buffeted by scandal, House Republicans are clamoring for new election-year leadership, and indicted Rep. Tom DeLay's hopes of returning to power as floor leader are dwindling," as "Speaker Dennis Hastert of Illinois, signaled he would not try to block the rank-and-file from acting."

The Houston Chronicle (1/7, Roth, Gonzalez, Levine, 581K) adds that it is a "significant development" that House Speaker Dennis Hastert (R) "indicated Friday for the first time that he was open to the election of a new majority leader."

The Boston Globe (1/7, Klein, 484K) adds that House Speaker J. Dennis Hastert's reaction "suggests that a leadership change is all but certain." The maneuver "to oust DeLay is a rebuke to the House GOP's leadership, which has long been known for enforcing strict party discipline."

The Dallas Morning News (1/7, Gillman) adds, "No members of the GOP leadership have signed the petition, though aides called the election likely," and "White House spokesman Trent Duffy sidestepped questions about whether President Bush thinks it's time for Mr. DeLay to renounce his claim on the leadership." However, Ron Talley, spokesman for the Republican Main Street Partnership, a group of moderates who fear that fallout from Mr. DeLay's ethical troubles threatens their hopes in Democrat-leaning districts," said, "We're trying to take away the stigma and the what-ifs and all the monkeys that appear to be on the leaderships' backs. ... It's a matter of survival."

The Financial Times (1/7, Yeager) adds, "Newt Gingrich, the former House speaker who led the Republican takeover of Congress in 1994, said this week that while Mr DeLay must defend himself in court, 'the House Republican party has a different set of interests and [they] involve having a new majority leader.'" Reuters (1/7, Cowan, Ferraro) also covered this story.

DeLay Requests Co-Defendant's Charges Be Dropped. The Houston Chronicle (1/7, 581K) reports, "U.S. Rep. Tom DeLay on Friday asked the 3rd Court of Appeals to throw out a money-laundering indictment against one of his co-defendants," Jim Ellis, the director of DeLay's Americans for a Republican Majority. "A favorable ruling for Ellis would give senior District Judge Pat Priest reason to reconsider his ruling upholding the money-laundering indictment against DeLay," although "The indictments were upheld by state District Judge Bob Perkins, who has since been removed from the DeLay case."

OTHER NEWS:

Future Of Mideast Peace Process Without Sharon Remains Unclear. NBC opened its broadcast with an update on Ariel Sharon's condition and an extensive analysis of the Mideast peace process and the Israeli political scene post-Sharon. NBC noted mixed feeling among Palestinians concerning the likely end Sharon's political dominance. The other networks gave the story less prominence. NBC Nightly News (1/6, lead story, B. Williams) at the end of its lead story reported, "If Sharon does not recover, the political changes in Israel will ripple around the world, and especially the White House. Andrea Mitchell now on what's at stake for the US and the Middle East peace process." NBC's Andrea Mitchell continued, "The President had staked his Middle East policy on Sharon, taking further steps to create a Palestinian state, like his decision to force right wing settlers to withdraw from Gaza. US officials don't know if his temporary successor, Ehud Olmert, will even win the election in March, and if he does, whether he can get Israelis to give up more land."

The Wall Street Journal (1/7, Dreazen, 2.11M) reports that "Sharon's near-certain departure from the Israeli political scene has sparked immediate concern among senior Bush administration officials. They fear that Mr. Sharon's successor will be unable, or unwilling, to make territorial

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compromises necessary to create the viable Palestinian state that the Bush administration sees as vital." The Journal notes, "The challenges confronting the administration stem from Mr. Bush's decision in recent years to place his approach to the Israel-Palestinian question almost entirely on Mr. Sharon's broad shoulders. Public comments notwithstanding, Mr. Sharon's policies have fully supplanted Mr. Bush's 'road map' as the blueprint for the region." Both "U.S. and Israeli officials acknowledge that it will be harder for Mr. Olmert to sell difficult moves like a West Bank withdrawal. Although he is a savvy politician, he lacks Mr. Sharon's credentials as a general who fought in all of Israel's wars and more than once saved the country from apparent defeat. And neither Mr. Olmert nor any other candidate who would succeed Mr. Sharon has the unusual combination of history and personality that has come to embody the contradictions and tensions of the Israeli public."

Speculation Focuses On Sharon's Successor's Capability To Lead. NBC Nightly News (1/6, lead story, Fletcher) reported. "The world press following every medical bulletin about the condition of the man who held the promise of real moves towards peace with the Palestinians. Now one question is whether Ehud Olmert, Israel's acting prime minister, will follow in his footsteps. In fact, it's the other way around. Olmert called for Israel to evacuate the Gaza Strip before Sharon -- and the autonomy for the Palestinians. A former two-time mayor of Jerusalem, Olmert, has not been afraid of political risks. With Sharon he left the right wing Likud Party to form the new Kadima party to compete in the march elections. Their platform: land for peace, with the Palestinians, quickly. … And first, Olmert has to win the election. Opinion polls show about the same support for Sharon's Kadima party without him as with him. Analysts say it could be just a sympathy vote. That could well decline sharply in the months to go before the election."

ABC's World News Tonight (1/6, story 5, 2:00, Woodruff) reported, "People had expected that Ariel Sharon would be the prime minister of this country for a very long time to come. In the poll it indicated that he would win by a landslide in the elections coming up in March."

The New York Times (1/7, Berger, 1.19M) reports, "Olmert has little military background, few Israelis can match his deep government experience. He has been a cabinet minister several times and served as mayor of Jerusalem for 10 years. He also has command of an elegant, witty English, and can communicate directly with American audiences. Finally, few others can rival the closeness he has enjoyed with Mr. Sharon." While serving in Parliament he "quickly achieved a reputation for fighting corruption" and also "developed a reputation for ruthlessness." Like President Bush, Olmert is "a fitness buff and avid jogger."

The Time (1/7) reports Olmert is currently "very much a centrist within the Kadima ranks. Olmert is not a particularly popular figure in Israel, but he is very ambitious -- in 1999, he ran against Sharon in a primary for the Likud nomination for prime minister. Now, he'll stake his own claim for leadership by painting himself as the custodian of Sharon's legacy, signaling that he represents stability and continuity on the path initiated by Sharon."

The Washington Times/AP (1/7, Plushnick-Masti) in a front page story adds, "As acting prime minister, the public could come to see Mr. Olmert as a leader, said analyst Gadi Wolfsfeld. 'No one really loves Olmert, but no one really hates him, therefore he has a chance of convincing the public.'"

Roger Cohen in his "Globalist" column in the New York Times/IHT (1/7) writes, "Palestinian and Israeli elections over the next three months make all predictions treacherous. But it is safe enough to say that the best hope for the Middle East may lie with Ehud Olmert, Sharon's deputy and now acting prime minister. If he can consolidate the center and Sharon's course, while engaging Palestinians enough to make that course less unilateralist, progress is possible."

Olmert Reaches Out To Peres. The Los Angeles Times (1/7, King, 958K) in its article describing the seriousness of Sharon's condition also notes, "Olmert met Friday with Shimon Peres, the elder statesman who abandoned his Labor Party in November to join Kadima. Had Sharon not fallen ill, Peres would have been in line for a senior Cabinet post in any new Kadima-led government." Olmert reportedly reassured Peres to keep him "in the fold, but a meeting was cut short by word that Sharon was being rushed into surgery."

The Washington Post (1/7, A11, Wilson, 744K) also notes Peres "met Friday with Olmert to discuss what he said were 'ways to continue Sharon's policies -- both an uncompromising war against terror and an endless effort toward peace.'" While "he has lost a number of national elections, Peres is considered a valuable political asset because of his broad appeal among traditional Labor voters of his generation."

The New York Times (1/7, Erlanger, 1.19M) in its article on Sharon's condition also notes, "Losing Mr. Peres would be

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a blow to Mr. Olmert and Kadima because he brings a kind of assurance to voters that the new party is in fact centrist, and not a branch of Likud. Mr. Peres, as the last active senior politician of Israel's founding generation, is respected for his wisdom and international standing."

Arab Observers Concerned Loss Of Sharon Will Stall Progress Toward Peace. The Los Angeles Times (1/7, Stack, 958K) reports, "As the realization hit the region that the Israeli prime minister may no longer lead the Jewish state, a mood of regret and uncertainty crept into the tone of Arab analysts and editorials. As Sharon clung to life, the leaders of Egypt and Jordan, Arab countries that signed peace treaties with Israel, sent word of their concern." Despite their past animosity, "many Arabs saw Sharon as the only leader stubborn and strong enough to push Israel into accepting a Palestinian state. Arabs worried that the loss of Sharon would throw Israel into tumult and freeze already stagnant peace talks."

Rice Trip To Southeast Asia Canceled. The AP (1/7, Gearan) reports, "Secretary of State Condoleezza Rice canceled a six-day trip to Indonesia and Australia on Friday amid uncertainty over ailing Israeli Prime Minister Ariel Sharon."

Reuters (1/7, Pleming) adds, "Rice called off the trip so she could liaise in Washington with President George W. Bush's other top foreign policy aides without the problems of time differences, State Department spokesman Sean McCormack said."

In a brief article on Rice's decision not to travel the Financial Times (1/7, Dinmore) notes, "A sense of crisis in the Middle East has been heightened in the Bush administration by the confrontation with Syria over Iraq and the UN investigation into the assassination of the former Lebanese prime minister, as well as violence in Iraq."

Injury Expected To Keep Sharon From Resuming Leadership. The CBS Evening News (1/6, story 5, 2:00, Schieffer) reported, "In Israel today Prime Minister Ariel Sharon had a second operation to stop bleeding in his brain. Doctors say it brought a significant improvement in his condition. But two days after suffering a massive stroke, Sharon remains in critical condition. And it seems all but certain he will never return now as Israel's leader."

The Washington Times (1/7, Mitnick, 90K) adds, "Doctors operated on Ariel Sharon for a third time yesterday to stem a new cerebral hemorrhage but said they had stabilized his condition, dispelling speculation that the prime minister was about to succumb to the stroke suffered this week." The Washington Post (1/7, A13, Brown, 744K) also reports on the details of Sharon's treatment.

Sharon's Legacy Examined. Knight Ridder (1/7, Nissenbaum) reports, "Although Sharon's departure from the political stage is expected to create a diplomatic void in the Middle East, analysts across the political spectrum said the prime minister had shifted the political paradigm in Israel by ending its military rule in the occupied Gaza Strip and using the move to create a new centrist party with a pragmatic outlook."

White House Chastises Robertson For Sharon Remarks. The Washington Post (1/7, Deane, 744K) on its web site yesterday afternoon reported, "The White House today criticized television evangelist Pat Robertson's remarks that Israeli Prime Minister Ariel Sharon's severe illness was deserved, calling the comments 'wholly inappropriate and offensive.'" White House press spokesman Trent Duffy "added that Robertson's comments 'don't have a place in this or any other debate.'" He "also told reporters the president is praying for Sharon's full recovery." The AP (1/7) in a brief article also notes the White House's response to Robertson.

Robertson Criticized By Evangelical Leaders. The Los Angeles Times (1/7, Stammer, 958K) reports, "Evangelical leaders said Friday that they were embarrassed and incensed by televangelist Pat Robertson's assertion that Israeli Prime Minister Ariel Sharon…was stricken by God as punishment for ceding the Gaza Strip and a portion of the West Bank to Palestinians last summer." They "suggested that Robertson was losing religious and political influence as a result of his remarks on Sharon and other recent controversial comments."

WPost Faults Robertson. The Washington Post (1/7, A16, 744K) editorializes Pat Robertson and Iranian president Mahmoud Ahmadinejad "are probably beyond the point where they can be reached by embarrassment or shame. But they are not beyond the kind of strong condemnation that they have richly earned." They "share a self-righteousness that blinds them to the distance that they have placed between themselves and the majority of people who find their remarks repulsive. It's sufficient to know, we suppose, that at a time when messages of hope are flowing from around the world to the bedside of Ariel Sharon, Pat Robertson and Mahmoud Ahmadinejad still have each other."

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Efforts Intensify To Gain Russian, Chinese Support For Curbing Iran. The New York Times (1/7, Weisman, 1.19M) reports, "The United States joined with several European allies on Friday in a drive to enlist Russian and Chinese support to apply new pressure on Iran to halt its suspected nuclear weapons activities" with the aim of "stopping Iran from resuming 'research' on enriching uranium." Attempts "to produce a unified declaration by the permanent members of the Security Council…intensified this week in response to a series of incendiary comments by Iranian leaders about Israel and their nuclear program." Officials say " the Russians have moved closer to the American view, in part because Iran rebuffed a Russian compromise proposal to establish a joint Russian-Iranian uranium enrichment program, but on Russian soil." Also, a European diplomat "said that Mohamed ElBaradei, director of the International Atomic Energy Agency, was himself angered by the behavior of a top Iranian envoy in a meeting this week in Vienna."

Reuters (1/7) adds, "In an effort to bring new pressure in the hours before Tehran takes what could be a fateful step, the United States, Britain, France, Russia and China were working on a statement opposing the Iranian move and urging that Tehran return to negotiations on a compromise proposal."

Bush Will Sign Peru Trade Agreement. The AP (1/7) reports, "President Bush on Friday notified Congress of his plan to sign a trade agreement with Peru," hammered out in December "after Colombia and Ecuador halted discussions with Washington on what was expected to be a regional agreement linking all three countries with the United States," complaining "that the strong desire by Peru for a deal had strengthened the U.S. bargaining position at their expense." However, "ratification by Congress could be complicated by November's midterm elections."

Europe On "High Alert" With New Turkish Cases Of Bird Flu. The New York Times (1/7, Rosenthal, 1.19M) reports, "Health officials in Europe said Friday that they were on 'high alert' as a third child in eastern Turkey was confirmed to have bird flu and more than two dozen people there were under observation at a local hospital, an unusual cluster of human cases that raised the possibility that the virus had become more contagious to humans." While scientists say the cluster "probably stemmed from people handling the same sick birds," both "the W.H.O. and the European Commission were alarmed enough to dispatch a joint team of scientists to eastern Turkey this week."

Reuters (1/7, Yukselbaba) adds, "A third child from the same family in eastern Turkey died from bird flu on Friday and health experts plan to study the outbreak for signs the virus was passing from person to person." While the WHO said in a statement dated Thursday that Turkish authorities had told it that the district had been placed under quarantine, with no people or animals allowed to move in or out," a Reuters reporter "saw no controls" the next day. The Washington Times/AP (1/7, Harvey) also covered this story.

At Government's Request, UN Stops North Koreans Food Aid. The New York Times (1/7, Brooke, 1.19M) reports, "The United Nations World Food Program, which was helping to feed a third of the 22 million people of North Korea as recently as August, has ended all feeding programs there at the request of the government," which "justified the shutdown by saying that after a decade of receiving Western aid they want Western groups to shift to work that will help the nation become more developed." However, "many foreign analysts say the secretive nation's rulers are pursuing a strategy to cut the number of Westerners roaming the countryside inspecting food distribution networks," as "food aid from China and South Korea rose."

Former Ukraine PM Attacks Gas Deal. The New York Times (1/7, Kramer, 1.19M) reports, "Ukraine's former prime minister, Yulia V. Tymoshenko, who was a driving force behind last winter's Orange Revolution, is emerging as a leading critic of the intricate commercial deal that ended the gas dispute between Ukraine and Russia." While "Ukraine was widely seen as a winner in the dispute," Tymoshenko vowed to "work to scuttle the deal because it transfers control of energy imports to a company she calls corrupt" – RosUkrEnergo - which "has been criticized for ties to organized crime." Tymoshenko's "opposition adds another layer of uncertainty to the settlement."

Russia Trying To Control Gas Distribution. The Los Angeles Times (1/7, Murphy, 958K) reports, "Russia denied Friday that its temporary cutoff of natural gas to Ukraine last week in a pricing dispute raised doubts about its ability to act as a responsible energy supplier to Europe. But a Foreign Ministry official acknowledged that there were

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'certainly … political factors' in Moscow's aim to maintain a strategic route for transporting gas to Western Europe." Spokesman Alexei Sazonov said "Russia's real political interests involved Moscow's ambition to move to a market-based, commercially viable relationship with its energy clients and assure that its products have an uninterrupted supply line to the West" as Russia's moves "to gain control of the pipelines that carry fuel supplies to foreign markets."

Russia Professes Puzzlement At Rice's Comments. The Washington Post (1/7, Finn, 744K) reports, "The Russian Foreign Ministry said Friday it was puzzled and surprised by U.S. Secretary of State Condoleezza Rice's comments that Russia's temporary cutoff of gas supplies to Ukraine was 'politically motivated,'" adding, "It is absolutely unclear what these statements are based on."

Other Countries' Trade Undercuts US Sanctions Against Burma. The Washington Post (1/7, A11, Sipress, 744K) reports, "Burmese industry and exports were on the decline in the 1990s as a result of progressive attempts by the United States to tighten economic sanctions on Burma, protesting its suppression of democracy. But the effort to pressure its rulers has been vastly undercut by the enthusiasm of other countries, especially Burma's Asian neighbors, to tap its cheap workforce and abundant natural resources." While "some of the trade is legal," many "products are also smuggled across Burma's remote, unsettled borders," then "relabeled and shipped beyond the region."

Chavez To Expand Discount Fuel For US Families. The Miami Herald (1/7, Wilson, 323K) reports that Venezuelan President Hugo Chávez "is expanding a heating oil program that offers discounts as high as 40 percent to low-income U.S. families." Currently in Boston and New York, it "will be extended next week to Maine and Rhode Island," as well as the "neighborhoods in Harlem and Queens" of New York City. "The program thrusts Chávez into the U.S. political debate over whether President George W. Bush is doing enough to help poor Americans cope with soaring heating costs."

Elections Not Expected To Help Haiti. Newsweek (1/7, Beith) reports, "Haiti has postponed elections for the fourth time since November. But a national vote is unlikely to solve the troubled country's many problems," as "even if free and fair elections do go ahead in the near future, there's little hope for a period of peace and prosperity." However, "the U.S. State Department repeated a familiar mantra. 'We believe it is essential that elections move forward.'"

Merkel To Draft Energy Strategy. The Financial Times (1/7, Benoit) reports, "Angela Merkel, the German chancellor, is to draft a 'national energy strategy' prompted by concern about the security of supplies after the recent dispute between Russia and Ukraine over natural gas shipments," and "in response to ever more pressing demands from experts and politicians that a security element should be added to the economic and environmental approaches that have governed energy policy until now." She "will then convene an 'energy summit' between government and companies in March to agree on measures – from diversifying suppliers to increased use of renewable sources – aimed at securing future energy needs."

Caldwell Says Germans Rejecting "Citizenship Of The World." Christopher Caldwell writes in his column in the Financial Times (1/7), "More and more westerners today consider themselves citizens of the world" where "loyalty is owed not to local ways but to multinational organisations and the norms of human rights. This idea of citizenship has proceeded further in Germany than any place else," but ". if today's enlightened, democratic Germans dislike this neutral citizenship-of-the-world, then nobody else is likely to be able to tolerate it, either. One reason why is that it is never as neutral as it looks. It immediately surrenders to any rival affiliation that makes non-negotiable demands." In the end, "Germans are right to conclude that that is a deficient form of citizenship indeed."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"GOP Group Petitions To Block DeLay."
"Governor Needs Widespread Support For Blockbuster Plan."
"Funding Is Not the Only Hurdle To Fixing The 710."
"Medicare Drug Plan Hits Snags In State."
"A City That Runs On Faith."
"Google Video Seeks A Bite Of Apple's Market."
"A 'Butcher' Capable Of Making Peace."

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New York Times:
"U.S. Said To Meet With Insurgents, Exploiting Rift."
"Pentagon Study Links Fatalities To Body Armor."
"Basis For Spying in U.S. Is Doubted."
"Miners Went By Book, But Time And Air Ran Out."
"Rebels In G.O.P. Call For DeLay To Be Replaced."
"Where Fallen Trees Go In The Not-So-Silent Night."

Washington Post:
"Report Rebuts Bush On Spying."
"Electronic Eye Grows Wider In Britain."
"A Tribe Takes Grim Satisfaction In Abramoff's Fall."
"Area Condo Sales Cooling After Record-Setting Year."
"High Court To Consider DNA Innocence Claim."

Washington Times:
"Redskins 'Don't Get Any Respect' Yet."
"Sharon Clings To Life After Third Surgery."
"Olmert A Known Quantity In Israel."
"Bush Basks In Tax-Cut Credit."
"Growth Of Jobs Slips To 108,000."
"Navy Prosecutes Officer For A 'Crude' Remark."
"Clinton, Huckabee Vie For Arkansas Name Fame."

Detroit Free Press:
"GM: Not So Fast, Toyota."
"Homeless People To Get Super Bowl Party."
"DCX Plans $6 Billion In Factory Upgrades."
"Sides Debate Language Of Proposed Affirmative Action Ballot Initiative."
"Postage Is 39 Cents, Starting Sunday."

Atlanta Journal-Constitution:
"Chances Slim For Sharon's Recovery."
"Voters Press For Action On Immigration."
"Experts: More Firms Will Freeze Pensions."
"Wild Pigs A Big, Fat Threat."

Dallas Morning News:
"Deaths Tied To Lighter Armor."
"Parcells Staying With Cowboys."
"DeLay Facing Revolt In GOP."
"On Your Right, Katrina's Ire."
"Miners Weren't Far From Safety."
"Smooth Crooner Lou Rawls Dies At 72."

Houston Chronicle:
"Body Armor Leaves Troops Vulnerable."
"Sharon Is Critical After A Third Surgery."
"Some In GOP Want DeLay Out Of Picture For Top Post."
"Zapatistas Are Stumping Back Into The Spotlight."
"NASA Craft's Payload May Offer A Big Payoff."

Story Lineup From Last Night's Network News:
ABC: Coal Mine Disaster; Mine Investigation; Zawahiri Tape; Iraq Deaths; Sharon; Virginia Death Penalty; Unemployment; IBM Dropping Pension Plan; Credit Card Debt; Lou Rawls RIP.
CBS: Mine Disaster; Unemployment/Pensions; DeLay Leadership Future; Iraq Deaths; Sharon; Google; Medicare Drug Benefit; Virginia Death Penalty; Lou Rawls RIP.
NBC: Sharon; Mining Disaster; Unemployment/Wall Street; Pension Plans; Pain medication ; Lou Rawls RIP ; Educator honored.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH -- No schedule available.
VICE PRESIDENT CHENEY -- No schedule available.

US Senate: -- No events scheduled.

US House: -- No events scheduled.

Other. ALL DAY

Jan. 3 - 7. ASSOCIATION OF AMERICAN LAW SCHOOLS _ The Association of American Law Schools holds their five day annual meeting. Workshops and plenary sessions for law professors, researchers and professionals. Topics will include the Iraqi Constitution, educational diversity, balancing life in law school, religious law, contracts, economics and international law. Location: Most events at Washington Marriott Wardman Park, 2660 Woodley Road NW. Contacts: Kim Milford (AALS), 202-296-8851 Notes: The meeting was originally planned for New Orleans.

11 a.m. - 2 p.m. HEALTH FAIR-BIRTH DEFECTS _ The Museum of Health and Medicine holds a health fair with information on steps women can take to ensure a healthy baby and pregnancy. Medical professionals will provide free screening for blood pressure, blood sugar, cholesterol and body fat levels. Exhibit, ``From a Single Cell," with insight into some of the rarest complications that can occur during pregnancy. Location: National Museum of Health and Medicine, Walter Reed Army Medical Center, 6900 Georgia Ave at Elder St, NW. Contacts: n/a, 202-782-2200

MORNING

11 a.m. RELIGION-NAVY _ Navy Chaplain Gordon Klingenschmitt plans to hold a worship service and break a

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two week fast protesting Navy restrictions on prayer at Navy events. Location: Lafayette Park, in front of the White House. Contacts: Gordon Klingenschmitt, 719-360-5132

AFTERNOON

4 p.m. - 7 p.m. IRAQ-TOWN HALL MEETING _ Activist hold an ``U.S. Out of Iraq" town meeting. With Allan Lichtman, professor, American University; Lila Rajiva, author, ``Abu Ghraib and the Media"; Cliff Kindy, Christian Peacemaker Teams; and others. Location: Busboys and Poets, 14th and V Sts, NW. Contacts: Karen Bradley, 202-669-3927

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: SATURDAY, JANUARY 7, 2006 7:45 AM EST

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TERRORISM NEWS:

CRS Report Challenges Legality Of NSA Terrorist Monitoring Program. The Washington Post (1/7, A1, Leonnig, 744K) in a front page story reports, "A report by Congress's research arm concluded yesterday that the administration's justification for the warrantless eavesdropping authorized by President Bush conflicts with existing law and hinges on weak legal arguments." The CRS report "rebuts the central assertions made recently by Bush and Attorney General Alberto R. Gonzales about the president's authority to order secret intercepts of telephone and e-mail exchanges between people inside the United States and their contacts abroad." The "nonpartisan assessment" prompted "Democratic lawmakers and civil liberties advocates to repeat calls yesterday for Congress to conduct hearings on the monitoring program and attempt to halt it." It

The New York Times (1/7, A1, Lichtblau, Shane, 1.19M) in a front page story says the report, "requested by several members of Congress, reached no bottom-line conclusions on the legality of the program, in part because it said so many details remained classified. But it raised numerous doubts about the power to bypass Congress in ordering such operations, saying the legal rationale 'does not seem to be as well grounded' as the administration's lawyers have argued." In addition to Democrats, former 9/11 Commission co-chairman Thomas Kean "weighed in for the first time in the debate. Mr. Kean said he counted himself among those who doubted the legality of the program. He said in an interview that the administration did not inform his commission about the program and that he wished it had."

Knight Ridder (1/7, Landay) notes the report "said Congress passed an amendment to a 1968 law and included language in FISA that made the act the 'exclusive means' by which the government could conduct electronic surveillance." And it "found that while gathering intelligence is 'an important facet of fighting a battle, it is not clear that the collection of intelligence constitutes a use of force.'"

The Los Angeles Times (1/7, Gorman, 958K) reports, "The report's authors conclude that, based on what is now known about the secret NSA operation, 'it appears unlikely' that a court would find that Congress had given Bush the authority to initiate such a program." The authors "said the Bush administration's argument, taken to its logical conclusion, would put no limit on what the government could do. In addition, they said: 'It is not clear that the collection of intelligence constitutes a use of force.'

The AP (1/7, Shrader) quotes Sen. Frank Lautenberg saying "It looks like the president's wiretapping was not only illegal, but likely targeted innocent Americans who did nothing more than place a phone call." Bloomberg (1/7, Bliss) also reports on the CRS report.

Cheney Rationale For NSA Monitoring Questioned. Wall Street Journal national political editor John Harwood said on PBS's Now (1/6, Matthews) "I certainly hope that Charles and Dick Cheney are right, that it's not an accident we haven't been attacked again. But it seems a bit of a stretch to say that the avoiding the FISA court in making

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these decisions unilaterally is the difference between being serious and not serious in the war on terror."

Washington Post Political Editor John Harris said on MSNBC's Hardball (1/6, Matthews), referring to the note Sen. Rockefeller wrote in longhand to Vice President Cheney saying he had great misgivings in the briefing he'd gotten on the domestic surveillance, that Cheney "didn't care. It's not really oversight. In very general terms, it's sort of telling them what they're doing but not asking for permission."

Chris Matthews commented on MSNBC's Hardball (1/6, Matthews), that "I'm sure that [note] ruined Dick Cheney's day."

Roberts Criticizes Continued Public Airing Of NSA Debate. The Kansas City Star (1/7, Helling, 286K) reports, "The continuing focus on a controversial federal eavesdropping program could 'endanger American lives,' Sen. Pat Roberts said Friday. 'What I'm worried about is the al-Qaida reading all of these press accounts as a cascade of further stories and speculation come out, and we lose the capability (of NSA communication intercepts),' said the Intelligence Committee chairman, who has been regularly briefed on the program."

NSA Director Rejects Concerns About Terrorist Monitoring Program. Reuters (1/7) reports NSA Director Lt. Gen. Keith Alexander "told employees last month that NSA officials had not violated U.S. law by participating in an agency program that eavesdrops on U.S. citizens without judicial oversight, newly released documents show." In a December 22 message Alexander said, "Media coverage surmises that administration and agency officials may have acted unlawfully -- notions I reject, categorically!" He added, "Overall, we are not concerned. … Our operations are carefully deliberated and measured; they are within the law; and they are nobly executed with strict oversight."

Administration Accused Of Undermining War On Terrorism. Daniel Klaidman in a Newsweek (1/7) web exclusive claims "the White House's devotion to presidential power has undermined the war on terror." Klaidman continues, "The administration's biggest mistakes in fighting the war on terror have been the product of a willful defiance of the traditional rules of warfare. Bush understood instinctively that the United States needed more creative thinking and a new flexibility to prevail against an enemy as vicious and unconventional as Al Qaeda. But a small, powerful group of ideologically committed Bush administration officials, led by Vice President Dick Cheney, had a more far-reaching agenda: to prove at virtually every turn that the Constitution vests in the president near unfettered powers in the conduct of national security policy. The principle became such an article of faith that upholding it often trumped the wisdom -- and necessity -- of individual policies. Playing out behind the scenes was a bitter struggle between the proponents of presidential supremacy during wartime and traditionalists, often career civil servants, who wanted to maintain the balance of power. A healthy tension between the two should serve as an important check on overreaching by ideologues or on the indolence of time-serving bureaucrats."

WSJ Defends Administration Authorization Of Terrorist Monitoring. The Wall Street Journal (1/7, 2.11M) editorializes, "The Bush Administration's use of warrantless wiretaps in the war on terrorism continues to generate controversy, and Congress is planning hearings. Some of the loopier elements of the Democratic Party have even suggested the wiretaps are grounds for impeachment. But the more we learn about the practice, the clearer it is that the White House has been right to employ and defend it." The Journal concludes, "The upside of the coming Congressional hearings, we guess, is that Americans will get a lesson in the Constitution's separation of powers. We're confident they'll come away believing the Founders were right to the give the President broad war-fighting -- including surveillance -- powers."

Bush Asserts Right To Bypass Detainee Torture Limits. Knight Ridder (1/7, Hutcheson, Kuhnhenn) reports, "President Bush agreed with great fanfare last month to accept a ban on torture, but he later quietly reserved the right to ignore it, even as he signed it into law." He "said he would interpret the new law in keeping with his expansive view of presidential power. He did it by issuing a bill-signing statement -- a little-noticed device that has become a favorite tool of presidential power in the Bush White House." He "has used signing statements to reject, revise or put his spin on more than 500 legislative provisions. Experts say he has been far more aggressive than any previous president in using the statements to claim sweeping executive power - and not just on national security issues."

Hayat Trial Set To Begin Feb. 14. The Lodi News-Sentinel (1/7, Bohm) reports Hamid and Umer Hayat "will stand trial Feb. 14. Over the objections of government prosecutors, a federal judge on Friday set the trial date…and also laid out a fast-moving schedule for pre-trial motions and hearings. Trial testimony will likely take 20 court days — not counting jury selection, opening statements, rebuttal and closing arguments — Assistant U.S. Attorney Robert Tice-Raskin told the judge." The News-Sentinel adds, "The two men were arrested during an intense FBI investigation in Lodi. Three other men, including two leaders of the Lodi Muslim Mosque, were detained on immigration violations and have since been deported." The AP (1/7) notes, "Assistant U.S. Atty. S. Robert Tice-Raskin argued that more time was needed because some evidence against the pair was obtained using methods so secret that they can't be disclosed in open court or to anyone without a security clearance."

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US "Leaning Toward" Al Arian Retrial. The AP (1/7) reports, "Federal prosecutors, still stinging from Sami Al-Arian's acquittal on eight terrorism counts last month, said Friday they are leaning toward retrying the former college professor and a co-defendant on charges that their jury could not decide. … Asked whether the government could start in late March or April," Assistant US Attorney Terry Zitek "said it was 'theoretically possible,' but that he would like more time to prepare. The judge said conflicts in the court's schedule meant the only alternative start date would be August." The Tampa Tribune (1/7, Silvestrini) notes, "Kevin Beck, a federal public defender representing Al-Arian co-defendant Hatim Fariz, said discussions are being held on 'ways we can avoid a trial.' He said his client will not agree to testify against Al-Arian. 'I can tell you that unabashedly,' he said."

Muslim Civil Rights Advocates Rally For Al Arian's Release. The Tampa Tribune (1/7, Silvestrini) also reports that at a rally outside the Tampa courthouse on Friday, "national Muslim leaders rallied to demand a resolution of the case. … Muslim civil rights activists from California and Washington shared the podium. Ahmed Younis, national director of the Muslim Public Affairs Council, said the Al-Arian case thrust America back into the court of public opinion. Younis said 'a tsunami came upon the Muslim community since 9/11.'" The Orlando Sentinel (1/7, Gutierrez) adds that "dozens of supporters as well as Muslim and Christian activists braved the cold, blustery winds to demand that he be freed. … Like other Muslim-American leaders who flew in from around the country to speak on Al-Arian's behalf, Nihad Awad said Al-Arian was the victim of a politically charged environment three years ago that resulted in the persecution of Muslims." Awad said, "Most of these cases are done for political reasons. ... I think the government is abusing the system," and "signs in the crowd included 'Liberty and Justice For All,' 'Free Al-Arian,' 'All Religions Believe in Justice,' and 'The Patriot Act is Watching You.'"

Spy Satellite Chief To Resign After Dispute With Rumsfeld. Reuters (1/7) reports National Geospatial-Intelligence Agency director James Clapper "will leave his post in June, officials said on Friday." He will resign "three months short of his fifth anniversary as head of the defense department operation, officials said." According to the Baltimore Sun, he "was being forced out after angering Secretary of Defense Donald Rumsfeld on an issue involving intelligence reform." Reuters notes, "The Sun quoted an unnamed former official as saying that Clapper earned Rumsfeld's ire in 2004 by telling Congress his agency would not be ill-served by the creation of a director of national intelligence, or DNI, a post created by post-September 11 reforms that was initially opposed by Pentagon officials."

DOJ IG Inquiry Finds No Misconduct In FBI Probe Of Suspected Terrorist. The New York Times (1/7, Stout, 1.19M) reports, "Overconfidence in its own fingerprint-identification technology and sloppy paperwork contributed to the F.B.I.'s wrongly implicating a Portland, Ore., lawyer in the deadly 2004 Madrid train bombing, a Justice Department investigation said Friday." Yet the DOJ IG's investigation "said there had been no misconduct by the Federal Bureau of Investigation and no abuse of the antiterrorism USA Patriot Act in the case of the lawyer, Brandon Mayfield." While "Mayfield's Islamic faith was not a factor in the initial stages of the bombing investigation, when F.B.I. technicians erroneously concluded that a print found on a plastic bag near the Madrid attack scene matched one of Mr. Mayfield's, it may have slowed his ultimate exoneration, the Justice Department inquiry found." The FBI "said Friday that it was pleased that the inspector general had found no official wrongdoing and no violation of the antiterrorism law."

The Washington Post (1/7, A6, Eggen, 744K) reports, "One of Mayfield's attorneys, Gerry Spence, said in a news release yesterday that Fine's report shows 'the FBI acted with gross negligence' in targeting and arresting his client, and misled the federal courts in doing so." And "Mayfield was quoted in the statement as saying that the report confirms he was 'the victim of religious profiling.'" But the "FBI disagreed, emphasizing that Fine had concluded that Mayfield's Muslim faith was not a factor in the initial identification of him by fingerprint examiners. The bureau said Mayfield's arrest 'was based on an extremely unusual confluence of events,' primarily the remarkable similarity between his fingerprints from military service and the latent print found in Spain, which was eventually matched to an Algerian national, Ouhnane Daoud." The Washington Times (1/7, Seper, 90K), the Los Angeles Times (1/7, Tizon, 958K) and the AP (1/7, Sherman) also reports on the DOJ IG's report.

The Chicago Tribune (1/7, Zajac) reports that the IG's findings "likely will fuel the debate about adding civil liberties protections to the Patriot Act, portions of which are set to expire Feb. 3. … Rep. James Sensenbrenner (R-Wis.), chairman of the House Judiciary Committee and a supporter of the the law, said in a statement the report 'should finally end the baseless accusation lodged by Patriot Act opponents that federal law-enforcement officials used this anti-terrorism law to violate the civil liberties of Brandon Mayfield.' … But Reps. John Conyers of Michigan and Robert Scott of Virginia, two top Democrats on the judiciary panel, wrote Sensenbrenner to urge congressional hearings on the report."

The Oregonian (1/7, Saker, Goldsmith) reports, "In a statement Friday, the FBI pointed out that after the Mayfield case, the bureau invited an independent board of experts to propose changes in how the FBI examines fingerprints, which

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the FBI has undertaken. … In addition, the inspector general's report 'found no evidence of misconduct on the part of any FBI employees involved in this investigation,' the statement said.'" The Oregonian adds, "The FBI did not use the Patriot Act to obtain the court warrants to spy on and search Mayfield without his knowledge. But the law did allow the FBI to share intelligence from the wiretaps and searches with law enforcers, which 'amplified the consequences of the FBI's fingerprint misidentification.' … The U.S. attorney's office in Portland wrote affidavits containing inaccurate and ambiguous information that led a federal judge to believe that Spanish police had agreed with the FBI's fingerprint identification of Mayfield when they had only agreed to conduct another examination."

California Father And Son To Be Tried On Terrorism Charges In February. The Los Angeles Times/AP (1/7) reports, "A father and son from Lodi will be tried on terrorism-related charges beginning Feb. 14. A federal judge set the date Friday over the objection of prosecutors. Assistant U.S. Atty. S. Robert Tice-Raskin argued that more time was needed because some evidence against the pair was obtained using methods so secret that they can't be disclosed in open court or to anyone without a security clearance. Umer Hayat, 47, was arrested in June and charged with lying to the FBI by denying that his son attended an Al Qaeda training camp in Pakistan during 2003 and 2004. His son, 23-year-old Hamid Hayat, was arrested the same day and faces charges of supporting terrorism and lying to investigators."

Padilla To Plead Not Guilty To Federal Charges. The Miami Herald (1/7, Weaver) reports, "Former 'enemy combatant' Jose Padilla next week will plead not guilty to charges he joined terrorists in an Islamic holy war abroad, his attorney said Friday outside the Miami federal courthouse. … But the criminal charges outlined in an indictment against Padilla are completely unrelated to the 'dirty bomber' accusation that landed the former Broward resident in U.S. military detention for about four years. … 'This case started in an unusual way, but I'm happy today it's in a criminal court proceeding,' said New York lawyer Andrew Patel, who is representing Padilla with the Federal Public Defender's Office in Miami. 'Mr. Padilla is being treated like any other American citizen in the criminal justice system.'" The Herald continues, "Padilla's status as an enemy combatant changed on Thursday with his transfer from a South Carolina naval brig to the Miami Federal Detention Center. The move was made immediately following this week's U.S. Supreme Court decision that allowed Padilla's transfer into the criminal justice system. The decision represented a victory for the Bush administration. … Padilla, 35, will have both an arraignment and bond hearing Thursday. He is charged with being a recruit for a North American terrorist cell with South Florida links that allegedly aided an Islamic jihad abroad. The trial is in September. If convicted, he faces a life sentence."

The South Florida Sun-Sentinel (1/7, Blum) reports, "One day after his release from a 3 1/2 year military detention, alleged al-Qaida operative José Padilla appeared for a second time in Miami federal court on charges that he was part of a South Florida-based terror cell. … The former Broward County resident seemed animated during the brief hearing, at one point turning to wave to his mother and two other family members sitting in the front row of the packed courtroom." The Sun-Sentinel adds, "At the start of the hearing, federal Magistrate Judge Barry Gelber informed Padilla, 35, of the accusations against him, including a charge that he was part of a conspiracy to 'murder, kidnap and maim persons in a foreign country.' Then, following a request from Padilla's attorneys, Gelber postponed a formal arraignment until Jan. 12. … Prosecutor Stephanie Pell stated that the government intends to oppose bail, leading Gelber to say, 'Why am I not surprised?' The Sun-Sentinel notes, "The Bush administration has made it clear that it considers Padilla one of the most dangerous men in America. In 2002, federal agents arrested Padilla at O'Hare International Airport. At that time the White House designated him an 'enemy combatant' and claimed that the former Chicago gang member had plotted to detonate a radioactive bomb on U.S. soil. Government lawyers argued that Padilla was a captured fighter, not a criminal defendant, and could be held without charges."

Padilla's Plea Hearing Rescheduled For Thursday. The Los Angeles Times (1/7, Dahlburg, 958K) reports, "Terrorism suspect Jose Padilla, held 3 1/2 years by the government without charges, was supposed to get his chance Friday to answer the felony counts brought against him as an alleged backer of Islamic war overseas. But the judge postponed the procedure until next week. U.S. Magistrate Judge Barry L. Garber rescheduled for Thursday Padilla's plea and the hearing to determine whether he should be freed on bond. The delay is to give newly appointed lawyers from the federal public defender's office in Miami time to confer with a New York City attorney who had already been representing Padilla. Andrew G. Patel, the New York lawyer, told reporters that Padilla, 35, an alleged Al Qaeda operative, would plead not guilty to charges that he and four co-defendants plotted to support Islamic jihad abroad."

UK Dramatically Expanding Automatic License Plate Recognition System. The Washington Post (1/7, A1, Jordan) reports UK "law enforcement agencies are drastically increasing the number of cameras that read license plates and are building a national database that

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designers say will make it possible to determine in seconds whether a car zooming by has insurance, was stolen or was seen near a crime scene. The plate recognition system will rely on thousands of cameras on stationary poles and in mobile police vans, which will patrol highways and back roads. … Some human rights groups are fighting the new project, calling it a dangerous step toward a Big Brother society." The Post notes Automatic Number Plate Recognition system national coordinator John Dean "said FBI officials asked him about the ANPR system on Tuesday, and officials from Australia, Canada and many European countries have also inquired about it."

PATRIOT ACT:

Cheney Calls For Patriot Act Reauthorization In Speech On Military Base. The Lawrence Journal-World (1/7, Taylor) reports that Vice President Dick Cheney's visited Fort Leavenworth, "awarding the Combat Action Badges and presiding over a re-enlistment ceremony for five other soldiers." Cheney also "delivered a 20-minute speech in which he called for renewal of the Patriot Act, praised the assembled soldiers for their efforts and sacrifices, and told the audience of about 1,400 people that the United States would win the war on terror."

The Wichita Eagle (1/7, Cannon, Bormann, 98K) adds that Cheney was a "confident optimist" who "touted robust economic numbers," the government's "varied approaches to fighting terrorism," and "defended the recently revealed practice of eavesdropping without court warrants."

HOMELAND RESPONSE:

Chertoff Vows To Strengthen Border Security. The Washington Times (1/7, Seper, 90K) reports Department of Homeland Security Secretary Michael Chertoff "says he will crack down on alien smugglers at two border crossings near San Diego by sending more prosecutors to the area and providing increased jail space for those arrested. Mr. Chertoff's comments came during speaking engagements at the San Ysidro and Otay Mesa, Calif., ports of entry, in the same area where a Mexican national -- identified by law-enforcement authorities as a suspected alien smuggler -- was fatally shot Dec. 30 by a U.S. Border Patrol agent who the Mexican purportedly targeted in a rock-throwing attack." The Times notes, Chertoff "gave no cost estimates for the program and provided few details on how it would work, but he said it would begin in the San Diego area and later shift to other regions. It was unclear how many prosecutors would be added or how an increase in the number of cases they would handle would be financed with existing resources. He said the plan would include an increased law-enforcement presence on the border, renewed efforts at intelligence sharing with other law-enforcement agencies, increased technology and the use of dogs to locate people hidden in vehicles."

Local Law Enforcement's Cooperation Is Part Of New Plan. The AP (1/7, Spagat) reports Chertoff "has declared a crackdown on immigrant smugglers at two California border crossings from Tijuana, Mexico. … In a potentially controversial twist, Chertoff said Thursday state and local officials would participate in the crackdown. Proponents of tougher enforcement have long advocated a larger role for local law enforcement, but critics say local agencies should stick to fighting crime, not enforcing immigration laws."

DeLay Toured Border Region With Chertoff. The Dallas Morning News (1/7, McLemore) reports, "In an effort to take back the border from Mexican drug gangs…Chertoff rolled out the newest series of enforcement and security task forces here Friday. The latest effort in the Homeland Security Department's Secure Border Initiative will focus on investigations of cross-border crime by Mexican drug and human-trafficking organizations. It is modeled on U.S. Immigration and Customs Enforcement's Operation Blackjack, unveiled in Laredo last summer. And it includes an unprecedented level of interaction with Mexican agencies. In his first visit to the Laredo area, Mr. Chertoff took a tour of the rough terrain used by drug smugglers and illegal immigrants to enter the U.S. He was accompanied by U.S. Rep. Tom DeLay, R-Sugar Land, and other members of the Texas congressional delegation."

Katrina Recovery Chief Says Operation Was Successful, Given Constraints. Time (1/7) publishes an interview with Coast Guard Vice Admiral Thad Allen. Allen said, "I think we were successful given the resources we had" in dealing with Katrina's aftermath. He attributes his not becoming "a lightning rod for criticism" despite it being a "fairly loaded situation" to trying "to be transparent. And to make people aware of the constraints we were under." He adds that before our next disaster, "We need to create a clear command and control structure that runs from the federal government to the state."

New Orleans Delays Demolitions For Court Case. The New York Times (1/7, Nossiter, 1.19M) reports that New Orleans "officials agreed in court on Friday not to demolish any storm-damaged houses until" a federal judge hears "arguments in a suit over whether the city can demolish houses without homeowners' permission." Demolition "emerged as the sharpest edge of an emotional debate over which neighborhoods should be rebuilt" and "is likely to

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remain an emotional flashpoint, pitting opponents, including housing advocates, politicians and some residents." The "sides cannot even agree on what constitutes a house," with advocates arguing that "piles of rubble" shouldn't be moved until "dispersed residents" get "the chance to search for their possessions."

The Washington Post (1/7, A2, 744K) adds, "The city reserved the right to clear away perhaps 100 smashed homes that were pushed by the floodwaters into the streets." Opponents worry "that the demolitions would destroy black neighborhoods, marking the beginning of what some see as an effort to push out the city's black population."

New Orleans Mayor, Council Agree On FEMA Trailer Placements. The Washington Post/AP (1/7, Deslatte) reports, "New Orleans Mayor Ray Nagin and two city council members said Friday they have agreed on temporary housing sites for thousands of families that requested assistance after Hurricane Katrina. Gov. Kathleen Blanco brought in a mediator and representatives of the Federal Emergency Management Agency to meet with Nagin and the council members at the governor's home." FEMA's head "blamed the dispute" over placement "for holding up the placement of thousands of temporary homes."

WAR NEWS:

US Officials Seek To Create Split Between Iraqi Insurgents And Radical Terrorists. The New York Times (1/7, Filkins, Tavernise, 1.19M) reports, "American officials are talking with local Iraqi insurgent leaders to exploit a rift that has opened between homegrown insurgents and radical groups like Al Qaeda, and to draw the local leaders into the political process, according to a Western diplomat, an Iraqi political leader and an Iraqi insurgent leader." Battles "between Iraqi groups and Al Qaeda have broken out in several cities across the Sunni Triangle, including Taji, Yusefiya, Qaim and Ramadi, and they appear to have intensified in recent months, according to interviews with insurgents and with American and Iraqi officials."

US Commander Outlines Strategy For Bringing Stability To Iraq. The AP (1/7, Burns) reports, "Local Iraqi police forces will be re-established this year in cities and towns across restive Anbar province, where the insurgency had prevented it earlier, a senior American commander said Friday." In an interview Marine Maj. Gen. Stephen Johnson said it "will be part of a broad strategy for bringing greater stability to western Iraq, bolstering Iraqis' confidence in their new government and undermining the insurgency." The AP adds, "If successful, the addition of local police also would lessen the security burden on U.S. troops, who are training Iraqi security forces across the country so U.S. forces can begin to leave this year."

Eleven US Soldiers Killed In Iraq. ABC's World News Tonight (1/6, story 4, :10, Vargas) reported, "In Iraq, the military said six more U.S. Troops have been killed, bringing to 11 the number killed in the wave of violence that swept the country yesterday. In Baghdad, thousands of Shiites turned out for demonstrations protesting suicide attacks that killed more than 100 Iraqis yesterday."

The CBS Evening News (1/6, story 4, :30, Schieffer) reported, "In Iraq today the military said that six more American soldiers and Marines were killed yesterday, most by suicide bombers or roadside bombs. That is in addition to a previous report of five soldiers killed yesterday. It means a total of 11, one of the worst days in the war for the U.S. forces."

The New York Times (1/7, Oppel, 1.19M) and stories from other sources report, "Thursday was the deadliest day in Iraq in months, as suicide bombers in Karbala and Ramadi killed at least 130 people. Among the 70 killed in Ramadi were two Americans -- a marine and a soldier. Shortly before the suicide blast in Karbala, a roadside bomb outside the city exploded and killed five American soldiers." And "the American military announced Friday that the previous day's toll also included two marines who had been killed in Falluja by small-arms fire and two soldiers who had been killed in Baghdad by a roadside bomb."

US Dismisses Concerns Violence Will Lead To Civil War. AFP (1/7) reports, "The United States played down a dramatic surge in violence in Iraq and said political progress would eventually defuse sectarian tensions. After one of Iraq's bloodiest day since the fall of Saddam Hussein's regime in 2003, a top US military officer said the violence would not trigger a civil war or disrupt political negotiations for a unity government." On CNN Gen. George Casey said the recent increase in attacks was "an anomaly." But experts have said the insurgency "remains as potent as ever and could get stronger."

Shiite Leaders Urge Restraint After Deadly Attacks. The Washington Times/Reuters (1/7, Jumaili) reports, "Iraqis buried their dead yesterday following a day of carnage that left some Shi'ite Muslims demanding revenge against the Sunni Arab militants they blame for a suicide bombing in their holy city of Karbala." But "Shi'ite religious and political leaders urged restraint, telling followers to place their faith in the next government, slowly emerging from the Dec. 15 election and set to be dominated by Shi'ite parties."

The Los Angeles Times (1/7, Daragahi, 958K) reports, "Tensions remained high across Iraq on Friday as security was tightened around mosques on the Muslim day of worship amid fraying relations between Iraq's Shiites and Sunni

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Arabs." Yet "a measure of placidity returned to the streets, where at least 120 Iraqis were killed in suicide bombings Thursday, as clerics delivered sermons tinged with notes of defiance as well as calls for calm."

The Washington Post/AP (1/7, Quinn) reports, "The rallies and threats by the Iraq's largest Shiite religious party to react with force if the militant attacks continue have renewed fears that paramilitary militias -- now thought to make up part of some elite police units -- would take to the streets and carry out reprisals." But on CNN Robert Ford, the U.S. Embassy's political councilor, said "I don't think the Shiite leadership wants to slip into broader civil strife and neither does the Sunni Arab leadership." Ford maintained that the recent attacks "were a sign that the political process was drawing Sunni Arab groups into politics and away from insurgency -- which has angered radical militants."

Iraqi Leaders To Discuss Formation Of Inclusive Government. The Washington Times/Reuters (1/7, Jumaili) in an article on Iraqi reaction to the latest violence also notes, "After a series of recent bilateral meetings in Iraq's Kurdish-dominated north, political leaders have agreed to meet in Baghdad soon to push their plan for an inclusive government that includes all Iraq's sects and ethnic groups."

New Zawahiri Tape Claims Bush Admits Defeat In Iraq. ABC's World News Tonight (1/6, story 3, :10, Vargas) reported, "Osama bin Laden's right-hand man Ayman al Zawahiri ridiculed the U.S. in a videotape that surfaced today. He says the decision to withdraw troops from Iraq this year a victory for the insurgency and for Muslims around the world."

The Washington Post (1/7, A12, Hernandez, 744K) reports on the video Zawahiri "said President Bush had admitted defeat in Iraq by announcing plans to reduce the American troop presence in the country, saying the move would be a victory for Islam." He "warned Americans that 'as long as you do not deal with Muslim nations with understanding and respect, you will still go from one disaster to another. And your calamity will not end, unless you leave our lands and stop stealing our resources and stop supporting the bad rulers in our countries.'"

Bremer Says US Unprepared For Insurgency. The Washington Post/Reuters (1/7, A4) reports that in an interview for "Dateline NBC" which will air Sunday night "L. Paul Bremer, who led the civilian occupation authority in Iraq after the 2003 invasion, told NBC-TV that the United States did not anticipate the insurgency in the country, the network said yesterday." In the interview he recount "the decision to disband the Iraqi army quickly after the U.S. arrival in Baghdad, a move many experts consider a major miscalculation. When asked who was to blame for the deaths of thousands of Iraqis and Americans after the official end of combat, he said, 'We really didn't see the insurgency coming,' NBC said in a news release." He "said he raised his concerns about the numbers and quality of forces with President Bush, Defense Secretary Donald H. Rumsfeld and senior military officials" and "that he did everything he could do in Iraq and that 'the president, in the end, is responsible for making decisions,' according to the network."

Study Reveals More Body Armor Would Have Prevented Many US Casualties. The New York Times (1/7, Moss, 1.19M) reports, "A secret Pentagon study has found that as many as 80 percent of the marines who have been killed in Iraq from wounds to the upper body could have survived if they had had extra body armor. Such armor has been available since 2003, but until recently the Pentagon has largely declined to supply it to troops despite calls from the field for additional protection, according to military officials." It "shows the cost in lives from inadequate armor, even as the Pentagon continues to publicly defend its protection of the troops."

The Washington Post (1/7, A5, Tyson, 744K) reports, "The medical examiner study analyzed a random sample of 93 Marine deaths from torso wounds and found that 60 percent of the fatalities were caused by gunshots. 'As many as 42 percent of the Marine casualties who died from isolated torso injuries could have been prevented with improved protection in the areas surrounding the plated areas of the vest. Nearly 23 percent might have benefited from protection along the mid-axillary line of the lateral chest. Another 15 percent died from impacts through the unprotected shoulder and upper arm.'"

The AP (1/7, Burns) adds, "The findings underscore the difficulty facing the Army and Marine Corps in providing the optimum level of body armor protection in a war against an insurgency whose tactics are constantly changing."

Suth Korean Lobbyist Arrested In Oil For Food Probe. The New York Times (1/7, Preston, 1.19M) reports, "Tongsun Park, a lobbyist from South Korea who was a central figure in the Congressional bribery scandal in the 1970's known as Koreagate, was arrested yesterday in Houston on charges that he worked illegally to secure favorable treatment for Iraq under the United Nations oil-for-food program, federal authorities said." US attorney Michael Garcia "announced that Mr. Park was arrested in Houston by F.B.I. agents, but provided no information about how he was found. Mr. Park's whereabouts had been unknown since he was first indicted on April 14, 2005, for his role in the program."

Murtha Accuses Military Of Blaming Recruiting Woes On Him. The AP (1/7, Hefling) reports, "Rep. John

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Murtha says the military is blaming him for a recruitment slump instead of recognizing mistakes that have led to an enlistment shortage." Murtha said, "They're trying to direct attention away from their problems."

Civilian Killed By IED In Afghanistan. The Washington Post/AP (1/7) reports, "A roadside bomb blew up Saturday as a van packed with police cadets and trainers was driving through an eastern Afghan city, killing a passer-by and wounding a police colonel and driver, officials said." Officials "initially thought the blast may have been the work of a suicide attacker but later concluded it was a roadside bomb, said Abdul Jabar, a senior police officer in Jalalabad city where the attacks occurred." The AP adds, "The two wounded were rushed to a hospital in Jalalabad and were in stable condition. The other 18 people in the van were unhurt, Jabar said."

Dowd Criticizes Bush For Brevity Of Meeting With Former Foreign Policy Leaders. Maureen Dowd in her column in the New York Times (1/7, 1.19M) writes, "It may seem disturbing at first, that with several hundreds of years' worth of foreign policy at his elbows, and a bloody, thorny mess in Iraq, Mr. Bush would devote mere moments to letting some fresh air into his House of Pain." Bush "just spent six straight days mountain-biking and brush clearing in Crawford. He couldn't devote 60 minutes to getting our kids home rather than just a few for a 'Message: I Care' photo-op faking sincerity?"

CORPORATE SCANDALS:

Former Wal-Mart Official To Plead Guilty To Defrauding Company. The New York Times (1/7, Barbaro) reports, "The former vice chairman of Wal-Mart Stores, Thomas M. Coughlin, has agreed to plead guilty to federal charges that he defrauded the company of at least $350,000, people close to the negotiations said yesterday." The Times continues, "Mr. Coughlin, once the retailer's No. 2 executive, was ousted last year amid accusations that he used fake invoices and misappropriated gift cards to pay for items like contact lenses and a custom-made dog kennel. … He has agreed to plead guilty to five counts of wire fraud and one count of tax evasion, people close to the inquiry said, and is scheduled to enter the pleas this month in federal court in Fort Smith, Ark." The Times adds, "Defense lawyers and prosecutors expect Mr. Coughlin to be sentenced to slightly more than two years in prison, said people close to the case, who spoke on condition of anonymity because the investigation into the matter is still open. The court is also expected to order Mr. Coughlin to make restitution to Wal-Mart for benefits he received and money he misappropriated. … The guilty plea casts considerable doubt on Mr. Coughlin's assertion that he used company money to reimburse himself for a secret campaign, approved by senior executives, to pay union members for information about their organization drives, a potential violation of federal law. … Mr. Coughlin is still expected to advance that argument before a judge during sentencing. A person close to the matter said that the plea agreement explicitly mentions a plan to use Wal-Mart's money to buy information that would disrupt efforts to unionize Wal-Mart Stores."

The Wall Street Journal (1/7, Bandler) reports, "The deal, if it holds, will bring down the curtain on a bizarre chapter in Wal-Mart's history. Mr. Coughlin, a Wal-Mart legend who was a protégé and former hunting buddy of founder Sam Walton, left the company early last year amid accusations that he misappropriated as much as $500,000 from Wal-Mart through fraudulent reimbursements and improper use of gift cards." The Journal adds, "Although Mr. Coughlin took home millions of dollars in compensation, documents reviewed by The Wall Street Journal suggest that he secretly had the retailer pay for a range of his personal expenses, including hunting vacations, a $2,590 dog enclosure at his home and a $1,359 pair of handmade alligator boots." The Journal adds, "The most explosive aspect of the drama may remain unresolved. Mr. Coughlin is expected to claim that, in part, he was reimbursing himself for a secret scheme to fund an antiunion spy operation. … But federal prosecutors for the U.S. Attorney's Office for the Western District of Arkansas have found no evidence that Mr. Coughlin was part of any clandestine intelligence operation directed at unions, according to someone familiar with the investigation. Wal-Mart has said it has also investigated the matter and found Mr. Coughlin's claims to be untrue."

The Washington Post (1/7, D1, Joyce, Johnson) reports, "Coughlin, who was the No. 2 executive at the company until January 2005, was ousted from the board last March over allegations of financial improprieties estimated to have cost up to $500,000. A six-week investigation prompted the company to fire three other employees. Jared Bowen, a former vice president who was fired, is suing the company, claiming he was fired illegally in retaliation for blowing the whistle on Coughlin. The company responded that Bowen participated in the same acts he challenged. … Wal-Mart's investigation focused on the alleged unauthorized use of corporate gift cards and suspect expense reports. The company said it reported the matter to the U.S. attorney for the Western District of Arkansas based on the findings of the investigation."

Five Indicted Over San Diego Pension System Scheme. The New York Times (1/7, Broder) reports, "San Diego's legal and financial troubles deepened on Friday as a

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federal grand jury handed up fraud and conspiracy indictments against five current and former officials of the city's pension system." The Times continues, "The charges centered on a 2002 decision by the 13-member San Diego City Employees' Retirement System to enact a plan to increase significantly the pension benefits of city employees, including all the defendants, while failing to provide sufficient money to keep the pension fund solvent." The Times adds, "Federal prosecutors said the five defendants had conspired to hide the details of the proposal from other members of the pension board as part of a scheme to enrich themselves and cover up the financial danger to the pension system posed by the plan. … The decision helped to push the city to the brink of bankruptcy and led to the resignation of Mayor Dick Murphy last spring. The San Diego retirement system now has a deficit of at least $1.4 billion, and the city is unable to borrow in the capital markets. … The local United States attorney, Carol Lam, said the five pension fund officials had violated their obligations to city retirees and the taxpaying public. … 'The defendants had a duty to act in the best interest of the city retirement system,' Ms. Lam said in a statement accompanying release of the indictments. 'They breached that duty by engaging in self-dealing, ignoring conflicts of interest and exploiting their positions to the detriment of the retirement system.'"

The Los Angeles Times (1/7, Perry) reports, "Former pension board members Ronald Saathoff, Cathy Lexin and Teresa Webster — along with former board administrator Lawrence Grissom and the panel's current attorney, Loraine Chapin — were named in a 20-count indictment charging them with wire fraud, mail fraud and conspiracy. … The five are accused of using their positions to approve pension boosts for themselves and others while saddling the system with a 'dangerous practice' that depended on a bull market on Wall Street to keep the pension plan solvent. When the technology bubble burst, the pension system's deficit ballooned." The Times adds, "According to the indictment, Saathoff, longtime president of the local firefighters union, received a pension boost of $25,000 a year in exchange for voting to endorse a plan whereby the City Council would continue to rely on the investment plan rather than increasing payments from the city budget. … Increasing payments to the pension fund would have meant cutting services to residents, a politically risky move. When the stock market declined, the council faced the prospect of making a $100-million 'balloon payment' to keep the system funded at the level the council thought prudent, the indictment said."

Causey Not Yet On Enron Prosecutors' Trial Witness List. The Washington Post (1/7, D3, Johnson) reports, "Prosecutors in the fraud trial against former Enron Corp. leaders have not yet decided whether to call the Houston company's former accounting chief as a witness, according to court papers filed late yesterday." The Post continues, "Richard A. Causey pleaded guilty to a single count of securities fraud last week. Representatives from the Justice Department's Enron Task Force said at the time that they were continuing to debrief him as a possible witness against former chief executives Kenneth L. Lay and Jeffrey K. Skilling, with whom he had been scheduled to be tried." The Post adds, "Under the terms of his plea deal, Causey could shave as much as two years off a seven-year prison sentence if prosecutors determine he cooperated with their investigation. … Causey's name did not appear on a list of 61 witnesses submitted yesterday by government lawyers. But prosecutors 'reserve the right' to add others to the lineup before the Jan. 30 trial, they wrote. … In all, prosecutors cut 17 witnesses from an earlier list, an acknowledgement that Causey's plea allows them to sidestep weeks of complicated accounting testimony that might confound a jury."

2nd Circuit Rejects Martha Stewart's Appeal. The New York Times (1/7, Barbaro) reports, "As Martha Stewart served time at the red-brick federal prison in West Virginia, as she lived under court-ordered confinement on her farm in New York and even when she began politely firing aspiring employees on 'The Apprentice, ' she quietly pursued an appeal of her conviction, hoping to prove her oft-proclaimed innocence. … But it was not to be - at least not this time." The Times continues, "A federal appeals court yesterday upheld the conviction of Ms. Stewart, the founder of Martha Stewart Living Omnimedia, and her former stockbroker, Peter E. Bacanovic, for lying about a lucrative stock sale. … The United States Court of Appeals for the Second Circuit, in Manhattan, rejected arguments, put forth by lawyers for both defendants, that their trial was tainted by prosecutorial misconduct, juror misconduct, extraneous influence on the jury and erroneous jury instructions." The times adds, "In one sense, neither Ms. Stewart nor Mr. Bacanovic had much riding on the outcome of the decision; both have already served their prison sentences. … But the appeal was a last-ditch effort - and by most accounts, this will be their last - to clear their names."

SEC May Delay New Trading Rules. The Wall Street Journal (1/7, Lucchetti) reports, "The Securities and Exchange Commission, prompted by Wall Street firms, is considering whether to delay new trading rules scheduled to go into effect this summer that, among other things, will require that investors' trades be completed at the best price that can be executed immediately." The Journal continues, "The SEC is weighing whether to give the firms another one or two months to prepare for the challenge of getting all their trading systems ready, according to people familiar with the regulator's talks with Wall Street firms about the matter. An

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SEC spokesman said 'the commission hasn't taken any action with regard to delaying the implementation dates' but declined to comment on whether the SEC was considering a delay. In addition to eliminating the 'best price' protection from orders handled manually on exchanges such as the New York Stock Exchange, the new regulation will alter the way dealers and exchanges interact. … Under the so-called trade-through rule, trading desks and exchanges will have to distinguish all their orders between those that are being handled manually on the floor and those that will be handled electronically. Manual trades won't necessarily get the best price currently available under the new rules. The other major change entails preparing for so-called sweep orders, which will quickly be sent across markets to get good prices when various exchanges have shares to buy or sell at a price that benefits investors."

Sarbanes-Oxley Said To Have Increased Class Action Suits. The Wall Street Journal (1/7, 2.11M) editorializes, "Should Congress ever take a break from congratulating itself on passing Sarbanes-Oxley, it might take a look at a new study released this week about the number of companies sued in securities class actions last year. The Members might then want to think about moving their money into bonds. At first glance, the study from Stanford University and Cornerstone Research seems to be good news, noting that the number of class-action suits filed in 2005 dropped to 176 from 213 in 2004 -- a 17% decrease. … So what then accounts for those 176 suits? Try . . . Sarbanes-Oxley. It appears the tort bar is now using the law's strict financial-reporting requirements as its latest excuse to sue. A whopping 89% of the suits alleged misrepresentations in financial documents, while 82% claimed false forward-looking statements. Lawyers have certainly used financial documents as a reason to sue in the past, but this year's notable uptick in the number of suits filed that cite this cause of action suggests that the tort bar has found a whole new line of business."

CRIMINAL LAW:

Cunningham Said To Have Worn A Wire. Time (1/7, Burger) reports that sources say ex-Rep. Duke Cunningham "wore a wire to help investigators gather evidence against others just before copping his own plea" to taking bribes. It is unknown who he met with while wearing the wire and it "is the source of furious -- and nervous -- speculation by congressional Republicans." K. Lee Blalack, a Cunningham lawyer, "refused to confirm or deny the story," and "an FBI spokesman declined comment."

Politicians React To Abramoff Scandal By Proposing Lobbying Reform. Knight Ridder (1/7, Thomma) reports, "Politicians fearing fallout from Abramoff's criminal excesses now insist that they have to make the rules tougher." Although "Abramoff violated all the rules, many members of Congress say the solution to the scandal is to toughen them."

The AP (1/7, Abrams) adds, "Bills dealing with lobbying ethics that have been dormant for months are getting a new look as lawmakers digest the consequences of Abramoff pleading guilty to corruption and tax evasion charges, and his agreement to cooperate in an influence-peddling investigation that could taint dozens of members of Congress." House Republican leadership aides "said there was a good chance that lobbying legislation will get a vote this year."

Tribe Wants Politicians To Return Abramoff Contributions, Not Donate It. The AP (1/7, Gamboa) reports, "The Tigua tribe of El Paso wants campaign contributions it gave while employing disgraced lobbyist Jack Abramoff returned to the tribe, not given to charity. Arturo Senclair, governor of the tribe officially known as the Ysleta Del Sur Pueblo, said Friday that the tribe isn't demanding its donations back but that anyone returning money should check with the Tiguas first." Senclair says "the tribe needs that money," citing decreased federal funds and rising unemployment.

Feingold Returning Possibly Abramoff Associated Donations. The Milwaukee Journal Sentinel (1/7, Schultze, 266K) reports, "The campaign of Sen. Russ Feingold (D-Wis.) announced Friday it had returned four donations totaling $1,600 that Feingold had received from associates of disgraced lobbyist Jack Abramoff in 2002-'04" in order to "avoid even the appearance of a conflict," although the senator is "unaware of any connection between Abramoff and the donations to Feingold."

Charities Benefit From Divesting Of Abramoff Tainted Funds. The Washington Post (1/7, B3, Salmon, 744K) reports, "Charities in the Washington area and across the country are reaping the benefits of the Jack Abramoff case as legislators distancing themselves from the convicted lobbyist dump campaign contributions linked to him and donate the money to worthy causes." The charities argue there is "nothing wrong with accepting the money, despite its origins."

Tribes See Repeat Of Exploitation In Abramoff Misdeeds. The Washington Post (1/7, A1, Whoriskey, 744K) reports, "Led on by what they say were his false promises of political access, leaders of the Coushatta Tribe of Louisiana, which is based here, paid Abramoff and his partners about $32 million for lobbying and other services," but, "by their accounting, they got very little in return. It was thievery, tribal members said, that echoes the historic losses of Native

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Americans to European settlers." Even more "rankling to many Coushattas" than the monetary loss "is the knowledge that Abramoff had, in released e-mails, referred to some of his Native American clients as 'monkeys,' 'troglodytes' and 'morons.'"

FBI Arrests "Koreagate" Lobbyist On Oil-For-Food Charges. The New York Times (1/7, Preston) reports, "Tongsun Park, a lobbyist from South Korea who was a central figure in the Congressional bribery scandal in the 1970's known as Koreagate, was arrested yesterday in Houston on charges that he worked illegally to secure favorable treatment for Iraq under the United Nations oil-for-food program, federal authorities said." US Attorney Michael Garcia "announced that Mr. Park was arrested in Houston by F.B.I. agents, but provided no information about how he was found." The Times notes that a new indictment unsealed Friday alleges, "Park began working with an Iraqi-American businessman, Samir Vincent, as early as 1992 to represent the interests of Saddam Hussein's government in negotiations at the United Nations to set up the program. … The complaint says that Mr. Park was paid at least $2 million, most of it in cash, by the Iraqi government. Much of the cash was delivered to Mr. Park in New York in Iraqi diplomatic pouches, the complaint says."

Reuters (1/7, Trotta) reports Park "was arrested…on accusations of acting as an unregistered agent of Saddam Hussein's former government among others charges," as well as "conspiring to commit wire fraud and to launder criminal proceeds. 'Park actively lobbied U.N. officials to establish the program, while extracting millions of dollars from profiteering Iraqi officials,' the FBI chief in New York, Mark Mershon, said in the statement. Mershon called the oil-for-food program 'a cash cow masquerading as humanitarian aid.' The U.S. authorities say Park met in 1993 with the high-ranking U.N. official at his Manhattan apartment to set the terms of the program. That meeting included an unnamed collaborator who is now cooperating with the investigation."

The Houston Chronicle (1/7, Ivanovich, Fowler) reports, "Park was arrested in Houston around noon, New York FBI spokeswoman Christine Monaco said. Bush Intercontinental Airport was Park's entry point into the United States. But Monaco could not say where Park was coming from or where he was headed. Park was brought to the Federal Detention Center in downtown Houston, where he will stay until an appearance Monday before a U.S. magistrate judge." The Chronicle adds that Mershon "said Park was 'instrumental in the corruption of the U.N. Oil-for-Food Program, which ultimately proved to be a cash cow masquerading as a humanitarian aid program.'" BBC News (1/6) also notes Mershon "said Mr Park 'actively lobbied' UN officials to set up the oil-for-food scheme, while ensuring he was handsomely rewarded for doing so by Iraqi officials. … The programme was 'a cash cow masquerading as humanitarian aid', said Mr Mershon."

The AP (1/7) and The (UK) Daily Telegraph (1/7, Sherwell) also report Park's arrest, as does The Washington Post (1/7, A18) in "Nation in Brief."

Former Chicago Forestry Official Expected To Plead Guilty In Hired Truck Probe. The Chicago Tribune (1/7) reports, "A former supervisor in the city's Department of Streets and Sanitation is expected to plead guilty in federal court to obstructing justice for directing an underling to lie to federal agents, his lawyer said Friday. Attorney Barry Pechter declined to say, however, if Bruno Bertucci, formerly with the Bureau of Forestry, has been cooperating with federal authorities. In September Bertucci was accused in a criminal complaint of sharing in a $5,000 bribe for arranging for the removal of two healthy trees in the way of a construction project in Lincoln Park in 2004. … The charges were an offshoot of the ongoing probe of the city's scandal-ridden Hired Truck Program." The Tribune notes, "A member of the crew sent to remove the trees later cooperated with the FBI and secretly tape-recorded a meeting in which Bertucci told him to lie to federal agents, according to the charges."

SCOTUS To Hear Search Case. The New York Times (1/7, Greenhouse) reports, "The Supreme Court agreed on Friday to try to define, more precisely than in the past, the emergencies that can justify a warrantless police entry into a private home." The Times continues, "The case is an appeal filed by the State of Utah from a Utah Supreme Court decision early last year that four Brigham City police officers violated the Fourth Amendment's prohibition against unreasonable search and seizure by entering a home to break up a fight.:" The Times adds, "The police, who went to the home in response to a neighbor's complaint about a loud party, did not have a warrant and did not announce their presence before walking through an open back door. They arrested three occupants for disorderly conduct, intoxication and contributing to the delinquency of a minor by allowing a teenager to drink. … The Utah trial court, appeals court and Supreme Court all ruled that the evidence of alcohol consumption could not be introduced at trial because of the illegal police entry."

The AP (1/7) reports, "States supporting Utah in the case are Alabama, Arizona, Colorado, Delaware, Hawaii, Kansas, Michigan, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Oregon, Vermont and Washington."

Maryland Governor's Plan Would Toughen Sex-Offender Laws. The Washington Post (1/7, B2, Mosk)

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reports, "Maryland Gov. Robert L. Ehrlich Jr. has produced a plan to combat sexual predators that would dramatically increase the number of convicted sex offenders who must submit to lifetime electronic monitoring." The Post continues, "Ehrlich presented the package of initiatives yesterday, saying he will institute some of them on his own and bring several others to legislators when they convene Wednesday for the start of the General Assembly session." The Post adds, "The Republican governor laid out his plans at Glendale Elementary School in Anne Arundel County, a school that was recently in the news when a quick-thinking secretary used the state's online registry to identify a man lurking on school property. She quickly alerted authorities, and he was arrested. … Among Ehrlich's proposals will be one that makes it illegal for a convicted child sex offender to enter school grounds without permission, or live within 1,000 feet of a school or day-care facility. … The governor's plan adds to a mix of get-tough proposals, including several from Democrats, that are headed for the legislature. All of them have drawn the attention of the American Civil Liberties Union, which plans to review them for constitutional concerns. … Ehrlich acknowledged yesterday that he expects resistance from civil libertarians but compared the trade-off to the one made when Congress passed the Patriot Act."

Mob Informant's Widow Sues Over Alleged FBI Agents' Complicity In Murder. The AP (1/8, Hays) reports, "No one disputes that Nicholas Grancio died in a gangland-style shooting. But a lawsuit filed by Grancio's wife, Maria, and an investigation by state prosecutors have renewed questions about whether the gangster who ordered his killing in broad daylight more than a decade ago had an unlikely ally: an FBI agent. The lawsuit, filed Friday, alleges that R. Lindley DeVecchio called off a surveillance team that was tailing Grancio in 1992 at the request of his trusted Mafia informant. … The case 'is about the corrupt and unlawful relationship between law enforcement and a ruthless killer and career criminal that went unchecked for years and led to the cold-blooded murder of a man,' court documents say." The AP adds, "Named as defendants are DeVecchio and a current FBI agent, Christopher Favo. The lawsuit, which seeks unspecified damages, alleges that Favo, at DeVecchio's direction, ordered the surveillance team to retreat." The Washington Post (1/8, A10) runs a truncated version of the AP story in "Nation in Brief."

New York Hit Man Claims FBI Agent Tied To Mob Slaying. The New York Daily News (1/7, Martinez, Sherman) reports, "Stone-cold mafia hit man Larry Mazza said he always knew his boss had a direct pipeline to law enforcement - he just didn't know it was an FBI agent." The News continues, "Mazza told the Daily News yesterday that he has agreed to tell a Brooklyn grand jury everything he knows about the relationship between his boss, Greg Scarpa, and FBI agent Lindley DeVecchio." The News adds, "Scarpa would have numerous conversations with an unnamed law enforcement snitch, whom Scarfa referred to as his 'girlfriend,' recalled Mazza, standing outside his Florida condo. … 'I didn't know who it was at the time,' said Mazza, now a personnel trainer and fitness buff. … 'We knew it was law enforcement and that's all we knew,' Mazza, 45, told The News. … 'The way it was done, we would pull over to phone booths. We used cell phones and two-way radios to be in contact with DeVecchio. It was a constant back and forth,' he said. … Those alleged conversations between Scarpa and DeVecchio are a focal point of the Brooklyn district attorney's probe into whether DeVecchio helped Scarpa murder rivals during the Colombo crime family's bloody civil war in the early 1990s."

Rowland Probe Reportedly Targets Anson. The AP (1/6) reports, "Federal prosecutors who sent former (Connecticut) Gov. John G. Rowland to prison are investigating whether a former public works commissioner lied under oath during the Rowland probe, The Associated Press has learned." The AP continues, "Investigators recently informed Tunxis Plantation, a Farmington country club, that they are preparing grand jury subpoenas for two of its employees, according to a person directly involved with the matter who spoke on the condition of anonymity because grand jury matters are secret by law." The AP adds, "Prosecutors plan to ask if former DPW Commissioner Theodore Anson golfed for free at Tunxis or received any other benefit from the company and compare those answers to Anson's grand jury testimony from the Rowland investigation, the source said. Beginning in 2003, Anson testified multiple times in the corruption investigation. … The Justice Department… declined comment but Assistant U.S. Attorney Nora Dannehy has said that investigators have not closed the book on corruption in the Rowland administration."

Warner Orders DNA Testing To Determine If Executed Man Was Innocent. Both CBS and NBC ran segments on Virginia governor Mark Warner's decision to do DNA testing to determine if an innocent man was executed in 1992. CBS included an interview with the governor. ABC's World News Tonight (1/6, story 6, 3:00, Vargas) reported, "Virginia's governor Mark Warner has taken the extraordinary step of ordering DNA tests to determine if a man executed for murder was, in fact, innocent. Since 1993, 14 death row inmates have been cleared by sophisticated DNA testing. The Virginia case marks the first time the test could exonerate someone already put to death."

The CBS Evening News (1/6, story 7, 2:00, Stewart) reported, "It's been 13 years since the state of Virginia

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executed Roger Keith Coleman. It's now only a matter of days before they find out whether they killed the wrong man. New DNA testing could make Coleman, convicted of murdering his sister-in-law, the first man in the United States cleared by genetic testing after his execution. Outgoing governor Mark Warner ordered the tests as well as new tests on potentially thousands of other cases because he said, new science demands it." Gov. Mark Warner: "In my mind it was the only morally justifiable thing to do."

The Washington Post (1/7, A10, Glod, 744K) reports, "Forensic scientist Edward Blake kept vials of genetic evidence from the 1981 rape and murder of a young Virginia woman in a refrigerator at his California laboratory for more than 15 years. He even ignored a judge's order to send the samples back to Virginia because he feared they would be destroyed. … Ellen Qualls, a Warner spokeswoman, said yesterday that the samples Blake preserved are the only evidence known to remain in Coleman's case. Other evidence -- including blood-drenched clothing and other samples from the victim's body -- could not be located by Virginia State Police, Qualls said. Virginia law does not require evidence to be saved after an execution."

SCOTUS To Hear Death Row Inmate's Appeal Based On DNA Evidence. The Washington Post (1/7, A1, Lane, 744K) reports, "It has been nearly two decades since the body of Carolyn Muncey was discovered under some brush. … Not long after her slaying, authorities charged Paul Gregory House, a paroled rapist from Utah who lived nearby, with her murder. In February 1986, a local jury convicted him and sentenced him to death. Long after the trial, DNA tests were performed on Muncey's clothes. They proved that body fluids on the clothes belonged not to House, as authorities believed and told the jury, but to the victim's husband, Hubert Muncey Jr. On Wednesday, the Supreme Court will hear oral arguments in House's case, the first in which a death row inmate has come to the high court with DNA evidence claiming innocence. The justices' intervention takes place at a time when DNA evidence may be changing the way Americans think about criminal justice, including the death penalty; last week Virginia Gov. Mark R. Warner (D) ordered DNA testing in the case of a man executed in 1992, to see whether he was wrongly put to death."

CIVIL LAW:

SCOTUS To Hear Several Important Business-Related Cases. The Wall Street Journal (1/7, Anderson, 2.11M) reports, "The Supreme Court's business docket has mushroomed into a formidable set of cases with the potential for a big financial impact on corporations and the way companies handle legal disputes. The beefed-up docket has evolved since the Supreme Court began its 2005-06 term in October, when the justices had granted only a few business-related appeals. Since then, the high court has agreed to hear several high-profile cases that, depending on how the justices rule, could have a major impact on the business sector. … The biggest cases include appeals on the constitutionality of state and local business-incentive tax credits, standards for civil racketeering lawsuits against corporations, rights of health-insurance companies to sue to recover costs from third parties and standards for patent injunctions in technology-innovation disputes. Other important issues on the docket deal with securities lawsuits, arbitration, wetlands regulation, campaign-finance spending, bankruptcy and employer retaliation."

CIVIL RIGHTS:

Florida Courts Ruling Against Vouchers Compared To Segregation. The New York Times (1/7, 1.19M) John Tierney writes, "Democrats once went to court to desegregate schools. But in Florida they've been fighting to kick black students out of integrated schools, and they've succeeded, thanks to the Democratic majority on the State Supreme Court. The court's decision on Thursday was a legally incoherent but politically creative solution to a delicate problem. Ever since Florida's pioneering statewide voucher program began, Democrats have been struggling to deal with the program's success.'

Attorney Decries Attorneys' Fees In Wal-Mart Bias Case. In an op-ed in the Wall Street Journal (1/7, Eric S. Dreiband, an attorney at Akin Gump Strauss Hauer & Feld who served as general counsel of the Equal Employment Opportunity Commission from 2003 to 2005, writes, "Sometimes 'rough justice' becomes injustice. Dukes v. Wal-Mart, the largest employment discrimination case in American history, is such a case. It threatens to deprive millions of women of the protections of the civil rights laws, and to deny due process both to victims of sex discrimination and to Wal-Mart. Congress should enact legislation that clarifies the standards that govern in civil rights class actions so that these injustices do not happen again. If Congress fails to act, class action cases like Dukes, will continue to enrich class action lawyers and to deny civil rights protections to millions of Americans." Dreiband continues, "The Dukes case was brought in a San Francisco federal court by six women on behalf of an estimated 1.5 to 1.7 million women who are former or current Wal-Mart employees. The plaintiffs allege that the corporation engages in a 'pattern or practice' of sex discrimination in pay and promotions against women who have worked in Wal-Mart stores since 1998. In 2004, U.S. District Judge Martin Jenkins certified the case as a class action, based on the theory -- really, a complete fiction -- that

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these six individuals could speak for millions of women they do not know, have never met, and will never meet." Dreiband adds, "In the more than four years since the plaintiffs filed the case, one story after another has purported to describe how Wal-Mart engages in widespread sex discrimination against women. The plaintiffs, however, have not proven that Wal-Mart violated their civil rights or anyone else's, and probably never will, because federal courts are divided about the standards that govern employment discrimination class actions and the law is in disarray. Accordingly, the case will almost certainly be settled before a jury hears one word of testimony, as Wal-Mart seeks to avoid the uncertainty of continued litigation. … And then, of course, there is the issue of attorneys' fees. The lawyers who brought the case stand to make hundreds of millions of dollars, perhaps more, while each class member will receive a small amount. Consider, for example, a settlement of $2 billion. This is a staggering sum, but, given that Wal-Mart's exposure exceeds $500 billion, a $2 billion settlement would be less than one-half of 1% of the amount sought. Each class member would, on average, receive less than $1,200." Dreiband concludes, "The district court described this as 'rough justice,' proclaiming that it was 'better than the alternative of no remedy at all for any class member.' The better approach, however, is justice for actual victims of discrimination, not a system that requires an employer to throw trivial amounts of money at millions of individuals and hundreds of millions of dollars or more at a few lawyers. This kind of 'rough justice,' under which any real victim loses her right to bring her own case for real justice while the lawyers become wealthy and move on to their next class action, makes a mockery of the civil rights laws. Congress should put a stop to this."

Florida Governor Names Prosecutor For 1964 Racial Slaying Case. The St. Petersburg Times (1/7, Heller, Brink) reports, "The long legal road in the 1964 killing of Johnnie Mae Chappell took another turn on Friday when Gov. Jeb Bush assigned a special prosecutor to the case." The Times continues, "Bush's decision comes despite another finding from the Florida Department of Law Enforcement that it would not be viable to bring new charges. … Bush assigned William Cervone, the state attorney for the 8th Circuit, which includes Gainesville, for one year. Cervone can request more time if he needs it." The Times adds, "The move encouraged Chappell's youngest son, who has tried for years to persuade authorities to charge three men in the killing. … 'The family is gratified that there's going to be a fresh look at the case by a special prosecutor,' said Robert Spohrer, whose high-profile Jacksonville law firm is representing Shelton Chappell for free. 'We hope that another grand jury will be convened because the first grand jury in 1964 found four men indictable in this case, and we have the same evidence today.'" The Times notes, "Bush's decision perplexed Duval County State Attorney Harry Shorstein, who had jurisdiction over the case. It is rare for a governor to involuntarily remove a state attorney from a case. … 'In my judgment it is outrageous to relieve someone who has as strong a record of civil rights prosecution and trial advocacy ... as I have exhibited in my career,' Shorstein wrote in a statement. … Mrs. Chappell, a black woman, was shot and left to bleed to death as she walked home from work as a maid for a white family. The killing came during riots in Jacksonville in March 1964 as black protesters demonstrated at hotels and restaurants." … A grand jury indicted four suspects on first-degree murder charges, but only one went to trial. A jury convicted the confessed shooter, J.W. Rich, of manslaughter, and he spent three years in prison."

DOJ Approves Changes To Louisiana Election Laws. The New Orleans Times-Picayune (1/7, Anderson) reports, "Elections law changes passed in last year's two legislative sessions have won approval from the U.S. Justice Department, including a measure to allow 'early voting' and another that would punish voter registration drive organizers who do not turn over the names of the new voters to local registrars within 30 days." The Times-Picayune continues, "Under the federal Voting Rights Act, Louisiana and other Deep South states must get federal approval to any changes in election laws or voting procedures to ensure that the changes are not racially discriminatory. … Jennifer Marusak, a spokeswoman for Secretary of State Al Ater, said the Justice Department blessing means the new laws can now be put into effect. Most were added to the books Jan. 1, but could not be implemented until federal officials approved." The Times-Picayune adds, "The 'early voting law' by Rep. Wayne Waddell, R-Shreveport, essentially repeals the statute requiring voters casting an absentee ballot to attest that they would be unable to vote in person on election day. … Officials said that many voters made up excuses for the sake of convenience. The six-day absentee voting period remains, beginning 12 days before the election."

ANTITRUST:

Alabama Hospice Groups Hit With Antitrust Suit. The Birmingham News (1/7, Faulk) reports, "A civil lawsuit claiming two hospice groups violated Alabama antitrust laws has been filed by a company that was denied state approval to build a 50-bed center for dying patients in Carbon Hill." The News continues, "West Walker Hospice Inc. filed the lawsuit Tuesday in Walker County Circuit Court against New Beacon Hospice and the Alabama Hospice Organization, its members and its executive director, David Stone." The News adds, "The lawsuit claims New Beacon

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and the Alabama Hospice Organization conspired to fix the price or limit the number of hospice beds for the terminally ill in the state. It accused them of restraining trade, or attempting to, and monopolizing or trying to monopolize hospice beds. … New Beacon, a nonprofit organization, is a ministry of Baptist Health System and St. Vincent's Hospital. Baptist Walker Medical Center, a part of the Baptist system, originally opposed West Walker's proposed center but later withdrew its objections in an agreement with West Walker. … West Walker is not suing Baptist because of that earlier agreement, the lawsuit says. But the lawsuit claims Walker Baptist was a co-conspirator with New Beacon and the Alabama Hospice Organization in attempting to restrict trade."

Ohio AG Not Interested In Fighting Newspaper Merger. The Athens (OH) News (1/7, Phillips) reports, "The Ohio Attorney General's office apparently will not try to interfere with a merger between two national alternative newspaper chains, though some observers fear the joining of the chains could eventually have fallout for media in our state." The News continues, "The Athens NEWS, while not directly affected by the marriage of Village Voice Media and New Times Media, has joined other independent alternative newspapers in expressing opposition to the merger. The deal creates a chain with newspapers in 17 major urban markets around the country. … 'It's further erosion of the diversification of media,' said NEWS Publisher Bruce Mitchell. 'The more chains that are formed, the less independent editorial voices there are. We're against the consolidation of media in general, and this merger specifically.'" The News adds, "The NEWS also has become a small part of the story, through an e-mail the paper sent to the Ohio AG expressing the paper's opposition. … In a letter to NEWS Editor Terry Smith on Dec. 6, Alan C. Witten, an attorney with Ohio Attorney General Jim Petro, responded to Smith's e-mail opposing the merger. … Smith sent the e-mail in response to a campaign by the San Francisco Bay Guardian, an alternative newspaper that opposes the merger and is trying to whip up opposition to it among independent alternative newsweeklies. … In his letter, Witten, an anti-trust attorney, noted that in 2003, Petro's office sued Village Voice Media and New Times Media over a deal the two chains had worked out to give each other alternative newspaper monopolies in two cities, Cleveland and Los Angeles. … Each chain ran a weekly alternative newspaper in each city, which competed with the other chain's paper there. The way the deal worked, New Times agreed to shut down its Cleveland paper, the Free Times, in exchange for Village Voice's closing down its Los Angeles paper. This left each chain as the sole publisher of an alternative newspaper in each city. … The Ohio AG investigated the case with help from the California AG and the U.S. Department of Justice. The lawsuit in Cuyahoga County Common Pleas Court was settled by a consent decree."

ENVIRONMENT:

Bush Administration Said To Have Relaxed Mining Regulations. Knight Ridder (1/7, Borenstein, Johnson, Mueller) reports, "Since the Bush administration took office in 2001, it has been more lenient toward mining companies facing serious safety violations, issuing fewer and smaller major fines and collecting less than half of the money that violators owed, a Knight Ridder Newspapers investigation has found. At one point last year, the Mine Safety and Health Administration fined a coal company a scant $440 for a 'significant and substantial' violation that ended in the death of a Kentucky man. The firm, International Coal Group Inc., is the same company that owns the Sago mine in West Virginia, where 12 workers died earlier this week. The $440 fine remains unpaid. Relaxed mine safety enforcement is widespread, according to a Knight Ridder analysis of federal records and interviews with former and current federal safety officials, even though deaths and injuries from mining accidents have hovered near record low levels in the past few years."

Investigators Continue To Analyze Mine Disaster. CBS and ABC both began their broadcasts with in-depth coverage of this week's mine disaster. ABC included an investigative report on the mine's safety violations and interviewed prominent financier Wilbur Ross, whose company International Coal Group, bought the Sago mine two months ago. ABC's World News Tonight (1/6, lead story, 5:30, Vargas) reported, "Families have claimed their loved one's bodies and union officials have said the mine was not operating safely. Federal investigators are on the scene. They are examining allegations of safety problems and they're looking into why it took 90 minutes for anyone at the mine to call for help. There is also new evidence about what may have caused that initial explosion." ABC went on to report, "Since the deadly accident in the mine there have been many questions about the people who own the Sago mine and how they operated it. A company called the International Coal Group took over the Sago mine only two months ago. But it appears its billionaire chairman was well aware of the mine's extensive safety problems."

The CBS Evening News (1/6, lead story, 3:00, Schieffer) reported, "As the families prepare to bury their dead investigators are honing in on just why this accident happened, and if, in fact, the miners could have been saved after the explosion that sent the poison gas spewing in the mine."

NBC Nightly News (1/6, story 2, Williams) reported. "The company says it notified state and federal authorities

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within 45 minutes. But they say they will look at that timeline and see if time would have made a difference."

The New York Times (1/7, A1, Dao, Barringer, 1.19M) reports, "As state and federal investigators began a sweeping investigation of the accident, they have begun grappling with some of the most perplexing questions to have been raised about mine safety in memory."

FBI/DEA/ATF/USMS:

ATF Probes Virginia Gun Thefts. The Charlottesville (VA) Daily Progress (1/6, McKenzie) reports, "The Albemarle County (VA) police and the U.S. Bureau of Alcohol, Tobacco and Firearms are investigating the Thursday morning theft of $7,000 worth of handguns from an Albemarle County store." The Daily Progress continues, "The joint probe began Thursday afternoon after police officers responded to a burglar alarm at Mountain River Outdoors on U.S. 29. … 'The officer responded at about 4:15 a.m. and discovered the side door had been forced in and an audible alarm,' said Lt. John Teixeira of the county police. 'There were 13 handguns taken of a variety of sizes, from .22-caliber to 9mm and .40-caliber weapons.'" The Daily Progress adds, "A county K-9 officer arrived with a police dog but officers could not find any suspects, Teixeira said. … ATF agents are joining the county in the investigation and are offering a $5,000 reward for information that leads to an arrest and conviction, Teixeira said."

Stricter Federal Gun Access Laws Urged. In an op-ed in the Boston Globe (1/7), John Rosenthal, cofounder of the groups Stop Handgun Violence, Common Sense About Kids and Guns, and the American Hunters and Shooters Association, writes, "Given the huge number of easily accessible and virtually unregulated guns in the United States, it is surprising there aren't more than 30,000 gun deaths and 100,000 gun injuries each year. Most US cities have experienced an increase in gun violence, and this deadly trend is likely to continue until we enact uniform national gun laws that address easy access to guns by criminals and confront race, poverty, and the lack of economic opportunity in our poorest neighborhoods." Rosenthal continues, "Although Massachusetts has enacted one of the most effective gun violence prevention laws and initiatives in the country, it is surrounded by states where it's easy to buy and sell guns. Moreover, the federal government has allowed easy access to guns and actually restricts law enforcement's ability to reduce the number of gun traffickers. Indeed, there are no federal minimum mandatory gun trafficking statutes, and the US Justice Department requires that the FBI destroy National Instant Check gun purchase records after 24 hours -- making it nearly impossible for police to track gun traffickers and illegal multiple gun sale patterns. This is largely due to the influence of the National Rifle Association and the gun lobby over Congress and the Bush administration. As a result, what few national gun laws that do exist are rendered useless. Sadly, law enforcement is unnecessarily at risk because criminals have easy access to more powerful weapons than police are issued." Rosenthal adds, "So what's the answer to gun trafficking and the increasing gun violence in urban centers? … The federal government must enact uniform gun laws similar to what has worked in Massachusetts. … The federal government must also create economic opportunities, job training, and mentoring programs and close the 'equity' gap for the poor urban neighborhoods where virtually all the gun violence and gang activity take place. … These solutions require the political will and courage to stand up to the greed, ignorance, and shortsightedness of the gun lobby and their supporters in Congress and the White House. We must recognize that if gun violence were killing mostly suburban white kids and not urban kids of color, there would be an uproar that Congress and the president could not ignore. There should be an uproar to quiet the sound of gunshots in our inner cities."

IMMIGRATION:

Poll Finds Georgians Support Stricter Immigration Laws, Guest Worker Program. The Atlanta Journal-Constitution (1/7, Campos, 430K) reports, "Do something about illegal immigration. That's the message Georgians are sending to state lawmakers, through a new poll conducted for The Atlanta Journal-Constitution. A majority of Georgians want the Legislature — which convenes on Monday for its annual session — to tackle the issue, the Zogby International poll indicates. Georgians support a high-profile legislative plan to bar illegal immigrants from receiving state services, and a strong majority — 80 percent — want employers who use illegal immigrants to be punished. But Georgians also support a federal proposal to create a guest worker program that would allow illegal immigrants to work in the United States for a fixed period, the poll found.' … Seventy-two percent of respondents said they support a temporary worker program that would require illegal immigrants to register with the government in order to hold jobs in the U.S. on a limited basis."

TAX:

Court Shuts Down Arizona Tax Firm. The Arizona Republic (1/7, Wagner) reports, "A husband and wife in Mesa (AZ) have been ordered to shut down their tax preparation business and provide information to the government on more

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than 250 clients who received unwarranted refunds from the Internal Revenue Service." The Republic continues, "U.S. District Judge David Campbell issued a permanent injunction against Beverly J. and Darrell J. Hill, proprietors of Superior Claims Management, according to a Justice Department news release." The Republic adds, "The Hills are accused of operating an Internet site, www.getmytaxesback.com, that recruited customers by offering to recover previously paid taxes. … A Justice Department complaint said they filed phony returns to obtain more than $1.2 million in refunds for clients, who paid a 25 percent fee for the service."

CONGRESS-ADMINISTRATION:

Seven Federal Judges To Testify On Behalf Of Alito. The New York Times (1/7, Stolberg, 1.19M) reports, "In an unusual move, Senate Republicans have called seven federal judges, all of them colleagues of Judge Samuel A. Alito Jr. on the United States Court of Appeals for the Third Circuit, to testify as character witnesses for him next week at his Supreme Court confirmation hearings. It is rare for sitting federal judges to testify on behalf of judicial nominees, not to mention a Supreme Court nominee. Rarer still is the appearance of an entire panel of judges." The Times notes, "The judges' testimony could shed light on one area of controversy, Judge Alito's failure to recuse himself from cases involving Vanguard, a mutual fund company that manages his investments, as he had earlier pledged to do. One judge, Judge Edward R. Becker, said he intended to raise the Vanguard issue.

The AP (1/7, Espo) reports, "The decision also raises the possibility that Democrats on the panel will be able to question Anthony J. Scirica, chief judge of the 3rd U.S. Circuit Court of Appeals, about instances in which Alito participated in cases involving an investment company despite once having promised to avoid them."

The Washington Post (1/7, A5, Babington, 744K) reports Senate Judiciary Committee Chairman Arlen Specter " said yesterday that he agreed to allow the judges…to address the panel because they can speak to some of the most contentious issues surrounding the nominee. 'They will testify about his approach to judging, as to whether he has an agenda, as to whether he is ideological, whether he pushes any specific point of view,' Specter said in an interview." The Post adds, "Specter said he sees no conflict of interest for either Alito -- who, if confirmed, would review the rulings of the judges expected to praise him next week -- or for the judges, who might want warm ties with a Supreme Court justice able to rule on their decisions that are appealed to the nation's highest court."

Senators From Both Parties To "Grill" Alito On Executive Power Questions. Knight Ridder (1/7, Kuhnhenn, Henderson) reports Alito's confirmation hearings "will thrust him into a confrontation over whether a president can ignore Congress in the name of fighting terrorism. … Senators from both parties will grill Alito over the reach of executive power and the tension between national security and civil liberties. … Two days after Bush acknowledged the secret surveillance program, Specter was the first Judiciary Committee member to put Alito on notice in writing that he would be questioned about the limits of presidential power during times of war. Sen. Lindsey Graham, R-S.C., a Judiciary Committee member, also said he intends to focus questions on issues of executive power."

The AP (1/7, Holland), in a piece titled, "What To Expect From Alito Hearings," reports, "The questioning of Alito is likely to be more intense than it was in September for Chief Justice John Roberts since Alito would replace retiring Justice Sandra Day O'Connor, a moderate swing vote and the court's first female justice. Alito has been a federal appellate judge for 15 years and has written considerably more opinions than Roberts. … Alito also was clearer about his opinions on abortion than Roberts was as a young government lawyer."

Anti-Alito Groups To Run Ads In States With Centrist Democratic Senators. The AP (1/7, Espo) reports, "Republicans hold the upper hand in their drive to confirm Alito. GOP strategists have said they remain concerned about no more than three members of their own party as they look ahead to a final confirmation vote in the Senate, Sens. Lincoln Chafee of Rhode Island and Maine Sens. Susan Collins and Olympia Snowe. On the other hand, groups working to maximize opposition to Alito have indicated concerns about the intentions of six or more Democrats, most if not all of them from Republican-leaning states. Underscoring the concern, Independentcourt.org said that in addition to airing on cable television nationwide, its new ad would run in Arkansas and South Dakota, with three Democratic senators between them. Similarly, the group said it will run radio ads on African-American stations in Louisiana, which has one Democratic senator, as well as Arkansas."

Alito Opponents Protest In Florida. The Miami Herald (1/7, Olkon) reports, "With confirmation hearings for U.S. Supreme Court nominee Samuel Alito set to begin Monday, local leaders from the NAACP and the National Organization for Women met at the U.S. courthouse on Broward Boulevard to protest his candidacy." The Herald continues, "A coalition of liberal groups are campaigning to stop the federal appeals court judge from Philadelphia from taking the seat occupied by retiring Supreme Court Judge Sandra Day O'Connor. … 'Given Judge Alito's past indifference to the impact race and racism has on our society, the NAACP is firmly and formally opposing his nomination,' Fort Lauderdale NAACP President Marsha Ellison said Friday." The Herald adds, "During his tenure at the Justice

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Department in the 1980s, Alito wrote of an opposition to 'racial quotas.' … A Knight Ridder review of Alito's published opinions found that he seldom sided with an employee alleging discrimination. … Ellison was joined by Juvais J. Harrington, president of the Miami-Dade branch of the NAACP, Brad Brown, the political action chair of the NAACP in Miami-Dade and Bertha E. Smith, president of the Broward chapter of NOW. Smith said her primary fear is that Alito would work to reverse the 1973 Roe v. Wade abortion ruling."

Democrats Announce Their Witness List. Reuters (1/7, Ferraro) notes, "Democrats announced their list of witnesses on Thursday. They include include a constitutional law expert, a veteran civil rights lawyer and Kate Michelman, a former president of NARAL Pro-Choice America, an abortion-rights group. They also called John Flym, a retired law professor who represented a plaintiff who sued the mutual fund company Vanguard in a case that Alito helped handle in 2002.

Dujack Dropped As Witness. The Washington Times (1/7, Dinan, 90K) reports, "A freelance writer who compared the Holocaust to eating meat in a 2003 column was pulled yesterday from Senate Democrats' list of witnesses who they want to testify next week against Supreme Court nominee Judge Samuel A. Alito Jr. The move came just a day after Stephen R. Dujack was announced as a witness and hours after Senate Republicans and conservative bloggers attacked his credibility for writing that the way people treat animals was akin to Nazis' treatment of Jews. … Democrats had hoped Mr. Dujack, who like Judge Alito is a Princeton graduate, would highlight the judge's former membership in Concerned Alumni of Princeton, a group that Mr. Dujack said 'existed primarily to oppose the presence of women and minorities' at the university." Tracy Schmaler, a spokeswoman for Sen. Patrick Leahy "said in addition to removing Mr. Dujack, Democrats were adding two new witnesses: Rep. Debbie Wasserman-Schultz, Florida Democrat, and Theodore M. Shaw, president of the NAACP Legal Defense and Educational Fund, Inc."

Santorum, Dobson To Headline Pro-Alito Rally. The AP (1/7, Hefling) reports Sen. Rick Santorum and Focus on the Family founder James Dobson "will headline a rally Sunday for conservatives in Philadelphia one day before the start of confirmation hearings for Supreme Court nominee Samuel Alito. The Family Research Council, which is backing the event dubbed 'Justice Sunday III,' said on its Web site that organizers were defending religious liberty and 'raising the alarm over liberal secularists' attempts to expel prayer and people of faith from the public square.'"

The Philadelphia Inquirer (1/7, Stoiber, 423K) reports, "Ministers from Philadelphia, New York and Washington yesterday criticized plans by religious conservatives to hold a nationally broadcast rally tomorrow at an African American church on North Broad Street on the eve of confirmation hearings for Supreme Court nominee Samuel A. Alito Jr. The Rev. Barry Lynn, executive director of Americans United for Separation of Church and State in Washington and a United Church of Christ minister, called the gathering nothing more than 'a big play' by its conveners 'to gain control over the one branch of government they don't now control.'"

Alito's Background And Temperament Contrasted With O'Connor's. The AP (1/7, Holland) reports, "Supreme Court nominee Samuel Alito and Justice Sandra Day O'Connor have starkly different backgrounds and personal styles -- and views on major issues. … She's a former politician, known for her social skills and feistiness. Alito, a former prosecutor, is reserved and scholarly.

Thernstrom Defends Alito's Record On Voting Rights Cases. In an letter to the editor of the New York Times (1/7, 1.19M) Abigail Thernstrom, vice chairwoman of the United States Commission on Civil Rights, writes, "In 'Question for Alito: What About One Person One Vote?' (Editorial Observer, Jan. 3), Adam Cohen depicts questioning the one-person-one-vote principle as 'a radical position,' and suggests that perhaps Judge Samuel A. Alito Jr. is 'an elitist' and 'antidemocratic.' And yet Justices Felix Frankfurter and John Marshall Harlan - no 'radicals' - both expressed deep misgivings about the Warren Court's mid-1960's apportionment decisions. The Constitution said nothing about mathematically equal districts. … Nevertheless, one person one vote is now settled law, as Judge Alito has said. Mr. Cohen argues that a Justice Alito might be able to 'forge a conservative Supreme Court majority to overturn the reapportionment cases.' The notion that either he or any other members of the Court would now move to undo the reapportionment revolution is fanciful - and irresponsible."

Kennedy Previews His Questions For Alito. In an op-ed for the Washington Post (1/7, 744K) Se. Edward Kennedy writes, "As Judge Samuel Alito approaches his confirmation hearings next week, the more we learn about him, the more questions we have about the credibility of his assurances to us." Kennedy specifically mentions Alito's DOJ "job application" from 1985, his membership in Concerned Alumni of Princeton and his "failure to recuse himself in the Vanguard case." Kennedy concludes, "'Credibility' has rarely been an issue for Supreme Court nominees, but it is clearly a major issue for Alito."

Liberals Encouraged To Not "Bork" Alito. In an op-ed for the New York Times (1/7, 1.19M) attorney Caren Deane Thomas writes, "When I recently received an invitation to a reunion of my Yale Law School class, it stirred memories of the astounding group of students I found when I arrived there in 1972. Bill and Hillary Rodham Clinton are the most famous, of course, but my classmates also include someone else who has made news lately: Sam Alito. When Judge Alito was nominated to the United States Supreme Court, my fellow alumni began contacting one another, contemplating

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the elevation of one of our own to the highest judicial dais in the land. Sam was remembered fondly and with admiration. But an issue of conscience emerged - namely, whether respect for Sam could be squared with the deep qualms many of us feel about the Bush administration and its failings. One classmate sent out an anguished e-mail message begging us to fight at all costs a nomination born of such a regime." Thomas concludes, "The president took the high road on this nomination. He juggled his politics and his public relations, and while I don't like either, I have to be grateful for the quality of lawyer, and individual, who emerged as the nominee. We have to decide whether the unfortunate tradition begun with Robert Bork's nomination should be continued indefinitely or whether, with the wisdom of hindsight, we exhume it only when absolutely warranted. Liberals among us have got to get real - to press for the finest jurists a conservative administration is willing to offer, and to spend our capital in that pursuit."

Alito Compared To Brandeis. In an op-ed for the Wall Street Journal (1/7, 2.11M) Princeton professor Ken Kersch writes on Woodrow Wilson's nomination of Louis Brandeis. According to Kersch, "The parallels between President Bush's nomination of Samuel Alito and Wilson's nomination of Brandeis, while not perfect, are instructive. The charges that the nominee has strong ties to a political movement, ties that will render him 'biased' in cases involving the most contentious issues he is likely to face, leaves today's Republicans nonplussed -- just as they did the Democrats in Wilson's day."

WPost Praises Some Of Alito's Dissents. The Washington Post (1/7, 744K) editorializes, "the many dissents of Judge Samuel A. Alito Jr. offer an unusual window into his judicial personality. In political terms, a preponderance of them are ideologically predictable -- that is, there are many cases in which Judge Alito takes an approach that would yield results more conservative than those reached by his colleagues and few in which he dissents from the left. In legal terms, his work is careful and measured, and while we disagree with his analysis in some cases, in others it seems admirable. … Judge Alito's dissents are not the work of an unblinking ideologue. He dissented, for example, on behalf of a race discrimination claimant concerning the length of a statute of limitations and on behalf of a claim of federal jurisdiction under a consumer protection law. He dissented on behalf of the plaintiff in a medical malpractice lawsuit in which the defendant doctors argued that the victim of their error, who died as a result of their advice, was foolish to follow it -- a moving rebuke to colleagues who overturned a jury verdict in her favor. Judge Alito's dissents offer much with which we disagree. But they are the work of a serious and scholarly judge whose arguments deserve respect -- a respect evident among his colleagues even when their positions differ."

Bush Credits Economic Agenda For Strong Economy. President Bush and a number of other top Administration officials launched a nationwide effort touting the Administration's economic policies and crediting them with recent positive economic developments. Media reports on the economy were generally positive. According to the Labor Department the US added 108,000 jobs in last month and the unemployment rate edged down to 4.9 percent. That job creation was much lower than expected, but the Labor Department also said the US added far more jobs in November, 305,000, than it had estimated. The Administration's efforts were widely reported in major US newspapers where Administration officials visited, but local and national TV coverage was limited. Both CBS and ABC paired the news concerning the unemployment rate in the US with reports on IBM's decision to drop its defined-benefit pension plan.

The CBS Evening News (1/6, story 2, 2:00, Schieffer) reported, "Many people are discovering that those new jobs do not come with everything they used to." CBS added, "Overall the economy added more than 400,000 jobs in November and December. Touring the Chicago board of trade today the President was crowing about those numbers." President Bush: "In 2005 the American economy turned in a performance that is the envy of the industrialized world." CBS continued, "But the jobs you find aren't likely to come with the benefits workers have taken for granted. IBM which funds the country's third largest corporate pension plan is the latest major company to freeze pension benefits for its U.S. employees. Big Blue will offer them only a 401 k plan after 2008. While the President said today…" President Bush: "We've got to have a private pension system that is fully funded." Bill Cheney, Chief Economist at John Hancock: "There is no guarantee the job you are in is going to last or even that the employer will survive."

The New York Times (1/7, Andrews, Stevenson, 1.19M) reports, "The United States generated about 200,000 new jobs a month in the last part of 2005, a healthy pace that President Bush immediately used on Friday as part of a broader campaign to promote his economic record and agenda of tax cuts, tighter limits on government spending and more trade." He "and his top team spread out across the country on Friday to celebrate what administration officials see as a largely unappreciated success amid gloomy news about the war in Iraq, criminal investigations into prominent Republicans and a sense among many people that the economy is not as good as the numbers say it is." Bush cited "data not only on job creation, but also on gains in productivity and homeownership. Then, he used his appearance to demand that Congress extend his major tax cuts on wages and on dividends, capital gains and estate taxes."

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The Chicago Tribune (1/7, Silva, Pearson, 643K) reports, "Attempting to make the most of mixed economic progress, President Bush came to Chicago on Friday with an impassioned pitch for the tax cuts he secured during his first term and a demand that Congress make those cuts permanent."

The Washington Post (1/7, A3, Vandehei, Henderson, 744K) reports, "The figures offered a well-timed boost to President Bush, who touted them here in his latest outing in a campaign to convince Americans that his tax and budget policies are working, despite polling that shows widespread unease about the economy." But Democratic lawmakers "said the unease is justified, noting that job growth in December was slower than many economists expected and citing Labor Department data showing that, for the average worker, prices are rising faster than wages." He "did not unveil any new policies but called on Congress to make permanent many of the tax cuts enacted during his first term and to cut spending more."

The Wall Street Journal (1/7, McKinnon, 2.11M) reports, "To make sure no one missed the point, the White House dispatched 23 other administration officials to do the same thing around the country." The "extraordinary" effort was "aimed at closing what the White House views as a troubling disconnect between the robust U.S. economy and many ordinary Americans' wariness. That is especially worrisome to Republicans as they head into a congressional election year when jobs, immigration, health care and pensions are likely to be big issues." The Administration officials traveled across the country "to reassure Americans on their economic worries. But as their itineraries suggested, there are still a lot of sources of concern, despite strong growth and employment numbers."

The Atlanta Journal Constitution (1/7, Herman) in an article titled "December Job Tally Disappoints" reports, "Ruy Teixeira, senior fellow at the Century Foundation, in an analysis of the 2006 challenges facing Bush, noted that recent polls showed that six in 10 Americans rate the nation's economic condition as fair or poor. And more than half see it as a bad time to find a good job." But Deputy Treasury Secretary Robert Kimmitt in Atlanta "touted the economy's performance and discounted worries about a threat coming from a popping 'bubble' in housing." Kimmitt said, "It merits attention, but it does not merit concern."

The Los Angeles Times (1/7, Gerstenzang, Havemann, 958K) in an article titled "Job Growth Sluggish as Bush Trumpets Economy" notes that "polls indicate that a majority of Americans do not share the president's enthusiasm." Experts "said the actual state of the economy lay somewhere between the administration's rosy account and the Democrats' gloomier one. 'The surprise,' said Sung Won Sohn, president and chief executive of Hanmi Bank in Los Angeles, 'has been the resilience the economy has shown despite the hurricanes, the jump in oil prices and higher interest rates.' But he found some bearish signs in Friday's report, including a decline in the total number of hours worked and a shrinking share of industries hiring new workers."

Focusing on how Bush used his speech on the economy to contrast his policies with Democrats, the Washington Times (1/7, A1, Sammon, 90K) in a front page story reports, "Bush yesterday mocked Democrats who falsely predicted his tax cuts would ruin the economy and cited new job creation numbers as evidence that the cuts should be made permanent." He "also took the unusual step of resurrecting a quote from House Minority Leader Nancy Pelosi…who predicted in May 2003 that the president's tax cuts would be cause economic disaster." Bush said, "She said, 'Today the Congress of the United States will vote on a reckless, irresponsible tax plan that will undermine opportunity in our country.' … Since that congresswoman had uttered those words, the economy has added more than 4.5 million new jobs."

Similarly, the AP (1/7, Loven) says Bush "opened a sharp election-year attack against Democrats, who he said would devastate the economy and turn back recent job gains by blocking free trade and raising taxes." He "pulled no punches." His "approval ratings on the economy remain low at 39 percent -- close to his record-lowest rating in November of 37 percent." Reuters (1/7, Zakaria) reports on Bush's economic speech and the AP (1/7) also publishes a brief list of quotes by Bush and top Administration officials on the economy and the Democrats' response.

The Pittsburgh Post-Gazette (1/7, Boselovic, 261K) reports, "The Bush administration moved quickly to seize the upper hand on yesterday's jobs news, focusing more on the two-month average than on December's sluggish job growth. President Bush -- in appearances in Chicago, where he touted tax cuts and other administration economic policies and attacked Democrats for opposing them -- proclaimed that December's employment report showed that the 'American economy heads into 2006 with a full head of steam.'" And Energy Secretary Sam Bodman "appeared at FedEx Ground's headquarters in Moon, where U.S. Reps. Melissa Hart, R-Bradford Woods, and Tim Murphy, R-Upper St. Clair, were hosting a regional summit on energy."

The Kansas City Star (1/7, Stafford, 286K) notes, "Various market analysts described the jobs picture as 'sturdy,' 'good,' and 'showing moderate growth.' The Bush administration seized on the report as more evidence that the economy was doing well."

The AP (1/7, Aversa) says "Bush, in speeches around the country, including an appearance in Chicago yesterday, has shifted into a campaignlike mode to shine a spotlight on the economy's good points."

Local newscasts occasionally reported on President Bush's speech in Chicago. The President was portrayed as

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pushing an optimistic view of the economy, although some stories said Mr. Bush was keeping attention off the conflict in Iraq. Some examples: KPNX-TV Phoenix (1/6, 5:09 p.m.) reported, "Shrugging off a weaker than expected jobs report, be President Bush headed to the Midwest today to talk about his economic agenda for the new year."

WBAL-TV Baltimore (1/6, 5:15 p.m.) reported, "President Bush and his economic team hit the road to try to pain a rosy picture of what he calls a strong economy." WVIT-TV Hartford (1/6, 5:27 p.m.) reported, "The President is pushing his plan to help the economy."

WAGA-TV Atlanta (1/6, 10:24 p.m.) reported, "President Bush shifted away from Iraq, speaking about the economy. The President expressed optimism about the economy based on the job growth numbers." KMSP-TV Minneapolis (1/6, 5:05 p.m.) reported, "He diverted the spotlight away from Iraq."

Administration Expected To Focus On Targeted Tax Cuts Rather Than More "Ambitious" Tax Reform. In a preview of the Administration's plans for Bush's 2006 economic agenda the Washington Post (1/7, A3, Vandehei, Henderson, 744K) in its coverage of Bush's speech also notes, "White House aides continue to fine-tune the policy agenda Bush will unveil later this month, constrained by politics and a tight budget for nonmilitary spending. Bush advisers have shelved plans for an ambitious tax reform agenda, fearing it would flop politically, but still plan to roll out a few new targeted tax and budget plans in the State of the Union address."

And the Wall Street Journal (1/7, Harwood, 2.11M) reports that to sustain his upward movement in the polls, "Bush will promote his tax-cutting policies as critical to keeping the economy humming. After the failed 2005 attempt at a bold overhaul of Social Security through private accounts, however, neither the White House nor congressional Republicans have much appetite for the sweeping tax-code changes they envisioned earlier. 'The mood will be for what's achievable,' says Rep. Roy Blunt. … That means action -- before the April 15 tax-filing deadline -- on extensions of previously enacted cuts in dividend and capital-gains taxes, and a fix in the alternative minimum tax to shield middle-income taxpayers." The President will also "emphasize budget discipline. … If Republicans can hold together on final passage of last year's deficit-reduction bill -- delayed by a Democratic parliamentary maneuver -- the administration will begin the process anew with its 2007 spending proposal in early February. White House Budget Director Joshua Bolten hasn't given up on curbing the entitlement programs of Medicaid, Medicare and Social Security. But true to the sober zeitgeist of the party of 2006, he adds, 'Those changes can be effected in increments.'" But most important "is progress on the Iraq war, which soured the public mood in 2005. Successful Iraqi elections have encouraged the White House enough to announce a modest troop drawdown. Republicans believe that whittling down the contingent of U.S. soldiers will buoy Mr. Bush's popularity."

Bush Seeks To Contrast Economic Policies With Democrats. And the New York Times (1/7, Andrews, Stevenson, 1.19M) notes, "Mr. Bush has been eager to highlight his differences with Democrats over economic policy. He has sought to set up a contrast between what the White House says is a job-creating agenda and a Democratic approach that White House officials say would lead to higher taxes, a further surge in spending on domestic programs and a drift toward protectionism. Republicans say they expect Mr. Bush to make those assertions increasingly in coming months and include them in his State of Union address, tentatively scheduled for Jan. 31."

Cheney, Top Administration Officials Echo Bush's Economic Message. Vice President Dick Cheney's remarks were briefly noted in most major newspapers. The New York Times (1/7, Andrews, Stevenson, 1.19M) notes, "Bush and his aides have said…that the economy's performance showed their approach was creating jobs." At a Kansas Harley-Davidson factory Cheney said, "Some in Washington said these tax cuts would not work" and "it's getting pretty hard for the critics to make the case that somehow these tax cuts weren't good for the economy."

The Washington Times (1/7, A1, Sammon, 90K) in its front page story on Bush's speech also notes Bush's "comments were echoed by Mr. Cheney, who ridiculed Democrats during a visit to a Harley-Davidson plant in Kansas City, Mo." Cheney said, "The American economy is on the move, and that is because we did not listen to the pessimists." Sen. Edward Kenney "scoffed at such criticism," saying, ""The administration's constant response is to grant more tax breaks for the wealthy," and he "predicted the economy would hurt the GOP in the midterm elections." Yet "Cheney was unapologetic about the administration's demands that the tax cuts be made permanent, even hinting that additional cuts might be needed." Cheney said, "With the new year beginning, soon people will start receiving their W-2 forms in the mail. … It's always a bit of a shock to see how big a piece the federal government took off the top of your earnings over the past year."

The Atlanta Journal Constitution (1/7, Herman) notes that despite concerns about wages, "Cheney was greeted by workers happy about their economic situation. Kevin Herrera, a paint shop manager, didn't vote for Bush but agreed with the administration view that the economy is good." And "Craig Jenkins, sporting a well-worn Machinists for Kerry shirt, said, 'Yeah, right now everything is fine with my family.'" Yet, "Jenkins, still no Bush fan, said he knows many people are out of work and that the president has done nothing to stem the flow of jobs from America."

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The Kansas City Star (1/7, Canon, Bormann, 286K) reports, "Vice President Dick Cheney on Friday came to Kansas City as the confident optimist. He touted robust economic numbers and the administration's varied approaches to fighting terrorism -- saying President Bush is to be credited for the country's post-Sept. 11 prosperity and security." One "official for the International Association of Machinists and Aerospace Workers said that there was no campaign to organize a protest, and that the union has an agreement with Harley that it would not distribute political literature at the plant. But the union issued a news release that said Harley-Davidson's success has come 'despite Bush administration' policies that allow too many imports to flow into the country."

The Philadelphia Inquirer (1/7, Weber, 423K) reports, "The Bush administration needs to make sure its tax policies don't give younger workers less of an incentive to change jobs as they move through their careers, Deputy Treasury Secretary Robert Kimmitt said Friday." At "a Commerce Club speech in Atlanta, Kimmitt said that unlike a generation ago, people leaving college are more apt to work for several different employers over time rather than just one. That could make it harder for them to maintain quality health and pension benefits without the right government policies, he said."

The Baltimore Sun (1/7, Hopkins, 296K) reports, 'An economic public-relations blitz by the Bush administration yesterday included a stop at Johns Hopkins Medicine in Baltimore, where Labor Secretary Elaine L. Chao promoted a jobs training program and the 'good news for America's workers.'" But "it wasn't ideal timing for the full-court press. Labor Department numbers released earlier in the day showed the nation's employers adding 108,000 jobs last month, less than expected and weaker than needed to keep up with population growth." Yet, "it came on the heels of a strong, 305,000-job increase in November…and so Chao accentuated the positive."

The Washington Post (1/7, A3, Vandehei, Henderson, 744K) adds, "Cheney was touring a Harley-Davidson plant in Missouri and touting the economy despite a bad foot that forced him to use a cane. Treasury Secretary John W. Snow and several other officials also fanned out to talk about low unemployment numbers and a growing economy."

The vice president's speech and motorcycle plant tour was often covered by local television newscasts in Missouri, usually in the morning before the actual tour. Those stations that mentioned the speech after the event often commented on Mr. Cheney's use of a cane. Some examples: WGEM-TV Quincy (1/6, 5:04 p.m.) reported, "Vice president Dick Cheney is walking with the help of a cane. He used the cane today as he toured a Harley-Davidson motorcycle factory in Kansas City." Later, the station reported that the Vice President, "credited…tax cuts for economic growth."

KRCG-TV Columbia (1/6, 5:27 a.m.) reported, "Vice President Dick Cheney will pay a visit to the 'show me' state today. In Kansas City, Cheney will tour a Harley Davidson motorcycle assembly plant. He's also scheduled to give a speech on the economy." The AP (1/7) also reports on Cheney's need to use a cane.

Wall Street Reacts Positively To New Unemployment Figures. NBC Nightly News (1/6, story 3, Williams) reported. "The unemployment rate ticked down. Wall Street liked those numbers. The Dow was up more than 77 points on today's trading. NASDAQ gained almost 29. For the week the Dow was up almost 242 points in all. NASDAQ had a good week, up 100 points."

Economy Strong Despite Hurricanes, High Energy Prices. In its coverage of the Administration's effort to highlight the positive news for the US economy the New York Times (1/7, Andrews, Stevenson, 1.19M) notes, "By almost all measures, last year was a good one for the American economy. The economy expanded by about 3.6 percent in 2005, the fourth consecutive year of solid growth, despite the soaring energy prices and the destruction caused by Hurricane Katrina." But many experts said "that Mr. Bush's policies were not the primary reason for the economy's strength." Global Insight chief economist Narimen Behravesh said, "Tax cuts had very little to do with it. … You had a housing boom, which had very little to do with tax cuts, driving consumer spending. We also had before this year the dollar coming down, which helped drive up exports."

And the Washington Post (1/7, A3, Vandehei, Henderson, 744K) in its coverage adds, "The data reinforced other signs that the economy was growing at a healthy pace as it entered the new year despite the turmoil caused by hurricanes and higher energy prices."

ABC's World News Tonight (1/6, story 7, :10, Vargas) reported, "In economic news, unemployment fell to under 5% last month. The government said today that 108,000 new jobs were added to the economy in December. Fewer than analysts expected. Overall, 2 million new jobs were added in 2005, despite higher oil prices and the devastating hurricanes." ABC's World News Tonight (1/6, story 8, :10, Vargas) then reported, "Even with the solid economic growth, another huge American corporation is expected to phase out pension plans for employees. IBM announced in 2008 it will shift 117,000 workers from traditional pension plans to 401k retirement plan. The move is part of a growing trend by financially healthy companies to save money by eliminating lifetime pensions for worker."

Bush Acknowledges Loss Of Manufacturing Jobs. The AP (1/7, Carpenter) reports, "President Bush's choice of the Midwest as backdrop for a speech Friday touting the nation's economy put the spotlight on a region with an improving but still-mixed economic performance." The continuing "loss of manufacturing jobs has been a sore spot

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throughout the region, as Bush acknowledged." The AP notes, "Focusing only briefly on the Midwest, he pointed to the creation of jobs nationwide and the decline in unemployment, and said manufacturers will benefit if trade restrictions around the world are eased as he has urged."

Bush Calls For Passage Of Asbestos Lawsuit Reform Bill. Reuters (1/7) reports in his speech touring the US economy in Chicago "Bush called on Friday for Congress to curb asbestos lawsuits this year, saying the United States needed to reform its legal system to better compete in the global economy." He "said Americans needed to understand that frivolous injury lawsuits were a drag on the U.S. economy." Bush said, "To make sure this is the most competitive country in the world, we've got to get rid of some of these junk lawsuits that are running capital out of America."

NYTimes Dismisses Bush's Claims About Health Of Economy. The New York Times (1/7, 1.19M) editorializes, "Responding to yesterday's government report showing paltry job creation in December, Treasury Secretary John Snow urged Americans not to overreact to one month's snapshot, but to focus on the bigger picture. But that picture is not so pretty." And the long-term prospects are "even uglier. Job growth in the current period is the worst by far of the four comparable economic upturns since the 1960's: 2.7 percent versus the 7.8 percent tallied in the weakest of those earlier recoveries." So "President Bush cherry-picked his way through the latest economic figures in his speech yesterday before the Economic Club of Chicago, rattling off numbers without context. The president's prescription -- more tax cuts -- has failed in the past to create a robust job market and is still not the right answer."

New Medicare Drug Benefit's Roll-Out Beset By Problems. The CBS Evening News (1/6, story 7, 2:00, Schieffer) reported, "After months of controversy the new Medicare prescription drug benefit has been getting its first reality check this week, ever since the law was passed critics have complained that it would lead to confusion. Well, for at least one group of beneficiaries that seems to be true." CBS went on to report, "It was a very tough week for low income seniors who were supposed to be covered by the new Medicare drug benefit. Time after time these seniors were told they indeed have insurance under the system, just not for the specific drugs they use. … When we visited Grubs Pharmacy two blocks from the U.S. Capitol, not one senior citizen we tracked had a prescription filled smoothly."

The Los Angeles Times (1/7, Alonso-Zaldivar, 958K) reports, "California health officials reported Friday that database errors and overloaded telephone help lines were spreading confusion and frustration among seniors seeking vital medicines under the new Medicare prescription program. While some warned of a looming crisis, Medicare officials and insurance companies called for patience and promised swift relief. California pharmacists, on the frontline of the new program, complained that improvements are coming too slowly. … Most of those affected are low-income seniors and disabled people." The Times adds, "While acknowledging problems, federal officials defended the new program and said hundreds of thousands of seniors have been getting their prescriptions without incident, many at lower cost. The drug benefit is considered one of the Bush administration's main domestic policy achievements."

Knight Ridder (1/7, Pugh) reports, "Many of Medicare's poorest and most sickly patients are going without their medications because of administrative glitches, misinformation and confusion surrounding the new Medicare prescription drug benefit. Experts had warned that many of the 6.4 million low-income people who get benefits from Medicare and Medicaid could miss out on their life-sustaining medicines when their drug coverage shifted on Jan. 1 from Medicaid to private plans sponsored by Medicare. In interviews, advocates for the elderly as well as lawmakers and seniors themselves indicated that that's happening. … Medicare's contingency plan for patients who aren't enrolled in drug plans also is proving problematic. The agency wants pharmacists to give these customers short-term refills at no cost and bill Medicare later. But some pharmacists don't know about the agreement, and others are balking because they fear they won't be reimbursed."

The Minneapolis Star Tribune (1/7, Wolfe, 424K) reports, "Medicare officials said Friday they will try over the weekend to fix problems that have left hundreds of poor Minnesotans unable to get their prescription drugs. But problems are continuing, with some low-income people on both Medicare and Medicaid – 'dual eligibles' -- struggling to find a pharmacist who will fill prescriptions under a new Medicare drug benefit that took effect this year. While other Medicare beneficiaries also are having some problems, the situation is acute for those who also are on Medicaid."

Grassley To Investigate Medicare Employees' Travel Expenses. Reuters (1/7) reports, "A top Republican lawmaker called for an investigation into Medicare travel expenses on Friday after documents showed some employees attended conferences hosted by contractors at a Florida resort. Medicare officials said they were taking the concerns seriously, but that the conferences were not very expensive because they were held in June during the state's off-peak season." Senate Finance Committee Chairman Sen. Charles Grassley "said the employees were responsible for overseeing $300 million in Medicare contracts to investigate complaints."

HHS Advises Americans On Avian Flu Precautions. The Washington Post/Reuters (1/7, A2)

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reports, "There is no vaccine and drugs are in short supply, but Americans may be able to ride out any pandemic of bird flu if they stock up on supplies and keep their children clean, the government said yesterday. The Department of Health and Human Services checklist illustrates how little can be done to prevent widespread illness and disruption if H5N1 avian influenza causes a pandemic -- a global epidemic -- this year. … Experts say the best way to wait out a pandemic, which could last months, is to stay away from other people and keep close to home. 'During a pandemic, if you cannot get to a store, or if stores are out of supplies, it will be important for you to have extra supplies on hand. This can be useful in other types of emergencies, such as power outages and disasters,' the HHS guide says."

Federal Officials Seek Deal With Texas Food Stamp Agency. The Dallas Morning News (1/7, Dodge) reports, "Federal food stamp officials this week made a peace offering to their Texas counterparts that could avoid a delay in nutrition benefits to the state's neediest residents. Now, it's up to officials at the Texas Health and Human Services Agency to decide whether they will accept the deal. The state officials would need to sign an application that has been written on their behalf by officials at the Department of Agriculture's Food and Nutrition Service. If they don't, Texans applying under a pilot program set to begin in two weeks could see a delay of a week or more in their food stamp benefits."

DeLay Seen As Unlikely To Regain Leadership Post. The CBS Evening News (1/6, story 3, 1:00, Schieffer) reported, "There are some new developments tonight on the Washington bribery scandal involving congressman Tom DeLay. CBS' Gloria Borger continued, "Tonight two house republicans are circulating a petition that will call for new elections that would permanently replace Tom DeLay in the house leadership. Now sources close to the house republican leadership tell CBS News tonight that these new elections are all but inevitable. And that Tom DeLay himself is slowly coming to the conclusion that he is not going to be able to reclaim his leadership post."

The New York Times (1/7, Hulse, 1.19M) reports, "In the wake of Tuesday's guilty plea to corruption charges by the lobbyist Jack Abramoff," some "rebellious…House Republicans moved Friday to bar Representative Tom DeLay of Texas from regaining his position as majority leader, demanding a vote to replace him permanently at the top of the party hierarchy." Arizona Rep. Jeff Flake and New Hampshire Rep. Charles Bass "began circulating a petition on Friday to collect 50 signatures needed to call a party leadership election," and have "commitments from about two dozen lawmakers." In an new election, "the rank-and-file could push for more if enough lawmakers conclude a broader shake-up is warranted," and "a divisive leadership battle has the potential to roil the House just as President Bush and Congressional Republicans are unveiling their election-year agenda."

The Washington Post (1/7, A4, Weisman, 744K) adds, "Prominent Republicans have begun counseling DeLay that he should renounce claims to the majority leader's post, for the good of the party and for the good of his long-term political career," and "even DeLay aides and supporters acknowledge that time is running out on a comeback."

The Los Angeles Times (1/7, Curtius, Simon, 958K) adds that the petition "indicated how quickly DeLay's broad and deep support among Republicans has collapsed following this week's guilty pleas by lobbyist Jack Abramoff," and "opposition to DeLay's return as majority leader has united some conservative and moderate House Republicans who normally are at loggerheads over policy issues."

The AP (1/7, Espo) adds, "Buffeted by scandal, House Republicans are clamoring for new election-year leadership, and indicted Rep. Tom DeLay's hopes of returning to power as floor leader are dwindling," as "Speaker Dennis Hastert of Illinois, signaled he would not try to block the rank-and-file from acting."

The Houston Chronicle (1/7, Roth, Gonzalez, Levine, 581K) adds that it is a "significant development" that House Speaker Dennis Hastert (R) "indicated Friday for the first time that he was open to the election of a new majority leader."

The Boston Globe (1/7, Klein, 484K) adds that House Speaker J. Dennis Hastert's reaction "suggests that a leadership change is all but certain." The maneuver "to oust DeLay is a rebuke to the House GOP's leadership, which has long been known for enforcing strict party discipline."

The Dallas Morning News (1/7, Gillman) adds, "No members of the GOP leadership have signed the petition, though aides called the election likely," and "White House spokesman Trent Duffy sidestepped questions about whether President Bush thinks it's time for Mr. DeLay to renounce his claim on the leadership." However, Ron Talley, spokesman for the Republican Main Street Partnership, a group of moderates who fear that fallout from Mr. DeLay's ethical troubles threatens their hopes in Democrat-leaning districts," said, "We're trying to take away the stigma and the what-ifs and all the monkeys that appear to be on the leaderships' backs. ... It's a matter of survival."

The Financial Times (1/7, Yeager) adds, "Newt Gingrich, the former House speaker who led the Republican takeover of Congress in 1994, said this week that while Mr DeLay must defend himself in court, 'the House Republican party has a different set of interests and [they] involve having a new majority leader.'" Reuters (1/7, Cowan, Ferraro) also covered this story.

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DeLay Requests Co-Defendant's Charges Be Dropped. The Houston Chronicle (1/7, 581K) reports, "U.S. Rep. Tom DeLay on Friday asked the 3rd Court of Appeals to throw out a money-laundering indictment against one of his co-defendants," Jim Ellis, the director of DeLay's Americans for a Republican Majority. "A favorable ruling for Ellis would give senior District Judge Pat Priest reason to reconsider his ruling upholding the money-laundering indictment against DeLay," although "The indictments were upheld by state District Judge Bob Perkins, who has since been removed from the DeLay case."

OTHER NEWS:

Future Of Mideast Peace Process Without Sharon Remains Unclear. NBC opened its broadcast with an update on Ariel Sharon's condition and an extensive analysis of the Mideast peace process and the Israeli political scene post-Sharon. NBC noted mixed feeling among Palestinians concerning the likely end Sharon's political dominance. The other networks gave the story less prominence. NBC Nightly News (1/6, lead story, B. Williams) at the end of its lead story reported, "If Sharon does not recover, the political changes in Israel will ripple around the world, and especially the White House. Andrea Mitchell now on what's at stake for the US and the Middle East peace process." NBC's Andrea Mitchell continued, "The President had staked his Middle East policy on Sharon, taking further steps to create a Palestinian state, like his decision to force right wing settlers to withdraw from Gaza. US officials don't know if his temporary successor, Ehud Olmert, will even win the election in March, and if he does, whether he can get Israelis to give up more land."

The Wall Street Journal (1/7, Dreazen, 2.11M) reports that "Sharon's near-certain departure from the Israeli political scene has sparked immediate concern among senior Bush administration officials. They fear that Mr. Sharon's successor will be unable, or unwilling, to make territorial compromises necessary to create the viable Palestinian state that the Bush administration sees as vital." The Journal notes, "The challenges confronting the administration stem from Mr. Bush's decision in recent years to place his approach to the Israel-Palestinian question almost entirely on Mr. Sharon's broad shoulders. Public comments notwithstanding, Mr. Sharon's policies have fully supplanted Mr. Bush's 'road map' as the blueprint for the region." Both "U.S. and Israeli officials acknowledge that it will be harder for Mr. Olmert to sell difficult moves like a West Bank withdrawal. Although he is a savvy politician, he lacks Mr. Sharon's credentials as a general who fought in all of Israel's wars and more than once saved the country from apparent defeat. And neither Mr. Olmert nor any other candidate who would succeed Mr. Sharon has the unusual combination of history and personality that has come to embody the contradictions and tensions of the Israeli public."

Speculation Focuses On Sharon's Successor's Capability To Lead. NBC Nightly News (1/6, lead story, Fletcher) reported. "The world press following every medical bulletin about the condition of the man who held the promise of real moves towards peace with the Palestinians. Now one question is whether Ehud Olmert, Israel's acting prime minister, will follow in his footsteps. In fact, it's the other way around. Olmert called for Israel to evacuate the Gaza Strip before Sharon -- and the autonomy for the Palestinians. A former two-time mayor of Jerusalem, Olmert, has not been afraid of political risks. With Sharon he left the right wing Likud Party to form the new Kadima party to compete in the march elections. Their platform: land for peace, with the Palestinians, quickly. … And first, Olmert has to win the election. Opinion polls show about the same support for Sharon's Kadima party without him as with him. Analysts say it could be just a sympathy vote. That could well decline sharply in the months to go before the election."

ABC's World News Tonight (1/6, story 5, 2:00, Woodruff) reported, "People had expected that Ariel Sharon would be the prime minister of this country for a very long time to come. In the poll it indicated that he would win by a landslide in the elections coming up in March."

The New York Times (1/7, Berger, 1.19M) reports, "Olmert has little military background, few Israelis can match his deep government experience. He has been a cabinet minister several times and served as mayor of Jerusalem for 10 years. He also has command of an elegant, witty English, and can communicate directly with American audiences. Finally, few others can rival the closeness he has enjoyed with Mr. Sharon." While serving in Parliament he "quickly achieved a reputation for fighting corruption" and also "developed a reputation for ruthlessness." Like President Bush, Olmert is "a fitness buff and avid jogger."

The Time (1/7) reports Olmert is currently "very much a centrist within the Kadima ranks. Olmert is not a particularly popular figure in Israel, but he is very ambitious -- in 1999, he ran against Sharon in a primary for the Likud nomination for prime minister. Now, he'll stake his own claim for leadership by painting himself as the custodian of Sharon's legacy, signaling that he represents stability and continuity on the path initiated by Sharon."

The Washington Times/AP (1/7, Plushnick-Masti) in a front page story adds, "As acting prime minister, the public could come to see Mr. Olmert as a leader, said analyst Gadi Wolfsfeld. 'No one really loves Olmert, but no one really hates him, therefore he has a chance of convincing the public.'"

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Roger Cohen in his "Globalist" column in the New York Times/IHT (1/7) writes, "Palestinian and Israeli elections over the next three months make all predictions treacherous. But it is safe enough to say that the best hope for the Middle East may lie with Ehud Olmert, Sharon's deputy and now acting prime minister. If he can consolidate the center and Sharon's course, while engaging Palestinians enough to make that course less unilateralist, progress is possible."

Olmert Reaches Out To Peres. The Los Angeles Times (1/7, King, 958K) in its article describing the seriousness of Sharon's condition also notes, "Olmert met Friday with Shimon Peres, the elder statesman who abandoned his Labor Party in November to join Kadima. Had Sharon not fallen ill, Peres would have been in line for a senior Cabinet post in any new Kadima-led government." Olmert reportedly reassured Peres to keep him "in the fold, but a meeting was cut short by word that Sharon was being rushed into surgery."

The Washington Post (1/7, A11, Wilson, 744K) also notes Peres "met Friday with Olmert to discuss what he said were 'ways to continue Sharon's policies -- both an uncompromising war against terror and an endless effort toward peace.'" While "he has lost a number of national elections, Peres is considered a valuable political asset because of his broad appeal among traditional Labor voters of his generation."

The New York Times (1/7, Erlanger, 1.19M) in its article on Sharon's condition also notes, "Losing Mr. Peres would be a blow to Mr. Olmert and Kadima because he brings a kind of assurance to voters that the new party is in fact centrist, and not a branch of Likud. Mr. Peres, as the last active senior politician of Israel's founding generation, is respected for his wisdom and international standing."

Arab Observers Concerned Loss Of Sharon Will Stall Progress Toward Peace. The Los Angeles Times (1/7, Stack, 958K) reports, "As the realization hit the region that the Israeli prime minister may no longer lead the Jewish state, a mood of regret and uncertainty crept into the tone of Arab analysts and editorials. As Sharon clung to life, the leaders of Egypt and Jordan, Arab countries that signed peace treaties with Israel, sent word of their concern." Despite their past animosity, "many Arabs saw Sharon as the only leader stubborn and strong enough to push Israel into accepting a Palestinian state. Arabs worried that the loss of Sharon would throw Israel into tumult and freeze already stagnant peace talks."

Rice Trip To Southeast Asia Canceled. The AP (1/7, Gearan) reports, "Secretary of State Condoleezza Rice canceled a six-day trip to Indonesia and Australia on Friday amid uncertainty over ailing Israeli Prime Minister Ariel Sharon."

Reuters (1/7, Pleming) adds, "Rice called off the trip so she could liaise in Washington with President George W. Bush's other top foreign policy aides without the problems of time differences, State Department spokesman Sean McCormack said."

In a brief article on Rice's decision not to travel the Financial Times (1/7, Dinmore) notes, "A sense of crisis in the Middle East has been heightened in the Bush administration by the confrontation with Syria over Iraq and the UN investigation into the assassination of the former Lebanese prime minister, as well as violence in Iraq."

Injury Expected To Keep Sharon From Resuming Leadership. The CBS Evening News (1/6, story 5, 2:00, Schieffer) reported, "In Israel today Prime Minister Ariel Sharon had a second operation to stop bleeding in his brain. Doctors say it brought a significant improvement in his condition. But two days after suffering a massive stroke, Sharon remains in critical condition. And it seems all but certain he will never return now as Israel's leader."

The Washington Times (1/7, Mitnick, 90K) adds, "Doctors operated on Ariel Sharon for a third time yesterday to stem a new cerebral hemorrhage but said they had stabilized his condition, dispelling speculation that the prime minister was about to succumb to the stroke suffered this week." The Washington Post (1/7, A13, Brown, 744K) also reports on the details of Sharon's treatment.

Sharon's Legacy Examined. Knight Ridder (1/7, Nissenbaum) reports, "Although Sharon's departure from the political stage is expected to create a diplomatic void in the Middle East, analysts across the political spectrum said the prime minister had shifted the political paradigm in Israel by ending its military rule in the occupied Gaza Strip and using the move to create a new centrist party with a pragmatic outlook."

White House Chastises Robertson For Sharon Remarks. The Washington Post (1/7, Deane, 744K) on its web site yesterday afternoon reported, "The White House today criticized television evangelist Pat Robertson's remarks that Israeli Prime Minister Ariel Sharon's severe illness was deserved, calling the comments 'wholly inappropriate and offensive.'" White House press spokesman Trent Duffy "added that Robertson's comments 'don't have a place in this or any other debate.'" He "also told reporters the president is praying for Sharon's full recovery." The AP (1/7) in a brief article also notes the White House's response to Robertson.

Robertson Criticized By Evangelical Leaders. The Los Angeles Times (1/7, Stammer, 958K) reports, "Evangelical leaders said Friday that they were embarrassed and incensed by televangelist Pat Robertson's assertion that Israeli Prime Minister Ariel Sharon…was stricken by God as punishment for ceding the Gaza Strip and a portion of the West Bank to Palestinians last summer." They "suggested that Robertson was losing religious and political influence as a result of his remarks on Sharon and other recent controversial comments."

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WPost Faults Robertson. The Washington Post (1/7, A16, 744K) editorializes Pat Robertson and Iranian president Mahmoud Ahmadinejad "are probably beyond the point where they can be reached by embarrassment or shame. But they are not beyond the kind of strong condemnation that they have richly earned." They "share a self-righteousness that blinds them to the distance that they have placed between themselves and the majority of people who find their remarks repulsive. It's sufficient to know, we suppose, that at a time when messages of hope are flowing from around the world to the bedside of Ariel Sharon, Pat Robertson and Mahmoud Ahmadinejad still have each other."

Efforts Intensify To Gain Russian, Chinese Support For Curbing Iran. The New York Times (1/7, Weisman, 1.19M) reports, "The United States joined with several European allies on Friday in a drive to enlist Russian and Chinese support to apply new pressure on Iran to halt its suspected nuclear weapons activities" with the aim of "stopping Iran from resuming 'research' on enriching uranium." Attempts "to produce a unified declaration by the permanent members of the Security Council…intensified this week in response to a series of incendiary comments by Iranian leaders about Israel and their nuclear program." Officials say " the Russians have moved closer to the American view, in part because Iran rebuffed a Russian compromise proposal to establish a joint Russian-Iranian uranium enrichment program, but on Russian soil." Also, a European diplomat "said that Mohamed ElBaradei, director of the International Atomic Energy Agency, was himself angered by the behavior of a top Iranian envoy in a meeting this week in Vienna."

Reuters (1/7) adds, "In an effort to bring new pressure in the hours before Tehran takes what could be a fateful step, the United States, Britain, France, Russia and China were working on a statement opposing the Iranian move and urging that Tehran return to negotiations on a compromise proposal."

Bush Will Sign Peru Trade Agreement. The AP (1/7) reports, "President Bush on Friday notified Congress of his plan to sign a trade agreement with Peru," hammered out in December "after Colombia and Ecuador halted discussions with Washington on what was expected to be a regional agreement linking all three countries with the United States," complaining "that the strong desire by Peru for a deal had strengthened the U.S. bargaining position at their expense." However, "ratification by Congress could be complicated by November's midterm elections."

Europe On "High Alert" With New Turkish Cases Of Bird Flu. The New York Times (1/7, Rosenthal, 1.19M) reports, "Health officials in Europe said Friday that they were on 'high alert' as a third child in eastern Turkey was confirmed to have bird flu and more than two dozen people there were under observation at a local hospital, an unusual cluster of human cases that raised the possibility that the virus had become more contagious to humans." While scientists say the cluster "probably stemmed from people handling the same sick birds," both "the W.H.O. and the European Commission were alarmed enough to dispatch a joint team of scientists to eastern Turkey this week."

Reuters (1/7, Yukselbaba) adds, "A third child from the same family in eastern Turkey died from bird flu on Friday and health experts plan to study the outbreak for signs the virus was passing from person to person." While the WHO said in a statement dated Thursday that Turkish authorities had told it that the district had been placed under quarantine, with no people or animals allowed to move in or out," a Reuters reporter "saw no controls" the next day. The Washington Times/AP (1/7, Harvey) also covered this story.

At Government's Request, UN Stops North Koreans Food Aid. The New York Times (1/7, Brooke, 1.19M) reports, "The United Nations World Food Program, which was helping to feed a third of the 22 million people of North Korea as recently as August, has ended all feeding programs there at the request of the government," which "justified the shutdown by saying that after a decade of receiving Western aid they want Western groups to shift to work that will help the nation become more developed." However, "many foreign analysts say the secretive nation's rulers are pursuing a strategy to cut the number of Westerners roaming the countryside inspecting food distribution networks," as "food aid from China and South Korea rose."

Former Ukraine PM Attacks Gas Deal. The New York Times (1/7, Kramer, 1.19M) reports, "Ukraine's former prime minister, Yulia V. Tymoshenko, who was a driving force behind last winter's Orange Revolution, is emerging as a leading critic of the intricate commercial deal that ended the gas dispute between Ukraine and Russia." While "Ukraine was widely seen as a winner in the dispute," Tymoshenko vowed to "work to scuttle the deal because it transfers control of energy imports to a company she calls corrupt" – RosUkrEnergo - which "has been criticized for ties to organized crime." Tymoshenko's "opposition adds another layer of uncertainty to the settlement."

Russia Trying To Control Gas Distribution. The Los Angeles Times (1/7, Murphy, 958K) reports, "Russia denied Friday that its temporary cutoff of natural gas to Ukraine last week in a pricing dispute raised doubts about its ability to act as a responsible energy supplier to Europe. But a Foreign Ministry official acknowledged that there were 'certainly …

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political factors' in Moscow's aim to maintain a strategic route for transporting gas to Western Europe." Spokesman Alexei Sazonov said "Russia's real political interests involved Moscow's ambition to move to a market-based, commercially viable relationship with its energy clients and assure that its products have an uninterrupted supply line to the West" as Russia's moves "to gain control of the pipelines that carry fuel supplies to foreign markets."

Russia Professes Puzzlement At Rice's Comments. The Washington Post (1/7, Finn, 744K) reports, "The Russian Foreign Ministry said Friday it was puzzled and surprised by U.S. Secretary of State Condoleezza Rice's comments that Russia's temporary cutoff of gas supplies to Ukraine was 'politically motivated,'" adding, "It is absolutely unclear what these statements are based on."

Other Countries' Trade Undercuts US Sanctions Against Burma. The Washington Post (1/7, A11, Sipress, 744K) reports, "Burmese industry and exports were on the decline in the 1990s as a result of progressive attempts by the United States to tighten economic sanctions on Burma, protesting its suppression of democracy. But the effort to pressure its rulers has been vastly undercut by the enthusiasm of other countries, especially Burma's Asian neighbors, to tap its cheap workforce and abundant natural resources." While "some of the trade is legal," many "products are also smuggled across Burma's remote, unsettled borders," then "relabeled and shipped beyond the region."

Chavez To Expand Discount Fuel For US Families. The Miami Herald (1/7, Wilson, 323K) reports that Venezuelan President Hugo Chávez "is expanding a heating oil program that offers discounts as high as 40 percent to low-income U.S. families." Currently in Boston and New York, it "will be extended next week to Maine and Rhode Island," as well as the "neighborhoods in Harlem and Queens" of New York City. "The program thrusts Chávez into the U.S. political debate over whether President George W. Bush is doing enough to help poor Americans cope with soaring heating costs."

Elections Not Expected To Help Haiti. Newsweek (1/7, Beith) reports, "Haiti has postponed elections for the fourth time since November. But a national vote is unlikely to solve the troubled country's many problems," as "even if free and fair elections do go ahead in the near future, there's little hope for a period of peace and prosperity." However, "the U.S. State Department repeated a familiar mantra. 'We believe it is essential that elections move forward.'"

Merkel To Draft Energy Strategy. The Financial Times (1/7, Benoit) reports, "Angela Merkel, the German chancellor, is to draft a 'national energy strategy' prompted by concern about the security of supplies after the recent dispute between Russia and Ukraine over natural gas shipments," and "in response to ever more pressing demands from experts and politicians that a security element should be added to the economic and environmental approaches that have governed energy policy until now." She "will then convene an 'energy summit' between government and companies in March to agree on measures – from diversifying suppliers to increased use of renewable sources – aimed at securing future energy needs."

Caldwell Says Germans Rejecting "Citizenship Of The World." Christopher Caldwell writes in his column in the Financial Times (1/7), "More and more westerners today consider themselves citizens of the world" where "loyalty is owed not to local ways but to multinational organisations and the norms of human rights. This idea of citizenship has proceeded further in Germany than any place else," but ". if today's enlightened, democratic Germans dislike this neutral citizenship-of-the-world, then nobody else is likely to be able to tolerate it, either. One reason why is that it is never as neutral as it looks. It immediately surrenders to any rival affiliation that makes non-negotiable demands." In the end, "Germans are right to conclude that that is a deficient form of citizenship indeed."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"GOP Group Petitions To Block DeLay."
"Governor Needs Widespread Support For Blockbuster Plan."
"Funding Is Not the Only Hurdle To Fixing The 710."
"Medicare Drug Plan Hits Snags In State."
"A City That Runs On Faith."
"Google Video Seeks A Bite Of Apple's Market."
"A 'Butcher' Capable Of Making Peace."

New York Times:
"U.S. Said To Meet With Insurgents, Exploiting Rift."
"Pentagon Study Links Fatalities To Body Armor."
"Basis For Spying in U.S. Is Doubted."
"Miners Went By Book, But Time And Air Ran Out."
"Rebels In G.O.P. Call For DeLay To Be Replaced."
"Where Fallen Trees Go In The Not-So-Silent Night."

Washington Post:
"Report Rebuts Bush On Spying."
"Electronic Eye Grows Wider In Britain."
"A Tribe Takes Grim Satisfaction In Abramoff's Fall."
"Area Condo Sales Cooling After Record-Setting Year."
"High Court To Consider DNA Innocence Claim."

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Washington Times:
"Redskins 'Don't Get Any Respect' Yet."
"Sharon Clings To Life After Third Surgery."
"Olmert A Known Quantity In Israel."
"Bush Basks In Tax-Cut Credit."
"Growth Of Jobs Slips To 108,000."
"Navy Prosecutes Officer For A 'Crude' Remark."
"Clinton, Huckabee Vie For Arkansas Name Fame."

Detroit Free Press:
"GM: Not So Fast, Toyota."
"Homeless People To Get Super Bowl Party."
"DCX Plans $6 Billion In Factory Upgrades."
"Sides Debate Language Of Proposed Affirmative Action Ballot Initiative."
"Postage Is 39 Cents, Starting Sunday."

Atlanta Journal-Constitution:
"Chances Slim For Sharon's Recovery."
"Voters Press For Action On Immigration."
"Experts: More Firms Will Freeze Pensions."
"Wild Pigs A Big, Fat Threat."

Dallas Morning News:
"Deaths Tied To Lighter Armor."
"Parcells Staying With Cowboys."
"DeLay Facing Revolt In GOP."
"On Your Right, Katrina's Ire."
"Miners Weren't Far From Safety."
"Smooth Crooner Lou Rawls Dies At 72."

Houston Chronicle:
"Body Armor Leaves Troops Vulnerable."
"Sharon Is Critical After A Third Surgery."
"Some In GOP Want DeLay Out Of Picture For Top Post."
"Zapatistas Are Stumping Back Into The Spotlight."
"NASA Craft's Payload May Offer A Big Payoff."

Story Lineup From Last Night's Network News:
ABC: Coal Mine Disaster; Mine Investigation; Zawahiri Tape; Iraq Deaths; Sharon; Virginia Death Penalty; Unemployment; IBM Dropping Pension Plan; Credit Card Debt; Lou Rawls RIP.
CBS: Mine Disaster; Unemployment/Pensions; DeLay Leadership Future; Iraq Deaths; Sharon; Google; Medicare Drug Benefit; Virginia Death Penalty; Lou Rawls RIP.
NBC: Sharon; Mining Disaster; Unemployment/Wall Street; Pension Plans; Pain medication ; Lou Rawls RIP ; Educator honored.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH -- No schedule available.

VICE PRESIDENT CHENEY -- No schedule available.

US Senate: -- No events scheduled.

US House: -- No events scheduled.

Other. ALL DAY

Jan. 3 - 7. ASSOCIATION OF AMERICAN LAW SCHOOLS _ The Association of American Law Schools holds their five day annual meeting. Workshops and plenary sessions for law professors, researchers and professionals. Topics will include the Iraqi Constitution, educational diversity, balancing life in law school, religious law, contracts, economics and international law. Location: Most events at Washington Marriott Wardman Park, 2660 Woodley Road NW. Contacts: Kim Milford (AALS), 202-296-8851 Notes: The meeting was originally planned for New Orleans.

11 a.m. - 2 p.m. HEALTH FAIR-BIRTH DEFECTS _ The Museum of Health and Medicine holds a health fair with information on steps women can take to ensure a healthy baby and pregnancy. Medical professionals will provide free screening for blood pressure, blood sugar, cholesterol and body fat levels. Exhibit, ``From a Single Cell," with insight into some of the rarest complications that can occur during pregnancy. Location: National Museum of Health and Medicine, Walter Reed Army Medical Center, 6900 Georgia Ave at Elder St, NW. Contacts: n/a, 202-782-2200

MORNING

11 a.m. RELIGION-NAVY _ Navy Chaplain Gordon Klingenschmitt plans to hold a worship service and break a two week fast protesting Navy restrictions on prayer at Navy events. Location: Lafayette Park, in front of the White House. Contacts: Gordon Klingenschmitt, 719-360-5132

AFTERNOON

4 p.m. - 7 p.m. IRAQ-TOWN HALL MEETING _ Activist hold an ``U.S. Out of Iraq" town meeting. With Allan Lichtman, professor, American University; Lila Rajiva, author, ``Abu Ghraib and the Media"; Cliff Kindy, Christian Peacemaker Teams; and others. Location: Busboys and Poets, 14th and V Sts, NW. Contacts: Karen Bradley, 202-669-3927

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DOJ_NMG_0008893

Williams, Jan

From: Williams, Jan

Sent: Monday, January 09, 2006 9:51 AM

To: Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Sanchez, William J (CRT); Tamargo, Mauricio J; Tandy, Karen P; Wooldridge, Sue Ellen (ENRD); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roberts, Crystal; Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William

Subject: FW: TALKING POINTS: Judge Samuel Alito - A Career Dedicated To Public Service

Attachments: tmp.htm

Importance: Low

JUDGE SAMUEL ALITO

A CAREER DEDICATED TO PUBLIC SERVICE

President Bush Believes This Nation Deserves A Dignified Process Of Confirmation In The Senate, With A Fair Hearing. Senators have had an opportunity to meet with Judge Alito, review hundreds of opinions and thousands of votes and thousands of pages of supporting documents, including speeches, articles, testimony and other writings. Judge Alito is looking forward to the hearings and answering questions from the Committee.

Throughout His 30 Years Of Public Service, Judge Alito Has Established A Sterling Reputation For Integrity.

Judge Alito recently received a unanimous "well-qualified" rating from the American Bar Association (ABA). The ABA's stated criteria for its evaluation are "integrity, professional competence and judicial temperament."

Judge Alito Began His Distinguished Career With Close To 15 Years Of Service At The U.S. Department Of Justice, Including Three Years As US Attorney For New Jersey. As US Attorney, he was known for his unquestioned character, fair-mindedness and even-handed approach to cases. He was also credited with successfully prosecuting white collar and environmental crimes, drug trafficking, organized crime, and violations of civil rights.

Ø Senator Frank Lautenberg: "As Chief Federal Prosecutor for one of the largest districts in the country, he has led the effort to fight big-time drug rings and organized crime. He has made environmental crime a high priority." (Sen. Frank Lautenberg, Committee On The Judiciary, U.S. Senate, Hearing, 4/5/90)

Ø Michael Gilberti, who worked with Alito in the US Attorney's office, addressed attempts by Alito's opponents to attack his character: "I defy anybody to say anything bad about Sam's private and professional character." (Henry Gottlieb, "No Doubt Where Alito Stands," New Jersey Law Journal, 11/7/05)

His 15-Year Record On The Third Circuit Shows Him To Be A Fair, Thorough Judge Who Respects Precedents And Applies The Law Even-Handedly. Judge Alito has more prior judicial experience than any Supreme Court nominee in over 70 years. Judge Alito's jurisprudence and integrity have been praised by legal scholars, former law clerks, and colleagues from both sides of the aisle.

Ø Hannah Smith, one of Judge Alito's former clerks described Judge Alito's jurisprudence: "He's fair and even handed. And he really approaches each case with an open mind to figure out what the applicable law is, what the relevant precedents are, what the statute requires, what have you, and then to apply the facts of that case to the law at hand." (Salem Broadcasting's "Janet Parshall Show," 11/7/05)

Ø Legal Ethics Professor Ronald Rotunda responded to ethics attacks by liberal interest groups: "These charges of ethics violations are absurd.... Twenty years of ethics opinions and case law are uniform in reaching this conclusion." (Professor Ronald Rotunda, 11/4/05).

Judge Alito's Career Is The Epitome Of "The American Dream."

Ø Judge Alito's father was born in Italy and brought to this country as a child by his parents. He excelled in school, despite having to hand copy textbooks he could not afford to buy. He graduated from college and earned a master's degree from Rutgers University.

Ø Judge Alito's father taught public school before taking a job with the New Jersey Office of Legislative Services, a nonpartisan research and advisory body to the state legislature. He went on to become director of the office. Judge Alito's mother worked as principal of the local elementary school.

Ø Judge Alito graduated valedictorian of his public high school, received his bachelor's degree from Princeton University and attended Yale Law School, where he served as an editor on the Yale Law Journal.

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Swartz, Bruce

From:	Swartz, Bruce
Sent:	Monday, January 9, 2006 12:37 PM
To:	Bucholtz, Jeffrey (CIV)
Cc:	Gorsuch, Neil M; Monheim, Thomas
Subject:	RE: Fyi, of possible interest re El Masri, from today's clips
Attachments:	spacer.gif

Jeff:

Could I ask CIV to send me a few lines re the current status of the el Masri civil suit? The AG has a t/c w/ the German Justice Minister tomorrow morning, and I am preparing contingency tps shd she raise the issue (if there are partic tps you wld like the AG to emphasize, I wld appreciate those as well). thanks, Bruce

---

From: Bucholtz, Jeffrey (CIV)
Sent: Thursday, December 29, 2005 11:10 AM
To: Swartz, Bruce; Gorsuch, Neil M; Keisler, Peter D (CIV); Monheim, Thomas; Gregg, Larry (USAVAE)
Subject: Fyi, of possible interest re El Masri, from today's clips

Posted on Wed, Dec. 28, 2005

Italy presses U.S. on torture claim

BY JOHN CREWDSON
Chicago Tribune

MILAN, Italy - Prosecutors investigating the CIA's alleged kidnapping of a radical Muslim preacher here want the FBI to question the CIA's former chief in Milan about whether he participated in the interrogation of Osama Moustafa Hassan Nasr, who claims he was tortured after being "rendered" by the CIA to Egypt nearly three years ago.

Five days after Nasr, better known as Abu Omar, was snatched off the sidewalk in this northern Italian city and flown to Egypt, the CIA chief, Robert Seldon Lady, began a two-week visit to Cairo.

Lady's identity no longer is secret because of an Italian warrant for his arrest and that of 21 other CIA operatives on kidnapping charges. Nor is Lady a spy any longer, having retired at the end of 2003, according to his Italian residence permit.

In communications with family and friends who visited his Egyptian prison, Abu Omar claimed to have been tortured by his Egyptian captors. He said the torture began almost immediately after he refused an offer to return to Milan as an informer for Egyptian intelligence.

Prosecutors here have Lady's travel reservations to Cairo and evidence that his cell phone was in that

city when it received two calls from Italy during his visit. Daria Pesce, Lady's Italian lawyer, will say only that the Cairo trip was "official" business.

In a formal request for information under a mutual assistance treaty between Italy and the U.S., Milan's chief anti-terrorism prosecutor, Armando Spataro, is asking U.S. authorities to question Lady, believed to be in Florida, about why he went to Egypt shortly after Abu Omar's arrival there; whether he participated in Abu Omar's interrogation; and whether he had any reason to believe Abu Omar was being mistreated.

Without special dispensation from the CIA, Lady presumably would be prohibited from discussing a covert operation even with the FBI, and certainly with the Italian prosecutors, because of the secrecy agreement that all U.S. intelligence officers sign as a condition of employment.

The CIA has refused to discuss the Milan "rendition," the agency's term for the practice of forcibly transporting terrorism suspects to third countries for interrogation, or even to acknowledge its role in the operation, despite hundreds of pages of evidence compiled by Spataro's investigators that leave little doubt of CIA involvement.

The information request also asks for the interrogation of Lady's boss, the chief of the CIA's station in Rome, who still works under cover at the counterterrorism center at CIA headquarters in northern Virginia. The Chicago Tribune is not identifying the man at the CIA's request.

On Saturday Spataro sent the information request to Italian Justice Minister Roberto Castelli, who will decide whether to officially transmit it to the U.S. Justice Department. Castelli has not yet passed on to U.S. authorities Spataro's earlier request to extradite Lady and the 21 other CIA operatives accused in the case.

The question of what Lady was doing in Cairo goes to the heart of the furor in Europe over the CIA's practice of "rendering" militant Muslims like Abu Omar to friendly Middle Eastern countries such as Egypt and Jordan, and not-so-friendly ones such as Syria.

It also underscores what appears to be a disconnect between the debate in the United States over how aggressive military and CIA interrogators can be in questioning suspected terrorists, and the Bush administration's practice of shipping suspected terrorists to countries where torture is commonplace.

Techniques known to have been used by U.S. interrogators include a practice called "waterboarding" in which a cloth is placed over the subject's face and then water is poured over it, creating the sensation of drowning. The practice, which some human-rights groups say is torture, reportedly has been successful with several high-level al-Qaida detainees, including Sept. 11 mastermind Khalid Shaikh Mohammed.

But the reported withholding of pain medication from Abu Zubaydah, Osama bin Laden's former No. 3, who was captured in March 2002 after being wounded in a gunfight in Pakistan, "never happened," according to an authoritative U.S. official who spoke on condition that he not be identified.

Congressional Democrats and a few Republicans allege that the United States is evading federal laws and international conventions by "outsourcing" the torture of suspected terrorists to third countries.

Earlier this month, President Bush offered his assurance that "we adhere to the law of the U.S. We do not torture. We do not render to countries that torture."

A central goal of America's foreign policy since World War II has been promoting respect for human rights. But by the State Department's own account, countries to which the CIA has rendered those it suspects - not always correctly - of terrorist connections have some of the world's worst human-rights records, Egypt foremost among them.

A U.S. law implementing the Senate's ratification of the United Nations Convention Against Torture makes it a crime for a U.S. official outside the United States to inflict torture, threaten to inflict torture or conspire with others to inflict torture, which is defined as "severe physical or mental pain or suffering."

The CIA is required to refer possible violations of federal law to the Justice Department, but no referral has been made in the Milan case. The CIA's internal inspector general, however, is investigating an undetermined number of renditions to see whether agency rules or federal laws were violated.

According to Egyptian Prime Minister Ahmed Nazief, 60 to 70 suspects have been rendered by the United States to his country alone, far more cases than are publicly known. Torture is illegal in Egypt, as it is in virtually every country, and Nazief attributes reports of torture to isolated "police abuses."

But the U.S. State Department's latest survey of human rights found that "torture and abuse of detainees by police, security personnel, and prison guards" has "remained common and persistent" in Egypt.

"Principal methods of torture reportedly employed," the report says, "included stripping and blindfolding victims; suspending victims from a ceiling or doorframe with feet just touching the floor; beating victims with fists, whips, metal rods or other objects; using electrical shocks; and dousing victims with cold water."

Jordan also has a record of physical abuse of detainees, according to the State Department, as do Saudi Arabia and Morocco. Several suspects are believed to have been rendered to those countries by the CIA.

The U.N. Convention Against Torture and U.S. law prohibit transferring detainees abroad if there are "substantial grounds for believing" they will be subjected to torture.

But some Bush administration officials, including Attorney General Alberto Gonzales, say the standard they apply is only that it must be "more likely than not" that no torture will occur.

Additional assurances, Gonzales says, are required from countries with a history of using torture. Other officials say there have been instances in which U.S. government officials have checked on some of those it has rendered to make sure they are not ill-treated.

And yet accounts of torture given by Abu Omar and other rendered detainees who have been released from Egyptian prisons after they were found to have no links to terrorism are similar in their grisly details.

During a recent visit to Berlin, Secretary of State Condoleezza Rice, under fire from European allies over the CIA's use of European airports and airspace in conducting renditions, asserted that information gleaned from renditions had helped "save European lives."

But Spataro, noting that Milan police already had Abu Omar under surveillance and were preparing to

arrest him on charges of recruiting foreign fighters to go to Iraq, declares that "the Abu Omar kidnapping did not save any human life."

When the Italian police asked the CIA if it had any idea where Abu Omar had gone, the agency's written response was that it believed he had returned to Albania, where he lived for several years before obtaining political asylum in Italy.

Spataro has added the CIA official who wrote the memo and the former Rome station chief to the official list of suspects in the case, which makes them liable for arrest if they return to Italy.

Pacold, Martha M

From: Pacold, Martha M
Sent: Monday, January 9, 2006 6:05 PM
To: Gorsuch, Neil M
Subject: Draft speech
Attachments: Speech 1.9.06.wpd

Neil,

Attached is the woefully late draft I've been working on. It's way too long, and there are still some comments sprinkled throughout. Also, I should warn you that I've drawn heavily on various sources on which I can elaborate at some point. Please let me know if there's anything else I can do.

Martha

DRAFT 1/9/06

GUANTANAMO: DEBUNKING MYTHS

On September 11, 2001, our nation endured the deadliest terrorist attack in its history. That morning, the al Qaeda terrorist network viciously attacked the United States, murdering approximately three thousand people and injuring thousands more. The President, as Commander in Chief, took immediate action to hunt down the terrorists, defend the country, and prevent further attacks. Congress swiftly passed a joint resolution—the Authorization for Use of Military Force—lending the President full support "to use all necessary and appropriate force" against those responsible for the attacks, in order to prevent future acts of international terrorism against our country.

The President dispatched the armed forces of the United States to Afghanistan to seek out and subdue the al Qaeda terrorist network and the Taliban regime that had supported it. Faced with the daunting task of confronting the terrorists in their own element, United States and coalition forces have risen to the challenge. They have removed the Taliban from power and dealt a serious blow to al Qaeda's training capability. Yet pockets of die-hard terrorists remain, and so armed combat with al Qaeda and the Taliban remains ongoing.

In the course of the campaign, consistent with the law and settled practice of war, the United States military and its allies have captured thousands of persons fighting for the enemy. As in virtually every other major armed conflict in our nation's history, the military has determined that a number of the captured persons should be detained as enemy combatants for the duration of the conflict. About 500 of these enemy combatants are being detained at the United States Naval Base at Guantanamo Bay, Cuba.

As Americans, we prize dearly our freedom and our liberty. We aspire to the highest ideals of justice and magnanimity. In light of these values, the detention of any person, in war or peace, is a grave matter.

And in the new, post-9/11 world, the detention of enemy combatants raises important and unprecedented issues. In this novel setting, no one claims that questions about Guantanamo should be lightly brushed aside.

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Rather, these issues have been and should continue to be considered with care. Our society, as the President has said, is blessed with the ability to freely and openly debate difficult issues, even in wartime. We welcome that debate. Most of it has been constructive. But some have launched irresponsible charges.

They say that Guantanamo has damaged our credibility; that it is an international embarrassment to our ideals; that it does not reflect the policies of a great and just nation. These charges bolster our adversaries. They drain our troops' morale. Most of all, they offend the truth: that America is now, and always will be, a beacon of human rights.

We must remember that we are holding people who were caught on the battlefield, right after shooting at our troops or plotting to kill our civilians—and we are treating them humanely. Not only are we treating them humanely, but we are also giving every detainee at Guantanamo ongoing, repeated chances to prove that he should be released.

These procedures, recently codified and endorsed by Congress, are unprecedented in history. They are more than any nation has ever given captives during a conflict. Recognizing the extraordinary nature of this war, we have taken historic action to give these detainees an opportunity to be heard while the conflict is ongoing.

Today I want to clarify some of the confusion regarding Guantanamo, and respond to some of the specific charges leveled by our critics. But before addressing those inaccuracies, let me turn to the relevant laws of war.

First, let me speak briefly to the term "enemy combatant," as well as the distinction between lawful enemy combatants and unlawful enemy combatants. An "enemy combatant" – a term that comprises both lawful and unlawful combatants – is an individual who, under the laws and customs of war, may be detained for the duration of an armed conflict. **[not sure if it's legally safe to offer a definition of "enemy combatant" – Sct has left it open]** In the present conflict, members, agents, and associates of al Qaeda and the Taliban are enemy combatants – and thus our military may capture and detain them as long as hostilities continue.

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By universal agreement and practice, the law of war distinguishes between lawful enemy combatants and unlawful enemy combatants – a distinction the Supreme Court recognized more than sixty years ago in *Ex Parte Quirin*. [317 U.S. 1, 30-31 (1942).] Lawful combatants fight within the terms of the laws of war. When captured by opposing military forces, they receive prisoner of war (POW) status and the protections of the Geneva Convention. Unlawful combatants disregard the laws of war. When captured, they receive neither POW status nor the protections of the Geneva Convention. They may be tried and punished by military tribunals for violations of the laws of war.

The President has determined that al Qaeda and Taliban members – including the al Qaeda and Taliban detainees held at Guantanamo – are *unlawful* enemy combatants.

Those fighting for al Qaeda are unlawful combatants because, among other reasons, al Qaeda is a non-state, terrorist organization that has not signed the Geneva Convention. Those affiliated with the Taliban are unlawful combatants because, although Afghanistan has signed the Convention, Taliban fighters do not satisfy the criteria for POW status set out in Article 4 of the Third Geneva Convention: that combatants must be commanded by a person responsible for his subordinates, have a fixed distinctive sign recognizable at a distance, carry arms openly, and conduct their operations in accordance with the laws and customs of war. The Taliban fail most of these requirements. They have no organized command structure. They do not wear a uniform representing another nation's military. They do not obey the laws of war.

The President has unquestioned authority to detain enemy combatants for the duration of the conflict. As Commander in Chief of the Armed Forces, the President has all powers necessary and proper to conduct war and to defend the country. The Supreme Court recognized long ago in *Quirin*, and reaffirmed recently in *Hamdi v. Rumsfeld*, that the capture and detention of enemy combatants, and the trial of combatants who have violated the laws of war, are, by universal agreement and practice, important incidents of war. [*Hamdi v. Rumsfeld*, 542 U.S. 507, 518 (2004) (plurality); *Ex Parte Quirin*,

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317 U.S. 1, 28 (1942).] *Hamdi* made clear that "detention to prevent a combatant's return to the battlefield is a fundamental incident of waging war" that was unmistakably authorized by Congress when it passed the Authorization for Use of Military Force a week after September 11. [542 U.S. at 519.]

Indeed, the practice of detaining enemy combatants during wartime is as old as war itself. Such detention has occurred in every major conflict in United States history, including the Gulf, Vietnam, and Korean wars. By the end of World War II, the United States had in custody approximately two million enemy combatants. In fact, during World War II, our military detained hundreds of thousands of prisoners of war *on American soil* without trial or counsel. Our actions now – holding 500 enemy combatants at Guantanamo while the war on terror is ongoing – are fully consistent with time-honored practice and the laws and customs of war. Then as now, this captivity is neither revenge nor punishment; nor are the detainees subject to our criminal justice system. Their detention serves two vital purposes: preventing them from returning to battle, and gathering intelligence to save American lives.

Let me now address some of the false accusations that have been lodged against the detention at Guantanamo.

Some say that we detain people indiscriminately, based on weak evidence or no evidence at all.

Nothing could be further from the truth. As I said, we do not take lightly the capture and detention of any human being. While the detention of enemy combatants serves a critical protective function, it is also vital that we designate and detain these combatants in a principled and humane manner that reflects our values and character as a nation.

Consistent with these values, the process for determining who must be detained is extremely thorough. The military follows an extensive, multi-step screening process to determine which persons captured in zones of combat should be detained as enemy combatants, and, of those, which should be transferred to Guantanamo Bay. Approximately 10,000 people

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have been screened in Afghanistan and released from United States custody; only about 500 are being held at Guantanamo.

The screening process – along with further procedures for releasing combatants after arriving at Guantanamo, which I will discuss – ensures that a person will be held at Guantanamo only if he presents a danger to our country or has knowledge critical to the war against terror. The Guantanamo detainees include many jihadists who took up arms against the United States, as well as senior al Qaeda operatives and Taliban leaders. They include, for example, an individual who completed advanced terrorist training camps in Afghanistan; one who served as a bodyguard for Osama bin Laden; and one who trained al Qaeda associates in the use of explosives. **[accuracy of previous sentence will need to be checked – from fact sheet that may be outdated]**

By interrogating Guantanamo detainees, the United States has learned valuable information about terrorist weapons, tactics, and training – information critical to our mission of disrupting terrorist operations around the world. Guantanamo detainees have provided, among other things, information on individuals connected to al Qaeda's efforts to acquire weapons of mass destruction; information on front companies and accounts supporting al Qaeda and Taliban operations; information on the training of teenagers for suicide bombing missions; and information on travel routes potentially used by terrorists to reach the United States.

So it is important to remember: We are talking about people who either are suspected terrorists or have information that we need to fight the war. We are holding them for good reason.

Another myth is that detainees are held under the worst possible conditions.

Again, as a matter of law, the detainees at Guantanamo are not POWs under the Geneva Convention. Nonetheless, our policy is to treat all enemy combatants humanely and, to the extent possible, consistent with the Geneva Convention.

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The military is providing the Guantanamo detainees many privileges similar to those that POWs would receive. These include: three meals per day that meet cultural and religious dietary requirements; adequate shelter and clothing; showers, soap, and toilet articles; exceptional medical care; the opportunity to worship, including copies of the Koran and prayer beads; reading materials; the means to send and receive mail, subject to security screening; and the ability to receive packages of food and clothing, also subject to security screening. The International Committee of the Red Cross has ongoing access to the detainees. The detainees may raise concerns about conditions at Guantanamo, and DoD attempts to address them consistent with security.**[need to check accuracy of last two sentences w/ DoD]**

Another false allegation: detainees are held without process.

Let me emphasize again that the detention of any person is a matter of the utmost gravity. Our colleagues at DoD have taken their responsibilities seriously. They have established a regime for determining the status of enemy combatants the likes of which no nation in history has ever afforded its enemies. And, in December, Congress adopted and codified the Administration's process.

Congress thus vindicated the care and thought used in developing these procedures. The procedures well deserve such confidence. They were established in accordance with the Supreme Court's guidance on the procedures for detaining *United States citizens* as enemy combatants. In *Hamdi*, the Court held that such a citizen is entitled to certain basic procedural protections: He "must receive notice of the factual basis for his classification and a fair opportunity to rebut the Government's factual assertions before a neutral decisionmaker." [542 U.S. at 533.] The Court further noted that the process to which a United States citizen was entitled "could be met by an appropriately authorized and properly constituted military tribunal." For this it cited Army Regulation 190-8. That regulation provides for tribunals to determine the status of detainees asserting POW status under the Geneva Convention. [*Id.* at 538.]

Following the Court's guidance, the Department of Defense established Combatant Status Review Tribunals – or CSRTs – consisting of

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three neutral military officers who review the evidence surrounding each detainee captured on the battlefield and detained at Guantanamo Bay. The CSRTs are tasked with determining formally whether each detainee was properly detained as an enemy combatant. They permit each detainee the opportunity to contest his enemy combatant designation.

To date, 558 CSRTs have been held—one for each detainee under DoD control at Guantanamo Bay. Of the 558 CSRTs held, 520 detainees were determined to be enemy combatants. 38, or about 7%, were determined no longer to be enemy combatants and subject to release. These 38 are on top of 200 detainees already released from Guantanamo before the CSRT process was established.

Another myth: The Guantanamo detainees are being held "indefinitely." They could be held in perpetuity because there is no definition of when the conflict will end.

The suggestion here is that enemy combatants are being detained lawlessly and without limit. That is false.

The President's constitutional power to detain these combatants during wartime is well-established. Indeed, so long as the war continues and the detainees present a threat or retain intelligence value, it would be imprudent to release them. But, as I have emphasized, we take seriously the detention of any person. We have no interest in detaining enemy combatants any longer than necessary. And so DoD has established procedures to review the case of each enemy combatant every year, on an individual basis, to determine whether he should continue to be held.

In the recent legislation, Congress endorsed these review procedures – with good reason. Our procedures are generous by any measure. They exceed anything required by legal obligations or historical practice. At least once a year, each detainee at Guantanamo Bay is entitled to appear before an administrative review board, or ARB. Much like a parole hearing, each detainee is allowed to appear in person before a panel of three military officers and to provide information to support his release from family members, friends, or otherwise. The purpose of the ARB process is to assess

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annually whether each enemy combatant at Guantanamo continues to pose a threat to the United States or its allies, or whether there are other factors supporting the need for continued detention. Based on this assessment, the ARB panel can recommend that an individual detainee be released, continue to be detained, or be transferred with conditions to his country of nationality.

This is a detailed process for releasing detainees who no longer present a threat. In developing the process, DoD solicited input from the International Committee of the Red Cross, from nongovernmental organizations, and from ambassadors of the countries with detainees at Guantanamo Bay. DoD then worked across all federal government agencies to ensure a rigorous and fair review process.

This parole-type hearing process goes above and beyond anything required by domestic or international law, including the Geneva Conventions, by providing persons already established to be enemy combatants a chance to be heard and released *even while a conflict is ongoing*. The first ARB was conducted in December 2004, and the process is continuing. Of the 310 final decisions in ARB proceeding to date, 13 held that the detainee in question should be released, and 105 concluded that the detainee should be transferred to another country.

As a matter of law, the detainees could be held at Guantanamo until the end of the conflict, however long it might last. We recognize, however, that this is an unconventional war that calls for unconventional measures. So we have established the CSRT and ARB processes allowing the release of detainees during the conflict; and many have been released, through the CSRTs and ARBs and even before them.

While we can be proud of the procedural protections we have afforded our enemies, protections no country has ever afforded an enemy in wartime, we cannot discount the danger these detainees continue to pose to us and to our servicemen fighting abroad. Of the hundreds of detainees released after a determination that they posed low risk to this country, we have seen **NEED FIGURE** return to the battlefield and take up arms against us.

Myth: Some claim that the CSRTs are unfair, inadequate, and

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unconstitutional.

This is a gross distortion. The truth is that the CSRTs provide generous procedural protections to aliens held abroad, ones that exceed even the requirements for detaining *United States citizens* as enemy combatants *on American soil*.

In *Hamdi*, the Supreme Court addressed the extent of process due under our Constitution to such a citizen who is held in this country as an enemy combatant. The Court held that an American citizen must receive certain minimal, core due process requirements: "notice of the factual basis for his classification" as an enemy combatant, "and a fair opportunity to rebut the Government's factual assertions before a neutral decisionmaker." 542 U.S. at 533. The Court recognized that, "aside from these core elements, enemy combatant proceedings may be tailored to alleviate their uncommon potential to burden the Executive at a time of ongoing military conflict." *Id.* As an example of procedures that might be constitutional for American citizens held as enemy combatants in the United States, the Court cited with approval Army Regulation 190-8, which provides procedures to adjudicate POW status under Article 5 of the Third Geneva Convention.

The CSRTs were based on, and go even further than, Army Regulation 190-8. They afford notice: In advance of the hearing, each detainee is provided with an unclassified summary of the evidence supporting his enemy combatant designation.

They afford a fair opportunity to rebut the Government's case: The detainee has the rights to (a) testify or otherwise address the tribunal in oral or written form, (b) introduce relevant documentary evidence, (c) call witnesses if reasonably available, and (d) question witnesses called by the tribunal. Each detainee has the right to receive the assistance of a military officer assigned to serve as a personal representative, to ensure the detainee understands the process and the opportunities available, and to prepare for the hearing. Another military officer, the recorder of each tribunal, is required to search government files for and present any evidence suggesting that the detainee is not an enemy combatant. In addition, the detainee has the right to attend all proceedings, except as to matters that would

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compromise national security if the detainee were present; the detainee may not be forced to testify; and an interpreter is provided if necessary.

Finally, the CSRTs afford a neutral decisionmaker: Each CSRT comprises three military officers sworn to discharge their duties faithfully and impartially and in no way involved in the apprehension, detention, interrogation, or previous determination of status of the detainee. CSRT members have been given orders, by the Deputy Secretary of Defense and the Secretary of the Navy, to make a "neutral" and independent evaluation of the status of each individual detainee. The tribunals make decisions by a preponderance of the evidence, and by majority vote. They create a written report of their decision, and the tribunal record is reviewed by the Staff Judge Advocate for legal sufficiency. Each tribunal decision is subject to two further levels of mandatory review, first by the CSRT Legal Advisor and then by the CSRT Director. If appropriate, the record may be returned to the tribunal for further proceedings.**[need to check this paragraph, particularly last 3 sentences, w/ DoD]**

In several respects, the CSRTs provide even greater procedural protections than those required by Article 5 Tribunals, as set forth in the Army regulation cited with approval in *Hamdi*. Examples include the express qualifications to ensure the tribunal's independence; the personal representative provided to assist each detainee; the recorder's search of government files for, and provision to the tribunal of, any evidence to suggest that the detainee should not be designated as an enemy combatant; the unclassified summary of the evidence supporting detention that is provided to each detainee in advance of the hearing; the detainee's ability to introduce relevant documentary evidence; and the automatic review of every CSRT decision by a higher authority who may return the record to the tribunal for further proceedings. There are no analogous guarantees in Article 5 tribunals.

And, far from being a rubber-stamp, the CSRT process has led to favorable determinations for 38 out of 558 detainees.

In short, the claim that the CSRT procedures are inadequate finds no support in law or history. In fact, they exceed the procedures necessary to

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hold American citizens on our own soil as enemy combatants. They provide notice to the detainee of the unclassified factual basis for his enemy combatant designation; they afford the detainee an opportunity to testify, call witnesses, and introduce evidence to rebut the Government's case; and they ensure a fair and impartial tribunal. They are more than sufficient to satisfy the requirements of due process (if any) for aliens held abroad in the unique context of ongoing armed hostilities.

Another myth: The CSRTs rely on secret evidence that the detainees are not allowed to review, depriving the detainees of sufficient notice of the factual basis for their detention.

This is false. First, the detainee does have access to the information supporting his designation as an enemy combatant. Under CSRT procedures, the unclassified factual basis for this designation is disclosed to a detainee before trial. Second, in the CSRTs, each detainee is entitled to a personal representative with access to classified information. The personal representative is a military officer, with the appropriate security clearance, assigned to the detainee for the purpose of assisting the detainee in the CSRT process. The personal representative has access to all Government files and may attend the entire CSRT proceeding, even when classified information is at issue. The personal representative is required to explain the nature of the CSRT process to the detainee, explain his opportunity to present evidence, and assist the detainee in collecting relevant and reasonably available information and in preparing and presenting information to the Tribunal. Finally, the personal representative may **[*or has a duty to?* need to confirm w/ DoD]** comment upon classified information that bears upon the detainee's status if it would aid the Tribunal's deliberations. This is more than sufficient, in a hearing to determine the simple factual question whether the alien detainee supported al Qaeda or the Taliban, to satisfy due process.

Detainees themselves – many of whom are suspected terrorists – are not given access to classified information. Some detainees and their lawyers have demanded such information. They claim, in effect, that our armed forces cannot capture and detain suspected al Qaeda terrorists abroad, during ongoing hostilities against al Qaeda, without giving them wholesale access to classified information about this Nation's intelligence sources and

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methods against al Qaeda. This claim is startling and inconsistent with the conduct of every armed conflict in this Nation's history, Army regulations, and settled case law. If the claim now propounded were right, Nazi soldiers captured in World War II would have been entitled to classified information about American sources of military intelligence.

That cannot be right. Law, historical practice, and common sense reflect that the armed forces need not furnish classified information to a suspected enemy during an ongoing armed conflict. The Supreme Court has repeatedly stressed the paramount importance of protecting the secrecy of intelligence operations and of providing intelligence sources with assurances of confidentiality that are as absolute as possible. [*CIA v. Sims*, 471 U.S. 159, 172 & n.16, 175-77 (1985).] The traditional procedures used by the armed forces to confirm an individual's POW status specifically allow a tribunal to hold proceedings closed to the detainee. [Army Regulation 190-8.] Those procedures represent the outer bounds of traditional process in the unique context of wartime. As for common sense, to give just one example, our sources in the war on terror risk their lives to provide valuable information to the United States. To induce some informants to cooperate, the Government must keep their identities absolutely confidential. Even a small chance that some court will order disclosure of a source's identity could cause sources to clam shut. [*Sims*, 471 U.S. at 175.]

To disclose this and other classified information to the enemy – especially when some of them may later be released under procedures we have established – is unthinkable. We would be giving suspected terrorists, as one court has put it, "a composite view of the government investigation." [*Center for National Security Studies v. Department of Justice*, 331 F.3d 918, 928 (D.C. Cir. 2003).] Nothing in law or history compels that; and reason and prudence forbid it.

Myth: The CSRTs are biased. They simply rubber-stamp the initial decision to detain. They fail to provide a neutral decisionmaker.

This is false. *Hamdi* recognized that, even for citizens detained in this country, a military tribunal could satisfy due process requirements, including that of a neutral decisionmaker. [542 U.S. at 537-38.] The CSRTs contain

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express qualifications to ensure the independence and impartiality of the tribunal members. CSRT members cannot have been involved in the apprehension, detention, interrogation, or previous determination of status of the detainees. They must swear an oath to discharge their duties faithfully and impartially. These are the same protections historically available in hearings under Article 5 of the Geneva Convention.

Furthermore, the CSRT officers have been given orders, by the Deputy Secretary of Defense and the Secretary of the Navy, to make a neutral and independent evaluation of the status of each individual detainee. Far from being a rubber-stamp, the CSRT process has led to favorable determinations for 38 detainees. The CSRTs clearly provide a neutral decisionmaker.

Some say that Guantanamo violates the Geneva Conventions.

This too is false. As I have explained, the Guantanamo detainees are unlawful enemy combatants. They do not qualify as prisoners of war; nor do they qualify as a matter of law for the protections of the Geneva Convention.

Al Qaeda is a terrorist organization that has killed thousands of innocent people from many countries, and it is continually trying to find ways to keep killing innocent people. It is not a party to the Geneva Convention, and thus the Convention does not apply to al Qaeda.

The Convention creates requirements for POW status that al Qaeda and the Taliban do not meet: things such as fixed distinctive emblems or uniforms, a command organization, the carrying of arms openly, and other factors. The attacks of September 11th and the other terrorist acts al Qaeda has committed around the world targeted innocent civilians and are in flagrant defiance of the law of armed conflict.

President Bush has determined that while the Geneva Convention applies to Taliban detainees because Afghanistan is a signatory to the Convention, they are not POWs under the Convention because—like al Qaeda—they do not meet the Convention's own requirements for POW status.

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We must remember that these are people who have harmed our troops abroad and our citizens at home, and who intend to do so again. So they fall into a unique category, different from lawful prisoners of war in past conflicts such as World War II, and far different from criminal defendants in the American justice system. We are holding them, first of all, to prevent them from causing further harm to our troops and our civilians, and second, to gain by lawful interrogation methods any information possible to save more lives, both military and civilian.

Also, it is important to point out that even in cases where the Convention does not apply, U.S. policy is to treat each and every detainee in our custody humanely. Our policy is to treat detainees humanely, consistent with the Geneva Convention, even though they are unlawful combatants who are not entitled to the protections of the Convention.

Another myth: Top officials in the Administration have endorsed torture. Torture is systematically used in interrogating detainees. The CSRTs rely on information obtained through torture or other forms of coercion.

The Administration's policy is very clear. As the President has said, we do not support or condone torture under any circumstances. There are no exceptions. In addition to the President's clear direction on this issue, we have domestic laws and international treaties that prohibit us from engaging in any type of torture. And our policy has been not to use cruel, inhuman or degrading treatment, at home or abroad.

Congress recently passed legislation codifying that policy. The legislation prohibits the infliction of cruel, inhuman, or degrading treatment or punishment on any person in the custody or control of the United States government. It also requires uniform standards – those authorized by the Army Field Manual – for the interrogation of Defense Department detainees.

We take our legal and moral obligations seriously. When there is any hint or suggestion that someone acting on behalf of the United States has engaged in torture it is fully and promptly investigated. We have a zero

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tolerance policy for that kind of behavior. When abuse does occur, those responsible will be held accountable for their illegal actions.

There have been cases of alleged abuse at Guantanamo, but they are not the norm and are not indicative of the behavior of our troops. To assess detention activities, the Administration has conducted more than 10 major reviews, assessments, and investigations, which produced over 500 specific recommendations to improve operations, many of which have already been implemented. In addition, there have been 24-hour inspections by the International Red Cross at Guantanamo.**[need to confirm previous 2 sentences w/ DoD]** We will continue to aggressively investigate credible allegations of prisoner abuse, to hold individuals accountable for wrongdoing, and to implement fixes to minimize the likelihood of future abuse.

Our policy against torture is fully reflected in the CSRTs. The CSRTs are required to evaluate the "reliability" of any evidence proffered to them. They are free to disregard or to discount the weight of evidence based on allegations that it was a product of torture or coercion.

We cannot forget that our enemies are cunning and eager to exploit any process we extend them. We know, for example, that an al Qaeda training manual instructs would-be terrorists on how to operate in a prison or detention center and turn our justice system to their advantage. It directs detainees to "insist on proving that torture was inflicted" and to "complain of mistreatment while in prison." Our enemies are more than willing to return good-faith process with bad-faith manipulation. Yet, knowing this, we continue to take our legal obligations very seriously. This government will not stand for torture under any circumstance.

Myth: The military commissions that will try the detainees lack basic due process.

Pursuant to Presidential order, when justified, the detained enemy combatants will receive a full and fair trial by military commission for violations of the laws of war. The use of military commissions in this context is well-established. Longstanding Supreme Court precedent, *In re*

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Yamashita, holds that the trial and punishment of enemy combatants for violations of the law of war is part of the conduct of war. [327 U.S. 1, 11 (1946).] Since the founding of our nation, the United States military has used military commissions during wartime to try violations of the laws of war. Military commissions were used in the Revolutionary War, the Mexican-American War, the Civil War, and World War II.

The military commission proceedings are full and fair. They afford an accused substantial procedural protections: notification of charges in a language understood by the accused; the presumption of innocence; trial before an impartial and independent panel of three to seven officers; proof of guilt beyond a reasonable doubt; the right to call and cross-examine witnesses; the right not to testify, with no adverse inference for remaining silent; appointment of military defense counsel at no cost to the defendant, or the right to hire civilian defense counsel; privileged communications with defense counsel; adequate support and resources for defense counsel; appointment of interpreters and translators; open proceedings, except as absolutely necessary to protect national security; and review of the record of trial by a three-member review panel. The military commission rules compare favorably to those used in the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the former Yugoslavia. They are consistent with our national commitment to the rule of law.

This is the first time since World War II that our country has had to convene military commissions. We have not simply dusted off the old World War II procedures; we have built a whole new judicial system to try these cases. The process we have established strikes a proper balance between the twin objectives of protecting national security in this time of war and providing the accused a full and fair trial.

Myth: The United States sends detainees to other countries that we know engage in torture.

At every step of the way, including this issue of renditions, President Bush and this administration have made very clear that we abide by the laws of our land and the treaty obligations we have. We will not torture here in America, and we will not export torture. That is unacceptable to this

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President, and something that we will not tolerate. When we do extradite we seek assurances from those other countries that these individuals will be treated humanely and in many instances we follow up with these countries to ensure that is happening.

Myth: The courts have rejected the CSRTs, the military commissions, and our treatment of Guantanamo detainees. The Administration is seeking to avoid judicial review of its policies regarding detainees.

These charges are false. The Supreme Court in *Hamdi* firmly established that detention of enemy combatants, even U.S. citizen enemy combatants, for the duration of the conflict is a fundamental and accepted incident to war. The Court of Appeals for the D.C. Circuit has held that Congress has fully authorized the military commissions. **[need to mention cert in *Hamdan*, or just strike previous sentence?]**

Nonetheless, our enemies, following the express instruction of al Qaeda training manuals, have clogged our courts with frivolous litigation. 160 habeas petitions have been filed in federal court on behalf of approximately 300 Guantanamo detainees. These lawsuits seek everything from access to DVDs to more exercise time to faster mail delivery. Detainees' lawyers have even sued because they consider dial-up Internet access at Guantanamo too slow. And some suits seek not just habeas relief but money damages from individual soldiers.

The government was fully prepared to defend these frivolous lawsuits, and had taken the unprecedented step of allowing private lawyers to access the Guantanamo detainees. But Congress properly determined that such litigation permits captured enemy combatants to continue their fight against the United States in its own courts, at great cost to the nation. The recent legislation passed in December eliminates the hundreds of claims brought by terrorists at Guantanamo that are now pending in our courts.

I applaud this action. As Justice Jackson once explained, "It would be difficult to devise more effective fettering of a field commander than to allow the very enemies he is ordered to reduce to submission to call him to

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account in his own civil courts and divert his efforts and attention from the military offensive abroad to the legal defensive at home." [*Eisentrager*, 339 U.S. at 779.] Litigation over Guantanamo distracts our military from its core mission of fighting the war on terror.

As the President has said, our men and women on the front lines in the war on terror deserve our respect and thanks for doing a difficult job in the interest of our country, not a rash of lawsuits brought by our enemies in our own courts. And so I am pleased that the recent legislation provides additional liability protection for those engaged in properly authorized detention or interrogation of terrorists. And it provides for legal counsel and expenses if a terrorist attempts to sue our service members.

The new law does not, as some have falsely charged, cut off terrorist litigation or attack the Supreme Court's 2004 decisions. In fact, it allows each detainee at Guantanamo substantial litigation opportunities: first, a guaranteed right of access to the Court of Appeals for the D.C. Circuit to challenge whether he should be detained as an enemy combatant; second, a guaranteed opportunity for D.C. Circuit review if he is convicted of serious war crimes; and, third, the right to an annual ARB proceeding to determine whether he should be released.

As Senator Graham said on the floor of the Senate, these are terrorists who are suing our own troops and officials in our domestic civilian courts in a time of war. Detained enemies have never before been allowed to challenge their detention in our courts. Yet the new law gives them more process in courts than enemy combatants have ever had in history – and more process in courts than even our own soldiers receive if convicted of crimes by a court-martial.

This law resoundingly reaffirms America's commitment to liberty and justice, even for suspected terrorists. We will continue to work with the Congress to ensure that the United States can effectively fight the war on terror while upholding our commitment to the rule of law.

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We cannot become complacent just because another day passes

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without an attack on our soil. Our enemies are diffuse and elusive. They are patient, diabolical, and resolute. And they intend to harm us again. We have been using every tool at our disposal to stop them. But we have done so in a way that is consistent with our legal obligations abroad and at home.

There is a famous maxim, *inter arma silent leges*: In time of war, the laws fall silent. Let that never be said of America in this war on terror. Let us hold fast to our laws, principles, and morals. And let us remain true to the values that make America a symbol of freedom.

DOJ_NMG_0008926

Williams, Jan

From: Williams, Jan

Sent: Monday, January 9, 2006 6:23 PM

To: /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bradbury, Steve; Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roberts, Crystal; Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Sanchez, William J (CRT); Tamargo, Mauricio J; Tandy, Karen P; Wooldridge, Sue Ellen (ENRD); Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford

Subject: Patriot Act Update Newsletter

Attachments: Patriot_Act_Update_1-9-06.pdf

Please see the attached newsletter. These will be sent out each week this month.

JANUARY 9, 2006

Senate Extends USA PATRIOT Act Temporarily

Threats Loom Over Further Reauthorization

A minority of Senators in the U.S. Senate have effectively stalled the reauthorization of the USA Patriot Act, one of the key tools used to fight terrorism after the September 11th attacks on America. In 25 days, key provisions of this vital law will expire and leave America more vulnerable to the terrorists seeking to attack us.

In fact, just a few weeks ago, the Senate Democratic leader Senator Harry Reid boasted to a group of political supporters that Senate Democrats had "killed the Patriot Act."

President George W. Bush has called on Senate Democrats to reauthorize this key anti-terrorism legislation, saying it was "inexcusable" to block renewal of the law in the face of terrorist threats.

"The terrorist threat is not going to expire," Bush said. "The senators obstructing the Patriot Act need to understand that the expiration of this vital law will endanger America and will leave us in a weaker position in the fight against brutal killers," he added.

President George W. Bush, flanked by Attorney General Gonzales and Homeland Security Secretary Chertoff, meets with U.S. Attorneys from across the country who have used the Patriot Act to help keep America safe from terrorist attacks for more than four years (Roosevelt Room, Tuesday, Jan. 3, 2006). "This Patriot Act was passed overwhelmingly by the United States Congress in 2001," said the President in his remarks to the press. "Members from both parties came together and said we will give those on the front line of protecting America the tools necessary to protect American citizens, and, at the same time, guard the civil liberties of our citizens." White House photo by Eric Draper

PATRIOT ACT FACT:

In 2001, after the 9/11 attacks, the U.S. Senate voted 98-1 to pass the Patriot Act. Nearly all of the senators now threatening to continue to filibuster the Patriot Act actually voted for it in 2001.

What Happens if the Patriot Act Expires?

If the Patriot Act is allowed to expire, we will revert back to pre-9/11 law enforcement capabilities, making it more difficult to investigate a potential terrorist attack than it is to catch a drug dealer, a mobster, or a white collar criminal.

For example:

- Confusion will once again be injected into what and how information may be shared between criminal investigators and intelligence personnel.
- Investigators would possibly be several steps behind sophisticated terrorists who frequently change phones to evade surveillance.
- In the vast majority of cases, intelligence investigators will no longer be able to trace the calls of terrorists and spies.
- It will once again be illegal for a law enforcement officer who learns of an imminent terrorist threat through a wiretap to disclose that threat to our nation's intelligence agencies without first obtaining a court's approval.

DID YOU KNOW?

- **Although there has not been a verified abuse of the Patriot Act since its enactment in 2001, the reauthorization bill includes more than 30 new significant civil liberties protections.**
- **In addition to reauthorizing the Patriot Act, the reauthorization bill also includes new provisions that would bolster port security, help guard against attacks on mass transportation like trains and buses, and continue the attack on the illegal money flow to terrorists around the world.**

None of these beneficial provisions will become law unless the minority of Senators who are filibustering the Patriot Act stop their obstructionist tactics.

White House Office of Intergovernmental Affairs • 202-456-2896
For More Information: http://www.lifeandliberty.gov/

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Tuesday, January 10, 2006 8:08 PM
To: Gorsuch, Neil M; Elwood, Courtney; Sampson, Kyle; Scolinos, Tasia; Moschella, William; Mercer, Bill (ODAG); Roberts, Crystal; Pacold, Martha M; Swenson, Lily F; Hertling, Richard; Holland, Eric W; Seidel, Rebecca
Subject: Draft DOJ Human Trafficking Report - Near Final
Attachments: DOJ HT Report Final Draft 1.10.06.wpd

All. This is a near final draft of this report. I like what I see here. Am reviewing more thoroughly and will have a set of comments for CRT. Please advise if you have any as well. Thanks very much.

From: Comisac, Rena (CRT)
Sent: Tuesday, January 10, 2006 6:10 PM
To: Vargas, Omar (CRT); Bottner, Andrea; Kaplan, Jennifer; Rothenberg, Laurence E; Hertling, Richard; Cammarata, Pam; Roth, Monique; Thacker, Stephanie; Oosterbaan, Andrew; McHenry, Teresa; Voris, Natalie (USAEO); Hagy, David, W.; Scott-Finan, Nancy; Kockritz, Janis; Hagen, Leslie A. (USAEO); Bell, T March (CRT); DeBaca, Lou (CRT); Grenadier, Lorna (CRT); Troup, Linda M (CRT); Kappelhoff, Mark (CRT); Burch, Jim; Roberts, Marilyn; Schmitt, Kathleen D.; Frost, Joye; lmball@usa.net; stansstrauss@comcast.net; kerri.galvin@ic.fbi.gov; david.johnson3@ic.fbi.gov
Cc: Reyes, Luis (SMO); Little, Kimani (CRT); Schlozman, Brad (CRT)
Subject: RE: DOJ Trafficking Report 1.10.06

First, let me thank Omar for the tremendous amount of work he's done on this report. He is really the one who has pulled the laboring oar in drafting and assimilating all of your submissions into a single, cohesive document. Second, let me thank all of you for your feedback. We never could have gotten this far without your input. Finally, a gentle reminder that we are still waiting on supporting documentation from a number of components (you know who you are). We are cross-checking the report with the supporting documentation, which is a time-intensive process. We cannot submit the report to the printer without your supporting documentation, so please get it to us if you have not done so already. I am sure that none of you want your component to be the one holding up finalization of the report!

-----Original Message-----
From: Vargas, Omar (CRT)
Sent: Tuesday, January 10, 2006 5:54 PM
To: Bottner, Andrea; Kaplan, Jennifer; Rothenberg, Laurence E; Hertling, Richard; Cammarata, Pam; Roth, Monique; Thacker, Stephanie; Oosterbaan, Andrew; McHenry, Teresa; Voris, Natalie (USAEO); Hagy, David, W.; Scott-Finan, Nancy; Kockritz, Janis; Hagen, Leslie A. (USAEO); Bell, T March (CRT); DeBaca, Lou (CRT); Grenadier, Lorna (CRT); Troup, Linda M (CRT); Kappelhoff, Mark (CRT); Burch, Jim; Roberts, Marilyn; Schmitt, Kathleen D.; Frost, Joye; 'lmball@usa.net'; 'stansstrauss@comcast.net'; 'kerri.galvin@ic.fbi.gov'; 'david.johnson3@ic.fbi.gov'
Cc: Reyes, Luis (SMO); Little, Kimani (CRT); Schlozman, Brad (CRT); Comisac, Rena (CRT)
Subject: DOJ Trafficking Report 1.10.06

<< File: DOJ Trafficking Report 1.10.06 >>

Everyone:

As promised, attached is the last draft of the DOJ trafficking report we will circulate to the working group. This draft makes an attempt to incorporate graphs, pictures, and other images to give as good a sense as

possible as to what the final product will look like. Because this version includes numerous images, it is a HUGE file. The document has been compressed into a "ZIP file." I've been advised that it is best for you to save the file onto your desktop for quick retrieval. If you do not have WINZIP, you should either obtain the program or contact me and I will burn a CD for you. Please don't attempt to redline this document, the software may freeze on you. Instead, send your comments in the body of an email and images should be attached to your email.

Your expertise and help has resulted in a fairly nice document. **Please review and provide comment to us no later than COB tomorrow, 1/11/06.** If you propose any new language, please submit drafted language ready for insertion into the document. Same with pictures or other images. Please provide a copy of the image and identify a location in the report for it.

Many Thanks!

Omar

Department of Justice
Report on Activities to Combat Human Trafficking
Fiscal Years 2001-2005

I. An Introduction to Human Trafficking

Human trafficking is a pernicious crime that violates the fundamental principles of our society. For traffickers, victims are commodities to be traded and exploited in any market. Human trafficking is the modern-day form of slavery. It requires the use of force, fraud, or coercion by a trafficker to compel a person into, or hold someone in, an employment situation in which he or she will be criminally exploited. Trafficking may occur when victims are transported across borders or within a nation, or may not involve transportation at all. Victims, often women, are usually lured by promises of well-paying jobs. Once deprived of the opportunity to return home or communicate with their family, victims are generally held through force or threats in situations of sexual exploitation or forced labor. Human trafficking offenses thus transgress the victim's human liberty in violation of the Thirteenth Amendment's guarantee of freedom. As such, trafficking offends the core civil rights on which our Constitution and our country are based.

> Human life is the gift of our Creator -- and it should never be for sale. It takes a special kind of depravity to exploit and hurt the most vulnerable members of society. Human traffickers rob children of their innocence, they expose them to the worst of life before they have seen much of life.
>
> –President George W. Bush, July 16, 2004

By statute, a victim of a "severe form of trafficking in persons" is entitled to certain public programs and benefits. A severe form of trafficking must include the recruitment, harboring, transportation, provision, or obtaining of a person for one of the three following purposes:

- Labor or services, through the use of force, fraud, or coercion; or
- A commercial sex act, through the use of force, fraud, or coercion; or
- If the person is under 18 years of age, any commercial sex act, regardless of whether any form of coercion is involved.[1]

Since 2001, the Department of Justice has achieved an impressive record of prosecuting defendants for holding their victims in compelled service in such diverse areas as prostitution, field labor, domestic service, concubinage, "exotic dancing," pornography, garment factory "sweatshops," and street peddling. From fiscal year 2001 through fiscal year 2005, the Civil Rights Division and United States Attorneys' Offices filed 91 trafficking cases, a 405% increase over the number of trafficking cases filed from fiscal years 1996 through 2000. In these cases,

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[1] Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, Division A, § 103(8),(9), 114 Stat. 1464 (signed into law on October 28, 2000; codified as amended at 22 U.S.C. § 7102 (8),(9)).

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Department attorneys charged 248 trafficking defendants, a 210% increase over the previous five fiscal years. In addition, prosecutors with the Civil Rights Division and United States Attorneys' Offices convicted 140 defendants of trafficking-related crimes, a 109% increase over the previous five years.

Traffickers take advantage of the victims' hopes for a better life, preying on or even creating vulnerabilities that they can exploit. For example, in *United States v. Satia*, Louisa Satia and her husband, Kevin Nanji, used a false passport to bring 14 year-old "R.O." from Cameroon, where R.O. had worked for Satia's mother since the age of 12. R.O. was lured by the promise of an American education. Satia and Nanji refused to send the girl to school, however, and instead forced her to work for them as a maid and as a nanny to their young children. R.O. was not permitted to leave Satia and Nanji's apartment alone, except to take out the trash and walk the children to the school bus stop. Satia hit R.O. routinely, poked R.O. in the eyes, sprayed window cleanser on R.O., poured cola and glue in R.O.'s hair, and threatened her with deportation even though they were the ones who had brought her to the country illegally. Nanji made repeated sexual advances toward the girl. Apart from keeping R.O. in a condition of involuntary servitude, Satia solicited numerous people to sell their identities to her so that she could create false passports and routinely arranged false marriages as part of an immigration fraud scheme. In 2002, after their conviction at trial of involuntary servitude, the defendants were sentenced to 9 years in prison and ordered to pay $105,300 in restitution.[2]

Traffickers may lure their victims into farm work, factories, domestic service or the hospitality and sex industries. For instance, in a pathbreaking case in Florida, *United States v. Cadena*, Mexican women and girls as young as 14 years of age were brought to the United States with promises of good jobs as

[2] *United States v. Satia*, Cr. No. 00-590 (D. Md. 2002)(Case indicted on 2/7/01).

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waitresses and landscapers, only to be held as slaves in a high-volume prostitution operation.[3]

The Cadena family

I hated to be in the brothels. There were so many clients that came to the house. I was so scared. I would try to hide from them so they wouldn't pick me. The Bossses told me I had to work and to stop behaving in this manner. Also, the Bosses would rape some of the other girls. This scared me. I was afraid they might rape me or hurt me in some other way. I didn't know anyone. I was alone. I was very frightened.

- "Ignacia," a 15-year old victim in *United States*

d the women in their service by shooting into the ground at their feet, threatening their families, beating them, and raping them as punishment if they tried to run away. The ringleader and six other men were convicted of involuntary servitude and sentenced to up to 15 years of incarceration. The *Cadena* case is ongoing, and Federal Bureau of Investigation and Departmental prosecutors and victim-witness specialists have continued to prosecute Cadena family members and assist the survivors. In 2002, one of the family members was apprehended at the United States-Mexico border and pled guilty to conspiracy to enslave the women and girls. With the cooperation of the Mexican Government, the Department secured the conviction of one of the Cadena brothers in Mexico in 2002, where he was sentenced to 24 years of incarceration. In 2005, the Federal Bureau of Investigation and the Department's Office of International Affairs achieved the arrest in 2005 of yet another member of the family; trial is pending in Mexico as of the time of this report and a request for extradition prepared by the Office of International Affairs is pending. The *Cadena* victims have been assisted by a non-governmental organization that is funded by the Department's Office for Victims of Crime, and with the help of the case agents, prosecutors, and victim/witness staff, they have been able to bring their children and custodial parents to the United States.

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[3] *United States v. Cadena*, Cr. No. 98-14015 (S.D. Fla. 1998).

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Any specific instance of human trafficking may involve a range of other criminal activity that is not limited to federal anti-human trafficking laws, such as inter-state transportation for prostitution, money laundering, and racketeering. Trafficking indictments often reflect this as the Department is committed to attacking this problem using all of the varied tools in the federal prosecutor's tool box.[4] For instance, in *United States v. Zavala*, Mariluz Zavala, who in November 2005 received a 15-year prison sentence for enslaving Peruvian workers in Long Island, New York, was charged with a multi-object conspiracy, where the Department alleged that she and her co-conspirators had conspired to commit forced labor and involuntary servitude by withholding immigration documents. The Department also charged her with extortion and falsifying immigration documents, criminal violations that are not found in the federal anti-human trafficking law.[5] In forced prostitution cases, such as *United States v. Reyes-Rojas*,[6] where two brothers were charged with sex trafficking, additional charges often include inter-state transportation for prostitution under the law known commonly as the "The Mann Act,"[7] and harboring people for prostitution. In cases like *United States v. Maksimenko*, where a Lithuanian man pled guilty to enslaving Ukranian women in strip clubs through force and threats, federal prosecutors brought money laundering charges. Trafficking charges are predicate acts under the Racketeer Influenced and Corrupt Organizations (RICO) statutes,[8] and accordingly can sustain money laundering charges for transactions carried out with the proceeds of, or in furtherance of, a trafficking scheme.

Sometimes, when a trafficking situation has occurred, but there is not sufficient evidence with which to establish a trafficking offense, the Mann Act and immigration statutes can be powerful tools to vindicate the federal interest. For example, in *United States v. Reddy,*[9] the investigation revealed that, for over ten years, defendant Lakireddy Bali Reddy, a wealthy San Francisco Bay Area businessman, maintained a number of young girls and women as a quasi-harem for his sexual gratification and to work in his household and business enterprises. These victims were predominantly from families of lower castes in India and were brought into the United States by way of fraudulent employment offers or sham marriages. Members of Reddy's family posed as relatives of the victims to assist in their fraudulent migration. His scheme came to light after a teenage girl died of carbon monoxide poisoning in the apartment where he had sequestered her, her sister, and another girl. In 2001, Reddy pled guilty to transporting his victims in interstate and foreign commerce for illegal sexual activity. He was sentenced to more than 8 years in prison and ordered to pay $2,000,000 in restitution to four of his victims. The victims received benefits and services under the TVPA and today remain safely in the United States.

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[4] The federal prosecutor's tool box is discussed below in Part IV "Tools for Investigating and Prosecuting Human Trafficking."

[5] *United States v. Zavala*, Cr. No. 04-962 (E.D.N.Y. 2004).

[6] *United States v. Reyes-Rojas*, Cr. No. 1:03-CR-542 (N.D. Ga. 2003).

[7] 18 U.S.C. § 2421.

[8] Racketeer Influenced and Corrupt Organizations (RICO) Act, 18 U.S.C. § 1961, et seq.

[9] *United States v. Reddy*, Cr. No. 00-4028 (N.D. Cal. 2000).

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II. An Administration Priority

Early in this Administration, the President identified the eradication of human trafficking as a priority. Two particular actions by the President focused Federal resources on trafficking. First, in February 2002, the President issued Executive Order 13257, creating a cabinet-level Interagency Task Force to Monitor and Combat Trafficking in Persons. The President ordered that the Task Force be chaired by the Secretary of State and be comprised of the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Director of Central Intelligence, the Director of the Office of Management and Budget, and the Administrator of the United States Agency for International Development.[10] The President took this action to ensure that the TVPA was fully implemented in a coordinated fashion throughout the federal government.[11]

> Slavery, human trafficking, and sexual servitude are crimes that wrench our hearts. They rob human beings of freedom. They strike at our nation's belief in the potential of every life. They are crimes that demand swift and implacable prosecution of the predators. They are crimes that deserve warmth and compassion for the victims.
>
> -Attorney General John Ashcroft, January 29, 2004

Second, also in February 2002, the President issued National Security Presidential Directive 22 (NSPD-22) to identify human trafficking as an important national security matter as well as to instruct federal agencies to strengthen their collective efforts, capabilities, and coordination to support the President's goal of abolishing human trafficking.[12] NSPD-22 states that human trafficking is a transnational threat that is an affront to the principles on which this country stands. The relationship of human trafficking to organized crime, especially transnational criminal syndicates, fosters official corruption and threatens the rule of law.[13] The clandestine movement of persons across borders also poses terrorism and public health concerns. The United States Attorney's Office for the District of Montana, for example, treats every border incursion as potentially related to terrorism and, in 2004, was involved in a joint operation with the Royal Canadian Mounted Police and the Canadian Border Services Agency that resulted in the identification of a dozen Korean women believed to be destined for the sex trade, 80% of whom tested positive for tuberculosis. The syndicates that recruit and move these victims are often the same ones that are responsible for other trans-border crimes, like smuggling, drug trafficking, and the arms trade. Traffickers can and will move any type of cargo, human or otherwise, for

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[10] Exec. Order No. 13257, 3 C.F.R. 13257 (2002).

[11] The President subsequently issued an Executive Order amending Executive Order 13257 on March 18, 2004, conforming it to the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, 117 Stat. 2875.

[12] National Security Presidential Directive Memorandum Regarding Combating Trafficking In Persons, (Feb. 25, 2002) Parts of NSPD-22 are classified and cannot be released to the public.

[13] *Id.*

DOJ_NMG_0008937

profit. The fight against trafficking is therefore a critical element of United States foreign policy, requiring full use of the tools of diplomacy and the cooperation of American and foreign law enforcement.

Moreover, NSPD-22 views the abolition of prostitution, the driving force behind sex trafficking, as integral to the abolition of human trafficking. Regarding the United States's policy towards prostitution, NSPD-22 states:

> The United States opposes prostitution and any related activities, including pimping, pandering, and/or maintaining brothels as contributing to the phenomenon of trafficking in persons. These activities are inherently harmful and dehumanizing. The United States Government's position is that these activities should not be regulated as a legitimate form of work for any human being.[14]

NSPD-22 created a three-point plan of action:

1. **Implementing Training in Federal Agencies**
   The President required all federal agencies to ensure that their own personnel were trained and equipped to carry out their anti-trafficking responsibilities and that their personnel coordinated with counterparts in other agencies. Further, NSPD-22 stated that the United States has a zero-tolerance policy with regard to trafficking by United States Government employees and contractors, who are to be educated about trafficking and investigated, prosecuted, and punished for engaging in it.

2. **Developing Cooperation With State and Local Law Enforcement in the United States**
   The President recognized that state and local law enforcement are critical to federal efforts to combat human trafficking. NSPD-22 instructs federal agencies to vigorously enforce laws against traffickers, and to provide training and assistance to state and local law enforcement to assist them in recognizing victims and to hold perpetrators accountable for their crimes.

3. **Integrating and Coordinating International Programs**
   The President required all federal agencies to coordinate foreign assistance programs,

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[14] *Id.*

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> including funding to governmental and non-governmental organizations and public awareness programs, to combat trafficking in persons. NSPD-22 also required agencies to ensure that contractors receiving United States funding through international programs do not engage in trafficking activities. The President also directed agencies to work to prevent future victimization by reducing the vulnerability of individuals to trafficking, particularly through the expansion of educational and economic opportunities and the protection and promotion of human rights. The President further directed federal agencies to employ diplomatic and foreign policy tools to encourage other nations and multilateral organizations to work with the United States to combat this crime, to draft and enforce laws against trafficking, and to hold accountable those who engage in this crime.[15]

In 2003, Congress passed and President Bush signed the reauthorization of the TVPA, known as the Trafficking Victims Protection Reauthorization Act (TVPRA).[16] The TVPRA of 2003 codified the President's Interagency Task Force to Monitor and Combat Trafficking in Persons by creating the Senior Policy Operating Group (SPOG), which meets quarterly. The TVPRA slightly expanded the SPOG's authority, particularly as it concerns inter-agency coordination to develop the capacity of foreign nations, both source and destination countries, to combat trafficking; to examine the role of sex tourism in human trafficking; and to foster consultation with governmental and non-governmental organizations regarding implementation of the TVPRA.

The Attorney General has been an engaged member of the SPOG, and the Department supports this group in a variety of ways. In 2004, for example, the Civil Rights Division and the Office of Justice Programs participated in a SPOG subcommittee charged with designing the President's international human trafficking initiative. Currently, the Civil Rights Division, the Criminal Division, the Office of Legal Policy, and the Office for Victims of Crime are members of the SPOG Subcommittee on Domestic Trafficking. The National Institute of Justice, a component of the Office of Justice Programs, is a member of the SPOG Subcommittee on Research, which shares information regarding research grants and other activities by each SPOG member agency. This subcommittee is also studying the issue of accurately estimating the number of trafficking victims within the United States. In addition, the Office of Justice Programs, the Department's principal grant-making agency, and the Office on Violence Against Women participate in the interagency grant information-sharing process of the SPOG. The grant information-sharing process is designed to provide SPOG member agencies with an opportunity to review and comment on proposed grant awards, helping to ensure that domestic and international grant programs are coordinated across the federal government. Finally, the Office of Legal Policy chairs the SPOG Subcommittee on Regulations, a working group charged with the development of federal regulations to implement the TVPRA.

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[15] *Id.*

[16] Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, 117 Stat. 2875 (2003) (signed into law by President Bush on December 19, 2003).

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III. Scope of the Problem

A. How Many Victims and Who are They?

It is extremely difficult to quantify the number of victims trafficked globally and into the United States each year. Some estimates indicate that as many as 800,000 people are trafficked across international borders annually, with up to 17,500 victims trafficked into our country each year.[17] Clearly, the problem is of sufficient magnitude that a continued dedication of substantial resources to this enforcement area is very much in order.

Despite our record number of investigations and prosecutions, there is a noted disparity between the estimated number of victims and those who have been found and assisted. The Department realizes that it must address the incongruity between some estimates and the fewer than 1,000 victims who have been assisted through the efforts of federal, state, and local law enforcement since 2003, when services for trafficking victims were first made available under the TVPA. Though the possible reasons for this disparity vary, the difference nevertheless signals the need to carefully scrutinize the estimated number of trafficking victims to assure that it reflects as accurately as possible the number of human trafficking victims within our country.

Some Estimates Overstate the Number of Victims

Some possible explanations are that estimates may overstate the extent of the problem and conflate human trafficking with the smuggling and harboring of illegal aliens or with the related crime of migrant prostitution. Trafficking victims are not all illegal aliens; human trafficking is distinct from human smuggling. Trafficking victims may be United States citizens, legal residents, or visitors. For example, *United States v. Pipkins* was the first case in which the

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[17] U.S. Dept. of Justice, Assessment of U.S. Gov't Activities to Combat Trafficking in Persons, Fiscal Year 2003 (2004); Office to Monitor and Combat Trafficking in Persons, U.S. Dept. of State, Ann. Rep. (2005).

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Department successfully prosecuted two pimps for trafficking women and girls, all American citizens.[18] Prostitution alone is not trafficking; but where, as here, it involved the use of force or coercion to prevent people from leaving the enterprise, it becomes trafficking. Human smuggling, on the other hand, is the facilitation, transportation, attempted transportation, or illegal entry of a person or persons across an international border, in violation of American immigration laws. Many of those illegally entering the United States are smuggled, not trafficked.[19] Smuggling may occur clandestinely or through deception, such as the use of fraudulent passports or other immigration documents.[20] Human smugglers enter into a contractual relationship with those they will illegally transport into our country. The smuggler is often paid a considerable amount of money for his services and the relationship normally ends once the smuggled person has entered the United States and the debt is paid. Sometimes, smuggling may turn into trafficking when smugglers extort their victims until the smuggling debt is repaid.

The defendants in *United States v. Pipkins*.

Identifying Victims is Difficult

Another explanation is that identifying and assisting victims of human trafficking are difficult tasks, and consequently, the Department does not have reliable figures regarding the number of victims who may be in the United States. Trafficking victims who have been rescued in connection with federal government activities over the past several years have come from more than 50 different countries.[21] But several factors contribute to the difficulty of identifying trafficking victims. Human trafficking, like many other crimes, often requires that the victim and the criminal enterprise remain in the shadows of our communities. Moreover, victims often suffer from paralyzing fear and are reluctant to seek help, further exacerbating the problem. Traffickers prey on the meek and destitute, coercing and deceiving them into hiding.

Trafficking Schemes May Be Dismantled In A Variety of Ways

A third possible explanation for this disparity is that victims may be helped by state and local law enforcement activities that the Department does not know about, or, in some instances, state and local officials may not realize that they have uncovered trafficking victims. Under our federal

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18 *United States v. Pipkins,* 378 F. 3d 1281 (11th Cir. 2004).

19 The Human Smuggling and Trafficking Center, Fact Sheet: Distinctions Between Human Smuggling and Human Trafficking (2005).

20 *Id.*

21 U.S. Dept. of Justice, Assessment of U.S. Gov't Activities to Combat Trafficking in Persons, Fiscal Year 2003 (2004); U.S. Dept. of Justice, Assessment of U.S. Gov't Activities to Combat Trafficking in Persons, Fiscal Year 2004 (2005).

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system of government, state and local governments may prosecute these cases under other criminal laws. Furthermore, although a particular prosecution by the Department may only result in the rescue of one or a few victims, it is reasonable to assume that enterprises that have been in business for several years have victimized dozens and possibly hundreds of people.

Developing A Better Understanding of Trafficking & its Victims

The Department is committed to discussing and refining methodologies for estimating the number of victims that may yield more reliable results. The Department's Bureau of Justice Statistics and National Institute of Justice have begun to research these issues and will publish information useful to victim advocates, policy makers, and law enforcement officials. Indeed, Congress has recently mandated that the Department undertake research to develop an estimate of the number of persons engaged in severe forms of trafficking and commercial sex acts and to share this information with its state and local governmental and non-governmental partners.[22] The enactment of anti-trafficking crimes at the state level, many of which are based on the Department's model anti-trafficking statute, is a heartening trend, as the men and women in state and local law enforcement far outnumber the federal resources available to combat this problem.[23] As with domestic violence and sexual abuse, it is local police and prosecutors who will investigate and prosecute the lion's share of trafficking cases in the coming years. The Department is committed to supporting these partners in expanding the victim-centered approach it has developed.

B. The Department Responds to this Crime with A Victim-Centered Approach

[W]e must combat crimes that tear at the fabric of our

Victim-centered prosecutions recognize that the government's interest in these cases stems from the violation of the fundamental right of freedom. Moreover, victim-centered prosecutions are essential to the liberation and care of victims. In vindicating the survivor's right to be free, federal prosecutors must give him or her the opportunity to use that freedom and the support to make it meaningful. The Department's approach flows from our nation's foundational principles– respect for human dignity and one's civil rights

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22 Trafficking Victims Protection Reauthorization Act of 2005 [HR. 972 Sec. 201 (a)(1) and (2)].

23 The Department's model state law is discussed below in detail at ____. A copy of the model state law is available as an appendix to this report and on the internet at http://www.usdoj.gov/crt/crim/model_state_law.pdf .

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Typically, federal prosecutors learn about a crime from the victim, an eyewitness, or through an investigation. For traffickers to be successful, they must hide their crime from law enforcement by concealing their victims and their collaborators. Those who benefit from trafficking – men who frequent prostitutes and those who benefit from the low cost labor that the traffickers broker – are often momentary beneficiaries, and may not even know that the victim is being held in compelled service. Thus, the only remaining eyewitness is often the victim. To prevent their workforce from running away and to forestall detection, traffickers have an incentive to instill fear in their victims– fear of American law enforcement, fear of their captors, and fear of anyone they meet in their unfamiliar settings. Many victims are far from their country of origin and their families. They do not speak English and are more likely than not to lack any legal immigration status. Traffickers prey on the unsettled aspects of their lives, playing victims against each other and fostering collaboration.

Victims of trafficking often live and are forced to work in linguistic and social isolation. They fear the threat of exposure and feel shame about the work they are forced to do, particularly when that work includes sexual abuse. They also fear continued violence or the threat of reprisals against loved ones. They can develop a psychological and emotional dependence on the trafficker or others. Immigrant victims of human trafficking often face a special set of circumstances that keep them in the shadows of our nation's communities. Traffickers will often withhold from immigrant victims of trafficking their immigration documents. Immigrant victims may have a fear of American law enforcement , do not understand their rights, and fear risking default on monies owed their captors, as well as the collateral effect that may have on their families back home. The result is that victims will rarely self-report and so they must be pro-actively found.

While relying on the victims to give testimony about their suffering – the same duty American law requires of any witness – the Department places a premium on addressing the victims' need for recovery. Agents, prosecutors, and victim/witness staff work with, and are intensifying their relationships with, victim service providers. These groups, often experienced faith or community-based organizations that have previously served immigrant or abused populations, can help keep the victims safe, meet their medical and housing needs, and help them find an equilibrium in their lives through job training, language classes, and life-skills counseling.

"It's their fault that I lost my friends, my parents....My story is very long. It took me about a year to reach my parents....They (the defendants) don't repent for everything they did to me, for all the damage they did to me. They hit me....They thought they were big shots. I tried to defend myself but couldn't. I tried to escape...."

–An in-court statement by S.A.H., a victim in *United States v. Jimenez-Calderon*

The services that are available to victims formed the basis of the Department of Justice "victim-centered approach" that understands that the mission of government is to remove victims from the abusive setting, place them into safe programs of restorative care and hold the perpetrators

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accountable. Congress intended this comprehensive effort to combat trafficking in the TVPA and is reauthorization in 2003 and 2005. One of the added benefits of restorative care for victims is that they become empowered to provide critical evidence that law enforcement can use to investigate and prosecute traffickers. Without these services victims would remain too traumatized or afraid to assist law enforcement.

Victim-centered prosecutions, where government funded services and protection are provided to victims who assist an investigation and prosecution, are critical to the prevention of human trafficking. Without the victim's contribution, law enforcement's ability to stop traffickers from recruiting other vulnerable persons is blocked. Without the victim's help, police and prosecutors will not be able to effectively neutralize the trafficking scheme and prevent others from being trafficked.

Federal law enforcement are committed to combating human trafficking with a victim-centered approach. Federal investigators and prosecutors, including Federal Bureau of Investigation and Bureau of Immigration and Customs Enforcement agents and Assistant United States Attorneys, immediately refer a victim to victim-witness specialists who begin to provide the appropriate referrals to victim service providers, often grantees that are funded through the Office for Victims of Crime and the Department of Health and Human Services' Office of Refugee Resettlement. The Civil Rights Division and the Office for Victims of Crime work together to ensure that grantees are available to provide services to victims. In addition, because trafficking victims may avail themselves of victim services providers funded through other Departmental components, such as the Office on Violence Against Women and the Bureau of Justice Assistance, grantees of these offices are trained to provide assistance to victims of human trafficking.

Department components regularly promote a victim-centered response and educate other law enforcement agencies and victim service providers about the dynamics of trafficking and the need for pro-active investigations in an effort to increase awareness and outreach to new partners, with the ultimate goal of preventing victimization. For example:

- Since 2002, Civil Rights Division staff have trained federal, state, and local law enforcement officers and victim service providers about proactive victim-centered investigations. In addition, Criminal Section lawyers are educating prosecutors and other law enforcement officials across the country on the criminal provisions of the new trafficking statute and providing practical guidance on investigating and prosecuting these difficult cases, as well as assisting localities to establish regional working groups to better coordinate and focus anti-trafficking law enforcement efforts. The Section continues to organize and lead training efforts at the Justice Department's national training facility for federal investigators and prosecutors from around the country, as well as victim-witness coordinators from the Department of Justice and other

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federal law enforcement agencies.

- Since January 2003, nearly 40,000 law enforcement officers, attorneys, social service providers, advocates, medical and mental health professionals, and community members have been trained by the Office for Victims of Crime and Bureau of Justice Assistance grantees. Moreover, the Bureau of Justice Assistance's law enforcement training emphasizes that code enforcement officials, fire marshals, and other persons who may have access to where victims are being held should be trained on signs of human trafficking.

- The Federal Bureau of Investigation's Civil Rights Unit and various United States Attorneys' Offices have also participated in dozens of regional Department of Justice sponsored human trafficking training conferences hosted throughout the country, in cities including Los Angeles, Houston, New Haven, Portland, St. Louis, San Diego, San Francisco, and Tampa.

- Since 2003, the Criminal Division's Child Endangerment and Obscenity Section has trained more than 350 law enforcement personnel and other officials on the investigation and prosecution of child prostitution cases, emphasizing the importance of a victim's safety.

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IV. Tools for Investigating and Prosecuting Human Trafficking

The Prosecutor's Tool Box

The Department's

- Asset Forfeiture
- Fraudulent Documents
- Immigration Offenses
- Involuntary Servitude Statutes
- Labor Violations
- Mann Act
- Money Laundering
- PROTECT Act
- RICO Act
- Trafficking Victims Protection Act
- Trafficking Victims Protection Reauthorization Act of 2003
- Trafficking Victims Protection Reauthorization Act of 2005

successful efforts in combating human trafficking would not be possible without the enactment of several statutes by Congress. Prior to 2001, trafficking cases were prosecuted under a number of federal criminal statutes including the involuntary servitude statutes,[24] the Mann Act,[25] and labor laws concerning workplace conditions and compensation.[26] The Mann Act statutes were formerly thought of as the primary federal anti-trafficking tool, when "trafficking" was perceived as interstate transportation for prostitution, as opposed to the modern definition, which focuses on compelled service. The involuntary servitude statutes set forth a variety of substantive crimes covering the slave trade, involuntary servitude, and peonage. Sections 1584 and 1581, of Title 18 of the United States Code, which respectively criminalize involuntary servitude and peonage, were the primary statutes prosecutors used in involuntary servitude and trafficking prosecutions. Section 1583, which criminalizes kidnaping victims into slavery, likewise remains a useful tool in modern federal prosecutions. Prior to the TVPA, these statutes did not always treat the workers involved as victims and enforcement authority for each of these possible anti-trafficking tools was scattered across the United States Government, leading to differing outcomes depending on which charges were brought or which agency learned of the allegations of abuse.

Today, the centerpiece of United States Government efforts is the TVPA.[27] The TVPA provided

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[24] *See* 18 U.S.C. §§ 1581-1588. These statutes are still used when appropriate and were updated and supplemented by the restitution, forfeiture, and attempt provisions enacted in the TVPA.

[25] *See* 18 U.S.C. §§ 2421-2424.

[26] *E.g.*, Migrant and Seasonal Agricultural Worker Protection Act, Pub. L. No. 97-470, 96 Stat. 2583 (1983) (codified as amended at 29 U.S.C. § 1851).

[27] TVPA, Pub. L. No. 106-386.

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for a range of new protections and assistance for victims of trafficking who cooperate with law enforcement investigations; it expanded the crimes and enhanced the penalties available to federal investigators and prosecutors pursuing traffickers; and it expanded United States activities internationally to prevent victims from being trafficked in the first place.

Protections and Assistance for Victims

The TVPA authorized a dedicated stream of funding for victim services and provides for immigration relief for severe forms of trafficking.[28] Under the TVPA, a victim is certified by the Department of Health and Human Services as eligible for services funded by any federal or state program or activity, such as the Departments of Agriculture, Health and Human Services, and Labor or the Legal Services Corporation. Department of Health and Human Services certification is granted after consultation with the Department's law enforcement officials, including investigators and prosecutors, that the victim meets the statutory definition of a "victim of a severe form of trafficking" and is also cooperating with the federal law enforcement investigation. The TVPA also authorized the Department to fund and provide training and technical assistance to law enforcement agencies and victim service providers.

The Department's Office for Victims of Crime directs its funding to support services for pre-certified victims and may, in special circumstances, fund organizations that provide services to certified victims. Pre-certified victims are those victims who have been identified by law enforcement in connection with an investigation and are awaiting Department of Health and Human Services certification that they are a victim of a severe form of trafficking and assisting law enforcement. This is significant because pre-certified victims are not entitled to the same publicly funded benefits that certified victims are, yet the need for services is most acute at this stage. Secondarily, providing those services enables victims, in most instances, to cooperate with law enforcement to investigate and prosecute their human traffickers. A safe and healthy victim is better able to articulate to investigators and in a court what has happened to her. Indeed, a survivor of trafficking can often be an effective anti-trafficking advocates and providers of services for victims.

> My experience was terrifying and horrible. I was so unhappy because of the abuse and because the bosses would not give me any of the money I made them. I asked them to send money to my family and they refused. I felt trapped there. Whenever I tried to run away, they found me and punished me. I could not go back to Mexico because I was told that they tore up my identification papers. I didn't have any money with which to leave because they refused to give me any of the proceeds from my work. I was very scared and sad.
>
> -"Maria," a 19 years old victim in United States v. Paoletti, a labor trafficking case

Defined Crimes and Enhanced the Penalties

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[28] A more detailed discussion about victim services programs administered by the Department of Justice is below in Part VI "The Department's Collateral Attack on Human Traffickers," section B "Restoring a Victim's Dignity."

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The TVPA[29] provided a clear definition of human trafficking as a crime, created stiff sentences, and provided prosecutors with definitions of terms used to describe the offense such as "coercion," and "commercial sex act."[30] Traffickers that use force, fraud or coercion, or who exploit children under 14 years of age for commercial sex acts, may be sentenced to a term of up to life imprisonment.[31]

Prevention

As discussed above[32], victim services under the TVPA that are provided in connection with a victim helping in the government's prosecution of traffickers is essential to prevention. The TVPA has also given the Department the tools needed to increase public awareness within our communities, particularly among law enforcement and social services agencies, as well as internationally. The Department's activities, including those undertaken by non-governmental organizations that receive grants from the Office for Victims of Crime, that aim to prevent victimization through public awareness and outreach are discussed below in Part VI "The Department's Collateral Attack on Human Traffickers," section C "Public Awareness Supports Pro-Active Investigations."

Subsequently, in 2003, Congress, with the President's support, re-authorized the TVPA,[33] which further enhanced penalties and added responsibilities to the United States Government's anti-trafficking portfolio, such as new public awareness campaigns to combat sex tourism and some

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29 *See*, 18 U.S.C. §§ 1589-1594.

30 22 U.S.C.§ 7102.

31 *See*, 18 U.S.C. § 1591. Traffickers in other cases are subject to a term of imprisonment of up to 40 years.

32 *See*, Part III "Scope of the Problem," section B "The Department Responds to this Crime with a Victim-Centered Approach."

33 TVPRA Pub. L. No. 108-193.

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refinements to the federal criminal law. Significantly, Congress included trafficking as a predicate for money laundering and racketeering, under the RICO statute. Prosecutors have used this effective tool to dismantle trafficking syndicates. In conjunction with the mandatory restitution and forfeiture provisions of the TVPA, these sections work together to ensure that defendants convicted of trafficking in persons receive sentences that reflect the seriousness of their crimes. The TVPRA has produced tangible results in the field, yielding penalties three and four times those obtained under smuggling or harboring statutes and under historical servitude and trafficking statutes, as discussed earlier in this section.

Kil Soo Lee, a former owner of

It also clarified the provision regarding victims and the requirement that they cooperate with law enforcement. Specifically, the Department of Health and Human Services, as part of their process of certifying whether a victim has suffered a severe form of trafficking, may now consider statements from state and local law enforcement, that the victim has "been willing to assist in the investigation and prosecution of state and local crimes." The TVPRA also relieved victims under the age of 18 from meeting this requirement altogether in order to be eligible for the T visa. Congress also created a new civil action that allows trafficking victims to sue their traffickers in federal district court, thus complementing the criminal prosecution of traffickers. Specifically, the TVPRA of 2003 gave victims of human trafficking the right to bring federal civil suits against their traffickers for actual and punitive damages. Nine of the victims in the *Reddy*[34] case and the mother of another, for example, sued the Reddy family, seeking $100 million in damages. The Reddy family settled the case before going to trial.

The President, also in 2003, signed into law the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003, known as the PROTECT Act. The PROTECT Act, developed with the assistance of experts in the Department's Child Exploitation and Obscenity Section of the Criminal Division, has given the Department's prosecutors several new tools to combat sex trafficking and child prostitution. The Act makes it a crime for a United States citizen to travel in foreign commerce and engage in illicit sexual activity with minors,[35] and now includes an attempt provision.[36] Moreover, this Act facilitated prosecutions by eliminating the requirement that the Department prove that the traveler-predator intended to have

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[34] *See*, Part I "An Introduction to Human Trafficking" above for a discussion about *United States v. Reddy*

[35] Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today (PROTECT) Act of 2003, Pub. L. No. 108-21, 117 Stat. 650.

[36] PROTECT Act, Pub. L. No. 108-21 (codified as amended at 18 U.S.C. § 2423(c)).

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sex with a child prior to traveling. As discussed in the next section, the Child Exploitation and Obscenity Section and the United States Attorneys' Offices have used this new tool to aggressively combat child sex trafficking.

In addition to adding important new tools in the prosecution of child sex tourism cases, the PROTECT Act supplemented the TVPA by raising the statutory maximum sentences for violations of 18 U.S.C. 1591 involving children. The PROTECT Act also abolished the statute of limitations for crimes involving the abduction or physical or sexual abuse of a child in virtually all cases. Under previous law, the statute of limitations expired when the child turned 25, potentially allowing child abusers to go free if law enforcement could not solve the crime in time.

Photo of TVPRA 2005 signing ceremony

On January 10, 2006 President Bush signed into law the Trafficking Victims' Protection Reauthorization Act of 2005 (TVPRA of 2005). In addition to reauthorizing the TVPRA, the law enhances our ability to combat trafficking in persons by extending our prosecutorial tools and providing new protections for victims. In important enhancements to prosecutorial tools, the bill establishes extra-territorial authority for prosecution of trafficking in persons offenses committed by federal contractors abroad or persons accompanying them and adds trafficking in persons as predicates for the offense of document servitude, where one's identity papers, such as foreign birth certificate, passport, or immigration documents, are withheld by the trafficker and used to coerce or compel the trafficking victim. The TVPRA of 2005 also promotes efforts to fight domestic trafficking in persons. It requires a comprehensive research and statistical review and analysis of incidents of trafficking and commercial sex acts within the United States and annual conferences, to be conducted by the Department for the benefit of state and local law enforcement, other governmental agencies, and non-governmental organizations, on domestic trafficking in fiscal years 2006, 2007, and 2008 and biennially thereafter.

The bill I sign today will help us to continue to investigate and prosecute traffickers and provide new grants to state and local law enforcement. Yet, we cannot put the criminals out of business until we also confront the problem of demand. Those who pay for the chance to sexually abuse children and teenage girls must be held to account. So we'll investigate and prosecute the customers, the unscrupulous adults who prey on the young and the innocent.

-President George Bush, January 10, 2006.

In addition, the TVPRA of 2005 establishes a grant program to develop, expand, and strengthen assistance programs for United States citizens and permanent residents who have been subjected to trafficking and establishes a pilot program to create residential treatment facilities for children subjected to trafficking. It also creates a new grant program for state and local law enforcement authorities to investigate and prosecute trafficking of U.S. citizens and permanent residents, including efforts to reduce demand for commercial sex acts. Furthermore, the TVPRA of 2005 contains new requirements for data collection that will promote effective responses to trafficking. These include study by the Human Smuggling and Trafficking Center, an inter-agency program discussed in more detail below, of the relationship between trafficking and terrorism, the abduction and enslavement of children as soldiers, and development of a mechanism for quantifying the number of victims of trafficking.

In *United States v. Cadena*, a 14-year old girl, trafficked into prostitution, was only allowed two possessions: a roll of paper towels and a teddy bear.

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V. Halting Human Trafficking with a Record Number of Successful Investigations and Prosecutions

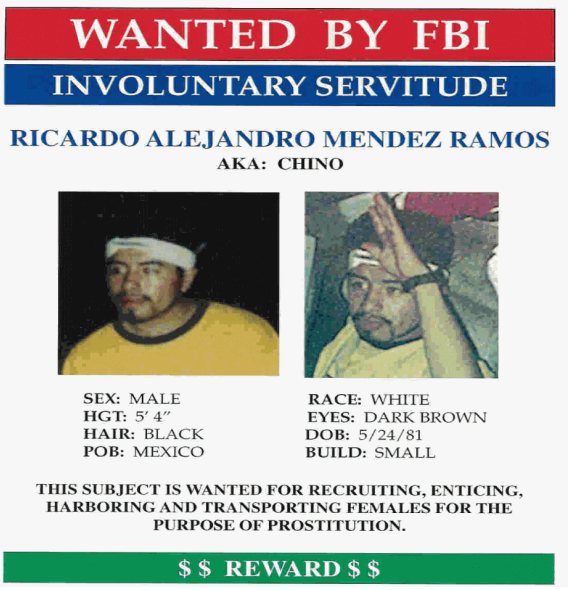

Since 2001, the Department has achieved a record number of human trafficking investigations and prosecutions through a unique victim-centered approach that focuses on three important themes: sex trafficking, labor trafficking, and child sex trafficking. Successful prosecutions of sex and labor trafficking depend on the elements of force, fraud, or coercion that render the victim's role involuntary. Because trafficking is modern day slavery, then-Attorney General John Ashcroft designated the Civil Rights Division, in early 2001, as the principal architect of the Department's comprehensive response to human trafficking. The Civil Rights Division presently collaborates with the Federal Bureau of Investigation, United States Attorneys' Offices, the Criminal Division, and the Office of Justice Programs, as well as the Department of Homeland Security's Bureau of Immigration and Customs Enforcement,[37] to uncover and investigate these criminal enterprises, to prosecute and hold traffickers accountable for their criminal conduct, and, most importantly, to rescue victims and return to them their dignity.

In 2004, the Federal Bureau of Investigation took an important step towards the vigorous investigation of trafficking crimes when it launched the Involuntary Servitude and Slavery/Trafficking in Persons Initiative. This Initiative has achieved important results in the manner in which the Bureau uncovers and investigates these cases in coordination with the Civil Rights and Criminal Divisions. The Bureau's Civil Rights Unit, the primary Bureau agency charged with investigating federal civil rights statutes, spearheaded the following initiatives:

- Developed and disseminated a general human trafficking investigative protocol to all FBI field offices;
- Implemented commercial sex trafficking intelligence collection requirements and disseminated those requirements to every Bureau Field Intelligence Group;
- Established a mechanism for the Bureau to properly classify cases as human trafficking, alien smuggling, or child prostitution;
- Expanded the Bureau's outreach to national human trafficking victim advocacy organizations, such as The Freedom Network and the International Justice Mission to establish contacts and leverage partnerships.

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[37] Until 2002, the Bureau of Immigration and Customs Enforcement was component of the Department of Justice, then known as the Immigration and Naturalization Service.

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"We have all the ingredients they want....We have a migrant workforce and a legal sex trade."

-Gerald Gardner, Nevada Deputy Attorney General and Las Vegas Office Chief, at a press conference inaugurating the Department's Las Vegas Anti-Human Trafficking Task Force, *Las Vegas Sun*, September 29, 2004

- Commenced, in October 2005, human trafficking threat assessments in each of the nation's 56 Bureau Field Offices. The threat assessments are intended to help the Bureau determine the nature and scope of human trafficking and to develop a more informed response to this criminal activity. Field Offices will be guided by this analysis in determining whether to establish or enhance their participation in local anti-human trafficking task forces, including establishing relationships with local non-governmental organizations and more aggressive involvement in investigations by federal, state and local law enforcement;[38] and
- Created, in November 2005, a case tracking database to track and maintain important human trafficking related data from the Bureau's Field Offices regarding the Department's prosecutorial decisions, identifying emerging trends and reporting significant events in the field to the Bureau's Civil Rights Unit or the Crimes Against Children Unit, as appropriate.

A. Sex Trafficking

Human trafficking typically manifests itself in compelled service either for forced labor or in the "sex industry." Sadly, in both areas, sexual abuse of female victims is common.
Sex trafficking is both a crime and phenomenon. The TVPA's "sex trafficking" statute[39] makes it illegal to use force or coercion to obtain persons for commercial sexual activity, with special

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[38] Fed. Bureau of Invest., Human Trafficking Initiative Elec. Commc'n to all Field Offices (Oct. 21, 2005).

[39] 18 U.S.C. § 1591.

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United States
Attorneys' Offices charged 189 defendants with sex trafficking, a 450% increase over the 34 defendants charged between fiscal years 1996 and 2000. In addition to the new records set in investigations and prosecutions of sex trafficking, the Civil Rights Division and United States Attorneys' Offices have achieved impressive results in convicting traffickers. From fiscal years 2001 to 2005, federal prosecutors obtained the convictions of 109 sex trafficking defendants, a 445% increase over the 20 defendants convicted during the previous five fiscal year period.

Sex trafficking may occur in any American community – urban, suburban or rural – and involves both aliens and United States citizens. Sex trafficking can occur in bars, farm worker camps, and sex entertainment and prostitution enterprises. The traffickers are endlessly inventive. While the public stereotype of these cases involve large scale international organized crime syndicates, forced prostitution cases often involve groups of family members or even individual pimps. In *United States v. Jimenez-Calderon,* a group of family members recruited women and girls from the Mexican state of Tlaxclala to come to the United States with promises of love, only to hold them in prostitution through force and by threatening them and their families in Mexico.[40] The defendants in *Jimenez-Calderon* received sentences ranging from 1 1/3 to 17 years of incarceration following her guilty plea.[41]

Cases involving United States citizen victims that might not have been brought under the Mann Act are now being brought using the TVPA sex trafficking statute, which does not require interstate travel. In *United States v. Gates and Heyward*, two defendants pled guilty in 2004 to sex trafficking for running an internet prostitution business from their home, at times using girls as young as 14 to perform sexual acts. Defendant Gates, who beat the women who disobeyed him and provided drugs to support some of the women's addictions, was sentenced to more than 14 ½ years in prison. His co-defendant girlfriend, Heyward, received a sentence of 9 years of incarceration.[42]

Many cases in the past few years involving individuals from countries of the former Soviet republics have involved compelled service in "exotic dancing." In *United States v. Gasanov,* a husband and wife were convicted at trial and sentenced to serve five years in prison and to pay $516,150 in restitution for bringing Uzbeki women to El Paso, Texas, under the guise of a student researcher exchange program, only to hold them in compelled service in strip clubs by confiscating their immigration documents, and making threats against their families.[43] In *United States v. Maksimenko*, five defendants have pled guilty as of December 19, 2005, for their roles in a scheme to enslave Ukrainian women in Detroit-area strip clubs through threats and extortion.[44]

Sometimes victims are held in sexual slavery without any commercial aspect. In *United States v. Soto*, eight men were convicted in 2003 for their roles in an alien smuggling organization that would hold vulnerable alien women as "concubines," forcing them to cook, clean, and submit to the sexual demands of the alien smugglers through force, threats, and punitive rape. The lead defendant in the *Soto* case was sentenced to 23 years of incarceration following his guilty plea.[45]

Women in *United States v. Molina*, a "bargirl" case, were forced to entertain male patrons of the defendant's bars.

40 *United States v. Jiminez-Calderon*, No. 02-00553-3, (D.N.J. 2003).
41 *Id.*
42 *United States v. Gates and Heyward*, Cr. No. 1:04-CR-00205 (D.C., 2004).
43 *United States v. Gasanov*, Cr. No. 01-CR-1423 (W.D. Tex. 2001).
44 *United States v. Maksimenko*, Cr. No. 2:05CR-80745 (E.D. Mich. 2005).
45 *United States v. Soto*, Cr. No. 03-341 (S.D. Tex. 2004).

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communities, women are imported to work as "bargirls." While this is not technically sex trafficking under the TVPA, as it does not involve a sex act, the women are treated as sex objects and forced to entertain male bar patrons, dancing and drinking with them at their pleasure. In *United States v. Kang*, for example, a Korean couple lured Korean women to New York City with promises of good jobs as hostesses in their nightclub, but subjected them to physical abuse, held them for repayment of a $10,000 debt, and attempted to force them into prostitution.[46] Seven defendants pled guilty to forced labor and obstruction of justice charges. The defendants include a Federal Air Marshal and a Department of Homeland Security agent, who attempted to force one of the victims to get on a flight to South Korea to keep her from testifying against the Kangs.[47] In another "bargirl" case, *United States v. Molina,* six Hondurans in Ft. Worth, Texas received sentences of up to 5 years and 3 months of incarceration following their guilty pleas to harboring the women and making them repay their alien smuggling debts by entertaining the male patrons of the defendants' bars.[48]

B. Labor Trafficking

Labor trafficking occurs when a victim is forced to work in an area of the economy that would otherwise be a legal form of labor, absent the force, fraud or coercion. This phenomenon commonly is found in farms, factories, and households. Similar to sex trafficking, if a person is subjected to coercive force such that he cannot leave his employer's service, he is considered a victim regardless of whether he initially chose to perform that type of work, or even if he received some pay for his labor. There is no requirement that the victim be transported by the defendant.

Over the past five years, the Civil Rights Division and United States Attorneys' Offices have prosecuted a record number of labor trafficking cases. Between fiscal years 2001 and 2005, the Civil Rights Division and United States Attorneys' Offices filed 23 labor trafficking cases, an increase of 110% over the 11 labor trafficking cases the federal prosecutors filed between fiscal years 1996 and 2000.[49] In these cases, 61 defendants were charged with labor trafficking, an increase of 33% over the 46 defendants the charged during the previous five fiscal year period.

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46 *United States v. Kang*, Cr. No. 04-87 (E.D.N.Y. 2004).

47 *Id.*

48 *United States v. Molina*, Cr. No. 114-A (N.D. Tex. 2002).

49 Two seminal trafficking cases are responsible for the large number of defendants charged in 1997-98. United States v. Paoletti, the "Deaf Mexican" trinket peddling case, involved 18 defendants, and the Florida forced prostitution case United States v. Cadena involved 16 defendants. Prosecution and victim protection in these two cases are ongoing. In 2005, cooperation with the Mexican authorities resulted in the arrest of Juan Luis Cadena in Mexico. Also in 2005, as a result of the work of the Office of International Affairs, Renato and Jose Paoletti were the first Mexican citizens ever extradited to the United States for human trafficking offenses.

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As in sex trafficking cases, vulnerable United States citizens may find themselves trapped in a forced labor situation, unable to escape because of threats or coercion. For example, in *United States v. Michael Lee*, the defendants recruited homeless African-American men for their orange-picking operation. Once employed, the workers were involuntarily retained by beatings, threats, and a "company store" debt run up by short-term loans for rent, food, cigarettes, and cocaine. Three defendants were convicted in 2001 and received prison terms of up to 4 ½ years of incarceration.[50]

Forced labor situations often appear in parts of the agricultural sector that require "stoop labor." One such case, *United States v. Garcia*,[51] involved the first successful defense of the TVPA against a constitutional challenge. In that case, four defendants received sentences of up to nearly 4 years of incarceration in 2005 for recruiting young undocumented Mexican aliens from the Arizona border and transporting them to New York with false promises of good wages, only to force them to work in the fields for little or no pay and house them in overcrowded and filthy conditions through threats to turn them over to the Border Patrol.[52] In their constitutional challenge, the defendants argued that the TVPA was unconstitutionally vague, inviting arbitrary and discriminatory enforcement, and that Congress exceeded its authority in enacting it because it did not involve interstate commerce. A federal district court disagreed and found that the TVPA's terms were clear and provide adequate notice of the conduct it prohibits.[53] It also found that Congress had

Traffickers in *United States v. Ramos* attacked this van to prevent their victims from escaping.

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50 *United States v. Michael Lee*, Cr. No. 00-14065 (S.D. Fla. 2000).

51 *United States v. Garcia*, No. 02-110, 2003 WL 22938040 (W.D.N.Y. 2003).

52 *Garcia*, 2003 WL 22938040.

53 *Id*. at 2.

54 *Id.*

55 *United States v. Ramos*, Cr. No. 01-14019 (S.D. Fla. 2001).

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Traffickers in *United States v. Ramos* attacked this van to prevent their victims from escaping.

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the duration of the harvesting season and for assaulting the owner of a transportation service to cut off any avenue of escape the workers might have had from the area. The Ramos brothers were sentenced to 15 years of incarceration and ordered to forfeit $3 million in proceeds from their slavery operation.

Domestic servant cases continue to be a regular part of the Department's forced labor portfolio. Sadly, in many of these cases the young female victims are subjected not only to long hours and low pay for their work as nannies and maids, but suffer sexual abuse at the hands of their captors as well.

For instance, in *United States v. Mubang*,[56] a Cameroonian woman was convicted of bringing an eleven year-

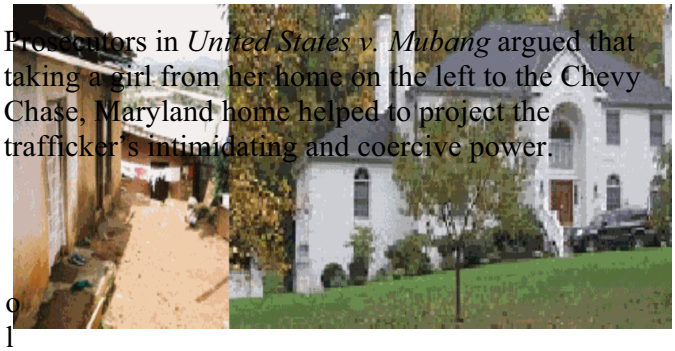

Prosecutors in *United States v. Mubang* argued that taking a girl from her home on the left to the Chevy Chase, Maryland home helped to project the trafficker's intimidating and coercive power.

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d girl to the United States illegally and under false pretenses. Once the girl was in America, she was forced to care for the defendant's two children and perform all the household chores without pay. The defendant forced the victim to comply by beating her with a broken metal broom stick and a cable cord, forbidding her from speaking of her employment conditions to anyone, forbidding her from leaving the house or opening the door to anyone, and interfering with her mail. Mubang fled the country soon after her conviction but was extradited to the United States in 2005 through the assistance of the Cameroonian government. She is currently serving a sentence of 17 ½ years of incarceration.

Similarly, in 2004, in *United States v. Trisanti*, a Los Angeles woman was convicted of

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[56] *United States v. Mubang,* Cr. No. 03-0539 (D. Md. 2003).

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involuntary servitude for trafficking two victims into the United States from Indonesia and forcing them to work as domestic servants through threats and physical violence. Trisanti was sentenced to more than 3 ½ years in prison and ordered to pay $203,000 in restitution.[57]

C. Child Sex Trafficking

Within the Department, the Child Exploitation and Obscenity Section has taken the leading role in overseeing the prosecution of cases of sex trafficking of minors. Sex trafficking in children occurs when persons under the age of 18 are provided or obtained for a commercial sex act. Prior to the passage of the TVPA, this aspect of human trafficking was traditionally dealt with by law enforcement under the label "Commercial Sexual Exploitation of Children" (CSEC), and all states have statutes criminalizing child prostitution. It is a continuing challenge to incorporate long-established child protective services, family court, and anti-CSEC activities and programs into the anti-trafficking effort.

"Our society has no place for those who prey on children and no tolerance for child prostitution or sex trafficking."

–Attorney General Alberto R. Gonzales, December 16, 2005.

Child sex trafficking may also involve child sex tourism, which occurs when individuals travel to foreign countries to engage in sexual acts with children, who are often the victims of trafficking. As with child prostitution, the Child Exploitation and Obscenity Section has taken the leading role in overseeing the development of anti-sex tourism policies and resulting prosecutions. United States Attorneys' Offices nationwide, with guidance or co-counsel assistance from the Child Exploitation and Obscenity Section, have obtained at least 50 sex tourism indictments or complaints and a minimum of 29 convictions between 2003 and 2005 under the PROTECT Act, with approximately 60 investigations currently pending.

Like other forms of trafficking, child sex trafficking can occur in any community. The TVPA

Usually, when people commit crimes, the best the criminal justice system can do is punish the offender and occasionally have him repay the out-of-pocket expenses of the victims. This plea not only does that, but attempts to give the victims future opportunities for treatment, counseling, and even an education.

Tim Burgess, United States Attorney for the District of Alaska announcing the plea agreement in *United States v. Boehm* on March 19, 2004.

[57] *United States v. Trisanti*, Cr. No. 03-473 (C.D. Cal. 2003).

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Like other forms of trafficking, child sex trafficking can occur in any community. The TVPA supplemented the Mann Act, which prohibits the interstate transportation of persons for prostitution or other illegal sexual activity, by extending federal jurisdiction to situations in which the pimps did not cross a state line with their minor victims. In recent years, the Department has prosecuted cases of child sex trafficking across the nation. In *United States v. Sims*, for example, Maurice Sims was prosecuted in the Northern District of Georgia and sentenced to life in prison, in 2004, for kidnaping, trafficking, and transportation across state lines for criminal sexual purposes, among other crimes.[58] Sims transported a 16 year old girl from El Dorado, Arkansas to Atlanta, Georgia for purposes of prostitution. Along the way he beat and raped his victim.

Additionally, the Department is strategically and aggressively using forfeiture laws to increase a defendant's punishment, create greater disincentives, and, ultimately, to fully disable and dismantle criminal networks engaged in human trafficking. The Department has been particularly innovative in its use of forfeiture in cases involving child prostitution. In several of those cases, Department prosecutors negotiated plea agreements requiring the child pimps to set up monetary funds to provide for the rehabilitation, education and job training of their young victims. In *United States v Boehm*,[59] for example, four persons pled guilty to sex trafficking of children, among other charges. In 2001, Boehm, along with his co-defendants, agreed to distribute cocaine and cocaine base to persons under the age of 21 and to recruit minors for sexual purposes in exchange for money and crack cocaine. All five defendants were sentenced to terms of imprisonment ranging from 3 years to more than 13 years and Boehm, as part of his plea agreement, also forfeited his residence and provided $1.2 million in trust for the future benefit of his victims.[60] The trust fund will compensate Boehm's victims for expenses for drug treatment, counseling, educational, and professional training expenses.

Going forward, the Department will continue to place a keen emphasis on the use of forfeiture

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[58] *United States v. Sims*, no. 1:04-cr-00048, 2006 WL 14581 (11th Cir.)(remanding case for re-sentencing under advisory rather than mandatory guidelines).

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incidence of prostituted children. The Section then asked each of these offices to establish a task force to address the problem through a variety of federal criminal statutes including the Mann Act, TVPA, and RICO,[61] where appropriate, to neutralize the entire criminal enterprise. The Section asked the remaining 42 Bureau Field Offices to assess whether the localities they serve have a substantial child prostitution problem.

As of September 30, 2005, Innocence Lost Initiative Task Forces have been instituted in Atlantic City, Boston, Chicago, Detroit, Harrisburg, Indianapolis, Los Angeles, Miami, Toledo, Portland, San Francisco, and Washington, D.C. In connection with this initiative, federal law enforcement agencies, prosecutors, and social service providers were brought to NCMEC's Washington, D.C.-area offices, where groups from the same jurisdiction were trained together in order to cultivate cooperation, partnership, and an effective integration among the critical enforcement entities in each city. To date, more than 350 key personnel have been trained. As a result of the Department's substantial investigatory efforts through this Initiative, the Child Exploitation and Obscenity Section has seen a marked increase in the number of requests from both Assistant United States Attorneys and Bureau agents in the field for advice, guidance, and co-counsel on child prostitution cases.

More importantly, on December 16, 2005, as Attorney General Alberto R. Gonzales announced, more than 30 child victims were recently identified in connection with the latest phase of Innocence Lost, bringing the total of child victims identified to more than 200 since the Innocence Lost Initiative began. This latest effort resulted in the arrest of 19 individuals. Between 2004 and 2005, the Innocence Lost Initiative has resulted in 139 open investigations, 505 arrests, 60 complaints, 70 indictments, and 67 convictions.

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59 *United States v. Boehm*, no. A04-0003CR (D. Alaska 2001).

60 *Id.*

61 RICO, 18 U.S.C. § 1961, *et seq*.

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Again, many cases of child sex tourism involve child sex trafficking and the Department is committed to aggressively prosecuting these cases. For example, in 2003, in the first prosecution under the PROTECT Act, Michael Clark, who had been arrested in Cambodia for sexually abusing two Cambodian boys (ages 10 and 13), was charged with attempting to engage in illicit sexual conduct after travel in foreign commerce. Clark pled guilty to the charges and was sentenced to 8 years of imprisonment. In connection with his plea, Clark reserved the right to appeal the constitutionality of the PROTECT Act, arguing that Congress exceeded its power to enact criminal laws that do not involve interstate commerce and that criminalizing activities in a foreign country violate his right to due process and international law. Clark's appeal is currently pending before the Ninth Circuit Court of Appeals.[62]

Also in 2003, in *United States v. Russell,*[63] an American man was prosecuted when an investigation revealed that he had traveled to the Philippines on numerous occasions over a two-
year period in order to engage in sexual acts with children and to produce child pornography for the purpose of importation into the United States. At least three Philippine children have been identified as victims of Russell, who pled guilty and was sentenced to more than 3 years of imprisonment.

D. Inter-Agency Coordination

Implementation of the President's directive to combat human trafficking requires meaningful inter-agency coordination. Much of the coordination has been accomplished through the President's Inter-Agency Task Force to Monitor and Combat Trafficking in Persons, and subsequently the Senior Policy Operating Group, discussed above. In connection with these efforts, the Department has engaged with other federal agencies to create additional vehicles of inter-agency coordination.

The most significant achievement in this regard is the Department's support of the Human Smuggling and Trafficking Center that is led by a steering committee comprised of representatives from the Department of Justice, including the Federal Bureau of Investigation, and the Departments of Homeland Security and State, among others. The Center provides a mechanism to bring together federal agency representatives from policy, law enforcement, intelligence, and diplomatic areas to work together on a full-time basis to achieve increased effectiveness among federal law enforcement and to convert intelligence about human trafficking, alien smuggling, and clandestine terrorist travel into effective law enforcement activities. Analysts accomplish this function by identifying issues related to migrant smuggling or trafficking in persons and then forward their findings to the relevant federal agencies or interagency organizations for consideration and appropriate action. The Center has been under development since mid-2004 and, shortly thereafter, started initial operations.

In addition, the Department in July 2004 entered into a Memorandum of Understanding with the Department of Homeland Security and the Department of Health and Human Services streamlining protocols for the Health and Human Services ("HHS") certification of victims (or in the case of minors, eligibility letters) rescued in connection with Department of Justice or Homeland Security law enforcement efforts. A determination by HHS, in consultation with the Department, that victims have suffered a "severe form of trafficking" and are cooperating with law enforcement enables these individuals to qualify for federally-funded or administered benefits and services to the same extent as refugees.[64] The agreement also marked an important step towards the coordination of treatment of potential trafficking victims by agents of the Departments of Homeland Security and Justice through better information sharing. It is important to note that over 30% of the investigations initiated by the Department since 2001 were begun by agents of the Bureau of Immigration and Customs Enforcement.

E. Coordination Within the Department of Justice

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62 *United States v. Clark,* 315 F. Supp. 2d 1127 (W.D. Wash. 2004).

63 *United States v. Russell*, case no. 3:03cr 3283 (S.D. C.A. 2003).

64 TVPA, 22 U.S.C. §§ 7105(b)(1)(A), (B), and (E).

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The Department's anti-trafficking investigative and prosecution strategy requires effective intra-departmental collaboration to bring the specialties of each component to bear on these multi-faceted, complex, and labor-intensive criminal cases. The following components are important contributors to the Department's activities in support of the President's directive to combat human trafficking:

- The Civil Rights Division's Criminal Section
- The Criminal Division, particularly its Asset Forfeiture and Money Laundering Section, Child Exploitation and Obscenity Section, Domestic Security Section, International Criminal Investigative Training Assistance Program, Office of International Affairs, Office of Overseas Prosecutorial Development, Assistance and Training, and Organized Crime and Racketeering Section
- The Executive Office of United States Attorneys and United States Attorneys' Offices nationwide
- The Federal Bureau of Investigation, and its Field Offices
- The Office of Community Oriented Policing Services
- The Office of Justice Programs, particularly its Bureau of Justice Assistance, Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and Office for Victims of Crime
- The Office of Legal Policy
- The Office of Legislative Affairs
- The Office on Violence Against Women

Representatives from the Civil Rights Division, the Criminal Division, and the Federal Bureau of Investigation meet periodically to share information and to identify ways to leverage resources to identify and combat trafficking in persons, among other criminal activity. In addition, the Office of Legal Policy convenes regular meetings of Department of Justice components to coordinate the development of policies regarding the Department's anti-human trafficking activities. The Criminal Section of the Civil Rights Division, in early 2003, authored a comprehensive legal monograph on trafficking issues to assist United States Attorney personnel in the field to prosecute trafficking cases more effectively. The monograph has been distributed at the Department's training center, the National Advocacy Center, and at human trafficking training workshops.

Both the Civil Rights Division and the Child Exploitation and Obscenity Section publish newsletters that provide valuable information regarding human trafficking prosecutions, case analysis, and developments that are important to the work of other Departmental components and the non-governmental organizations that advocate on behalf of trafficking victims. The Civil Rights Division provides investigators, prosecutors, and victim assistance professionals with technical assistance regarding human trafficking and keeps the field of trafficking victim advocates informed about the Division's efforts to prevent and prosecute this crime. And, since 2003, the quarterly Child Exploitation and Obscenity Section newsletter has discussed issues of sex tourism and trafficking in all but two editions.

From the time that the TVPA was enacted, the Department recognized that alien smuggling, document fraud, and various forms of human trafficking, while constituting separate offenses,

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can be integrally related, as discussed above.[65] The trafficking of victims across international borders virtually always involves alien smuggling, also possibly including some type of fraud or misrepresentation. Perhaps the most direct manifestation of cooperation between the Civil Rights and Criminal Divisions is that in 2002 the Civil Rights Division detailed several experienced attorneys to the Criminal Division's Alien Smuggling Task Force for a three-year period. Over the past three years, those Civil Rights prosecutors worked with their Criminal Division colleagues to target the criminal infrastructure that makes international trafficking possible. Examples include successful prosecutions involving the fraudulent adoption of Cambodian babies, the sexual exploitation of Estonian women employed in massage parlors, and large-scale fraudulent leasing of foreign workers to major United States companies. The three-year details, which recently ended, demonstrate the concrete, effective results that can be obtained through innovative approaches to anti-trafficking cooperation.

The Department has taken a number of steps to ensure that its components are well trained in the Department's strategy of victim-centered, proactive investigations. Here are some examples:

- In October 2001, the Civil Rights Division conducted training on the unique victim protections and services of the TVPA for almost 100 federal victim witness coordinators at the National Advocacy Center in Columbia, South Carolina.

- In October 2002, the Civil Rights Division organized comprehensive anti-trafficking training for federal prosecutors and agents at the Department's training facility, the National Advocacy Center, in Columbia, South Carolina. Approximately 150 federal prosecutors and agents attended the training.

- In November 2002 the Attorney General issued "blue sheets" for prosecutors, outlining the new TVPA crimes and adding guidance regarding the prosecution of such crimes to the U.S. Attorneys' Manual. The "blue sheets" highlight human trafficking as a priority and provide a comprehensive source of information and resources within the Department and with related agencies.

- In fiscal year 2003, the Civil Rights Division provided periodic training at the Federal Bureau of Investigation training center in Quantico, Virginia for Bureau and Immigration and Customs Enforcement agents.

- In January 2004, the Civil Rights Division and the Executive Office of United States Attorneys' Office of Legal Education hosted a comprehensive training session for federal agents and prosecutors at the Department's National Advocacy Center. Furthermore, the Civil Rights Division actively participates in human trafficking training sessions at United States Attorneys' Offices as part of the regular curriculum offered to Federal Bureau of Investigation, Department of Homeland Security Bureau of Immigration and Customs Enforcement, and Department of State Diplomatic Security Service agents.

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[65] *See*, Part I "An Introduction to Human Trafficking."

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- Since 2003, the Criminal Division's Child Exploitation and Obscenity Section has annually trained Assistant United States Attorneys and Federal Bureau of Investigation agents at the National Advocacy Center regarding the investigation of cases involving the commercial exploitation of minors for sex (i.e., domestic sex trafficking), child prostitution, trafficking and sex tourism.

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VI. The Department's Collateral Attack on Human Traffickers

A. Multi-Disciplinary Task Force Initiative

The Department has designed, developed, and instituted locally based, multi-disciplinary task forces to investigate and prosecute human trafficking cases. These task forces embody the Department's victim-centered approach because they are specifically engineered to aid in uncovering victims, providing them with immediate protection and support, and then working with them to further investigate and prosecute the trafficker. More importantly, task forces are a supreme force multiplier as the nation's numerous state and local police, occupational safety and health inspectors, and other enforcement officials are added to the limited number of federal law enforcement that are now in the field.

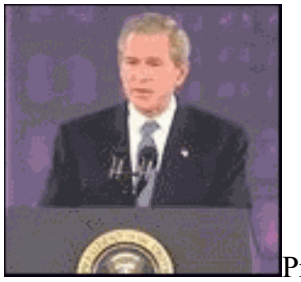

In July 2004, the Department hosted the first ever National Training Conference on Human Trafficking: *Rescuing Women and Children From Slavery*, in Tampa, Florida. The National Conference was designed to introduce the model of victim-centered investigations and the concept of human trafficking prosecutions through the creation of local task forces. Hosted by the Department and with a keynote speech by President Bush, the conference brought together more than 500 attendees, consisting of 21 teams of about 20 state, local, and federal officials who were willing to thereafter work together to combat human trafficking in their respective communities across America. Teams included the following members: United States Attorneys or designated Assistant United States Attorneys; Bureau of Immigration and Customs Enforcement Special Agents-In-Charge; Federal Bureau of Investigation Special Agents-In-Charge; local law enforcement agency special crimes and victim units; state and local prosecutors; and governmental and non-governmental organizations, especially faith and community-based victim service providers. The Department, with the assistance of the Civil Rights Division, invited participants from some of the most intense trafficking jurisdictions in the country at that time, such as: Atlanta, Charlotte, Chicago, El Paso, Houston, Las Vegas, Long Island, Los Angeles, Miami, Newark, New Orleans, New York City, Washington, D.C., Philadelphia, Phoenix, Richmond, San Diego, San Francisco, St. Louis, Seattle, and Tampa.

President Bush, along with then-Attorney General John Ashcroft, announced this important new initiative on July 16, 2004 at the Department's National Conference on Human Trafficking, where the President condemned human trafficking as an affront to America's fundamental values and committed his Administration to combating trafficking on every level at home and abroad. Regarding domestic efforts to combat trafficking, the President remarked, "*We're supporting organizations that rescue the victims, passing stronger anti-trafficking laws, and warning travelers that they will be held to account for supporting this modern form of slavery. Women and children should never be exploited for pleasure or greed, anywhere on Earth*."

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Then-Attorney General John Ashcroft set forth the Department's comprehensive anti-trafficking strategy: protecting the victims, prosecuting the perpetrators, and partnership-building that addresses, attacks, and prevents human trafficking. The Attorney General also noted that the Bush Administration had, up to that time, provided more than $35 million in funding to community-based service providers that aid trafficking victims, and he announced a further $14 million in support of the Department's task force initiative. Concurrently with the National Conference, the Department issued a funding solicitation, entitled *Law Enforcement and Service Provider Multi-disciplinary Anti-Trafficking Task Forces*. The solicitation urged applicants to leverage existing federally-funded victim services efforts and to mirror the victim-focused federal, state, and non-governmental partnership that was the theme of the Conference. In the fall of 2004, the Bureau of Justice Assistance and the Office for Victims of Crime issued a joint solicitation for concept papers to continue the coordinated law enforcement task forces and victim services initiatives. Federal funds made available through this solicitation were intended to support task forces or supplemental funding of current trafficking victim service providers in areas with pre-existing Bureau of Justice Assistance-funded task forces.

Task forces add to the Department's law enforcement resources the intelligence and expertise of

"The conference program provided a model of collaboration among service providers and law enforcement and underscored the necessity of teamwork in working to keep victims of trafficking front and center in both the prosecution and service delivery areas-it was a great kick off for the task force initiative."

-Florrie Burke, Senior Director of International Programs, Anti-Trafficking Program, SOLACE Program for Survivors of Torture, Safe Horizon

locally-based immigration agents, local community- and faith-based social service providers, and local law enforcement, particularly special crimes and vice squads. These task forces recognize that local authorities, often more than federal officials, may be in the best position to find trafficking victims because of their familiarity with their jurisdictions, but might need the training and support of the federal government to recognize this crime for what it is. The Department has too often seen in federal investigations police reports indicating that local officers responded to complaints but failed to stop the ongoing exploitation of trafficking victims simply because they were not trained to recognize trafficking situations. The task force approach leverages local

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knowledge and staff resources with strong federal statutes. Indeed, victims rescued in *United States v. Reddy*,[66] *United States v. Molina,*[67] and *United States v. Ramos*[68] were brought to the Department's attention through the activities of state and local law enforcement. Moreover, they serve as a way to incorporate the non-governmental crime victim services organizations, funded by federal grant awards, into the law enforcement activities in their area. Local community- and faith-based organizations are essential to reaching those victims in communities that are isolated by geography, culture, or language.

The task force convened by the United States Attorney's Office for the Northern District of Texas presents an illustration. In 2004, the United States Attorney for the Northern District of Texas established a working group consisting of representatives from the police departments of the Dallas-Fort Worth area, including Arlington, Coppell, Garland, Grand Prairie, Irving, and Richardson, and representatives from the Federal Bureau of Investigation, Bureau of Immigration and Customs Enforcement, Internal Revenue Service, and Department of Labor. The group's faith and community-based partners include several charitable organizations such as Catholic Charities and Mosaic Family Services, Inc., which received grants from the Office for Victims of Crime to provide victim services and to assist with the formation and implementation of this program.

Insert graphic of the United States depicting the location of the 32 jurisdictions with task forces.

Just prior to the conference, the Department had begun work on eight task forces. Immediately following the National Conference, the Department embarked on a 20-city training initiative designed to reinforce the training received at the National Conference and to institute nearly two dozen task forces. Within a year of the National Conference, 18 task forces were operating with Departmental support. There are now 32 task forces operating throughout the United States.

Each of the 32 task forces, funded in part through $13 million in grants from the Department's Bureau of Justice Assistance and the Office for Victims of Crime since fiscal year 2004, is coordinated through the local United States Attorney's Office and includes

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[66] *See*, Part I "An Introduction to Human Trafficking" above for a discussion about *United States v. Reddy*.

[67] *See,* Part V "Halting Human Trafficking with a Record Number of Aggressive Investigations and Prosecutions," section B "Labor Trafficking" above for a discussion about *United State v. Molina*.

[68] *See,* Part V "Halting Human Trafficking with a Record Number of Aggressive Investigations and Prosecutions," section B "Labor Trafficking" above for a discussion about *United State v. Ramos*.

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representatives of local FBI field offices and Bureau of Immigration and Customs Enforcement, as well as state and local law enforcement and social services agencies. In order to receive Department of Justice funding support and the assistance of the local United States Attorney, local law enforcement agencies and victim service providers are required to enter into a Memorandum of Understanding with all task force members committing themselves to collaborating together on investigations and assistance to victims. Applicants were invited to design task forces that best suited the needs of their local communities, and many task forces involve faith-based and other community organizations in their work. At their core, task forces include the local United States Attorney's Office; Federal Bureau of Investigation Field Offices; Immigration and Customs Enforcement agents; state and local law enforcement agencies; and social services agencies, including community-based victim services providers. As of June 2005, with reporting based only on the first six months of operation by the 18 task forces that existed at that time, 61 victims of severe trafficking had been identified and many more victims were rescued from environments where trafficking was occurring.

Alliance forms to fight modern slavery in Texas

'Ancient' crime exists in Houston, a U.S. official says

By HARVEY RICE
HOUSTON CHRONICLE

Ruth came to Houston from East Africa a year ago under a contract that promised $5.15 per hour for working a nine-hour day, six days per week taking care of her employer's household.

Instead, she said she found herself a prisoner working for no pay and enduring emotional and physical abuse.

"I was a slave," she said Friday.

Because local and federal police agencies often fail to recognize such victims of this modern slave trade, the U.S. attorney's office announced the formation Friday of the Human Trafficking Rescue Alliance, the fifth such group in the country and the first in Texas.

"This terrible crime, so ancient in its origins, exists right

Please see SMUGGLING, Page A17

SMUGGLING: U.S. raising the problem's profile

CONTINUED FROM PAGE A1

here in Houston, Texas," U.S. Attorney Michael Shelby said as he was joined by representatives of all major local and federal law enforcement agencies in Harris County and several nongovernmental social services organizations.

Shelby said the social services groups will be crucial to finding human-trafficking victims who may be too frightened to turn to police.

Ruth, whose true identity is being withheld because she fears retaliation from her former employer, is one of an estimated 16,000 immigrants who are kidnapped or tricked into coming into the United States and then coerced into prostitution or forced labor, according to the U.S. Justice Department.

She said she despaired until an acquaintance connected her with a program run by YMCA International Services.

Opening eyes of the law

The Texas Office of Immigration and Refugee Affairs says human trafficking is a multinational organized criminal industry generating billions of dollars per year. Most of the victims are women and children.

Shelby said traffickers include the Russian mafia and Asian triads as well as smugglers on the U.S.-Mexican border.

The newly formed alliance will train officers to spot a trafficking victim whom they otherwise might have arrested as a prostitute. The group also will coordinate investigation and prosecution of traffickers, improve the treatment and care of victims for use as witnesses in prosecutions and conduct regional conferences.

The alliance plans to duplicate itself in Brownsville, Corpus Christi, McAllen and Laredo.

"This task force and others like it are an important step toward ending the scourge of human trafficking and slavery," said U.S. Sen. John Cornyn, who recently authored a resolution calling for increased cooperation among Congress, federal and local law enforcement to end human trafficking.

Officials say they don't know how serious the problem is in Harris County because they have only recently been made aware of it.

District Attorney Chuck Rosenthal said he is unaware of any such cases in the county because law enforcement agencies have not been trained to identify the problem.

"We didn't know what we were looking at," Rosenthal said.

He said the creation of the task force will open local law enforcement's eyes to the crime, "like changing your glasses prescription."

R. Alexander Acosta, assistant U.S. attorney general for civil rights, said, "We don't know what the trends are because the data has not been collected."

Acosta said he is reminded of

STEVE CAMPBELL / CHRONICLE

HUMAN TRAFFICKING: Most victims are women and children, including this woman who was held captive.

the seriousness of the crime by a crime-scene photo in his office, showing a teddy bear on a nightstand beside a bed.

The teddy bear belonged to a 14-year-old girl who was forced to have sex with as many as 30 men a day on the bed, he said.

"We simply must do a better job of identifying the victims and bringing human traffickers to justice," Cornyn said.

Efforts get results

Jeff Watkins, executive director of YMCA International Services, said his agency has treated only five victims since it received a $560,000, three-year grant from the Justice Department last year.

The money, which comes from fines and penalties paid by convicted criminals, is used in part to train police in spotting victims of human trafficking.

Watkins said the YMCA trained 1,500 Houston police officers in the past year and will help train other officers in the federal Southern District, which stretches from Huntsville to Brownsville and Laredo.

Last year, the Justice Department formed similar rescue alliances in Atlanta, Philadelphia, Phoenix and Tampa, Fla.

Shelby said the Houston alliance is the first of about a dozen the Justice Department plans to form this year.

An emphasis on the prosecution of human trafficking by the Justice Department led to a tripling of charges filed in the past three years, compared with the previous three years, although the 150 total remains small.

A 2000 federal law and a 2003 Texas law were aimed at human trafficking.

The Houston alliance will be coordinated by Assistant U.S. Attorneys Edward Gallagher and Ruben Perez.

harvey.rice@chron.com

The Houston (Harris County, Texas) trafficking task force provides a meaningful illustration of the work and potential of the Department's multi-disciplinary task forces. In 2004, concerned that trafficking might fall into the cracks between civil rights and organized crime enforcement programs, the United States Attorney's Office for the Southern District of Texas formed the Human Trafficking Rescue Alliance with the Federal Bureau of Investigation, Bureau of Immigration and Customs Enforcement, Harris County Sheriff's Department, and a number of non-governmental organizations who had recently come together on the issue. The Rescue Alliance began with listening sessions of the stakeholders and moved to joint training for law enforcement and other community groups. Rescue Alliance members attended the Department's National Training Conference on Human Trafficking in Florida in July 2004, and pledged themselves to work together to combat trafficking. When the Bureau of Justice Assistance called for grant proposals, the working group was ready with a task force proposal that built upon and solidified their relationships. As the profile of this issue has grown, so has the demand for training on the part of state and local law enforcement, and the most recent training opportunity

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Rescue Alliance have solidified the relationship of the law enforcement participants with the Office for Victims of Crime and Health and Human Services victim-services grantees such as the YMCA of Houston and Catholic Charities.

Houston Chronicle, August 14, 2004

One novel aspect of the Rescue Alliance has been to place Harris County Sheriff's Deputies with vice-squad experience in Federal Bureau of Investigation and Immigration and Customs Enforcement Field Offices on the squads tasked with trafficking investigations. Especially in the Federal Bureau of Investigation office, having a full-time investigator with extensive knowledge of the local landscape was invaluable, and his activities served as a catalyst for the other agents on the task force to work pro-actively to identify and dismantle trafficking rings. The inclusion of agents from the Texas Alcohol and Beverage Commission has proven instrumental in the success of the Rescue Alliance.

As a result of operations by the Rescue Alliance, two large-scale trafficking operations resulted in federal human trafficking indictments in the Houston area in the fall of 2005 -- one involving allegations of Mexican women and girls forced into prostitution and another involving allegations that dozens of Central American women and girls were held in peonage in a "bargirl" operation. These prosecutions, which are pending at the time of this report,[69] could not have happened without the interagency approach and close cooperation with non-governmental service providers and advocacy groups that was fostered and intensified through the Bureau of Justice Assistance grant. The Rescue Alliance is an example of an energized and successful task force effort that successfully blends state, local, and federal personnel, across traditional organized crime and civil rights approaches, to work with the non-governmental community to act in the best interests of the victim while seeking justice.

The Bureau of Justice Assistance, in collaboration with other federal partners, provides ongoing training and technical assistance to task forces. In 2005, the Bureau of Justice Assistance, in collaboration with the Civil Rights Division, the Office for Victims of Crime, and other experts, developed a specific training curriculum for law enforcement officers nationwide who may come into contact with trafficking victims, entitled *Human Trafficking in the United States, Promoting Law Enforcement Awareness.* The curriculum is a flexible, one-day training course educating law enforcement officers about the basics of the phenomenon of human trafficking and a victim-centered approach to proactive investigation of potential cases. The curriculum provides an introduction to human trafficking, its victims, and offenders; a legal overview with a focus on the TVPA; investigative considerations and techniques; an overview of the role of victim service providers; the need for victim services and the types of services available; and immigration matters, including the role of immigration officials and remedies available to victims. The training program also reviews lessons on understanding the need for a formal multi-disciplinary approach towards human trafficking and an understanding of the

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[69] An indictment contains only charges and is not evidence of guilt. The defendants in these and any other cases cited in this report in which convictions have not been obtained are presumed innocent and are entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

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important role of the community in law enforcement efforts. The training curriculum is unique in that it incorporates multimedia learning and each participant is provided with multimedia resources to be used in training other officers and building greater community awareness and support. The course is taught by seasoned investigators who have handled trafficking cases as well as by national experts on trafficking issues.

In February 2005, the Bureau of Justice Assistance convened a conference of the 22 nascent task forces that had been instituted by that time. More than 115 individuals attended. Federal participants in the conference included representatives from within the Department as well the Departments of Homeland Security and Health and Human Services. The focus of the conference was to explain the degree of collaboration needed among federal, state, and local law enforcement, prosecution, and victim services agencies in order to effectively rescue victims and prosecute traffickers. Task force members were trained using the *Human Trafficking in the United States, Promoting Law Enforcement Awareness* curriculum, described above. Future cross-training of task force members will enable the Department to build on that effort by sharing best practices and linking the groups' efforts across geographical lines.

The Human Trafficking Task Forces are just the approach we need to combat human trafficking. With all of us working as a team we will be more effective in this endeavor than we would be if we tried to combat human trafficking individually.

--Lt. Bill Rule, Collier County Sheriff's Office, Victim Services Bureau

B. Restoring Victims' Dignity

As discussed above,[70] the Department places a premium on enabling trafficking victims to achieve stable and secure lives. Federal investigators and prosecutors will therefore immediately refer a victim to victim service professionals for immediate care. Again, victims that are safe and healthy are better able to articulate to investigators and a court what has happened to her. Without the victim's assistance, traffickers may not ever be held accountable for their crimes.

In many cases, the referral process and the provision of services is expedited through relationships already established by task force partners. Some task forces have created innovative ways to connect victims identified through law enforcement activity with services. The United States Attorney's Office for the Middle District of Florida, for example, developed a compendium of victim service providers for use by task force members in Fort Myers, Jacksonville, and Tampa. The task force in Indianapolis, Indiana, coordinated through the United States Attorney's Office for the District of Indiana, has partnered with the Indianapolis Family Justice Center to deliver services to victims of human trafficking that are funded by the Office for Victims of Crime. The Family Justice Center, created in connection with President Bush's Family Justice Initiative, a program that is administered by the Office on Violence Against Women, co-locates services to families involved in

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[70] *See*, Part III "Scope of the Problem," section B "The Department Responds to this Crime with a Victim-Centered Approach."

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domestic violence. Making this Center the coordinator of services to victims of human trafficking makes the response to victims more efficient and effective.

Once potential cases of trafficking are uncovered, victims may become eligible for important services that help to keep them safe as they recover from their victimization. Trafficking victims, like all crime victims, may be eligible for services and benefits under the Victims of Crime Act, a program administered by the Office for Victims of Crime.[71] The TVPA, as amended, created new protections for alien victims.[72] Under the TVPA, victims are afforded:

- Immigration relief, in the form of an administrative change in immigration status known as "continued presence" as well as a temporary, non-immigrant visa known as the "T visa;"
- Access to refugee benefits;
- Adequate shelter, care, and protection;
- Legal assistance;
- Information & translation services; and
- Mandatory restitution.[73]

The TVPA authorizes similar victim services programs to be administered by the Department of Health and Human Services, thus requiring a significant amount of coordination between the Office for Victims of Crime and the Department of Health and Human Services. In 2004, the Office for Victims of Crime initiated regular coordination meetings with the Office of Refugee Resettlement, its counterpart agency at HHS, known

> One day, I fell for their trap. I had a little dream of my own. It was to make some money and to buy my house. I arrived in [America] with such hopes and dreams. Who would have known what would be waiting for me there instead? Since the day I arrived, I had to live like an animal. [The karaoke bar] was a prison that was filled with nothing but curses, threats, and beatings.
>
> - "Ms. Kim," a 31-year old victim in United States v. Kwon Soon Oh, a sex trafficking case.

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[71] The Crime Victims Fund, 42 U.S.C. § 10601, established by the Victims of Crime Act of 1984 (VOCA), is a major source of funding for victim services throughout the nation. The Office for Victims of Crime administers the Fund and distributes funding to the states on a formula basis to support crime victim assistance and crime victim compensation programs. Victim assistance includes lifeline victim services such as crisis intervention, emergency shelter and transportation, counseling, and criminal justice system advocacy. Crime victim compensation is a direct reimbursement to or on behalf of a crime victim for expenses such as medical costs. Trafficking victims may be eligible for support under the Crime Victims Fund, the TVPA, or both of these programs, depending on the circumstances of their cases and, in the case of the Crime Victims Fund, the specific guidelines of the state agency that administers the program.

[72] TVPA, Pub. L. No. 106-386 § 107(b)(1) (codified at 22 U.S.C. § 7105(b)(1)).

[73] *Id.*

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The TVPA authorizes similar victim services programs to be administered by the Department of Health and Human Services, thus requiring a significant amount of coordination between the Office for Victims of Crime and the Department of Health and Human Services. In 2004, the Office for Victims of Crime initiated regular coordination meetings with the Office of Refugee Resettlement, its counterpart agency at HHS, known as the Human Trafficking Victim Services Coordination Working Group. By working together, both agencies maximize their resources and exchange information to improve the provision of victim services as both HHS and the Office for Victims crime may fund grantees that provide services to pre-certified victims. Consequently, grantees funded by the Office for Victims of Crime under the TVPA only provide services to victims of trafficking before they are certified as victims of a "severe form of trafficking" by the Department of Health and Human Services, except in special circumstances.[74]

Since fiscal year 2003, the Office for Victims of Crime has funded 20 victim service providers to assist pre-certified victims of trafficking in the United States, one grant to the headquarters of the Salvation Army to work with their territorial divisions to provide shelter to trafficking victims, and one grant to an organization to provide technical assistance. Since January 2003, Office for Victims of Crime-funded grantees have served 741 pre-certified trafficking victims. The Department, in cooperation with other law enforcement agencies, have assisted 687 victims to obtain continued presence immigration status, allowing them to remain in the country and to receive benefits and services.[75]

The period between being rescued and receiving certification is the time when victims are most vulnerable. They typically have a host of needs that includes housing, clothing, and food; medical, dental, and psychological care; legal assistance and immigration advocacy; and interpretation services. However, few organizations or communities have the resources to provide or fund these services. The Office for Victims of Crime grant program helps communities to fill this critical service gap and, in the process, supports victims' abilities to cooperate with law enforcement. Immigrant victims are offered culturally and linguistically appropriate services and may, if needed, petition for T visas that would allow them to remain in the United States legally. Some organizations are specifically prepared to provide immediate, critical assistance in crisis situations until the services of a local victim service provider can be put in place.

The Office for Victims of Crime supports the work of the victim service providers it funds with technical assistance that is made available through workshops, on-site consultation, and via the

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[74] Grants funded through the TVPA are not available to provide services to victims who are United States citizens. However, service providers funded by the Office for Victims of Crime or the Department of Health and Human Services may have other sources of funding to assist those individuals. *See*, n. 65.

[75] The TVPA's victim provisions were intended to address the inability of alien victims to access publicly-funded programs because of their immigration status or lack thereof. Trafficking victims who are United States citizens are not barred from accessing those programs.

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internet. Office for Victims of Crime training and technical assistance includes mentoring guides and safety protocols for both providers and clients. Grantees also provide training to local police and non-governmental organizations. Since fiscal year 2003, approximately 38,635 persons have been trained through the efforts of Office for Victims of Crime grantees. Training topics have included the dynamics of trafficking, the legal definition of trafficking under the TVPA, legal rights and services for trafficking victims, and cultural considerations in serving these victims. More important, the Office for Victims of Crime and the National Institute of Justice are studying effective approaches to victim service delivery and plan to publish an evaluation of field-tested services in 2006.

In addition to the work of the Office for Victims of Crime, the Office on Violence Against Women has, since 2001, funded more than $700,000 for technical assistance projects that assist Office on Violence Against Women grantees in providing services to trafficking victims if they have also been victims of domestic violence, sexual assault, or stalking. For example, Legal Momentum's Immigrant Women Program provides technical assistance to Office on Violence Against Women grantees to foster their ability to serve immigrant victims of domestic violence, sexual assault, and stalking. Because trafficking victims may seek services from Office on Violence Against Women grantees if they have also been a victim of domestic violence, sexual assault, or stalking, the Immigrant Women Program training workshops educate grantees about the availability of T- and U-visas, identifying whether a victim has been trafficked, barriers faced by trafficking victims who seek services, and conducting outreach to potential victims of trafficking. In addition, Legal Momentum has developed a nationwide directory of experts working with immigrant victims of domestic violence, sexual assault and trafficking. Nearly 950 attorneys and advocates have attended these workshops and another 150 will be trained within the next year. Another example is the Family Violence Prevention Fund, which used Office on Violence Against Women funding in 2003 to establish a project aimed at improving collaborative responses to trafficked victims of domestic violence and sexual assault. The main goal of the project was to build multi-disciplinary collaborations between service providers and law enforcement to effectively and appropriately assist trafficking victims in Georgia and Washington. Plans are underway to expand the project into Alaska.

C. Public Awareness Supports Pro-Active Investigations

Public awareness is essential to proactive investigations that uncover victims. In fact, the prosecutions in *United States v. Kil Soo Lee*[76], which resulted in the single largest rescue

[76] In this case, the Korean owner of a sweatshop in American Samoa held over 200 Vietnamese and Chinese seamstresses in the Daewoosa Samoa garment factory in involuntary servitude. Over the course of two years, the workers were deprived of

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of trafficking victims in the Department's history, and *United States v. Soto*[77] were brought to the attention of federal law enforcement through referrals by non-governmental organizations that work with populations at risk for trafficking. The Department works to motivate communities, especially anti-human trafficking task forces, to increase awareness among law enforcement, various government inspectors (especially health code, wage and hour, and occupational safety and health agents), hospitals and other medical providers, social services agencies, and community- and faith-based organizations.

Increased outreach and public awareness is critical to the investigation and prosecution of human trafficking cases. The Department established a toll-free telephone complaint line in 2000 to receive allegations of trafficking from individuals ready to report to law enforcement, creating a mechanism that has substantially increased the number of investigations initiated by the Civil Rights Division. [78]

Since 2003, the Department has made available a brochure describing its processes and resources to assist non-governmental organizations in dealing with trafficking victims and the Department in a more efficient way. Through outreach, America's communities – particularly immigrant communities – are better educated about this crime and how to report possible cases. Moreover, increased public awareness about this crime and the benefits available to its victims can eliminate important aspects of the leverage that traffickers hold over their victims.

As a result, all components speak publicly about trafficking and the Department's activities to combat this crime to state, local, and foreign legislators, law enforcement officers, prosecutors, and non-governmental victim advocacy and services organizations. The Civil Rights Division, for example, has delivered more than 200 presentations around the nation since fiscal year 2001. Office for

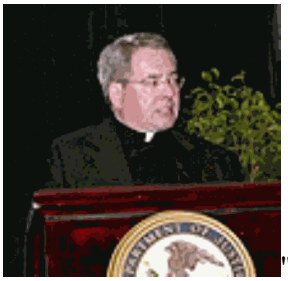

"We must make it as easy as possible for these victims to know that aid and comfort have arrived. The Catholic Coalition to Combat Trafficking...also conducts public outreach and advocates on behalf of victims.... I will also ask our pastors to communicate the goals of this campaign to every active religious and layperson.... There should be no zones where this mission of love and redemption does not reach."

-Archbishop John J. Myers, Archdiocese of Newark, at the National Training Conference on Human Trafficking, July 16, 2004.

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food, beaten, and physically restrained in order to force them to work. Lee was convicted in 2001, and in June 2005 he was sentenced to 40 years in prison.

[77] *See,* Part V "Halting Human Trafficking with a Record Number of Aggressive Investigations and Prosecutions," section B "Labor Trafficking" above for a discussion about *United States v. Soto.*

[78] HHS also created a toll-free number for victims to call to receive emergency services. Calls received from individuals who are ready to report to law enforcement are then forwarded to the Department of Justice for possible action.

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Victims of Crime grants to 21 human trafficking victim service providers under the TVPA include funding to increase public awareness in the communities they serve. Civil Rights Division representatives continuously emphasize the important role that faith and community-based organizations can play. Because of their proximity to the communities they serve, they can provide immense intelligence about potential criminal enterprises and trafficking victims, provide immediate, crisis care, and long term programs that help to prevent further victimization. The Federal Bureau of Investigation Civil Rights Unit has appeared on national television and local radio programs which highlight, define, and expose trafficking to the general public, including CNBC, Donny Deutche's The Big Idea, and WMAL AM 630's "Danger Zone" with Richard Carlson, a Washington, D.C.-area radio program. The Civil Rights Unit has also provided human trafficking-related training presentations at various non-governmental conferences, such as the International Association of Labor Standards Annual Conference in Memphis, Tennessee, and the National Organization of Women's Annual Conference in Los Angeles, California. The Child Exploitation and Obscenity Section is also actively engaged in promoting the Department's strategy of multi-disciplinary cooperation that emphasizes the victim-centered approach to combating domestic child prostitution with non-governmental organizations such as the United States Conference of Catholic Bishops.

United States Attorneys' Offices are also involved in providing outreach and education about human trafficking within their districts. The United States Attorney's Office for the Southern District of California, for example, has hosted five conferences on human trafficking since October 2001. Each of

Women were victims of sex trafficking in *United States v. Molina*

These conferences have provided training about applicable statutes and resources available for victims, including contact information for potential victims, to local law enforcement and non-governmental organizations serving trafficking victims. These conferences have resulted in long-standing relationships between federal prosecutors and law enforcement, state and local police, and numerous local service-providers, such as the Bilateral Safety Corridor Coalition. Another example are the efforts of the United States Attorney's Office for the District of Connecticut, which convened a meeting in May 2004 of federal and state agencies to explore why human trafficking cases have not been prosecuted in this jurisdiction. By September 2004, this office convened a training conference intended to educate federal, state, and local law enforcement and victim service providers about human trafficking and how to identify resources, including federal grant opportunities. The result of these efforts has been the creation of an

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The victims of sex trade see little of life before they see the very worst of life -- an underground of brutality and lonely fear. Those who create these victims and profit from their suffering must be severely punished. Those who patronize this industry debase themselves and deepen the misery of others. And governments that tolerate

anti-human trafficking task force that includes the Connecticut State Police, Federal Bureau of Investigation, Immigration and Customs Enforcement, Social Security Administration, State Department's Diplomatic Security Service, and United States Coast Guard as well as non-governmental organizations serving trafficking victims.

D. Promoting Foreign Criminalization and Prosecution of Human Trafficking

As discussed above,[79] the President has directed federal agencies to use all diplomatic and foreign assistance tools in the nation's effort to abolish human trafficking. The Department has had an important role in advancing this directive. The Department's primary goal in this regard is to promote the efforts of foreign governments to criminalize human trafficking and to enhance their capacity to investigate and prosecute these crimes first through the President's international human rights initiative; second, by collaborating with foreign law enforcement agencies on human trafficking cases; third, by supporting foreign training and technical assistance programs,

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[79] *See*, Part II "An Administration Priority."

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this trade are tolerating a form of slavery.

–President George W. Bush, speaking to the United Nation's General Assembly, September 23, 2003

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increase the capacity of several source and destination countries to combat trafficking. Specifically, the President's initiative aims to replicate our victim-centered prosecutions through multi-disciplinary task forces and increased outreach in Cambodia, India, Indonesia, Mexico, Moldova, and Tanzania.

The Department has been actively involved in the design, development, and implementation of this initiative. Working primarily through the Civil Rights Division, and with the assistance of the Criminal Division's Offices of Overseas Prosecutorial Development, Assistance and Training and the International Criminal Investigative Training Assistance Program, the Department coordinated with the Departments of Health and Human Services, Labor, and State, as well as the United States Agency for International Development, to develop the capacity of foreign governments to investigate and prosecute human trafficking cases, and to develop partnerships with non-governmental organizations to prevent the vulnerable from becoming victims through outreach and education as well as to protect and rehabilitate victims. The inter-agency working group found the lessons learned by the Civil Rights Division in its prosecution of trafficking cases and its organization of trafficking task forces a valuable model for the implementation of the President's international initiative. The objective of the initiative thus became the institution of multi-disciplinary efforts to combat human trafficking in particular geographic regions. In practice, this would mean that programs to promote awareness raising, victim shelters, and police and prosecutor training would be established and supported in a collaborative effort by each of the participating federal agencies. The Department designs country assessments to help the United States Government better understand the nature of the trafficking problem in a particular area and to inventory what efforts were currently underway.

Foreign Country
Human Trafficking Assessments By the Department of Justice

- What is the current statutory framework?
- What is the capacity of police to investigate trafficking offenses?
- What is the level of prosecutorial skill and interest in trafficking victims?
- What is the current state of services for victim shelter and restoration by both governmental and non-governmental organizations?
- What is the current level of cooperation between prospective anti trafficking team members, and?
- What is the level of political will and interest among those government officials who would be the implementers of the plan?

The first task is to gain a foundational understanding of human trafficking within the host country by answering such questions as: Who are the victims and where do they come from? What kind of coercion is used to control the victims? What are the historical and cultural factors that influence trafficking or the response to it? Is there trafficking of minors into sexual exploitation? What industries tend to have labor trafficking? Next, the Department's trafficking experts design a matrix of the necessary tools that would be required to rescue particular victims, place them into restorative care, and hold perpetrators accountable.

Once the assessment is completed, the United States Government, through the local United States Embassy, and the host government enter into a Letter of Agreement (LOA) that states the roles and responsibilities of both parties and the level of funding to be provided in connection with the

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President's initiative. Department team members then coordinate with the other federal agencies to deploy training and other capacity building and to assign to the host country personnel from the United States Government to provide expertise and mentoring to those working on the anti-trafficking project. A primary goal of every LOA entered into in connection with the President's initiative is the Department's imperative to rescue victims and hold perpetrators accountable. The President's initiative was designed to place a clear emphasis on results that change lives for victims and their families.

The United States Government's work with the Mexican Government in connection with this initiative presents a useful illustration of the Department's work. Since 2003, the Department's Civil Rights and Criminal Divisions have been actively conducting country planning sessions in both Mexico and Indonesia, and has detailed a Civil Rights Division attorney to the United States Embassy in Moldova, in connection with the President's international human trafficking initiative. In Mexico, a significant number of senior United States law enforcement specialists met repeatedly over the past year with their counterparts from the Mexican Government before a final Letter of Agreement was signed in mid 2005. As a result, both partners have a clear understanding of how the President's program will be implemented. One significant factor in the United States-Mexico anti-trafficking partnership is the agreement to work together on cases that involve criminal trafficking enterprises that are active on both sides for the border.

Collaboration with Foreign Law Enforcement

Another important Departmental component in the international arena is the Office of International Affairs of the Criminal Division, which serves as the link between federal, state, and local anti-trafficking efforts and foreign prosecution and judicial authorities. Good working partnerships with foreign governments have been essential to the Department's efforts to combat human trafficking. The Office of International Affairs' most significant contribution to United States Government anti-trafficking efforts has been to assist in gathering evidence from abroad and to assist foreign prosecutors in gathering evidence located in our country. For example, in *United States v. Carreto*,[80] Mexican nationals were accused of recruiting uneducated women and girls from impoverished areas of Mexico and compelling them to prostitute themselves in both Mexico and New York. Carreto's victims were forced to service up to 20 men a day as prostitutes and were beaten if they did not make enough money during a single day or if they attempted to hide the money they made. One victim was also forced to have an abortion.[81] The Office of International Affairs, in collaboration with the United States

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[80] *United States v. Carreto*, Cr. No. 04-140 (E.D.N.Y. 2004).

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Attorney's Office for the Southern District of New York, helped secure testimony, as well as documentary and physical evidence, gathered by Mexican authorities in their investigations of the Carretos' transnational operation. Similarly, the Office of International Affairs secured evidence and testimony from Russia in support of a federal prosecution by the United States Attorney's Office for the Central District of California of a defendant in California accused of trafficking her niece into the United States and forcing her to be used in prostitution.[82]

The Office of International Affairs also works to extradite traffickers from foreign nations to the United States or from our country to foreign nations for prosecution. On September 28, 2005, Mexico provisionally arrested a Mexican national pursued by the United States Attorney's Office for the Southern District of Florida on charges including conspiracy, alien smuggling, and transporting women and minors for purposes of prostitution between August 1996 and February 1998. The victims, who reportedly did not know their fate until they arrived in the United States, were not allowed to leave the brothels until they paid a smuggling fee to the accused, who allegedly took 70% of the prostitution proceeds.

Since fiscal year 2003, the Federal Bureau of Investigation has participated in the Southeast European Cooperative Initiative, a multilateral organization designed to combat trans-border crime and develop closer law enforcement coordination among its members, as the lead observer on human trafficking cases and has detailed agents to Albania, Bulgaria, and Romania to work on trafficking issues. The Southeast European Cooperative Initiative Regional Center for Combating Trans-Border Crime in Bucharest, Romania, coordinates southeastern European police and customs regional actions for preventing and combating trans-border crime, including trafficking in persons and migrant smuggling. The following twelve countries are actively involved with the Center: Albania, the Federation of Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Hungary, Macedonia, Moldova, Romania, Serbia and Montenegro, Slovenia and Turkey.

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[81] *Id.*

[82] *Id.*

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Foreign Training and Technical Assistance Programs

Dismantling transnational human trafficking networks requires a willingness and ability to work closely with our foreign partners in countries where victims are recruited. Consequently, the Civil Rights and Criminal Divisions are actively involved in outreach and providing technical assistance to foreign governments and non-governmental organizations. Since 2002, Civil Rights Division officials have addressed international gatherings convened in countries such as Azerbaijan, Belize, Brazil, Cambodia, Canada, China, Colombia, the Dominican Republic, El Salvador, Guatemala, Hungary, India, Indonesia, Japan, Mexico, Moldova, Philippines, South Africa, Suriname, Thailand, and Ukraine, to encourage a coordinated response to human trafficking worldwide. These events are attended by foreign law enforcement executives, prosecutors, judges, and non-governmental organizations that advocate on behalf of or provide assistance to trafficking victims.

The Criminal Division's Offices of Overseas Prosecutorial Development, Assistance and Training and its sister organization, the International Criminal Investigative Training Assistance Program work to build effective partnerships with other law enforcement agencies sharing the goal of eradicating predatory trafficking groups. Between fiscal years 2001 and 2005, the Office of Overseas Prosecutorial Development, Assistance and Training conducted a total of 142 training and technical assistance programs involving 25 countries.

The Criminal Division's International Criminal Investigative Training Assistance Program has partnered with 12 nations, including Albania, Armenia, Azerbaijan, Bosnia-Herzegovina, Costa Rica, Georgia, Indonesia, Macedonia, Nigeria, Ukraine, Russia, and Senegal

Assistant United States Attorney Susan Coppedge, in the Northern District of Georgia, was selected as a recipient of the 2006 Ian Axford New Zealand Fellowship in Public Policy to study Human Trafficking issues in New Zealand by the Common Wealth Fund. Ian Axford Fellowships in Public Policy give outstanding mid-career American professionals opportunities to study, travel, and gain practical experience in public policy in New Zealand, including firsthand knowledge of economic, social, and political reforms and management of the government sector.

AUSA Coppedge will work to strengthen anti-trafficking policies and laws in New Zealand. She plans to develop a comparative analysis of New Zealand and American approaches to combating human trafficking. During her six-month fellowship, AUSA Coppedge will be based with the New Zealand Ministry of Justice and the New Zealand Police.

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to build local capacity to prevent and combat trafficking in persons. International Criminal Investigative Training and Assistance Program projects have included training foreign police on how to properly identify and investigate trafficking cases, especially techniques for interviewing victims. Activities also included developing strike forces and specialized anti-trafficking police units; providing equipment and information technologies to manage trafficking-related cases; and developing law enforcement manuals to assist police to conduct investigations, make arrests, and rescue victims.

Insert graphic of all countries referenced re foreign assistance programs

Department experts also participate in regional, multilateral consultations between law enforcement executives that promote international cooperation between the country of victim origin and the destination country, such as the Southeast European Cooperative Initiative, which is discussed in more detail below. Attendees at workshops conducted by the Department are often law enforcement executives who can and do take information and put it into practice. In one recent example, Department lawyers relied upon contacts made through these training sessions to assist a country in arresting recruiters who held the children of trafficking victims as hostages to prevent the victims from providing evidence to assist in a United States prosecution.

Educating Foreign Visitors to United States

The Civil Rights Division, the Criminal Division's Child Exploitation and Obscenity Section, the Federal Bureau of Investigation, and the Office for Victims of Crime, supplement the Department's foreign assistance programs by providing technical assistance and informational briefings with foreign delegations to the United States. Since the passage of the TVPA, Civil Rights Division lawyers have participated in numerous training and outreach programs, speaking at more programs last year and the year before than ever before in countries such as Austria, Cambodia, Mexico, Singapore, and Thailand. The Department's experts have also assisted their counterparts in other countries with assistance in developing a victim-centered response to human trafficking through meetings and training workshops. For example, many foreign governments host their own training in partnership with the United States Embassy. Lasting a week to two weeks, the Department's attorneys, investigators, and victim specialists teach critical skills such as evidence gathering, pro-active investigations, and victim interviews. Workshops provide an opportunity to practice skills and learn new law enforcement methods that reflect the lessons Department has learned in investigating and prosecuting these cases. The Department's consistent theme in each of these events is to present the crime of human trafficking as a multi-disciplinary challenge requiring collaboration among governmental and non-governmental agencies. The Department has learned that a critical need in many developing countries is the ability to develop a framework for governmental and non-governmental organizations to collaborate, particularly as it concerns the protection of victims and programs to prevent further victimization.

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In addition, some United States Attorney Offices, particularly in connection with their local Task Forces, have been involved in training and educating visitors from foreign governmental and non-governmental organizations about strategies to combat human trafficking. Representatives of the United States Attorney's Office for the Middle District of Florida, for example, along with its task force members from the Collier County Sheriff's Office, the Immigrant Rights Advocacy Center, and the Florida State University Center for the Advancement of Human Rights, traveled to Central America in late 2004 to educate governmental leaders about the efforts of their task force to combat human trafficking and provide assistance to its victims. An additional example is that of the United States Attorney's Office for the Western District of Washington, where the Seattle offices of the Bureau of Immigration and Customs Enforcement, the Federal Bureau of Investigation, and the United States Department of Labor's Office of the Inspector General have worked together to share information about efforts to combat human trafficking with officials and visitors from countries such as Brazil, Germany, Mexico, France, Italy, and Spain, and with organizations like the World Affairs Council.

The Department also works with foreign governments to adopt legislation that aids in the investigation and prosecution of traffickers and the protection of victims. Through the Office of Overseas Prosecutorial Development, Assistance and Training, the Department's trafficking experts in the Civil Rights Division, Child Exploitation and Obscenity Section and United States Attorneys' Offices assist foreign governments with the development and ratification of anti-human trafficking legislation to help ensure that foreign governments adopt laws that are victim-centered and compliant with the Palermo Protocol.[83] For example, in fiscal year 2004 alone, Civil Rights Division attorneys and its victim-witness coordinator have conducted training sessions and have assisted in drafting trafficking legislation in Asia, Africa, Europe, the Caribbean, North America, and South America, in coordination with the Office of Overseas Prosecutorial Development, Assistance and Training. These training sessions emphasize the Department's experience in investigating and prosecuting these cases, collecting evidence, and keeping the victim safe.

In fiscal year 2004, the Office of Overseas Prosecutorial Development, Assistance and Training and the International Criminal Investigative Training and Assistance Program assisted 7 foreign nations with legislation that directly or indirectly furthered anti-human trafficking efforts in fiscal year 2004. The Office of Overseas Prosecutorial Development, Assistance and Training provides substantial technical assistance based on a victim-centered strategy known commonly as the "Three Ps of Trafficking in Persons: Prevention, Protection and Prosecution." Technical assistance by this office includes educating and developing joint projects with foreign law enforcement officials geared to strengthening their capacity to prevent transnational trafficking; protect victim witnesses and thereby encourage their participation in investigations and

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[83] Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, U.N. Doc. A/55/383 (2000)(entered into force on Dec. 25, 2003; signed by the United States on December 3, 2005).

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prosecutions; and effectively investigate and prosecute trafficking cases. This office also works with host countries on developing evidence collection techniques which can generate evidence usable in prosecutions – either here in the United States or in a foreign country.

The Federal Bureau of Investigation, working through the Office of Overseas Prosecutorial Development, Assistance and Training, has provided training programs in Azerbaijan, Suriname and Ghana. In fiscal year 2004, the FBI trained 50 international visitors, including officials from Australia, India, Pakistan, South Africa, Haiti, and England. In addition, the Bureau's Civil Rights and the Asian Criminal Enterprise and Crimes Against Children Units conducted a training session at the British Embassy in January 2005 during a program jointly sponsored by the British Embassy and Women in Federal Law Enforcement.

Another component of the Department's international human trafficking program are activities to prevent victimization. An important step towards prevention is the Department's efforts to increase international public awareness about human trafficking. Raising the visibility of human trafficking and the efforts of the United States government to combat it encourages foreign governments to take victim-centered action to prevent, uncover, and prosecute cases of human trafficking. International public awareness is increased through activities of the Civil Rights Division, the Federal Bureau of Investigation, the Office of Justice Programs, the Office on Violence Against Women, and United States Attorneys' Office working through the Office of Overseas Prosecutorial Development, Assistance and Training and the International Criminal Investigative Training Assistance Program, in connection with briefings for foreign delegations and training programs. These training programs provide foreign parties – law enforcement officials, prosecutors, legislators, and non-governmental organizations – with information about the strategies the Department has employed to combat trafficking. Federal investigators and prosecutors, mostly Civil Rights Division attorneys, share lessons learned in prosecuting these cases, building local multi-disciplinary task forces, and providing services and protection for victims.

Insert Graphic of Globe Showing international efforts

As a further part of the Department's efforts concerning sex and labor trafficking, the Child Exploitation and Obscenity Section has trained attorneys and investigators from numerous countries on sex trafficking of children. Child Exploitation and Obscenity Section staff have trained individuals from: the Council of Baltic States (11 Baltic nations), Albania, Angola, Armenia, Austria, the Balkans, Belgium, Belize, Bosnia, Brazil, Bulgaria, China, Costa Rica, Croatia, Czech Republic, El Salvador, Ecuador, Georgia, Germany, Guinea, Hungary, Indonesia,

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Israel, Japan, Korea, Lithuania, Latvia, Macedonia, Mexico, Montenegro, Nigeria, Panama, the Philippines, Poland, Romania, Russia, Senegal, Serbia, Slovenia, South Africa, Suriname, Thailand, the United Kingdom, and Ukraine, among others.

States, governors, and legislatures can help by adopting anti-trafficking laws. The Justice Department has created a model state anti-trafficking law, and I intend to send a copy of it to every governor and legislative leader in those 40-plus states that do not yet have their own anti-trafficking laws.

-Attorney General Alberto R. Gonzales at the Hoover Institution Board of Overseers Conference, February 28, 2005

E. Fostering State, Local and Non-Governmental Activities to Combat Human Trafficking

The Department's work with state and local governmental agencies, particularly activities to expand anti-trafficking law enforcement authority, is intended to harness the nearly 700,000 state and local law enforcement officers who might come into contact with trafficking victims.[84] The number of law enforcement and prosecutorial resources dedicated to trafficking may be exponentially increased by combining federal, state and local assets. Thus, in 2004, the Department developed and introduced a model state law at the National Training Conference on Human Trafficking because many states do not have laws that criminalize this activity. At that time, only four states - Texas, Florida, Missouri, and Washington - had state laws against trafficking. The model state law reflects lessons learned through the Department's prosecutions, especially enforcement of the TVPA by the Civil Rights Division. Adoption of the model statute would promote a uniform national legal strategy to combat human trafficking.

Insert Senator Cornyn picture at Houston Human Trafficking Rescue Alliance event.

[84]Fed. Bureau of Invest. Uniform Crime Rep. (2004). There are 676,000 state and local sworn officers.

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On July 21, 2004, the United States Senate unanimously passed a resolution, authored by Texas Senator John Cornyn, endorsing the Department's model state anti-trafficking statute and encouraging states to adopt it. The Senate resolution also singled out for praise the Civil Rights Division in its prosecution of human trafficking crimes and lauded the Department's National Conference on Human Trafficking. In March 2005, Attorney General Gonzales sent letters to state governors and legislative leaders explaining the scope of the trafficking problem, pointing to the need for state assistance to the federal government in fighting trafficking, and urging them to adopt the model. Department officials have since promoted the model law, and Civil Rights Division attorneys continue to provide technical assistance regarding the model state law to state legislators and related organizations, such as the National Foundation for Women Legislators. To date, 15 states have enacted anti-trafficking legislation, many of which reflect the Department's model criminal statute.

Insert graphic of states and territories that have passed anti-trafficking legislation

As discussed above,[85] outreach and technical assistance are critical to uncovering this insidious crime. The Civil Rights Division, along with the Criminal Division, the Federal Bureau of Investigation, the Office of Justice Programs, the Office on Violence Against Women, and United States Attorneys' Offices, works actively to increase awareness among local law enforcement and community- and faith-based organizations through training presentations and the provision of technical assistance. The strategy employed by each of these components reinforces a victim-centered approach to prosecutions and the collaborative work of task forces. Examples of the Department's activities to increase awareness of human trafficking among state and local governmental agencies, non-governmental organizations, and in our nation's communities include the following:

- Attorneys in the Civil Rights Division and the Office of Legal Policy authored an August 2002 article in *Police Chief Magazine*, entitled *Working Together to Stop Modern-Day Slavery*. The article outlined ways for local law enforcement during the course of their

[85] *See*, Part III "Scope of the Problem," section B "The Department Responds to the Crime with A Victim-Centered Approach."

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usual investigations to identify trafficking cases.

- In fiscal year 2003, the Civil Rights Division conducted training sessions in the Washington, D.C. metropolitan area, New York City, Chicago, San Diego, Atlanta, Dallas, and several other cities and with numerous non-governmental organizations such as the U.S. Conference of Catholic Bishops, Women in Federal Law Enforcement and the National Organization of Black Law Enforcement Executives.

- An attorney in the Civil Rights Division authored a December 2003 article in *Police Chief Magazine*, entitled, *Human Trafficking: A Guide to Detecting, Investigating, and Punishing Modern-Day Slavery*. The article gave an overview of federal anti-trafficking efforts and urged increased cooperation among state, local, and federal law enforcement officials.

HUMAN TRAFFICKING

A Guide to Detecting, Investigating, and Punishing Modern-Day Slavery

By Bharathi A. Venkatraman, Federal Prosecutor and Special Counsel for Trafficking in Persons, Civil Rights Division, U.S. Department of Justice, Washington, DC

In April 1997, Joseph (not his real name), a homeless, drug-addicted African American man stumbled through the woods in Fort Pierce, Florida. He was dazed and bloody, having just been repeatedly kicked and beaten about the head and face. Deputy Lee, of the Saint Lucie County Sheriff's Department, who was investigating a report of a missing child, observed Joseph. Noticing Joseph's injuries, Lee summoned medical assistance and interviewed the injured man. Thus began an investigation initiated by the Saint Lucie Sheriff's Department, in conjunction with the Fort Pierce Police Department, that uncovered violent and abusive conduct on the part of Lewis Phillips, a fruit harvesting contractor who employed Joseph and a number of other workers on a seasonal basis. Phillips hooked Joseph and other workers on crack cocaine in lieu of paying them adequate salaries, and applied their earnings of 55 cents per bin of fruit picked to the crack debt that the workers owed him. Phillips's payment scheme resulted in a burgeoning debt for Joseph and the other workers and little, if any, take-home pay. Growing increasingly dissatisfied with his work situation, Joseph left Phillips's employ in favor of working for a competing fruit harvesting contractor who offered Joseph better terms. Once Phillips discovered that Joseph had left to work for a competitor, Phillips became enraged and enlisted the assistance of an enforcer to kidnap, beat, and brutalize Joseph in order to "teach him a lesson. . . ."

On the morning of November 22, 1999, 18-year old Geeta came home to her apartment in Berkeley, California, and was confronted by a horrifying sight. Her two roommates, sisters Leela, 16, and Radha, 14, were lying on the floor, unconscious. The apartment was stifling hot, and Geeta ran about grabbing water and ice to sprinkle on her two unconscious roommates, in hopes of reviving them. Geeta then shook and ultimately slapped the two sisters, but they remained unresponsive. A poor young woman from southern India, Geeta was not well educated and unable to speak English. Utterly desperate, she phoned her place of employment, an Indian restaurant in Berkeley, and summoned restaurant workers to come and assist her. The restaurant personnel arrived in a van and attempted to calm Geeta, who was waiting for them outside of the apartment, in a state of extreme agitation. The workers then called one of the unconscious sisters in a rug in order to carry her to the waiting van in a concealed fashion. However, their attempts at concealment failed when a passing motorist noticed a human body part protruding from the rug. Alarmed, the motorist called the Berkeley Police Department. Berkeley police officers responded immediately, along with paramedics, and became suspicious that three young girls, with little or no English language skills, were living alone. Their investigation, which ultimately involved federal agents, revealed that the young unconscious girls were the victims of carbon monoxide poisoning due to a malfunctioning heater. Tragically, one of the two sisters, Radha, ultimately died. The investigation, however, led to the discovery that the young roommates were sex abuse victims of a wealthy and powerful Bay Area business man who was also their employer.

Both of these examples are drawn from real-life human trafficking cases prosecuted by the Department of Justice. Despite the obvious distinctions between the two scenarios and the means used to harm the victims, they share one fundamental feature: both incidents involve defendants who intimidated victims and forced them to work against their will. Such conduct amounts to modern-day slavery, also known as trafficking in persons.

The Importance of Identifying the Crime

Human trafficking is not always easy to detect. As these two cases demonstrate, trafficking can masquerade as a variety of other offenses. However, it is important to identify modern-day slavery for what it is—an assault on fundamental human dignity. Local law enforcement officers are the first responders in the communities where such crimes occur and are therefore the key players in identifying and exposing these serious crimes.

Human Trafficking Defendants Receive Big Sentences

Identifying trafficking crimes for what they are is an efficient way to punish effectively a variety of criminal activity. Time and again we have witnessed the frustration of local officers who arrest persons involved in vice or domestic violence offenses and spend countless hours completing paperwork, only to encounter the same offenders on the street in a matter of days. Lenient laws that enable perpetrators to get away with a mere slap on the wrist serve as a disincentive to enforcement.

By contrast, trafficking crimes carry hefty sentences. Consider the sentences meted out in *United States* v. *Jimenez-Calderon*, a recent sex trafficking case prosecuted by the Department of Justice and local law enforcement in Newark, New Jersey, a case that just as easily could have been prosecuted as a prostitution case. In *Jimenez-Calderon*, the defendants lured and transported young Mexican girls into the United States under false pretenses, and then forced them into prostitution, using physical violence and threats to maintain strict control over them. On August 7 of this year, two female defendants who supervised the victims were sen-

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- In fiscal year 2004, the Civil Rights Division conducted more than fifty training sessions around the United States at conferences and meetings in cities such as Albuquerque, Baltimore, Chicago, Houston, Los Angeles, Newark, New Jersey, and Salt Lake City.

- With funding from the Office on Violence Against Women, the International Association of Chiefs of Police is developing a training package for local law enforcement officers, including a guidebook on the identification and investigation of human trafficking crimes and a roll call training video with a discussion guide to accompany the guidebook.

- The International Association of Chiefs of Police National Law Enforcement Leadership Initiative, in connection with a $200,000 cooperative agreement with the Office on Violence Against Women, is planning a summit of law enforcement leaders in the summer of 2006 to continue to extend the level of awareness of and commitment to combating human trafficking.

- The Bureau of Justice Assistance, in collaboration with the Office of Community Oriented Policing Services (COPS), initiated, in fiscal year 2005, a program to educate local law enforcement about human trafficking through the COPS Regional Community

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Policing Institutes at a cost of $245,000. In 2005, COPS conducted three "train-the-trainer" sessions for 300 law enforcement trainers, including members of the then-existing 18 multi-disciplinary task forces, with the human trafficking curriculum developed by the Bureau of Justice Assistance. This program will be expanded in 2006 to hold at least five sessions, educating 5,100 law enforcement personnel.

- Also in fiscal year 2005 and independent of the Bureau of Justice Assistance, COPS sponsored an additional 6 training sessions for nearly 700 law enforcement officers, non-law enforcement governmental officials, and community-based organizations.

- The National Institute of Justice is supporting research that will provide a clear perspective on the current state of law enforcement's understanding of human trafficking. The research will identify current law enforcement responses to human trafficking; the implications of such responses for victims; and best practices and lessons learned by law enforcement and the partners with whom they collaborate on trafficking cases (e.g., victims service providers, attorneys, etc.).

- The Office of Juvenile Justice and Delinquency Prevention, through the National Center for Missing and Exploited Children and the Fox Valley Technical College, provides training on topics such as child maltreatment, runaway and missing children, the protection of children, and domestic trafficking of children for sexual purposes. This training program has educated approximately 36,500 persons between 2001-2005 with about 27,5000 persons trained between 1998-2000.

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VII. Conclusion

The Department has achieved incredible success in carrying out President Bush's directive to combat human trafficking. Under this Administration, the Department has been aggressive and effective in its effort to halt human trafficking. Prosecutorial activity has increased four-fold when compared to the last five years of the previous administration. The Department also has been innovative in its approach, by developing a multi-disciplinary victim-centered approach to uncovering human trafficking schemes, rescuing and protecting victims and working with foreign, governmental and non-governmental partners to prevent further victimization. Moreover, the Department is ensuring that the important work to combat human trafficking of the Civil Rights Division and the Federal Bureau of Investigation's Civil Rights Unit is complemented by, and coordinated with, the contributions of the many other Department components identified throughout this report that contribute in meaningful ways to this important Departmental priority. There is however, much work to be done.

Because the fundamental liberties of a human trafficking victim are violated by traffickers, the Civil Rights Division will continue to lead the Department's efforts to combat this heinous crime, working with federal investigators and prosecutors as well as victim services organizations both here and abroad. With the new tools found in the TVPRA of 2005, the Department will continue to work with its federal, state and local partners to expand the reach and intensity of anti-human trafficking task forces and encourage states to criminalize sex, labor and child sex trafficking.

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, January 11, 2006 8:45 AM
To: 'Brett Gerry (bgerry@who.eop.gov)'; 'Jennifer_R._Brosnahan@who.eop.gov'
Subject: FW: Draft DOJ Human Trafficking Report - Near Final
Attachments: DOJ HT Report Final Draft 1.10.06.wpd

Not to inundate you with e-mails this morning, but I thought you might find this of interest. It's a four-year summary report of the Dept's human trafficking efforts. The AG will announce its release in coming weeks likely in connection with a major sentencing.

From: Reyes, Luis (SMO)
Sent: Tuesday, January 10, 2006 8:08 PM
To: Gorsuch, Neil M; Elwood, Courtney; Sampson, Kyle; Scolinos, Tasia; Moschella, William; Mercer, Bill (ODAG); Roberts, Crystal; Pacold, Martha M; Swenson, Lily F; Hertling, Richard; Holland, Eric W; Seidel, Rebecca
Subject: Draft DOJ Human Trafficking Report - Near Final

All. This is a near final draft of this report. I like what I see here. Am reviewing more thoroughly and will have a set of comments for CRT. Please advise if you have any as well. Thanks very much.

From: Comisac, Rena (CRT)
Sent: Tuesday, January 10, 2006 6:10 PM
To: Vargas, Omar (CRT); Bottner, Andrea; Kaplan, Jennifer; Rothenberg, Laurence E; Hertling, Richard; Cammarata, Pam; Roth, Monique; Thacker, Stephanie; Oosterbaan, Andrew; McHenry, Teresa; Voris, Natalie (USAEO); Hagy, David, W.; Scott-Finan, Nancy; Kockritz, Janis; Hagen, Leslie A. (USAEO); Bell, T March (CRT); DeBaca, Lou (CRT); Grenadier, Lorna (CRT); Troup, Linda M (CRT); Kappelhoff, Mark (CRT); Burch, Jim; Roberts, Marilyn; Schmitt, Kathleen D.; Frost, Joye; lmball@usa.net; stansstrauss@comcast.net; kerri.galvin@ic.fbi.gov; david.johnson3@ic.fbi.gov
Cc: Reyes, Luis (SMO); Little, Kimani (CRT); Schlozman, Brad (CRT)
Subject: RE: DOJ Trafficking Report 1.10.06

First, let me thank Omar for the tremendous amount of work he's done on this report. He is really the one who has pulled the laboring oar in drafting and assimilating all of your submissions into a single, cohesive document. Second, let me thank all of you for your feedback. We never could have gotten this far without your input. Finally, a gentle reminder that we are still waiting on supporting documentation from a number of components (you know who you are). We are cross-checking the report with the supporting documentation, which is a time-intensive process. We cannot submit the report to the printer without your supporting documentation, so please get it to us if you have not done so already. I am sure that none of you want your component to be the one holding up finalization of the report!

-----Original Message-----
From: Vargas, Omar (CRT)
Sent: Tuesday, January 10, 2006 5:54 PM
To: Bottner, Andrea; Kaplan, Jennifer; Rothenberg, Laurence E; Hertling, Richard; Cammarata, Pam; Roth, Monique; Thacker, Stephanie; Oosterbaan, Andrew; McHenry, Teresa; Voris, Natalie (USAEO); Hagy, David, W.; Scott-Finan, Nancy; Kockritz, Janis; Hagen, Leslie A. (USAEO); Bell, T March (CRT); DeBaca, Lou (CRT); Grenadier, Lorna (CRT); Troup, Linda M (CRT); Kappelhoff, Mark (CRT); Burch, Jim; Roberts, Marilyn; Schmitt, Kathleen D.; Frost, Joye; 'lmball@usa.net'; 'stansstrauss@comcast.net'; 'kerri.galvin@ic.fbi.gov'; 'david.johnson3@ic.fbi.gov'
Cc: Reyes, Luis (SMO); Little, Kimani (CRT); Schlozman, Brad (CRT); Comisac, Rena (CRT)

Subject: DOJ Trafficking Report 1.10.06

<< File: DOJ Trafficking Report 1.10.06 >>

Everyone:

As promised, attached is the last draft of the DOJ trafficking report we will circulate to the working group. This draft makes an attempt to incorporate graphs, pictures, and other images to give as good a sense as possible as to what the final product will look like. Because this version includes numerous images, it is a HUGE file. The document has been compressed into a "ZIP file." I've been advised that it is best for you to save the file onto your desktop for quick retrieval. If you do not have WINZIP, you should either obtain the program or contact me and I will burn a CD for you. Please don't attempt to redline this document, the software may freeze on you. Instead, send your comments in the body of an email and images should be attached to your email.

Your expertise and help has resulted in a fairly nice document. **Please review and provide comment to us no later than COB tomorrow, 1/11/06.** If you propose any new language, please submit drafted language ready for insertion into the document. Same with pictures or other images. Please provide a copy of the image and identify a location in the report for it.

Many Thanks!

Omar

Department of Justice
Report on Activities to Combat Human Trafficking
Fiscal Years 2001-2005

I. An Introduction to Human Trafficking

Human trafficking is a pernicious crime that violates the fundamental principles of our society. For traffickers, victims are commodities to be traded and exploited in any market. Human trafficking is the modern-day form of slavery. It requires the use of force, fraud, or coercion by a trafficker to compel a person into, or hold someone in, an employment situation in which he or she will be criminally exploited. Trafficking may occur when victims are transported across borders or within a nation, or may not involve transportation at all. Victims, often women, are usually lured by promises of well-paying jobs. Once deprived of the opportunity to return home or communicate with their family, victims are generally held through force or threats in situations of sexual exploitation or forced labor. Human trafficking offenses thus transgress the victim's human liberty in violation of the Thirteenth Amendment's guarantee of freedom. As such, trafficking offends the core civil rights on which our Constitution and our country are based.

> Human life is the gift of our Creator -- and it should never be for sale. It takes a special kind of depravity to exploit and hurt the most vulnerable members of society. Human traffickers rob children of their innocence, they expose them to the worst of life before they have seen much of life.
>
> –President George W. Bush, July 16, 2004

By statute, a victim of a "severe form of trafficking in persons" is entitled to certain public programs and benefits. A severe form of trafficking must include the recruitment, harboring, transportation, provision, or obtaining of a person for one of the three following purposes:

- Labor or services, through the use of force, fraud, or coercion; or
- A commercial sex act, through the use of force, fraud, or coercion; or
- If the person is under 18 years of age, any commercial sex act, regardless of whether any form of coercion is involved.[1]

Since 2001, the Department of Justice has achieved an impressive record of prosecuting defendants for holding their victims in compelled service in such diverse areas as prostitution, field labor, domestic service, concubinage, "exotic dancing," pornography, garment factory "sweatshops," and street peddling. From fiscal year 2001 through fiscal year 2005, the Civil Rights Division and United States Attorneys' Offices filed 91 trafficking cases, a 405% increase over the number of trafficking cases filed from fiscal years 1996 through 2000. In these cases,

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[1] Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, Division A, § 103(8),(9), 114 Stat. 1464 (signed into law on October 28, 2000; codified as amended at 22 U.S.C. § 7102 (8),(9)).

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Department attorneys charged 248 trafficking defendants, a 210% increase over the previous five fiscal years. In addition, prosecutors with the Civil Rights Division and United States Attorneys' Offices convicted 140 defendants of trafficking-related crimes, a 109% increase over the previous five years.

Traffickers take advantage of the victims' hopes for a better life, preying on or even creating vulnerabilities that they can exploit. For example, in *United States v. Satia*, Louisa Satia and her husband, Kevin Nanji, used a false passport to bring 14 year-old "R.O." from Cameroon, where R.O. had worked for Satia's mother since the age of 12. R.O. was lured by the promise of an American education. Satia and Nanji refused to send the girl to school, however, and instead forced her to work for them as a maid and as a nanny to their young children. R.O. was not permitted to leave Satia and Nanji's apartment alone, except to take out the trash and walk the children to the school bus stop. Satia hit R.O. routinely, poked R.O. in the eyes, sprayed window cleanser on R.O., poured cola and glue in R.O.'s hair, and threatened her with deportation even though they were the ones who had brought her to the country illegally. Nanji made repeated sexual advances toward the girl. Apart from keeping R.O. in a condition of involuntary servitude, Satia solicited numerous people to sell their identities to her so that she could create false passports and routinely arranged false marriages as part of an immigration fraud scheme. In 2002, after their conviction at trial of involuntary servitude, the defendants were sentenced to 9 years in prison and ordered to pay $105,300 in restitution.[2]

Traffickers may lure their victims into farm work, factories, domestic service or the hospitality and sex industries. For instance, in a pathbreaking case in Florida, *United States v. Cadena*, Mexican women and girls as young as 14 years of age were brought to the United States with promises of good jobs as

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[2] *United States v. Satia*, Cr. No. 00-590 (D. Md. 2002)(Case indicted on 2/7/01).

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waitresses and landscapers, only to be held as slaves in a high-volume prostitution operation.[3]

The Cadena family

I hated to be in the brothels. There were so many clients that came to the house. I was so scared. I would try to hide from them so they wouldn't pick me. The Bossses told me I had to work and to stop behaving in this manner. Also, the Bosses would rape some of the other girls. This scared me. I was afraid they might rape me or hurt me in some other way. I didn't know anyone. I was alone. I was very frightened.

- "Ignacia," a 15-year old victim in *United States*

d the women in their service by shooting into the ground at their feet, threatening their families, beating them, and raping them as punishment if they tried to run away. The ringleader and six other men were convicted of involuntary servitude and sentenced to up to 15 years of incarceration. The *Cadena* case is ongoing, and Federal Bureau of Investigation and Departmental prosecutors and victim-witness specialists have continued to prosecute Cadena family members and assist the survivors. In 2002, one of the family members was apprehended at the United States-Mexico border and pled guilty to conspiracy to enslave the women and girls. With the cooperation of the Mexican Government, the Department secured the conviction of one of the Cadena brothers in Mexico in 2002, where he was sentenced to 24 years of incarceration. In 2005, the Federal Bureau of Investigation and the Department's Office of International Affairs achieved the arrest in 2005 of yet another member of the family; trial is pending in Mexico as of the time of this report and a request for extradition prepared by the Office of International Affairs is pending. The *Cadena* victims have been assisted by a non-governmental organization that is funded by the Department's Office for Victims of Crime, and with the help of the case agents, prosecutors, and victim/witness staff, they have been able to bring their children and custodial parents to the United States.

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[3] *United States v. Cadena*, Cr. No. 98-14015 (S.D. Fla. 1998).

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Any specific instance of human trafficking may involve a range of other criminal activity that is not limited to federal anti-human trafficking laws, such as inter-state transportation for prostitution, money laundering, and racketeering. Trafficking indictments often reflect this as the Department is committed to attacking this problem using all of the varied tools in the federal prosecutor's tool box.[4] For instance, in *United States v. Zavala*, Mariluz Zavala, who in November 2005 received a 15-year prison sentence for enslaving Peruvian workers in Long Island, New York, was charged with a multi-object conspiracy, where the Department alleged that she and her co-conspirators had conspired to commit forced labor and involuntary servitude by withholding immigration documents. The Department also charged her with extortion and falsifying immigration documents, criminal violations that are not found in the federal anti-human trafficking law.[5] In forced prostitution cases, such as *United States v. Reyes-Rojas*,[6] where two brothers were charged with sex trafficking, additional charges often include inter-state transportation for prostitution under the law known commonly as the "The Mann Act,"[7] and harboring people for prostitution. In cases like *United States v. Maksimenko*, where a Lithuanian man pled guilty to enslaving Ukranian women in strip clubs through force and threats, federal prosecutors brought money laundering charges. Trafficking charges are predicate acts under the Racketeer Influenced and Corrupt Organizations (RICO) statutes,[8] and accordingly can sustain money laundering charges for transactions carried out with the proceeds of, or in furtherance of, a trafficking scheme.

Sometimes, when a trafficking situation has occurred, but there is not sufficient evidence with which to establish a trafficking offense, the Mann Act and immigration statutes can be powerful tools to vindicate the federal interest. For example, in *United States v. Reddy,*[9] the investigation revealed that, for over ten years, defendant Lakireddy Bali Reddy, a wealthy San Francisco Bay Area businessman, maintained a number of young girls and women as a quasi-harem for his sexual gratification and to work in his household and business enterprises. These victims were predominantly from families of lower castes in India and were brought into the United States by way of fraudulent employment offers or sham marriages. Members of Reddy's family posed as relatives of the victims to assist in their fraudulent migration. His scheme came to light after a teenage girl died of carbon monoxide poisoning in the apartment where he had sequestered her, her sister, and another girl. In 2001, Reddy pled guilty to transporting his victims in interstate and foreign commerce for illegal sexual activity. He was sentenced to more than 8 years in prison and ordered to pay $2,000,000 in restitution to four of his victims. The victims received benefits and services under the TVPA and today remain safely in the United States.

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[4] The federal prosecutor's tool box is discussed below in Part IV "Tools for Investigating and Prosecuting Human Trafficking."

[5] *United States v. Zavala*, Cr. No. 04-962 (E.D.N.Y. 2004).

[6] *United States v. Reyes-Rojas*, Cr. No. 1:03-CR-542 (N.D. Ga. 2003).

[7] 18 U.S.C. § 2421.

[8] Racketeer Influenced and Corrupt Organizations (RICO) Act, 18 U.S.C. § 1961, et seq.

[9] *United States v. Reddy*, Cr. No. 00-4028 (N.D. Cal. 2000).

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II. An Administration Priority

Early in this Administration, the President identified the eradication of human trafficking as a priority. Two particular actions by the President focused Federal resources on trafficking. First, in February 2002, the President issued Executive Order 13257, creating a cabinet-level Interagency Task Force to Monitor and Combat Trafficking in Persons. The President ordered that the Task Force be chaired by the Secretary of State and be comprised of the Attorney General, the Secretary of Labor, the Secretary of Health and Human Services, the Director of Central Intelligence, the Director of the Office of Management and Budget, and the Administrator of the United States Agency for International Development.[10] The President took this action to ensure that the TVPA was fully implemented in a coordinated fashion throughout the federal government.[11]

> Slavery, human trafficking, and sexual servitude are crimes that wrench our hearts. They rob human beings of freedom. They strike at our nation's belief in the potential of every life. They are crimes that demand swift and implacable prosecution of the predators. They are crimes that deserve warmth and compassion for the victims.
>
> -Attorney General John Ashcroft, January 29, 2004

Second, also in February 2002, the President issued National Security Presidential Directive 22 (NSPD-22) to identify human trafficking as an important national security matter as well as to instruct federal agencies to strengthen their collective efforts, capabilities, and coordination to support the President's goal of abolishing human trafficking.[12] NSPD-22 states that human trafficking is a transnational threat that is an affront to the principles on which this country stands. The relationship of human trafficking to organized crime, especially transnational criminal syndicates, fosters official corruption and threatens the rule of law.[13] The clandestine movement of persons across borders also poses terrorism and public health concerns. The United States Attorney's Office for the District of Montana, for example, treats every border incursion as potentially related to terrorism and, in 2004, was involved in a joint operation with the Royal Canadian Mounted Police and the Canadian Border Services Agency that resulted in the identification of a dozen Korean women believed to be destined for the sex trade, 80% of whom tested positive for tuberculosis. The syndicates that recruit and move these victims are often the same ones that are responsible for other trans-border crimes, like smuggling, drug trafficking, and the arms trade. Traffickers can and will move any type of cargo, human or otherwise, for

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[10] Exec. Order No. 13257, 3 C.F.R. 13257 (2002).

[11] The President subsequently issued an Executive Order amending Executive Order 13257 on March 18, 2004, conforming it to the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, 117 Stat. 2875.

[12] National Security Presidential Directive Memorandum Regarding Combating Trafficking In Persons, (Feb. 25, 2002) Parts of NSPD-22 are classified and cannot be released to the public.

[13] *Id.*

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profit. The fight against trafficking is therefore a critical element of United States foreign policy, requiring full use of the tools of diplomacy and the cooperation of American and foreign law enforcement.

Moreover, NSPD-22 views the abolition of prostitution, the driving force behind sex trafficking, as integral to the abolition of human trafficking. Regarding the United States's policy towards prostitution, NSPD-22 states:

> The United States opposes prostitution and any related activities, including pimping, pandering, and/or maintaining brothels as contributing to the phenomenon of trafficking in persons. These activities are inherently harmful and dehumanizing. The United States Government's position is that these activities should not be regulated as a legitimate form of work for any human being.[14]

NSPD-22 created a three-point plan of action:

1. **Implementing Training in Federal Agencies**
   The President required all federal agencies to ensure that their own personnel were trained and equipped to carry out their anti-trafficking responsibilities and that their personnel coordinated with counterparts in other agencies. Further, NSPD-22 stated that the United States has a zero-tolerance policy with regard to trafficking by United States Government employees and contractors, who are to be educated about trafficking and investigated, prosecuted, and punished for engaging in it.

2. **Developing Cooperation With State and Local Law Enforcement in the United States**
   The President recognized that state and local law enforcement are critical to federal efforts to combat human trafficking. NSPD-22 instructs federal agencies to vigorously enforce laws against traffickers, and to provide training and assistance to state and local law enforcement to assist them in recognizing victims and to hold perpetrators accountable for their crimes.

3. **Integrating and Coordinating International Programs**
   The President required all federal agencies to coordinate foreign assistance programs,

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[14] *Id.*

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> including funding to governmental and non-governmental organizations and public awareness programs, to combat trafficking in persons. NSPD-22 also required agencies to ensure that contractors receiving United States funding through international programs do not engage in trafficking activities. The President also directed agencies to work to prevent future victimization by reducing the vulnerability of individuals to trafficking, particularly through the expansion of educational and economic opportunities and the protection and promotion of human rights. The President further directed federal agencies to employ diplomatic and foreign policy tools to encourage other nations and multilateral organizations to work with the United States to combat this crime, to draft and enforce laws against trafficking, and to hold accountable those who engage in this crime.[15]

In 2003, Congress passed and President Bush signed the reauthorization of the TVPA, known as the Trafficking Victims Protection Reauthorization Act (TVPRA).[16] The TVPRA of 2003 codified the President's Interagency Task Force to Monitor and Combat Trafficking in Persons by creating the Senior Policy Operating Group (SPOG), which meets quarterly. The TVPRA slightly expanded the SPOG's authority, particularly as it concerns inter-agency coordination to develop the capacity of foreign nations, both source and destination countries, to combat trafficking; to examine the role of sex tourism in human trafficking; and to foster consultation with governmental and non-governmental organizations regarding implementation of the TVPRA.

The Attorney General has been an engaged member of the SPOG, and the Department supports this group in a variety of ways. In 2004, for example, the Civil Rights Division and the Office of Justice Programs participated in a SPOG subcommittee charged with designing the President's international human trafficking initiative. Currently, the Civil Rights Division, the Criminal Division, the Office of Legal Policy, and the Office for Victims of Crime are members of the SPOG Subcommittee on Domestic Trafficking. The National Institute of Justice, a component of the Office of Justice Programs, is a member of the SPOG Subcommittee on Research, which shares information regarding research grants and other activities by each SPOG member agency. This subcommittee is also studying the issue of accurately estimating the number of trafficking victims within the United States. In addition, the Office of Justice Programs, the Department's principal grant-making agency, and the Office on Violence Against Women participate in the interagency grant information-sharing process of the SPOG. The grant information-sharing process is designed to provide SPOG member agencies with an opportunity to review and comment on proposed grant awards, helping to ensure that domestic and international grant programs are coordinated across the federal government. Finally, the Office of Legal Policy chairs the SPOG Subcommittee on Regulations, a working group charged with the development of federal regulations to implement the TVPRA.

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[15] *Id.*

[16] Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, 117 Stat. 2875 (2003) (signed into law by President Bush on December 19, 2003).

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III. Scope of the Problem

A. How Many Victims and Who are They?

It is extremely difficult to quantify the number of victims trafficked globally and into the United States each year. Some estimates indicate that as many as 800,000 people are trafficked across international borders annually, with up to 17,500 victims trafficked into our country each year.[17] Clearly, the problem is of sufficient magnitude that a continued dedication of substantial resources to this enforcement area is very much in order.

Despite our record number of investigations and prosecutions, there is a noted disparity between the estimated number of victims and those who have been found and assisted. The Department realizes that it must address the incongruity between some estimates and the fewer than 1,000 victims who have been assisted through the efforts of federal, state, and local law enforcement since 2003, when services for trafficking victims were first made available under the TVPA. Though the possible reasons for this disparity vary, the difference nevertheless signals the need to carefully scrutinize the estimated number of trafficking victims to assure that it reflects as accurately as possible the number of human trafficking victims within our country.

Some Estimates Overstate the Number of Victims

Some possible explanations are that estimates may overstate the extent of the problem and conflate human trafficking with the smuggling and harboring of illegal aliens or with the related crime of migrant prostitution. Trafficking victims are not all illegal aliens; human trafficking is distinct from human smuggling. Trafficking victims may be United States citizens, legal residents, or visitors. For example, *United States v. Pipkins* was the first case in which the

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[17] U.S. Dept. of Justice, Assessment of U.S. Gov't Activities to Combat Trafficking in Persons, Fiscal Year 2003 (2004); Office to Monitor and Combat Trafficking in Persons, U.S. Dept. of State, Ann. Rep. (2005).

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Department successfully prosecuted two pimps for trafficking women and girls, all American citizens.[18] Prostitution alone is not trafficking; but where, as here, it involved the use of force or coercion to prevent people from leaving the enterprise, it becomes trafficking. Human smuggling, on the other hand, is the facilitation, transportation, attempted transportation, or illegal entry of a person or persons across an international border, in violation of American immigration laws. Many of those illegally entering the United States are smuggled, not trafficked.[19] Smuggling may occur clandestinely or through deception, such as the use of fraudulent passports or other immigration documents.[20] Human smugglers enter into a contractual relationship with those they will illegally transport into our country. The smuggler is often paid a considerable amount of money for his services and the relationship normally ends once the smuggled person has entered the United States and the debt is paid. Sometimes, smuggling may turn into trafficking when smugglers extort their victims until the smuggling debt is repaid.

The defendants in *United States v. Pipkins*.

Identifying Victims is Difficult

Another explanation is that identifying and assisting victims of human trafficking are difficult tasks, and consequently, the Department does not have reliable figures regarding the number of victims who may be in the United States. Trafficking victims who have been rescued in connection with federal government activities over the past several years have come from more than 50 different countries.[21] But several factors contribute to the difficulty of identifying trafficking victims. Human trafficking, like many other crimes, often requires that the victim and the criminal enterprise remain in the shadows of our communities. Moreover, victims often suffer from paralyzing fear and are reluctant to seek help, further exacerbating the problem. Traffickers prey on the meek and destitute, coercing and deceiving them into hiding.

Trafficking Schemes May Be Dismantled In A Variety of Ways

A third possible explanation for this disparity is that victims may be helped by state and local law enforcement activities that the Department does not know about, or, in some instances, state and local officials may not realize that they have uncovered trafficking victims. Under our federal

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18 *United States v. Pipkins,* 378 F. 3d 1281 (11th Cir. 2004).

19 The Human Smuggling and Trafficking Center, Fact Sheet: Distinctions Between Human Smuggling and Human Trafficking (2005).

20 *Id.*

21 U.S. Dept. of Justice, Assessment of U.S. Gov't Activities to Combat Trafficking in Persons, Fiscal Year 2003 (2004); U.S. Dept. of Justice, Assessment of U.S. Gov't Activities to Combat Trafficking in Persons, Fiscal Year 2004 (2005).

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system of government, state and local governments may prosecute these cases under other criminal laws. Furthermore, although a particular prosecution by the Department may only result in the rescue of one or a few victims, it is reasonable to assume that enterprises that have been in business for several years have victimized dozens and possibly hundreds of people.

Developing A Better Understanding of Trafficking & its Victims

The Department is committed to discussing and refining methodologies for estimating the number of victims that may yield more reliable results. The Department's Bureau of Justice Statistics and National Institute of Justice have begun to research these issues and will publish information useful to victim advocates, policy makers, and law enforcement officials. Indeed, Congress has recently mandated that the Department undertake research to develop an estimate of the number of persons engaged in severe forms of trafficking and commercial sex acts and to share this information with its state and local governmental and non-governmental partners.[22] The enactment of anti-trafficking crimes at the state level, many of which are based on the Department's model anti-trafficking statute, is a heartening trend, as the men and women in state and local law enforcement far outnumber the federal resources available to combat this problem.[23] As with domestic violence and sexual abuse, it is local police and prosecutors who will investigate and prosecute the lion's share of trafficking cases in the coming years. The Department is committed to supporting these partners in expanding the victim-centered approach it has developed.

B. The Department Responds to this Crime with A Victim-Centered Approach

[W]e must combat crimes that tear at the fabric of our

Victim-centered prosecutions recognize that the government's interest in these cases stems from the violation of the fundamental right of freedom. Moreover, victim-centered prosecutions are essential to the liberation and care of victims. In vindicating the survivor's right to be free, federal prosecutors must give him or her the opportunity to use that freedom and the support to make it meaningful. The Department's approach flows from our nation's foundational principles– respect for human dignity and one's civil rights

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22 Trafficking Victims Protection Reauthorization Act of 2005 [HR. 972 Sec. 201 (a)(1) and (2)].

23 The Department's model state law is discussed below in detail at ____. A copy of the model state law is available as an appendix to this report and on the internet at http://www.usdoj.gov/crt/crim/model_state_law.pdf .

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Typically, federal prosecutors learn about a crime from the victim, an eyewitness, or through an investigation. For traffickers to be successful, they must hide their crime from law enforcement by concealing their victims and their collaborators. Those who benefit from trafficking – men who frequent prostitutes and those who benefit from the low cost labor that the traffickers broker – are often momentary beneficiaries, and may not even know that the victim is being held in compelled service. Thus, the only remaining eyewitness is often the victim. To prevent their workforce from running away and to forestall detection, traffickers have an incentive to instill fear in their victims– fear of American law enforcement, fear of their captors, and fear of anyone they meet in their unfamiliar settings. Many victims are far from their country of origin and their families. They do not speak English and are more likely than not to lack any legal immigration status. Traffickers prey on the unsettled aspects of their lives, playing victims against each other and fostering collaboration.

Victims of trafficking often live and are forced to work in linguistic and social isolation. They fear the threat of exposure and feel shame about the work they are forced to do, particularly when that work includes sexual abuse. They also fear continued violence or the threat of reprisals against loved ones. They can develop a psychological and emotional dependence on the trafficker or others. Immigrant victims of human trafficking often face a special set of circumstances that keep them in the shadows of our nation's communities. Traffickers will often withhold from immigrant victims of trafficking their immigration documents. Immigrant victims may have a fear of American law enforcement , do not understand their rights, and fear risking default on monies owed their captors, as well as the collateral effect that may have on their families back home. The result is that victims will rarely self-report and so they must be pro-actively found.

While relying on the victims to give testimony about their suffering – the same duty American law requires of any witness – the Department places a premium on addressing the victims' need for recovery. Agents, prosecutors, and victim/witness staff work with, and are intensifying their relationships with, victim service providers. These groups, often experienced faith or community-based organizations that have previously served immigrant or abused populations, can help keep the victims safe, meet their medical and housing needs, and help them find an equilibrium in their lives through job training, language classes, and life-skills counseling.

"It's their fault that I lost my friends, my parents....My story is very long. It took me about a year to reach my parents....They (the defendants) don't repent for everything they did to me, for all the damage they did to me. They hit me....They thought they were big shots. I tried to defend myself but couldn't. I tried to escape...."

–An in-court statement by S.A.H., a victim in *United States v. Jimenez-Calderon*

The services that are available to victims formed the basis of the Department of Justice "victim-centered approach" that understands that the mission of government is to remove victims from the abusive setting, place them into safe programs of restorative care and hold the perpetrators

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accountable. Congress intended this comprehensive effort to combat trafficking in the TVPA and is reauthorization in 2003 and 2005. One of the added benefits of restorative care for victims is that they become empowered to provide critical evidence that law enforcement can use to investigate and prosecute traffickers. Without these services victims would remain too traumatized or afraid to assist law enforcement.

Victim-centered prosecutions, where government funded services and protection are provided to victims who assist an investigation and prosecution, are critical to the prevention of human trafficking. Without the victim's contribution, law enforcement's ability to stop traffickers from recruiting other vulnerable persons is blocked. Without the victim's help, police and prosecutors will not be able to effectively neutralize the trafficking scheme and prevent others from being trafficked.

Federal law enforcement are committed to combating human trafficking with a victim-centered approach. Federal investigators and prosecutors, including Federal Bureau of Investigation and Bureau of Immigration and Customs Enforcement agents and Assistant United States Attorneys, immediately refer a victim to victim-witness specialists who begin to provide the appropriate referrals to victim service providers, often grantees that are funded through the Office for Victims of Crime and the Department of Health and Human Services' Office of Refugee Resettlement. The Civil Rights Division and the Office for Victims of Crime work together to ensure that grantees are available to provide services to victims. In addition, because trafficking victims may avail themselves of victim services providers funded through other Departmental components, such as the Office on Violence Against Women and the Bureau of Justice Assistance, grantees of these offices are trained to provide assistance to victims of human trafficking.

Department components regularly promote a victim-centered response and educate other law enforcement agencies and victim service providers about the dynamics of trafficking and the need for pro-active investigations in an effort to increase awareness and outreach to new partners, with the ultimate goal of preventing victimization. For example:

- Since 2002, Civil Rights Division staff have trained federal, state, and local law enforcement officers and victim service providers about proactive victim-centered investigations. In addition, Criminal Section lawyers are educating prosecutors and other law enforcement officials across the country on the criminal provisions of the new trafficking statute and providing practical guidance on investigating and prosecuting these difficult cases, as well as assisting localities to establish regional working groups to better coordinate and focus anti-trafficking law enforcement efforts. The Section continues to organize and lead training efforts at the Justice Department's national training facility for federal investigators and prosecutors from around the country, as well as victim-witness coordinators from the Department of Justice and other

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federal law enforcement agencies.

- Since January 2003, nearly 40,000 law enforcement officers, attorneys, social service providers, advocates, medical and mental health professionals, and community members have been trained by the Office for Victims of Crime and Bureau of Justice Assistance grantees. Moreover, the Bureau of Justice Assistance's law enforcement training emphasizes that code enforcement officials, fire marshals, and other persons who may have access to where victims are being held should be trained on signs of human trafficking.

- The Federal Bureau of Investigation's Civil Rights Unit and various United States Attorneys' Offices have also participated in dozens of regional Department of Justice sponsored human trafficking training conferences hosted throughout the country, in cities including Los Angeles, Houston, New Haven, Portland, St. Louis, San Diego, San Francisco, and Tampa.

- Since 2003, the Criminal Division's Child Endangerment and Obscenity Section has trained more than 350 law enforcement personnel and other officials on the investigation and prosecution of child prostitution cases, emphasizing the importance of a victim's safety.

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IV. Tools for Investigating and Prosecuting Human Trafficking

The Prosecutor's Tool Box

The Department's

- Asset Forfeiture
- Fraudulent Documents
- Immigration Offenses
- Involuntary Servitude Statutes
- Labor Violations
- Mann Act
- Money Laundering
- PROTECT Act
- RICO Act
- Trafficking Victims Protection Act
- Trafficking Victims Protection Reauthorization Act of 2003
- Trafficking Victims Protection Reauthorization Act of 2005

successful efforts in combating human trafficking would not be possible without the enactment of several statutes by Congress. Prior to 2001, trafficking cases were prosecuted under a number of federal criminal statutes including the involuntary servitude statutes,[24] the Mann Act,[25] and labor laws concerning workplace conditions and compensation.[26] The Mann Act statutes were formerly thought of as the primary federal anti-trafficking tool, when "trafficking" was perceived as interstate transportation for prostitution, as opposed to the modern definition, which focuses on compelled service. The involuntary servitude statutes set forth a variety of substantive crimes covering the slave trade, involuntary servitude, and peonage. Sections 1584 and 1581, of Title 18 of the United States Code, which respectively criminalize involuntary servitude and peonage, were the primary statutes prosecutors used in involuntary servitude and trafficking prosecutions. Section 1583, which criminalizes kidnaping victims into slavery, likewise remains a useful tool in modern federal prosecutions. Prior to the TVPA, these statutes did not always treat the workers involved as victims and enforcement authority for each of these possible anti-trafficking tools was scattered across the United States Government, leading to differing outcomes depending on which charges were brought or which agency learned of the allegations of abuse.

Today, the centerpiece of United States Government efforts is the TVPA.[27] The TVPA provided

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[24] *See* 18 U.S.C. §§ 1581-1588. These statutes are still used when appropriate and were updated and supplemented by the restitution, forfeiture, and attempt provisions enacted in the TVPA.

[25] *See* 18 U.S.C. §§ 2421-2424.

[26] *E.g.*, Migrant and Seasonal Agricultural Worker Protection Act, Pub. L. No. 97-470, 96 Stat. 2583 (1983) (codified as amended at 29 U.S.C. § 1851).

[27] TVPA, Pub. L. No. 106-386.

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for a range of new protections and assistance for victims of trafficking who cooperate with law enforcement investigations; it expanded the crimes and enhanced the penalties available to federal investigators and prosecutors pursuing traffickers; and it expanded United States activities internationally to prevent victims from being trafficked in the first place.

Protections and Assistance for Victims

The TVPA authorized a dedicated stream of funding for victim services and provides for immigration relief for severe forms of trafficking.[28] Under the TVPA, a victim is certified by the Department of Health and Human Services as eligible for services funded by any federal or state program or activity, such as the Departments of Agriculture, Health and Human Services, and Labor or the Legal Services Corporation. Department of Health and Human Services certification is granted after consultation with the Department's law enforcement officials, including investigators and prosecutors, that the victim meets the statutory definition of a "victim of a severe form of trafficking" and is also cooperating with the federal law enforcement investigation. The TVPA also authorized the Department to fund and provide training and technical assistance to law enforcement agencies and victim service providers.

The Department's Office for Victims of Crime directs its funding to support services for pre-certified victims and may, in special circumstances, fund organizations that provide services to certified victims. Pre-certified victims are those victims who have been identified by law enforcement in connection with an investigation and are awaiting Department of Health and Human Services certification that they are a victim of a severe form of trafficking and assisting law enforcement. This is significant because pre-certified victims are not entitled to the same publicly funded benefits that certified victims are, yet the need for services is most acute at this stage. Secondarily, providing those services enables victims, in most instances, to cooperate with law enforcement to investigate and prosecute their human traffickers. A safe and healthy victim is better able to articulate to investigators and in a court what has happened to her. Indeed, a survivor of trafficking can often be an effective anti-trafficking advocates and providers of services for victims.

> My experience was terrifying and horrible. I was so unhappy because of the abuse and because the bosses would not give me any of the money I made them. I asked them to send money to my family and they refused. I felt trapped there. Whenever I tried to run away, they found me and punished me. I could not go back to Mexico because I was told that they tore up my identification papers. I didn't have any money with which to leave because they refused to give me any of the proceeds from my work. I was very scared and sad.
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> -"Maria," a 19 years old victim in United States v. Paoletti, a labor trafficking case

Defined Crimes and Enhanced the Penalties

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[28] A more detailed discussion about victim services programs administered by the Department of Justice is below in Part VI "The Department's Collateral Attack on Human Traffickers," section B "Restoring a Victim's Dignity."

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The TVPA[29] provided a clear definition of human trafficking as a crime, created stiff sentences, and provided prosecutors with definitions of terms used to describe the offense such as "coercion," and "commercial sex act."[30] Traffickers that use force, fraud or coercion, or who exploit children under 14 years of age for commercial sex acts, may be sentenced to a term of up to life imprisonment.[31]

Prevention

As discussed above[32], victim services under the TVPA that are provided in connection with a victim helping in the government's prosecution of traffickers is essential to prevention. The TVPA has also given the Department the tools needed to increase public awareness within our communities, particularly among law enforcement and social services agencies, as well as internationally. The Department's activities, including those undertaken by non-governmental organizations that receive grants from the Office for Victims of Crime, that aim to prevent victimization through public awareness and outreach are discussed below in Part VI "The Department's Collateral Attack on Human Traffickers," section C "Public Awareness Supports Pro-Active Investigations."

Subsequently, in 2003, Congress, with the President's support, re-authorized the TVPA,[33] which further enhanced penalties and added responsibilities to the United States Government's anti-trafficking portfolio, such as new public awareness campaigns to combat sex tourism and some

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29 *See*, 18 U.S.C. §§ 1589-1594.

30 22 U.S.C.§ 7102.

31 *See*, 18 U.S.C. § 1591. Traffickers in other cases are subject to a term of imprisonment of up to 40 years.

32 *See*, Part III "Scope of the Problem," section B "The Department Responds to this Crime with a Victim-Centered Approach."

33 TVPRA Pub. L. No. 108-193.

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refinements to the federal criminal law. Significantly, Congress included trafficking as a predicate for money laundering and racketeering, under the RICO statute. Prosecutors have used this effective tool to dismantle trafficking syndicates. In conjunction with the mandatory restitution and forfeiture provisions of the TVPA, these sections work together to ensure that defendants convicted of trafficking in persons receive sentences that reflect the seriousness of their crimes. The TVPRA has produced tangible results in the field, yielding penalties three and four times those obtained under smuggling or harboring statutes and under historical servitude and trafficking statutes, as discussed earlier in this section.

Kil Soo Lee, a former owner of

It also clarified the provision regarding victims and the requirement that they cooperate with law enforcement. Specifically, the Department of Health and Human Services, as part of their process of certifying whether a victim has suffered a severe form of trafficking, may now consider statements from state and local law enforcement, that the victim has "been willing to assist in the investigation and prosecution of state and local crimes." The TVPRA also relieved victims under the age of 18 from meeting this requirement altogether in order to be eligible for the T visa. Congress also created a new civil action that allows trafficking victims to sue their traffickers in federal district court, thus complementing the criminal prosecution of traffickers. Specifically, the TVPRA of 2003 gave victims of human trafficking the right to bring federal civil suits against their traffickers for actual and punitive damages. Nine of the victims in the *Reddy*[34] case and the mother of another, for example, sued the Reddy family, seeking $100 million in damages. The Reddy family settled the case before going to trial.

The President, also in 2003, signed into law the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003, known as the PROTECT Act. The PROTECT Act, developed with the assistance of experts in the Department's Child Exploitation and Obscenity Section of the Criminal Division, has given the Department's prosecutors several new tools to combat sex trafficking and child prostitution. The Act makes it a crime for a United States citizen to travel in foreign commerce and engage in illicit sexual activity with minors,[35] and now includes an attempt provision.[36] Moreover, this Act facilitated prosecutions by eliminating the requirement that the Department prove that the traveler-predator intended to have

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[34] *See*, Part I "An Introduction to Human Trafficking" above for a discussion about *United States v. Reddy*

[35] Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today (PROTECT) Act of 2003, Pub. L. No. 108-21, 117 Stat. 650.

[36] PROTECT Act, Pub. L. No. 108-21 (codified as amended at 18 U.S.C. § 2423(c)).

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sex with a child prior to traveling. As discussed in the next section, the Child Exploitation and Obscenity Section and the United States Attorneys' Offices have used this new tool to aggressively combat child sex trafficking.

In addition to adding important new tools in the prosecution of child sex tourism cases, the PROTECT Act supplemented the TVPA by raising the statutory maximum sentences for violations of 18 U.S.C. 1591 involving children. The PROTECT Act also abolished the statute of limitations for crimes involving the abduction or physical or sexual abuse of a child in virtually all cases. Under previous law, the statute of limitations expired when the child turned 25, potentially allowing child abusers to go free if law enforcement could not solve the crime in time.

Photo of TVPRA 2005 signing ceremony

On January 10, 2006 President Bush signed into law the Trafficking Victims' Protection Reauthorization Act of 2005 (TVPRA of 2005). In addition to reauthorizing the TVPRA, the law enhances our ability to combat trafficking in persons by extending our prosecutorial tools and providing new protections for victims. In important enhancements to prosecutorial tools, the bill establishes extra-territorial authority for prosecution of trafficking in persons offenses committed by federal contractors abroad or persons accompanying them and adds trafficking in persons as predicates for the offense of document servitude, where one's identity papers, such as foreign birth certificate, passport, or immigration documents, are withheld by the trafficker and used to coerce or compel the trafficking victim. The TVPRA of 2005 also promotes efforts to fight domestic trafficking in persons. It requires a comprehensive research and statistical review and analysis of incidents of trafficking and commercial sex acts within the United States and annual conferences, to be conducted by the Department for the benefit of state and local law enforcement, other governmental agencies, and non-governmental organizations, on domestic trafficking in fiscal years 2006, 2007, and 2008 and biennially thereafter.

The bill I sign today will help us to continue to investigate and prosecute traffickers and provide new grants to state and local law enforcement. Yet, we cannot put the criminals out of business until we also confront the problem of demand. Those who pay for the chance to sexually abuse children and teenage girls must be held to account. So we'll investigate and prosecute the customers, the unscrupulous adults who prey on the young and the innocent.

-President George Bush, January 10, 2006.

In addition, the TVPRA of 2005 establishes a grant program to develop, expand, and strengthen assistance programs for United States citizens and permanent residents who have been subjected to trafficking and establishes a pilot program to create residential treatment facilities for children subjected to trafficking. It also creates a new grant program for state and local law enforcement authorities to investigate and prosecute trafficking of U.S. citizens and permanent residents, including efforts to reduce demand for commercial sex acts. Furthermore, the TVPRA of 2005 contains new requirements for data collection that will promote effective responses to trafficking. These include study by the Human Smuggling and Trafficking Center, an inter-agency program discussed in more detail below, of the relationship between trafficking and terrorism, the abduction and enslavement of children as soldiers, and development of a mechanism for quantifying the number of victims of trafficking.

In *United States v. Cadena*, a 14-year old girl, trafficked into prostitution, was only allowed two possessions: a roll of paper towels and a teddy bear.

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V. Halting Human Trafficking with a Record Number of Successful Investigations and Prosecutions

Since 2001, the Department has achieved a record number of human trafficking investigations and prosecutions through a unique victim-centered approach that focuses on three important themes: sex trafficking, labor trafficking, and child sex trafficking. Successful prosecutions of sex and labor trafficking depend on the elements of force, fraud, or coercion that render the victim's role involuntary. Because trafficking is modern day slavery, then-Attorney General John Ashcroft designated the Civil Rights Division, in early 2001, as the principal architect of the Department's comprehensive response to human trafficking. The Civil Rights Division presently collaborates with the Federal Bureau of Investigation, United States Attorneys' Offices, the Criminal Division, and the Office of Justice Programs, as well as the Department of Homeland Security's Bureau of Immigration and Customs Enforcement,[37] to uncover and investigate these criminal enterprises, to prosecute and hold traffickers accountable for their criminal conduct, and, most importantly, to rescue victims and return to them their dignity.

In 2004, the Federal Bureau of Investigation took an important step towards the vigorous investigation of trafficking crimes when it launched the Involuntary Servitude and Slavery/Trafficking in Persons Initiative. This Initiative has achieved important results in the manner in which the Bureau uncovers and investigates these cases in coordination with the Civil Rights and Criminal Divisions. The Bureau's Civil Rights Unit, the primary Bureau agency charged with investigating federal civil rights statutes, spearheaded the following initiatives:

- Developed and disseminated a general human trafficking investigative protocol to all FBI field offices;
- Implemented commercial sex trafficking intelligence collection requirements and disseminated those requirements to every Bureau Field Intelligence Group;
- Established a mechanism for the Bureau to properly classify cases as human trafficking, alien smuggling, or child prostitution;
- Expanded the Bureau's outreach to national human trafficking victim advocacy organizations, such as The Freedom Network and the International Justice Mission to establish contacts and leverage partnerships.

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[37] Until 2002, the Bureau of Immigration and Customs Enforcement was component of the Department of Justice, then known as the Immigration and Naturalization Service.

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"We have all the ingredients they want....We have a migrant workforce and a legal sex trade."

-Gerald Gardner, Nevada Deputy Attorney General and Las Vegas Office Chief, at a press conference inaugurating the Department's Las Vegas Anti-Human Trafficking Task Force, *Las Vegas Sun*, September 29, 2004

- Commenced, in October 2005, human trafficking threat assessments in each of the nation's 56 Bureau Field Offices. The threat assessments are intended to help the Bureau determine the nature and scope of human trafficking and to develop a more informed response to this criminal activity. Field Offices will be guided by this analysis in determining whether to establish or enhance their participation in local anti-human trafficking task forces, including establishing relationships with local non-governmental organizations and more aggressive involvement in investigations by federal, state and local law enforcement;[38] and
- Created, in November 2005, a case tracking database to track and maintain important human trafficking related data from the Bureau's Field Offices regarding the Department's prosecutorial decisions, identifying emerging trends and reporting significant events in the field to the Bureau's Civil Rights Unit or the Crimes Against Children Unit, as appropriate.

A. Sex Trafficking

Human trafficking typically manifests itself in compelled service either for forced labor or in the "sex industry." Sadly, in both areas, sexual abuse of female victims is common.
Sex trafficking is both a crime and phenomenon. The TVPA's "sex trafficking" statute[39] makes it illegal to use force or coercion to obtain persons for commercial sexual activity, with special

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[38] Fed. Bureau of Invest., Human Trafficking Initiative Elec. Commc'n to all Field Offices (Oct. 21, 2005).

[39] 18 U.S.C. § 1591.

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United States
Attorneys' Offices charged 189 defendants with sex trafficking, a 450% increase over the 34 defendants charged between fiscal years 1996 and 2000. In addition to the new records set in investigations and prosecutions of sex trafficking, the Civil Rights Division and United States Attorneys' Offices have achieved impressive results in convicting traffickers. From fiscal years 2001 to 2005, federal prosecutors obtained the convictions of 109 sex trafficking defendants, a 445% increase over the 20 defendants convicted during the previous five fiscal year period.

Sex trafficking may occur in any American community – urban, suburban or rural – and involves both aliens and United States citizens. Sex trafficking can occur in bars, farm worker camps, and sex entertainment and prostitution enterprises. The traffickers are endlessly inventive. While the public stereotype of these cases involve large scale international organized crime syndicates, forced prostitution cases often involve groups of family members or even individual pimps. In *United States v. Jimenez-Calderon,* a group of family members recruited women and girls from the Mexican state of Tlaxclala to come to the United States with promises of love, only to hold them in prostitution through force and by threatening them and their families in Mexico.[40] The defendants in *Jimenez-Calderon* received sentences ranging from 1 1/3 to 17 years of incarceration following her guilty plea.[41]

Cases involving United States citizen victims that might not have been brought under the Mann Act are now being brought using the TVPA sex trafficking statute, which does not require interstate travel. In *United States v. Gates and Heyward*, two defendants pled guilty in 2004 to sex trafficking for running an internet prostitution business from their home, at times using girls as young as 14 to perform sexual acts. Defendant Gates, who beat the women who disobeyed him and provided drugs to support some of the women's addictions, was sentenced to more than 14 ½ years in prison. His co-defendant girlfriend, Heyward, received a sentence of 9 years of incarceration.[42]

Many cases in the past few years involving individuals from countries of the former Soviet republics have involved compelled service in "exotic dancing." In *United States v. Gasanov,* a husband and wife were convicted at trial and sentenced to serve five years in prison and to pay $516,150 in restitution for bringing Uzbeki women to El Paso, Texas, under the guise of a student researcher exchange program, only to hold them in compelled service in strip clubs by confiscating their immigration documents, and making threats against their families.[43] In *United States v. Maksimenko*, five defendants have pled guilty as of December 19, 2005, for their roles in a scheme to enslave Ukrainian women in Detroit-area strip clubs through threats and extortion.[44]

Sometimes victims are held in sexual slavery without any commercial aspect. In *United States v. Soto*, eight men were convicted in 2003 for their roles in an alien smuggling organization that would hold vulnerable alien women as "concubines," forcing them to cook, clean, and submit to the sexual demands of the alien smugglers through force, threats, and punitive rape. The lead defendant in the *Soto* case was sentenced to 23 years of incarceration following his guilty plea.[45]

Women in *United States v. Molina*, a "bargirl" case, were forced to entertain male patrons of the defendant's bars.

40 *United States v. Jiminez-Calderon*, No. 02-00553-3, (D.N.J. 2003).
41 *Id.*
42 *United States v. Gates and Heyward*, Cr. No. 1:04-CR-00205 (D.C., 2004).
43 *United States v. Gasanov*, Cr. No. 01-CR-1423 (W.D. Tex. 2001).
44 *United States v. Maksimenko*, Cr. No. 2:05CR-80745 (E.D. Mich. 2005).
45 *United States v. Soto*, Cr. No. 03-341 (S.D. Tex. 2004).

communities, women are imported to work as "bargirls." While this is not technically sex trafficking under the TVPA, as it does not involve a sex act, the women are treated as sex objects and forced to entertain male bar patrons, dancing and drinking with them at their pleasure. In *United States v. Kang*, for example, a Korean couple lured Korean women to New York City with promises of good jobs as hostesses in their nightclub, but subjected them to physical abuse, held them for repayment of a $10,000 debt, and attempted to force them into prostitution.[46] Seven defendants pled guilty to forced labor and obstruction of justice charges. The defendants include a Federal Air Marshal and a Department of Homeland Security agent, who attempted to force one of the victims to get on a flight to South Korea to keep her from testifying against the Kangs.[47] In another "bargirl" case, *United States v. Molina,* six Hondurans in Ft. Worth, Texas received sentences of up to 5 years and 3 months of incarceration following their guilty pleas to harboring the women and making them repay their alien smuggling debts by entertaining the male patrons of the defendants' bars.[48]

B. Labor Trafficking

Labor trafficking occurs when a victim is forced to work in an area of the economy that would otherwise be a legal form of labor, absent the force, fraud or coercion. This phenomenon commonly is found in farms, factories, and households. Similar to sex trafficking, if a person is subjected to coercive force such that he cannot leave his employer's service, he is considered a victim regardless of whether he initially chose to perform that type of work, or even if he received some pay for his labor. There is no requirement that the victim be transported by the defendant.

Over the past five years, the Civil Rights Division and United States Attorneys' Offices have prosecuted a record number of labor trafficking cases. Between fiscal years 2001 and 2005, the Civil Rights Division and United States Attorneys' Offices filed 23 labor trafficking cases, an increase of 110% over the 11 labor trafficking cases the federal prosecutors filed between fiscal years 1996 and 2000.[49] In these cases, 61 defendants were charged with labor trafficking, an increase of 33% over the 46 defendants the charged during the previous five fiscal year period.

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46 *United States v. Kang*, Cr. No. 04-87 (E.D.N.Y. 2004).

47 *Id.*

48 *United States v. Molina*, Cr. No. 114-A (N.D. Tex. 2002).

49 Two seminal trafficking cases are responsible for the large number of defendants charged in 1997-98. United States v. Paoletti, the "Deaf Mexican" trinket peddling case, involved 18 defendants, and the Florida forced prostitution case United States v. Cadena involved 16 defendants. Prosecution and victim protection in these two cases are ongoing. In 2005, cooperation with the Mexican authorities resulted in the arrest of Juan Luis Cadena in Mexico. Also in 2005, as a result of the work of the Office of International Affairs, Renato and Jose Paoletti were the first Mexican citizens ever extradited to the United States for human trafficking offenses.

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As in sex trafficking cases, vulnerable United States citizens may find themselves trapped in a forced labor situation, unable to escape because of threats or coercion. For example, in *United States v. Michael Lee*, the defendants recruited homeless African-American men for their orange-picking operation. Once employed, the workers were involuntarily retained by beatings, threats, and a "company store" debt run up by short-term loans for rent, food, cigarettes, and cocaine. Three defendants were convicted in 2001 and received prison terms of up to 4 ½ years of incarceration.[50]

Forced labor situations often appear in parts of the agricultural sector that require "stoop labor." One such case, *United States v. Garcia*,[51] involved the first successful defense of the TVPA against a constitutional challenge. In that case, four defendants received sentences of up to nearly 4 years of incarceration in 2005 for recruiting young undocumented Mexican aliens from the Arizona border and transporting them to New York with false promises of good wages, only to force them to work in the fields for little or no pay and house them in overcrowded and filthy conditions through threats to turn them over to the Border Patrol.[52] In their constitutional challenge, the defendants argued that the TVPA was unconstitutionally vague, inviting arbitrary and discriminatory enforcement, and that Congress exceeded its authority in enacting it because it did not involve interstate commerce. A federal district court disagreed and found that the TVPA's terms were clear and provide adequate notice of the conduct it prohibits.[53] It also found that Congress had

Traffickers in *United States v. Ramos* attacked this van to prevent their victims from escaping.

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50 *United States v. Michael Lee*, Cr. No. 00-14065 (S.D. Fla. 2000).

51 *United States v. Garcia*, No. 02-110, 2003 WL 22938040 (W.D.N.Y. 2003).

52 *Garcia*, 2003 WL 22938040.

53 *Id*. at 2.

54 *Id.*

55 *United States v. Ramos*, Cr. No. 01-14019 (S.D. Fla. 2001).

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Traffickers in *United States v. Ramos* attacked this van to prevent their victims from escaping.

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the duration of the harvesting season and for assaulting the owner of a transportation service to cut off any avenue of escape the workers might have had from the area. The Ramos brothers were sentenced to 15 years of incarceration and ordered to forfeit $3 million in proceeds from their slavery operation.

Domestic servant cases continue to be a regular part of the Department's forced labor portfolio. Sadly, in many of these cases the young female victims are subjected not only to long hours and low pay for their work as nannies and maids, but suffer sexual abuse at the hands of their captors as well.

For instance, in *United States v. Mubang*,[56] a Cameroonian woman was convicted of bringing an eleven year-

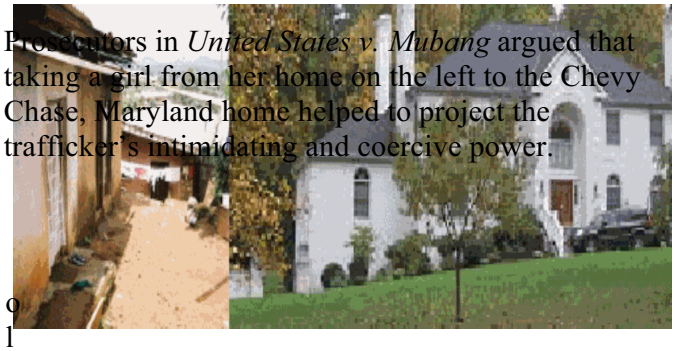

Prosecutors in *United States v. Mubang* argued that taking a girl from her home on the left to the Chevy Chase, Maryland home helped to project the trafficker's intimidating and coercive power.

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l
d girl to the United States illegally and under false pretenses. Once the girl was in America, she was forced to care for the defendant's two children and perform all the household chores without pay. The defendant forced the victim to comply by beating her with a broken metal broom stick and a cable cord, forbidding her from speaking of her employment conditions to anyone, forbidding her from leaving the house or opening the door to anyone, and interfering with her mail. Mubang fled the country soon after her conviction but was extradited to the United States in 2005 through the assistance of the Cameroonian government. She is currently serving a sentence of 17 ½ years of incarceration.

Similarly, in 2004, in *United States v. Trisanti*, a Los Angeles woman was convicted of

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[56] *United States v. Mubang,* Cr. No. 03-0539 (D. Md. 2003).

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involuntary servitude for trafficking two victims into the United States from Indonesia and forcing them to work as domestic servants through threats and physical violence. Trisanti was sentenced to more than 3 ½ years in prison and ordered to pay $203,000 in restitution.[57]

C. Child Sex Trafficking

Within the Department, the Child Exploitation and Obscenity Section has taken the leading role in overseeing the prosecution of cases of sex trafficking of minors. Sex trafficking in children occurs when persons under the age of 18 are provided or obtained for a commercial sex act. Prior to the passage of the TVPA, this aspect of human trafficking was traditionally dealt with by law enforcement under the label "Commercial Sexual Exploitation of Children" (CSEC), and all states have statutes criminalizing child prostitution. It is a continuing challenge to incorporate long-established child protective services, family court, and anti-CSEC activities and programs into the anti-trafficking effort.

"Our society has no place for those who prey on children and no tolerance for child prostitution or sex trafficking."

–Attorney General Alberto R. Gonzales, December 16, 2005.

Child sex trafficking may also involve child sex tourism, which occurs when individuals travel to foreign countries to engage in sexual acts with children, who are often the victims of trafficking. As with child prostitution, the Child Exploitation and Obscenity Section has taken the leading role in overseeing the development of anti-sex tourism policies and resulting prosecutions. United States Attorneys' Offices nationwide, with guidance or co-counsel assistance from the Child Exploitation and Obscenity Section, have obtained at least 50 sex tourism indictments or complaints and a minimum of 29 convictions between 2003 and 2005 under the PROTECT Act, with approximately 60 investigations currently pending.

Like other forms of trafficking, child sex trafficking can occur in any community. The TVPA

Usually, when people commit crimes, the best the criminal justice system can do is punish the offender and occasionally have him repay the out-of-pocket expenses of the victims. This plea not only does that, but attempts to give the victims future opportunities for treatment, counseling, and even an education.

Tim Burgess, United States Attorney for the District of Alaska announcing the plea agreement in *United States v. Boehm* on March 19, 2004.

[57] *United States v. Trisanti*, Cr. No. 03-473 (C.D. Cal. 2003).

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Like other forms of trafficking, child sex trafficking can occur in any community. The TVPA supplemented the Mann Act, which prohibits the interstate transportation of persons for prostitution or other illegal sexual activity, by extending federal jurisdiction to situations in which the pimps did not cross a state line with their minor victims. In recent years, the Department has prosecuted cases of child sex trafficking across the nation. In *United States v. Sims*, for example, Maurice Sims was prosecuted in the Northern District of Georgia and sentenced to life in prison, in 2004, for kidnaping, trafficking, and transportation across state lines for criminal sexual purposes, among other crimes.[58] Sims transported a 16 year old girl from El Dorado, Arkansas to Atlanta, Georgia for purposes of prostitution. Along the way he beat and raped his victim.

Additionally, the Department is strategically and aggressively using forfeiture laws to increase a defendant's punishment, create greater disincentives, and, ultimately, to fully disable and dismantle criminal networks engaged in human trafficking. The Department has been particularly innovative in its use of forfeiture in cases involving child prostitution. In several of those cases, Department prosecutors negotiated plea agreements requiring the child pimps to set up monetary funds to provide for the rehabilitation, education and job training of their young victims. In *United States v Boehm*,[59] for example, four persons pled guilty to sex trafficking of children, among other charges. In 2001, Boehm, along with his co-defendants, agreed to distribute cocaine and cocaine base to persons under the age of 21 and to recruit minors for sexual purposes in exchange for money and crack cocaine. All five defendants were sentenced to terms of imprisonment ranging from 3 years to more than 13 years and Boehm, as part of his plea agreement, also forfeited his residence and provided $1.2 million in trust for the future benefit of his victims.[60] The trust fund will compensate Boehm's victims for expenses for drug treatment, counseling, educational, and professional training expenses.

Going forward, the Department will continue to place a keen emphasis on the use of forfeiture

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[58] *United States v. Sims*, no. 1:04-cr-00048, 2006 WL 14581 (11th Cir.)(remanding case for re-sentencing under advisory rather than mandatory guidelines).

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incidence of prostituted children. The Section then asked each of these offices to establish a task force to address the problem through a variety of federal criminal statutes including the Mann Act, TVPA, and RICO,[61] where appropriate, to neutralize the entire criminal enterprise. The Section asked the remaining 42 Bureau Field Offices to assess whether the localities they serve have a substantial child prostitution problem.

As of September 30, 2005, Innocence Lost Initiative Task Forces have been instituted in Atlantic City, Boston, Chicago, Detroit, Harrisburg, Indianapolis, Los Angeles, Miami, Toledo, Portland, San Francisco, and Washington, D.C. In connection with this initiative, federal law enforcement agencies, prosecutors, and social service providers were brought to NCMEC's Washington, D.C.-area offices, where groups from the same jurisdiction were trained together in order to cultivate cooperation, partnership, and an effective integration among the critical enforcement entities in each city. To date, more than 350 key personnel have been trained. As a result of the Department's substantial investigatory efforts through this Initiative, the Child Exploitation and Obscenity Section has seen a marked increase in the number of requests from both Assistant United States Attorneys and Bureau agents in the field for advice, guidance, and co-counsel on child prostitution cases.

More importantly, on December 16, 2005, as Attorney General Alberto R. Gonzales announced, more than 30 child victims were recently identified in connection with the latest phase of Innocence Lost, bringing the total of child victims identified to more than 200 since the Innocence Lost Initiative began. This latest effort resulted in the arrest of 19 individuals. Between 2004 and 2005, the Innocence Lost Initiative has resulted in 139 open investigations, 505 arrests, 60 complaints, 70 indictments, and 67 convictions.

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59 *United States v. Boehm*, no. A04-0003CR (D. Alaska 2001).

60 *Id.*

61 RICO, 18 U.S.C. § 1961, *et seq*.

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Again, many cases of child sex tourism involve child sex trafficking and the Department is committed to aggressively prosecuting these cases. For example, in 2003, in the first prosecution under the PROTECT Act, Michael Clark, who had been arrested in Cambodia for sexually abusing two Cambodian boys (ages 10 and 13), was charged with attempting to engage in illicit sexual conduct after travel in foreign commerce. Clark pled guilty to the charges and was sentenced to 8 years of imprisonment. In connection with his plea, Clark reserved the right to appeal the constitutionality of the PROTECT Act, arguing that Congress exceeded its power to enact criminal laws that do not involve interstate commerce and that criminalizing activities in a foreign country violate his right to due process and international law. Clark's appeal is currently pending before the Ninth Circuit Court of Appeals.[62]

Also in 2003, in *United States v. Russell,*[63] an American man was prosecuted when an investigation revealed that he had traveled to the Philippines on numerous occasions over a two-
year period in order to engage in sexual acts with children and to produce child pornography for the purpose of importation into the United States. At least three Philippine children have been identified as victims of Russell, who pled guilty and was sentenced to more than 3 years of imprisonment.

D. Inter-Agency Coordination

Implementation of the President's directive to combat human trafficking requires meaningful inter-agency coordination. Much of the coordination has been accomplished through the President's Inter-Agency Task Force to Monitor and Combat Trafficking in Persons, and subsequently the Senior Policy Operating Group, discussed above. In connection with these efforts, the Department has engaged with other federal agencies to create additional vehicles of inter-agency coordination.

The most significant achievement in this regard is the Department's support of the Human Smuggling and Trafficking Center that is led by a steering committee comprised of representatives from the Department of Justice, including the Federal Bureau of Investigation, and the Departments of Homeland Security and State, among others. The Center provides a mechanism to bring together federal agency representatives from policy, law enforcement, intelligence, and diplomatic areas to work together on a full-time basis to achieve increased effectiveness among federal law enforcement and to convert intelligence about human trafficking, alien smuggling, and clandestine terrorist travel into effective law enforcement activities. Analysts accomplish this function by identifying issues related to migrant smuggling or trafficking in persons and then forward their findings to the relevant federal agencies or interagency organizations for consideration and appropriate action. The Center has been under development since mid-2004 and, shortly thereafter, started initial operations.

In addition, the Department in July 2004 entered into a Memorandum of Understanding with the Department of Homeland Security and the Department of Health and Human Services streamlining protocols for the Health and Human Services ("HHS") certification of victims (or in the case of minors, eligibility letters) rescued in connection with Department of Justice or Homeland Security law enforcement efforts. A determination by HHS, in consultation with the Department, that victims have suffered a "severe form of trafficking" and are cooperating with law enforcement enables these individuals to qualify for federally-funded or administered benefits and services to the same extent as refugees.[64] The agreement also marked an important step towards the coordination of treatment of potential trafficking victims by agents of the Departments of Homeland Security and Justice through better information sharing. It is important to note that over 30% of the investigations initiated by the Department since 2001 were begun by agents of the Bureau of Immigration and Customs Enforcement.

E. Coordination Within the Department of Justice

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62 *United States v. Clark,* 315 F. Supp. 2d 1127 (W.D. Wash. 2004).

63 *United States v. Russell*, case no. 3:03cr 3283 (S.D. C.A. 2003).

64 TVPA, 22 U.S.C. §§ 7105(b)(1)(A), (B), and (E).

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The Department's anti-trafficking investigative and prosecution strategy requires effective intra-departmental collaboration to bring the specialties of each component to bear on these multi-faceted, complex, and labor-intensive criminal cases. The following components are important contributors to the Department's activities in support of the President's directive to combat human trafficking:

- The Civil Rights Division's Criminal Section
- The Criminal Division, particularly its Asset Forfeiture and Money Laundering Section, Child Exploitation and Obscenity Section, Domestic Security Section, International Criminal Investigative Training Assistance Program, Office of International Affairs, Office of Overseas Prosecutorial Development, Assistance and Training, and Organized Crime and Racketeering Section
- The Executive Office of United States Attorneys and United States Attorneys' Offices nationwide
- The Federal Bureau of Investigation, and its Field Offices
- The Office of Community Oriented Policing Services
- The Office of Justice Programs, particularly its Bureau of Justice Assistance, Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and Office for Victims of Crime
- The Office of Legal Policy
- The Office of Legislative Affairs
- The Office on Violence Against Women

Representatives from the Civil Rights Division, the Criminal Division, and the Federal Bureau of Investigation meet periodically to share information and to identify ways to leverage resources to identify and combat trafficking in persons, among other criminal activity. In addition, the Office of Legal Policy convenes regular meetings of Department of Justice components to coordinate the development of policies regarding the Department's anti-human trafficking activities. The Criminal Section of the Civil Rights Division, in early 2003, authored a comprehensive legal monograph on trafficking issues to assist United States Attorney personnel in the field to prosecute trafficking cases more effectively. The monograph has been distributed at the Department's training center, the National Advocacy Center, and at human trafficking training workshops.

Both the Civil Rights Division and the Child Exploitation and Obscenity Section publish newsletters that provide valuable information regarding human trafficking prosecutions, case analysis, and developments that are important to the work of other Departmental components and the non-governmental organizations that advocate on behalf of trafficking victims. The Civil Rights Division provides investigators, prosecutors, and victim assistance professionals with technical assistance regarding human trafficking and keeps the field of trafficking victim advocates informed about the Division's efforts to prevent and prosecute this crime. And, since 2003, the quarterly Child Exploitation and Obscenity Section newsletter has discussed issues of sex tourism and trafficking in all but two editions.

From the time that the TVPA was enacted, the Department recognized that alien smuggling, document fraud, and various forms of human trafficking, while constituting separate offenses,

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can be integrally related, as discussed above.[65] The trafficking of victims across international borders virtually always involves alien smuggling, also possibly including some type of fraud or misrepresentation. Perhaps the most direct manifestation of cooperation between the Civil Rights and Criminal Divisions is that in 2002 the Civil Rights Division detailed several experienced attorneys to the Criminal Division's Alien Smuggling Task Force for a three-year period. Over the past three years, those Civil Rights prosecutors worked with their Criminal Division colleagues to target the criminal infrastructure that makes international trafficking possible. Examples include successful prosecutions involving the fraudulent adoption of Cambodian babies, the sexual exploitation of Estonian women employed in massage parlors, and large-scale fraudulent leasing of foreign workers to major United States companies. The three-year details, which recently ended, demonstrate the concrete, effective results that can be obtained through innovative approaches to anti-trafficking cooperation.

The Department has taken a number of steps to ensure that its components are well trained in the Department's strategy of victim-centered, proactive investigations. Here are some examples:

- In October 2001, the Civil Rights Division conducted training on the unique victim protections and services of the TVPA for almost 100 federal victim witness coordinators at the National Advocacy Center in Columbia, South Carolina.

- In October 2002, the Civil Rights Division organized comprehensive anti-trafficking training for federal prosecutors and agents at the Department's training facility, the National Advocacy Center, in Columbia, South Carolina. Approximately 150 federal prosecutors and agents attended the training.

- In November 2002 the Attorney General issued "blue sheets" for prosecutors, outlining the new TVPA crimes and adding guidance regarding the prosecution of such crimes to the U.S. Attorneys' Manual. The "blue sheets" highlight human trafficking as a priority and provide a comprehensive source of information and resources within the Department and with related agencies.

- In fiscal year 2003, the Civil Rights Division provided periodic training at the Federal Bureau of Investigation training center in Quantico, Virginia for Bureau and Immigration and Customs Enforcement agents.

- In January 2004, the Civil Rights Division and the Executive Office of United States Attorneys' Office of Legal Education hosted a comprehensive training session for federal agents and prosecutors at the Department's National Advocacy Center. Furthermore, the Civil Rights Division actively participates in human trafficking training sessions at United States Attorneys' Offices as part of the regular curriculum offered to Federal Bureau of Investigation, Department of Homeland Security Bureau of Immigration and Customs Enforcement, and Department of State Diplomatic Security Service agents.

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[65] *See*, Part I "An Introduction to Human Trafficking."

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- Since 2003, the Criminal Division's Child Exploitation and Obscenity Section has annually trained Assistant United States Attorneys and Federal Bureau of Investigation agents at the National Advocacy Center regarding the investigation of cases involving the commercial exploitation of minors for sex (i.e., domestic sex trafficking), child prostitution, trafficking and sex tourism.

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VI. The Department's Collateral Attack on Human Traffickers

A. Multi-Disciplinary Task Force Initiative

The Department has designed, developed, and instituted locally based, multi-disciplinary task forces to investigate and prosecute human trafficking cases. These task forces embody the Department's victim-centered approach because they are specifically engineered to aid in uncovering victims, providing them with immediate protection and support, and then working with them to further investigate and prosecute the trafficker. More importantly, task forces are a supreme force multiplier as the nation's numerous state and local police, occupational safety and health inspectors, and other enforcement officials are added to the limited number of federal law enforcement that are now in the field.

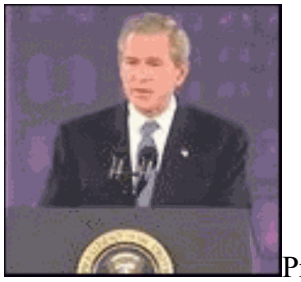

In July 2004, the Department hosted the first ever National Training Conference on Human Trafficking: *Rescuing Women and Children From Slavery*, in Tampa, Florida. The National Conference was designed to introduce the model of victim-centered investigations and the concept of human trafficking prosecutions through the creation of local task forces. Hosted by the Department and with a keynote speech by President Bush, the conference brought together more than 500 attendees, consisting of 21 teams of about 20 state, local, and federal officials who were willing to thereafter work together to combat human trafficking in their respective communities across America. Teams included the following members: United States Attorneys or designated Assistant United States Attorneys; Bureau of Immigration and Customs Enforcement Special Agents-In-Charge; Federal Bureau of Investigation Special Agents-In-Charge; local law enforcement agency special crimes and victim units; state and local prosecutors; and governmental and non-governmental organizations, especially faith and community-based victim service providers. The Department, with the assistance of the Civil Rights Division, invited participants from some of the most intense trafficking jurisdictions in the country at that time, such as: Atlanta, Charlotte, Chicago, El Paso, Houston, Las Vegas, Long Island, Los Angeles, Miami, Newark, New Orleans, New York City, Washington, D.C., Philadelphia, Phoenix, Richmond, San Diego, San Francisco, St. Louis, Seattle, and Tampa.

President Bush, along with then-Attorney General John Ashcroft, announced this important new initiative on July 16, 2004 at the Department's National Conference on Human Trafficking, where the President condemned human trafficking as an affront to America's fundamental values and committed his Administration to combating trafficking on every level at home and abroad. Regarding domestic efforts to combat trafficking, the President remarked, "*We're supporting organizations that rescue the victims, passing stronger anti-trafficking laws, and warning travelers that they will be held to account for supporting this modern form of slavery. Women and children should never be exploited for pleasure or greed, anywhere on Earth*."

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Then-Attorney General John Ashcroft set forth the Department's comprehensive anti-trafficking strategy: protecting the victims, prosecuting the perpetrators, and partnership-building that addresses, attacks, and prevents human trafficking. The Attorney General also noted that the Bush Administration had, up to that time, provided more than $35 million in funding to community-based service providers that aid trafficking victims, and he announced a further $14 million in support of the Department's task force initiative. Concurrently with the National Conference, the Department issued a funding solicitation, entitled *Law Enforcement and Service Provider Multi-disciplinary Anti-Trafficking Task Forces*. The solicitation urged applicants to leverage existing federally-funded victim services efforts and to mirror the victim-focused federal, state, and non-governmental partnership that was the theme of the Conference. In the fall of 2004, the Bureau of Justice Assistance and the Office for Victims of Crime issued a joint solicitation for concept papers to continue the coordinated law enforcement task forces and victim services initiatives. Federal funds made available through this solicitation were intended to support task forces or supplemental funding of current trafficking victim service providers in areas with pre-existing Bureau of Justice Assistance-funded task forces.

Task forces add to the Department's law enforcement resources the intelligence and expertise of

"The conference program provided a model of collaboration among service providers and law enforcement and underscored the necessity of teamwork in working to keep victims of trafficking front and center in both the prosecution and service delivery areas-it was a great kick off for the task force initiative."

-Florrie Burke, Senior Director of International Programs, Anti-Trafficking Program, SOLACE Program for Survivors of Torture, Safe Horizon

locally-based immigration agents, local community- and faith-based social service providers, and local law enforcement, particularly special crimes and vice squads. These task forces recognize that local authorities, often more than federal officials, may be in the best position to find trafficking victims because of their familiarity with their jurisdictions, but might need the training and support of the federal government to recognize this crime for what it is. The Department has too often seen in federal investigations police reports indicating that local officers responded to complaints but failed to stop the ongoing exploitation of trafficking victims simply because they were not trained to recognize trafficking situations. The task force approach leverages local

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knowledge and staff resources with strong federal statutes. Indeed, victims rescued in *United States v. Reddy*,[66] *United States v. Molina,*[67] and *United States v. Ramos*[68] were brought to the Department's attention through the activities of state and local law enforcement. Moreover, they serve as a way to incorporate the non-governmental crime victim services organizations, funded by federal grant awards, into the law enforcement activities in their area. Local community- and faith-based organizations are essential to reaching those victims in communities that are isolated by geography, culture, or language.

The task force convened by the United States Attorney's Office for the Northern District of Texas presents an illustration. In 2004, the United States Attorney for the Northern District of Texas established a working group consisting of representatives from the police departments of the Dallas-Fort Worth area, including Arlington, Coppell, Garland, Grand Prairie, Irving, and Richardson, and representatives from the Federal Bureau of Investigation, Bureau of Immigration and Customs Enforcement, Internal Revenue Service, and Department of Labor. The group's faith and community-based partners include several charitable organizations such as Catholic Charities and Mosaic Family Services, Inc., which received grants from the Office for Victims of Crime to provide victim services and to assist with the formation and implementation of this program.

Insert graphic of the United States depicting the location of the 32 jurisdictions with task forces.

Just prior to the conference, the Department had begun work on eight task forces. Immediately following the National Conference, the Department embarked on a 20-city training initiative designed to reinforce the training received at the National Conference and to institute nearly two dozen task forces. Within a year of the National Conference, 18 task forces were operating with Departmental support. There are now 32 task forces operating throughout the United States.

Each of the 32 task forces, funded in part through $13 million in grants from the Department's Bureau of Justice Assistance and the Office for Victims of Crime since fiscal year 2004, is coordinated through the local United States Attorney's Office and includes

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[66] *See*, Part I "An Introduction to Human Trafficking" above for a discussion about *United States v. Reddy*.

[67] *See,* Part V "Halting Human Trafficking with a Record Number of Aggressive Investigations and Prosecutions," section B "Labor Trafficking" above for a discussion about *United State v. Molina*.

[68] *See,* Part V "Halting Human Trafficking with a Record Number of Aggressive Investigations and Prosecutions," section B "Labor Trafficking" above for a discussion about *United State v. Ramos*.

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representatives of local FBI field offices and Bureau of Immigration and Customs Enforcement, as well as state and local law enforcement and social services agencies. In order to receive Department of Justice funding support and the assistance of the local United States Attorney, local law enforcement agencies and victim service providers are required to enter into a Memorandum of Understanding with all task force members committing themselves to collaborating together on investigations and assistance to victims. Applicants were invited to design task forces that best suited the needs of their local communities, and many task forces involve faith-based and other community organizations in their work. At their core, task forces include the local United States Attorney's Office; Federal Bureau of Investigation Field Offices; Immigration and Customs Enforcement agents; state and local law enforcement agencies; and social services agencies, including community-based victim services providers. As of June 2005, with reporting based only on the first six months of operation by the 18 task forces that existed at that time, 61 victims of severe trafficking had been identified and many more victims were rescued from environments where trafficking was occurring.

Alliance forms to fight modern slavery in Texas

'Ancient' crime exists in Houston, a U.S. official says

By HARVEY RICE
HOUSTON CHRONICLE

Ruth came to Houston from East Africa a year ago under a contract that promised $5.15 per hour for working a nine-hour day, six days per week taking care of her employer's household.

Instead, she said she found herself a prisoner working for no pay and enduring emotional and physical abuse.

"I was a slave," she said Friday.

Because local and federal police agencies often fail to recognize such victims of this modern slave trade, the U.S. attorney's office announced the formation Friday of the Human Trafficking Rescue Alliance, the fifth such group in the country and the first in Texas.

"This terrible crime, so ancient in its origins, exists right

Please see SMUGGLING, Page A17

SMUGGLING: U.S. raising the problem's profile

CONTINUED FROM PAGE A1

here in Houston, Texas," U.S. Attorney Michael Shelby said as he was joined by representatives of all major local and federal law enforcement agencies in Harris County and several nongovernmental social services organizations.

Shelby said the social services groups will be crucial to finding human-trafficking victims who may be too frightened to turn to police.

Ruth, whose true identity is being withheld because she fears retaliation from her former employer, is one of an estimated 16,000 immigrants who are kidnapped or tricked into coming into the United States and then coerced into prostitution or forced labor, according to the U.S. Justice Department.

She said she despaired until an acquaintance connected her with a program run by YMCA International Services.

Opening eyes of the law

The Texas Office of Immigration and Refugee Affairs says human trafficking is a multinational organized criminal industry generating billions of dollars per year. Most of the victims are women and children.

Shelby said traffickers include the Russian mafia and Asian triads as well as smugglers on the U.S.-Mexican border.

The newly formed alliance will train officers to spot atrafficking victim whom they otherwise might have arrested as a prostitute. The group also will coordinate investigation and prosecution of traffickers, improve the treatment and care of victims for use as witnesses in prosecutions and conduct regional conferences.

The alliance plans to duplicate itself in Brownsville, Corpus Christi, McAllen and Laredo.

"This task force and others like it are an important step toward ending the scourge of human trafficking and slavery," said U.S. Sen. John Cornyn, who recently authored a resolution calling for increased cooperation among Congress, federal and local law enforcement to end human trafficking.

Officials say they don't know how serious the problem is in Harris County because they have only recently been made aware of it.

District Attorney Chuck Rosenthal said he is unaware of any such cases in the county because law enforcement agencies have not been trained to identify the problem.

"We didn't know what we were looking at," Rosenthal said.

He said the creation of the task force will open local law enforcement's eyes to the crime, like changing your glasses prescription."

R. Alexander Acosta, assistant U.S. attorney general for civil rights, said, "We don't know what the trends are because the data has not been collected."

Acosta said he is reminded of

STEVE CAMPBELL / CHRONICLE

HUMAN TRAFFICKING: Most victims are women and children, including this woman who was held captive.

the seriousness of the crime by a crime-scene photo in his office, showing a teddy bear on a nightstand beside a bed.

The teddy bear belonged to a 14-year-old girl who was forced to have sex with as many as 30 men a day on the bed, he said.

"We simply must do a better job of identifying the victims and bringing human traffickers to justice," Cornyn said.

Efforts get results

Jeff Watkins, executive director of YMCA International Services, said his agency has treated only five victims since it received a $560,000, three-year grant from the Justice Department last year.

The money, which comes from fines and penalties paid by convicted criminals, is used in part to train police in spotting victims of human trafficking.

Watkins said the YMCA trained 1,500 Houston police officers in the past year and will help train other officers in the federal Southern District, which stretches from Huntsville to Brownsville and Laredo.

Last year, the Justice Department formed similar rescue alliances in Atlanta, Philadelphia, Phoenix and Tampa, Fla.

Shelby said the Houston alliance is the first of about a dozen the Justice Department plans to form this year.

An emphasis on the prosecution of human trafficking by the Justice Department led to a tripling of charges filed in the past three years, compared with the previous three years, although the 150 total remains small.

A 2000 federal law and a 2003 Texas law were aimed at human trafficking.

The Houston alliance will be coordinated by Assistant U.S. Attorneys Edward Gallagher and Ruben Perez.

harvey-rice@chron.com

The Houston (Harris County, Texas) trafficking task force provides a meaningful illustration of the work and potential of the Department's multi-disciplinary task forces. In 2004, concerned that trafficking might fall into the cracks between civil rights and organized crime enforcement programs, the United States Attorney's Office for the Southern District of Texas formed the Human Trafficking Rescue Alliance with the Federal Bureau of Investigation, Bureau of Immigration and Customs Enforcement, Harris County Sheriff's Department, and a number of non-governmental organizations who had recently come together on the issue. The Rescue Alliance began with listening sessions of the stakeholders and moved to joint training for law enforcement and other community groups. Rescue Alliance members attended the Department's National Training Conference on Human Trafficking in Florida in July 2004, and pledged themselves to work together to combat trafficking. When the Bureau of Justice Assistance called for grant proposals, the working group was ready with a task force proposal that built upon and solidified their relationships. As the profile of this issue has grown, so has the demand for training on the part of state and local law enforcement, and the most recent training opportunity

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Rescue Alliance have solidified the relationship of the law enforcement participants with the Office for Victims of Crime and Health and Human Services victim-services grantees such as the YMCA of Houston and Catholic Charities.

Houston Chronicle, August 14, 2004

One novel aspect of the Rescue Alliance has been to place Harris County Sheriff's Deputies with vice-squad experience in Federal Bureau of Investigation and Immigration and Customs Enforcement Field Offices on the squads tasked with trafficking investigations. Especially in the Federal Bureau of Investigation office, having a full-time investigator with extensive knowledge of the local landscape was invaluable, and his activities served as a catalyst for the other agents on the task force to work pro-actively to identify and dismantle trafficking rings. The inclusion of agents from the Texas Alcohol and Beverage Commission has proven instrumental in the success of the Rescue Alliance.

As a result of operations by the Rescue Alliance, two large-scale trafficking operations resulted in federal human trafficking indictments in the Houston area in the fall of 2005 -- one involving allegations of Mexican women and girls forced into prostitution and another involving allegations that dozens of Central American women and girls were held in peonage in a "bargirl" operation. These prosecutions, which are pending at the time of this report,[69] could not have happened without the interagency approach and close cooperation with non-governmental service providers and advocacy groups that was fostered and intensified through the Bureau of Justice Assistance grant. The Rescue Alliance is an example of an energized and successful task force effort that successfully blends state, local, and federal personnel, across traditional organized crime and civil rights approaches, to work with the non-governmental community to act in the best interests of the victim while seeking justice.

The Bureau of Justice Assistance, in collaboration with other federal partners, provides ongoing training and technical assistance to task forces. In 2005, the Bureau of Justice Assistance, in collaboration with the Civil Rights Division, the Office for Victims of Crime, and other experts, developed a specific training curriculum for law enforcement officers nationwide who may come into contact with trafficking victims, entitled *Human Trafficking in the United States, Promoting Law Enforcement Awareness.* The curriculum is a flexible, one-day training course educating law enforcement officers about the basics of the phenomenon of human trafficking and a victim-centered approach to proactive investigation of potential cases. The curriculum provides an introduction to human trafficking, its victims, and offenders; a legal overview with a focus on the TVPA; investigative considerations and techniques; an overview of the role of victim service providers; the need for victim services and the types of services available; and immigration matters, including the role of immigration officials and remedies available to victims. The training program also reviews lessons on understanding the need for a formal multi-disciplinary approach towards human trafficking and an understanding of the

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[69] An indictment contains only charges and is not evidence of guilt. The defendants in these and any other cases cited in this report in which convictions have not been obtained are presumed innocent and are entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

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important role of the community in law enforcement efforts. The training curriculum is unique in that it incorporates multimedia learning and each participant is provided with multimedia resources to be used in training other officers and building greater community awareness and support. The course is taught by seasoned investigators who have handled trafficking cases as well as by national experts on trafficking issues.

In February 2005, the Bureau of Justice Assistance convened a conference of the 22 nascent task forces that had been instituted by that time. More than 115 individuals attended. Federal participants in the conference included representatives from within the Department as well the Departments of Homeland Security and Health and Human Services. The focus of the conference was to explain the degree of collaboration needed among federal, state, and local law enforcement, prosecution, and victim services agencies in order to effectively rescue victims and prosecute traffickers. Task force members were trained using the *Human Trafficking in the United States, Promoting Law Enforcement Awareness* curriculum, described above. Future cross-training of task force members will enable the Department to build on that effort by sharing best practices and linking the groups' efforts across geographical lines.

The Human Trafficking Task Forces are just the approach we need to combat human trafficking. With all of us working as a team we will be more effective in this endeavor than we would be if we tried to combat human trafficking individually.

--Lt. Bill Rule, Collier County Sheriff's Office, Victim Services Bureau

B. Restoring Victims' Dignity

As discussed above,[70] the Department places a premium on enabling trafficking victims to achieve stable and secure lives. Federal investigators and prosecutors will therefore immediately refer a victim to victim service professionals for immediate care. Again, victims that are safe and healthy are better able to articulate to investigators and a court what has happened to her. Without the victim's assistance, traffickers may not ever be held accountable for their crimes.

In many cases, the referral process and the provision of services is expedited through relationships already established by task force partners. Some task forces have created innovative ways to connect victims identified through law enforcement activity with services. The United States Attorney's Office for the Middle District of Florida, for example, developed a compendium of victim service providers for use by task force members in Fort Myers, Jacksonville, and Tampa. The task force in Indianapolis, Indiana, coordinated through the United States Attorney's Office for the District of Indiana, has partnered with the Indianapolis Family Justice Center to deliver services to victims of human trafficking that are funded by the Office for Victims of Crime. The Family Justice Center, created in connection with President Bush's Family Justice Initiative, a program that is administered by the Office on Violence Against Women, co-locates services to families involved in

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[70] *See*, Part III "Scope of the Problem," section B "The Department Responds to this Crime with a Victim-Centered Approach."

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domestic violence. Making this Center the coordinator of services to victims of human trafficking makes the response to victims more efficient and effective.

Once potential cases of trafficking are uncovered, victims may become eligible for important services that help to keep them safe as they recover from their victimization. Trafficking victims, like all crime victims, may be eligible for services and benefits under the Victims of Crime Act, a program administered by the Office for Victims of Crime.[71] The TVPA, as amended, created new protections for alien victims.[72] Under the TVPA, victims are afforded:

- Immigration relief, in the form of an administrative change in immigration status known as "continued presence" as well as a temporary, non-immigrant visa known as the "T visa;"
- Access to refugee benefits;
- Adequate shelter, care, and protection;
- Legal assistance;
- Information & translation services; and
- Mandatory restitution.[73]

The TVPA authorizes similar victim services programs to be administered by the Department of Health and Human Services, thus requiring a significant amount of coordination between the Office for Victims of Crime and the Department of Health and Human Services. In 2004, the Office for Victims of Crime initiated regular coordination meetings with the Office of Refugee Resettlement, its counterpart agency at HHS, known

> One day, I fell for their trap. I had a little dream of my own. It was to make some money and to buy my house. I arrived in [America] with such hopes and dreams. Who would have known what would be waiting for me there instead? Since the day I arrived, I had to live like an animal. [The karaoke bar] was a prison that was filled with nothing but curses, threats, and beatings.
>
> - "Ms. Kim," a 31-year old victim in United States v. Kwon Soon Oh, a sex trafficking case.

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[71] The Crime Victims Fund, 42 U.S.C. § 10601, established by the Victims of Crime Act of 1984 (VOCA), is a major source of funding for victim services throughout the nation. The Office for Victims of Crime administers the Fund and distributes funding to the states on a formula basis to support crime victim assistance and crime victim compensation programs. Victim assistance includes lifeline victim services such as crisis intervention, emergency shelter and transportation, counseling, and criminal justice system advocacy. Crime victim compensation is a direct reimbursement to or on behalf of a crime victim for expenses such as medical costs. Trafficking victims may be eligible for support under the Crime Victims Fund, the TVPA, or both of these programs, depending on the circumstances of their cases and, in the case of the Crime Victims Fund, the specific guidelines of the state agency that administers the program.

[72] TVPA, Pub. L. No. 106-386 § 107(b)(1) (codified at 22 U.S.C. § 7105(b)(1)).

[73] *Id.*

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The TVPA authorizes similar victim services programs to be administered by the Department of Health and Human Services, thus requiring a significant amount of coordination between the Office for Victims of Crime and the Department of Health and Human Services. In 2004, the Office for Victims of Crime initiated regular coordination meetings with the Office of Refugee Resettlement, its counterpart agency at HHS, known as the Human Trafficking Victim Services Coordination Working Group. By working together, both agencies maximize their resources and exchange information to improve the provision of victim services as both HHS and the Office for Victims crime may fund grantees that provide services to pre-certified victims. Consequently, grantees funded by the Office for Victims of Crime under the TVPA only provide services to victims of trafficking before they are certified as victims of a "severe form of trafficking" by the Department of Health and Human Services, except in special circumstances.[74]

Since fiscal year 2003, the Office for Victims of Crime has funded 20 victim service providers to assist pre-certified victims of trafficking in the United States, one grant to the headquarters of the Salvation Army to work with their territorial divisions to provide shelter to trafficking victims, and one grant to an organization to provide technical assistance. Since January 2003, Office for Victims of Crime-funded grantees have served 741 pre-certified trafficking victims. The Department, in cooperation with other law enforcement agencies, have assisted 687 victims to obtain continued presence immigration status, allowing them to remain in the country and to receive benefits and services.[75]

The period between being rescued and receiving certification is the time when victims are most vulnerable. They typically have a host of needs that includes housing, clothing, and food; medical, dental, and psychological care; legal assistance and immigration advocacy; and interpretation services. However, few organizations or communities have the resources to provide or fund these services. The Office for Victims of Crime grant program helps communities to fill this critical service gap and, in the process, supports victims' abilities to cooperate with law enforcement. Immigrant victims are offered culturally and linguistically appropriate services and may, if needed, petition for T visas that would allow them to remain in the United States legally. Some organizations are specifically prepared to provide immediate, critical assistance in crisis situations until the services of a local victim service provider can be put in place.

The Office for Victims of Crime supports the work of the victim service providers it funds with technical assistance that is made available through workshops, on-site consultation, and via the

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[74] Grants funded through the TVPA are not available to provide services to victims who are United States citizens. However, service providers funded by the Office for Victims of Crime or the Department of Health and Human Services may have other sources of funding to assist those individuals. *See*, n. 65.

[75] The TVPA's victim provisions were intended to address the inability of alien victims to access publicly-funded programs because of their immigration status or lack thereof. Trafficking victims who are United States citizens are not barred from accessing those programs.

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internet. Office for Victims of Crime training and technical assistance includes mentoring guides and safety protocols for both providers and clients. Grantees also provide training to local police and non-governmental organizations. Since fiscal year 2003, approximately 38,635 persons have been trained through the efforts of Office for Victims of Crime grantees. Training topics have included the dynamics of trafficking, the legal definition of trafficking under the TVPA, legal rights and services for trafficking victims, and cultural considerations in serving these victims. More important, the Office for Victims of Crime and the National Institute of Justice are studying effective approaches to victim service delivery and plan to publish an evaluation of field-tested services in 2006.

In addition to the work of the Office for Victims of Crime, the Office on Violence Against Women has, since 2001, funded more than $700,000 for technical assistance projects that assist Office on Violence Against Women grantees in providing services to trafficking victims if they have also been victims of domestic violence, sexual assault, or stalking. For example, Legal Momentum's Immigrant Women Program provides technical assistance to Office on Violence Against Women grantees to foster their ability to serve immigrant victims of domestic violence, sexual assault, and stalking. Because trafficking victims may seek services from Office on Violence Against Women grantees if they have also been a victim of domestic violence, sexual assault, or stalking, the Immigrant Women Program training workshops educate grantees about the availability of T- and U-visas, identifying whether a victim has been trafficked, barriers faced by trafficking victims who seek services, and conducting outreach to potential victims of trafficking. In addition, Legal Momentum has developed a nationwide directory of experts working with immigrant victims of domestic violence, sexual assault and trafficking. Nearly 950 attorneys and advocates have attended these workshops and another 150 will be trained within the next year. Another example is the Family Violence Prevention Fund, which used Office on Violence Against Women funding in 2003 to establish a project aimed at improving collaborative responses to trafficked victims of domestic violence and sexual assault. The main goal of the project was to build multi-disciplinary collaborations between service providers and law enforcement to effectively and appropriately assist trafficking victims in Georgia and Washington. Plans are underway to expand the project into Alaska.

C. Public Awareness Supports Pro-Active Investigations

Public awareness is essential to proactive investigations that uncover victims. In fact, the prosecutions in *United States v. Kil Soo Lee*[76], which resulted in the single largest rescue

[76] In this case, the Korean owner of a sweatshop in American Samoa held over 200 Vietnamese and Chinese seamstresses in the Daewoosa Samoa garment factory in involuntary servitude. Over the course of two years, the workers were deprived of

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of trafficking victims in the Department's history, and *United States v. Soto*[77] were brought to the attention of federal law enforcement through referrals by non-governmental organizations that work with populations at risk for trafficking. The Department works to motivate communities, especially anti-human trafficking task forces, to increase awareness among law enforcement, various government inspectors (especially health code, wage and hour, and occupational safety and health agents), hospitals and other medical providers, social services agencies, and community- and faith-based organizations.

Increased outreach and public awareness is critical to the investigation and prosecution of human trafficking cases. The Department established a toll-free telephone complaint line in 2000 to receive allegations of trafficking from individuals ready to report to law enforcement, creating a mechanism that has substantially increased the number of investigations initiated by the Civil Rights Division. [78]

Since 2003, the Department has made available a brochure describing its processes and resources to assist non-governmental organizations in dealing with trafficking victims and the Department in a more efficient way. Through outreach, America's communities – particularly immigrant communities – are better educated about this crime and how to report possible cases. Moreover, increased public awareness about this crime and the benefits available to its victims can eliminate important aspects of the leverage that traffickers hold over their victims.

As a result, all components speak publicly about trafficking and the Department's activities to combat this crime to state, local, and foreign legislators, law enforcement officers, prosecutors, and non-governmental victim advocacy and services organizations. The Civil Rights Division, for example, has delivered more than 200 presentations around the nation since fiscal year 2001. Office for

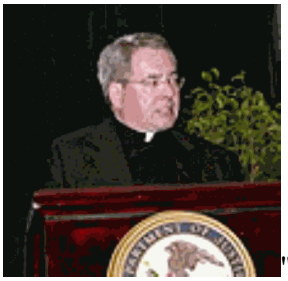

"We must make it as easy as possible for these victims to know that aid and comfort have arrived. The Catholic Coalition to Combat Trafficking...also conducts public outreach and advocates on behalf of victims.... I will also ask our pastors to communicate the goals of this campaign to every active religious and layperson.... There should be no zones where this mission of love and redemption does not reach."

-Archbishop John J. Myers, Archdiocese of Newark, at the National Training Conference on Human Trafficking, July 16, 2004.

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food, beaten, and physically restrained in order to force them to work. Lee was convicted in 2001, and in June 2005 he was sentenced to 40 years in prison.

[77] *See,* Part V "Halting Human Trafficking with a Record Number of Aggressive Investigations and Prosecutions," section B "Labor Trafficking" above for a discussion about *United States v. Soto.*

[78] HHS also created a toll-free number for victims to call to receive emergency services. Calls received from individuals who are ready to report to law enforcement are then forwarded to the Department of Justice for possible action.

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Victims of Crime grants to 21 human trafficking victim service providers under the TVPA include funding to increase public awareness in the communities they serve. Civil Rights Division representatives continuously emphasize the important role that faith and community-based organizations can play. Because of their proximity to the communities they serve, they can provide immense intelligence about potential criminal enterprises and trafficking victims, provide immediate, crisis care, and long term programs that help to prevent further victimization. The Federal Bureau of Investigation Civil Rights Unit has appeared on national television and local radio programs which highlight, define, and expose trafficking to the general public, including CNBC, Donny Deutche's The Big Idea, and WMAL AM 630's "Danger Zone" with Richard Carlson, a Washington, D.C.-area radio program. The Civil Rights Unit has also provided human trafficking-related training presentations at various non-governmental conferences, such as the International Association of Labor Standards Annual Conference in Memphis, Tennessee, and the National Organization of Women's Annual Conference in Los Angeles, California. The Child Exploitation and Obscenity Section is also actively engaged in promoting the Department's strategy of multi-disciplinary cooperation that emphasizes the victim-centered approach to combating domestic child prostitution with non-governmental organizations such as the United States Conference of Catholic Bishops.

United States Attorneys' Offices are also involved in providing outreach and education about human trafficking within their districts. The United States Attorney's Office for the Southern District of California, for example, has hosted five conferences on human trafficking since October 2001. Each of

Women were victims of sex trafficking in *United States v. Molina*

These conferences have provided training about applicable statutes and resources available for victims, including contact information for potential victims, to local law enforcement and non-governmental organizations serving trafficking victims. These conferences have resulted in long-standing relationships between federal prosecutors and law enforcement, state and local police, and numerous local service-providers, such as the Bilateral Safety Corridor Coalition. Another example are the efforts of the United States Attorney's Office for the District of Connecticut, which convened a meeting in May 2004 of federal and state agencies to explore why human trafficking cases have not been prosecuted in this jurisdiction. By September 2004, this office convened a training conference intended to educate federal, state, and local law enforcement and victim service providers about human trafficking and how to identify resources, including federal grant opportunities. The result of these efforts has been the creation of an

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The victims of sex trade see little of life before they see the very worst of life -- an underground of brutality and lonely fear. Those who create these victims and profit from their suffering must be severely punished. Those who patronize this industry debase themselves and deepen the misery of others. And governments that tolerate

anti-human trafficking task force that includes the Connecticut State Police, Federal Bureau of Investigation, Immigration and Customs Enforcement, Social Security Administration, State Department's Diplomatic Security Service, and United States Coast Guard as well as non-governmental organizations serving trafficking victims.

D. Promoting Foreign Criminalization and Prosecution of Human Trafficking

As discussed above,[79] the President has directed federal agencies to use all diplomatic and foreign assistance tools in the nation's effort to abolish human trafficking. The Department has had an important role in advancing this directive. The Department's primary goal in this regard is to promote the efforts of foreign governments to criminalize human trafficking and to enhance their capacity to investigate and prosecute these crimes first through the President's international human rights initiative; second, by collaborating with foreign law enforcement agencies on human trafficking cases; third, by supporting foreign training and technical assistance programs,

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[79] *See*, Part II "An Administration Priority."

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this trade are tolerating a form of slavery.

–President George W. Bush, speaking to the United Nation's General Assembly, September 23, 2003

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increase the capacity of several source and destination countries to combat trafficking. Specifically, the President's initiative aims to replicate our victim-centered prosecutions through multi-disciplinary task forces and increased outreach in Cambodia, India, Indonesia, Mexico, Moldova, and Tanzania.

The Department has been actively involved in the design, development, and implementation of this initiative. Working primarily through the Civil Rights Division, and with the assistance of the Criminal Division's Offices of Overseas Prosecutorial Development, Assistance and Training and the International Criminal Investigative Training Assistance Program, the Department coordinated with the Departments of Health and Human Services, Labor, and State, as well as the United States Agency for International Development, to develop the capacity of foreign governments to investigate and prosecute human trafficking cases, and to develop partnerships with non-governmental organizations to prevent the vulnerable from becoming victims through outreach and education as well as to protect and rehabilitate victims. The inter-agency working group found the lessons learned by the Civil Rights Division in its prosecution of trafficking cases and its organization of trafficking task forces a valuable model for the implementation of the President's international initiative. The objective of the initiative thus became the institution of multi-disciplinary efforts to combat human trafficking in particular geographic regions. In practice, this would mean that programs to promote awareness raising, victim shelters, and police and prosecutor training would be established and supported in a collaborative effort by each of the participating federal agencies. The Department designs country assessments to help the United States Government better understand the nature of the trafficking problem in a particular area and to inventory what efforts were currently underway.

Foreign Country
Human Trafficking Assessments By the Department of Justice

- What is the current statutory framework?
- What is the capacity of police to investigate trafficking offenses?
- What is the level of prosecutorial skill and interest in trafficking victims?
- What is the current state of services for victim shelter and restoration by both governmental and non-governmental organizations?
- What is the current level of cooperation between prospective anti trafficking team members, and?
- What is the level of political will and interest among those government officials who would be the implementers of the plan?

The first task is to gain a foundational understanding of human trafficking within the host country by answering such questions as: Who are the victims and where do they come from? What kind of coercion is used to control the victims? What are the historical and cultural factors that influence trafficking or the response to it? Is there trafficking of minors into sexual exploitation? What industries tend to have labor trafficking? Next, the Department's trafficking experts design a matrix of the necessary tools that would be required to rescue particular victims, place them into restorative care, and hold perpetrators accountable.

Once the assessment is completed, the United States Government, through the local United States Embassy, and the host government enter into a Letter of Agreement (LOA) that states the roles and responsibilities of both parties and the level of funding to be provided in connection with the

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President's initiative. Department team members then coordinate with the other federal agencies to deploy training and other capacity building and to assign to the host country personnel from the United States Government to provide expertise and mentoring to those working on the anti-trafficking project. A primary goal of every LOA entered into in connection with the President's initiative is the Department's imperative to rescue victims and hold perpetrators accountable. The President's initiative was designed to place a clear emphasis on results that change lives for victims and their families.

The United States Government's work with the Mexican Government in connection with this initiative presents a useful illustration of the Department's work. Since 2003, the Department's Civil Rights and Criminal Divisions have been actively conducting country planning sessions in both Mexico and Indonesia, and has detailed a Civil Rights Division attorney to the United States Embassy in Moldova, in connection with the President's international human trafficking initiative. In Mexico, a significant number of senior United States law enforcement specialists met repeatedly over the past year with their counterparts from the Mexican Government before a final Letter of Agreement was signed in mid 2005. As a result, both partners have a clear understanding of how the President's program will be implemented. One significant factor in the United States-Mexico anti-trafficking partnership is the agreement to work together on cases that involve criminal trafficking enterprises that are active on both sides for the border.

Collaboration with Foreign Law Enforcement

Another important Departmental component in the international arena is the Office of International Affairs of the Criminal Division, which serves as the link between federal, state, and local anti-trafficking efforts and foreign prosecution and judicial authorities. Good working partnerships with foreign governments have been essential to the Department's efforts to combat human trafficking. The Office of International Affairs' most significant contribution to United States Government anti-trafficking efforts has been to assist in gathering evidence from abroad and to assist foreign prosecutors in gathering evidence located in our country. For example, in *United States v. Carreto*,[80] Mexican nationals were accused of recruiting uneducated women and girls from impoverished areas of Mexico and compelling them to prostitute themselves in both Mexico and New York. Carreto's victims were forced to service up to 20 men a day as prostitutes and were beaten if they did not make enough money during a single day or if they attempted to hide the money they made. One victim was also forced to have an abortion.[81] The Office of International Affairs, in collaboration with the United States

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[80] *United States v. Carreto*, Cr. No. 04-140 (E.D.N.Y. 2004).

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Attorney's Office for the Southern District of New York, helped secure testimony, as well as documentary and physical evidence, gathered by Mexican authorities in their investigations of the Carretos' transnational operation. Similarly, the Office of International Affairs secured evidence and testimony from Russia in support of a federal prosecution by the United States Attorney's Office for the Central District of California of a defendant in California accused of trafficking her niece into the United States and forcing her to be used in prostitution.[82]

The Office of International Affairs also works to extradite traffickers from foreign nations to the United States or from our country to foreign nations for prosecution. On September 28, 2005, Mexico provisionally arrested a Mexican national pursued by the United States Attorney's Office for the Southern District of Florida on charges including conspiracy, alien smuggling, and transporting women and minors for purposes of prostitution between August 1996 and February 1998. The victims, who reportedly did not know their fate until they arrived in the United States, were not allowed to leave the brothels until they paid a smuggling fee to the accused, who allegedly took 70% of the prostitution proceeds.

Since fiscal year 2003, the Federal Bureau of Investigation has participated in the Southeast European Cooperative Initiative, a multilateral organization designed to combat trans-border crime and develop closer law enforcement coordination among its members, as the lead observer on human trafficking cases and has detailed agents to Albania, Bulgaria, and Romania to work on trafficking issues. The Southeast European Cooperative Initiative Regional Center for Combating Trans-Border Crime in Bucharest, Romania, coordinates southeastern European police and customs regional actions for preventing and combating trans-border crime, including trafficking in persons and migrant smuggling. The following twelve countries are actively involved with the Center: Albania, the Federation of Bosnia and Herzegovina, Bulgaria, Croatia, Greece, Hungary, Macedonia, Moldova, Romania, Serbia and Montenegro, Slovenia and Turkey.

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[81] *Id.*

[82] *Id.*

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Foreign Training and Technical Assistance Programs

Dismantling transnational human trafficking networks requires a willingness and ability to work closely with our foreign partners in countries where victims are recruited. Consequently, the Civil Rights and Criminal Divisions are actively involved in outreach and providing technical assistance to foreign governments and non-governmental organizations. Since 2002, Civil Rights Division officials have addressed international gatherings convened in countries such as Azerbaijan, Belize, Brazil, Cambodia, Canada, China, Colombia, the Dominican Republic, El Salvador, Guatemala, Hungary, India, Indonesia, Japan, Mexico, Moldova, Philippines, South Africa, Suriname, Thailand, and Ukraine, to encourage a coordinated response to human trafficking worldwide. These events are attended by foreign law enforcement executives, prosecutors, judges, and non-governmental organizations that advocate on behalf of or provide assistance to trafficking victims.

The Criminal Division's Offices of Overseas Prosecutorial Development, Assistance and Training and its sister organization, the International Criminal Investigative Training Assistance Program work to build effective partnerships with other law enforcement agencies sharing the goal of eradicating predatory trafficking groups. Between fiscal years 2001 and 2005, the Office of Overseas Prosecutorial Development, Assistance and Training conducted a total of 142 training and technical assistance programs involving 25 countries.

The Criminal Division's International Criminal Investigative Training Assistance Program has partnered with 12 nations, including Albania, Armenia, Azerbaijan, Bosnia-Herzegovina, Costa Rica, Georgia, Indonesia, Macedonia, Nigeria, Ukraine, Russia, and Senegal

Assistant United States Attorney Susan Coppedge, in the Northern District of Georgia, was selected as a recipient of the 2006 Ian Axford New Zealand Fellowship in Public Policy to study Human Trafficking issues in New Zealand by the Common Wealth Fund. Ian Axford Fellowships in Public Policy give outstanding mid-career American professionals opportunities to study, travel, and gain practical experience in public policy in New Zealand, including firsthand knowledge of economic, social, and political reforms and management of the government sector.

AUSA Coppedge will work to strengthen anti-trafficking policies and laws in New Zealand. She plans to develop a comparative analysis of New Zealand and American approaches to combating human trafficking. During her six-month fellowship, AUSA Coppedge will be based with the New Zealand Ministry of Justice and the New Zealand Police.

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to build local capacity to prevent and combat trafficking in persons. International Criminal Investigative Training and Assistance Program projects have included training foreign police on how to properly identify and investigate trafficking cases, especially techniques for interviewing victims. Activities also included developing strike forces and specialized anti-trafficking police units; providing equipment and information technologies to manage trafficking-related cases; and developing law enforcement manuals to assist police to conduct investigations, make arrests, and rescue victims.

Insert graphic of all countries referenced re foreign assistance programs

Department experts also participate in regional, multilateral consultations between law enforcement executives that promote international cooperation between the country of victim origin and the destination country, such as the Southeast European Cooperative Initiative, which is discussed in more detail below. Attendees at workshops conducted by the Department are often law enforcement executives who can and do take information and put it into practice. In one recent example, Department lawyers relied upon contacts made through these training sessions to assist a country in arresting recruiters who held the children of trafficking victims as hostages to prevent the victims from providing evidence to assist in a United States prosecution.

Educating Foreign Visitors to United States

The Civil Rights Division, the Criminal Division's Child Exploitation and Obscenity Section, the Federal Bureau of Investigation, and the Office for Victims of Crime, supplement the Department's foreign assistance programs by providing technical assistance and informational briefings with foreign delegations to the United States. Since the passage of the TVPA, Civil Rights Division lawyers have participated in numerous training and outreach programs, speaking at more programs last year and the year before than ever before in countries such as Austria, Cambodia, Mexico, Singapore, and Thailand. The Department's experts have also assisted their counterparts in other countries with assistance in developing a victim-centered response to human trafficking through meetings and training workshops. For example, many foreign governments host their own training in partnership with the United States Embassy. Lasting a week to two weeks, the Department's attorneys, investigators, and victim specialists teach critical skills such as evidence gathering, pro-active investigations, and victim interviews. Workshops provide an opportunity to practice skills and learn new law enforcement methods that reflect the lessons Department has learned in investigating and prosecuting these cases. The Department's consistent theme in each of these events is to present the crime of human trafficking as a multi-disciplinary challenge requiring collaboration among governmental and non-governmental agencies. The Department has learned that a critical need in many developing countries is the ability to develop a framework for governmental and non-governmental organizations to collaborate, particularly as it concerns the protection of victims and programs to prevent further victimization.

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In addition, some United States Attorney Offices, particularly in connection with their local Task Forces, have been involved in training and educating visitors from foreign governmental and non-governmental organizations about strategies to combat human trafficking. Representatives of the United States Attorney's Office for the Middle District of Florida, for example, along with its task force members from the Collier County Sheriff's Office, the Immigrant Rights Advocacy Center, and the Florida State University Center for the Advancement of Human Rights, traveled to Central America in late 2004 to educate governmental leaders about the efforts of their task force to combat human trafficking and provide assistance to its victims. An additional example is that of the United States Attorney's Office for the Western District of Washington, where the Seattle offices of the Bureau of Immigration and Customs Enforcement, the Federal Bureau of Investigation, and the United States Department of Labor's Office of the Inspector General have worked together to share information about efforts to combat human trafficking with officials and visitors from countries such as Brazil, Germany, Mexico, France, Italy, and Spain, and with organizations like the World Affairs Council.

The Department also works with foreign governments to adopt legislation that aids in the investigation and prosecution of traffickers and the protection of victims. Through the Office of Overseas Prosecutorial Development, Assistance and Training, the Department's trafficking experts in the Civil Rights Division, Child Exploitation and Obscenity Section and United States Attorneys' Offices assist foreign governments with the development and ratification of anti-human trafficking legislation to help ensure that foreign governments adopt laws that are victim-centered and compliant with the Palermo Protocol.[83] For example, in fiscal year 2004 alone, Civil Rights Division attorneys and its victim-witness coordinator have conducted training sessions and have assisted in drafting trafficking legislation in Asia, Africa, Europe, the Caribbean, North America, and South America, in coordination with the Office of Overseas Prosecutorial Development, Assistance and Training. These training sessions emphasize the Department's experience in investigating and prosecuting these cases, collecting evidence, and keeping the victim safe.

In fiscal year 2004, the Office of Overseas Prosecutorial Development, Assistance and Training and the International Criminal Investigative Training and Assistance Program assisted 7 foreign nations with legislation that directly or indirectly furthered anti-human trafficking efforts in fiscal year 2004. The Office of Overseas Prosecutorial Development, Assistance and Training provides substantial technical assistance based on a victim-centered strategy known commonly as the "Three Ps of Trafficking in Persons: Prevention, Protection and Prosecution." Technical assistance by this office includes educating and developing joint projects with foreign law enforcement officials geared to strengthening their capacity to prevent transnational trafficking; protect victim witnesses and thereby encourage their participation in investigations and

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[83] Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, U.N. Doc. A/55/383 (2000)(entered into force on Dec. 25, 2003; signed by the United States on December 3, 2005).

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prosecutions; and effectively investigate and prosecute trafficking cases. This office also works with host countries on developing evidence collection techniques which can generate evidence usable in prosecutions – either here in the United States or in a foreign country.

The Federal Bureau of Investigation, working through the Office of Overseas Prosecutorial Development, Assistance and Training, has provided training programs in Azerbaijan, Suriname and Ghana. In fiscal year 2004, the FBI trained 50 international visitors, including officials from Australia, India, Pakistan, South Africa, Haiti, and England. In addition, the Bureau's Civil Rights and the Asian Criminal Enterprise and Crimes Against Children Units conducted a training session at the British Embassy in January 2005 during a program jointly sponsored by the British Embassy and Women in Federal Law Enforcement.

Another component of the Department's international human trafficking program are activities to prevent victimization. An important step towards prevention is the Department's efforts to increase international public awareness about human trafficking. Raising the visibility of human trafficking and the efforts of the United States government to combat it encourages foreign governments to take victim-centered action to prevent, uncover, and prosecute cases of human trafficking. International public awareness is increased through activities of the Civil Rights Division, the Federal Bureau of Investigation, the Office of Justice Programs, the Office on Violence Against Women, and United States Attorneys' Office working through the Office of Overseas Prosecutorial Development, Assistance and Training and the International Criminal Investigative Training Assistance Program, in connection with briefings for foreign delegations and training programs. These training programs provide foreign parties – law enforcement officials, prosecutors, legislators, and non-governmental organizations – with information about the strategies the Department has employed to combat trafficking. Federal investigators and prosecutors, mostly Civil Rights Division attorneys, share lessons learned in prosecuting these cases, building local multi-disciplinary task forces, and providing services and protection for victims.

Insert Graphic of Globe Showing international efforts

As a further part of the Department's efforts concerning sex and labor trafficking, the Child Exploitation and Obscenity Section has trained attorneys and investigators from numerous countries on sex trafficking of children. Child Exploitation and Obscenity Section staff have trained individuals from: the Council of Baltic States (11 Baltic nations), Albania, Angola, Armenia, Austria, the Balkans, Belgium, Belize, Bosnia, Brazil, Bulgaria, China, Costa Rica, Croatia, Czech Republic, El Salvador, Ecuador, Georgia, Germany, Guinea, Hungary, Indonesia,

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Israel, Japan, Korea, Lithuania, Latvia, Macedonia, Mexico, Montenegro, Nigeria, Panama, the Philippines, Poland, Romania, Russia, Senegal, Serbia, Slovenia, South Africa, Suriname, Thailand, the United Kingdom, and Ukraine, among others.

States, governors, and legislatures can help by adopting anti-trafficking laws. The Justice Department has created a model state anti-trafficking law, and I intend to send a copy of it to every governor and legislative leader in those 40-plus states that do not yet have their own anti-trafficking laws.

-Attorney General Alberto R. Gonzales at the Hoover Institution Board of Overseers Conference, February 28, 2005

E. Fostering State, Local and Non-Governmental Activities to Combat Human Trafficking

The Department's work with state and local governmental agencies, particularly activities to expand anti-trafficking law enforcement authority, is intended to harness the nearly 700,000 state and local law enforcement officers who might come into contact with trafficking victims.[84] The number of law enforcement and prosecutorial resources dedicated to trafficking may be exponentially increased by combining federal, state and local assets. Thus, in 2004, the Department developed and introduced a model state law at the National Training Conference on Human Trafficking because many states do not have laws that criminalize this activity. At that time, only four states - Texas, Florida, Missouri, and Washington - had state laws against trafficking. The model state law reflects lessons learned through the Department's prosecutions, especially enforcement of the TVPA by the Civil Rights Division. Adoption of the model statute would promote a uniform national legal strategy to combat human trafficking.

Insert Senator Cornyn picture at Houston Human Trafficking Rescue Alliance event.

[84]Fed. Bureau of Invest. Uniform Crime Rep. (2004). There are 676,000 state and local sworn officers.

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On July 21, 2004, the United States Senate unanimously passed a resolution, authored by Texas Senator John Cornyn, endorsing the Department's model state anti-trafficking statute and encouraging states to adopt it. The Senate resolution also singled out for praise the Civil Rights Division in its prosecution of human trafficking crimes and lauded the Department's National Conference on Human Trafficking. In March 2005, Attorney General Gonzales sent letters to state governors and legislative leaders explaining the scope of the trafficking problem, pointing to the need for state assistance to the federal government in fighting trafficking, and urging them to adopt the model. Department officials have since promoted the model law, and Civil Rights Division attorneys continue to provide technical assistance regarding the model state law to state legislators and related organizations, such as the National Foundation for Women Legislators. To date, 15 states have enacted anti-trafficking legislation, many of which reflect the Department's model criminal statute.

Insert graphic of states and territories that have passed anti-trafficking legislation

As discussed above,[85] outreach and technical assistance are critical to uncovering this insidious crime. The Civil Rights Division, along with the Criminal Division, the Federal Bureau of Investigation, the Office of Justice Programs, the Office on Violence Against Women, and United States Attorneys' Offices, works actively to increase awareness among local law enforcement and community- and faith-based organizations through training presentations and the provision of technical assistance. The strategy employed by each of these components reinforces a victim-centered approach to prosecutions and the collaborative work of task forces. Examples of the Department's activities to increase awareness of human trafficking among state and local governmental agencies, non-governmental organizations, and in our nation's communities include the following:

- Attorneys in the Civil Rights Division and the Office of Legal Policy authored an August 2002 article in *Police Chief Magazine*, entitled *Working Together to Stop Modern-Day Slavery*. The article outlined ways for local law enforcement during the course of their

[85] *See*, Part III "Scope of the Problem," section B "The Department Responds to the Crime with A Victim-Centered Approach."

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usual investigations to identify trafficking cases.

- In fiscal year 2003, the Civil Rights Division conducted training sessions in the Washington, D.C. metropolitan area, New York City, Chicago, San Diego, Atlanta, Dallas, and several other cities and with numerous non-governmental organizations such as the U.S. Conference of Catholic Bishops, Women in Federal Law Enforcement and the National Organization of Black Law Enforcement Executives.

- An attorney in the Civil Rights Division authored a December 2003 article in *Police Chief Magazine*, entitled, *Human Trafficking: A Guide to Detecting, Investigating, and Punishing Modern-Day Slavery*. The article gave an overview of federal anti-trafficking efforts and urged increased cooperation among state, local, and federal law enforcement officials.

HUMAN TRAFFICKING

A Guide to Detecting, Investigating, and Punishing Modern-Day Slavery

By Bharathi A. Venkatraman, Federal Prosecutor and Special Counsel for Trafficking in Persons, Civil Rights Division, U.S. Department of Justice, Washington, DC

In April 1997, Joseph (not his real name), a homeless, drug-addicted African American man stumbled through the woods in Fort Pierce, Florida. He was dazed and bloody, having just been repeatedly kicked and beaten about the head and face. Deputy Lee, of the Saint Lucie County Sheriff's Department, who was investigating a report of a missing child, observed Joseph. Noticing Joseph's injuries, Lee summoned medical assistance and interviewed the injured man. Thus began an investigation initiated by the Saint Lucie Sheriff's Department, in conjunction with the Fort Pierce Police Department, that uncovered violent and abusive conduct on the part of Lewis Phillips, a fruit harvesting contractor who employed Joseph and a number of other workers on a seasonal basis. Phillips hooked Joseph and other workers on crack cocaine in lieu of paying them adequate salaries, and applied their earnings of 55 cents per bin of fruit picked to the crack debt that the workers owed him. Phillips's payment scheme resulted in a burgeoning debt for Joseph and the other workers and little, if any, take-home pay. Growing increasingly dissatisfied with his work situation, Joseph left Phillips's employ in favor of working for a competing fruit harvesting contractor who offered Joseph better terms. Once Phillips discovered that Joseph had left to work for a competitor, Phillips became enraged and enlisted the assistance of an enforcer to kidnap, beat, and brutalize Joseph in order to "teach him a lesson. . . ."

On the morning of November 22, 1999, 18-year old Geeta came home to her apartment in Berkeley, California, and was confronted by a horrifying sight. Her two roommates, sisters Leela, 16, and Radha, 14, were lying on the floor, unconscious. The apartment was stifling hot, and Geeta ran about grabbing water and ice to sprinkle on her two unconscious roommates, in hopes of reviving them. Geeta then shook and ultimately slapped the two sisters, but they remained unresponsive. A poor young woman from southern India, Geeta was not well educated and unable to speak English. Utterly desperate, she phoned her place of employment, an Indian restaurant in Berkeley, and summoned restaurant workers to come and assist her. The restaurant personnel arrived in a van and attempted to calm Geeta, who was waiting for them outside of the apartment, in a state of extreme agitation. The workers then called one of the unconscious sisters in a rug in order to carry her to the waiting van in a concealed fashion. However, their attempts at concealment failed when a passing motorist noticed a human body part protruding from the rug. Alarmed, the motorist called the Berkeley Police Department. Berkeley police officers responded immediately, along with paramedics, and became suspicious that three young girls, with little or no English language skills, were living alone. Their investigation, which ultimately involved federal agents, revealed that the young unconscious girls were the victims of carbon monoxide poisoning due to a malfunctioning heater. Tragically, one of the two sisters, Radha, ultimately died. The investigation, however, led to the discovery that the young immigrants were sex abuse victims of a wealthy and powerful Bay Area business man who was also their employer.

Both of these examples are drawn from real-life human trafficking cases prosecuted by the Department of Justice. Despite the obvious distinctions between the two scenarios and the means used to harm the victims, they share one fundamental feature: both incidents involve defendants who intimidated victims and forced them to work against their will. Such conduct amounts to modern-day slavery, also known as trafficking in persons.

The Importance of Identifying the Crime

Human trafficking is not always easy to detect. As these two cases demonstrate, trafficking can masquerade as a variety of other offenses. However, it is important to identify modern-day slavery for what it is—an assault on fundamental human dignity. Local law enforcement officers are the first responders in the communities where such crimes occur and are therefore the key players in identifying and exposing these serious crimes.

Human Trafficking Defendants Receive Big Sentences

Identifying trafficking crimes for what they are is an efficient way to punish effectively a variety of criminal activity. Time and again we have witnessed the frustration of local officers who arrest persons involved in vice or domestic violence offenses and spend countless hours completing paperwork, only to encounter the same offenders on the street in a matter of days. Lenient laws that enable perpetrators to get away with a mere slap on the wrist serve as a disincentive to enforcement.

By contrast, trafficking crimes carry hefty sentences. Consider the sentences meted out in *United States* v. *Jimenez-Calderon*, a recent sex trafficking case prosecuted by the Department of Justice and local law enforcement in Newark, New Jersey, a case that just as easily could have been prosecuted as a prostitution case. In *Jimenez-Calderon*, the defendants lured and transported young Mexican girls into the United States under false pretenses, and then forced them into prostitution, using physical violence and threats to maintain strict control over them. On August 7 of this year, two female defendants who supervised the victims were sen-

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- In fiscal year 2004, the Civil Rights Division conducted more than fifty training sessions around the United States at conferences and meetings in cities such as Albuquerque, Baltimore, Chicago, Houston, Los Angeles, Newark, New Jersey, and Salt Lake City.

- With funding from the Office on Violence Against Women, the International Association of Chiefs of Police is developing a training package for local law enforcement officers, including a guidebook on the identification and investigation of human trafficking crimes and a roll call training video with a discussion guide to accompany the guidebook.

- The International Association of Chiefs of Police National Law Enforcement Leadership Initiative, in connection with a $200,000 cooperative agreement with the Office on Violence Against Women, is planning a summit of law enforcement leaders in the summer of 2006 to continue to extend the level of awareness of and commitment to combating human trafficking.

- The Bureau of Justice Assistance, in collaboration with the Office of Community Oriented Policing Services (COPS), initiated, in fiscal year 2005, a program to educate local law enforcement about human trafficking through the COPS Regional Community

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Policing Institutes at a cost of $245,000. In 2005, COPS conducted three "train-the-trainer" sessions for 300 law enforcement trainers, including members of the then-existing 18 multi-disciplinary task forces, with the human trafficking curriculum developed by the Bureau of Justice Assistance. This program will be expanded in 2006 to hold at least five sessions, educating 5,100 law enforcement personnel.

- Also in fiscal year 2005 and independent of the Bureau of Justice Assistance, COPS sponsored an additional 6 training sessions for nearly 700 law enforcement officers, non-law enforcement governmental officials, and community-based organizations.

- The National Institute of Justice is supporting research that will provide a clear perspective on the current state of law enforcement's understanding of human trafficking. The research will identify current law enforcement responses to human trafficking; the implications of such responses for victims; and best practices and lessons learned by law enforcement and the partners with whom they collaborate on trafficking cases (e.g., victims service providers, attorneys, etc.).

- The Office of Juvenile Justice and Delinquency Prevention, through the National Center for Missing and Exploited Children and the Fox Valley Technical College, provides training on topics such as child maltreatment, runaway and missing children, the protection of children, and domestic trafficking of children for sexual purposes. This training program has educated approximately 36,500 persons between 2001-2005 with about 27,5000 persons trained between 1998-2000.

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VII. Conclusion

The Department has achieved incredible success in carrying out President Bush's directive to combat human trafficking. Under this Administration, the Department has been aggressive and effective in its effort to halt human trafficking. Prosecutorial activity has increased four-fold when compared to the last five years of the previous administration. The Department also has been innovative in its approach, by developing a multi-disciplinary victim-centered approach to uncovering human trafficking schemes, rescuing and protecting victims and working with foreign, governmental and non-governmental partners to prevent further victimization. Moreover, the Department is ensuring that the important work to combat human trafficking of the Civil Rights Division and the Federal Bureau of Investigation's Civil Rights Unit is complemented by, and coordinated with, the contributions of the many other Department components identified throughout this report that contribute in meaningful ways to this important Departmental priority. There is however, much work to be done.

Because the fundamental liberties of a human trafficking victim are violated by traffickers, the Civil Rights Division will continue to lead the Department's efforts to combat this heinous crime, working with federal investigators and prosecutors as well as victim services organizations both here and abroad. With the new tools found in the TVPRA of 2005, the Department will continue to work with its federal, state and local partners to expand the reach and intensity of anti-human trafficking task forces and encourage states to criminalize sex, labor and child sex trafficking.

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From: @apprisemedia.com
Sent: Wednesday, January 11, 2006 3:29 PM
To: @cfr.org
Cc: Gorsuch, Neil M
Subject: FW: Detainee Treatment Roundtable
Attachments: CV.doc

The working title of the Session is:

US Policy on the Treatment and Interrogation of Detainees in the War on Terror: A Discussion of the McCain-Graham Amendment

Confirmed panelists are:

Visiting Professor of Law US Military Academy West Point (CV attached)

Human Rights Watch's Senior Military Analyst. (Waiting for his CV from Human Rights Watch)

Please call if you've any questions.

[redacted]
Visiting Professor of Law, Department of Law
U.S. Military Academy; 646 Swift Road; West Point, NY 10996-1905
Office phone: 849-[redacted] fax: 845-[redacted]; office e-mail: [redacted]@usma.edu

EDUCATION

Ph.D.	The London School of Economics & Political Science Overseas Research Student's Award, for "outstanding merit and research potential"	1992	Dissertation: The Uniform Code of Military Justice and the 1949 Geneva Conventions
LL.M.	The George Washington University National Law Center	1978	Criminal Law
J.D.	The University of California at Davis, King Hall Distinguished Alumnus Award, October 2001	1971	Law
B.A.	San Diego State College	1963	Sociology

PROFESSIONAL POSITIONS

Visiting Professor of Law, United States Military Academy, West Point, New York — 2004 – present
Program Director, Law of War instruction

Adjunct Professor of Law, Georgetown University Law Center, Washington, D.C. — 2002 – present
Seminar in The Law of Armed Conflict.

Adjunct Professor of Law, Catholic University's Columbus School of Law, Washington, D.C. — 2004
Seminar in the Law of Armed Conflict

Chief of Oral History, History & Museums Division, United States Marine Corps — 2001 – 2004
Responsible for collecting and accessioning interviews of Marine Corps personnel, and others, to support the writing of operational histories. Awarded the Department of the Navy's Meritorious Civilian Service Medal (2004).

Associate Professor of Law, United States Military Academy, West Point, New York — 1996-2001
Program Director, Law of War instruction. Courses taught: Law of War For Commanders; Constitutional and Military Law; International Criminal Law. Awarded 1998 Phi Kappa Phi Distinguished Teaching Award; U.S. Army's Superior Civilian Service Medal (2000); U.S. Army's Meritorious Civilian Service Medal (2001).

Law Teacher, Department of Law, The London School of Economics & Political Science — 1993-1996
Courses taught: British Criminal Law; British Commercial Law

PUBLICATIONS

Books:

Son Thang: An American War Crime (Annapolis, MD: Naval Institute Press, 1997) 340 pp., photos, maps, append., notes, index. Bantam paperback edition, 1998. Marine Corps Heritage Foundation's Greene Award as year's best book; U.S. Naval Institute's Author of the Year; nominated: U.K.'s Royal United Services Institute For Defense Studies' Westminster Medal

Marines and Military Law in Vietnam: Trial By Fire (Washington, D.C.: GPO, 1989) 295 pp., photos, maps, append., notes, index. An official U.S. Marine Corps history

Book chapters:

"Military Justice and Civilian Clemency," chapter in John Norton Moore, Robert Turner, eds., *The Real Lessons of the Vietnam War* (Durham NC: Carolina Academic Press, 2002).

"Military Commissions and Terrorists," chapter in Eugene R. Fidell, Dwight H. Sullivan, eds., *Evolving Military Justice* (Annapolis, MD: Naval Institute Press, 2002).

"Military Commission Instruction No. 3, Responsibilities of the Chief Prosecutor," chapter in *Military Commission Instructions Sourcebook* (Nat'l Institute of Military Justice, Washington D.C., 2003).

Peer reviewed articles:

"Obedience to Orders: History and Abuses at Abu Ghraib Prison," 2-4 *Journal of International Criminal Justice* (Dec. 2004) 988-998.

"Military Justice, Civilian Clemency: The Sentencing of Marine Corps War Crimes in Vietnam," 10:1 *Transnational Law & Contemporary Problems*, 59-84 (Apr 2001).

"Obedience of Orders and the Law of War: Judicial Application in American Forums," 15:2 *American University International Law Review*, 481-526 (March 2000).

"CAAF Roping at the Jurisdictional Rodeo: *Clinton v. Goldsmith*," co-authored with Prof. John Winkle, 162 *Military Law Review* 219 (Dec. 1999).

"*Sub Judice* Rules and Perceptions of the Law: Another Viewpoint," 11 *Commonwealth Judicial Journal* 6 (Dec. 1995)

Other Articles:

"Dialysis for a Prisoner of War." *Hastings Center Report*, vol. 34, no. 6 (Dec. 2004). Co-authored with Col. Daniel Zupan.

"Duty, Honor, Country and *Semper Fidelis*." *Naval History* magazine (Oct., 2003). Nominated, 2004 Marine Corps Heritage Foundation's Heinl Award, for year's best non-fiction article.

"The Last Marine Out of Kosovo," *Fortitudine* magazine, 20xxx1, Oct. 2003.

Commentary: "'Enemy Combatants' Should Worry Us." U.S. Naval Institute's *Proceedings*, 2 (Dec. 2002).

The Washington Post, op-ed, "Even A 'Bad Man' Has Rights," A-19, 25 June 2002.

"Terrorists, Due Process, and Military Commissions." *Marine Corps Gazette,* 46-48 (Feb. 2002)

"Are We Really At War?" U.S. Naval Institute's *Proceedings*, 34-40 (January, 2002).

The Washington Post, op-ed, "The Law of War," A-17, 30 April 2001.

Recent book reviews:

Commandants of the Marine Corps, Allan Millett, Jack Shulimson, eds. In Jan. 2005 *The Journal of Military History*.

Judge Advocates in Vietnam: Army Lawyers in Southeast Asia, 1959-1975, by Col. Frederic L. Borch. In July 2004 *The Journal of Military History*.

Tanks on the Beaches: A Marine Tanker in the Pacific War, by Robert M. Neiman & Kenneth W. Estes. In 33 *Military History of the West* 63 (2003).

The Vietnam War on Trial: The My Lai Massacre and Court-Martial of Lt. Calley, by Michal R. Belnap. In April 2003 *The Journal of Military History.*

Law and War: An American Story, by Peter Maguire. In July 2002 *On Point*, journal of the Army Historical Foundation.

Ungentlemanly Acts, by Louise Barnett. In *The Review of Politics*, Jan. 2002.

Morals Under the Gun: The Cardinal Virtues, Military Ethics, and American Society, by James H. Toner, in Jan. 2001 *Proceedings*, journal of the U.S. Naval Institute.

Pursuing Military Justice, by Jonathan Lurie. In *American Journal of Legal History*, Feb. 2001.

Obeying Orders, by Mark Osiel. In *The Review of Politics*, Jan 2001.

EXPERT WITNESS TESTIMONY

United States v. Sgt. Gary Pittman, a Marine Corps general court-martial involving charges of dereliction of duty and multiple assaults of Iraqi prisoners at Camp White Horse, Iraq. 22-25 August 2004.

MILITARY EXPERIENCE

Twenty-six years active U.S. Marine Corps commissioned service (1963-1989), eighteen as a judge advocate. Seventeen months Vietnam field duty, including platoon and (twice) company command. As a judge advocate, tried 433 criminal cases. Chief prosecutor, 1st Marine Division and 3d Marine Division. Staff Judge Advocate, Headquarters, Fleet Marine Forces, Atlantic. As general court-martial judge, presided in 330 jury and bench trials. Chief of Military Law Branch at Headquarters, U.S. Marine Corps.

SELECTED PAPERS, SPEECHES, AND LECTURES

Harvard Law School. Conference speaker/panelist. "Humanity Under Fire: Time to Revise the Geneva Conventions?" Boston, Massachusetts. 11 April 2005.

Georgetown University Law Center. Conference speaker/panelist. "Outsourcing Warfare: Defense Contractor Accountability for Human Rights Abuses" Washington D.C. 9 April 2005.

American University's, Washington College of Law. Conference: The Geneva Conventions & the Rules of War in the Post-9/11 World. Panel chair and participant on two panels: "The Role of Private Contractors in 21st Century War," and "Protection of Civilians in Hostilities." Washington D.C., 24 March, 2005.

University of Mississippi. Guest lecturer, Honors seminar, Genocide and Memory: "International Humanitarian Law, War Crimes and Societal Responses. Oxford. 2 March, 2005.

Society for Military History, annual conference. Panel chair and commentator: "Meeting Terrorism: Military Approaches, New and Old. Charleston, S.C. 25 Feb. 2005.

Georgetown University Law Center. Guest lecturer, seminar on Strategic Intelligence and Public Policy. Washington, D.C. 17 Feb. 2005.

The Association of the Bar of the City of New York, Military Law Section. Lecture. "The Law of Armed Conflict, *Hamdan v. Rumsfeld*, and the United States. 1 Dec. 2004.

U.S. Marine Corps Command & Staff College. Lecture: "Command Responsibility in Combat." Quantico, Virginia, 29 Oct. 2004.

American University's Washington School of Law. Seminar instructor, American Intelligence Law and Foreign Policy. Washington, D.C., 28 Oct. 2004.

International Institute of Humanitarian Law, San Remo, Italy. Instructor, Advanced Course, International Human Rights Law. 11-15 Oct. 2004.

Georgetown University Law Center. Lecture to Joint Seminar in Law and Philosophy: War. 13 September 2004.

United States Naval Academy. Lecture, Naval Postgraduate School's Leadership Education and Development Program, "When Things Go Wrong." Annapolis, Maryland, 27 August 2004.

The Smithsonian Institution. Resident Associate Lecture Series. Panelist: "From Pearl Harbor to Tokyo: The Pacific Campaign of World War II." Washington D.C., 24 July 2004.

The Smithsonian Institution. Resident Associate Lecture Series. Six-lecture series, "Battlefield Law of War." Washington D.C., 8 June to 13 July, 2004.

The Library of Congress, Public Affairs Veteran's Forum lecture series. "The Law of War, Abu Ghraib, and War Crimes." Washington, D.C., 10 June, 2004.

U.S. Marine Corps Command & Staff College. Lecture: "Command Responsibility in Combat." Quantico, Virginia, 2 June, 2004.

American Bar Association, International Law Section. Semi-annual Meeting speaker. "Military Commissions in International Law – A Practitioner's Primer." New York City, 16 April, 2004.

United States Naval Academy. Speech: "Military Commissions and Cuban Detentions." 2004 Distinguished Speaker Series. 12 April 2004.

International Institute of Humanitarian Law, San Remo, Italy. Guest lecturer and instructor, 4th Military Academies Law of War competition. 28 March – 2 April 2004.

Stetson University College of Law. Lectures: Military Commissions and the Law; The Constitution and Military Commissions. Gulfport Florida, 23-24 Sept. 2003.

United States Naval Academy. Lecture: Naval Postgraduate School's Leadership Education and Development Program, "Leadership in Military Culture." 10 Sept 2003.

Virginia State Bar Association annual conference. Panel chair and commentator: "Terrorists, Military Commissions and American Law." Virginia Beach, Virginia. 20 June, 2003.

Society of Military History annual conference. Panel chair and commentator: "9-11: A View From the Pentagon," Knoxville, Kentucky. 2 May 2003.

American University, Washington College of Law – Center for Human Rights and Humanitarian Law. "The Legal Standing of the Call to War." Law conference lecture. 3 April 2003.

Georgetown University Law Center. Speech to law faculty: "Why Is the U.S. Afraid of the International Criminal Court?" 27 March 2003.

International Institute of Humanitarian Law, San Remo, Italy. Guest lecturer, 98th Military Officer's Course, 7-13 March 2003.

United States Naval Academy. Lecture: Marine option midshipmen conference: "Decide Now!" 14 Nov., 2002.

Boston College School of Law. Panel: "Military Commissions; Their History and Their Law." Boston, Massachusetts. 17 September, 2002.

U.S. Marine Corps Command & Staff College. Lecture: "Law of War For the Military User." Quantico, Virginia. 29 August, 2002.

Virginia State Bar Association annual conference. Lecture: "Judging Terrorists: Military Tribunals or Criminal Courtrooms?" Virginia Beach, Virginia. 15 June, 2002.

Judicial Conference of the United States Court of Appeals for the Armed Forces. Paper and speech: "My Lai and the International Criminal Court," expansion of a paper delivered on 5 April. George Washington University, Washington, D.C. 15 May, 2002.

U.S. Marine Corps Command & Staff College. Lecture: "Son Thang and Senator Kerrey: Vietnam War Crimes." Quantico, Virginia. 2 May, 2002.

New York Military Affairs Society. Paper: "Proportionality: A History," City University of New York, New York City, NY. 26 April, 2002.

University of Richmond School of Law. Speaker and panel participant. Symposium, *Political Assassination as an Instrument of National Policy*. Richmond, Virginia. 11-12 April, 2002.

Society of Military History annual conference. Paper: "My Lai and the International Criminal Court," Madison, Wisconsin. 5 April, 2002.

United States Military Academy. Paper, "West Point Marines," USMA History Symposium, West Point, New York. 8 March, 2002.

United States Naval Academy. Lecture for Center For the Study of Professional Military Ethics: "Ethics For the Junior Officer." Annapolis, Maryland. 20 Feb., 2002.

United States Naval Academy. Lecture to Naval Postgraduate School course students: "Leadership in Military **Culture." Annapolis, Maryland. 19 Feb.2000.**

Washington, D.C. Bar Association, Military Law Section. Lecture: Military Commissions in U.S. History. Washington, D.C. 30 Nov., 2001.

Catholic University, School of Law. Lecture: "Trying War Crimes." Washington, D.C. 18 July 2001.

Royal Military College of Canada. Lecture: "My Lai and Its Legal Fallout." Kingston, Ontario, Canada. 5 March 2001.

New York Military Affairs Symposium. City University of New York. Paper: "Proportionality and Major General Barry McCaffrey in Desert Storm." New York City, New York. 3 Nov. 2000.

Center for National Security Law, University of Virginia School of Law. Lecture: "Vietnam War Crimes." Charlottesville, Virginia. 18 October 2000.

United States Military Academy, The Military Ethics Forum. Lecture: "Discipline in Combat." West Point, New York. 4 October, 2000.

Association of the Bar of the City of New York. Speaker: "Teaching the Law of War." New York City, New York. 3 May 2000.

University of Virginia School of Law, Center for National Security Law. Paper/panelist: "Military Justice, Civilian Clemency: Sentences of Marine Corps War Crimes in South Vietnam." Charlottesville, VA. 29 April 2000.

Judicial Conference of the United States Court of Appeals of the Armed Forces. Paper: "Obedience to Orders and the Law of War: The Once and Future War Crimes Defense." Washington, D.C. 7 May 1999.

Texas Tech University. The Vietnam Center's Third Triennial Vietnam Symposium. Paper: "The Punishment of Vietnam War Crimes." Lubbock, Texas. 17 April 1999.

National Institute of Military Justice. Conference on Military Law. Presenter: "Current Topics in American Military Law." London, England. 12 Dec. 1998.

University of Virginia School of Law, Center For National Security Law. Lecture: "My Lai and Hue: Two War Crimes." Charlottesville, Virginia. 19 Oct 1998.

Bard College, *Accounting for Atrocities: Prosecuting War Crimes Fifty Years After Nuremberg*. Paper and conference panelist: "Yamashita Had It Coming." Norfolk, Virginia. 5 Oct. 1998.

New York Military Affairs Symposium. City University of New York. Lecture: "Changing Currents in Military Law." New York City, New York. 25 Sept. 1998.

Siena College World War II symposium. Paper and conference panelist: "Obedience to Orders: How World War II Changed America's View of the Soldier's Legal Defense." Siena, New York. 4 June 1998.

United States Naval Academy. Phi Alpha Theta annual awards speaker. "The First Amendment and the Military Writer." Annapolis, Maryland. 23 April 1998.

Fordham University School of Law. Lecture: "Humanitarian Law: The Military Viewpoint." New York City, New York. 3 Feb. 1998.

University of Virginia School of Law, **Center For National Security Law**. Lecture: "Legal and Policy Issues of the Indo-China War." Charlottesville, Virginia. 22 Oct. 1997.

The Judge Advocate General's School, U.S. Army. 45th Graduate Course. Paper: "Military Justice in the Combat Zone." Charlottesville, Virginia. 14 April 1997.

McCormick Foundation Conference. Panel chair, *The Vietnam War, 1965-75,*and speaker: "Cambodia and Laos: the Hidden War." Chicago, Illinois. 6 March 1997.

Columbia University, Department of History. Lecture: "Law of War and Air Warfare in World War II." New York City, New York. 18 Nov. 1996.

PROFESSIONAL MEMBERSHIPS

The Bar of the Supreme Court of Virginia (Vice-chair, Military Law Section's Board of Governors, Virginia State Bar, elected to 1998-2001 and 2001-2004 terms); and the bars of the states of Pennsylvania, Maryland, Texas, and the District of Columbia; also, the bars of the United States Court of Appeals for the Armed Forces, the United States Court of Veterans Appeals, and the Supreme Court of the United States.

National Clearinghouse for Science, Technology and the Law (Advisory Council member)

American Bar Association

American Society of International Law (member, Membership Committee of ASIL's Lieber Society)

Phi Kappa Phi national academic honor society. Elected to membership 1999, U.S. Military Academy.

Associate Member, Association of Graduates of the United States Military Academy

NATIONAL/ INTERNATIONAL MEDIA INVOLVEMENT

National Public Radio (Washington D.C.) Commentary on proving murder in the combat zone. Aired 14 June 2005.
BBC World Service radio. Commentary on women in the Iraqi combat zone. 15 May 2005.
National Public Radio (Boston) "On Point." Discussion of senior accountability for military excesses in Iraq. 29 March 2005.
National Public Radio (Washington D.C.) Commentary on defining torture. Aired 18 March 2005.
National Public Radio (Washington D.C.) Commentary on lack of pervasiveness of criminality in U.S. forces in Iraq. 18 Feb. 2005.
War Stories. Fox Television News channel. "The Nuremberg and Tokyo War Crimes Trials." Aired 13 Feb. 2005.
National Public Radio (Boston) "All Things Considered." Discussion of legal attacks on military homosexual policy. 6 Dec. 2004.
The Association of the Bar of the city of New York. A talk before the Military Affairs Committee on the law applicable in Iraq, and the status of detainees, in light of the November *Hamdan* decision.
National Public Radio (Washington D.C.) Commentary on progress of Guantanamo military commissions. 23 Oct. 2004.
National Public Radio (Washington D.C.) Commentary on military justice and PFC Lynndie England's Abu Ghraib Article 32 investigation. Aired 3 August 2004.
Fox Daytime News. Televised interview on the trial of Saddam Hussein. 2 July 2004.
Fox Daytime News. Televised interview on Supreme Court's Guantanamo decision. 28 June 2004.
Sky News, London, U.K. Televised interview, on Supreme Court's Guantanamo decision. 28 June 2004.
CNN Late Night News. Televised interview regarding courts-martial of American Abu Ghraib accused. 20 June 2004.
National Public Radio (Washington D.C.) Discussion of torture, in military law and in international law. 21 May 2004.
National Public Radio (Washington D.C.) Discussion of the U.S. court-martial system. 19 May 2004.
"Nightline," ABC Network News. Commentary on the moral basis of the law of war. 19 May 2004.
National Public Radio (Los Angeles) Commentary on application of Geneva Conventions in Iraqi prisons. 18 May 2004.
National Public Radio (Washington D.C.) Commentary on application of the law of war in Iraq. 18 May 2004.
CNN Evening News. Televised discussion of Geneva Convention applicability in Iraq during the war's occupation phase. 7 May 2004.
National Public Radio (Washington D.C.) Commentary on U.S. court-martial procedure. Aired 6 May 2004.
CNBC News, with John Sigenthaler. Televised discussion of Abu Ghraib prison offenses. 3 May 2004
The News Hour, with Jim Lehrer. Televised discussion of Abu Ghraib prison offenses. 3 May 2004.
CBS Late Night News: "Up to the Minute." Televised commentary on applicability of Geneva Conventions in Iraq. 4 May 2004.
National Public Radio (Washington D.C.) Commentary on Marine Corps oral history program in Operation Iraqi Freedom. Aired 19 March 2004.
British Broadcasting Corporation (BBC) World News. Televised interview regarding the significance of Vietnam on 2004 presidential election. Aired 5 March 2004.
National Public Radio (Washington D.C.). Commentary regarding the first charges against Guantanamo detainees. 25 Feb. 2004.
Fox Evening News. Televised interview regarding trial of terrorists in federal courts rather than by military commission. 8 Feb. 2004.
National Public Radio (Washington D.C.). Commentary on military lawyers' *amicus* brief to U.S. Supreme Court in Guantanamo cases. 15 Jan. 2004.
Fox Daytime News. Televised interview, on trying Saddam Hussein. 17 Dec. 2003.
CNN Evening News. Paula Zahn interview, on torture and interrogating Saddam Hussein. 15 Dec. 2003.
Canadian Broadcasting Corporation. News World Today radio interview. LtCol. West Iraqi torture case. 3 Dec. 2003.
ARD Television News, Germany. Morning national news, on U.S. military commissions. Aired 2 Dec. 2003.
The History Channel. Interview: "The Real JAG." Courts-martial in the Vietnam combat zone. Aired 2 Nov. 2003.
ARD Television, Germany. Morning national news, on U.S. military commissions. Aired 3 July 2003.
Canadian Broadcasting Corporation. Eleven affiliated radio station interviews: court-martial of U.S. pilot who bombed Canadians. 26 June 2003.
Canadian Broadcasting Corporation. News World Today. Television interview: court-martial of U.S. pilot. 26 June 2003.
Fox Evening News. Televised interview on fragging in military history. Aired 12 April 2003.
National Public Radio. (Los Angeles) "To the Point," on the 1949 Geneva Conventions. 2 April 2003.
National Public Radio. (Washington, D.C.) "Diane Rheme Show," on the 1949 Geneva POW Convention. Aired 24 March 2003.
A&E Television Network. "The Point: Military Law," on military commissions. Aired 2 Feb. 2003.

ABC Television, Australia. Interview: No Gun Ri, Korea, 1950. Washington, D.C. Aired 5 Aug., 2002.

Fox Television News. Washington, D.C. *Greta van Susteren: On the Record*. 5 July 2002.

National Public Radio. (Boston) "Connections." With Prof. Ruth Wedgewood, on the lawfulness of military commissions. Washington, D.C. 31 January, 2002.

The History Channel. Interview: "The 50th Anniversary of the Uniform Code of Military Justice." New York City. 24 June 2001.

CBS Evening News. Television interview: Bob Kerrey is not a war criminal. From Cornwall, New York. 28 April 2001.

CNN Evening News. Television interview: Bob Kerrey is not a war criminal. From Cornwall, New York. 28 April 2001.

Good Morning America, ABC. Interview: Bob Kerrey is not a war criminal. New York City. 26 April 2001.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, January 11, 2006 3:34 PM
To: 'MBehringer@apprisemedia.com'; nbruno@cfr.org
Subject: RE: Detainee Treatment Roundtable

For the DC session, fyi, we have confirmed Brad Berenson, former Associate Counsel to the President. Matt Waxman at State is checking for the DC session; DoD Detainee Affairs is also still checking for the NY session.

-----Original Message-----
From: MBehringer@apprisemedia.com [mailto:MBehringer@apprisemedia.com]
Sent: Wednesday, January 11, 2006 3:29 PM
To: nbruno@cfr.org
Cc: Gorsuch, Neil M
Subject: FW: Detainee Treatment Roundtable

The working title of the Session is:

US Policy on the Treatment and Interrogation of Detainees in the War on Terror: A Discussion of the McCain-Graham Amendment

Confirmed panelists are:

Gary Solis, Visiting Professor of Law US Military Academy West Point (CV attached)

Marc Garlasco, Human Rights Watch's Senior Military Analyst. (Waiting for his CV from Human Rights Watch)

Please call if you've any questions.

-Michael

[redacted]@cfr.org

From: [redacted]@cfr.org
Sent: Wednesday, January 11, 2006 3:51 PM
To: [redacted]@apprisemedia.com
Cc: Gorsuch, Neil M
Subject: RE: Detainee Treatment Roundtable

Dear [redacted] & Neil-

Apologies, but DC term members confirmed a humanitarian assistance roundtable and wanted 2/16 as their first session date. So sorry for the confusion. Let me know which other date works for you both.

[redacted]
<[redacted]@appri To
semedia.com> <[redacted]@cfr.org>,
<Neil.Gorsuch@usdoj.gov>
01/11/2006 03:45 cc
PM
Subject
RE: Detainee Treatment Roundtable

I thought we had 2/16 reserved already - is that now taken?

Neil - if all else is equal I would prefer March 16th (Thursday) rather than 2/28 (Tuesday). Your thoughts?

-----Original Message-----
From: [redacted]@cfr.org [mailto [redacted]@cfr.org]
Sent: Wednesday, January 11, 2006 3:41 PM
To: Neil.Gorsuch@usdoj.gov
Cc: Michael Behringer
Subject: RE: Detainee Treatment Roundtable

Thanks Neil-

Question for you both: which day were you thinking of for DC?

2/28 is available as is 3/16, 3/28. Please let me know if you are leaning towards one of these so that I can hold it for this session.
Thanks!

[redacted]

[redacted]

Program Associate, Term Member Program
Council on Foreign Relations
[redacted]@cfr.org
Tel: (212) [redacted]
Fax: (212) [redacted]
www.cfr.org

"Neil.Gorsuch@usd

oj.gov"

<Neil.Gorsuch@usd

To

oj.gov> "[redacted]@apprisemedia.com"

<[redacted]@apprisemedia.com>

01/11/2006 03:35 (Receipt Notification Requested)

PM (IPM Return Requested),

"[redacted]@cfr.org" <[redacted]@cfr.org>

(Receipt Notification Requested)

(IPM Return Requested)

cc

Subject

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[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, January 11, 2006 4:20 PM
To: '[redacted]@cfr.org'; [redacted]@apprisemedia.com
Subject: RE: Detainee Treatment Roundtable

I will check with [redacted] who previously ok'd 2/16, whether he can do 2/28.

-----Original Message-----
From: [redacted]@cfr.org [mailto: [redacted]@cfr.org]
Sent: Wednesday, January 11, 2006 3:51 PM
To: [redacted]@apprisemedia.com
Cc: Gorsuch, Neil M
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Sent: Wednesday, January 11, 2006 3:41 PM
To: Neil.Gorsuch@usdoj.gov
Cc: [redacted]
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[redacted]

[redacted]
Program Associate, Term Member Program
Council on Foreign Relations
[redacted]@cfr.org
Tel: (212)[redacted]
Fax: (212)[redacted]
www.cfr.org

"Neil.Gorsuch@usd

oj.gov"

<Neil.Gorsuch@usd

To

oj.gov> '[redacted]@apprisemedia.com"

<[redacted]@apprisemedia.com>

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PM (IPM Return Requested),

'[redacted]@cfr.org"[redacted]@cfr.org>

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[redacted] Human Rights Watch's Senior Military Analyst. (Waiting for his CV from Human Rights Watch)

Please call if you've any questions.

-Michael

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, January 11, 2006 5:11 PM
To: [redacted]@cfr.org'; [redacted]@apprisemedia.com
Subject: RE: Detainee Treatment Roundtable

[redacted]can do 2/28 so why don't we lock in that date for DC?

-----Original Message-----
From [redacted]@cfr.org [mailto [redacted]@cfr.org]
Sent: Wednesday, January 11, 2006 3:51 PM
To: [redacted]@apprisemedia.com
Cc: Gorsuch, Neil M
Subject: RE: Detainee Treatment Roundtable

Dear [redacted] & Neil-

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semedia.com> [redacted]@cfr.org>,
<Neil.Gorsuch@usdoj.gov>
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Sent: Wednesday, January 11, 2006 3:41 PM
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Cc: [redacted]
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[redacted]
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Program Associate, Term Member Program
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"Neil.Gorsuch@usd

oj.gov"

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<[redacted]@apprisemedia.com>

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"[redacted]@cfr.org" [redacted]@cfr.org>

(Receipt Notification Requested)

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[redacted] Human Rights Watch's Senior Military Analyst. (Waiting for his CV from Human Rights Watch)

Please call if you've any questions.

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Wednesday, January 11, 2006 7:11 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily New Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
January 11, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs, (202) 514 2007

TOMORROW'S EXPECTED NEWS STORIES:

***USA Today* Story on NSA Activities**
USA Today is preparing a story on the NSA activities described by the President and criticisms by law professor Laurence Tribe and former CIA General Counsel Jeffrey H. Smith. Tasia Scolinos, Director of Public Affairs, responded on the record as follows: "Legal minds often differ on complex constitutional issues but government lawyers spent many months looking at this question and concluded, as the Attorney General has repeatedly made clear, that this vital national security program is lawful and constitutionally sound."

Talking/Background Points:

- Both Jeff Smith in his January 3 memo to the House Permanent Select Committee on Intelligence and Prof. Tribe in his January 6
  letter to Congressman Conyers fail to acknowledge the long history and practice of warrantless communications intelligence
  targeted at the enemy, including within the United States, which Presidents have traditionally employed during times of armed
  conflict in order to protect the United States from further attack. Such intelligence gathering is a necessary and fundamental part
  of the use of military force, as authorized by Congress in the September 18, 2001, Authorization for the Use of Military Force.
  Although Prof. Tribe has criticized this interpretation of the AUMF, Prof. Cass Sunstein of the University of Chicago has
  recognized that it is "clearly plausible."

- Both Mr. Smith and Prof. Tribe also fail to acknowledge the fundamental canon of interpretation that requires us to interpret FISA in harmony with the AUMF to avoid any conflict between the authority of Congress and the constitutional authority of the President to protect the country from another catastrophic attack in time of armed conflict, if there is any "fairly possible" reading of the statutes that will avoid that question, and there certainly is here. Nothing in FISA precludes Congress from authorizing such surveillance through a general grant of authority to use military force, such as the AUMF.

- Prof. Tribe suggests that the NSA activities described by the President raise serious issues under the Fourth Amendment; however, the courts have consistently held that the President may conduct warrantless electronic surveillance of communications in the United States under his inherent constitutional authority in order to protect the country from armed attack by a foreign power, and that such warrantless surveillance is reasonable and complies with the Fourth Amendment.

Former Sheriff and Private Attorney Convicted of Conspiracy to Defraud Government and Theft
A federal jury in the Northern District of Alabama, Southern Division, convicted Jimmy Woodward, the former Jefferson County Sheriff, and Albert Jordan, a partner with the law firm of Wallace, Jordan, Ratcliff & Brandt, L.L.C., on charges of conspiracy to defraud the United States and theft of government property related to 1998 elections in the county. Following today's conviction, the Honorable Lacey A. Collier, Senior Judge, Pensacola Division, scheduled sentencing for March 26, 2006.

Former Congressional Legislative Assistant Pleads Guilty (Criminal)
A former legislative assistant to a member of the U.S. Congress pleaded guilty in Alexandria, Virginia today to a two-count criminal information charging him with conspiracy to commit bribery and aiding and abetting the solicitation of bribes by a member of Congress, U.S. Attorney Paul J. McNulty of the Eastern District of Virginia and Assistant Attorney General Alice S. Fisher of the Criminal Division announced today. Brett M. Pfeffer, 37, of Herndon, Virginia, entered his plea earlier today in U.S. District Court in the Eastern District of Virginia before the Honorable T.S. Ellis, III. Pfeffer faces up to 20 years in prison and a fine of up to $500,000 under the terms of the plea agreement. As part of his plea, Pfeffer has agreed to cooperate with law enforcement officials in an ongoing investigation.

Talking Points:

- Ensuring honest government for American Taxpayers is among the highest priorities of the Department of Justice -- this conviction is another demonstration of our commitment to that principle.

- This defendant admitted to a crime which, at its core, is a bribery scheme involving a public official. Such schemes deprive citizens of the integrity and honest services expected of our government, the Justice Department will aggressively investigate and prosecute these illegal schemes.

***US v. National Association of Realtors* (Antitrust)**
Glenn Justice of *The New York Times* will run a story on Thursday about the Department's Antitrust lawsuit against the National Association of Realtors. Puerto Rico Attorney Charges with Obstruction of Justice. A federal grand jury today indicted Eugenio A. Guardiola Ramierez— a San Juan attorney— for interfering with federal investigations conducted by the General Services Administration, Office of the Inspector General and a federal grand jury involving a kickback scheme to defraud a Puerto Rico restaurant company. The indictment

charges that Guardiola attempted to conceal the true nature of these kickbacks by attempting to persuade witnesses to provide false information and by drafting a phony services contract.

Justice Department Announced Settlement with AMC Movie Theater Chain (Civil Rights)

The Justice Department announced the resolution of a lawsuit against American Multi-Cinema, Inc. and AMC Entertainment Inc., operators of one of the nation's largest chains of movie theaters, filed under the Americans with Disabilities Act (ADA). The Judge ordered AMC to remedy violations at AMC movie theaters that do not provide access to the stadium section for seating for individuals who use wheelchairs. The court's decision requires AMC to improve wheelchair seating at approximately 1,200 of AMC's 1,933 stadium-style auditoriums, which includes providing ramps in over 360 auditoriums. The order also requires AMC theaters built in the next five years to comply with Justice Department guidance on ADA new construction requirements. In addition, AMC is ordered to pay $200,000 in damages to complainants who notified the Justice Department about problems with wheelchair access at AMC theaters. Finally, AMC is ordered to pay $100,000 in civil penalties for violation of the ADA.

Talking Points:

- The ADA requires places of public accommodation, such as movie theaters, to provide equal access to persons with disabilities and prevents them from providing persons with disabilities a lower quality of goods and services than they provide other members of the general public.

- Providing the same movie going experience for individuals in wheelchairs that other patrons enjoy delivers on the promise of the ADA. These improvements will make the goals of the ADA a reality for thousands of Americans who want to enjoy this popular form of entertainment.

***Rocky Mountain News* Story on Campaign Volunteer that Removed Demonstrators (Civil)**

A reporter with *The Rocky Mountain News* in Denver is asking whether the federal government is footing the bill for the man who allegedly identified and removed 3 anti-Bush demonstrators at a rally in March. The three allege in their suit that the man, Mike Casper, identified himself as a Secret Service agent before removing the protesters. Casper, who was working as a White House volunteer at the event, admits he asked the three to leave before the president appeared. He denies he identified himself as an agent. The newspaper says an attorney, working for Hogan and Hartson has been retained for Casper.

Four Massachusetts National Guard Soldiers Filed a Class Action Lawsuit (Civil)

Four Massachusetts National Guard soldiers filed a class action lawsuit against Sec. Of Defense Rumsfeld today, claiming the Guard refused to reimburse soldiers $73 million in basic allowances and expenses. In the federal lawsuit, the soldiers also claim superiors threatened any guardsmen who pursued their financial claims. According to attorneys for the plaintiffs, the Massachusetts National Guard refused to reimburse more than $73 million in food, lodging and commuting expenses to hundreds and possibly thousands of soldiers who served active duty

from Sept. 12, 2001, through now. In that the Department has not seen the complaint, it would be inappropriate to comment on it at this time. We have told reporters that once the government is served, we will review the complaint and file our response at such time as the court requires.

Motion to Recuse Federal Magistrate in New Orleans (Civil)
The Justice Department filed a motion to recuse the Federal Magistrate in New Orleans from a case involving lawsuit by Hurricane Katrina victims against the Army Corps of Engineers. The judge in a hearing disclosed that her house had been destroyed as a result of Katrina. She asked both sides in the matter if anyone had a problem with her dealing with the case. She has been served and indicated that she would indeed recuse herself and the case would be assigned to the next judge.

Miner Tragedy Email Scheme (FBI)
The National Press Office drafted a press release regarding an emerging email scheme soliciting money for the surviving miner's family. The phony request is signed under the name of Mr. McCoy's attending physician.

FBI Meets with Muslim and Arab-American Communities (FBI)
Today, representatives from the American Muslim and Arab-American communities met with the FBI to discuss concerns about the secret monitoring of radiation levels at Muslim homes, businesses and mosques nationwide. Groups included the Muslim Public Affairs Council (MPAC), the Council on American-Islamic Relations (CAIR), Muslim American Society (MAS), Arab American Institute (AAI), and the American-Arab Anti-Discrimination Committee (ADC).

THURSDAY'S EXPECTED EVENTS/RELEASES:

ATF Briefing
The ATF will conduct a background briefing to discuss gang and violent crime strategy and successes.

ATF Headquarters
650 Mass Aver. NW
Room 3400
Washington, D.C.
10:00 A.M. EST
OPEN PRESS

Attorney General to Tour Family Justice Center
The Attorney General will attend the opening of the Family Justice Center in St. Louis, Missouri.

Old St. Louis Post Dispatch Building
300 North Tucker Street
St. Louis, MO
10:30 A.M. CST
OPEN PRESS

USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Thursday, January 12, 2006 8:12 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing for Thursday, January 12, 2006
Attachments:	agnb060112.pdf; agnb060112.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: THURSDAY, JANUARY 12, 2006 7:45 AM EST

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TERRORISM NEWS:

Bush Softens Opposition To Hearings On NSA Domestic Intelligence Program. In a speech in Louisville, KY, President Bush addressed the possibility of congressional hearings on the NSA domestic spying program. Bush's assertion that he's not opposed to hearings as long as they don't "'tell the enemy what we're doing" are being cast as a shift in his position. The CBS Evening News (1/10, story 4, :45, Schieffer), the only show to report Bush's comments on the controversy, reported the President "softened his opposition today to congressional hearings on the secret program he authorized to eavesdrop on Americans. Mr. Bush said in a speech Louisville today that hearings would be good for democracy if, he said, they do not give away information to what he called the enemy. The President again insisted he does have the legal authority to authorize such programs."

The Los Angeles Times (1/12, Gerstenzang, 958K) also says Bush "stepped back from the strong opposition he expressed last month." Bush's comments "came in response to a question at a citizens forum in Louisville as he took his case for the Iraq war to an audience beyond Washington."

The Washington Post (1/12, A7, Fletcher, 744K) says Bush's "campaign-style" event "was different than most of the events he attends nationwide. Usually he speaks to carefully screened partisan audiences and takes no questions. White House aides described Wednesday's audience of business and community leaders as bipartisan, and Bush opened himself to unscripted questions during the town-hall-style event." The New York Times (1/12, Sanger, 1.19M) headlines its story "In Shift, Bush Says He Welcomes Inquiry On Secret Wiretaps," and notes the President "was repeatedly applauded for authorizing the wiretaps" during "his campaign-style meeting." The Times adds, "Asked whether his administration was going to "go after the media" for revealing operations like the domestic wiretapping, Mr. Bush instead defended his decision to authorize the surveillance." USA Today (1/12, Diamond, Jackson, 2.31M) adds Bush said "that administration lawyers had approved the program."

The Lexington Herald-Leader (KY) (1/12, 119K) reports Bush "was initially opposed to having the program investigated in a public format, but made it clear that he is resigned to open hearings that are scheduled to begin in coming weeks. … In the days after the program's existence was revealed, Bush cautioned against hearings, arguing that the appropriate members of Congress were being consulted privately and offering assurances that he was working within the law to authorize the eavesdropping. 'Any public hearings on programs will say to the enemy, "Here's what they do -- adjust." This is a war,' Bush said at a December news conference when asked about expected hearings on Capitol Hill."

Reuters (1/12) quotes Bush saying, "I can understand concerns about this program, before I went forward I wanted to make sure I had all the legal authority necessary to make this decision as your president. … We are a...country of law." He added, "I have the right as the commander in chief in a time of war to take action necessary to protect the American people. … One way to protect us is to understand the nature of the enemy. Part of being able to deal with this kind of enemy in a different kind of war is to understand why they're making decisions they're making inside our country."

Fox News' Special Report (1/11, Cameron) added, "Taking questions from an audience, Bush said he understands concern about limited eavesdropping on people in the US, but said he has taken every available step to protect civil liberties." Bush "noted that Congress knew about the program beforehand, but did not complain." Fox also noted, "Despite all the recent complaints and concerns, to date, not one lawmaker has formally requested that the program be stopped."

The Washington Times (1/12, Curl, 90K) reports that after Bush spoke, "Democratic National Committee Chairman Howard Dean criticized the Bush administration's 'disregard for our courts and our laws.'" Said Dean, "President Bush's decision to sidestep the rule of law and spy on Americans without a court order may have dealt a serious blow to our ability to fight and win the war on terror."

Bush addressed other issues yesterday in Kentucky, but with the exception of his comments on Iraq, which got some coverage, they received little media attention. The Lexington Herald-Leader (KY) (1/12, 119K) reports Bush "took questions for nearly an hour. When a small business owner focused on rising health insurance costs, Bush acknowledged 'it's becoming an unmanageable cost.'" He "touted health savings accounts and association health plans that pool

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employees together to try to hold down insurance costs." Bush also "said something needs to be done to halt frivolous medical liability lawsuits that he said drive up health costs." He also "hinted that his upcoming State of the Union speech would address the problem of low math and science proficiency among middle and high school students." Another questioner "asked Bush about immigration. Bush said border security is vital but urged compassion for foreigners coming to the U.S. in search of work."

NSA IG Opens Investigation Into Domestic Spying Program. Fox News' Special Report (1/11, Hume) reported, "The National Security Agency Inspector General has opened an investigation into the NSA's electronic eavesdropping program that…Bush authorized after 9/11 to operate sometimes without a warrant. Critics complain that surveillance of communications between suspected terrorists and people inside the US may violate civil rights." Fox (Cameron) added, "It is a controversy that the president welcomes and is eager to explain."

Herbert Calls Bush "The Lawbreaker In The Oval Office." Columnist Bob Herbert, in a column titled "The Lawbreaker In The Oval Office," writes in the New York Times (1/12, 1.19M), "The country has set the bar so low for the performance of…Bush as president that it is effectively on the ground. No one expects very much from Mr. Bush. He's currently breaking the law by spying on Americans in America without getting warrants, but for a lot of people that's just George being George. Forget the complexities of the Foreign Intelligence Surveillance Act, or even the Fourth Amendment's safeguards against unwarranted (pun intended) government intrusion into matters that we have a right to keep private." He adds, "On his frequent trips home to his ranch in Texas, the president likes to ride his bicycle. He's not studying the Constitution." The Administration "should not be allowed to use war as an excuse. The US is a very special place in large part because no one, not even the president, is above the law."

NSA Tells Whistleblower Not To Testify About Secret Programs. Under the headline "Ex-Official Warned Against Testifying On NSA Programs," The Washington Times (1.12, Gertz, 90K) reports, "Renee Seymour, director of NSA special access programs stated in a Jan. 9 letter to Russ Tice that he should not testify about secret electronic intelligence programs because members and staff of the House and Senate intelligence committees do not have the proper security clearances for the secret intelligence," although she noted that Tice "has 'every right' to speak to Congress and that NSA has 'no intent to infringe your rights.'" The Times adds that Seymour also said that Tice, "who was dismissed in May, failed to notify either the Pentagon or NSA of the improper behavior that he is charging," and therefore "must first give statements to the Defense Department and NSA inspectors general before he provides any classified information to Congress from the SAPs."

NSA Leakers, Media Seen As Abetting Terrorists. In a Washington Times (1/12, 90K) op-ed, Douglas MacKinnon, former White House and Pentagon official and press secretary to Sen. Bob Dole, writes, "Until recently, I believed that the liberal Americans in society and the media who espouse blind hatred for the Bush administration, the unilateral responsibility to defend our nation, our intelligence operatives and even our military, would see the error of their ways should we one day tragically lose an American city and its innocent inhabitants to terrorism. Today, I wonder if they might not only secretly rejoice at the thought of the 'Great Satan' being 'justifiably' punished in such a manner, but with their very actions, sow the seeds of such destruction? … The latest case of government employees betraying their trust and our nation by leaking information to the media being the story that 'the Bush administration was running a covert-domestic-spying program.'" MacKinnon adds, "Since September 11, we have all been waiting for the next shoe to drop. … The shoe may well be American made."

Etzioni Says Questions About NSA Surveillance Should Not Delay Patriot Act Renewal. In a USA Today (1/12, 2.31M) op-ed, author Amitai Etzioni writes, "A steady stream of revelations, and the ensuing news media reports, have portrayed a president hungry for power, doing whatever is necessary — legal or not — to protect this country. In the wake of such news, some lawmakers in Congress see weakness and an opportunity to gut one of President Bush's vital weapons in the war on terror: the USA Patriot Act. Congress should not hold up extending vital sections of the Patriot Act in reaction to these recently revealed power grabs. The president's authorization of spying on Americans by the National Security Agency has nothing to do with the Patriot Act; nor do secret prisons, nor memos allowing torture. Questions over how much power the commander in chief can exercise must be sorted out by Congress and the courts, but the Patriot Act shouldn't be held for ransom."

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Man Who Threw Grenade At Bush Sentenced To Life In Georgia. CNN.com (1/12) reports, "A Republic of Georgia court has sentenced a man to life in prison for attempting to assassinate U.S. President George W. Bush by lobbing a hand grenade towards a podium during a rally in the capital last year, according to Georgia's interior minister." CNN continues, "Vladimir Arutinian of Tbilisi was also found guilty of trying to assassinate Georgian President Mikhail Saakashvili, who was standing on the podium with Bush on May 10. … He was also convicted of killing a police officer who tried to apprehend him two months after the incident." CNN adds, "The would-be assassin threw a grenade into a crowd about 20 meters (65 feet) from the stage where Bush had just begun speaking, but the grenade, wrapped in a plaid cloth, failed to detonate, authorities said. … Initial reports said the grenade was not live, but authorities later said it was. … Georgia's Interior Minister Vano Meradishvili told CNN he fully expected Arutinian to appeal the ruling because he 'enjoys the attention' that he has received. … Arutinian would not be eligible for parole, and could only be released under a presidential pardon, which was unlikely under Saakashvili, Meradishvili said. … In September, a U.S. federal grand jury indicted Arutinian for the assassination attempt against Bush, and could request his extradition if he is released in the future."

Drug Traffickers, Terrorists Using Prepaid ATM Cards, Internet To Launder Funds. USA Today (1/12, Leinwand, 2.31M) reports, "Drug traffickers and suspected terrorists are using prepaid ATM cards and Internet-based payment systems to help launder billions of dollars each year, the Treasury Department reported Wednesday in what it called the first government-wide analysis of money laundering in the USA. … The report, which included contributions from 16 federal agencies, will be used to help officials devise a national strategy to fight money laundering, Treasury Undersecretary Stuart Levey said." USA adds, "Levey said it's unclear how much money in the USA is made from criminal enterprises. The White House Office of National Drug Control Policy estimates sales of illicit drugs in the USA produce $65 billion a year for traffickers. … 'The key to ending drug trafficking is to wipe out the money side,' Drug Enforcement Administration chief Karen Tandy said. The DEA seized $2 billion in 2005, up from $500 million in 2003, she said."

Reuters (1/12, Macinnis) reports, "Internet banking, online payment systems and stored value cards not requiring identification give criminals new opportunities to filter money through the United States, U.S regulators said on Wednesday." Reuters continues, "Representatives of the Treasury Department, Federal Reserve, Justice Department and other government enforcement agencies urged in a Money Laundering Threat Assessment report more cooperation to squeeze money launderers and narrow potential avenues for tainted funds. … 'The volume of dirty money circulating through the United States is undeniably vast and criminals are enjoying new advantages with globalization and the advent of new financial services,' they said in the report, a precursor to the government's annual Anti-Money Laundering Strategy." Reuters adds, "The regulators and law enforcement officials said it was 'currently not possible' to accurately estimate the total amount of money laundering in the United States, or how much is being cut off by government enforcement. … Citing a need for a common definition of what constitutes money laundering, regulators said they needed more cooperation to patch vulnerabilities from money orders, stored value cards, check cashing, electronic payments, remittances and other financial transfers. … 'Moving away from face-to-face customer interaction, particularly for (bank) account openings, challenges the traditional process of customer due diligence,' they said."

ABC News (1/11, Ryan) reports, "Money laundering remains a 'massive and evolving challenge' for investigators, according to the federal government's first-ever threat assessment of the problem." ABC News continues, "Even getting a handle on the size of the money laundering threat and the success of efforts to stop it has been difficult, the report found. … 'It is currently not possible, for example, to quantify with accuracy the total money laundering activity being apprehended by the government,' it said." ABC News adds, "Problems with data, incompatible computer systems and even differing definitions of 'money laundering' have hampered some efforts to combat the crime. The assessment is intended to help law enforcement and government regulators grapple with the issue. … 'Before you can effectively treat a problem, you must first have an accurate diagnosis,' said Stuart Levey, the Treasury Department's undersecretary for terrorism and financial intelligence."

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Swiss Investigate Leak Of Document On CIA Prisons. The New York Times (1/12, Carvajal, Tribune, 1.19M) reports, "Switzerland is conducting criminal investigations to track down the source of a leak to the Zurich-based newspaper SonntagsBlick of what it reported was a secret document citing clandestine C.I.A. prisons in Eastern Europe." The document was said to be "sent by satellite and intercepted by the Swiss Strategic Intelligence Service," and "high-ranking Swiss government officials, who urged the paper to withhold the information," never "contested the authenticity of the document," which "said the United States had held 23 Iraqi and Afghan prisoners at a base in Romania. It also referred to similar detention centers in Bulgaria, Kosovo, Macedonia and Ukraine."

Guantanamo Prisoner Boycotts US Tribunal. Reuters (1/12, Sutton) reports that Yemeni Ali Hamza al Bahlul, who is "accused of being a bodyguard for Osama bin Laden went before a U.S. military tribunal on Wednesday and said he would boycott his war crimes trial because he did not recognize the tribunal's authority." He had "a list of nine reasons why he refused to be represented by a military lawyer or to participate further, including" accusations that "Guantanamo prisoners had been tortured" and "the potential use of secret evidence and to the U.S. characterization of prisoners as illegal belligerents." Army Reserve Maj. Tom Fleener, the lawyer appointed by the military to defend him "called the tribunals a sham and said it is an ethical violation for him to represent a prisoner who has rejected his services."

The New York Times (1/12, Cloud, 1.19M) adds, "Even as Mr. Bahlul has acknowledged his connections to Al Qaeda, he has shown a talent for courtroom theatrics that have at times flummoxed the commissioners. Little has gone smoothly for the military commissions, which the Bush administration created to try Guantánamo prisoners and which have suffered setbacks because of legal challenges, including a review from the Supreme Court."

The Washington Times ran the Reuters story, and the AP (1/11, Leitsinger) also covered it.

British Accuse Cleric Of Inciting Hatred Toward Jews. The New York Times (1/12, Cowell, 1.19M) reports, "In a closely watched trial, a prominent British Muslim cleric," Abu Hamza al-Masri, "was accused Wednesday of inciting hatred against Jews, praising Hitler and voicing support for suicide bombings" and thereby "violating various British laws" in various "lectures and sermons recorded on videotape and audio cassettes in which he was reported to have said he wanted to see the establishment of an Islamic caliphate in the White House."

The Los Angles Times (1/12, Stobart) adds, "Masri…became well known as the radical preacher at North London's Finsbury Park Mosque" which "was considered a crossroads for terrorists such as Richard Reid, the so-called shoe bomber, before and after the Sept. 11 attacks." The US has indicted Masri "on 11 terrorism-related charges, including his alleged role in a plot to set up a terrorist training camp in rural Oregon in 1999. It is seeking his extradition."

PATRIOT ACT:

Arkansas US Attorney Touts Usefulness Of Patriot Act. KATV-TV, ABC 7, Little Rock, AR (1/12) reports, "The U.S. Attorney's office is using a conference on terrorism (in Little Rock, AR) to tout the usefulness of the Patriot Act, set to expire on February 3. Supporters of the act say it's essential to protect the American public against the war on terror. Opponents say it's a violation of civil liberties. It's a heavily debated issue about which both sides have strong opinions." US Attorney Bud Cummins "says many of the allegations made against the act are simply not true.. … 'There's nothing ground-breaking about the provisions of the Patriot Act. It's just trying to afford the investigators in these very important terrorism investigations to have the same type of tools we use against drug dealers.'" KATV-TV adds, "Cummins says provisions in the Patriot Act lower the wall between criminal and intelligence investigators to share information and allow intelligence investigators to use similar techniques in criminal investigations. The act also updates laws for electronic surveillance. … 'Terrorists don't use rotary telephones. They use cell phones, pagers, e-mail, text messaging, Web sites, we need to be able to keep up with that.'"

More Patriot Act Commentary. In an op-ed in USA Today (1/12), Amitai Etzioni, author of "How Patriotic is the Patriot Act?: Freedom vs. Security in the Age of Terrorism" and a member of the Markel task force on national security and information, writes, "A steady stream of revelations, and the ensuing news media reports, have portrayed a president hungry for power, doing whatever is necessary — legal or not — to protect this country. In the wake of such news, some lawmakers in Congress see weakness and an opportunity to

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gut one of President Bush's vital weapons in the war on terror: the USA Patriot Act. … Congress should not hold up extending vital sections of the Patriot Act in reaction to these recently revealed power grabs. The president's authorization of spying on Americans by the National Security Agency has nothing to do with the Patriot Act; nor do secret prisons, nor memos allowing torture. Questions over how much power the commander in chief can exercise must be sorted out by Congress and the courts, but the Patriot Act shouldn't be held for ransom." Etzioni continues, "In contrast to the recently revealed secret White House initiatives, many of the 161 measures included in the law aren't contested by any major figure on the right, left or center. Even a representative of the American Civil Liberties Union said the group seeks to fix the act, not to kill it. An examination of some of the contested sections demonstrates that the measures involved are hardly out of line." Etzioni adds, "We tend to swing wildly in one direction and then in the opposite one. The Senate Church Committee, responding to the abuses such as spying on civil rights groups and public leaders by the FBI under J. Edgar Hoover, tied the agency in knots. … The initial responses to the 9/11 attacks might well have been excessive. As time has passed — without a new attack on the USA — many security measures are being questioned, as they should be. Even so, when it comes to critical components of the act, such as those listed above, minor tweaks — not massive overhauls — would make the Patriot Act work for all Americans. … The same can't be said for the other security measures that the public has recently learned about. Those fully deserve the kind of extensive hearings to which the Patriot Act is being subjected."

HOMELAND RESPONSE:

FBI Officials Meet With Muslim Groups About Nuclear Surveillance. FBI Deputy Director John Pistole and Assistant Director of Public Affairs John Miller on Wednesday met with Muslim and Arab-American leaders in Washington to discuss recent reports of post-9/11 bureau surveillance for possible nuclear material at mosques and Muslim-owned homes and businesses.

Under the headline "F.B.I. Tries To Dispel Surveillance Concerns," The New York Times (1/12, Clemetson, 1.19M) reports Pistole and Miller "tried to reassure those at the session that the surveillance…had been based on intelligence leads." Miller said after the meeting, "We explained how we work with intelligence and that we did what we did based on the patterns of Al Qaeda, not because of the patterns or activities of any mosque or Muslim neighborhood." The "officials struck a conciliatory tone, several attendees said, and acknowledged that the bureau could have responded to their concerns more quickly. But Mr. Pistole offered few details on the monitoring, they said, and he emphasized that the program…remained classified." The Times notes, "The controversy…comes after the F.B.I. cancelled financing for a bureau-wide training initiative intended to improve outreach to Muslim and Arab Americans. … The program, which would have cost $6 million over three years, was cancelled, in part, because of budget constraints, Mr. Miller said."

The Washington Times (1/12, Seper, 90K) reports, "Two Muslim organizations have since filed Freedom of Information Act requests to learn which sites were monitored." Council on American-Islamic Relations executive director Nihad Awad said, "Today's meeting, while not resolving all underlying issues of concern, offered an opportunity to improve lines of communication and to increase mutual cooperation on issues related to national security and the prevention of hate crimes."

US-VISIT Program To Step Up Fingerprinting System. The Federal Times (1/12, Losey) reports, "The director of the nation's program to screen foreign visitors entering the United States hopes to begin testing a more stringent fingerprinting system this year." The Times continues, "The U.S. Visitor and Immigrant Status Indicator Technology program, or US-VISIT, last July was directed by Homeland Security Secretary Michael Chertoff to start taking all 10 fingerprints from first-time visitors to the country. US-VISIT director Jim Williams said at a press briefing Jan. 5 that the program is still putting together a plan to expand the process. He expects the plan to be finished in a few months. … Meanwhile, Homeland Security finished installing US-VISIT at all 104 land border ports in December, meeting a deadline mandated by Congress, Williams announced." The Times adds, "US-VISIT now takes only two fingerprints of foreign visitors. The FBI's identification system uses 10 fingerprints and a photograph to track criminals. … The Justice Department criticized the two-print system in 2004, saying it could allow terrorists or violent criminals to slip into the country undetected. … Williams stressed that he does not want US-VISIT to impede legitimate visitors and said the first

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tests will take place at low-volume border crossings and airports to minimize delays. The State Department also may help with testing, he said."

Former TSA Official Works For Firm Pushing Registered Traveler Program. The Washington Post (1/12, A19, Sarasohn, 744K) reports in its "Special Interests" column, "Members of the emerging industry of biometric technology companies who are trying to sell the Registered Traveler security program to the nation's airports have formed a coalition to help boost their credibility and their voice in Washington. Perhaps more important, the Voluntary Credentialing Industry Coalition (VCIC) has scored some substantial lobbying help: Wexler & Walker Public Policy Associates . Maybe even more important, the leader of the Wexler & Walker team for the client is Tom Blank . Yes, the Tom Blank who was acting deputy administrator of the Transportation Security Administration and who created the agency's Office of Transportation Security Policy. … Blank joined the lobby shop in September and is prevented by federal ethics restrictions from contacting TSA officials for a year, although he could lobby members of Congress."

New Orleans Reconstruction Plan Greeted By Anger, Protests. The presentation of a plan for rebuilding New Orleans by the Bring New Orleans Back commission drew harsh criticism from city residents yesterday over a proposal that would give the most heavily damaged areas four months to prove themselves viable before being bought by the government. The story was covered by each of the networks last night. ABC World News Tonight (1/11, story 2, 2:45, Vargas) reported, "The Bring Back New Orleans Commission hopes to attract 245,000 people to the city. For now, people can settle wherever they like. But there's no guarantee that those who invest a lot of money and energy repairing their homes be allowed to stay there." ABC (Osunsami) added, "The map of New Orleans could change considerably. Anyone who lives in a neighborhood highlighted here in yellow, most of the city, could be forced to move. The plan calls for new parks, in green. That would help control flooding. Residents would be resettled in areas circled in red." Mayor Ray Nagin: "This report is controversial. It pushes the edge of the envelope." Osunsami: "The Mayor and FEMA appear to support the plan, but late today, the New Orleans City Council announced that it doesn't support any of this, which could slow everything down."

The CBS Evening News (1/10, story 5, 1:30, Schieffer) reported, "Many residents won't have much time to make their case for staying in their old neighborhoods and they let the Mayor and the commission hear all about it." CBS (Acosta) added, "At a meeting with the city's rebuilding commission Mayor Ray Nagin sent shock waves through Big Easy, laying out a plan that gives many of the hardest hit wards just four months to prove they can survive. Neighborhoods that cannot justify their continued existence will be bought out and demolished." But the Mayor's plan "is more than just controversial, it's also far beyond what the city can afford. $12 billion to acquire and demolish homes beyond repair. $4.8 billion for a new high-speed light rail system. And $413 million to repair city-owned buildings. But it's the razor-thin four-month timetable that threatens to derail the proposal." President Bush "promised New Orleans would be rebuilt. When he returns to the city tomorrow, there will be no shortage of angry people to hold them to his word."

NBC Nightly News (1/11, story 2, 2:00, Williams) reported, "Enraged city council members say residents need answers they're still not getting." Jacquelyn Brechtel Clarkson, New Orleans City Council: "We as a city have not given the people all the answers they need before they can make a decision." Savidge: "Detractors also say people in impoverished areas like the Lower Ninth Ward have neither the background or training to organize neighborhood planning committees, and can't even take a head count, since most are still spread across the country. Reaction from the audience was fast and mostly furious."

NBC Nightly News (1/11, story 6, 2:00, Williams) also reported on the personal decisions by many families to leave the city permanently.

Under the headline "City Revival Plan Draws Sharp Criticism," the Los Angeles Times (1/12, Bustillo, 958K) reports, "Residents of the New Orleans neighborhoods most heavily damaged by Hurricane Katrina, under a controversial plan unveiled Wednesday, would have just four months to demonstrate strong support for rebuilding their areas before possibly being forced to sell their properties to the government." It's "a centerpiece of Mayor C. Ray Nagin's 'Bring New Orleans Back' recovery plan," which "drew immediate outrage from residents and community activists, who argued that many citizens -- especially the blacks who predominated the flood-struck areas -- could be forced out of

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the city for good." Nagin said the report "probably says some things to some people they are probably misinterpreting."

The New York Times (1/12, Rivlin, 1.19M) reports that the rebuilding commission gave "neighborhoods in low-lying parts of the city from four months to a year to prove they should not be bulldozed." At a "standing-room-only" meeting, the presentation of the report was "punctuated by catcalls and angry outbursts that often interrupted members of the panel." The Times adds, "Speaker after speaker, black and white, prosperous and poor, dismissed a plan that Mayor C. Ray Nagin described as 'controversial.' But Mr. Nagin gave them hope as he walked a middle line that neither endorsed the plan nor opposed it."

Meanwhile, the Washington Post (1/12, A3, Roig-Franzia, 744K) reports that New Orleans is also "waiting on the Federal Emergency Management Agency to determine base elevation levels required before flood insurance can be issued. The commission is hoping that Congress will approve a quasi-public recovery authority proposed by US Rep. Richard H. Baker (R-La.) that would sell bonds to buy flood-damaged homes, then work with private developers to rebuild neighborhoods."

WSJournal Says City's Low Lying Areas Will Not Be Resettled. President Bush is scheduled to visit New Orleans Thursday to assess progress since Katrina struck the city. The Wall Street Journal (1/12, Glassman, 2.11M) editorializes, "He will find a tale of two cities -- one almost back to normal, the other devastated." Commenting on the rebuilding commission's plan, the Journal says "the truth is that the Lower Ninth Ward and other low-lying areas won't be resettled. The new New Orleans will almost surely look like New Orleans of 1878, which, as shown by the Times-Picayune in a remarkable map, had most of the city's 200,000 residents 'clustered in a narrow swath along the Mississippi River.'"

WAR NEWS:

Bush Defends Iraq Policies. President Bush defended his Iraq policies and took on his critics during a speech in Louisville, Kentucky, yesterday. Bush's remarks on Iraq were largely overshadowed by comments he made later, during a question and answer session, about the NSA domestic wiretapping program. What coverage there was portrayed Bush's Iraq comments as an attempt to preempt critics o his Iraq policies in advance of the 2006 campaign season.

ABC was the only network to focus on the Iraq angle. Its coverage was mostly critical, and also profiled several Iraq war veterans who are running for Congress as Democrats. ABC World News Tonight (1/11, story 4, 1:55, Woodruff) reported Bush "delivered another strong message to critics of his Iraq policy: Be careful what you say. But there was an important political reason why he chose that state to make his point." President Bush was shown saying, "One way people can help [in the war on terrorism], is we're coming down the pike of the 2006 elections, is to remember the effect that rhetoric can have on troops in harm's way." ABC (Raddatz) added, "But one of the biggest critics in Louisville has already been in harms way, twice. Marine Corps Reservist Andrew Horne, a two-time Iraq veteran and now a congressional candidate, is challenging the Republican incumbent in this district. He said, today, the President is attempting to limit debate about the war because it is not going well." Horne is "one of 11 veterans of the war in Iraq running for Congress. Nine of them are Democrats, including Patrick Murphy in Pennsylvania, Paul Hackett, who is seeking a senate seat in Ohio, and Tammy Duckworth in Illinois." Duckworth "lost both her legs and the use of one arm when her helicopter was shot down outside of Baghdad." The Republicans "are clearly worried about some of these candidates and the war in Iraq, or the President wouldn't keep making these speeches."

The Lexington Herald-Leader (1/12, Alessi) President Bush "told a select group of Kentucky and Indiana residents yesterday that the U.S. military's progress in Iraq is 'good' and promised ultimate victory -- although he gave no timetable." In a "rare town hall-style meeting set up as a theatre-in-the-round, the president again defended invading Iraq, even though former dictator Saddam Hussein didn't possess weapons of mass destruction as Bush first claimed." Bush has "been more aggressively defending his administration's policies in recent weeks, as public support for the war has waned and critics have ramped up their calls for withdrawing troops from Iraq." Meanwhile, in a conference call "with reporters before Bush's event, Lt. Col. Andrew Horne, a Marine reservist and Democrat who plans to run against U.S. Rep. Anne Northup, R-Louisville, said there's a gap between the Bush administration's bold rhetoric on the Iraq war and its actual support for soldiers. He cited recent news stories describing a suppressed Pentagon report that concluded

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many U.S. combat deaths in Iraq could be avoided with better body armor, which is available on the market."

Reuters (1/12, Wilson) reports President Bush "tried to shape election-year debate on the Iraq war by warning critics their rhetoric could embolden the enemy and weaken the morale of U.S. troops." Bush "acknowledged his decision to invade Iraq almost three years ago was not universally popular." Though he "said he welcomed dissenting voices," he added, "What I don't like is when somebody said he lied or they're in there for oil or he's doing it only because of Israel." Bush "appeared in the district of Republican Rep. Anne Northup whose likely Democratic opponent will be Andrew Horne, a lawyer and Marine reservist who served two tours in Iraq."

CNN's Lou Dobbs Tonight (1/11, Dobbs) reported, "President Bush today declared our troops in Iraq should have the best equipment possible. President Bush made his remarks during a speech in Kentucky, defending the conduct of this war. That speech took place in Louisville, a key battleground in the midterm elections later this year, in front of a specially screened audience, once again." Bush "asserted that his goal in Iraq is nothing less than victory."

46% Now Say Iraq War Was Worth It. William Schneider said on CNN's Lou Dobbs Tonight (1/11), "Is the president making progress in his six-week old campaign to persuade Americans that it was worth going to war in Iraq? Yes. In November, before President Bush started trying it rally public support, 38 percent of Americans thought the Iraq war was worth it. That number is now up to 46 percent. But a majority still say the war was not worth it. The president has made progress, but he has not turned public opinion around." Schneider added, "The public has confidence in the Americans over there, but not in the Iraqis. Very few people believe Iraq will have a stable government that can maintain order without U.S. help within the next year. In fact, Americans are not sure that will ever happen."

General In Abu Ghraib Abuse Scandal Takes Fifth At Court-Martial. The Washington Post (1/12, White, 744K) reports in a front page story that Maj. Gen. Geoffrey D. Miller, "a central figure in the U.S. detainee-abuse scandal, this week invoked his right not to incriminate himself in court-martial proceedings against two soldiers accused of using dogs to intimidate captives at the Abu Ghraib prison in Iraq." Miller "once supervised the U.S. detention facility at Guantanamo Bay, Cuba, and helped set up operations at Abu Ghraib," and his legal maneuver is "the first time the general has given an indication that he might have information that could implicate him in wrongdoing, according to military lawyers." Miller's decision "came shortly after Col. Thomas M. Pappas, the commanding officer at Abu Ghraib, accepted immunity from prosecution this week and was ordered to testify at upcoming courts-martial."

US, Iraqi Officials Attempt To Exploit Rift Between Insurgents, Al Qaeda. In an approximately 2500 word story, the New York Times (1/12, Tavernise, Filkins, 1.19M) reports how an October, 23, 2005 clash between Iraqi insurgents and members of al Qaeda in Taji is emblematic of the widening rift between the two groups. The battle "was one of several clashes between Al Qaeda and local Iraqi guerrilla groups that have broken out in recent months across the Sunni Triangle." American and Iraqi officials "believe that the conflicts present them with one of the biggest opportunities since the insurgency burst upon Iraq nearly three years ago. They have begun talking with local insurgents, hoping to enlist them to cooperate against Al Qaeda, said Western diplomats, Iraqi officials and an insurgent leader." It is "impossible to say just how far the split extends within the insurgency, which remains a lethal force with a shared goal of driving the Americans out of Iraq. Indeed, the best the Americans can hope for may be a grudging passivity from the Iraqi insurgents when the Americans zero in on Al Qaeda's forces."

US Makes Police Training High Priority. The Christian Science Monitor (1/12, Levinson, 61K) reports that in Baghdad on Tuesday, "visiting congressmen stepped out of armored cars" into "the mud of Camp Dublin, home to the Iraqi police's elite special forces unit." US Army Maj. Gen. Joseph Peterson "the ex-linebacker responsible for training 200,000 Iraqi police, greeted them and assured the lawmakers that his Iraqi under- studies will soon be in charge here." Peterson said, "We'll have these forces trained by the end of 2006, and I have full confidence that they will begin to assume control of security in Iraq." The Monitor adds the police "have become a new priority, as the US begins turning over more security control to Iraq. Scrutiny of the police intensified after the discovery of secret jails and the torture of Sunni Arab prisoners."

Shiite Politician Says New Government Not Permitted To Change Iraqi Constitution. The

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Washington Post (1/12, A14, Hernandez, 744K) reports Iraq's "most influential Shiite politician said Wednesday that he would not allow a new government to 'change the essence' of the country's constitution, despite a promise made to Sunni Arabs that it would be opened to major revision." In a "last-minute deal negotiated under heavy pressure from U.S. diplomats," Sunnis, Shiites, and Kurds "agreed that the draft constitution would be put to a national referendum in October as planned but would be open to change for four months after a new government was formed early this year." But Abdul Aziz Hakim, "the leader of the Supreme Council for the Islamic Revolution in Iraq, the most powerful Shiite party in the ruling coalition, appeared to back away from the constitutional compromise Wednesday." Hakim said, "The first principle is not to change the essence of the constitution. It is our responsibility to form Baghdad provinces and southern Iraq provinces."

The New York Times (1/12, Oppel, Mizher, 1.19M) reports al-Hakim's remarks diminished "Sunni Arab hopes of amending the charter to avoid being shut out of the nation's vast oil wealth." Al-Hakim "vowed to give no ground on crucial parts of the Constitution." The speech "was Mr. Hakim's latest hard-line statement directed at Sunni Arabs, whom Shiites accuse of fomenting violence to improve bargaining leverage in the new government. While he previously signaled unwillingness to reopen major constitutional issues, Mr. Hakim's belligerent declarations are sure to anger Sunnis hopeful of carving out a meaningful role in the government."

The Washington Times/AP (1/12, Juhi) reports al-Hakim's "veiled warning" to Sunnis included not changing "the provision that keeps the central government weak in favor of strong provincial governments." Al-Hakim "said in an address in honor of the Islamic holiday of Eid al-Adha that provincial governments will remain strong in the constitution, which can be amended after the next government is installed."

NYTimes Calls Al-Hakim Statement Prescription For Civil War. The New York Times (1/12, 1.19M) says in an editorial that al-Hakin, "Iraq's most powerful Shiite politician," has "just dealt a huge blow to American-backed efforts to avoid civil war through the creation of a new, nationally inclusive constitutional order." Hakim's "latest position is a prescription for a national breakup and an endless civil war. It is also a provocative challenge to Washington, which helped broker the original promise of significant constitutional changes."

Judge Denies Bail For Park. The AP (1/12, Lozano) reports, "A South Korean businessman accused of accepting millions of dollars from Iraq in the U.N. oil-for-food scandal was denied bail Wednesday and will be transferred to New York to face additional charges in the case. ... U.S. Magistrate Judge Frances Stacy said she denied Park bond since she believed he was a flight risk because of his finances, his ties to South Korea and his history of not dealing with legal problems in the United States." The AP adds that during the bail hearing, "Randy Schaffer, Park's attorney, argued that his client's arrest was illegal," but FBI Special Agent Robert Midcap testified "that a warrant for Park's arrest had been circulated by Interpol because the South Korean citizen had not answered the U.S. charges from April. The Mexican government saw the Interpol warrant and sent him back to the United States, Midcap said." Reuters (1/12, Seba, Daily) notes, "Schaffer said Park was flown to Houston against his will, and questioned Midcap about whether it was a U.S. or Mexican decision to deport him. 'No, sir. It was the Mexican government that expelled him,' Midcap said. 'That was the government's decision, the Mexican government's decision.'"

The New York Times (1/12, Romero, 1.19M) reports Judge Stacy "also approved Mr. Park's transfer to New York, where he faces arraignment in federal court. Agents from the F.B.I. arrested Mr. Park" in Houston "after Mexican immigration officials apprehended him at Mexico City's airport on the basis of an Interpol notice, Justice Department officials said. The Mexican officials put Mr. Park on a commercial flight to Houston, accompanied by F.B.I. agents, said Melissa Annis, an assistant United States attorney." The Times of London (1/12, Bone) notes Park "had spent many months as a fugitive and his arrest provided an unexpected boost for the FBI inquiry into UN corruption," but Schaffer "said his client never intended to travel to the United States" and "argued that the arrest was illegal." Agent Midcap "testified that a warrant for Mr Park's arrest had been circulated by Interpol because he had not answered the US charges," and "the Mexican Government saw the Interpol warrant and sent him back to the United States, he said."

German Intelligence Provided US With Erroneous Tip On Saddam's Location. The Los Angeles Times (1/12, Drogin, 958K) reports that with "the battle of Baghdad raging on April 7, 2003, an intelligence tip was rushed to a special Pentagon targeting team: Saddam

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Hussein and his two sons had been spotted near a chicken restaurant in the city's wealthy Mansour district." Less than "45 minutes later, a B-1 bomber obliterated the site with four satellite-guided bombs, leaving a deep crater and at least a dozen dead. The Iraqi ruler, it soon became clear, was not among them." An Iraqi informant "provided the initial tip. But U.S. officials now say confirmation came from an unusual source: two German military intelligence operatives who stayed in a Baghdad safe house after Berlin had closed its embassy." The "previously undisclosed role of German intelligence in the widely reported attempt to decapitate the Iraqi regime highlights how the CIA and the Pentagon secretly relied on German and other foreign spy services for critical information on Iraq even as the intelligence agents' governments fiercely opposed the Bush administration's drive toward war." That "behind-the-scenes cooperation forms the backdrop as Germany's new chancellor, Angela Merkel, arrives here today on her first official visit. Officials said she aims to repair U.S.-German relations that were badly strained when her predecessor, Gerhard Schroeder, publicly broke with the White House over Iraq."

In 1998, Berger Warned Iraq Was Pursuing WMD. In its "History Lessons" column, the Washington Times (1/12, 90K) excerpts a November 23, 1998 op-ed by then-National Security Adviser Sandy Berger, which was published in the international Al Hayat. Berger wrote, "[T]he entire world is fed up with Iraq's continuing deception and defiance. Iraq agreed as a condition of the Gulf War cease-fire that it would disclose its weapons of mass destruction arsenal within 15 days. Instead, it has spent the better part of a decade shirking its obligations, withholding information from the inspectors, blocking their work, destroying information in plain sight. … Certainly, when it comes to a rogue regime with weapons of mass destruction and a history of using them, the United States and its friends in the Muslim world must continue to be united -- because we are all at risk."

Army, Marines Step Up Production Of Body Armor. The Washington Post (1/12, A14, Tyson, 744K) reports the Army "announced yesterday that it will soon start producing 230,000 sets of side armor plates and field them over the year to soldiers in Iraq and Afghanistan, after a recently disclosed Pentagon study indicated that such plates could have helped prevent scores of troop deaths since 2003." Officials said the Marine Corps "has delivered 9,000 sets of the plates to Iraq, a number that will rise to about 30,000 by April, officials said yesterday." Army and Marine generals "in charge of developing and buying equipment defended the pace at which they were getting the new side armor to troops, after a closed-door briefing yesterday on the matter on Capitol Hill. The generals briefed the Senate Armed Services Committee after lawmakers voiced concern over a classified Pentagon forensic study disclosed last week that for the first time linked gaps in upper torso protection to troop fatalities." The "scrutiny of body armor is the latest instance in which Congress has pressured the Pentagon to accelerate the distribution of protective equipment to U.S. troops -- from 'uparmored' Humvees and trucks to bulletproof vests."

The New York Times (1/12, Moss, 1.19M) notes the "ceramic plates now worn by most members of the military shield just some of the upper body from bullets and shrapnel, and the Army said it would buy plates that would extend this protection to the sides of soldiers. The officials spoke after a closed session of the Senate Armed Services Committee, held after The New York Times reported last week that a Pentagon study had found that extra armor could have saved up to 80 percent of the marines who died in Iraq from upper body wounds."

CNN's Lou Dobbs Tonight (1/11, Dobbs) reported that there is "anger on Capitol Hill over reports that Americans are still losing their lives in Iraq because the Pentagon has failed to give our troops adequate body armor. The Senate Armed Services Committee today considered a study that some Marines who have been killed in Iraq would have survived had they been provided improved armor." CNN (McIntyre) added, "Today top Pentagon and Army officials were on Capitol Hill trying to reel in the perception that the US military is not providing enough protection for its troops. … A top Army and Marine Corp official told members of the Senate Armed Serves Committee, it's a myth troops are not getting all of body armor they need."

CQ (1/11, Donnelly) reports Senate Armed Services Committee Chairman John Warner "said Wednesday that he is satisfied the U.S. military is doing all it can to outfit troops with adequate body armor, even as some Democrats drew the opposite conclusion." Military representatives "convinced Warner on Wednesday that they are buying the best armor they can without weighing down soldiers and Marines so much that they cannot perform missions. Nonetheless,

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Democrats seized on the report as evidence the administration has failed to adequately protect U.S. forces."

Massachusetts National Guard Members Sue For Job-Related Expenses. Reuters (1/12, Szep) reports four members of the Massachusetts National Guard "filed a $73 million class-action lawsuit on Wednesday against Defense Secretary Donald Rumsfeld and other military officials in a dispute over on-the-job expenses since the September 11 attacks." The lawsuit "appears to be the first of its kind in the U.S. Army National Guard, which has faced heavy demands since September 11, 2001, lawyers involved in the case said." The four men "filed the suit in U.S. District Court on behalf of soldiers in about 300 jobs in the Massachusetts National Guard owed money for meals, car fuel, lodging and daily allowances, their lawyers said."

WPost Profiles Virginia Marine Killed In Action. The Washington Post (1/12, B3, Stewart, 744K) profiles Marine Lance Cpl. Kyle W. Brown, 22, of Newport News, who "was fatally shot in the head by a sniper in Anbar province near Fallujah, according to the account his grandmother said Marine Corps officials gave the family. It was his second tour of duty in Iraq."

Soldier Wounded In Iraq Has Portion Of Skull Replaced. The CBS Evening News (1/10, story 8, 2:45, Schieffer) reported on the recovery of Sgt. Paul Statzer, a Pennsylvania National Guardsman who suffered a severe head injury in Iraq, noting that he "was so badly wounded in Iraq it is doubtful he could have been saved in any previous conflict. Well, he has made quite a comeback and thanks to some miracle workers at Walter Reed Army Hospital, he has even started to look like his old self." CBS (Martin) added, "Surgeons removed nearly half Statzer's skull after he suffered a severe head wound in a roadside bomb explosion, captured by this still photo last March. Seven months later, Dr. Leon Moores is getting ready to make Statzer's head whole again, implanting an acrylic replica of the bone he lost."

SEALS Intensify Public Recruiting Effort To Boost Numbers, Maintain Quality. NBC Nightly News (1/11, story 7, 2:00, Williams) reported, "Even among Special Forces, they are the specialists, the tough guys, the US Navy SEALS. Tonight the Pentagon is going all out to get more of them, to help fight the war on terror. It costs $380,000 to train just one Navy SEAL, and takes 2 1/2 years of grueling training to do it." To "meet their new demands, these normally secretive seals are going on a very public recruiting campaign." NBC (Miklaszewski) added, "The Pentagon wants to add nearly 400 more to the 2,600 seals now in service." With their high "dropout rate, and the increased demand on the force, the Navy may not be able to produce new SEALS fast enough. So for the first time, usually secret and stealthy seals are going public. SEAL recruiters are hitting high schools. Air shows, and sporting events. And openly competing in the Ironman triathlon in Hawaii."

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Gonzales To Open St. Louis Family Justice Center. The St. Louis Post-Dispatch (1/11) reports, "U.S. Attorney General Alberto R. Gonzales will make his first official appearance in St. Louis, helping on Thursday morning to open the city's new Family Justice Center." The Post-Dispatch continues, "He will be joined by U.S. Sen. Jim Talent; Diane Stuart, director of the Justice Department's Office of Violence Against Women; Catherine L. Hanaway, the U.S. attorney in St. Louis; Mayor Francis Slay and other leaders. … The Family Justice Center…was funded with a $1.25 million Justice Department grant. It is billed as a one-stop resource for women and their families looking to escape domestic abuse."

CORPORATE SCANDALS:

Florida Men Plead Guilty To Hedge Fund Scam. South Florida Business Journal (1/11) reports, "Two South Florida men have pleaded guilty to fraud in a hedge fund scam, the government has said. The U.S. Attorney for the Southern District of Florida, the FBI and the Florida Office of Financial Regulation said Anthony Giordano…pleaded guilty to federal securities fraud and wire fraud. They said Joseph Zumwalt…pleaded guilty to mail fraud in connection with the former EPG Limited Partners of Fort Lauderdale." The Journal adds, "The government said the defendants admitted representing to investors, including two religious organizations, that they would invest their monies in a hedge fund administered by EPG. Instead, the government said, Giordano converted millions of dollars for other uses, including personal gain."

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SEC Corporate Behavior Expert To Step Down. The Wall Street Journal (1/12, Scannell) reports, "Alan Beller, a major figure in the Securities and Exchange Commission's drive to overhaul corporate governance, will leave the agency next month, giving SEC Chairman Christopher Cox another high-level vacancy to fill." The Journal continues, "Mr. Beller's departure comes as the SEC is unveiling the most sweeping overhaul of executive-compensation disclosure in 14 years. … A proposed rule outlining the changes is expected to be discussed at a public hearing Tuesday, and after a public comment period it could take effect for the 2007 proxy season." The Journal adds, "The executive-compensation proposal is the capstone for Mr. Beller, 56 years old, who joined the agency in 2002 to head its corporation-finance division. … He oversaw the implementation of the Sarbanes-Oxley corporate-governance law and an update to securities-offering laws, which allow for greater communication including electronic versions of preoffering 'roadshows' for investors before initial public offerings of stock. … Mr. Beller also has overseen the proposal or implementation of other rules, such as one to speed up the time companies have to file periodic reports, Internet delivery of proxies to investors, and a rule that makes it easier for foreign-based companies to deregister from U.S. reporting requirements. He also helped set up a small-business advisory committee, which is charged with providing guidance to the agency on the costs of regulations to small businesses. … He will 'be recognized as one of the giants of the SEC of all time,' Mr. Cox said."

CRIMINAL LAW:

At Least Two Lawmakers Could Face Charges In Abramoff Probe. CNN's Lou Dobbs Tonight (1/11, Dobbs) reported, "CNN has learned at least two members of Congress could face charges following the plea deal reached with former lobbyist Jack Abramoff. One of them is Congressman Bob Ney of Ohio, who stands accused of performing political favors for Abramoff in exchange of gifts, including a golf trip to Scotland. Ney has repeatedly denied any wrongdoing. There is no word on the identity of the other member of Congress, now apparently under close scrutiny. The sources say four other people could face charges as well, including current and former staff members of Congress, and including former House Majority Leader Tom DeLay."

CNN.com (1/12, Arena, Bohn) reports, "Up to a half dozen people, including two members of Congress, could face charges after high-powered lobbyist Jack Abramoff's plea deal with the Justice Department, sources with knowledge of the investigation tell CNN." CNN continues, "Abramoff has been cooperating with Justice Department prosecutors and FBI agents for several months in their investigation of his dealings, including his allegations of exchanging gifts for political favors. … Authorities have focused on about 20 people who possibly committed wrongful acts, government sources have previously told CNN. The number is a moving target as new information comes in." CNN adds, "Sources with knowledge of the investigation say at least two members of Congress are under scrutiny as part of the ongoing investigation. One is Rep. Bob Ney, R-Ohio, who sources say was the person identified in Abramoff's plea agreement as the official who took action for Abramoff after receiving from him such things as a golf trip to Scotland. … Ney has steadfastly denied wrongdoing, has pledged to cooperate with the investigation and has said he is confident he will be cleared. … The sources would not identify the other member, and they told CNN that no charges appear imminent." CNN notes, "Also under scrutiny, the sources say, are some current and former congressional staffers, including at least two people who used to work for then-House Majority Leader Rep. Tom DeLay. DeLay, R-Texas, and Abramoff had a long working relationship. … Investigators are also examining the activities of some officials at the Interior Department and the General Services Administration, sources tell CNN. One former GSA official, David Safavian, was indicted in October on charges of obstructing a GSA proceeding, obstructing a U.S. Senate proceeding and making false statements in connection with the investigation."

Abramoff Case Said To Provide Unprecedented Look At How Washington Works. The Christian Science Monitor (1/12, Grier, 61K) says the Abramoff case "provides an unprecedented look at the way Washington really works. That doesn't mean everyone on K Street is corrupt, as Abramoff and his former partner, public relations consultant Michael Scanlon, now have admitted they were. … But US investigations of Abramoff and Scanlon produced pointillistic detail about their daily political activities, much of which were perfectly legal. Hundreds of pages of e-mails and

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congressional testimony released by the Senate Committee on Indian Affairs trace the pair as they scrabble for access, scratch backs, beg for money, and dole out contributions in return." The Monitor adds that "within the e-mail trail are hints that Abramoff didn't have quite the juice he claimed. He was taken by surprise when [Interior Secretary Gale] Norton named Aurene Martin acting head of Indian Affairs in January 2003 - just the sort of thing a well-connected lobbyist should know in advance."

Former Jefferson Aide Implicates Lawmaker In Bribery Plea Deal. USA Today (1/12, 6A, 2.31M) reports, "A former aide to Rep. William Jefferson, D-La., pleaded guilty Wednesday to charges that he helped a congressman solicit bribes to arrange two telecommunications deals." Brett Pfeffer, "37, pleaded guilty to conspiracy and aiding and abetting bribery of a public official. He agreed to cooperate with prosecutors and testify if needed. He could get 20 years in prison when sentenced March 31. Pfeffer said in court that a congressman had solicited his assistance in promoting telecom deals in Nigeria and Ghana." Jefferson "demanded 5% to 7% of the newly formed African companies in exchange for his help promoting the deal, according to Pfeffer."

Reuters (1/12, Sullivan) relates that Jefferson "is not named in Pfeffer's plea agreement, which only describes a 'Representative A' who employed Pfeffer from 1995 to 1998. News accounts from that period cite Pfeffer as Jefferson's legislative director. According to court papers, Pfeffer's investment firm in 2004 agreed to invest $45 million to provide high-speed Internet and cable TV service to Nigeria over the existing copper telephone wires there. Jefferson recruited Pfeffer's company for the deal and connected it to a Kentucky technology provider whose equipment would be used in the venture. As the agreement was signed he told Pfeffer he would require an ownership stake, according to court papers. 'Pfeffer understood that Representative A was soliciting a bribe in return for Representative A's official assistance in furthering the Nigerian Deal. Pfeffer…later advised (his boss) that it was part of the cost of doing business with Representative A,' the plea deal said."

CQ (1/12, Ferrechio) reports that Assistant Attorney General Alice S. Fisher, referring to Pfeffer, said in a written statement, "This defendant admitted to a crime which, at its core, is a bribery scheme involving a public official. Such schemes deprive citizens of the integrity and honest services expected of our government. The Justice Department will aggressively investigate and prosecute these illegal schemes."

The Washington Post (1/12, A5, Lengel, 744K) says that along with demanding "a 5 to 7 percent stake in one of two new companies Pfeffer's firm was investing in," Pfeffer "said the congressman also demanded that two relatives be put on the businesses' payrolls." The Post adds, "At one point last year, the FBI set up a sting in which Pfeffer's investment company boss recorded conversations, according to law enforcement sources who declined to be identified because the investigation is ongoing. FBI agents also raided several locations, including Jefferson's homes in the District and New Orleans, where they found about $90,000 in cash in a freezer, sources said."

The Wall Street Journal (1/12, A6, Aqueo, 2.11M) notes that Jefferson, "an eight-term congressmen, is a senior member of the House Ways and Means Committee and its subcommittee on trade, and also co-chairs the Africa Trade and Investment Caucus." The New York Times/AP (1/12) adds that Jefferson "was elected to the House in 1990, becoming the first black congressman from Louisiana since Reconstruction." FoxNews (1/11) also reports this story.

Former New Orleans Subcontractor Pleads Guilty To Paying Kickbacks. The New Orleans Times-Picayune (1/12, Eggler, 257K) reports, "Federal prosecutors rang up another conviction Wednesday in their probe of a scheme to skim hundreds of thousands of dollars from a huge energy-efficiency contract awarded during former New Orleans Mayor Marc Morial's tenure at City Hall. Under an agreement with prosecutors, Michael Garnett, a subcontractor who did work under the $81 million Johnson Controls Inc. deal, pleaded guilty to misprision of a felony for knowing about crimes related to the scheme but failing to inform authorities, U.S. Attorney Jim Letten said. Garnett is the fifth subcontractor to enter a guilty plea related to the Johnson Controls contract, Letten said. … Letten said Garnett admitted providing kickbacks to Kerry DeCay, director of the Department of Property Management under Morial, in connection with the subcontract given to Garnett's company, Golden Hammer Construction." The Times-Picayune notes, "Letten urged other business owners to refuse to be corrupted and to report any approaches for kickbacks to the FBI. Garnett, whose case was investigated by the FBI and the Internal Revenue Service, entered his plea before U.S. District Judge Martin Feldman."

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Parish Councilman Pleads Not Guilty To Katrina-Related Fraud Charges. The AP (1/12) reports St. Tammany Parish Councilman Joe Impastato on Tuesday "pleaded not guilty to federal charges of extorting at least $50,000 from a businessman in an alleged attempt to broker a contract of dispose of debris from Hurricane Katrina. … U.S. Magistrate Louis Moore Jr. allowed Impastato to remain free on $5,000 bond he posted after his arrest in November." The AP notes, "A grand jury accused Impastato of contacting Pontchartrain Chipping and offering to negotiate a debris-dumping deal for the company in exchange for part of the $200,000 contract. Authorities said Impastato was arrested after the company's owner contacted the FBI, which set up a sting operation."

Lawyer Says FBI Stringently Interrogated Witness In Cruise Line Disappearance. Under the headline "F.B.I. Said To Grill Man, 20, On Cruise Disappearance," The New York Times (1/12, Cowan, 1.19M) reports, "The lawyer for one of the men last seen with a Connecticut newlywed before he vanished on a Mediterranean cruise last summer said federal agents had pressured his client for information about the man's disappearance and threatened to charge him with the rape of a female passenger if he declined to cooperate." Attorney Albert Y. Dayan "said that his client, Rustislav Kofman, denied any role in the disappearance of…George Allen Smith IV…or in any rape. He said that when crew members aboard the ship…approached his client about a missing person, Mr. Kofman thought they were talking about Mr. Smith's wife, Jennifer. He said she was not in the Smiths' cabin when his client and three of his friends put her husband to bed after a night of heavy drinking." Dayan "said he and his co-counsel had decided to speak out because they thought their client was being scapegoated. 'Agents have barraged this young man with question after question in three different interrogations,' Mr. Dayan said. 'Some were five to eight hours long, and some were with no food till it was over.' He said that if his client 'were any weaker psychologically, he would have confessed to anything.'" The Times notes, "A spokeswoman for the F.B.I. in New Haven said yesterday that her office would not comment."

Former Alabama Sheriff, Attorney Convicted Of Misusing Crime Computer. WIAT-TV, CBS 42, Birmingham, AL (1/12, Moseley) reports, "A federal jury returned a verdict against an ex-Jefferson County sheriff and his attorney. It's a case that stretches back a few years…one that had Jim Woodward and Albert Jordon accused of illegally using the national crime computer." WIAT-TV continues, "The justice department filed criminal charges back in 2000, accusing Woodward and his attorney of misusing the N.C.I.C. computer. … Prosecutors contend they conducting background checks on absentee voters during the 1998 sheriff's race, a charge they denied. And a jury agreed." WIAT-TV adds, "Jim Woodward and Albert Jordan sat through a second day of jury deliberations, and when it was over the federal panel found them guilty of two felony counts. … Woodward was found guilty of conspiracy and illegal use of property. Jordan was also found guilty of conspiracy and misuse of public money, property or records."

Puerto Rico Attorney Indicted In Fast-Food Fraud Scheme. The AP (1/12) reports, "A federal grand jury indicted a San Juan attorney Wednesday in connection with a scheme to defraud fast-food giant Tricon Restaurants International, the Justice Department said." The AP continues, "ugenio A. Guardiola Ramirez was charged with conspiracy to obstruct justice and obstruction of justice in an investigation into illegal kickback payments paid by an electrical contractor, said Justice Department spokesman Orlando Rios. … Tricon's brands include Kentucky Fried Chicken, Pizza Hut and Taco Bell. Its Puerto Rico stores are operated by Encanto Restaurants of Puerto Rico, Rios said." The AP adds, "Prosecutors allege Guardiola obstructed an investigation into payments made by the Gate Engineering Corporation to a Tricon employee in exchange for more than $1 million worth of electrical contracts, Rios said. … He is accused of mischaracterizing the payments to a grand jury, interfering with witnesses and drafting a phony services contract, Rios said."

In 5-4 Vote, SCOTUS Reinstates California Inmate's Death Sentence. The AP (1/12, Holland) reports, "A divided Supreme Court reinstated a California inmate's death sentence on Wednesday, the first 5-4 vote under newly installed Chief Justice John Roberts." The AP continues, "Justices overturned an appeals court ruling that declared Ronald Sanders' sentence unconstitutional. Sanders was put on death row for the 1982 killing of a woman during a drug-related robbery in Bakersfield, Calif. … Justice Antonin Scalia wrote the ruling, the Court's first death penalty

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decision since Roberts replaced Chief Justice William H. Rehnquist last fall." The AP adds, "The case presented a technical question for the Court involving jurors' consideration of invalid aggravating factors. … Special circumstances used by prosecutors in their case against Sanders -- that the crime was committed during a burglary and was cruel or heinous -- were later found invalid. … California argued that Sanders would have been sentenced to death even without those arguments. The Supreme Court's five conservative members agreed. … 'The erroneous factor could not have "skewed" the sentence, and no constitutional violation occurred,' Scalia wrote in an opinion joined by Roberts, retiring Justice Sandra Day O'Connor and Justices Anthony Kennedy and Clarence Thomas. … In a dissent, Justice John Paul Stevens said 'this decision is more likely to complicate than to clarify our capital sentencing jurisprudence.'"

High Court Considers DNA Case Of Tennessee Death Row Inmate. The Supreme Court heard arguments in the case of a Tennessee death row inmate who claims new DNA evidence casts doubt on his guilt in a 1985 murder. According to Reuters (1/12, Vicini), a majority of the Justices "appeared prepared… to overturn the sentence or the conviction." Reuters reports, "The court's four most liberal members, joined by moderate conservative Justice Anthony Kennedy, seemed supportive of arguments by the attorney for convicted murderer Paul House that a reasonable juror now would not find him guilty."

USA Today (1/12, Biskupic, 2.31M) adds that a majority of the Court "expressed concern… about blood and semen evidence used" to send House to death row.

The New York Times (1/12, Greenhouse, 1.19M) reports, "Justices Antonin Scalia and Stephen G. Breyer were particularly steeped in the details and were deeply engaged on opposite sides of the case, debating it back and forth almost to the exclusion of the lawyers standing before them."

Delaware Court Overturns Death Sentence In Murder Of Governor's Secretary. The AP (1/12) reports, "Delaware's highest court on Wednesday overturned the death sentence of a once well-connected attorney convicted of the 1996 murder of the governor's scheduling secretary." The AP continues, "The sentence was flawed because the jury vote recommending a death sentence for Thomas Capano was not unanimous, the Delaware Supreme Court ruled. The high court ordered a new penalty hearing, but did not overturn his conviction, prosecutor Steven Wood said." The AP adds, "Prosecutors say Capano shot Anne Marie Fahey, 30, scheduling secretary to then-Governor Tom Carper, and dumped her body in the Atlantic Ocean because she was breaking off an affair with him. … Capano, a former state prosecutor, is a member of a well-known family involved in land development. … His attorneys had argued that his death sentence, issued in 1999, should be overturned because his jury was not unanimous in determining that Fahey's slaying was premeditated. The state high court found that the Delaware Constitution demands unanimous jury verdicts in death-penalty sentencing, even if federal law does not."

In Widely-Watched Case, Antique Gun Dealer Sentenced To Prison For Fraud. The Philadelphia Inquirer (1/12, Shiffman, 423K) reports, "A once-distinguished antique-firearms dealer who duped a Bucks County millionaire while helping him amass a $30 million gun collection was sentenced to 2 1/2 years in prison yesterday. … U.S. District Judge Cynthia M. Rufe said that she hoped the prison sentence for the dealer, Michael Zomber of Franklin, Tenn., would deter others who might try to defraud antiques collectors. … Zomber was convicted of fraud at trial. His accomplice, Richard Ellis, of LeClaire, Iowa, pleaded guilty and cooperated with the government. … 'The entire industry was poised to find out what happened to Ellis and Zomber,' said FBI agent Bob Wittman, who handled the case. 'There's an element that's going to be happy that it's a new day, and there's an element that's going to be upset that their antics are going to be put under the microscope.'"

Grand Jury Indicts North Carolina Man For VAMC Murder. The AP (1/12) reports, "A man accused of killing a co-worker and former lover at the Veteran's Administration hospital in Fayetteville was indicted on a murder charge Wednesday by a federal grand jury." Arthur James Charland Jr. "was also charged with use and discharge of a firearm during an in relation to a crime of violence, according to a statement by U.S. Attorney Frank D. Whitney. Charland is accused of fatally shooting Linda Faye Owens, with whom he had an 11-year affair." The AP notes, "At a hearing last month, FBI Special Agent Chris Hedges testified that Charland told investigators he was being treated for bipolar disorder."

Inmate On Trial For Killing Ex-Priest Convicted Of Molestation. The New York Times

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(1/12, Belluck) reports, "The murder of John J. Geoghan, a defrocked priest, in 2003 by an inmate in state prison was a shocking and almost surreal dénouement to one of the darkest chapters of the sexual abuse crisis in the Roman Catholic Church." The Times continues, "Mr. Geoghan's violent death in the most secure prison in Massachusetts was to some an appalling failure of the state to protect one of its most despised inmates. To others it was a horrible but justified retribution against Mr. Geoghan, one of the most reviled priests named in the abuse scandal, accused of molesting some 150 children in several parishes over three decades. … Now, the man who admits he killed Mr. Geoghan, Joseph L. Druce, is having his day in court, and for anyone watching the trial, it is hard to figure out where to put one's sympathies - with the murder victim or the man who killed him." The Times adds, "Mr. Druce, 40, is pleading not guilty by reason of mental illness. His lawyer, John LaChance, does not dispute the details of the case. Prosecutors say Mr. Druce followed Mr. Geoghan into his cell at the Souza-Baranowski Correctional Center on Aug. 23, 2003, and jammed the cell door shut with a nail clipper and a ripped-up copy of 'The Cross and the Switchblade,' a book about a minister who transformed the lives of teenage gang members by introducing them to Christianity. … Mr. Druce then tied Mr. Geoghan's hands with a T-shirt, wrapped stretched-out socks around Mr. Geoghan's neck, tightened them with a shoe, and then jumped up and down on his body. … According to testimony by corrections officers on Wednesday, Mr. Druce later told them he 'did it for the children,' to stop Mr. Geoghan, 68, from molesting more boys when he got out of prison."

Catholic Bishop Acknowledges Own Abuse As Teen By Priest. The CBS Evening News (1/10, story 7, 2:00, Schieffer) reported, "A Roman Catholic Bishop has made a startling admission. Thomas Gumbleton of Detroit says that he was sexually abused when he was 15 years old by a priest. The Bishop, who's now 75, is believed to be the highest-ranking Catholic clergyman in this country to make such an admission. He was in Ohio today where he endorsed proposed laws there and in other states that would lift the statute of limitations on suing churches for sex abuse. A study commissioned by America's bishops found that over the past half century, nearly 4,400 priests were accused of abusing more than 10,000 people."

CIVIL LAW:

National Guard Soldiers Sue US For Post-9/11 Expenses. The AP (1/12, Lindsay) reports, "A group of National Guard soldiers who were ordered to protect possible targets after the Sept. 11 attacks sued the federal government Wednesday, seeking tens of millions of dollars in expenses they say were never reimbursed." The AP continues, "The soldiers, from Massachusetts and New Hampshire, say they traveled hundreds of miles to security postings and used their own money to pay for food and lodging with the expectation that they would be reimbursed. … But the soldiers say in their complaint that their requests for compensation were repeatedly denied and they eventually were told, 'If you don't like the arrangement, we'll make sure you get taken off this mission.'" The AP adds, "In the lawsuit, the plaintiffs argue that federal law provides military personnel with a travel and transportation allowance while away from home on active duty. … The lawsuit was filed in U.S. District Court by four soldiers but seeks to include hundreds of other guardsmen as a class action. It names the U.S. Department of Defense and the Massachusetts National Guard and seeks $73 million in unpaid expenses. … A spokeswoman for the Defense Department referred calls to the Justice Department, where a spokesman declined to comment until after the agency reviews the lawsuit."

DOJ Will Not Intervene In Whistleblower Suit Against MedcoHealth Solutions. The AP (1/12) reports, "Pharmacy benefits manager Medco Health Solutions Inc. said the Justice Department will not intervene in a whistleblower lawsuit filed against the company in a Pennsylvania court last month." The AP continues, "New Jersey-based Medco said in a filing with the Securities and Exchange Commission that the U.S. Department of Justice notified the company on Tuesday of its decision not to intervene. … Medco said it first learned of 'qui tam' lawsuit in mid-December, when the U.S. District Court for the Eastern District of Pennsylvania lifted the seal on the case." The AP adds, "In an earlier filing, the company said the complaint makes allegations concerning turnaround time and performance-guarantee reporting -- the same charges drawn in a 2003 lawsuit. The complaint 'does not allege any health, safety or clinical violations,' Medco said."

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Ex-Worker Sues Genentech Over Marketing Practices. Dow Jones (1/12) reports, "A former Genentech Inc. employee has accused the biotechnology company and marketing partner Biogen Idec Inc. of illegally promoting cancer drug Rituxan as a treatment for arthritis, a use not yet approved by regulators." Dow Jones continues, "Paul McDermott, who worked for Genentech in Falmouth, Maine, from March 2004 until April 2005, filed a whistleblower lawsuit in July 2005 in U.S. District Court in Maine alleging the companies' marketing of Rituxan defrauded government health-care programs." Dow Jones adds, "The suit also says Genentech fired McDermott in retaliation for bringing the matter to the attention of Genentech executives. The suit seeks unspecified damages on behalf of the government, and an order that Genentech rehire McDermott and pay him back wages and other damages. … McDermott's lawsuit hasn't surfaced until now because it was filed under seal on behalf of the federal government. In December, however, the Justice Department declined to intervene in the case and requested that the lawsuit be unsealed. … McDermott's lawsuit is the latest legal challenge facing Genentech (DNA) over Rituxan's marketing. In October 2004, Genentech (DNA) received a subpoena from the U.S. Attorney's Office in Philadelphia seeking documents related to the promotion of Rituxan. Genentech (DNA) is cooperating with that investigation, which it said was both civil and criminal in nature."

US Seizes Mislabeled Bread. The Minneapolis Star Tribune (1/12, Lopez) reports, "Allergists and food allergy activists alike were shaken Wednesday upon learning that the French Meadow Bakery labeled its spelt bread 'wheat-free' when the bread, in fact, contains wheat." The Tribune continues, "For the hundreds of thousands of Americans who are wheat-intolerant or who have a genuine wheat allergy, mislabeled food is no small matter, said Anne Munoz-Furlong, founder of the national Food Allergy and Anaphylaxis Network, based in Fairview, Va. … Wheat allergy reactions, she said, can range from hives and digestive problems to -- at the most extreme end -- death from the inability to breathe." The Tribune adds, "French Meadow, revered by health enthusiasts for its varieties of organic bread, had 30,000 loaves made from spelt and Kamut grain seized Tuesday afternoon by U.S. marshals and agents from the U.S. Food and Drug Administration. The agency had spent nearly a year attempting to get the bakery to relabel its bread, noting that both spelt and Kamut are varieties of wheat. … U.S. Attorney Tom Heffelfinger, whose office is handling the case, said the agents locked most of the loaves in freezers, where they will remain until the case is decided or a court order issued. 'The FDA takes the accuracy of food labeling very seriously,' Heffelfinger said. … French Meadow has 20 days to respond to the FDA's complaint, he said. He did not know whether any consumer complaints were involved. … The company could face administrative penalties and sanctions for the government's costs in prosecuting the case, he said, 'but that hasn't been determined yet. This is primarily about resolving the labeling issue.'"

SCOTUS Ruling On Wine Shipments Slowly Bearing Fruit For Wineries. The AP (1/12, Locke) reports, "A lot has happened since the U.S. Supreme Court opened the door to shipping wine across state lines. But change hasn't been swift in an industry that sometimes seems as rich in red tape as it is red grapes. … 'We're in a highly regulated industry. This isn't like selling sweaters,' said Jeremy Benson, executive director of Free The Grapes, a Napa, Calif.-based group that has been working to loosen shipping restrictions. 'The regulations are there and we have to work through them.'" The AP continues, "The Supreme Court struck down laws last spring in New York and Michigan that allowed wineries to ship directly to in-state consumers but forbade out-of-state businesses from doing the same thing. … The court said either all wineries should be allowed to ship directly to consumers or none, a blow to the old distribution system that required a wholesaler to sell to restaurants and retailers. States have been acting to adjust their shipping laws ever since." The AP notes, "The ruling was particularly important to smaller wineries that don't have the volume for wide distribution in liquor stores and supermarkets and rely on direct sales to consumers, many of whom have developed a taste for their products on winery visits. … Since the Supreme Court ruling, New York, Michigan and Ohio have loosened shipping restrictions. Texas also made shipping easier just prior to the high court ruling."

GPO Contracts With Kinko's For Small Printing Jobs. The Washington Post (1/12, A19, 744K) reports that the Government Printing Office is "hiring Kinko's to handle small printing jobs for federal agencies. The contract, worth about $100 million annually and renewable

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for up to four years, will allow federal employees to get discounted copying, binding and printing services (including posters, signs, business cards and brochures) at 1,300 locations across the country. The GPO will pick up the tab through a new GPOExpress Card that federal employees will use."

McCain-Feingold Said To Provide "Semi-Respectable" Cover For Incumbents. James Bopp, general counsel for the James Madison Center for Free Speech, writes in the Wall Street Journal (1/12, 2.11M) that campaign finance reform "passed by Congress in McCain-Feingold and approved by the Supreme Court in McConnell v. FEC is mutating and spreading in the states. … State politicians are taking McCain-Feingold and McConnell as a license to enact much broader restrictions on core political speech. This term the court has a chance to decide whether these restrictions are justified, and what remains of the First Amendment in regard to democratic elections." Bopp adds, "The guise of 'reform' offers incumbents semi-respectable cover for their assault on free elections. Unless stopped, this virus will kill the First Amendment and democratic self-government."

CIVIL RIGHTS:

AMC Entertainment Settles ADA Claims With DOJ. The AP (1/12, Twiddy) reports, "AMC Entertainment Inc., the nation's second-largest movie theater chain, was ordered to upgrade seating for patrons in wheelchairs at 1,200 of its stadium-style movie auditoriums and pay $300,000 in penalties and civil damages to settle a U.S. lawsuit." The AP continues, "Justice Department officials said Wednesday the order settles its 1999 lawsuit against the company claiming AMC violated the Americans with Disabilities Act because it doesn't provide comparable seating for people in wheelchairs." The AP adds, "The Kansas City-based company also must ensure that all theaters built over the next five years comply with requirements set out Tuesday by U.S. District Judge Florence-Marie Cooper in Los Angeles. … The stadium-style seating now dominating movie theaters gives everyone unobstructed views of the screen. But critics say most wheelchair spaces are at the base of the stadium tiers, forcing those patrons to crane their necks to see the movie. … As part of the order, privately held AMC, which operates more than 3,300 screens, must build ramps in more than 360 theaters, providing wheelchair spaces on higher seating tiers. The company also must pay $200,000 to theatergoers who originally complained to the Justice Department about the seating arrangements and $100,000 in fines. … 'Providing the same moviegoing experience for individuals in wheelchairs that other patrons enjoy delivers on the promise of the ADA,' Assistant Attorney General Wan J. Kim said in a release. 'These improvements will make the goals of the ADA a reality for thousands of Americans who want to enjoy this popular form of entertainment.'"

Hispanic Workers Get Another Chance To Challenge Oklahoma City's English-Only Policy. The AP (1/12) reports, "A federal appeals court ruling Wednesday resurrects claims Hispanic workers made in a lawsuit challenging an English-only policy for city workers in Altus, Okla." The AP continues, "Twelve bilingual Hispanic workers filed complaints with the Equal Employment Opportunity Commission after the city adopted the policy in 2002. They argued that the city failed to show there was a need to prevent them from speaking Spanish. They said the policy singled out a nationality." The AP adds, "City officials had argued the policy was necessary because some workers and supervisors couldn't understand what was being said on city radios, some workers felt uncomfortable because they could not understand Spanish, and there were safety concerns about workers understanding each other around heavy equipment. … The Justice Department declined to take action, prompting employees to file a lawsuit in federal court in Oklahoma City. U.S. District Judge David Russell dismissed the complaint, saying the city had the authority to adopt the policy in managing its employees. … On Wednesday a three-judge panel of the 10th U.S. Circuit Court of Appeals remanded the case back to district court with respect to the plaintiffs' claims of disparate treatment, discrimination and violation of equal protection laws."

California School District Sued Over Intelligent Design. The Los Angeles Times (1/12, Sahagun, Bailey, 958K) reports that the town of Lebec, California has become "the latest focal point in the national debate over teaching 'intelligent design" in public schools.' On Tuesday, parents filed suit "against El Tejon Unified School District, the first legal challenge to the teaching of intelligent design in California. … The hullabaloo erupted

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after disgruntled parents joined with Americans United for Separation of Church and State to challenge a course at Frazier Mountain High School that they consider a minimally disguised endorsement of intelligent design. School trustees approved the new course, 'Philosophy of Design,' at a special meeting on New Year's Day. Attorneys for the district suggested the course could survive a legal challenge if it was called 'philosophy,' the lawsuit said, and the board approved it on a 3-2 vote."

ANTITRUST:

Maytag, Whirlpool Shares Recover After Antitrust Worries. The AP (1/12) reports, "Shares of Maytag Corp. and Whirlpool Corp. stock recovered slightly Wednesday after taking a hit the day before amid speculation that federal regulators may challenge the firms' merger." The AP continues, "Whirlpool closed Tuesday at $83.10 after dropping $1.89, or 2.2 percent, for the day while Maytag fell 4.7 percent, or 88 cents, to close at $17.89. … Wednesday, Whirlpool shares closed at $83.05 and Maytag finished at $17.98." The AP adds, "Whirlpool, based in Benton Harbor, Mich., agreed in August to buy Maytag for $1.7 billion in cash and stock. Both companies have said they expect the deal to close as early as the first quarter of this year. … Shareholders of Newton, Iowa-based Maytag voted Dec. 22 to approve the merger, pending regulatory approval. The U.S. Justice Department is investigating whether the merger of Whirlpool, the leading appliance seller, and Maytag, the third largest, violates antitrust laws." The AP notes, "Industry analyst David MacGregor, of Ohio-based Longbow Research, said the stock fluctuation was based on nothing more than market scuttlebutt. … He said the market reacted to the buzz that regulators were concerned that the merger would place too much of the middle-priced laundry machines in one company's control. Mid-priced washing machines, for example, sell for $350 to $600, MacGregor said."

The Detroit Free Press (1/12, Bodipo-Memba) reports, "An article that appeared on the financial news website TheDeal.com, citing people it didn't name, said antitrust concerns might lead to the U.S. Department of Justice seeking an injunction blocking the merger. In August, Benton Harbor-based Whirlpool agreed to purchase Maytag of Newton, Iowa for $1.7 billion in cash and stock, following a flurry of offers and counter offers by several suitors. … The proposed deal, which is expected to be completed in the first quarter of this year, would combine the nation's No. 1 and No. 3 makers of household appliances under one roof. But, antitrust concerns about merging two of that nation's biggest makers of refrigerators, dishwashers and dryers surrounded the deal for months."

Northwest Airlines Drops Request For SkyTeam Antitrust Immunity. The AP (1/12, Freed) reports, "Northwest Airlines Corp. is withdrawing a request for antitrust immunity for its SkyTeam airline alliance, saying the Transportation Department had signaled it would reject the request anyway." The AP continues, "Northwest entered SkyTeam last year after its partner, KLM Royal Dutch Airlines, merged with SkyTeam member Air France. Northwest has antitrust immunity to coordinate routes and pricing with KLM, but not with other SkyTeam members, which also includes Delta Air Lines Inc., Alitalia, Continental Airlines Inc. and CSA Czech Airlines. The request was submitted by all the carriers, and Northwest said its withdrawal request would apply to the full alliance. … Northwest and Skyteam members can still codeshare, which makes it easier for passengers to book trips on a single ticket with multiple airlines. But the Transportation Department had said the Skyteam routes overlap so much that little new service was likely to result from an antitrust waiver." The AP adds, "In a statement, Northwest called the initial Transportation Department finding 'arbitrary, capricious and inconsistent with established DOT precedent and U.S. international aviation policy' … 'Northwest is at a loss to understand this decision by the same DOT officials claiming to strongly support deregulation and an Administration which espouses a free market philosophy,' Northwest said. 'The U.S. airline industry is in a state of crisis. Four major air carriers, including Northwest and Delta, are operating under Chapter 11, as are several national carriers.' … Regional feeder Mesaba is also in Chapter 11, having filed just one month after Northwest, which provides all of Mesaba's planes, revenues, and passengers."

Some See Realtors' Group Tactics As Overly Aggressive. The New York Times (1/12, Justice) reports, "When the nation's largest banks decided at the start of the decade that they wanted to get into the real estate brokerage business, one major obstacle stood in their way: the National Association of Realtors." The Times continues, "Lobbyists for the huge trade group stonewalled the banks by

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tying up new rules at the Treasury Department and the Federal Reserve. Then the big score came in 2002 when the Realtors persuaded Congress to adopt a one-year moratorium to stop the banks altogether. It was a card the Realtors would play again and again. Four years later, bankers still have not cracked the real estate market. … 'They are known as very aggressive,' said Edward L. Yingling, president of the American Bankers Association. 'Not many trade associations are willing to be that tough on an issue.' … But the ability of the National Association of Realtors to beat back competitors is being tested now as few times before. A broad range of critics say the organization and its state and local affiliates have worked to smother competition and protect the decades-old system that provides traditional brokers 5 percent to 6 percent commissions on most home sales." The Times adds, "The Justice Department sued the association last year, asserting that the group's rules for online property listings discriminate against Internet-based brokers. Battles have also raged in the states as Realtor organizations pursued policies that opponents say would hurt discount brokers. The Consumer Federation of America is rewing up to fight any such industry-sponsored legislation state by state in coming months. … Even some industry allies say the association may be too aggressive in protecting its interests. 'They might have small victories, but they are losing the battle,' said Representative Pat Tiberi, an Ohio Republican who worked in real estate before joining Congress. 'I think they should be relooking some of their tactics.' … Officials at the National Association of Realtors are quick to defend the organization. Stephen Cook, the group's spokesman, said the organization and the industry were not under siege. Rather, Mr. Cook said, the current climate is the byproduct of a hot housing market that has focused much national attention on the industry. 'The system can always be improved, but we don't think it is broken,' Mr. Cook said."

Johnson & Johnson Not Ready To Give Up On Guidant Bid. Dow Jones (1/12) reports, "Johnson & Johnson appears unwilling to let its planned Guidant Corp. purchase slip away without a fight, a shift given J&J's prior unwillingness to budge from its offer for the medical device maker, but a move that reflects the new reality of intense competition." Dow Jones continues, "J&J's current purchase price for Guidant, about $64 a share, is the much- reduced product of an acrimonious spat between the companies following troubles with Guidant's heart rhythm devices last year. Given the dispute, many thought J&J was locked into that price, even as a surprise $72 a share offer from rival Boston Scientific Corp. dramatically changed the landscape." Dow Jones adds, "The offer, officially made Sunday at $25 billion, vaulted Boston Scientific (BSX) to apparent frontrunner status, but several reports this week suggest J&J is willing to change its tune. The Wall Street Journal reported that Guidant's board plans to meet at 3:00 p.m. EST Wednesday to decide between the Boston Scientific offer and a new, potentially much more competitive J&J offer. … The New York Times reported earlier Wednesday that J&J approached Guidant's board at the last minute late Tuesday, heading off a vote in favor of Boston Scientific , to negotiate a new deal. CNBC also reported Wednesday that J&J plans to raise its offer. … Boston Scientific, meanwhile, may be willing to answer a any J&J move. 'Don't count us out,' Boston Scientific spokesman Paul Donovan said Wednesday, declining to elaborate further."

Investors Eye Battle For P&O After Singapore Bid Hint. The Wall Street Journal (1/12, Stanley, Prystay, Singer) reports, "Smelling a battle between a pair of rich bidders amid a boom in cargo volume, investors pushed shares of port operator Peninsular & Oriental Steam Navigation Co. of Britain up 6.3% yesterday after PSA International Pte. Ltd. of Singapore said it might make a bid for it at as much as £3.54 billion ($6.25 billion)." The Journal continues, "PSA, a unit of Singapore's state-owned investment company Temasek Holdings Pte. Ltd., said after the London market closed Tuesday that it could pay as much as 470 pence a share for P&O, as the company is known. That would trump a bid of 443 pence a share, or £3.3 billion, that Dubai Ports World, of the United Arab Emirates, made in November and that P&O's board then recommended to its shareholders. … Still, it isn't certain PSA will make a bid for P&O, one of Britain's oldest companies, founded in 1840. Singapore port operator PSA, which has been granted access to the same nonpublic financial information that was given to Dubai Ports, has a little more than two weeks to review the data and decide. Dubai Ports, meanwhile, has said it is reviewing the situation carefully."

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ENVIRONMENT/INDIAN AFFAIRS:

Investigators Give Detailed Account Of Sago Mine Rescue Attempt. Investigators offered a detailed account yesterday of rescue efforts after the accident at the Sago Mine in West Virginia that eventually left 12 miners dead. The story was covered by each of the networks in the first half of their newscasts, and was the lead on CBS.

The CBS Evening News (1/10, lead story, 3:00, Schieffer) reported, "While it took officials above ground 11 hours to organize a rescue effort, just one hour after the explosion, a group of miners below ground organized their own rescue effort and got much closer than anyone realized to the trapped men. Eventually they, too, were turned back by the poison gas and the 12 men died."

The New York Times (1/12, Barringer, 1.19M) reports that regulators "said they had heard nothing to confirm an account by relatives of the only survivor that the men had tried to force their way out in a rail car but that their escape route had been blocked by debris. Rescuers found no such blockage, the regulators said."

ABC World News Tonight (1/11, story 3, 2:35, Woodruff) reported rescuers "took major risks to reach the men, not even knowing if they were alive." ABC (L. Stark) added, "This mine had hundreds of safety violations. And today, the company insisted that had nothing to do with the accident."

NBC Nightly News (1/11, story 3, 2:00, Williams) reported, "Today, 12 US senators from states in coal country called for hearings into the state of mining safety in this country, nine days now after the deaths of those 12 miners. And we're learning more about the number of violations at the Sago Mine. One Federal inspector has already used the word 'negligence.'" NBC (Costello) added, "Federal inspectors found the safety violations at the Sago Mine 'significant, substantial,' and often times indicated 'negligence.' 205 violations in the last year."

FBI Warns Of Coal Mine Accident Email Scam. NBC Nightly News (1/11, story 4, 1:00, Williams) reported, "The FBI has issued a warning to all Americans to beware of emails using this mining disaster as a scam soliciting funds to help the soul survivor in this accident, Randall McCloy. Investigators have come across one email scam so far that is actually claiming to raise money for McCloy and they warn there could be more out there. The FBI is urging everyone not to open unsolicited email and to thoroughly check before giving to any charity. By the way, McCloy remains in critical condition."

Interior Department To Open Alaska Acreage To Oil Drilling. The Interior Department has agreed to open about 400,000 acres on Alaska's North Slope for exploratory oil drilling. Officials said the acreage will be leased to oil companies to provide access to domestic oil supplies. The Washington Post (1/12, A8, Blum, 744K) reports, "Government officials said that the area of the preserve opened yesterday has significant potential for oil development. They estimate it contains about 2 billion barrels of oil that is economically recoverable, along with 3.5 trillion cubic feet of natural gas. The United States consumes more than 20 million barrels of oil per day."

The Los Angeles Times (1/12, Wilson, 958K) adds, "Bureau of Land Management staff said the decision was made after three years of study and in response to requests by Vice President Dick Cheney's energy task force."

Study Links Global Warming, Extinctions Of Frog Species. A study to be published in the journal "Nature" links global climate change to the extinction of some species of animals. ABC World News Tonight (1/11, story 5, 2:20, Blakemore) reported scientists "focused on these creatures. 70 different species of Harlequin frog, gone, from 11 countries in Central and South America, even though there's been no destruction of the wild places these animals live in. Scientists are now beginning to find serious declines of all kinds of species, each linked in one way or another, to global warm warming, all over the world. And tomorrow's study seals the link." Biologist Alan Pounds: "There's a very clear relationship between temperature and the timing of the die-offs." Blakemore: "American biologists Alan Pounds and his colleagues use data from more than 70 researchers across the Americas and from climatologists worldwide. They discovered over the past 20 years, the spikes in global temperatures, coincided in lock-step with years that Harlequin frog species were seen for the last time."

NBC Nightly News (1/11, story 8, 2:00, Williams) reported scientists "say climate change apparently increases the incidents of a fatal skin fungus. Several other experts disagree, but tonight they say what is happening to the frogs should be a warning to us all."

The Washington Post (1/12, A1, Eilperin) reports, "Rising temperatures are responsible for pushing dozens of

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frog species over the brink of extinction in the past three decades, according to findings being reported today by a team of Latin American and U.S. scientists." The Post continues, "The study, published in the journal Nature, provides compelling evidence that climate change has already helped wipe out a slew of species and could spur more extinctions and the spread of diseases worldwide. It also helps solve the international mystery of why amphibians around the globe have been vanishing from their usual habitats over the past quarter-century -- as many as 112 species have disappeared since 1980." The Post adds, "Scientists have speculated that rising temperatures and changing weather patterns could endanger the survival of many species, but the new study documents for the first time a direct correlation between global warming and the disappearance of around 65 amphibian species in Central and South America."

The Wall Street Journal (1/12, Naik) reports, "Conservationists have been puzzled for more than a decade by the mysterious disappearance of harlequin frogs from the pristine, high-altitude tropical forests of Costa Rica. Now a group of scientists believe they have pinpointed the likely cause: global warming that promotes a fungus that is fatal to the frogs. … The finding, published today in the journal Nature1, is likely to stoke the debate about whether climate change is affecting the dynamics of disease, and why amphibians are dying out in such massive numbers world-wide. Recent data indicates that, since 1980, as many as 122 amphibian species are likely to have become extinct and one-third of known amphibian species are threatened."

The New York Times (1/12, Revkin) reports, "If the analysis holds up, it will be the first to link recent climate changes to the spread of a fungus lethal to frogs and salamanders and their kin. The chytrid fungus, Batrachochytrium dendrobatidis, has devastated amphibian communities in many parts of the world over the last several decades. … But experts on amphibian disease and ecology are divided over the finding, which is being published today in the journal Nature. Several scientists criticized the paper yesterday, saying it glossed over significant sources of uncertainty; others said it was important evidence that warming caused by humans was already harming wildlife. Climate scientists have linked most of the recent rise in the earth's average temperature to the buildup of greenhouse emissions from smokestacks and tailpipes."

USA Today (1/12, Watson) reports, "The research team found a 'ear lock-step (link) between the timing of losses and changes in climate,'said lead scientist Alan Pounds of the Monteverde Cloud Forest Preserve and Tropical Science Center in Costa Rica. 't's a very striking pattern, and it's hard to find another explanation for it.' … The group did not identify the other contributing causes. Pounds and his team say the warmer temperatures of the late 20th century led to better growing conditions for a fungus that kills frogs and toads. … Other scientists expressed skepticism about the findings. Stephen Corn of the U.S. Geological Survey said the dates recorded for extinctions may not be entirely reliable. The University of Colorado's Cynthia Carey questioned why the new work ignores extinctions of related species after 1998."

US Seen As Vulnerable To Drug Shortages In Pandemic. A front page story in the Wall Street Journal (1/12, Wysocki, Lueck, 2.11M) reports that in the event of a pandemic flu out break, the US drug supply chain "is almost certain to break. Thousands of drug-company workers in the U.S. and elsewhere could be sickened, prompting factories to close. Truck routes could be blocked and borders may be closed, particularly perilous at a time when 80% of raw materials for U.S. drugs come from abroad. The likely result: shortages of important medicines -- such as insulin, blood products or the anesthetics used in surgery -- quite apart from any shortages of medicine to treat the flu itself." The Journal adds that the US "is exceptionally vulnerable in a pandemic. Near-empty warehouses are a sign of strong inventory management. Production of drugs takes place offshore because that's cheaper. The federal government doesn't intervene as a guaranteed buyer of flu drugs, as it does with weapons. Investors and tax rules conspire to eliminate redundancy and reserves. Antitrust rules prevent private companies from collaborating to speed development of new drugs. Most fundamentally, the widely embraced 'just-in-time' business practice…is at odds with the logic of 'just in case' that promotes stockpiling drugs, government intervention and overall preparedness."

Ohio High Court To Hear First Eminent Domain Case Since SCOTUS Ruling. The AP (1/12, Welsh-Huggins) reports, "Ohio Supreme Court heard arguments Wednesday pitting a suburban Cincinnati city against a couple trying to save their home in a long-anticipated hearing that included a rare outburst of applause

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by spectators." The AP continues, "The city of Norwood is trying to use eminent domain to seize remaining properties for a developer who wants to build a $125 million project of offices, shops and restaurants. The city says the tax revenue will boost its economic fortunes." The AP adds, "Homeowners Carl and Joy Gamble say the city abused its authority to seize property by declaring the neighborhood deteriorating, a less severe condition than blighted. … The case is the first challenge of property rights laws to reach a state high court since the U.S. Supreme Court last summer allowed municipalities to seize homes for use by a private developer." The AP notes, "Property rights' advocates, business groups and backers of city planning are watching the Ohio case because of the precedent it could set as more than a dozen states consider bans against governments taking homes to boost economic development. … A decision is expected by summer."

8th Circuit Takes Up 2003 Meskwaki Tribal Election Case. The AP (1/12) reports, "A federal appeals court in St. Louis was scheduled to hear arguments Thursday on whether a lower court judge erred by dismissing a lawsuit challenging the Meskwaki tribal elections in 2003." The AP continues, "The lawsuit stems from an internal power struggle that began nearly three years ago when the Meskwaki tribal council and its chairman, Alex Walker Jr., were overthrown by a new set of leaders. The new council, led by Homer Bear Jr., was picked by the tribe's hereditary chief after Walker's council ignored recall petitions." The AP adds, "The ensuing political dispute played out in state and federal courts and led to a costly, seven-month shutdown of the Meskwaki casino, located on the tribal settlement west of Tama. The tribe, with 1,200 members, officially is known as the Sac and Fox of the Mississippi in Iowa. … The dispute ultimately was settled after tribal members participated in a series of elections overseen by the federal Bureau of Indian Affairs. … As a result, four Walker council members were removed and the Bear council was put in power. The casino reopened in December 2003." The AP notes, "The lawsuit before the 8th U.S. Circuit Court of Appeals originally was filed in 2004 by the election officials appointed by Walker. … In their lawsuit, Walker supporters argue that the BIA mishandled oversight of the election and illegally interfered in the process. They also claim that Aurene Martin, assistant secretary of the BIA, violated agency policy when she rejected an appeal of the election results. … In March, U.S. District Judge Linda Reade, in Cedar Rapids, threw out the lawsuit, saying it was a matter for tribal courts to decide. Walker supporters are appealing that decision."

FBI/DEA/ATF/USMS:

Study Finds Shorter Prison Terms For Crack Cocaine Convictions. The AP (1/11, Sherman) reports, "Some federal judges are handing out shorter prison terms for crack cocaine crimes since last year's Supreme Court decision giving judges more discretion in sentencing, a report said Wednesday." The AP continues, "Defendants in the study received prison terms averaging 11 years, but those terms were less than what is called for in 20-year-old sentencing guidelines, according to the Sentencing Project, a nonpartisan group that backs alternatives to lengthy prison sentences." The AP adds, "The Supreme Court ruled a year ago that judges do not have to follow the sentencing guidelines. … The analysis focused on crack because the congressionally established guidelines punish some crack cocaine offenses more severely than powder cocaine offenses. A person must possess 100 times more powder cocaine than crack cocaine to receive a comparable sentence, under the guidelines. … The report looked at a very small sample of 24 cases in which judges wrote opinions explaining the prison sentence and cited the Supreme Court ruling. There were more than 5,400 people sentenced for crack offenses in 2003, the latest year for which statistics are available." The AP notes, "Attorney General Alberto Gonzales has warned of growing disparity in jail terms and 'a drift toward lesser sentences' since the court ruling. … Congress created the guidelines in the 1980s mainly to reduce disparities between judges. But the high court said making the guidelines mandatory violated a defendant's Sixth Amendment right to a jury trial because they call for judges to make factual decisions that could add to prison time, such as the amount of drugs involved in a crime."

The Wall Street Journal (1/12, Fields) reports, "In the wake of the Supreme Court's decision a year ago making sentencing guidelines advisory rather than requirements to be followed, some federal judges appear to be giving more lenient sentences in cases involving crack cocaine, according to an analysis released yesterday." The Journal continues, "Sen. Jeff Sessions, an Alabama Republican, said he intended to introduce a bill this year that will propose changing the law to reduce the disparity between the

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amounts of crack cocaine and powder cocaine necessary to give a defendant the same sentence. He and Utah Republican Sen. Orrin Hatch co-authored a bill in 2003 that would have reduced the disparity to 20-to-1 -- from 100-to-1 -- but it got little support." The Journal adds, "The Sentencing Commission, which declined to comment on the study, has long supported altering its guidelines on crack-cocaine crimes to bring the penalties and amounts more in line with powder cocaine. In 1995, the Sentencing Commission sent Congress an amendment which would have equalized the penalties on the two forms of cocaine, but Congress rejected the amendment. Similar recommendations from the commission in 1997 and 2002 were ignored by Congress."

NYTimes Says Mandatory Minimum Sentences Have Not Worked. An editorial in the New York Times (1/12, 1.19M) says mandatory sentencing laws "have clearly done more harm than good. The inmate population has skyrocketed, driving prison costs to bankrupting levels, while having no impact at all on the drug problem. By taking away judicial discretion, the laws have led the country to write off first-time offenders who might have deserved second chances and to imprison addicts who could otherwise have been effectively and less expensively handled through treatment programs." In New Jersey, a panel of criminal justice officials "has recommended that the state revise a law that mandates more severe sentences for people convicted of certain drug crimes committed within 1,000 feet of school property. The law appears to have had no impact at all on the actual pattern of drug dealing. But it has created a profoundly discriminatory sentencing pattern, which treats minority defendants unfairly while undermining confidence in the criminal justice system. … The broader message of this study is that the country can't just imprison its way out of the drug problem. Coping with this issue - while reducing prison costs - will require a complex set of strategies, including drug abuse treatment and prevention services and increased judicial discretion in sentencing."

Constituents Not Surprised Barry Failed Drug Test. The Washington Post (1/12, B1, Weiss, Pierre, 744K) reports that news that DC City Council Member Marion Barry failed a court-ordered drug test was not met with "sense of surprise" among his constituents. According to the Post, "Sources said Barry tested positive for cocaine during routine screening in connection with his guilty plea to two misdemeanor tax charges in October. … The drug test that Barry failed was required as a part of a pre-sentencing investigation, said two sources familiar with the case. Now he is undergoing voluntary drug testing as part of his private treatment to help establish that he is making an effort to stay drug free, said the sources, who asked not to be named because the case is pending."

WPost Says Barry Should Resign. An editorial in the Washington Post (1/12, A20, 744K) says, "It's likely that news of Mr. Barry's failed drug test has provoked a collective groan throughout a city that over the years has been forced to live through episode after episode of the four-term mayor's personal troubles. The District, however, has managed to survive Mr. Barry's behavior in the past, and the city can be expected to do so again. The more important question has to do with Mr. Barry himself." Barry 'needs less time in the public limelight so he can devote more attention to the problems of Marion Barry. He has the opportunity to step aside so that others may step up to the task of public service. He should take it."

Flint, MI, Raids Net Ten Arrests In Weed & Seed Effort. The Flint Journal (1/12, Raymer) reports, "Ten people were arrested in drug raids on three homes Sunday as part of a special initiative paid for through a federal grant." The Journal continues, "Police searched east-side homes at 1277 Broadway Ave., 1610 Bennett Ave. and 3009 Dakota Ave. with warrants after drug buys at the homes, according to a news release from Flint Police Chief Gary Hagler. … Police seized $1,866 in cash, $1,000 worth of cocaine, $150 worth of marijuana, $100 worth of heroin and $100 worth of ecstasy in the raids." The Journal adds, "The 10 arrested face a total of 13 felony and 19 misdemeanor charges. … The sweep by the force's Crime Area Target Team and Community Policing was part of the federally funded Weed and Seed Program, which targets blighted areas to reduce crime and promote economic revitalization. … The U.S. Justice Department awarded $225,000 to the United Way for the program on the east side of Flint earlier this year. It was the third such grant."

Border Patrol Agents Find Tunnel Linking US And Mexico. CNN (1/11) reports on its Web site, "U.S. border patrol agents investigating a caved-in road discovered a tunnel linking the United States and Mexico, the third such passage found in three years near the San Ysidro, California, crossing, authorities said Wednesday. Lauren

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Mack, a spokeswoman for U.S. Immigration and Customs Enforcement agency, said agents found the 35-foot long, 3-foot-by-3-foot tunnel on Monday. 'It's unclear what it was used for, but inside we found trash and other evidence indicating people had been inside recently,' Mack said. … Tightened border security since the September 11, 2001 attacks is the likely cause for an increase in U.S.-to-Mexico tunneling, Mack said. At least 15 tunnels have been found in California and Arizona since 9/11, she said. 'We've now got a dedicated tunnel task force, which works with the Drug Enforcement Administration and border patrol to proactively look for tunnels,' Mack explained."

Top Competitor On US Skeleton Team Is Suspended For Positive Drug Test. New York Times (1/12, Zinser, Pennington) sports writes, "The top competitor on the United States men's skeleton team, Zach Lund, was suspended yesterday after testing positive for a masking agent at a World Cup event last month in Europe. Also yesterday, a New York Supreme Court judge declined to overturn the suspension of the United States skeleton coach, Tim Nardiello. The international skeleton federation suspended Lund pending the outcome of an investigation by the United States Anti-Doping Agency. Jim Shea Sr., president of the United States Bobsled and Skeleton Federation, confirmed that Lund, who holds the No. 1 ranking in the world, tested positive for using Propecia, an anti-baldness drug. 'It's on the banned list; no question, he screwed up,' Shea said in a telephone interview. 'He lost his spot on the World Cup team, and it's possible he won't be able to go to the Games.' … Propecia has been listed as a prohibited substance by both the United States and international anti-doping agencies for more than a year because it can act as a masking agent for steroids."

Reuters (1/11) reports, "America's skeleton world number one Zach Lund has been suspended by the International Bobsleigh and Tobogganing Federation (FIBT) pending an investigation into a positive drugs test at a World Cup event last month."

The AP (1/12) reports, "Lund said he had taken hair-restoration products since 1999 and had always declared them on his medical forms. The United States federation granted him a Therapeutic Use Exemption, which provides a way for athletes to use some banned medications."

Michigan Men Indicted For Alleged Racially-Motivated Arson Plot. Knight Ridder/Detroit Free Press (1/12, Warikoo) reports, "Two Taylor, Mich., men -- angry that an African-American family moved onto their block -- hatched a plot to drive them out by burning down their house, said federal officials in an indictment released Wednesday. … One night in July 2002, the two men, Wayland Mullins and Michael Richardson, gathered at the home of Mullins' mother in Taylor. Across from that home, the Doster family had recently purchased a house." Mullins and Richardson "walked over to the Doster home. Then, 'they broke a window at the back of the house, poured gasoline into the home, and ignited the gasoline, causing fire and smoke damage to the house,' says the indictment. In ensuing months, the two men lied to Taylor police and the FBI, say federal prosecutors. At one point, Richardson tried to finger an innocent man in the arson." The Free Press notes, "More men may be involved in the arson, Murphy said, so federal agents are still investigating the case."

ATF Arrests Five In Dearborn Heights, MI, Drug Sting. The WXYZ-TV, ABC 7, Detroit (1/11, Lewis) reports, "Wednesday, 5 men were arrested after the ATF and local law enforcement officials set up a sting to catch them robbing a pharmacy. … Michigan Pharmacy was previously robbed of $15,000 worth on controlled substances." WXYZ-TV continues, "ATF agent Vera Fedorak, who participated in the sting, said 'Obviously it's a concern for the community, ATF and the local law enforcement.'" WXYZ-TV adds, "The robber came into the Dearborn Heights pharmacy with what he said was a bomb. ATF agents and local law enforcement were on the premise, with one posing as the store owner. They were able to apprehend one man at the pharmacy and also 4 others. … Michigan Pharmacy owner Khalid Saad said he was glad to help ATF agents catch the men who had been robbing his store. … The drug sting may result in federal charges."

Tennessee Man Sentenced For Possessing Explosive Device. The Cleveland (TN) Daily Banner (1/11, Kaylor) reports, "A Polk County man who plead guilty last October to possessing an explosive device has been sentenced to 5 1/2 years in a federal prison by a federal judge." The Banner continues, "U.S. District Court Judge Curtis L. Collier sentenced Danny M. Wilcox, 39, of Reliance, late last week, according to Carl Maskew, Bradley County

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Sheriff's Office liaison with the Bureau of Alcohol, Tobacco and Firearms. … Wilcox is one of three people arrested and charged with the crime." The Banner adds, "Wilcox and his alleged accomplice, Glenda Cross, 41, took part in assembling the device that investigators learned was to be used in a murder plot against the ex-husband of Cross. … Two bomb squad officers from the Cleveland Police Department and ATF agents removed the device and detonated it in a nearby field. … Adams plead guilty in state court to conspiracy to commit second-degree murder and possession of an explosive. He is serving an eight-year sentence at the Tennessee Department of Corrections … Cross is due back in Bradley County Criminal Court for a March 6 hearing."

IMMIGRATION:

12 Indicted For Smuggling Illegal Immigrants Into US. The Washington Times (1/12, Seper) reports, "Three suspected ringleaders of two major alien-smuggling organizations and nine accomplices have been indicted by a Texas federal grand jury on charges of trucking more than 600 illegals from the El Paso area to Dallas and beyond during the past two years. All but three of the gang members were taken into custody this week by U.S. Immigration and Customs Enforcement (ICE) agents, assisted by the U.S. Border Patrol. Two of the gang members were identified in indictments unsealed Friday, and another is in La Tuna Federal Correctional Institution on a previous alien-smuggling conviction. … ICE spokesman Dean Boyd said Mike Price, 53, his wife, Fabiola del Carmen Moguel de Price, 39, and Sam Jarvis, 52, headed two separate organizations that generated more than $1.6 million in smuggling fees between March 2003 and October 2005."

Former Saudi Embassy Driver Pleads Guilty To Smuggling Aliens Into US. The AP (1/12) reports, "A former driver for the Saudi Embassy in Washington pleaded guilty Tuesday to smuggling aliens into the United States." The AP continues, "Mohamed Abdel Wahab Yakoub, 61, admitted he used Saudi Embassy letterhead to obtain diplomatic visas from U.S. embassies for several Egyptians and Filipinos. … Yakoub, an Egyptian, faces up to 10 years in prison when he is sentenced in April on a single count of smuggling aliens. He will be subject to deportation after the sentencing." The AP adds, "Yakoub sold visas for $5,000 to $7,000. Court documents indicate he helped at least six illegal aliens gain entry to the U.S. in 2000 and 2001. He was fired by the Saudi embassy in 2002. … The Joint Terrorism Task Force, which helped investigate, said it had no indication the scheme had any connection to terrorism."

TAX:

Former West Virginia County GOP Chairman Pleads Guilty To Tax Evasion. The Charleston Gazette (1/12, Searls) reports, "A former Kanawha County Republican chairman has agreed to plead guilty to tax evasion by using some of his employees' withholdings to pay for his wife's Mercedes-Benz." The Gazette continues, "Steven L. Miller admitted in an information filed by Assistant U.S. Attorney Hunter P. Smith Jr. that he 'evaded and defeated approximately $38,000 of the federal personal income taxes, trust fund taxes and Trust Fund Recovery Penalties due and owing by him' to the federal government." The Gazette adds, "Miller had apparently withheld federal taxes and trust fund money from employees' pay, placing it in a separate bank account at the Putnam County Bank, but never passed it on to the federal government. … Internal Revenue Service agents led the investigation of Miller from 1999 through 2000. The IRS has been aggressive in investigating such cases because employees may not qualify for Social Security, Medicare or unemployment benefits if taxes that have been withheld from their pay are never remitted to the federal government. … Miller also owed unpaid personal income taxes."

Wife Of "Mafia Cop" Pleads Not Guilty To Tax Evasion Charges. The AP (1/12, Ritter) reports, "The wife of a former New York police detective accused of working as a mob hit man pleaded not guilty Wednesday to three charges of filing a false income tax return. Frances Eppolito was ordered released without bond and was appointed a federal public defender pending a trial set for March 13. … Eppolito and her husband, Louis Eppolito, were named in a three-count felony indictment handed up Tuesday. Each is accused of filing false federal income tax returns for $127,386 in income in 2000, $8,654 in income in 2001 and a net loss of $1,297 in 2002."

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CONGRESS-ADMINISTRATION:

Democrats Question Alito Membership In Controversial Princeton Group. At the third day of hearings on the Supreme Court nomination of Judge Samuel Alito, Democrats intensified their attacks, probing Alito's membership in a controversial Princeton alumni group that allegedly discriminated against women and minorities. The sharp questions prompted an emotional response from Alito's wife, which received much media attention. Reuters (1/12, Ferraro, Kenen) reports Alito, "pressed repeatedly about his membership two decades ago in the alumni group that opposed efforts to admit more women and minorities to the university, said, 'I'm not any kind of a bigot.' … At one point, Alito's wife, Martha-Ann, was crying in the crowded hearing room and then left." She "returned about an hour later and sat behind her husband." Mrs. Alito emotional reaction came after comments from GOP Sen. Lindsey Graham, who is quoted in USA Today (1/12, Kiely, 2.31M) saying, "Judge Alito, I am sorry that you've had to go through this. I am sorry that your family has had to sit here and listen to this."

ABC and CBS showed video of the scene. The networks each also noted the confrontation between Sen. Edward Kennedy and Chairman Arlen Specter over documents at the Library of Congress relating to the group in question, Concerned Alumni of Princeton. The CBS Evening News (1/10, story 2, 2:00, Borger) said the image of Mrs. Alito crying "may be the picture that people really remember from these hearings. It was quite an emotional day for the Alitos, and in the end the question is whether the Democrats took this a step too far today. … Today you saw the Democrats really ratcheting up their questioning. It's a very fine line, very difficult, but some say they went over the line."

ABC World News Tonight (1/11, lead story, 2:50, Vargas) reported, "The exchange got personal. And the pressure took a toll on Judge Alito's wife." ABC (Stephanopoulos) added, "It was a dramatic moment," and "sources close to Mrs. Alito say she thought the Democrats' attacks on her husband were disgraceful." ABC added "sparks…flew when Senator Kennedy threatened to shut down the committee if it didn't subpoena documents on the group."

NBC Nightly News (1/11, lead story, 2:30, Williams) reported, "Tempers have flared, mostly among Senators, while the Supreme Court nominee has kept his cool. Then suddenly, this afternoon, television viewers noticed Judge Alito's wife was in tears while sitting behind her husband. It was because of what was being said in defense of her husband after attacks on his character and questions about his past."

Fox News' Special Report (1/11, Hume) noted that "the limits of the sometimes extravagant courtesy that members of the Senate accord each other were tested today during" the Alito hearings. Fox (Angle) added, "With opponents to Alito growing, the frustration on the Democratic side exploded into view when Senator Kennedy demanded a subpoena on documents on a group called Concerned Alumni of Princeton. … Kennedy said he sent specter a letter on the issue and he said he didn't see it. … After increasingly heated exchanges, he attempted to move on and Kennedy threatened to bring the hearings to the stand still." Specter "announced that the papers in question were offered to the committee after a simple phone call."

The New York Times (1/12, Lewis, 1.19M) runs a story recounting Mrs. Alito's emotional reaction, while the Wall Street Journal (1/12, Cummings, 2.11M) reports "Alito said he doesn't remember why he joined in 1985, but he thinks it was because he was troubled by opposition to a Reserve Officers Training Corps office on the Princeton campus." The AP (1/12, Espo) reports that though Alito "repeatedly said he had no memory of involvement with the conservative Concerned Alumni of Princeton," he "highlighted his membership in a 1985 job application for the Reagan administration." Yesterday, "he repudiated the opinions expressed in articles in the organization's magazine." He said, "They're not my views ... I deplore them." The Washington Post (1/12, A6, Russakoff, 744K) runs a similar story under the headline "Alito Disavows Controversial Group; Nominee Touted His Membership in 1985." The Los Angeles Times (1/12, Neuman, 958K) reports Alito said, "I did not join this group…because of any attitude toward women or minorities," Alito told the Senate Judiciary Committee. "What bothered me about the Princeton administration…was the treatment of ROTC." Alito joined the ROTC "as an undergraduate," and the program "lost its contract with the university during the Vietnam protests."

In his Washington Post "Washington Sketch" column, Dana Milbank (1/12, A6) writes that it has become clear "that the committee, with unified GOP support, would clear the judge" and that's why Democrats focused on the alumni group. Milbank writes, "Clarence Thomas had Anita Hill. Alito

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would have the Concerned Alumni of Princeton." Milbank calls the dispute "a schoolyard brawl." The Washington Times (1/12, Hurt, 90K) reports the testy session came "after many observers had decided that Democrats had been neutered during the first two days, mastering the art of softball pitches. The Washington Post had called the sessions 'a most tender roast of Alito.' Not yesterday." The Washington Times (1/12, Hurt, 90K), also runs a front-page story under the headline "Alito Accused Of Racism."

The Legal Times (1/12, Goldman) reports, "Alito repeated the claim he had made the day before, that he had 'racked his brain' and could not remember why he had joined the group. The best explanation he could offer, he said, was his displeasure at the university's attitude toward ROTC, which had been banned at one point but had returned to the campus before Alito graduated in 1972. Alito had been a member of an ROTC unit. … Toward the end of the day Wednesday, however, Schumer was able to elicit a bit more satisfying explanation for Democrats. … Said Schumer: 'You somehow plucked this group, which you now say you somehow have no recollection. Why that group? Why was it plucked out and put on the application?' … Answered Alito: 'You have to look at the question I was responding to. What I was trying to outline were things relevant to obtaining a political position.' … It was the first time Alito had conceded to what many considered obvious: his need to show the Department of Justice, then under the highly conservative influence of Attorney General Edwin Meese, that his conservative bona fides were in order. … 'That was the answer he should have started with,' said Illinois Democrat Sen. Richard Durbin, after the hearing had ended for the day. 'It helps some. I just wish he hadn't gone through this tortuous process to get us there.'"

Alito Said To Have "Signaled" He Might Be Willing To Reconsider Roe. NPR (1/12) reports this morning, "Alito told the Senate Judiciary Committee yesterday that the Roe v. Wade decision, which legalized abortion, set an important precedent, but he resisted pressure to be more specific about how he would rule in abortion cases before the High Court." Alito "wrote in 1985 that the constitution does not guarantee a right to abortion. He now says he does not decide cases based on religious faith."

The Washington Post (1/12, A1, Goldstein, Babington, 744K) reports Alito "signaled" yesterday "he might be willing to revisit the ruling that legalized abortion nationwide." The "drama of the hearings' third day," adds the Post, "nearly overshadowed the significance of the position Alito staked out on the landmark abortion case, Roe v. Wade." The nominee "edged closer to suggesting that he might be willing to reconsider Roe if he is confirmed to the high court, refusing, under persistent questioning by Democrats, to say that he regards the 1973 decision as 'settled law' that 'can't be reexamined.' In this way, his answers departed notably from those that Chief Justice John G. Roberts Jr. gave when asked similar questions during his confirmation hearings four months ago." Yesterday, Alito "said that Roe must be treated with respect because it has been reaffirmed by the high court several times in the past three decades." Knight Ridder (1/12, Henderson, Kuhnhenn) adds "Alito's reluctance makes it easier for critics to brand him as a justice who could help overturn the 33-year-old ruling."

Sen. Richard Durbin said on MSNBC's Hardball (1/11), "I'm concerned when it comes to the issue of Roe v. Wade. … I don't expect him to tell me how he's going to rule on a case, but I go back to what John Roberts was asked, and I think John Roberts is a man who's well respected in terms of his legal acumen. And he said that he believed that Roe v. Wade was settled law in this land. I asked Sam Alito the same question and he wouldn't give me the same answer. It leads some of us on our side of the table to wonder what's going to happen the first time there's a serious challenge to Roe v. Wade. And I think that's what's propelling a lot of the questions before this committee."

Alito Still Seen As Headed For Confirmation. Media consensus remains that Democrats have yet to damage Alito's prospects. As Pete Williams said on NBC Nightly News (1/11, lead story, 2:30), "It's looking more likely that Samuel Alito will be on the Supreme Court in time to join the Justices when the winter break ends in late February." CNN's Lou Dobbs Tonight (1/11, Dobbs) also reported "really seems to be sailing along" and Democrats "are getting frustrated." Knight Ridder (1/12, Henderson, Kuhnhenn) adds Chief Justice Roberts "won 22 Democratic votes when the Senate confirmed him last September. Alito will almost certainly get fewer, though his Republican support appears solid enough to ensure his confirmation, barring any future stumbles."

Alito's performance under fire continues to receive generally positive reviews. The Wall Street Journal (1/12, Cummings, 2.11M) says "the Democratic strategy to derail Judge Samuel Alito's Supreme Court appointment is centered on raising doubts about the nominee's credibility

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and persuading senators he would curb or end abortion rights." However, "Alito's straightforward testimony has served as a strong counter to their campaign." Moreover, "Democrats may have lost points…when Judge Alito's wife…left the hearing room in tears."

The Los Angeles Times (1/12, Reynolds, Simon, 958K) headlines its story this morning "Alito Remains Unruffled in Testy Hearings," and says the nominee "at placidly through it all, repeating -- with little apparent irritation -- responses that did not placate his critics." Moreover, "the attacks by Democrats did no apparent damage to Alito among Senate Republicans, most of whom have expressed support for him." On The CBS Evening News (1/10, story 3, 1:30, Schieffer), Jan Crawford Greenburg of the Chicago Tribune said yesterday "we got an introduction to Samuel Alito the man, the calm and quiet son of Italian immigrants who became a conservative jurist."

The New York Times (1/12, Stevenson, Lewis, 1.19M) reports Democrats "sought to build a case against his nomination to the Supreme Court by raising questions about his character and consistency." Democrats, "aware that Judge Alito had made it through the first two days without significant damage to his prospects of confirmation, struck an aggressive tone," but "the partisan volleys seemed to sail over or past Judge Alito, who politely but resolutely declined to be drawn out on abortion, executive authority and other issues. He often sat impassively as the committee members debated his qualifications and forthrightness."

The Financial Times (1/12, Waldmeir) reports Alito "has proved a monochrome, dispassionate and unflappable witness, ignoring insult, slight and political controversy, never taking the bait of those allied against him." This "has made for crushingly tedious political theatre. Even some of the senators seem to be losing interest. … Mr Alito's performance – which involves answering every question unemotionally and legalistically, no matter how aggressive or passionate the questioner – may not make for high television ratings. But all the signs suggest that the sheer weight of his worthy if tedious performance will eventually crush the opposition."

The Christian Science Monitor (1/12, Chaddock, 61K) says Alito "has deftly parried questions on hot-button issues ranging from abortion to the limits of presidential power. No memorable phrases. No conspicuous stumbles. And -- most important -- no searing images of what life in 'Judge Alito's America' might be like." The Monitor adds, "To the frustration of anti-Alito groups staking out front seats in the hearing room, Democrats have been slow to get traction on issues critical to their base."

The New York Times (1/12, Nagourney, 1.19M) reports Alito "opponents" expressed "growing frustration Wednesday at the course of his confirmation hearings, saying that Democratic senators were struggling in their effort to build a strong case against him and that his confirmation appeared increasingly inevitable. Several said they had been particularly distressed after the first day of questioning of Judge Alito by the Senate Judiciary Committee, and had expressed that concern in calls and e-mail messages to Democratic aides on Tuesday."

There was also widespread coverage of Alito's hearings on local television newscasts. The stories tended to use metaphors that indicated the Judge had to deal with difficult questions. Most of the broadcasts also indicated that Alito handled the questioning well. Some stations ventured the opinion that Alito will be confirmed. For example, WSB-TV Atlanta (1/11, 6:17 p.m.) said, "Experts say Alito's nomination is all but certain. With every passing minute is it is more and more a foregone conclusion."

WAGA-TV Atlanta (1/11, 6:26 p.m.) reported, "Alito turned aside attacks on his judicial record at his confirmation hearings today. Despite increasing pressure the 55-year-old judge has kept his cool." KPHO-TV Phoenix (1/11, 6:39 p.m.) reported, "Democrats are turning up the heat, "but so far… Alito hasn't cracked under the pressure."

WEWS-TV Cleveland (1/11, 5:17 p.m.) reported, "Another day of partisan politics with disappointed Democrats hammering…Alito to be more forthcoming about his legal views."

Alito To Complete Testimony Today. CBS News Radio (1/12) reports this morning Alito "should wrap up his testimony this morning. Then the committee hears from other witnesses -- some for him and some against."

Novak Says Democrats "Shooting Blanks" At Alito. Syndicated columnist Robert Novak (1/12) writes that Massachusetts Sen. Ted Kennedy "and other Democrats on the Senate Judiciary Committee who had spent weeks preparing for Alito's Supreme Court confirmation hearing seemed to be shooting blanks at President Bush's nominee. …. Failure to make a direct hit on Alito suggests a transcendent defeat for the Democratic judicial confirmation strategy crafted by Kennedy. It did not block all conservatives for appellate courts and failed to dissuade Bush from naming

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conservatives to the Supreme Court." Meanwhile, "Republicans were amused at Democrats stressing Alito's membership in the Concerned Alumni of Princeton (CAP)."

Alito, Senators Citing O'Connor Frequently. The New York Times (1/12, Liptak, 1.19M) reports, "Senators from both parties have frequently used" Justice Sandra Day O'Connor's opinions "as a basis for questioning Judge Alito" in "a testament to her disproportionate influence on the court in her 25 years of service." Also, it is a "reminder of the important role Judge Alito will assume if he is confirmed." Alito and supporters "highlighted instances in which he had ruled as she had." Meanwhile, Democratic senators worked hard to show that Judge Alito and Justice O'Connor were at odds, particularly in an important abortion case." On Wednesday morning, Senator Coburn "had grown frustrated with all the O'Connor talk" and said, "'The fact that you have to fit the Sandra Day O'Connor mold is really a misapplication. … There is no precedent that would say that.'"

Hatch Says Kennedy Was "Trying To Score Some Points." Sen. Orrin Hatch said on MSNBC's Hardball (1/11) that Kennedy "was trying to score some points there and he was trying to, I think, set up a situation where he could complain and gripe and maybe even vote against Alito."

Cohen Criticizes Biden's Performance. Richard Cohen writes in the Washington Post (1/12, A21, 744K), "The only thing standing between Joe Biden and the presidency is his mouth. … The reviews for Biden's first crack at Samuel Alito, the humorless Supreme Court nominee, were murderous. The New York Times had Biden out on Page One -- normally a position to kill for -- only this time it was not a paean to his considerable merits, but an account of how it took him nearly three minutes of throat-clearing to ask his first question and then took the rest of his allocated 30 minutes just to get in four more. … The Post had a similar account of Biden running off at the mouth. … The tragedy is that Biden, who is running for president, is a much better man and senator than these accounts would suggest. But his tendency, his compulsion, his manic-obsessive running of the mouth has become the functional equivalent of womanizing or some other character weakness that disqualifies a man for the presidency." Biden "has much to say -- and then too much to add. He is an anatomical disaster. His Achilles' heel is his mouth."

Twenty Democratic House Members Come Out Against Alito. The Washington Times (1/12, Fagan, Dinan, 90K) reports, "Democratic congresswomen yesterday said Judge Samuel A. Alito Jr.'s failure to define abortion as a guaranteed right makes him unfit to sit on the Supreme Court, but senators said they are taking a wait-and-see approach. 'We believe that Judge Alito poses a direct threat to the rights of women in America,' 20 House Democrats wrote in a letter urging senators to block…Bush's nominee."

NYTimes Finds "Quiet Bombshells" In Alito Hearings. The New York Times (1/12, 1.19M) editorializes about several issues that have emerged in the Alito hearings, finding that the nominee has dropped several "quiet bombshells." The New York Times finds "evidence of extremism" in Alito's praise of Judge Robert Bork and membership in the Concerned Alumni of Princeton. The paper is also troubled by Alito's possible opposition to Roe v. Wade, alleges Alito may support an "imperial presidency," and says that Alito has repeatedly "taken the side of big corporations against the 'little guy,' supported employers against employees, and routinely rejected the claims of women, racial minorities and the disabled." The Times concludes that Alito's testimony "should trouble moderate Republicans, especially those who favor abortion rights or are concerned about presidential excesses."

WSJournal Says Concerned Alumni Allegations Are Old News. In an editorial, the Wall Street Journal (1/12, 2.11M) says that focusing on the Princeton group is "a sign of how little Democrats have on Supreme Court nominee Samuel Alito." The Journal says that because Democrats can't attack Alito's "credentials or his mastery of jurisprudence," they are now trying "guilt by ancient association." The Journal says Kennedy and Sen. "Chuck Schumer" implied Alito "was racist and sexist by linking the nominee with the views of some members" of the Concerned Alumni of Princeton, a line of questioning that "was mean enough that Judge Alito's wife left the hearing room" after Graham's questions. When Alito said he couldn't recall his membership in the Concerned Alumni of Princeton, the Journal opines, Alito "was then tarred as dishonest." The Journal notes that Kennedy cites several decades-old articles on the Concerned Alumni (including a Wall Street Journal editorial) and concludes, "if this irrelevant arcana is the most his opponents have, he can start measuring his new judicial robes."

Michelman Likens Alito Hearings To Bork, Thomas Hearings. Under the headline "Kate Michelman, The Public Face Of a Woman's Right to Privacy," the Washington Post (1/12, C1, Weeks, 744K) reports that Michelman, "the face of

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reproductive rights," has "been at the forefront of one of this country's thorniest debates. She was president of NARAL Pro-Choice America from 1985 to 2004. She is scheduled to testify this week in opposition to the nomination of Samuel Alito to the Supreme Court. And she has written a new book, 'With Liberty and Justice for All: A Life Spent Protecting the Right to Choose.' Last night several hundred friends and well-wishers showed up at the Woman's National Democratic Club near Dupont Circle for cheese, wine and a celebration Michelman's book and her mission. Guests included former secretary of state Madeleine Albright, Del. Eleanor Holmes Norton and Rep. Jim Moran (D-Va.)." the Post notes that Michelman says the confirmation hearings for Supreme Court nominee Samuel Alito ""triggers memories of the Robert Bork confirmation hearings in 1987. Michelman was scheduled to testify then, too. But she and leaders of other advocacy groups decided that Bork was going to cook his own goose, so she decided not to speak. She is also reminded of the Clarence Thomas hearings in 1991. She did testify then. Like Alito, Michelman said, 'Thomas also said he was open-minded' on the landmark abortion-rights case, Roe v. Wade. But he has tried at every opportunity to overturn that decision, she said."

More Commentary. In his column in the New York Times, (1/12) David Brooks opines that Alito would have been a Democrat if he had been born earlier. 1950s Democrats, Brooks writes, were strong in "places like Trenton, where Alito grew up." But the 1960s changed the Democratic Party, as "cultural politics replaced New Deal politics, and liberal Democrats did their best to repel Northern white ethnic voters." Brooks finds Republicans compare more favorably to Democrats in appealing to average voters. Brooks concludes that the Alito hearings highlight "that sometime between 1932 and 1968, the DNA of the Democratic Party fundamentally changed" from "working-class" DNA to "DNA of a minority party."

USA Today (1/12, 2.31M) editorializes, that over the two days of hearings, "it has seemed that for every senator who questioned Alito thoughtfully — and there were several — three others were more interested in hearing themselves talk." USA Today rebukes Sen. Joseph Biden and Sen. Lindsey Graham, while praising Sen. Arlen Specter and Sen. Patrick Leahy. USA Today condemns "bloviating" senators and opines that "it's too bad so many senators seem so disinterested in gathering facts to make an informed, independent choice."

In a second editorial, USA Today (1/12, 2.31M) contends Alito is saying little when answering senators' questions. This silence, USA Today says, "tends to reinforce doubts raised by Alito's record." USA Today finds troubling contrasts between Alito's responses and those of Chief Justice John Roberts when he faced the committee. Among other examples, the paper cites the nominees' divergent statements on Roe v. Wade, which Roberts called "'settled as precedent,'" and Alito called "an 'important precedent.'" USA Today concludes that the "strategy of silence amounts to low short-term politics at high long-term risk."

Bush Expected To Focus On Health Care In 2006. President Bush is preparing to focus on health care as the "centerpiece of his 2006 domestic agenda," the Wall Street Journal (1/12, McKinnon, Lueck, 2.11M) reports. While the Administration "is unlikely to propose major new federal spending" it is "considering expansions of several earlier proposals aimed at using market forces to improve the quality and restrain the rapidly rising cost of health care." The Journal says the "outlines of the health-care system it envisions are becoming clear. It would rely less on generous insurance provided by employers that insulate individuals from the cost of their choices. Instead, it would rely much more on market forces, individual (as opposed to employer-provided) insurance, tax credits to help the uninsured, provider competition and using the Internet to provide consumers with more, better data about the care quality and prices charged by doctors and hospitals."

Card Says 2007 Budget Will "Tighten The Belt." Speaking at the US Chamber of Commerce yesterday, White House Chief of Staff Andrew Card said the Administration's budget blueprint for 2007 will "tighten the belt." Reuters (1/11, Cornwell) reported that Card "gave no budget details in a speech that was short on particulars and long on reminders that the country was at war and that sacrifices were required. He also spoke mysteriously about a 'dark cloud that seems to be gathering around the political world' but did not explain." The White House "was in the final stages of drafting a 'very disciplined' new budget for fiscal 2007, starting October 1, Card said. 'It will fund the appropriate priorities of winning the war on terror, securing the homeland, but it will say, "Tighten the belt,"' he said. … Card said the 2007 budget will 'make the tough decisions about which programs are necessary, and fund them

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appropriately but exercise prudence with the taxpayers' money.'"

Flake Seeks To Reform Process Of Earmarking. The Washington Times (1/12, McCaslin, 90K) reports in its "Inside the Beltway" column that Rep. Jeff Flake "is out to from the practice of earmarking." In a letter to house Speaker Dennis Hastert, Flake wrote, "Unfortunately, we Republicans have taken earmarking to an unprecedented level. It is now our responsibility to clean it up." Flake "goes so far as to say that it is 'no secret that over the past several months, our reputation as a governing majority has taken a beating. It is clear that continuing...indictments, possible indictments, plea deals, tainted campaign contributions, etc., has severely eroded public trust."

Treasury Undersecretary Adams Profiled. USA Today (1/12, Lynch, 2.31M) profiles Treasury Undersecretary for International Affairs Timothy Adams, describing his job as scanning "the globe trying to spot economic brushfires before they become infernos. Right now, he doesn't see much to worry about. But he's still looking. 'If I weren't paid to worry, I would argue that the glass is half full and there's a lot that we should celebrate. But my job isn't to celebrate; it's to think about how this all could go awry,' Adams, undersecretary of Treasury for international affairs, said recently." Adams "moved into one of the department's top posts after serving as chief of staff to then-Treasury secretary Paul O'Neill and several years as a Washington consultant. He also worked in the administration of President George H.W. Bush."

VA IG Wins Alexander Hamilton Award. The Washington Post (1/12, A19, Lee, 744K) reports that the Inspector Generals Office of the Veterans Affairs Department have been awarded the Alexander Hamilton Award, which recognizes the "foremost effort by an inspector general to improve efficiency and effectiveness of executive branch operations. The Post adds, "Initially Congress created 12 independent audit and investigative offices, and every affected agency opposed them. Over the past 27 years, inspectors general have become a fixture of the bureaucracy. Their ranks have grown to 57 -- more than half appointed by the president -- and their offices employ 11,400 auditors, investigators, inspectors and other professionals."

Abramoff Scandal Prompts Rush To Reform Lobbying System. USA Today (1/12, Drinkard, 2.31M) reports a "scramble is on to write new rules restricting how lobbyists ply their influence trade as the capital is embroiled in a spreading corruption scandal." Bills "aiming to chill the relationships between lobbyists and members of Congress, stalled for months, are now on a fast track as leaders battle the perception of misconduct." Rep. Marty Meehan, who has sponsored one proposal, said, "These scandals aren't going away. What we know is probably only a fraction of the story." USA adds that after former lobbyist Jack Abramoff's guilty plea, "the rush began." Senate Majority Leader Bill Frist and House Speaker Dennis Hastert "have ordered packages of new ethics rules intended to take effect before lawmakers face voters in November." House Rules Committee Chairman David Dreier, R-Calif., "who is drafting the House package, said it likely will include a ban on members of Congress taking fact-finding trips paid for by private interests." Dreier said he "also is looking at increasing the amount of information available on lobbyists' activities, including their campaign contributions and fundraising efforts." USA adds in the Senate, "the bill drafting has been assigned to Sen. Rick Santorum, R-Pa."

The Washington Post (1/12, A4, Birnbaum, 744K) reports Congress is "poised to pass measures early this year that would clamp down on lobbying activity and possibly end some lawmaker travel." Proposals are "coming from members of both political parties. A touchstone for all sides, however, is the plan introduced last month by Sen. John McCain (R-Ariz.) and Rep. Christopher Shays (R-Conn.)." The McCain bill "would beef up lobbying disclosure considerably and cover grass-roots lobbying campaigns, which now go unreported. It would also require lobbyists to report each fundraising event that they host or sponsor for candidates for federal office, including the amount raised." But "one particularly powerful group is gearing up to oppose several of the most sweeping proposals: lobbyists. Lobby organizations ranging from the U.S. Chamber of Commerce to the American Society of Association Executives (ASAE) are concerned that some of the measures under consideration would overburden them with paperwork or unfairly limit their ability to do their jobs. They are already planning to lobby against those parts of any new lobbying law."

Lobbyists Now Seen As Ingrained In DC Political Culture. The Washington Post (1/12, A1, Edsall, 744K) reports in a front page story on "the capital's changing mores" on lobbying. Although the "excesses of Jack Abramoff have captured the news, a wide range of other practices -- rarely

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publicized and fully legal -- reflect the steady dismantling of the wall between lobbyists and members of the House and Senate." Fallout "from the Abramoff scandal is likely for a time to chill certain aspects of the capital culture, in which access to power on Capitol Hill is lubricated by lobbyist-funded meals, travel and campaign contributions, according to congressional veterans of both parties. But some public interest advocates believe the relationships between lobbyists and politicians have become so institutionalized in recent years that fundamental change is unlikely, absent changes in the law." Since 1998, lobbyists "have served as treasurers of 79 lawmakers' campaign committees and leadership PACs, according to the Center for Public Integrity." In addition, major trade associations "have bought Capitol Hill townhouses for fundraisers so that lawmakers can quickly go back to cast votes and then return to the event." At election time, "many lobbyists put on a new hat and become political consultants, guiding incumbents to reelection. Afterward these lobbyists return to their traditional roles, being able now to ask for votes from those they helped put in office." The "pivotal point in Washington's changing culture, according to lobbyists and congressional ethics analysts, came in 1995, shortly after Newt Gingrich and his 'Republican Revolutionaries' roared to power in the 1994 midterm elections." Then-Majority Whip Tom DeLay "and his allies began the 'K Street Project' -- the pressuring of trade associations and lobbying firms to hire Republican, and to contribute to Republican campaigns if they wanted access to key leaders and committee chairmen in the House."

Rodriguez Calls For Eliminating Many "Reforms" For Transparency. In a Washington Times op-ed (1/12), Paul M. Rodriguez, the former managing editor of Insight magazine, says, "Instead of adding more rules, how's this for a good government concept? Simply eliminate the very rules that sprang out of the Watergate-era campaign finance laws or many of the 'reforms' following the House Bank and House Post Office scandals. The concept isn't as far fetched as it sounds. Consider that it's one that has served well the residents of the Commonwealth of Virginia. The model is simplicity itself -- there are no restrictions governing political donations or gift giving other than making all of it public. What a refreshing thought when one stops for a minute to ponder that, so far as memory serves, such a system has not led to any scandals in Virginia. Total transparency between donors and recipients, actual dollar amounts and specific goodies received are all put into the public domain for anyone to see, report and contemplate."

Lobbyists' Group Urges Transparency In Lobbying Reform. The Washington Post (1/12, A19, Sarasohn, 744K) reports in its "Special Interests" column that the American League of Lobbyists "would like members of Congress to take a collective big breath and slow down a bit" as it considers the Abramoff scandal. Paul Miller, the group's president "said the group is not particularly opposed to major changes in lobbying rules. It simply wants 'transparency' in what the Congress is up to in the rush to reform. … Lawmakers could change their rules rather than pass laws to restrict members from taking fancy trips paid for by lobbyists, Miller said. He expressed concern about proposals to prevent lawmakers and staffers from going to work as lobbyists for two years after leaving the Hill. They generally are restricted from lobbying their former colleagues for a year. The one-year cooling-off period isn't being enforced, Miller said, and he doubts there would be any real enforcement on a two-year ban."

Shadegg May Enter Race For Majority Leader. The Wall Street Journal (1/12, Rogers, 2.11M) reports that as "the two front-runners slowed" in the House GOP race for majority leader, Rep. John Shadegg "edged closer to entering the nasty Republican contest." Shadegg "stepped up calls seeking support from colleagues, and his allies were optimistic that the six-term Arizona lawmaker will offer a more change-oriented alternative to the two establishment figures in the field," current Majority Whip Roy Blunt and Rep. John Boehner, chairman of the House Education and Workforce Committee. Shadegg's office "said no final decision had been made on the leadership race, but issued a statement critical of Reps. Blunt and Boehner for not being aggressive enough, in the congressman's words, 'to clean up our act in the wake of the recent ethics scandals and get back to the agenda that brought us the majority in the first place.'" Speaker Dennis Hastert said, "At the end of the day, he hinted, he'd be in the race. I don't know what his decision is." The Journal adds that neither Blunt nor Boehner "appears close to the 116 votes needed to win. With so many Republicans uncommitted, Mr. Shadegg has the potential to shake up the race, forcing at least a second ballot and greater discussion of changes that many members are demanding."

CQ (1/11, Ota) reports Shadegg "began testing the waters for a possible bid." Shadegg said, "I think we need to

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clean up our act in the wake of the recent ethics scandals and get back to the agenda that brought us the majority in the first place. I am concerned that the two members currently in the race, whom I have a great deal of respect for, will not move aggressively enough in that direction. I will continue to talk to Members to gauge how many share that concern." CQ adds Shadegg's move "came as an effort by Blunt supporters to move up the date for the leadership election failed. Speaker J. Dennis Hastert declared that the election would be held Feb.2."

Reynolds Seen As Possible Consensus Candidate. U.S. News and World Report (1/12, Bedard) reports House GOP leaders "do not think" Shadegg "will move forward this week to challenge Ohio Rep. John Boehner and Missouri Rep. Roy Blunt for the House majority leader's post." A GOP leadership aide said if "neither Blunt nor Boehner can nail down the job within the next six to eight days, a move could be made to seek a consensus candidate. The leading alternative there, said several leadership officials and GOP consultants, is Rep. Tom Reynolds, head of the National Republican Congressional Committee." Insiders "close to the two campaigns to replace Rep. Tom DeLay as the permanent majority leader said that while Blunt is the leader, Boehner is gaining ground."

Boehner, Blunt Outline Ethics Reform Proposals. Reuters (1/12, Cowan) reports Reps. Roy Blunt and John Boehner, the "two candidates vying to become the next U.S. House of Representatives majority leader," yesterday "set forth their ideas" for "stamping out ethics problems that have threatened Republicans' control of the chamber beyond this year." Boehner "called for outlawing the earmarking of federal funds for special-interest projects sought by lobbyists, which do not go through the regular oversight process in Congress." Blunt, meanwhile, "called for banning privately-funded travel for House members and aides or at least requiring advance approval of such travel."

The New York Times (1/12, Hulse, 1.19M) reports that with the "need for new ethics and lobbying rules emerging as a central theme in the race for House Republican leader," Blunt and Boehner "engaged in an arms race over who supported the most stringent changes." Boehner, "trying to appeal to fiscal conservatives unhappy with an explosion in pet projects being inserted in broad spending bills, proposed banning such 'earmarks' unless they received individual Congressional scrutiny and approval." Rep. Blunt "backed Speaker J. Dennis Hastert's proposal to eliminate Congressional travel paid by special interest groups. Mr. Blunt's other proposals include penalties on lobbyists for violations of the Congressional gift ban. It is now improper only for lawmakers to accept gifts of more than $50, not for a lobbyist to provide such gifts." The Times adds it was "not just the leadership rivals seeking to replace Representative Tom DeLay who sought to up the ante over Congressional ethics." Minority Leader Nancy Pelosi "wrote Wednesday to Mr. Hastert, asking him to join her in urging the House ethics committee to investigate the conduct of Representatives Bob Ney of Ohio, Mr. DeLay of Texas and other lawmakers whose names have emerged in a federal lobbying inquiry."

Blunt's Ties To DeLay Could Result In Loss. The AP (1/12, Hananel) reports that if Blunt loses the race, he "can blame his close ties to former Majority Leader Tom DeLay and the desire for a clean break from controversy and scandal, according to members of Congress and other observers." As of Wednesday afternoon, Blunt "had at least 62 publicly declared supporters while Boehner claimed more than 30 supporters. It takes 116 votes from GOP members to win the post." Rep. Christopher Shays, R-Conn., "a GOP moderate backing Blunt and a longtime critic of DeLay," said, "Roy is a Midwestern conservative. He understands that a Republican in Connecticut is different than a Republican in Missouri and there needs to be room in our party for both." The AP adds Blunt has "taken a gentler approach to corralling the votes needed to pass legislation. He has served as both majority whip and majority leader since DeLay was forced aside to face money laundering charges, and the experience could give Blunt an edge in the race against Boehner." But some members "want something else. Rep. Anne Northup, R-Ky., who is backing Boehner in the race, wants to send voters a message that Congress is cleaning house."

Blunt Says He Has No Relationship With Abramoff. Fox News' Special Report (1/11, Garrett) reported that that Abramoff scandal is an issue in the race for House Majority Leader, as Republicans "try to distance themselves from Abramoff's admitted efforts to bribe lawmakers. [Interim House Majority Leader Roy] Blunt told FOX this about his relationship with Abramoff." Blunt: "As far as my records indicate, I never had a meeting with him in our office. And because I don't take gaming money, I apparently didn't take the kind of money that he had the most access to." Fox added, "And Blunt had this to say about the ongoing criminal investigation of Abramoff's dealing with lawmakers." Blunt: "I

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knew who he was. I didn't happen to have any kind of real professional relationship with him."

Blunt Denies Boehner's Claim That GOP Lacks Direction. Fox News' Special Report (1/11, Garrett) reported that in an interview with Fox News, Blunt "denied accusations from his Republican challenger, John Boehner, that the party lacks drive and direction." Blunt: "Any fair look at what we did last year indicates that we are on the right course. We had a great legislative year." Fox added that Blunt "has slightly more than half of the public commitments he needs to win. Some Republicans privately grumble that Blunt said, if he loses the race for leader, he will return to his former post of party whip, from which some fear he might punish those who worked against him."

Hastert Rejects Call To Move Up Election Date. The AP (1/12, Taylor) reports House Republican leaders "rejected calls to move up the election of a new majority leader to replace Tom DeLay before President Bush's State of the Union address Jan. 31." Speaker Dennis Hastert "decided Wednesday to stick with a Feb. 2 caucus election scheduled after DeLay, facing trial in Texas on charges of laundering campaign funds, said last weekend he would not try to regain the job." Blunt supporters "had called this week for holding the election before the House reconvenes Jan. 31." Meanwhile, "some House Republicans are pressing for more sweeping changes in their leadership. Rep. John Sweeney, R-N.Y., is drafting a petition calling for elections for several junior leadership posts. Every position but Hastert's would be at stake."

Bloomberg (1/12, Litvan) reports some House Republicans, "including Representative Clay Shaw of Florida, had urged Hastert to call Republicans back to Congress earlier. In a letter to Hastert this week, Shaw and four other Florida Republicans said the elections might 'overshadow' Bush's speech."

Sweeney Calls For Election Of Lower House Leadership Posts. The Los Angeles Times (1/12, Curtius, 958K) reports, "Rank-and-file House Republicans on Wednesday launched a push to require every member of their leadership but Speaker J. Dennis Hastert to face elections for their posts Feb. 2, saying the step was necessary to convince the public that the party was serious about ethics and lobbying reform." Rep. John E. Sweeney "planned to start circulating a petition as early as Wednesday night asking for broad elections. The move underscored many House Republicans' belief that their leaders needed to do more to respond to the unfolding corruption scandal involving former lobbyist Jack Abramoff, if the party was going to keep its congressional majority in the November elections." Under Sweeney's petition, House Republicans "would hold elections for five leadership posts in addition to picking a successor to DeLay as majority leader."

Redistricting Could Make DeLay Reelection Effort More Difficult. The New York Times (1/12, Lyman, 1.19M) reports that Rep. Tom DeLay "is in the toughest re-election campaign of his 11-term House career, a battle that might be decided not only by his legal problems, but also by the Congressional redistricting plan he spearheaded in 2003. The redistricting led to the loss of six Democratic seats in Texas in 2004, but it also shifted thousands of Democratic voters to strong Republican districts. Among those, Mr. DeLay's 22nd District added several Democratic-leaning parts of Galveston County; several political analysts estimate they may have raised the district's Democratic vote around 5 percent." DeLay "will be running for re-election while standing trial in Austin on money laundering charges in a case over campaign financing. … Meanwhile, Washington waits to see what other indictments might flow from the Abramoff scandal." The Times adds, "Running in the reconfigured district for the first time in 2004, Mr. DeLay won handily, but with a smaller margin than in previous elections: 55 percent compared with his Democratic opponent's 41 percent."

Houston TV Stations Decide To Withhold Ad Accusing DeLay Of Corruption. Reuters (1/12, Franks) reports, "Several Houston television stations withheld a political ad on Wednesday accusing…DeLay of corruption after a lawyer for the former House majority leader said the ad was false and could lead to legal action. The ad, sponsored by public interest groups Campaign for America's Future and Public Campaign Action Fund, calls for DeLay to resign because of his indictment in Texas on campaign finance charges and his links to disgraced Washington lobbyist Jack Abramoff. 'All four of the major broadcast stations [in Houston] contacted to air the ad, as well as Time Warner cable, have stated they either will not run the ad or will keep it off the air for further review,' according to a statement sent out by DeLay's office. Some of the stations said during their newscasts they were looking at the ad to determine its credibility or that they had found some of the allegations to be questionable."

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Nearly Half Of Federal Employees Want Additional Training. The Washington Post (1/12, B2, Barr, 744K) reports in its "Federal Diary" column that almost half of federal employees "would like additional training to improve their job performance, according to preliminary results of a survey by the Merit Systems Protection Board. Nearly 37,000 full-time government employees from 24 agencies participated in the survey, conducted last year. A summary of the findings appears in this month's Issues of Merit newsletter, published by the board's office of policy and evaluation, headed by Steve Nelson. Although 64 percent of survey respondents said they have received sufficient training to do their jobs, 46 percent said they would like additional training so that they can improve on their work. A huge majority, 81 percent, said the extra career development should be financed by their agencies and provided through formal training sessions. Slightly fewer, 77 percent, supported on-the-job developmental programs."

Cheney, Rumsfeld Create "Security Fuss" In Chinatown. The Washington Post (1/12,C3, Argetsinger, Roberts, 744K) reports in its "The Reliable source" column that Vice President Dick Cheney and Defense Secretary Donald Rumsfeld took their wives to a Defense Department dinner at Clyde's of Gallery Place on Tuesday night, "creating quite the security fuss in Chinatown -- many black sedans, men with earpieces. Upstairs in the private Piedmont Room, they nibbled on hors d'oeuvres (crab cakes, smoked salmon and dim sum) and then enjoyed Maryland crab soup and New York strip steaks."

Army Expected To Cancel Lockheed Spy Plane Program. The Wall Street Journal (1/12, Karp, 2.11M) reports, "The U.S. Army is poised to cancel a Lockheed Martin Corp. spy-plane program valued at as much as $8 billion, in the face of competing budget priorities and problems in the aircraft's development, according to industry and government officials." People "familiar with the program" say the Army is expected to announce the termination of the Aerial Common Sensor surveillance plane as early as today. The decision would be "a blow to Lockheed's main partner in the program, Empresa Brasileira de Aeronautica SA, or Embraer, the Brazilian aircraft company hoping to break into the U.S. defense market."

USA Today Says Report On Cisneros Probe Should Be Unsealed. An editorial in USA Today (1/12, 2.31M) argues that independent counsel David Barrett's report on his investigation of former Housing Secretary Henry Cisneros should be unsealed. USA says the probe "took too long, cost too much and achieved too little. But at least those failings were the result of honorable intentions: to expose and punish corruption by public officials. Burying his report now serves no such noble goal. Instead, it would give wrong-doers even more reason to believe they can abuse the public's trust, confident that their actions would be hidden from the public's view."

WSJournal Says Congress, Courts Should Leave Credit Card Industry Alone. A Wall Street Journal (1/12, 2.11M) editorial says, "Last year the credit card industry handled more than $2 trillion in consumer transactions and gobbled up nearly $30 billion in fees, according to the Nilson Report newsletter on the credit card industry. These fees are now the source of mounting angst among retailers, which have launched 47 antitrust lawsuits against the credit card companies for alleged collusion in setting these fees. Retailers have also rushed to Washington demanding that Congress impose a de facto price cap on credit card charges -- as Australia and the European Union have already done. This campaign against credit card fees and the clamor for price controls sound eerily familiar. A few years ago dim-witted politicians employed price controls to try to limit fees for using ATMs. In localities where that was tried, the result was not lower fees, but fewer ATMs, and thus much less convenience for customers." The Journal adds, "Congress and the courts should keep their paws off this industry and let the market give credit, where credit is due."

OTHER NEWS:

World Economy Said To Be Expanding But Imbalanced. USA Today (1/12, Lynch, 2.31M) says the world economy, "though expanding, is dangerously imbalanced. The resulting U.S. current account deficit — reflecting the gap between the nation's ravenous appetite for imports and its anemic savings — is now at levels that many experts fear could trigger a run on the dollar, soaring interest rates and global economic pain. Meanwhile, investment is pouring into risky emerging markets as if the past decade's

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turmoil in Argentina, Turkey, Thailand and Russia never happened." Nonetheless, both "the International Monetary Fund and the World Bank expect solid global growth of 3.2% this year, about the same as in 2005." USA adds, "To many economists, the swollen U.S. current account deficit looms as the biggest potential hazard. In a nutshell, the United States spends too much and saves too little, and Asia saves too much and spends too little. (Moribund Europe doesn't do enough of either.) No one knows for certain when the day of reckoning will come." But economists "say the USA and the world cannot go on like this indefinitely."

Stocks Gained Wednesday. Stocks posted gains yesterday. The Wall Street Journal (1/12, Patterson, 2.11M) reports that the Dow Jones Industrial Average closed up by 31.86 points to 11043.44. The Standard & Poor's 500-stock index "added 4.49 points to 1294.18 and the Nasdaq Composite Index gained 11.04 to 2331.36."

Harvard Economist Argues Economic Growth Is Morally Uplifting. Robert Samuelson writes in the Washington Post (1/12, A21, 744K) that Benjamin Friedman, a Harvard economist, 'has written a hugely provocative book ('The Moral Consequences of Economic Growth') arguing that rapid growth is morally uplifting. 'Economic growth -- meaning a rising standard of living for the clear majority of citizens -- more often than not fosters greater opportunity, tolerance of diversity, social mobility, commitment to fairness, and dedication to democracy,' he writes. Further, the opposite is true. Poor growth feeds prejudice, class conflict and antidemocratic tendencies." Samuelson adds, "Friedman has identified a tendency, not an iron law. Still, his moral case for economic growth is solid. It's true that growth alone rarely creates happiness. Beyond a certain income, happiness depends on family relationships, a sense of belonging, personal beliefs. But growth surely can cure misery."

Bernanke Expected To Be More Of A Consensus Builder Than Greenspan. Knight Ridder (1/12, Hall) reports that as Ben Bernanke takes over the job of Federal Reserve Chairman, he is "to distinguish himself from [outgoing Chairman Alan] Greenspan as more of a consensus-builder and clear-speaking communicator. He must do it while still establishing his authority over an institution historically run by strong-willed chairmen with deeper real-world experience than he brings to the role." Knight Ridder adds, "Five former Fed governors told Knight Ridder in interviews that Bernanke will have to earn the trust of financial markets. The five also expect Bernanke to be more considerate of opposing viewpoints than was Greenspan, who sometimes left Fed governors feeling that their views were marginalized."

Ehrlich Plan For Funding Stem-Cell Research Will Favor Non-Embryonic Projects. The Baltimore Sun (1/12, Skalka, Bor, 296K) reports that Maryland Gov. Robert L. Ehrlich Jr.'s "$20 million plan for funding stem cell research sparked sharp criticism Wednesday from scientists and legislators after a key state official disclosed that preference will be given to work on non-embryonic stem cells. With leading Democratic legislators renewing their call for support of embryonic stem cell research, the lines were clearly drawn for a debate that will dominate the General Assembly session that began Wednesday." Hours after Ehrlich "discussed his plan to commit $20 million in state money to stem cell research at a news conference Wednesday in Baltimore," the governor's "top science adviser, Chris Foster, said he doesn't believe the money would be best spent on embryonic stem cell research. 'I don't think at this time that we need to' fund embryonic cell research, said Foster, deputy secretary of the Department of Business and Economic Development." Foster "said the state would entertain applications for embryonic research but there would be a preference for non-embryonic research, a position that brings Ehrlich closer to President Bush on this contentious issue."

The Washington Times (1/12, Ward, 90K) notes, "The research funds, under the governor's proposal, would be disbursed through a committee controlled by his administration, alleviating concerns among Maryland religious groups that the studies would involve embryonic stem-cell research, considered a form of abortion by some. 'Clearly, no one is going to be funding embryonic, because in 25 years, there have been nothing but miserable failures,' said Nancy Fortier, an associate director at the Maryland Catholic Conference. 'Nonembryonic is what is being used to treat cancer, blindness, heart disease, Parkinson's disease." However, Ehrlich "did not rule out embryonic research. 'If it's embryonic with the best chance for therapeutic results, it will be embryonic,' said Mr. Ehrlich." The governor "said a committee, yet to be named, at the Maryland Technology Development Corporation (TEDCO), 'will make those decisions.'"

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Scientist Says Stem Cell Research Must Proceed Without Hype. David A. Shaywitz, an endocrinologist at the Harvard Stem Cell Institute, writes in the Washington Post (1/12, A21, 744K), "The rapid ascent of stem cell research into the spotlight reflects the collision of exciting science with uncharted ethics. President Bush's Aug. 9, 2001, prohibition on the use of public funds to create new human embryonic stem cell lines ignited interest in this field, even as it made it much more difficult for American scientists to conduct the research. The concern that important medical science was being deliberately thwarted by the federal government enraged many patient advocates and further ratcheted up the demand for results. … The good news is that underneath all this mess, stellar science really is happening. Stem cells have proved even more captivating than we could have imagined, and understanding the process by which a stem cell progressively differentiates into a specialized cell such as a neuron or a pancreas beta cell is perhaps the most compelling biology question for our generation. Stem cells have sparked our interest for good reason. But we're not going to figure out how they work overnight; it will take a very long time and require our best minds, as well as our collective effort (and, ideally, our collective dollars). … Difficult or not, good research is the only responsible way to proceed. If the promise of stem cells is to be fulfilled, the pursuit will require a solid scientific foundation, one grounded in reliable, reproducible facts and not simply supported by hype and hope."

With States Awash In Cash, Governors Proposing Bold Spending Plans, Tax Cuts. The Wall Street Journal (1/12, A4, Solomon, 2.11M) reports, "Facing fat budget deficits, the Bush administration is preparing a tight 2007 budget that squeezes most domestic programs. Flush with cash, state governors across the country are doing the opposite." California Gov. Arnold Schwarzenegger (R) "proposes a $222 billion bond offering because, he says, 'we need more roads, more hospitals, more schools.'" Arizona Gov. Janet Napolitano (D) "seeks '$100 million in smart tax relief that strengthens our economy and invests in new technologies.' In 'State of the State' speeches now echoing through state capitols, others propose a beefed-up minimum wage and tax credits to help with energy costs. It's a far cry from the somber tones many governors struck earlier in the Bush era, as they struggled with the plunge in revenue that followed the 2001 recession." The Journal adds that "many governors spent the first half of this decade cutting expenses and raising taxes to meet state balanced-budget requirements. The revenue surge that accompanied economic recovery has left them in the black at an opportune time: the 2006 election season."

Schwarzenegger Chief Of Staff To Help Reelection Fundraising Efforts. The Los Angeles Times (1/12, Salladay, 958K) reports that California Gov. Arnold Schwarzenegger "is dispatching his newly appointed chief of staff to woo wealthy Republican donors for his reelection effort, injecting his most influential policy advisor into the job of collecting money for his campaign. Susan Kennedy, once a top-level Democrat, will play a key role in the governor's reelection bid, the administration confirmed Wednesday. She is being paid campaign funds in addition to her $131,000 government salary and will mix freely with influential contributors." Paul S. Ryan, "associate legal counsel at the Campaign Legal Center in Washington, D.C., said allowing donors access to Kennedy creates 'the appearance of corruption in California. If you are fortunate to afford the price of admission, then you automatically gain access that the vast majority of Californians do not have.'" Under California law, Kennedy is permitted "to attend fundraisers for the governor and work on his campaign, as long as she is doing it on her own time." Schwarzenegger communications director Rob Stutzman "said Kennedy would take vacation days to meet donors and work on the campaign, and would 'absolutely' separate her policy job from the fundraising effort."

Ashcroft's Firm Took In $269,000 In Last Half Of 2005. The Washington Post (1/12, A19, Sarasohn, 744K) reports in its "Special Interests" column that according to year-end disclosures, former US Attorney General John Ashcroft's lobbying shop "brought in $269,000 for the last six months of 2005. … Many of Ashcroft's restrictions on lobbying his former Justice colleagues expire early next month."

More Companies Expected To Freeze Pensions. The Wall Street Journal (1/12, Schultz, Forelle, Francis, 2.11M) predicts that more companies will cut back on pension benefits as "an unusual alignment of financial conditions makes such moves more lucrative than usual. Two trends have emerged in the broad shift away from traditional pensions, which provide workers set benefits

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based on their salary and years of service. Financially strapped companies such as airlines and auto makers are garnering much of the attention as they seek to ditch their badly underfunded pension liabilities and try to stay afloat. Meanwhile, relatively healthy companies -- many with fully paid-up pension plans -- are seeking to shift to retirement programs that put more of the burden for savings and planning on employees." The Journal adds, "Current interest rates offer employers the possibility of a particularly big income boost if they freeze their pensions, effectively wiping out part of a debt owed to future retirees. While assets in a plan still will be paid out when workers retire or leave the company, benefits don't grow with additional years on the job."

Clinton Foundation Negotiates Lower Costs For AIDS Treatments. Former President Bill Clinton is expected to announce today that his foundation, the William J. Clinton Presidential Foundation, has negotiated lower process on AIDS tests and two AIDS drugs. The New York Times (1/12, McNeil, 1.19M) reports, "Four companies, from the United States, India and China, will offer rapid H.I.V. tests for 49 cents to 65 cents, which will reduce the typical cost of a test in poor countries by half, Mr. Clinton said in a written statement. Another four companies - three from India and one from South Africa - will make the antiretroviral drug efavirenz for as little as $240 per patient per year. One of the Indian companies, Cipla, will also make the antiretroviral abacavir for $447."

The Wall Street Journal (1/12, Schoofs, 2.11M) adds, "The Clinton team worked to lower prices by helping obtain cheaper ingredients to manufacture drugs. For example, one chemical ingredient accounts for most of the cost of making the drug abacavir. The foundation found an alternative supplier willing to slash the price for that ingredient, according to people at the foundation and at the manufacturing company, Matrix Laboratories Ltd. of India. To make efavirenz another raw material is crucial but expensive, so the foundation approached a university researcher and asked him to develop a cheaper method of synthesizing that ingredient, which he has done."

WPost Says Maryland Bill Is Aimed At Wal-Mart. An editorial in the Washington Post (1/12, A20, 744K) says state lawmakers in Maryland are preparing to "impose legislation" on Wal-Mart "so arbitrary that it may achieve the near-impossible feat of casting Wal-Mart as the victim. The Maryland bill would force firms with more than 10,000 in-state employees to spend at least 8 percent of their payrolls on workers' health insurance plans or make compensatory payments to the state. Only three other Maryland employers have more than 10,000 workers on their payrolls -- Johns Hopkins University, Northrop Grumman Corp. and Giant Food Inc. -- and they already meet or exceed the 8 percent threshold. Apparently, only Wal-Mart, with about 15,000 full- and part-time employees in Maryland, does not; thus the bill applies uniquely to Wal-Mart." The Post adds, "The Maryland bill is a legislative mugging masquerading as an act of benevolent social engineering. … And unlovable as it may be, Wal-Mart serves low- and middle-income people, both by creating entry-level and part-time jobs for people who might otherwise be unemployed and by saving its moderate-income customers a staggering amount of money."

Rice Secures Russian Support On Iran. The Washington Post (1/12, Linzer, 744K) reports this morning, "The Bush administration, working intensely to galvanize international pressure on Iran, has secured a guarantee from Russia that it will not block US efforts to take Tehran's nuclear case to the UN Security Council, American and European officials said yesterday." The "commitment," adds the Post, was "made in a Tuesday night phone call between Russian Foreign Minister Sergei Lavrov and Secretary of State Condoleezza Rice." It "will likely help the United States and its European allies win support from key countries weighing a tougher line in response to Iran's resumption of sensitive nuclear work." The AP (1/12, Karimi) reports that Rice had discussed the situation by telephone with IAEA chief Mohamed ElBaradei and British Foreign Secretary Jack Straw, while noting that "Iranian President Mahmoud Ahmadinejad shrugged off the international outcry. 'Unfortunately, a group of bullies allows itself to deprive nations of their legal and natural rights,'" he was quoted as saying.

Television coverage of the Iran situation was sparse, with only ABC Evening News (1/11) mentioning the story among the broadcast networks' evening-news programs. ABC reported that "western nations will likely seek economic sanctions from Iran for resuming its nuclear program." Meanwhile, the New York Times (1/12, Weisman, 1.19M) characterizes the standoff as a "contest of wills," and cites comments by Vice President Dick Cheney Wednesday "that

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the United States would seek the adoption of 'a resolution that could be enforced by sanctions, were they to fail to comply with it.'" On Fox News' Special Report (1/11, Baier), Cheney was shown saying, "They have been offered that opportunity, guaranteed source of fuel that would be enriched only to the level necessary to run civilian reactor. The Russians would take back the spent fuel so it could be reprocessed and they have not been satisfied with that. They want the ability to enrich the uranium themselves and that would take it up to the next level of purity."

The PBS Newshour With Jim Lehrer (1/11) also made mention of the crisis, quoting British Prime Minister Blair's Wednesday speech in the House of Commons in which he expressed "deep dismay" at the escalation. According to the Financial Times (1/12, Khalaf, Dombey), Blair "vowed to report Iran to the United Nations Security Council." The Christian Science Monitor (1/12, Ford, 61K) runs a similar report.

Meanwhile, the Washington Post (1/12, 744K) editorializes today that "Iran's resumption of uranium enrichment dramatically narrows the options of Western governments. … And thanks to better footwork by the Bush administration, European governments no longer have the option of blaming the United States for the failure of diplomacy."

In addition Farouz Farzami, an Iranian journalist "who is forbidden to publish in her own country," writes in the Wall Street Journal (1/12, 2.11M), "On the surface, it would appear that pressure from the United Nations and the United States has little effect on the mullahs who rule Iran. The opposite is true." In fact, "if you look past this headline-generating bluster, you see that Western pressure is having an effect. The hard-line position of the Iranian government has begun to splinter. There are now three minds about this issue in the Majlis, the Iranian parliament: A categorical rejection of the Russian proposal to allow Iran to enrich uranium at its facilities, a compromise that would deny Iran the privilege of enriching uranium on its own soil. Modifying the Russian proposal to allow for enrichment to occur in both Russia and Iran. Suspending all enrichment until further notice or even to some agreed-upon future date, to defuse tension and rebuild confidence with the European Union." He adds, "The existence of these more conciliatory positions in a Majlis completely composed of religious hard-liners is a surprise. (A fourth point of view unrepresented officially, since reformers have been thrown out of the government, calls for Iran to comply with the U.N.'s demands and give up on enrichment of nuclear fuel altogether.)"

Also Dariush Zahedi, a political scientist at the University of California at Berkeley, and Omid Memarian, an Iranian journalist and blogger, write in the New York Times (1/12, 1.19M) that Iran "seems to be courting confrontation. But Western leaders would do well to consider what President Mahmoud Ahmadinejad's bravado really says about Iran's likely posture in the region and at the nuclear talks that are scheduled to resume at the end of January. To continue down the path of conflict could be very costly, both for the regional interests of the United States and most of all, for the territorial integrity of Iran." Ahmadinejad "appears to be acting on the perception that the United States is in a position of considerable, indeed unprecedented, weakness. America's military is overstretched in Iraq and Afghanistan, and Washington has focused on monitoring North Korea's nuclear program rather than Iran's. If threatened, Iran could wreak havoc in Afghanistan, Iraq, Lebanon and Israel. These observations may lead Mr. Ahmadinejad to an incorrect assessment of Iran's strength relative to any American threat."

Rice Threatens Syria With UN Action. The Washington Post (1/12, Gearan, 744K) reports "Secretary of State Condoleezza Rice issued a new threat Wednesday to haul a defiant Syria before the UN Security Council if Damascus does not cooperate with an investigation into a political assassination in Lebanon." Syria, says the Post, "has failed to heed UN Security Council warnings about its behavior in Lebanon and elsewhere, Rice said, ... and the United States opposes 'any deals or compromises' with Damascus that would undermine the investigation." Reuters (1/11) also reports on Rice's "strongly worded statement," in which she cites what she called Syria's "destabilizing behavior and sponsorship of terrorism." The AP (1/12, Gearan), Bloomberg (1/12, Zacharia) and Wall Street Journal (1/12, King Jr., 2.11M) also report the story.

Likud Cabinet Members Plan To Resign. The Washington Times (1/12, 90K) reports, "Cabinet ministers from the Likud Party were to resign from the coalition government today, signaling an end to a weeklong political cease-fire following the massive stroke that felled Prime Minister Ariel Sharon." This will "will have little practical impact on the government, which will serve only as a caretaker until the March elections. Likud hopes to sharpen the distinctions between itself and Kadima as it goes into the

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campaign." While Sharon "could remain in the hospital for months," his "recently formed Kadima party is a strong favorite to form the next government, even with his likely successor, Ehud Olmert, at the helm."

Doctors Say Brain Damage Likely For Sharon. The Washington Times (1/12, Price, 90K) reports, "The movement that Israeli Prime Minister Ariel Sharon experienced on both sides of his body after a massive stroke last week bodes well in terms of his survival, but he could live with brain damage." Dr. Jose Cohen, one of Mr. Sharon's neurosurgeons at Hadassah University Medical Center in Jerusalem said that the stroke "certainly would have caused cognitive damage." However, only "after Mr. Sharon is weaned from the sedatives" can "his doctors in Jerusalem can assess brain damage and function."

Israel Halts Negotiations On Christian Center Over Robertson's Comments. The New York Times (1/12, Myre, 1.19M) reports, "Israel said Wednesday that it was breaking off negotiations on a tourism project with the evangelical leader Pat Robertson in response to his remarks suggesting that Prime Minister Ariel Sharon's stroke was divine retribution," although it "would be willing to continue the talks without him."

Hoagland Says Stoke May Have Ended Chance Of Palestinian Democratic State. Jim Hoagland writes in his column in the Washington Post (1/12, A21, 744K) that the United States, its European and Arab allies, and the United Nations "are visibly failing" to make "Israel's unilateral withdrawal from the Gaza Strip into a catalyst for the creation of an independent, viable Palestinian state." The spreading "chaos in Gaza and Ariel Sharon's sudden incapacitation by a severe stroke are destabilizing blows to President Bush's proclaimed strategy for transforming the Middle East into a zone of democracies," and now "Bush must reassess whether he can get there from here," as "without Sharon in power, the odds drop to virtually zero" for creating a democratic Palestinian state.

US Looking To Reopen Nuclear Talks With North Korea. The Atlanta Journal-Constitution/AP (1/12, Kim) reports that U.S. ambassador Alexander Vershbow said in a speech in Seoul that "the United States wants to quickly resume nuclear talks with North Korea." Assistant Secretary of State Christopher Hill said "he would seek information in Beijing on the latest North Korean thinking from its closest ally."

Negroponte Announces Intelligence Mission Managers For North Korea, Iran. The New York Times (1/12, Jehl, 1.19M) reports, "The director of national intelligence, John D. Negroponte, has created new 'mission managers' for Iran and North Korea, adding those two countries to a short list of top-priority challenges for American intelligence agencies," Joseph DeTrani is responsible for North Korea, and S. Leslie Ireland for Iran. They "will be responsible, among other things, for identifying and filling gaps in intelligence on those two countries." Last year the Robb-Silberman commission, an independent panel appointed by President Bush, "described American intelligence on Iran and North Korea as woefully inadequate."

Whereabouts Of Kim Jong Il Remain A Mystery. Meanwhile, the AP (1/12, Kurtenbach) reports "the whereabouts of North Korean leader Kim Jong Il remained unclear Thursday, with a Hong Kong-based television network speculating he may be headed for the south Chinese city of Guangzhou, while other reports put him in Beijing or Russia." The Washington Post (1/12, 744K) places him in Shanghai, which if "true, analysts said that Kim's visit could represent an effort to win China's support for lifting U.S. economic sanctions." Reuters (1/12, Herskovitz) cites comments by US Ambassador Alexander Vershbow as saying: "We hope that he is there [China] and having high-level meetings."

China Unlikely To Use Economic Leverage Against North Korea. The Washington Times (1/12, Salmon, 90K) reports, "Pyongyang's nuclear ambitions are likely to figure in any negotiations North Korean leader Kim Jong-il holds in China this week, but Asian analysts see little chance that Beijing will use its growing economic clout to bring its neighbor to heel," even though "U.S. officials, ranging from Mr. Hill to Vice President Dick Cheney, have called in recent months for China to use its influence to press North Korea for greater cooperation in the nuclear talks." As "South Korea also has been reluctant to bring economic pressure on Pyongyang, partly for fear of falling further behind China in a long-term competition for trade opportunities in its northern neighbor," there has been "a narrowing of policy options for the United States."

Would-Be Bush Assassin Sentenced To Life Imprisonment In Georgia. The CBS Evening News (1/10, story 8, :45, Schieffer) reported, "A man who tried to assassinate President Bush last spring in the former Soviet

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Republic of Georgia was sentenced today to life in prison. The would-be assassin was an opponent of the government then in power in Georgia and he threw a grenade at a rally where the President was speaking. It landed in the crowd well short of the podium, but did not explode."

China Says Trade Surplus Tripled In '05. The New York Times (1/12, Barboza, 1.19M) reports, "China said on Wednesday that its trade surplus with the rest of the world had tripled in 2005, to a record $102 billion, a figure that could reignite global trade frictions and step up pressure on the government to allow its currency to appreciate further." These "figures suggest a changing role for China in the global economy, indicating that it will influence things like prices at Wal-Mart and global interest rates." However, "the growing bilateral trade deficit could strain ties between the United States and China."

The Wall Street Journal (1/12, Hiebert, 2.11M) adds, "some economists believe China's trade surplus could narrow this year because its imports have begun to pick up in recent months. Beijing is also seeking to reduce trade frictions by promoting domestic consumption." However, "economists point out that the overall U.S. deficit with Asia has remained roughly in balance over the past decade."

Communist Officials Said To Abuse Power To Enrich Selves, Cronies. The Washington Post (1/12, D1, Goodman, 744K) reports that American investor Terry Petty "had forged a venture with the son of a local Communist Party official to open a machine shop" in Shanghai." However, men hired by his partner "forced their way in, brandishing guns, sparring with workers and disabling machinery" after he refused to sell his stake. "Calls to the police proved futile, factory managers said, because the police took direction from local officials connected to the Chinese partner. … The case has garnered the attention of both the United States and Shanghai governments." With market reforms opening investment, "some Communist Party officials abuse their influence over local governments to enrich themselves and their cronies."

Chinese Proposal Suggests Power Project Could Use Fewer Dams. The New York Times (1/12, Yardley, 1.19M) reports, "A government environmental review has recommended reducing the number of dams included in a controversial hydropower proposal on the Nu River in southwestern China in order to limit environmental damage and decrease the number of people who would be resettled," calling "for 4 dams instead the 13 in the original Nu proposal." However, the Hong Kong newspaper that reported the story, Wen Wei Po, which has ties to the Communist Party, "suggested that the full 13 dams had not been completely ruled out."

Industry Polluting Much Of China's Waterways. The Washington Post (1/12, A12, Cody, 744K) reports, "The fouling of the Xiang River attracted wide attention, but it was far from unique as China struggles to reconcile breakneck economic growth with protection of the environment. After more than two decades of swift industrialization, a recent government report found that up to 70 percent of the country's rivers and lakes are seriously polluted." Although "extensive national regulations have been put into place," the "enforcement of environmental rules has often been lax, and the result has been frequent contamination of the waterways that China's 1.3 billion people depend on for drinking water."

WSJournal Says Private Economy Would Prevent Pollution. The Wall Street Journal (1/12, 2.11M) editorializes, "The recent news has been bad PR for the PRC" as "problems are popping up all over." While "it's hard to tell exactly how widespread the problems are, but we'd go out on a limb and guess, oh, 'pretty vast.'" Still, "if Beijing really wanted to tackle its environmental malaise, it would move faster to dump state enterprises and speed the development of a private economy in which managers are held accountable both for making a profit and for fouling the air and water," as "China's current environmental problems stem from its rampant misallocation of capital and resources over many decades."

Concerns Raised About Accuracy Of China's Bird Flu Reporting. The Washington Post (1/12, A13, Cody, 744K) reports, "The World Health Organization identified China's latest bird flu victims…who succumbed to the H5N1 strain of the virus last month in different parts of the country" and were only reported two days ago. "The Health Ministry's spokesman, Mao Qunan, spoke at length about bird flu at a news conference Tuesday but did not mention the additional deaths. Mao's omission and the delay in reporting the deaths to WHO fed concerns about the reliability of official information on the extent of bird flu" in China which, after "the SARS controversy…pledged to deal squarely with health information." However, "Chinese reporters have said they are frequently forced to seek information about China's bird flu situation from WHO or

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foreign publications because China's official sources refuse to provide it."

Turkish Authorities Struggle To Keep Up To 20 Avian Flu Outbreaks Under Control. ABC World News Tonight (1/11, story 7, 2:00, Woodruff) reported the virulent avian flu strain H5N1 "has suddenly spread west to Turkey, where nearly two dozen human cases have been confirmed in just a few days." ABC (Sciutto) added, "Today, they went from house-to-house here, government teams searching for birds and killing every one they found. Then, disinfecting the homes and themselves." Bird flu "is spreading through Turkey faster than anywhere else in the world. Three new human cases today, 18 in just one week." Dr. Joseph Domenech, United Nations: "The situation is worrying, because we have more outbreaks than we thought." Sciutto: "Normally, one or two in the country. Here, nearly 20 separate outbreaks cross Turkey."

Initial Turkish Response Criticized. The New York Times (1/12, Rosenthal, 1.19M) reports that international experts said Turkey's "slow initial response in detecting the arrival of bird flu three weeks ago has created a health crisis that may be very hard to correct." Dr. Joseph Domenech, chief of veterinary services at the United Nations Food and Agriculture Organization in Rome said "there was now a risk that the virus had become so entrenched in Turkey that it would be impossible to eradicate it," although "both he and United Nations health officials agreed that Turkey was now taking the problem 'seriously.'"

UN Tries To Prevent Panic Over Avian Flu Cases In Turkey. The Washington Times (1/12, Pisik, 90K) reports, "The United Nations yesterday sought to calm fears about the deadly avian flu virus as signs of near-panic spread through Turkey and its neighbors." Dr. David Nabarro, the coordinator of the U.N. response to the avian flu, "stressed that 'there is no evidence of human-to-human transmission in the Turkey outbreak.' He said each case appeared to be traceable to avian contact." World Health Organization officials also "praised Ankara's response to the crisis, but officials insisted that the counterinfluenza measures must be maintained."

Bird Flu Mutation May Make Bird To Person Transmission Easier. The Washington Post (1/12, A12, Williams, Sipress, 744K) reports that international health officials said "preliminary tests show that the strain of bird flu virus that has stricken at least 15 people in Turkey has evolved in a way that could make it somewhat more hazardous to human beings, although it still lacks the capacity to be passed easily from person to person." While "Influenza experts are studying the apparent change to determine its significance," they "say they believe the genetic change could make it easier for bird flu to pass from chickens to people."

OPEC Expected To See Record Oil Revenues. The Financial Times (1/12, Hoyos) reports that the US Department of Energy forecasts that "oil revenues of the Organisation of the Petroleum Exporting Countries, the cartel that controls 40 per cent of the world's oil supplies, will increase by 10 per cent to a record $522bn this year," which "should help keep interest rates low if members of the group continue to spend their increasing wealth in the US bond market."

Bush Signs Trade Pact With Bahrain. The New York Times/Reuters (1/12) reports, "President Bush signed a bill on Wednesday establishing a free trade agreement with Bahrain, the first such pact with a Persian Gulf country." It "requires Bahrain to eliminate its already low tariffs on American consumer and industrial goods and most agricultural products" while "the United States will eliminate tariffs on Bahraini goods."

Canada's Martin Accuses Opponent Of Being Too Close To Bush. The Washington Post (1/12, A18, Struck, 744K) reports, "Well behind in the polls two weeks before a parliamentary election, the governing Liberal Party led by Prime Minister Paul Martin this week brought what in Canadian politics is a most damning indictment: Martin's opponent is too close to the Americans." In Canada, "hostility toward the Bush administration is strongest in eastern cities, traditional strongholds of the Liberal Party. With opinion polls showing the party losing some of that support, Martin's strategists are trying to tap the sentiment," Nelson Wiseman, a political scientist at the University of Toronto said.

Low Turnout In US For Mexican Election Ballot Requests. USA Today (1/12, Keen, 2.31M) reports, "With the deadline" for Mexican expatriates to request ballots for Mexico's presidential election "looming, only a fraction of eligible Mexicans in the USA have participated because of confusion about the application, lack of interest in the campaign and concern that applying for ballots could

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result in problems with U.S. immigration officials." Out of "an estimated 4 million expatriates who have Mexican voting cards," only about 15,000 applied. "Some people left their voting cards in Mexico so relatives could pay property taxes in their absence or conduct other business" and others "who are here illegally threw away their cards to avoid having any identification." Interest also may be low because "no campaigning is allowed in the USA."

Analysts Worry Citgo Has Become Political Tool For Chavez. USA Today (1/12, Lynch, 2.31M) reports, "The question of" Hugo Chavez's "influence over Citgo was highlighted by the company's recent provision of 25 million gallons of subsidized home-heating oil to poor people in the northeast USA." Analysts "saw the move as a stunt by Chavez aimed at embarrassing the Bush administration. And some say Citgo's generosity…suggests the company may be turning into a political tool for Chavez" and "worry that Venezuela's ownership of more than 6% of U.S. refinery capacity gives Chavez…the power to cripple as well as comfort." However, "others note that imported oil from elsewhere eventually could compensate for any interruption in Citgo supplies" and that "a shutdown would cost him and his country dearly."

Merkel's Washington Visit Could Begin New Era In US-German Relations. Knight Ridder (1/12, Schofield) reports, "When new German Chancellor Angela Merkel sits down on Friday with President Bush in Washington, they'll be ushering in a new era of trans-Atlantic relations - that much is clear. But what those relations will be is less certain." While "Bush finally has a German friend in Merkel," she, "like much of Europe,…finds some of Bush's policies distasteful, and analysts are wondering how far she'll be willing to go in voicing disagreement." Still, "there's little doubt in Germany that she's the only European leader with the staying power to help Bush improve his relations with Europe."

The Christian Science Monitor (1/12, LaFranchi, 61K) adds there is a question "whether the diplomatic defrosting portends a deeper restrengthening of US-German relations and indeed of transatlantic cooperation," and some experts say "the improvement in US-German atmospherics is not likely to reverse the general drifting apart in transatlantic relations."

Yushchenko Ignores Ukrainian Parliament's Vote To Dismiss Government. The New York Times (1/12, Myers, 1.19M) reports, "President Viktor A. Yushchenko of Ukraine on Wednesday criticized as illegitimate a parliamentary vote to dismiss his prime minister and government, deepening the country's political turmoil ahead of new elections in March." Prime minister, Yury I. Yekhanurov, "defied Parliament's vote…by presiding over a meeting of the government's ministers." The dispute "not only undermined" Yushchenko's "political position before the elections but also called into question recent constitutional changes that gave Parliament new powers, including the authority to dismiss the government."

Blair Appeals To Bush To Save Rolls-Royce Contract. The Financial Times (1/12, Alden, Spiegel, Blitz) reports, "Tony Blair, the British prime minister, has made a 'very forceful' personal plea to President George W. Bush to save a $2.4bn (€2bn) contract for Rolls-Royce and General Electric to develop a second engine for the Joint Strike Fighter," and "reverse a Pentagon decision to kill the engine before the proposed 2007 defence budget is sent to Congress." Those "familiar with the lobbying campaign said Mr Blair has lent his full muscle to the effort and involved several senior British officials, including Jonathan Powell, Mr Blair's chief of staff." However, "Despite industry and Whitehall insiders said yesterday that there is considerable debate within the British government about how forcefully to back Rolls with the Bush administration."

Blair Unveils Program To Deal With Anti-Social Programs. The Washington Times (1/12, Webb, 90K) reports, "British Prime Minister Tony Blair, introducing a key plank of his third and final term in office, has started a $140 million action plan dubbed 'Respect' to attack anti-social problems." He said that "the nation has been fighting '21st-century crime with 19th-century methods' and called for a system of speedy 'summary justice' to bypass traditional courts." Blair "envisions evicting out-of-control families from their homes…for up to three months, and rehousing them in a network of residential centers…to teach them how to behave." Another "key element in the action plan centers on efforts to control unruly children and to help their beleaguered parents." However, "critics immediately attacked Mr. Blair's plan, one dismissing it as 'rubbish,' and another describing it

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as a package of 'minor tweaks to existing measures and shock tactics.'"

Kazakh Election Poses Conundrum For West. The Washington Times (1/12, Pala, 90K) reports, "In a ceremony as rich in irony as in glitter, President Nursultan Nazarbayev, who has led Kazakhstan for 16 years, was sworn in yesterday for another seven-year term." Despite "widespread ballot-stuffing" and "unlike" Georgia, Ukraine, and Kyrgyzstan, "not a single street demonstration erupted to protest the vote. Opposition leaders said they did not want to be blamed if the government opened fire on demonstrators." The West faces "an unusual conundrum: how to deal with a genuinely popular dictator of an oil-rich and strategic country who, despite muzzling the press, stifling the opposition and brushing aside mounting evidence of nepotism and corruption, would have won easily without cheating."

Harvard Student Claims Detention In Zimbabwe. The Washington Post (1/12, A3, Fahrenthold, 744K) reports that Harvard University student Amar Bakshi "said Wednesday that he had been arrested in Zimbabwe during a trip to research his senior thesis, then held in grimy cells for five days before his parents and local lawyers managed to free him." He believes that "the key to his release might have been a surreptitious cell phone call he made soon after his arrest" Calling form "a bathroom, he told a friend that he had been pulled off an outbound airplane by plainclothes officers." While "Bakshi's account of the ordeal was reported previously by the Harvard Crimson, the student newspaper, and in Zimbabwe by the Standard, an independent weekly," any "official corroboration" was "difficult to find."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"A New Color In Brazil TV."
"Alito Remains Unruffled In Testy Hearings."
"Wine Imports Squeeze State's Vintners."
"A Fault Line For 'Intelligent Design'."
"Gov.'s Top Aide To Woo Donors."
"Homicides Up 15% In Sheriff's Territory."
"A Will-To-Rebuild Deadline Proposed For New Orleans."

USA Today:
"Match Wits With The Pros At Usatoday.Com."
"After 7 Years, Capsule Of Comet Dust Heads To Earth."
"Has Citgo Become A Political Tool For Hugo Chvez?"
"Nerves Fray At Alito Hearing."

New York Times:
"Democrats Take Aggressive Tack; Alito Is Unfazed."
"East Meets West, Adding Pounds And Peril."
"Local Insurgents Tell Of Clashes With Al Qaeda's Forces In Iraq."
"Texas Redistricting Is One More Hurdle For DeLay."
"Birgit Nilsson, Soprano Legend Who Tamed Wagner, Dies At 87."

Washington Post:
"Anti-Crowding Law Repealed."
"Metro Drops Longtime Chief Executive White."
"General Asserts Right Not To Incriminate Self."
"Alito Leaves Door Open To Reversing 'Roe'."
"Lobbyists' Emergence Reflects Culture Shift."
"Warming Tied To Frog Extinction."

Washington Times:
"Alito Accused Of Racism."
"Senators Show Claws At Hearing, Sling Zingers."
"Support Follows Racial Lines."
"Blair Program To Teach Respect."
"Yemeni Prisoner At Gitmo To 'Boycott' Tribunal."
"America Runs To The Border."
"Likud Cabinet Ministers To Resign."

Detroit Free Press:
"Chairman Of The Bowl."
"Bishop Tells Of Abuse As He Fights For Victims."
"Gifts, Trust Are Lost In Mail Thefts."

Atlanta Journal-Constitution:
"Rich And Running."
"Tech AD Makes TOugh Call For Health."
"New Orleans Plan Is Jeered."
"Taking Names."
"Election Year Loosesn Budget Purse Strings."

Dallas Morning News:
"German Leader's Visit Promising For Bush."
"Dallas Giving Red-Light Cameras A Go."
"More Volleys Fired At Alito."
"Storm-Ravaged Mississippi Town Hanging By A Thread."
"For 'Roe,' Trials Out Of Court."

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Houston Chronicle:
"DeLay Takes Texas' Clout In Congress With Him."
"Automated System May Watch What Students Eat."
"Senators Fail To Pin Alito Down On Abortion."
"Houston Ranked Seventh 'Meanest' To Homeless."
"Feds Want Texas To Repay School Funds."
"Council Bars Builder From City Work."

Story Lineup From Last Night's Network News:
ABC: Alito Confirmation Hearing; New Orleans Reconstruction; WV Mine Accident; Bush-Iraq Speech; Global Warming-Extinctions; Iranian Nuclear Program; Turkey-Avian Flu; Baby Boomers-Sports Medicine.
CBS: WV Mine Accident; Alito Confirmation Hearing; Alito Hearing Analysis; Bush-Congressional Hearings; New Orleans Reconstruction; American Heroes; Bishop-Sex Abuse; Failed Assassin Sentenced; Wounded Soldier Treated.

NBC: Alito Confirmation Hearing; New Orleans Reconstruction; WV Mine Investigation; WV Mine E-Mail Scam; Chinese Auto Makers; New Orleans Losing Citizens; SEALS Recruiting Publicly; Seattle Rain; Global Warming-Extinctions; Small Town Doctor.

Story Lineup From This Morning's Radio News Broadcasts:
CBS: Agca released; Georgia- grenade thrower sentenced; Alito hearings; Bush-New Orleans; New Orleans-recovery plan; Wall Street.
NPR: Alito hearings; Bush-domestic spying; UN-Hariri assassination probe; Foreign stock markets; Agca released; Alexander Strategy Group closing; Wall Street.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH — Participates in a roundtable with small business owners and community leaders, TBA location, New Orleans, La. Pool at top; speaks on Gulf Coast reconstruction. St. Stanislaus College, Bay St. Louis, Ms. Open press; attends RNC reception, private residence, Palm Beach, Fla. Closed press.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: 9:30 a.m. JUDICIARY _ Full Committee. Continuation of Supreme Court nomination hearings for Judge Samuel Alito. Stephen L. Tober, ABA, Marna Tucker, ABA; John Payton, ABA; Judge Edward R. Becker, U.S. Court of Appeals Judge (Senior), Philadelphia; Judge Anthony J. Scirica, Chief Judge, U.S. Court of Appeals, Third District, Philadelphia; Maryanne Trump Barry, U.S. Court of Appeals Judge, Philadelphia; Senior Judge Ruggero J. Aldisert; Philadelphia; Senior Judge Leonard I. Garth, Chicago; Judge John J. Gibbons, retired; Judge Timothy K. Lewis, retired; Michael J. Gerhardt, UNC School of Law; Peter Kirsanow, Commissioner, U.S. Commission on Civil Rights; Samuel Issacharoff, NYU School of Law; attorney Carter Phillips, Washington; Goodwin Liu, University of California Berkeley; Nora Demleitner, Hofstra University School of Law; Erwin Chemerinsky, Duke University Law School; Anthony Kronman, Yale Law School; former presidential counsel Beth Nolan; Former Solicitor General Charles Fried; Laurence H. Tribe, Harvard Law School; attorney Fred Gray; former NARAL President Kate Michelman; Ronald S. Sullivan, Jr.; Amanda Frost, American University Washington College of Law; John G. S. Flym, Northeastern University School of Law; Reps. Charles Gonzales and Debbie Wasserman Schultz; Reginald M. Turner, Jr., National Bar Association; Theodore Shaw, NAACP Legal Defense and Educational Fund, others. Location: Room 216, Hart Bldg.

US House: No public schedule.

Other: GERMAN CHANCELLOR ANGELA MERKEL _ Highlights: 6 p.m. Arrives at Dulles International Airport, proceeds to Blair House, and then attends a dinner hosted by the American Council on Germany, at the Ambassador's residence, where she will give a speech.

NAVY SYMPOSIUM _ The Surface Navy Association holds its 18th annual symposium. Three days of meetings and workshops for naval surface warfare professionals and commanders. Highlights: 8 p.m. - 10:30 p.m. Annual Banquet. With remarks by Donald Winter, Secretary of the Navy. Location: Hyatt Regency-Crystal City, 2799 Jefferson Davis Hwy., Arlington, Va.

NUCLEAR REGULATORY COMMISSION _ 8 a.m. - 5:30 p.m. 167th meeting of the Advisory Committee on Nuclear Waste. Three days of meetings on nuclear waste transport, handling, storage, research and similar topics. Location: Room T-2B3, Two White Flint North, 11545 Rockville Pike, Rockville, Md.

IMMIGRATION LAW _ 8:30 a.m. - 10 a.m. Panel discussion on immigration reform. With Anthony Romero, executive director, ACLU; Grover Norquist, president,

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Americans for Tax Reform; Eliseo Medina, Service Employees International Union; Kevin Appleby, US Conference of Catholic Bishops; and others. Location: National Press Club, 14th and F Sts. NW

AVIATION SAFETY-PILOTS _ 9:30 a.m. The Air Line Pilots Association Intl. holds a roundtable to discuss airline pilots' safety and security priorities for the coming year. Topics will include space-based navigation, safety daya collection, pilot fatigue, securing the flight deck, worker ID; and cargo security. With Capt. Duane Woerth, president, ALPA; Capt. Terry McVenes, executive air safety chairman, ALPA; and Capt. Bob Hesselbein, national security chairman, ALPA. Location: 1625 Massachusetts Ave., NW.

PELOSI _ 10:45 a.m. House Democratic Leader Nancy Pelosi holds her weekly press conference. Location: House Radio-TV Gallery.

MEDICARE _ 12 p.m. The Center on Budget and Policy Priorities holds a telephone briefing to discuss factors causing low-income Medicare beneficiaries to fall through the cracks as the new drug benefit is implemented. Contacts: Shannon Spillane, 202-408-1080.

ALITO CLERKS _ 12:20 p.m. A group of 19 of Judge Samuel Alito's clerks - described as liberals, conservatives, Republicans, Democrats and progressives - hold a media availability to respond to the Senate confirmation hearings. They will discuss abortion, ethics, civil rights, employment discrimination and one man/one vote. Partcipants are C. Frederick Beckner III, Monica Dolin, Monica Nakly, Jay Jorgensen, Hannah Smith, Jeffrey Wasserstein, Jack White, Mike Yaeger, Nora Demleitner, Keith Levenberg, Monica Dolin, Hannah Smith, John Smith, Michael Stein, Dana Douglas, Jeffrey Wasserstein, Gary Rubman, Rick Beckner, and Mike Potenza. Location: Room 216, Hart Senate Office Building.

TRADE-JAPAN _ 1 p.m. US Trade Representative Rob Portman meets with Japanese Minister of Agriculture, Forestry and Fisheries Shoichi Nakagawa. Location: USTR Offices, 600 17th St. NW.

CHINA-ASIA _ 1:30 p.m. - 4 p.m. The Brookings Institution hosts a discussion on China, ``Power Shift: China and Asia's New Dynamics." With Richard Bush, director, Center for Northeast Asian Policy Studies, Brookings Institution; David Shambaugh, director, China Policy Program, George Washington University; Jonathan Pollack, chair and professor, Asia-Pacific Studies Group, Naval War College; Michael Yahuda, professor, London School of Economics; and others. Location: Falk Auditorium, 1775 Massachusetts Ave. NW.

GREENSPAN-JAPAN _ 3 p.m. Photo opportunity with Federal Reserve Board Chairman Alan Greenspan and Japanese Finance Minister Sadakazu Tanigaki. Location: Fed offices, 21st and C Sts. NW.

WHITE HOUSE COMMUNICATIONS _ 6 p.m. National Press Club Newsmaker discussion of the White House communications strategy. Are the daily press briefings and gaggles an effective venue? How have press sessions changed with the growth of 24 hour news? With Dr. Martha Joynt Kumar, author and professor, Towson University; Mike McCurry, former press secretary under Clinton; Helen Thomas, White House columnist, Hearst; Alexis Simendinger, White House correspondent, National Journal; and others. Location: National Press Club, 14th and F Sts. NW.

IRAQ-BREMER _ 6:30 p.m. Ambassador Paul Bremer discusses ``My Year In Iraq." Location: National Press Club, 14th and F Sts. NW.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: THURSDAY, JANUARY 12, 2006 7:45 AM EST

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TERRORISM NEWS:

Bush Softens Opposition To Hearings On NSA Domestic Intelligence Program. In a speech in Louisville, KY, President Bush addressed the possibility of congressional hearings on the NSA domestic spying program. Bush's assertion that he's not opposed to hearings as long as they don't "'tell the enemy what we're doing" are being cast as a shift in his position. The CBS Evening News (1/10, story 4, :45, Schieffer), the only show to report Bush's comments on the controversy, reported the President "softened his opposition today to congressional hearings on the secret program he authorized to eavesdrop on Americans. Mr. Bush said in a speech Louisville today that hearings would be good for democracy if, he said, they do not give away information to what he called the enemy. The President again insisted he does have the legal authority to authorize such programs."

The Los Angeles Times (1/12, Gerstenzang, 958K) also says Bush "stepped back from the strong opposition he expressed last month." Bush's comments "came in response to a question at a citizens forum in Louisville as he took his case for the Iraq war to an audience beyond Washington."

The Washington Post (1/12, A7, Fletcher, 744K) says Bush's "campaign-style" event "was different than most of the events he attends nationwide. Usually he speaks to carefully screened partisan audiences and takes no questions. White House aides described Wednesday's audience of business and community leaders as bipartisan, and Bush opened himself to unscripted questions during the town-hall-style event." The New York Times (1/12, Sanger, 1.19M) headlines its story "In Shift, Bush Says He Welcomes Inquiry On Secret Wiretaps," and notes the President "was repeatedly applauded for authorizing the wiretaps" during "his campaign-style meeting." The Times adds, "Asked whether his administration was going to "go after the media" for revealing operations like the domestic wiretapping, Mr. Bush instead defended his decision to authorize the surveillance." USA Today (1/12, Diamond, Jackson, 2.31M) adds Bush said "that administration lawyers had approved the program."

The Lexington Herald-Leader (KY) (1/12, 119K) reports Bush "was initially opposed to having the program investigated in a public format, but made it clear that he is resigned to open hearings that are scheduled to begin in coming weeks. … In the days after the program's existence was revealed, Bush cautioned against hearings, arguing that the appropriate members of Congress were being consulted privately and offering assurances that he was working within the law to authorize the eavesdropping. 'Any public hearings on programs will say to the enemy, "Here's what they do -- adjust." This is a war,' Bush said at a December news conference when asked about expected hearings on Capitol Hill."

Reuters (1/12) quotes Bush saying, "I can understand concerns about this program, before I went forward I wanted to make sure I had all the legal authority necessary to make this decision as your president. … We are a...country of law." He added, "I have the right as the commander in chief in a time of war to take action necessary to protect the American people. … One way to protect us is to understand the nature of the enemy. Part of being able to deal with this kind of enemy in a different kind of war is to understand why they're making decisions they're making inside our country."

Fox News' Special Report (1/11, Cameron) added, "Taking questions from an audience, Bush said he understands concern about limited eavesdropping on people in the US, but said he has taken every available step to protect civil liberties." Bush "noted that Congress knew about the program beforehand, but did not complain." Fox also noted, "Despite all the recent complaints and concerns, to date, not one lawmaker has formally requested that the program be stopped."

The Washington Times (1/12, Curl, 90K) reports that after Bush spoke, "Democratic National Committee Chairman Howard Dean criticized the Bush administration's 'disregard for our courts and our laws.'" Said Dean, "President Bush's decision to sidestep the rule of law and spy on Americans without a court order may have dealt a serious blow to our ability to fight and win the war on terror."

Bush addressed other issues yesterday in Kentucky, but with the exception of his comments on Iraq, which got some coverage, they received little media attention. The Lexington Herald-Leader (KY) (1/12, 119K) reports Bush "took questions for nearly an hour. When a small business owner focused on rising health insurance costs, Bush acknowledged 'it's becoming an unmanageable cost.'" He "touted health savings accounts and association health plans that pool employees together to try to hold down insurance costs." Bush also "said something needs to be done to halt frivolous medical liability lawsuits that he said drive up health costs." He also "hinted that his upcoming State of the Union speech would address the problem of low math and science proficiency among middle and high school students." Another questioner "asked Bush about immigration. Bush said border security is vital but urged compassion for foreigners coming to the U.S. in search of work."

NSA IG Opens Investigation Into Domestic Spying Program. Fox News' Special Report (1/11, Hume) reported, "The National Security Agency Inspector General has opened an investigation into the NSA's electronic eavesdropping

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program that…Bush authorized after 9/11 to operate sometimes without a warrant. Critics complain that surveillance of communications between suspected terrorists and people inside the US may violate civil rights." Fox (Cameron) added, "It is a controversy that the president welcomes and is eager to explain."

Herbert Calls Bush "The Lawbreaker In The Oval Office." Columnist Bob Herbert, in a column titled "The Lawbreaker In The Oval Office," writes in the New York Times (1/12, 1.19M), "The country has set the bar so low for the performance of…Bush as president that it is effectively on the ground. No one expects very much from Mr. Bush. He's currently breaking the law by spying on Americans in America without getting warrants, but for a lot of people that's just George being George. Forget the complexities of the Foreign Intelligence Surveillance Act, or even the Fourth Amendment's safeguards against unwarranted (pun intended) government intrusion into matters that we have a right to keep private." He adds, "On his frequent trips home to his ranch in Texas, the president likes to ride his bicycle. He's not studying the Constitution." The Administration "should not be allowed to use war as an excuse. The US is a very special place in large part because no one, not even the president, is above the law."

NSA Tells Whistleblower Not To Testify About Secret Programs. Under the headline "Ex-Official Warned Against Testifying On NSA Programs," The Washington Times (1.12, Gertz, 90K) reports, "Renee Seymour, director of NSA special access programs stated in a Jan. 9 letter to Russ Tice that he should not testify about secret electronic intelligence programs because members and staff of the House and Senate intelligence committees do not have the proper security clearances for the secret intelligence," although she noted that Tice "has 'every right' to speak to Congress and that NSA has 'no intent to infringe your rights.'" The Times adds that Seymour also said that Tice, "who was dismissed in May, failed to notify either the Pentagon or NSA of the improper behavior that he is charging," and therefore "must first give statements to the Defense Department and NSA inspectors general before he provides any classified information to Congress from the SAPs."

NSA Leakers, Media Seen As Abetting Terrorists. In a Washington Times (1/12, 90K) op-ed, Douglas MacKinnon, former White House and Pentagon official and press secretary to Sen. Bob Dole, writes, "Until recently, I believed that the liberal Americans in society and the media who espouse blind hatred for the Bush administration, the unilateral responsibility to defend our nation, our intelligence operatives and even our military, would see the error of their ways should we one day tragically lose an American city and its innocent inhabitants to terrorism. Today, I wonder if they might not only secretly rejoice at the thought of the 'Great Satan' being 'justifiably' punished in such a manner, but with their very actions, sow the seeds of such destruction? … The latest case of government employees betraying their trust and our nation by leaking information to the media being the story that 'the Bush administration was running a covert-domestic-spying program.'" MacKinnon adds, "Since September 11, we have all been waiting for the next shoe to drop. … The shoe may well be American made."

Etzioni Says Questions About NSA Surveillance Should Not Delay Patriot Act Renewal. In a USA Today (1/12, 2.31M) op-ed, author Amitai Etzioni writes, "A steady stream of revelations, and the ensuing news media reports, have portrayed a president hungry for power, doing whatever is necessary — legal or not — to protect this country. In the wake of such news, some lawmakers in Congress see weakness and an opportunity to gut one of President Bush's vital weapons in the war on terror: the USA Patriot Act. Congress should not hold up extending vital sections of the Patriot Act in reaction to these recently revealed power grabs. The president's authorization of spying on Americans by the National Security Agency has nothing to do with the Patriot Act; nor do secret prisons, nor memos allowing torture. Questions over how much power the commander in chief can exercise must be sorted out by Congress and the courts, but the Patriot Act shouldn't be held for ransom."

Man Who Threw Grenade At Bush Sentenced To Life In Georgia. CNN.com (1/12) reports, "A Republic of Georgia court has sentenced a man to life in prison for attempting to assassinate U.S. President George W. Bush by lobbing a hand grenade towards a podium during a rally in the capital last year, according to Georgia's interior minister." CNN continues, "Vladimir Arutinian of Tbilisi was also found guilty of trying to assassinate Georgian President Mikhail Saakashvili, who was standing on the podium with Bush on May 10. … He was also convicted of killing a police officer who tried to apprehend him two months after the incident." CNN adds, "The would-be assassin threw a grenade into a crowd about 20 meters (65 feet) from the stage where Bush had just begun speaking, but the grenade, wrapped in a plaid cloth, failed to detonate, authorities said. … Initial reports said the grenade was not live, but authorities later said it was. … Georgia's Interior Minister Vano Meradishvili told CNN he fully expected Arutinian to appeal the ruling because he 'enjoys the attention' that he has received. … Arutinian would not be eligible for parole, and could only be released under a presidential pardon, which was unlikely under Saakashvili, Meradishvili said. … In September, a U.S. federal grand jury indicted Arutinian for the assassination attempt against Bush, and could request his extradition if he is released in the future."

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Drug Traffickers, Terrorists Using Prepaid ATM Cards, Internet To Launder Funds. USA Today (1/12, Leinwand, 2.31M) reports, "Drug traffickers and suspected terrorists are using prepaid ATM cards and Internet-based payment systems to help launder billions of dollars each year, the Treasury Department reported Wednesday in what it called the first government-wide analysis of money laundering in the USA. … The report, which included contributions from 16 federal agencies, will be used to help officials devise a national strategy to fight money laundering, Treasury Undersecretary Stuart Levey said." USA adds, "Levey said it's unclear how much money in the USA is made from criminal enterprises. The White House Office of National Drug Control Policy estimates sales of illicit drugs in the USA produce $65 billion a year for traffickers. … 'The key to ending drug trafficking is to wipe out the money side,' Drug Enforcement Administration chief Karen Tandy said. The DEA seized $2 billion in 2005, up from $500 million in 2003, she said."

Reuters (1/12, Macinnis) reports, "Internet banking, online payment systems and stored value cards not requiring identification give criminals new opportunities to filter money through the United States, U.S regulators said on Wednesday." Reuters continues, "Representatives of the Treasury Department, Federal Reserve, Justice Department and other government enforcement agencies urged in a Money Laundering Threat Assessment report more cooperation to squeeze money launderers and narrow potential avenues for tainted funds. … 'The volume of dirty money circulating through the United States is undeniably vast and criminals are enjoying new advantages with globalization and the advent of new financial services,' they said in the report, a precursor to the government's annual Anti-Money Laundering Strategy." Reuters adds, "The regulators and law enforcement officials said it was 'currently not possible' to accurately estimate the total amount of money laundering in the United States, or how much is being cut off by government enforcement. … Citing a need for a common definition of what constitutes money laundering, regulators said they needed more cooperation to patch vulnerabilities from money orders, stored value cards, check cashing, electronic payments, remittances and other financial transfers. … 'Moving away from face-to-face customer interaction, particularly for (bank) account openings, challenges the traditional process of customer due diligence,' they said."

ABC News (1/11, Ryan) reports, "Money laundering remains a 'massive and evolving challenge' for investigators, according to the federal government's first-ever threat assessment of the problem." ABC News continues, "Even getting a handle on the size of the money laundering threat and the success of efforts to stop it has been difficult, the report found. … 'It is currently not possible, for example, to quantify with accuracy the total money laundering activity being apprehended by the government,' it said." ABC News adds, "Problems with data, incompatible computer systems and even differing definitions of 'money laundering' have hampered some efforts to combat the crime. The assessment is intended to help law enforcement and government regulators grapple with the issue. … 'Before you can effectively treat a problem, you must first have an accurate diagnosis,' said Stuart Levey, the Treasury Department's undersecretary for terrorism and financial intelligence."

Swiss Investigate Leak Of Document On CIA Prisons. The New York Times (1/12, Carvajal, Tribune, 1.19M) reports, "Switzerland is conducting criminal investigations to track down the source of a leak to the Zurich-based newspaper SonntagsBlick of what it reported was a secret document citing clandestine C.I.A. prisons in Eastern Europe." The document was said to be "sent by satellite and intercepted by the Swiss Strategic Intelligence Service," and "high-ranking Swiss government officials, who urged the paper to withhold the information," never "contested the authenticity of the document," which "said the United States had held 23 Iraqi and Afghan prisoners at a base in Romania. It also referred to similar detention centers in Bulgaria, Kosovo, Macedonia and Ukraine."

Guantanamo Prisoner Boycotts US Tribunal. Reuters (1/12, Sutton) reports that Yemeni Ali Hamza al Bahlul, who is "accused of being a bodyguard for Osama bin Laden went before a U.S. military tribunal on Wednesday and said he would boycott his war crimes trial because he did not recognize the tribunal's authority." He had "a list of nine reasons why he refused to be represented by a military lawyer or to participate further, including" accusations that "Guantanamo prisoners had been tortured" and "the potential use of secret evidence and to the U.S. characterization of prisoners as illegal belligerents." Army Reserve Maj. Tom Fleener, the lawyer appointed by the military to defend him "called the tribunals a sham and said it is an ethical violation for him to represent a prisoner who has rejected his services."

The New York Times (1/12, Cloud, 1.19M) adds, "Even as Mr. Bahlul has acknowledged his connections to Al Qaeda, he has shown a talent for courtroom theatrics that have at times flummoxed the commissioners. Little has gone smoothly for the military commissions, which the Bush administration created to try Guantánamo prisoners and which have suffered setbacks because of legal challenges, including a review from the Supreme Court."

The Washington Times ran the Reuters story, and the AP (1/11, Leitsinger) also covered it.

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British Accuse Cleric Of Inciting Hatred Toward Jews. The New York Times (1/12, Cowell, 1.19M) reports, "In a closely watched trial, a prominent British Muslim cleric," Abu Hamza al-Masri, "was accused Wednesday of inciting hatred against Jews, praising Hitler and voicing support for suicide bombings" and thereby "violating various British laws" in various "lectures and sermons recorded on videotape and audio cassettes in which he was reported to have said he wanted to see the establishment of an Islamic caliphate in the White House."

The Los Angles Times (1/12, Stobart) adds, "Masri…became well known as the radical preacher at North London's Finsbury Park Mosque" which "was considered a crossroads for terrorists such as Richard Reid, the so-called shoe bomber, before and after the Sept. 11 attacks." The US has indicted Masri "on 11 terrorism-related charges, including his alleged role in a plot to set up a terrorist training camp in rural Oregon in 1999. It is seeking his extradition."

PATRIOT ACT:

Arkansas US Attorney Touts Usefulness Of Patriot Act. KATV-TV, ABC 7, Little Rock, AR (1/12) reports, "The U.S. Attorney's office is using a conference on terrorism (in Little Rock, AR) to tout the usefulness of the Patriot Act, set to expire on February 3. Supporters of the act say it's essential to protect the American public against the war on terror. Opponents say it's a violation of civil liberties. It's a heavily debated issue about which both sides have strong opinions." US Attorney Bud Cummins "says many of the allegations made against the act are simply not true.. … 'There's nothing ground-breaking about the provisions of the Patriot Act. It's just trying to afford the investigators in these very important terrorism investigations to have the same type of tools we use against drug dealers.'" KATV-TV adds, "Cummins says provisions in the Patriot Act lower the wall between criminal and intelligence investigators to share information and allow intelligence investigators to use similar techniques in criminal investigations. The act also updates laws for electronic surveillance. … 'Terrorists don't use rotary telephones. They use cell phones, pagers, e-mail, text messaging, Web sites, we need to be able to keep up with that.'"

More Patriot Act Commentary. In an op-ed in USA Today (1/12), Amitai Etzioni, author of "How Patriotic is the Patriot Act?: Freedom vs. Security in the Age of Terrorism" and a member of the Markel task force on national security and information, writes, "A steady stream of revelations, and the ensuing news media reports, have portrayed a president hungry for power, doing whatever is necessary — legal or not — to protect this country. In the wake of such news, some lawmakers in Congress see weakness and an opportunity to gut one of President Bush's vital weapons in the war on terror: the USA Patriot Act. … Congress should not hold up extending vital sections of the Patriot Act in reaction to these recently revealed power grabs. The president's authorization of spying on Americans by the National Security Agency has nothing to do with the Patriot Act; nor do secret prisons, nor memos allowing torture. Questions over how much power the commander in chief can exercise must be sorted out by Congress and the courts, but the Patriot Act shouldn't be held for ransom." Etzioni continues, "In contrast to the recently revealed secret White House initiatives, many of the 161 measures included in the law aren't contested by any major figure on the right, left or center. Even a representative of the American Civil Liberties Union said the group seeks to fix the act, not to kill it. An examination of some of the contested sections demonstrates that the measures involved are hardly out of line." Etzioni adds, "We tend to swing wildly in one direction and then in the opposite one. The Senate Church Committee, responding to the abuses such as spying on civil rights groups and public leaders by the FBI under J. Edgar Hoover, tied the agency in knots. … The initial responses to the 9/11 attacks might well have been excessive. As time has passed — without a new attack on the USA — many security measures are being questioned, as they should be. Even so, when it comes to critical components of the act, such as those listed above, minor tweaks — not massive overhauls — would make the Patriot Act work for all Americans. … The same can't be said for the other security measures that the public has recently learned about. Those fully deserve the kind of extensive hearings to which the Patriot Act is being subjected."

HOMELAND RESPONSE:

FBI Officials Meet With Muslim Groups About Nuclear Surveillance. FBI Deputy Director John Pistole and Assistant Director of Public Affairs John Miller on Wednesday met with Muslim and Arab-American leaders in Washington to discuss recent reports of post-9/11 bureau surveillance for possible nuclear material at mosques and Muslim-owned homes and businesses.

Under the headline "F.B.I. Tries To Dispel Surveillance Concerns," The New York Times (1/12, Clemetson, 1.19M) reports Pistole and Miller "tried to reassure those at the session that the surveillance…had been based on intelligence leads." Miller said after the meeting, "We explained how we work with intelligence and that we did what we did based on the patterns of Al Qaeda, not because of the patterns or activities of any mosque or Muslim neighborhood." The "officials struck a conciliatory tone, several attendees said, and acknowledged that the bureau could have

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responded to their concerns more quickly. But Mr. Pistole offered few details on the monitoring, they said, and he emphasized that the program…remained classified." The Times notes, "The controversy…comes after the F.B.I. cancelled financing for a bureau-wide training initiative intended to improve outreach to Muslim and Arab Americans. … The program, which would have cost $6 million over three years, was cancelled, in part, because of budget constraints, Mr. Miller said."

The Washington Times (1/12, Seper, 90K) reports, "Two Muslim organizations have since filed Freedom of Information Act requests to learn which sites were monitored." Council on American-Islamic Relations executive director Nihad Awad said, "Today's meeting, while not resolving all underlying issues of concern, offered an opportunity to improve lines of communication and to increase mutual cooperation on issues related to national security and the prevention of hate crimes."

US-VISIT Program To Step Up Fingerprinting System. The Federal Times (1/12, Losey) reports, "The director of the nation's program to screen foreign visitors entering the United States hopes to begin testing a more stringent fingerprinting system this year." The Times continues, "The U.S. Visitor and Immigrant Status Indicator Technology program, or US-VISIT, last July was directed by Homeland Security Secretary Michael Chertoff to start taking all 10 fingerprints from first-time visitors to the country. US-VISIT director Jim Williams said at a press briefing Jan. 5 that the program is still putting together a plan to expand the process. He expects the plan to be finished in a few months. … Meanwhile, Homeland Security finished installing US-VISIT at all 104 land border ports in December, meeting a deadline mandated by Congress, Williams announced." The Times adds, "US-VISIT now takes only two fingerprints of foreign visitors. The FBI's identification system uses 10 fingerprints and a photograph to track criminals. … The Justice Department criticized the two-print system in 2004, saying it could allow terrorists or violent criminals to slip into the country undetected. … Williams stressed that he does not want US-VISIT to impede legitimate visitors and said the first tests will take place at low-volume border crossings and airports to minimize delays. The State Department also may help with testing, he said."

Former TSA Official Works For Firm Pushing Registered Traveler Program. The Washington Post (1/12, A19, Sarasohn, 744K) reports in its "Special Interests" column, "Members of the emerging industry of biometric technology companies who are trying to sell the Registered Traveler security program to the nation's airports have formed a coalition to help boost their credibility and their voice in Washington. Perhaps more important, the Voluntary Credentialing Industry Coalition (VCIC) has scored some substantial lobbying help: Wexler & Walker Public Policy Associates . Maybe even more important, the leader of the Wexler & Walker team for the client is Tom Blank . Yes, the Tom Blank who was acting deputy administrator of the Transportation Security Administration and who created the agency's Office of Transportation Security Policy. … Blank joined the lobby shop in September and is prevented by federal ethics restrictions from contacting TSA officials for a year, although he could lobby members of Congress."

New Orleans Reconstruction Plan Greeted By Anger, Protests. The presentation of a plan for rebuilding New Orleans by the Bring New Orleans Back commission drew harsh criticism from city residents yesterday over a proposal that would give the most heavily damaged areas four months to prove themselves viable before being bought by the government. The story was covered by each of the networks last night. ABC World News Tonight (1/11, story 2, 2:45, Vargas) reported, "The Bring Back New Orleans Commission hopes to attract 245,000 people to the city. For now, people can settle wherever they like. But there's no guarantee that those who invest a lot of money and energy repairing their homes be allowed to stay there." ABC (Osunsami) added, "The map of New Orleans could change considerably. Anyone who lives in a neighborhood highlighted here in yellow, most of the city, could be forced to move. The plan calls for new parks, in green. That would help control flooding. Residents would be resettled in areas circled in red." Mayor Ray Nagin: "This report is controversial. It pushes the edge of the envelope." Osunsami: "The Mayor and FEMA appear to support the plan, but late today, the New Orleans City Council announced that it doesn't support any of this, which could slow everything down."

The CBS Evening News (1/10, story 5, 1:30, Schieffer) reported, "Many residents won't have much time to make their case for staying in their old neighborhoods and they let the Mayor and the commission hear all about it." CBS (Acosta) added, "At a meeting with the city's rebuilding commission Mayor Ray Nagin sent shock waves through Big Easy, laying out a plan that gives many of the hardest hit wards just four months to prove they can survive. Neighborhoods that cannot justify their continued existence will be bought out and demolished." But the Mayor's plan "is more than just controversial, it's also far beyond what the city can afford. $12 billion to acquire and demolish homes beyond repair. $4.8 billion for a new high-speed light rail system. And $413 million to repair city-owned buildings. But it's the razor-thin four-month timetable that threatens to derail the proposal." President Bush "promised New Orleans would

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be rebuilt. When he returns to the city tomorrow, there will be no shortage of angry people to hold them to his word."

NBC Nightly News (1/11, story 2, 2:00, Williams) reported, "Enraged city council members say residents need answers they're still not getting." Jacquelyn Brechtel Clarkson, New Orleans City Council: "We as a city have not given the people all the answers they need before they can make a decision." Savidge: "Detractors also say people in impoverished areas like the Lower Ninth Ward have neither the background or training to organize neighborhood planning committees, and can't even take a head count, since most are still spread across the country. Reaction from the audience was fast and mostly furious."

NBC Nightly News (1/11, story 6, 2:00, Williams) also reported on the personal decisions by many families to leave the city permanently.

Under the headline "City Revival Plan Draws Sharp Criticism," the Los Angeles Times (1/12, Bustillo, 958K) reports, "Residents of the New Orleans neighborhoods most heavily damaged by Hurricane Katrina, under a controversial plan unveiled Wednesday, would have just four months to demonstrate strong support for rebuilding their areas before possibly being forced to sell their properties to the government." It's "a centerpiece of Mayor C. Ray Nagin's 'Bring New Orleans Back' recovery plan," which "drew immediate outrage from residents and community activists, who argued that many citizens -- especially the blacks who predominated the flood-struck areas -- could be forced out of the city for good." Nagin said the report "probably says some things to some people they are probably misinterpreting."

The New York Times (1/12, Rivlin, 1.19M) reports that the rebuilding commission gave "neighborhoods in low-lying parts of the city from four months to a year to prove they should not be bulldozed." At a "standing-room-only" meeting, the presentation of the report was "punctuated by catcalls and angry outbursts that often interrupted members of the panel." The Times adds, "Speaker after speaker, black and white, prosperous and poor, dismissed a plan that Mayor C. Ray Nagin described as 'controversial.' But Mr. Nagin gave them hope as he walked a middle line that neither endorsed the plan nor opposed it."

Meanwhile, the Washington Post (1/12, A3, Roig-Franzia, 744K) reports that New Orleans is also "waiting on the Federal Emergency Management Agency to determine base elevation levels required before flood insurance can be issued. The commission is hoping that Congress will approve a quasi-public recovery authority proposed by US Rep. Richard H. Baker (R-La.) that would sell bonds to buy flood-damaged homes, then work with private developers to rebuild neighborhoods."

WSJournal Says City's Low Lying Areas Will Not Be Resettled. President Bush is scheduled to visit New Orleans Thursday to assess progress since Katrina struck the city. The Wall Street Journal (1/12, Glassman, 2.11M) editorializes, "He will find a tale of two cities -- one almost back to normal, the other devastated." Commenting on the rebuilding commission's plan, the Journal says "the truth is that the Lower Ninth Ward and other low-lying areas won't be resettled. The new New Orleans will almost surely look like New Orleans of 1878, which, as shown by the Times-Picayune in a remarkable map, had most of the city's 200,000 residents 'clustered in a narrow swath along the Mississippi River.'"

WAR NEWS:

Bush Defends Iraq Policies. President Bush defended his Iraq policies and took on his critics during a speech in Louisville, Kentucky, yesterday. Bush's remarks on Iraq were largely overshadowed by comments he made later, during a question and answer session, about the NSA domestic wiretapping program. What coverage there was portrayed Bush's Iraq comments as an attempt to preempt critics o his Iraq policies in advance of the 2006 campaign season.

ABC was the only network to focus on the Iraq angle. Its coverage was mostly critical, and also profiled several Iraq war veterans who are running for Congress as Democrats. ABC World News Tonight (1/11, story 4, 1:55, Woodruff) reported Bush "delivered another strong message to critics of his Iraq policy: Be careful what you say. But there was an important political reason why he chose that state to make his point." President Bush was shown saying, "One way people can help [in the war on terrorism], is we're coming down the pike of the 2006 elections, is to remember the effect that rhetoric can have on troops in harm's way." ABC (Raddatz) added, "But one of the biggest critics in Louisville has already been in harms way, twice. Marine Corps Reservist Andrew Horne, a two-time Iraq veteran and now a congressional candidate, is challenging the Republican incumbent in this district. He said, today, the President is attempting to limit debate about the war because it is not going well." Horne is "one of 11 veterans of the war in Iraq running for Congress. Nine of them are Democrats, including Patrick Murphy in Pennsylvania, Paul Hackett, who is seeking a senate seat in Ohio, and Tammy Duckworth in Illinois." Duckworth "lost both her legs and the use of one arm when her helicopter was shot down outside of Baghdad." The Republicans "are clearly worried about some of these candidates and the war in Iraq, or the President wouldn't keep making these speeches."

The Lexington Herald-Leader (1/12, Alessi) President Bush "told a select group of Kentucky and Indiana residents yesterday that the U.S. military's progress in Iraq is 'good' and promised ultimate victory -- although he gave no

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timetable." In a "rare town hall-style meeting set up as a theatre-in-the-round, the president again defended invading Iraq, even though former dictator Saddam Hussein didn't possess weapons of mass destruction as Bush first claimed." Bush has "been more aggressively defending his administration's policies in recent weeks, as public support for the war has waned and critics have ramped up their calls for withdrawing troops from Iraq." Meanwhile, in a conference call "with reporters before Bush's event, Lt. Col. Andrew Horne, a Marine reservist and Democrat who plans to run against U.S. Rep. Anne Northup, R-Louisville, said there's a gap between the Bush administration's bold rhetoric on the Iraq war and its actual support for soldiers. He cited recent news stories describing a suppressed Pentagon report that concluded many U.S. combat deaths in Iraq could be avoided with better body armor, which is available on the market."

Reuters (1/12, Wilson) reports President Bush "tried to shape election-year debate on the Iraq war by warning critics their rhetoric could embolden the enemy and weaken the morale of U.S. troops." Bush "acknowledged his decision to invade Iraq almost three years ago was not universally popular." Though he "said he welcomed dissenting voices," he added, "What I don't like is when somebody said he lied or they're in there for oil or he's doing it only because of Israel." Bush "appeared in the district of Republican Rep. Anne Northup whose likely Democratic opponent will be Andrew Horne, a lawyer and Marine reservist who served two tours in Iraq."

CNN's Lou Dobbs Tonight (1/11, Dobbs) reported, "President Bush today declared our troops in Iraq should have the best equipment possible. President Bush made his remarks during a speech in Kentucky, defending the conduct of this war. That speech took place in Louisville, a key battleground in the midterm elections later this year, in front of a specially screened audience, once again." Bush "asserted that his goal in Iraq is nothing less than victory."

46% Now Say Iraq War Was Worth It. William Schneider said on CNN's Lou Dobbs Tonight (1/11), "Is the president making progress in his six-week old campaign to persuade Americans that it was worth going to war in Iraq? Yes. In November, before President Bush started trying it rally public support, 38 percent of Americans thought the Iraq war was worth it. That number is now up to 46 percent. But a majority still say the war was not worth it. The president has made progress, but he has not turned public opinion around." Schneider added, "The public has confidence in the Americans over there, but not in the Iraqis. Very few people believe Iraq will have a stable government that can maintain order without U.S. help within the next year. In fact, Americans are not sure that will ever happen."

General In Abu Ghraib Abuse Scandal Takes Fifth At Court-Martial. The Washington Post (1/12, White, 744K) reports in a front page story that Maj. Gen. Geoffrey D. Miller, "a central figure in the U.S. detainee-abuse scandal, this week invoked his right not to incriminate himself in court-martial proceedings against two soldiers accused of using dogs to intimidate captives at the Abu Ghraib prison in Iraq." Miller "once supervised the U.S. detention facility at Guantanamo Bay, Cuba, and helped set up operations at Abu Ghraib," and his legal maneuver is "the first time the general has given an indication that he might have information that could implicate him in wrongdoing, according to military lawyers." Miller's decision "came shortly after Col. Thomas M. Pappas, the commanding officer at Abu Ghraib, accepted immunity from prosecution this week and was ordered to testify at upcoming courts-martial."

US, Iraqi Officials Attempt To Exploit Rift Between Insurgents, Al Qaeda. In an approximately 2500 word story, the New York Times (1/12, Tavernise, Filkins, 1.19M) reports how an October, 23, 2005 clash between Iraqi insurgents and members of al Qaeda in Taji is emblematic of the widening rift between the two groups. The battle "was one of several clashes between Al Qaeda and local Iraqi guerrilla groups that have broken out in recent months across the Sunni Triangle." American and Iraqi officials "believe that the conflicts present them with one of the biggest opportunities since the insurgency burst upon Iraq nearly three years ago. They have begun talking with local insurgents, hoping to enlist them to cooperate against Al Qaeda, said Western diplomats, Iraqi officials and an insurgent leader." It is "impossible to say just how far the split extends within the insurgency, which remains a lethal force with a shared goal of driving the Americans out of Iraq. Indeed, the best the Americans can hope for may be a grudging passivity from the Iraqi insurgents when the Americans zero in on Al Qaeda's forces."

US Makes Police Training High Priority. The Christian Science Monitor (1/12, Levinson, 61K) reports that in Baghdad on Tuesday, "visiting congressmen stepped out of armored cars" into "the mud of Camp Dublin, home to the Iraqi police's elite special forces unit." US Army Maj. Gen. Joseph Peterson "the ex-linebacker responsible for training 200,000 Iraqi police, greeted them and assured the lawmakers that his Iraqi under- studies will soon be in charge here." Peterson said, "We'll have these forces trained by the end of 2006, and I have full confidence that they will begin to assume control of security in Iraq." The Monitor adds the police "have become a new priority, as the US begins turning over more security control to Iraq. Scrutiny of the police

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intensified after the discovery of secret jails and the torture of Sunni Arab prisoners."

Shiite Politician Says New Government Not Permitted To Change Iraqi Constitution. The Washington Post (1/12, A14, Hernandez, 744K) reports Iraq's "most influential Shiite politician said Wednesday that he would not allow a new government to 'change the essence' of the country's constitution, despite a promise made to Sunni Arabs that it would be opened to major revision." In a "last-minute deal negotiated under heavy pressure from U.S. diplomats," Sunnis, Shiites, and Kurds "agreed that the draft constitution would be put to a national referendum in October as planned but would be open to change for four months after a new government was formed early this year." But Abdul Aziz Hakim, "the leader of the Supreme Council for the Islamic Revolution in Iraq, the most powerful Shiite party in the ruling coalition, appeared to back away from the constitutional compromise Wednesday." Hakim said, "The first principle is not to change the essence of the constitution. It is our responsibility to form Baghdad provinces and southern Iraq provinces."

The New York Times (1/12, Oppel, Mizher, 1.19M) reports al-Hakim's remarks diminished "Sunni Arab hopes of amending the charter to avoid being shut out of the nation's vast oil wealth." Al-Hakim "vowed to give no ground on crucial parts of the Constitution." The speech "was Mr. Hakim's latest hard-line statement directed at Sunni Arabs, whom Shiites accuse of fomenting violence to improve bargaining leverage in the new government. While he previously signaled unwillingness to reopen major constitutional issues, Mr. Hakim's belligerent declarations are sure to anger Sunnis hopeful of carving out a meaningful role in the government."

The Washington Times/AP (1/12, Juhi) reports al-Hakim's "veiled warning" to Sunnis included not changing "the provision that keeps the central government weak in favor of strong provincial governments." Al-Hakim "said in an address in honor of the Islamic holiday of Eid al-Adha that provincial governments will remain strong in the constitution, which can be amended after the next government is installed."

NYTimes Calls Al-Hakim Statement Prescription For Civil War. The New York Times (1/12, 1.19M) says in an editorial that al-Hakin, "Iraq's most powerful Shiite politician," has "just dealt a huge blow to American-backed efforts to avoid civil war through the creation of a new, nationally inclusive constitutional order." Hakim's "latest position is a prescription for a national breakup and an endless civil war. It is also a provocative challenge to Washington, which helped broker the original promise of significant constitutional changes."

Judge Denies Bail For Park. The AP (1/12, Lozano) reports, "A South Korean businessman accused of accepting millions of dollars from Iraq in the U.N. oil-for-food scandal was denied bail Wednesday and will be transferred to New York to face additional charges in the case. … U.S. Magistrate Judge Frances Stacy said she denied Park bond since she believed he was a flight risk because of his finances, his ties to South Korea and his history of not dealing with legal problems in the United States." The AP adds that during the bail hearing, "Randy Schaffer, Park's attorney, argued that his client's arrest was illegal," but FBI Special Agent Robert Midcap testified "that a warrant for Park's arrest had been circulated by Interpol because the South Korean citizen had not answered the U.S. charges from April. The Mexican government saw the Interpol warrant and sent him back to the United States, Midcap said." Reuters (1/12, Seba, Daily) notes, "Schaffer said Park was flown to Houston against his will, and questioned Midcap about whether it was a U.S. or Mexican decision to deport him. 'No, sir. It was the Mexican government that expelled him,' Midcap said. 'That was the government's decision, the Mexican government's decision.'"

The New York Times (1/12, Romero, 1.19M) reports Judge Stacy "also approved Mr. Park's transfer to New York, where he faces arraignment in federal court. Agents from the F.B.I. arrested Mr. Park" in Houston "after Mexican immigration officials apprehended him at Mexico City's airport on the basis of an Interpol notice, Justice Department officials said. The Mexican officials put Mr. Park on a commercial flight to Houston, accompanied by F.B.I. agents, said Melissa Annis, an assistant United States attorney." The Times of London (1/12, Bone) notes Park "had spent many months as a fugitive and his arrest provided an unexpected boost for the FBI inquiry into UN corruption," but Schaffer "said his client never intended to travel to the United States" and "argued that the arrest was illegal." Agent Midcap "testified that a warrant for Mr Park's arrest had been circulated by Interpol because he had not answered the US charges," and "the Mexican Government saw the Interpol warrant and sent him back to the United States, he said."

German Intelligence Provided US With Erroneous Tip On Saddam's Location. The Los Angeles Times (1/12, Drogin, 958K) reports that with "the battle of Baghdad raging on April 7, 2003, an intelligence tip was rushed to a special Pentagon targeting team: Saddam Hussein and his two sons had been spotted near a chicken restaurant in the city's wealthy Mansour district." Less than "45 minutes later, a B-1 bomber obliterated the site with four satellite-guided bombs, leaving a deep crater and at least a dozen dead. The Iraqi ruler, it soon became clear, was not among them." An Iraqi informant "provided the initial tip. But

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U.S. officials now say confirmation came from an unusual source: two German military intelligence operatives who stayed in a Baghdad safe house after Berlin had closed its embassy." The "previously undisclosed role of German intelligence in the widely reported attempt to decapitate the Iraqi regime highlights how the CIA and the Pentagon secretly relied on German and other foreign spy services for critical information on Iraq even as the intelligence agents' governments fiercely opposed the Bush administration's drive toward war." That "behind-the-scenes cooperation forms the backdrop as Germany's new chancellor, Angela Merkel, arrives here today on her first official visit. Officials said she aims to repair U.S.-German relations that were badly strained when her predecessor, Gerhard Schroeder, publicly broke with the White House over Iraq."

In 1998, Berger Warned Iraq Was Pursuing WMD. In its "History Lessons" column, the Washington Times (1/12, 90K) excerpts a November 23, 1998 op-ed by then-National Security Adviser Sandy Berger, which was published in the international Al Hayat. Berger wrote, "[T]he entire world is fed up with Iraq's continuing deception and defiance. Iraq agreed as a condition of the Gulf War cease-fire that it would disclose its weapons of mass destruction arsenal within 15 days. Instead, it has spent the better part of a decade shirking its obligations, withholding information from the inspectors, blocking their work, destroying information in plain sight. … Certainly, when it comes to a rogue regime with weapons of mass destruction and a history of using them, the United States and its friends in the Muslim world must continue to be united -- because we are all at risk."

Army, Marines Step Up Production Of Body Armor. The Washington Post (1/12, A14, Tyson, 744K) reports the Army "announced yesterday that it will soon start producing 230,000 sets of side armor plates and field them over the year to soldiers in Iraq and Afghanistan, after a recently disclosed Pentagon study indicated that such plates could have helped prevent scores of troop deaths since 2003." Officials said the Marine Corps "has delivered 9,000 sets of the plates to Iraq, a number that will rise to about 30,000 by April, officials said yesterday." Army and Marine generals "in charge of developing and buying equipment defended the pace at which they were getting the new side armor to troops, after a closed-door briefing yesterday on the matter on Capitol Hill. The generals briefed the Senate Armed Services Committee after lawmakers voiced concern over a classified Pentagon forensic study disclosed last week that for the first time linked gaps in upper torso protection to troop fatalities." The "scrutiny of body armor is the latest instance in which Congress has pressured the Pentagon to accelerate the distribution of protective equipment to U.S. troops -- from 'uparmored' Humvees and trucks to bulletproof vests."

The New York Times (1/12, Moss, 1.19M) notes the "ceramic plates now worn by most members of the military shield just some of the upper body from bullets and shrapnel, and the Army said it would buy plates that would extend this protection to the sides of soldiers. The officials spoke after a closed session of the Senate Armed Services Committee, held after The New York Times reported last week that a Pentagon study had found that extra armor could have saved up to 80 percent of the marines who died in Iraq from upper body wounds."

CNN's Lou Dobbs Tonight (1/11, Dobbs) reported that there is "anger on Capitol Hill over reports that Americans are still losing their lives in Iraq because the Pentagon has failed to give our troops adequate body armor. The Senate Armed Services Committee today considered a study that some Marines who have been killed in Iraq would have survived had they been provided improved armor." CNN (McIntyre) added, "Today top Pentagon and Army officials were on Capitol Hill trying to reel in the perception that the US military is not providing enough protection for its troops. … A top Army and Marine Corp official told members of the Senate Armed Serves Committee, it's a myth troops are not getting all of body armor they need."

CQ (1/11, Donnelly) reports Senate Armed Services Committee Chairman John Warner "said Wednesday that he is satisfied the U.S. military is doing all it can to outfit troops with adequate body armor, even as some Democrats drew the opposite conclusion." Military representatives "convinced Warner on Wednesday that they are buying the best armor they can without weighing down soldiers and Marines so much that they cannot perform missions. Nonetheless, Democrats seized on the report as evidence the administration has failed to adequately protect U.S. forces."

Massachusetts National Guard Members Sue For Job-Related Expenses. Reuters (1/12, Szep) reports four members of the Massachusetts National Guard "filed a $73 million class-action lawsuit on Wednesday against Defense Secretary Donald Rumsfeld and other military officials in a dispute over on-the-job expenses since the September 11 attacks." The lawsuit "appears to be the first of its kind in the U.S. Army National Guard, which has faced heavy demands since September 11, 2001, lawyers involved in the case said." The four men "filed the suit in U.S. District Court on behalf of soldiers in about 300 jobs in the Massachusetts National Guard owed money for meals, car fuel, lodging and daily allowances, their lawyers said."

WPost Profiles Virginia Marine Killed In Action. The Washington Post (1/12, B3, Stewart, 744K) profiles Marine Lance Cpl. Kyle W. Brown, 22, of Newport News, who "was fatally shot in the head by a sniper in Anbar province near Fallujah, according to the account his grandmother said

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Marine Corps officials gave the family. It was his second tour of duty in Iraq."

Soldier Wounded In Iraq Has Portion Of Skull Replaced. The CBS Evening News (1/10, story 8, 2:45, Schieffer) reported on the recovery of Sgt. Paul Statzer, a Pennsylvania National Guardsman who suffered a severe head injury in Iraq, noting that he "was so badly wounded in Iraq it is doubtful he could have been saved in any previous conflict. Well, he has made quite a comeback and thanks to some miracle workers at Walter Reed Army Hospital, he has even started to look like his old self." CBS (Martin) added, "Surgeons removed nearly half Statzer's skull after he suffered a severe head wound in a roadside bomb explosion, captured by this still photo last March. Seven months later, Dr. Leon Moores is getting ready to make Statzer's head whole again, implanting an acrylic replica of the bone he lost."

SEALS Intensify Public Recruiting Effort To Boost Numbers, Maintain Quality. NBC Nightly News (1/11, story 7, 2:00, Williams) reported, "Even among Special Forces, they are the specialists, the tough guys, the US Navy SEALS. Tonight the Pentagon is going all out to get more of them, to help fight the war on terror. It costs $380,000 to train just one Navy SEAL, and takes 2 1/2 years of grueling training to do it." To "meet their new demands, these normally secretive seals are going on a very public recruiting campaign." NBC (Miklaszewski) added, "The Pentagon wants to add nearly 400 more to the 2,600 seals now in service." With their high "dropout rate, and the increased demand on the force, the Navy may not be able to produce new SEALS fast enough. So for the first time, usually secret and stealthy seals are going public. SEAL recruiters are hitting high schools. Air shows, and sporting events. And openly competing in the Ironman triathlon in Hawaii."

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Gonzales To Open St. Louis Family Justice Center. The St. Louis Post-Dispatch (1/11) reports, "U.S. Attorney General Alberto R. Gonzales will make his first official appearance in St. Louis, helping on Thursday morning to open the city's new Family Justice Center." The Post-Dispatch continues, "He will be joined by U.S. Sen. Jim Talent; Diane Stuart, director of the Justice Department's Office of Violence Against Women; Catherine L. Hanaway, the U.S. attorney in St. Louis; Mayor Francis Slay and other leaders. … The Family Justice Center…was funded with a $1.25 million Justice Department grant. It is billed as a one-stop resource for women and their families looking to escape domestic abuse."

CORPORATE SCANDALS:

Florida Men Plead Guilty To Hedge Fund Scam. South Florida Business Journal (1/11) reports, "Two South Florida men have pleaded guilty to fraud in a hedge fund scam, the government has said. The U.S. Attorney for the Southern District of Florida, the FBI and the Florida Office of Financial Regulation said Anthony Giordano…pleaded guilty to federal securities fraud and wire fraud. They said Joseph Zumwalt…pleaded guilty to mail fraud in connection with the former EPG Limited Partners of Fort Lauderdale." The Journal adds, "The government said the defendants admitted representing to investors, including two religious organizations, that they would invest their monies in a hedge fund administered by EPG. Instead, the government said, Giordano converted millions of dollars for other uses, including personal gain."

SEC Corporate Behavior Expert To Step Down. The Wall Street Journal (1/12, Scannell) reports, "Alan Beller, a major figure in the Securities and Exchange Commission's drive to overhaul corporate governance, will leave the agency next month, giving SEC Chairman Christopher Cox another high-level vacancy to fill." The Journal continues, "Mr. Beller's departure comes as the SEC is unveiling the most sweeping overhaul of executive-compensation disclosure in 14 years. … A proposed rule outlining the changes is expected to be discussed at a public hearing Tuesday, and after a public comment period it could take effect for the 2007 proxy season." The Journal adds, "The executive-compensation proposal is the capstone for Mr. Beller, 56 years old, who joined the agency in 2002 to head its corporation-finance division. … He oversaw the implementation of the Sarbanes-Oxley corporate-governance law and an update to securities-offering laws, which allow for greater communication including electronic versions of preoffering 'roadshows' for investors before initial public offerings of stock. … Mr. Beller also has overseen the proposal or implementation of other rules, such as one to speed up the time companies have to file periodic reports, Internet delivery of proxies to investors, and a rule that makes it easier for foreign-based companies to deregister from U.S. reporting requirements. He also helped set up a small-business advisory committee, which is charged with providing guidance to the agency on the costs of regulations to small businesses. … He will 'be recognized as one of the giants of the SEC of all time,' Mr. Cox said."

CRIMINAL LAW:

At Least Two Lawmakers Could Face Charges In Abramoff Probe. CNN's Lou Dobbs Tonight (1/11,

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Dobbs) reported, "CNN has learned at least two members of Congress could face charges following the plea deal reached with former lobbyist Jack Abramoff. One of them is Congressman Bob Ney of Ohio, who stands accused of performing political favors for Abramoff in exchange of gifts, including a golf trip to Scotland. Ney has repeatedly denied any wrongdoing. There is no word on the identity of the other member of Congress, now apparently under close scrutiny. The sources say four other people could face charges as well, including current and former staff members of Congress, and including former House Majority Leader Tom DeLay."

CNN.com (1/12, Arena, Bohn) reports, "Up to a half dozen people, including two members of Congress, could face charges after high-powered lobbyist Jack Abramoff's plea deal with the Justice Department, sources with knowledge of the investigation tell CNN." CNN continues, "Abramoff has been cooperating with Justice Department prosecutors and FBI agents for several months in their investigation of his dealings, including his allegations of exchanging gifts for political favors. … Authorities have focused on about 20 people who possibly committed wrongful acts, government sources have previously told CNN. The number is a moving target as new information comes in." CNN adds, "Sources with knowledge of the investigation say at least two members of Congress are under scrutiny as part of the ongoing investigation. One is Rep. Bob Ney, R-Ohio, who sources say was the person identified in Abramoff's plea agreement as the official who took action for Abramoff after receiving from him such things as a golf trip to Scotland. … Ney has steadfastly denied wrongdoing, has pledged to cooperate with the investigation and has said he is confident he will be cleared. … The sources would not identify the other member, and they told CNN that no charges appear imminent." CNN notes, "Also under scrutiny, the sources say, are some current and former congressional staffers, including at least two people who used to work for then-House Majority Leader Rep. Tom DeLay. DeLay, R-Texas, and Abramoff had a long working relationship. … Investigators are also examining the activities of some officials at the Interior Department and the General Services Administration, sources tell CNN. One former GSA official, David Safavian, was indicted in October on charges of obstructing a GSA proceeding, obstructing a U.S. Senate proceeding and making false statements in connection with the investigation."

Abramoff Case Said To Provide Unprecedented Look At How Washington Works. The Christian Science Monitor (1/12, Grier, 61K) says the Abramoff case "provides an unprecedented look at the way Washington really works. That doesn't mean everyone on K Street is corrupt, as Abramoff and his former partner, public relations consultant Michael Scanlon, now have admitted they were. … But US investigations of Abramoff and Scanlon produced pointillistic detail about their daily political activities, much of which were perfectly legal. Hundreds of pages of e-mails and congressional testimony released by the Senate Committee on Indian Affairs trace the pair as they scrabble for access, scratch backs, beg for money, and dole out contributions in return." The Monitor adds that "within the e-mail trail are hints that Abramoff didn't have quite the juice he claimed. He was taken by surprise when [Interior Secretary Gale] Norton named Aurene Martin acting head of Indian Affairs in January 2003 - just the sort of thing a well-connected lobbyist should know in advance."

Former Jefferson Aide Implicates Lawmaker In Bribery Plea Deal. USA Today (1/12, 6A, 2.31M) reports, "A former aide to Rep. William Jefferson, D-La., pleaded guilty Wednesday to charges that he helped a congressman solicit bribes to arrange two telecommunications deals." Brett Pfeffer, "37, pleaded guilty to conspiracy and aiding and abetting bribery of a public official. He agreed to cooperate with prosecutors and testify if needed. He could get 20 years in prison when sentenced March 31. Pfeffer said in court that a congressman had solicited his assistance in promoting telecom deals in Nigeria and Ghana." Jefferson "demanded 5% to 7% of the newly formed African companies in exchange for his help promoting the deal, according to Pfeffer."

Reuters (1/12, Sullivan) relates that Jefferson "is not named in Pfeffer's plea agreement, which only describes a 'Representative A' who employed Pfeffer from 1995 to 1998. News accounts from that period cite Pfeffer as Jefferson's legislative director. According to court papers, Pfeffer's investment firm in 2004 agreed to invest $45 million to provide high-speed Internet and cable TV service to Nigeria over the existing copper telephone wires there. Jefferson recruited Pfeffer's company for the deal and connected it to a Kentucky technology provider whose equipment would be used in the venture. As the agreement was signed he told Pfeffer he would require an ownership stake, according to court papers. 'Pfeffer understood that Representative A was soliciting a bribe in return for Representative A's official assistance in furthering the Nigerian Deal. Pfeffer…later advised (his boss) that it was part of the cost of doing business with Representative A,' the plea deal said."

CQ (1/12, Ferrechio) reports that Assistant Attorney General Alice S. Fisher, referring to Pfeffer, said in a written statement, "This defendant admitted to a crime which, at its core, is a bribery scheme involving a public official. Such schemes deprive citizens of the integrity and honest services expected of our government. The Justice Department will aggressively investigate and prosecute these illegal schemes."

The Washington Post (1/12, A5, Lengel, 744K) says that along with demanding "a 5 to 7 percent stake in one of

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two new companies Pfeffer's firm was investing in," Pfeffer "said the congressman also demanded that two relatives be put on the businesses' payrolls." The Post adds, "At one point last year, the FBI set up a sting in which Pfeffer's investment company boss recorded conversations, according to law enforcement sources who declined to be identified because the investigation is ongoing. FBI agents also raided several locations, including Jefferson's homes in the District and New Orleans, where they found about $90,000 in cash in a freezer, sources said."

The Wall Street Journal (1/12, A6, Aqueo, 2.11M) notes that Jefferson, "an eight-term congressmen, is a senior member of the House Ways and Means Committee and its subcommittee on trade, and also co-chairs the Africa Trade and Investment Caucus." The New York Times/AP (1/12) adds that Jefferson "was elected to the House in 1990, becoming the first black congressman from Louisiana since Reconstruction." FoxNews (1/11) also reports this story.

Former New Orleans Subcontractor Pleads Guilty To Paying Kickbacks. The New Orleans Times-Picayune (1/12, Eggler, 257K) reports, "Federal prosecutors rang up another conviction Wednesday in their probe of a scheme to skim hundreds of thousands of dollars from a huge energy-efficiency contract awarded during former New Orleans Mayor Marc Morial's tenure at City Hall. Under an agreement with prosecutors, Michael Garnett, a subcontractor who did work under the $81 million Johnson Controls Inc. deal, pleaded guilty to misprision of a felony for knowing about crimes related to the scheme but failing to inform authorities, U.S. Attorney Jim Letten said. Garnett is the fifth subcontractor to enter a guilty plea related to the Johnson Controls contract, Letten said. … Letten said Garnett admitted providing kickbacks to Kerry DeCay, director of the Department of Property Management under Morial, in connection with the subcontract given to Garnett's company, Golden Hammer Construction." The Times-Picayune notes, "Letten urged other business owners to refuse to be corrupted and to report any approaches for kickbacks to the FBI. Garnett, whose case was investigated by the FBI and the Internal Revenue Service, entered his plea before U.S. District Judge Martin Feldman."

Parish Councilman Pleads Not Guilty To Katrina-Related Fraud Charges. The AP (1/12) reports St. Tammany Parish Councilman Joe Impastato on Tuesday "pleaded not guilty to federal charges of extorting at least $50,000 from a businessman in an alleged attempt to broker a contract of dispose of debris from Hurricane Katrina. … U.S. Magistrate Louis Moore Jr. allowed Impastato to remain free on $5,000 bond he posted after his arrest in November." The AP notes, "A grand jury accused Impastato of contacting Pontchartrain Chipping and offering to negotiate a debris-dumping deal for the company in exchange for part of the $200,000 contract. Authorities said Impastato was arrested after the company's owner contacted the FBI, which set up a sting operation."

Lawyer Says FBI Stringently Interrogated Witness In Cruise Line Disappearance. Under the headline "F.B.I. Said To Grill Man, 20, On Cruise Disappearance," The New York Times (1/12, Cowan, 1.19M) reports, "The lawyer for one of the men last seen with a Connecticut newlywed before he vanished on a Mediterranean cruise last summer said federal agents had pressured his client for information about the man's disappearance and threatened to charge him with the rape of a female passenger if he declined to cooperate." Attorney Albert Y. Dayan "said that his client, Rustislav Kofman, denied any role in the disappearance of…George Allen Smith IV…or in any rape. He said that when crew members aboard the ship…approached his client about a missing person, Mr. Kofman thought they were talking about Mr. Smith's wife, Jennifer. He said she was not in the Smiths' cabin when his client and three of his friends put her husband to bed after a night of heavy drinking." Dayan "said he and his co-counsel had decided to speak out because they thought their client was being scapegoated. 'Agents have barraged this young man with question after question in three different interrogations,' Mr. Dayan said. 'Some were five to eight hours long, and some were with no food till it was over.' He said that if his client 'were any weaker psychologically, he would have confessed to anything.'" The Times notes, "A spokeswoman for the F.B.I. in New Haven said yesterday that her office would not comment."

Former Alabama Sheriff, Attorney Convicted Of Misusing Crime Computer. WIAT-TV, CBS 42 , Birmingham, AL (1/12, Moseley) reports, "A federal jury returned a verdict against an ex-Jefferson County sheriff and his attorney. It's a case that stretches back a few years…one that had Jim Woodward and Albert Jordon accused of illegally using the national crime computer." WIAT-TV continues, "The justice department filed criminal charges back in 2000, accusing Woodward and his attorney of misusing the N.C.I.C. computer. … Prosecutors contend they conducting background checks on absentee voters during the 1998 sheriff's race, a charge they denied. And a jury agreed." WIAT-TV adds, "Jim Woodward and Albert Jordan sat through a second day of jury deliberations, and when it was over the federal panel found them guilty of two felony counts. … Woodward was found guilty of conspiracy and illegal use of property. Jordan was also found guilty of conspiracy and misuse of public money, property or records."

Puerto Rico Attorney Indicted In Fast-Food Fraud Scheme. The AP (1/12) reports, "A federal grand

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jury indicted a San Juan attorney Wednesday in connection with a scheme to defraud fast-food giant Tricon Restaurants International, the Justice Department said." The AP continues, "ugenio A. Guardiola Ramirez was charged with conspiracy to obstruct justice and obstruction of justice in an investigation into illegal kickback payments paid by an electrical contractor, said Justice Department spokesman Orlando Rios. … Tricon's brands include Kentucky Fried Chicken, Pizza Hut and Taco Bell. Its Puerto Rico stores are operated by Encanto Restaurants of Puerto Rico, Rios said." The AP adds, "Prosecutors allege Guardiola obstructed an investigation into payments made by the Gate Engineering Corporation to a Tricon employee in exchange for more than $1 million worth of electrical contracts, Rios said. … He is accused of mischaracterizing the payments to a grand jury, interfering with witnesses and drafting a phony services contract, Rios said."

In 5-4 Vote, SCOTUS Reinstates California Inmate's Death Sentence. The AP (1/12, Holland) reports, "A divided Supreme Court reinstated a California inmate's death sentence on Wednesday, the first 5-4 vote under newly installed Chief Justice John Roberts." The AP continues, "Justices overturned an appeals court ruling that declared Ronald Sanders' sentence unconstitutional. Sanders was put on death row for the 1982 killing of a woman during a drug-related robbery in Bakersfield, Calif. … Justice Antonin Scalia wrote the ruling, the Court's first death penalty decision since Roberts replaced Chief Justice William H. Rehnquist last fall." The AP adds, "The case presented a technical question for the Court involving jurors' consideration of invalid aggravating factors. … Special circumstances used by prosecutors in their case against Sanders -- that the crime was committed during a burglary and was cruel or heinous -- were later found invalid. … California argued that Sanders would have been sentenced to death even without those arguments. The Supreme Court's five conservative members agreed. … 'The erroneous factor could not have "skewed" the sentence, and no constitutional violation occurred,' Scalia wrote in an opinion joined by Roberts, retiring Justice Sandra Day O'Connor and Justices Anthony Kennedy and Clarence Thomas. … In a dissent, Justice John Paul Stevens said 'this decision is more likely to complicate than to clarify our capital sentencing jurisprudence.'"

High Court Considers DNA Case Of Tennessee Death Row Inmate. The Supreme Court heard arguments in the case of a Tennessee death row inmate who claims new DNA evidence casts doubt on his guilt in a 1985 murder. According to Reuters (1/12, Vicini), a majority of the Justices "appeared prepared… to overturn the sentence or the conviction." Reuters reports, "The court's four most liberal members, joined by moderate conservative Justice Anthony Kennedy, seemed supportive of arguments by the attorney for convicted murderer Paul House that a reasonable juror now would not find him guilty."

USA Today (1/12, Biskupic, 2.31M) adds that a majority of the Court "expressed concern… about blood and semen evidence used" to send House to death row.

The New York Times (1/12, Greenhouse, 1.19M) reports, "Justices Antonin Scalia and Stephen G. Breyer were particularly steeped in the details and were deeply engaged on opposite sides of the case, debating it back and forth almost to the exclusion of the lawyers standing before them."

Delaware Court Overturns Death Sentence In Murder Of Governor's Secretary. The AP (1/12) reports, "Delaware's highest court on Wednesday overturned the death sentence of a once well-connected attorney convicted of the 1996 murder of the governor's scheduling secretary." The AP continues, "The sentence was flawed because the jury vote recommending a death sentence for Thomas Capano was not unanimous, the Delaware Supreme Court ruled. The high court ordered a new penalty hearing, but did not overturn his conviction, prosecutor Steven Wood said." The AP adds, "Prosecutors say Capano shot Anne Marie Fahey, 30, scheduling secretary to then-Governor Tom Carper, and dumped her body in the Atlantic Ocean because she was breaking off an affair with him. … Capano, a former state prosecutor, is a member of a well-known family involved in land development. … His attorneys had argued that his death sentence, issued in 1999, should be overturned because his jury was not unanimous in determining that Fahey's slaying was premeditated. The state high court found that the Delaware Constitution demands unanimous jury verdicts in death-penalty sentencing, even if federal law does not."

In Widely-Watched Case, Antique Gun Dealer Sentenced To Prison For Fraud. The Philadelphia Inquirer (1/12, Shiffman, 423K) reports, "A once-distinguished antique-firearms dealer who duped a Bucks County millionaire while helping him amass a $30 million gun collection was sentenced to 2 1/2 years in prison yesterday. … U.S. District Judge Cynthia M. Rufe said that she hoped the prison sentence for the dealer, Michael Zomber of Franklin, Tenn., would deter others who might try to defraud antiques collectors. … Zomber was convicted of fraud at trial. His accomplice, Richard Ellis, of LeClaire, Iowa, pleaded guilty and cooperated with the government. … 'The entire industry was poised to find out what happened to Ellis and Zomber,' said FBI agent Bob Wittman, who handled the case. 'There's an element that's going to be happy that it's a new day, and there's an element that's going to be upset that their antics are going to be put under the microscope.'"

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Grand Jury Indicts North Carolina Man For VAMC Murder. The AP (1/12) reports, "A man accused of killing a co-worker and former lover at the Veteran's Administration hospital in Fayetteville was indicted on a murder charge Wednesday by a federal grand jury." Arthur James Charland Jr. "was also charged with use and discharge of a firearm during an in relation to a crime of violence, according to a statement by U.S. Attorney Frank D. Whitney. Charland is accused of fatally shooting Linda Faye Owens, with whom he had an 11-year affair." The AP notes, "At a hearing last month, FBI Special Agent Chris Hedges testified that Charland told investigators he was being treated for bipolar disorder."

Inmate On Trial For Killing Ex-Priest Convicted Of Molestation. The New York Times (1/12, Belluck) reports, "The murder of John J. Geoghan, a defrocked priest, in 2003 by an inmate in state prison was a shocking and almost surreal dénouement to one of the darkest chapters of the sexual abuse crisis in the Roman Catholic Church." The Times continues, "Mr. Geoghan's violent death in the most secure prison in Massachusetts was to some an appalling failure of the state to protect one of its most despised inmates. To others it was a horrible but justified retribution against Mr. Geoghan, one of the most reviled priests named in the abuse scandal, accused of molesting some 150 children in several parishes over three decades. … Now, the man who admits he killed Mr. Geoghan, Joseph L. Druce, is having his day in court, and for anyone watching the trial, it is hard to figure out where to put one's sympathies - with the murder victim or the man who killed him." The Times adds, "Mr. Druce, 40, is pleading not guilty by reason of mental illness. His lawyer, John LaChance, does not dispute the details of the case. Prosecutors say Mr. Druce followed Mr. Geoghan into his cell at the Souza-Baranowski Correctional Center on Aug. 23, 2003, and jammed the cell door shut with a nail clipper and a ripped-up copy of 'The Cross and the Switchblade,' a book about a minister who transformed the lives of teenage gang members by introducing them to Christianity. … Mr. Druce then tied Mr. Geoghan's hands with a T-shirt, wrapped stretched-out socks around Mr. Geoghan's neck, tightened them with a shoe, and then jumped up and down on his body. … According to testimony by corrections officers on Wednesday, Mr. Druce later told them he 'did it for the children,' to stop Mr. Geoghan, 68, from molesting more boys when he got out of prison."

Catholic Bishop Acknowledges Own Abuse As Teen By Priest. The CBS Evening News (1/10, story 7, 2:00, Schieffer) reported, "A Roman Catholic Bishop has made a startling admission. Thomas Gumbleton of Detroit says that he was sexually abused when he was 15 years old by a priest. The Bishop, who's now 75, is believed to be the highest-ranking Catholic clergyman in this country to make such an admission. He was in Ohio today where he endorsed proposed laws there and in other states that would lift the statute of limitations on suing churches for sex abuse. A study commissioned by America's bishops found that over the past half century, nearly 4,400 priests were accused of abusing more than 10,000 people."

CIVIL LAW:

National Guard Soldiers Sue US For Post-9/11 Expenses. The AP (1/12, Lindsay) reports, "A group of National Guard soldiers who were ordered to protect possible targets after the Sept. 11 attacks sued the federal government Wednesday, seeking tens of millions of dollars in expenses they say were never reimbursed." The AP continues, "The soldiers, from Massachusetts and New Hampshire, say they traveled hundreds of miles to security postings and used their own money to pay for food and lodging with the expectation that they would be reimbursed. … But the soldiers say in their complaint that their requests for compensation were repeatedly denied and they eventually were told, 'If you don't like the arrangement, we'll make sure you get taken off this mission.'" The AP adds, "In the lawsuit, the plaintiffs argue that federal law provides military personnel with a travel and transportation allowance while away from home on active duty. … The lawsuit was filed in U.S. District Court by four soldiers but seeks to include hundreds of other guardsmen as a class action. It names the U.S. Department of Defense and the Massachusetts National Guard and seeks $73 million in unpaid expenses. … A spokeswoman for the Defense Department referred calls to the Justice Department, where a spokesman declined to comment until after the agency reviews the lawsuit."

DOJ Will Not Intervene In Whistleblower Suit Against MedcoHealth Solutions. The AP (1/12) reports, "Pharmacy benefits manager Medco Health Solutions Inc. said the Justice Department will not intervene in a whistleblower lawsuit filed against the company in a Pennsylvania court last month." The AP continues, "New Jersey-based Medco said in a filing with the Securities and Exchange Commission that the U.S. Department of Justice notified the company on Tuesday of its decision not to intervene. … Medco said it first learned of 'qui tam' lawsuit in mid-December, when the U.S. District Court for the Eastern District of Pennsylvania lifted the seal on the case." The AP adds, "In an earlier filing, the company said the complaint makes allegations concerning turnaround time and performance-guarantee reporting -- the same charges drawn in a 2003 lawsuit. The complaint 'does not allege any health, safety or clinical violations,' Medco said."

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Ex-Worker Sues Genentech Over Marketing Practices. Dow Jones (1/12) reports, "A former Genentech Inc. employee has accused the biotechnology company and marketing partner Biogen Idec Inc. of illegally promoting cancer drug Rituxan as a treatment for arthritis, a use not yet approved by regulators." Dow Jones continues, "Paul McDermott, who worked for Genentech in Falmouth, Maine, from March 2004 until April 2005, filed a whistleblower lawsuit in July 2005 in U.S. District Court in Maine alleging the companies' marketing of Rituxan defrauded government health-care programs." Dow Jones adds, "The suit also says Genentech fired McDermott in retaliation for bringing the matter to the attention of Genentech executives. The suit seeks unspecified damages on behalf of the government, and an order that Genentech rehire McDermott and pay him back wages and other damages. … McDermott's lawsuit hasn't surfaced until now because it was filed under seal on behalf of the federal government. In December, however, the Justice Department declined to intervene in the case and requested that the lawsuit be unsealed. … McDermott's lawsuit is the latest legal challenge facing Genentech (DNA) over Rituxan's marketing. In October 2004, Genentech (DNA) received a subpoena from the U.S. Attorney's Office in Philadelphia seeking documents related to the promotion of Rituxan. Genentech (DNA) is cooperating with that investigation, which it said was both civil and criminal in nature."

US Seizes Mislabeled Bread. The Minneapolis Star Tribune (1/12, Lopez) reports, "Allergists and food allergy activists alike were shaken Wednesday upon learning that the French Meadow Bakery labeled its spelt bread 'wheat-free' when the bread, in fact, contains wheat." The Tribune continues, "For the hundreds of thousands of Americans who are wheat-intolerant or who have a genuine wheat allergy, mislabeled food is no small matter, said Anne Munoz-Furlong, founder of the national Food Allergy and Anaphylaxis Network, based in Fairview, Va. … Wheat allergy reactions, she said, can range from hives and digestive problems to -- at the most extreme end -- death from the inability to breathe." The Tribune adds, "French Meadow, revered by health enthusiasts for its varieties of organic bread, had 30,000 loaves made from spelt and Kamut grain seized Tuesday afternoon by U.S. marshals and agents from the U.S. Food and Drug Administration. The agency had spent nearly a year attempting to get the bakery to relabel its bread, noting that both spelt and Kamut are varieties of wheat. … U.S. Attorney Tom Heffelfinger, whose office is handling the case, said the agents locked most of the loaves in freezers, where they will remain until the case is decided or a court order issued. 'The FDA takes the accuracy of food labeling very seriously,' Heffelfinger said. … French Meadow has 20 days to respond to the FDA's complaint, he said. He did not know whether any consumer complaints were involved. … The company could face administrative penalties and sanctions for the government's costs in prosecuting the case, he said, 'but that hasn't been determined yet. This is primarily about resolving the labeling issue.'"

SCOTUS Ruling On Wine Shipments Slowly Bearing Fruit For Wineries. The AP (1/12, Locke) reports, "A lot has happened since the U.S. Supreme Court opened the door to shipping wine across state lines. But change hasn't been swift in an industry that sometimes seems as rich in red tape as it is red grapes. … 'We're in a highly regulated industry. This isn't like selling sweaters,' said Jeremy Benson, executive director of Free The Grapes, a Napa, Calif.-based group that has been working to loosen shipping restrictions. 'The regulations are there and we have to work through them.'" The AP continues, "The Supreme Court struck down laws last spring in New York and Michigan that allowed wineries to ship directly to in-state consumers but forbade out-of-state businesses from doing the same thing. … The court said either all wineries should be allowed to ship directly to consumers or none, a blow to the old distribution system that required a wholesaler to sell to restaurants and retailers. States have been acting to adjust their shipping laws ever since." The AP notes, "The ruling was particularly important to smaller wineries that don't have the volume for wide distribution in liquor stores and supermarkets and rely on direct sales to consumers, many of whom have developed a taste for their products on winery visits. … Since the Supreme Court ruling, New York, Michigan and Ohio have loosened shipping restrictions. Texas also made shipping easier just prior to the high court ruling."

GPO Contracts With Kinko's For Small Printing Jobs. The Washington Post (1/12, A19, 744K) reports that the Government Printing Office is "hiring Kinko's to handle small printing jobs for federal agencies. The contract, worth about $100 million annually and renewable for up to four years, will allow federal employees to get discounted copying, binding and printing services (including posters, signs, business cards and brochures) at 1,300 locations across the country. The GPO will pick up the tab through a new GPOExpress Card that federal employees will use."

McCain-Feingold Said To Provide "Semi-Respectable" Cover For Incumbents. James Bopp, general counsel for the James Madison Center for Free Speech, writes in the Wall Street Journal (1/12, 2.11M) that campaign finance reform "passed by Congress in

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McCain-Feingold and approved by the Supreme Court in McConnell v. FEC is mutating and spreading in the states. … State politicians are taking McCain-Feingold and McConnell as a license to enact much broader restrictions on core political speech. This term the court has a chance to decide whether these restrictions are justified, and what remains of the First Amendment in regard to democratic elections." Bopp adds, "The guise of 'reform' offers incumbents semi-respectable cover for their assault on free elections. Unless stopped, this virus will kill the First Amendment and democratic self-government."

CIVIL RIGHTS:

AMC Entertainment Settles ADA Claims With DOJ. The AP (1/12, Twiddy) reports, "AMC Entertainment Inc., the nation's second-largest movie theater chain, was ordered to upgrade seating for patrons in wheelchairs at 1,200 of its stadium-style movie auditoriums and pay $300,000 in penalties and civil damages to settle a U.S. lawsuit." The AP continues, "Justice Department officials said Wednesday the order settles its 1999 lawsuit against the company claiming AMC violated the Americans with Disabilities Act because it doesn't provide comparable seating for people in wheelchairs." The AP adds, "The Kansas City-based company also must ensure that all theaters built over the next five years comply with requirements set out Tuesday by U.S. District Judge Florence-Marie Cooper in Los Angeles. … The stadium-style seating now dominating movie theaters gives everyone unobstructed views of the screen. But critics say most wheelchair spaces are at the base of the stadium tiers, forcing those patrons to crane their necks to see the movie. … As part of the order, privately held AMC, which operates more than 3,300 screens, must build ramps in more than 360 theaters, providing wheelchair spaces on higher seating tiers. The company also must pay $200,000 to theatergoers who originally complained to the Justice Department about the seating arrangements and $100,000 in fines. … 'Providing the same moviegoing experience for individuals in wheelchairs that other patrons enjoy delivers on the promise of the ADA,' Assistant Attorney General Wan J. Kim said in a release. 'These improvements will make the goals of the ADA a reality for thousands of Americans who want to enjoy this popular form of entertainment.'"

Hispanic Workers Get Another Chance To Challenge Oklahoma City's English-Only Policy. The AP (1/12) reports, "A federal appeals court ruling Wednesday resurrects claims Hispanic workers made in a lawsuit challenging an English-only policy for city workers in Altus, Okla." The AP continues, "Twelve bilingual Hispanic workers filed complaints with the Equal Employment Opportunity Commission after the city adopted the policy in 2002. They argued that the city failed to show there was a need to prevent them from speaking Spanish. They said the policy singled out a nationality." The AP adds, "City officials had argued the policy was necessary because some workers and supervisors couldn't understand what was being said on city radios, some workers felt uncomfortable because they could not understand Spanish, and there were safety concerns about workers understanding each other around heavy equipment. … The Justice Department declined to take action, prompting employees to file a lawsuit in federal court in Oklahoma City. U.S. District Judge David Russell dismissed the complaint, saying the city had the authority to adopt the policy in managing its employees. … On Wednesday a three-judge panel of the 10th U.S. Circuit Court of Appeals remanded the case back to district court with respect to the plaintiffs' claims of disparate treatment, discrimination and violation of equal protection laws."

California School District Sued Over Intelligent Design. The Los Angeles Times (1/12, Sahagun, Bailey, 958K) reports that the town of Lebec, California has become "the latest focal point in the national debate over teaching 'intelligent design" in public schools.' On Tuesday, parents filed suit "against El Tejon Unified School District, the first legal challenge to the teaching of intelligent design in California. … The hullabaloo erupted after disgruntled parents joined with Americans United for Separation of Church and State to challenge a course at Frazier Mountain High School that they consider a minimally disguised endorsement of intelligent design. School trustees approved the new course, 'Philosophy of Design,' at a special meeting on New Year's Day. Attorneys for the district suggested the course could survive a legal challenge if it was called 'philosophy,' the lawsuit said, and the board approved it on a 3-2 vote."

ANTITRUST:

Maytag, Whirlpool Shares Recover After Antitrust Worries. The AP (1/12) reports, "Shares of Maytag Corp. and Whirlpool Corp. stock recovered slightly Wednesday after taking a hit the day before amid speculation that federal regulators may challenge the firms' merger." The AP continues, "Whirlpool closed Tuesday at $83.10 after dropping $1.89, or 2.2 percent, for the day while Maytag fell 4.7 percent, or 88 cents, to close at $17.89. … Wednesday, Whirlpool shares closed at $83.05 and Maytag finished at $17.98." The AP adds, "Whirlpool, based in Benton Harbor, Mich., agreed in August to buy Maytag for $1.7 billion in cash

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and stock. Both companies have said they expect the deal to close as early as the first quarter of this year. … Shareholders of Newton, Iowa-based Maytag voted Dec. 22 to approve the merger, pending regulatory approval. The U.S. Justice Department is investigating whether the merger of Whirlpool, the leading appliance seller, and Maytag, the third largest, violates antitrust laws." The AP notes, "Industry analyst David MacGregor, of Ohio-based Longbow Research, said the stock fluctuation was based on nothing more than market scuttlebutt. … He said the market reacted to the buzz that regulators were concerned that the merger would place too much of the middle-priced laundry machines in one company's control. Mid-priced washing machines, for example, sell for $350 to $600, MacGregor said."

The Detroit Free Press (1/12, Bodipo-Memba) reports, "An article that appeared on the financial news website TheDeal.com, citing people it didn't name, said antitrust concerns might lead to the U.S. Department of Justice seeking an injunction blocking the merger. In August, Benton Harbor-based Whirlpool agreed to purchase Maytag of Newton, Iowa for $1.7 billion in cash and stock, following a flurry of offers and counter offers by several suitors. … The proposed deal, which is expected to be completed in the first quarter of this year, would combine the nation's No. 1 and No. 3 makers of household appliances under one roof. But, antitrust concerns about merging two of that nation's biggest makers of refrigerators, dishwashers and dryers surrounded the deal for months."

Northwest Airlines Drops Request For SkyTeam Antitrust Immunity. The AP (1/12, Freed) reports, "Northwest Airlines Corp. is withdrawing a request for antitrust immunity for its SkyTeam airline alliance, saying the Transportation Department had signaled it would reject the request anyway." The AP continues, "Northwest entered SkyTeam last year after its partner, KLM Royal Dutch Airlines, merged with SkyTeam member Air France. Northwest has antitrust immunity to coordinate routes and pricing with KLM, but not with other SkyTeam members, which also includes Delta Air Lines Inc., Alitalia, Continental Airlines Inc. and CSA Czech Airlines. The request was submitted by all the carriers, and Northwest said its withdrawal request would apply to the full alliance. … Northwest and Skyteam members can still codeshare, which makes it easier for passengers to book trips on a single ticket with multiple airlines. But the Transportation Department had said the Skyteam routes overlap so much that little new service was likely to result from an antitrust waiver." The AP adds, "In a statement, Northwest called the initial Transportation Department finding 'arbitrary, capricious and inconsistent with established DOT precedent and U.S. international aviation policy' … 'Northwest is at a loss to understand this decision by the same DOT officials claiming to strongly support deregulation and an Administration which espouses a free market philosophy,' Northwest said. 'The U.S. airline industry is in a state of crisis. Four major air carriers, including Northwest and Delta, are operating under Chapter 11, as are several national carriers.' … Regional feeder Mesaba is also in Chapter 11, having filed just one month after Northwest, which provides all of Mesaba's planes, revenues, and passengers."

Some See Realtors' Group Tactics As Overly Aggressive. The New York Times (1/12, Justice) reports, "When the nation's largest banks decided at the start of the decade that they wanted to get into the real estate brokerage business, one major obstacle stood in their way: the National Association of Realtors." The Times continues, "Lobbyists for the huge trade group stonewalled the banks by tying up new rules at the Treasury Department and the Federal Reserve. Then the big score came in 2002 when the Realtors persuaded Congress to adopt a one-year moratorium to stop the banks altogether. It was a card the Realtors would play again and again. Four years later, bankers still have not cracked the real estate market. … 'They are known as very aggressive,' said Edward L. Yingling, president of the American Bankers Association. 'Not many trade associations are willing to be that tough on an issue.' … But the ability of the National Association of Realtors to beat back competitors is being tested now as few times before. A broad range of critics say the organization and its state and local affiliates have worked to smother competition and protect the decades-old system that provides traditional brokers 5 percent to 6 percent commissions on most home sales." The Times adds, "The Justice Department sued the association last year, asserting that the group's rules for online property listings discriminate against Internet-based brokers. Battles have also raged in the states as Realtor organizations pursued policies that opponents say would hurt discount brokers. The Consumer Federation of America is revving up to fight any such industry-sponsored legislation state by state in coming months. … Even some industry allies say the association may be too aggressive in protecting its interests. 'They might have small victories, but they are losing the battle,' said Representative Pat Tiberi, an Ohio Republican who worked in real estate before joining Congress. 'I think they should be relooking some of their tactics.' … Officials at the National Association of Realtors are quick to defend the organization. Stephen Cook, the group's spokesman, said the organization and the industry were not under siege. Rather, Mr. Cook said, the current climate is the byproduct of a hot housing market that has focused much national attention on the industry. 'The system can always be improved, but we don't think it is broken,' Mr. Cook said."

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Johnson & Johnson Not Ready To Give Up On Guidant Bid. Dow Jones (1/12) reports, "Johnson & Johnson appears unwilling to let its planned Guidant Corp. purchase slip away without a fight, a shift given J&J's prior unwillingness to budge from its offer for the medical device maker, but a move that reflects the new reality of intense competition." Dow Jones continues, "J&J's current purchase price for Guidant, about $64 a share, is the much- reduced product of an acrimonious spat between the companies following troubles with Guidant's heart rhythm devices last year. Given the dispute, many thought J&J was locked into that price, even as a surprise $72 a share offer from rival Boston Scientific Corp. dramatically changed the landscape." Dow Jones adds, "The offer, officially made Sunday at $25 billion, vaulted Boston Scientific (BSX) to apparent frontrunner status, but several reports this week suggest J&J is willing to change its tune. The Wall Street Journal reported that Guidant's board plans to meet at 3:00 p.m. EST Wednesday to decide between the Boston Scientific offer and a new, potentially much more competitive J&J offer. … The New York Times reported earlier Wednesday that J&J approached Guidant's board at the last minute late Tuesday, heading off a vote in favor of Boston Scientific , to negotiate a new deal. CNBC also reported Wednesday that J&J plans to raise its offer. … Boston Scientific, meanwhile, may be willing to answer a any J&J move. 'Don't count us out,' Boston Scientific spokesman Paul Donovan said Wednesday, declining to elaborate further."

Investors Eye Battle For P&O After Singapore Bid Hint. The Wall Street Journal (1/12, Stanley, Prystay, Singer) reports, "Smelling a battle between a pair of rich bidders amid a boom in cargo volume, investors pushed shares of port operator Peninsular & Oriental Steam Navigation Co. of Britain up 6.3% yesterday after PSA International Pte. Ltd. of Singapore said it might make a bid for it at as much as £3.54 billion ($6.25 billion)." The Journal continues, "PSA, a unit of Singapore's state-owned investment company Temasek Holdings Pte. Ltd., said after the London market closed Tuesday that it could pay as much as 470 pence a share for P&O, as the company is known. That would trump a bid of 443 pence a share, or £3.3 billion, that Dubai Ports World, of the United Arab Emirates, made in November and that P&O's board then recommended to its shareholders. … Still, it isn't certain PSA will make a bid for P&O, one of Britain's oldest companies, founded in 1840. Singapore port operator PSA, which has been granted access to the same nonpublic financial information that was given to Dubai Ports, has a little more than two weeks to review the data and decide. Dubai Ports, meanwhile, has said it is reviewing the situation carefully."

ENVIRONMENT/INDIAN AFFAIRS:

Investigators Give Detailed Account Of Sago Mine Rescue Attempt. Investigators offered a detailed account yesterday of rescue efforts after the accident at the Sago Mine in West Virginia that eventually left 12 miners dead. The story was covered by each of the networks in the first half of their newscasts, and was the lead on CBS.

The CBS Evening News (1/10, lead story, 3:00, Schieffer) reported, "While it took officials above ground 11 hours to organize a rescue effort, just one hour after the explosion, a group of miners below ground organized their own rescue effort and got much closer than anyone realized to the trapped men. Eventually they, too, were turned back by the poison gas and the 12 men died."

The New York Times (1/12, Barringer, 1.19M) reports that regulators "said they had heard nothing to confirm an account by relatives of the only survivor that the men had tried to force their way out in a rail car but that their escape route had been blocked by debris. Rescuers found no such blockage, the regulators said."

ABC World News Tonight (1/11, story 3, 2:35, Woodruff) reported rescuers "took major risks to reach the men, not even knowing if they were alive." ABC (L. Stark) added, "This mine had hundreds of safety violations. And today, the company insisted that had nothing to do with the accident."

NBC Nightly News (1/11, story 3, 2:00, Williams) reported, "Today, 12 US senators from states in coal country called for hearings into the state of mining safety in this country, nine days now after the deaths of those 12 miners. And we're learning more about the number of violations at the Sago Mine. One Federal inspector has already used the word 'negligence.'" NBC (Costello) added, "Federal inspectors found the safety violations at the Sago Mine 'significant, substantial,' and often times indicated 'negligence.' 205 violations in the last year."

FBI Warns Of Coal Mine Accident Email Scam. NBC Nightly News (1/11, story 4, 1:00, Williams) reported, "The FBI has issued a warning to all Americans to beware of emails using this mining disaster as a scam soliciting funds to help the soul survivor in this accident, Randall McCloy. Investigators have come across one email scam so far that is actually claiming to raise money for McCloy and they warn there could be more out there. The FBI is urging everyone not to open unsolicited email and to thoroughly check before giving to any charity. By the way, McCloy remains in critical condition."

Interior Department To Open Alaska Acreage To Oil Drilling. The Interior Department has agreed to

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open about 400,000 acres on Alaska's North Slope for exploratory oil drilling. Officials said the acreage will be leased to oil companies to provide access to domestic oil supplies. The Washington Post (1/12, A8, Blum, 744K) reports, "Government officials said that the area of the preserve opened yesterday has significant potential for oil development. They estimate it contains about 2 billion barrels of oil that is economically recoverable, along with 3.5 trillion cubic feet of natural gas. The United States consumes more than 20 million barrels of oil per day."

The Los Angeles Times (1/12, Wilson, 958K) adds, "Bureau of Land Management staff said the decision was made after three years of study and in response to requests by Vice President Dick Cheney's energy task force."

Study Links Global Warming, Extinctions Of Frog Species. A study to be published in the journal "Nature" links global climate change to the extinction of some species of animals. ABC World News Tonight (1/11, story 5, 2:20, Blakemore) reported scientists "focused on these creatures. 70 different species of Harlequin frog, gone, from 11 countries in Central and South America, even though there's been no destruction of the wild places these animals live in. Scientists are now beginning to find serious declines of all kinds of species, each linked in one way or another, to global warm warming, all over the world. And tomorrow's study seals the link." Biologist Alan Pounds: "There's a very clear relationship between temperature and the timing of the die-offs." Blakemore: "American biologists Alan Pounds and his colleagues use data from more than 70 researchers across the Americas and from climatologists worldwide. They discovered over the past 20 years, the spikes in global temperatures, coincided in lock-step with years that Harlequin frog species were seen for the last time."

NBC Nightly News (1/11, story 8, 2:00, Williams) reported scientists "say climate change apparently increases the incidents of a fatal skin fungus. Several other experts disagree, but tonight they say what is happening to the frogs should be a warning to us all."

The Washington Post (1/12, A1, Eilperin) reports, "Rising temperatures are responsible for pushing dozens of frog species over the brink of extinction in the past three decades, according to findings being reported today by a team of Latin American and U.S. scientists." The Post continues, "The study, published in the journal Nature, provides compelling evidence that climate change has already helped wipe out a slew of species and could spur more extinctions and the spread of diseases worldwide. It also helps solve the international mystery of why amphibians around the globe have been vanishing from their usual habitats over the past quarter-century -- as many as 112 species have disappeared since 1980." The Post adds, "Scientists have speculated that rising temperatures and changing weather patterns could endanger the survival of many species, but the new study documents for the first time a direct correlation between global warming and the disappearance of around 65 amphibian species in Central and South America."

The Wall Street Journal (1/12, Naik) reports, "Conservationists have been puzzled for more than a decade by the mysterious disappearance of harlequin frogs from the pristine, high-altitude tropical forests of Costa Rica. Now a group of scientists believe they have pinpointed the likely cause: global warming that promotes a fungus that is fatal to the frogs. … The finding, published today in the journal Nature1, is likely to stoke the debate about whether climate change is affecting the dynamics of disease, and why amphibians are dying out in such massive numbers world-wide. Recent data indicates that, since 1980, as many as 122 amphibian species are likely to have become extinct and one-third of known amphibian species are threatened."

The New York Times (1/12, Revkin) reports, "If the analysis holds up, it will be the first to link recent climate changes to the spread of a fungus lethal to frogs and salamanders and their kin. The chytrid fungus, Batrachochytrium dendrobatidis, has devastated amphibian communities in many parts of the world over the last several decades. … But experts on amphibian disease and ecology are divided over the finding, which is being published today in the journal Nature. Several scientists criticized the paper yesterday, saying it glossed over significant sources of uncertainty; others said it was important evidence that warming caused by humans was already harming wildlife. Climate scientists have linked most of the recent rise in the earth's average temperature to the buildup of greenhouse emissions from smokestacks and tailpipes."

USA Today (1/12, Watson) reports, "The research team found a 'ear lock-step (link) between the timing of losses and changes in climate,'said lead scientist Alan Pounds of the Monteverde Cloud Forest Preserve and Tropical Science Center in Costa Rica. 't's a very striking pattern, and it's hard to find another explanation for it.' … The group did not identify the other contributing causes. Pounds and his team say the warmer temperatures of the late 20th century led to better growing conditions for a fungus that kills frogs and toads. … Other scientists expressed skepticism about the findings. Stephen Corn of the U.S. Geological Survey said the dates recorded for extinctions may not be entirely reliable. The University of Colorado's Cynthia Carey questioned why the new work ignores extinctions of related species after 1998."

US Seen As Vulnerable To Drug Shortages In Pandemic. A front page story in the Wall Street Journal

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(1/12, Wysocki, Lueck, 2.11M) reports that in the event of a pandemic flu out break, the US drug supply chain "is almost certain to break. Thousands of drug-company workers in the U.S. and elsewhere could be sickened, prompting factories to close. Truck routes could be blocked and borders may be closed, particularly perilous at a time when 80% of raw materials for U.S. drugs come from abroad. The likely result: shortages of important medicines -- such as insulin, blood products or the anesthetics used in surgery -- quite apart from any shortages of medicine to treat the flu itself." The Journal adds that the US "is exceptionally vulnerable in a pandemic. Near-empty warehouses are a sign of strong inventory management. Production of drugs takes place offshore because that's cheaper. The federal government doesn't intervene as a guaranteed buyer of flu drugs, as it does with weapons. Investors and tax rules conspire to eliminate redundancy and reserves. Antitrust rules prevent private companies from collaborating to speed development of new drugs. Most fundamentally, the widely embraced 'just-in-time' business practice…is at odds with the logic of 'just in case' that promotes stockpiling drugs, government intervention and overall preparedness."

Ohio High Court To Hear First Eminent Domain Case Since SCOTUS Ruling. The AP (1/12, Welsh-Huggins) reports, "Ohio Supreme Court heard arguments Wednesday pitting a suburban Cincinnati city against a couple trying to save their home in a long-anticipated hearing that included a rare outburst of applause by spectators." The AP continues, "The city of Norwood is trying to use eminent domain to seize remaining properties for a developer who wants to build a $125 million project of offices, shops and restaurants. The city says the tax revenue will boost its economic fortunes." The AP adds, "Homeowners Carl and Joy Gamble say the city abused its authority to seize property by declaring the neighborhood deteriorating, a less severe condition than blighted. … The case is the first challenge of property rights laws to reach a state high court since the U.S. Supreme Court last summer allowed municipalities to seize homes for use by a private developer." The AP notes, "Property rights' advocates, business groups and backers of city planning are watching the Ohio case because of the precedent it could set as more than a dozen states consider bans against governments taking homes to boost economic development. … A decision is expected by summer."

8th Circuit Takes Up 2003 Meskwaki Tribal Election Case. The AP (1/12) reports, "A federal appeals court in St. Louis was scheduled to hear arguments Thursday on whether a lower court judge erred by dismissing a lawsuit challenging the Meskwaki tribal elections in 2003." The AP continues, "The lawsuit stems from an internal power struggle that began nearly three years ago when the Meskwaki tribal council and its chairman, Alex Walker Jr., were overthrown by a new set of leaders. The new council, led by Homer Bear Jr., was picked by the tribe's hereditary chief after Walker's council ignored recall petitions." The AP adds, "The ensuing political dispute played out in state and federal courts and led to a costly, seven-month shutdown of the Meskwaki casino, located on the tribal settlement west of Tama. The tribe, with 1,200 members, officially is known as the Sac and Fox of the Mississippi in Iowa. … The dispute ultimately was settled after tribal members participated in a series of elections overseen by the federal Bureau of Indian Affairs. … As a result, four Walker council members were removed and the Bear council was put in power. The casino reopened in December 2003." The AP notes, "The lawsuit before the 8th U.S. Circuit Court of Appeals originally was filed in 2004 by the election officials appointed by Walker. … In their lawsuit, Walker supporters argue that the BIA mishandled oversight of the election and illegally interfered in the process. They also claim that Aurene Martin, assistant secretary of the BIA, violated agency policy when she rejected an appeal of the election results. … In March, U.S. District Judge Linda Reade, in Cedar Rapids, threw out the lawsuit, saying it was a matter for tribal courts to decide. Walker supporters are appealing that decision."

FBI/DEA/ATF/USMS:

Study Finds Shorter Prison Terms For Crack Cocaine Convictions. The AP (1/11, Sherman) reports, "Some federal judges are handing out shorter prison terms for crack cocaine crimes since last year's Supreme Court decision giving judges more discretion in sentencing, a report said Wednesday." The AP continues, "Defendants in the study received prison terms averaging 11 years, but those terms were less than what is called for in 20-year-old sentencing guidelines, according to the Sentencing Project, a nonpartisan group that backs alternatives to lengthy prison sentences." The AP adds, "The Supreme Court ruled a year ago that judges do not have to follow the sentencing guidelines. … The analysis focused on crack because the congressionally established guidelines punish some crack cocaine offenses more severely than powder cocaine offenses. A person must possess 100 times more powder cocaine than crack cocaine to receive a comparable sentence, under the guidelines. … The report looked at a very small sample of 24 cases in which judges wrote opinions explaining the prison sentence and cited the Supreme Court ruling. There were more than 5,400 people sentenced for crack offenses in 2003, the latest year for which statistics are available." The AP notes, "Attorney General Alberto Gonzales has warned of growing disparity in jail terms and 'a drift

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toward lesser sentences' since the court ruling. … Congress created the guidelines in the 1980s mainly to reduce disparities between judges. But the high court said making the guidelines mandatory violated a defendant's Sixth Amendment right to a jury trial because they call for judges to make factual decisions that could add to prison time, such as the amount of drugs involved in a crime."

The Wall Street Journal (1/12, Fields) reports, "In the wake of the Supreme Court's decision a year ago making sentencing guidelines advisory rather than requirements to be followed, some federal judges appear to be giving more lenient sentences in cases involving crack cocaine, according to an analysis released yesterday." The Journal continues, "Sen. Jeff Sessions, an Alabama Republican, said he intended to introduce a bill this year that will propose changing the law to reduce the disparity between the amounts of crack cocaine and powder cocaine necessary to give a defendant the same sentence. He and Utah Republican Sen. Orrin Hatch co-authored a bill in 2003 that would have reduced the disparity to 20-to-1 -- from 100-to-1 -- but it got little support." The Journal adds, "The Sentencing Commission, which declined to comment on the study, has long supported altering its guidelines on crack-cocaine crimes to bring the penalties and amounts more in line with powder cocaine. In 1995, the Sentencing Commission sent Congress an amendment which would have equalized the penalties on the two forms of cocaine, but Congress rejected the amendment. Similar recommendations from the commission in 1997 and 2002 were ignored by Congress."

NYTimes Says Mandatory Minimum Sentences Have Not Worked. An editorial in the New York Times (1/12, 1.19M) says mandatory sentencing laws "have clearly done more harm than good. The inmate population has skyrocketed, driving prison costs to bankrupting levels, while having no impact at all on the drug problem. By taking away judicial discretion, the laws have led the country to write off first-time offenders who might have deserved second chances and to imprison addicts who could otherwise have been effectively and less expensively handled through treatment programs." In New Jersey, a panel of criminal justice officials "has recommended that the state revise a law that mandates more severe sentences for people convicted of certain drug crimes committed within 1,000 feet of school property. The law appears to have had no impact at all on the actual pattern of drug dealing. But it has created a profoundly discriminatory sentencing pattern, which treats minority defendants unfairly while undermining confidence in the criminal justice system. … The broader message of this study is that the country can't just imprison its way out of the drug problem. Coping with this issue - while reducing prison costs - will require a complex set of strategies, including drug abuse treatment and prevention services and increased judicial discretion in sentencing."

Constituents Not Surprised Barry Failed Drug Test. The Washington Post (1/12, B1, Weiss, Pierre, 744K) reports that news that DC City Council Member Marion Barry failed a court-ordered drug test was not met with "sense of surprise" among his constituents. According to the Post, "Sources said Barry tested positive for cocaine during routine screening in connection with his guilty plea to two misdemeanor tax charges in October. … The drug test that Barry failed was required as a part of a pre-sentencing investigation, said two sources familiar with the case. Now he is undergoing voluntary drug testing as part of his private treatment to help establish that he is making an effort to stay drug free, said the sources, who asked not to be named because the case is pending."

WPost Says Barry Should Resign. An editorial in the Washington Post (1/12, A20, 744K) says, "It's likely that news of Mr. Barry's failed drug test has provoked a collective groan throughout a city that over the years has been forced to live through episode after episode of the four-term mayor's personal troubles. The District, however, has managed to survive Mr. Barry's behavior in the past, and the city can be expected to do so again. The more important question has to do with Mr. Barry himself." Barry 'needs less time in the public limelight so he can devote more attention to the problems of Marion Barry. He has the opportunity to step aside so that others may step up to the task of public service. He should take it."

Flint, MI, Raids Net Ten Arrests In Weed & Seed Effort. The Flint Journal (1/12, Raymer) reports, "Ten people were arrested in drug raids on three homes Sunday as part of a special initiative paid for through a federal grant." The Journal continues, "Police searched east-side homes at 1277 Broadway Ave., 1610 Bennett Ave. and 3009 Dakota Ave. with warrants after drug buys at the homes, according to a news release from Flint Police Chief Gary Hagler. … Police seized $1,866 in cash, $1,000 worth of cocaine, $150 worth of marijuana, $100 worth of heroin and $100 worth of ecstasy in the raids." The Journal adds, "The 10 arrested face a total of 13 felony and 19 misdemeanor charges. … The sweep by the force's Crime Area Target Team and Community Policing was part of the federally funded Weed and Seed Program, which targets blighted areas to reduce crime and promote economic revitalization. … The U.S. Justice Department awarded $225,000 to the United Way for the program on the east side of Flint earlier this year. It was the third such grant."

Border Patrol Agents Find Tunnel Linking US And Mexico. CNN (1/11) reports on its Web site, "U.S. border patrol agents investigating a caved-in road discovered a tunnel linking the United States and Mexico, the third such passage found in three years near the San Ysidro, California,

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crossing, authorities said Wednesday. Lauren Mack, a spokeswoman for U.S. Immigration and Customs Enforcement agency, said agents found the 35-foot long, 3-foot-by-3-foot tunnel on Monday. 'It's unclear what it was used for, but inside we found trash and other evidence indicating people had been inside recently,' Mack said. … Tightened border security since the September 11, 2001 attacks is the likely cause for an increase in U.S.-to-Mexico tunneling, Mack said. At least 15 tunnels have been found in California and Arizona since 9/11, she said. 'We've now got a dedicated tunnel task force, which works with the Drug Enforcement Administration and border patrol to proactively look for tunnels,' Mack explained."

Top Competitor On US Skeleton Team Is Suspended For Positive Drug Test. New York Times (1/12, Zinser, Pennington) sports writes, "The top competitor on the United States men's skeleton team, Zach Lund, was suspended yesterday after testing positive for a masking agent at a World Cup event last month in Europe. Also yesterday, a New York Supreme Court judge declined to overturn the suspension of the United States skeleton coach, Tim Nardiello. The international skeleton federation suspended Lund pending the outcome of an investigation by the United States Anti-Doping Agency. Jim Shea Sr., president of the United States Bobsled and Skeleton Federation, confirmed that Lund, who holds the No. 1 ranking in the world, tested positive for using Propecia, an anti-baldness drug. 'It's on the banned list; no question, he screwed up,' Shea said in a telephone interview. 'He lost his spot on the World Cup team, and it's possible he won't be able to go to the Games.' … Propecia has been listed as a prohibited substance by both the United States and international anti-doping agencies for more than a year because it can act as a masking agent for steroids."

Reuters (1/11) reports, "America's skeleton world number one Zach Lund has been suspended by the International Bobsleigh and Tobogganing Federation (FIBT) pending an investigation into a positive drugs test at a World Cup event last month."

The AP (1/12) reports, "Lund said he had taken hair-restoration products since 1999 and had always declared them on his medical forms. The United States federation granted him a Therapeutic Use Exemption, which provides a way for athletes to use some banned medications."

Michigan Men Indicted For Alleged Racially-Motivated Arson Plot. Knight Ridder/Detroit Free Press (1/12, Warikoo) reports, "Two Taylor, Mich., men -- angry that an African-American family moved onto their block -- hatched a plot to drive them out by burning down their house, said federal officials in an indictment released Wednesday. … One night in July 2002, the two men, Wayland Mullins and Michael Richardson, gathered at the home of Mullins' mother in Taylor. Across from that home, the Doster family had recently purchased a house." Mullins and Richardson "walked over to the Doster home. Then, 'they broke a window at the back of the house, poured gasoline into the home, and ignited the gasoline, causing fire and smoke damage to the house,' says the indictment. In ensuing months, the two men lied to Taylor police and the FBI, say federal prosecutors. At one point, Richardson tried to finger an innocent man in the arson." The Free Press notes, "More men may be involved in the arson, Murphy said, so federal agents are still investigating the case."

ATF Arrests Five In Dearborn Heights, MI, Drug Sting. The WXYZ-TV, ABC 7, Detroit (1/11, Lewis) reports, "Wednesday, 5 men were arrested after the ATF and local law enforcement officials set up a sting to catch them robbing a pharmacy. … Michigan Pharmacy was previously robbed of $15,000 worth on controlled substances." WXYZ-TV continues, "ATF agent Vera Fedorak, who participated in the sting, said 'Obviously it's a concern for the community, ATF and the local law enforcement.'" WXYZ-TV adds, "The robber came into the Dearborn Heights pharmacy with what he said was a bomb. ATF agents and local law enforcement were on the premise, with one posing as the store owner. They were able to apprehend one man at the pharmacy and also 4 others. … Michigan Pharmacy owner Khalid Saad said he was glad to help ATF agents catch the men who had been robbing his store. … The drug sting may result in federal charges."

Tennessee Man Sentenced For Possessing Explosive Device. The Cleveland (TN) Daily Banner (1/11, Kaylor) reports, "A Polk County man who plead guilty last October to possessing an explosive device has been sentenced to 5 1/2 years in a federal prison by a federal judge." The Banner continues, "U.S. District Court Judge Curtis L. Collier sentenced Danny M. Wilcox, 39, of Reliance, late last week, according to Carl Maskew, Bradley County Sheriff's Office liaison with the Bureau of Alcohol, Tobacco and Firearms. … Wilcox is one of three people arrested and charged with the crime." The Banner adds, "Wilcox and his alleged accomplice, Glenda Cross, 41, took part in assembling the device that investigators learned was to be used in a murder plot against the ex-husband of Cross. … Two bomb squad officers from the Cleveland Police Department and ATF agents removed the device and detonated it in a nearby field. … Adams plead guilty in state court to conspiracy to commit second-degree murder and possession of an explosive. He is serving an eight-year sentence at the Tennessee Department of Corrections …

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Cross is due back in Bradley County Criminal Court for a March 6 hearing."

IMMIGRATION:

12 Indicted For Smuggling Illegal Immigrants Into US. The Washington Times (1/12, Seper) reports, "Three suspected ringleaders of two major alien-smuggling organizations and nine accomplices have been indicted by a Texas federal grand jury on charges of trucking more than 600 illegals from the El Paso area to Dallas and beyond during the past two years. All but three of the gang members were taken into custody this week by U.S. Immigration and Customs Enforcement (ICE) agents, assisted by the U.S. Border Patrol. Two of the gang members were identified in indictments unsealed Friday, and another is in La Tuna Federal Correctional Institution on a previous alien-smuggling conviction. … ICE spokesman Dean Boyd said Mike Price, 53, his wife, Fabiola del Carmen Moguel de Price, 39, and Sam Jarvis, 52, headed two separate organizations that generated more than $1.6 million in smuggling fees between March 2003 and October 2005."

Former Saudi Embassy Driver Pleads Guilty To Smuggling Aliens Into US. The AP (1/12) reports, "A former driver for the Saudi Embassy in Washington pleaded guilty Tuesday to smuggling aliens into the United States." The AP continues, "Mohamed Abdel Wahab Yakoub, 61, admitted he used Saudi Embassy letterhead to obtain diplomatic visas from U.S. embassies for several Egyptians and Filipinos. … Yakoub, an Egyptian, faces up to 10 years in prison when he is sentenced in April on a single count of smuggling aliens. He will be subject to deportation after the sentencing." The AP adds, "Yakoub sold visas for $5,000 to $7,000. Court documents indicate he helped at least six illegal aliens gain entry to the U.S. in 2000 and 2001. He was fired by the Saudi embassy in 2002. … The Joint Terrorism Task Force, which helped investigate, said it had no indication the scheme had any connection to terrorism."

TAX:

Former West Virginia County GOP Chairman Pleads Guilty To Tax Evasion. The Charleston Gazette (1/12, Searls) reports, "A former Kanawha County Republican chairman has agreed to plead guilty to tax evasion by using some of his employees' withholdings to pay for his wife's Mercedes-Benz." The Gazette continues, "Steven L. Miller admitted in an information filed by Assistant U.S. Attorney Hunter P. Smith Jr. that he 'evaded and defeated approximately $38,000 of the federal personal income taxes, trust fund taxes and Trust Fund Recovery Penalties due and owing by him' to the federal government." The Gazette adds, "Miller had apparently withheld federal taxes and trust fund money from employees' pay, placing it in a separate bank account at the Putnam County Bank, but never passed it on to the federal government. … Internal Revenue Service agents led the investigation of Miller from 1999 through 2000. The IRS has been aggressive in investigating such cases because employees may not qualify for Social Security, Medicare or unemployment benefits if taxes that have been withheld from their pay are never remitted to the federal government. … Miller also owed unpaid personal income taxes."

Wife Of "Mafia Cop" Pleads Not Guilty To Tax Evasion Charges. The AP (1/12, Ritter) reports, "The wife of a former New York police detective accused of working as a mob hit man pleaded not guilty Wednesday to three charges of filing a false income tax return. Frances Eppolito was ordered released without bond and was appointed a federal public defender pending a trial set for March 13. … Eppolito and her husband, Louis Eppolito, were named in a three-count felony indictment handed up Tuesday. Each is accused of filing false federal income tax returns for $127,386 in income in 2000, $8,654 in income in 2001 and a net loss of $1,297 in 2002."

CONGRESS-ADMINISTRATION:

Democrats Question Alito Membership In Controversial Princeton Group. At the third day of hearings on the Supreme Court nomination of Judge Samuel Alito, Democrats intensified their attacks, probing Alito's membership in a controversial Princeton alumni group that allegedly discriminated against women and minorities. The sharp questions prompted an emotional response from Alito's wife, which received much media attention. Reuters (1/12, Ferraro, Kenen) reports Alito, "pressed repeatedly about his membership two decades ago in the alumni group that opposed efforts to admit more women and minorities to the university, said, 'I'm not any kind of a bigot.' … At one point, Alito's wife, Martha-Ann, was crying in the crowded hearing room and then left." She "returned about an hour later and sat behind her husband." Mrs. Alito emotional reaction came after comments from GOP Sen. Lindsey Graham, who is quoted in USA Today (1/12, Kiely, 2.31M) saying, "Judge Alito, I am sorry that you've had to go through this. I am sorry that your family has had to sit here and listen to this."

ABC and CBS showed video of the scene. The networks each also noted the confrontation between Sen. Edward Kennedy and Chairman Arlen Specter over documents at the Library of Congress relating to the group in question, Concerned Alumni of Princeton. The CBS Evening

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News (1/10, story 2, 2:00, Borger) said the image of Mrs. Alito crying "may be the picture that people really remember from these hearings. It was quite an emotional day for the Alitos, and in the end the question is whether the Democrats took this a step too far today. … Today you saw the Democrats really ratcheting up their questioning. It's a very fine line, very difficult, but some say they went over the line."

ABC World News Tonight (1/11, lead story, 2:50, Vargas) reported, "The exchange got personal. And the pressure took a toll on Judge Alito's wife." ABC (Stephanopoulos) added, "It was a dramatic moment," and "sources close to Mrs. Alito say she thought the Democrats' attacks on her husband were disgraceful." ABC added "sparks…flew when Senator Kennedy threatened to shut down the committee if it didn't subpoena documents on the group."

NBC Nightly News (1/11, lead story, 2:30, Williams) reported, "Tempers have flared, mostly among Senators, while the Supreme Court nominee has kept his cool. Then suddenly, this afternoon, television viewers noticed Judge Alito's wife was in tears while sitting behind her husband. It was because of what was being said in defense of her husband after attacks on his character and questions about his past."

Fox News' Special Report (1/11, Hume) noted that "the limits of the sometimes extravagant courtesy that members of the Senate accord each other were tested today during" the Alito hearings. Fox (Angle) added, "With opponents to Alito growing, the frustration on the Democratic side exploded into view when Senator Kennedy demanded a subpoena on documents on a group called Concerned Alumni of Princeton. … Kennedy said he sent specter a letter on the issue and he said he didn't see it. … After increasingly heated exchanges, he attempted to move on and Kennedy threatened to bring the hearings to the stand still." Specter "announced that the papers in question were offered to the committee after a simple phone call."

The New York Times (1/12, Lewis, 1.19M) runs a story recounting Mrs. Alito's emotional reaction, while the Wall Street Journal (1/12, Cummings, 2.11M) reports "Alito said he doesn't remember why he joined in 1985, but he thinks it was because he was troubled by opposition to a Reserve Officers Training Corps office on the Princeton campus." The AP (1/12, Espo) reports that though Alito "repeatedly said he had no memory of involvement with the conservative Concerned Alumni of Princeton," he "highlighted his membership in a 1985 job application for the Reagan administration." Yesterday, "he repudiated the opinions expressed in articles in the organization's magazine." He said, "They're not my views ... I deplore them." The Washington Post (1/12, A6, Russakoff, 744K) runs a similar story under the headline "Alito Disavows Controversial Group; Nominee Touted His Membership in 1985." The Los Angeles Times (1/12, Neuman, 958K) reports Alito said, "I did not join this group…because of any attitude toward women or minorities," Alito told the Senate Judiciary Committee. "What bothered me about the Princeton administration…was the treatment of ROTC." Alito joined the ROTC "as an undergraduate," and the program "lost its contract with the university during the Vietnam protests."

In his Washington Post "Washington Sketch" column, Dana Milbank (1/12, A6) writes that it has become clear "that the committee, with unified GOP support, would clear the judge" and that's why Democrats focused on the alumni group. Milbank writes, "Clarence Thomas had Anita Hill. Alito would have the Concerned Alumni of Princeton." Milbank calls the dispute "a schoolyard brawl." The Washington Times (1/12, Hurt, 90K) reports the testy session came "after many observers had decided that Democrats had been neutered during the first two days, mastering the art of softball pitches. The Washington Post had called the sessions 'a most tender roast of Alito.' Not yesterday." The Washington Times (1/12, Hurt, 90K), also runs a front-page story under the headline "Alito Accused Of Racism."

The Legal Times (1/12, Goldman) reports, "Alito repeated the claim he had made the day before, that he had 'racked his brain' and could not remember why he had joined the group. The best explanation he could offer, he said, was his displeasure at the university's attitude toward ROTC, which had been banned at one point but had returned to the campus before Alito graduated in 1972. Alito had been a member of an ROTC unit. … Toward the end of the day Wednesday, however, Schumer was able to elicit a bit more satisfying explanation for Democrats. … Said Schumer: 'You somehow plucked this group, which you now say you somehow have no recollection. Why that group? Why was it plucked out and put on the application?' … Answered Alito: 'You have to look at the question I was responding to. What I was trying to outline were things relevant to obtaining a political position.' … It was the first time Alito had conceded to what many considered obvious: his need to show the Department of Justice, then under the highly conservative influence of Attorney General Edwin Meese, that his conservative bona fides were in order. … 'That was the answer he should have started with,' said Illinois Democrat Sen. Richard Durbin, after the hearing had ended for the day. 'It helps some. I just wish he hadn't gone through this tortuous process to get us there.'"

Alito Said To Have "Signaled" He Might Be Willing To Reconsider Roe. NPR (1/12) reports this morning, "Alito told the Senate Judiciary Committee yesterday that the Roe v. Wade decision, which legalized abortion, set an important precedent, but he resisted pressure to be more specific about how he would rule in abortion cases before the High Court." Alito "wrote in 1985 that the constitution does not guarantee a

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right to abortion. He now says he does not decide cases based on religious faith."

The Washington Post (1/12, A1, Goldstein, Babington, 744K) reports Alito "signaled" yesterday "he might be willing to revisit the ruling that legalized abortion nationwide." The "drama of the hearings' third day," adds the Post, "nearly overshadowed the significance of the position Alito staked out on the landmark abortion case, Roe v. Wade." The nominee "edged closer to suggesting that he might be willing to reconsider Roe if he is confirmed to the high court, refusing, under persistent questioning by Democrats, to say that he regards the 1973 decision as 'settled law' that 'can't be reexamined.' In this way, his answers departed notably from those that Chief Justice John G. Roberts Jr. gave when asked similar questions during his confirmation hearings four months ago." Yesterday, Alito "said that Roe must be treated with respect because it has been reaffirmed by the high court several times in the past three decades." Knight Ridder (1/12, Henderson, Kuhnhenn) adds "Alito's reluctance makes it easier for critics to brand him as a justice who could help overturn the 33-year-old ruling."

Sen. Richard Durbin said on MSNBC's Hardball (1/11), "I'm concerned when it comes to the issue of Roe v. Wade. … I don't expect him to tell me how he's going to rule on a case, but I go back to what John Roberts was asked, and I think John Roberts is a man who's well respected in terms of his legal acumen. And he said that he believed that Roe v. Wade was settled law in this land. I asked Sam Alito the same question and he wouldn't give me the same answer. It leads some of us on our side of the table to wonder what's going to happen the first time there's a serious challenge to Roe v. Wade. And I think that's what's propelling a lot of the questions before this committee."

Alito Still Seen As Headed For Confirmation. Media consensus remains that Democrats have yet to damage Alito's prospects. As Pete Williams said on NBC Nightly News (1/11, lead story, 2:30), "It's looking more likely that Samuel Alito will be on the Supreme Court in time to join the Justices when the winter break ends in late February." CNN's Lou Dobbs Tonight (1/11, Dobbs) also reported "really seems to be sailing along" and Democrats "are getting frustrated." Knight Ridder (1/12, Henderson, Kuhnhenn) adds Chief Justice Roberts "won 22 Democratic votes when the Senate confirmed him last September. Alito will almost certainly get fewer, though his Republican support appears solid enough to ensure his confirmation, barring any future stumbles."

Alito's performance under fire continues to receive generally positive reviews. The Wall Street Journal (1/12, Cummings, 2.11M) says "the Democratic strategy to derail Judge Samuel Alito's Supreme Court appointment is centered on raising doubts about the nominee's credibility and persuading senators he would curb or end abortion rights." However, "Alito's straightforward testimony has served as a strong counter to their campaign." Moreover, "Democrats may have lost points…when Judge Alito's wife…left the hearing room in tears."

The Los Angeles Times (1/12, Reynolds, Simon, 958K) headlines its story this morning "Alito Remains Unruffled in Testy Hearings," and says the nominee "at placidly through it all, repeating -- with little apparent irritation -- responses that did not placate his critics." Moreover, "the attacks by Democrats did no apparent damage to Alito among Senate Republicans, most of whom have expressed support for him." On The CBS Evening News (1/10, story 3, 1:30, Schieffer), Jan Crawford Greenburg of the Chicago Tribune said yesterday "we got an introduction to Samuel Alito the man, the calm and quiet son of Italian immigrants who became a conservative jurist."

The New York Times (1/12, Stevenson, Lewis, 1.19M) reports Democrats "sought to build a case against his nomination to the Supreme Court by raising questions about his character and consistency." Democrats, "aware that Judge Alito had made it through the first two days without significant damage to his prospects of confirmation, struck an aggressive tone," but "the partisan volleys seemed to sail over or past Judge Alito, who politely but resolutely declined to be drawn out on abortion, executive authority and other issues. He often sat impassively as the committee members debated his qualifications and forthrightness."

The Financial Times (1/12, Waldmeir) reports Alito "has proved a monochrome, dispassionate and unflappable witness, ignoring insult, slight and political controversy, never taking the bait of those allied against him." This "has made for crushingly tedious political theatre. Even some of the senators seem to be losing interest. … Mr Alito's performance – which involves answering every question unemotionally and legalistically, no matter how aggressive or passionate the questioner – may not make for high television ratings. But all the signs suggest that the sheer weight of his worthy if tedious performance will eventually crush the opposition."

The Christian Science Monitor (1/12, Chaddock, 61K) says Alito "has deftly parried questions on hot-button issues ranging from abortion to the limits of presidential power. No memorable phrases. No conspicuous stumbles. And -- most important -- no searing images of what life in 'Judge Alito's America' might be like." The Monitor adds, "To the frustration of anti-Alito groups staking out front seats in the hearing room, Democrats have been slow to get traction on issues critical to their base."

The New York Times (1/12, Nagourney, 1.19M) reports Alito "opponents" expressed "growing frustration Wednesday at the course of his confirmation hearings, saying that Democratic senators were struggling in their effort to build a strong case against him and that his confirmation appeared

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increasingly inevitable. Several said they had been particularly distressed after the first day of questioning of Judge Alito by the Senate Judiciary Committee, and had expressed that concern in calls and e-mail messages to Democratic aides on Tuesday."

There was also widespread coverage of Alito's hearings on local television newscasts. The stories tended to use metaphors that indicated the Judge had to deal with difficult questions. Most of the broadcasts also indicated that Alito handled the questioning well. Some stations ventured the opinion that Alito will be confirmed. For example, WSB-TV Atlanta (1/11, 6:17 p.m.) said, "Experts say Alito's nomination is all but certain. With every passing minute is it is more and more a foregone conclusion."

WAGA-TV Atlanta (1/11, 6:26 p.m.) reported, "Alito turned aside attacks on his judicial record at his confirmation hearings today. Despite increasing pressure the 55-year-old judge has kept his cool." KPHO-TV Phoenix (1/11, 6:39 p.m.) reported, "Democrats are turning up the heat, "but so far… Alito hasn't cracked under the pressure."

WEWS-TV Cleveland (1/11, 5:17 p.m.) reported, "Another day of partisan politics with disappointed Democrats hammering…Alito to be more forthcoming about his legal views."

Alito To Complete Testimony Today. CBS News Radio (1/12) reports this morning Alito "should wrap up his testimony this morning. Then the committee hears from other witnesses -- some for him and some against."

Novak Says Democrats "Shooting Blanks" At Alito. Syndicated columnist Robert Novak (1/12) writes that Massachusetts Sen. Ted Kennedy "and other Democrats on the Senate Judiciary Committee who had spent weeks preparing for Alito's Supreme Court confirmation hearing seemed to be shooting blanks at President Bush's nominee. …. Failure to make a direct hit on Alito suggests a transcendent defeat for the Democratic judicial confirmation strategy crafted by Kennedy. It did not block all conservatives for appellate courts and failed to dissuade Bush from naming conservatives to the Supreme Court." Meanwhile, "Republicans were amused at Democrats stressing Alito's membership in the Concerned Alumni of Princeton (CAP)."

Alito, Senators Citing O'Connor Frequently. The New York Times (1/12, Liptak, 1.19M) reports, "Senators from both parties have frequently used" Justice Sandra Day O'Connor's opinions "as a basis for questioning Judge Alito" in "a testament to her disproportionate influence on the court in her 25 years of service." Also, it is a "reminder of the important role Judge Alito will assume if he is confirmed." Alito and supporters "highlighted instances in which he had ruled as she had." Meanwhile, Democratic senators worked hard to show that Judge Alito and Justice O'Connor were at odds, particularly in an important abortion case." On Wednesday morning, Senator Coburn "had grown frustrated with all the O'Connor talk" and said, "'The fact that you have to fit the Sandra Day O'Connor mold is really a misapplication. … There is no precedent that would say that.'"

Hatch Says Kennedy Was "Trying To Score Some Points." Sen. Orrin Hatch said on MSNBC's Hardball (1/11) that Kennedy "was trying to score some points there and he was trying to, I think, set up a situation where he could complain and gripe and maybe even vote against Alito."

Cohen Criticizes Biden's Performance. Richard Cohen writes in the Washington Post (1/12, A21, 744K), "The only thing standing between Joe Biden and the presidency is his mouth. … The reviews for Biden's first crack at Samuel Alito, the humorless Supreme Court nominee, were murderous. The New York Times had Biden out on Page One -- normally a position to kill for -- only this time it was not a paean to his considerable merits, but an account of how it took him nearly three minutes of throat-clearing to ask his first question and then took the rest of his allocated 30 minutes just to get in four more. … The Post had a similar account of Biden running off at the mouth. … The tragedy is that Biden, who is running for president, is a much better man and senator than these accounts would suggest. But his tendency, his compulsion, his manic-obsessive running of the mouth has become the functional equivalent of womanizing or some other character weakness that disqualifies a man for the presidency." Biden "has much to say -- and then too much to add. He is an anatomical disaster. His Achilles' heel is his mouth."

Twenty Democratic House Members Come Out Against Alito. The Washington Times (1/12, Fagan, Dinan, 90K) reports, "Democratic congresswomen yesterday said Judge Samuel A. Alito Jr.'s failure to define abortion as a guaranteed right makes him unfit to sit on the Supreme Court, but senators said they are taking a wait-and-see approach. 'We believe that Judge Alito poses a direct threat to the rights of women in America,' 20 House Democrats wrote in a letter urging senators to block…Bush's nominee."

NYTimes Finds "Quiet Bombshells" In Alito Hearings. The New York Times (1/12, 1.19M) editorializes about several issues that have emerged in the Alito hearings, finding that the nominee has dropped several "quiet bombshells." The New York Times finds "evidence of extremism" in Alito's praise of Judge Robert Bork and membership in the Concerned Alumni of Princeton. The paper is also troubled by Alito's possible opposition to Roe v. Wade, alleges Alito may support an "imperial presidency," and says that Alito has repeatedly "taken the side of big corporations against the 'little guy,' supported employers against employees, and routinely rejected the claims of women, racial minorities and the disabled." The Times concludes that Alito's testimony "should trouble moderate

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Republicans, especially those who favor abortion rights or are concerned about presidential excesses."

WSJournal Says Concerned Alumni Allegations Are Old News. In an editorial, the Wall Street Journal (1/12, 2.11M) says that focusing on the Princeton group is "a sign of how little Democrats have on Supreme Court nominee Samuel Alito." The Journal says that because Democrats can't attack Alito's "credentials or his mastery of jurisprudence," they are now trying "guilt by ancient association." The Journal says Kennedy and Sen. "Chuck Schumer" implied Alito "was racist and sexist by linking the nominee with the views of some members" of the Concerned Alumni of Princeton, a line of questioning that "was mean enough that Judge Alito's wife left the hearing room" after Graham's questions. When Alito said he couldn't recall his membership in the Concerned Alumni of Princeton, the Journal opines, Alito "was then tarred as dishonest." The Journal notes that Kennedy cites several decades-old articles on the Concerned Alumni (including a Wall Street Journal editorial) and concludes, "if this irrelevant arcana is the most his opponents have, he can start measuring his new judicial robes."

Michelman Likens Alito Hearings To Bork, Thomas Hearings. Under the headline "Kate Michelman, The Public Face Of a Woman's Right to Privacy," the Washington Post (1/12, C1, Weeks, 744K) reports that Michelman, "the face of reproductive rights," has "been at the forefront of one of this country's thorniest debates. She was president of NARAL Pro-Choice America from 1985 to 2004. She is scheduled to testify this week in opposition to the nomination of Samuel Alito to the Supreme Court. And she has written a new book, 'With Liberty and Justice for All: A Life Spent Protecting the Right to Choose.' Last night several hundred friends and well-wishers showed up at the Woman's National Democratic Club near Dupont Circle for cheese, wine and a celebration Michelman's book and her mission. Guests included former secretary of state Madeleine Albright, Del. Eleanor Holmes Norton and Rep. Jim Moran (D-Va.)." the Post notes that Michelman says the confirmation hearings for Supreme Court nominee Samuel Alito ""triggers memories of the Robert Bork confirmation hearings in 1987. Michelman was scheduled to testify then, too. But she and leaders of other advocacy groups decided that Bork was going to cook his own goose, so she decided not to speak. She is also reminded of the Clarence Thomas hearings in 1991. She did testify then. Like Alito, Michelman said, 'Thomas also said he was open-minded' on the landmark abortion-rights case, Roe v. Wade. But he has tried at every opportunity to overturn that decision, she said."

More Commentary. In his column in the New York Times, (1/12) David Brooks opines that Alito would have been a Democrat if he had been born earlier. 1950s Democrats, Brooks writes, were strong in "places like Trenton, where Alito grew up." But the 1960s changed the Democratic Party, as "cultural politics replaced New Deal politics, and liberal Democrats did their best to repel Northern white ethnic voters." Brooks finds Republicans compare more favorably to Democrats in appealing to average voters. Brooks concludes that the Alito hearings highlight "that sometime between 1932 and 1968, the DNA of the Democratic Party fundamentally changed" from "working-class" DNA to "DNA of a minority party."

USA Today (1/12, 2.31M) editorializes, that over the two days of hearings, "it has seemed that for every senator who questioned Alito thoughtfully — and there were several — three others were more interested in hearing themselves talk." USA Today rebukes Sen. Joseph Biden and Sen. Lindsey Graham, while praising Sen. Arlen Specter and Sen. Patrick Leahy. USA Today condemns "bloviating" senators and opines that "it's too bad so many senators seem so disinterested in gathering facts to make an informed, independent choice."

In a second editorial, USA Today (1/12, 2.31M) contends Alito is saying little when answering senators' questions. This silence, USA Today says, "tends to reinforce doubts raised by Alito's record." USA Today finds troubling contrasts between Alito's responses and those of Chief Justice John Roberts when he faced the committee. Among other examples, the paper cites the nominees' divergent statements on Roe v. Wade, which Roberts called "'settled as precedent,'" and Alito called "an 'important precedent.'" USA Today concludes that the "strategy of silence amounts to low short-term politics at high long-term risk."

Bush Expected To Focus On Health Care In 2006. President Bush is preparing to focus on health care as the "centerpiece of his 2006 domestic agenda," the Wall Street Journal (1/12, McKinnon, Lueck, 2.11M) reports. While the Administration "is unlikely to propose major new federal spending" it is "considering expansions of several earlier proposals aimed at using market forces to improve the quality and restrain the rapidly rising cost of health care." The Journal says the "outlines of the health-care system it envisions are becoming clear. It would rely less on generous insurance provided by employers that insulate individuals from the cost of their choices. Instead, it would rely much more on market forces, individual (as opposed to employer-provided) insurance, tax credits to help the uninsured, provider competition and using the Internet to provide consumers with more, better data about the care quality and prices charged by doctors and hospitals."

Card Says 2007 Budget Will "Tighten The Belt." Speaking at the US Chamber of Commerce yesterday, White House Chief of Staff Andrew Card said the Administration's budget blueprint for 2007 will "tighten the belt." Reuters

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(1/11, Cornwell) reported that Card "gave no budget details in a speech that was short on particulars and long on reminders that the country was at war and that sacrifices were required. He also spoke mysteriously about a 'dark cloud that seems to be gathering around the political world' but did not explain." The White House "was in the final stages of drafting a 'very disciplined' new budget for fiscal 2007, starting October 1, Card said. 'It will fund the appropriate priorities of winning the war on terror, securing the homeland, but it will say, "Tighten the belt,"' he said. … Card said the 2007 budget will 'make the tough decisions about which programs are necessary, and fund them appropriately but exercise prudence with the taxpayers' money.'"

Flake Seeks To Reform Process Of Earmarking. The Washington Times (1/12, McCaslin, 90K) reports in its "Inside the Beltway" column that Rep. Jeff Flake "is out to from the practice of earmarking." In a letter to house Speaker Dennis Hastert, Flake wrote, "Unfortunately, we Republicans have taken earmarking to an unprecedented level. It is now our responsibility to clean it up." Flake "goes so far as to say that it is 'no secret that over the past several months, our reputation as a governing majority has taken a beating. It is clear that continuing...indictments, possible indictments, plea deals, tainted campaign contributions, etc., has severely eroded public trust."

Treasury Undersecretary Adams Profiled. USA Today (1/12, Lynch, 2.31M) profiles Treasury Undersecretary for International Affairs Timothy Adams, describing his job as scanning "the globe trying to spot economic brushfires before they become infernos. Right now, he doesn't see much to worry about. But he's still looking. 'If I weren't paid to worry, I would argue that the glass is half full and there's a lot that we should celebrate. But my job isn't to celebrate; it's to think about how this all could go awry,' Adams, undersecretary of Treasury for international affairs, said recently." Adams "moved into one of the department's top posts after serving as chief of staff to then-Treasury secretary Paul O'Neill and several years as a Washington consultant. He also worked in the administration of President George H.W. Bush."

VA IG Wins Alexander Hamilton Award. The Washington Post (1/12, A19, Lee, 744K) reports that the Inspector Generals Office of the Veterans Affairs Department have been awarded the Alexander Hamilton Award, which recognizes the "foremost effort by an inspector general to improve efficiency and effectiveness of executive branch operations. The Post adds, "Initially Congress created 12 independent audit and investigative offices, and every affected agency opposed them. Over the past 27 years, inspectors general have become a fixture of the bureaucracy. Their ranks have grown to 57 -- more than half appointed by the president -- and their offices employ 11,400 auditors, investigators, inspectors and other professionals."

Abramoff Scandal Prompts Rush To Reform Lobbying System. USA Today (1/12, Drinkard, 2.31M) reports a "scramble is on to write new rules restricting how lobbyists ply their influence trade as the capital is embroiled in a spreading corruption scandal." Bills "aiming to chill the relationships between lobbyists and members of Congress, stalled for months, are now on a fast track as leaders battle the perception of misconduct." Rep. Marty Meehan, who has sponsored one proposal, said, "These scandals aren't going away. What we know is probably only a fraction of the story." USA adds that after former lobbyist Jack Abramoff's guilty plea, "the rush began." Senate Majority Leader Bill Frist and House Speaker Dennis Hastert "have ordered packages of new ethics rules intended to take effect before lawmakers face voters in November." House Rules Committee Chairman David Dreier, R-Calif., "who is drafting the House package, said it likely will include a ban on members of Congress taking fact-finding trips paid for by private interests." Dreier said he "also is looking at increasing the amount of information available on lobbyists' activities, including their campaign contributions and fundraising efforts." USA adds in the Senate, "the bill drafting has been assigned to Sen. Rick Santorum, R-Pa."

The Washington Post (1/12, A4, Birnbaum, 744K) reports Congress is "poised to pass measures early this year that would clamp down on lobbying activity and possibly end some lawmaker travel." Proposals are "coming from members of both political parties. A touchstone for all sides, however, is the plan introduced last month by Sen. John McCain (R-Ariz.) and Rep. Christopher Shays (R-Conn.)." The McCain bill "would beef up lobbying disclosure considerably and cover grass-roots lobbying campaigns, which now go unreported. It would also require lobbyists to report each fundraising event that they host or sponsor for candidates for federal office, including the amount raised." But "one particularly powerful group is gearing up to oppose several of the most sweeping proposals: lobbyists. Lobby organizations ranging from the U.S. Chamber of Commerce to the American Society of Association Executives (ASAE) are concerned that some of the measures under consideration would overburden them with paperwork or unfairly limit their ability to do their jobs. They are already planning to lobby against those parts of any new lobbying law."

Lobbyists Now Seen As Ingrained In DC Political Culture. The Washington Post (1/12, A1, Edsall, 744K) reports in a front page story on "the capital's changing mores" on lobbying. Although the "excesses of Jack Abramoff have captured the news, a wide range of other practices -- rarely

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publicized and fully legal -- reflect the steady dismantling of the wall between lobbyists and members of the House and Senate." Fallout "from the Abramoff scandal is likely for a time to chill certain aspects of the capital culture, in which access to power on Capitol Hill is lubricated by lobbyist-funded meals, travel and campaign contributions, according to congressional veterans of both parties. But some public interest advocates believe the relationships between lobbyists and politicians have become so institutionalized in recent years that fundamental change is unlikely, absent changes in the law." Since 1998, lobbyists "have served as treasurers of 79 lawmakers' campaign committees and leadership PACs, according to the Center for Public Integrity." In addition, major trade associations "have bought Capitol Hill townhouses for fundraisers so that lawmakers can quickly go back to cast votes and then return to the event." At election time, "many lobbyists put on a new hat and become political consultants, guiding incumbents to reelection. Afterward these lobbyists return to their traditional roles, being able now to ask for votes from those they helped put in office." The "pivotal point in Washington's changing culture, according to lobbyists and congressional ethics analysts, came in 1995, shortly after Newt Gingrich and his 'Republican Revolutionaries' roared to power in the 1994 midterm elections." Then-Majority Whip Tom DeLay "and his allies began the 'K Street Project' -- the pressuring of trade associations and lobbying firms to hire Republican, and to contribute to Republican campaigns if they wanted access to key leaders and committee chairmen in the House."

Rodriguez Calls For Eliminating Many "Reforms" For Transparency. In a Washington Times op-ed (1/12), Paul M. Rodriguez, the former managing editor of Insight magazine, says, "Instead of adding more rules, how's this for a good government concept? Simply eliminate the very rules that sprang out of the Watergate-era campaign finance laws or many of the 'reforms' following the House Bank and House Post Office scandals. The concept isn't as far fetched as it sounds. Consider that it's one that has served well the residents of the Commonwealth of Virginia. The model is simplicity itself -- there are no restrictions governing political donations or gift giving other than making all of it public. What a refreshing thought when one stops for a minute to ponder that, so far as memory serves, such a system has not led to any scandals in Virginia. Total transparency between donors and recipients, actual dollar amounts and specific goodies received are all put into the public domain for anyone to see, report and contemplate."

Lobbyists' Group Urges Transparency In Lobbying Reform. The Washington Post (1/12, A19, Sarasohn, 744K) reports in its "Special Interests" column that the American League of Lobbyists "would like members of Congress to take a collective big breath and slow down a bit" as it considers the Abramoff scandal. Paul Miller, the group's president "said the group is not particularly opposed to major changes in lobbying rules. It simply wants 'transparency' in what the Congress is up to in the rush to reform. … Lawmakers could change their rules rather than pass laws to restrict members from taking fancy trips paid for by lobbyists, Miller said. He expressed concern about proposals to prevent lawmakers and staffers from going to work as lobbyists for two years after leaving the Hill. They generally are restricted from lobbying their former colleagues for a year. The one-year cooling-off period isn't being enforced, Miller said, and he doubts there would be any real enforcement on a two-year ban."

Shadegg May Enter Race For Majority Leader.

The Wall Street Journal (1/12, Rogers, 2.11M) reports that as "the two front-runners slowed" in the House GOP race for majority leader, Rep. John Shadegg "edged closer to entering the nasty Republican contest." Shadegg "stepped up calls seeking support from colleagues, and his allies were optimistic that the six-term Arizona lawmaker will offer a more change-oriented alternative to the two establishment figures in the field," current Majority Whip Roy Blunt and Rep. John Boehner, chairman of the House Education and Workforce Committee. Shadegg's office "said no final decision had been made on the leadership race, but issued a statement critical of Reps. Blunt and Boehner for not being aggressive enough, in the congressman's words, 'to clean up our act in the wake of the recent ethics scandals and get back to the agenda that brought us the majority in the first place.'" Speaker Dennis Hastert said, "At the end of the day, he hinted, he'd be in the race. I don't know what his decision is." The Journal adds that neither Blunt nor Boehner "appears close to the 116 votes needed to win. With so many Republicans uncommitted, Mr. Shadegg has the potential to shake up the race, forcing at least a second ballot and greater discussion of changes that many members are demanding."

CQ (1/11, Ota) reports Shadegg "began testing the waters for a possible bid." Shadegg said, "I think we need to clean up our act in the wake of the recent ethics scandals and get back to the agenda that brought us the majority in the first place. I am concerned that the two members currently in the race, whom I have a great deal of respect for, will not move aggressively enough in that direction. I will continue to talk to Members to gauge how many share that concern." CQ adds Shadegg's move "came as an effort by Blunt supporters to move up the date for the leadership election failed. Speaker J. Dennis Hastert declared that the election would be held Feb.2."

Reynolds Seen As Possible Consensus Candidate. U.S. News and World Report (1/12, Bedard) reports House GOP leaders "do not think" Shadegg "will move forward this week to challenge Ohio Rep. John Boehner and Missouri

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Rep. Roy Blunt for the House majority leader's post." A GOP leadership aide said if "neither Blunt nor Boehner can nail down the job within the next six to eight days, a move could be made to seek a consensus candidate. The leading alternative there, said several leadership officials and GOP consultants, is Rep. Tom Reynolds, head of the National Republican Congressional Committee." Insiders "close to the two campaigns to replace Rep. Tom DeLay as the permanent majority leader said that while Blunt is the leader, Boehner is gaining ground."

Boehner, Blunt Outline Ethics Reform Proposals. Reuters (1/12, Cowan) reports Reps. Roy Blunt and John Boehner, the "two candidates vying to become the next U.S. House of Representatives majority leader," yesterday "set forth their ideas" for "stamping out ethics problems that have threatened Republicans' control of the chamber beyond this year." Boehner "called for outlawing the earmarking of federal funds for special-interest projects sought by lobbyists, which do not go through the regular oversight process in Congress." Blunt, meanwhile, "called for banning privately-funded travel for House members and aides or at least requiring advance approval of such travel."

The New York Times (1/12, Hulse, 1.19M) reports that with the "need for new ethics and lobbying rules emerging as a central theme in the race for House Republican leader," Blunt and Boehner "engaged in an arms race over who supported the most stringent changes." Boehner, "trying to appeal to fiscal conservatives unhappy with an explosion in pet projects being inserted in broad spending bills, proposed banning such 'earmarks' unless they received individual Congressional scrutiny and approval." Rep. Blunt "backed Speaker J. Dennis Hastert's proposal to eliminate Congressional travel paid by special interest groups. Mr. Blunt's other proposals include penalties on lobbyists for violations of the Congressional gift ban. It is now improper only for lawmakers to accept gifts of more than $50, not for a lobbyist to provide such gifts." The Times adds it was "not just the leadership rivals seeking to replace Representative Tom DeLay who sought to up the ante over Congressional ethics." Minority Leader Nancy Pelosi "wrote Wednesday to Mr. Hastert, asking him to join her in urging the House ethics committee to investigate the conduct of Representatives Bob Ney of Ohio, Mr. DeLay of Texas and other lawmakers whose names have emerged in a federal lobbying inquiry."

Blunt's Ties To DeLay Could Result In Loss. The AP (1/12, Hananel) reports that if Blunt loses the race, he "can blame his close ties to former Majority Leader Tom DeLay and the desire for a clean break from controversy and scandal, according to members of Congress and other observers." As of Wednesday afternoon, Blunt "had at least 62 publicly declared supporters while Boehner claimed more than 30 supporters. It takes 116 votes from GOP members to win the post." Rep. Christopher Shays, R-Conn., "a GOP moderate backing Blunt and a longtime critic of DeLay," said, "Roy is a Midwestern conservative. He understands that a Republican in Connecticut is different than a Republican in Missouri and there needs to be room in our party for both." The AP adds Blunt has "taken a gentler approach to corralling the votes needed to pass legislation. He has served as both majority whip and majority leader since DeLay was forced aside to face money laundering charges, and the experience could give Blunt an edge in the race against Boehner." But some members "want something else. Rep. Anne Northup, R-Ky., who is backing Boehner in the race, wants to send voters a message that Congress is cleaning house."

Blunt Says He Has No Relationship With Abramoff. Fox News' Special Report (1/11, Garrett) reported that that Abramoff scandal is an issue in the race for House Majority Leader, as Republicans "try to distance themselves from Abramoff's admitted efforts to bribe lawmakers. [Interim House Majority Leader Roy] Blunt told FOX this about his relationship with Abramoff." Blunt: "As far as my records indicate, I never had a meeting with him in our office. And because I don't take gaming money, I apparently didn't take the kind of money that he had the most access to." Fox added, "And Blunt had this to say about the ongoing criminal investigation of Abramoff's dealing with lawmakers." Blunt: "I knew who he was. I didn't happen to have any kind of real professional relationship with him."

Blunt Denies Boehner's Claim That GOP Lacks Direction. Fox News' Special Report (1/11, Garrett) reported that in an interview with Fox News, Blunt "denied accusations from his Republican challenger, John Boehner, that the party lacks drive and direction." Blunt: "Any fair look at what we did last year indicates that we are on the right course. We had a great legislative year." Fox added that Blunt "has slightly more than half of the public commitments he needs to win. Some Republicans privately grumble that Blunt said, if he loses the race for leader, he will return to his former post of party whip, from which some fear he might punish those who worked against him."

Hastert Rejects Call To Move Up Election Date. The AP (1/12, Taylor) reports House Republican leaders "rejected calls to move up the election of a new majority leader to replace Tom DeLay before President Bush's State of the Union address Jan. 31." Speaker Dennis Hastert "decided Wednesday to stick with a Feb. 2 caucus election scheduled after DeLay, facing trial in Texas on charges of laundering campaign funds, said last weekend he would not try to regain the job." Blunt supporters "had called this week for holding the election before the House reconvenes Jan. 31." Meanwhile, "some House Republicans are pressing for more sweeping changes in their leadership. Rep. John Sweeney, R-N.Y., is drafting a petition calling for elections for several junior leadership posts. Every position but Hastert's would be at stake."

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Bloomberg (1/12, Litvan) reports some House Republicans, "including Representative Clay Shaw of Florida, had urged Hastert to call Republicans back to Congress earlier. In a letter to Hastert this week, Shaw and four other Florida Republicans said the elections might 'overshadow' Bush's speech."

Sweeney Calls For Election Of Lower House Leadership Posts. The Los Angeles Times (1/12, Curtius, 958K) reports, "Rank-and-file House Republicans on Wednesday launched a push to require every member of their leadership but Speaker J. Dennis Hastert to face elections for their posts Feb. 2, saying the step was necessary to convince the public that the party was serious about ethics and lobbying reform." Rep. John E. Sweeney "planned to start circulating a petition as early as Wednesday night asking for broad elections. The move underscored many House Republicans' belief that their leaders needed to do more to respond to the unfolding corruption scandal involving former lobbyist Jack Abramoff, if the party was going to keep its congressional majority in the November elections." Under Sweeney's petition, House Republicans "would hold elections for five leadership posts in addition to picking a successor to DeLay as majority leader."

Redistricting Could Make DeLay Reelection Effort More Difficult. The New York Times (1/12, Lyman, 1.19M) reports that Rep. Tom DeLay "is in the toughest re-election campaign of his 11-term House career, a battle that might be decided not only by his legal problems, but also by the Congressional redistricting plan he spearheaded in 2003. The redistricting led to the loss of six Democratic seats in Texas in 2004, but it also shifted thousands of Democratic voters to strong Republican districts. Among those, Mr. DeLay's 22nd District added several Democratic-leaning parts of Galveston County; several political analysts estimate they may have raised the district's Democratic vote around 5 percent." DeLay "will be running for re-election while standing trial in Austin on money laundering charges in a case over campaign financing. … Meanwhile, Washington waits to see what other indictments might flow from the Abramoff scandal." The Times adds, "Running in the reconfigured district for the first time in 2004, Mr. DeLay won handily, but with a smaller margin than in previous elections: 55 percent compared with his Democratic opponent's 41 percent."

Houston TV Stations Decide To Withhold Ad Accusing DeLay Of Corruption. Reuters (1/12, Franks) reports, "Several Houston television stations withheld a political ad on Wednesday accusing…DeLay of corruption after a lawyer for the former House majority leader said the ad was false and could lead to legal action. The ad, sponsored by public interest groups Campaign for America's Future and Public Campaign Action Fund, calls for DeLay to resign because of his indictment in Texas on campaign finance charges and his links to disgraced Washington lobbyist Jack Abramoff. 'All four of the major broadcast stations [in Houston] contacted to air the ad, as well as Time Warner cable, have stated they either will not run the ad or will keep it off the air for further review,' according to a statement sent out by DeLay's office. Some of the stations said during their newscasts they were looking at the ad to determine its credibility or that they had found some of the allegations to be questionable."

Nearly Half Of Federal Employees Want Additional Training. The Washington Post (1/12, B2, Barr, 744K) reports in its "Federal Diary" column that almost half of federal employees "would like additional training to improve their job performance, according to preliminary results of a survey by the Merit Systems Protection Board. Nearly 37,000 full-time government employees from 24 agencies participated in the survey, conducted last year. A summary of the findings appears in this month's Issues of Merit newsletter, published by the board's office of policy and evaluation, headed by Steve Nelson. Although 64 percent of survey respondents said they have received sufficient training to do their jobs, 46 percent said they would like additional training so that they can improve on their work. A huge majority, 81 percent, said the extra career development should be financed by their agencies and provided through formal training sessions. Slightly fewer, 77 percent, supported on-the-job developmental programs."

Cheney, Rumsfeld Create "Security Fuss" In Chinatown. The Washington Post (1/12,C3, Argetsinger, Roberts, 744K) reports in its "The Reliable source" column that Vice President Dick Cheney and Defense Secretary Donald Rumsfeld took their wives to a Defense Department dinner at Clyde's of Gallery Place on Tuesday night, "creating quite the security fuss in Chinatown -- many black sedans, men with earpieces. Upstairs in the private Piedmont Room, they nibbled on hors d'oeuvres (crab cakes, smoked salmon and dim sum) and then enjoyed Maryland crab soup and New York strip steaks."

Army Expected To Cancel Lockheed Spy Plane Program. The Wall Street Journal (1/12, Karp, 2.11M) reports, "The U.S. Army is poised to cancel a Lockheed Martin Corp. spy-plane program valued at as much as $8 billion, in the face of competing budget priorities and problems in the aircraft's development, according to industry and government officials." People "familiar with the program" say the Army is expected to announce the termination of the Aerial Common Sensor surveillance plane as early as today. The decision would be "a blow to Lockheed's main partner in

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the program, Empresa Brasileira de Aeronautica SA, or Embraer, the Brazilian aircraft company hoping to break into the U.S. defense market."

USA Today Says Report On Cisneros Probe Should Be Unsealed. An editorial in USA Today (1/12, 2.31M) argues that independent counsel David Barrett's report on his investigation of former Housing Secretary Henry Cisneros should be unsealed. USA says the probe "took too long, cost too much and achieved too little. But at least those failings were the result of honorable intentions: to expose and punish corruption by public officials. Burying his report now serves no such noble goal. Instead, it would give wrong-doers even more reason to believe they can abuse the public's trust, confident that their actions would be hidden from the public's view."

WSJournal Says Congress, Courts Should Leave Credit Card Industry Alone. A Wall Street Journal (1/12, 2.11M) editorial says, "Last year the credit card industry handled more than $2 trillion in consumer transactions and gobbled up nearly $30 billion in fees, according to the Nilson Report newsletter on the credit card industry. These fees are now the source of mounting angst among retailers, which have launched 47 antitrust lawsuits against the credit card companies for alleged collusion in setting these fees. Retailers have also rushed to Washington demanding that Congress impose a de facto price cap on credit card charges -- as Australia and the European Union have already done. This campaign against credit card fees and the clamor for price controls sound eerily familiar. A few years ago dim-witted politicians employed price controls to try to limit fees for using ATMs. In localities where that was tried, the result was not lower fees, but fewer ATMs, and thus much less convenience for customers." The Journal adds, "Congress and the courts should keep their paws off this industry and let the market give credit, where credit is due."

OTHER NEWS:

World Economy Said To Be Expanding But Imbalanced. USA Today (1/12, Lynch, 2.31M) says the world economy, "though expanding, is dangerously imbalanced. The resulting U.S. current account deficit — reflecting the gap between the nation's ravenous appetite for imports and its anemic savings — is now at levels that many experts fear could trigger a run on the dollar, soaring interest rates and global economic pain. Meanwhile, investment is pouring into risky emerging markets as if the past decade's turmoil in Argentina, Turkey, Thailand and Russia never happened." Nonetheless, both "the International Monetary Fund and the World Bank expect solid global growth of 3.2% this year, about the same as in 2005." USA adds, "To many economists, the swollen U.S. current account deficit looms as the biggest potential hazard. In a nutshell, the United States spends too much and saves too little, and Asia saves too much and spends too little. (Moribund Europe doesn't do enough of either.) No one knows for certain when the day of reckoning will come." But economists "say the USA and the world cannot go on like this indefinitely."

Stocks Gained Wednesday. Stocks posted gains yesterday. The Wall Street Journal (1/12, Patterson, 2.11M) reports that the Dow Jones Industrial Average closed up by 31.86 points to 11043.44. The Standard & Poor's 500-stock index "added 4.49 points to 1294.18 and the Nasdaq Composite Index gained 11.04 to 2331.36."

Harvard Economist Argues Economic Growth Is Morally Uplifting. Robert Samuelson writes in the Washington Post (1/12, A21, 744K) that Benjamin Friedman, a Harvard economist, 'has written a hugely provocative book ('The Moral Consequences of Economic Growth') arguing that rapid growth is morally uplifting. 'Economic growth -- meaning a rising standard of living for the clear majority of citizens -- more often than not fosters greater opportunity, tolerance of diversity, social mobility, commitment to fairness, and dedication to democracy,' he writes. Further, the opposite is true. Poor growth feeds prejudice, class conflict and antidemocratic tendencies." Samuelson adds, "Friedman has identified a tendency, not an iron law. Still, his moral case for economic growth is solid. It's true that growth alone rarely creates happiness. Beyond a certain income, happiness depends on family relationships, a sense of belonging, personal beliefs. But growth surely can cure misery."

Bernanke Expected To Be More Of A Consensus Builder Than Greenspan. Knight Ridder (1/12, Hall) reports that as Ben Bernanke takes over the job of Federal Reserve Chairman, he is "to distinguish himself from [outgoing Chairman Alan] Greenspan as more of a consensus-builder and clear-speaking communicator. He must do it while still establishing his authority over an institution historically run by strong-willed chairmen with deeper real-world experience than he brings to the role." Knight Ridder adds, "Five former Fed governors told Knight Ridder in interviews that Bernanke will have to earn the trust of financial markets. The five also expect Bernanke to be more considerate of opposing viewpoints than was Greenspan, who sometimes left Fed governors feeling that their views were marginalized."

Ehrlich Plan For Funding Stem-Cell Research Will Favor Non-Embryonic Projects. The Baltimore Sun (1/12, Skalka, Bor, 296K) reports that Maryland Gov.

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Robert L. Ehrlich Jr.'s "$20 million plan for funding stem cell research sparked sharp criticism Wednesday from scientists and legislators after a key state official disclosed that preference will be given to work on non-embryonic stem cells. With leading Democratic legislators renewing their call for support of embryonic stem cell research, the lines were clearly drawn for a debate that will dominate the General Assembly session that began Wednesday." Hours after Ehrlich "discussed his plan to commit $20 million in state money to stem cell research at a news conference Wednesday in Baltimore," the governor's "top science adviser, Chris Foster, said he doesn't believe the money would be best spent on embryonic stem cell research. 'I don't think at this time that we need to' fund embryonic cell research, said Foster, deputy secretary of the Department of Business and Economic Development." Foster "said the state would entertain applications for embryonic research but there would be a preference for non-embryonic research, a position that brings Ehrlich closer to President Bush on this contentious issue."

The Washington Times (1/12, Ward, 90K) notes, "The research funds, under the governor's proposal, would be disbursed through a committee controlled by his administration, alleviating concerns among Maryland religious groups that the studies would involve embryonic stem-cell research, considered a form of abortion by some. 'Clearly, no one is going to be funding embryonic, because in 25 years, there have been nothing but miserable failures,' said Nancy Fortier, an associate director at the Maryland Catholic Conference. 'Nonembryonic is what is being used to treat cancer, blindness, heart disease, Parkinson's disease." However, Ehrlich "did not rule out embryonic research. 'If it's embryonic with the best chance for therapeutic results, it will be embryonic,' said Mr. Ehrlich." The governor "said a committee, yet to be named, at the Maryland Technology Development Corporation (TEDCO), 'will make those decisions.'"

Scientist Says Stem Cell Research Must Proceed Without Hype. David A. Shaywitz, an endocrinologist at the Harvard Stem Cell Institute, writes in the Washington Post (1/12, A21, 744K), "The rapid ascent of stem cell research into the spotlight reflects the collision of exciting science with uncharted ethics. President Bush's Aug. 9, 2001, prohibition on the use of public funds to create new human embryonic stem cell lines ignited interest in this field, even as it made it much more difficult for American scientists to conduct the research. The concern that important medical science was being deliberately thwarted by the federal government enraged many patient advocates and further ratcheted up the demand for results. … The good news is that underneath all this mess, stellar science really is happening. Stem cells have proved even more captivating than we could have imagined, and understanding the process by which a stem cell progressively differentiates into a specialized cell such as a neuron or a pancreas beta cell is perhaps the most compelling biology question for our generation. Stem cells have sparked our interest for good reason. But we're not going to figure out how they work overnight; it will take a very long time and require our best minds, as well as our collective effort (and, ideally, our collective dollars). … Difficult or not, good research is the only responsible way to proceed. If the promise of stem cells is to be fulfilled, the pursuit will require a solid scientific foundation, one grounded in reliable, reproducible facts and not simply supported by hype and hope."

With States Awash In Cash, Governors Proposing Bold Spending Plans, Tax Cuts. The Wall Street Journal (1/12, A4, Solomon, 2.11M) reports, "Facing fat budget deficits, the Bush administration is preparing a tight 2007 budget that squeezes most domestic programs. Flush with cash, state governors across the country are doing the opposite." California Gov. Arnold Schwarzenegger (R) "proposes a $222 billion bond offering because, he says, 'we need more roads, more hospitals, more schools.'" Arizona Gov. Janet Napolitano (D) "seeks '$100 million in smart tax relief that strengthens our economy and invests in new technologies.' In 'State of the State' speeches now echoing through state capitols, others propose a beefed-up minimum wage and tax credits to help with energy costs. It's a far cry from the somber tones many governors struck earlier in the Bush era, as they struggled with the plunge in revenue that followed the 2001 recession." The Journal adds that "many governors spent the first half of this decade cutting expenses and raising taxes to meet state balanced-budget requirements. The revenue surge that accompanied economic recovery has left them in the black at an opportune time: the 2006 election season."

Schwarzenegger Chief Of Staff To Help Reelection Fundraising Efforts. The Los Angeles Times (1/12, Salladay, 958K) reports that California Gov. Arnold Schwarzenegger "is dispatching his newly appointed chief of staff to woo wealthy Republican donors for his reelection effort, injecting his most influential policy advisor into the job of collecting money for his campaign. Susan Kennedy, once a top-level Democrat, will play a key role in the governor's reelection bid, the administration confirmed Wednesday. She is being paid campaign funds in addition to her $131,000 government salary and will mix freely with influential contributors." Paul S. Ryan, "associate legal counsel at the Campaign Legal Center in Washington, D.C., said allowing donors access to Kennedy creates 'the appearance of corruption in California. If you are fortunate to afford the price of admission, then you automatically gain

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access that the vast majority of Californians do not have.'" Under California law, Kennedy is permitted "to attend fundraisers for the governor and work on his campaign, as long as she is doing it on her own time." Schwarzenegger communications director Rob Stutzman "said Kennedy would take vacation days to meet donors and work on the campaign, and would 'absolutely' separate her policy job from the fundraising effort."

Ashcroft's Firm Took In $269,000 In Last Half Of 2005. The Washington Post (1/12, A19, Sarasohn, 744K) reports in its "Special Interests" column that according to year-end disclosures, former US Attorney General John Ashcroft's lobbying shop "brought in $269,000 for the last six months of 2005. … Many of Ashcroft's restrictions on lobbying his former Justice colleagues expire early next month."

More Companies Expected To Freeze Pensions. The Wall Street Journal (1/12, Schultz, Forelle, Francis, 2.11M) predicts that more companies will cut back on pension benefits as "an unusual alignment of financial conditions makes such moves more lucrative than usual. Two trends have emerged in the broad shift away from traditional pensions, which provide workers set benefits based on their salary and years of service. Financially strapped companies such as airlines and auto makers are garnering much of the attention as they seek to ditch their badly underfunded pension liabilities and try to stay afloat. Meanwhile, relatively healthy companies -- many with fully paid-up pension plans -- are seeking to shift to retirement programs that put more of the burden for savings and planning on employees." The Journal adds, "Current interest rates offer employers the possibility of a particularly big income boost if they freeze their pensions, effectively wiping out part of a debt owed to future retirees. While assets in a plan still will be paid out when workers retire or leave the company, benefits don't grow with additional years on the job."

Clinton Foundation Negotiates Lower Costs For AIDS Treatments. Former President Bill Clinton is expected to announce today that his foundation, the William J. Clinton Presidential Foundation, has negotiated lower process on AIDS tests and two AIDS drugs. The New York Times (1/12, McNeil, 1.19M) reports, "Four companies, from the United States, India and China, will offer rapid H.I.V. tests for 49 cents to 65 cents, which will reduce the typical cost of a test in poor countries by half, Mr. Clinton said in a written statement. Another four companies - three from India and one from South Africa - will make the antiretroviral drug efavirenz for as little as $240 per patient per year. One of the Indian companies, Cipla, will also make the antiretroviral abacavir for $447."

The Wall Street Journal (1/12, Schoofs, 2.11M) adds, "The Clinton team worked to lower prices by helping obtain cheaper ingredients to manufacture drugs. For example, one chemical ingredient accounts for most of the cost of making the drug abacavir. The foundation found an alternative supplier willing to slash the price for that ingredient, according to people at the foundation and at the manufacturing company, Matrix Laboratories Ltd. of India. To make efavirenz another raw material is crucial but expensive, so the foundation approached a university researcher and asked him to develop a cheaper method of synthesizing that ingredient, which he has done."

WPost Says Maryland Bill Is Aimed At Wal-Mart. An editorial in the Washington Post (1/12, A20, 744K) says state lawmakers in Maryland are preparing to "impose legislation" on Wal-Mart "so arbitrary that it may achieve the near-impossible feat of casting Wal-Mart as the victim. The Maryland bill would force firms with more than 10,000 in-state employees to spend at least 8 percent of their payrolls on workers' health insurance plans or make compensatory payments to the state. Only three other Maryland employers have more than 10,000 workers on their payrolls -- Johns Hopkins University, Northrop Grumman Corp. and Giant Food Inc. -- and they already meet or exceed the 8 percent threshold. Apparently, only Wal-Mart, with about 15,000 full- and part-time employees in Maryland, does not; thus the bill applies uniquely to Wal-Mart." The Post adds, "The Maryland bill is a legislative mugging masquerading as an act of benevolent social engineering. … And unlovable as it may be, Wal-Mart serves low- and middle-income people, both by creating entry-level and part-time jobs for people who might otherwise be unemployed and by saving its moderate-income customers a staggering amount of money."

Rice Secures Russian Support On Iran. The Washington Post (1/12, Linzer, 744K) reports this morning, "The Bush administration, working intensely to galvanize international pressure on Iran, has secured a guarantee from Russia that it will not block US efforts to take Tehran's nuclear case to the UN Security Council, American and European officials said yesterday." The "commitment," adds the Post, was "made in a Tuesday night phone call between Russian Foreign Minister Sergei Lavrov and Secretary of State Condoleezza Rice." It "will likely help the United States and its European allies win support from key countries weighing a tougher line in response to Iran's resumption of sensitive nuclear work." The AP (1/12, Karimi) reports that Rice had discussed the situation by telephone with IAEA chief Mohamed ElBaradei and British Foreign Secretary Jack Straw, while noting that "Iranian President Mahmoud

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Ahmadinejad shrugged off the international outcry. 'Unfortunately, a group of bullies allows itself to deprive nations of their legal and natural rights,'" he was quoted as saying.

Television coverage of the Iran situation was sparse, with only ABC Evening News (1/11) mentioning the story among the broadcast networks' evening-news programs. ABC reported that "western nations will likely seek economic sanctions from Iran for resuming its nuclear program." Meanwhile, the New York Times (1/12, Weisman, 1.19M) characterizes the standoff as a "contest of wills," and cites comments by Vice President Dick Cheney Wednesday "that the United States would seek the adoption of 'a resolution that could be enforced by sanctions, were they to fail to comply with it.'" On Fox News' Special Report (1/11, Baier), Cheney was shown saying, "They have been offered that opportunity, guaranteed source of fuel that would be enriched only to the level necessary to run civilian reactor. The Russians would take back the spent fuel so it could be reprocessed and they have not been satisfied with that. They want the ability to enrich the uranium themselves and that would take it up to the next level of purity."

The PBS Newshour With Jim Lehrer (1/11) also made mention of the crisis, quoting British Prime Minister Blair's Wednesday speech in the House of Commons in which he expressed "deep dismay" at the escalation. According to the Financial Times (1/12, Khalaf, Dombey), Blair "vowed to report Iran to the United Nations Security Council." The Christian Science Monitor (1/12, Ford, 61K) runs a similar report.

Meanwhile, the Washington Post (1/12, 744K) editorializes today that "Iran's resumption of uranium enrichment dramatically narrows the options of Western governments. … And thanks to better footwork by the Bush administration, European governments no longer have the option of blaming the United States for the failure of diplomacy."

In addition Farouz Farzami, an Iranian journalist "who is forbidden to publish in her own country," writes in the Wall Street Journal (1/12, 2.11M), "On the surface, it would appear that pressure from the United Nations and the United States has little effect on the mullahs who rule Iran. The opposite is true." In fact, "if you look past this headline-generating bluster, you see that Western pressure is having an effect. The hard-line position of the Iranian government has begun to splinter. There are now three minds about this issue in the Majlis, the Iranian parliament: A categorical rejection of the Russian proposal to allow Iran to enrich uranium at its facilities, a compromise that would deny Iran the privilege of enriching uranium on its own soil. Modifying the Russian proposal to allow for enrichment to occur in both Russia and Iran. Suspending all enrichment until further notice or even to some agreed-upon future date, to defuse tension and rebuild confidence with the European Union." He adds, "The existence of these more conciliatory positions in a Majlis completely composed of religious hard-liners is a surprise. (A fourth point of view unrepresented officially, since reformers have been thrown out of the government, calls for Iran to comply with the U.N.'s demands and give up on enrichment of nuclear fuel altogether.)"

Also Dariush Zahedi, a political scientist at the University of California at Berkeley, and Omid Memarian, an Iranian journalist and blogger, write in the New York Times (1/12, 1.19M) that Iran "seems to be courting confrontation. But Western leaders would do well to consider what President Mahmoud Ahmadinejad's bravado really says about Iran's likely posture in the region and at the nuclear talks that are scheduled to resume at the end of January. To continue down the path of conflict could be very costly, both for the regional interests of the United States and most of all, for the territorial integrity of Iran." Ahmadinejad "appears to be acting on the perception that the United States is in a position of considerable, indeed unprecedented, weakness. America's military is overstretched in Iraq and Afghanistan, and Washington has focused on monitoring North Korea's nuclear program rather than Iran's. If threatened, Iran could wreak havoc in Afghanistan, Iraq, Lebanon and Israel. These observations may lead Mr. Ahmadinejad to an incorrect assessment of Iran's strength relative to any American threat."

Rice Threatens Syria With UN Action. The Washington Post (1/12, Gearan, 744K) reports "Secretary of State Condoleezza Rice issued a new threat Wednesday to haul a defiant Syria before the UN Security Council if Damascus does not cooperate with an investigation into a political assassination in Lebanon." Syria, says the Post, "has failed to heed UN Security Council warnings about its behavior in Lebanon and elsewhere, Rice said, ... and the United States opposes 'any deals or compromises' with Damascus that would undermine the investigation." Reuters (1/11) also reports on Rice's "strongly worded statement," in which she cites what she called Syria's "destabilizing behavior and sponsorship of terrorism." The AP (1/12, Gearan), Bloomberg (1/12, Zacharia) and Wall Street Journal (1/12, King Jr., 2.11M) also report the story.

Likud Cabinet Members Plan To Resign. The Washington Times (1/12, 90K) reports, "Cabinet ministers from the Likud Party were to resign from the coalition government today, signaling an end to a weeklong political cease-fire following the massive stroke that felled Prime Minister Ariel Sharon." This will "will have little practical impact on the government, which will serve only as a caretaker until the March elections. Likud hopes to sharpen the distinctions between itself and Kadima as it goes into the

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campaign." While Sharon "could remain in the hospital for months," his "recently formed Kadima party is a strong favorite to form the next government, even with his likely successor, Ehud Olmert, at the helm."

Doctors Say Brain Damage Likely For Sharon. The Washington Times (1/12, Price, 90K) reports, "The movement that Israeli Prime Minister Ariel Sharon experienced on both sides of his body after a massive stroke last week bodes well in terms of his survival, but he could live with brain damage." Dr. Jose Cohen, one of Mr. Sharon's neurosurgeons at Hadassah University Medical Center in Jerusalem said that the stroke "certainly would have caused cognitive damage." However, only "after Mr. Sharon is weaned from the sedatives" can "his doctors in Jerusalem can assess brain damage and function."

Israel Halts Negotiations On Christian Center Over Robertson's Comments. The New York Times (1/12, Myre, 1.19M) reports, "Israel said Wednesday that it was breaking off negotiations on a tourism project with the evangelical leader Pat Robertson in response to his remarks suggesting that Prime Minister Ariel Sharon's stroke was divine retribution," although it "would be willing to continue the talks without him."

Hoagland Says Stoke May Have Ended Chance Of Palestinian Democratic State. Jim Hoagland writes in his column in the Washington Post (1/12, A21, 744K) that the United States, its European and Arab allies, and the United Nations "are visibly failing" to make "Israel's unilateral withdrawal from the Gaza Strip into a catalyst for the creation of an independent, viable Palestinian state." The spreading "chaos in Gaza and Ariel Sharon's sudden incapacitation by a severe stroke are destabilizing blows to President Bush's proclaimed strategy for transforming the Middle East into a zone of democracies," and now "Bush must reassess whether he can get there from here," as "without Sharon in power, the odds drop to virtually zero" for creating a democratic Palestinian state.

US Looking To Reopen Nuclear Talks With North Korea. The Atlanta Journal-Constitution/AP (1/12, Kim) reports that U.S. ambassador Alexander Vershbow said in a speech in Seoul that "the United States wants to quickly resume nuclear talks with North Korea." Assistant Secretary of State Christopher Hill said "he would seek information in Beijing on the latest North Korean thinking from its closest ally."

Negroponte Announces Intelligence Mission Managers For North Korea, Iran. The New York Times (1/12, Jehl, 1.19M) reports, "The director of national intelligence, John D. Negroponte, has created new 'mission managers' for Iran and North Korea, adding those two countries to a short list of top-priority challenges for American intelligence agencies," Joseph DeTrani is responsible for North Korea, and S. Leslie Ireland for Iran. They "will be responsible, among other things, for identifying and filling gaps in intelligence on those two countries." Last year the Robb-Silberman commission, an independent panel appointed by President Bush, "described American intelligence on Iran and North Korea as woefully inadequate."

Whereabouts Of Kim Jong Il Remain A Mystery. Meanwhile, the AP (1/12, Kurtenbach) reports "the whereabouts of North Korean leader Kim Jong Il remained unclear Thursday, with a Hong Kong-based television network speculating he may be headed for the south Chinese city of Guangzhou, while other reports put him in Beijing or Russia." The Washington Post (1/12, 744K) places him in Shanghai, which if "true, analysts said that Kim's visit could represent an effort to win China's support for lifting U.S. economic sanctions." Reuters (1/12, Herskovitz) cites comments by US Ambassador Alexander Vershbow as saying: "We hope that he is there [China] and having high-level meetings."

China Unlikely To Use Economic Leverage Against North Korea. The Washington Times (1/12, Salmon, 90K) reports, "Pyongyang's nuclear ambitions are likely to figure in any negotiations North Korean leader Kim Jong-il holds in China this week, but Asian analysts see little chance that Beijing will use its growing economic clout to bring its neighbor to heel," even though "U.S. officials, ranging from Mr. Hill to Vice President Dick Cheney, have called in recent months for China to use its influence to press North Korea for greater cooperation in the nuclear talks." As "South Korea also has been reluctant to bring economic pressure on Pyongyang, partly for fear of falling further behind China in a long-term competition for trade opportunities in its northern neighbor," there has been "a narrowing of policy options for the United States."

Would-Be Bush Assassin Sentenced To Life Imprisonment In Georgia. The CBS Evening News (1/10, story 8, :45, Schieffer) reported, "A man who tried to assassinate President Bush last spring in the former Soviet Republic of Georgia was sentenced today to life in prison. The would-be assassin was an opponent of the government then in power in Georgia and he threw a grenade at a rally where the President was speaking. It landed in the crowd well short of the podium, but did not explode."

China Says Trade Surplus Tripled In '05. The New York Times (1/12, Barboza, 1.19M) reports, "China said on Wednesday that its trade surplus with the rest of the world had tripled in 2005, to a record $102 billion, a figure that could reignite global trade frictions and step up pressure on the government to allow its currency to appreciate further." These "figures suggest a changing role for China in the global economy, indicating that it will influence things like prices at

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Wal-Mart and global interest rates." However, "the growing bilateral trade deficit could strain ties between the United States and China."

The Wall Street Journal (1/12, Hiebert, 2.11M) adds, "some economists believe China's trade surplus could narrow this year because its imports have begun to pick up in recent months. Beijing is also seeking to reduce trade frictions by promoting domestic consumption." However, "economists point out that the overall U.S. deficit with Asia has remained roughly in balance over the past decade."

Communist Officials Said To Abuse Power To Enrich Selves, Cronies. The Washington Post (1/12, D1, Goodman, 744K) reports that American investor Terry Petty "had forged a venture with the son of a local Communist Party official to open a machine shop" in Shanghai." However, men hired by his partner "forced their way in, brandishing guns, sparring with workers and disabling machinery" after he refused to sell his stake. "Calls to the police proved futile, factory managers said, because the police took direction from local officials connected to the Chinese partner. … The case has garnered the attention of both the United States and Shanghai governments." With market reforms opening investment, "some Communist Party officials abuse their influence over local governments to enrich themselves and their cronies."

Chinese Proposal Suggests Power Project Could Use Fewer Dams. The New York Times (1/12, Yardley, 1.19M) reports, "A government environmental review has recommended reducing the number of dams included in a controversial hydropower proposal on the Nu River in southwestern China in order to limit environmental damage and decrease the number of people who would be resettled," calling "for 4 dams instead the 13 in the original Nu proposal." However, the Hong Kong newspaper that reported the story, Wen Wei Po, which has ties to the Communist Party, "suggested that the full 13 dams had not been completely ruled out."

Industry Polluting Much Of China's Waterways. The Washington Post (1/12, A12, Cody, 744K) reports, "The fouling of the Xiang River attracted wide attention, but it was far from unique as China struggles to reconcile breakneck economic growth with protection of the environment. After more than two decades of swift industrialization, a recent government report found that up to 70 percent of the country's rivers and lakes are seriously polluted." Although "extensive national regulations have been put into place," the "enforcement of environmental rules has often been lax, and the result has been frequent contamination of the waterways that China's 1.3 billion people depend on for drinking water."

WSJournal Says Private Economy Would Prevent Pollution. The Wall Street Journal (1/12, 2.11M) editorializes, "The recent news has been bad PR for the PRC" as "problems are popping up all over." While "it's hard to tell exactly how widespread the problems are, but we'd go out on a limb and guess, oh, 'pretty vast.'" Still, "if Beijing really wanted to tackle its environmental malaise, it would move faster to dump state enterprises and speed the development of a private economy in which managers are held accountable both for making a profit and for fouling the air and water," as "China's current environmental problems stem from its rampant misallocation of capital and resources over many decades."

Concerns Raised About Accuracy Of China's Bird Flu Reporting. The Washington Post (1/12, A13, Cody, 744K) reports, "The World Health Organization identified China's latest bird flu victims…who succumbed to the H5N1 strain of the virus last month in different parts of the country" and were only reported two days ago. "The Health Ministry's spokesman, Mao Qunan, spoke at length about bird flu at a news conference Tuesday but did not mention the additional deaths. Mao's omission and the delay in reporting the deaths to WHO fed concerns about the reliability of official information on the extent of bird flu" in China which, after "the SARS controversy…pledged to deal squarely with health information." However, "Chinese reporters have said they are frequently forced to seek information about China's bird flu situation from WHO or foreign publications because China's official sources refuse to provide it."

Turkish Authorities Struggle To Keep Up To 20 Avian Flu Outbreaks Under Control. ABC World News Tonight (1/11, story 7, 2:00, Woodruff) reported the virulent avian flu strain H5N1 "has suddenly spread west to Turkey, where nearly two dozen human cases have been confirmed in just a few days." ABC (Sciutto) added, "Today, they went from house-to-house here, government teams searching for birds and killing every one they found. Then, disinfecting the homes and themselves." Bird flu "is spreading through Turkey faster than anywhere else in the world. Three new human cases today, 18 in just one week." Dr. Joseph Domenech, United Nations: "The situation is worrying, because we have more outbreaks than we thought." Sciutto: "Normally, one or two in the country. Here, nearly 20 separate outbreaks cross Turkey."

Initial Turkish Response Criticized. The New York Times (1/12, Rosenthal, 1.19M) reports that international experts said Turkey's "slow initial response in detecting the arrival of bird flu three weeks ago has created a health crisis that may be very hard to correct." Dr. Joseph Domenech, chief of veterinary services at the United Nations Food and Agriculture Organization in Rome said "there was now a risk that the virus had become so entrenched in Turkey that it would be impossible to eradicate it," although "both he and

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United Nations health officials agreed that Turkey was now taking the problem 'seriously.'"

UN Tries To Prevent Panic Over Avian Flu Cases In Turkey. The Washington Times (1/12, Pisik, 90K) reports, "The United Nations yesterday sought to calm fears about the deadly avian flu virus as signs of near-panic spread through Turkey and its neighbors." Dr. David Nabarro, the coordinator of the U.N. response to the avian flu, "stressed that 'there is no evidence of human-to-human transmission in the Turkey outbreak.' He said each case appeared to be traceable to avian contact." World Health Organization officials also "praised Ankara's response to the crisis, but officials insisted that the counterinfluenza measures must be maintained."

Bird Flu Mutation May Make Bird To Person Transmission Easier. The Washington Post (1/12, A12, Williams, Sipress, 744K) reports that international health officials said "preliminary tests show that the strain of bird flu virus that has stricken at least 15 people in Turkey has evolved in a way that could make it somewhat more hazardous to human beings, although it still lacks the capacity to be passed easily from person to person." While "Influenza experts are studying the apparent change to determine its significance," they "say they believe the genetic change could make it easier for bird flu to pass from chickens to people."

OPEC Expected To See Record Oil Revenues. The Financial Times (1/12, Hoyos) reports that the US Department of Energy forecasts that "oil revenues of the Organisation of the Petroleum Exporting Countries, the cartel that controls 40 per cent of the world's oil supplies, will increase by 10 per cent to a record $522bn this year," which "should help keep interest rates low if members of the group continue to spend their increasing wealth in the US bond market."

Bush Signs Trade Pact With Bahrain. The New York Times/Reuters (1/12) reports, "President Bush signed a bill on Wednesday establishing a free trade agreement with Bahrain, the first such pact with a Persian Gulf country." It "requires Bahrain to eliminate its already low tariffs on American consumer and industrial goods and most agricultural products" while "the United States will eliminate tariffs on Bahraini goods."

Canada's Martin Accuses Opponent Of Being Too Close To Bush. The Washington Post (1/12, A18, Struck, 744K) reports, "Well behind in the polls two weeks before a parliamentary election, the governing Liberal Party led by Prime Minister Paul Martin this week brought what in Canadian politics is a most damning indictment: Martin's opponent is too close to the Americans." In Canada, "hostility toward the Bush administration is strongest in eastern cities, traditional strongholds of the Liberal Party. With opinion polls showing the party losing some of that support, Martin's strategists are trying to tap the sentiment," Nelson Wiseman, a political scientist at the University of Toronto said.

Low Turnout In US For Mexican Election Ballot Requests. USA Today (1/12, Keen, 2.31M) reports, "With the deadline" for Mexican expatriates to request ballots for Mexico's presidential election "looming, only a fraction of eligible Mexicans in the USA have participated because of confusion about the application, lack of interest in the campaign and concern that applying for ballots could result in problems with U.S. immigration officials." Out of "an estimated 4 million expatriates who have Mexican voting cards," only about 15,000 applied. "Some people left their voting cards in Mexico so relatives could pay property taxes in their absence or conduct other business" and others "who are here illegally threw away their cards to avoid having any identification." Interest also may be low because "no campaigning is allowed in the USA."

Analysts Worry Citgo Has Become Political Tool For Chavez. USA Today (1/12, Lynch, 2.31M) reports, "The question of" Hugo Chavez's "influence over Citgo was highlighted by the company's recent provision of 25 million gallons of subsidized home-heating oil to poor people in the northeast USA." Analysts "saw the move as a stunt by Chavez aimed at embarrassing the Bush administration. And some say Citgo's generosity…suggests the company may be turning into a political tool for Chavez" and "worry that Venezuela's ownership of more than 6% of U.S. refinery capacity gives Chavez…the power to cripple as well as comfort." However, "others note that imported oil from elsewhere eventually could compensate for any interruption in Citgo supplies" and that "a shutdown would cost him and his country dearly."

Merkel's Washington Visit Could Begin New Era In US-German Relations. Knight Ridder (1/12, Schofield) reports, "When new German Chancellor Angela Merkel sits down on Friday with President Bush in Washington, they'll be ushering in a new era of trans-Atlantic relations - that much is clear. But what those relations will be is less certain." While "Bush finally has a German friend in Merkel," she, "like much of Europe,…finds some of Bush's policies distasteful, and analysts are wondering how far she'll be willing to go in voicing disagreement." Still, "there's little doubt in Germany that she's the only European leader with the staying power to help Bush improve his relations with Europe."

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The Christian Science Monitor (1/12, LaFranchi, 61K) adds there is a question "whether the diplomatic defrosting portends a deeper restrengthening of US-German relations and indeed of transatlantic cooperation," and some experts say "the improvement in US-German atmospherics is not likely to reverse the general drifting apart in transatlantic relations."

Yushchenko Ignores Ukrainian Parliament's Vote To Dismiss Government. The New York Times (1/12, Myers, 1.19M) reports, "President Viktor A. Yushchenko of Ukraine on Wednesday criticized as illegitimate a parliamentary vote to dismiss his prime minister and government, deepening the country's political turmoil ahead of new elections in March." Prime minister, Yury I. Yekhanurov, "defied Parliament's vote…by presiding over a meeting of the government's ministers." The dispute "not only undermined" Yushchenko's "political position before the elections but also called into question recent constitutional changes that gave Parliament new powers, including the authority to dismiss the government."

Blair Appeals To Bush To Save Rolls-Royce Contract. The Financial Times (1/12, Alden, Spiegel, Blitz) reports, "Tony Blair, the British prime minister, has made a 'very forceful' personal plea to President George W. Bush to save a $2.4bn (€2bn) contract for Rolls-Royce and General Electric to develop a second engine for the Joint Strike Fighter," and "reverse a Pentagon decision to kill the engine before the proposed 2007 defence budget is sent to Congress." Those "familiar with the lobbying campaign said Mr Blair has lent his full muscle to the effort and involved several senior British officials, including Jonathan Powell, Mr Blair's chief of staff." However, "Despite industry and Whitehall insiders said yesterday that there is considerable debate within the British government about how forcefully to back Rolls with the Bush administration."

Blair Unveils Program To Deal With Anti-Social Programs. The Washington Times (1/12, Webb, 90K) reports, "British Prime Minister Tony Blair, introducing a key plank of his third and final term in office, has started a $140 million action plan dubbed 'Respect' to attack anti-social problems." He said that "the nation has been fighting '21st-century crime with 19th-century methods' and called for a system of speedy 'summary justice' to bypass traditional courts." Blair "envisions evicting out-of-control families from their homes…for up to three months, and rehousing them in a network of residential centers…to teach them how to behave." Another "key element in the action plan centers on efforts to control unruly children and to help their beleaguered parents." However, "critics immediately attacked Mr. Blair's plan, one dismissing it as 'rubbish,' and another describing it as a package of 'minor tweaks to existing measures and shock tactics.'"

Kazakh Election Poses Conundrum For West. The Washington Times (1/12, Pala, 90K) reports, "In a ceremony as rich in irony as in glitter, President Nursultan Nazarbayev, who has led Kazakhstan for 16 years, was sworn in yesterday for another seven-year term." Despite "widespread ballot-stuffing" and "unlike" Georgia, Ukraine, and Kyrgyzstan, "not a single street demonstration erupted to protest the vote. Opposition leaders said they did not want to be blamed if the government opened fire on demonstrators." The West faces "an unusual conundrum: how to deal with a genuinely popular dictator of an oil-rich and strategic country who, despite muzzling the press, stifling the opposition and brushing aside mounting evidence of nepotism and corruption, would have won easily without cheating."

Harvard Student Claims Detention In Zimbabwe. The Washington Post (1/12, A3, Fahrenthold, 744K) reports that Harvard University student Amar Bakshi "said Wednesday that he had been arrested in Zimbabwe during a trip to research his senior thesis, then held in grimy cells for five days before his parents and local lawyers managed to free him." He believes that "the key to his release might have been a surreptitious cell phone call he made soon after his arrest" Calling form "a bathroom, he told a friend that he had been pulled off an outbound airplane by plainclothes officers." While "Bakshi's account of the ordeal was reported previously by the Harvard Crimson, the student newspaper, and in Zimbabwe by the Standard, an independent weekly," any "official corroboration" was "difficult to find."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"A New Color In Brazil TV."
"Alito Remains Unruffled In Testy Hearings."
"Wine Imports Squeeze State's Vintners."
"A Fault Line For 'Intelligent Design'."
"Gov.'s Top Aide To Woo Donors."
"Homicides Up 15% In Sheriff's Territory."
"A Will-To-Rebuild Deadline Proposed For New Orleans."

USA Today:

"Match Wits With The Pros At Usatoday.Com."
"After 7 Years, Capsule Of Comet Dust Heads To Earth."
"Has Citgo Become A Political Tool For Hugo Chvez?"

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"Nerves Fray At Alito Hearing."

New York Times:
"Democrats Take Aggressive Tack; Alito Is Unfazed."
"East Meets West, Adding Pounds And Peril."
"Local Insurgents Tell Of Clashes With Al Qaeda's Forces In Iraq."
"Texas Redistricting Is One More Hurdle For DeLay."
"Birgit Nilsson, Soprano Legend Who Tamed Wagner, Dies At 87."

Washington Post:
"Anti-Crowding Law Repealed."
"Metro Drops Longtime Chief Executive White."
"General Asserts Right Not To Incriminate Self."
"Alito Leaves Door Open To Reversing 'Roe'."
"Lobbyists' Emergence Reflects Culture Shift."
"Warming Tied To Frog Extinction."

Washington Times:
"Alito Accused Of Racism."
"Senators Show Claws At Hearing, Sling Zingers."
"Support Follows Racial Lines."
"Blair Program To Teach Respect."
"Yemeni Prisoner At Gitmo To 'Boycott' Tribunal."
"America Runs To The Border."
"Likud Cabinet Ministers To Resign."

Detroit Free Press:
"Chairman Of The Bowl."
"Bishop Tells Of Abuse As He Fights For Victims."
"Gifts, Trust Are Lost In Mail Thefts."

Atlanta Journal-Constitution:
"Rich And Running."
"Tech AD Makes TOugh Call For Health."
"New Orleans Plan Is Jeered."
"Taking Names."
"Election Year Loosesn Budget Purse Strings."

Dallas Morning News:
"German Leader's Visit Promising For Bush."
"Dallas Giving Red-Light Cameras A Go."
"More Volleys Fired At Alito."
"Storm-Ravaged Mississippi Town Hanging By A Thread."
"For 'Roe,' Trials Out Of Court."

Houston Chronicle:
"DeLay Takes Texas' Clout In Congress With Him."
"Automated System May Watch What Students Eat."
"Senators Fail To Pin Alito Down On Abortion."
"Houston Ranked Seventh 'Meanest' To Homeless."
"Feds Want Texas To Repay School Funds."
"Council Bars Builder From City Work."

Story Lineup From Last Night's Network News:
ABC: Alito Confirmation Hearing; New Orleans Reconstruction; WV Mine Accident; Bush-Iraq Speech; Global Warming-Extinctions; Iranian Nuclear Program; Turkey-Avian Flu; Baby Boomers-Sports Medicine.
CBS: WV Mine Accident; Alito Confirmation Hearing; Alito Hearing Analysis; Bush-Congressional Hearings; New Orleans Reconstruction; American Heroes; Bishop-Sex Abuse; Failed Assassin Sentenced; Wounded Soldier Treated.

NBC: Alito Confirmation Hearing; New Orleans Reconstruction; WV Mine Investigation; WV Mine E-Mail Scam; Chinese Auto Makers; New Orleans Losing Citizens; SEALS Recruiting Publicly; Seattle Rain; Global Warming-Extinctions; Small Town Doctor.

Story Lineup From This Morning's Radio News Broadcasts:
CBS: Agca released; Georgia- grenade thrower sentenced; Alito hearings; Bush-New Orleans; New Orleans-recovery plan; Wall Street.
NPR: Alito hearings; Bush-domestic spying; UN-Hariri assassination probe; Foreign stock markets; Agca released; Alexander Strategy Group closing; Wall Street.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH — Participates in a roundtable with small business owners and community leaders, TBA location, New Orleans, La. Pool at top; speaks on Gulf Coast reconstruction. St. Stanislaus College, Bay St. Louis, Ms. Open press; attends RNC reception, private residence, Palm Beach, Fla. Closed press.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: 9:30 a.m. JUDICIARY _ Full Committee. Continuation of Supreme Court nomination hearings for Judge Samuel Alito. Stephen L. Tober, ABA, Marna Tucker, ABA; John Payton, ABA; Judge Edward R. Becker, U.S. Court of Appeals Judge (Senior), Philadelphia; Judge Anthony J. Scirica, Chief Judge, U.S. Court of Appeals, Third District, Philadelphia; Maryanne Trump Barry, U.S. Court of Appeals Judge, Philadelphia; Senior Judge Ruggero J. Aldisert; Philadelphia; Senior Judge Leonard I. Garth, Chicago; Judge John J. Gibbons, retired; Judge Timothy K. Lewis, retired; Michael J. Gerhardt, UNC School of Law; Peter Kirsanow, Commissioner, U.S. Commission on Civil Rights; Samuel Issacharoff, NYU School of Law; attorney Carter Phillips, Washington; Goodwin Liu, University of California Berkeley; Nora Demleitner, Hofstra University School of Law; Erwin Chemerinsky, Duke University Law School; Anthony Kronman, Yale Law School; former presidential counsel Beth Nolan; Former Solicitor General

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Charles Fried; Laurence H. Tribe, Harvard Law School; attorney Fred Gray; former NARAL President Kate Michelman; Ronald S. Sullivan, Jr.; Amanda Frost, American University Washington College of Law; John G. S. Flym, Northeastern University School of Law; Reps. Charles Gonzales and Debbie Wasserman Schultz; Reginald M. Turner, Jr., National Bar Association; Theodore Shaw, NAACP Legal Defense and Educational Fund, others. Location: Room 216, Hart Bldg.

US House: No public schedule.

Other: GERMAN CHANCELLOR ANGELA MERKEL _ Highlights: 6 p.m. Arrives at Dulles International Airport, proceeds to Blair House, and then attends a dinner hosted by the American Council on Germany, at the Ambassador's residence, where she will give a speech.

NAVY SYMPOSIUM _ The Surface Navy Association holds its 18th annual symposium. Three days of meetings and workshops for naval surface warfare professionals and commanders. Highlights: 8 p.m. - 10:30 p.m. Annual Banquet. With remarks by Donald Winter, Secretary of the Navy. Location: Hyatt Regency-Crystal City, 2799 Jefferson Davis Hwy., Arlington, Va.

NUCLEAR REGULATORY COMMISSION _ 8 a.m. - 5:30 p.m. 167th meeting of the Advisory Committee on Nuclear Waste. Three days of meetings on nuclear waste transport, handling, storage, research and similar topics. Location: Room T-2B3, Two White Flint North, 11545 Rockville Pike, Rockville, Md.

IMMIGRATION LAW _ 8:30 a.m. - 10 a.m. Panel discussion on immigration reform. With Anthony Romero, executive director, ACLU; Grover Norquist, president, Americans for Tax Reform; Eliseo Medina, Service Employees International Union; Kevin Appleby, US Conference of Catholic Bishops; and others. Location: National Press Club, 14th and F Sts. NW

AVIATION SAFETY-PILOTS _ 9:30 a.m. The Air Line Pilots Association Intl. holds a roundtable to discuss airline pilots' safety and security priorities for the coming year. Topics will include space-based navigation, safety daya collection, pilot fatigue, securing the flight deck, worker ID; and cargo security. With Capt. Duane Woerth, president, ALPA; Capt. Terry McVenes, executive air safety chairman, ALPA; and Capt. Bob Hesselbein, national security chairman, ALPA. Location: 1625 Massachusetts Ave., NW.

PELOSI _ 10:45 a.m. House Democratic Leader Nancy Pelosi holds her weekly press conference. Location: House Radio-TV Gallery.

MEDICARE _ 12 p.m. The Center on Budget and Policy Priorities holds a telephone briefing to discuss factors causing low-income Medicare beneficiaries to fall through the cracks as the new drug benefit is implemented. Contacts: Shannon Spillane, 202-408-1080.

ALITO CLERKS _ 12:20 p.m. A group of 19 of Judge Samuel Alito's clerks - described as liberals, conservatives, Republicans, Democrats and progressives - hold a media availability to respond to the Senate confirmation hearings. They will discuss abortion, ethics, civil rights, employment discrimination and one man/one vote. Partcipants are C. Frederick Beckner III, Monica Dolin, Monica Nakly, Jay Jorgensen, Hannah Smith, Jeffrey Wasserstein, Jack White, Mike Yaeger, Nora Demleitner, Keith Levenberg, Monica Dolin, Hannah Smith, John Smith, Michael Stein, Dana Douglas, Jeffrey Wasserstein, Gary Rubman, Rick Beckner, and Mike Potenza. Location: Room 216, Hart Senate Office Building.

TRADE-JAPAN _ 1 p.m. US Trade Representative Rob Portman meets with Japanese Minister of Agriculture, Forestry and Fisheries Shoichi Nakagawa. Location: USTR Offices, 600 17th St. NW.

CHINA-ASIA _ 1:30 p.m. - 4 p.m. The Brookings Institution hosts a discussion on China, ``Power Shift: China and Asia's New Dynamics." With Richard Bush, director, Center for Northeast Asian Policy Studies, Brookings Institution; David Shambaugh, director, China Policy Program, George Washington University; Jonathan Pollack, chair and professor, Asia-Pacific Studies Group, Naval War College; Michael Yahuda, professor, London School of Economics; and others. Location: Falk Auditorium, 1775 Massachusetts Ave. NW.

GREENSPAN-JAPAN _ 3 p.m. Photo opportunity with Federal Reserve Board Chairman Alan Greenspan and Japanese Finance Minister Sadakazu Tanigaki. Location: Fed offices, 21st and C Sts. NW.

WHITE HOUSE COMMUNICATIONS _ 6 p.m. National Press Club Newsmaker discussion of the White House communications strategy. Are the daily press briefings and gaggles an effective venue? How have press sessions changed with the growth of 24 hour news? With Dr. Martha Joynt Kumar, author and professor, Towson University; Mike McCurry, former press secretary under Clinton; Helen Thomas, White House columnist, Hearst; Alexis Simendinger, White House correspondent, National Journal; and others. Location: National Press Club, 14th and F Sts. NW.

IRAQ-BREMER _ 6:30 p.m. Ambassador Paul Bremer discusses ``My Year In Iraq." Location: National Press Club, 14th and F Sts. NW.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

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TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: THURSDAY, JANUARY 12, 2006 7:45 AM EST

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TERRORISM NEWS:

Bush Calls Spying Inquiry Inevitable (LAT)

By James Gerstenzang, Times Staff Writer

The Los Angeles Times, January 12, 2006

LOUISVILLE, Ky. — President Bush acknowledged Wednesday that congressional hearings into his domestic spying program were inevitable, but he said they would be "good for democracy" as long as they did not "tell the enemy what we're doing."

DOJ_NMG_0009175

Even as he delivered a lengthy defense of the program, Bush stepped back from the strong opposition he expressed last month to a public investigation of his decision to allow the National Security Agency to eavesdrop on communications between people in the United States, including U.S. citizens, and those in other countries in suspected terrorism cases.

He said Wednesday that in approving the program, he had to balance civil liberties against the need to find out, "on a limited basis," what potential terrorists were plotting.

Critics have questioned whether it was legal to order a government agency to listen in on the conversations of people in the United States and read their e-mails without court approval.

Bush's comments came in response to a question at a citizens forum in Louisville as he took his case for the Iraq war to an audience beyond Washington.

The spying program, which was revealed by the New York Times last month, came up when Bush was asked whether the Justice Department, which has begun investigating the leaks, would "follow through and, if necessary, go after the media … to shut these leaks up."

Bush did not directly answer the question, but he used it to launch one of his longest public explanations of the program.

"I did say to the … National Security Agency that they should protect America by taking the phone numbers of known Al Qaeda and/or affiliates and find out why they are making phone calls into the United States and vice versa. And I did so because the enemy still wants to hurt us," Bush said, adding that "if somebody is talking to Al Qaeda, we want to know why."

He said that when he took the oath of office, "I meant it when I said I'm going to uphold the Constitution."

But, he added, "I have the right as the commander in chief in a time of war to take action necessary to protect the American people."

Bush said that the program had been "fully scrutinized on a legal basis," that it had been reauthorized several times, with lawyers from different government branches looking into it, and that congressional leaders — Republicans and Democrats — and both parties' leaders on the intelligence committees had been briefed on it.

He did not say that some senior government lawyers, including at least one top Justice Department official, had expressed qualms about the program, and that senior Democrats said they were given limited information and were not allowed to study it more closely.

Bush said that before moving forward with the program, "I wanted to make sure I had all the legal authority necessary."

He repeated earlier assertions that the congressional resolution passed after the Sept. 11 attacks gave him the authority to use all force he thought necessary to fight terrorists, and that the spying program fell under that authority.

"There will be a lot of hearings and talk about that," Bush said, "but that's good for democracy — just so long as the hearings, as they explore whether I have the prerogative to make the decision I made, doesn't tell the enemy what we're doing. See, that's the danger."

On Wednesday, Bush addressed about 400 people chosen by civic groups, business organizations and a university. He spoke for about 20 minutes on the war in Iraq, then fielded questions for about an hour on topics such as immigration, the role of church and state in Islamic society, education and the challenges of preparing a workforce for 21st century jobs.

The Louisville trip reflected a drive by the White House to take Bush's message on Iraq and terrorism directly to audiences around the country in an effort to overcome what public opinion polls have found to be sagging support for the war.

As part of the effort, Vice President Dick Cheney spoke in two telephone interviews with Fox News hosts Tony Snow and Sean Hannity, drawing attention to what he says were ties between Saddam Hussein and Al Qaeda.

Bush Again Defends Wiretapping Program (WP)

By Michael A. Fletcher

The Washington Post, January 12, 2006

LOUISVILLE, Jan. 11 -- President Bush on Wednesday defended his decision to allow government eavesdropping on the phone calls and e-mails of suspected terrorist collaborators in the United States, saying the program is legal and is essential to averting potential attacks.

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"I understand people's concerns about government eavesdropping," Bush said in response to a question about the program during a citizens forum here. "I share their concerns as well." Even so, he added, the program is important to his duty to protect Americans.

Bush's comments on the eavesdropping program came in response to a question posed during a campaign-style event here aimed at shoring up support for the war in Iraq as well as the nation's broader anti-terrorism effort.

The president's forum here was different than most of the events he attends nationwide. Usually he speaks to carefully screened partisan audiences and takes no questions. White House aides described Wednesday's audience of business and community leaders as bipartisan, and Bush opened himself to unscripted questions during the town-hall-style event.

The domestic spying program has drawn fire from members of Congress, both Democrats and Republicans, who think it oversteps the president's authority and violates civil liberties that are part of the nation's fiber. The National Security Agency program began in the aftermath of the Sept. 11, 2001, terrorist attacks as a way to help the nation's intelligence agencies gather information about any future attacks.

The program authorizes the NSA to screen the international e-mails and phone calls of people in the United States with suspected terrorism ties without first obtaining a court order. Bush said that congressional leaders have been briefed on it and have been given the opportunity "to express their approval or disapproval."

Some Democrats, however, have complained that the classified briefings amounted to one-way conversations in which the administration simply told them about the program but left no means to protest it.

Senate Judiciary Committee Chairman Arlen Specter (R-Pa.) has announced plans to hold hearings on the spying program. Bush said he welcomes the inquiry, calling it "good for democracy." He added, however, that the hearings run the danger of telling "the enemy what we're doing."

In a statement released after Bush's remarks, Democratic National Committee Chairman Howard Dean said that rather than protect the nation, Bush's program may compromise efforts to fight terrorism by resulting in hundreds of cases against suspected terrorists being thrown out of court.

"President Bush's decision to sidestep the rule of law and spy on Americans without a court order may have dealt a serious blow to our ability to fight and win the war on terror," Dean said.

The president sounded now-familiar themes about the war in Iraq. Although insurgents there continue to sow havoc and death with almost daily bombings and other attacks, Bush said steady progress is being made toward success.

Also, with the war sure to be a major issue during the upcoming midterm elections, Bush again warned Democratic critics of the war not to allow their critiques to undermine the morale of troops whose lives are on the line.

"I can understand people being abhorrent about war. War is terrible," Bush said. "But one way people can help as we're coming down the pike in the 2006 elections, is remember the effect that rhetoric can have on our troops in harm's way, and the effect that rhetoric can have in emboldening or weakening an enemy."

Earlier this week, Senate Minority Leader Harry M. Reid (D-Nev.) and Sen. Jack Reed (D-R.I.) charged that Bush has "used our troops as a shield against legitimate criticism of his Iraq war policy."

In Shift, Bush Says He Welcomes Inquiry On Secret Wiretaps (NYT)

By David E. Sanger

The New York Times, January 12, 2006

LOUISVILLE, Ky., Jan. 11 - President Bush said Wednesday that he would welcome a Congressional investigation of whether he had the authority to order the National Security Agency to monitor communications in the United States without warrants.

Until now, the White House had opposed public hearings, which are scheduled to begin next month in the Senate. But on Wednesday, answering questions from a friendly crowd in Louisville in a conference center decorated with signs that said "Winning the War on Terror," Mr. Bush appeared ready to make the best of a political necessity.

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In his campaign-style meeting, he was repeatedly applauded for authorizing the wiretaps, a decision that some of his political aides said they believed would ultimately help rebuild his approval ratings by demonstrating the lengths to which he would go to prevent another terrorist attack inside the United States.

Asked whether his administration was going to "go after the media" for revealing operations like the domestic wiretapping, Mr. Bush instead defended his decision to authorize the surveillance. "I did so because the enemy still wants to hurt us," he said. "And it seems like to me that if somebody is talking to Al Qaeda, we want to know why."

His order enabled the National Security Agency to monitor the international phone calls and e-mail messages of people in the United States suspected of links to Al Qaeda.

Singling out Americans and others in the United States for such surveillance would normally require a warrant under the Foreign Intelligence Surveillance Act, although the act also allows the attorney general to authorize a wiretap if it is reported to the court within 72 hours.

"Now, I - look, I understand people's concerns about government eavesdropping," Mr. Bush said. "And I share those concerns, as well. So obviously I had to make the difficult decision between balancing civil liberties and, on a limited basis - and I mean limited basis - try to find out the intention of the enemy."

The president never directly addressed the question of why he avoided the existing system, although his legal advisers and intelligence aides have said it was too cumbersome.

"There will be a lot of hearings to talk about that, but that's good for democracy," Mr. Bush said. "Just so long as the hearings, as they explore whether or not I had the prerogative to make the decision I made, doesn't tell the enemy what we're doing. See, that's the danger."

Mr. Bush said some key members of Congress had been briefed on the program several years ago and "we gave them a chance to express their disapproval or approval," brushing past the claims of some Democrats that their questions about the program's legality were never resolved.

The president's statement that he was willing to see public hearings go forward was a change from his stance at a news conference at the White House just before Christmas. At the time, he said, "Any public hearings on programs will say to the enemy, 'Here's what they do - adjust.' "

Senator Arlen Specter, a Pennsylvania Republican and the chairman of the Senate Judiciary Committee, has scheduled open hearings, and the Senate Intelligence Committee has said it plans closed hearings.

The president's legal justification for the N.S.A. program has gotten mixed reviews, ranging from enthusiastic to skeptical to scathing.

This week, Representative Jane Harman of California, the top Democrat on the House Intelligence Committee, released a 14-page legal analysis she had requested from a former C.I.A. general counsel, Jeffrey H. Smith, now a Washington lawyer.

Although recognizing the president's assertion that his power as commander in chief justifies warrantless surveillance, Mr. Smith called that case "weak" in light of the language and documented purpose of the Foreign Intelligence Surveillance Act of 1978, which requires warrants.

Mr. Smith also wrote that the Congressional resolution authorizing military force against those who carried out the Sept. 11, 2001, terrorist attacks "does not, in my view, justify warrantless electronic surveillance of United States persons in the United States."

"The president was correct in concluding that many of our laws were not adequate to deal with this new threat," Mr. Smith wrote. "He was wrong, however, to conclude that he is therefore free to follow the laws he agrees with and ignore those with which he disagrees."

Investigate Surveillance, But Be Careful, Bush Says President Reverses On Hearings; Ex-CIA Counsel Questions Legality (USAT)

By John Diamond And David Jackson

USA Today, January 12, 2006

DOJ_NMG_0009178

LOUISVILLE — President Bush on Wednesday dropped his opposition to upcoming Senate hearings into his program of conducting electronic surveillance on domestic targets without court-approved warrants. He said he welcomes such hearings.

Hearings will be "good for democracy, Bush said during a town-hall-style meeting filled with supporters and interrupted often by applause. "Just so long as the hearings, as they explore whether or not I have the prerogative to make the decision I made, doesn't tell the enemy what we're doing. See, that's the danger."

After the program was revealed publicly last month by The New York Times, Bush said that hearings would be counterproductive and that the members of Congress who needed to know about the surveillance of people linked to terrorism suspects had been briefed on it.

"Any public hearings on programs will say to the enemy: 'Here's what they do. Adjust.' This is a war," Bush said at a news conference in December.

Bush said Wednesday that administration lawyers had approved the program. "I can understand concerns about this program," he said. "Before I went forward, I wanted to make sure I had all the legal authority necessary to make this decision."

For the second time in a week, however, an analysis questioned the White House's claims that Congress implicitly authorized the program. Such a contention is "not credible," according to a memo to the House Intelligence Committee by Jeffrey H. Smith, a CIA counsel during the Clinton administration.

Smith's Jan. 3 memo was requested by committee Democrats. It follows a report by the non-partisan Congressional Research Service that said the surveillance program might not be "well grounded" legally and may rest on a mistaken assumption that Congress has no power to limit domestic surveillance in wartime. The report said a firm conclusion couldn't be made because much about the surveillance program is classified.

Bush's argument, that he has the constitutional authority to authorize the surveillance program, is a weak one, Smith wrote.

The president's constitutional authority, he wrote, is limited by the 1978 Foreign Intelligence Surveillance Act (FISA), which requires a warrant before spy agencies can target someone in the USA and allows for only a 15-day exception following a declaration of war by Congress. The surveillance program has been in effect for more than four years; Congress has not formally declared war.

White House spokesman Fred Jones said the Justice Department has detailed the legal arguments supporting the policy. Those arguments focus on two points:

•Presidential warmaking powers under Article II of the Constitution give Bush the right to take actions to prevent further attacks. Since the 9/11 attacks showed the enemy was in the USA, surveillance, a standard part of modern warfare, was within Bush's powers.

•The 1978 law forbids surveillance without a warrant "except as authorized by statute." The administration says a post-9/11 congressional resolution authorizing the use of force in response to the attacks is such a statute. However, Smith wrote, "It is hard to believe that Congress had any idea that it was authorizing such sweeping presidential powers" when it voted for the resolution on Sept. 14, 2001.

Smith, who was CIA general counsel in 1995 and 1996, wrote that broad assertions of presidential war powers have generally been upheld by the courts "in areas where Congress has not acted." Where specific legal language exists, such as FISA, presidential power is limited, he wrote.

Bush: Hearings On Eavesdropping Program "good For Democracy" (LEXHL)

By deb riechmann

Lexington Herald-Leader (KY), January 12, 2006

LOUISVILLE, Ky. - President Bush said Wednesday that congressional hearings to investigate his domestic eavesdropping program will be good for democracy as long as they don't give secrets away to the enemy.

Bush was initially opposed to having the program investigated in a public format, but made it clear that he is resigned to open hearings that are scheduled to begin in coming weeks.

Bush's decision to authorize the National Security Agency to monitor - without warrants - people inside the United States has sparked a flurry of questions about the program's legal justification.

Bush defended the program during a campaign-style town hall meeting, saying he understands concerns about it but monitoring the phone calls of affiliates of the terrorist network al Qaida is necessary to protect the United States. He said he made sure he had the legal authority to allow the program before he did so.

"There will be a lot of hearings to talk about that, but that's good for democracy," he said. "Just so long as the hearings, as they explore whether or not I had the prerogative to make the decision I make, doesn't tell the enemy what we're doing. See, that's the danger."

In the days after the program's existence was revealed, Bush cautioned against hearings, arguing that the appropriate members of Congress were being consulted privately and offering assurances that he was working within the law to authorize the eavesdropping.

"Any public hearings on programs will say to the enemy, `Here's what they do - adjust.' This is a war," Bush said at a December news conference when asked about expected hearings on Capitol Hill.

The Senate Judiciary Committee has scheduled hearings on the issue for early February. The Senate Intelligence Committee also plans to hold hearings that will be closed to the public.

For the second time in a month, Bush took questions from audience members during an appearance to win support for his war on terror.

In his opening remarks, he defended the global war on terrorism and the U.S. effort in Iraq. He said insurgents in Iraq were trying to drive the United States out through violence and bloodshed but he declared, "They're not going to shake my will."

While saying he wanted to bring American troops home, he said, "I don't want them to come home without achieving the victory."

In a question and answer session, Bush was asked about Iraq, education priorities, immigration, the economy, health care and other subjects. He said the war on terrorism would not end with an enemy surrender, as was the case in World War II. "I don't envision a signing ceremony on the USS Missouri," Bush said. "The peace won't be the kind of peace we're used to."

White House press secretary Scott McClellan said questions from the audience were not prescreened, and Bush himself said that while the event was about terrorism, no questions were off limits.

Kentucky, where Iraq is taking center stage in politics, provided an appropriate backdrop for Bush's remarks.

Kentucky Rep. Anne Northup, a Republican ally of Bush who joined him at the event, describes the situation in Iraq as "painful." Yet, she stands firmly behind the his decision to invade that country, a potentially divisive issue in Northup's upcoming re-election campaign.

In contrast, Iraq war veteran Andrew Horne, a Democrat running for her seat, said the invasion was a mistake because the threat of weapons of mass destruction - a key justification for the war - never materialized.

Bush Not Opposed To Hearings On Eavesdropping (REU-Y2)

Reuters, January 12, 2006

President George W. Bush on Wednesday defended his authorization of domestic eavesdropping and said he did not oppose congressional hearings as long as they did not provide information to the enemy.

"I can understand concerns about this program, before I went forward I wanted to make sure I had all the legal authority necessary to make this decision as your president," he said. "We are a ... country of law."

Critics have questioned whether it was legal for Bush to authorize the National Security Agency to eavesdrop inside the United States on Americans with suspected terrorism ties without getting court approval.

"I have the right as the commander in chief in a time of war to take action necessary to protect the American people," Bush said in Kentucky where he gave a speech on Iraq and terrorism.

"One way to protect us is to understand the nature of the enemy. Part of being able to deal with this kind of enemy in a different kind of war is to understand why they're making decisions they're making inside our country," Bush said.

Senate Judiciary Committee Chairman Arlen Specter, a Pennsylvania Republican, has said he wants to hold hearings in early February on the domestic eavesdropping.

Bush said hearings were "good for democracy" if they did not help the enemy.

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"Just so long as the hearings, as they explore whether or not I have the prerogative to make the decision I made doesn't tell the enemy what we're doing -- see that's the danger," Bush said.

Bush Reasserts 'Right' To Order Wiretaps (WT)

By Joseph Curl

The Washington Times, January 12, 2006

LOUISVILLE, Ky. -- President Bush said yesterday that he is doing everything "within the Constitution" to protect the American people from another terrorist attack, but added that congressional hearings into a top-secret U.S. spying program will be "good for democracy."

In an unusual, 75-minute campaign-style town hall meeting -- which included nearly a dozen questions from members of the invited audience -- Mr. Bush said he firmly believes he has the authority to order warrantless wiretaps of phone calls by people thought to be linked to al Qaeda or its affiliates.

"I have the right as the commander in chief in a time of war to take action necessary to protect the American people," he said during the event at the Kentucky International Convention Center in Louisville. "I can understand concerns about this program. Before I went forward, I wanted to make sure I had all the legal authority necessary to make this decision as your president."

Mr. Bush said that after the September 11 attacks, he vowed "that I would use everything in my power -- obviously, within the Constitution -- but everything in my power to protect the American people. ... I put that hand on the Bible, and I meant it when I said I'm going to uphold the Constitution."

Some on Capitol Hill are demanding an investigation into the wiretapping program, first revealed last month by the New York Times. The program allows the National Security Agency to eavesdrop on international phone calls without a warrant, which Democrats say is a violation of the constitutional right to privacy.

Democratic National Committee Chairman Howard Dean criticized the Bush administration's "disregard for our courts and our laws."

"President Bush's decision to sidestep the rule of law and spy on Americans without a court order may have dealt a serious blow to our ability to fight and win the war on terror," Mr. Dean said.

The Senate Judiciary Committee has scheduled hearings on the issue for early February, and the Senate Select Committee on Intelligence plans to hold closed-door hearings -- both of which Mr. Bush endorsed yesterday.

"There will be a lot of hearings and talk about that, but that's good for democracy," he said. He added a caveat, however: "Just so long as the hearings, as they explore whether or not I have the prerogative to make the decision I made, doesn't tell the enemy what we're doing. See, that's the danger."

Continuing an effort that began last month to convince Americans that he has a plan for Iraq, Mr. Bush was conciliatory and occasionally contrite during the lengthy question-and-answer session with some of the 400 community leaders, small-business owners and others in attendance.

On the invasion of Iraq, he said: "I can understand folks who say, 'I wish you hadn't done that.' " On the failure to find weapons of mass destruction in Iraq, he said: "I understand that the intelligence didn't turn out the way a lot of the world thought it would be. And that was disappointing, and we've done something about it" by overhauling the nation's intelligence agencies.

But he took aim at Democrats who he said might be looking to exploit the difficulties in Iraq during midterm elections in November.

Responding to a 7-year-old in the audience who asked how Americans can help in the war on terror, Mr. Bush said: "One way people can help as we're coming down the pike in the 2006 elections is remember the effect that rhetoric can have on our troops in harm's way and the effect that rhetoric can have in emboldening or weakening an enemy."

Residents Get Chance To Question President (LEXHL)

By bruce schreiner

Lexington Herald-Leader (KY), January 12, 2006

LOUISVILLE, Ky. - The global fight against terrorists was the main theme, but topics hit closer to home when Kentuckians got a crack at questioning President Bush on Wednesday.

During the town hall-style event, a business operator bemoaned health insurance costs. An educator called education crucial to the nation's security. A man asked about immigration.

But first, Bush outlined his strategy in the Iraq war.

The president said insurgents were trying to weaken America's resolve. "Whether you agree with me or not, they're not going to shake my will," he said. "We're doing the right thing."

Many tickets for the event were distributed by Greater Louisville Inc., the metro chamber of commerce. The friendly audience included Gov. Ernie Fletcher, Lt. Gov. Steve Pence, and U.S. Reps. Anne Northup and Ron Lewis, all Republicans; and Mayor Jerry Abramson, a Democrat.

Commenting on Abramson's longevity in office, Bush said his father, as president, gave the mayor a pair of cufflinks. "It looks like the mayor is going to outlast both Bushes," he said. Abramson is running for another term this year.

Across the street, about 200 people chanted and waved signs protesting the Iraq war and wiretaps ordered by the Bush administration without first obtaining warrants.

Al Mitchell of Louisville was disappointed that the tickets to Bush's speech were selectively given out and carried a sign that read, "Why aren't we inside?" Mitchell said Bush uses fear to control Americans.

"That's exactly what the Bush administration is using to subdue, to control the American people, to sell them on this war in Iraq," Mitchell said. "It's this factor of fear that we're going to be terrorized by ambiguous figures."

Speaking in the home state of Fort Campbell, which has thousands of soldiers deployed to Iraq, Bush said his goal is "nothing short of victory." He said victory would be achieved when Iraq is no longer a haven for terrorists and Iraqis can defend their fledgling democracy.

Bush said decisions on troop levels would be left to military commanders.

"I know a lot of people want our troops to come home," he said. "I do, too. But I don't want them to come home without achieving the victory. We owe that to the mothers and fathers and husbands and wives who have lost a loved one. We can't let their sacrifice go in vain."

Bush then took questions for nearly an hour. When a small business owner focused on rising health insurance costs, Bush acknowledged "it's becoming an unmanageable cost."

He touted health savings accounts and association health plans that pool employees together to try to hold down insurance costs. Bush also said something needs to be done to halt frivolous medical liability lawsuits that he said drive up health costs.

When asked about education, Bush bemoaned an "achievement gap in America," but said his "No Child Left Behind" law has brought improvements to education accountability.

Bush hinted that his upcoming State of the Union speech would address the problem of low math and science proficiency among middle and high school students.

"We've got to have kids that are the best in science and engineering and math, otherwise jobs are going to go where the workforce does have those skills," he said.

Another questioner asked Bush about immigration. Bush said border security is vital but urged compassion for foreigners coming to the U.S. in search of work.

Bush said employers should be held accountable for hiring legal immigrants, but he said that's difficult given rampant fraud.

Many farmers and other Kentucky employers rely on immigrant workers.

"You've got folks right here in Kentucky who are hiring people to do jobs that Americans won't do, and you say, 'Show me your papers,' and they've been forged and the employer didn't know about it," Bush said.

Bush promoted his guest worker plan in which foreigners would receive tamperproof cards allowing them to work temporarily in the U.S.

One question came from 7-year-old Alex Childress. The youngster, dressed in a suit and tie, asked what people can do to help in the war against terrorists.

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Bush used the question to send a message to war critics. "One way people can help is ... remember the effect that rhetoric can have on the troops in harm's way, and the effect that rhetoric can have in emboldening or weakening an enemy," he said.

Alex's mother, Martha, said her son thought of the question himself.

"He didn't like any of my questions," she said.

The Lawbreaker In The Oval Office (NYT)

By Bob Herbert

The New York Times, January 12, 2006

The country has set the bar so low for the performance of George W. Bush as president that it is effectively on the ground.

No one expects very much from Mr. Bush. He's currently breaking the law by spying on Americans in America without getting warrants, but for a lot of people that's just George being George. Forget the complexities of the Foreign Intelligence Surveillance Act, or even the Fourth Amendment's safeguards against unwarranted (pun intended) government intrusion into matters that we have a right to keep private.

On his frequent trips home to his ranch in Texas, the president likes to ride his bicycle. He's not studying the Constitution.

"People are changing phone numbers and phone calls, and they're moving quick," said Mr. Bush, as he defended his authorization of warrantless eavesdropping by the National Security Agency on phone calls and e-mail into and out of the U.S.

As the president put it, "If somebody from Al Qaeda is calling you, we'd like to know why."

Well, that's true, Mr. President. But Congress and the Constitution have spoken as clearly as a bright sun on a cloudless afternoon about these matters: if you're going to eavesdrop on Americans in the U.S., you'd better run out and get a warrant.

You have to act fast? O.K., do what you have to do - but you then have to apply for a warrant within 72 hours. If, after three days, you can't explain to a court - a secret court, at that - why you need to be spying on somebody, then you need to stop that spying.

It has become fashionable to say that this controversy is about the always difficult problem of balancing civil liberties and national security. But I think the issue is starker than that. The real issue is President Bush's apparent belief - stoked at every opportunity by that zealot of zealots, Dick Cheney - that he can do just about anything he wants (mistreat prisoners, lock people up forever without filing charges), and justify it in the name of fighting terror.

"There's an enemy out there," said Mr. Bush.

That's also true. But this is not China or the old Soviet Union. The United States should be the one place on the planet where even a devastating terror strike by Al Qaeda is unable to shake the foundations of the government, which is grounded in the rule of law, the separation of powers and a constitution that guarantees the fundamental rights of the citizenry.

A group of former government officials and law professors from some of the nation's most distinguished universities sent a letter to Congressional leaders on Monday expressing their deep concern about the president's domestic spying program. They said:

"Although the program's secrecy prevents us from being privy to all of its details, the Justice Department's defense of what it concedes was secret and warrantless electronic surveillance of persons within the United States fails to identify any plausible legal authority for such surveillance. Accordingly, the program appears on its face to violate existing law."

Among those who signed the letter were William Sessions, the former F.B.I. director, and Philip Heymann, a former deputy attorney general who is now a professor at Harvard Law School.

The Congressional Research Service, a nonpartisan arm of Congress, also took issue with the administration's defense of the warrantless eavesdropping. Its analysts searched diligently but apparently in vain for a legal justification of the spying authorized by the president. Their detailed report on the constitutional and statutory issues raised by the program said, "It appears unlikely that a court would hold that Congress has expressly or impliedly authorized the N.S.A. electronic-surveillance operations here under discussion."

The administration's attempt to justify the program, the analysts said, "does not seem to be as well grounded" as the administration seems to believe.

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President Bush and others in the administration have repeatedly argued that the president's wartime powers trump some of the important constitutional guarantees and civil liberties that Americans had previously taken for granted. They don't seem to see the irony of fighting on behalf of liberty in Afghanistan and Iraq while curtailing precious liberties here at home.

The administration should not be allowed to use war as an excuse. The U.S. is a very special place in large part because no one, not even the president, is above the law.

Ex-official Warned Against Testifying On NSA Programs (WT)

By Bill Gertz

The Washington Times, January 12, 2006

The National Security Agency has warned a former intelligence officer that he should not testify to Congress about accusations of illegal activity at NSA because of the secrecy of the programs involved.

Renee Seymour, director of NSA special access programs stated in a Jan. 9 letter to Russ Tice that he should not testify about secret electronic intelligence programs because members and staff of the House and Senate intelligence committees do not have the proper security clearances for the secret intelligence.

Miss Seymour stated that Mr. Tice has "every right" to speak to Congress and that NSA has "no intent to infringe your rights."

However, she stated that the programs Mr. Tice took part in were so secret that "neither the staff nor the members of the [House intelligence committee] or [Senate intelligence committee] are cleared to receive the information covered by the special access programs, or SAPs."

"The SAPs to which you refer are controlled by the Department of Defense (DoD) and ... neither the staffs nor the members ... are cleared to receive the intelligence covered by the SAPs," Miss Seymour stated.

Special access programs are the most sensitive U.S. intelligence and weapons programs and are exempt from many oversight mechanisms used to check other intelligence agencies.

Miss Seymour also said that Mr. Tice, who was dismissed in May, failed to notify either the Pentagon or NSA of the improper behavior that he is charging.

As a result, she stated that Mr. Tice must first give statements to the Defense Department and NSA inspectors general before he provides any classified information to Congress from the SAPs.

Miss Seymour also said Mr. Tice must first "obtain and follow direction" from Defense Secretary Donald H. Rumsfeld, through the inspectors general on the proper procedures for contacting the congressional oversight committees.

Mr. Tice said he was not part of the classified NSA program disclosed by the New York Times last month that intercepted telephone, e-mail and other communications involving U.S. citizens without a warrant from a special court.

However, he told ABC News on Tuesday that he was a source for the New York Times.

"As far as I'm concerned, as long as I don't say anything that's classified, I'm not worried," he said. "We need to clean up the intelligence community. We've had abuses, and they need to be addressed."

Mr. Tice last month asked to testify to the House and Senate intelligence oversight panels regarding what he called "probable unlawful and unconstitutional acts" that occurred while he was a technical intelligence specialist with NSA and the Defense Intelligence Agency.

He provided no details of the programs.

However, Mr. Tice worked on special access programs related to electronic intelligence gathering while working for the NSA and DIA, where he took part in space systems communications, non-communications signals, electronic warfare, satellite control, telemetry, sensors, and special capability systems.

Revealing A Viper In The Nest (WT)

By Douglas Mackinnon

The Washington Times, January 12, 2006

Until recently, I believed that the liberal Americans in society and the media who espouse blind hatred for the Bush administration, the unilateral responsibility to defend our nation, our intelligence operatives and even our military, would see the error of their ways should we one day tragically lose an American city and its innocent inhabitants to terrorism.

Today, I wonder if they might not only secretly rejoice at the thought of the "Great Satan" being "justifiably" punished in such a manner, but with their very actions, sow the seeds of such destruction? A stretch? Go to some of these ultra-left Web sites and see the venom they spew at our government. Explain to me why U.S. government employees with Top Secret clearances would leak highly classified information to the media. Explain to me why that media would then selectively print operational details that it knows, beyond a shadow of a doubt, will be harmful to the national security of our nation.

The latest case of government employees betraying their trust and our nation by leaking information to the media being the story that "the Bush administration was running a covert-domestic-spying program." The classified information that was leaked to New York Times reporter James Risen by "numerous" intelligence sources has harmed our nation, our foreign relations, our national security and the welfare of our troops, in real and unimagined ways.

Why do these government employees commit such a high crime as divulging national secrets to the media? Several reasons. The first being that even though it is a very serious crime, there are rarely any consequences. No real price to be paid. It's almost a game. In fact, if you play your leaks right, a left-wing editor up in New York may give you a very handsome book contract for selling out your fellow citizens. That is, of course, assuming said editor is not vaporized first by a nuclear weapon planted by a terrorist that the "covert domestic spying" was trying to capture.

Second, they may do it because they have diluted themselves into believing that such a traitorous action is really to the good of the nation. Just because they got cut from their high school football team doesn't mean that they still can't be heroes. If not heroes to America, then certainly heroes to those who mean to exterminate our nation.

Mostly, they just do it for partisan reasons. They strongly dislike this president, "his" war in Iraq, and have a tremendous inner fear. That fear being that President Bush might actually succeed in what he is trying to accomplish, and expose them as naive fools. So, rather than see that happen, they leak to the media, and sabotage that which they have sworn to serve.

Moving on, what, then, was the motive of the New York Times and reporter James Risen? For the New York Times, one could speculate that with all the left wing U.S. newspapers out there eagerly willing to splash national secrets across their front pages, the New York Times didn't want to get out "Benedict Arnolded" by the competition.

For Mr. Risen, maybe a modern day 30 pieces of silver in the form of a book advance and praise from liberals on the Upper East side, is the answer. If news reports are to be believed, Mr. Risen was very upset that the New York Times sat on the story for a year.

So, in his outrage, what did Mr. Risen do when the New York Times would not publish his potentially devastating story on how the Bush administration might be circumventing the law to protect the American people? Did he walk in front of a stand of news cameras and reveal his "story of the decade?" Did he himself leak it to a rival newspaper in the best interests of America? No.

What Mr. Risen did was take a leave of absence from the New York Times so he could write a book entitled, "State of War: The Secret History of the CIA and the Bush Administration." When his book was done and ready for release, Mr. Risen came back to the New York Times and exposed the national secret himself. In doing so he said the New York Times "has performed a great public service by printing it, because this policy is something that the nation should debate." As these leaks and betrayals continue, we need to acknowledge that the viper is in our nest and it's not al Qaeda. It's some of our fellow Americans.

Since September 11, we have all been waiting for the next shoe to drop. Ironically, that is one job we seem to have not outsourced. The shoe may well be American made.

Douglas MacKinnon served as press secretary to former Sen. Bob Dole. He is also a former White House and Pentagon official and an author.

Op-ed: Patriot Act Is Convenient Target (USAT)

By Amitai Etzioni

USA Today, January 12, 2006

A steady stream of revelations, and the ensuing news media reports, have portrayed a president hungry for power, doing whatever is necessary — legal or not — to protect this country. In the wake of such news, some lawmakers in Congress see weakness and an opportunity to gut one of President Bush's vital weapons in the war on terror: the USA Patriot Act.

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Congress should not hold up extending vital sections of the Patriot Act in reaction to these recently revealed power grabs. The president's authorization of spying on Americans by the National Security Agency has nothing to do with the Patriot Act; nor do secret prisons, nor memos allowing torture. Questions over how much power the commander in chief can exercise must be sorted out by Congress and the courts, but the Patriot Act shouldn't be held for ransom.

Despite pleas from the White House to make all of its sections permanent, the Patriot Act has been extended only until Feb. 3. Its viability is, indeed, in jeopardy as lawmakers have found it fashionable to rail against the Patriot Act. (Related: Patriot Act poll results)

In contrast to the recently revealed secret White House initiatives, many of the 161 measures included in the law aren't contested by any major figure on the right, left or center. Even a representative of the American Civil Liberties Union said the group seeks to fix the act, not to kill it. An examination of some of the contested sections demonstrates that the measures involved are hardly out of line:

•Phones. Before the Patriot Act was passed, soon after 9/11, authorities had to obtain a court's permission to tap a phone, but the warrant had to be "particularized" to a given instrument, reflecting the days when people had one phone. Cellphones made this narrow rule obsolete. The Patriot Act changed this requirement to a suspect rather than to one of his instruments. What is wrong with that?

• Libraries. Critics have been outraged by the right of the government to search the computers of public libraries. Actually, the term "library" is not mentioned in the act. The bill authorizes searches of "books, records, papers, documents and other items ... to protect against international terrorism or clandestine intelligence activities." Critics have singled out libraries because such searches evoke more public outrage than if one would refer to the actual wording of the bill.

• Homes. The "sneak and peek" clause has been particularly vilified. The act grants authorities the right to search a home without notifying the owner for a period of days. But how long is enough? Sen. Russ Feingold, D-Wis., favors seven days; Republicans in the House of Representatives want 180 days. But there has been little discussion of the grubby details in such a search. How long does it take to de-encrypt a PC? To translate messages? And to find any collaborators? Once these matters are examined, it should not be difficult to come up with a compromise on notification.

• Money. The clause that penalizes giving "material support" to terrorists applies only if the donor knew where the funds were headed. If clearer wording is needed to protect those who thought they were giving to a charity, so be it.

We tend to swing wildly in one direction and then in the opposite one. The Senate Church Committee, responding to the abuses such as spying on civil rights groups and public leaders by the FBI under J. Edgar Hoover, tied the agency in knots.

The initial responses to the 9/11 attacks might well have been excessive. As time has passed — without a new attack on the USA — many security measures are being questioned, as they should be. Even so, when it comes to critical components of the act, such as those listed above, minor tweaks — not massive overhauls — would make the Patriot Act work for all Americans.

The same can't be said for the other security measures that the public has recently learned about. Those fully deserve the kind of extensive hearings to which the Patriot Act is being subjected.

Amitai Etzioni is the author ofHow Patriotic is the Patriot Act?: Freedom vs. Security in the Age of Terrorismand a member of the Markel task force on national security and information.

Bush Grenade Attacker Gets Life (CNN)

CNN.com, January 12, 2006

(CNN) -- A Republic of Georgia court has sentenced a man to life in prison for attempting to assassinate U.S. President George W. Bush by lobbing a hand grenade towards a podium during a rally in the capital last year, according to Georgia's interior minister.

Vladimir Arutinian of Tbilisi was also found guilty of trying to assassinate Georgian President Mikhail Saakashvili, who was standing on the podium with Bush on May 10.

He was also convicted of killing a police officer who tried to apprehend him two months after the incident.

The would-be assassin threw a grenade into a crowd about 20 meters (65 feet) from the stage where Bush had just begun speaking, but the grenade, wrapped in a plaid cloth, failed to detonate, authorities said.

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Initial reports said the grenade was not live, but authorities later said it was.

Georgia's Interior Minister Vano Meradishvili told CNN he fully expected Arutinian to appeal the ruling because he "enjoys the attention" that he has received.

At one point during the trial, which began just over a month ago, Arutinian appeared in the courtroom with his mouth sewn shut.

Arutinian would not be eligible for parole, and could only be released under a presidential pardon, which was unlikely under Saakashvili, Meradishvili said.

In September, a U.S. federal grand jury indicted Arutinian for the assassination attempt against Bush, and could request his extradition if he is released in the future.

Meradishvili said the government could not have apprehended Arutinian, who lived a reclusive life, without the help of two citizens, who would share an $80,000 reward.

The investigation involved Georgia investigators, the Justice Department, FBI and U.S. Secret Service.

Shortly after Arutinian's capture, the Justice Department and Secret Service issued a joint statement praising the government of Georgia for its "extraordinary cooperation" in the case.

CNN Correspondent Ryan Chilcote contributed to this report

Drug, Terror Rings Find New Ways To Launder Money (USAT)

By Donna Leinwand

USA Today, January 12, 2006

WASHINGTON — Drug traffickers and suspected terrorists are using prepaid ATM cards and Internet-based payment systems to help launder billions of dollars each year, the Treasury Department reported Wednesday in what it called the first government-wide analysis of money laundering in the USA.

The analysis described security weaknesses throughout the U.S. financial system that enable criminals to hide illicitly obtained money, and to sneak it out of the country. The report, which included contributions from 16 federal agencies, will be used to help officials devise a national strategy to fight money laundering, Treasury Undersecretary Stuart Levey said.

Smuggling cash in bulk remains criminals' favorite method for moving money out of the USA, said Marcy Foreman, investigations director for U.S. Immigration and Customs Enforcement. The report also detailed a dozen other money-laundering methods used by criminals, including what it called the increasingly prevalent use of prepaid cash cards that can be purchased anonymously at retail and check-cashing stores across the nation.

Such cards are designed to make things easier for students, immigrants and others among the estimated 75 million people in the USA who do not have bank accounts, the report said. Those buying the cards can have a certain value recorded on them, and then the cardholders can use the cards to withdraw the money from automated teller machines around the world.

However, the cards also allow foreign drug traffickers to move money to their home countries without having to sneak bundles of cash past Customs agents — or use bank accounts that leave paper trails, the report said. It noted that companies that issue cash cards outside the USA do not have to comply with U.S. anti-money-laundering laws, but that such cards can be used at ATMs in this country.

“The volume of dirty money circulating through the United States is vast, and criminals are enjoying new advantages with globalization,” the report said.

Levey said it's unclear how much money in the USA is made from criminal enterprises. The White House Office of National Drug Control Policy estimates sales of illicit drugs in the USA produce $65 billion a year for traffickers. The United Nations estimates illicit drug revenue in the USA, Canada and Mexico to be $142 billion a year.

“The key to ending drug trafficking is to wipe out the money side,” Drug Enforcement Administration chief Karen Tandy said. The DEA seized $2 billion in 2005, up from $500 million in 2003, she said.

Recent arrests by U.S. agents reflect the complexity of some schemes. Last week, Mohummed Islam Uddin, 39, of Hamtramck, Mich., pleaded guilty to running an unlicensed money-services business that sent $3 million to Bangladesh with little or no documentation of the transactions.

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Uddin used U.S. currency from local people who wanted money transferred to Bangladesh. He then would buy prepaid phone cards, an ICE report said. The cards then were resold in Bangladesh for local currency by a merchant who distributed the proceeds to the intended recipients of the money transfers, ICE said. The scheme allowed Uddin to avoid paying transfer fees and to convert U.S. dollars to Bangladeshi currency.

US Vows Diligence On New Money Laundering Threats (REU)

By Laura MacInnis

Reuters, January 11, 2006

WASHINGTON (Reuters) - Internet banking, online payment systems and stored value cards not requiring identification give criminals new opportunities to filter money through the United States, U.S. regulators said on Wednesday.

Representatives of the Treasury Department, Federal Reserve, Justice Department and other government enforcement agencies urged in a Money Laundering Threat Assessment report more cooperation to squeeze money launderers and narrow potential avenues for tainted funds.

"The volume of dirty money circulating through the United States is undeniably vast and criminals are enjoying new advantages with globalization and the advent of new financial services," they said in the report, a precursor to the government's annual Anti-Money Laundering Strategy.

The regulators and law enforcement officials said it was "currently not possible" to accurately estimate the total amount of money laundering in the United States, or how much is being cut off by government enforcement.

Citing a need for a common definition of what constitutes money laundering, regulators said they needed more cooperation to patch vulnerabilities from money orders, stored value cards, check cashing, electronic payments, remittances and other financial transfers.

"Moving away from face-to-face customer interaction, particularly for (bank) account openings, challenges the traditional process of customer due diligence," they said.

The report concluded stored value cards or gift cards were compact, potentially anonymous alternatives for those seeking to smuggle physical cash linked to crime. Cards and other tools to facilitate migrant remittances could also be misused, regulators added.

"These programs can also be used to launder money if effective anti-money laundering policies, procedures and controls are not in place," the report said.

Federal Reserve Governor Susan Bies said the 72-page Money Laundering Threat Assessment "begins to give banks a better idea of what types of threats are out there."

Others said it was difficult for banks to detect fraudulent or laundered funds because money increasingly enters the U.S. financial system in indirect ways.

Stuart Levey, treasury undersecretary for terrorism and financial intelligence, said agencies like the Federal Bureau of Investigation, Drug Enforcement Administration and Postal Inspection Service were working with the Treasury and Federal Reserve to respond to new vulnerabilities.

"We now have to adjust our actions on all levels ... to stay one step ahead," Levey said.

He said it was "quite difficult to predict" when the 2005 annual strategy report would be completed but stressed inter-agency cooperation would occur before the study's official release.

Threat Assessment Calls Money Laundering A 'Massive' Challenge (ABC)

By Jason Ryan

ABC News, January 11, 2006

WASHINGTON, Jan. 11, 2006 — - Money laundering remains a "massive and evolving challenge" for investigators, according to the federal government's first-ever threat assessment of the problem.

Even getting a handle on the size of the money laundering threat and the success of efforts to stop it has been difficult, the report found.

"It is currently not possible, for example, to quantify with accuracy the total money laundering activity being apprehended by the government," it said.

Problems with data, incompatible computer systems and even differing definitions of "money laundering" have hampered some efforts to combat the crime. The assessment is intended to help law enforcement and government regulators grapple with the issue.

"Before you can effectively treat a problem, you must first have an accurate diagnosis," said Stuart Levey, the Treasury Department's undersecretary for terrorism and financial intelligence.

While law enforcement and investigators have made considerable progress in recent years, money laundering is still a vast enterprise made easier by computerized banking and global transactions. With a few clicks of a mouse a drug dealer can wash his proceeds from New York City through the Dominican Republic to an offshore account unknown to investigators. Federal Reserve Governor Susan Bies said the assessment "gives banks a better idea of what types of threats are out there."

Other recent trends and new technology allow criminals to exploit loopholes, such as store gift cards, which officials call "stored value" cards.

"The volume of dirty money circulating through the United States is undeniably vast and criminals are enjoying new advantages with globalization and the advent of new financial services such as stored value cards and online payment systems."

Although law enforcement agencies are concerned about new technologies, traditional methods of money laundering though money service business (MSBs) -- such as money orders, check cashing business and currency exchange remain most prevalent.

Most Laundering Not Linked to Terrorism

The assessment, which was prepared by 16 different government agencies, found that most suspicious transactions are flowing to criminal interests and enterprises in South and Central America, Russia and Caribbean Rim nations. While a great deal of focus has been given to terrorist financing in recent years, the report shows that only 1 percent of Suspicious Activity Reports filed by financial institutions involved potential terrorist financing. Despite this small number, law enforcement officials remain greatly concerned about the nexus of criminal organized crime groups engaged in money laundering and the possibility of financing terrorist operations.

The 9/11 plot cost the al Qaeda network approximately $400,000 of which approximately $300,000 passed through the hijackers' established bank accounts in the United States. Although they left a paper trail in the United States, Germany and the United Arab Emirates, the hijackers moved their funds in a routine way which avoided the scrutiny of law enforcement and banking officials.

Since the 9/11 attacks the Treasury Department and FBI have worked with foreign countries to strengthen global anti-money laundering laws and regulations. The Treasury Department, Justice Department and the Department of Homeland Security also work together in the Financial Action Task Force to monitor global money laundering. The controversial Patriot Act also contains several provisions requiring increased reporting for banking and financial institutions.

After the 9/11 attacks, much attention was focused on regulating informal money transfers, known as the hawala system, originally developed in India. Some challenges remain in detailing and understanding the scope of their use. "It is virtually impossible to ascertain the full extent of [Informal Value Transfer Systems] activity in the United States due to the opacity of the sector and the absence of registration."

Bulk-cash smuggling is a common money laundering technique which may be on the rise because of some anti-money laundering enforcement efforts.

The report cautioned that more data needs to be collected and that electronic and online banking and the decline in paper checks make it more difficult to track financial transactions. Also the working group has found that money remitters and money orders are too voluminous to accurately track down. The sheer scale of Western Union providers around the globe totals 196,000 agents in over 190 countries, for example, allowing money launderers to move their money virtually anywhere.

Swiss Investigate Leak To Paper On C.I.A. Prisons (NYT)

By Doreen Carvajal, International Herald Tribune

DOJ_NMG_0009189

The New York Times, January 12, 2006

PARIS, Jan. 11 - Switzerland is conducting criminal investigations to track down the source of a leak to the Zurich-based newspaper SonntagsBlick of what it reported was a secret document citing clandestine C.I.A. prisons in Eastern Europe.

The Sunday weekly published what it reported was a summary of a fax in November from Egypt's Foreign Ministry to its London embassy that said the United States had held 23 Iraqi and Afghan prisoners at a base in Romania. It also referred to similar detention centers in Bulgaria, Kosovo, Macedonia and Ukraine.

"The Egyptians have sources confirming the presence of secret American prisons," said the document, dated Nov. 15 and written in French to summarize the contents of the fax.

"According to the embassy's own sources, 23 Iraqis and Afghans were interrogated at the Mikhail Kogalniceau base at Constanza, on the Black Sea."

The leaked fax, which the newspaper said was sent by satellite and intercepted by the Swiss Strategic Intelligence Service, was signed by Egypt's foreign minister, Ahmed Aboul Gheit, the report said.

Christoph Grenacher, the newspaper's editor in chief, said that before the article was published, newspaper officials met with high-ranking Swiss government officials, who urged the paper to withhold the information. "We concluded that the discussion about so-called secret prisons is much more important than the interests of the secret service in Switzerland," he said.

During those discussions, he said, no one contested the authenticity of the document. Egypt has not commented on the report, but it quickly reignited a political fury in Europe that began in the fall with news reports that said there were C.I.A. interrogation centers in Europe and that there had been secret flights through European countries transferring terrorism suspects for questioning.

After the article was published on Sunday, Romania and Ukraine issued denials, and the Swiss criminal investigations were opened. Some European lawmakers seized on the information as evidence of dissembling by European Union members. "This is a piece of real evidence to back up the gut instinct many of us have that the denials of complicity we are hearing from E.U. member and candidate states cannot be relied upon," Sarah Ludford, a Liberal Democratic member of the British Parliament, said in a statement.

The Swiss Army's chief prosecutor opened an investigation of Mr. Grenacher and two of his reporters to determine whether military secrets were exposed and to find the source of the leaks. The Swiss attorney general's office is also investigating the issue, adding another layer to its existing investigation of whether there were C.I.A. flights in Swiss airspace.

Germany and Denmark are also examining accusations that the agency used their airspace to transport terrorism suspects.

The United States has acknowledged flights but not the existence of prisons. A C.I.A. spokeswoman declined to comment on the report in the newspaper.

Conceivably, the journalists could face five years in prison for revealing military secrets, although no one prosecuted under the law has ever served any prison time, the authorities said.

Martin Immenhauser, a spokesman for the military prosecutor, said of the document: "Nobody has told us that it's not authentic. I think you can say that it's 99 percent certain that it's authentic."

Guantanamo Prisoner Rejects US War Tribunal (REU-Y2)

By Jane Sutton

Reuters, January 12, 2006

A Yemeni accused of being a bodyguard for Osama bin Laden went before a U.S. military tribunal on Wednesday and said he would boycott his war crimes trial because he did not recognize the tribunal's authority.

Yemeni Ali Hamza al Bahlul, who has acknowledged that he is "from al Qaeda," is one of only nine Guantanamo prisoners charged with crimes.

A separate tribunal also began on Wednesday for Canadian Omar Khadr, who is accused of killing a U.S. Army medic in Afghanistan when he was still 15.

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Most of the 500 or so detainees at Guantanamo have been held without charges for years. The hearings began on the fourth anniversary of the opening of Guantanamo as a prison for terrorism suspects.

Bahlul is accused of conspiring to commit war crimes by acting as a bin Laden bodyguard and making recruiting videos for al Qaeda. He was escorted by two officers into a courtroom at the remote U.S. military base in Cuba for pretrial arguments and said he did not recognize the tribunal's authority.

"There's going to be a tribunal of God on the day of judgment," Bahlul told the court. "Do what you have to do and rule however you have to rule ... God will rule based on justice." His comments were made in Arabic.

Bahlul ended his participation in the proceedings with one word in English "Boycott," and the presiding officer, Army Col. Peter Brownback, set his trial tentatively for May 15.

The tribunal for Canadian prisoner Khadr, accused of killing the medic with a grenade during a firefight at a suspected al Qaeda compound in Afghanistan, was less colorful.

Looking burly and grown up, and sporting a crew cut and full beard, the now 19-year-old quietly answered "Yes sir," when the presiding officer, Marine Col. Robert Chester, asked him if he understood his rights.

Dressed in a blue and red T-shirt and white tennis shoes, Khadr fidgeted and stroked his beard during the hearing and asked that a Canadian lawyer be added to his defense team.

Through his military lawyer, Capt. John Merriam, he also asked that a more experienced military attorney be appointed to represent him. The hearing was the first time that Merriam has represented anybody in a courtroom.

The tribunal called a recess while it considered the issue of representation.

The Pentagon is proceeding with the two cases even though courts have halted the trials of other Guantanamo prisoners pending a U.S. Supreme Court ruling on whether President George W. Bush had authority to establish the tribunals after the September 11 attacks. The high court will hear arguments in the case in March.

NO SHACKLES

Bahlul, with a short beard and mustache and wearing khaki pants and a dark blue shirt, was not shackled or handcuffed.

He read a list of nine reasons why he refused to be represented by a military lawyer or to participate further, including the treatment of Palestinians by U.S. ally Israel -- "your allies, the Jews," he said -- and because his native Yemen had been accused in the bombing of the USS Cole.

Bahlul also said Guantanamo prisoners had been tortured and that the Britons there were not subject to military tribunals. He objected to the potential use of secret evidence and to the U.S. characterization of prisoners as illegal belligerents.

"We are prisoners of war and legal combatants based on our religion and our religious law," he said. "We do not care about anything that you call us."

Brownback rejected Bahlul's request to represent himself and Bahlul refused to meet with Army Reserve Maj. Tom Fleener, the lawyer appointed by the military to defend him.

Smiling and thanking Brownback, he held up a sheet of paper scrawled with the word 'Boycott' in English and Arabic. He removed translation earphones, and refused to enter a plea or to stand when the charges were read.

Bahlul and Khadr could face life in prison if convicted.

The United States has faced criticism at home and abroad over Guantanamo since the first group arrived from Afghanistan, shackled and wearing black-out goggles and surgical masks, on January 11, 2002.

Fleener has called the tribunals a sham and said it is an ethical violation for him to represent a prisoner who has rejected his services. Brownback ordered him to defend Bahlul anyway.

Human rights groups have criticized rules allowing the use of evidence that may have been obtained through torture.

Chief prosecutor Col. Moe Davis said the tribunals were designed to provide a fair trial while addressing an enemy whose actions had not been anticipated under existing law.

Terror Suspect Upsets Plan To Resume Trials In Cuba (NYT)

By David S. Cloud

The New York Times, January 12, 2006

GUANTÁNAMO BAY, Cuba, Jan. 11 - The military commissions prosecuting suspected members of Al Qaeda reconvened on Wednesday for the first time in more than a year and were quickly thrown into disarray when a defendant declared he was boycotting the proceedings.

Invited by the judge to address the court, the defendant, Ali Hamza Ahmed Sulayman al-Bahlul, delivered a 10-minute address in which he praised Allah and denounced "your allies, the Jews." Complaining that he had not been permitted to choose a lawyer from Yemen, his home country, Mr. Bahlul said he had no expectation of justice from a system created by his American enemies.

"I am telling the judge do what you have to do," he said in Arabic through a translator. "Rule what you have to rule. This life will go on and end at some point. God will rule based on justice, and those who call on other than God are not calling on anything."

Smiling, he then held up a piece of paper with the word "boycott" written in stylized Arabic script, then repeated the word three times in English. For the rest of the two-hour hearing he was silent, even when asked by the presiding officer, Col. Peter Brownback III, to enter a plea.

Prosecutors say that Mr. Bahlul, one of the first prisoners to arrive at the Guantánamo center when it was set up in 2002, attended a Qaeda training camp and was a bodyguard to Osama bin Laden in 2001. Earlier, he had produced recruitment videos for Al Qaeda, including a tape on the 1998 attack on the destroyer Cole. If convicted, he faces a life sentence.

Even as Mr. Bahlul has acknowledged his connections to Al Qaeda, he has shown a talent for courtroom theatrics that have at times flummoxed the commissioners.

Little has gone smoothly for the military commissions, which the Bush administration created to try Guantánamo prisoners and which have suffered setbacks because of legal challenges, including a review from the Supreme Court.

Mr. Bahlul and Omar Khadr, a second defendant who appeared later in the day, are among nine detainees at Guantánamo who are facing war crimes charges under the military commission system.

More than 500 detainees remain in the center, which Pentagon officials once characterized as holding the most hardened terrorists captured in Afghanistan.

Of the remaining prisoners, 50 to 75 are likely to be charged, said a spokeswoman, Maj. Jane Boomer.

Mr. Bahlul demanded more than a year ago to choose a Yemeni lawyer, a request that was refused. Afterward, he said he wanted to represent himself, an idea that led commission authorities to suspend the proceedings while they researched the question. On Wednesday, Colonel Brownback ruled against him, saying President Bush's order establishing the commissions required defendants to have military counsel.

The ruling did not settle the question. Maj. Tom Fleener, Mr. Bahlul's appointed military lawyer, immediately moved to withdraw as defense counsel, a request that Colonel Brownback rejected.

Defendants in most courts, including those of the United States, are entitled to represent themselves as long as they are deemed competent, Major Fleener argued.

Requiring him to represent a client who did not want his help was an effort "to add some air of legitimacy to an otherwise wholly illegitimate process," he said.

It also could violate bar association rules in Iowa and Wyoming where Mr. Fleener, a reservist, is licensed to practice, he said.

Mr. Khadr, who was 15 when he was captured in Afghanistan and also faces life imprisonment, is accused of throwing a grenade that fatally wounded an American soldier. He declined to enter a plea on Wednesday.

Mr. Khadr's civilian defense lawyers say they can find no other war crimes prosecutions for war crimes involving a juvenile.

Prosecutors said juveniles accused of murder in the United States could be tried as adults in many states.

On Wednesday, Mr. Khadr's defense team moved to replace his appointed military lawyer, Capt. John Merriam, of the Army captain. His civilian lawyer, Muneer I. Ahmad, who is a law professor at American University, said Captain Merriam had never defended a case at trial before.

Speaking to reporters this week, Col. Morris Davis, the commission's chief prosecutor, defended the use of military commissions to try accused terrorists, saying existing law did not provide guidance for prosecuting members of terror groups.

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Yemeni Prisoner At Gitmo To 'Boycott' Tribunal (WT/REU)

By Jane Sutton

The Washington Times, January 12, 2006

U.S. NAVAL BASE GUANTANAMO BAY, Cuba -- A Yemeni accused of being a bodyguard for Osama bin Laden went before a U.S. military tribunal yesterday and said he would boycott his war-crimes trial because he did not recognize the tribunal's authority.

Ali Hamza Ahmed Sulayman al Bahlul, who has acknowledged that he is "from al Qaeda," is one of nine Guantanamo prisoners charged with crimes. Most of the 500 or so detainees have been held without charges for years in the U.S.-led war on terrorism. The hearing began on the fourth anniversary of the camp's opening.

Al Bahlul is accused of conspiring to commit war crimes by acting as a bin Laden bodyguard and making recruiting videos for al Qaeda.

"There's going to be a tribunal of God on the day of judgment," al Bahlul told the court in Arabic. "Do what you have to do and rule however you have to rule. ... God will rule based on justice."

Al Bahlul ended his participation in the proceedings with one word in English: "boycott." Presiding officer Army Col. Peter Brownback set the suspect's trial tentatively for May 15.

A separate tribunal of U.S. military officers was set to begin in the murder case against Canadian prisoner Omar Khadr, 19. He is accused of killing an Army medic with a grenade during a firefight at a suspected al Qaeda compound in Afghanistan when he was 15.

The Pentagon is proceeding with the two cases even though U.S. courts have halted the trials of other Guantanamo prisoners pending a U.S. Supreme Court ruling on whether President Bush had authority to establish the tribunals. The high court will hear arguments in the case in March.

Al Bahlul, who has a short beard and mustache and wore khaki pants and a dark blue shirt, was not shackled or handcuffed in the courtroom.

Earlier in the hearing, he read a list of nine reasons why he refused to be represented by a military lawyer or to participate further, including the treatment of Palestinians by U.S. ally Israel -- "your allies, the Jews," he said -- and because his native country had been accused in the 2000 bombing of the USS Cole.

Al Bahlul said Guantanamo prisoners had been tortured and that the Britons who had been held there were not subject to military tribunals. He objected to the potential use of secret evidence and to the U.S. characterization of the prisoners as illegal belligerents.

"We are prisoners of war and legal combatants based on our religion and our religious law," he said. "We do not care about anything that you call us."

Col. Brownback rejected al Bahlul's request to represent himself, and the prisoner refused to meet with Army Reserve Maj. Tom Fleener, the lawyer appointed by the military to defend him.

Smiling and thanking Col. Brownback, al Bahlul held up a sheet of paper scrawled with the word "boycott" in English and Arabic. He removed the earphones that had enabled him to listen to an Arabic translation of the proceedings and refused to enter a plea or to stand when the charges were read.

Al Bahlul and Khadr face life in prison if convicted by the tribunals, which were authorized by Mr. Bush to try foreign terrorism suspects after the September 11 attacks.

Maj. Fleener has called the tribunals a sham and said he thinks it is an ethical violation for him to represent a prisoner who has rejected his services. Col. Brownback ordered him to defend al Bahlul anyway.

The United States has faced criticism at home and abroad for its treatment of prisoners at Guantanamo since the first group arrived from Afghanistan, shackled and wearing black-out goggles and surgical masks, on Jan. 11, 2002.

Human rights groups have criticized rules allowing the use of evidence that may have been obtained through torture.

Chief prosecutor Col. Moe Davis said the tribunal system was designed to provide a fair trial while addressing an enemy whose actions had not been anticipated under existing law.

Guantanamo Detainee Boycotts U.S. Hearing (AP)

By Miranda Leitsinger, Associated Press Writer

The Associated Press, January 12, 2006

A Yemeni man accused of being Osama bin Laden's former bodyguard told a U.S. military tribunal Wednesday he regarded Americans as enemies and announced he would boycott the hearings, which proceeded anyway.

Led into the courtroom by two U.S. soldiers, Guantanamo detention center detainee Ali Hamza Ahmad Sulayman al Bahlul announced he was boycotting the proceedings, saying he could not appoint his own lawyer, that secret evidence can be withheld from detainees and that the United States was "an enemy to the nation of Muslims."

"I am boycotting all sessions, even if I'm forced to be present," said a calm al Bahlul, who is accused of belonging to al-Qaida, before removing his translation headphones.

Al Bahlul, who wasn't handcuffed, held up a sign written in Arabic that read "boycott." He signed the paper, dated it and presented it to Brownback. He later removed his translating headphones.

Army Col. Peter E. Brownback, the presiding officer, denied al Bahlul's request to represent himself and set a May 15 trial date. Al Bahlul is charged with conspiring with al-Qaida members to commit war crimes, including attacking civilians, and faces other conspiracy charges.

Prosecutors charge that al Bahlul was ordered by bin Laden, the leader of the al-Qaida terrorist network, to create a video glorifying the group's October 2000 attack on the destroyer USS Cole in Yemen that killed 17 American sailors.

Al Bahlul worked in the al-Qaida media office from late 1999 through December 2001 and created instructional and motivational recruiting video tapes for the organization, prosecutors alleged.

On Sept. 11, bin Laden asked al Bahlul to set up a satellite connection so al-Qaida members could see news reports, but he couldn't due to the mountainous terrain, U.S prosecutors said.

In 2001, al Bahlul also allegedly served as a bodyguard to bin Laden, wearing an explosives-laden belt when traveling with the al-Qaida leader to protect him.

About 500 detainees are being held at Guantanamo, some as long as four years.

Omar Ahmed Khadr, a 19-year-old Canadian charged with murder, attempted murder, aiding the enemy and conspiracy, went before the commission later Wednesday, the fourth anniversary of the opening of the Guantanamo prison.

Khadr, who wore a red, white and blue sweat shirt, was soft-spoken, replying "yes, sir" or "no" to presiding officer Marine Col. Robert S. Chester's questions. Chester didn't set a trial date, adjourning the hearing until Thursday.

Toronto-born Khadr, the son of an alleged al-Qaida financial leader, Ahmad Said al-Khadr, was captured on July 27, 2002, near Khost, an al-Qaida hotbed in eastern Afghanistan. He was caught after being badly wounded in a firefight in which an American soldier was killed and four others were wounded.

He was charged with murder, attempted murder, aiding the enemy and conspiracy for allegedly tossing a grenade that killed a U.S. Special Forces medic while fighting with the Taliban in Afghanistan, planting mines to target U.S. convoys, and gathering surveillance.

Muslim Cleric Accused In London Court Of Inciting Hatred Of Jews (NYT)

By Alan Cowell

The New York Times, January 12, 2006

LONDON, Jan. 11 - In a closely watched trial, a prominent British Muslim cleric was accused Wednesday of inciting hatred against Jews, praising Hitler and voicing support for suicide bombings.

The cleric, Abu Hamza al-Masri, is accused of violating various British laws in lectures and sermons recorded on videotape and audio cassettes in which he was reported to have said he wanted to see the establishment of an Islamic caliphate in the White House.

Mr. Masri, 47, has denied all 15 charges against him, which include inciting racial hatred and possessing a 10-volume "Encyclopedia of the Afghani Jihad," which prosecutors call "a manual for terrorism."

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Mr. Masri, also known as Mustafa Kamel Mustafa, is an Egyptian-born preacher who acquired British citizenship by marriage. He is the former imam of the Finsbury Park mosque in North London. He was arrested in May 2004, and is wanted in the United States on other terrorism charges.

Mr. Masri is the best-known British Islamic leader to come to trial since the attacks in the United States on Sept. 11, 2001, set off the international effort to curb terrorism.

David Perry, a prosecutor, said in court that Mr. Masri had "encouraged his listeners, whether they were an audience at a private meeting or a congregation at the mosque, to believe it was part of a religious duty to fight in the cause of Allah, God, and as part of the religious duty to fight in the cause of Allah, it was part of the religious duty to kill."

"The people they were being encouraged to kill, put shortly, were nonbelievers," Mr. Perry said.

The accusations reflected what Mr. Perry depicted as the "intolerance, bigotry and hatred" that he said Mr. Masri had sought to instill among some British Muslims.

The hearings are unfolding under strict British legal restrictions intended to ensure that Mr. Masri's trial is fair and is not influenced by the way he was characterized in British newspapers before his arrest. If convicted, he could face life in prison.

"You would think he would be preaching tolerance, mutual coexistence and responsibility regardless of religion or creed," Mr. Perry said. "In fact he preached the opposite: intolerance, bigotry and hatred, in particular against Jews as a racial group and as a religious body.

"In the course of one lecture, he accused the Jews of being blasphemous, traitors and dirty. This, because of the treachery, because of their blasphemy and filth, was why Hitler was sent into the world."

Mr. Masri told his followers that "Hitler was sent to torture and humiliate the Jews, and every last Jew is going to be buried in Palestine," Mr. Perry added, quoting from what he said was a sermon in October 2000.

In other videotapes, Mr. Masri said it was "permitted to kill women and children if they are fighting Muslims, or if there is no way to stop them," Mr. Perry said.

Mr. Masri was also asked for his views on suicide bombings. "It is not called suicide, this is called martyrdom," Mr. Masri was quoted as saying. According to Mr. Perry's account, Mr. Masri added, "If we do not use terrorism or torture, what are we going to use?"

Mr. Masri frequently evoked the caliphate, Mr. Perry said, referring to Islamic spiritual and temporal leadership based on descendants of the Prophet Muhammad. The caliphate was abolished in 1924 by Ataturk, the founder of modern Turkey.

"He is working for a worldwide caliphate, a world dominated by a caliph sitting, he says in one of his lectures, in the White House," Mr. Perry said.

Radical Cleric Preached Hatred And Murder, Prosecution Argues (LAT)

By Janet Stobart, Times Staff Writer

The Los Angeles Times, January 12, 2006

LONDON — A prosecutor Wednesday accused Abu Hamza al Masri, an Egyptian-born Muslim cleric, of preaching hatred, telling followers that the world should be run by a Muslim caliph "sitting in the White House" and that it was legitimate to kill foes of Islamic law.

The high-profile trial began at London's Old Bailey criminal court a day after jury selection, with Masri facing 15 counts of conspiracy to murder and using threatening, abusive and insulting language and behavior in incitement to religious hatred. He also is charged with possessing material and documents relating to terrorist activities. The trial is expected to last four weeks.

Masri, a large man who says he lost an eye and both hands fighting the Soviets in Afghanistan, became well known as the radical preacher at North London's Finsbury Park Mosque. The mosque was considered a crossroads for terrorists such as Richard Reid, the so-called shoe bomber, before and after the Sept. 11 attacks.

The galleries at the Old Bailey were packed as prosecutor David Perry told jurors that instead of preaching tolerance, Masri preached hatred, particularly against Jews. Tapes seized after Masri's arrest in 2004 reveal the defendant vilifying Jews as "blasphemous, traitors and dirty. It's because of their filth that Hitler was sent into the world to torture and humiliate Jews," Perry related to the court.

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The court, presided over by Judge Anthony Hughes, heard that when Masri was arrested, police found 2,700 audiotapes and 570 videotapes at his West London home and another London address. The material amounted to a blueprint for how life should be lived according to Masri, Perry said.

The overriding theme, he said, was the "obligation to jihad," which justified, according to Masri, killing nonbelievers and enemies of Islam. Those enemies included Western nations and Arab states, such as Egypt and Saudi Arabia, that are aligned with the West, the prosecution said.

Perry said Masri also supported suicide bombers. "As far as the defendant is concerned, you don't call it suicide, you call it martyrdom," Perry said. He quoted the cleric as saying, "If we don't use terrorism and torture, what are we going to use?"

Masri, who has denied the charges, sat in the dock in the courtroom wearing a pale blue shirt over matching pants, surrounded by four guards. He seemed to follow the proceedings attentively, occasionally bowing his head or consulting with a female assistant. As a preacher, he normally wore a prosthetic hook, but he has not been allowed to have it during his incarceration.

The tapes allegedly chronicle sermons and talks Masri made from 1997 to 2000, some including references to terrorist attacks, including the suicide bombing of the U.S. Navy destroyer Cole off the coast of Yemen in October 2000, and the slaying of 58 tourists in Luxor, Egypt, in November 1997.

The prosecution also described the "Encyclopedia of Afghani Jihad," an alleged terrorist manual seized from Masri, which included chapters on the construction of weapons, intelligence gathering, combat and, in Perry's words, "all you need to know to make homemade bombs or explosives."

The prosecutor argued that the proceeding should not be seen as a trial against Islam, "one of the great monotheistic religions," or an infringement of free speech. "Tolerance does not extend to racial hatred and encouragement of murder," Perry said.

The United States indicted Masri in 2004 on 11 terrorism-related charges, including his alleged role in a plot to set up a terrorist training camp in rural Oregon in 1999. It is seeking his extradition.

Times staff writer John Daniszewski contributed to this report.

PATRIOT ACT:

U.S. Attorney Touts Usefulness Of Patriot Act To Law Enforcement (KATV-TV)

KATV-TV, ABC 7, Little Rock, AR, January 12, 2006

Little Rock - The U.S. Attorney's office is using a conference on terrorism to tout the usefulness of the Patriot Act, set to expire on February 3. Supporters of the act say it's essential to protect the American public against the war on terror. Opponents say it's a violation of civil liberties. It's a heavily debated issue about which both sides have strong opinions.

Cummins says many of the allegations made against the act are simply not true..

(Bud Cummins, U.S. Attorney) "There's nothing ground-breaking about the provisions of the Patriot Act. It's just trying to afford the investigators in these very important terrorism investigations to have the same type of tools we use against drug dealers."

Cummins says provisions in the Patriot Act lower the wall between criminal and intelligence investigators to share information and allow intelligence investigators to use similar techniques in criminal investigations. The act also updates laws for electronic surveillance.

(Cummins) "Terrorists don't use rotary telephones. They use cell phones, pagers, e-mail, text messaging, Web sites, we need to be able to keep up with that."

(Sklar) "We have plenty of law enforcement officers and investigative tools and what they're doing is investigating crimes and potential crimes and we have a criminal justice system that does that."

The ACLU says the Patriot Act is an abuse of power for many reasons.

(Sklar) "The reason that congress has voted to hold off on the renewing the patriot act. They have concerns as all Americans do about the kind of abuse of power the Patriot Act allows."

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(Sklar) "There are sneak and peak searches which means they can come in and search your home. They've gotten a warrant but they don't have to tell you they've been there.."

Sklar says provisions in the Patriot Act, particularly those allowing investigators in intelligence investigations to use techniques similar to criminal investigations, oversteps it's bounds.

HOMELAND RESPONSE:

F.B.I. Tries To Dispel Surveillance Concerns (NYT)

By Lynette Clemetson

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - F.B.I. officials met with Muslim and Arab-American leaders on Wednesday in an effort to dispel anger and concern over the bureau's secret monitoring of radiation levels at Muslim sites around the country.

John Pistole, deputy director of the Federal Bureau of Investigation, and John Miller, the bureau's assistant director of public affairs, tried to reassure those at the session that the surveillance of mosques and Muslim businesses and homes had been based on intelligence leads.

"There was intelligence that talked about the desire to use a dirty bomb in the U.S.; there were statements from bin Laden indicating that he had those materials and that there were cells in the U.S. trained to blend into Muslim communities," Mr. Miller said after the meeting. "We explained how we work with intelligence and that we did what we did based on the patterns of Al Qaeda, not because of the patterns or activities of any mosque or Muslim neighborhood."

F.B.I. officials struck a conciliatory tone, several attendees said, and acknowledged that the bureau could have responded to their concerns more quickly. But Mr. Pistole offered few details on the monitoring, they said, and he emphasized that the program, which began after the Sept. 11, 2001, attacks and lasted through 2003, remained classified.

Leaders of Muslim and Arab-American groups requested the meeting after the program was disclosed last month by U.S. News & World Report. The nationwide surveillance program included air monitoring of more than 100 private properties in the Washington area.

The controversy over the surveillance program comes after the F.B.I. cancelled financing for a bureau-wide training initiative intended to improve outreach to Muslim and Arab Americans. Group leaders say the news about the radiation monitoring makes such a program all the more crucial.

"This current situation reinforces the notion that our community is viewed more as suspects rather than partners," said one attendee, Salam Al-Marayati, executive director of the Muslim Public Affairs Council, a national advocacy organization. "Formalizing outreach sets a standard for better educating agents on the best means of acquiring information, and it demonstrates that partnership is the best way of protecting our country from terrorist attacks."

In October, the F.B.I. rescinded a $1 million pledge toward a training program to institutionalize bridge-building between its field offices and Muslim groups around the country. The program, which would have cost $6 million over three years, was cancelled, in part, because of budget constraints, Mr. Miller said.

In cities with sizable numbers of Muslims and Arab-Americans, F.B.I. field offices have developed relationships with mosques, advocacy groups and community leaders. In Washington and Los Angeles, for instance, special agents meet regularly with groups. Partnerships in Detroit formed the basis for the training program that bureau officials first embraced, then rejected.

Agents engaged in the outreach program said it helped them gain cultural awareness as well as practical insights into sorting good leads from bad. Muslim, Arab and Sikh leaders said that, as a result of the outreach, they received better F.B.I. protection from hate crimes.

But national initiatives like special security registration of citizens of Arab and Muslim countries, sweeps by federal agents in Muslim and Arab neighborhoods and the freezing of Islamic charities' assets have generated complaints.

The radiation surveillance, conducted with the Department of Energy, is another irritant. Disclosures of such programs, attendees at Wednesday's meeting said, make it more difficult to convince people that forming ties with government agencies is productive.

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"When things like this happen, people come to us and ask, 'What are you doing talking to the F.B.I.?' " said Imam Mohamed Magid, leader of the All Dulles Area Muslim Society, a mosque in Northern Virginia commonly called the Adams Center, which serves 5,000 families.

Imam Magid, who also attended the meeting on Wednesday, has forged ties with agents in the F.B.I.'s Washington field office and organized public forums between them and community members. Now, he said, some of those in the community have questioned whether those sessions were ruses for the agency to conduct secret monitoring.

Several F.B.I. agents have also supported bringing uniformity to bureau practices.

"We're consistent in how we deal with white-collar crime and every other type of crime," said Michael E. Rolince, who was in charge of counterterrorism for the Washington office before he retired in October. "When it comes to dealing with the Arab-American and Muslim community, we have no consistent program. We have 56 different approaches in our 56 different field offices."

The canceled training program, called the Partnering for Prevention and Community Safety Initiative, was developed at Northeastern University in Boston.

"It's not 'Kumbaya, let's sit and talk about how nice things are,' " said Deborah A. Ramirez, a Northeastern law professor and former racial-profiling consultant to the Justice Department, who developed the program. "It's a structured process to learn what exists, what works and what we all need to be doing."

Mr. Miller said the bureau would support the training program if outside financing was secured.

"Now that we've let some of the pressure out of this pressure cooker," he said, "we have to address how we go about building better relationships so that when the next crisis comes, we can just call people and talk about it up front."

Monitoring Of Muslims Addressed (WT)

By Jerry Seper

The Washington Times, January 12, 2006

Arab-American and Muslim leaders met yesterday with FBI officials to discuss concerns that Muslim religious places, homes and other buildings were monitored for abnormal radiation levels without search warrants or court orders.

The meeting with FBI Deputy Director John S. Pistole, coordinated by the Los Angeles-based Muslim Public Affairs Council (MPAC), was held in the wake of press reports that the monitoring began after the September 11, 2001, attacks and lasted through 2003. The FBI has denied that it singled out private Muslim sites for the radioactivity monitoring.

Two Muslim organizations have since filed Freedom of Information Act requests to learn which sites were monitored.

"Today's meeting, while not resolving all underlying issues of concern, offered an opportunity to improve lines of communication and to increase mutual cooperation on issues related to national security and the prevention of hate crimes," said Nihad Awad, executive director of the Washington-based Council on American-Islamic Relations (CAIR), who participated in the meeting.

Mr. Awad said any security measures that create the perception that the Muslim community in the U.S. is targeted can create difficulties between Muslims and law-enforcement authorities, adding that "such perceptions can also lead to increased Islamophobia and even anti-Muslim hate crimes."

Al Qaeda founder Osama bin Laden has threatened renewed attacks on U.S. targets, and al Qaeda suspect Jose Padilla was arrested in May 2002 by the FBI on suspicion of a scheme to detonate a radiological 'dirty bomb' in this country.

The FBI has acknowledged that it tested for nuclear radiation at more than 100 Muslim sites in the Washington area, but has denied engaging in racial profiling against Muslims. The bureau also said it did not violate the law, breach constitutional guarantees or trespass on private property. It said non-Muslim sites also were monitored for excess radiation.

In its data request, CAIR asked for all government records concerning the authority of President Bush to authorize surveillance without obtaining a court order and "comprehensive lists and addresses" of the Muslim sites -- including mosques, organizations, businesses, warehouses and homes -- that were monitored.

The monitoring activity is thought to have also taken place in Chicago, Detroit, New York, Las Vegas and Seattle.

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Mr. Pistole had invited the Muslim organizations to meet with him to address reports of widespread surveillance and radiation monitoring. There were no reports that high levels of radiation were found during the monitoring, which first was reported last month by U.S. News & World Report.

US-VISIT To Step Up Fingerprinting (FEDTIMES)

By STEPHEN LOSEY

Federal Times, January 12, 2006

The director of the nation's program to screen foreign visitors entering the United States hopes to begin testing a more stringent fingerprinting system this year.

The U.S. Visitor and Immigrant Status Indicator Technology program, or US-VISIT, last July was directed by Homeland Security Secretary Michael Chertoff to start taking all 10 fingerprints from first-time visitors to the country. US-VISIT director Jim Williams said at a press briefing Jan. 5 that the program is still putting together a plan to expand the process. He expects the plan to be finished in a few months.

Meanwhile, Homeland Security finished installing US-VISIT at all 104 land border ports in December, meeting a deadline mandated by Congress, Williams announced.

US-VISIT now takes only two fingerprints of foreign visitors. The FBI's identification system uses 10 fingerprints and a photograph to track criminals.

The Justice Department criticized the two-print system in 2004, saying it could allow terrorists or violent criminals to slip into the country undetected.

Williams stressed that he does not want US-VISIT to impede legitimate visitors and said the first tests will take place at low-volume border crossings and airports to minimize delays. The State Department also may help with testing, he said.

US-VISIT aims to register fingerprints from each of the 279 million foreigners who enter and leave the country each year and to cross-reference that data with 20 or more criminal, intelligence and immigration databases from multiple federal agencies.

Adopting a 10-print system will help improve information sharing, Williams said. US-VISIT is also trying to increase the number of fingerprints it receives each day from the FBI and is talking to agencies such as Immigration and Customs Enforcement, Customs and Border Protection and Citizenship and Immigration Services to find ways to better exchange data.

Williams also wants to work on improving the procedures used when people leave the country.

US-VISIT plans this spring to finish testing a new technology it hopes will speed up the exit process for visitors. The program is inserting radio frequency identification chips into arrival and departure forms used by visitors at three ports on the Canadian border and two ports on the Mexican border.

Visitors are now supposed to park their cars, get out and physically turn in their forms, called I-94 forms, before they leave the country.

RFID technology allows visitors to drive out of the country without stopping and still inform Homeland Security that they have left.

But the technology cannot tell whether the person in the car is carrying an I-94 that actually belongs to him or her, Williams said.

However, most visitors today do not turn in their I-94s at all because visitors ignore the rule and CBP agents are too busy watching people entering the country to stop them, and US-VISIT wants to have a better picture of who is leaving the country.

"RFID is not perfect, but it's better than not recording people's exit at all," Williams said.

Williams said that US-VISIT has helped the Homeland Security Department catch more than 970 known criminals and visa violators since it began in January 2004. He said the system has not caught any known terrorists entering the country, but he believes it is an effective deterrent that discourages them from trying to come into the country through ports of entry.

Williams said about 0.1 percent of visitors are falsely identified by the US-VISIT system as being on a watch list of suspects, and that Homeland Security's biometric support center can usually clear up any confusion in about two minutes.

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Homeland Security plans to spend $35 million on US-VISIT this fiscal year, the same amount as last year. US-VISIT processed more than 44 million visitors over the last two years.

Trade Group's Quick Advice: Slow Down (WP)

By Judy Sarasohn

The Washington Post, January 12, 2006

With lawmakers rushing out new plans for cleaning up their relations with lobbyists in the wake of the Jack Abramoff scandal, there's one trade group that would like a larger role in the deliberations. Indeed, it would like members of Congress to take a collective big breath and slow down a bit.

The group? The American League of Lobbyists.

Paul Miller of Miller/Wenhold Capitol Strategies and president of ALL said the group is not particularly opposed to major changes in lobbying rules. It simply wants "transparency" in what the Congress is up to in the rush to reform.

"Congress cannot just put out a package and rush it to the floor for a vote," Miller said. If lawmakers move too fast, too far to "appease the public," he said, they could find themselves back next year trying to undo unintended consequences.

Lawmakers could change their rules rather than pass laws to restrict members from taking fancy trips paid for by lobbyists, Miller said.

He expressed concern about proposals to prevent lawmakers and staffers from going to work as lobbyists for two years after leaving the Hill. They generally are restricted from lobbying their former colleagues for a year.

The one-year cooling-off period isn't being enforced, Miller said, and he doubts there would be any real enforcement on a two-year ban.

"The finger-pointing can't be just pointed at us. Jack didn't force anyone to take anything," Miller said, adding that Abramoff was never an ALL member.

ALL, which says it has more than 700 members, provides networking and educational opportunities for lobbyists. It also developed a voluntary lobbyist code of ethics.

Miller said ALL's board will meet Jan. 23 to decide on a strategy for dealing with possible legislative action, but that he knew one thing: "We'll do what we do best: lobby."VCIC Gets Lobbying Help

Members of the emerging industry of biometric technology companies who are trying to sell the Registered Traveler security program to the nation's airports have formed a coalition to help boost their credibility and their voice in Washington.

Perhaps more important, the Voluntary Credentialing Industry Coalition (VCIC) has scored some substantial lobbying help: Wexler & Walker Public Policy Associates . Maybe even more important, the leader of the Wexler & Walker team for the client is Tom Blank .

Yes, the Tom Blank who was acting deputy administrator of the Transportation Security Administration and who created the agency's Office of Transportation Security Policy. During his time at TSA, the agency developed the Registered Traveler program, which is now a pilot project at the Orlando airport and allows airline passengers who undergo biometric screening and pay a fee to go through security faster. The industry wants to expand the program in which private companies would sign up frequent fliers and be responsible for background checks and necessary technology.

Blank joined the lobby shop in September and is prevented by federal ethics restrictions from contacting TSA officials for a year, although he could lobby members of Congress.

He said he cleared his work for the VCIC with ethics officials at TSA. Particularly "in this climate," Blank said, "I dial the agency ethics officials pretty often."

An e-mail from TSA deputy chief counsel Elizabeth Buchanan advised Blank not send a copy of the release to the agency, "because that would be a communication from you to TSA. . . . Then you leave the line in about 'Wexler & Walker Public Policy Associates, where Blank is vice chairman, will coordinate day-to-day activities and advocacy for the VCIC.' This is one fact about the organization among others and is fine as written."

Blank said he and the lobby shop are "trying very hard to comply" with the ethics rules.

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Earlier in his Washington career, Blank was an aide to then-House member Robert S. Walker (R-Pa.). Blank also was communications director to then-House Speaker Newt Gingrich (R-Ga.).

Among the members of the Wexler & Walker team for VCIC: Timothy Hannegan , a top aviation lobbyist; Anne Wexler , a former senior aide to President Jimmy Carter; and former TSA official Chad Wolf .

Among the members of the coalition are officials of Iridian Technologies, Saflink Corp., Verified Identify Pass Inc. and Lockheed Martin.By the Numbers

His lobby and consulting shop is less than a year old, but the money doesn't appear to have been too shabby for former attorney general John D. Ashcroft . According to year-end disclosures for the Ashcroft Group 's five lobbying clients, the firm brought in $269,000 for the last six months of 2005. As the Chicago Tribune noted this week, these totals "so far represent in some cases only initial retainers or billings."

In only one case -- for Oracle Corp. -- was Ashcroft one of the registered lobbyists. But Oracle's legislative affairs director, Robert Hoffman , said Ashcroft did not end up doing any actual lobbying and only advised the company on antitrust issues.

Here's how the money shook out: The Ashcroft Group reported receiving $220,000 from Oracle; $20,000 from Israel Aircraft Industries International; $15,000 from Choicepoint; and $14,000 from the American Institute of Certified Public Accountants.

Many of Ashcroft's restrictions on lobbying his former Justice colleagues expire early next month.

City Revival Plan Draws Sharp Criticism (LAT)

By Miguel Bustillo

The Los Angeles Times, January 12, 2006

NEW ORLEANS -- Residents of the New Orleans neighborhoods most heavily damaged by Hurricane Katrina, under a controversial plan unveiled Wednesday, would have just four months to demonstrate strong support for rebuilding their areas before possibly being forced to sell their properties to the government.

The proposal is a centerpiece of Mayor C. Ray Nagin's "Bring New Orleans Back" recovery plan, which is being rolled out in phases this week. It drew immediate outrage from residents and community activists, who argued that many citizens -- especially the blacks who predominated the flood-struck areas -- could be forced out of the city for good.

It represents an attempt to seek a middle ground on the issue that has emerged as the flashpoint in the debate over how to restore the ravaged city: Should all of New Orleans be rebuilt, or should city planners shrink the city's footprint, returning low-lying neighborhoods to wetlands and green space to serve as a natural barrier against floods?

"None of us want to be in this particular place, but Katrina has forced us to take a good hard look at what we need to do to rebuild our city," Nagin said. "The realities are that we will have limited resources to redevelop our city. . . .The other reality is this report is controversial. It pushes the edge of the envelope. It probably says some things to some people they are probably misinterpreting."

Despite Nagin's effort to ease tensions, the unveiling of the proposal quickly became heated, with residents across racial and class lines angrily teeing off on what they considered a land grab engineered by the city's elite. Much of the ire was heaped on New Orleans developer Joseph C. Canizaro, a key architect of the plan, whose name elicited boos from the crowd in the standing-room-only auditorium.

"How many people from my back yard are up there?" Harvey Bender, a laid off city maintenance worker from eastern New Orleans, yelled out, disrupting the proceedings. "I'm ready to rebuild, and I'm not letting you take mine," he added. "I'm going to fight, whatever it takes, to rebuild my property. It's going to be baby Iraq for Joe Canizaro."

Under the plan, which would take effect Jan. 20, New Orleans would impose a moratorium on building permits in areas hardest hit by Hurricane Katrina's floodwaters -- a vast swath of the city that includes parts of the Gentilly, Mid-City, Lakeview and Lower 9th Ward neighborhoods. Residents would then have to demonstrate there was sufficient critical mass in their area to rebuild to warrant public investment in schools and city facilities, possibly by showing that half of the population planned to come back.

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To accelerate the process, Nagin's commission is asking the Federal Emergency Management Agency to release updated floodplain maps the agency has assembled, which effectively could make the decision for many homeowners by raising home insurance rates and setting other new financial barriers to redevelopment.

Neighborhoods that failed to meet the critical mass test would be shrunk, or eliminated altogether, and a new city agency called the Crescent City Redevelopment Corp. would buy residents out or seize their properties through eminent domain. The estimated cost of the buyouts: $12 billion.

Legislation by Rep. Richard Baker, R-La., seeks to reimburse homeowners who are bought out with 60 percent of their pre-Katrina equity. The Nagin commission plan proposes to go further, compensating displaced homeowners the remaining 40 percent as well with federal Community Development Block Grant money and FEMA funding.

But those sources of funding, like many other elements of the ambitious plan, would need the support of Congress and President Bush, who is scheduled to make a public appearance in New Orleans Thursday and meet with the co-chair of Nagin's commission, health care executive Maurice L. Lagarde III.

"We respect the rights of all citizens to return to their neighborhoods," Lagarde said, casting the four-month process, set to end May 20, as an opportunity for residents to control the future of their communities.

In addition to the litmus test for flood-prone neighborhoods, the blueprint being unfurled this week contains many lofty ideas to use the rebuilding effort as a catalyst to permanently improve New Orleans.

An education subcommittee is proposing a radical reorganization of the city's troubled school system, which has been plagued by corruption and low academic performance. The proposal would de-centralize governing authority, giving principals greater authority over their schools, and neighborhoods more political power over management of smaller clusters of schools in their area.

A cultural subcommittee is proposing creation of a new jazz district near the French Quarter at the former location of Storyville, a fabled district of musicians and houses of ill repute popular during the turn of the last century that fell into disrepair and was demolished. The idea to recreate a cleaned-up version of Storyville, which gave rise to musical legends including Jelly Roll Morton, Manuel Perez and King Oliver, was championed by committee member and Pulitzer Prize winning jazz virtuoso Wynton Marsalis, a leading member of one of New Orleans' current musical dynasties.

Meanwhile, an infrastructure subcommittee is proposing a new $3.3 billion light-rail system modeled on those now in operation in cities including Portland, Ore., and Denver.

But it was the plan to give residents four months to show their neighborhoods could come back or be bought out that claimed the majority of the overall blueprint's $17 billion cost--and generated the most passionate response.

"Over my dead body," said Lower 9th Ward resident Caroline Parker, vowing to fight government seizure of her property. "Like I said, I didn't die with Katrina."

Some critics, who had claimed all along that Nagin's commission was stacked with developers and other business leaders, said the proposal was proof that the mayor was allowing moneyed interests to draw up the reconstruction, to the detriment of the city's working poor.

"To us, that's Katrina cleansing -- the removal of blacks from the city," said Mtangulizi Sanyika, of the African American Leadership Project, a group that was organizing a summit of black community leaders Thursday to discuss alternative plans to revive all of New Orleans.

The summit was part of a larger series of events planned for the upcoming Martin Luther King Day weekend in New Orleans, which are bringing black religious and political leaders from across the country, including Minister Louis Farrakhan of the Nation of Islam, to the city to illuminate the plight of the city's displaced black citizens.

Committee members stressed Wednesday that their blueprint envisioned room for all New Orleans residents who wanted to return to the city, and would accommodate them in part by redeveloping other parts of town, including some existing public housing projects. Only about 144,000 residents have returned to New Orleans, which had a population of 462,000 before the hurricane. Officials estimate only about 250,000 people will return by the fall of 2008.

Anger Meets New Orleans Renewal Plan (NYT)

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By Gary Rivlin

The New York Times, January 12, 2006

NEW ORLEANS, Jan. 11 - Residents of the city's most devastated neighborhoods responded with anger Wednesday after the city's rebuilding commission unveiled its most contentious proposal: giving neighborhoods in low-lying parts of the city from four months to a year to prove they should not be bulldozed.

The plan was presented at a standing-room-only meeting punctuated by catcalls and angry outbursts that often interrupted members of the panel. "Over my dead body" was uttered more than once.

"I'm going to suit up like I'm going to Iraq and fight this," said Harvey Bender, a laid-off city worker, who shouted out his comments before an audience at the Sheraton Hotel that numbered in the hundreds and spilled into the aisles and hallways.

Mr. Bender owns a home in New Orleans East, a predominantly black middle-class neighborhood of 90,000 residents largely destroyed by the flooding that followed Hurricane Katrina. Parts of the neighborhood might not survive, according to the plan, if they do not attract enough returning residents.

Speaker after speaker, black and white, prosperous and poor, dismissed a plan that Mayor C. Ray Nagin described as "controversial." But Mr. Nagin gave them hope as he walked a middle line that neither endorsed the plan nor opposed it.

"This is only a recommendation," Mr. Nagin said in remarks that preceded the formal presentation of the rebuilding plan. "We as a community will have the ultimate say in how we move forward."

The mayor called on people to listen to the commission's presentation with an open mind. "Take the time to digest this information, to look it over very carefully," Mr. Nagin said. "The reality is we will have limited resources to redevelop our city."

Yet the audience did not seem in the mood for calm debate.

"Please let us build our own homes," said Charles Young, a homeowner in Lakeview, a largely white middle-class neighborhood. "Let us come back on our own time. Let us spend our insurance money, which we paid for on our own."

Under the proposal, residents would not be permitted to move back into the hardest-hit neighborhoods - about two-thirds of the city, including more than half its homeowners - for at least four months. During that time, leaders of each neighborhood would have to submit to a citywide planning body a recovery plan that would have to be approved before residents would be allowed back.

Neighborhoods not able to come up with an acceptable plan, or those that do not attract sufficient development within a year, could be bulldozed and returned to marshland, with the city compensating homeowners.

The plan represents a compromise between the homeowners in low-lying areas who are determined to rebuild, and the scientists and other experts who believe the city should allow large portions of its flood-prone areas to revert to marshland.

Each neighborhood would have at its disposal teams of planners and other experts to help residents do what they need to prevent the city from forcing them to live elsewhere.

"We want to give every community as best a chance to come back as we can," said Joseph C. Canizaro, a member of the commission. Much of the crowd's enmity was directed at Mr. Canizaro, the plan's main author and a prominent developer here, who was booed several times.

"Joe Canizaro, I don't know you, but I hate you," said Mr. Bender, the New Orleans East resident, when granted his turn at the microphone.

Robyn Braggs, another resident of New Orleans East, said, "I don't think four or five months is close to enough time given all we would need to do." Because former residents are scattered around the country, she said, many, especially those with school-age children, "won't be able to even return to do the work necessary until this summer."

Marc H. Morial, a former mayor of New Orleans who is now president of the National Urban League, described the commission's proposal as a "massive red-lining plan wrapped around a giant land grab." Many homeowners will not be able to settle with their insurance companies if they do not know the future of their neighborhoods, he said.

"It's cruel to bar people from rebuilding," Mr. Morial said. "Telling people they can't rebuild for four months is tantamount to saying they can't ever come back. It's telling people who have lost almost everything that we're going to take the last vestige of what they own."

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Not everyone opposed the plan. One resident of Eastover, a wealthy, largely black community in the eastern part of the city devastated by the storm, told the commissioners, "I accept your challenge" to craft a workable rebuilding plan. He added, "I probably will get hit up the side of the head for my comments."

The plan also impressed Sean Reilly, a member of the Louisiana Recovery Authority, who criticized the city last week, saying it had given the impression that all neighborhoods could be restored. Wednesday, he said the plan struck the proper balance between residents' self-determination and tough choices.

The plan was developed by the rebuilding commission's Urban Planning committee, which Mr. Canizaro led. It is the first of seven committee reports to be unveiled over the next week and one component of a sweeping redevelopment plan that includes proposals for a $3 billion light-rail system and an economic development corporation, fashioned after the one New York created to oversee rebuilding in Lower Manhattan after the Sept. 11 attacks.

The commission is also proposing that New Orleans borrow a second idea from New York: asking the federal government for permission to sell tax-exempt bonds to rebuild businesses, just as New York was able to do to rebuild downtown.

But the commission will clearly have a difficult time selling its plan to residents. "This is a big, audacious plan put together by obviously brilliant people," said Fred Yoder, a resident of Lakeview. "But you missed the boat. We don't need a rail system. We need housing."

Hostility Greets Katrina Recovery Plan (WP)

By Manuel Roig-franzia

The Washington Post, January 12, 2006

NEW ORLEANS, Jan. 11 -- Angry homeowners screamed and City Council members seethed Wednesday as this city's recovery commission recommended imposing a four-month building moratorium on most of New Orleans and creating a powerful new authority that could use eminent domain to seize homes in neighborhoods that will not be rebuilt.

Hundreds of residents packed into a hotel ballroom interrupted the presentation of the long-awaited proposal with shouts and taunts, booed its main architect and unrolled a litany of complaints. One by one, homeowners stepped to a microphone to lampoon the plan -- which contemplates a much smaller city and relies on persuading the federal government to spend billions on new housing and a light-rail system -- as "audacious," "an academic exercise," "garbage," "a no-good, rotten scheme."

"You missed the boat," homeowner Fred Yoder, who lived in heavily flooded Lakeview, told committee members. "Give me a break: We don't need a light-rail system. We're in the mud."

The plan released Wednesday is the first stage of what is sure to be a multi-layered, multi-level effort to resuscitate New Orleans. Mayor C. Ray Nagin, who can accept or alter the proposal, will have to present the plan to a state commission that will control allocation of billions of federal dollars, as well as to Donald E. Powell, President Bush's hurricane recovery coordinator, and the White House. The commission's recommendations are heavily dependent on federal money, counting on $12 billion to buy storm-damaged homes and $4.8 billion for infrastructure improvements, including an ambitious light-rail proposal to connect downtown New Orleans with the city's airport, Baton Rouge and the Mississippi Gulf Coast.

The furious reaction to the plan is the latest agonizing episode in this city's troubled campaign to reinvigorate itself after the devastating floods caused by Hurricane Katrina last August. Nagin, already politically weakened by widespread criticism of his response to the flooding, now faces the difficult challenge of guiding decisions about whether some parts of the city will cease to exist.

Some activists have long accused the commission -- which was appointed by Nagin -- of trying to find ways to abandon predominantly black neighborhoods, such as the Lower Ninth Ward. Wednesday's unveiling did nothing to assuage their fears, even though commission members promised to give all neighborhoods an opportunity to prove that they should be rebuilt by convening planning groups in coming months. The proposed moratorium would be in the city's most damaged neighborhoods, and officials would use the four-month period to gauge whether enough residents will come back to make the areas viable.

"If this plan goes forward as it is, many people's worst fears about our African American heritage and population will come true," said Sue Sperry of the New Orleans Preservation Resource Center. "It's almost like it will be extinguished from this earth."

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Within minutes of the plan's unveiling, Nagin was already showing signs that he might back away from the commission's most controversial proposal. He told WWL-AM that he had some "hesitancy" about the building moratorium. He promised to seek more public input before making a final decision.

At least two of the commission's proposals -- the creation of the Crescent City Rebuilding Authority to buy flood-damaged homes and the implementation of a master redevelopment plan -- will require changes to the city charter, a prospect sure to be contentious because of the mayor's long-standing animosities with the New Orleans City Council. The city is also waiting on the Federal Emergency Management Agency to determine base elevation levels required before flood insurance can be issued. The commission is hoping that Congress will approve a quasi-public recovery authority proposed by U.S. Rep. Richard H. Baker (R-La.) that would sell bonds to buy flood-damaged homes, then work with private developers to rebuild neighborhoods.

Despite the hurdles ahead, the commission urged fast action on a broad set of recommendations, including stronger levees and a restructured school system. John Beckham, a consultant who helped devise the plan, urged residents to "imagine the best city in the world."

Beckham -- who declined repeated requests Wednesday to identify the private foundation that hired him to draw up the plan for the commission -- told the audience that New Orleans could have "a park in every neighborhood," "a bustling downtown" and a city connected by bike paths and public transportation systems.

Beckham was introduced by the commission's urban planning chairman, Joseph C. Canizaro, a real estate developer and major fundraiser for Bush, who chuckled when he was booed by some in attendance. "This is just a beginning," Canizaro told the audience.

Mindful that Bush will have a tremendous influence on how much money finds its way to Louisiana, Beckham displayed some of the president's pledges on large screens. He reminded the crowd that Bush said Sept. 15 that "we will do what it takes" to rebuild New Orleans and of his promise in December to build levees that are better and stronger than before. On Thursday, Bush will visit the city for the first time in three months.

The commission's recovery plan anticipates a city that will be only a fraction of its pre-Katrina size of nearly half a million residents. Beckham said the city now has about 144,000 residents and is projected to grow to 181,000 by September and 247,000 by September 2008.

The shrunken city will need a restructured and more efficient local government, Beckham said, drawing smirks from City Council members seated behind the committee. The City Council, which has clashed with Nagin repeatedly -- most recently trying to use zoning laws to block sites he selected for temporary housing trailers -- has effectively been cut out of the power loop in the recovery process and does not have authority over the recovery plan. Before the commission's report had even been announced, five City Council members -- responding to leaks of the plan's main components to the city's influential newspaper, the Times-Picayune -- held a news conference to condemn the committee in the same hotel where the recovery plan was to be unveiled.

Council member Jackie Brechtel Clarkson called the proposal "a blatant violation of property rights."

"I think it's unprecedented in America," said Clarkson, who is also a real estate agent.

The council members were flanked by leaders of the large Vietnamese community that flocked after the Vietnam War to New Orleans East, one of the areas that would be affected by the moratorium. "It just hurt us -- again," said the Rev. Luke Nguyen of Mary Queen of Vietnam Church. "We have 700, 800 families already returned, ready to gut and fix their houses."

Nguyen streamed into the reception hall, shouldering past activists and homeowners bristling with anger. On a table nearby, the commission had placed placards, declaring, "We're Home." Nguyen did not bother to pick one up.

Back To The Future (WSJ)

By James K. Glassman

The Wall Street Journal, January 12, 2006

NEW ORLEANS -- President Bush today makes his ninth trip here since Hurricane Katrina. He will find a tale of two cities -- one almost back to normal, the other devastated. If you drive into New Orleans from the airport the back way, down Jefferson Highway to St. Charles Avenue, everything on the river side is as gorgeous and decadent as ever. Some live oaks have toppled,

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and many magnolias have died, but all the way to the French Quarter, the shops and restaurants are open, and people have come home.

There are crowds taking a number for po' boy sandwiches at Domilise's on Annunciation, locals lunching on shrimp remoulade and trout amandine at Galatoire's, and browsers examining the silver ice buckets at Lucullus Antiques on Chartres Street. The Camellia Club of New Orleans is holding its 66th annual show on Saturday; schools are opening; and plans are set for the Zulu and Rex parades on Mardi Gras, just seven weeks away. With supply short and demand strong, rents have soared. Real estate records are being set.

The city's great architectural heritage -- comprising 18th- and 19th-century Greek Revival and Victorian houses, shops and warehouses -- was built on high ground, hugging the river with its natural levees. While many of these buildings sustained serious wind damage, they avoided the flood that affected areas closer to Lake Pontchartrain. But drive north on Canal Street to the lake or east toward the Ninth Ward or St. Bernard Parish, and you will see block after block of ruination -- gutted houses with water marks six feet off the ground, huge piles of soggy insulation and linoleum, and, on median strips (what Orleanians call the "neutral ground") little plastic signs advertising tree removal, stump grinding, mold mitigation, roof repair and, of course, lawyers for any suit you can think up.

There was controversy when a sightseeing firm last week launched a bus tour of destroyed neighborhoods. Profiting from ghoulish voyeurism? Actually, it's an education. Like the president, everyone should see firsthand what the worst natural disaster in American history has wrought -- the destructive power of nature and the optimism of a city that, before this, was mainly known for its grandiose inertia. There's no illusion that this will be the same place it was. It will be smaller and maybe better. The latest estimate places the current population at 135,000, compared with 462,000 before the storm. A consultant for the city forecasts 252,000 a year from now.

The big debate here today is whether the city should be smaller physically. In a blueprint made public yesterday, Mayor Ray Nagin's Bring Back New Orleans Commission gives residents of flood-damaged areas four months to devise plans to prove they can revive their neighborhoods; if not, they will be bought out. Some 108,000 houses -- about half the city -- took on more than four feet of water, and, as Joseph Canizaro, a member of the commission, said, "A lot of poor African-Americans had everything they own destroyed here."

In a time of high emotion, the commission's approach makes political sense. No family wants to be denied, by government fiat, the right to rebuild. But the truth is that the Lower Ninth Ward and other low-lying areas won't be resettled. The new New Orleans will almost surely look like New Orleans of 1878, which, as shown by the Times-Picayune in a remarkable map, had most of the city's 200,000 residents "clustered in a narrow swath along the Mississippi River." The neighborhoods flooded in 2005 were settled after the city's swampy interior was pumped dry in the early 1900s. Those areas should return to marshland.

Last week, the federal government released $3 billion to fix the levees so that they work as they were supposed to -- ample protection for people living in what, in the real estate ads, are now referred to as "high and dry" places during Katrina. There's a lot of room for sensible commercial and residential development in these areas, as well as in midcity neighborhoods that were wet but not severely inundated.

The rebirth of New Orleans does, however, require a leap into the unknown. It can't be meticulously planned. Preserve the old buildings. Rope off the lowlands. But then let imagination takes its course. Unfortunately, Mr. Nagin's Bring Back New Orleans group is loaded with central planners prescribing a dream city built around such highlights as light-rail transport, a "jazz district" and a neuroscience center. Typical is Michael Cowan, head of the city's Human Relations Commission, who warned that "the alternative to a 'good-enough' plan for the future of our city is free-market chaos, also known . . . as every man for himself and the devil take the hindmost."

Actually, it was precisely this chaos that made New Orleans a great city in the first place. It was planning -- specifically, the horrifying housing projects, largely destroyed in Katrina; the stultifying school system; the Superdome and other wasteful public-works projects -- that held the city back.

But even as a project in free-market creativity, New Orleans needs a leader. The feds are providing the money, but the president, who promised in September that "there is no way to imagine America without New Orleans," has been reluctant to

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appoint a czar, a MacArthur, to oversee the resurrection. That's a mistake because the most visible alternative right now is Mr. Nagin himself, whose performance during and after the hurricane has been less than inspirational.

The only real leadership in New Orleans these past four months has been provided by the daily newspaper, the Times-Picayune, whose editor, Jim Amoss, has both crusaded for the city's interests and battled the rumor mill (favorite Ninth Ward story: The levees were blown up in an act of racial cleansing) with a flood of bright and tough news stories.

When I was 24, I came to New Orleans to start a business and a family. I stayed for eight happy years. If I were 24 again, I would be packing my bags for New Orleans to be on the ground floor of a modern renaissance. Katrina was a tragedy, but its aftermath presents the most exciting urban opportunity since San Francisco in 1906. Pioneers, please apply.

Mr. Glassman, a fellow at the American Enterprise Institute and host of TCSDaily.com1, founded and edited the New Orleans weekly Figaro during the 1970s.

WAR NEWS:

Bush Open To Hearings On Domestic Spying (LEXHL)

Lexington Herald-Leader (KY), January 12, 2006

LOUISVILLE -- President Bush told a select group of Kentucky and Indiana residents yesterday that the U.S. military's progress in Iraq is "good" and promised ultimate victory -- although he gave no timetable.

In a rare town hall-style meeting set up as a theatre-in-the-round, the president again defended invading Iraq, even though former dictator Saddam Hussein didn't possess weapons of mass destruction as Bush first claimed.

"I understand that the intelligence didn't turn out the way a lot of the world thought it would be. And that was disappointing," Bush told the crowd of about 500, who were given tickets through some of the area's business, women's and teacher groups.

Bush also addressed the controversy over the revelation that he had authorized wiretaps on American citizens without court oversight. He said he'd welcome congressional hearings on the issue -- as long as they don't reveal to "the enemy what we're doing."

"I had to make the difficult decision between balancing civil liberties and on a limited basis -- and I mean limited basis -- try to find out the intention of the enemy," he said.

The need for such measures stemmed from the Sept. 11, 2001, attacks, in which war "came to us," he said.

Likewise because of 9/11, going to war in Iraq became necessary because terrorists were using it as a "safe haven," he said.

Bush reiterated that he gave the former Iraqi dictator a chance "to disarm or face serious consequences."

"He chose war. He got war. He's not in power and the world is better off for it," he said.

Bush has been more aggressively defending his administration's policies in recent weeks, as public support for the war has waned and critics have ramped up their calls for withdrawing troops from Iraq.

"Things are good. I'm confident we'll succeed," Bush said. "I know a lot of people want our troops to come home. I do, too. But I don't want them to come home without achieving victory."

He said that will be when Iraqis can adequately defend their new democratic state and when it's "no longer a safe haven for the terrorists."

Democratic opposition

In a conference call with reporters before Bush's event, Lt. Col. Andrew Horne, a Marine reservist and Democrat who plans to run against U.S. Rep. Anne Northup, R-Louisville, said there's a gap between the Bush administration's bold rhetoric on the Iraq war and its actual support for soldiers.

He cited recent news stories describing a suppressed Pentagon report that concluded many U.S. combat deaths in Iraq could be avoided with better body armor, which is available on the market.

"It's just deplorable," Horne said. "It is of paramount concern to everyone involved that they be fully supported."

Republican Secretary of State Trey Grayson, who nabbed a front-row seat, said the "town hall" approach was a politically savvy way of taking Bush's Iraq message to the people.

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"He's got a good argument, he just has to make it like this where he comes into a place that's not exactly his home base and takes questions from anyone," Grayson said.

A range of questions

After 24 minutes of remarks on Iraq, Bush opened it up for about 50 minutes for unscripted audience questions.

While giving answers on a wide range of topics, Bush alternated between plugging initiatives his administration already started and hinting at new proposals to come.

For instance, after Sandra R. Patterson-Randles asked what can be done to improve education, the president touted his No Child Left Behind plan for instituting more measurements of student progress.

He said schools need to improve science and math education and that he'd be unveiling a specific proposal in his State of the Union Address Jan. 31.

Patterson-Randles, chancellor of Indiana University Southeast, said later that she'd like to hear officials pledge to beef up all curricula, from the arts to civics to literature.

In response to a question about border security, the president steered his answer toward immigration policy. He said he doesn't favor broad amnesty -- which would mean automatic citizenship to illegal immigrants -- because it would lead to an influx of millions of people.

But he noted, "There are some jobs Americans will not do, and they're being filled by people (from abroad) who want to feed their families." They should be given "temporary worker status," he said.

A boy's question

Eventually, the discussion returned to Bush's theme: national security. The session was punctuated by a succinct question from a 7-year-old.

"How can people help in the war on terror?" asked Alex Childress of Louisville, who attended with his mom, Martha.

"Well," Bush began, "that's the hardest question I've had all day."

He said he welcomes an honest debate about Iraq but one that is "respectful."

"I expect and frankly welcome the voices of people saying 'You know, Mr. President, you shouldn't have made that decision,' or, 'You should have made it another way,' " he said. "What I don't like is when somebody says 'He lied,' or 'They're in there for oil.'"

Bush Tries To Shape Iraq Debate In Election Year (REU-Y2)

By Patricia Wilson

Reuters, January 12, 2006

President George W. Bush on Wednesday tried to shape election-year debate on the Iraq war by warning critics their rhetoric could embolden the enemy and weaken the morale of U.S. troops.

Preparing for a tough campaign against Democrats in the run-up to congressional elections in November when he will try to keep the U.S. Congress in the hands of his Republican Party, Bush acknowledged his decision to invade Iraq almost three years ago was not universally popular.

"I can understand folks who say, 'I wish you hadn't done that,'" he said, adding later, "I expect there to be an honest debate about Iraq ... people can help by making sure the tone of this debate is respectful and is mindful about what messages out of the country can do for morale of our troops."

He said he welcomed dissenting voices, but "what I don't like is when somebody said he lied or they're in there for oil or he's doing it only because of Israel."

A few Democrats have called for a quick withdrawal of U.S. troops from Iraq but the party remains divided over how to move ahead. Some critics on the political fringes have raised the issues of oil and Israel.

Asked by a 7-year-old in the audience at the Louisville Convention Center how people could help in the war on terrorism, Bush replied, "One way people can help as we're coming down the pike in the 2006 elections is remember the effect that rhetoric can have on our troops in harm's way and the effect that rhetoric can have in emboldening or weakening an enemy."

SEEKING TO CONVINCE SKEPTICS

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Bush is trying to convince skeptical Americans his plan for Iraq will work even as the U.S. death toll mounts. His remarks came as violence surged in Iraq where more than 200 Iraqis and 16 U.S. troops have died in the past week.

"The goal is victory, nothing short of victory," he declared in Kentucky where he unexpectedly answered questions on topics ranging from the war to education, immigration and domestic spying.

Bush said he was confident of success in Iraq but admitted it was tough going.

"Whether you agree with me or not, they're not going to shake my will. We're doing the right thing."

The 400 community leaders, small-business owners and others were invited to listen to Bush, but White House spokesman Scott McClellan said their questions were not screened in advance. Nevertheless, none of them criticized the president.

During a meeting at the White House last week with secretaries of state and defense from previous Republican and Democratic administrations, Bush was urged to talk to Americans in more detail and with more candor about his Iraq strategy in order to build support at home.

Bush appeared in the district of Republican Rep. Anne Northup (news, bio, voting record) whose likely Democratic opponent will be Andrew Horne, a lawyer and Marine reservist who served two tours in Iraq.

He questioned Bush's criticism of war opponents.

"On issues of war, on issues of the welfare of our troops, if we are not raising the questions, who will?" Horne told reporters in a conference call organized by Democrats. "We know that the nature of the military, the Marines, soldiers and sailors on the ground, they can't really raise these issues, so we need to do it for them.

In the campaign-style meeting, Bush again defended a domestic eavesdropping program he authorized after the September 11 attacks as limited in nature and constitutional. He said he did not object to congressional hearings on the matter so long as they "don't tell the enemy what we're doing."

General Asserts Right On Self-Incrimination In Iraq Abuse Cases (WP)

By Josh White

The Washington Post, January 12, 2006

Maj. Gen. Geoffrey D. Miller, a central figure in the U.S. detainee-abuse scandal, this week invoked his right not to incriminate himself in court-martial proceedings against two soldiers accused of using dogs to intimidate captives at the Abu Ghraib prison in Iraq, according to lawyers involved in the case.

The move by Miller -- who once supervised the U.S. detention facility at Guantanamo Bay, Cuba, and helped set up operations at Abu Ghraib -- is the first time the general has given an indication that he might have information that could implicate him in wrongdoing, according to military lawyers.

Harvey Volzer, an attorney for one of the dog handlers, has been seeking to question Miller to determine whether Miller ordered the use of military working dogs to frighten detainees during interrogations at Abu Ghraib. Volzer has argued that the dog handlers were following orders when the animals were used against detainees.

Maj. Michelle E. Crawford, a defense lawyer representing Miller, said the general decided not to answer further questions because he has "been interviewed repeatedly over the last several years" about his role at Guantanamo Bay and his visit to Iraq and he stands by his many statements to Congress, Army investigators and lawyers.

Miller's "choice to no longer answer the same questions . . . was based on the advice of counsel and includes the fact that he has already, and repeatedly, answered all inquiries fully," Crawford said.

Miller's decision came shortly after Col. Thomas M. Pappas, the commanding officer at Abu Ghraib, accepted immunity from prosecution this week and was ordered to testify at upcoming courts-martial. Pappas, a military intelligence officer, could be asked to detail high-level policies relating to the treatment of detainees at Abu Ghraib.

He also could shed light on how abusive tactics emerged, who ordered their use and their possible connection to officials in Washington, according to lawyers and human rights advocates who have closely followed the case. Pappas has never spoken publicly. Crawford said Miller was unaware of Pappas's grant of immunity. "This could be a big break if Pappas testifies as to why those dogs were used and who ordered the dogs to be used," said Michael Ratner, president of the Center for Constitutional

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Rights. "It's a steppingstone going up the chain of command, and that's positive. It might demonstrate that it wasn't just a few rotten apples."

Pappas's attorney, Maj. Jeffery D. Lippert, said yesterday that Pappas would not comment. But he added in an e-mail that "the Commanding General of the Military District of Washington has ordered Col. Pappas to testify if called as a witness in pending courts-martial, and granted him testimonial immunity to facilitate his appearance as a witness."

Miller invoked his military Article 31 rights through his Army lawyer on Tuesday, after a Navy judge in the Military District of Washington ruled that lawyers defending the two dog handlers could interview Miller this week. Article 31 rights are almost identical to those afforded civilians by the Fifth Amendment, and invoking them does not legally imply guilt. Miller now will not meet with the defense lawyers.

Eugene R. Fidell, a Washington expert in military law, said that Miller's decision is "consistent with his being concerned that he may have some exposure to worry about." Fidell added: "It's very unusual for senior officers to invoke their Article 31 rights. The culture in the military tends to encourage cooperation rather than the opposite."

Miller has long been in the spotlight of the Abu Ghraib abuse investigations, largely because he was sent to the Iraq prison in August and September 2003 with the goal of streamlining its intelligence-gathering operations, using Guantanamo Bay, commonly called "Gitmo," as a model. Officers at Abu Ghraib have said that Miller wanted to "Gitmo-ize" the facility, and that harsh tactics migrated from the Cuba facility via "Tiger Teams" that Miller sent to Iraq as trainers.

Photographs documenting a wide array of abuse against dozens of detainees at Abu Ghraib in late 2003 were turned over to military investigators in January 2004. The photographs were revealed publicly in April 2004, and seven low-ranking military police soldiers have taken most of the blame for the treatment of captives, which included sexual humiliation, stress positions and beatings. All seven were convicted on various charges, the most serious of which led to a 10-year prison sentence for Pvt. Charles A. Graner.

In an interview with defense attorneys for those MPs in August 2004, Miller said he never told Pappas to use dogs in questioning detainees. Photos of the dog handlers scaring detainees at Abu Ghraib were among the most notorious to emerge from the prison. Dogs were also used at Guantanamo Bay.

"At no time did we discuss the use of dogs in interrogations," Miller said, according to a transcript.

Volzer, who represents Sgt. Santos A. Cardona, one of the military dog handlers charged with abuse, said he believes the grant of immunity to Pappas will essentially clear his client, because Pappas already has admitted in administrative hearings that he improperly ordered the use of dogs. Volzer said he believes that Pappas was taking direction from Miller, and that Miller was acting on instructions from Defense Department officials. Cardona and Sgt. Michael J. Smith are scheduled to be tried in separate courts-martial in February and March.

"I think the command is hiding something, and I think what they're hiding is material that is exculpatory that says the interrogation techniques were approved by powers above General Miller," Volzer said. "Having Pappas available to testify may have given Miller the impression that he is next to be accused of doing something inappropriate or giving inappropriate orders."

Miller, now based at the Pentagon as a senior official managing Army installations, was recommended for administrative punishment for his alleged mishandling of interrogations of a valuable detainee in Guantanamo Bay. But high-ranking military officials have declined to impose the penalty. The detainee was subjected to a number of abuses that mirrored the ones that later emerged in the Abu Ghraib photographs.

Maj. Christopher Graveline, who has prosecuted several of the Abu Ghraib abuse cases, said yesterday that Pappas might be called to testify in upcoming courts-martial, but declined to comment on "any current or future prosecutions."

Asked whether prosecutors are looking at additional charges arising out of the Abu Ghraib investigation, Graveline said: "We're taking it where the evidence leads it."

Local Insurgents Tell Of Clashes With Al Qaeda's Forces In Iraq (NYT)

By Sabrina Tavernise And Dexter Filkins

The New York Times, January 12, 2006

BAGHDAD, Iraq, Jan. 11 - The story told by the two Iraqi guerrillas cut to the heart of the war that Iraqi and American officials now believe is raging inside the Iraqi insurgency.

In October, the two insurgents said in interviews, a group of local fighters from the Islamic Army gathered for an open-air meeting on a street corner in Taji, a city north of Baghdad.

Across from the Iraqis stood the men from Al Qaeda, mostly Arabs from outside Iraq. Some of them wore suicide belts. The men from the Islamic Army accused the Qaeda fighters of murdering their comrades.

"Al Qaeda killed two people from our group," said an Islamic Army fighter who uses the nom de guerre Abu Lil and who claimed that he attended the meeting. "They repeatedly kill our people."

The encounter ended angrily. A few days later, the insurgents said, Al Qaeda in Mesopotamia and the Islamic Army fought a bloody battle on the outskirts of town.

The battle, which the insurgents said was fought on Oct. 23, was one of several clashes between Al Qaeda and local Iraqi guerrilla groups that have broken out in recent months across the Sunni Triangle.

American and Iraqi officials believe that the conflicts present them with one of the biggest opportunities since the insurgency burst upon Iraq nearly three years ago. They have begun talking with local insurgents, hoping to enlist them to cooperate against Al Qaeda, said Western diplomats, Iraqi officials and an insurgent leader.

It is impossible to say just how far the split extends within the insurgency, which remains a lethal force with a shared goal of driving the Americans out of Iraq. Indeed, the best the Americans can hope for may be a grudging passivity from the Iraqi insurgents when the Americans zero in on Al Qaeda's forces.

But the split within the insurgency is coinciding with Sunni Arabs' new desire to participate in Iraq's political process, and a growing resentment of the militants. Iraqis are increasingly saying that they regard Al Qaeda as a foreign-led force, whose extreme religious goals and desires for sectarian war against Iraq's Shiite majority override Iraqi tribal and nationalist traditions.

While American and Iraqi officials have talked of a split for months, detailed accounts of clashes were provided by men claiming to be local insurgents.

Abu Lil was one of four Iraqi men interviewed for this article who said they were fighters for the Islamic Army, one of the main insurgent groups. Despite its name, its members have nationalist and largely secular motivations. While their membership in the insurgency could not be independently verified, the descriptions the four men offered of themselves and their exploits were lengthy, detailed and credible.

The four men interviewed are, by all accounts, ordinary Iraqis. One worked as a trash collector. Another was a part-time mechanic in an ice factory. All of them said they had children. While they claimed to be members of the same group, different members provided lengthy accounts of operations in an array of cities in the Sunni Triangle. The men gave Iraqi nicknames and noms de guerre. Some of their assertions, including specific examples about clashes with Al Qaeda's forces, were confirmed by American and Iraqi officials.

According to an American and an Iraqi intelligence official, as well as Iraqi insurgents, clashes between Al Qaeda in Mesopotamia and Iraqi insurgent groups like the Islamic Army and Muhammad's Army have broken out in Ramadi, Husayba, Yusifiya, Dhuluiya and Karmah.

In town after town, Iraqis and Americans say, local Iraqi insurgents and tribal groups have begun trying to expel Al Qaeda's fighters, and, in some cases, kill them. It is unclear how deeply the split pervades Iraqi society. Iraqi leaders say that in some Iraqi cities, Al Qaeda in Mesopotamia and local insurgent groups continue to cooperate with one another.

American and Iraqi officials believe that Al Qaeda in Mesopotamia is largely made up of Iraqis, with its highest leader, Abu Musab al-Zarqawi, a Jordanian. Even so, among Iraqis, the group is still perceived as a largely foreign force.

Evidence of the split is still largely anecdotal, and from most available evidence, Al Qaeda in Mesopotamia remains the most virulent and well-financed group fighting in Iraq. But in most Sunni cities, Iraqis defied Al Qaeda's threats and turned out to vote in large numbers on Dec. 15.

"The tribes are fed up with Al Qaeda and they will not tolerate any more," said a senior Iraqi intelligence official, who spoke on the condition of anonymity. The intelligence official confirmed reports that a Sunni tribe in Samarra had tried and executed Qaeda members for their role in assassinating a local sheik.

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"It was a beautiful mistake," the intelligence official said of the sheik's assassination by Al Qaeda. "Now the tribes will kill Al Qaeda. Now they have the courage."

An Attack's Repercussions

Samarra, north of Baghdad, had been infiltrated by Al Qaeda's fighters. In desperation, a local sheik, Hekmat Mumtaz al-Baz, traveled to Baghdad in September to meet with Iraq's defense minister and ask for help, said one of the sheik's aides, Waleed al-Samarrai. A few weeks after the visit, the sheik was shot dead by Qaeda gunmen in his yard.

The account was confirmed by a member of the tribe, and a senior Iraqi intelligence official in Baghdad. Mr. Samarrai spoke in an interview in Al Wasat Hospital in Baghdad, where his brother, Salim, the sheik's bodyguard, who was wounded in a fight with Al Qaeda, was convalescing.

The tribe was furious, and its members tracked down the three men who carried out the killing. Elders from the tribe held a trial in a local farmhouse and interrogated the men for days. They said they worked for a fighter from Saudi Arabia who bankrolled the attacks, Mr. Samarrai said.

The Samarrai brothers said Al Qaeda's appeal was based less on religion than on money. The Iraqis who killed the sheik were believed to have received $500 to $1,000 for the job, and the same amount for dozens of other similar killings, Waleed al-Samarrai said. He said local insurgents had changed allegiances, lured away by Al Qaeda's money.

Members of the tribe swept the town and arrested 17 people they suspected were associated with the sheik's killing. In one house raid, the tribe found men from Sudan, Morocco, Afghanistan and Saudi Arabia, a member of the tribe said.

Al Qaeda's fighters struck back during the tribe's offensive. A foreign Arab believed to be a Saudi wearing in a suicide belt blew himself up at the sheik's funeral, killing one guest and wounding two, said Salim al-Samarrai, who said he witnessed the attack.

As a lesson to all those associated with the sheik's death, the tribe staged a public killing. While the sheik's father watched, men with machine guns shot the three men who carried out the assassination, the Samarrai brothers said.

"Someone from outside the tribe should not tell us what to do," said Waleed al-Samarrai, standing next to Salim's hospital bed. "It is unacceptable for us."

Tactical Disputes

Disagreements over Al Qaeda's bloody tactics between local insurgents and Al Qaeda's fighters are as old as the war. Abu Lil, who fought in Taji in October, for example, claimed to have met with Qaeda fighters in late 2003. The militant group had just claimed responsibility for a double car bombing in Baghdad, and insurgents from the 20th Revolutionary Brigade, a nationalist group that Abu Lil belonged to at that time, were angry about the high civilian death toll.

Abu Lil, an elfin man with a cotton scarf tied around his head, talked in detail about the meeting as he sat on a couch in a house in Baghdad. The meeting was held in a farmhouse in Mosul, he said. About 25 men from Al Qaeda attended. Several appeared to be from Pakistan. Some spoke Arabic so poorly that they had to speak through a translator.

The discussion dragged on for seven hours, he said, but did not go well. The local insurgents demanded that the foreigners from Al Qaeda leave Iraq.

"They said, 'Jihad needs its victims,' " Abu Lil said. " 'Iraqis should be willing to pay the price.' "

"We said, 'It's very expensive.' "

The meeting ended abruptly, and Abu Lil and his associates walked out, feeling powerless and angry.

"I wished I had a nuclear bomb to attack them," he said. "We told them, 'You are not Iraqis. Who gave you the power to do this?' "

It took two more years for Sunni Arab sentiment to turn against the militants. As the Iraqi democratic political process began, including elections and the drafting of a new constitution, there was a widespread feeling among Sunnis that they were being left behind. Last January, Sunnis boycotted an election, giving them few seats in the new Parliament, and leaving them out of the drafting of a new constitution.

In the predominantly Sunni town of Dhuluiya, north of Baghdad, local residents blamed insurgents for their isolation. In the days leading up to a vote on the constitution, they went to the resistance and demanded they let people vote.

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"All of the Sunnis were angry at the resistance," said a resident of Dhuluiya. "People realized, if we do not take part it, then we will lose the government. So the resistance agreed. They said, 'We will protect you from anyone who tries to attack you.' "

Emboldened by the promise of protection by the resistance, clerics from five local mosques encouraged their congregations to vote, even sending out people to put up posters about the election.

The excitement over the vote spurred Al Qaeda into action. At night, men put up their own posters threatening, "He who votes will be beheaded." Then, two days before the Oct. 15 referendum, a group of Qaeda fighters confronted an imam in one of the local Sunni mosques and lectured him about how voting contradicted the Koran. According to the imam, who spoke on condition of anonymity out of concern for his safety, two of the men appeared from their accents to be from Algeria and Syria. They vowed to kill anyone who removed their posters.

"Why are you driving the troubles into our town?" the Sunni cleric said he asked the men. "If you want jihad, the U.S. military is there."

Imams from five Sunni mosques tore down the Qaeda posters wherever they could find them.

"I myself tore those into pieces," the Sunni cleric said.

Al Qaeda got the message. On election day, Dhuluiya's voters streamed into polling places. The streets were quiet, with only a single attack on a polling center.

"All of them voted," the resident said. "All of Dhuluiya. There was no one sitting in his house."

Invisible Boundaries

Two and a half years into the American occupation, the towns and villages south of Baghdad are divided among the insurgent groups like gang territory in big American cities. The arrangement is largely invisible to American troops who patrol the towns, the insurgents said in interviews. But guerrillas themselves say they must seek permission to travel through towns their groups do not control.

Abu Marwa, a 32-year-old guerrilla leader from Yusifiya, a city south of Baghdad, told of a blood feud with Al Qaeda in a village the group controlled called Karagol, south of Baghdad.

Bookish and soft-spoken, wearing jeans and a button-down shirt, Mr. Marwa told of life inside the insurgency during two days of interviews in Baghdad. He said he might never have clashed with Al Qaeda, but the group's sectarian war against Shiites clashed with his loyalty to a Shiite relative of his the group had kidnapped and tortured.

"It's more than crazy when you want to hit Al Qaeda," said Mr. Marwa, who said he was a fighter for a local cell called Thunder. "Even the network of the resistance couldn't think of doing such an act."

According to Mr. Marwa's story, the feud with Al Qaeda began on Oct. 13, when a car full of gunmen he said appeared to be Syrian kidnapped his relative and took him to Karagol, which is in territory he said was controlled by Al Qaeda.

"Karagol is the place where Al Qaeda is based in the region," said an Iraqi Army lieutenant based in the area. He spoke on the condition of anonymity, because he was not authorized to talk to the press.

"There has not been a command to go into Karagol," he said. "There are no government forces there. Now it's fully under control of the terrorists."

For the next three days, Mr. Marwa searched through miles of lush farmland before he got to Karagol. When he was prevented from driving through the town by Qaeda gunmen, who shot at him on the road, he walked through orchards after dark.

He said a guide had led him to the house of a man who was known as a paid killer for Al Qaeda. The man consulted a notebook fat with names, but Mr. Marwa's relative's was not among them.

As he drew closer, a local insurgent warned him to stay away from Karagol, even if he was sure his relative was there.

" 'I advise you, if you know he's with Al Qaeda, don't go there,' " Mr. Marwa recalled the man saying.

Mr. Marwa finally found his relative in the local morgue. His legs bore drill holes revealing bone. His jaw had slid off to one side of his head, and his nose was broken. Burns marked his body. His knees were raw, as if he had been dragged.

"I was totally crazy," Mr. Marwa recalled. "A mad man was more rational than me."

Enlisting the most trusted members of his cell, Mr. Marwa set out to take revenge. They tracked down two Syrian members of Al Qaeda, and in late October laid out an intricate plan for an ambush. They killed them on a country road as they drove out of town, and took their kaffiyeh, or headdresses, to the dead relative's wife, Mr. Marwa said.

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"After many meetings, we decided to terminate them," he said.

Despite such tensions, the Americans face significant challenges in trying to exploit the split. "It is against my beliefs to put my hand with the Americans," said an Iraqi member of the Islamic Army who uses the nom de guerre Abu Omar.

Still, he said in an interview in a house in Baghdad, he allowed himself a small celebration whenever a member of Al Qaeda fell to an American bullet. "I feel happy when the Americans kill them," he said.

Efforts Intensify To Train Iraqi Police (CSM)

By Charles Levinson

The Christian Science Monitor, January 12, 2006

BAGHDAD - Visiting congressmen stepped out of armored cars Tuesday into the mud of Camp Dublin, home to the Iraqi police's elite special forces unit. US Army Maj. Gen. Joseph Peterson, the ex-linebacker responsible for training 200,000 Iraqi police, greeted them and assured the lawmakers that his Iraqi under- studies will soon be in charge here.

"We'll have these forces trained by the end of 2006," dubbed the year of the police by US officials, "and I have full confidence that they will begin to assume control of security in Iraq," he says.

The police have become a new priority, as the US begins turning over more security control to Iraq. Scrutiny of the police intensified after the discovery of secret jails and the torture of Sunni Arab prisoners.

Shiite control of the police force is also complicating efforts to persuade Iraq's factions to put their divisions behind them and to form a government of national unity following the Dec. 15 parliamentary vote.

On Tuesday, President Bush addressed the issue in a speech to the Veterans of Foreign Wars. He called on Iraqi police "not to address old grievances by taking justice into their own hands.... That's unacceptable to the United States government."

Meanwhile the insurgency rages on, singling out police on an almost daily basis. Wednesday, an attack killed two. On Monday, a pair of suicide bombers killed 29 at the Interior Ministry, and last week 70 recruits were killed in Ramadi. All told, some 3,500 Iraqi police have been killed in the past 16 months. Charges of US interference

In the face of these attacks, US moves to reign in the Iraqi police are irking Ministry of Interior officials and leading Shiite politicians, who seem eager to step up the fight. They say they are ready to do so without US support.

"There is huge interference from the American forces with the work of the Ministry of Interior in a way that does not allow the security forces to deal with security," says Jalal al-Din Saghir, a leading Shiite preacher and member of parliament.

At the heavily guarded Interior Ministry, Mohammed Ali al-Khafaggy, the minister's deputy, says he could "put tens of thousands of police in Ramadi and Diala within hours," referring to two insurgent hot spots. "But we are not doing this because of political circumstances.... We can't defeat the terrorists unless the security forces are allowed to do what has to be done," he says.

Mr. Khafaggy's heavily secured ministry rises up from behind concrete walls and razor wire. It has an estimated 152,000 police on its payrolls, among them border guards, highway patrol, traffic cops, and special paramilitary units. With that number expected to reach 300,000, the Ministry of Interior is one of the country's most coveted posts.

But the Shiite-controlled ministry and its growing cadres of police are widely believed to be infiltrated by the Badr militia, the armed wing of the main Shiite party, the Supreme Council for Islamic Revolution in Iraq (SCIRI). Ministry officials vehemently deny this. "Where is the evidence?" Mr. Khafaggy asks.

But for many Iraqis, seeing police in the streets of Baghdad continues to provide little comfort.

"The police are just a bunch of gangs rolling around in pickup trucks waving Kalashnikovs," says Subhi Nazem Tawfiq, an ex-Iraqi general and the author of 14 books on Arab politics, history, and militaries. After the fall of Saddam Hussein he worked with US officials to reestablish the Ministry of Defense. "These are people charged up with militant Shiism," he says of many within the police ranks. "They hate Fallujah people, they hate people from Mosul, they hate Sunni [Arabs]."

Inside her dimly lit home in a mixed Sunni Arab-Shiite neighborhood of New Baghdad, a Sunni Arab mother huddles on the floor, weeping as she tells how police dragged her 23-year-old son from his bed at 1:30 a.m. last June.

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She searched for him for six months. Finally, 10 days ago she found his picture with a police report at a Baghdad morgue. The report was dated June 17, the day of the arrest. It said simply that an unidentified body had been found strangled, wrists bound, in a roadside ditch not far from her home.

"I cannot look at [the police]," she says, choking on her anger. "The hate inside these policemen, this is what made them kill my son."

As leading Shiites rattle their sabers in response to last week's death toll (it was one of the country's deadliest weeks), Sunni Arab leaders fear retaliation by police. They have already begun to take a stand against police dragnets and alleged excesses. The Sunni Arab fundamentalist Iraqi Islamic Party says they have put together armed groups to protect neighborhoods targeted by Iraqi police.

"It's a necessary response to the massacres that have occurred in a number of neighborhoods," says Amr al-Jaboori, a member of the party's human rights committee. "The police should protect citizens, not terrorize them." Recruiting more Sunnis

While the US is giving Iraqi police a greater role in putting down the insurgency, doing so may be counterproductive to American goals if the police continue to be viewed as simply a glorified Shiite militia.

The US says it's dealing with that issue by recruiting more Sunni Arabs, Turkomen, and Kurds to the police. It also plans to increase the emphasis on human rights in the 10-week police academy and partner US battalions with police special forces units.

"These recruits get 32 hours of human rights and rule-of-law training," Major General Peterson tells the concerned congressmen. "I've been serving for 34 years, and I don't have 32 hours of human rights training."

He points to one of his Iraqi protégés, Colonel Nomaan, the Iraqi commander of the police force's Emergency Response Unit. "This unit is representative of the Iraqi population."

But Nomaan admits that for now, at least, his unit is an exception. "I insisted on this unit being ethnically balanced, but other leaders aren't like me," he says. "It won't get better as long as we keep distributing ministerial posts based on sect, and not on competency."

Key Shiite Backs Away From Charter Accord (WP)

By Nelson Hernandez

The Washington Post, January 12, 2006

BAGHDAD, Jan. 11 -- Iraq's most influential Shiite politician said Wednesday that he would not allow a new government to "change the essence" of the country's constitution, despite a promise made to Sunni Arabs that it would be opened to major revision.

The promise of future changes to the constitution had been a key concession to encourage Sunni Arabs to join the political process in Iraq and stop violence. Last summer, Sunnis were ready to walk away from the negotiating table as the country's ruling Shiite and Kurdish coalition wrote a constitution that allowed the creation of strong regional provinces.

In a last-minute deal negotiated under heavy pressure from U.S. diplomats, the three groups agreed that the draft constitution would be put to a national referendum in October as planned but would be open to change for four months after a new government was formed early this year.

But Abdul Aziz Hakim, the leader of the Supreme Council for the Islamic Revolution in Iraq, the most powerful Shiite party in the ruling coalition, appeared to back away from the constitutional compromise Wednesday.

"The first principle is not to change the essence of the constitution," Hakim said in a speech given during the Muslim holiday of Eid al-Adha, according to the Associated Press. "It is our responsibility to form Baghdad provinces and southern Iraq provinces."

A spokesman for Hakim's party confirmed the remarks. "The major points in the constitution were agreed to by all the parties that participated in the drafting of the constitution," Haitham Husseini, the spokesman, said in an interview. "As for changes in the powers, some points or details, these are open to negotiation. However, the main principles which were agreed to by all sides, and approved by the people in a popular referendum, they cannot be touched."

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The most difficult issue is whether Iraq will have a strong central government or a federal government composed of largely autonomous regions. The Kurds and Shiites, who live in oil-rich areas, support federalism; the Sunnis, who have little oil in the areas they dominate, fear that the country will break apart and that they will be denied a share of the oil revenue.

While it would be a blow to Sunnis if they were unable to amend the constitution, which voters approved Oct. 15, a Sunni politician said he viewed Hakim's comments as a political ploy.

"I don't know why Mr. Hakim is saying this at this time," said Alaa Makki, a senior member of the Iraqi Islamic Party, the largest Sunni political party in Iraq. "It's time for reconciliation, it's time for negotiation, it's time for participation in the political process."

However, a Western diplomat who spoke on condition of anonymity, said it was important "to remember that there's a lot of jockeying for political position going on. I think you have to look at the comments people are making as part of that process. Everyone is staking out their position in advance of the announcement of final election results."

Shiite Leader Rejects Big Charter Changes, Frustrating Sunnis (NYT)

By Richard A. Oppel Jr. And Qais Mizher

The New York Times, January 12, 2006

BAGHDAD, Iraq, Jan. 11 - Iraq's most powerful Shiite leader on Wednesday rejected making major changes to the new Constitution, diminishing Sunni Arab hopes of amending the charter to avoid being shut out of the nation's vast oil wealth.

Sunnis were reluctant to sign on to the Constitution last fall, fearing that provisions granting wide powers to autonomous regions would leave oil in the hands of Kurds in the north and Shiites in the south. Sunnis dominate in western and much of northwestern and northcentral Iraq, but the oil lies beneath Kurdistan and parts of southern Iraq that one day may be subsumed in a semi-independent region controlled by Shiites.

As a carrot for the Sunnis, the Constitution was amended before the October referendum so legislators elected in the national voting last month could change it with a two-thirds vote. Some Shiites also voiced a willingness to negotiate with Sunnis on amendments.

But on Wednesday Abdul Aziz al-Hakim, leader of the Supreme Council for Islamic Revolution in Iraq, vowed to give no ground on crucial parts of the Constitution.

"We will stop anyone who tries to change the Constitution," said Mr. Hakim, whose party has close ties to Iran. "Many of the people who voted for us were promised federalism in the south," he said, referring to the form of government allowing for semiautonomous regions. He said Kurds, who joined Shiites to form the current ruling coalition, "agree with us about this condition, and we will continue our strategic coalition with our Kurdish brothers."

The speech was Mr. Hakim's latest hard-line statement directed at Sunni Arabs, whom Shiites accuse of fomenting violence to improve bargaining leverage in the new government. While he previously signaled unwillingness to reopen major constitutional issues, Mr. Hakim's belligerent declarations are sure to anger Sunnis hopeful of carving out a meaningful role in the government.

Yet it may not be that simple. While Sunni Arabs boycotted elections a year ago, they turned out heavily last month and are thought to have won about 20 percent of the seats in Parliament. A Western diplomat in Baghdad said Shiites and Kurds probably had not won enough seats on their own to reach the two-thirds majority needed to appoint an executive branch.

So while Shiites have enough votes to block constitutional changes, they may need to draw in parties other than the Kurds to obtain a two-thirds governing majority. If Sunnis are called on to make up that difference, amending the Constitution is sure to top their bargaining list.

Desperate to deflate the Sunni-dominated insurgency, United States officials are pushing Shiites to accept constitutional changes. The American ambassador, Zalmay Khalilzad, wrote in The Wall Street Journal on Monday that the charter "will likely need to be amended in the coming year to broaden support." He cited compromises "on some substantive issues such as federalization in Arab regions of Iraq."

Sunnis Can't Change Government Structure (WT/AP)

By Bushra Juhi

DOJ_NMG_0009216

The Washington Times, January 12, 2006

BAGHDAD -- The most influential politician in Iraq issued a veiled warning yesterday to Sunni Arabs that Shi'ites would not allow substantive amendments to the country's new constitution, including to the provision that keeps the central government weak in favor of strong provincial governments.

Abdul Aziz al-Hakim, the leader of the Supreme Council for the Islamic Revolution in Iraq, said in an address in honor of the Islamic holiday of Eid al-Adha that provincial governments will remain strong in the constitution, which can be amended after the next government is installed.

"The first principle is not to change the essence of the constitution. This constitution was endorsed by the Iraqi people," he said.

Sunni Arabs place great stock in their ability to change the constitution, one of the reasons Sunni politicians urged the minority to turn out in large numbers for the Dec. 15 parliamentary elections.

They want a stronger central government because the constitution now bestows most power -- including control over oil profits -- on provincial governments. The Shi'ites in the south and the Kurds in the north control most of Iraq's oil. There are few oil reserves in central Iraq, where Sunnis live.

To win their support for the new constitution, which was approved in an Oct. 15 vote, Sunni Arabs were promised they could propose amendments to it during the first four months of the new parliament's tenure. The new parliament is expected to be seated at the end of February. Amendments require two-thirds approval in parliament and a majority in a national referendum.

There was limited violence yesterday. A roadside bomb exploded next to a police patrol outside Samarra, about 60 miles north of Baghdad, killing two policemen, police said.

Iraqi police found seven bodies shot in the head, with their legs and hands bound, in a sewer in eastern Baghdad, police said.

Iraqis nationwide celebrated the opening of the three-day Eid al-Adha celebration Tuesday with visits to relatives, food and sweets. Lambs were slaughtered, and food was distributed to the poor.

Shi'ites and Sunni Arabs also called for an end to the bloodshed that has wracked Iraq since last month's elections.

"This Eid is a happy day for all Muslims, especially Iraqis. But it comes after painful events that happened in Karbala and Ramadi," said Prime Minister Ibrahim al-Jaafari, a Shi'ite.

He referred to the killings of more than 120 people in suicide bombings last week in the Shi'ite holy city of Karbala and at a police recruiting center in Ramadi.

Violence has increased since the Dec. 15 elections, with at least 498 Iraqis and 54 U.S. forces killed.

Mr. al-Jaafari said that despite the violence, Iraq had made significant advances in 2005, citing a large turnout in the elections as one of the biggest achievements.

Mr. al-Jaafari's governing United Iraqi Alliance emerged with a large lead in the elections, far ahead of a Kurdish coalition and Sunni Arab groups, but without the majority it will need in the 275-member parliament to avoid a coalition.

An Incendiary Threat In Iraq (NYT)

The New York Times, January 12, 2006

Iraq's most powerful Shiite politician has just dealt a huge blow to American-backed efforts to avoid civil war through the creation of a new, nationally inclusive constitutional order. That leader, Abdul Aziz al-Hakim, leader of the Supreme Council for Islamic Revolution in Iraq, has turned his back on the crucial pledge, made before last October's constitutional referendum, that the new charter would be open to substantial amendment by the newly elected Parliament. Instead, Mr. Hakim, who runs the dominant, Iranian-supported fundamentalist party, now says no broad changes should be made. In particular, he defends the current provisions allowing substantial autonomy for the oil-rich Shiite southeast.

The vote count from last month's parliamentary election is not yet complete. But it is already certain that the Shiite religious alliance, in which Mr. Hakim is the most important leader, will hold enough seats to block any constitutional changes it doesn't like. The only recourse is to persuade Mr. Hakim to respect that earlier pledge.

DOJ_NMG_0009217

Mr. Hakim's latest position is a prescription for a national breakup and an endless civil war. It is also a provocative challenge to Washington, which helped broker the original promise of significant constitutional changes. On the basis of that promise, Sunni voters turned out in large numbers, both for the constitutional referendum and for last month's parliamentary vote. Drawing Sunni voters into democratic politics is vital to creating the stable, peaceful Iraq that President Bush has declared to be the precondition for an American military withdrawal. The most unacceptable defect of the new constitution for Sunnis is its provision for radically decentralizing national political and economic power, dispersing it to separate regions.

In a quirk of geology, most of Iraq's known oil deposits lie under provinces dominated by Shiites or Kurds, while the Sunni provinces of the west and north are resource-poor and landlocked. Iraq as a whole is rich enough to support all of its people relatively comfortably. But a radically decentralized Iraq would leave the Sunnis impoverished, aggrieved and desperate, driving them into the arms of radical Sunni groups in neighboring lands.

Although Sunnis are a minority in Iraq, they are an overwhelming majority in the Arab world. An irreconcilable split between Iraq's Shiites and Sunnis would leave the Shiites even more dependent than they are now on Iran and American troops.

Constitutional changes are needed in other areas as well, especially in regard to women's rights and the overly broad prohibitions against former members of Saddam Hussein's Baath Party. But decentralization is the most dangerously explosive issue right now. Mr. Hakim seems perversely determined to inflame it.

South Korean Businessman Denied Bail In Oil-for-food Case (AP)

By Juan A. Lozano

AP, January 12, 2006

HOUSTON - A South Korean businessman accused of accepting millions of dollars from Iraq in the U.N. oil-for-food scandal was denied bail Wednesday and will be transferred to New York to face additional charges in the case.

Tongsun Park was arrested in Houston on Friday after being expelled from Mexico.

U.S. Magistrate Judge Frances Stacy said she denied Park bond since she believed he was a flight risk because of his finances, his ties to South Korea and his history of not dealing with legal problems in the United States.

Park's arrest came after new criminal charges against him were unsealed in federal court in Manhattan.

Park, a South Korean citizen, had already been charged in April with accepting millions of dollars from the Iraqi government while he operated in the United States as an unregistered agent for Iraq's effort to create the oil-for-food program.

The new charges accuse Park of agreeing in October 1992 to work on behalf of the Iraqi government with another person who is now cooperating with the U.S. government.

During a bail hearing Wednesday, Randy Schaffer, Park's attorney, argued that his client's arrest was illegal.

"The guy is picked up in Mexico against his will and brought here," Schaffer said.

Park had been traveling from Canada to Panama City, Panama, when his plane stopped in Mexico City. He was taken off the plane by Mexican immigration officials.

FBI Agent Robert Midcap testified Wednesday that a warrant for Park's arrest had been circulated by Interpol because the South Korean citizen had not answered the U.S. charges from April. The Mexican government saw the Interpol warrant and sent him back to the United States, Midcap said.

Schaffer also argued Park should not be in jail because of his health. Park, 70, is taking medication for a kidney transplant, diabetes and high blood pressure.

Federal prosecutor Melissa Annis said Park should be denied bail because he's a flight risk due to his history of trouble with the law.

In the 1970s, Park was at the center of what became known as the Koreagate scandal, in which he was accused of trying to buy influence in Congress.

"There is a history of Mr. Park not wishing to face the music in a court of law in the United States," Annis said.

Park is charged with conspiring to commit wire fraud, conspiring to act as an unregistered agent of a foreign government, and laundering the criminal proceeds derived from the crimes.

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The oil-for-food program ran from 1996 to 2003. It was created to help Iraqis cope with U.N. sanctions imposed after Saddam's 1990 invasion of Kuwait. The program let the Iraqi government sell oil to buy humanitarian goods.

Mexican Agents Nabbed Oil-for-food Suspect (/REU)

By Erwin Seba and Matt Daily

Reuters, January 12, 2006

HOUSTON, Jan 11 (Reuters) - Mexican agents acting on a U.S. warrant nabbed South Korean lobbyist Tongsun Park in Mexico City, then accompanied him to Houston to face a conspiracy charge linked to corruption in the U.N. oil-for-food program for Iraq, an FBI agent said on Wednesday.

Park's lawyer, Randy Schaffer, tried to get bail for Park and complained that the detention was improper, but in a hearing U.S. Magistrate Frances Stacy refused his request, meaning the 70-year-old suspect will remain behind bars.

Park, who was arrested on Friday, will be flown to New York to face a single count of conspiracy to commit wire fraud, acting as unregistered foreign agent and money laundering, for which he could face up to five years in jail and a $250,000 fine if convicted.

"I don't think it was legal to deliver him here," Schaffer said to reporters after the hearing.

FBI agent Robert Midcap testified that the Mexican government learned of the warrant for Park through Interpol and detained him at the Mexico City airport, where he was making a stopover on a flight from Canada to Panama.

Midcap said Mexican agents then flew with Park on a Continental Airlines flight to Houston, where U.S. authorities arrested him.

A Mexican government source confirmed the arrest was made by Mexican agents and that Park was then deported to the United States.

Schaffer said Park was flown to Houston against his will, and questioned Midcap about whether it was a U.S. or Mexican decision to deport him.

"No, sir. It was the Mexican government that expelled him," Midcap said. "That was the government's decision, the Mexican government's decision."

FLIGHT RISK

Park is accused of receiving at least $2 million in cash from the Iraqi government under Saddam Hussein to influence the scandal-tainted, now-defunct U.N operation.

The $67 billion program was set up in 1995 to let Iraq sell oil to buy civilian goods for its people living under U.N. sanctions after the Kuwait invasion in 1990.

U.S. and U.N investigations have since revealed lobbyists, U.N. and Iraqi officials enriched themselves through kickbacks to arrange the oil sales.

U.S. prosecutors on Wednesday argued that Park should not receive bail because he is a flight risk.

But Schaffer said he is old and in ill-health. Park has high blood pressure, diabetes and kidney transplant. Schaffer says he is also the only person linked to the scandal to be held behind bars.

Several other defendants, including Houston oilman Oscar Wyatt, are facing criminal charges in New York in connection with the oil-for-food program.

Park first gained notoriety in the 1970s as a lobbyist who bestowed hundreds of thousands of dollars in gifts on U.S. Congress members as part of the influence-peddling scandal dubbed "Koreagate."

The indictment of Park, released on Friday, refers to attempts to buy the influence of two officials, who were not named.

A U.N.-established investigation of the program, led by former U.S. Federal Reserve chairman Paul Volcker, accused Park and another man of trying bribe former U.N. Secretary-General Boutros Boutros-Ghali.

The report said there was no evidence Boutros-Ghali knew of the attempt or received any money.

The Volcker panel also found that Park invested $1 million in 1997 in a Canadian company linked to the son of Maurice Strong, a Canadian businessman and Secretary-General Kofi Annan's advisor on North Korea. But there was no evidence Strong was involved in any wrongdoing.

Oil-for-Food Suspect, Ailing, Faces Arraignment In New York (NYT)

By Simon Romero

The New York Times, January 12, 2006

HOUSTON, Jan. 11 - A federal judge ordered an ailing South Korean businessman, Tongsun Park, held without bail on Wednesday, arguing that he posed a flight risk after his arrest here last week on a charge of illegally operating as an agent for Iraq in the United Nations oil-for-food program.

Magistrate Judge Frances Stacy also approved Mr. Park's transfer to New York, where he faces arraignment in federal court. Agents from the F.B.I. arrested Mr. Park here last Friday after Mexican immigration officials apprehended him at Mexico City's airport on the basis of an Interpol notice, Justice Department officials said.

The Mexican officials put Mr. Park on a commercial flight to Houston, accompanied by F.B.I. agents, said Melissa Annis, an assistant United States attorney. Ms. Annis argued for Mr. Park to be detained without bail, citing his history of legal problems in the United States and his financial means. Mr. Park was carrying $45,000 in cash at the time of his apprehension in Mexico, Ms. Annis said.

Mr. Park, 70, was a central figure in a Congressional bribery scandal in the 1970's that involved payments funneled through Mr. Park to American lawmakers from South Korea's national intelligence service. Although Mr. Park cooperated with United States officials in their handling of that scandal, federal prosecutors said he had avoided arrest and several requests to testify in the oil-for-food investigation.

An indictment secured by the United States Attorney for the Southern District of New York charged Mr. Park last April with conspiracy for illegally accepting $2 million from Saddam Hussein's government to serve as the Iraqi government's liaison with United Nations officials.

Randy Schaffer, a lawyer for Mr. Park, said his client was being treated unfairly, in that other people arrested in the case had been freed on bail, including wealthy individuals like Oscar S. Wyatt, the Texas oilman accused of paying kickbacks to Mr. Hussein's government. Mr. Schaffer also said Mr. Park's apprehension in Mexico was improper, because he was expelled against his will to the United States and not to his home nation, South Korea.

Mexican officials seized Mr. Park before he was to embark on a flight to Panama City, said Ms. Annis, the federal prosecutor, though it was not clear what he was planning to do in Panama.

The swift cooperation by Mexican authorities in delivering Mr. Park comes at a time of tense relations with the United States on immigration issues. Mr. Park is believed to have strong business ties in Central America and the Caribbean, in addition to South Korea and Taiwan.

Mr. Park communicated with Iraqi officials in the 1990's by telephone from a residence in the Dominican Republic, according to a report last September by the oil-for-food investigating committee headed by Paul A. Volcker, the former Federal Reserve chairman. Citing a business partner of Mr. Park, the same report said he went by the title "Ambassador Park" in Washington social circles, after purchasing the title of ambassador from a Nicaraguan official for about $150,000.

Mr. Park appeared in federal court on Wednesday wearing long underwear beneath the orange garb of the county jail, where he was transferred from a federal facility over the weekend to take kidney medication under the supervision of a doctor. Mr. Park said through his lawyer that he had recently undergone a kidney transplant, and was being treated for diabetes and high blood pressure.

Oil-for-Food Suspect 'kidnapped' (TIMES)

By James Bone

The Times (UK), January 12, 2006

A KEY figure in the United Nations' Oil-for-Food scandal claims that he was "kidnapped" by US authorities investigating possible pay-offs to top UN officials.

Tongsun Park, a well-connected Korean businessman who has been accused of trying to bribe the former UN Secretary-General Boutros Boutros Ghali, found himself in jail after he was arrested at Houston airport on Friday. He had spent many months as a fugitive and his arrest provided an unexpected boost for the FBI inquiry into UN corruption.

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But Mr Park's lawyer, Randy Schaffer, said his client never intended to travel to the United States. At a bail hearing yesterday, he argued that the arrest was illegal. He said that Mr Park had been travelling from Canada to Panama, but was taken off the plane when his flight stopped in Mexico City. "The guy is picked up in Mexico against his will and brought here," Mr Schaffer said.

Robert Midcap, an FBI agent, testified that a warrant for Mr Park's arrest had been circulated by Interpol because he had not answered the US charges from April. The Mexican Government saw the Interpol warrant and sent him back to the United States, he said.

Mr Park, a central figure in the "Koreagate" bribery scandal in Washington in the 1970s, is charged with acting as an unregistered foreign agent in the United States for Saddam Hussein's regime in Iraq.

Prosecutors say that he was recruited to provide a back-channel to UN officials who set up and administered the Oil-for-Food programme, which allowed Iraq to sell limited quantities of oil to fund humanitarian imports. According to the criminal complaint, Mr Park received at least $2 million (£1.12 million) in cash to approach two unnamed, high-ranking UN officials.

Court papers say that the Iraqi Government signed two agreements in 1996 to make payments of $5 million to an account in London and $10 million to an account in the Channel Islands, contingent on Baghdad agreeing the terms of the Oil-for-Food programme with the UN. The allegations raise questions about whether the $64 billion UN scheme was corrupted from the start.

The two UN officials are not named in court papers. But a UN inquiry said that Mr Park's contacts were Dr Boutros Ghali, then the UN Secretary-General, and Maurice Strong, a top aide at the time to the present UN chief, Kofi Annan. The inquiry found no evidence that Dr Boutros Ghali received any money from Mr Park. Mr Strong received a $1 million investment in a failing company in 1997 while serving as Mr Annan's adviser on UN reform, but he says that this was a normal business transaction.

Mr Park's application for bail was rejected yesterday because prosecutors identified him as a "flight risk" who had been in trouble with the law before.

German Spies Aided U.S. Attempt To Kill Hussein In Aerial Attack (LAT)

By Bob Drogin, Times Staff Writer

The Los Angeles Times, January 12, 2006

WASHINGTON — With the battle of Baghdad raging on April 7, 2003, an intelligence tip was rushed to a special Pentagon targeting team: Saddam Hussein and his two sons had been spotted near a chicken restaurant in the city's wealthy Mansour district.

Less than 45 minutes later, a B-1 bomber obliterated the site with four satellite-guided bombs, leaving a deep crater and at least a dozen dead. The Iraqi ruler, it soon became clear, was not among them.

An Iraqi informant provided the initial tip. But U.S. officials now say confirmation came from an unusual source: two German military intelligence operatives who stayed in a Baghdad safe house after Berlin had closed its embassy.

The Germans drove by the restaurant and saw a convoy of armored vehicles with dark windows, like those used by the Iraqi strongman, parked outside. Germany's Federal Intelligence Service, known as the BND, quickly passed the report to the Pentagon's Defense Intelligence Agency, which was part of the targeting team.

The previously undisclosed role of German intelligence in the widely reported attempt to decapitate the Iraqi regime highlights how the CIA and the Pentagon secretly relied on German and other foreign spy services for critical information on Iraq even as the intelligence agents' governments fiercely opposed the Bush administration's drive toward war.

That behind-the-scenes cooperation forms the backdrop as Germany's new chancellor, Angela Merkel, arrives here today on her first official visit. Officials said she aims to repair U.S.-German relations that were badly strained when her predecessor, Gerhard Schroeder, publicly broke with the White House over Iraq.

U.S. officials said Merkel, 51, will meet President Bush on Friday after a night in the presidential guest quarters across from the White House. The two leaders will discuss terrorism, Iran's nuclear program, Israel's leadership void and other mutual concerns, officials said.

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Germany has been roiled in recent months by reports that the Bush administration has maintained secret prisons for suspected terrorists somewhere in Europe, and by public anger over the CIA's use of "extraordinary renditions," in which suspects are secretly snatched and transported to third countries, including some known to practice torture.

In a meeting with Merkel in Berlin last month, Secretary of State Condoleezza Rice discussed the case of German citizen Khaled Masri, who alleges he was mistakenly abducted from Macedonia by U.S. operatives in 2003 and detained for five months, mostly in Afghanistan, on suspicion of terrorism ties. In a lawsuit filed in Virginia, Masri alleges he was tortured during his imprisonment.

Merkel, who in November became Germany's first female chancellor, clearly hasn't forgotten the issue. On Monday, she called for Washington to close its military prison for terrorism suspects at Guantanamo Bay, Cuba. She told the German newsmagazine Der Spiegel that the facility "can and should not exist in the longer term. Different ways and means must be found for dealing with these prisoners."

Despite those differences, administration officials view Merkel as far more amenable to U.S. interests than Schroeder, who sharply criticized Bush and U.S. policies during his two terms in office. Merkel, who grew up behind the Iron Curtain, has vowed to restore transatlantic relations.

Since the ousting of the Taliban in 2001, Germany has sent more troops to Afghanistan than any other country except the United States, but it has refused to commit any military forces to the U.S.-led coalition in Iraq.

Though the use of U.S. military bases in Germany as critical logistical and transportation hubs for the war is an outward reminder of Germany's cooperation, the nation's role assisting U.S. intelligence and combat forces has been well hidden.

German officials acknowledged in recent interviews that they decided in December 2002 to leave a handful of operatives from the BND in Baghdad after the war began.

In some cases, the German officials said, the BND asked team members to eyeball sites in behalf of U.S. intelligence. The officials said the goal was to collect what they called "humanitarian intelligence" to help the U.S. avoid civilian targets or other potential mistakes, such as the U.S. bombing of the Chinese Embassy in Belgrade in 1999.

BND officials said their operatives reported only what they could see and did not provide bombing target coordinates or other specific target data to the Pentagon. The officials said the Germans also met with their own sources and collected other intelligence on the collapsing Iraqi regime once the U.S.-led invasion began in March 2003.

"We were running an operation in Baghdad," said a senior German intelligence official. "We were not taking orders from the Americans."

Similarly, although the French government bitterly opposed the Bush administration's policies on Iraq, French intelligence supplied detailed reports to the CIA from a member of Hussein's Cabinet who was a French spy.

"He said there were no weapons of mass destruction," said a former CIA official. "So we didn't believe him."

History Lessons (WT)

The Washington Times, January 12, 2006

From op-ed by National Security Adviser Sandy Berger published Nov. 23, 1998, in the international Al Hayat:

"[T]he entire world is fed up with Iraq's continuing deception and defiance. Iraq agreed as a condition of the Gulf War cease-fire that it would disclose its weapons of mass destruction arsenal within 15 days. Instead, it has spent the better part of a decade shirking its obligations, withholding information from the inspectors, blocking their work, destroying information in plain sight. There is no clearer example than the recent discovery that Iraq produced VX -- the most deadly chemical in the world -- and loaded it into missile warheads that could be launched at any time against its neighbors. Experts from over a dozen countries have now confirmed this finding... Certainly, when it comes to a rogue regime with weapons of mass destruction and a history of using them, the United States and its friends in the Muslim world must continue to be united -- because we are all at risk."

More Body Armor Is On The Way For U.S. Troops (WP)

By Ann Scott Tyson

The Washington Post, January 12, 2006

DOJ_NMG_0009222

The Army announced yesterday that it will soon start producing 230,000 sets of side armor plates and field them over the year to soldiers in Iraq and Afghanistan, after a recently disclosed Pentagon study indicated that such plates could have helped prevent scores of troop deaths since 2003.

The Marine Corps has delivered 9,000 sets of the plates to Iraq, a number that will rise to about 30,000 by April, officials said yesterday. Each set of plates, together with a carrier and soft armor, costs about $450 and weighs about seven pounds, the officials said.

Army and Marine generals in charge of developing and buying equipment defended the pace at which they were getting the new side armor to troops, after a closed-door briefing yesterday on the matter on Capitol Hill. The generals briefed the Senate Armed Services Committee after lawmakers voiced concern over a classified Pentagon forensic study disclosed last week that for the first time linked gaps in upper torso protection to troop fatalities.

The scrutiny of body armor is the latest instance in which Congress has pressured the Pentagon to accelerate the distribution of protective equipment to U.S. troops -- from "uparmored" Humvees and trucks to bulletproof vests. More than 2,200 American troops have died in Iraq since March 2003, 1,741 of them in combat, according to Pentagon figures as of yesterday.

The forensic study of 401 Marines who died in combat in Iraq from March 2003 to June 2005 showed that 21 died primarily from injuries to the side of their torsos. The study, completed in August 2005 by the Office of the Armed Forces Medical Examiner, concluded that those Marines might have benefited from improved protection, such as that offered by the side plates. The findings, if applied to all U.S. combat casualties, suggest that scores of deaths might have been prevented if the new side plates had been worn.

The Marine Corps finalized contracts for the production of the side plates in mid-September and production began six weeks later, with distribution starting in November, said Col. Shawn Reinwald, director for combat equipment at the Marine Corps Systems Command in Quantico, Va. The Marine Corps commandant decided on the need for side plates in June, he said.

The Army also identified a requirement for the side plates in the past year, when Army truck drivers running convoys in Iraq asked for them, Maj. Gen. Jeffrey A. Sorenson, the Army's acquisition chief, told reporters. The Army took a design created by a commander in Iraq, minimized the plates' weight and this week determined the optimal size, according to Maj. Gen. Stephen M. Speakes, director of force development for the Army. "It's a great success," Speakes said.

The generals said the side plates are the most recent in a series of body armor upgrades that have improved the likelihood of survival for U.S. troops. But they stressed that the added armor has drawbacks because it can limit troops' mobility and raise body temperature -- a major consideration, given the 130-degree heat in which forces are fighting.

"We don't want a medieval knight. We are not going to be hoisted onto a horse," Speakes said. "All of this is a very difficult trade-off. How much is adequate?"

As a result, the new armor will be supplied to all troops, but commanders will decide case by case whether the mission requires them to wear it, Army and Marine officials said.

Army Sending Added Armor To Iraq Units (NYT)

By Michael Moss

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - Army officials said Wednesday that they had decided to send additional body armor to Iraq to protect soldiers from insurgents' attacks.

The ceramic plates now worn by most members of the military shield just some of the upper body from bullets and shrapnel, and the Army said it would buy plates that would extend this protection to the sides of soldiers. The officials spoke after a closed session of the Senate Armed Services Committee, held after The New York Times reported last week that a Pentagon study had found that extra armor could have saved up to 80 percent of the marines who died in Iraq from upper body wounds.

In at least 74 of the 93 fatal wounds that were analyzed, bullets and shrapnel struck the marines' sides, shoulders or areas of the torso where the protective plates did not reach.

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The Marine Corps, which commissioned the study in December 2004, began buying side plates in September for its 26,000 troops in Iraq. Army procurement officials said they began studying a similar move last summer after receiving requests from troops in Iraq, but were hampered by the need to supply a much larger force of 160,000 individuals.

The Army had begun supplying small quantities of side plates to soldiers much earlier in the war through its Rapid Equipping Force. Armor Works of Tempe, Ariz., which is making the plates for the marines, said it shipped 250 sets in November 2003.

Another manufacturer, the Excera Materials Group of Columbus, Ohio, said that since late 2004 it had shipped 1,000 sets of side plates to Special Forces personnel, the Air Force and individual units that used their own procurement money to buy the armor.

Citing security concerns, the Army has in recent days urged armor contractors not to disclose information about their work, even if the information is not classified, industry officials said.

"Neither you nor any of your employees are authorized to release to anyone outside your organization any unclassified information, regardless of medium, pertaining to any part of your contract," says a letter from an Army research and procurement unit that The Times obtained.

In Congress on Wednesday, Army and Marine officials defended their efforts to procure additional armor, saying they had to weigh the benefits of additional plates against adding weight and restricting mobility. Citing those concerns, Marine officials said last week that they remained reluctant to buy shoulder plates or larger plates for the chest and back.

"This is a continuous evolution," Maj. Gen. Stephen M. Speakes, the Army director of force development, said after the Senate briefing.

National Guard Troops Sue Government In Pay Dispute (REU-Y2)

By Jason Szep

Reuters, January 12, 2006

Four members of the Massachusetts National Guard filed a $73 million class-action lawsuit on Wednesday against Defense Secretary Donald Rumsfeld and other military officials in a dispute over on-the-job expenses since the September 11 attacks.

The lawsuit, which also names Massachusetts Gov. Mitt Romney, appears to be the first of its kind in the U.S. Army National Guard, which has faced heavy demands since September 11, 2001, lawyers involved in the case said.

The four men from Massachusetts and New Hampshire filed the suit in U.S. District Court on behalf of soldiers in about 300 jobs in the Massachusetts National Guard owed money for meals, car fuel, lodging and daily allowances, their lawyers said.

"The National Guard refused to reimburse millions of dollars to soldiers called for active duty following the 2001 terror attacks," John Shek, counsel for the plaintiffs, said at a news conference.

"We have found that the closer we look at this the worse the situation gets."

Officials at the National Guard were not immediately available to comment.

Thousands of soldiers in the Guard, a part-time force whose 440,000 members live civilian lives while doing periodic military training, were mobilized after the September 11 attacks to protect airports, borders and other possible targets. Tens of thousands also have been deployed to fight in Iraq and Afghanistan.

SYSTEM FOR EXPENSES

At the heart of the suit is the system of paying expenses to Guard troops who say they traveled hundreds of miles (km) and paid for their own food, car fuel and lodging to perform their duties.

Shek said while National Guard soldiers across the country were paid under federal orders known as "title 10" that included daily allowances, hundreds of troops in Massachusetts were given different orders known as "title 32" that excluded daily allowances but required the same work.

The controversy cuts to the core of the Guard's dual federal and state roles. For state missions, the governor can call on the Guard during emergencies such as storms, fires, earthquakes or civil disturbances. The U.S. president also can call on them for federal missions.

DOJ_NMG_0009224

Capt. Louis Tortorella, 51, estimated he was owed $14,600 a year for the two years he worked before he retired in October 2003. He said there were about 1,000 to 1,500 Guard soldiers who worked in Massachusetts owed similar expenses.

After the September 11 attacks, Tortorella was called up to protect the Quabbin Reservoir, which supplies water to about 2.5 million people in metropolitan Boston and is about a five-hour drive each day from his home in New Hampshire.

In their complaint, the soldiers said their requests for compensation were repeatedly denied.

"It was always either shoved to the side or they turned their backs on us," said Sgt. Wayne Gutierrez, 39, who estimates he was owed at least $17,500 a year for his 2-1/2 years in the Army National Guard in Massachusetts.

Lanky Teen Driven To Become A Marine (WP)

By Nikita Stewart

The Washington Post, January 12, 2006

As a teenager, Kyle W. Brown was always long and lanky -- a little too slight to be a Marine, despite a high school career in the Navy Junior ROTC, said his grandmother, Katheryn Brown.

"They said, 'You're too skinny to be a Marine,' " recalled Brown, 68. "He worked out hard for a year and a half and beefed up."

In July 2002, the Newport News, Va., teenager realized his ambition.

Last Saturday, Lance Cpl. Kyle W. Brown, 22, was fatally shot in the head by a sniper in Anbar province near Fallujah, according to the account his grandmother said Marine Corps officials gave the family. It was his second tour of duty in Iraq.

An official news release from the Department of Defense said Brown was killed "by enemy small arms fire" near Fallujah. Lance Cpl. Brett L. Lundstrom of Stafford was killed in a separate attack in the same area that day, according to the release. A spokesman for the 2nd Marine Division, 1st Lt. Barry Edwards, said that was all the information he had.

Brown and Lundstrom were assigned to the 2nd Battalion, 6th Marine Regiment, 2nd Marine Division, 2nd Marine Expeditionary Force, based at Camp Lejeune, N.C.

Brown was raised in Newport News and lived with his grandmother. He went to Heritage High School. He had a crooked smile and was so mild-mannered that his grandmother called him "Casper."

"You know, like the friendly ghost," she said during a phone interview.

Growing up, he loved ramen noodles, which he called "Roman noodles," and WarHeads sour candy. "They would light your head up. He used to like to slip me one and look at my face," Brown said.

"He was also silly. You know how teenagers can be silly," she said. "He'd come down and sit at the breakfast table in his underwear with those chicken legs. I'd say, 'Hey, put some pants on.' "

But Kyle Brown was serious about the Marines. "He kept his hair cut short," his grandmother said.

When he finally bulked up enough to make the cut and enlist, he said, "How do you like me now? I'm a Marine," Brown recalled.

She said her grandson was unusually patriotic, although he was hesitant about returning to Iraq after he left in September, she said. "First of all, we are Americans. Freedom is not free," she said.

The family hopes to have visitation this weekend in Poquoson, Va., and will have a funeral at 1 p.m. Tuesday at Arlington National Cemetery, Brown said.

Kyle Brown earned several commendations and medals, including the Iraqi Campaign, Global War on Terrorism Service and National Defense Service medals, Edwards said. Brown had been with the 2nd Battalion since February 2003, he said.

Lundstrom, 22, received medals for the Iraqi Campaign, Afghanistan Campaign, Global War on Terrorism Service and National Defense Service. He joined the Marines in January 2003, Edwards said.

His family could not be located for comment.

DOJ:

Gonzales Will Take Part In Opening Of Center (SLPD)

St. Louis Post-Dispatch, January 11, 2006

U.S. Attorney General Alberto R. Gonzales will make his first official appearance in St. Louis, helping on Thursday morning to open the city's new Family Justice Center.

He will be joined by U.S. Sen. Jim Talent; Diane Stuart, director of the Justice Department's Office of Violence Against Women; Catherine L. Hanaway, the U.S. attorney in St. Louis; Mayor Francis Slay and other leaders.

The Family Justice Center, a 12,000 square-foot facility at 1139 Olive Street, was funded with a $1.25 million Justice Department grant. It is billed as a one-stop resource for women and their families looking to escape domestic abuse.

CORPORATE SCANDALS:

South Floridians Plead Guilty To Hedge Fund Fraud (SFBJ)

By Jim Freer

South Florida Business Journal, January 12, 2006

The U.S. Attorney for the Southern District of Florida, the FBI and the Florida Office of Financial Regulation said Anthony Giordano, 29, of Boca Raton, pleaded guilty to federal securities fraud and wire fraud. They said Joseph Zumwalt, 46, of Fort Lauderdale, pleaded guilty to mail fraud in connection with the former EPG Limited Partners of Fort Lauderdale.

"Investors lost more than $1.4 million in as a result of the fraud," the U.S. Attorney's office said.

The government said the defendants admitted representing to investors, including two religious organizations, that they would invest their monies in a hedge fund administered by EPG.

Instead, the government said, Giordano converted millions of dollars for other uses, including personal gain.

Giordano also admitted to manipulating the common stock of Fort Lauderdale-based Weida Communications (Pink Sheets: WDAC) to about $5 a share, in part to facilitate the sale of Weida stock in private transactions at about $3 a share, the government said.

As part of the plea agreement, Giordano transferred more than $2 million in restitution to the U.S. District Court in Miami. The government also said he has agreed to pay $3.25 million more in restitution at sentencing.

Sentencing is scheduled for March 20 before U.S. District Court Judge William Zloch.

Giordano faces a maximum of 20 years in prison and a maximum fine of $5,000 for securities fraud.

Giordano and Zumwalt each face maximum prison terms of 20 years and fines of up to $250,000 for wire fraud and for mail fraud.

SEC Losing Torchbearer On Corporate Behavior (WSJ)

By Kara Scannell

The Wall Street Journal, January 12, 2006

WASHINGTON -- Alan Beller, a major figure in the Securities and Exchange Commission's drive to overhaul corporate governance, will leave the agency next month, giving SEC Chairman Christopher Cox another high-level vacancy to fill.

Mr. Beller's departure comes as the SEC is unveiling the most sweeping overhaul of executive-compensation disclosure in 14 years.

A proposed rule outlining the changes is expected to be discussed at a public hearing Tuesday, and after a public comment period it could take effect for the 2007 proxy season.

The executive-compensation proposal is the capstone for Mr. Beller, 56 years old, who joined the agency in 2002 to head its corporation-finance division.

He oversaw the implementation of the Sarbanes-Oxley corporate-governance law and an update to securities-offering laws, which allow for greater communication including electronic versions of preoffering "roadshows" for investors before initial public offerings of stock.

Mr. Beller also has overseen the proposal or implementation of other rules, such as one to speed up the time companies have to file periodic reports, Internet delivery of proxies to investors, and a rule that makes it easier for foreign-based companies

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to deregister from U.S. reporting requirements. He also helped set up a small-business advisory committee, which is charged with providing guidance to the agency on the costs of regulations to small businesses.

He will "be recognized as one of the giants of the SEC of all time," Mr. Cox said.

Mr. Beller's departure has been rumored for months amid speculation that he was waiting until the executive-compensation proposal was completed. He said he will return to private practice, but will stay until February to help with a transition.

While Mr. Cox has said filing vacant spots is an organizational priority, he has yet to staff directors for the divisions of market regulation, investment management and chief accountant. He also needs to name the head of the Public Company Accounting Oversight Board. Agency insiders have said the delay in filling positions has created some tension as it has slowed decision-making on some issues.

The openings afford Mr. Cox an opportunity to set a tone with his selections. Earlier this month, he named former Latham & Watkins colleague Brian Cartwright as general counsel. Mr. Cartwright, a former rocket scientist, is expected to start later this month.

CRIMINAL LAW:

Sources: Two Lawmakers Could Face Charges In Abramoff Probe (CNN)

By Kelli Arena and Kevin Bohn

CNN.com, January 12, 2006

WASHINGTON (CNN) -- Up to a half dozen people, including two members of Congress, could face charges after high-powered lobbyist Jack Abramoff's plea deal with the Justice Department, sources with knowledge of the investigation tell CNN.

Abramoff has been cooperating with Justice Department prosecutors and FBI agents for several months in their investigation of his dealings, including his allegations of exchanging gifts for political favors.

Authorities have focused on about 20 people who possibly committed wrongful acts, government sources have previously told CNN. The number is a moving target as new information comes in.

Sources with knowledge of the investigation say at least two members of Congress are under scrutiny as part of the ongoing investigation. One is Rep. Bob Ney, R-Ohio, who sources say was the person identified in Abramoff's plea agreement as the official who took action for Abramoff after receiving from him such things as a golf trip to Scotland.

Ney has steadfastly denied wrongdoing, has pledged to cooperate with the investigation and has said he is confident he will be cleared.

The sources would not identify the other member, and they told CNN that no charges appear imminent.DeLay staffers under scrutiny

Also under scrutiny, the sources say, are some current and former congressional staffers, including at least two people who used to work for then-House Majority Leader Rep. Tom DeLay. DeLay, R-Texas, and Abramoff had a long working relationship.

Investigators are also examining the activities of some officials at the Interior Department and the General Services Administration, sources tell CNN. One former GSA official, David Safavian, was indicted in October on charges of obstructing a GSA proceeding, obstructing a U.S. Senate proceeding and making false statements in connection with the investigation.

Abramoff pleaded guilty to conspiracy, fraud and tax evasion charges January 3 and agreed to cooperate with federal prosecutors. About 30 to 40 FBI agents and other staff are working full-time on this investigation, which officials have said is a high priority for the government. (Full Story)

Legal experts have said while there may be some evidence of ethical violations, it is very hard to prosecute government officials for acting on a bribe, because it is standard operating procedure for lobbyists to do favors for those in power hoping to get something in return. They say it is very hard to bring a court case to prove someone acted as a direct result of a bribe.

An E-mail Trail Of Money And Influence (CSM)

By Peter Grier

The Christian Science Monitor, January 12, 2006

WASHINGTON - Lobbyist Jack Abramoff was, in his own word, "jazzed."

It was Sept. 25, 2001, and the night before he'd attended a small Georgetown dinner given by a Republican environmental group. He'd hobnobbed there with Secretary of the Interior Gale Norton and Deputy Secretary Steven Griles - two of the most important officials in the government, as far as Mr. Abramoff's Indian tribe clients were concerned.

Now it was the day after, and time for a little relationship cultivation.

"The event last night was outstanding!!" he wrote in an 11:54 a.m. e-mail to Italia Federici, president of the group, the Council of Republicans for Environmental Advocacy. "Bravo! ... I have a fantastic box at the Redskins stadium. How about you come this Sunday and see it (invite Steve to come with his family also), and we'll all discuss my doing a fund raiser there for you guys?

"Let me know as soon as you can ... I think [Attorney General John] Ashcroft and his guys will also be there. 1PM game," Abramoff concluded.

The case of Jack Abramoff, disgraced super-lobbyist, provides an unprecedented look at the way Washington really works.

That doesn't mean everyone on K Street is corrupt, as Abramoff and his former partner, public relations consultant Michael Scanlon, now have admitted they were. The pair's "Gimme Five" scheme, in which Abramoff steered business to Mr. Scanlon in return for a 50 percent kickback, was unique - and felonious.

But US investigations of Abramoff and Scanlon produced pointillistic detail about their daily political activities, much of which were perfectly legal. Hundreds of pages of e-mails and congressional testimony released by the Senate Committee on Indian Affairs trace the pair as they scrabble for access, scratch backs, beg for money, and dole out contributions in return.

It's D.C. as it is, a Vanity Fair of skyboxes, name-dropping, and $130 Sushi Taro lunches. Few lobbyists have their own restaurant, as Abramoff did. But many might relate to that twinge of panic when it's the end of the month, and the checks don't seem to be rolling in.

"Our pool is getting shallow - we need to reload my man!" Scanlon e-mailed Abramoff in September 2002.

* * *

Let's start with what might be called The Great Circle of Influence. It's a basic procedure whereby lobbyists obtain access for their clients, and it's well illustrated by the connections that occurred at the Council of Republicans for Environmental Advocacy (CREA) dinner on Sept. 24, 2001.

There's no evidence that either the CREA group or any of its officials have done anything illegal in conjunction with Abramoff. Ms. Federici strongly defended her innocence in an appearance before the Senate Indian Affairs Committee last November, saying she had been subject to Abramoff's manipulations.

But in 2001, with the Bush administration still new, Federici held a card of value: Top GOP officials would show up if she asked. Secretary Norton had helped found the group, and Mr. Griles was a friend. So both agreed to attend when Federici invited them to a fundraising dinner.

"Just heard back from Interior and the date for the dinner is Monday, September 24th," Federici e-mailed Abramoff in late August 2001. "Steve is personally inviting everyone from Interior and talking with them about the dinner so I expect a wonderful turnout ..."

Abramoff, for his part, controlled something that the GOP environmental group needed: cash. Most of his Indian tribe clients agreed to sign on as trustees of CREA, at a cost of $50,000 each. Among the perks for trustees was an invitation to the CREA dinner. And the Interior Department is where many issues important to Indian tribes, such as land use and casino policy, are decided.

Not that the tribes paid quickly. A few days before the dinner, Federici asked Abramoff when some of that money might flow in, as she was trying to make some payments and budget for the next quarter.

"Hi Italia. Choctaw will come through with the $50K sometime next month (they are over budget for this fiscal year, which ends at the end of the month)," Abramoff replied in a Sept. 21 e-mail. "Kickapoo is going to give in two parts of $25K each, starting next month. Chitimacha has, I believe, already sent over some (was it $10K?) ...."

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The dinner was a small one of 23 people, held in a private home near the Naval Observatory. Abramoff seemed happy afterward, as the invitation to his skybox shows. Federici replied a few days later - and asked again if the lobbyists could hurry along promised checks.

"Ahhh - the glamorous world of non-profit work - about one half step above beggar!" she concluded in an Oct. 4, 2001 e-mail to Abramoff.

In subsequent communications with Federici and others, Abramoff called CREA "our access to Norton" and talked about "our guy Steve." He bragged about quashing Interior Department policies that are against his client tribes' interests, and weighed in with his thoughts on who should get key Interior jobs.

But Sen. John McCain (R) of Arizona, chairman of the Indian Affairs committee, has said the panel has found no evidence that Norton was aware that Abramoff was invoking her name for gain. Griles has testified that he treated Abramoff no differently than other lobbyists.

And within the e-mail trail are hints that Abramoff didn't have quite the juice he claimed. He was taken by surprise when Norton named Aurene Martin acting head of Indian Affairs in January 2003 - just the sort of thing a well-connected lobbyist should know in advance.

And by July 2003, he appeared to be out of the loop, reduced to begging for advice.

Griles "won't discuss any of my clients with me," he complained in a July 17 e-mail to Federici. "The problem is that since he won't do so, and since you are not able to chat with him now, I am left in a real dilemma. I can't deliver anything from Interior for my clients."

* * *

Another aspect of lobby life well illustrated in the Abramoff e-mails is infrastructure maintenance. As in, how to get your clients to share the bill for those must-have trappings of success, such as stadium boxes.

In May 2001, Abramoff asked Kathryn Van Hoof, chief counsel of the Louisiana Coushattas, if the tribe wanted to join some of his other clients in his sports suites program. For $185,000, Abramoff wrote in an e-mail, tribal leaders could be official cosponsors of his existing luxury boxes for D.C.-area baseball, hockey, and football venues.

This investment would translate into approximately 400 fundraising opportunities, Abramoff promised, virtually all used by members of Congress or their organizations.

"The huge leverage in doing this is that the tribe not only gets the political credit for making available the sports suite, but gets credit with the Member for all funds raised in that evening," wrote Abramoff.

Pressed by Ms. Van Hoof for more details, Abramoff said the Coushattas would be taking the place of some withdrawing Russian clients. Personal attendance is not a requirement of the deal, said the lobbyist; the Choctaws sent a representative "very rarely", his Marianas clients "never." The tribe should instead send a couple of framed items to hang on the football stadium and MCI Center walls.

"It helps when you attend, but if you are not there, we still make a big deal about you guys being their hosts and we spend a lot of time discussing the tribe," wrote Abramoff.

In Washington, clients of lobbyists are accustomed to being directed where to send large sums of money. Lists of lawmakers and organizations deemed important for the client to support are a staple lobbyist product; a number of these lists are included in the trove of Abramoff e-mails and documents.

Thus a request for an Indian tribe to pay $185,000 to allow other people to watch a football team named "Redskins" did not apparently strike the Coushattas as out of line. The tribe cut the check for the program on May 25, 2001.

* * *

Finally, if you're going to be a player in the lobby game, you've got to accept the concept of strange bedfellows. Your ally today can easily be the group that was at your throat last week.

Thus one of Abramoff's primary weapons for protecting the gambling interests of his Indian tribes was the antigambling Christian right. For at least three projects between 1999 and 2002, Abramoff enlisted the help of Ralph Reed, former executive director of the Christian Coalition and current candidate for Georgia lieutenant governor.

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The logic went this way: Use opponents of gambling to stamp out new gambling proposals that threaten the profits of existing casinos. And Mr. Reed enthusiastically rallied antigambling troops:

"We are opening the bomb bays and holding nothing back. If victory is possible, we will achieve it," wrote Reed in a 1999 e-mail to Abramoff regarding a campaign to kill an Alabama casino proposal for the benefit of the Mississippi band of Choctaw Indians.

But Reed and his campaign firm were expensive, prompting Abramoff to finally explode.

"He is a bad version of us! No more money for him!" the now-admitted felon e-mailed his partner Michael Scanlon in 2002.

Congressman's Ex-aide Admits Abetting Bribery (USAT)

USA Today, January 12, 2006

A former aide to Rep. William Jefferson, D-La., pleaded guilty Wednesday to charges that he helped a congressman solicit bribes to arrange two telecommunications deals. A spokeswoman for Jefferson declined to comment.

Brett Pfeffer, 37, pleaded guilty to conspiracy and aiding and abetting bribery of a public official. He agreed to cooperate with prosecutors and testify if needed. He could get 20 years in prison when sentenced March 31.

Pfeffer said in court that a congressman had solicited his assistance in promoting telecom deals in Nigeria and Ghana. The congressman demanded 5% to 7% of the newly formed African companies in exchange for his help promoting the deal, according to Pfeffer.

Court documents referred to the congressman only as "Representative A," but the documents said Pfeffer was his legislative aide from 1995 through 1997. Pfeffer was Jefferson's legislative aide during that period.

Rice faults Syria in assassination probe

Secretary of State Condoleezza Rice said Syria must cooperate with an investigation into a political assassination or face possible United Nations sanctions.

U.N. investigators have been trying to interview Syrian President Bashar Assad as part of an investigation into the assassination Feb. 14 in Beirut of former Lebanon prime minister Rafik Hariri, who was an opponent of Syrian domination of his country.

"We intend to refer this matter back to the Security Council if Syrian obstruction continues," Rice said.

The U.N. probe has implicated Syria, but the Syrian government has denied the allegations.

Rice also said the United States "has grave and continuing concerns about Syria's destabilizing behavior and sponsorship of terrorism."

U.S. ready to seek sanctions against Iran

Iran made a "serious miscalculation" by moving to resume uranium enrichment, and intensive talks are underway with U.S. allies about what to do now, White House spokesman Scott McClellan said.

State Department spokesman Sean McCormack said it was now "more likely than ever" that Iran would be referred to the U.N. Security Council for possible economic sanctions. Representatives from Britain, France and Germany, which with U.S. backing have been negotiating with Iran, are meeting today in Berlin to consider their next step.

Iran removed U.N. seals at research facilities Tuesday and said it would resume nuclear research after a two-year freeze. Iran says its program is to produce electricity, not bombs.

GOP leadership vote to go on as scheduled

Republican leaders of the House of Representatives rejected calls to move up the election of a new majority leader to replace Rep. Tom DeLay of Texas. DeLay had to step aside after he was indicted in September on charges related to fundraising. Speaker Dennis Hastert of Illinois decided to keep the leadership election as scheduled on Feb. 2.

Supporters of Missouri Rep. Roy Blunt, the No. 3 Republican in the House as party whip, had called this week for holding the election before the House reconvenes Jan. 31. Blunt claims to have more support than his challenger, Ohio Rep. John Boehner, chairman of the House Education and Workforce Committee.

Lieberman has broad support in poll

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Sen. Joe Lieberman, D-Conn., has lost some support because of his backing of the Iraq war, but 64% of voters in his state believe he should be re-elected, a Quinnipiac University poll found.

The poll found 24% opposed his re-election and the rest didn't know. Lieberman, the 2000 vice presidential nominee and running mate of Al Gore, is seeking a fourth Senate term in November.

Lawmaker Sought Cut Of Nigerian Deal: Aide (REU-Y2)

By Andy Sullivan

Reuters, January 12, 2006

Louisiana Democratic Rep. William Jefferson (news, bio, voting record) sought a cut of a Nigerian telecommunications venture in return for his help setting it up, a former aide said on Wednesday as he pleaded guilty to bribery charges.

In return for lobbying Nigerian officials and arranging a loan through the U.S. Import-Export Bank, Jefferson demanded an ownership stake in a venture by two U.S. companies to provide high-speed Internet and cable television to Nigeria, former aide Brett Pfeffer said.

"The congressman told me he would require 5 to 7 percent of ownership of the company," Pfeffer told U.S. Judge T.S. Ellis. "He was to help promote the business opportunity to Nigerian officials."

Pfeffer, 37, pleaded guilty to conspiracy to commit bribery and aiding and abetting the solicitation of bribes by a member of Congress for his role as a go-between in the deal, and agreed to cooperate in the investigation.

He faces up to 20 years in prison and a $500,000 fine.

According to a statement of facts released in the plea deal, Jefferson sought to place a relative on the company's payroll at a salary of $2,500 to $5,000 per month and steer legal work toward another relative.

Jefferson also lobbied government officials in Ghana to try to set up a similar venture there, according to the plea deal.

A Jefferson spokeswoman declined to comment.

The agreement comes as Congress faces the largest corruption scandal in decades. Lobbyist Jack Abramoff pleaded guilty to fraud last week and admitted that he provided golf trips, campaign contributions and other gifts to lawmakers in exchange for favorable treatment for his clients.

The Abramoff scandal so far has largely implicated Republicans like former House Majority Leader Tom DeLay, but Pfeffer's agreement could make it difficult for Democrats to portray corruption as a strictly Republican issue as they try to win back control of Congress.

Jefferson is not named in Pfeffer's plea agreement, which only describes a "Representative A" who employed Pfeffer from 1995 to 1998.

News accounts from that period cite Pfeffer as Jefferson's legislative director.

According to court papers, Pfeffer's investment firm in 2004 agreed to invest $45 million to provide high-speed Internet and cable TV service to Nigeria over the existing copper telephone wires there.

Jefferson recruited Pfeffer's company for the deal and connected it to a Kentucky technology provider whose equipment would be used in the venture. As the agreement was signed he told Pfeffer he would require an ownership stake, according to court papers.

"Pfeffer understood that Representative A was soliciting a bribe in return for Representative A's official assistance in furthering the Nigerian Deal. Pfeffer .... later advised (his boss) that it was part of the cost of doing business with Representative A," the plea deal said.

Pfeffer's boss is not named in the plea deal but is described as a witness cooperating in the investigation.

Pfeffer's lawyer declined to comment after the hearing.

U.S. Assistant Attorney Mark Lytle also declined to comment.

Jefferson has held his seat since 1990, representing many New Orleans neighborhoods that were devastated by Hurricane Katrina. He serves on the tax-writing Ways and Means Committee.

An August 2005 FBI raid on his homes in Washington and New Orleans found thousands of dollars in cash stored in a freezer, according to news reports.

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Jefferson traveled to Nigeria in February 2004 and Ghana in July 2005, according to congressional campaign-finance records.

The $9,248 Ghana trip was paid for by Win Win Strategies Foundation, which did not return a call seeking comment.

A Kentucky technology company called iGate Inc. helped underwrite the Nigeria trip. News accounts indicate that iGate participated in the venture with Pfeffer's company. The company could not be reached for comment.

Ex-Aide Pleads Guilty To Bribing Congressman (WP)

By Allan Lengel

The Washington Post, January 12, 2006

A former aide to Rep. William J. Jefferson (D-La.) pleaded guilty yesterday to bribing the congressman to promote high-tech business ventures in Africa.

Brett M. Pfeffer, 37, of Herndon, a former president of a McLean investment firm, pleaded guilty in U.S. District Court in Alexandria to conspiracy to commit bribery of a public official and aiding and abetting the bribery of a public official in 2004 and 2005.

Pfeffer, who worked as Jefferson's legislative aide from 1995 to 1998, faces up to 20 years in prison. He has agreed to cooperate in the ongoing FBI probe.

The man Pfeffer bribed is referred to only as "Representative A" in court papers. But law enforcement sources and documents make clear the politician is the defendant's former employer, Jefferson, who has not been charged in the case.

Pfeffer recounted in court how his former Capitol Hill boss, in exchange for using his congressional influence in Africa, demanded a 5 to 7 percent stake in one of two new companies Pfeffer's firm was investing in. The companies were to provide high-speed Internet and cable TV service in Ghana and Nigeria.

Pfeffer said the congressman also demanded that two relatives be put on the businesses' payrolls.

Pfeffer told his boss at the investment firm, a 41-year-old woman referred to as "CW" in court papers, that such was the cost of doing business with the congressman, a court document said.

Jefferson, a senior member of the Ways and Means Committee, is co-chairman of the congressional Africa Trade and Investment Caucus and the caucuses on Brazil and Nigeria.

At one point last year, the FBI set up a sting in which Pfeffer's investment company boss recorded conversations, according to law enforcement sources who declined to be identified because the investigation is ongoing.

FBI agents also raided several locations, including Jefferson's homes in the District and New Orleans, where they found about $90,000 in cash in a freezer, sources said.

Jefferson's press secretary, Melanie Rousell, declined to comment yesterday, saying Jefferson was in the Netherlands studying flood controls.

His attorney, Michael Fawer, said he wanted to speak to Jefferson before commenting.

According to court documents, in early 2004, Pfeffer told his former boss about his job at a McLean investment company and "his search for business opportunities."

Pfeffer said Jefferson told him about an opportunity in Nigeria involving a Louisville-based company with the rights to a technology enabling copper wires to carry high-speed Internet. Pfeffer's boss eventually agreed to invest $45 million in the Nigeria venture, and Jefferson demanded a stake as well assurances his relatives would be on the payroll, according to court documents.

"Pfeffer understood that [Jefferson] was soliciting a bribe in exchange for [his] official assistance," the court document said.

The document said a similar deal was struck in 2005 regarding a Ghana deal.

In U.S. Bribe Probe Of Rep. Jefferson, Ex-Aide Sets Plea (WSJ)

By Anne Marie Squeo

The Wall Street Journal, January 12, 2006

WASHINGTON -- Federal prosecutors secured a guilty plea from a former legislative aide to Rep. William Jefferson in a continuing bribery investigation of the Louisiana Democrat.

Brett Pfeffer, 37 years old, pleaded guilty to conspiracy to commit bribery as well as aiding and abetting the solicitation of bribes by a member of Congress. As part of his plea in an Alexandria, Va., federal court, Mr. Pfeffer agreed to cooperate with law enforcement in the probe. He faces up to 20 years in jail and a fine of as much as $500,000 under the terms of his agreement.

The plea agreement doesn't refer to Mr. Jefferson, but rather "Representative A." Details of Mr. Pfeffer's employment for the congressman make clear who is being discussed, however.

A spokeswoman for Mr. Jefferson said the congressmen wouldn't be commenting on Mr. Pfeffer's plea.

The investigation of Mr. Jefferson is separate from the Justice Department probe into members of Congress involved with former Republican lobbyist Jack Abramoff and his business associate Michael Scanlon.

According to the filing, Mr. Pfeffer worked for Mr. Jefferson from 1995 to 1998. He stayed in touch with Mr. Jefferson after leaving his office and later become president of a Virginia investment company.

In 2004, while at this company, Mr. Pfeffer introduced the controlling partner of his firm to Mr. Jefferson. The congressman then introduced that unnamed person, who later became a cooperating witness for the government, to the founder of a Kentucky company planning to provide high-speed Internet and cable-television service to the government of Nigeria. The two agreed Mr. Pfeffer's company would invest $45 million in the Nigerian plan, according to the government's filings in the case.

Afterward, Mr. Jefferson then asked Mr. Pfeffer, as a representative of the controlling partner in his firm, to seek bribes on his behalf in exchange for the congressman using his official post to promote the Nigerian arrangement. Mr. Pfeffer, who also stood to make money if the Nigerian deal proved successful for his company, then passed along these requests by the congressman. In addition, federal prosecutors allege that Mr. Jefferson agreed to promote a similar telecommunications deal for the country of Ghana in exchange for certain payments.

Mr. Jefferson, an eight-term congressmen, is a senior member of the House Ways and Means Committee and its subcommittee on trade, and also co-chairs the Africa Trade and Investment Caucus.

Congressman Implicated In Case (NYT/AP)

By The Associated Press

The New York Times, January 12, 2006

ALEXANDRIA, Va., Jan. 11 (AP) - A Louisiana congressman demanded bribes in exchange for his help in promoting a pair of business deals in Africa, according to court documents filed Wednesday with a guilty plea by a former aide.

The aide, Brett Pfeffer, 37, a former legislative director to Representative William J. Jefferson, Democrat of Louisiana, pleaded guilty to aiding and abetting bribery of a public official and conspiracy. Mr. Pfeffer could get 20 years in prison when he is sentenced March 31.

A spokeswoman for Mr. Jefferson declined to comment.

Mr. Pfeffer said in federal court here that a congressman had demanded bribes in exchange for his assistance in brokering two African telecommunications deals.

Court documents did not identify the congressman by name, but the documents make clear that Mr. Jefferson is the congressman.

According to the documents, Mr. Pfeffer was employed as a legislative assistant by the congressman from 1995 through 1997. That is when Mr. Pfeffer served as a legislative aide to Mr. Jefferson.

Mr. Pfeffer agreed to cooperate with prosecutors and testify if needed.

The conspiracy took place in 2004 and 2005, years after Mr. Pfeffer had left Mr. Jefferson's office, according to the authorities.

Mr. Pfeffer said in court that a congressman had solicited his assistance in promoting business opportunities in Nigeria and Ghana. The congressman demanded 5 percent to 7 percent of the newly formed African companies in exchange for his help promoting the deal, Mr. Pfeffer said.

Mr. Pfeffer's lawyer, Paul Knight, declined to comment.

Court records give no indication how much money Mr. Jefferson stood to receive.

The F.B.I. raided Mr. Jefferson's home in August.

Mr. Jefferson was elected to the House in 1990, becoming the first black congressman from Louisiana since Reconstruction.

Former Congressional Aide Pleads Guilty In Bribery Scandal (FOX)

FoxNews, January 11, 2006

ALEXANDRIA, Va. — A former congressional aide pleaded guilty on Wednesday to charges of conspiracy to commit bribery and aiding and abetting the solicitation of bribes by a member of Congress.

Brett Pfeffer , a former aide to Rep. William Jefferson , D-La., entered his plea deal in U.S. District Court in Alexandria, Va. Pfeffer faces up to 20 years in prison when sentenced March 31 and a fine of up to $500,000.

"Today this defendant admitted to a crime which, at its core, is a bribery scheme involving a public official," said Assistant Attorney General Alice Fisher of the Criminal Division. "Such schemes deprive citizens of the integrity and honest services expected of our government. The Justice Department will aggressively investigate and prosecute these illegal schemes."

Pfeffer, who worked as a legislative assistant for Jefferson from 1995 to 1998, must cooperate with officials in an ongoing investigation, according to the plea deal.

"The congressman told me of a business opportunity in Nigeria," Pfeffer told Judge T.S. Ellis. "I took that opportunity to a woman I work for. She decided to invest in this company. [Jefferson] would require 5 to 7 percent of the company for his family. In exchange, he would work with officials in Nigeria to further the business."

Prosecutor Mark Lytle said the congressman and Pfeffer traveled to Ghana in July to promote a similar deal there.

Pfeffer, 37, told officials that Jefferson accepted bribes in connection to supporting a telecommunications agreement with the Nigerian government. The court documents do not name Jefferson specifically but refer to him only as "Representative A."

The documents make obvious that Jefferson is the congressman who allegedly solicited the bribes, which was initiated by the Kentucky-based company, and received monthly payments of $2,500 to $5,000 for his family members between 2004 and August 2005.

In August, the FBI searched Jefferson's Louisiana home and Nigerian Vice President Atiku Abubakar's Maryland residence. Jefferson was first elected to Congress in 1990, becoming the first black Louisiana congressman since Reconstruction. He was criticized after Hurricane Katrina for getting the National Guard to escort him to his flooded home at a time when federal resources were sorely strained.

Pfeffer's attorney, Paul Knight, and Jefferson's spokeswoman, Melanie Rousell, declined comment.

Jefferson was unable to comment on Wednesday because he was traveling in the Netherlands with Sen. Mary Landrieu, D-La., to review levee systems. Jefferson is expected back on Thursday to attend a hearing in Louisiana.

The bribery probe is separate from the ongoing investigation of lobbyist Jack Abramoff , who pleaded guilty last week to federal charges. Abramoff's investigation could bring down some lawmakers and their aides, including a former aide to Rep. Tom DeLay, R-Texas.

The investigation has looked into Jefferson's dealings with a privately held technology company, iGate Inc. in Louisville, Ky., which was seeking telecommunications contracts in Nigeria.

FOX News' Molly Hooper and The Associated Press contributed to this report.

Kickbacks Admitted In Work For New Orleans (NOTP)

By Bruce Eggler, Staff Writer

New Orleans Times-Picayune, January 12, 2006

Federal prosecutors rang up another conviction Wednesday in their probe of a scheme to skim hundreds of thousands of dollars from a huge energy-efficiency contract awarded during former New Orleans Mayor Marc Morial's tenure at City Hall.

Under an agreement with prosecutors, Michael Garnett, a subcontractor who did work under the $81 million Johnson Controls Inc. deal, pleaded guilty to misprision of a felony for knowing about crimes related to the scheme but failing to inform authorities, U.S. Attorney Jim Letten said.

Garnett is the fifth subcontractor to enter a guilty plea related to the Johnson Controls contract, Letten said.

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The 20-year contract with Johnson Controls, awarded in 2000, was the largest signed by the Morial administration. It was intended to save the city money on its energy bills, in part by replacing an array of energy-consuming fixtures with more efficient models.

Letten said Garnett admitted providing kickbacks to Kerry DeCay, director of the Department of Property Management under Morial, in connection with the subcontract given to Garnett's company, Golden Hammer Construction.

The kickbacks included a refrigerator costing $5,278.20 and an icemaker worth $1,387.57 that Garnett's company bought for DeCay's home, plus an identical icemaker for the home of Terry Songy, Johnson Controls' local project manager, according to the plea agreement.

Songy has told investigators that he and DeCay "controlled assignments given to Golden Hammer under its subcontract with Johnson Controls," the document says.

DeCay has said he's innocent. Prosecutors have said Songy is expected to plead guilty and is cooperating with the investigation.

Letten said Garnett was placed in the difficult position of having to give payments to a city official to get city business, and that he did so reluctantly. Letten urged other business owners to refuse to be corrupted and to report any approaches for kickbacks to the FBI.

Garnett, whose case was investigated by the FBI and the Internal Revenue Service, entered his plea before U.S. District Judge Martin Feldman.

Feldman, who is set to sentence Garnett April 19, could impose a maximum of three years in prison and a $250,000 fine. But Garnett, and several other Johnson Controls subcontractors who have pleaded guilty to the same crime, could draw a much lighter sentence in return for cooperating with the government.

Subcontractors Roy Joseph Broussard of R.J. Broussard LLC and Owen Prestridge of Owen Prestridge Contractor pleaded guilty in November. Two others, Randall Moore of National Contractor Services Inc. and Michael Farris of Specialty Machines Services, filed guilty pleas in December, First Assistant U.S. Attorney Jan Mann said.

Charges were filed against the five subcontractors and Songy in August. Letten said at the time that all were expected to plead guilty and cooperate with the government.

Besides DeCay, the highest-profile defendants in the Johnson Controls case are expected to be Reginald Walker, owner of a construction company that received a large subcontract from Johnson Controls, and restaurateur Stan "Pampy" Barré, a confidant of Morial's.

According to a grand jury indictment issued in June, DeCay, Walker, Barré and Songy plotted to skim money from the contract by inflating the costs of various jobs. Subcontractors would be directed to turn in fraudulent invoices, after which they would kick back money and sometimes other items to Barré, Songy and DeCay, the indictment said.

Barré grossed more than $800,000 from the deal for little or no work, while Songy and DeCay each took in at least $100,000 in cash and gifts, according to the June 16 indictments.

The government said Barré, DeCay and Songy also agreed to change the contract's scope of work to include renovations to Barré's concession stands at the Morris F.X. Jeff Municipal Auditorium and the Mahalia Jackson Theatre of the Performing Arts. Those changes and others unrelated to energy efficiency added $1.8 million to the price of work in the two buildings, the indictment said.

Barré and Walker have said they are innocent.

. . . . . .

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Council Member Pleads Not Guilty To Extortion (AP)

AP, January 11, 2006

NEW ORLEANS (AP) — A member of the St. Tammany Parish Council has pleaded not guilty to federal charges of extorting at least $50,000 from a businessman in an alleged attempt to broker a contract of dispose of debris from Hurricane Katrina.

Advertisement

Joe Impastato, 33, entered the plea Tuesday to extortion, conspiracy and money laundering.

Impastato has admitted making a deal with the owner of Pontchartrain Chipping Yard LLC in Lacombe, but says he obtained an opinion from a private attorney to ensure his actions were legal.

U.S. Magistrate Louis Moore Jr. allowed Impastato to remain free on $5,000 bond he posted after his arrest in November. Each of the three counts carries up to 20 years in prison.

A grand jury accused Impastato of contacting Pontchartrain Chipping and offering to negotiate a debris-dumping deal for the company in exchange for part of the $200,000 contract. Authorities said Impastato was arrested after the company's owner contacted the FBI, which set up a sting operation.

F.B.I. Said To Grill Man, 20, On Cruise Disappearance (NYT)

By Alison Leigh Cowan

The New York Times, January 12, 2006

The lawyer for one of the men last seen with a Connecticut newlywed before he vanished on a Mediterranean cruise last summer said federal agents had pressured his client for information about the man's disappearance and threatened to charge him with the rape of a female passenger if he declined to cooperate.

In his first extensive comments on the case, the lawyer, Albert Y. Dayan, said that his client, Rustislav Kofman, denied any role in the disappearance of the Connecticut man, George Allen Smith IV, last July 5 on a Royal Caribbean cruise or in any rape.

He said that when crew members aboard the ship, Brilliance of the Seas, approached his client about a missing person, Mr. Kofman thought they were talking about Mr. Smith's wife, Jennifer. He said she was not in the Smiths' cabin when his client and three of his friends put her husband to bed after a night of heavy drinking. It was the last time anyone is known to have seen Mr. Smith.

Since his disappearance, his wife and family have demanded to know what happened to Mr. Smith, and have expressed suspicion of foul play. Federal agents have focused on a group of male passengers who helped Mr. Smith back to his cabin and who, two days later, videotaped themselves having sex with an 18-year-old female passenger. She later complained she had been raped; the men have said through their lawyers that the encounter was consensual.

Mr. Dayan said his client, a 20-year-old college student from Brighton Beach, Brooklyn, had been subjected to three lengthy interrogations by federal agents before he hired a lawyer. He said he and his co-counsel had decided to speak out because they thought their client was being scapegoated.

"Agents have barraged this young man with question after question in three different interrogations," Mr. Dayan said. "Some were five to eight hours long, and some were with no food till it was over."

He said that if his client "were any weaker psychologically, he would have confessed to anything."

In an effort to extract information from his client, Mr. Dayan said, agents showed a videotape of his client and two other men having sex with the passenger alleging rape. He said agents also sought to play the tape for Mr. Kofman's father in an effort to get him to instruct his son to cooperate but that the father refused to watch.

A spokeswoman for the F.B.I. in New Haven said yesterday that her office would not comment.

Mr. Dayan said: "We sympathize with the disappearance of Mr. Smith and the family. However, we're concerned that one tragedy - the disappearance of a man - may lead to another tragedy - the arrest of a man who had nothing to do with the disappearance."

He said that he did not believe his client "did anything wrong on the ship" and noted that unlike some of the other people under scrutiny, his client "actually spoke to the F.B.I. and gave them a complete account."

He complained that the authorities had been using a "strictly consensual" sexual encounter as leverage in an effort to force his client to provide more details on the Smith case than the account he had already given.

Last week, a family friend speaking on behalf of the 18-year-old passenger disputed that the encounter was consensual. He said she was "angry and looking forward to her day in court."

Woodward Found Guilty (WIAT-TV)

DOJ_NMG_0009236

By Adam Moseley, News42 WIAT

WIAT-TV, CBS 42 , Birmingham, AL, January 12, 2006

A federal jury returned a verdict against an ex-Jefferson County sheriff and his attorney. It's a case that stretches back a few years…one that had Jim Woodward and Albert Jordon accused of illegally using the national crime computer.

The justice department filed criminal charges back in 2000, accusing Woodward and his attorney of misusing the N.C.I.C. computer.

Prosecutors contend they conducting background checks on absentee voters during the 1998 sheriff's race, a charge they denied. And a jury agreed.

Jim Woodward and Albert Jordan sat through a second day of jury deliberations, and when it was over the federal panel found them guilty of two felony counts.

Woodward was found guilty of conspiracy and illegal use of property. Jordan was also found guilty of conspiracy and misuse of public money, property or records.

Following the decision, Woodward, Jordan or their attorneys would comment on the verdict, but several family members and friends left the courthouse visibly upset.

Both Woodward and Jordan were cleared of a third felony count.

Puerto Rico Lawyer Indicted In Scheme (AP)

AP, January 12, 2006

SAN JUAN, Puerto Rico (AP) -- A federal grand jury indicted a San Juan attorney Wednesday in connection with a scheme to defraud fast-food giant Tricon Restaurants International, the Justice Department said.

Eugenio A. Guardiola Ramirez was charged with conspiracy to obstruct justice and obstruction of justice in an investigation into illegal kickback payments paid by an electrical contractor, said Justice Department spokesman Orlando Rios.

Tricon's brands include Kentucky Fried Chicken, Pizza Hut and Taco Bell. Its Puerto Rico stores are operated by Encanto Restaurants of Puerto Rico, Rios said.

Prosecutors allege Guardiola obstructed an investigation into payments made by the Gate Engineering Corporation to a Tricon employee in exchange for more than $1 million (euro823,847) worth of electrical contracts, Rios said.

He is accused of mischaracterizing the payments to a grand jury, interfering with witnesses and drafting a phony services contract, Rios said.

If convicted on all charges, Guardiola could face up to 35 years in prison and fines of up to $750,000, Rios said.

In May 2005, the electrical contractor and its president, Albith Colon, pleaded guilty to having made illegal kickbacks and are awaiting sentencing, Rios said. The Tricon employee, Jorge Luis Matos Burgos, was convicted in August of the same charge and was sentenced to a year in prison.

U.S. Supreme Court Splits Over Fairness Of Calif. Death Sentence (LAW/AP)

By Gina Holland, The Associated Press

AP, January 12, 2006

A divided Supreme Court reinstated a California inmate's death sentence on Wednesday, the first 5-4 vote under newly installed Chief Justice John Roberts.

Justices overturned an appeals court ruling that declared Ronald Sanders' sentence unconstitutional. Sanders was put on death row for the 1982 killing of a woman during a drug-related robbery in Bakersfield, Calif.

Justice Antonin Scalia wrote the ruling, the Court's first death penalty decision since Roberts replaced Chief Justice William H. Rehnquist last fall.

The case presented a technical question for the Court involving jurors' consideration of invalid aggravating factors.

Special circumstances used by prosecutors in their case against Sanders -- that the crime was committed during a burglary and was cruel or heinous -- were later found invalid.

California argued that Sanders would have been sentenced to death even without those arguments. The Supreme Court's five conservative members agreed.

DOJ_NMG_0009237

"The erroneous factor could not have 'skewed' the sentence, and no constitutional violation occurred," Scalia wrote in an opinion joined by Roberts, retiring Justice Sandra Day O'Connor and Justices Anthony Kennedy and Clarence Thomas.

In a dissent, Justice John Paul Stevens said "this decision is more likely to complicate than to clarify our capital sentencing jurisprudence."

Also disagreeing with the decision were Justices David H. Souter, Ruth Bader Ginsburg and Stephen Breyer, although their reasons were varied.

In a lengthy dissent, Breyer said the Court's finding could "deprive a defendant of a fair and reliable sentencing proceeding."

The case is Brown v. Sanders, 04-980.

Justices Question Death Row Inmate's Guilt (REU-Y2)

By James Vicini

Reuters, January 12, 2006

A majority of U.S. Supreme Court justices appeared prepared on Wednesday to overturn the sentence or the conviction of a Tennessee death row inmate who claims new DNA and other evidence cast doubt on his guilt for the 1985 murder of a female neighbor.

The court's four most liberal members, joined by moderate conservative Justice Anthony Kennedy, seemed supportive of arguments by the attorney for convicted murderer Paul House that a reasonable juror now would not find him guilty.

The hour-long arguments in the case were unusual in that the justices went into great detail about fact-specific issues and questioned the attorneys on both sides about evidence presented at trial and what was later uncovered.

House was convicted in 1986 of murder in the beating death of Carolyn Muncey, a neighbor and an acquaintance, in rural Union County in Tennessee. He was on parole after pleading guilty in Utah to sexual assault.

In later challenging his sentence and conviction, defense attorneys presented DNA test results showing the semen on the victim's clothes actually belonged to her husband. Such DNA testing had not yet been developed at the time of the trial.

They also presented testimony tending to show that the victim's blood may have been placed on House's blue jeans by state officials and that Muncey may have been killed by her husband.

Prosecutors have said the new evidence failed to prove House's innocence. A federal judge and then a U.S. appeals court, by an 8-7 vote, rejected House's appeal, but the Supreme Court then agreed to decide the case.

Justice Stephen Breyer said the jury heard the prosecution's theory that the murder had been part of a sexual attack by House and that there now was conflicting evidence.

"I don't know who did this crime," Breyer told Jennifer Smith, the Tennessee associate deputy attorney general who argued the case.

Justice David Souter said the prosecution case against House had been built on rape as the motive, and that a juror would have found the evidence of the semen stains coming from Muncey's husband to be "extremely significant."

Kennedy said the semen evidence raised questions about the sentence at a minimum and the conviction as well. "The semen was used to connect it (the murder) to the defendant. We now know that was wrong," he said.

Justice Antonin Scalia was the court member most skeptical of the arguments by House's lawyer, Stephen Kissinger, an assistant federal defender.

Even with the new evidence, the defense must show that no reasonable juror could have found House guilty, Scalia said. He described it as "a very heavy burden" and made clear he did not believe the new blood evidence was sufficient.

Chief Justice John Roberts asked Kissinger what standard of review he thought should be used in deciding the case. Under existing precedent, the Supreme Court must determine that no juror could reasonably vote to convict, based on the old and new evidence, he said.

A decision in the case is expected by the end of June.

Justices Debate Case Of Condemned Inmate Tenn. Man Wants New Hearing, DNA Tests Examined (USAT)

DOJ_NMG_0009238

By Joan Biskupic

USA Today, January 12, 2006

WASHINGTON — A majority of the Supreme Court expressed concern Wednesday about blood and semen evidence used to send a Tennessee man to death row 20 years ago, as the court for the first time heard a case in which a condemned inmate claims DNA evidence could help clear him.

Justices David Souter and Stephen Breyer were among those most vigorously questioning whether Paul Gregory House abducted, tried to rape and then murdered Carolyn Muncey in July 1985.

The jury that found House guilty heard that semen found on Muncey's clothing could have been from House and that blood on House's pants likely was from the victim. House is trying to get his case reopened on the grounds that Muncey's blood ended up on his clothing because evidence was mishandled and that new DNA tests show that the semen found on the victim's clothes belonged to her husband.

The question before the court does not turn on the validity of the DNA evidence. Rather, it tests the standards for when a prisoner who has exhausted all appeals can seek to get a hearing before a federal judge to challenge his case.

Chief Justice John Roberts repeatedly tried to bring the justices' discussion back to the relatively dry question of whether House, at this point, can assert that his case was constitutionally flawed.

The justices must examine whether, given the new evidence that House asserts, "it is more likely than not that no reasonable juror would have convicted" him. That tough standard derives from a 1995 Supreme Court case that attempts to balance an interest in ensuring the finality of verdicts with concerns about inmates' actual innocence.

House's case has drawn national attention because it brings to the forefront the DNA technology that has led dozens of wrongly convicted inmates to be freed.

The New York-based Innocence Project, which has been at the lead of the DNA litigation that it says has exonerated more than 160 defendants, submitted a "friend of the court" brief siding with House.

It told the Supreme Court that scientific evidence contradicting facts at a jury trial should warrant great weight when prisoners seek a hearing in federal court.

No convict in the USA has been exonerated through DNA testing after execution.

However, the results of DNA testing are expected soon in the case of Roger Coleman, a Virginia man who was executed in 1992 for raping and murdering his sister-in-law. Gov. Mark Warner recently ordered the testing because of lingering questions about whether Coleman was guilty.

Stephen Kissinger, an assistant federal community defender representing House, told the justices that House meets the court's requirements to have his case heard again. Kissinger stressed evidence indicating that blood from the victim found on House's jeans could have come from spilled autopsy samples. He also emphasized DNA testing after trial that showed semen found on Muncey was from her husband.

Jennifer Smith, associate deputy attorney general in Tennessee, says that argument fails to meet the threshold for a new hearing.

She said the state agrees that the DNA evidence showed that the semen was from Muncey's husband, but she linked it to testimony that the couple had sexual relations the morning before she disappeared.

Under sharp questioning from justices, Smith minimized the fact that prosecutors had used the attempted rape as a motive for Muncey's murder and as an aggravating factor for the death penalty.

The court could rule in the case of House v. Bell by the end of June, when the justices traditionally recess for their annual term.

A 1986 Case Could Aid Appeals Along Death Row (NYT)

By Linda Greenhouse

The New York Times, January 12, 2006

DOJ_NMG_0009239

WASHINGTON, Jan. 11 - An argument before the Supreme Court in a 20-year-old murder case suggested on Wednesday that the court might be willing to open the door a bit wider to death row inmates seeking access to federal court to present plausible but belated claims of innocence.

It was a gritty argument with an unusually intense focus on the evidence that a Tennessee jury considered in convicting Paul G. House of the murder of a neighbor, Carolyn Muncey. Justices Antonin Scalia and Stephen G. Breyer were particularly steeped in the details and were deeply engaged on opposite sides of the case, debating it back and forth almost to the exclusion of the lawyers standing before them.

Mr. House has always maintained his innocence, and in 2004 he came within one vote of persuading a federal appeals court to reopen his case. The debate on the appeals court was over whether recently developed scientific evidence had cast enough doubt on the basis of his conviction to overcome the very high bar that the Supreme Court has set for federal courts to hear new claims that were not presented in the initial round of appeals.

The vote against Mr. House, in the United States Court of Appeals for the Sixth Circuit, in Cincinnati, was 8 to 7; all eight judges in the majority had been appointed by Republican presidents, and all seven dissenters had been named by Democrats. Six of the dissenters concluded that Mr. House had proved his innocence, while the seventh said that he was at least entitled to a new trial.

Addressing Mr. House's lawyer on Wednesday, Justice Scalia said he agreed that the case now looks "much closer" than it must have appeared to the jury in 1986. But that was not the issue, he continued. "Once the case has been tried, we have a much different task," Justice Scalia said, namely to determine "whether any reasonable jury could have found guilt."

Only if the answer was no could a federal court proceed to hear a petition for a writ of habeas corpus and consider whether constitutional errors that had not previously been identified had occurred at the trial. The Supreme Court's leading precedent on this question, a case from 1995 called Schlup v. Delo, refers to this hurdle as a "gateway" through which an inmate must pass. It is, Justice Scalia said, "a very heavy burden" for the defense to meet.

Mr. House's lawyer, Stephen M. Kissinger, replied, "It is a high burden, and we don't shrink from it."

The court's focus, Mr. Kissinger said, should now be on "the effect of the entirety of the evidence on a reasonable juror" rather than on dissecting each disputed piece of evidence.

Mr. Kissinger, an assistant federal defender from Knoxville, Tenn., challenged Justice Scalia's description of the gateway. "It comes down to the 'could' and 'would' distinction," he said. "We don't deny that there is evidence that 'could' support conviction, but that's not the test. What 'would' a reasonable juror conclude? Proof of innocence does not have to be absolute."

Underlying this argument was the question of whether the courts should adjust their rules to take account of the recent string of exonerations based on DNA evidence. Briefs filed by the Innocence Project, a legal clinic in New York, and by the American Bar Association point out that the Supreme Court decided Schlup v. Delo and other cases limiting inmates' appeal rights before DNA testing had revealed flaws in a disturbing proportion of criminal convictions. Those flaws call for new flexibility, the briefs argue.

In this case, House v. Bell, No. 04-8990, the new DNA evidence alone did not produce a clear exoneration. Rather, it substantially undermined the prosecution's theory of the case, which was that sex was the motivation for the crime and that Mr. House had killed the victim in the course of raping her.

Chemical analysis presented at the trial suggested that Mr. House's semen was found on Ms. Muncey's clothing, while DNA testing later showed it to be her husband's. The state maintains that this new evidence does not disprove that Mr. House was guilty of the murder.

The defense theory was that the husband, Hubert Muncey, was the killer. The new legal team that represented Mr. House in his habeas corpus petition produced witnesses who testified that they had heard Mr. Muncey make a drunken confession, but the federal district court discounted the evidence in rejecting the petition in 1997.

Mr. Kissinger said that if the case passed through the gateway, he would argue that Mr. House was deprived of the effective assistance of counsel at his trial and that the state withheld favorable evidence it was constitutionally obliged to produce.

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Representing Tennessee at Wednesday's argument, Jennifer L. Smith, an associate deputy state attorney general, said that all of Mr. House's new evidence "fails to raise sufficient doubt" about the original verdict to get past the gateway into federal court on those or any other claims.

Now it was Justice Breyer's turn. He challenged the state's lawyer on a long list of evidentiary issues, leading Justice Scalia to interject at one point, "We could call on these witnesses ourselves and hear them all over again."

Justice Breyer said, "My goodness, I don't know who committed this crime."

Only nominally addressing Ms. Smith, Justice Scalia said: "Justice Breyer has not heard these witnesses. The district court did."

Along with Justice Breyer, Justice David H. Souter expressed strong doubts about the state's case. Justice Anthony M. Kennedy said that "at a minimum," he had questions about the death sentence if not the conviction. Justices Ruth Bader Ginsburg and John Paul Stevens said little, but if they follow Justice Breyer's lead, as is likely, there would be five votes to reopen the case, even assuming that Justice Sandra Day O'Connor, who was uncharacteristically quiet, is no longer on the court by the time a decision is issued.

Justice O'Connor's vote proved essential in a decision the court issued in another death penalty case on Wednesday, the first 5-to-4 decision since John G. Roberts Jr. became chief justice. In Brown v. Sanders, No. 04-980, the court reinstated the death sentence of a California inmate whose habeas corpus petition had been granted by the federal appeals court in San Francisco.

The appeals court had overturned the sentence because two of the four factors the jury cited in making the defendant, Ronald L. Sanders, eligible for the death penalty were later found by the California Supreme Court to be invalid. Writing for the majority on Wednesday, Justice Scalia said there was no constitutional error in the sentence because the jury was able to give proper consideration to the same facts and circumstances through the remaining, valid factors.

Chief Justice Roberts and Justices O'Connor, Kennedy and Clarence Thomas joined the majority opinion. Justices Stevens, Breyer, Souter and Ginsburg dissented.

U.S. State Court Overturns Death Sentence In Murder Of Governor's Secretary (FINDLAW/AP)

AP, January 12, 2006

(AP) - DOVER, Delaware-Delaware's highest court on Wednesday overturned the death sentence of a once well-connected attorney convicted of the 1996 murder of the governor's scheduling secretary.

The sentence was flawed because the jury vote recommending a death sentence for Thomas Capano was not unanimous, the Delaware Supreme Court ruled. The high court ordered a new penalty hearing, but did not overturn his conviction, prosecutor Steven Wood said.

Prosecutors say Capano shot Anne Marie Fahey, 30, scheduling secretary to then-Governor Tom Carper, and dumped her body in the Atlantic Ocean because she was breaking off an affair with him.

Capano, a former state prosecutor, is a member of a well-known family involved in land development.

His attorneys had argued that his death sentence, issued in 1999, should be overturned because his jury was not unanimous in determining that Fahey's slaying was premeditated. The state high court found that the Delaware Constitution demands unanimous jury verdicts in death-penalty sentencing, even if federal law does not.

Capano attorney Thomas Bernstein said that while he was relieved the sentence was vacated, he was disappointed that the court did not overturn the conviction.

He said Capano would now appeal the conviction in federal court.

Gun Dealer Sentenced For Fraud (PHI)

By John Shiffman

The Philadelphia Inquirer, January 12, 2006

A once-distinguished antique-firearms dealer who duped a Bucks County millionaire while helping him amass a $30 million gun collection was sentenced to 21/2 years in prison yesterday.

DOJ_NMG_0009241

The case, which included the sale of a pair of revolvers carried into battle by famed Texas Ranger Samuel Walker, was widely followed in the unregulated antique-firearms industry, where the dealers' crimes became a major scandal.

U.S. District Judge Cynthia M. Rufe said that she hoped the prison sentence for the dealer, Michael Zomber of Franklin, Tenn., would deter others who might try to defraud antiques collectors.

"What is seriously missing here is respect for the law," Rufe said. "It's not about money or lack of money; it's about treating each other legally and fairly."

Zomber was convicted of fraud at trial. His accomplice, Richard Ellis, of LeClaire, Iowa, pleaded guilty and cooperated with the government. Rufe sentenced Ellis to 10 months, half of which must be spent in prison; the other half may be spent in a halfway house, she said. Restitution will be calculated later.

"The entire industry was poised to find out what happened to Ellis and Zomber," said FBI agent Bob Wittman, who handled the case. "There's an element that's going to be happy that it's a new day, and there's an element that's going to be upset that their antics are going to be put under the microscope."

The Bucks County businessman who was duped, Joseph A. Murphy of New Hope, said in a related suit that the men defrauded him of $12 million. That suit was settled for $4.7 million worth of antique firearms.

Ellis, hired by Murphy as his expert consultant on a commission basis, led Murphy to believe that Zomber was a disinterested dealer.

He was not. Zomber wrote letters feigning interest in the pieces Murphy sought, artificially inflating the firearms' values. In turn, authorities said, Ellis paid Zomber more than $1 million in kickbacks.

The largest deal involved two firearms Walker designed with Samuel Colt in 1846 - the world's first Magnum revolvers, .44-caliber handguns that launched Colt from bankruptcy to fame, according to Philip Schreier, a curator at the National Firearms Museum in Fairfax, Va.

Murphy paid about $2.2 million for the so-called Walker Colts, about twice what authorities said they are worth.

Before Zomber was sentenced yesterday, he asked for leniency, saying that what happened has consumed him to the point that he has not slept for three years without the aid of pills. He also cited his extensive charitable work on behalf of children with cancer.

"I am extraordinarily sorry and remorseful that my actions have caused pain," Zomber said. "I am disgraced forever."

Murphy also addressed the court. His voice thundering at times, he said he was angry that Zomber had argued that charitable work and medical stresses were relevant at sentencing.

"I'm the laughingstock," Murphy said, explaining that the scandal is the talk of the antique-gun circuit. "I'm the one who had two heart attacks over this, stents put in... . As a victim, I'm pleading with you to sentence him in the most horrible way you can, because he did this without regret. I want punishment."

Afterward, Murphy's attorney, Gavin Lenz, said he was satisfied with both sentences.

Zomber plans to appeal, and Rufe said she is considering whether to allow him to remain free until that appeal is heard.

Rufe chastised both men for continuing to attend gun shows following their convictions. Her sentence forbids the dealers from possessing any firearms, including antiques, for three years after the jail terms.

Assistant U.S. Attorney Robert Goldman said that Ellis deserved a lighter sentence because he cooperated with the investigation and pleaded guilty. Still, Goldman said, he deserved to go to prison.

Ellis wept through much of his statement to the judge: "I'm very sorry for what I did. It was wrong and I regret it. In my business, my good name meant everything. I blew it."

Ellis then turned around to face his victim, who sat in the gallery.

"Joe, I'm truly sorry," Ellis said. "I really am."

Murphy nodded.

Man Indicted In VA Hospital Shooting Of Co-worker (AP)

AP, January 12, 2006

GREENVILLE, N.C. - A man accused of killing a co-worker and former lover at the Veteran's Administration hospital in Fayetteville was indicted on a murder charge Wednesday by a federal grand jury.

Arthur James Charland Jr., 42, was also charged with use and discharge of a firearm during an in relation to a crime of violence, according to a statement by U.S. Attorney Frank D. Whitney.

Charland is accused of fatally shooting Linda Faye Owens, with whom he had an 11-year affair.

He could be sentenced to life in prison. Prosecutors could choose to pursue the death penalty, but Whitney said that decision has not been made.

According to a criminal complaint, Charland concealed a shotgun inside Christmas wrapping paper and walked into the hospital pharmacy to shoot Owens on Dec. 13.

At a hearing last month, FBI Special Agent Chris Hedges testified that Charland told investigators he was being treated for bipolar disorder.

Trial Opens In Prison Slaying Of Ex-Priest (NYT)

By Pam Belluck

The New York Times, January 12, 2006

WORCESTER, Mass., Jan. 11 - The murder of John J. Geoghan, a defrocked priest, in 2003 by an inmate in state prison was a shocking and almost surreal dénouement to one of the darkest chapters of the sexual abuse crisis in the Roman Catholic Church.

Mr. Geoghan's violent death in the most secure prison in Massachusetts was to some an appalling failure of the state to protect one of its most despised inmates. To others it was a horrible but justified retribution against Mr. Geoghan, one of the most reviled priests named in the abuse scandal, accused of molesting some 150 children in several parishes over three decades.

Now, the man who admits he killed Mr. Geoghan, Joseph L. Druce, is having his day in court, and for anyone watching the trial, it is hard to figure out where to put one's sympathies - with the murder victim or the man who killed him.

Mr. Druce, 40, is pleading not guilty by reason of mental illness. His lawyer, John LaChance, does not dispute the details of the case. Prosecutors say Mr. Druce followed Mr. Geoghan into his cell at the Souza-Baranowski Correctional Center on Aug. 23, 2003, and jammed the cell door shut with a nail clipper and a ripped-up copy of "The Cross and the Switchblade," a book about a minister who transformed the lives of teenage gang members by introducing them to Christianity.

Mr. Druce then tied Mr. Geoghan's hands with a T-shirt, wrapped stretched-out socks around Mr. Geoghan's neck, tightened them with a shoe, and then jumped up and down on his body.

According to testimony by corrections officers on Wednesday, Mr. Druce later told them he "did it for the children," to stop Mr. Geoghan, 68, from molesting more boys when he got out of prison.

Mr. Geoghan was serving 6 years of a 9-to-10-year sentence for groping a boy in a swimming pool, and Mr. Druce told law enforcement authorities that he had heard Mr. Geoghan talking about plans to assault more children upon his release. Mr. Druce also signed a card waiving his Miranda rights "the Reverend Joseph Druce."

Mr. LaChance suggested Wednesday that Mr. Druce's behavior was evidence of insanity, saying "he began fantasizing about being an individual who would save the kids and save the world."

The prosecutor, Lawrence Murphy, suggested the opposite, that the fact that "Mr. Druce was planning to kill John Geoghan" showed that he was not insane.

Mr. Druce is serving a life sentence without parole for beating and strangling a driver who he said made a sexual advance toward him when he was hitchhiking in 1988. He unsuccessfully tried an insanity defense in that case in 1989, and his lawyer in that case emphasized Mr. Druce's highly troubled background, including serious behavior problems, drug use, a mother who did not want him and a father who was abusive to his mother.

Mr. LaChance referred to that background Wednesday, saying that Mr. Druce was "like a little puppy you beat and beat," adding, "Eventually the puppy strikes back when it is old enough and big enough."

At the time of Mr. Geoghan's slaying, Mr. Druce's father, Dana Smiledge, said Mr. Druce also had white supremacist leanings - a hatred of gay people, Jews and blacks.

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Mr. Geoghan's murder not only stunned victims of abuse by priests, but also ignited a state investigation into the prison system. Several correction officials were removed, including the correction commissioner.

The investigation found that only one guard was monitoring the 26-inmate unit at the time Mr. Druce slipped into Mr. Geoghan's cell and that the cell doors had been left open while the inmates were taking their lunch trays to a collection point.

Mr. Geoghan was jailed in early 2002 and moved from a medium-security prison in Concord to the maximum-security Souza-Baranowski prison in Shirley in early 2003 after complaining that he felt harassed by guards and afraid for his safety.

The state investigation said that Mr. Geoghan was indeed mistreated by guards in Concord and that he was inappropriately transferred to Shirley, where he was put in a wing for inmates who needed to be separated from the general prison population. But some of them were violent offenders, and many were younger than the frail Mr. Geoghan.

Mr. Druce was transferred there not long afterward because he, too, had felt unsafe in his previous prison, where he had become a jailhouse informant, his lawyer said. Mr. Druce had changed his name, from Darrin Smiledge, because he was afraid of his prison enemies.

Mr. LaChance said that Mr. Druce had been delusional in the past, pretending he was a rich person who owned yachts and million-dollar houses, and subscribing to Robb Report, the luxury magazine, at his previous prison. He said Mr. Druce fantasized that if he killed Mr. Geoghan "he would be someone like a rich person with a yacht."

Mr. Druce, who has previously held up photographs and demonstrated other showy behavior in court, was medicated Wednesday with Ritalin and possibly other drugs, Mr. LaChance said. He made a thumbs up sign to several reporters, but otherwise seemed less attention-seeking. If his defense is successful, Mr. Druce is likely to be moved to a psychiatric institution.

CIVIL LAW:

State Guardsmen Sue For Post-9/11 Expenses (AP)

By JAY LINDSAY, ASSOCIATED PRESS WRITER

AP, January 12, 2006

BOSTON -- A group of National Guard soldiers who were ordered to protect possible targets after the Sept. 11 attacks sued the federal government Wednesday, seeking tens of millions of dollars in expenses they say were never reimbursed.

The soldiers, from Massachusetts and New Hampshire, say they traveled hundreds of miles to security postings and used their own money to pay for food and lodging with the expectation that they would be reimbursed.

But the soldiers say in their complaint that their requests for compensation were repeatedly denied and they eventually were told, "If you don't like the arrangement, we'll make sure you get taken off this mission."

In the lawsuit, the plaintiffs argue that federal law provides military personnel with a travel and transportation allowance while away from home on active duty.

The lawsuit was filed in U.S. District Court by four soldiers but seeks to include hundreds of other guardsmen as a class action. It names the U.S. Department of Defense and the Massachusetts National Guard and seeks $73 million in unpaid expenses.

A spokeswoman for the Defense Department referred calls to the Justice Department, where a spokesman declined to comment until after the agency reviews the lawsuit.

The Massachusetts National Guard was investigating the allegations and had no immediate comment, said a spokesman, Maj. Winfield Danielson.

The plaintiffs are Steven Littlefield of Plymouth, Wayne Gutierrez of New Bedford, Louis Tortorella of Brookline, N.H.; and Joseph Murphy of Derry, N.H. All but Tortorella are still in the National Guard. The areas they patrolled included Boston's primary water supply.

MedcoHealth Solutions: Department Of Justice Won't Intervene In Whistleblower Lawsuit (AP)

AP, January 12, 2006

NEW YORK (AP) -- Pharmacy benefits manager Medco Health Solutions Inc. said the Justice Department will not intervene in a whistleblower lawsuit filed against the company in a Pennsylvania court last month.

New Jersey-based Medco said in a filing with the Securities and Exchange Commission that the U.S. Department of Justice notified the company on Tuesday of its decision not to intervene.

Medco said it first learned of "qui tam" lawsuit in mid-December, when the U.S. District Court for the Eastern District of Pennsylvania lifted the seal on the case.

In an earlier filing, the company said the complaint makes allegations concerning turnaround time and performance-guarantee reporting -- the same charges drawn in a 2003 lawsuit. The complaint "does not allege any health, safety or clinical violations," Medco said.

"Qui tam" is a statute under the False Claims Act that lets an individual alleging fraud on the federal government to sue on behalf of the state. Its name is an abbreviation of a Latin phrase meaning "he who sues for the king as well as for himself."

Shares of MedcoHealth Solutions fell 22 cents to $54.66 in afternoon trading on the New York Stock Exchange.

Former Genentech Worker Sues Co. Over Marketing Practices (DOWJONES)

Dow Jones, January 12, 2006

A former Genentech Inc. (DNA) (DNA) employee has accused the biotechnology company and marketing partner Biogen Idec Inc. (BIIB) (BIIB) of illegally promoting cancer drug Rituxan as a treatment for arthritis, a use not yet approved by regulators.

Paul McDermott, who worked for Genentech (DNA) in Falmouth, Maine, until last year, filed a lawsuit in July 2005 in U.S. District Court in Maine alleging the companies' marketing practices surrounding Rituxan defrauded government health-care programs.

The suit also says Genentech (DNA) fired McDermott in retaliation for bringing the matter to the attention of Genentech (DNA) executives. The suit seeks unspecified damages on behalf of the government, and an order that Genentech (DNA) rehire McDermott and pay him back wages and other damages.

McDermott's lawsuit hasn't surface until now because it was filed under seal on behalf of the federal government. In December, however, the Justice Department declined to intervene in the case and requested that the lawsuit be unsealed. Genentech (DNA), of South San Francisco, Calif., was served with a copy of the suit earlier this month, a Genentech (DNA) executive disclosed Tuesday after the company reported fourth-quarter earnings.

Genentech (DNA) spokeswoman Caroline Pecquet said the company hasn't fully evaluated the lawsuit. She added that the company was committed to ethical and legal promotional practices.

Biogen (BIIB) officials couldn't immediately be reached.

McDermott's lawsuit is the latest legal challenge facing Genentech (DNA) over Rituxan's marketing. In October 2004, Genentech (DNA) received a subpoena from the U.S. Attorney's Office in Philadelphia seeking documents related to the promotion of Rituxan. Genentech (DNA) is cooperating with that investigation, which it said was both civil and criminal in nature.

The promotion of off-label uses of pharmaceuticals has gotten other drug companies in trouble. In 2004, Warner-Lambert pleaded guilty to federal charges that it promoted epilepsy drug Neurontin for off-label uses beginning in the 1990s. Pfizer Inc. (PFE) (PFE), which acquired Warner-Lambert in 2000, agreed to pay $ 430 million to resolve criminal charges and civil liabilities in the case.

The U.S. Food and Drug Administration approved Rituxan in 1997 as a treatment for a type of non-Hodgkin's lymphoma. U.S. sales of the drug grew to $1.8 billion last year. Studies have shown Rituxan also potential to treat rheumatoid arthritis. Biogen (BIIB) and Genentech (DNA) have applied for FDA approval to market Rituxan as such a treatment, and a decision is expected by late February.

It's generally legal for doctors to prescribe FDA-approved drugs in ways that haven't yet been approved by the FDA, and so-called "off-label" prescriptions are common. But drug companies are generally barred from actively promoting off-label uses of their drugs. That's where McDermott says his former employer and Biogen (BIIB) ran afoul of the law.

McDermott worked as a "professional educational liaison" for Genentech (DNA), according to the lawsuit, a job that involved recruiting doctors to promote the use of Rituxan as a treatment for rheumatoid arthritis.

He alleges Genentech (DNA) sent sales representatives to the offices of rheumatologists - doctors specializing in rheumatoid arthritis treatment - even though Genentech (DNA) had no products approved by the FDA for such treatments. Also, McDermott says Genentech (DNA) and Biogen (BIIB) used "sham" consulting agreements to pay rheumatologists whom the companies identified as being "key opinion leaders," who were expected to influence other doctors to begin prescribing Rituxan for arthritis.

McDermott says he was assigned to recruit certain doctors to work with Genentech (DNA) staffers to publish articles and case studies promoting Rituxan as an arthritis treatment.

He said Biogen (BIIB), the Cambridge, Mass., company that discovered Rituxan, had similar marketing practices for the drug.

McDermott said he was fired in April 2005 after telling his superiors about the alleged off-label promotion of Rituxan.

McDermott filed his lawsuit under a federal "whistleblower law" that would entitle him to a portion of the proceeds of any settlement or award of damages arising from the case. It wasn't immediately clear why the Justice Department declined to intervene, but it does have the right to take up the case at a later date.

Officials with the U.S. Attorney's office in Portland, Maine, which filed the document declining to intervene in the case, couldn't immediately be reached.

Neither McDermott nor his attorney could be reached.

-By Peter Loftus, Dow Jones Newswires; 215-656-8289; peter.loftus@dowjones.com

Mislabeled Bread A Danger, Allergists Say (MINNST)

By Patricia Lopez, Star Tribune

Minneapolis Star Tribune, January 12, 2006

Allergists and food allergy activists alike were shaken Wednesday upon learning that the French Meadow Bakery labeled its spelt bread "wheat-free" when the bread, in fact, contains wheat.

For the hundreds of thousands of Americans who are wheat-intolerant or who have a genuine wheat allergy, mislabeled food is no small matter, said Anne Munoz-Furlong, founder of the national Food Allergy and Anaphylaxis Network, based in Fairview, Va.

"Their health and safety depend on them being able to trust what's on a label," she said. "We can't stop eating food. We can only stop eating the wrong food, and for that we need to know what's in it."

Wheat allergy reactions, she said, can range from hives and digestive problems to -- at the most extreme end -- death from the inability to breathe.

French Meadow, revered by health enthusiasts for its varieties of organic bread, had 30,000 loaves made from spelt and Kamut grain seized Tuesday afternoon by U.S. marshals and agents from the U.S. Food and Drug Administration. The agency had spent nearly a year attempting to get the bakery to relabel its bread, noting that both spelt and Kamut are varieties of wheat.

U.S. Attorney Tom Heffelfinger, whose office is handling the case, said the agents locked most of the loaves in freezers, where they will remain until the case is decided or a court order issued. "The FDA takes the accuracy of food labeling very seriously," Heffelfinger said.

French Meadow has 20 days to respond to the FDA's complaint, he said. He did not know whether any consumer complaints were involved.

The company could face administrative penalties and sanctions for the government's costs in prosecuting the case, he said, "but that hasn't been determined yet. This is primarily about resolving the labeling issue."

Steve Shapiro, a partner with Lynn Gordon in the Minneapolis bakery that distributes its products nationwide, did not return calls Wednesday. But he said Tuesday that although he and Gordon disagree with the classification of spelt and Kamut as part of the wheat family, they are putting the final touches on new labels and hope to get their bread back "as soon as we can."

By Wednesday afternoon, the bakery website had pulled the term "wheat-free" from the spelt and kamut varieties of bread, although it retained its claim that they are alternatives for the wheat-intolerant.

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At the Mississippi Market Co-op in St. Paul, loaves of the bakery's breads still lined the shelves Wednesday, including several loaves of the "Health Seed" spelt bread that bore a colorful label touting it as wheat-free.

Steve Conroy, a manager at the co-op, said that while he will continue to stock French Meadow breads, he approves of the FDA action. "I've been in the health food business for 10 years," Conroy said. "Spelt is a type of wheat, no question. To say that bread is wheat-free just isn't true."

Intimidatingly heavy for its small size, Health Seed spelt bread is a compact loaf, with slices that are barely palm-sized. Its price is daunting, too: $4.99 for the 9-inch loaf.

Reading labels

Dr. James Lakin, a Burnsville allergist with Minnesota Allergy and Asthma Consultants, said he was "deeply concerned" by the mislabeling.

"We train our patients to read labels carefully," he said. "That wouldn't have helped here. What are they supposed to do when the label says wheat-free?"

Lakin said spelt is a primitive forerunner to modern wheat, first cultivated about 7,000 years ago. But "it is a type of wheat," he said. "It shares many of the same properties as wheat and people who are allergic to wheat can have reactions to spelt."

Kamut, he said, is of even greater concern because it is much more closely related to modern wheat. "Folks who are sensitive to wheat will definitely react to Kamut," he said.

And because both varieties are somewhat obscure, he said, consumers are almost entirely dependent on labels.

About 11 million Americans suffer from some type of food allergy and wheat is among the "big eight" categories, Munoz-Furlong said.

Lakin put wheat allergy sufferers at about 1 percent, with most of those being wheat-intolerant. Those with true wheat allergies, who risk severe reactions or death, "are probably 1 in 500,000," he said.

Packed on polar trips

Behind the counter at the French Meadow Bakery & Cafe on Wednesday, loaves of organic cranberry corn bread, organic multigrain, country rye and organic ciabatta were for sale, but no spelt.

Sarah Narnang, the cafe's day manager, said the breads in dispute are delivered only to outside customers. Cafe customers, however, can request that it be used as a wheat-free substitute on sandwiches, she added.

Arriving shortly before noon was Will Steger, the polar explorer, who said that he's a longtime fan of the breads and that he stops by the cafe once or twice a week when he's in town from his home near Ely, Minn.

On a 1989 expedition to Antarctica, Steger said, he packed along the bakery's spelt bread. Toasted on a tent stove and slathered with peanut butter and butter, it often would serve as breakfast, he said.

"Nothing but good results," Steger said.

For those with allergies, however, Munoz-Furlong said, the results are anything but good.

"It could be anything from hives to a life-threatening response, she said, "and the worst part is, no one knows at the beginning of the reaction how severe it will be. We know this is something that affects children and adults.

"It is serious."

Patricia Lopez • 651-222-1288 Staff Writer Anthony Lonetree contributed to this report

High Court Ruling Slowly Bears Fruit For Wineries (LAW/AP)

By Michelle Locke, The Associated Press

AP, January 12, 2006

Napa vintner Dennis Cakebread is finally sending out cases of wine to thirsty New York state customers, seven long months after a Supreme Court ruling paved the way for the shipments.

"What we've learned about this is patience and persistence," said Cakebread. "These lawsuits aren't like an episode of 'L.A. Law' -- after one hour you win your case and you're off and running."

A lot has happened since the U.S. Supreme Court opened the door to shipping wine across state lines. But change hasn't been swift in an industry that sometimes seems as rich in red tape as it is red grapes.

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"We're in a highly regulated industry. This isn't like selling sweaters," said Jeremy Benson, executive director of Free The Grapes, a Napa, Calif.-based group that has been working to loosen shipping restrictions. "The regulations are there and we have to work through them."

The Supreme Court struck down laws last spring in New York and Michigan that allowed wineries to ship directly to in-state consumers but forbade out-of-state businesses from doing the same thing.

The court said either all wineries should be allowed to ship directly to consumers or none, a blow to the old distribution system that required a wholesaler to sell to restaurants and retailers. States have been acting to adjust their shipping laws ever since.

The ruling was particularly important to smaller wineries that don't have the volume for wide distribution in liquor stores and supermarkets and rely on direct sales to consumers, many of whom have developed a taste for their products on winery visits.

"It makes a huge difference," says Cakebread, part-owner and senior vice president of sales and marketing at Cakebread Cellars, which began with a 156-case vintage in 1973 and now makes about 95,000 cases a year.

For a small winery like Elan, which makes about 1,000 cases a year, being able to ship is crucial, said owner Linda Elliott-Smith, who has had 15 cases of cabernet sauvignon paid for and ready to go to New York for a while.

They were delayed from shipping even further in January, when floods knocked power out. Customers who are big fans of Elan's elegant reds have been willing to wait. "It's nice that we have customers who are true followers," she said.

Since the Supreme Court ruling, New York, Michigan and Ohio have loosened shipping restrictions. Texas also made shipping easier just prior to the high court ruling.

In December, shipping to New York became practical when the New York State Liquor Authority approved using UPS for wine shipments. FedEx also is working to get approval.

The New York law only allows shipments from states that extend similar privileges to New York vintners, which some experts say may not be constitutional. Michigan's new law says wineries can't ship more than 1,500 cases per year in direct-to-consumer shipments and also prohibits out-of-state wineries from selling direct to restaurants and retailers.

Still, the overall shipping picture is brighter for wineries, who have seen their potential shipping audience increase considerably.

At Joseph Phelps Vineyards, president and CEO Tom Shelton celebrated the California-New York connection when he hosted a dinner last year for New York Gov. George Pataki, who was visiting wine country.

"We got the flow going both ways," he said. In a bit of bottle diplomacy, they served wines from New York state.

Copy Shop Scores With Print Jobs (WP)

By Christopher Lee

The Washington Post, January 12, 2006

The guy holding up the line at your neighborhood FedEx Kinko's copy shop may be putting your tax dollars to work.

The Government Printing Office, which already contracts out the bulk of the government's printing to the private sector, is taking things a step further by hiring Kinko's to handle small printing jobs for federal agencies.

The contract, worth about $100 million annually and renewable for up to four years, will allow federal employees to get discounted copying, binding and printing services (including posters, signs, business cards and brochures) at 1,300 locations across the country. The GPO will pick up the tab through a new GPOExpress Card that federal employees will use.

"We pay for it," said Bruce R. James, who holds the title of public printer of the United States. "One of the real tricks here was trying to figure out a way to allow government agencies to more efficiently buy their printing and still comply with the law. The law says that all government printing has to come through GPO; it doesn't necessarily say we have to handle every single job."

The arrangement will enable an agency manager here, for instance, to send handouts electronically to a copy shop in Sacramento, where an official can pick them up before a meeting in the agency's regional office. Kinko's also will provide electronic copies of documents for possible inclusion in libraries that archive federal government documents.

Most of the printing going to the company had been done by other GPO contractors or by agency print shops, James said. And, yes, an undetermined number of federal jobs will be lost, but he said the losses will be through attrition.

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The effort began in December as a pilot program involving five agencies and will expand government-wide in February.

Reformzilla (WSJ)

By James Bopp, Jr.

The Wall Street Journal, January 12, 2006

Like a virus, the campaign finance "reform" passed by Congress in McCain-Feingold and approved by the Supreme Court in McConnell v. FEC is mutating and spreading in the states. The law raised contribution limits to federal candidates but imposed substantial restrictions on political parties and citizens' groups. State politicians are taking McCain-Feingold and McConnell as a license to enact much broader restrictions on core political speech. This term the court has a chance to decide whether these restrictions are justified, and what remains of the First Amendment in regard to democratic elections.

This sorry tale began with post-Watergate amendments to the Federal Election Campaign Act. Congress passed limits on large contributions and mandatory expenditure limits on all political actors, prohibiting citizens' groups, including corporations and labor unions, from speaking out about public officials and candidates, if what they said would "influence a federal election."

In 1976, in Buckley v. Valeo, the Supreme Court recognized that speech about public issues is at the core of the amendment's protections; it struck down mandatory expenditure limits on candidates and strictly limited the scope of regulation of the political speech of citizens' groups. So long as groups eschewed express advocacy of the election or defeat of a candidate, they were free to speak out about issues, the actions of public officials and the positions of candidates. Alas, Buckley did uphold limits on contributions to candidates -- but only on "large" contributions that pose a threat of corruption.

The contribution-limit virus has spread to the states and mutated. While Buckley approved a large federal contribution limit of $1,000 per election, some states thought much lower limits were constitutional. And when the 2000 Supreme Court approved Missouri's $1,075-per-election limit for statewide officers in Nixon v. Shrink Missouri PAC, using very permissive language, the states and federal courts deemed that all constitutional restraints were off. Furthermore, since very low contribution limits help incumbents against challengers, the interests of campaign finance "reformers" and incumbent politicians coincided. So some states have enacted draconian contribution limits: $500 per year in Alaska and Massachusetts; $700 to $270 per year in Arizona, $500 per election in Florida; $500 to $250 per election in Maine; and $400 to $100 for the general election in Montana. Vermont's is the lowest at $400 to $200 per election cycle.

In McConnell in 2003, the Supreme Court upheld the key provisions of McCain-Feingold -- in particular, the "electioneering communication" provision that prohibits the running of broadcast ads, within 30 days of a primary and 60 days of a general election, that mention the name of a federal candidate in his district or state. The provision was enacted because of complaints by members of Congress that groups run negative attack ads that candidates themselves disapproved of -- ads that "do little to further beneficial debate and healthy political dialogue" (to quote Sen. John McCain). In effect, the court in McConnell abandoned free speech in favor of the interests of incumbent politicians.

But if it's a good idea to ban broadcast ads before elections, then state legislators seem to think it is an even better idea to expand the ban's reach to all communications for longer periods of time. Laws now in Alaska, Arizona, California, Colorado, Connecticut, Florida, Hawaii, Illinois, North Carolina, South Carolina, Vermont and West Virginia restrict any communication that refers to a candidate. Arizona's is the longest period: 16 weeks before a general election. More remarkable is a Second Circuit decision, Randall v. Sorrell, that read McConnell and Shrink to mean that even Vermont's mandatory expenditure limits on candidates could now be upheld.

Incumbents are displeased when the press criticizes them, too, and have used the law to stifle the print media. Alabama prohibited editorials endorsing candidates on election day and Florida required newspapers to run a response when the paper attacked a public official. The Supreme Court, mercifully, struck down these efforts. Now, however, broad campaign finance laws are being used to the same effect. In Washington, a judge used the state campaign finance law against two radio talk-show hosts whose speech -- championing an anti-gas tax initiative -- was viewed as an "in-kind" contribution to the political committee supporting the initiative. The initiative committee was required to report the talk show hosts' speech as a "contribution."

Two cases before the Supreme Court will test whether the court will stop the spread of the campaign finance "reform" virus before it becomes a pandemic. Next Tuesday, in Wisconsin Right to Life (WRTL) v. FEC, I will argue on behalf of the WRTL that

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the Constitution requires recognition of a grassroots lobbying exception to the federal prohibition on electioneering communications. Remarkably, the FEC argues that federal courts are prohibited after McConnell from even considering whether a law can be applied unconstitutionally to non-election-related ads -- and that only the FEC has the authority to grant exemptions.

WRTL's ads look nothing like the "sham issue ads" that McConnell said were "the functional equivalent of express advocacy" and, therefore, could be banned. The ads were broadcast in the summer of 2004 and exhorted Wisconsin citizens to ask their senators to oppose the ongoing filibustering of President Bush's judicial appointees. The ads didn't identify any election, candidacy, party affiliation or position of the two incumbent senators on the issue, and said nothing that could be construed to support or oppose either senator. But because Sen. Russ Feingold (of McCain-Feingold) was a candidate for re-election, the ads were banned starting Aug. 15 through the general election. WRTL couldn't mention his name.

Of course, the First Amendment protects the right of the people "to petition" governmental officials, just as it protects our right to praise or criticize them. While McConnell has seriously limited the right during the blackout periods, it would be something else again to say that people can't lobby their representatives about upcoming votes in Congress. Yet the "reform" community, in league with incumbent politicians, is supporting the gag effort here, too.

The second case, Randall v. Sorrell, is about Vermont's decision to impose mandatory expenditure limits on candidates, to cut candidate contribution limits to the lowest in the U.S., and to apply a broad "related expenditure" provision to the activities of those who help candidates. Vermont caps expenditure limits for governor to $300,000 per election cycle; recent statewide candidates in Vermont have spent up to 10 times that amount. Further, the contribution limit of $400 per cycle is less than 20% that approved by the court in Buckley and Shrink and captures more political activity because of the broad "related expenditure" provision.

All of these state provisions share an unappealing element: They benefit incumbents. The guise of "reform" offers incumbents semi-respectable cover for their assault on free elections. Unless stopped, this virus will kill the First Amendment and democratic self-government.

Mr. Bopp, general counsel for the James Madison Center for Free Speech, is counsel in the Wisconsin and Vermont Supreme Court cases.

CIVIL RIGHTS:

Justice Department Settles AMC Case (AP)

By David Twiddy

AP, January 12, 2006

KANSAS CITY, Mo. -- AMC Entertainment Inc., the nation's second-largest movie theater chain, was ordered to upgrade seating for patrons in wheelchairs at 1,200 of its stadium-style movie auditoriums and pay $300,000 in penalties and civil damages to settle a U.S. lawsuit.

Justice Department officials said Wednesday the order settles its 1999 lawsuit against the company claiming AMC violated the Americans with Disabilities Act because it doesn't provide comparable seating for people in wheelchairs.

The Kansas City-based company also must ensure that all theaters built over the next five years comply with requirements set out Tuesday by U.S. District Judge Florence-Marie Cooper in Los Angeles.

The stadium-style seating now dominating movie theaters gives everyone unobstructed views of the screen. But critics say most wheelchair spaces are at the base of the stadium tiers, forcing those patrons to crane their necks to see the movie.

As part of the order, privately held AMC, which operates more than 3,300 screens, must build ramps in more than 360 theaters, providing wheelchair spaces on higher seating tiers. The company also must pay $200,000 to theatergoers who originally complained to the Justice Department about the seating arrangements and $100,000 in fines.

"Providing the same moviegoing experience for individuals in wheelchairs that other patrons enjoy delivers on the promise of the ADA," Assistant Attorney General Wan J. Kim said in a release. "These improvements will make the goals of the ADA a reality for thousands of Americans who want to enjoy this popular form of entertainment."

A spokeswoman for AMC said the company couldn't comment on the case because it was still active litigation.

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As part of her decision Tuesday, Cooper dismissed arguments from AMC that the proposed solution was more extensive than what the government required from AMC's competitors.

The Justice Department last summer settled similar lawsuits against industry leader Regal Entertainment Group, with that company agreeing to upgrade 1,000 of its 6,000 auditoriums, expected to cost $15 million over the next five years. Cinemark USA and National Amusements Inc. also resolved lawsuits against them recently, also agreeing to renovate stadium-style auditoriums.

The National Association of Theater Owners has criticized the Justice Department, saying it never gave theater companies guidelines for building stadium-style auditoriums other than to say wheelchair-bound patrons should have unobstructed views.

Hispanic Workers Get 2nd Chance To Challenge English-only Policy (AP)

AP, January 12, 2006

DENVER — A federal appeals court ruling Wednesday resurrects claims Hispanic workers made in a lawsuit challenging an English-only policy for city workers in Altus, Okla.

Twelve bilingual Hispanic workers filed complaints with the Equal Employment Opportunity Commission after the city adopted the policy in 2002. They argued that the city failed to show there was a need to prevent them from speaking Spanish. They said the policy singled out a nationality.

"I speak more English than I do Spanish, but the idea that I couldn't use it when I wanted to bothered me," said Danny Alcorta, 39, who worked for the city as an electric lineman. "It just wasn't right."

Although he no longer works for the city, Alcorta said he's glad the case remains alive to challenge the policy that he says is discriminatory.

"There's still a lot of my friends that I've worked with for a number of years that have to put up with it.

City officials had argued the policy was necessary because some workers and supervisors couldn't understand what was being said on city radios, some workers felt uncomfortable because they could not understand Spanish, and there were safety concerns about workers understanding each other around heavy equipment.

The Justice Department declined to take action, prompting employees to file a lawsuit in federal court in Oklahoma City. U.S. District Judge David Russell dismissed the complaint, saying the city had the authority to adopt the policy in managing its employees.

On Wednesday a three-judge panel of the 10th U.S. Circuit Court of Appeals remanded the case back to district court with respect to the plaintiffs' claims of disparate treatment, discrimination and violation of equal protection laws.

In a 2-1 ruling, the panel upheld Russell's dismissal of other claims, including a claim that the policy violated the Hispanic workers' First Amendment rights to free speech. The workers' attorney had argued that speaking Spanish at work was an expression of ethnic pride.

In a dissenting opinion, Judge Stephanie K. Seymour wrote that she would have also remanded the First Amendment claim to district court.

"The city's ban on Spanish from the work place creates a public space where Spanish speakers arguably do not feel welcome," she wrote. "In such a context, it is not hard to imagine the power of a simple `buenos dias' to convey resistance to that effort and hope for the future."

A Fault Line For 'Intelligent Design' (LAT)

By Louis Sahagun And Eric Bailey

The Los Angeles Times, January 12, 2006

LEBEC, Calif. — Tucked in the raw folds of the Tehachapi Mountains, 63 miles north of Los Angeles and a time warp away in ambience, this town is not used to being the center of attention.

But this far-flung place, one of half a dozen close-knit communities in these mountains, has become the latest focal point in the national debate over teaching "intelligent design" in public schools.

Usually, big news in the region is heavy snow shutting down Interstate 5. There are 15 houses of worship, all Christian, and many folks wear their religion on their bumper stickers. But plenty of big-city newcomers, who commute to jobs in Bakersfield and Los Angeles, prefer a solid gap between religion and the classroom.

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The San Andreas fault literally cuts through town, and right here "red state is slamming up against blue state like tectonic plates," said Patric Hedlund, managing editor of the Mountain Enterprise, a local weekly.

"The people here are grappling with fundamental issues of free speech and separation of church and state," she said. "It's one of those divine moments where everybody is right, and we have to find out what the rules are."

Outsiders know this region as the Grapevine. Lebec, the place with the post office, was named after a 19th century pioneer killed by a grizzly bear. The local chamber of commerce refers to Lebec, Gorman, Frazier Park and other north Tehachapi hamlets as the "Mountain Communities." Locals call it "the hill."

As they ruminate and wrangle among themselves, residents feel swamped.

The TV news crews and their satellite trucks began prowling the rugged hills not long after word spread of a lawsuit filed Tuesday by 11 parents against El Tejon Unified School District, the first legal challenge to the teaching of intelligent design in California.

At the district office, secretaries say at least three dozen interview requests have poured in for Supt. John Wight, who was at a conference and unavailable for comment.

The hullabaloo erupted after disgruntled parents joined with Americans United for Separation of Church and State to challenge a course at Frazier Mountain High School that they consider a minimally disguised endorsement of intelligent design.

School trustees approved the new course, "Philosophy of Design," at a special meeting on New Year's Day. Attorneys for the district suggested the course could survive a legal challenge if it was called "philosophy," the lawsuit said, and the board approved it on a 3-2 vote.

Hedlund's newspaper opened up five full pages to letters on both sides of the issue.

In one letter, Nicole Francus of Frazier Park called the course "an academic and legal disaster" that threatens to "take us all down a slippery slope."

"I'm not a biologist," countered Bob Anderson, another letter writer, "but the last time I looked, evolution was and is still an unproven scientific theory."

Intelligent design holds that some biological systems are so complex they could not have evolved through random mutations, as Darwin theorized, but must have sprung from the work of a larger master plan.

The course, which began Jan. 3, is scheduled to run for one month. The teacher is Sharon Lemburg, a special education instructor and the wife of a minister for the local Assembly of God Church, which supports fundamentalist Christian tenets about creationism.

An initial course description, which was distributed to students and their families last month, said "the class will take a close look at evolution as a theory and will discuss the scientific, biological and biblical aspects that suggest why Darwin's philosophy is not rock solid."

"Did God guide me to do this?" Lemburg asked, during an interview on the porch of her log house. "I would hope so."

Most of the reaction she's received has come from supporters or the media, with their e-mails and phone calls falling into three categories: "We support you, we're praying for you and … can we have you on our show?"

"It's scary," Lemburg said. "I just want to teach. I'm not out for big publicity."

Supporters of intelligent design lost a court challenge in Dover, Pa., last month that both sides considered a test case. Now the spotlight has shifted to the Tehachapis.

It's a region that is at once isolated and at the crossroads of the world, perched off bustling I-5 between Los Angeles and the San Joaquin Valley. Towns such as Lebec and Gorman — awash with fast-food joints, gas stations and tow truck operators — serve as pit stops. But Frazier Park and Pinion Pines and Lake of the Woods rarely get a visit.

In addition to a bumper crop of churches, the region has a high number of home-schooled children, according to Hedlund.

About 12,000 people live in the area, and Frazier Mountain High School's cluster of squat, concrete-gray buildings are home to fewer than 500 students.

Jeremy Hurst, a 15-year-old sophomore, is caught in the crossfire in town and at home.

His father, Kenneth Hurst, is a scientist at the Jet Propulsion Laboratory in La Cañada Flintridge and one of the parents behind the lawsuit. His mother is a practicing Christian and is not involved in the lawsuit.

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"My mom takes me to Baptist Church every Sunday; my dad gives me all the science books he can," said the slender youth. "Personally, I don't know what to think."

He said his father, who stated in the lawsuit that the class is an inappropriate attempt to evangelize students, seems "really uptight about this whole thing." The son suggested a different tack: "I think kids should choose whether to take the class or not."

Whether all the attention is a good thing is — like intelligent design — a matter of debate.

"Attention is good," declared Pastor Scott Irwin of the 50-member Lebec Community Church. Inside his white, wood-frame church in the shadow of enormous oaks, Irwin said he hoped the fight would motivate people to question evolution. "I think Lebec is taking a big step for what is true."

Bonnie Kane, director of the Ridge Route Communities Museum, agreed.

"They teach Buddha, Muhammad and everybody else," she said. "I believe they should teach Christianity too."

But head up the two-lane road a bit, and Abbe Gore stands on the opposite side of the rift.

Gore, who works at the community's Internet service provider, believes the intentions might have been good, but the outcome has been a disaster.

"What surprises me is that the local school board decided to go ahead with this class knowing full well it would be controversial," Gore said. "It's an unfortunate way to put Frazier Park on the map."

Well, perhaps for some.

Steven Stark, owner of the Dream Castle restaurant in Frazier Park, was shaking his head over the hubbub. Reporters had been popping in and out all day.

"It's usually a quiet little town," Stark said. But he predicted that the invasion from the outside world would be "good for the area — and it's good for my business."

ANTITRUST:

Appliance Firms' Stock Recovers (AP)

AP, January 12, 2006

DES MOINES (AP) - Shares of Maytag Corp. and Whirlpool Corp. stock recovered slightly Wednesday after taking a hit the day before amid speculation that federal regulators may challenge the firms' merger.

Whirlpool closed Tuesday at $83.10 after dropping $1.89, or 2.2 percent, for the day while Maytag fell 4.7 percent, or 88 cents, to close at $17.89.

Wednesday, Whirlpool shares closed at $83.05 and Maytag finished at $17.98.

Whirlpool, based in Benton Harbor, Mich., agreed in August to buy Maytag for $1.7 billion in cash and stock. Both companies have said they expect the deal to close as early as the first quarter of this year.

Shareholders of Newton, Iowa-based Maytag voted Dec. 22 to approve the merger, pending regulatory approval. The U.S. Justice Department is investigating whether the merger of Whirlpool, the leading appliance seller, and Maytag, the third largest, violates antitrust laws.

Industry analyst David MacGregor, of Ohio-based Longbow Research, said the stock fluctuation was based on nothing more than market scuttlebutt.

He said the market reacted to the buzz that regulators were concerned that the merger would place too much of the middle-priced laundry machines in one company's control. Mid-priced washing machines, for example, sell for $350 to $600, MacGregor said.

"When we start talking about potential concentration in the middle-price points in the laundry category, that is very micro, and it is very unlikely that the transaction is going to be disallowed as a result," MacGregor said.

Other industry observers were more skeptical.

Stephen Calkins, a law professor at Wayne State University in Detroit and a former Federal Trade Commission attorney, has said that regulators probably would have "grave concerns" about concentrating so much of the laundry market in one company.

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Industry analyst Laura Champine, of Morgan Keegan & Co. in Memphis, Tenn., gives the deal a 50-50 chance of gaining regulatory approval.

Prudential Equity Group's Nicholas P. Heymann has written that "2006 is likely to be the year Maytag ceases to exist as an independent company."

Report Sees Legal Hurdles For Whirlpool, Maytag Merger (FREEP)

By ALEJANDRO BODIPO-MEMBA, FREE PRESS BUSINESS WRITER

Detroit Free Press, January 12, 2006

Shares of Whirlpool Corp. and Maytag Corp. changed little Wednesday one day after stock for both appliance makers dropped as much as 2% and 5%, respectively, following rumors that federal regulators may try to block a proposed merger between the two companies.

An article that appeared on the financial news website TheDeal.com, citing people it didn't name, said antitrust concerns might lead to the U.S. Department of Justice seeking an injunction blocking the merger. In August, Benton Harbor-based Whirlpool agreed to purchase Maytag of Newton, Iowa for $1.7 billion in cash and stock, following a flurry of offers and counter offers by several suitors.

The proposed deal, which is expected to be completed in the first quarter of this year, would combine the nation's No. 1 and No. 3 makers of household appliances under one roof. But, antitrust concerns about merging two of that nation's biggest makers of refrigerators, dishwashers and dryers surrounded the deal for months.

News of possible regulatory concerns sent Whirlpool stock tumbling $1.89 a share to $83.10 on the New York Stock Exchange Tuesday. Maytag shares dropped 88 cents to close at $17.89 a share on the same day.

Officials at Whirlpool had no comment. Calls to Maytag weren't immediately returned.

On Wednesday, shares of Whirlpool fell 4 cents to $83.06 at 2:50 p.m. in trading on the New York Stock Exchange. Maytag stock rose 10 cents.

Northwest Drops SkyTeam Antitrust Request (AP)

By Joshua Freed

AP, January 12, 2006

MINNEAPOLIS - Northwest Airlines Corp. is withdrawing a request for antitrust immunity for its SkyTeam airline alliance, saying the Transportation Department had signaled it would reject the request anyway.

Separately Wednesday, the parent of Northwest regional feeder Mesaba Aviation Inc. said its fleet may be halved to just 49 turboprop aircraft because of Northwest's reorganization.

Northwest entered SkyTeam last year after its partner, KLM Royal Dutch Airlines, merged with SkyTeam member Air France. Northwest has antitrust immunity to coordinate routes and pricing with KLM, but not with other SkyTeam members, which also includes Delta Air Lines Inc., Alitalia, Continental Airlines Inc. and CSA Czech Airlines. The request was submitted by all the carriers, and Northwest said its withdrawal request would apply to the full alliance.

Northwest and Skyteam members can still codeshare, which makes it easier for passengers to book trips on a single ticket with multiple airlines. But the Transportation Department had said the Skyteam routes overlap so much that little new service was likely to result from an antitrust waiver.

In a statement, Northwest called the initial Transportation Department finding "arbitrary, capricious and inconsistent with established DOT precedent and U.S. international aviation policy.

"Northwest is at a loss to understand this decision by the same DOT officials claiming to strongly support deregulation and an Administration which espouses a free market philosophy," Northwest said. "The U.S. airline industry is in a state of crisis. Four major air carriers, including Northwest and Delta, are operating under Chapter 11, as are several national carriers."

Regional feeder Mesaba is also in Chapter 11, having filed just one month after Northwest, which provides all of Mesaba's planes, revenues, and passengers.

Earlier this year Mesaba operated a fleet of 100 planes for Northwest, including 35 Avro regional jets that seat 69 passengers. But on Wednesday, parent MAIR Holdings Inc. said Northwest told Mesaba that all of Mesaba's Avro jets will be

removed by December 2006. Mesaba also said Northwest is removing three of its Saab turboprops, leaving it to built its bankruptcy plan on a fleet of 49 Saabs.

"The four-engine Avros are very expensive to operate, especially in the current high fuel cost environment," Northwest said in a recent employee newsletter.

Northwest has asked regional carriers including Mesaba to bid on flying 76-seat jets, such Mesaba's handful of Canadair Regional Jets. The MAIR statement said Northwest will remove those jets, too, if Mesaba doesn't win that bid. Mesaba spokeswoman Elizabeth Costello said the bid was being submitted this week.

Lobbying To Sell Your House (NYT)

By Glen Justice

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - When the nation's largest banks decided at the start of the decade that they wanted to get into the real estate brokerage business, one major obstacle stood in their way: the National Association of Realtors.

Lobbyists for the huge trade group stonewalled the banks by tying up new rules at the Treasury Department and the Federal Reserve. Then the big score came in 2002 when the Realtors persuaded Congress to adopt a one-year moratorium to stop the banks altogether. It was a card the Realtors would play again and again. Four years later, bankers still have not cracked the real estate market.

"They are known as very aggressive," said Edward L. Yingling, president of the American Bankers Association. "Not many trade associations are willing to be that tough on an issue."

But the ability of the National Association of Realtors to beat back competitors is being tested now as few times before. A broad range of critics say the organization and its state and local affiliates have worked to smother competition and protect the decades-old system that provides traditional brokers 5 percent to 6 percent commissions on most home sales.

The Justice Department sued the association last year, asserting that the group's rules for online property listings discriminate against Internet-based brokers. Battles have also raged in the states as Realtor organizations pursued policies that opponents say would hurt discount brokers. The Consumer Federation of America is rewing up to fight any such industry-sponsored legislation state by state in coming months.

"Because the industry functions as a cartel, it is able to overcharge consumers tens of billions of dollars a year," said Stephen Brobeck, the federation's executive director. "Consumers are increasingly wondering why they are often charged more to sell a home than to purchase a new car."

At the same time, traditional brokers are under assault from Web-based companies and discount brokerage firms, many offering rebates and "à la carte" services that can drastically reduce costs. Many of these companies criticize the association as hostile to new business models.

"The industry is not as competitive as it could or should be," said Representative Michael G. Oxley, the chairman of the House Committee on Financial Services and one of several lawmakers who opposed the organization's stand against the banks.

Even some industry allies say the association may be too aggressive in protecting its interests. "They might have small victories, but they are losing the battle," said Representative Pat Tiberi, an Ohio Republican who worked in real estate before joining Congress. "I think they should be relooking some of their tactics."

Officials at the National Association of Realtors are quick to defend the organization. Stephen Cook, the group's spokesman, said the organization and the industry were not under siege. Rather, Mr. Cook said, the current climate is the byproduct of a hot housing market that has focused much national attention on the industry. "The system can always be improved, but we don't think it is broken," Mr. Cook said.

The association's power has swelled during the heady days of the real estate boom. Its ranks have grown by more than 500,000 in the last five years. With almost 1.3 million members, it is the largest trade association in the country. One out of every 203 adults is a dues-paying member, according to August statistics from the association and the United States Census.

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The boom has enriched many brokers. With the average cost of a home reaching historic highs, consumers paid roughly $61 billion in brokerage fees for residential real estate in 2004 as some 6.8 million homes changed hands. Last year, the industry was on track to sell almost 7.1 million homes, according to estimates in December.

The Realtors association is also one of the most powerful lobbies in Washington, spending nearly $94 million annually. It dates back almost 100 years. And it has an iron grip on its members. For access to property listings, individual agents and the brokers who employ them must belong to the national association and their state and local affiliates. Even the term "Realtor" is trademarked for use by members only.

The association spent some $13.5 million in 2004 to lobby Congress and the administration on issues like housing, lending, insurance, small-business legislation and anything that might affect agents, according to lobbying disclosures.

Those who have opposed the Realtors speak of another asset as well: chutzpah. Over the years, the organization has gained a reputation as a fierce fighter in the nation's capital, often willing to go further than many other Washington groups to win its battles.

One prime combatant in the antitrust case is Laurie Janik, the association's general counsel. Ms. Janik said her organization, rather than fighting, tried for months to accommodate Justice Department requests to change its rules for online property listings. Ultimately, she said, the requests went too far and would have eroded the control that Realtors have over the listings, which they consider proprietary.

Ms. Janik said the department also wanted the association to sign a consent decree, raising the possibility of legal consequences if it violated the agreement. It was a step the Realtors were not willing to take. Her group held its ground, and the government filed suit in September.

"I think this is a big gamble for them," she said. "They are very likely going to lose this case."

When the suit was filed, J. Bruce McDonald, a deputy assistant attorney general, said, "Our job is to ensure that one group of competitors doesn't tell some of its members they can't compete in a certain way and undercut the level playing field."

At the heart of the case are the roughly 850 multiple listing services through which brokers cooperate to list properties for sale. The system dates back decades. Once kept in large, heavy books, the lists are now maintained electronically and the data is used to market properties on the Internet.

Almost all agents and brokers - even competitors - use the lists to showcase sellers' properties and obtain prospects for buyers. But the Realtors' control over these lists is a controversial subject in the industry. David Barry, a California lawyer and longtime critic of Realtor associations, is seeking to put an initiative on the California ballot that would open the state's multiple listing services to the public.

The association's rules allow brokers to withhold their property listings from competing Internet sites, though that also means forfeiting the ability to show on their own sites houses listed by competitors.

The Justice Department lawsuit contends that these rules give an unfair advantage to large, traditional brokers that supply the majority of listings. The suit points to internal industry documents that identify online brokers as a threat.

Some discount brokers are elated. "We celebrate the Department of Justice involvement," said Eric A. Danziger, chief executive of ZipRealty, a full-service brokerage firm that offers discounts and makes heavy use of the Internet. "What's happening now is many years overdue, a focus on the consumer. There's still huge resistance from the real estate industry."

Steve Murray, editor of Real Trends, an industry newsletter, said that even if Realtors won the Justice Department case, industry efforts to slow market forces and technology might yield few gains. "Businesses that erect barriers and moats around their industry for protection end up getting slaughtered," he said, adding that "a rational person could say these guys are a cartel."

The Justice Department case is still in its early stages before a federal judge in Chicago, where the Realtors have asked for a dismissal and prosecutors will respond in coming weeks.

Ms. Janik warns that major changes to the multiple listing services could cause large nationwide brokerages to pull out of the system and establish their own private listings. That, she said, would be a far greater threat to small firms.

"I'm scratching my head, saying 'what is the Justice Department thinking?' " Ms. Janik said.

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With the housing market showing signs of cooling, market forces could change the landscape a lot sooner than any legal battle might. If home sales decline, either because owners are reluctant to sell at lower prices or rising interest rates keep buyers on the sidelines, Realtors could be in for major changes.

Even industry heavyweights agree that change is imminent. Dave Liniger, chairman and co-founder of Re/Max, said he expected commissions to continue to drop and à la carte models, in which customers choose the services they want and pay accordingly, to continue to rise. But he said both would happen slowly over a period of years.

"It's the evolution of the industry, but not the end of the industry," he said.

At Cendant, which operates Century 21 and Coldwell Banker, Richard A. Smith, the chief executive of the real estate unit, said he expected traditional brokers to gain ground in a softer market. When the market tightens, he said, homeowners are often more interested in selling quickly than they are in saving money.

Still, Mr. Smith said his company, which operates its own discount brokerage, was closely watching the pressure on prices and any action by regulators. And he said that while his organization did not always support the association's political positions, it agreed with the group in the Justice Department case.

"People shouldn't be forced to market their homes the way the government wants them to market their homes," Mr. Smith said. "What's next?"

Realtors have also collided with the Justice Department in several state capitals, where the industry has pushed legal changes that some say will harm nontraditional brokers. Some of the new rules ban rebates to home buyers or sellers. Others, known as minimum-service bills, which require brokers to offer a broad range of services to obtain a real estate license, can hurt discounters who offer fewer services for lower fees.

In Missouri, for example, the legislature unanimously passed a minimum-services bill that sent lobbyists on both sides scrambling to sway Gov. Matt Blunt. As they had done in other states, the Justice Department and the Federal Trade Commission urged Mr. Blunt to veto the measure.

Ms. Janik had weighed in with a letter to state associations months earlier, saying the Justice Department was merely lobbying and could not apply federal antitrust laws to cases in which states have regulatory authority.

"Realtor associations have the right to lobby for legislative and regulatory action that they support - even if the effect of such action would be anticompetitive," she wrote in a strongly worded memo.

The Missouri Association of Realtors hired Gregg L. Hartley, chief operating officer of Cassidy & Associates, one of the largest lobbying firms in Washington. Mr. Hartley is a former chief of staff to Representative Roy Blunt, the governor's father and one of the most powerful Republicans in Congress. When Representative Tom DeLay was indicted earlier this year, Mr. Blunt took over his duties as majority leader.

The Missouri association paid Mr. Hartley $50,000 for a single month of lobbying, according to state records, which listed his only task as working to enact the bill. Mr. Hartley did not return calls for comment.

Ultimately, Governor Blunt signed the bill.

Johnson & Johnson Won't Wave White Flag Yet For Guidant (DOWJONES)

Dow Jones, January 12, 2006

Johnson & Johnson (JNJ) (JNJ) appears unwilling to let its planned Guidant Corp. (GDT) (GDT) purchase slip away without a fight, a shift given J&J's prior unwillingness to budge from its offer for the medical device maker, but a move that reflects the new reality of intense competition.

J&J's current purchase price for Guidant (GDT), about $64 a share, is the much-reduced product of an acrimonious spat between the companies following troubles with Guidant's (GDT) heart rhythm devices last year. Given the dispute, many thought J&J was locked into that price, even as a surprise $72 a share offer from rival Boston Scientific Corp. (BSX) (BSX) dramatically changed the landscape.

The offer, officially made Sunday at $25 billion, vaulted Boston Scientific (BSX) to apparent frontrunner status, but several reports this week suggest J&J is willing to change its tune. The Wall Street Journal reported that Guidant's (GDT)board plans to

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meet at 3:00 p.m. EST Wednesday to decide between the Boston Scientific (BSX) offer and a new, potentially much more competitive J&J offer.

The New York Times reported earlier Wednesday that J&J approached Guidant's (GDT)board at the last minute late Tuesday, heading off a vote in favor of Boston Scientific (BSX), to negotiate a new deal. CNBC also reported Wednesday that J&J plans to raise its offer.

Boston Scientific (BSX), meanwhile, may be willing to answer a any J&J move. "Don't count us out," Boston Scientific (BSX) spokesman Paul Donovan said Wednesday, declining to elaborate further.

If health-care giant J&J still really wants Guidant (GDT), "there's a bidding war on now," said Tao Levy, analyst with Deutsche Bank.

Boston Scientific (BSX) shares recently traded at $25.49 a share, down $99, or 3.7%. J&J shares recently traded at $62.15 a share, down 95 cents, or 1.5%. Guidant (GDT)recently traded at $70.38, up 99 cents, or 1.4%.

According to Peter Goldman, a portfolio manager at Chicago Asset Management, which owns 150,000 J&J shares, the company's shift isn't a shock. He'd like to see J&J end up with Guidant (GDT), but can't imagine J&J overpaying or getting in to an outright bidding war.

"I think they're very disciplined," Goldman said.

A Guidant (GDT) spokesman declined comment on the matter Wednesday, and J&J also remained quiet. J&J spokesman Jeff Leebaw said the company won't comment beyond a statement made Sunday, when J&J said it expects to consummate the Guidant (GDT)purchase immediately after a vote by Guidant (GDT) shareholders Jan. 31, and that the agreed-upon deal between the two companies remained the best offer.

Ever since Boston Scientific (BSX) sparked a debate, J&J has generally stuck to its guns, claiming its offer represented fair value for Guidant (GDT). J&J has also pointed to its ability to close the deal quickly: Boston Scientific (BSX) has an aggressive target to close a Guidant (GDT) purchase in the first quarter, but unlike J&J, it doesn't have antitrust clearance.

Given those statements, and its intense effort to drive Guidant's (GDT) buying price lower, many analysts speculated that J&J couldn't change its tune or considerably increase its offer, and was willing to walk away with a $625 million breakup fee.

Wednesday's reports suggest J&J wants to remain in the game, and that it recognizes it has to at least close the offer gap to remain competitive. Elliott Associates LP and Elliott International LP, which collectively own about 3 million Guidant (GDT) shares, wrote Guidant's (GDT) board Tuesday to encourage them to take Boston Scientific's (BSX) offer, and said J&J would have to up its offer to no less than $71 a share to compete.

Boston Scientific's (BSX) Donovan addressed the price issue in a brief statement Wednesday. "Our $72 offer is higher than Johnson & Johnson's (JNJ), and there's strong upside potential over time," he said.

J&J may have to eat some crow and its earlier statements to get back into the game. It makes sense if the company is willing to do so, analyst Levy said.

"At the end of the day they need a big acquisition," he said of J&J. "They wanted to get cute with the price and they got too cute."

If Guidant's (GDT) board officially deems Boston Scientific's (BSX) offer to be superior, and notifies J&J of such in a letter, J&J will have five business days to respond.

Levy does not own shares in the three companies. Deutsche Bank has a financial stake and banking relationship with all three companies.

-By Jon Kamp, Dow Jones Newswires; 312-750-4129; jon.kamp@dowjones.com

Investors Expect Battle For P&O After Singapore Hints At A Bid (WSJ)

By Bruce Stanley, Cris Prystay And Jason Singer

The Wall Street Journal, January 12, 2006

Smelling a battle between a pair of rich bidders amid a boom in cargo volume, investors pushed shares of port operator Peninsular & Oriental Steam Navigation Co. of Britain up 6.3% yesterday after PSA International Pte. Ltd. of Singapore said it might make a bid for it at as much as £3.54 billion ($6.25 billion).

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PSA, a unit of Singapore's state-owned investment company Temasek Holdings Pte. Ltd., said after the London market closed Tuesday that it could pay as much as 470 pence a share for P&O, as the company is known. That would trump a bid of 443 pence a share, or £3.3 billion, that Dubai Ports World, of the United Arab Emirates, made in November and that P&O's board then recommended to its shareholders.

P&O shares rose 29.5 pence to 498.5 pence each yesterday in London.

Still, it isn't certain PSA will make a bid for P&O, one of Britain's oldest companies, founded in 1840. Singapore port operator PSA, which has been granted access to the same nonpublic financial information that was given to Dubai Ports, has a little more than two weeks to review the data and decide. Dubai Ports, meanwhile, has said it is reviewing the situation carefully.

Expansion Dreams

Like Dubai Ports, PSA -- the world's second-biggest operator by number of containers handled, according to the London maritime advisory service Drewry Shipping Consultants Ltd. -- is eager to expand beyond its small home base and grab a share of bigger cargo markets in Asia, Europe and North America. The container-ports industry has received a jolt of energy during recent years, thanks to a surge in manufactured exports from China and other Asian nations.

Analysts see any showdown for P&O as a further sign that container-port companies are starting to gobble each other up just as some of their shipping-line customers have done. "If you want to make it into the super-big league, then this is the last opportunity to get in," says an investment-bank analyst whose bank is advising one of P&O's potential buyers.

By containers handled, P&O is the world's fourth-biggest operator, behind No. 3 APM Terminals, the port-operating arm of A.P. Moeller-Maersk of Denmark; No. 2 PSA; and No. 1 Hutchison Port Holdings, part of the Hong Kong-listed conglomerate Hutchison Whampoa Ltd. Dubai Ports ranks seventh world-wide.

P&O operates at 29 ports around the world, including Baltimore, Miami, New Orleans and Newark, N.J., where it has a 50% stake in the Port Newark Container Terminal. Neither PSA nor Dubai Ports has a presence in the U.S.

People close to the matter expect Dubai Ports to try to stop PSA should it make a formal bid. If it does bid, PSA has said, it would match the terms of Dubai Ports' offer. That would include pumping money into the London company's pension plan, a move that would require approval from the pension trustees, which Dubai Ports has received.

Prize Catch

Since both PSA and Dubai Ports are already among the world's top port operators, P&O's board would likely accept the higher bid.

With container operations world-wide, P&O would be a rare prize for either buyer, in an industry with few remaining opportunities for substantial growth through a single acquisition. The pair have tangled once already, in 2004, when Dubai Ports outbid PSA for the global port assets of CSX Corp., of Jacksonville, Fla. "The U.S. assets under P&O are a great attraction to any potential bidders, given the difficulties to get into this market," says Cusson Leung of Merrill Lynch in Hong Kong.

If PSA bids for and acquires P&O, it would overtake industry leader Hutchison. If Dubai Ports prevails, it would rise to No. 2, ahead of PSA by container count, according to 2004 figures compiled by Drewry. Dubai Ports, based in the United Arab Emirates' sheikhdom of Dubai, is the overseas arm of the state-run ports operator.

A Hutchison spokesman declined to comment on Hutchison's likely response to any battle.

ENVIRONMENT/INDIAN AFFAIRS:

U.S. Officials Confirm Miners Tried To Escape After Blast (NYT)

By Felicity Barringer

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - As questions persisted about violations of safety requirements at the Sago Mine in West Virginia, federal regulators on Wednesday confirmed reports that the 12 miners trapped after the Jan. 2 explosion started to walk toward the exit, only to turn back and take shelter in the farthest recesses of the mine.

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But the regulators said they had heard nothing to confirm an account by relatives of the only survivor that the men had tried to force their way out in a rail car but that their escape route had been blocked by debris. Rescuers found no such blockage, the regulators said.

All but one of those 12 trapped miners died of carbon monoxide poisoning, as did one other who was close to the blast site. Only Randal McCloy Jr., 27, was found alive. He remains in a coma, in critical but stable condition at the West Virginia University Hospitals, the medical center said.

Asked why the miners changed course, Robert Friend, the acting deputy assistant secretary at the federal Mine Safety and Health Administration, said, "We're waiting for Mr. McCloy to tell us."

On Wednesday, hospital spokesmen and the F.B.I. also warned that an Internet-based campaign soliciting money on Mr. McCloy's behalf was a hoax.

Mr. Friend and Ray McKinney, administrator for coal mine safety and health, told reporters on Capitol Hill on Wednesday that two mine rescue teams arrived at the mine five and a half hours after the 6:30 a.m. explosion on Jan. 2, but that it was not until 4 p.m. that carbon monoxide levels began to drop enough that the safety team managers felt rescuers could enter the mine.

Mr. McKinney said the first rescue team entered the mine at 5:25 p.m., and slowly made its way down the main tunnel. With three teams working in shifts, they found the miners' tracks at 8 p.m. on Jan. 3.

Three hours later, they found Mr. McCloy, unconscious and groaning, and the 12 other miners dead. A PowerPoint version of the timeline that Mr. McKinney gave reporters is uat the Web site for the agency, www.msha.gov.

Mr. McKinney's account did not resolve some disputes.

For one point, the mining company has always maintained, and Mr. McKinney repeated, that a second crew in the mine that day, which emerged safely, had six men. But four miners in that group say it numbered 13, and one miner provided the names and job titles for all 13.

For another point, 12 significant violations of fire-safety regulations that federal officials listed on Tuesday did not, Mr. McKinney said, constitute a pattern of misconduct that would have warranted closing the mine. Industry critics say the violations gave the agency ample cause to close the mine until new practices were instituted.

In a news conference on Wednesday, Ben Hatfield, the chief executive of the International Coal Group, which owns the mine, defended its safety efforts, according to The Associated Press. Mr. Hatfield said the company had reconstructed two miles of the primary escape path, upgraded the mine rail system and instituted employee safety training that exceeded legal requirements.

"In my opinion," he said, "the Sago Mine was a safe operation."

Interior Department To Open Alaskan Land To Oil Drilling (WP)

By Justin Blum

The Washington Post, January 12, 2006

The Interior Department yesterday agreed to open about 400,000 acres on Alaska's North Slope for exploratory oil drilling, an area that previously had been off limits because of concerns about the impact on wildlife.

Officials said they would lease acreage in the northeastern corner of the National Petroleum Reserve-Alaska to oil companies to provide access to domestic oil supplies.

"We recognize . . . the energy needs of this nation," said Susan Childs, an official with the Bureau of Land Management. "So, hopefully, this will alleviate some of the pressure."

Government officials said that the area of the preserve opened yesterday has significant potential for oil development. They estimate it contains about 2 billion barrels of oil that is economically recoverable, along with 3.5 trillion cubic feet of natural gas. The United States consumes more than 20 million barrels of oil per day.

Much of the 23.5 million-acre petroleum reserve already is open to oil development. The reserve, created in 1923, is located west of the Arctic National Wildlife Refuge, long a flashpoint in the debate over allowing oil drilling versus protecting the environment.

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Childs said the land opened yesterday could be drilled with "minimal" impact on wildlife, a conclusion that environmentalists dispute.

The area -- particularly near Teshekpuk Lake -- has been a focal point of concern among environmentalists. They say oil operations would disrupt an area where thousands of brant geese and white-fronted geese molt. They also predicted harm to caribou and tundra swans.

"This is the single most important goose molting area in the arctic," said Stanley Senner, executive director of Audubon Alaska. "It will mean fewer birds."

The Bureau of Land Management proposed opening the area a year ago. But it was not until yesterday that an Interior Department official, Deputy Assistant Secretary Chad Calvert, approved a modified version of that plan.

The area near Teshekpuk Lake was put off limits to drilling during the Reagan administration. The Clinton administration expanded the restricted area.

But the Bureau of Land Management says technological advances in oil drilling allow drilling to occur without the impact previously feared. Drilling will be allowed about a quarter-mile from the lake.

Bureau officials said they would conduct further study on the impact to molting geese before allowing permanent drilling.

U.S. Lifts Longtime Drilling Ban On Alaskan Wildlife Habitat (LAT)

By Janet Wilson

The Los Angeles Times, January 12, 2006

The Department of Interior on Wednesday approved oil and gas drilling on Alaska land considered such sensitive wildlife habitat that it was first protected by former Interior Secretary James G. Watt under President Reagan, and by four Interior secretaries since.

The decision — decried by Native American, hunting and environmental groups — comes just weeks after the U.S. Senate rejected drilling in the Arctic National Wildlife Refuge, about 200 miles to the east.

Bureau of Land Management staff said the decision was made after three years of study and in response to requests by Vice President Dick Cheney's energy task force.

The plan, signed by Deputy Assistant Interior Secretary Chad Calvert, will open up more than 500,000 acres in and around Teshekpuk Lake on Alaska's oil-rich North Slope. BLM officials estimate the northeast National Petroleum Reserve, including the lake area, may contain as much as 2 billion barrels of "economically recoverable" oil.

The area is a critical stop for molting geese on the Pacific flyway, with as many as 90,000 birds resting in flat wetlands in the summer. Up to 46,000 caribou also use areas near the lake for calving and migration paths.

Although many Alaskans welcome drilling as an economic boon, some native leaders in the state blasted the decision.

"There are a lot of frustrated people in our community right now," said Dora Nukapigak, who lives in the small Inupiat Eskimo village of Nuiqsut, at the eastern edge of the reserve, where many people depend on caribou as a food source. "It's a very sensitive area. It seems like regardless of what we say or do with BLM, they'll do what they're going to do anyways, and that's drill."

Former Interior Secretary Watt, often derided by environmentalists for other actions, protected more than 200,000 acres of the goose-molting area north of the lake from oil and gas drilling in the early 1980s. His successors under Reagan and President George H.W. Bush maintained those protections. Under President Clinton, Bruce Babbitt expanded bans against drilling around and on the lake to more than half a million acres.

BLM officials acknowledged that the area is important for wildlife and subsistence hunting, and said their plan was "very, very rigorous" in requiring environmental protection and mitigation.

No surface drilling will be allowed on 242,000 acres considered vital for molting geese, or on another 244,000 acres used by caribou. Slant drilling will be allowed under those surfaces from adjoining land. Pipelines must be seven feet high, at least initially, to allow caribou and hunters to pass beneath.

A maximum of 2,100 acres total in seven different zones can be permanently disturbed on the surface, and a three-year study will be conducted of molting geese, BLM staff said.

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Leasing of the lands could begin by September, after reviews by a state coastal agency and a regional planning agency, although drilling on the lake will be deferred for 10 years.

"We have done a very good job balancing the subsistence resources while allowing some areas to be opened to oil and gas drilling," said Susan Childs, energy and mineral planning coordinator for BLM's Alaska office, which oversees the plan.

"Our mission is to provide for multiple uses. A part of our mission is to protect wildlife, but also part of our mission is to allow for the development of resources. Our job is to find that balance in oil and gas mining," said BLM Alaska spokeswoman Jody Weil.

But conservation groups blasted the plan and said there were no guarantees the restrictions would remain in place.

"They're notorious for granting waivers to their own rules," said Stanley E. Senner, a biologist who is executive director of Audubon Alaska.

"This plan is utterly unbalanced. Even the Reagan administration protected the waterfowl habitat around Teshekpuk Lake because of its world-class ecological and cultural value," Senner said. "No one should be fooled by the window dressing … this plan makes every last acre available for oil development."

Chuck Clusen, director of the Natural Resource Defense Council's Alaska Project, said the BLM "is supposed to balance all values of our public lands. Giving 100% to the oil industry is not what anyone would call balanced."

Times Staff Writer Sam Howe Verhovek in Seattle contributed to this report.

Warming Tied To Extinction Of Frog Species (WP)

By Juliet Eilperin

The Washington Post, January 12, 2006

Rising temperatures are responsible for pushing dozens of frog species over the brink of extinction in the past three decades, according to findings being reported today by a team of Latin American and U.S. scientists.

The study, published in the journal Nature, provides compelling evidence that climate change has already helped wipe out a slew of species and could spur more extinctions and the spread of diseases worldwide. It also helps solve the international mystery of why amphibians around the globe have been vanishing from their usual habitats over the past quarter-century -- as many as 112 species have disappeared since 1980.

Scientists have speculated that rising temperatures and changing weather patterns could endanger the survival of many species, but the new study documents for the first time a direct correlation between global warming and the disappearance of around 65 amphibian species in Central and South America.

The fate of amphibians -- whose permeable skin makes them sensitive to environmental changes -- is seen by scientists as a possible harbinger of global warming's effects. Rising temperatures are threatening the survival of flora and fauna worldwide, including coral reefs in the Caribbean, which serve as critical fish nurseries, and South African rhododendrons, which cannot move to a cooler climate.

J. Alan Pounds -- the resident scientist at the Tropical Science Center's Monteverde Cloud Forest Preserve in Costa Rica and the study's lead author -- worked with 13 other researchers to pin down the link between rising tropical temperatures and the spread of the deadly chytrid fungus that has wiped out dozens of species of harlequin frogs in recent years.

"Disease is the bullet killing frogs, but climate change is pulling the trigger," Pounds said. "Global warming is wreaking havoc on amphibians and will cause staggering losses of biodiversity if we don't do something first."

The paper helps explain how global warming has allowed the chytrid fungus -- which kills frogs by growing on their skin and attacking their epidermis and teeth, as well as by releasing a toxin -- to thrive in Costa Rica and neighboring countries. The higher temperatures result in more water vapor in the air, which in turn forms a cloud cover that leads to cooler days and warmer nights. These conditions favor the fungus, which grows and reproduces best at temperatures between 63 and 77 degrees Fahrenheit.

At least 110 species of the vibrantly colored amphibians once lived near streams in the Central and South American tropics, but about two-thirds disappeared in the 1980s and 1990s, including the golden toad. While researchers had previously

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identified the fungus as a major reason for the frogs' demise, they have been trying determine why the disease has taken such a major toll in recent years.

Looking at more than 65 harlequin frog species that had vanished, researchers found that 80 percent of the time there was a correlation between higher temperatures and the species' disappearance. After a warm peak in 1987, for example, five species died off.

"There's a coherent pattern of disappearances, all the way from Costa Rica to Peru," Pounds said in an interview. "Here's a case where we can show that global warming is affecting outbreaks of this disease."

Amphibians are experiencing a precipitous decline in Africa, Asia and North America, according to a comprehensive 2004 survey, which cited climate change as well as deforestation, pollution and habitat loss as key factors.

"We have a biodiversity crisis," said Andrew Blaustein, director of Oregon State University's graduate programs in environmental science. "Amphibians seem to be harder hit than other groups."

Michael Totten, senior director for climate and water initiatives at the environmental group Conservation International, said humans have made it more difficult for animal and plant species to adapt to the shifting climate by fragmenting natural habitat. "Traditionally species have been resilient and capable of going through dramatic climate change, but with humans changing the face of the landscape, we've created lots of prisons for species, and that's the major problem they face," he said.

Stanford University climatologist Stephen Schneider said the new research represents "a creative step in the right direction, but it's still early in the game to sound the 'solved' bell." He added that the study is "just further evidence" that global warming is linked to accelerating extinctions worldwide.

While Pounds and his colleagues are still researching the harlequin frogs' disappearance, their findings are prompting even some scientists who had been skeptical about climate change's impact on amphibians to reassess their position.

James Collins, who studies harlequin frogs at Arizona State University, called the paper "an intriguing contribution" to understanding what is happening to amphibians worldwide. He said the study shows that when it comes to climate change, "these forces don't all move in one direction," since some habitats are becoming drier while others are becoming wetter.

Collins and a team of researchers are trying to determine if the chytrid fungus is surfacing in areas where it had never thrived before.

Study Finds Global Warming Is Killing Frogs (WSJ)

By Gautam Naik

The Wall Street Journal, January 12, 2006

Conservationists have been puzzled for more than a decade by the mysterious disappearance of harlequin frogs from the pristine, high-altitude tropical forests of Costa Rica. Now a group of scientists believe they have pinpointed the likely cause: global warming that promotes a fungus that is fatal to the frogs.

The finding, published today in the journal Nature1, is likely to stoke the debate about whether climate change is affecting the dynamics of disease, and why amphibians are dying out in such massive numbers world-wide. Recent data indicates that, since 1980, as many as 122 amphibian species are likely to have become extinct and one-third of known amphibian species are threatened.

In Costa Rica, researchers found that the region's brightly-colored harlequin frogs were succumbing to a disease caused by the chytrid (KIT-rid) fungus, which also has been implicated in a wave of amphibian deaths elsewhere in the world. Using records of sea and air temperatures, the scientists discovered that the frogs were disappearing at a rate in near-lockstep with the changing climate.

"About 80% of the disappearances of frogs correspond to unusually warm years" when the fungus thrives, said J. Alan Pounds, the study's lead author and resident scientist at the Monteverde Cloud Forest Preserve in Costa Rica. The fungus grows on amphibians' skin, creating a dermatological condition for the creatures that is often fatal. About two-thirds of the harlequin species, which once thrived in the tropics of Central and South America, vanished in the 1980s and 1990s.

But establishing a causal link between large-scale, long-term global warming and the elimination of specific species in a particular region isn't easy. The fungus-related frog deaths in Costa Rica "could be a roll of the dice one time, or it could be

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several interconnected factors contributing to the problem," said Ben Orlove, a professor of environment science and policy at the University of California, Davis. Habitat destruction, pesticides and other factors have all been blamed for amphibian declines.

Still, the demise of amphibians is part of a far-larger pattern. The earth has witnessed five known extinction waves affecting many species. What makes the current one different, scientists have concluded, is that it is likely to have been triggered mainly by human activity.

Bird, mammal and amphibian species are disappearing in recent decades at a rate estimated at 100 to 1,000 times as high as the expected, natural extinction rate. In the past 500 years, human activity has forced 844 species to extinction, according to the World Conservation Union, a Switzerland-based agency whose members include some 82 states, 111 government agencies and other groups involved in ecology and conservation.

Amphibians are in the deepest trouble. They may be particularly vulnerable because they go through several life-cycle stages, making them prey to more predators and environmental shifts. And while they perform the nifty trick of absorbing oxygen through their skin, that probably makes them more susceptible to toxins and infection.

According to the Global Amphibian Assessment, a large, world-wide study that reported its findings in 2004, about 43% of amphibian species are declining, 27% are stable and less than 1% are increasing. The status of the rest isn't known.

Almost certainly, factors such as loss of habitat, pesticides and change in land-use patterns contribute to the decline in amphibian species across the globe. "The assumption, then, was that [amphibians] would do just fine in protected areas" such as Costa Rican cloud forests, said James P. Collins, a professor at Arizona State University in Tempe and chairman of the Declining Amphibian Populations Task Force. But since Costa Rica's harlequin-frog population is diminishing anyhow, "the climate-change explanation attracts attention," he said.

Last fall, scientists and conservationists met in Washington and drew up a global action plan to save the world's frogs, toads and salamanders from oblivion. The estimated cost over five years: more than $400 million to move their populations from threatened areas, breed them in captivity or conduct studies.

In Costa Rica, Mr. Pounds and his colleagues studied air and sea surface temperatures from 1973 to 2000 and found that rising temperatures enhanced cloud cover over tropical mountains, leading to warmer nights and cooler days. The change appears to have favored the chytrid fungus, which grows and reproduces best at temperatures from 63 to 77 degrees Fahrenheit. One solution for the harlequin frogs might be to move their populations to altitudes where the fungus doesn't thrive as well, Mr. Pounds says.

But key questions remain unanswered. "Climate change may be helping the fungus spread, but we don't know where the fungus came from" or whether it can survive without amphibians, Mr. Pounds says. "These are the parts of the story that aren't entirely clear."

Frog Killer Is Linked To Global Warming (NYT)

By Andrew C. Revkin

The New York Times, January 12, 2006

Scientists studying a fast-dwindling genus of colorful harlequin frogs on misty mountainsides in Central and South America are reporting today that global warming is combining with a spreading fungus to kill off many species.

The researchers implicate global warming, as opposed to local variations in temperature or other conditions. Their conclusion is based on their finding that patterns of fungus outbreaks and extinctions in widely dispersed patches of habitat were synchronized in a way that could not be explained by chance.

If the analysis holds up, it will be the first to link recent climate changes to the spread of a fungus lethal to frogs and salamanders and their kin. The chytrid fungus, Batrachochytrium dendrobatidis, has devastated amphibian communities in many parts of the world over the last several decades.

But experts on amphibian disease and ecology are divided over the finding, which is being published today in the journal Nature. Several scientists criticized the paper yesterday, saying it glossed over significant sources of uncertainty; others said it was important evidence that warming caused by humans was already harming wildlife. Climate scientists have linked most of the recent rise in the earth's average temperature to the buildup of greenhouse emissions from smokestacks and tailpipes.

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The new study was led by J. Alan Pounds, the resident biologist at the Monteverde Cloud Forest Preserve in Costa Rica. In an accompanying commentary, two scientists not involved in the research say it provides "compelling evidence" that warming caused by human activity was already disrupting ecology.

"The frogs are sending an alarm call to all concerned about the future of biodiversity and the need to protect the greatest of all open-access resources - the atmosphere," write the scientists, Andy Dobson, a Princeton University ecologist, and Andrew R. Blaustein, a zoologist at Oregon State University.

More than 110 species of brightly colored harlequin frogs, in the genus Atelopus, once lived near streams in the tropics of the Western Hemisphere, but about two-thirds of them have vanished since the 1980's.

A leading suspect is the chytrid fungus, which in recent decades has killed amphibians from deserts to lowland tropical forests to mountainsides. It is not clear whether the fungus has been spread around the world by human trade in amphibians or whether it has laid largely undetected and has only recently erupted.

Paradoxically, the fungus thrives best in cooler conditions, challenging the theory that global warming is at fault. But Dr. Pounds and his team, in studying trends in temperature and disease around the American tropics, found patterns that they say explain the situation.

Because warming increases evaporation, it can create clouds that tend to make days cooler by blocking sunlight, and make nights warmer by trapping heat. In an interview, Dr. Pounds said those conditions could have created favorable conditions for the spread of the chytrid fungus.

He said that because the seeming extinctions had occurred in lockstep over dispersed field sites, they were hard to attribute to anything other than the broad warming trend that scientists have linked to rising concentrations of greenhouse gases.

But some experts who have read the paper said they were troubled by definitive statements like "Our study sheds light on the amphibian-decline mystery by showing that large-scale warming is a key factor."

Cynthia Carey, an amphibian disease expert at the University of Colorado, said that while both climate and amphibian die-offs were serious problems, this particular paper failed to offer anything beyond circumstantial evidence.

"It is difficult to prove cause and effect on the ground where multiple factors interact in complex ways," she said.

Stephen H. Schneider, a climate expert at Stanford, who has worked with Dr. Pounds on other studies and consulted on this one, acknowledged that uncertainties remained but said the work was significant.

"It's like anything else that's complex," he said. "When you're in the early phases of learning you look for multiple lines of argument, and when they converge with basic theory, you increase your confidence in a connection."

Vanishing Of Frogs, Toads Tied To Global Warming, Study Says (USAT)

By Traci Watson

USA Today, January 12, 2006

A team of biologists and climate scientists says in a new study that it has linked the extinction of a widespread group of animals to global warming.

Writing in today's issue of the journal Nature, the scientists say that more than 60 closely related frog and toad species have vanished from the tropical forests of Latin America during the last few decades, partly because of warming temperatures. The team says this is the first time such a connection has been made.

The research team found a “near lock-step (link) between the timing of losses and changes in climate,” said lead scientist Alan Pounds of the Monteverde Cloud Forest Preserve and Tropical Science Center in Costa Rica. “It's a very striking pattern, and it's hard to find another explanation for it.”

The group did not identify the other contributing causes. Pounds and his team say the warmer temperatures of the late 20th century led to better growing conditions for a fungus that kills frogs and toads.

Other scientists expressed skepticism about the findings. Stephen Corn of the U.S. Geological Survey said the dates recorded for extinctions may not be entirely reliable. The University of Colorado's Cynthia Carey questioned why the new work ignores extinctions of related species after 1998.

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The Earth's average temperature rose roughly 1 degree in the 20th century and could rise 10 more degrees by 2100, according to an international group of scientists convened by the United Nations.

That group and other researchers attribute the warming trend to the use of coal, oil and other fossil fuels, which emit carbon dioxide when burned. Buildup of the gas in the atmosphere can trap heat.

Scientists already have evidence linking higher temperatures to changes in the behavior or range of hundreds of species, such as flowers that bloom earlier in the year.

Scientists in the U.N. group predicted in 2001 that global warming would produce a wave of extinctions. They did not predict they'd see evidence so quickly.

“None of us expected that we'd be seeing massive extinctions in five years,” said Camille Parmesan of the University of Texas. She was not on the Pounds team but found the link between extinction and global warming “very convincing.”

Pounds and his colleagues compared when a species was last seen with climate data. They found that roughly 80% of the extinct species were spotted for the last time just after a particularly hot year. For example, the Monteverde harlequin frog hasn't been seen since 1988, one year after a warm year.

Pounds and his team theorize that the changes in the region's climate are encouraging the growth of a parasite that spread around the world in the 1960s and is a known killer of frogs and toads. Pounds said more work needs to be done to nail down this possibility.

Margin Of Safety Just-in-Time Inventories Make U.S. Vulnerable In A Pandemic (WSJ)

By Bernard Wysocki Jr. And Sarah Lueck

The Wall Street Journal, January 12, 2006

Like many big hospitals, the University of Utah Hospital carries a 30-day supply of drugs, in part because it would be too costly or wasteful to stockpile more. Some of its hepatitis vaccine supply has been diverted to the hurricane-ravaged Gulf, leaving it vulnerable should an outbreak occur closer to home. About 77 other drugs are in short supply because of manufacturing and other glitches, such as a drug maker shutting down a factory.

"The supply chain is horribly thin," says Erin Fox, a drug-information specialist at the Salt Lake City hospital.

In the event of a pandemic flu outbreak, that chain is almost certain to break. Thousands of drug-company workers in the U.S. and elsewhere could be sickened, prompting factories to close. Truck routes could be blocked and borders may be closed, particularly perilous at a time when 80% of raw materials for U.S. drugs come from abroad. The likely result: shortages of important medicines -- such as insulin, blood products or the anesthetics used in surgery -- quite apart from any shortages of medicine to treat the flu itself.

The very rules of capitalism that make the U.S. an ultra-efficient marketplace also make it exceptionally vulnerable in a pandemic. Near-empty warehouses are a sign of strong inventory management. Production of drugs takes place offshore because that's cheaper. The federal government doesn't intervene as a guaranteed buyer of flu drugs, as it does with weapons. Investors and tax rules conspire to eliminate redundancy and reserves. Antitrust rules prevent private companies from collaborating to speed development of new drugs.

Most fundamentally, the widely embraced "just-in-time" business practice -- which attempts to cut costs and improve quality by reducing inventory stockpiles and delivering products as needed -- is at odds with the logic of "just in case" that promotes stockpiling drugs, government intervention and overall preparedness.

A report issued last month by the Trust for America's Health, a public-health advocacy group in Washington, concluded that 40% of the states lack enough backup medical supplies to cope with a pandemic flu or other major disease outbreak.

"Most if not all of the medical products or protective-device companies in this country are operating almost at full capacity," says Michael Osterholm, director of the Center for Infectious Disease Research and Policy at the University of Minnesota. "That's the reality of today's economy: just-in-time delivery with no surge capacity."

The U.S. government says it is trying to address the problem, elevating the possibility of a flu outbreak to a national security concern. Rajeev Venkayya, a special assistant to President Bush for biodefense, says the pandemic flu threat calls for a national response similar to a "moonshot," alluding to the successful 1960s Apollo program.

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President Bush has vowed to spend $2.8 billion to help jump-start development of a next-generation cell-culture flu vaccine. Currently flu vaccine production relies on a decades-old process of growing viruses in individual fertilized chicken eggs. The viruses are inactivated to make a vaccine.

Cell-culture technology means the viruses are grown in living cells -- often mammalian kidney cells -- that multiply on their own. The technology is already used in producing vaccines against hepatitis, chickenpox and shingles. In theory, cell-culture technology should allow manufacturers to produce enough flu vaccine for every American within six months of the start of a pandemic.

The Securities and Exchange Commission recently said it will allow companies to book revenue on sales of vaccines or bioterrorism remedies to the government, even if the companies hold onto the stockpile -- as the U.S. government often prefers. Under current accounting rules, companies must ship the product to record the revenue, a major disincentive for vaccine manufacturers.

Yet those steps largely fail to address weaknesses in the supply chain. The severe acute respiratory syndrome outbreak in 2003 in Canada offers a case in point. When SARS hit, the country's largest nurses' union complained about a shortage of N95 masks after much of the existing supply was shipped to Asia, where the disease hit hardest.

These masks protect against contracting flu by filtering out at least 95% of certain airborne materials during normal breathing. Some nurses in Canada had to use less-protective masks when caring for SARS patients. Others were rationing the supply. In some cases, they were told to save their masks in plastic bags and reuse them from one shift to the next, Barbara Wahl, former president of the Ontario Nurses' Association, told a Canadian commission investigating SARS in 2003.

The main companies that manufacture the masks -- 3M Co. and Kimberly-Clark Corp. -- had to scramble to meet the sudden demand because, like many companies, they didn't have an existing stockpile.

The outbreak was relatively brief and limited in location -- a minor blip compared with what would likely happen with pandemic flu.

'Albertson's Syndrome'

Supply-chain breakdowns are one reason the economy could go into a tailspin should there be a pandemic flu outbreak. A Congressional Budget Office study of the economic impact of a severe pandemic, released late last year, estimated a nearly $700 billion hit to the U.S. economy, or about a 5% decline in economic output during a one-year span, about equal to a medium-sized recession.

One significant concern is what Michael Leavitt, the secretary of health and human services, described in an interview as the "Albertson's syndrome," referring to the grocery-store chain. At the first sign of panic, all supplies disappear from shelves, something that routinely happens when there is the threat of even a modest storm.

The Grocery Manufacturers Association, which represents food retailers and distributors, estimates that the time it takes for manufacturers and wholesalers to deliver on a retailer's order has shortened to fewer than four days from nearly eight days in 1999. Respondents to an association survey "are targeting even shorter cycle times of three days," the survey said. Rick Blasgen, a former ConAgra Inc. executive and chief executive of the Council of Supply Chain Management Professionals, says food retailers and producers "can't afford just-in-case inventory."

The issue of stockpiling extends beyond food to vaccines. The U.S. government has generally been reluctant to pay companies to produce extra vaccines and create a reserve capacity. It's one reason so many companies have dropped out of vaccine manufacturing. In the case of flu vaccines, there is too much wasted medicine in "good" years, when the flu season isn't severe and people choose not to get vaccinated. Vaccines are tossed away at a loss for the corporations.

"Investors punish companies for having excess capacity they don't use," says Dr. Osterholm.

Today's worrisome flu strain, known as H5N1, has infected and killed millions of poultry, and killed about 70 humans in Asia. Recently it has spread to Turkey and infected at least 15 people there. Nobody knows if the H5N1 virus will mutate in ways that promote human-to-human transmission, which is what health officials fear would trigger a pandemic. A vaccine produced by Sanofi-Aventis SA has proved effective against H5N1 in early trials in humans, but the company hasn't scaled up manufacturing of it. Food and Drug Administration-approved antiviral medications, which could treat exposed individuals, are in short supply.

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To some former Pentagon officials working on biodefense on Capitol Hill, the only way for the country to prepare for a possible pandemic is to think of health-care preparedness in military terms. This means moving away from a just-in-time system to planning for a just-in-case scenario in the manner of national-security policy makers.

The Pentagon, for instance, goes through intense planning and pays for reserves of everything from bullets to jet fuel. It even forces rivals to collaborate on Pentagon projects and wields its clout as a buyer of weapons.

Some steps are in motion to take pages out of the Pentagon playbook. A bill introduced last fall by North Carolina Republican Sen. Richard Burr would provide some relaxation of the antitrust laws. It would allow the government to convene meetings with drug makers to discuss manufacturing and distributing biodefense products including those related to pandemic flu.

Current Law

Industry executives say they feel that under current law, companies can't share basic knowledge that would be helpful in planning for an outbreak. "What we're suggesting to the administration is something discretionary and only under declaration of an emergency," says Billy Tauzin, a former congressman from Louisiana who now heads the pharmaceutical industry's leading trade organization.

Mr. Tauzin, though, also hinted at going a tad further, saying it would be helpful if "the administration determines to allow two of our companies to collaborate on a product -- an antiviral or vaccine or similar product." Such proposals might raise worries about collusion in an industry that already enjoys considerable pricing power and patent protection on its products.

Some experts suggest the U.S. government should promise to purchase a fixed amount of flu vaccine -- despite the cost and the likelihood that some of the money would end up being wasted. Canada, for instance, has contracts with vaccine makers to cover most of its population. The largest contract is with ID Biomedical Corp. (recently acquired by GlaxoSmithKline PLC) for about eight million flu vaccine doses per year. That takes much of the risk out of the company's business, but still lets it manufacture additional doses for the private market or for other needy buyers.

Dr. Osterholm has called for a program of "critical product continuity" to see the U.S. through the worst of pandemic disruption. He proposes identifying items that are essential to people's health and safety and then finding a way, possibly through government funding or tax incentives, to create emergency stocks or extra production capacity for them. High on his list of "critical products" are tools for fighting flu itself, such as face masks, ventilators to help the sickest patients survive and syringes to administer a vaccine if one becomes available.

In a pandemic, Dr. Osterholm says, "if we don't sell automobiles or jewelry...that wouldn't be the same as running out of critical medicines." He likens his idea to the well-equipped fire departments at international airports, which don't respond to many crises but are ready if a plane crashes.

Dr. Osterholm, who also is associate director of the Department of Homeland Security's National Center for Food Protection and Defense, says the country also needs reliable supplies of food and water, the ability to keep heat working in northern climates and medical products for non-flu-related illnesses. The U.S. has 105,000 ventilators, most of which at any given time are in use. The federal stockpile of medical products has about 4,500 more. In a pandemic, tens of thousands more would be needed.

The federal government has allocated grants worth $5 billion over three years to states and hospitals to increase medical preparedness, including surge capacity at hospitals. But the money was used for other priorities as well, such as improving medical labs and disease surveillance. Not all of it has been spent.

"You can't plan for a surge capacity in an emergency room of 500 or 1,000 patients from the 20 you see in a day," says Michael Bishop, a Bloomington, Ind., emergency physician who used to be on the board of directors for the national trade association for emergency physicians. "Nobody could afford to do that. You can't have 10 doctors and 100 nurses sitting around waiting for something to happen."

Eminent Domain Laws Get First State High Court Test Since U.S. Supreme Court Ruling (LAW/AP)

By Andrew Welsh-huggins, The Associated Press

DOJ_NMG_0009268

AP, January 12, 2006

Ohio Supreme Court heard arguments Wednesday pitting a suburban Cincinnati city against a couple trying to save their home in a long-anticipated hearing that included a rare outburst of applause by spectators.

The city of Norwood is trying to use eminent domain to seize remaining properties for a developer who wants to build a $125 million project of offices, shops and restaurants. The city says the tax revenue will boost its economic fortunes.

Homeowners Carl and Joy Gamble say the city abused its authority to seize property by declaring the neighborhood deteriorating, a less severe condition than blighted.

The case is the first challenge of property rights laws to reach a state high court since the U.S. Supreme Court last summer allowed municipalities to seize homes for use by a private developer.

Property rights' advocates, business groups and backers of city planning are watching the Ohio case because of the precedent it could set as more than a dozen states consider bans against governments taking homes to boost economic development.

A decision is expected by summer.

At issue was this line from the Ohio Constitution: "Private property ought and shall ever be held inviolate, but always subservient to the public welfare."

Visiting Judge James Brogan challenged the Gambles' attorney to explain what the court should do given last summer's U.S. Supreme Court decision.

"What's the principled way for this court to decide under the Ohio Constitution that it guarantees more protection to the property owner -- property rights -- than the U.S. Supreme Court was prepared to do?" said Brogan, sitting in for Justice Alice Robie Resnick, who excused herself from the case without giving a reason.

Attorney Dana Berliner said the state leaders who wrote Ohio's constitution recognized there were times when property would have to be subservient to public needs.

"But they were also saying those were important rights. That's something that's not in the U.S. Constitution," she said.

Timothy Burke, a lawyer representing Norwood, said deterioration is a common measure when applied to redevelopment projects in cities.

"Deteriorating is a legitimate standard to be used in determining whether or not an urban renewal project and use of eminent domain is appropriate," he told the court.

Lawrence Elleman, an attorney for the Norwood developers, said the city's law was very specific in its definition of a rundown neighborhood, including things like "faulty street arrangements," or dead-end streets.

That caught the interest of Chief Justice Thomas Moyer.

Many older neighborhoods have streets that could be called "faulty in their design," said Moyer, who himself lives in Bexley, an older Columbus suburb. "But people like living on those streets."

Berliner said the city's standard was far too vague and could apply to almost any neighborhood in Ohio.

"As the members of this court drive home today, I ask you to think about which of the dozens of neighborhoods you pass would not be deteriorating under Norwood's definition," Berliner said.

At one point, Brogan asked Burke why the court should pay so much deference to a city council that stands to make $2 million a year in revenue from the project.

Burke responded that the responsibility for determining land use is up to local elected officials.

"They've lived there all their lives, they've walked those neighborhoods, they've seen how it has changed," he said.

That prompted Justice Maureen O'Connor to ask, "Couldn't the same argument be made for the homeowners?"

Several people attending the hearing in support of the Gambles laughed and applauded, leading to a gentle rebuke from Moyer: "Please, do your applauding outside."

Justice Judith Ann Lanzinger said she was concerned about the origin of the developer's plan.

"Does it make any difference that it appears that the private developer was the one that started this ball rolling?" she said. "Should it be of concern when we're talking about whether this is truly public use or if it's private use with public incidental benefit?"

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Burke said the question is moot because the development ultimately was the product of lengthy deliberations between the city and Rookwood Partners.

"In the end, I don't think it makes any difference who initiates it," he said.

Appeals Court Takes Up 2003 Meskwaki Election Case (AP)

AP, January 12, 2006

IOWA CITY, Iowa -- A federal appeals court in St. Louis was scheduled to hear arguments Thursday on whether a lower court judge erred by dismissing a lawsuit challenging the Meskwaki tribal elections in 2003.

The lawsuit stems from an internal power struggle that began nearly three years ago when the Meskwaki tribal council and its chairman, Alex Walker Jr., were overthrown by a new set of leaders. The new council, led by Homer Bear Jr., was picked by the tribe's hereditary chief after Walker's council ignored recall petitions.

The ensuing political dispute played out in state and federal courts and led to a costly, seven-month shutdown of the Meskwaki casino, located on the tribal settlement west of Tama. The tribe, with 1,200 members, officially is known as the Sac and Fox of the Mississippi in Iowa.

The dispute ultimately was settled after tribal members participated in a series of elections overseen by the federal Bureau of Indian Affairs.

As a result, four Walker council members were removed and the Bear council was put in power. The casino reopened in December 2003.

The lawsuit before the 8th U.S. Circuit Court of Appeals originally was filed in 2004 by the election officials appointed by Walker.

In their lawsuit, Walker supporters argue that the BIA mishandled oversight of the election and illegally interfered in the process. They also claim that Aurene Martin, assistant secretary of the BIA, violated agency policy when she rejected an appeal of the election results.

In March, U.S. District Judge Linda Reade, in Cedar Rapids, threw out the lawsuit, saying it was a matter for tribal courts to decide. Walker supporters are appealing that decision.

In briefs filed with the court, the Walker supporters suggest BIA officials may have been influenced by lobbyist Jack Abramoff, who was hired by the Bear council after the elections. Abramoff made headlines last week when he pleaded guilty to charges of influence peddling.

"Was improper pressure applied and influence wielded at the agency level?" wrote attorney Fred Dorr, who is representing Walker supporters.

Justice Department attorney Elizabeth Peterson argued that Reade was correct in dismissing the case, citing repeated appeals court rulings protecting tribal sovereignty.

FBI/DEA/ATF/USMS:

Some Crack Cocaine Prison Terms Shorter Since Ruling On Sentencing Guidelines, Study Says (AP)

By Mark Sherman, ASSOCIATED PRESS

AP, January 11, 2006

WASHINGTON – Some federal judges are handing out shorter prison terms for crack cocaine crimes since last year's Supreme Court decision giving judges more discretion in sentencing, a report said Wednesday.

Defendants in the study received prison terms averaging 11 years, but those terms were less than what is called for in 20-year-old sentencing guidelines, according to the Sentencing Project, a nonpartisan group that backs alternatives to lengthy prison sentences.

The Supreme Court ruled a year ago that judges do not have to follow the sentencing guidelines.

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The analysis focused on crack because the congressionally established guidelines punish some crack cocaine offenses more severely than powder cocaine offenses. A person must possess 100 times more powder cocaine than crack cocaine to receive a comparable sentence, under the guidelines.

The report looked at a very small sample of 24 cases in which judges wrote opinions explaining the prison sentence and cited the Supreme Court ruling. There were more than 5,400 people sentenced for crack offenses in 2003, the latest year for which statistics are available.

"When judges are given flexibility to consider the full merits of each case, they are likely to impose stiff penalties for serious offenses, but will distinguish these from cases in which the defendant is less culpable or less of a threat to public safety," co-authors Ryan King and Marc Mauer wrote.

Still, a federal appeals court last week overturned the sentences in two Rhode Island cases included in the study, ruling that U.S. District Judge Ernest Torres impermissibly substituted a 20-to-1 ratio for Congress' 100-to-1 ratio. The defendants received five years, four months and 15 1/2 years, respectively, when the guidelines called for at least seven years, three months and 19 1/2 years, respectively.

Prosecutors also have appealed other cases, including one in West Virginia in which Brian Moreland was given a 10-year sentence for selling crack worth $450 when the guidelines set a range of 30 years to life in prison. U.S. District Judge Joseph R. Goodwin said the harsher sentence for Moreland "would not only be unreasonable, but also unconscionable."

Attorney General Alberto Gonzales has warned of growing disparity in jail terms and "a drift toward lesser sentences" since the court ruling.

Congress created the guidelines in the 1980s mainly to reduce disparities between judges. But the high court said making the guidelines mandatory violated a defendant's Sixth Amendment right to a jury trial because they call for judges to make factual decisions that could add to prison time, such as the amount of drugs involved in a crime.

Under the Supreme Court ruling, the guidelines now are only advisory. As a result, federal judges are free to sentence convicted criminals as they see fit, but they may be subject to reversal if appeals courts find them "unreasonable."

Judges Show More Leniency On Crack Cocaine (WSJ)

By Gary Fields

The Wall Street Journal, January 12, 2006

WASHINGTON -- In the wake of the Supreme Court's decision a year ago making sentencing guidelines advisory rather than requirements to be followed, some federal judges appear to be giving more lenient sentences in cases involving crack cocaine, according to an analysis released yesterday.

The study by the Sentencing Project, a Washington research and advocacy group for criminal-justice policy, may reinvigorate the debate about the racial disparity in sentences for crack-cocaine defendants, who are primarily minorities, and powder-cocaine defendants, who are more likely to be white and more affluent.

The study examined 24 crack-cocaine cases in which judges explicitly discussed the reasoning behind their sentencing decisions in the context of the 2005 Supreme Court ruling that allowed them to use the sentencing guidelines as advisory rather than as requirements.

In 21 of the 24 cases, the judges sentenced defendants to less time than they likely could have received under the sentencing guidelines. Under the guidelines, for instance, a person who possesses five grams of crack cocaine will get the same sentence as someone who sells 500 grams of powder cocaine -- although there is little physiological difference in the two.

Sen. Jeff Sessions, an Alabama Republican, said he intended to introduce a bill this year that will propose changing the law to reduce the disparity between the amounts of crack cocaine and powder cocaine necessary to give a defendant the same sentence. He and Utah Republican Sen. Orrin Hatch co-authored a bill in 2003 that would have reduced the disparity to 20-to-1 -- from 100-to-1 -- but it got little support.

"I still believe the guidelines are not appropriate on crack and powder cocaine," said Sen. Sessions. "I think we need to make some improvements there based on the reality of what's going on in the courts of America. This study does seem to indicate that judges would tend more to the 20-to-one ratio rather than 100-to-one."

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The Sentencing Commission, which declined to comment on the study, has long supported altering its guidelines on crack-cocaine crimes to bring the penalties and amounts more in line with powder cocaine. In 1995, the Sentencing Commission sent Congress an amendment which would have equalized the penalties on the two forms of cocaine, but Congress rejected the amendment. Similar recommendations from the commission in 1997 and 2002 were ignored by Congress.

At least two of the cases highlighted in the study have been overturned by appeals courts in the past week. In one case, Rhode Island Chief District Court Judge Ernest Torres sentenced a crack-cocaine defendant to just over five years in prison, although the sentencing guidelines called for him to be sentenced to between seven and 12 years.

In handing down the sentence, the judge wrote that the 100-to-1 ratio was "excessive" and "not reasonable." However, a three-judge panel on the First Circuit Court of Appeals in Boston ruled last week that Mr. Torres had erred in handing down the sentence.

"Laboring in uncharted waters, the lower court jettisoned the guidelines and constructed a new sentencing range," the appeals court wrote.

Drugs And Racial Discrimination (NYT)

The New York Times, January 12, 2006

The mandatory sentencing laws that have swept this country since the 70's have clearly done more harm than good. The inmate population has skyrocketed, driving prison costs to bankrupting levels, while having no impact at all on the drug problem. By taking away judicial discretion, the laws have led the country to write off first-time offenders who might have deserved second chances and to imprison addicts who could otherwise have been effectively and less expensively handled through treatment programs.

The laws have also discriminated against members of minority groups, who are disproportionately singled out for harsher mandatory sentences, often because of where they live. That issue has come into sharp focus in New Jersey, where a panel of criminal justice officials has recommended that the state revise a law that mandates more severe sentences for people convicted of certain drug crimes committed within 1,000 feet of school property.

The law appears to have had no impact at all on the actual pattern of drug dealing. But it has created a profoundly discriminatory sentencing pattern, which treats minority defendants unfairly while undermining confidence in the criminal justice system.

Offenders who live in cities, where populations are dense and the schools numerous, tend to fall under the drug-free-zone laws, not because they peddle drugs to minors, but because they live near schools. Offenders who live in suburban and rural areas, where drug abuse is just as common but where schools are more spread out, tend to fall outside the law, so they receive lighter sentences.

As a consequence, the report found, just about every offender incarcerated for a drug-free-zone offense in New Jersey is either black or Hispanic, even though those two groups make up only about a quarter of the population. Not a single one of the offenders had sold drugs to a minor, and fewer than 2 percent had actually committed offenses on school property.

The so-called urban effect of these laws is hardly unique to New Jersey. More than 30 states have passed such laws since the 1980's, thus turning whole swaths of largely black and Hispanic urban areas into extra-penalty zones. Though widely emulated around the nation, the 1,000-foot rule appears arbitrary and without basis in law. The New Jersey panel's study wisely recommends reducing the size of the zones and changing the law so it actually targets the few people who sell drugs at or near schools - without discriminating against minorities.

The broader message of this study is that the country can't just imprison its way out of the drug problem. Coping with this issue - while reducing prison costs - will require a complex set of strategies, including drug abuse treatment and prevention services and increased judicial discretion in sentencing.

News Elicits Sadness, Not Shock (WP)

By Eric M. Weiss And Robert E. Pierre

The Washington Post, January 12, 2006

DOJ_NMG_0009272

The news that D.C. Council member Marion Barry failed a court-ordered drug test in the fall drew sighs, prayers and a call for him to take a leave from his council seat. But at his old haunts and among his constituents, what was missing yesterday was a sense of surprise.

For many, this is the fourth decade of the sometimes rocky, sometimes inspiring marriage between Barry, the former four-term mayor who now represents Ward 8 on the council, and the residents of his adopted city. If there was one feeling, it was an amalgam of sadness, empathy and deja vu.

"I just think it's a damn shame," said Addie Cook, who had been among the Union Temple Baptist Church members who welcomed him back after he served six months for cocaine possession following his 1990 arrest at the Vista Hotel, where he was videotaped smoking crack.

Sources said Barry tested positive for cocaine during routine screening in connection with his guilty plea to two misdemeanor tax charges in October.

Yesterday, Barry held a news conference as he was being discharged from Howard University Hospital but would not discuss the drug test. During his two-day hospital stay, he was treated for diabetes and hypertension, said his doctor, Robert H. Williams, who appeared at Barry's side. The 69-year-old former mayor and civil rights leader is also a cancer survivor.

When asked whether Barry's condition was affected by the presence of any illegal drugs, Williams said: "I know nothing about that. I've told you what we treated him for, and that is a fact. We treated him for those two conditions and those conditions only."

Barry, wearing a black overcoat and a fedora, looked vibrant. He said he was in good spirits. "My lawyer has instructed me or anybody else not to have any comments on anything outside my medical situation," Barry said.

Regarding his medical treatment, he said: "I didn't wish these things on me. I find it very disturbing that a person can't have simple medical procedures without you all sensationalizing it. People suffer every day. I empathize with them."

The drug test that Barry failed was required as a part of a pre-sentencing investigation, said two sources familiar with the case. Now he is undergoing voluntary drug testing as part of his private treatment to help establish that he is making an effort to stay drug free, said the sources, who asked not to be named because the case is pending.

For many in the city yesterday, their first reaction was to wish Barry luck in his continuing struggles with drugs.

"If the reports are true, my heart goes out to Marion," Mayor Anthony A. Williams (D) said in a statement. "I hope he is able to get the help he needs and to take care of his health."

One Ward 8 leader said that should be a higher priority than his council work.

"He cannot help people in Ward 8 until he helps himself. That should be his number one priority," said longtime activist Phillip Pannell, who suggested Barry take a leave of absence from the D.C. Council. "He needs to be away from politics, away from the phone and staff, and deal with his health situation."

Others, however, said Barry has been productive in the last year, advocating for the city's poorest ward.

"He's in the mix," said Arrington Dixon, a former member of the D.C. Council who lives and works in Ward 8. "That's what we want him to be."

But regulars at Players Lounge, one of Barry's favorite haunts, said the former mayor often drinks there, even though he has admitted to abusing alcohol in the past.

Barry's tax case involved his failure to pay most of his federal and D.C. income taxes for six years after his fourth term as mayor ended in January 1999. Prosecutors said he received more than $530,000 in income over the six years but did not document most of it.

Richard A. Houck Jr., chief of the U.S. probation office in the District, said yesterday that he could not discuss specifics of Barry's case. He said it's clear, however, because of Barry's guilty plea to tax charges Oct. 28, that the probation office would -- and did -- conduct a routine pre-sentencing investigation of his situation.

In such investigations, defendants awaiting sentencing are automatically screened for seven drugs, including marijuana and cocaine, according to the office's protocol, and defendants generally are asked to submit to the testing immediately or shortly after their first court appearance.

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"Mr. Barry was not singled out," Houck said. "This is our routine . . . . The whole pre-sentence process is about us determining the circumstances of an individual -- their past, their present."

Cocaine typically remains in a person's urine and can be detected in standard drug tests for 48 to 72 hours after use, according to screening experts. If a defendant fails a drug test, the probation office's pre-sentencing report will include that information. The report is confidentially shared with the judge and lawyers several weeks before the sentencing hearing. But the probation office does not typically request additional tests.

"In this kind of case, we are not supervising an individual," he said. "We are investigating him."

In Barry's case, prosecutors could choose to scrap a plea agreement on the tax charges because a failed drug test could be viewed as a breach of the agreement. But unless there's a pattern of continuing drug use, it is unusual in such cases for prosecutors to do so.

U.S. Magistrate Judge Deborah A. Robinson has discretion in deciding whether Barry's infraction merits jail time or other sanctions at sentencing. Houck said some defendants who have failed a drug test were ordered to undergo drug treatment and prove their progress through subsequent testing. If the drug use continued, some have faced additional jail time or more restrictions.

Many of Barry's Ward 8 constituents said the latest revelation about drug use sent the wrong message to young people whom he has long championed.

Hannah Hawkins, who runs the Children of Mine after-school program, said she addressed some teenagers in her program who suggested that the former mayor might have been set up.

"He knew what he was doing was wrong," she said she told them. "He let the youth down. Very few people, especially in Ward 8, have been loved and respected by our youth as much as he has."

The few council colleagues who agreed to talk about Barry's situation used the vocabulary of addiction and recovery.

"If it's true, I look at it as a message for those who are struggling with their own demons and have spouses or loved ones in the same situation," said council member Jim Graham (D-Ward 1), who has had his own struggles with drinking. He said that Jan. 30 will mark his 29th year of being sober.

"Even after many, many relapses, the fact that he is in treatment is a good thing," Graham said. "I'm not making excuses for him. He will be judged by others."

If Barry is incarcerated, he would not have to give up his council seat and could even introduce legislation from his jail cell, but he could not cast council votes, according to D.C. Council rules.

Barry would have to relinquish his council seat only if convicted of a felony, said Charlotte Brookins-Hudson, the council's general counsel. Barry pleaded guilty to a misdemeanor tax charge.

Marion Barry's Decision (WP)

The Washington Post, January 12, 2006

IF CITIZEN JOHN DOE failed a drug test ordered by a court after he pleaded guilty to misdemeanor tax charges, there is little likelihood that the matter would be up for discussion on this page. But when the case involves a public official who has sworn to uphold the law, the issue becomes a matter of public concern. The case takes on even greater significance when the official has a history of run-ins with the law, including a record of illegal drug use. Such is the case with D.C. Council member and former mayor Marion Barry (D), who, as The Post reported yesterday, tested positive for cocaine use in a court-ordered drug test after his tax case plea in the fall.

It's likely that news of Mr. Barry's failed drug test has provoked a collective groan throughout a city that over the years has been forced to live through episode after episode of the four-term mayor's personal troubles. The District, however, has managed to survive Mr. Barry's behavior in the past, and the city can be expected to do so again. The more important question has to do with Mr. Barry himself. Already scheduled to be sentenced for failing to file tax returns, Mr. Barry is now looking at the possibility of going to jail for the maximum 18 months because he failed the terms of his release on the tax charges. Regardless of whether he serves time or receives some other court-ordered sanction, two larger questions are on the table: Can Marion Barry overcome

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the demons within that drive his self-destructive behavior? Is he up to the job of representing the residents of Ward 8 on the D.C. Council?

If, as has been reported, Mr. Barry has started treatment for drug use, that is an important step -- though one he has taken before, with much fanfare. If the council member successfully completes treatment and remains drug-free, he, and the city, will be better for it. In the meantime, the Ward 8 constituents who sent him to the D.C. Council are without the effective representation they deserve. That, of course, has been the problem that has plagued the nation's capital during Marion Barry's 30-year political career: His scrapes and infractions with the law have drawn him -- as they continue to draw him -- away from the demands of his public office.

Mr. Barry regards himself as a survivor and a person who, at 69, is still up to the rigors of public service. But this latest bout with the law and drugs -- and the unresolved questions of his future -- ought to lead Mr. Barry to consider the interests of Ward 8 and the city and to ask himself if the time has come to finish his course as a public servant. We know that personal considerations probably weigh heavily in the balance. However, Marion Barry, in our view, needs less time in the public limelight so he can devote more attention to the problems of Marion Barry. He has the opportunity to step aside so that others may step up to the task of public service. He should take it.

POLICE BLOTTER (FLJOURNAL)

By Marjory Raymer

The Flint Journal, January 12, 2006

FLINT - Ten people were arrested in drug raids on three homes Sunday as part of a special initiative paid for through a federal grant.

Police searched east-side homes at 1277 Broadway Ave., 1610 Bennett Ave. and 3009 Dakota Ave. with warrants after drug buys at the homes, according to a news release from Flint Police Chief Gary Hagler.

Police seized $1,866 in cash, $1,000 worth of cocaine, $150 worth of marijuana, $100 worth of heroin and $100 worth of ecstasy in the raids.

The 10 arrested face a total of 13 felony and 19 misdemeanor charges.

The sweep by the force's Crime Area Target Team and Community Policing was part of the federally funded Weed and Seed Program, which targets blighted areas to reduce crime and promote economic revitalization.

The U.S. Justice Department awarded $225,000 to the United Way for the program on the east side of Flint earlier this year. It was the third such grant.

U.S. Finds California-Mexico Tunnel (CNN)

CNN.com, January 11, 2006

(CNN) -- U.S. border patrol agents investigating a caved-in road discovered a tunnel linking the United States and Mexico, the third such passage found in three years near the San Ysidro, California, crossing, authorities said Wednesday.

Lauren Mack, a spokeswoman for U.S. Immigration and Customs Enforcement agency, said agents found the 35-foot long, 3-foot-by-3-foot tunnel on Monday.

"It's unclear what it was used for, but inside we found trash and other evidence indicating people had been inside recently," Mack said.

That evidence has given investigators good leads, she added.

The tunnel -- which Mack described as "primitive" -- surfaced in U.S. territory in a strip of land between the border fence and a public parking lot. It's just west of the San Ysidro port of entry into the United States, one of the busiest land border posts in the world, she said.

A longer, more sophisticated tunnel was discovered in the same area in 2003, when a man was spotted lifting bales of marijuana from it and loading them into a pickup, Mack said. A tunnel found in 2004 was a link to the sophisticated underground passage, she added.

Tightened border security since the September 11, 2001, attacks is the likely cause for an increase in U.S. to Mexico tunneling, Mack said. At least 15 tunnels have been found in California and Arizona since 9/11, she said.

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"We've now got a dedicated tunnel task force, which works with the [Drug Enforcement Administration] and border patrol to proactively look for tunnels," Mack explained.

Another Suspension For Skeleton Team (NYT)

By Lynn Zinser And Bill Pennington

The New York Times, January 11, 2006

The top competitor on the United States men's skeleton team, Zach Lund, was suspended yesterday after testing positive for a masking agent at a World Cup event last month in Europe.

Also yesterday, a New York Supreme Court judge declined to overturn the suspension of the United States skeleton coach, Tim Nardiello.

The international skeleton federation suspended Lund pending the outcome of an investigation by the United States Anti-Doping Agency.

Jim Shea Sr., president of the United States Bobsled and Skeleton Federation, confirmed that Lund, who holds the No. 1 ranking in the world, tested positive for using Propecia, an anti-baldness drug.

"It's on the banned list; no question, he screwed up," Shea said in a telephone interview. "He lost his spot on the World Cup team, and it's possible he won't be able to go to the Games. On a personal level, it's so sad. He's worked so hard to get here. I know Zach Lund, and I know Zach Lund is not a cheat."

Lund, 27, was preparing for a World Cup competition in Germany yesterday and could not be reached for comment. His father, Mac Lund, said in a telephone interview from his home in Salt Lake City that his son had been using an anti-baldness product for several years.

"Zach began taking a hair restorer product, pro something, I don't remember the exact name, about six years ago," Mac Lund said. "I don't know whether he still takes it or if he stopped."

Propecia has been listed as a prohibited substance by both the United States and international anti-doping agencies for more than a year because it can act as a masking agent for steroids. Propecia contains finasteride, which is also banned as a masking agent. In some studies, finasteride has been found to prevent the detection of certain steroids like nandrolone and testosterone.

Last October, the Canadian bobsledder Giulio Zardo was suspended for two years for refusing to submit to a drug test. Zardo had quit the Canadian team despite being an Olympic gold-medal contender after a drug sample he gave in March 2005 tested positive for finasteride, according to a report in The Toronto Star. Zardo said he had been taking Propecia since 2000 for hair loss.

It is not yet clear whether Lund's positive test, which was administered by the international federation after a competition in December, has been forwarded to the United States Anti-Doping Agency, which generally adjudicates positive tests by American athletes.

Lund had previously disclosed taking Propecia on his drug-testing profile, but it is unclear whether Lund's previously declared use of the anti-balding drug sufficiently explains the positive test, or how harsh his penalty would be if he was found guilty of its use. Any lengthy suspension would rule Lund out of the Olympics, which begin Feb. 10 in Turin, Italy. U.S.A.D.A. officials declined to comment on the case yesterday.

The United States Olympic team for Turin has been hit by a string of incidents that could leave it depleted. The figure skater Michelle Kwan has pulled out of the national championships and would need to petition for a place on that team, and Bode Miller, the country's top skier, is in trouble with his federation for comments he made about alcohol use.

Lund has been a vocal supporter of Nardiello since his suspension was announced Dec. 31. Yesterday, New York Supreme Court Judge James Dawson upheld that suspension, which came in the wake of sexual harassment accusations by several athletes. Nardiello had hoped for an injunction that would allow him to rejoin the skeleton team for this weekend's World Cup event in Königssee, Germany, but Dawson ruled that Nardiello must instead follow the procedures set forth in the bobsled and skeleton federation's handbook, which call for an internal hearing or binding arbitration.

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Dan Goodwin, vice president and counsel for the federation, said Nardiello's lawyer, James Brooks, and federation representatives had tentatively scheduled the arbitration hearing for Monday and Tuesday. The sides must first agree on an independent arbiter.

"We're on a fast track, expediency is important," Goodwin said. "Still, we must be sensitive to make sure it's fair for everybody, not just the coach but for those making the complaints. Arbitration is the right forum. We will be putting out all the facts and evidence."

Alan Howard, a lawyer for the federation, said yesterday that there were multiple complaints against Nardiello and that those who had made accusations were being invited to attend the hearing.

Brooks ruled out an appeal of Dawson's decision.

Skeleton Racer Lund Suspended After Dope Test (REU)

Reuters, January 12, 2006

LONDON (Reuters) - America's skeleton world number one Zach Lund has been suspended by the International Bobsleigh and Tobogganing Federation (FIBT) pending an investigation into a positive drugs test at a World Cup event last month.

"He has been suspended pending the completion of an investigation by the appropriate agencies in the U.S., namely the U.S. Anti-Doping Agency (USADA) which is a sanctioned entity of WADA (World Anti-Doping Agency)," FIBT media officer Donald Krone said on Wednesday.

Lund, 26, tested positive for anti-baldness drug Propecia, which is on the banned list because it can act as a masking agent. He could now miss the Winter Olympics in Turin, starting on February 10.

"It's on the banned list -- no question he screwed up," U.S. Bobsled and Skeleton Federation President Jim Shea Sr., told the New York Times.

"He has lost his spot on the World Cup team and it's possible he won't be able to go to the Games.

"On a personal level, it's so sad. He's worked so hard to get here. I know Zach Lund, and I know Zach Lund is not a cheat."

Lund's father Mac told the newspaper his son had started using an anti-baldness product about six years ago.

Suspended Racer Optimistic (NYT/AP)

By The Associated Press

The New York Times, January 12, 2006

One day after he was suspended for testing positive for a masking agent at a World Cup event, Zach Lund, the top slider on the United States skeleton team, expressed optimism about his chances of being reinstated for the Olympics.

"I have all the hope in the world," Lund said yesterday. "Until they tell me I'm not going, I'm going to believe I'm going to the Olympics. I know I'm an Olympian."

The Winter Olympics begin Feb. 10 in Turin, Italy.

The United States Bobsled and Skeleton Federation confirmed that Lund, who is ranked No. 1 in the world, tested positive for using Propecia, an anti-baldness drug. Propecia contains finasteride, which is also banned as a masking agent.

Lund said he had taken hair-restoration products since 1999 and had always declared them on his medical forms. The United States federation granted him a Therapeutic Use Exemption, which provides a way for athletes to use some banned medications.

"For anyone to think he's using this to mask anything is ridiculous," the skeleton coach, Tim Nardiello, said. "Zach is the best skeleton slider in the world right now, and it would be a crime for anyone to think this of him."

Nardiello has run into problems himself after several female athletes accused him of sexual harassment. He has been placed on paid administrative leave, and on Tuesday a New York State Supreme Court judge refused to reinstate him.

Lund received a letter from the International Bobsleigh and Skeleton Federation provisionally suspending him until a hearing Jan. 20 or Jan. 23.

Yesterday, Lund said his lawyer, Howard Jacobs, was encouraged after meeting with officials from the United States Anti-Doping Agency.

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2 Men Schemed To Drive Black Family Out Of Home, Indictment Says (REU)

By Niraj Warikoo

Reuters, January 12, 2006

DETROIT - Two Taylor, Mich., men - angry that an African-American family moved onto their block - hatched a plot to drive them out by burning down their house, said federal officials in an indictment released Wednesday.

In detail reminiscent of the Jim Crow era, the federal filing describes how at least two white men conspired to terrorize a Downriver family simply because of their race.

One night in July 2002, the two men, Wayland Mullins and Michael Richardson, gathered at the home of Mullins' mother in Taylor. Across from that home, the Doster family had recently purchased a house.

The two white men plotted that night to burn down the Doster's house "in order to frighten them and prevent them from moving into their new home," the indictment reads.

The men are charged with violating the Doster's civil and housing rights because of their race. They also are charged with conspiring to lie to investigators about their role in the hate crime, and the use of a fire in committing a felony. Each of the four counts carries a maximum sentence of 10 years in prison and a $250,000 fine.

The men "were seeking to keep minorities out of their neighborhood by the most violent means available," said U.S. Attorney Stephen Murphy, the top law enforcement officials in southeastern Michigan. "We have poured as many resources as we can in this particular case to try to rectify that."

After an upswing in hate crimes over the past year, Murphy has said he wants to crack down on bias crimes in metro Detroit.

The Doster family put up with years of racial harassment in their home, including racially charged graffiti, the arson and insults. Fed up with the abuse, Reginald Doster, a computer administrator, moved out in August 2005 along with his wife and daughter.

After the two suspects held their meeting on July 28, 2002, they, along with some other unidentified men, walked over to the Doster home. Then, "they broke a window at the back of the house, poured gasoline into the home, and ignited the gasoline, causing fire and smoke damage to the house," says the indictment.

In ensuing months, the two men lied to Taylor police and the FBI, say federal prosecutors. At one point, Richardson tried to finger an innocent man in the arson. Richardson is currently serving a four-year sentence in prison for misleading investigators in the arson. His attorney, James Gerometta, a federal public defender, could not be reached for comment Wednesday.

In the spring and summer of 2004, Richardson told agents he would try to secretly record conversations between himself and Mullins that would make Mullins guilty. But Richardson then told Mullins he was wearing a transmitter so that he wouldn't say anything that would get him charged, the indictment says.

Mullins could not be reached Wednesday. It is unclear whether Mullins has an attorney, Murphy said. He is scheduled to appear in court Friday.

More men may be involved in the arson, Murphy said, so federal agents are still investigating the case.

Dearborn Heights Drug Bust (WXYZ-TV)

By Glenda Lewis

WXYZ-TV, ABC 7, Detroit, January 11, 2006

Wednesday, 5 men were arrested after the ATF and local law enforcement officials set up a sting to catch them robbing a pharmacy.

Michigan Pharmacy was previously robbed of $15,000 worth on controlled substances.

ATF agent Vera Fedorak, who participated in the sting, said "Obviously it's a concern for the community, ATF and the local law enforcement."

The robber came into the Dearborn Heights pharmacy with what he said was a bomb. ATF agents and local law enforcement were on the premise, with one posing as the store owner. They were able to apprehend one man at the pharmacy and also 4 others.

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Michigan Pharmacy owner Khalid Saad said he was glad to help ATF agents catch the men who had been robbing his store.

The drug sting may result in federal charges.

Wilcox Sentenced To Federal Prison (CLEVEDB)

By GREG KAYLOR, Banner Staff Writer

Cleveland (TN) Daily Banner, January 11, 2006

A Polk County man who plead guilty last October to possessing an explosive device has been sentenced to 5 1/2 years in a federal prison by a federal judge.

U.S. District Court Judge Curtis L. Collier sentenced Danny M. Wilcox, 39, of Reliance, late last week, according to Carl Maskew, Bradley County Sheriff's Office liaison with the Bureau of Alcohol, Tobacco and Firearms.

Wilcox is one of three people arrested and charged with the crime.

Wilcox and his alleged accomplice, Glenda Cross, 41, took part in assembling the device that investigators learned was to be used in a murder plot against the ex-husband of Cross.

"BCSO's Criminal Investigations Unit received a tip on Nov. 5, 2004 of a possible explosive device at a residence in the Dalton Pike Trailer Park," said Bob Gault, media relations officer for BCSO.

When deputies checked the residence, an "improvised explosive device" was found, Gault added. Officials set up a perimeter around the trailer park and evacuated more than a dozen residences within close proximity of the device.

Two bomb squad officers from the Cleveland Police Department and ATF agents removed the device and detonated it in a nearby field.

"Investigation revealed a plot to use the device against Cross' former husband, leading to her arrest and that of Jerry L Adams, 38, for attempted first-degree murder, conspiracy to commit first-degree murder, and possession of a prohibited weapon," said Gault.

Adams plead guilty in state court to conspiracy to commit second-degree murder and possession of an explosive. He is serving an eight-year sentence at the Tennessee Department of Corrections, noted Gault.

Cross is due back in Bradley County Criminal Court for a March 6 hearing.

n CPD TeleServe Officer Tom Castello filed a report for the owner of a local car wash concerning the theft of change.

According to the report filed Monday, Barry Massengill stated someone had removed money from several computerized cash machines at his North Lee Highway business.

The incident was believed to have been occurring during late December, until Sunday.

No sign of forced entry was noted, according to the report.

The Criminal Investigations Division is in charge of the investigation.

IMMIGRATION:

12 Indicted In Alien Smuggling (WT)

By Jerry Seper

The Washington Times, January 12, 2006

Three suspected ringleaders of two major alien-smuggling organizations and nine accomplices have been indicted by a Texas federal grand jury on charges of trucking more than 600 illegals from the El Paso area to Dallas and beyond during the past two years.

All but three of the gang members were taken into custody this week by U.S. Immigration and Customs Enforcement (ICE) agents, assisted by the U.S. Border Patrol. Two of the gang members were identified in indictments unsealed Friday, and another is in La Tuna Federal Correctional Institution on a previous alien-smuggling conviction.

"These unscrupulous smugglers operate ruthlessly and with no regard for the human beings whose lives they endanger," said ICE special agent in charge Kyle Hutchins, who heads the agency's El Paso field office. "During this investigation, our

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special agents encountered various groups with 35 to 79 people crammed in trailers for the nonstop nine-hour trip to Dallas from El Paso with no food and limited water.

"The only way to enter or exit the trailers was through trailer doors, which were sometimes padlocked," Mr. Hutchins said.

The gang members were identified as residents of El Paso County and Dallas. The arrests culminated a two-year undercover investigation.

ICE spokesman Dean Boyd said Mike Price, 53, his wife, Fabiola del Carmen Moguel de Price, 39, and Sam Jarvis, 52, headed two separate organizations that generated more than $1.6 million in smuggling fees between March 2003 and October 2005.

He said Mr. Jarvis and the Prices, all of Socorro, Texas, originally worked together, but the Prices left the Jarvis organization in 2003 to establish their own alien-smuggling enterprise.

Mr. Boyd said one of the smuggling loads intercepted included 28 illegal aliens that Ronald Dean Anglin, 54, a co-leader of the Price organization, attempted to sneak past a Border Patrol checkpoint near Sierra Blanca, Texas. The aliens were concealed in a large plywood box covered with a blue tarp on top of a flatbed trailer, he said.

Mr. Jarvis purportedly offered drivers of 18-wheel rigs $300 for each illegal alien they concealed and hauled to the Dallas area in their trailers.

Mr. Boyd said the two gangs smuggled Brazilians, Colombians, Hondurans, Salvadorans, Guatemalans, Nicaraguans, Ecuadoreans and Mexicans. Depending on the nationality, he said, the gangs charged each alien between $1,500 and $6,000 to be smuggled into the United States and later brought to Arizona, Colorado, Oklahoma, Illinois, Florida and New York.

Both organizations housed the aliens in "drop houses" throughout El Paso County after smuggling them into the United States from Ciudad Juarez, Mexico, Mr. Boyd said.

He said Mr. Price, his wife and Mr. Jarvis were charged with conspiracy to smuggle aliens.

Ex-Embassy Driver Admits Smuggling Aliens (FINDLAW/AP)

AP, January 12, 2006

(AP) - ALEXANDRIA, Va.-A former driver for the Saudi Embassy in Washington pleaded guilty Tuesday to smuggling aliens into the United States.

Mohamed Abdel Wahab Yakoub, 61, admitted he used Saudi Embassy letterhead to obtain diplomatic visas from U.S. embassies for several Egyptians and Filipinos.

Yakoub, an Egyptian, faces up to 10 years in prison when he is sentenced in April on a single count of smuggling aliens. He will be subject to deportation after the sentencing.

Yakoub sold visas for $5,000 to $7,000. Court documents indicate he helped at least six illegal aliens gain entry to the U.S. in 2000 and 2001. He was fired by the Saudi embassy in 2002.

The Joint Terrorism Task Force, which helped investigate, said it had no indication the scheme had any connection to terrorism.

TAX:

Ex-county GOP Chairman Pleads Guilty To Tax Evasion (CHASGAZ)

By Tom Searls, Staff writer

Charleston Gazette, January 12, 2006

A former Kanawha County Republican chairman has agreed to plead guilty to tax evasion by using some of his employees' withholdings to pay for his wife's Mercedes-Benz.

Steven L. Miller admitted in an information filed by Assistant U.S. Attorney Hunter P. Smith Jr. that he "evaded and defeated approximately $38,000 of the federal personal income taxes, trust fund taxes and Trust Fund Recovery Penalties due and owing by him" to the federal government.

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Miller had apparently withheld federal taxes and trust fund money from employees' pay, placing it in a separate bank account at the Putnam County Bank, but never passed it on to the federal government.

- advertisement -

Internal Revenue Service agents led the investigation of Miller from 1999 through 2000. The IRS has been aggressive in investigating such cases because employees may not qualify for Social Security, Medicare or unemployment benefits if taxes that have been withheld from their pay are never remitted to the federal government.

Miller also owed unpaid personal income taxes.

A federal information usually indicates a defendant is cooperating with investigating authorities. The information against Miller was filed Wednesday.

IRS agents found that Miller tried to hide his personal income, as well as not paying the employees' payments prior to paying other creditors. In November 1999, he received a payment from a client and deposited it in a Colorado bank under the name of his wife.

Later that month, four checks totaling $3,500 were written to Miller from that account, while later that month a check for $10,500 from the Colorado account was deposited in Miller's personal account at the Putnam County Bank.

In December 1999, Miller wrote a check for $7,000 from the Putnam County account to his son. In 2000 he wrote a check from the Putnam trust account for $1,300 to make a payment on his wife's 1994 Mercedes. Then in October 2000, the information shows, he used some of the funds to pay a loan secured by his wife's car at another bank.

Miller was a candidate for U.S. attorney for the Southern District of West Virginia in the early 1980s. His ex-wife, Peggy Miller, was Kanawha County clerk.

It was uncertain when Miller, who was a resident of South Charleston, will be sentenced or if he is continuing to practice law.

Another accused tax evader, Charleston resident Carl Kennedy, is scheduled to be sentenced today in federal court for similar charges.

Wife Of Indicted NYPD Detective Pleads Not Guilty To Tax Charge (NSDY/AP)

By Ken Ritter, Associated Press Writer

Long Island Newsday, January 12, 2006

LAS VEGAS -- The wife of a former New York police detective accused of working as a mob hit man pleaded not guilty Wednesday to three charges of filing a false income tax return.

Frances Eppolito was ordered released without bond and was appointed a federal public defender pending a trial set for March 13. She told U.S. Magistrate Judge Lawrence R. Leavitt she had been arrested earlier in the day in Las Vegas.

Family members who attended the brief arraignment at the U.S. District Courthouse in Las Vegas declined to comment.

Eppolito and her husband, Louis Eppolito, were named in a three-count felony indictment handed up Tuesday. Each is accused of filing false federal income tax returns for $127,386 in income in 2000, $8,654 in income in 2001 and a net loss of $1,297 in 2002.

The defendants had substantial income "from screenplay writing business activity," the indictment said.

Each could face up to three years in federal prison and a $100,000 fine if convicted on each count, Internal Revenue Service spokeswoman Mercedes Manzur said.

A spokeswoman for U.S. Attorney Daniel Bogden said she had no immediate information about whether Louis Eppolito had been arrested or ordered to surrender on the charges.

He was free on bond living in the New York area, where he is awaiting trial next month on charges that he and his former detective partner, Stephen Caracappa, accepted thousands of dollars to work for the mob while they were still in the New York Police Department.

Both men have pleaded not guilty.

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The former partners were arrested last March in Las Vegas, where they lived across the street from each other since retiring in the early 1990s. Authorities have accused the detectives of using their access to police information to give mob associates the names of confidential informants. Each faces up to life in prison if convicted.

Eppolito is the author of a 1992 autobiography, "Mafia Cop: The Story of an Honest Cop Whose Family Was the Mob." The son, grandson and nephew of Mafia members described his family background, a decorated police career and what he called false charges of Mafia involvement.

CONGRESS-ADMINISTRATION:

Democrats Sharply Question Alito (REU-Y2)

By Thomas Ferraro And Joanne Kenen

Reuters, January 12, 2006

Senators critical of the Bush administration aggressively questioned Supreme Court nominee Samuel Alito on Wednesday. His wife briefly left the confirmation hearing in tears.

In the third day of hearings, Democratic senators accused Alito of being evasive on issues ranging from abortion to presidential powers to past membership in a conservative alumni group at prestigious Princeton University.

South Carolina Republican Sen. Lindsey Graham (news, bio, voting record) told Alito: "I am sorry that you've had to go through this. I am sorry that your family has had to sit here and listen to this."

While Alito appears headed for confirmation by the full Republican-led Senate later this month, several Democrats made clear that after a relatively gentle start of proceedings on Monday and Tuesday, they were waging an election-year fight.

Alito, pressed repeatedly about his membership two decades ago in the alumni group that opposed efforts to admit more women and minorities to the university, said, "I'm not any kind of a bigot."

"I believe you," Graham said.

At one point, Alito's wife, Martha-Ann, was crying in the crowded hearing room and then left. She returned about an hour later and sat behind her husband.

President George W. Bush has nominated Alito, 55, a federal appeals judge the past 15 years, to replace retiring Justice Sandra Day O'Connor, often the swing vote on abortion and other social issues on the nine-member court.

Sen. Richard Durbin (news, bio, voting record), an Illinois Democrat, began the day's Senate Judiciary Committee hearing, saying he was troubled Alito had not disavowed a 1985 memo in which he wrote that "the Constitution does not protect a right to an abortion."

"I'm concerned that many people will leave this hearing with a question as to whether or not you could be the deciding vote that would eliminate the legality of abortion," he said.

OPEN MIND

Alito, who wrote the memo as a Reagan administration attorney two decades ago, has not said how he would rule if abortion came before him on the high court. But the nominee reaffirmed his vow to keep an open mind and respect legal precedent and noted the landmark 1973 decision that legalized abortion had been upheld repeatedly.

Sen. Charles Schumer (news, bio, voting record), a New York Democrat, said, "Judge Alito has responded, but he has not answered."

Sen. Patrick Leahy (news, bio, voting record) of Vermont, the committee's top Democrat, said Democrats were also troubled by what they saw as inconsistencies in many of Alito's answers.

Alito listed membership in the since-disbanded alumni group, Concerned Alumni of Princeton, or CAP, in a 1985 application for a job in the Reagan administration. He told the panel he had no recollection of any involvement with the group.

Sen. Edward Kennedy (news, bio, voting record), a Massachusetts Democrat, quoted a 1983 essay, "In Defense of Elitism," from the alumni group's magazine that read, in part: "People nowadays just don't seem to know their place. Everywhere one turns, blacks and Hispanics are demanding jobs simply because they're black and Hispanic."

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Alito, a member since 1990 of the 3rd U.S. Circuit Court of Appeals, denounced the essay as offensive and said he did not know the group had promoted such positions.

Kennedy told reporters later, "It's extraordinary to me that this nominee can remember all 67 of his dissents in great detail -- in great, great, detail and he still is mystified about his association about a CAP organization that he used as a job reference."

Nerves Fray At Alito Hearing Democrats Turn Up Heat On Supreme Court Nominee (USAT)

By Kathy Kiely

USA Today, January 12, 2006

WASHINGTON — The third day of Supreme Court nominee Samuel Alito's confirmation hearings took a contentious turn Wednesday as Democrats grilled him about his ethics and membership in a controversial Princeton alumni group.

Alito's wife, Martha-Ann, walked out of the hearing room in tears as Sen. Lindsey Graham, R-S.C., apologized to an unflappable Alito for the Democratic challenges.

"Judge Alito, I am sorry that you've had to go through this," Graham said. "I am sorry that your family has had to sit here and listen to this."

Martha-Ann Alito returned to the room later.

Several Republicans predicted confirmation for Alito, a judge on the 3rd U.S. Circuit Court of Appeals. "You're going to serve as an outstanding justice," said Sen. Sam Brownback, R-Kan.

The incident with Alito's wife followed hours of questions from Sens. Edward Kennedy, D-Mass., and Russ Feingold, D-Wis., about a decision by Alito not to recuse himself from a 2002 case involving Vanguard, which held his investments.

Alito called the suggestion that the case would have affected his mutual funds "preposterous."

Another recurring theme was Alito's involvement in Concerned Alumni of Princeton, a group whose membership he touted on a 1985 job application that asked him to demonstrate his "philosophical commitment" to Reagan administration policies. Some members of the group, formed in 1972 just after Princeton went coed, suggested that the university had lowered academic standards to admit women and minorities. Alito graduated in 1972.

Kennedy expressed incredulity at Alito's repeated assertions that he does not remember belonging to the group. Alito said he doesn't share some members' views on women and minorities. "I disavow them; I deplore them," he said.

For the third day, abortion was a prime topic. Alito has been tapped to succeed retiring Justice Sandra Day O'Connor, a swing vote on abortion and other issues.

Alito called the high court's 1973 decision in Roe v. Wade, which made abortion legal nationwide, "a precedent that's entitled to respect," but he wouldn't say whether he still believes "the Constitution does not protect a right to an abortion," as he wrote in 1985.

The Republican Majority for Choice, a group that supports abortion rights, announced its opposition to Alito.

Judiciary Chairman Arlen Specter, R-Pa., a member of that group, has not said how he'll vote on Alito.

An Intense Experience For Family Members, Too (NYT)

By Neil A. Lewis

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - While the nominee at a confirmation hearing at least gets to respond to criticisms, his family members and supporters are obliged to sit stiffly and stoically behind him as a backdrop for the cameras.

Many nominees and their family members have described the experience as excruciating, and Martha-Ann Alito is not likely to disagree.

On Wednesday, more than eight hours after the hearing was called to order, Mrs. Alito began to weep when a supportive senator, Lindsey Graham, a South Carolina Republican, was questioning her husband, who was seated a few feet in front of her.

Mr. Graham was making the point that criticisms of Judge Alito's integrity were unfair, and he chose to do so by posing mock-accusatory questions intended to demonstrate how implausible the claims were.

Judge Alito had explained his failure to recuse himself from a case involving a mutual fund in which he had an interest because of an oversight and said that the issue was of no consequence to his holdings.

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"I am baffled as to why you would make a conscious decision in this situation not to recuse yourself," Mr. Graham demanded. "Do you have an explanation?"

"There's no reason why I would make such a conscious decision," Judge Alito replied. "I had nothing whatsoever to gain by participating in this case, and nobody has suggested that I did."

When Mr. Graham asked him in the same fashion, "Are you really a closet bigot?" - because of his membership in a Princeton alumni group that opposed the university's affirmative action program - Judge Alito said he was "not any kind of bigot," to which Mr. Graham agreed.

At that point, Mrs. Alito began to sniffle audibly. She hurried to a corner of the hearing room, then went into an anteroom, where she sobbed for a few minutes. She later returned to the hearing room.

Democrats Target Alito's Credibility (WSJ)

By Jeanne Cummings

The Wall Street Journal, January 12, 2006

WASHINGTON -- The Democratic strategy to derail Judge Samuel Alito's Supreme Court appointment is centered on raising doubts about the nominee's credibility and persuading senators he would curb or end abortion rights.

In three days before the Senate Judiciary Committee, Judge Alito's straightforward testimony has served as a strong counter to their campaign. But the Third U.S. Circuit Court of Appeals judge has declined to amend his 1985 assertion that the Constitution doesn't protect the right to an abortion, helping Democrats make some headway on the issue.

Democrats may have lost points, however, when Judge Alito's wife, Martha, left the hearing room in tears after Republican Sen. Lindsey Graham of South Carolina apologized for the treatment of her husband. She later returned. Alito supporters sent emails about the incident, blaming Democrats for going too far.

During his testimony, Judge Alito declined to endorse Chief Justice John Roberts's testimony that Roe v. Wade, the 1973 abortion-rights case, is a settled precedent of the Supreme Court. Judge Alito told senators that he wasn't sure what Chief Justice Roberts meant by the word "settled."

Yesterday, the Republican Majority for Choice, an organization of Republicans who support abortion rights, said it "regrettably" will oppose the nomination. "Judge Alito seems by all measures to be an experienced and capable jurist, but one who is out of step with mainstream Americans on the issue of abortion and maintaining the legal right to choose," the group said in a statement.

Four Republican senators, including Judiciary Committee Chairman Arlen Specter of Pennsylvania, serve on the group's advisory board, but won't necessarily take its position when deciding how to vote on the nomination. The others are Rhode Island's Lincoln Chafee and Maine's Olympia Snowe and Susan Collins, who have all expressed reservations about Judge Alito's nomination.

Democrats, who hold 44 Senate seats and often count Vermont Independent James Jeffords among their ranks, aren't talking about a filibuster, for now. That decision will be made after the hearings, aides said. Even without a filibuster, Judge Alito may face a tight floor vote if three or four Republicans oppose him because of his stance on abortion.

Democrats fear that Judge Alito would move the court to the right because he would succeed departing Justice Sandra Day O'Connor, a conservative on many issues who sometimes tilted left as the swing vote on discrimination, abortion and civil-rights cases.

To make their case, Democrats must poke holes in Judge Alito's testimony and argue that senators shouldn't trust his assurances that if confirmed, he wouldn't pursue a conservative agenda. On civil and disability rights, Democrats have highlighted cases in which Judge Alito ruled on the side of government or business -- claiming that is his pattern. But Judge Alito's 15-year tenure on the appeals court allows him to call attention to cases where he instead sided with the complainant.

The Democrats' two-phase strategy during the hearings involves first asking questions to establish Judge Alito's position and then pursuing a line of questions challenging it. Yesterday Sen. Edward Kennedy (D., Mass.) followed this template when probing Judge Alito's membership in the Concerned Alumni of Princeton, a group opposed to integration of the campus. Citing a timeline that showed Princeton alumni were sent two letters highlighting the group's work, Sen. Kennedy challenged Judge Alito's

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testimony that he joined the organization one year later, unaware of one of its missions: opposing enrollment of women, blacks and homosexuals.

Judge Alito said he doesn't remember why he joined in 1985, but he thinks it was because he was troubled by opposition to a Reserve Officers Training Corps office on the Princeton campus. Sen. Kennedy produced a 1985 issue of Concerned Alumni's publication that declared ROTC is "popular" once again. Judge Alito said he recalled the ROTC struggle was continuing. Sen. Kennedy said the nominee's answers don't "add up."

Write to Jeanne Cummings at jeanne.cummings@wsj.com18

Alito Turns Aside Democrats' Criticism (AP)

By David Espo

The Associated Press, January 12, 2006

WASHINGTON — Supreme Court nominee Samuel Alito turned aside Democratic attacks on his judicial record and credibility at contentious confirmation hearings Wednesday that left his wife in tears.

"If I'm confirmed I'll be myself," said Alito, a 15-year veteran of a federal appeals court, named to succeed Justice Sandra Day O'Connor for a swing seat on the high court.

Challenged by Democrats, Alito repeatedly said he had no memory of involvement with the conservative Concerned Alumni of Princeton, though he highlighted his membership in a 1985 job application for the Reagan administration.

He repudiated the opinions expressed in articles in the organization's magazine. "They're not my views ... I deplore them," he said of writing that contained material that was racist, sexist and homophobic.

Under persistent questioning, Alito also declined for a second straight day to say whether he believes, as he did in 1985, that the Constitution contains no right to an abortion. "I don't think it's appropriate for me to speak about issues that could realistically come up" before the courts, he said.

Alito, 55, was unflappable for hours on end in marathon questioning before the Senate Judiciary Committee. But his wife, Martha-Ann Bomgardner, grew emotional near the end of the day and left the hearing room weeping.

"Judge Alito, I'm sorry that you've had to go through this. I am sorry that your family has had to sit here and listen to this," said Sen. Lindsey Graham. A moment earlier, the South Carolina Republican had offered Alito a chance to defend his integrity, asking whether he was a "closet bigot."

"I'm not any kind of bigot, I'm not," said Alito.

"No sir, you're not," Graham agreed.

Alito's wife returned with him following a brief recess.

The nominee commands the support of all 10 Republicans on the Senate Judiciary Committee, and while the Democrats could delay his approval by the panel they cannot block it. His prospects for confirmation by the full Senate are also strong, although Democrats have not ruled out the possibility of a filibuster that could require supporters to post 60 votes in the 100-member chamber.

Still, unlike Chief Justice John Roberts last fall, Alito may draw the opposition of all eight Democrats on the Judiciary panel, and partisan maneuvering was evident Wednesday.

Abortion triggered one incident. Sen. Richard Durbin, who supports abortion rights, told Alito that his 1985 written view on abortion "does not evidence an open mind. It evidences a mind that sadly is closed in some areas."

Sen. Tom Coburn of Oklahoma, saying he wanted to "razz" Durbin, soon noted that the Illinois Democrat had himself changed his mind on abortion. "For 45 years, Senator Durbin was adamantly pro-life, and he wrote multiple, multiple letters expressing that up until 1989," said Republican Coburn.

Later, Sen. Edward M. Kennedy pressed the committee's chairman, Sen. Arlen Specter, R-Pa., to subpoena records at the Library of Congress that might shed light on Alito's membership in the conservative Princeton group.

"If I'm going to be denied that, I'd want to give notice to the chair that you're going to hear it again and again and again and we're going to have votes of this committee again and again and again until we have a resolution," said the Massachusetts Democrat.

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Specter, bristling, said, "I'm not concerned about your threats to have votes again, again and again. And I'm the chairman of this committee. ... And I'm not going to have you run this committee."

The tempest proved short-lived. Specter later announced the committee would have access to the records.

Kennedy questioned Alito sharply about the organization, which drew notice for opposing admission practices that resulted in rising numbers of women and minority students at the Ivy League school.

"If I had received any information at any point regarding any of the matters you referred to ... I would never have had anything to do with it," said Alito, who listed his membership in the group on a 1985 job application for the Reagan administration but now says he does not recall anything about it.

Outside the committee room, Kennedy was scathing.

"He can remember all 67 dissents ... in great details," he said of Alito and his judicial record. "But he can't remember anything about this organization."

Those judicial dissents drew the attention of several Democrats, as did other rulings over the course of Alito's 15-year tenure on the appeals court.

Durbin cited rulings in cases involving a black man accused of murder, a retarded man who had been sexually molested and an injury at a coal work site.

He said that in each case, Alito had made rulings that favored the powerful at the expense of the powerless. "I find this as a recurring pattern, and it raises the question in my mind whether the average person, the dispossessed person, the poor person who finally has their day in court ... are going to be subject to the crushing hand of fate when it comes to your decisions."

Alito defended his rulings one by one, then was offered a chance for a general reply.

He cited a case in which a "high school student had been bullied unmercifully by other students in his school because of their perception of his sexual orientation, been bullied to the point of attempting to commit suicide."

The school board refused a request from the parents to move their child to a different school, but Alito said, "I wrote an opinion upholding their right to have him placed in a safe school in an adjacent municipality."

Underscoring the political significance of the nomination, Durbin had scarcely completed his 20 minutes of questioning when the nominee's supporters circulated written material titled, "A sampling of cases where Alito rules for the `Little Guy.'"

Democrats countered with a document of their own. It accused Republicans of distorting Alito's record by "citing uncontroversial cases with obvious outcomes or by distorting the facts or outcomes of the cases they cite."

Alito's views on abortion were a recurring theme for Democrats.

Sen. Dianne Feinstein, D-Calif., picking up where Durbin had left off, asked Alito why he felt comfortable renouncing 20-year-old statements he had made questioning the principle of one person, one vote, when he wouldn't do the same on Roe v. Wade.

Alito said once again there are cases making their way through the courts on abortion.

Feinstein noted four voting rights cases currently pending that raise questions of whether the principle of one person, one vote has been violated.

"If you're willing to say that you believe one man, one vote is well settled and you agree with it, I have a hard time understanding how you separate out Roe," she said.

Alito Disavows Controversial Group (WP)

By Dale Russakoff

The Washington Post, January 12, 2006

As a Princeton alumnus and professional basketball player, Bill Bradley in 1973 renounced his membership in Concerned Alumni of Princeton, calling it a "right wing" organization that opposed the admission of women and minorities to the school.

Two years later, another distinguished alumnus and future U.S. senator, Bill Frist, co-wrote a report denouncing the group for "grossly inaccurate" attacks on the school's policies and a "narrow ideological perspective" that had done "a disservice to the university."

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Supreme Court nominee Samuel A. Alito Jr.'s membership in this group, which he touted among his conservative credentials in a 1985 application for a political appointment in the Reagan Justice Department, touched off a bruising political battle yesterday during the third day of confirmation hearings.

Sen. Edward M. Kennedy (Mass.) and other Democrats demanded to know why the son of an Italian immigrant would take credit for membership in a "radical" group that opposed increased enrollment of women and minorities, while Republicans and a White House spokesman branded that line of questioning as "pathetic," "scurrilous" and an effort to assign "guilt by association."

The group was founded in 1972 by Princeton alumni who were troubled that the university had recently begun admitting women and who said Princeton had lowered its standards to admit more minorities.

Alito, a 1972 Princeton graduate, testified yesterday that he has no recollection of joining the group, and that he would not have done so if he had known of its writings about women and minorities. "I deplore those statements," he said. "I would never be a member of an organization that took those positions."

He said he assumes he joined only because he supported the return of ROTC to the Princeton campus. As an undergraduate, Alito was a member of Princeton's Army ROTC unit when it was expelled from the campus -- a move that he said "rankled" him because "the attitude seemed to be that the military was a bad institution and that Princeton was too good for the military."

The Army ROTC unit was back on campus by the time Alito wrote his 1985 job application, but he said the Navy and Air Force units were not.

Throughout its existence, the now-defunct group was widely reported in major newspapers and magazines to be against increased admission of minorities and women -- positions advanced in its magazine, fliers and letters to alumni. Republicans released a 1985 newspaper article that said the group also was defending the Army ROTC unit then.

Democrats declared themselves "incredulous" that Alito was unaware of the group's attitudes toward women and minority students, and that his explanations for why he joined the group and mentioned it on an application did not add up. Kennedy read aloud a number of passages from the group's magazine, Prospect, that attacked women, minorities and gays.

One 1983 article, titled "In Defense of Elitism," began: "People nowadays just don't seem to know their place. Everywhere one turns, blacks and Hispanics are demanding jobs simply because they're black and Hispanic. The physically handicapped are trying to gain equal representation in professional sports. And homosexuals are demanding the government vouchsafe them the right to bear children."

Alito said he had never seen the article and called the view in it "antithetical" to his beliefs. Republicans released disclaimers from Prospect saying that all articles reflected the opinions of the authors and were not official positions of Concerned Alumni of Princeton.

White House spokesman Steve Schmitt said Kennedy was "attributing to the judge words he never said or wrote and explicitly repudiates" because the Democrats were "unable to challenge Judge Alito's mastery of the law and his stellar 15-year record on the appellate court."

Sen. Richard J. Durbin (D-Ill.) read aloud the comments of 1975 Princeton graduate Diane Weeks who had worked for Alito when he was U.S. attorney in New Jersey.

"When I saw Concerned Alumni of Princeton on that 1985 job application, I was flabbergasted," Durbin quoted Weeks as saying in the Nation magazine. "I was totally stunned. I couldn't believe it. CAP made it clear to women like me we were not wanted on campus. And he is touting his membership in this group in 1985, 13 years after he graduated? He's not a young man at this point. . . . I'm very troubled by this and if I were in the Senate, I would want some answers."

Alito responded that Weeks was "one of many women whom I hired when I was U.S. attorney. And I think that illustrates my attitude toward equality for women."

In an interview yesterday, Weeks said: "The reason I'm flabbergasted is that from my personal experience with Sam, he does not discriminate against women, minorities or anyone else. He is a merit-based thinker. That's who he is. I cannot understand for the life of me why he would have even associated himself with Concerned Alumni of Princeton."

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At Kennedy's request, and with Alito's blessing, Committee Chairman Arlen Specter (R-Pa.) said the panel will examine the group's records to get "all the facts." The records are in the Library of Congress in the private papers of William Rusher, a former publisher of the National Review magazine. Rusher allowed the New York Times to review the records last year, and the newspaper found no evidence that Alito was active in the organization or was a major donor to it.

Sen. Lindsey O. Graham (R-S.C.) called the attacks on Alito "guilt by association," adding, "I am sorry that your family has had to sit here and listen to this." Alito's wife, Martha, left the room in tears, returning after a break.

Alito's Ties To Controversial Group Probed (LAT)

By Johanna Neuman

The Los Angeles Times, January 12, 2006

WASHINGTON -- In 1972, at the height of one of the most tumultuous times in higher education, a group of Princeton University graduates staged their own form of protest against the changes they saw around them.

As college campuses roiled with demonstrations over the Vietnam War, feminism and free speech, the Concerned Alumni of Princeton -- co-chaired by wealthy alumni from the classes of 1921 and 1930 -- had its own narrower agenda: fighting the admissions policy that opened classroom doors to women and minorities.

Defunct for almost 20 years and largely forgotten, the organization on Wednesday became a central issue in the Supreme Court confirmation hearings of Samuel A. Alito Jr., who graduated from Princeton in 1972.

"I did not join this group . . . because of any attitude toward women or minorities," Alito told the Senate Judiciary Committee. "What bothered me about the Princeton administration . . . was the treatment of ROTC" -- which Alito joined as an undergraduate and which lost its contract with the university during the Vietnam protests.

With senators clamoring for papers that might shed light on Alito's involvement in the group, and reporters rushing to the university to review documents in the school's Seeley G. Mudd Library, the spotlight intensified on the organization whose purpose was to preserve a Princeton of men -- mostly white, mostly wealthy and many conservative.

Last November, the college paper, the Daily Princetonian, noted that in the first issue of Prospect -- the Concerned Alumni of Princeton magazine -- founder Shelby Cullom Davis, then one of the university's largest donors, had written of his Princeton ideal. It was embodied, he wrote, in the alumni he saw at his father's 50th reunion -- "a body of men, relatively homogenous in interests and backgrounds, who had known and liked each other over the years during which they had contributed much in spirit and substance to the greatness of Princeton."

Princeton began admitting women as undergraduates in 1969, when Alito was a sophomore. In a fundraising letter a few years later, according to research by the liberal group People for the American Way, Concerned Alumni of Princeton urged "a more traditional undergraduate population" and a quota that would keep number of female students at 1,000 out of 4,400.

"A student population of approximately 40 percent women and minorities will largely vitiate the alumni body of the future," said the letter.

Defenders of the organization argue that it has been misrepresented in the mainstream media and on liberal blogs, part of a smear campaign against Alito.

"It's a huge diversion and a bit of a desperation tactic," said Dinesh D'Souza, who edited Prospect in 1984 and is now a conservative scholar at Stanford University's Hoover Institution. "It was a conservative organization well within mainstream conservative thought. There was nothing extreme or racist. It attacked racial preferences. It never did take a position against cohabitation."

Still, the organization left a string of sound bites that liberal critics seized on Wednesday to portray the group -- and, by extension, Alito -- as insensitive to a generation of gains by women and minorities.

"Coeducation has ruined the mystique and camaraderies that used to exist," T. Harding Jones, a classmate of Alito's and the first editor of Prospect, told The New York Times in 1974.

William A. Rusher, one of the group's original board members and a former editor of the conservative magazine National Review, talked about Concerned Alumni of Princeton on Wednesday in a question-and-answer session on the magazine's Web site.

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The organization, he said, was "concerned over various liberal tendencies that had developed in the Princeton administration." He added, "I will always remember fondly the Princeton I knew, and regret what has happened to it."

He quoted a colleague approvingly as saying that Princeton, known to its graduates as Old Nassau, had become "just another liberal joint."

The Democrats' Last Roar, By Way Of Princeton (WP)

By Dana Milbank

The Washington Post, January 12, 2006

It looked to be a second dreary day in the confirmation hearings of Supreme Court pick Samuel Alito, as the senators droned and the nominee dodged. Then, just before lunch, the old lion roared.

Actually, it started as a growl. The gray-maned Sen. Edward M. Kennedy (D-Mass.) read quotations published by a conservative Princeton group to which Alito belonged, protesting that blacks, Hispanics and women "don't know their place" and suggesting medical experiments for gay Princeton students.

Paying no heed to Alito's anxious insistence that he was not active in the group, Kennedy then pounced on Judiciary Committee Chairman Arlen Specter (R-Pa.). "Mr. Chairman, if I could have your attention, I think we ought to vote on issuing a subpoena" for the group's records, Kennedy said, his voice rising and his face flushing.

Specter, awakened from a reverie by Kennedy's sudden outburst, protested that this was the first he was hearing of the issue and banged his gavel to indicate that it was time to move on. But this only inflamed Kennedy more. "If I'm going to be denied that, I'd want to give notice to the chair that you're going to hear it again and again and again and we're going to have votes of this committee again and again and again until we have a resolution."

Specter, now fully appreciating the ambush, hollered back. "Well, Senator Kennedy, I'm not concerned about your threats to have votes again, again and again," he admonished. "And I'm not going to have you run this committee." He banged the gavel again.

The hearing room was transformed. The nominee's wife, Martha Ann Alito, sighed. Alito's White House handler, Dan Coats, started working his BlackBerry. The reporters began tapping on their keyboards. Kennedy took a sip of water, flashed a tight smile at Alito, then a broader smile in the direction of the photographers in the pit.

Thus did Democrats take their last stand against Alito. It had become clear that the committee, with unified GOP support, would clear the judge. Surveying the various lines of attack against Alito -- his opposition to abortion, his support for a powerful president, his conflict-of-interest issues -- Democrats concluded that their best hope was in Alito's membership in a group opposed to gains by women and minorities. Clarence Thomas had Anita Hill. Alito would have the Concerned Alumni of Princeton.

Whatever the charge's merits, it drew blood.

As several more Democrats joined Kennedy's assault -- Sen. Joseph R. Biden Jr. (Del.) donned a Princeton baseball cap for the occasion -- Alito's replies grew more frantic. "I disavow them. I deplore them. They represent things that I have always stood against and I can't express too strongly," he told Sen. Lindsey O. Graham (R-S.C.).

"If you don't mind the suspicious nature that I have, it's that you may be saying that because you want to get on the Supreme Court, that you're disavowing this now because it doesn't look too good," said Graham, trying to help Alito. "I'm going to be very honest with you," Graham continued. "Are you really a closet bigot?"

Alito's ears turned scarlet. "I'm not any kind of bigot," he said, emotionally. "I'm not." Behind him, Martha Alito had had enough. She stood up, tissue in hand, and rushed to the back of the room, where Capitol Police whisked away the tearful woman. She didn't return for an hour.

The day started well enough for Alito. Sen. Orrin G. Hatch (Utah) continued to lob such softballs -- "Did you go out of your way to rule against workers?" -- that even his GOP colleagues had to smile. The nominee earned chuckles for joking that if court sessions were televised, "our Nielsen numbers would be in the negative."

But Kennedy ended the grins. "I've testified to everything that I can recall," the now-testy nominee said.

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Kennedy, participating in his 23rd Supreme Court confirmation, started a schoolyard brawl with the committee chairman, demanding a subpoena of the Princeton documents.

"You and I see each other all the time and you have never mentioned it to me," Specter protested.

Kennedy said he had sent a letter making the request.

"We actually didn't get a letter," the chairman said.

"You did get a letter."

"Now, wait a minute: You don't know what I got."

"Yes, I do, Senator, since I sent it."

The longtime legislators continued to bicker until Specter erupted: "I take umbrage at your telling me what I received. I don't mind your telling me what you mailed. But there's a big difference between what's mailed and what's received. And you know that."

The great postal debate proved moot after lunch, when Specter announced that the custodian of the Princeton papers would turn them over without a subpoena. He scolded Kennedy for starting a "tussle." "Senator Kennedy and I frequent the gym at the same time and talk all the time, and he never mentioned it to me," he said.

Kennedy was no longer the lion: "I regret I haven't been down in the gym since before Christmas," he explained. "So I missed you."

Senators Show Claws At Hearing, Sling Zingers (WT)

By Charles Hurt

The Washington Times, January 12, 2006

The Alito confirmation hearings had been a largely placid affair, but things got downright personal yesterday between members of the Senate Judiciary Committee.

Sen. Tom Coburn, Oklahoma Republican, accused Democrat Whip Richard J. Durbin of Illinois of hypocrisy while panel chairman Arlen Specter and Sen. Edward M. Kennedy fell out over mail delivery.

With senators coming and going, Mr. Specter, Pennsylvania Republican, instituted a rule that no more comments could be made about another member unless that member was there to defend himself. At one point, a visibly distraught Martha Alito, who had sat behind her husband through the entire hearings excused herself from the room to regain her composure.

The brouhaha came after many observers had decided that Democrats had been neutered during the first two days, mastering the art of softball pitches. The Washington Post had called the sessions "a most tender roast of Alito."

Not yesterday.

The sharpest exchange came after Mr. Kennedy accused Mr. Specter of lying about whether he had gotten a letter requesting more information from the Library of Congress that Mr. Kennedy said would shed light on Judge Samuel A. Alito Jr.'s membership in Concerned Alumni of Princeton.

"We actually didn't get a letter," Mr. Specter said.

"You did get a letter," interrupted the Massachusetts Democrat.

Then Mr. Kennedy tried invoking a parliamentary challenge to Mr. Specter, the chairman nearly snapped his little wooden gavel as he called the meeting back to order.

"If I'm going to be denied that, I'd want to give notice to the chair that you're going to hear it again and again and again and we're going to have votes of this committee again and again and again until we have a resolution," Mr. Kennedy said.

A testy Mr. Specter snapped back: "I'm not concerned about your threats to have votes again, again and again. And I'm the chairman of this committee. ... And I'm not going to have you run this committee."

But Mr. Specter's staff was later able to get the records Mr. Kennedy wanted without issuing a subpoena.

The most personal exchange came after Mr. Durbin took up the matter of abortion with the nominee.

He told Judge Alito that he could not support a nominee who would not uphold the Supreme Court precedents that guarantee the federal right to abortion. He then quizzed the nominee about the 1985 job application essay he wrote in which he said there was no basis for abortion rights in the Constitution.

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When it was Mr. Coburn's turn to question the nominee, he turned the spotlight to Mr. Durbin.

"For 45 years, Senator Durbin was adamantly pro-life and he wrote multiple, multiple letters expressing that up until 1989," he said. Today, "he is a very strong advocate for the abortion stance and a free right to choose."

All the while, a Coburn staffer held aloft a large blue placard of a blown-up letter by Mr. Durbin when he was in the House.

"Thank you very much for taking the time to express your opposition to abortion," Mr. Durbin wrote in 1989. "I believe we should end abortion on demand, and at every opportunity I have translated this belief into votes in the House of Representatives."

Mr. Durbin, who had left the hearing room by the time Mr. Coburn's turn to speak had come, issued a statement explaining his change of position on the matter.

"Senator Durbin reconsidered his position on abortion after meeting with victims of rape and incest and weighing the implications of making all abortions illegal," spokesman Joe Shoemaker said. "Senator Durbin has always been forthright about his thinking on the subject and has made his position clear to the voters over the course of more than 12 elections. In contrast, Judge Alito has not made clear whether or not he still stands by his 1985 job applications to the Reagan Justice Department."

Alito Accused Of Racism (WT)

By Charles Hurt

The Washington Times, January 12, 2006

Democrats on the Senate Judiciary Committee yesterday raised the volume of their objections to the Supreme Court nomination of Judge Samuel A. Alito Jr. by grilling him over his ties to a Princeton alumni group that they called racist and misogynist.

They also accused Judge Alito of always ruling against "the little guy" and of evading their questions on abortion and such other hot-button issues as his membership in Concerned Alumni of Princeton, which opposed the admission of women to the all-male school.

"Explanations about the membership in this sort of radical group and why you listed it on your job application are extremely troubling," said Sen. Edward M. Kennedy, Massachusetts Democrat. "And, in fact, I don't think that they add up."

Mr. Kennedy demanded during yesterday's hearing that records about the group be subpoenaed, and panel chairman Arlen Specter secured access to the documents during yesterday's lunch break. By yesterday afternoon, staffers for Democrats and Republicans were going through the records at the Library of Congress, a task expected to be finished by this morning.

Republicans dismissed the dust-up -- the most dramatic exchange in three days of hearings -- as a desperate, last-ditch effort by Democrats to stop certain confirmation of Judge Alito.

"Your critics are, I think, grasping at any straw to tarnish your record," said Sen. Charles E. Grassley, Iowa Republican.

"It's kind of like we're in the fourth quarter of a football game, and you're the quarterback," he said. "Your team is way ahead here in the fourth quarter, and opponents are very desperate, keep trying to sack you and aren't doing a very good job of it."

But it did get to Judge Alito's wife, Martha, who sat directly behind him.

Sen. Lindsey Graham, South Carolina Republican, questioned the nominee about his association with the alumni group in an effort to portray Democratic accusations as ridiculous.

"Are you really a closet bigot?" he asked.

"I am not any kind of bigot. I'm not," Judge Alito replied.

"No, sir, you're not," agreed Mr. Graham. "You seem to be a decent, honorable man."

During the exchange, Mrs. Alito left the hearing room in tears. She later returned to her seat and resumed her constant smile for the rest of the day.

"Graham's statement brought out some long-held emotions about how he was being characterized," former Indiana Sen. Dan Coats, who is assisting the Bush administration on the nomination, told reporters later. "Her emotions just caught up with her after 21/2 days of hearing her husband's record mischaracterized."

Several Democrats made it clear yesterday that after a placid first two days, they were waging an election-year fight.

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Sen. Charles E. Schumer, New York Democrat, expressed frustration with Judge Alito's answers on abortion, in which the nominee said he could not commit to voting one way or another and had to keep an "open mind" on issues that might appear before the court.

"Judge Alito has responded, but he has not answered," Mr. Schumer complained.

Democrats also said they didn't believe Judge Alito's "open mind" reassurance on abortion, which he gave Tuesday.

Sen. Richard J. Durbin, Illinois Democrat, said the judge's past statements, including a 1985 job application letter in the Reagan administration, reveal "a mind that sadly is closed in some instances."

Much of the Democratic questioning yesterday suggested that Judge Alito was unwilling to give the "little guy" a fair shake in the courtroom.

"I find this as a recurring pattern," Mr. Durbin said. "It raises the question in my mind whether the average person, the dispossessed person, the poor person who finally has their day in court ... are going to be subject to the crushing hand of fate when it comes to your decisions."

Judge Alito, who was an earnest student throughout school, disagreed and discussed one case in which he ruled against schoolyard bullies.

"This was a case in which a high school student had been bullied unmercifully by other students in his school because of their perception of his sexual orientation," the judge told senators. "He'd been bullied to the point of attempting to commit suicide."

After the school board tried blocking the parents' attempts to move him to a different public school, Judge Alito sided with the family.

But Mr. Kennedy led the inquisition on the Concerned Alumni of Princeton.

In a 1985 job application for a position in the Reagan administration, Judge Alito noted his membership in the group, which published a magazine, and was founded by alumni upset that the previously all-male university had admitted women.

Judge Alito's "affiliation with an organization that fought the admission of women into Princeton calls into question his appreciation for the need for full equality in this country," Mr. Kennedy said in a statement he distributed with copies of articles from the group's publication.

"People nowadays just don't seem to know their place," author H.W. Crocker III wrote in a 1983 issue of the magazine. "Everywhere one turns blacks and hispanics are demanding jobs simply because they're black and hispanic, the physically handicapped are trying to gain equal representation in professional sports, and homosexuals are demanding that government vouchsafe them the right to bear children."

Judge Alito rebuked the sentiments and said he had no recollection of the group. He said that he must have joined because he was in the Reserve Officer Training Corps, and the group also opposed the expulsion of Princeton's ROTC program from campus during the anti-war years of the 1960s and 1970s.

Conservative activists, meanwhile, were eager to point out that Mr. Kennedy was on shaky ground accusing the nominee of associating with people opposed to the inclusion of women in private institutions.

The eight-term senator belonged to an all-male social club -- the Owl -- at Harvard University. The Owl refused to admit women until it was forced to do so during the 1980s, according to records kept by the Harvard Crimson, the student newspaper.

A Kennedy spokeswoman said it was an entirely different matter.

"No one can question Senator Kennedy's commitment to equality, justice and civil rights," said Laura Capps. "What he was part of was a social club, not a radical group pushing a radical agenda."

Anyway, she said, even though women were admitted to the university during Mr. Kennedy's tenure, they weren't fully integrated to the campus until much later.

Democrats Press Alito On Conservative Background (LAW)

By T.r. Goldman, Legal Times

Legal Times, January 12, 2006

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Democrats pushed and prodded Samuel Alito Jr. on Wednesday, the second full day of questioning the Supreme Court nominee, trying to find holes in his explanation for his membership in a conservative Princeton alumni group and to pin down his views on the constitutionality of abortion.

For the most part, Alito stood them down and, in his cautious monotone, provided the same answers he did the day before to the 18 members of the Senate Judiciary Committee.

The panel's eight Democrats tried their hardest to elicit more comprehensive answers from Alito, who has spent the past 15 years as a judge on the 3rd U.S. Circuit Court of Appeals.

From their perspective, Sen. Charles Schumer, D-N.Y., scored a victory of sorts in the controversy over Alito's disputed membership in the Concerned Alumni of Princeton University, a body Alito described as a "conservative alumni group" in his now-infamous 1985 application to the Justice Department's Office of Legal Counsel.

The group, founded in the early 1970s, had publicly bemoaned the fact that Princeton University was admitting too many minorities and women. The group's magazine had also published several inflammatory articles.

"Everywhere one turns, blacks and Hispanics are demanding jobs simply because they're black and Hispanic," read an excerpt from one article that Massachusetts Democrat Sen. Edward Kennedy had blown up into an exhibit for the hearings.

"Did you read this article?" Kennedy asked Alito.

"I disagree with all of that," responded Alito, raising his modulated tone for perhaps the first time. "I would never endorse that. I never have endorsed that. If I thought that's what the organization stood for, I never would have joined."

Alito repeated the claim he had made the day before, that he had "racked his brain" and could not remember why he had joined the group. The best explanation he could offer, he said, was his displeasure at the university's attitude toward ROTC, which had been banned at one point but had returned to the campus before Alito graduated in 1972. Alito had been a member of an ROTC unit.

Toward the end of the day Wednesday, however, Schumer was able to elicit a bit more satisfying explanation for Democrats.

Said Schumer: "You somehow plucked this group, which you now say you somehow have no recollection. Why that group? Why was it plucked out and put on the application?"

Answered Alito: "You have to look at the question I was responding to. What I was trying to outline were things relevant to obtaining a political position."

It was the first time Alito had conceded to what many considered obvious: his need to show the Department of Justice, then under the highly conservative influence of Attorney General Edwin Meese, that his conservative bona fides were in order.

"That was the answer he should have started with," said Illinois Democrat Sen. Richard Durbin, after the hearing had ended for the day. "It helps some. I just wish he hadn't gone through this tortuous process to get us there."

Indeed, the pressure evidently got to Alito's wife, Martha-Ann Bomgardner, who at one point late in the day left the hearing room in tears after Sen. Lindsey Graham, R-S.C., publicly apologized to the family because they had to endure what he termed the often baseless allegations that accompany a Supreme Court nomination process. "The emotions caught up with her after two-and-a-half tense days," said former Sen. Daniel Coates, R-Ind., who has been charged with shepherding Alito through the nomination process. She later returned to the room.

Earlier in the day, Durbin, the first Democrat to question Alito on Wednesday, asked him why he could assert the constitutionality of Brown v. Board of Education, which struck down racially enforced school segregation, and Griswold v. Connecticut, which established the right to marital privacy, but not the right to an abortion.

The Brown decision, said Alito, was based on the 14th Amendment, while Griswold was based on that amendment's due process clause, and, he added, that particular holding "is not likely to come before the 3rd Circuit [and] not likely to come before the Supreme Court."

Abortion issues, he said, are involved in litigation "at all levels."

As he did on Tuesday, Alito acknowledged that a comment on the same 1985 job application -- that he was "particularly proud" of his contributions to cases in the solicitor general's office which argued that the "constitution does not protect a right to an abortion" -- was an accurate statement 20 years ago.

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"The things that I said in the 1985 memo were a true expression of my views at the time from my vantage point as an attorney in the solicitor general's office. But that was 20 years ago, and a great deal has happened in the case law since then," Alito said.

Alito once again refused to say what his opinion on the matter is today, although he repeated his promise to follow the pattern he laid out in Tuesday's testimony: Once he'd viewed the case through the lens of stare decisis, he would approach the case "the way I approach every legal issue ... and that is to approach it with an open mind and to go through the whole judicial process."

Kennedy's questioning of Alito on his membership in the Princeton alumni group led to a brief but heated argument between Judiciary Chairman Arlen Specter, R-Pa., and Kennedy, who said he'd sent Specter a letter asking the committee to subpoena the group's records from William Rusher, a former leader of the Princeton alumni association.

"We're entitled to this information," said Kennedy, who said he had mailed Specter the request some weeks earlier and could not understand why Specter had not responded to it. "I take umbrage at your telling me what I received," said Specter, somewhat sharply. "There's a big difference in what's mailed and what's received... . We're in the middle of a round of hearings. This is the first time you have personally called it to my attention, and I will consider it in due course," Specter added, before slamming the gavel down and continuing the proceedings.

It was later determined that Rusher's papers had been donated to the Library of Congress but that no member of the Judiciary Committee had yet asked to look at them. By early afternoon committee staffers were already at the library reviewing the documents. A report in The New York Times last November concluded that Alito, as he had testified earlier, had played no major role in the group.

Alito Leaves Door Open To Reversing 'Roe' (WP)

By Amy Goldstein And Charles Babington

The Washington Post, January 12, 2006

The once-sluggish confirmation hearings for Supreme Court nominee Samuel A. Alito Jr. turned confrontational yesterday, as the nominee signaled he might be willing to revisit the ruling that legalized abortion nationwide and Democrats pummeled him over his membership in an alumni group that wanted to restrict enrollment of women and minorities.

Tempers flared openly between the Senate Judiciary Committee's Republican chairman and eldest Democrat, and the nominee's wife fled the marbled hearing room in tears before the day ended with Republicans predicting that Alito will win confirmation, although by a slim margin.

Throughout the day's more than seven hours of questioning, Democratic senators regularly accused Alito of giving incomplete, inconsistent answers. Republicans accused Democrats of being unfair. At one point, Sen. Jon Kyl (R-Ariz.) complained after Sen. Edward M. Kennedy (D-Mass.) read aloud magazine excerpts published in the 1980s by Concerned Alumni of Princeton and espousing views Kyl branded as "very scurrilous."

The drama of the hearings' third day nearly overshadowed the significance of the position Alito staked out on the landmark abortion case, Roe v. Wade . Senators also branched into new territory: Alito's record from 15 years on the Court of Appeals for the 3rd Circuit on cases involving religion, immigrants seeking to prevent deportation, and criminals' rights.

Alito edged closer to suggesting that he might be willing to reconsider Roe if he is confirmed to the high court, refusing, under persistent questioning by Democrats, to say that he regards the 1973 decision as "settled law" that "can't be reexamined." In this way, his answers departed notably from those that Chief Justice John G. Roberts Jr. gave when asked similar questions during his confirmation hearings four months ago.

Yesterday, Alito said that Roe must be treated with respect because it has been reaffirmed by the high court several times in the past three decades.

But when Sen. Richard J. Durbin (D-Ill.) peppered Alito with questions about whether the ruling is "the settled law of the land," the nominee responded: "If 'settled' means that it can't be reexamined, then that's one thing. If 'settled' means that it is a precedent that is entitled to respect . . . then it is a precedent that is protected, entitled to respect under the doctrine of stare decisis." Stare decisis is a legal principle that, in Latin, means "to stand by that which is decided."

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During Roberts's confirmation hearings, he, too, was reluctant to disclose how he would vote if asked to overturn Roe . But during the 2003 hearing on his nomination to the Court of Appeals for the D.C. Circuit, he had said he viewed the ruling as settled law.

And during Roberts's hearings to become the nation's chief justice, Judiciary Committee Chairman Arlen Specter (R-Pa.) had asked, "Do you mean settled for you, settled only for your capacity as a circuit judge or settled beyond that?" Roberts replied: "Well, beyond that, it's settled as a precedent of the court."

After his exchange with Alito yesterday, Durbin told reporters: "Sam Alito would not use those same words. It really, I'm afraid, leaves open the possibility that we are considering the nomination of a justice who will change 30 years of law in this country, a dramatic change to the American society."

Sen. Tom Coburn (R-Okla.) suggested that Durbin is ill-suited to challenge Alito's views on abortion because Durbin once opposed abortion rights and changed his mind.

Alito told several senators that he felt constrained from saying whether he regards Roe as settled because abortion remains a live issue in the courts. Sen. Charles E. Schumer (D-N.Y.) reminded Alito that he has willingly said other areas of the law were settled even though they remain in play and that, in a 1985 application for a promotion in the Reagan administration's Justice Department, he had written he did not believe the Constitution protects the right to an abortion.

"It was one sentence," Alito replied. "And it certainly is not an attempt to set out a comprehensive view on the subject."

The day's most sizzling exchanges involved Alito's assertion, in the same job application, that he had belonged to Concerned Alumni of Princeton, a group that at that time had rallied conservatives and drawn considerable public notice.

Alito told the committee he does not remember joining the now-defunct group -- founded in 1972, the year he graduated from Princeton University -- and does not know anything about it. Democrats challenged him sharply, wondering aloud if he used the club to impress Reagan conservatives but now wants to distance himself from its outspoken opposition to efforts that brought more women and minorities to Princeton.

The committee's ranking Democrat, Sen. Patrick J. Leahy (Vt.), said Alito's forgetfulness seemed too convenient. "If he didn't know what they stood for, he had to be about the only person in America who didn't know what they stood for," Leahy said.

At midday, Kennedy employed large blue charts showing quotes from articles published in the group's magazine, Prospect. "People nowadays just don't seem to know their place," a November 1983 article said. "Everywhere one turns, blacks and Hispanics are demanding jobs simply because they're black and Hispanic. . . . Homosexuals are demanding the government vouchsafe them the right to bear children. . . . And now come women."

Alito said he had read none of the articles, adding, "I would not have anything to do with statements of that nature."

Kennedy then called on Specter to subpoena records on the alumni group held in the Library of Congress. Noting that the group had received significant press coverage, Kennedy said the records might show Alito was more involved than he has acknowledged.

Kennedy said Specter had ignored his letter to him last month seeking the documents. The chairman retorted that he had never seen it. "I take umbrage at your telling me what I received," he said. When Kennedy persisted, Specter snapped, "I'm not going to have you run this committee."

Their quarrel cooled after Democratic and Republican staff members went to the Library of Congress to review the documents. But emotions rose again in the late afternoon when Alito's wife, Martha, clutching a tissue, raced to the back of the hearing room in tears, then was ushered by security guards through a side door, after debate over the alumni group resumed.

She left during an exchange in which Sen. Lindsey O. Graham (R-S.C.), an Alito supporter, played devil's advocate by summarizing the Democrats' attacks. He asked Alito, "Are you really a closet bigot?"

"I'm not any kind of bigot. I'm not," Alito said.

Graham told Alito he believed him because of "the way you have lived your life and the way you and your wife are raising your children" and, referring to the Democrats' criticisms, said, "I am sorry that your family has had to sit here and listen to this." At that point, Martha Alito rose and left her front-row chair immediately behind her husband, returning about an hour later.

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On other issues, Alito told Sen. Sam Brownback (R-Kan.) that some judges have gone too far in trying to remove religious activities from public life. He cited public school teachers who refused to let children read a short Bible story or display a hand-drawn picture of Jesus. "You have to treat religious speech equally with secular speech," Alito said.

Later, Sen. Herb Kohl (D-Wis.) said that, as an appeals court judge, Alito had seldom sided with immigrants who were trying to win asylum or block deportation. Alito replied that he was following Congress's clear-cut laws on immigration policy.

"My role is not to substitute my judgment for that of the immigration judge," he said. "My job is to say, 'Could a reasonable person have reached the conclusion that the immigration judge did?' "

As Democrats tried to pry loose Alito's views on abortion, a group supporting abortion rights, Republican Majority for Choice, announced it is opposing his nomination. Five GOP senators are on its advisory committee, including Specter.

Asked about the group's stance, Specter, who has said he will not decide how he will vote until after the hearings, said: "I did not participate in their decision."

Alito Demurs When Asked If Roe V. Wade Is Settled Law (KRT)

By Stephen Henderson And James Kuhnhenn

Knight Ridder, January 12, 2006

WASHINGTON - In tense exchanges with Democratic senators Wednesday, Supreme Court nominee Samuel Alito refused to declare that Roe v. Wade is settled law and stopped short of statements that Chief Justice John G. Roberts made before becoming a judge and that he reaffirmed during his confirmation hearings last September.

Alito's reluctance makes it easier for critics to brand him as a justice who could help overturn the 33-year-old ruling, which extended constitutional protection to abortion rights. It could also cost him Democratic support in the Senate, already lower than what Roberts enjoyed.

Roberts won 22 Democratic votes when the Senate confirmed him last September. Alito will almost certainly get fewer, though his Republican support appears solid enough to ensure his confirmation, barring any future stumbles.

Democrats turned more aggressive in questioning Alito on Wednesday, his third day of testimony, zeroing in not only on abortion but also on his membership in the Concerned Alumni of Princeton. Alito listed the conservative group in a 1985 application for promotion while a lawyer in the Reagan administration.

At the insistence of Sen. Edward Kennedy, D-Mass., committee chairman Sen. Arlen Specter, R-Pa., agreed to review Library of Congress papers belonging to William Rusher, a founder of the Concerned Alumni of Princeton and publisher of the National Review, a conservative magazine.

The group formed in 1972 partly in opposition to Princeton's decision to admit women. CAP members have also opposed expanded minority admissions.

Alito testified that he didn't recall when or why he joined the group. He said he rejected the group's views on women and minorities. But he said he shared its support for keeping Reserve Officer Training Corps programs on campus. The New York Times reported in November that a review of Rusher's papers revealed no evidence that Alito played a major role in the organization.

Alito fended off hostile questions with a low-key, unflappable manner, and most Democrats appeared reluctant to force much of a confrontation with him. The most pointed exchanges came when they tried to nail him down on abortion law.

Alito strongly endorsed the idea that judicial precedent merits respect by later courts, and he said several times that Roe v. Wade deserved the "respect" that other precedents get. He also agreed that Casey v. Planned Parenthood, the 1992 Supreme Court ruling that reaffirmed Roe v. Wade, was a precedent entitled to "respect" and that it strengthened Roe's authority.

But when Sen. Richard Durbin, D-Ill., pressed him to go further, Alito demurred, effectively refusing to state that the Supreme Court shouldn't consider overturning Roe.

"Do you believe (Roe v. Wade) is the settled law of the land?" Durbin asked.

"If `settled' means that it can't be re-examined, that's one thing," Alito said. "If `settled' means that it is a precedent that is entitled to respect as stare decisis and all of the factors that I've mentioned come into play, including the reaffirmation and all of that, then it is a precedent that is protected."

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Alito repeated that he was unable to go further because abortion litigation is constantly coming before the court, and it would be inappropriate to commit himself on a question he may have to rule on, should he be confirmed.

Sen. Dianne Feinstein, D-Calif., seized on that line.

"You were willing to give your view on one man, one vote," Feinstein said. "And yet there are four cases pending in the court right now on one man, one vote. I have a hard time understanding how you separate out Roe."

Alito said he didn't think it was appropriate to talk about issues that could come up before the court, explaining that he had no problem talking about cases such as Brown v. Board of Education, the 1954 ruling that outlawed racial segregation in public schools, because a legitimate challenge to desegregated schools was very unlikely to come before the court.

Feinstein said Alito's response troubled her, but she wouldn't say how she would vote on his confirmation.

Ed Gillespie, a former Republican National committee chairman who has been escorting Alito through the Capitol, drew a distinction between a judge accepting Roe as "settled law," which is what Democrats asked Alito to embrace, and "settled precedent," the term Roberts used in his confirmation hearing.

Settled law would be the standard for appellate court judges because they have to apply Supreme Court precedent to lower-court decisions, Gillespie said. He argued that settled precedent would not have the strength of settled law because the Supreme Court justices could still overturn it.

Specter said that while Democrats argued that Alito stopped short of Roberts' characterization of Roe, "I think they're probably pretty close on that."

In what could be a complication for Alito, the Republican Majority for Choice, an organization representing pro-abortion rights Republicans, announced its opposition to Alito on Wednesday.

"The reality is that Judge Alito would not have to vote to overrule Roe in order to be the architect of the denial of a woman's right to choose," the group said. "He could give lip service to respecting Roe while upholding the numerous legislative efforts to chip away at reproductive freedom."

The group's advisory committee includes moderate Republicans Sens. Lincoln Chafee of Rhode Island, Susan Collins and Olympia Snowe of Maine, and Specter.

Specter, chairman of the Judiciary Committee, questioned Alito on abortion and later praised him for his extensive answers. After Wednesday's hearing he said he wasn't party to the group's statement and would reserve judgment on his vote.

The other three senators aren't members of the committee, but are members of a bipartisan "Gang of 14" that could determine whether a Democratic-led filibuster against Alito succeeds.

Snowe, in a statement, said she would fully review Alito's record before deciding whether to support him. Snowe spokeswoman Antonia Ferrier said the Republican Majority for Choice notified Snowe of its stand on Alito.

"Their views don't necessarily reflect hers," Ferrier said. "But she will take them into account."

Graham said he saw no reason why Alito's views would be the kind of "extraordinary circumstance" that the "Gang of 14" has said would be necessary to mount a successful filibuster. Graham is one of the 14.

Sen. Sam Brownback, R-Kan., a panel member who's a staunch abortion opponent, said he was "pretty certain" he would vote for Alito. But, he added, "I'm not happy. I would love for him to be there and say, `Look, I don't think Roe is in the Constitution. And he's obviously not saying that. He's leaving the issue open."

Still, Brownback conceded that any court nominee who opposed Roe outright would be filibustered. "So you're left like this, if he answers Roe either way, he's caught."

Alito Remains Unruffled In Testy Hearings (LAT)

By Maura Reynolds And Richard Simon

The Los Angeles Times, January 12, 2006

WASHINGTON — Senate Democrats turned up the heat on Supreme Court nominee Samuel A. Alito Jr. on Wednesday, prompting testy exchanges during his confirmation hearing and ardent defenses from Republicans — one of which moved Alito's wife to tears.

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As Sen. Lindsey Graham (R-S.C.) defended the nominee against what he said were unfair insinuations about his membership in a conservative alumni organization, Martha Alito began quietly to weep behind him.

As Graham continued with an apology to the family, she left the hearing room to compose herself.

"Judge Alito, I am sorry that you've had to go through this. I am sorry that your family has had to sit here and listen to this," Graham said.

The moment — captured on television although unnoticed by many in the hearing room — capped a day of mounting tension as Democrats grilled Alito on what have become the hearing's two focal issues: his views on abortion and his membership in the now-defunct Concerned Alumni of Princeton.

Alito, 55, sat placidly through it all, repeating — with little apparent irritation — responses that did not placate his critics. But the attacks by Democrats did no apparent damage to Alito among Senate Republicans, most of whom have expressed support for him.

The federal appellate judge seems headed for confirmation by the GOP-controlled Senate unless Democrats mount a filibuster against him — which appears unlikely at the moment.

On his second day of questioning, Alito continued to resist answering whether the Supreme Court's 1973 Roe vs. Wade decision, which legalized abortion nationwide, should be considered "settled law."

On the alumni group, Alito repeatedly insisted that he could not remember joining it and could not explain why he put it on a job application when applying for a promotion within the Justice Department in 1985, when Ronald Reagan was president.

"As I've said, I don't have a recollection of having anything to do" with the group, Alito said. "So all I can say is that I put it down in the '85 form, and therefore I must have been a member at around that time."

Alito, a graduate of Princeton University, listed his membership in the group when asked to provide information about his "philosophical commitment to the policies of [the Reagan] administration."

The group, founded in 1972, was controversial because some of its members publicly opposed Princeton's efforts to increase its numbers of female and minority students. They argued that such efforts could result in the admission of some students who did not meet the school's standards.

Questions about Alito's link to the group moved front and center during Wednesday's hearing in part because it appeared to crystallize for Democrats why they say they can't trust assurances by Alito that, as a high court justice, he would keep an open mind on politically controversial legal disputes.

Giving his take on Alito's mention of the group on his job application, Sen. Richard J. Durbin (D-Ill.) told reporters: "In this situation, Alito was trying to establish his credentials with the Reagan administration. He was providing red meat for the right wing."

Other Democrats on the Judiciary Committee said they were unconvinced that someone of Alito's acumen could have forgotten details about the group.

Sen. Edward M. Kennedy (D-Mass.) complained that in his view, Alito's answers on the issue "don't add up."

Kennedy displayed a series of placards featuring quotes from articles in the group's magazine, Prospect, that disparaged minorities, gays and disabled people. The senator asked Alito whether he endorsed such views.

"I've testified to everything that I can recall relating to this, and I do not recall knowing any of these things" about the organization, Alito said. "And many of the things that you've mentioned are things that I have always stood against."

Alito said he could not recall whether he joined the group when he graduated from the university in 1972 or if he did so later, in the 1980s. He said he believed he could only have become a member for one reason: to fight against any effort to disband the school's ROTC program, in which he had participated as an undergraduate.

The emotional moment involving Martha Alito occurred in the late afternoon, after Graham charged that Democrats were pursuing a strategy of "guilt by association."

"How have you lived your life? Are you a closet bigot?" Graham asked.

"I'm not any kind of a bigot; I'm not," Alito replied calmly.

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Graham began to list people who had praised Alito, including other judges and former colleagues. As he spoke, Martha Alito slowly began to cry. By the time Graham apologized for the strain of the hearings on Alito's family, she was gathering her things to leave the room.

After a few minutes in a back room, Martha Alito returned to the hearing for the rest of the session.

"The pressure of all this, and the insult added to injury, just got to be too much," Sen. John Cornyn (R-Texas) said.

Earlier, the Democratic focus on Concerned Alumni of Princeton prompted one of the day's dust-ups between committee members.

Kennedy asked Sen. Arlen Specter (R-Pa.), the panel's chairman, to subpoena the personal papers of one of the group's founders, which are at the Library of Congress.

"I'd move that the committee go into executive session for the … sole purpose for issuing the subpoena of those records," Kennedy said.

Specter expressed surprise, saying that despite Kennedy's assertion that he had sent him a letter about the documents, this was the first time he was aware of the issue.

"I take umbrage at your telling me what I received," Specter said. "I don't mind your telling me what you mailed. But there's a big difference between what's mailed and what's received."

Kennedy did not back down, telling Specter that if his subpoena request was denied, "You're going to hear it again and again and again, and we're going to have votes of this committee again and again and again until we have a resolution."

Specter snapped back: "I'm not going to have you run this committee and decide when we're going to go into executive session."

In the end, the confrontation over the documents fizzled. During lunch, Senate staff members contacted the group's founder, William A. Rusher, who granted them permission to review the documents. The aides were poring through them late into the evening, searching for mentions of Alito.

As the tone of Democrats' questions grew more caustic Wednesday, Republicans suggested they were acting in desperation.

Sen. Charles E. Grassley (R-Iowa) told Alito: "You're the quarterback and your team is way ahead here. And opponents are very desperate, trying to sack you, and aren't doing a very good job of it. And they haven't hit you all day now — for two days."

He added: "You're going to keep getting these last-minute Hail Marys thrown at you. So just bear with us."

Alito's 1985 job application also figured into the sparring about abortion. In seeking his promotion, which he received, Alito wrote that he disagreed with the Roe vs. Wade decision that abortion rights were protected by the Constitution.

On Tuesday, Alito had said that as a high court justice, he would keep an open mind on the issue. But he resisted efforts by Democrats to get him to agree that the Roe vs. Wade decision was "settled law."

The parrying over that continued Wednesday, with Sen. Dianne Feinstein (D-Calif.) asking: "You do not agree that it is well-settled in court?"

"I think that depends on what one means by the term 'well-settled,' " Alito responded. He then went on to discuss the importance of a judge reviewing all sides in a case.

Feinstein interrupted to note that he had provided more expansive answers on other subjects, including some currently before the Supreme Court.

"I have a hard time understanding why you separate out Roe," she said, and then backtracked.

"I understand why. If you say one thing, you upset my friends and colleagues on [the Republican] side. If you say the other, you upset those of us on this side. But the people are entitled to know."

Alito replied: "I don't think it's appropriate for me to speak about issues that could realistically come up" before the Supreme Court.

"OK, I'll let you off the hook on that one," Feinstein said.

Committee questioning is to continue today, followed by testimony from outside witnesses, including friends and associates of the nominee.

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Democrats Take Aggressive Tack; Alito Is Unfazed (NYT)

By Richard W. Stevenson And Neil A. Lewis

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - Democrats tried with increasing frustration on Wednesday to elicit more specific views from Judge Samuel A. Alito Jr. about abortion and other topics and sought to build a case against his nomination to the Supreme Court by raising questions about his character and consistency.

From the opening moments of the third day of hearings by the Senate Judiciary Committee, Democrats, aware that Judge Alito had made it through the first two days without significant damage to his prospects of confirmation, struck an aggressive tone. [Excerpts, Page A26.]

They challenged him on elements of his record and statements during questioning on Tuesday. And they successfully pressed the panel chairman, Senator Arlen Specter, Republican of Pennsylvania, to obtain records that they said might shed light on the judge's membership in a Princeton alumni group that has been characterized as opposing co-education and affirmative action.

Senator Patrick J. Leahy of Vermont, the ranking Democrat on the committee, started the proceedings by stating that members of his party "have been troubled by what we see as inconsistencies in some of the answers" on subjects including voting rights, presidential power, Judge Alito's failure to recuse himself from a case involving a potential conflict of interest and his involvement with the Princeton alumni group.

Rebutting Judge Alito's statement on Tuesday that he would take to the court an "open mind" on abortion rights, Senator Richard J. Durbin, Democrat of Illinois, said the memorandum that Judge Alito wrote in 1985 stating that he did not believe that there was a constitutional right to abortion "evidences a mind that, sadly, is closed in some areas."

The partisan volleys seemed to sail over or past Judge Alito, who politely but resolutely declined to be drawn out on abortion, executive authority and other issues. He often sat impassively as the committee members debated his qualifications and forthrightness.

"Your critics are, I think, grasping at any straw to tarnish your record, and that's unfortunate," Senator Charles E. Grassley, Republican of Iowa, said.

The Democrats' questions and implications about her husband's record appeared to get to Judge Alito's wife, Martha-Ann. She began crying as Senator Lindsey Graham, Republican of South Carolina, defended her husband's character and rejected any suggestion that his membership in the alumni group made him a bigot, Mrs. Alito retreated to an anteroom, sobbing for some minutes.

"Let me tell you, this guilt by association is going to drive good men and women away from wanting to sit where you're sitting," Mr. Graham said.

Democrats and their aides on the committee said they were resigned to the fact that Judge Alito would win approval on the committee with its 10-member Republican majority. All eight Democrats appear likely to vote against the nomination.

The Democrats' strategy appeared to be aimed at raising questions about the credibility of Judge Alito's explanations about the alumni group and recusal that could be used in the confirmation floor debate.

The most intensive substantive exchanges were again over abortion. Judge Alito repeatedly turned aside efforts by Mr. Durbin and other Democrats to have him to agree that Roe v. Wade, the 1973 Supreme Court decision that established that there is a constitutional right to abortion, was "settled law," a phrase that Chief Justice John G. Roberts Jr. assented to last year in his confirmation hearings.

Judge Alito agreed only with the proposition that Roe was an important precedent that should be given deference like any other precedent relevant to a constitutional dispute.

"It is a precedent that has now been on the books for several decades," Judge Alito said. "It has been challenged. It has been reaffirmed. But it is an issue that is involved in litigation now at all levels."

Mr. Durbin responded that he was "concerned that many people will leave this hearing with a question as to whether or not you could be the deciding vote that would eliminate the legality of abortion, that would make it illegal in this country, would

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criminalize the conduct of women who are seeking to terminate pregnancies for fear of their lives and the doctors who help them."

Overturning Roe would not make abortion illegal but would leave the question in the hands of states.

In a colloquy with Senator Dianne Feinstein, Democrat of California, Judge Alito sought to explain why he agreed to comment on other landmark cases like those that outlawed segregation and guaranteed one-person, one-vote, but would not engage in a discussion of Roe.

Ms. Feinstein asked whether Judge Alito did not agree that Roe "was well settled in court."

He said, "It depends on what one means by the term 'well settled.' "

Ms. Feinstein said that she understood that it was difficult to answer such a sensitive question, "but the people are entitled to know."

Judge Alito said it was reasonable to presume that school desegregation and one-person, one vote were beyond judicial debate, while aspects of the abortion issue continued to come before the courts.

"I don't think it's appropriate for me to speak about issues that could realistically come up." he said. "And my view of Brown v. Board of Education, for example, which was one of the cases that was cited in connection with this issue about where someone in my position should draw the line, seems to me to embody a principle that is now not subject to challenge, not realistically subject to being challenged."

Democrats made another attempt to link Judge Alito to the views of some members of the Concerned Alumni of Princeton, a group that Judge Alito listed being a member of when he applied for a job in the Reagan administration.

Senator Edward M. Kennedy, Democrat of Massachusetts, read from an essay published in 1983 in a magazine put out by the group.

"Everywhere one turns, blacks and Hispanics are demanding jobs simply because they're black and Hispanic, the physically handicapped are trying to gain equal representation in professional sports, and homosexuals are demanding that government vouchsafe them the right to bear children," the essay said, according to Mr. Kennedy.

Mr. Kennedy asked whether Judge Alito had read the essay. Judge Alito responded that he had not, that he had not known at the time that members of the group espoused such views and that the sentiments expressed in the passage read by Mr. Kennedy were antithetical to his.

Mr. Kennedy suggested that Judge Alito had not provided an adequate explanation of why he had joined the group and included it in an application for work in a conservative administration. The senator said that he had questions about "this sort of radical group and why you listed it on your job application" and that Judge Alito's explanations did not "add up."

Mr. Kennedy, seemingly trying to inject some vigor into a lagging effort to defeat the nomination, provoked a confrontation with Mr. Specter by demanding that the chairman take the committee into executive session to subpoena documents about the group in the Library of Congress.

Mr. Specter, annoyed, said he would consider the issue, suggesting that Mr. Kennedy delayed his request to present it at the hearing for dramatic effect. After lunch, Mr. Specter announced an agreement to review the documents and said Democratic and Republican lawyers had gone to the library to study them.

The New York Times previously reviewed the documents, which are in the papers of William A. Rusher, an early leader of the group and a former publisher of National Review. The Times reported in November that the documents and others at Princeton gave no indication that Judge Alito was among the major donors to the group and was not active in it. In an online interview on Wednesday with National Review, Mr. Rusher said he did not remember Judge Alito.

"He certainly was not very heavily involved in CAP, if at all," he said.

Senator Joseph R. Biden Jr., Democrat of Delaware, raised the possibility that Judge Alito had noted his membership as a way to signify his conservative leanings and enhance his chances of being hired.

In later comments to Senator Charles E. Schumer, Democrat of New York, Judge Alito appeared to accept that explanation.

"I was applying for a position in the Reagan administration, and my answers were truthful statements." he said when Mr. Schumer asked why he listed the Princeton group as one of just two groups to which he belonged. "But what I was trying to

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outline were the things that were relevant to obtaining a political position. I mentioned some very minor political contributions. I didn't mention contributions to charitable organizations."

Surprise End Unlikely As Alito Refuses To Take Bait (FT)

By Patti Waldmeir In Washington

Financial Times, January 12, 2006

Some of the most dramatic moments in US Senate history have involved battles over the confirmation of Supreme Court justices – think Robert Bork and Clarence Thomas. But those who were looking for a good, nationally televised political fistfight this week at the confirmation hearings of Judge Samuel Alito have so far been disappointed.

Mr Alito has proved a monochrome, dispassionate and unflappable witness, ignoring insult, slight and political controversy, never taking the bait of those allied against him.

This has made for crushingly tedious political theatre. Even some of the senators seem to be losing interest: when the hearings resumed on Wednesday after lunch, only six out of 18 members of the Senate judiciary committee were present – and one immediately left. It was a heavy blow for the massive press corps: even the political lobbyists in the audience, who had worked so hard to ignite a national culture war over his nomination, were hunched over their Blackberries reading e-mails, or gazing into space.

Mr Alito's performance – which involves answering every question unemotionally and legalistically, no matter how aggressive or passionate the questioner – may not make for high television ratings. But all the signs suggest that the sheer weight of his worthy if tedious performance will eventually crush the opposition.

Wednesday's long grilling by the judiciary committee focused largely on a couple of issues that seem unlikely to derail the nomination: Mr Alito's fleeting membership in a college alumni group that opposed the admission of women and minorities to Princeton University in the 1970s; and his participation in a legal case tangentially involving Vanguard mutual funds, at a time when he held such funds in his investment portfolio.

Ethics experts say Mr Alito was not required to recuse himself from the Vanguard case – although he promised to do so when nominated as a federal judge. Republican lobbyists see Democratic senators' focus on the case as a sign of desperation.

The issue of Mr Alito's membership in Concerned Alumni of Princeton – which he listed on a 1985 job application to the Reagan Justice Department – is more problematic. Mr Alito says he cannot remember joining the group, but that if he did, it would have been because of the group's views on military service, not minorities. And while this explanation did not seem to satisfy many senators, it does not seem the sort of thing to sink a nomination.

Alito Pressed On Precedent, Privacy (CSM)

By Gail Russell Chaddock

The Christian Science Monitor, January 12, 2006

WASHINGTON - Midway through Senate confirmation hearings, Supreme Court nominee Samuel Alito has deftly parried questions on hot-button issues ranging from abortion to the limits of presidential power.

No memorable phrases. No conspicuous stumbles. And - most important - no searing images of what life in "Judge Alito's America" might be like.

To the frustration of anti-Alito groups staking out front seats in the hearing room, Democrats have been slow to get traction on issues critical to their base.

"Too many senators allowed him to be evasive," says Nan Aron, founder of the Alliance for Justice and a leading activist in the 1987 defeat of the nomination of Judge Robert Bork. The anti-Bork campaign turned on a grim depiction of life for women, minorities, and the poor in "Judge Bork's America."

Many Republicans used their rounds of questioning to directly rebut issues raised by Democrats. Senate aides often distribute talking points to challenge a line of argument in real time, as it is being made in the Senate hearing room.

"He is saying as little as he needs to be confirmed and hasn't made many mistakes that trouble a majority of senators whose votes he needs," says Carl Tobias, a professor at the University of Richmond Law School.

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But unlike Chief Justice John Roberts, Mr. Alito did not default to refusing to answer a question because "the issue is likely to come before the Court," he adds. "He has tried to wade in and engage the questions. The answers aren't always as specific as the senators would like, but he can't go too far, either. He'd have to recuse himself."

While many court watchers are predicting a party-line vote in the Senate Judiciary Committee, the 10 Republicans and eight Democrats say they are keeping an open mind.

The most divisive issue - on both sides of the aisle - is the constitutional status of abortion rights. Most Democrats and moderate Republicans, including Senate Judiciary Committee chairman Arlen Specter, support the principles of the 1973 Roe v. Wade decision. As he did in last year's Roberts hearings, Mr. Specter led off with questions on whether Roe v. Wade constituted a "super precedent," because it has been reaffirmed 38 times.

While agreeing that the Constitution protects a right to privacy - a point made by every nominee since Judge Bork - Alito did not agree that it was such settled law that its principles should not be reexamined. "I personally would not get into categorizing precedents as super precedents or 'super-duper' precedents (Specter's signature phrase)," he said.

In a deliberately balanced response, Alito said he agreed "with the underlying thought when a precedent is reaffirmed, that strengthens the precedent," but added that he didn't "want to leave the impressions that stare decisis [following precedent] is an inexorable command because the Supreme Court has said that it is not." He said he would approach the issue with an open mind.

In a signal of divisions within GOP ranks, Sen. Brownback (R) of Kansas, a prospective presidential candidate in 2008, cited all the precedents for the 1896 Plessy v. Ferguson case that legalized racial segregation, later reversed by the historic 1954 Brown v. Board of Education case outlawing segregated schools. But, aware that the issue could provoke a Democratic filibuster, he backed off pressing Alito for further response.

Senators also pressed Alito on the limits of executive powers, especially related to recent controversies over President Bush's authorization of domestic spying by the National Security Administration. He said that no president was above the law, but declined to say whether he thought that the White House exceeded its authority.

He also declined to say whether Bush abused executive powers by using presidential signing statements to override the intent of Congress. He said he would need to know the specifics of the case and go through the judicial process. In February 1986, Alito drafted a memo arguing that presidential signing statements should "assume their rightful place in the interpretation of legislation."

Democrats are also pressing Alito on issues of personal values and ethics.

In the closing rounds of questions, one of the most frequently cited documents is a 1985 job application to the Reagan Justice Department, in which Alito wrote: "I am particularly proud of my contribution in recent cases in which the government has argued in the Supreme Court that racial and ethnic quotas should not be allowed and that the Constitution does not protect a right to an abortion."

From The Left, Calls To Press Alito Harder (NYT)

By Adam Nagourney

The New York Times, January 12, 2006

WASHINGTON, Nov. 11 - Opponents of Judge Samuel A. Alito Jr.'s nomination to the Supreme Court expressed growing frustration Wednesday at the course of his confirmation hearings, saying that Democratic senators were struggling in their effort to build a strong case against him and that his confirmation appeared increasingly inevitable.

Several said they had been particularly distressed after the first day of questioning of Judge Alito by the Senate Judiciary Committee, and had expressed that concern in calls and e-mail messages to Democratic aides on Tuesday. One Democratic aide said the results of that could be seen on Wednesday in the tougher challenges and follow-up questions to Judge Alito, though by day's end, Judge Alito's opponents said he had again largely escaped efforts to force him to answer questions about his views and record.

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"Every answer he gives he gives himself a little out," said Kim Gandy, president of the National Organization for Women. "It's frustrating to me as a lawyer to not be able to say, 'Your Honor, instruct the witness to answer the question.' I've thought several times there is a follow-up question I would ask if I were up there."

Ms. Gandy said Republicans had, to some extent, hamstrung Democrats by creating a public expectation that they would antagonize Judge Alito.

"So I think the Democrats are leaning over backwards to be extremely, very, very nice," she said. "I don't think it's an un-nice thing to ask follow-up questions and really expect the nominee to answer the question."

Nan Aron, president of the Alliance for Justice, a liberal group and a member of the coalition, argued that Americans would turn against Judge Alito if they learned more about his views from the hearings.

"It would be helpful to expose this record more, and to discuss it in terms that are meaningful to most Americans throughout the country," Ms. Aron said. "Our polling shows that once individuals learn about his record, they move into the opposition column. And it seems to me there are certainly some points to score - his record should be sufficient in and of itself to doom his chances."

Opponents of Judge Alito's nomination were decidedly restrained in criticizing their political allies in the Senate, saying they understood the difficulties the Democratic senators faced and that Judge Alito was turning out to be a more adept nominee than they had expected.

Several singled out two senators for posing strong challenges to Judge Alito - Richard J. Durbin of Illinois and Charles E. Schumer of New York - and said Democrats had been particularly effective in putting Judge Alito on the defensive on his assertion that he had no memory of his membership in a Princeton alumni organization that had opposed the recruitment of minorities and women.

But with the clock on the hearings running down, several said the Democrats had not made major progress in trying to tarnish Judge Alito, and that hopes of a filibuster - much less an actual defeat of Judge Alito's nomination - were dimming. By contrast, they said Republicans had been effective in trying to put Democrats on the defensive for being harsh, particularly after television shots showed Judge Alito's wife, Martha-Ann, crying and leaving the hearing room.

Mr. Durbin declined to comment directly Wednesday when asked about criticism by liberal groups of the way Democrats were handling the meeting. But, he said, "I think today was a better day in terms of important questions that were asked and answered. Yesterday laid the groundwork, but today we got down to the critical issues."

There was some debate among activists about whether the problem was a reflection of Judge Alito's skill in deflecting questions or a weakness in the way Democratic senators questioned him. Whichever the case, there was a consensus that so far, at least, Americans did not know as much about Judge Alito as his opponents had hoped they would by this late point.

"There are many more questions and issues that they still need to pursue with him," said Hilary O. Shelton, director of the Washington office of the N.A.A.C.P.

Some opponents of the nomination said that, notwithstanding Judge Alito's skills as a witness, they were pleased by the course of the hearing.

"I honestly think we're at a good stage at this point in the hearings," said Ralph G. Neas, president of the People for the American Way, a liberal advocacy group.

Other Democrats were doubtful.

Even Mr. Durbin, the Democratic whip, held out little hope that Judge Alito would be defeated. Asked if the confirmation was inevitable, he responded, "I don't want to jump to that conclusion at this moment."

Democrats Target Alito, But Miss The Mark (CHIST)

By Robert Novak

Chicago Sun-Times, January 12, 2006

Edward M. Kennedy, the 73-year-old liberal lion of the Senate, did not so much roar as huff and puff Tuesday, as he faced Judge Samuel Alito. He and other Democrats on the Senate Judiciary Committee who had spent weeks preparing for Alito's Supreme Court confirmation hearing seemed to be shooting blanks at President Bush's nominee.

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Kennedy appeared to have lost his fastball in the 19 years since he eviscerated nominee Robert Bork. But Alito is a deceptively more difficult target. While Bork appeared a flamboyant scholar eager to expound his worldview, Alito came over as a cautious lawyer dealing in fine print and footnotes. Republican senators had feared the nominee's uninspiring style would undo him, but they now feel it actually carried the day.

Failure to make a direct hit on Alito suggests a transcendent defeat for the Democratic judicial confirmation strategy crafted by Kennedy. It did not block all conservatives for appellate courts and failed to dissuade Bush from naming conservatives to the Supreme Court. To stop Alito required an auto wreck at this week's hearings, which always was unlikely considering his style.

It was not that Kennedy did not try his best on Tuesday. His legal aide, James Flug (an expert on judicial assassination), had stocked the senator with multiple scripts. But Kennedy seemed bogged down with his material, flitting from one subject to another, without focus. That seemed a generic problem for most Democratic senators. Sen. Joseph Biden spent 11 minutes in the preamble before he got around to his opening question.

Republicans were amused at Democrats stressing Alito's membership in the Concerned Alumni of Princeton because of the organization's alleged fight against admission to the university of women and African Americans. Alito testified he could barely remember his connection with CAP, but said he joined to protest Princeton's expulsion of the ROTC from campus.

What had worried Alito's strategists in advance was a concerted attack on his civil rights decisions that might erode support among moderate Republicans. But Alito's bland, lawyerly style prevailed when Biden raised the 1995 decision on a lawsuit by Barbara Sheridan against the DuPont Co. charging sex discrimination. Alito was outvoted 11-1 when the court ruled in Sheridan's favor. "After listening to Alito," said Republican Sen. Lindsey Graham, "you think the other 11 judges missed the boat."

Alito's dry style encouraged the pretense that the Judiciary Committee Democrats were engaged in a serious inquiry into the nominee's judicial philosophy. Actually, liberal special interest groups demanded a response to this nominee that was more vigorous than the passive opposition to John Roberts as chief justice. As a result, the only Democratic senator who now can be counted on to vote for Alito is Sen. Ben Nelson, running for re-election this year in the very red state of Nebraska.

In this week's hearing, Biden typically did not disguise the political stakes involved in this confirmation process: the conservative Alito replacing Justice Sandra Day O'Connor, a swing voter who usually has swung left. Biden asserted that O'Connor was "the fulcrum on an evenly divided court," so that filling this seat is more important than Roberts replacing Chief Justice William Rehnquist.

Senators Charles Schumer and Dick Durbin, two of the Senate's most partisan Democrats, have tried this week to escalate the intensity level of the hearings by asserting that the burden of proof was on Alito to show that he deserves to be on the Supreme Court. Just how he was supposed to do that was not spelled out. But that extraordinary heightening of the standards of confirmation would relieve the senatorial inquisitors from responsibility for measuring a nominee's fitness.

Schumer, at the end of the committee table in seniority, had to spend the entire day Tuesday watching his colleagues shooting blanks before he got his chance to fire the real thing. Schumer was well prepared, with a senatorial third degree of Alito demanding repeatedly to know whether he believed in a constitutional protection of abortion. That question led off a harsh, carefully scripted interrogation of the nominee. It made Chuck Schumer look mean and nasty, but that hardly derailed Sam Alito.

O'Connor Casts A Long Shadow On The Nominee (NYT)

By Adam Liptak

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - The Constitution does not say what criteria the Senate should use in deciding whether to confirm a Supreme Court nominee.

But at least one clear test has emerged over the first three days of Judge Samuel A. Alito Jr.'s confirmation hearings. This nominee must, it seems, continually refer to and, if at all possible, endorse the views of the woman he aims to replace, Justice Sandra Day O'Connor.

Senators from both parties have frequently used Justice O'Connor's opinions as a basis for questioning Judge Alito. The heavy emphasis on her work is a testament to her disproportionate influence on the court in her 25 years of service, and a reminder of the important role Judge Alito will assume if he is confirmed.

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As two senators noted in their opening statements, Justice O'Connor has cast the decisive vote in almost 150 cases, many of them of great moment.

Whenever the opportunity arose, Judge Alito and his supporters highlighted instances in which he had ruled as she had. He invoked her name on 9 occasions, and he had good things to say about her decisions 10 times. On Tuesday, Senator John Cornyn, Republican of Texas, ticked off areas in which the two judges had agreed.

"Justice O'Connor and Judge Sam Alito both set limits on Congress's commerce power," Mr. Cornyn said. "Sandra Day O'Connor and Sam Alito both struck down affirmative action policies that had strict numerical quotas. And both - this ought to be a shocker to some based on what we've heard here today - is that both Justice Sandra Day O'Connor and Judge Sam Alito have criticized Roe v. Wade."

Democratic senators, on the other hand, worked hard to show that Judge Alito and Justice O'Connor were at odds, particularly in an important abortion case.

In his opening statement, striking a theme that has run through the hearings, Senator Charles E. Schumer, Democrat of New York, asked rhetorically, "Are you in Justice O'Connor's mold or, as the president has vowed, are you in the mold of Justices Scalia and Thomas?"

President Bush has said he would try to appoint justices like Antonin Scalia and Clarence Thomas, the court's two most conservative members.

By Wednesday morning, Senator Tom Coburn, Republican of Oklahoma, had grown frustrated with all the O'Connor talk. "The fact that you have to fit the Sandra Day O'Connor mold is really a misapplication," he said. "There is no precedent that would say that."

Judge Alito said he would be his own person, but not before offering one more tribute. "No nominee can ever be a duplicate of someone who retires," he said, "and particularly when someone retires after such a distinguished career and such a historic career as Justice O'Connor. Nobody can be expected, as a nominee, to fit that mold."

Judge Alito gave no indication, beyond saying he respected precedent and would proceed with an open mind, about whether he would follow the joint opinion Justice O'Connor signed in Planned Parenthood v. Casey, a 1992 decision affirming the constitutional right to abortion found by Roe v. Wade in 1973. Casey was, however, a 6-to-3 decision, and Judge Alito will not be in a position to move the court away from its support of the core right to abortion.

But Justice O'Connor did provide the crucial fifth vote in the court's last major abortion ruling, in 2000, striking down Nebraska's ban on what were called "partial birth" abortions. The court will soon decide whether to hear a challenge to a similar federal law, and in that case Judge Alito could alter the course of the court's abortion jurisprudence.

Judge Alito participated in the Casey decision in 1991 as an appeals court judge, and he seemed a little defensive in explaining his dissenting vote to uphold a Pennsylvania law that required women to notify their husbands before having abortions. The Supreme Court took the opposite view the next year.

All he had been trying to do in his dissent, Judge Alito explained, was to understand what Judge O'Connor had meant in some earlier decisions.

"There were just a few hints in those opinions about what she meant," Judge Alito said. "Based on the information that I had from Justice O'Connor's opinions, it seemed to me that this was not what she had in mind. Now, that turned out not to be a correct prediction."

In another exchange, asked whether he agreed with Justice O'Connor's statement in a 2004 decision that "a state of war is not a blank check for the president when it comes to the rights of the nation's citizens," Judge Alito did not hesitate.

"Absolutely," he said. "That's a very important principle."

In defending his dissent in a 10-to-1 decision of his court in an employment discrimination case, Judge Alito also invoked Justice O'Connor.

"When the issue went to the Supreme Court" in another case, he said, "Justice O'Connor wrote the opinion for the Supreme Court, and she agreed with my analysis."

In 1996, Judge Alito voted in dissent to strike down a law regulating the possession of machine guns, citing United States v. Lopez, a 1995 Supreme Court case that struck down a law banning the possession of handguns near schools.

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Senator Jon Kyl, Republican of Arizona, was quick to note the lineup in the Lopez case. "By the way," Mr. Kyl said, "it was one of those decisions that Justice O'Connor was in the majority, a 5-4 decision in which her position could be characterized as the swing vote."

On Wednesday, Judge Alito said he would follow Justice O'Connor's approach in religion cases.

"Justice O'Connor pointed out something that's very critical in this area," he said. "She said there is a big difference between government speech endorsing religion and private religious speech. And private religious speech can't be discriminated against. It has to be treated equally with secular speech."

From the moment he was nominated in October, Judge Alito has made clear his fondness and admiration for Justice O'Connor. That was based in part, he said in remarks accepting the nomination, on something she had done at his first argument before the Supreme Court in 1982, an occasion that filled him with "a sense of awe."

"I also remember," he said, "the relief that I felt when Justice O'Connor, sensing, I think, that I was a rookie, made sure that the first question that I was asked was a kind one. I was grateful to her on that happy occasion, and I am particularly honored to be nominated for her seat."

Loose Lips Sink . . . (WP)

By Richard Cohen

The Washington Post, January 12, 2006

The only thing standing between Joe Biden and the presidency is his mouth. That, though, is no small matter. It is a Himalayan barrier, a Sahara of a handicap, a summer's day in Death Valley, a winter's night at the pole (either one) -- an endless list of metaphors intended to show you both the immensity of the problem and to illustrate it with the op-ed version of excess. This, alas, is Joe Biden.

The reviews for Biden's first crack at Samuel Alito, the humorless Supreme Court nominee, were murderous. The New York Times had Biden out on Page One -- normally a position to kill for -- only this time it was not a paean to his considerable merits, but an account of how it took him nearly three minutes of throat-clearing to ask his first question and then took the rest of his allocated 30 minutes just to get in four more. He concluded with about half a minute still left to him -- something of a personal best that even he had to acknowledge.

"I want to note that for maybe the first time in history, Biden is 40 seconds under his time," he told Judiciary Committee Chairman Arlen Specter, no clipped speaker himself.

The Post had a similar account of Biden running off at the mouth. In that piece, Dana Milbank wrote that during Biden's round of questioning, he "spoke about his own Irish American roots, his 'Grandfather Finnegan,' his son's application to Princeton (he attended the University of Pennsylvania instead, Biden said), a speech the senator gave on the Princeton campus, the fact that Biden is 'not a Princeton fan,' and his views on the eyeglasses of Sen. Dianne Feinstein (D-Calif.)."

The tragedy is that Biden, who is running for president, is a much better man and senator than these accounts would suggest. But his tendency, his compulsion, his manic-obsessive running of the mouth has become the functional equivalent of womanizing or some other character weakness that disqualifies a man for the presidency. It is his version of corruption, of alcoholism, of a fierce temper or vile views -- all the sorts of things that have crippled candidates in the past. It is, though, an innocent thing, as good-humored as the man and of no real policy consequence. It will merely stunt him politically.

'Tis a pity. Biden occupies the sensible center of the Democratic Party. He supported Bill Clinton's crime bill (more cops, fewer assault rifles) which helped the Democrats fight the talk-show calumny that they were pro-crime and anti-cop. In his maturity, he has emerged, along with some appropriate gray hair, as one of his party's most important -- and knowledgeable -- voices on foreign policy. Even on Iraq, an area where too many Democrats forgot that there was any reason for war, Biden took a decidedly centrist -- and defensible -- position. He voted to authorize the president to go to war but has since characterized that vote as "a mistake."

"It was a mistake to assume the president would use the authority we gave him properly," Biden said in November on "Meet the Press" -- adding that if he were allotted a do-over, he'd vote no. Since this approximately reflects my own position, I am

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inclined to appreciate its wisdom. But even before that vote, Biden was urging President Bush to seek international support for the Iraq effort, not to move precipitously, and to have a postwar plan. Bush, listening to you-know-who, did what the voices told him.

The seniority that makes Biden so knowledgeable on foreign policy -- a conversation with him is always instructive -- is also what cripples. He has been in the Senate since 1973 and suffers, as nearly all senators do sooner or later, from the conviction that he and his colleagues are the center of the world. After all, no one -- with the possible exception of family members -- ever tells a senator to shut up. They are surrounded by fawning staff and generally treated as minor deities. They lose perspective, which is why, now that you've asked, they talk and talk at these hearings. They are convinced the world is watching. Actually, it's only a half a dozen shut-ins on C-SPAN -- and, of course, the nearly catatonic press corps. Everyone else is playing computer solitaire.

Biden ran for president once before -- and then, too, his mouth went off on its own. (In 1988, his stump speech was perilously similar to the one used by Neil Kinnock, Britain's Labor Party leader.) This time seems no different, except the loss is greater. Foreign policy, Biden's specialty, is the number one issue. He has much to say -- and then too much to add. He is an anatomical disaster. His Achilles' heel is his mouth.

Congresswomen Deem Alito Unfit (WT)

By Amy Fagan And Stephen Dinan

The Washington Times, January 12, 2006

Democratic congresswomen yesterday said Judge Samuel A. Alito Jr.'s failure to define abortion as a guaranteed right makes him unfit to sit on the Supreme Court, but senators said they are taking a wait-and-see approach.

"We believe that Judge Alito poses a direct threat to the rights of women in America," 20 House Democrats wrote in a letter urging senators to block President Bush's nominee. House members have no formal role in confirming presidential nominees.

At issue is Judge Alito's position on Roe v. Wade, the 1973 Supreme Court decision that found a constitutional right to an abortion. The nominee wrote in 1985, while serving in the Reagan administration Justice Department prior to becoming a judge, that he did not believe the Constitution guarantees the right to an abortion and advocated that it be overturned.

Senators sought to have Judge Alito explain that position in this week's Senate Judiciary Committee hearings. Unlike Chief Justice John G. Roberts Jr., who during his hearings last year called Roe "settled law," Judge Alito would only say it was precedent and all precedents should be given weight.

Republican senators on the Judiciary Committee were satisfied with that answer, but many committee Democrats and outside interest groups, who consider abortion rights sacrosanct, were not.

Vicki Saporta, president and CEO of the National Abortion Federation, said his answers show Judge Alito would seek to overturn Roe if given the chance.

"I think he's being evasive on purpose. I think he's done nothing to distance himself from his prior writings and decisions," she said.

Many senators who are not on the Judiciary Committee are traveling overseas or busy with home-state constituent work, but their aides said they will review hearing transcripts before they vote.

"I don't know who the real Samuel Alito is or what his true views are," said Sen. Barbara A. Mikulski, Maryland Democrat, who has been watching the televised proceedings. "Is he just telling us what we want to hear? What is his judicial philosophy? What does he believe in -- privacy, the right to executive power?"

Alex Glass, a spokeswoman for Sen. Patty Murray, Washington Democrat, said Judge Alito's comments on Roe were "clearly concerning, particularly in light of the stance John Roberts took" that Roe was settled law.

Still, Ms. Glass said it's too early to decide how her boss will vote or whether the issue merits a filibuster.

Steve Hourihan, spokesman for Sen. Lincoln Chafee, Rhode Island Republican and a member of the "Gang of 14" senators who have agreed not to filibuster any judicial nominee without extraordinary reasons, said that from their vantage point, Judge Alito is not that far off from what Chief Justice Roberts said.

"Right now, he thinks there's basically a lot more to come, and a finer point to put on it," Mr. Hourihan said.

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Sen. Ben Nelson, Nebraska Democrat and another of the 14 senators involved in the no-filibuster deal, hasn't had time to review the specific hearing questions, according to spokesman David DiMartino, but "he hasn't seen anything that's come up that would be problematic to the nominee."

Judge Alito, In His Own Words (NYT)

The New York Times, January 12, 2006

Some commentators are complaining that Judge Samuel Alito Jr.'s confirmation hearings have not been exciting, but they must not have been paying attention. We learned that Judge Alito had once declared that Judge Robert Bork - whose Supreme Court nomination was defeated because of his legal extremism - "was one of the most outstanding nominees" of the 20th century. We heard Judge Alito refuse to call Roe v. Wade "settled law," as Chief Justice John Roberts did at his confirmation hearings. And we learned that Judge Alito subscribes to troubling views about presidential power.

Those are just a few of the quiet bombshells that have dropped. In his deadpan bureaucrat's voice, Judge Alito has said some truly disturbing things about his view of the law. In three days of testimony, he has given the American people reasons to be worried - and senators reasons to oppose his nomination. Among those reasons are the following:

EVIDENCE OF EXTREMISM Judge Alito's extraordinary praise of Judge Bork is unsettling, given that Judge Bork's radical legal views included rejecting the Supreme Court's entire line of privacy cases, even its 1965 ruling striking down a state law banning sales of contraceptives. Judge Alito's membership in Concerned Alumni of Princeton - a group whose offensive views about women, minorities and AIDS victims were discussed in greater detail at yesterday's hearing - is also deeply troubling, as is his unconvincing claim not to remember joining it.

OPPOSITION TO ROE V. WADE In 1985, Judge Alito made it clear that he believed the Constitution does not protect abortion rights. He had many chances this week to say he had changed his mind, but he refused. When offered the chance to say that Roe is a "super-precedent," entitled to special deference because it has been upheld so often, he refused that, too. As Charles Schumer, Democrat of New York, noted in particularly pointed questioning, since Judge Alito was willing to say that other doctrines, like one person one vote, are settled law, his unwillingness to say the same about Roe strongly suggests that he still believes what he believed in 1985.

SUPPORT FOR AN IMPERIAL PRESIDENCY Judge Alito has backed a controversial theory known as the "unitary executive," and argued that the attorney general should be immune from lawsuits when he installs illegal wiretaps. Judge Alito backed away from one of his most extreme statements in this area - his assertion, in a 1985 job application, that he believed "very strongly" in "the supremacy of the elected branches of government." But he left a disturbing impression that as a justice, he would undermine the Supreme Court's critical role in putting a check on presidential excesses.

INSENSITIVITY TO ORDINARY AMERICANS' RIGHTS Time and again, as a lawyer and a judge, the nominee has taken the side of big corporations against the "little guy," supported employers against employees, and routinely rejected the claims of women, racial minorities and the disabled. The hearing shed new light on his especially troubling dissent from a ruling by two Reagan-appointed judges, who said that workers at a coal-processing site were covered by Mine Safety and Health Act protections.

DOUBTS ABOUT THE NOMINEE'S HONESTY Judge Alito's explanation of his involvement with Concerned Alumni of Princeton is hard to believe. In a 1985 job application, he proudly pointed to his membership in the organization. Now he says he remembers nothing of it - except why he joined, which he insists had nothing to do with the group's core concerns. His explanation for why he broke his promise to Congress to recuse himself in any case involving Vanguard companies is also unpersuasive. As for his repeated claims that his past statements on subjects like abortion and Judge Bork never represented his personal views or were intended to impress prospective employers - all that did was make us wonder why we should give any credence to what he says now. •

The debate over Judge Alito is generally presented as one between Republicans and Democrats. But his testimony should trouble moderate Republicans, especially those who favor abortion rights or are concerned about presidential excesses. The hearings may be short on fireworks, but they have produced, through Judge Alito's words, an array of reasons to be concerned about this nomination.

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Senate Civility (WSJ)

The Wall Street Journal, January 12, 2006

It's a sign of how little Democrats have on Supreme Court nominee Samuel Alito that on Day Three of his confirmation hearings they were still pounding away on his membership in an obscure Princeton alumni group that flowered briefly at the judge's alma mater. They can't touch him on credentials or his mastery of jurisprudence, so they're trying to get him on guilt by ancient association.

Senators Ted Kennedy and Chuck Schumer did their best yesterday to imply that Judge Alito was racist and sexist by linking the nominee with the views of some members of Concerned Alumni of Princeton, which back in the 1970s and 1980s took issue with university policies on coeducation and affirmative action. The questioning was mean enough that Judge Alito's wife left the hearing room after GOP Senator Lindsey Graham apologized for the comments of his fellow Senators. "Are you really a closet bigot?" Mr. Graham asked the nominee. "No, sir, you're not."

Judge Alito doesn't recall being a member of CAP, but says that if he was it must have been because he shared CAP's concern about keeping ROTC on campus. For the sin of not recalling, he was then tarred as dishonest. Senator Kennedy demanded to know whether Judge Alito had read various articles on CAP that had appeared more than two decades ago, including an editorial that ran in these columns on January 17, 1985.

Much as we like our own work, even we confess to having forgotten about that editorial. We'd like to think Senator Kennedy reads us so assiduously that he knew just where to look, but something tells us his staff dug it up from our computer archives. But we appreciate the unlikely plug. Our readers can find the editorial on OpinionJournal.com1. As for Judge Alito's prospects, if this irrelevant arcana is the most his opponents have, he can start measuring his new judicial robes.

Kate Michelman, The Public Face Of A Woman's Right To Privacy (WP)

By Linton Weeks

The Washington Post, January 12, 2006

Kate Michelman is the face of reproductive rights. It's a thin face with high cheekbones, dark eyes that can light up and a mouth with a corner that upturns at comic moments.

For a generation, Michelman, 63, has been at the forefront of one of this country's thorniest debates. She was president of NARAL Pro-Choice America from 1985 to 2004. She is scheduled to testify this week in opposition to the nomination of Samuel Alito to the Supreme Court. And she has written a new book, "With Liberty and Justice for All: A Life Spent Protecting the Right to Choose."

Last night several hundred friends and well-wishers showed up at the Woman's National Democratic Club near Dupont Circle for cheese, wine and a celebration Michelman's book and her mission. Guests included former secretary of state Madeleine Albright, Del. Eleanor Holmes Norton and Rep. Jim Moran (D-Va.).

"One reason I wrote this book," Michelman told the crowd, "was to hopefully inspire young women and men."

Michelman's interest in abortion rights is personal. In the late 1960s she was a Pennsylvania homemaker, married to a college professor. She had put her career in early childhood development on hold to start a family.

"I had married my childhood sweetheart at age twenty," she writes. "I was a practicing Catholic who accepted the Church's teaching that birth control was a sin. Like many other Catholic wives, I practiced the 'natural' means of contraception -- the rhythm method -- and believed the claim that breast-feeding prevented pregnancy. I exploded every myth. We had three daughters in three years."

In 1969 her husband walked out on her. Several weeks later, she learned she was pregnant. She was desperate. She felt she could not have a fourth child while trying to raise the other three single-handedly. She attempted suicide. Then she decided to get an abortion. She needed her husband's permission and the approval of the hospital's all-male review board. She received both.

The abandonment and the circumstances surrounding her abortion were the low points of her life, she said. Eventually she went to work, remarried and became the political force that now wants to take her zealousness for privacy rights beyond the women's movement.

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Before the soiree she drank a little celebratory champagne with her youngest daughter, Anya, and talked about the single issue that has driven her.

The Alito hearing, she said, triggers memories of the Robert Bork confirmation hearings in 1987. Michelman was scheduled to testify then, too. But she and leaders of other advocacy groups decided that Bork was going to cook his own goose, so she decided not to speak.

She is also reminded of the Clarence Thomas hearings in 1991. She did testify then. Like Alito, Michelman said, "Thomas also said he was open-minded" on the landmark abortion-rights case, Roe v. Wade .

But he has tried at every opportunity to overturn that decision, she said.

When she talked of hard things, her soft voice hardened.

Now at a life juncture, Michelman is plotting her next steps. She wants to be a spokeswoman for personal rights who "is not constrained by organizational restraints or party politics."

She hopes to "expand people's understanding of what it means to be pro-choice. And it doesn't mean to be pro-abortion."

She said the right to privacy is a fundamental American value whether it involves a woman's body or governmental wiretapping.

She said she has always been a serious person. As a teenager in Ohio, she listened to news and Senate hearings on a shortwave radio. Her idea of fun, she said, was organizing a Christmas tree sale to benefit Mexican farmworkers in her community.

Asked how she relaxes, she sat forward on the edge of her seat. "I don't!"

But she likes to make food from scratch. "I love cooking, love doing things very authentically."

Ideally, she would like to live in medieval fashion, without many modern conveniences. "I love washing dishes."

And she:

Reads a lot. She has been enjoying a novel by Ian McEwan and a book about the Constitution. "I read every word in every paragraph," she said.

Sleeps little. "If I get two or three hours a night I am lucky," she said.

Exercises every day. "I am disciplined."

She is not that attuned to popular culture, daughter Anya says. But Michelman is hooked on "24," the warp-speed, torture-laden thriller Fox series. And she has seen "The Lord of the Rings" several times.

Personality tests, she said, always told her what she already knew. She is an introvert. Her personal story, she said, pushed her into prominence. Still, it was only after she had been president of NARAL for a few years that she went public with her own abortion story.

Introducing Michelman, Frances Kissling, president of Catholics for a Free Choice, encouraged everyone to buy lots of copies. "We want her book on the bestseller list."

She and others testified to Michelman's energy and focus.

Albright told everyone that Michelman had provided "a voice for those who didn't have a voice and a brain for those who didn't have a brain."

She said Michelman kept the women's movement motivated and that the timing of her book with the Alito hearings was fortunate.

Fred Michelman said living with Kate was "like riding a tiger."

As for the face of the abortion rights movement, her husband of almost 34 years smiled and said, "It's a face I know so well."

Losing The Alitos (NYT)

By David Brooks

The New York Times, January 12, 2006

If he'd been born a little earlier, Sam Alito would probably have been a Democrat. In the 1950's, the middle-class and lower-middle-class whites in places like Trenton, where Alito grew up, were the heart and soul of the Democratic Party.

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But by the late 1960's, cultural politics replaced New Deal politics, and liberal Democrats did their best to repel Northern white ethnic voters. Big-city liberals launched crusades against police brutality, portraying working-class cops as thuggish storm troopers for the establishment. In the media, educated liberals portrayed urban ethnics as uncultured, uneducated Archie Bunkers.

The liberals were doves; the ethnics were hawks. The liberals had "Question Authority" bumper stickers; the ethnics had been taught in school to respect authority. The liberals thought an unjust society caused poverty; the ethnics believed in working their way out of poverty.

Sam Alito emerged from his middle-class neighborhood about that time, made it to Princeton and found "very privileged people behaving irresponsibly."

Alito wanted to learn; the richer liberals wanted to strike. He wanted to join R.O.T.C.; the liberal Princetonians expelled it from campus. He was orderly and respectful; they were disorderly and disrespectful. The experience was so searing that he mentioned it in the opening of his confirmation hearing 37 years later.

In 1971, Fred Dutton, an important Democratic strategist, acknowledged the rift between educated liberals and the white working class. In a short book, "Changing Sources of Power," Dutton argued that white workers had "tended, in fact, to become a major redoubt of traditional Americanism and of the antinegro, antiyouth vote."

The New Deal coalition, including Catholics and white ethnics, was dying, he argued, and should be replaced by a "loose peace coalition" of young people, educated suburbanites, feminists and blacks.

That plan wasn't stupid, but it didn't work. The party has been in a downward spiral ever since. John Kerry lost the white working class by 23 percentage points. He lost among his fellow Catholics. He lost the election.

After every defeat, Democrats vow to reconnect with middle-class whites. But if there is one lesson of the Alito hearings, it is that the Democratic Party continues to repel those voters just as vigorously as ever. The Democrats have amply shown why they remain the party of gown, but not town.

First, there was the old subject of police brutality. If you listened to the questions of Jeff Sessions, a Republican, you heard a man exercised by the terror drug dealers can inflict on a neighborhood. If you listened to Ted Kennedy, you heard a man exercised by the terror law enforcement officials can inflict on a neighborhood. Kennedy railed against "Gestapo-like" tactics. Patrick Leahy accused Alito of rendering decisions in a "light most favorable to law enforcement."

If forced to choose, most Americans side with the party that errs on the side of the cops, not the criminals.

Then there was the old hawk-dove divide. If you listened to Lindsey Graham, a Republican, you heard a man alarmed by the threats posed by anti-American terrorists. If you listened to Leahy or Russ Feingold, you heard men alarmed by the threats posed by American counterterrorists. The Democratic questions implied that American counterterrorists are guilty until proved innocent, that a police state is being born.

If forced to choose, most Americans want a party that will fight aggressively against the terrorists, not the N.S.A.

Then there were the old accusations of bigotry. Kennedy misleadingly and maliciously asserted that Alito had never written a decision on behalf of an African-American. But those wild accusations don't carry weight any more. Rich liberals have been calling white ethnics bigots for 40 years.

Finally, and most important, there is the question of demeanor. Alito is a paragon of the old-fashioned working-class ethic. In a culture of self-aggrandizement, Alito is modest. In a culture of self-exposure, Alito is reticent. In a culture of made-for-TV sentimentalism, Alito refuses to emote. In a culture that celebrates the rebel, or the fashionable pseudorebel, Alito respects tradition, order and authority.

What sort of party doesn't admire these virtues in a judge?

The big story of American politics, which was underlined by every hour of the Alito hearings, is that some time between 1932 and 1968, the DNA of the Democratic Party fundamentally changed. In 1932, the Democrats had working-class DNA. Today, the Democrats have different DNA, the DNA of a minority party.

The Alito Spectacle: Senators (USAT)

USA Today, January 12, 2006

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"I'll try to make this painless," Sen. Joseph Biden, D-Del., said as he began questioning Supreme Court nominee Samuel Alito during confirmation hearings Tuesday. No such luck.

For the next 30 minutes, Biden engaged in a rambling, self-indulgent soliloquy on his views on the Constitution, his dislike for Princeton University (Alito's alma mater), his grandfather's philosophy and even on another senator's eyeglasses. Questions for the nominee, whose decisions on the Supreme Court would affect every life in America? There were just five. They ate up triple the time Alito was allowed for answers.

During two days of hearings, it has seemed that for every senator who questioned Alito thoughtfully — and there were several — three others were more interested in hearing themselves talk. Enough senatorial hot air was expelled to fill blimps from sea to shining sea.

On the Republican side, Sen. Lindsey Graham, R-S.C., even acknowledged that he was using Alito as a political prop. "This is really not about you, so you don't have to listen. I'm talking to other people right now," Graham told Alito during one "question." He was lecturing colleagues who had criticized President Bush for using wartime presidential powers in ways that put him above the law.

Others wasted time with phony questions. "Are you against women and minorities attending college?" asked Sen. Orrin Hatch, R-Utah. The only input Alito was allowed was an "Absolutely not, Senator. No." Then the speech continued.

The Judiciary Committee might learn something from the pointed questioning by its leaders, both former prosecutors. Chairman Arlen Specter, R-Pa., led off with tough queries about Alito's views on abortion, the right to privacy and executive power. He pressed him with pertinent follow-ups.

Ranking Democrat Patrick Leahy of Vermont grilled the nominee about treatment of enemy combatants, wiretap surveillance of Americans without a court warrant, and Alito's ruling in a case involving the strip-search of a child during a drug raid. Like Specter, he seemed genuinely interested in Alito's answers and didn't interrupt.

Bloviating is nothing new to politics, of course, or to the Senate. Nor is the partisanship that has raised it to gale force. But when senator after senator focuses more on scoring snappy sound bites than on learning a nominee's views, the public is ill-served and the Senate's credibility is undermined. More important, so is confidence in the independence of the court.

Given the stakes, it's too bad so many senators seem so disinterested in gathering facts to make an informed, independent choice.

Painless? Only for the bloviators.

The Alito Spectacle: Nominee (USAT)

USA Today, January 12, 2006

If the Judiciary Committee is inept at questioning Supreme Court nominees, the damage is doubled by the fact that Samuel Alito, like other recent nominees, is very good at the game of saying as little as possible.

Hour after hour, he has geared his responses to avoid anything attention-grabbing — or even very informative. As a result, his views on most issues remain mostly guesswork.

The silence, though, tends to reinforce doubts raised by Alito's record — more so than Chief Justice John Roberts' did at his confirmation hearings four months ago. For example, Roberts described the court's 1973 abortion ruling, Roe v. Wade, as settled law in 2003 and "settled as precedent" last fall. Yet Alito, who once aggressively disputed that decision, wouldn't go that far. He said Tuesday that it's an "important precedent."

Similarly, Alito only backhandedly recognized as a precedent the 1965 decision that established the underlying doctrine of privacy, overturning a state's ban on use of birth control. On a second case extending that principle, he acknowledged agreement with "the result." But in legal terms, that leaves open whether he accepts the decision itself as another precedent for keeping Big Brother out of the nation's bedrooms.

Among the most vexing issues heading for the court are disputes over extraordinary powers claimed by the Bush administration in the war on terrorism. Alito said he agrees with the principle enunciated by retiring Justice Sandra Day O'Connor that "a state of war is not a blank check for the president." Unknown is where he thinks the limits lie. Alito shouldn't prejudge

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prospective cases, but he gave little to help senators assess whether he would protect citizens from government excess. President Bush claims the power to imprison Americans without trial and to eavesdrop on them without court review.

Almost every Supreme Court nominee since Robert Bork has employed this strategy of earnest vagueness out of reasoned fear that forthrightness would bring defeat.

When Bork was nominated in 1987, he readily expanded on his long history of provocative views, attacking court decisions that legalized abortion, prohibited poll taxes and required equal representation in legislative districts. He was rejected, 58-42.

Just a year earlier, Antonin Scalia, a renowned legal conservative, refused even to say what he thought of the 1803 case that established the court's authority to interpret the Constitution. He was confirmed, 98-0.

With today's court so narrowly divided on so many critical issues, the strategy of silence amounts to low short-term politics at high long-term risk. There is an alternative, of course: Choose nominees whose views don't need to be hidden to gain bipartisan support. But that appears to be an ambition too grand for such partisan times.

Bush Sets Focus On Health Care For 2006 Agenda (WSJ)

By John D. Mckinnon And Sarah Lueck, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, January 12, 2006

WASHINGTON -- President Bush, searching for a way to ease Americans' anxiety about the economy and to respond to business and consumer alarm over health costs, is gearing up to focus on health care as a centerpiece of his 2006 domestic agenda.

The White House is unlikely to propose major new federal spending. Instead, it is considering expansions of several earlier proposals aimed at using market forces to improve the quality and restrain the rapidly rising cost of health care.

The White House has been frustrated that the president isn't getting more credit for an economy marked by steady growth, low inflation and falling unemployment. Talking more about health care is part of its response. "Health care is obviously a big challenge, and ... creates angst on the part of the American people," Mr. Bush's economic adviser, Allan Hubbard, said in an interview this week. "Employers are spending more money on health care, and that's robbing people of wage increases," he said.

The president is likely to sound similar themes in the State of the Union address later this month. In Louisville, Ky., yesterday, Mr. Bush called health care "an unmanageable cost" for businesses. Rejecting government-directed care as a solution, he said the ideal health system "is one in which there is a direct connect between provider and customer, [and] where there's transparency in the pricing system." In a likely signal of what is to come, the president urged Congress to expand health savings accounts, or HSAs. Created in 2003, HSAs allow Americans to set aside money tax-free to pay health costs if they choose high-deductible health insurance.

Among the proposals Mr. Bush is considering are:

• Providing bigger tax breaks for Americans who buy their own health insurance to balance tax breaks available to workers who get health insurance through employers.

• Encouraging broader use of HSAs in the hope that giving consumers more control over their health-care spending will make them more cost-conscious.

• Helping consumers get more information about health-care providers' prices and performance to make them better shoppers.

Building on past Bush proposals, the new White House focus on health -- beyond the government's Medicare program -- is intended to give Republicans an election-year answer to many of the worries that voters have about the fast-changing economy. In many voters' minds, those worries appear to be overshadowing the good economic news about the pace of growth and falling unemployment.

Opinion polls show health care near the top of Americans' concerns. Last month's Wall Street Journal/NBC News survey, for example, showed health care ranking behind only the war in Iraq on the list of issues the public wants the federal government to address. While 41% identified the war as a top priority for Washington, 33% identified health care, exceeding the 28% who pointed to job creation and economic growth.

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While many experts and a growing number of business executives see reason to restructure the health-care system, politicians have shied away from wholesale changes since the failure of the Clintons' initiative in the 1990s.

The Bush White House is unlikely to repeat what is widely seen as the Clintons' overreaching, but the outlines of the health-care system it envisions are becoming clear. It would rely less on generous insurance provided by employers that insulate individuals from the cost of their choices. Instead, it would rely much more on market forces, individual (as opposed to employer-provided) insurance, tax credits to help the uninsured, provider competition and using the Internet to provide consumers with more, better data about the care quality and prices charged by doctors and hospitals.

Improved information about the quality of doctors and hospitals would be valuable to people with HSAs, who according to some surveys, "don't feel like they've got enough useful information to make the best decisions about their care," said Mark McClellan, a former White House adviser who now oversees Medicare. He has been pushing the giant program for the aged and disabled to link government payments to the quality of care, instead of the volume of care. Medicare, for instance, is experimenting with paying hospitals a bonus if they perform well on preset quality standards.

A slim new book, "Healthy, Wealthy & Wise," by former Bush advisers R. Glenn Hubbard and John F. Cogan, along with Daniel Kessler of the Hoover Institution, outlines the case for moving in the direction that the Bush administration is heading. It argues that "the unintended consequences of a handful of public policies" -- including tax and health-insurance rules -- "are in large part responsible for the problems of the health-care system" because they hinder "the proper functioning of markets." (See excerpts and more information1.)

Mr. Bush's proposals are likely to draw fire from conservatives for not going far enough. And they will draw fire from Democrats and unions, who fear the administration would undermine the employer-based system and, by making individuals pay for more of their own health, discourage people from getting preventive health care. "I think this is a classic risk shift onto individuals that is both unpalatable to people and bad policy," said Jared Bernstein of the Economic Policy Institute, a liberal Washington think tank.

Analysts on both sides express skepticism that Mr. Bush, unable to persuade Congress to embrace his Social Security proposals, can make much headway this year.

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Bush To Aim For Tight 2007 Budget: Card (REU-Y2)

By Susan Cornwell

Reuters, January 12, 2006

The Bush administration's upcoming budget blueprint for the U.S. government will "tighten the belt," White House chief of staff Andrew Card said on Wednesday.

Speaking to the U.S. Chamber of Commerce, Card gave no budget details in a speech that was short on particulars and long on reminders that the country was at war and that sacrifices were required. He also spoke mysteriously about a "dark cloud that seems to be gathering around the political world" but did not explain.

Card said the U.S. Congress did not appear to be in the mood to do anything about Social Security reform this year but thought lawmakers could tackle the issue in 2007 with President George W. Bush helping lead the way.

The White House was in the final stages of drafting a "very disciplined" new budget for fiscal 2007, starting October 1, Card said.

"It will fund the appropriate priorities of winning the war on terror, securing the homeland, but it will say, 'Tighten the belt,'" he said.

The administration faces budget pressures stemming from the war in Iraq and the cost of rebuilding in the Gulf Coast after the devastation from hurricanes Katrina and Rita in August and September.

Card said the 2007 budget will "make the tough decisions about which programs are necessary, and fund them appropriately but exercise prudence with the taxpayers' money."

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Bush also will continue calling for tax cuts he initiated in his first term to be made permanent, Card said. The White House had considered launching a push this year for broad tax-code changes but is delaying that amid fears it could prove too controversial in a congressional election year.

The White House's effort to overhaul the Social Security system, which has an uncertain financial future as increasing numbers of Americans retire, has stalled and Card was not optimistic about congressional action on it this year.

"I think the reality is that Congress is predisposed not to do the heavy lifting that is necessary for Social Security reform in 2006 but they definitely should be prepared to start lifting in 2007," he said.

Inside The Beltway (WT)

By John Mccaslin

The Washington Times, January 12, 2006

Good stuff

One well-known politician in Washington was overheard this week discussing his personal angst regarding a widely heard political commentator in town and his repeated violation of the "off-the-record" rule.

"Every time I tell him something, and explain that it is 'off the record,' I hear it broadcast the next day. And every time I confront him about it, he says: 'I know it was off the record, but it was too good not to use.' "

Who knows anymore?

In light of news yesterday that D.C. Council member and former Mayor Marion Barry tested positive for cocaine after a recent court-ordered drug test, maybe a joke circulating around the John A. Wilson Building isn't such a stretch of the imagination: that his honor wasn't really "robbed" at gunpoint in his apartment kitchen recently; rather, it was "a drug deal gone bad."

Honest politician

"Unfortunately, we Republicans have taken earmarking to an unprecedented level. It is now our responsibility to clean it up."

That's an honest assessment from Rep. Jeff Flake, Arizona Republican, who is out to reform the practice of earmarking — spending items slipped into appropriations bills without congressional oversight.

In a letter to House Speaker J. Dennis Hastert, Mr. Flake goes so far as to say that it is "no secret that over the past several months, our reputation as a governing majority has taken a beating. It is clear that continuing ... indictments, possible indictments, plea deals, tainted campaign contributions, etc., has severely eroded public trust."

Worse yet, he said, disgraced lobbyist "Jack Abramoff reportedly referred to the Appropriations Committee as a 'favor factory.' "

And here's the kicker: "No one who has seen the process firsthand, as we have, would honestly dispute his characterization," Mr. Flake told his Republican boss.

All about money

The National Republican Senatorial Committee (NRSC) has been keeping close tabs on Senate Minority Leader Harry Reid, who is out raising money for Democrats this week, even though his name continues to surface in the Jack Abramoff lobbying scandal.

Those in charge of Republican campaign coffers find it ironic that Mr. Reid, despite the cloud hanging over his head, has been raising money in Western Republican "red" states that backed President Bush in 2004 (his final stop today is Nebraska, having stumped for cash earlier this week in Arizona, Colorado, Utah and Idaho.)

Mr. Reid has called the Abramoff affair a "Republican scandal," telling Fox News viewers: "So don't lump me in with Jack Abramoff. This is a Republican scandal. Don't try to give any of it to me."

Nevertheless, the NRSC continues to peddle as many links as it can find between the Democrat and the disgraced lobbyist, not the least being a letter Mr. Reid wrote in 2002 to Interior Secretary Gale A. Norton on behalf of an Abramoff client.

"The day after Reid penned his letter, clients of Abramoff donated $5,000 to Reid's leadership [political action committee]," the NRSC states.

Madison's notes

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Don't look now, but that's former Attorney General Edwin I. Meese III participating in this week's contentious Senate Judiciary Committee hearings for Supreme Court nominee Judge Samuel A. Alito Jr.

Or at least that's the Heritage Guide to the Constitution, co-edited by Mr. Meese, sitting on the desk of Sen. Tom Coburn, Oklahoma Republican, as he takes in Judge Alito's testimony this week surrounding the nominee's interpretation of the Constitution.

"It's obviously playing a significant role in the Alito hearings," Rebecca Hagelin, vice president of the Heritage Foundation, tells us.

The thick volume contains the opinions of more than 100 of the nation's top legal analysts who have examined, line by line, the Constitution and its contemporary meaning. They zero in on the original intent of the Framers as the authoritative standard of constitutional interpretation, relying heavily on their early writings, particularly the "invaluable" notes taken at the Constitutional Convention by James Madison.

Treasury Undersecretary Says He's Paid To Worry (USAT)

By David J. Lynch

USA Today, January 12, 2006

WASHINGTON — From his Treasury Department office overlooking the White House, Timothy Adams scans the globe trying to spot economic brushfires before they become infernos.

Right now, he doesn't see much to worry about. But he's still looking. “If I weren't paid to worry, I would argue that the glass is half full and there's a lot that we should celebrate. But my job isn't to celebrate; it's to think about how this all could go awry,” Adams, undersecretary of Treasury for international affairs, said recently.

Many things could derail the locomotive of global growth. In an interview, Adams singled out imbalances in the world economy, oil prices and China's stability.

Last year, the Chinese minister of public security acknowledged 74,000 incidents of mass protest. Most involve peasant anger over illegal land seizures, local government corruption or environmental woes. The discontent has done nothing to disrupt the economy or the river of foreign investment flowing into China. So far.

“Global industry has been extremely sanguine in their outlook for China … as a manufacturing, export and production platform. But there are a lot of risks there, and those risks bear close watching because any disruptions in China will have global implications,” he said.

Adams, 44, is preparing for his fourth trip to Beijing in the six months he's been in this job. He moved into one of the department's top posts after serving as chief of staff to then-Treasury secretary Paul O'Neill and several years as a Washington consultant. He also worked in the administration of President George H.W. Bush.

Each week, Adams receives a variety of financial intelligence reports from Treasury experts.

The department's “blue-chip early-warning system” monitors countries around the world for evidence of brewing currency, debt or banking crises. Adams wouldn't say whether his analysts have spotted any.

Current imbalances in the global economy will eventually adjust, Adams said. The only question is whether they move into balance gradually or with a painful crash.

Believing that today's calm won't last forever, Treasury officials also routinely carry out financial war-gaming to practice their handling of potential crises.

“We still are in extraordinarily benign conditions,” Adams said.

“… I suspect that whatever the crisis we have to address in the future — and we will — will probably come from someplace we least expect.”

Into The Oversight Void Step The Inspectors General (Washington Post)

By Christopher Lee

Washington Post, January 12, 2006

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When a Chicago newspaper reported in 2004 that Illinois ranked last in federal disability payments to veterans, the secretary of veterans affairs -- prodded by House Speaker J. Dennis Hastert (R-Ill.) and other influential lawmakers -- turned to his department's inspector general for an explanation.

After four months, 1,900 interviews and a review of 2,100 disability claims, a team of 36 auditors found reasons that veterans in top-ranked New Mexico got an average of $12,004 in annual disability payments while Illinois veterans received $6,961. Their 192-page report made eight recommendations for addressing the inequity, and the Department of Veterans Affairs is implementing many of them.

"It's a really big project," said Michael L. Staley, assistant inspector general for auditing, who led the effort. "Our national reviews generally take about 11 months, and we accomplished this from January to April."

For their labor, Staley and his team recently picked up the Alexander Hamilton Award. The annual honor recognizes the foremost effort by an inspector general to improve the efficiency and effectiveness of executive branch operations.

Created by an act of Congress in 1978, "IGs," as they are known, can trace their roots to the Continental Army, which had an inspector general independently assess the readiness of combat troops. Their modern mission is to foster integrity and efficiency in government through the prevention and detection of waste, fraud and abuse.

Initially Congress created 12 independent audit and investigative offices, and every affected agency opposed them. Over the past 27 years, inspectors general have become a fixture of the bureaucracy. Their ranks have grown to 57 -- more than half appointed by the president -- and their offices employ 11,400 auditors, investigators, inspectors and other professionals.

The role of inspectors general has taken on new prominence, as one-party control of Capitol Hill and the White House has dampened the appetite in Congress for close oversight of the executive branch, analysts say.

"They are becoming the de facto overseers of government," said Paul C. Light, a professor of government at New York University and the author of a book on IGs. "As congressional oversight has declined sharply over the last decade, many IGs are getting into areas that were once reserved for the investigatory committees of Congress. And many, but not all of them, have risen to the challenge. . . . Some of these reports are very hard-hitting."

Clay Johnson III, deputy director of the Office of Management and Budget, agreed that Congress is not "as aggressive as it needs to be," but not because the GOP dominates the levers of power.

"The executive branch pays more attention to whether we spend money on real needs and whether we get what we pay for than Congress does," said Johnson, who heads the President's Council on Integrity and Efficiency, an umbrella group of 29 presidentially appointed inspectors general. "That has nothing to do with which party is in charge of what branch."

In 2004, the most recent year for which figures are available, inspectors general processed 189,500 complaints, identified $18 billion in potential savings through audits, and were instrumental in nearly 6,500 prosecutions that led to convictions or settlements with the Justice Department. They collected $3.5 billion in fines, settlements and voluntary repayments, making the $1.9 billion spent to fund them look like a bargain.

Notable reports last year included a finding by the Transportation Department IG that the Federal Aviation Administration's inspection program had failed to address safety risks posed by airline industry cost-cutting and the rapid growth of budget carriers. A report by the Justice Department IG found that the FBI's failure to detect the Sept. 11, 2001, hijacking plot stemmed in part from "widespread and long-standing deficiencies" in the way the agency handled terrorism and intelligence cases.

Last year, the special inspector general for Iraq reconstruction found federal mismanagement complicated by corruption among government contractors and Iraqi officials that led to at least one criminal indictment.

And more than 350 investigators, auditors and evaluators from the inspectors general offices at the Department of Homeland Security and other departments were dispatched to scrutinize federal spending in the aftermath of Hurricane Katrina.

The job can bring as much grief as acclaim. Before becoming IG at the Corporation for National and Community Service in 2002, J. Russell George, then a staff director for a House subcommittee, called around to current and former IGs to ask what the job was like: "The vast majority of them said, 'Don't do it,' " he said.

George was told that IGs considered too aggressive by the White House can be perceived as too docile by Congress. He took the job anyway, and last year he was promoted by President Bush to be the inspector general overseeing the Internal Revenue Service.

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"There's no question that being an IG is difficult," said George, who says he likes his work. "It's human nature that people many times do not like to be criticized or to be told that what they are doing is either wrong or could be done better. That is exactly what we as IGs have to do."

Some IGs are as controversial as the agencies they oversee.

Pentagon Inspector General Joseph E. Schmitz resigned in September after learning that he was the target of a congressional inquiry into whether he had blocked two criminal probes. Janet Rehnquist resigned the IG's post at the Department of Health and Human Services in June 2003, ending a controversial 22-month tenure in which she improperly kept a firearm in her office and initiated personnel changes that led at least 20 senior managers to retire, resign or be reassigned. That same summer, U.S. Postal Service Inspector General Karla W. Corcoran retired after a federal investigation found that she abused her authority, spent more than $1 million on each of three employee award ceremonies and conducted questionable personnel practices.

A few critics say the work of inspectors general has been undermined by politics. A 2004 report by the Democratic staff of the House Government Reform Committee found that fewer than 20 percent of inspectors general appointed by Bush had audit experience, while nearly two-thirds had held political positions, such as working for a GOP member of Congress or in a Republican White House. Under President Bill Clinton, more than 60 percent had audit experience and fewer than one-quarter had held political positions, the report said.

Yet, as Light, the government professor, pointed out, "Yes, there are more politicals, but some have become very aggressive IGs."

Clark Kent Ervin, a Texan who served in Bush's gubernatorial administration, got the inspector general's job at the Department of Homeland Security through a recess appointment because the Senate would not schedule a confirmation vote. Once in, Ervin became a thorn in then-Secretary Tom Ridge's side, issuing reports critical of spending and management practices at DHS agencies. He left in December 2004 (the expiration of his appointment) when it became clear that the White House would not renominate him.

"Here's a guy who was being groomed as a political type, but they canned him as quickly as possible," Light said.

Kenneth M. Mead, the IG at the Transportation Department, said inspectors general must set politics aside and "speak truth to power."

"It's important that the IG be a player," Mead said. "If you don't go after the big issues, you can be marginalized. I think it's important that we're not just sitting around looking at vouchers."

Lawmakers Move To Cut Lobbyists' Influence Scandal Jars Loose Stuck Legislation (USAT)

By Jim Drinkard

USA Today, January 12, 2006

WASHINGTON — A scramble is on to write new rules restricting how lobbyists ply their influence trade as the capital is embroiled in a spreading corruption scandal.

Bills aiming to chill the relationships between lobbyists and members of Congress, stalled for months, are now on a fast track as leaders battle the perception of misconduct. “These scandals aren't going away,” said Rep. Marty Meehan, D-Mass., a sponsor of one proposal to curb lobbyists' influence. “What we know is probably only a fraction of the story.”

The rush began last week when Jack Abramoff, a former top lobbyist, pleaded guilty to fraud and conspiracy charges and agreed to help prosecutors investigating corruption on Capitol Hill and in the Bush administration.

Abramoff plied congressmen and their aides with trips, free meals and entertainment. He gave thousands of dollars in campaign contributions and steered thousands more — including raising more than $100,000 for President Bush's re-election in 2004.

Senate Majority Leader Bill Frist, R-Tenn., and House Speaker Dennis Hastert, R-Ill., have ordered packages of new ethics rules intended to take effect before lawmakers face voters in November.

House Rules Committee Chairman David Dreier, R-Calif., who is drafting the House package, said it likely will include a ban on members of Congress taking fact-finding trips paid for by private interests.

Nearly $20 million has been spent on such trips since 2000, and they have come under scrutiny because Abramoff used trips — sometimes including golf at exclusive courses — as tools of influence.

Dreier said he also is looking at increasing the amount of information available on lobbyists' activities, including their campaign contributions and fundraising efforts.

"Greater transparency, greater disclosure … that is first and foremost," he said. "We need to expand the respect that the American people have for the institution, which is not all that high right now."

Current lobbying rules exempt "grass-roots" lobbying — sophisticated and often expensive efforts to generate public pressure on Congress through advertising, mail and e-mail. They also don't require lobbying coalitions to disclose the interests behind them.

Also under consideration: requiring lawmakers to fully disclose when they hop corporate planes for political travel and to reimburse the plane's owner for the full value of the flight.

Now, no such disclosure is required, and lawmakers have to reimburse only the priceof a first-class commercial ticket.

In the Senate, the bill drafting has been assigned to Sen. Rick Santorum, R-Pa. Spokesman Robert Traynham says Santorum is looking at restrictions on gifts from lobbyists, privately paid travel and fundraising.

Santorum and Dreier are looking at bills such as Meehan's and a similar one advanced by Sen. John McCain, R-Ariz., and Rep. Christopher Shays, R-Conn., for ideas. They aim to complete draft bills by early next month.

Paul Miller, president of the American League of Lobbyists, a trade association, says the definition of lobbying also needs to be re-examined. Lobbying reports are filed by those who directly contact Congress or the executive branch. That leaves out others who seek to influence the government indirectly, including public relations consultants, Miller notes.

Ethics watchdog groups said new rules will mean little unless they are enforced, noting that the scandal arose at a time when congressional ethics enforcement was largely on hold.

"The House ethics committee is dead, and the Senate committee is not known to be effective," said Larry Noble, director of the non-partisan Center for Responsive Politics. "No matter what rules they put in, if they don't get a working enforcement mechanism, it's going to be meaningless."

Hill Weighs Curbs On Lobbying (WP)

By Jeffrey H. Birnbaum

The Washington Post, January 12, 2006

Congress is poised to pass measures early this year that would clamp down on lobbying activity and possibly end some lawmaker travel.

Lawmakers are moving quickly to devise lobbying legislation and to approve it soon after Congress returns later this month. The rush has been caused by recent lobbying scandals, including the guilty plea last week of lobbyist Jack Abramoff, who is cooperating with prosecutors in a corruption investigation of Congress.

House Speaker J. Dennis Hastert (R-Ill.) and Senate Majority Leader Bill Frist (R-Tenn.) have delegated to colleagues the writing of bills that would increase lobbying disclosure and restrict the ways that lobbyists and lawmakers interact. Hastert said he is considering an outright ban on privately paid travel as one component of such a bill.

"Our intention is to have a very strong package," said Ron Bonjean, a spokesman for Hastert. The speaker, who skipped a planned trip to Asia in part to work on the lobbying proposal, expects the House to pass a bill "as soon as possible," Bonjean added. Rapid action is also expected in the Senate.

The details of that legislation have not yet come into focus. Proposals are coming from members of both political parties. A touchstone for all sides, however, is the plan introduced last month by Sen. John McCain (R-Ariz.) and Rep. Christopher Shays (R-Conn.). Rep. David Dreier (R-Calif.), who is Hastert's emissary on the issue, has consulted with McCain and said yesterday: "We're going to use a lot of what he has as a basis from which we'll proceed."

The McCain bill would beef up lobbying disclosure considerably and cover grass-roots lobbying campaigns, which now go unreported. It would also require lobbyists to report each fundraising event that they host or sponsor for candidates for federal office, including the amount raised.

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In addition, the McCain bill would require lobbyists to report the donations they give to lawmakers directly and at events that honor lawmakers or entities that they created or control. It would also require lobbyists to disclose quarterly -- which would be twice as often as they file now -- any gift worth more than $20 that they give to lawmakers or their aides, including meals and tickets to events.

But one particularly powerful group is gearing up to oppose several of the most sweeping proposals: lobbyists. Lobby organizations ranging from the U.S. Chamber of Commerce to the American Society of Association Executives (ASAE) are concerned that some of the measures under consideration would overburden them with paperwork or unfairly limit their ability to do their jobs. They are already planning to lobby against those parts of any new lobbying law.

"We need to sit down with people up there and give them some honest understanding of what can and what cannot be done," R. Bruce Josten, a Chamber executive, said, referring to Congress.

Josten worries that too much paperwork might bury lobbying groups and prove costly without much payoff for the public. He also doubts whether grass-roots lobbying disclosure is practical or wise. Jim Clarke of the ASAE has reservations about a ban on privately paid travel because it might isolate members of Congress from interest groups.

"Requiring us to write down every meeting we have with staff and members -- what will the public get from that? Nothing," said Paul A. Miller, president of the American League of Lobbyists. Miller frets that a ban on gifts to lawmakers would disadvantage small lobbyists in favor of their bigger colleagues who can offer sizable campaign contributions.

Miller said he expects extensive lobbying by lobbyists on the legislation.

But not all lobbyists think that is a good idea. "It would be foolish for the lobbying community to go up and fight these things," said Ralph Hellmann of the Information Technology Industry Council. "In the current environment, anything the lobbying community says is not good for itself will end up happening."

Lobbyists' Emergence Reflects Shift In Capital Culture (WP)

By Thomas B. Edsall

The Washington Post, January 12, 2006

Corporate lobbyists Mark Valente III and Troup Coronado don't have to hang out in the hallways of Capitol Hill, waiting to buttonhole Rep. John M. Shimkus (R-Ill.). Both men have more convenient ways of reaching the lawmaker.

Valente is the treasurer of Shimkus's political action committee, the John S Fund. And Coronado, who lobbies for BellSouth, played host at a Dec. 17 fundraiser for Shimkus at MCI Center. Guests made contributions -- $1,000 per person, $1,500 per couple -- to his reelection campaign, and in turn they got to take in a Bon Jovi performance from the BellSouth suite.

There is nothing exceptional about Valente's relationship with Shimkus, or Coronado's fundraising party. But they do illustrate the capital's changing mores.

Although the excesses of Jack Abramoff have captured the news, a wide range of other practices -- rarely publicized and fully legal -- reflect the steady dismantling of the wall between lobbyists and members of the House and Senate.

Fallout from the Abramoff scandal is likely for a time to chill certain aspects of the capital culture, in which access to power on Capitol Hill is lubricated by lobbyist-funded meals, travel and campaign contributions, according to congressional veterans of both parties. But some public interest advocates believe the relationships between lobbyists and politicians have become so institutionalized in recent years that fundamental change is unlikely, absent changes in the law. Among the examples:

· Since 1998, lobbyists have served as treasurers of 79 lawmakers' campaign committees and leadership PACs, according to the Center for Public Integrity. These committees often pay for senators and House members to enjoy such fundraising events as golfing in Palm Springs, Calif., and fishing tournaments off the Florida Keys -- outings at which the lobbyists will also be prominently in attendance.

· Major trade associations have bought Capitol Hill townhouses for fundraisers so that lawmakers can quickly go back to cast votes and then return to the event.

· At election time, many lobbyists put on a new hat and become political consultants, guiding incumbents to reelection. Afterward these lobbyists return to their traditional roles, being able now to ask for votes from those they helped put in office.

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"The border has broken down. Not only has it broken down, it's sort of 'barbarians at the gate,' " said Lawrence F. O'Brien III, a Democratic lobbyist. "There is sort of the naked 'Well, we are one, you are us' type of notion between the members of Congress and the lobbying community downtown."

The change in standards of what is objectionable versus what is commonplace is suggested by a nearly forgotten uproar nearly two decades ago. On Feb. 3, 1987, newspapers disclosed that then-Sen. Lloyd M. Bentsen (D-Tex.), chairman of the Finance Committee, had set up a "breakfast club" for lobbyists who donated $10,000 to his campaign committee.

The implied bargain -- money for access -- struck many as just too obvious. Three days later, Bentsen ended the breakfasts and acknowledged that his error of judgment had been "a doozy."

Now, every day Congress is in session, there are lobbyist-organized fundraisers for senators and representatives -- at breakfast, brunch, lunch or dinner -- at which the basic transaction is little different than what got Bentsen in hot water. Take Dec. 14, 2005:

Lobbyists for BNSF Railway and United Parcel Service held a luncheon for Rep. Jim Gerlach (R-Pa.) at the Associated General Contractors townhouse ($1,000 per PAC, $500 a person), according to the Web site for the National Republican Congressional Committee. A few blocks away, according to the NRCC, lobbyists for MasterCard, Time Warner and DuPont honored Rep. J. Gresham Barrett (R-S.C.) at Tortilla Coast ($1,000). That evening, Promia Inc.'s Adrian Plesha hosted a reception for Rep. John E. Sweeney (R-N.Y.) at his East Capitol Street home -- $5,000 for "sponsors," $1,000 for PACs and $500 for individuals.

The pivotal point in Washington's changing culture, according to lobbyists and congressional ethics analysts, came in 1995, shortly after Newt Gingrich and his "Republican Revolutionaries" roared to power in the 1994 midterm elections. Tom DeLay, the new majority whip, and his allies began the "K Street Project" -- the pressuring of trade associations and lobbying firms to hire Republican, and to contribute to Republican campaigns if they wanted access to key leaders and committee chairmen in the House.

"We're just following the old adage of punish your enemies and reward your friends. We don't like to deal with people who are trying to kill the revolution. We know who they are," DeLay told The Washington Post.

DeLay announced last week he will not try to regain his former post of majority leader, even if he is cleared in a Texas trial over allegations of illegal fundraising. But his absence does not necessarily mean the lobbyist-lawmaker relationship will change on Capitol Hill.

One lawmaker hoping to move up in the GOP leadership is Rep. John A. Boehner (Ohio), chairman of the House Education and the Workforce Committee. He maintains the lobbyist-financed Freedom Project, with a lobbyist as treasurer and an all-lobbyist executive board. It has raised $5.94 million over 10 years and has contributed $3.26 million to fellow Republicans.

Some 2003-2004 expenditures include $21,990 at Sam and Harry's steakhouse, $16,189 in fees at Manassas's Robert Trent Jones Golf Club and $5,990 for lodging at La Quinta Resort & Club near Palm Springs.

"What used to be considered in Washington conduct to be hidden was turned into conduct to be flaunted," said Fred Wertheimer, president of Democracy 21, a group seeking campaign finance changes.

Although DeLay was a catalyst, some of the cultural changes he represented preceded him. And Democrats participated with vigor.

In 1981, then-Rep. Tony Coelho (Calif.), chairman of the Democratic Congressional Campaign Committee, began to "marry" businesses seeking legislation with Democratic lobbyists, especially former staffers. The maneuver gave the businesses better access and turned many into contributors to the DCCC.

That same year, the Republican firm Black, Manafort and Stone became the first in which partners served both as political consultants to candidates for federal office and lobbyists on behalf of corporations and trade associations.

Lobbyists also have unprecedented sway with the national party organizations. They held all the top positions at the 2004 GOP convention in New York.

The House GOP leadership has also brought them directly into the legislating process, institutionalizing the practice of using large networks of lobbyists to help "whip" bills by keeping vote counts and finding ways to persuade wavering members to vote with the caucus.

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Recent years have even shown how the traditional lobbyist-lawmaker financial pipeline can flow in both directions. In addition to helping legislators raise reelection money, lobbyists have received large sums from politicians' PACs for vaguely defined services.

The soon-to-be-closed Alexander Strategy Group, for instance, received funds from committees associated with acting House Majority Leader Roy Blunt (R-Mo.) and DeLay -- $386,552, and $392,740, respectively.

DeLay's wife, Christine, and three former top aides -- Edwin A. Buckham, James W. Ellis and Tony C. Rudy -- worked for Alexander Strategy Group. Gregg Hartley, Blunt's former top political aide and now a lobbyist, defended the payments and said the money was paid "to utilize the services of several individuals who assisted with staffing, fundraising, strategy and operational services for the development, implementation and resource generation for a very effective and absolutely legal political campaign committee." Stanford political scientist David Brady said that in terms of overt corruption, this era does not compare to the gilded age of "robber barons" in the 19th century. Simon Cameron, a senator from Pennsylvania at that time, said of his colleagues: "An honest politician is one who, when he is bought, will stay bought."

L. Sandy Maisel, director of the Goldfarb Center for Public Affairs and Civic Engagement at Colby College, said the issue now is less a matter of criminality or overt corruption than a change in standards: "Congress as an institution now defines as ethical actions that would be derided elsewhere in society."

Let All The Sunshine In (WT)

By Paul M. Rodriguez

The Washington Times, January 12, 2006

As John Boehner said when he threw his hat into the House majority leader's race, "adding more new rules isn't the answer" to clean up real and perceived egregious behavior now embroiling Congress as a result of the Rep. Tom DeLay, Jack Abramoff and Rep. Randy "Duke" Cunningham's disgraceful crimes.

Indeed, instead of adding more rules, how's this for a good government concept? Simply eliminate the very rules that sprang out of the Watergate-era campaign finance laws or many of the "reforms" following the House Bank and House Post Office scandals.

The concept isn't as far fetched as it sounds. Consider that it's one that has served well the residents of the Commonwealth of Virginia. The model is simplicity itself -- there are no restrictions governing political donations or gift giving other than making all of it public.

What a refreshing thought when one stops for a minute to ponder that, so far as memory serves, such a system has not led to any scandals in Virginia. Total transparency between donors and recipients, actual dollar amounts and specific goodies received are all put into the public domain for anyone to see, report and contemplate.

The major political parties have been fighting such rules since the 1974 Federal Campaign Act was signed into law to, basically, maintain some political advantages and loopholes. The sad fact is that, with approval by the Supreme Court, the only losers have been the American people and the First Amendment.

That said, the reality is that the large percentage of lobbyists (like journalists and government workers) are honest, good people. So the Abramoff's of this world really stink up the joints for all of us.

So it's rather ironic really when one considers that it's been under conservative Republican rule in the last few years that produced the McCain-Feingold legislation to supposedly -- yet again -- clean up campaign finance rules. Anyone remember the much-ballyhooed 527 political action committees?

Like prostitution, politics is as old as human kind. Maybe not much of a difference but the fact remains that each generation has seen its fair share of hookers and money scandals. And though laws are on the books to outlaw prostitution (except in certain locales in Nevada), no one has given serious consideration to outlawing politicians.

Instead, we've seen laws passed to protect pols from themselves and, arguably, to protect us from them. The sad fact is that our free speech rights to "speak" via political contributions -- whether individually or in groups -- have been abridged. Congress and the courts have theorized that losing some of these rights is okay if it's in the greater interest of the body politic. Something about a camel's nose in the tent springs to mind.

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The result has been a body of laws, regulations and rulings that even experts in campaign finance and ethics law find confusing. So, how about trying something Virginia knows works?

Simply allow any American to givetoanypolitician(or wannabe) as much money as they want. And let anyone buy any politician or senior staff anything of value -- including a Rolls Royce or a yacht a la the Cunningham fiasco. Just make it all public within 30 days down to the last penny.

"Oh my God," I can hear naysayers scream, "you can't do that! Then the millionaires would buy up every politician and the little people would get suckered!" Really?

Consider the scores of millions spent by the likes of New Jersey Gov. John Corzine for his state's top job (and previously for the Senate seat), and New York Mayor Michael Bloomberg's lavish spending -- twice. Obviously, people can made up their minds when there's full public disclosure.

When the Republicans took over Congress in 1994 they promised to clean up the culture of corruption in Washington after 40 years of Democrat power. They promised to apply the laws of the land to themselves. They promised to live by the spirit of ethics, not just the rules. And Democrats joined them gladly after the myriad scandals from the late 1980s into the early 1990s.

The simplicity of the GOP "Contract with America" was its appeal. Republicans gambled that the public would support such common sense rules. They believed in the power of the people. So how about trusting the people yet again? We're all not as stupid as lawmakers or interest groups make us out to be.

Rep. David Drier, the California Republican who chairs the House Rules Committee, has been tasked by Speaker Dennis Hassert to come up with some lobbying rule changes. How about this David -- just scrap all the rules and truly shine the light on all that hidden money giving. Make it all public.

Arizona Legislator May Join Race To Succeed DeLay (WSJ)

By David Rogers

The Wall Street Journal, January 12, 2006

WASHINGTON -- As the two front-runners slowed, a third candidate edged closer to entering the nasty Republican contest to pick a successor to the party's fallen majority leader, Rep. Tom DeLay.

Rep. John Shadegg stepped up calls seeking support from colleagues, and his allies were optimistic that the six-term Arizona lawmaker will offer a more change-oriented alternative to the two establishment figures in the field: Majority Whip Roy Blunt (R., Mo.) and Rep. John Boehner (R., Ohio), chairman of the House Education and Workforce Committee.

Last evening, Mr. Shadegg's office said no final decision had been made on the leadership race, but issued a statement critical of Reps. Blunt and Boehner for not being aggressive enough, in the congressman's words, "to clean up our act in the wake of the recent ethics scandals and get back to the agenda that brought us the majority in the first place."

"At the end of the day, he hinted, he'd be in the race. I don't know what his decision is," said Speaker Dennis Hastert (R., Ill.), who spoke by telephone with Mr. Shadegg. Neither Mr. Blunt nor Mr. Boehner appears close to the 116 votes needed to win. With so many Republicans uncommitted, Mr. Shadegg has the potential to shake up the race, forcing at least a second ballot and greater discussion of changes that many members are demanding.

"I'd say uncommitted is leading by two lengths," said Rep. Charles Bass (R., N.H.), one of those encouraging Mr. Shadegg's candidacy.

"I think it's important to pin these people down," said Rep. Jeff Flake (R., Ariz.), a Shadegg ally. "I'm not convinced those running realize the trouble we're in as a party and that a modest course correction won't do."

The jockeying takes place against a background of scandal and drift within Republican ranks that threatens the party's hold on the House going into November's elections. Mr. DeLay's decision to surrender the majority leadership post came just days after his friend, lobbyist Jack Abramoff, pleaded guilty to three felonies in federal court and promised to cooperate in a larger Justice Department probe that likely will touch other lawmakers as well.

The party was stunned by the actions of former Rep. Randall "Duke" Cunningham, a California Republican who resigned from Congress in November after pleading guilty to taking bribes in exchange for helping steer contracts to defense companies.

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The Abramoff and Cunningham scandals cast light on the dangers of lawmakers earmarking funds in spending bills for favored projects, a practice common to both parties, but which has grown under Republican rule. Mr. Flake argues that whoever succeeds Mr. DeLay must address not only lobbying abuses but internal institutional changes within the House.

Reps. Blunt and Boehner are both promising overhauls, but the two men are so closely linked to the Washington lobbying community that they have trouble convincing their colleagues that they will be real advocates for change. In frustration, each camp has stepped up its behind-the-scene attacks on the other. As the race turns nastier, a fresh face such as Mr. Shadegg could be at an advantage.

The Republican Study Committee, representing House conservatives, will hold a retreat in Baltimore before the Feb. 2 leadership elections. An effort to move up the party deliberations by a week -- something that might have helped Mr. Blunt -- failed yesterday. A petition drive began to require that nearly all of the leadership posts except the speakership be thrown open for fresh elections.

The timing of the Baltimore retreat could help Mr. Shadegg, a former RSC leader. He showed an ability to reach out to moderates when he quietly won a foothold in the leadership at the beginning of this Congress. Mr. Hastert has since tapped him to lead a series of dinners with Republicans on immigration issues -- a divisive issue. He has been an ally in promoting legislation to help small, sole proprietorships gain access to cooperative health insurance.

Congress Watch: Few Expect Dark Horse In House GOP Race (USNEWS)

By Paul Bedard

U.S. News and World Report, January 12, 2006

House Republican lawmakers do not think that a third candidate will move forward this week to challenge Ohio Rep. John Boehner and Missouri Rep. Roy Blunt for the House majority leader's post.

Senators hope to strip oil taxes from Katrina bill (12/21/05)

Frist predicts Jan. 20 Alito confirmation (12/19/05)

Aides say Bush has bottomed out (12/13/05)

More from Washington Whispers

More from Nation & World

"It's just too late to get in," said a key GOP leadership aide. However, added another, if neither Blunt nor Boehner can nail down the job within the next six to eight days, a move could be made to seek a consensus candidate. The leading alternative there, said several leadership officials and GOP consultants, is Rep. Tom Reynolds, head of the National Republican Congressional Committee. Insiders close to the two campaigns to replace Rep. Tom DeLay as the permanent majority leader said that while Blunt is the leader, Boehner is gaining ground.

"Boehner is making good progress, so Blunt may have some vulnerability," said a key source, who added that Blunt's position as House whip should make it easy for him to nail down the job quickly. "If we don't see Blunt wrapping it up this week, then all bets are off," added the insider. A Republican consultant who was involved in the 1998 coup and installation of Dennis Hastert as speaker said that the first week is critical.

"If you can't nail it down then, the members start looking for somebody else. And in that case, anybody could emerge," he said. Meanwhile, socially and fiscally conservative members want a candidate who is close to them on their issues, but one said Tuesday that they don't expect to persuade a member from their caucus to enter the race.

House Republicans Outline Lobbying Reform Ideas (REU-Y2)

By Richard Cowan

Reuters, January 12, 2006

The two candidates vying to become the next U.S. House of Representatives majority leader set forth their ideas on Wednesday for stamping out ethics problems that have threatened Republicans' control of the chamber beyond this year.

Ohio Republican Rep. John Boehner (news, bio, voting record) called for outlawing the earmarking of federal funds for special-interest projects sought by lobbyists, which do not go through the regular oversight process in Congress.

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In a letter to House Rules Committee Chairman David Dreier, Boehner called for "enacting a ban on unauthorized earmarks for private entities that serve private interests at the expense of the public interest."

Boehner, a 16-year House veteran, said, "We all need to acknowledge that the system is spinning out of control and that it's time to do something about it."

Annual spending bills have become a magnet for such projects, which critics call special-interest "pork."

Boehner's only opponent so far in the race for majority leader is Acting Majority Leader Roy Blunt of Missouri, who offered his own set of ethics reforms.

Blunt, in his fifth two-year House term, called for banning privately-funded travel for House members and aides or at least requiring advance approval of such travel.

Rep. Tom DeLay, who is battling money laundering charges in a Texas court, told fellow Republicans on Saturday he had decided to permanently vacate the position of majority leader, the number 2 leadership position behind Speaker. House Republicans are to vote on his replacement on February 2.

House Republicans have put ethics and lobbying reform at the top of their legislative agenda this year, following lobbyist Jack Abramoff's recent guilty pleas in an expanding fraud and bribery investigation.

At least one Republican representative is known to be under investigation related to the Abramoff probe and many more could be drawn into the scandal. Abramoff deposited millions of dollars into lawmakers' coffers on behalf of himself, his wife and casino and American Indian clients.

DeLay took expensive trips to London and Scotland in 2000 that were paid for by Abramoff.

Besides travel restrictions, Blunt has proposed new limits on political contributions made by Indian tribes and called for quicker disclosures of lobbying expenditures.

Boehner also called for better disclosure of lobbyists' contributions to federal campaigns.

Both Boehner and Blunt received political contributions since 1999 from Abramoff or the Indian tribe or casinos he represented, according to the private Center for Responsive Politics. Boehner said he has not received "a single penny" from Abramoff. Last week, Blunt said he was donating to charity Abramoff-related campaign contributions.

In Majority Leader Race, Lobbying Rules Are The Easy Target (NYT)

By Carl Hulse

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - With the need for new ethics and lobbying rules emerging as a central theme in the race for House Republican leader, the two contenders on Wednesday engaged in an arms race over who supported the most stringent changes.

Representative John A. Boehner of Ohio, trying to appeal to fiscal conservatives unhappy with an explosion in pet projects being inserted in broad spending bills, proposed banning such "earmarks" unless they received individual Congressional scrutiny and approval.

"We all need to acknowledge that the system is spinning out of control and that it's time to do something about it," Mr. Boehner wrote in a letter to Representative David Dreier of California, the Rules Committee chairman who is leading a Republican effort to assemble a proposal to overhaul rules for lobbyists. Mr. Boehner said the plan should also end lobbying rule exemptions for advocates for government-financed institutions like universities.

Representative Roy Blunt of Missouri, Mr. Boehner's rival for the position of majority leader, backed Speaker J. Dennis Hastert's proposal to eliminate Congressional travel paid by special interest groups. Mr. Blunt's other proposals include penalties on lobbyists for violations of the Congressional gift ban. It is now improper only for lawmakers to accept gifts of more than $50, not for a lobbyist to provide such gifts.

It was not just the leadership rivals seeking to replace Representative Tom DeLay who sought to up the ante over Congressional ethics.

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Representative Nancy Pelosi of California, the House Democratic leader, wrote Wednesday to Mr. Hastert, asking him to join her in urging the House ethics committee to investigate the conduct of Representatives Bob Ney of Ohio, Mr. DeLay of Texas and other lawmakers whose names have emerged in a federal lobbying inquiry.

"To restore the integrity of the House in the eyes of the American people, the conduct of those members and staff whose unethical behavior has severely damaged the reputation of the Congress itself must be immediately and fully investigated," Ms. Pelosi wrote. She blamed Mr. Hastert's decision to replace the ethics committee chairman and to institute other changes for paralyzing the panel in 2005.

In the wake of a guilty plea to corruption charges by the lobbyist Jack Abramoff and the conviction of a California lawmaker on bribery charges, Mr. Hastert has conceded that a review of lobbying rules is necessary and has given the job to Mr. Dreier. Congressional Democrats are preparing their own proposals.

Representatives Boehner and Blunt are trying to establish their credentials on lobbying changes in part to offset criticism that they have their own well-established links to Washington's lobbying community and that neither would represent a significant departure from the reign of Mr. DeLay.

Mr. Blunt, No. 3 in the House leadership, has been filling in for Mr. DeLay, who stepped aside after being indicted on campaign-finance charges in Texas. Mr. Boehner, chairman of the Education and the Workforce Committee, had held the No. 4 position in the leadership after Republicans won control of the House in 1994 but lost the job in 1998.

Some House Republicans are advocating a broader leadership review beyond the vacant majority leader's post and say that some new blood is needed at the top.

"We have been mired in the mud of Jack Abramoff, and our message has been lost," said Representative Todd Tiahrt of Kansas, who has said he wants the No. 3 position held by Mr. Blunt. "In order to regain the faith and confidence of the American people, the speaker must have new faces on his leadership team. The status quo may lead to minority status."

While Mr. Blunt is ahead in public pledges of support, having 62 of the 116 needed compared with Mr. Boehner's 35, Mr. Boehner's lobbying plan struck a chord with Representative Jeff Flake of Arizona, one of the House conservatives who had pushed to replace Mr. DeLay permanently.

Mr. Flake has sought to rein in the growth in pet projects that end up in the final versions of huge spending bills without previous consideration by Congress, preventing them from being eliminated without defeating the entire bill. Watchdog groups say that earmarks have contributed to lobbying abuses as contractors and others seeking the special spending go to extremes to win support from influential lawmakers.

"Leadership candidates are going to have a difficult time convincing the Republican conference that they're serious about reform without a proposal for earmark reform," Mr. Flake said.

Some lawmakers and senior Republicans said the fact that neither contender had been able to wrap up the race leaves the door open for others to jump in, with Representative John Shadegg of Arizona mentioned as a possible contender. Republicans on Wednesday dropped plans to move the election forward to conclude it before the Jan. 31 State of the Union address. Instead, they said, it will take place on Feb. 2.

House Members Weigh Blunt's Reputation, Ties To DeLay (SCCD)

By Sam Hananel

The State College Centre Daily, January 12, 2006

WASHINGTON - If Rep. Roy Blunt is chosen the new House majority leader, it will be in large part because of his reputation as a consensus builder and a good listener.

Should colleagues pass him over for the No. 2 House post, the Missouri Republican can blame his close ties to former Majority Leader Tom DeLay and the desire for a clean break from controversy and scandal, according to members of Congress and other observers.

Clear divisions are already emerging in the camps that have committed to supporting Blunt or his main opponent for the position, Rep. John Boehner, R-Ohio. The election is expected early next month.

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As of Wednesday afternoon, Blunt had at least 62 publicly declared supporters while Boehner claimed more than 30 supporters. It takes 116 votes from GOP members to win the post.

"Roy is a Midwestern conservative," said Rep. Christopher Shays, R-Conn., a GOP moderate backing Blunt and a longtime critic of DeLay.

"He understands that a Republican in Connecticut is different than a Republican in Missouri and there needs to be room in our party for both," Shays said. "Roy has done a good job of reaching out to moderates and conservatives alike."

While DeLay, R-Texas, gave new meaning to the word "arm twisting," Blunt has taken a gentler approach to corralling the votes needed to pass legislation. He has served as both majority whip and majority leader since DeLay was forced aside to face money laundering charges, and the experience could give Blunt an edge in the race against Boehner.

"Roy Blunt has been enormously effective for two reasons: He has a servant's heart and he listens. Both are prerequisites for leadership," said Sen. Jim Talent, R-Mo.

Rep. Jo Ann Emerson, R-Mo., praised Blunt's performance filling in for DeLay. Despite a rocky start, he was able to push through controversial measures to cut the budget and trim spending.

"Roy did a very good job in very difficult circumstances, having to do both his whip job and be temporary majority leader," Emerson said. "He's an excellent consensus builder and he's able to work well with all of the different factions within our conference."

But some members want something else. Rep. Anne Northup, R-Ky., who is backing Boehner in the race, wants to send voters a message that Congress is cleaning house.

"When all the same people are at the leadership table, patterns develop, deferences occur," Northup said. "And John Boehner has been out of that circle, and I think he will bring fresh ideas and a fresh perspective and shake that up."

That perspective is catching on after disgraced lobbyist Jack Abramoff pleaded guilty last week to federal charges in a congressional corruption investigation. Investigators are now focused on several members of Congress and their aides, including a former aide to DeLay.

Blunt's rise in the leadership ranks is closely tied to DeLay and his own connections to Abramoff or his clients could derail his leadership bid. Blunt spokeswoman Burson Taylor says all the congressman's dealings with lobbyists were ethical.

"For Blunt, DeLay is both an asset and a liability," said Stuart Rothenberg, an independent political analyst in Washington. "DeLay empowered Blunt and Blunt was clearly his guy and was loyal to DeLay. But at the same time, he kind of carries the aroma of DeLay, and some people might want to put on a whole new scent."

When Boehner was elected to the House 15 years ago, he championed ethics reform amid a scandal involving the House bank and Democrats. He became part of the Republican leadership when the GOP gained a majority in 1994, but was ousted four years later in an internal party struggle.

Yet Boehner, too, is linked closely to lobbyists. In 1995, he was criticized for handing out campaign checks from the tobacco industry to colleagues on the House floor.

The two Republicans who began a petition last week calling for elections to replace DeLay - Reps. Jeff Flake of Arizona and Charlie Bass of New Hampshire - are now urging their colleagues not to endorse either candidate until they offer detailed reform plans to end the wave of corruption.

Blunt made that pitch when he officially launched his candidacy Sunday. He pledged to "regain the trust and confidence of our constituents by enacting new lobbying reforms and enhanced penalties."

But Flake is already expressing doubts about Blunt's commitment to reform. Flake wants to end the practice known as "earmarking" - inserting costly local projects into big spending bills.

Flake said Boehner's has a great record because he opposes earmarks.

"There's a stark contrast between him and Blunt on that regard," Flake said. "Blunt is a champion of earmarks."

New Majority Leader Election Date Rejected (AP)

By Andrew Taylor

The Associated Press, January 12, 2006

WASHINGTON -- House Republican leaders Wednesday rejected calls to move up the election of a new majority leader to replace Tom DeLay before President Bush's State of the Union address Jan. 31. Rep. Roy Blunt claimed more than half the votes needed to win, even as a potential new candidate, John Shadegg, R-Ariz., publicly weighed a run.

Speaker Dennis Hastert decided Wednesday to stick with a Feb. 2 caucus election scheduled after DeLay, facing trial in Texas on charges of laundering campaign funds, said last weekend he would not try to regain the job.

Supporters of Missouri Rep. Blunt, currently the No. 3 Republican in the House as party whip, had called this week for holding the election before the House reconvenes Jan. 31. Blunt, who has been acting as majority leader since DeLay's indictment, is seeking election to the job in a race against Ohio Rep. John Boehner, chairman of the House Education and the Workforce Committee.

At the same time, some House Republicans are pressing for more sweeping changes in their leadership. Rep. John Sweeney, R-N.Y., is drafting a petition calling for elections for several junior leadership posts. Every position but Hastert's would be at stake.

"There ought to be a full review and commitment by those who present themselves as leaders to a new agenda so we can re-instill the confidence of the American people," said Sweeney.

Sweeney's maneuver reflects sentiment among some rank and file Republicans such as Mary Bono and Dan Lungren of California and Jeff Flake of Arizona for new faces at the leadership table. Simply replacing DeLay is not enough, Bono says.

"The problem people are seeing is they want new leadership and that's not offering enough new leadership," said Bono.

In a separate bid to recover the GOP's standing with voters in the wake of a lobbying scandal, Hastert has suggested banning privately funded congressional trips, a senior Republican lawmaker said Wednesday.

Rep. David Dreier, R-Calif., said GOP leaders were "seriously considering" the need to eliminate all privately financed travel. "That would be a very strong statement. We want to be bold," said Dreier, chairman of the House Rules Committee.

In the leadership race, Blunt claims to have more support than Boehner has. But with many Republicans undecided and some calling for a third alternative, and Rep. John Shadegg, R-Ariz., has conspicuously declined to take himself out of the running.

"I am very definitely still considering (a run)," Shadegg said. "I've come to the conclusion we need significant change."

Sixty-two lawmakers are publicly supporting Blunt and 34 are supporting Boehner according to tallies released by the rival campaigns. Both say they have additional supporters who have not approved disclosure of their names. It would take 116 votes to claim the post.

DeLay, who had tried to get the election delayed until February in hopes that he would be tried and acquitted in a Texas court by then, announced last Saturday he would not seek re-election. He made the announcement after several Republicans expressed concerns about his ties to lobbyist Jack Abramoff, who pleaded guilty last week to three federal felony charges related to congressional influence peddling.

U.S. House Republicans Set Majority Leader Election On Feb. 2 (BLOOM)

By Laura Litvan

Bloomberg, January 12, 2006

Jan. 11 (Bloomberg) -- U.S. House Republicans set an election to replace Tom DeLay as majority leader for Feb. 2, two days after President George W. Bush's annual State of the Union address.

House Republicans will meet that day at 1 p.m. to hold their first contested leadership elections since 1998. Representative Roy Blunt of Missouri and John Boehner of Ohio are both vying for the majority leader job and a third candidate -- John Shadegg of Arizona -- has indicated he might join the race.

``I think he's looking at it very seriously," said Representative Charles Bass, a New Hampshire Republican, who said he talked to Shadegg today.

DeLay stepped aside from the leadership post in September after being indicted by a Texas grand jury on money laundering charges. On Jan. 7 Delay said he wouldn't try to return to the post even if his trial ends in an acquittal. His announcement last week set off the race to replace him.

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Blunt, who has served as acting majority leader since late September, has lined up 56 Republicans who support his election as majority leader, his aides said. Boehner, the chairman of the House Energy and Commerce Committee, has been endorsed by more than 30 lawmakers, his aides said.

House Speaker Dennis Hastert said Saturday that the election would be held the week of Jan. 30. Some House Republicans, including Representative Clay Shaw of Florida, had urged Hastert to call Republicans back to Congress earlier. In a letter to Hastert this week, Shaw and four other Florida Republicans said the elections might ``overshadow" Bush's speech.

Across-the-Board Votes On House GOP Leaders Sought (LAT)

By Mary Curtius

The Los Angeles Times, January 12, 2006

WASHINGTON — Rank-and-file House Republicans on Wednesday launched a push to require every member of their leadership but Speaker J. Dennis Hastert to face elections for their posts Feb. 2, saying the step was necessary to convince the public that the party was serious about ethics and lobbying reform.

Rep. John E. Sweeney (R-N.Y.) planned to start circulating a petition as early as Wednesday night asking for broad elections. The move underscored many House Republicans' belief that their leaders needed to do more to respond to the unfolding corruption scandal involving former lobbyist Jack Abramoff, if the party was going to keep its congressional majority in the November elections.

Only days ago, House Republicans appeared set to hold a single election to replace Tom DeLay, who had resigned as majority leader, the No. 2 leadership position in the House. DeLay has been indicted in Texas on campaign finance-related charges unrelated to the Abramoff case.

But under Sweeney's petition, House Republicans would hold elections for five leadership posts in addition to picking a successor to DeLay as majority leader.

"Most of this year, I have felt like our leadership needed new people at the table," said Rep. Anne M. Northup (R-Ky.), a conservative who normally is supportive of the leadership. "The fact is that they are tired."

She added: "I have not seen evidence of our leadership being able to stand up to special interests. I think it is important that every person in leadership is on the spot and has to convey to us why they should continue in leadership."

Republican concerns about the fallout from the lobbying scandal also echoed through the race to replace DeLay.

So far it has been a two-way competition between DeLay's hand-picked successor, Rep. Roy Blunt (R-Mo.), and Rep. John A. Boehner (R-Ohio), chairman of the House Education and the Workforce Committee.

Rep. John Shadegg (R-Ariz.) was said by lawmakers to be close to announcing that he would also run for majority leader, urged on by members who feared that Blunt and Boehner were too closely tied to DeLay.

"I've talked to Shadegg a number of times," said Rep. Jeff Flake (R-Ariz.). "We'd all benefit if he runs…. I think he is leaning in that direction."

DeLay stepped down from the majority leader post in September after a Texas grand jury indicted him on money-laundering charges. He had hoped to clear up the Texas charges and regain his leadership job, but that ambition was dashed when Abramoff pleaded guilty this month to attempting to bribe and corrupt members of Congress. Three former senior DeLay staffers were implicated in the federal case.

Rank-and-file House Republicans circulated a petition demanding that a permanent successor to DeLay be elected, a move that forced DeLay's decision last weekend not to try to reclaim his leadership position.

Encouraged by their success, a coalition of conservative and moderate Republican lawmakers was "emboldened to talk about things that have been bothering them for a long time" and to push for broader and deeper ethics reforms, said one Republican lawmaker, speaking on the condition of anonymity because of the political sensitivity of the issue.

Hastert (R-Ill.) has scrambled to respond. He has announced he will push for new ethics rules and restrictions on lobbyists when Congress returns Jan. 31 from its winter recess.

Ron Bonjean, Hastert's press secretary, declined to respond Wednesday to the move to seek broad leadership elections.

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For the time being, lawmakers and political analysts said, Hastert's position as speaker is thought to be secure, although he too had ties to Abramoff. Hastert sent a letter to Interior Secretary Gale A. Norton in June 2003, asking that she block a casino that Abramoff's tribal clients thought would threaten their own casino profits.

Just days before Hastert wrote to Norton, tribes represented by Abramoff contributed more than $20,000 to Hastert's political action committee.

"My instinct is that he's safe, but what you're starting to pick up is a new dynamic that's surfaced … for the first time," said Mike Franc, director of government relations for the Heritage Foundation, a conservative think tank. "There is a growing desire on the part of the rank-and-file membership to have a fresh beginning — a sense that you have to do something that is a clean break from the previous practices."

Rep. David Dreier (R-San Dimas), charged by Hastert with putting together a lobbying rules reform package, said one measure under consideration would put restrictions on the so-called revolving door of lawmakers and their staffers leaving Congress to take lobbying positions and then returning to lobby Congress.

Another measure under consideration would end the widespread practice of allowing private groups to fund congressional trips. Political MoneyLine, a nonprofit organization that tracks money in politics, says that private organizations have spent about $20 million in the last five years on trips for members of Congress.

Hastert and other members have in the past defended the practice, saying it saves taxpayers money and helps educate lawmakers about important issues. But trips are being scrutinized by federal investigators as one way that lobbyists and other groups seek to unduly influence members of Congress. One trip that has received media attention is DeLay's sojourn with Abramoff to a luxury golf resort in Scotland in 2000.

Some members said that simply banning such trips did not address the root cause of the GOP's problem as the party prepares to face voters in November: a leadership that, in their view, has allowed ethics problems to go unanswered for too long.

Northup, the Kentucky lawmaker, said she called for all members of the leadership except Hastert to stand for election during a conference call Hastert held with Republican lawmakers Monday.

Rep. Dan Lungren (R-Gold River) said he had worked out the language of the election petition with Sweeney, and would help him seek the 50 signatures it takes to call a meeting of House Republicans to vote on holding broad elections.

"This is really coming to a head because of the Abramoff stuff," Lungren said. "I'm not suggesting there is a single member of the current leadership or a single staffer of the current leadership who has involvement with him, but we need to do our due diligence."

Lungren said Republicans could not afford to elect another majority leader who might, in a few weeks, face accusations that he was closely tied to Abramoff.

Even if 50 members sign the petition, Lungren acknowledged, it is far from a forgone conclusion that a majority of Republican House members would agree to broaden the elections beyond replacing DeLay.

"Obviously, there are those who would not like to see this go forward," Lungren said. "They would like to presume that we don't need to do this … but we need to show voters that we confront this issue."

Texas Redistricting Is One More Hurdle For DeLay (NYT)

By Rick Lyman

The New York Times, January 12, 2006

HOUSTON, Jan. 11 - Representative Tom DeLay is in the toughest re-election campaign of his 11-term House career, a battle that might be decided not only by his legal problems, but also by the Congressional redistricting plan he spearheaded in 2003.

The redistricting led to the loss of six Democratic seats in Texas in 2004, but it also shifted thousands of Democratic voters to strong Republican districts. Among those, Mr. DeLay's 22nd District added several Democratic-leaning parts of Galveston County; several political analysts estimate they may have raised the district's Democratic vote around 5 percent.

"There is huge irony here," said Richard Murray, a University of Houston political scientist. "Six Democrats in Congress were eliminated, but the seventh victim may turnout to be the author of the plan."

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Should Mr. DeLay survive, as expected, a March 7 primary challenge by three Republican opponents, in November he will face a former Democratic congressman, Nick Lampson, whose district once included those parts of Galveston County now in Mr. DeLay's district.

Mr. Lampson lost his seat in 2004 when his district, the Second, was reconfigured into a Republican-dominated one. He moved into the 22nd District last April, he said, with the intention of taking on Mr. DeLay.

"I'm not running against him because he took my district," Mr. Lampson said, seated in a two-room suite of campaign offices in Clear Lake. "I'm running against him because I think I was a better member of Congress than he was, and I can be again."

Mr. DeLay, who has been a regular presence in the district in recent weeks, paused on his way out of a speech to the Rotary Club of Pasadena South to reflect on the race ahead.

"Of course, it's going to be a tough race," he said, spinning in his right palm a silver dollar a constituent had just given him as a good-luck piece. "The entire Democratic machine has come down here from all over the country after me."

Local Republican leaders play down the chances that Mr. DeLay will be defeated in a district that remains predominantly Republican.

"The only people who consider this possible are clearly delusional," said Eric Thode, Republican chairman in Mr. DeLay's home county of Fort Bend. "It's not a competitive district. It's not even an issue."

Without question, Mr. DeLay has had a rough patch.

Indicted by a Travis County grand jury in September for state campaign finance law violations, he was forced to step down from his post as House majority leader temporarily. Next, a longtime political associate, Jack Abramoff, was indicted, then pleaded guilty last week to public corruption charges under an agreement to cooperate with federal prosecutors. Mr. DeLay, who failed to have his own case expedited, permanently resigned as majority leader on Saturday, saying he did not want his travails to become a distraction for the party.

Now, he will be running for re-election while standing trial in Austin on money laundering charges in a case over campaign financing that Mr. DeLay paints as politically motivated. Meanwhile, Washington waits to see what other indictments might flow from the Abramoff scandal.

"I think there is a 50-50 chance DeLay won't even be in the race in November," said Calvin C. Jillson, a political scientist at Southern Methodist University in Dallas.

If he does stay in the race - and Mr. DeLay insists he will - he has the demographics of the 22nd District to bolster him.

"Despite everything, it's extremely difficult to dislodge Tom DeLay in a district with such a strong Republican base and a strong, straight-ticket Republican voting trend," said Ted Delisi, a Republican strategist in Austin.

Yet the district has changed since 2003, and not in Mr. DeLay's favor. Running in the reconfigured district for the first time in 2004, Mr. DeLay won handily, but with a smaller margin than in previous elections: 55 percent compared with his Democratic opponent's 41 percent.

The district spreads across the southern rim of the Houston metroplex, from Galveston through the southern Houston suburbs of Harris County and into more rural Brazoria County and Fort Bend County, which includes Mr. DeLay's hometown of Sugar Land.

"I am sure the Democrats are going to pour money into this race," said Jared Woodfill, the Harris County Republican chairman. "But I think the congressman is going to be successful in March and in November. What is different this cycle is that people on both sides have started working harder and earlier."

Mr. DeLay is opposed in the Republican primary by Michael Fjetland, who has run against him before; Pat Baig, a former teacher and political novice; and Tom Campbell, a Houston lawyer who lives in Sugar Land and served in Washington as general counsel to the National Oceanic and Atmospheric Administration during the administration of the first President Bush.

Supporters of Mr. DeLay portray Mr. Fjetland and Ms. Baig as mischief-makers with little financing. Mr. Campbell, the latest entrant, appears to have solid credentials as a conservative Republican and promises to raise $400,000 to fight Mr. DeLay over the next two months.

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"He seems like a decent enough guy," Mr. Woodfill said of Mr. Campbell, "but the fact is he has not been active in the party. And he hasn't got much time to mount a serious campaign."

Mr. Campbell said that his outsider status would help him with voters weary of Mr. DeLay's hard-knuckled politics.

"Congressman DeLay has employed an 'ends justified the means' approach and, somewhere along the way, has cut corners and engaged in ethical lapses," Mr. Campbell said before a campaign event at a Houston law firm Wednesday. "This is an uphill battle, but Tom DeLay has been kind enough to come part way down the hill."

The general election in November is further complicated by the emergence of another former congressman, Steve Stockman, an ardently conservative Republican who also once represented a part of what is now the 22nd District. Mr. Stockman has said he may run as an independent, a move Republican leaders fear might cost Mr. DeLay votes.

Wade Webster, a Republican precinct chairman in Clear Lake, said he thought the party would stand behind Mr. DeLay, for now.

"It's going to be tougher, yes, with all the bad publicity and the innuendos and what-not," he said. "Until something more definitive comes out, I'm supporting him. But I retain the option to change my mind."

Democrats, meanwhile, happily cite polls suggesting that Mr. DeLay is in jeopardy and insist that his problems will undermine him in the district, even if it is Republican.

In a poll for The Houston Chronicle last March, for instance, 40 percent of the respondents in Mr. DeLay's district said their opinion of him had dropped in the previous year. And a USA Today/Gallup poll in early December showed Mr. DeLay with a favorability rating of just 37 percent, and had him losing to an unnamed Democratic opponent 49 percent to 36 percent.

Mr. DeLay and his supporters question the polls' methodologies and say his support is significantly stronger. "We have our own internal polls showing us doing much better," Mr. DeLay said, flipping that silver dollar.

He paused and held up the dollar between his thumb and index finger.

"Am I allowed to keep this?" he asked. "What do you think? Am I allowed to keep this?"

Houston TV Stations Withhold Ads Attacking DeLay (REU-Y2)

By Jeff Franks

Reuters, January 12, 2006

Several Houston television stations withheld a political ad on Wednesday accusing U.S. Rep. Tom DeLay of corruption after a lawyer for the former House majority leader said the ad was false and could lead to legal action.

The ad, sponsored by public interest groups Campaign for America's Future and Public Campaign Action Fund, calls for DeLay to resign because of his indictment in Texas on campaign finance charges and his links to disgraced Washington lobbyist Jack Abramoff.

"All four of the major broadcast stations (in Houston) contacted to air the ad, as well as Time Warner cable, have stated they either will not run the ad or will keep it off the air for further review," according to a statement sent out by DeLay's office.

Some of the stations said during their newscasts they were looking at the ad to determine its credibility or that they had found some of the allegations to be questionable. The ad was supposed to run for a week, starting on Wednesday.

In a letter to the stations, DeLay attorney Donald McGahn said the ad was "reckless, malicious and false, casting Mr. DeLay in a false light by accusing him of unsubstantiated criminal conduct. Such accusations are actionable."

"We demand that you refuse or otherwise cease airing the advertisement, so as to avoid any liability," the letter said.

Public Campaign Action Fund national campaigns director David Donnelly said DeLay was trying to prevent people in his Houston-area district from knowing what "he's up to with corrupt lobbyists in Washington."

"When powerful lawmakers corrupt the political process and get caught, they often try to bully the media to try to prevent them from doing their job," he said in a statement.

Despite the menacing language in the letter, DeLay spokeswoman Shannon Flaherty said McGahn was not threatening to sue the television stations, although at least one of them reported he was.

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Abramoff sent shock waves through Washington last week when he pleaded guilty to fraud charges and admitted giving lavish gifts and trips to lawmakers in return for special treatment. He has agreed to cooperate with prosecutors investigating corruption in Congress.

DeLay, who received campaign contributions from Abramoff and associates over the years, has described the lobbyist as a good friend.

After Abramoff's guilty plea, DeLay announced he was giving up trying to regain his position as House majority leader, which is the second most powerful Republican in the House of Representatives.

He stepped down from the post in September after he was indicted in Texas on charges of conspiracy and money laundering linked to campaign contributions raised by his Texans for a Republican Majority political action committee for the 2002 Texas Legislature elections. DeLay has denied any wrongdoing.

Survey Highlights Employees' Hankering For Training (WP)

By Stephen Barr

The Washington Post, January 12, 2006

Most federal employees like their jobs and even more are motivated by pride in their work, but almost half would like additional training to improve their job performance, according to preliminary results of a survey by the Merit Systems Protection Board.

Nearly 37,000 full-time government employees from 24 agencies participated in the survey, conducted last year. A summary of the findings appears in this month's Issues of Merit newsletter, published by the board's office of policy and evaluation, headed by Steve Nelson .

Although 64 percent of survey respondents said they have received sufficient training to do their jobs, 46 percent said they would like additional training so that they can improve on their work.

A huge majority, 81 percent, said the extra career development should be financed by their agencies and provided through formal training sessions. Slightly fewer, 77 percent, supported on-the-job developmental programs, the newsletter said.

Still, only 33 percent indicated that they had used career development plans to alert supervisors to their training expectations. Only 48 percent saw their supervisors as providing opportunities to improve their skills and performance, the survey found.

"These results suggest that better communication between employees and their agencies may be necessary if federal employees are to receive the training they need," the newsletter said.

In the MSPB survey, 71 percent of the employees said they liked their jobs, and 98 percent said they took pride in their work.

Interestingly, only 60 percent said they think their jobs are secure, possibly a sign that efforts to reduce federal spending and contract out work might be changing perceptions about federal employment. In the survey, 57 percent of rank-and-file employees and 62 percent of supervisors said their offices had been downsized in the past five years.

About 70 percent of survey respondents said they would be motivated by a hypothetical cash award of $1,000 or increased chances of promotion. Only 40 percent said they were satisfied with the recognition and awards they receive, and 61 percent said they were satisfied with their pay, according to the newsletter.

The MSPB findings, for the most part, appear in line with other recent surveys.

A 2004 report from the Office of Personnel Management found 55 percent of employees were satisfied with the training they had received for their current jobs. But only 35 percent of the employees were satisfied with their opportunities to get a better job, and only 40 percent told OPM that they were satisfied with the policies and practices of their senior leaders.New Leader for Postmasters

Dale Goff , the postmaster in Covington, La., has been elected president of the National Association of Postmasters.

He began his career 36 years ago as a postal assistant in New Orleans and has served as a postmaster for 26 years. He has served as Louisiana state president and as national secretary-treasurer with the association, which represents the interests of about 42,000 postmasters, postal officers and retirees in Congress and at postal headquarters.

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Goff and his wife, Becky, have moved to Alexandria, where the association has its main office. He succeeds Wally Olihovik , who served for four years.New AU Program Chief

Robert M. Tobias has been named director of public service executive education programs at American University's School of Public Affairs.

He will lead the Key Executive program, which allows federal managers and executives to earn a master of public administration degree. Tobias will continue to head AU's Institute for the Study of Public Policy Implementation, one of the sponsors of the "Best Places to Work in the Federal Government" rankings.

Tobias, a former president of the National Treasury Employees Union, has served on the Internal Revenue Service Oversight Board. He is a member of the National Academy of Public Administration.

Applications are being accepted for the Key Executive program, and the university will host an open house at 6 p.m. today. For information, call Jacqueline McLaughlin Linde , an assistant dean, at 202-885-6248.

The Reliable Source (WP)

By Amy Argetsinger and Roxanne Roberts

The Washington Post, January 12, 2006

HEY, ISN'T THAT . . . ?

Vice President Cheney and Don Rumsfeld at Clyde's of Gallery Place on Tuesday night. The veep and defense secretary took their wives to a Department of Defense dinner at the recently opened branch of the restaurant, creating quite the security fuss in Chinatown -- many black sedans, men with earpieces. Upstairs in the private Piedmont Room, they nibbled on hors d'oeuvres (crab cakes, smoked salmon and dim sum) and then enjoyed Maryland crab soup and New York strip steaks.

Army Is Poised To Kill Spy-Plane Effort (WSJ)

By Jonathan Karp

The Wall Street Journal, January 12, 2006

The U.S. Army is poised to cancel a Lockheed Martin Corp. spy-plane program valued at as much as $8 billion, in the face of competing budget priorities and problems in the aircraft's development, according to industry and government officials.

The Army suspended funding for the Aerial Common Sensor surveillance plane in September as a result of concerns about the plane's cost and size, and asked Lockheed to offer alternative solutions. People familiar with the program said the Army is expected to announce the ACS's termination as early as today, the end of a 60-day period during which Pentagon officials reviewed Lockheed's four proposals.

The decision would also be a blow to Lockheed's main partner in the program, Empresa Brasileira de Aeronautica SA, or Embraer, the Brazilian aircraft company hoping to break into the U.S. defense market.

Spokespeople for the Army, Lockheed and Embraer declined to comment, saying they hadn't been informed of a final decision about the spy-plane program. It is unclear whether the Army will seek to preserve some of the technology developed for the program for future use.

The likely demise of the spy-plane program, valued at up to $8 billion over several years, underscores the complexity of Pentagon efforts to transform the way it develops weapons. The battlefield surveillance and eavesdropping plane was meant to serve the Army and the Navy, with the underlying premise that creating a joint-service program would bolster its support inside the Pentagon and on Capitol Hill. But it proved difficult to reconcile the two services' missions and equipment specifications at the cost that Lockheed originally proposed.

Given the Pentagon's budget pressures amid the military operations in Iraq, the Navy's increasing ambivalence toward the Army-led spy plane and inevitable program delays and cost increases, the Army concluded it was a losing battle. "In the big scheme of things, ACS loses out," said an Army official. "Anytime you have a wounded weapons program, the sharks circle." The Army's head of acquisitions recommended canceling the program in December, but Army Secretary Francis Harvey decided to extend the review by a month, this official said.

Lockheed, based in Bethesda, Md., the U.S.'s biggest defense contractor by sales, has conceded it made mistakes in projecting weight, power and technical issues for the proposed spy plane. It has been scrambling for months to salvage the

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program, which unraveled with unusual speed for a company that has supplied the Pentagon with surveillance, combat and cargo planes for decades.

In August 2004, Lockheed beat out Northrop Grumman Corp. and won an $879 million initial-development contract for the spy plane by proposing a modified version of an Embraer 50-seat passenger jet. As it became clear that the array of sensors and radar would make the plane too heavy to fly, Lockheed proposed switching to a larger Embraer airframe or a modified business jet made by Canadian plane maker Bombardier Inc. In November, it also proposed to strip some equipment out of the original Embraer plane or to keep working on the electronics.

Army officials say the need for battlefield surveillance and eavesdropping remains a priority. The service is expected to focus on upgrading aging propeller-driven planes that perform the task under a contract led by Northrop.

Endless Probe, Secret Result (USAT)

USA Today, January 12, 2006

Washington investigations, especially those by independent counsels, can roll on for years, eating taxpayer dollars long after their original purpose has been achieved.

So it is with the investigation of former Housing secretary Henry Cisneros, now in its 11th year.

Cisneros, accused of paying hush money to an ex-mistress and misleading officials about it, pleaded guilty in 1999 to lying to the FBI and was fined $10,000. His former paramour and others pleaded guilty to charges of bank fraud and making false statements. President Clinton, on his last day in office, pardoned Cisneros and the woman.

The independent counsel law has expired. Clinton and Cisneros are on to new careers. But the investigation, which has cost $22 million since David Barrett was appointed independent counsel in 1995, isn't officially over. The reason isn't known. Barrett says only that the investigation was extended to explore accusations that attempts had been made to obstruct the investigation and related misconduct. Several news organizations, citing anonymous sources, have reported that those accusations involve the Internal Revenue Service and the Justice Department. Barrett's report was completed by August 2004, but it has been sealed by a special federal court that oversees independent counsels. Lawyers for people named in it have filed more than 140 motions to keep their clients from being identified publicly.

In October, the court announced it would release the full report only to some members of Congress. But legislators from both sides of the aisle demanded that the entire report be made public.

The problem is the court could still black out large portions to protect the privacy of those named. Some in Congress, particularly Sen. Chuck Grassley, R-Iowa, worry that IRS abuses could go unexposed. "The American taxpayers have spent a lot of money on this report, and they deserve the right to see it," Grassley says.

We agree. So does Barrett, whose office will close after the report's imminent release.

It seems obvious now that Barrett's investigation, like so many others, took too long, cost too much and achieved too little. But at least those failings were the result of honorable intentions: to expose and punish corruption by public officials.

Burying his report now serves no such noble goal. Instead, it would give wrong-doers even more reason to believe they can abuse the public's trust, confident that their actions would be hidden from the public's view.

Credit Where It's Due (WSJ)

The Wall Street Journal, January 12, 2006

Perhaps Dustin Hoffman's rich adviser had it right when he pronounced in "The Graduate" that the future is in "plastics." Last year the credit card industry handled more than $2 trillion in consumer transactions and gobbled up nearly $30 billion in fees, according to the Nilson Report newsletter on the credit card industry. These fees are now the source of mounting angst among retailers, which have launched 47 antitrust lawsuits against the credit card companies for alleged collusion in setting these fees.

Retailers have also rushed to Washington demanding that Congress impose a de facto price cap on credit card charges -- as Australia and the European Union have already done. This campaign against credit card fees and the clamor for price controls sound eerily familiar. A few years ago dim-witted politicians employed price controls to try to limit fees for using ATMs. In localities where that was tried, the result was not lower fees, but fewer ATMs, and thus much less convenience for customers.

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Once upon a time, credit cards were the playthings of the rich. But today credit (and debit) cards are a ubiquitous feature of the U.S. economy, with three of four adults owning either credit or debit cards as America moves closer to becoming a "cashless society." Certainly the shift toward plastic payments suggests the industry is satisfying its customers.

The controversy surrounds the way Visa and MasterCard and their issuing banks make money -- which is by collecting what is called an "interchange fee" from merchants. This fee averages about 1.75% of the sales price of the good or service purchased. The average convenience store paid $31,000 in interchange fees in 2004 -- a figure approaching the average per-store pretax profit of $36,000. The retailers say this charge is a "hidden transaction tax on consumers."

This complaint ignores the value added that the credit card company provides. Consumers benefit in an obvious way: They don't have to carry around wads of cash, because the credit card bank essentially holds the funds for them. Retailers benefit too: They don't have to deal with cash transactions, which minimize theft at the cash register. They receive a guaranteed payment from the bank that issues the credit card (i.e., no bounced checks). Most importantly, they lure customers into their stores by accepting a credit card of choice. If the retailers didn't think these benefits exceeded the costs of the interchange fee, they could simply refuse to accept credit cards at the register.

That said, many small retailers operate on thin profit margins and there does appears to be some merit to their complaint that credit card fees have risen above the levels one would expect in a perfectly competitive market. Interchange fees in the U.S. are among the highest in the world.

These fees, according to a recent study by economists at the Federal Reserve Bank of Kansas City, have also been paradoxically trending upward in recent years when the industry's costs due to technology and economies of scale have been falling. But these rising interchange fees have also corresponded with lower annual fees charged to cardholders and increasingly lucrative incentive packages to entice shoppers to pay with plastic: cash back rewards, airline frequent flyer miles, and even exotic benefits like free "concierge service" to get tee times on the golf course.

We're all in favor of more competition to drive down interchange fees. But the argument retailers are making that this industry operates as a cartel is highly unpersuasive. There are five major competitors in the credit/debit card market aggressively vying for customers: Visa, MasterCard, American Express, Discover, and the newest player, Star.

Meanwhile, mega-retailers such as Wal-Mart and Sears are using their market power to cut separate deals with credit card companies to lower their interchange fees. Wal-Mart and Target also want to establish their own banks so they can reduce interchange fees. Federal regulators should welcome this development.

Another merchant recourse is to offer price discounts to customers who pay cash. Retailers could also band together and start their own credit card competitor to Visa and MasterCard. Antitrust laws have typically winced at this kind of relationship, but in this case the Justice Department should consider that such arrangements could lower costs to consumers and foster competition.

The worst option is the one retailers seek most fervently: price controls. We now have several years of evidence from Australia and other nations that have gone this route. Studies indicate that lower retail prices haven't materialized. Instead, retailers have mostly pocketed the savings, while Visa and other card companies have withdrawn the popular rebates and bonus awards while increasing the annual fees they charge to card holders.

In other words, consumers were the losers, which is what inevitably occurs when governments intervene in markets that aren't broken. That's why Congress and the courts should keep their paws off this industry and let the market give credit, where credit is due.

OTHER NEWS:

World Economy Expanding (USAT)

By David J. Lynch

USA Today, January 12, 2006

If things go according to plan, the world economy will chug along nicely through the new year.

That would be comforting news if things ever did go according to plan.

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Actually, 2006 could see plenty of nasty surprises. For one thing, the world economy, though expanding, is dangerously imbalanced. The resulting U.S. current account deficit — reflecting the gap between the nation's ravenous appetite for imports and its anemic savings — is now at levels that many experts fear could trigger a run on the dollar, soaring interest rates and global economic pain.

Meanwhile, investment is pouring into risky emerging markets as if the past decade's turmoil in Argentina, Turkey, Thailand and Russia never happened.

And all that stands between a barrel of oil and a triple-digit price tag is a strike in Nigeria, unrest in Venezuela or revolution in Saudi Arabia.

For all that, both the International Monetary Fund and the World Bank expect solid global growth of 3.2% this year, about the same as in 2005.

If prognosticators seem sanguine, perhaps it's because many of the same warning signals flashed red one year ago, and yet, the economy still barreled ahead, even overcoming epic natural disasters.

"2005 was a year that has lulled a lot of investors, policymakers and government officials into a dangerous and false sense of complacency," says Stephen Roach, chief economist for Morgan Stanley in New York.

Terror attacks. A trade war with China. Even a historic epidemic of potentially lethal "bird flu." There's no end to the list of potential economic catastrophes that could arise this year.

But three dangers — mushrooming global imbalances, vulnerable emerging markets and volatile oil prices — seem especially noteworthy.

To many economists, the swollen U.S. current account deficit looms as the biggest potential hazard. In a nutshell, the United States spends too much and saves too little, and Asia saves too much and spends too little. (Moribund Europe doesn't do enough of either.)

No one knows for certain when the day of reckoning will come. But Roach, and many others, say the USA and the world cannot go on like this indefinitely.

"There are significant downside risks to the global economy … financial markets right now are not pricing in any of these risks," warns Nouriel Roubini, a former White House economist in the Clinton administration who runs the influential www.rgemonitor.com website.

Last year, the U.S. financed its excessive spending by selling almost $800 billion worth of Treasury securities to foreign central banks and investors.

At 6.4% of total economic output, that's an unprecedented level for a major economy. The U.S. is able to get away with such profligacy largely because the dollar plays a uniquely central role in global commerce.

But here's how a crisis could unfold: If foreigners conclude the dollar was headed for a fall because of the enormous U.S. deficit, they would cut back on purchases of U.S. debt. To entice them to buy, the Federal Reserve would have to raise interest rates, perhaps significantly. Higher interest rates could choke off economic growth, even as the falling dollar ignited inflation by boosting the prices of imported goods.

In 2005, the dollar defied predictions of an inevitable decline. But it is unlikely to keep doing so, according to Roubini.

The greenback benefited last year from a one-time change in U.S. tax law that encouraged companies to repatriate foreign profits and from the Fed's rate increases.

The tax provision has expired, and the Fed is believed to be near the end of its monetary tightening.

"Our ability to finance ourselves depends upon the willingness of foreign central banks to hold dollars. That willingness is going to be shrinking (this) year," Roubini says.

Even under optimistic assumptions, once the crisis hits, the economic pain in the USA could be like nothing the country has suffered in decades.

An abrupt end to the USA's ability to obtain sufficient foreign financing could send the dollar into free fall, cutting 21% to 28% from its value, according to research by Sebastian Edwards, a professor at UCLA's Anderson School of Management. That would increase the price of a $21,000 foreign-made sedan to almost $27,000, unless dealers opted to absorb the blow.

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In the first year, 3.6% to 5% would be slashed from per capita economic growth. That would almost certainly push the USA into recession, perhaps for several years, according to Edwards, who presented his findings at last summer's annual Federal Reserve conference in Jackson Hole, Wyo.

"Never in the history of modern economics has a large industrial country run persistent current account deficits of the magnitude posted by the U.S. since 2000."

Another danger might be brewing in the so-called emerging markets. Capital flows this year into developing nations in Latin America, Asia and Central Europe are expected to hit a record $345.2 billion, according to the Institute of International Finance. That surpasses the previous high set in 1996, just before the Asian financial crisis, and is up 62% in the past two years.

Emerging markets enthusiasts shrug off reminders of the euphoria-and-collapse cycles that hit Thailand in 1997, Russia in 1998, and Argentina in 2000. It's different this time, say firms such as JPMorgan. Countries, particularly in Latin America, have built up foreign-exchange reserves that should allow them to ride out any financial crisis and have introduced economic reforms that give their economies greater stability. Rather than depend on private capital flows from rich countries as they did in the 1990s, developing nations now rely on strong export industries.

Bond holders are so impressed that they regard emerging market securities as little riskier than U.S. Treasuries, according to the JPMorgan Emerging Markets Bond Index Global (EMBIG). In late 2002, investors demanded an additional 91/2 percentage points of yield as compensation for the risk involved in holding emerging markets bonds compared with U.S. Treasuries. Today, the spread on the EMBIG is down to little more than 2 percentage points.

But emerging markets also have had the economic winds at their back for the past couple of years. Strong global demand boosted commodity prices, a major help for soybean exporters such as Argentina and oil producers such as Venezuela. And U.S. interest rates were so low, yield-hungry investors — including normally cautious pension funds — were drawn into countries such as Brazil or Hungary.

Now, global growth is slowing, and U.S. rates are higher. "There's a lot to worry about," says Desmond Lachman of the American Enterprise Institute, who was among the first to warn of problems in Argentina before its historic default.

While no one is predicting a repeat of the problems that rocked half a dozen countries in the 1990s, emerging markets remain vulnerable to sharp changes in the global environment. If the dollar tanks, their surging exports would stall. Higher oil prices could deal them a double whammy, inflating their energy costs while depressing the economies of major customers.

Any unexpected mishap could cause the spreads between emerging market debt and U.S. securities to balloon, making it more expensive for corporations in developing countries to finance their operations, Lachman says.

Politics also might complicate the economic outlook, especially in Latin America. Elections are scheduled in eight countries this year, including presidential and legislative contests in Brazil and Mexico. The voting takes place amid a clear drift away from the free-market policies favored by the United States.

So far, little of this seems to be making an impression. "The markets seem to be pricing in close to zero probability of something going wrong," Barclays Capital wrote in a Dec. 8 note to clients.

One year ago, no one predicted twin hurricanes would wreck much of the U.S. Gulf Coast oil infrastructure, sparking gas shortages and soaring pump prices. But today, with oil prices at about $64 per barrel, it doesn't take much imagination to conjure up fresh scenarios of price jumps.

Spare oil supplies amount to 1.9 million barrels per day, down from more than 6 million a day three years ago. Any event that idles significant output for a prolonged period — political turmoil in Venezuela, revolution in Saudi Arabia, a general strike in Nigeria — would threaten the world economy.

"With spare production capacity so low, the market is particularly vulnerable to a supply shock," the World Bank said in its 2006 economic forecast.

If oil supplies were cut by 2 million barrels per day, prices would hit $90 a barrel this year and remain at $70 next year, according to the World Bank. The price spike would add 2.6 percentage points to the inflation rate, which is 2.1% now, and cut global growth in half.

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How likely is such a price spike? Goldman Sachs oil analyst Arjun Murti spooked markets in March with a forecast of a "super spike" taking oil prices as high as $105 per barrel. On Dec. 12, he reiterated that view in a note to clients, adding that "non-existent spare capacity" supported the prediction.

John Kingston, global director of oil for Platts, is more optimistic. He expects prices to ease this year with new producing wells in the Gulf of Mexico, Russia and Nigeria boosting the market's cushion.

Still, he frets that continued Iraqi turmoil could pinch. Daily exports there of 1.4 million barrels remain below prewar levels, according to Platts. Anti-U.S. insurgents last year mounted 96 attacks on the country's aging network of pipelines and production facilities, or one every four days. There is little reason to expect quick improvement.

"The spot that concerns me the most is Iraq, and not so much the insurgents," he says. "The oil industry there has been held together by spit and bailing wire. … It's antiquated and needs massive capital investment."

To those such as Roach, who are inclined to emphasize the risks that things won't go exactly as expected, the links between potential problems are the most worrisome element. The USA's fat current account deficit could sink the dollar. As it plummets, emerging markets' exports dry up and oil prices, which are denominated in dollars, rise. In no time, what starts as one country's difficulty becomes a global contagion.

"This is what we signed up for when we bought into globalization," Roach says. "The next global adjustment or downturn most likely will reverberate very quickly around the world with a speed we haven't seen before."

2006 Rally Keeps Chugging (WSJ)

By Scott Patterson

The Wall Street Journal, January 12, 2006

In another late-day surge, stocks pushed higher, overlooking an earnings gaff by chemical behemoth DuPont and a jump in oil prices.

Monday and Tuesday, stocks also rallied late in the day to finish near their highs. Such end-of-day spurts are typical of strong markets, analysts said.

"If you dissect periods where the market is rallying overall, you'll find an intraday pattern that starts out on the weak side and finishes with strength," said Kenneth Tower, chief market strategist at CyberTrader. "It's another positive for this market rally."

One pivot point for stocks Wednesday was the 11000 level on the Dow Jones Industrial Average. At the opening bell, the average dipped from yesterday's close of 11011.58 and tested 11000. It bounced higher, then slid once again. By the end of the day, the Dow average tested 11000 four times, and even dipped below it twice. After the fourth test, the industrials moved decisively higher and finished up by 31.86 points to 11043.44.

The Standard & Poor's 500-stock index added 4.49 points to 1294.18 and the Nasdaq Composite Index gained 11.04 to 2331.36.

Such action is created by new money flowing into the market on dips, analysts said. Each time the market declined, "we got a new wave of buying," said Peter Cardillo, chief market analyst at S.W. Bach. Zigzag patterns that end on a high note are a strong sign for stocks, he said, and could mean that "the bull is getting ready to stampede."

Despite the strong action, some market watchers remain concerned that investors are getting ahead of themselves. A slower-than-expected holiday season and high oil prices will ultimately catch up with stocks, they say, and the January rally "is going to end with a slow-motion slowdown," said Barry Ritholtz, chief market strategist at Ritholtz Capital Partners.

Investors have already looked past negative earnings news from two Dow components. Wednesday, shares of DuPont fell 3.3% after it cut its fourth-quarter earnings guidance8, citing disruptions in operations due to hurricanes Katrina and Rita. Tuesday, an earnings whiff by Alcoa, also a Dow component, nicked the average in early trading, losses it made up by the closing bell.

Treasury bonds declined Wednesday after an auction of $13 billion in five-year notes drew a poor response, with just 29% of the buyers coming from foreign bidders.

Crude-oil prices, down earlier, recently jumped 57 cents to $63.94 a barrel on the New York Mercantile Exchange after the Energy Information Administration said crude-oil inventories fell more than expected last week.

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Investors also eyed comments by Timothy Geithner, head of the New York branch of the Federal Reserve. Mr. Geithner said the economy remains "remarkably stable" and that inflation, excluding food and energy, "has been quite moderate."

Last Tuesday, minutes from the Fed's December meeting indicated policy makers may be closer to winding up their 18-month rate-raising campaign sooner rather than later, which triggered a five-day rally that helped push the Dow industrials past 11000 for the first time since June 2001.

In major market action:

Stocks rose9. On the Big Board, where 1.7 billion shares traded, 1,896 stocks rose and 1,460 fell. On the Nasdaq Stock Market, where 2.4 billion shares traded, 1,544 rose and 1,479 declined.

Bonds slid10. The benchmark 10-year Treasury note slipped 8/32, or $2.50 for every $1,000 invested, to yield 4.401% Wednesday. The 30-year bond fell 14/32 to yield 4.642%. Yields move inversely to prices.

The dollar was mixed.11 It traded at 114.35 yen, up from 114.31 yen late Tuesday, while the euro rose to $1.2088 from $1.2068.

The Church Of GDP (WP)

By Robert J. Samuelson

The Washington Post, January 12, 2006

What's the dominant religion of the past 100 years? The answer isn't Christianity with its 2.1 billion followers, or Islam with its 1.3 billion. It's the idea of economic growth, the Church of GDP. Countless countries have embraced rapid growth as a cure to their ills. Getting richer is now an almost universal craving. And yet the worship of growth inspires enormous ambivalence. It is widely seen -- especially in already wealthy societies -- as morally corrupting: the mindless pursuit of empty materialism (do flat-panel TVs really make us better off?) that drains life of spiritual meaning and also wrecks the environment.

Exactly wrong, says Benjamin Friedman.

Friedman, a Harvard economist, has written a hugely provocative book ("The Moral Consequences of Economic Growth") arguing that rapid growth is morally uplifting. "Economic growth -- meaning a rising standard of living for the clear majority of citizens -- more often than not fosters greater opportunity, tolerance of diversity, social mobility, commitment to fairness, and dedication to democracy," he writes. Further, the opposite is true. Poor growth feeds prejudice, class conflict and antidemocratic tendencies.

Look at history, he says. In the United States, exploding economic growth after World War II coincided with a broad expansion of rights for women, blacks and the poor. During the prosperous Progressive Era, from roughly 1895 to 1919, the "idea of mass high school education first took hold." In 1912 the federal government created a Children's Bureau to discourage child labor. The same year, Congress passed the 17th Amendment, switching the election of senators from state legislatures to popular vote. In 1919 it passed the 19th Amendment, giving women the vote.

Good times often played out similarly in Europe. From 1850 to 1870, Britain's per capita income rose 35 percent. In 1870 the government opened civil service jobs -- until then reserved "for candidates with family connections" -- to competitive testing. Comparable reforms broadened the military's officer corps. Religious tolerance improved; no longer was membership in the Church of England required to teach at Oxford and Cambridge. After the Franco-Prussian War of 1870, France also prospered: In 1875 it adopted universal male voting; in 1881 and 1882 it embraced compulsory schooling up to age 13.

Nazi Germany is, of course, the classic case of the converse: that growth's absence is morally destructive. From 1929 to 1932, German industrial production dropped 42 percent; in 1932 unemployment was 44 percent. The rest is history. Friedman offers other examples. The Ku Klux Klan (anti-Catholic and anti-Jewish as well as anti-black) flourished in the 1920s, which he describes as a period of disappointing growth.

People, Friedman argues, instinctively compare themselves to "two separate benchmarks: their own (or their family's) past experience, and how they see people around them living." When living standards rise rapidly, more people feel optimistic, unthreatened and tolerant. Friedman also cites Adam Smith's insight that commerce fosters trust, civility, mutual dependence and legal protections (contracts, property rights). Economic growth isn't mainly about greed and exploitation.

Case closed? Well, not exactly.

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One problem with Friedman is Friedman. His meticulous scholarship unearths much contrary evidence. In the United States, the Great Depression didn't diminish democracy; instead, it "fostered a broader commitment to opportunity and mobility for all citizens." Britain passed momentous reforms (unemployment insurance, old-age pensions) from 1908 to 1911, a period of weak growth. Among poorer countries, many (Chile, South Korea, China) first achieved rapid growth under authoritarian regimes, though Chile and South Korea are now democratic.

Friedman's view of the 1920s is also dubious. Agriculture aside, America was mainly prosperous. The KKK's strength reflected raw prejudice -- and perhaps a sense of a threat created by economic growth, which left farms and small towns behind.

Friedman has identified a tendency, not an iron law. Still, his moral case for economic growth is solid. It's true that growth alone rarely creates happiness. Beyond a certain income, happiness depends on family relationships, a sense of belonging, personal beliefs. But growth surely can cure misery. In the 1700s, life expectancy in France was 25 years, and about 30 percent of infants died before their first birthday. Now life expectancy in advanced countries is almost 80 years, and infant mortality is usually less than 1 percent. Anyone who cares about world poverty must favor economic growth.

Another moral plus: Societies whose politics focus on the gaining and sharing of prosperity can promote their own stability. First, everyone can win. Second, though remaining economic conflicts can be nasty, they're easier to mediate than religious or ethnic differences -- where one side must face eternal damnation or discrimination. It's no accident that the United States and Britain are the oldest successful democracies.

But Friedman mostly misses the real growth predicament facing most advanced societies. It's not environmental spoilage. As he notes, most rich societies protect their environments through tougher antipollution regulations. In the past two decades, U.S. emissions of sulfur dioxide are down 54 percent, he reports. Whether global warming will break this environmental truce remains to be seen.

The immediate dilemma involves the welfare state. It requires fast economic growth to generate the income and government revenue to pay all the promised benefits. But the mounting costs of those benefits -- especially as populations age in the United States, Europe and Japan -- may stifle growth through higher taxes and budget deficits. If so, the welfare state may cause the stagnation and strains against which Friedman warns. The dilemma for most rich societies is that they are wedded both to advancing materialism and to policies threatening that advance. Friedman would have strengthened his point by clearly saying so.

As Bernanke Era Begins, Former Fed Governors Expect Change (KRT)

By Kevin G. Hall

Knight Ridder, January 12, 2006

WASHINGTON - Imagine that you wake up one morning with the power to rattle or rally financial markets across the globe, determine the strength or weakness of the U.S. dollar and encourage or discourage the purchases of cars or homes across America.

That's the power Ben Bernanke will wield when he replaces Alan Greenspan as the chairman of the Federal Reserve. The 79-year-old Greenspan will retire Jan. 31, the same day the Senate will confirm Bernanke, 52, and begin his era.

A shy academician, Bernanke is expected to distinguish himself from Greenspan as more of a consensus-builder and clear-speaking communicator. He must do it while still establishing his authority over an institution historically run by strong-willed chairmen with deeper real-world experience than he brings to the role.

Short of the presidency, few jobs affect the lives of ordinary Americans more tangibly than the Fed chairman, yet few citizens know much about the Fed. So mysterious are its workings that transcripts of its closed-doors meetings are kept classified for five years.

Over the past 27 years, there have been only three Federal Reserve chairmen, and only 13 in the Fed's 92-year history. A change atop the secretive institution is a big deal, as rare as a papal installation.

The Fed's mission is to control the money supply in ways that boost employment and dampen inflation. It does so by effectively setting bank-lending rates to individuals and businesses, which in turn accelerates or slows economic activity.

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For the past 25 years, two towering Fed chairmen - Paul Volcker and Greenspan - have steered the world's largest economy. On Volcker's watch, inflation was wrestled to the mat. During Greenspan's tenure, the end of the Cold War ushered in a truly global economy with the United States as its engine.

Those are tough acts to follow. And Bernanke, a seasoned academic from Princeton University who served on the Fed from 2002 to 2005, arrives without the clout that either man carried on Wall Street or in Washington. Only time will tell if that makes him less effective than his predecessors.

History is clear on one point, however: Incoming Fed chairmen tend to face early tests. Less than 10 weeks into the job in 1987, Greenspan wrestled with a stock market crash.

Bernanke arrives facing an expected economic slowdown late this year. He must decide by March whether to break a string of what's expected by then to be 14 straight quarter-point rate hikes, which began in June 2004. He also must decide how to deal with America's heavy reliance on foreigners buying Treasury debt, weak regulatory control over hedge funds that can roil markets and concerns that the nation's hot housing market is cooling and could nosedive.

Five former Fed governors told Knight Ridder in interviews that Bernanke will have to earn the trust of financial markets. The five also expect Bernanke to be more considerate of opposing viewpoints than was Greenspan, who sometimes left Fed governors feeling that their views were marginalized.

"When the chairman made his recommendation at the start of the go-round, the game was up, it was over. Everybody knew what the chairman would be in favor of," Laurence Meyer, a Fed governor from 1996 to 2002, said in an interview.

In his 2004 book "A Term at the Fed," Meyer doubted whether he made a difference because "I ended my term not sure I had ever influenced the outcome of an FOMC meeting, but it never stopped me from trying." He was referring to the Federal Open Markets Committee, the Fed's policy-making unit.

Greenspan's dominance sometimes chafed his colleagues.

Princeton University professor Alan Blinder, who was Fed vice chairman from 1994 to 1996, felt that Greenspan didn't give his views sufficient weight. He's the only governor to fall out publicly with Greenspan, who's so revered in Washington that Bob Woodward named his flattering Greenspan biography simply "Maestro."

Blinder alleges that Greenspan and a few senior Fed staffers dubbed "the barons" essentially ran the Fed with little serious input from others.

Blinder and Bernanke rotated the job of chairman in Princeton's big-ego economics department. The department included Paul Krugman, a liberal economist and controversial columnist. That experience leads Blinder to expect Bernanke to be more collegial and open to the views of others as Fed chairman than Greenspan was.

"I'm pretty sure Ben Bernanke, coming out of the environment that he does, and being the person that he is, would rather use these occasions to engage in discussions and real debate with the committee," Blinder said.

Some other ex-Fed governors agree that Greenspan wasn't exactly a first among equals - he was a first without equals, fully in charge.

"I think Blinder is probably on the mark there," said Lyle E. Gramley, a Fed governor from 1980 to 1985. "When the greatest central banker that ever lived talks ... it does tend to have an intimidating influence on the committee."

To be sure, there were times when Greenspan sensed between meetings that he had weak support on the board. There's an unwritten rule that the chairman will resign if he loses a vote on a rate-setting action, so Greenspan took care either to persuade his colleagues of his position beforehand or to adopt rival views as his own before the vote.

"I never monitored Alan Greenspan's phone calls, but I just bet you he could sense those times, and I can bet you he got on the phone with key members of the committee," said Edward M. Gramlich, a former Fed governor whose 1997-2005 term overlapped with Bernanke's. "Whether Ben will sense that and do that is an open question."

Unlike his predecessor, Bernanke enters the big job with the benefit of Fed experience. That means he knows how difficult it is for the Fed to read the nation's economic pulse, said Alice Rivlin, a Fed vice chairman from 1996 to 1999.

"Its decisions are made in the light of considerable uncertainty," she said, adding that "there's never a clear road map of the future."

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That's why Greenspan is so widely hailed. His instincts and confidence in his judgment made him authoritative. He saw through the mist; only time on the job will reveal whether Bernanke's judgment is equipped with similar fog lights.

"Greenspan was a very independent thinker; he looked at very different data than everybody. He often came to the table with very different views than the staff and had to persuade them," Meyer recalled. "Bernanke is much more a conventional thinker and is much more close with staff. He's more likely to come to the table with a position consistent with the staff forecast."

That's not necessarily good.

For example, Meyer and Fed staffers were pushing for higher interest rates in the mid-1990s to ensure that the economy didn't overheat and spark inflation. But Greenspan correctly intuited that productivity - worker output per hour - wasn't being measured adequately. He held rates low and his view proved correct, as inflation didn't rise and his policy fostered the late `90s boom.

"What we're (going to be) missing is this unique Alan Greenspan. There's just no way of getting around it," Meyer said. "Bernanke needs to keep himself open to views outside the staff, and make sure there are enough ideas (from) outside."

Stem Cell Research Funding In Md. Raises Bioethics Issue (BSUN)

By Jennifer Skalka And Jonathan Bor

The Baltimore Sun, January 12, 2006

Gov. Robert L. Ehrlich Jr.'s $20 million plan for funding stem cell research sparked sharp criticism Wednesday from scientists and legislators after a key state official disclosed that preference will be given to work on non-embryonic stem cells.

With leading Democratic legislators renewing their call for support of embryonic stem cell research, the lines were clearly drawn for a debate that will dominate the General Assembly session that began Wednesday. Some Ehrlich allies argue that state dollars spent primarily on adult stem cell lines will advance science and thrust Maryland into the forefront of stem cell research. Many scientists say that cells derived from embryos hold the most promise for scientific breakthroughs.

Either way, Maryland appears poised to join a growing number of states spending money on stem cell research in the wake of a federal prohibition on funding research involving new embryonic stem cell lines.

Ehrlich discussed his plan to commit $20 million in state money to stem cell research at a news conference Wednesday in Baltimore, calling on lawmakers to forgo political wrangling in favor of good science.

But hours later, Ehrlich's top science adviser, Chris Foster, said he doesn't believe the money would be best spent on embryonic stem cell research.

"I don't think at this time that we need to" fund embryonic cell research, said Foster, deputy secretary of the Department of Business and Economic Development. "I think there are other ways to solve the problem."

Foster said the state would entertain applications for embryonic research but there would be a preference for non-embryonic research, a position that brings Ehrlich closer to President Bush on this contentious issue.

Four years ago, Bush halted federal funding of embryonic stem cell research except for some existing cell lines, prompting some states to begin providing support.

The governor's proposal includes $13.5 million for a new Center for Regenerative Research at the university's BioPark. Henry Fawell, a spokesman for Ehrlich, said the $20 million for research is a one-year allocation that would likely be followed by future requests for funding.

Initially, Ehrlich's plan brought cheers from proponents of the research, who had thus far labored fruitlessly to get him to back state funding. Paul Schurick, Ehrlich's communications director, told reporters Tuesday evening that the administration would not impose restrictions on how the research money would be used.

And during his news conference Wednesday morning, Ehrlich -- joined by first lady Kendel Ehrlich, Howard County Sen. Sandra B. Schrader and others -- implored lawmakers to help him "make sure the science prevails to push us forward."

"I would hope we keep the politics to a minimum; that is my sincere hope," Ehrlich said. "I will attempt to do so."

That there would be a preference for non-embryonic research disappointed and confused some officials and scientists.

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"That's not been the understanding or the indications that I think many of us had had," said William E. Kirwan, chancellor of the University System of Maryland. "Certainly I'd be anxious to hear if there's been any different thinking than what was presented today."

Research involving embryonic stem cells is controversial because it requires the destruction of embryos that could otherwise develop into babies. So far, scientists have created stem cell lines by using embryos donated by couples who had produced more embryos at in-vitro fertilization labs than they needed.

Embryonic stem cells are the master cells that give rise to every specialized tissue in the human body, including those making up bone, blood, the heart, brain and spinal cord. Many scientists believe they could be used to generate replacement tissues for people suffering from diseases from Parkinson's to diabetes.

Though these scientists say such cells hold the best promise for restorative treatments because they are the most flexible, others are focusing on so-called "adult" stem cells that are programmed to create specific tissues. Some researchers, for instance, hope they can cure heart disease with transplants of cardiac stem cells.

Several leading stem cell researchers said favoring proposals for non-embryonic research would defeat the purpose of state funding -- to support projects for which federal funding is limited.

"This certainly won't fly in the community of people who are actively seeking the state's support for embryonic stem cell work," said Dr. John Gearhart, a leading stem cell researcher at the Johns Hopkins School of Medicine. "There is no evidence that these other sources give cells that have the same properties as embryonic stem cells."

"That's exactly the opposite of what I think is needed," said Dr. Curt Civin, a Hopkins cancer researcher studying ways to harness stem cells to treat childhood leukemia. "The hole in our funding is for embryonic stem cell research."

Civin also expressed concern that the preference for non-embryonic research would skew the process of choosing the most deserving projects.

But Dr. Paul Fishman, a neurologist at the University of Maryland Medical Center, said Ehrlich's approach might have merit. He said many experts think that treatments derived from adult stem cells, as opposed to embryonic stem cells, are closer to being realized. Some biotech companies prefer working with non-embryonic stem cells because they feel the technology could yield profits faster, he said.

"If the goal is fostering biotech, that strategy may have some value," Fishman said.

Foster, an electrical engineer, said the Maryland Technology Development Corp. will appoint an expert committee to review all proposals and award grants to the most deserving.

By giving greater weight to proposals involving adult stem cells, the committee will avoid the political furor that could arise if it awards much of the money to embryonic research, he said.

"I don't want to get bogged down in politics," Foster said. "If we're going to spend state money and it's going to embryonic research, it will generate so much debate and controversy we'll make no progress."

Gearhart disagreed.

"This kind of proposal is certainly not one that will take politics out of stem cells," he said. "It will do nothing but inflame and reinvigorate the push for funding for embryonic stem cell research in the state."

Del. Samuel I. Rosenberg of Baltimore, who along with fellow Democrat Sen. Paula C. Hollinger of Baltimore County is proposing $125 million over five years for embryonic stem cell research, said Foster's statements took him by surprise.

"This is not where the need is in terms of priorities," he said. "You've got the feds not involved because of political pressure from the right wing."

Susan O'Brien, executive director of Maryland Families for Stem Cell Research, said preference for non-embryonic research "puts politics back in this issue."

The research proposal surprised top officials at the University of Maryland, Baltimore. They were expecting the governor to announce his commitment to support the new center, which had been in the works for some time, but did not anticipate a research component to his proposal.

"That's completely new," said David J. Ramsay, president of the University of Maryland, Baltimore. "We were talking about the facility. He actually sprung this as a surprise yesterday."

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The governor's office says, however, that Ehrlich has always backed stem cell research and simply took the time to give the issue proper consideration.

"The governor has many stakeholders in this issue that he has had conversations with," said Ehrlich spokesman Henry Fawell. "Like any other chief exec with a major announcement, he's entitled to keep certain components of his proposal private."

Ehrlich Proposes Stem-cell Funding (WT)

By Jon Ward

The Washington Times, January 12, 2006

BALTIMORE -- Maryland Gov. Robert L. Ehrlich Jr. yesterday proposed $20 million in state funds for stem-cell research.

The research funds, under the governor's proposal, would be disbursed through a committee controlled by his administration, alleviating concerns among Maryland religious groups that the studies would involve embryonic stem-cell research, considered a form of abortion by some.

"Clearly, no one is going to be funding embryonic, because in 25 years, there have been nothing but miserable failures," said Nancy Fortier, an associate director at the Maryland Catholic Conference. "Nonembryonic is what is being used to treat cancer, blindness, heart disease, Parkinson's disease. The $20 million is going to be distributed by capable, unbiased people on a review board."

Still, the governor did not rule out embryonic research.

"If it's embryonic with the best chance for therapeutic results, it will be embryonic," said Mr. Ehrlich, a Methodist.

Mr. Ehrlich said a committee, yet to be named, at the Maryland Technology Development Corporation (TEDCO), "will make those decisions."

Chris Foster, deputy secretary at the Department of Business and Economic Development, will work with TEDCO to select the eight- to 12-person review committee.

Mr. Foster, a gubernatorial appointee and former federal researcher, said the committee will include representatives from research universities like Johns Hopkins University and the biotechnology industry and will solicit proposals for research.

"We'll use a model very similar to NIH. We know how they work," Mr. Foster said.

Mr. Ehrlich did not support an attempt last year by Democratic legislators to fund stem-cell research, including embryonic stem-cell research. The bill stalled in the Senate.

Del. Samuel I. Rosenberg, Baltimore Democrat, and Sen. Paula C. Hollinger, Baltimore County Democrat, who were last year's sponsors, are again sponsoring bills in their respective chambers that would provide $25 million over five years for stem-cell research.

Mr. Ehrlich's one-year proposal includes $13 million for a new Center for Regenerative Research at the University of Maryland at Baltimore, where he made his announcement yesterday.

Mrs. Hollinger said that the governor's proposal was "a step in the right direction, but that in order to do it right, we need to pass our legislation."

TEDCO, she said, doesn't "have the scientific or bioethics expertise." Mrs. Hollinger's bill would create a Maryland Scientific Peer Review Committee that would award grants through the Department of Health and Mental Hygiene.

Susan O'Brien, spokeswoman for Maryland Families for Stem-Cell Research, called TEDCO a "political peer review," instead of "scientific peer review."

"It absolutely has to have scientific peer review, not a politically appointed board," she said.

Mr. Ehrlich, in response, said, "What's not political? What we're trying to do is maximize science, not divide people."

TEDCO was created in 1998 by the state legislature and exists to promote "technology-based economic development." It is governed by a 15-member board appointed by the governor with "advice and consent of the Senate," according to its Web site.

Maryland Families for Stem-Cell Research is headed by former Gov. Harry Hughes, whose wife has Parkinson's disease. Mr. Hughes was supposed to attend the governor's press conference yesterday, but did not come because of a "family emergency."

Stem Cell Hype And Hope (WP)

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By David A. Shaywitz

The Washington Post, January 12, 2006

The apparent fabrication of results by South Korean researcher Hwang Woo Suk has already prompted a serious reevaluation of stem cell science, and the release this week of Seoul National University's final report on the affair is certain to add fuel to the fire. Many detractors of stem cell research (and, privately, even some proponents) have begun to wonder whether this might mark the beginning of the end. More likely this controversy -- and the ensuing scrutiny and self-reflection -- will provide exactly what our discipline needs most: the opportunity to modulate the extravagant expectations for this research while we reaffirm our underlying commitment to it.

The rapid ascent of stem cell research into the spotlight reflects the collision of exciting science with uncharted ethics. President Bush's Aug. 9, 2001, prohibition on the use of public funds to create new human embryonic stem cell lines ignited interest in this field, even as it made it much more difficult for American scientists to conduct the research. The concern that important medical science was being deliberately thwarted by the federal government enraged many patient advocates and further ratcheted up the demand for results.

Meanwhile, stem cell research itself trudged ahead slowly, for all the usual reasons -- as well as some unique ones. Scientific research is notoriously difficult, and progress typically incremental; human embryonic stem cells also happen to be intrinsically difficult to grow. Moreover, government restrictions severely hampered the ability of researchers to pursue the best science and discouraged many bright young investigators from entering the field.

As the demand for results far outstripped the ability of researchers to supply them, a seller's market emerged in which goods were overvalued and even low-quality merchandise was snatched up by eager buyers. This is the context in which Hwang's studies appeared.

While most in the field of stem cell research were shocked by the reports of fraud, the shock was only one of degree; it is common knowledge that the bar for publication in this field often has appeared remarkably low, with even well-respected research journals seeming to fall over one another for the privilege of publishing the next hot paper. The result of this frenzy has been an entire body of literature that is viewed with extreme skepticism by most serious stem cell investigators.

The good news is that underneath all this mess, stellar science really is happening. Stem cells have proved even more captivating than we could have imagined, and understanding the process by which a stem cell progressively differentiates into a specialized cell such as a neuron or a pancreas beta cell is perhaps the most compelling biology question for our generation. Stem cells have sparked our interest for good reason.

But we're not going to figure out how they work overnight; it will take a very long time and require our best minds, as well as our collective effort (and, ideally, our collective dollars). Translating this knowledge into clinically meaningful applications is certain to take even longer and present still more challenges -- yet it should be achievable. If the current controversy were to cause us to precipitously abandon this exciting area, it would be a catastrophic shame.

What we really need is to refine our expectations for this research. This doesn't mean we should scale back our ambitions or demand less of our researchers. Rather, we need to recognize just how arduous and painstaking good science usually is and remind ourselves that data do not become dogma when published, but only when independently validated.

Difficult or not, good research is the only responsible way to proceed. If the promise of stem cells is to be fulfilled, the pursuit will require a solid scientific foundation, one grounded in reliable, reproducible facts and not simply supported by hype and hope.

States, Flush In Election Year, Loosen Up (WSJ)

By Deborah Solomon

The Wall Street Journal, January 12, 2006

Facing fat budget deficits, the Bush administration is preparing a tight 2007 budget that squeezes most domestic programs. Flush with cash, state governors across the country are doing the opposite.

That includes members of Mr. Bush's party and the opposition. Republican Gov. Arnold Schwarzenegger of California proposes a $222 billion bond offering because, he says, "we need more roads, more hospitals, more schools ... more, more,

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more." Democratic Gov. Janet Napolitano of Arizona seeks "$100 million in smart tax relief that strengthens our economy and invests in new technologies."

In "State of the State" speeches now echoing through state capitols, others propose a beefed-up minimum wage and tax credits to help with energy costs. It's a far cry from the somber tones many governors struck earlier in the Bush era, as they struggled with the plunge in revenue that followed the 2001 recession.

Confronting a similar shortfall, the federal government has cut taxes and continued spending at a rapid rate -- on wars in Afghanistan and Iraq, on farm and highway bills, on a Medicare prescription-drug benefit. But many governors spent the first half of this decade cutting expenses and raising taxes to meet state balanced-budget requirements. The revenue surge that accompanied economic recovery has left them in the black at an opportune time: the 2006 election season.

"The revenue picture has improved very significantly," said Sujit Canaga Retna, a fiscal analyst with the Council of State Governments. "So, as a result of that, we see a number of projects geared towards economic development and long-term infrastructure needs."

Mr. Retna and other fiscal experts caution that states still face expenses in the next few years that will be a challenge, no matter how good the books look now. Among them is Medicaid, which continues to outpace the rate of state revenue growth, according to the Kaiser Family Foundation.

On average, Medicaid costs accounted for about 17% of states' general-fund budgets in 2005, up from 12% in 1995. Only K-12 education funding exceeds Medicaid as a percentage of general-fund expenditures. "Medicaid ... has not shown any signs of slowing down or losing its position as the fastest-growing component of state budgets," says Arturo Perez, a fiscal analyst with the National Conference of State Legislatures.

States also face growing costs associated with employee pension plans, many of which are underfunded, as well as retiree health-care costs. Nicholas Jenny, senior policy analyst at the Nelson A. Rockefeller Institute of Government, says states could "run ... into a ditch" by overreacting to today's flush treasuries.

Yet state executives aiming to survive the 2006 elections -- which include 38 gubernatorial races -- are eyeing voter-friendly ways to spend the extra cash. Several governors have proposed tax cuts and projects that they say will stimulate long-term economic development and make states healthier in the long run.

In Arizona, Ms. Napolitano has proposed tax credits for businesses that provide health care for employees and a three-day "sales tax holiday." In her address earlier this week, she also proposed spending $100 million on border security, saying such efforts "will mean big future payoffs" and help the state "to deal with the crisis down the road."

Tax relief also is on the agenda in Kansas, where Democratic Gov. Kathleen Sebelius is looking to eliminate the property tax on new business equipment. In New York, retiring Republican Gov. George Pataki, a potential 2008 presidential candidate, seeks a property-tax rebate, among other cuts.

Few welcome the changed fiscal picture more than Republican Gov. Bob Riley of Alabama, who drew criticism for proposing $500 million in higher taxes earlier in his term. Now he is calling for a five-year $200 million tax cut, including an annual "sales tax holiday." He's also seeking $500 million to fund school construction, along with a $1 billion increase in other education funding.

"This record surplus exists because we fought for fiscal discipline, and because our workers, our industries and our economic-growth strategy have succeeded in putting Alabama's economy on the right track," Mr. Riley says.

Perhaps the most ambitious plan was proposed by Gov. Schwarzenegger. He's pushing for a 10-year, $222 billion infrastructure plan while noting that "a strong economy has produced billions of dollars of unexpected revenues." Over the next two decades, he says, the Golden State will need to lay out $500 billion on infrastructure projects.

Mr. Schwarzenegger warns that the "structural deficit" in California's state budget may soon return. But after politically debilitating battles with public employees in 2005, he's proposing to increase the minimum wage by $1 an hour and to boost education funding by several billion dollars.

With winter heating bills an issue among voters, several governors have called for state outlays to help residents cope. In Idaho, Gov. Dirk Kempthorne proposed a $63 million plan to give every resident a $50 energy-relief check, while Gov. Pataki called for a $500 heating-fuel tax credit to "thousands of seniors across New York."

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Whether state legislatures go along with the governors' plans remains to be seen. Credit-rating agencies also are watching what states do with their surpluses; some states are seeking to replenish their "rainy day" funds, which were drained during the fiscal crisis.

"It is time to even out the ride," notes Democratic Gov. Christine Gregoire of Washington. "While the roller coaster is fun at the amusement park, it is no model for state budgeting."

Robin Prunty, a director with the ratings concern Standard & Poor's, said that while some targeted tax reduction or reserve replenishment is to be expected, a favored approach is "any tax-reduction measure that's nonrecurring and where you're not reducing the tax base."

Gov.'s Top Aide To Woo Donors (LAT)

By Robert Salladay

The Los Angeles Times, January 12, 2006

SACRAMENTO — Gov. Arnold Schwarzenegger is dispatching his newly appointed chief of staff to woo wealthy Republican donors for his reelection effort, injecting his most influential policy advisor into the job of collecting money for his campaign.

Susan Kennedy, once a top-level Democrat, will play a key role in the governor's reelection bid, the administration confirmed Wednesday. She is being paid campaign funds in addition to her $131,000 government salary and will mix freely with influential contributors.

Campaign finance experts and legislative Democrats questioned why Kennedy — the lead negotiator on major decisions in the Schwarzenegger administration — would be allowed to attend private meetings with donors when many have business before the administration.

Paul S. Ryan, associate legal counsel at the Campaign Legal Center in Washington, D.C., said allowing donors access to Kennedy creates "the appearance of corruption in California. If you are fortunate to afford the price of admission, then you automatically gain access that the vast majority of Californians do not have."

Appointed last month to the highest-ranking position in the Schwarzenegger administration, Kennedy is a former Democratic Party executive and aide to former Gov. Gray Davis. She has nevertheless vowed loyalty to the Republican governor and his 2006 reelection effort.

California law allows her to attend fundraisers for the governor and work on his campaign, as long as she is doing it on her own time.

Under Davis, however, an informal rule prohibited staff members — including Kennedy — from attending any fundraisers, said Steve Maviglio, a former spokesman for Davis.

Schwarzenegger communications director Rob Stutzman said Kennedy would take vacation days to meet donors and work on the campaign, and would "absolutely" separate her policy job from the fundraising effort. He said that "her insight strategically on how the campaign will proceed will be invaluable."

Maviglio, who now works for Assembly Speaker Fabian Nuñez (D-Los Angeles), said Democrats see problems with Kennedy and other Schwarzenegger officials moving back and forth between policy discussions in the Capitol and meetings with donors. The governor's former chief of staff, Patricia Clarey, took time off from her government job to serve as Schwarzenegger's campaign manager last year.

A "Join Arnold 2006" memo sent to donors Tuesday outlines a conference call and a series of luncheons planned for Schwarzenegger and contributors. The meetings will include "briefings from senior campaign officials, including the governor's chief of staff, Susan Kennedy," according to the memo, a copy of which was obtained by The Times.

"The concern is that you are offering donors, in exchange for campaign contributions, access to a decision maker that the rest of us don't have," said Derek Cressman, founder of TheRestofUs.org, a Sacramento nonprofit organization that monitors state and federal campaign finance laws.

Ryan of the Campaign Legal Center said contributors might benefit more from access to high-ranking aides than to the elected official hosting the fundraiser.

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"The staff member often has more experience in a particular subject area than the elected official. The actions of that official are going to reflect the advice they get from the advisor," he said.

Kennedy's appointment last month shocked the political establishment. Conservative Republicans, already concerned that Schwarzenegger was drifting too far left, were appalled that he would hire the former abortion rights activist and Democratic political operative to help him run the government.

Stutzman said some Republicans were concerned that Kennedy would have access to secret financial information about the Republican Party. He said Kennedy would not be privy to that kind of information, but "she is absolutely going to know reelection strategy."

The memo suggests that Schwarzenegger has begun his reelection fundraising effort in earnest, after tapping his donors for about $50 million last year in the unsuccessful special election campaign. The governor is expected to raise another $50 million for his reelection. His fundraising has already eclipsed that of Davis — who was recalled from office in part because of perceived excesses in raising money.

Schwarzenegger's political schedule with Kennedy is busy for the next few weeks. Planned for hotels and country clubs from Jan. 18 to Feb. 9, the eight meetings are known among campaign workers as "donor maintenance" events. The information dispensed is often cursory and broad, but the gatherings allow a donor access to the highest ranks of government.

Some Capitol interests, such as environmentalists and consumer groups, have complained in the past of not having direct access to the governor's staff. But this month, lobbyists say, the administration has been more willing to reach out to non-donors, holding a series of meetings in the Capitol to outline the governor's agenda.

The "Join Arnold 2006" briefings with Kennedy are being hosted by the top tier of the Schwarzenegger money machine. The memo was sent to potential donors by a group of 30 major supporters, such as former U.S. Secretary of State George P. Shultz and California Chamber of Commerce President Allan Zaremberg.

The hosts of the gatherings include some of California's biggest developers, who could benefit from Schwarzenegger's $222-billion proposal to rebuild the state's overburdened freeways, schools, ports and waterways.

The Jan. 18 meeting is scheduled for the Island Hotel in Newport Beach and will be co-hosted by George L. Argyros and William Lyon, both major housing developers. Argyros is the former U.S. ambassador to Spain and a major donor to President Bush and the Republican Party.

The campaign has also arranged a Feb. 1 meeting at the Regency Club in Los Angeles, co-hosted by real estate developer Rick Caruso. Developer Alex Spanos, owner of the San Diego Chargers, is hosting a fundraising meeting the next day at the Sutter Club in Sacramento.

The memo shows that Schwarzenegger is linking his legislative agenda to the reelection effort this year. It mentions the rebuilding plan, which is now before the Legislature. Kennedy is leading negotiations to get the package through the Assembly and Senate, both controlled by Democrats.

"As the governor is fond of saying, he cannot do this job alone," the campaign memo tells potential donors. "He is looking to us, California's business leaders and the leaders in the communities where we live, work and raise our families to help him communicate his message to the voters during the 2006 election campaign."

State law prohibits linking campaign contributions to specific governmental decisions. But the Political Reform Act of 1974 says nothing about barring elected officials and government aides from discussing policy at fundraising events, according to the state Fair Political Practices Commission.

Kennedy, who declined to comment, has been unapologetic in the past about her new loyalty to Schwarzenegger, a relationship that developed after a year of private meetings between the two. And she has acknowledged that politics would inevitably bleed into her policy job.

"Are there politics involved in legislative strategy? Absolutely," Kennedy told The Times recently. "My job is to help Gov. Schwarzenegger, and I won't hesitate for one second to do that. Obviously, that means helping people who support him in the Legislature."

Outside Audit Forecast: More Pension Freezes (WSJ)

By Ellen E. Schultz, Charles Forelle And Theo Francis

The Wall Street Journal, January 12, 2006

Look for more companies to cut back on pension benefits as an unusual alignment of financial conditions makes such moves more lucrative than usual.

Two trends have emerged in the broad shift away from traditional pensions, which provide workers set benefits based on their salary and years of service. Financially strapped companies such as airlines and auto makers are garnering much of the attention as they seek to ditch their badly underfunded pension liabilities and try to stay afloat.

Meanwhile, relatively healthy companies -- many with fully paid-up pension plans -- are seeking to shift to retirement programs that put more of the burden for savings and planning on employees. (How safe is your pension? See Personal Journal1.)

Last week, International Business Machines Corp. informed 117,000 workers in its U.S. pension plans that they will stop earning additional benefits after 2007, saving an estimated $2.5 billion to $3 billion over five years in the process, including the impact of other changes. Verizon Communications Inc. froze its pension for 50,500 managers last month, saving $3 billion in the coming decade.

Effective Jan. 1, many workers at Hewlett-Packard Co. and Sears Holdings Corp. also stopped building benefits in their plans. The companies said they are enhancing their 401(k) plans, which typically involve employee contributions that may be matched all or in part by employers.

Current interest rates offer employers the possibility of a particularly big income boost if they freeze their pensions, effectively wiping out part of a debt owed to future retirees. While assets in a plan still will be paid out when workers retire or leave the company, benefits don't grow with additional years on the job.

There is no legal barrier to freezing a pension unless it is prohibited by a union contract. Verizon, for example, unilaterally froze the pensions of its managers, but changes to pensions for its union employees are subject to negotiations.

"I wouldn't be surprised if many of the largest [companies] are in fact evaluating" pension freezes, said Vadim Zlotnikov, chief investment strategist for Sanford C. Bernstein & Co. Mr. Zlotnikov says the potential for locking in bigger accounting benefits is one of several reasons big pension sponsors might choose to freeze a pension now.

Under accounting rules, companies calculate how much they expect to pay out in pensions over the lives of their employees, including amounts workers haven't earned yet, and then reflect that amount as a liability on their books.

When a company freezes its pension -- halting the buildup of additional benefits for employees -- it is no longer obligated to make some of the payments it had planned. That allows the company to reduce the value of the liability it was carrying on its books, which generates accounting gains that are counted as income. Although this "income" isn't money that can be spent, it can affect the stock price and often management's pay incentives.

Benefits consultants, which earn fees in part by helping employers restructure pension plans, have begun telling clients that competitors are considering changes. Hewitt Associates LLC says that 29% of 152 companies it surveyed recently were considering closing some of their pensions to new employees, and 16% of 157 companies said they might freeze benefit accruals for some or all of current participants.

Today's low long-term interest rates allow companies to lock in particularly high gains. The value of a future obligation in today's dollars is bigger when interest rates are low, because the employer would have to put more money aside at prevailing rates to meet the payments when they come due.

Short-term rates, which contrary to long-term rates have been trending higher in recent months, offer the potential for even bigger gains to companies with so-called "cash-balance" plans, such as IBM, Verizon, H-P, Sears and many other big companies. Under these plans, workers have hypothetical "accounts" to which the employer credits interest each year, often tied to short-term rates. Higher short-term rates means higher interest credits. That, too, raises the pension obligation, and in turn, the savings from reducing the obligation.

Thus, by freezing their U.S. plans at a time when both long- and short-term interest rates are creating bigger liabilities, many companies stand to reap a bigger benefit by reducing their obligation. The companies can lock in the savings today, even if, like IBM, the benefits won't stop growing for two more years.

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Meanwhile, employers also are worried that proposed pension-accounting changes proposed by the Financial Accounting Standards Board might make their profits more volatile.

It is impossible to say for sure which companies will follow in the footsteps of IBM and Verizon. Technology and telecom companies such as Lucent Technologies Inc., BellSouth Corp. and Electronic Data Systems Corp., like IBM, Verizon, H-P and Sears, have cash-balance plans that could generate gains if frozen in the current interest-rate environment.

Spokesmen at all three companies declined to comment or said they weren't aware of any plans to change their plans. Lucent is among those reviewing options, says a person familiar with the matter.

IBM wouldn't break out the specific effects of freezing the U.S. pension, but says they account for about a third of its expected savings from pension changes. Nor would it identify how much its projected savings are offset by the estimated cost of increasing 401(k) contributions, which the company announced last week as well. IBM officials said the company began examining a pension freeze in earnest sometime early in 2005, and that the current interest-rate environment didn't play a role in the decision.

Verizon too, didn't disclose how much of the $3 billion in savings it expects will come from freezing the pension, nor would it say how much the savings are offset by increased 401(k) costs. The company declined to comment on whether the interest-rate environment played any role in its decision; it said the decision was driven by its merger with MCI, which didn't offer managers a pension.

An H-P spokesman said the company froze its pension for competitive reasons. "I wouldn't say [interest rates] played a significant role," he said. H-P didn't freeze its entire plan; rather, it closed it to younger employees and new employees, a move similar to what NCR Corp., did in 2004. NCR also has a cash-balance plan.

Sears said it froze its plan because traditional pensions have "become competitively unaffordable," and cause "significant volatility in a company's earnings and cash funding requirements."

Companies like Sears, which has an underfunded pension, get cash savings when they freeze their plans in addition to the pension income that boosts the bottom line. Because the obligation is reduced, the plan immediately becomes better-funded, which ultimately reduces or eliminates the need for the company to make cash contributions to the pension fund. Freezing its pension reduced Sears's pension liability by $80 million.

Clinton In Deal To Cut AIDS Treatment Costs (NYT)

By Donald G. Mcneil Jr.

The New York Times, January 12, 2006

Former President Bill Clinton plans to announce today that his foundation has negotiated lower prices on AIDS tests and on two important AIDS drugs.

Four companies, from the United States, India and China, will offer rapid H.I.V. tests for 49 cents to 65 cents, which will reduce the typical cost of a test in poor countries by half, Mr. Clinton said in a written statement. Another four companies - three from India and one from South Africa - will make the antiretroviral drug efavirenz for as little as $240 per patient per year. One of the Indian companies, Cipla, will also make the antiretroviral abacavir for $447.

The most common three-drug combination pill for H.I.V. now costs $136 per year, so the new drugs, even at steep discounts from the thousands of dollars they cost in the West, can easily triple the cost of therapy. But as patients become resistant to their first-line drugs, doctors must have new options.

The William J. Clinton Presidential Foundation acts as a broker, meeting with the health ministries of about 50 poor countries in Africa, Asia and Latin America and with drug makers.

Clinton Charity Gets Price Cuts For AIDS Drugs In Poor Countries (WSJ)

By Mark Schoofs

The Wall Street Journal, January 12, 2006

Former President Bill Clinton is expected to announce today that his foundation has secured price discounts on medicines for AIDS patients in developing countries and for HIV test kits.

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The price reductions -- involving nine companies from five countries -- cover two AIDS drugs usually used on patients who have become resistant to first-line medications or who develop unbearable side effects. The deal reduces by 30% or more the cost of already cut-price products offered in most poor countries. The William J. Clinton Foundation's first agreement with generic-drug makers for major price reductions came in October 2003.

Today's announcement will mark the foundation's first foray into reducing the price for second-line AIDS drugs. Second-line regimens are between seven and 30 times as expensive as first-line therapies, according to Doctors Without Borders, a relief organization.

"We're very concerned that in the next few years there will be a dramatic increase in need for second-line drugs, and we fear they won't be available or that they will be very expensive," says Daniel Berman, coordinator of Doctors Without Borders' Access to Essential Medicines Campaign.

While the Clinton program generally offers the lowest price for the drugs and tests its agreements cover, it is only one of many pipelines through which developing countries can purchase drugs. Most brand-name pharmaceutical and generic-drug companies offer their own discount plans. In addition, private companies and nonprofit charity groups make purchases on their own.

More than 240,000 people in Africa, the Caribbean and other developing parts of the world receive drugs through the foundation's agreements. The World Health Organization estimates that more than one million people now receive AIDS medicines in the developing world.

The Clinton team worked to lower prices by helping obtain cheaper ingredients to manufacture drugs. For example, one chemical ingredient accounts for most of the cost of making the drug abacavir. The foundation found an alternative supplier willing to slash the price for that ingredient, according to people at the foundation and at the manufacturing company, Matrix Laboratories Ltd. of India.

To make efavirenz another raw material is crucial but expensive, so the foundation approached a university researcher and asked him to develop a cheaper method of synthesizing that ingredient, which he has done.

"They are really providing a very comprehensive assistance program and are very sensitive to the commercial needs of companies," said Nimmgadda Prasad, executive chairman of Matrix Laboratories of Bangalore, India. Because the Clinton Foundation has 50 eligible countries in its purchasing consortium, it offered high enough volumes to justify lower margins, Mr. Prasad said.

Under the Clinton deal to be announced today, the drug efavirenz will be produced by three Indian generics firms -- Cipla Ltd., Ranbaxy Laboratories Ltd. and Strides Arcolab Ltd. -- and one South African generics maker, Aspen Pharmacare Holdings Ltd. The drug abacavir will be produced only by Cipla. Under the deal, efavirenz would sell for no more than $240 per patient per year, and abacavir for no more than $447 as long as orders meet volume and other specifications.

Four companies will manufacture HIV "rapid tests" -- which can determine a person's HIV status in less than 20 minutes -- for between 49 cents and 65 cents per test. The companies are Chembio Diagnostics Systems, a unit of Chembio Diagnostics Inc. of Medford, N.Y.; Orgenics Ltd. of Yavne, Israel, owned by Inverness Medical Innovations Inc. of Waltham, Mass.; Qualpro Diagnostics of India, and Shanghai Kehua Bio-Engineering Co. of Shanghai.

In the U.S. and Europe, abacavir is marketed as Ziagen by GlaxoSmithKline PLC. In the U.S., efavirenz is marketed as Sustiva by Bristol-Myers Squibb Co.; in most of the rest of the world it is marketed as Stocrin by MSD, the international trademark of Merck & Co.

Beating Up On Wal-Mart (WP)

The Washington Post, January 12, 2006

AMERICAN BUSINESS has few whipping boys so irresistibly whippable as Wal-Mart Stores Inc., whose treatment of employees, competitors and suppliers conjures cold-eyed corporate heartlessness. It's hard to root for Wal-Mart; one might as easily cheer on Scrooge or the shark in "Jaws." But state lawmakers in Maryland are preparing to impose legislation on the retailer so arbitrary that it may achieve the near-impossible feat of casting Wal-Mart as the victim.

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The Maryland bill would force firms with more than 10,000 in-state employees to spend at least 8 percent of their payrolls on workers' health insurance plans or make compensatory payments to the state. Only three other Maryland employers have more than 10,000 workers on their payrolls -- Johns Hopkins University, Northrop Grumman Corp. and Giant Food Inc. -- and they already meet or exceed the 8 percent threshold. Apparently, only Wal-Mart, with about 15,000 full- and part-time employees in Maryland, does not; thus the bill applies uniquely to Wal-Mart.

Maryland's legislature passed the bill last year, but Gov. Robert L. Ehrlich Jr. (R) vetoed it. Lawmakers, urged on by big unions, appear on the verge of overriding the veto despite furious lobbying by Wal-Mart. The legislators, joined by Giant Food (Wal-Mart's unionized competitor), insist disingenuously that they are not singling out the big-box retailer but are merely setting a standard. Yet hundreds of smaller companies in Maryland that fail to meet the 8 percent spending threshold for health care are untouched by the legislation; in total their uninsured employees may be a greater drain on the state's health system than Wal-Mart's. The bill's backers say that Wal-Mart, because it is so large, bears a special obligation to set a good example. But since when do states have the right to penalize firms simply because they are big and successful?

The Maryland bill is a legislative mugging masquerading as an act of benevolent social engineering. It is true that skyrocketing health care costs and the growing ranks of uninsured workers represent a burden on the state's health system that other corporations in effect help subsidize. But Wal-Mart employees, like the employees of other large retailers that employ many low-wage workers, are only slightly more likely to collect Medicaid benefits than the national average. And unlovable as it may be, Wal-Mart serves low- and middle-income people, both by creating entry-level and part-time jobs for people who might otherwise be unemployed and by saving its moderate-income customers a staggering amount of money.

The legislation has prompted imitators in 30 states. Where it passes, no one should be surprised by unintended consequences. Wal-Mart and other targeted firms may shift jobs or planned facilities elsewhere. Many low-wage younger workers may still opt out of health coverage even if offered a more generous plan. In trying to address the national problems of health care and uninsured workers, lawmakers in Maryland and other states could inflict on themselves a new set of problems while failing to solve the underlying one.

Russia Won't Block U.S. On Iran (WP)

By Dafna Linzer

The Washington Post, January 12, 2006

The Bush administration, working intensely to galvanize international pressure on Iran, has secured a guarantee from Russia that it will not block U.S. efforts to take Tehran's nuclear case to the U.N. Security Council, American and European officials said yesterday.

The commitment, made in a Tuesday night phone call between Russian Foreign Minister Sergei Lavrov and Secretary of State Condoleezza Rice, will likely help the United States and its European allies win support from key countries weighing a tougher line in response to Iran's resumption of sensitive nuclear work.

Vice President Cheney and British Prime Minister Tony Blair suggested yesterday that Iran now faces the possibility of U.N. economic sanctions if it does not halt nuclear enrichment research it began Tuesday.

According to three senior diplomats who were briefed on the call, Lavrov told Rice that Russia would abstain, rather than vote against U.S. efforts to move the issue from the International Atomic Energy Agency to the Security Council. State Department spokesman Sean McCormack confirmed to reporters that Rice had spoken with Lavrov and other foreign ministers but did not divulge details.

Russia's pledge was good only for when a vote takes place inside the IAEA. U.S. officials said they remain uncertain as to how Moscow, a traditional ally of Iran's, would react if the issue gets to the Security Council, where Moscow is one of five countries with veto power.

Still, Bush administration officials who spoke on the condition of anonymity saw the Russian decision as a victory and said they would spend the next several weeks lobbying China for a similar commitment. "We spent much of our time working on the Russians, but we're now moving the focus to China," said one administration official who would only discuss the backroom diplomacy on the condition of anonymity.

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The White House is hoping the IAEA board will refer Iran's case to the Security Council before President Bush delivers the State of the Union address at the end of the month, according to two senior administration officials.

Four years ago, in his annual address, Bush referred to Iran as a one of three "axis of evil" countries, along with Iraq and North Korea. But his administration has been criticized by friends and opponents for failing to come up with a strategy to curb Iran's nuclear program.

The White House has been pushing for more than two years to bring Iran's case before the Security Council, but only now -- as a result of Iran's recent actions -- has it found a chance to win enough international support to do so. The timing is ideal, U.S. officials said. John R. Bolton, the U.S. ambassador to the United Nations, takes over the presidency of the Security Council for one month beginning on Feb. 1, giving Washington the opportunity to place Iran at the top of the council agenda.

In an interview yesterday with Fox News Radio, Cheney said "the number one item on the agenda" at the Security Council would be a "resolution that could be enforced by sanctions." He cautioned that the process, still in flux, was "speculative at this point" but added, "that will be the next step once the Board of Governors of the International Atomic Energy Agency meets and concludes that the diplomatic track they've been on isn't going to work."

In London, Blair told parliament that sanctions are a serious option. "We don't rule out any measures at all," Blair said. "It is important Iran recognizes how seriously the international community treats it."

The foreign ministers of France, Britain and Germany, who are now closely allied with Washington's position on Iran, are expected to call today for an emergency meeting of the IAEA board to vote on sending Iran's case to New York.

They are assured of winning a majority of the votes from the board's 35 members. But diplomats from all three countries, who spoke on the condition of anonymity, said the meeting may not take place in time for Bush's speech, saying they may need several more weeks to lobby China and other influential board members, such as India. Undersecretary of State R. Nicholas Burns will travel to India next week to press for its support.

"We expect the meeting will most likely take place around the beginning of February," one European official said.

Robert Einhorn, who was assistant secretary of state for nonproliferation until 2001, said it would be best to press Russian and China for more than abstentions. "What we need to do now is get the Russians and Chinese to tell the Iranians they won't be in a position to help them out in the [Security] Council if they go forward with this work," he said. "If the Russians and Chinese told them that, it would have quite an impact in Tehran."

Iran says its program is designed solely to generate electricity, but the Bush administration is convinced Tehran is using it as a pathway to a nuclear bomb. So far, the IAEA has not found proof of a weapons program, but Iran's cooperation with inspectors has been shaky, and many questions remain unanswered.

Iran Defiant As Sanctions From West Likely (AP-Y2)

By Nasser Karimi

AP2, January 12, 2006

The U.S. and Britain said Wednesday that Western countries will likely seek Iran's referral to the U.N. Security Council after it restarted nuclear activity. Iran's president said his country would not be bullied and would push ahead with the program.

British Prime Minister Tony Blair said he could not rule out the possibility that Iran will face economic sanctions.

International impatience with Iran was growing after it broke U.N. seals at a uranium enrichment plant Tuesday and said it was resuming nuclear research after a two-year freeze. Enriched uranium can be used as a fuel for both nuclear energy and nuclear weapons.

"I think the first thing to do is to secure agreement for a reference to the Security Council, if that is indeed what the allies jointly decide, as I think seems likely," Blair told the House of Commons in London, adding that he was in close contact with Washington on the issue.

"We obviously don't rule out any measures at all," Blair said when asked about possible sanctions. "It's important Iran recognizes how seriously the international community treats it."

State Department spokesman Sean McCormack said "it is more likely than ever" that the U.N. nuclear watchdog, the International Atomic Energy Agency, will refer Iran to the Security Council. The council could then impose sanctions.

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White House spokesman Scott McClellan said Tuesday if Iran continued on its present course, "there is no other choice but to refer the matter to the Security Council."

McCormack said Secretary of State Condoleezza Rice had discussed the situation by telephone with IAEA chief Mohamed ElBaradei and British Foreign Secretary Jack Straw.

Russia, a longtime ally of Iran, expressed anger as well. Foreign Minister Sergey Lavrov talked with Rice, and both sides shared "a deep disappointment" over Iran's move, the Russian Foreign Ministry said.

But Iranian President Mahmoud Ahmadinejad shrugged off the international outcry.

"Unfortunately, a group of bullies allows itself to deprive nations of their legal and natural rights," Ahmadinejad told a crowd during a visit to the port city of Bandar Abbas. His speech was broadcast live on state-run television. "The Iranian nation is not frightened by the powers and their noise."

Former President Hashemi Rafsanjani took a sharper tone, denouncing the West's "colonial policy."

"If they cause any disturbance, they will ultimately regret it," the cleric warned in a speech for the Islamic holiday of Eid al-Adha aired on state TV.

"Even if (the Westerners) destroy our scientists, their successors would continue the job," he said. "It would not be easy for them to solve the (nuclear) case by imposing sanctions or anything like that."

Rafsanjani, who was Iran's president in the 1990s, lost to Ahmadinejad in a runoff election in June. The policy of pursuing the nuclear program has become a point of national pride for many Iranians, a rare issue that crosses the reformist-conservative divide.

Rafsanjani now serves as head of the Expediency Council, a powerful body that mediates between the elected parliament and Iran's unelected Islamic clerical leadership, which holds ultimate say in the country.

Iran insists its research is for peaceful energy production only. But the United States suspects Tehran has ambitions to produce nuclear weapons.

"I tell those superpowers that, with strength and prudence, Iran will pave the way to achieving peaceful nuclear energy," Ahmadinejad said. "In the near future, (nuclear) energy will be completely carried out by the Iranian nation."

The president accused the West of seeking to prevent Iran's technological development and control the country by forcing it to buy nuclear fuel abroad.

"They falsely say that they oppose nuclear weapons. They want to have nuclear monopoly to sell it drop by drop at an expensive price and use it as an instrument for domination over nations," he said.

Blair said Iran's decision to restart its nuclear program, coupled with Ahmadinejad's recent inflammatory comments about Israel, "cause real and serious alarm right across the world." Ahmadinejad recently called for Israel to be "wiped off the map" and said the Holocaust was a "myth."

German Deputy Foreign Minister Gernot Erler cautioned against referring the dispute to the Security Council, saying it could further destabilize the Middle East.

Foreign ministers from Britain, France and Germany, who have spent two years trying to persuade Iran to halt its uranium conversion and enrichment activities, will meet in Berlin on Thursday to consider their next step.

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Associated Press Writer Ed Johnson contributed to this story from London.

A Test Of Wills Between Iran And The West (NYT)

By Steven R. Weisman

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - One day after Iran moved to break the internationally monitored seals on its nuclear facilities, a contest of wills between Iran and its adversaries unfolded, with the Europeans threatening to refer Iran to the United Nations Security Council for possible punitive actions and Iran issuing defiant new warnings.

Signaling this strategy, Vice President Dick Cheney, in an interview with Fox News, said Wednesday that the United States would seek the adoption of "a resolution that could be enforced by sanctions, were they to fail to comply with it." Prime Minister

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Tony Blair of Britain told the Parliament the same thing, saying that "we have to decide what measures to take and we obviously don't rule out any measures at all."

Among the possibilities being discussed, various officials said, were a ban on travel by Iranian diplomats, restrictions on new commercial contracts or sports contests and other small steps falling short of what would be the toughest sanction of all - either a ban on oil purchases or on the export of refined gasoline to Iran.

But it was unclear whether the Europeans could get Russia, China, India and other countries to join a consensus for sanctions, making it possible for the Security Council to act on them. Nor was it certain that Iran would change its behavior in response to new pressures.

"The issue cannot be solved by imposing sanctions or similar measures," said Ali Akbar Hashemi Rafsanjani, the former Iranian president. The West would regret any such attempts, he warned in a speech on Wednesday as Iran celebrated the Muslim holiday of Id al-Adha.

"I believe the West has played this game too late and played into Iranian hands," said Abbas Milani, director of Iranian studies at Stanford University. "At this stage, they are convinced that the more hardball they play, the more the West will collapse." Mr. Milani said that news reports from Iran suggested that its government had used the last few years to sign up oil deals with various countries to gain their political support, dispersed its nuclear activities to some 300 sites around the country and stockpiled food, medicine and other materials to survive any sanctions.

American and European officials say that two years of efforts to negotiate with Iran, including the discussion of incentives for ending its nuclear programs, has at least brought leading countries of the world closer to a willingness to apply coercion now that talks have failed.

They have indicated that the next phase of pressure is likely to take place a step at a time, perhaps starting with a referral of Iran's case by the International Atomic Energy Agency to the United Nations Security Council early next month.

"A lot of what can be done is simply related to Iran's status in the world," said Mitchell B. Reiss, a policy and planning director at the State Department in the first Bush term. "The Iranians are very sensitive to challenges to their own legitimacy, and there are a lot of things you can do before bringing down the hammer big time."

But others are less sure of such a course of action, and they fear that Iran can string out the process by appearing to cooperate at each phase, peeling off Russian and Chinese support with a show of reasonableness.

"I've been surprised that so many people are acting like referral to the Security Council is some important event that will bring about change in the government of Iran," said an administration official, asking not to be identified as questioning the Western strategy. "I don't buy it."

A second official, asked if the period of diplomacy had now ended, said: "No. Diplomacy just passes to a new phase, one of diplomatic judgment of Iran." Such a judgment, he said, will be easier because of the recent inflammatory comments from its new president, Mahmoud Ahmadinejad, about wiping Israel off the map.

For the time being, there is no talk of military action against Iran, except hypothetically, in part because any kind of airstrike or covert attempt to sabotage its facilities would provoke retaliations in Iraq, Israel and elsewhere.

A few years ago, for example, Bush administration hawks spoke of the powerfully persuasive effect on Iran of 150,000 American troops in neighboring Iraq. Now, the United States is angrily calling on Iran not to support lethal attacks on American troops by insurgents. There remain some in the Bush administration who say that American officials could have made a greater attempt in the last year or so to reach out to the Tehran government. But there is no indication that Iran was interested.

The American ambassador to Iraq, Zalmay Khalilzad, was authorized to engage Iranians in discussions about cross-border infiltration of bombs and other devices used against Americans, but has been rebuffed.

Meanwhile, the United States has concentrated its efforts on trying to isolate Iran diplomatically, proclaiming success repeatedly but without proof that it has gotten anything more than lip service so far.

State Department officials say that Secretary of State Condoleezza Rice has been concentrating this week on getting Russia on board the campaign to confront Iran. They say Russia has responded with surprisingly tough talk to Iran's rebuff of an offer to enrich uranium on Russian soil, but that Russia could still call for more delays.

China, administration and European officials say, is considered likely to accept sanctions if Russia does.

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In its five years in office, the Bush administration has engaged in a long-running internal debate over how to deal with Iran. Hard-liners at the Pentagon and Mr. Cheney's office argued against having any diplomatic contacts with Tehran.

Some at the State Department say privately that more efforts might have yielded some results, and they got the administration to go along with the European efforts to offer economic benefits last year.

Iran has had two military plane crashes in the last month, for example, and these officials argue that the offer of spare parts for commercial aircraft might have done the trick.

Some conservatives in the administration have begun to play with the idea that the best that could be done is to delay Iran's nuclear bomb-making ability, and the United States should use the time to try to encourage political change within Iran.

A small effort has begun to provide assistance to dissident groups, for example. But a meeting to discuss further openings with Iran as a means to undermine the government was canceled last year after The Wall Street Journal disclosed the plans and hard-liners attacked them as too conciliatory.

Pressure Mounts On Iran As UK Vows To Go To UN (FT)

By Roula Khalaf In London And Daniel Dombey In Brussels

Financial Times, January 12, 2006

Britain yesterday vowed to report Iran to the United Nations Security Council, intensifying diplomatic pressure over Tehran's nuclear programme.

Responding to Iran's decision to resume limited uranium enrichment research, Tony Blair, the UK prime minister, told parliament: "I think the first thing to do is to secure agreement for a reference to the Security Council, [if] that is indeed what the allies jointly decide, as I think seems likely."

European officials warned that Tehran would have to reinstate the seals at its Natanz research facility and refrain from all the activities it announced this week if it wanted to avoid a UN referral. "We made clear in December they had to retain the full suspension. Removing the seals [at the Natanz plant] was the critical step. They've crossed the red line," said one diplomat. "A half-step back will not stop us [in seeking a UN referral]."

A meeting between the British, French and German foreign ministers in Berlin on Thursday is expected to call for an emergency session this month of the International Atomic Energy Agency, the UN's nuclear watchdog, which would then discuss a referral of the dispute to the UN. A referral would require a majority vote in the 35-member IAEA board.

Angela Merkel, German chancellor, will also discuss the issue with George W. Bush, US president, in Washington tomorrow and with Vladimir Putin, Russian president, in Moscow on Monday.

Germany, previously often seen as taking a "softer" policy on Iran than the other large EU countries, now maintains that there is no remaining ground for discussions with Iran, following Tehran's actions this week.

The case for referral will be strengthened by the report for the next IAEA board meeting, in which Mohamed ElBaradei, the agency's director-general, is set to conclude that he has made "no progress" in convincing Iran to reveal more about its nuclear programme, which Tehran maintains is peaceful.

European diplomats also appeared confident that Russia would not oppose a referral although so far Moscow has been reluctant to back such a move publicly.

The diplomats emphasise that over the weekend Russia and China joined with the three other permanent UN Security Council members and sent diplomatic "demarches" calling for Iran to desist from its nuclear research. The demarches also asked Iran to pass on a sensitive document it received from Pakistan's AQ Khan nuclear procurement network in the 1980s that some diplomats see as evidence of Tehran's interest in developing nuclear weapons.

Nuclear experts yesterday cautioned that Iran's current plans posed no short-term risk of large-scale production of nuclear material. Iran on Tuesday said it was planning to install small-scale gas ultracentrifuge cascades at a pilot enrichment plant in Natanz and to feed UF6 gas into the cascades for research purposes.

But experts familiar with UN inspectors' work in Iran said any enrichment was a long way off because some of the centrifuges at the pilot plant had crashed when the plant was shut down in 2004. But diplomats, say even small-scale enrichment would bring Iran closer to mastering the production of fuel that could be used for military or civilian purposes.

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If it reaches the UN Security Council, the first step is likely to be a UN resolution calling on Iran to abide by the demands of the IAEA.

Additional reporting by Bertrand Benoit and Hugh Williamson in Berlin, and Mark Turner at the United Nations

Iran Crosses Last Red Line; UN Sanctions Ahead? (CSM)

By Peter Ford

The Christian Science Monitor, January 12, 2006

PARIS - Iran's abrupt resumption of its nuclear program this week, throwing Tehran's clerical regime into open conflict with the rest of the world, appears to have doomed current diplomatic efforts to curb the country's nuclear ambitions.

Ending a two-year freeze on research into uranium enrichment - an essential step in the production of both nuclear reactors and bombs - Iranian officials reopened the Natanz nuclear research facility on Tuesday. European leaders who had negotiated the research suspension said the move marked the end of their readiness for talks.

Foreign ministers from Britain, France, and Germany, whose two years of diplomatic efforts failed to persuade Iran to drop uranium enrichment permanently, are expected to launch a bid Thursday to refer Iran to the UN Security Council, which could enforce economic and political sanctions. There are signs, for the first time, that Russia and China may not stand in their way.

"We were in crisis management mode, offering dialogue," says a European diplomat close to the negotiations. "Now we have gone through every single red line. We have to move to another stage."

"The European Union door is shut and the Iranians have thrown away the key," added Ali Ansari, an expert on Iranian politics at St. Andrew's University in Scotland. "This was a symbolic slap in the face for the Europeans."

Iran insists its nuclear program is only for peaceful, electricity-generating purposes, and that it therefore has the right under the Nuclear Non-Proliferation Treaty (NPT) to develop the full nuclear fuel cycle.

The US, increasingly supported by EU nations, claims Tehran is seeking to build a nuclear bomb. It is also worried by Iran's program to develop a long-range missile that could deliver it to Vienna - or Israel.

A three-year probe by the International Atomic Energy Agency (IAEA) has found no hard evidence that Iran is seeking a nuclear weapon but has raised many unanswered questions. Chief among them is why the Iranian authorities hid large parts of their nuclear program for years, before they were revealed by an exile opposition group in 2002.

"I am running out of patience, the international community is running out of patience" with Iran's evasiveness over nuclear issues, IAEA chief Mohammed ElBaradei told Britain's Sky News television earlier this week.

If enriched to a low level, uranium can be used in power stations. But enriched to a higher degree, it can be used in nuclear warheads. To reassure the world of its peaceful intentions, Iran promised its European negotiating partners in October 2003 to suspend all activities related to the enrichment of uranium in return for political and economic incentives. Iran broke that pledge Tuesday.

While Washington and European governments appear ready to push for United Nations sanctions, which can be imposed only by the UN Security Council, Russia and China - both veto-wielding members of the Council - appear more cautious.

Traditionally Moscow and Beijing have been sympathetic to Tehran, but European diplomats had some success in winning their understanding.

Both China and Russia wrote letters to the Iranian government last weekend urging it to maintain its enrichment moratorium. Tuesday's move snubbed both.

Russian Defense Minister Sergei Ivanov said Wednesday he was "disappointed and worried" by Tehran's decision, which he added was "not following the best case scenario." In Beijing, the chairman of China's National People's Congress, Wu Bangguo, told visiting US lawmakers Wednesday that his government "agreed to working with the United States and especially the EU3 on Iran," according to Mark Kirk, a Republican Congressman.

Recent inflammatory comments by Iranian President Mahmoud Ahmadinejad attacking Israel and calling the Holocaust into doubt have not helped Iran's cause abroad. "Ahmadinejad has given them (the Americans) an open goal," says Dr. Ansari. "Even the Russians and the Chinese are getting fed up."

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The first test of the diplomatic waters will come at the "extraordinary" meeting of the IAEA board which the European foreign ministers and EU foreign policy czar Javier Solana are expected to call for on Thursday, after consulting with US Secretary of State Condoleezza Rice.

At the IAEA, Russia may seek to delay a referral of Iran's nuclear program to the UN Security Council because Moscow is still offering one possible way out of the crisis - a proposal that Iran's uranium be enriched in Russia, to ensure that none of it is diverted to illegal military purposes.

Iran hasn't rejected the idea, and is due to send a delegation to Moscow on Feb. 16 to discuss it further. But some observers think Iranians won't take the offer seriously, against a background of prickly relations.

"The history of Iranian-Rusisan is pretty appalling. It's not a track record you'd want to rely on," says Dr. Ansari.

If Iran is referred to the Security Council for violating the NPT by hiding much of its nuclear program for two decades, members will face a number of sanctions options, ranging from a suspension of economic ties to breaking diplomatic relations with Tehran.

None of them is pain-free for the international community, however, say observers.

"Interrupting diplomatic relations would send a powerful signal but its consequences would not be obviously favorable to us, since we would lose direct knowledge of what was going on in Iran," points out François Heisbourg, head of the Strategic Research Foundation, a think tank in Paris.

Refusing to buy Iranian oil - another option - would raise international oil prices to levels that would threaten the world economy, he adds. The Russians, too, are cautious about sanctions, says Yevgeny Bazhanov of Moscow's Diplomatic Academy.

"We're not against sanctions, but think they should be ... targeted to solve the problem. We wouldn't support blanket punishment, or ultimatums, but only sanctions that really work," says Mr. Bazhanov.

The EU is anxious to steer the crisis towards the United Nations if only to head off the prospect of an Israeli strike on Iran's nuclear facilities.

Though some US voices have been raised in favor of a military strike against Iranian nuclear installations, such an attack would undoubtedly prompt Iran to use all its considerable influence among Shiite Muslims in Iraq to undermine US goals there.

"The diplomatic game is the only game in town" when it comes to dealing with Iran's nuclear program, argues Mr. Heisbourg. "It is not working, but I know of no other."

Iran's Nuclear Challenge (WP)

The Washington Post, January 12, 2006

IRAN'S RESUMPTION of uranium enrichment dramatically narrows the options of Western governments that hope to prevent its Islamic regime from acquiring nuclear weapons. The breaking of seals at its Natanz plant Tuesday directly violated an agreement Tehran struck with Britain, France and Germany in 2004 to suspend its enrichment program; that should end European hopes that economic favors could be exchanged for a permanent freeze. A Russian offer to enrich Iranian uranium has no greater prospect of success: Tehran announced its new, supposedly experimental work before it had responded to Moscow. Notions of a broader "grand bargain" between Iran and the West have been rendered ludicrous by the rantings of President Mahmoud Ahmadinejad, who has denied the Holocaust more vigorously than he has Iran's plans to become a nuclear power. And thanks to better footwork by the Bush administration, European governments no longer have the option of blaming the United States for the failure of diplomacy.

That leaves the strategy that the United States has been pressing all along, which is referring Iran's case to the U.N. Security Council. Such a referral, which must come from the board of the International Atomic Energy Agency, probably won't change Iranian behavior or lead to Security Council action; North Korea has been before the council for three years without result. But having promised that consequence in the event of a resumption of enrichment, European governments must now move forward. To shrink from referring Iran to the Security Council now would strip the West of its remaining credibility in Tehran and all but eliminate the possibility of a peaceful solution.

As it is, the weak response to Iran's last provocation, the reopening of a uranium conversion facility in August, probably encouraged this week's escalation. European governments issued angry statements and helped pass an IAEA resolution that

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spoke of bringing Iran to the council at some indefinite time. In the following weeks, however, the Europeans returned to the same negotiating strategy that had already failed, offering to resume talks with Iran and backing Russia's intervention. The Bush administration, too, supported this course, in keeping with its strategy of building a coalition rather than squabbling over tactics with allies. The net result was that Iran's belligerence was answered with more appeasement.

The mullahs are gambling that the same will happen in this case: that European governments will once again temporize or that Russia and China will prevent any meaningful Security Council action. Even if the Europeans respond firmly, and a resolution is adopted by the IAEA, the latter calculation is probably a good one. Russia, which just signed a $1 billion arms sale agreement with Iran, is increasingly hostile to Western initiatives, and China is a major consumer of Iranian oil. So while the means of the Security Council must be tried, Western governments should also begin fashioning a policy of sanctions and containment for Iran that can be applied by a coalition of the willing. That should be coupled with a more concerted effort to support the large part of the Iranian population that yearns to free itself from repressive clerical rule. If there is to be a credible alternative to military action against Iranian facilities -- or the concession of nuclear weapons to a regime that openly advocates wiping Israel from the map -- now is the time for Europe and the United States to agree on it.

Help Us, America . . . (WSJ)

By Farouz Farzami

The Wall Street Journal, January 12, 2006

TEHRAN -- On the surface, it would appear that pressure from the United Nations and the United States has little effect on the mullahs who rule Iran. The opposite is true.

The best current example is the standoff over Iran's nuclear program. Fearing that the mullahs are secretly developing nuclear weapons, the U.N. wants strict limits on Iran's nuclear program. The country's top nuclear negotiator, Ali Larijani, and Iran's new president, Mahmoud Ahmadinejad, have refused to consider any such limits, even after Russia offered a compromise that would permit Iran to enrich uranium on its soil. The president and the top negotiator have been defiant -- on state-run TV recently, Mr. Larijani, thinking several steps ahead, pledged a "crushing response" to any military attack by the U.S. or Israel.

But if you look past this headline-generating bluster, you see that Western pressure is having an effect. The hard-line position of the Iranian government has begun to splinter. There are now three minds about this issue in the Majlis, the Iranian parliament:

• A categorical rejection of the Russian proposal to allow Iran to enrich uranium at its facilities, a compromise that would deny Iran the privilege of enriching uranium on its own soil.

• Modifying the Russian proposal to allow for enrichment to occur in both Russia and Iran.

• Suspending all enrichment until further notice or even to some agreed-upon future date, to defuse tension and rebuild confidence with the European Union.

The existence of these more conciliatory positions in a Majlis completely composed of religious hard-liners is a surprise. (A fourth point of view unrepresented officially, since reformers have been thrown out of the government, calls for Iran to comply with the U.N.'s demands and give up on enrichment of nuclear fuel altogether.)

There is only one reason why these divisions have appeared within the formerly monolithic Majlis: the tough stand by the international community backed by American and Israeli military might. I understand the opposition of liberals in America and Europe to America's military moves in the Middle East, and they are right to be concerned about the continuing loss of life. But they should also appreciate the importance of American power in enforcing global standards. Without U.S. military, economic and diplomatic pressures, the leader-for-life of Libya, Col. Moammar Gadhafi would not be behaving himself today, and the people of Afghanistan would still be under the thumb of the Taliban.

Iran is, of course, not comparable to Libya or Afghanistan, but everyone in Tehran's bazaar knows that any flare-up of tension between Iran and the West has an immediate adverse impact on the Rial, the country's currency, particularly against the U.S. dollar. The slightest Western pressure and Tehran's stock market nose-dives.

Why won't the U.S. take advantage of this? Why not impose smart sanctions on Iran instead of smart bombs, and apply strong international pressure for the formation of independent and secular political parties? Currently, the only parties allowed are

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Islamic ones approved and subsidized by the authoritarian, theocratic regime. We desperately need a push from America and the West to separate church from state in Iran.

If I were an American, I would probably be content with the well-being of myself and my own family, and would be inclined to oppose my country's involvement in Middle East politics -- but I am not an American. I am an Iranian. I am a subject, not a citizen, of a Middle Eastern country with a long history of despotism. My country will not change without help from the West. I wish the only superpower in the 21st century would realize its full potential in diplomacy, economic leverage and, as a last resort, military action -- not just to stop Iran's nuclear ambitions, but to speed up democratization in the region.

I am impatient for it. We have those like Shirin Ebadi, Iran's Nobel Peace Prize winner and prominent reformer, who call for allowing democracy to evolve. But Ms. Ebadi is a rich woman, a member of the country's small elite that has never had to struggle to make a living. Maybe she and those patient ones like her can afford to wait another century for democracy to materialize out of the blue.

Not me. I need help. If America could accept its power and potential, it could begin forcing change right now.

Ms. Farzami is an Iranian journalist who is forbidden to publish in her own country.

A Firebrand In A House Of Cards (NYT)

By Dariush Zahedi And Omid Memarian

The New York Times, January 12, 2006

Berkeley, Calif.

IN defying international monitors and breaking the seals on its nuclear facilities, Iran seems to be courting confrontation. But Western leaders would do well to consider what President Mahmoud Ahmadinejad's bravado really says about Iran's likely posture in the region and at the nuclear talks that are scheduled to resume at the end of January. To continue down the path of conflict could be very costly, both for the regional interests of the United States and most of all, for the territorial integrity of Iran.

Mr. Ahmadinejad is surely motivated by ideology and the desire to solidify the position of the security faction within Iran's ruling elite. But he also appears to be acting on the perception that the United States is in a position of considerable, indeed unprecedented, weakness. America's military is overstretched in Iraq and Afghanistan, and Washington has focused on monitoring North Korea's nuclear program rather than Iran's. If threatened, Iran could wreak havoc in Afghanistan, Iraq, Lebanon and Israel. These observations may lead Mr. Ahmadinejad to an incorrect assessment of Iran's strength relative to any American threat.

In fact, Iran has serious domestic frailties, including a shaky economy and its attendant unemployment and popular resentment, not to mention soaring levels of drug abuse and a brain drain. But President Ahmadinejad no doubt takes comfort not only in his belief in divine protection but also in the knowledge that Shiite religious parties aligned with Iran are now the dominant political forces in Iraq, while the American public hardly seems amenable to waging another war in the region. Moreover, Mr. Ahmadinejad very likely believes that the best way to guard against regime change from without is to emulate North Korea by swiftly advancing Iran's nuclear capacity.

The new president also surely knows that even if Iran's nuclear dossier is referred to the United Nations Security Council, meaningful multilateral sanctions against the Islamic Republic will most likely be vetoed by Russia or China. Flush with petrodollars, Iran has become a major purchaser of Russian technology, including roughly $1 billion worth of allegedly defensive weapons that Moscow recently agreed to sell to Tehran. Meanwhile, China, seizing on Iran as a key producer of oil and gas not beholden to the United States, has quickly emerged as one of Iran's largest trading partners.

Given this favorable strategic picture, Mr. Ahmadinejad might even welcome an American or Israeli strike on Iran's nuclear facilities. Tehran could then retaliate against American and Israeli interests by mobilizing its Shiite allies in Iraq, the Persian Gulf countries and Lebanon - or even by making common cause with some Sunni rivals. All the while, Mr. Ahmadinejad's faction in government would make full use of the war footing to marginalize its rivals at home and crush the remnants of Iran's civil society.

But the Iranian regime is not invulnerable, and Washington knows this. Just as Iran can use the Shiite card to create mischief in the region, the United States could manipulate ethnic and sectarian tensions in Iran, which has significant, largely Sunni, minority populations along its borders.

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Many of Iran's ethnic and religious minorities see themselves as victims of discrimination, and they have not been effectively integrated into Iranian economic, political or cultural life. Some two million disgruntled Arabs reside mainly in the oil- and gas- rich province of Khuzestan. The United States could make serious trouble for Tehran by providing financial, logistical and moral support to Arab secessionists in that province. Other aggrieved Iranian minorities would be emboldened by the Arabs' example - for example, the Kurds and the Baluchis, or even the Azeris (though the Azeris, being Shiites, are better integrated into Iranian society). A simple spark could suffice to set off centrifugal explosions.

Furthermore, the plummeting Iranian economy will only worsen if the United States succeeds in referring Iran's nuclear file to the Security Council, whether or not meaningful sanctions follow. Such a referral would accelerate capital flight, deal a blow to the country's already collapsing stock market, devastate its hitherto booming real estate market, and wipe out the savings of a large part of the middle class. It would also most likely result in galloping inflation, hurting Iran's dispossessed, whom the Ahmadinejad administration claims to represent.

In light of these ominous possibilities, both Mr. Ahmadinejad and Mr. Bush would do well to avoid overplaying their hands. They should take a leaf from the book not of Ayatollah Ruhollah Khomeini the ideologue, but of Ayatollah Khomeini the pragmatic politician. Like Mr. Ahmadinejad, Ayatollah Khomeini argued that the "Zionist entity" should be wiped off the map. But he chose regime preservation over ideology when he ended the Iran-Iraq war and even bought weapons from Israel.

IRAN should endeavor to regain the trust of the international community by engaging in compromise, and the United States should allow this compromise to be sufficiently face-saving for Iran's ruling elite. To regain the confidence of the international community, Iran should accept the Russian offer to process Iranian uranium gas into fuel and voluntarily stop, for a specified time, insisting on its right to do so at home.

In return, the United States should lift its unilateral sanctions from Iran. These sanctions, which include a ban on the sale of aircraft and spare parts to Iran, have absolutely no effect on the regime's nuclear capacity, but they harm Iranian civilians.

Today the incentive for both sides to step away from the brink of conflict is even greater than it was at the end of the Iran-Iraq war. If the United States responds to a perceived Iranian threat by exploiting Iran's ethnic, sectarian and economic cleavages, it is not just the Islamic Republic that will be threatened - Iran itself could be dismembered as well.

Rice Threatens Syria With U.N. Action (AP)

By Anne Gearan

The Associated Press, January 12, 2006

WASHINGTON -- Secretary of State Condoleezza Rice issued a new threat Wednesday to haul a defiant Syria before the U.N. Security Council if Damascus does not cooperate with an investigation into a political assassination in Lebanon.

"The United States has grave and continuing concerns about Syria's destabilizing behavior and sponsorship of terrorism," Rice said in a statement.

Syria has failed to heed U.N. Security Council warnings about its behavior in Lebanon and elsewhere, Rice said.

"We call upon the Syrian regime to respond positively to the requests" of the U.N. investigator looking into the killing of former Lebanese Prime Minister Rafik Hariri, Rice said. "We intend to refer this matter back to the Security Council if Syrian obstruction continues."

The United States opposes "any deals or compromises" with Damascus that would undermine the investigation, she said.

The U.N. probe into Hariri's killing has already implicated Syria, but Damascus has denied the allegations.

Hariri, a Lebanese nationalist who sought to assist his country in wiggling free from Syrian control, was assassinated in a truck bombing Feb. 14 in Beirut. The blast killed 20 other people and set off street demonstrations that forced withdrawal of Syrian forces from Lebanon after nearly three decades.

The United States has not accused Syria outright of ordering Hariri's killing, although it has come close. Washington pulled its ambassador from Damascus shortly after the killing and has since steadily increased pressure on the government of Bashar Assad.

The United States also wants international investigation of other political killings in Lebanon that followed Hariri's death.

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"Syria must once and for all end its interference in the internal affairs of Lebanon," Rice said. "Continuing assassinations in Lebanon of opponents of Syrian domination ... create an atmosphere of fear that Syria uses to intimidate Lebanon."

U.S. Tells Syria To Cooperate, Threatens UN Action (NYT/REU)

By Reuters

The New York Times, January 12, 2006

Condoleezza Rice threatened on Wednesday to send the inquiry into the murder of Lebanon's former prime minister back to the U.N. Security Council if Syrian ``obstruction" continued.

In a strongly worded statement, Rice also voiced grave concerns about what she said was Syria's ``destabilizing behavior and sponsorship of terrorism" and said Damascus must stop interfering in the affairs of neighboring Lebanon.

``Syria must cease obstructing the investigation into the assassination of former Lebanese Prime Minister Hariri and instead cooperate fully and unconditionally as required by U.N. Security Council resolutions," said Rice in a statement.

U.N. investigators have been trying to interview Syrian President Bashar al-Assad as part of an inquiry into the February 14 Beirut murder of former Prime Minister Rafik al-Hariri, an opponent of Syrian domination of his country.

The United Nations announced on Wednesday that Serge Brammertz, a Belgian prosecutor with the International Criminal Court, will be the new head of its investigation.

Rice urged Damascus to respond positively to the request by U.N. investigators to interview key officials.

``We intend to refer this matter back to the Security Council if Syrian obstruction continues," she said.

U.N. investigators have made clear in their reports to the Security Council that senior Syrian intelligence officials and their Lebanese allies were probably behind the killing of Hariri and 22 others. Syria has denied that Assad's government was involved in the assassination.

Rice said Washington rejected any deals or compromises that would undermine the U.N. investigation.

``We are firmly committed to seeking justice and pursuing the investigation to its ultimate conclusion," Rice said.

She also called for the full implementation of U.N. resolutions calling for the disarmament and disbanding of Hizbollah and other militias.

``Syria must once and for all end its interference in the internal affairs of Lebanon," she said.

Continued assassinations in Lebanon of opponents of Syrian domination, including the murder of journalist Gebran Tueni last month, created an atmosphere of fear that Syria used to intimidate Lebanon, she said.

``Syria must cease this intimidation and immediately come into compliance with all relevant Security Council resolutions," said Rice.

Rice Threatens Syria With U.N. Action (NSDY/AP)

By Anne Gearan, Ap Diplomatic Writer

Long Island Newsday, January 12, 2006

WASHINGTON -- Secretary of State Condoleezza Rice issued a new threat Wednesday to haul a defiant Syria before the U.N. Security Council if Damascus does not cooperate with an investigation into a political assassination in Lebanon.

"The United States has grave and continuing concerns about Syria's destabilizing behavior and sponsorship of terrorism," Rice said in a statement.

Syria has failed to heed U.N. Security Council warnings about its behavior in Lebanon and elsewhere, Rice said.

"We call upon the Syrian regime to respond positively to the requests" of the U.N. investigator looking into the killing of former Lebanese Prime Minister Rafik Hariri, Rice said. "We intend to refer this matter back to the Security Council if Syrian obstruction continues."

The United States opposes "any deals or compromises" with Damascus that would undermine the investigation, she said.

The U.N. probe into Hariri's killing has already implicated Syria, but Damascus has denied the allegations.

Hariri, a Lebanese nationalist who sought to assist his country in wiggling free from Syrian control, was assassinated in a truck bombing Feb. 14 in Beirut. The blast killed 20 other people and set off street demonstrations that forced withdrawal of Syrian forces from Lebanon after nearly three decades.

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The United States has not accused Syria outright of ordering Hariri's killing, although it has come close. Washington pulled its ambassador from Damascus shortly after the killing and has since steadily increased pressure on the government of Bashar Assad.

The United States also wants international investigation of other political killings in Lebanon that followed Hariri's death.

"Syria must once and for all end its interference in the internal affairs of Lebanon," Rice said. "Continuing assassinations in Lebanon of opponents of Syrian domination ... create an atmosphere of fear that Syria uses to intimidate Lebanon."

U.S. Threatens To Take Syria To UN For Obstructing Hariri Probe (BLOOM)

By Janine Zacharia

Bloomberg, January 12, 2006

Jan. 11 (Bloomberg) -- The U.S. threatened to take Syria back to the United Nations Security Council if the nation's government continues to hinder a UN investigation into the murder of former Lebanese Prime Minister Rafik Hariri.

``Syria must cease obstructing the investigation into the assassination of former Lebanese Prime Minister Hariri and instead cooperate fully and unconditionally as required by UN Security Council resolutions," Secretary of State Condoleezza Rice said in a statement today in Washington.

Rice said Syria must ``respond positively" to investigators' requests or the U.S. will ``refer this matter back to the Security Council." Syrian President Bashar al-Assad and Foreign Minister Faruq al-Shara have rejected investigators' requests for interviews, Agence France-Presse reported Jan. 2.

Rice's statement came as Belgian prosecutor Serge Brammertz agreed to take over the UN-authorized probe of the Feb. 14 2005 truck bombing in Beirut that killed Hariri and 22 others. Syria has denied involvement in the attack.

Brammertz, 42, has served since September 2003 as a deputy prosecutor and head of the investigations division of the International Criminal Court at The Hague. Chosen by Secretary- General Kofi Annan, Brammertz succeeds German prosecutor Detlev Mehlis, who resigned after six months to return to his post in Berlin.

Mehlis said Lebanese and Syrian intelligence officials, including Assad's brother and brother-in-law, were implicated in the truck bombing.

Oct. 31 Resolution

Asked about the timing of Rice's statement, State Department spokesman Sean McCormack said ``there's been a lot of discussion concerning Syria's failure to comply" with the Security Council Resolution passed 15-0 on Oct. 31 that says Syria must fully cooperate with the inquiry or face economic sanctions.

The Council voted Dec. 15 to extend the Hariri investigation for six months.

Public outrage at the murders forced Syria to comply with international demands to pull its troops from neighboring Lebanon in April.

The withdrawal ended a 29-year presence and led to an election victory in June that gave the anti-Syrian political bloc a majority in Lebanon's parliament.

The U.S. says Syria continues still to influence affairs in Lebanon. She said in her statement that the U.S. ``has grave and continuing concerns about Syria's destabilizing behavior and sponsorship of terrorism."

There was no answer at the Syrian embassy in Washington.

U.S. Ratchets Up Pressure On Syria In Hariri Probe (WSJ)

By Neil King Jr.

The Wall Street Journal, January 12, 2006

WASHINGTON -- The Bush administration stepped up pressure on Syria to cooperate with a United Nations inquiry into the killing of a prominent Lebanese politician, threatening to bring Damascus before the world body for international censure.

In an unusually blunt statement, Secretary of State Condoleezza Rice said the U.S. "has grave and continuing concerns about Syria's destabilizing behavior and sponsorship of terrorism." Washington, she said, would bring Syria back before the U.N. Security Council if Damascus continues to "obstruct" the probe into the killing of former Lebanese Prime Minister Rafik Hariri.

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U.S. officials declined to specify what particular action the U.S. might pursue, but suggested the threat of some form of economic sanctions would be the logical next step. The U.S. also is vowing to seek economic sanctions within the U.N. against Iran because of its nuclear program.

Administration officials said Ms. Rice's statement was timed to underscore U.S. seriousness on the Syria front, but also to play off recent developments that pointed more strongly toward Syrian involvement in the Hariri killing as well as rifts within Syrian President Bashar Assad's government.

The U.S. ultimatum comes as former Syrian Vice President Abdul-Halim Khaddam, now in exile in Paris, has openly accused Mr. Assad of ordering the assassination of Mr. Hariri, a powerful critic of Syria's deep involvement in Lebanese affairs. Mr. Khaddam said in a French radio interview Tuesday that it is his "ultimate conviction" that Mr. Assad personally directed the February truck bombing of Mr. Hariri's motorcade in Beirut.

The U.S. has supported a push by U.N. investigators to interview Mr. Assad. Mr. Khaddam, a veteran Ba'ath Party official who was forced out of office in June, met with the U.N. team last week in Paris.

Ms. Rice, in her statement, suggested that the U.S. suspects Syrian involvement in two other prominent assassinations in Lebanon late last year, one of a prominent journalist and the other of a member of the Lebanese Parliament. Sean McCormack, a State Department spokesman, said the U.S. couldn't "connect the dots" between Damascus and the most recent killings, but "there is certainly very clearly an attempt on the part of some to create this atmosphere of fear and violence in Lebanon."

The U.S., Britain and France tried last year to persuade the other two permanent Security Council members, Russia and China, to include the threat of at least targeted sanctions in a resolution demanding Syrian cooperation in the Hariri killing. Syria withdrew thousands of troops it had stationed in Lebanon for decades amid international pressure following the incident.

Likud Cabinet Ministers To Resign (WT)

The Washington Times, January 12, 2006

JERUSALEM -- Cabinet ministers from the Likud Party were to resign from the coalition government today, signaling an end to a weeklong political cease-fire following the massive stroke that felled Prime Minister Ariel Sharon.

The return to politics-as-usual began yesterday, with parties trading bitter slurs over whether to allow Palestinians to vote in their own elections in East Jerusalem this month and a suggestion that Mr. Sharon's name may remain atop his party's list of candidates for parliamentary elections in March.

Mr. Sharon's doctors reported "further slight improvement" in the ailing leader but cautioned that he could remain in the hospital for months.

Senior Hadassah hospital official Dr. Yair Birenbaum said it was "a little too soon" to say he is out of danger, while another doctor said he "can die tonight [or] go back to normal, relatively normal, life in six months."

Nevertheless, a new poll showed Mr. Sharon's recently formed Kadima party is a strong favorite to form the next government, even with his likely successor, Ehud Olmert, at the helm.

Channel Two said Likud leader Benjamin Netanyahu had told his party members to go ahead with the Cabinet resignations, which had been planned for earlier in the week but were postponed after Mr. Sharon's stroke.

The step will have little practical impact on the government, which will serve only as a caretaker until the March elections. Likud hopes to sharpen the distinctions between itself and Kadima as it goes into the campaign.

Labor had already withdrawn its ministers from the Cabinet, meaning the government will be reduced to just six ministers after today.

Tempers flared earlier yesterday in response to suggestions from some of Mr. Sharon's allies that his name could remain at the top of Kadima's list of candidates.

Politicians from both Likud and Labor accused the centrist party of cynically exploiting the prime minister's name, acutely sensitive that Mr. Sharon's plight is liable to attract a large sympathy vote for his party.

Polls in the Ha'aretz and Ma'ariv dailies found that Kadima led by Mr. Olmert would take 44 to 45 seats in the 120-seat parliament, up from previous polls. The Labor Party under Amir Peretz would get 16 to 18 seats while Likud would get 13 to 15, the surveys found.

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"As someone who knows and values Sharon, it pains me that there are various elements around him who are trying to make a political fortune on the back of his illness," said Likud legislator Moshe Kahlon.

Mr. Peretz, who had previously instructed Labor activists to avoid strong campaign rhetoric, promptly reversed his decision.

"The election is starting right now. This is the first phase of the election," he told reporters at the party's election headquarters just outside Tel Aviv, now open for business.

Likud members, meanwhile, reacted angrily to an announcement by Defense Minister Shaul Mofaz that the government has agreed in principle to let Arab residents of East Jerusalem participate in this month's Palestinian parliamentary elections.

Mr. Sharon, before his stroke, had threatened to block voting in the city as long as the militant Palestinian movement Hamas was running candidates.

The United States has pressed Israel not to interfere in the balloting but Secretary of State Condoleezza Rice yesterday raised her strongest objections yet to the participation of Hamas, which is mounting a strong challenge to President Mahmoud Abbas' disorganized Fatah party.

"It remains the view of the United States that there should be no place in the political process for groups or individuals who refuse to renounce terror and violence, recognize Israel's right to exist, and disarm," she said in Washington.

Hamas has carried out nearly 60 suicide bombings against Israelis over the past five years and is considered a terrorist group by the United States. But it remains popular with Palestinians, largely because of its charity work and the provision of basic services that Fatah has failed to provide.

Sharon Physicians Fear Brain Damage (WT)

By Joyce Howard Price

The Washington Times, January 12, 2006

The movement that Israeli Prime Minister Ariel Sharon experienced on both sides of his body after a massive stroke last week bodes well in terms of his survival, but he could live with brain damage, said physicians who treat stroke victims.

"The prime minister's life is still in danger," Dr. Jose Cohen, one of Mr. Sharon's neurosurgeons at Hadassah University Medical Center in Jerusalem, told the Associated Press. "Every day, although we are getting further out of danger, we are still in danger."

Doctors are weaning Mr. Sharon, 77, from sedatives that have kept him in an induced coma to reduce his blood pressure.

Dr. Cohen said the cerebral hemorrhage Mr. Sharon experienced Jan. 4 certainly would have caused cognitive damage.

"There is nothing you can do about that," he said.

Brain damage is experienced in "virtually 100 percent" of patients who suffer the kind of hemorrhagic stroke that felled Mr. Sharon, said Dr. Richard Zorowitz, a specialist in stroke recovery at the University of Pennsylvania Hospital in Philadelphia.

After Mr. Sharon is weaned from the sedatives, his doctors in Jerusalem can assess brain damage and function.

"I personally would not expect him to make a full recovery. ... He'll have to learn to walk and take care of himself all over again. ... It's highly unlikely he could resume his official duties," Dr. Zorowitz said.

Survival beyond a month typically is less than 50 percent for victims of the type of massive brain hemorrhage that Mr. Sharon suffered.

"It is looking better in terms of his survival, but there are still uncertainties in terms of his quality of life and level of function," said Dr. Zorowitz, also chairman of the National Stroke Association's recovery and rehabilitation advisory committee.

On Monday, the prime minister moved his right hand and leg slightly in response to pain stimulation. On Tuesday, movement on his right side increased, and he moved his left hand. Movement on his left side further improved yesterday.

"Injuries to the right side of the brain can cause significant deficits," although not usually as catastrophic as those to the left side, said Dr. Chelsea Kidwell, medical director of the Stroke Center at the Washington Hospital Center.

Dr. Kidwell and Dr. Zorowitz said these brain injuries could result in weakness or numbness on the body's left side, loss of vision in the left eye and paralysis.

Dr. Kidwell said it will have to be determined whether Mr. Sharon will need a feeding tube because some stroke patients have difficulty swallowing.

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Dr. Zorowitz cautioned that the prime minister could be left with "problems of memory, judgment and attention."

He said this could mean Mr. Sharon is no longer articulate and could have cognitive deficits in the "subject matter and content" of his speech.

Israelis' Anger At Evangelist May Delay Christian Center (NYT)

By Greg Myre

The New York Times, January 12, 2006

JERUSALEM, Jan. 11 - Israel said Wednesday that it was breaking off negotiations on a tourism project with the evangelical leader Pat Robertson in response to his remarks suggesting that Prime Minister Ariel Sharon's stroke was divine retribution.

"We cannot accept these statements, and we will not sign any contracts with Mr. Robertson," said Ido Hartuv, a spokesman for the Tourism Ministry.

Israel has been in advanced negotiations with American evangelicals over a proposal for a large pilgrimage and tourism center in the hills near the Sea of Galilee, where Jesus lived and preached. Mr. Robertson has been the leading figure in the negotiations. Mr. Hartuv said Israel would be willing to continue the talks without him.

A spokeswoman for Mr. Robertson, Angell Watts, said in a statement from Virginia Beach: "We have not talked to the Israelis on this topic. We continue to maintain our longstanding commitment to the Jewish people and the State of Israel."

Under the proposal, Israel planned to provide at least 35 acres for the project, the Christian Heritage Center, and the evangelicals intended to raise $50 million for construction. Reports have said it would include a theme park, an auditorium and an outdoor theater.

Israel hopes the project would draw large numbers of Christian tourists from around the world and generate thousands of jobs in a thinly populated region that the government has long struggled to develop.

But Mr. Robertson upset many Israelis by suggesting Mr. Sharon's devastating stroke last Wednesday was divine punishment for pulling Israel out of Gaza last summer.

"God considers this land to be his," Mr. Robertson said Thursday on his television program, "The 700 Club." "For any prime minister of Israel who decides he will carve it up and give it away, God said, 'No, this is mine.' "

"I would say woe unto any prime minister of Israel who takes a similar course," Mr. Robertson added.

He went on to say Mr. Sharon was a "very likable person and I am sad to see him in this condition."

Evangelicals are strong supporters of Israel, and have formed alliances with various groups, particularly those opposed to any territorial concessions to the Palestinians. Israel has generally welcomed the political and financial support.

"Evangelicals are the best friends of Israel and they are very, very welcome here," Mr. Hartuv said.

Mr. Sharon's condition improved slightly on Wednesday, his doctors said. "We are pleased that there are small phases of development in the prime minister's condition," Dr. Yair Birenboim, a senior official at Hadassah-Ein Kerem Hospital in Jerusalem, said on Army Radio.

The doctors had said Tuesday that Mr. Sharon, 77, was out of immediate danger, but one of his neurosurgeons offered a more restrained prognosis on Wednesday.

"Until we have passed a few more stages, we are still very cautious," Dr. José Cohen told Israeli television. "We know that every day, although we are getting further out of danger, we are still in danger."

Doctors have been reducing the level of anesthetic since Monday, with the intention of gradually bringing Mr. Sharon out of his medically induced coma. The hospital statement said he remained lightly sedated on Wednesday.

The campaign for March 28 national elections have been on hold since Mr. Sharon's stroke but the politicking has begun to pick up again.

In a poll on Wednesday in the newspaper Haaretz, Mr. Sharon's recently established Kadima Party had gained support in the past week despite the almost universal assumption that Mr. Sharon will not return to political life.

Several polls before and just after Mr. Sharon's stroke indicated that Kadima would win about 40 of the 120 seats in Parliament. But Wednesday's survey found that the centrist Kadima would take 44 seats. Its closest rival, the left-leaning Labor

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Party, would get 16 seats, and the rightist Likud would take 13. The poll questioned 640 voters, but did not provide a margin of error.

In the West Bank, Israeli security forces scuffled in the rain and mud with 300 Jewish settlers who tried to prevent the dismantling of an unauthorized settlement outpost south of Jerusalem.

The security forces eventually used tear gas to force out protesters who had barricaded themselves inside a new home near the formal settlement of Neve Daniel. Six protesters were arrested, the police said.

Israel has pledged to remove the West Bank outposts and has taken down some, but dozens remain, according to monitoring groups.

Is The Road Map's Moment Gone? (WP)

By Jim Hoagland

The Washington Post, January 12, 2006

The United States, its European and Arab allies, and the United Nations have labored for four months to turn Israel's unilateral withdrawal from the Gaza Strip into a catalyst for the creation of an independent, viable Palestinian state. They are visibly failing.

Law and order have disappeared in the Gaza territory since the Israeli withdrawal. Kidnappings and gunfights, not campaign rallies, are the tools of electioneering there. Financial mismanagement by Mahmoud Abbas's Palestinian Authority has forced the World Bank to freeze $60 million in budget support and effectively move the PA toward bankruptcy in a matter of weeks.

The spiral toward chaos in Gaza and Ariel Sharon's sudden incapacitation by a severe stroke are destabilizing blows to President Bush's proclaimed strategy for transforming the Middle East into a zone of democracies. Bush must reassess whether he can get there from here.

With Sharon in power, the odds on the "road map" diplomatic process delivering the democratic Palestinian state that Bush and Sharon conditionally endorse were slim. Without Sharon in power, the odds drop to virtually zero.

The Gaza withdrawal was the product not of understandings between Sharon and Abbas but of an ambivalent if productive relationship between Sharon and Bush. Ending the occupation of Gaza was above all an Israeli-American arrangement, tied to the expectation that the Israeli prime minister's time in office would begin and end roughly with the American president's tenure.

The eight-year political balance sheet of give-and-take that the two leaders set up underpinned Sharon's formal acceptance of the U.N.-blessed process for creating a Palestinian state. The road map toward peace was a risk that the audacious Sharon was willing to take to secure Bush's backing, not an objective he sought or ever planned.

Just as Europeans abandoned colonialism to improve their own lives and not the lives of the Africans, Arabs and Asians they set free, Sharon ended Israel's occupation of Gaza solely for Israeli security reasons. He would wall in the Gazans with security fences and other measures and remain seemingly indifferent to what became of them.

But Sharon's daring gave Bush, the international community and, most of all, the Palestinians an opening that seemed to promise complete autonomy in Gaza and significant unilateral withdrawals from the West Bank if Sharon won reelection in March.

Sharon's incapacitation and the Gaza upheavals now call that opening into question. No other Israeli politician has the domestic support, the audacity and the force of personality to bulldoze forward historic change in the West Bank by the end of Bush's term. Moreover, the turmoil in Gaza is closing the window of international support for such change.

The road map, like most formulas for peacemaking, is based on the commendable premise that everyone deserves a second or even third chance. Right now the Palestinians are severely testing that article of faith -- at a moment when they have everything to gain from taking responsibility for their affairs and demonstrating political maturity.

Forcing Egyptian police officers and European Union observers to flee their posts for safety hardly suggests maturity. Neither does the decision by the Palestinian Authority to raise salaries and break its commitment to live within the large aid flows that international donors provide. That act triggered the freeze on budget support by the World Bank.

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After Yasser Arafat died, "we hoped for new momentum in the direction of governmental reforms and the fight against corruption," World Bank representative Nigel Roberts told the Israeli daily Haaretz this week. But "Arafatism" lives on without Arafat and has grown worse, Roberts added.

Instead of moving to transform themselves into the nucleus of one of the Arab world's first true democracies -- as Bush, Sharon and their road-map partners pretended the Palestinians quickly could -- the Palestinian territories continue to be angry, explosive ghettos. In Gaza, gunmen who recently were receiving financial rewards for attacking Israelis are now "unemployed" and threaten their neighbors and the Palestinian Authority.

It must be said that four months is a short time to fix the consequences of centuries of occupation of the Palestinians by Turks, Arabs and Israelis, as well as the damage caused by the scandalous insistence of Arab states and the United Nations that the Palestinians remain enclosed in permanent refugee camps, even on their own lands.

Yes, that must be said. But so must this: The striking down of Ariel Sharon at a crucial moment of transformation demonstrates that in the Middle East today, a short time is the only time you've got.

U.S. Wants To Resume N.Korea Nuke Talks (AP)

By Kwang-tae Kim

The Associated Press, January 12, 2006

SEOUL, South Korea — The United States wants to quickly resume nuclear talks with North Korea, the U.S. envoy to Seoul said Thursday, as the top American negotiator headed to China for discussions on the North's nuclear ambitions.

"The United States is eager to resume negotiations as soon as possible so that we can make rapid progress toward the elimination of North Korea's nuclear programs," U.S. ambassador Alexander Vershbow said in a speech in Seoul. "Our negotiators are packed and ready to go."

Assistant Secretary of State Christopher Hill, who arrived in South Korea late Wednesday from Tokyo, said he would seek information in Beijing on the latest North Korean thinking from its closest ally.

Hill's Asia trip comes as six-nation nuclear talks aimed at getting North Korea to abandon its nuclear programs are stalled over Pyongyang's anger at U.S.-imposed sanctions related to alleged counterfeiting and other wrongdoing by the North.

"We'll have to see what the Chinese have heard most recently from the DPRK side, and perhaps they have some very fresh news," Hill said upon arrival in Seoul, referring to the North by the abbreviation of its official name, the Democratic People's Republic of Korea.

His schedule of talks with counterparts in Tokyo, Seoul and Beijing is taking place amid unconfirmed reports that reclusive North Korean leader Kim Jong Il is in China.

The North Korean strongman is widely believed to have gone by train Tuesday to China, his country's closest ally. But the trip has yet to be officially announced by North Korean or Chinese authorities, and his ultimate destination is unknown.

"I must say the trip that Chairman Kim Jong Il took to China was a surprise to all of us," Hill said upon arrival in Seoul. "It's a complete coincidence that I'm in the area at the same time. There is no such plan of any kind" to meet Kim.

In South Korea, Hill talked with his South Korean counterpart Song Min-soon about "ways to resume the nuclear talks and to produce substantial progress," Song told The Associated Press after the closed-door meeting.

China, Japan, Russia, South Korea and the United States have been engaged in negotiations with North Korea since 2003 aimed at persuading it to abandon its nuclear programs. The process resulted in a breakthrough in September when the North pledged to give up its nuclear program in exchange for aid and security assurances. But follow-up negotiations have stalled.

Vershbow said a Treasury Department delegation planned to visit South Korea in about 10 days for consultations with South Korean officials over the alleged North Korean financial activities that led to the sanctions.

In September, Washington slapped the sanctions on a bank in the Chinese territory of Macau, alleging it helped the North distribute counterfeit currency and engage in other illicit activities. The next month, Washington sanctioned eight North Korean companies it claimed were fronts for proliferating weapons of mass destruction.

North Korea denies the allegations.

Vershbow said the Treasury delegation would travel to Macau after visiting South Korea.

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North Korea And Iran Win Special Notice At Spy Center (NYT)

By Douglas Jehl

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - The director of national intelligence, John D. Negroponte, has created new "mission managers" for Iran and North Korea, adding those two countries to a short list of top-priority challenges for American intelligence agencies.

Iran and North Korea join counterterrorism and nuclear counterproliferation as areas of focus for senior management posts that were recommended last year by a high-level presidential commission.

The new managers for Iran and North Korea will be responsible, among other things, for identifying and filling gaps in intelligence on those two countries, Mr. Negroponte's office said Wednesday in announcing the appointments. Joseph DeTrani, who has served most recently as the American special envoy to the six-party talks on North Korea, has been given the rank of ambassador and is taking on the North Korea portfolio; S. Leslie Ireland, a career intelligence officer and Middle East specialist, is to become mission manager for Iran.

Ambassador DeTrani and Ms. Ireland are to provide strategic leadership over American intelligence agencies' work on North Korea and Iran, whose nuclear-weapons programs remain a major concern of the Bush administration, in part because so little is known about them. In its report last year, the Robb-Silberman commission, an independent panel appointed by President Bush, described American intelligence on Iran and North Korea as woefully inadequate.

The other two mission managers appointed by Mr. Negroponte have already assumed their roles. They are Vice Adm. John Scott Redd, retired, director of the National Counterterrorism Center; and Kenneth Brill, the director of National Counterproliferation Center.

Admiral Redd served as executive director of the Robb-Silberman commission, which recommended the creation of the mission-manager posts. Mr. Negroponte has said that the mission managers have his full proxy, and should be expected to play the same role that he would if he could devote his full day to a single issue.

Ambassador DeTrani, who speaks Chinese and French, spent a number of years in East Asia and the Middle East during a career that included senior assignments at the Central Intelligence Agency, according to his official biography. At the C.I.A., his posts included director of European operations, director of the crime and narcotics center, and director of East Asia operations.

Ms. Ireland has served most recently as the executive assistant to Porter J. Goss, the C.I.A. director. According to her official biography, she is also a recipient of the Intelligence Commendation Medal. Over a 20-year career, she has also served as deputy chief for Arab-Israeli issues and special adviser for Iran collection issues, and as country director for Iran and Kuwait in the office of the Secretary of Defense.

North Korean Leader's Whereabouts Unknown (AP)

By Elaine Kurtenbach, Associated Press Writer

The Associated Press, January 12, 2006

The whereabouts of North Korean leader Kim Jong Il remained unclear Thursday, with a Hong Kong-based television network speculating he may be headed for the south Chinese city of Guangzhou, while other reports put him in Beijing or Russia.

Phoenix Television reported that three major hotels in Guangzhou known to be used for VIP visitors were largely empty and requiring guests to check out by tomorrow.

A sales department employee at Guangzhou's famed White Swan hotel confirmed that they were expecting a "a very important visitor" beginning on Friday. She would not give her name, since she was not authorized to speak publicly.

"From January 12th-15th, we won't accept any new bookings. Some guests may have to move," said the hotel's assistant general manager, Janet Xie, without giving a reason.

A staffer at the hotel's publicity department, meanwhile, denied that Kim was expected to visit.

Local officials said they were in the dark.

"I've never heard of this," said Shi Lishi, a spokesman for the Guangzhou city government.

The White Swan, a large, elegant hotel on a quiet island in the Pearl River, would offer relatively good security and secrecy given its location.

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Reports of a visit by Kim to China, a rare foray overseas for the reclusive leader, came amid efforts to restart stalled six-nation talks on dismantling North Korea's nuclear program.

The chief U.S. envoy to the nuclear talks, Christopher Hill, was visiting South Korea on Thursday, en route from Tokyo to Beijing. The U.S. ambassador to Seoul, meanwhile, said Washington was hoping to quickly resume the talks.

U.S. and Chinese officials said they could not confirm various reports, mostly by South Korean media, saying that Kim entered China by special train earlier in the week and traveled either to Beijing, Shanghai or Russia.

In Washington, U.S. State Department spokesman Sean McCormack said he had seen the news reports, "But I can't confirm or deny them."

Hill was not expected to meet with Kim, McCormack said.

On Wednesday, officials in Shanghai also disavowed any information about Kim's whereabouts.

"I have not received any information whatsoever about this," Jiao Yang, the city government spokeswoman, said at a regularly scheduled news conference.

In the past, visits by Kim to China have been reported only after his departure. The Chinese Foreign Ministry said Tuesday that Kim planned to visit China, but would not give the exact timing.

Kim last visited China in April 2004. According to the North's Korean Central News Agency, one of his last appearances was to attend a New Year's performance of "Blue Sky Over My Country" in Pyongyang on Jan. 6.

Despite China's modern communications networks and crowded cities, the country has an elaborate and pervasive state security network well practiced at preserving the secrecy of its Communist Party leaders.

Disclosure of the wide range of information deemed to be state secrets can result in long prison terms.

Kim Jong Il Said To Reach Shanghai By Plane (WP)

By Washington Post Foreign Service

The Washington Post, January 12, 2006

SEOUL, Jan. 11 -- North Korean leader Kim Jong Il toured Shanghai on Wednesday after reportedly arriving on a direct flight from the North Korean capital in what would mark the reclusive ruler's first overseas trip by plane, according to South Korea's semi-official Yonhap news service.

Quoting unnamed diplomatic sources, Yonhap said Kim was on a three-day trip to China's business hub, which he last visited in 2001 to see the city's vast economic expansion. Kim reportedly fears flying, and news agencies in Japan and South Korea said earlier that he had arrived in China aboard his private train and was perhaps en route to Russia.

But Yonhap said Kim had landed in Shanghai after a direct flight from Pyongyang and was likely to stop in Beijing for meetings with President Hu Jintao and other Chinese leaders before returning to North Korea.

South Korean officials could not immediately confirm Yonhap's report and North Korea's official media did not comment on the visit.

If the report is true, analysts said that Kim's visit could represent an effort to win China's support for lifting U.S. economic sanctions imposed late last year against North Korean companies believed to have ties to illicit activities, including currency counterfeiting. North Korea has said it would not return to six-nation talks aimed at dismantling its nuclear weapons program until those sanctions were lifted.

-- Anthony Faiola

US Hopes N.Korea's Kim In China For Nuclear Talk (REU)

By Jon Herskovitz

Reuters, January 12, 2006

The United States has little information about Kim Jong-il's apparent trip to China but hopes the North Korean leader is having talks that add life to stalled nuclear discussions, a senior U.S. official said on Thursday.

Various media reports -- citing witnesses, diplomatic sources and those familiar with his movements -- have said Kim is making a rare overseas trip to China. But his whereabouts, mode of travel and the purpose of his trip are all unclear.

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Some reports have said Kim took his train to China and was possibly on his way to Russia. South Korea's Yonhap news agency said he flew to Shanghai on what could be his first flight.

Media reports and diplomats say Kim -- like his late father, state founder Kim Il-sung -- has an aversion to flying.

The U.S. ambassador to South Korea, Alexander Vershbow, told a breakfast meeting of business leaders the United States was also trying to sort through the clues about Kim's possible visit to China, Pyongyang's main ally and source of aid.

"We hope that he is there and having high-level meetings," Vershbow said. "We hope they will produce a new impulse for progress in the six-party talks."

North Korea has threatened to boycott the nuclear talks among the two Koreas, China, Japan, Russia and the United States because of a U.S. crackdown on its finances. Pyongyang wants Washington to end the sanctions.

The United States has clamped down on several companies it suspects of aiding North Korea in counterfeiting, money laundering and the drugs trade, saying the illicit business has helped fund Pyongyang's nuclear weapons programmes.

A South Korean official would not speculate on whether Kim is out of the country but noted his overseas trips usually lead to better ties between the reclusive country and the outside world.

"If he is visiting China, this could have positive results," Vice Unification Minister Rhee Bong-jo told reporters.

"ILLICIT ACTIVITIES"

Vershbow said U.S. Treasury officials will head to South Korea, China and Macau in the next 10 days to discuss U.S. concerns about North Korea's suspected illicit activities.

"We do have some concerns not just about counterfeiting, but about a number of illicit activities carried out by North Korea," Vershbow said, reiterating that Washington sees the crackdown on North Korean finances as separate from the six-party talks.

He said the United States wanted to get the talks back on track as quickly as possible and had no preconditions for resuming the discussions. The last round was held in November.

The envoy said the United States was ready to honor its obligations under a deal struck in September among the six parties under which North Korea would scrap its nuclear weapons programmes in exchange for economic aid, security assurances and increased diplomatic recognition.

He added it would be important to address North Korea's suspected illegal activity, "if we are to achieve full normalisation of our relations with North Korea."

Vershbow raised the ire of North Korea -- and some concern among South Korean officials -- on December 7 by branding Pyongyang a "criminal regime," but he did not use such language in his comments on Thursday.

He also called on South Korea to help persuade North Korea to give up illegal activities and return to the bargaining table on its nuclear programmes.

(With additional reporting by Lee Jin-joo)

China Seen Unlikely To Press Nuke Issue (WT)

By Andrew Salmon

The Washington Times, January 12, 2006

SEOUL -- Pyongyang's nuclear ambitions are likely to figure in any negotiations North Korean leader Kim Jong-il holds in China this week, but Asian analysts see little chance that Beijing will use its growing economic clout to bring its neighbor to heel.

Analysts say China has become virtually the sole provider of consumer goods to North Korea, as well as a conduit for most foreign aid, giving it substantial economic leverage over the North.

But as Mr. Kim travels through China on an unannounced trip with a mysterious itinerary, those same analysts see little chance that Beijing will threaten him with an economic cut-off if his country does not return to six-nation talks on its nuclear program.

"Nothing would convince [the Chinese] to use their leverage," said Choi Jin-wook of Seoul's Institute of National Unification. "China said it does not tolerate North Korea's nuclear programs, but it does not want North Korea to collapse."

South Korea also has been reluctant to bring economic pressure on Pyongyang, partly for fear of falling further behind China in a long-term competition for trade opportunities in its northern neighbor.

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The result is a narrowing of policy options for the United States, which reportedly was rebuffed by China last April when Assistant Secretary of State Christopher R. Hill asked it to cut off fuel supplies to North Korea.

Mr. Hill arrived in South Korea yesterday, a day after Mr. Kim was reported to have arrived in China by train. He said the timing was coincidental, but expressed hope that the Chinese will have "some very fresh news" about the North Korean leader's nuclear plans.

There still has been no official announcement about Mr. Kim's trip, and Mr. Hill said it "was a surprise to all of us." China has previously announced Mr. Kim's visits only after his return to Pyongyang.

However, the North Korean has plenty to discuss with China besides the nuclear talks -- including economic and trade issues and new financial sanctions imposed by the United States in response to evidence his government is counterfeiting U.S. currency.

U.S. officials, ranging from Mr. Hill to Vice President Dick Cheney, have called in recent months for China to use its influence to press North Korea for greater cooperation in the nuclear talks.

But Peter Beck, regional director of the International Crisis Group, said that "China's top concern is stability" and that it was unlikely to do anything to undermine its neighbor's economy.

"They don't want border instability," agreed Moon Chung-in, a foreign-policy analyst at Seoul's Yonsei University and an adviser to South Korean President Roh Moo-hyun.

China already faces international criticism for forcibly sending North Korean refugees -- variously numbered at between 100,000 to 300,000 -- back to their homeland, where many face severe penalties. Heightened instability would almost certainly drive much larger numbers across the 600-mile frontier.

Chinese leaders also are reluctant to overrule the old guard in the Chinese Communist Party, which remembers the "blood alliance" forged between the two countries during the 1950-1953 Korean War.

China still maintains a 1961 treaty with North Korea which, on paper at least, places Beijing on Pyongyang's side in any military confrontation with Washington.

Nevertheless, Beijing's economic clout in North Korea is large and growing. Visitors to the North note that goods traded in markets are almost exclusively of Chinese origin.

"North Korea will, left to itself, become an economic province of China -- and can do very well," said a European businessman with close experience with the country, speaking on the condition of anonymity. "That is a route it can take, independent of aid."

He added that Chinese businessmen have experience in operating within a communist system that South Korean investors lack, as well as the advantages of lower labor costs.

Trade Surplus Tripled In '05, China Says (NYT)

By David Barboza

The New York Times, January 12, 2006

SHANGHAI, Jan. 11 - China said on Wednesday that its trade surplus with the rest of the world had tripled in 2005, to a record $102 billion, a figure that could reignite global trade frictions and step up pressure on the government to allow its currency to appreciate further.

The United States and European Union officials have been pressuring China during the last few years to allow its currency to appreciate. The hope is to restrain the flood of Chinese exports to the world and to rebalance China's economy to allow for more imports.

The report on Wednesday showed that imports into China had begun to rise and exports to the rest of the world had slowed in the latter part of 2005, easing concern among some economists.

Still, China released a set of blockbuster trade figures that were another reflection of the nation's unparalleled rise as a global economic power.

The government said that exports in 2005 were a record $762 billion, up 28 percent, while imports climbed to $660 billion, up nearly 18 percent, from 2004. The $102 billion surplus was up from about $32 billion in 2004.

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Total foreign trade in 2005 topped $1.4 trillion, making China No. 3 in the world in foreign trade after the United States and Germany and ahead of Japan.

Just a decade ago, the value of China's foreign trade was only $289 billion. But today, a giant portion of the world's toys, clothing, furniture and electronic goods carry the label "Made in China."

Indeed, the customs figures released on Wednesday showed that the bulk of China's trade surplus in 2005 came from exports to the world's wealthiest regions, particularly the United States and Europe. The surplus with the United States reached a record $114.7 billion, up from $80 billion a year earlier and $28 billion in 2001. Excluding the United States, China actually had a trade deficit with the rest of the world of about $12 billion in 2005, largely with South Korea, Japan, Malaysia, Saudi Arabia and even Angola.

And yet China's figures may not be telling the entire story. According to United States government data, China's trade surplus in 2005 could be nearly $200 billion. Just through October 2005, according to official government statistics in the United States, China already had a trade surplus with the United States of over $166 billion. The gap arises from differences in counting, like whether Hong Kong figures are integrated with those of China. The growing bilateral trade deficit could strain ties between the United States and China. In 2004, the United States had a record $617 billion trade deficit with the rest of the world, and it is on track to break that record.

In Beijing on Tuesday, Senator Max Baucus, Democrat of Montana, called on China to do its part to reduce its deficit with the United States, calling on the country to allow its currency to appreciate.

"U.S. politics will become unmanageable if China's trade deficit with the U.S. continues to grow," Senator Baucus said. He was on a trip through Asia to assess trade relations. He added: "It is in China's interest to make concrete progress in reducing the trade imbalance."

Europe fared only slightly better last year, according to the Chinese government. China reported a $70 billion trade surplus in 2005 with the European Union, with the Netherlands and Britain having notable imbalances.

The trade figures suggest a changing role for China in the global economy, indicating that it will influence things like prices at Wal-Mart and global interest rates.

When 2005 economic statistics are complete, China is likely to be home to the fourth- or fifth-largest economy in the world, surpassing France, Italy and possibly Britain.

The government last month readjusted its gross domestic product figure by $280 billion to account for previously unreported activity. That suggests that the Chinese economy probably grew as much as 10 percent annually in many of the last few years.

China may also soon have more foreign currency reserves than any other country in the world, giving it even more influence on global interest rates. As of November, China reported having about $794 billion in foreign currency reserves, just behind Japan, which had about $828 billion at the end of last year.

Last year, China revalued its currency, ending a decade-long peg to the American dollar, allowing it to appreciate by more than 2 percent. China also reached separate textile trade agreements with the United States and the European Union after Chinese textile and apparel exports flooded those markets with the end of global quotas in January.

American and European officials have argued that the weak value of the Chinese currency, the yuan, gave China an unfair advantage in world markets, making its goods extremely cheap.

As China has grown into an economic power, it has racked up trade surpluses of about $350 billion over the last decade, according to Chinese customs data. And yet, some economists say those figures may still misstate the country's real gains because a large portion of goods are funneled through Hong Kong.

Government figures from other parts of the world are at variance with Chinese government statistics.

For example, the Commerce Department said that in 2004, China had a $162 billion trade surplus with the United States. And last year, through October, the surplus was $166 billion, which suggests that China's trade surplus last year was double what the government reported in its own figures.

China's figures do, however, suggest that in the second half of the year, export growth eased some from gains of more than 30 percent earlier in the year, and imports picked up from the low double digits.

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Jonathan Anderson, an economist at UBS, calls the record trade surplus "old news," because it has already begun to fall.

"This is not a harbinger of things to come," he says. "If you look at the numbers seasonably adjusted, things peaked at the middle of the year. Exports are now slowing down and imports are picking up."

But even if trade begins to balance, some economists think that 2006 will not be much different from 2005. China could report another $100 billion surplus, though the growth rate may moderate slightly.

"If you do the math, you'll need imports to more than double the size of exports to begin to close these gaps," an economist for Goldman Sachs, Hong Liang, said. "China's trade surpluses will continue to rise."

China's Trade Surplus Tripled, Topping $100 Billion Last Year (WSJ)

By Murray Hiebert

The Wall Street Journal, January 12, 2006

BEIJING -- China's trade surplus more than tripled in 2005 from the previous year to break the $100 billion mark, a surge that's likely to intensify protectionist sentiment in the U.S. against one of its biggest trading partners.

The General Administration of Customs reported on its Web site yesterday that China's trade surplus hit $101.9 billion last year, with exports rising 28% from 2004 to $762 billion and imports up 18% to $660 billion. The trade surplus for 2004 was $32 billion.

Beijing's swelling trade surplus is likely to become an increasing irritant in its relations with the U.S., which is expected to report a trade deficit with China of more than $200 billion for 2005, up from $162 billion in 2004.

But some economists believe China's trade surplus could narrow this year because its imports have begun to pick up in recent months. Beijing is also seeking to reduce trade frictions by promoting domestic consumption.

"China is gradually becoming a more positive force for global growth as its policies are adjusted towards boosting domestic demand," Goldman Sachs said in a report yesterday.

At the same time, economists point out that the overall U.S. deficit with Asia has remained roughly in balance over the past decade. Many of America's trading partners in Asia have moved production lines to China in recent years to take advantage of the country's low labor costs, resulting in "Made In China" labels on goods previously made in their own countries. As a result, the U.S. trade deficit with much of the rest of Asia has dropped roughly in step with the growth of its deficit with China.

Economists attribute China's large trade surplus in 2005 in part to Beijing's efforts to cool overheated sectors of the economy, which helped spark a sharp slowdown in import growth in the first half. The cooling campaign targeted sectors including real estate, steel and aluminum production. The measures turned China into a major exporter of steel from a large net importer, economists say.

However, property development started to pick up again in the last few months of 2005, boosting imports of construction materials. Imports of electronic components and machinery also increased.

The pickup in demand was reflected in December's trade figures, with exports rising 18% from a year earlier to $75.41 billion but imports growing faster at 22%, to reach $64.4 billion, according to customs figures yesterday.

A think tank under the National Development and Reform Commission, China's top economic planning agency, yesterday suggested that the trend would continue this year. It predicted that imports would grow about 18%, while exports would expand by about 15%, according to the official Xinhua news agency.

The think tank attributed the anticipated slower export expansion to slowing growth in the global economy due to high oil prices and to rising trade frictions between China and its trading partners.

Even if this year's trade surplus were to fall, the 2005 numbers will likely fuel protectionist sentiment in the U.S. and calls for China to further revalue its currency, the yuan.

Beijing revalued the yuan by 2.1% last year, but critics say the currency remains undervalued against the dollar, making China's exports unfairly cheap.

China's two-way trade with the U.S. surged 23% to $211.63 billion last year, according to the Chinese customs service. It didn't give a breakdown for imports and exports. The European Union was China's largest trading partner, with two-way trade increasing 23% to $217.31 billion.

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In Beijing Tuesday, U.S. Sen. Max Baucus, the top Democrat on the Senate Finance Committee and an advocate of free trade with China, warned China that it risks fanning protectionist moves in Congress if it doesn't take steps soon to cut its trade deficit with the U.S. But he also pointed out that American consumers benefit greatly from low-cost Chinese goods. "Freer trade with China alone saves U.S. households $600 each year," he said.

Abuse Of Power Enables 'Economic Terrorism' In China (WP)

By Peter S. Goodman

The Washington Post, January 12, 2006

SHANGHAI -- Terry Petty and his Chinese representatives thought the terms were ridiculous.

An American investor, Petty had forged a venture with the son of a local Communist Party official to open a machine shop here in the industrial outskirts of China's most cosmopolitan city. But after two years of internal disputes, the venture had disintegrated. The local man was urging Petty's people to sign a contract selling him their stake and surrendering full control. They would not go along.

But even as the negotiations proceeded on this September afternoon, the local partner was mobilizing to seize the factory: A team of 15 men under his employ -- many with shaved heads and donned in black -- arrived at the plant, according to managers. They told the workers that they were now in charge. They ordered production to cease.

Over subsequent weeks, the hired men forced their way in, brandishing guns, sparring with workers and disabling machinery, according to people at the plant and photos seen by The Washington Post. Calls to the police proved futile, factory managers said, because the police took direction from local officials connected to the Chinese partner. The factory now sits mostly empty, its 60 original workers scattered, while the local partner tries to resume production with his own people. The case has garnered the attention of both the United States and Shanghai governments.

The battle for control of a factory on the fringes of Shanghai -- a city often touted by China's leaders as a showcase for foreign investment -- highlights how some Communist Party officials abuse their influence over local governments to enrich themselves and their cronies. A quarter-century of market reforms has diminished the role of the state in China's economy, yet it has also spawned entrepreneurs whose wealth derives from their links to officials and their continued power to secure land and direct police.

"In China, the legal system and state power are completely intertwined," said Yu Nanping, an economist at East China Normal University in Shanghai. "Government officials control the process, and they tend to abuse the process when their own interests are on the line."

Petty, 49, the American who owns some 40 percent of the failed venture through a Hong Kong-based investment company, put it this way: "This is economic terrorism."

His estranged joint-venture partner, Hu Weijun, denied that he abused connections and described the conflict as a simple business deal gone awry.

"I sent a work team to the factory to inspect operations," Hu said. "As a shareholder, I have that right. But there was no bloodshed, no intimidation by so-called thugs." He said the guns his men carried were plastic toys. "They were just playing," he said.

Hired thugs have often been involved in business disputes in southern provinces such as Guangdong and Fujian. According to Petty, concern that such episodes are on the rise in the vast manufacturing zone around Shanghai prompted the interest of the U.S. government when he asked for help at the Shanghai consulate.

This battle took shape 2 1/2 years ago when Petty sought a site to produce oil-field equipment for Chinese and foreign energy companies. He had spent more than two decades doing business in China and had a similar factory in Nanjing. With direct air links to much of the world and a giant port, Shanghai beckoned.

Petty enlisted a longtime associate, Huang He. They settled on Baoshan, a district near Bao Steel Co., a major supplier of raw materials. The Baoshan government introduced them to the man who would become their new partner.

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The son of the vice chief for Yuepu, one of the counties in the district, Hu controlled a prime five-acre parcel in an industrial park, but he lacked capital to develop it. He offered to forge a joint venture, a term that provokes fear among foreign investors in China: Messy divorce is a common ending.

"We didn't want to do a joint venture," Huang said. "But the local government said this was the only available land."

In June 2003, they signed the contract. Petty invested $2.2 million, and Huang and other partners put in $3.3 million. They would split the factory in two. One bay would be owned completely by Petty and Huang and devoted to making oil field gear. The other would be a basic machine shop -- Mei Zuan Machinery and Equipment Co. -- owned 51 percent by Petty and Huang, and 49 percent by Hu.

Almost immediately, tension emerged over Hu's insistence that the building work go to a construction company he controlled. And once the factory opened in February 2004, Hu became angry that most of the orders in the machine shop were coming from the equipment company owned by his partners, who he thought were underpaying for the shop's services. "They were exploiting the joint venture for their own business," Hu said. He began bringing in his own orders.

In April 2005, with mutual suspicions growing, Hu called Huang.

"He said, 'I want to buy you out,' " Huang recalled. " 'You have to get out quick. You have to agree.' He said, 'If you don't, there will be serious consequences.' " Huang and Petty insisted that the local government mediate any sale. According to Huang, this enraged Hu, who began boycotting board meetings and ordered the joint venture's accountant to stop paying wages to workers, forcing Huang and Petty to pay them directly.

"We had no ability to make any decisions," Huang said. "He could oppose everything."

In August, Huang agreed to sell for about $1.4 million. On Sept. 13, in a meeting at the Yuepu government office, Hu offered a contract proposal, demanding full control after paying only 15 percent. Representatives for Petty refused.

As the meeting continued, Hu's team of 15 men arrived at the factory, according to a security officer and the general manager, Qiu Xuhao. The men identified themselves as working for Hu, Qiu said. The two guards at the gates put up no resistance.

"All the workers gathered around, and these thugs told them that they had to stop working immediately," said Li Jun, a manager at the factory. "When a few of the workers said, 'I'm not listening to you, you're not the boss,' the thugs started threatening them."

Someone pulled the main circuit breaker, and the factory went quiet. A few minutes later, 10 more of Hu's men walked in wearing hard hats, said Sun Sujun, one of the managers. Sun called the local police, bringing two uniformed officers from the Yuepu force. They ordered Hu's men out. Power was restored. Work resumed.

But the next day, three of Hu's men returned. The guards called the police. This time, Hu arrived. When the police pulled in, they greeted him warmly and ordered that he and his entourage be allowed in, according to Li.

Li said one of the officers later confided that Hu was dictating that the police hold back. The Baoshan Public Security Bureau declined a request for an interview.

Over the next days, Hu's men remained at the factory. When they again sought to disable the central power supply, fights broke out with the workers, Li said.

On Sept. 16, Qiu, the factory manager, went to the Public Security Bureau for Yuepu village to complain that Hu's men were harassing workers and damaging equipment. Three of Hu's men then arrived at Qiu's apartment late one night. They were turned away by Qiu's wife, but they made their point: On Sept. 20, Qiu quit, leaving the factory in the hands of a man who worked for Hu.

"The situation was crazy," Qiu said. "Every time we called the police, they would come and do nothing."

On Oct. 9, two of Hu's men brandished pistols at the workers, according to Sun and Li. The workers ceased operations. On Oct. 18, four men drove in with rifles and fired shots behind the factory, said Chen Jiafang, a security guard. He went to the Yuepu police station to report it, but no officers ever arrived, Chen said.

With the situation in crisis, Petty flew to China from his home in Houston, arriving at the factory Oct. 20. Six of Hu's men encircled him, and cars pulled in front of the gates and blocked his exit, he said. Police eventually allowed him to leave.

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Petty assembled photos of the gunmen captured by the factory's cameras and brought them to the U.S. consulate. In late October, the consulate sent letters to the Shanghai mayor's office and the city's Public Security Bureau calling for a "just resolution" of the dispute.

"This intimidation campaign has spiraled out of control and has caused both a disruption in business and destruction of factory property," said the letter, adding that "the enclosed photographs of the individuals involved in this intimidation, some of whom are carrying assault weapons, will make the severity of the situation clear to you."

Four days later, Petty was called for a five-hour interview at the Shanghai Criminal Investigations Division.

"They assured me that there would be no favoritism," Petty said. "These guys said they were independent."

But Petty later learned that the chief of the Baoshan Public Security Bureau formerly worked in the city's Criminal Investigations Division. In other words, the police he accuses of protecting Hu have close ties to the institution now investigating their conduct.

"In China," Petty said, "you can just be closed off to any legal process if powerful people are involved."

China Proposes Fewer Dams In Power Project To Aid Environment (NYT)

By Jim Yardley

The New York Times, January 12, 2006

BEIJING, Thursday, Jan. 12 - A government environmental review has recommended reducing the number of dams included in a controversial hydropower proposal on the Nu River in southwestern China in order to limit environmental damage and decrease the number of people who would be resettled, a Hong Kong newspaper has reported.

The newspaper, Wen Wei Po, which has ties to the Communist Party, reported on Wednesday that the recommendation called for 4 dams instead the 13 in the original Nu proposal. The article, citing an unnamed source close to the governmental review, said fewer dams would still meet "the needs for economic development and environmental protection."

The project has been delayed for nearly two years, and it will now be presented to the National Development and Reform Commission, a powerful government ministry, and later to the State Council, or China's cabinet.

But the article also suggested that the full 13 dams had not been completely ruled out. The source described the four dams as "a pilot proposal" and said more study would be needed to assess the larger project.

The original Nu River proposal, which would generate more electricity than the huge Three Gorges Dam, has become an international controversy. Environmental groups inside and outside China have called for more openness and public input in deciding whether to go forward on the project.

The environmental assessment report cited by the Hong Kong newspaper has itself become a point of contention. A coalition of environmentalists, lawyers, journalists and nongovernmental groups has called for the release of the report as well as public hearings on the project. They cited a 2003 environmental law that required public participation, including hearings, in deciding such major projects.

But the central government has refused to release the report and has not yet called any hearings.

The Hong Kong newspaper said the Ministry of Water Resources and the State Secrets Bureau had classified the report as a state secret.

A Stand Against China's Pollution Tide (WP)

By Edward Cody

The Washington Post, January 12, 2006

XIANGTAN, China -- Tired and frustrated, Wang Guoxiang and other Xiangtan city officials were slurping a midnight snack of instant noodles last Friday when the anti-pollution chief for Hunan province walked into their crisis room. Immediately, Wang said, he stopped eating and shouted at the visitor.

At the top of his voice, he insisted that something be done to stop the discharge of poisonous metals that had begun three days earlier into the slow, meandering Xiang River, from which Xiangtan, 800 miles south of Beijing, draws its drinking water. As a people's delegate, Wang recalled complaining to the environmental official, he and his allies had been fighting for months for more controls on upstream smelters but had found little support from the provincial authorities.

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"You guys pay no attention to the safety of drinking water for our Xiangtan people. If you can't solve the problem this time, your position is in danger," Wang said he told the anti-pollution chief, Jiang Yimin. "And I wasn't kidding," he added.

The late-night confrontation in Xiangtan, a sprawling city of 500,000, was a telling episode in China's latest pollution drama: the accidental release into the Xiang River of heavy doses of cadmium, a likely carcinogen, by a state-owned smelter in an industrial park about 25 miles upstream.

The fouling of the Xiang River attracted wide attention, but it was far from unique as China struggles to reconcile breakneck economic growth with protection of the environment. After more than two decades of swift industrialization, a recent government report found that up to 70 percent of the country's rivers and lakes are seriously polluted.

In reaction, extensive national regulations have been put into place, including a government decision Sunday requiring local officials to immediately notify officials in Beijing of any toxic spills. But on the ground, business owners and Communist Party officials often cooperate closely. Enforcement of environmental rules has often been lax, and the result has been frequent contamination of the waterways that China's 1.3 billion people depend on for drinking water.

At about the same time that Xiangtan faced its pollution crisis, a frozen pipe burst in eastern Henan province, releasing six tons of diesel fuel that floated in a 40-mile-long slick down a branch of the Yellow River. Authorities said 63 water pumps had to be shut down, including some at Jinan, the capital of neighboring Shandong province.

Farther south, Guangdong provincial authorities announced Tuesday that water drawn from the Bei River was safe to drink again three weeks after an unauthorized discharge of cadmium. And the famed Pearl River, which runs through Guangdong into the South China Sea, has turned dangerously saline at its southern end because of low water levels and high tides.

Xie Shaodong, an environmental specialist at Peking University, said China is passing through a stage of economic development in which, as the history of other countries has shown, ecological damage is to be expected. To halt the degradation, he said, China's environmental protection agencies should be granted more power and the news media should be allowed to report more fully on the issue.

Although pollution has long been recognized as a major problem in China, local officials and the government-controlled press have focused particular attention on it recently because of an internationally embarrassing spill in November. In that episode, benzene contamination of the Songhua River forced a cutoff of drinking water in Harbin, a major city 650 miles north of Beijing, and sent toxic waste downstream to cities and towns in the Russian Far East.

Local officials made the Songhua calamity worse by concealing it for several days, leading to complaints from Russia and, ultimately, sanctions from China's central government and the new notification rule issued Sunday. Officials involved in the coverup were dismissed and one committed suicide. But as Wang's experience in Xiangtan showed, the instinctive reaction of many local party and government officials is still to conceal and minimize.

Only hours before Jiang walked into the Xiangtan crisis meeting Friday evening, Wang had learned that the city's Environmental Protection Administration had measured cadmium levels at 25 times the amount considered safe for drinking water. His own measurement, Wang said, showed even higher levels.

Cadmium, a soft element found in metal ores, can cause liver, kidney and bone disease if ingested in large quantities. For most of the year, Wang said, he and two colleagues in the People's Congress, an appointed city council, had been trying to persuade provincial authorities to tighten controls over the smelters upstream from Xiangtan, which he said frequently dump dangerous quantities of cadmium and other elements into the river.

Frustrated by the lack of response at the provincial level, Wang had arranged for Xiangtan's Environmental Protection Administration to test the water every 10 days. When he received Friday's report, "I just couldn't believe my eyes," he said in an interview.

Wang alerted Communist Party officials in the city, who met into the night. Jiang made his appearance about midnight and, before dawn, set in motion a large-scale cleanup operation. Later that day, he and provincial environment officials announced at a news conference that the cadmium would be neutralized with chemicals dumped into the river and diluted with water diverted from upstream reservoirs.

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The cadmium entered the Xiang River on Jan. 4 when workers mistakenly diverted river water into two basins used to separate cadmium and other smeltering by-products, Wang said. The water overwhelmed the basins and washed back into the river, which carried the accumulated poisons downstream.

Jiang, the provincial anti-pollution chief, told reporters that authorities halted the backflow and took other steps that ensured water supplies were safe. "The Hunan provincial authorities properly handled the cadmium spill in the Xiang River," People's Daily, the official party newspaper, concluded in its Monday editions.

Local newspapers and broadcast stations were ordered to limit their reports to Jiang's statement and were barred from reporting about drinking water conditions in Xiangtan and Changsha, the capital of Hunan province farther downstream, during the three days from Jan. 4 until emergency measures were put into place.

As a result, Xiangtan residents appeared unconcerned by the crisis. "If you want to know about pollution, go ask the people at the Environmental Protection Administration," said an elderly man basking in winter sunshine beside the Xiang River.

Provincial propaganda authorities also prohibited reporters from focusing on Wang's earlier efforts to get the smelters to adhere to national environmental standards, local journalists said. Jiang said in a telephone interview Wednesday, however, that his office would now carry out an investigation.

"We will punish those who pollute the Xiang River," he added, "as well as related officials from the local Environmental Protection Administration for their malpractices."

The controlled press, meanwhile, published official assurances that drinking water was safe because of the emergency chemical treatment by Xiangtan's water distribution system. Nevertheless, the news reports said, the river water still contained unhealthy amounts of cadmium.

Researcher Jin Ling contributed to this report.

Don't Drink The Water (WSJ)

The Wall Street Journal, January 12, 2006

Another week, another chemical spill in China. The recent spate of environmental mishaps on the mainland isn't new, though at least we're hearing about them now. If Beijing really wanted to tackle its environmental malaise, it would move faster to dump state enterprises and speed the development of a private economy in which managers are held accountable both for making a profit and for fouling the air and water.

One thing's for sure: The recent news has been bad PR for the PRC. Last November, a petrochemical plant explosion in Jillin, in northeastern China, released 100 tons of benzene and other nasty things into the Songhua River, creating a slick that flowed all the way to Russia. That mess forced three million people in the city of Harbin to go without running water for nearly five days. The news was too big to hide, though officials tried. Foreign journalists sniffed the story and moved in to report it.

Now, problems are popping up all over. In December, a metal factory in Shaoguan, a southern Chinese city near Hong Kong, leaked cadmium -- a potentially cancer-causing agent -- into the Bei River. And in recent days, a fertilizer-plant accident dumped 600 tons of sulfuric acid into the Qijiang River, near Chongqing; cadmium was spilled into the Xiangjiang River in Hunan Province; and in Shandong Province several tons of diesel oil were dumped accidentally into the Yellow River.

It's hard to tell exactly how widespread the problems are, but we'd go out on a limb and guess, oh, "pretty vast." China's State Environmental Protection Administration reported 1,441 environmental accidents in 2004, with most incidents related to water. We'd wager that figure is underestimated by a wide margin. The manager responsible for the Harbin slick was later found dead, by the way.

China's current environmental problems stem from its rampant misallocation of capital and resources over many decades. The country is stuck with rotting factories that the state has neglected to maintain and manage. From Mao Tse-tung's Great Leap Forward, which led to the haphazard construction of hundreds of thousands of factories and power stations in the late 1950s, to his Third Front defense industrialization campaign, China's hinterland is now dotted with rotting hulks of metal. We're reminded of the former Soviet bloc, which upon the fall of the Berlin Wall turned out to have some of the worst pollution problems on earth.

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It will take a long time to replace these Chinese hulks with industries that will be better managed by owners outside the state political system. But Beijing's bureaucrats may be forced to act sooner than they'd like. Social unrest, the sole thing that seems to make Chinese politicians tremble, is rising across the country, and environmental problems are a big trigger. As Chinese citizens accumulate wealth, they'll naturally push for potable water and clean air.

China may fall into the trap of trying to solve the problem by the same means that brought it about. Beijing puts out "five-year plans" to fix things like water pollution -- in other words, more central planning. But the cleanest countries in the world are those in which citizens can protest if pollution occurs, and where companies are forced by market competition to come up with the best industrial technology available. Such technology doesn't waste a valuable product by dumping it into a river. China today is a long way from industrial modernity -- so for now, we'd recommend you don't drink the water.

After WHO Request, China Reports Two More Bird Flu Deaths (WP)

By Edward Cody

The Washington Post, January 12, 2006

BEIJING, Jan. 11 -- The World Health Organization identified China's latest bird flu victims Wednesday as a 10-year-old student and a 35-year-old street vendor who succumbed to the H5N1 strain of the virus last month in different parts of the country.

Roy Wadia, the WHO spokesman in Beijing, said the Chinese government reported the deaths during the past 48 hours in response to the agency's request for updated data on bird flu. The man died Dec. 30 in Jiangxi province in eastern China and the girl Dec. 16 in southern Guanxi province, he said.

The new deaths increased to five the number of people in China who have succumbed to the virus.

The Health Ministry's spokesman, Mao Qunan, spoke at length about bird flu at a news conference Tuesday but did not mention the additional deaths. Mao's omission and the delay in reporting the deaths to WHO fed concerns about the reliability of official information on the extent of bird flu among China's 1.3 billion residents.

International officials have complained that they fear they are not getting official data fast enough from the Chinese government. Wadia refrained from criticism of the latest delay, but suspicions are easily aroused because of China's record. The government sought to conceal the 2003 outbreak of severe acute respiratory syndrome, or SARS, and Chinese officials have long been reluctant to share information with outsiders.

Since the SARS controversy, the government has pledged to deal squarely with health information. But in addition to the complaints from international health officials, Chinese reporters have said they are frequently forced to seek information about China's bird flu situation from WHO or foreign publications because China's official sources refuse to provide it.

"News about the virus often takes a detour to reach domestic audiences," Hu Shuli wrote in the Oct. 31 issue of Caijing business magazine. "It is first covered by foreign media, and then picked up by the domestic press. Journalists sent to infected areas also say local officials have not been cooperative enough."

At his news conference, Mao said the outlook on bird flu in China is "not optimistic" because the country's rural health care system is ill-equipped to identify the H5N1 strain and guarantee swift treatment.

Mao said 66 percent of China's township-level hospitals and 90 percent of its county-level hospitals are part of the country's reporting system for infectious diseases. That leaves thousands of hospitals outside the loop, meaning ministry officials might not learn of bird flu infections until long after they break out in remote areas.

Twenty-eight outbreaks of bird flu and eight cases of human infection have been reported across the country since October. The Agriculture Ministry on Tuesday reported a new outbreak killed 16,000 quails during the first week of this month on a farm in Guizhou province in south-central China.

Turkey May Have Lasting Traces Of Flu (NYT)

By Elisabeth Rosenthal

The New York Times, January 12, 2006

ANKARA, Turkey, Jan. 11 - Although Turkish officials are now taking appropriate steps to contain the outbreaks of avian influenza that have spread across this country, their slow initial response in detecting the arrival of bird flu three weeks ago has created a health crisis that may be very hard to correct, international experts said Wednesday.

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The Turkish government has reported more than 20 outbreaks of avian influenza in birds, spread all across the country. Fifteen human cases of the virus, A(H5N1), have been confirmed, at least two children have died and more than 100 people are in hospitals under observation.

"Turkey has provided us with a double problem," said Dr. Joseph Domenech, chief of veterinary services at the United Nations Food and Agriculture Organization in Rome. "First, their detection was not early enough, so the virus was able to spread for weeks. And even with that, we do not understand why so many people have become infected.

"And when you have a big question like that, you have a big worry."

Dr. Domenech said there was now a risk that the virus had become so entrenched in Turkey that it would be impossible to eradicate it, meaning that a permanent reservoir of the dreaded virus would exist on the fringes of Europe and along bird migration routes to Africa.

Both he and United Nations health officials agreed that Turkey was now taking the problem "seriously." Current measures are "correct and proper," said Dr. Marc Danzon, World Health Organization regional director for Europe, speaking at a news conference here. He added that there was no reason to avoid travel to the country.

In the last three days, the Turkish authorities began large-scale culling of birds in affected cities to stamp out outbreaks. Hundreds of thousands of birds have been destroyed.

A senior United Nations official urged Turkey's neighbors to be ready to respond quickly and effectively to outbreaks of bird flu in their countries. The official, Dr. David Nabarro, the United Nations coordinator for avian and human influenza, urged countries to hold drills to confirm that their laboratories have all the necessary materials and competent staff.

Health workers "need to be on the ball to be comprehensive in their response," he said. "It is not easy to run around catching chickens," making sure none escape and then putting them in sacks, killing and burying them properly, Dr. Nabarro said.

Dr. Nabarro said that two of Turkey's neighbors, which he declined to name, have begun taking the recommended intensive efforts with help from the United Nations.

If there is a bright side to the outbreaks in Turkey, it is the news that several people infected with the virus have suffered only mild symptoms, and sometimes none at all, leading experts to theorize that the disease may not be as deadly as they feared.

New suspected cases in humans are being treated with antiviral drugs, and the Health Ministry has undertaken a broad public education campaign warning residents to report bird deaths and to avoid contact with sick poultry and wild birds.

"We expect there will be less and less human cases as animal reservoirs around the country diminish and education intensifies," said Dr. Guénaël Rodier, a communicable diseases expert with the World Health Organization who led a team of United Nations scientists to Turkey this week to investigate the outbreak.

He noted that all of the humans seemed to have become infected after contact with sick birds, and that there was no evidence that the virus had acquired the ability to spread between humans, a development that scientists say could herald a worldwide flu epidemic.

In many ways, the outbreak in Turkey is a cautionary tale about how rapidly avian influenza can become a widespread problem if it is not detected early and attacked aggressively. In the far eastern part of Turkey, where most of the human cases and deaths have occurred, officials waited for weeks to investigate widespread bird deaths that started in mid-December, villagers say, even after the deaths were reported to government veterinarians. In that time window, the virus spread from bird to bird and - to a lesser extent - from bird to man.

This week, government health warnings blared from loudspeakers mounted on trucks all across Turkey, and were being broadcast on all of its television stations. Still the dangers seemed to be sinking in only slowly.

Even in Dogubayazit, the city that was home to siblings who died, occasional roosters could be heard crowing on Tuesday morning, despite an official culling that was supposed to have eliminated all domesticated birds. Turkish television broadcasts showed government culling teams dressed in full biohazard gear assisted by barehanded children gleefully chasing poultry around in the snow, oblivious to the dangers of exposure.

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China announced Wednesday that two people had died of bird flu, bringing to five the country's death toll from the disease. Chinese agricultural officials also announced a new outbreak of the disease, this time among quail in rural Guizhou Province. Earlier this week, Chinese health officials warned that the number of human infections from the disease was likely to increase.

U.N. Seeks To Quell Flu Panic (WT)

By Betsy Pisik

The Washington Times, January 12, 2006

NEW YORK -- The United Nations yesterday sought to calm fears about the deadly avian flu virus as signs of near-panic spread through Turkey and its neighbors.

At least 15 persons in Turkey have been stricken with the respiratory virus, although none of the cases appears to be the result of a human-to-human transmission.

Agriculture teams and farmers culled sick birds and infected flocks yesterday in 30 of Turkey's 81 provinces.

World Health Organization officials praised Ankara's response to the crisis, but officials insisted that the counterinfluenza measures must be maintained.

In Russia, scientists warned against taking Turkish vacations and the government advocated the shooting of migrating birds.

The U.N. Food and Agriculture Organization, which has taken an early lead in the detection and prevention of the H5N1 virus, yesterday called on Turkey's neighbors to increase their surveillance of flocks.

"The virus may be spreading despite the control measures already taken," said Juan Lubroth, the senior FAO animal health officer.

"Far more human and animal exposure to the virus will occur if strict containment does not isolate all known and unknown locations where the bird-flu virus is currently present," he said.

Dr. David Nabarro, the coordinator of the U.N. response to the avian flu, stressed that "there is no evidence of human-to-human transmission in the Turkey outbreak."

He said each case appeared to be traceable to avian contact.

Early surveillance and containment efforts would take at least $1.4 billion, a figure that is sure to soar if the flu becomes a pandemic, he said.

Epidemiologists are puzzled that the virus that has flashed through Turkey does not appear to be as deadly as the strain that killed roughly half of the 139 persons infected in China and Southeast Asia.

Of the 15 known Turkish infections, only the deaths of three siblings have been traced to the virus.

Dr. Nabarro said more people might have been infected in Asia than were reported, yielding a lower rate of fatality, or the Turkish government's rapid response and use of Tamiflu, a powerful antiviral, might have been the reason.

Another prospect, he said, is that the Turkish strain of H5N1 might be less deadly than its Asian predecessor.

Scientists have been watching for mutations as the virus jumps to humans: If it grows less virulent, it might be easier to treat with existing or adapted medications or it might be adapting for maximum transmission by not killing its host.

The Chinese government, along with the European Union and the World Bank, will sponsor a two-day pledging conference next week to raise roughly $1.4 billion to identify, contain and combat the virus.

"We view this as a beginning," Dr. Nabarro said.

Bird Flu Mutation Of Concern, Experts Say (WP)

By Daniel Williams And Alan Sipress

The Washington Post, January 12, 2006

ISTANBUL, Jan. 11 -- Preliminary tests show that the strain of bird flu virus that has stricken at least 15 people in Turkey has evolved in a way that could make it somewhat more hazardous to human beings, although it still lacks the capacity to be passed easily from person to person, international health officials said Wednesday.

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The analysis, based on the sequencing of one of the virus's genes, suggests that at least some of the H5N1 bird flu virus here carries a change in one of its proteins, according to Michael L. Perdue of the World Health Organization. That protein is what lets the virus attach to cells and penetrate them.

"It's a little concerning because the virus is still trying new things in its evolution," said Perdue, who is overseeing the agency's response to the Turkish outbreak from WHO headquarters in Geneva.

Influenza experts are studying the apparent change to determine its significance, Perdue said. A spokesman for Britain's Medical Research Council, which is involved in the research, said it would take a few days to confirm the preliminary findings.

The experts say they believe the genetic change could make it easier for bird flu to pass from chickens to people. If the virus were to eventually gain the capacity to be passed easily from person to person, it could trigger a global epidemic.

Nancy J. Cox, who heads the influenza branch at the Centers for Disease Control and Prevention in Atlanta, said the change was found in one sample of H5N1 isolated from a Turkish child who recently died of the infection. The hemagglutinin protein, which the virus uses to attach to cells of the respiratory tract, had an alteration not usually seen in avian influenza viruses. Other incremental changes in the virus have been seen in China and Vietnam since outbreaks began in 2003.

Experts from the U.N. Food and Agriculture Organization warned that the virus could become permanently entrenched in Turkey, thereby increasing its risk to people and the chance it could evolve further. "The highly pathogenic avian influenza virus H5N1 could become endemic in Turkey," the organization said in a statement.

Two deaths have been attributed to bird flu in Turkey. The fatalities were the first outside China and Southeast Asia, areas where a total of 78 people have died in the past two years. More than 100 people have been hospitalized in Turkey with flu symptoms. The patients are under observation as they await test results to reveal whether they suffer from bird flu.

The virus has spread across 30 of Turkey's 81 provinces, from the far east to the Mediterranean coast, and has sparked a frantic effort to stem the disease by killing infected poultry. Even in cosmopolitan Istanbul, bird catchers for the Agriculture Ministry are rounding up fowl raised in the outskirts of the city, gassing them to death and burying them in mass graves.

Perdue noted that the Spanish influenza of 1918, which caused an estimated 40 million deaths worldwide, began as an ordinary bird virus but gradually evolved into a global human killer through a series of these incremental changes.

At a news conference in Ankara, the Turkish capital, international health officials played down fears of a pandemic.

"There is no transmission from human to human so far with a mutation of the virus," said Marc Danzon, WHO's regional director for Europe. "We are not there at the moment, but it is the responsibility for the WHO to look at this. . . . There is no reason to panic."

Bernard Vallat, director of the World Organization for Animal Health, said that the virus was probably introduced in Turkey in October. Vallat said that besides weeding out poultry in infected areas, fowl might have to be vaccinated. "The idea is that you create a protective area around an outbreak through vaccination. This could involve an entire province," he said.

Turkish health workers have killed more than 300,000 domestic birds in roundups across the country since late December. In one district of Istanbul, municipal sanitation officials went door to door in a rural hillside suburb asking residents if they raised chickens and ducks. They chased strays up and down the slippery, muddy hills and ravines, and when they caught one, they stuffed it into a plastic bag. Signs around the neighborhood read, "This District Has Chicken Plague."

Workers dressed in protective gear threw the bags into green containers that looked like large garbage cans. A sanitation worker attached a blue tube from a tank of carbon dioxide to the airtight container, opened the valve and killed the birds. "We prefer to say we are putting them to sleep," said Hikmet Karacay, an Agriculture Ministry official.

Residents, most of whom raised chickens as a sideline to collect the eggs, cooperated. "The real problem is the children," said Gilsen Kaya, who has two daughters. "They like the chickens. They are like pets. That's why it's better to do it at night, when they don't witness the whole thing."

Sipress reported from Jakarta, Indonesia. Staff writer David Brown in Washington contributed to this report.

Opec Nations 'set For Record Oil Revenues' (FT)

By Carola Hoyos

Financial Times, January 12, 2006

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The oil revenues of the Organisation of the Petroleum Exporting Countries, the cartel that controls 40 per cent of the world's oil supplies, will increase by 10 per cent to a record $522bn this year, the US Department of Energy forecasts.

Opec's increased wealth, driven by continuing high oil prices and an increase this year in the group's production, should help keep interest rates low if members of the group continue to spend their increasing wealth in the US bond market, economists said. The yield of the 10-year bond has remained nearly flat since mid-2004 in spite of the Federal Reserve increasing official interest rates by 3.25 percentage points during that period.

Everything from mergers and acquisitions to the energy sector and art market are expected to benefit.

Opec's 2006 revenue would be the largest in real terms in 25 years. The group's wealth, when adjusted for inflation, peaked at $572bn in 1980 when oil prices spiked after the Iranian revolution.

But the recent growth in Opec's wealth, which began in 2000, will reverse course next year, with the group's wealth falling back to $495bn as the oil price eases, the Energy Information Administration (EIA), the US Department of Energy's statistical arm, forecasts.

As the oil price boom continues into 2006 Opec countries are becoming less and less cautious about their spending. "This is reflected in the fact that some Opec countries are undertaking ambitious projects, like weapons purchases by Saudi Arabia," said Manouchehr Takin, senior analyst at the Centre for Global Energy Studies. "These kinds of projects would be impossible with lower revenues." Saudi Arabia, the world's biggest oil producer, is expected to earn $162bn in 2006.

"It's just been a phenomenal transfer of wealth from consuming to producing nations," said Francisco Blanch, analyst at Merrill Lynch.

Forecasts for the average price of New York benchmark crude oil futures in 2006 range between $45 and $75 a barrel, a similar level to that the EIA used to calculate total revenue Opec may expect in 2006. Although prices are notoriously difficult to estimate, the range is given credence by Opec's hints that it will aim to defend prices of at least $50-$55 a barrel.

The central bankers of the world's largest developed and emerging nations on Monday lent further support to the strong oil price thesis when they forecast global growth would continue at a "dynamic" pace in 2006. The optimistic prognosis has prompted analysts to expect demand for oil to increase at least 1.7m barrels a day to more than 85m b/d in 2006.

The factor that keeps many of those who forecast high oil prices for 2006 up at night, however, is that oil demand data may prove less robust than assumed.

The wildcards are factors such as hurricanes and political unrest.

Bahrain Pact Signed By Bush (NYT/REU)

By Reuters

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - President Bush signed a bill on Wednesday establishing a free trade agreement with Bahrain, the first such pact with a Persian Gulf country.

The agreement requires Bahrain to eliminate its already low tariffs on American consumer and industrial goods and most agricultural products. In turn, the United States will eliminate tariffs on Bahraini goods. Annual trade between the two countries totals about $800 million.

The pact commits Bahrain to a further opening of its market to American banks and other services and to strengthen copyright and patent protections.

Bahrain, a small island country on the Saudi border, is home to the United States Fifth Fleet.

Mr. Bush has now signed trade deals with Singapore, Chile, Australia, Morocco and, most recently, six countries in Central America and the Caribbean: Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and the Dominican Republic. Other Arab countries that have free trade status with the United States are Morocco and Jordan.

Canada's Conservatives Boost Lead (WP)

By Doug Struck

The Washington Post, January 12, 2006

DOJ_NMG_0009386

TORONTO, Jan. 11 -- With a militant drumbeat and an ominous tone, a campaign ad here warns that election of Conservative Party leader Stephen Harper "would bring a smile to George W. Bush's face."

Well behind in the polls two weeks before a parliamentary election, the governing Liberal Party led by Prime Minister Paul Martin this week brought what in Canadian politics is a most damning indictment: Martin's opponent is too close to the Americans, the party's ads say.

"Mr. Harper, the United States is our neighbor, not our nation," warns one.

Harper is "pro-Iraqi war, anti-Kyoto, socially conservative . . . Bush's new best friend," says another ad, quoting a commentary from the conservative Cato Institute, a Washington research group.

Yet another ad speculates that Harper may have received illegal campaign funds from American conservatives. "We know he is very popular with right-wingers in the U.S. They have money. Maybe they helped him," the announcer muses on the commercial, unveiled Tuesday.

The ads are running before an election in which Martin's party appears likely to lose its hold on the government. After Christmas, the Conservatives, the main opposition, jumped suddenly from behind and now lead the Liberals by 10 percentage points, 38 to 28 percent, according to a poll conducted for the Globe and Mail newspaper.

In Canada's system, the party with the largest number of seats after the Jan. 23 election can join with smaller parties, if needed, to form a government and select the prime minister.

The Conservatives, who have been out of power for 12 years, have traditionally favored closer ties to U.S. administrations. Martin's Liberals portrayed Harper as too pro-American in their election faceoff in June 2004, and have now boosted the stridency of that accusation.

Despite his party's ads, Martin came to office 25 months ago pledging to improve fractured relations with the Bush administration. A former finance minister, he created and heads a cabinet committee whose mission is to work closely with the United States, Canada's largest trading partner. Last year Martin hosted Bush in Ottawa.

But "in an election, you run on what will aid your cause. Canada is not unique in playing the anti-American card," said Nelson Wiseman, a political scientist at the University of Toronto.

"I understand political expediency," U.S. Ambassador David Wilkins said last month of the anti-American potshots in the campaign. "But the last time I looked, the United States was not on the ballot."

But it often has been, in one way or another. People here have long had mixed feelings about their larger, more powerful neighbor, defending their separate, Canadian identity in spite of ever-closer ties with the United States.

"It used to be a huge thing in Canadian politics to be as close as possible with the American president," said Norman O'Reilly, a marketing professor at Ryerson University in Toronto. "But after the Iraq war, that has changed. There's been a backlash to the war."

Hostility toward the Bush administration is strongest in eastern cities, traditional strongholds of the Liberal Party. With opinion polls showing the party losing some of that support, Martin's strategists are trying to tap the sentiment, Wiseman said.

"You hope to run a positive campaign. If things get bad, you pull out the negative ads," he said. "If things get really bad, you pull out the really negative ads."

In a nationally televised debate in Quebec on Tuesday, Martin hammered his point home. He suggested that Harper would shift Canada's policies to mimic Washington's and described Harper as being "in favor of the missile shield and the Iraq war. His positions are contrary to the values that Quebecers defend." Martin was referring to the Bush administration's anti-missile system, which is widely unpopular here.

"These ads are a new low in Canadian political advertising," one of Harper's party chiefs, Parliament member Jason Kenney, said in an interview. "Paul Martin will do or say anything to hold on to power. The ads speak of sophomoric anti-Americanism."

"They are factual ads. They reveal Stephen Harper's views on a number of issues," responded Amy Butcher, a spokeswoman for the Liberal Party. " We think it's important for Canadians to be aware of where Mr. Harper stands."

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The ads could backfire if seen as ham-handed or desperate, political strategists here said. Martin's party quickly withdrew one advertisement that focused on a proposal by Harper to station Canadian troops closer to cities to help with national disasters and emergencies. The ad suggested that the troops would be an ominous presence.

The ad "was never approved by the party to run," Butcher insisted. "It was inadvertently" posted with the other ads on the party Web site, she said.

Deadline Nears In Mexican Election (USAT)

By Judy Keen

USA Today, January 12, 2006

CHICAGO — Gregoria Alavez de Cortez lives here, but she'll soon become part of Mexico's history as her native country for the first time allows expatriates to vote in a presidential election.

"It's really necessary for me to do this. I want to stay aware of what's going on in the election," she said as she picked up an absentee ballot application at the Mexican Consulate west of downtown.

Sunday is the last day to mail ballot requests for the July 2 voting for a successor to Mexico's President Vicente Fox, who can't run again because of term limits.

With the deadline looming, only a fraction of eligible Mexicans in the USA have participated because of confusion about the application, lack of interest in the campaign and concern that applying for ballots could result in problems with U.S. immigration officials.

Only about 15,000 of the estimated 4 million expatriates who have Mexican voting cards, nearly all of them in the USA, have mailed in applications, said Pilar Alvarez of Mexico's Federal Election Institute.

The Chicago region has 1.3 million Mexicans, the nation's second-largest Mexican community after Los Angeles.

De Cortez, 41, who works at a fast-food restaurant, heard about the deadline on TV. The application she picked up says in Spanish, "Mexico waits for your vote. Exert your rights!" She left with the form, but was soon back with questions. She needs to submit a copy of a utility bill as proof of her address, but she moved recently and didn't have a current bill.

Miguel Herrera, 37, a maintenance worker, took an application, glanced at it and put it back. "Too much trouble, too complicated," he said.

In the Chicago region, about 600 people have applied for the absentee ballots. Cesar Romero, spokesman for Chicago's Mexican Consulate, said a last-minute push could result in 1,000 more — though he admitted that might be too optimistic. In all, 115,000 applications have been distributed here.

"We started late, but we've come far," he said. "The process is complicated, and we don't have a long tradition of political participation. We'll do much better next time."

Chicago's large immigrant population has had big turnouts for other foreign elections. Last month, more than 4,000 Iraqis from across the Midwest came to Skokie, Ill., to vote in their country's elections. In 2003, about 9,000 Poles in the area registered to vote in a referendum on Poland's entry into the European Union. Almost 4,000 Ukrainians here voted in their native country's 2004 presidential election.

Last-minute efforts are underway to boost ballot applications:

•Mexico's Federal Election Institute is running ads in Hispanic newspapers and on radio and TV in selected cities.

•In Chicago neighborhoods, volunteers are distributing ballot request forms in banks, groceries and libraries.

•In San Diego and Los Angeles, community organizations are helping people photocopy the required documents and fill out applications.

•In Houston and other Texas cities, applications are at restaurants, music stores and money-wiring agencies.

Mexico passed a law in June allowing expatriates to vote in presidential elections to acknowledge the importance of Mexicans living abroad. They send billions of dollars home each year that boost Mexico's economy.

Those wanting to vote must have Mexican voter cards, Mexico-issued identification and proof of U.S. residency. Those without voter cards — an estimated 6 million people outside Mexico — must apply in Mexico, then return to pick them up. Last month, advocacy groups in California arranged bus trips to Tijuana for people to apply for the cards.

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The application period began Oct. 1, but forms were originally available mostly at consulates, making it difficult for people outside big cities to get them. That has changed as the deadline has neared. Maria Curry, who has helped Mexicans in the San Diego area get involved, said the consulate there at first would give her only five applications at a time to distribute. For the past month, community groups have been recruited to help spread the word and can get as many forms as they need, Romero said.

Complicated forms are just one reason for lagging participation. Some people left their voting cards in Mexico so relatives could pay property taxes in their absence or conduct other business, said Salvador Pedroza Moreno, chamber of commerce president in Little Village, a Hispanic neighborhood on Chicago's South Side.

Some Mexicans who are here illegally threw away their cards to avoid having any identification, he said. And some can't spare $9 to send their applications by registered mail, as required.

Others aren't focused on the election because no campaigning is allowed in the USA. Campaigning in Mexico was banned during the holidays and won't resume until next week, Pedroza Moreno said. As a result, many Mexicans, even those who went home over Christmas, haven't been exposed to the views of the three candidates.

Curry said "all kinds of people are just afraid" that applying would cause legal problems over their immigration status.

Tony Payan, a professor of political science at the University of Texas at El Paso, said, "So many Mexicans in the USA live in the shadows, and they would rather not be seen as activists, as politically involved. They don't want to jeopardize their future in this country."

Alvarez, of Mexico's election institute, said the size of the turnout isn't as important as the chance to vote. "We do not qualify it a success or a failure, because the first time, you don't have anything to compare it to," she said.

She said many Mexicans in the USA will finally feel a part of their native country's political process, and "all candidates have to have proposals for migrants."

Despite the problems, Pedroza Moreno predicted that 20,000 Mexicans in the USA will vote. "This is historic," he said. "Twenty thousand voices that were never heard before will be heard."

Has Citgo Become A Political Tool For Hugo Chavez? (USAT)

By David J. Lynch

USA Today, January 12, 2006

HOUSTON — From the glass-walled building and manicured lawn to the security guard who greets visitors in a cheerful Texas drawl, everything at Citgo Petroleum seems perfectly ordinary.

But in fact there's nothing ordinary about Citgo. One of the USA's largest refiners, Citgo is a subsidiary of Venezuela's state-owned oil company, Petroleos de Venezuela S.A. (PDVSA). As such, it ultimately belongs to Venezuelan President Hugo Chvez, an avowedly anti-American leader who counts Fidel Castro among his closest friends and mocks President Bush as a "genocidal murderer."

The question of Chvez's influence over Citgo was highlighted by the company's recent provision of 25 million gallons of subsidized home-heating oil to poor people in the northeast USA. More than 100,000 households in four states should eventually benefit from the low-cost heating aid.

Some worry that Venezuela's ownership of more than 6% of U.S. refinery capacity gives Chvez, a former paratrooper given to wearing red berets and military fatigues, the power to cripple as well as comfort.

As Hurricanes Katrina and Rita demonstrated, any disruption to the nation's refining industry instantly increases gas prices. What if Chvez, who periodically threatens to curtail oil shipments to the USA, closed Citgo's refineries?

"He'd only have to do that for 90 days, and he'd destroy our economy," worries Matthew Simmons, a prominent energy investment banker. "He actually has our livelihood in his hands."

Others note that imported oil from elsewhere eventually could compensate for any interruption in Citgo supplies. And, because Chvez depends on the company's specialized refineries to process Venezuela's sulfur-rich crude oil, a shutdown would cost him and his country dearly.

"His capacity to make life difficult for George Bush would be at the cost of burying himself," says Claudio Loser, a former International Monetary Fund official.

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Late last year, as winter's first chill sent consumers reaching for their thermostats, a dozen U.S. senators asked 10 major oil companies to donate a portion of their record profits to help the poor. Only Citgo responded, dispatching tankers to housing projects in New York and Massachusetts in what Felix Rodriguez, the company president and chief executive, called a purely "humanitarian" gesture.

Today, the program expands to homeless shelters and Native American tribes in Maine. Friday, Rhode Island gets its initial delivery.

Many analysts, however, saw the move as a stunt by Chvez aimed at embarrassing the Bush administration. And some say Citgo's generosity — likely to cost it more than $20 million — suggests the company may be turning into a political tool for Chvez.

"It has had a turn for the worse, perhaps the much worse. … Now it's a different entity. It's not completely run like a business," says Antonio Szabo, a former PDVSA official and the president of Stone Bond Technologies, a Houston energy software firm.

Citgo executives say the company, founded in 1910 as Cities Service Co., is solidly profitable and can afford to offer the poor 40% discounts on heating oil. In an interview, Rodriguez said Chvez, 51, ordered the giveaway so poor Americans wouldn't have to choose between food and heat.

"The only difference between Citgo and other companies is that Citgo has only one shareholder," he said, referring to the Venezuelan president.

State Department spokesman Adam Ereli welcomed the heating aid, saying, "Citgo is an American company. They are helping Americans in need. That is a good thing."

Earlier, the company's Hurricane Katrina aid efforts earned a nod from Bush. "The good works of Citgo demonstrate the character and great strength of our nation," the president wrote Citgo Sept. 27.

Yet, there are echoes in Citgo's recent performance of what has transpired elsewhere in Venezuela's oil industry since Chvez was elected in 1998. After a coup in 2002 briefly ousted him from power, Chvez retaliated by purging the state-owned oil company. Thousands of veteran executives and petroleum engineers were cashiered, replaced by those politically loyal to the president's revolutionary aims.

Today, PDVSA's oil production is down to 1.5 million barrels a day from 3.3 million barrels in 1999, says Luis Giusti, who quit as national oil company president when Chvez took over. But thanks to oil prices above $60 a barrel, Chvez's control of PDVSA has allowed him to lavish billions of dollars on social projects and an anti-American foreign policy.

Citgo, which sells gasoline through more than 13,500 retail stations and is known for its iconic sign towering over Fenway Park's left-field wall, paid the Venezuelan government $697 million in dividends in 2005, up from the previous year's $400 million, Rodriguez said.

PDVSA — the acronym is pronounced Ped-a-vay-sa — first acquired 50% of Citgo in 1986. Four years later, the Venezuelans bought the remaining half of the company from Southland, better known for its ownership of the 7-Eleven convenience stores. The company's six refineries, with a capacity of 1.1 million barrels of oil a day, are ideally suited for Venezuela's sulfurous, heavy crude oil.

Throughout the 1990s, Venezuelan oil officials allowed the company's American managers enormous autonomy. "Citgo was an American company. We happened to own it," said Giusti, who headed PDVSA until Chvez took over. "We managed it at arm's length."

That changed under Chvez. In October 2000, the new president tightened control over Citgo by naming as company president a former army general, Oswaldo Contreras. He was the first Venezuelan to hold the position.

Bush was elected president the following month, but relations didn't completely sour until after Sept. 11, 2001, when Chvez likened the U.S. war in Afghanistan to the terror attacks in New York. Washington later publicly welcomed the coup that toppled him for two days in 2002. Chvez has accused the Bush administration of planning his assassination.

In November, two weeks after leading anti-American protests at a hemispheric summit in Argentina, Chvez told a business group in Caracas: "The planet's most serious danger is the government of the United States. … The people of the United States are being governed by a killer, a genocidal murderer and a madman." The comment followed congressional testimony by a State Department official that labeled Venezuela "a threat to regional stability."

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Asked how the persistent bilateral friction was affecting Citgo, Rodriguez replied, “No effect. Nothing at all.” But Chief Operating Officer Jerry Thompson, the most senior American remaining at the company, acknowledged Citgo's customers are concerned. “What it introduces is an element of anxiety, and our competition takes full advantage of that,” he says.

The uncertainty was exacerbated for much of last year by a protracted and costly relocation of corporate headquarters, management upheaval and Venezuelan officials' repeated suggestions that they might sell some or all of Citgo.

After decades in Tulsa, Citgo last year completed an $82 million shift to its new five-story headquarters in the heart of Houston's Energy Corridor. The move was designed to benefit the company by planting it squarely in the world's self-proclaimed “energy capital.”

But asked whether the move was worth the cost, Thompson says, “In my personal opinion, no.”

The relocation also cost the company managers who opted not to leave their longtime home, compounding executive turnover that saw several top American executives and the entire board replaced with Venezuelans.

Giusti, the former PDVSA president, says the current Venezuelan management team is weak. He criticized CEO Rodriguez for lacking substantial international experience and fluency in English. “Felix Rodriguez belongs to a group of engineers who never made it to the top. They only took their positions as a result of being loyal to the revolution of Chvez,” he says.

In an interview, Rodriguez, 56, noted he is a petroleum engineer with 32 years experience. Speaking in heavily accented English, with occasional help from an interpreter, he said he had held a series of planning and supervisory positions, traveled to the North Sea oil fields on “special assignment” and had been vice president of PDVSA before being named Citgo's CEO.

Even as Rodriguez moved into the top job, Venezuela's energy minister said he was discussing a sale of some or all of Citgo with “several companies.” But Rodriguez says there are no sales plans and despite political tensions between Washington and Caracas, the commercial relationship remains “win-win.”

Citgo executives also point to their financial record to rebut suggestions that politics are taking precedence over profits. For the first nine months of 2005, the company reported net income of $419.3 million on revenue of $31 billion compared with $430.3 million in profit on revenue of $23.7 billion for the same period last year.

Asked if he was satisfied, Rodriguez replied, “So far, so good.” Thompson said the company enjoyed a strong fourth quarter that will push net income above last year's figure. But at a time when industrywide profit margins are fat, some competitors have done much better. Industry leader Valero, for example, earned $2.7 billion on $56.3 billion in revenue for the same period. For every sales dollar, Valero earned 4.7 cents in profit. Citgo reaped just 1.3 cents.

Citgo's most notable recent financial deal involved refinancing its outstanding corporate debt. In October, the company secured bank financing of $1.85 billion, which it used to pay off its bond holders. Among the bonds paid off was an issue of $250 million in 6% senior notes the company had issued just one year earlier.

The move was the corporate equivalent of refinancing a home twice in 12 months. “They did what we thought was a fairly strange thing,” said John Addeo, portfolio manager for the MFS High Income fund, which owned $5.7 million of Citgo bonds.

Citgo says it refinanced to obtain greater financial flexibility. The terms of its bond offerings restricted the company's ability to take actions, such as selling assets and paying dividends, according to filings with the Securities and Exchange Commission.

Meanwhile, company executives say drivers pulling up to Citgo gas pumps aren't worried about who owns the refineries that produce the gas. “Being owned by a political entity ultimately means, from time to time, you have to do things with a political bent to them. Heating oil is an example of that,” says Thompson. But “By and large, people see us as an American company.”

New Era Of U.S-German Relations Set To Begin (KRT)

By Matthew Schofield

Knight Ridder, January 12, 2006

BERLIN - When new German Chancellor Angela Merkel sits down on Friday with President Bush in Washington, they'll be ushering in a new era of trans-Atlantic relations - that much is clear. But what those relations will be is less certain.

After three years of European division and acrimony over the U.S.-led invasion of Iraq, Bush finally has a German friend in Merkel. Yet Merkel has shown that, like much of Europe, she finds some of Bush's policies distasteful, and analysts are wondering how far she'll be willing to go in voicing disagreement.

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"She has to battle the image of being Bush's poodle," said Karl-Heinz Kamp, a security policy coordinator for the conservative Konrad Adenauer Foundation in Berlin.

Merkel's strongest criticism of Bush policy to date came last week when she told Der Spiegel, Germany's leading news magazine, that the U.S. prison camp for suspected terrorists at Guantanamo Bay, Cuba, should be closed.

"An institution like Guantanamo in its present form cannot and must not exist in the long term. We must find different ways of dealing with prisoners," she said. "As far as I'm concerned, there's no question about that."

The timing of the remarks, just ahead of her trip to the United States, was seen here as hardly coincidental. In 2003, Merkel was widely criticized in Germany for speaking in favor of Bush's Iraq policy during a trip to Washington, even though German government policy opposed it. Her comments were seen as breaking a taboo against showing division in foreign affairs.

"She was seen by many after that visit as uncritically pro-Bush," Kamp said.

Merkel also has expressed concerns about the U.S. practice of rendition - sending suspected terrorists to third countries for interrogation, where some say they've been tortured. When Secretary of State Condoleezza Rice visited in December, Merkel asked specifically about the legality of the seizure of German citizen Khaled al-Masri. U.S. agents took al-Masri from Macedonia to Afghanistan, where he was held for five months before he was released. Merkel said the United States admitted that al-Masri's arrest had been a mistake.

It's unknown whether Merkel will raise the issue again when she meets with Bush, but there's little doubt in Germany that she's the only European leader with the staying power to help Bush improve his relations with Europe, where he's strongly disliked.

The influence of Bush's main European allies, British Prime Minister Tony Blair and Italian Prime Minister Silvio Berlusconi, is waning. Analysts believe Blair will leave office in the next year, and Berlusconi is dogged by allegations of corruption and inefficiency.

That leaves Merkel in a key position. The Times of London recently called her "Europe's new power broker."

"Germany is the biggest player in Europe, and she's the newest leader," said Richard Whitman, the head of the European Program for the Britain's Chatham House research center. "She's untainted by the past."

Merkel, who took office in November, already has succeeded on domestic and European fronts. The German parliament passed laws she favored that increase governmental transparency, raise sales taxes and grant tax breaks to parents. And she won continentwide praise when she chided European Union members for sacrificing progress to quibble about small amounts of money.

Whitman said he doesn't expect Merkel to offer Bush much: She won't reverse Germany's refusal to send troops to Iraq or increase the German presence in Afghanistan. But she gets along with Bush.

"She may disagree on issues, but she offers a sympathetic ear," he said.

Jan Friedrich Kallmorgen, a trans-Atlantic specialist with the German Council on Foreign Relations, said he expects Merkel won't be as critical of Bush as her predecessor, Gerhard Schroeder, who aligned Germany with Europe as a counterweight to U.S. influence, was. But she also won't return to the days when Germany saw itself as tied to the United States. Her comments about Guantanamo in Der Spiegel show that, he said.

"It does make a statement to Germans and Europeans that she's not forgetting their concerns about the war on terror," he said.

Karsten Voigt, a coordinator for German-American affairs with the German Foreign Ministry who'll accompany Merkel on her visit to the United States, said Merkel's Guantanamo comments were the result of her growing up in then-communist East Germany and believing that the United States was a symbol of freedom. He said her statements reflect her belief that a U.S. president would want to hear open and honest criticism.

"Washington will be eager to see how she defines herself as chancellor, but so will we," he said. "This is a new role for Germany, involvement in international issues when we are not the cause or the location of the crisis."

After Frosty Times, A Thaw In US-German Relations? (CSM)

By Howard Lafranchi

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The Christian Science Monitor, January 12, 2006

WASHINGTON - When German Chancellor Angela Merkel visits the White House Friday, no one doubts that a closer rapport between the US and German leaderships will be on display. Like President Bush, she hails from the political right, and as a daughter of the former East Germany, she identifies with Mr. Bush's focus on freedom.

The bigger question is whether the diplomatic defrosting portends a deeper restrengthening of US-German relations and indeed of transatlantic cooperation.

Certainly the personal warmth expected between Ms. Merkel and Bush - so different from the chilly relations the president had with former Chancellor Gerhard Schröder - will be a welcome change. But with differences over Iraq and strategies for the international war on terror continuing to dog the relationship, and with some US officials expressing skepticism about the Atlantic alliance's long-term utility, many experts will be looking for signs that the warming is more than a matter of personalities.

"Both sides understand this is an opportunity to build a new dynamic, but people will be watching for whether that translates into any concrete policy initiatives," says Karen Donfried, senior policy director of the German Marshall Fund of the US. "My sense is there won't be [any], that this will be the first step down a much longer path." Iran on the agenda

Iran and its nuclear program will be on the agenda, and the two leaders can be expected to express a common insistence that Iran not develop nuclear weapons. Some observers speculate that after Iran's resumption of its nuclear research program this week, the two leaders could go further and announce an initiative to take Iran before the United Nations Security Council.

But German officials say it is probably "too early" for such a step. They add, however, that a meeting of the International Atomic Energy Agency later this month could prompt such a move. European Union foreign ministers were set to meet today on Iran, which could move the EU closer to Security Council referral.

On other fronts, Merkel could use the US meeting to demonstrate decreasing tensions over Iraq by announcing an acceleration of German training of Iraqi police. German officials are hinting such an announcement could be in the offing.

Still, the improvement in US-German atmospherics is not likely to reverse the general drifting apart in transatlantic relations, some experts say.

"The climate has dramatically improved, but below the surface the rift remains alive and well," says Charles Kupchan, who teaches 21st-century geopolitics at Georgetown University in Washington. "The trend lines continue to be those of fragmentation and disillusion."

Mr. Kupchan, who is also a transatlantic scholar at the Council on Foreign Relations, says the Iraq war is the dividing line - when Germany changed from being a country that followed Washington's leadership "as a matter of course," to instead becoming a European leader increasingly independent of Washington that seeks "to rebuild relations on new terms."

"Common values" have replaced dependence as the transatlantic relationship's chief attribute, he adds, but that change requires deeper consultation and cooperation - something Kupchan says the Bush administration is pursuing with Europe in the second term.

But it also leaves the door open to disagreement: For all the common vision on democracy's enlargement, economic development, and fighting AIDS, he says, there is also a list of issues over which the two sides part company, including Iraq, the International Criminal Court, climate change, and US policy toward detainees in the war on terror.

Examples of European countries prepared to roil relations with the United States extend beyond Germany. The Netherlands has so far not extended the mission of its forces within NATO in Afghanistan. If confirmed, such a move could threaten NATO's plans to expand into volatile parts of the country. The Dutch debate has prompted some US officials to question the long-term viability of the Atlantic alliance, if countries opt out of what are deemed crucial missions. Desire for the US to be world leader

German officials say questions about US treatment of detainees at Guantánamo and at secret foreign prisons - an issue of enough importance to European public opinion that Secretary of State Condoleezza Rice focused on it during a recent European trip - are meant to help the US rebuild its leadership role.

"We want the US to be the world leader, but to do that we see that the US has to regain its moral high ground," says one European diplomat in Washington. Issues of US treatment of foreigners since the Abu Ghraib scandal have contributed to a decline in America's global image, the official says, and in turn make the US leadership role more difficult.

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Indeed, Kupchan says public opinion is one complicating factor that Merkel must face as she seeks to improve relations with the US. Another is that Merkel heads a coalition government - one in which the foreign ministry remains in hands that have a more tempered view of US relations.

Still, the leader-to-leader warmth that is anticipated for tomorrow's meeting has its roots in similar perspectives that are likely to infuse future actions.

Ms. Donfried of the German Marshall Fund notes, for example, that Merkel stressed in her inaugural address the role that gaining freedom has played in her life. "That's something that will resonate in the Bush White House," she says.

It is also likely, she adds, to cause Merkel to give "a different priority" to the perspective of Central and Eastern Europeans - a perspective, experts note, that is generally closer to Washington than that of other Europeans.

As one German official notes, there is good reason for Merkel to value America's role in the world. "Without US support for [German] reunification, a woman from the east could not be leading Germany today and meeting the American president."

Ukraine's Leader Dismisses Parliament's Vote To Fire Premier (NYT)

By Steven Lee Myers

The New York Times, January 12, 2006

KIEV, Ukraine, Jan. 11 - President Viktor A. Yushchenko of Ukraine on Wednesday criticized as illegitimate a parliamentary vote to dismiss his prime minister and government, deepening the country's political turmoil ahead of new elections in March.

"The decision was made by a Parliament that was elected four years ago by the old regime and is living its last weeks," Mr. Yushchenko said during a visit to Kazakhstan, where he attended the inauguration of President Nursultan A. Nazarbayev. "The decision only demonstrates one thing: the destabilization of the situation."

The prime minister, Yury I. Yekhanurov, defied Parliament's vote on Tuesday by presiding over a meeting of the government's ministers on Wednesday.

"We are continuing to fulfill our duties," he said at the meeting, according to news agencies, reversing his initial statement after Tuesday's vote that the ministers would serve only in an acting capacity.

The dispute - prompted by the handling of negotiations with Russia over the price of natural gas - in effect left Mr. Yushchenko's government in a sort of political limbo. It not only undermined his political position before the elections but also called into question recent constitutional changes that gave Parliament new powers, including the authority to dismiss the government.

Those changes, which went into effect on Jan. 1, were part of an agreement reached in December 2004 to hold a new presidential election after tens of thousands of Ukrainians protested a fraudulent vote that initially handed victory to Mr. Yushchenko's rival, Viktor F. Yanukovich.

Mr. Yushchenko, who has since criticized the agreement, did so sharply again on Wednesday. "In fact, we are dealing with the first consequences of inconsiderate changes to the Constitution," he said in a statement released by his office.

The Parliament that assembles after that vote will elect the country's next prime minister, a significant shift in constitutional power. Given the current impasse, it appeared unlikely that a new government would be formed before then, leaving Mr. Yekhanurov's in place for now.

It also appears unlikely that Mr. Yushchenko's bloc of deputies, Our Ukraine, will be able to control the majority needed to choose the new prime minister. Polls show Mr. Yanukovich's party leading, followed by a bloc led by Yulia V. Tymoshenko, Mr. Yushchenko's erstwhile ally whom he dismissed as his first prime minister in September.

Ms. Tymoshenko, whose supporters voted to dismiss the government, has been a vociferous critic of the agreement that ended the dispute over gas prices, vowing to challenge it in court. Others in Parliament said that while lawmakers could not directly reject the deal, they could challenge related interstate agreements with Russia, including those setting the amounts of gas supplied.

Nestor I. Shufrich, a deputy who voted against Mr. Yushchenko's government on Tuesday, questioned why Ukraine had agreed to changes in gas contracts that were valid until at least 2009. "We still have time to review this contract and return to the earlier signed and ratified contracts," he said in an interview.

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Under the complicated terms of the deal, reached last week after a brief shutdown of Russian gas, Ukraine agreed to pay nearly double the price it paid under a 2004 agreement.

While in Kazakhstan, Mr. Yushchenko met with President Vladimir V. Putin of Russia, and called the deal "a healthy compromise." Mr. Putin praised the "mutually beneficial decisions" reached after the showdown.

Blair In Plea To Bush For Rolls Contract (FT)

By Edward Alden and Peter Spiegel and James Blitz

Financial Times, January 12, 2006

Tony Blair, the British prime minister, has made a "very forceful" personal plea to President George W. Bush to save a $2.4bn (€2bn) contract for Rolls-Royce and General Electric to develop a second engine for the Joint Strike Fighter, the world's biggest military programme.

According to US and UK officials, the request was made in a video-conference call between the two leaders, which came just days after Mr Blair sent a letter to Mr Bush outlining his case.

"The prime minister was very clear and very forceful," said a British official close to the issue, referring both to the letter and the subsequent personal conversation. "This is obviously important to Rolls-Royce. But as a matter of policy, we also want to promote as much co-operation as possible between the US and our defence industry."

Mr Blair is hoping the White House will reverse a Pentagon decision to kill the engine before the proposed 2007 defence budget is sent to Congress next month. The $2.4bn contract calls for the two companies to develop a second JSF engine that would compete with the primary engine being developed by Pratt & Whitney of the US.

The second engine was originally intended to provide competition for all buyers of the JSF, but the war in Iraq has forced the Pentagon to find a series of equipment cuts in order to meet administration budget targets, and the second engine is among the cuts currently being proposed. GE controls 60 per cent of the consortium building the second engine, and Rolls of the UK has a 40 per cent stake.

People familiar with the lobbying campaign said Mr Blair has lent his full muscle to the effort and involved several senior British officials, including Jonathan Powell, Mr Blair's chief of staff. "This is at a level and degree of intensity that few outsiders appreciate," said Loren Thompson, a defence analyst with close ties to the Pentagon. Given the Pentagon's budgetary problems, securing a change of position would be a remarkable and surprising political achievement for Mr Blair.

Sir Digby Jones, director-general of the CBI, the country's largest business lobbying group, added: "This is personal for Blair. Britain is in many, many ways the only friend America has got. Blair personally takes the heat everywhere he goes because of that relationship, and we don't see very much coming back by way of America saying, 'We understand that, thank you'."

Despite Mr Blair's personal lobbying, industry and Whitehall insiders said yesterday that there is considerable debate within the British government about how forcefully to back Rolls with the Bush administration.

The UK, which is the Pentagon's lead partner on the $240bn JSF programme, is in the middle of tense, long-term negotiations with the US over whether it will get access to all the technologies it needs to operate the aircraft independently of American contractors.

In addition, the entire programme has been under threat from Pentagon budget cutters.

"The important thing is keeping the programme together," said one industry official.

Blair Program To Teach Respect (WT)

By Al Webb

The Washington Times, January 12, 2006

LONDON -- British Prime Minister Tony Blair, introducing a key plank of his third and final term in office, has started a $140 million action plan dubbed "Respect" to attack anti-social problems ranging from street hooligans to "neighbors from hell" who could be thrown out of their homes.

In an address to social workers at his office at 10 Downing St., Mr. Blair said the nation has been fighting "21st-century crime with 19th-century methods" and called for a system of speedy "summary justice" to bypass traditional courts.

The judge and jury process, he claimed, is "too cumbersome, too remote from reality to be effective" in today's world.

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Mr. Blair has already announced that he intends to step down as prime minister after completing the third term to which he was elected in May, and the ambitious, 44-page "Respect Action Plan" was seen as a shot at gaining a major political -- and popular -- success as his trouble-plagued governance nears its end.

To promote the plan, Mr. Blair traveled to Swindon, about 60 miles west of London, to hose down graffiti on a red-brick wall -- a public relations exercise that police said had among its spectators the youths suspected of spraying on the graffiti in the first place. They were not arrested.

Critics immediately attacked Mr. Blair's plan, one dismissing it as "rubbish," and another describing it as a package of "minor tweaks to existing measures and shock tactics."

The program he announced yesterday envisions evicting out-of-control families from their homes, even if privately owned, for up to three months, and rehousing them in a network of residential centers, or "sin bins," to teach them how to behave.

Mr. Blair, who admitted to the BBC on Tuesday to having disciplined his own children with an occasional "smack," said the bill targets so-called "neighbors from hell" whose anti-social activities run the gamut from loud music at all hours to fighting and brawling, including yelling, screaming children and bullying others. Problem families also could find their government housing benefits, worth hundreds of dollars a month in many cases, cut off.

The "Respect" plan outlines on-the-spot fines of up to $175 for street hooligans and vandals caught attacking passers-by, damaging vehicles and scrawling graffiti on walls, buses and trains. It says stiffer penalties are in store for thugs who attack government workers, and there are instant fines for causing trouble in hospitals.

It gives police and other authorities increased powers to close and board up "nuisance" premises, including houses, pubs and other bars -- a problem that some fear has already been worsened by the recent expansion of bar hours, in some cases to around the clock, for establishments selling alcohol.

A key element in the action plan centers on efforts to control unruly children and to help their beleaguered parents. Schools are given the go-ahead to take out parenting orders for children of any age who seriously misbehave, and a national parenting academy is to be set up to train health and social-service staff how to teach families "responsibility."

But in a television appearance, Mr. Blair insisted the public would have to help if the action plan is to work.

"I can provide the power and resources," he said, but "I cannot force everyone to implement these powers ... [although] I can ask them to do it."

The prime minister immediately came under fire.

"Respect?" One police officer gibed. "They [hooligans and vandals] can't even spell the word. What they need is to be named and shamed."

The officer targeted the government's use of "anti-social banning orders" -- "asbos" -- aiming at halting youths from causing trouble in specific areas. "Even an 'asbo' is a badge of honor to some of these kids."

The prime minister also faced accusations that some of the "initiatives" were, in fact, old policies that have been tried and found wanting. Parenting orders were introduced in 1998, during the first Blair administration, but political critic Edward Heathcoat Amory said only 1,425 have been used, "so their effect after eight years is vanishingly small."

On-the-spot fines were ordered up a few years ago, but they were ridiculed by police, and few were ever paid. Attempts to punish misbehavior in schools have already seen teachers and education officials overruled by local government councils under pressure from parents.

Kazakh Chief Extends Rule (WT)

By Christopher Pala

The Washington Times, January 12, 2006

ALMATY, Kazakhstan -- In a ceremony as rich in irony as in glitter, President Nursultan Nazarbayev, who has led Kazakhstan for 16 years, was sworn in yesterday for another seven-year term.

It unfolded on live television in the new presidential palace in Astana, which Mr. Nazarbayev, 65, made the country's capital since 1996. Located at the end of a promenade reminiscent of the Mall in Washington, the year-old palace is modeled on the White House, but is much larger.

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Mr. Nazarbayev entered a large hall wearing a business suit and a heavy medallion necklace. The rousing national anthem, which he had rewritten, was played. Then, his hand resting on the constitution -- which he largely wrote -- he swore, in a low monotone, to "serve the people honestly."

Among the guests and eight heads of state were Presidents Mikhail Saakashvili of Georgia, Viktor Yushchenko of Ukraine and Kurmanbek Bakiyev of Kyrgyzstan -- all advocates of Western-style democracy brought to power by popular uprisings sparked by stolen elections.

They helped inspire the campaign of a former prosecutor, Zharmakhan Tuyakbay, who challenged Mr. Nazarbayev in the Dec. 4 presidential election.

Mr. Tuyakbay's supporters wore yellow scarves, an echo of the orange scarves that came to symbolize the Ukrainian revolution.

Opinion polls had given Mr. Tuyakbay 20 percent of the vote and Mr. Nazarbayev between 60 percent and 70 percent. But, after reports of widespread ballot-stuffing, the election commission announced that Mr. Nazarbayev had won 91 percent while Mr. Tuyakbay -- whose party has since been decertified -- got 6 percent.

But in Kazakhstan, unlike the other three countries, not a single street demonstration erupted to protest the vote. Opposition leaders said they did not want to be blamed if the government opened fire on demonstrators.

Mr. Nazarbayev had promised an honest election as part of his drive to become the first post-Soviet country to head the Organization for Security and Cooperation in Europe (OSCE), the region's premier pro-democracy organization.

The election had presented the West with an unusual conundrum: how to deal with a genuinely popular dictator of an oil-rich and strategic country who, despite muzzling the press, stifling the opposition and brushing aside mounting evidence of nepotism and corruption, would have won easily without cheating.

The answer could be seen in the praise that Columbia University-educated Mr. Saakashvili heaped on his host in an interview on state television, and in the letter from President Bush that the head of the six-member U.S. delegation, Agriculture Secretary Mike Johanns, handed to Mr. Nazarbayev before the ceremony.

"I look forward to working with you to fulfill our nations' shared commitment to strengthen democracy and increase regional prosperity," Mr. Bush wrote, according to a text released by the Kazakh Embassy in Washington.

Britain, which has advocated denying Kazakhstan the OSCE chairmanship unless Mr. Nazarbayev reverses the increasing authoritarianism that began a decade ago, sent only its ambassador.

Student Says He Was Detained In Zimbabwe (WP)

By David A. Fahrenthold

The Washington Post, January 12, 2006

CAMBRIDGE, Mass., Jan. 11 -- A Harvard University student from the District said Wednesday that he had been arrested in Zimbabwe during a trip to research his senior thesis, then held in grimy cells for five days before his parents and local lawyers managed to free him.

Amar Bakshi, 21, a Harvard senior and a 2002 graduate of St. Albans School in Northwest, said the key to his release might have been a surreptitious cell phone call he made soon after his arrest on Dec. 30. Speaking quietly in a bathroom, he told a friend that he had been pulled off an outbound airplane by plainclothes officers.

"That was the scariest thing," Bakshi said. "A lot hinged on that phone call."

Bakshi described his ordeal in an interview at a mall near the Harvard campus. It was difficult to find immediate official corroboration: A spokeswoman said the State Department was aware of the case but was unable to provide further information because of privacy concerns. A spokesman for Harvard's Faculty of Arts and Sciences said he would confirm only that Bakshi is a student.

At the Zimbabwean Embassy in Washington, spokesman Wilbert Gwashavanhu said that he could not confirm any part of Bakshi's account. He added that he thought it implausible that a Harvard student would be jailed in Zimbabwe simply for doing research.

"I'm wondering really where the truth rests," Gwashavanhu said.

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Bakshi's account of the ordeal was reported previously by the Harvard Crimson, the student newspaper, and in Zimbabwe by the Standard, an independent weekly.

Bakshi said he had gone to Zimbabwe, a southern African nation that has spiraled into poverty and repression in recent years, on Dec. 18. It was the second of two trips he made there last year for his thesis, which concerns political propaganda and the country's youths during the past five years.

During this trip, Bakshi said, he talked to officials in the information ministry for longtime President Robert Mugabe, and collected tapes of news, arts programs and jingles designed to promote government policies on Zimbabwean television.

Bakshi said he was on a plane waiting to depart the airport in Harare, the capital, when five or six men appeared in the jetway. They took him off the plane and into a small room.

"Why are you here? What are these videotapes? You're spying on us," Bakshi recalled the officers saying. They threatened him: "You don't know how horrible this will become."

Bakshi said he made up a diversion, something like "I urgently need to go to the bathroom." Although he had been told to turn his phone off, he called his friend, who then called the U.S. Embassy.

After that, "I was confident that if people knew I was there, the situation would improve," Bakshi said.

It did not at first, however. Initially, Bakshi said, he was taken to a bare holding cell, covered with graffiti left by previous inmates, phrases such as, "Please get me out of here," he said.

After one night, he was moved to a larger jail, where about 120 prisoners were squeezed in among flea-infested mattresses and overflowing toilets. By this time, however, Bakshi said his case had made it to the embassy, which he said sent officials to assure him he would eventually be released.

The news also had made it back to the District, where Bakshi's parents -- both doctors -- live near Sibley Memorial Hospital.

"The first few moments were of panic and of 'My God, what's happening to my boy!' " said his mother, Gita Chopra Bakshi, a pulmonologist. "Then it was a job to do, which was we have to go over there and get him back."

His parents flew to Harare, made connections with local lawyers and eventually had the charges dropped. Bakshi spent a few days in Washington, then returned to Harvard on Wednesday. He said he probably will not be going back to Zimbabwe "for a while."

He said, however, that he intends to write about his experience, on behalf of the many people he met who are probably still in jail. Bakshi recalled one of his fellow inmates, who told him, "in your thesis, make sure to write about all the good things that you saw here with us."

"Then there's sort of this dot-dot-dot . . . and [he] says, 'And be sure to tell them how bad the situation is, too,' " Bakshi said.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

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TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

Bush Calls Spying Inquiry Inevitable (LAT)

By James Gerstenzang, Times Staff Writer

The Los Angeles Times, January 12, 2006

LOUISVILLE, Ky. — President Bush acknowledged Wednesday that congressional hearings into his domestic spying program were inevitable, but he said they would be "good for democracy" as long as they did not "tell the enemy what we're doing."

Even as he delivered a lengthy defense of the program, Bush stepped back from the strong opposition he expressed last month to a public investigation of his decision to allow the National Security Agency to eavesdrop on communications between people in the United States, including U.S. citizens, and those in other countries in suspected terrorism cases.

He said Wednesday that in approving the program, he had to balance civil liberties against the need to find out, "on a limited basis," what potential terrorists were plotting.

Critics have questioned whether it was legal to order a government agency to listen in on the conversations of people in the United States and read their e-mails without court approval.

Bush's comments came in response to a question at a citizens forum in Louisville as he took his case for the Iraq war to an audience beyond Washington.

The spying program, which was revealed by the New York Times last month, came up when Bush was asked whether the Justice Department, which has begun investigating the leaks, would "follow through and, if necessary, go after the media … to shut these leaks up."

Bush did not directly answer the question, but he used it to launch one of his longest public explanations of the program.

"I did say to the … National Security Agency that they should protect America by taking the phone numbers of known Al Qaeda and/or affiliates and find out why they are making phone calls into the United States and vice versa. And I did so because the enemy still wants to hurt us," Bush said, adding that "if somebody is talking to Al Qaeda, we want to know why."

He said that when he took the oath of office, "I meant it when I said I'm going to uphold the Constitution."

But, he added, "I have the right as the commander in chief in a time of war to take action necessary to protect the American people."

Bush said that the program had been "fully scrutinized on a legal basis," that it had been reauthorized several times, with lawyers from different government branches looking into it, and that congressional leaders — Republicans and Democrats — and both parties' leaders on the intelligence committees had been briefed on it.

He did not say that some senior government lawyers, including at least one top Justice Department official, had expressed qualms about the program, and that senior Democrats said they were given limited information and were not allowed to study it more closely.

Bush said that before moving forward with the program, "I wanted to make sure I had all the legal authority necessary."

He repeated earlier assertions that the congressional resolution passed after the Sept. 11 attacks gave him the authority to use all force he thought necessary to fight terrorists, and that the spying program fell under that authority.

"There will be a lot of hearings and talk about that," Bush said, "but that's good for democracy — just so long as the hearings, as they explore whether I have the prerogative to make the decision I made, doesn't tell the enemy what we're doing. See, that's the danger."

On Wednesday, Bush addressed about 400 people chosen by civic groups, business organizations and a university. He spoke for about 20 minutes on the war in Iraq, then fielded questions for about an hour on topics such as immigration, the role of church and state in Islamic society, education and the challenges of preparing a workforce for 21st century jobs.

The Louisville trip reflected a drive by the White House to take Bush's message on Iraq and terrorism directly to audiences around the country in an effort to overcome what public opinion polls have found to be sagging support for the war.

As part of the effort, Vice President Dick Cheney spoke in two telephone interviews with Fox News hosts Tony Snow and Sean Hannity, drawing attention to what he says were ties between Saddam Hussein and Al Qaeda.

Bush Again Defends Wiretapping Program (WP)

By Michael A. Fletcher

The Washington Post, January 12, 2006

LOUISVILLE, Jan. 11 -- President Bush on Wednesday defended his decision to allow government eavesdropping on the phone calls and e-mails of suspected terrorist collaborators in the United States, saying the program is legal and is essential to averting potential attacks.

"I understand people's concerns about government eavesdropping," Bush said in response to a question about the program during a citizens forum here. "I share their concerns as well." Even so, he added, the program is important to his duty to protect Americans.

Bush's comments on the eavesdropping program came in response to a question posed during a campaign-style event here aimed at shoring up support for the war in Iraq as well as the nation's broader anti-terrorism effort.

The president's forum here was different than most of the events he attends nationwide. Usually he speaks to carefully screened partisan audiences and takes no questions. White House aides described Wednesday's audience of business and community leaders as bipartisan, and Bush opened himself to unscripted questions during the town-hall-style event.

The domestic spying program has drawn fire from members of Congress, both Democrats and Republicans, who think it oversteps the president's authority and violates civil liberties that are part of the nation's fiber. The National Security Agency program began in the aftermath of the Sept. 11, 2001, terrorist attacks as a way to help the nation's intelligence agencies gather information about any future attacks.

The program authorizes the NSA to screen the international e-mails and phone calls of people in the United States with suspected terrorism ties without first obtaining a court order. Bush said that congressional leaders have been briefed on it and have been given the opportunity "to express their approval or disapproval."

Some Democrats, however, have complained that the classified briefings amounted to one-way conversations in which the administration simply told them about the program but left no means to protest it.

Senate Judiciary Committee Chairman Arlen Specter (R-Pa.) has announced plans to hold hearings on the spying program. Bush said he welcomes the inquiry, calling it "good for democracy." He added, however, that the hearings run the danger of telling "the enemy what we're doing."

In a statement released after Bush's remarks, Democratic National Committee Chairman Howard Dean said that rather than protect the nation, Bush's program may compromise efforts to fight terrorism by resulting in hundreds of cases against suspected terrorists being thrown out of court.

"President Bush's decision to sidestep the rule of law and spy on Americans without a court order may have dealt a serious blow to our ability to fight and win the war on terror," Dean said.

The president sounded now-familiar themes about the war in Iraq. Although insurgents there continue to sow havoc and death with almost daily bombings and other attacks, Bush said steady progress is being made toward success.

Also, with the war sure to be a major issue during the upcoming midterm elections, Bush again warned Democratic critics of the war not to allow their critiques to undermine the morale of troops whose lives are on the line.

"I can understand people being abhorrent about war. War is terrible," Bush said. "But one way people can help as we're coming down the pike in the 2006 elections, is remember the effect that rhetoric can have on our troops in harm's way, and the effect that rhetoric can have in emboldening or weakening an enemy."

Earlier this week, Senate Minority Leader Harry M. Reid (D-Nev.) and Sen. Jack Reed (D-R.I.) charged that Bush has "used our troops as a shield against legitimate criticism of his Iraq war policy."

In Shift, Bush Says He Welcomes Inquiry On Secret Wiretaps (NYT)

By David E. Sanger

The New York Times, January 12, 2006

LOUISVILLE, Ky., Jan. 11 - President Bush said Wednesday that he would welcome a Congressional investigation of whether he had the authority to order the National Security Agency to monitor communications in the United States without warrants.

Until now, the White House had opposed public hearings, which are scheduled to begin next month in the Senate. But on Wednesday, answering questions from a friendly crowd in Louisville in a conference center decorated with signs that said "Winning the War on Terror," Mr. Bush appeared ready to make the best of a political necessity.

In his campaign-style meeting, he was repeatedly applauded for authorizing the wiretaps, a decision that some of his political aides said they believed would ultimately help rebuild his approval ratings by demonstrating the lengths to which he would go to prevent another terrorist attack inside the United States.

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Asked whether his administration was going to "go after the media" for revealing operations like the domestic wiretapping, Mr. Bush instead defended his decision to authorize the surveillance. "I did so because the enemy still wants to hurt us," he said. "And it seems like to me that if somebody is talking to Al Qaeda, we want to know why."

His order enabled the National Security Agency to monitor the international phone calls and e-mail messages of people in the United States suspected of links to Al Qaeda.

Singling out Americans and others in the United States for such surveillance would normally require a warrant under the Foreign Intelligence Surveillance Act, although the act also allows the attorney general to authorize a wiretap if it is reported to the court within 72 hours.

"Now, I - look, I understand people's concerns about government eavesdropping," Mr. Bush said. "And I share those concerns, as well. So obviously I had to make the difficult decision between balancing civil liberties and, on a limited basis - and I mean limited basis - try to find out the intention of the enemy."

The president never directly addressed the question of why he avoided the existing system, although his legal advisers and intelligence aides have said it was too cumbersome.

"There will be a lot of hearings to talk about that, but that's good for democracy," Mr. Bush said. "Just so long as the hearings, as they explore whether or not I had the prerogative to make the decision I made, doesn't tell the enemy what we're doing. See, that's the danger."

Mr. Bush said some key members of Congress had been briefed on the program several years ago and "we gave them a chance to express their disapproval or approval," brushing past the claims of some Democrats that their questions about the program's legality were never resolved.

The president's statement that he was willing to see public hearings go forward was a change from his stance at a news conference at the White House just before Christmas. At the time, he said, "Any public hearings on programs will say to the enemy, 'Here's what they do - adjust.' "

Senator Arlen Specter, a Pennsylvania Republican and the chairman of the Senate Judiciary Committee, has scheduled open hearings, and the Senate Intelligence Committee has said it plans closed hearings.

The president's legal justification for the N.S.A. program has gotten mixed reviews, ranging from enthusiastic to skeptical to scathing.

This week, Representative Jane Harman of California, the top Democrat on the House Intelligence Committee, released a 14-page legal analysis she had requested from a former C.I.A. general counsel, Jeffrey H. Smith, now a Washington lawyer.

Although recognizing the president's assertion that his power as commander in chief justifies warrantless surveillance, Mr. Smith called that case "weak" in light of the language and documented purpose of the Foreign Intelligence Surveillance Act of 1978, which requires warrants.

Mr. Smith also wrote that the Congressional resolution authorizing military force against those who carried out the Sept. 11, 2001, terrorist attacks "does not, in my view, justify warrantless electronic surveillance of United States persons in the United States."

"The president was correct in concluding that many of our laws were not adequate to deal with this new threat," Mr. Smith wrote. "He was wrong, however, to conclude that he is therefore free to follow the laws he agrees with and ignore those with which he disagrees."

Investigate Surveillance, But Be Careful, Bush Says President Reverses On Hearings; Ex-CIA Counsel Questions Legality (USAT)

By John Diamond And David Jackson

USA Today, January 12, 2006

LOUISVILLE — President Bush on Wednesday dropped his opposition to upcoming Senate hearings into his program of conducting electronic surveillance on domestic targets without court-approved warrants. He said he welcomes such hearings.

Hearings will be “good for democracy, Bush said during a town-hall-style meeting filled with supporters and interrupted often by applause. “Just so long as the hearings, as they explore whether or not I have the prerogative to make the decision I made, doesn't tell the enemy what we're doing. See, that's the danger.”

After the program was revealed publicly last month by The New York Times, Bush said that hearings would be counterproductive and that the members of Congress who needed to know about the surveillance of people linked to terrorism suspects had been briefed on it.

“Any public hearings on programs will say to the enemy: ‘Here's what they do. Adjust.' This is a war,” Bush said at a news conference in December.

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Bush said Wednesday that administration lawyers had approved the program. “I can understand concerns about this program,” he said. “Before I went forward, I wanted to make sure I had all the legal authority necessary to make this decision.”

For the second time in a week, however, an analysis questioned the White House's claims that Congress implicitly authorized the program. Such a contention is “not credible,” according to a memo to the House Intelligence Committee by Jeffrey H. Smith, a CIA counsel during the Clinton administration.

Smith's Jan. 3 memo was requested by committee Democrats. It follows a report by the non-partisan Congressional Research Service that said the surveillance program might not be “well grounded” legally and may rest on a mistaken assumption that Congress has no power to limit domestic surveillance in wartime. The report said a firm conclusion couldn't be made because much about the surveillance program is classified.

Bush's argument, that he has the constitutional authority to authorize the surveillance program, is a weak one, Smith wrote.

The president's constitutional authority, he wrote, is limited by the 1978 Foreign Intelligence Surveillance Act (FISA), which requires a warrant before spy agencies can target someone in the USA and allows for only a 15-day exception following a declaration of war by Congress. The surveillance program has been in effect for more than four years; Congress has not formally declared war.

White House spokesman Fred Jones said the Justice Department has detailed the legal arguments supporting the policy. Those arguments focus on two points:

·Presidential warmaking powers under Article II of the Constitution give Bush the right to take actions to prevent further attacks. Since the 9/11 attacks showed the enemy was in the USA, surveillance, a standard part of modern warfare, was within Bush's powers.

·The 1978 law forbids surveillance without a warrant “except as authorized by statute.” The administration says a post-9/11 congressional resolution authorizing the use of force in response to the attacks is such a statute. However, Smith wrote, “It is hard to believe that Congress had any idea that it was authorizing such sweeping presidential powers” when it voted for the resolution on Sept. 14, 2001.

Smith, who was CIA general counsel in 1995 and 1996, wrote that broad assertions of presidential war powers have generally been upheld by the courts “in areas where Congress has not acted.” Where specific legal language exists, such as FISA, presidential power is limited, he wrote.

Bush: Hearings On Eavesdropping Program "good For Democracy" (LEXHL)

By deb riechmann

Lexington Herald-Leader (KY), January 12, 2006

LOUISVILLE, Ky. - President Bush said Wednesday that congressional hearings to investigate his domestic eavesdropping program will be good for democracy as long as they don't give secrets away to the enemy.

Bush was initially opposed to having the program investigated in a public format, but made it clear that he is resigned to open hearings that are scheduled to begin in coming weeks.

Bush's decision to authorize the National Security Agency to monitor - without warrants - people inside the United States has sparked a flurry of questions about the program's legal justification.

Bush defended the program during a campaign-style town hall meeting, saying he understands concerns about it but monitoring the phone calls of affiliates of the terrorist network al Qaida is necessary to protect the United States. He said he made sure he had the legal authority to allow the program before he did so.

"There will be a lot of hearings to talk about that, but that's good for democracy," he said. "Just so long as the hearings, as they explore whether or not I had the prerogative to make the decision I make, doesn't tell the enemy what we're doing. See, that's the danger."

In the days after the program's existence was revealed, Bush cautioned against hearings, arguing that the appropriate members of Congress were being consulted privately and offering assurances that he was working within the law to authorize the eavesdropping.

"Any public hearings on programs will say to the enemy, `Here's what they do - adjust.' This is a war," Bush said at a December news conference when asked about expected hearings on Capitol Hill.

The Senate Judiciary Committee has scheduled hearings on the issue for early February. The Senate Intelligence Committee also plans to hold hearings that will be closed to the public.

For the second time in a month, Bush took questions from audience members during an appearance to win support for his war on terror.

In his opening remarks, he defended the global war on terrorism and the U.S. effort in Iraq. He said insurgents in Iraq were trying to drive the United States out through violence and bloodshed but he declared, "They're not going to shake my will."

While saying he wanted to bring American troops home, he said, "I don't want them to come home without achieving the victory."

In a question and answer session, Bush was asked about Iraq, education priorities, immigration, the economy, health care and other subjects. He said the war on terrorism would not end with an enemy surrender, as was the case in World War II. "I don't envision a signing ceremony on the USS Missouri," Bush said. "The peace won't be the kind of peace we're used to."

White House press secretary Scott McClellan said questions from the audience were not prescreened, and Bush himself said that while the event was about terrorism, no questions were off limits.

Kentucky, where Iraq is taking center stage in politics, provided an appropriate backdrop for Bush's remarks.

Kentucky Rep. Anne Northup, a Republican ally of Bush who joined him at the event, describes the situation in Iraq as "painful." Yet, she stands firmly behind the his decision to invade that country, a potentially divisive issue in Northup's upcoming re-election campaign.

In contrast, Iraq war veteran Andrew Horne, a Democrat running for her seat, said the invasion was a mistake because the threat of weapons of mass destruction - a key justification for the war - never materialized.

Bush Not Opposed To Hearings On Eavesdropping (REU-Y2)

Reuters, January 12, 2006

President George W. Bush on Wednesday defended his authorization of domestic eavesdropping and said he did not oppose congressional hearings as long as they did not provide information to the enemy.

"I can understand concerns about this program, before I went forward I wanted to make sure I had all the legal authority necessary to make this decision as your president," he said. "We are a ... country of law."

Critics have questioned whether it was legal for Bush to authorize the National Security Agency to eavesdrop inside the United States on Americans with suspected terrorism ties without getting court approval.

"I have the right as the commander in chief in a time of war to take action necessary to protect the American people," Bush said in Kentucky where he gave a speech on Iraq and terrorism.

"One way to protect us is to understand the nature of the enemy. Part of being able to deal with this kind of enemy in a different kind of war is to understand why they're making decisions they're making inside our country," Bush said.

Senate Judiciary Committee Chairman Arlen Specter, a Pennsylvania Republican, has said he wants to hold hearings in early February on the domestic eavesdropping.

Bush said hearings were "good for democracy" if they did not help the enemy.

"Just so long as the hearings, as they explore whether or not I have the prerogative to make the decision I made doesn't tell the enemy what we're doing -- see that's the danger," Bush said.

Bush Reasserts 'Right' To Order Wiretaps (WT)

By Joseph Curl

The Washington Times, January 12, 2006

LOUISVILLE, Ky. -- President Bush said yesterday that he is doing everything "within the Constitution" to protect the American people from another terrorist attack, but added that congressional hearings into a top-secret U.S. spying program will be "good for democracy."

In an unusual, 75-minute campaign-style town hall meeting -- which included nearly a dozen questions from members of the invited audience -- Mr. Bush said he firmly believes he has the authority to order warrantless wiretaps of phone calls by people thought to be linked to al Qaeda or its affiliates.

"I have the right as the commander in chief in a time of war to take action necessary to protect the American people," he said during the event at the Kentucky International Convention Center in Louisville. "I can understand concerns about this program. Before I went forward, I wanted to make sure I had all the legal authority necessary to make this decision as your president."

Mr. Bush said that after the September 11 attacks, he vowed "that I would use everything in my power -- obviously, within the Constitution -- but everything in my power to protect the American people. ... I put that hand on the Bible, and I meant it when I said I'm going to uphold the Constitution."

Some on Capitol Hill are demanding an investigation into the wiretapping program, first revealed last month by the New York Times. The program allows the National Security Agency to eavesdrop on international phone calls without a warrant, which Democrats say is a violation of the constitutional right to privacy.

Democratic National Committee Chairman Howard Dean criticized the Bush administration's "disregard for our courts and our laws."

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"President Bush's decision to sidestep the rule of law and spy on Americans without a court order may have dealt a serious blow to our ability to fight and win the war on terror," Mr. Dean said.

The Senate Judiciary Committee has scheduled hearings on the issue for early February, and the Senate Select Committee on Intelligence plans to hold closed-door hearings -- both of which Mr. Bush endorsed yesterday.

"There will be a lot of hearings and talk about that, but that's good for democracy," he said. He added a caveat, however: "Just so long as the hearings, as they explore whether or not I have the prerogative to make the decision I made, doesn't tell the enemy what we're doing. See, that's the danger."

Continuing an effort that began last month to convince Americans that he has a plan for Iraq, Mr. Bush was conciliatory and occasionally contrite during the lengthy question-and-answer session with some of the 400 community leaders, small-business owners and others in attendance.

On the invasion of Iraq, he said: "I can understand folks who say, 'I wish you hadn't done that.' " On the failure to find weapons of mass destruction in Iraq, he said: "I understand that the intelligence didn't turn out the way a lot of the world thought it would be. And that was disappointing, and we've done something about it" by overhauling the nation's intelligence agencies.

But he took aim at Democrats who he said might be looking to exploit the difficulties in Iraq during midterm elections in November.

Responding to a 7-year-old in the audience who asked how Americans can help in the war on terror, Mr. Bush said: "One way people can help as we're coming down the pike in the 2006 elections is remember the effect that rhetoric can have on our troops in harm's way and the effect that rhetoric can have in emboldening or weakening an enemy."

Residents Get Chance To Question President (LEXHL)

By bruce schreiner

Lexington Herald-Leader (KY), January 12, 2006

LOUISVILLE, Ky. - The global fight against terrorists was the main theme, but topics hit closer to home when Kentuckians got a crack at questioning President Bush on Wednesday.

During the town hall-style event, a business operator bemoaned health insurance costs. An educator called education crucial to the nation's security. A man asked about immigration.

But first, Bush outlined his strategy in the Iraq war.

The president said insurgents were trying to weaken America's resolve. "Whether you agree with me or not, they're not going to shake my will," he said. "We're doing the right thing."

Many tickets for the event were distributed by Greater Louisville Inc., the metro chamber of commerce. The friendly audience included Gov. Ernie Fletcher, Lt. Gov. Steve Pence, and U.S. Reps. Anne Northup and Ron Lewis, all Republicans; and Mayor Jerry Abramson, a Democrat.

Commenting on Abramson's longevity in office, Bush said his father, as president, gave the mayor a pair of cufflinks. "It looks like the mayor is going to outlast both Bushes," he said. Abramson is running for another term this year.

Across the street, about 200 people chanted and waved signs protesting the Iraq war and wiretaps ordered by the Bush administration without first obtaining warrants.

Al Mitchell of Louisville was disappointed that the tickets to Bush's speech were selectively given out and carried a sign that read, "Why aren't we inside?" Mitchell said Bush uses fear to control Americans.

"That's exactly what the Bush administration is using to subdue, to control the American people, to sell them on this war in Iraq," Mitchell said. "It's this factor of fear that we're going to be terrorized by ambiguous figures."

Speaking in the home state of Fort Campbell, which has thousands of soldiers deployed to Iraq, Bush said his goal is "nothing short of victory." He said victory would be achieved when Iraq is no longer a haven for terrorists and Iraqis can defend their fledgling democracy.

Bush said decisions on troop levels would be left to military commanders.

"I know a lot of people want our troops to come home," he said. "I do, too. But I don't want them to come home without achieving the victory. We owe that to the mothers and fathers and husbands and wives who have lost a loved one. We can't let their sacrifice go in vain."

Bush then took questions for nearly an hour. When a small business owner focused on rising health insurance costs, Bush acknowledged "it's becoming an unmanageable cost."

He touted health savings accounts and association health plans that pool employees together to try to hold down insurance costs. Bush also said something needs to be done to halt frivolous medical liability lawsuits that he said drive up health costs.

When asked about education, Bush bemoaned an "achievement gap in America," but said his "No Child Left Behind" law has brought improvements to education accountability.

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Bush hinted that his upcoming State of the Union speech would address the problem of low math and science proficiency among middle and high school students.

"We've got to have kids that are the best in science and engineering and math, otherwise jobs are going to go where the workforce does have those skills," he said.

Another questioner asked Bush about immigration. Bush said border security is vital but urged compassion for foreigners coming to the U.S. in search of work.

Bush said employers should be held accountable for hiring legal immigrants, but he said that's difficult given rampant fraud.

Many farmers and other Kentucky employers rely on immigrant workers.

"You've got folks right here in Kentucky who are hiring people to do jobs that Americans won't do, and you say, 'Show me your papers,' and they've been forged and the employer didn't know about it," Bush said.

Bush promoted his guest worker plan in which foreigners would receive tamperproof cards allowing them to work temporarily in the U.S.

One question came from 7-year-old Alex Childress. The youngster, dressed in a suit and tie, asked what people can do to help in the war against terrorists.

Bush used the question to send a message to war critics. "One way people can help is ... remember the effect that rhetoric can have on the troops in harm's way, and the effect that rhetoric can have in emboldening or weakening an enemy," he said.

Alex's mother, Martha, said her son thought of the question himself.

"He didn't like any of my questions," she said.

The Lawbreaker In The Oval Office (NYT)

By Bob Herbert

The New York Times, January 12, 2006

The country has set the bar so low for the performance of George W. Bush as president that it is effectively on the ground.

No one expects very much from Mr. Bush. He's currently breaking the law by spying on Americans in America without getting warrants, but for a lot of people that's just George being George. Forget the complexities of the Foreign Intelligence Surveillance Act, or even the Fourth Amendment's safeguards against unwarranted (pun intended) government intrusion into matters that we have a right to keep private.

On his frequent trips home to his ranch in Texas, the president likes to ride his bicycle. He's not studying the Constitution.

"People are changing phone numbers and phone calls, and they're moving quick," said Mr. Bush, as he defended his authorization of warrantless eavesdropping by the National Security Agency on phone calls and e-mail into and out of the U.S.

As the president put it, "If somebody from Al Qaeda is calling you, we'd like to know why."

Well, that's true, Mr. President. But Congress and the Constitution have spoken as clearly as a bright sun on a cloudless afternoon about these matters: if you're going to eavesdrop on Americans in the U.S., you'd better run out and get a warrant.

You have to act fast? O.K., do what you have to do - but you then have to apply for a warrant within 72 hours. If, after three days, you can't explain to a court - a secret court, at that - why you need to be spying on somebody, then you need to stop that spying.

It has become fashionable to say that this controversy is about the always difficult problem of balancing civil liberties and national security. But I think the issue is starker than that. The real issue is President Bush's apparent belief - stoked at every opportunity by that zealot of zealots, Dick Cheney - that he can do just about anything he wants (mistreat prisoners, lock people up forever without filing charges), and justify it in the name of fighting terror.

"There's an enemy out there," said Mr. Bush.

That's also true. But this is not China or the old Soviet Union. The United States should be the one place on the planet where even a devastating terror strike by Al Qaeda is unable to shake the foundations of the government, which is grounded in the rule of law, the separation of powers and a constitution that guarantees the fundamental rights of the citizenry.

A group of former government officials and law professors from some of the nation's most distinguished universities sent a letter to Congressional leaders on Monday expressing their deep concern about the president's domestic spying program. They said:

"Although the program's secrecy prevents us from being privy to all of its details, the Justice Department's defense of what it concedes was secret and warrantless electronic surveillance of persons within the United States fails to identify any plausible legal authority for such surveillance. Accordingly, the program appears on its face to violate existing law."

Among those who signed the letter were William Sessions, the former F.B.I. director, and Philip Heymann, a former deputy attorney general who is now a professor at Harvard Law School.

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The Congressional Research Service, a nonpartisan arm of Congress, also took issue with the administration's defense of the warrantless eavesdropping. Its analysts searched diligently but apparently in vain for a legal justification of the spying authorized by the president. Their detailed report on the constitutional and statutory issues raised by the program said, "It appears unlikely that a court would hold that Congress has expressly or impliedly authorized the N.S.A. electronic-surveillance operations here under discussion."

The administration's attempt to justify the program, the analysts said, "does not seem to be as well grounded" as the administration seems to believe.

President Bush and others in the administration have repeatedly argued that the president's wartime powers trump some of the important constitutional guarantees and civil liberties that Americans had previously taken for granted. They don't seem to see the irony of fighting on behalf of liberty in Afghanistan and Iraq while curtailing precious liberties here at home.

The administration should not be allowed to use war as an excuse. The U.S. is a very special place in large part because no one, not even the president, is above the law.

Ex-official Warned Against Testifying On NSA Programs (WT)

By Bill Gertz

The Washington Times, January 12, 2006

The National Security Agency has warned a former intelligence officer that he should not testify to Congress about accusations of illegal activity at NSA because of the secrecy of the programs involved.

Renee Seymour, director of NSA special access programs stated in a Jan. 9 letter to Russ Tice that he should not testify about secret electronic intelligence programs because members and staff of the House and Senate intelligence committees do not have the proper security clearances for the secret intelligence.

Miss Seymour stated that Mr. Tice has "every right" to speak to Congress and that NSA has "no intent to infringe your rights."

However, she stated that the programs Mr. Tice took part in were so secret that "neither the staff nor the members of the [House intelligence committee] or [Senate intelligence committee] are cleared to receive the information covered by the special access programs, or SAPs."

"The SAPs to which you refer are controlled by the Department of Defense (DoD) and ... neither the staffs nor the members ... are cleared to receive the intelligence covered by the SAPs," Miss Seymour stated.

Special access programs are the most sensitive U.S. intelligence and weapons programs and are exempt from many oversight mechanisms used to check other intelligence agencies.

Miss Seymour also said that Mr. Tice, who was dismissed in May, failed to notify either the Pentagon or NSA of the improper behavior that he is charging.

As a result, she stated that Mr. Tice must first give statements to the Defense Department and NSA inspectors general before he provides any classified information to Congress from the SAPs.

Miss Seymour also said Mr. Tice must first "obtain and follow direction" from Defense Secretary Donald H. Rumsfeld, through the inspectors general on the proper procedures for contacting the congressional oversight committees.

Mr. Tice said he was not part of the classified NSA program disclosed by the New York Times last month that intercepted telephone, e-mail and other communications involving U.S. citizens without a warrant from a special court.

However, he told ABC News on Tuesday that he was a source for the New York Times.

"As far as I'm concerned, as long as I don't say anything that's classified, I'm not worried," he said. "We need to clean up the intelligence community. We've had abuses, and they need to be addressed."

Mr. Tice last month asked to testify to the House and Senate intelligence oversight panels regarding what he called "probable unlawful and unconstitutional acts" that occurred while he was a technical intelligence specialist with NSA and the Defense Intelligence Agency.

He provided no details of the programs.

However, Mr. Tice worked on special access programs related to electronic intelligence gathering while working for the NSA and DIA, where he took part in space systems communications, non-communications signals, electronic warfare, satellite control, telemetry, sensors, and special capability systems.

Revealing A Viper In The Nest (WT)

By Douglas Mackinnon

The Washington Times, January 12, 2006

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Until recently, I believed that the liberal Americans in society and the media who espouse blind hatred for the Bush administration, the unilateral responsibility to defend our nation, our intelligence operatives and even our military, would see the error of their ways should we one day tragically lose an American city and its innocent inhabitants to terrorism.

Today, I wonder if they might not only secretly rejoice at the thought of the "Great Satan" being "justifiably" punished in such a manner, but with their very actions, sow the seeds of such destruction? A stretch? Go to some of these ultra-left Web sites and see the venom they spew at our government. Explain to me why U.S. government employees with Top Secret clearances would leak highly classified information to the media. Explain to me why that media would then selectively print operational details that it knows, beyond a shadow of a doubt, will be harmful to the national security of our nation.

The latest case of government employees betraying their trust and our nation by leaking information to the media being the story that "the Bush administration was running a covert-domestic-spying program." The classified information that was leaked to New York Times reporter James Risen by "numerous" intelligence sources has harmed our nation, our foreign relations, our national security and the welfare of our troops, in real and unimagined ways.

Why do these government employees commit such a high crime as divulging national secrets to the media? Several reasons. The first being that even though it is a very serious crime, there are rarely any consequences. No real price to be paid. It's almost a game. In fact, if you play your leaks right, a left-wing editor up in New York may give you a very handsome book contract for selling out your fellow citizens. That is, of course, assuming said editor is not vaporized first by a nuclear weapon planted by a terrorist that the "covert domestic spying" was trying to capture.

Second, they may do it because they have diluted themselves into believing that such a traitorous action is really to the good of the nation. Just because they got cut from their high school football team doesn't mean that they still can't be heroes. If not heroes to America, then certainly heroes to those who mean to exterminate our nation.

Mostly, they just do it for partisan reasons. They strongly dislike this president, "his" war in Iraq, and have a tremendous inner fear. That fear being that President Bush might actually succeed in what he is trying to accomplish, and expose them as naive fools. So, rather than see that happen, they leak to the media, and sabotage that which they have sworn to serve.

Moving on, what, then, was the motive of the New York Times and reporter James Risen? For the New York Times, one could speculate that with all the left wing U.S. newspapers out there eagerly willing to splash national secrets across their front pages, the New York Times didn't want to get out "Benedict Arnolded" by the competition.

For Mr. Risen, maybe a modern day 30 pieces of silver in the form of a book advance and praise from liberals on the Upper East side, is the answer. If news reports are to be believed, Mr. Risen was very upset that the New York Times sat on the story for a year.

So, in his outrage, what did Mr. Risen do when the New York Times would not publish his potentially devastating story on how the Bush administration might be circumventing the law to protect the American people? Did he walk in front of a stand of news cameras and reveal his "story of the decade?" Did he himself leak it to a rival newspaper in the best interests of America? No.

What Mr. Risen did was take a leave of absence from the New York Times so he could write a book entitled, "State of War: The Secret History of the CIA and the Bush Administration." When his book was done and ready for release, Mr. Risen came back to the New York Times and exposed the national secret himself. In doing so he said the New York Times "has performed a great public service by printing it, because this policy is something that the nation should debate." As these leaks and betrayals continue, we need to acknowledge that the viper is in our nest and it's not al Qaeda. It's some of our fellow Americans.

Since September 11, we have all been waiting for the next shoe to drop. Ironically, that is one job we seem to have not outsourced. The shoe may well be American made.

Douglas MacKinnon served as press secretary to former Sen. Bob Dole. He is also a former White House and Pentagon official and an author.

Op-ed: Patriot Act Is Convenient Target (USAT)

By Amitai Etzioni

USA Today, January 12, 2006

A steady stream of revelations, and the ensuing news media reports, have portrayed a president hungry for power, doing whatever is necessary — legal or not — to protect this country. In the wake of such news, some lawmakers in Congress see weakness and an opportunity to gut one of President Bush's vital weapons in the war on terror: the USA Patriot Act.

Congress should not hold up extending vital sections of the Patriot Act in reaction to these recently revealed power grabs. The president's authorization of spying on Americans by the National Security Agency has nothing to do with the Patriot Act; nor do secret prisons, nor memos allowing torture. Questions over how much power the commander in chief can exercise must be sorted out by Congress and the courts, but the Patriot Act shouldn't be held for ransom.

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Despite pleas from the White House to make all of its sections permanent, the Patriot Act has been extended only until Feb. 3. Its viability is, indeed, in jeopardy as lawmakers have found it fashionable to rail against the Patriot Act. (Related: Patriot Act poll results)

In contrast to the recently revealed secret White House initiatives, many of the 161 measures included in the law aren't contested by any major figure on the right, left or center. Even a representative of the American Civil Liberties Union said the group seeks to fix the act, not to kill it. An examination of some of the contested sections demonstrates that the measures involved are hardly out of line:

·Phones. Before the Patriot Act was passed, soon after 9/11, authorities had to obtain a court's permission to tap a phone, but the warrant had to be "particularized" to a given instrument, reflecting the days when people had one phone. Cellphones made this narrow rule obsolete. The Patriot Act changed this requirement to a suspect rather than to one of his instruments. What is wrong with that?

· Libraries. Critics have been outraged by the right of the government to search the computers of public libraries. Actually, the term "library" is not mentioned in the act. The bill authorizes searches of "books, records, papers, documents and other items ... to protect against international terrorism or clandestine intelligence activities." Critics have singled out libraries because such searches evoke more public outrage than if one would refer to the actual wording of the bill.

· Homes. The "sneak and peek" clause has been particularly vilified. The act grants authorities the right to search a home without notifying the owner for a period of days. But how long is enough? Sen. Russ Feingold, D-Wis., favors seven days; Republicans in the House of Representatives want 180 days. But there has been little discussion of the grubby details in such a search. How long does it take to de-encrypt a PC? To translate messages? And to find any collaborators? Once these matters are examined, it should not be difficult to come up with a compromise on notification.

· Money. The clause that penalizes giving "material support" to terrorists applies only if the donor knew where the funds were headed. If clearer wording is needed to protect those who thought they were giving to a charity, so be it.

We tend to swing wildly in one direction and then in the opposite one. The Senate Church Committee, responding to the abuses such as spying on civil rights groups and public leaders by the FBI under J. Edgar Hoover, tied the agency in knots.

The initial responses to the 9/11 attacks might well have been excessive. As time has passed — without a new attack on the USA — many security measures are being questioned, as they should be. Even so, when it comes to critical components of the act, such as those listed above, minor tweaks — not massive overhauls — would make the Patriot Act work for all Americans.

The same can't be said for the other security measures that the public has recently learned about. Those fully deserve the kind of extensive hearings to which the Patriot Act is being subjected.

Amitai Etzioni is the author ofHow Patriotic is the Patriot Act?: Freedom vs. Security in the Age of Terrorismand a member of the Markel task force on national security and information.

Bush Grenade Attacker Gets Life (CNN)

CNN.com, January 12, 2006

(CNN) -- A Republic of Georgia court has sentenced a man to life in prison for attempting to assassinate U.S. President George W. Bush by lobbing a hand grenade towards a podium during a rally in the capital last year, according to Georgia's interior minister.

Vladimir Arutinian of Tbilisi was also found guilty of trying to assassinate Georgian President Mikhail Saakashvili, who was standing on the podium with Bush on May 10.

He was also convicted of killing a police officer who tried to apprehend him two months after the incident.

The would-be assassin threw a grenade into a crowd about 20 meters (65 feet) from the stage where Bush had just begun speaking, but the grenade, wrapped in a plaid cloth, failed to detonate, authorities said.

Initial reports said the grenade was not live, but authorities later said it was.

Georgia's Interior Minister Vano Meradishvili told CNN he fully expected Arutinian to appeal the ruling because he "enjoys the attention" that he has received.

At one point during the trial, which began just over a month ago, Arutinian appeared in the courtroom with his mouth sewn shut.

Arutinian would not be eligible for parole, and could only be released under a presidential pardon, which was unlikely under Saakashvili, Meradishvili said.

In September, a U.S. federal grand jury indicted Arutinian for the assassination attempt against Bush, and could request his extradition if he is released in the future.

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Meradishvili said the government could not have apprehended Arutinian, who lived a reclusive life, without the help of two citizens, who would share an $80,000 reward.

The investigation involved Georgia investigators, the Justice Department, FBI and U.S. Secret Service.

Shortly after Arutinian's capture, the Justice Department and Secret Service issued a joint statement praising the government of Georgia for its "extraordinary cooperation" in the case.

CNN Correspondent Ryan Chilcote contributed to this report

Drug, Terror Rings Find New Ways To Launder Money (USAT)

By Donna Leinwand

USA Today, January 12, 2006

WASHINGTON — Drug traffickers and suspected terrorists are using prepaid ATM cards and Internet-based payment systems to help launder billions of dollars each year, the Treasury Department reported Wednesday in what it called the first government-wide analysis of money laundering in the USA.

The analysis described security weaknesses throughout the U.S. financial system that enable criminals to hide illicitly obtained money, and to sneak it out of the country. The report, which included contributions from 16 federal agencies, will be used to help officials devise a national strategy to fight money laundering, Treasury Undersecretary Stuart Levey said.

Smuggling cash in bulk remains criminals' favorite method for moving money out of the USA, said Marcy Foreman, investigations director for U.S. Immigration and Customs Enforcement. The report also detailed a dozen other money-laundering methods used by criminals, including what it called the increasingly prevalent use of prepaid cash cards that can be purchased anonymously at retail and check-cashing stores across the nation.

Such cards are designed to make things easier for students, immigrants and others among the estimated 75 million people in the USA who do not have bank accounts, the report said. Those buying the cards can have a certain value recorded on them, and then the cardholders can use the cards to withdraw the money from automated teller machines around the world.

However, the cards also allow foreign drug traffickers to move money to their home countries without having to sneak bundles of cash past Customs agents — or use bank accounts that leave paper trails, the report said. It noted that companies that issue cash cards outside the USA do not have to comply with U.S. anti-money-laundering laws, but that such cards can be used at ATMs in this country.

“The volume of dirty money circulating through the United States is vast, and criminals are enjoying new advantages with globalization,” the report said.

Levey said it's unclear how much money in the USA is made from criminal enterprises. The White House Office of National Drug Control Policy estimates sales of illicit drugs in the USA produce $65 billion a year for traffickers. The United Nations estimates illicit drug revenue in the USA, Canada and Mexico to be $142 billion a year.

“The key to ending drug trafficking is to wipe out the money side,” Drug Enforcement Administration chief Karen Tandy said. The DEA seized $2 billion in 2005, up from $500 million in 2003, she said.

Recent arrests by U.S. agents reflect the complexity of some schemes. Last week, Mohummed Islam Uddin, 39, of Hamtramck, Mich., pleaded guilty to running an unlicensed money-services business that sent $3 million to Bangladesh with little or no documentation of the transactions.

Uddin used U.S. currency from local people who wanted money transferred to Bangladesh. He then would buy prepaid phone cards, an ICE report said. The cards then were resold in Bangladesh for local currency by a merchant who distributed the proceeds to the intended recipients of the money transfers, ICE said. The scheme allowed Uddin to avoid paying transfer fees and to convert U.S. dollars to Bangladeshi currency.

US Vows Diligence On New Money Laundering Threats (REU)

By Laura MacInnis

Reuters, January 11, 2006

WASHINGTON (Reuters) - Internet banking, online payment systems and stored value cards not requiring identification give criminals new opportunities to filter money through the United States, U.S. regulators said on Wednesday.

Representatives of the Treasury Department, Federal Reserve, Justice Department and other government enforcement agencies urged in a Money Laundering Threat Assessment report more cooperation to squeeze money launderers and narrow potential avenues for tainted funds.

"The volume of dirty money circulating through the United States is undeniably vast and criminals are enjoying new advantages with globalization and the advent of new financial services," they said in the report, a precursor to the government's annual Anti-Money Laundering Strategy.

The regulators and law enforcement officials said it was "currently not possible" to accurately estimate the total amount of money laundering in the United States, or how much is being cut off by government enforcement.

Citing a need for a common definition of what constitutes money laundering, regulators said they needed more cooperation to patch vulnerabilities from money orders, stored value cards, check cashing, electronic payments, remittances and other financial transfers.

"Moving away from face-to-face customer interaction, particularly for (bank) account openings, challenges the traditional process of customer due diligence," they said.

The report concluded stored value cards or gift cards were compact, potentially anonymous alternatives for those seeking to smuggle physical cash linked to crime. Cards and other tools to facilitate migrant remittances could also be misused, regulators added.

"These programs can also be used to launder money if effective anti-money laundering policies, procedures and controls are not in place," the report said.

Federal Reserve Governor Susan Bies said the 72-page Money Laundering Threat Assessment "begins to give banks a better idea of what types of threats are out there."

Others said it was difficult for banks to detect fraudulent or laundered funds because money increasingly enters the U.S. financial system in indirect ways.

Stuart Levey, treasury undersecretary for terrorism and financial intelligence, said agencies like the Federal Bureau of Investigation, Drug Enforcement Administration and Postal Inspection Service were working with the Treasury and Federal Reserve to respond to new vulnerabilities.

"We now have to adjust our actions on all levels ... to stay one step ahead," Levey said.

He said it was "quite difficult to predict" when the 2005 annual strategy report would be completed but stressed inter-agency cooperation would occur before the study's official release.

Threat Assessment Calls Money Laundering A 'Massive' Challenge (ABC)

By Jason Ryan

ABC News, January 11, 2006

WASHINGTON, Jan. 11, 2006 — - Money laundering remains a "massive and evolving challenge" for investigators, according to the federal government's first-ever threat assessment of the problem.

Even getting a handle on the size of the money laundering threat and the success of efforts to stop it has been difficult, the report found.

"It is currently not possible, for example, to quantify with accuracy the total money laundering activity being apprehended by the government," it said.

Problems with data, incompatible computer systems and even differing definitions of "money laundering" have hampered some efforts to combat the crime. The assessment is intended to help law enforcement and government regulators grapple with the issue.

"Before you can effectively treat a problem, you must first have an accurate diagnosis," said Stuart Levey, the Treasury Department's undersecretary for terrorism and financial intelligence.

While law enforcement and investigators have made considerable progress in recent years, money laundering is still a vast enterprise made easier by computerized banking and global transactions. With a few clicks of a mouse a drug dealer can wash his proceeds from New York City through the Dominican Republic to an offshore account unknown to investigators. Federal Reserve Governor Susan Bies said the assessment "gives banks a better idea of what types of threats are out there."

Other recent trends and new technology allow criminals to exploit loopholes, such as store gift cards, which officials call "stored value" cards.

"The volume of dirty money circulating through the United States is undeniably vast and criminals are enjoying new advantages with globalization and the advent of new financial services such as stored value cards and online payment systems."

Although law enforcement agencies are concerned about new technologies, traditional methods of money laundering though money service business (MSBs) -- such as money orders, check cashing business and currency exchange remain most prevalent.

Most Laundering Not Linked to Terrorism

The assessment, which was prepared by 16 different government agencies, found that most suspicious transactions are flowing to criminal interests and enterprises in South and Central America, Russia and Caribbean Rim nations. While a great deal of focus has been given to terrorist financing in recent years, the report shows that only 1 percent of Suspicious Activity Reports filed by financial institutions involved potential terrorist financing. Despite this small number, law enforcement officials

remain greatly concerned about the nexus of criminal organized crime groups engaged in money laundering and the possibility of financing terrorist operations.

The 9/11 plot cost the al Qaeda network approximately $400,000 of which approximately $300,000 passed through the hijackers' established bank accounts in the United States. Although they left a paper trail in the United States, Germany and the United Arab Emirates, the hijackers moved their funds in a routine way which avoided the scrutiny of law enforcement and banking officials.

Since the 9/11 attacks the Treasury Department and FBI have worked with foreign countries to strengthen global anti-money laundering laws and regulations. The Treasury Department, Justice Department and the Department of Homeland Security also work together in the Financial Action Task Force to monitor global money laundering. The controversial Patriot Act also contains several provisions requiring increased reporting for banking and financial institutions.

After the 9/11 attacks, much attention was focused on regulating informal money transfers, known as the hawala system, originally developed in India. Some challenges remain in detailing and understanding the scope of their use. "It is virtually impossible to ascertain the full extent of [Informal Value Transfer Systems] activity in the United States due to the opacity of the sector and the absence of registration."

Bulk-cash smuggling is a common money laundering technique which may be on the rise because of some anti-money laundering enforcement efforts.

The report cautioned that more data needs to be collected and that electronic and online banking and the decline in paper checks make it more difficult to track financial transactions. Also the working group has found that money remitters and money orders are too voluminous to accurately track down. The sheer scale of Western Union providers around the globe totals 196,000 agents in over 190 countries, for example, allowing money launderers to move their money virtually anywhere.

Swiss Investigate Leak To Paper On C.I.A. Prisons (NYT)

By Doreen Carvajal, International Herald Tribune

The New York Times, January 12, 2006

PARIS, Jan. 11 - Switzerland is conducting criminal investigations to track down the source of a leak to the Zurich-based newspaper SonntagsBlick of what it reported was a secret document citing clandestine C.I.A. prisons in Eastern Europe.

The Sunday weekly published what it reported was a summary of a fax in November from Egypt's Foreign Ministry to its London embassy that said the United States had held 23 Iraqi and Afghan prisoners at a base in Romania. It also referred to similar detention centers in Bulgaria, Kosovo, Macedonia and Ukraine.

"The Egyptians have sources confirming the presence of secret American prisons," said the document, dated Nov. 15 and written in French to summarize the contents of the fax.

"According to the embassy's own sources, 23 Iraqis and Afghans were interrogated at the Mikhail Kogalniceau base at Constanza, on the Black Sea."

The leaked fax, which the newspaper said was sent by satellite and intercepted by the Swiss Strategic Intelligence Service, was signed by Egypt's foreign minister, Ahmed Aboul Gheit, the report said.

Christoph Grenacher, the newspaper's editor in chief, said that before the article was published, newspaper officials met with high-ranking Swiss government officials, who urged the paper to withhold the information. "We concluded that the discussion about so-called secret prisons is much more important than the interests of the secret service in Switzerland," he said.

During those discussions, he said, no one contested the authenticity of the document. Egypt has not commented on the report, but it quickly reignited a political fury in Europe that began in the fall with news reports that said there were C.I.A. interrogation centers in Europe and that there had been secret flights through European countries transferring terrorism suspects for questioning.

After the article was published on Sunday, Romania and Ukraine issued denials, and the Swiss criminal investigations were opened. Some European lawmakers seized on the information as evidence of dissembling by European Union members. "This is a piece of real evidence to back up the gut instinct many of us have that the denials of complicity we are hearing from E.U. member and candidate states cannot be relied upon," Sarah Ludford, a Liberal Democratic member of the British Parliament, said in a statement.

The Swiss Army's chief prosecutor opened an investigation of Mr. Grenacher and two of his reporters to determine whether military secrets were exposed and to find the source of the leaks. The Swiss attorney general's office is also investigating the issue, adding another layer to its existing investigation of whether there were C.I.A. flights in Swiss airspace.

Germany and Denmark are also examining accusations that the agency used their airspace to transport terrorism suspects.

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The United States has acknowledged flights but not the existence of prisons. A C.I.A. spokeswoman declined to comment on the report in the newspaper.

Conceivably, the journalists could face five years in prison for revealing military secrets, although no one prosecuted under the law has ever served any prison time, the authorities said.

Martin Immenhauser, a spokesman for the military prosecutor, said of the document: "Nobody has told us that it's not authentic. I think you can say that it's 99 percent certain that it's authentic."

Guantanamo Prisoner Rejects US War Tribunal (REU-Y2)

By Jane Sutton

Reuters, January 12, 2006

A Yemeni accused of being a bodyguard for Osama bin Laden went before a U.S. military tribunal on Wednesday and said he would boycott his war crimes trial because he did not recognize the tribunal's authority.

Yemeni Ali Hamza al Bahlul, who has acknowledged that he is "from al Qaeda," is one of only nine Guantanamo prisoners charged with crimes.

A separate tribunal also began on Wednesday for Canadian Omar Khadr, who is accused of killing a U.S. Army medic in Afghanistan when he was still 15.

Most of the 500 or so detainees at Guantanamo have been held without charges for years. The hearings began on the fourth anniversary of the opening of Guantanamo as a prison for terrorism suspects.

Bahlul is accused of conspiring to commit war crimes by acting as a bin Laden bodyguard and making recruiting videos for al Qaeda. He was escorted by two officers into a courtroom at the remote U.S. military base in Cuba for pretrial arguments and said he did not recognize the tribunal's authority.

"There's going to be a tribunal of God on the day of judgment," Bahlul told the court. "Do what you have to do and rule however you have to rule ... God will rule based on justice." His comments were made in Arabic.

Bahlul ended his participation in the proceedings with one word in English "Boycott," and the presiding officer, Army Col. Peter Brownback, set his trial tentatively for May 15.

The tribunal for Canadian prisoner Khadr, accused of killing the medic with a grenade during a firefight at a suspected al Qaeda compound in Afghanistan, was less colorful.

Looking burly and grown up, and sporting a crew cut and full beard, the now 19-year-old quietly answered "Yes sir," when the presiding officer, Marine Col. Robert Chester, asked him if he understood his rights.

Dressed in a blue and red T-shirt and white tennis shoes, Khadr fidgeted and stroked his beard during the hearing and asked that a Canadian lawyer be added to his defense team.

Through his military lawyer, Capt. John Merriam, he also asked that a more experienced military attorney be appointed to represent him. The hearing was the first time that Merriam has represented anybody in a courtroom.

The tribunal called a recess while it considered the issue of representation.

The Pentagon is proceeding with the two cases even though courts have halted the trials of other Guantanamo prisoners pending a U.S. Supreme Court ruling on whether President George W. Bush had authority to establish the tribunals after the September 11 attacks. The high court will hear arguments in the case in March.

NO SHACKLES

Bahlul, with a short beard and mustache and wearing khaki pants and a dark blue shirt, was not shackled or handcuffed.

He read a list of nine reasons why he refused to be represented by a military lawyer or to participate further, including the treatment of Palestinians by U.S. ally Israel -- "your allies, the Jews," he said -- and because his native Yemen had been accused in the bombing of the USS Cole.

Bahlul also said Guantanamo prisoners had been tortured and that the Britons there were not subject to military tribunals. He objected to the potential use of secret evidence and to the U.S. characterization of prisoners as illegal belligerents.

"We are prisoners of war and legal combatants based on our religion and our religious law," he said. "We do not care about anything that you call us."

Brownback rejected Bahlul's request to represent himself and Bahlul refused to meet with Army Reserve Maj. Tom Fleener, the lawyer appointed by the military to defend him.

Smiling and thanking Brownback, he held up a sheet of paper scrawled with the word 'Boycott' in English and Arabic. He removed translation earphones, and refused to enter a plea or to stand when the charges were read.

Bahlul and Khadr could face life in prison if convicted.

The United States has faced criticism at home and abroad over Guantanamo since the first group arrived from Afghanistan, shackled and wearing black-out goggles and surgical masks, on January 11, 2002.

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Fleener has called the tribunals a sham and said it is an ethical violation for him to represent a prisoner who has rejected his services. Brownback ordered him to defend Bahlul anyway.

Human rights groups have criticized rules allowing the use of evidence that may have been obtained through torture.

Chief prosecutor Col. Moe Davis said the tribunals were designed to provide a fair trial while addressing an enemy whose actions had not been anticipated under existing law.

Terror Suspect Upsets Plan To Resume Trials In Cuba (NYT)

By David S. Cloud

The New York Times, January 12, 2006

GUANTÁNAMO BAY, Cuba, Jan. 11 - The military commissions prosecuting suspected members of Al Qaeda reconvened on Wednesday for the first time in more than a year and were quickly thrown into disarray when a defendant declared he was boycotting the proceedings.

Invited by the judge to address the court, the defendant, Ali Hamza Ahmed Sulayman al-Bahlul, delivered a 10-minute address in which he praised Allah and denounced "your allies, the Jews." Complaining that he had not been permitted to choose a lawyer from Yemen, his home country, Mr. Bahlul said he had no expectation of justice from a system created by his American enemies.

"I am telling the judge do what you have to do," he said in Arabic through a translator. "Rule what you have to rule. This life will go on and end at some point. God will rule based on justice, and those who call on other than God are not calling on anything."

Smiling, he then held up a piece of paper with the word "boycott" written in stylized Arabic script, then repeated the word three times in English. For the rest of the two-hour hearing he was silent, even when asked by the presiding officer, Col. Peter Brownback III, to enter a plea.

Prosecutors say that Mr. Bahlul, one of the first prisoners to arrive at the Guantánamo center when it was set up in 2002, attended a Qaeda training camp and was a bodyguard to Osama bin Laden in 2001. Earlier, he had produced recruitment videos for Al Qaeda, including a tape on the 1998 attack on the destroyer Cole. If convicted, he faces a life sentence.

Even as Mr. Bahlul has acknowledged his connections to Al Qaeda, he has shown a talent for courtroom theatrics that have at times flummoxed the commissioners.

Little has gone smoothly for the military commissions, which the Bush administration created to try Guantánamo prisoners and which have suffered setbacks because of legal challenges, including a review from the Supreme Court.

Mr. Bahlul and Omar Khadr, a second defendant who appeared later in the day, are among nine detainees at Guantánamo who are facing war crimes charges under the military commission system.

More than 500 detainees remain in the center, which Pentagon officials once characterized as holding the most hardened terrorists captured in Afghanistan.

Of the remaining prisoners, 50 to 75 are likely to be charged, said a spokeswoman, Maj. Jane Boomer.

Mr. Bahlul demanded more than a year ago to choose a Yemeni lawyer, a request that was refused. Afterward, he said he wanted to represent himself, an idea that led commission authorities to suspend the proceedings while they researched the question. On Wednesday, Colonel Brownback ruled against him, saying President Bush's order establishing the commissions required defendants to have military counsel.

The ruling did not settle the question. Maj. Tom Fleener, Mr. Bahlul's appointed military lawyer, immediately moved to withdraw as defense counsel, a request that Colonel Brownback rejected.

Defendants in most courts, including those of the United States, are entitled to represent themselves as long as they are deemed competent, Major Fleener argued.

Requiring him to represent a client who did not want his help was an effort "to add some air of legitimacy to an otherwise wholly illegitimate process," he said.

It also could violate bar association rules in Iowa and Wyoming where Mr. Fleener, a reservist, is licensed to practice, he said.

Mr. Khadr, who was 15 when he was captured in Afghanistan and also faces life imprisonment, is accused of throwing a grenade that fatally wounded an American soldier. He declined to enter a plea on Wednesday.

Mr. Khadr's civilian defense lawyers say they can find no other war crimes prosecutions for war crimes involving a juvenile.

Prosecutors said juveniles accused of murder in the United States could be tried as adults in many states.

On Wednesday, Mr. Khadr's defense team moved to replace his appointed military lawyer, Capt. John Merriam, of the Army captain. His civilian lawyer, Muneer I. Ahmad, who is a law professor at American University, said Captain Merriam had never defended a case at trial before.

Speaking to reporters this week, Col. Morris Davis, the commission's chief prosecutor, defended the use of military commissions to try accused terrorists, saying existing law did not provide guidance for prosecuting members of terror groups.

Yemeni Prisoner At Gitmo To 'Boycott' Tribunal (WT/REU)

By Jane Sutton

The Washington Times, January 12, 2006

U.S. NAVAL BASE GUANTANAMO BAY, Cuba -- A Yemeni accused of being a bodyguard for Osama bin Laden went before a U.S. military tribunal yesterday and said he would boycott his war-crimes trial because he did not recognize the tribunal's authority.

Ali Hamza Ahmed Sulayman al Bahlul, who has acknowledged that he is "from al Qaeda," is one of nine Guantanamo prisoners charged with crimes. Most of the 500 or so detainees have been held without charges for years in the U.S.-led war on terrorism. The hearing began on the fourth anniversary of the camp's opening.

Al Bahlul is accused of conspiring to commit war crimes by acting as a bin Laden bodyguard and making recruiting videos for al Qaeda.

"There's going to be a tribunal of God on the day of judgment," al Bahlul told the court in Arabic. "Do what you have to do and rule however you have to rule. ... God will rule based on justice."

Al Bahlul ended his participation in the proceedings with one word in English: "boycott." Presiding officer Army Col. Peter Brownback set the suspect's trial tentatively for May 15.

A separate tribunal of U.S. military officers was set to begin in the murder case against Canadian prisoner Omar Khadr, 19. He is accused of killing an Army medic with a grenade during a firefight at a suspected al Qaeda compound in Afghanistan when he was 15.

The Pentagon is proceeding with the two cases even though U.S. courts have halted the trials of other Guantanamo prisoners pending a U.S. Supreme Court ruling on whether President Bush had authority to establish the tribunals. The high court will hear arguments in the case in March.

Al Bahlul, who has a short beard and mustache and wore khaki pants and a dark blue shirt, was not shackled or handcuffed in the courtroom.

Earlier in the hearing, he read a list of nine reasons why he refused to be represented by a military lawyer or to participate further, including the treatment of Palestinians by U.S. ally Israel -- "your allies, the Jews," he said -- and because his native country had been accused in the 2000 bombing of the USS Cole.

Al Bahlul said Guantanamo prisoners had been tortured and that the Britons who had been held there were not subject to military tribunals. He objected to the potential use of secret evidence and to the U.S. characterization of the prisoners as illegal belligerents.

"We are prisoners of war and legal combatants based on our religion and our religious law," he said. "We do not care about anything that you call us."

Col. Brownback rejected al Bahlul's request to represent himself, and the prisoner refused to meet with Army Reserve Maj. Tom Fleener, the lawyer appointed by the military to defend him.

Smiling and thanking Col. Brownback, al Bahlul held up a sheet of paper scrawled with the word "boycott" in English and Arabic. He removed the earphones that had enabled him to listen to an Arabic translation of the proceedings and refused to enter a plea or to stand when the charges were read.

Al Bahlul and Khadr face life in prison if convicted by the tribunals, which were authorized by Mr. Bush to try foreign terrorism suspects after the September 11 attacks.

Maj. Fleener has called the tribunals a sham and said he thinks it is an ethical violation for him to represent a prisoner who has rejected his services. Col. Brownback ordered him to defend al Bahlul anyway.

The United States has faced criticism at home and abroad for its treatment of prisoners at Guantanamo since the first group arrived from Afghanistan, shackled and wearing black-out goggles and surgical masks, on Jan. 11, 2002.

Human rights groups have criticized rules allowing the use of evidence that may have been obtained through torture.

Chief prosecutor Col. Moe Davis said the tribunal system was designed to provide a fair trial while addressing an enemy whose actions had not been anticipated under existing law.

Guantanamo Detainee Boycotts U.S. Hearing (AP)

By Miranda Leitsinger, Associated Press Writer

The Associated Press, January 12, 2006

DOJ_NMG_0009417

A Yemeni man accused of being Osama bin Laden's former bodyguard told a U.S. military tribunal Wednesday he regarded Americans as enemies and announced he would boycott the hearings, which proceeded anyway.

Led into the courtroom by two U.S. soldiers, Guantanamo detention center detainee Ali Hamza Ahmad Sulayman al Bahlul announced he was boycotting the proceedings, saying he could not appoint his own lawyer, that secret evidence can be withheld from detainees and that the United States was "an enemy to the nation of Muslims."

"I am boycotting all sessions, even if I'm forced to be present," said a calm al Bahlul, who is accused of belonging to al-Qaida, before removing his translation headphones.

Al Bahlul, who wasn't handcuffed, held up a sign written in Arabic that read "boycott." He signed the paper, dated it and presented it to Brownback. He later removed his translating headphones.

Army Col. Peter E. Brownback, the presiding officer, denied al Bahlul's request to represent himself and set a May 15 trial date. Al Bahlul is charged with conspiring with al-Qaida members to commit war crimes, including attacking civilians, and faces other conspiracy charges.

Prosecutors charge that al Bahlul was ordered by bin Laden, the leader of the al-Qaida terrorist network, to create a video glorifying the group's October 2000 attack on the destroyer USS Cole in Yemen that killed 17 American sailors.

Al Bahlul worked in the al-Qaida media office from late 1999 through December 2001 and created instructional and motivational recruiting video tapes for the organization, prosecutors alleged.

On Sept. 11, bin Laden asked al Bahlul to set up a satellite connection so al-Qaida members could see news reports, but he couldn't due to the mountainous terrain, U.S prosecutors said.

In 2001, al Bahlul also allegedly served as a bodyguard to bin Laden, wearing an explosives-laden belt when traveling with the al-Qaida leader to protect him.

About 500 detainees are being held at Guantanamo, some as long as four years.

Omar Ahmed Khadr, a 19-year-old Canadian charged with murder, attempted murder, aiding the enemy and conspiracy, went before the commission later Wednesday, the fourth anniversary of the opening of the Guantanamo prison.

Khadr, who wore a red, white and blue sweat shirt, was soft-spoken, replying "yes, sir" or "no" to presiding officer Marine Col. Robert S. Chester's questions. Chester didn't set a trial date, adjourning the hearing until Thursday.

Toronto-born Khadr, the son of an alleged al-Qaida financial leader, Ahmad Said al-Khadr, was captured on July 27, 2002, near Khost, an al-Qaida hotbed in eastern Afghanistan. He was caught after being badly wounded in a firefight in which an American soldier was killed and four others were wounded.

He was charged with murder, attempted murder, aiding the enemy and conspiracy for allegedly tossing a grenade that killed a U.S. Special Forces medic while fighting with the Taliban in Afghanistan, planting mines to target U.S. convoys, and gathering surveillance.

Muslim Cleric Accused In London Court Of Inciting Hatred Of Jews (NYT)

By Alan Cowell

The New York Times, January 12, 2006

LONDON, Jan. 11 - In a closely watched trial, a prominent British Muslim cleric was accused Wednesday of inciting hatred against Jews, praising Hitler and voicing support for suicide bombings.

The cleric, Abu Hamza al-Masri, is accused of violating various British laws in lectures and sermons recorded on videotape and audio cassettes in which he was reported to have said he wanted to see the establishment of an Islamic caliphate in the White House.

Mr. Masri, 47, has denied all 15 charges against him, which include inciting racial hatred and possessing a 10-volume "Encyclopedia of the Afghani Jihad," which prosecutors call "a manual for terrorism."

Mr. Masri, also known as Mustafa Kamel Mustafa, is an Egyptian-born preacher who acquired British citizenship by marriage. He is the former imam of the Finsbury Park mosque in North London. He was arrested in May 2004, and is wanted in the United States on other terrorism charges.

Mr. Masri is the best-known British Islamic leader to come to trial since the attacks in the United States on Sept. 11, 2001, set off the international effort to curb terrorism.

David Perry, a prosecutor, said in court that Mr. Masri had "encouraged his listeners, whether they were an audience at a private meeting or a congregation at the mosque, to believe it was part of a religious duty to fight in the cause of Allah, God, and as part of the religious duty to fight in the cause of Allah, it was part of the religious duty to kill."

"The people they were being encouraged to kill, put shortly, were nonbelievers," Mr. Perry said.

The accusations reflected what Mr. Perry depicted as the "intolerance, bigotry and hatred" that he said Mr. Masri had sought to instill among some British Muslims.

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The hearings are unfolding under strict British legal restrictions intended to ensure that Mr. Masri's trial is fair and is not influenced by the way he was characterized in British newspapers before his arrest. If convicted, he could face life in prison.

"You would think he would be preaching tolerance, mutual coexistence and responsibility regardless of religion or creed," Mr. Perry said. "In fact he preached the opposite: intolerance, bigotry and hatred, in particular against Jews as a racial group and as a religious body.

"In the course of one lecture, he accused the Jews of being blasphemous, traitors and dirty. This, because of the treachery, because of their blasphemy and filth, was why Hitler was sent into the world."

Mr. Masri told his followers that "Hitler was sent to torture and humiliate the Jews, and every last Jew is going to be buried in Palestine," Mr. Perry added, quoting from what he said was a sermon in October 2000.

In other videotapes, Mr. Masri said it was "permitted to kill women and children if they are fighting Muslims, or if there is no way to stop them," Mr. Perry said.

Mr. Masri was also asked for his views on suicide bombings. "It is not called suicide, this is called martyrdom," Mr. Masri was quoted as saying. According to Mr. Perry's account, Mr. Masri added, "If we do not use terrorism or torture, what are we going to use?"

Mr. Masri frequently evoked the caliphate, Mr. Perry said, referring to Islamic spiritual and temporal leadership based on descendants of the Prophet Muhammad. The caliphate was abolished in 1924 by Ataturk, the founder of modern Turkey.

"He is working for a worldwide caliphate, a world dominated by a caliph sitting, he says in one of his lectures, in the White House," Mr. Perry said.

Radical Cleric Preached Hatred And Murder, Prosecution Argues (LAT)

By Janet Stobart, Times Staff Writer

The Los Angeles Times, January 12, 2006

LONDON — A prosecutor Wednesday accused Abu Hamza al Masri, an Egyptian-born Muslim cleric, of preaching hatred, telling followers that the world should be run by a Muslim caliph "sitting in the White House" and that it was legitimate to kill foes of Islamic law.

The high-profile trial began at London's Old Bailey criminal court a day after jury selection, with Masri facing 15 counts of conspiracy to murder and using threatening, abusive and insulting language and behavior in incitement to religious hatred. He also is charged with possessing material and documents relating to terrorist activities. The trial is expected to last four weeks.

Masri, a large man who says he lost an eye and both hands fighting the Soviets in Afghanistan, became well known as the radical preacher at North London's Finsbury Park Mosque. The mosque was considered a crossroads for terrorists such as Richard Reid, the so-called shoe bomber, before and after the Sept. 11 attacks.

The galleries at the Old Bailey were packed as prosecutor David Perry told jurors that instead of preaching tolerance, Masri preached hatred, particularly against Jews. Tapes seized after Masri's arrest in 2004 reveal the defendant vilifying Jews as "blasphemous, traitors and dirty. It's because of their filth that Hitler was sent into the world to torture and humiliate Jews," Perry related to the court.

The court, presided over by Judge Anthony Hughes, heard that when Masri was arrested, police found 2,700 audiotapes and 570 videotapes at his West London home and another London address. The material amounted to a blueprint for how life should be lived according to Masri, Perry said.

The overriding theme, he said, was the "obligation to jihad," which justified, according to Masri, killing nonbelievers and enemies of Islam. Those enemies included Western nations and Arab states, such as Egypt and Saudi Arabia, that are aligned with the West, the prosecution said.

Perry said Masri also supported suicide bombers. "As far as the defendant is concerned, you don't call it suicide, you call it martyrdom," Perry said. He quoted the cleric as saying, "If we don't use terrorism and torture, what are we going to use?"

Masri, who has denied the charges, sat in the dock in the courtroom wearing a pale blue shirt over matching pants, surrounded by four guards. He seemed to follow the proceedings attentively, occasionally bowing his head or consulting with a female assistant. As a preacher, he normally wore a prosthetic hook, but he has not been allowed to have it during his incarceration.

The tapes allegedly chronicle sermons and talks Masri made from 1997 to 2000, some including references to terrorist attacks, including the suicide bombing of the U.S. Navy destroyer Cole off the coast of Yemen in October 2000, and the slaying of 58 tourists in Luxor, Egypt, in November 1997.

The prosecution also described the "Encyclopedia of Afghani Jihad," an alleged terrorist manual seized from Masri, which included chapters on the construction of weapons, intelligence gathering, combat and, in Perry's words, "all you need to know to make homemade bombs or explosives."

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The prosecutor argued that the proceeding should not be seen as a trial against Islam, "one of the great monotheistic religions," or an infringement of free speech. "Tolerance does not extend to racial hatred and encouragement of murder," Perry said.

The United States indicted Masri in 2004 on 11 terrorism-related charges, including his alleged role in a plot to set up a terrorist training camp in rural Oregon in 1999. It is seeking his extradition.

Times staff writer John Daniszewski contributed to this report.

PATRIOT ACT:

U.S. Attorney Touts Usefulness Of Patriot Act To Law Enforcement (KATV-TV)

KATV-TV, ABC 7, Little Rock, AR, January 12, 2006

Little Rock - The U.S. Attorney's office is using a conference on terrorism to tout the usefulness of the Patriot Act, set to expire on February 3. Supporters of the act say it's essential to protect the American public against the war on terror. Opponents say it's a violation of civil liberties. It's a heavily debated issue about which both sides have strong opinions.

Cummins says many of the allegations made against the act are simply not true..

(Bud Cummins, U.S. Attorney) "There's nothing ground-breaking about the provisions of the Patriot Act. It's just trying to afford the investigators in these very important terrorism investigations to have the same type of tools we use against drug dealers."

Cummins says provisions in the Patriot Act lower the wall between criminal and intelligence investigators to share information and allow intelligence investigators to use similar techniques in criminal investigations. The act also updates laws for electronic surveillance.

(Cummins) "Terrorists don't use rotary telephones. They use cell phones, pagers, e-mail, text messaging, Web sites, we need to be able to keep up with that."

(Sklar) "We have plenty of law enforcement officers and investigative tools and what they're doing is investigating crimes and potential crimes and we have a criminal justice system that does that."

The ACLU says the Patriot Act is an abuse of power for many reasons.

(Sklar) "The reason that congress has voted to hold off on the renewing the patriot act. They have concerns as all Americans do about the kind of abuse of power the Patriot Act allows."

(Sklar) "There are sneak and peak searches which means they can come in and search your home. They've gotten a warrant but they don't have to tell you they've been there.."

Sklar says provisions in the Patriot Act, particularly those allowing investigators in intelligence investigations to use techniques similar to criminal investigations, oversteps it's bounds.

HOMELAND RESPONSE:

F.B.I. Tries To Dispel Surveillance Concerns (NYT)

By Lynette Clemetson

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - F.B.I. officials met with Muslim and Arab-American leaders on Wednesday in an effort to dispel anger and concern over the bureau's secret monitoring of radiation levels at Muslim sites around the country.

John Pistole, deputy director of the Federal Bureau of Investigation, and John Miller, the bureau's assistant director of public affairs, tried to reassure those at the session that the surveillance of mosques and Muslim businesses and homes had been based on intelligence leads.

"There was intelligence that talked about the desire to use a dirty bomb in the U.S.; there were statements from bin Laden indicating that he had those materials and that there were cells in the U.S. trained to blend into Muslim communities," Mr. Miller said after the meeting. "We explained how we work with intelligence and that we did what we did based on the patterns of Al Qaeda, not because of the patterns or activities of any mosque or Muslim neighborhood."

F.B.I. officials struck a conciliatory tone, several attendees said, and acknowledged that the bureau could have responded to their concerns more quickly. But Mr. Pistole offered few details on the monitoring, they said, and he emphasized that the program, which began after the Sept. 11, 2001, attacks and lasted through 2003, remained classified.

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Leaders of Muslim and Arab-American groups requested the meeting after the program was disclosed last month by U.S. News & World Report. The nationwide surveillance program included air monitoring of more than 100 private properties in the Washington area.

The controversy over the surveillance program comes after the F.B.I. cancelled financing for a bureau-wide training initiative intended to improve outreach to Muslim and Arab Americans. Group leaders say the news about the radiation monitoring makes such a program all the more crucial.

"This current situation reinforces the notion that our community is viewed more as suspects rather than partners," said one attendee, Salam Al-Marayati, executive director of the Muslim Public Affairs Council, a national advocacy organization. "Formalizing outreach sets a standard for better educating agents on the best means of acquiring information, and it demonstrates that partnership is the best way of protecting our country from terrorist attacks."

In October, the F.B.I. rescinded a $1 million pledge toward a training program to institutionalize bridge-building between its field offices and Muslim groups around the country. The program, which would have cost $6 million over three years, was cancelled, in part, because of budget constraints, Mr. Miller said.

In cities with sizable numbers of Muslims and Arab-Americans, F.B.I. field offices have developed relationships with mosques, advocacy groups and community leaders. In Washington and Los Angeles, for instance, special agents meet regularly with groups. Partnerships in Detroit formed the basis for the training program that bureau officials first embraced, then rejected.

Agents engaged in the outreach program said it helped them gain cultural awareness as well as practical insights into sorting good leads from bad. Muslim, Arab and Sikh leaders said that, as a result of the outreach, they received better F.B.I. protection from hate crimes.

But national initiatives like special security registration of citizens of Arab and Muslim countries, sweeps by federal agents in Muslim and Arab neighborhoods and the freezing of Islamic charities' assets have generated complaints.

The radiation surveillance, conducted with the Department of Energy, is another irritant. Disclosures of such programs, attendees at Wednesday's meeting said, make it more difficult to convince people that forming ties with government agencies is productive.

"When things like this happen, people come to us and ask, 'What are you doing talking to the F.B.I.?' " said Imam Mohamed Magid, leader of the All Dulles Area Muslim Society, a mosque in Northern Virginia commonly called the Adams Center, which serves 5,000 families.

Imam Magid, who also attended the meeting on Wednesday, has forged ties with agents in the F.B.I.'s Washington field office and organized public forums between them and community members. Now, he said, some of those in the community have questioned whether those sessions were ruses for the agency to conduct secret monitoring.

Several F.B.I. agents have also supported bringing uniformity to bureau practices.

"We're consistent in how we deal with white-collar crime and every other type of crime," said Michael E. Rolince, who was in charge of counterterrorism for the Washington office before he retired in October. "When it comes to dealing with the Arab-American and Muslim community, we have no consistent program. We have 56 different approaches in our 56 different field offices."

The canceled training program, called the Partnering for Prevention and Community Safety Initiative, was developed at Northeastern University in Boston.

"It's not 'Kumbaya, let's sit and talk about how nice things are,' " said Deborah A. Ramirez, a Northeastern law professor and former racial-profiling consultant to the Justice Department, who developed the program. "It's a structured process to learn what exists, what works and what we all need to be doing."

Mr. Miller said the bureau would support the training program if outside financing was secured.

"Now that we've let some of the pressure out of this pressure cooker," he said, "we have to address how we go about building better relationships so that when the next crisis comes, we can just call people and talk about it up front."

Monitoring Of Muslims Addressed (WT)

By Jerry Seper

The Washington Times, January 12, 2006

Arab-American and Muslim leaders met yesterday with FBI officials to discuss concerns that Muslim religious places, homes and other buildings were monitored for abnormal radiation levels without search warrants or court orders.

The meeting with FBI Deputy Director John S. Pistole, coordinated by the Los Angeles-based Muslim Public Affairs Council (MPAC), was held in the wake of press reports that the monitoring began after the September 11, 2001, attacks and lasted through 2003. The FBI has denied that it singled out private Muslim sites for the radioactivity monitoring.

Two Muslim organizations have since filed Freedom of Information Act requests to learn which sites were monitored.

"Today's meeting, while not resolving all underlying issues of concern, offered an opportunity to improve lines of communication and to increase mutual cooperation on issues related to national security and the prevention of hate crimes," said Nihad Awad, executive director of the Washington-based Council on American-Islamic Relations (CAIR), who participated in the meeting.

Mr. Awad said any security measures that create the perception that the Muslim community in the U.S. is targeted can create difficulties between Muslims and law-enforcement authorities, adding that "such perceptions can also lead to increased Islamophobia and even anti-Muslim hate crimes."

Al Qaeda founder Osama bin Laden has threatened renewed attacks on U.S. targets, and al Qaeda suspect Jose Padilla was arrested in May 2002 by the FBI on suspicion of a scheme to detonate a radiological 'dirty bomb' in this country.

The FBI has acknowledged that it tested for nuclear radiation at more than 100 Muslim sites in the Washington area, but has denied engaging in racial profiling against Muslims. The bureau also said it did not violate the law, breach constitutional guarantees or trespass on private property. It said non-Muslim sites also were monitored for excess radiation.

In its data request, CAIR asked for all government records concerning the authority of President Bush to authorize surveillance without obtaining a court order and "comprehensive lists and addresses" of the Muslim sites -- including mosques, organizations, businesses, warehouses and homes -- that were monitored.

The monitoring activity is thought to have also taken place in Chicago, Detroit, New York, Las Vegas and Seattle.

Mr. Pistole had invited the Muslim organizations to meet with him to address reports of widespread surveillance and radiation monitoring. There were no reports that high levels of radiation were found during the monitoring, which first was reported last month by U.S. News & World Report.

US-VISIT To Step Up Fingerprinting (FEDTIMES)

By STEPHEN LOSEY

Federal Times, January 12, 2006

The director of the nation's program to screen foreign visitors entering the United States hopes to begin testing a more stringent fingerprinting system this year.

The U.S. Visitor and Immigrant Status Indicator Technology program, or US-VISIT, last July was directed by Homeland Security Secretary Michael Chertoff to start taking all 10 fingerprints from first-time visitors to the country. US-VISIT director Jim Williams said at a press briefing Jan. 5 that the program is still putting together a plan to expand the process. He expects the plan to be finished in a few months.

Meanwhile, Homeland Security finished installing US-VISIT at all 104 land border ports in December, meeting a deadline mandated by Congress, Williams announced.

US-VISIT now takes only two fingerprints of foreign visitors. The FBI's identification system uses 10 fingerprints and a photograph to track criminals.

The Justice Department criticized the two-print system in 2004, saying it could allow terrorists or violent criminals to slip into the country undetected.

Williams stressed that he does not want US-VISIT to impede legitimate visitors and said the first tests will take place at low-volume border crossings and airports to minimize delays. The State Department also may help with testing, he said.

US-VISIT aims to register fingerprints from each of the 279 million foreigners who enter and leave the country each year and to cross-reference that data with 20 or more criminal, intelligence and immigration databases from multiple federal agencies.

Adopting a 10-print system will help improve information sharing, Williams said. US-VISIT is also trying to increase the number of fingerprints it receives each day from the FBI and is talking to agencies such as Immigration and Customs Enforcement, Customs and Border Protection and Citizenship and Immigration Services to find ways to better exchange data.

Williams also wants to work on improving the procedures used when people leave the country.

US-VISIT plans this spring to finish testing a new technology it hopes will speed up the exit process for visitors. The program is inserting radio frequency identification chips into arrival and departure forms used by visitors at three ports on the Canadian border and two ports on the Mexican border.

Visitors are now supposed to park their cars, get out and physically turn in their forms, called I-94 forms, before they leave the country.

RFID technology allows visitors to drive out of the country without stopping and still inform Homeland Security that they have left.

But the technology cannot tell whether the person in the car is carrying an I-94 that actually belongs to him or her, Williams said.

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However, most visitors today do not turn in their I-94s at all because visitors ignore the rule and CBP agents are too busy watching people entering the country to stop them, and US-VISIT wants to have a better picture of who is leaving the country.

"RFID is not perfect, but it's better than not recording people's exit at all," Williams said.

Williams said that US-VISIT has helped the Homeland Security Department catch more than 970 known criminals and visa violators since it began in January 2004. He said the system has not caught any known terrorists entering the country, but he believes it is an effective deterrent that discourages them from trying to come into the country through ports of entry.

Williams said about 0.1 percent of visitors are falsely identified by the US-VISIT system as being on a watch list of suspects, and that Homeland Security's biometric support center can usually clear up any confusion in about two minutes.

Homeland Security plans to spend $35 million on US-VISIT this fiscal year, the same amount as last year. US-VISIT processed more than 44 million visitors over the last two years.

Trade Group's Quick Advice: Slow Down (WP)

By Judy Sarasohn

The Washington Post, January 12, 2006

With lawmakers rushing out new plans for cleaning up their relations with lobbyists in the wake of the Jack Abramoff scandal, there's one trade group that would like a larger role in the deliberations. Indeed, it would like members of Congress to take a collective big breath and slow down a bit.

The group? The American League of Lobbyists.

Paul Miller of Miller/Wenhold Capitol Strategies and president of ALL said the group is not particularly opposed to major changes in lobbying rules. It simply wants "transparency" in what the Congress is up to in the rush to reform.

"Congress cannot just put out a package and rush it to the floor for a vote," Miller said. If lawmakers move too fast, too far to "appease the public," he said, they could find themselves back next year trying to undo unintended consequences.

Lawmakers could change their rules rather than pass laws to restrict members from taking fancy trips paid for by lobbyists, Miller said.

He expressed concern about proposals to prevent lawmakers and staffers from going to work as lobbyists for two years after leaving the Hill. They generally are restricted from lobbying their former colleagues for a year.

The one-year cooling-off period isn't being enforced, Miller said, and he doubts there would be any real enforcement on a two-year ban.

"The finger-pointing can't be just pointed at us. Jack didn't force anyone to take anything," Miller said, adding that Abramoff was never an ALL member.

ALL, which says it has more than 700 members, provides networking and educational opportunities for lobbyists. It also developed a voluntary lobbyist code of ethics.

Miller said ALL's board will meet Jan. 23 to decide on a strategy for dealing with possible legislative action, but that he knew one thing: "We'll do what we do best: lobby."VCIC Gets Lobbying Help

Members of the emerging industry of biometric technology companies who are trying to sell the Registered Traveler security program to the nation's airports have formed a coalition to help boost their credibility and their voice in Washington.

Perhaps more important, the Voluntary Credentialing Industry Coalition (VCIC) has scored some substantial lobbying help: Wexler & Walker Public Policy Associates . Maybe even more important, the leader of the Wexler & Walker team for the client is Tom Blank .

Yes, the Tom Blank who was acting deputy administrator of the Transportation Security Administration and who created the agency's Office of Transportation Security Policy. During his time at TSA, the agency developed the Registered Traveler program, which is now a pilot project at the Orlando airport and allows airline passengers who undergo biometric screening and pay a fee to go through security faster. The industry wants to expand the program in which private companies would sign up frequent fliers and be responsible for background checks and necessary technology.

Blank joined the lobby shop in September and is prevented by federal ethics restrictions from contacting TSA officials for a year, although he could lobby members of Congress.

He said he cleared his work for the VCIC with ethics officials at TSA. Particularly "in this climate," Blank said, "I dial the agency ethics officials pretty often."

An e-mail from TSA deputy chief counsel Elizabeth Buchanan advised Blank not send a copy of the release to the agency, "because that would be a communication from you to TSA. . . . Then you leave the line in about 'Wexler & Walker Public Policy Associates, where Blank is vice chairman, will coordinate day-to-day activities and advocacy for the VCIC.' This is one fact about the organization among others and is fine as written."

Blank said he and the lobby shop are "trying very hard to comply" with the ethics rules.

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Earlier in his Washington career, Blank was an aide to then-House member Robert S. Walker (R-Pa.). Blank also was communications director to then-House Speaker Newt Gingrich (R-Ga.).

Among the members of the Wexler & Walker team for VCIC: Timothy Hannegan , a top aviation lobbyist; Anne Wexler , a former senior aide to President Jimmy Carter; and former TSA official Chad Wolf .

Among the members of the coalition are officials of Iridian Technologies, Saflink Corp., Verified Identify Pass Inc. and Lockheed Martin.By the Numbers

His lobby and consulting shop is less than a year old, but the money doesn't appear to have been too shabby for former attorney general John D. Ashcroft . According to year-end disclosures for the Ashcroft Group 's five lobbying clients, the firm brought in $269,000 for the last six months of 2005. As the Chicago Tribune noted this week, these totals "so far represent in some cases only initial retainers or billings."

In only one case -- for Oracle Corp. -- was Ashcroft one of the registered lobbyists. But Oracle's legislative affairs director, Robert Hoffman , said Ashcroft did not end up doing any actual lobbying and only advised the company on antitrust issues.

Here's how the money shook out: The Ashcroft Group reported receiving $220,000 from Oracle; $20,000 from Israel Aircraft Industries International; $15,000 from Choicepoint; and $14,000 from the American Institute of Certified Public Accountants.

Many of Ashcroft's restrictions on lobbying his former Justice colleagues expire early next month.

City Revival Plan Draws Sharp Criticism (LAT)

By Miguel Bustillo

The Los Angeles Times, January 12, 2006

NEW ORLEANS -- Residents of the New Orleans neighborhoods most heavily damaged by Hurricane Katrina, under a controversial plan unveiled Wednesday, would have just four months to demonstrate strong support for rebuilding their areas before possibly being forced to sell their properties to the government.

The proposal is a centerpiece of Mayor C. Ray Nagin's "Bring New Orleans Back" recovery plan, which is being rolled out in phases this week. It drew immediate outrage from residents and community activists, who argued that many citizens -- especially the blacks who predominated the flood-struck areas -- could be forced out of the city for good.

It represents an attempt to seek a middle ground on the issue that has emerged as the flashpoint in the debate over how to restore the ravaged city: Should all of New Orleans be rebuilt, or should city planners shrink the city's footprint, returning low-lying neighborhoods to wetlands and green space to serve as a natural barrier against floods?

"None of us want to be in this particular place, but Katrina has forced us to take a good hard look at what we need to do to rebuild our city," Nagin said. "The realities are that we will have limited resources to redevelop our city. . . .The other reality is this report is controversial. It pushes the edge of the envelope. It probably says some things to some people they are probably misinterpreting."

Despite Nagin's effort to ease tensions, the unveiling of the proposal quickly became heated, with residents across racial and class lines angrily teeing off on what they considered a land grab engineered by the city's elite. Much of the ire was heaped on New Orleans developer Joseph C. Canizaro, a key architect of the plan, whose name elicited boos from the crowd in the standing-room-only auditorium.

"How many people from my back yard are up there?" Harvey Bender, a laid off city maintenance worker from eastern New Orleans, yelled out, disrupting the proceedings. "I'm ready to rebuild, and I'm not letting you take mine," he added. "I'm going to fight, whatever it takes, to rebuild my property. It's going to be baby Iraq for Joe Canizaro."

Under the plan, which would take effect Jan. 20, New Orleans would impose a moratorium on building permits in areas hardest hit by Hurricane Katrina's floodwaters -- a vast swath of the city that includes parts of the Gentilly, Mid-City, Lakeview and Lower 9th Ward neighborhoods. Residents would then have to demonstrate there was sufficient critical mass in their area to rebuild to warrant public investment in schools and city facilities, possibly by showing that half of the population planned to come back.

To accelerate the process, Nagin's commission is asking the Federal Emergency Management Agency to release updated floodplain maps the agency has assembled, which effectively could make the decision for many homeowners by raising home insurance rates and setting other new financial barriers to redevelopment.

Neighborhoods that failed to meet the critical mass test would be shrunk, or eliminated altogether, and a new city agency called the Crescent City Redevelopment Corp. would buy residents out or seize their properties through eminent domain. The estimated cost of the buyouts: $12 billion.

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Legislation by Rep. Richard Baker, R-La., seeks to reimburse homeowners who are bought out with 60 percent of their pre-Katrina equity. The Nagin commission plan proposes to go further, compensating displaced homeowners the remaining 40 percent as well with federal Community Development Block Grant money and FEMA funding.

But those sources of funding, like many other elements of the ambitious plan, would need the support of Congress and President Bush, who is scheduled to make a public appearance in New Orleans Thursday and meet with the co-chair of Nagin's commission, health care executive Maurice L. Lagarde III.

"We respect the rights of all citizens to return to their neighborhoods," Lagarde said, casting the four-month process, set to end May 20, as an opportunity for residents to control the future of their communities.

In addition to the litmus test for flood-prone neighborhoods, the blueprint being unfurled this week contains many lofty ideas to use the rebuilding effort as a catalyst to permanently improve New Orleans.

An education subcommittee is proposing a radical reorganization of the city's troubled school system, which has been plagued by corruption and low academic performance. The proposal would de-centralize governing authority, giving principals greater authority over their schools, and neighborhoods more political power over management of smaller clusters of schools in their area.

A cultural subcommittee is proposing creation of a new jazz district near the French Quarter at the former location of Storyville, a fabled district of musicians and houses of ill repute popular during the turn of the last century that fell into disrepair and was demolished. The idea to recreate a cleaned-up version of Storyville, which gave rise to musical legends including Jelly Roll Morton, Manuel Perez and King Oliver, was championed by committee member and Pulitzer Prize winning jazz virtuoso Wynton Marsalis, a leading member of one of New Orleans' current musical dynasties.

Meanwhile, an infrastructure subcommittee is proposing a new $3.3 billion light-rail system modeled on those now in operation in cities including Portland, Ore., and Denver.

But it was the plan to give residents four months to show their neighborhoods could come back or be bought out that claimed the majority of the overall blueprint's $17 billion cost--and generated the most passionate response.

"Over my dead body," said Lower 9th Ward resident Caroline Parker, vowing to fight government seizure of her property. "Like I said, I didn't die with Katrina."

Some critics, who had claimed all along that Nagin's commission was stacked with developers and other business leaders, said the proposal was proof that the mayor was allowing moneyed interests to draw up the reconstruction, to the detriment of the city's working poor.

"To us, that's Katrina cleansing -- the removal of blacks from the city," said Mtangulizi Sanyika, of the African American Leadership Project, a group that was organizing a summit of black community leaders Thursday to discuss alternative plans to revive all of New Orleans.

The summit was part of a larger series of events planned for the upcoming Martin Luther King Day weekend in New Orleans, which are bringing black religious and political leaders from across the country, including Minister Louis Farrakhan of the Nation of Islam, to the city to illuminate the plight of the city's displaced black citizens.

Committee members stressed Wednesday that their blueprint envisioned room for all New Orleans residents who wanted to return to the city, and would accommodate them in part by redeveloping other parts of town, including some existing public housing projects. Only about 144,000 residents have returned to New Orleans, which had a population of 462,000 before the hurricane. Officials estimate only about 250,000 people will return by the fall of 2008.

Anger Meets New Orleans Renewal Plan (NYT)

By Gary Rivlin

The New York Times, January 12, 2006

NEW ORLEANS, Jan. 11 - Residents of the city's most devastated neighborhoods responded with anger Wednesday after the city's rebuilding commission unveiled its most contentious proposal: giving neighborhoods in low-lying parts of the city from four months to a year to prove they should not be bulldozed.

The plan was presented at a standing-room-only meeting punctuated by catcalls and angry outbursts that often interrupted members of the panel. "Over my dead body" was uttered more than once.

"I'm going to suit up like I'm going to Iraq and fight this," said Harvey Bender, a laid-off city worker, who shouted out his comments before an audience at the Sheraton Hotel that numbered in the hundreds and spilled into the aisles and hallways.

Mr. Bender owns a home in New Orleans East, a predominantly black middle-class neighborhood of 90,000 residents largely destroyed by the flooding that followed Hurricane Katrina. Parts of the neighborhood might not survive, according to the plan, if they do not attract enough returning residents.

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Speaker after speaker, black and white, prosperous and poor, dismissed a plan that Mayor C. Ray Nagin described as "controversial." But Mr. Nagin gave them hope as he walked a middle line that neither endorsed the plan nor opposed it.

"This is only a recommendation," Mr. Nagin said in remarks that preceded the formal presentation of the rebuilding plan. "We as a community will have the ultimate say in how we move forward."

The mayor called on people to listen to the commission's presentation with an open mind. "Take the time to digest this information, to look it over very carefully," Mr. Nagin said. "The reality is we will have limited resources to redevelop our city."

Yet the audience did not seem in the mood for calm debate.

"Please let us build our own homes," said Charles Young, a homeowner in Lakeview, a largely white middle-class neighborhood. "Let us come back on our own time. Let us spend our insurance money, which we paid for on our own."

Under the proposal, residents would not be permitted to move back into the hardest-hit neighborhoods - about two-thirds of the city, including more than half its homeowners - for at least four months. During that time, leaders of each neighborhood would have to submit to a citywide planning body a recovery plan that would have to be approved before residents would be allowed back.

Neighborhoods not able to come up with an acceptable plan, or those that do not attract sufficient development within a year, could be bulldozed and returned to marshland, with the city compensating homeowners.

The plan represents a compromise between the homeowners in low-lying areas who are determined to rebuild, and the scientists and other experts who believe the city should allow large portions of its flood-prone areas to revert to marshland.

Each neighborhood would have at its disposal teams of planners and other experts to help residents do what they need to prevent the city from forcing them to live elsewhere.

"We want to give every community as best a chance to come back as we can," said Joseph C. Canizaro, a member of the commission. Much of the crowd's enmity was directed at Mr. Canizaro, the plan's main author and a prominent developer here, who was booed several times.

"Joe Canizaro, I don't know you, but I hate you," said Mr. Bender, the New Orleans East resident, when granted his turn at the microphone.

Robyn Braggs, another resident of New Orleans East, said, "I don't think four or five months is close to enough time given all we would need to do." Because former residents are scattered around the country, she said, many, especially those with school-age children, "won't be able to even return to do the work necessary until this summer."

Marc H. Morial, a former mayor of New Orleans who is now president of the National Urban League, described the commission's proposal as a "massive red-lining plan wrapped around a giant land grab." Many homeowners will not be able to settle with their insurance companies if they do not know the future of their neighborhoods, he said.

"It's cruel to bar people from rebuilding," Mr. Morial said. "Telling people they can't rebuild for four months is tantamount to saying they can't ever come back. It's telling people who have lost almost everything that we're going to take the last vestige of what they own."

Not everyone opposed the plan. One resident of Eastover, a wealthy, largely black community in the eastern part of the city devastated by the storm, told the commissioners, "I accept your challenge" to craft a workable rebuilding plan. He added, "I probably will get hit up the side of the head for my comments."

The plan also impressed Sean Reilly, a member of the Louisiana Recovery Authority, who criticized the city last week, saying it had given the impression that all neighborhoods could be restored. Wednesday, he said the plan struck the proper balance between residents' self-determination and tough choices.

The plan was developed by the rebuilding commission's Urban Planning committee, which Mr. Canizaro led. It is the first of seven committee reports to be unveiled over the next week and one component of a sweeping redevelopment plan that includes proposals for a $3 billion light-rail system and an economic development corporation, fashioned after the one New York created to oversee rebuilding in Lower Manhattan after the Sept. 11 attacks.

The commission is also proposing that New Orleans borrow a second idea from New York: asking the federal government for permission to sell tax-exempt bonds to rebuild businesses, just as New York was able to do to rebuild downtown.

But the commission will clearly have a difficult time selling its plan to residents. "This is a big, audacious plan put together by obviously brilliant people," said Fred Yoder, a resident of Lakeview. "But you missed the boat. We don't need a rail system. We need housing."

Hostility Greets Katrina Recovery Plan (WP)

By Manuel Roig-franzia

The Washington Post, January 12, 2006

DOJ_NMG_0009426

NEW ORLEANS, Jan. 11 -- Angry homeowners screamed and City Council members seethed Wednesday as this city's recovery commission recommended imposing a four-month building moratorium on most of New Orleans and creating a powerful new authority that could use eminent domain to seize homes in neighborhoods that will not be rebuilt.

Hundreds of residents packed into a hotel ballroom interrupted the presentation of the long-awaited proposal with shouts and taunts, booed its main architect and unrolled a litany of complaints. One by one, homeowners stepped to a microphone to lampoon the plan -- which contemplates a much smaller city and relies on persuading the federal government to spend billions on new housing and a light-rail system -- as "audacious," "an academic exercise," "garbage," "a no-good, rotten scheme."

"You missed the boat," homeowner Fred Yoder, who lived in heavily flooded Lakeview, told committee members. "Give me a break: We don't need a light-rail system. We're in the mud."

The plan released Wednesday is the first stage of what is sure to be a multi-layered, multi-level effort to resuscitate New Orleans. Mayor C. Ray Nagin, who can accept or alter the proposal, will have to present the plan to a state commission that will control allocation of billions of federal dollars, as well as to Donald E. Powell, President Bush's hurricane recovery coordinator, and the White House. The commission's recommendations are heavily dependent on federal money, counting on $12 billion to buy storm-damaged homes and $4.8 billion for infrastructure improvements, including an ambitious light-rail proposal to connect downtown New Orleans with the city's airport, Baton Rouge and the Mississippi Gulf Coast.

The furious reaction to the plan is the latest agonizing episode in this city's troubled campaign to reinvigorate itself after the devastating floods caused by Hurricane Katrina last August. Nagin, already politically weakened by widespread criticism of his response to the flooding, now faces the difficult challenge of guiding decisions about whether some parts of the city will cease to exist.

Some activists have long accused the commission -- which was appointed by Nagin -- of trying to find ways to abandon predominantly black neighborhoods, such as the Lower Ninth Ward. Wednesday's unveiling did nothing to assuage their fears, even though commission members promised to give all neighborhoods an opportunity to prove that they should be rebuilt by convening planning groups in coming months. The proposed moratorium would be in the city's most damaged neighborhoods, and officials would use the four-month period to gauge whether enough residents will come back to make the areas viable.

"If this plan goes forward as it is, many people's worst fears about our African American heritage and population will come true," said Sue Sperry of the New Orleans Preservation Resource Center. "It's almost like it will be extinguished from this earth."

Within minutes of the plan's unveiling, Nagin was already showing signs that he might back away from the commission's most controversial proposal. He told WWL-AM that he had some "hesitancy" about the building moratorium. He promised to seek more public input before making a final decision.

At least two of the commission's proposals -- the creation of the Crescent City Rebuilding Authority to buy flood-damaged homes and the implementation of a master redevelopment plan -- will require changes to the city charter, a prospect sure to be contentious because of the mayor's long-standing animosities with the New Orleans City Council. The city is also waiting on the Federal Emergency Management Agency to determine base elevation levels required before flood insurance can be issued. The commission is hoping that Congress will approve a quasi-public recovery authority proposed by U.S. Rep. Richard H. Baker (R-La.) that would sell bonds to buy flood-damaged homes, then work with private developers to rebuild neighborhoods.

Despite the hurdles ahead, the commission urged fast action on a broad set of recommendations, including stronger levees and a restructured school system. John Beckham, a consultant who helped devise the plan, urged residents to "imagine the best city in the world."

Beckham -- who declined repeated requests Wednesday to identify the private foundation that hired him to draw up the plan for the commission -- told the audience that New Orleans could have "a park in every neighborhood," "a bustling downtown" and a city connected by bike paths and public transportation systems.

Beckham was introduced by the commission's urban planning chairman, Joseph C. Canizaro, a real estate developer and major fundraiser for Bush, who chuckled when he was booed by some in attendance. "This is just a beginning," Canizaro told the audience.

Mindful that Bush will have a tremendous influence on how much money finds its way to Louisiana, Beckham displayed some of the president's pledges on large screens. He reminded the crowd that Bush said Sept. 15 that "we will do what it takes" to rebuild New Orleans and of his promise in December to build levees that are better and stronger than before. On Thursday, Bush will visit the city for the first time in three months.

The commission's recovery plan anticipates a city that will be only a fraction of its pre-Katrina size of nearly half a million residents. Beckham said the city now has about 144,000 residents and is projected to grow to 181,000 by September and 247,000 by September 2008.

The shrunken city will need a restructured and more efficient local government, Beckham said, drawing smirks from City Council members seated behind the committee. The City Council, which has clashed with Nagin repeatedly -- most recently

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trying to use zoning laws to block sites he selected for temporary housing trailers -- has effectively been cut out of the power loop in the recovery process and does not have authority over the recovery plan. Before the commission's report had even been announced, five City Council members -- responding to leaks of the plan's main components to the city's influential newspaper, the Times-Picayune -- held a news conference to condemn the committee in the same hotel where the recovery plan was to be unveiled.

Council member Jackie Brechtel Clarkson called the proposal "a blatant violation of property rights."

"I think it's unprecedented in America," said Clarkson, who is also a real estate agent.

The council members were flanked by leaders of the large Vietnamese community that flocked after the Vietnam War to New Orleans East, one of the areas that would be affected by the moratorium. "It just hurt us -- again," said the Rev. Luke Nguyen of Mary Queen of Vietnam Church. "We have 700, 800 families already returned, ready to gut and fix their houses."

Nguyen streamed into the reception hall, shouldering past activists and homeowners bristling with anger. On a table nearby, the commission had placed placards, declaring, "We're Home." Nguyen did not bother to pick one up.

Back To The Future (WSJ)

By James K. Glassman

The Wall Street Journal, January 12, 2006

NEW ORLEANS -- President Bush today makes his ninth trip here since Hurricane Katrina. He will find a tale of two cities -- one almost back to normal, the other devastated. If you drive into New Orleans from the airport the back way, down Jefferson Highway to St. Charles Avenue, everything on the river side is as gorgeous and decadent as ever. Some live oaks have toppled, and many magnolias have died, but all the way to the French Quarter, the shops and restaurants are open, and people have come home.

There are crowds taking a number for po' boy sandwiches at Domilise's on Annunciation, locals lunching on shrimp remoulade and trout amandine at Galatoire's, and browsers examining the silver ice buckets at Lucullus Antiques on Chartres Street. The Camellia Club of New Orleans is holding its 66th annual show on Saturday; schools are opening; and plans are set for the Zulu and Rex parades on Mardi Gras, just seven weeks away. With supply short and demand strong, rents have soared. Real estate records are being set.

The city's great architectural heritage -- comprising 18th- and 19th-century Greek Revival and Victorian houses, shops and warehouses -- was built on high ground, hugging the river with its natural levees. While many of these buildings sustained serious wind damage, they avoided the flood that affected areas closer to Lake Pontchartrain. But drive north on Canal Street to the lake or east toward the Ninth Ward or St. Bernard Parish, and you will see block after block of ruination -- gutted houses with water marks six feet off the ground, huge piles of soggy insulation and linoleum, and, on median strips (what Orleanians call the "neutral ground") little plastic signs advertising tree removal, stump grinding, mold mitigation, roof repair and, of course, lawyers for any suit you can think up.

There was controversy when a sightseeing firm last week launched a bus tour of destroyed neighborhoods. Profiting from ghoulish voyeurism? Actually, it's an education. Like the president, everyone should see firsthand what the worst natural disaster in American history has wrought -- the destructive power of nature and the optimism of a city that, before this, was mainly known for its grandiose inertia. There's no illusion that this will be the same place it was. It will be smaller and maybe better. The latest estimate places the current population at 135,000, compared with 462,000 before the storm. A consultant for the city forecasts 252,000 a year from now.

The big debate here today is whether the city should be smaller physically. In a blueprint made public yesterday, Mayor Ray Nagin's Bring Back New Orleans Commission gives residents of flood-damaged areas four months to devise plans to prove they can revive their neighborhoods; if not, they will be bought out. Some 108,000 houses -- about half the city -- took on more than four feet of water, and, as Joseph Canizaro, a member of the commission, said, "A lot of poor African-Americans had everything they own destroyed here."

In a time of high emotion, the commission's approach makes political sense. No family wants to be denied, by government fiat, the right to rebuild. But the truth is that the Lower Ninth Ward and other low-lying areas won't be resettled. The new New Orleans will almost surely look like New Orleans of 1878, which, as shown by the Times-Picayune in a remarkable map, had most of the city's 200,000 residents "clustered in a narrow swath along the Mississippi River." The neighborhoods flooded in 2005 were settled after the city's swampy interior was pumped dry in the early 1900s. Those areas should return to marshland.

Last week, the federal government released $3 billion to fix the levees so that they work as they were supposed to -- ample protection for people living in what, in the real estate ads, are now referred to as "high and dry" places during Katrina. There's a lot of room for sensible commercial and residential development in these areas, as well as in midcity neighborhoods that were wet but not severely inundated.

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The rebirth of New Orleans does, however, require a leap into the unknown. It can't be meticulously planned. Preserve the old buildings. Rope off the lowlands. But then let imagination takes its course. Unfortunately, Mr. Nagin's Bring Back New Orleans group is loaded with central planners prescribing a dream city built around such highlights as light-rail transport, a "jazz district" and a neuroscience center. Typical is Michael Cowan, head of the city's Human Relations Commission, who warned that "the alternative to a 'good-enough' plan for the future of our city is free-market chaos, also known . . . as every man for himself and the devil take the hindmost."

Actually, it was precisely this chaos that made New Orleans a great city in the first place. It was planning -- specifically, the horrifying housing projects, largely destroyed in Katrina; the stultifying school system; the Superdome and other wasteful public-works projects -- that held the city back.

But even as a project in free-market creativity, New Orleans needs a leader. The feds are providing the money, but the president, who promised in September that "there is no way to imagine America without New Orleans," has been reluctant to appoint a czar, a MacArthur, to oversee the resurrection. That's a mistake because the most visible alternative right now is Mr. Nagin himself, whose performance during and after the hurricane has been less than inspirational.

The only real leadership in New Orleans these past four months has been provided by the daily newspaper, the Times-Picayune, whose editor, Jim Amoss, has both crusaded for the city's interests and battled the rumor mill (favorite Ninth Ward story: The levees were blown up in an act of racial cleansing) with a flood of bright and tough news stories.

When I was 24, I came to New Orleans to start a business and a family. I stayed for eight happy years. If I were 24 again, I would be packing my bags for New Orleans to be on the ground floor of a modern renaissance. Katrina was a tragedy, but its aftermath presents the most exciting urban opportunity since San Francisco in 1906. Pioneers, please apply.

Mr. Glassman, a fellow at the American Enterprise Institute and host of TCSDaily.com1, founded and edited the New Orleans weekly Figaro during the 1970s.

WAR NEWS:

Bush Open To Hearings On Domestic Spying (LEXHL)

Lexington Herald-Leader (KY), January 12, 2006

LOUISVILLE -- President Bush told a select group of Kentucky and Indiana residents yesterday that the U.S. military's progress in Iraq is "good" and promised ultimate victory -- although he gave no timetable.

In a rare town hall-style meeting set up as a theatre-in-the-round, the president again defended invading Iraq, even though former dictator Saddam Hussein didn't possess weapons of mass destruction as Bush first claimed.

"I understand that the intelligence didn't turn out the way a lot of the world thought it would be. And that was disappointing," Bush told the crowd of about 500, who were given tickets through some of the area's business, women's and teacher groups.

Bush also addressed the controversy over the revelation that he had authorized wiretaps on American citizens without court oversight. He said he'd welcome congressional hearings on the issue -- as long as they don't reveal to "the enemy what we're doing."

"I had to make the difficult decision between balancing civil liberties and on a limited basis -- and I mean limited basis -- try to find out the intention of the enemy," he said.

The need for such measures stemmed from the Sept. 11, 2001, attacks, in which war "came to us," he said.

Likewise because of 9/11, going to war in Iraq became necessary because terrorists were using it as a "safe haven," he said.

Bush reiterated that he gave the former Iraqi dictator a chance "to disarm or face serious consequences."

"He chose war. He got war. He's not in power and the world is better off for it," he said.

Bush has been more aggressively defending his administration's policies in recent weeks, as public support for the war has waned and critics have ramped up their calls for withdrawing troops from Iraq.

"Things are good. I'm confident we'll succeed," Bush said. "I know a lot of people want our troops to come home. I do, too. But I don't want them to come home without achieving victory."

He said that will be when Iraqis can adequately defend their new democratic state and when it's "no longer a safe haven for the terrorists."

Democratic opposition

In a conference call with reporters before Bush's event, Lt. Col. Andrew Horne, a Marine reservist and Democrat who plans to run against U.S. Rep. Anne Northup, R-Louisville, said there's a gap between the Bush administration's bold rhetoric on the Iraq war and its actual support for soldiers.

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He cited recent news stories describing a suppressed Pentagon report that concluded many U.S. combat deaths in Iraq could be avoided with better body armor, which is available on the market.

"It's just deplorable," Horne said. "It is of paramount concern to everyone involved that they be fully supported."

Republican Secretary of State Trey Grayson, who nabbed a front-row seat, said the "town hall" approach was a politically savvy way of taking Bush's Iraq message to the people.

"He's got a good argument, he just has to make it like this where he comes into a place that's not exactly his home base and takes questions from anyone," Grayson said.

A range of questions

After 24 minutes of remarks on Iraq, Bush opened it up for about 50 minutes for unscripted audience questions.

While giving answers on a wide range of topics, Bush alternated between plugging initiatives his administration already started and hinting at new proposals to come.

For instance, after Sandra R. Patterson-Randles asked what can be done to improve education, the president touted his No Child Left Behind plan for instituting more measurements of student progress.

He said schools need to improve science and math education and that he'd be unveiling a specific proposal in his State of the Union Address Jan. 31.

Patterson-Randles, chancellor of Indiana University Southeast, said later that she'd like to hear officials pledge to beef up all curricula, from the arts to civics to literature.

In response to a question about border security, the president steered his answer toward immigration policy. He said he doesn't favor broad amnesty -- which would mean automatic citizenship to illegal immigrants -- because it would lead to an influx of millions of people.

But he noted, "There are some jobs Americans will not do, and they're being filled by people (from abroad) who want to feed their families." They should be given "temporary worker status," he said.

A boy's question

Eventually, the discussion returned to Bush's theme: national security. The session was punctuated by a succinct question from a 7-year-old.

"How can people help in the war on terror?" asked Alex Childress of Louisville, who attended with his mom, Martha.

"Well," Bush began, "that's the hardest question I've had all day."

He said he welcomes an honest debate about Iraq but one that is "respectful."

"I expect and frankly welcome the voices of people saying 'You know, Mr. President, you shouldn't have made that decision,' or, 'You should have made it another way,' " he said. "What I don't like is when somebody says 'He lied,' or 'They're in there for oil.'"

Bush Tries To Shape Iraq Debate In Election Year (REU-Y2)

By Patricia Wilson

Reuters, January 12, 2006

President George W. Bush on Wednesday tried to shape election-year debate on the Iraq war by warning critics their rhetoric could embolden the enemy and weaken the morale of U.S. troops.

Preparing for a tough campaign against Democrats in the run-up to congressional elections in November when he will try to keep the U.S. Congress in the hands of his Republican Party, Bush acknowledged his decision to invade Iraq almost three years ago was not universally popular.

"I can understand folks who say, 'I wish you hadn't done that,'" he said, adding later, "I expect there to be an honest debate about Iraq ... people can help by making sure the tone of this debate is respectful and is mindful about what messages out of the country can do for morale of our troops."

He said he welcomed dissenting voices, but "what I don't like is when somebody said he lied or they're in there for oil or he's doing it only because of Israel."

A few Democrats have called for a quick withdrawal of U.S. troops from Iraq but the party remains divided over how to move ahead. Some critics on the political fringes have raised the issues of oil and Israel.

Asked by a 7-year-old in the audience at the Louisville Convention Center how people could help in the war on terrorism, Bush replied, "One way people can help as we're coming down the pike in the 2006 elections is remember the effect that rhetoric can have on our troops in harm's way and the effect that rhetoric can have in emboldening or weakening an enemy."

SEEKING TO CONVINCE SKEPTICS

Bush is trying to convince skeptical Americans his plan for Iraq will work even as the U.S. death toll mounts. His remarks came as violence surged in Iraq where more than 200 Iraqis and 16 U.S. troops have died in the past week.

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"The goal is victory, nothing short of victory," he declared in Kentucky where he unexpectedly answered questions on topics ranging from the war to education, immigration and domestic spying.

Bush said he was confident of success in Iraq but admitted it was tough going.

"Whether you agree with me or not, they're not going to shake my will. We're doing the right thing."

The 400 community leaders, small-business owners and others were invited to listen to Bush, but White House spokesman Scott McClellan said their questions were not screened in advance. Nevertheless, none of them criticized the president.

During a meeting at the White House last week with secretaries of state and defense from previous Republican and Democratic administrations, Bush was urged to talk to Americans in more detail and with more candor about his Iraq strategy in order to build support at home.

Bush appeared in the district of Republican Rep. Anne Northup (news, bio, voting record) whose likely Democratic opponent will be Andrew Horne, a lawyer and Marine reservist who served two tours in Iraq.

He questioned Bush's criticism of war opponents.

"On issues of war, on issues of the welfare of our troops, if we are not raising the questions, who will?" Horne told reporters in a conference call organized by Democrats. "We know that the nature of the military, the Marines, soldiers and sailors on the ground, they can't really raise these issues, so we need to do it for them.

In the campaign-style meeting, Bush again defended a domestic eavesdropping program he authorized after the September 11 attacks as limited in nature and constitutional. He said he did not object to congressional hearings on the matter so long as they "don't tell the enemy what we're doing."

General Asserts Right On Self-Incrimination In Iraq Abuse Cases (WP)

By Josh White

The Washington Post, January 12, 2006

Maj. Gen. Geoffrey D. Miller, a central figure in the U.S. detainee-abuse scandal, this week invoked his right not to incriminate himself in court-martial proceedings against two soldiers accused of using dogs to intimidate captives at the Abu Ghraib prison in Iraq, according to lawyers involved in the case.

The move by Miller -- who once supervised the U.S. detention facility at Guantanamo Bay, Cuba, and helped set up operations at Abu Ghraib -- is the first time the general has given an indication that he might have information that could implicate him in wrongdoing, according to military lawyers.

Harvey Volzer, an attorney for one of the dog handlers, has been seeking to question Miller to determine whether Miller ordered the use of military working dogs to frighten detainees during interrogations at Abu Ghraib. Volzer has argued that the dog handlers were following orders when the animals were used against detainees.

Maj. Michelle E. Crawford, a defense lawyer representing Miller, said the general decided not to answer further questions because he has "been interviewed repeatedly over the last several years" about his role at Guantanamo Bay and his visit to Iraq and he stands by his many statements to Congress, Army investigators and lawyers.

Miller's "choice to no longer answer the same questions . . . was based on the advice of counsel and includes the fact that he has already, and repeatedly, answered all inquiries fully," Crawford said.

Miller's decision came shortly after Col. Thomas M. Pappas, the commanding officer at Abu Ghraib, accepted immunity from prosecution this week and was ordered to testify at upcoming courts-martial. Pappas, a military intelligence officer, could be asked to detail high-level policies relating to the treatment of detainees at Abu Ghraib.

He also could shed light on how abusive tactics emerged, who ordered their use and their possible connection to officials in Washington, according to lawyers and human rights advocates who have closely followed the case. Pappas has never spoken publicly. Crawford said Miller was unaware of Pappas's grant of immunity. "This could be a big break if Pappas testifies as to why those dogs were used and who ordered the dogs to be used," said Michael Ratner, president of the Center for Constitutional Rights. "It's a steppingstone going up the chain of command, and that's positive. It might demonstrate that it wasn't just a few rotten apples."

Pappas's attorney, Maj. Jeffery D. Lippert, said yesterday that Pappas would not comment. But he added in an e-mail that "the Commanding General of the Military District of Washington has ordered Col. Pappas to testify if called as a witness in pending courts-martial, and granted him testimonial immunity to facilitate his appearance as a witness."

Miller invoked his military Article 31 rights through his Army lawyer on Tuesday, after a Navy judge in the Military District of Washington ruled that lawyers defending the two dog handlers could interview Miller this week. Article 31 rights are almost identical to those afforded civilians by the Fifth Amendment, and invoking them does not legally imply guilt. Miller now will not meet with the defense lawyers.

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Eugene R. Fidell, a Washington expert in military law, said that Miller's decision is "consistent with his being concerned that he may have some exposure to worry about." Fidell added: "It's very unusual for senior officers to invoke their Article 31 rights. The culture in the military tends to encourage cooperation rather than the opposite."

Miller has long been in the spotlight of the Abu Ghraib abuse investigations, largely because he was sent to the Iraq prison in August and September 2003 with the goal of streamlining its intelligence-gathering operations, using Guantanamo Bay, commonly called "Gitmo," as a model. Officers at Abu Ghraib have said that Miller wanted to "Gitmo-ize" the facility, and that harsh tactics migrated from the Cuba facility via "Tiger Teams" that Miller sent to Iraq as trainers.

Photographs documenting a wide array of abuse against dozens of detainees at Abu Ghraib in late 2003 were turned over to military investigators in January 2004. The photographs were revealed publicly in April 2004, and seven low-ranking military police soldiers have taken most of the blame for the treatment of captives, which included sexual humiliation, stress positions and beatings. All seven were convicted on various charges, the most serious of which led to a 10-year prison sentence for Pvt. Charles A. Graner.

In an interview with defense attorneys for those MPs in August 2004, Miller said he never told Pappas to use dogs in questioning detainees. Photos of the dog handlers scaring detainees at Abu Ghraib were among the most notorious to emerge from the prison. Dogs were also used at Guantanamo Bay.

"At no time did we discuss the use of dogs in interrogations," Miller said, according to a transcript.

Volzer, who represents Sgt. Santos A. Cardona, one of the military dog handlers charged with abuse, said he believes the grant of immunity to Pappas will essentially clear his client, because Pappas already has admitted in administrative hearings that he improperly ordered the use of dogs. Volzer said he believes that Pappas was taking direction from Miller, and that Miller was acting on instructions from Defense Department officials. Cardona and Sgt. Michael J. Smith are scheduled to be tried in separate courts-martial in February and March.

"I think the command is hiding something, and I think what they're hiding is material that is exculpatory that says the interrogation techniques were approved by powers above General Miller," Volzer said. "Having Pappas available to testify may have given Miller the impression that he is next to be accused of doing something inappropriate or giving inappropriate orders."

Miller, now based at the Pentagon as a senior official managing Army installations, was recommended for administrative punishment for his alleged mishandling of interrogations of a valuable detainee in Guantanamo Bay. But high-ranking military officials have declined to impose the penalty. The detainee was subjected to a number of abuses that mirrored the ones that later emerged in the Abu Ghraib photographs.

Maj. Christopher Graveline, who has prosecuted several of the Abu Ghraib abuse cases, said yesterday that Pappas might be called to testify in upcoming courts-martial, but declined to comment on "any current or future prosecutions."

Asked whether prosecutors are looking at additional charges arising out of the Abu Ghraib investigation, Graveline said: "We're taking it where the evidence leads it."

Local Insurgents Tell Of Clashes With Al Qaeda's Forces In Iraq (NYT)

By Sabrina Tavernise And Dexter Filkins

The New York Times, January 12, 2006

BAGHDAD, Iraq, Jan. 11 - The story told by the two Iraqi guerrillas cut to the heart of the war that Iraqi and American officials now believe is raging inside the Iraqi insurgency.

In October, the two insurgents said in interviews, a group of local fighters from the Islamic Army gathered for an open-air meeting on a street corner in Taji, a city north of Baghdad.

Across from the Iraqis stood the men from Al Qaeda, mostly Arabs from outside Iraq. Some of them wore suicide belts. The men from the Islamic Army accused the Qaeda fighters of murdering their comrades.

"Al Qaeda killed two people from our group," said an Islamic Army fighter who uses the nom de guerre Abu Lil and who claimed that he attended the meeting. "They repeatedly kill our people."

The encounter ended angrily. A few days later, the insurgents said, Al Qaeda in Mesopotamia and the Islamic Army fought a bloody battle on the outskirts of town.

The battle, which the insurgents said was fought on Oct. 23, was one of several clashes between Al Qaeda and local Iraqi guerrilla groups that have broken out in recent months across the Sunni Triangle.

American and Iraqi officials believe that the conflicts present them with one of the biggest opportunities since the insurgency burst upon Iraq nearly three years ago. They have begun talking with local insurgents, hoping to enlist them to cooperate against Al Qaeda, said Western diplomats, Iraqi officials and an insurgent leader.

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It is impossible to say just how far the split extends within the insurgency, which remains a lethal force with a shared goal of driving the Americans out of Iraq. Indeed, the best the Americans can hope for may be a grudging passivity from the Iraqi insurgents when the Americans zero in on Al Qaeda's forces.

But the split within the insurgency is coinciding with Sunni Arabs' new desire to participate in Iraq's political process, and a growing resentment of the militants. Iraqis are increasingly saying that they regard Al Qaeda as a foreign-led force, whose extreme religious goals and desires for sectarian war against Iraq's Shiite majority override Iraqi tribal and nationalist traditions.

While American and Iraqi officials have talked of a split for months, detailed accounts of clashes were provided by men claiming to be local insurgents.

Abu Lil was one of four Iraqi men interviewed for this article who said they were fighters for the Islamic Army, one of the main insurgent groups. Despite its name, its members have nationalist and largely secular motivations. While their membership in the insurgency could not be independently verified, the descriptions the four men offered of themselves and their exploits were lengthy, detailed and credible.

The four men interviewed are, by all accounts, ordinary Iraqis. One worked as a trash collector. Another was a part-time mechanic in an ice factory. All of them said they had children. While they claimed to be members of the same group, different members provided lengthy accounts of operations in an array of cities in the Sunni Triangle. The men gave Iraqi nicknames and noms de guerre. Some of their assertions, including specific examples about clashes with Al Qaeda's forces, were confirmed by American and Iraqi officials.

According to an American and an Iraqi intelligence official, as well as Iraqi insurgents, clashes between Al Qaeda in Mesopotamia and Iraqi insurgent groups like the Islamic Army and Muhammad's Army have broken out in Ramadi, Husayba, Yusifiya, Dhuluiya and Karmah.

In town after town, Iraqis and Americans say, local Iraqi insurgents and tribal groups have begun trying to expel Al Qaeda's fighters, and, in some cases, kill them. It is unclear how deeply the split pervades Iraqi society. Iraqi leaders say that in some Iraqi cities, Al Qaeda in Mesopotamia and local insurgent groups continue to cooperate with one another.

American and Iraqi officials believe that Al Qaeda in Mesopotamia is largely made up of Iraqis, with its highest leader, Abu Musab al-Zarqawi, a Jordanian. Even so, among Iraqis, the group is still perceived as a largely foreign force.

Evidence of the split is still largely anecdotal, and from most available evidence, Al Qaeda in Mesopotamia remains the most virulent and well-financed group fighting in Iraq. But in most Sunni cities, Iraqis defied Al Qaeda's threats and turned out to vote in large numbers on Dec. 15.

"The tribes are fed up with Al Qaeda and they will not tolerate any more," said a senior Iraqi intelligence official, who spoke on the condition of anonymity. The intelligence official confirmed reports that a Sunni tribe in Samarra had tried and executed Qaeda members for their role in assassinating a local sheik.

"It was a beautiful mistake," the intelligence official said of the sheik's assassination by Al Qaeda. "Now the tribes will kill Al Qaeda. Now they have the courage."

An Attack's Repercussions

Samarra, north of Baghdad, had been infiltrated by Al Qaeda's fighters. In desperation, a local sheik, Hekmat Mumtaz al-Baz, traveled to Baghdad in September to meet with Iraq's defense minister and ask for help, said one of the sheik's aides, Waleed al-Samarrai. A few weeks after the visit, the sheik was shot dead by Qaeda gunmen in his yard.

The account was confirmed by a member of the tribe, and a senior Iraqi intelligence official in Baghdad. Mr. Samarrai spoke in an interview in Al Wasat Hospital in Baghdad, where his brother, Salim, the sheik's bodyguard, who was wounded in a fight with Al Qaeda, was convalescing.

The tribe was furious, and its members tracked down the three men who carried out the killing. Elders from the tribe held a trial in a local farmhouse and interrogated the men for days. They said they worked for a fighter from Saudi Arabia who bankrolled the attacks, Mr. Samarrai said.

The Samarrai brothers said Al Qaeda's appeal was based less on religion than on money. The Iraqis who killed the sheik were believed to have received $500 to $1,000 for the job, and the same amount for dozens of other similar killings, Waleed al-Samarrai said. He said local insurgents had changed allegiances, lured away by Al Qaeda's money.

Members of the tribe swept the town and arrested 17 people they suspected were associated with the sheik's killing. In one house raid, the tribe found men from Sudan, Morocco, Afghanistan and Saudi Arabia, a member of the tribe said.

Al Qaeda's fighters struck back during the tribe's offensive. A foreign Arab believed to be a Saudi wearing in a suicide belt blew himself up at the sheik's funeral, killing one guest and wounding two, said Salim al-Samarrai, who said he witnessed the attack.

As a lesson to all those associated with the sheik's death, the tribe staged a public killing. While the sheik's father watched, men with machine guns shot the three men who carried out the assassination, the Samarrai brothers said.

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"Someone from outside the tribe should not tell us what to do," said Waleed al-Samarrai, standing next to Salim's hospital bed. "It is unacceptable for us."

Tactical Disputes

Disagreements over Al Qaeda's bloody tactics between local insurgents and Al Qaeda's fighters are as old as the war. Abu Lil, who fought in Taji in October, for example, claimed to have met with Qaeda fighters in late 2003. The militant group had just claimed responsibility for a double car bombing in Baghdad, and insurgents from the 20th Revolutionary Brigade, a nationalist group that Abu Lil belonged to at that time, were angry about the high civilian death toll.

Abu Lil, an elfin man with a cotton scarf tied around his head, talked in detail about the meeting as he sat on a couch in a house in Baghdad. The meeting was held in a farmhouse in Mosul, he said. About 25 men from Al Qaeda attended. Several appeared to be from Pakistan. Some spoke Arabic so poorly that they had to speak through a translator.

The discussion dragged on for seven hours, he said, but did not go well. The local insurgents demanded that the foreigners from Al Qaeda leave Iraq.

"They said, 'Jihad needs its victims,' " Abu Lil said. " 'Iraqis should be willing to pay the price.' "

"We said, 'It's very expensive.' "

The meeting ended abruptly, and Abu Lil and his associates walked out, feeling powerless and angry.

"I wished I had a nuclear bomb to attack them," he said. "We told them, 'You are not Iraqis. Who gave you the power to do this?' "

It took two more years for Sunni Arab sentiment to turn against the militants. As the Iraqi democratic political process began, including elections and the drafting of a new constitution, there was a widespread feeling among Sunnis that they were being left behind. Last January, Sunnis boycotted an election, giving them few seats in the new Parliament, and leaving them out of the drafting of a new constitution.

In the predominantly Sunni town of Dhuluiya, north of Baghdad, local residents blamed insurgents for their isolation. In the days leading up to a vote on the constitution, they went to the resistance and demanded they let people vote.

"All of the Sunnis were angry at the resistance," said a resident of Dhuluiya. "People realized, if we do not take part it, then we will lose the government. So the resistance agreed. They said, 'We will protect you from anyone who tries to attack you.' "

Emboldened by the promise of protection by the resistance, clerics from five local mosques encouraged their congregations to vote, even sending out people to put up posters about the election.

The excitement over the vote spurred Al Qaeda into action. At night, men put up their own posters threatening, "He who votes will be beheaded." Then, two days before the Oct. 15 referendum, a group of Qaeda fighters confronted an imam in one of the local Sunni mosques and lectured him about how voting contradicted the Koran. According to the imam, who spoke on condition of anonymity out of concern for his safety, two of the men appeared from their accents to be from Algeria and Syria. They vowed to kill anyone who removed their posters.

"Why are you driving the troubles into our town?" the Sunni cleric said he asked the men. "If you want jihad, the U.S. military is there."

Imams from five Sunni mosques tore down the Qaeda posters wherever they could find them.

"I myself tore those into pieces," the Sunni cleric said.

Al Qaeda got the message. On election day, Dhuluiya's voters streamed into polling places. The streets were quiet, with only a single attack on a polling center.

"All of them voted," the resident said. "All of Dhuluiya. There was no one sitting in his house."

Invisible Boundaries

Two and a half years into the American occupation, the towns and villages south of Baghdad are divided among the insurgent groups like gang territory in big American cities. The arrangement is largely invisible to American troops who patrol the towns, the insurgents said in interviews. But guerrillas themselves say they must seek permission to travel through towns their groups do not control.

Abu Marwa, a 32-year-old guerrilla leader from Yusifiya, a city south of Baghdad, told of a blood feud with Al Qaeda in a village the group controlled called Karagol, south of Baghdad.

Bookish and soft-spoken, wearing jeans and a button-down shirt, Mr. Marwa told of life inside the insurgency during two days of interviews in Baghdad. He said he might never have clashed with Al Qaeda, but the group's sectarian war against Shiites clashed with his loyalty to a Shiite relative of his the group had kidnapped and tortured.

"It's more than crazy when you want to hit Al Qaeda," said Mr. Marwa, who said he was a fighter for a local cell called Thunder. "Even the network of the resistance couldn't think of doing such an act."

According to Mr. Marwa's story, the feud with Al Qaeda began on Oct. 13, when a car full of gunmen he said appeared to be Syrian kidnapped his relative and took him to Karagol, which is in territory he said was controlled by Al Qaeda.

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"Karagol is the place where Al Qaeda is based in the region," said an Iraqi Army lieutenant based in the area. He spoke on the condition of anonymity, because he was not authorized to talk to the press.

"There has not been a command to go into Karagol," he said. "There are no government forces there. Now it's fully under control of the terrorists."

For the next three days, Mr. Marwa searched through miles of lush farmland before he got to Karagol. When he was prevented from driving through the town by Qaeda gunmen, who shot at him on the road, he walked through orchards after dark.

He said a guide had led him to the house of a man who was known as a paid killer for Al Qaeda. The man consulted a notebook fat with names, but Mr. Marwa's relative's was not among them.

As he drew closer, a local insurgent warned him to stay away from Karagol, even if he was sure his relative was there.

" 'I advise you, if you know he's with Al Qaeda, don't go there,' " Mr. Marwa recalled the man saying.

Mr. Marwa finally found his relative in the local morgue. His legs bore drill holes revealing bone. His jaw had slid off to one side of his head, and his nose was broken. Burns marked his body. His knees were raw, as if he had been dragged.

"I was totally crazy," Mr. Marwa recalled. "A mad man was more rational than me."

Enlisting the most trusted members of his cell, Mr. Marwa set out to take revenge. They tracked down two Syrian members of Al Qaeda, and in late October laid out an intricate plan for an ambush. They killed them on a country road as they drove out of town, and took their kaffiyeh, or headdresses, to the dead relative's wife, Mr. Marwa said.

"After many meetings, we decided to terminate them," he said.

Despite such tensions, the Americans face significant challenges in trying to exploit the split. "It is against my beliefs to put my hand with the Americans," said an Iraqi member of the Islamic Army who uses the nom de guerre Abu Omar.

Still, he said in an interview in a house in Baghdad, he allowed himself a small celebration whenever a member of Al Qaeda fell to an American bullet. "I feel happy when the Americans kill them," he said.

Efforts Intensify To Train Iraqi Police (CSM)

By Charles Levinson

The Christian Science Monitor, January 12, 2006

BAGHDAD - Visiting congressmen stepped out of armored cars Tuesday into the mud of Camp Dublin, home to the Iraqi police's elite special forces unit. US Army Maj. Gen. Joseph Peterson, the ex-linebacker responsible for training 200,000 Iraqi police, greeted them and assured the lawmakers that his Iraqi under- studies will soon be in charge here.

"We'll have these forces trained by the end of 2006," dubbed the year of the police by US officials, "and I have full confidence that they will begin to assume control of security in Iraq," he says.

The police have become a new priority, as the US begins turning over more security control to Iraq. Scrutiny of the police intensified after the discovery of secret jails and the torture of Sunni Arab prisoners.

Shiite control of the police force is also complicating efforts to persuade Iraq's factions to put their divisions behind them and to form a government of national unity following the Dec. 15 parliamentary vote.

On Tuesday, President Bush addressed the issue in a speech to the Veterans of Foreign Wars. He called on Iraqi police "not to address old grievances by taking justice into their own hands.... That's unacceptable to the United States government."

Meanwhile the insurgency rages on, singling out police on an almost daily basis. Wednesday, an attack killed two. On Monday, a pair of suicide bombers killed 29 at the Interior Ministry, and last week 70 recruits were killed in Ramadi. All told, some 3,500 Iraqi police have been killed in the past 16 months. Charges of US interference

In the face of these attacks, US moves to reign in the Iraqi police are irking Ministry of Interior officials and leading Shiite politicians, who seem eager to step up the fight. They say they are ready to do so without US support.

"There is huge interference from the American forces with the work of the Ministry of Interior in a way that does not allow the security forces to deal with security," says Jalal al-Din Saghir, a leading Shiite preacher and member of parliament.

At the heavily guarded Interior Ministry, Mohammed Ali al-Khafaggy, the minister's deputy, says he could "put tens of thousands of police in Ramadi and Diala within hours," referring to two insurgent hot spots. "But we are not doing this because of political circumstances.... We can't defeat the terrorists unless the security forces are allowed to do what has to be done," he says.

Mr. Khafaggy's heavily secured ministry rises up from behind concrete walls and razor wire. It has an estimated 152,000 police on its payrolls, among them border guards, highway patrol, traffic cops, and special paramilitary units. With that number expected to reach 300,000, the Ministry of Interior is one of the country's most coveted posts.

But the Shiite-controlled ministry and its growing cadres of police are widely believed to be infiltrated by the Badr militia, the armed wing of the main Shiite party, the Supreme Council for Islamic Revolution in Iraq (SCIRI). Ministry officials vehemently deny this. "Where is the evidence?" Mr. Khafaggy asks.

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But for many Iraqis, seeing police in the streets of Baghdad continues to provide little comfort.

"The police are just a bunch of gangs rolling around in pickup trucks waving Kalashnikovs," says Subhi Nazem Tawfiq, an ex-Iraqi general and the author of 14 books on Arab politics, history, and militaries. After the fall of Saddam Hussein he worked with US officials to reestablish the Ministry of Defense. "These are people charged up with militant Shiism," he says of many within the police ranks. "They hate Fallujah people, they hate people from Mosul, they hate Sunni [Arabs]."

Inside her dimly lit home in a mixed Sunni Arab-Shiite neighborhood of New Baghdad, a Sunni Arab mother huddles on the floor, weeping as she tells how police dragged her 23-year-old son from his bed at 1:30 a.m. last June.

She searched for him for six months. Finally, 10 days ago she found his picture with a police report at a Baghdad morgue. The report was dated June 17, the day of the arrest. It said simply that an unidentified body had been found strangled, wrists bound, in a roadside ditch not far from her home.

"I cannot look at [the police]," she says, choking on her anger. "The hate inside these policemen, this is what made them kill my son."

As leading Shiites rattle their sabers in response to last week's death toll (it was one of the country's deadliest weeks), Sunni Arab leaders fear retaliation by police. They have already begun to take a stand against police dragnets and alleged excesses. The Sunni Arab fundamentalist Iraqi Islamic Party says they have put together armed groups to protect neighborhoods targeted by Iraqi police.

"It's a necessary response to the massacres that have occurred in a number of neighborhoods," says Amr al-Jaboori, a member of the party's human rights committee. "The police should protect citizens, not terrorize them." Recruiting more Sunnis

While the US is giving Iraqi police a greater role in putting down the insurgency, doing so may be counterproductive to American goals if the police continue to be viewed as simply a glorified Shiite militia.

The US says it's dealing with that issue by recruiting more Sunni Arabs, Turkomen, and Kurds to the police. It also plans to increase the emphasis on human rights in the 10-week police academy and partner US battalions with police special forces units.

"These recruits get 32 hours of human rights and rule-of-law training," Major General Peterson tells the concerned congressmen. "I've been serving for 34 years, and I don't have 32 hours of human rights training."

He points to one of his Iraqi protégés, Colonel Nomaan, the Iraqi commander of the police force's Emergency Response Unit. "This unit is representative of the Iraqi population."

But Nomaan admits that for now, at least, his unit is an exception. "I insisted on this unit being ethnically balanced, but other leaders aren't like me," he says. "It won't get better as long as we keep distributing ministerial posts based on sect, and not on competency."

Key Shiite Backs Away From Charter Accord (WP)

By Nelson Hernandez

The Washington Post, January 12, 2006

BAGHDAD, Jan. 11 -- Iraq's most influential Shiite politician said Wednesday that he would not allow a new government to "change the essence" of the country's constitution, despite a promise made to Sunni Arabs that it would be opened to major revision.

The promise of future changes to the constitution had been a key concession to encourage Sunni Arabs to join the political process in Iraq and stop violence. Last summer, Sunnis were ready to walk away from the negotiating table as the country's ruling Shiite and Kurdish coalition wrote a constitution that allowed the creation of strong regional provinces.

In a last-minute deal negotiated under heavy pressure from U.S. diplomats, the three groups agreed that the draft constitution would be put to a national referendum in October as planned but would be open to change for four months after a new government was formed early this year.

But Abdul Aziz Hakim, the leader of the Supreme Council for the Islamic Revolution in Iraq, the most powerful Shiite party in the ruling coalition, appeared to back away from the constitutional compromise Wednesday.

"The first principle is not to change the essence of the constitution," Hakim said in a speech given during the Muslim holiday of Eid al-Adha, according to the Associated Press. "It is our responsibility to form Baghdad provinces and southern Iraq provinces."

A spokesman for Hakim's party confirmed the remarks. "The major points in the constitution were agreed to by all the parties that participated in the drafting of the constitution," Haitham Husseini, the spokesman, said in an interview. "As for changes in the powers, some points or details, these are open to negotiation. However, the main principles which were agreed to by all sides, and approved by the people in a popular referendum, they cannot be touched."

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The most difficult issue is whether Iraq will have a strong central government or a federal government composed of largely autonomous regions. The Kurds and Shiites, who live in oil-rich areas, support federalism; the Sunnis, who have little oil in the areas they dominate, fear that the country will break apart and that they will be denied a share of the oil revenue.

While it would be a blow to Sunnis if they were unable to amend the constitution, which voters approved Oct. 15, a Sunni politician said he viewed Hakim's comments as a political ploy.

"I don't know why Mr. Hakim is saying this at this time," said Alaa Makki, a senior member of the Iraqi Islamic Party, the largest Sunni political party in Iraq. "It's time for reconciliation, it's time for negotiation, it's time for participation in the political process."

However, a Western diplomat who spoke on condition of anonymity, said it was important "to remember that there's a lot of jockeying for political position going on. I think you have to look at the comments people are making as part of that process. Everyone is staking out their position in advance of the announcement of final election results."

Shiite Leader Rejects Big Charter Changes, Frustrating Sunnis (NYT)

By Richard A. Oppel Jr. And Qais Mizher

The New York Times, January 12, 2006

BAGHDAD, Iraq, Jan. 11 - Iraq's most powerful Shiite leader on Wednesday rejected making major changes to the new Constitution, diminishing Sunni Arab hopes of amending the charter to avoid being shut out of the nation's vast oil wealth.

Sunnis were reluctant to sign on to the Constitution last fall, fearing that provisions granting wide powers to autonomous regions would leave oil in the hands of Kurds in the north and Shiites in the south. Sunnis dominate in western and much of northwestern and northcentral Iraq, but the oil lies beneath Kurdistan and parts of southern Iraq that one day may be subsumed in a semi-independent region controlled by Shiites.

As a carrot for the Sunnis, the Constitution was amended before the October referendum so legislators elected in the national voting last month could change it with a two-thirds vote. Some Shiites also voiced a willingness to negotiate with Sunnis on amendments.

But on Wednesday Abdul Aziz al-Hakim, leader of the Supreme Council for Islamic Revolution in Iraq, vowed to give no ground on crucial parts of the Constitution.

"We will stop anyone who tries to change the Constitution," said Mr. Hakim, whose party has close ties to Iran. "Many of the people who voted for us were promised federalism in the south," he said, referring to the form of government allowing for semiautonomous regions. He said Kurds, who joined Shiites to form the current ruling coalition, "agree with us about this condition, and we will continue our strategic coalition with our Kurdish brothers."

The speech was Mr. Hakim's latest hard-line statement directed at Sunni Arabs, whom Shiites accuse of fomenting violence to improve bargaining leverage in the new government. While he previously signaled unwillingness to reopen major constitutional issues, Mr. Hakim's belligerent declarations are sure to anger Sunnis hopeful of carving out a meaningful role in the government.

Yet it may not be that simple. While Sunni Arabs boycotted elections a year ago, they turned out heavily last month and are thought to have won about 20 percent of the seats in Parliament. A Western diplomat in Baghdad said Shiites and Kurds probably had not won enough seats on their own to reach the two-thirds majority needed to appoint an executive branch.

So while Shiites have enough votes to block constitutional changes, they may need to draw in parties other than the Kurds to obtain a two-thirds governing majority. If Sunnis are called on to make up that difference, amending the Constitution is sure to top their bargaining list.

Desperate to deflate the Sunni-dominated insurgency, United States officials are pushing Shiites to accept constitutional changes. The American ambassador, Zalmay Khalilzad, wrote in The Wall Street Journal on Monday that the charter "will likely need to be amended in the coming year to broaden support." He cited compromises "on some substantive issues such as federalization in Arab regions of Iraq."

Sunnis Can't Change Government Structure (WT/AP)

By Bushra Juhi

The Washington Times, January 12, 2006

BAGHDAD -- The most influential politician in Iraq issued a veiled warning yesterday to Sunni Arabs that Shi'ites would not allow substantive amendments to the country's new constitution, including to the provision that keeps the central government weak in favor of strong provincial governments.

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Abdul Aziz al-Hakim, the leader of the Supreme Council for the Islamic Revolution in Iraq, said in an address in honor of the Islamic holiday of Eid al-Adha that provincial governments will remain strong in the constitution, which can be amended after the next government is installed.

"The first principle is not to change the essence of the constitution. This constitution was endorsed by the Iraqi people," he said.

Sunni Arabs place great stock in their ability to change the constitution, one of the reasons Sunni politicians urged the minority to turn out in large numbers for the Dec. 15 parliamentary elections.

They want a stronger central government because the constitution now bestows most power -- including control over oil profits -- on provincial governments. The Shi'ites in the south and the Kurds in the north control most of Iraq's oil. There are few oil reserves in central Iraq, where Sunnis live.

To win their support for the new constitution, which was approved in an Oct. 15 vote, Sunni Arabs were promised they could propose amendments to it during the first four months of the new parliament's tenure. The new parliament is expected to be seated at the end of February. Amendments require two-thirds approval in parliament and a majority in a national referendum.

There was limited violence yesterday. A roadside bomb exploded next to a police patrol outside Samarra, about 60 miles north of Baghdad, killing two policemen, police said.

Iraqi police found seven bodies shot in the head, with their legs and hands bound, in a sewer in eastern Baghdad, police said.

Iraqis nationwide celebrated the opening of the three-day Eid al-Adha celebration Tuesday with visits to relatives, food and sweets. Lambs were slaughtered, and food was distributed to the poor.

Shi'ites and Sunni Arabs also called for an end to the bloodshed that has wracked Iraq since last month's elections.

"This Eid is a happy day for all Muslims, especially Iraqis. But it comes after painful events that happened in Karbala and Ramadi," said Prime Minister Ibrahim al-Jaafari, a Shi'ite.

He referred to the killings of more than 120 people in suicide bombings last week in the Shi'ite holy city of Karbala and at a police recruiting center in Ramadi.

Violence has increased since the Dec. 15 elections, with at least 498 Iraqis and 54 U.S. forces killed.

Mr. al-Jaafari said that despite the violence, Iraq had made significant advances in 2005, citing a large turnout in the elections as one of the biggest achievements.

Mr. al-Jaafari's governing United Iraqi Alliance emerged with a large lead in the elections, far ahead of a Kurdish coalition and Sunni Arab groups, but without the majority it will need in the 275-member parliament to avoid a coalition.

An Incendiary Threat In Iraq (NYT)

The New York Times, January 12, 2006

Iraq's most powerful Shiite politician has just dealt a huge blow to American-backed efforts to avoid civil war through the creation of a new, nationally inclusive constitutional order. That leader, Abdul Aziz al-Hakim, leader of the Supreme Council for Islamic Revolution in Iraq, has turned his back on the crucial pledge, made before last October's constitutional referendum, that the new charter would be open to substantial amendment by the newly elected Parliament. Instead, Mr. Hakim, who runs the dominant, Iranian-supported fundamentalist party, now says no broad changes should be made. In particular, he defends the current provisions allowing substantial autonomy for the oil-rich Shiite southeast.

The vote count from last month's parliamentary election is not yet complete. But it is already certain that the Shiite religious alliance, in which Mr. Hakim is the most important leader, will hold enough seats to block any constitutional changes it doesn't like. The only recourse is to persuade Mr. Hakim to respect that earlier pledge.

Mr. Hakim's latest position is a prescription for a national breakup and an endless civil war. It is also a provocative challenge to Washington, which helped broker the original promise of significant constitutional changes. On the basis of that promise, Sunni voters turned out in large numbers, both for the constitutional referendum and for last month's parliamentary vote. Drawing Sunni voters into democratic politics is vital to creating the stable, peaceful Iraq that President Bush has declared to be the precondition for an American military withdrawal. The most unacceptable defect of the new constitution for Sunnis is its provision for radically decentralizing national political and economic power, dispersing it to separate regions.

In a quirk of geology, most of Iraq's known oil deposits lie under provinces dominated by Shiites or Kurds, while the Sunni provinces of the west and north are resource-poor and landlocked. Iraq as a whole is rich enough to support all of its people relatively comfortably. But a radically decentralized Iraq would leave the Sunnis impoverished, aggrieved and desperate, driving them into the arms of radical Sunni groups in neighboring lands.

Although Sunnis are a minority in Iraq, they are an overwhelming majority in the Arab world. An irreconcilable split between Iraq's Shiites and Sunnis would leave the Shiites even more dependent than they are now on Iran and American troops.

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Constitutional changes are needed in other areas as well, especially in regard to women's rights and the overly broad prohibitions against former members of Saddam Hussein's Baath Party. But decentralization is the most dangerously explosive issue right now. Mr. Hakim seems perversely determined to inflame it.

South Korean Businessman Denied Bail In Oil-for-food Case (AP)

By Juan A. Lozano

AP, January 12, 2006

HOUSTON - A South Korean businessman accused of accepting millions of dollars from Iraq in the U.N. oil-for-food scandal was denied bail Wednesday and will be transferred to New York to face additional charges in the case.

Tongsun Park was arrested in Houston on Friday after being expelled from Mexico.

U.S. Magistrate Judge Frances Stacy said she denied Park bond since she believed he was a flight risk because of his finances, his ties to South Korea and his history of not dealing with legal problems in the United States.

Park's arrest came after new criminal charges against him were unsealed in federal court in Manhattan.

Park, a South Korean citizen, had already been charged in April with accepting millions of dollars from the Iraqi government while he operated in the United States as an unregistered agent for Iraq's effort to create the oil-for-food program.

The new charges accuse Park of agreeing in October 1992 to work on behalf of the Iraqi government with another person who is now cooperating with the U.S. government.

During a bail hearing Wednesday, Randy Schaffer, Park's attorney, argued that his client's arrest was illegal.

"The guy is picked up in Mexico against his will and brought here," Schaffer said.

Park had been traveling from Canada to Panama City, Panama, when his plane stopped in Mexico City. He was taken off the plane by Mexican immigration officials.

FBI Agent Robert Midcap testified Wednesday that a warrant for Park's arrest had been circulated by Interpol because the South Korean citizen had not answered the U.S. charges from April. The Mexican government saw the Interpol warrant and sent him back to the United States, Midcap said.

Schaffer also argued Park should not be in jail because of his health. Park, 70, is taking medication for a kidney transplant, diabetes and high blood pressure.

Federal prosecutor Melissa Annis said Park should be denied bail because he's a flight risk due to his history of trouble with the law.

In the 1970s, Park was at the center of what became known as the Koreagate scandal, in which he was accused of trying to buy influence in Congress.

"There is a history of Mr. Park not wishing to face the music in a court of law in the United States," Annis said.

Park is charged with conspiring to commit wire fraud, conspiring to act as an unregistered agent of a foreign government, and laundering the criminal proceeds derived from the crimes.

The oil-for-food program ran from 1996 to 2003. It was created to help Iraqis cope with U.N. sanctions imposed after Saddam's 1990 invasion of Kuwait. The program let the Iraqi government sell oil to buy humanitarian goods.

Mexican Agents Nabbed Oil-for-food Suspect (/REU)

By Erwin Seba and Matt Daily

Reuters, January 12, 2006

HOUSTON, Jan 11 (Reuters) - Mexican agents acting on a U.S. warrant nabbed South Korean lobbyist Tongsun Park in Mexico City, then accompanied him to Houston to face a conspiracy charge linked to corruption in the U.N. oil-for-food program for Iraq, an FBI agent said on Wednesday.

Park's lawyer, Randy Schaffer, tried to get bail for Park and complained that the detention was improper, but in a hearing U.S. Magistrate Frances Stacy refused his request, meaning the 70-year-old suspect will remain behind bars.

Park, who was arrested on Friday, will be flown to New York to face a single count of conspiracy to commit wire fraud, acting as unregistered foreign agent and money laundering, for which he could face up to five years in jail and a $250,000 fine if convicted.

"I don't think it was legal to deliver him here," Schaffer said to reporters after the hearing.

FBI agent Robert Midcap testified that the Mexican government learned of the warrant for Park through Interpol and detained him at the Mexico City airport, where he was making a stopover on a flight from Canada to Panama.

Midcap said Mexican agents then flew with Park on a Continental Airlines flight to Houston, where U.S. authorities arrested him.

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A Mexican government source confirmed the arrest was made by Mexican agents and that Park was then deported to the United States.

Schaffer said Park was flown to Houston against his will, and questioned Midcap about whether it was a U.S. or Mexican decision to deport him.

"No, sir. It was the Mexican government that expelled him," Midcap said. "That was the government's decision, the Mexican government's decision."

FLIGHT RISK

Park is accused of receiving at least $2 million in cash from the Iraqi government under Saddam Hussein to influence the scandal-tainted, now-defunct U.N operation.

The $67 billion program was set up in 1995 to let Iraq sell oil to buy civilian goods for its people living under U.N. sanctions after the Kuwait invasion in 1990.

U.S. and U.N investigations have since revealed lobbyists, U.N. and Iraqi officials enriched themselves through kickbacks to arrange the oil sales.

U.S. prosecutors on Wednesday argued that Park should not receive bail because he is a flight risk.

But Schaffer said he is old and in ill-health. Park has high blood pressure, diabetes and kidney transplant. Schaffer says he is also the only person linked to the scandal to be held behind bars.

Several other defendants, including Houston oilman Oscar Wyatt, are facing criminal charges in New York in connection with the oil-for-food program.

Park first gained notoriety in the 1970s as a lobbyist who bestowed hundreds of thousands of dollars in gifts on U.S. Congress members as part of the influence-peddling scandal dubbed "Koreagate."

The indictment of Park, released on Friday, refers to attempts to buy the influence of two officials, who were not named.

A U.N.-established investigation of the program, led by former U.S. Federal Reserve chairman Paul Volcker, accused Park and another man of trying bribe former U.N. Secretary-General Boutros Boutros-Ghali.

The report said there was no evidence Boutros-Ghali knew of the attempt or received any money.

The Volcker panel also found that Park invested $1 million in 1997 in a Canadian company linked to the son of Maurice Strong, a Canadian businessman and Secretary-General Kofi Annan's advisor on North Korea. But there was no evidence Strong was involved in any wrongdoing.

Oil-for-Food Suspect, Ailing, Faces Arraignment In New York (NYT)

By Simon Romero

The New York Times, January 12, 2006

HOUSTON, Jan. 11 - A federal judge ordered an ailing South Korean businessman, Tongsun Park, held without bail on Wednesday, arguing that he posed a flight risk after his arrest here last week on a charge of illegally operating as an agent for Iraq in the United Nations oil-for-food program.

Magistrate Judge Frances Stacy also approved Mr. Park's transfer to New York, where he faces arraignment in federal court. Agents from the F.B.I. arrested Mr. Park here last Friday after Mexican immigration officials apprehended him at Mexico City's airport on the basis of an Interpol notice, Justice Department officials said.

The Mexican officials put Mr. Park on a commercial flight to Houston, accompanied by F.B.I. agents, said Melissa Annis, an assistant United States attorney. Ms. Annis argued for Mr. Park to be detained without bail, citing his history of legal problems in the United States and his financial means. Mr. Park was carrying $45,000 in cash at the time of his apprehension in Mexico, Ms. Annis said.

Mr. Park, 70, was a central figure in a Congressional bribery scandal in the 1970's that involved payments funneled through Mr. Park to American lawmakers from South Korea's national intelligence service. Although Mr. Park cooperated with United States officials in their handling of that scandal, federal prosecutors said he had avoided arrest and several requests to testify in the oil-for-food investigation.

An indictment secured by the United States Attorney for the Southern District of New York charged Mr. Park last April with conspiracy for illegally accepting $2 million from Saddam Hussein's government to serve as the Iraqi government's liaison with United Nations officials.

Randy Schaffer, a lawyer for Mr. Park, said his client was being treated unfairly, in that other people arrested in the case had been freed on bail, including wealthy individuals like Oscar S. Wyatt, the Texas oilman accused of paying kickbacks to Mr. Hussein's government. Mr. Schaffer also said Mr. Park's apprehension in Mexico was improper, because he was expelled against his will to the United States and not to his home nation, South Korea.

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Mexican officials seized Mr. Park before he was to embark on a flight to Panama City, said Ms. Annis, the federal prosecutor, though it was not clear what he was planning to do in Panama.

The swift cooperation by Mexican authorities in delivering Mr. Park comes at a time of tense relations with the United States on immigration issues. Mr. Park is believed to have strong business ties in Central America and the Caribbean, in addition to South Korea and Taiwan.

Mr. Park communicated with Iraqi officials in the 1990's by telephone from a residence in the Dominican Republic, according to a report last September by the oil-for-food investigating committee headed by Paul A. Volcker, the former Federal Reserve chairman. Citing a business partner of Mr. Park, the same report said he went by the title "Ambassador Park" in Washington social circles, after purchasing the title of ambassador from a Nicaraguan official for about $150,000.

Mr. Park appeared in federal court on Wednesday wearing long underwear beneath the orange garb of the county jail, where he was transferred from a federal facility over the weekend to take kidney medication under the supervision of a doctor. Mr. Park said through his lawyer that he had recently undergone a kidney transplant, and was being treated for diabetes and high blood pressure.

Oil-for-Food Suspect 'kidnapped' (TIMES)

By James Bone

The Times (UK), January 12, 2006

A KEY figure in the United Nations' Oil-for-Food scandal claims that he was "kidnapped" by US authorities investigating possible pay-offs to top UN officials.

Tongsun Park, a well-connected Korean businessman who has been accused of trying to bribe the former UN Secretary-General Boutros Boutros Ghali, found himself in jail after he was arrested at Houston airport on Friday. He had spent many months as a fugitive and his arrest provided an unexpected boost for the FBI inquiry into UN corruption.

But Mr Park's lawyer, Randy Schaffer, said his client never intended to travel to the United States. At a bail hearing yesterday, he argued that the arrest was illegal. He said that Mr Park had been travelling from Canada to Panama, but was taken off the plane when his flight stopped in Mexico City. "The guy is picked up in Mexico against his will and brought here," Mr Schaffer said.

Robert Midcap, an FBI agent, testified that a warrant for Mr Park's arrest had been circulated by Interpol because he had not answered the US charges from April. The Mexican Government saw the Interpol warrant and sent him back to the United States, he said.

Mr Park, a central figure in the "Koreagate" bribery scandal in Washington in the 1970s, is charged with acting as an unregistered foreign agent in the United States for Saddam Hussein's regime in Iraq.

Prosecutors say that he was recruited to provide a back-channel to UN officials who set up and administered the Oil-for-Food programme, which allowed Iraq to sell limited quantities of oil to fund humanitarian imports. According to the criminal complaint, Mr Park received at least $2 million (£1.12 million) in cash to approach two unnamed, high-ranking UN officials.

Court papers say that the Iraqi Government signed two agreements in 1996 to make payments of $5 million to an account in London and $10 million to an account in the Channel Islands, contingent on Baghdad agreeing the terms of the Oil-for-Food programme with the UN. The allegations raise questions about whether the $64 billion UN scheme was corrupted from the start.

The two UN officials are not named in court papers. But a UN inquiry said that Mr Park's contacts were Dr Boutros Ghali, then the UN Secretary-General, and Maurice Strong, a top aide at the time to the present UN chief, Kofi Annan. The inquiry found no evidence that Dr Boutros Ghali received any money from Mr Park. Mr Strong received a $1 million investment in a failing company in 1997 while serving as Mr Annan's adviser on UN reform, but he says that this was a normal business transaction.

Mr Park's application for bail was rejected yesterday because prosecutors identified him as a "flight risk" who had been in trouble with the law before.

German Spies Aided U.S. Attempt To Kill Hussein In Aerial Attack (LAT)

By Bob Drogin, Times Staff Writer

The Los Angeles Times, January 12, 2006

WASHINGTON — With the battle of Baghdad raging on April 7, 2003, an intelligence tip was rushed to a special Pentagon targeting team: Saddam Hussein and his two sons had been spotted near a chicken restaurant in the city's wealthy Mansour district.

Less than 45 minutes later, a B-1 bomber obliterated the site with four satellite-guided bombs, leaving a deep crater and at least a dozen dead. The Iraqi ruler, it soon became clear, was not among them.

An Iraqi informant provided the initial tip. But U.S. officials now say confirmation came from an unusual source: two German military intelligence operatives who stayed in a Baghdad safe house after Berlin had closed its embassy.

The Germans drove by the restaurant and saw a convoy of armored vehicles with dark windows, like those used by the Iraqi strongman, parked outside. Germany's Federal Intelligence Service, known as the BND, quickly passed the report to the Pentagon's Defense Intelligence Agency, which was part of the targeting team.

The previously undisclosed role of German intelligence in the widely reported attempt to decapitate the Iraqi regime highlights how the CIA and the Pentagon secretly relied on German and other foreign spy services for critical information on Iraq even as the intelligence agents' governments fiercely opposed the Bush administration's drive toward war.

That behind-the-scenes cooperation forms the backdrop as Germany's new chancellor, Angela Merkel, arrives here today on her first official visit. Officials said she aims to repair U.S.-German relations that were badly strained when her predecessor, Gerhard Schroeder, publicly broke with the White House over Iraq.

U.S. officials said Merkel, 51, will meet President Bush on Friday after a night in the presidential guest quarters across from the White House. The two leaders will discuss terrorism, Iran's nuclear program, Israel's leadership void and other mutual concerns, officials said.

Germany has been roiled in recent months by reports that the Bush administration has maintained secret prisons for suspected terrorists somewhere in Europe, and by public anger over the CIA's use of "extraordinary renditions," in which suspects are secretly snatched and transported to third countries, including some known to practice torture.

In a meeting with Merkel in Berlin last month, Secretary of State Condoleezza Rice discussed the case of German citizen Khaled Masri, who alleges he was mistakenly abducted from Macedonia by U.S. operatives in 2003 and detained for five months, mostly in Afghanistan, on suspicion of terrorism ties. In a lawsuit filed in Virginia, Masri alleges he was tortured during his imprisonment.

Merkel, who in November became Germany's first female chancellor, clearly hasn't forgotten the issue. On Monday, she called for Washington to close its military prison for terrorism suspects at Guantanamo Bay, Cuba. She told the German newsmagazine Der Spiegel that the facility "can and should not exist in the longer term. Different ways and means must be found for dealing with these prisoners."

Despite those differences, administration officials view Merkel as far more amenable to U.S. interests than Schroeder, who sharply criticized Bush and U.S. policies during his two terms in office. Merkel, who grew up behind the Iron Curtain, has vowed to restore transatlantic relations.

Since the ousting of the Taliban in 2001, Germany has sent more troops to Afghanistan than any other country except the United States, but it has refused to commit any military forces to the U.S.-led coalition in Iraq.

Though the use of U.S. military bases in Germany as critical logistical and transportation hubs for the war is an outward reminder of Germany's cooperation, the nation's role assisting U.S. intelligence and combat forces has been well hidden.

German officials acknowledged in recent interviews that they decided in December 2002 to leave a handful of operatives from the BND in Baghdad after the war began.

In some cases, the German officials said, the BND asked team members to eyeball sites in behalf of U.S. intelligence. The officials said the goal was to collect what they called "humanitarian intelligence" to help the U.S. avoid civilian targets or other potential mistakes, such as the U.S. bombing of the Chinese Embassy in Belgrade in 1999.

BND officials said their operatives reported only what they could see and did not provide bombing target coordinates or other specific target data to the Pentagon. The officials said the Germans also met with their own sources and collected other intelligence on the collapsing Iraqi regime once the U.S.-led invasion began in March 2003.

"We were running an operation in Baghdad," said a senior German intelligence official. "We were not taking orders from the Americans."

Similarly, although the French government bitterly opposed the Bush administration's policies on Iraq, French intelligence supplied detailed reports to the CIA from a member of Hussein's Cabinet who was a French spy.

"He said there were no weapons of mass destruction," said a former CIA official. "So we didn't believe him."

History Lessons (WT)

The Washington Times, January 12, 2006

From op-ed by National Security Adviser Sandy Berger published Nov. 23, 1998, in the international Al Hayat:

"[T]he entire world is fed up with Iraq's continuing deception and defiance. Iraq agreed as a condition of the Gulf War cease-fire that it would disclose its weapons of mass destruction arsenal within 15 days. Instead, it has spent the better part of a decade shirking its obligations, withholding information from the inspectors, blocking their work, destroying information in plain sight. There is no clearer example than the recent discovery that Iraq produced VX -- the most deadly chemical in the world --

and loaded it into missile warheads that could be launched at any time against its neighbors. Experts from over a dozen countries have now confirmed this finding... Certainly, when it comes to a rogue regime with weapons of mass destruction and a history of using them, the United States and its friends in the Muslim world must continue to be united -- because we are all at risk."

More Body Armor Is On The Way For U.S. Troops (WP)

By Ann Scott Tyson

The Washington Post, January 12, 2006

The Army announced yesterday that it will soon start producing 230,000 sets of side armor plates and field them over the year to soldiers in Iraq and Afghanistan, after a recently disclosed Pentagon study indicated that such plates could have helped prevent scores of troop deaths since 2003.

The Marine Corps has delivered 9,000 sets of the plates to Iraq, a number that will rise to about 30,000 by April, officials said yesterday. Each set of plates, together with a carrier and soft armor, costs about $450 and weighs about seven pounds, the officials said.

Army and Marine generals in charge of developing and buying equipment defended the pace at which they were getting the new side armor to troops, after a closed-door briefing yesterday on the matter on Capitol Hill. The generals briefed the Senate Armed Services Committee after lawmakers voiced concern over a classified Pentagon forensic study disclosed last week that for the first time linked gaps in upper torso protection to troop fatalities.

The scrutiny of body armor is the latest instance in which Congress has pressured the Pentagon to accelerate the distribution of protective equipment to U.S. troops -- from "uparmored" Humvees and trucks to bulletproof vests. More than 2,200 American troops have died in Iraq since March 2003, 1,741 of them in combat, according to Pentagon figures as of yesterday.

The forensic study of 401 Marines who died in combat in Iraq from March 2003 to June 2005 showed that 21 died primarily from injuries to the side of their torsos. The study, completed in August 2005 by the Office of the Armed Forces Medical Examiner, concluded that those Marines might have benefited from improved protection, such as that offered by the side plates. The findings, if applied to all U.S. combat casualties, suggest that scores of deaths might have been prevented if the new side plates had been worn.

The Marine Corps finalized contracts for the production of the side plates in mid-September and production began six weeks later, with distribution starting in November, said Col. Shawn Reinwald, director for combat equipment at the Marine Corps Systems Command in Quantico, Va. The Marine Corps commandant decided on the need for side plates in June, he said.

The Army also identified a requirement for the side plates in the past year, when Army truck drivers running convoys in Iraq asked for them, Maj. Gen. Jeffrey A. Sorenson, the Army's acquisition chief, told reporters. The Army took a design created by a commander in Iraq, minimized the plates' weight and this week determined the optimal size, according to Maj. Gen. Stephen M. Speakes, director of force development for the Army. "It's a great success," Speakes said.

The generals said the side plates are the most recent in a series of body armor upgrades that have improved the likelihood of survival for U.S. troops. But they stressed that the added armor has drawbacks because it can limit troops' mobility and raise body temperature -- a major consideration, given the 130-degree heat in which forces are fighting.

"We don't want a medieval knight. We are not going to be hoisted onto a horse," Speakes said. "All of this is a very difficult trade-off. How much is adequate?"

As a result, the new armor will be supplied to all troops, but commanders will decide case by case whether the mission requires them to wear it, Army and Marine officials said.

Army Sending Added Armor To Iraq Units (NYT)

By Michael Moss

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - Army officials said Wednesday that they had decided to send additional body armor to Iraq to protect soldiers from insurgents' attacks.

The ceramic plates now worn by most members of the military shield just some of the upper body from bullets and shrapnel, and the Army said it would buy plates that would extend this protection to the sides of soldiers. The officials spoke after a closed session of the Senate Armed Services Committee, held after The New York Times reported last week that a Pentagon study had found that extra armor could have saved up to 80 percent of the marines who died in Iraq from upper body wounds.

In at least 74 of the 93 fatal wounds that were analyzed, bullets and shrapnel struck the marines' sides, shoulders or areas of the torso where the protective plates did not reach.

DOJ_NMG_0009443

The Marine Corps, which commissioned the study in December 2004, began buying side plates in September for its 26,000 troops in Iraq. Army procurement officials said they began studying a similar move last summer after receiving requests from troops in Iraq, but were hampered by the need to supply a much larger force of 160,000 individuals.

The Army had begun supplying small quantities of side plates to soldiers much earlier in the war through its Rapid Equipping Force. Armor Works of Tempe, Ariz., which is making the plates for the marines, said it shipped 250 sets in November 2003.

Another manufacturer, the Excera Materials Group of Columbus, Ohio, said that since late 2004 it had shipped 1,000 sets of side plates to Special Forces personnel, the Air Force and individual units that used their own procurement money to buy the armor.

Citing security concerns, the Army has in recent days urged armor contractors not to disclose information about their work, even if the information is not classified, industry officials said.

"Neither you nor any of your employees are authorized to release to anyone outside your organization any unclassified information, regardless of medium, pertaining to any part of your contract," says a letter from an Army research and procurement unit that The Times obtained.

In Congress on Wednesday, Army and Marine officials defended their efforts to procure additional armor, saying they had to weigh the benefits of additional plates against adding weight and restricting mobility. Citing those concerns, Marine officials said last week that they remained reluctant to buy shoulder plates or larger plates for the chest and back.

"This is a continuous evolution," Maj. Gen. Stephen M. Speakes, the Army director of force development, said after the Senate briefing.

National Guard Troops Sue Government In Pay Dispute (REU-Y2)

By Jason Szep

Reuters, January 12, 2006

Four members of the Massachusetts National Guard filed a $73 million class-action lawsuit on Wednesday against Defense Secretary Donald Rumsfeld and other military officials in a dispute over on-the-job expenses since the September 11 attacks.

The lawsuit, which also names Massachusetts Gov. Mitt Romney, appears to be the first of its kind in the U.S. Army National Guard, which has faced heavy demands since September 11, 2001, lawyers involved in the case said.

The four men from Massachusetts and New Hampshire filed the suit in U.S. District Court on behalf of soldiers in about 300 jobs in the Massachusetts National Guard owed money for meals, car fuel, lodging and daily allowances, their lawyers said.

"The National Guard refused to reimburse millions of dollars to soldiers called for active duty following the 2001 terror attacks," John Shek, counsel for the plaintiffs, said at a news conference.

"We have found that the closer we look at this the worse the situation gets."

Officials at the National Guard were not immediately available to comment.

Thousands of soldiers in the Guard, a part-time force whose 440,000 members live civilian lives while doing periodic military training, were mobilized after the September 11 attacks to protect airports, borders and other possible targets. Tens of thousands also have been deployed to fight in Iraq and Afghanistan.

SYSTEM FOR EXPENSES

At the heart of the suit is the system of paying expenses to Guard troops who say they traveled hundreds of miles (km) and paid for their own food, car fuel and lodging to perform their duties.

Shek said while National Guard soldiers across the country were paid under federal orders known as "title 10" that included daily allowances, hundreds of troops in Massachusetts were given different orders known as "title 32" that excluded daily allowances but required the same work.

The controversy cuts to the core of the Guard's dual federal and state roles. For state missions, the governor can call on the Guard during emergencies such as storms, fires, earthquakes or civil disturbances. The U.S. president also can call on them for federal missions.

Capt. Louis Tortorella, 51, estimated he was owed $14,600 a year for the two years he worked before he retired in October 2003. He said there were about 1,000 to 1,500 Guard soldiers who worked in Massachusetts owed similar expenses.

After the September 11 attacks, Tortorella was called up to protect the Quabbin Reservoir, which supplies water to about 2.5 million people in metropolitan Boston and is about a five-hour drive each day from his home in New Hampshire.

In their complaint, the soldiers said their requests for compensation were repeatedly denied.

"It was always either shoved to the side or they turned their backs on us," said Sgt. Wayne Gutierrez, 39, who estimates he was owed at least $17,500 a year for his 2-1/2 years in the Army National Guard in Massachusetts.

Lanky Teen Driven To Become A Marine (WP)

By Nikita Stewart

The Washington Post, January 12, 2006

As a teenager, Kyle W. Brown was always long and lanky -- a little too slight to be a Marine, despite a high school career in the Navy Junior ROTC, said his grandmother, Katheryn Brown.

"They said, 'You're too skinny to be a Marine,' " recalled Brown, 68. "He worked out hard for a year and a half and beefed up."

In July 2002, the Newport News, Va., teenager realized his ambition.

Last Saturday, Lance Cpl. Kyle W. Brown, 22, was fatally shot in the head by a sniper in Anbar province near Fallujah, according to the account his grandmother said Marine Corps officials gave the family. It was his second tour of duty in Iraq.

An official news release from the Department of Defense said Brown was killed "by enemy small arms fire" near Fallujah. Lance Cpl. Brett L. Lundstrom of Stafford was killed in a separate attack in the same area that day, according to the release. A spokesman for the 2nd Marine Division, 1st Lt. Barry Edwards, said that was all the information he had.

Brown and Lundstrom were assigned to the 2nd Battalion, 6th Marine Regiment, 2nd Marine Division, 2nd Marine Expeditionary Force, based at Camp Lejeune, N.C.

Brown was raised in Newport News and lived with his grandmother. He went to Heritage High School. He had a crooked smile and was so mild-mannered that his grandmother called him "Casper."

"You know, like the friendly ghost," she said during a phone interview.

Growing up, he loved ramen noodles, which he called "Roman noodles," and WarHeads sour candy. "They would light your head up. He used to like to slip me one and look at my face," Brown said.

"He was also silly. You know how teenagers can be silly," she said. "He'd come down and sit at the breakfast table in his underwear with those chicken legs. I'd say, 'Hey, put some pants on.' "

But Kyle Brown was serious about the Marines. "He kept his hair cut short," his grandmother said.

When he finally bulked up enough to make the cut and enlist, he said, "How do you like me now? I'm a Marine," Brown recalled.

She said her grandson was unusually patriotic, although he was hesitant about returning to Iraq after he left in September, she said. "First of all, we are Americans. Freedom is not free," she said.

The family hopes to have visitation this weekend in Poquoson, Va., and will have a funeral at 1 p.m. Tuesday at Arlington National Cemetery, Brown said.

Kyle Brown earned several commendations and medals, including the Iraqi Campaign, Global War on Terrorism Service and National Defense Service medals, Edwards said. Brown had been with the 2nd Battalion since February 2003, he said.

Lundstrom, 22, received medals for the Iraqi Campaign, Afghanistan Campaign, Global War on Terrorism Service and National Defense Service. He joined the Marines in January 2003, Edwards said.

His family could not be located for comment.

DOJ:

Gonzales Will Take Part In Opening Of Center (SLPD)

St. Louis Post-Dispatch, January 11, 2006

U.S. Attorney General Alberto R. Gonzales will make his first official appearance in St. Louis, helping on Thursday morning to open the city's new Family Justice Center.

He will be joined by U.S. Sen. Jim Talent; Diane Stuart, director of the Justice Department's Office of Violence Against Women; Catherine L. Hanaway, the U.S. attorney in St. Louis; Mayor Francis Slay and other leaders.

The Family Justice Center, a 12,000 square-foot facility at 1139 Olive Street, was funded with a $1.25 million Justice Department grant. It is billed as a one-stop resource for women and their families looking to escape domestic abuse.

CORPORATE SCANDALS:

South Floridians Plead Guilty To Hedge Fund Fraud (SFBJ)

By Jim Freer

South Florida Business Journal, January 12, 2006

DOJ_NMG_0009445

The U.S. Attorney for the Southern District of Florida, the FBI and the Florida Office of Financial Regulation said Anthony Giordano, 29, of Boca Raton, pleaded guilty to federal securities fraud and wire fraud. They said Joseph Zumwalt, 46, of Fort Lauderdale, pleaded guilty to mail fraud in connection with the former EPG Limited Partners of Fort Lauderdale.

"Investors lost more than $1.4 million in as a result of the fraud," the U.S. Attorney's office said.

The government said the defendants admitted representing to investors, including two religious organizations, that they would invest their monies in a hedge fund administered by EPG.

Instead, the government said, Giordano converted millions of dollars for other uses, including personal gain.

Giordano also admitted to manipulating the common stock of Fort Lauderdale-based Weida Communications (Pink Sheets: WDAC) to about $5 a share, in part to facilitate the sale of Weida stock in private transactions at about $3 a share, the government said.

As part of the plea agreement, Giordano transferred more than $2 million in restitution to the U.S. District Court in Miami. The government also said he has agreed to pay $3.25 million more in restitution at sentencing.

Sentencing is scheduled for March 20 before U.S. District Court Judge William Zloch.

Giordano faces a maximum of 20 years in prison and a maximum fine of $5,000 for securities fraud.

Giordano and Zumwalt each face maximum prison terms of 20 years and fines of up to $250,000 for wire fraud and for mail fraud.

SEC Losing Torchbearer On Corporate Behavior (WSJ)

By Kara Scannell

The Wall Street Journal, January 12, 2006

WASHINGTON -- Alan Beller, a major figure in the Securities and Exchange Commission's drive to overhaul corporate governance, will leave the agency next month, giving SEC Chairman Christopher Cox another high-level vacancy to fill.

Mr. Beller's departure comes as the SEC is unveiling the most sweeping overhaul of executive-compensation disclosure in 14 years.

A proposed rule outlining the changes is expected to be discussed at a public hearing Tuesday, and after a public comment period it could take effect for the 2007 proxy season.

The executive-compensation proposal is the capstone for Mr. Beller, 56 years old, who joined the agency in 2002 to head its corporation-finance division.

He oversaw the implementation of the Sarbanes-Oxley corporate-governance law and an update to securities-offering laws, which allow for greater communication including electronic versions of preoffering "roadshows" for investors before initial public offerings of stock.

Mr. Beller also has overseen the proposal or implementation of other rules, such as one to speed up the time companies have to file periodic reports, Internet delivery of proxies to investors, and a rule that makes it easier for foreign-based companies to deregister from U.S. reporting requirements. He also helped set up a small-business advisory committee, which is charged with providing guidance to the agency on the costs of regulations to small businesses.

He will "be recognized as one of the giants of the SEC of all time," Mr. Cox said.

Mr. Beller's departure has been rumored for months amid speculation that he was waiting until the executive-compensation proposal was completed. He said he will return to private practice, but will stay until February to help with a transition.

While Mr. Cox has said filing vacant spots is an organizational priority, he has yet to staff directors for the divisions of market regulation, investment management and chief accountant. He also needs to name the head of the Public Company Accounting Oversight Board. Agency insiders have said the delay in filling positions has created some tension as it has slowed decision-making on some issues.

The openings afford Mr. Cox an opportunity to set a tone with his selections. Earlier this month, he named former Latham & Watkins colleague Brian Cartwright as general counsel. Mr. Cartwright, a former rocket scientist, is expected to start later this month.

CRIMINAL LAW:

Sources: Two Lawmakers Could Face Charges In Abramoff Probe (CNN)

By Kelli Arena and Kevin Bohn

CNN.com, January 12, 2006

DOJ_NMG_0009446

WASHINGTON (CNN) -- Up to a half dozen people, including two members of Congress, could face charges after high-powered lobbyist Jack Abramoff's plea deal with the Justice Department, sources with knowledge of the investigation tell CNN.

Abramoff has been cooperating with Justice Department prosecutors and FBI agents for several months in their investigation of his dealings, including his allegations of exchanging gifts for political favors.

Authorities have focused on about 20 people who possibly committed wrongful acts, government sources have previously told CNN. The number is a moving target as new information comes in.

Sources with knowledge of the investigation say at least two members of Congress are under scrutiny as part of the ongoing investigation. One is Rep. Bob Ney, R-Ohio, who sources say was the person identified in Abramoff's plea agreement as the official who took action for Abramoff after receiving from him such things as a golf trip to Scotland.

Ney has steadfastly denied wrongdoing, has pledged to cooperate with the investigation and has said he is confident he will be cleared.

The sources would not identify the other member, and they told CNN that no charges appear imminent.DeLay staffers under scrutiny

Also under scrutiny, the sources say, are some current and former congressional staffers, including at least two people who used to work for then-House Majority Leader Rep. Tom DeLay. DeLay, R-Texas, and Abramoff had a long working relationship.

Investigators are also examining the activities of some officials at the Interior Department and the General Services Administration, sources tell CNN. One former GSA official, David Safavian, was indicted in October on charges of obstructing a GSA proceeding, obstructing a U.S. Senate proceeding and making false statements in connection with the investigation.

Abramoff pleaded guilty to conspiracy, fraud and tax evasion charges January 3 and agreed to cooperate with federal prosecutors. About 30 to 40 FBI agents and other staff are working full-time on this investigation, which officials have said is a high priority for the government. (Full Story)

Legal experts have said while there may be some evidence of ethical violations, it is very hard to prosecute government officials for acting on a bribe, because it is standard operating procedure for lobbyists to do favors for those in power hoping to get something in return. They say it is very hard to bring a court case to prove someone acted as a direct result of a bribe.

An E-mail Trail Of Money And Influence (CSM)

By Peter Grier

The Christian Science Monitor, January 12, 2006

WASHINGTON - Lobbyist Jack Abramoff was, in his own word, "jazzed."

It was Sept. 25, 2001, and the night before he'd attended a small Georgetown dinner given by a Republican environmental group. He'd hobnobbed there with Secretary of the Interior Gale Norton and Deputy Secretary Steven Griles - two of the most important officials in the government, as far as Mr. Abramoff's Indian tribe clients were concerned.

Now it was the day after, and time for a little relationship cultivation.

"The event last night was outstanding!!" he wrote in an 11:54 a.m. e-mail to Italia Federici, president of the group, the Council of Republicans for Environmental Advocacy. "Bravo! ... I have a fantastic box at the Redskins stadium. How about you come this Sunday and see it (invite Steve to come with his family also), and we'll all discuss my doing a fund raiser there for you guys?

"Let me know as soon as you can ... I think [Attorney General John] Ashcroft and his guys will also be there. 1PM game," Abramoff concluded.

The case of Jack Abramoff, disgraced super-lobbyist, provides an unprecedented look at the way Washington really works.

That doesn't mean everyone on K Street is corrupt, as Abramoff and his former partner, public relations consultant Michael Scanlon, now have admitted they were. The pair's "Gimme Five" scheme, in which Abramoff steered business to Mr. Scanlon in return for a 50 percent kickback, was unique - and felonious.

But US investigations of Abramoff and Scanlon produced pointillistic detail about their daily political activities, much of which were perfectly legal. Hundreds of pages of e-mails and congressional testimony released by the Senate Committee on Indian Affairs trace the pair as they scrabble for access, scratch backs, beg for money, and dole out contributions in return.

It's D.C. as it is, a Vanity Fair of skyboxes, name-dropping, and $130 Sushi Taro lunches. Few lobbyists have their own restaurant, as Abramoff did. But many might relate to that twinge of panic when it's the end of the month, and the checks don't seem to be rolling in.

"Our pool is getting shallow - we need to reload my man!" Scanlon e-mailed Abramoff in September 2002.

* * *

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Let's start with what might be called The Great Circle of Influence. It's a basic procedure whereby lobbyists obtain access for their clients, and it's well illustrated by the connections that occurred at the Council of Republicans for Environmental Advocacy (CREA) dinner on Sept. 24, 2001.

There's no evidence that either the CREA group or any of its officials have done anything illegal in conjunction with Abramoff. Ms. Federici strongly defended her innocence in an appearance before the Senate Indian Affairs Committee last November, saying she had been subject to Abramoff's manipulations.

But in 2001, with the Bush administration still new, Federici held a card of value: Top GOP officials would show up if she asked. Secretary Norton had helped found the group, and Mr. Griles was a friend. So both agreed to attend when Federici invited them to a fundraising dinner.

"Just heard back from Interior and the date for the dinner is Monday, September 24th," Federici e-mailed Abramoff in late August 2001. "Steve is personally inviting everyone from Interior and talking with them about the dinner so I expect a wonderful turnout ..."

Abramoff, for his part, controlled something that the GOP environmental group needed: cash. Most of his Indian tribe clients agreed to sign on as trustees of CREA, at a cost of $50,000 each. Among the perks for trustees was an invitation to the CREA dinner. And the Interior Department is where many issues important to Indian tribes, such as land use and casino policy, are decided.

Not that the tribes paid quickly. A few days before the dinner, Federici asked Abramoff when some of that money might flow in, as she was trying to make some payments and budget for the next quarter.

"Hi Italia. Choctaw will come through with the $50K sometime next month (they are over budget for this fiscal year, which ends at the end of the month)," Abramoff replied in a Sept. 21 e-mail. "Kickapoo is going to give in two parts of $25K each, starting next month. Chitimacha has, I believe, already sent over some (was it $10K?) ...."

The dinner was a small one of 23 people, held in a private home near the Naval Observatory. Abramoff seemed happy afterward, as the invitation to his skybox shows. Federici replied a few days later - and asked again if the lobbyists could hurry along promised checks.

"Ahhh - the glamorous world of non-profit work - about one half step above beggar!" she concluded in an Oct. 4, 2001 e-mail to Abramoff.

In subsequent communications with Federici and others, Abramoff called CREA "our access to Norton" and talked about "our guy Steve." He bragged about quashing Interior Department policies that are against his client tribes' interests, and weighed in with his thoughts on who should get key Interior jobs.

But Sen. John McCain (R) of Arizona, chairman of the Indian Affairs committee, has said the panel has found no evidence that Norton was aware that Abramoff was invoking her name for gain. Griles has testified that he treated Abramoff no differently than other lobbyists.

And within the e-mail trail are hints that Abramoff didn't have quite the juice he claimed. He was taken by surprise when Norton named Aurene Martin acting head of Indian Affairs in January 2003 - just the sort of thing a well-connected lobbyist should know in advance.

And by July 2003, he appeared to be out of the loop, reduced to begging for advice.

Griles "won't discuss any of my clients with me," he complained in a July 17 e-mail to Federici. "The problem is that since he won't do so, and since you are not able to chat with him now, I am left in a real dilemma. I can't deliver anything from Interior for my clients."

* * *

Another aspect of lobby life well illustrated in the Abramoff e-mails is infrastructure maintenance. As in, how to get your clients to share the bill for those must-have trappings of success, such as stadium boxes.

In May 2001, Abramoff asked Kathryn Van Hoof, chief counsel of the Louisiana Coushattas, if the tribe wanted to join some of his other clients in his sports suites program. For $185,000, Abramoff wrote in an e-mail, tribal leaders could be official cosponsors of his existing luxury boxes for D.C.-area baseball, hockey, and football venues.

This investment would translate into approximately 400 fundraising opportunities, Abramoff promised, virtually all used by members of Congress or their organizations.

"The huge leverage in doing this is that the tribe not only gets the political credit for making available the sports suite, but gets credit with the Member for all funds raised in that evening," wrote Abramoff.

Pressed by Ms. Van Hoof for more details, Abramoff said the Coushattas would be taking the place of some withdrawing Russian clients. Personal attendance is not a requirement of the deal, said the lobbyist; the Choctaws sent a representative "very rarely", his Marianas clients "never." The tribe should instead send a couple of framed items to hang on the football stadium and MCI Center walls.

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"It helps when you attend, but if you are not there, we still make a big deal about you guys being their hosts and we spend a lot of time discussing the tribe," wrote Abramoff.

In Washington, clients of lobbyists are accustomed to being directed where to send large sums of money. Lists of lawmakers and organizations deemed important for the client to support are a staple lobbyist product; a number of these lists are included in the trove of Abramoff e-mails and documents.

Thus a request for an Indian tribe to pay $185,000 to allow other people to watch a football team named "Redskins" did not apparently strike the Coushattas as out of line. The tribe cut the check for the program on May 25, 2001.

* * *

Finally, if you're going to be a player in the lobby game, you've got to accept the concept of strange bedfellows. Your ally today can easily be the group that was at your throat last week.

Thus one of Abramoff's primary weapons for protecting the gambling interests of his Indian tribes was the antigambling Christian right. For at least three projects between 1999 and 2002, Abramoff enlisted the help of Ralph Reed, former executive director of the Christian Coalition and current candidate for Georgia lieutenant governor.

The logic went this way: Use opponents of gambling to stamp out new gambling proposals that threaten the profits of existing casinos. And Mr. Reed enthusiastically rallied antigambling troops:

"We are opening the bomb bays and holding nothing back. If victory is possible, we will achieve it," wrote Reed in a 1999 e-mail to Abramoff regarding a campaign to kill an Alabama casino proposal for the benefit of the Mississippi band of Choctaw Indians.

But Reed and his campaign firm were expensive, prompting Abramoff to finally explode.

"He is a bad version of us! No more money for him!" the now-admitted felon e-mailed his partner Michael Scanlon in 2002.

Congressman's Ex-aide Admits Abetting Bribery (USAT)

USA Today, January 12, 2006

A former aide to Rep. William Jefferson, D-La., pleaded guilty Wednesday to charges that he helped a congressman solicit bribes to arrange two telecommunications deals. A spokeswoman for Jefferson declined to comment.

Brett Pfeffer, 37, pleaded guilty to conspiracy and aiding and abetting bribery of a public official. He agreed to cooperate with prosecutors and testify if needed. He could get 20 years in prison when sentenced March 31.

Pfeffer said in court that a congressman had solicited his assistance in promoting telecom deals in Nigeria and Ghana. The congressman demanded 5% to 7% of the newly formed African companies in exchange for his help promoting the deal, according to Pfeffer.

Court documents referred to the congressman only as “Representative A," but the documents said Pfeffer was his legislative aide from 1995 through 1997. Pfeffer was Jefferson's legislative aide during that period.

Rice faults Syria in assassination probe

Secretary of State Condoleezza Rice said Syria must cooperate with an investigation into a political assassination or face possible United Nations sanctions.

U.N. investigators have been trying to interview Syrian President Bashar Assad as part of an investigation into the assassination Feb. 14 in Beirut of former Lebanon prime minister Rafik Hariri, who was an opponent of Syrian domination of his country.

“We intend to refer this matter back to the Security Council if Syrian obstruction continues,” Rice said.

The U.N. probe has implicated Syria, but the Syrian government has denied the allegations.

Rice also said the United States “has grave and continuing concerns about Syria's destabilizing behavior and sponsorship of terrorism.”

U.S. ready to seek sanctions against Iran

Iran made a “serious miscalculation” by moving to resume uranium enrichment, and intensive talks are underway with U.S. allies about what to do now, White House spokesman Scott McClellan said.

State Department spokesman Sean McCormack said it was now “more likely than ever” that Iran would be referred to the U.N. Security Council for possible economic sanctions. Representatives from Britain, France and Germany, which with U.S. backing have been negotiating with Iran, are meeting today in Berlin to consider their next step.

Iran removed U.N. seals at research facilities Tuesday and said it would resume nuclear research after a two-year freeze. Iran says its program is to produce electricity, not bombs.

GOP leadership vote to go on as scheduled

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Republican leaders of the House of Representatives rejected calls to move up the election of a new majority leader to replace Rep. Tom DeLay of Texas. DeLay had to step aside after he was indicted in September on charges related to fundraising. Speaker Dennis Hastert of Illinois decided to keep the leadership election as scheduled on Feb. 2.

Supporters of Missouri Rep. Roy Blunt, the No. 3 Republican in the House as party whip, had called this week for holding the election before the House reconvenes Jan. 31. Blunt claims to have more support than his challenger, Ohio Rep. John Boehner, chairman of the House Education and Workforce Committee.

Lieberman has broad support in poll

Sen. Joe Lieberman, D-Conn., has lost some support because of his backing of the Iraq war, but 64% of voters in his state believe he should be re-elected, a Quinnipiac University poll found.

The poll found 24% opposed his re-election and the rest didn't know. Lieberman, the 2000 vice presidential nominee and running mate of Al Gore, is seeking a fourth Senate term in November.

Lawmaker Sought Cut Of Nigerian Deal: Aide (REU-Y2)

By Andy Sullivan

Reuters, January 12, 2006

Louisiana Democratic Rep. William Jefferson (news, bio, voting record) sought a cut of a Nigerian telecommunications venture in return for his help setting it up, a former aide said on Wednesday as he pleaded guilty to bribery charges.

In return for lobbying Nigerian officials and arranging a loan through the U.S. Import-Export Bank, Jefferson demanded an ownership stake in a venture by two U.S. companies to provide high-speed Internet and cable television to Nigeria, former aide Brett Pfeffer said.

"The congressman told me he would require 5 to 7 percent of ownership of the company," Pfeffer told U.S. Judge T.S. Ellis. "He was to help promote the business opportunity to Nigerian officials."

Pfeffer, 37, pleaded guilty to conspiracy to commit bribery and aiding and abetting the solicitation of bribes by a member of Congress for his role as a go-between in the deal, and agreed to cooperate in the investigation.

He faces up to 20 years in prison and a $500,000 fine.

According to a statement of facts released in the plea deal, Jefferson sought to place a relative on the company's payroll at a salary of $2,500 to $5,000 per month and steer legal work toward another relative.

Jefferson also lobbied government officials in Ghana to try to set up a similar venture there, according to the plea deal.

A Jefferson spokeswoman declined to comment.

The agreement comes as Congress faces the largest corruption scandal in decades. Lobbyist Jack Abramoff pleaded guilty to fraud last week and admitted that he provided golf trips, campaign contributions and other gifts to lawmakers in exchange for favorable treatment for his clients.

The Abramoff scandal so far has largely implicated Republicans like former House Majority Leader Tom DeLay, but Pfeffer's agreement could make it difficult for Democrats to portray corruption as a strictly Republican issue as they try to win back control of Congress.

Jefferson is not named in Pfeffer's plea agreement, which only describes a "Representative A" who employed Pfeffer from 1995 to 1998.

News accounts from that period cite Pfeffer as Jefferson's legislative director.

According to court papers, Pfeffer's investment firm in 2004 agreed to invest $45 million to provide high-speed Internet and cable TV service to Nigeria over the existing copper telephone wires there.

Jefferson recruited Pfeffer's company for the deal and connected it to a Kentucky technology provider whose equipment would be used in the venture. As the agreement was signed he told Pfeffer he would require an ownership stake, according to court papers.

"Pfeffer understood that Representative A was soliciting a bribe in return for Representative A's official assistance in furthering the Nigerian Deal. Pfeffer .... later advised (his boss) that it was part of the cost of doing business with Representative A," the plea deal said.

Pfeffer's boss is not named in the plea deal but is described as a witness cooperating in the investigation.

Pfeffer's lawyer declined to comment after the hearing.

U.S. Assistant Attorney Mark Lytle also declined to comment.

Jefferson has held his seat since 1990, representing many New Orleans neighborhoods that were devastated by Hurricane Katrina. He serves on the tax-writing Ways and Means Committee.

An August 2005 FBI raid on his homes in Washington and New Orleans found thousands of dollars in cash stored in a freezer, according to news reports.

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Jefferson traveled to Nigeria in February 2004 and Ghana in July 2005, according to congressional campaign-finance records.

The $9,248 Ghana trip was paid for by Win Win Strategies Foundation, which did not return a call seeking comment.

A Kentucky technology company called iGate Inc. helped underwrite the Nigeria trip. News accounts indicate that iGate participated in the venture with Pfeffer's company. The company could not be reached for comment.

Ex-Aide Pleads Guilty To Bribing Congressman (WP)

By Allan Lengel

The Washington Post, January 12, 2006

A former aide to Rep. William J. Jefferson (D-La.) pleaded guilty yesterday to bribing the congressman to promote high-tech business ventures in Africa.

Brett M. Pfeffer, 37, of Herndon, a former president of a McLean investment firm, pleaded guilty in U.S. District Court in Alexandria to conspiracy to commit bribery of a public official and aiding and abetting the bribery of a public official in 2004 and 2005.

Pfeffer, who worked as Jefferson's legislative aide from 1995 to 1998, faces up to 20 years in prison. He has agreed to cooperate in the ongoing FBI probe.

The man Pfeffer bribed is referred to only as "Representative A" in court papers. But law enforcement sources and documents make clear the politician is the defendant's former employer, Jefferson, who has not been charged in the case.

Pfeffer recounted in court how his former Capitol Hill boss, in exchange for using his congressional influence in Africa, demanded a 5 to 7 percent stake in one of two new companies Pfeffer's firm was investing in. The companies were to provide high-speed Internet and cable TV service in Ghana and Nigeria.

Pfeffer said the congressman also demanded that two relatives be put on the businesses' payrolls.

Pfeffer told his boss at the investment firm, a 41-year-old woman referred to as "CW" in court papers, that such was the cost of doing business with the congressman, a court document said.

Jefferson, a senior member of the Ways and Means Committee, is co-chairman of the congressional Africa Trade and Investment Caucus and the caucuses on Brazil and Nigeria.

At one point last year, the FBI set up a sting in which Pfeffer's investment company boss recorded conversations, according to law enforcement sources who declined to be identified because the investigation is ongoing.

FBI agents also raided several locations, including Jefferson's homes in the District and New Orleans, where they found about $90,000 in cash in a freezer, sources said.

Jefferson's press secretary, Melanie Rousell, declined to comment yesterday, saying Jefferson was in the Netherlands studying flood controls.

His attorney, Michael Fawer, said he wanted to speak to Jefferson before commenting.

According to court documents, in early 2004, Pfeffer told his former boss about his job at a McLean investment company and "his search for business opportunities."

Pfeffer said Jefferson told him about an opportunity in Nigeria involving a Louisville-based company with the rights to a technology enabling copper wires to carry high-speed Internet. Pfeffer's boss eventually agreed to invest $45 million in the Nigeria venture, and Jefferson demanded a stake as well assurances his relatives would be on the payroll, according to court documents.

"Pfeffer understood that [Jefferson] was soliciting a bribe in exchange for [his] official assistance," the court document said.

The document said a similar deal was struck in 2005 regarding a Ghana deal.

In U.S. Bribe Probe Of Rep. Jefferson, Ex-Aide Sets Plea (WSJ)

By Anne Marie Squeo

The Wall Street Journal, January 12, 2006

WASHINGTON -- Federal prosecutors secured a guilty plea from a former legislative aide to Rep. William Jefferson in a continuing bribery investigation of the Louisiana Democrat.

Brett Pfeffer, 37 years old, pleaded guilty to conspiracy to commit bribery as well as aiding and abetting the solicitation of bribes by a member of Congress. As part of his plea in an Alexandria, Va., federal court, Mr. Pfeffer agreed to cooperate with law enforcement in the probe. He faces up to 20 years in jail and a fine of as much as $500,000 under the terms of his agreement.

The plea agreement doesn't refer to Mr. Jefferson, but rather "Representative A." Details of Mr. Pfeffer's employment for the congressman make clear who is being discussed, however.

A spokeswoman for Mr. Jefferson said the congressmen wouldn't be commenting on Mr. Pfeffer's plea.

The investigation of Mr. Jefferson is separate from the Justice Department probe into members of Congress involved with former Republican lobbyist Jack Abramoff and his business associate Michael Scanlon.

According to the filing, Mr. Pfeffer worked for Mr. Jefferson from 1995 to 1998. He stayed in touch with Mr. Jefferson after leaving his office and later become president of a Virginia investment company.

In 2004, while at this company, Mr. Pfeffer introduced the controlling partner of his firm to Mr. Jefferson. The congressman then introduced that unnamed person, who later became a cooperating witness for the government, to the founder of a Kentucky company planning to provide high-speed Internet and cable-television service to the government of Nigeria. The two agreed Mr. Pfeffer's company would invest $45 million in the Nigerian plan, according to the government's filings in the case.

Afterward, Mr. Jefferson then asked Mr. Pfeffer, as a representative of the controlling partner in his firm, to seek bribes on his behalf in exchange for the congressman using his official post to promote the Nigerian arrangement. Mr. Pfeffer, who also stood to make money if the Nigerian deal proved successful for his company, then passed along these requests by the congressman. In addition, federal prosecutors allege that Mr. Jefferson agreed to promote a similar telecommunications deal for the country of Ghana in exchange for certain payments.

Mr. Jefferson, an eight-term congressmen, is a senior member of the House Ways and Means Committee and its subcommittee on trade, and also co-chairs the Africa Trade and Investment Caucus.

Congressman Implicated In Case (NYT/AP)

By The Associated Press

The New York Times, January 12, 2006

ALEXANDRIA, Va., Jan. 11 (AP) - A Louisiana congressman demanded bribes in exchange for his help in promoting a pair of business deals in Africa, according to court documents filed Wednesday with a guilty plea by a former aide.

The aide, Brett Pfeffer, 37, a former legislative director to Representative William J. Jefferson, Democrat of Louisiana, pleaded guilty to aiding and abetting bribery of a public official and conspiracy. Mr. Pfeffer could get 20 years in prison when he is sentenced March 31.

A spokeswoman for Mr. Jefferson declined to comment.

Mr. Pfeffer said in federal court here that a congressman had demanded bribes in exchange for his assistance in brokering two African telecommunications deals.

Court documents did not identify the congressman by name, but the documents make clear that Mr. Jefferson is the congressman.

According to the documents, Mr. Pfeffer was employed as a legislative assistant by the congressman from 1995 through 1997. That is when Mr. Pfeffer served as a legislative aide to Mr. Jefferson.

Mr. Pfeffer agreed to cooperate with prosecutors and testify if needed.

The conspiracy took place in 2004 and 2005, years after Mr. Pfeffer had left Mr. Jefferson's office, according to the authorities.

Mr. Pfeffer said in court that a congressman had solicited his assistance in promoting business opportunities in Nigeria and Ghana. The congressman demanded 5 percent to 7 percent of the newly formed African companies in exchange for his help promoting the deal, Mr. Pfeffer said.

Mr. Pfeffer's lawyer, Paul Knight, declined to comment.

Court records give no indication how much money Mr. Jefferson stood to receive.

The F.B.I. raided Mr. Jefferson's home in August.

Mr. Jefferson was elected to the House in 1990, becoming the first black congressman from Louisiana since Reconstruction.

Former Congressional Aide Pleads Guilty In Bribery Scandal (FOX)

FoxNews, January 11, 2006

ALEXANDRIA, Va. — A former congressional aide pleaded guilty on Wednesday to charges of conspiracy to commit bribery and aiding and abetting the solicitation of bribes by a member of Congress.

Brett Pfeffer , a former aide to Rep. William Jefferson , D-La., entered his plea deal in U.S. District Court in Alexandria, Va. Pfeffer faces up to 20 years in prison when sentenced March 31 and a fine of up to $500,000.

"Today this defendant admitted to a crime which, at its core, is a bribery scheme involving a public official," said Assistant Attorney General Alice Fisher of the Criminal Division. "Such schemes deprive citizens of the integrity and honest services expected of our government. The Justice Department will aggressively investigate and prosecute these illegal schemes."

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Pfeffer, who worked as a legislative assistant for Jefferson from 1995 to 1998, must cooperate with officials in an ongoing investigation, according to the plea deal.

"The congressman told me of a business opportunity in Nigeria," Pfeffer told Judge T.S. Ellis. "I took that opportunity to a woman I work for. She decided to invest in this company. [Jefferson] would require 5 to 7 percent of the company for his family. In exchange, he would work with officials in Nigeria to further the business."

Prosecutor Mark Lytle said the congressman and Pfeffer traveled to Ghana in July to promote a similar deal there.

Pfeffer, 37, told officials that Jefferson accepted bribes in connection to supporting a telecommunications agreement with the Nigerian government. The court documents do not name Jefferson specifically but refer to him only as "Representative A."

The documents make obvious that Jefferson is the congressman who allegedly solicited the bribes, which was initiated by the Kentucky-based company, and received monthly payments of $2,500 to $5,000 for his family members between 2004 and August 2005.

In August, the FBI searched Jefferson's Louisiana home and Nigerian Vice President Atiku Abubakar's Maryland residence. Jefferson was first elected to Congress in 1990, becoming the first black Louisiana congressman since Reconstruction. He was criticized after Hurricane Katrina for getting the National Guard to escort him to his flooded home at a time when federal resources were sorely strained.

Pfeffer's attorney, Paul Knight, and Jefferson's spokeswoman, Melanie Rousell, declined comment.

Jefferson was unable to comment on Wednesday because he was traveling in the Netherlands with Sen. Mary Landrieu, D-La., to review levee systems. Jefferson is expected back on Thursday to attend a hearing in Louisiana.

The bribery probe is separate from the ongoing investigation of lobbyist Jack Abramoff , who pleaded guilty last week to federal charges. Abramoff's investigation could bring down some lawmakers and their aides, including a former aide to Rep. Tom DeLay, R-Texas.

The investigation has looked into Jefferson's dealings with a privately held technology company, iGate Inc. in Louisville, Ky., which was seeking telecommunications contracts in Nigeria.

FOX News' Molly Hooper and The Associated Press contributed to this report.

Kickbacks Admitted In Work For New Orleans (NOTP)

By Bruce Eggler, Staff Writer

New Orleans Times-Picayune, January 12, 2006

Federal prosecutors rang up another conviction Wednesday in their probe of a scheme to skim hundreds of thousands of dollars from a huge energy-efficiency contract awarded during former New Orleans Mayor Marc Morial's tenure at City Hall.

Under an agreement with prosecutors, Michael Garnett, a subcontractor who did work under the $81 million Johnson Controls Inc. deal, pleaded guilty to misprision of a felony for knowing about crimes related to the scheme but failing to inform authorities, U.S. Attorney Jim Letten said.

Garnett is the fifth subcontractor to enter a guilty plea related to the Johnson Controls contract, Letten said.

The 20-year contract with Johnson Controls, awarded in 2000, was the largest signed by the Morial administration. It was intended to save the city money on its energy bills, in part by replacing an array of energy-consuming fixtures with more efficient models.

Letten said Garnett admitted providing kickbacks to Kerry DeCay, director of the Department of Property Management under Morial, in connection with the subcontract given to Garnett's company, Golden Hammer Construction.

The kickbacks included a refrigerator costing $5,278.20 and an icemaker worth $1,387.57 that Garnett's company bought for DeCay's home, plus an identical icemaker for the home of Terry Songy, Johnson Controls' local project manager, according to the plea agreement.

Songy has told investigators that he and DeCay "controlled assignments given to Golden Hammer under its subcontract with Johnson Controls," the document says.

DeCay has said he's innocent. Prosecutors have said Songy is expected to plead guilty and is cooperating with the investigation.

Letten said Garnett was placed in the difficult position of having to give payments to a city official to get city business, and that he did so reluctantly. Letten urged other business owners to refuse to be corrupted and to report any approaches for kickbacks to the FBI.

Garnett, whose case was investigated by the FBI and the Internal Revenue Service, entered his plea before U.S. District Judge Martin Feldman.

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Feldman, who is set to sentence Garnett April 19, could impose a maximum of three years in prison and a $250,000 fine. But Garnett, and several other Johnson Controls subcontractors who have pleaded guilty to the same crime, could draw a much lighter sentence in return for cooperating with the government.

Subcontractors Roy Joseph Broussard of R.J. Broussard LLC and Owen Prestridge of Owen Prestridge Contractor pleaded guilty in November. Two others, Randall Moore of National Contractor Services Inc. and Michael Farris of Specialty Machines Services, filed guilty pleas in December, First Assistant U.S. Attorney Jan Mann said.

Charges were filed against the five subcontractors and Songy in August. Letten said at the time that all were expected to plead guilty and cooperate with the government.

Besides DeCay, the highest-profile defendants in the Johnson Controls case are expected to be Reginald Walker, owner of a construction company that received a large subcontract from Johnson Controls, and restaurateur Stan "Pampy" Barré, a confidant of Morial's.

According to a grand jury indictment issued in June, DeCay, Walker, Barré and Songy plotted to skim money from the contract by inflating the costs of various jobs. Subcontractors would be directed to turn in fraudulent invoices, after which they would kick back money and sometimes other items to Barré, Songy and DeCay, the indictment said.

Barré grossed more than $800,000 from the deal for little or no work, while Songy and DeCay each took in at least $100,000 in cash and gifts, according to the June 16 indictments.

The government said Barré, DeCay and Songy also agreed to change the contract's scope of work to include renovations to Barré's concession stands at the Morris F.X. Jeff Municipal Auditorium and the Mahalia Jackson Theatre of the Performing Arts. Those changes and others unrelated to energy efficiency added $1.8 million to the price of work in the two buildings, the indictment said.

Barré and Walker have said they are innocent.

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Bruce Eggler can be reached at beggler@timespicayune.com or (504) 826-3320.

Council Member Pleads Not Guilty To Extortion (AP)

AP, January 11, 2006

NEW ORLEANS (AP) — A member of the St. Tammany Parish Council has pleaded not guilty to federal charges of extorting at least $50,000 from a businessman in an alleged attempt to broker a contract of dispose of debris from Hurricane Katrina.

Advertisement

Joe Impastato, 33, entered the plea Tuesday to extortion, conspiracy and money laundering.

Impastato has admitted making a deal with the owner of Pontchartrain Chipping Yard LLC in Lacombe, but says he obtained an opinion from a private attorney to ensure his actions were legal.

U.S. Magistrate Louis Moore Jr. allowed Impastato to remain free on $5,000 bond he posted after his arrest in November. Each of the three counts carries up to 20 years in prison.

A grand jury accused Impastato of contacting Pontchartrain Chipping and offering to negotiate a debris-dumping deal for the company in exchange for part of the $200,000 contract. Authorities said Impastato was arrested after the company's owner contacted the FBI, which set up a sting operation.

F.B.I. Said To Grill Man, 20, On Cruise Disappearance (NYT)

By Alison Leigh Cowan

The New York Times, January 12, 2006

The lawyer for one of the men last seen with a Connecticut newlywed before he vanished on a Mediterranean cruise last summer said federal agents had pressured his client for information about the man's disappearance and threatened to charge him with the rape of a female passenger if he declined to cooperate.

In his first extensive comments on the case, the lawyer, Albert Y. Dayan, said that his client, Rustislav Kofman, denied any role in the disappearance of the Connecticut man, George Allen Smith IV, last July 5 on a Royal Caribbean cruise or in any rape.

He said that when crew members aboard the ship, Brilliance of the Seas, approached his client about a missing person, Mr. Kofman thought they were talking about Mr. Smith's wife, Jennifer. He said she was not in the Smiths' cabin when his client and three of his friends put her husband to bed after a night of heavy drinking. It was the last time anyone is known to have seen Mr. Smith.

Since his disappearance, his wife and family have demanded to know what happened to Mr. Smith, and have expressed suspicion of foul play. Federal agents have focused on a group of male passengers who helped Mr. Smith back to his cabin and

who, two days later, videotaped themselves having sex with an 18-year-old female passenger. She later complained she had been raped; the men have said through their lawyers that the encounter was consensual.

Mr. Dayan said his client, a 20-year-old college student from Brighton Beach, Brooklyn, had been subjected to three lengthy interrogations by federal agents before he hired a lawyer. He said he and his co-counsel had decided to speak out because they thought their client was being scapegoated.

"Agents have barraged this young man with question after question in three different interrogations," Mr. Dayan said. "Some were five to eight hours long, and some were with no food till it was over."

He said that if his client "were any weaker psychologically, he would have confessed to anything."

In an effort to extract information from his client, Mr. Dayan said, agents showed a videotape of his client and two other men having sex with the passenger alleging rape. He said agents also sought to play the tape for Mr. Kofman's father in an effort to get him to instruct his son to cooperate but that the father refused to watch.

A spokeswoman for the F.B.I. in New Haven said yesterday that her office would not comment.

Mr. Dayan said: "We sympathize with the disappearance of Mr. Smith and the family. However, we're concerned that one tragedy - the disappearance of a man - may lead to another tragedy - the arrest of a man who had nothing to do with the disappearance."

He said that he did not believe his client "did anything wrong on the ship" and noted that unlike some of the other people under scrutiny, his client "actually spoke to the F.B.I. and gave them a complete account."

He complained that the authorities had been using a "strictly consensual" sexual encounter as leverage in an effort to force his client to provide more details on the Smith case than the account he had already given.

Last week, a family friend speaking on behalf of the 18-year-old passenger disputed that the encounter was consensual. He said she was "angry and looking forward to her day in court."

Woodward Found Guilty (WIAT-TV)

By Adam Moseley, News42 WIAT

WIAT-TV, CBS 42 , Birmingham, AL, January 12, 2006

A federal jury returned a verdict against an ex-Jefferson County sheriff and his attorney. It's a case that stretches back a few years…one that had Jim Woodward and Albert Jordon accused of illegally using the national crime computer.

The justice department filed criminal charges back in 2000, accusing Woodward and his attorney of misusing the N.C.I.C. computer.

Prosecutors contend they conducting background checks on absentee voters during the 1998 sheriff's race, a charge they denied. And a jury agreed.

Jim Woodward and Albert Jordan sat through a second day of jury deliberations, and when it was over the federal panel found them guilty of two felony counts.

Woodward was found guilty of conspiracy and illegal use of property. Jordan was also found guilty of conspiracy and misuse of public money, property or records.

Following the decision, Woodward, Jordan or their attorneys would comment on the verdict, but several family members and friends left the courthouse visibly upset.

Both Woodward and Jordan were cleared of a third felony count.

Puerto Rico Lawyer Indicted In Scheme (AP)

AP, January 12, 2006

SAN JUAN, Puerto Rico (AP) -- A federal grand jury indicted a San Juan attorney Wednesday in connection with a scheme to defraud fast-food giant Tricon Restaurants International, the Justice Department said.

Eugenio A. Guardiola Ramirez was charged with conspiracy to obstruct justice and obstruction of justice in an investigation into illegal kickback payments paid by an electrical contractor, said Justice Department spokesman Orlando Rios.

Tricon's brands include Kentucky Fried Chicken, Pizza Hut and Taco Bell. Its Puerto Rico stores are operated by Encanto Restaurants of Puerto Rico, Rios said.

Prosecutors allege Guardiola obstructed an investigation into payments made by the Gate Engineering Corporation to a Tricon employee in exchange for more than $1 million (euro823,847) worth of electrical contracts, Rios said.

He is accused of mischaracterizing the payments to a grand jury, interfering with witnesses and drafting a phony services contract, Rios said.

If convicted on all charges, Guardiola could face up to 35 years in prison and fines of up to $750,000, Rios said.

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In May 2005, the electrical contractor and its president, Albith Colon, pleaded guilty to having made illegal kickbacks and are awaiting sentencing, Rios said. The Tricon employee, Jorge Luis Matos Burgos, was convicted in August of the same charge and was sentenced to a year in prison.

U.S. Supreme Court Splits Over Fairness Of Calif. Death Sentence (LAW/AP)

By Gina Holland, The Associated Press

AP, January 12, 2006

A divided Supreme Court reinstated a California inmate's death sentence on Wednesday, the first 5-4 vote under newly installed Chief Justice John Roberts.

Justices overturned an appeals court ruling that declared Ronald Sanders' sentence unconstitutional. Sanders was put on death row for the 1982 killing of a woman during a drug-related robbery in Bakersfield, Calif.

Justice Antonin Scalia wrote the ruling, the Court's first death penalty decision since Roberts replaced Chief Justice William H. Rehnquist last fall.

The case presented a technical question for the Court involving jurors' consideration of invalid aggravating factors.

Special circumstances used by prosecutors in their case against Sanders -- that the crime was committed during a burglary and was cruel or heinous -- were later found invalid.

California argued that Sanders would have been sentenced to death even without those arguments. The Supreme Court's five conservative members agreed.

"The erroneous factor could not have 'skewed' the sentence, and no constitutional violation occurred," Scalia wrote in an opinion joined by Roberts, retiring Justice Sandra Day O'Connor and Justices Anthony Kennedy and Clarence Thomas.

In a dissent, Justice John Paul Stevens said "this decision is more likely to complicate than to clarify our capital sentencing jurisprudence."

Also disagreeing with the decision were Justices David H. Souter, Ruth Bader Ginsburg and Stephen Breyer, although their reasons were varied.

In a lengthy dissent, Breyer said the Court's finding could "deprive a defendant of a fair and reliable sentencing proceeding."

The case is Brown v. Sanders, 04-980.

Justices Question Death Row Inmate's Guilt (REU-Y2)

By James Vicini

Reuters, January 12, 2006

A majority of U.S. Supreme Court justices appeared prepared on Wednesday to overturn the sentence or the conviction of a Tennessee death row inmate who claims new DNA and other evidence cast doubt on his guilt for the 1985 murder of a female neighbor.

The court's four most liberal members, joined by moderate conservative Justice Anthony Kennedy, seemed supportive of arguments by the attorney for convicted murderer Paul House that a reasonable juror now would not find him guilty.

The hour-long arguments in the case were unusual in that the justices went into great detail about fact-specific issues and questioned the attorneys on both sides about evidence presented at trial and what was later uncovered.

House was convicted in 1986 of murder in the beating death of Carolyn Muncey, a neighbor and an acquaintance, in rural Union County in Tennessee. He was on parole after pleading guilty in Utah to sexual assault.

In later challenging his sentence and conviction, defense attorneys presented DNA test results showing the semen on the victim's clothes actually belonged to her husband. Such DNA testing had not yet been developed at the time of the trial.

They also presented testimony tending to show that the victim's blood may have been placed on House's blue jeans by state officials and that Muncey may have been killed by her husband.

Prosecutors have said the new evidence failed to prove House's innocence. A federal judge and then a U.S. appeals court, by an 8-7 vote, rejected House's appeal, but the Supreme Court then agreed to decide the case.

Justice Stephen Breyer said the jury heard the prosecution's theory that the murder had been part of a sexual attack by House and that there now was conflicting evidence.

"I don't know who did this crime," Breyer told Jennifer Smith, the Tennessee associate deputy attorney general who argued the case.

Justice David Souter said the prosecution case against House had been built on rape as the motive, and that a juror would have found the evidence of the semen stains coming from Muncey's husband to be "extremely significant."

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Kennedy said the semen evidence raised questions about the sentence at a minimum and the conviction as well. "The semen was used to connect it (the murder) to the defendant. We now know that was wrong," he said.

Justice Antonin Scalia was the court member most skeptical of the arguments by House's lawyer, Stephen Kissinger, an assistant federal defender.

Even with the new evidence, the defense must show that no reasonable juror could have found House guilty, Scalia said. He described it as "a very heavy burden" and made clear he did not believe the new blood evidence was sufficient.

Chief Justice John Roberts asked Kissinger what standard of review he thought should be used in deciding the case. Under existing precedent, the Supreme Court must determine that no juror could reasonably vote to convict, based on the old and new evidence, he said.

A decision in the case is expected by the end of June.

Justices Debate Case Of Condemned Inmate Tenn. Man Wants New Hearing, DNA Tests Examined (USAT)

By Joan Biskupic

USA Today, January 12, 2006

WASHINGTON — A majority of the Supreme Court expressed concern Wednesday about blood and semen evidence used to send a Tennessee man to death row 20 years ago, as the court for the first time heard a case in which a condemned inmate claims DNA evidence could help clear him.

Justices David Souter and Stephen Breyer were among those most vigorously questioning whether Paul Gregory House abducted, tried to rape and then murdered Carolyn Muncey in July 1985.

The jury that found House guilty heard that semen found on Muncey's clothing could have been from House and that blood on House's pants likely was from the victim. House is trying to get his case reopened on the grounds that Muncey's blood ended up on his clothing because evidence was mishandled and that new DNA tests show that the semen found on the victim's clothes belonged to her husband.

The question before the court does not turn on the validity of the DNA evidence. Rather, it tests the standards for when a prisoner who has exhausted all appeals can seek to get a hearing before a federal judge to challenge his case.

Chief Justice John Roberts repeatedly tried to bring the justices' discussion back to the relatively dry question of whether House, at this point, can assert that his case was constitutionally flawed.

The justices must examine whether, given the new evidence that House asserts, “it is more likely than not that no reasonable juror would have convicted” him. That tough standard derives from a 1995 Supreme Court case that attempts to balance an interest in ensuring the finality of verdicts with concerns about inmates' actual innocence.

House's case has drawn national attention because it brings to the forefront the DNA technology that has led dozens of wrongly convicted inmates to be freed.

The New York-based Innocence Project, which has been at the lead of the DNA litigation that it says has exonerated more than 160 defendants, submitted a “friend of the court” brief siding with House.

It told the Supreme Court that scientific evidence contradicting facts at a jury trial should warrant great weight when prisoners seek a hearing in federal court.

No convict in the USA has been exonerated through DNA testing after execution.

However, the results of DNA testing are expected soon in the case of Roger Coleman, a Virginia man who was executed in 1992 for raping and murdering his sister-in-law. Gov. Mark Warner recently ordered the testing because of lingering questions about whether Coleman was guilty.

Stephen Kissinger, an assistant federal community defender representing House, told the justices that House meets the court's requirements to have his case heard again. Kissinger stressed evidence indicating that blood from the victim found on House's jeans could have come from spilled autopsy samples. He also emphasized DNA testing after trial that showed semen found on Muncey was from her husband.

Jennifer Smith, associate deputy attorney general in Tennessee, says that argument fails to meet the threshold for a new hearing.

She said the state agrees that the DNA evidence showed that the semen was from Muncey's husband, but she linked it to testimony that the couple had sexual relations the morning before she disappeared.

Under sharp questioning from justices, Smith minimized the fact that prosecutors had used the attempted rape as a motive for Muncey's murder and as an aggravating factor for the death penalty.

DOJ_NMG_0009457

The court could rule in the case of House v. Bell by the end of June, when the justices traditionally recess for their annual term.

A 1986 Case Could Aid Appeals Along Death Row (NYT)

By Linda Greenhouse

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - An argument before the Supreme Court in a 20-year-old murder case suggested on Wednesday that the court might be willing to open the door a bit wider to death row inmates seeking access to federal court to present plausible but belated claims of innocence.

It was a gritty argument with an unusually intense focus on the evidence that a Tennessee jury considered in convicting Paul G. House of the murder of a neighbor, Carolyn Muncey. Justices Antonin Scalia and Stephen G. Breyer were particularly steeped in the details and were deeply engaged on opposite sides of the case, debating it back and forth almost to the exclusion of the lawyers standing before them.

Mr. House has always maintained his innocence, and in 2004 he came within one vote of persuading a federal appeals court to reopen his case. The debate on the appeals court was over whether recently developed scientific evidence had cast enough doubt on the basis of his conviction to overcome the very high bar that the Supreme Court has set for federal courts to hear new claims that were not presented in the initial round of appeals.

The vote against Mr. House, in the United States Court of Appeals for the Sixth Circuit, in Cincinnati, was 8 to 7; all eight judges in the majority had been appointed by Republican presidents, and all seven dissenters had been named by Democrats. Six of the dissenters concluded that Mr. House had proved his innocence, while the seventh said that he was at least entitled to a new trial.

Addressing Mr. House's lawyer on Wednesday, Justice Scalia said he agreed that the case now looks "much closer" than it must have appeared to the jury in 1986. But that was not the issue, he continued. "Once the case has been tried, we have a much different task," Justice Scalia said, namely to determine "whether any reasonable jury could have found guilt."

Only if the answer was no could a federal court proceed to hear a petition for a writ of habeas corpus and consider whether constitutional errors that had not previously been identified had occurred at the trial. The Supreme Court's leading precedent on this question, a case from 1995 called Schlup v. Delo, refers to this hurdle as a "gateway" through which an inmate must pass. It is, Justice Scalia said, "a very heavy burden" for the defense to meet.

Mr. House's lawyer, Stephen M. Kissinger, replied, "It is a high burden, and we don't shrink from it."

The court's focus, Mr. Kissinger said, should now be on "the effect of the entirety of the evidence on a reasonable juror" rather than on dissecting each disputed piece of evidence.

Mr. Kissinger, an assistant federal defender from Knoxville, Tenn., challenged Justice Scalia's description of the gateway. "It comes down to the 'could' and 'would' distinction," he said. "We don't deny that there is evidence that 'could' support conviction, but that's not the test. What 'would' a reasonable juror conclude? Proof of innocence does not have to be absolute."

Underlying this argument was the question of whether the courts should adjust their rules to take account of the recent string of exonerations based on DNA evidence. Briefs filed by the Innocence Project, a legal clinic in New York, and by the American Bar Association point out that the Supreme Court decided Schlup v. Delo and other cases limiting inmates' appeal rights before DNA testing had revealed flaws in a disturbing proportion of criminal convictions. Those flaws call for new flexibility, the briefs argue.

In this case, House v. Bell, No. 04-8990, the new DNA evidence alone did not produce a clear exoneration. Rather, it substantially undermined the prosecution's theory of the case, which was that sex was the motivation for the crime and that Mr. House had killed the victim in the course of raping her.

Chemical analysis presented at the trial suggested that Mr. House's semen was found on Ms. Muncey's clothing, while DNA testing later showed it to be her husband's. The state maintains that this new evidence does not disprove that Mr. House was guilty of the murder.

The defense theory was that the husband, Hubert Muncey, was the killer. The new legal team that represented Mr. House in his habeas corpus petition produced witnesses who testified that they had heard Mr. Muncey make a drunken confession, but the federal district court discounted the evidence in rejecting the petition in 1997.

Mr. Kissinger said that if the case passed through the gateway, he would argue that Mr. House was deprived of the effective assistance of counsel at his trial and that the state withheld favorable evidence it was constitutionally obliged to produce.

DOJ_NMG_0009458

Representing Tennessee at Wednesday's argument, Jennifer L. Smith, an associate deputy state attorney general, said that all of Mr. House's new evidence "fails to raise sufficient doubt" about the original verdict to get past the gateway into federal court on those or any other claims.

Now it was Justice Breyer's turn. He challenged the state's lawyer on a long list of evidentiary issues, leading Justice Scalia to interject at one point, "We could call on these witnesses ourselves and hear them all over again."

Justice Breyer said, "My goodness, I don't know who committed this crime."

Only nominally addressing Ms. Smith, Justice Scalia said: "Justice Breyer has not heard these witnesses. The district court did."

Along with Justice Breyer, Justice David H. Souter expressed strong doubts about the state's case. Justice Anthony M. Kennedy said that "at a minimum," he had questions about the death sentence if not the conviction. Justices Ruth Bader Ginsburg and John Paul Stevens said little, but if they follow Justice Breyer's lead, as is likely, there would be five votes to reopen the case, even assuming that Justice Sandra Day O'Connor, who was uncharacteristically quiet, is no longer on the court by the time a decision is issued.

Justice O'Connor's vote proved essential in a decision the court issued in another death penalty case on Wednesday, the first 5-to-4 decision since John G. Roberts Jr. became chief justice. In Brown v. Sanders, No. 04-980, the court reinstated the death sentence of a California inmate whose habeas corpus petition had been granted by the federal appeals court in San Francisco.

The appeals court had overturned the sentence because two of the four factors the jury cited in making the defendant, Ronald L. Sanders, eligible for the death penalty were later found by the California Supreme Court to be invalid. Writing for the majority on Wednesday, Justice Scalia said there was no constitutional error in the sentence because the jury was able to give proper consideration to the same facts and circumstances through the remaining, valid factors.

Chief Justice Roberts and Justices O'Connor, Kennedy and Clarence Thomas joined the majority opinion. Justices Stevens, Breyer, Souter and Ginsburg dissented.

U.S. State Court Overturns Death Sentence In Murder Of Governor's Secretary (FINDLAW/AP)

AP, January 12, 2006

(AP) - DOVER, Delaware-Delaware's highest court on Wednesday overturned the death sentence of a once well-connected attorney convicted of the 1996 murder of the governor's scheduling secretary.

The sentence was flawed because the jury vote recommending a death sentence for Thomas Capano was not unanimous, the Delaware Supreme Court ruled. The high court ordered a new penalty hearing, but did not overturn his conviction, prosecutor Steven Wood said.

Prosecutors say Capano shot Anne Marie Fahey, 30, scheduling secretary to then-Governor Tom Carper, and dumped her body in the Atlantic Ocean because she was breaking off an affair with him.

Capano, a former state prosecutor, is a member of a well-known family involved in land development.

His attorneys had argued that his death sentence, issued in 1999, should be overturned because his jury was not unanimous in determining that Fahey's slaying was premeditated. The state high court found that the Delaware Constitution demands unanimous jury verdicts in death-penalty sentencing, even if federal law does not.

Capano attorney Thomas Bernstein said that while he was relieved the sentence was vacated, he was disappointed that the court did not overturn the conviction.

He said Capano would now appeal the conviction in federal court.

Gun Dealer Sentenced For Fraud (PHI)

By John Shiffman

The Philadelphia Inquirer, January 12, 2006

A once-distinguished antique-firearms dealer who duped a Bucks County millionaire while helping him amass a $30 million gun collection was sentenced to 21/2 years in prison yesterday.

The case, which included the sale of a pair of revolvers carried into battle by famed Texas Ranger Samuel Walker, was widely followed in the unregulated antique-firearms industry, where the dealers' crimes became a major scandal.

U.S. District Judge Cynthia M. Rufe said that she hoped the prison sentence for the dealer, Michael Zomber of Franklin, Tenn., would deter others who might try to defraud antiques collectors.

"What is seriously missing here is respect for the law," Rufe said. "It's not about money or lack of money; it's about treating each other legally and fairly."

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Zomber was convicted of fraud at trial. His accomplice, Richard Ellis, of LeClaire, Iowa, pleaded guilty and cooperated with the government. Rufe sentenced Ellis to 10 months, half of which must be spent in prison; the other half may be spent in a halfway house, she said. Restitution will be calculated later.

"The entire industry was poised to find out what happened to Ellis and Zomber," said FBI agent Bob Wittman, who handled the case. "There's an element that's going to be happy that it's a new day, and there's an element that's going to be upset that their antics are going to be put under the microscope."

The Bucks County businessman who was duped, Joseph A. Murphy of New Hope, said in a related suit that the men defrauded him of $12 million. That suit was settled for $4.7 million worth of antique firearms.

Ellis, hired by Murphy as his expert consultant on a commission basis, led Murphy to believe that Zomber was a disinterested dealer.

He was not. Zomber wrote letters feigning interest in the pieces Murphy sought, artificially inflating the firearms' values. In turn, authorities said, Ellis paid Zomber more than $1 million in kickbacks.

The largest deal involved two firearms Walker designed with Samuel Colt in 1846 - the world's first Magnum revolvers, .44-caliber handguns that launched Colt from bankruptcy to fame, according to Philip Schreier, a curator at the National Firearms Museum in Fairfax, Va.

Murphy paid about $2.2 million for the so-called Walker Colts, about twice what authorities said they are worth.

Before Zomber was sentenced yesterday, he asked for leniency, saying that what happened has consumed him to the point that he has not slept for three years without the aid of pills. He also cited his extensive charitable work on behalf of children with cancer.

"I am extraordinarily sorry and remorseful that my actions have caused pain," Zomber said. "I am disgraced forever."

Murphy also addressed the court. His voice thundering at times, he said he was angry that Zomber had argued that charitable work and medical stresses were relevant at sentencing.

"I'm the laughingstock," Murphy said, explaining that the scandal is the talk of the antique-gun circuit. "I'm the one who had two heart attacks over this, stents put in... . As a victim, I'm pleading with you to sentence him in the most horrible way you can, because he did this without regret. I want punishment."

Afterward, Murphy's attorney, Gavin Lenz, said he was satisfied with both sentences.

Zomber plans to appeal, and Rufe said she is considering whether to allow him to remain free until that appeal is heard.

Rufe chastised both men for continuing to attend gun shows following their convictions. Her sentence forbids the dealers from possessing any firearms, including antiques, for three years after the jail terms.

Assistant U.S. Attorney Robert Goldman said that Ellis deserved a lighter sentence because he cooperated with the investigation and pleaded guilty. Still, Goldman said, he deserved to go to prison.

Ellis wept through much of his statement to the judge: "I'm very sorry for what I did. It was wrong and I regret it. In my business, my good name meant everything. I blew it."

Ellis then turned around to face his victim, who sat in the gallery.

"Joe, I'm truly sorry," Ellis said. "I really am."

Murphy nodded.

Man Indicted In VA Hospital Shooting Of Co-worker (AP)

AP, January 12, 2006

GREENVILLE, N.C. - A man accused of killing a co-worker and former lover at the Veteran's Administration hospital in Fayetteville was indicted on a murder charge Wednesday by a federal grand jury.

Arthur James Charland Jr., 42, was also charged with use and discharge of a firearm during an in relation to a crime of violence, according to a statement by U.S. Attorney Frank D. Whitney.

Charland is accused of fatally shooting Linda Faye Owens, with whom he had an 11-year affair.

He could be sentenced to life in prison. Prosecutors could choose to pursue the death penalty, but Whitney said that decision has not been made.

According to a criminal complaint, Charland concealed a shotgun inside Christmas wrapping paper and walked into the hospital pharmacy to shoot Owens on Dec. 13.

At a hearing last month, FBI Special Agent Chris Hedges testified that Charland told investigators he was being treated for bipolar disorder.

Trial Opens In Prison Slaying Of Ex-Priest (NYT)

By Pam Belluck

DOJ_NMG_0009460

The New York Times, January 12, 2006

WORCESTER, Mass., Jan. 11 - The murder of John J. Geoghan, a defrocked priest, in 2003 by an inmate in state prison was a shocking and almost surreal dénouement to one of the darkest chapters of the sexual abuse crisis in the Roman Catholic Church.

Mr. Geoghan's violent death in the most secure prison in Massachusetts was to some an appalling failure of the state to protect one of its most despised inmates. To others it was a horrible but justified retribution against Mr. Geoghan, one of the most reviled priests named in the abuse scandal, accused of molesting some 150 children in several parishes over three decades.

Now, the man who admits he killed Mr. Geoghan, Joseph L. Druce, is having his day in court, and for anyone watching the trial, it is hard to figure out where to put one's sympathies - with the murder victim or the man who killed him.

Mr. Druce, 40, is pleading not guilty by reason of mental illness. His lawyer, John LaChance, does not dispute the details of the case. Prosecutors say Mr. Druce followed Mr. Geoghan into his cell at the Souza-Baranowski Correctional Center on Aug. 23, 2003, and jammed the cell door shut with a nail clipper and a ripped-up copy of "The Cross and the Switchblade," a book about a minister who transformed the lives of teenage gang members by introducing them to Christianity.

Mr. Druce then tied Mr. Geoghan's hands with a T-shirt, wrapped stretched-out socks around Mr. Geoghan's neck, tightened them with a shoe, and then jumped up and down on his body.

According to testimony by corrections officers on Wednesday, Mr. Druce later told them he "did it for the children," to stop Mr. Geoghan, 68, from molesting more boys when he got out of prison.

Mr. Geoghan was serving 6 years of a 9-to-10-year sentence for groping a boy in a swimming pool, and Mr. Druce told law enforcement authorities that he had heard Mr. Geoghan talking about plans to assault more children upon his release. Mr. Druce also signed a card waiving his Miranda rights "the Reverend Joseph Druce."

Mr. LaChance suggested Wednesday that Mr. Druce's behavior was evidence of insanity, saying "he began fantasizing about being an individual who would save the kids and save the world."

The prosecutor, Lawrence Murphy, suggested the opposite, that the fact that "Mr. Druce was planning to kill John Geoghan" showed that he was not insane.

Mr. Druce is serving a life sentence without parole for beating and strangling a driver who he said made a sexual advance toward him when he was hitchhiking in 1988. He unsuccessfully tried an insanity defense in that case in 1989, and his lawyer in that case emphasized Mr. Druce's highly troubled background, including serious behavior problems, drug use, a mother who did not want him and a father who was abusive to his mother.

Mr. LaChance referred to that background Wednesday, saying that Mr. Druce was "like a little puppy you beat and beat," adding, "Eventually the puppy strikes back when it is old enough and big enough."

At the time of Mr. Geoghan's slaying, Mr. Druce's father, Dana Smiledge, said Mr. Druce also had white supremacist leanings - a hatred of gay people, Jews and blacks.

Mr. Geoghan's murder not only stunned victims of abuse by priests, but also ignited a state investigation into the prison system. Several correction officials were removed, including the correction commissioner.

The investigation found that only one guard was monitoring the 26-inmate unit at the time Mr. Druce slipped into Mr. Geoghan's cell and that the cell doors had been left open while the inmates were taking their lunch trays to a collection point.

Mr. Geoghan was jailed in early 2002 and moved from a medium-security prison in Concord to the maximum-security Souza-Baranowski prison in Shirley in early 2003 after complaining that he felt harassed by guards and afraid for his safety.

The state investigation said that Mr. Geoghan was indeed mistreated by guards in Concord and that he was inappropriately transferred to Shirley, where he was put in a wing for inmates who needed to be separated from the general prison population. But some of them were violent offenders, and many were younger than the frail Mr. Geoghan.

Mr. Druce was transferred there not long afterward because he, too, had felt unsafe in his previous prison, where he had become a jailhouse informant, his lawyer said. Mr. Druce had changed his name, from Darrin Smiledge, because he was afraid of his prison enemies.

Mr. LaChance said that Mr. Druce had been delusional in the past, pretending he was a rich person who owned yachts and million-dollar houses, and subscribing to Robb Report, the luxury magazine, at his previous prison. He said Mr. Druce fantasized that if he killed Mr. Geoghan "he would be someone like a rich person with a yacht."

Mr. Druce, who has previously held up photographs and demonstrated other showy behavior in court, was medicated Wednesday with Ritalin and possibly other drugs, Mr. LaChance said. He made a thumbs up sign to several reporters, but otherwise seemed less attention-seeking. If his defense is successful, Mr. Druce is likely to be moved to a psychiatric institution.

DOJ_NMG_0009461

CIVIL LAW:

State Guardsmen Sue For Post-9/11 Expenses (AP)

By JAY LINDSAY, ASSOCIATED PRESS WRITER

AP, January 12, 2006

BOSTON -- A group of National Guard soldiers who were ordered to protect possible targets after the Sept. 11 attacks sued the federal government Wednesday, seeking tens of millions of dollars in expenses they say were never reimbursed.

The soldiers, from Massachusetts and New Hampshire, say they traveled hundreds of miles to security postings and used their own money to pay for food and lodging with the expectation that they would be reimbursed.

But the soldiers say in their complaint that their requests for compensation were repeatedly denied and they eventually were told, "If you don't like the arrangement, we'll make sure you get taken off this mission."

In the lawsuit, the plaintiffs argue that federal law provides military personnel with a travel and transportation allowance while away from home on active duty.

The lawsuit was filed in U.S. District Court by four soldiers but seeks to include hundreds of other guardsmen as a class action. It names the U.S. Department of Defense and the Massachusetts National Guard and seeks $73 million in unpaid expenses.

A spokeswoman for the Defense Department referred calls to the Justice Department, where a spokesman declined to comment until after the agency reviews the lawsuit.

The Massachusetts National Guard was investigating the allegations and had no immediate comment, said a spokesman, Maj. Winfield Danielson.

The plaintiffs are Steven Littlefield of Plymouth, Wayne Gutierrez of New Bedford, Louis Tortorella of Brookline, N.H.; and Joseph Murphy of Derry, N.H. All but Tortorella are still in the National Guard. The areas they patrolled included Boston's primary water supply.

MedcoHealth Solutions: Department Of Justice Won't Intervene In Whistleblower Lawsuit (AP)

AP, January 12, 2006

NEW YORK (AP) -- Pharmacy benefits manager Medco Health Solutions Inc. said the Justice Department will not intervene in a whistleblower lawsuit filed against the company in a Pennsylvania court last month.

New Jersey-based Medco said in a filing with the Securities and Exchange Commission that the U.S. Department of Justice notified the company on Tuesday of its decision not to intervene.

Medco said it first learned of "qui tam" lawsuit in mid-December, when the U.S. District Court for the Eastern District of Pennsylvania lifted the seal on the case.

In an earlier filing, the company said the complaint makes allegations concerning turnaround time and performance-guarantee reporting -- the same charges drawn in a 2003 lawsuit. The complaint "does not allege any health, safety or clinical violations," Medco said.

"Qui tam" is a statute under the False Claims Act that lets an individual alleging fraud on the federal government to sue on behalf of the state. Its name is an abbreviation of a Latin phrase meaning "he who sues for the king as well as for himself."

Shares of MedcoHealth Solutions fell 22 cents to $54.66 in afternoon trading on the New York Stock Exchange.

Former Genentech Worker Sues Co. Over Marketing Practices (DOWJONES)

Dow Jones, January 12, 2006

A former Genentech Inc. (DNA) (DNA) employee has accused the biotechnology company and marketing partner Biogen Idec Inc. (BIIB) (BIIB) of illegally promoting cancer drug Rituxan as a treatment for arthritis, a use not yet approved by regulators.

Paul McDermott, who worked for Genentech (DNA) in Falmouth, Maine, until last year, filed a lawsuit in July 2005 in U.S. District Court in Maine alleging the companies' marketing practices surrounding Rituxan defrauded government health- care programs.

The suit also says Genentech (DNA) fired McDermott in retaliation for bringing the matter to the attention of Genentech (DNA) executives. The suit seeks unspecified damages on behalf of the government, and an order that Genentech (DNA) rehire McDermott and pay him back wages and other damages.

McDermott's lawsuit hasn't surface until now because it was filed under seal on behalf of the federal government. In December, however, the Justice Department declined to intervene in the case and requested that the lawsuit be unsealed.

DOJ_NMG_0009462

Genentech (DNA), of South San Francisco, Calif., was served with a copy of the suit earlier this month, a Genentech (DNA) executive disclosed Tuesday after the company reported fourth-quarter earnings.

Genentech (DNA) spokeswoman Caroline Pecquet said the company hasn't fully evaluated the lawsuit. She added that the company was committed to ethical and legal promotional practices.

Biogen (BIIB) officials couldn't immediately be reached.

McDermott's lawsuit is the latest legal challenge facing Genentech (DNA) over Rituxan's marketing. In October 2004, Genentech (DNA) received a subpoena from the U.S. Attorney's Office in Philadelphia seeking documents related to the promotion of Rituxan. Genentech (DNA) is cooperating with that investigation, which it said was both civil and criminal in nature.

The promotion of off-label uses of pharmaceuticals has gotten other drug companies in trouble. In 2004, Warner-Lambert pleaded guilty to federal charges that it promoted epilepsy drug Neurontin for off-label uses beginning in the 1990s. Pfizer Inc. (PFE) (PFE), which acquired Warner-Lambert in 2000, agreed to pay $ 430 million to resolve criminal charges and civil liabilities in the case.

The U.S. Food and Drug Administration approved Rituxan in 1997 as a treatment for a type of non-Hodgkin's lymphoma. U.S. sales of the drug grew to $1.8 billion last year. Studies have shown Rituxan also potential to treat rheumatoid arthritis. Biogen (BIIB) and Genentech (DNA) have applied for FDA approval to market Rituxan as such a treatment, and a decision is expected by late February.

It's generally legal for doctors to prescribe FDA-approved drugs in ways that haven't yet been approved by the FDA, and so-called "off-label" prescriptions are common. But drug companies are generally barred from actively promoting off- label uses of their drugs. That's where McDermott says his former employer and Biogen (BIIB) ran afoul of the law.

McDermott worked as a "professional educational liaison" for Genentech (DNA), according to the lawsuit, a job that involved recruiting doctors to promote the use of Rituxan as a treatment for rheumatoid arthritis.

He alleges Genentech (DNA) sent sales representatives to the offices of rheumatologists - doctors specializing in rheumatoid arthritis treatment - even though Genentech (DNA) had no products approved by the FDA for such treatments. Also, McDermott says Genentech (DNA) and Biogen (BIIB) used "sham" consulting agreements to pay rheumatologists whom the companies identified as being "key opinion leaders," who were expected to influence other doctors to begin prescribing Rituxan for arthritis.

McDermott says he was assigned to recruit certain doctors to work with Genentech (DNA) staffers to publish articles and case studies promoting Rituxan as an arthritis treatment.

He said Biogen (BIIB), the Cambridge, Mass., company that discovered Rituxan, had similar marketing practices for the drug.

McDermott said he was fired in April 2005 after telling his superiors about the alleged off-label promotion of Rituxan.

McDermott filed his lawsuit under a federal "whistleblower law" that would entitle him to a portion of the proceeds of any settlement or award of damages arising from the case. It wasn't immediately clear why the Justice Department declined to intervene, but it does have the right to take up the case at a later date.

Officials with the U.S. Attorney's office in Portland, Maine, which filed the document declining to intervene in the case, couldn't immediately be reached.

Neither McDermott nor his attorney could be reached.

-By Peter Loftus, Dow Jones Newswires; 215-656-8289; peter.loftus@dowjones.com

Mislabeled Bread A Danger, Allergists Say (MINNST)

By Patricia Lopez, Star Tribune

Minneapolis Star Tribune, January 12, 2006

Allergists and food allergy activists alike were shaken Wednesday upon learning that the French Meadow Bakery labeled its spelt bread "wheat-free" when the bread, in fact, contains wheat.

For the hundreds of thousands of Americans who are wheat-intolerant or who have a genuine wheat allergy, mislabeled food is no small matter, said Anne Munoz-Furlong, founder of the national Food Allergy and Anaphylaxis Network, based in Fairview, Va.

"Their health and safety depend on them being able to trust what's on a label," she said. "We can't stop eating food. We can only stop eating the wrong food, and for that we need to know what's in it."

Wheat allergy reactions, she said, can range from hives and digestive problems to -- at the most extreme end -- death from the inability to breathe.

DOJ_NMG_0009463

French Meadow, revered by health enthusiasts for its varieties of organic bread, had 30,000 loaves made from spelt and Kamut grain seized Tuesday afternoon by U.S. marshals and agents from the U.S. Food and Drug Administration. The agency had spent nearly a year attempting to get the bakery to relabel its bread, noting that both spelt and Kamut are varieties of wheat.

U.S. Attorney Tom Heffelfinger, whose office is handling the case, said the agents locked most of the loaves in freezers, where they will remain until the case is decided or a court order issued. "The FDA takes the accuracy of food labeling very seriously," Heffelfinger said.

French Meadow has 20 days to respond to the FDA's complaint, he said. He did not know whether any consumer complaints were involved.

The company could face administrative penalties and sanctions for the government's costs in prosecuting the case, he said, "but that hasn't been determined yet. This is primarily about resolving the labeling issue."

Steve Shapiro, a partner with Lynn Gordon in the Minneapolis bakery that distributes its products nationwide, did not return calls Wednesday. But he said Tuesday that although he and Gordon disagree with the classification of spelt and Kamut as part of the wheat family, they are putting the final touches on new labels and hope to get their bread back "as soon as we can."

By Wednesday afternoon, the bakery website had pulled the term "wheat-free" from the spelt and kamut varieties of bread, although it retained its claim that they are alternatives for the wheat-intolerant.

At the Mississippi Market Co-op in St. Paul, loaves of the bakery's breads still lined the shelves Wednesday, including several loaves of the "Health Seed" spelt bread that bore a colorful label touting it as wheat-free.

Steve Conroy, a manager at the co-op, said that while he will continue to stock French Meadow breads, he approves of the FDA action. "I've been in the health food business for 10 years," Conroy said. "Spelt is a type of wheat, no question. To say that bread is wheat-free just isn't true."

Intimidatingly heavy for its small size, Health Seed spelt bread is a compact loaf, with slices that are barely palm-sized. Its price is daunting, too: $4.99 for the 9-inch loaf.

Reading labels

Dr. James Lakin, a Burnsville allergist with Minnesota Allergy and Asthma Consultants, said he was "deeply concerned" by the mislabeling.

"We train our patients to read labels carefully," he said. "That wouldn't have helped here. What are they supposed to do when the label says wheat-free?"

Lakin said spelt is a primitive forerunner to modern wheat, first cultivated about 7,000 years ago. But "it is a type of wheat," he said. "It shares many of the same properties as wheat and people who are allergic to wheat can have reactions to spelt."

Kamut, he said, is of even greater concern because it is much more closely related to modern wheat. "Folks who are sensitive to wheat will definitely react to Kamut," he said.

And because both varieties are somewhat obscure, he said, consumers are almost entirely dependent on labels.

About 11 million Americans suffer from some type of food allergy and wheat is among the "big eight" categories, Munoz-Furlong said.

Lakin put wheat allergy sufferers at about 1 percent, with most of those being wheat-intolerant. Those with true wheat allergies, who risk severe reactions or death, "are probably 1 in 500,000," he said.

Packed on polar trips

Behind the counter at the French Meadow Bakery & Cafe on Wednesday, loaves of organic cranberry corn bread, organic multigrain, country rye and organic ciabatta were for sale, but no spelt.

Sarah Narnang, the cafe's day manager, said the breads in dispute are delivered only to outside customers. Cafe customers, however, can request that it be used as a wheat-free substitute on sandwiches, she added.

Arriving shortly before noon was Will Steger, the polar explorer, who said that he's a longtime fan of the breads and that he stops by the cafe once or twice a week when he's in town from his home near Ely, Minn.

On a 1989 expedition to Antarctica, Steger said, he packed along the bakery's spelt bread. Toasted on a tent stove and slathered with peanut butter and butter, it often would serve as breakfast, he said.

"Nothing but good results," Steger said.

For those with allergies, however, Munoz-Furlong said, the results are anything but good.

"It could be anything from hives to a life-threatening response, she said, "and the worst part is, no one knows at the beginning of the reaction how severe it will be. We know this is something that affects children and adults.

"It is serious."

Patricia Lopez · 651-222-1288 Staff Writer Anthony Lonetree contributed to this report

High Court Ruling Slowly Bears Fruit For Wineries (LAW/AP)

By Michelle Locke, The Associated Press

AP, January 12, 2006

Napa vintner Dennis Cakebread is finally sending out cases of wine to thirsty New York state customers, seven long months after a Supreme Court ruling paved the way for the shipments.

"What we've learned about this is patience and persistence," said Cakebread. "These lawsuits aren't like an episode of 'L.A. Law' -- after one hour you win your case and you're off and running."

A lot has happened since the U.S. Supreme Court opened the door to shipping wine across state lines. But change hasn't been swift in an industry that sometimes seems as rich in red tape as it is red grapes.

"We're in a highly regulated industry. This isn't like selling sweaters," said Jeremy Benson, executive director of Free The Grapes, a Napa, Calif.-based group that has been working to loosen shipping restrictions. "The regulations are there and we have to work through them."

The Supreme Court struck down laws last spring in New York and Michigan that allowed wineries to ship directly to in-state consumers but forbade out-of-state businesses from doing the same thing.

The court said either all wineries should be allowed to ship directly to consumers or none, a blow to the old distribution system that required a wholesaler to sell to restaurants and retailers. States have been acting to adjust their shipping laws ever since.

The ruling was particularly important to smaller wineries that don't have the volume for wide distribution in liquor stores and supermarkets and rely on direct sales to consumers, many of whom have developed a taste for their products on winery visits.

"It makes a huge difference," says Cakebread, part-owner and senior vice president of sales and marketing at Cakebread Cellars, which began with a 156-case vintage in 1973 and now makes about 95,000 cases a year.

For a small winery like Elan, which makes about 1,000 cases a year, being able to ship is crucial, said owner Linda Elliott-Smith, who has had 15 cases of cabernet sauvignon paid for and ready to go to New York for a while.

They were delayed from shipping even further in January, when floods knocked power out. Customers who are big fans of Elan's elegant reds have been willing to wait. "It's nice that we have customers who are true followers," she said.

Since the Supreme Court ruling, New York, Michigan and Ohio have loosened shipping restrictions. Texas also made shipping easier just prior to the high court ruling.

In December, shipping to New York became practical when the New York State Liquor Authority approved using UPS for wine shipments. FedEx also is working to get approval.

The New York law only allows shipments from states that extend similar privileges to New York vintners, which some experts say may not be constitutional. Michigan's new law says wineries can't ship more than 1,500 cases per year in direct-to-consumer shipments and also prohibits out-of-state wineries from selling direct to restaurants and retailers.

Still, the overall shipping picture is brighter for wineries, who have seen their potential shipping audience increase considerably.

At Joseph Phelps Vineyards, president and CEO Tom Shelton celebrated the California-New York connection when he hosted a dinner last year for New York Gov. George Pataki, who was visiting wine country.

"We got the flow going both ways," he said. In a bit of bottle diplomacy, they served wines from New York state.

Copy Shop Scores With Print Jobs (WP)

By Christopher Lee

The Washington Post, January 12, 2006

The guy holding up the line at your neighborhood FedEx Kinko's copy shop may be putting your tax dollars to work.

The Government Printing Office, which already contracts out the bulk of the government's printing to the private sector, is taking things a step further by hiring Kinko's to handle small printing jobs for federal agencies.

The contract, worth about $100 million annually and renewable for up to four years, will allow federal employees to get discounted copying, binding and printing services (including posters, signs, business cards and brochures) at 1,300 locations across the country. The GPO will pick up the tab through a new GPOExpress Card that federal employees will use.

"We pay for it," said Bruce R. James, who holds the title of public printer of the United States. "One of the real tricks here was trying to figure out a way to allow government agencies to more efficiently buy their printing and still comply with the law. The law says that all government printing has to come through GPO; it doesn't necessarily say we have to handle every single job."

The arrangement will enable an agency manager here, for instance, to send handouts electronically to a copy shop in Sacramento, where an official can pick them up before a meeting in the agency's regional office. Kinko's also will provide electronic copies of documents for possible inclusion in libraries that archive federal government documents.

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Most of the printing going to the company had been done by other GPO contractors or by agency print shops, James said. And, yes, an undetermined number of federal jobs will be lost, but he said the losses will be through attrition.

The effort began in December as a pilot program involving five agencies and will expand government-wide in February.

Reformzilla (WSJ)

By James Bopp, Jr.

The Wall Street Journal, January 12, 2006

Like a virus, the campaign finance "reform" passed by Congress in McCain-Feingold and approved by the Supreme Court in McConnell v. FEC is mutating and spreading in the states. The law raised contribution limits to federal candidates but imposed substantial restrictions on political parties and citizens' groups. State politicians are taking McCain-Feingold and McConnell as a license to enact much broader restrictions on core political speech. This term the court has a chance to decide whether these restrictions are justified, and what remains of the First Amendment in regard to democratic elections.

This sorry tale began with post-Watergate amendments to the Federal Election Campaign Act. Congress passed limits on large contributions and mandatory expenditure limits on all political actors, prohibiting citizens' groups, including corporations and labor unions, from speaking out about public officials and candidates, if what they said would "influence a federal election."

In 1976, in Buckley v. Valeo, the Supreme Court recognized that speech about public issues is at the core of the amendment's protections; it struck down mandatory expenditure limits on candidates and strictly limited the scope of regulation of the political speech of citizens' groups. So long as groups eschewed express advocacy of the election or defeat of a candidate, they were free to speak out about issues, the actions of public officials and the positions of candidates. Alas, Buckley did uphold limits on contributions to candidates -- but only on "large" contributions that pose a threat of corruption.

The contribution-limit virus has spread to the states and mutated. While Buckley approved a large federal contribution limit of $1,000 per election, some states thought much lower limits were constitutional. And when the 2000 Supreme Court approved Missouri's $1,075-per-election limit for statewide officers in Nixon v. Shrink Missouri PAC, using very permissive language, the states and federal courts deemed that all constitutional restraints were off. Furthermore, since very low contribution limits help incumbents against challengers, the interests of campaign finance "reformers" and incumbent politicians coincided. So some states have enacted draconian contribution limits: $500 per year in Alaska and Massachusetts; $700 to $270 per year in Arizona, $500 per election in Florida; $500 to $250 per election in Maine; and $400 to $100 for the general election in Montana. Vermont's is the lowest at $400 to $200 per election cycle.

In McConnell in 2003, the Supreme Court upheld the key provisions of McCain-Feingold -- in particular, the "electioneering communication" provision that prohibits the running of broadcast ads, within 30 days of a primary and 60 days of a general election, that mention the name of a federal candidate in his district or state. The provision was enacted because of complaints by members of Congress that groups run negative attack ads that candidates themselves disapproved of -- ads that "do little to further beneficial debate and healthy political dialogue" (to quote Sen. John McCain). In effect, the court in McConnell abandoned free speech in favor of the interests of incumbent politicians.

But if it's a good idea to ban broadcast ads before elections, then state legislators seem to think it is an even better idea to expand the ban's reach to all communications for longer periods of time. Laws now in Alaska, Arizona, California, Colorado, Connecticut, Florida, Hawaii, Illinois, North Carolina, South Carolina, Vermont and West Virginia restrict any communication that refers to a candidate. Arizona's is the longest period: 16 weeks before a general election. More remarkable is a Second Circuit decision, Randall v. Sorrell, that read McConnell and Shrink to mean that even Vermont's mandatory expenditure limits on candidates could now be upheld.

Incumbents are displeased when the press criticizes them, too, and have used the law to stifle the print media. Alabama prohibited editorials endorsing candidates on election day and Florida required newspapers to run a response when the paper attacked a public official. The Supreme Court, mercifully, struck down these efforts. Now, however, broad campaign finance laws are being used to the same effect. In Washington, a judge used the state campaign finance law against two radio talk-show hosts whose speech -- championing an anti-gas tax initiative -- was viewed as an "in-kind" contribution to the political committee supporting the initiative. The initiative committee was required to report the talk show hosts' speech as a "contribution."

Two cases before the Supreme Court will test whether the court will stop the spread of the campaign finance "reform" virus before it becomes a pandemic. Next Tuesday, in Wisconsin Right to Life (WRTL) v. FEC, I will argue on behalf of the WRTL that the Constitution requires recognition of a grassroots lobbying exception to the federal prohibition on electioneering communications. Remarkably, the FEC argues that federal courts are prohibited after McConnell from even considering whether a law can be applied unconstitutionally to non-election-related ads -- and that only the FEC has the authority to grant exemptions.

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WRTL's ads look nothing like the "sham issue ads" that McConnell said were "the functional equivalent of express advocacy" and, therefore, could be banned. The ads were broadcast in the summer of 2004 and exhorted Wisconsin citizens to ask their senators to oppose the ongoing filibustering of President Bush's judicial appointees. The ads didn't identify any election, candidacy, party affiliation or position of the two incumbent senators on the issue, and said nothing that could be construed to support or oppose either senator. But because Sen. Russ Feingold (of McCain-Feingold) was a candidate for re-election, the ads were banned starting Aug. 15 through the general election. WRTL couldn't mention his name.

Of course, the First Amendment protects the right of the people "to petition" governmental officials, just as it protects our right to praise or criticize them. While McConnell has seriously limited the right during the blackout periods, it would be something else again to say that people can't lobby their representatives about upcoming votes in Congress. Yet the "reform" community, in league with incumbent politicians, is supporting the gag effort here, too.

The second case, Randall v. Sorrell, is about Vermont's decision to impose mandatory expenditure limits on candidates, to cut candidate contribution limits to the lowest in the U.S., and to apply a broad "related expenditure" provision to the activities of those who help candidates. Vermont caps expenditure limits for governor to $300,000 per election cycle; recent statewide candidates in Vermont have spent up to 10 times that amount. Further, the contribution limit of $400 per cycle is less than 20% that approved by the court in Buckley and Shrink and captures more political activity because of the broad "related expenditure" provision.

All of these state provisions share an unappealing element: They benefit incumbents. The guise of "reform" offers incumbents semi-respectable cover for their assault on free elections. Unless stopped, this virus will kill the First Amendment and democratic self-government.

Mr. Bopp, general counsel for the James Madison Center for Free Speech, is counsel in the Wisconsin and Vermont Supreme Court cases.

CIVIL RIGHTS:

Justice Department Settles AMC Case (AP)

By David Twiddy

AP, January 12, 2006

KANSAS CITY, Mo. -- AMC Entertainment Inc., the nation's second-largest movie theater chain, was ordered to upgrade seating for patrons in wheelchairs at 1,200 of its stadium-style movie auditoriums and pay $300,000 in penalties and civil damages to settle a U.S. lawsuit.

Justice Department officials said Wednesday the order settles its 1999 lawsuit against the company claiming AMC violated the Americans with Disabilities Act because it doesn't provide comparable seating for people in wheelchairs.

The Kansas City-based company also must ensure that all theaters built over the next five years comply with requirements set out Tuesday by U.S. District Judge Florence-Marie Cooper in Los Angeles.

The stadium-style seating now dominating movie theaters gives everyone unobstructed views of the screen. But critics say most wheelchair spaces are at the base of the stadium tiers, forcing those patrons to crane their necks to see the movie.

As part of the order, privately held AMC, which operates more than 3,300 screens, must build ramps in more than 360 theaters, providing wheelchair spaces on higher seating tiers. The company also must pay $200,000 to theatergoers who originally complained to the Justice Department about the seating arrangements and $100,000 in fines.

"Providing the same moviegoing experience for individuals in wheelchairs that other patrons enjoy delivers on the promise of the ADA," Assistant Attorney General Wan J. Kim said in a release. "These improvements will make the goals of the ADA a reality for thousands of Americans who want to enjoy this popular form of entertainment."

A spokeswoman for AMC said the company couldn't comment on the case because it was still active litigation.

As part of her decision Tuesday, Cooper dismissed arguments from AMC that the proposed solution was more extensive than what the government required from AMC's competitors.

The Justice Department last summer settled similar lawsuits against industry leader Regal Entertainment Group, with that company agreeing to upgrade 1,000 of its 6,000 auditoriums, expected to cost $15 million over the next five years. Cinemark USA and National Amusements Inc. also resolved lawsuits against them recently, also agreeing to renovate stadium-style auditoriums.

The National Association of Theater Owners has criticized the Justice Department, saying it never gave theater companies guidelines for building stadium-style auditoriums other than to say wheelchair-bound patrons should have unobstructed views.

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Hispanic Workers Get 2nd Chance To Challenge English-only Policy (AP)

AP, January 12, 2006

DENVER — A federal appeals court ruling Wednesday resurrects claims Hispanic workers made in a lawsuit challenging an English-only policy for city workers in Altus, Okla.

Twelve bilingual Hispanic workers filed complaints with the Equal Employment Opportunity Commission after the city adopted the policy in 2002. They argued that the city failed to show there was a need to prevent them from speaking Spanish. They said the policy singled out a nationality.

"I speak more English than I do Spanish, but the idea that I couldn't use it when I wanted to bothered me," said Danny Alcorta, 39, who worked for the city as an electric lineman. "It just wasn't right."

Although he no longer works for the city, Alcorta said he's glad the case remains alive to challenge the policy that he says is discriminatory.

"There's still a lot of my friends that I've worked with for a number of years that have to put up with it.

City officials had argued the policy was necessary because some workers and supervisors couldn't understand what was being said on city radios, some workers felt uncomfortable because they could not understand Spanish, and there were safety concerns about workers understanding each other around heavy equipment.

The Justice Department declined to take action, prompting employees to file a lawsuit in federal court in Oklahoma City. U.S. District Judge David Russell dismissed the complaint, saying the city had the authority to adopt the policy in managing its employees.

On Wednesday a three-judge panel of the 10th U.S. Circuit Court of Appeals remanded the case back to district court with respect to the plaintiffs' claims of disparate treatment, discrimination and violation of equal protection laws.

In a 2-1 ruling, the panel upheld Russell's dismissal of other claims, including a claim that the policy violated the Hispanic workers' First Amendment rights to free speech. The workers' attorney had argued that speaking Spanish at work was an expression of ethnic pride.

In a dissenting opinion, Judge Stephanie K. Seymour wrote that she would have also remanded the First Amendment claim to district court.

"The city's ban on Spanish from the work place creates a public space where Spanish speakers arguably do not feel welcome," she wrote. "In such a context, it is not hard to imagine the power of a simple `buenos dias' to convey resistance to that effort and hope for the future."

A Fault Line For 'Intelligent Design' (LAT)

By Louis Sahagun And Eric Bailey

The Los Angeles Times, January 12, 2006

LEBEC, Calif. — Tucked in the raw folds of the Tehachapi Mountains, 63 miles north of Los Angeles and a time warp away in ambience, this town is not used to being the center of attention.

But this far-flung place, one of half a dozen close-knit communities in these mountains, has become the latest focal point in the national debate over teaching "intelligent design" in public schools.

Usually, big news in the region is heavy snow shutting down Interstate 5. There are 15 houses of worship, all Christian, and many folks wear their religion on their bumper stickers. But plenty of big-city newcomers, who commute to jobs in Bakersfield and Los Angeles, prefer a solid gap between religion and the classroom.

The San Andreas fault literally cuts through town, and right here "red state is slamming up against blue state like tectonic plates," said Patric Hedlund, managing editor of the Mountain Enterprise, a local weekly.

"The people here are grappling with fundamental issues of free speech and separation of church and state," she said. "It's one of those divine moments where everybody is right, and we have to find out what the rules are."

Outsiders know this region as the Grapevine. Lebec, the place with the post office, was named after a 19th century pioneer killed by a grizzly bear. The local chamber of commerce refers to Lebec, Gorman, Frazier Park and other north Tehachapi hamlets as the "Mountain Communities." Locals call it "the hill."

As they ruminate and wrangle among themselves, residents feel swamped.

The TV news crews and their satellite trucks began prowling the rugged hills not long after word spread of a lawsuit filed Tuesday by 11 parents against El Tejon Unified School District, the first legal challenge to the teaching of intelligent design in California.

At the district office, secretaries say at least three dozen interview requests have poured in for Supt. John Wight, who was at a conference and unavailable for comment.

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The hullabaloo erupted after disgruntled parents joined with Americans United for Separation of Church and State to challenge a course at Frazier Mountain High School that they consider a minimally disguised endorsement of intelligent design.

School trustees approved the new course, "Philosophy of Design," at a special meeting on New Year's Day. Attorneys for the district suggested the course could survive a legal challenge if it was called "philosophy," the lawsuit said, and the board approved it on a 3-2 vote.

Hedlund's newspaper opened up five full pages to letters on both sides of the issue.

In one letter, Nicole Francus of Frazier Park called the course "an academic and legal disaster" that threatens to "take us all down a slippery slope."

"I'm not a biologist," countered Bob Anderson, another letter writer, "but the last time I looked, evolution was and is still an unproven scientific theory."

Intelligent design holds that some biological systems are so complex they could not have evolved through random mutations, as Darwin theorized, but must have sprung from the work of a larger master plan.

The course, which began Jan. 3, is scheduled to run for one month. The teacher is Sharon Lemburg, a special education instructor and the wife of a minister for the local Assembly of God Church, which supports fundamentalist Christian tenets about creationism.

An initial course description, which was distributed to students and their families last month, said "the class will take a close look at evolution as a theory and will discuss the scientific, biological and biblical aspects that suggest why Darwin's philosophy is not rock solid."

"Did God guide me to do this?" Lemburg asked, during an interview on the porch of her log house. "I would hope so."

Most of the reaction she's received has come from supporters or the media, with their e-mails and phone calls falling into three categories: "We support you, we're praying for you and … can we have you on our show?"

"It's scary," Lemburg said. "I just want to teach. I'm not out for big publicity."

Supporters of intelligent design lost a court challenge in Dover, Pa., last month that both sides considered a test case. Now the spotlight has shifted to the Tehachapis.

It's a region that is at once isolated and at the crossroads of the world, perched off bustling I-5 between Los Angeles and the San Joaquin Valley. Towns such as Lebec and Gorman — awash with fast-food joints, gas stations and tow truck operators — serve as pit stops. But Frazier Park and Pinion Pines and Lake of the Woods rarely get a visit.

In addition to a bumper crop of churches, the region has a high number of home-schooled children, according to Hedlund.

About 12,000 people live in the area, and Frazier Mountain High School's cluster of squat, concrete-gray buildings are home to fewer than 500 students.

Jeremy Hurst, a 15-year-old sophomore, is caught in the crossfire in town and at home.

His father, Kenneth Hurst, is a scientist at the Jet Propulsion Laboratory in La Cañada Flintridge and one of the parents behind the lawsuit. His mother is a practicing Christian and is not involved in the lawsuit.

"My mom takes me to Baptist Church every Sunday; my dad gives me all the science books he can," said the slender youth. "Personally, I don't know what to think."

He said his father, who stated in the lawsuit that the class is an inappropriate attempt to evangelize students, seems "really uptight about this whole thing." The son suggested a different tack: "I think kids should choose whether to take the class or not."

Whether all the attention is a good thing is — like intelligent design — a matter of debate.

"Attention is good," declared Pastor Scott Irwin of the 50-member Lebec Community Church. Inside his white, wood-frame church in the shadow of enormous oaks, Irwin said he hoped the fight would motivate people to question evolution. "I think Lebec is taking a big step for what is true."

Bonnie Kane, director of the Ridge Route Communities Museum, agreed.

"They teach Buddha, Muhammad and everybody else," she said. "I believe they should teach Christianity too."

But head up the two-lane road a bit, and Abbe Gore stands on the opposite side of the rift.

Gore, who works at the community's Internet service provider, believes the intentions might have been good, but the outcome has been a disaster.

"What surprises me is that the local school board decided to go ahead with this class knowing full well it would be controversial," Gore said. "It's an unfortunate way to put Frazier Park on the map."

Well, perhaps for some.

Steven Stark, owner of the Dream Castle restaurant in Frazier Park, was shaking his head over the hubbub. Reporters had been popping in and out all day.

"It's usually a quiet little town," Stark said. But he predicted that the invasion from the outside world would be "good for the area — and it's good for my business."

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ANTITRUST:

Appliance Firms' Stock Recovers (AP)

AP, January 12, 2006

DES MOINES (AP) - Shares of Maytag Corp. and Whirlpool Corp. stock recovered slightly Wednesday after taking a hit the day before amid speculation that federal regulators may challenge the firms' merger.

Whirlpool closed Tuesday at $83.10 after dropping $1.89, or 2.2 percent, for the day while Maytag fell 4.7 percent, or 88 cents, to close at $17.89.

Wednesday, Whirlpool shares closed at $83.05 and Maytag finished at $17.98.

Whirlpool, based in Benton Harbor, Mich., agreed in August to buy Maytag for $1.7 billion in cash and stock. Both companies have said they expect the deal to close as early as the first quarter of this year.

Shareholders of Newton, Iowa-based Maytag voted Dec. 22 to approve the merger, pending regulatory approval. The U.S. Justice Department is investigating whether the merger of Whirlpool, the leading appliance seller, and Maytag, the third largest, violates antitrust laws.

Industry analyst David MacGregor, of Ohio-based Longbow Research, said the stock fluctuation was based on nothing more than market scuttlebutt.

He said the market reacted to the buzz that regulators were concerned that the merger would place too much of the middle-priced laundry machines in one company's control. Mid-priced washing machines, for example, sell for $350 to $600, MacGregor said.

"When we start talking about potential concentration in the middle-price points in the laundry category, that is very micro, and it is very unlikely that the transaction is going to be disallowed as a result," MacGregor said.

Other industry observers were more skeptical.

Stephen Calkins, a law professor at Wayne State University in Detroit and a former Federal Trade Commission attorney, has said that regulators probably would have "grave concerns" about concentrating so much of the laundry market in one company.

Industry analyst Laura Champine, of Morgan Keegan & Co. in Memphis, Tenn., gives the deal a 50-50 chance of gaining regulatory approval.

Prudential Equity Group's Nicholas P. Heymann has written that "2006 is likely to be the year Maytag ceases to exist as an independent company."

Report Sees Legal Hurdles For Whirlpool, Maytag Merger (FREEP)

By ALEJANDRO BODIPO-MEMBA, FREE PRESS BUSINESS WRITER

Detroit Free Press, January 12, 2006

Shares of Whirlpool Corp. and Maytag Corp. changed little Wednesday one day after stock for both appliance makers dropped as much as 2% and 5%, respectively, following rumors that federal regulators may try to block a proposed merger between the two companies.

An article that appeared on the financial news website TheDeal.com, citing people it didn't name, said antitrust concerns might lead to the U.S. Department of Justice seeking an injunction blocking the merger. In August, Benton Harbor-based Whirlpool agreed to purchase Maytag of Newton, Iowa for $1.7 billion in cash and stock, following a flurry of offers and counter offers by several suitors.

The proposed deal, which is expected to be completed in the first quarter of this year, would combine the nation's No. 1 and No. 3 makers of household appliances under one roof. But, antitrust concerns about merging two of that nation's biggest makers of refrigerators, dishwashers and dryers surrounded the deal for months.

News of possible regulatory concerns sent Whirlpool stock tumbling $1.89 a share to $83.10 on the New York Stock Exchange Tuesday. Maytag shares dropped 88 cents to close at $17.89 a share on the same day.

Officials at Whirlpool had no comment. Calls to Maytag weren't immediately returned.

On Wednesday, shares of Whirlpool fell 4 cents to $83.06 at 2:50 p.m. in trading on the New York Stock Exchange. Maytag stock rose 10 cents.

Northwest Drops SkyTeam Antitrust Request (AP)

By Joshua Freed

AP, January 12, 2006

MINNEAPOLIS - Northwest Airlines Corp. is withdrawing a request for antitrust immunity for its SkyTeam airline alliance, saying the Transportation Department had signaled it would reject the request anyway.

Separately Wednesday, the parent of Northwest regional feeder Mesaba Aviation Inc. said its fleet may be halved to just 49 turboprop aircraft because of Northwest's reorganization.

Northwest entered SkyTeam last year after its partner, KLM Royal Dutch Airlines, merged with SkyTeam member Air France. Northwest has antitrust immunity to coordinate routes and pricing with KLM, but not with other SkyTeam members, which also includes Delta Air Lines Inc., Alitalia, Continental Airlines Inc. and CSA Czech Airlines. The request was submitted by all the carriers, and Northwest said its withdrawal request would apply to the full alliance.

Northwest and Skyteam members can still codeshare, which makes it easier for passengers to book trips on a single ticket with multiple airlines. But the Transportation Department had said the Skyteam routes overlap so much that little new service was likely to result from an antitrust waiver.

In a statement, Northwest called the initial Transportation Department finding "arbitrary, capricious and inconsistent with established DOT precedent and U.S. international aviation policy.

"Northwest is at a loss to understand this decision by the same DOT officials claiming to strongly support deregulation and an Administration which espouses a free market philosophy," Northwest said. "The U.S. airline industry is in a state of crisis. Four major air carriers, including Northwest and Delta, are operating under Chapter 11, as are several national carriers."

Regional feeder Mesaba is also in Chapter 11, having filed just one month after Northwest, which provides all of Mesaba's planes, revenues, and passengers.

Earlier this year Mesaba operated a fleet of 100 planes for Northwest, including 35 Avro regional jets that seat 69 passengers. But on Wednesday, parent MAIR Holdings Inc. said Northwest told Mesaba that all of Mesaba's Avro jets will be removed by December 2006. Mesaba also said Northwest is removing three of its Saab turboprops, leaving it to built its bankruptcy plan on a fleet of 49 Saabs.

"The four-engine Avros are very expensive to operate, especially in the current high fuel cost environment," Northwest said in a recent employee newsletter.

Northwest has asked regional carriers including Mesaba to bid on flying 76-seat jets, such Mesaba's handful of Canadair Regional Jets. The MAIR statement said Northwest will remove those jets, too, if Mesaba doesn't win that bid. Mesaba spokeswoman Elizabeth Costello said the bid was being submitted this week.

Lobbying To Sell Your House (NYT)

By Glen Justice

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - When the nation's largest banks decided at the start of the decade that they wanted to get into the real estate brokerage business, one major obstacle stood in their way: the National Association of Realtors.

Lobbyists for the huge trade group stonewalled the banks by tying up new rules at the Treasury Department and the Federal Reserve. Then the big score came in 2002 when the Realtors persuaded Congress to adopt a one-year moratorium to stop the banks altogether. It was a card the Realtors would play again and again. Four years later, bankers still have not cracked the real estate market.

"They are known as very aggressive," said Edward L. Yingling, president of the American Bankers Association. "Not many trade associations are willing to be that tough on an issue."

But the ability of the National Association of Realtors to beat back competitors is being tested now as few times before. A broad range of critics say the organization and its state and local affiliates have worked to smother competition and protect the decades-old system that provides traditional brokers 5 percent to 6 percent commissions on most home sales.

The Justice Department sued the association last year, asserting that the group's rules for online property listings discriminate against Internet-based brokers. Battles have also raged in the states as Realtor organizations pursued policies that opponents say would hurt discount brokers. The Consumer Federation of America is revving up to fight any such industry-sponsored legislation state by state in coming months.

"Because the industry functions as a cartel, it is able to overcharge consumers tens of billions of dollars a year," said Stephen Brobeck, the federation's executive director. "Consumers are increasingly wondering why they are often charged more to sell a home than to purchase a new car."

At the same time, traditional brokers are under assault from Web-based companies and discount brokerage firms, many offering rebates and "à la carte" services that can drastically reduce costs. Many of these companies criticize the association as hostile to new business models.

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"The industry is not as competitive as it could or should be," said Representative Michael G. Oxley, the chairman of the House Committee on Financial Services and one of several lawmakers who opposed the organization's stand against the banks.

Even some industry allies say the association may be too aggressive in protecting its interests. "They might have small victories, but they are losing the battle," said Representative Pat Tiberi, an Ohio Republican who worked in real estate before joining Congress. "I think they should be relooking some of their tactics."

Officials at the National Association of Realtors are quick to defend the organization. Stephen Cook, the group's spokesman, said the organization and the industry were not under siege. Rather, Mr. Cook said, the current climate is the byproduct of a hot housing market that has focused much national attention on the industry. "The system can always be improved, but we don't think it is broken," Mr. Cook said.

The association's power has swelled during the heady days of the real estate boom. Its ranks have grown by more than 500,000 in the last five years. With almost 1.3 million members, it is the largest trade association in the country. One out of every 203 adults is a dues-paying member, according to August statistics from the association and the United States Census.

The boom has enriched many brokers. With the average cost of a home reaching historic highs, consumers paid roughly $61 billion in brokerage fees for residential real estate in 2004 as some 6.8 million homes changed hands. Last year, the industry was on track to sell almost 7.1 million homes, according to estimates in December.

The Realtors association is also one of the most powerful lobbies in Washington, spending nearly $94 million annually. It dates back almost 100 years. And it has an iron grip on its members. For access to property listings, individual agents and the brokers who employ them must belong to the national association and their state and local affiliates. Even the term "Realtor" is trademarked for use by members only.

The association spent some $13.5 million in 2004 to lobby Congress and the administration on issues like housing, lending, insurance, small-business legislation and anything that might affect agents, according to lobbying disclosures.

Those who have opposed the Realtors speak of another asset as well: chutzpah. Over the years, the organization has gained a reputation as a fierce fighter in the nation's capital, often willing to go further than many other Washington groups to win its battles.

One prime combatant in the antitrust case is Laurie Janik, the association's general counsel. Ms. Janik said her organization, rather than fighting, tried for months to accommodate Justice Department requests to change its rules for online property listings. Ultimately, she said, the requests went too far and would have eroded the control that Realtors have over the listings, which they consider proprietary.

Ms. Janik said the department also wanted the association to sign a consent decree, raising the possibility of legal consequences if it violated the agreement. It was a step the Realtors were not willing to take. Her group held its ground, and the government filed suit in September.

"I think this is a big gamble for them," she said. "They are very likely going to lose this case."

When the suit was filed, J. Bruce McDonald, a deputy assistant attorney general, said, "Our job is to ensure that one group of competitors doesn't tell some of its members they can't compete in a certain way and undercut the level playing field."

At the heart of the case are the roughly 850 multiple listing services through which brokers cooperate to list properties for sale. The system dates back decades. Once kept in large, heavy books, the lists are now maintained electronically and the data is used to market properties on the Internet.

Almost all agents and brokers - even competitors - use the lists to showcase sellers' properties and obtain prospects for buyers. But the Realtors' control over these lists is a controversial subject in the industry. David Barry, a California lawyer and longtime critic of Realtor associations, is seeking to put an initiative on the California ballot that would open the state's multiple listing services to the public.

The association's rules allow brokers to withhold their property listings from competing Internet sites, though that also means forfeiting the ability to show on their own sites houses listed by competitors.

The Justice Department lawsuit contends that these rules give an unfair advantage to large, traditional brokers that supply the majority of listings. The suit points to internal industry documents that identify online brokers as a threat.

Some discount brokers are elated. "We celebrate the Department of Justice involvement," said Eric A. Danziger, chief executive of ZipRealty, a full-service brokerage firm that offers discounts and makes heavy use of the Internet. "What's happening now is many years overdue, a focus on the consumer. There's still huge resistance from the real estate industry."

Steve Murray, editor of Real Trends, an industry newsletter, said that even if Realtors won the Justice Department case, industry efforts to slow market forces and technology might yield few gains. "Businesses that erect barriers and moats around their industry for protection end up getting slaughtered," he said, adding that "a rational person could say these guys are a cartel."

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The Justice Department case is still in its early stages before a federal judge in Chicago, where the Realtors have asked for a dismissal and prosecutors will respond in coming weeks.

Ms. Janik warns that major changes to the multiple listing services could cause large nationwide brokerages to pull out of the system and establish their own private listings. That, she said, would be a far greater threat to small firms.

"I'm scratching my head, saying 'what is the Justice Department thinking?' " Ms. Janik said.

With the housing market showing signs of cooling, market forces could change the landscape a lot sooner than any legal battle might. If home sales decline, either because owners are reluctant to sell at lower prices or rising interest rates keep buyers on the sidelines, Realtors could be in for major changes.

Even industry heavyweights agree that change is imminent. Dave Liniger, chairman and co-founder of Re/Max, said he expected commissions to continue to drop and à la carte models, in which customers choose the services they want and pay accordingly, to continue to rise. But he said both would happen slowly over a period of years.

"It's the evolution of the industry, but not the end of the industry," he said.

At Cendant, which operates Century 21 and Coldwell Banker, Richard A. Smith, the chief executive of the real estate unit, said he expected traditional brokers to gain ground in a softer market. When the market tightens, he said, homeowners are often more interested in selling quickly than they are in saving money.

Still, Mr. Smith said his company, which operates its own discount brokerage, was closely watching the pressure on prices and any action by regulators. And he said that while his organization did not always support the association's political positions, it agreed with the group in the Justice Department case.

"People shouldn't be forced to market their homes the way the government wants them to market their homes," Mr. Smith said. "What's next?"

Realtors have also collided with the Justice Department in several state capitals, where the industry has pushed legal changes that some say will harm nontraditional brokers. Some of the new rules ban rebates to home buyers or sellers. Others, known as minimum-service bills, which require brokers to offer a broad range of services to obtain a real estate license, can hurt discounters who offer fewer services for lower fees.

In Missouri, for example, the legislature unanimously passed a minimum-services bill that sent lobbyists on both sides scrambling to sway Gov. Matt Blunt. As they had done in other states, the Justice Department and the Federal Trade Commission urged Mr. Blunt to veto the measure.

Ms. Janik had weighed in with a letter to state associations months earlier, saying the Justice Department was merely lobbying and could not apply federal antitrust laws to cases in which states have regulatory authority.

"Realtor associations have the right to lobby for legislative and regulatory action that they support - even if the effect of such action would be anticompetitive," she wrote in a strongly worded memo.

The Missouri Association of Realtors hired Gregg L. Hartley, chief operating officer of Cassidy & Associates, one of the largest lobbying firms in Washington. Mr. Hartley is a former chief of staff to Representative Roy Blunt, the governor's father and one of the most powerful Republicans in Congress. When Representative Tom DeLay was indicted earlier this year, Mr. Blunt took over his duties as majority leader.

The Missouri association paid Mr. Hartley $50,000 for a single month of lobbying, according to state records, which listed his only task as working to enact the bill. Mr. Hartley did not return calls for comment.

Ultimately, Governor Blunt signed the bill.

Johnson & Johnson Won't Wave White Flag Yet For Guidant (DOWJONES)

Dow Jones, January 12, 2006

Johnson & Johnson (JNJ) (JNJ) appears unwilling to let its planned Guidant Corp. (GDT) (GDT) purchase slip away without a fight, a shift given J&J's prior unwillingness to budge from its offer for the medical device maker, but a move that reflects the new reality of intense competition.

J&J's current purchase price for Guidant (GDT), about $64 a share, is the much- reduced product of an acrimonious spat between the companies following troubles with Guidant's (GDT) heart rhythm devices last year. Given the dispute, many thought J&J was locked into that price, even as a surprise $72 a share offer from rival Boston Scientific Corp. (BSX) (BSX) dramatically changed the landscape.

The offer, officially made Sunday at $25 billion, vaulted Boston Scientific (BSX) to apparent frontrunner status, but several reports this week suggest J&J is willing to change its tune. The Wall Street Journal reported that Guidant's (GDT)board plans to meet at 3:00 p.m. EST Wednesday to decide between the Boston Scientific (BSX) offer and a new, potentially much more competitive J&J offer.

The New York Times reported earlier Wednesday that J&J approached Guidant's (GDT)board at the last minute late Tuesday, heading off a vote in favor of Boston Scientific (BSX), to negotiate a new deal. CNBC also reported Wednesday that J&J plans to raise its offer.

Boston Scientific (BSX), meanwhile, may be willing to answer a any J&J move. "Don't count us out," Boston Scientific (BSX) spokesman Paul Donovan said Wednesday, declining to elaborate further.

If health-care giant J&J still really wants Guidant (GDT), "there's a bidding war on now," said Tao Levy, analyst with Deutsche Bank.

Boston Scientific (BSX) shares recently traded at $25.49 a share, down $99, or 3.7%. J&J shares recently traded at $62.15 a share, down 95 cents, or 1.5%. Guidant (GDT)recently traded at $70.38, up 99 cents, or 1.4%.

According to Peter Goldman, a portfolio manager at Chicago Asset Management, which owns 150,000 J&J shares, the company's shift isn't a shock. He'd like to see J&J end up with Guidant (GDT), but can't imagine J&J overpaying or getting into an outright bidding war.

"I think they're very disciplined," Goldman said.

A Guidant (GDT) spokesman declined comment on the matter Wednesday, and J&J also remained quiet. J&J spokesman Jeff Leebaw said the company won't comment beyond a statement made Sunday, when J&J said it expects to consummate the Guidant (GDT)purchase immediately after a vote by Guidant (GDT) shareholders Jan. 31, and that the agreed-upon deal between the two companies remained the best offer.

Ever since Boston Scientific (BSX) sparked a debate, J&J has generally stuck to its guns, claiming its offer represented fair value for Guidant (GDT). J&J has also pointed to its ability to close the deal quickly: Boston Scientific (BSX) has an aggressive target to close a Guidant (GDT) purchase in the first quarter, but unlike J&J, it doesn't have antitrust clearance.

Given those statements, and its intense effort to drive Guidant's (GDT) buying price lower, many analysts speculated that J&J couldn't change its tune or considerably increase its offer, and was willing to walk away with a $625 million breakup fee.

Wednesday's reports suggest J&J wants to remain in the game, and that it recognizes it has to at least close the offer gap to remain competitive. Elliott Associates LP and Elliott International LP, which collectively own about 3 million Guidant (GDT) shares, wrote Guidant's (GDT) board Tuesday to encourage them to take Boston Scientific's (BSX) offer, and said J&J would have to up its offer to no less than $71 a share to compete.

Boston Scientific's (BSX) Donovan addressed the price issue in a brief statement Wednesday. "Our $72 offer is higher than Johnson & Johnson's (JNJ), and there's strong upside potential over time," he said.

J&J may have to eat some crow and its earlier statements to get back into the game. It makes sense if the company is willing to do so, analyst Levy said.

"At the end of the day they need a big acquisition," he said of J&J. "They wanted to get cute with the price and they got too cute."

If Guidant's (GDT) board officially deems Boston Scientific's (BSX) offer to be superior, and notifies J&J of such in a letter, J&J will have five business days to respond.

Levy does not own shares in the three companies. Deutsche Bank has a financial stake and banking relationship with all three companies.

-By Jon Kamp, Dow Jones Newswires; 312-750-4129; jon.kamp@dowjones.com

Investors Expect Battle For P&O After Singapore Hints At A Bid (WSJ)

By Bruce Stanley, Cris Prystay And Jason Singer

The Wall Street Journal, January 12, 2006

Smelling a battle between a pair of rich bidders amid a boom in cargo volume, investors pushed shares of port operator Peninsular & Oriental Steam Navigation Co. of Britain up 6.3% yesterday after PSA International Pte. Ltd. of Singapore said it might make a bid for it at as much as £3.54 billion ($6.25 billion).

PSA, a unit of Singapore's state-owned investment company Temasek Holdings Pte. Ltd., said after the London market closed Tuesday that it could pay as much as 470 pence a share for P&O, as the company is known. That would trump a bid of 443 pence a share, or £3.3 billion, that Dubai Ports World, of the United Arab Emirates, made in November and that P&O's board then recommended to its shareholders.

P&O shares rose 29.5 pence to 498.5 pence each yesterday in London.

Still, it isn't certain PSA will make a bid for P&O, one of Britain's oldest companies, founded in 1840. Singapore port operator PSA, which has been granted access to the same nonpublic financial information that was given to Dubai Ports, has a little more than two weeks to review the data and decide. Dubai Ports, meanwhile, has said it is reviewing the situation carefully.

Expansion Dreams

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Like Dubai Ports, PSA -- the world's second-biggest operator by number of containers handled, according to the London maritime advisory service Drewry Shipping Consultants Ltd. -- is eager to expand beyond its small home base and grab a share of bigger cargo markets in Asia, Europe and North America. The container-ports industry has received a jolt of energy during recent years, thanks to a surge in manufactured exports from China and other Asian nations.

Analysts see any showdown for P&O as a further sign that container-port companies are starting to gobble each other up just as some of their shipping-line customers have done. "If you want to make it into the super-big league, then this is the last opportunity to get in," says an investment-bank analyst whose bank is advising one of P&O's potential buyers.

By containers handled, P&O is the world's fourth-biggest operator, behind No. 3 APM Terminals, the port-operating arm of A.P. Moeller-Maersk of Denmark; No. 2 PSA; and No. 1 Hutchison Port Holdings, part of the Hong Kong-listed conglomerate Hutchison Whampoa Ltd. Dubai Ports ranks seventh world-wide.

P&O operates at 29 ports around the world, including Baltimore, Miami, New Orleans and Newark, N.J., where it has a 50% stake in the Port Newark Container Terminal. Neither PSA nor Dubai Ports has a presence in the U.S.

People close to the matter expect Dubai Ports to try to stop PSA should it make a formal bid. If it does bid, PSA has said, it would match the terms of Dubai Ports' offer. That would include pumping money into the London company's pension plan, a move that would require approval from the pension trustees, which Dubai Ports has received.

Prize Catch

Since both PSA and Dubai Ports are already among the world's top port operators, P&O's board would likely accept the higher bid.

With container operations world-wide, P&O would be a rare prize for either buyer, in an industry with few remaining opportunities for substantial growth through a single acquisition. The pair have tangled once already, in 2004, when Dubai Ports outbid PSA for the global port assets of CSX Corp., of Jacksonville, Fla. "The U.S. assets under P&O are a great attraction to any potential bidders, given the difficulties to get into this market," says Cusson Leung of Merrill Lynch in Hong Kong.

If PSA bids for and acquires P&O, it would overtake industry leader Hutchison. If Dubai Ports prevails, it would rise to No. 2, ahead of PSA by container count, according to 2004 figures compiled by Drewry. Dubai Ports, based in the United Arab Emirates' sheikhdom of Dubai, is the overseas arm of the state-run ports operator.

A Hutchison spokesman declined to comment on Hutchison's likely response to any battle.

ENVIRONMENT/INDIAN AFFAIRS:

U.S. Officials Confirm Miners Tried To Escape After Blast (NYT)

By Felicity Barringer

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - As questions persisted about violations of safety requirements at the Sago Mine in West Virginia, federal regulators on Wednesday confirmed reports that the 12 miners trapped after the Jan. 2 explosion started to walk toward the exit, only to turn back and take shelter in the farthest recesses of the mine.

But the regulators said they had heard nothing to confirm an account by relatives of the only survivor that the men had tried to force their way out in a rail car but that their escape route had been blocked by debris. Rescuers found no such blockage, the regulators said.

All but one of those 12 trapped miners died of carbon monoxide poisoning, as did one other who was close to the blast site. Only Randal McCloy Jr., 27, was found alive. He remains in a coma, in critical but stable condition at the West Virginia University Hospitals, the medical center said.

Asked why the miners changed course, Robert Friend, the acting deputy assistant secretary at the federal Mine Safety and Health Administration, said, "We're waiting for Mr. McCloy to tell us."

On Wednesday, hospital spokesmen and the F.B.I. also warned that an Internet-based campaign soliciting money on Mr. McCloy's behalf was a hoax.

Mr. Friend and Ray McKinney, administrator for coal mine safety and health, told reporters on Capitol Hill on Wednesday that two mine rescue teams arrived at the mine five and a half hours after the 6:30 a.m. explosion on Jan. 2, but that it was not until 4 p.m. that carbon monoxide levels began to drop enough that the safety team managers felt rescuers could enter the mine.

Mr. McKinney said the first rescue team entered the mine at 5:25 p.m., and slowly made its way down the main tunnel. With three teams working in shifts, they found the miners' tracks at 8 p.m. on Jan. 3.

Three hours later, they found Mr. McCloy, unconscious and groaning, and the 12 other miners dead. A PowerPoint version of the timeline that Mr. McKinney gave reporters is uat the Web site for the agency, www.msha.gov.

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Mr. McKinney's account did not resolve some disputes.

For one point, the mining company has always maintained, and Mr. McKinney repeated, that a second crew in the mine that day, which emerged safely, had six men. But four miners in that group say it numbered 13, and one miner provided the names and job titles for all 13.

For another point, 12 significant violations of fire-safety regulations that federal officials listed on Tuesday did not, Mr. McKinney said, constitute a pattern of misconduct that would have warranted closing the mine. Industry critics say the violations gave the agency ample cause to close the mine until new practices were instituted.

In a news conference on Wednesday, Ben Hatfield, the chief executive of the International Coal Group, which owns the mine, defended its safety efforts, according to The Associated Press. Mr. Hatfield said the company had reconstructed two miles of the primary escape path, upgraded the mine rail system and instituted employee safety training that exceeded legal requirements.

"In my opinion," he said, "the Sago Mine was a safe operation."

Interior Department To Open Alaskan Land To Oil Drilling (WP)

By Justin Blum

The Washington Post, January 12, 2006

The Interior Department yesterday agreed to open about 400,000 acres on Alaska's North Slope for exploratory oil drilling, an area that previously had been off limits because of concerns about the impact on wildlife.

Officials said they would lease acreage in the northeastern corner of the National Petroleum Reserve-Alaska to oil companies to provide access to domestic oil supplies.

"We recognize . . . the energy needs of this nation," said Susan Childs, an official with the Bureau of Land Management. "So, hopefully, this will alleviate some of the pressure."

Government officials said that the area of the preserve opened yesterday has significant potential for oil development. They estimate it contains about 2 billion barrels of oil that is economically recoverable, along with 3.5 trillion cubic feet of natural gas. The United States consumes more than 20 million barrels of oil per day.

Much of the 23.5 million-acre petroleum reserve already is open to oil development. The reserve, created in 1923, is located west of the Arctic National Wildlife Refuge, long a flashpoint in the debate over allowing oil drilling versus protecting the environment.

Childs said the land opened yesterday could be drilled with "minimal" impact on wildlife, a conclusion that environmentalists dispute.

The area -- particularly near Teshekpuk Lake -- has been a focal point of concern among environmentalists. They say oil operations would disrupt an area where thousands of brant geese and white-fronted geese molt. They also predicted harm to caribou and tundra swans.

"This is the single most important goose molting area in the arctic," said Stanley Senner, executive director of Audubon Alaska. "It will mean fewer birds."

The Bureau of Land Management proposed opening the area a year ago. But it was not until yesterday that an Interior Department official, Deputy Assistant Secretary Chad Calvert, approved a modified version of that plan.

The area near Teshekpuk Lake was put off limits to drilling during the Reagan administration. The Clinton administration expanded the restricted area.

But the Bureau of Land Management says technological advances in oil drilling allow drilling to occur without the impact previously feared. Drilling will be allowed about a quarter-mile from the lake.

Bureau officials said they would conduct further study on the impact to molting geese before allowing permanent drilling.

U.S. Lifts Longtime Drilling Ban On Alaskan Wildlife Habitat (LAT)

By Janet Wilson

The Los Angeles Times, January 12, 2006

The Department of Interior on Wednesday approved oil and gas drilling on Alaska land considered such sensitive wildlife habitat that it was first protected by former Interior Secretary James G. Watt under President Reagan, and by four Interior secretaries since.

The decision — decried by Native American, hunting and environmental groups — comes just weeks after the U.S. Senate rejected drilling in the Arctic National Wildlife Refuge, about 200 miles to the east.

Bureau of Land Management staff said the decision was made after three years of study and in response to requests by Vice President Dick Cheney's energy task force.

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The plan, signed by Deputy Assistant Interior Secretary Chad Calvert, will open up more than 500,000 acres in and around Teshekpuk Lake on Alaska's oil-rich North Slope. BLM officials estimate the northeast National Petroleum Reserve, including the lake area, may contain as much as 2 billion barrels of "economically recoverable" oil.

The area is a critical stop for molting geese on the Pacific flyway, with as many as 90,000 birds resting in flat wetlands in the summer. Up to 46,000 caribou also use areas near the lake for calving and migration paths.

Although many Alaskans welcome drilling as an economic boon, some native leaders in the state blasted the decision.

"There are a lot of frustrated people in our community right now," said Dora Nukapigak, who lives in the small Inupiat Eskimo village of Nuiqsut, at the eastern edge of the reserve, where many people depend on caribou as a food source. "It's a very sensitive area. It seems like regardless of what we say or do with BLM, they'll do what they're going to do anyways, and that's drill."

Former Interior Secretary Watt, often derided by environmentalists for other actions, protected more than 200,000 acres of the goose-molting area north of the lake from oil and gas drilling in the early 1980s. His successors under Reagan and President George H.W. Bush maintained those protections. Under President Clinton, Bruce Babbitt expanded bans against drilling around and on the lake to more than half a million acres.

BLM officials acknowledged that the area is important for wildlife and subsistence hunting, and said their plan was "very, very rigorous" in requiring environmental protection and mitigation.

No surface drilling will be allowed on 242,000 acres considered vital for molting geese, or on another 244,000 acres used by caribou. Slant drilling will be allowed under those surfaces from adjoining land. Pipelines must be seven feet high, at least initially, to allow caribou and hunters to pass beneath.

A maximum of 2,100 acres total in seven different zones can be permanently disturbed on the surface, and a three-year study will be conducted of molting geese, BLM staff said.

Leasing of the lands could begin by September, after reviews by a state coastal agency and a regional planning agency, although drilling on the lake will be deferred for 10 years.

"We have done a very good job balancing the subsistence resources while allowing some areas to be opened to oil and gas drilling," said Susan Childs, energy and mineral planning coordinator for BLM's Alaska office, which oversees the plan.

"Our mission is to provide for multiple uses. A part of our mission is to protect wildlife, but also part of our mission is to allow for the development of resources. Our job is to find that balance in oil and gas mining," said BLM Alaska spokeswoman Jody Weil.

But conservation groups blasted the plan and said there were no guarantees the restrictions would remain in place.

"They're notorious for granting waivers to their own rules," said Stanley E. Senner, a biologist who is executive director of Audubon Alaska.

"This plan is utterly unbalanced. Even the Reagan administration protected the waterfowl habitat around Teshekpuk Lake because of its world-class ecological and cultural value," Senner said. "No one should be fooled by the window dressing … this plan makes every last acre available for oil development."

Chuck Clusen, director of the Natural Resource Defense Council's Alaska Project, said the BLM "is supposed to balance all values of our public lands. Giving 100% to the oil industry is not what anyone would call balanced."

Times Staff Writer Sam Howe Verhovek in Seattle contributed to this report.

Warming Tied To Extinction Of Frog Species (WP)

By Juliet Eilperin

The Washington Post, January 12, 2006

Rising temperatures are responsible for pushing dozens of frog species over the brink of extinction in the past three decades, according to findings being reported today by a team of Latin American and U.S. scientists.

The study, published in the journal Nature, provides compelling evidence that climate change has already helped wipe out a slew of species and could spur more extinctions and the spread of diseases worldwide. It also helps solve the international mystery of why amphibians around the globe have been vanishing from their usual habitats over the past quarter-century -- as many as 112 species have disappeared since 1980.

Scientists have speculated that rising temperatures and changing weather patterns could endanger the survival of many species, but the new study documents for the first time a direct correlation between global warming and the disappearance of around 65 amphibian species in Central and South America.

The fate of amphibians -- whose permeable skin makes them sensitive to environmental changes -- is seen by scientists as a possible harbinger of global warming's effects. Rising temperatures are threatening the survival of flora and fauna worldwide,

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including coral reefs in the Caribbean, which serve as critical fish nurseries, and South African rhododendrons, which cannot move to a cooler climate.

J. Alan Pounds -- the resident scientist at the Tropical Science Center's Monteverde Cloud Forest Preserve in Costa Rica and the study's lead author -- worked with 13 other researchers to pin down the link between rising tropical temperatures and the spread of the deadly chytrid fungus that has wiped out dozens of species of harlequin frogs in recent years.

"Disease is the bullet killing frogs, but climate change is pulling the trigger," Pounds said. "Global warming is wreaking havoc on amphibians and will cause staggering losses of biodiversity if we don't do something first."

The paper helps explain how global warming has allowed the chytrid fungus -- which kills frogs by growing on their skin and attacking their epidermis and teeth, as well as by releasing a toxin -- to thrive in Costa Rica and neighboring countries. The higher temperatures result in more water vapor in the air, which in turn forms a cloud cover that leads to cooler days and warmer nights. These conditions favor the fungus, which grows and reproduces best at temperatures between 63 and 77 degrees Fahrenheit.

At least 110 species of the vibrantly colored amphibians once lived near streams in the Central and South American tropics, but about two-thirds disappeared in the 1980s and 1990s, including the golden toad. While researchers had previously identified the fungus as a major reason for the frogs' demise, they have been trying determine why the disease has taken such a major toll in recent years.

Looking at more than 65 harlequin frog species that had vanished, researchers found that 80 percent of the time there was a correlation between higher temperatures and the species' disappearance. After a warm peak in 1987, for example, five species died off.

"There's a coherent pattern of disappearances, all the way from Costa Rica to Peru," Pounds said in an interview. "Here's a case where we can show that global warming is affecting outbreaks of this disease."

Amphibians are experiencing a precipitous decline in Africa, Asia and North America, according to a comprehensive 2004 survey, which cited climate change as well as deforestation, pollution and habitat loss as key factors.

"We have a biodiversity crisis," said Andrew Blaustein, director of Oregon State University's graduate programs in environmental science. "Amphibians seem to be harder hit than other groups."

Michael Totten, senior director for climate and water initiatives at the environmental group Conservation International, said humans have made it more difficult for animal and plant species to adapt to the shifting climate by fragmenting natural habitat. "Traditionally species have been resilient and capable of going through dramatic climate change, but with humans changing the face of the landscape, we've created lots of prisons for species, and that's the major problem they face," he said.

Stanford University climatologist Stephen Schneider said the new research represents "a creative step in the right direction, but it's still early in the game to sound the 'solved' bell." He added that the study is "just further evidence" that global warming is linked to accelerating extinctions worldwide.

While Pounds and his colleagues are still researching the harlequin frogs' disappearance, their findings are prompting even some scientists who had been skeptical about climate change's impact on amphibians to reassess their position.

James Collins, who studies harlequin frogs at Arizona State University, called the paper "an intriguing contribution" to understanding what is happening to amphibians worldwide. He said the study shows that when it comes to climate change, "these forces don't all move in one direction," since some habitats are becoming drier while others are becoming wetter.

Collins and a team of researchers are trying to determine if the chytrid fungus is surfacing in areas where it had never thrived before.

Study Finds Global Warming Is Killing Frogs (WSJ)

By Gautam Naik

The Wall Street Journal, January 12, 2006

Conservationists have been puzzled for more than a decade by the mysterious disappearance of harlequin frogs from the pristine, high-altitude tropical forests of Costa Rica. Now a group of scientists believe they have pinpointed the likely cause: global warming that promotes a fungus that is fatal to the frogs.

The finding, published today in the journal Nature1, is likely to stoke the debate about whether climate change is affecting the dynamics of disease, and why amphibians are dying out in such massive numbers world-wide. Recent data indicates that, since 1980, as many as 122 amphibian species are likely to have become extinct and one-third of known amphibian species are threatened.

In Costa Rica, researchers found that the region's brightly-colored harlequin frogs were succumbing to a disease caused by the chytrid (KIT-rid) fungus, which also has been implicated in a wave of amphibian deaths elsewhere in the world. Using

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records of sea and air temperatures, the scientists discovered that the frogs were disappearing at a rate in near-lockstep with the changing climate.

"About 80% of the disappearances of frogs correspond to unusually warm years" when the fungus thrives, said J. Alan Pounds, the study's lead author and resident scientist at the Monteverde Cloud Forest Preserve in Costa Rica. The fungus grows on amphibians' skin, creating a dermatological condition for the creatures that is often fatal. About two-thirds of the harlequin species, which once thrived in the tropics of Central and South America, vanished in the 1980s and 1990s.

But establishing a causal link between large-scale, long-term global warming and the elimination of specific species in a particular region isn't easy. The fungus-related frog deaths in Costa Rica "could be a roll of the dice one time, or it could be several interconnected factors contributing to the problem," said Ben Orlove, a professor of environment science and policy at the University of California, Davis. Habitat destruction, pesticides and other factors have all been blamed for amphibian declines.

Still, the demise of amphibians is part of a far-larger pattern. The earth has witnessed five known extinction waves affecting many species. What makes the current one different, scientists have concluded, is that it is likely to have been triggered mainly by human activity.

Bird, mammal and amphibian species are disappearing in recent decades at a rate estimated at 100 to 1,000 times as high as the expected, natural extinction rate. In the past 500 years, human activity has forced 844 species to extinction, according to the World Conservation Union, a Switzerland-based agency whose members include some 82 states, 111 government agencies and other groups involved in ecology and conservation.

Amphibians are in the deepest trouble. They may be particularly vulnerable because they go through several life-cycle stages, making them prey to more predators and environmental shifts. And while they perform the nifty trick of absorbing oxygen through their skin, that probably makes them more susceptible to toxins and infection.

According to the Global Amphibian Assessment, a large, world-wide study that reported its findings in 2004, about 43% of amphibian species are declining, 27% are stable and less than 1% are increasing. The status of the rest isn't known.

Almost certainly, factors such as loss of habitat, pesticides and change in land-use patterns contribute to the decline in amphibian species across the globe. "The assumption, then, was that [amphibians] would do just fine in protected areas" such as Costa Rican cloud forests, said James P. Collins, a professor at Arizona State University in Tempe and chairman of the Declining Amphibian Populations Task Force. But since Costa Rica's harlequin-frog population is diminishing anyhow, "the climate-change explanation attracts attention," he said.

Last fall, scientists and conservationists met in Washington and drew up a global action plan to save the world's frogs, toads and salamanders from oblivion. The estimated cost over five years: more than $400 million to move their populations from threatened areas, breed them in captivity or conduct studies.

In Costa Rica, Mr. Pounds and his colleagues studied air and sea surface temperatures from 1973 to 2000 and found that rising temperatures enhanced cloud cover over tropical mountains, leading to warmer nights and cooler days. The change appears to have favored the chytrid fungus, which grows and reproduces best at temperatures from 63 to 77 degrees Fahrenheit. One solution for the harlequin frogs might be to move their populations to altitudes where the fungus doesn't thrive as well, Mr. Pounds says.

But key questions remain unanswered. "Climate change may be helping the fungus spread, but we don't know where the fungus came from" or whether it can survive without amphibians, Mr. Pounds says. "These are the parts of the story that aren't entirely clear."

Frog Killer Is Linked To Global Warming (NYT)

By Andrew C. Revkin

The New York Times, January 12, 2006

Scientists studying a fast-dwindling genus of colorful harlequin frogs on misty mountainsides in Central and South America are reporting today that global warming is combining with a spreading fungus to kill off many species.

The researchers implicate global warming, as opposed to local variations in temperature or other conditions. Their conclusion is based on their finding that patterns of fungus outbreaks and extinctions in widely dispersed patches of habitat were synchronized in a way that could not be explained by chance.

If the analysis holds up, it will be the first to link recent climate changes to the spread of a fungus lethal to frogs and salamanders and their kin. The chytrid fungus, Batrachochytrium dendrobatidis, has devastated amphibian communities in many parts of the world over the last several decades.

But experts on amphibian disease and ecology are divided over the finding, which is being published today in the journal Nature. Several scientists criticized the paper yesterday, saying it glossed over significant sources of uncertainty; others said it

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was important evidence that warming caused by humans was already harming wildlife. Climate scientists have linked most of the recent rise in the earth's average temperature to the buildup of greenhouse emissions from smokestacks and tailpipes.

The new study was led by J. Alan Pounds, the resident biologist at the Monteverde Cloud Forest Preserve in Costa Rica. In an accompanying commentary, two scientists not involved in the research say it provides "compelling evidence" that warming caused by human activity was already disrupting ecology.

"The frogs are sending an alarm call to all concerned about the future of biodiversity and the need to protect the greatest of all open-access resources - the atmosphere," write the scientists, Andy Dobson, a Princeton University ecologist, and Andrew R. Blaustein, a zoologist at Oregon State University.

More than 110 species of brightly colored harlequin frogs, in the genus Atelopus, once lived near streams in the tropics of the Western Hemisphere, but about two-thirds of them have vanished since the 1980's.

A leading suspect is the chytrid fungus, which in recent decades has killed amphibians from deserts to lowland tropical forests to mountainsides. It is not clear whether the fungus has been spread around the world by human trade in amphibians or whether it has laid largely undetected and has only recently erupted.

Paradoxically, the fungus thrives best in cooler conditions, challenging the theory that global warming is at fault. But Dr. Pounds and his team, in studying trends in temperature and disease around the American tropics, found patterns that they say explain the situation.

Because warming increases evaporation, it can create clouds that tend to make days cooler by blocking sunlight, and make nights warmer by trapping heat. In an interview, Dr. Pounds said those conditions could have created favorable conditions for the spread of the chytrid fungus.

He said that because the seeming extinctions had occurred in lockstep over dispersed field sites, they were hard to attribute to anything other than the broad warming trend that scientists have linked to rising concentrations of greenhouse gases.

But some experts who have read the paper said they were troubled by definitive statements like "Our study sheds light on the amphibian-decline mystery by showing that large-scale warming is a key factor."

Cynthia Carey, an amphibian disease expert at the University of Colorado, said that while both climate and amphibian die-offs were serious problems, this particular paper failed to offer anything beyond circumstantial evidence.

"It is difficult to prove cause and effect on the ground where multiple factors interact in complex ways," she said.

Stephen H. Schneider, a climate expert at Stanford, who has worked with Dr. Pounds on other studies and consulted on this one, acknowledged that uncertainties remained but said the work was significant.

"It's like anything else that's complex," he said. "When you're in the early phases of learning you look for multiple lines of argument, and when they converge with basic theory, you increase your confidence in a connection."

Vanishing Of Frogs, Toads Tied To Global Warming, Study Says (USAT)

By Traci Watson

USA Today, January 12, 2006

A team of biologists and climate scientists says in a new study that it has linked the extinction of a widespread group of animals to global warming.

Writing in today's issue of the journal Nature, the scientists say that more than 60 closely related frog and toad species have vanished from the tropical forests of Latin America during the last few decades, partly because of warming temperatures. The team says this is the first time such a connection has been made.

The research team found a “near lock-step (link) between the timing of losses and changes in climate,” said lead scientist Alan Pounds of the Monteverde Cloud Forest Preserve and Tropical Science Center in Costa Rica. “It's a very striking pattern, and it's hard to find another explanation for it.”

The group did not identify the other contributing causes. Pounds and his team say the warmer temperatures of the late 20th century led to better growing conditions for a fungus that kills frogs and toads.

Other scientists expressed skepticism about the findings. Stephen Corn of the U.S. Geological Survey said the dates recorded for extinctions may not be entirely reliable. The University of Colorado's Cynthia Carey questioned why the new work ignores extinctions of related species after 1998.

The Earth's average temperature rose roughly 1 degree in the 20th century and could rise 10 more degrees by 2100, according to an international group of scientists convened by the United Nations.

That group and other researchers attribute the warming trend to the use of coal, oil and other fossil fuels, which emit carbon dioxide when burned. Buildup of the gas in the atmosphere can trap heat.

Scientists already have evidence linking higher temperatures to changes in the behavior or range of hundreds of species, such as flowers that bloom earlier in the year.

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Scientists in the U.N. group predicted in 2001 that global warming would produce a wave of extinctions. They did not predict they'd see evidence so quickly.

"None of us expected that we'd be seeing massive extinctions in five years," said Camille Parmesan of the University of Texas. She was not on the Pounds team but found the link between extinction and global warming "very convincing."

Pounds and his colleagues compared when a species was last seen with climate data. They found that roughly 80% of the extinct species were spotted for the last time just after a particularly hot year. For example, the Monteverde harlequin frog hasn't been seen since 1988, one year after a warm year.

Pounds and his team theorize that the changes in the region's climate are encouraging the growth of a parasite that spread around the world in the 1960s and is a known killer of frogs and toads. Pounds said more work needs to be done to nail down this possibility.

Margin Of Safety Just-in-Time Inventories Make U.S. Vulnerable In A Pandemic (WSJ)

By Bernard Wysocki Jr. And Sarah Lueck

The Wall Street Journal, January 12, 2006

Like many big hospitals, the University of Utah Hospital carries a 30-day supply of drugs, in part because it would be too costly or wasteful to stockpile more. Some of its hepatitis vaccine supply has been diverted to the hurricane-ravaged Gulf, leaving it vulnerable should an outbreak occur closer to home. About 77 other drugs are in short supply because of manufacturing and other glitches, such as a drug maker shutting down a factory.

"The supply chain is horribly thin," says Erin Fox, a drug-information specialist at the Salt Lake City hospital.

In the event of a pandemic flu outbreak, that chain is almost certain to break. Thousands of drug-company workers in the U.S. and elsewhere could be sickened, prompting factories to close. Truck routes could be blocked and borders may be closed, particularly perilous at a time when 80% of raw materials for U.S. drugs come from abroad. The likely result: shortages of important medicines -- such as insulin, blood products or the anesthetics used in surgery -- quite apart from any shortages of medicine to treat the flu itself.

The very rules of capitalism that make the U.S. an ultra-efficient marketplace also make it exceptionally vulnerable in a pandemic. Near-empty warehouses are a sign of strong inventory management. Production of drugs takes place offshore because that's cheaper. The federal government doesn't intervene as a guaranteed buyer of flu drugs, as it does with weapons. Investors and tax rules conspire to eliminate redundancy and reserves. Antitrust rules prevent private companies from collaborating to speed development of new drugs.

Most fundamentally, the widely embraced "just-in-time" business practice -- which attempts to cut costs and improve quality by reducing inventory stockpiles and delivering products as needed -- is at odds with the logic of "just in case" that promotes stockpiling drugs, government intervention and overall preparedness.

A report issued last month by the Trust for America's Health, a public-health advocacy group in Washington, concluded that 40% of the states lack enough backup medical supplies to cope with a pandemic flu or other major disease outbreak.

"Most if not all of the medical products or protective-device companies in this country are operating almost at full capacity," says Michael Osterholm, director of the Center for Infectious Disease Research and Policy at the University of Minnesota. "That's the reality of today's economy: just-in-time delivery with no surge capacity."

The U.S. government says it is trying to address the problem, elevating the possibility of a flu outbreak to a national security concern. Rajeev Venkayya, a special assistant to President Bush for biodefense, says the pandemic flu threat calls for a national response similar to a "moonshot," alluding to the successful 1960s Apollo program.

President Bush has vowed to spend $2.8 billion to help jump-start development of a next-generation cell-culture flu vaccine. Currently flu vaccine production relies on a decades-old process of growing viruses in individual fertilized chicken eggs. The viruses are inactivated to make a vaccine.

Cell-culture technology means the viruses are grown in living cells -- often mammalian kidney cells -- that multiply on their own. The technology is already used in producing vaccines against hepatitis, chickenpox and shingles. In theory, cell-culture technology should allow manufacturers to produce enough flu vaccine for every American within six months of the start of a pandemic.

The Securities and Exchange Commission recently said it will allow companies to book revenue on sales of vaccines or bioterrorism remedies to the government, even if the companies hold onto the stockpile -- as the U.S. government often prefers. Under current accounting rules, companies must ship the product to record the revenue, a major disincentive for vaccine manufacturers.

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Yet those steps largely fail to address weaknesses in the supply chain. The severe acute respiratory syndrome outbreak in 2003 in Canada offers a case in point. When SARS hit, the country's largest nurses' union complained about a shortage of N95 masks after much of the existing supply was shipped to Asia, where the disease hit hardest.

These masks protect against contracting flu by filtering out at least 95% of certain airborne materials during normal breathing. Some nurses in Canada had to use less-protective masks when caring for SARS patients. Others were rationing the supply. In some cases, they were told to save their masks in plastic bags and reuse them from one shift to the next, Barbara Wahl, former president of the Ontario Nurses' Association, told a Canadian commission investigating SARS in 2003.

The main companies that manufacture the masks -- 3M Co. and Kimberly-Clark Corp. -- had to scramble to meet the sudden demand because, like many companies, they didn't have an existing stockpile.

The outbreak was relatively brief and limited in location -- a minor blip compared with what would likely happen with pandemic flu.

'Albertson's Syndrome'

Supply-chain breakdowns are one reason the economy could go into a tailspin should there be a pandemic flu outbreak. A Congressional Budget Office study of the economic impact of a severe pandemic, released late last year, estimated a nearly $700 billion hit to the U.S. economy, or about a 5% decline in economic output during a one-year span, about equal to a medium-sized recession.

One significant concern is what Michael Leavitt, the secretary of health and human services, described in an interview as the "Albertson's syndrome," referring to the grocery-store chain. At the first sign of panic, all supplies disappear from shelves, something that routinely happens when there is the threat of even a modest storm.

The Grocery Manufacturers Association, which represents food retailers and distributors, estimates that the time it takes for manufacturers and wholesalers to deliver on a retailer's order has shortened to fewer than four days from nearly eight days in 1999. Respondents to an association survey "are targeting even shorter cycle times of three days," the survey said. Rick Blasgen, a former ConAgra Inc. executive and chief executive of the Council of Supply Chain Management Professionals, says food retailers and producers "can't afford just-in-case inventory."

The issue of stockpiling extends beyond food to vaccines. The U.S. government has generally been reluctant to pay companies to produce extra vaccines and create a reserve capacity. It's one reason so many companies have dropped out of vaccine manufacturing. In the case of flu vaccines, there is too much wasted medicine in "good" years, when the flu season isn't severe and people choose not to get vaccinated. Vaccines are tossed away at a loss for the corporations.

"Investors punish companies for having excess capacity they don't use," says Dr. Osterholm.

Today's worrisome flu strain, known as H5N1, has infected and killed millions of poultry, and killed about 70 humans in Asia. Recently it has spread to Turkey and infected at least 15 people there. Nobody knows if the H5N1 virus will mutate in ways that promote human-to-human transmission, which is what health officials fear would trigger a pandemic. A vaccine produced by Sanofi-Aventis SA has proved effective against H5N1 in early trials in humans, but the company hasn't scaled up manufacturing of it. Food and Drug Administration-approved antiviral medications, which could treat exposed individuals, are in short supply.

To some former Pentagon officials working on biodefense on Capitol Hill, the only way for the country to prepare for a possible pandemic is to think of health-care preparedness in military terms. This means moving away from a just-in-time system to planning for a just-in-case scenario in the manner of national-security policy makers.

The Pentagon, for instance, goes through intense planning and pays for reserves of everything from bullets to jet fuel. It even forces rivals to collaborate on Pentagon projects and wields its clout as a buyer of weapons.

Some steps are in motion to take pages out of the Pentagon playbook. A bill introduced last fall by North Carolina Republican Sen. Richard Burr would provide some relaxation of the antitrust laws. It would allow the government to convene meetings with drug makers to discuss manufacturing and distributing biodefense products including those related to pandemic flu.

Current Law

Industry executives say they feel that under current law, companies can't share basic knowledge that would be helpful in planning for an outbreak. "What we're suggesting to the administration is something discretionary and only under declaration of an emergency," says Billy Tauzin, a former congressman from Louisiana who now heads the pharmaceutical industry's leading trade organization.

Mr. Tauzin, though, also hinted at going a tad further, saying it would be helpful if "the administration determines to allow two of our companies to collaborate on a product -- an antiviral or vaccine or similar product." Such proposals might raise worries about collusion in an industry that already enjoys considerable pricing power and patent protection on its products.

Some experts suggest the U.S. government should promise to purchase a fixed amount of flu vaccine -- despite the cost and the likelihood that some of the money would end up being wasted. Canada, for instance, has contracts with vaccine makers

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to cover most of its population. The largest contract is with ID Biomedical Corp. (recently acquired by GlaxoSmithKline PLC) for about eight million flu vaccine doses per year. That takes much of the risk out of the company's business, but still lets it manufacture additional doses for the private market or for other needy buyers.

Dr. Osterholm has called for a program of "critical product continuity" to see the U.S. through the worst of pandemic disruption. He proposes identifying items that are essential to people's health and safety and then finding a way, possibly through government funding or tax incentives, to create emergency stocks or extra production capacity for them. High on his list of "critical products" are tools for fighting flu itself, such as face masks, ventilators to help the sickest patients survive and syringes to administer a vaccine if one becomes available.

In a pandemic, Dr. Osterholm says, "if we don't sell automobiles or jewelry...that wouldn't be the same as running out of critical medicines." He likens his idea to the well-equipped fire departments at international airports, which don't respond to many crises but are ready if a plane crashes.

Dr. Osterholm, who also is associate director of the Department of Homeland Security's National Center for Food Protection and Defense, says the country also needs reliable supplies of food and water, the ability to keep heat working in northern climates and medical products for non-flu-related illnesses. The U.S. has 105,000 ventilators, most of which at any given time are in use. The federal stockpile of medical products has about 4,500 more. In a pandemic, tens of thousands more would be needed.

The federal government has allocated grants worth $5 billion over three years to states and hospitals to increase medical preparedness, including surge capacity at hospitals. But the money was used for other priorities as well, such as improving medical labs and disease surveillance. Not all of it has been spent.

"You can't plan for a surge capacity in an emergency room of 500 or 1,000 patients from the 20 you see in a day," says Michael Bishop, a Bloomington, Ind., emergency physician who used to be on the board of directors for the national trade association for emergency physicians. "Nobody could afford to do that. You can't have 10 doctors and 100 nurses sitting around waiting for something to happen."

Eminent Domain Laws Get First State High Court Test Since U.S. Supreme Court Ruling (LAW/AP)

By Andrew Welsh-huggins, The Associated Press

AP, January 12, 2006

Ohio Supreme Court heard arguments Wednesday pitting a suburban Cincinnati city against a couple trying to save their home in a long-anticipated hearing that included a rare outburst of applause by spectators.

The city of Norwood is trying to use eminent domain to seize remaining properties for a developer who wants to build a $125 million project of offices, shops and restaurants. The city says the tax revenue will boost its economic fortunes.

Homeowners Carl and Joy Gamble say the city abused its authority to seize property by declaring the neighborhood deteriorating, a less severe condition than blighted.

The case is the first challenge of property rights laws to reach a state high court since the U.S. Supreme Court last summer allowed municipalities to seize homes for use by a private developer.

Property rights' advocates, business groups and backers of city planning are watching the Ohio case because of the precedent it could set as more than a dozen states consider bans against governments taking homes to boost economic development.

A decision is expected by summer.

At issue was this line from the Ohio Constitution: "Private property ought and shall ever be held inviolate, but always subservient to the public welfare."

Visiting Judge James Brogan challenged the Gambles' attorney to explain what the court should do given last summer's U.S. Supreme Court decision.

"What's the principled way for this court to decide under the Ohio Constitution that it guarantees more protection to the property owner -- property rights -- than the U.S. Supreme Court was prepared to do?" said Brogan, sitting in for Justice Alice Robie Resnick, who excused herself from the case without giving a reason.

Attorney Dana Berliner said the state leaders who wrote Ohio's constitution recognized there were times when property would have to be subservient to public needs.

"But they were also saying those were important rights. That's something that's not in the U.S. Constitution," she said.

Timothy Burke, a lawyer representing Norwood, said deterioration is a common measure when applied to redevelopment projects in cities.

"Deteriorating is a legitimate standard to be used in determining whether or not an urban renewal project and use of eminent domain is appropriate," he told the court.

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Lawrence Elleman, an attorney for the Norwood developers, said the city's law was very specific in its definition of a rundown neighborhood, including things like "faulty street arrangements," or dead-end streets.

That caught the interest of Chief Justice Thomas Moyer.

Many older neighborhoods have streets that could be called "faulty in their design," said Moyer, who himself lives in Bexley, an older Columbus suburb. "But people like living on those streets."

Berliner said the city's standard was far too vague and could apply to almost any neighborhood in Ohio.

"As the members of this court drive home today, I ask you to think about which of the dozens of neighborhoods you pass would not be deteriorating under Norwood's definition," Berliner said.

At one point, Brogan asked Burke why the court should pay so much deference to a city council that stands to make $2 million a year in revenue from the project.

Burke responded that the responsibility for determining land use is up to local elected officials.

"They've lived there all their lives, they've walked those neighborhoods, they've seen how it has changed," he said.

That prompted Justice Maureen O'Connor to ask, "Couldn't the same argument be made for the homeowners?"

Several people attending the hearing in support of the Gambles laughed and applauded, leading to a gentle rebuke from Moyer: "Please, do your applauding outside."

Justice Judith Ann Lanzinger said she was concerned about the origin of the developer's plan.

"Does it make any difference that it appears that the private developer was the one that started this ball rolling?" she said. "Should it be of concern when we're talking about whether this is truly public use or if it's private use with public incidental benefit?"

Burke said the question is moot because the development ultimately was the product of lengthy deliberations between the city and Rookwood Partners.

"In the end, I don't think it makes any difference who initiates it," he said.

Appeals Court Takes Up 2003 Meskwaki Election Case (AP)

AP, January 12, 2006

IOWA CITY, Iowa -- A federal appeals court in St. Louis was scheduled to hear arguments Thursday on whether a lower court judge erred by dismissing a lawsuit challenging the Meskwaki tribal elections in 2003.

The lawsuit stems from an internal power struggle that began nearly three years ago when the Meskwaki tribal council and its chairman, Alex Walker Jr., were overthrown by a new set of leaders. The new council, led by Homer Bear Jr., was picked by the tribe's hereditary chief after Walker's council ignored recall petitions.

The ensuing political dispute played out in state and federal courts and led to a costly, seven-month shutdown of the Meskwaki casino, located on the tribal settlement west of Tama. The tribe, with 1,200 members, officially is known as the Sac and Fox of the Mississippi in Iowa.

The dispute ultimately was settled after tribal members participated in a series of elections overseen by the federal Bureau of Indian Affairs.

As a result, four Walker council members were removed and the Bear council was put in power. The casino reopened in December 2003.

The lawsuit before the 8th U.S. Circuit Court of Appeals originally was filed in 2004 by the election officials appointed by Walker.

In their lawsuit, Walker supporters argue that the BIA mishandled oversight of the election and illegally interfered in the process. They also claim that Aurene Martin, assistant secretary of the BIA, violated agency policy when she rejected an appeal of the election results.

In March, U.S. District Judge Linda Reade, in Cedar Rapids, threw out the lawsuit, saying it was a matter for tribal courts to decide. Walker supporters are appealing that decision.

In briefs filed with the court, the Walker supporters suggest BIA officials may have been influenced by lobbyist Jack Abramoff, who was hired by the Bear council after the elections. Abramoff made headlines last week when he pleaded guilty to charges of influence peddling.

"Was improper pressure applied and influence wielded at the agency level?" wrote attorney Fred Dorr, who is representing Walker supporters.

Justice Department attorney Elizabeth Peterson argued that Reade was correct in dismissing the case, citing repeated appeals court rulings protecting tribal sovereignty.

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FBI/DEA/ATF/USMS:

Some Crack Cocaine Prison Terms Shorter Since Ruling On Sentencing Guidelines, Study Says (AP)

By Mark Sherman, ASSOCIATED PRESS

AP, January 11, 2006

WASHINGTON – Some federal judges are handing out shorter prison terms for crack cocaine crimes since last year's Supreme Court decision giving judges more discretion in sentencing, a report said Wednesday.

Defendants in the study received prison terms averaging 11 years, but those terms were less than what is called for in 20-year-old sentencing guidelines, according to the Sentencing Project, a nonpartisan group that backs alternatives to lengthy prison sentences.

The Supreme Court ruled a year ago that judges do not have to follow the sentencing guidelines.

The analysis focused on crack because the congressionally established guidelines punish some crack cocaine offenses more severely than powder cocaine offenses. A person must possess 100 times more powder cocaine than crack cocaine to receive a comparable sentence, under the guidelines.

The report looked at a very small sample of 24 cases in which judges wrote opinions explaining the prison sentence and cited the Supreme Court ruling. There were more than 5,400 people sentenced for crack offenses in 2003, the latest year for which statistics are available.

"When judges are given flexibility to consider the full merits of each case, they are likely to impose stiff penalties for serious offenses, but will distinguish these from cases in which the defendant is less culpable or less of a threat to public safety," co-authors Ryan King and Marc Mauer wrote.

Still, a federal appeals court last week overturned the sentences in two Rhode Island cases included in the study, ruling that U.S. District Judge Ernest Torres impermissibly substituted a 20-to-1 ratio for Congress' 100-to-1 ratio. The defendants received five years, four months and 15 1/2 years, respectively, when the guidelines called for at least seven years, three months and 19 1/2 years, respectively.

Prosecutors also have appealed other cases, including one in West Virginia in which Brian Moreland was given a 10-year sentence for selling crack worth $450 when the guidelines set a range of 30 years to life in prison. U.S. District Judge Joseph R. Goodwin said the harsher sentence for Moreland "would not only be unreasonable, but also unconscionable."

Attorney General Alberto Gonzales has warned of growing disparity in jail terms and "a drift toward lesser sentences" since the court ruling.

Congress created the guidelines in the 1980s mainly to reduce disparities between judges. But the high court said making the guidelines mandatory violated a defendant's Sixth Amendment right to a jury trial because they call for judges to make factual decisions that could add to prison time, such as the amount of drugs involved in a crime.

Under the Supreme Court ruling, the guidelines now are only advisory. As a result, federal judges are free to sentence convicted criminals as they see fit, but they may be subject to reversal if appeals courts find them "unreasonable."

Judges Show More Leniency On Crack Cocaine (WSJ)

By Gary Fields

The Wall Street Journal, January 12, 2006

WASHINGTON -- In the wake of the Supreme Court's decision a year ago making sentencing guidelines advisory rather than requirements to be followed, some federal judges appear to be giving more lenient sentences in cases involving crack cocaine, according to an analysis released yesterday.

The study by the Sentencing Project, a Washington research and advocacy group for criminal-justice policy, may reinvigorate the debate about the racial disparity in sentences for crack-cocaine defendants, who are primarily minorities, and powder-cocaine defendants, who are more likely to be white and more affluent.

The study examined 24 crack-cocaine cases in which judges explicitly discussed the reasoning behind their sentencing decisions in the context of the 2005 Supreme Court ruling that allowed them to use the sentencing guidelines as advisory rather than as requirements.

In 21 of the 24 cases, the judges sentenced defendants to less time than they likely could have received under the sentencing guidelines. Under the guidelines, for instance, a person who possesses five grams of crack cocaine will get the same sentence as someone who sells 500 grams of powder cocaine -- although there is little physiological difference in the two.

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Sen. Jeff Sessions, an Alabama Republican, said he intended to introduce a bill this year that will propose changing the law to reduce the disparity between the amounts of crack cocaine and powder cocaine necessary to give a defendant the same sentence. He and Utah Republican Sen. Orrin Hatch co-authored a bill in 2003 that would have reduced the disparity to 20-to-1 -- from 100-to-1 -- but it got little support.

"I still believe the guidelines are not appropriate on crack and powder cocaine," said Sen. Sessions. "I think we need to make some improvements there based on the reality of what's going on in the courts of America. This study does seem to indicate that judges would tend more to the 20-to-one ratio rather than 100-to-one."

The Sentencing Commission, which declined to comment on the study, has long supported altering its guidelines on crack-cocaine crimes to bring the penalties and amounts more in line with powder cocaine. In 1995, the Sentencing Commission sent Congress an amendment which would have equalized the penalties on the two forms of cocaine, but Congress rejected the amendment. Similar recommendations from the commission in 1997 and 2002 were ignored by Congress.

At least two of the cases highlighted in the study have been overturned by appeals courts in the past week. In one case, Rhode Island Chief District Court Judge Ernest Torres sentenced a crack-cocaine defendant to just over five years in prison, although the sentencing guidelines called for him to be sentenced to between seven and 12 years.

In handing down the sentence, the judge wrote that the 100-to-1 ratio was "excessive" and "not reasonable." However, a three-judge panel on the First Circuit Court of Appeals in Boston ruled last week that Mr. Torres had erred in handing down the sentence.

"Laboring in uncharted waters, the lower court jettisoned the guidelines and constructed a new sentencing range," the appeals court wrote.

Drugs And Racial Discrimination (NYT)

The New York Times, January 12, 2006

The mandatory sentencing laws that have swept this country since the 70's have clearly done more harm than good. The inmate population has skyrocketed, driving prison costs to bankrupting levels, while having no impact at all on the drug problem. By taking away judicial discretion, the laws have led the country to write off first-time offenders who might have deserved second chances and to imprison addicts who could otherwise have been effectively and less expensively handled through treatment programs.

The laws have also discriminated against members of minority groups, who are disproportionately singled out for harsher mandatory sentences, often because of where they live. That issue has come into sharp focus in New Jersey, where a panel of criminal justice officials has recommended that the state revise a law that mandates more severe sentences for people convicted of certain drug crimes committed within 1,000 feet of school property.

The law appears to have had no impact at all on the actual pattern of drug dealing. But it has created a profoundly discriminatory sentencing pattern, which treats minority defendants unfairly while undermining confidence in the criminal justice system.

Offenders who live in cities, where populations are dense and the schools numerous, tend to fall under the drug-free-zone laws, not because they peddle drugs to minors, but because they live near schools. Offenders who live in suburban and rural areas, where drug abuse is just as common but where schools are more spread out, tend to fall outside the law, so they receive lighter sentences.

As a consequence, the report found, just about every offender incarcerated for a drug-free-zone offense in New Jersey is either black or Hispanic, even though those two groups make up only about a quarter of the population. Not a single one of the offenders had sold drugs to a minor, and fewer than 2 percent had actually committed offenses on school property.

The so-called urban effect of these laws is hardly unique to New Jersey. More than 30 states have passed such laws since the 1980's, thus turning whole swaths of largely black and Hispanic urban areas into extra-penalty zones. Though widely emulated around the nation, the 1,000-foot rule appears arbitrary and without basis in law. The New Jersey panel's study wisely recommends reducing the size of the zones and changing the law so it actually targets the few people who sell drugs at or near schools - without discriminating against minorities.

The broader message of this study is that the country can't just imprison its way out of the drug problem. Coping with this issue - while reducing prison costs - will require a complex set of strategies, including drug abuse treatment and prevention services and increased judicial discretion in sentencing.

News Elicits Sadness, Not Shock (WP)

By Eric M. Weiss And Robert E. Pierre

The Washington Post, January 12, 2006

DOJ_NMG_0009486

The news that D.C. Council member Marion Barry failed a court-ordered drug test in the fall drew sighs, prayers and a call for him to take a leave from his council seat. But at his old haunts and among his constituents, what was missing yesterday was a sense of surprise.

For many, this is the fourth decade of the sometimes rocky, sometimes inspiring marriage between Barry, the former four-term mayor who now represents Ward 8 on the council, and the residents of his adopted city. If there was one feeling, it was an amalgam of sadness, empathy and deja vu.

"I just think it's a damn shame," said Addie Cook, who had been among the Union Temple Baptist Church members who welcomed him back after he served six months for cocaine possession following his 1990 arrest at the Vista Hotel, where he was videotaped smoking crack.

Sources said Barry tested positive for cocaine during routine screening in connection with his guilty plea to two misdemeanor tax charges in October.

Yesterday, Barry held a news conference as he was being discharged from Howard University Hospital but would not discuss the drug test. During his two-day hospital stay, he was treated for diabetes and hypertension, said his doctor, Robert H. Williams, who appeared at Barry's side. The 69-year-old former mayor and civil rights leader is also a cancer survivor.

When asked whether Barry's condition was affected by the presence of any illegal drugs, Williams said: "I know nothing about that. I've told you what we treated him for, and that is a fact. We treated him for those two conditions and those conditions only."

Barry, wearing a black overcoat and a fedora, looked vibrant. He said he was in good spirits. "My lawyer has instructed me or anybody else not to have any comments on anything outside my medical situation," Barry said.

Regarding his medical treatment, he said: "I didn't wish these things on me. I find it very disturbing that a person can't have simple medical procedures without you all sensationalizing it. People suffer every day. I empathize with them."

The drug test that Barry failed was required as a part of a pre-sentencing investigation, said two sources familiar with the case. Now he is undergoing voluntary drug testing as part of his private treatment to help establish that he is making an effort to stay drug free, said the sources, who asked not to be named because the case is pending.

For many in the city yesterday, their first reaction was to wish Barry luck in his continuing struggles with drugs.

"If the reports are true, my heart goes out to Marion," Mayor Anthony A. Williams (D) said in a statement. "I hope he is able to get the help he needs and to take care of his health."

One Ward 8 leader said that should be a higher priority than his council work.

"He cannot help people in Ward 8 until he helps himself. That should be his number one priority," said longtime activist Phillip Pannell, who suggested Barry take a leave of absence from the D.C. Council. "He needs to be away from politics, away from the phone and staff, and deal with his health situation."

Others, however, said Barry has been productive in the last year, advocating for the city's poorest ward.

"He's in the mix," said Arrington Dixon, a former member of the D.C. Council who lives and works in Ward 8. "That's what we want him to be."

But regulars at Players Lounge, one of Barry's favorite haunts, said the former mayor often drinks there, even though he has admitted to abusing alcohol in the past.

Barry's tax case involved his failure to pay most of his federal and D.C. income taxes for six years after his fourth term as mayor ended in January 1999. Prosecutors said he received more than $530,000 in income over the six years but did not document most of it.

Richard A. Houck Jr., chief of the U.S. probation office in the District, said yesterday that he could not discuss specifics of Barry's case. He said it's clear, however, because of Barry's guilty plea to tax charges Oct. 28, that the probation office would -- and did -- conduct a routine pre-sentencing investigation of his situation.

In such investigations, defendants awaiting sentencing are automatically screened for seven drugs, including marijuana and cocaine, according to the office's protocol, and defendants generally are asked to submit to the testing immediately or shortly after their first court appearance.

"Mr. Barry was not singled out," Houck said. "This is our routine . . . . The whole pre-sentence process is about us determining the circumstances of an individual -- their past, their present."

Cocaine typically remains in a person's urine and can be detected in standard drug tests for 48 to 72 hours after use, according to screening experts. If a defendant fails a drug test, the probation office's pre-sentencing report will include that information. The report is confidentially shared with the judge and lawyers several weeks before the sentencing hearing. But the probation office does not typically request additional tests.

"In this kind of case, we are not supervising an individual," he said. "We are investigating him."

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In Barry's case, prosecutors could choose to scrap a plea agreement on the tax charges because a failed drug test could be viewed as a breach of the agreement. But unless there's a pattern of continuing drug use, it is unusual in such cases for prosecutors to do so.

U.S. Magistrate Judge Deborah A. Robinson has discretion in deciding whether Barry's infraction merits jail time or other sanctions at sentencing. Houck said some defendants who have failed a drug test were ordered to undergo drug treatment and prove their progress through subsequent testing. If the drug use continued, some have faced additional jail time or more restrictions.

Many of Barry's Ward 8 constituents said the latest revelation about drug use sent the wrong message to young people whom he has long championed.

Hannah Hawkins, who runs the Children of Mine after-school program, said she addressed some teenagers in her program who suggested that the former mayor might have been set up.

"He knew what he was doing was wrong," she said she told them. "He let the youth down. Very few people, especially in Ward 8, have been loved and respected by our youth as much as he has."

The few council colleagues who agreed to talk about Barry's situation used the vocabulary of addiction and recovery.

"If it's true, I look at it as a message for those who are struggling with their own demons and have spouses or loved ones in the same situation," said council member Jim Graham (D-Ward 1), who has had his own struggles with drinking. He said that Jan. 30 will mark his 29th year of being sober.

"Even after many, many relapses, the fact that he is in treatment is a good thing," Graham said. "I'm not making excuses for him. He will be judged by others."

If Barry is incarcerated, he would not have to give up his council seat and could even introduce legislation from his jail cell, but he could not cast council votes, according to D.C. Council rules.

Barry would have to relinquish his council seat only if convicted of a felony, said Charlotte Brookins-Hudson, the council's general counsel. Barry pleaded guilty to a misdemeanor tax charge.

Marion Barry's Decision (WP)

The Washington Post, January 12, 2006

IF CITIZEN JOHN DOE failed a drug test ordered by a court after he pleaded guilty to misdemeanor tax charges, there is little likelihood that the matter would be up for discussion on this page. But when the case involves a public official who has sworn to uphold the law, the issue becomes a matter of public concern. The case takes on even greater significance when the official has a history of run-ins with the law, including a record of illegal drug use. Such is the case with D.C. Council member and former mayor Marion Barry (D), who, as The Post reported yesterday, tested positive for cocaine use in a court-ordered drug test after his tax case plea in the fall.

It's likely that news of Mr. Barry's failed drug test has provoked a collective groan throughout a city that over the years has been forced to live through episode after episode of the four-term mayor's personal troubles. The District, however, has managed to survive Mr. Barry's behavior in the past, and the city can be expected to do so again. The more important question has to do with Mr. Barry himself. Already scheduled to be sentenced for failing to file tax returns, Mr. Barry is now looking at the possibility of going to jail for the maximum 18 months because he failed the terms of his release on the tax charges. Regardless of whether he serves time or receives some other court-ordered sanction, two larger questions are on the table: Can Marion Barry overcome the demons within that drive his self-destructive behavior? Is he up to the job of representing the residents of Ward 8 on the D.C. Council?

If, as has been reported, Mr. Barry has started treatment for drug use, that is an important step -- though one he has taken before, with much fanfare. If the council member successfully completes treatment and remains drug-free, he, and the city, will be better for it. In the meantime, the Ward 8 constituents who sent him to the D.C. Council are without the effective representation they deserve. That, of course, has been the problem that has plagued the nation's capital during Marion Barry's 30-year political career: His scrapes and infractions with the law have drawn him -- as they continue to draw him -- away from the demands of his public office.

Mr. Barry regards himself as a survivor and a person who, at 69, is still up to the rigors of public service. But this latest bout with the law and drugs -- and the unresolved questions of his future -- ought to lead Mr. Barry to consider the interests of Ward 8 and the city and to ask himself if the time has come to finish his course as a public servant. We know that personal considerations probably weigh heavily in the balance. However, Marion Barry, in our view, needs less time in the public limelight so he can devote more attention to the problems of Marion Barry. He has the opportunity to step aside so that others may step up to the task of public service. He should take it.

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POLICE BLOTTER (FLJOURNAL)

By Marjory Raymer

The Flint Journal, January 12, 2006

FLINT - Ten people were arrested in drug raids on three homes Sunday as part of a special initiative paid for through a federal grant.

Police searched east-side homes at 1277 Broadway Ave., 1610 Bennett Ave. and 3009 Dakota Ave. with warrants after drug buys at the homes, according to a news release from Flint Police Chief Gary Hagler.

Police seized $1,866 in cash, $1,000 worth of cocaine, $150 worth of marijuana, $100 worth of heroin and $100 worth of ecstasy in the raids.

The 10 arrested face a total of 13 felony and 19 misdemeanor charges.

The sweep by the force's Crime Area Target Team and Community Policing was part of the federally funded Weed and Seed Program, which targets blighted areas to reduce crime and promote economic revitalization.

The U.S. Justice Department awarded $225,000 to the United Way for the program on the east side of Flint earlier this year. It was the third such grant.

U.S. Finds California-Mexico Tunnel (CNN)

CNN.com, January 11, 2006

(CNN) -- U.S. border patrol agents investigating a caved-in road discovered a tunnel linking the United States and Mexico, the third such passage found in three years near the San Ysidro, California, crossing, authorities said Wednesday.

Lauren Mack, a spokeswoman for U.S. Immigration and Customs Enforcement agency, said agents found the 35-foot long, 3-foot-by-3-foot tunnel on Monday.

"It's unclear what it was used for, but inside we found trash and other evidence indicating people had been inside recently," Mack said.

That evidence has given investigators good leads, she added.

The tunnel -- which Mack described as "primitive" -- surfaced in U.S. territory in a strip of land between the border fence and a public parking lot. It's just west of the San Ysidro port of entry into the United States, one of the busiest land border posts in the world, she said.

A longer, more sophisticated tunnel was discovered in the same area in 2003, when a man was spotted lifting bales of marijuana from it and loading them into a pickup, Mack said. A tunnel found in 2004 was a link to the sophisticated underground passage, she added.

Tightened border security since the September 11, 2001, attacks is the likely cause for an increase in U.S. to Mexico tunneling, Mack said. At least 15 tunnels have been found in California and Arizona since 9/11, she said.

"We've now got a dedicated tunnel task force, which works with the [Drug Enforcement Administration] and border patrol to proactively look for tunnels," Mack explained.

Another Suspension For Skeleton Team (NYT)

By Lynn Zinser And Bill Pennington

The New York Times, January 11, 2006

The top competitor on the United States men's skeleton team, Zach Lund, was suspended yesterday after testing positive for a masking agent at a World Cup event last month in Europe.

Also yesterday, a New York Supreme Court judge declined to overturn the suspension of the United States skeleton coach, Tim Nardiello.

The international skeleton federation suspended Lund pending the outcome of an investigation by the United States Anti-Doping Agency.

Jim Shea Sr., president of the United States Bobsled and Skeleton Federation, confirmed that Lund, who holds the No. 1 ranking in the world, tested positive for using Propecia, an anti-baldness drug.

"It's on the banned list; no question, he screwed up," Shea said in a telephone interview. "He lost his spot on the World Cup team, and it's possible he won't be able to go to the Games. On a personal level, it's so sad. He's worked so hard to get here. I know Zach Lund, and I know Zach Lund is not a cheat."

Lund, 27, was preparing for a World Cup competition in Germany yesterday and could not be reached for comment. His father, Mac Lund, said in a telephone interview from his home in Salt Lake City that his son had been using an anti-baldness product for several years.

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"Zach began taking a hair restorer product, pro something, I don't remember the exact name, about six years ago," Mac Lund said. "I don't know whether he still takes it or if he stopped."

Propecia has been listed as a prohibited substance by both the United States and international anti-doping agencies for more than a year because it can act as a masking agent for steroids. Propecia contains finasteride, which is also banned as a masking agent. In some studies, finasteride has been found to prevent the detection of certain steroids like nandrolone and testosterone.

Last October, the Canadian bobsledder Giulio Zardo was suspended for two years for refusing to submit to a drug test. Zardo had quit the Canadian team despite being an Olympic gold-medal contender after a drug sample he gave in March 2005 tested positive for finasteride, according to a report in The Toronto Star. Zardo said he had been taking Propecia since 2000 for hair loss.

It is not yet clear whether Lund's positive test, which was administered by the international federation after a competition in December, has been forwarded to the United States Anti-Doping Agency, which generally adjudicates positive tests by American athletes.

Lund had previously disclosed taking Propecia on his drug-testing profile, but it is unclear whether Lund's previously declared use of the anti-balding drug sufficiently explains the positive test, or how harsh his penalty would be if he was found guilty of its use. Any lengthy suspension would rule Lund out of the Olympics, which begin Feb. 10 in Turin, Italy. U.S.A.D.A. officials declined to comment on the case yesterday.

The United States Olympic team for Turin has been hit by a string of incidents that could leave it depleted. The figure skater Michelle Kwan has pulled out of the national championships and would need to petition for a place on that team, and Bode Miller, the country's top skier, is in trouble with his federation for comments he made about alcohol use.

Lund has been a vocal supporter of Nardiello since his suspension was announced Dec. 31. Yesterday, New York Supreme Court Judge James Dawson upheld that suspension, which came in the wake of sexual harassment accusations by several athletes. Nardiello had hoped for an injunction that would allow him to rejoin the skeleton team for this weekend's World Cup event in Königssee, Germany, but Dawson ruled that Nardiello must instead follow the procedures set forth in the bobsled and skeleton federation's handbook, which call for an internal hearing or binding arbitration.

Dan Goodwin, vice president and counsel for the federation, said Nardiello's lawyer, James Brooks, and federation representatives had tentatively scheduled the arbitration hearing for Monday and Tuesday. The sides must first agree on an independent arbiter.

"We're on a fast track, expediency is important," Goodwin said. "Still, we must be sensitive to make sure it's fair for everybody, not just the coach but for those making the complaints. Arbitration is the right forum. We will be putting out all the facts and evidence."

Alan Howard, a lawyer for the federation, said yesterday that there were multiple complaints against Nardiello and that those who had made accusations were being invited to attend the hearing.

Brooks ruled out an appeal of Dawson's decision.

Skeleton Racer Lund Suspended After Dope Test (REU)

Reuters, January 12, 2006

LONDON (Reuters) - America's skeleton world number one Zach Lund has been suspended by the International Bobsleigh and Tobogganing Federation (FIBT) pending an investigation into a positive drugs test at a World Cup event last month.

"He has been suspended pending the completion of an investigation by the appropriate agencies in the U.S., namely the U.S. Anti-Doping Agency (USADA) which is a sanctioned entity of WADA (World Anti-Doping Agency)," FIBT media officer Donald Krone said on Wednesday.

Lund, 26, tested positive for anti-baldness drug Propecia, which is on the banned list because it can act as a masking agent. He could now miss the Winter Olympics in Turin, starting on February 10.

"It's on the banned list -- no question he screwed up," U.S. Bobsled and Skeleton Federation President Jim Shea Sr., told the New York Times.

"He has lost his spot on the World Cup team and it's possible he won't be able to go to the Games.

"On a personal level, it's so sad. He's worked so hard to get here. I know Zach Lund, and I know Zach Lund is not a cheat."

Lund's father Mac told the newspaper his son had started using an anti-baldness product about six years ago.

Suspended Racer Optimistic (NYT/AP)

By The Associated Press

The New York Times, January 12, 2006

DOJ_NMG_0009490

One day after he was suspended for testing positive for a masking agent at a World Cup event, Zach Lund, the top slider on the United States skeleton team, expressed optimism about his chances of being reinstated for the Olympics.

"I have all the hope in the world," Lund said yesterday. "Until they tell me I'm not going, I'm going to believe I'm going to the Olympics. I know I'm an Olympian."

The Winter Olympics begin Feb. 10 in Turin, Italy.

The United States Bobsled and Skeleton Federation confirmed that Lund, who is ranked No. 1 in the world, tested positive for using Propecia, an anti-baldness drug. Propecia contains finasteride, which is also banned as a masking agent.

Lund said he had taken hair-restoration products since 1999 and had always declared them on his medical forms. The United States federation granted him a Therapeutic Use Exemption, which provides a way for athletes to use some banned medications.

"For anyone to think he's using this to mask anything is ridiculous," the skeleton coach, Tim Nardiello, said. "Zach is the best skeleton slider in the world right now, and it would be a crime for anyone to think this of him."

Nardiello has run into problems himself after several female athletes accused him of sexual harassment. He has been placed on paid administrative leave, and on Tuesday a New York State Supreme Court judge refused to reinstate him.

Lund received a letter from the International Bobsleigh and Skeleton Federation provisionally suspending him until a hearing Jan. 20 or Jan. 23.

Yesterday, Lund said his lawyer, Howard Jacobs, was encouraged after meeting with officials from the United States Anti-Doping Agency.

2 Men Schemed To Drive Black Family Out Of Home, Indictment Says (REU)

By Niraj Warikoo

Reuters, January 12, 2006

DETROIT - Two Taylor, Mich., men - angry that an African-American family moved onto their block - hatched a plot to drive them out by burning down their house, said federal officials in an indictment released Wednesday.

In detail reminiscent of the Jim Crow era, the federal filing describes how at least two white men conspired to terrorize a Downriver family simply because of their race.

One night in July 2002, the two men, Wayland Mullins and Michael Richardson, gathered at the home of Mullins' mother in Taylor. Across from that home, the Doster family had recently purchased a house.

The two white men plotted that night to burn down the Doster's house "in order to frighten them and prevent them from moving into their new home," the indictment reads.

The men are charged with violating the Doster's civil and housing rights because of their race. They also are charged with conspiring to lie to investigators about their role in the hate crime, and the use of a fire in committing a felony. Each of the four counts carries a maximum sentence of 10 years in prison and a $250,000 fine.

The men "were seeking to keep minorities out of their neighborhood by the most violent means available," said U.S. Attorney Stephen Murphy, the top law enforcement officials in southeastern Michigan. "We have poured as many resources as we can in this particular case to try to rectify that."

After an upswing in hate crimes over the past year, Murphy has said he wants to crack down on bias crimes in metro Detroit.

The Doster family put up with years of racial harassment in their home, including racially charged graffiti, the arson and insults. Fed up with the abuse, Reginald Doster, a computer administrator, moved out in August 2005 along with his wife and daughter.

After the two suspects held their meeting on July 28, 2002, they, along with some other unidentified men, walked over to the Doster home. Then, "they broke a window at the back of the house, poured gasoline into the home, and ignited the gasoline, causing fire and smoke damage to the house," says the indictment.

In ensuing months, the two men lied to Taylor police and the FBI, say federal prosecutors. At one point, Richardson tried to finger an innocent man in the arson. Richardson is currently serving a four-year sentence in prison for misleading investigators in the arson. His attorney, James Gerometta, a federal public defender, could not be reached for comment Wednesday.

In the spring and summer of 2004, Richardson told agents he would try to secretly record conversations between himself and Mullins that would make Mullins guilty. But Richardson then told Mullins he was wearing a transmitter so that he wouldn't say anything that would get him charged, the indictment says.

Mullins could not be reached Wednesday. It is unclear whether Mullins has an attorney, Murphy said. He is scheduled to appear in court Friday.

More men may be involved in the arson, Murphy said, so federal agents are still investigating the case.

DOJ_NMG_0009491

Dearborn Heights Drug Bust (WXYZ-TV)

By Glenda Lewis

WXYZ-TV, ABC 7, Detroit, January 11, 2006

Wednesday, 5 men were arrested after the ATF and local law enforcement officials set up a sting to catch them robbing a pharmacy.

Michigan Pharmacy was previously robbed of $15,000 worth on controlled substances.

ATF agent Vera Fedorak, who participated in the sting, said "Obviously it's a concern for the community, ATF and the local law enforcement."

The robber came into the Dearborn Heights pharmacy with what he said was a bomb. ATF agents and local law enforcement were on the premise, with one posing as the store owner. They were able to apprehend one man at the pharmacy and also 4 others.

Michigan Pharmacy owner Khalid Saad said he was glad to help ATF agents catch the men who had been robbing his store.

The drug sting may result in federal charges.

Wilcox Sentenced To Federal Prison (CLEVEDB)

By GREG KAYLOR, Banner Staff Writer

Cleveland (TN) Daily Banner, January 11, 2006

A Polk County man who plead guilty last October to possessing an explosive device has been sentenced to 5 1/2 years in a federal prison by a federal judge.

U.S. District Court Judge Curtis L. Collier sentenced Danny M. Wilcox, 39, of Reliance, late last week, according to Carl Maskew, Bradley County Sheriff's Office liaison with the Bureau of Alcohol, Tobacco and Firearms.

Wilcox is one of three people arrested and charged with the crime.

Wilcox and his alleged accomplice, Glenda Cross, 41, took part in assembling the device that investigators learned was to be used in a murder plot against the ex-husband of Cross.

"BCSO's Criminal Investigations Unit received a tip on Nov. 5, 2004 of a possible explosive device at a residence in the Dalton Pike Trailer Park," said Bob Gault, media relations officer for BCSO.

When deputies checked the residence, an "improvised explosive device" was found, Gault added. Officials set up a perimeter around the trailer park and evacuated more than a dozen residences within close proximity of the device.

Two bomb squad officers from the Cleveland Police Department and ATF agents removed the device and detonated it in a nearby field.

"Investigation revealed a plot to use the device against Cross' former husband, leading to her arrest and that of Jerry L Adams, 38, for attempted first-degree murder, conspiracy to commit first-degree murder, and possession of a prohibited weapon," said Gault.

Adams plead guilty in state court to conspiracy to commit second-degree murder and possession of an explosive. He is serving an eight-year sentence at the Tennessee Department of Corrections, noted Gault.

Cross is due back in Bradley County Criminal Court for a March 6 hearing.

n CPD TeleServe Officer Tom Castello filed a report for the owner of a local car wash concerning the theft of change.

According to the report filed Monday, Barry Massengill stated someone had removed money from several computerized cash machines at his North Lee Highway business.

The incident was believed to have been occurring during late December, until Sunday.

No sign of forced entry was noted, according to the report.

The Criminal Investigations Division is in charge of the investigation.

IMMIGRATION:

12 Indicted In Alien Smuggling (WT)

By Jerry Seper

The Washington Times, January 12, 2006

Three suspected ringleaders of two major alien-smuggling organizations and nine accomplices have been indicted by a Texas federal grand jury on charges of trucking more than 600 illegals from the El Paso area to Dallas and beyond during the past two years.

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All but three of the gang members were taken into custody this week by U.S. Immigration and Customs Enforcement (ICE) agents, assisted by the U.S. Border Patrol. Two of the gang members were identified in indictments unsealed Friday, and another is in La Tuna Federal Correctional Institution on a previous alien-smuggling conviction.

"These unscrupulous smugglers operate ruthlessly and with no regard for the human beings whose lives they endanger," said ICE special agent in charge Kyle Hutchins, who heads the agency's El Paso field office. "During this investigation, our special agents encountered various groups with 35 to 79 people crammed in trailers for the nonstop nine-hour trip to Dallas from El Paso with no food and limited water.

"The only way to enter or exit the trailers was through trailer doors, which were sometimes padlocked," Mr. Hutchins said.

The gang members were identified as residents of El Paso County and Dallas. The arrests culminated a two-year undercover investigation.

ICE spokesman Dean Boyd said Mike Price, 53, his wife, Fabiola del Carmen Moguel de Price, 39, and Sam Jarvis, 52, headed two separate organizations that generated more than $1.6 million in smuggling fees between March 2003 and October 2005.

He said Mr. Jarvis and the Prices, all of Socorro, Texas, originally worked together, but the Prices left the Jarvis organization in 2003 to establish their own alien-smuggling enterprise.

Mr. Boyd said one of the smuggling loads intercepted included 28 illegal aliens that Ronald Dean Anglin, 54, a co-leader of the Price organization, attempted to sneak past a Border Patrol checkpoint near Sierra Blanca, Texas. The aliens were concealed in a large plywood box covered with a blue tarp on top of a flatbed trailer, he said.

Mr. Jarvis purportedly offered drivers of 18-wheel rigs $300 for each illegal alien they concealed and hauled to the Dallas area in their trailers.

Mr. Boyd said the two gangs smuggled Brazilians, Colombians, Hondurans, Salvadorans, Guatemalans, Nicaraguans, Ecuadoreans and Mexicans. Depending on the nationality, he said, the gangs charged each alien between $1,500 and $6,000 to be smuggled into the United States and later brought to Arizona, Colorado, Oklahoma, Illinois, Florida and New York.

Both organizations housed the aliens in "drop houses" throughout El Paso County after smuggling them into the United States from Ciudad Juarez, Mexico, Mr. Boyd said.

He said Mr. Price, his wife and Mr. Jarvis were charged with conspiracy to smuggle aliens.

Ex-Embassy Driver Admits Smuggling Aliens (FINDLAW/AP)

AP, January 12, 2006

(AP) - ALEXANDRIA, Va.-A former driver for the Saudi Embassy in Washington pleaded guilty Tuesday to smuggling aliens into the United States.

Mohamed Abdel Wahab Yakoub, 61, admitted he used Saudi Embassy letterhead to obtain diplomatic visas from U.S. embassies for several Egyptians and Filipinos.

Yakoub, an Egyptian, faces up to 10 years in prison when he is sentenced in April on a single count of smuggling aliens. He will be subject to deportation after the sentencing.

Yakoub sold visas for $5,000 to $7,000. Court documents indicate he helped at least six illegal aliens gain entry to the U.S. in 2000 and 2001. He was fired by the Saudi embassy in 2002.

The Joint Terrorism Task Force, which helped investigate, said it had no indication the scheme had any connection to terrorism.

TAX:

Ex-county GOP Chairman Pleads Guilty To Tax Evasion (CHASGAZ)

By Tom Searls, Staff writer

Charleston Gazette, January 12, 2006

A former Kanawha County Republican chairman has agreed to plead guilty to tax evasion by using some of his employees' withholdings to pay for his wife's Mercedes-Benz.

Steven L. Miller admitted in an information filed by Assistant U.S. Attorney Hunter P. Smith Jr. that he "evaded and defeated approximately $38,000 of the federal personal income taxes, trust fund taxes and Trust Fund Recovery Penalties due and owing by him" to the federal government.

Miller had apparently withheld federal taxes and trust fund money from employees' pay, placing it in a separate bank account at the Putnam County Bank, but never passed it on to the federal government.

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- advertisement -

Internal Revenue Service agents led the investigation of Miller from 1999 through 2000. The IRS has been aggressive in investigating such cases because employees may not qualify for Social Security, Medicare or unemployment benefits if taxes that have been withheld from their pay are never remitted to the federal government.

Miller also owed unpaid personal income taxes.

A federal information usually indicates a defendant is cooperating with investigating authorities. The information against Miller was filed Wednesday.

IRS agents found that Miller tried to hide his personal income, as well as not paying the employees' payments prior to paying other creditors. In November 1999, he received a payment from a client and deposited it in a Colorado bank under the name of his wife.

Later that month, four checks totaling $3,500 were written to Miller from that account, while later that month a check for $10,500 from the Colorado account was deposited in Miller's personal account at the Putnam County Bank.

In December 1999, Miller wrote a check for $7,000 from the Putnam County account to his son. In 2000 he wrote a check from the Putnam trust account for $1,300 to make a payment on his wife's 1994 Mercedes. Then in October 2000, the information shows, he used some of the funds to pay a loan secured by his wife's car at another bank.

Miller was a candidate for U.S. attorney for the Southern District of West Virginia in the early 1980s. His ex-wife, Peggy Miller, was Kanawha County clerk.

It was uncertain when Miller, who was a resident of South Charleston, will be sentenced or if he is continuing to practice law.

Another accused tax evader, Charleston resident Carl Kennedy, is scheduled to be sentenced today in federal court for similar charges.

Wife Of Indicted NYPD Detective Pleads Not Guilty To Tax Charge (NSDY/AP)

By Ken Ritter, Associated Press Writer

Long Island Newsday, January 12, 2006

LAS VEGAS -- The wife of a former New York police detective accused of working as a mob hit man pleaded not guilty Wednesday to three charges of filing a false income tax return.

Frances Eppolito was ordered released without bond and was appointed a federal public defender pending a trial set for March 13. She told U.S. Magistrate Judge Lawrence R. Leavitt she had been arrested earlier in the day in Las Vegas.

Family members who attended the brief arraignment at the U.S. District Courthouse in Las Vegas declined to comment.

Eppolito and her husband, Louis Eppolito, were named in a three-count felony indictment handed up Tuesday. Each is accused of filing false federal income tax returns for $127,386 in income in 2000, $8,654 in income in 2001 and a net loss of $1,297 in 2002.

The defendants had substantial income "from screenplay writing business activity," the indictment said.

Each could face up to three years in federal prison and a $100,000 fine if convicted on each count, Internal Revenue Service spokeswoman Mercedes Manzur said.

A spokeswoman for U.S. Attorney Daniel Bogden said she had no immediate information about whether Louis Eppolito had been arrested or ordered to surrender on the charges.

He was free on bond living in the New York area, where he is awaiting trial next month on charges that he and his former detective partner, Stephen Caracappa, accepted thousands of dollars to work for the mob while they were still in the New York Police Department.

Both men have pleaded not guilty.

The former partners were arrested last March in Las Vegas, where they lived across the street from each other since retiring in the early 1990s. Authorities have accused the detectives of using their access to police information to give mob associates the names of confidential informants. Each faces up to life in prison if convicted.

Eppolito is the author of a 1992 autobiography, "Mafia Cop: The Story of an Honest Cop Whose Family Was the Mob." The son, grandson and nephew of Mafia members described his family background, a decorated police career and what he called false charges of Mafia involvement.

CONGRESS-ADMINISTRATION:

Democrats Sharply Question Alito (REU-Y2)

DOJ_NMG_0009494

By Thomas Ferraro And Joanne Kenen

Reuters, January 12, 2006

Senators critical of the Bush administration aggressively questioned Supreme Court nominee Samuel Alito on Wednesday. His wife briefly left the confirmation hearing in tears.

In the third day of hearings, Democratic senators accused Alito of being evasive on issues ranging from abortion to presidential powers to past membership in a conservative alumni group at prestigious Princeton University.

South Carolina Republican Sen. Lindsey Graham (news, bio, voting record) told Alito: "I am sorry that you've had to go through this. I am sorry that your family has had to sit here and listen to this."

While Alito appears headed for confirmation by the full Republican-led Senate later this month, several Democrats made clear that after a relatively gentle start of proceedings on Monday and Tuesday, they were waging an election-year fight.

Alito, pressed repeatedly about his membership two decades ago in the alumni group that opposed efforts to admit more women and minorities to the university, said, "I'm not any kind of a bigot."

"I believe you," Graham said.

At one point, Alito's wife, Martha-Ann, was crying in the crowded hearing room and then left. She returned about an hour later and sat behind her husband.

President George W. Bush has nominated Alito, 55, a federal appeals judge the past 15 years, to replace retiring Justice Sandra Day O'Connor, often the swing vote on abortion and other social issues on the nine-member court.

Sen. Richard Durbin (news, bio, voting record), an Illinois Democrat, began the day's Senate Judiciary Committee hearing, saying he was troubled Alito had not disavowed a 1985 memo in which he wrote that "the Constitution does not protect a right to an abortion."

"I'm concerned that many people will leave this hearing with a question as to whether or not you could be the deciding vote that would eliminate the legality of abortion," he said.

OPEN MIND

Alito, who wrote the memo as a Reagan administration attorney two decades ago, has not said how he would rule if abortion came before him on the high court. But the nominee reaffirmed his vow to keep an open mind and respect legal precedent and noted the landmark 1973 decision that legalized abortion had been upheld repeatedly.

Sen. Charles Schumer (news, bio, voting record), a New York Democrat, said, "Judge Alito has responded, but he has not answered."

Sen. Patrick Leahy (news, bio, voting record) of Vermont, the committee's top Democrat, said Democrats were also troubled by what they saw as inconsistencies in many of Alito's answers.

Alito listed membership in the since-disbanded alumni group, Concerned Alumni of Princeton, or CAP, in a 1985 application for a job in the Reagan administration. He told the panel he had no recollection of any involvement with the group.

Sen. Edward Kennedy (news, bio, voting record), a Massachusetts Democrat, quoted a 1983 essay, "In Defense of Elitism," from the alumni group's magazine that read, in part: "People nowadays just don't seem to know their place. Everywhere one turns, blacks and Hispanics are demanding jobs simply because they're black and Hispanic."

Alito, a member since 199O of the 3rd U.S. Circuit Court of Appeals, denounced the essay as offensive and said he did not know the group had promoted such positions.

Kennedy told reporters later, "It's extraordinary to me that this nominee can remember all 67 of his dissents in great detail -- in great, great, detail and he still is mystified about his association about a CAP organization that he used as a job reference."

Nerves Fray At Alito Hearing Democrats Turn Up Heat On Supreme Court Nominee (USAT)

By Kathy Kiely

USA Today, January 12, 2006

WASHINGTON — The third day of Supreme Court nominee Samuel Alito's confirmation hearings took a contentious turn Wednesday as Democrats grilled him about his ethics and membership in a controversial Princeton alumni group.

Alito's wife, Martha-Ann, walked out of the hearing room in tears as Sen. Lindsey Graham, R-S.C., apologized to an unflappable Alito for the Democratic challenges.

“Judge Alito, I am sorry that you've had to go through this,” Graham said. “I am sorry that your family has had to sit here and listen to this.”

Martha-Ann Alito returned to the room later.

Several Republicans predicted confirmation for Alito, a judge on the 3rd U.S. Circuit Court of Appeals. “You're going to serve as an outstanding justice,” said Sen. Sam Brownback, R-Kan.

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The incident with Alito's wife followed hours of questions from Sens. Edward Kennedy, D-Mass., and Russ Feingold, D-Wis., about a decision by Alito not to recuse himself from a 2002 case involving Vanguard, which held his investments.

Alito called the suggestion that the case would have affected his mutual funds "preposterous."

Another recurring theme was Alito's involvement in Concerned Alumni of Princeton, a group whose membership he touted on a 1985 job application that asked him to demonstrate his "philosophical commitment" to Reagan administration policies. Some members of the group, formed in 1972 just after Princeton went coed, suggested that the university had lowered academic standards to admit women and minorities. Alito graduated in 1972.

Kennedy expressed incredulity at Alito's repeated assertions that he does not remember belonging to the group. Alito said he doesn't share some members' views on women and minorities. "I disavow them; I deplore them," he said.

For the third day, abortion was a prime topic. Alito has been tapped to succeed retiring Justice Sandra Day O'Connor, a swing vote on abortion and other issues.

Alito called the high court's 1973 decision in Roe v. Wade, which made abortion legal nationwide, "a precedent that's entitled to respect," but he wouldn't say whether he still believes "the Constitution does not protect a right to an abortion," as he wrote in 1985.

The Republican Majority for Choice, a group that supports abortion rights, announced its opposition to Alito.

Judiciary Chairman Arlen Specter, R-Pa., a member of that group, has not said how he'll vote on Alito.

An Intense Experience For Family Members, Too (NYT)

By Neil A. Lewis

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - While the nominee at a confirmation hearing at least gets to respond to criticisms, his family members and supporters are obliged to sit stiffly and stoically behind him as a backdrop for the cameras.

Many nominees and their family members have described the experience as excruciating, and Martha-Ann Alito is not likely to disagree.

On Wednesday, more than eight hours after the hearing was called to order, Mrs. Alito began to weep when a supportive senator, Lindsey Graham, a South Carolina Republican, was questioning her husband, who was seated a few feet in front of her.

Mr. Graham was making the point that criticisms of Judge Alito's integrity were unfair, and he chose to do so by posing mock-accusatory questions intended to demonstrate how implausible the claims were.

Judge Alito had explained his failure to recuse himself from a case involving a mutual fund in which he had an interest because of an oversight and said that the issue was of no consequence to his holdings.

"I am baffled as to why you would make a conscious decision in this situation not to recuse yourself," Mr. Graham demanded. "Do you have an explanation?"

"There's no reason why I would make such a conscious decision," Judge Alito replied. "I had nothing whatsoever to gain by participating in this case, and nobody has suggested that I did."

When Mr. Graham asked him in the same fashion, "Are you really a closet bigot?" - because of his membership in a Princeton alumni group that opposed the university's affirmative action program - Judge Alito said he was "not any kind of bigot," to which Mr. Graham agreed.

At that point, Mrs. Alito began to sniffle audibly. She hurried to a corner of the hearing room, then went into an anteroom, where she sobbed for a few minutes. She later returned to the hearing room.

Democrats Target Alito's Credibility (WSJ)

By Jeanne Cummings

The Wall Street Journal, January 12, 2006

WASHINGTON -- The Democratic strategy to derail Judge Samuel Alito's Supreme Court appointment is centered on raising doubts about the nominee's credibility and persuading senators he would curb or end abortion rights.

In three days before the Senate Judiciary Committee, Judge Alito's straightforward testimony has served as a strong counter to their campaign. But the Third U.S. Circuit Court of Appeals judge has declined to amend his 1985 assertion that the Constitution doesn't protect the right to an abortion, helping Democrats make some headway on the issue.

Democrats may have lost points, however, when Judge Alito's wife, Martha, left the hearing room in tears after Republican Sen. Lindsey Graham of South Carolina apologized for the treatment of her husband. She later returned. Alito supporters sent emails about the incident, blaming Democrats for going too far.

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During his testimony, Judge Alito declined to endorse Chief Justice John Roberts's testimony that Roe v. Wade, the 1973 abortion-rights case, is a settled precedent of the Supreme Court. Judge Alito told senators that he wasn't sure what Chief Justice Roberts meant by the word "settled."

Yesterday, the Republican Majority for Choice, an organization of Republicans who support abortion rights, said it "regrettably" will oppose the nomination. "Judge Alito seems by all measures to be an experienced and capable jurist, but one who is out of step with mainstream Americans on the issue of abortion and maintaining the legal right to choose," the group said in a statement.

Four Republican senators, including Judiciary Committee Chairman Arlen Specter of Pennsylvania, serve on the group's advisory board, but won't necessarily take its position when deciding how to vote on the nomination. The others are Rhode Island's Lincoln Chafee and Maine's Olympia Snowe and Susan Collins, who have all expressed reservations about Judge Alito's nomination.

Democrats, who hold 44 Senate seats and often count Vermont Independent James Jeffords among their ranks, aren't talking about a filibuster, for now. That decision will be made after the hearings, aides said. Even without a filibuster, Judge Alito may face a tight floor vote if three or four Republicans oppose him because of his stance on abortion.

Democrats fear that Judge Alito would move the court to the right because he would succeed departing Justice Sandra Day O'Connor, a conservative on many issues who sometimes tilted left as the swing vote on discrimination, abortion and civil-rights cases.

To make their case, Democrats must poke holes in Judge Alito's testimony and argue that senators shouldn't trust his assurances that if confirmed, he wouldn't pursue a conservative agenda. On civil and disability rights, Democrats have highlighted cases in which Judge Alito ruled on the side of government or business -- claiming that is his pattern. But Judge Alito's 15-year tenure on the appeals court allows him to call attention to cases where he instead sided with the complainant.

The Democrats' two-phase strategy during the hearings involves first asking questions to establish Judge Alito's position and then pursuing a line of questions challenging it. Yesterday Sen. Edward Kennedy (D., Mass.) followed this template when probing Judge Alito's membership in the Concerned Alumni of Princeton, a group opposed to integration of the campus. Citing a timeline that showed Princeton alumni were sent two letters highlighting the group's work, Sen. Kennedy challenged Judge Alito's testimony that he joined the organization one year later, unaware of one of its missions: opposing enrollment of women, blacks and homosexuals.

Judge Alito said he doesn't remember why he joined in 1985, but he thinks it was because he was troubled by opposition to a Reserve Officers Training Corps office on the Princeton campus. Sen. Kennedy produced a 1985 issue of Concerned Alumni's publication that declared ROTC is "popular" once again. Judge Alito said he recalled the ROTC struggle was continuing. Sen. Kennedy said the nominee's answers don't "add up."

Write to Jeanne Cummings at jeanne.cummings@wsj.com18

Alito Turns Aside Democrats' Criticism (AP)

By David Espo

The Associated Press, January 12, 2006

WASHINGTON — Supreme Court nominee Samuel Alito turned aside Democratic attacks on his judicial record and credibility at contentious confirmation hearings Wednesday that left his wife in tears.

"If I'm confirmed I'll be myself," said Alito, a 15-year veteran of a federal appeals court, named to succeed Justice Sandra Day O'Connor for a swing seat on the high court.

Challenged by Democrats, Alito repeatedly said he had no memory of involvement with the conservative Concerned Alumni of Princeton, though he highlighted his membership in a 1985 job application for the Reagan administration.

He repudiated the opinions expressed in articles in the organization's magazine. "They're not my views ... I deplore them," he said of writing that contained material that was racist, sexist and homophobic.

Under persistent questioning, Alito also declined for a second straight day to say whether he believes, as he did in 1985, that the Constitution contains no right to an abortion. "I don't think it's appropriate for me to speak about issues that could realistically come up" before the courts, he said.

Alito, 55, was unflappable for hours on end in marathon questioning before the Senate Judiciary Committee. But his wife, Martha-Ann Bomgardner, grew emotional near the end of the day and left the hearing room weeping.

"Judge Alito, I'm sorry that you've had to go through this. I am sorry that your family has had to sit here and listen to this," said Sen. Lindsey Graham. A moment earlier, the South Carolina Republican had offered Alito a chance to defend his integrity, asking whether he was a "closet bigot."

"I'm not any kind of bigot, I'm not," said Alito.

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"No sir, you're not," Graham agreed.

Alito's wife returned with him following a brief recess.

The nominee commands the support of all 10 Republicans on the Senate Judiciary Committee, and while the Democrats could delay his approval by the panel they cannot block it. His prospects for confirmation by the full Senate are also strong, although Democrats have not ruled out the possibility of a filibuster that could require supporters to post 60 votes in the 100-member chamber.

Still, unlike Chief Justice John Roberts last fall, Alito may draw the opposition of all eight Democrats on the Judiciary panel, and partisan maneuvering was evident Wednesday.

Abortion triggered one incident. Sen. Richard Durbin, who supports abortion rights, told Alito that his 1985 written view on abortion "does not evidence an open mind. It evidences a mind that sadly is closed in some areas."

Sen. Tom Coburn of Oklahoma, saying he wanted to "razz" Durbin, soon noted that the Illinois Democrat had himself changed his mind on abortion. "For 45 years, Senator Durbin was adamantly pro-life, and he wrote multiple, multiple letters expressing that up until 1989," said Republican Coburn.

Later, Sen. Edward M. Kennedy pressed the committee's chairman, Sen. Arlen Specter, R-Pa., to subpoena records at the Library of Congress that might shed light on Alito's membership in the conservative Princeton group.

"If I'm going to be denied that, I'd want to give notice to the chair that you're going to hear it again and again and again and we're going to have votes of this committee again and again and again until we have a resolution," said the Massachusetts Democrat.

Specter, bristling, said, "I'm not concerned about your threats to have votes again, again and again. And I'm the chairman of this committee. ... And I'm not going to have you run this committee."

The tempest proved short-lived. Specter later announced the committee would have access to the records.

Kennedy questioned Alito sharply about the organization, which drew notice for opposing admission practices that resulted in rising numbers of women and minority students at the Ivy League school.

"If I had received any information at any point regarding any of the matters you referred to ... I would never have had anything to do with it," said Alito, who listed his membership in the group on a 1985 job application for the Reagan administration but now says he does not recall anything about it.

Outside the committee room, Kennedy was scathing.

"He can remember all 67 dissents ... in great details," he said of Alito and his judicial record. "But he can't remember anything about this organization."

Those judicial dissents drew the attention of several Democrats, as did other rulings over the course of Alito's 15-year tenure on the appeals court.

Durbin cited rulings in cases involving a black man accused of murder, a retarded man who had been sexually molested and an injury at a coal work site.

He said that in each case, Alito had made rulings that favored the powerful at the expense of the powerless. "I find this as a recurring pattern, and it raises the question in my mind whether the average person, the dispossessed person, the poor person who finally has their day in court ... are going to be subject to the crushing hand of fate when it comes to your decisions."

Alito defended his rulings one by one, then was offered a chance for a general reply.

He cited a case in which a "high school student had been bullied unmercifully by other students in his school because of their perception of his sexual orientation, been bullied to the point of attempting to commit suicide."

The school board refused a request from the parents to move their child to a different school, but Alito said, "I wrote an opinion upholding their right to have him placed in a safe school in an adjacent municipality."

Underscoring the political significance of the nomination, Durbin had scarcely completed his 20 minutes of questioning when the nominee's supporters circulated written material titled, "A sampling of cases where Alito rules for the `Little Guy.'"

Democrats countered with a document of their own. It accused Republicans of distorting Alito's record by "citing uncontroversial cases with obvious outcomes or by distorting the facts or outcomes of the cases they cite."

Alito's views on abortion were a recurring theme for Democrats.

Sen. Dianne Feinstein, D-Calif., picking up where Durbin had left off, asked Alito why he felt comfortable renouncing 20-year-old statements he had made questioning the principle of one person, one vote, when he wouldn't do the same on Roe v. Wade.

Alito said once again there are cases making their way through the courts on abortion.

Feinstein noted four voting rights cases currently pending that raise questions of whether the principle of one person, one vote has been violated.

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"If you're willing to say that you believe one man, one vote is well settled and you agree with it, I have a hard time understanding how you separate out Roe," she said.

Alito Disavows Controversial Group (WP)

By Dale Russakoff

The Washington Post, January 12, 2006

As a Princeton alumnus and professional basketball player, Bill Bradley in 1973 renounced his membership in Concerned Alumni of Princeton, calling it a "right wing" organization that opposed the admission of women and minorities to the school.

Two years later, another distinguished alumnus and future U.S. senator, Bill Frist, co-wrote a report denouncing the group for "grossly inaccurate" attacks on the school's policies and a "narrow ideological perspective" that had done "a disservice to the university."

Supreme Court nominee Samuel A. Alito Jr.'s membership in this group, which he touted among his conservative credentials in a 1985 application for a political appointment in the Reagan Justice Department, touched off a bruising political battle yesterday during the third day of confirmation hearings.

Sen. Edward M. Kennedy (Mass.) and other Democrats demanded to know why the son of an Italian immigrant would take credit for membership in a "radical" group that opposed increased enrollment of women and minorities, while Republicans and a White House spokesman branded that line of questioning as "pathetic," "scurrilous" and an effort to assign "guilt by association."

The group was founded in 1972 by Princeton alumni who were troubled that the university had recently begun admitting women and who said Princeton had lowered its standards to admit more minorities.

Alito, a 1972 Princeton graduate, testified yesterday that he has no recollection of joining the group, and that he would not have done so if he had known of its writings about women and minorities. "I deplore those statements," he said. "I would never be a member of an organization that took those positions."

He said he assumes he joined only because he supported the return of ROTC to the Princeton campus. As an undergraduate, Alito was a member of Princeton's Army ROTC unit when it was expelled from the campus -- a move that he said "rankled" him because "the attitude seemed to be that the military was a bad institution and that Princeton was too good for the military."

The Army ROTC unit was back on campus by the time Alito wrote his 1985 job application, but he said the Navy and Air Force units were not.

Throughout its existence, the now-defunct group was widely reported in major newspapers and magazines to be against increased admission of minorities and women -- positions advanced in its magazine, fliers and letters to alumni. Republicans released a 1985 newspaper article that said the group also was defending the Army ROTC unit then.

Democrats declared themselves "incredulous" that Alito was unaware of the group's attitudes toward women and minority students, and that his explanations for why he joined the group and mentioned it on an application did not add up. Kennedy read aloud a number of passages from the group's magazine, Prospect, that attacked women, minorities and gays.

One 1983 article, titled "In Defense of Elitism," began: "People nowadays just don't seem to know their place. Everywhere one turns, blacks and Hispanics are demanding jobs simply because they're black and Hispanic. The physically handicapped are trying to gain equal representation in professional sports. And homosexuals are demanding the government vouchsafe them the right to bear children."

Alito said he had never seen the article and called the view in it "antithetical" to his beliefs. Republicans released disclaimers from Prospect saying that all articles reflected the opinions of the authors and were not official positions of Concerned Alumni of Princeton.

White House spokesman Steve Schmitt said Kennedy was "attributing to the judge words he never said or wrote and explicitly repudiates" because the Democrats were "unable to challenge Judge Alito's mastery of the law and his stellar 15-year record on the appellate court."

Sen. Richard J. Durbin (D-Ill.) read aloud the comments of 1975 Princeton graduate Diane Weeks who had worked for Alito when he was U.S. attorney in New Jersey.

"When I saw Concerned Alumni of Princeton on that 1985 job application, I was flabbergasted," Durbin quoted Weeks as saying in the Nation magazine. "I was totally stunned. I couldn't believe it. CAP made it clear to women like me we were not wanted on campus. And he is touting his membership in this group in 1985, 13 years after he graduated? He's not a young man at this point. . . . I'm very troubled by this and if I were in the Senate, I would want some answers."

Alito responded that Weeks was "one of many women whom I hired when I was U.S. attorney. And I think that illustrates my attitude toward equality for women."

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In an interview yesterday, Weeks said: "The reason I'm flabbergasted is that from my personal experience with Sam, he does not discriminate against women, minorities or anyone else. He is a merit-based thinker. That's who he is. I cannot understand for the life of me why he would have even associated himself with Concerned Alumni of Princeton."

At Kennedy's request, and with Alito's blessing, Committee Chairman Arlen Specter (R-Pa.) said the panel will examine the group's records to get "all the facts." The records are in the Library of Congress in the private papers of William Rusher, a former publisher of the National Review magazine. Rusher allowed the New York Times to review the records last year, and the newspaper found no evidence that Alito was active in the organization or was a major donor to it.

Sen. Lindsey O. Graham (R-S.C.) called the attacks on Alito "guilt by association," adding, "I am sorry that your family has had to sit here and listen to this." Alito's wife, Martha, left the room in tears, returning after a break.

Alito's Ties To Controversial Group Probed (LAT)

By Johanna Neuman

The Los Angeles Times, January 12, 2006

WASHINGTON -- In 1972, at the height of one of the most tumultuous times in higher education, a group of Princeton University graduates staged their own form of protest against the changes they saw around them.

As college campuses roiled with demonstrations over the Vietnam War, feminism and free speech, the Concerned Alumni of Princeton -- co-chaired by wealthy alumni from the classes of 1921 and 1930 -- had its own narrower agenda: fighting the admissions policy that opened classroom doors to women and minorities.

Defunct for almost 20 years and largely forgotten, the organization on Wednesday became a central issue in the Supreme Court confirmation hearings of Samuel A. Alito Jr., who graduated from Princeton in 1972.

"I did not join this group . . . because of any attitude toward women or minorities," Alito told the Senate Judiciary Committee. "What bothered me about the Princeton administration . . . was the treatment of ROTC" -- which Alito joined as an undergraduate and which lost its contract with the university during the Vietnam protests.

With senators clamoring for papers that might shed light on Alito's involvement in the group, and reporters rushing to the university to review documents in the school's Seeley G. Mudd Library, the spotlight intensified on the organization whose purpose was to preserve a Princeton of men -- mostly white, mostly wealthy and many conservative.

Last November, the college paper, the Daily Princetonian, noted that in the first issue of Prospect -- the Concerned Alumni of Princeton magazine -- founder Shelby Cullom Davis, then one of the university's largest donors, had written of his Princeton ideal. It was embodied, he wrote, in the alumni he saw at his father's 50th reunion -- "a body of men, relatively homogenous in interests and backgrounds, who had known and liked each other over the years during which they had contributed much in spirit and substance to the greatness of Princeton."

Princeton began admitting women as undergraduates in 1969, when Alito was a sophomore. In a fundraising letter a few years later, according to research by the liberal group People for the American Way, Concerned Alumni of Princeton urged "a more traditional undergraduate population" and a quota that would keep number of female students at 1,000 out of 4,400.

"A student population of approximately 40 percent women and minorities will largely vitiate the alumni body of the future," said the letter.

Defenders of the organization argue that it has been misrepresented in the mainstream media and on liberal blogs, part of a smear campaign against Alito.

"It's a huge diversion and a bit of a desperation tactic," said Dinesh D'Souza, who edited Prospect in 1984 and is now a conservative scholar at Stanford University's Hoover Institution. "It was a conservative organization well within mainstream conservative thought. There was nothing extreme or racist. It attacked racial preferences. It never did take a position against cohabitation."

Still, the organization left a string of sound bites that liberal critics seized on Wednesday to portray the group -- and, by extension, Alito -- as insensitive to a generation of gains by women and minorities.

"Coeducation has ruined the mystique and camaraderies that used to exist," T. Harding Jones, a classmate of Alito's and the first editor of Prospect, told The New York Times in 1974.

William A. Rusher, one of the group's original board members and a former editor of the conservative magazine National Review, talked about Concerned Alumni of Princeton on Wednesday in a question-and-answer session on the magazine's Web site.

The organization, he said, was "concerned over various liberal tendencies that had developed in the Princeton administration." He added, "I will always remember fondly the Princeton I knew, and regret what has happened to it."

He quoted a colleague approvingly as saying that Princeton, known to its graduates as Old Nassau, had become "just another liberal joint."

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The Democrats' Last Roar, By Way Of Princeton (WP)

By Dana Milbank

The Washington Post, January 12, 2006

It looked to be a second dreary day in the confirmation hearings of Supreme Court pick Samuel Alito, as the senators droned and the nominee dodged. Then, just before lunch, the old lion roared.

Actually, it started as a growl. The gray-maned Sen. Edward M. Kennedy (D-Mass.) read quotations published by a conservative Princeton group to which Alito belonged, protesting that blacks, Hispanics and women "don't know their place" and suggesting medical experiments for gay Princeton students.

Paying no heed to Alito's anxious insistence that he was not active in the group, Kennedy then pounced on Judiciary Committee Chairman Arlen Specter (R-Pa.). "Mr. Chairman, if I could have your attention, I think we ought to vote on issuing a subpoena" for the group's records, Kennedy said, his voice rising and his face flushing.

Specter, awakened from a reverie by Kennedy's sudden outburst, protested that this was the first he was hearing of the issue and banged his gavel to indicate that it was time to move on. But this only inflamed Kennedy more. "If I'm going to be denied that, I'd want to give notice to the chair that you're going to hear it again and again and again and we're going to have votes of this committee again and again and again until we have a resolution."

Specter, now fully appreciating the ambush, hollered back. "Well, Senator Kennedy, I'm not concerned about your threats to have votes again, again and again," he admonished. "And I'm not going to have you run this committee." He banged the gavel again.

The hearing room was transformed. The nominee's wife, Martha Ann Alito, sighed. Alito's White House handler, Dan Coats, started working his BlackBerry. The reporters began tapping on their keyboards. Kennedy took a sip of water, flashed a tight smile at Alito, then a broader smile in the direction of the photographers in the pit.

Thus did Democrats take their last stand against Alito. It had become clear that the committee, with unified GOP support, would clear the judge. Surveying the various lines of attack against Alito -- his opposition to abortion, his support for a powerful president, his conflict-of-interest issues -- Democrats concluded that their best hope was in Alito's membership in a group opposed to gains by women and minorities. Clarence Thomas had Anita Hill. Alito would have the Concerned Alumni of Princeton.

Whatever the charge's merits, it drew blood.

As several more Democrats joined Kennedy's assault -- Sen. Joseph R. Biden Jr. (Del.) donned a Princeton baseball cap for the occasion -- Alito's replies grew more frantic. "I disavow them. I deplore them. They represent things that I have always stood against and I can't express too strongly," he told Sen. Lindsey O. Graham (R-S.C.).

"If you don't mind the suspicious nature that I have, it's that you may be saying that because you want to get on the Supreme Court, that you're disavowing this now because it doesn't look too good," said Graham, trying to help Alito. "I'm going to be very honest with you," Graham continued. "Are you really a closet bigot?"

Alito's ears turned scarlet. "I'm not any kind of bigot," he said, emotionally. "I'm not." Behind him, Martha Alito had had enough. She stood up, tissue in hand, and rushed to the back of the room, where Capitol Police whisked away the tearful woman. She didn't return for an hour.

The day started well enough for Alito. Sen. Orrin G. Hatch (Utah) continued to lob such softballs -- "Did you go out of your way to rule against workers?" -- that even his GOP colleagues had to smile. The nominee earned chuckles for joking that if court sessions were televised, "our Nielsen numbers would be in the negative."

But Kennedy ended the grins. "I've testified to everything that I can recall," the now-testy nominee said.

Kennedy, participating in his 23rd Supreme Court confirmation, started a schoolyard brawl with the committee chairman, demanding a subpoena of the Princeton documents.

"You and I see each other all the time and you have never mentioned it to me," Specter protested.

Kennedy said he had sent a letter making the request.

"We actually didn't get a letter," the chairman said.

"You did get a letter."

"Now, wait a minute: You don't know what I got."

"Yes, I do, Senator, since I sent it."

The longtime legislators continued to bicker until Specter erupted: "I take umbrage at your telling me what I received. I don't mind your telling me what you mailed. But there's a big difference between what's mailed and what's received. And you know that."

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The great postal debate proved moot after lunch, when Specter announced that the custodian of the Princeton papers would turn them over without a subpoena. He scolded Kennedy for starting a "tussle." "Senator Kennedy and I frequent the gym at the same time and talk all the time, and he never mentioned it to me," he said.

Kennedy was no longer the lion: "I regret I haven't been down in the gym since before Christmas," he explained. "So I missed you."

Senators Show Claws At Hearing, Sling Zingers (WT)

By Charles Hurt

The Washington Times, January 12, 2006

The Alito confirmation hearings had been a largely placid affair, but things got downright personal yesterday between members of the Senate Judiciary Committee.

Sen. Tom Coburn, Oklahoma Republican, accused Democrat Whip Richard J. Durbin of Illinois of hypocrisy while panel chairman Arlen Specter and Sen. Edward M. Kennedy fell out over mail delivery.

With senators coming and going, Mr. Specter, Pennsylvania Republican, instituted a rule that no more comments could be made about another member unless that member was there to defend himself. At one point, a visibly distraught Martha Alito, who had sat behind her husband through the entire hearings excused herself from the room to regain her composure.

The brouhaha came after many observers had decided that Democrats had been neutered during the first two days, mastering the art of softball pitches. The Washington Post had called the sessions "a most tender roast of Alito."

Not yesterday.

The sharpest exchange came after Mr. Kennedy accused Mr. Specter of lying about whether he had gotten a letter requesting more information from the Library of Congress that Mr. Kennedy said would shed light on Judge Samuel A. Alito Jr.'s membership in Concerned Alumni of Princeton.

"We actually didn't get a letter," Mr. Specter said.

"You did get a letter," interrupted the Massachusetts Democrat.

Then Mr. Kennedy tried invoking a parliamentary challenge to Mr. Specter, the chairman nearly snapped his little wooden gavel as he called the meeting back to order.

"If I'm going to be denied that, I'd want to give notice to the chair that you're going to hear it again and again and again and we're going to have votes of this committee again and again and again until we have a resolution," Mr. Kennedy said.

A testy Mr. Specter snapped back: "I'm not concerned about your threats to have votes again, again and again. And I'm the chairman of this committee. ... And I'm not going to have you run this committee."

But Mr. Specter's staff was later able to get the records Mr. Kennedy wanted without issuing a subpoena.

The most personal exchange came after Mr. Durbin took up the matter of abortion with the nominee.

He told Judge Alito that he could not support a nominee who would not uphold the Supreme Court precedents that guarantee the federal right to abortion. He then quizzed the nominee about the 1985 job application essay he wrote in which he said there was no basis for abortion rights in the Constitution.

When it was Mr. Coburn's turn to question the nominee, he turned the spotlight to Mr. Durbin.

"For 45 years, Senator Durbin was adamantly pro-life and he wrote multiple, multiple letters expressing that up until 1989," he said. Today, "he is a very strong advocate for the abortion stance and a free right to choose."

All the while, a Coburn staffer held aloft a large blue placard of a blown-up letter by Mr. Durbin when he was in the House.

"Thank you very much for taking the time to express your opposition to abortion," Mr. Durbin wrote in 1989. "I believe we should end abortion on demand, and at every opportunity I have translated this belief into votes in the House of Representatives."

Mr. Durbin, who had left the hearing room by the time Mr. Coburn's turn to speak had come, issued a statement explaining his change of position on the matter.

"Senator Durbin reconsidered his position on abortion after meeting with victims of rape and incest and weighing the implications of making all abortions illegal," spokesman Joe Shoemaker said. "Senator Durbin has always been forthright about his thinking on the subject and has made his position clear to the voters over the course of more than 12 elections. In contrast, Judge Alito has not made clear whether or not he still stands by his 1985 job applications to the Reagan Justice Department."

Alito Accused Of Racism (WT)

By Charles Hurt

The Washington Times, January 12, 2006

DOJ_NMG_0009502

Democrats on the Senate Judiciary Committee yesterday raised the volume of their objections to the Supreme Court nomination of Judge Samuel A. Alito Jr. by grilling him over his ties to a Princeton alumni group that they called racist and misogynist.

They also accused Judge Alito of always ruling against "the little guy" and of evading their questions on abortion and such other hot-button issues as his membership in Concerned Alumni of Princeton, which opposed the admission of women to the all-male school.

"Explanations about the membership in this sort of radical group and why you listed it on your job application are extremely troubling," said Sen. Edward M. Kennedy, Massachusetts Democrat. "And, in fact, I don't think that they add up."

Mr. Kennedy demanded during yesterday's hearing that records about the group be subpoenaed, and panel chairman Arlen Specter secured access to the documents during yesterday's lunch break. By yesterday afternoon, staffers for Democrats and Republicans were going through the records at the Library of Congress, a task expected to be finished by this morning.

Republicans dismissed the dust-up -- the most dramatic exchange in three days of hearings -- as a desperate, last-ditch effort by Democrats to stop certain confirmation of Judge Alito.

"Your critics are, I think, grasping at any straw to tarnish your record," said Sen. Charles E. Grassley, Iowa Republican.

"It's kind of like we're in the fourth quarter of a football game, and you're the quarterback," he said. "Your team is way ahead here in the fourth quarter, and opponents are very desperate, keep trying to sack you and aren't doing a very good job of it."

But it did get to Judge Alito's wife, Martha, who sat directly behind him.

Sen. Lindsey Graham, South Carolina Republican, questioned the nominee about his association with the alumni group in an effort to portray Democratic accusations as ridiculous.

"Are you really a closet bigot?" he asked.

"I am not any kind of bigot. I'm not," Judge Alito replied.

"No, sir, you're not," agreed Mr. Graham. "You seem to be a decent, honorable man."

During the exchange, Mrs. Alito left the hearing room in tears. She later returned to her seat and resumed her constant smile for the rest of the day.

"Graham's statement brought out some long-held emotions about how he was being characterized," former Indiana Sen. Dan Coats, who is assisting the Bush administration on the nomination, told reporters later. "Her emotions just caught up with her after 21/2 days of hearing her husband's record mischaracterized."

Several Democrats made it clear yesterday that after a placid first two days, they were waging an election-year fight.

Sen. Charles E. Schumer, New York Democrat, expressed frustration with Judge Alito's answers on abortion, in which the nominee said he could not commit to voting one way or another and had to keep an "open mind" on issues that might appear before the court.

"Judge Alito has responded, but he has not answered," Mr. Schumer complained.

Democrats also said they didn't believe Judge Alito's "open mind" reassurance on abortion, which he gave Tuesday.

Sen. Richard J. Durbin, Illinois Democrat, said the judge's past statements, including a 1985 job application letter in the Reagan administration, reveal "a mind that sadly is closed in some instances."

Much of the Democratic questioning yesterday suggested that Judge Alito was unwilling to give the "little guy" a fair shake in the courtroom.

"I find this as a recurring pattern," Mr. Durbin said. "It raises the question in my mind whether the average person, the dispossessed person, the poor person who finally has their day in court ... are going to be subject to the crushing hand of fate when it comes to your decisions."

Judge Alito, who was an earnest student throughout school, disagreed and discussed one case in which he ruled against schoolyard bullies.

"This was a case in which a high school student had been bullied unmercifully by other students in his school because of their perception of his sexual orientation," the judge told senators. "He'd been bullied to the point of attempting to commit suicide."

After the school board tried blocking the parents' attempts to move him to a different public school, Judge Alito sided with the family.

But Mr. Kennedy led the inquisition on the Concerned Alumni of Princeton.

In a 1985 job application for a position in the Reagan administration, Judge Alito noted his membership in the group, which published a magazine, and was founded by alumni upset that the previously all-male university had admitted women.

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Judge Alito's "affiliation with an organization that fought the admission of women into Princeton calls into question his appreciation for the need for full equality in this country," Mr. Kennedy said in a statement he distributed with copies of articles from the group's publication.

"People nowadays just don't seem to know their place," author H.W. Crocker III wrote in a 1983 issue of the magazine. "Everywhere one turns blacks and hispanics are demanding jobs simply because they're black and hispanic, the physically handicapped are trying to gain equal representation in professional sports, and homosexuals are demanding that government vouchsafe them the right to bear children."

Judge Alito rebuked the sentiments and said he had no recollection of the group. He said that he must have joined because he was in the Reserve Officer Training Corps, and the group also opposed the expulsion of Princeton's ROTC program from campus during the anti-war years of the 1960s and 1970s.

Conservative activists, meanwhile, were eager to point out that Mr. Kennedy was on shaky ground accusing the nominee of associating with people opposed to the inclusion of women in private institutions.

The eight-term senator belonged to an all-male social club -- the Owl -- at Harvard University. The Owl refused to admit women until it was forced to do so during the 1980s, according to records kept by the Harvard Crimson, the student newspaper.

A Kennedy spokeswoman said it was an entirely different matter.

"No one can question Senator Kennedy's commitment to equality, justice and civil rights," said Laura Capps. "What he was part of was a social club, not a radical group pushing a radical agenda."

Anyway, she said, even though women were admitted to the university during Mr. Kennedy's tenure, they weren't fully integrated to the campus until much later.

Democrats Press Alito On Conservative Background (LAW)

By T.r. Goldman, Legal Times

Legal Times, January 12, 2006

Democrats pushed and prodded Samuel Alito Jr. on Wednesday, the second full day of questioning the Supreme Court nominee, trying to find holes in his explanation for his membership in a conservative Princeton alumni group and to pin down his views on the constitutionality of abortion.

For the most part, Alito stood them down and, in his cautious monotone, provided the same answers he did the day before to the 18 members of the Senate Judiciary Committee.

The panel's eight Democrats tried their hardest to elicit more comprehensive answers from Alito, who has spent the past 15 years as a judge on the 3rd U.S. Circuit Court of Appeals.

From their perspective, Sen. Charles Schumer, D-N.Y., scored a victory of sorts in the controversy over Alito's disputed membership in the Concerned Alumni of Princeton University, a body Alito described as a "conservative alumni group" in his now-infamous 1985 application to the Justice Department's Office of Legal Counsel.

The group, founded in the early 1970s, had publicly bemoaned the fact that Princeton University was admitting too many minorities and women. The group's magazine had also published several inflammatory articles.

"Everywhere one turns, blacks and Hispanics are demanding jobs simply because they're black and Hispanic," read an excerpt from one article that Massachusetts Democrat Sen. Edward Kennedy had blown up into an exhibit for the hearings.

"Did you read this article?" Kennedy asked Alito.

"I disagree with all of that," responded Alito, raising his modulated tone for perhaps the first time. "I would never endorse that. I never have endorsed that. If I thought that's what the organization stood for, I never would have joined."

Alito repeated the claim he had made the day before, that he had "racked his brain" and could not remember why he had joined the group. The best explanation he could offer, he said, was his displeasure at the university's attitude toward ROTC, which had been banned at one point but had returned to the campus before Alito graduated in 1972. Alito had been a member of an ROTC unit.

Toward the end of the day Wednesday, however, Schumer was able to elicit a bit more satisfying explanation for Democrats.

Said Schumer: "You somehow plucked this group, which you now say you somehow have no recollection. Why that group? Why was it plucked out and put on the application?"

Answered Alito: "You have to look at the question I was responding to. What I was trying to outline were things relevant to obtaining a political position."

It was the first time Alito had conceded to what many considered obvious: his need to show the Department of Justice, then under the highly conservative influence of Attorney General Edwin Meese, that his conservative bona fides were in order.

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"That was the answer he should have started with," said Illinois Democrat Sen. Richard Durbin, after the hearing had ended for the day. "It helps some. I just wish he hadn't gone through this tortuous process to get us there."

Indeed, the pressure evidently got to Alito's wife, Martha-Ann Bomgardner, who at one point late in the day left the hearing room in tears after Sen. Lindsey Graham, R-S.C., publicly apologized to the family because they had to endure what he termed the often baseless allegations that accompany a Supreme Court nomination process. "The emotions caught up with her after two-and-a-half tense days," said former Sen. Daniel Coates, R-Ind., who has been charged with shepherding Alito through the nomination process. She later returned to the room.

Earlier in the day, Durbin, the first Democrat to question Alito on Wednesday, asked him why he could assert the constitutionality of Brown v. Board of Education, which struck down racially enforced school segregation, and Griswold v. Connecticut, which established the right to marital privacy, but not the right to an abortion.

The Brown decision, said Alito, was based on the 14th Amendment, while Griswold was based on that amendment's due process clause, and, he added, that particular holding "is not likely to come before the 3rd Circuit [and] not likely to come before the Supreme Court."

Abortion issues, he said, are involved in litigation "at all levels."

As he did on Tuesday, Alito acknowledged that a comment on the same 1985 job application -- that he was "particularly proud" of his contributions to cases in the solicitor general's office which argued that the "constitution does not protect a right to an abortion" -- was an accurate statement 20 years ago.

"The things that I said in the 1985 memo were a true expression of my views at the time from my vantage point as an attorney in the solicitor general's office. But that was 20 years ago, and a great deal has happened in the case law since then," Alito said.

Alito once again refused to say what his opinion on the matter is today, although he repeated his promise to follow the pattern he laid out in Tuesday's testimony: Once he'd viewed the case through the lens of stare decisis, he would approach the case "the way I approach every legal issue ... and that is to approach it with an open mind and to go through the whole judicial process."

Kennedy's questioning of Alito on his membership in the Princeton alumni group led to a brief but heated argument between Judiciary Chairman Arlen Specter, R-Pa., and Kennedy, who said he'd sent Specter a letter asking the committee to subpoena the group's records from William Rusher, a former leader of the Princeton alumni association.

"We're entitled to this information," said Kennedy, who said he had mailed Specter the request some weeks earlier and could not understand why Specter had not responded to it. "I take umbrage at your telling me what I received," said Specter, somewhat sharply. "There's a big difference in what's mailed and what's received... . We're in the middle of a round of hearings. This is the first time you have personally called it to my attention, and I will consider it in due course," Specter added, before slamming the gavel down and continuing the proceedings.

It was later determined that Rusher's papers had been donated to the Library of Congress but that no member of the Judiciary Committee had yet asked to look at them. By early afternoon committee staffers were already at the library reviewing the documents. A report in The New York Times last November concluded that Alito, as he had testified earlier, had played no major role in the group.

Alito Leaves Door Open To Reversing 'Roe' (WP)

By Amy Goldstein And Charles Babington

The Washington Post, January 12, 2006

The once-sluggish confirmation hearings for Supreme Court nominee Samuel A. Alito Jr. turned confrontational yesterday, as the nominee signaled he might be willing to revisit the ruling that legalized abortion nationwide and Democrats pummeled him over his membership in an alumni group that wanted to restrict enrollment of women and minorities.

Tempers flared openly between the Senate Judiciary Committee's Republican chairman and eldest Democrat, and the nominee's wife fled the marbled hearing room in tears before the day ended with Republicans predicting that Alito will win confirmation, although by a slim margin.

Throughout the day's more than seven hours of questioning, Democratic senators regularly accused Alito of giving incomplete, inconsistent answers. Republicans accused Democrats of being unfair. At one point, Sen. Jon Kyl (R-Ariz.) complained after Sen. Edward M. Kennedy (D-Mass.) read aloud magazine excerpts published in the 1980s by Concerned Alumni of Princeton and espousing views Kyl branded as "very scurrilous."

The drama of the hearings' third day nearly overshadowed the significance of the position Alito staked out on the landmark abortion case, Roe v. Wade . Senators also branched into new territory: Alito's record from 15 years on the Court of Appeals for the 3rd Circuit on cases involving religion, immigrants seeking to prevent deportation, and criminals' rights.

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Alito edged closer to suggesting that he might be willing to reconsider Roe if he is confirmed to the high court, refusing, under persistent questioning by Democrats, to say that he regards the 1973 decision as "settled law" that "can't be reexamined." In this way, his answers departed notably from those that Chief Justice John G. Roberts Jr. gave when asked similar questions during his confirmation hearings four months ago.

Yesterday, Alito said that Roe must be treated with respect because it has been reaffirmed by the high court several times in the past three decades.

But when Sen. Richard J. Durbin (D-Ill.) peppered Alito with questions about whether the ruling is "the settled law of the land," the nominee responded: "If 'settled' means that it can't be reexamined, then that's one thing. If 'settled' means that it is a precedent that is entitled to respect . . . then it is a precedent that is protected, entitled to respect under the doctrine of stare decisis." Stare decisis is a legal principle that, in Latin, means "to stand by that which is decided."

During Roberts's confirmation hearings, he, too, was reluctant to disclose how he would vote if asked to overturn Roe . But during the 2003 hearing on his nomination to the Court of Appeals for the D.C. Circuit, he had said he viewed the ruling as settled law.

And during Roberts's hearings to become the nation's chief justice, Judiciary Committee Chairman Arlen Specter (R-Pa.) had asked, "Do you mean settled for you, settled only for your capacity as a circuit judge or settled beyond that?" Roberts replied: "Well, beyond that, it's settled as a precedent of the court."

After his exchange with Alito yesterday, Durbin told reporters: "Sam Alito would not use those same words. It really, I'm afraid, leaves open the possibility that we are considering the nomination of a justice who will change 30 years of law in this country, a dramatic change to the American society."

Sen. Tom Coburn (R-Okla.) suggested that Durbin is ill-suited to challenge Alito's views on abortion because Durbin once opposed abortion rights and changed his mind.

Alito told several senators that he felt constrained from saying whether he regards Roe as settled because abortion remains a live issue in the courts. Sen. Charles E. Schumer (D-N.Y.) reminded Alito that he has willingly said other areas of the law were settled even though they remain in play and that, in a 1985 application for a promotion in the Reagan administration's Justice Department, he had written he did not believe the Constitution protects the right to an abortion.

"It was one sentence," Alito replied. "And it certainly is not an attempt to set out a comprehensive view on the subject."

The day's most sizzling exchanges involved Alito's assertion, in the same job application, that he had belonged to Concerned Alumni of Princeton, a group that at that time had rallied conservatives and drawn considerable public notice.

Alito told the committee he does not remember joining the now-defunct group -- founded in 1972, the year he graduated from Princeton University -- and does not know anything about it. Democrats challenged him sharply, wondering aloud if he used the club to impress Reagan conservatives but now wants to distance himself from its outspoken opposition to efforts that brought more women and minorities to Princeton.

The committee's ranking Democrat, Sen. Patrick J. Leahy (Vt.), said Alito's forgetfulness seemed too convenient. "If he didn't know what they stood for, he had to be about the only person in America who didn't know what they stood for," Leahy said.

At midday, Kennedy employed large blue charts showing quotes from articles published in the group's magazine, Prospect. "People nowadays just don't seem to know their place," a November 1983 article said. "Everywhere one turns, blacks and Hispanics are demanding jobs simply because they're black and Hispanic. . . . Homosexuals are demanding the government vouchsafe them the right to bear children. . . . And now come women."

Alito said he had read none of the articles, adding, "I would not have anything to do with statements of that nature."

Kennedy then called on Specter to subpoena records on the alumni group held in the Library of Congress. Noting that the group had received significant press coverage, Kennedy said the records might show Alito was more involved than he has acknowledged.

Kennedy said Specter had ignored his letter to him last month seeking the documents. The chairman retorted that he had never seen it. "I take umbrage at your telling me what I received," he said. When Kennedy persisted, Specter snapped, "I'm not going to have you run this committee."

Their quarrel cooled after Democratic and Republican staff members went to the Library of Congress to review the documents. But emotions rose again in the late afternoon when Alito's wife, Martha, clutching a tissue, raced to the back of the hearing room in tears, then was ushered by security guards through a side door, after debate over the alumni group resumed.

She left during an exchange in which Sen. Lindsey O. Graham (R-S.C.), an Alito supporter, played devil's advocate by summarizing the Democrats' attacks. He asked Alito, "Are you really a closet bigot?"

"I'm not any kind of bigot. I'm not," Alito said.

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Graham told Alito he believed him because of "the way you have lived your life and the way you and your wife are raising your children" and, referring to the Democrats' criticisms, said, "I am sorry that your family has had to sit here and listen to this." At that point, Martha Alito rose and left her front-row chair immediately behind her husband, returning about an hour later.

On other issues, Alito told Sen. Sam Brownback (R-Kan.) that some judges have gone too far in trying to remove religious activities from public life. He cited public school teachers who refused to let children read a short Bible story or display a hand-drawn picture of Jesus. "You have to treat religious speech equally with secular speech," Alito said.

Later, Sen. Herb Kohl (D-Wis.) said that, as an appeals court judge, Alito had seldom sided with immigrants who were trying to win asylum or block deportation. Alito replied that he was following Congress's clear-cut laws on immigration policy.

"My role is not to substitute my judgment for that of the immigration judge," he said. "My job is to say, 'Could a reasonable person have reached the conclusion that the immigration judge did?' "

As Democrats tried to pry loose Alito's views on abortion, a group supporting abortion rights, Republican Majority for Choice, announced it is opposing his nomination. Five GOP senators are on its advisory committee, including Specter.

Asked about the group's stance, Specter, who has said he will not decide how he will vote until after the hearings, said: "I did not participate in their decision."

Alito Demurs When Asked If Roe V. Wade Is Settled Law (KRT)

By Stephen Henderson And James Kuhnhenn

Knight Ridder, January 12, 2006

WASHINGTON - In tense exchanges with Democratic senators Wednesday, Supreme Court nominee Samuel Alito refused to declare that Roe v. Wade is settled law and stopped short of statements that Chief Justice John G. Roberts made before becoming a judge and that he reaffirmed during his confirmation hearings last September.

Alito's reluctance makes it easier for critics to brand him as a justice who could help overturn the 33-year-old ruling, which extended constitutional protection to abortion rights. It could also cost him Democratic support in the Senate, already lower than what Roberts enjoyed.

Roberts won 22 Democratic votes when the Senate confirmed him last September. Alito will almost certainly get fewer, though his Republican support appears solid enough to ensure his confirmation, barring any future stumbles.

Democrats turned more aggressive in questioning Alito on Wednesday, his third day of testimony, zeroing in not only on abortion but also on his membership in the Concerned Alumni of Princeton. Alito listed the conservative group in a 1985 application for promotion while a lawyer in the Reagan administration.

At the insistence of Sen. Edward Kennedy, D-Mass., committee chairman Sen. Arlen Specter, R-Pa., agreed to review Library of Congress papers belonging to William Rusher, a founder of the Concerned Alumni of Princeton and publisher of the National Review, a conservative magazine.

The group formed in 1972 partly in opposition to Princeton's decision to admit women. CAP members have also opposed expanded minority admissions.

Alito testified that he didn't recall when or why he joined the group. He said he rejected the group's views on women and minorities. But he said he shared its support for keeping Reserve Officer Training Corps programs on campus. The New York Times reported in November that a review of Rusher's papers revealed no evidence that Alito played a major role in the organization.

Alito fended off hostile questions with a low-key, unflappable manner, and most Democrats appeared reluctant to force much of a confrontation with him. The most pointed exchanges came when they tried to nail him down on abortion law.

Alito strongly endorsed the idea that judicial precedent merits respect by later courts, and he said several times that Roe v. Wade deserved the "respect" that other precedents get. He also agreed that Casey v. Planned Parenthood, the 1992 Supreme Court ruling that reaffirmed Roe v. Wade, was a precedent entitled to "respect" and that it strengthened Roe's authority.

But when Sen. Richard Durbin, D-Ill., pressed him to go further, Alito demurred, effectively refusing to state that the Supreme Court shouldn't consider overturning Roe.

"Do you believe (Roe v. Wade) is the settled law of the land?" Durbin asked.

"If `settled' means that it can't be re-examined, that's one thing," Alito said. "If `settled' means that it is a precedent that is entitled to respect as stare decisis and all of the factors that I've mentioned come into play, including the reaffirmation and all of that, then it is a precedent that is protected."

Alito repeated that he was unable to go further because abortion litigation is constantly coming before the court, and it would be inappropriate to commit himself on a question he may have to rule on, should he be confirmed.

Sen. Dianne Feinstein, D-Calif., seized on that line.

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"You were willing to give your view on one man, one vote," Feinstein said. "And yet there are four cases pending in the court right now on one man, one vote. I have a hard time understanding how you separate out Roe."

Alito said he didn't think it was appropriate to talk about issues that could come up before the court, explaining that he had no problem talking about cases such as Brown v. Board of Education, the 1954 ruling that outlawed racial segregation in public schools, because a legitimate challenge to desegregated schools was very unlikely to come before the court.

Feinstein said Alito's response troubled her, but she wouldn't say how she would vote on his confirmation.

Ed Gillespie, a former Republican National committee chairman who has been escorting Alito through the Capitol, drew a distinction between a judge accepting Roe as "settled law," which is what Democrats asked Alito to embrace, and "settled precedent," the term Roberts used in his confirmation hearing.

Settled law would be the standard for appellate court judges because they have to apply Supreme Court precedent to lower-court decisions, Gillespie said. He argued that settled precedent would not have the strength of settled law because the Supreme Court justices could still overturn it.

Specter said that while Democrats argued that Alito stopped short of Roberts' characterization of Roe, "I think they're probably pretty close on that."

In what could be a complication for Alito, the Republican Majority for Choice, an organization representing pro-abortion rights Republicans, announced its opposition to Alito on Wednesday.

"The reality is that Judge Alito would not have to vote to overrule Roe in order to be the architect of the denial of a woman's right to choose," the group said. "He could give lip service to respecting Roe while upholding the numerous legislative efforts to chip away at reproductive freedom."

The group's advisory committee includes moderate Republicans Sens. Lincoln Chafee of Rhode Island, Susan Collins and Olympia Snowe of Maine, and Specter.

Specter, chairman of the Judiciary Committee, questioned Alito on abortion and later praised him for his extensive answers. After Wednesday's hearing he said he wasn't party to the group's statement and would reserve judgment on his vote.

The other three senators aren't members of the committee, but are members of a bipartisan "Gang of 14" that could determine whether a Democratic-led filibuster against Alito succeeds.

Snowe, in a statement, said she would fully review Alito's record before deciding whether to support him. Snowe spokeswoman Antonia Ferrier said the Republican Majority for Choice notified Snowe of its stand on Alito.

"Their views don't necessarily reflect hers," Ferrier said. "But she will take them into account."

Graham said he saw no reason why Alito's views would be the kind of "extraordinary circumstance" that the "Gang of 14" has said would be necessary to mount a successful filibuster. Graham is one of the 14.

Sen. Sam Brownback, R-Kan., a panel member who's a staunch abortion opponent, said he was "pretty certain" he would vote for Alito. But, he added, "I'm not happy. I would love for him to be there and say, `Look, I don't think Roe is in the Constitution. And he's obviously not saying that. He's leaving the issue open."

Still, Brownback conceded that any court nominee who opposed Roe outright would be filibustered. "So you're left like this, if he answers Roe either way, he's caught."

Alito Remains Unruffled In Testy Hearings (LAT)

By Maura Reynolds And Richard Simon

The Los Angeles Times, January 12, 2006

WASHINGTON — Senate Democrats turned up the heat on Supreme Court nominee Samuel A. Alito Jr. on Wednesday, prompting testy exchanges during his confirmation hearing and ardent defenses from Republicans — one of which moved Alito's wife to tears.

As Sen. Lindsey Graham (R-S.C.) defended the nominee against what he said were unfair insinuations about his membership in a conservative alumni organization, Martha Alito began quietly to weep behind him.

As Graham continued with an apology to the family, she left the hearing room to compose herself.

"Judge Alito, I am sorry that you've had to go through this. I am sorry that your family has had to sit here and listen to this," Graham said.

The moment — captured on television although unnoticed by many in the hearing room — capped a day of mounting tension as Democrats grilled Alito on what have become the hearing's two focal issues: his views on abortion and his membership in the now-defunct Concerned Alumni of Princeton.

Alito, 55, sat placidly through it all, repeating — with little apparent irritation — responses that did not placate his critics. But the attacks by Democrats did no apparent damage to Alito among Senate Republicans, most of whom have expressed support for him.

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The federal appellate judge seems headed for confirmation by the GOP-controlled Senate unless Democrats mount a filibuster against him — which appears unlikely at the moment.

On his second day of questioning, Alito continued to resist answering whether the Supreme Court's 1973 Roe vs. Wade decision, which legalized abortion nationwide, should be considered "settled law."

On the alumni group, Alito repeatedly insisted that he could not remember joining it and could not explain why he put it on a job application when applying for a promotion within the Justice Department in 1985, when Ronald Reagan was president.

"As I've said, I don't have a recollection of having anything to do" with the group, Alito said. "So all I can say is that I put it down in the '85 form, and therefore I must have been a member at around that time."

Alito, a graduate of Princeton University, listed his membership in the group when asked to provide information about his "philosophical commitment to the policies of [the Reagan] administration."

The group, founded in 1972, was controversial because some of its members publicly opposed Princeton's efforts to increase its numbers of female and minority students. They argued that such efforts could result in the admission of some students who did not meet the school's standards.

Questions about Alito's link to the group moved front and center during Wednesday's hearing in part because it appeared to crystallize for Democrats why they say they can't trust assurances by Alito that, as a high court justice, he would keep an open mind on politically controversial legal disputes.

Giving his take on Alito's mention of the group on his job application, Sen. Richard J. Durbin (D-Ill.) told reporters: "In this situation, Alito was trying to establish his credentials with the Reagan administration. He was providing red meat for the right wing."

Other Democrats on the Judiciary Committee said they were unconvinced that someone of Alito's acumen could have forgotten details about the group.

Sen. Edward M. Kennedy (D-Mass.) complained that in his view, Alito's answers on the issue "don't add up."

Kennedy displayed a series of placards featuring quotes from articles in the group's magazine, Prospect, that disparaged minorities, gays and disabled people. The senator asked Alito whether he endorsed such views.

"I've testified to everything that I can recall relating to this, and I do not recall knowing any of these things" about the organization, Alito said. "And many of the things that you've mentioned are things that I have always stood against."

Alito said he could not recall whether he joined the group when he graduated from the university in 1972 or if he did so later, in the 1980s. He said he believed he could only have become a member for one reason: to fight against any effort to disband the school's ROTC program, in which he had participated as an undergraduate.

The emotional moment involving Martha Alito occurred in the late afternoon, after Graham charged that Democrats were pursuing a strategy of "guilt by association."

"How have you lived your life? Are you a closet bigot?" Graham asked.

"I'm not any kind of a bigot; I'm not," Alito replied calmly.

Graham began to list people who had praised Alito, including other judges and former colleagues. As he spoke, Martha Alito slowly began to cry. By the time Graham apologized for the strain of the hearings on Alito's family, she was gathering her things to leave the room.

After a few minutes in a back room, Martha Alito returned to the hearing for the rest of the session.

"The pressure of all this, and the insult added to injury, just got to be too much," Sen. John Cornyn (R-Texas) said.

Earlier, the Democratic focus on Concerned Alumni of Princeton prompted one of the day's dust-ups between committee members.

Kennedy asked Sen. Arlen Specter (R-Pa.), the panel's chairman, to subpoena the personal papers of one of the group's founders, which are at the Library of Congress.

"I'd move that the committee go into executive session for the … sole purpose for issuing the subpoena of those records," Kennedy said.

Specter expressed surprise, saying that despite Kennedy's assertion that he had sent him a letter about the documents, this was the first time he was aware of the issue.

"I take umbrage at your telling me what I received," Specter said. "I don't mind your telling me what you mailed. But there's a big difference between what's mailed and what's received."

Kennedy did not back down, telling Specter that if his subpoena request was denied, "You're going to hear it again and again and again, and we're going to have votes of this committee again and again and again until we have a resolution."

Specter snapped back: "I'm not going to have you run this committee and decide when we're going to go into executive session."

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In the end, the confrontation over the documents fizzled. During lunch, Senate staff members contacted the group's founder, William A. Rusher, who granted them permission to review the documents. The aides were poring through them late into the evening, searching for mentions of Alito.

As the tone of Democrats' questions grew more caustic Wednesday, Republicans suggested they were acting in desperation.

Sen. Charles E. Grassley (R-Iowa) told Alito: "You're the quarterback and your team is way ahead here. And opponents are very desperate, trying to sack you, and aren't doing a very good job of it. And they haven't hit you all day now — for two days."

He added: "You're going to keep getting these last-minute Hail Marys thrown at you. So just bear with us."

Alito's 1985 job application also figured into the sparring about abortion. In seeking his promotion, which he received, Alito wrote that he disagreed with the Roe vs. Wade decision that abortion rights were protected by the Constitution.

On Tuesday, Alito had said that as a high court justice, he would keep an open mind on the issue. But he resisted efforts by Democrats to get him to agree that the Roe vs. Wade decision was "settled law."

The parrying over that continued Wednesday, with Sen. Dianne Feinstein (D-Calif.) asking: "You do not agree that it is well-settled in court?"

"I think that depends on what one means by the term 'well-settled,' " Alito responded. He then went on to discuss the importance of a judge reviewing all sides in a case.

Feinstein interrupted to note that he had provided more expansive answers on other subjects, including some currently before the Supreme Court.

"I have a hard time understanding why you separate out Roe," she said, and then backtracked.

"I understand why. If you say one thing, you upset my friends and colleagues on [the Republican] side. If you say the other, you upset those of us on this side. But the people are entitled to know."

Alito replied: "I don't think it's appropriate for me to speak about issues that could realistically come up" before the Supreme Court.

"OK, I'll let you off the hook on that one," Feinstein said.

Committee questioning is to continue today, followed by testimony from outside witnesses, including friends and associates of the nominee.

Democrats Take Aggressive Tack; Alito Is Unfazed (NYT)

By Richard W. Stevenson And Neil A. Lewis

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - Democrats tried with increasing frustration on Wednesday to elicit more specific views from Judge Samuel A. Alito Jr. about abortion and other topics and sought to build a case against his nomination to the Supreme Court by raising questions about his character and consistency.

From the opening moments of the third day of hearings by the Senate Judiciary Committee, Democrats, aware that Judge Alito had made it through the first two days without significant damage to his prospects of confirmation, struck an aggressive tone. [Excerpts, Page A26.]

They challenged him on elements of his record and statements during questioning on Tuesday. And they successfully pressed the panel chairman, Senator Arlen Specter, Republican of Pennsylvania, to obtain records that they said might shed light on the judge's membership in a Princeton alumni group that has been characterized as opposing co-education and affirmative action.

Senator Patrick J. Leahy of Vermont, the ranking Democrat on the committee, started the proceedings by stating that members of his party "have been troubled by what we see as inconsistencies in some of the answers" on subjects including voting rights, presidential power, Judge Alito's failure to recuse himself from a case involving a potential conflict of interest and his involvement with the Princeton alumni group.

Rebutting Judge Alito's statement on Tuesday that he would take to the court an "open mind" on abortion rights, Senator Richard J. Durbin, Democrat of Illinois, said the memorandum that Judge Alito wrote in 1985 stating that he did not believe that there was a constitutional right to abortion "evidences a mind that, sadly, is closed in some areas."

The partisan volleys seemed to sail over or past Judge Alito, who politely but resolutely declined to be drawn out on abortion, executive authority and other issues. He often sat impassively as the committee members debated his qualifications and forthrightness.

"Your critics are, I think, grasping at any straw to tarnish your record, and that's unfortunate," Senator Charles E. Grassley, Republican of Iowa, said.

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The Democrats' questions and implications about her husband's record appeared to get to Judge Alito's wife, Martha-Ann. She began crying as Senator Lindsey Graham, Republican of South Carolina, defended her husband's character and rejected any suggestion that his membership in the alumni group made him a bigot, Mrs. Alito retreated to an anteroom, sobbing for some minutes.

"Let me tell you, this guilt by association is going to drive good men and women away from wanting to sit where you're sitting," Mr. Graham said.

Democrats and their aides on the committee said they were resigned to the fact that Judge Alito would win approval on the committee with its 10-member Republican majority. All eight Democrats appear likely to vote against the nomination.

The Democrats' strategy appeared to be aimed at raising questions about the credibility of Judge Alito's explanations about the alumni group and recusal that could be used in the confirmation floor debate.

The most intensive substantive exchanges were again over abortion. Judge Alito repeatedly turned aside efforts by Mr. Durbin and other Democrats to have him to agree that Roe v. Wade, the 1973 Supreme Court decision that established that there is a constitutional right to abortion, was "settled law," a phrase that Chief Justice John G. Roberts Jr. assented to last year in his confirmation hearings.

Judge Alito agreed only with the proposition that Roe was an important precedent that should be given deference like any other precedent relevant to a constitutional dispute.

"It is a precedent that has now been on the books for several decades," Judge Alito said. "It has been challenged. It has been reaffirmed. But it is an issue that is involved in litigation now at all levels."

Mr. Durbin responded that he was "concerned that many people will leave this hearing with a question as to whether or not you could be the deciding vote that would eliminate the legality of abortion, that would make it illegal in this country, would criminalize the conduct of women who are seeking to terminate pregnancies for fear of their lives and the doctors who help them."

Overturning Roe would not make abortion illegal but would leave the question in the hands of states.

In a colloquy with Senator Dianne Feinstein, Democrat of California, Judge Alito sought to explain why he agreed to comment on other landmark cases like those that outlawed segregation and guaranteed one-person, one-vote, but would not engage in a discussion of Roe.

Ms. Feinstein asked whether Judge Alito did not agree that Roe "was well settled in court."

He said, "It depends on what one means by the term 'well settled.' "

Ms. Feinstein said that she understood that it was difficult to answer such a sensitive question, "but the people are entitled to know."

Judge Alito said it was reasonable to presume that school desegregation and one-person, one vote were beyond judicial debate, while aspects of the abortion issue continued to come before the courts.

"I don't think it's appropriate for me to speak about issues that could realistically come up." he said. "And my view of Brown v. Board of Education, for example, which was one of the cases that was cited in connection with this issue about where someone in my position should draw the line, seems to me to embody a principle that is now not subject to challenge, not realistically subject to being challenged."

Democrats made another attempt to link Judge Alito to the views of some members of the Concerned Alumni of Princeton, a group that Judge Alito listed being a member of when he applied for a job in the Reagan administration.

Senator Edward M. Kennedy, Democrat of Massachusetts, read from an essay published in 1983 in a magazine put out by the group.

"Everywhere one turns, blacks and Hispanics are demanding jobs simply because they're black and Hispanic, the physically handicapped are trying to gain equal representation in professional sports, and homosexuals are demanding that government vouchsafe them the right to bear children," the essay said, according to Mr. Kennedy.

Mr. Kennedy asked whether Judge Alito had read the essay. Judge Alito responded that he had not, that he had not known at the time that members of the group espoused such views and that the sentiments expressed in the passage read by Mr. Kennedy were antithetical to his.

Mr. Kennedy suggested that Judge Alito had not provided an adequate explanation of why he had joined the group and included it in an application for work in a conservative administration. The senator said that he had questions about "this sort of radical group and why you listed it on your job application" and that Judge Alito's explanations did not "add up."

Mr. Kennedy, seemingly trying to inject some vigor into a lagging effort to defeat the nomination, provoked a confrontation with Mr. Specter by demanding that the chairman take the committee into executive session to subpoena documents about the group in the Library of Congress.

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Mr. Specter, annoyed, said he would consider the issue, suggesting that Mr. Kennedy delayed his request to present it at the hearing for dramatic effect. After lunch, Mr. Specter announced an agreement to review the documents and said Democratic and Republican lawyers had gone to the library to study them.

The New York Times previously reviewed the documents, which are in the papers of William A. Rusher, an early leader of the group and a former publisher of National Review. The Times reported in November that the documents and others at Princeton gave no indication that Judge Alito was among the major donors to the group and was not active in it. In an online interview on Wednesday with National Review, Mr. Rusher said he did not remember Judge Alito.

"He certainly was not very heavily involved in CAP, if at all," he said.

Senator Joseph R. Biden Jr., Democrat of Delaware, raised the possibility that Judge Alito had noted his membership as a way to signify his conservative leanings and enhance his chances of being hired.

In later comments to Senator Charles E. Schumer, Democrat of New York, Judge Alito appeared to accept that explanation.

"I was applying for a position in the Reagan administration, and my answers were truthful statements." he said when Mr. Schumer asked why he listed the Princeton group as one of just two groups to which he belonged. "But what I was trying to outline were the things that were relevant to obtaining a political position. I mentioned some very minor political contributions. I didn't mention contributions to charitable organizations."

Surprise End Unlikely As Alito Refuses To Take Bait (FT)

By Patti Waldmeir In Washington

Financial Times, January 12, 2006

Some of the most dramatic moments in US Senate history have involved battles over the confirmation of Supreme Court justices – think Robert Bork and Clarence Thomas. But those who were looking for a good, nationally televised political fistfight this week at the confirmation hearings of Judge Samuel Alito have so far been disappointed.

Mr Alito has proved a monochrome, dispassionate and unflappable witness, ignoring insult, slight and political controversy, never taking the bait of those allied against him.

This has made for crushingly tedious political theatre. Even some of the senators seem to be losing interest: when the hearings resumed on Wednesday after lunch, only six out of 18 members of the Senate judiciary committee were present – and one immediately left. It was a heavy blow for the massive press corps: even the political lobbyists in the audience, who had worked so hard to ignite a national culture war over his nomination, were hunched over their Blackberries reading e-mails, or gazing into space.

Mr Alito's performance – which involves answering every question unemotionally and legalistically, no matter how aggressive or passionate the questioner – may not make for high television ratings. But all the signs suggest that the sheer weight of his worthy if tedious performance will eventually crush the opposition.

Wednesday's long grilling by the judiciary committee focused largely on a couple of issues that seem unlikely to derail the nomination: Mr Alito's fleeting membership in a college alumni group that opposed the admission of women and minorities to Princeton University in the 1970s; and his participation in a legal case tangentially involving Vanguard mutual funds, at a time when he held such funds in his investment portfolio.

Ethics experts say Mr Alito was not required to recuse himself from the Vanguard case – although he promised to do so when nominated as a federal judge. Republican lobbyists see Democratic senators' focus on the case as a sign of desperation.

The issue of Mr Alito's membership in Concerned Alumni of Princeton – which he listed on a 1985 job application to the Reagan Justice Department – is more problematic. Mr Alito says he cannot remember joining the group, but that if he did, it would have been because of the group's views on military service, not minorities. And while this explanation did not seem to satisfy many senators, it does not seem the sort of thing to sink a nomination.

Alito Pressed On Precedent, Privacy (CSM)

By Gail Russell Chaddock

The Christian Science Monitor, January 12, 2006

WASHINGTON - Midway through Senate confirmation hearings, Supreme Court nominee Samuel Alito has deftly parried questions on hot-button issues ranging from abortion to the limits of presidential power.

No memorable phrases. No conspicuous stumbles. And - most important - no searing images of what life in "Judge Alito's America" might be like.

To the frustration of anti-Alito groups staking out front seats in the hearing room, Democrats have been slow to get traction on issues critical to their base.

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"Too many senators allowed him to be evasive," says Nan Aron, founder of the Alliance for Justice and a leading activist in the 1987 defeat of the nomination of Judge Robert Bork. The anti-Bork campaign turned on a grim depiction of life for women, minorities, and the poor in "Judge Bork's America."

Many Republicans used their rounds of questioning to directly rebut issues raised by Democrats. Senate aides often distribute talking points to challenge a line of argument in real time, as it is being made in the Senate hearing room.

"He is saying as little as he needs to be confirmed and hasn't made many mistakes that trouble a majority of senators whose votes he needs," says Carl Tobias, a professor at the University of Richmond Law School.

But unlike Chief Justice John Roberts, Mr. Alito did not default to refusing to answer a question because "the issue is likely to come before the Court," he adds. "He has tried to wade in and engage the questions. The answers aren't always as specific as the senators would like, but he can't go too far, either. He'd have to recuse himself."

While many court watchers are predicting a party-line vote in the Senate Judiciary Committee, the 10 Republicans and eight Democrats say they are keeping an open mind.

The most divisive issue - on both sides of the aisle - is the constitutional status of abortion rights. Most Democrats and moderate Republicans, including Senate Judiciary Committee chairman Arlen Specter, support the principles of the 1973 Roe v. Wade decision. As he did in last year's Roberts hearings, Mr. Specter led off with questions on whether Roe v. Wade constituted a "super precedent," because it has been reaffirmed 38 times.

While agreeing that the Constitution protects a right to privacy - a point made by every nominee since Judge Bork - Alito did not agree that it was such settled law that its principles should not be reexamined. "I personally would not get into categorizing precedents as super precedents or 'super-duper' precedents (Specter's signature phrase)," he said.

In a deliberately balanced response, Alito said he agreed "with the underlying thought when a precedent is reaffirmed, that strengthens the precedent," but added that he didn't "want to leave the impressions that stare decisis [following precedent] is an inexorable command because the Supreme Court has said that it is not." He said he would approach the issue with an open mind.

In a signal of divisions within GOP ranks, Sen. Brownback (R) of Kansas, a prospective presidential candidate in 2008, cited all the precedents for the 1896 Plessy v. Ferguson case that legalized racial segregation, later reversed by the historic 1954 Brown v. Board of Education case outlawing segregated schools. But, aware that the issue could provoke a Democratic filibuster, he backed off pressing Alito for further response.

Senators also pressed Alito on the limits of executive powers, especially related to recent controversies over President Bush's authorization of domestic spying by the National Security Administration. He said that no president was above the law, but declined to say whether he thought that the White House exceeded its authority.

He also declined to say whether Bush abused executive powers by using presidential signing statements to override the intent of Congress. He said he would need to know the specifics of the case and go through the judicial process. In February 1986, Alito drafted a memo arguing that presidential signing statements should "assume their rightful place in the interpretation of legislation."

Democrats are also pressing Alito on issues of personal values and ethics.

In the closing rounds of questions, one of the most frequently cited documents is a 1985 job application to the Reagan Justice Department, in which Alito wrote: "I am particularly proud of my contribution in recent cases in which the government has argued in the Supreme Court that racial and ethnic quotas should not be allowed and that the Constitution does not protect a right to an abortion."

From The Left, Calls To Press Alito Harder (NYT)

By Adam Nagourney

The New York Times, January 12, 2006

WASHINGTON, Nov. 11 - Opponents of Judge Samuel A. Alito Jr.'s nomination to the Supreme Court expressed growing frustration Wednesday at the course of his confirmation hearings, saying that Democratic senators were struggling in their effort to build a strong case against him and that his confirmation appeared increasingly inevitable.

Several said they had been particularly distressed after the first day of questioning of Judge Alito by the Senate Judiciary Committee, and had expressed that concern in calls and e-mail messages to Democratic aides on Tuesday. One Democratic aide said the results of that could be seen on Wednesday in the tougher challenges and follow-up questions to Judge Alito, though by day's end, Judge Alito's opponents said he had again largely escaped efforts to force him to answer questions about his views and record.

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"Every answer he gives he gives himself a little out," said Kim Gandy, president of the National Organization for Women. "It's frustrating to me as a lawyer to not be able to say, 'Your Honor, instruct the witness to answer the question.' I've thought several times there is a follow-up question I would ask if I were up there."

Ms. Gandy said Republicans had, to some extent, hamstrung Democrats by creating a public expectation that they would antagonize Judge Alito.

"So I think the Democrats are leaning over backwards to be extremely, very, very nice," she said. "I don't think it's an un-nice thing to ask follow-up questions and really expect the nominee to answer the question."

Nan Aron, president of the Alliance for Justice, a liberal group and a member of the coalition, argued that Americans would turn against Judge Alito if they learned more about his views from the hearings.

"It would be helpful to expose this record more, and to discuss it in terms that are meaningful to most Americans throughout the country," Ms. Aron said. "Our polling shows that once individuals learn about his record, they move into the opposition column. And it seems to me there are certainly some points to score - his record should be sufficient in and of itself to doom his chances."

Opponents of Judge Alito's nomination were decidedly restrained in criticizing their political allies in the Senate, saying they understood the difficulties the Democratic senators faced and that Judge Alito was turning out to be a more adept nominee than they had expected.

Several singled out two senators for posing strong challenges to Judge Alito - Richard J. Durbin of Illinois and Charles E. Schumer of New York - and said Democrats had been particularly effective in putting Judge Alito on the defensive on his assertion that he had no memory of his membership in a Princeton alumni organization that had opposed the recruitment of minorities and women.

But with the clock on the hearings running down, several said the Democrats had not made major progress in trying to tarnish Judge Alito, and that hopes of a filibuster - much less an actual defeat of Judge Alito's nomination - were dimming. By contrast, they said Republicans had been effective in trying to put Democrats on the defensive for being harsh, particularly after television shots showed Judge Alito's wife, Martha-Ann, crying and leaving the hearing room.

Mr. Durbin declined to comment directly Wednesday when asked about criticism by liberal groups of the way Democrats were handling the meeting. But, he said, "I think today was a better day in terms of important questions that were asked and answered. Yesterday laid the groundwork, but today we got down to the critical issues."

There was some debate among activists about whether the problem was a reflection of Judge Alito's skill in deflecting questions or a weakness in the way Democratic senators questioned him. Whichever the case, there was a consensus that so far, at least, Americans did not know as much about Judge Alito as his opponents had hoped they would by this late point.

"There are many more questions and issues that they still need to pursue with him," said Hilary O. Shelton, director of the Washington office of the N.A.A.C.P.

Some opponents of the nomination said that, notwithstanding Judge Alito's skills as a witness, they were pleased by the course of the hearing.

"I honestly think we're at a good stage at this point in the hearings," said Ralph G. Neas, president of the People for the American Way, a liberal advocacy group.

Other Democrats were doubtful.

Even Mr. Durbin, the Democratic whip, held out little hope that Judge Alito would be defeated. Asked if the confirmation was inevitable, he responded, "I don't want to jump to that conclusion at this moment."

Democrats Target Alito, But Miss The Mark (CHIST)

By Robert Novak

Chicago Sun-Times, January 12, 2006

Edward M. Kennedy, the 73-year-old liberal lion of the Senate, did not so much roar as huff and puff Tuesday, as he faced Judge Samuel Alito. He and other Democrats on the Senate Judiciary Committee who had spent weeks preparing for Alito's Supreme Court confirmation hearing seemed to be shooting blanks at President Bush's nominee.

Kennedy appeared to have lost his fastball in the 19 years since he eviscerated nominee Robert Bork. But Alito is a deceptively more difficult target. While Bork appeared a flamboyant scholar eager to expound his worldview, Alito came over as a cautious lawyer dealing in fine print and footnotes. Republican senators had feared the nominee's uninspiring style would undo him, but they now feel it actually carried the day.

Failure to make a direct hit on Alito suggests a transcendent defeat for the Democratic judicial confirmation strategy crafted by Kennedy. It did not block all conservatives for appellate courts and failed to dissuade Bush from naming conservatives to the Supreme Court. To stop Alito required an auto wreck at this week's hearings, which always was unlikely considering his style.

It was not that Kennedy did not try his best on Tuesday. His legal aide, James Flug (an expert on judicial assassination), had stocked the senator with multiple scripts. But Kennedy seemed bogged down with his material, flitting from one subject to another, without focus. That seemed a generic problem for most Democratic senators. Sen. Joseph Biden spent 11 minutes in the preamble before he got around to his opening question.

Republicans were amused at Democrats stressing Alito's membership in the Concerned Alumni of Princeton because of the organization's alleged fight against admission to the university of women and African Americans. Alito testified he could barely remember his connection with CAP, but said he joined to protest Princeton's expulsion of the ROTC from campus.

What had worried Alito's strategists in advance was a concerted attack on his civil rights decisions that might erode support among moderate Republicans. But Alito's bland, lawyerly style prevailed when Biden raised the 1995 decision on a lawsuit by Barbara Sheridan against the DuPont Co. charging sex discrimination. Alito was outvoted 11-1 when the court ruled in Sheridan's favor. "After listening to Alito," said Republican Sen. Lindsey Graham, "you think the other 11 judges missed the boat."

Alito's dry style encouraged the pretense that the Judiciary Committee Democrats were engaged in a serious inquiry into the nominee's judicial philosophy. Actually, liberal special interest groups demanded a response to this nominee that was more vigorous than the passive opposition to John Roberts as chief justice. As a result, the only Democratic senator who now can be counted on to vote for Alito is Sen. Ben Nelson, running for re-election this year in the very red state of Nebraska.

In this week's hearing, Biden typically did not disguise the political stakes involved in this confirmation process: the conservative Alito replacing Justice Sandra Day O'Connor, a swing voter who usually has swung left. Biden asserted that O'Connor was "the fulcrum on an evenly divided court," so that filling this seat is more important than Roberts replacing Chief Justice William Rehnquist.

Senators Charles Schumer and Dick Durbin, two of the Senate's most partisan Democrats, have tried this week to escalate the intensity level of the hearings by asserting that the burden of proof was on Alito to show that he deserves to be on the Supreme Court. Just how he was supposed to do that was not spelled out. But that extraordinary heightening of the standards of confirmation would relieve the senatorial inquisitors from responsibility for measuring a nominee's fitness.

Schumer, at the end of the committee table in seniority, had to spend the entire day Tuesday watching his colleagues shooting blanks before he got his chance to fire the real thing. Schumer was well prepared, with a senatorial third degree of Alito demanding repeatedly to know whether he believed in a constitutional protection of abortion. That question led off a harsh, carefully scripted interrogation of the nominee. It made Chuck Schumer look mean and nasty, but that hardly derailed Sam Alito.

O'Connor Casts A Long Shadow On The Nominee (NYT)

By Adam Liptak

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - The Constitution does not say what criteria the Senate should use in deciding whether to confirm a Supreme Court nominee.

But at least one clear test has emerged over the first three days of Judge Samuel A. Alito Jr.'s confirmation hearings. This nominee must, it seems, continually refer to and, if at all possible, endorse the views of the woman he aims to replace, Justice Sandra Day O'Connor.

Senators from both parties have frequently used Justice O'Connor's opinions as a basis for questioning Judge Alito. The heavy emphasis on her work is a testament to her disproportionate influence on the court in her 25 years of service, and a reminder of the important role Judge Alito will assume if he is confirmed.

As two senators noted in their opening statements, Justice O'Connor has cast the decisive vote in almost 150 cases, many of them of great moment.

Whenever the opportunity arose, Judge Alito and his supporters highlighted instances in which he had ruled as she had. He invoked her name on 9 occasions, and he had good things to say about her decisions 10 times. On Tuesday, Senator John Cornyn, Republican of Texas, ticked off areas in which the two judges had agreed.

"Justice O'Connor and Judge Sam Alito both set limits on Congress's commerce power," Mr. Cornyn said. "Sandra Day O'Connor and Sam Alito both struck down affirmative action policies that had strict numerical quotas. And both - this ought to be a shocker to some based on what we've heard here today - is that both Justice Sandra Day O'Connor and Judge Sam Alito have criticized Roe v. Wade."

Democratic senators, on the other hand, worked hard to show that Judge Alito and Justice O'Connor were at odds, particularly in an important abortion case.

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In his opening statement, striking a theme that has run through the hearings, Senator Charles E. Schumer, Democrat of New York, asked rhetorically, "Are you in Justice O'Connor's mold or, as the president has vowed, are you in the mold of Justices Scalia and Thomas?"

President Bush has said he would try to appoint justices like Antonin Scalia and Clarence Thomas, the court's two most conservative members.

By Wednesday morning, Senator Tom Coburn, Republican of Oklahoma, had grown frustrated with all the O'Connor talk. "The fact that you have to fit the Sandra Day O'Connor mold is really a misapplication," he said. "There is no precedent that would say that."

Judge Alito said he would be his own person, but not before offering one more tribute. "No nominee can ever be a duplicate of someone who retires," he said, "and particularly when someone retires after such a distinguished career and such a historic career as Justice O'Connor. Nobody can be expected, as a nominee, to fit that mold."

Judge Alito gave no indication, beyond saying he respected precedent and would proceed with an open mind, about whether he would follow the joint opinion Justice O'Connor signed in Planned Parenthood v. Casey, a 1992 decision affirming the constitutional right to abortion found by Roe v. Wade in 1973. Casey was, however, a 6-to-3 decision, and Judge Alito will not be in a position to move the court away from its support of the core right to abortion.

But Justice O'Connor did provide the crucial fifth vote in the court's last major abortion ruling, in 2000, striking down Nebraska's ban on what were called "partial birth" abortions. The court will soon decide whether to hear a challenge to a similar federal law, and in that case Judge Alito could alter the course of the court's abortion jurisprudence.

Judge Alito participated in the Casey decision in 1991 as an appeals court judge, and he seemed a little defensive in explaining his dissenting vote to uphold a Pennsylvania law that required women to notify their husbands before having abortions. The Supreme Court took the opposite view the next year.

All he had been trying to do in his dissent, Judge Alito explained, was to understand what Judge O'Connor had meant in some earlier decisions.

"There were just a few hints in those opinions about what she meant," Judge Alito said. "Based on the information that I had from Justice O'Connor's opinions, it seemed to me that this was not what she had in mind. Now, that turned out not to be a correct prediction."

In another exchange, asked whether he agreed with Justice O'Connor's statement in a 2004 decision that "a state of war is not a blank check for the president when it comes to the rights of the nation's citizens," Judge Alito did not hesitate.

"Absolutely," he said. "That's a very important principle."

In defending his dissent in a 10-to-1 decision of his court in an employment discrimination case, Judge Alito also invoked Justice O'Connor.

"When the issue went to the Supreme Court" in another case, he said, "Justice O'Connor wrote the opinion for the Supreme Court, and she agreed with my analysis."

In 1996, Judge Alito voted in dissent to strike down a law regulating the possession of machine guns, citing United States v. Lopez, a 1995 Supreme Court case that struck down a law banning the possession of handguns near schools.

Senator Jon Kyl, Republican of Arizona, was quick to note the lineup in the Lopez case. "By the way," Mr. Kyl said, "it was one of those decisions that Justice O'Connor was in the majority, a 5-4 decision in which her position could be characterized as the swing vote."

On Wednesday, Judge Alito said he would follow Justice O'Connor's approach in religion cases.

"Justice O'Connor pointed out something that's very critical in this area," he said. "She said there is a big difference between government speech endorsing religion and private religious speech. And private religious speech can't be discriminated against. It has to be treated equally with secular speech."

From the moment he was nominated in October, Judge Alito has made clear his fondness and admiration for Justice O'Connor. That was based in part, he said in remarks accepting the nomination, on something she had done at his first argument before the Supreme Court in 1982, an occasion that filled him with "a sense of awe."

"I also remember," he said, "the relief that I felt when Justice O'Connor, sensing, I think, that I was a rookie, made sure that the first question that I was asked was a kind one. I was grateful to her on that happy occasion, and I am particularly honored to be nominated for her seat."

Loose Lips Sink . . . (WP)

By Richard Cohen

The Washington Post, January 12, 2006

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The only thing standing between Joe Biden and the presidency is his mouth. That, though, is no small matter. It is a Himalayan barrier, a Sahara of a handicap, a summer's day in Death Valley, a winter's night at the pole (either one) -- an endless list of metaphors intended to show you both the immensity of the problem and to illustrate it with the op-ed version of excess. This, alas, is Joe Biden.

The reviews for Biden's first crack at Samuel Alito, the humorless Supreme Court nominee, were murderous. The New York Times had Biden out on Page One -- normally a position to kill for -- only this time it was not a paean to his considerable merits, but an account of how it took him nearly three minutes of throat-clearing to ask his first question and then took the rest of his allocated 30 minutes just to get in four more. He concluded with about half a minute still left to him -- something of a personal best that even he had to acknowledge.

"I want to note that for maybe the first time in history, Biden is 40 seconds under his time," he told Judiciary Committee Chairman Arlen Specter, no clipped speaker himself.

The Post had a similar account of Biden running off at the mouth. In that piece, Dana Milbank wrote that during Biden's round of questioning, he "spoke about his own Irish American roots, his 'Grandfather Finnegan,' his son's application to Princeton (he attended the University of Pennsylvania instead, Biden said), a speech the senator gave on the Princeton campus, the fact that Biden is 'not a Princeton fan,' and his views on the eyeglasses of Sen. Dianne Feinstein (D-Calif.)."

The tragedy is that Biden, who is running for president, is a much better man and senator than these accounts would suggest. But his tendency, his compulsion, his manic-obsessive running of the mouth has become the functional equivalent of womanizing or some other character weakness that disqualifies a man for the presidency. It is his version of corruption, of alcoholism, of a fierce temper or vile views -- all the sorts of things that have crippled candidates in the past. It is, though, an innocent thing, as good-humored as the man and of no real policy consequence. It will merely stunt him politically.

'Tis a pity. Biden occupies the sensible center of the Democratic Party. He supported Bill Clinton's crime bill (more cops, fewer assault rifles) which helped the Democrats fight the talk-show calumny that they were pro-crime and anti-cop. In his maturity, he has emerged, along with some appropriate gray hair, as one of his party's most important -- and knowledgeable -- voices on foreign policy. Even on Iraq, an area where too many Democrats forgot that there was any reason for war, Biden took a decidedly centrist -- and defensible -- position. He voted to authorize the president to go to war but has since characterized that vote as "a mistake."

"It was a mistake to assume the president would use the authority we gave him properly," Biden said in November on "Meet the Press" -- adding that if he were allotted a do-over, he'd vote no. Since this approximately reflects my own position, I am inclined to appreciate its wisdom. But even before that vote, Biden was urging President Bush to seek international support for the Iraq effort, not to move precipitously, and to have a postwar plan. Bush, listening to you-know-who, did what the voices told him.

The seniority that makes Biden so knowledgeable on foreign policy -- a conversation with him is always instructive -- is also what cripples. He has been in the Senate since 1973 and suffers, as nearly all senators do sooner or later, from the conviction that he and his colleagues are the center of the world. After all, no one -- with the possible exception of family members -- ever tells a senator to shut up. They are surrounded by fawning staff and generally treated as minor deities. They lose perspective, which is why, now that you've asked, they talk and talk at these hearings. They are convinced the world is watching. Actually, it's only a half a dozen shut-ins on C-SPAN -- and, of course, the nearly catatonic press corps. Everyone else is playing computer solitaire.

Biden ran for president once before -- and then, too, his mouth went off on its own. (In 1988, his stump speech was perilously similar to the one used by Neil Kinnock, Britain's Labor Party leader.) This time seems no different, except the loss is greater. Foreign policy, Biden's specialty, is the number one issue. He has much to say -- and then too much to add. He is an anatomical disaster. His Achilles' heel is his mouth.

Congresswomen Deem Alito Unfit (WT)

By Amy Fagan And Stephen Dinan

The Washington Times, January 12, 2006

Democratic congresswomen yesterday said Judge Samuel A. Alito Jr.'s failure to define abortion as a guaranteed right makes him unfit to sit on the Supreme Court, but senators said they are taking a wait-and-see approach.

"We believe that Judge Alito poses a direct threat to the rights of women in America," 20 House Democrats wrote in a letter urging senators to block President Bush's nominee. House members have no formal role in confirming presidential nominees.

At issue is Judge Alito's position on Roe v. Wade, the 1973 Supreme Court decision that found a constitutional right to an abortion. The nominee wrote in 1985, while serving in the Reagan administration Justice Department prior to becoming a judge, that he did not believe the Constitution guarantees the right to an abortion and advocated that it be overturned.

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Senators sought to have Judge Alito explain that position in this week's Senate Judiciary Committee hearings. Unlike Chief Justice John G. Roberts Jr., who during his hearings last year called Roe "settled law," Judge Alito would only say it was precedent and all precedents should be given weight.

Republican senators on the Judiciary Committee were satisfied with that answer, but many committee Democrats and outside interest groups, who consider abortion rights sacrosanct, were not.

Vicki Saporta, president and CEO of the National Abortion Federation, said his answers show Judge Alito would seek to overturn Roe if given the chance.

"I think he's being evasive on purpose. I think he's done nothing to distance himself from his prior writings and decisions," she said.

Many senators who are not on the Judiciary Committee are traveling overseas or busy with home-state constituent work, but their aides said they will review hearing transcripts before they vote.

"I don't know who the real Samuel Alito is or what his true views are," said Sen. Barbara A. Mikulski, Maryland Democrat, who has been watching the televised proceedings. "Is he just telling us what we want to hear? What is his judicial philosophy? What does he believe in -- privacy, the right to executive power?"

Alex Glass, a spokeswoman for Sen. Patty Murray, Washington Democrat, said Judge Alito's comments on Roe were "clearly concerning, particularly in light of the stance John Roberts took" that Roe was settled law.

Still, Ms. Glass said it's too early to decide how her boss will vote or whether the issue merits a filibuster.

Steve Hourihan, spokesman for Sen. Lincoln Chafee, Rhode Island Republican and a member of the "Gang of 14" senators who have agreed not to filibuster any judicial nominee without extraordinary reasons, said that from their vantage point, Judge Alito is not that far off from what Chief Justice Roberts said.

"Right now, he thinks there's basically a lot more to come, and a finer point to put on it," Mr. Hourihan said.

Sen. Ben Nelson, Nebraska Democrat and another of the 14 senators involved in the no-filibuster deal, hasn't had time to review the specific hearing questions, according to spokesman David DiMartino, but "he hasn't seen anything that's come up that would be problematic to the nominee."

Judge Alito, In His Own Words (NYT)

The New York Times, January 12, 2006

Some commentators are complaining that Judge Samuel Alito Jr.'s confirmation hearings have not been exciting, but they must not have been paying attention. We learned that Judge Alito had once declared that Judge Robert Bork - whose Supreme Court nomination was defeated because of his legal extremism - "was one of the most outstanding nominees" of the 20th century. We heard Judge Alito refuse to call Roe v. Wade "settled law," as Chief Justice John Roberts did at his confirmation hearings. And we learned that Judge Alito subscribes to troubling views about presidential power.

Those are just a few of the quiet bombshells that have dropped. In his deadpan bureaucrat's voice, Judge Alito has said some truly disturbing things about his view of the law. In three days of testimony, he has given the American people reasons to be worried - and senators reasons to oppose his nomination. Among those reasons are the following:

EVIDENCE OF EXTREMISM Judge Alito's extraordinary praise of Judge Bork is unsettling, given that Judge Bork's radical legal views included rejecting the Supreme Court's entire line of privacy cases, even its 1965 ruling striking down a state law banning sales of contraceptives. Judge Alito's membership in Concerned Alumni of Princeton - a group whose offensive views about women, minorities and AIDS victims were discussed in greater detail at yesterday's hearing - is also deeply troubling, as is his unconvincing claim not to remember joining it.

OPPOSITION TO ROE V. WADE In 1985, Judge Alito made it clear that he believed the Constitution does not protect abortion rights. He had many chances this week to say he had changed his mind, but he refused. When offered the chance to say that Roe is a "super-precedent," entitled to special deference because it has been upheld so often, he refused that, too. As Charles Schumer, Democrat of New York, noted in particularly pointed questioning, since Judge Alito was willing to say that other doctrines, like one person one vote, are settled law, his unwillingness to say the same about Roe strongly suggests that he still believes what he believed in 1985.

SUPPORT FOR AN IMPERIAL PRESIDENCY Judge Alito has backed a controversial theory known as the "unitary executive," and argued that the attorney general should be immune from lawsuits when he installs illegal wiretaps. Judge Alito backed away from one of his most extreme statements in this area - his assertion, in a 1985 job application, that he believed "very strongly" in "the supremacy of the elected branches of government." But he left a disturbing impression that as a justice, he would undermine the Supreme Court's critical role in putting a check on presidential excesses.

INSENSITIVITY TO ORDINARY AMERICANS' RIGHTS Time and again, as a lawyer and a judge, the nominee has taken the side of big corporations against the "little guy," supported employers against employees, and routinely rejected the claims of

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women, racial minorities and the disabled. The hearing shed new light on his especially troubling dissent from a ruling by two Reagan-appointed judges, who said that workers at a coal-processing site were covered by Mine Safety and Health Act protections.

DOUBTS ABOUT THE NOMINEE'S HONESTY Judge Alito's explanation of his involvement with Concerned Alumni of Princeton is hard to believe. In a 1985 job application, he proudly pointed to his membership in the organization. Now he says he remembers nothing of it - except why he joined, which he insists had nothing to do with the group's core concerns. His explanation for why he broke his promise to Congress to recuse himself in any case involving Vanguard companies is also unpersuasive. As for his repeated claims that his past statements on subjects like abortion and Judge Bork never represented his personal views or were intended to impress prospective employers - all that did was make us wonder why we should give any credence to what he says now. ·

The debate over Judge Alito is generally presented as one between Republicans and Democrats. But his testimony should trouble moderate Republicans, especially those who favor abortion rights or are concerned about presidential excesses. The hearings may be short on fireworks, but they have produced, through Judge Alito's words, an array of reasons to be concerned about this nomination.

Senate Civility (WSJ)

The Wall Street Journal, January 12, 2006

It's a sign of how little Democrats have on Supreme Court nominee Samuel Alito that on Day Three of his confirmation hearings they were still pounding away on his membership in an obscure Princeton alumni group that flowered briefly at the judge's alma mater. They can't touch him on credentials or his mastery of jurisprudence, so they're trying to get him on guilt by ancient association.

Senators Ted Kennedy and Chuck Schumer did their best yesterday to imply that Judge Alito was racist and sexist by linking the nominee with the views of some members of Concerned Alumni of Princeton, which back in the 1970s and 1980s took issue with university policies on coeducation and affirmative action. The questioning was mean enough that Judge Alito's wife left the hearing room after GOP Senator Lindsey Graham apologized for the comments of his fellow Senators. "Are you really a closet bigot?" Mr. Graham asked the nominee. "No, sir, you're not."

Judge Alito doesn't recall being a member of CAP, but says that if he was it must have been because he shared CAP's concern about keeping ROTC on campus. For the sin of not recalling, he was then tarred as dishonest. Senator Kennedy demanded to know whether Judge Alito had read various articles on CAP that had appeared more than two decades ago, including an editorial that ran in these columns on January 17, 1985.

Much as we like our own work, even we confess to having forgotten about that editorial. We'd like to think Senator Kennedy reads us so assiduously that he knew just where to look, but something tells us his staff dug it up from our computer archives. But we appreciate the unlikely plug. Our readers can find the editorial on OpinionJournal.com1. As for Judge Alito's prospects, if this irrelevant arcana is the most his opponents have, he can start measuring his new judicial robes.

Kate Michelman, The Public Face Of A Woman's Right To Privacy (WP)

By Linton Weeks

The Washington Post, January 12, 2006

Kate Michelman is the face of reproductive rights. It's a thin face with high cheekbones, dark eyes that can light up and a mouth with a corner that upturns at comic moments.

For a generation, Michelman, 63, has been at the forefront of one of this country's thorniest debates. She was president of NARAL Pro-Choice America from 1985 to 2004. She is scheduled to testify this week in opposition to the nomination of Samuel Alito to the Supreme Court. And she has written a new book, "With Liberty and Justice for All: A Life Spent Protecting the Right to Choose."

Last night several hundred friends and well-wishers showed up at the Woman's National Democratic Club near Dupont Circle for cheese, wine and a celebration Michelman's book and her mission. Guests included former secretary of state Madeleine Albright, Del. Eleanor Holmes Norton and Rep. Jim Moran (D-Va.).

"One reason I wrote this book," Michelman told the crowd, "was to hopefully inspire young women and men."

Michelman's interest in abortion rights is personal. In the late 1960s she was a Pennsylvania homemaker, married to a college professor. She had put her career in early childhood development on hold to start a family.

"I had married my childhood sweetheart at age twenty," she writes. "I was a practicing Catholic who accepted the Church's teaching that birth control was a sin. Like many other Catholic wives, I practiced the 'natural' means of contraception -- the

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rhythm method -- and believed the claim that breast-feeding prevented pregnancy. I exploded every myth. We had three daughters in three years."

In 1969 her husband walked out on her. Several weeks later, she learned she was pregnant. She was desperate. She felt she could not have a fourth child while trying to raise the other three single-handedly. She attempted suicide. Then she decided to get an abortion. She needed her husband's permission and the approval of the hospital's all-male review board. She received both.

The abandonment and the circumstances surrounding her abortion were the low points of her life, she said. Eventually she went to work, remarried and became the political force that now wants to take her zealousness for privacy rights beyond the women's movement.

Before the soiree she drank a little celebratory champagne with her youngest daughter, Anya, and talked about the single issue that has driven her.

The Alito hearing, she said, triggers memories of the Robert Bork confirmation hearings in 1987. Michelman was scheduled to testify then, too. But she and leaders of other advocacy groups decided that Bork was going to cook his own goose, so she decided not to speak.

She is also reminded of the Clarence Thomas hearings in 1991. She did testify then. Like Alito, Michelman said, "Thomas also said he was open-minded" on the landmark abortion-rights case, Roe v. Wade .

But he has tried at every opportunity to overturn that decision, she said.

When she talked of hard things, her soft voice hardened.

Now at a life juncture, Michelman is plotting her next steps. She wants to be a spokeswoman for personal rights who "is not constrained by organizational restraints or party politics."

She hopes to "expand people's understanding of what it means to be pro-choice. And it doesn't mean to be pro-abortion."

She said the right to privacy is a fundamental American value whether it involves a woman's body or governmental wiretapping.

She said she has always been a serious person. As a teenager in Ohio, she listened to news and Senate hearings on a shortwave radio. Her idea of fun, she said, was organizing a Christmas tree sale to benefit Mexican farmworkers in her community.

Asked how she relaxes, she sat forward on the edge of her seat. "I don't!"

But she likes to make food from scratch. "I love cooking, love doing things very authentically."

Ideally, she would like to live in medieval fashion, without many modern conveniences. "I love washing dishes."

And she:

Reads a lot. She has been enjoying a novel by Ian McEwan and a book about the Constitution. "I read every word in every paragraph," she said.

Sleeps little. "If I get two or three hours a night I am lucky," she said.

Exercises every day. "I am disciplined."

She is not that attuned to popular culture, daughter Anya says. But Michelman is hooked on "24," the warp-speed, torture-laden thriller Fox series. And she has seen "The Lord of the Rings" several times.

Personality tests, she said, always told her what she already knew. She is an introvert. Her personal story, she said, pushed her into prominence. Still, it was only after she had been president of NARAL for a few years that she went public with her own abortion story.

Introducing Michelman, Frances Kissling, president of Catholics for a Free Choice, encouraged everyone to buy lots of copies. "We want her book on the bestseller list."

She and others testified to Michelman's energy and focus.

Albright told everyone that Michelman had provided "a voice for those who didn't have a voice and a brain for those who didn't have a brain."

She said Michelman kept the women's movement motivated and that the timing of her book with the Alito hearings was fortunate.

Fred Michelman said living with Kate was "like riding a tiger."

As for the face of the abortion rights movement, her husband of almost 34 years smiled and said, "It's a face I know so well."

Losing The Alitos (NYT)

By David Brooks

The New York Times, January 12, 2006

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If he'd been born a little earlier, Sam Alito would probably have been a Democrat. In the 1950's, the middle-class and lower-middle-class whites in places like Trenton, where Alito grew up, were the heart and soul of the Democratic Party.

But by the late 1960's, cultural politics replaced New Deal politics, and liberal Democrats did their best to repel Northern white ethnic voters. Big-city liberals launched crusades against police brutality, portraying working-class cops as thuggish storm troopers for the establishment. In the media, educated liberals portrayed urban ethnics as uncultured, uneducated Archie Bunkers.

The liberals were doves; the ethnics were hawks. The liberals had "Question Authority" bumper stickers; the ethnics had been taught in school to respect authority. The liberals thought an unjust society caused poverty; the ethnics believed in working their way out of poverty.

Sam Alito emerged from his middle-class neighborhood about that time, made it to Princeton and found "very privileged people behaving irresponsibly."

Alito wanted to learn; the richer liberals wanted to strike. He wanted to join R.O.T.C.; the liberal Princetonians expelled it from campus. He was orderly and respectful; they were disorderly and disrespectful. The experience was so searing that he mentioned it in the opening of his confirmation hearing 37 years later.

In 1971, Fred Dutton, an important Democratic strategist, acknowledged the rift between educated liberals and the white working class. In a short book, "Changing Sources of Power," Dutton argued that white workers had "tended, in fact, to become a major redoubt of traditional Americanism and of the antinegro, antiyouth vote."

The New Deal coalition, including Catholics and white ethnics, was dying, he argued, and should be replaced by a "loose peace coalition" of young people, educated suburbanites, feminists and blacks.

That plan wasn't stupid, but it didn't work. The party has been in a downward spiral ever since. John Kerry lost the white working class by 23 percentage points. He lost among his fellow Catholics. He lost the election.

After every defeat, Democrats vow to reconnect with middle-class whites. But if there is one lesson of the Alito hearings, it is that the Democratic Party continues to repel those voters just as vigorously as ever. The Democrats have amply shown why they remain the party of gown, but not town.

First, there was the old subject of police brutality. If you listened to the questions of Jeff Sessions, a Republican, you heard a man exercised by the terror drug dealers can inflict on a neighborhood. If you listened to Ted Kennedy, you heard a man exercised by the terror law enforcement officials can inflict on a neighborhood. Kennedy railed against "Gestapo-like" tactics. Patrick Leahy accused Alito of rendering decisions in a "light most favorable to law enforcement."

If forced to choose, most Americans side with the party that errs on the side of the cops, not the criminals.

Then there was the old hawk-dove divide. If you listened to Lindsey Graham, a Republican, you heard a man alarmed by the threats posed by anti-American terrorists. If you listened to Leahy or Russ Feingold, you heard men alarmed by the threats posed by American counterterrorists. The Democratic questions implied that American counterterrorists are guilty until proved innocent, that a police state is being born.

If forced to choose, most Americans want a party that will fight aggressively against the terrorists, not the N.S.A.

Then there were the old accusations of bigotry. Kennedy misleadingly and maliciously asserted that Alito had never written a decision on behalf of an African-American. But those wild accusations don't carry weight any more. Rich liberals have been calling white ethnics bigots for 40 years.

Finally, and most important, there is the question of demeanor. Alito is a paragon of the old-fashioned working-class ethic. In a culture of self-aggrandizement, Alito is modest. In a culture of self-exposure, Alito is reticent. In a culture of made-for-TV sentimentalism, Alito refuses to emote. In a culture that celebrates the rebel, or the fashionable pseudorebel, Alito respects tradition, order and authority.

What sort of party doesn't admire these virtues in a judge?

The big story of American politics, which was underlined by every hour of the Alito hearings, is that sometime between 1932 and 1968, the DNA of the Democratic Party fundamentally changed. In 1932, the Democrats had working-class DNA. Today, the Democrats have different DNA, the DNA of a minority party.

The Alito Spectacle: Senators (USAT)

USA Today, January 12, 2006

"I'll try to make this painless," Sen. Joseph Biden, D-Del., said as he began questioning Supreme Court nominee Samuel Alito during confirmation hearings Tuesday. No such luck.

For the next 30 minutes, Biden engaged in a rambling, self-indulgent soliloquy on his views on the Constitution, his dislike for Princeton University (Alito's alma mater), his grandfather's philosophy and even on another senator's eyeglasses. Questions

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for the nominee, whose decisions on the Supreme Court would affect every life in America? There were just five. They ate up triple the time Alito was allowed for answers.

During two days of hearings, it has seemed that for every senator who questioned Alito thoughtfully — and there were several — three others were more interested in hearing themselves talk. Enough senatorial hot air was expelled to fill blimps from sea to shining sea.

On the Republican side, Sen. Lindsey Graham, R-S.C., even acknowledged that he was using Alito as a political prop. "This is really not about you, so you don't have to listen. I'm talking to other people right now," Graham told Alito during one "question." He was lecturing colleagues who had criticized President Bush for using wartime presidential powers in ways that put him above the law.

Others wasted time with phony questions. "Are you against women and minorities attending college?" asked Sen. Orrin Hatch, R-Utah. The only input Alito was allowed was an "Absolutely not, Senator. No." Then the speech continued.

The Judiciary Committee might learn something from the pointed questioning by its leaders, both former prosecutors. Chairman Arlen Specter, R-Pa., led off with tough queries about Alito's views on abortion, the right to privacy and executive power. He pressed him with pertinent follow-ups.

Ranking Democrat Patrick Leahy of Vermont grilled the nominee about treatment of enemy combatants, wiretap surveillance of Americans without a court warrant, and Alito's ruling in a case involving the strip-search of a child during a drug raid. Like Specter, he seemed genuinely interested in Alito's answers and didn't interrupt.

Bloviating is nothing new to politics, of course, or to the Senate. Nor is the partisanship that has raised it to gale force. But when senator after senator focuses more on scoring snappy sound bites than on learning a nominee's views, the public is ill-served and the Senate's credibility is undermined. More important, so is confidence in the independence of the court.

Given the stakes, it's too bad so many senators seem so disinterested in gathering facts to make an informed, independent choice.

Painless? Only for the bloviators.

The Alito Spectacle: Nominee (USAT)

USA Today, January 12, 2006

If the Judiciary Committee is inept at questioning Supreme Court nominees, the damage is doubled by the fact that Samuel Alito, like other recent nominees, is very good at the game of saying as little as possible.

Hour after hour, he has geared his responses to avoid anything attention-grabbing — or even very informative. As a result, his views on most issues remain mostly guesswork.

The silence, though, tends to reinforce doubts raised by Alito's record — more so than Chief Justice John Roberts' did at his confirmation hearings four months ago. For example, Roberts described the court's 1973 abortion ruling, Roe v. Wade, as settled law in 2003 and "settled as precedent" last fall. Yet Alito, who once aggressively disputed that decision, wouldn't go that far. He said Tuesday that it's an "important precedent."

Similarly, Alito only backhandedly recognized as a precedent the 1965 decision that established the underlying doctrine of privacy, overturning a state's ban on use of birth control. On a second case extending that principle, he acknowledged agreement with "the result." But in legal terms, that leaves open whether he accepts the decision itself as another precedent for keeping Big Brother out of the nation's bedrooms.

Among the most vexing issues heading for the court are disputes over extraordinary powers claimed by the Bush administration in the war on terrorism. Alito said he agrees with the principle enunciated by retiring Justice Sandra Day O'Connor that "a state of war is not a blank check for the president." Unknown is where he thinks the limits lie. Alito shouldn't prejudge prospective cases, but he gave little to help senators assess whether he would protect citizens from government excess. President Bush claims the power to imprison Americans without trial and to eavesdrop on them without court review.

Almost every Supreme Court nominee since Robert Bork has employed this strategy of earnest vagueness out of reasoned fear that forthrightness would bring defeat.

When Bork was nominated in 1987, he readily expanded on his long history of provocative views, attacking court decisions that legalized abortion, prohibited poll taxes and required equal representation in legislative districts. He was rejected, 58-42.

Just a year earlier, Antonin Scalia, a renowned legal conservative, refused even to say what he thought of the 1803 case that established the court's authority to interpret the Constitution. He was confirmed, 98-0.

With today's court so narrowly divided on so many critical issues, the strategy of silence amounts to low short-term politics at high long-term risk. There is an alternative, of course: Choose nominees whose views don't need to be hidden to gain bipartisan support. But that appears to be an ambition too grand for such partisan times.

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Bush Sets Focus On Health Care For 2006 Agenda (WSJ)

By John D. Mckinnon And Sarah Lueck, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, January 12, 2006

WASHINGTON -- President Bush, searching for a way to ease Americans' anxiety about the economy and to respond to business and consumer alarm over health costs, is gearing up to focus on health care as a centerpiece of his 2006 domestic agenda.

The White House is unlikely to propose major new federal spending. Instead, it is considering expansions of several earlier proposals aimed at using market forces to improve the quality and restrain the rapidly rising cost of health care.

The White House has been frustrated that the president isn't getting more credit for an economy marked by steady growth, low inflation and falling unemployment. Talking more about health care is part of its response. "Health care is obviously a big challenge, and ... creates angst on the part of the American people," Mr. Bush's economic adviser, Allan Hubbard, said in an interview this week. "Employers are spending more money on health care, and that's robbing people of wage increases," he said.

The president is likely to sound similar themes in the State of the Union address later this month. In Louisville, Ky., yesterday, Mr. Bush called health care "an unmanageable cost" for businesses. Rejecting government-directed care as a solution, he said the ideal health system "is one in which there is a direct connect between provider and customer, [and] where there's transparency in the pricing system." In a likely signal of what is to come, the president urged Congress to expand health savings accounts, or HSAs. Created in 2003, HSAs allow Americans to set aside money tax-free to pay health costs if they choose high-deductible health insurance.

Among the proposals Mr. Bush is considering are:

· Providing bigger tax breaks for Americans who buy their own health insurance to balance tax breaks available to workers who get health insurance through employers.

· Encouraging broader use of HSAs in the hope that giving consumers more control over their health-care spending will make them more cost-conscious.

· Helping consumers get more information about health-care providers' prices and performance to make them better shoppers.

Building on past Bush proposals, the new White House focus on health -- beyond the government's Medicare program -- is intended to give Republicans an election-year answer to many of the worries that voters have about the fast-changing economy. In many voters' minds, those worries appear to be overshadowing the good economic news about the pace of growth and falling unemployment.

Opinion polls show health care near the top of Americans' concerns. Last month's Wall Street Journal/NBC News survey, for example, showed health care ranking behind only the war in Iraq on the list of issues the public wants the federal government to address. While 41% identified the war as a top priority for Washington, 33% identified health care, exceeding the 28% who pointed to job creation and economic growth.

While many experts and a growing number of business executives see reason to restructure the health-care system, politicians have shied away from wholesale changes since the failure of the Clintons' initiative in the 1990s.

The Bush White House is unlikely to repeat what is widely seen as the Clintons' overreaching, but the outlines of the health-care system it envisions are becoming clear. It would rely less on generous insurance provided by employers that insulate individuals from the cost of their choices. Instead, it would rely much more on market forces, individual (as opposed to employer-provided) insurance, tax credits to help the uninsured, provider competition and using the Internet to provide consumers with more, better data about the care quality and prices charged by doctors and hospitals.

Improved information about the quality of doctors and hospitals would be valuable to people with HSAs, who according to some surveys, "don't feel like they've got enough useful information to make the best decisions about their care," said Mark McClellan, a former White House adviser who now oversees Medicare. He has been pushing the giant program for the aged and disabled to link government payments to the quality of care, instead of the volume of care. Medicare, for instance, is experimenting with paying hospitals a bonus if they perform well on preset quality standards.

A slim new book, "Healthy, Wealthy & Wise," by former Bush advisers R. Glenn Hubbard and John F. Cogan, along with Daniel Kessler of the Hoover Institution, outlines the case for moving in the direction that the Bush administration is heading. It argues that "the unintended consequences of a handful of public policies" -- including tax and health-insurance rules -- "are in large part responsible for the problems of the health-care system" because they hinder "the proper functioning of markets." (See excerpts and more information1.)

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Mr. Bush's proposals are likely to draw fire from conservatives for not going far enough. And they will draw fire from Democrats and unions, who fear the administration would undermine the employer-based system and, by making individuals pay for more of their own health, discourage people from getting preventive health care. "I think this is a classic risk shift onto individuals that is both unpalatable to people and bad policy," said Jared Bernstein of the Economic Policy Institute, a liberal Washington think tank.

Analysts on both sides express skepticism that Mr. Bush, unable to persuade Congress to embrace his Social Security proposals, can make much headway this year.

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Bush To Aim For Tight 2007 Budget: Card (REU-Y2)

By Susan Cornwell

Reuters, January 12, 2006

The Bush administration's upcoming budget blueprint for the U.S. government will "tighten the belt," White House chief of staff Andrew Card said on Wednesday.

Speaking to the U.S. Chamber of Commerce, Card gave no budget details in a speech that was short on particulars and long on reminders that the country was at war and that sacrifices were required. He also spoke mysteriously about a "dark cloud that seems to be gathering around the political world" but did not explain.

Card said the U.S. Congress did not appear to be in the mood to do anything about Social Security reform this year but thought lawmakers could tackle the issue in 2007 with President George W. Bush helping lead the way.

The White House was in the final stages of drafting a "very disciplined" new budget for fiscal 2007, starting October 1, Card said.

"It will fund the appropriate priorities of winning the war on terror, securing the homeland, but it will say, 'Tighten the belt,'" he said.

The administration faces budget pressures stemming from the war in Iraq and the cost of rebuilding in the Gulf Coast after the devastation from hurricanes Katrina and Rita in August and September.

Card said the 2007 budget will "make the tough decisions about which programs are necessary, and fund them appropriately but exercise prudence with the taxpayers' money."

Bush also will continue calling for tax cuts he initiated in his first term to be made permanent, Card said. The White House had considered launching a push this year for broad tax-code changes but is delaying that amid fears it could prove too controversial in a congressional election year.

The White House's effort to overhaul the Social Security system, which has an uncertain financial future as increasing numbers of Americans retire, has stalled and Card was not optimistic about congressional action on it this year.

"I think the reality is that Congress is predisposed not to do the heavy lifting that is necessary for Social Security reform in 2006 but they definitely should be prepared to start lifting in 2007," he said.

Inside The Beltway (WT)

By John Mccaslin

The Washington Times, January 12, 2006

Good stuff

One well-known politician in Washington was overheard this week discussing his personal angst regarding a widely heard political commentator in town and his repeated violation of the "off-the-record" rule.

"Every time I tell him something, and explain that it is 'off the record,' I hear it broadcast the next day. And every time I confront him about it, he says: 'I know it was off the record, but it was too good not to use.' "

Who knows anymore?

In light of news yesterday that D.C. Council member and former Mayor Marion Barry tested positive for cocaine after a recent court-ordered drug test, maybe a joke circulating around the John A. Wilson Building isn't such a stretch of the imagination: that his honor wasn't really "robbed" at gunpoint in his apartment kitchen recently; rather, it was "a drug deal gone bad."

Honest politician

"Unfortunately, we Republicans have taken earmarking to an unprecedented level. It is now our responsibility to clean it up."

That's an honest assessment from Rep. Jeff Flake, Arizona Republican, who is out to reform the practice of earmarking — spending items slipped into appropriations bills without congressional oversight.

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In a letter to House Speaker J. Dennis Hastert, Mr. Flake goes so far as to say that it is "no secret that over the past several months, our reputation as a governing majority has taken a beating. It is clear that continuing ... indictments, possible indictments, plea deals, tainted campaign contributions, etc., has severely eroded public trust."

Worse yet, he said, disgraced lobbyist "Jack Abramoff reportedly referred to the Appropriations Committee as a 'favor factory.' "

And here's the kicker: "No one who has seen the process firsthand, as we have, would honestly dispute his characterization," Mr. Flake told his Republican boss.

All about money

The National Republican Senatorial Committee (NRSC) has been keeping close tabs on Senate Minority Leader Harry Reid, who is out raising money for Democrats this week, even though his name continues to surface in the Jack Abramoff lobbying scandal.

Those in charge of Republican campaign coffers find it ironic that Mr. Reid, despite the cloud hanging over his head, has been raising money in Western Republican "red" states that backed President Bush in 2004 (his final stop today is Nebraska, having stumped for cash earlier this week in Arizona, Colorado, Utah and Idaho.)

Mr. Reid has called the Abramoff affair a "Republican scandal," telling Fox News viewers: "So don't lump me in with Jack Abramoff. This is a Republican scandal. Don't try to give any of it to me."

Nevertheless, the NRSC continues to peddle as many links as it can find between the Democrat and the disgraced lobbyist, not the least being a letter Mr. Reid wrote in 2002 to Interior Secretary Gale A. Norton on behalf of an Abramoff client.

"The day after Reid penned his letter, clients of Abramoff donated $5,000 to Reid's leadership [political action committee]," the NRSC states.

Madison's notes

Don't look now, but that's former Attorney General Edwin I. Meese III participating in this week's contentious Senate Judiciary Committee hearings for Supreme Court nominee Judge Samuel A. Alito Jr.

Or at least that's the Heritage Guide to the Constitution, co-edited by Mr. Meese, sitting on the desk of Sen. Tom Coburn, Oklahoma Republican, as he takes in Judge Alito's testimony this week surrounding the nominee's interpretation of the Constitution.

"It's obviously playing a significant role in the Alito hearings," Rebecca Hagelin, vice president of the Heritage Foundation, tells us.

The thick volume contains the opinions of more than 100 of the nation's top legal analysts who have examined, line by line, the Constitution and its contemporary meaning. They zero in on the original intent of the Framers as the authoritative standard of constitutional interpretation, relying heavily on their early writings, particularly the "invaluable" notes taken at the Constitutional Convention by James Madison.

Treasury Undersecretary Says He's Paid To Worry (USAT)

By David J. Lynch

USA Today, January 12, 2006

WASHINGTON — From his Treasury Department office overlooking the White House, Timothy Adams scans the globe trying to spot economic brushfires before they become infernos.

Right now, he doesn't see much to worry about. But he's still looking. “If I weren't paid to worry, I would argue that the glass is half full and there's a lot that we should celebrate. But my job isn't to celebrate; it's to think about how this all could go awry,” Adams, undersecretary of Treasury for international affairs, said recently.

Many things could derail the locomotive of global growth. In an interview, Adams singled out imbalances in the world economy, oil prices and China's stability.

Last year, the Chinese minister of public security acknowledged 74,000 incidents of mass protest. Most involve peasant anger over illegal land seizures, local government corruption or environmental woes. The discontent has done nothing to disrupt the economy or the river of foreign investment flowing into China. So far.

“Global industry has been extremely sanguine in their outlook for China … as a manufacturing, export and production platform. But there are a lot of risks there, and those risks bear close watching because any disruptions in China will have global implications,” he said.

Adams, 44, is preparing for his fourth trip to Beijing in the six months he's been in this job. He moved into one of the department's top posts after serving as chief of staff to then-Treasury secretary Paul O'Neill and several years as a Washington consultant. He also worked in the administration of President George H.W. Bush.

Each week, Adams receives a variety of financial intelligence reports from Treasury experts.

The department's “blue-chip early-warning system” monitors countries around the world for evidence of brewing currency, debt or banking crises. Adams wouldn't say whether his analysts have spotted any.

Current imbalances in the global economy will eventually adjust, Adams said. The only question is whether they move into balance gradually or with a painful crash.

Believing that today's calm won't last forever, Treasury officials also routinely carry out financial war-gaming to practice their handling of potential crises.

“We still are in extraordinarily benign conditions,” Adams said.

“… I suspect that whatever the crisis we have to address in the future — and we will — will probably come from someplace we least expect.”

Into The Oversight Void Step The Inspectors General (Washington Post)

By Christopher Lee

Washington Post, January 12, 2006

When a Chicago newspaper reported in 2004 that Illinois ranked last in federal disability payments to veterans, the secretary of veterans affairs -- prodded by House Speaker J. Dennis Hastert (R-Ill.) and other influential lawmakers -- turned to his department's inspector general for an explanation.

After four months, 1,900 interviews and a review of 2,100 disability claims, a team of 36 auditors found reasons that veterans in top-ranked New Mexico got an average of $12,004 in annual disability payments while Illinois veterans received $6,961. Their 192-page report made eight recommendations for addressing the inequity, and the Department of Veterans Affairs is implementing many of them.

"It's a really big project," said Michael L. Staley, assistant inspector general for auditing, who led the effort. "Our national reviews generally take about 11 months, and we accomplished this from January to April."

For their labor, Staley and his team recently picked up the Alexander Hamilton Award. The annual honor recognizes the foremost effort by an inspector general to improve the efficiency and effectiveness of executive branch operations.

Created by an act of Congress in 1978, "IGs," as they are known, can trace their roots to the Continental Army, which had an inspector general independently assess the readiness of combat troops. Their modern mission is to foster integrity and efficiency in government through the prevention and detection of waste, fraud and abuse.

Initially Congress created 12 independent audit and investigative offices, and every affected agency opposed them. Over the past 27 years, inspectors general have become a fixture of the bureaucracy. Their ranks have grown to 57 -- more than half appointed by the president -- and their offices employ 11,400 auditors, investigators, inspectors and other professionals.

The role of inspectors general has taken on new prominence, as one-party control of Capitol Hill and the White House has dampened the appetite in Congress for close oversight of the executive branch, analysts say.

"They are becoming the de facto overseers of government," said Paul C. Light, a professor of government at New York University and the author of a book on IGs. "As congressional oversight has declined sharply over the last decade, many IGs are getting into areas that were once reserved for the investigatory committees of Congress. And many, but not all of them, have risen to the challenge. . . . Some of these reports are very hard-hitting."

Clay Johnson III, deputy director of the Office of Management and Budget, agreed that Congress is not "as aggressive as it needs to be," but not because the GOP dominates the levers of power.

"The executive branch pays more attention to whether we spend money on real needs and whether we get what we pay for than Congress does," said Johnson, who heads the President's Council on Integrity and Efficiency, an umbrella group of 29 presidentially appointed inspectors general. "That has nothing to do with which party is in charge of what branch."

In 2004, the most recent year for which figures are available, inspectors general processed 189,500 complaints, identified $18 billion in potential savings through audits, and were instrumental in nearly 6,500 prosecutions that led to convictions or settlements with the Justice Department. They collected $3.5 billion in fines, settlements and voluntary repayments, making the $1.9 billion spent to fund them look like a bargain.

Notable reports last year included a finding by the Transportation Department IG that the Federal Aviation Administration's inspection program had failed to address safety risks posed by airline industry cost-cutting and the rapid growth of budget carriers. A report by the Justice Department IG found that the FBI's failure to detect the Sept. 11, 2001, hijacking plot stemmed in part from "widespread and long-standing deficiencies" in the way the agency handled terrorism and intelligence cases.

Last year, the special inspector general for Iraq reconstruction found federal mismanagement complicated by corruption among government contractors and Iraqi officials that led to at least one criminal indictment.

And more than 350 investigators, auditors and evaluators from the inspectors general offices at the Department of Homeland Security and other departments were dispatched to scrutinize federal spending in the aftermath of Hurricane Katrina.

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The job can bring as much grief as acclaim. Before becoming IG at the Corporation for National and Community Service in 2002, J. Russell George, then a staff director for a House subcommittee, called around to current and former IGs to ask what the job was like: "The vast majority of them said, 'Don't do it,' " he said.

George was told that IGs considered too aggressive by the White House can be perceived as too docile by Congress. He took the job anyway, and last year he was promoted by President Bush to be the inspector general overseeing the Internal Revenue Service.

"There's no question that being an IG is difficult," said George, who says he likes his work. "It's human nature that people many times do not like to be criticized or to be told that what they are doing is either wrong or could be done better. That is exactly what we as IGs have to do."

Some IGs are as controversial as the agencies they oversee.

Pentagon Inspector General Joseph E. Schmitz resigned in September after learning that he was the target of a congressional inquiry into whether he had blocked two criminal probes. Janet Rehnquist resigned the IG's post at the Department of Health and Human Services in June 2003, ending a controversial 22-month tenure in which she improperly kept a firearm in her office and initiated personnel changes that led at least 20 senior managers to retire, resign or be reassigned. That same summer, U.S. Postal Service Inspector General Karla W. Corcoran retired after a federal investigation found that she abused her authority, spent more than $1 million on each of three employee award ceremonies and conducted questionable personnel practices.

A few critics say the work of inspectors general has been undermined by politics. A 2004 report by the Democratic staff of the House Government Reform Committee found that fewer than 20 percent of inspectors general appointed by Bush had audit experience, while nearly two-thirds had held political positions, such as working for a GOP member of Congress or in a Republican White House. Under President Bill Clinton, more than 60 percent had audit experience and fewer than one-quarter had held political positions, the report said.

Yet, as Light, the government professor, pointed out, "Yes, there are more politicals, but some have become very aggressive IGs."

Clark Kent Ervin, a Texan who served in Bush's gubernatorial administration, got the inspector general's job at the Department of Homeland Security through a recess appointment because the Senate would not schedule a confirmation vote. Once in, Ervin became a thorn in then-Secretary Tom Ridge's side, issuing reports critical of spending and management practices at DHS agencies. He left in December 2004 (the expiration of his appointment) when it became clear that the White House would not renominate him.

"Here's a guy who was being groomed as a political type, but they canned him as quickly as possible," Light said.

Kenneth M. Mead, the IG at the Transportation Department, said inspectors general must set politics aside and "speak truth to power."

"It's important that the IG be a player," Mead said. "If you don't go after the big issues, you can be marginalized. I think it's important that we're not just sitting around looking at vouchers."

Lawmakers Move To Cut Lobbyists' Influence Scandal Jars Loose Stuck Legislation (USAT)

By Jim Drinkard

USA Today, January 12, 2006

WASHINGTON — A scramble is on to write new rules restricting how lobbyists ply their influence trade as the capital is embroiled in a spreading corruption scandal.

Bills aiming to chill the relationships between lobbyists and members of Congress, stalled for months, are now on a fast track as leaders battle the perception of misconduct. “These scandals aren't going away,” said Rep. Marty Meehan, D-Mass., a sponsor of one proposal to curb lobbyists' influence. “What we know is probably only a fraction of the story.”

The rush began last week when Jack Abramoff, a former top lobbyist, pleaded guilty to fraud and conspiracy charges and agreed to help prosecutors investigating corruption on Capitol Hill and in the Bush administration.

Abramoff plied congressmen and their aides with trips, free meals and entertainment. He gave thousands of dollars in campaign contributions and steered thousands more — including raising more than $100,000 for President Bush's re-election in 2004.

Senate Majority Leader Bill Frist, R-Tenn., and House Speaker Dennis Hastert, R-Ill., have ordered packages of new ethics rules intended to take effect before lawmakers face voters in November.

House Rules Committee Chairman David Dreier, R-Calif., who is drafting the House package, said it likely will include a ban on members of Congress taking fact-finding trips paid for by private interests.

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Nearly $20 million has been spent on such trips since 2000, and they have come under scrutiny because Abramoff used trips — sometimes including golf at exclusive courses — as tools of influence.

Dreier said he also is looking at increasing the amount of information available on lobbyists' activities, including their campaign contributions and fundraising efforts.

"Greater transparency, greater disclosure … that is first and foremost," he said. "We need to expand the respect that the American people have for the institution, which is not all that high right now."

Current lobbying rules exempt "grass-roots" lobbying — sophisticated and often expensive efforts to generate public pressure on Congress through advertising, mail and e-mail. They also don't require lobbying coalitions to disclose the interests behind them.

Also under consideration: requiring lawmakers to fully disclose when they hop corporate planes for political travel and to reimburse the plane's owner for the full value of the flight.

Now, no such disclosure is required, and lawmakers have to reimburse only the priceof a first-class commercial ticket.

In the Senate, the bill drafting has been assigned to Sen. Rick Santorum, R-Pa. Spokesman Robert Traynham says Santorum is looking at restrictions on gifts from lobbyists, privately paid travel and fundraising.

Santorum and Dreier are looking at bills such as Meehan's and a similar one advanced by Sen. John McCain, R-Ariz., and Rep. Christopher Shays, R-Conn., for ideas. They aim to complete draft bills by early next month.

Paul Miller, president of the American League of Lobbyists, a trade association, says the definition of lobbying also needs to be re-examined. Lobbying reports are filed by those who directly contact Congress or the executive branch. That leaves out others who seek to influence the government indirectly, including public relations consultants, Miller notes.

Ethics watchdog groups said new rules will mean little unless they are enforced, noting that the scandal arose at a time when congressional ethics enforcement was largely on hold.

"The House ethics committee is dead, and the Senate committee is not known to be effective," said Larry Noble, director of the non-partisan Center for Responsive Politics. "No matter what rules they put in, if they don't get a working enforcement mechanism, it's going to be meaningless."

Hill Weighs Curbs On Lobbying (WP)

By Jeffrey H. Birnbaum

The Washington Post, January 12, 2006

Congress is poised to pass measures early this year that would clamp down on lobbying activity and possibly end some lawmaker travel.

Lawmakers are moving quickly to devise lobbying legislation and to approve it soon after Congress returns later this month. The rush has been caused by recent lobbying scandals, including the guilty plea last week of lobbyist Jack Abramoff, who is cooperating with prosecutors in a corruption investigation of Congress.

House Speaker J. Dennis Hastert (R-Ill.) and Senate Majority Leader Bill Frist (R-Tenn.) have delegated to colleagues the writing of bills that would increase lobbying disclosure and restrict the ways that lobbyists and lawmakers interact. Hastert said he is considering an outright ban on privately paid travel as one component of such a bill.

"Our intention is to have a very strong package," said Ron Bonjean, a spokesman for Hastert. The speaker, who skipped a planned trip to Asia in part to work on the lobbying proposal, expects the House to pass a bill "as soon as possible," Bonjean added. Rapid action is also expected in the Senate.

The details of that legislation have not yet come into focus. Proposals are coming from members of both political parties. A touchstone for all sides, however, is the plan introduced last month by Sen. John McCain (R-Ariz.) and Rep. Christopher Shays (R-Conn.). Rep. David Dreier (R-Calif.), who is Hastert's emissary on the issue, has consulted with McCain and said yesterday: "We're going to use a lot of what he has as a basis from which we'll proceed."

The McCain bill would beef up lobbying disclosure considerably and cover grass-roots lobbying campaigns, which now go unreported. It would also require lobbyists to report each fundraising event that they host or sponsor for candidates for federal office, including the amount raised.

In addition, the McCain bill would require lobbyists to report the donations they give to lawmakers directly and at events that honor lawmakers or entities that they created or control. It would also require lobbyists to disclose quarterly -- which would be twice as often as they file now -- any gift worth more than $20 that they give to lawmakers or their aides, including meals and tickets to events.

But one particularly powerful group is gearing up to oppose several of the most sweeping proposals: lobbyists. Lobby organizations ranging from the U.S. Chamber of Commerce to the American Society of Association Executives (ASAE) are

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concerned that some of the measures under consideration would overburden them with paperwork or unfairly limit their ability to do their jobs. They are already planning to lobby against those parts of any new lobbying law.

"We need to sit down with people up there and give them some honest understanding of what can and what cannot be done," R. Bruce Josten, a Chamber executive, said, referring to Congress.

Josten worries that too much paperwork might bury lobbying groups and prove costly without much payoff for the public. He also doubts whether grass-roots lobbying disclosure is practical or wise. Jim Clarke of the ASAE has reservations about a ban on privately paid travel because it might isolate members of Congress from interest groups.

"Requiring us to write down every meeting we have with staff and members -- what will the public get from that? Nothing," said Paul A. Miller, president of the American League of Lobbyists. Miller frets that a ban on gifts to lawmakers would disadvantage small lobbyists in favor of their bigger colleagues who can offer sizable campaign contributions.

Miller said he expects extensive lobbying by lobbyists on the legislation.

But not all lobbyists think that is a good idea. "It would be foolish for the lobbying community to go up and fight these things," said Ralph Hellmann of the Information Technology Industry Council. "In the current environment, anything the lobbying community says is not good for itself will end up happening."

Lobbyists' Emergence Reflects Shift In Capital Culture (WP)

By Thomas B. Edsall

The Washington Post, January 12, 2006

Corporate lobbyists Mark Valente III and Troup Coronado don't have to hang out in the hallways of Capitol Hill, waiting to buttonhole Rep. John M. Shimkus (R-Ill.). Both men have more convenient ways of reaching the lawmaker.

Valente is the treasurer of Shimkus's political action committee, the John S Fund. And Coronado, who lobbies for BellSouth, played host at a Dec. 17 fundraiser for Shimkus at MCI Center. Guests made contributions -- $1,000 per person, $1,500 per couple -- to his reelection campaign, and in turn they got to take in a Bon Jovi performance from the BellSouth suite.

There is nothing exceptional about Valente's relationship with Shimkus, or Coronado's fundraising party. But they do illustrate the capital's changing mores.

Although the excesses of Jack Abramoff have captured the news, a wide range of other practices -- rarely publicized and fully legal -- reflect the steady dismantling of the wall between lobbyists and members of the House and Senate.

Fallout from the Abramoff scandal is likely for a time to chill certain aspects of the capital culture, in which access to power on Capitol Hill is lubricated by lobbyist-funded meals, travel and campaign contributions, according to congressional veterans of both parties. But some public interest advocates believe the relationships between lobbyists and politicians have become so institutionalized in recent years that fundamental change is unlikely, absent changes in the law. Among the examples:

· Since 1998, lobbyists have served as treasurers of 79 lawmakers' campaign committees and leadership PACs, according to the Center for Public Integrity. These committees often pay for senators and House members to enjoy such fundraising events as golfing in Palm Springs, Calif., and fishing tournaments off the Florida Keys -- outings at which the lobbyists will also be prominently in attendance.

· Major trade associations have bought Capitol Hill townhouses for fundraisers so that lawmakers can quickly go back to cast votes and then return to the event.

· At election time, many lobbyists put on a new hat and become political consultants, guiding incumbents to reelection. Afterward these lobbyists return to their traditional roles, being able now to ask for votes from those they helped put in office.

"The border has broken down. Not only has it broken down, it's sort of 'barbarians at the gate,' " said Lawrence F. O'Brien III, a Democratic lobbyist. "There is sort of the naked 'Well, we are one, you are us' type of notion between the members of Congress and the lobbying community downtown."

The change in standards of what is objectionable versus what is commonplace is suggested by a nearly forgotten uproar nearly two decades ago. On Feb. 3, 1987, newspapers disclosed that then-Sen. Lloyd M. Bentsen (D-Tex.), chairman of the Finance Committee, had set up a "breakfast club" for lobbyists who donated $10,000 to his campaign committee.

The implied bargain -- money for access -- struck many as just too obvious. Three days later, Bentsen ended the breakfasts and acknowledged that his error of judgment had been "a doozy."

Now, every day Congress is in session, there are lobbyist-organized fundraisers for senators and representatives -- at breakfast, brunch, lunch or dinner -- at which the basic transaction is little different than what got Bentsen in hot water. Take Dec. 14, 2005:

Lobbyists for BNSF Railway and United Parcel Service held a luncheon for Rep. Jim Gerlach (R-Pa.) at the Associated General Contractors townhouse ($1,000 per PAC, $500 a person), according to the Web site for the National Republican Congressional Committee. A few blocks away, according to the NRCC, lobbyists for MasterCard, Time Warner and DuPont

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honored Rep. J. Gresham Barrett (R-S.C.) at Tortilla Coast ($1,000). That evening, Promia Inc.'s Adrian Plesha hosted a reception for Rep. John E. Sweeney (R-N.Y.) at his East Capitol Street home -- $5,000 for "sponsors," $1,000 for PACs and $500 for individuals.

The pivotal point in Washington's changing culture, according to lobbyists and congressional ethics analysts, came in 1995, shortly after Newt Gingrich and his "Republican Revolutionaries" roared to power in the 1994 midterm elections. Tom DeLay, the new majority whip, and his allies began the "K Street Project" -- the pressuring of trade associations and lobbying firms to hire Republican, and to contribute to Republican campaigns if they wanted access to key leaders and committee chairmen in the House.

"We're just following the old adage of punish your enemies and reward your friends. We don't like to deal with people who are trying to kill the revolution. We know who they are," DeLay told The Washington Post.

DeLay announced last week he will not try to regain his former post of majority leader, even if he is cleared in a Texas trial over allegations of illegal fundraising. But his absence does not necessarily mean the lobbyist-lawmaker relationship will change on Capitol Hill.

One lawmaker hoping to move up in the GOP leadership is Rep. John A. Boehner (Ohio), chairman of the House Education and the Workforce Committee. He maintains the lobbyist-financed Freedom Project, with a lobbyist as treasurer and an all-lobbyist executive board. It has raised $5.94 million over 10 years and has contributed $3.26 million to fellow Republicans.

Some 2003-2004 expenditures include $21,990 at Sam and Harry's steakhouse, $16,189 in fees at Manassas's Robert Trent Jones Golf Club and $5,990 for lodging at La Quinta Resort & Club near Palm Springs.

"What used to be considered in Washington conduct to be hidden was turned into conduct to be flaunted," said Fred Wertheimer, president of Democracy 21, a group seeking campaign finance changes.

Although DeLay was a catalyst, some of the cultural changes he represented preceded him. And Democrats participated with vigor.

In 1981, then-Rep. Tony Coelho (Calif.), chairman of the Democratic Congressional Campaign Committee, began to "marry" businesses seeking legislation with Democratic lobbyists, especially former staffers. The maneuver gave the businesses better access and turned many into contributors to the DCCC.

That same year, the Republican firm Black, Manafort and Stone became the first in which partners served both as political consultants to candidates for federal office and lobbyists on behalf of corporations and trade associations.

Lobbyists also have unprecedented sway with the national party organizations. They held all the top positions at the 2004 GOP convention in New York.

The House GOP leadership has also brought them directly into the legislating process, institutionalizing the practice of using large networks of lobbyists to help "whip" bills by keeping vote counts and finding ways to persuade wavering members to vote with the caucus.

Recent years have even shown how the traditional lobbyist-lawmaker financial pipeline can flow in both directions. In addition to helping legislators raise reelection money, lobbyists have received large sums from politicians' PACs for vaguely defined services.

The soon-to-be-closed Alexander Strategy Group, for instance, received funds from committees associated with acting House Majority Leader Roy Blunt (R-Mo.) and DeLay -- $386,552, and $392,740, respectively.

DeLay's wife, Christine, and three former top aides -- Edwin A. Buckham, James W. Ellis and Tony C. Rudy -- worked for Alexander Strategy Group. Gregg Hartley, Blunt's former top political aide and now a lobbyist, defended the payments and said the money was paid "to utilize the services of several individuals who assisted with staffing, fundraising, strategy and operational services for the development, implementation and resource generation for a very effective and absolutely legal political campaign committee." Stanford political scientist David Brady said that in terms of overt corruption, this era does not compare to the gilded age of "robber barons" in the 19th century. Simon Cameron, a senator from Pennsylvania at that time, said of his colleagues: "An honest politician is one who, when he is bought, will stay bought."

L. Sandy Maisel, director of the Goldfarb Center for Public Affairs and Civic Engagement at Colby College, said the issue now is less a matter of criminality or overt corruption than a change in standards: "Congress as an institution now defines as ethical actions that would be derided elsewhere in society."

Let All The Sunshine In (WT)

By Paul M. Rodriguez

The Washington Times, January 12, 2006

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As John Boehner said when he threw his hat into the House majority leader's race, "adding more new rules isn't the answer" to clean up real and perceived egregious behavior now embroiling Congress as a result of the Rep. Tom DeLay, Jack Abramoff and Rep. Randy "Duke" Cunningham's disgraceful crimes.

Indeed, instead of adding more rules, how's this for a good government concept? Simply eliminate the very rules that sprang out of the Watergate-era campaign finance laws or many of the "reforms" following the House Bank and House Post Office scandals.

The concept isn't as far fetched as it sounds. Consider that it's one that has served well the residents of the Commonwealth of Virginia. The model is simplicity itself -- there are no restrictions governing political donations or gift giving other than making all of it public.

What a refreshing thought when one stops for a minute to ponder that, so far as memory serves, such a system has not led to any scandals in Virginia. Total transparency between donors and recipients, actual dollar amounts and specific goodies received are all put into the public domain for anyone to see, report and contemplate.

The major political parties have been fighting such rules since the 1974 Federal Campaign Act was signed into law to, basically, maintain some political advantages and loopholes. The sad fact is that, with approval by the Supreme Court, the only losers have been the American people and the First Amendment.

That said, the reality is that the large percentage of lobbyists (like journalists and government workers) are honest, good people. So the Abramoff's of this world really stink up the joints for all of us.

So it's rather ironic really when one considers that it's been under conservative Republican rule in the last few years that produced the McCain-Feingold legislation to supposedly -- yet again -- clean up campaign finance rules. Anyone remember the much-ballyhooed 527 political action committees?

Like prostitution, politics is as old as human kind. Maybe not much of a difference but the fact remains that each generation has seen its fair share of hookers and money scandals. And though laws are on the books to outlaw prostitution (except in certain locales in Nevada), no one has given serious consideration to outlawing politicians.

Instead, we've seen laws passed to protect pols from themselves and, arguably, to protect us from them. The sad fact is that our free speech rights to "speak" via political contributions -- whether individually or in groups -- have been abridged. Congress and the courts have theorized that losing some of these rights is okay if it's in the greater interest of the body politic. Something about a camel's nose in the tent springs to mind.

The result has been a body of laws, regulations and rulings that even experts in campaign finance and ethics law find confusing. So, how about trying something Virginia knows works?

Simply allow any American to givetoanypolitician(or wannabe) as much money as they want. And let anyone buy any politician or senior staff anything of value -- including a Rolls Royce or a yacht a la the Cunningham fiasco. Just make it all public within 30 days down to the last penny.

"Oh my God," I can hear naysayers scream, "you can't do that! Then the millionaires would buy up every politician and the little people would get suckered!" Really?

Consider the scores of millions spent by the likes of New Jersey Gov. John Corzine for his state's top job (and previously for the Senate seat), and New York Mayor Michael Bloomberg's lavish spending -- twice. Obviously, people can made up their minds when there's full public disclosure.

When the Republicans took over Congress in 1994 they promised to clean up the culture of corruption in Washington after 40 years of Democrat power. They promised to apply the laws of the land to themselves. They promised to live by the spirit of ethics, not just the rules. And Democrats joined them gladly after the myriad scandals from the late 1980s into the early 1990s.

The simplicity of the GOP "Contract with America" was its appeal. Republicans gambled that the public would support such common sense rules. They believed in the power of the people. So how about trusting the people yet again? We're all not as stupid as lawmakers or interest groups make us out to be.

Rep. David Drier, the California Republican who chairs the House Rules Committee, has been tasked by Speaker Dennis Hassert to come up with some lobbying rule changes. How about this David -- just scrap all the rules and truly shine the light on all that hidden money giving. Make it all public.

Arizona Legislator May Join Race To Succeed DeLay (WSJ)

By David Rogers

The Wall Street Journal, January 12, 2006

WASHINGTON -- As the two front-runners slowed, a third candidate edged closer to entering the nasty Republican contest to pick a successor to the party's fallen majority leader, Rep. Tom DeLay.

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Rep. John Shadegg stepped up calls seeking support from colleagues, and his allies were optimistic that the six-term Arizona lawmaker will offer a more change-oriented alternative to the two establishment figures in the field: Majority Whip Roy Blunt (R., Mo.) and Rep. John Boehner (R., Ohio), chairman of the House Education and Workforce Committee.

Last evening, Mr. Shadegg's office said no final decision had been made on the leadership race, but issued a statement critical of Reps. Blunt and Boehner for not being aggressive enough, in the congressman's words, "to clean up our act in the wake of the recent ethics scandals and get back to the agenda that brought us the majority in the first place."

"At the end of the day, he hinted, he'd be in the race. I don't know what his decision is," said Speaker Dennis Hastert (R., Ill.), who spoke by telephone with Mr. Shadegg. Neither Mr. Blunt nor Mr. Boehner appears close to the 116 votes needed to win. With so many Republicans uncommitted, Mr. Shadegg has the potential to shake up the race, forcing at least a second ballot and greater discussion of changes that many members are demanding.

"I'd say uncommitted is leading by two lengths," said Rep. Charles Bass (R., N.H.), one of those encouraging Mr. Shadegg's candidacy.

"I think it's important to pin these people down," said Rep. Jeff Flake (R., Ariz.), a Shadegg ally. "I'm not convinced those running realize the trouble we're in as a party and that a modest course correction won't do."

The jockeying takes place against a background of scandal and drift within Republican ranks that threatens the party's hold on the House going into November's elections. Mr. DeLay's decision to surrender the majority leadership post came just days after his friend, lobbyist Jack Abramoff, pleaded guilty to three felonies in federal court and promised to cooperate in a larger Justice Department probe that likely will touch other lawmakers as well.

The party was stunned by the actions of former Rep. Randall "Duke" Cunningham, a California Republican who resigned from Congress in November after pleading guilty to taking bribes in exchange for helping steer contracts to defense companies.

The Abramoff and Cunningham scandals cast light on the dangers of lawmakers earmarking funds in spending bills for favored projects, a practice common to both parties, but which has grown under Republican rule. Mr. Flake argues that whoever succeeds Mr. DeLay must address not only lobbying abuses but internal institutional changes within the House.

Reps. Blunt and Boehner are both promising overhauls, but the two men are so closely linked to the Washington lobbying community that they have trouble convincing their colleagues that they will be real advocates for change. In frustration, each camp has stepped up its behind-the-scene attacks on the other. As the race turns nastier, a fresh face such as Mr. Shadegg could be at an advantage.

The Republican Study Committee, representing House conservatives, will hold a retreat in Baltimore before the Feb. 2 leadership elections. An effort to move up the party deliberations by a week -- something that might have helped Mr. Blunt -- failed yesterday. A petition drive began to require that nearly all of the leadership posts except the speakership be thrown open for fresh elections.

The timing of the Baltimore retreat could help Mr. Shadegg, a former RSC leader. He showed an ability to reach out to moderates when he quietly won a foothold in the leadership at the beginning of this Congress. Mr. Hastert has since tapped him to lead a series of dinners with Republicans on immigration issues -- a divisive issue. He has been an ally in promoting legislation to help small, sole proprietorships gain access to cooperative health insurance.

Congress Watch: Few Expect Dark Horse In House GOP Race (USNEWS)

By Paul Bedard

U.S. News and World Report, January 12, 2006

House Republican lawmakers do not think that a third candidate will move forward this week to challenge Ohio Rep. John Boehner and Missouri Rep. Roy Blunt for the House majority leader's post.

Senators hope to strip oil taxes from Katrina bill (12/21/05)

Frist predicts Jan. 20 Alito confirmation (12/19/05)

Aides say Bush has bottomed out (12/13/05)

More from Washington Whispers

More from Nation & World

"It's just too late to get in," said a key GOP leadership aide. However, added another, if neither Blunt nor Boehner can nail down the job within the next six to eight days, a move could be made to seek a consensus candidate. The leading alternative there, said several leadership officials and GOP consultants, is Rep. Tom Reynolds, head of the National Republican Congressional Committee. Insiders close to the two campaigns to replace Rep. Tom DeLay as the permanent majority leader said that while Blunt is the leader, Boehner is gaining ground.

"Boehner is making good progress, so Blunt may have some vulnerability," said a key source, who added that Blunt's position as House whip should make it easy for him to nail down the job quickly. "If we don't see Blunt wrapping it up this week,

then all bets are off," added the insider. A Republican consultant who was involved in the 1998 coup and installation of Dennis Hastert as speaker said that the first week is critical.

"If you can't nail it down then, the members start looking for somebody else. And in that case, anybody could emerge," he said. Meanwhile, socially and fiscally conservative members want a candidate who is close to them on their issues, but one said Tuesday that they don't expect to persuade a member from their caucus to enter the race.

House Republicans Outline Lobbying Reform Ideas (REU-Y2)

By Richard Cowan

Reuters, January 12, 2006

The two candidates vying to become the next U.S. House of Representatives majority leader set forth their ideas on Wednesday for stamping out ethics problems that have threatened Republicans' control of the chamber beyond this year.

Ohio Republican Rep. John Boehner (news, bio, voting record) called for outlawing the earmarking of federal funds for special-interest projects sought by lobbyists, which do not go through the regular oversight process in Congress.

In a letter to House Rules Committee Chairman David Dreier, Boehner called for "enacting a ban on unauthorized earmarks for private entities that serve private interests at the expense of the public interest."

Boehner, a 16-year House veteran, said, "We all need to acknowledge that the system is spinning out of control and that it's time to do something about it."

Annual spending bills have become a magnet for such projects, which critics call special-interest "pork."

Boehner's only opponent so far in the race for majority leader is Acting Majority Leader Roy Blunt of Missouri, who offered his own set of ethics reforms.

Blunt, in his fifth two-year House term, called for banning privately-funded travel for House members and aides or at least requiring advance approval of such travel.

Rep. Tom DeLay, who is battling money laundering charges in a Texas court, told fellow Republicans on Saturday he had decided to permanently vacate the position of majority leader, the number 2 leadership position behind Speaker. House Republicans are to vote on his replacement on February 2.

House Republicans have put ethics and lobbying reform at the top of their legislative agenda this year, following lobbyist Jack Abramoff's recent guilty pleas in an expanding fraud and bribery investigation.

At least one Republican representative is known to be under investigation related to the Abramoff probe and many more could be drawn into the scandal. Abramoff deposited millions of dollars into lawmakers' coffers on behalf of himself, his wife and casino and American Indian clients.

DeLay took expensive trips to London and Scotland in 2000 that were paid for by Abramoff.

Besides travel restrictions, Blunt has proposed new limits on political contributions made by Indian tribes and called for quicker disclosures of lobbying expenditures.

Boehner also called for better disclosure of lobbyists' contributions to federal campaigns.

Both Boehner and Blunt received political contributions since 1999 from Abramoff or the Indian tribe or casinos he represented, according to the private Center for Responsive Politics. Boehner said he has not received "a single penny" from Abramoff. Last week, Blunt said he was donating to charity Abramoff-related campaign contributions.

In Majority Leader Race, Lobbying Rules Are The Easy Target (NYT)

By Carl Hulse

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - With the need for new ethics and lobbying rules emerging as a central theme in the race for House Republican leader, the two contenders on Wednesday engaged in an arms race over who supported the most stringent changes.

Representative John A. Boehner of Ohio, trying to appeal to fiscal conservatives unhappy with an explosion in pet projects being inserted in broad spending bills, proposed banning such "earmarks" unless they received individual Congressional scrutiny and approval.

"We all need to acknowledge that the system is spinning out of control and that it's time to do something about it," Mr. Boehner wrote in a letter to Representative David Dreier of California, the Rules Committee chairman who is leading a Republican effort to assemble a proposal to overhaul rules for lobbyists. Mr. Boehner said the plan should also end lobbying rule exemptions for advocates for government-financed institutions like universities.

Representative Roy Blunt of Missouri, Mr. Boehner's rival for the position of majority leader, backed Speaker J. Dennis Hastert's proposal to eliminate Congressional travel paid by special interest groups. Mr. Blunt's other proposals include penalties

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on lobbyists for violations of the Congressional gift ban. It is now improper only for lawmakers to accept gifts of more than $50, not for a lobbyist to provide such gifts.

It was not just the leadership rivals seeking to replace Representative Tom DeLay who sought to up the ante over Congressional ethics.

Representative Nancy Pelosi of California, the House Democratic leader, wrote Wednesday to Mr. Hastert, asking him to join her in urging the House ethics committee to investigate the conduct of Representatives Bob Ney of Ohio, Mr. DeLay of Texas and other lawmakers whose names have emerged in a federal lobbying inquiry.

"To restore the integrity of the House in the eyes of the American people, the conduct of those members and staff whose unethical behavior has severely damaged the reputation of the Congress itself must be immediately and fully investigated," Ms. Pelosi wrote. She blamed Mr. Hastert's decision to replace the ethics committee chairman and to institute other changes for paralyzing the panel in 2005.

In the wake of a guilty plea to corruption charges by the lobbyist Jack Abramoff and the conviction of a California lawmaker on bribery charges, Mr. Hastert has conceded that a review of lobbying rules is necessary and has given the job to Mr. Dreier. Congressional Democrats are preparing their own proposals.

Representatives Boehner and Blunt are trying to establish their credentials on lobbying changes in part to offset criticism that they have their own well-established links to Washington's lobbying community and that neither would represent a significant departure from the reign of Mr. DeLay.

Mr. Blunt, No. 3 in the House leadership, has been filling in for Mr. DeLay, who stepped aside after being indicted on campaign-finance charges in Texas. Mr. Boehner, chairman of the Education and the Workforce Committee, had held the No. 4 position in the leadership after Republicans won control of the House in 1994 but lost the job in 1998.

Some House Republicans are advocating a broader leadership review beyond the vacant majority leader's post and say that some new blood is needed at the top.

"We have been mired in the mud of Jack Abramoff, and our message has been lost," said Representative Todd Tiahrt of Kansas, who has said he wants the No. 3 position held by Mr. Blunt. "In order to regain the faith and confidence of the American people, the speaker must have new faces on his leadership team. The status quo may lead to minority status."

While Mr. Blunt is ahead in public pledges of support, having 62 of the 116 needed compared with Mr. Boehner's 35, Mr. Boehner's lobbying plan struck a chord with Representative Jeff Flake of Arizona, one of the House conservatives who had pushed to replace Mr. DeLay permanently.

Mr. Flake has sought to rein in the growth in pet projects that end up in the final versions of huge spending bills without previous consideration by Congress, preventing them from being eliminated without defeating the entire bill. Watchdog groups say that earmarks have contributed to lobbying abuses as contractors and others seeking the special spending go to extremes to win support from influential lawmakers.

"Leadership candidates are going to have a difficult time convincing the Republican conference that they're serious about reform without a proposal for earmark reform," Mr. Flake said.

Some lawmakers and senior Republicans said the fact that neither contender had been able to wrap up the race leaves the door open for others to jump in, with Representative John Shadegg of Arizona mentioned as a possible contender. Republicans on Wednesday dropped plans to move the election forward to conclude it before the Jan. 31 State of the Union address. Instead, they said, it will take place on Feb. 2.

House Members Weigh Blunt's Reputation, Ties To DeLay (SCCD)

By Sam Hananel

The State College Centre Daily, January 12, 2006

WASHINGTON - If Rep. Roy Blunt is chosen the new House majority leader, it will be in large part because of his reputation as a consensus builder and a good listener.

Should colleagues pass him over for the No. 2 House post, the Missouri Republican can blame his close ties to former Majority Leader Tom DeLay and the desire for a clean break from controversy and scandal, according to members of Congress and other observers.

Clear divisions are already emerging in the camps that have committed to supporting Blunt or his main opponent for the position, Rep. John Boehner, R-Ohio. The election is expected early next month.

As of Wednesday afternoon, Blunt had at least 62 publicly declared supporters while Boehner claimed more than 30 supporters. It takes 116 votes from GOP members to win the post.

"Roy is a Midwestern conservative," said Rep. Christopher Shays, R-Conn., a GOP moderate backing Blunt and a longtime critic of DeLay.

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"He understands that a Republican in Connecticut is different than a Republican in Missouri and there needs to be room in our party for both," Shays said. "Roy has done a good job of reaching out to moderates and conservatives alike."

While DeLay, R-Texas, gave new meaning to the word "arm twisting," Blunt has taken a gentler approach to corralling the votes needed to pass legislation. He has served as both majority whip and majority leader since DeLay was forced aside to face money laundering charges, and the experience could give Blunt an edge in the race against Boehner.

"Roy Blunt has been enormously effective for two reasons: He has a servant's heart and he listens. Both are prerequisites for leadership," said Sen. Jim Talent, R-Mo.

Rep. Jo Ann Emerson, R-Mo., praised Blunt's performance filling in for DeLay. Despite a rocky start, he was able to push through controversial measures to cut the budget and trim spending.

"Roy did a very good job in very difficult circumstances, having to do both his whip job and be temporary majority leader," Emerson said. "He's an excellent consensus builder and he's able to work well with all of the different factions within our conference."

But some members want something else. Rep. Anne Northup, R-Ky., who is backing Boehner in the race, wants to send voters a message that Congress is cleaning house.

"When all the same people are at the leadership table, patterns develop, deferences occur," Northup said. "And John Boehner has been out of that circle, and I think he will bring fresh ideas and a fresh perspective and shake that up."

That perspective is catching on after disgraced lobbyist Jack Abramoff pleaded guilty last week to federal charges in a congressional corruption investigation. Investigators are now focused on several members of Congress and their aides, including a former aide to DeLay.

Blunt's rise in the leadership ranks is closely tied to DeLay and his own connections to Abramoff or his clients could derail his leadership bid. Blunt spokeswoman Burson Taylor says all the congressman's dealings with lobbyists were ethical.

"For Blunt, DeLay is both an asset and a liability," said Stuart Rothenberg, an independent political analyst in Washington. "DeLay empowered Blunt and Blunt was clearly his guy and was loyal to DeLay. But at the same time, he kind of carries the aroma of DeLay, and some people might want to put on a whole new scent."

When Boehner was elected to the House 15 years ago, he championed ethics reform amid a scandal involving the House bank and Democrats. He became part of the Republican leadership when the GOP gained a majority in 1994, but was ousted four years later in an internal party struggle.

Yet Boehner, too, is linked closely to lobbyists. In 1995, he was criticized for handing out campaign checks from the tobacco industry to colleagues on the House floor.

The two Republicans who began a petition last week calling for elections to replace DeLay - Reps. Jeff Flake of Arizona and Charlie Bass of New Hampshire - are now urging their colleagues not to endorse either candidate until they offer detailed reform plans to end the wave of corruption.

Blunt made that pitch when he officially launched his candidacy Sunday. He pledged to "regain the trust and confidence of our constituents by enacting new lobbying reforms and enhanced penalties."

But Flake is already expressing doubts about Blunt's commitment to reform. Flake wants to end the practice known as "earmarking" - inserting costly local projects into big spending bills.

Flake said Boehner's has a great record because he opposes earmarks.

"There's a stark contrast between him and Blunt on that regard," Flake said. "Blunt is a champion of earmarks."

New Majority Leader Election Date Rejected (AP)

By Andrew Taylor

The Associated Press, January 12, 2006

WASHINGTON -- House Republican leaders Wednesday rejected calls to move up the election of a new majority leader to replace Tom DeLay before President Bush's State of the Union address Jan. 31. Rep. Roy Blunt claimed more than half the votes needed to win, even as a potential new candidate, John Shadegg, R-Ariz., publicly weighed a run.

Speaker Dennis Hastert decided Wednesday to stick with a Feb. 2 caucus election scheduled after DeLay, facing trial in Texas on charges of laundering campaign funds, said last weekend he would not try to regain the job.

Supporters of Missouri Rep. Blunt, currently the No. 3 Republican in the House as party whip, had called this week for holding the election before the House reconvenes Jan. 31. Blunt, who has been acting as majority leader since DeLay's indictment, is seeking election to the job in a race against Ohio Rep. John Boehner, chairman of the House Education and the Workforce Committee.

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At the same time, some House Republicans are pressing for more sweeping changes in their leadership. Rep. John Sweeney, R-N.Y., is drafting a petition calling for elections for several junior leadership posts. Every position but Hastert's would be at stake.

"There ought to be a full review and commitment by those who present themselves as leaders to a new agenda so we can re-instill the confidence of the American people," said Sweeney.

Sweeney's maneuver reflects sentiment among some rank and file Republicans such as Mary Bono and Dan Lungren of California and Jeff Flake of Arizona for new faces at the leadership table. Simply replacing DeLay is not enough, Bono says.

"The problem people are seeing is they want new leadership and that's not offering enough new leadership," said Bono.

In a separate bid to recover the GOP's standing with voters in the wake of a lobbying scandal, Hastert has suggested banning privately funded congressional trips, a senior Republican lawmaker said Wednesday.

Rep. David Dreier, R-Calif., said GOP leaders were "seriously considering" the need to eliminate all privately financed travel. "That would be a very strong statement. We want to be bold," said Dreier, chairman of the House Rules Committee.

In the leadership race, Blunt claims to have more support than Boehner has. But with many Republicans undecided and some calling for a third alternative, and Rep. John Shadegg, R-Ariz., has conspicuously declined to take himself out of the running.

"I am very definitely still considering (a run)," Shadegg said. "I've come to the conclusion we need significant change."

Sixty-two lawmakers are publicly supporting Blunt and 34 are supporting Boehner according to tallies released by the rival campaigns. Both say they have additional supporters who have not approved disclosure of their names. It would take 116 votes to claim the post.

DeLay, who had tried to get the election delayed until February in hopes that he would be tried and acquitted in a Texas court by then, announced last Saturday he would not seek re-election. He made the announcement after several Republicans expressed concerns about his ties to lobbyist Jack Abramoff, who pleaded guilty last week to three federal felony charges related to congressional influence peddling.

U.S. House Republicans Set Majority Leader Election On Feb. 2 (BLOOM)

By Laura Litvan

Bloomberg, January 12, 2006

Jan. 11 (Bloomberg) -- U.S. House Republicans set an election to replace Tom DeLay as majority leader for Feb. 2, two days after President George W. Bush's annual State of the Union address.

House Republicans will meet that day at 1 p.m. to hold their first contested leadership elections since 1998. Representative Roy Blunt of Missouri and John Boehner of Ohio are both vying for the majority leader job and a third candidate -- John Shadegg of Arizona -- has indicated he might join the race.

``I think he's looking at it very seriously," said Representative Charles Bass, a New Hampshire Republican, who said he talked to Shadegg today.

DeLay stepped aside from the leadership post in September after being indicted by a Texas grand jury on money laundering charges. On Jan. 7 Delay said he wouldn't try to return to the post even if his trial ends in an acquittal. His announcement last week set off the race to replace him.

Blunt, who has served as acting majority leader since late September, has lined up 56 Republicans who support his election as majority leader, his aides said. Boehner, the chairman of the House Energy and Commerce Committee, has been endorsed by more than 30 lawmakers, his aides said.

House Speaker Dennis Hastert said Saturday that the election would be held the week of Jan. 30. Some House Republicans, including Representative Clay Shaw of Florida, had urged Hastert to call Republicans back to Congress earlier. In a letter to Hastert this week, Shaw and four other Florida Republicans said the elections might ``overshadow" Bush's speech.

Across-the-Board Votes On House GOP Leaders Sought (LAT)

By Mary Curtius

The Los Angeles Times, January 12, 2006

WASHINGTON — Rank-and-file House Republicans on Wednesday launched a push to require every member of their leadership but Speaker J. Dennis Hastert to face elections for their posts Feb. 2, saying the step was necessary to convince the public that the party was serious about ethics and lobbying reform.

Rep. John E. Sweeney (R-N.Y.) planned to start circulating a petition as early as Wednesday night asking for broad elections. The move underscored many House Republicans' belief that their leaders needed to do more to respond to the

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unfolding corruption scandal involving former lobbyist Jack Abramoff, if the party was going to keep its congressional majority in the November elections.

Only days ago, House Republicans appeared set to hold a single election to replace Tom DeLay, who had resigned as majority leader, the No. 2 leadership position in the House. DeLay has been indicted in Texas on campaign finance-related charges unrelated to the Abramoff case.

But under Sweeney's petition, House Republicans would hold elections for five leadership posts in addition to picking a successor to DeLay as majority leader.

"Most of this year, I have felt like our leadership needed new people at the table," said Rep. Anne M. Northup (R-Ky.), a conservative who normally is supportive of the leadership. "The fact is that they are tired."

She added: "I have not seen evidence of our leadership being able to stand up to special interests. I think it is important that every person in leadership is on the spot and has to convey to us why they should continue in leadership."

Republican concerns about the fallout from the lobbying scandal also echoed through the race to replace DeLay.

So far it has been a two-way competition between DeLay's hand-picked successor, Rep. Roy Blunt (R-Mo.), and Rep. John A. Boehner (R-Ohio), chairman of the House Education and the Workforce Committee.

Rep. John Shadegg (R-Ariz.) was said by lawmakers to be close to announcing that he would also run for majority leader, urged on by members who feared that Blunt and Boehner were too closely tied to DeLay.

"I've talked to Shadegg a number of times," said Rep. Jeff Flake (R-Ariz.). "We'd all benefit if he runs…. I think he is leaning in that direction."

DeLay stepped down from the majority leader post in September after a Texas grand jury indicted him on money-laundering charges. He had hoped to clear up the Texas charges and regain his leadership job, but that ambition was dashed when Abramoff pleaded guilty this month to attempting to bribe and corrupt members of Congress. Three former senior DeLay staffers were implicated in the federal case.

Rank-and-file House Republicans circulated a petition demanding that a permanent successor to DeLay be elected, a move that forced DeLay's decision last weekend not to try to reclaim his leadership position.

Encouraged by their success, a coalition of conservative and moderate Republican lawmakers was "emboldened to talk about things that have been bothering them for a long time" and to push for broader and deeper ethics reforms, said one Republican lawmaker, speaking on the condition of anonymity because of the political sensitivity of the issue.

Hastert (R-Ill.) has scrambled to respond. He has announced he will push for new ethics rules and restrictions on lobbyists when Congress returns Jan. 31 from its winter recess.

Ron Bonjean, Hastert's press secretary, declined to respond Wednesday to the move to seek broad leadership elections.

For the time being, lawmakers and political analysts said, Hastert's position as speaker is thought to be secure, although he too had ties to Abramoff. Hastert sent a letter to Interior Secretary Gale A. Norton in June 2003, asking that she block a casino that Abramoff's tribal clients thought would threaten their own casino profits.

Just days before Hastert wrote to Norton, tribes represented by Abramoff contributed more than $20,000 to Hastert's political action committee.

"My instinct is that he's safe, but what you're starting to pick up is a new dynamic that's surfaced … for the first time," said Mike Franc, director of government relations for the Heritage Foundation, a conservative think tank. "There is a growing desire on the part of the rank-and-file membership to have a fresh beginning — a sense that you have to do something that is a clean break from the previous practices."

Rep. David Dreier (R-San Dimas), charged by Hastert with putting together a lobbying rules reform package, said one measure under consideration would put restrictions on the so-called revolving door of lawmakers and their staffers leaving Congress to take lobbying positions and then returning to lobby Congress.

Another measure under consideration would end the widespread practice of allowing private groups to fund congressional trips. Political MoneyLine, a nonprofit organization that tracks money in politics, says that private organizations have spent about $20 million in the last five years on trips for members of Congress.

Hastert and other members have in the past defended the practice, saying it saves taxpayers money and helps educate lawmakers about important issues. But trips are being scrutinized by federal investigators as one way that lobbyists and other groups seek to unduly influence members of Congress. One trip that has received media attention is DeLay's sojourn with Abramoff to a luxury golf resort in Scotland in 2000.

Some members said that simply banning such trips did not address the root cause of the GOP's problem as the party prepares to face voters in November: a leadership that, in their view, has allowed ethics problems to go unanswered for too long.

Northup, the Kentucky lawmaker, said she called for all members of the leadership except Hastert to stand for election during a conference call Hastert held with Republican lawmakers Monday.

Rep. Dan Lungren (R-Gold River) said he had worked out the language of the election petition with Sweeney, and would help him seek the 50 signatures it takes to call a meeting of House Republicans to vote on holding broad elections.

"This is really coming to a head because of the Abramoff stuff," Lungren said. "I'm not suggesting there is a single member of the current leadership or a single staffer of the current leadership who has involvement with him, but we need to do our due diligence."

Lungren said Republicans could not afford to elect another majority leader who might, in a few weeks, face accusations that he was closely tied to Abramoff.

Even if 50 members sign the petition, Lungren acknowledged, it is far from a forgone conclusion that a majority of Republican House members would agree to broaden the elections beyond replacing DeLay.

"Obviously, there are those who would not like to see this go forward," Lungren said. "They would like to presume that we don't need to do this … but we need to show voters that we confront this issue."

Texas Redistricting Is One More Hurdle For DeLay (NYT)

By Rick Lyman

The New York Times, January 12, 2006

HOUSTON, Jan. 11 - Representative Tom DeLay is in the toughest re-election campaign of his 11-term House career, a battle that might be decided not only by his legal problems, but also by the Congressional redistricting plan he spearheaded in 2003.

The redistricting led to the loss of six Democratic seats in Texas in 2004, but it also shifted thousands of Democratic voters to strong Republican districts. Among those, Mr. DeLay's 22nd District added several Democratic-leaning parts of Galveston County; several political analysts estimate they may have raised the district's Democratic vote around 5 percent.

"There is huge irony here," said Richard Murray, a University of Houston political scientist. "Six Democrats in Congress were eliminated, but the seventh victim may turnout to be the author of the plan."

Should Mr. DeLay survive, as expected, a March 7 primary challenge by three Republican opponents, in November he will face a former Democratic congressman, Nick Lampson, whose district once included those parts of Galveston County now in Mr. DeLay's district.

Mr. Lampson lost his seat in 2004 when his district, the Second, was reconfigured into a Republican-dominated one. He moved into the 22nd District last April, he said, with the intention of taking on Mr. DeLay.

"I'm not running against him because he took my district," Mr. Lampson said, seated in a two-room suite of campaign offices in Clear Lake. "I'm running against him because I think I was a better member of Congress than he was, and I can be again."

Mr. DeLay, who has been a regular presence in the district in recent weeks, paused on his way out of a speech to the Rotary Club of Pasadena South to reflect on the race ahead.

"Of course, it's going to be a tough race," he said, spinning in his right palm a silver dollar a constituent had just given him as a good-luck piece. "The entire Democratic machine has come down here from all over the country after me."

Local Republican leaders play down the chances that Mr. DeLay will be defeated in a district that remains predominantly Republican.

"The only people who consider this possible are clearly delusional," said Eric Thode, Republican chairman in Mr. DeLay's home county of Fort Bend. "It's not a competitive district. It's not even an issue."

Without question, Mr. DeLay has had a rough patch.

Indicted by a Travis County grand jury in September for state campaign finance law violations, he was forced to step down from his post as House majority leader temporarily. Next, a longtime political associate, Jack Abramoff, was indicted, then pleaded guilty last week to public corruption charges under an agreement to cooperate with federal prosecutors. Mr. DeLay, who failed to have his own case expedited, permanently resigned as majority leader on Saturday, saying he did not want his travails to become a distraction for the party.

Now, he will be running for re-election while standing trial in Austin on money laundering charges in a case over campaign financing that Mr. DeLay paints as politically motivated. Meanwhile, Washington waits to see what other indictments might flow from the Abramoff scandal.

"I think there is a 50-50 chance DeLay won't even be in the race in November," said Calvin C. Jillson, a political scientist at Southern Methodist University in Dallas.

If he does stay in the race - and Mr. DeLay insists he will - he has the demographics of the 22nd District to bolster him.

"Despite everything, it's extremely difficult to dislodge Tom DeLay in a district with such a strong Republican base and a strong, straight-ticket Republican voting trend," said Ted Delisi, a Republican strategist in Austin.

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Yet the district has changed since 2003, and not in Mr. DeLay's favor. Running in the reconfigured district for the first time in 2004, Mr. DeLay won handily, but with a smaller margin than in previous elections: 55 percent compared with his Democratic opponent's 41 percent.

The district spreads across the southern rim of the Houston metroplex, from Galveston through the southern Houston suburbs of Harris County and into more rural Brazoria County and Fort Bend County, which includes Mr. DeLay's hometown of Sugar Land.

"I am sure the Democrats are going to pour money into this race," said Jared Woodfill, the Harris County Republican chairman. "But I think the congressman is going to be successful in March and in November. What is different this cycle is that people on both sides have started working harder and earlier."

Mr. DeLay is opposed in the Republican primary by Michael Fjetland, who has run against him before; Pat Baig, a former teacher and political novice; and Tom Campbell, a Houston lawyer who lives in Sugar Land and served in Washington as general counsel to the National Oceanic and Atmospheric Administration during the administration of the first President Bush.

Supporters of Mr. DeLay portray Mr. Fjetland and Ms. Baig as mischief-makers with little financing. Mr. Campbell, the latest entrant, appears to have solid credentials as a conservative Republican and promises to raise $400,000 to fight Mr. DeLay over the next two months.

"He seems like a decent enough guy," Mr. Woodfill said of Mr. Campbell, "but the fact is he has not been active in the party. And he hasn't got much time to mount a serious campaign."

Mr. Campbell said that his outsider status would help him with voters weary of Mr. DeLay's hard-knuckled politics.

"Congressman DeLay has employed an 'ends justified the means' approach and, somewhere along the way, has cut corners and engaged in ethical lapses," Mr. Campbell said before a campaign event at a Houston law firm Wednesday. "This is an uphill battle, but Tom DeLay has been kind enough to come part way down the hill."

The general election in November is further complicated by the emergence of another former congressman, Steve Stockman, an ardently conservative Republican who also once represented a part of what is now the 22nd District. Mr. Stockman has said he may run as an independent, a move Republican leaders fear might cost Mr. DeLay votes.

Wade Webster, a Republican precinct chairman in Clear Lake, said he thought the party would stand behind Mr. DeLay, for now.

"It's going to be tougher, yes, with all the bad publicity and the innuendos and what-not," he said. "Until something more definitive comes out, I'm supporting him. But I retain the option to change my mind."

Democrats, meanwhile, happily cite polls suggesting that Mr. DeLay is in jeopardy and insist that his problems will undermine him in the district, even if it is Republican.

In a poll for The Houston Chronicle last March, for instance, 40 percent of the respondents in Mr. DeLay's district said their opinion of him had dropped in the previous year. And a USA Today/Gallup poll in early December showed Mr. DeLay with a favorability rating of just 37 percent, and had him losing to an unnamed Democratic opponent 49 percent to 36 percent.

Mr. DeLay and his supporters question the polls' methodologies and say his support is significantly stronger. "We have our own internal polls showing us doing much better," Mr. DeLay said, flipping that silver dollar.

He paused and held up the dollar between his thumb and index finger.

"Am I allowed to keep this?" he asked. "What do you think? Am I allowed to keep this?"

Houston TV Stations Withhold Ads Attacking DeLay (REU-Y2)

By Jeff Franks

Reuters, January 12, 2006

Several Houston television stations withheld a political ad on Wednesday accusing U.S. Rep. Tom DeLay of corruption after a lawyer for the former House majority leader said the ad was false and could lead to legal action.

The ad, sponsored by public interest groups Campaign for America's Future and Public Campaign Action Fund, calls for DeLay to resign because of his indictment in Texas on campaign finance charges and his links to disgraced Washington lobbyist Jack Abramoff.

"All four of the major broadcast stations (in Houston) contacted to air the ad, as well as Time Warner cable, have stated they either will not run the ad or will keep it off the air for further review," according to a statement sent out by DeLay's office.

Some of the stations said during their newscasts they were looking at the ad to determine its credibility or that they had found some of the allegations to be questionable. The ad was supposed to run for a week, starting on Wednesday.

In a letter to the stations, DeLay attorney Donald McGahn said the ad was "reckless, malicious and false, casting Mr. DeLay in a false light by accusing him of unsubstantiated criminal conduct. Such accusations are actionable."

"We demand that you refuse or otherwise cease airing the advertisement, so as to avoid any liability," the letter said.

Public Campaign Action Fund national campaigns director David Donnelly said DeLay was trying to prevent people in his Houston-area district from knowing what "he's up to with corrupt lobbyists in Washington."

"When powerful lawmakers corrupt the political process and get caught, they often try to bully the media to try to prevent them from doing their job," he said in a statement.

Despite the menacing language in the letter, DeLay spokeswoman Shannon Flaherty said McGahn was not threatening to sue the television stations, although at least one of them reported he was.

Abramoff sent shock waves through Washington last week when he pleaded guilty to fraud charges and admitted giving lavish gifts and trips to lawmakers in return for special treatment. He has agreed to cooperate with prosecutors investigating corruption in Congress.

DeLay, who received campaign contributions from Abramoff and associates over the years, has described the lobbyist as a good friend.

After Abramoff's guilty plea, DeLay announced he was giving up trying to regain his position as House majority leader, which is the second most powerful Republican in the House of Representatives.

He stepped down from the post in September after he was indicted in Texas on charges of conspiracy and money laundering linked to campaign contributions raised by his Texans for a Republican Majority political action committee for the 2002 Texas Legislature elections. DeLay has denied any wrongdoing.

Survey Highlights Employees' Hankering For Training (WP)

By Stephen Barr

The Washington Post, January 12, 2006

Most federal employees like their jobs and even more are motivated by pride in their work, but almost half would like additional training to improve their job performance, according to preliminary results of a survey by the Merit Systems Protection Board.

Nearly 37,000 full-time government employees from 24 agencies participated in the survey, conducted last year. A summary of the findings appears in this month's Issues of Merit newsletter, published by the board's office of policy and evaluation, headed by Steve Nelson .

Although 64 percent of survey respondents said they have received sufficient training to do their jobs, 46 percent said they would like additional training so that they can improve on their work.

A huge majority, 81 percent, said the extra career development should be financed by their agencies and provided through formal training sessions. Slightly fewer, 77 percent, supported on-the-job developmental programs, the newsletter said.

Still, only 33 percent indicated that they had used career development plans to alert supervisors to their training expectations. Only 48 percent saw their supervisors as providing opportunities to improve their skills and performance, the survey found.

"These results suggest that better communication between employees and their agencies may be necessary if federal employees are to receive the training they need," the newsletter said.

In the MSPB survey, 71 percent of the employees said they liked their jobs, and 98 percent said they took pride in their work.

Interestingly, only 60 percent said they think their jobs are secure, possibly a sign that efforts to reduce federal spending and contract out work might be changing perceptions about federal employment. In the survey, 57 percent of rank-and-file employees and 62 percent of supervisors said their offices had been downsized in the past five years.

About 70 percent of survey respondents said they would be motivated by a hypothetical cash award of $1,000 or increased chances of promotion. Only 40 percent said they were satisfied with the recognition and awards they receive, and 61 percent said they were satisfied with their pay, according to the newsletter.

The MSPB findings, for the most part, appear in line with other recent surveys.

A 2004 report from the Office of Personnel Management found 55 percent of employees were satisfied with the training they had received for their current jobs. But only 35 percent of the employees were satisfied with their opportunities to get a better job, and only 40 percent told OPM that they were satisfied with the policies and practices of their senior leaders.New Leader for Postmasters

Dale Goff , the postmaster in Covington, La., has been elected president of the National Association of Postmasters.

He began his career 36 years ago as a postal assistant in New Orleans and has served as a postmaster for 26 years. He has served as Louisiana state president and as national secretary-treasurer with the association, which represents the interests of about 42,000 postmasters, postal officers and retirees in Congress and at postal headquarters.

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Goff and his wife, Becky, have moved to Alexandria, where the association has its main office. He succeeds Wally Olihovik , who served for four years.New AU Program Chief

Robert M. Tobias has been named director of public service executive education programs at American University's School of Public Affairs.

He will lead the Key Executive program, which allows federal managers and executives to earn a master of public administration degree. Tobias will continue to head AU's Institute for the Study of Public Policy Implementation, one of the sponsors of the "Best Places to Work in the Federal Government" rankings.

Tobias, a former president of the National Treasury Employees Union, has served on the Internal Revenue Service Oversight Board. He is a member of the National Academy of Public Administration.

Applications are being accepted for the Key Executive program, and the university will host an open house at 6 p.m. today. For information, call Jacqueline McLaughlin Linde , an assistant dean, at 202-885-6248.

The Reliable Source (WP)

By Amy Argetsinger and Roxanne Roberts

The Washington Post, January 12, 2006

HEY, ISN'T THAT . . . ?

Vice President Cheney and Don Rumsfeld at Clyde's of Gallery Place on Tuesday night. The veep and defense secretary took their wives to a Department of Defense dinner at the recently opened branch of the restaurant, creating quite the security fuss in Chinatown -- many black sedans, men with earpieces. Upstairs in the private Piedmont Room, they nibbled on hors d'oeuvres (crab cakes, smoked salmon and dim sum) and then enjoyed Maryland crab soup and New York strip steaks.

Army Is Poised To Kill Spy-Plane Effort (WSJ)

By Jonathan Karp

The Wall Street Journal, January 12, 2006

The U.S. Army is poised to cancel a Lockheed Martin Corp. spy-plane program valued at as much as $8 billion, in the face of competing budget priorities and problems in the aircraft's development, according to industry and government officials.

The Army suspended funding for the Aerial Common Sensor surveillance plane in September as a result of concerns about the plane's cost and size, and asked Lockheed to offer alternative solutions. People familiar with the program said the Army is expected to announce the ACS's termination as early as today, the end of a 60-day period during which Pentagon officials reviewed Lockheed's four proposals.

The decision would also be a blow to Lockheed's main partner in the program, Empresa Brasileira de Aeronautica SA, or Embraer, the Brazilian aircraft company hoping to break into the U.S. defense market.

Spokespeople for the Army, Lockheed and Embraer declined to comment, saying they hadn't been informed of a final decision about the spy-plane program. It is unclear whether the Army will seek to preserve some of the technology developed for the program for future use.

The likely demise of the spy-plane program, valued at up to $8 billion over several years, underscores the complexity of Pentagon efforts to transform the way it develops weapons. The battlefield surveillance and eavesdropping plane was meant to serve the Army and the Navy, with the underlying premise that creating a joint-service program would bolster its support inside the Pentagon and on Capitol Hill. But it proved difficult to reconcile the two services' missions and equipment specifications at the cost that Lockheed originally proposed.

Given the Pentagon's budget pressures amid the military operations in Iraq, the Navy's increasing ambivalence toward the Army-led spy plane and inevitable program delays and cost increases, the Army concluded it was a losing battle. "In the big scheme of things, ACS loses out," said an Army official. "Anytime you have a wounded weapons program, the sharks circle." The Army's head of acquisitions recommended canceling the program in December, but Army Secretary Francis Harvey decided to extend the review by a month, this official said.

Lockheed, based in Bethesda, Md., the U.S.'s biggest defense contractor by sales, has conceded it made mistakes in projecting weight, power and technical issues for the proposed spy plane. It has been scrambling for months to salvage the program, which unraveled with unusual speed for a company that has supplied the Pentagon with surveillance, combat and cargo planes for decades.

In August 2004, Lockheed beat out Northrop Grumman Corp. and won an $879 million initial-development contract for the spy plane by proposing a modified version of an Embraer 50-seat passenger jet. As it became clear that the array of sensors and radar would make the plane too heavy to fly, Lockheed proposed switching to a larger Embraer airframe or a modified business

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jet made by Canadian plane maker Bombardier Inc. In November, it also proposed to strip some equipment out of the original Embraer plane or to keep working on the electronics.

Army officials say the need for battlefield surveillance and eavesdropping remains a priority. The service is expected to focus on upgrading aging propeller-driven planes that perform the task under a contract led by Northrop.

Endless Probe, Secret Result (USAT)

USA Today, January 12, 2006

Washington investigations, especially those by independent counsels, can roll on for years, eating taxpayer dollars long after their original purpose has been achieved.

So it is with the investigation of former Housing secretary Henry Cisneros, now in its 11th year.

Cisneros, accused of paying hush money to an ex-mistress and misleading officials about it, pleaded guilty in 1999 to lying to the FBI and was fined $10,000. His former paramour and others pleaded guilty to charges of bank fraud and making false statements. President Clinton, on his last day in office, pardoned Cisneros and the woman.

The independent counsel law has expired. Clinton and Cisneros are on to new careers. But the investigation, which has cost $22 million since David Barrett was appointed independent counsel in 1995, isn't officially over. The reason isn't known. Barrett says only that the investigation was extended to explore accusations that attempts had been made to obstruct the investigation and related misconduct. Several news organizations, citing anonymous sources, have reported that those accusations involve the Internal Revenue Service and the Justice Department. Barrett's report was completed by August 2004, but it has been sealed by a special federal court that oversees independent counsels. Lawyers for people named in it have filed more than 140 motions to keep their clients from being identified publicly.

In October, the court announced it would release the full report only to some members of Congress. But legislators from both sides of the aisle demanded that the entire report be made public.

The problem is the court could still black out large portions to protect the privacy of those named. Some in Congress, particularly Sen. Chuck Grassley, R-Iowa, worry that IRS abuses could go unexposed. "The American taxpayers have spent a lot of money on this report, and they deserve the right to see it," Grassley says.

We agree. So does Barrett, whose office will close after the report's imminent release.

It seems obvious now that Barrett's investigation, like so many others, took too long, cost too much and achieved too little. But at least those failings were the result of honorable intentions: to expose and punish corruption by public officials.

Burying his report now serves no such noble goal. Instead, it would give wrong-doers even more reason to believe they can abuse the public's trust, confident that their actions would be hidden from the public's view.

Credit Where It's Due (WSJ)

The Wall Street Journal, January 12, 2006

Perhaps Dustin Hoffman's rich adviser had it right when he pronounced in "The Graduate" that the future is in "plastics." Last year the credit card industry handled more than $2 trillion in consumer transactions and gobbled up nearly $30 billion in fees, according to the Nilson Report newsletter on the credit card industry. These fees are now the source of mounting angst among retailers, which have launched 47 antitrust lawsuits against the credit card companies for alleged collusion in setting these fees.

Retailers have also rushed to Washington demanding that Congress impose a de facto price cap on credit card charges -- as Australia and the European Union have already done. This campaign against credit card fees and the clamor for price controls sound eerily familiar. A few years ago dim-witted politicians employed price controls to try to limit fees for using ATMs. In localities where that was tried, the result was not lower fees, but fewer ATMs, and thus much less convenience for customers.

Once upon a time, credit cards were the playthings of the rich. But today credit (and debit) cards are a ubiquitous feature of the U.S. economy, with three of four adults owning either credit or debit cards as America moves closer to becoming a "cashless society." Certainly the shift toward plastic payments suggests the industry is satisfying its customers.

The controversy surrounds the way Visa and MasterCard and their issuing banks make money -- which is by collecting what is called an "interchange fee" from merchants. This fee averages about 1.75% of the sales price of the good or service purchased. The average convenience store paid $31,000 in interchange fees in 2004 -- a figure approaching the average per-store pretax profit of $36,000. The retailers say this charge is a "hidden transaction tax on consumers."

This complaint ignores the value added that the credit card company provides. Consumers benefit in an obvious way: They don't have to carry around wads of cash, because the credit card bank essentially holds the funds for them. Retailers benefit too: They don't have to deal with cash transactions, which minimize theft at the cash register. They receive a guaranteed payment from the bank that issues the credit card (i.e., no bounced checks). Most importantly, they lure customers into their stores by

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accepting a credit card of choice. If the retailers didn't think these benefits exceeded the costs of the interchange fee, they could simply refuse to accept credit cards at the register.

That said, many small retailers operate on thin profit margins and there does appears to be some merit to their complaint that credit card fees have risen above the levels one would expect in a perfectly competitive market. Interchange fees in the U.S. are among the highest in the world.

These fees, according to a recent study by economists at the Federal Reserve Bank of Kansas City, have also been paradoxically trending upward in recent years when the industry's costs due to technology and economies of scale have been falling. But these rising interchange fees have also corresponded with lower annual fees charged to cardholders and increasingly lucrative incentive packages to entice shoppers to pay with plastic: cash back rewards, airline frequent flyer miles, and even exotic benefits like free "concierge service" to get tee times on the golf course.

We're all in favor of more competition to drive down interchange fees. But the argument retailers are making that this industry operates as a cartel is highly unpersuasive. There are five major competitors in the credit/debit card market aggressively vying for customers: Visa, MasterCard, American Express, Discover, and the newest player, Star.

Meanwhile, mega-retailers such as Wal-Mart and Sears are using their market power to cut separate deals with credit card companies to lower their interchange fees. Wal-Mart and Target also want to establish their own banks so they can reduce interchange fees. Federal regulators should welcome this development.

Another merchant recourse is to offer price discounts to customers who pay cash. Retailers could also band together and start their own credit card competitor to Visa and MasterCard. Antitrust laws have typically winced at this kind of relationship, but in this case the Justice Department should consider that such arrangements could lower costs to consumers and foster competition.

The worst option is the one retailers seek most fervently: price controls. We now have several years of evidence from Australia and other nations that have gone this route. Studies indicate that lower retail prices haven't materialized. Instead, retailers have mostly pocketed the savings, while Visa and other card companies have withdrawn the popular rebates and bonus awards while increasing the annual fees they charge to card holders.

In other words, consumers were the losers, which is what inevitably occurs when governments intervene in markets that aren't broken. That's why Congress and the courts should keep their paws off this industry and let the market give credit, where credit is due.

OTHER NEWS:

World Economy Expanding (USAT)

By David J. Lynch

USA Today, January 12, 2006

If things go according to plan, the world economy will chug along nicely through the new year.

That would be comforting news if things ever did go according to plan.

Actually, 2006 could see plenty of nasty surprises. For one thing, the world economy, though expanding, is dangerously imbalanced. The resulting U.S. current account deficit — reflecting the gap between the nation's ravenous appetite for imports and its anemic savings — is now at levels that many experts fear could trigger a run on the dollar, soaring interest rates and global economic pain.

Meanwhile, investment is pouring into risky emerging markets as if the past decade's turmoil in Argentina, Turkey, Thailand and Russia never happened.

And all that stands between a barrel of oil and a triple-digit price tag is a strike in Nigeria, unrest in Venezuela or revolution in Saudi Arabia.

For all that, both the International Monetary Fund and the World Bank expect solid global growth of 3.2% this year, about the same as in 2005.

If prognosticators seem sanguine, perhaps it's because many of the same warning signals flashed red one year ago, and yet, the economy still barreled ahead, even overcoming epic natural disasters.

“2005 was a year that has lulled a lot of investors, policymakers and government officials into a dangerous and false sense of complacency,” says Stephen Roach, chief economist for Morgan Stanley in New York.

Terror attacks. A trade war with China. Even a historic epidemic of potentially lethal “bird flu.” There's no end to the list of potential economic catastrophes that could arise this year.

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But three dangers — mushrooming global imbalances, vulnerable emerging markets and volatile oil prices — seem especially noteworthy.

To many economists, the swollen U.S. current account deficit looms as the biggest potential hazard. In a nutshell, the United States spends too much and saves too little, and Asia saves too much and spends too little. (Moribund Europe doesn't do enough of either.)

No one knows for certain when the day of reckoning will come. But Roach, and many others, say the USA and the world cannot go on like this indefinitely.

"There are significant downside risks to the global economy … financial markets right now are not pricing in any of these risks," warns Nouriel Roubini, a former White House economist in the Clinton administration who runs the influential www.rgemonitor.com website.

Last year, the U.S. financed its excessive spending by selling almost $800 billion worth of Treasury securities to foreign central banks and investors.

At 6.4% of total economic output, that's an unprecedented level for a major economy. The U.S. is able to get away with such profligacy largely because the dollar plays a uniquely central role in global commerce.

But here's how a crisis could unfold: If foreigners conclude the dollar was headed for a fall because of the enormous U.S. deficit, they would cut back on purchases of U.S. debt. To entice them to buy, the Federal Reserve would have to raise interest rates, perhaps significantly. Higher interest rates could choke off economic growth, even as the falling dollar ignited inflation by boosting the prices of imported goods.

In 2005, the dollar defied predictions of an inevitable decline. But it is unlikely to keep doing so, according to Roubini.

The greenback benefited last year from a one-time change in U.S. tax law that encouraged companies to repatriate foreign profits and from the Fed's rate increases.

The tax provision has expired, and the Fed is believed to be near the end of its monetary tightening.

"Our ability to finance ourselves depends upon the willingness of foreign central banks to hold dollars. That willingness is going to be shrinking (this) year," Roubini says.

Even under optimistic assumptions, once the crisis hits, the economic pain in the USA could be like nothing the country has suffered in decades.

An abrupt end to the USA's ability to obtain sufficient foreign financing could send the dollar into free fall, cutting 21% to 28% from its value, according to research by Sebastian Edwards, a professor at UCLA's Anderson School of Management. That would increase the price of a $21,000 foreign-made sedan to almost $27,000, unless dealers opted to absorb the blow.

In the first year, 3.6% to 5% would be slashed from per capita economic growth. That would almost certainly push the USA into recession, perhaps for several years, according to Edwards, who presented his findings at last summer's annual Federal Reserve conference in Jackson Hole, Wyo.

"Never in the history of modern economics has a large industrial country run persistent current account deficits of the magnitude posted by the U.S. since 2000."

Another danger might be brewing in the so-called emerging markets. Capital flows this year into developing nations in Latin America, Asia and Central Europe are expected to hit a record $345.2 billion, according to the Institute of International Finance. That surpasses the previous high set in 1996, just before the Asian financial crisis, and is up 62% in the past two years.

Emerging markets enthusiasts shrug off reminders of the euphoria-and-collapse cycles that hit Thailand in 1997, Russia in 1998, and Argentina in 2000. It's different this time, say firms such as JPMorgan. Countries, particularly in Latin America, have built up foreign-exchange reserves that should allow them to ride out any financial crisis and have introduced economic reforms that give their economies greater stability. Rather than depend on private capital flows from rich countries as they did in the 1990s, developing nations now rely on strong export industries.

Bond holders are so impressed that they regard emerging market securities as little riskier than U.S. Treasuries, according to the JPMorgan Emerging Markets Bond Index Global (EMBIG). In late 2002, investors demanded an additional 91/2 percentage points of yield as compensation for the risk involved in holding emerging markets bonds compared with U.S. Treasuries. Today, the spread on the EMBIG is down to little more than 2 percentage points.

But emerging markets also have had the economic winds at their back for the past couple of years. Strong global demand boosted commodity prices, a major help for soybean exporters such as Argentina and oil producers such as Venezuela. And U.S. interest rates were so low, yield-hungry investors — including normally cautious pension funds — were drawn into countries such as Brazil or Hungary.

Now, global growth is slowing, and U.S. rates are higher. "There's a lot to worry about," says Desmond Lachman of the American Enterprise Institute, who was among the first to warn of problems in Argentina before its historic default.

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While no one is predicting a repeat of the problems that rocked half a dozen countries in the 1990s, emerging markets remain vulnerable to sharp changes in the global environment. If the dollar tanks, their surging exports would stall. Higher oil prices could deal them a double whammy, inflating their energy costs while depressing the economies of major customers.

Any unexpected mishap could cause the spreads between emerging market debt and U.S. securities to balloon, making it more expensive for corporations in developing countries to finance their operations, Lachman says.

Politics also might complicate the economic outlook, especially in Latin America. Elections are scheduled in eight countries this year, including presidential and legislative contests in Brazil and Mexico. The voting takes place amid a clear drift away from the free-market policies favored by the United States.

So far, little of this seems to be making an impression. “The markets seem to be pricing in close to zero probability of something going wrong,” Barclays Capital wrote in a Dec. 8 note to clients.

One year ago, no one predicted twin hurricanes would wreck much of the U.S. Gulf Coast oil infrastructure, sparking gas shortages and soaring pump prices. But today, with oil prices at about $64 per barrel, it doesn't take much imagination to conjure up fresh scenarios of price jumps.

Spare oil supplies amount to 1.9 million barrels per day, down from more than 6 million a day three years ago. Any event that idles significant output for a prolonged period — political turmoil in Venezuela, revolution in Saudi Arabia, a general strike in Nigeria — would threaten the world economy.

“With spare production capacity so low, the market is particularly vulnerable to a supply shock,” the World Bank said in its 2006 economic forecast.

If oil supplies were cut by 2 million barrels per day, prices would hit $90 a barrel this year and remain at $70 next year, according to the World Bank. The price spike would add 2.6 percentage points to the inflation rate, which is 2.1% now, and cut global growth in half.

How likely is such a price spike? Goldman Sachs oil analyst Arjun Murti spooked markets in March with a forecast of a “super spike” taking oil prices as high as $105 per barrel. On Dec. 12, he reiterated that view in a note to clients, adding that “non-existent spare capacity” supported the prediction.

John Kingston, global director of oil for Platts, is more optimistic. He expects prices to ease this year with new producing wells in the Gulf of Mexico, Russia and Nigeria boosting the market's cushion.

Still, he frets that continued Iraqi turmoil could pinch. Daily exports there of 1.4 million barrels remain below prewar levels, according to Platts. Anti-U.S. insurgents last year mounted 96 attacks on the country's aging network of pipelines and production facilities, or one every four days. There is little reason to expect quick improvement.

“The spot that concerns me the most is Iraq, and not so much the insurgents,” he says. “The oil industry there has been held together by spit and bailing wire. … It's antiquated and needs massive capital investment.”

To those such as Roach, who are inclined to emphasize the risks that things won't go exactly as expected, the links between potential problems are the most worrisome element. The USA's fat current account deficit could sink the dollar. As it plummets, emerging markets' exports dry up and oil prices, which are denominated in dollars, rise. In no time, what starts as one country's difficulty becomes a global contagion.

“This is what we signed up for when we bought into globalization,” Roach says. “The next global adjustment or downturn most likely will reverberate very quickly around the world with a speed we haven't seen before.”

2006 Rally Keeps Chugging (WSJ)

By Scott Patterson

The Wall Street Journal, January 12, 2006

In another late-day surge, stocks pushed higher, overlooking an earnings gaff by chemical behemoth DuPont and a jump in oil prices.

Monday and Tuesday, stocks also rallied late in the day to finish near their highs. Such end-of-day spurts are typical of strong markets, analysts said.

"If you dissect periods where the market is rallying overall, you'll find an intraday pattern that starts out on the weak side and finishes with strength," said Kenneth Tower, chief market strategist at CyberTrader. "It's another positive for this market rally."

One pivot point for stocks Wednesday was the 11000 level on the Dow Jones Industrial Average. At the opening bell, the average dipped from yesterday's close of 11011.58 and tested 11000. It bounced higher, then slid once again. By the end of the day, the Dow average tested 11000 four times, and even dipped below it twice. After the fourth test, the industrials moved decisively higher and finished up by 31.86 points to 11043.44.

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The Standard & Poor's 500-stock index added 4.49 points to 1294.18 and the Nasdaq Composite Index gained 11.04 to 2331.36.

Such action is created by new money flowing into the market on dips, analysts said. Each time the market declined, "we got a new wave of buying," said Peter Cardillo, chief market analyst at S.W. Bach. Zigzag patterns that end on a high note are a strong sign for stocks, he said, and could mean that "the bull is getting ready to stampede."

Despite the strong action, some market watchers remain concerned that investors are getting ahead of themselves. A slower-than-expected holiday season and high oil prices will ultimately catch up with stocks, they say, and the January rally "is going to end with a slow-motion slowdown," said Barry Ritholtz, chief market strategist at Ritholtz Capital Partners.

Investors have already looked past negative earnings news from two Dow components. Wednesday, shares of DuPont fell 3.3% after it cut its fourth-quarter earnings guidance8, citing disruptions in operations due to hurricanes Katrina and Rita. Tuesday, an earnings whiff by Alcoa, also a Dow component, nicked the average in early trading, losses it made up by the closing bell.

Treasury bonds declined Wednesday after an auction of $13 billion in five-year notes drew a poor response, with just 29% of the buyers coming from foreign bidders.

Crude-oil prices, down earlier, recently jumped 57 cents to $63.94 a barrel on the New York Mercantile Exchange after the Energy Information Administration said crude-oil inventories fell more than expected last week.

Investors also eyed comments by Timothy Geithner, head of the New York branch of the Federal Reserve. Mr. Geithner said the economy remains "remarkably stable" and that inflation, excluding food and energy, "has been quite moderate."

Last Tuesday, minutes from the Fed's December meeting indicated policy makers may be closer to winding up their 18-month rate-raising campaign sooner rather than later, which triggered a five-day rally that helped push the Dow industrials past 11000 for the first time since June 2001.

In major market action:

Stocks rose9. On the Big Board, where 1.7 billion shares traded, 1,896 stocks rose and 1,460 fell. On the Nasdaq Stock Market, where 2.4 billion shares traded, 1,544 rose and 1,479 declined.

Bonds slid10. The benchmark 10-year Treasury note slipped 8/32, or $2.50 for every $1,000 invested, to yield 4.401% Wednesday. The 30-year bond fell 14/32 to yield 4.642%. Yields move inversely to prices.

The dollar was mixed.11 It traded at 114.35 yen, up from 114.31 yen late Tuesday, while the euro rose to $1.2088 from $1.2068.

The Church Of GDP (WP)

By Robert J. Samuelson

The Washington Post, January 12, 2006

What's the dominant religion of the past 100 years? The answer isn't Christianity with its 2.1 billion followers, or Islam with its 1.3 billion. It's the idea of economic growth, the Church of GDP. Countless countries have embraced rapid growth as a cure to their ills. Getting richer is now an almost universal craving. And yet the worship of growth inspires enormous ambivalence. It is widely seen -- especially in already wealthy societies -- as morally corrupting: the mindless pursuit of empty materialism (do flat-panel TVs really make us better off?) that drains life of spiritual meaning and also wrecks the environment.

Exactly wrong, says Benjamin Friedman.

Friedman, a Harvard economist, has written a hugely provocative book ("The Moral Consequences of Economic Growth") arguing that rapid growth is morally uplifting. "Economic growth -- meaning a rising standard of living for the clear majority of citizens -- more often than not fosters greater opportunity, tolerance of diversity, social mobility, commitment to fairness, and dedication to democracy," he writes. Further, the opposite is true. Poor growth feeds prejudice, class conflict and antidemocratic tendencies.

Look at history, he says. In the United States, exploding economic growth after World War II coincided with a broad expansion of rights for women, blacks and the poor. During the prosperous Progressive Era, from roughly 1895 to 1919, the "idea of mass high school education first took hold." In 1912 the federal government created a Children's Bureau to discourage child labor. The same year, Congress passed the 17th Amendment, switching the election of senators from state legislatures to popular vote. In 1919 it passed the 19th Amendment, giving women the vote.

Good times often played out similarly in Europe. From 1850 to 1870, Britain's per capita income rose 35 percent. In 1870 the government opened civil service jobs -- until then reserved "for candidates with family connections" -- to competitive testing. Comparable reforms broadened the military's officer corps. Religious tolerance improved; no longer was membership in the Church of England required to teach at Oxford and Cambridge. After the Franco-Prussian War of 1870, France also prospered: In 1875 it adopted universal male voting; in 1881 and 1882 it embraced compulsory schooling up to age 13.

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Nazi Germany is, of course, the classic case of the converse: that growth's absence is morally destructive. From 1929 to 1932, German industrial production dropped 42 percent; in 1932 unemployment was 44 percent. The rest is history. Friedman offers other examples. The Ku Klux Klan (anti-Catholic and anti-Jewish as well as anti-black) flourished in the 1920s, which he describes as a period of disappointing growth.

People, Friedman argues, instinctively compare themselves to "two separate benchmarks: their own (or their family's) past experience, and how they see people around them living." When living standards rise rapidly, more people feel optimistic, unthreatened and tolerant. Friedman also cites Adam Smith's insight that commerce fosters trust, civility, mutual dependence and legal protections (contracts, property rights). Economic growth isn't mainly about greed and exploitation.

Case closed? Well, not exactly.

One problem with Friedman is Friedman. His meticulous scholarship unearths much contrary evidence. In the United States, the Great Depression didn't diminish democracy; instead, it "fostered a broader commitment to opportunity and mobility for all citizens." Britain passed momentous reforms (unemployment insurance, old-age pensions) from 1908 to 1911, a period of weak growth. Among poorer countries, many (Chile, South Korea, China) first achieved rapid growth under authoritarian regimes, though Chile and South Korea are now democratic.

Friedman's view of the 1920s is also dubious. Agriculture aside, America was mainly prosperous. The KKK's strength reflected raw prejudice -- and perhaps a sense of a threat created by economic growth, which left farms and small towns behind.

Friedman has identified a tendency, not an iron law. Still, his moral case for economic growth is solid. It's true that growth alone rarely creates happiness. Beyond a certain income, happiness depends on family relationships, a sense of belonging, personal beliefs. But growth surely can cure misery. In the 1700s, life expectancy in France was 25 years, and about 30 percent of infants died before their first birthday. Now life expectancy in advanced countries is almost 80 years, and infant mortality is usually less than 1 percent. Anyone who cares about world poverty must favor economic growth.

Another moral plus: Societies whose politics focus on the gaining and sharing of prosperity can promote their own stability. First, everyone can win. Second, though remaining economic conflicts can be nasty, they're easier to mediate than religious or ethnic differences -- where one side must face eternal damnation or discrimination. It's no accident that the United States and Britain are the oldest successful democracies.

But Friedman mostly misses the real growth predicament facing most advanced societies. It's not environmental spoilage. As he notes, most rich societies protect their environments through tougher antipollution regulations. In the past two decades, U.S. emissions of sulfur dioxide are down 54 percent, he reports. Whether global warming will break this environmental truce remains to be seen.

The immediate dilemma involves the welfare state. It requires fast economic growth to generate the income and government revenue to pay all the promised benefits. But the mounting costs of those benefits -- especially as populations age in the United States, Europe and Japan -- may stifle growth through higher taxes and budget deficits. If so, the welfare state may cause the stagnation and strains against which Friedman warns. The dilemma for most rich societies is that they are wedded both to advancing materialism and to policies threatening that advance. Friedman would have strengthened his point by clearly saying so.

As Bernanke Era Begins, Former Fed Governors Expect Change (KRT)

By Kevin G. Hall

Knight Ridder, January 12, 2006

WASHINGTON - Imagine that you wake up one morning with the power to rattle or rally financial markets across the globe, determine the strength or weakness of the U.S. dollar and encourage or discourage the purchases of cars or homes across America.

That's the power Ben Bernanke will wield when he replaces Alan Greenspan as the chairman of the Federal Reserve. The 79-year-old Greenspan will retire Jan. 31, the same day the Senate will confirm Bernanke, 52, and begin his era.

A shy academician, Bernanke is expected to distinguish himself from Greenspan as more of a consensus-builder and clear-speaking communicator. He must do it while still establishing his authority over an institution historically run by strong-willed chairmen with deeper real-world experience than he brings to the role.

Short of the presidency, few jobs affect the lives of ordinary Americans more tangibly than the Fed chairman, yet few citizens know much about the Fed. So mysterious are its workings that transcripts of its closed-doors meetings are kept classified for five years.

Over the past 27 years, there have been only three Federal Reserve chairmen, and only 13 in the Fed's 92-year history. A change atop the secretive institution is a big deal, as rare as a papal installation.

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The Fed's mission is to control the money supply in ways that boost employment and dampen inflation. It does so by effectively setting bank-lending rates to individuals and businesses, which in turn accelerates or slows economic activity.

For the past 25 years, two towering Fed chairmen - Paul Volcker and Greenspan - have steered the world's largest economy. On Volcker's watch, inflation was wrestled to the mat. During Greenspan's tenure, the end of the Cold War ushered in a truly global economy with the United States as its engine.

Those are tough acts to follow. And Bernanke, a seasoned academic from Princeton University who served on the Fed from 2002 to 2005, arrives without the clout that either man carried on Wall Street or in Washington. Only time will tell if that makes him less effective than his predecessors.

History is clear on one point, however: Incoming Fed chairmen tend to face early tests. Less than 10 weeks into the job in 1987, Greenspan wrestled with a stock market crash.

Bernanke arrives facing an expected economic slowdown late this year. He must decide by March whether to break a string of what's expected by then to be 14 straight quarter-point rate hikes, which began in June 2004. He also must decide how to deal with America's heavy reliance on foreigners buying Treasury debt, weak regulatory control over hedge funds that can roil markets and concerns that the nation's hot housing market is cooling and could nosedive.

Five former Fed governors told Knight Ridder in interviews that Bernanke will have to earn the trust of financial markets. The five also expect Bernanke to be more considerate of opposing viewpoints than was Greenspan, who sometimes left Fed governors feeling that their views were marginalized.

"When the chairman made his recommendation at the start of the go-round, the game was up, it was over. Everybody knew what the chairman would be in favor of," Laurence Meyer, a Fed governor from 1996 to 2002, said in an interview.

In his 2004 book "A Term at the Fed," Meyer doubted whether he made a difference because "I ended my term not sure I had ever influenced the outcome of an FOMC meeting, but it never stopped me from trying." He was referring to the Federal Open Markets Committee, the Fed's policy-making unit.

Greenspan's dominance sometimes chafed his colleagues.

Princeton University professor Alan Blinder, who was Fed vice chairman from 1994 to 1996, felt that Greenspan didn't give his views sufficient weight. He's the only governor to fall out publicly with Greenspan, who's so revered in Washington that Bob Woodward named his flattering Greenspan biography simply "Maestro."

Blinder alleges that Greenspan and a few senior Fed staffers dubbed "the barons" essentially ran the Fed with little serious input from others.

Blinder and Bernanke rotated the job of chairman in Princeton's big-ego economics department. The department included Paul Krugman, a liberal economist and controversial columnist. That experience leads Blinder to expect Bernanke to be more collegial and open to the views of others as Fed chairman than Greenspan was.

"I'm pretty sure Ben Bernanke, coming out of the environment that he does, and being the person that he is, would rather use these occasions to engage in discussions and real debate with the committee," Blinder said.

Some other ex-Fed governors agree that Greenspan wasn't exactly a first among equals - he was a first without equals, fully in charge.

"I think Blinder is probably on the mark there," said Lyle E. Gramley, a Fed governor from 1980 to 1985. "When the greatest central banker that ever lived talks ... it does tend to have an intimidating influence on the committee."

To be sure, there were times when Greenspan sensed between meetings that he had weak support on the board. There's an unwritten rule that the chairman will resign if he loses a vote on a rate-setting action, so Greenspan took care either to persuade his colleagues of his position beforehand or to adopt rival views as his own before the vote.

"I never monitored Alan Greenspan's phone calls, but I just bet you he could sense those times, and I can bet you he got on the phone with key members of the committee," said Edward M. Gramlich, a former Fed governor whose 1997-2005 term overlapped with Bernanke's. "Whether Ben will sense that and do that is an open question."

Unlike his predecessor, Bernanke enters the big job with the benefit of Fed experience. That means he knows how difficult it is for the Fed to read the nation's economic pulse, said Alice Rivlin, a Fed vice chairman from 1996 to 1999.

"Its decisions are made in the light of considerable uncertainty," she said, adding that "there's never a clear road map of the future."

That's why Greenspan is so widely hailed. His instincts and confidence in his judgment made him authoritative. He saw through the mist; only time on the job will reveal whether Bernanke's judgment is equipped with similar fog lights.

"Greenspan was a very independent thinker; he looked at very different data than everybody. He often came to the table with very different views than the staff and had to persuade them," Meyer recalled. "Bernanke is much more a conventional thinker and is much more close with staff. He's more likely to come to the table with a position consistent with the staff forecast."

That's not necessarily good.

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For example, Meyer and Fed staffers were pushing for higher interest rates in the mid-1990s to ensure that the economy didn't overheat and spark inflation. But Greenspan correctly intuited that productivity - worker output per hour - wasn't being measured adequately. He held rates low and his view proved correct, as inflation didn't rise and his policy fostered the late `90s boom.

"What we're (going to be) missing is this unique Alan Greenspan. There's just no way of getting around it," Meyer said. "Bernanke needs to keep himself open to views outside the staff, and make sure there are enough ideas (from) outside."

Stem Cell Research Funding In Md. Raises Bioethics Issue (BSUN)

By Jennifer Skalka And Jonathan Bor

The Baltimore Sun, January 12, 2006

Gov. Robert L. Ehrlich Jr.'s $20 million plan for funding stem cell research sparked sharp criticism Wednesday from scientists and legislators after a key state official disclosed that preference will be given to work on non-embryonic stem cells.

With leading Democratic legislators renewing their call for support of embryonic stem cell research, the lines were clearly drawn for a debate that will dominate the General Assembly session that began Wednesday. Some Ehrlich allies argue that state dollars spent primarily on adult stem cell lines will advance science and thrust Maryland into the forefront of stem cell research. Many scientists say that cells derived from embryos hold the most promise for scientific breakthroughs.

Either way, Maryland appears poised to join a growing number of states spending money on stem cell research in the wake of a federal prohibition on funding research involving new embryonic stem cell lines.

Ehrlich discussed his plan to commit $20 million in state money to stem cell research at a news conference Wednesday in Baltimore, calling on lawmakers to forgo political wrangling in favor of good science.

But hours later, Ehrlich's top science adviser, Chris Foster, said he doesn't believe the money would be best spent on embryonic stem cell research.

"I don't think at this time that we need to" fund embryonic cell research, said Foster, deputy secretary of the Department of Business and Economic Development. "I think there are other ways to solve the problem."

Foster said the state would en tertain applications for embryonic research but there would be a preference for non-embryonic research, a position that brings Ehrlich closer to President Bush on this contentious issue.

Four years ago, Bush halted federal funding of embryonic stem cell research except for some existing cell lines, prompting some states to begin providing support.

The governor's proposal includes $13.5 million for a new Center for Regenerative Research at the university's BioPark. Henry Fawell, a spokesman for Ehrlich, said the $20 million for research is a one-year allocation that would likely be followed by future requests for funding.

Initially, Ehrlich's plan brought cheers from proponents of the research, who had thus far labored fruitlessly to get him to back state funding. Paul Schurick, Ehrlich's communications director, told reporters Tuesday evening that the administration would not impose restrictions on how the research money would be used.

And during his news conference Wednesday morning, Ehrlich -- joined by first lady Kendel Ehrlich, Howard County Sen. Sandra B. Schrader and others -- implored lawmakers to help him "make sure the science prevails to push us forward."

"I would hope we keep the politics to a minimum; that is my sincere hope," Ehrlich said. "I will attempt to do so."

That there would be a preference for non-embryonic research disappointed and confused some officials and scientists.

"That's not been the understanding or the indications that I think many of us had had," said William E. Kirwan, chancellor of the University System of Maryland. "Certainly I'd be anxious to hear if there's been any different thinking than what was presented today."

Research involving embryonic stem cells is controversial because it requires the destruction of embryos that could otherwise develop into babies. So far, scientists have created stem cell lines by using embryos donated by couples who had produced more embryos at in-vitro fertilization labs than they needed.

Embryonic stem cells are the master cells that give rise to every specialized tissue in the human body, including those making up bone, blood, the heart, brain and spinal cord. Many scientists believe they could be used to generate replacement tissues for people suffering from diseases from Parkinson's to diabetes.

Though these scientists say such cells hold the best promise for restorative treatments because they are the most flexible, others are focusing on so-called "adult" stem cells that are programmed to create specific tissues. Some re searchers, for instance, hope they can cure heart disease with transplants of cardiac stem cells.

Several leading stem cell researchers said favoring proposals for non-embryonic research would defeat the purpose of state funding -- to support projects for which federal funding is limited.

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"This certainly won't fly in the community of people who are actively seeking the state's support for embryonic stem cell work," said Dr. John Gearhart, a leading stem cell researcher at the Johns Hopkins School of Medicine. "There is no evidence that these other sources give cells that have the same properties as embryonic stem cells."

"That's exactly the opposite of what I think is needed," said Dr. Curt Civin, a Hopkins cancer researcher studying ways to harness stem cells to treat childhood leukemia. "The hole in our funding is for embryonic stem cell research."

Civin also expressed concern that the preference for non-embryonic research would skew the process of choosing the most deserving projects.

But Dr. Paul Fishman, a neurologist at the University of Maryland Medical Center, said Ehrlich's approach might have merit. He said many experts think that treatments derived from adult stem cells, as opposed to embryonic stem cells, are closer to being realized. Some biotech companies prefer working with non-embryonic stem cells because they feel the technology could yield profits faster, he said.

"If the goal is fostering biotech, that strategy may have some value," Fishman said.

Foster, an electrical engineer, said the Maryland Technology Development Corp. will appoint an expert committee to review all proposals and award grants to the most deserving.

By giving greater weight to proposals involving adult stem cells, the committee will avoid the political furor that could arise if it awards much of the money to embryonic research, he said.

"I don't want to get bogged down in politics," Foster said. "If we're going to spend state money and it's going to embryonic research, it will generate so much debate and controversy we'll make no progress."

Gearhart disagreed.

"This kind of proposal is certainly not one that will take politics out of stem cells," he said. "It will do nothing but inflame and reinvigorate the push for funding for embryonic stem cell research in the state."

Del. Samuel I. Rosenberg of Baltimore, who along with fellow Democrat Sen. Paula C. Hollinger of Baltimore County is proposing $125 million over five years for embryonic stem cell research, said Foster's statements took him by surprise.

"This is not where the need is in terms of priorities," he said. "You've got the feds not involved because of political pressure from the right wing."

Susan O'Brien, executive director of Maryland Families for Stem Cell Research, said preference for non-embryonic research "puts politics back in this issue."

The research proposal surprised top officials at the University of Maryland, Baltimore. They were expecting the governor to announce his commitment to support the new center, which had been in the works for some time, but did not anticipate a research component to his proposal.

"That's completely new," said David J. Ramsay, president of the University of Maryland, Baltimore. "We were talking about the facility. He actually sprung this as a surprise yesterday."

The governor's office says, however, that Ehrlich has always backed stem cell research and simply took the time to give the issue proper consideration.

"The governor has many stakeholders in this issue that he has had conversations with," said Ehrlich spokesman Henry Fawell. "Like any other chief exec with a major announcement, he's entitled to keep certain components of his proposal private."

Ehrlich Proposes Stem-cell Funding (WT)

By Jon Ward

The Washington Times, January 12, 2006

BALTIMORE -- Maryland Gov. Robert L. Ehrlich Jr. yesterday proposed $20 million in state funds for stem-cell research.

The research funds, under the governor's proposal, would be disbursed through a committee controlled by his administration, alleviating concerns among Maryland religious groups that the studies would involve embryonic stem-cell research, considered a form of abortion by some.

"Clearly, no one is going to be funding embryonic, because in 25 years, there have been nothing but miserable failures," said Nancy Fortier, an associate director at the Maryland Catholic Conference. "Nonembryonic is what is being used to treat cancer, blindness, heart disease, Parkinson's disease. The $20 million is going to be distributed by capable, unbiased people on a review board."

Still, the governor did not rule out embryonic research.

"If it's embryonic with the best chance for therapeutic results, it will be embryonic," said Mr. Ehrlich, a Methodist.

Mr. Ehrlich said a committee, yet to be named, at the Maryland Technology Development Corporation (TEDCO), "will make those decisions."

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Chris Foster, deputy secretary at the Department of Business and Economic Development, will work with TEDCO to select the eight- to 12-person review committee.

Mr. Foster, a gubernatorial appointee and former federal researcher, said the committee will include representatives from research universities like Johns Hopkins University and the biotechnology industry and will solicit proposals for research.

"We'll use a model very similar to NIH. We know how they work," Mr. Foster said.

Mr. Ehrlich did not support an attempt last year by Democratic legislators to fund stem-cell research, including embryonic stem-cell research. The bill stalled in the Senate.

Del. Samuel I. Rosenberg, Baltimore Democrat, and Sen. Paula C. Hollinger, Baltimore County Democrat, who were last year's sponsors, are again sponsoring bills in their respective chambers that would provide $25 million over five years for stem-cell research.

Mr. Ehrlich's one-year proposal includes $13 million for a new Center for Regenerative Research at the University of Maryland at Baltimore, where he made his announcement yesterday.

Mrs. Hollinger said that the governor's proposal was "a step in the right direction, but that in order to do it right, we need to pass our legislation."

TEDCO, she said, doesn't "have the scientific or bioethics expertise." Mrs. Hollinger's bill would create a Maryland Scientific Peer Review Committee that would award grants through the Department of Health and Mental Hygiene.

Susan O'Brien, spokeswoman for Maryland Families for Stem-Cell Research, called TEDCO a "political peer review," instead of "scientific peer review."

"It absolutely has to have scientific peer review, not a politically appointed board," she said.

Mr. Ehrlich, in response, said, "What's not political? What we're trying to do is maximize science, not divide people."

TEDCO was created in 1998 by the state legislature and exists to promote "technology-based economic development." It is governed by a 15-member board appointed by the governor with "advice and consent of the Senate," according to its Web site.

Maryland Families for Stem-Cell Research is headed by former Gov. Harry Hughes, whose wife has Parkinson's disease. Mr. Hughes was supposed to attend the governor's press conference yesterday, but did not come because of a "family emergency."

Stem Cell Hype And Hope (WP)

By David A. Shaywitz

The Washington Post, January 12, 2006

The apparent fabrication of results by South Korean researcher Hwang Woo Suk has already prompted a serious reevaluation of stem cell science, and the release this week of Seoul National University's final report on the affair is certain to add fuel to the fire. Many detractors of stem cell research (and, privately, even some proponents) have begun to wonder whether this might mark the beginning of the end. More likely this controversy -- and the ensuing scrutiny and self-reflection -- will provide exactly what our discipline needs most: the opportunity to modulate the extravagant expectations for this research while we reaffirm our underlying commitment to it.

The rapid ascent of stem cell research into the spotlight reflects the collision of exciting science with uncharted ethics. President Bush's Aug. 9, 2001, prohibition on the use of public funds to create new human embryonic stem cell lines ignited interest in this field, even as it made it much more difficult for American scientists to conduct the research. The concern that important medical science was being deliberately thwarted by the federal government enraged many patient advocates and further ratcheted up the demand for results.

Meanwhile, stem cell research itself trudged ahead slowly, for all the usual reasons -- as well as some unique ones. Scientific research is notoriously difficult, and progress typically incremental; human embryonic stem cells also happen to be intrinsically difficult to grow. Moreover, government restrictions severely hampered the ability of researchers to pursue the best science and discouraged many bright young investigators from entering the field.

As the demand for results far outstripped the ability of researchers to supply them, a seller's market emerged in which goods were overvalued and even low-quality merchandise was snatched up by eager buyers. This is the context in which Hwang's studies appeared.

While most in the field of stem cell research were shocked by the reports of fraud, the shock was only one of degree; it is common knowledge that the bar for publication in this field often has appeared remarkably low, with even well-respected research journals seeming to fall over one another for the privilege of publishing the next hot paper. The result of this frenzy has been an entire body of literature that is viewed with extreme skepticism by most serious stem cell investigators.

The good news is that underneath all this mess, stellar science really is happening. Stem cells have proved even more captivating than we could have imagined, and understanding the process by which a stem cell progressively differentiates into a

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specialized cell such as a neuron or a pancreas beta cell is perhaps the most compelling biology question for our generation. Stem cells have sparked our interest for good reason.

But we're not going to figure out how they work overnight; it will take a very long time and require our best minds, as well as our collective effort (and, ideally, our collective dollars). Translating this knowledge into clinically meaningful applications is certain to take even longer and present still more challenges -- yet it should be achievable. If the current controversy were to cause us to precipitously abandon this exciting area, it would be a catastrophic shame.

What we really need is to refine our expectations for this research. This doesn't mean we should scale back our ambitions or demand less of our researchers. Rather, we need to recognize just how arduous and painstaking good science usually is and remind ourselves that data do not become dogma when published, but only when independently validated.

Difficult or not, good research is the only responsible way to proceed. If the promise of stem cells is to be fulfilled, the pursuit will require a solid scientific foundation, one grounded in reliable, reproducible facts and not simply supported by hype and hope.

States, Flush In Election Year, Loosen Up (WSJ)

By Deborah Solomon

The Wall Street Journal, January 12, 2006

Facing fat budget deficits, the Bush administration is preparing a tight 2007 budget that squeezes most domestic programs. Flush with cash, state governors across the country are doing the opposite.

That includes members of Mr. Bush's party and the opposition. Republican Gov. Arnold Schwarzenegger of California proposes a $222 billion bond offering because, he says, "we need more roads, more hospitals, more schools ... more, more, more." Democratic Gov. Janet Napolitano of Arizona seeks "$100 million in smart tax relief that strengthens our economy and invests in new technologies."

In "State of the State" speeches now echoing through state capitols, others propose a beefed-up minimum wage and tax credits to help with energy costs. It's a far cry from the somber tones many governors struck earlier in the Bush era, as they struggled with the plunge in revenue that followed the 2001 recession.

Confronting a similar shortfall, the federal government has cut taxes and continued spending at a rapid rate -- on wars in Afghanistan and Iraq, on farm and highway bills, on a Medicare prescription-drug benefit. But many governors spent the first half of this decade cutting expenses and raising taxes to meet state balanced-budget requirements. The revenue surge that accompanied economic recovery has left them in the black at an opportune time: the 2006 election season.

"The revenue picture has improved very significantly," said Sujit Canaga Retna, a fiscal analyst with the Council of State Governments. "So, as a result of that, we see a number of projects geared towards economic development and long-term infrastructure needs."

Mr. Retna and other fiscal experts caution that states still face expenses in the next few years that will be a challenge, no matter how good the books look now. Among them is Medicaid, which continues to outpace the rate of state revenue growth, according to the Kaiser Family Foundation.

On average, Medicaid costs accounted for about 17% of states' general-fund budgets in 2005, up from 12% in 1995. Only K-12 education funding exceeds Medicaid as a percentage of general-fund expenditures. "Medicaid ... has not shown any signs of slowing down or losing its position as the fastest-growing component of state budgets," says Arturo Perez, a fiscal analyst with the National Conference of State Legislatures.

States also face growing costs associated with employee pension plans, many of which are underfunded, as well as retiree health-care costs. Nicholas Jenny, senior policy analyst at the Nelson A. Rockefeller Institute of Government, says states could "run ... into a ditch" by overreacting to today's flush treasuries.

Yet state executives aiming to survive the 2006 elections -- which include 38 gubernatorial races -- are eyeing voter-friendly ways to spend the extra cash. Several governors have proposed tax cuts and projects that they say will stimulate long-term economic development and make states healthier in the long run.

In Arizona, Ms. Napolitano has proposed tax credits for businesses that provide health care for employees and a three-day "sales tax holiday." In her address earlier this week, she also proposed spending $100 million on border security, saying such efforts "will mean big future payoffs" and help the state "to deal with the crisis down the road."

Tax relief also is on the agenda in Kansas, where Democratic Gov. Kathleen Sebelius is looking to eliminate the property tax on new business equipment. In New York, retiring Republican Gov. George Pataki, a potential 2008 presidential candidate, seeks a property-tax rebate, among other cuts.

Few welcome the changed fiscal picture more than Republican Gov. Bob Riley of Alabama, who drew criticism for proposing $500 million in higher taxes earlier in his term. Now he is calling for a five-year $200 million tax cut, including an

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annual "sales tax holiday." He's also seeking $500 million to fund school construction, along with a $1 billion increase in other education funding.

"This record surplus exists because we fought for fiscal discipline, and because our workers, our industries and our economic-growth strategy have succeeded in putting Alabama's economy on the right track," Mr. Riley says.

Perhaps the most ambitious plan was proposed by Gov. Schwarzenegger. He's pushing for a 10-year, $222 billion infrastructure plan while noting that "a strong economy has produced billions of dollars of unexpected revenues." Over the next two decades, he says, the Golden State will need to lay out $500 billion on infrastructure projects.

Mr. Schwarzenegger warns that the "structural deficit" in California's state budget may soon return. But after politically debilitating battles with public employees in 2005, he's proposing to increase the minimum wage by $1 an hour and to boost education funding by several billion dollars.

With winter heating bills an issue among voters, several governors have called for state outlays to help residents cope. In Idaho, Gov. Dirk Kempthorne proposed a $63 million plan to give every resident a $50 energy-relief check, while Gov. Pataki called for a $500 heating-fuel tax credit to "thousands of seniors across New York."

Whether state legislatures go along with the governors' plans remains to be seen. Credit-rating agencies also are watching what states do with their surpluses; some states are seeking to replenish their "rainy day" funds, which were drained during the fiscal crisis.

"It is time to even out the ride," notes Democratic Gov. Christine Gregoire of Washington. "While the roller coaster is fun at the amusement park, it is no model for state budgeting."

Robin Prunty, a director with the ratings concern Standard & Poor's, said that while some targeted tax reduction or reserve replenishment is to be expected, a favored approach is "any tax-reduction measure that's nonrecurring and where you're not reducing the tax base."

Gov.'s Top Aide To Woo Donors (LAT)

By Robert Salladay

The Los Angeles Times, January 12, 2006

SACRAMENTO — Gov. Arnold Schwarzenegger is dispatching his newly appointed chief of staff to woo wealthy Republican donors for his reelection effort, injecting his most influential policy advisor into the job of collecting money for his campaign.

Susan Kennedy, once a top-level Democrat, will play a key role in the governor's reelection bid, the administration confirmed Wednesday. She is being paid campaign funds in addition to her $131,000 government salary and will mix freely with influential contributors.

Campaign finance experts and legislative Democrats questioned why Kennedy — the lead negotiator on major decisions in the Schwarzenegger administration — would be allowed to attend private meetings with donors when many have business before the administration.

Paul S. Ryan, associate legal counsel at the Campaign Legal Center in Washington, D.C., said allowing donors access to Kennedy creates "the appearance of corruption in California. If you are fortunate to afford the price of admission, then you automatically gain access that the vast majority of Californians do not have."

Appointed last month to the highest-ranking position in the Schwarzenegger administration, Kennedy is a former Democratic Party executive and aide to former Gov. Gray Davis. She has nevertheless vowed loyalty to the Republican governor and his 2006 reelection effort.

California law allows her to attend fundraisers for the governor and work on his campaign, as long as she is doing it on her own time.

Under Davis, however, an informal rule prohibited staff members — including Kennedy — from attending any fundraisers, said Steve Maviglio, a former spokesman for Davis.

Schwarzenegger communications director Rob Stutzman said Kennedy would take vacation days to meet donors and work on the campaign, and would "absolutely" separate her policy job from the fundraising effort. He said that "her insight strategically on how the campaign will proceed will be invaluable."

Maviglio, who now works for Assembly Speaker Fabian Nuñez (D-Los Angeles), said Democrats see problems with Kennedy and other Schwarzenegger officials moving back and forth between policy discussions in the Capitol and meetings with donors. The governor's former chief of staff, Patricia Clarey, took time off from her government job to serve as Schwarzenegger's campaign manager last year.

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A "Join Arnold 2006" memo sent to donors Tuesday outlines a conference call and a series of luncheons planned for Schwarzenegger and contributors. The meetings will include "briefings from senior campaign officials, including the governor's chief of staff, Susan Kennedy," according to the memo, a copy of which was obtained by The Times.

"The concern is that you are offering donors, in exchange for campaign contributions, access to a decision maker that the rest of us don't have," said Derek Cressman, founder of TheRestofUs.org, a Sacramento nonprofit organization that monitors state and federal campaign finance laws.

Ryan of the Campaign Legal Center said contributors might benefit more from access to high-ranking aides than to the elected official hosting the fundraiser.

"The staff member often has more experience in a particular subject area than the elected official. The actions of that official are going to reflect the advice they get from the advisor," he said.

Kennedy's appointment last month shocked the political establishment. Conservative Republicans, already concerned that Schwarzenegger was drifting too far left, were appalled that he would hire the former abortion rights activist and Democratic political operative to help him run the government.

Stutzman said some Republicans were concerned that Kennedy would have access to secret financial information about the Republican Party. He said Kennedy would not be privy to that kind of information, but "she is absolutely going to know reelection strategy."

The memo suggests that Schwarzenegger has begun his reelection fundraising effort in earnest, after tapping his donors for about $50 million last year in the unsuccessful special election campaign. The governor is expected to raise another $50 million for his reelection. His fundraising has already eclipsed that of Davis — who was recalled from office in part because of perceived excesses in raising money.

Schwarzenegger's political schedule with Kennedy is busy for the next few weeks. Planned for hotels and country clubs from Jan. 18 to Feb. 9, the eight meetings are known among campaign workers as "donor maintenance" events. The information dispensed is often cursory and broad, but the gatherings allow a donor access to the highest ranks of government.

Some Capitol interests, such as environmentalists and consumer groups, have complained in the past of not having direct access to the governor's staff. But this month, lobbyists say, the administration has been more willing to reach out to non-donors, holding a series of meetings in the Capitol to outline the governor's agenda.

The "Join Arnold 2006" briefings with Kennedy are being hosted by the top tier of the Schwarzenegger money machine. The memo was sent to potential donors by a group of 30 major supporters, such as former U.S. Secretary of State George P. Shultz and California Chamber of Commerce President Allan Zaremberg.

The hosts of the gatherings include some of California's biggest developers, who could benefit from Schwarzenegger's $222-billion proposal to rebuild the state's overburdened freeways, schools, ports and waterways.

The Jan. 18 meeting is scheduled for the Island Hotel in Newport Beach and will be co-hosted by George L. Argyros and William Lyon, both major housing developers. Argyros is the former U.S. ambassador to Spain and a major donor to President Bush and the Republican Party.

The campaign has also arranged a Feb. 1 meeting at the Regency Club in Los Angeles, co-hosted by real estate developer Rick Caruso. Developer Alex Spanos, owner of the San Diego Chargers, is hosting a fundraising meeting the next day at the Sutter Club in Sacramento.

The memo shows that Schwarzenegger is linking his legislative agenda to the reelection effort this year. It mentions the rebuilding plan, which is now before the Legislature. Kennedy is leading negotiations to get the package through the Assembly and Senate, both controlled by Democrats.

"As the governor is fond of saying, he cannot do this job alone," the campaign memo tells potential donors. "He is looking to us, California's business leaders and the leaders in the communities where we live, work and raise our families to help him communicate his message to the voters during the 2006 election campaign."

State law prohibits linking campaign contributions to specific governmental decisions. But the Political Reform Act of 1974 says nothing about barring elected officials and government aides from discussing policy at fundraising events, according to the state Fair Political Practices Commission.

Kennedy, who declined to comment, has been unapologetic in the past about her new loyalty to Schwarzenegger, a relationship that developed after a year of private meetings between the two. And she has acknowledged that politics would inevitably bleed into her policy job.

"Are there politics involved in legislative strategy? Absolutely," Kennedy told The Times recently. "My job is to help Gov. Schwarzenegger, and I won't hesitate for one second to do that. Obviously, that means helping people who support him in the Legislature."

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Outside Audit Forecast: More Pension Freezes (WSJ)

By Ellen E. Schultz, Charles Forelle And Theo Francis

The Wall Street Journal, January 12, 2006

Look for more companies to cut back on pension benefits as an unusual alignment of financial conditions makes such moves more lucrative than usual.

Two trends have emerged in the broad shift away from traditional pensions, which provide workers set benefits based on their salary and years of service. Financially strapped companies such as airlines and auto makers are garnering much of the attention as they seek to ditch their badly underfunded pension liabilities and try to stay afloat.

Meanwhile, relatively healthy companies -- many with fully paid-up pension plans -- are seeking to shift to retirement programs that put more of the burden for savings and planning on employees. (How safe is your pension? See Personal Journal1.)

Last week, International Business Machines Corp. informed 117,000 workers in its U.S. pension plans that they will stop earning additional benefits after 2007, saving an estimated $2.5 billion to $3 billion over five years in the process, including the impact of other changes. Verizon Communications Inc. froze its pension for 50,500 managers last month, saving $3 billion in the coming decade.

Effective Jan. 1, many workers at Hewlett-Packard Co. and Sears Holdings Corp. also stopped building benefits in their plans. The companies said they are enhancing their 401(k) plans, which typically involve employee contributions that may be matched all or in part by employers.

Current interest rates offer employers the possibility of a particularly big income boost if they freeze their pensions, effectively wiping out part of a debt owed to future retirees. While assets in a plan still will be paid out when workers retire or leave the company, benefits don't grow with additional years on the job.

There is no legal barrier to freezing a pension unless it is prohibited by a union contract. Verizon, for example, unilaterally froze the pensions of its managers, but changes to pensions for its union employees are subject to negotiations.

"I wouldn't be surprised if many of the largest [companies] are in fact evaluating" pension freezes, said Vadim Zlotnikov, chief investment strategist for Sanford C. Bernstein & Co. Mr. Zlotnikov says the potential for locking in bigger accounting benefits is one of several reasons big pension sponsors might choose to freeze a pension now.

Under accounting rules, companies calculate how much they expect to pay out in pensions over the lives of their employees, including amounts workers haven't earned yet, and then reflect that amount as a liability on their books.

When a company freezes its pension -- halting the buildup of additional benefits for employees -- it is no longer obligated to make some of the payments it had planned. That allows the company to reduce the value of the liability it was carrying on its books, which generates accounting gains that are counted as income. Although this "income" isn't money that can be spent, it can affect the stock price and often management's pay incentives.

Benefits consultants, which earn fees in part by helping employers restructure pension plans, have begun telling clients that competitors are considering changes. Hewitt Associates LLC says that 29% of 152 companies it surveyed recently were considering closing some of their pensions to new employees, and 16% of 157 companies said they might freeze benefit accruals for some or all of current participants.

Today's low long-term interest rates allow companies to lock in particularly high gains. The value of a future obligation in today's dollars is bigger when interest rates are low, because the employer would have to put more money aside at prevailing rates to meet the payments when they come due.

Short-term rates, which contrary to long-term rates have been trending higher in recent months, offer the potential for even bigger gains to companies with so-called "cash-balance" plans, such as IBM, Verizon, H-P, Sears and many other big companies. Under these plans, workers have hypothetical "accounts" to which the employer credits interest each year, often tied to short-term rates. Higher short-term rates means higher interest credits. That, too, raises the pension obligation, and in turn, the savings from reducing the obligation.

Thus, by freezing their U.S. plans at a time when both long- and short-term interest rates are creating bigger liabilities, many companies stand to reap a bigger benefit by reducing their obligation. The companies can lock in the savings today, even if, like IBM, the benefits won't stop growing for two more years.

Meanwhile, employers also are worried that proposed pension-accounting changes proposed by the Financial Accounting Standards Board might make their profits more volatile.

It is impossible to say for sure which companies will follow in the footsteps of IBM and Verizon. Technology and telecom companies such as Lucent Technologies Inc., BellSouth Corp. and Electronic Data Systems Corp., like IBM, Verizon, H-P and Sears, have cash-balance plans that could generate gains if frozen in the current interest-rate environment.

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Spokesmen at all three companies declined to comment or said they weren't aware of any plans to change their plans. Lucent is among those reviewing options, says a person familiar with the matter.

IBM wouldn't break out the specific effects of freezing the U.S. pension, but says they account for about a third of its expected savings from pension changes. Nor would it identify how much its projected savings are offset by the estimated cost of increasing 401(k) contributions, which the company announced last week as well. IBM officials said the company began examining a pension freeze in earnest sometime early in 2005, and that the current interest-rate environment didn't play a role in the decision.

Verizon too, didn't disclose how much of the $3 billion in savings it expects will come from freezing the pension, nor would it say how much the savings are offset by increased 401(k) costs. The company declined to comment on whether the interest-rate environment played any role in its decision; it said the decision was driven by its merger with MCI, which didn't offer managers a pension.

An H-P spokesman said the company froze its pension for competitive reasons. "I wouldn't say [interest rates] played a significant role," he said. H-P didn't freeze its entire plan; rather, it closed it to younger employees and new employees, a move similar to what NCR Corp., did in 2004. NCR also has a cash-balance plan.

Sears said it froze its plan because traditional pensions have "become competitively unaffordable," and cause "significant volatility in a company's earnings and cash funding requirements."

Companies like Sears, which has an underfunded pension, get cash savings when they freeze their plans in addition to the pension income that boosts the bottom line. Because the obligation is reduced, the plan immediately becomes better-funded, which ultimately reduces or eliminates the need for the company to make cash contributions to the pension fund. Freezing its pension reduced Sears's pension liability by $80 million.

Clinton In Deal To Cut AIDS Treatment Costs (NYT)

By Donald G. Mcneil Jr.

The New York Times, January 12, 2006

Former President Bill Clinton plans to announce today that his foundation has negotiated lower prices on AIDS tests and on two important AIDS drugs.

Four companies, from the United States, India and China, will offer rapid H.I.V. tests for 49 cents to 65 cents, which will reduce the typical cost of a test in poor countries by half, Mr. Clinton said in a written statement. Another four companies - three from India and one from South Africa - will make the antiretroviral drug efavirenz for as little as $240 per patient per year. One of the Indian companies, Cipla, will also make the antiretroviral abacavir for $447.

The most common three-drug combination pill for H.I.V. now costs $136 per year, so the new drugs, even at steep discounts from the thousands of dollars they cost in the West, can easily triple the cost of therapy. But as patients become resistant to their first-line drugs, doctors must have new options.

The William J. Clinton Presidential Foundation acts as a broker, meeting with the health ministries of about 50 poor countries in Africa, Asia and Latin America and with drug makers.

Clinton Charity Gets Price Cuts For AIDS Drugs In Poor Countries (WSJ)

By Mark Schoofs

The Wall Street Journal, January 12, 2006

Former President Bill Clinton is expected to announce today that his foundation has secured price discounts on medicines for AIDS patients in developing countries and for HIV test kits.

The price reductions -- involving nine companies from five countries -- cover two AIDS drugs usually used on patients who have become resistant to first-line medications or who develop unbearable side effects. The deal reduces by 30% or more the cost of already cut-price products offered in most poor countries. The William J. Clinton Foundation's first agreement with generic-drug makers for major price reductions came in October 2003.

Today's announcement will mark the foundation's first foray into reducing the price for second-line AIDS drugs. Second-line regimens are between seven and 30 times as expensive as first-line therapies, according to Doctors Without Borders, a relief organization.

"We're very concerned that in the next few years there will be a dramatic increase in need for second-line drugs, and we fear they won't be available or that they will be very expensive," says Daniel Berman, coordinator of Doctors Without Borders' Access to Essential Medicines Campaign.

While the Clinton program generally offers the lowest price for the drugs and tests its agreements cover, it is only one of many pipelines through which developing countries can purchase drugs. Most brand-name pharmaceutical and generic-drug

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companies offer their own discount plans. In addition, private companies and nonprofit charity groups make purchases on their own.

More than 240,000 people in Africa, the Caribbean and other developing parts of the world receive drugs through the foundation's agreements. The World Health Organization estimates that more than one million people now receive AIDS medicines in the developing world.

The Clinton team worked to lower prices by helping obtain cheaper ingredients to manufacture drugs. For example, one chemical ingredient accounts for most of the cost of making the drug abacavir. The foundation found an alternative supplier willing to slash the price for that ingredient, according to people at the foundation and at the manufacturing company, Matrix Laboratories Ltd. of India.

To make efavirenz another raw material is crucial but expensive, so the foundation approached a university researcher and asked him to develop a cheaper method of synthesizing that ingredient, which he has done.

"They are really providing a very comprehensive assistance program and are very sensitive to the commercial needs of companies," said Nimmgadda Prasad, executive chairman of Matrix Laboratories of Bangalore, India. Because the Clinton Foundation has 50 eligible countries in its purchasing consortium, it offered high enough volumes to justify lower margins, Mr. Prasad said.

Under the Clinton deal to be announced today, the drug efavirenz will be produced by three Indian generics firms -- Cipla Ltd., Ranbaxy Laboratories Ltd. and Strides Arcolab Ltd. -- and one South African generics maker, Aspen Pharmacare Holdings Ltd. The drug abacavir will be produced only by Cipla. Under the deal, efavirenz would sell for no more than $240 per patient per year, and abacavir for no more than $447 as long as orders meet volume and other specifications.

Four companies will manufacture HIV "rapid tests" -- which can determine a person's HIV status in less than 20 minutes -- for between 49 cents and 65 cents per test. The companies are Chembio Diagnostics Systems, a unit of Chembio Diagnostics Inc. of Medford, N.Y.; Orgenics Ltd. of Yavne, Israel, owned by Inverness Medical Innovations Inc. of Waltham, Mass.; Qualpro Diagnostics of India, and Shanghai Kehua Bio-Engineering Co. of Shanghai.

In the U.S. and Europe, abacavir is marketed as Ziagen by GlaxoSmithKline PLC. In the U.S., efavirenz is marketed as Sustiva by Bristol-Myers Squibb Co.; in most of the rest of the world it is marketed as Stocrin by MSD, the international trademark of Merck & Co.

Beating Up On Wal-Mart (WP)

The Washington Post, January 12, 2006

AMERICAN BUSINESS has few whipping boys so irresistibly whippable as Wal-Mart Stores Inc., whose treatment of employees, competitors and suppliers conjures cold-eyed corporate heartlessness. It's hard to root for Wal-Mart; one might as easily cheer on Scrooge or the shark in "Jaws." But state lawmakers in Maryland are preparing to impose legislation on the retailer so arbitrary that it may achieve the near-impossible feat of casting Wal-Mart as the victim.

The Maryland bill would force firms with more than 10,000 in-state employees to spend at least 8 percent of their payrolls on workers' health insurance plans or make compensatory payments to the state. Only three other Maryland employers have more than 10,000 workers on their payrolls -- Johns Hopkins University, Northrop Grumman Corp. and Giant Food Inc. -- and they already meet or exceed the 8 percent threshold. Apparently, only Wal-Mart, with about 15,000 full- and part-time employees in Maryland, does not; thus the bill applies uniquely to Wal-Mart.

Maryland's legislature passed the bill last year, but Gov. Robert L. Ehrlich Jr. (R) vetoed it. Lawmakers, urged on by big unions, appear on the verge of overriding the veto despite furious lobbying by Wal-Mart. The legislators, joined by Giant Food (Wal-Mart's unionized competitor), insist disingenuously that they are not singling out the big-box retailer but are merely setting a standard. Yet hundreds of smaller companies in Maryland that fail to meet the 8 percent spending threshold for health care are untouched by the legislation; in total their uninsured employees may be a greater drain on the state's health system than Wal-Mart's. The bill's backers say that Wal-Mart, because it is so large, bears a special obligation to set a good example. But since when do states have the right to penalize firms simply because they are big and successful?

The Maryland bill is a legislative mugging masquerading as an act of benevolent social engineering. It is true that skyrocketing health care costs and the growing ranks of uninsured workers represent a burden on the state's health system that other corporations in effect help subsidize. But Wal-Mart employees, like the employees of other large retailers that employ many low-wage workers, are only slightly more likely to collect Medicaid benefits than the national average. And unlovable as it may be, Wal-Mart serves low- and middle-income people, both by creating entry-level and part-time jobs for people who might otherwise be unemployed and by saving its moderate-income customers a staggering amount of money.

The legislation has prompted imitators in 30 states. Where it passes, no one should be surprised by unintended consequences. Wal-Mart and other targeted firms may shift jobs or planned facilities elsewhere. Many low-wage younger

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workers may still opt out of health coverage even if offered a more generous plan. In trying to address the national problems of health care and uninsured workers, lawmakers in Maryland and other states could inflict on themselves a new set of problems while failing to solve the underlying one.

Russia Won't Block U.S. On Iran (WP)

By Dafna Linzer

The Washington Post, January 12, 2006

The Bush administration, working intensely to galvanize international pressure on Iran, has secured a guarantee from Russia that it will not block U.S. efforts to take Tehran's nuclear case to the U.N. Security Council, American and European officials said yesterday.

The commitment, made in a Tuesday night phone call between Russian Foreign Minister Sergei Lavrov and Secretary of State Condoleezza Rice, will likely help the United States and its European allies win support from key countries weighing a tougher line in response to Iran's resumption of sensitive nuclear work.

Vice President Cheney and British Prime Minister Tony Blair suggested yesterday that Iran now faces the possibility of U.N. economic sanctions if it does not halt nuclear enrichment research it began Tuesday.

According to three senior diplomats who were briefed on the call, Lavrov told Rice that Russia would abstain, rather than vote against U.S. efforts to move the issue from the International Atomic Energy Agency to the Security Council. State Department spokesman Sean McCormack confirmed to reporters that Rice had spoken with Lavrov and other foreign ministers but did not divulge details.

Russia's pledge was good only for when a vote takes place inside the IAEA. U.S. officials said they remain uncertain as to how Moscow, a traditional ally of Iran's, would react if the issue gets to the Security Council, where Moscow is one of five countries with veto power.

Still, Bush administration officials who spoke on the condition of anonymity saw the Russian decision as a victory and said they would spend the next several weeks lobbying China for a similar commitment. "We spent much of our time working on the Russians, but we're now moving the focus to China," said one administration official who would only discuss the backroom diplomacy on the condition of anonymity.

The White House is hoping the IAEA board will refer Iran's case to the Security Council before President Bush delivers the State of the Union address at the end of the month, according to two senior administration officials.

Four years ago, in his annual address, Bush referred to Iran as a one of three "axis of evil" countries, along with Iraq and North Korea. But his administration has been criticized by friends and opponents for failing to come up with a strategy to curb Iran's nuclear program.

The White House has been pushing for more than two years to bring Iran's case before the Security Council, but only now -- as a result of Iran's recent actions -- has it found a chance to win enough international support to do so. The timing is ideal, U.S. officials said. John R. Bolton, the U.S. ambassador to the United Nations, takes over the presidency of the Security Council for one month beginning on Feb. 1, giving Washington the opportunity to place Iran at the top of the council agenda.

In an interview yesterday with Fox News Radio, Cheney said "the number one item on the agenda" at the Security Council would be a "resolution that could be enforced by sanctions." He cautioned that the process, still in flux, was "speculative at this point" but added, "that will be the next step once the Board of Governors of the International Atomic Energy Agency meets and concludes that the diplomatic track they've been on isn't going to work."

In London, Blair told parliament that sanctions are a serious option. "We don't rule out any measures at all," Blair said. "It is important Iran recognizes how seriously the international community treats it."

The foreign ministers of France, Britain and Germany, who are now closely allied with Washington's position on Iran, are expected to call today for an emergency meeting of the IAEA board to vote on sending Iran's case to New York.

They are assured of winning a majority of the votes from the board's 35 members. But diplomats from all three countries, who spoke on the condition of anonymity, said the meeting may not take place in time for Bush's speech, saying they may need several more weeks to lobby China and other influential board members, such as India. Undersecretary of State R. Nicholas Burns will travel to India next week to press for its support.

"We expect the meeting will most likely take place around the beginning of February," one European official said.

Robert Einhorn, who was assistant secretary of state for nonproliferation until 2001, said it would be best to press Russian and China for more than abstentions. "What we need to do now is get the Russians and Chinese to tell the Iranians they won't be in a position to help them out in the [Security] Council if they go forward with this work," he said. "If the Russians and Chinese told them that, it would have quite an impact in Tehran."

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Iran says its program is designed solely to generate electricity, but the Bush administration is convinced Tehran is using it as a pathway to a nuclear bomb. So far, the IAEA has not found proof of a weapons program, but Iran's cooperation with inspectors has been shaky, and many questions remain unanswered.

Iran Defiant As Sanctions From West Likely (AP-Y2)

By Nasser Karimi

AP2, January 12, 2006

The U.S. and Britain said Wednesday that Western countries will likely seek Iran's referral to the U.N. Security Council after it restarted nuclear activity. Iran's president said his country would not be bullied and would push ahead with the program.

British Prime Minister Tony Blair said he could not rule out the possibility that Iran will face economic sanctions.

International impatience with Iran was growing after it broke U.N. seals at a uranium enrichment plant Tuesday and said it was resuming nuclear research after a two-year freeze. Enriched uranium can be used as a fuel for both nuclear energy and nuclear weapons.

"I think the first thing to do is to secure agreement for a reference to the Security Council, if that is indeed what the allies jointly decide, as I think seems likely," Blair told the House of Commons in London, adding that he was in close contact with Washington on the issue.

"We obviously don't rule out any measures at all," Blair said when asked about possible sanctions. "It's important Iran recognizes how seriously the international community treats it."

State Department spokesman Sean McCormack said "it is more likely than ever" that the U.N. nuclear watchdog, the International Atomic Energy Agency, will refer Iran to the Security Council. The council could then impose sanctions.

White House spokesman Scott McClellan said Tuesday if Iran continued on its present course, "there is no other choice but to refer the matter to the Security Council."

McCormack said Secretary of State Condoleezza Rice had discussed the situation by telephone with IAEA chief Mohamed ElBaradei and British Foreign Secretary Jack Straw.

Russia, a longtime ally of Iran, expressed anger as well. Foreign Minister Sergey Lavrov talked with Rice, and both sides shared "a deep disappointment" over Iran's move, the Russian Foreign Ministry said.

But Iranian President Mahmoud Ahmadinejad shrugged off the international outcry.

"Unfortunately, a group of bullies allows itself to deprive nations of their legal and natural rights," Ahmadinejad told a crowd during a visit to the port city of Bandar Abbas. His speech was broadcast live on state-run television. "The Iranian nation is not frightened by the powers and their noise."

Former President Hashemi Rafsanjani took a sharper tone, denouncing the West's "colonial policy."

"If they cause any disturbance, they will ultimately regret it," the cleric warned in a speech for the Islamic holiday of Eid al-Adha aired on state TV.

"Even if (the Westerners) destroy our scientists, their successors would continue the job," he said. "It would not be easy for them to solve the (nuclear) case by imposing sanctions or anything like that."

Rafsanjani, who was Iran's president in the 1990s, lost to Ahmadinejad in a runoff election in June. The policy of pursuing the nuclear program has become a point of national pride for many Iranians, a rare issue that crosses the reformist-conservative divide.

Rafsanjani now serves as head of the Expediency Council, a powerful body that mediates between the elected parliament and Iran's unelected Islamic clerical leadership, which holds ultimate say in the country.

Iran insists its research is for peaceful energy production only. But the United States suspects Tehran has ambitions to produce nuclear weapons.

"I tell those superpowers that, with strength and prudence, Iran will pave the way to achieving peaceful nuclear energy," Ahmadinejad said. "In the near future, (nuclear) energy will be completely carried out by the Iranian nation."

The president accused the West of seeking to prevent Iran's technological development and control the country by forcing it to buy nuclear fuel abroad.

"They falsely say that they oppose nuclear weapons. They want to have nuclear monopoly to sell it drop by drop at an expensive price and use it as an instrument for domination over nations," he said.

Blair said Iran's decision to restart its nuclear program, coupled with Ahmadinejad's recent inflammatory comments about Israel, "cause real and serious alarm right across the world." Ahmadinejad recently called for Israel to be "wiped off the map" and said the Holocaust was a "myth."

German Deputy Foreign Minister Gernot Erler cautioned against referring the dispute to the Security Council, saying it could further destabilize the Middle East.

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Foreign ministers from Britain, France and Germany, who have spent two years trying to persuade Iran to halt its uranium conversion and enrichment activities, will meet in Berlin on Thursday to consider their next step.

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Associated Press Writer Ed Johnson contributed to this story from London.

A Test Of Wills Between Iran And The West (NYT)

By Steven R. Weisman

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - One day after Iran moved to break the internationally monitored seals on its nuclear facilities, a contest of wills between Iran and its adversaries unfolded, with the Europeans threatening to refer Iran to the United Nations Security Council for possible punitive actions and Iran issuing defiant new warnings.

Signaling this strategy, Vice President Dick Cheney, in an interview with Fox News, said Wednesday that the United States would seek the adoption of "a resolution that could be enforced by sanctions, were they to fail to comply with it." Prime Minister Tony Blair of Britain told the Parliament the same thing, saying that "we have to decide what measures to take and we obviously don't rule out any measures at all."

Among the possibilities being discussed, various officials said, were a ban on travel by Iranian diplomats, restrictions on new commercial contracts or sports contests and other small steps falling short of what would be the toughest sanction of all - either a ban on oil purchases or on the export of refined gasoline to Iran.

But it was unclear whether the Europeans could get Russia, China, India and other countries to join a consensus for sanctions, making it possible for the Security Council to act on them. Nor was it certain that Iran would change its behavior in response to new pressures.

"The issue cannot be solved by imposing sanctions or similar measures," said Ali Akbar Hashemi Rafsanjani, the former Iranian president. The West would regret any such attempts, he warned in a speech on Wednesday as Iran celebrated the Muslim holiday of Id al-Adha.

"I believe the West has played this game too late and played into Iranian hands," said Abbas Milani, director of Iranian studies at Stanford University. "At this stage, they are convinced that the more hardball they play, the more the West will collapse." Mr. Milani said that news reports from Iran suggested that its government had used the last few years to sign up oil deals with various countries to gain their political support, dispersed its nuclear activities to some 300 sites around the country and stockpiled food, medicine and other materials to survive any sanctions.

American and European officials say that two years of efforts to negotiate with Iran, including the discussion of incentives for ending its nuclear programs, has at least brought leading countries of the world closer to a willingness to apply coercion now that talks have failed.

They have indicated that the next phase of pressure is likely to take place a step at a time, perhaps starting with a referral of Iran's case by the International Atomic Energy Agency to the United Nations Security Council early next month.

"A lot of what can be done is simply related to Iran's status in the world," said Mitchell B. Reiss, a policy and planning director at the State Department in the first Bush term. "The Iranians are very sensitive to challenges to their own legitimacy, and there are a lot of things you can do before bringing down the hammer big time."

But others are less sure of such a course of action, and they fear that Iran can string out the process by appearing to cooperate at each phase, peeling off Russian and Chinese support with a show of reasonableness.

"I've been surprised that so many people are acting like referral to the Security Council is some important event that will bring about change in the government of Iran," said an administration official, asking not to be identified as questioning the Western strategy. "I don't buy it."

A second official, asked if the period of diplomacy had now ended, said: "No. Diplomacy just passes to a new phase, one of diplomatic judgment of Iran." Such a judgment, he said, will be easier because of the recent inflammatory comments from its new president, Mahmoud Ahmadinejad, about wiping Israel off the map.

For the time being, there is no talk of military action against Iran, except hypothetically, in part because any kind of airstrike or covert attempt to sabotage its facilities would provoke retaliations in Iraq, Israel and elsewhere.

A few years ago, for example, Bush administration hawks spoke of the powerfully persuasive effect on Iran of 150,000 American troops in neighboring Iraq. Now, the United States is angrily calling on Iran not to support lethal attacks on American troops by insurgents. There remain some in the Bush administration who say that American officials could have made a greater attempt in the last year or so to reach out to the Tehran government. But there is no indication that Iran was interested.

The American ambassador to Iraq, Zalmay Khalilzad, was authorized to engage Iranians in discussions about cross-border infiltration of bombs and other devices used against Americans, but has been rebuffed.

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Meanwhile, the United States has concentrated its efforts on trying to isolate Iran diplomatically, proclaiming success repeatedly but without proof that it has gotten anything more than lip service so far.

State Department officials say that Secretary of State Condoleezza Rice has been concentrating this week on getting Russia on board the campaign to confront Iran. They say Russia has responded with surprisingly tough talk to Iran's rebuff of an offer to enrich uranium on Russian soil, but that Russia could still call for more delays.

China, administration and European officials say, is considered likely to accept sanctions if Russia does.

In its five years in office, the Bush administration has engaged in a long-running internal debate over how to deal with Iran. Hard-liners at the Pentagon and Mr. Cheney's office argued against having any diplomatic contacts with Tehran.

Some at the State Department say privately that more efforts might have yielded some results, and they got the administration to go along with the European efforts to offer economic benefits last year.

Iran has had two military plane crashes in the last month, for example, and these officials argue that the offer of spare parts for commercial aircraft might have done the trick.

Some conservatives in the administration have begun to play with the idea that the best that could be done is to delay Iran's nuclear bomb-making ability, and the United States should use the time to try to encourage political change within Iran.

A small effort has begun to provide assistance to dissident groups, for example. But a meeting to discuss further openings with Iran as a means to undermine the government was canceled last year after The Wall Street Journal disclosed the plans and hard-liners attacked them as too conciliatory.

Pressure Mounts On Iran As UK Vows To Go To UN (FT)

By Roula Khalaf In London And Daniel Dombey In Brussels

Financial Times, January 12, 2006

Britain yesterday vowed to report Iran to the United Nations Security Council, intensifying diplomatic pressure over Tehran's nuclear programme.

Responding to Iran's decision to resume limited uranium enrichment research, Tony Blair, the UK prime minister, told parliament: "I think the first thing to do is to secure agreement for a reference to the Security Council, [if] that is indeed what the allies jointly decide, as I think seems likely."

European officials warned that Tehran would have to reinstate the seals at its Natanz research facility and refrain from all the activities it announced this week if it wanted to avoid a UN referral. "We made clear in December they had to retain the full suspension. Removing the seals [at the Natanz plant] was the critical step. They've crossed the red line," said one diplomat. "A half-step back will not stop us [in seeking a UN referral]."

A meeting between the British, French and German foreign ministers in Berlin on Thursday is expected to call for an emergency session this month of the International Atomic Energy Agency, the UN's nuclear watchdog, which would then discuss a referral of the dispute to the UN. A referral would require a majority vote in the 35-member IAEA board.

Angela Merkel, German chancellor, will also discuss the issue with George W. Bush, US president, in Washington tomorrow and with Vladimir Putin, Russian president, in Moscow on Monday.

Germany, previously often seen as taking a "softer" policy on Iran than the other large EU countries, now maintains that there is no remaining ground for discussions with Iran, following Tehran's actions this week.

The case for referral will be strengthened by the report for the next IAEA board meeting, in which Mohamed ElBaradei, the agency's director-general, is set to conclude that he has made "no progress" in convincing Iran to reveal more about its nuclear programme, which Tehran maintains is peaceful.

European diplomats also appeared confident that Russia would not oppose a referral although so far Moscow has been reluctant to back such a move publicly.

The diplomats emphasise that over the weekend Russia and China joined with the three other permanent UN Security Council members and sent diplomatic "demarches" calling for Iran to desist from its nuclear research. The demarches also asked Iran to pass on a sensitive document it received from Pakistan's AQ Khan nuclear procurement network in the 1980s that some diplomats see as evidence of Tehran's interest in developing nuclear weapons.

Nuclear experts yesterday cautioned that Iran's current plans posed no short-term risk of large-scale production of nuclear material. Iran on Tuesday said it was planning to install small-scale gas ultracentrifuge cascades at a pilot enrichment plant in Natanz and to feed UF6 gas into the cascades for research purposes.

But experts familiar with UN inspectors' work in Iran said any enrichment was a long way off because some of the centrifuges at the pilot plant had crashed when the plant was shut down in 2004. But diplomats, say even small-scale enrichment would bring Iran closer to mastering the production of fuel that could be used for military or civilian purposes.

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If it reaches the UN Security Council, the first step is likely to be a UN resolution calling on Iran to abide by the demands of the IAEA.

Additional reporting by Bertrand Benoit and Hugh Williamson in Berlin, and Mark Turner at the United Nations

Iran Crosses Last Red Line; UN Sanctions Ahead? (CSM)

By Peter Ford

The Christian Science Monitor, January 12, 2006

PARIS - Iran's abrupt resumption of its nuclear program this week, throwing Tehran's clerical regime into open conflict with the rest of the world, appears to have doomed current diplomatic efforts to curb the country's nuclear ambitions.

Ending a two-year freeze on research into uranium enrichment - an essential step in the production of both nuclear reactors and bombs - Iranian officials reopened the Natanz nuclear research facility on Tuesday. European leaders who had negotiated the research suspension said the move marked the end of their readiness for talks.

Foreign ministers from Britain, France, and Germany, whose two years of diplomatic efforts failed to persuade Iran to drop uranium enrichment permanently, are expected to launch a bid Thursday to refer Iran to the UN Security Council, which could enforce economic and political sanctions. There are signs, for the first time, that Russia and China may not stand in their way.

"We were in crisis management mode, offering dialogue," says a European diplomat close to the negotiations. "Now we have gone through every single red line. We have to move to another stage."

"The European Union door is shut and the Iranians have thrown away the key," added Ali Ansari, an expert on Iranian politics at St. Andrew's University in Scotland. "This was a symbolic slap in the face for the Europeans."

Iran insists its nuclear program is only for peaceful, electricity-generating purposes, and that it therefore has the right under the Nuclear Non-Proliferation Treaty (NPT) to develop the full nuclear fuel cycle.

The US, increasingly supported by EU nations, claims Tehran is seeking to build a nuclear bomb. It is also worried by Iran's program to develop a long-range missile that could deliver it to Vienna - or Israel.

A three-year probe by the International Atomic Energy Agency (IAEA) has found no hard evidence that Iran is seeking a nuclear weapon but has raised many unanswered questions. Chief among them is why the Iranian authorities hid large parts of their nuclear program for years, before they were revealed by an exile opposition group in 2002.

"I am running out of patience, the international community is running out of patience" with Iran's evasiveness over nuclear issues, IAEA chief Mohammed ElBaradei told Britain's Sky News television earlier this week.

If enriched to a low level, uranium can be used in power stations. But enriched to a higher degree, it can be used in nuclear warheads. To reassure the world of its peaceful intentions, Iran promised its European negotiating partners in October 2003 to suspend all activities related to the enrichment of uranium in return for political and economic incentives. Iran broke that pledge Tuesday.

While Washington and European governments appear ready to push for United Nations sanctions, which can be imposed only by the UN Security Council, Russia and China - both veto-wielding members of the Council - appear more cautious.

Traditionally Moscow and Beijing have been sympathetic to Tehran, but European diplomats had some success in winning their understanding.

Both China and Russia wrote letters to the Iranian government last weekend urging it to maintain its enrichment moratorium. Tuesday's move snubbed both.

Russian Defense Minister Sergei Ivanov said Wednesday he was "disappointed and worried" by Tehran's decision, which he added was "not following the best case scenario." In Beijing, the chairman of China's National People's Congress, Wu Bangguo, told visiting US lawmakers Wednesday that his government "agreed to working with the United States and especially the EU3 on Iran," according to Mark Kirk, a Republican Congressman.

Recent inflammatory comments by Iranian President Mahmoud Ahmadinejad attacking Israel and calling the Holocaust into doubt have not helped Iran's cause abroad. "Ahmadinejad has given them (the Americans) an open goal," says Dr. Ansari. "Even the Russians and the Chinese are getting fed up."

The first test of the diplomatic waters will come at the "extraordinary" meeting of the IAEA board which the European foreign ministers and EU foreign policy czar Javier Solana are expected to call for on Thursday, after consulting with US Secretary of State Condoleezza Rice.

At the IAEA, Russia may seek to delay a referral of Iran's nuclear program to the UN Security Council because Moscow is still offering one possible way out of the crisis - a proposal that Iran's uranium be enriched in Russia, to ensure that none of it is diverted to illegal military purposes.

Iran hasn't rejected the idea, and is due to send a delegation to Moscow on Feb. 16 to discuss it further. But some observers think Iranians won't take the offer seriously, against a background of prickly relations.

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"The history of Iranian-Rusisan is pretty appalling. It's not a track record you'd want to rely on," says Dr. Ansari.

If Iran is referred to the Security Council for violating the NPT by hiding much of its nuclear program for two decades, members will face a number of sanctions options, ranging from a suspension of economic ties to breaking diplomatic relations with Tehran.

None of them is pain-free for the international community, however, say observers.

"Interrupting diplomatic relations would send a powerful signal but its consequences would not be obviously favorable to us, since we would lose direct knowledge of what was going on in Iran," points out François Heisbourg, head of the Strategic Research Foundation, a think tank in Paris.

Refusing to buy Iranian oil - another option - would raise international oil prices to levels that would threaten the world economy, he adds. The Russians, too, are cautious about sanctions, says Yevgeny Bazhanov of Moscow's Diplomatic Academy.

"We're not against sanctions, but think they should be ... targeted to solve the problem. We wouldn't support blanket punishment, or ultimatums, but only sanctions that really work," says Mr. Bazhanov.

The EU is anxious to steer the crisis towards the United Nations if only to head off the prospect of an Israeli strike on Iran's nuclear facilities.

Though some US voices have been raised in favor of a military strike against Iranian nuclear installations, such an attack would undoubtedly prompt Iran to use all its considerable influence among Shiite Muslims in Iraq to undermine US goals there.

"The diplomatic game is the only game in town" when it comes to dealing with Iran's nuclear program, argues Mr. Heisbourg. "It is not working, but I know of no other."

Iran's Nuclear Challenge (WP)

The Washington Post, January 12, 2006

IRAN'S RESUMPTION of uranium enrichment dramatically narrows the options of Western governments that hope to prevent its Islamic regime from acquiring nuclear weapons. The breaking of seals at its Natanz plant Tuesday directly violated an agreement Tehran struck with Britain, France and Germany in 2004 to suspend its enrichment program; that should end European hopes that economic favors could be exchanged for a permanent freeze. A Russian offer to enrich Iranian uranium has no greater prospect of success: Tehran announced its new, supposedly experimental work before it had responded to Moscow. Notions of a broader "grand bargain" between Iran and the West have been rendered ludicrous by the rantings of President Mahmoud Ahmadinejad, who has denied the Holocaust more vigorously than he has Iran's plans to become a nuclear power. And thanks to better footwork by the Bush administration, European governments no longer have the option of blaming the United States for the failure of diplomacy.

That leaves the strategy that the United States has been pressing all along, which is referring Iran's case to the U.N. Security Council. Such a referral, which must come from the board of the International Atomic Energy Agency, probably won't change Iranian behavior or lead to Security Council action; North Korea has been before the council for three years without result. But having promised that consequence in the event of a resumption of enrichment, European governments must now move forward. To shrink from referring Iran to the Security Council now would strip the West of its remaining credibility in Tehran and all but eliminate the possibility of a peaceful solution.

As it is, the weak response to Iran's last provocation, the reopening of a uranium conversion facility in August, probably encouraged this week's escalation. European governments issued angry statements and helped pass an IAEA resolution that spoke of bringing Iran to the council at some indefinite time. In the following weeks, however, the Europeans returned to the same negotiating strategy that had already failed, offering to resume talks with Iran and backing Russia's intervention. The Bush administration, too, supported this course, in keeping with its strategy of building a coalition rather than squabbling over tactics with allies. The net result was that Iran's belligerence was answered with more appeasement.

The mullahs are gambling that the same will happen in this case: that European governments will once again temporize or that Russia and China will prevent any meaningful Security Council action. Even if the Europeans respond firmly, and a resolution is adopted by the IAEA, the latter calculation is probably a good one. Russia, which just signed a $1 billion arms sale agreement with Iran, is increasingly hostile to Western initiatives, and China is a major consumer of Iranian oil. So while the means of the Security Council must be tried, Western governments should also begin fashioning a policy of sanctions and containment for Iran that can be applied by a coalition of the willing. That should be coupled with a more concerted effort to support the large part of the Iranian population that yearns to free itself from repressive clerical rule. If there is to be a credible alternative to military action against Iranian facilities -- or the concession of nuclear weapons to a regime that openly advocates wiping Israel from the map -- now is the time for Europe and the United States to agree on it.

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Help Us, America . . . (WSJ)

By Farouz Farzami

The Wall Street Journal, January 12, 2006

TEHRAN -- On the surface, it would appear that pressure from the United Nations and the United States has little effect on the mullahs who rule Iran. The opposite is true.

The best current example is the standoff over Iran's nuclear program. Fearing that the mullahs are secretly developing nuclear weapons, the U.N. wants strict limits on Iran's nuclear program. The country's top nuclear negotiator, Ali Larijani, and Iran's new president, Mahmoud Ahmadinejad, have refused to consider any such limits, even after Russia offered a compromise that would permit Iran to enrich uranium on its soil. The president and the top negotiator have been defiant -- on state-run TV recently, Mr. Larijani, thinking several steps ahead, pledged a "crushing response" to any military attack by the U.S. or Israel.

But if you look past this headline-generating bluster, you see that Western pressure is having an effect. The hard-line position of the Iranian government has begun to splinter. There are now three minds about this issue in the Majlis, the Iranian parliament:

· A categorical rejection of the Russian proposal to allow Iran to enrich uranium at its facilities, a compromise that would deny Iran the privilege of enriching uranium on its own soil.

· Modifying the Russian proposal to allow for enrichment to occur in both Russia and Iran.

· Suspending all enrichment until further notice or even to some agreed-upon future date, to defuse tension and rebuild confidence with the European Union.

The existence of these more conciliatory positions in a Majlis completely composed of religious hard-liners is a surprise. (A fourth point of view unrepresented officially, since reformers have been thrown out of the government, calls for Iran to comply with the U.N.'s demands and give up on enrichment of nuclear fuel altogether.)

There is only one reason why these divisions have appeared within the formerly monolithic Majlis: the tough stand by the international community backed by American and Israeli military might. I understand the opposition of liberals in America and Europe to America's military moves in the Middle East, and they are right to be concerned about the continuing loss of life. But they should also appreciate the importance of American power in enforcing global standards. Without U.S. military, economic and diplomatic pressures, the leader-for-life of Libya, Col. Moammar Gadhafi would not be behaving himself today, and the people of Afghanistan would still be under the thumb of the Taliban.

Iran is, of course, not comparable to Libya or Afghanistan, but everyone in Tehran's bazaar knows that any flare-up of tension between Iran and the West has an immediate adverse impact on the Rial, the country's currency, particularly against the U.S. dollar. The slightest Western pressure and Tehran's stock market nose-dives.

Why won't the U.S. take advantage of this? Why not impose smart sanctions on Iran instead of smart bombs, and apply strong international pressure for the formation of independent and secular political parties? Currently, the only parties allowed are Islamic ones approved and subsidized by the authoritarian, theocratic regime. We desperately need a push from America and the West to separate church from state in Iran.

If I were an American, I would probably be content with the well-being of myself and my own family, and would be inclined to oppose my country's involvement in Middle East politics -- but I am not an American. I am an Iranian. I am a subject, not a citizen, of a Middle Eastern country with a long history of despotism. My country will not change without help from the West. I wish the only superpower in the 21st century would realize its full potential in diplomacy, economic leverage and, as a last resort, military action -- not just to stop Iran's nuclear ambitions, but to speed up democratization in the region.

I am impatient for it. We have those like Shirin Ebadi, Iran's Nobel Peace Prize winner and prominent reformer, who call for allowing democracy to evolve. But Ms. Ebadi is a rich woman, a member of the country's small elite that has never had to struggle to make a living. Maybe she and those patient ones like her can afford to wait another century for democracy to materialize out of the blue.

Not me. I need help. If America could accept its power and potential, it could begin forcing change right now.

Ms. Farzami is an Iranian journalist who is forbidden to publish in her own country.

A Firebrand In A House Of Cards (NYT)

By Dariush Zahedi And Omid Memarian

The New York Times, January 12, 2006

Berkeley, Calif.

IN defying international monitors and breaking the seals on its nuclear facilities, Iran seems to be courting confrontation. But Western leaders would do well to consider what President Mahmoud Ahmadinejad's bravado really says about Iran's likely

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posture in the region and at the nuclear talks that are scheduled to resume at the end of January. To continue down the path of conflict could be very costly, both for the regional interests of the United States and most of all, for the territorial integrity of Iran.

Mr. Ahmadinejad is surely motivated by ideology and the desire to solidify the position of the security faction within Iran's ruling elite. But he also appears to be acting on the perception that the United States is in a position of considerable, indeed unprecedented, weakness. America's military is overstretched in Iraq and Afghanistan, and Washington has focused on monitoring North Korea's nuclear program rather than Iran's. If threatened, Iran could wreak havoc in Afghanistan, Iraq, Lebanon and Israel. These observations may lead Mr. Ahmadinejad to an incorrect assessment of Iran's strength relative to any American threat.

In fact, Iran has serious domestic frailties, including a shaky economy and its attendant unemployment and popular resentment, not to mention soaring levels of drug abuse and a brain drain. But President Ahmadinejad no doubt takes comfort not only in his belief in divine protection but also in the knowledge that Shiite religious parties aligned with Iran are now the dominant political forces in Iraq, while the American public hardly seems amenable to waging another war in the region. Moreover, Mr. Ahmadinejad very likely believes that the best way to guard against regime change from without is to emulate North Korea by swiftly advancing Iran's nuclear capacity.

The new president also surely knows that even if Iran's nuclear dossier is referred to the United Nations Security Council, meaningful multilateral sanctions against the Islamic Republic will most likely be vetoed by Russia or China. Flush with petrodollars, Iran has become a major purchaser of Russian technology, including roughly $1 billion worth of allegedly defensive weapons that Moscow recently agreed to sell to Tehran. Meanwhile, China, seizing on Iran as a key producer of oil and gas not beholden to the United States, has quickly emerged as one of Iran's largest trading partners.

Given this favorable strategic picture, Mr. Ahmadinejad might even welcome an American or Israeli strike on Iran's nuclear facilities. Tehran could then retaliate against American and Israeli interests by mobilizing its Shiite allies in Iraq, the Persian Gulf countries and Lebanon - or even by making common cause with some Sunni rivals. All the while, Mr. Ahmadinejad's faction in government would make full use of the war footing to marginalize its rivals at home and crush the remnants of Iran's civil society.

But the Iranian regime is not invulnerable, and Washington knows this. Just as Iran can use the Shiite card to create mischief in the region, the United States could manipulate ethnic and sectarian tensions in Iran, which has significant, largely Sunni, minority populations along its borders.

Many of Iran's ethnic and religious minorities see themselves as victims of discrimination, and they have not been effectively integrated into Iranian economic, political or cultural life. Some two million disgruntled Arabs reside mainly in the oil- and gas- rich province of Khuzestan. The United States could make serious trouble for Tehran by providing financial, logistical and moral support to Arab secessionists in that province. Other aggrieved Iranian minorities would be emboldened by the Arabs' example - for example, the Kurds and the Baluchis, or even the Azeris (though the Azeris, being Shiites, are better integrated into Iranian society). A simple spark could suffice to set off centrifugal explosions.

Furthermore, the plummeting Iranian economy will only worsen if the United States succeeds in referring Iran's nuclear file to the Security Council, whether or not meaningful sanctions follow. Such a referral would accelerate capital flight, deal a blow to the country's already collapsing stock market, devastate its hitherto booming real estate market, and wipe out the savings of a large part of the middle class. It would also most likely result in galloping inflation, hurting Iran's dispossessed, whom the Ahmadinejad administration claims to represent.

In light of these ominous possibilities, both Mr. Ahmadinejad and Mr. Bush would do well to avoid overplaying their hands. They should take a leaf from the book not of Ayatollah Ruhollah Khomeini the ideologue, but of Ayatollah Khomeini the pragmatic politician. Like Mr. Ahmadinejad, Ayatollah Khomeini argued that the "Zionist entity" should be wiped off the map. But he chose regime preservation over ideology when he ended the Iran-Iraq war and even bought weapons from Israel.

IRAN should endeavor to regain the trust of the international community by engaging in compromise, and the United States should allow this compromise to be sufficiently face-saving for Iran's ruling elite. To regain the confidence of the international community, Iran should accept the Russian offer to process Iranian uranium gas into fuel and voluntarily stop, for a specified time, insisting on its right to do so at home.

In return, the United States should lift its unilateral sanctions from Iran. These sanctions, which include a ban on the sale of aircraft and spare parts to Iran, have absolutely no effect on the regime's nuclear capacity, but they harm Iranian civilians.

Today the incentive for both sides to step away from the brink of conflict is even greater than it was at the end of the Iran-Iraq war. If the United States responds to a perceived Iranian threat by exploiting Iran's ethnic, sectarian and economic cleavages, it is not just the Islamic Republic that will be threatened - Iran itself could be dismembered as well.

Rice Threatens Syria With U.N. Action (AP)

By Anne Gearan

DOJ_NMG_0009565

The Associated Press, January 12, 2006

WASHINGTON -- Secretary of State Condoleezza Rice issued a new threat Wednesday to haul a defiant Syria before the U.N. Security Council if Damascus does not cooperate with an investigation into a political assassination in Lebanon.

"The United States has grave and continuing concerns about Syria's destabilizing behavior and sponsorship of terrorism," Rice said in a statement.

Syria has failed to heed U.N. Security Council warnings about its behavior in Lebanon and elsewhere, Rice said.

"We call upon the Syrian regime to respond positively to the requests" of the U.N. investigator looking into the killing of former Lebanese Prime Minister Rafik Hariri, Rice said. "We intend to refer this matter back to the Security Council if Syrian obstruction continues."

The United States opposes "any deals or compromises" with Damascus that would undermine the investigation, she said.

The U.N. probe into Hariri's killing has already implicated Syria, but Damascus has denied the allegations.

Hariri, a Lebanese nationalist who sought to assist his country in wiggling free from Syrian control, was assassinated in a truck bombing Feb. 14 in Beirut. The blast killed 20 other people and set off street demonstrations that forced withdrawal of Syrian forces from Lebanon after nearly three decades.

The United States has not accused Syria outright of ordering Hariri's killing, although it has come close. Washington pulled its ambassador from Damascus shortly after the killing and has since steadily increased pressure on the government of Bashar Assad.

The United States also wants international investigation of other political killings in Lebanon that followed Hariri's death.

"Syria must once and for all end its interference in the internal affairs of Lebanon," Rice said. "Continuing assassinations in Lebanon of opponents of Syrian domination ... create an atmosphere of fear that Syria uses to intimidate Lebanon."

U.S. Tells Syria To Cooperate, Threatens UN Action (NYT/REU)

By Reuters

The New York Times, January 12, 2006

Condoleezza Rice threatened on Wednesday to send the inquiry into the murder of Lebanon's former prime minister back to the U.N. Security Council if Syrian ``obstruction'' continued.

In a strongly worded statement, Rice also voiced grave concerns about what she said was Syria's ``destabilizing behavior and sponsorship of terrorism'' and said Damascus must stop interfering in the affairs of neighboring Lebanon.

``Syria must cease obstructing the investigation into the assassination of former Lebanese Prime Minister Hariri and instead cooperate fully and unconditionally as required by U.N. Security Council resolutions,'' said Rice in a statement.

U.N. investigators have been trying to interview Syrian President Bashar al-Assad as part of an inquiry into the February 14 Beirut murder of former Prime Minister Rafik al-Hariri, an opponent of Syrian domination of his country.

The United Nations announced on Wednesday that Serge Brammertz, a Belgian prosecutor with the International Criminal Court, will be the new head of its investigation.

Rice urged Damascus to respond positively to the request by U.N. investigators to interview key officials.

``We intend to refer this matter back to the Security Council if Syrian obstruction continues,'' she said.

U.N. investigators have made clear in their reports to the Security Council that senior Syrian intelligence officials and their Lebanese allies were probably behind the killing of Hariri and 22 others. Syria has denied that Assad's government was involved in the assassination.

Rice said Washington rejected any deals or compromises that would undermine the U.N. investigation.

``We are firmly committed to seeking justice and pursuing the investigation to its ultimate conclusion,'' Rice said.

She also called for the full implementation of U.N. resolutions calling for the disarmament and disbanding of Hizbollah and other militias.

``Syria must once and for all end its interference in the internal affairs of Lebanon,'' she said.

Continued assassinations in Lebanon of opponents of Syrian domination, including the murder of journalist Gebran Tueni last month, created an atmosphere of fear that Syria used to intimidate Lebanon, she said.

``Syria must cease this intimidation and immediately come into compliance with all relevant Security Council resolutions,'' said Rice.

Rice Threatens Syria With U.N. Action (NSDY/AP)

By Anne Gearan, Ap Diplomatic Writer

Long Island Newsday, January 12, 2006

DOJ_NMG_0009566

WASHINGTON -- Secretary of State Condoleezza Rice issued a new threat Wednesday to haul a defiant Syria before the U.N. Security Council if Damascus does not cooperate with an investigation into a political assassination in Lebanon.

"The United States has grave and continuing concerns about Syria's destabilizing behavior and sponsorship of terrorism," Rice said in a statement.

Syria has failed to heed U.N. Security Council warnings about its behavior in Lebanon and elsewhere, Rice said.

"We call upon the Syrian regime to respond positively to the requests" of the U.N. investigator looking into the killing of former Lebanese Prime Minister Rafik Hariri, Rice said. "We intend to refer this matter back to the Security Council if Syrian obstruction continues."

The United States opposes "any deals or compromises" with Damascus that would undermine the investigation, she said.

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U.S. Threatens To Take Syria To UN For Obstructing Hariri Probe (BLOOM)

By Janine Zacharia

Bloomberg, January 12, 2006

Jan. 11 (Bloomberg) -- The U.S. threatened to take Syria back to the United Nations Security Council if the nation's government continues to hinder a UN investigation into the murder of former Lebanese Prime Minister Rafik Hariri.

``Syria must cease obstructing the investigation into the assassination of former Lebanese Prime Minister Hariri and instead cooperate fully and unconditionally as required by UN Security Council resolutions," Secretary of State Condoleezza Rice said in a statement today in Washington.

Rice said Syria must ``respond positively" to investigators' requests or the U.S. will ``refer this matter back to the Security Council." Syrian President Bashar al-Assad and Foreign Minister Faruq al-Shara have rejected investigators' requests for interviews, Agence France-Presse reported Jan. 2.

Rice's statement came as Belgian prosecutor Serge Brammertz agreed to take over the UN-authorized probe of the Feb. 14 2005 truck bombing in Beirut that killed Hariri and 22 others. Syria has denied involvement in the attack.

Brammertz, 42, has served since September 2003 as a deputy prosecutor and head of the investigations division of the International Criminal Court at The Hague. Chosen by Secretary- General Kofi Annan, Brammertz succeeds German prosecutor Detlev Mehlis, who resigned after six months to return to his post in Berlin.

Mehlis said Lebanese and Syrian intelligence officials, including Assad's brother and brother-in-law, were implicated in the truck bombing.

Oct. 31 Resolution

Asked about the timing of Rice's statement, State Department spokesman Sean McCormack said ``there's been a lot of discussion concerning Syria's failure to comply" with the Security Council Resolution passed 15-0 on Oct. 31 that says Syria must fully cooperate with the inquiry or face economic sanctions.

The Council voted Dec. 15 to extend the Hariri investigation for six months.

Public outrage at the murders forced Syria to comply with international demands to pull its troops from neighboring Lebanon in April.

The withdrawal ended a 29-year presence and led to an election victory in June that gave the anti-Syrian political bloc a majority in Lebanon's parliament.

The U.S. says Syria continues still to influence affairs in Lebanon. She said in her statement that the U.S. ``has grave and continuing concerns about Syria's destabilizing behavior and sponsorship of terrorism."

There was no answer at the Syrian embassy in Washington.

U.S. Ratchets Up Pressure On Syria In Hariri Probe (WSJ)

By Neil King Jr.

DOJ_NMG_0009567

The Wall Street Journal, January 12, 2006

WASHINGTON -- The Bush administration stepped up pressure on Syria to cooperate with a United Nations inquiry into the killing of a prominent Lebanese politician, threatening to bring Damascus before the world body for international censure.

In an unusually blunt statement, Secretary of State Condoleezza Rice said the U.S. "has grave and continuing concerns about Syria's destabilizing behavior and sponsorship of terrorism." Washington, she said, would bring Syria back before the U.N. Security Council if Damascus continues to "obstruct" the probe into the killing of former Lebanese Prime Minister Rafik Hariri.

U.S. officials declined to specify what particular action the U.S. might pursue, but suggested the threat of some form of economic sanctions would be the logical next step. The U.S. also is vowing to seek economic sanctions within the U.N. against Iran because of its nuclear program.

Administration officials said Ms. Rice's statement was timed to underscore U.S. seriousness on the Syria front, but also to play off recent developments that pointed more strongly toward Syrian involvement in the Hariri killing as well as rifts within Syrian President Bashar Assad's government.

The U.S. ultimatum comes as former Syrian Vice President Abdul-Halim Khaddam, now in exile in Paris, has openly accused Mr. Assad of ordering the assassination of Mr. Hariri, a powerful critic of Syria's deep involvement in Lebanese affairs. Mr. Khaddam said in a French radio interview Tuesday that it is his "ultimate conviction" that Mr. Assad personally directed the February truck bombing of Mr. Hariri's motorcade in Beirut.

The U.S. has supported a push by U.N. investigators to interview Mr. Assad. Mr. Khaddam, a veteran Ba'ath Party official who was forced out of office in June, met with the U.N. team last week in Paris.

Ms. Rice, in her statement, suggested that the U.S. suspects Syrian involvement in two other prominent assassinations in Lebanon late last year, one of a prominent journalist and the other of a member of the Lebanese Parliament. Sean McCormack, a State Department spokesman, said the U.S. couldn't "connect the dots" between Damascus and the most recent killings, but "there is certainly very clearly an attempt on the part of some to create this atmosphere of fear and violence in Lebanon."

The U.S., Britain and France tried last year to persuade the other two permanent Security Council members, Russia and China, to include the threat of at least targeted sanctions in a resolution demanding Syrian cooperation in the Hariri killing. Syria withdrew thousands of troops it had stationed in Lebanon for decades amid international pressure following the incident.

Likud Cabinet Ministers To Resign (WT)

The Washington Times, January 12, 2006

JERUSALEM -- Cabinet ministers from the Likud Party were to resign from the coalition government today, signaling an end to a weeklong political cease-fire following the massive stroke that felled Prime Minister Ariel Sharon.

The return to politics-as-usual began yesterday, with parties trading bitter slurs over whether to allow Palestinians to vote in their own elections in East Jerusalem this month and a suggestion that Mr. Sharon's name may remain atop his party's list of candidates for parliamentary elections in March.

Mr. Sharon's doctors reported "further slight improvement" in the ailing leader but cautioned that he could remain in the hospital for months.

Senior Hadassah hospital official Dr. Yair Birenbaum said it was "a little too soon" to say he is out of danger, while another doctor said he "can die tonight [or] go back to normal, relatively normal, life in six months."

Nevertheless, a new poll showed Mr. Sharon's recently formed Kadima party is a strong favorite to form the next government, even with his likely successor, Ehud Olmert, at the helm.

Channel Two said Likud leader Benjamin Netanyahu had told his party members to go ahead with the Cabinet resignations, which had been planned for earlier in the week but were postponed after Mr. Sharon's stroke.

The step will have little practical impact on the government, which will serve only as a caretaker until the March elections. Likud hopes to sharpen the distinctions between itself and Kadima as it goes into the campaign.

Labor had already withdrawn its ministers from the Cabinet, meaning the government will be reduced to just six ministers after today.

Tempers flared earlier yesterday in response to suggestions from some of Mr. Sharon's allies that his name could remain at the top of Kadima's list of candidates.

Politicians from both Likud and Labor accused the centrist party of cynically exploiting the prime minister's name, acutely sensitive that Mr. Sharon's plight is liable to attract a large sympathy vote for his party.

Polls in the Ha'aretz and Ma'ariv dailies found that Kadima led by Mr. Olmert would take 44 to 45 seats in the 120-seat parliament, up from previous polls. The Labor Party under Amir Peretz would get 16 to 18 seats while Likud would get 13 to 15, the surveys found.

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"As someone who knows and values Sharon, it pains me that there are various elements around him who are trying to make a political fortune on the back of his illness," said Likud legislator Moshe Kahlon.

Mr. Peretz, who had previously instructed Labor activists to avoid strong campaign rhetoric, promptly reversed his decision.

"The election is starting right now. This is the first phase of the election," he told reporters at the party's election headquarters just outside Tel Aviv, now open for business.

Likud members, meanwhile, reacted angrily to an announcement by Defense Minister Shaul Mofaz that the government has agreed in principle to let Arab residents of East Jerusalem participate in this month's Palestinian parliamentary elections.

Mr. Sharon, before his stroke, had threatened to block voting in the city as long as the militant Palestinian movement Hamas was running candidates.

The United States has pressed Israel not to interfere in the balloting but Secretary of State Condoleezza Rice yesterday raised her strongest objections yet to the participation of Hamas, which is mounting a strong challenge to President Mahmoud Abbas' disorganized Fatah party.

"It remains the view of the United States that there should be no place in the political process for groups or individuals who refuse to renounce terror and violence, recognize Israel's right to exist, and disarm," she said in Washington.

Hamas has carried out nearly 60 suicide bombings against Israelis over the past five years and is considered a terrorist group by the United States. But it remains popular with Palestinians, largely because of its charity work and the provision of basic services that Fatah has failed to provide.

Sharon Physicians Fear Brain Damage (WT)

By Joyce Howard Price

The Washington Times, January 12, 2006

The movement that Israeli Prime Minister Ariel Sharon experienced on both sides of his body after a massive stroke last week bodes well in terms of his survival, but he could live with brain damage, said physicians who treat stroke victims.

"The prime minister's life is still in danger," Dr. Jose Cohen, one of Mr. Sharon's neurosurgeons at Hadassah University Medical Center in Jerusalem, told the Associated Press. "Every day, although we are getting further out of danger, we are still in danger."

Doctors are weaning Mr. Sharon, 77, from sedatives that have kept him in an induced coma to reduce his blood pressure.

Dr. Cohen said the cerebral hemorrhage Mr. Sharon experienced Jan. 4 certainly would have caused cognitive damage.

"There is nothing you can do about that," he said.

Brain damage is experienced in "virtually 100 percent" of patients who suffer the kind of hemorrhagic stroke that felled Mr. Sharon, said Dr. Richard Zorowitz, a specialist in stroke recovery at the University of Pennsylvania Hospital in Philadelphia.

After Mr. Sharon is weaned from the sedatives, his doctors in Jerusalem can assess brain damage and function.

"I personally would not expect him to make a full recovery. ... He'll have to learn to walk and take care of himself all over again. ... It's highly unlikely he could resume his official duties," Dr. Zorowitz said.

Survival beyond a month typically is less than 50 percent for victims of the type of massive brain hemorrhage that Mr. Sharon suffered.

"It is looking better in terms of his survival, but there are still uncertainties in terms of his quality of life and level of function," said Dr. Zorowitz, also chairman of the National Stroke Association's recovery and rehabilitation advisory committee.

On Monday, the prime minister moved his right hand and leg slightly in response to pain stimulation. On Tuesday, movement on his right side increased, and he moved his left hand. Movement on his left side further improved yesterday.

"Injuries to the right side of the brain can cause significant deficits," although not usually as catastrophic as those to the left side, said Dr. Chelsea Kidwell, medical director of the Stroke Center at the Washington Hospital Center.

Dr. Kidwell and Dr. Zorowitz said these brain injuries could result in weakness or numbness on the body's left side, loss of vision in the left eye and paralysis.

Dr. Kidwell said it will have to be determined whether Mr. Sharon will need a feeding tube because some stroke patients have difficulty swallowing.

Dr. Zorowitz cautioned that the prime minister could be left with "problems of memory, judgment and attention."

He said this could mean Mr. Sharon is no longer articulate and could have cognitive deficits in the "subject matter and content" of his speech.

Israelis' Anger At Evangelist May Delay Christian Center (NYT)

By Greg Myre

The New York Times, January 12, 2006

DOJ_NMG_0009569

JERUSALEM, Jan. 11 - Israel said Wednesday that it was breaking off negotiations on a tourism project with the evangelical leader Pat Robertson in response to his remarks suggesting that Prime Minister Ariel Sharon's stroke was divine retribution.

"We cannot accept these statements, and we will not sign any contracts with Mr. Robertson," said Ido Hartuv, a spokesman for the Tourism Ministry.

Israel has been in advanced negotiations with American evangelicals over a proposal for a large pilgrimage and tourism center in the hills near the Sea of Galilee, where Jesus lived and preached. Mr. Robertson has been the leading figure in the negotiations. Mr. Hartuv said Israel would be willing to continue the talks without him.

A spokeswoman for Mr. Robertson, Angell Watts, said in a statement from Virginia Beach: "We have not talked to the Israelis on this topic. We continue to maintain our longstanding commitment to the Jewish people and the State of Israel."

Under the proposal, Israel planned to provide at least 35 acres for the project, the Christian Heritage Center, and the evangelicals intended to raise $50 million for construction. Reports have said it would include a theme park, an auditorium and an outdoor theater.

Israel hopes the project would draw large numbers of Christian tourists from around the world and generate thousands of jobs in a thinly populated region that the government has long struggled to develop.

But Mr. Robertson upset many Israelis by suggesting Mr. Sharon's devastating stroke last Wednesday was divine punishment for pulling Israel out of Gaza last summer.

"God considers this land to be his," Mr. Robertson said Thursday on his television program, "The 700 Club." "For any prime minister of Israel who decides he will carve it up and give it away, God said, 'No, this is mine.' "

"I would say woe unto any prime minister of Israel who takes a similar course," Mr. Robertson added.

He went on to say Mr. Sharon was a "very likable person and I am sad to see him in this condition."

Evangelicals are strong supporters of Israel, and have formed alliances with various groups, particularly those opposed to any territorial concessions to the Palestinians. Israel has generally welcomed the political and financial support.

"Evangelicals are the best friends of Israel and they are very, very welcome here," Mr. Hartuv said.

Mr. Sharon's condition improved slightly on Wednesday, his doctors said. "We are pleased that there are small phases of development in the prime minister's condition," Dr. Yair Birenboim, a senior official at Hadassah-Ein Kerem Hospital in Jerusalem, said on Army Radio.

The doctors had said Tuesday that Mr. Sharon, 77, was out of immediate danger, but one of his neurosurgeons offered a more restrained prognosis on Wednesday.

"Until we have passed a few more stages, we are still very cautious," Dr. José Cohen told Israeli television. "We know that every day, although we are getting further out of danger, we are still in danger."

Doctors have been reducing the level of anesthetic since Monday, with the intention of gradually bringing Mr. Sharon out of his medically induced coma. The hospital statement said he remained lightly sedated on Wednesday.

The campaign for March 28 national elections have been on hold since Mr. Sharon's stroke but the politicking has begun to pick up again.

In a poll on Wednesday in the newspaper Haaretz, Mr. Sharon's recently established Kadima Party had gained support in the past week despite the almost universal assumption that Mr. Sharon will not return to political life.

Several polls before and just after Mr. Sharon's stroke indicated that Kadima would win about 40 of the 120 seats in Parliament. But Wednesday's survey found that the centrist Kadima would take 44 seats. Its closest rival, the left-leaning Labor Party, would get 16 seats, and the rightist Likud would take 13. The poll questioned 640 voters, but did not provide a margin of error.

In the West Bank, Israeli security forces scuffled in the rain and mud with 300 Jewish settlers who tried to prevent the dismantling of an unauthorized settlement outpost south of Jerusalem.

The security forces eventually used tear gas to force out protesters who had barricaded themselves inside a new home near the formal settlement of Neve Daniel. Six protesters were arrested, the police said.

Israel has pledged to remove the West Bank outposts and has taken down some, but dozens remain, according to monitoring groups.

Is The Road Map's Moment Gone? (WP)

By Jim Hoagland

The Washington Post, January 12, 2006

DOJ_NMG_0009570

The United States, its European and Arab allies, and the United Nations have labored for four months to turn Israel's unilateral withdrawal from the Gaza Strip into a catalyst for the creation of an independent, viable Palestinian state. They are visibly failing.

Law and order have disappeared in the Gaza territory since the Israeli withdrawal. Kidnappings and gunfights, not campaign rallies, are the tools of electioneering there. Financial mismanagement by Mahmoud Abbas's Palestinian Authority has forced the World Bank to freeze $60 million in budget support and effectively move the PA toward bankruptcy in a matter of weeks.

The spiral toward chaos in Gaza and Ariel Sharon's sudden incapacitation by a severe stroke are destabilizing blows to President Bush's proclaimed strategy for transforming the Middle East into a zone of democracies. Bush must reassess whether he can get there from here.

With Sharon in power, the odds on the "road map" diplomatic process delivering the democratic Palestinian state that Bush and Sharon conditionally endorse were slim. Without Sharon in power, the odds drop to virtually zero.

The Gaza withdrawal was the product not of understandings between Sharon and Abbas but of an ambivalent if productive relationship between Sharon and Bush. Ending the occupation of Gaza was above all an Israeli-American arrangement, tied to the expectation that the Israeli prime minister's time in office would begin and end roughly with the American president's tenure.

The eight-year political balance sheet of give-and-take that the two leaders set up underpinned Sharon's formal acceptance of the U.N.-blessed process for creating a Palestinian state. The road map toward peace was a risk that the audacious Sharon was willing to take to secure Bush's backing, not an objective he sought or ever planned.

Just as Europeans abandoned colonialism to improve their own lives and not the lives of the Africans, Arabs and Asians they set free, Sharon ended Israel's occupation of Gaza solely for Israeli security reasons. He would wall in the Gazans with security fences and other measures and remain seemingly indifferent to what became of them.

But Sharon's daring gave Bush, the international community and, most of all, the Palestinians an opening that seemed to promise complete autonomy in Gaza and significant unilateral withdrawals from the West Bank if Sharon won reelection in March.

Sharon's incapacitation and the Gaza upheavals now call that opening into question. No other Israeli politician has the domestic support, the audacity and the force of personality to bulldoze forward historic change in the West Bank by the end of Bush's term. Moreover, the turmoil in Gaza is closing the window of international support for such change.

The road map, like most formulas for peacemaking, is based on the commendable premise that everyone deserves a second or even third chance. Right now the Palestinians are severely testing that article of faith -- at a moment when they have everything to gain from taking responsibility for their affairs and demonstrating political maturity.

Forcing Egyptian police officers and European Union observers to flee their posts for safety hardly suggests maturity. Neither does the decision by the Palestinian Authority to raise salaries and break its commitment to live within the large aid flows that international donors provide. That act triggered the freeze on budget support by the World Bank.

After Yasser Arafat died, "we hoped for new momentum in the direction of governmental reforms and the fight against corruption," World Bank representative Nigel Roberts told the Israeli daily Haaretz this week. But "Arafatism" lives on without Arafat and has grown worse, Roberts added.

Instead of moving to transform themselves into the nucleus of one of the Arab world's first true democracies -- as Bush, Sharon and their road-map partners pretended the Palestinians quickly could -- the Palestinian territories continue to be angry, explosive ghettos. In Gaza, gunmen who recently were receiving financial rewards for attacking Israelis are now "unemployed" and threaten their neighbors and the Palestinian Authority.

It must be said that four months is a short time to fix the consequences of centuries of occupation of the Palestinians by Turks, Arabs and Israelis, as well as the damage caused by the scandalous insistence of Arab states and the United Nations that the Palestinians remain enclosed in permanent refugee camps, even on their own lands.

Yes, that must be said. But so must this: The striking down of Ariel Sharon at a crucial moment of transformation demonstrates that in the Middle East today, a short time is the only time you've got.

U.S. Wants To Resume N.Korea Nuke Talks (AP)

By Kwang-tae Kim

The Associated Press, January 12, 2006

SEOUL, South Korea — The United States wants to quickly resume nuclear talks with North Korea, the U.S. envoy to Seoul said Thursday, as the top American negotiator headed to China for discussions on the North's nuclear ambitions.

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"The United States is eager to resume negotiations as soon as possible so that we can make rapid progress toward the elimination of North Korea's nuclear programs," U.S. ambassador Alexander Vershbow said in a speech in Seoul. "Our negotiators are packed and ready to go."

Assistant Secretary of State Christopher Hill, who arrived in South Korea late Wednesday from Tokyo, said he would seek information in Beijing on the latest North Korean thinking from its closest ally.

Hill's Asia trip comes as six-nation nuclear talks aimed at getting North Korea to abandon its nuclear programs are stalled over Pyongyang's anger at U.S.-imposed sanctions related to alleged counterfeiting and other wrongdoing by the North.

"We'll have to see what the Chinese have heard most recently from the DPRK side, and perhaps they have some very fresh news," Hill said upon arrival in Seoul, referring to the North by the abbreviation of its official name, the Democratic People's Republic of Korea.

His schedule of talks with counterparts in Tokyo, Seoul and Beijing is taking place amid unconfirmed reports that reclusive North Korean leader Kim Jong Il is in China.

The North Korean strongman is widely believed to have gone by train Tuesday to China, his country's closest ally. But the trip has yet to be officially announced by North Korean or Chinese authorities, and his ultimate destination is unknown.

"I must say the trip that Chairman Kim Jong Il took to China was a surprise to all of us," Hill said upon arrival in Seoul. "It's a complete coincidence that I'm in the area at the same time. There is no such plan of any kind" to meet Kim.

In South Korea, Hill talked with his South Korean counterpart Song Min-soon about "ways to resume the nuclear talks and to produce substantial progress," Song told The Associated Press after the closed-door meeting.

China, Japan, Russia, South Korea and the United States have been engaged in negotiations with North Korea since 2003 aimed at persuading it to abandon its nuclear programs. The process resulted in a breakthrough in September when the North pledged to give up its nuclear program in exchange for aid and security assurances. But follow-up negotiations have stalled.

Vershbow said a Treasury Department delegation planned to visit South Korea in about 10 days for consultations with South Korean officials over the alleged North Korean financial activities that led to the sanctions.

In September, Washington slapped the sanctions on a bank in the Chinese territory of Macau, alleging it helped the North distribute counterfeit currency and engage in other illicit activities. The next month, Washington sanctioned eight North Korean companies it claimed were fronts for proliferating weapons of mass destruction.

North Korea denies the allegations.

Vershbow said the Treasury delegation would travel to Macau after visiting South Korea.

North Korea And Iran Win Special Notice At Spy Center (NYT)

By Douglas Jehl

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - The director of national intelligence, John D. Negroponte, has created new "mission managers" for Iran and North Korea, adding those two countries to a short list of top-priority challenges for American intelligence agencies.

Iran and North Korea join counterterrorism and nuclear counterproliferation as areas of focus for senior management posts that were recommended last year by a high-level presidential commission.

The new managers for Iran and North Korea will be responsible, among other things, for identifying and filling gaps in intelligence on those two countries, Mr. Negroponte's office said Wednesday in announcing the appointments. Joseph DeTrani, who has served most recently as the American special envoy to the six-party talks on North Korea, has been given the rank of ambassador and is taking on the North Korea portfolio; S. Leslie Ireland, a career intelligence officer and Middle East specialist, is to become mission manager for Iran.

Ambassador DeTrani and Ms. Ireland are to provide strategic leadership over American intelligence agencies' work on North Korea and Iran, whose nuclear-weapons programs remain a major concern of the Bush administration, in part because so little is known about them. In its report last year, the Robb-Silberman commission, an independent panel appointed by President Bush, described American intelligence on Iran and North Korea as woefully inadequate.

The other two mission managers appointed by Mr. Negroponte have already assumed their roles. They are Vice Adm. John Scott Redd, retired, director of the National Counterterrorism Center; and Kenneth Brill, the director of National Counterproliferation Center.

Admiral Redd served as executive director of the Robb-Silberman commission, which recommended the creation of the mission-manager posts. Mr. Negroponte has said that the mission managers have his full proxy, and should be expected to play the same role that he would if he could devote his full day to a single issue.

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Ambassador DeTrani, who speaks Chinese and French, spent a number of years in East Asia and the Middle East during a career that included senior assignments at the Central Intelligence Agency, according to his official biography. At the C.I.A., his posts included director of European operations, director of the crime and narcotics center, and director of East Asia operations.

Ms. Ireland has served most recently as the executive assistant to Porter J. Goss, the C.I.A. director. According to her official biography, she is also a recipient of the Intelligence Commendation Medal. Over a 20-year career, she has also served as deputy chief for Arab-Israeli issues and special adviser for Iran collection issues, and as country director for Iran and Kuwait in the office of the Secretary of Defense.

North Korean Leader's Whereabouts Unknown (AP)

By Elaine Kurtenbach, Associated Press Writer

The Associated Press, January 12, 2006

The whereabouts of North Korean leader Kim Jong Il remained unclear Thursday, with a Hong Kong-based television network speculating he may be headed for the south Chinese city of Guangzhou, while other reports put him in Beijing or Russia.

Phoenix Television reported that three major hotels in Guangzhou known to be used for VIP visitors were largely empty and requiring guests to check out by tomorrow.

A sales department employee at Guangzhou's famed White Swan hotel confirmed that they were expecting a "a very important visitor" beginning on Friday. She would not give her name, since she was not authorized to speak publicly.

"From January 12th-15th, we won't accept any new bookings. Some guests may have to move," said the hotel's assistant general manager, Janet Xie, without giving a reason.

A staffer at the hotel's publicity department, meanwhile, denied that Kim was expected to visit.

Local officials said they were in the dark.

"I've never heard of this," said Shi Lishi, a spokesman for the Guangzhou city government.

The White Swan, a large, elegant hotel on a quiet island in the Pearl River, would offer relatively good security and secrecy given its location.

Reports of a visit by Kim to China, a rare foray overseas for the reclusive leader, came amid efforts to restart stalled six-nation talks on dismantling North Korea's nuclear program.

The chief U.S. envoy to the nuclear talks, Christopher Hill, was visiting South Korea on Thursday, en route from Tokyo to Beijing. The U.S. ambassador to Seoul, meanwhile, said Washington was hoping to quickly resume the talks.

U.S. and Chinese officials said they could not confirm various reports, mostly by South Korean media, saying that Kim entered China by special train earlier in the week and traveled either to Beijing, Shanghai or Russia.

In Washington, U.S. State Department spokesman Sean McCormack said he had seen the news reports, "But I can't confirm or deny them."

Hill was not expected to meet with Kim, McCormack said.

On Wednesday, officials in Shanghai also disavowed any information about Kim's whereabouts.

"I have not received any information whatsoever about this," Jiao Yang, the city government spokeswoman, said at a regularly scheduled news conference.

In the past, visits by Kim to China have been reported only after his departure. The Chinese Foreign Ministry said Tuesday that Kim planned to visit China, but would not give the exact timing.

Kim last visited China in April 2004. According to the North's Korean Central News Agency, one of his last appearances was to attend a New Year's performance of "Blue Sky Over My Country" in Pyongyang on Jan. 6.

Despite China's modern communications networks and crowded cities, the country has an elaborate and pervasive state security network well practiced at preserving the secrecy of its Communist Party leaders.

Disclosure of the wide range of information deemed to be state secrets can result in long prison terms.

Kim Jong Il Said To Reach Shanghai By Plane (WP)

By Washington Post Foreign Service

The Washington Post, January 12, 2006

SEOUL, Jan. 11 -- North Korean leader Kim Jong Il toured Shanghai on Wednesday after reportedly arriving on a direct flight from the North Korean capital in what would mark the reclusive ruler's first overseas trip by plane, according to South Korea's semi-official Yonhap news service.

Quoting unnamed diplomatic sources, Yonhap said Kim was on a three-day trip to China's business hub, which he last visited in 2001 to see the city's vast economic expansion. Kim reportedly fears flying, and news agencies in Japan and South Korea said earlier that he had arrived in China aboard his private train and was perhaps en route to Russia.

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But Yonhap said Kim had landed in Shanghai after a direct flight from Pyongyang and was likely to stop in Beijing for meetings with President Hu Jintao and other Chinese leaders before returning to North Korea.

South Korean officials could not immediately confirm Yonhap's report and North Korea's official media did not comment on the visit.

If the report is true, analysts said that Kim's visit could represent an effort to win China's support for lifting U.S. economic sanctions imposed late last year against North Korean companies believed to have ties to illicit activities, including currency counterfeiting. North Korea has said it would not return to six-nation talks aimed at dismantling its nuclear weapons program until those sanctions were lifted.

-- Anthony Faiola

US Hopes N.Korea's Kim In China For Nuclear Talk (REU)

By Jon Herskovitz

Reuters, January 12, 2006

The United States has little information about Kim Jong-il's apparent trip to China but hopes the North Korean leader is having talks that add life to stalled nuclear discussions, a senior U.S. official said on Thursday.

Various media reports -- citing witnesses, diplomatic sources and those familiar with his movements -- have said Kim is making a rare overseas trip to China. But his whereabouts, mode of travel and the purpose of his trip are all unclear.

Some reports have said Kim took his train to China and was possibly on his way to Russia. South Korea's Yonhap news agency said he flew to Shanghai on what could be his first flight.

Media reports and diplomats say Kim -- like his late father, state founder Kim Il-sung -- has an aversion to flying.

The U.S. ambassador to South Korea, Alexander Vershbow, told a breakfast meeting of business leaders the United States was also trying to sort through the clues about Kim's possible visit to China, Pyongyang's main ally and source of aid.

"We hope that he is there and having high-level meetings," Vershbow said. "We hope they will produce a new impulse for progress in the six-party talks."

North Korea has threatened to boycott the nuclear talks among the two Koreas, China, Japan, Russia and the United States because of a U.S. crackdown on its finances. Pyongyang wants Washington to end the sanctions.

The United States has clamped down on several companies it suspects of aiding North Korea in counterfeiting, money laundering and the drugs trade, saying the illicit business has helped fund Pyongyang's nuclear weapons programmes.

A South Korean official would not speculate on whether Kim is out of the country but noted his overseas trips usually lead to better ties between the reclusive country and the outside world.

"If he is visiting China, this could have positive results," Vice Unification Minister Rhee Bong-jo told reporters.

"ILLICIT ACTIVITIES"

Vershbow said U.S. Treasury officials will head to South Korea, China and Macau in the next 10 days to discuss U.S. concerns about North Korea's suspected illicit activities.

"We do have some concerns not just about counterfeiting, but about a number of illicit activities carried out by North Korea," Vershbow said, reiterating that Washington sees the crackdown on North Korean finances as separate from the six-party talks.

He said the United States wanted to get the talks back on track as quickly as possible and had no preconditions for resuming the discussions. The last round was held in November.

The envoy said the United States was ready to honor its obligations under a deal struck in September among the six parties under which North Korea would scrap its nuclear weapons programmes in exchange for economic aid, security assurances and increased diplomatic recognition.

He added it would be important to address North Korea's suspected illegal activity, "if we are to achieve full normalisation of our relations with North Korea."

Vershbow raised the ire of North Korea -- and some concern among South Korean officials -- on December 7 by branding Pyongyang a "criminal regime," but he did not use such language in his comments on Thursday.

He also called on South Korea to help persuade North Korea to give up illegal activities and return to the bargaining table on its nuclear programmes.

(With additional reporting by Lee Jin-joo)

China Seen Unlikely To Press Nuke Issue (WT)

By Andrew Salmon

The Washington Times, January 12, 2006

DOJ_NMG_0009574

SEOUL -- Pyongyang's nuclear ambitions are likely to figure in any negotiations North Korean leader Kim Jong-il holds in China this week, but Asian analysts see little chance that Beijing will use its growing economic clout to bring its neighbor to heel.

Analysts say China has become virtually the sole provider of consumer goods to North Korea, as well as a conduit for most foreign aid, giving it substantial economic leverage over the North.

But as Mr. Kim travels through China on an unannounced trip with a mysterious itinerary, those same analysts see little chance that Beijing will threaten him with an economic cut-off if his country does not return to six-nation talks on its nuclear program.

"Nothing would convince [the Chinese] to use their leverage," said Choi Jin-wook of Seoul's Institute of National Unification. "China said it does not tolerate North Korea's nuclear programs, but it does not want North Korea to collapse."

South Korea also has been reluctant to bring economic pressure on Pyongyang, partly for fear of falling further behind China in a long-term competition for trade opportunities in its northern neighbor.

The result is a narrowing of policy options for the United States, which reportedly was rebuffed by China last April when Assistant Secretary of State Christopher R. Hill asked it to cut off fuel supplies to North Korea.

Mr. Hill arrived in South Korea yesterday, a day after Mr. Kim was reported to have arrived in China by train. He said the timing was coincidental, but expressed hope that the Chinese will have "some very fresh news" about the North Korean leader's nuclear plans.

There still has been no official announcement about Mr. Kim's trip, and Mr. Hill said it "was a surprise to all of us." China has previously announced Mr. Kim's visits only after his return to Pyongyang.

However, the North Korean has plenty to discuss with China besides the nuclear talks -- including economic and trade issues and new financial sanctions imposed by the United States in response to evidence his government is counterfeiting U.S. currency.

U.S. officials, ranging from Mr. Hill to Vice President Dick Cheney, have called in recent months for China to use its influence to press North Korea for greater cooperation in the nuclear talks.

But Peter Beck, regional director of the International Crisis Group, said that "China's top concern is stability" and that it was unlikely to do anything to undermine its neighbor's economy.

"They don't want border instability," agreed Moon Chung-in, a foreign-policy analyst at Seoul's Yonsei University and an adviser to South Korean President Roh Moo-hyun.

China already faces international criticism for forcibly sending North Korean refugees -- variously numbered at between 100,000 to 300,000 -- back to their homeland, where many face severe penalties. Heightened instability would almost certainly drive much larger numbers across the 600-mile frontier.

Chinese leaders also are reluctant to overrule the old guard in the Chinese Communist Party, which remembers the "blood alliance" forged between the two countries during the 1950-1953 Korean War.

China still maintains a 1961 treaty with North Korea which, on paper at least, places Beijing on Pyongyang's side in any military confrontation with Washington.

Nevertheless, Beijing's economic clout in North Korea is large and growing. Visitors to the North note that goods traded in markets are almost exclusively of Chinese origin.

"North Korea will, left to itself, become an economic province of China -- and can do very well," said a European businessman with close experience with the country, speaking on the condition of anonymity. "That is a route it can take, independent of aid."

He added that Chinese businessmen have experience in operating within a communist system that South Korean investors lack, as well as the advantages of lower labor costs.

Trade Surplus Tripled In '05, China Says (NYT)

By David Barboza

The New York Times, January 12, 2006

SHANGHAI, Jan. 11 - China said on Wednesday that its trade surplus with the rest of the world had tripled in 2005, to a record $102 billion, a figure that could reignite global trade frictions and step up pressure on the government to allow its currency to appreciate further.

The United States and European Union officials have been pressuring China during the last few years to allow its currency to appreciate. The hope is to restrain the flood of Chinese exports to the world and to rebalance China's economy to allow for more imports.

The report on Wednesday showed that imports into China had begun to rise and exports to the rest of the world had slowed in the latter part of 2005, easing concern among some economists.

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Still, China released a set of blockbuster trade figures that were another reflection of the nation's unparalleled rise as a global economic power.

The government said that exports in 2005 were a record $762 billion, up 28 percent, while imports climbed to $660 billion, up nearly 18 percent, from 2004. The $102 billion surplus was up from about $32 billion in 2004.

Total foreign trade in 2005 topped $1.4 trillion, making China No. 3 in the world in foreign trade after the United States and Germany and ahead of Japan.

Just a decade ago, the value of China's foreign trade was only $289 billion. But today, a giant portion of the world's toys, clothing, furniture and electronic goods carry the label "Made in China."

Indeed, the customs figures released on Wednesday showed that the bulk of China's trade surplus in 2005 came from exports to the world's wealthiest regions, particularly the United States and Europe. The surplus with the United States reached a record $114.7 billion, up from $80 billion a year earlier and $28 billion in 2001. Excluding the United States, China actually had a trade deficit with the rest of the world of about $12 billion in 2005, largely with South Korea, Japan, Malaysia, Saudi Arabia and even Angola.

And yet China's figures may not be telling the entire story. According to United States government data, China's trade surplus in 2005 could be nearly $200 billion. Just through October 2005, according to official government statistics in the United States, China already had a trade surplus with the United States of over $166 billion. The gap arises from differences in counting, like whether Hong Kong figures are integrated with those of China. The growing bilateral trade deficit could strain ties between the United States and China. In 2004, the United States had a record $617 billion trade deficit with the rest of the world, and it is on track to break that record.

In Beijing on Tuesday, Senator Max Baucus, Democrat of Montana, called on China to do its part to reduce its deficit with the United States, calling on the country to allow its currency to appreciate.

"U.S. politics will become unmanageable if China's trade deficit with the U.S. continues to grow," Senator Baucus said. He was on a trip through Asia to assess trade relations. He added: "It is in China's interest to make concrete progress in reducing the trade imbalance."

Europe fared only slightly better last year, according to the Chinese government. China reported a $70 billion trade surplus in 2005 with the European Union, with the Netherlands and Britain having notable imbalances.

The trade figures suggest a changing role for China in the global economy, indicating that it will influence things like prices at Wal-Mart and global interest rates.

When 2005 economic statistics are complete, China is likely to be home to the fourth- or fifth-largest economy in the world, surpassing France, Italy and possibly Britain.

The government last month readjusted its gross domestic product figure by $280 billion to account for previously unreported activity. That suggests that the Chinese economy probably grew as much as 10 percent annually in many of the last few years.

China may also soon have more foreign currency reserves than any other country in the world, giving it even more influence on global interest rates. As of November, China reported having about $794 billion in foreign currency reserves, just behind Japan, which had about $828 billion at the end of last year.

Last year, China revalued its currency, ending a decade-long peg to the American dollar, allowing it to appreciate by more than 2 percent. China also reached separate textile trade agreements with the United States and the European Union after Chinese textile and apparel exports flooded those markets with the end of global quotas in January.

American and European officials have argued that the weak value of the Chinese currency, the yuan, gave China an unfair advantage in world markets, making its goods extremely cheap.

As China has grown into an economic power, it has racked up trade surpluses of about $350 billion over the last decade, according to Chinese customs data. And yet, some economists say those figures may still misstate the country's real gains because a large portion of goods are funneled through Hong Kong.

Government figures from other parts of the world are at variance with Chinese government statistics.

For example, the Commerce Department said that in 2004, China had a $162 billion trade surplus with the United States. And last year, through October, the surplus was $166 billion, which suggests that China's trade surplus last year was double what the government reported in its own figures.

China's figures do, however, suggest that in the second half of the year, export growth eased some from gains of more than 30 percent earlier in the year, and imports picked up from the low double digits.

Jonathan Anderson, an economist at UBS, calls the record trade surplus "old news," because it has already begun to fall.

"This is not a harbinger of things to come," he says. "If you look at the numbers seasonably adjusted, things peaked at the middle of the year. Exports are now slowing down and imports are picking up."

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But even if trade begins to balance, some economists think that 2006 will not be much different from 2005. China could report another $100 billion surplus, though the growth rate may moderate slightly.

"If you do the math, you'll need imports to more than double the size of exports to begin to close these gaps," an economist for Goldman Sachs, Hong Liang, said. "China's trade surpluses will continue to rise."

China's Trade Surplus Tripled, Topping $100 Billion Last Year (WSJ)

By Murray Hiebert

The Wall Street Journal, January 12, 2006

BEIJING -- China's trade surplus more than tripled in 2005 from the previous year to break the $100 billion mark, a surge that's likely to intensify protectionist sentiment in the U.S. against one of its biggest trading partners.

The General Administration of Customs reported on its Web site yesterday that China's trade surplus hit $101.9 billion last year, with exports rising 28% from 2004 to $762 billion and imports up 18% to $660 billion. The trade surplus for 2004 was $32 billion.

Beijing's swelling trade surplus is likely to become an increasing irritant in its relations with the U.S., which is expected to report a trade deficit with China of more than $200 billion for 2005, up from $162 billion in 2004.

But some economists believe China's trade surplus could narrow this year because its imports have begun to pick up in recent months. Beijing is also seeking to reduce trade frictions by promoting domestic consumption.

"China is gradually becoming a more positive force for global growth as its policies are adjusted towards boosting domestic demand," Goldman Sachs said in a report yesterday.

At the same time, economists point out that the overall U.S. deficit with Asia has remained roughly in balance over the past decade. Many of America's trading partners in Asia have moved production lines to China in recent years to take advantage of the country's low labor costs, resulting in "Made In China" labels on goods previously made in their own countries. As a result, the U.S. trade deficit with much of the rest of Asia has dropped roughly in step with the growth of its deficit with China.

Economists attribute China's large trade surplus in 2005 in part to Beijing's efforts to cool overheated sectors of the economy, which helped spark a sharp slowdown in import growth in the first half. The cooling campaign targeted sectors including real estate, steel and aluminum production. The measures turned China into a major exporter of steel from a large net importer, economists say.

However, property development started to pick up again in the last few months of 2005, boosting imports of construction materials. Imports of electronic components and machinery also increased.

The pickup in demand was reflected in December's trade figures, with exports rising 18% from a year earlier to $75.41 billion but imports growing faster at 22%, to reach $64.4 billion, according to customs figures yesterday.

A think tank under the National Development and Reform Commission, China's top economic planning agency, yesterday suggested that the trend would continue this year. It predicted that imports would grow about 18%, while exports would expand by about 15%, according to the official Xinhua news agency.

The think tank attributed the anticipated slower export expansion to slowing growth in the global economy due to high oil prices and to rising trade frictions between China and its trading partners.

Even if this year's trade surplus were to fall, the 2005 numbers will likely fuel protectionist sentiment in the U.S. and calls for China to further revalue its currency, the yuan.

Beijing revalued the yuan by 2.1% last year, but critics say the currency remains undervalued against the dollar, making China's exports unfairly cheap.

China's two-way trade with the U.S. surged 23% to $211.63 billion last year, according to the Chinese customs service. It didn't give a breakdown for imports and exports. The European Union was China's largest trading partner, with two-way trade increasing 23% to $217.31 billion.

In Beijing Tuesday, U.S. Sen. Max Baucus, the top Democrat on the Senate Finance Committee and an advocate of free trade with China, warned China that it risks fanning protectionist moves in Congress if it doesn't take steps soon to cut its trade deficit with the U.S. But he also pointed out that American consumers benefit greatly from low-cost Chinese goods. "Freer trade with China alone saves U.S. households $600 each year," he said.

Abuse Of Power Enables 'Economic Terrorism' In China (WP)

By Peter S. Goodman

The Washington Post, January 12, 2006

SHANGHAI -- Terry Petty and his Chinese representatives thought the terms were ridiculous.

DOJ_NMG_0009577

An American investor, Petty had forged a venture with the son of a local Communist Party official to open a machine shop here in the industrial outskirts of China's most cosmopolitan city. But after two years of internal disputes, the venture had disintegrated. The local man was urging Petty's people to sign a contract selling him their stake and surrendering full control. They would not go along.

But even as the negotiations proceeded on this September afternoon, the local partner was mobilizing to seize the factory: A team of 15 men under his employ -- many with shaved heads and donned in black -- arrived at the plant, according to managers. They told the workers that they were now in charge. They ordered production to cease.

Over subsequent weeks, the hired men forced their way in, brandishing guns, sparring with workers and disabling machinery, according to people at the plant and photos seen by The Washington Post. Calls to the police proved futile, factory managers said, because the police took direction from local officials connected to the Chinese partner. The factory now sits mostly empty, its 60 original workers scattered, while the local partner tries to resume production with his own people. The case has garnered the attention of both the United States and Shanghai governments.

The battle for control of a factory on the fringes of Shanghai -- a city often touted by China's leaders as a showcase for foreign investment -- highlights how some Communist Party officials abuse their influence over local governments to enrich themselves and their cronies. A quarter-century of market reforms has diminished the role of the state in China's economy, yet it has also spawned entrepreneurs whose wealth derives from their links to officials and their continued power to secure land and direct police.

"In China, the legal system and state power are completely intertwined," said Yu Nanping, an economist at East China Normal University in Shanghai. "Government officials control the process, and they tend to abuse the process when their own interests are on the line."

Petty, 49, the American who owns some 40 percent of the failed venture through a Hong Kong-based investment company, put it this way: "This is economic terrorism."

His estranged joint-venture partner, Hu Weijun, denied that he abused connections and described the conflict as a simple business deal gone awry.

"I sent a work team to the factory to inspect operations," Hu said. "As a shareholder, I have that right. But there was no bloodshed, no intimidation by so-called thugs." He said the guns his men carried were plastic toys. "They were just playing," he said.

Hired thugs have often been involved in business disputes in southern provinces such as Guangdong and Fujian. According to Petty, concern that such episodes are on the rise in the vast manufacturing zone around Shanghai prompted the interest of the U.S. government when he asked for help at the Shanghai consulate.

This battle took shape 2 1/2 years ago when Petty sought a site to produce oil-field equipment for Chinese and foreign energy companies. He had spent more than two decades doing business in China and had a similar factory in Nanjing. With direct air links to much of the world and a giant port, Shanghai beckoned.

Petty enlisted a longtime associate, Huang He. They settled on Baoshan, a district near Bao Steel Co., a major supplier of raw materials. The Baoshan government introduced them to the man who would become their new partner.

The son of the vice chief for Yuepu, one of the counties in the district, Hu controlled a prime five-acre parcel in an industrial park, but he lacked capital to develop it. He offered to forge a joint venture, a term that provokes fear among foreign investors in China: Messy divorce is a common ending.

"We didn't want to do a joint venture," Huang said. "But the local government said this was the only available land."

In June 2003, they signed the contract. Petty invested $2.2 million, and Huang and other partners put in $3.3 million. They would split the factory in two. One bay would be owned completely by Petty and Huang and devoted to making oil field gear. The other would be a basic machine shop -- Mei Zuan Machinery and Equipment Co. -- owned 51 percent by Petty and Huang, and 49 percent by Hu.

Almost immediately, tension emerged over Hu's insistence that the building work go to a construction company he controlled. And once the factory opened in February 2004, Hu became angry that most of the orders in the machine shop were coming from the equipment company owned by his partners, who he thought were underpaying for the shop's services. "They were exploiting the joint venture for their own business," Hu said. He began bringing in his own orders.

In April 2005, with mutual suspicions growing, Hu called Huang.

"He said, 'I want to buy you out,' " Huang recalled. " 'You have to get out quick. You have to agree.' He said, 'If you don't, there will be serious consequences.' " Huang and Petty insisted that the local government mediate any sale. According to Huang, this enraged Hu, who began boycotting board meetings and ordered the joint venture's accountant to stop paying wages to workers, forcing Huang and Petty to pay them directly.

"We had no ability to make any decisions," Huang said. "He could oppose everything."

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In August, Huang agreed to sell for about $1.4 million. On Sept. 13, in a meeting at the Yuepu government office, Hu offered a contract proposal, demanding full control after paying only 15 percent. Representatives for Petty refused.

As the meeting continued, Hu's team of 15 men arrived at the factory, according to a security officer and the general manager, Qiu Xuhao. The men identified themselves as working for Hu, Qiu said. The two guards at the gates put up no resistance.

"All the workers gathered around, and these thugs told them that they had to stop working immediately," said Li Jun, a manager at the factory. "When a few of the workers said, 'I'm not listening to you, you're not the boss,' the thugs started threatening them."

Someone pulled the main circuit breaker, and the factory went quiet. A few minutes later, 10 more of Hu's men walked in wearing hard hats, said Sun Sujun, one of the managers. Sun called the local police, bringing two uniformed officers from the Yuepu force. They ordered Hu's men out. Power was restored. Work resumed.

But the next day, three of Hu's men returned. The guards called the police. This time, Hu arrived. When the police pulled in, they greeted him warmly and ordered that he and his entourage be allowed in, according to Li.

Li said one of the officers later confided that Hu was dictating that the police hold back. The Baoshan Public Security Bureau declined a request for an interview.

Over the next days, Hu's men remained at the factory. When they again sought to disable the central power supply, fights broke out with the workers, Li said.

On Sept. 16, Qiu, the factory manager, went to the Public Security Bureau for Yuepu village to complain that Hu's men were harassing workers and damaging equipment. Three of Hu's men then arrived at Qiu's apartment late one night. They were turned away by Qiu's wife, but they made their point: On Sept. 20, Qiu quit, leaving the factory in the hands of a man who worked for Hu.

"The situation was crazy," Qiu said. "Every time we called the police, they would come and do nothing."

On Oct. 9, two of Hu's men brandished pistols at the workers, according to Sun and Li. The workers ceased operations. On Oct. 18, four men drove in with rifles and fired shots behind the factory, said Chen Jiafang, a security guard. He went to the Yuepu police station to report it, but no officers ever arrived, Chen said.

With the situation in crisis, Petty flew to China from his home in Houston, arriving at the factory Oct. 20. Six of Hu's men encircled him, and cars pulled in front of the gates and blocked his exit, he said. Police eventually allowed him to leave.

Petty assembled photos of the gunmen captured by the factory's cameras and brought them to the U.S. consulate. In late October, the consulate sent letters to the Shanghai mayor's office and the city's Public Security Bureau calling for a "just resolution" of the dispute.

"This intimidation campaign has spiraled out of control and has caused both a disruption in business and destruction of factory property," said the letter, adding that "the enclosed photographs of the individuals involved in this intimidation, some of whom are carrying assault weapons, will make the severity of the situation clear to you."

Four days later, Petty was called for a five-hour interview at the Shanghai Criminal Investigations Division.

"They assured me that there would be no favoritism," Petty said. "These guys said they were independent."

But Petty later learned that the chief of the Baoshan Public Security Bureau formerly worked in the city's Criminal Investigations Division. In other words, the police he accuses of protecting Hu have close ties to the institution now investigating their conduct.

"In China," Petty said, "you can just be closed off to any legal process if powerful people are involved."

China Proposes Fewer Dams In Power Project To Aid Environment (NYT)

By Jim Yardley

The New York Times, January 12, 2006

BEIJING, Thursday, Jan. 12 - A government environmental review has recommended reducing the number of dams included in a controversial hydropower proposal on the Nu River in southwestern China in order to limit environmental damage and decrease the number of people who would be resettled, a Hong Kong newspaper has reported.

The newspaper, Wen Wei Po, which has ties to the Communist Party, reported on Wednesday that the recommendation called for 4 dams instead the 13 in the original Nu proposal. The article, citing an unnamed source close to the governmental review, said fewer dams would still meet "the needs for economic development and environmental protection."

The project has been delayed for nearly two years, and it will now be presented to the National Development and Reform Commission, a powerful government ministry, and later to the State Council, or China's cabinet.

But the article also suggested that the full 13 dams had not been completely ruled out. The source described the four dams as "a pilot proposal" and said more study would be needed to assess the larger project.

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The original Nu River proposal, which would generate more electricity than the huge Three Gorges Dam, has become an international controversy. Environmental groups inside and outside China have called for more openness and public input in deciding whether to go forward on the project.

The environmental assessment report cited by the Hong Kong newspaper has itself become a point of contention. A coalition of environmentalists, lawyers, journalists and nongovernmental groups has called for the release of the report as well as public hearings on the project. They cited a 2003 environmental law that required public participation, including hearings, in deciding such major projects.

But the central government has refused to release the report and has not yet called any hearings.

The Hong Kong newspaper said the Ministry of Water Resources and the State Secrets Bureau had classified the report as a state secret.

A Stand Against China's Pollution Tide (WP)

By Edward Cody

The Washington Post, January 12, 2006

XIANGTAN, China -- Tired and frustrated, Wang Guoxiang and other Xiangtan city officials were slurping a midnight snack of instant noodles last Friday when the anti-pollution chief for Hunan province walked into their crisis room. Immediately, Wang said, he stopped eating and shouted at the visitor.

At the top of his voice, he insisted that something be done to stop the discharge of poisonous metals that had begun three days earlier into the slow, meandering Xiang River, from which Xiangtan, 800 miles south of Beijing, draws its drinking water. As a people's delegate, Wang recalled complaining to the environmental official, he and his allies had been fighting for months for more controls on upstream smelters but had found little support from the provincial authorities.

"You guys pay no attention to the safety of drinking water for our Xiangtan people. If you can't solve the problem this time, your position is in danger," Wang said he told the anti-pollution chief, Jiang Yimin. "And I wasn't kidding," he added.

The late-night confrontation in Xiangtan, a sprawling city of 500,000, was a telling episode in China's latest pollution drama: the accidental release into the Xiang River of heavy doses of cadmium, a likely carcinogen, by a state-owned smelter in an industrial park about 25 miles upstream.

The fouling of the Xiang River attracted wide attention, but it was far from unique as China struggles to reconcile breakneck economic growth with protection of the environment. After more than two decades of swift industrialization, a recent government report found that up to 70 percent of the country's rivers and lakes are seriously polluted.

In reaction, extensive national regulations have been put into place, including a government decision Sunday requiring local officials to immediately notify officials in Beijing of any toxic spills. But on the ground, business owners and Communist Party officials often cooperate closely. Enforcement of environmental rules has often been lax, and the result has been frequent contamination of the waterways that China's 1.3 billion people depend on for drinking water.

At about the same time that Xiangtan faced its pollution crisis, a frozen pipe burst in eastern Henan province, releasing six tons of diesel fuel that floated in a 40-mile-long slick down a branch of the Yellow River. Authorities said 63 water pumps had to be shut down, including some at Jinan, the capital of neighboring Shandong province.

Farther south, Guangdong provincial authorities announced Tuesday that water drawn from the Bei River was safe to drink again three weeks after an unauthorized discharge of cadmium. And the famed Pearl River, which runs through Guangdong into the South China Sea, has turned dangerously saline at its southern end because of low water levels and high tides.

Xie Shaodong, an environmental specialist at Peking University, said China is passing through a stage of economic development in which, as the history of other countries has shown, ecological damage is to be expected. To halt the degradation, he said, China's environmental protection agencies should be granted more power and the news media should be allowed to report more fully on the issue.

Although pollution has long been recognized as a major problem in China, local officials and the government-controlled press have focused particular attention on it recently because of an internationally embarrassing spill in November. In that episode, benzene contamination of the Songhua River forced a cutoff of drinking water in Harbin, a major city 650 miles north of Beijing, and sent toxic waste downstream to cities and towns in the Russian Far East.

Local officials made the Songhua calamity worse by concealing it for several days, leading to complaints from Russia and, ultimately, sanctions from China's central government and the new notification rule issued Sunday. Officials involved in the coverup were dismissed and one committed suicide. But as Wang's experience in Xiangtan showed, the instinctive reaction of many local party and government officials is still to conceal and minimize.

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Only hours before Jiang walked into the Xiangtan crisis meeting Friday evening, Wang had learned that the city's Environmental Protection Administration had measured cadmium levels at 25 times the amount considered safe for drinking water. His own measurement, Wang said, showed even higher levels.

Cadmium, a soft element found in metal ores, can cause liver, kidney and bone disease if ingested in large quantities. For most of the year, Wang said, he and two colleagues in the People's Congress, an appointed city council, had been trying to persuade provincial authorities to tighten controls over the smelters upstream from Xiangtan, which he said frequently dump dangerous quantities of cadmium and other elements into the river.

Frustrated by the lack of response at the provincial level, Wang had arranged for Xiangtan's Environmental Protection Administration to test the water every 10 days. When he received Friday's report, "I just couldn't believe my eyes," he said in an interview.

Wang alerted Communist Party officials in the city, who met into the night. Jiang made his appearance about midnight and, before dawn, set in motion a large-scale cleanup operation. Later that day, he and provincial environment officials announced at a news conference that the cadmium would be neutralized with chemicals dumped into the river and diluted with water diverted from upstream reservoirs.

The cadmium entered the Xiang River on Jan. 4 when workers mistakenly diverted river water into two basins used to separate cadmium and other smeltering by-products, Wang said. The water overwhelmed the basins and washed back into the river, which carried the accumulated poisons downstream.

Jiang, the provincial anti-pollution chief, told reporters that authorities halted the backflow and took other steps that ensured water supplies were safe. "The Hunan provincial authorities properly handled the cadmium spill in the Xiang River," People's Daily, the official party newspaper, concluded in its Monday editions.

Local newspapers and broadcast stations were ordered to limit their reports to Jiang's statement and were barred from reporting about drinking water conditions in Xiangtan and Changsha, the capital of Hunan province farther downstream, during the three days from Jan. 4 until emergency measures were put into place.

As a result, Xiangtan residents appeared unconcerned by the crisis. "If you want to know about pollution, go ask the people at the Environmental Protection Administration," said an elderly man basking in winter sunshine beside the Xiang River.

Provincial propaganda authorities also prohibited reporters from focusing on Wang's earlier efforts to get the smelters to adhere to national environmental standards, local journalists said. Jiang said in a telephone interview Wednesday, however, that his office would now carry out an investigation.

"We will punish those who pollute the Xiang River," he added, "as well as related officials from the local Environmental Protection Administration for their malpractices."

The controlled press, meanwhile, published official assurances that drinking water was safe because of the emergency chemical treatment by Xiangtan's water distribution system. Nevertheless, the news reports said, the river water still contained unhealthy amounts of cadmium.

Researcher Jin Ling contributed to this report.

Don't Drink The Water (WSJ)

The Wall Street Journal, January 12, 2006

Another week, another chemical spill in China. The recent spate of environmental mishaps on the mainland isn't new, though at least we're hearing about them now. If Beijing really wanted to tackle its environmental malaise, it would move faster to dump state enterprises and speed the development of a private economy in which managers are held accountable both for making a profit and for fouling the air and water.

One thing's for sure: The recent news has been bad PR for the PRC. Last November, a petrochemical plant explosion in Jillin, in northeastern China, released 100 tons of benzene and other nasty things into the Songhua River, creating a slick that flowed all the way to Russia. That mess forced three million people in the city of Harbin to go without running water for nearly five days. The news was too big to hide, though officials tried. Foreign journalists sniffed the story and moved in to report it.

Now, problems are popping up all over. In December, a metal factory in Shaoguan, a southern Chinese city near Hong Kong, leaked cadmium -- a potentially cancer-causing agent -- into the Bei River. And in recent days, a fertilizer-plant accident dumped 600 tons of sulfuric acid into the Qijiang River, near Chongqing; cadmium was spilled into the Xiangjiang River in Hunan Province; and in Shandong Province several tons of diesel oil were dumped accidentally into the Yellow River.

It's hard to tell exactly how widespread the problems are, but we'd go out on a limb and guess, oh, "pretty vast." China's State Environmental Protection Administration reported 1,441 environmental accidents in 2004, with most incidents related to water. We'd wager that figure is underestimated by a wide margin. The manager responsible for the Harbin slick was later found dead, by the way.

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China's current environmental problems stem from its rampant misallocation of capital and resources over many decades. The country is stuck with rotting factories that the state has neglected to maintain and manage. From Mao Tse-tung's Great Leap Forward, which led to the haphazard construction of hundreds of thousands of factories and power stations in the late 1950s, to his Third Front defense industrialization campaign, China's hinterland is now dotted with rotting hulks of metal. We're reminded of the former Soviet bloc, which upon the fall of the Berlin Wall turned out to have some of the worst pollution problems on earth.

It will take a long time to replace these Chinese hulks with industries that will be better managed by owners outside the state political system. But Beijing's bureaucrats may be forced to act sooner than they'd like. Social unrest, the sole thing that seems to make Chinese politicians tremble, is rising across the country, and environmental problems are a big trigger. As Chinese citizens accumulate wealth, they'll naturally push for potable water and clean air.

China may fall into the trap of trying to solve the problem by the same means that brought it about. Beijing puts out "five-year plans" to fix things like water pollution -- in other words, more central planning. But the cleanest countries in the world are those in which citizens can protest if pollution occurs, and where companies are forced by market competition to come up with the best industrial technology available. Such technology doesn't waste a valuable product by dumping it into a river. China today is a long way from industrial modernity -- so for now, we'd recommend you don't drink the water.

After WHO Request, China Reports Two More Bird Flu Deaths (WP)

By Edward Cody

The Washington Post, January 12, 2006

BEIJING, Jan. 11 -- The World Health Organization identified China's latest bird flu victims Wednesday as a 10-year-old student and a 35-year-old street vendor who succumbed to the H5N1 strain of the virus last month in different parts of the country.

Roy Wadia, the WHO spokesman in Beijing, said the Chinese government reported the deaths during the past 48 hours in response to the agency's request for updated data on bird flu. The man died Dec. 30 in Jiangxi province in eastern China and the girl Dec. 16 in southern Guanxi province, he said.

The new deaths increased to five the number of people in China who have succumbed to the virus.

The Health Ministry's spokesman, Mao Qunan, spoke at length about bird flu at a news conference Tuesday but did not mention the additional deaths. Mao's omission and the delay in reporting the deaths to WHO fed concerns about the reliability of official information on the extent of bird flu among China's 1.3 billion residents.

International officials have complained that they fear they are not getting official data fast enough from the Chinese government. Wadia refrained from criticism of the latest delay, but suspicions are easily aroused because of China's record. The government sought to conceal the 2003 outbreak of severe acute respiratory syndrome, or SARS, and Chinese officials have long been reluctant to share information with outsiders.

Since the SARS controversy, the government has pledged to deal squarely with health information. But in addition to the complaints from international health officials, Chinese reporters have said they are frequently forced to seek information about China's bird flu situation from WHO or foreign publications because China's official sources refuse to provide it.

"News about the virus often takes a detour to reach domestic audiences," Hu Shuli wrote in the Oct. 31 issue of Caijing business magazine. "It is first covered by foreign media, and then picked up by the domestic press. Journalists sent to infected areas also say local officials have not been cooperative enough."

At his news conference, Mao said the outlook on bird flu in China is "not optimistic" because the country's rural health care system is ill-equipped to identify the H5N1 strain and guarantee swift treatment.

Mao said 66 percent of China's township-level hospitals and 90 percent of its county-level hospitals are part of the country's reporting system for infectious diseases. That leaves thousands of hospitals outside the loop, meaning ministry officials might not learn of bird flu infections until long after they break out in remote areas.

Twenty-eight outbreaks of bird flu and eight cases of human infection have been reported across the country since October. The Agriculture Ministry on Tuesday reported a new outbreak killed 16,000 quails during the first week of this month on a farm in Guizhou province in south-central China.

Turkey May Have Lasting Traces Of Flu (NYT)

By Elisabeth Rosenthal

The New York Times, January 12, 2006

ANKARA, Turkey, Jan. 11 - Although Turkish officials are now taking appropriate steps to contain the outbreaks of avian influenza that have spread across this country, their slow initial response in detecting the arrival of bird flu three weeks ago has created a health crisis that may be very hard to correct, international experts said Wednesday.

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The Turkish government has reported more than 20 outbreaks of avian influenza in birds, spread all across the country. Fifteen human cases of the virus, A(H5N1), have been confirmed, at least two children have died and more than 100 people are in hospitals under observation.

"Turkey has provided us with a double problem," said Dr. Joseph Domenech, chief of veterinary services at the United Nations Food and Agriculture Organization in Rome. "First, their detection was not early enough, so the virus was able to spread for weeks. And even with that, we do not understand why so many people have become infected.

"And when you have a big question like that, you have a big worry."

Dr. Domenech said there was now a risk that the virus had become so entrenched in Turkey that it would be impossible to eradicate it, meaning that a permanent reservoir of the dreaded virus would exist on the fringes of Europe and along bird migration routes to Africa.

Both he and United Nations health officials agreed that Turkey was now taking the problem "seriously." Current measures are "correct and proper," said Dr. Marc Danzon, World Health Organization regional director for Europe, speaking at a news conference here. He added that there was no reason to avoid travel to the country.

In the last three days, the Turkish authorities began large-scale culling of birds in affected cities to stamp out outbreaks. Hundreds of thousands of birds have been destroyed.

A senior United Nations official urged Turkey's neighbors to be ready to respond quickly and effectively to outbreaks of bird flu in their countries. The official, Dr. David Nabarro, the United Nations coordinator for avian and human influenza, urged countries to hold drills to confirm that their laboratories have all the necessary materials and competent staff.

Health workers "need to be on the ball to be comprehensive in their response," he said. "It is not easy to run around catching chickens," making sure none escape and then putting them in sacks, killing and burying them properly, Dr. Nabarro said.

Dr. Nabarro said that two of Turkey's neighbors, which he declined to name, have begun taking the recommended intensive efforts with help from the United Nations.

If there is a bright side to the outbreaks in Turkey, it is the news that several people infected with the virus have suffered only mild symptoms, and sometimes none at all, leading experts to theorize that the disease may not be as deadly as they feared.

New suspected cases in humans are being treated with antiviral drugs, and the Health Ministry has undertaken a broad public education campaign warning residents to report bird deaths and to avoid contact with sick poultry and wild birds.

"We expect there will be less and less human cases as animal reservoirs around the country diminish and education intensifies," said Dr. Guénaël Rodier, a communicable diseases expert with the World Health Organization who led a team of United Nations scientists to Turkey this week to investigate the outbreak.

He noted that all of the humans seemed to have become infected after contact with sick birds, and that there was no evidence that the virus had acquired the ability to spread between humans, a development that scientists say could herald a worldwide flu epidemic.

In many ways, the outbreak in Turkey is a cautionary tale about how rapidly avian influenza can become a widespread problem if it is not detected early and attacked aggressively. In the far eastern part of Turkey, where most of the human cases and deaths have occurred, officials waited for weeks to investigate widespread bird deaths that started in mid-December, villagers say, even after the deaths were reported to government veterinarians. In that time window, the virus spread from bird to bird and - to a lesser extent - from bird to man.

This week, government health warnings blared from loudspeakers mounted on trucks all across Turkey, and were being broadcast on all of its television stations. Still the dangers seemed to be sinking in only slowly.

Even in Dogubayazit, the city that was home to siblings who died, occasional roosters could be heard crowing on Tuesday morning, despite an official culling that was supposed to have eliminated all domesticated birds. Turkish television broadcasts showed government culling teams dressed in full biohazard gear assisted by barehanded children gleefully chasing poultry around in the snow, oblivious to the dangers of exposure.

China announced Wednesday that two people had died of bird flu, bringing to five the country's death toll from the disease. Chinese agricultural officials also announced a new outbreak of the disease, this time among quail in rural Guizhou Province. Earlier this week, Chinese health officials warned that the number of human infections from the disease was likely to increase.

U.N. Seeks To Quell Flu Panic (WT)

By Betsy Pisik

The Washington Times, January 12, 2006

DOJ_NMG_0009583

NEW YORK -- The United Nations yesterday sought to calm fears about the deadly avian flu virus as signs of near-panic spread through Turkey and its neighbors.

At least 15 persons in Turkey have been stricken with the respiratory virus, although none of the cases appears to be the result of a human-to-human transmission.

Agriculture teams and farmers culled sick birds and infected flocks yesterday in 30 of Turkey's 81 provinces.

World Health Organization officials praised Ankara's response to the crisis, but officials insisted that the counterinfluenza measures must be maintained.

In Russia, scientists warned against taking Turkish vacations and the government advocated the shooting of migrating birds.

The U.N. Food and Agriculture Organization, which has taken an early lead in the detection and prevention of the H5N1 virus, yesterday called on Turkey's neighbors to increase their surveillance of flocks.

"The virus may be spreading despite the control measures already taken," said Juan Lubroth, the senior FAO animal health officer.

"Far more human and animal exposure to the virus will occur if strict containment does not isolate all known and unknown locations where the bird-flu virus is currently present," he said.

Dr. David Nabarro, the coordinator of the U.N. response to the avian flu, stressed that "there is no evidence of human-to-human transmission in the Turkey outbreak."

He said each case appeared to be traceable to avian contact.

Early surveillance and containment efforts would take at least $1.4 billion, a figure that is sure to soar if the flu becomes a pandemic, he said.

Epidemiologists are puzzled that the virus that has flashed through Turkey does not appear to be as deadly as the strain that killed roughly half of the 139 persons infected in China and Southeast Asia.

Of the 15 known Turkish infections, only the deaths of three siblings have been traced to the virus.

Dr. Nabarro said more people might have been infected in Asia than were reported, yielding a lower rate of fatality, or the Turkish government's rapid response and use of Tamiflu, a powerful antiviral, might have been the reason.

Another prospect, he said, is that the Turkish strain of H5N1 might be less deadly than its Asian predecessor.

Scientists have been watching for mutations as the virus jumps to humans: If it grows less virulent, it might be easier to treat with existing or adapted medications or it might be adapting for maximum transmission by not killing its host.

The Chinese government, along with the European Union and the World Bank, will sponsor a two-day pledging conference next week to raise roughly $1.4 billion to identify, contain and combat the virus.

"We view this as a beginning," Dr. Nabarro said.

Bird Flu Mutation Of Concern, Experts Say (WP)

By Daniel Williams And Alan Sipress

The Washington Post, January 12, 2006

ISTANBUL, Jan. 11 -- Preliminary tests show that the strain of bird flu virus that has stricken at least 15 people in Turkey has evolved in a way that could make it somewhat more hazardous to human beings, although it still lacks the capacity to be passed easily from person to person, international health officials said Wednesday.

The analysis, based on the sequencing of one of the virus's genes, suggests that at least some of the H5N1 bird flu virus here carries a change in one of its proteins, according to Michael L. Perdue of the World Health Organization. That protein is what lets the virus attach to cells and penetrate them.

"It's a little concerning because the virus is still trying new things in its evolution," said Perdue, who is overseeing the agency's response to the Turkish outbreak from WHO headquarters in Geneva.

Influenza experts are studying the apparent change to determine its significance, Perdue said. A spokesman for Britain's Medical Research Council, which is involved in the research, said it would take a few days to confirm the preliminary findings.

The experts say they believe the genetic change could make it easier for bird flu to pass from chickens to people. If the virus were to eventually gain the capacity to be passed easily from person to person, it could trigger a global epidemic.

Nancy J. Cox, who heads the influenza branch at the Centers for Disease Control and Prevention in Atlanta, said the change was found in one sample of H5N1 isolated from a Turkish child who recently died of the infection. The hemagglutinin protein, which the virus uses to attach to cells of the respiratory tract, had an alteration not usually seen in avian influenza viruses. Other incremental changes in the virus have been seen in China and Vietnam since outbreaks began in 2003.

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Experts from the U.N. Food and Agriculture Organization warned that the virus could become permanently entrenched in Turkey, thereby increasing its risk to people and the chance it could evolve further. "The highly pathogenic avian influenza virus H5N1 could become endemic in Turkey," the organization said in a statement.

Two deaths have been attributed to bird flu in Turkey. The fatalities were the first outside China and Southeast Asia, areas where a total of 78 people have died in the past two years. More than 100 people have been hospitalized in Turkey with flu symptoms. The patients are under observation as they await test results to reveal whether they suffer from bird flu.

The virus has spread across 30 of Turkey's 81 provinces, from the far east to the Mediterranean coast, and has sparked a frantic effort to stem the disease by killing infected poultry. Even in cosmopolitan Istanbul, bird catchers for the Agriculture Ministry are rounding up fowl raised in the outskirts of the city, gassing them to death and burying them in mass graves.

Perdue noted that the Spanish influenza of 1918, which caused an estimated 40 million deaths worldwide, began as an ordinary bird virus but gradually evolved into a global human killer through a series of these incremental changes.

At a news conference in Ankara, the Turkish capital, international health officials played down fears of a pandemic.

"There is no transmission from human to human so far with a mutation of the virus," said Marc Danzon, WHO's regional director for Europe. "We are not there at the moment, but it is the responsibility for the WHO to look at this. . . . There is no reason to panic."

Bernard Vallat, director of the World Organization for Animal Health, said that the virus was probably introduced in Turkey in October. Vallat said that besides weeding out poultry in infected areas, fowl might have to be vaccinated. "The idea is that you create a protective area around an outbreak through vaccination. This could involve an entire province," he said.

Turkish health workers have killed more than 300,000 domestic birds in roundups across the country since late December. In one district of Istanbul, municipal sanitation officials went door to door in a rural hillside suburb asking residents if they raised chickens and ducks. They chased strays up and down the slippery, muddy hills and ravines, and when they caught one, they stuffed it into a plastic bag. Signs around the neighborhood read, "This District Has Chicken Plague."

Workers dressed in protective gear threw the bags into green containers that looked like large garbage cans. A sanitation worker attached a blue tube from a tank of carbon dioxide to the airtight container, opened the valve and killed the birds. "We prefer to say we are putting them to sleep," said Hikmet Karacay, an Agriculture Ministry official.

Residents, most of whom raised chickens as a sideline to collect the eggs, cooperated. "The real problem is the children," said Gilsen Kaya, who has two daughters. "They like the chickens. They are like pets. That's why it's better to do it at night, when they don't witness the whole thing."

Sipress reported from Jakarta, Indonesia. Staff writer David Brown in Washington contributed to this report.

Opec Nations 'set For Record Oil Revenues' (FT)

By Carola Hoyos

Financial Times, January 12, 2006

The oil revenues of the Organisation of the Petroleum Exporting Countries, the cartel that controls 40 per cent of the world's oil supplies, will increase by 10 per cent to a record $522bn this year, the US Department of Energy forecasts.

Opec's increased wealth, driven by continuing high oil prices and an increase this year in the group's production, should help keep interest rates low if members of the group continue to spend their increasing wealth in the US bond market, economists said. The yield of the 10-year bond has remained nearly flat since mid-2004 in spite of the Federal Reserve increasing official interest rates by 3.25 percentage points during that period.

Everything from mergers and acquisitions to the energy sector and art market are expected to benefit.

Opec's 2006 revenue would be the largest in real terms in 25 years. The group's wealth, when adjusted for inflation, peaked at $572bn in 1980 when oil prices spiked after the Iranian revolution.

But the recent growth in Opec's wealth, which began in 2000, will reverse course next year, with the group's wealth falling back to $495bn as the oil price eases, the Energy Information Administration (EIA), the US Department of Energy's statistical arm, forecasts.

As the oil price boom continues into 2006 Opec countries are becoming less and less cautious about their spending. "This is reflected in the fact that some Opec countries are undertaking ambitious projects, like weapons purchases by Saudi Arabia," said Manouchehr Takin, senior analyst at the Centre for Global Energy Studies. "These kinds of projects would be impossible with lower revenues." Saudi Arabia, the world's biggest oil producer, is expected to earn $162bn in 2006.

"It's just been a phenomenal transfer of wealth from consuming to producing nations," said Francisco Blanch, analyst at Merrill Lynch.

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Forecasts for the average price of New York benchmark crude oil futures in 2006 range between $45 and $75 a barrel, a similar level to that the EIA used to calculate total revenue Opec may expect in 2006. Although prices are notoriously difficult to estimate, the range is given credence by Opec's hints that it will aim to defend prices of at least $50-$55 a barrel.

The central bankers of the world's largest developed and emerging nations on Monday lent further support to the strong oil price thesis when they forecast global growth would continue at a "dynamic" pace in 2006. The optimistic prognosis has prompted analysts to expect demand for oil to increase at least 1.7m barrels a day to more than 85m b/d in 2006.

The factor that keeps many of those who forecast high oil prices for 2006 up at night, however, is that oil demand data may prove less robust than assumed.

The wildcards are factors such as hurricanes and political unrest.

Bahrain Pact Signed By Bush (NYT/REU)

By Reuters

The New York Times, January 12, 2006

WASHINGTON, Jan. 11 - President Bush signed a bill on Wednesday establishing a free trade agreement with Bahrain, the first such pact with a Persian Gulf country.

The agreement requires Bahrain to eliminate its already low tariffs on American consumer and industrial goods and most agricultural products. In turn, the United States will eliminate tariffs on Bahraini goods. Annual trade between the two countries totals about $800 million.

The pact commits Bahrain to a further opening of its market to American banks and other services and to strengthen copyright and patent protections.

Bahrain, a small island country on the Saudi border, is home to the United States Fifth Fleet.

Mr. Bush has now signed trade deals with Singapore, Chile, Australia, Morocco and, most recently, six countries in Central America and the Caribbean: Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and the Dominican Republic. Other Arab countries that have free trade status with the United States are Morocco and Jordan.

Canada's Conservatives Boost Lead (WP)

By Doug Struck

The Washington Post, January 12, 2006

TORONTO, Jan. 11 -- With a militant drumbeat and an ominous tone, a campaign ad here warns that election of Conservative Party leader Stephen Harper "would bring a smile to George W. Bush's face."

Well behind in the polls two weeks before a parliamentary election, the governing Liberal Party led by Prime Minister Paul Martin this week brought what in Canadian politics is a most damning indictment: Martin's opponent is too close to the Americans, the party's ads say.

"Mr. Harper, the United States is our neighbor, not our nation," warns one.

Harper is "pro-Iraqi war, anti-Kyoto, socially conservative . . . Bush's new best friend," says another ad, quoting a commentary from the conservative Cato Institute, a Washington research group.

Yet another ad speculates that Harper may have received illegal campaign funds from American conservatives. "We know he is very popular with right-wingers in the U.S. They have money. Maybe they helped him," the announcer muses on the commercial, unveiled Tuesday.

The ads are running before an election in which Martin's party appears likely to lose its hold on the government. After Christmas, the Conservatives, the main opposition, jumped suddenly from behind and now lead the Liberals by 10 percentage points, 38 to 28 percent, according to a poll conducted for the Globe and Mail newspaper.

In Canada's system, the party with the largest number of seats after the Jan. 23 election can join with smaller parties, if needed, to form a government and select the prime minister.

The Conservatives, who have been out of power for 12 years, have traditionally favored closer ties to U.S. administrations. Martin's Liberals portrayed Harper as too pro-American in their election faceoff in June 2004, and have now boosted the stridency of that accusation.

Despite his party's ads, Martin came to office 25 months ago pledging to improve fractured relations with the Bush administration. A former finance minister, he created and heads a cabinet committee whose mission is to work closely with the United States, Canada's largest trading partner. Last year Martin hosted Bush in Ottawa.

But "in an election, you run on what will aid your cause. Canada is not unique in playing the anti-American card," said Nelson Wiseman, a political scientist at the University of Toronto.

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"I understand political expediency," U.S. Ambassador David Wilkins said last month of the anti-American potshots in the campaign. "But the last time I looked, the United States was not on the ballot."

But it often has been, in one way or another. People here have long had mixed feelings about their larger, more powerful neighbor, defending their separate, Canadian identity in spite of ever-closer ties with the United States.

"It used to be a huge thing in Canadian politics to be as close as possible with the American president," said Norman O'Reilly, a marketing professor at Ryerson University in Toronto. "But after the Iraq war, that has changed. There's been a backlash to the war."

Hostility toward the Bush administration is strongest in eastern cities, traditional strongholds of the Liberal Party. With opinion polls showing the party losing some of that support, Martin's strategists are trying to tap the sentiment, Wiseman said.

"You hope to run a positive campaign. If things get bad, you pull out the negative ads," he said. "If things get really bad, you pull out the really negative ads."

In a nationally televised debate in Quebec on Tuesday, Martin hammered his point home. He suggested that Harper would shift Canada's policies to mimic Washington's and described Harper as being "in favor of the missile shield and the Iraq war. His positions are contrary to the values that Quebecers defend." Martin was referring to the Bush administration's anti-missile system, which is widely unpopular here.

"These ads are a new low in Canadian political advertising," one of Harper's party chiefs, Parliament member Jason Kenney, said in an interview. "Paul Martin will do or say anything to hold on to power. The ads speak of sophomoric anti-Americanism."

"They are factual ads. They reveal Stephen Harper's views on a number of issues," responded Amy Butcher, a spokeswoman for the Liberal Party. " We think it's important for Canadians to be aware of where Mr. Harper stands."

The ads could backfire if seen as ham-handed or desperate, political strategists here said. Martin's party quickly withdrew one advertisement that focused on a proposal by Harper to station Canadian troops closer to cities to help with national disasters and emergencies. The ad suggested that the troops would be an ominous presence.

The ad "was never approved by the party to run," Butcher insisted. "It was inadvertently" posted with the other ads on the party Web site, she said.

Deadline Nears In Mexican Election (USAT)

By Judy Keen

USA Today, January 12, 2006

CHICAGO — Gregoria Alavez de Cortez lives here, but she'll soon become part of Mexico's history as her native country for the first time allows expatriates to vote in a presidential election.

“It's really necessary for me to do this. I want to stay aware of what's going on in the election,” she said as she picked up an absentee ballot application at the Mexican Consulate west of downtown.

Sunday is the last day to mail ballot requests for the July 2 voting for a successor to Mexico's President Vicente Fox, who can't run again because of term limits.

With the deadline looming, only a fraction of eligible Mexicans in the USA have participated because of confusion about the application, lack of interest in the campaign and concern that applying for ballots could result in problems with U.S. immigration officials.

Only about 15,000 of the estimated 4 million expatriates who have Mexican voting cards, nearly all of them in the USA, have mailed in applications, said Pilar Alvarez of Mexico's Federal Election Institute.

The Chicago region has 1.3 million Mexicans, the nation's second-largest Mexican community after Los Angeles.

De Cortez, 41, who works at a fast-food restaurant, heard about the deadline on TV. The application she picked up says in Spanish, “Mexico waits for your vote. Exert your rights!” She left with the form, but was soon back with questions. She needs to submit a copy of a utility bill as proof of her address, but she moved recently and didn't have a current bill.

Miguel Herrera, 37, a maintenance worker, took an application, glanced at it and put it back. “Too much trouble, too complicated,” he said.

In the Chicago region, about 600 people have applied for the absentee ballots. Cesar Romero, spokesman for Chicago's Mexican Consulate, said a last-minute push could result in 1,000 more — though he admitted that might be too optimistic. In all, 115,000 applications have been distributed here.

“We started late, but we've come far,” he said. “The process is complicated, and we don't have a long tradition of political participation. We'll do much better next time.”

Chicago's large immigrant population has had big turnouts for other foreign elections. Last month, more than 4,000 Iraqis from across the Midwest came to Skokie, Ill., to vote in their country's elections. In 2003, about 9,000 Poles in the area registered

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to vote in a referendum on Poland's entry into the European Union. Almost 4,000 Ukrainians here voted in their native country's 2004 presidential election.

Last-minute efforts are underway to boost ballot applications:

·Mexico's Federal Election Institute is running ads in Hispanic newspapers and on radio and TV in selected cities.

·In Chicago neighborhoods, volunteers are distributing ballot request forms in banks, groceries and libraries.

·In San Diego and Los Angeles, community organizations are helping people photocopy the required documents and fill out applications.

·In Houston and other Texas cities, applications are at restaurants, music stores and money-wiring agencies.

Mexico passed a law in June allowing expatriates to vote in presidential elections to acknowledge the importance of Mexicans living abroad. They send billions of dollars home each year that boost Mexico's economy.

Those wanting to vote must have Mexican voter cards, Mexico-issued identification and proof of U.S. residency. Those without voter cards — an estimated 6 million people outside Mexico — must apply in Mexico, then return to pick them up. Last month, advocacy groups in California arranged bus trips to Tijuana for people to apply for the cards.

The application period began Oct. 1, but forms were originally available mostly at consulates, making it difficult for people outside big cities to get them. That has changed as the deadline has neared. Maria Curry, who has helped Mexicans in the San Diego area get involved, said the consulate there at first would give her only five applications at a time to distribute. For the past month, community groups have been recruited to help spread the word and can get as many forms as they need, Romero said.

Complicated forms are just one reason for lagging participation. Some people left their voting cards in Mexico so relatives could pay property taxes in their absence or conduct other business, said Salvador Pedroza Moreno, chamber of commerce president in Little Village, a Hispanic neighborhood on Chicago's South Side.

Some Mexicans who are here illegally threw away their cards to avoid having any identification, he said. And some can't spare $9 to send their applications by registered mail, as required.

Others aren't focused on the election because no campaigning is allowed in the USA. Campaigning in Mexico was banned during the holidays and won't resume until next week, Pedroza Moreno said. As a result, many Mexicans, even those who went home over Christmas, haven't been exposed to the views of the three candidates.

Curry said “all kinds of people are just afraid” that applying would cause legal problems over their immigration status.

Tony Payan, a professor of political science at the University of Texas at El Paso, said, “So many Mexicans in the USA live in the shadows, and they would rather not be seen as activists, as politically involved. They don't want to jeopardize their future in this country.”

Alvarez, of Mexico's election institute, said the size of the turnout isn't as important as the chance to vote. “We do not qualify it a success or a failure, because the first time, you don't have anything to compare it to,” she said.

She said many Mexicans in the USA will finally feel a part of their native country's political process, and “all candidates have to have proposals for migrants.”

Despite the problems, Pedroza Moreno predicted that 20,000 Mexicans in the USA will vote. “This is historic,” he said. “Twenty thousand voices that were never heard before will be heard.”

Has Citgo Become A Political Tool For Hugo Chavez? (USAT)

By David J. Lynch

USA Today, January 12, 2006

HOUSTON — From the glass-walled building and manicured lawn to the security guard who greets visitors in a cheerful Texas drawl, everything at Citgo Petroleum seems perfectly ordinary.

But in fact there's nothing ordinary about Citgo. One of the USA's largest refiners, Citgo is a subsidiary of Venezuela's state-owned oil company, Petroleos de Venezuela S.A. (PDVSA). As such, it ultimately belongs to Venezuelan President Hugo Chvez, an avowedly anti-American leader who counts Fidel Castro among his closest friends and mocks President Bush as a “genocidal murderer.”

The question of Chvez's influence over Citgo was highlighted by the company's recent provision of 25 million gallons of subsidized home-heating oil to poor people in the northeast USA. More than 100,000 households in four states should eventually benefit from the low-cost heating aid.

Some worry that Venezuela's ownership of more than 6% of U.S. refinery capacity gives Chvez, a former paratrooper given to wearing red berets and military fatigues, the power to cripple as well as comfort.

As Hurricanes Katrina and Rita demonstrated, any disruption to the nation's refining industry instantly increases gas prices. What if Chvez, who periodically threatens to curtail oil shipments to the USA, closed Citgo's refineries?

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“He'd only have to do that for 90 days, and he'd destroy our economy,” worries Matthew Simmons, a prominent energy investment banker. “He actually has our livelihood in his hands.”

Others note that imported oil from elsewhere eventually could compensate for any interruption in Citgo supplies. And, because Chvez depends on the company's specialized refineries to process Venezuela's sulfur-rich crude oil, a shutdown would cost him and his country dearly.

“His capacity to make life difficult for George Bush would be at the cost of burying himself,” says Claudio Loser, a former International Monetary Fund official.

Late last year, as winter's first chill sent consumers reaching for their thermostats, a dozen U.S. senators asked 10 major oil companies to donate a portion of their record profits to help the poor. Only Citgo responded, dispatching tankers to housing projects in New York and Massachusetts in what Felix Rodriguez, the company president and chief executive, called a purely “humanitarian” gesture.

Today, the program expands to homeless shelters and Native American tribes in Maine. Friday, Rhode Island gets its initial delivery.

Many analysts, however, saw the move as a stunt by Chvez aimed at embarrassing the Bush administration. And some say Citgo's generosity — likely to cost it more than $20 million — suggests the company may be turning into a political tool for Chvez.

“It has had a turn for the worse, perhaps the much worse. … Now it's a different entity. It's not completely run like a business,” says Antonio Szabo, a former PDVSA official and the president of Stone Bond Technologies, a Houston energy software firm.

Citgo executives say the company, founded in 1910 as Cities Service Co., is solidly profitable and can afford to offer the poor 40% discounts on heating oil. In an interview, Rodriguez said Chvez, 51, ordered the giveaway so poor Americans wouldn't have to choose between food and heat.

“The only difference between Citgo and other companies is that Citgo has only one shareholder,” he said, referring to the Venezuelan president.

State Department spokesman Adam Ereli welcomed the heating aid, saying, “Citgo is an American company. They are helping Americans in need. That is a good thing.”

Earlier, the company's Hurricane Katrina aid efforts earned a nod from Bush. “The good works of Citgo demonstrate the character and great strength of our nation,” the president wrote Citgo Sept. 27.

Yet, there are echoes in Citgo's recent performance of what has transpired elsewhere in Venezuela's oil industry since Chvez was elected in 1998. After a coup in 2002 briefly ousted him from power, Chvez retaliated by purging the state-owned oil company. Thousands of veteran executives and petroleum engineers were cashiered, replaced by those politically loyal to the president's revolutionary aims.

Today, PDVSA's oil production is down to 1.5 million barrels a day from 3.3 million barrels in 1999, says Luis Giusti, who quit as national oil company president when Chvez took over. But thanks to oil prices above $60 a barrel, Chvez's control of PDVSA has allowed him to lavish billions of dollars on social projects and an anti-American foreign policy.

Citgo, which sells gasoline through more than 13,500 retail stations and is known for its iconic sign towering over Fenway Park's left-field wall, paid the Venezuelan government $697 million in dividends in 2005, up from the previous year's $400 million, Rodriguez said.

PDVSA — the acronym is pronounced Ped-a-vay-sa — first acquired 50% of Citgo in 1986. Four years later, the Venezuelans bought the remaining half of the company from Southland, better known for its ownership of the 7-Eleven convenience stores. The company's six refineries, with a capacity of 1.1 million barrels of oil a day, are ideally suited for Venezuela's sulfurous, heavy crude oil.

Throughout the 1990s, Venezuelan oil officials allowed the company's American managers enormous autonomy. “Citgo was an American company. We happened to own it,” said Giusti, who headed PDVSA until Chvez took over. “We managed it at arm's length.”

That changed under Chvez. In October 2000, the new president tightened control over Citgo by naming as company president a former army general, Oswaldo Contreras. He was the first Venezuelan to hold the position.

Bush was elected president the following month, but relations didn't completely sour until after Sept. 11, 2001, when Chvez likened the U.S. war in Afghanistan to the terror attacks in New York. Washington later publicly welcomed the coup that toppled him for two days in 2002. Chvez has accused the Bush administration of planning his assassination.

In November, two weeks after leading anti-American protests at a hemispheric summit in Argentina, Chvez told a business group in Caracas: “The planet's most serious danger is the government of the United States. … The people of the United States

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are being governed by a killer, a genocidal murderer and a madman." The comment followed congressional testimony by a State Department official that labeled Venezuela "a threat to regional stability."

Asked how the persistent bilateral friction was affecting Citgo, Rodriguez replied, "No effect. Nothing at all." But Chief Operating Officer Jerry Thompson, the most senior American remaining at the company, acknowledged Citgo's customers are concerned. "What it introduces is an element of anxiety, and our competition takes full advantage of that," he says.

The uncertainty was exacerbated for much of last year by a protracted and costly relocation of corporate headquarters, management upheaval and Venezuelan officials' repeated suggestions that they might sell some or all of Citgo.

After decades in Tulsa, Citgo last year completed an $82 million shift to its new five-story headquarters in the heart of Houston's Energy Corridor. The move was designed to benefit the company by planting it squarely in the world's self-proclaimed "energy capital."

But asked whether the move was worth the cost, Thompson says, "In my personal opinion, no."

The relocation also cost the company managers who opted not to leave their longtime home, compounding executive turnover that saw several top American executives and the entire board replaced with Venezuelans.

Giusti, the former PDVSA president, says the current Venezuelan management team is weak. He criticized CEO Rodriguez for lacking substantial international experience and fluency in English. "Felix Rodriguez belongs to a group of engineers who never made it to the top. They only took their positions as a result of being loyal to the revolution of Chvez," he says.

In an interview, Rodriguez, 56, noted he is a petroleum engineer with 32 years experience. Speaking in heavily accented English, with occasional help from an interpreter, he said he had held a series of planning and supervisory positions, traveled to the North Sea oil fields on "special assignment" and had been vice president of PDVSA before being named Citgo's CEO.

Even as Rodriguez moved into the top job, Venezuela's energy minister said he was discussing a sale of some or all of Citgo with "several companies." But Rodriguez says there are no sales plans and despite political tensions between Washington and Caracas, the commercial relationship remains "win-win."

Citgo executives also point to their financial record to rebut suggestions that politics are taking precedence over profits. For the first nine months of 2005, the company reported net income of $419.3 million on revenue of $31 billion compared with $430.3 million in profit on revenue of $23.7 billion for the same period last year.

Asked if he was satisfied, Rodriguez replied, "So far, so good." Thompson said the company enjoyed a strong fourth quarter that will push net income above last year's figure. But at a time when industrywide profit margins are fat, some competitors have done much better. Industry leader Valero, for example, earned $2.7 billion on $56.3 billion in revenue for the same period. For every sales dollar, Valero earned 4.7 cents in profit. Citgo reaped just 1.3 cents.

Citgo's most notable recent financial deal involved refinancing its outstanding corporate debt. In October, the company secured bank financing of $1.85 billion, which it used to pay off its bond holders. Among the bonds paid off was an issue of $250 million in 6% senior notes the company had issued just one year earlier.

The move was the corporate equivalent of refinancing a home twice in 12 months. "They did what we thought was a fairly strange thing," said John Addeo, portfolio manager for the MFS High Income fund, which owned $5.7 million of Citgo bonds.

Citgo says it refinanced to obtain greater financial flexibility. The terms of its bond offerings restricted the company's ability to take actions, such as selling assets and paying dividends, according to filings with the Securities and Exchange Commission.

Meanwhile, company executives say drivers pulling up to Citgo gas pumps aren't worried about who owns the refineries that produce the gas. "Being owned by a political entity ultimately means, from time to time, you have to do things with a political bent to them. Heating oil is an example of that," says Thompson. But "By and large, people see us as an American company."

New Era Of U.S-German Relations Set To Begin (KRT)

By Matthew Schofield

Knight Ridder, January 12, 2006

BERLIN - When new German Chancellor Angela Merkel sits down on Friday with President Bush in Washington, they'll be ushering in a new era of trans-Atlantic relations - that much is clear. But what those relations will be is less certain.

After three years of European division and acrimony over the U.S.-led invasion of Iraq, Bush finally has a German friend in Merkel. Yet Merkel has shown that, like much of Europe, she finds some of Bush's policies distasteful, and analysts are wondering how far she'll be willing to go in voicing disagreement.

"She has to battle the image of being Bush's poodle," said Karl-Heinz Kamp, a security policy coordinator for the conservative Konrad Adenauer Foundation in Berlin.

Merkel's strongest criticism of Bush policy to date came last week when she told Der Spiegel, Germany's leading news magazine, that the U.S. prison camp for suspected terrorists at Guantanamo Bay, Cuba, should be closed.

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"An institution like Guantanamo in its present form cannot and must not exist in the long term. We must find different ways of dealing with prisoners," she said. "As far as I'm concerned, there's no question about that."

The timing of the remarks, just ahead of her trip to the United States, was seen here as hardly coincidental. In 2003, Merkel was widely criticized in Germany for speaking in favor of Bush's Iraq policy during a trip to Washington, even though German government policy opposed it. Her comments were seen as breaking a taboo against showing division in foreign affairs.

"She was seen by many after that visit as uncritically pro-Bush," Kamp said.

Merkel also has expressed concerns about the U.S. practice of rendition - sending suspected terrorists to third countries for interrogation, where some say they've been tortured. When Secretary of State Condoleezza Rice visited in December, Merkel asked specifically about the legality of the seizure of German citizen Khaled al-Masri. U.S. agents took al-Masri from Macedonia to Afghanistan, where he was held for five months before he was released. Merkel said the United States admitted that al-Masri's arrest had been a mistake.

It's unknown whether Merkel will raise the issue again when she meets with Bush, but there's little doubt in Germany that she's the only European leader with the staying power to help Bush improve his relations with Europe, where he's strongly disliked.

The influence of Bush's main European allies, British Prime Minister Tony Blair and Italian Prime Minister Silvio Berlusconi, is waning. Analysts believe Blair will leave office in the next year, and Berlusconi is dogged by allegations of corruption and inefficiency.

That leaves Merkel in a key position. The Times of London recently called her "Europe's new power broker."

"Germany is the biggest player in Europe, and she's the newest leader," said Richard Whitman, the head of the European Program for the Britain's Chatham House research center. "She's untainted by the past."

Merkel, who took office in November, already has succeeded on domestic and European fronts. The German parliament passed laws she favored that increase governmental transparency, raise sales taxes and grant tax breaks to parents. And she won continentwide praise when she chided European Union members for sacrificing progress to quibble about small amounts of money.

Whitman said he doesn't expect Merkel to offer Bush much: She won't reverse Germany's refusal to send troops to Iraq or increase the German presence in Afghanistan. But she gets along with Bush.

"She may disagree on issues, but she offers a sympathetic ear," he said.

Jan Friedrich Kallmorgen, a trans-Atlantic specialist with the German Council on Foreign Relations, said he expects Merkel won't be as critical of Bush as her predecessor, Gerhard Schroeder, who aligned Germany with Europe as a counterweight to U.S. influence, was. But she also won't return to the days when Germany saw itself as tied to the United States. Her comments about Guantanamo in Der Spiegel show that, he said.

"It does make a statement to Germans and Europeans that she's not forgetting their concerns about the war on terror," he said.

Karsten Voigt, a coordinator for German-American affairs with the German Foreign Ministry who'll accompany Merkel on her visit to the United States, said Merkel's Guantanamo comments were the result of her growing up in then-communist East Germany and believing that the United States was a symbol of freedom. He said her statements reflect her belief that a U.S. president would want to hear open and honest criticism.

"Washington will be eager to see how she defines herself as chancellor, but so will we," he said. "This is a new role for Germany, involvement in international issues when we are not the cause or the location of the crisis."

After Frosty Times, A Thaw In US-German Relations? (CSM)

By Howard Lafranchi

The Christian Science Monitor, January 12, 2006

WASHINGTON - When German Chancellor Angela Merkel visits the White House Friday, no one doubts that a closer rapport between the US and German leaderships will be on display. Like President Bush, she hails from the political right, and as a daughter of the former East Germany, she identifies with Mr. Bush's focus on freedom.

The bigger question is whether the diplomatic defrosting portends a deeper restrengthening of US-German relations and indeed of transatlantic cooperation.

Certainly the personal warmth expected between Ms. Merkel and Bush - so different from the chilly relations the president had with former Chancellor Gerhard Schröder - will be a welcome change. But with differences over Iraq and strategies for the international war on terror continuing to dog the relationship, and with some US officials expressing skepticism about the Atlantic alliance's long-term utility, many experts will be looking for signs that the warming is more than a matter of personalities.

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"Both sides understand this is an opportunity to build a new dynamic, but people will be watching for whether that translates into any concrete policy initiatives," says Karen Donfried, senior policy director of the German Marshall Fund of the US. "My sense is there won't be [any], that this will be the first step down a much longer path." Iran on the agenda

Iran and its nuclear program will be on the agenda, and the two leaders can be expected to express a common insistence that Iran not develop nuclear weapons. Some observers speculate that after Iran's resumption of its nuclear research program this week, the two leaders could go further and announce an initiative to take Iran before the United Nations Security Council.

But German officials say it is probably "too early" for such a step. They add, however, that a meeting of the International Atomic Energy Agency later this month could prompt such a move. European Union foreign ministers were set to meet today on Iran, which could move the EU closer to Security Council referral.

On other fronts, Merkel could use the US meeting to demonstrate decreasing tensions over Iraq by announcing an acceleration of German training of Iraqi police. German officials are hinting such an announcement could be in the offing.

Still, the improvement in US-German atmospherics is not likely to reverse the general drifting apart in transatlantic relations, some experts say.

"The climate has dramatically improved, but below the surface the rift remains alive and well," says Charles Kupchan, who teaches 21st-century geopolitics at Georgetown University in Washington. "The trend lines continue to be those of fragmentation and disillusion."

Mr. Kupchan, who is also a transatlantic scholar at the Council on Foreign Relations, says the Iraq war is the dividing line - when Germany changed from being a country that followed Washington's leadership "as a matter of course," to instead becoming a European leader increasingly independent of Washington that seeks "to rebuild relations on new terms."

"Common values" have replaced dependence as the transatlantic relationship's chief attribute, he adds, but that change requires deeper consultation and cooperation - something Kupchan says the Bush administration is pursuing with Europe in the second term.

But it also leaves the door open to disagreement: For all the common vision on democracy's enlargement, economic development, and fighting AIDS, he says, there is also a list of issues over which the two sides part company, including Iraq, the International Criminal Court, climate change, and US policy toward detainees in the war on terror.

Examples of European countries prepared to roil relations with the United States extend beyond Germany. The Netherlands has so far not extended the mission of its forces within NATO in Afghanistan. If confirmed, such a move could threaten NATO's plans to expand into volatile parts of the country. The Dutch debate has prompted some US officials to question the long-term viability of the Atlantic alliance, if countries opt out of what are deemed crucial missions. Desire for the US to be world leader

German officials say questions about US treatment of detainees at Guantánamo and at secret foreign prisons - an issue of enough importance to European public opinion that Secretary of State Condoleezza Rice focused on it during a recent European trip - are meant to help the US rebuild its leadership role.

"We want the US to be the world leader, but to do that we see that the US has to regain its moral high ground," says one European diplomat in Washington. Issues of US treatment of foreigners since the Abu Ghraib scandal have contributed to a decline in America's global image, the official says, and in turn make the US leadership role more difficult.

Indeed, Kupchan says public opinion is one complicating factor that Merkel must face as she seeks to improve relations with the US. Another is that Merkel heads a coalition government - one in which the foreign ministry remains in hands that have a more tempered view of US relations.

Still, the leader-to-leader warmth that is anticipated for tomorrow's meeting has its roots in similar perspectives that are likely to infuse future actions.

Ms. Donfried of the German Marshall Fund notes, for example, that Merkel stressed in her inaugural address the role that gaining freedom has played in her life. "That's something that will resonate in the Bush White House," she says.

It is also likely, she adds, to cause Merkel to give "a different priority" to the perspective of Central and Eastern Europeans - a perspective, experts note, that is generally closer to Washington than that of other Europeans.

As one German official notes, there is good reason for Merkel to value America's role in the world. "Without US support for [German] reunification, a woman from the east could not be leading Germany today and meeting the American president."

Ukraine's Leader Dismisses Parliament's Vote To Fire Premier (NYT)

By Steven Lee Myers

The New York Times, January 12, 2006

DOJ_NMG_0009592

KIEV, Ukraine, Jan. 11 - President Viktor A. Yushchenko of Ukraine on Wednesday criticized as illegitimate a parliamentary vote to dismiss his prime minister and government, deepening the country's political turmoil ahead of new elections in March.

"The decision was made by a Parliament that was elected four years ago by the old regime and is living its last weeks," Mr. Yushchenko said during a visit to Kazakhstan, where he attended the inauguration of President Nursultan A. Nazarbayev. "The decision only demonstrates one thing: the destabilization of the situation."

The prime minister, Yury I. Yekhanurov, defied Parliament's vote on Tuesday by presiding over a meeting of the government's ministers on Wednesday.

"We are continuing to fulfill our duties," he said at the meeting, according to news agencies, reversing his initial statement after Tuesday's vote that the ministers would serve only in an acting capacity.

The dispute - prompted by the handling of negotiations with Russia over the price of natural gas - in effect left Mr. Yushchenko's government in a sort of political limbo. It not only undermined his political position before the elections but also called into question recent constitutional changes that gave Parliament new powers, including the authority to dismiss the government.

Those changes, which went into effect on Jan. 1, were part of an agreement reached in December 2004 to hold a new presidential election after tens of thousands of Ukrainians protested a fraudulent vote that initially handed victory to Mr. Yushchenko's rival, Viktor F. Yanukovich.

Mr. Yushchenko, who has since criticized the agreement, did so sharply again on Wednesday. "In fact, we are dealing with the first consequences of inconsiderate changes to the Constitution," he said in a statement released by his office.

The Parliament that assembles after that vote will elect the country's next prime minister, a significant shift in constitutional power. Given the current impasse, it appeared unlikely that a new government would be formed before then, leaving Mr. Yekhanurov's in place for now.

It also appears unlikely that Mr. Yushchenko's bloc of deputies, Our Ukraine, will be able to control the majority needed to choose the new prime minister. Polls show Mr. Yanukovich's party leading, followed by a bloc led by Yulia V. Tymoshenko, Mr. Yushchenko's erstwhile ally whom he dismissed as his first prime minister in September.

Ms. Tymoshenko, whose supporters voted to dismiss the government, has been a vociferous critic of the agreement that ended the dispute over gas prices, vowing to challenge it in court. Others in Parliament said that while lawmakers could not directly reject the deal, they could challenge related interstate agreements with Russia, including those setting the amounts of gas supplied.

Nestor I. Shufrich, a deputy who voted against Mr. Yushchenko's government on Tuesday, questioned why Ukraine had agreed to changes in gas contracts that were valid until at least 2009. "We still have time to review this contract and return to the earlier signed and ratified contracts," he said in an interview.

Under the complicated terms of the deal, reached last week after a brief shutdown of Russian gas, Ukraine agreed to pay nearly double the price it paid under a 2004 agreement.

While in Kazakhstan, Mr. Yushchenko met with President Vladimir V. Putin of Russia, and called the deal "a healthy compromise." Mr. Putin praised the "mutually beneficial decisions" reached after the showdown.

Blair In Plea To Bush For Rolls Contract (FT)

By Edward Alden and Peter Spiegel and James Blitz

Financial Times, January 12, 2006

Tony Blair, the British prime minister, has made a “very forceful” personal plea to President George W. Bush to save a $2.4bn (€2bn) contract for Rolls-Royce and General Electric to develop a second engine for the Joint Strike Fighter, the world’s biggest military programme.

According to US and UK officials, the request was made in a video-conference call between the two leaders, which came just days after Mr Blair sent a letter to Mr Bush outlining his case.

“The prime minister was very clear and very forceful,” said a British official close to the issue, referring both to the letter and the subsequent personal conversation. “This is obviously important to Rolls-Royce. But as a matter of policy, we also want to promote as much co-operation as possible between the US and our defence industry.”

Mr Blair is hoping the White House will reverse a Pentagon decision to kill the engine before the proposed 2007 defence budget is sent to Congress next month. The $2.4bn contract calls for the two companies to develop a second JSF engine that would compete with the primary engine being developed by Pratt & Whitney of the US.

The second engine was originally intended to provide competition for all buyers of the JSF, but the war in Iraq has forced the Pentagon to find a series of equipment cuts in order to meet administration budget targets, and the second engine is among

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the cuts currently being proposed. GE controls 60 per cent of the consortium building the second engine, and Rolls of the UK has a 40 per cent stake.

People familiar with the lobbying campaign said Mr Blair has lent his full muscle to the effort and involved several senior British officials, including Jonathan Powell, Mr Blair's chief of staff. "This is at a level and degree of intensity that few outsiders appreciate," said Loren Thompson, a defence analyst with close ties to the Pentagon. Given the Pentagon's budgetary problems, securing a change of position would be a remarkable and surprising political achievement for Mr Blair.

Sir Digby Jones, director-general of the CBI, the country's largest business lobbying group, added: "This is personal for Blair. Britain is in many, many ways the only friend America has got. Blair personally takes the heat everywhere he goes because of that relationship, and we don't see very much coming back by way of America saying, 'We understand that, thank you'."

Despite Mr Blair's personal lobbying, industry and Whitehall insiders said yesterday that there is considerable debate within the British government about how forcefully to back Rolls with the Bush administration.

The UK, which is the Pentagon's lead partner on the $240bn JSF programme, is in the middle of tense, long-term negotiations with the US over whether it will get access to all the technologies it needs to operate the aircraft independently of American contractors.

In addition, the entire programme has been under threat from Pentagon budget cutters.

"The important thing is keeping the programme together," said one industry official.

Blair Program To Teach Respect (WT)

By Al Webb

The Washington Times, January 12, 2006

LONDON -- British Prime Minister Tony Blair, introducing a key plank of his third and final term in office, has started a $140 million action plan dubbed "Respect" to attack anti-social problems ranging from street hooligans to "neighbors from hell" who could be thrown out of their homes.

In an address to social workers at his office at 10 Downing St., Mr. Blair said the nation has been fighting "21st-century crime with 19th-century methods" and called for a system of speedy "summary justice" to bypass traditional courts.

The judge and jury process, he claimed, is "too cumbersome, too remote from reality to be effective" in today's world.

Mr. Blair has already announced that he intends to step down as prime minister after completing the third term to which he was elected in May, and the ambitious, 44-page "Respect Action Plan" was seen as a shot at gaining a major political -- and popular -- success as his trouble-plagued governance nears its end.

To promote the plan, Mr. Blair traveled to Swindon, about 60 miles west of London, to hose down graffiti on a red-brick wall -- a public relations exercise that police said had among its spectators the youths suspected of spraying on the graffiti in the first place. They were not arrested.

Critics immediately attacked Mr. Blair's plan, one dismissing it as "rubbish," and another describing it as a package of "minor tweaks to existing measures and shock tactics."

The program he announced yesterday envisions evicting out-of-control families from their homes, even if privately owned, for up to three months, and rehousing them in a network of residential centers, or "sin bins," to teach them how to behave.

Mr. Blair, who admitted to the BBC on Tuesday to having disciplined his own children with an occasional "smack," said the bill targets so-called "neighbors from hell" whose anti-social activities run the gamut from loud music at all hours to fighting and brawling, including yelling, screaming children and bullying others. Problem families also could find their government housing benefits, worth hundreds of dollars a month in many cases, cut off.

The "Respect" plan outlines on-the-spot fines of up to $175 for street hooligans and vandals caught attacking passers-by, damaging vehicles and scrawling graffiti on walls, buses and trains. It says stiffer penalties are in store for thugs who attack government workers, and there are instant fines for causing trouble in hospitals.

It gives police and other authorities increased powers to close and board up "nuisance" premises, including houses, pubs and other bars -- a problem that some fear has already been worsened by the recent expansion of bar hours, in some cases to around the clock, for establishments selling alcohol.

A key element in the action plan centers on efforts to control unruly children and to help their beleaguered parents. Schools are given the go-ahead to take out parenting orders for children of any age who seriously misbehave, and a national parenting academy is to be set up to train health and social-service staff how to teach families "responsibility."

But in a television appearance, Mr. Blair insisted the public would have to help if the action plan is to work.

"I can provide the power and resources," he said, but "I cannot force everyone to implement these powers ... [although] I can ask them to do it."

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The prime minister immediately came under fire.

"Respect?" One police officer gibed. "They [hooligans and vandals] can't even spell the word. What they need is to be named and shamed."

The officer targeted the government's use of "anti-social banning orders" -- "asbos" -- aiming at halting youths from causing trouble in specific areas. "Even an 'asbo' is a badge of honor to some of these kids."

The prime minister also faced accusations that some of the "initiatives" were, in fact, old policies that have been tried and found wanting. Parenting orders were introduced in 1998, during the first Blair administration, but political critic Edward Heathcoat Amory said only 1,425 have been used, "so their effect after eight years is vanishingly small."

On-the-spot fines were ordered up a few years ago, but they were ridiculed by police, and few were ever paid. Attempts to punish misbehavior in schools have already seen teachers and education officials overruled by local government councils under pressure from parents.

Kazakh Chief Extends Rule (WT)

By Christopher Pala

The Washington Times, January 12, 2006

ALMATY, Kazakhstan -- In a ceremony as rich in irony as in glitter, President Nursultan Nazarbayev, who has led Kazakhstan for 16 years, was sworn in yesterday for another seven-year term.

It unfolded on live television in the new presidential palace in Astana, which Mr. Nazarbayev, 65, made the country's capital since 1996. Located at the end of a promenade reminiscent of the Mall in Washington, the year-old palace is modeled on the White House, but is much larger.

Mr. Nazarbayev entered a large hall wearing a business suit and a heavy medallion necklace. The rousing national anthem, which he had rewritten, was played. Then, his hand resting on the constitution -- which he largely wrote -- he swore, in a low monotone, to "serve the people honestly."

Among the guests and eight heads of state were Presidents Mikhail Saakashvili of Georgia, Viktor Yushchenko of Ukraine and Kurmanbek Bakiyev of Kyrgyzstan -- all advocates of Western-style democracy brought to power by popular uprisings sparked by stolen elections.

They helped inspire the campaign of a former prosecutor, Zharmakhan Tuyakbay, who challenged Mr. Nazarbayev in the Dec. 4 presidential election.

Mr. Tuyakbay's supporters wore yellow scarves, an echo of the orange scarves that came to symbolize the Ukrainian revolution.

Opinion polls had given Mr. Tuyakbay 20 percent of the vote and Mr. Nazarbayev between 60 percent and 70 percent. But, after reports of widespread ballot-stuffing, the election commission announced that Mr. Nazarbayev had won 91 percent while Mr. Tuyakbay -- whose party has since been decertified -- got 6 percent.

But in Kazakhstan, unlike the other three countries, not a single street demonstration erupted to protest the vote. Opposition leaders said they did not want to be blamed if the government opened fire on demonstrators.

Mr. Nazarbayev had promised an honest election as part of his drive to become the first post-Soviet country to head the Organization for Security and Cooperation in Europe (OSCE), the region's premier pro-democracy organization.

The election had presented the West with an unusual conundrum: how to deal with a genuinely popular dictator of an oil-rich and strategic country who, despite muzzling the press, stifling the opposition and brushing aside mounting evidence of nepotism and corruption, would have won easily without cheating.

The answer could be seen in the praise that Columbia University-educated Mr. Saakashvili heaped on his host in an interview on state television, and in the letter from President Bush that the head of the six-member U.S. delegation, Agriculture Secretary Mike Johanns, handed to Mr. Nazarbayev before the ceremony.

"I look forward to working with you to fulfill our nations' shared commitment to strengthen democracy and increase regional prosperity," Mr. Bush wrote, according to a text released by the Kazakh Embassy in Washington.

Britain, which has advocated denying Kazakhstan the OSCE chairmanship unless Mr. Nazarbayev reverses the increasing authoritarianism that began a decade ago, sent only its ambassador.

Student Says He Was Detained In Zimbabwe (WP)

By David A. Fahrenthold

The Washington Post, January 12, 2006

DOJ_NMG_0009595

CAMBRIDGE, Mass., Jan. 11 -- A Harvard University student from the District said Wednesday that he had been arrested in Zimbabwe during a trip to research his senior thesis, then held in grimy cells for five days before his parents and local lawyers managed to free him.

Amar Bakshi, 21, a Harvard senior and a 2002 graduate of St. Albans School in Northwest, said the key to his release might have been a surreptitious cell phone call he made soon after his arrest on Dec. 30. Speaking quietly in a bathroom, he told a friend that he had been pulled off an outbound airplane by plainclothes officers.

"That was the scariest thing," Bakshi said. "A lot hinged on that phone call."

Bakshi described his ordeal in an interview at a mall near the Harvard campus. It was difficult to find immediate official corroboration: A spokeswoman said the State Department was aware of the case but was unable to provide further information because of privacy concerns. A spokesman for Harvard's Faculty of Arts and Sciences said he would confirm only that Bakshi is a student.

At the Zimbabwean Embassy in Washington, spokesman Wilbert Gwashavanhu said that he could not confirm any part of Bakshi's account. He added that he thought it implausible that a Harvard student would be jailed in Zimbabwe simply for doing research.

"I'm wondering really where the truth rests," Gwashavanhu said.

Bakshi's account of the ordeal was reported previously by the Harvard Crimson, the student newspaper, and in Zimbabwe by the Standard, an independent weekly.

Bakshi said he had gone to Zimbabwe, a southern African nation that has spiraled into poverty and repression in recent years, on Dec. 18. It was the second of two trips he made there last year for his thesis, which concerns political propaganda and the country's youths during the past five years.

During this trip, Bakshi said, he talked to officials in the information ministry for longtime President Robert Mugabe, and collected tapes of news, arts programs and jingles designed to promote government policies on Zimbabwean television.

Bakshi said he was on a plane waiting to depart the airport in Harare, the capital, when five or six men appeared in the jetway. They took him off the plane and into a small room.

"Why are you here? What are these videotapes? You're spying on us," Bakshi recalled the officers saying. They threatened him: "You don't know how horrible this will become."

Bakshi said he made up a diversion, something like "I urgently need to go to the bathroom." Although he had been told to turn his phone off, he called his friend, who then called the U.S. Embassy.

After that, "I was confident that if people knew I was there, the situation would improve," Bakshi said.

It did not at first, however. Initially, Bakshi said, he was taken to a bare holding cell, covered with graffiti left by previous inmates, phrases such as, "Please get me out of here," he said.

After one night, he was moved to a larger jail, where about 120 prisoners were squeezed in among flea-infested mattresses and overflowing toilets. By this time, however, Bakshi said his case had made it to the embassy, which he said sent officials to assure him he would eventually be released.

The news also had made it back to the District, where Bakshi's parents -- both doctors -- live near Sibley Memorial Hospital.

"The first few moments were of panic and of 'My God, what's happening to my boy!' " said his mother, Gita Chopra Bakshi, a pulmonologist. "Then it was a job to do, which was we have to go over there and get him back."

His parents flew to Harare, made connections with local lawyers and eventually had the charges dropped. Bakshi spent a few days in Washington, then returned to Harvard on Wednesday. He said he probably will not be going back to Zimbabwe "for a while."

He said, however, that he intends to write about his experience, on behalf of the many people he met who are probably still in jail. Bakshi recalled one of his fellow inmates, who told him, "in your thesis, make sure to write about all the good things that you saw here with us."

"Then there's sort of this dot-dot-dot . . . and [he] says, 'And be sure to tell them how bad the situation is, too,' " Bakshi said.

DOJ_NMG_0009596

Williams, Jan

From: Williams, Jan

Sent: Thursday, January 12, 2006 8:19 AM

To: Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Sanchez, William J (CRT); Tamargo, Mauricio J; Tandy, Karen P; Wooldridge, Sue Ellen (ENRD); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roberts, Crystal; Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford

Subject: The Morning Update: 1/12/06

Attachments: tmp.htm

Importance: Low

The Morning Update

Today, President Bush travels to the Gulf Coast to assess Federal support for Gulf Coast rebuilding and recovery. In New Orleans, the President will meet with small business owners and community leaders to discuss efforts to aid rebuilding. The President will then travel to Mississippi and will make remarks on Gulf Coast reconstruction, the progress being made, and the work still left to be done.

11:05 am: THE PRESIDENT participates in a Roundtable with Small Business Owners and

CST Community Leaders

TBA Location | New Orleans, Louisiana

1:25 pm: THE PRESIDENT makes Remarks on Gulf Coast Reconstruction

CST St. Stanislaus College | Bay St. Louis, Mississippi

6:05 pm: THE PRESIDENT attends a Republican National Committee Reception

EST Private Residence | Palm Beach, Florida

From Today's Morning Headlines

At Town Hall Meeting, President Bush Discusses His Commitment To Take The Actions Necessary To Protect The American People. "President Bush said yesterday that he is doing everything 'within the Constitution' to protect the American people from another terrorist attack, but added that congressional hearings into a top-secret U.S. spying program will be 'good for democracy.' In an unusual, 75-minute campaign-style town hall meeting - which included nearly a dozen questions from members of the invited audience - Mr. Bush said he firmly believes he has the authority to order warrantless wiretaps of phone calls by people thought to be linked to al Qaeda or its affiliates. 'I have the right as the commander in chief in a time of war to take action necessary to protect the American people,' <http://www.washingtontimes.com/national/20060111-112617-8839r.htm> he said during the event at the Kentucky International Convention Center in Louisville. 'I can understand concerns about this program. Before I went forward, I wanted to make sure I had all the legal authority necessary to make this decision as your president.'" (Joseph Curl, "Bush Reasserts 'Right' To Order Wiretaps," The Washington Times, 1/12/06)

Washington Times, 1/12/06)

President Bush Travels To The Gulf Coast To Assess Federal Efforts To Support The Recovery. "President Bush will make his first visit in three months to the hurricane-ravaged Gulf Coast, where, his chief of staff says, there is still 'great need - indescribable need.' Andy Card said the Thursday trip to New Orleans and Mississippi was for Bush to see progress there firsthand and personally restate his commitment to rebuilding. Bush was meeting with New Orleans business executives, then giving a speech on reconstruction in Waveland, Miss. His message was that although recovery will be long and expensive, the federal government is in it for the long haul, <http://news.yahoo.com/s/ap/20060112/ap_on_go_pr_wh/bush;_ylt=ArJXoO5ftS hcEMX2g60I7zOs0NUE;_ylu=X3oDMTA3OXIzMDMzBHNlYwM3MDM-> said White House spokesman Trent Duffy." (Nedra Pickler, "Bush To Visit Hurricane-Ravaged Gulf Coast," The Associated Press, 1/12/06)

Liberal Groups Frustrated That Democratic Senators Are Struggling In The Face Of A Confirmation That Appears "Increasingly Inevitable." "Opponents of Judge Samuel A. Alito Jr.'s nomination to the Supreme Court expressed growing frustration Wednesday at the course of his confirmation hearings, saying that Democratic senators were struggling in their effort to build a strong case against him and that his confirmation appeared increasingly inevitable. <http://www.nytimes.com/2006/01/12/politics/politicsspecial1/12dems.html ?adxnnl=1&adxnnlx=1137066036-+by69TW/P1aPqjMHhZobMA> Several said they had been particularly distressed after the first day of questioning of Judge Alito by the Senate Judiciary Committee, and had expressed that concern in calls and e-mail messages to Democratic aides on Tuesday. One Democratic aide said the results of that could be seen on Wednesday in the tougher challenges and follow-up questions to Judge Alito, though by day's end, Judge Alito's opponents said he had again largely escaped efforts to force him to answer questions about his views and record." (Adam Nagourney, "From The Left, Calls To Press Alito Harder," The New York Times, 1/12/06)

The Wall Street Journal Accuses Senate Democrats Of Using "Irrelevant Aracana" Against Judge Alito. "It's a sign of how little Democrats have on Supreme Court nominee Samuel Alito that on Day Three of his confirmation hearings they were still pounding away on his membership in an obscure Princeton alumni group that flowered briefly at the judge's alma mater. They can't touch him on credentials or his mastery of jurisprudence, so they're trying to get him on guilt by ancient association. <http://online.wsj.com/article/SB113702966835944404.html?mod=opinion_mai n_review_and_outlooks> ... As for Judge Alito's prospects, if this irrelevant arcana is the most his opponents have, he can start measuring his new judicial robes." (Editorial, "Senate Civility," The Wall Street Journal, 1/12/06)

White House Chief Of Staff Andrew Card Says The President's 2007 Budget Proposal Will Reflect The Administration's Strong Commitment To Spending Restraint. "The Bush administration's upcoming budget blueprint for the U.S. government will 'tighten the belt,' White House chief of staff Andrew Card said on Wednesday. ... The White House was in the final stages of drafting a 'very disciplined' new budget for fiscal 2007, starting October 1, Card said. 'It will fund the appropriate priorities of winning

the war on terror, securing the homeland, but it will say, "Tighten the belt,"' <http://news.yahoo.com/s/nm/20060111/pl_nm/bush_budget_dc;_ylt=ApdkEE3_.qpi0Ig7uEy_3KEa.3QA;_ylu=X3oDMTBiMW04NW9mBHNlYwMlJVRPUCUl> he said.
The administration faces budget pressures stemming from the war in Iraq and the cost of rebuilding in the Gulf Coast after the devastation from hurricanes Katrina and Rita in August and September. Card said the 2007 budget will 'make the tough decisions about which programs are necessary, and fund them appropriately but exercise prudence with the taxpayers' money.'" (Susan Cornwell, "Bush To Aim For Tight 2007 Budget:
Card," Reuters, 1/11/05)

Iraqis Increasingly Turning Against Al Qaeda. "The battle, which the insurgents said was fought on Oct. 23, was one of several clashes between Al Qaeda and local Iraqi guerrilla groups that have broken out in recent months across the Sunni Triangle. American and Iraqi officials believe that the conflicts present them with one of the biggest opportunities since the insurgency burst upon Iraq nearly three years ago. They have begun talking with local insurgents, hoping to enlist them to cooperate against Al Qaeda, said Western diplomats, Iraqi officials and an insurgent leader. ... But the split within the insurgency is coinciding with Sunni Arabs' new desire to participate in Iraq's political process, and a growing resentment of the militants.
<http://www.nytimes.com/2006/01/12/international/middleeast/12insurgent.html?pagewanted=1> Iraqis are increasingly saying that they regard Al Qaeda as a foreign-led force, whose extreme religious goals and desires for sectarian war against Iraq's Shiite majority override Iraqi tribal and nationalist traditions." (Sabrina Tavernise And Dexter Filkins, "Local Insurgents Tell Of Clashes With Al Qaeda's Forces In Iraq," The New York Times, 1/12/05)

Yesterday From The White House

President Participates In Discussion On The Global War On Terror <http://www.whitehouse.gov/news/releases/2006/01/20060111-7.html>

* In Focus: National Security <http://www.whitehouse.gov/infocus/nationalsecurity/>
* In Focus: Renewal In Iraq <http://www.whitehouse.gov/infocus/iraq/>

Fact Sheet: The Asia-Pacific Partnership On Clean Development And Climate <http://www.whitehouse.gov/news/releases/2006/01/20060111-8.html>

Interview Of The Vice President By Tony Snow <http://www.whitehouse.gov/news/releases/2006/01/20060111-5.html>

Interview Of The Vice President By Sean Hannity <http://www.whitehouse.gov/news/releases/2006/01/20060111-9.html>

President Signs H.R. 4340, U.S.-Bahrain Free Trade Agreement <http://www.whitehouse.gov/news/releases/2006/01/20060111-1.html>

Press Gaggle By Scott McClellan
<http://www.whitehouse.gov/news/releases/2006/01/20060111-4.html>

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The Morning Update

Today, President Bush travels to the Gulf Coast to assess Federal support for Gulf Coast rebuilding and recovery. In New Orleans, the President will meet with small business owners and community leaders to discuss efforts to aid rebuilding. The President will then travel to Mississippi and will make remarks on Gulf Coast reconstruction, the progress being made, and the work still left to be done.

11:05 am: CST	THE PRESIDENT participates in a Roundtable with Small Business Owners and Community Leaders TBA Location | New Orleans, Louisiana
1:25 pm: CST	THE PRESIDENT makes Remarks on Gulf Coast Reconstruction St. Stanislaus College | Bay St. Louis, Mississippi
6:05 pm: EST	THE PRESIDENT attends a Republican National Committee Reception Private Residence | Palm Beach, Florida

From Today's Morning Headlines

At Town Hall Meeting, President Bush Discusses His Commitment To Take The Actions Necessary To Protect The American People. "President Bush said yesterday that he is doing everything 'within the Constitution' to protect the American people from another terrorist attack, but added that congressional hearings into a top-secret U.S. spying program will be 'good for democracy.' In an unusual, 75-minute campaign-style town hall meeting – which included nearly a dozen questions from members of the invited audience – Mr. Bush said he firmly believes he has the authority to order warrantless wiretaps of phone calls by people thought to be linked to al Qaeda or its affiliates. 'I have the right as the commander in chief in a time of war to take action necessary to protect the American people,' he said during the event at the Kentucky International Convention Center in Louisville. 'I can understand concerns about this program. Before I went forward, I wanted to make sure I had all the legal authority necessary to make this decision as your president.'" (Joseph Curl, "Bush Reasserts 'Right' To Order Wiretaps," *The Washington Times*, 1/12/06)

President Bush Travels To The Gulf Coast To Assess Federal Efforts To Support The Recovery. "President Bush will make his first visit in three months to the hurricane-ravaged Gulf Coast, where, his chief of staff says, there is still 'great need – indescribable need.' Andy Card said the Thursday trip to New Orleans and Mississippi was for Bush to see progress there firsthand and personally restate his commitment to rebuilding. Bush was meeting with New Orleans business executives, then giving a speech on reconstruction in Waveland, Miss. His message was that although recovery will be long and expensive, the federal government is in it for the long haul, said White House spokesman Trent Duffy." (Nedra Pickler, "Bush To Visit Hurricane-Ravaged Gulf Coast," *The Associated Press*, 1/12/06)

Liberal Groups Frustrated That Democratic Senators Are Struggling In The Face Of A Confirmation That Appears "Increasingly Inevitable." "Opponents of Judge Samuel A. Alito Jr.'s nomination to the Supreme Court expressed growing frustration Wednesday at the course of his confirmation hearings, saying that Democratic senators were struggling in their effort to build a strong case against him and that his confirmation appeared increasingly inevitable. Several said they had been particularly distressed after the first day of questioning of Judge Alito by the Senate Judiciary Committee, and had expressed that concern in calls and e-mail messages to Democratic aides on Tuesday. One Democratic aide said the results of that could be seen on Wednesday in the tougher challenges and follow-up questions to Judge Alito, though by day's end, Judge Alito's opponents said

tougher challenges and follow-up questions to Judge Alito, though by day's end, Judge Alito's opponents said he had again largely escaped efforts to force him to answer questions about his views and record." (Adam Nagourney, "From The Left, Calls To Press Alito Harder," *The New York Times*, 1/12/06)

***The Wall Street Journal* Accuses Senate Democrats Of Using "Irrelevant Aracana" Against Judge Alito.** "It's a sign of how little Democrats have on Supreme Court nominee Samuel Alito that on Day Three of his confirmation hearings they were still pounding away on his membership in an obscure Princeton alumni group that flowered briefly at the judge's alma mater. They can't touch him on credentials or his mastery of jurisprudence, so they're trying to get him on guilt by ancient association. ... As for Judge Alito's prospects, if this irrelevant arcana is the most his opponents have, he can start measuring his new judicial robes." (Editorial, "Senate Civility," *The Wall Street Journal*, 1/12/06)

White House Chief Of Staff Andrew Card Says The President's 2007 Budget Proposal Will Reflect The Administration's Strong Commitment To Spending Restraint. "The Bush administration's upcoming budget blueprint for the U.S. government will 'tighten the belt,' White House chief of staff Andrew Card said on Wednesday. ... The White House was in the final stages of drafting a 'very disciplined' new budget for fiscal 2007, starting October 1, Card said. 'It will fund the appropriate priorities of winning the war on terror, securing the homeland, but it will say, "Tighten the belt,"' he said. The administration faces budget pressures stemming from the war in Iraq and the cost of rebuilding in the Gulf Coast after the devastation from hurricanes Katrina and Rita in August and September. Card said the 2007 budget will 'make the tough decisions about which programs are necessary, and fund them appropriately but exercise prudence with the taxpayers' money.'" (Susan Cornwell, "Bush To Aim For Tight 2007 Budget: Card," *Reuters*, 1/11/05)

Iraqis Increasingly Turning Against Al Qaeda. "The battle, which the insurgents said was fought on Oct. 23, was one of several clashes between Al Qaeda and local Iraqi guerrilla groups that have broken out in recent months across the Sunni Triangle. American and Iraqi officials believe that the conflicts present them with one of the biggest opportunities since the insurgency burst upon Iraq nearly three years ago. They have begun talking with local insurgents, hoping to enlist them to cooperate against Al Qaeda, said Western diplomats, Iraqi officials and an insurgent leader. ... But the split within the insurgency is coinciding with Sunni Arabs' new desire to participate in Iraq's political process, and a growing resentment of the militants. Iraqis are increasingly saying that they regard Al Qaeda as a foreign-led force, whose extreme religious goals and desires for sectarian war against Iraq's Shiite majority override Iraqi tribal and nationalist traditions." (Sabrina Tavernise And Dexter Filkins, "Local Insurgents Tell Of Clashes With Al Qaeda's Forces In Iraq," *The New York Times*, 1/12/05)

Yesterday From The White House

President Participates In Discussion On The Global War On Terror

- In Focus: National Security
- In Focus: Renewal In Iraq

Fact Sheet: The Asia-Pacific Partnership On Clean Development And Climate

Interview Of The Vice President By Tony Snow

Interview Of The Vice President By Sean Hannity

President Signs H.R. 4340, U.S.-Bahrain Free Trade Agreement

Press Gaggle By Scott McClellan

Press Supplie By Scott McClellan

You are currently subscribed to Communications Update - Agencies as:
jan.williams@usdoj.gov.
To unsubscribe send a blank email to:
leave-whitehouse-communications-update-agency-1239098E@list.whitehouse.gov

Williams, Jan

From: Williams, Jan
Sent: Thursday, January 12, 2006 8:46 AM
To: /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bradbury, Steve; Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roberts, Crystal; Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford
Subject: Reminder: Rsvps are due today at noon

If you have not already done so, please rsvp by noon today for the breakfast with the Attorney General..

U.S. Department of Justice
Senior Executive Service and Schedule C Appointees

You are Invited to a Breakfast Reception
hosted by Attorney General Gonzales

Wednesday, January 18, 2006
10:00 a.m. - 10:45 a.m.
Attorney General's Conference Room
Fifth Floor, RFK Main Building

$5.00 Cost at the Door
R.S.V.P. Required
Please respond by Thursday, January 12, at NOON to Jan Williams

Miller, Charles S

From: Miller, Charles S
Sent: Thursday, January 12, 2006 10:08 AM
To: Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 1/12/06 Civil Division News

Soldiers sue for reimbursement; Guardsmen seek pay for post-9/11 duty

Whistleblower sues Genentech

General Dynamics, Northrop, Others to Pay $13 Million to Settle False Claims Act Suit

Judge adjusts check-out dates for FEMA-paid rooms in N.O.

R-CALF Files Motion In Canadian Border Case

Boston Globe

1/12/06

Soldiers sue for reimbursement; Guardsmen seek pay for post-9/11 duty

By Kathleen Burge, Globe Staff | January 12, 2006

Four Massachusetts National Guard soldiers, called to active duty after the Sept. 11, 2001, terrorist attacks, filed a federal lawsuit yesterday, arguing they were forced to pay for their own lodging, meals, and commuting expenses while they were protecting the state from terrorism.

The lawsuit is apparently the first claim of its kind nationally, and the soldiers hope to expand their suit to include hundreds of others who have served in the Massachusetts National Guard since Sept. 11, their lawyers said. If the soldiers in all approximately 300 positions at issue were fully reimbursed for every day since Sept. 11, 2001, they would be owed an estimated $73 million, the lawyers said.

The four plaintiffs said they were never given reasons why their reimbursements -- a maximum of $158 a day for food and lodging, plus travel expenses -- were denied.

Sergeant Wayne R. Gutierrez of New Bedford, one of the soldiers suing for reimbursements, said his family struggled under the financial burden of paying for travel expenses and meals while he was serving at Camp Edwards in Bourne. His Guard duty cost him about $18,000 over three years, he said.

"I had to not pay one bill to pay for another," said Gutierrez, who is married and has two children.

Major Winfield Danielson, a spokesman for the Massachusetts National Guard, said his office was reviewing the lawsuit and could not discuss it.

But he said the rules for reimbursements for soldiers are complex and depend on several factors, including what type of duty the soldiers are on, how long they are serving, and whether the government provides lodging where soldiers are working.

He said he couldn't discuss how those factors applied to the four soldiers suing because he did not know their status.

But John Shek of Boston, the soldiers' attorney, said he knew of no other state where similar Guard orders denying the reimbursements for post-Sept. 11 security were issued.

"People just didn't know how to handle this mass activation of people," said Constance A. Driscoll, a military law specialist who is advising the soldiers.

Lawyers for the soldiers say those serving in the National Guard have historically been reimbursed for reasonable expenses for travel, food, and lodging. Many soldiers traveled more than 100 miles a day to report to duty, the lawyers said. The reimbursements, they argue, are required by federal law.

The soldiers who filed the lawsuit are paid with federal money, but they work under the command of the state National Guard. Before Sept. 11, 2001, National Guard duty usually required one weekend a month and two weeks a year of training.

But after the Sept. 11 attacks, soldiers were called to guard a host of possible targets around the state, including military bases, airports, reservoirs, and nuclear power plants. Some Guard soldiers are still in those security postings.

National Guard soldiers who are sent overseas, including those sent to Iraq, are under federal command and paid by the federal government. Those who are called up to respond to natural disasters such as a blizzard are usually under state command and paid by the state.

First Lieutenant Veronica Saffo, a spokeswoman for the Vermont National Guard, said orders calling up National Guard soldiers typically lay out whether lodging and meals are provided by the government, as they are for soldiers who serve one weekend a month, she said.

"If there's not lodging available, you need to find accommodation somewhere and you should be reimbursed for that," said Saffo.

Soldiers are usually reimbursed for one round-trip to their base location for each weekend, or two-week training period, she said. But soldiers are not necessarily reimbursed for daily commutes to their base, she said.

Retired Captain Louis P. Tortorella of Brookline, N.H., another of the Massachusetts Guard soldiers who filed the lawsuit, said he spent about $14,600 of his own money on expenses necessary to carry out his 21-month assignment to Camp Edwards between 2001 and 2003.

He said the trip from his home to Cape Cod was 250 miles roundtrip and took 3 1/2 hours, a drive he made daily because he was refused reimbursement for lodging.

During part of his service, he was assigned to security at the Quabbin Reservoir, Boston's main drinking water source, overseeing about 45 soldiers.

There was no place to sleep at the reservoir, and so he and other soldiers drove home after their shifts.

The lawsuit does not detail how much the other two plaintiffs -- Sergeant Steven M. Littlefield of Plymouth and Joseph P. Murphy of Derry, N.H. -- say they are owed.

Gutierrez said he worries that he will suffer reprisals from the National Guard for his role as a plaintiff in the lawsuit. Some soldiers have told the lawyers they were threatened with discipline by senior officers when they challenged the denials.

"I got two years left," Gutierrez said at a press conference at Shek's office. "I'm just afraid they that might do something that might get me kicked out."

Shek said that although the reimbursements are federally funded, he does not know where the money sought in the lawsuit would come from. So the lawsuit names 10 defendants, including the Massachusetts National Guard, Governor Mitt Romney, and US Defense Secretary Donald H. Rumsfeld.

Charles Miller, a spokesman for the civil division of the US Department of Justice, another of the defendants named in the lawsuit, said he could not discuss it.

He has not seen any similar lawsuits from other states, he said.

END

AP

1/12/06

Whistleblower sues Genentech

PHILADELPHIA — A former Genentech Inc. employee has accused the biotechnology company and marketing partner Biogen Idec Inc. of illegally promoting cancer drug Rituxan as a treatment for arthritis, a use not yet approved by regulators.

Paul McDermott, who worked for Genentech in Falmouth, Maine, from March 2004 until April 2005, filed a whistleblower lawsuit in July 2005 in U.S. District Court in Maine alleging the companies' marketing of Rituxan defrauded government health-care programs.

The suit also says Genentech fired McDermott in retaliation for bringing the matter to the attention of Genentech executives. The suit seeks unspecified damages on behalf of the government, and an order that Genentech rehire McDermott and pay him back wages and other damages.

McDermott's lawsuit hasn't surfaced until now because it was filed under seal on behalf of the federal government. In December, however, the Justice Department declined to intervene in the case and requested that the lawsuit be unsealed.

Genentech, of South San Francisco, was served with a copy of the suit earlier this month, a Genentech executive disclosed Tuesday after the company reported fourth-quarter earnings.

Genentech spokeswoman Caroline Pecquet said the company hasn't fully evaluated the lawsuit. She added that the company was committed to ethical and legal promotional practices.

Officials at Biogen, which is based in Cambridge, Mass., couldn't immediately be reached.

McDermott's lawsuit is the latest legal challenge facing Genentech over Rituxan's marketing. In October 2004, Genentech received a subpoena from the U.S. Attorney's Office in Philadelphia seeking documents related to the promotion of Rituxan. Genentech is cooperating with that investigation, which it said was both civil and criminal in nature.

The promotion of off-label uses of pharmaceuticals has gotten other drug companies in trouble. In 2004, Warner-Lambert pleaded guilty to federal charges that it promoted epilepsy drug Neurontin for off-label uses beginning in the 1990s. Pfizer Inc., which acquired Warner-Lambert in 2000, agreed to pay $430 million to resolve criminal charges and civil liabilities in the case.

The U.S. Food and Drug Administration approved Rituxan in 1997 as a treatment for a type of non-Hodgkin's lymphoma. U.S. sales of the drug grew to $1.8 billion last year.

Studies have shown Rituxan also potential to treat rheumatoid arthritis.

Biogen and Genentech have applied for FDA approval to market Rituxan as such a treatment, and a decision is expected by late February.

It's generally legal for doctors to prescribe FDA-approved drugs in ways that haven't yet been approved by the FDA, and so-called "off-label" prescriptions are common. But drug companies are generally barred from actively promoting off-label uses of their drugs.

McDermott worked as a "professional educational liaison" for Genentech, according to the lawsuit, a job that involved recruiting doctors to promote the use of Rituxan as a treatment for rheumatoid arthritis.

He alleges Genentech sent sales representatives to the offices of rheumatologists, even though Genentech had no products approved by the FDA for such treatments.

Also, McDermott alleges Genentech and Biogen used "sham" consulting agreements to pay rheumatologists whom the companies identified as being "key opinion leaders," who were expected to influence other doctors to begin prescribing Rituxan for arthritis.

The lawsuit alleges that Biogen, the company that discovered Rituxan, had similar marketing practices for the drug.

END

CORPORATE CRIME REPORTER

General Dynamics, Northrop, Others to Pay $13 Million to Settle False Claims Act Suit

Hunt Valve of Salem, Ohio makes valves – but not for your faucet. They build valves for U.S. submarines. We're talking about valves that you can drive an ATV through.

Hunt Valve was a subcontractor to Newport News Shipbuilding, which is a unit of Northrop Grumman, to General Dynamics Electric Boat Company, to Lockheed Martin, and to companies that sold to Bath Iron Works.

Tina Gonter worked as a quality control inspector for Hunt Valve.

When she started working there, she found quality control systems that were badly broken.

How badly broken?

In September 2005, the quality control manager Hunt Valve was sentenced to 33 months in federal prison.

The company's vice president is awaiting sentencing.

"The types of fraud going on at Hunt Valve were staggering," said Frederick Morgan, a False Claims Act attorney at the Volkema, Thomas law firm in Cincinnati, Ohio.

Morgan represents Tina Gonter and her husband in a False Claims lawsuit against the Hunt Valve, General Dynamics, Northrop Grumman and Lockheed Martin.

"Inspections were certified to have occurred while the inspector was on vacation," Morgan told *Corporate Crime Reporter.* "Equipment was altered to falsify measurements. Material was used without knowing whether it met requirements, and certifications were forged, falsified, and altered on a daily basis. Improper materials were used. Submarine valves were beaten with hammers to make parts fit together."

After years of litigation, the Gonters are about the settle their False Claims Act lawsuit.

According to Morgan, the companies will pay a total of $13 million, with General Dynamics paying the lion's share – $7.7 million.

Under the False Claims Act, a whistleblower who successfully sues and recovers monies defrauded from the U.S. government is entitled to a portion of the recovery.

The Gonter's will recover about 22 percent of the $13 million – or $2.86 million.

"General Dynamics Electric Boat was the lead contractor," Morgan said. "They had personnel on site who clearly should have taken more action than they did. We took the testimony of the Electric Boat person on site. And his testimony showed a considerable degree of consternation over what was going on."

Morgan said that both the Gonters wore wires for the Defense Criminal Investigative Service – "Ms. Gonter's case over a period of many months, including a period where she was recovering from a mastectomy due to breast cancer."

"And the results of the taping were exceptional in terms of demonstrating a level of awareness of problems at Hunt Valve by Electric Boat personnel," Morgan said.

When asked whether federal prosecutors ever considered charging the companies with crimes, Morgan said this:
"That's a question for the prosecutors in Cleveland. I'll say this – the criminal team in the case was aggressive. They looked hard at all of the issues. My understanding is that there remains an open criminal investigation, but I don't think that it relates to the quality portion of the case. There was a

defendant named All Stainless. We alleged that All Stainless was used as a minority contractor to funnel Hunt Valve product to General Dynamics. There may have been some certifications in connection with that effort that were inappropriate."

END

Associated Press (AP)
Published: Jan 12, 2006

Judge adjusts check-out dates for FEMA-paid rooms in N.O.

By KEVIN MCGILL

NEW ORLEANS — A federal judge on Wednesday agreed to tweak the government hotel program for hurricane evacuees, hoping to ensure none are forced out of any New Orleans hotels by an expected influx of Mardi Gras tourists.

U.S. District Judge Stanwood Duval's order, formulated in a court hearing for issuance on today, means that many evacuees in the government-funded hotel program in New Orleans will be allowed to stay in their rooms until March 1 — the day after Mardi Gras.

Hoteliers in New Orleans have complained that the ever-changing deadline for the end of the Federal Emergency Management Agency hotel program led to confusion over whether they would have vacancies for Mardi Gras.

Some booked rooms for the popular tourist season, only to learn the evacuee program had been extended.

Some evacuees have complained they were put on the street by overbooked hotels. Attorneys for the displaced have been working with hotel managers to find them other rooms.

Duval's order Wednesday applies only to New Orleans area hotels. Elsewhere around the country, the check-out date is set for Feb. 27, although some will be able to remain beyond that date under the complex rules of the program.

Attorneys for the government and for evacuees said Duval's order encompasses much of a policy that FEMA had already announced on Monday. Attorneys for evacuees wanted an order from Duval to make sure the policy is legally binding.

The policy, as explained in court Wednesday, requires anyone in the hotel program to register with FEMA and obtain an authorization code by Jan. 30. Anyone who does not register will lose FEMA funding for his hotel on Feb. 7.

People who obtain the code and who receive word on whether they are eligible for other housing assistance by Jan. 30 — such as rental aid or a trailer — can stay until Feb. 13.

Those who obtain the code but don't receive their notification about other aid by Jan. 30 can stay until at least the Feb. 27 or March 1 deadlines. If they receive notification after Feb. 13, they will still have two weeks in the hotel at FEMA expense, even if that takes them past those deadlines.

As of Monday, there were 25,697 families still in FEMA-funded hotel rooms, according to the agency. FEMA is paying for just over 8,600 rooms in Louisiana and 7,000 rooms in Texas.

The bulk of the rest of the families are in hotels in Georgia, Mississippi, Florida, Alabama and California, according to FEMA data.

END

CattleNetwork.com

R-CALF Files Motion In Canadian Border Case

The Ranchers-Cattlemen Action Legal Fund has filed a motion in U.S. District Court in Montana, requesting a hearing before U.S. District Judge Richard Cebull regarding the U. S. Department of Agriculture's minimal risk rule and the Canadian border.

Back in July, the U.S 9th Circuit reversed an injunction against USDA, allowing live cattle under 30 months of age and beef from cattle under 30 months of age into the United States. R-CALF contends that while the 9th Circuit ruling opened the border, it did not "limit or eliminate the need for oral arguments of the case and a ruling by the District Court on the summary judgment motions filed by both R-CALF and USDA," according to a statement

The July decision only affected the injunction, not "the merits of the entire case," said R-CALF President Leo McDonnell. "We're asking the District Court to resume its consideration of our case," he said.

END

Comisac, Rena (CRT)

From: Comisac, Rena (CRT)
Sent: Thursday, January 12, 2006 10:58 AM
To: Beach, Andrew
Cc: Kim, Wan (CRT); Gorsuch, Neil M; Reyes, Luis (SMO); Swenson, Lily F; Schlozman, Brad (CRT); Longwitz, Tobi (CRT); Vargas, Omar (CRT)
Subject: Scheduling request form
Attachments: AG Scheduling Form 2.wpd

Andy -- over the holidays you were kind enough to put a placeholder on the AG's calendar for a press conference that may be held on February 10 in New York. I've attached the scheduling request form that essentially codifes that informal placeholder. Pls. let me or Tobi know if you have any questions.
Thanks.

Attorney General Scheduling Request

(for DOJ Events)

TO: Andrew Beach
Assistant to the Attorney General for Scheduling

FAX: 7-2825

THROUGH: Office of the Associate Attorney General

FROM: Rena Comisac, DAAG, CRT

REQUEST: To hold a press conference in the Eastern District of New York

PURPOSE: To announce the sentence of a defendant recently convicted of human trafficking and other offenses in United States v. Daniel Perez Alonzo; to unveil the Department's human trafficking report of activities 2001-2005; and to draw attention to the Department's funding of six new multi-disciplinary anti-human trafficking task forces.

WHAT IS THE REQUESTED ROLE OF THE ATTORNEY GENERAL: To speak at the press conference on the topics listed above. Press conference should last approximately 1 hour.

BACKGROUND: On April 5, 2005, Daniel Perez Alonzo and co-defendants Josue Flores Carreto and Gerardo Flores Carreto pled guilty to a 27-count indictment charging them with forcing young Mexican women into prostitution in brothels throughout the New York City metropolitan area, including Queens and Brooklyn, between 1991 and 2004. Three other associates of the defendants previously entered guilty pleas, and two other defendants await extradition from Mexico. Perez Alonzo pled guilty to violating two counts of 18 U.S.C. § 371 (conspiring to engage in sex trafficking and conspiring to import aliens for immoral purposes), four counts of 18 U.S.C. § 1591 (sex trafficking), one count of 18 U.S.C. § 1594 (attempted sex trafficking), four counts of 18 U.S.C. § 1589 (forced labor), four counts of 18 U.S.C. § 2421 (Mann Act violations), four counts of 8 U.S.C. § 1328 (importation of an alien for immoral purposes) and eight counts of 8 U.S.C. § 1324 (alien smuggling). Perez Alonzo and his co-defendants admitted that they recruited young, uneducated Mexican women from impoverished backgrounds, smuggled them into Mexico to the United States, and then forced them into prostitution, using beatings and threats to children in the custody of the defendants' families in Mexico to maintain control over the women. The conspiracy may have involved as many as fifty victims.

Perez Alonzo is scheduled to be sentenced on February 10, 2006. Probation calculates his sentence at level 41 (324-405 months), but in addition points out a number of aggravating factors (including the scope of the operation and the guidelines' cap on the multiple-count adjustment), which could justify an even higher sentence.

The Civil Rights Division is presently compiling a report of the Department's cumulative efforts to fight human trafficking from 2001-2005. This report is scheduled to be completed in early February, prior to the Kaufmans' sentencing.

OJP has funded approximately six new multi-disciplinary anti-human trafficking task forces. There are currently 32 of these task forces, which combine federal, state, local, and NGO resources to share intelligence and spur investigations of human trafficking.

DATE & TIME: February 10, 2006, following sentencing at 2:30 p.m.

LOCATION: U.S. Courthouse, 225 Cadman Plaza East, Brooklyn, New York.

DURATION: The press conference will likely be concluded in an hour.

PRESS COVERAGE: TBD

POSSIBLE PARTICIPANTS AND APPROXIMATE NUMBER: In addition to the Attorney General, possible participants include Civil Rights AAG Wan Kim; E.D.N.Y. U.S. Attorney Rosslyn Mauskopf; HQ representatives and/or SACs of NY field offices of DHS Bureau of Customs and Immigration Enforcement and Federal Bureau of Investigation.

REMARKS REQUIRED: Yes

RECOMMENDED BY: CRT (AAG Wan Kim, PDAAG Brad Schlozman, DAAG Rena Comisac)

COORDINATED WITH: OASG (COS Luis Reyes, PDAAG Neil Gorsuch)

APPROVED BY:

EVENT CONTACT AND PHONE NUMBER: Tobi Longwitz, 4-3846

Elwood, Courtney

From:	Elwood, Courtney
Sent:	Thursday, January 12, 2006 12:06 PM
To:	Kim, Wan (CRT); Comisac, Rena (CRT); Sampson, Kyle; Gorsuch, Neil M; Reyes, Luis (SMO); Swenson, Lily F; Mercer, Bill (ODAG)
Cc:	Roberts, Crystal; Scolinos, Tasia; Holland, Eric W
Subject:	Re: Operation Home Sweet Home

Thanks. I'll look forward to reading this. I am also CC'ing Martha Pacold of OAG who works with us on CRT matters.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>
To: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
CC: Roberts, Crystal <Crystal.Roberts@SMOJMD.USDOJ.gov>; Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>; Holland, Eric W <Eric.W.Holland@SMOJMD.USDOJ.gov>
Sent: Thu Jan 12 11:44:15 2006
Subject: RE: Operation Home Sweet Home

One clarification: the all time record is 329 tests in FY 2000.

In FY 2005, we conducted 205 tests -- and this is the figure we propose to double to 410 by FY 2007.

-----Original Message-----
From: Comisac, Rena (CRT)
Sent: Thursday, January 12, 2006 11:38 AM
To: Sampson, Kyle; Elwood, Courtney; Gorsuch, Neil M; Reyes, Luis (SMO); Swenson, Lily F; Mercer, Bill (ODAG)
Cc: Kim, Wan (CRT); Roberts, Crystal; Scolinos, Tasia; Holland, Eric W
Subject: Operation Home Sweet Home

Attached is a draft proposal setting forth our strategy to increase CRT's efforts to detect race and national origin discrimination in the housing market. Our Housing and Civil Enforcement Section is confident that the target number of 410 paired tests by FY2007 would represent an all-time high (the current record is 329 tests in FY2005). The proposal, while succinct, represents the culmination of our efforts over the past month or so to "kick the tires" both within the Division and within the Department to ensure that the goals we set forth are achievable. We are working with OPA and OIPL to formulate a more specific roll-out strategy, and will submit a finalized proposal once we have a recommendation.

<< File: HCE testing memo.wpd >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, January 12, 2006 1:08 PM
To: Comisac, Rena (CRT)
Subject: Re: Operation Home Sweet Home

Any chance we could double the all tiime high?

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From: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>
To: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
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Sent: Thu Jan 12 11:37:38 2006
Subject: Operation Home Sweet Home

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Comisac, Rena (CRT)

From: Comisac, Rena (CRT)
Sent: Thursday, January 12, 2006 1:19 PM
To: Gorsuch, Neil M
Subject: Re: Operation Home Sweet Home

Perhaps. It would take a very significant influx of resources. I will be glad to explore it.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>
Sent: Thu Jan 12 13:07:44 2006
Subject: Re: Operation Home Sweet Home

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From: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>
To: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, January 12, 2006 1:23 PM
To: Comisac, Rena (CRT)
Subject: Re: Operation Home Sweet Home

I think we should at least explore it. Not sure how doubling from existing level will look when someone compares it to prior highs. I'd really appreciate your lookiong hard at this with Wan.

-----Original Message-----
From: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Jan 12 13:19:24 2006
Subject: Re: Operation Home Sweet Home

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Sent: Thu Jan 12 13:07:44 2006
Subject: Re: Operation Home Sweet Home

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Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, January 12, 2006 2:23 PM
To: Scolinos, Tasia; Gorsuch, Neil M; Swenson, Lily F
Subject: RE: 2/10/06 Trafficking Press Event - Long Island, NY

That is exactly along the lines of what we and OAG (Sampson, Elwood) were thinking. The report will likely be published before the end of the month. (Final draft has been circulated. Just need to finalize and send to printer). Our thought would be to announce the sentencing, release the report, and reference the OJP money all in one, thereby demonstrating the continued day to day commitment to this issue. The one caveat here: these sentencing dates are in many instances pushed back, sometimes for several months. CRT reports that there is a possibility of this happening here. Accordingly, we have asked CRT to work with OIPL to put together proposed alternative venues for such an announcement in early February (i.e. a speech to an NGO or another group (a MALDEF perhaps) that has a stake this issue). CRT will have a proposed alternative roll out plan for us shortly.

From: Scolinos, Tasia
Sent: Thursday, January 12, 2006 2:11 PM
To: Reyes, Luis (SMO)
Subject: FW: 2/10/06 Trafficking Press Event - Long Island, NY

It seems there could be the making of an event here if we take the new OJP money mentioned in this proposal and also package that with the report you all have been working on. When do you expect that the report will be done?

From: Beach, Andrew
Sent: Thursday, January 12, 2006 12:40 PM
To: Scolinos, Tasia; Roehrkasse, Brian
Subject: 2/10/06 Trafficking Press Event - Long Island, NY

What is your recommendation on this?

From: Comisac, Rena (CRT)
Sent: Thursday, January 12, 2006 10:58 AM
To: Beach, Andrew
Cc: Kim, Wan (CRT); Gorsuch, Neil M; Reyes, Luis (SMO); Swenson, Lily F; Schlozman, Brad (CRT); Longwitz, Tobi (CRT); Vargas, Omar (CRT)
Subject: Scheduling request form

Andy -- over the holidays you were kind enough to put a placeholder on the AG's calendar for a press conference that may be held on February 10 in New York. I've attached the scheduling request form that essentially codifes that informal placeholder. Pls. let me or Tobi know if you have any questions. Thanks.

<< File: AG Scheduling Form 2.wpd >>

Beach, Andrew

From: Beach, Andrew
Sent: Thursday, January 12, 2006 2:29 PM
To: Comisac, Rena (CRT)
Cc: Kim, Wan (CRT); Gorsuch, Neil M; Reyes, Luis (SMO); Swenson, Lily F; Schlozman, Brad (CRT); Longwitz, Tobi (CRT); Vargas, Omar (CRT)
Subject: RE: Scheduling request form

Thanks.
I'll let you know as soon as I have an answer.

From: Comisac, Rena (CRT)
Sent: Thursday, January 12, 2006 10:58 AM
To: Beach, Andrew
Cc: Kim, Wan (CRT); Gorsuch, Neil M; Reyes, Luis (SMO); Swenson, Lily F; Schlozman, Brad (CRT); Longwitz, Tobi (CRT); Vargas, Omar (CRT)
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Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, January 12, 2006 2:38 PM
To: Gorsuch, Neil M; Beach, Andrew; Scolinos, Tasia; Elwood, Courtney; Swenson, Lily F; Pacold, Martha M
Subject: FW: 2/10/06 Trafficking Press Event - Long Island, NY

Meant to copy Andy, Courtney, and Martha on this.

From: Reyes, Luis (SMO)
Sent: Thursday, January 12, 2006 2:23 PM
To: Scolinos, Tasia; Gorsuch, Neil M; Swenson, Lily F
Subject: RE: 2/10/06 Trafficking Press Event - Long Island, NY

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Elwood, Courtney

From:	Elwood, Courtney
Sent:	Thursday, January 12, 2006 2:52 PM
To:	Scolinos, Tasia
Cc:	McNeil, Tucker (OPA); Sampson, Kyle; Gorsuch, Neil M; Kim, Wan (CRT)
Subject:	Fw: Operation Home Sweet Home

I'm intrigued by the idea of adding the announcement of Operation Home Sweet Home to the MLK speech on Monday. What do you'all think?

Also, Tucker, would you mind sending a draft of that speech to Neil?

Thanks.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Thu Jan 12 14:23:10 2006
Subject: RE: Operation Home Sweet Home

He certainly could (CRT is prepared to implement it). And he quite possibly should (though I defer to OPA/OIPL on this issue). As I understand it, the temporary FEMA housing is due to expire in early Feb (2/7, I've heard). Now, this could well be extended again, but that's the current plan. So, the issue is a timely one -- and the audience should certainly be receptive.

I would not get into the weeds with numbers (we've put them in the memo so that you folks have them; the only relevant figure is "double the existing level"). I would suggest that the AG simply state that (1) Fair Housing is a fundamental civil right; (2) we have recently seen huge numbers of displaced Americans, many of color, in the wake of Hurricane Katrina; (3) they will be looking to restore a level of permanancy to their lives in the coming months after the temporary FEMA housing expires; (4) housing must be provided on a non-discriminatory basis; (5) he is directing CRT to engage in a initiative, called Project Home Sweet Home, to double the number of tests (by FY07) conducted under the Housing and Civil Enforcement's Testing Program to police that right; (6) the focus on the additional tests will be those areas where displaced Hurricane Katrina residents are seeking housing; and (7) we will vigorously bring lawsuits against offenders.

-----Original Message-----
From: Elwood, Courtney
Sent: Thursday, January 12, 2006 1:55 PM

To: Kim, Wan (CRT)
Subject: Re: Operation Home Sweet Home

Is this something the AG could/should say in his MLK speech on Mon.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>
To: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
CC: Roberts, Crystal <Crystal.Roberts@SMOJMD.USDOJ.gov>; Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>; Holland, Eric W <Eric.W.Holland@SMOJMD.USDOJ.gov>
Sent: Thu Jan 12 11:44:15 2006
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<< File: HCE testing memo.wpd >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, January 12, 2006 3:06 PM
To: Elwood, Courtney; Scolinos, Tasia
Cc: McNeil, Tucker (OPA); Sampson, Kyle; Kim, Wan (CRT)
Subject: Re: Operation Home Sweet Home

I have one concern-question on this but will raise it orally.

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>
CC: McNeil, Tucker (OPA) <Tucker.McNeil@SMOJMD.USDOJ.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>
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Kim, Wan (CRT)

From: Kim, Wan (CRT)
Sent: Thursday, January 12, 2006 3:17 PM
To: Gorsuch, Neil M
Cc: Comisac, Rena (CRT)
Subject: RE: Operation Home Sweet Home

Of course. Rena is on travel, but we can arrange a time that will work.

FYI -- Rena is far more up to speed on this than I am, so I've suggested that she call you first to discuss. My presence in the initial call will only slow you two down!

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, January 12, 2006 3:27 PM
To: Kim, Wan (CRT)
Cc: Comisac, Rena (CRT)
Subject: Re: Operation Home Sweet Home

Thanks. Rena would you mind setting up a time with Aloma Shaw for us to speak tomorrow for fifteen mins?

-----Original Message-----
From: Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>
Sent: Thu Jan 12 15:16:53 2006
Subject: RE: Operation Home Sweet Home

Of course. Rena is on travel, but we can arrange a time that will work.

FYI -- Rena is far more up to speed on this than I am, so I've suggested that she call you first to discuss. My presence in the initial call will only slow you two down!

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, January 12, 2006 3:11 PM
To: Kim, Wan (CRT)
Cc: Comisac, Rena (CRT)
Subject: Fw: Operation Home Sweet Home

Fyi. I would appreciate the chance to talk orally abt this issue a bit more tomorrow if that's ok.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>
Sent: Thu Jan 12 13:07:44 2006
Subject: Re: Operation Home Sweet Home

Any chance we could double the all tiime high?

-----Original Message-----
From: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>
To: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
CC: Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>; Roberts, Crystal <Crystal.Roberts@SMOJMD.USDOJ.gov>; Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>; Holland, Eric W <Eric.W.Holland@SMOJMD.USDOJ.gov>
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To: Elwood, Courtney
Cc: McNeil, Tucker (OPA); Sampson, Kyle; Gorsuch, Neil M; Kim, Wan (CRT)
Subject: RE: Operation Home Sweet Home

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Yes, CRT will be ready to go. In addition to the information in the draft memo, attached below is the fact sheet on the current Testing Program that can be found on our website. I also note that we should not stress precise numbers, as (1) these have been less than meticuously maintained prior to this Admin and (2) it might hamper our law enforcement efforts for such targets to be publicly known (I am not aware that we have publicly released such information in the past, and I do not think that we should do so in the future). It is clear, though, that we will be both (1) doubling the current level of testing, and (2) reaching a new historical high in the testing program.

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In 1991, the Civil Rights Division established a fair housing testing program within the Housing and Civil Enforcement Section and commenced testing in 1992. Testing refers to the use of individuals who, without any bonafide intent to rent or purchase a home, apartment, or other dwelling, pose as prospective buyers or renters of real estate for the purpose of gathering information, which may indicate whether a housing provider is complying with fair housing laws. The primary focus of the Section's fair housing testing program has been to identify unlawful housing discrimination based on race, national origin, disability, or familial status. The Section also has responsibilities to enforce Title II of the Civil Rights Act of 1964, the nation's public accommodations law, and, on occasion, has tested places of public accommodation.

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From: Scolinos, Tasia
Sent: Thursday, January 12, 2006 3:28 PM
To: Elwood, Courtney
Cc: McNeil, Tucker (OPA); Sampson, Kyle; Gorsuch, Neil M; Kim, Wan (CRT)
Subject: RE: Operation Home Sweet Home

I think this is a good proactive story and I am concerned the announcement could get lost in the speech Monday since it is on a holiday. Also, if we fly at a 30,000 foot level, as suggested by Wan's email, the reporters won't really get the whole scope of the proposal. It will need a fact sheet and probably a conference call with reporters to explain why this is significant, give past numbers, explain how the testing program works, etc. My thought was that could follow an AG speech on this with the fact sheet and roundtable. I would like to check with Paul and see if he feels strongly about holding it until after the "Key Priorities" speech of mid-February. If we all agree to move it out before then, one option is to have him talk about this during his speech here at DOJ in honor of MLK. Wan - would we have all the details ironed out by then?

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To: Scolinos, Tasia
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I'm intrigued by the idea of adding the announcement of Operation Home Sweet Home to the MLK speech on Monday. What do you'all think?

Also, Tucker, would you mind sending a draft of that speech to Neil?

Thanks.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Thu Jan 12 14:23:10 2006
Subject: RE: Operation Home Sweet Home

He certainly could (CRT is prepared to implement it). And he quite possibly should (though I defer to OPA/OIPL on this issue). As I understand it, the temporary FEMA housing is due to expire in early Feb (2/7, I've heard). Now, this could well be extended again, but that's the current plan. So, the issue is a timely one -- and the audience should certainly be receptive.

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Subject: Re: Operation Home Sweet Home

Is this something the AG could/should say in his MLK speech on Mon.

Sent from my BlackBerry Wireless Handheld

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From: Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>
To: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
CC: Roberts, Crystal <Crystal.Roberts@SMOJMD.USDOJ.gov>; Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>; Holland, Eric W <Eric.W.Holland@SMOJMD.USDOJ.gov>
Sent: Thu Jan 12 11:44:15 2006
Subject: RE: Operation Home Sweet Home

One clarification: the all time record is 329 tests in FY 2000.

In FY 2005, we conducted 205 tests -- and this is the figure we propose to double to 410 by FY 2007.

-----Original Message-----
From: Comisac, Rena (CRT)
Sent: Thursday, January 12, 2006 11:38 AM
To: Sampson, Kyle; Elwood, Courtney; Gorsuch, Neil M; Reyes, Luis (SMO); Swenson, Lily F; Mercer, Bill (ODAG)
Cc: Kim, Wan (CRT); Roberts, Crystal; Scolinos, Tasia; Holland, Eric W
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<< File: HCE testing memo.wpd >>

Comisac, Rena (CRT)

From: Comisac, Rena (CRT)
Sent: Thursday, January 12, 2006 3:44 PM
To: Gorsuch, Neil M; Kim, Wan (CRT)
Subject: Re: Operation Home Sweet Home

I am on travel today and tomorrow, but I will give you a call from the road.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>
CC: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>
Sent: Thu Jan 12 15:26:31 2006
Subject: Re: Operation Home Sweet Home

Thanks. Rena would you mind setting up a time with Aloma Shaw for us to speak tomorrow for fifteen mins?

-----Original Message-----
From: Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>
Sent: Thu Jan 12 15:16:53 2006
Subject: RE: Operation Home Sweet Home

Of course. Rena is on travel, but we can arrange a time that will work.

FYI -- Rena is far more up to speed on this than I am, so I've suggested that she call you first to discuss. My presence in the initial call will only slow you two down!

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, January 12, 2006 3:11 PM
To: Kim, Wan (CRT)
Cc: Comisac, Rena (CRT)
Subject: Fw: Operation Home Sweet Home

Fyi. I would appreciate the chance to talk orally abt this issue a bit more tomorrow if that's ok.

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>
Sent: Thu Jan 12 13:07:44 2006
Subject: Re: Operation Home Sweet Home

Any chance we could double the all tiime high?

-----Original Message-----
From: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>
To: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
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Sent: Thu Jan 12 11:37:38 2006
Subject: Operation Home Sweet Home

Attached is a draft proposal setting forth our strategy to increase CRT's efforts to detect race and national origin discrimination in the housing market. Our Housing and Civil Enforcement Section is confident that the target number of 410 paired tests by FY2007 would represent an all-time high (the current record is 329 tests in FY2005). The proposal, while succinct, represents the culmination of our efforts over the past month or so to "kick the tires" both within the Division and within the Department to ensure that the goals we set forth are achievable. We are working with OPA and OIPL to formulate a more specific roll-out strategy, and will submit a finalized proposal once we have a recommendation.

Scolinos, Tasia

From: Scolinos, Tasia
Sent: Thursday, January 12, 2006 3:47 PM
To: Reyes, Luis (SMO); Gorsuch, Neil M; Beach, Andrew; Elwood, Courtney; Swenson, Lily F; Pacold, Martha M
Cc: Holland, Eric W
Subject: RE: 2/10/06 Trafficking Press Event - Long Island, NY

Great. Just to brainstorm this a bit, we might want to consider having the AG follow up a speech on this topic with a meeting with some of the victims of human trafficking who are now advocates against this horror to put a human face on the problem. (if any such victims have taken a public posture - does anyone know?) We will also start to put together a fact sheet that lists everything the department is doing in this area. (kind of an executive summary of the report). We can also push a out a fact sheet that highlights some of the bigger HT cases of the last year or so . If you are comfortable Wan we can also pitch you for some interviews on this topic once we get some momentum going around a HT event. Please keep me in the loop as this develops.

From: Reyes, Luis (SMO)
Sent: Thursday, January 12, 2006 2:38 PM
To: Gorsuch, Neil M; Beach, Andrew; Scolinos, Tasia; Elwood, Courtney; Swenson, Lily F; Pacold, Martha M
Subject: FW: 2/10/06 Trafficking Press Event - Long Island, NY

Meant to copy Andy, Courtney, and Martha on this.

From: Reyes, Luis (SMO)
Sent: Thursday, January 12, 2006 2:23 PM
To: Scolinos, Tasia; Gorsuch, Neil M; Swenson, Lily F
Subject: RE: 2/10/06 Trafficking Press Event - Long Island, NY

That is exactly along the lines of what we and OAG (Sampson, Elwood) were thinking. The report will likely be published before the end of the month. (Final draft has been circulated. Just need to finalize and send to printer). Our thought would be to announce the sentencing, release the report, and reference the OJP money all in one, thereby demonstrating the continued day to day commitment to this issue. The one caveat here: these sentencing dates are in many instances pushed back, sometimes for several months. CRT reports that there is a possibility of this happening here. Accordingly, we have asked CRT to work with OIPL to put together proposed alternative venues for such an announcement in early February (i.e. a speech to an NGO or another group (a MALDEF perhaps) that has a stake this issue). CRT will have a proposed alternative roll out plan for us shortly.

From: Scolinos, Tasia
Sent: Thursday, January 12, 2006 2:11 PM
To: Reyes, Luis (SMO)
Subject: FW: 2/10/06 Trafficking Press Event - Long Island, NY

It seems there could be the making of an event here if we take the new OJP money mentioned in this proposal and also package that with the report you all have been working on. When do you expect that the report will be done?

From: Beach, Andrew
Sent: Thursday, January 12, 2006 12:40 PM
To: Scolinos, Tasia; Roehrkasse, Brian

Subject: 2/10/06 Trafficking Press Event - Long Island, NY

What is your recommendation on this?

From: Comisac, Rena (CRT)
Sent: Thursday, January 12, 2006 10:58 AM
To: Beach, Andrew
Cc: Kim, Wan (CRT); Gorsuch, Neil M; Reyes, Luis (SMO); Swenson, Lily F; Schlozman, Brad (CRT); Longwitz, Tobi (CRT); Vargas, Omar (CRT)
Subject: Scheduling request form

Andy -- over the holidays you were kind enough to put a placeholder on the AG's calendar for a press conference that may be held on February 10 in New York. I've attached the scheduling request form that essentially codifes that informal placeholder. Pls. let me or Tobi know if you have any questions. Thanks.

<< File: AG Scheduling Form 2.wpd >>

Sampson, Kyle

From: Sampson, Kyle
Sent: Thursday, January 12, 2006 4:43 PM
To: Kim, Wan (CRT); Scolinos, Tasia; Elwood, Courtney
Cc: McNeil, Tucker (OPA); Gorsuch, Neil M
Subject: RE: Operation Home Sweet Home

I confess, I have conceived of this initiative as one that wld form a portion of the AG's mid-February priorities speech: e.g., he talks about civil rights and why it is one of his top priorities and then gives a couple of examples: (1) the great work we've done on human trafficking (citing the forthcoming report) and (2) our new fair housing initiative. So, let's discuss.

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From: Kim, Wan (CRT)
Sent: Thursday, January 12, 2006 3:42 PM
To: Scolinos, Tasia; Elwood, Courtney
Cc: McNeil, Tucker (OPA); Sampson, Kyle; Gorsuch, Neil M
Subject: RE: Operation Home Sweet Home

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Sent from my BlackBerry Wireless Handheld

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<< File: HCE testing memo.wpd >>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, January 12, 2006 4:46 PM
To: Sampson, Kyle; Elwood, Courtney
Subject: Re: Operation Home Sweet Home

For reasons discussed w Courtney today and can share w you tomorrow am orally, I am not sure this, while very close and extremely well conceived, is quite ready for prime time anyway.

-----Original Message-----
From: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>
To: Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>; Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: McNeil, Tucker (OPA) <Tucker.McNeil@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Jan 12 16:42:31 2006
Subject: RE: Operation Home Sweet Home

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Sent: Thursday, January 12, 2006 2:52 PM
To: Scolinos, Tasia
Cc: McNeil, Tucker (OPA); Sampson, Kyle; Gorsuch, Neil M; Kim, Wan (CRT)
Subject: Fw: Operation Home Sweet Home

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Sent from my BlackBerry Wireless Handheld

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To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Thu Jan 12 14:23:10 2006
Subject: RE: Operation Home Sweet Home

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To: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>; Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Mercer, Bill (ODAG) <Bill.Mercer@SMOJMD.USDOJ.gov>
CC: Roberts, Crystal <Crystal.Roberts@SMOJMD.USDOJ.gov>; Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>; Holland, Eric W <Eric.W.Holland@SMOJMD.USDOJ.gov>
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Subject: RE: Operation Home Sweet Home

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<< File: HCE testing memo.wpd >>

Sampson, Kyle

From: Sampson, Kyle
Sent: Thursday, January 12, 2006 4:48 PM
To: Gorsuch, Neil M; Elwood, Courtney
Subject: RE: Operation Home Sweet Home

10-4. Thx.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, January 12, 2006 4:46 PM
To: Sampson, Kyle; Elwood, Courtney
Subject: Re: Operation Home Sweet Home

For reasons discussed w Courtney today and can share w you tomorrow am orally, I am not sure this, while very close and extremely well conceived, is quite ready for prime time anyway.

-----Original Message-----
From: Sampson, Kyle <Kyle.Sampson@SMOJMD.USDOJ.gov>
To: Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>; Scolinos, Tasia <Tasia.Scolinos@SMOJMD.USDOJ.gov>; Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
CC: McNeil, Tucker (OPA) <Tucker.McNeil@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Thu Jan 12 16:42:31 2006
Subject: RE: Operation Home Sweet Home

I confess, I have conceived of this initiative as one that wld form a portion of the AG's mid-February priorities speech: e.g., he talks about civil rights and why it is one of his top priorities and then gives a couple of examples: (1) the great work we've done on human trafficking (citing the forthcoming report) and (2) our new fair housing initiative. So, let's discuss.

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Cc: McNeil, Tucker (OPA); Sampson, Kyle; Gorsuch, Neil M
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Testing Program

At the Department of Justice, the Housing and Civil Enforcement Section of the Civil Rights Division brings suit on behalf of the United States to enforce the Fair Housing Act, which prohibits discrimination on the basis of race, color, religion, national origin, sex, disability, and familial status. The Act authorizes the Department to bring suits where investigations yield evidence of a pattern or practice of illegal housing discrimination.

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The testing program staff presently consists of eight test coordinators, an evidence technician, and a secretary, all of whom are under the direction of a program supervisor. The Section employs various means to accomplish testing in local communities, including contracts with private fair housing organizations, contracts with individuals, and by using non-attorney Department employees throughout the country. The Department employees are volunteers who have been trained to participate as testers. Since 1992, the testing program has recruited and trained over 1000 employees from various Department components throughout the nation to participate as testers. The Section conducts approximately a dozen testing investigations simultaneously at any given time.

Over the past ten years, the Department of Justice has filed 78 pattern and practice testing cases with evidence directly generated from the fair housing testing program. The vast majority of testing cases filed to date are based on testing evidence that involved allegations of agents misrepresenting the availability of rental units or offering different terms and conditions based on race, and/or national origin, and/or familial status. The Department's testing has resulted in the filing of testing cases in 19 states including Alabama, California, Florida, Georgia, Illinois, Indiana, Louisiana, Michigan, Missouri, Mississippi, New Jersey, New Mexico, North Carolina, Ohio, Pennsylvania, South Dakota, Virginia, West Virginia and Wisconsin. Of the 78 suits filed, 75 have been resolved. Of the 75 resolved cases, the Department has recovered more than $11 million, including over $1.7 million in civil penalties and over $9.3 million in other damages.

The Department has demonstrated that testing can be a valuable tool to investigate housing market practices and to document illegal housing discrimination. The testing program has greatly enhanced the ability of the Department to identify and to challenge the discriminatory housing practices that persist in the rental and sale of housing.

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To: Elwood, Courtney
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<< File: HCE testing memo.wpd >>

Kim, Wan (CRT)

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Sent: Thursday, January 12, 2006 5:01 PM
To: Sampson, Kyle; Scolinos, Tasia; Elwood, Courtney
Cc: McNeil, Tucker (OPA); Gorsuch, Neil M
Subject: RE: Operation Home Sweet Home

I defer timing/vehicle to you experts. Let us know how we can assist. Thx, Wan

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From: Sampson, Kyle
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Cc: McNeil, Tucker (OPA); Gorsuch, Neil M
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<< File: HCE testing memo.wpd >>

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Thursday, January 12, 2006 6:19 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
January 12, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs, (202) 514 2007

TOMORROW'S EXPECTED NEWS STORIES:

Motion to Dismiss (OPA)
The United States filed a Motion to Dismiss for Lack of Jurisdiction in *Hamdan v. Rumsfeld*. The motion was filed in the Supreme Court of the United States today, and was based on the Detainee Treatment Act of 2005, which removes the jurisdiction of the federal courts to hear habeas and other suits filed by Guantanamo detainees.

Thomas Barnett's Confirmation (Antitrust)
The Washington Wire section of tomorrow's *Wall Street Journal* will mention Thomas Barnett's confirmation as Assistant Attorney General for Antitrust.

Aragoncillo Investigation (FBI)
Ted Bridis, *Associated Pres*s, is still inquiring about the Aragoncillo investigation and documents that Aragoncillo may have illegally passed to a foreign intelligence service.

Integrity Committee Questions (FBI)
Guy Gugliotta, *The Washington Post*, submitted additional questions on the Integrity Committee and an ongoing NASA investigation. The FBI is not commenting on the ongoing investigation.

Warren Jeffs Investigation (FBI)
A press conference was held to announce that Warren Jeffs was charged in Arizona for committing sexual acts with a minor. There is currently an Unlawful Flight to Avoid Prosecution (UFAP) warrant out for his arrest.

Talking Points:

- In June 2005, Warren Jeffs was indicted by a Mojave County Grand Jury for Sexual Conduct with a Minor and Conspiracy to Commit Sexual Conduct with a Minor.

- As the investigation continues to locate Warren Jeffs, we will seek charges against anyone whom we develop evidence against assisting and/or harboring Jeffs. Until such

evidence is developed and appropriately presented to the US Attorney's Office for a prosecutive opinion, we would not be able to provide you with such information.

FRIDAY'S EXPECTED EVENTS/RELEASES:

Amber Alert Awareness Day (OAG)
Attorney General Alberto R. Gonzales will speak about expanding the reach of the AMBER Alert and Deputy Postmaster General Patrick Donahoe will unveil the AMBER Alert postage stamp.

The Washington Hilton
International Ballroom, Concourse Level
1919 Connecticut Avenue, N.W.
Washington, D.C. 20009
10:00 A.M. EST
OPEN PRESS

Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Thursday, January 12, 2006 6:45 PM
To: Scolinos, Tasia; Gorsuch, Neil M; Beach, Andrew; Elwood, Courtney; Swenson, Lily F; Pacold, Martha M
Cc: Holland, Eric W
Subject: RE: 2/10/06 Trafficking Press Event - Long Island, NY

I like these ideas and of course will defer to OAG. A victims event may be a more difficult endeavor in that, to my knowledge, the only ones that have taken somewhat of a public posture are the one or two that actually testified before Congress. Even then, these folks were testifying to effectuate legislation, but it is not clear that they wanted the public attention. CRT, in coordination with OVC and counterparts at HHS) would be able to best evaluate the feasibility of putting together an event like this.

From: Scolinos, Tasia
Sent: Thursday, January 12, 2006 3:47 PM
To: Reyes, Luis (SMO); Gorsuch, Neil M; Beach, Andrew; Elwood, Courtney; Swenson, Lily F; Pacold, Martha M
Cc: Holland, Eric W
Subject: RE: 2/10/06 Trafficking Press Event - Long Island, NY

Great. Just to brainstorm this a bit, we might want to consider having the AG follow up a speech on this topic with a meeting with some of the victims of human trafficking who are now advocates against this horror to put a human face on the problem. (if any such victims have taken a public posture - does anyone know?) We will also start to put together a fact sheet that lists everything the department is doing in this area. (kind of an executive summary of the report). We can also push a out a fact sheet that highlights some of the bigger HT cases of the last year or so . If you are comfortable Wan we can also pitch you for some interviews on this topic once we get some momentum going around a HT event. Please keep me in the loop as this develops.

From: Reyes, Luis (SMO)
Sent: Thursday, January 12, 2006 2:38 PM
To: Gorsuch, Neil M; Beach, Andrew; Scolinos, Tasia; Elwood, Courtney; Swenson, Lily F; Pacold, Martha M
Subject: FW: 2/10/06 Trafficking Press Event - Long Island, NY

Meant to copy Andy, Courtney, and Martha on this.

From: Reyes, Luis (SMO)
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To: Scolinos, Tasia; Gorsuch, Neil M; Swenson, Lily F
Subject: RE: 2/10/06 Trafficking Press Event - Long Island, NY

That is exactly along the lines of what we and OAG (Sampson, Elwood) were thinking. The report will likely be published before the end of the month. (Final draft has been circulated. Just need to finalize and send to printer). Our thought would be to announce the sentencing, release the report, and reference the OJP money all in one, thereby demonstrating the continued day to day commitment to this issue. The one caveat here: these sentencing dates are in many instances pushed back, sometimes for several months. CRT reports that there is a possibility of this happening here. Accordingly, we have asked CRT to work with OIPL to put together proposed alternative venues for such an announcement in early February (i.e. a speech to an NGO or another group (a MALDEF perhaps) that has a stake this issue). CRT will have a proposed alternative roll out plan for us shortly.

From: Scolinos, Tasia
Sent: Thursday, January 12, 2006 2:11 PM
To: Reyes, Luis (SMO)
Subject: FW: 2/10/06 Trafficking Press Event - Long Island, NY

It seems there could be the making of an event here if we take the new OJP money mentioned in this proposal and also package that with the report you all have been working on. When do you expect that the report will be done?

From: Beach, Andrew
Sent: Thursday, January 12, 2006 12:40 PM
To: Scolinos, Tasia; Roehrkasse, Brian
Subject: 2/10/06 Trafficking Press Event - Long Island, NY

What is your recommendation on this?

From: Comisac, Rena (CRT)
Sent: Thursday, January 12, 2006 10:58 AM
To: Beach, Andrew
Cc: Kim, Wan (CRT); Gorsuch, Neil M; Reyes, Luis (SMO); Swenson, Lily F; Schlozman, Brad (CRT); Longwitz, Tobi (CRT); Vargas, Omar (CRT)
Subject: Scheduling request form

Andy -- over the holidays you were kind enough to put a placeholder on the AG's calendar for a press conference that may be held on February 10 in New York. I've attached the scheduling request form that essentially codifes that informal placeholder. Pls. let me or Tobi know if you have any questions. Thanks.

<< File: AG Scheduling Form 2.wpd >>

Elwood, Courtney

From: Elwood, Courtney
Sent: Thursday, January 12, 2006 7:44 PM
To: Reyes, Luis (SMO); Scolinos, Tasia; Gorsuch, Neil M; Beach, Andrew; Swenson, Lily F; Pacold, Martha M; Kim, Wan (CRT)
Cc: Holland, Eric W
Subject: RE: 2/10/06 Trafficking Press Event - Long Island, NY

Adding Wan.

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Thursday, January 12, 2006 6:45 PM
To: Scolinos, Tasia; Gorsuch, Neil M; Beach, Andrew; Elwood, Courtney; Swenson, Lily F; Pacold, Martha M
Cc: Holland, Eric W
Subject: RE: 2/10/06 Trafficking Press Event - Long Island, NY

I like these ideas and of course will defer to OAG. A victims event may be a more difficult endeavor in that, to my knowledge, the only ones that have taken somewhat of a public posture are the one or two that actually testified before Congress. Even then, these folks were testifying to effectuate legislation, but it is not clear that they wanted the public attention. CRT, in coordination with OVC and counterparts at HHS) would be able to best evaluate the feasibility of putting together an event like this.

From: Scolinos, Tasia
Sent: Thursday, January 12, 2006 3:47 PM
To: Reyes, Luis (SMO); Gorsuch, Neil M; Beach, Andrew; Elwood, Courtney; Swenson, Lily F; Pacold, Martha M
Cc: Holland, Eric W
Subject: RE: 2/10/06 Trafficking Press Event - Long Island, NY

Great. Just to brainstorm this a bit, we might want to consider having the AG follow up a speech on this topic with a meeting with some of the victims of human trafficking who are now advocates against this horror to put a human face on the problem. (if any such victims have taken a public posture - does anyone know?) We will also start to put together a fact sheet that lists everything the department is doing in this area. (kind of an executive summary of the report). We can also push a out a fact sheet that highlights some of the bigger HT cases of the last year or so . If you are comfortable Wan we can also pitch you for some interviews on this topic once we get some momentum going around a HT event. Please keep me in the loop as this develops.

From: Reyes, Luis (SMO)
Sent: Thursday, January 12, 2006 2:38 PM
To: Gorsuch, Neil M; Beach, Andrew; Scolinos, Tasia; Elwood, Courtney; Swenson, Lily F; Pacold, Martha M
Subject: FW: 2/10/06 Trafficking Press Event - Long Island, NY

Meant to copy Andy, Courtney, and Martha on this.

From: Reyes, Luis (SMO)
Sent: Thursday, January 12, 2006 2:23 PM
To: Scolinos, Tasia; Gorsuch, Neil M; Swenson, Lily F
Subject: RE: 2/10/06 Trafficking Press Event - Long Island, NY

That is exactly along the lines of what we and OAG (Sampson, Elwood) were thinking. The report

will likely be published before the end of the month. (Final draft has been circulated. Just need to finalize and send to printer). Our thought would be to announce the sentencing, release the report, and reference the OJP money all in one, thereby demonstrating the continued day to day commitment to this issue. The one caveat here: these sentencing dates are in many instances pushed back, sometimes for several months. CRT reports that there is a possibility of this happening here. Accordingly, we have asked CRT to work with OIPL to put together proposed alternative venues for such an announcement in early February (i.e. a speech to an NGO or another group (a MALDEF perhaps) that has a stake this issue). CRT will have a proposed alternative roll out plan for us shortly.

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Subject: FW: 2/10/06 Trafficking Press Event - Long Island, NY

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From: Comisac, Rena (CRT)
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To: Beach, Andrew
Cc: Kim, Wan (CRT); Gorsuch, Neil M; Reyes, Luis (SMO); Swenson, Lily F; Schlozman, Brad (CRT); Longwitz, Tobi (CRT); Vargas, Omar (CRT)
Subject: Scheduling request form

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Reyes, Luis (SMO)

From: Reyes, Luis (SMO)
Sent: Friday, January 13, 2006 2:35 PM
To: Elwood, Courtney; Pacold, Martha M; Vargas, Omar (CRT)
Cc: Gorsuch, Neil M; Swenson, Lily F; Kim, Wan (CRT); Comisac, Rena (CRT)
Subject: POTUS Photo for trafficking report

My initial recommendation is to have Wan contact Allyson Ho in Domestic Policy. If not, Neil or Lily could. Caveat: this may open up another can of worms. Has domestic policy been looped in on this project? I believe it is probably a good idea to let them know and give them a draft to review, HOWEVER, I would run this course of action by OAG first. A possible approach is to loop Allyson in on the project, give her a draft, then raise the issues of clearnce for the POTUS photo. Courtney, Martha, what are your thoughts?

-----Original Message-----
From: Vargas, Omar (CRT)
Sent: Friday, January 13, 2006 12:12 PM
To: Reyes, Luis (SMO)
Subject: Re: Farewell to DOJ

Your tenure deserves a standing ovation. I have one more thing to ask of you before you leave. The white house photo office refuses to allow us use of POTUS photos in our report. How shall we handle?

Sent from my BlackBerry Wireless Handheld

Khan, Omar

From: Khan, Omar
Sent: Friday, January 13, 2006 3:24 PM
To: Gorsuch, Neil M
Subject: Unable to connect to Outlook

Hi Neil,

Drop me an email when this occurs again and please try to log in to another workstation at the same time. The ticket will remain open under my name until we get this fixed.

Omar Khan
Sr. Systems Engineer
SMO-JMD Server/Ops
PHB RM 4519
[redacted]

Vargas, Omar (CRT)

From:	Vargas, Omar (CRT)
Sent:	Friday, January 13, 2006 5:48 PM
To:	Reyes, Luis (SMO); Elwood, Courtney; Pacold, Martha M
Cc:	Gorsuch, Neil M; Swenson, Lily F; Kim, Wan (CRT); Comisac, Rena (CRT)
Subject:	Re: POTUS Photo for trafficking report

OPA is working on a different approach with Kimani of our office and White House Media Affairs. Let's see if this works.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Pacold, Martha M <Martha.M.Pacold@SMOJMD.USDOJ.gov>; Vargas, Omar (CRT) <Omar.Vargas@crt.usdoj.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>; Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>
Sent: Fri Jan 13 14:35:00 2006
Subject: POTUS Photo for trafficking report

My initial recommendation is to have Wan contact Allyson Ho in Domestic Policy. If not, Neil or Lily could. Caveat: this may open up another can of worms. Has domestic policy been looped in on this project? I believe it is probably a good idea to let them know and give them a draft to review, HOWEVER, I would run this course of action by OAG first. A possible approach is to loop Allyson in on the project, give her a draft, then raise the issues of clearnce for the POTUS photo. Courtney, Martha, what are your thoughts?

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Sent from my BlackBerry Wireless Handheld

Elwood, Courtney

From:	Elwood, Courtney
Sent:	Friday, January 13, 2006 8:34 PM
To:	Reyes, Luis (SMO); Pacold, Martha M; Vargas, Omar (CRT)
Cc:	Gorsuch, Neil M; Swenson, Lily F; Kim, Wan (CRT); Comisac, Rena (CRT); Hertling, Richard; Brand, Rachel
Subject:	RE: POTUS Photo for trafficking report

Before Luis departed the building, he raised an excellent point (below) about alerting the WH/DPC about the trafficking report. I am not aware that the subject has been raised, but have added Richard and Rachel as the most likely to know, apart from those originally on this email chain.

May I suggest that Neil call Allyson on Tuesday?

-----Original Message-----
From: Reyes, Luis (SMO)
Sent: Friday, January 13, 2006 2:35 PM
To: Elwood, Courtney; Pacold, Martha M; Vargas, Omar (CRT)
Cc: Gorsuch, Neil M; Swenson, Lily F; Kim, Wan (CRT); Comisac, Rena (CRT)
Subject: POTUS Photo for trafficking report

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Sent from my BlackBerry Wireless Handheld

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Friday, January 13, 2006 10:18 PM
To:	Elwood, Courtney; Reyes, Luis (SMO); Pacold, Martha M; Vargas, Omar (CRT)
Cc:	Swenson, Lily F; Kim, Wan (CRT); Comisac, Rena (CRT); Hertling, Richard; Brand, Rachel
Subject:	Re: POTUS Photo for trafficking report

I agree. Unless anyone sees a reason to proceed otherwise, I will plan on reaching out to Allyson on Tuesday. Have a good weekend all. NMG

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Pacold, Martha M <Martha.M.Pacold@SMOJMD.USDOJ.gov>; Vargas, Omar (CRT) <Omar.Vargas@crt.usdoj.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>; Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Brand, Rachel <Rachel.Brand@SMOJMD.USDOJ.gov>
Sent: Fri Jan 13 20:34:19 2006
Subject: RE: POTUS Photo for trafficking report

Before Luis departed the building, he raised an excellent point (below) about alerting the WH/DPC about the trafficking report. I am not aware that the subject has been raised, but have added Richard and Rachel as the most likely to know, apart from those originally on this email chain.

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Sent: Friday, January 13, 2006 2:35 PM
To: Elwood, Courtney; Pacold, Martha M; Vargas, Omar (CRT)
Cc: Gorsuch, Neil M; Swenson, Lily F; Kim, Wan (CRT); Comisac, Rena (CRT)
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Cc:	Swenson, Lily F; Kim, Wan (CRT); Comisac, Rena (CRT); Hertling, Richard; Brand, Rachel
Subject:	Re: POTUS Photo for trafficking report

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Sent from my BlackBerry Wireless Handheld

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To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Pacold, Martha M <Martha.M.Pacold@SMOJMD.USDOJ.gov>; Vargas, Omar (CRT) <Omar.Vargas@crt.usdoj.gov>
CC: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>; Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Brand, Rachel <Rachel.Brand@SMOJMD.USDOJ.gov>
Sent: Fri Jan 13 22:17:58 2006
Subject: Re: POTUS Photo for trafficking report

I agree. Unless anyone sees a reason to proceed otherwise, I will plan on reaching out to Allyson on Tuesday. Have a good weekend all. NMG

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Pacold, Martha M <Martha.M.Pacold@SMOJMD.USDOJ.gov>; Vargas, Omar (CRT) <Omar.Vargas@crt.usdoj.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>; Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Brand, Rachel <Rachel.Brand@SMOJMD.USDOJ.gov>
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Sent: Friday, January 13, 2006 2:35 PM
To: Elwood, Courtney; Pacold, Martha M; Vargas, Omar (CRT)
Cc: Gorsuch, Neil M; Swenson, Lily F; Kim, Wan (CRT); Comisac, Rena (CRT)
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Subject: Re: Farewell to DOJ

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Sent from my BlackBerry Wireless Handheld

Hertling, Richard

From: Hertling, Richard
Sent: Saturday, January 14, 2006 9:54 AM
To: Elwood, Courtney; Gorsuch, Neil M; Reyes, Luis (SMO); Pacold, Martha M; Vargas, Omar (CRT)
Cc: Swenson, Lily F; Kim, Wan (CRT); Comisac, Rena (CRT); Brand, Rachel
Subject: Re: POTUS Photo for trafficking report

I don't disagree, but I think Neil needs to make two calls. Allyson is one, but the DPC lead on trafficking is not Allyson but Melissa Pardue. I think Neil should call both and give both a chance to review the report. I have signalled to Allyson that the report was in the works but have said nothing more and have not supplied any of the drafts.

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Pacold, Martha M <Martha.M.Pacold@SMOJMD.USDOJ.gov>; Vargas, Omar (CRT) <Omar.Vargas@crt.usdoj.gov>
CC: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>; Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Brand, Rachel <Rachel.Brand@SMOJMD.USDOJ.gov>
Sent: Fri Jan 13 22:43:46 2006
Subject: Re: POTUS Photo for trafficking report

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To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Pacold, Martha M <Martha.M.Pacold@SMOJMD.USDOJ.gov>; Vargas, Omar (CRT) <Omar.Vargas@crt.usdoj.gov>
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Sent: Fri Jan 13 22:17:58 2006
Subject: Re: POTUS Photo for trafficking report

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To: Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Pacold, Martha M <Martha.M.Pacold@SMOJMD.USDOJ.gov>; Vargas, Omar (CRT) <Omar.Vargas@crt.usdoj.gov>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>; Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>; Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>; Brand, Rachel <Rachel.Brand@SMOJMD.USDOJ.gov>
Sent: Fri Jan 13 20:34:19 2006
Subject: RE: POTUS Photo for trafficking report

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Cc: Gorsuch, Neil M; Swenson, Lily F; Kim, Wan (CRT); Comisac, Rena (CRT)
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Sent from my BlackBerry Wireless Handheld

Comisac, Rena (CRT)

From: Comisac, Rena (CRT)
Sent: Saturday, January 14, 2006 11:01 AM
To: Gorsuch, Neil M
Subject: Re: POTUS Photo for trafficking report

I owe you a phone call on Home Sweet Home. I apologize for not calling in yesterday -- very hectic travel day that began at 5 am and did not end until more than 12 hrs later! But the press conference on USERRA/ American Airlines went very well, and I expect we'll see some good print coverage today. The local CBS affiliate was also there, so there may have been some video coverage yesterday also.

But I digress. Re HSH, should we touch base over the weekend, or is Tuesday fine? If you prefer the former, the Command Center has all my contact info -- call at your convenience.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Pacold, Martha M <Martha.M.Pacold@SMOJMD.USDOJ.gov>; Vargas, Omar (CRT) <Omar.Vargas@crt.usdoj.gov>
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Sent: Friday, January 13, 2006 12:12 PM
To: Reyes, Luis (SMO)
Subject: Re: Farewell to DOJ

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Sent from my BlackBerry Wireless Handheld

Comisac, Rena (CRT)

From:	Comisac, Rena (CRT)
Sent:	Saturday, January 14, 2006 11:09 AM
To:	Elwood, Courtney; Gorsuch, Neil M; Reyes, Luis (SMO); Pacold, Martha M; Vargas, Omar (CRT)
Cc:	Swenson, Lily F; Kim, Wan (CRT); Hertling, Richard; Brand, Rachel
Subject:	Re: POTUS Photo for trafficking report

We were planning on sending the report to the printer on Tuesday, which would have gotten it back to us on February 7 -- just in time for the Alonzo Perez sentencing on February 10. But we are exploring alternative roll outs, so I don't think it's the end of the world if we don't roll it out on 2/10.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Pacold, Martha M <Martha.M.Pacold@SMOJMD.USDOJ.gov>; Vargas, Omar (CRT) <Omar.Vargas@crt.usdoj.gov>
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Sent: Fri Jan 13 20:34:19 2006
Subject: RE: POTUS Photo for trafficking report

Before Luis departed the building, he raised an excellent point (below) about alerting the WH/DPC about the trafficking report. I am not aware that the subject has been raised, but have added Richard and Rachel as the most likely to know, apart from those originally on this email chain.

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Saturday, January 14, 2006 2:21 PM
To: Comisac, Rena (CRT)
Subject: Re: POTUS Photo for trafficking report

No worries. It will keep till Tuesday. Have a great weekend!

-----Original Message-----
From: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Sat Jan 14 11:00:51 2006
Subject: Re: POTUS Photo for trafficking report

I owe you a phone call on Home Sweet Home. I apologize for not calling in yesterday -- very hectic travel day that began at 5 am and did not end until more than 12 hrs later! But the press conference on USERRA/ American Airlines went very well, and I expect we'll see some good print coverage today. The local CBS affiliate was also there, so there may have been some video coverage yesterday also.

But I digress. Re HSH, should we touch base over the weekend, or is Tuesday fine? If you prefer the former, the Command Center has all my contact info -- call at your convenience.

Sent from my BlackBerry Wireless Handheld

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To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Pacold, Martha M <Martha.M.Pacold@SMOJMD.USDOJ.gov>; Vargas, Omar (CRT) <Omar.Vargas@crt.usdoj.gov>
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Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Saturday, January 14, 2006 2:22 PM
To:	Hertling, Richard; Elwood, Courtney; Reyes, Luis (SMO); Pacold, Martha M; Vargas, Omar (CRT)
Cc:	Swenson, Lily F; Kim, Wan (CRT); Comisac, Rena (CRT); Brand, Rachel
Subject:	Re: POTUS Photo for trafficking report

Will do Tues am.

-----Original Message-----
From: Hertling, Richard <Richard.Hertling@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>; Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Reyes, Luis (SMO) <Luis.Reyes@SMOJMD.USDOJ.gov>; Pacold, Martha M <Martha.M.Pacold@SMOJMD.USDOJ.gov>; Vargas, Omar (CRT) <Omar.Vargas@crt.usdoj.gov>
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Sent: Sat Jan 14 09:54:02 2006
Subject: Re: POTUS Photo for trafficking report

I don't disagree, but I think Neil needs to make two calls. Allyson is one, but the DPC lead on trafficking is not Allyson but Melissa Pardue. I think Neil should call both and give both a chance to review the report. I have signalled to Allyson that the report was in the works but have said nothing more and have not supplied any of the drafts.

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From: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
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Sent from my BlackBerry Wireless Handheld

Khan, Omar

From: Khan, Omar
Sent: Wednesday, January 18, 2006 10:39 AM
To: Gorsuch, Neil M
Subject: PC Problems

Hi Neil,

Just checking if you have had any issues this morning with your Outlook not starting?

Omar Khan
Sr. Systems Engineer
SMO-JMD Server/Ops
PHB RM 4519
[redacted]

From: Miller, Charles S
Sent: Wednesday, January 18, 2006 11:40 AM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 1/18/06 Civil Division News

U.S. Supreme Court Tells Panel to Reconsider Abortion Decision

Oregon Suicide Law Is Upheld by High Court

ASSISTED SUICIDE UPHELD

News Analysis: Fraught Issue, but Narrow Ruling in Oregon Suicide Case

Lawsuits claim domestic spying program is illegal, unconstitutional

Hitchens joins authors seeking US wiretapping ban: Legal challenge to domestic spy programme Former 'war on terror' ally tells of phone call fears

Some Iraq Rebuilding Funds Go Untraced

PennDOT pays whistleblower

Plan for BlackBerry outages

Pentagon scales back, delays first installment of NSPS

Suspect in Federal Spam Case Pleads Guilty

Bloomberg
1/18/06

U.S. Supreme Court Tells Panel to Reconsider Abortion Decision

Jan. 18 (Bloomberg) -- The U.S. Supreme Court unanimously told a lower court to reconsider an abortion ruling that struck down a New Hampshire parental-notification requirement, saying a less sweeping ruling might resolve any constitutional problems.

Retiring Justice Sandra Day O'Connor, probably writing her last abortion opinion on the high court, said a federal appeals court ``need not have invalidated the law wholesale'' to ensure that doctors could perform emergency procedures to protect a patient's health.

DOJ_NMG_0009703

The law, which has never taken effect, requires girls under age 18 who seek an abortion to notify a parent 48 hours in advance unless a judge rules the minor is mature enough to give informed consent herself. An abortion could be performed without such notification if needed to prevent the minor's death. No similar exception exists to protect her health.

The case is only the second abortion dispute at the high court since it reaffirmed the constitutional right in the 1992 Planned Parenthood v. Casey case.

The case is Ayotte v. Planned Parenthood of Northern New England, 04-1144.

END

Legal Times
01-18-2006

Oregon Suicide Law Is Upheld by High Court

By Tony Mauro

In a ruling that re-energizes the debate over federalism and the right to die, the Supreme Court on Tuesday said the federal Controlled Substances Act does not give the Bush administration the authority to thwart Oregon's law allowing physician-assisted suicide.

"Congress did not have this far-reaching intent to alter the federal-state balance and the congressional role in maintaining it," wrote Justice Anthony Kennedy for the 6-3 majority in *Gonzales v. Oregon*.

"The Supreme Court's ruling today affirms the right of Oregonians to govern their own end-of-life, pain management and palliative care choices," said Peg Sandeen, executive director of the Death with Dignity National Center, which has defended the Oregon law since voters approved it in 1994. "*Gonzales v. Oregon* is a historic milestone that will protect the people's rights as patients."

The ruling is a setback for the Bush administration and could spur other states to follow Oregon, currently the only state allowing physician-assisted suicide. Sandeen cautioned, however, that Congress could try to cripple the law in other ways with new legislation.

A Department of Justice spokeswoman, Tasia Scolinos, expressed the administration's disappointment with the ruling, but added that the department "remains committed to enforcing our nation's laws and ensuring that drugs are not diverted to unlawful uses."

The decision featured Chief Justice John Roberts Jr.'s first dissent and also echoed some of the debate over executive power heard just last week over the nomination of Samuel Alito Jr. to replace Justice Sandra Day O'Connor. Kennedy articulated a limited view of the power of the executive branch to tinker with acts of Congress -- unless Congress permits it.

The Oregon Death With Dignity Act allows doctors to prescribe death-hastening drugs to terminally ill patients in limited circumstances. The Clinton administration did not move to stop Oregon, but in November 2001, then-Attorney General John Ashcroft, who had opposed assisted suicide as a senator, issued an "interpretive rule" interpreting the Controlled Substances Act and announcing that assisted suicide was not a "legitimate medical purpose" that would allow doctors to prescribe Schedule II drugs under the act. Oregon, joined by physicians and terminally ill patients, challenged the rule, and the 9th U.S. Circuit Court of Appeals struck it down as overstepping federal authority.

The high court on Tuesday upheld the 9th Circuit -- itself a notable event -- in a ruling written by Kennedy, once a member of the 9th Circuit.

Once again, the Reagan-appointed Kennedy was in the position of announcing a Supreme Court decision that ran counter to conservative views on a hot-button issue. In 2003 Kennedy announced *Lawrence v. Texas*, upholding gay rights, and in 2005 he wrote *Roper v. Simmons*, striking down the juvenile death penalty.

But unlike his other controversial rulings, Kennedy's decision on Tuesday was devoid of soaring constitutional language, focusing instead on statutory interpretation and how much deference rules issued by the attorney general should be given.

"This ruling will probably be read in the future as an administrative law event rather than a political event or a constitutional one," said Greg Castanias, a partner in Jones Day's D.C. office, who authored a brief in the case on behalf of religious groups supporting the Oregon law. Castanias added that the ruling followed the teaching of the Court's 1997 *Washington v. Glucksberg* decision that found no constitutional right to assisted suicide but allowed states to legislate in the area.

DOJ_NMG_0009704

Kennedy said the deference that an executive branch official is usually given in implementing laws through regulation did not apply here, because when it passed the Controlled Substances Act, Congress did not give the attorney general the authority to promulgate rules like Ashcroft's. The structure of the law, Kennedy said, "conveys unwillingness to cede medical judgments to an executive official who lacks medical expertise."

The Bush administration's claim was also weakened, Kennedy said, by the fact that it intruded on the regulation of physicians and medical care, usually the province of states. Ashcroft's rule said Oregon physicians who continued to prescribe Schedule II drugs risked losing their federal registration that allows them to prescribe controlled substances.

"The background principles of our federal system also belie the notion that Congress would use such an obscure grant of authority to regulate areas traditionally supervised by the states' police power," wrote Kennedy.

Dissenters said Ashcroft's rule fits well under the powers given him by the Controlled Substances Act.

"If the term 'legitimate medical purpose' has any meaning, it surely excludes the prescription of drugs to produce death," Justice Antonin Scalia wrote, joined by Roberts and Clarence Thomas. Roberts did not write separately, but his vote marked the first time since he joined the Court in September that he dissented.

Thomas also chided the majority for upholding states' rights when, just last term in *Gonzales v. Raich*, it upheld federal power under the same law to forbid California's medical marijuana initiative.

The majority barely mentioned the *Raich* ruling, but appeared to suggest that the attorney general had greater authority to regulate drugs associated with abuse and criminal behavior than he does in restricting physicians' practices at issue in the Oregon case.

"The Court's reliance upon the constitutional principles it rejected in *Raich*," said Thomas, "is perplexing to say the least."

END

PBS: The NewsHour
17 January 2006

ASSISTED SUICIDE UPHELD

The U.S. Supreme Court Tuesday upheld an Oregon law that allows doctor-assisted suicide. By 6-3 the Court said the U.S. Justice Department may not use a federal drug law to override the state law. Following a background report, two experts discuss the implications of the ruling.

Supreme Court of the United States

State of Oregon

Euthanasia Research and Guidance Organization

RAY SUAREZ: Oregon physician Peter Rasmussen was outraged five years ago when then-Attorney General John Ashcroft issued a directive barring statewide distribution of drugs used for assisted suicides. The federal government argued such drugs can be used only for "legitimate medical purposes," and that didn't include suicide.

DR. PETER RASMUSSEN: He's not a physician. He's not an expert on what is appropriate and inappropriate medical practice. It's very clear that what he wanted to do was to just stop Oregon's death with dignity law.

RAY SUAREZ: Oregon psychiatrist Greg Hamilton said his state's right to die law, the only one of its kind in the nation, simply allowed doctors to kill their patients.

DR. GREG HAMILTON: If one of my patients is going to die tomorrow and I give them an overdose today, then I've killed them today.

RAY SUAREZ: But a majority of Oregon voters supported the law, approving it twice. It gives a patient, who two doctors agree has only six months to live, the right to ingest a physician-prescribed lethal medication.

More than 200 people have taken advantage of the law since it took effect in 1997. John Ashcroft tried to stop the practice using federal drug laws, so the state of Oregon sued the Bush administration, claiming only the state, not the U.S.

DOJ_NMG_0009705

Attorney General, has the authority to set medical standards. Two lower federal courts agreed, and today, so did the U.S. Supreme Court. By a 6-3 decision, it ruled that Attorney General Ashcroft's directive was unlawful, unenforceable and that he had overstepped his authority.

Interpreting the Controlled Substances Act
RAY SUAREZ: With us now is Marcia Coyle, Washington, D.C. Bureau Chief and Supreme Court correspondent for the National Law Journal.

And, Marcia, both in the argument and in the ruling today, this wasn't the Supreme Court speaking on the right to die, was it?

MARCIA COYLE: No, not at all. In fact, Justice Anthony Kennedy, who wrote the majority opinion, said at the outset that this case is the product of the debate, the moral and political debate over assisted suicide. But the issue before the court in this case really had to do with interpreting a federal statute, the Controlled Substances Act, to see whether it gave the attorney general the authority to prohibit physicians from prescribing regulated drugs for assisted suicide even when its state law allows them to do it.

RAY SUAREZ: So it was more of a states' rights case than an assisted suicide case?

MARCIA COYLE: It was partly a states' rights case but I would say it was really more of a statutory interpretation case, sort of the bread and butter stuff that the Supreme Court does in most of its cases. They were interpreting a statute.

RAY SUAREZ: So what basis did the court majority give for overruling the federal government, the executive branch?

MARCIA COYLE: The court basically rejected all of the government's arguments and, I'd say, followed the state of Oregon's arguments very closely. Justice Kennedy said that Congress gave the attorney general limited powers under the federal Controlled Substances Act.

The attorney general can register physicians, revoke their registration or suspend it to write prescriptions, and the attorney general can control the listing of drugs in certain schedules under the act.

But nowhere within the act was a broad grant of power to make assisted suicide criminal. The courts said that if you accept the government's argument the power to criminalize would be unrestrained. The attorney general could criminalize physicians' conduct whenever the attorney general felt that the conduct was illegitimate.

The court majority also felt that the government's claim to authority here really clashed or conflicted with the design and the objective of the Controlled Substances Act. The federal law is designed to combat illegal drug dealing and drug trafficking as it's conventionally understood. The medical profession is regulated here to ensure that physicians don't use their prescription writing to deal in drugs.

There is no connection between that and assisted suicide, according to the court, so the attorney general overstepped his authority in banning the use of prescription drugs for assisted suicide in this instance.

RAY SUAREZ: The final vote was 6-3. Who was in that six-member majority?

MARCIA COYLE: Everybody except Chief Justice John Roberts and Justices Antonin Scalia and Clarence Thomas. Justices Scalia and Thomas wrote dissents. Justice Scalia said that he felt perhaps the decision was driven more by the belief that assisted suicide as a subject was no business of the federal government. But he thought the Congress clearly gave the attorney general authority here. The attorney general can act in the public interest in terms of registering and revoking the registration of physicians.

He said the overwhelming opinion of the medical community today is that assisted suicide is not a legitimate medical practice so the attorney general can act in the public interest.

Justice Thomas felt that the ruling was inconsistent with the court's rulings on state rights -- most recently the one in which the court used the Controlled Substances Act to knock down California's medical marijuana law.

Justice Kennedy, to get back to your federalism point, did say that the regulation of the medical profession is a traditional state power but this specific act, he felt, worked in harmony with that and so there was no federalism violation.

RAY SUAREZ: Well, Justice O'Connor, outgoing Justice O'Connor, voted with the six-person majority --

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MARCIA COYLE: Right.

RAY SUAREZ: -- so even if she -- if her retirement had been made final, the majority would have prevailed on this one. But more eyes seem to be turning in the analysis toward Justice Kennedy, who wrote the majority opinion.

MARCIA COYLE: And it was clear during the oral arguments on this case that Justice Kennedy could go either way. And it's also theorized that once Justice O'Connor leaves the bench -- and we know her as a key pivotal vote in many of these close cases -- that Justice Kennedy may well fulfill that role. He wasn't pivotal here, but he was very important. Also, Ray, this was Chief Justice Roberts' first dissent on the bench. And he did join the court's most conservative members.

RAY SUAREZ: Marcia, thanks a lot.

MARCIA COYLE: You're welcome.

Differing views of assisted suicide
RAY SUAREZ: Now, for the implications of today's Supreme Court decision, we are joined by: Kathryn Tucker, director of legal affairs for Compassion and Choices, an advocacy group for choice in care at the end of life -- she represented the patients in the case decided today; and Jim Bopp, president of the National Legal Center for the Medically Dependent and Disabled -- he filed an amicus brief in opposition to Oregon's assisted suicide law.

Kathryn Tucker, your reaction to today's ruling?

KATHRYN TUCKER: Well, we're very pleased, Ray. This decision allows the Oregon law to continue operating as it has for the past eight years. This gives tremendous comfort to terminally ill patients in Oregon who, in facing protracted, difficult deaths know they have the option for a peaceful and humane death if their suffering becomes intolerable. So their right to make that choice is preserved.

It's important also to patients nationwide because the Ashcroft directive potentially would have posed a terrible threat to patients everywhere who simply want good, attentive, pain and symptom management as they're dying. And so we have dodged that risk with the court's ruling today.

RAY SUAREZ: And, Jim Bopp, what did you see in looking at both the majority and the dissents?

JAMES BOPP, JR.: It depends on how you want to look at the case. If you look at it as a legal case, in other words, what issues were involved as Marcia has explained, this would make a good case for Administrative Law 101 where you talk about how statutes are to be interpreted and when a federal bureaucrat interprets that statute how much deference should the courts give to that interpretation.

So it was a very technical federal law question about both the authority of government officials to interpret congressional acts and also the interpretation of congressional laws themselves. So, the only real intersection with assisted suicide here is that the people in Oregon have chosen to have physicians use controlled substances to kill patients.

Now, they could have picked, you know, use of carbon monoxide administered by someone, a lay person, and of course that would have then not implicated the statute at all.

Will other states follow?
RAY SUAREZ: You've suggested that the ruling is technical and narrow. But in its effect does it make it easier for states to write right-to-die legislation? Does it sort of clear the table of it?

JAMES BOPP, JR.: Well, the proponents of assisted suicide have chosen doctors to be the ones to kill their patients.

Now, the medical profession, as Marcia reported, you know, they reject that killing patients through assisted suicide like in Oregon is medical care, and they don't want to be involved in that. So, to the extent that that has been the choice of the advocates of this position, well, then they can still use doctors for that purpose.

RAY SUAREZ: Kathryn Tucker, what do you --

KATHRYN TUCKER: If I might --

RAY SUAREZ: Go ahead.

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KATHRYN TUCKER: Yeah. If I might jump in there, the Oregon law does permit physicians to write prescriptions for their patients who are seeking a humane and peaceful death. And that's because we know that it is controlled substances that make a gentle and peaceful death possible.

Unfortunately, opponents such as Mr. Bopp like to suggest that non-humane methods might be more appropriate. We don't believe that. We believe that a patient who is coming to the end of life deserves to be able to turn to their physician in that doctor-patient relationship and have a full exploration of options including hastening impending death in a peaceful, gentle way, and it's not the case that physicians oppose that.

In fact, every poll nationwide of physicians shows a strong majority favoring patients being empowered to make this choice and a larger percentage of citizens nationwide support that choice.

RAY SUAREZ: You've already suggested that you support current Oregon statute. But what do you see as the bottom line effect of today's ruling?

Besides letting Oregon's law stand, will it make it easier for the other states contemplating laws of this kind to write them without anticipating federal interference?

KATHRYN TUCKER: Well, it certainly lifts a cloud of uncertainty that had been hanging over the question of whether states had the sovereignty to do this. And that cloud has now dissipated.

There is a measure pending in California modeled after the Oregon law, very strong public support for it, strong support in the state legislature, and I think that that state can look to its neighbor, Oregon, and examine carefully what has happened over the past seven years.

And what we've seen is that none of the risks that were speculated as possible or likely have actually presented. And so policymakers and citizens have that data. They can examine it closely and feel comfortable knowing that passage of this law poses no harm and no risk and provides an option that is very important for the comfort of a certain fraction of dying patients.

RAY SUAREZ: And, conversely, James Bopp, there are states that have already written laws to head this off, to make sure it does not become legal in their states. Does this provide this ruling any clarity if you're a state attempting to do that or a legislator who'd like to spearhead that kind of legislation?

JAMES BOPP, JR.: No. The states have always had the authority to prohibit assisted suicide. The vast majority of states have such laws because they recognize that it is really a form of discrimination to say, well, your life is not worth living and therefore we're not going to protect your life from assisted suicide because you have some condition or illness or disability.

And that's why the disability community is really concerned about laws such as Oregon's that could be used in the context of concern about the cost of medical care, can be used to pressure people with disabilities to agree to assisted suicide or shortening of their life in order to relieve these cost pressures.

A test case for assisted suicide?

RAY SUAREZ: Often when people are advocating or opposing very hot issues, they look for a test case. Will this part of the law need another case to go before federal courts and high courts in order to clarify what's medicine, what's not, what's treatment and what's not, some of the issues you've suggested?

JAMES BOPP, JR.: Yes. This case, of course, did not involve any of that really. And I think now what we are likely to see is an effort in Congress to clarify what has been the longstanding policy.

It was the Clinton administration that reversed the drug enforcement administration's long-held policy that controlled substances should not be used to kill patients. Really, Attorney General Ashcroft restored that policy.

But I think we can see efforts in Congress to make it clear that, you know, the federal government should not be involved in assisted suicide. They've already voted to ensure that the there will be no funding or no support or -- for assisted suicide with federal funds.

I think we'll see an effort in Congress to clarify the law that really has existed all but a few years in the Clinton administration.

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RAY SUAREZ: So, Kathryn Tucker, your work on behalf of your organization is certainly not over. It sounds like there are other challenges yet to come.

KATHRYN TUCKER: Well, we'll certainly continue to advocate for patients nationwide who want the comfort of having this choice available to them.

I have to say it's just such a shame to hear this referred to as somebody being killed or somebody having to agree to use this law. What this is, is a choice for a patient facing a difficult death to be able to choose for themselves without coercion, without pressure, but with full information from their physician of many choices.

They can choose aggressive pain and symptom management, hospice care, but there is a fraction of patients for whom the dying process will be so intolerable even with excellent pain and symptom management that this choice preserves their dignity; it preserves their autonomy and it's important to make this available. It's not forced on anyone. It's 100 percent the patient's choice. And that should be a choice that we as Americans know we have in our last days.

RAY SUAREZ: Quick response, Jim Bopp.

JAMES BOPP, JR.: The problem with that, I mean that is a whitewash of the situation. The situation is, is that the vast majority of people who would consider assisted suicide do so because of clinically diagnosable simple depression. The association between depression and suicide is like 95 percent. So when we have people in Oregon that are asking for assisted suicide, we have people who are depressed, who need treatment, who need care, not be essentially written off, given a drug and left to die.

RAY SUAREZ: Thank you --

KATHRYN TUCKER: No patient in Oregon can use the law who is depressed.

RAY SUAREZ: Guests, thank you very much.

KATHRYN TUCKER: Thank you.

END

New York Times

January 18, 2006

News Analysis: Fraught Issue, but Narrow Ruling in Oregon Suicide Case

By TIMOTHY EGAN and ADAM LIPTAK

PORTLAND, Ore., Jan. 17 - Just 30 terminally ill people exercise a right each year that is unique in America to the state of Oregon, hastening their deaths with a lethal dose of drugs prescribed by doctors.

The Supreme Court decision on Tuesday rejecting the Justice Department's effort to block the state's Death With Dignity Act will allow such suicides to continue, but it may not have the broad impact people on both sides of the debate are predicting.

There is no reason to think that the pace of physician-assisted suicides will quicken in Oregon. And the decision lends little support, one way or the other, to the efforts to enact similar laws around the country that have stalled since the Oregon law was enacted in 1994.

The Supreme Court's ruling was, in fact, notably focused and technical. It did not address whether there is a constitutional right to die. It did not say that Congress was powerless to override state laws that allow doctors to help their patients end their lives.

It said only that a particular federal law, the Controlled Substances Act, which is mainly concerned with drug abuse and illegal drug trafficking, had not given John Ashcroft, then the attorney general, the authority to punish Oregon doctors who complied with requests under the state's law. The law allows mentally competent, terminally ill patients to ask their doctors for lethal drugs.

"What the court decision means is simply that you won't have federal agents trying to put an end to this in the state of Oregon," said Dr. Timothy E. Quill, a professor of medicine and psychiatry at the University of Rochester, who is a

prominent supporter of physician-assisted suicide. "We were very fearful of what might have happened had the ruling gone the other way."

Here in Oregon, the issue was initially contentious, passed by a bare margin in 1994. But the more that people outside the state criticized the law, the more support it gained here. When it came up for a second referendum in 1997, it was upheld 60 to 40.

"I would not expect to see an increase in doctor-assisted suicides here," said Mary Williams, Oregon's solicitor general. "But I do expect more states will at least have discussion now."

But states have been free to enact such laws, and they have not followed Oregon's example. Mr. Ashcroft did not issue his interpretation of the Controlled Substances Act until 2001, and it was soon enjoined. The federal government lost in the courts every step of the way.

One question now is whether the debate will move from the court to Congress. Peg Sandeen, executive director of the Death With Dignity National Center in Portland, said her group would move to push legislation or voter initiatives in several states.

But Ms. Sandeen said the organization was concerned that "a Congress that would intervene in the death of Terri Schiavo" might be galvanized into action by this decision.

Still, Tuesday's decision may prompt lawmakers in some states to give the matter a fresh look.

"This decision gives the green light to the rest of the nation to move forward with assisted-suicide laws," said Mathew D. Staver, president of Liberty Counsel, which filed a brief supporting the federal government in the Oregon case. "This particular case was either going to close the door or to open it, and it opened it."

In the handful of states where a similar measure has been under consideration, supporters said they hoped the decision would help.

"This will be a tremendous momentum builder for Vermont and other states who want to bring compassionate care to end-of-life issues," said Dr. David Babbott, a board member of Death With Dignity Vermont.

Opponents of assisted suicide said Tuesday's decision was a narrow and technical one that did not endorse any particular approach to these issues.

"I don't think its impact will be great," Dr. Robert D. Orr, the president of the Vermont Alliance for Ethical Healthcare, said of the decision. "Some have misunderstood the Oregon case as a challenge to the Oregon statute itself."

The Oregon law was initially held up by an injunction, and not fully put into effect until 1998. Since then, through 2004, a total of 208 people have taken their lives by lethal injection with a physician-prescribed drug, usually a barbiturate.

Critics had said Oregon would become a suicide center, with people flying in to end their lives. They also predicted that the law would be unfairly used against uneducated people or those without health insurance or adequate medical choices.

In the seven full years since the law has been in effect and records have been kept, more than 60 percent of those who have killed themselves have had some college education, the state reported.

Nora Miller, whose husband, Rick, took his life here in Portland in 1999 after he was given less than six months to live with a diagnosis of terminal lung cancer, said the Oregon law allowed for a peaceful and relatively pain-free end to his life.

"He was worried about being unconscious and completely out of it," said Ms. Miller, whose husband was 52. "But it was as good a death as he could have hoped for."

She praised the court decision as a backing of individual liberty.

"This country was founded on the idea that you should be able to make these kinds of decisions without government interference," Ms. Miller said.

But the leader of a group of Oregon physicians who have long opposed the measure, Dr. Kenneth Stevens, said the medical community had long had ways to help people deal with pain at the end of their lives.

"I've been taking care of cancer patients for more than 30 years," Dr. Stevens said, "and I feel helping people kill themselves is not something doctors should be doing."

Gov. Theodore R. Kulongoski of Oregon said one effect of the decision would be to allow innovative states like Oregon to continue to be laboratories for new ideas.

"The U.S. Supreme Court recognized the delicate balance between our federal system and the right of the states to be the crucibles for new ideas and new ways to meet the changing needs of their citizens," Mr. Kulongoski said.

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Knight Ridder Newspapers
January 18, 2006

Lawsuits claim domestic spying program is illegal, unconstitutional

By Jonathan S. Landay

Two civil liberties groups filed separate lawsuits Tuesday to halt the Bush administration's domestic spying program, charging that the interception of Americans' communications without court warrants is illegal and unconstitutional.

The federal court lawsuits brought by the American Civil Liberties Union in Detroit and the Center for Constitutional Rights in New York are the latest and most prominent legal challenges to the spying program, which is run by the super-secret National Security Agency.

The groups argued that President Bush exceeded his power, violated the rights of American citizens and broke eavesdropping laws when he authorized the program after the Sept. 11, 2001, terrorist attacks to track members and supporters of al-Qaida in the United States.

The program "seriously compromised the free speech and privacy rights of the plaintiffs and others," argued the ACLU lawsuit.

White House spokesman Scott McClellan reiterated the administration's contention that Bush acted legally, asserting that the program was "a vital tool in our efforts to prevent further attacks inside the United States."

"If you're not talking to a known al-Qaida member or a member of an affiliated organization, you don't have to worry about this," said McClellan.

The program was revealed by The New York Times last month, and congressional hearings into its legality are scheduled for next month.

The CCR lawsuit named Bush, the heads of the NSA and other intelligence agencies, FBI Director Robert S. Mueller III and Homeland Security Secretary Michael Chertoff as defendants.

The ACLU\l "l" lawsuit was filed against the NSA and its director, Lt. Gen. Keith B. Alexander.

Both lawsuits sought court orders to stop the program. The CCR lawsuit also demanded that the government disclose "all unlawful surveillance of plaintiffs' communications."

The lawsuits were filed on behalf of 18 organizations, lawyers, scholars and journalists who believe their communications with terrorism suspects and their families, witnesses, officials, political activists, human rights observers and others in the Middle East and Asia have been monitored.

Legal opinion: Several legal scholars said the Justice Department probably would demand the cases be dismissed because the suits\l "l" are based on suspicions - not proof - that the plaintiffs have been targeted.

In order for such cases to have standing in court, judges require plaintiffs to show that their rights were infringed by the government's conduct, something that will be difficult to demonstrate with the NSA program because it's top secret.

Beeson contended that lawyers representing detainees in Guantanamo Bay, Cuba, can no longer communicate freely and in confidence with their clients, their families and friends or witnesses, and must undertake overseas travel to pursue their cases.

The CCR made a similar assertion in its lawsuit.

The NSA program, it charged, has inhibited the ability of four CCR attorneys and a legal aide to adequately represent hundreds of Muslim foreigners held in the United States after Sept. 11, Guantanamo Bay detainees and a Canadian arrested in New York and sent to Syria, where he was held for nearly a year and allegedly tortured.

"Plaintiffs are suffering irreparable harm," asserted the lawsuit.

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Both lawsuits argued that a 1967 law and the 1978 Foreign Intelligence Surveillance Act require the NSA to obtain warrants from a secret federal court to eavesdrop on Americans' e-mail and telephones.

Under FISA, the government can conduct wiretaps for up to 75 hours in an emergency or 15 days after a declaration of war before seeking a warrant.

Congress specified in an amendment to the 1967 law and in FISA that FISA is the "exclusive means" by which domestic eavesdropping can be conducted.

The administration has acknowledged that the NSA hasn't obtained FISA warrants, but it argues that Bush was empowered to circumvent FISA by an October 2001 congressional resolution authorizing him to use force to deter al-Qaida attacks.

It also contends that the program targets only a small number of Americans known to belong to or support al-Qaida or other terrorist groups and is structured to protect civil liberties.

James Bamford, an author of two books on the NSA and a plaintiff in the ACLU lawsuit, called the program a "vast vacuum cleaner" that monitors large numbers of Americans, much as occurred during abuses in the 1960s and 1970s.

"It's a return to the bad old days of the NSA," he said.

Larry Diamond, an ACLU plaintiff, said his ability to investigate human rights abuses and the impact of U.S. foreign policy in the Islamic world has been severely hamstrung because people in countries with repressive regimes are no longer willing to communicate openly for fear they'll be overheard.

"The breadth and illegality and unconstitutionality of this program ... do very great damage to our standing in the world," said Diamond, a fellow at Stanford University's Hoover Institute. "I don't think we can promote freedom abroad if we don't practice it at home."

Other ACLU plaintiffs included the ACLU, its Michigan chapter, the Council on American-Islamic Relations and the Greenpeace environmental organization.

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Guardian (UK)

January 18, 2006

Hitchens joins authors seeking US wiretapping ban: Legal challenge to domestic spy programme Former 'war on terror' ally tells of phone call fears

Suzanne Goldenberg Washington

The British writer Christopher Hitchens, one of the most reliable allies of the US administration's conduct of the war on terror, has joined a lawsuit seeking a ban on a domestic spy programme authorised by President George Bush.

In two lawsuits filed separately yesterday by the American Civil Liberties Union in Detroit and the Centre for Constitutional Rights in New York City, the National Security Agency is accused of violating the constitution by eavesdropping on people without court oversight.

They represent the first legal challenge to the surveillance programme, which has outraged members of Congress and led to charges that Mr Bush has overstepped his authority as president.

In the ACLU\l "I" suit\l "I", Hitchens joins other writers, Greenpeace and the Council on American-Islamic Relations in seeking an immediate end to the wiretaps, saying they violate constitutional rights to privacy and free speech.

The suit\l "I" brought by Hitchens, Tara McKelvey, a senior editor at American Prospect magazine, James Bamford, author of two books on the NSA, and Barnett Rubin, an academic at New York University, addresses one of the primary fears surrounding the extrajudicial surveillance of telephone calls and email - that the NSA used the eavesdropping programme to spy on opponents of the Bush administration. Hitchens and the other plaintiffs said they feared their email

and telephone calls were monitored, compromising their contacts in the Middle East. "People will say it's wartime and we have a deadly enemy, and I agree with that. I was in favour of the war in Iraq and Afghanistan very strongly, but it is even more important in such a time that we don't give away power to the unaccountable agencies that helped get us into this in the first place," Hitchens told the Guardian. "It is extremely important we know what the rules are and there has to be a line drawn. You mustn't turn emergency or panic measures into custom or practice."

In a separate suit brought against President Bush as well as the chiefs of the NSA, the CIA, the FBI and other security agencies, the Centre for Constitutional Rights says it fears its legal work was hampered by the eavesdropping programme.

The CCR, whose lawyers represent detainees at Guantanamo and other suspects in the war on terror, said it believes communications with clients' families could have come under surveillance.

The two law suits arrive at a time when President Bush is under increasing pressure to demonstrate the legality of the NSA surveillance programme, which operated free of any judicial oversight.

Mr Bush authorised the monitoring of Americans suspected of having links with al-Qaida in 2002, allowing the NSA to bypass the foreign intelligence surveillance court which had ordinarily granted warrants for such surveillance.

Mr Bush and other officials have vigorously defended the secret wiretap regime since it was disclosed last month. They have insisted the surveillance was im plicitly authorised by Congress after the 2001 terror attacks. Officials also argue the eavesdropping led to the capture of terrorists and helped save American lives.

However, the New York Times reported yesterday that although the NSA flooded the FBI with telephone numbers and email addresses of Americans they believed were linked to al-Qaida, eavesdropping failed to detect any terrorist networks inside the US. Virtually none of the individuals turned out to have links to terrorists.

The newspaper quotes FBI officials as saying they complained to the NSA that the surveillance resulted in unnecessary intrusion. "We'd chase a number, find it's a schoolteacher with no indication they've ever been involved in international terrorism - case closed," one former FBI official said. "After you get a thousand numbers and not one is turning up anything, you get some frustration."

guardian.co.uk/usa >

'You mustn't turn emergency or panic measures into custom or practice,' Christopher Hitchens

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Wall St. Journal

1/18/06

Some Iraq Rebuilding Funds Go Untraced

By SCOT J. PALTROW
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON -- More than 18 months after the Pentagon disbanded the Coalition Provisional Authority that ran Iraq, neither the Justice Department nor a special inspector general has moved to recover large sums suspected of disappearing through fraud and price gouging in reconstruction.

Earlier audits by the Special Inspector General for Iraq Reconstruction -- a post Congress created in late 2004 -- found that oversight of contractors by the Authority was so lax that widespread abuse was likely. An audit in April 2005, for example, found "significant deficiencies in contract administration," which meant that "there was no assurance that fraud, waste, and abuse did not occur in the management and administration of contracts" the U.S. awarded with Iraqi oil money administered by the United Nations.

Nevertheless, there hasn't been a concerted effort to trace what happened to the money and make recipients pay back any ill-gotten gains. The inspector general's office said it doesn't plan to ask the Justice Department to file lawsuits or to conduct widespread audits of individual contracts to look for fraud.

Instead, it says, it is using its limited resources to pursue higher priorities, including investigating charges of bribery to win some Iraqi work and auditing current controls on the spending of redevelopment aid.

The Coalition Provisional Authority, which existed from shortly after the fall of Saddam Hussein in April 2003 until June 2004, was allocated more than $38 billion in U.S. and Iraqi funds. It spent $19.7 billion of U.N.-administered Iraqi oil money.

Authority officials rapidly doled out the money, including $12 billion from the U.N. fund paid in cash, as they scrambled to restore vital services and impose order in Iraq. Concerns that contracts weren't being sufficiently monitored led Congress to create the office of the special inspector general and vest it with powers to investigate money misspent or unaccounted for by the Authority. President Bush named as the special inspector general Stuart Bowen Jr., who had been the Authority's own inspector general.

The U.S. has been under pressure to better account for funds spent in the early days of Iraqi reconstruction. A U.N. monitoring board has pushed the U.S. to return Iraqi money that might have been misspent under no-bid contracts awarded by the authority. Meanwhile, a group of Congressional Democrats has pressed the Defense Department and other agencies to track down and recover overpayments to contractors.

Some officials who were associated with the contracting, in the Pentagon and in Iraq, have defended contractors' practices in the country, citing the chaos of wartime. They say contractors were doing their best to perform quickly amid trying circumstances. Paul Bremer, who ran the Authority, wrote in response to one critical audit that it unfairly assumed that "Western-style budgeting and accounting standards" should apply "in the midst of war."

Still, some in Congress have advocated tough action against contractors, noting that the government's main legal means to recover money is the False Claims Act, passed during the Civil War to recoup gains from contractors who had gouged the Union Army for essential supplies.

Under that act, the Justice Department's civil division has the authority to sue contractors that defraud the government, and to seek treble damages. But Justice hasn't initiated any such suits involving Iraq-related work, a spokesman said. The civil division also hasn't joined any suits filed by private-sector whistle-blowers who claim they know of fraud or abuse, although lawyers familiar with such suits estimate that at least two dozen are pending.

One problem is that any attempts to recover money through the courts could prove challenging, say former lawyers for the Justice and Defense Departments. The Pentagon put the Authority in place as a temporary government, but no law or regulation established it. As a result, debate persists over whether it was an international entity or an agency of the U.S. government and subject to U.S. law.

Also, there could be scant evidence for such lawsuits because U.S. officials in Iraq didn't keep extensive records, and often didn't track whether contractors performed the work they were paid to do.

It isn't clear how many contracts the Authority issued, in part because the inspector general's office says it hasn't located many of the contracts. But among those awarded large ones were Fluor Corp., Parsons Corp. and Washington International Group. One question facing the government is whether to seek recovery of funds paid to the largest contractor, Halliburton Co.'s KBR unit, which was awarded multibillion-dollar no-bid contracts beginning shortly before the U.S. invaded Iraq to rebuild oil fields and provide logistical support to the U.S. military.

A series of 2004 audits by the Defense Contract Audit Agency, the Pentagon's contract-auditing arm, found expenses of $1.48 billion unsupported by adequate documentation on KBR's two largest contracts, which were valued at a total of $9.5 billion.

In a recently disclosed letter, the audit agency said it has passed on findings about Halliburton to the Justice Department, to consider whether a criminal investigation is warranted.

But the audit agency's calls to withhold some payments from Halliburton have been resisted by Pentagon units that awarded the contracts. The Army Corps of Engineers disclosed in November 2005 that it was going ahead with a $1.5 billion payment to Halliburton for work on Iraqi oil fields, including $124 million for costs the defense-department auditors had challenged as questionable. It also paid Halliburton nearly $38 million in bonuses allowed under a contract formula for good performance.

A Halliburton spokeswoman said the company "has continued to cooperate with audit agencies and our customer

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throughout this process. Audits are part of the normal contracting process."

She added, "The costs questioned are just that -- questioned costs. The auditors have raised questions about the support and the documentation rather than questioning the fact that KBR incurred the costs. Many of DCAA's questions have been about the quality of supporting documentation for costs that KBR clearly incurred. Therefore, it would be wrong to say or imply that any of these costs that were incurred at the client's direction for its benefit are 'overcharges.' "

A spokeswoman for the Defense Contract Audit Agency said that as of the end of the government's 2006 fiscal first quarter, it had "performed 1,373 audits in support of Iraq reconstruction contracting activity." She said these audits weren't designed specifically to look for fraud but added that the auditors are required "to obtain reasonable assurance about whether the contractor submissions and supporting data are free of material misstatement."

In addition to seeking fund recovery, the federal government can intervene in suits filed under the False Claims Act by individuals who maintain that they know of misused money. Each case must be filed under seal until the Justice Department decides whether to intervene; if it doesn't, the individuals may pursue the cases on their own. Individuals can receive 15% to 20% of funds recovered if the government intervenes, and up to 30% if it doesn't.

The Justice Department won't disclose how many whistle-blower suits have been filed against contractors in Iraq. But the only Iraq-related False Claims Act case on which the Justice Department so far has announced a decision, it declined to intervene.

That case was filed in U.S. District Court in Alexandria, Va., by two individuals who alleged that Custer Battles LLC, of Fairfax, Va., overcharged the government for expenses on work in Iraq. The company was awarded contracts totaling $38 million -- partially paid with $4 million in cash -- to provide security at Baghdad Airport, and later to help guard distribution of new Iraqi currency, although the tiny concern never had provided security services before.

The Justice Department declined to say why it decided not to back the case -- filed by a former Custer Battles employee and an employee of a subcontractor -- citing department policy. Robert T. Rhoad, a lawyer for Custer Battles, denies wrongdoing by the company, and said he was optimistic that the case would be dismissed. After suspending Custer Battles from receiving new contracts because of the fraud allegations, the Air Force in Sept. 2005 reinstated the company, declaring it eligible again for contracts. An Air Force spokeswoman said contracting regulations require it to reinstate a company after a year if the Justice Department hasn't taken action or requested that the ban be extended.

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Pittsburgh Tribune-Review
1/17/06

PennDOT pays whistleblower

By Jim Ritchie
TRIBUNE-REVIEW

PennDOT paid $500,000 to settle a whistleblower lawsuit filed by a former construction manager who claimed the agency retaliated against him for reporting overbilling by consulting firms.

The agency initially refused to divulge the terms of its Nov. 17 settlement agreement with Bill Arnold, 62, of South Strabane, Washington County, but supplied a copy of the deal after the Pittsburgh Tribune-Review filed a challenge under the state's Right-to-Know law.

Consultants overbilled the Pennsylvania Department of Transportation hundreds of thousands of dollars with the approval of agency managers who were consultants' guests at expensive golf outings and sports events, according to court records from Arnold's 2003 lawsuit.

Neither Arnold nor his attorney, Jon Pushinsky, would comment.

Though Arnold's whistleblower suit is settled, reviews of the overbilling have just begun.

State Auditor General Jack Wagner's office said last week it will investigate charges of overbilling at the District 11 office by private consulting companies.

Arnold has filed a second federal suit seeking to recover the overbilled money on behalf of the federal government. Arnold's legal team intends to determine how much money consulting firms overbilled PennDOT in the last decade, the suit states. It names 22 consulting companies as defendants.

The suit is filed under the federal False Claims Act, on behalf of the U.S. Department of Transportation, which could intervene in the case.

PennDOT spokesman Rich Kirkpatrick declined to comment.

END

TechRepublic
January 16, 2006, 13:45 GMT

Plan for BlackBerry outages

Mike Talon

Research In Motion (RIM) — the makers of the ubiquitous BlackBerry email devices — revolutionised the email industry. With their portable units, people could send and receive mail from anywhere they could get a signal, quickly and easily. It has been said that nothing shakes the foundations of a society like when something we all take for granted stops working, and a potential legal action could create just such a situation for our digital society and its communications.

RIM is currently being sued in the US for patent violations by NTP, a brain-trust that holds the patents on several technologies for the transmission of email via mobile devices. Basically NTP claims that BlackBerry and its related services and service providers are using technology originally envisioned by NTP patent holders, and therefore RIM must either pay up for back royalties and licensing fees, or else shut down their service. This would mean literally hundreds of thousands of US users of Blackberry devices would be left with paperweights instead of email devices as the radio network and server systems shut down in the wake of the result of the legal action, if NTP wins.

Now, it's unlikely that NTP will get a complete and full injunction against RIM, at least not unless/until they win the lawsuits. The reason for this is simple, the very Justice Department that would enforce such a ruling is also a major user of the BlackBerry services, and they would be very hard pressed to shut down their own systems. However, what would happen if they did?

How many people in your organisation are reliant on using these devices in the US to perform their day-to-day activities? How many need BlackBerry devices to stay competitive, to close deals, to keep your business ahead of others? Also, this case could have deep repercussions for other wireless email services, so what happens if a ripple effect strikes the industry in general?

First off, be ready for the possibility of loss of service for those members of your company in the US. Get all users to understand that this is a potential issue, even if the chances of actual service loss are slim. This will at least soften the blow if the system does go offline at some point. Also, keep in mind that there are alternatives to BlackBerry. Microsoft has mobile email services for Exchange 2003 Server editions. Goodlink has a competing service to RIM, offering both services and enterprise-level server systems. Both of these have various mobile devices they will and will not work with, so keep in mind that if you swap over it will almost definitely require new equipment.

Remember that most email systems can be accessed remotely via laptops and Web browsers. It's nowhere near as convenient as the BlackBerry, but it will allow users to get to their mail when not at the office. You probably already have everything you need to implement this service already, so it is something you can offer without buying new hardware and units for the whole sales crew.

While the chances of RIM going offline are slim, they are real, and you should be taking a serious look at how your organisation will react if it happens. The Gartner analyst firm is recommending that new mission-critical BlackBerry deployments be put on hold, and as if RIM didn't have enough problems, a new threat aimed at BlackBerry devices has just been discovered — one that could result in disabling a user's ability to view attachments. The bottom line is that disasters come in all shapes and sizes, and sometimes the loss of a depended-upon service can be as big a disaster as any other data system failure.

END

Government Executive Magazine

January 17, 2006

Pentagon scales back, delays first installment of NSPS

By Karen Rutzick

The Defense Department on Tuesday took a large step back in its plans for a massive personnel overhaul by drastically reducing the size of the first group of civilians set to enter the new human resources system, and announcing a delay in the start date.

The Pentagon has reduced the number of employees who are to begin receiving performance reviews under the initial installment of the National Security Personnel System to 11,000 from 65,000. The first group originally was scheduled to enter early this year, but that has been postponed until April 30.

The first paychecks received under the pay-for-performance system are now scheduled for January 2007.

The next group will go into the system on Oct. 1, and the third group will enter in January 2007. The Pentagon said it is still determining which employees will fall into these two groups.

NSPS is the department's plan to modernize human resources by reclassifying jobs and placing employees in broad paybands intended to give managers greater flexibility in hiring and setting pay raises. The General Schedule and its guaranteed raises are to be replaced by performance-based increases determined after more rigorous and meaningful performance reviews.

A coalition of labor unions banded together to file a lawsuit against aspects of NSPS that affect collective bargaining. Oral arguments in the case will be heard Jan. 24. Those same unions have said they are leaving the door open to file a case against the human resources portion of the system as well, once it is implemented.

The unions have complained that the Pentagon has not consulted with them in creating the new system, a charge the department strongly rejects.

In a message on the NSPS Web site, officials said they are delaying NSPS to work out some kinks in the system that they discovered from feedback. The explanation was identical to one given in a Dec. 23 letter that announced the department was delaying training on the system.

"Ensuring that we 'take the time to do this right' has always been a principle in our event-driven implementation approach," the statement said. "We want to make sure that our employees, supervisors and leaders fully understand this system, and that they have the tools to succeed in a results-focused, performance-based environment."

Of the 11,000 employees still left in the first group, 2,200 of them are in the Naval Sea Systems Command headquarters and program executive offices. NSPS officials said they singled out NAVSEA to serve as a pilot because of its experience with demonstrations projects in personnel systems.

Matt Biggs, spokesman for the coalition of labor unions, said starting 11,000 employees on NSPS is nothing more than another demonstration project.

"They haven't worked with the workers on putting this together," Biggs said. The delay "is reflective of a lot of what seem to be internal issues with implementing this. I think they're overwhelmed and in over their heads."

American Federation of Government Employees president John Gage said the setback validates his union's longstanding concerns with NSPS.

"If you look at DoD's recent actions, it is clear that they are not ready to implement such a far-reaching system," Gage said. "DoD now needs to face the facts, scrap what they have and start over."

In addition to the NAVSEA employees, employees still in the initial grouping include 2,418 employees at Tinker Air Force Base in Oklahoma, 2,348 employees in various Army human resources offices and 990 employees in the Defense Threat Reduction Agency.

END

AP

1/18/06

Suspect in Federal Spam Case Pleads Guilty

ANN ARBOR, Mich. - The main defendant in the nation's first prosecution under a 2004 federal anti-spam law pleaded guilty Tuesday to three felony charges, federal prosecutors said.

Daniel J. Lin, 30, of West Bloomfield Township faces nearly five years in prison and a fine of up to $250,000, the U.S. Attorney's Office in Detroit said.
Two of the counts are fraud charges involving millions of unsolicited spam e-mails sent to computer users. The other is possession of a firearm by a felon, for guns discovered when authorities raided Lin's suburban Detroit home.

He is scheduled to be sentenced May 16 in U.S. District Court in Ann Arbor.

Lin and three other West Bloomfield Township men were identified in court documents as being part of the massive illegal spam scheme.

Court papers described a complex web of corporate identities, bank accounts and electronic storefronts used to send hundreds of thousands of e-mail sales pitches for fraudulent weight-loss and erectile dysfunction products.

The Federal Trade Commission said angry consumers forwarded to authorities more than 490,000 e-mails from the operation from January 2004 to April 2004 _ more than from any other spam outfit worldwide during the same period.

Court records show that charges against the other defendants, James J. Lin, Chris Chung and Mark M. Sadek, have been dismissed. The four were arrested in April 2004.

END

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Image not available for this document, ID: 0.7.10316.47143-000002

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of state legislators or law enforcement organizations. Also, depending on the number of copies available after an event and distribution to the Hill, I think it would be helpful distribute copies to constituency groups such as the Hudson Institute, Freedom Network, etc.

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Please note that the Family Violence Prevention Fund is a grantee of both OVC and OVW and an OVW funded anti-trafficking program is discussed in our report.

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Presently, this appears to be the best option. The conference occurs during the first half of the week (good news cycle) and combines violence against women issues with trafficking and local law enforcement.

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Senate Majority and Minority Leaders
Senator Brownback
Senator Cornyn
Speaker of the House
House Majority and Minority Leaders
Representative Chris Smith
Representative Deborah Pryce

*****

Williams, Jan

From: Williams, Jan

Sent: Wednesday, January 18, 2006 5:19 PM

To: Spagnoli, Deborah A. (USPC); Nelson, Carrie; Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford; /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bradbury, Steve; Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roberts, Crystal; Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Sanchez, William J (CRT); Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD)

Subject: FW: IGA Newsletters

Attachments: tmp.htm; Patriot Act Newsletter 1-18-06.pdf; Progress in Iraq January

Attachments: tmp.htm; Patriot_Act_Newsletter_1-18-06.pdf; Progress in Iraq_January Newsletter_1-18-06.pdf

Latest newsletters are attached.

PATRIOT ACT UPDATE

16 Days Until Expiration

JANUARY 18, 2006

On Tuesday, January 31, 2006, the U.S. Congress will reconvene. Upon their return, Congress will have only 4 days to fulfill its responsibility to help ensure the safety and security of the American people. Congress needs to reauthorize the USA PATRIOT Act before it lapses on February 3, 2006. The failure to do so would return America to a pre-9/11 approach to combating terrorism, which would leave us more vulnerable to terrorist attacks.

What Happens if the Patriot Act Expires?

- If the Patriot Act is allowed to expire, we will face returning to a pre-9/11 mode of information sharing where there are not clear rules governing investigators' ability to share information and coordinate with each other, where terrorists and spies can use technology against us, and where it is more difficult to investigate a potential terrorist attack than it is to catch a drug dealer, a mobster, or a white collar criminal.
- Sophisticated terrorists and spies could more easily thwart government surveillance.
- If the Emergency Disclosure of Information section expires, Internet service providers (ISPs) that disclose customer records to law enforcement in emergencies involving immediate risk of death or serious physical injury will no longer be protected from lawsuits. This provision has been critical in situations involving bomb threats, rescuing both children and an elderly lady who had been kidnapped, and reaching out to individuals who have made suicide threats. This provision has saved lives.
- If the Nationwide Search Warrants provision expires, federal judges will no longer be able to issue nationwide search warrants (i.e., allow a judge to issue warrants for searches to be conducted outside his district) to obtain unopened e-mails stored on an ISP's computer server, greatly hampering certain investigations involving large ISPs.
- Investigators would possibly be several steps behind sophisticated terrorists and spies who frequently change phones to evade surveillance.

President George W. Bush talks with a Homeland Security officer, Wednesday, July 20, 2005, as President Bush is shown mobile security scanning equipment during a customs and border protection demonstration at the Port of Baltimore in Baltimore, Md. White House photo by Eric Draper

DID YOU KNOW?

- **Despite a four-year track record with no verified civil liberties abuse, the current bill adds more than 30 new significant civil liberties safeguards, which include additional reporting to Congress. If the filibuster of the Patriot Act continues in the Senate, these additional civil liberties protections will never take effect.**
- **The Patriot Act helped improve information-sharing and coordination at all levels of government, including State and local, thereby enhancing our ability to identify and prosecute terrorists.**
- **If Congress does not pass the Patriot Act reauthorization bill, the government will also lose its ability to conduct surveillance of a "lone wolf" terrorist—a terrorist who is actually engaged in an act of international terrorism or preparing for an attack alone.**

White House photo by Eric Draper

PATRIOT ACT FACT:

In 2001, after the 9/11 attacks, the U.S. Senate voted 98-1 to pass the Patriot Act. Nearly all of the Senators now threatening to continue to filibuster the Patriot Act actually voted for it in 2001 when it did not contain the additional civil liberties safeguards in the current bill.

THE REAL DEAL: PROGRESS IN IRAQ

JANUARY 2006

President Bush Discusses Progress and Plans for Victory in Iraq

President Bush – Iraqi Forces Will Fight Off The Few Who Are Attempting To Squash The Hopes Of Many: **"As the Iraqis stand up, we'll stand down. So the strategy, the security strategy is to let the Iraqis do the fighting. It's their country. The people have shown they want democracy. Millions voted. And now part of the mission is to give this government a security force which will help fight off the few who are trying to stop the hopes of the many."**

President Bush, Remarks To Kentucky International Convention Center, Louisville, KY, 1/11/2006

"Victory will come when the terrorists and Saddamists can no longer threaten Iraq's democracy. Victory will come when the Iraqi security forces can provide for the safety of their own citizens. Victory will come when Iraq is not a safe haven for terrorists to plot new attacks on our nation"

President Bush, Remarks To The Veterans Of Foreign Wars, Washington, D.C., 1/10/2006

"We will settle for nothing less than complete victory."

President Bush, Remarks To The Veterans Of Foreign Wars, Washington, D.C., 1/10/2006

President George W. Bush steps on stage to address members of the Veterans of Foreign Wars about achieving victory in Iraq in Washington, D.C., Jan. 10, 2006. "History has shown that free nations are peaceful nations," said the President. "And by helping Iraqis build a lasting democracy, we spread the hope of liberty across a troubled region, we will gain new allies in the cause of freedom. By spreading democracy and freedom, we're laying the foundation of peace for generations to come." White House photo by Paul Morse

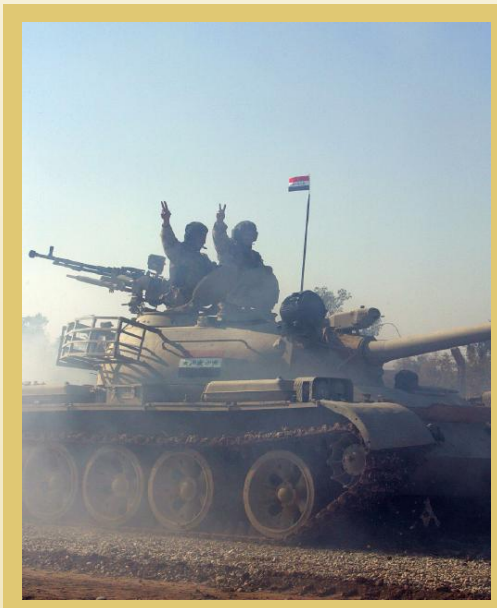

Vice President Dick Cheney visits the 9th Mechanized Infantry Division Headquarters at Taji Air Base to greet Iraqi troops and view tanks and armored vehicles they have refurbished into working fighting vehicles, Sunday Dec. 18, 2005. White House photo by David Bohrer

Democracy in Action: FREEDOM OF THE PRESS IN IRAQ

- The station's first broadcast was on April 25, 2004.
- The station transmits up to 90 miles from a two-story villa on a residential side street in western Baghdad.
- The station receives up to 1,000 telephone calls per day.
- The station gets more than 1 million hits per month on its Web site.
- The station gives all Iraqis a chance to express their viewpoints in a nonviolent manner. Iraqis desire peace and enjoy the ability to express their opinions without recourse from Saddam's thugs.

The Department of Defense Speaker's Bureau

The DOD Speaker's Bureau places service members and civilian employees in speaking forums across the country (Rotary, Chamber of Commerce, etc.) to discuss the progress and real-life conditions on the ground in Iraq. To request a speaker, simply go to the link and fill out the form online:

http://www.defendamerica.mil/speakers/SpeakerProgram2.html

DOJ_NMG_0009727

Security Progress: Iraqi Forces Are Growing In Size And Capability:

- There are over 80,000 local police officers across Iraq – more than half of the stated goal of 135,000.
- To improve the capabilities of local police, the Coalition is partnering local Iraqi police units with teams of U.S. military police and international police liaison officers, including retired U.S. police officers.
- More than 35 Iraqi battalions have assumed control of their own areas of responsibility – including nearly half of Baghdad province and sectors of South-Central, Southeast, Western and North-Central Iraq.
- As Iraqis see their own countrymen defending them against the terrorists and Saddamists, they are stepping forward with needed intelligence. General Casey reports that the number of tips from Iraqis has grown from 400 in March 2005 to over 4,700 last month.

Political Progress: Iraq Moving Towards Freedom And Democracy:

- In the past 12 Months, Iraq has undergone a political transformation that is virtually without precedent. Iraqis have completed three successful nationwide elections, voted for a transitional government, drafted the most progressive and democratic constitution in the Arab world, approved a constitution, and elected a new government under their new constitution.
- Each successive election has seen less violence, a bigger turnout, and broader voter participation than the one before. Iraq estimates voter turnout was about 70 percent in the Dec. 2005 elections, with over 10.8 million votes cast. This represents an increase of about 2.5 million from the Jan. 2005 elections.
- Iraq's newly elected leaders are today working to form a national unity government to represent all of Iraq's people.

NEW POLICE OFFICERS — An Iraqi soldier celebrates the graduation of a new group of Iraqi police officers at the Iraqi police academy in Baghdad, Iraq, Jan. 9, 2006. Defense Dept. photo by U.S. Army Spc. Teddy Wade

Economic Progress: Iraq's Economy Is Growing:

- Last month, the International Monetary Fund approved Iraq's request for a $680 million loan to carry out economic reforms.
- The World Bank recently approved its first loan to Iraq in over 30 years.
- Iraq has a stable currency, an independent stock exchange, and an independent Central Bank. Iraqis have new investment laws welcoming foreign capital, tax and commercial laws encouraging private-sector growth, and a low-tariff trade regime opening the economy to the world.

www.defendamerica.mil/

Yes, I want to learn more about the progress in Iraq…

Name _____

Title _____

E-mail Address (required) _____

Address _____

City _____ **State** _____ **Zip Code** _____

Work Phone _____ **Home Phone** _____

PLEASE PRINT FORM AND FAX TO (202) 456-7015.

Attached is the January edition of the Progress in Iraq Newsletter, as well as the second installment of the Patriot Act Update--*16 Days Until Expiration*. Please share with your staff as appropriate.

Thank you.

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House and Senate Judiciary Committees - Chair and Ranking Minority Members
House and Senate Appropriations Committees and Justice Subcommittees - Chair and Ranking Minority Members
Senate Majority and Minority Leaders
Senator Brownback
Senator Cornyn
Speaker of the House
House Majority and Minority Leaders
Representative Chris Smith
Representative Deborah Pryce

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, January 18, 2006 6:26 PM
To: Nichols, Carl (CIV)
Subject: RE: Guantanamo Events: New Report by UN Special Rapporteurs and OSCE SR visit set for February 4

Thanks for passing this along.

-----Original Message-----
From: Nichols, Carl (CIV)
Sent: Wednesday, January 18, 2006 6:20 PM
To: Gorsuch, Neil M
Subject: FW: Guantanamo Events: New Report by UN Special Rapporteurs and OSCE SR visit set for February 4

-----Original Message-----
From: Henry, Terry (CIV)
Sent: Wednesday, January 18, 2006 6:17 PM
To: Garvey, Vincent (CIV); Gilligan, Jim (CIV); Henry, Terry (CIV); Hunt, Jody (CIV); Johansen, Janine (CIV); Katerberg, Robert (CIV); Noronha, Preeya (CIV); Patterson, Nicholas (CIV); Perez, Marc (CIV); Schwartz, James (CIV); Warden, Andrew (CIV); White, Ned (CIV); Nichols, Carl (CIV); Riley, Sharon (CIV)
Cc: Letter, Douglas (CIV); Loeb, Robert (CIV)
Subject: FW: Guantanamo Events: New Report by UN Special Rapporteurs and OSCE SR visit set for February 4

FYI. It's not pretty.

Terry M. Henry
Senior Trial Counsel
Civil Division, Federal Programs Branch
U.S. Department of Justice
Tel. 202.514.4107

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Wednesday, January 18, 2006 6:09 PM
To: Henry, Terry (CIV)
Cc[redacted]@dodgc.osd.mil;[redacted]@dodgc.osd.mil;[redacted]@dodgc.osd.mil
Subject: Fw: Guantanamo Events: New Report by UN Special Rapporteurs and OSCE SR visit set for February 4

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted]DoD OGC <[redacted]@dodgc.osd.mil>
To: [redacted] DoD OGC [redacted]@dodgc.osd.mil>
CC: [redacted] DoD OGC [redacted]@dodgc.osd.mil>; [redacted]DoD OGC [redacted]@dodgc.osd.mil>; [redacted] DoD OGC <[redacted]@dodgc.osd.mil>; [redacted] DoD OGC [redacted]@dodgc.osd.mil>; [redacted] DoD OGC [redacted]@dodgc.osd.mil>
Sent: Wed Jan 18 17:58:50 2006
Subject: FW: Guantanamo Events: New Report by UN Special Rapporteurs and OSCE SR visit set for February 4

<<Summary of UN Report on Gitmo detainees.doc>> <<Report of 5 SRs on Guantanamo.pdf>> Waiting for additional information from State concerning USG response. The report is unfavorable and contains many misstatements of the law and facts. Will keep you posted on State's strategy for responding.

[redacted]
-----Original Message-----
From [redacted][mailto [redacted]@state.gov]
Sent: Wednesday, January 18, 2006 17:41
To: [redacted] Legal); SWCI; DRL-FO-DL; IO-SHA users; [redacted] Legal-L-HRR; Legal-L-PM; Legal-L-UNA; [redacted] OSD-POLICY [redacted] @osd.mil); [redacted] Wiegmann (John_B._Wiegmann@nsc.eop.gov); [redacted] DoD OGC; [redacted] @osd.mil); [redacted] Legal-L-EUR; DRL-MLA-DL
Subject: Guantanamo Events: New Report by UN Special Rapporteurs and OSCE SR visit set for February 4

It has been a busy day for news regarding human rights mechanisms' work relating to our law of war detainees at Guantanamo:

* First, we received this morning from Geneva the awaited 40 page report regarding the detainees at Guantanamo.

<<Report of 5 SRs on Guantanamo.pdf>>

Attached is a short summary of the report

<<Summary of UN Report on Gitmo detainees.doc>>

The letter of transmittal from the UN invited the US to send "factual clarifications" to the report by the end of January. We obviously disagree with much that is contained in the report beyond matters of fact. Please give me any reactions you have to the report and your views on whether and/or how the USG should respond to this..

* Second, our Embassy Brussels reported that [redacted] accepted the invitation to visit Guantanamo on February 4, with a day of meetings in Washington on February 3.

[redacted] agrees to the February 4 date. [redacted] will arrive in DC early in the morning of Friday, February 3, and be available at noon or any time after for the meetings at the pentagon.

[redacted] will you confirm all this for me, and advise me of the time [redacted] should appear at the Pentagon, which entrance, what ID they need to bring, and other details. If [redacted] is to arrive at noon, will you feed [redacted]?

[redacted] would likely also want to know the plans for Saturday. Will [redacted] need to get [redacted] to Andrews, when, how to get through security, etc. I

Thank you

[redacted]

We will send around more information from DOD on the logistics of the visit.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, January 18, 2006 6:47 PM
To: Comisac, Rena (CRT)
Subject: Re: HT Report

That's good w me. Look forward to catching up tomorrow.

-----Original Message-----
From: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Wed Jan 18 18:25:12 2006
Subject: RE: HT Report

I understand you and Brad discussed HSH and the trafficking report roll out today. He is planning on coming with me to tomorrow's meeting. See you then.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, January 18, 2006 6:18 PM
To: Comisac, Rena (CRT)
Subject: RE: HT Report

No problem! Let's talk tomorrow.

From: Comisac, Rena (CRT)
Sent: Wednesday, January 18, 2006 6:11 PM
To: Gorsuch, Neil M
Subject: FW: HT Report

Despite repeated attempts to do so, I have not been able to email you the report due to its size. Would you like a copy on disk?

-----Original Message-----
From: Comisac, Rena (CRT)
Sent: Wednesday, January 18, 2006 4:22 PM
To: Gorsuch, Neil M
Subject: FW: HT Report

I am sending you the email without the report attached. Will send the report separately. Hope this works.

-----Original Message-----
From: Comisac, Rena (CRT)

From: Comisac, Rena (CRT)
Sent: Wednesday, January 18, 2006 4:19 PM
To: Gorsuch, Neil M
Subject: FW: HT Report

For some reason this does not appear to have reached you the first time around.

-----Original Message-----
From: Comisac, Rena (CRT)
Sent: Wednesday, January 18, 2006 3:14 PM
To: Gorsuch, Neil M
Subject: FW: HT Report

[redacted]

I am on your calendar for tomorrow afternoon to discuss HSH and trafficking (that was the earliest I could get on your schedule -- you're a busy guy!). Wanted to make sure you had a copy of the most recent version of the trafficking report, which incorporates edits by Martha and others. OLP is getting us edits today. The vast majority of these edits are stylistic and grammatical. I'll be interested in hearing how your call to DPC went. If we want to shoot for the 2/13 roll out, we would need to get the report to JMD for layout (the next step before it goes to the printer) no later than this Friday, January 20. In addition to these existing events, we are exploring alternative events with OIPL. I should know more tomorrow by the time we meet tomorrow.

-----Original Message-----
From: Vargas, Omar (CRT)
Sent: Tuesday, January 17, 2006 6:49 PM
To: Comisac, Rena (CRT)
Subject: HT Report

Rena:

The most recent version of the report is attached. Comments and edits have been submitted by Martha Pacold, Nancy Scott-Finan, Criminal Section staff and various folks in the Criminal Division. I expect Larry Rothenberg's comments on a draft as of yesterday tomorrow morning. [redacted]

The following are a number of roll-out event options occuring after Feb. 10. I am waiting to hear back from the Bureau of Justice Assistance regarding any law enforcement related opportunities already planned and am waiting for an update from Violence Against Women regarding Lifetime Television. A second call went in to Lifetime today and OVW will follow-up tomorrow. Aside from identifying existing events, we can potentially work through OIPL to "create" an event a group of state legislators or law enforcement organizations. Also, depending on the number of copies available after an event and distribution to the Hill, I think it would be helpful distribute copies to constituency groups such as the Hudson Institute, Freedom Network, etc.

February 13-San Francisco, CA - Ending Domestic Violence and Human Trafficking in the 21st Century Conference

The conference is designed to provide information about violence against women through speeches,

panels and workshops. This event will provide a platform for education, motivate individuals to take action, and encourage investment in community solutions. While the conference will bring attention to the issue at the national and international levels, the focus will be on how to take action locally. Conference Partners: University of California, San Francisco Center of Excellence in Women's Health, Family Violence Prevention Fund, Partners Ending Domestic Abuse, San Francisco Domestic Violence Consortium, Vital Voices Global Partnership, Mills College, and the International Museum of Women.

Please note that the Family Violence Prevention Fund is a grantee of both OVC and OVW and an OVW funded anti-trafficking program is discussed in our report.

Feb 26-March 2 - South Padre Island, TX - Texas Association Against Sexual Assault Annual Conference: "Begin By Believing."

This appears to be a good opportunity but I am concerned about the optics of a conference on sexual assault scheduled during what may be spring break in a spring break town. Note, that the 26th is a Sunday.

March 6-8 - Dallas, TX - Dallas Police Dept and the Genisis Women's Shelter hosts: 2006 Conference on Crimes Against Women. This conference provides practical instruction to law enforcement, prosecutors, and victim advocates using current information, the newest ideas and most successful intervention strategies. Topics focus on the many different types of crimes against women, including: domestic violence, sexual assault, serial murder, prostitution, and trafficking. Recent high-profile cases will be presented by the involved investigators and prosecutors.

Presently, this appears to be the best option. The conference occurs during the first half of the week (good news cycle) and combines violence against women issues with trafficking and local law enforcement.

March 24 - Trenton/Princeton, NJ - International Institute of New Jersey Anti-Trafficking Conference. Focus on law enforcement and service provider coopertation, global perspectives and the role of the media.

But for this occuring in late March, this is a good opportunity as the sponsoring organziation is an NG-partner in the NJ task force. I am also inquiring as to whether this event is connected to the NJ task force in any way.

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OLA has provided the following list of members of congress who should be provided a copy of the report.

House and Senate Judiciary Committees - Chair and Ranking Minority Members House and Senate Appropriations Committees and Justice Subcommittees - Chair and Ranking Minority Members Senate Majority and Minority Leaders Senator Brownback Senator Cornyn Speaker of the House House Majority and Minority Leaders Representative Chris Smith Representative Deborah Pryce

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Williams, Jan

From: Williams, Jan

Sent: Thursday, January 19, 2006 8:36 AM

To: Spagnoli, Deborah A. (USPC); Nelson, Carrie; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Sanchez, William J (CRT); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roberts, Crystal; Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford

Subject: White House Morning Update: 1/19/06

The Morning Update

This morning, President Bush will travel to Sterling, VA to outline his agenda to maintain the economy's momentum and help small businesses.
The President will discuss the policies needed to keep the economy strong and growing in 2006. In the last two months, the economy has added more than 400,000 jobs - more than 4.6 million new jobs since May 2003. The 4.9 percent unemployment rate is lower than the average of the 1970s, 1980s and 1990s. In Loudon County, where the President will be speaking, the unemployment rate is 2 percent.
The economy grew more than 4 percent at an annual rate in the third quarter of 2005 and has been growing close to that rate on average for the last two years.
Entrepreneurship and small business growth is flourishing, and we must keep our economy strong by pursuing pro-growth policies.

In the afternoon, the President will meet with a group of Gulf Coast recovery foundations to discuss rebuilding efforts.

10:10 am: THE PRESIDENT makes Remarks on the Economy

EST JK Moving & Storage, Inc. | Sterling, VA

1:15 pm: THE PRESIDENT and Mrs. Bush meet with Foundations on Gulf Coast Recovery

EST The White House | Washington, DC

From Today's Morning Headlines

President Bush Meets With Victims Of Saddam Hussein And His Regime.
"Iraqis who said they were beaten, imprisoned and lost loved ones at the hands of Saddam Hussein's government shared their stories Wednesday with President Bush, who said the former Iraqi president 'will get his due justice.'
<http://news.yahoo.com/s/ap/20060119/ap_on_go_pr_wh/bush_iraq;_ylt=AlICc nmBS8_mdCFJt2Y2c92s0NUE;_ylu=X3oDMTA3OXIzMDMzBHNlYwM3MDM-> ... 'One of the interesting moments will come here this year when Saddam Hussein's trial is brought forth for the world to see, to see the butcherer, the person who brutalized many people or ordered the brutality of many people here at this table, get his due justice under rule of law,' the president told reporters brought in for two minutes at the end of the meeting." (Nedra Pickler, "Bush Meets Victims Of 'Butcherer' Saddam," The

Associated Press, 1/18/06)

Mrs. Bush Announces New Commitment To Help Fight AIDS In Africa. "First lady Laura Bush brought drugs to AIDS patients in a rural hospital yesterday, announcing the U.S. would spend millions to prevent impoverished women from passing the disease to their children. 'That's so important, if we can stop the transmission from mother to child - it really protects the next generation,' she told patients and medical officials outside St. Mary's Hospital. Standing in front of the first shipment of anti-retroviral treatment for about 500 people, Mrs. Bush announced a new commitment of $163 million to help Nigeria treat AIDS this year.
<http://www.washingtontimes.com/national/20060118-101330-7819r.htm> " (Bill Sammon, "First Lady Brings AIDS Drugs To Africans," The Washington Times, 1/19/06)

National Economic Council Director Al Hubbard Discusses The President's Strong Commitment To Spending Restraint. "President George W. Bush is expected to push for more cuts in spending this year in his budget proposal for fiscal 2007, White House economic adviser Al Hubbard said on Wednesday. The proposals would be in addition to the $40 billion in spending cuts over five years that Congress has been trying to pass and hopes to send to the president when lawmakers return from a recess. ...
'I can assure you this president is being very aggressive on spending control,'
<http://news.yahoo.com/s/nm/20060118/pl_nm/economy_budget_hubbard_dc;_ylt=Arqxbly2.cR5mqhK1.gkWh8a.3QA;_ylu=X3oDMTBiMW04NW9mBHNlYwMlJVRPUCUl>
Hubbard said in an interview with Reuters. He noted that non-defense, non-security discretionary spending declined in the past year. 'I think it's reasonable to expect a similar approach this coming year,' Hubbard said." (Tabassum Zakaria And Kristin Roberts, "Bush Adviser Sees Spending Cuts, Health Proposals," Reuters, 1/18/06)

Secretary Chertoff Discusses The Importance Of The NSA Surveillance Program. "'What I can tell you is this,' Chertoff said. 'The technique of electronic surveillance, which is gathering information about who calls whom or intercepting actual conversation, is the most significant tool in the war against terrorism.' 'If we didn't have it, I'm quite sure we'd have disrupted fewer attacks and identified fewer [terrorists].'
<http://www.rollcall.com/issues/51_69/kondracke/11779-1.html> Buried at the bottom of the Times story were a number of cases where actual terrorist operations had been disrupted, apparently as a result of NSA eavesdropping, including efforts to smuggle a missile launcher into the United States, to cut Brooklyn Bridge cables with a blowtorch and an attempt to blow up a fertilizer bomb in London." (Morton M. Kondracke, "NSA Data Mining Is Legal, Necessary, Sec. Chertoff Says," Roll Call, 1/19/06)

Former Counsel For The Senate Intelligence Committee Victoria Toensing Writes That The NSA Surveillance Program Is Crucial To Winning The War On Terror. "I have extensive experience with the consequences of government bungling due to over-strict interpretations of FISA. As chief counsel for the Senate Intelligence Committee from 1981 to 1984, I participated in oversight of FISA in the first years after its passage.
When I subsequently became deputy assistant attorney general in the Reagan administration, one of my responsibilities was the terrorism portfolio, which included working with FISA. ... Today, FISA

my responsibilities was the terrorism portfolio, which included working with FISA. ... Today, FISA remains ill-equipped to deal with ever-changing terrorist threats. <http://online.wsj.com/article/SB113763551855150439.html?mod=opinion_main_commentaries> It was never envisioned to be a speedy collector of information to prevent an imminent attack on our soil. And the reasons the president might decide to bypass FISA courts are readily understandable, as it is easy to conjure up scenarios like the TWA hijacking, where strict adherence to FISA would jeopardize American lives." (Victoria Toensing, Op-Ed, "Terrorists On Tap," The Wall Street Journal, 1/19/06)

Making Progress Toward Financial Stability, Iraqi Government Bonds Will Begin Trading On Monday. "It won't make anyone forget the car bombs and kidnappings, but Iraq soon will take an important step toward financial stability. New government securities are scheduled to begin trading Monday for the first time in two decades. As part of an ongoing restructuring of foreign debt left over from the Saddam Hussein era, Iraq late last year agreed with its commercial creditors on a swap of old debts for new Iraqi bonds. Once the new bonds officially start trading on world markets, investors will get a chance to vote with their wallets on the country's future. 'This is just yet another step on the road to Iraq's normalization with the global financial community. We see this as solid forward progress,' <http://www.usatoday.com/printedition/money/20060119/iraq19.art.htm> says Timothy Adams, the Treasury department's undersecretary for international affairs." (David J. Lynch, "Iraq Takes Another Step Toward Conquering Debt," USA Today, 1/19/06)

International Community Pledges $1.9 Billion To Combat Bird Flu.
"Alarmed by a spate of bird flu infections and deaths in Turkey, 33 countries and international institutions pledged $1.9 billion on Wednesday to fight the disease. The pledges, at the conclusion of a two-day conference here, are considerably greater than the $1.2 billion to $1.4 billion that the World Bank had said would be needed in the next three years. <http://www.nytimes.com/2006/01/19/international/asia/19flu.html?pagewanted=all> The money will pay for tasks like strengthening of veterinary and medical surveillance for outbreaks, stockpiling of surgical masks and other protective equipment and expanding research." (Keith Bradsher, "Global Effort Attracts $1.9 Billion In Pledges To Battle Bird Flu," The New York Times, 1/19/06)

Yesterday From The White House

President Meets With Victims Of Saddam Hussein, Discusses Progress <http://www.whitehouse.gov/news/releases/2006/01/20060118-1.html>

* In Focus: Renewal In Iraq <http://www.whitehouse.gov/infocus/iraq/>

Statement On U.S. Pledge Of $334 Million In Global Fight Against Bird Flu <http://www.whitehouse.g

ov/news/releases/2006/01/20060118-6.html>

Press Briefing By Scott McClellan
<http://www.whitehouse.gov/news/releases/2006/01/20060118-5.html>

Press Briefing By The First Lady En Route Sal Island, Cape Verde <http://www.whitehouse.gov/news/releases/2006/01/20060118-3.html>

Miller, Charles S

From: Miller, Charles S
Sent: Thursday, January 19, 2006 10:56 AM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 1/19/06 Civil Division News

Justices Reaffirm Emergency Access to Abortion

Privacy group to sue over US eavesdropping program

Civil Liberties Group to Sue Justice Dept.

US opposes quick court action on Uighurs detained in Guantanamo

Salvati lawyer sees a plan in IRS audit

Salvati Attorney Raises Questions About IRS Audit

Government files motion to dismiss religious intolerance lawsuit

Feds want Google search records; BUSH LAWYERS ASK JUDGE TO MAKE GOOGLE HAND OVER DATA; GOOGLE PROMISES A FIGHT

ANTHRAX SHOT PLAINTIFFS ALLEGE AGENCIES HOPE TO 'MANIPULATE' COURT

Editorial: The Assisted-Suicide Decision

Editorial: Double trouble

New York Times

January 19, 2006

Justices Reaffirm Emergency Access to Abortion

By LINDA GREENHOUSE

WASHINGTON, Jan. 18 - In its first ruling on an abortion case in six years, the Supreme Court issued a unanimous decision on Wednesday that reaffirmed the need to include an exception for medical emergencies in a law that restricts teenagers' access to abortion.

The decision told a lower court to reconsider its ruling that struck down, in its entirety, a New Hampshire law that fails to include such an exception. "We try to limit the solution to the problem," Justice Sandra Day O'Connor said in her opinion for the court, instructing the lower court to consider invalidating the law only as it applies to those few teenagers who need an immediate abortion for medical reasons.

"We do not revisit our abortion precedents today," Justice O'Connor declared in the opening words of what is likely to be her last opinion for the court. The studiously bland 10-page opinion carefully sidestepped the abortion debate that has been a prominent feature of public discourse about the court's future.

The hiatus may be brief, however. At their conference on Friday, the justices are scheduled to take up the Bush administration's appeal of a lower court ruling that declared unconstitutional a federal law, the Partial-Birth Abortion Ban Act of 2003.

That case, on which the court had deferred action until the New Hampshire case was decided, presents issues that may not be so easily avoided. Further, the federal case, if the court agrees to hear it, would be argued after Justice O'Connor's departure. She was part of the 5-to-4 majority that struck down a Nebraska precursor of the federal law in 2000, so her successor, who is likely to be Judge Samuel A. Alito Jr., could cast the deciding vote.

In the New Hampshire decision on Wednesday, the justices accepted the finding by two lower federal courts that the New Hampshire law was constitutionally deficient in not making explicit provisions for pregnant teenagers facing a medical emergency. The law requires notice to a parent, followed by a 48-hour waiting period, before a doctor can perform an abortion on a girl under the age of 18.

Where the justices differed from the Federal District Court in Concord, N.H., and the United States Court of Appeals for the First Circuit, in Boston, was on how to remedy the absence of a medical-emergency provision. The two lower courts had barred enforcement of the entire statute, even for the great majority of teenagers for whom the lack of an exception is not relevant.

The choice of this "most blunt remedy" was unjustified, Justice O'Connor said, when a "more finely drawn" remedy might be more consistent with the intent of the legislature, which passed the law in 2003.

Consequently, the Supreme Court vacated the appeals court's decision and ordered it to examine which option the legislature would have preferred: a statute with an emergency exception, or no enforceable parental-notice law. "We try not to nullify more of a legislature's work than is necessary," Justice O'Connor said. "The touchstone for any decision about remedy is legislative intent."

If the decision, Ayotte v. Planned Parenthood of Northern New England, No. 04-1144, turns out to be Justice O'Connor's last, it will be a fitting coda to a 25-year tenure in which she often played a pivotal role in the court's abortion jurisprudence.

Perhaps Chief Justice John G. Roberts Jr. had that in mind when he assigned her the opinion after the case was argued Nov. 30. It was evident from that argument that the justices were looking for a narrow way to decide the case and were setting aside, for the moment, whatever passion they bring to the abortion debate. Justice O'Connor's opinion embodied that collective judgment, whether under the guiding hand of the new chief justice or due to a confluence of individual responses.

However the New Hampshire decision was reached, "the decision preserves the status quo while the court is in transition," said Clarke D. Forsythe, senior attorney for Americans United for Life, a public

interest law firm that litigates against abortion.

Mr. Forsythe filed a brief in the New Hampshire case on behalf of the sponsors of the New Hampshire law, the Parental Notification Prior to Abortion Act. In an interview, he said the answer to Justice O'Connor's question was "absolutely clear." Rather than have no parental-notice law at all, he said, the sponsors would accept an exception for medical emergencies, a choice he said they made clear by including a clause in the statute providing that if any application of the law was found to be invalid, "such invalidity shall not affect the provisions or applications" as to which there was no problem.

By including this language, known as a severability clause, the sponsors "practically anticipated" the court's decision, he said.

An opposite brief, on behalf of 153 New Hampshire legislators who opposed the parental-notice law, was filed in support of the plaintiffs, a doctor and three medical clinics. These legislators said the debate over the bill made clear that the sponsors wanted to test the Supreme Court's abortion precedents and "would have preferred to have no law rather than a law that contains a medical emergency exception in it."

Jennifer Dalven, a lawyer for the American Civil Liberties Union who argued the case for the plaintiffs in the Supreme Court, said in an interview that the sponsors "very clearly did not want a health exception" and predicted that the lower courts would once again bar enforcement of the entire statute.

"We're very happy that the court reaffirmed the need for a medical emergency exception," Ms. Dalven said, adding that the decision "tells politicians that they can't jeopardize women's health" when enacting abortion restrictions.

The Supreme Court for years has upheld state laws requiring parental involvement in a teenager's abortion decision, and 44 states now have such laws. The basic validity of these laws was not at issue. Nor, Justice O'Connor said, was the requirement that access to abortions "necessary, in appropriate medical judgment, for preservation of the life or health of the mother" may not be restricted.

Her opinion cited five precedents for that proposition, going back to Roe v. Wade in 1973. Notably absent from the list was the court's most recent abortion ruling, Stenberg v. Carhart, which in 2000 struck down Nebraska's ban on the procedure opponents call "partial birth abortion" in part because the law failed to provide a health exception. That decision provoked four vigorous dissents, and the price for the unanimity of the new opinion might have been the omission of the reference.

In spite of the Nebraska ruling, Congress passed the federal Partial-Birth Abortion Ban Act, now pending before the court in Gonzales v. Carhart, No. 05-380. The act does not include a medical exception, instead simply declaring that the procedure is never necessary to protect a woman's health. The case presents a direct challenge to the court's willingness to adhere to its precedent.

END

Reuters

Wed Jan 18, 2006 6:00 PM ET

Privacy group to sue over US eavesdropping program

WASHINGTON (Reuters) - A group that advocates privacy rights said on Wednesday it planned to sue the Justice Department to win the public release of documents related to President George W. Bush's domestic eavesdropping program.

The Electronic Privacy Information Center, or EPIC, is the latest of a number of civil liberties organizations to take the federal government to court over the domestic spying program, which has caused an outcry among Republicans and Democrats alike.

The American Civil Liberties Union and the Center for Constitutional Rights filed separate lawsuits on Tuesday, challenging the highly classified program that allows the National Security Agency to monitor U.S. citizens' international telephone and e-mail messages without first obtaining warrants.

EPIC said it would ask a federal district court in Washington on Thursday to order the release of related Justice Department documents that the government has failed to disclose under the Freedom of Information Act.

The 1966 FOIA law sets out procedures that allow the public to request the release of government documents and records.

EPIC submitted FOIA requests with four Justice Department offices including the Office of the Attorney General after the New York Times first reported the existence of the warrantless surveillance program on December 16.

The Justice Department said it responded quickly to EPIC's requests by agreeing to expedite the FOIA process. "The department continues to work in an expedited manner to meet this request," Justice spokesman Brian Roehrkasse said.

The Washington-based group contends that the Justice Department has played a key role in authorizing, implementing and overseeing the NSA program.

"The Administration has confirmed the existence of the program, but released very little information that sheds light on the key question (of) whether the government is acting illegally," EPIC general counsel David Sobel said in a statement.

The 1978 Foreign Intelligence Surveillance Act makes it illegal for the U.S. government to spy on Americans in the United States without first getting approval from a secret federal court.

The program's existence has been acknowledged by Bush and defended by Attorney General Alberto Gonzales, who is scheduled to appear at a February 6 hearing on the program before the Senate Judiciary Committee.

Records sought by EPIC include an audit of the NSA program, a "checklist" guide used to determine whether an individual's phone or e-mail messages could be monitored, documents showing how information gleaned through eavesdropping had been used, and other legal opinions about the program.

END

AP

January 19, 2006

Civil Liberties Group to Sue Justice Dept.

By MARK SHERMAN

Associated Press Writer

WASHINGTON_The Justice Department is violating federal disclosure law by failing to provide

information about its role in the Bush administration's domestic spying program, a civil liberties group said Wednesday.

The government has yet to comply with requests filed Dec. 16 by the Electronic Privacy Information Center under the Freedom of Information Act, hours after the existence of the National Security Agency's warrantless eavesdropping was made known.

The group expects to file a FOIA lawsuit Thursday in U.S. District Court in Washington, asking a judge to order the department to release documents within 20 days because the information "concerns a matter of extraordinary public interest."

Meanwhile, the nonpartisan Congressional Research Service said Wednesday that the administration's limited congressional briefings on the monitoring "appear to be inconsistent with the law."

The CRS memo backs the contention of California Rep. Jane Harman, the senior Democrat on the House intelligence committee, that all the members of the intelligence oversight committees are entitled to hear closed-door explanations of the program.

Administration officials have, to date, briefed only the "Gang of Eight," which is made up of the top Republicans and Democrats in the House and Senate and on the intelligence panels. This smaller group is scheduled to receive another briefing on the NSA program on Friday, said two congressional aides, speaking on condition of anonymity because the briefing has not been publicly announced.

In the FOIA matter, EPIC asked four Justice Department officials to release quickly any department audits of the NSA program, writings on the subject by government\l "l" lawyers\l "l", a checklist to help decide whether there is a legal basis to monitor an individual's communications and documents discussing the use of information obtained through the NSA program to obtain a warrant from a secret federal court for more eavesdropping.

The Justice Department sent EPIC a reply within three business days of its requests, saying they would be handled expeditiously but would take more than 30 business days to fulfill.

EPIC said the public needs the information now because of the lively national debate over the legality of the NSA program and in advance of a Feb. 6 Senate hearing at which Attorney General Alberto Gonzales is expected to testify.

President Bush last month acknowledged he had ordered the surveillance, bypassing the secret Foreign Intelligence Surveillance Court, and said the Justice Department regularly reviewed the program to make sure it stayed within the law.

Gonzales also has repeatedly defended its legality in the face of questions from Democratic and Republican lawmakers and legal scholars about whether the president has the authority to order monitoring of people in the United States without a court's approval.

Two separate lawsuits challenging the legality of the spying program were filed Tuesday in Detroit and New York by the American Civil Liberties Union and the Center for Constitutional Rights.

END

AGENCE FRANCE PRESSE ENGLISH WIRE

January 19, 2006

US opposes quick court action on Uighurs detained in Guantanamo

WASHINGTON, Jan 18, 2006 (AFP) - The United States urged an appeals court Wednesday to reject a petition seeking quick action on the detention of two ethnic Uighur Muslims from China held at the US "war on terror" prison in Guantanamo Bay, Cuba.

The two men, who have been held since July 2002, filed an appeal last month after a district court judge said he could not order their release even though he acknowledged their detention was illegal.

In addition to seeking an expedited Court of Appeals decision, lawyers for Abu Bakker Qassim and Adel Abdu Al-Hakim made an urgent request Tuesday for the US Supreme Court to intervene in the case.

The pair remain held in Guantanamo even though the US military said in March 2005 that they were no longer considered "enemy combatants."

But the United States argues that it cannot release them to China because they could face persecution there and that it was looking for a country to host them.

In court papers field with the appeals court in Washington, the Justice\l "l" Department\l "l" said there was "a substantial question of whether there is any (court) jurisdiction over this case."

The department asked the court to wait for a ruling on a separate case regarding the Detainee Treatment Act of 2005, which states that "no court, justice, or judge shall have jurisdiction to hear or consider" any claims by foreign detainees at Guantanamo Bay.

The court document says the two Uighurs, although no longer enemy combatants, still qualify under the Detainee Treatment Act.

But prosecutors said the United States wanted to free the two detainees.

"Petitioners will be released when a proper country of return is located," the department said in the court document.

"The United States continues to actively pursue all appropriate diplomatic options for the placement of petitioners. We can assure the Court that the United States Government has no interest in keeping petitioners in Guantanamo any longer than necessary," the court papers say.

"The delays being experienced by petitioners are obviously most unfortunate, but they are common during or at the end on an armed conflict, when trying to resettle those captured during the conflict," the Justice\l "l" Department\l "l" said.

The two Turkic-speaking Uighur Muslims from the troubled western region of Xinjiang in China were captured by bounty hunters in Pakistan.

The court document says the detainees are held at a separate facility in Guantanamo called Camped Iguana for non-enemy combatants, where they have been granted "substantial privileges" such as access to television, sports activities and air conditioned facilities.

"Petitioners are, however, former enemy combatants and persons trained at a military training camp supplied by the Taliban, and they remain detained (albeit with greater privileges) pending their release," the department said.

END

Boston Globe

January 19, 2006

Salvati lawyer sees a plan in IRS audit

By Shelley Murphy, Globe Staff

When Medford lawyer Victor Garo was notified last month that the IRS was auditing his 2003 tax returns, he became suspicious.

It's no secret that Garo is suing the US government for $300 million on behalf of Joseph Salvati, who spent 30 years in prison after he was framed in a gangland murder. The story of Salvati's life and Garo's crusade to exonerate him captured the attention of Steven Spielberg's DreamWorks SKG, which signed a movie contract with the pair.

Garo believes it's "highly unlikely" the IRS audit is random, because it is being conducted at the same time Justice Department lawyers are urging a judge in the civil case to force him and Salvati to disclose details of their contract with DreamWorks. "If this is a move by the government to intimidate me, it won't work," Garo said.

Peggy Riley, a spokeswoman for the IRS in Boston, said privacy and disclosure laws prohibit the agency from commenting on individual taxpayer cases. But she said, "In general, IRS enforcement decisions are based strictly on tax issues."

Garo, who has practiced law for 41 years, said he could not think of anything unusual about his filings that would trigger scrutiny. But he added he was concerned about the fact that it's for 2003, the year he and Salvati got a payment from DreamWorks.

Salvati, 73 and living in Boston's North End, was among six men convicted of the 1965 murder of Edward "Teddy" Deegan in a Chelsea alley, primarily on the word of hit man Joseph "The Animal" Barboza.

Only after Salvati and Peter Limone spent more than 30 years in prison and two codefendants died in prison was it disclosed that the FBI had withheld evidence that might have helped them prove Barboza had framed them.

Salvati declined to answer questions from government lawyers about his deal with DreamWorks during a deposition last summer. US District Judge Nancy Gertner has yet to rule on a request from the government to compel Garo to disclose information about the deal.

END

WBZ-TV (Boston)

1/18/06

Salvati Attorney Raises Questions About IRS Audit

Dan Rea Reporting

(CBS4)

CBS4 has learned the government may be using a suspicious tactic in its legal fight with Victor Garo, the lawyer who helped free Joseph Salvati from prison.Garo has practiced law for more than three decades from his one-man law office in Medford Square.Garo's most famous client is Joe Salvati of Boston's North End.

Salvati was framed by an FBI informant and spent thirty years in prison for a crime he did not commit. Five years ago, long hidden FBI documents proved Salvati's innocence.Garo has filed a $300 million civil rights lawsuit against the FBI."I'm seeking justice for Joe Salvati, his wife and four children," Garo says.

In August of 2003, Hollywood producer Steven Spielberg bought the life stories of Garo and Salvati to make a movie about the injustice done to Salvati. And this is where things get interesting.For several months, the Justice Department has asked for information in the Dreamworks contract, but that contract contains a standard non-disclosure paragraph.In November of last year, Garo offered to show the movie contract to federal judge Nancy Gertner for a determination of its relevancy to the civil suit against the FBI.Apparently, that wasn't good enough for the Justice Department.

In early December, Garo received a letter form the IRS. A letter, he read in part for CBS4. "Dear Victor Garo. Your federal tax return for the year above has been selected for examination."Guess which year the IRS wants to audit. That's right, 2003."Is this just a coincidence that the year selected for examination is the year 2003 which is the very year that we singed a contract with Steven Spielberg's Dreamworks and we also received a payment from him. Is this just a coincidence?" questions Garo.

The important legal question now is, is the U.S. Justice Department using the IRS to get information in an audit that it can not get legitimately through the court system."If this IRS audit is meant to intimidate me, it will fail," Garo says.

A spokesperson for the U.S. Justice Department in Washington claims that civil division lawyers have had no contact with the IRS regarding Garo or Salvati, and that Justice knows nothing about any IRS audit.

The multi-million dollar lawsuit filed on behalf of Joe Salvati, Peter Limone and two other men who died in prison, is expected to go to trial next October.

END

AP

January 19, 2006

Government files motion to dismiss religious intolerance lawsuit

By TIM KORTE

Associated Press Writer

ALBUQUERQUE, N.M._The Justice\l "l" Department\l "l" asked a federal judge in New Mexico to dismiss a lawsuit filed by an Air Force Academy graduate who claims the Air Force has illegally promoted evangelical Christianity on academy cadets and other service members.

The dismissal motion, filed Dec. 23 in U.S. District Court in Albuquerque, reiterated a position the Air Force has maintained since Mikey Weinstein filed the lawsuit in October _ that there is no official policy of proselytizing members.

"Plaintiffs cannot demonstrate they are in imminent danger of being subject to an Air Force-wide policy of unconstitutional proselytizing for the additional and important reason that such a policy does not exist,"

the motion says.

The government said Weinstein and four co-plaintiffs _ also academy graduates _ are no longer enrolled at the Colorado school and thus no longer subject to the alleged conduct they allege has occurred, nor can they show they have been harmed.

Weinstein's lawyers filed a response Friday.

No timetable was given for when District Judge James Parker might rule.

Weinstein said Wednesday he believes Parker will reject the government's request, comparing the motion to "an episode of 'Cops' on TV.'"

"When the officers show up at a domestic disturbance, they always find a couple that is breathing hard. The furniture is turned over and the curtains torn. But they say to the police, 'There's no problem here,'" Weinstein said.

"The government wrongly believes there is no evangelization problem within the Air Force."

Weinstein, who is Jewish and lives in Albuquerque, claims senior officers and cadets at the academy have illegally imposed evangelical Christianity on others, often bullying lower-ranking cadets. But he also believes the problem is systemic within the Air Force.

"I'm not suing the academy. I'm suing the Air Force," he said.

Weinstein's lawsuit seeks to prohibit Air Force members from evangelizing, proselytizing or trying "to involuntarily convert, pressure, exhort or persuade a fellow member of the USAF to accept their own religious beliefs while on duty."

The government, in its dismissal motion, said intervention by a court would interfere with Air Force efforts to address the issue.

The Air Force last year withdrew a code of ethics used by chaplains, which endorsed the practice of evangelizing military service members who are unaffiliated with any religion. The Air Force also issued new guidelines on religious tolerance.

"Not only would interference in the guideline process deprive the Air Force of the opportunity to develop and set forth its policy, but a premature decision by this court regarding plaintiffs' claims could render a decision completely advisory and waste both judicial and agency resources," the motion says.

END

San Jose Mercury News (CA)

January 19, 2006

Feds want Google search records; BUSH LAWYERS ASK JUDGE TO MAKE GOOGLE HAND OVER DATA; GOOGLE PROMISES A FIGHT

By Howard Mintz, Mercury News

The Bush administration on Wednesday asked a federal judge to order Google Inc. to turn over a broad range of material from its closely guarded databases.

The move is part of a government effort to revive an Internet child protection law struck down two years ago by the U.S. Supreme Court. The law was meant to punish online pornography sites that make their content inaccessible to minors.

In court papers filed in U.S. District Court in San Jose, Justice Department lawyers revealed that Google has refused to comply with a subpoena issued last year for the records, which include a request for one million random Web addresses and records of all Google searches from any one-week period.

The Mountain View-based search engine opposes releasing the information on a variety of grounds, saying it would violate the privacy rights of its users and reveal company trade secrets, according to court documents.

Nicole Wong, an associate general counsel for Google, said the company will fight the government's effort "vigorously."

"Google is not a party to this lawsuit, and the demand for the information is overreaching," Wong said.

The government argues that it needs the information as it prepares to once again defend the constitutionality of the Child Online Protection Act in a federal court in Pennsylvania. The law was struck down in 2004 because it was too broad and could prevent adults from accessing legal porn sites.

However, the Supreme Court invited the government to either come up with a less drastic version of the law or go to trial to prove that the statute does not violate the First Amendment and is the only viable way to combat child porn.

As a result, government\l "l" lawyers\l "l" said in court papers they are developing a defense of the 1998 law based on the argument that it is far more effective than software filters in protecting children from porn. To back that claim, the government has subpoenaed search engines to develop a factual record of how often Web users encounter online porn and how Web searches turn up material they say is "harmful to minors."

The government indicated that other, unspecified search engines have agreed to release the information, but not Google.

"The production of those materials would be of significant assistance to the government's preparation of its defense of the constitutionality of this important statute," government\l "l" lawyers\l "l" wrote, noting that Google is the largest search engine.

Google has the largest share of Web searches with 46 percent, according to November 2005 figures from Nielsen/NetRatings. Yahoo is second with 23 percent, and MSN is third with 11 percent.

END

Inside the Pentagon

January 19, 2006

ANTHRAX SHOT PLAINTIFFS ALLEGE AGENCIES HOPE TO 'MANIPULATE' COURT

Defense Department personnel challenging the Pentagon's anthrax vaccine program are alleging the Bush administration is attempting to "manipulate" the U.S. Court of Appeals as it reviews a lower court

decision that found the involuntary inoculation effort "illegal."

The Food and Drug Administration issued a final rule and order on Dec. 19 that certified use of the vaccine to protect against anthrax, regardless of whether the disease is contracted through the air -- as anticipated in a bioterror attack -- or through the skin or digestive system (Inside the Pentagon, Dec. 22, 2005, p1). Justice\l "l" Department\l "l" lawyers followed up two days later with a brief filed to the appeals court in Washington, arguing the FDA action suggests the lower decision should be reversed or at least declared moot (ITP, Jan. 5, p1).

But the timing of the FDA's anthrax vaccine certification last month indicates administration officials are "attempting to orchestrate the course of litigation through their ability to act as government regulators," asserts a document the complainants filed to the appeals court last week. Given that the FDA's Dec. 19 order is not part of the administration's May 2005 appeal to the higher court, "the court should reject this attempt by the government to put inadmissible material before the court in an effort to bolster its unsustainable case," the plaintiffs argue in their Jan. 13 brief.

When U.S. District Court Judge Emmet Sullivan banned the mandatory anthrax shots program in October 2004, more than 1 million military personnel had received the vaccine.

Six anonymous DOD personnel subject to orders to take the shots filed the lawsuit in March 2003, arguing the vaccine had not been certified by the FDA and, as such, was "investigational." Title 10 of the U.S. Code -- the law that governs the armed services -- says uncertified vaccines can be given to service members only with their informed consent or following a presidential waiver.

Sullivan agreed in summary judgment for the plaintiffs that the FDA had not followed its own rules and had failed to properly certify the anthrax vaccine. Pending a public comment period, agency review and a new final rule and order -- which has since taken place over the past year -- the federal judge issued a permanent injunction against the Pentagon effort to issue involuntary anthrax shots.

Citing the terms of a newer law, the 2004 Project BioShield Act, the administration last May restarted the Pentagon shots program, but solely on a voluntary basis (ITP, May 5, 2005, p5). Later in the month, the government appealed Sullivan's 2004 decision to the higher court (ITP, May 19, 2005, p1).

Plaintiffs say the extent to which the FDA's new anthrax vaccine certification makes the case before the appeals court moot "is the direct result of unilateral action by the losing parties -- the FDA and DOD -- in a clear effort to short-circuit further appellate review," according to their brief last week. The two agencies "have acted in concert to shape the regulatory landscape in a way benefiting their litigation position," according to the complainants.

Critics have a different take on the timing of the new FDA order.

"That's a little bit cheeky" of the plaintiffs to expect the FDA to do anything other than implement the certification process Sullivan ordered in his 2004 decision, says Brian Boyle, who served until last March as the Justice\l "l" Department's\l "l" lead attorney on the anthrax vaccine case.

FDA published its final rule and order "as quickly as possible after it listened to this court's questions and comments at oral argument on Dec. 1, 2005," the brief alleges. Plaintiffs say the FDA action "is simply an echo" of the agency's first attempt to publish such an order just eight days after Sullivan issued a temporary restraining order against the inoculation program in December 2003, an FDA decree the judge later found to be invalid.

The plaintiffs' new brief was filed in response to the government's Dec. 21 motion to the appeals court to govern the proceedings in light of the FDA's implementation of the court-ordered review process.

Noting they agree with the administration that the FDA action does not moot all of the issues on appeal, "the court should deny the appellant's motion, rule on the merits of the appeal, or remand the case back

to the district court for a determination of whether the matter is now moot," argue the plaintiffs. The latter option "would take advantage of the considerable expertise gained by the district court" during initial litigation, the brief states.

An appeals court decision to vacate Sullivan's decision would virtually wipe away from the books the judge's finding that the Pentagon's anthrax vaccine program was illegal from its May 1998 inception through the October 2004 injunction, according to experts.

Even if the FDA order moots the current court case, plaintiffs thus hope the appeals court will find the district judge's findings to have been correct at the time.

Hundreds of service members have faced court-martial or administrative discipline for refusing anthrax shots during that period. If Sullivan's finding stands that the involuntary shots were illegal, that may significantly strengthen the cases of many military personnel who claim they were lawfully disobeying an illegal order to take the vaccine, according to expert observers.

"FDA's actions, which were specifically directed by the district court's order and judgment, cannot retroactively alter the status of the vaccine as determined by the district court in December 2003 and October 2004," the plaintiffs' brief argues.

But the government, in appealing Sullivan's decision, asserts the Pentagon's shots program has been legal throughout, and that the new FDA ruling was necessary only to convince the court of the agency's longstanding position that the anthrax vaccine was, in fact, approved.

"If the Court of Appeals doesn't reach the merits of the case due to the injunction having become moot, vacatur of Judge Sullivan's judgment and injunction would be highly appropriate, [or] else a fundamentally flawed ruling . . . would evade review and remain on the books," Boyle, now with the law firm O'Melveny and Myers in Washington, told ITP this week. "Mere dismissal of the appeal would be improper, since there is still a live dispute as to whether DOD was lawfully using the vaccine prior to the most recent FDA approval." -- Elaine M. Grossman

END

New York Times

January 19, 2006

Editorial: The Assisted-Suicide Decision

The Supreme Court smacked former Attorney General John Ashcroft and the Bush administration when it ruled 6 to 3 that the Justice Department had gone beyond its authority in trying to undermine an assisted-suicide law in Oregon. The only disquieting note was that the new chief justice, John Roberts Jr., who had assured senators that he believed people had "the right to be let alone," nevertheless joined the dissenters in arguing that the federal government had the power to block Oregon's pioneering effort to let terminally ill patients end their own lives humanely.

The decision was notable because it rejected Mr. Ashcroft's attempt to impose his religiously conservative ideology on a state whose voters had decided differently. Oregon's law allowing physician-assisted suicide was approved narrowly in 1994 and reaffirmed by a thumping 60 to 40 percent vote three years later. Congressional conservatives, including Mr. Ashcroft when he was a senator, failed to push through a federal law to overturn it.

So when Mr. Ashcroft became attorney general in 2001, he simply declared that the federal Controlled Substances Act gave him the authority to prevent doctors from prescribing lethal drugs for the purpose of

suicide. That position had been rejected by the Clinton administration, and Mr. Ashcroft issued his own directive without consulting Oregon or apparently anyone else outside his own department. His successor, Alberto Gonzales, embraced this power grab.

The Supreme Court concluded that Mr. Ashcroft had overreached when he ruled that physician-assisted suicide was not a "legitimate medical purpose" that would allow doctors to prescribe lethal drugs under the Controlled Substances Act. That act was intended to thwart drug abuse and trafficking, not to punish doctors who prescribed medicines in accord with state law. The majority found that Congress had not intended to pre-empt the state regulation of medical practice or to give a single executive branch officer the power to define standards of medical practice.

Congressional conservatives are already vowing to push through a law barring assisted suicide. After the sorry display of pandering during the Terri Schiavo tragedy, no one can bet that they won't succeed this time. But our own sense is that Oregon has acted with exquisite care by requiring that two doctors agree that a patient is likely to die within six months, and is well informed and acting voluntarily, before lethal drugs can be prescribed. Congress would be wise not to meddle in a sensitive issue that Oregon has clearly studied far more closely.

END

Pittsburgh Tribune -Review

1/19/06

Editorial: Double trouble

PennDOT has forced Pennsylvanians to play the role of Ricky Ricardo in "I Love Lucy" whenever they demand answers from their hopelessly dysfunctional and duplicitous state transportation agency. If only a simple "Lucy, you got some 'splainin' to do" would cause PennDOT to be forthcoming.

But the Trib had to file a challenge under the state's Right-to-Know law before PennDOT disclosed it settled a whistle-blower lawsuit for $500,000 -- *half-a-million dollars.*

Bill Arnold, a former construction manager, claimed consultants overbilled PennDOT by hundreds of thousands of dollars with the approval of agency managers whom the consultants shamelessly wined and dined.

Presumably state Auditor General Jack Wagner will not ignore the public's right to know after completion of a pending investigation into the overbilling allegations in PennDOT's District 11 office.

But the right to know is not limited to PennDOT.

Mr. Arnold has filed another lawsuit under the federal False Claims Act because the U.S. Department of Transportation did not bother to investigate his allegations about bilking *even though federal money was involved*. Arnold -- who essentially is forcing the federal government to do its job -- would be entitled up to 25 percent of any proceeds.

Everyone has the right to know why taxpayers must *force* both agencies to be accountable.

END

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, January 19, 2006 1:57 PM
To: Khan, Omar
Subject: RE: Any Problems with Outlook today?

Started up this am and had same problem. As before, after a few mins and a few diff tries to log on, however, I was able to get email.

From: Khan, Omar
Sent: Thursday, January 19, 2006 11:09 AM
To: Gorsuch, Neil M
Subject: Any Problems with Outlook today?

Omar Khan
Sr. Systems Engineer
SMO-JMD Server/Ops
PHB RM 4519
[redacted]

Hart, Rosemary

From:	Hart, Rosemary
Sent:	Friday, January 20, 2006 3:04 PM
To:	Sobota, Luke; Jones, Kevin R
Cc:	Gorsuch, Neil M; Marshall, C. Kevin
Subject:	Fw: Request for Comment on the Office of Management and Budget's proposed executive order entitled "Further Amendment to Executive Order 12866 on Regulatory Planning and Review"
Attachments:	tmp.htm; ExecutiveOrderAmendments (1 20 06) (circulated draft).doc; EO12866 (with redlined changes by proposed eo).doc; view memo.form.doc

Luke and Kevin: The 12866 EO has arrived, with a one-week review period. As discussed, we want to make sure that we send this to all appropriate components. Because the issues likely will be more in the policy area, perhaps it would make sense for OLP to coordinate the policy comments but with OLC forwarding the agreed-upon comments in its role as usual point of contact for OMB. Could you work out a sensible distribution list? I am out for 2 weeks? Given the importance of this EO, we want to make sure this doesn't get bounced around too low in the bureaucracy.
Thanks!

Rosemary

Rosemary Hart
Special Counsel
Office of Legal Counsel
U.S. Department of Justice
[redacted]

-----Original Message-----
From: McGavock_D._Reed@omb.eop.gov <McGavock_D._Reed@omb.eop.gov>
To: Hart, Rosemary <Rosemary.Hart@SMOJMD.USDOJ.gov>; [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>; [redacted]@dodgc.osd.mil <[redacted]@dodgc.osd.mil>; State-LRM@state.gov <State-LRM@state.gov>; [redacted]@state.gov <[redacted]@state.gov>; [redacted]@do.treas.gov <[redacted]@do.treas.gov>; [redacted]@do.treas.gov [redacted]@do.treas.gov>; usdaobpaleg@obpa.usda.gov <usdaobpaleg@obpa.usda.gov>; [redacted]@doc.gov [redacted]@doc.gov>; [redacted](DHS) <[redacted]@dhs.gov>; [redacted]@mail.va.gov <[redacted]@mail.va.gov>; [redacted]@os.hhs.gov [redacted]@os.hhs.gov>; [redacted]@epamail.epa.gov [redacted]@epamail.epa.gov>; [redacted]@hud.gov <[redacted]@hud.gov>; [redacted]@ios.doi.gov <[redacted]@ios.doi.gov> [redacted]@dol.gov <[redacted]@dol.gov>; [redacted]@ost.dot.gov <[redacted]@ost.dot.gov>; [redacted]@opm.gov <[redacted]@opm.gov>; [redacted]@ucia.gov <[redacted]@ucia.gov>; [redacted]@ed.gov <[redacted]@ed.gov>; [redacted]@hq.doe.gov <[redacted]@hq.doe.gov> [redacted]@hq.nasa.gov [redacted]@hq.nasa.gov>; ca.legislation@gsa.gov <ca.legislation@gsa.gov>; [redacted]@sba.gov <[redacted]@sba.gov>
CC: Raul_F._Yanes@omb.eop.gov <Raul_F._Yanes@omb.eop.gov>; Steven_D._Aitken@omb.eop.gov <Steven_D._Aitken@omb.eop.gov>; Paul_R._Noe@omb.eop.gov <Paul_R._Noe@omb.eop.gov>;

John_Graham@omb.eop.gov <John_Graham@omb.eop.gov>; Donald_R._Arbuckle@omb.eop.gov <Donald_R._Arbuckle@omb.eop.gov>; Elizabeth_L._Branch@omb.eop.gov <Elizabeth_L._Branch@omb.eop.gov>; Robert_F._Hoyt@who.eop.gov <Robert_F._Hoyt@who.eop.gov>
Sent: Fri Jan 20 14:47:05 2006
Subject: Request for Comment on the Office of Management and Budget's proposed executive order entitled "Further Amendment to Executive Order 12866 on Regulatory Planning and Review"

To all:

Attached for comment is the Office of Management and Budget's proposed executive order entitled "Further Amendment to Executive Order 12866 on Regulatory Planning and Review."

On behalf of the Director of the Office of Management and Budget, this office is collecting input on this proposal. Please communicate any comments or objections to Mr. Mac Reed (e-mail: McGavock_D._Reed@omb.eop.gov; phone (202) 395-3563; fax (202) 395-7294) and copy Ms. Bess Weaver (e-mail: Bessie M. Weaver@omb.eop.gov <mailto:Bessie%20M.%20Weaver@omb.eop.gov> ; phone (202) 395-3556; fax (202) 395-7289) by cob, Friday, January 27, 2006. Please be advised that agencies not responding by that date will be recorded as not objecting to this proposal.

For your reviewing convenience, we have also attached a copy of Executive Order 12866 that shows the changes to be made by the proposed order in redline.

We have also attached a copy of the request for views memorandum and distribution list. (Please see Distribution List I.)

Thank you very much, Mac Reed

Executive Order 12866 of September 30, 1993, as further amended

Regulatory Planning and Review

The American people deserve a regulatory system that works for them, not against them: a regulatory system that protects and improves their health, safety, environment, and well-being and improves the performance of the economy without imposing unacceptable or unreasonable costs on society; regulatory policies that recognize that the private sector and private markets are the best engine for economic growth; regulatory approaches that respect the role of State, local, and tribal governments; and regulations that are effective, consistent, sensible, and understandable. We do not have such a regulatory system today.

With this Executive order, the Federal Government begins a program to reform and make more efficient the regulatory process. The objectives of this Executive order are to enhance planning and coordination with respect to both new and existing regulations; to reaffirm the primacy of Federal agencies in the regulatory decision-making process; to restore the integrity and legitimacy of regulatory review and oversight; and to make the process more accessible and open to the public. In pursuing these objectives, the regulatory process shall be conducted so as to meet applicable statutory requirements and with due regard to the discretion that has been entrusted to the Federal agencies.

Accordingly, by the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Statement of Regulatory Philosophy and Principles.*

(a) *The Regulatory Philosophy.* Federal agencies should promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American p eople. In deciding whether and how to regulate, agencies should assess all costs and benefits of available regulatory alternatives, including the alternative of not regulating. Costs and benefits shall be understood to include both quantifiable measures (to the fullest extent that these can be usefully estimated) and qualitative measures of costs and benefits that are difficult to quantify, but nevertheless essential to consider. Further, in choosing among alternative regulatory approaches, agencies should select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity), unless a statute requires another regulatory approach.

(b) *The Principles of Regulation.* To ensure that the agencies' regulatory programs are consistent with the philosophy set forth above, agencies should adhere to the following principles, to the extent permitted by law and where applicable:

(1) Each agency shall identify the problem that it intends to address (including, where applicable, the failures of private markets or public institutions that warrant new agency action) as well as assess the significance of that problem.

(2) Each agency shall examine whether existing regulations (or other law) have created, or contributed to, the problem that a new regulation is intended to correct and whether those regulations (or other law) should be modified to achieve the intended goal of regulation more effectively.

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(3) Each agency shall identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

(4) In setting regulatory priorities, each agency shall consider, to the extent reasonable, the degree and nature of the risks posed by various substances or activities within its jurisdiction.

(5) When an agency determines that a regulation is the best available method of achieving the regulatory objective, it shall design its regulations in the most cost-effective manner to achieve the regulatory objective. In doing so, each agency shall consider incentives for innovation, consistency, predictability, the costs of enforcement and compliance (to the government, regulated entities, and the public), flexibility, distributive impacts, and equity.

(6) Each agency shall assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.

(7) Each agency shall base its decisions on the best reasonably obtainable scientific, technical, economic, and other information concerning the need for, and consequences of, the intended regulation or guidance.

(8) Each agency shall identify and assess alternative forms of regulation and shall, to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt.

(9) Wherever feasible, agencies shall seek views of appropriate State, local, and tribal officials before imposing regulatory requirements that might significantly or uniquely affect those governmental entities. Each agency shall assess the effects of Federal regulations on State, local, and tribal governments, including specifically the availability of resources to carry out those mandates, and seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving regulatory objectives. In addition, as appropriate, agencies shall seek to harmonize Federal regulatory actions with related State, local, and tribal regulatory and other governmental functions.

(10) Each agency shall avoid regulations and guidances that are inconsistent, incompatible, or duplicative with its other regulations and guidances or those of other Federal agencies.

(11) Each agency shall tailor its regulations and guidances to impose the least burden on society, including individuals, businesses of differing sizes, and other entities (including small communities and governmental entities), consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations.

(12) Each agency shall draft its regulations and guidances to be simple and easy to understand, with the goal of minimizing the potential for uncertainty and litigation arising from such uncertainty.

Sec. 2. *Organization.* An efficient regulatory planning and review process is vital to ensure that the Federal Government's regulatory system best serves the American people.

(a) *The Agencies.* Because Federal agencies are the repositories of significant substantive expertise and experience, they are responsible for developing regulations and guidances and assuring that they

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are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order.

(b) *The Office of Management and Budget.* Coordinated review of agency rulemaking is necessary to ensure that regulations and guidances are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order, and that decisions made by one agency do not conflict with the policies or actions taken or planned by another agency. The Office of Management and Budget (OMB) shall carry out that review function. Within OMB, the Office of Information and Regulatory Affairs (OIRA) is the repository of expertise concerning regulatory issues, including methodologies and procedures that affect more than one agency, this Executive order, and the President's regulatory policies. To the extent permitted by law, OMB shall provide guidance to agencies and assist the President and regulatory policy advisors to the President in regulatory planning and shall be the entity that reviews individual regulations and guidances, as provided by this Executive order.

(c) *Assistance.* In fulfilling his responsibilities under this Executive order, the President shall be assisted by the regulatory policy advisors within the Executive Office of the President and by such agency officials and personnel as the President may, from time to time, consult.

Sec. 3. *Definitions.* For purposes of this Executive order: (a) "Advisors" refers to such regulatory policy advisors to the President as the President may from time to time consult, including, among others: (1) the Director of OMB; (2) the Chair (or another member) of the Council of Economic Advisers; (3) the Assistant to the President for Economic Policy; (4) the Assistant to the President for Domestic Policy; (5) the Assistant to the President for National Security Affairs; (6) the Director of the Office of Science and Technology Policy; (7) the Deputy Assistant to the President and Director for Intergovernmental Affairs; (8) the Assistant to the President and Staff Secretary; (9) the Assistant to the President and Chief of Staff to the Vice President; (10) the Assistant to the President and Counsel to the President; (11) the Chairman of the Council on Environmental Quality and Director of the Office on Environmental Quality; (12) the Assistant to the President for Homeland Security; and (13) the Administrator of OIRA, who also shall coordinate communications relating to this Executive order among the agencies, OMB, the other Advisors, and the Office of the Vice President.

(b) "Agency," unless otherwise indicated, means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10).

(c) "Director" means the Director of OMB.

(d) "Regulation" or "rule" means an agency statement of general applicability and future effect, which the agency intends to have the force and effect of law, that is designed to implement, interpret, or prescribe law or policy or to describe the procedure or practice requirements of an agency. It does not, however, include:

(1) Regulations or rules issued in accordance with the formal rulemaking provisions of 5 U.S.C. 556, 557;

(2) Regulations or rules that pertain to a military or foreign affairs function of the United States, other than procurement regulations and regulations involving the import or export of non-defense articles and services;

(3) Regulations or rules that are limited to agency organization, management, or personnel matters; or

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(4) Any other category of regulations exempted by the Administrator of OIRA.

(e) "Regulatory action" means any substantive action by an agency (normally published in the Federal Register) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking.

(f) "Significant regulatory action" means any regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

(g) “Significant guidance” means an agency statement of general applicability and future effect, other than a regulation required by statute to be published for notice and comment, prepared for regulated entities or the general public to describe the agency’s interpretation of or policy on a statutory, regulatory or technical issue that may:

(1) Reasonably be anticipated to lead to an annual effect of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive order. It does not, however, include:

(A) Guidance on regulations or rules issued in accordance with the formal rulemaking provisions of 5 U.S.C. 556, 557;

(B) Guidances that pertain to a military or foreign affairs function of the United States, other than procurement regulations and regulations involving the import or export of non-defense articles and services;

(C) Guidances on regulations or rules that are limited to agency organization, management, or personnel matters; or

(D) Any other category of guidances exempted by the Administrator of OIRA.

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Sec. 4. *Planning Mechanism.* In order to have an effective regulatory program, to provide for coordination of regulations, to maximize consultation and the resolution of potential conflicts at an early stage, to involve the public and its State, local, and tribal officials in regulatory planning, and to ensure that new or revised regulations promote the President's priorities and the principles set forth in this Executive order, these procedures shall be followed, to the extent permitted by law:

(a) *Agencies' Policy Meeting.* Early in each year's planning cycle, the Director shall convene a meeting of the Advisors and the heads of agencies to seek a common understanding of priorities and to coordinate regulatory efforts to be accomplished in the upcoming year.

(b) *Unified Regulatory Agenda.* For purposes of this subsection, the term "agency" or "agencies" shall also include those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10). Each agency shall prepare an agenda of all regulations under development or review, at a time and in a manner specified by the Administrator of OIRA. The description of each regulatory action shall contain, at a minimum, a regulation identifier number, a brief summary of the action, the legal authority for the action, any legal deadline for the action, and the name and telephone number of a knowledgeable agency official. Agencies may incorporate the information required under 5 U.S.C. 602 and 41 U.S.C. 402 into these agendas.

(c) *The Regulatory Plan.* For purposes of this subsection, the term "agency" or "agencies" shall also include those considered to be independent regulatory agencies, as defined in 44 U.S.C. 3502(10). (1) As part of the Unified Regulatory Agenda, beginning in 1994, each agency shall prepare a Regulatory Plan (Plan) of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form in that fiscal year or thereafter. The Plan shall be approved personally by the agency head and shall contain at a minimum:

(A) A statement of the agency's regulatory objectives and priorities and how they relate to the President's priorities;

(B) A summary of each planned significant regulatory action including, to the extent possible, alternatives to be considered and preliminary estimates of the anticipated costs and benefits;

(C) A summary of the legal basis for each such action, including whether any aspect of the action is required by statute or court order;

(D) A statement of the need for each such action and, if applicable, how the action will reduce risks to public health, safety, or the environment, as well as how the magnitude of the risk addressed by the action relates to other risks within the jurisdiction of the agency;

(E) The agency's schedule for action, including a statement of any applicable statutory or judicial deadlines; and

(F) The name, address, and telephone number of a person the public may contact for additional information about the planned regulatory action.

(2) Each agency shall forward its Plan to OIRA by June 1st of each year.

(3) Within 10 calendar days after OIRA has received an agency's Plan, OIRA shall circulate it to other affected agencies and the Advisors.

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(4) An agency head who believes that a planned regulatory action of another agency may conflict with its own policy or action taken or planned shall promptly notify, in writing, the Administrator of OIRA, who shall forward that communication to the issuing agency and the Advisors.

(5) If the Administrator of OIRA believes that a planned regulatory action of an agency may be inconsistent with the President's priorities or the principles set forth in this Executive order or may be in conflict with any policy or action taken or planned by another agency, the Administrator of OIRA shall promptly notify, in writing, the affected agencies and the Advisors.

(6) The Director may consult with the heads of agencies with respect to their Plans and, in appropriate instances, request further consideration or inter-agency coordination.

(7) The Plans developed by the issuing agency shall be published annually in the October publication of the Unified Regulatory Agenda. This publication shall be made available to the Congress; State, local, and tribal governments; and the public. Any views on any aspect of any agency Plan, including whether any planned regulatory action might conflict with any other planned or existing regulation, impose any unintended consequences on the public, or confer any unclaimed benefits on the public, should be directed to the issuing agency, with a copy to OIRA.

(d) *Regulatory Working Group.* Within 30 days of the date of this Executive order, the Administrator of OIRA shall convene a Regulatory Working Group ("Working Group"), which shall consist of representatives of the heads of each agency that the Administrator determines to have significant domestic regulatory responsibility and the Advisors. The Administrator of OIRA shall chair the Working Group and shall periodically advise the Director on the activities of the Working Group. The Working Group shall serve as a forum to assist agencies in identifying and analyzing important regulatory issues (including, among others (1) the development of innovative regulatory techniques, (2) the methods, efficacy, and utility of comparative risk assessment in regulatory decision-making, and (3) the development of short forms and other streamlined regulatory approaches for small businesses and other entities). The Working Group shall meet at least quarterly and may meet as a whole or in subgroups of agencies with an interest in particular issues or subject areas. To inform its discussions, the Working Group may commission analytical studies and reports by OIRA, the Administrative Conference of the United States, or any other agency.

(e) *Conferences.* The Administrator of OIRA shall meet quarterly with representatives of State, local, and tribal governments to identify both existing and proposed regulations that may uniquely or significantly affect those governmental entities. The Administrator of OIRA shall also convene, from time to time, conferences with representatives of businesses, nongovernmental organizations, and the public to discuss regulatory issues of common concern.

Sec. 5. *Existing Regulations.* In order to reduce the regulatory burden on the American people, their families, their communities, their State, local, and tribal governments, and their industries; to determine whether regulations promulgated by the executive branch of the Federal Government have become unjustified or unnecessary as a result of changed circumstances; to confirm that regulations are both compatible with each other and not duplicative or inappropriately burdensome in the aggregate; to ensure that all regulations are consistent with the President's priorities and the principles set forth in this Executive order, within applicable law; and to otherwise improve the effectiveness of existing regulations: (a) Within 90 days of the date of this Executive order, each agency shall submit to OIRA a program, consistent with its resources and regulatory priorities, under which the agency will periodically review its existing significant regulations to determine whether any such regulations should be modified or eliminated so as to make the agency's regulatory program more effective in achieving the regulatory objectives, less burdensome, or in greater alignment with the President's priorities and the principles set forth in this Executive order. Any significant regulations selected for

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review shall be included in the agency's annual Plan. The agency shall also identify any legislative mandates that require the agency to promulgate or continue to impose regulations that the agency believes are unnecessary or outdated by reason of changed circumstances.

(b) The Administrator of OIRA shall work with the Regulatory Working Group and other interested entities to pursue the objectives of this section. State, local, and tribal governments are specifically encouraged to assist in the identification of regulations that impose significant or unique burdens on those governmental entities and that appear to have outlived their justification or be otherwise inconsistent with the public interest.

(c) The Director, in consultation with the Advisors, may identify for review by the appropriate agency or agencies other existing regulations of an agency or groups of regulations of more than one agency that affect a particular group, industry, or sector of the economy, or may identify legislative mandates that may be appropriate for reconsideration by the Congress.

(d) For each rule with an annual effect of $1 billion or more, the agency shall provide for a reassessment of the benefits and costs of the rule, including a validity analysis comparing those impacts to the costs and benefits estimated for the rule when it originally was promulgated, the earlier of –

(1) 5 years after the effective date of a rule issued on or after January 1, 2006, or

(2) upon review of a rule issued before January 1, 2006, pursuant to a statute, Executive order, or other requirement.

Sec. 6. *Centralized Review of Regulations.* The guidelines set forth below shall apply to all regulatory actions, for both new and existing regulations, by agencies other than those agencies specifically exempted by the Administrator of OIRA:

(a) *Agency Responsibilities.* (1) Each agency shall (consistent with its own rules, regulations, or procedures) provide the public with meaningful participation in the regulatory process. In particular, before issuing a notice of proposed rulemaking, each agency should, where appropriate, seek the involvement of those who are intended to benefit from and those expected to be burdened by any regulation (including, specifically, State, local, and tribal officials). In addition, each agency should afford the public a meaningful opportunity to comment on any proposed regulation, which in most cases should include a comment period of not less than 60 days. Each agency also is directed to explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking.

(2) Within 60 days of the date of this Executive order, each agency head shall designate a Regulatory Policy Officer who shall report to the agency head. The Regulatory Policy Officer shall be involved at each stage of the regulatory process to foster the development of effective, innovative, and least burdensome regulations and to further the principles set forth in this Executive order.

(3) In addition to adhering to its own rules and procedures and to the requirements of the Administrative Procedure Act, the Regulatory Flexibility Act, the Paperwork Reduction Act, and other applicable law, each agency shall develop its regulatory actions in a timely fashion and adhere to the following procedures with respect to a regulatory action:

(A) Each agency shall provide OIRA, at such times and in the manner specified by the Administrator of OIRA, with a list of its planned regulatory actions, indicating those which the agency believes are significant regulatory actions within the meaning of this Executive order. Absent a material change in

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the development of the planned regulatory action, those not designated as significant will not be subject to review under this section unless, within 10 working days of receipt of the list, the Administrator of OIRA notifies the agency that OIRA has determined that a planned regulation is a significant regulatory action within the meaning of this Executive order. The Administrator of OIRA may waive review of any planned regulatory action designated by the agency as significant, in which case the agency need not further comply with subsection (a)(3)(B) or subsection (a)(3)(C) of this section.

(B) For each matter identified as, or determined by the Administrator of OIRA to be, a significant regulatory action, the issuing agency shall provide to OIRA:

(i) The text of the draft regulatory action, together with a reasonably detailed description of the need for the regulatory action and an explanation of how the regulatory action will meet that need; and

(ii) An assessment of the potential costs and benefits of the regulatory action, including an explanation of the manner in which the regulatory action is consistent with a statutory mandate and, to the extent permitted by law, promotes the President's priorities and avoids undue interference with State, local, and tribal governments in the exercise of their governmental functions.

(C) For those matters identified as, or determined by the Administrator of OIRA to be, a significant regulatory action within the scope of section 3(f)(1), the agency shall also provide to OIRA the following additional information developed as part of the agency's decision-making process (unless prohibited by law):

(i) An assessment, including the underlying analysis, of benefits anticipated from the regulatory action (such as, but not limited to, the promotion of the efficient functioning of the economy and private markets, the enhancement of health and safety, the protection of the natural environment, and the elimination or reduction of discrimination or bias) together with, to the extent feasible, a quantification of those benefits;

(ii) An assessment, including the underlying analysis, of costs anticipated from the regulatory action (such as, but not limited to, the direct cost both to the government in administering the regulation and to businesses and others in complying with the regulation, and any adverse effects on the efficient functioning of the economy, private markets (including productivity, employment, and competitiveness), health, safety, and the natural environment), together with, to the extent feasible, a quantification of those costs; and

(iii) An assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agencies or the public (including improving the current regulation and reasonably viable nonregulatory actions), and an explanation why the planned regulatory action is preferable to the identified potential alternatives.

(D) In emergency situations or when an agency is obligated by law to act more quickly than normal review procedures allow, the agency shall notify OIRA as soon as possible and, to the extent practicable, comply with subsections (a)(3)(B) and (C) of this section. For those regulatory actions that are governed by a statutory or court-imposed deadline, the agency shall, to the extent practicable, schedule rulemaking proceedings so as to permit sufficient time for OIRA to conduct its review, as set forth below in subsection (b)(2) through (4) of this section.

(E) After the regulatory action has been published in the Federal Register or otherwise issued to the public, the agency shall:

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(i) Make available to the public the information set forth in subsections (a)(3)(B) and (C);

(ii) Identify for the public, in a complete, clear, and simple manner, the substantive changes between the draft submitted to OIRA for review and the action subsequently announced; and

(iii) Identify for the public those changes in the regulatory action that were made at the suggestion or recommendation of OIRA.

(F) All information provided to the public by the agency shall be in plain, understandable language.

(b) *OIRA Responsibilities.* The Administrator of OIRA shall provide meaningful guidance and oversight so that each agency's regulatory actions are consistent with applicable law, the President's priorities, and the principles set forth in this Executive order and do not conflict with the policies or actions of another agency. OIRA shall, to the extent permitted by law, adhere to the following guidelines:

(1) OIRA may review only actions identified by the agency or by OIRA as significant regulatory actions under subsection (a)(3)(A) of this section.

(2) OIRA shall waive review or notify the agency in writing of the results of its review within the following time periods:

(A) For any notices of inquiry, advance notices of proposed rulemaking, or other preliminary regulatory actions prior to a Notice of Proposed Rulemaking, within 10 working days after the date of submission of the draft action to OIRA;

(B) For all other regulatory actions, within 90 calendar days after the date of submission of the information set forth in subsections (a)(3)(B) and (C) of this section, unless OIRA has previously reviewed this information and, since that review, there has been no material change in the facts and circumstances upon which the regulatory action is based, in which case, OIRA shall complete its review within 45 days; and

(C) The review process may be extended (1) once by no more than 30 calendar days upon the written approval of the Director and (2) at the request of the agency head.

(3) For each regulatory action that the Administrator of OIRA returns to an agency for further consideration of some or all of its provisions, the Administrator of OIRA shall provide the issuing agency a written explanation for such return, setting forth the pertinent provision of this Executive order on which OIRA is relying. If the agency head disagrees with some or all of the bases for the return, the agency head shall so inform the Administrator of OIRA in writing.

(4) Except as otherwise provided by law or required by a Court, in order to ensure greater openness, accessibility, and accountability in the regulatory review process, OIRA shall be governed by the following disclosure requirements:

(A) Only the Administrator of OIRA (or a particular designee) shall receive oral communications initiated by persons not employed by the executive branch of the Federal Government regarding the substance of a regulatory action under OIRA review;

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(B) All substantive communications between OIRA personnel and persons not employed by the executive branch of the Federal Government regarding a regulatory action under review shall be governed by the following guidelines:

(i) A representative from the issuing agency shall be invited to any meeting between OIRA personnel and such person(s);

(ii) OIRA shall forward to the issuing agency, within 10 working days of receipt of the communication(s), all written communications, regardless of format, between OIRA personnel and any person who is not employed by the executive branch of the Federal Government, and the dates and names of individuals involved in all substantive oral communications (including meetings to which an agency representative was invited, but did not attend, and telephone conversations between OIRA personnel and any such persons); and

(iii) OIRA shall publicly disclose relevant information about such communication(s), as set forth below in subsection (b)(4)(C) of this section.

(C) OIRA shall maintain a publicly available log that shall contain, at a minimum, the following information pertinent to regulatory actions under review:

(i) The status of all regulatory actions, including if (and if so, when and by whom) Presidential consideration was requested;

(ii) A notation of all written communications forwarded to an issuing agency under subsection (b)(4)(B)(ii) of this section; and

(iii) The dates and names of individuals involved in all substantive oral communications, including meetings and telephone conversations, between OIRA personnel and any person not employed by the executive branch of the Federal Government, and the subject matter discussed during such communications.

(D) After the regulatory action has been published in the Federal Register or otherwise issued to the public, or after the agency has announced its decision not to publish or issue the regulatory action, OIRA shall make available to the public all documents exchanged between OIRA and the agency during the review by OIRA under this section.

(5) All information provided to the public by OIRA shall be in plain, understandable language.

Sec. 7. *Additional Agency Responsibilities.* Each agency shall notify OMB of significant agency activities that may substantially affect regulatory policy in the following circumstances and manner:

(a) *Significant Guidances.* Each agency shall provide OIRA, at such times and in the manner specified by the Administrator of OIRA, with a list of its planned significant guidances. Upon the request of the Administrator, the issuing agency shall provide to OIRA the text of a draft agency action identified as, or determined by the Administrator to be, a significant guidance, together with a brief explanation of the need for the guidance and how it will meet that need.

(b) *Consent Decrees and Settlements.* Before a rulemaking agency enters into a proposed consent decree, settlement, or other judicial action that would impose requirements on a rulemaking agency that could reasonably be expected to lead to a significant regulatory action or a significant guidance document, the agency (before the agency agrees to the proposal) shall timely submit to the

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Department of Justice and OMB a written description of the proposal, including an assessment of how the action is consistent with applicable statutes, the principles of this Order, and the President's priorities. After such consent decree, settlement, or other judicial action is finalized and becomes public information, the agency shall publish a notice describing it in the Federal Register and make the document available to the public.

Sec. 8. *Resolution of Conflicts.*

(a) To the extent permitted by law, disagreements or conflicts between or among agency heads or between OMB and any agency that cannot be resolved by the Administrator of OIRA shall be resolved by the President, with the assistance of the Chief of Staff to the President ("Chief of Staff"), with the relevant agency head (and, as appropriate, other interested government officials). Presidential consideration of such disagreements may be initiated only by the Director, by the head of the issuing agency, or by the head of an agency that has a significant interest in the regulatory action at issue. Such review will not be undertaken at the request of other persons, entities, or their agents.

(b) Resolution of such conflicts shall be informed by recommendations developed by the Chief of Staff, after consultation with the Advisors (and other executive branch officials or personnel whose responsibilities to the President include the subject matter at issue). The development of these recommendations shall be concluded within 60 days after review has been requested.

(c) During the Presidential review period, communications with any person not employed by the Federal Government relating to the substance of the regulatory action under review and directed to the Advisors or their staffs or to the staff of the Chief of Staff shall be in writing and shall be forwarded by the recipient to the affected agency(ies) for inclusion in the public docket(s). When the communication is not in writing, such Advisors or staff members shall inform the outside party that the matter is under review and that any comments should be submitted in writing.

(d) At the end of this review process, the President, or the Chief of Staff acting at the request of the President, shall notify the affected agency and the Administrator of OIRA of the President's decision with respect to the matter.

Sec. 9. *Publication.* Except to the extent required by law, an agency shall not publish in the Federal Register or otherwise issue to the public any regulatory action that is subject to review under section 6 of this Executive order until (1) the Administrator of OIRA notifies the agency that OIRA has waived its review of the action or has completed its review without any requests for further consideration, or (2) the applicable time period in section 6(b)(2) expires without OIRA having notified the agency that it is returning the regulatory action for further consideration under section 6(b)(3), whichever occurs first. If the terms of the preceding sentence have not been satisfied and an agency wants to publish or otherwise issue a regulatory action, the head of that agency may request Presidential consideration through the Director, as provided under section 7 of this order. Upon receipt of this request, the Director shall notify OIRA and the Advisors. The guidelines and time period set forth in section 7 shall apply to the publication of regulatory actions for which Presidential consideration has been sought.

Sec. 10. *Agency Authority.* Nothing in this order shall be construed as displacing the agencies' authority or responsibilities, as authorized by law.

Sec. 11. *Judicial Review.* Nothing in this Executive order shall affect any otherwise available judicial review of agency action. This Executive order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural,

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enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 12. *Revocations.* Executive Orders Nos. 12291 and 12498; all amendments to those Executive orders; all guidelines issued under those orders; and any exemptions from those orders heretofore granted for any category of rule are revoked.

DOJ_NMG_0009772

Draft 1/20/06
1:15 p.m.

Executive Order

- - - - - -

FURTHER AMENDMENT TO EXECUTIVE ORDER 12866 ON
REGULATORY PLANNING AND REVIEW

By the authority vested in me as President by the Constitution and laws of the United States of America, it is hereby ordered that Executive Order 12866, of September 30, 1993, as amended, is further amended as follows:

Section 1. Section 1 is amended by:

(a) inserting in Section 1(b)(7) after "regulation" the words "or guidance".

(b) inserting in Section 1(b)(10) in both places after "regulations" the words "and guidances".

(c) inserting in Section1(b)(11) after "its regulations" the words "and guidances".

(d) inserting in Section 1(b)(12) after "regulations" the words "and guidances".

Sec. 2. Section 2 is amended by:

(a) inserting in Section 2(a) after "developing regulations" the words "and guidances".

(b) striking in Section 2(a) "the regulations" and inserting in lieu thereof the word "they".

(c) inserting in Section 2(b) in both places after "regulations" the words "and guidances".

Sec. 3. Section 3 is amended by inserting after Section 3(f) the following:

"(g) "Significant guidance" means an agency statement of general applicability and future effect, other than a regulation required by statute to be published for notice and comment, prepared for regulated entities or the general public to describe the agency's interpretation of or policy on a statutory, regulatory or technical issue that may:

(1) Reasonably be anticipated to lead to an annual effect of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order. It does not, however, include:

(A) Guidance on regulations or rules issued in accordance with the formal rulemaking provisions of 5 U.S.C. 556, 557;

(B) Guidances that pertain to a military or foreign affairs function of the United States, other than procurement regulations and regulations involving the import or export of non-defense articles and services;

(C) Guidances on regulations or rules that are limited to agency organization, management, or personnel matters; or

(D) Any other category of guidances exempted by the Administrator of OIRA."

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Sec. 4. Section 5 is amended by inserting after Section 5(c) the following:

"(d) For each rule with an annual effect of $1 billion or more, the agency shall provide for a reassessment of the benefits and costs of the rule, including a validity analysis comparing those impacts to the costs and benefits estimated for the rule when it originally was promulgated, the earlier of –

(1) 5 years after the effective date of a rule issued on or after January 1, 2006, or

(2) upon review of a rule issued before January 1, 2006, pursuant to a statute, Executive order, or other requirement."

Sec. 5. Sections 7 – 11 are redesignated respectively as Sections 8 - 12.

Sec. 6. After Section 6, a new Section 7 is inserted as follows:

"**Sec. 7.** *Additional Agency Responsibilities*. Each agency shall notify OMB of significant agency activities that may substantially affect regulatory policy in the following circumstances and manner:

(a) *Significant Guidances.* Each agency shall provide OIRA, at such times and in the manner specified by the Administrator of OIRA, with a list of its planned significant guidances. Upon the request of the Administrator, the issuing agency shall provide to OIRA the text of a draft agency action identified as, or determined by the Administrator to be, a significant guidance, together with a brief explanation of the need for the guidance and how it will meet that need.

(b) *Consent Decrees and Settlements*. Before a rulemaking agency enters into a proposed consent decree, settlement, or other judicial action that would impose requirements on a rulemaking agency that could reasonably be expected to lead to a

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significant regulatory action or a significant guidance document, the agency (before the agency agrees to the proposal) shall timely submit to the Department of Justice and OMB a written description of the proposal, including an assessment of how the action is consistent with applicable statutes, the principles of this Order, and the President's priorities. After such consent decree, settlement, or other judicial action is finalized and becomes public information, the agency shall publish a notice describing it in the Federal Register and make the document available to the public."

THE WHITE HOUSE,

DOJ_NMG_0009776

To all:

Attached for comment is the Office of Management and Budget's proposed executive order entitled "Further Amendment to Executive Order 12866 on Regulatory Planning and Review."

On behalf of the Director of the Office of Management and Budget, this office is collecting input on this proposal. Please communicate any comments or objections to Mr. Mac Reed (e-mail: McGavock_D._Reed@omb.eop.gov; phone (202) 395-3563; fax (202) 395-7294) and copy Ms. Bess Weaver (e-mail: Bessie M. Weaver@omb.eop.gov; phone (202) 395-3556; fax (202) 395-7289) by cob, Friday, January 27, 2006. Please be advised that agencies not responding by that date will be recorded as not objecting to this proposal.

For your reviewing convenience, we have also attached a copy of Executive Order 12866 that shows the changes to be made by the proposed order in redline.

We have also attached a copy of the request for views memorandum and distribution list. (Please see Distribution List I.)

Thank you very much, Mac Reed

January 20, 2006

MEMORANDUM FOR DESIGNATED AGENCY HEADS
(SEE ATTACHED DISTRIBUTION LIST)

FROM: Mac Reed
Assistant General Counsel

SUBJECT: Proposed Executive Order entitled "Further Amendment to Executive Order 12866 on Regulatory Planning and Review"

Attached is a proposed executive order that was prepared by the Office of Management and Budget.

On behalf of the Director of the Office of Management and Budget, this office is collecting input on this proposal. Please communicate any comments or objections to Mr. Mac Reed (e-mail: McGavock_D._Reed@omb.eop.gov; phone (202) 395-3563; fax (202) 395-7294) and copy Ms. Bess Weaver (e-mail: Bessie M. Weaver@omb.eop.gov; phone (202) 395-3556; fax (202) 395-7289) by cob, Friday, January 27, 2006. Please be advised that agencies not responding by that date will be recorded as not objecting to this proposal.

For your reviewing convenience, we have also attached a copy of Executive Order 12866 that shows the changes to be made by the proposed order in redline.

Thank you.

Attachments - Distribution List I
Proposed Executive Order
Executive Order 12866, with redlined changes

cc: Josh Bolten
Joel Kaplan
Austin Smythe
Clay Johnson
John Graham
David Anderson
Joseph Bowab
Karen Evans
J. D. Foster
Noam Neusner
Dean Clancy
Linda Combs
Raul Yanes

DISTRIBUTION LIST I

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Secretary
Department of State

Honorable John W. Snow
Secretary
Department of the Treasury

Honorable Donald Rumsfeld
Secretary
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Department of Agriculture

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Honorable Michael Chertoff
Secretary
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Central Intelligence Agency

Honorable Linda A. Springer
Director
Office of Personnel Management

Honorable Michael Griffin
Administrator
National Aeronautics and Space Administration

Honorable Stephen A. Perry
Administrator
General Services Administration

Honorable Hector V. Barreto, Jr.
Administrator
Small Business Administration

Honorable Stephen Hadley

Assistant to the President
for National Security Affairs

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United States Trade Representative

Honorable John H. Marburger III
Director
Office of Science and Technology Policy

Honorable Claude Allen
Assistant to the President
for Domestic Policy

Dr. Harvey S. Rosen
Council of Economic Advisers

Honorable Harriet Miers
Counsel to the President

Honorable David Addington
Chief of Staff to the Vice President

Honorable Brett Kavanaugh
Staff Secretary to the President

Honorable Liza Wright
Director of Presidential Personnel

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Honorable Nicolle Wallace
Assistant to the President for Communications

Honorable Karl Rove
Senior Advisor to the President

Honorable David Hobbs
Assistant to the President and
Director of Legislative Affairs

Honorable Heidi Smith
Special Assistant to the President for Cabinet Liaison

Honorable Ruben Barrales
Deputy Assistant to the President
and Director of Intergovernmental Affairs

Honorable Francis Townsend
Assistant to the President
for Homeland Security and Counterterrorism

Honorable James L. Connaughton
Chairman
Council on Environmental Quality

Honorable John Straub
Special Assistant to the President and
Director, Office of Administration

Mr. G. Timothy Saunders
Executive Clerk

DISTRIBUTION LIST II

Honorable Alberto Gonzales
Attorney General of the United States

Honorable Donald Rumsfeld
Secretary
Department of Defense

Honorable Michael Chertoff
Secretary
Department of Homeland Security

Honorable R. James Nicholson
Secretary
Department of Veterans Affairs

Honorable Porter Goss
Director
Central Intelligence Agency

Honorable Stephen J. Hadley
Assistant to the President
for National Security Affairs

Honorable Claude Allen
Assistant to the President
for Domestic Policy

Honorable Harriet Miers
Counsel to the President

Honorable Brett Kavanaugh
Staff Secretary to the President

Honorable David Addington
Chief of Staff to the Vice President

Honorable James L. Connaughton
Chairman
Council on Environmental Quality

Honorable John Marburger
Director
Office of Science and Technology Policy

Honorable Robert Portman
United States Trade Representative

Honorable Harvey S. Rosen
Council of Economic Advisers

Honorable John P. Walters
Director
Office of National Drug Control Policy

Honorable Allen B. Hubbard
Assistant to the President for Economic Policy

Honorable Dan Bartlett
Assistant to the President for Communications

Honorable Ruben Barrales
Deputy Assistant to the President
and Director of Intergovernmental Affairs

Honorable Liza Wright
Director of Presidential Personnel

Honorable Candi Wolff
Assistant to the President and
Director of Legislative Affairs

Honorable Heidi Marquez Smith
Special Assistant to the President
For Cabinet Liasion

Honorable Francis Townsend

Assistant to the President
for Homeland Security and Counterrorism

Honorable Barry Jackson
Deputy Assistant to the President
and Deputy to the Senior Advisor

Honorable Sara Taylor
Deputy Assistant to the President
And Director of Political Affairs

Honorable Mike Gerson
Assistant to the President for Policy
and Strategic Planning

Honorable Desiree T. Sayle
Deputy Assistant to the President
and Director of USA Freedom Corps

Honorable Jim Towey
Assistant to the President and Director
of the Office of Faith-Based and Community Initiatives

Mr. G. Timothy Saunders
Executive Clerk

Bryan.DelMonte@osd.mil

From:	Bryan.DelMonte@osd.mil
Sent:	Friday, January 20, 2006 4:55 PM
To:	Gorsuch, Neil M; nbruno@cfr.org; MBehringer@apprisemedia.com
Cc:	allenc@dodgc.osd.mil; beaverd@dodgc.osd.mil
Subject:	Reading Materials - DoD
Attachments:	tmp.htm; USCATREPORT2005.pdf

Neil/Mike:

Attached is the US Periodic Report to the Committee Against Torture submitted in 2005. I would advise the group to read the annex to this document as it explains in detail the basis (both policy and legal) of the Administration's positions on detention operations as well as providing a broad scope of information about DoD detention operations from the military.
I believe it is the most comprehensive and concise document produced by the government about detention operations and the GWOT.

Thanks.

Bryan

<<USCATREPORT2005.pdf>>

Neil/Mike:

Attached is the US Periodic Report to the Committee Against Torture submitted in 2005. I would advise the group to read the annex to this document as it explains in detail the basis (both policy and legal) of the Administration's positions on detention operations as well as providing a broad scope of information about DoD detention operations from the military. I believe it is the most comprehensive and concise document produced by the government about detention operations and the GWOT.

Thanks.

Bryan

<<USCATREPORT2005.pdf>>

UNITED
NATIONS

CAT

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.
GENERAL

CAT/C/48/Add.3
29 June 2005

Original: ENGLISH

COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Second periodic reports of States parties due in 1999*

Addendum *** ****

UNITED STATES OF AMERICA

[6 May 2005]

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* The Committee against Torture decided at its twenty-fourth session to request the second periodic report of the United States by 19 November 2001 (see A/55/44), para. 180 (f)).

** The initial report submitted by the Government of the United States of America is contained in document CAT/C/28/Add.5; for its consideration by the Committee, see documents CAT/C/SR.424, 427 and 431 and *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 44* (A/55/44), paras. 175-180.

*** The attachments to annex 1 and annexes 2 and 7 to the present report submitted by the Government of the United States of America may be consulted in the files of the secretariat.

**** In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

GE.05-42590 (E) 160905

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I. INTRODUCTION

1. The Government of the United States of America welcomes the opportunity to report to the Committee Against Torture on measures giving effect to its undertakings under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Torture Convention), pursuant to Article 19 thereof and on other information that may be helpful to the Committee. The organization of this Second Periodic report follows the General guidelines regarding the form and contents of periodic reports to be submitted by states parties (CAT/C/14/Rev.1).

2. This report was prepared by the U.S. Department of State ("Department of State") with extensive assistance from the U.S. Department of Justice ("Department of Justice"), the U.S. Department of Homeland Security ("Department of Homeland Security"), the U.S. Department of Defense ("Department of Defense") and other relevant departments and agencies of the United States Government. Except where otherwise noted, the report covers the situation for the period after October 1999 and prior to March 1, 2005.

3. The United States submitted its Initial Report to the Committee Against Torture in October 1999 (CAT/C/28/Add.5), hereafter referred to as "Initial Report". It made its oral presentation of that report to the Committee on May 10-15, 2000. Accordingly, the purpose of this Second Periodic Report is to provide an update of relevant information arising since the submission of the Initial Report.

4. Since the Initial Report, with the attacks against the United States of September 11, 2001, global terrorism has fundamentally altered our world. In fighting terrorism, the U.S. remains committed to respecting the rule of law, including the U.S. Constitution, federal statutes, and international treaty obligations, including the Torture Convention.

5. The President of the United States has made clear that the United States stands against and will not tolerate torture under any circumstances. On the United Nations International Day in Support of Victims of Torture, June 26, 2004, the President confirmed the continued importance of these protections and of U.S. obligations under the Torture Convention, stating:

> …[T]he United States reaffirms its commitment to the worldwide elimination of torture . . . . To help fulfill this commitment, the United States has joined 135 other nations in ratifying the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. America stands against and will not tolerate torture. We will investigate and prosecute all acts of torture and undertake to prevent other cruel and unusual punishment in all territory under our jurisdiction….
>
> These times of increasing terror challenge the world. Terror organizations challenge our comfort and our principles. The United States will continue to take seriously the need to question terrorists who have information that can save lives. But we will not compromise the rule of law or the values and principles that make us strong. Torture is wrong no matter where it occurs, and the United States will continue to lead the fight to eliminate it everywhere. *See* Annex 2.

6. The United States is unequivocally opposed to the use and practice of torture. No circumstance whatsoever, including war, the threat of war, internal political instability, public emergency, or an order from a superior officer or public authority, may be invoked as a justification for or defense to committing torture. This is a longstanding commitment of the United States, repeatedly reaffirmed at the highest levels of the U.S. Government.[1]

7. All components of the United States Government are obligated to act in compliance with the law, including all United States constitutional, statutory, and treaty obligations relating to torture and cruel, inhuman or degrading treatment or punishment.[2] The U.S. Government does not permit, tolerate, or condone torture, or other unlawful practices, by its personnel or employees under any circumstances. U.S. laws prohibiting such practices apply both when the employees are operating in the United States and in other parts of the world.

8. The legal and policy framework through which the United States gives effect to its Convention undertakings has not changed fundamentally since the Initial Report. Unless otherwise noted, the scope of the relevant protections afforded by the United States Constitution and comparable state constitutions, as well as the statutory and regulatory provisions governing the criminal justice system, detention conditions, and the relevant immigration laws and policies continue to apply. Furthermore, the U.S. federal court cases that have referenced the Torture Convention in some way since October, 1999, numbering well over 1000, illustrate the real impact of U.S. Convention undertakings on the U.S. legal system.[3]

9. By letter of May 21, 2004, the Committee requested "updated information concerning the situation in places of detention in Iraq, up to the time of the submission of the report." In Annex 1, Part Two the United States provides a discussion and related materials relevant to its detention of individuals under the control of U.S. Armed Forces in Iraq captured during military operations. The United States provides similar information in Annex 1, Part One, with respect to detentions of individuals under the control of U.S. Armed Forces in Afghanistan and Guantanamo Bay, Cuba.

10. The United States is aware of allegations that detainees held in U.S. custody pursuant to the global war on terrorism have been subject to torture or other mistreatment. The President of the United States, as noted above, has clearly stated that torture is prohibited. When allegations of torture or other unlawful treatment arise, they are investigated and, if substantiated, prosecuted. These issues are addressed in detail in this report and its annexes with a view to conveying the seriousness of the commitment of the United States on these issues.

II. INFORMATION ON NEW MEASURES AND NEW DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE CONVENTION

Article 1 (Definition)

11. The definition of torture accepted by the United States upon ratification of the Convention and reflected in the understanding issued in its instrument of ratification remains unchanged. The definition of torture is codified in U.S. law in several contexts.

12. As explained in the Initial Report, this definition is codified at Chapter 113B of Title 18 of the United States Code, which provides federal criminal jurisdiction over an extraterritorial act or attempted act of torture if (1) the alleged offender is a national of the United States or (2) if the alleged offender is present in the United States, irrespective of the nationality of the victim or alleged offender. *See* 18 U.S.C. §§ 2340 and 2340A, as amended (the extraterritorial criminal torture statute), which is set forth in Annex 5. On October 26, 2001, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Pub. L. 107-56, Title VIII, § 811(g), amended § 2340A to add an explicit conspiracy provision with strengthened penalties to the substantive offense described in the extraterritorial criminal statute. This prohibition on torture and conspiracy to torture extends, inter alia, to U.S. employees and U.S. contractors of the United States anywhere in the world outside of the United States, provided that the conduct falls within the enumerated elements of the statute. At the time of the enactment of 18 U.S.C. §§ 2340, 2340A, 18 U.S.C. § 2 already punished those who aid, abet, counsel, command, induce, procure or cause the commission of an offense against the United States.

13. On December 30, 2004 the Department of Justice's Office of Legal Counsel (OLC), which provides legal advice to the Executive Branch, published a memorandum that addresses the legal standards applicable under the extraterritorial criminal torture statute. This memorandum is available at Annex 3 and at http://www.usdoj.gov/olc/dagmemo.pdf. Under the language Congress adopted in enacting the statute, in order to constitute "torture" under § 2340 -2340A, the conduct in question must have been "specifically intended to inflict severe physical or mental pain or suffering." The December 30, 2004 memorandum separately considers each of the principal components of that key phrase: (1) the meaning of "severe"; (2) the meaning of "severe physical pain or suffering"; (3) the meaning of "severe mental pain or suffering"; and (4) the meaning of "specifically intended." The memorandum supersedes an earlier memorandum of that same office in August 2002 on the same statute, discussing the definition of torture and the possible defenses to torture under U.S. law. The Department of Justice had previously withdrawn the August 2002 memorandum.

14. Torture is also defined in the immigration and extradition regulations that implement U.S. obligations under Article 3, as discussed below. *See* 8 Code of Federal Regulations (C.F.R.) § 208.18(a) and 22 C.F.R. § 95.1(b).

15. The term "torture" is also defined in the Torture Victim Protection Act (TVPA), 28 U.S.C. § 1350, note, which, as discussed in greater detail in paragraph 82 below, permits victims of torture and extrajudicial killings to claim damages for such abuses.

Article 2 (Prohibition)

16. As indicated in the Initial Report, in the U.S. legal system, acts of torture are prohibited by law and contrary to U.S. policy, subject to prompt and impartial investigations, and punished by appropriate sanction. As noted above, the core legal framework through which the United States gives effect to its Convention undertakings to prevent acts of torture has not changed fundamentally since the Initial Report. As explained in the Initial Report, it is clear that any act of torture falling within the Torture Convention definition would in fact be criminally

prosecutable in every jurisdiction within the United States. Such acts may be prosecuted, for example, as assault, battery or mayhem in cases of physical injury; as homicide, murder or manslaughter, when a killing results; as kidnapping, false imprisonment or abduction where an unlawful detention is concerned; as rape, sodomy, or molestation; or as part of an attempt, or a conspiracy, an act of racketeering, or a criminal violation of an individual's civil rights.

17. Since the Initial Report, the jurisdiction to prosecute torture as well as other serious abuses short of torture that are committed outside the United States has been expanded. The extraterritorial jurisdiction to prosecute torture and other serious abuses is discussed in greater detail under Article 5.

18. Throughout this report, we refer to numerous specific actions that the United States is taking to combat various forms of serious abuse. Although the examples cited throughout the report do not necessarily involve acts of torture as defined under Article 1 of the Convention, as ratified by the United States, or cruel, inhuman or degrading treatment or punishment as defined under Article 16 of the Convention, as ratified by the United States, they are included to illustrate the commitment of the United States, or as the case may be, the sub-Federal level authorities in the United States, to prevent and prosecute serious abuses, whether or not they fall within these definitions of torture or cruel, inhuman or degrading treatment or punishment.[4]

19. The United States is fully aware of allegations that U.S. military or intelligence personnel have subjected detainees in various locations to torture. Allegations with respect to the military are discussed in more detail in Annex 1. The numerous statements by Executive Branch officials condemning the use of torture, made in response to allegations of abuse arising out of detentions in Afghanistan, Guantanamo Bay and Iraq, have emphasized that torture is prohibited as a matter of U.S. law. When allegations of abuses arise, they in all cases will be investigated and, if substantiated, prosecuted. As described in the Initial Report, the Congress of the United States has authorized a separate system of military justice for members of the United States armed forces. Members of the armed forces are subject to the Uniform Code of Military Justice, which, among other things, includes a specific offense of cruelty or maltreatment. *See* Annex 1. Annex 1 provides a description of the investigations into abuse allegations arising out of detentions of individuals under the control of U.S. Armed Forces in Afghanistan, Iraq and Guantanamo Bay, Cuba and actions to hold personnel of the U.S. armed forces accountable under the military justice system when they have been found to have committed unlawful acts. *See* Annex 1. Allegations regarding intelligence activities are currently under review by the Inspector General of the Central Intelligence Agency (CIA). That office has reported and will continue to report its findings to the Director of the Central Intelligence Agency and the Congressional Intelligence Oversight Committees and will continue to forward substantiated cases of abuse for investigation and prosecution to the Department of Justice.

20. **Federal criminal prosecutions of complaints about abuse.** Since the Initial Report, complaints about abuse including physical injury by individual law enforcement officers continue to be made and are investigated, and if the facts so warrant, officers are prosecuted by federal and state authorities. As described in the Initial Report, the Criminal Section of the Department of Justice's Civil Rights Division is charged with reviewing such complaints made to the Federal Government and ensuring the vigorous enforcement of the federal statutes that

make torture, or any willful use of excessive force, illegal. The Department of Justice is committed to investigating all incidents of willful use of excessive force by law enforcement officers and to prosecuting federal law violations should action by the local and state authorities fail to vindicate the federal interest. Between October 1, 1999 and January 1, 2005, 284 officers were convicted of violating federal civil rights statutes. Most of these law enforcement officers were charged with using excessive force.

21. Below are some significant examples of recent federal law enforcement prosecutions that occurred between October 1, 1999 and January 1, 2005:

- On September 7, 2004, a Texas police officer was convicted on federal civil rights charges under 18 U.S.C. § 242 for repeatedly assaulting a handcuffed man while the officer was acting under color of law during an arrest, and then attempting to cover up his actions. The police officer first kicked and choked the man, who was handcuffed to the side of a police car, then proceeded to stick his gun barrel into the victim's mouth, threatening to kill him. As of January 1, 2005, the defendant had not yet been sentenced;

- On July 14, 2004, an Oklahoma police officer was convicted and awaits sentencing for assaulting and fracturing the hip of a 67-year-old man he stopped for a traffic violation. The officer was prosecuted under 18 U.S.C. § 242 for the willful unreasonable seizure of the victim under the color of law;

- On May 19, 2004, a Louisiana detention officer was convicted and is awaiting sentencing for repeatedly throwing a handcuffed detainee against a wall resulting in significant lacerations to his face. The officer was prosecuted under 18 U.S.C. § 242 for the willful deprivation of the victim's liberty without due process under color of law;

- On March 25, 2004, the United States Court of Appeals for the Eleventh Circuit affirmed the conviction and sentence of a former deputy sheriff with the Jacksonville, Florida Sheriff's Department, who was charged and convicted for kidnapping, murdering, and stealing money from motorists, bank customers, and drug dealers whom he falsely arrested in 1998 and 1999. The deputy sheriff was sentenced to life in prison for, among other charges, the violation of 18 U.S.C. § 241 for conspiracy to deprive one of the victims of life and the others of liberty and property without due process under color of law;

- On September 24, 2003, a North Carolina police officer pleaded guilty to a felony civil rights charge for coercing women, whom he stopped or arrested, into having sex with him. He was sentenced to ten years in prison for willful deprivation of liberty without due process under color of law;

- On January 29, 2002, a North Carolina chief of police was convicted of using excessive force in seven separate incidents, involving six separate arrestees. The defendant was sentenced to 37 months in prison for willfully conducting unreasonable seizures under color of law in violations of 18 U.S.C. § 242;

- On May 27, 2001, the last of five male orderlies at a state-run care facility for developmentally disabled adults near Memphis, Tennessee was convicted for routinely beating residents. One of these beatings resulted in the death of a developmentally disabled patient who could not cry out for help because he was mute. The orderlies received sentences ranging from 60 to 180 months in prison under 18 U.S.C. § 242 for willful deprivation of the victim's liberty without due process under color of law;

- On February 7, 2001, six correctional officers with the Arkansas Department of Corrections beat and repeatedly shocked two naked and handcuffed victims with a hand-held stun gun and cattle prod. During a separate incident, three of the six defendants shocked and beat another handcuffed inmate. Ultimately, five officers entered guilty pleas while the sixth was convicted at trial. They were sentenced to terms of incarceration ranging from 24 to 78 months under 18 U.S.C. § 242 for imposing cruel and unusual punishment under color of law. Between March 3, 2001 and August 21, 2001, another three correctional officers with the Arkansas Department of Corrections pled guilty to assaulting an inmate while his hands were handcuffed behind his back. They were later sentenced to terms of incarceration ranging from 8 to 18 months in prison under 18 U.S.C. § 242 for imposing cruel and unusual punishment under color of law;

- On January 23, 2001, a Florida Department of Corrections officer with the Metro Dade Jail was convicted of assaulting a female inmate resulting in multiple contusions to her face, back, and neck. He was sentenced to 17 months in prison under 18 U.S.C. § 242 for imposing cruel and unusual punishment under color of law;

- On November 9, 2000, a correctional officer captain from a state of Florida jail pled guilty to having forcible sexual contact with a female inmate and was thereafter sentenced to 15 months in prison. He was prosecuted under 18 U.S.C. § 242 for willful deprivation of the victim's liberty without due process under color of law;

- On November 2, 2000, seven federal correctional officers from the U.S. Penitentiary in Florence, Colorado, were indicted for systematically beating inmates and making false statements to cover-up their illegal conduct. On June 24, 2003, the jury convicted the three ringleaders on conspiracy and substantive counts. They were sentenced to 30 and 41 months in prison for, among other charges, the violation of 18 U.S.C. § 241 for conspiring to impose cruel and unusual punishment under color of law;

- On March 23, 2000, a U.S. Bureau of Prisons correctional officer in Oklahoma City was convicted of engaging in various degrees of sexual misconduct with five female inmates. As a result, he was sentenced to 146 months in prison under 18 U.S.C. § 242 for imposing cruel and unusual punishment under color of law;

- On February 15, 2000, a Mississippi chief of police was convicted of striking an arrestee several times in the head with a baton while the victim was handcuffed in the back of a patrol car. He was sentenced to 13 months in prison under 18 U.S.C. § 242 for a willful unreasonable seizure under color of law;

- On December 13, 1999, New York City Police Officer, Justin Volpe, was sentenced to thirty years in prison under 18 U.S.C. § 242, for brutally sodomizing Abner Louima in a New York City police station, while acting under the color of law. Five other officers were convicted of obstructing justice during the investigation of the assault of Louima and a second arrestee and three of the officers were incarcerated for sentences ranging from three to five years. The convictions of two of these officers were, however, reversed by the United States Court of Appeals for the Second Circuit, which found their conduct did not violate federal obstruction of justice law.

22. **Criminal prosecutions of complaints of abuse at the state and local level.** Additionally, prosecutions of abuse at the state and local level continue, some examples of which are cited below:

- In July 2004, a District of Columbia police officer was found guilty by a D.C. Superior Court jury of simple assault after shoving the barrel of his gun into the cheek of a man, following a confrontation at a gas station;

- On April 1, 2004, three Miami, Florida police officers were convicted on conspiracy charges after they took part in a scheme to plant guns near the bodies of two fleeing robbers shot to death by police. Sentences ranged from five to ten years;

- In 2002, a New York City, New York police officer was convicted of sodomy and reckless endangerment after forcing a 16-year old prostitute to engage in oral sex. The officer was sentenced to 7 years in prison;

- On November 1, 2000 the Appellate Court of Illinois upheld the decision by a municipal police board to dismiss a Chicago police officer for striking a detained suspect in the head and mouth.

23. **Federal criminal prosecutions of violations of procedural rights.** Complaints about failures to accord due process or "procedural rights" by individual law enforcement officers continue to be made to federal and state authorities. As described in the Initial Report, the Criminal Section of the Department of Justice's Civil Rights Division is charged with reviewing such complaints made to the Federal Government and ensuring the vigorous enforcement of the applicable federal criminal civil rights statutes. The Department of Justice is committed to investigating all allegations of willful violations of constitutional rights and to prosecute federal law violations should action by the local and state authorities fail to vindicate the federal interest. For example, as of January 1, 2005, the Civil Rights Division is conducting two separate ongoing investigations in two different states involving allegations that local police officers used threats of force to coerce information or a confession from an arrestee.

24. **Civil Pattern or Practice Enforcement.** As discussed in the Initial Report, the Department of Justice's Civil Rights Division may institute civil actions for equitable and declaratory relief pursuant to the Pattern or Practice of Police Misconduct provision of the Crime Bill of 1994, 42 U.S.C. § 14141 (Section 14141), which prohibits law enforcement

agencies from engaging in a pattern or practice of violating people's civil rights. Since October 1999, the Civil Rights Division has negotiated 16 settlements with law enforcement agencies. These settlements include two consent decrees regarding the Detroit, Michigan Police Department, and consent decrees covering Prince George's County, Maryland and Los Angeles, California police departments. Other recent settlements include those entered into with police departments in the District of Columbia; Cincinnati, Ohio; Buffalo, New York; Villa Rica, Georgia; and Cleveland, Ohio. As of January 1, 2005, there are currently 13 ongoing investigations of law enforcement agencies.

25. The resolution of the Division's investigation of the Detroit Michigan Police Department illustrates the impact of the Division's law enforcement misconduct program. On June 12, 2003, the Division filed a complaint alleging a pattern or practice of conduct by Detroit officers subjecting individuals to uses of excessive force, false arrests, illegal detentions and unconstitutional conditions of confinement. On the same date, the Division and the City of Detroit filed two proposed consent decrees and a Joint Motion to Appoint a Monitor. The consent decrees require reform in the following areas: use of force, arrest and witness detention practices, and holding cell conditions. Both consent decrees enhance the Police Department's policies, as well as require the supervision, accountability, and training necessary to implement and sustain the policies.

26. **CRIPA.** The Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. § 1997 et seq., which permits the Attorney General to bring civil lawsuits against state institutions regarding the civil rights of their residents, including the conditions of their confinement and use of excessive force, is another statute pursuant to which the Department of Justice's Civil Rights Division continues to prevent unlawful use of force. By August 2004, the Civil Rights Division had initiated CRIPA actions regarding approximately 400 facilities, resulting in approximately 120 consent decrees and settlements governing conditions in about 240 facilities, since CRIPA was enacted in 1980. CRIPA enforcement has been a major priority of the Division. Since October 1999, the Division has opened 52 new investigations covering 66 facilities. The Division has also entered into 39 settlement agreements including seven consent decrees. As of January 1, 2005, there are currently 59 active investigations covering 69 facilities.

27. **Federal enforcement actions addressing prison conditions.** As stated above, the Civil Rights Division investigates conditions in state prisons and local jail facilities pursuant to CRIPA, and investigates conditions in state and local juvenile detention facilities pursuant to either CRIPA or Section 14141. These statutes allow the Department of Justice to bring legal actions for declaratory or equitable relief for a pattern or practice of unconstitutional conditions of confinement. Some examples of these investigations follow:

- On July 16, 2004, the Civil Rights Division reached an out-of-court agreement with the Wicomico County Detention Center in Salisbury, Maryland regarding systematic violations of prisoners' federally protected civil rights. The Division's three-year investigation revealed evidence that the Detention Center failed to provide required medical and mental health care, failed to provide adequate inmate safety, and failed to provide sufficiently sanitary living conditions. Under the terms of the agreement, the Detention Center will address and correct the deficiencies identified by the Division;

- On June 7, 2004, the Civil Rights Division filed a lawsuit challenging the conditions of confinement at the Terrell County Jail in Dawson, Georgia. The Division's complaint alleges that the jail routinely violates federally protected rights, including failing to protect inmate safety, and failing to provide required medical and mental health care.

28. The Division has also recently issued letters reporting its findings regarding conditions at the McPherson and Grimes Correctional Units in Newport, Arkansas, the Garfield County Jail and County Work Center in Enid, Oklahoma, the Patrick County Jail in Virginia, and the Santa Fe Adult Detention Center in New Mexico.

29. **Litigation of prison conditions in state courts.** Additionally, inmates have been successful in challenging prison conditions in state courts as violations of state and federal law. Some examples follow:

- On April 29, 2003, the Supreme Court of Montana held that the Montana State Prison system violated the Montana Constitutional rights of inmates housed in filthy, uninhabitable prison cells. Inmates were forced to inhabit cells that contained blood, feces, vomit and other types of debris. The Montana Supreme Court held that such living conditions were an "affront to the inviolable right of human dignity." *Walker v. State*, 68 P.3d 872, 885 (Mont. 2003);

- On October 5, 2000, the Supreme Court of Arkansas found that the established constitutional right against cruel and unusual punishment included a prison inmate's right to be reasonably protected from attacks by other prisoners. *Boyd v. Norris*, No. 00-536, 2000 Ark. LEXIS 458, at *2 (Ark. Oct. 5, 2000).

Article 3 (Non-refoulement)

30. The United States continues to recognize its obligation not to "expel, return ('refouler') or extradite a person to another state where there are substantial grounds for believing that he would be in danger of being subjected to torture". The United States is aware of allegations that it has transferred individuals to third countries where they have been tortured. The United States does not transfer persons to countries where the United States believes it is "more likely than not" that they will be tortured.[5] This policy applies to all components of the United States government. The United States obtains assurances, as appropriate, from the foreign government to which a detainee is transferred that it will not torture the individual being transferred. If assurances were not considered sufficient when balanced against treatment concerns, the United States would not transfer the person to the control of that government unless the concerns were satisfactorily resolved. The procedures for evaluating torture concerns in the immigration removal and extradition context are described in greater detail below.

31. **Creation of the Department of Homeland Security (DHS).** Since the United States submitted the Initial Report and subsequent to the terrorist attacks of September 11, 2001, the United States Government restructured several agencies within the Executive Branch, creating the U.S. Department of Homeland Security (DHS). *See* Homeland Security Act of 2002,

Public Law 107-296, 116 Stat. 2310. As part of this restructuring, the Immigration and Naturalization Service (INS) was abolished and its functions were transferred from the U.S. Department of Justice to the new DHS. Pursuant to the Homeland Security Act, all authorities exercised by the Commissioner of the INS, on behalf of the Attorney General, were transferred to the Secretary of Homeland Security. The Executive Office for Immigration Review (EOIR), whose immigration judges preside over removal proceedings and adjudicate Torture Convention claims, remain within the Department of Justice. Immigration removal proceedings, and the adjudication of Torture Convention claims within those proceedings, remain unchanged since the Initial Report, but the functions described in that report as implemented by INS are now performed by DHS.[6]

32. **Observance of Article 3 obligations in the immigration removal context.** As discussed in the Initial Report, regulations implementing Article 3 of the Torture Convention permit aliens to raise Article 3 claims during the course of immigration removal proceedings. These regulations fully implement U.S. obligations under Article 3 and set forth a fair and rule-bound process for considering claims for protection. Individuals routinely assert Article 3 claims before immigration judges within the EOIR, whose decisions are subject to review by the Board of Immigration Appeals, and ultimately, to review in U.S. federal courts. In exceptional cases where an arriving alien is believed to be inadmissible on terrorism-related grounds, Congress has authorized alternate removal procedures in limited circumstances that do not require consideration or review by EOIR. *See* INA § 235(c). The implementing regulations provide that removal pursuant to section 235(c) of the Act shall not proceed "under circumstances that violate … Article 3 of the Convention Against Torture." *See* 8 C.F.R. 235.8(b)(4).

33. Article 3 protection is a more limited form of protection than that afforded to aliens granted asylum under the Immigration and Nationality Act (INA). This more limited form of protection is similar to withholding of removal, *see* INA§ 241(b)(3), through which the United States implements its non-refoulement obligations under the Refugee Protocol. An alien granted protection under the Torture Convention may be removed to a third country where there are no substantial grounds for believing that the alien will be subjected to torture. Furthermore, the regulations contain special streamlined provisions for terminating Article 3 protection for an alien who is subject to criminal and security-related bars, when substantial grounds for believing the alien would be tortured if removed to a particular country no longer exist. Finally, in a very small number of appropriate cases, pursuant to 8 C.F.R. § 208.18(c), the U.S. may consider diplomatic assurances from the country of proposed removal that the alien will not be tortured if removed there. In such removal cases, the Secretary of Homeland Security (and in cases arising prior to the enactment of the Homeland Security Act, the Attorney General), in consultation with the Department of State, would carefully assess such assurances to determine whether they are sufficiently reliable so as to allow the individual's removal consistent with Article 3 of the Torture Convention. The United States reserves the use of diplomatic assurances for a very small number of cases where it believes it can reasonably rely on such assurances that the individuals would not be tortured. Since the Initial Report, the United States has removed several individuals to their countries based on assurances that they would not be tortured. However, as is the case in the extradition context, the United States credits assurances and removes or extradites individuals only when it determines that it can remove or extradite a person consistent with its obligations under Article 3.

34. In practice, the record demonstrates that individuals seeking protection under Article 3 of the Torture Convention have asserted torture claims and in many cases have obtained protection under the regulations implementing the Convention. In the period from 1999, when the regulations implementing Article 3 of the Convention went into effect, through 2003, the available data indicates the following statistics regarding grants of protection by immigration judges based on the Torture Convention:[7]

	Grants of Torture Convention protection by immigration judges
FY 2000	519
FY 2001	554
FY 2002	546
FY 2003	486
FY 2004	532

35. However, these statistics do not convey the full extent to which U.S. law affords protection against return to individuals who "more likely than not" will be tortured upon their return. In light of the similarities between the harm feared by asylum and torture applicants, the same application form is used to request both forms of protection and most individuals who assert torture claims simultaneously assert asylum claims. In such cases, if an individual is eligible for asylum, the immigration judge may grant asylum and thus not reach the torture claim. Accordingly, the statistics on grants of torture protection cited above may reflect cases where individuals were deemed ineligible for a grant of asylum by virtue of the bars to such relief (e.g., individuals who committed serious crimes) under U.S. law and U.S. obligations under the 1967 Protocol relating to the Status of Refugees or because they failed to demonstrate that the persecution feared would be "on account" of one of the protected grounds specified in the definition of "refugee" set forth at § 101(a)(42) of the Immigration and Nationality Act. Therefore, for a more complete understanding of the extent to which protection against return is afforded to aliens, it is relevant to note the following available statistics on grants of asylum and withholding of removal:[8]

	Grants of asylum by DHS (former INS)	Grants of asylum by an immigration judge	Grants of withholding of removal by an immigration judge
FY 2000	16 556	8 903	3 244
FY 2001	20 290	7 956	3 463
FY 2002	18 880	8 663	3 544
FY 2003	11 434	10 913	4 417
FY 2004	10 278	10 825	4 723

36. As the United States implements Article 3, the contours of elements unique to Torture Convention claims, such as the meaning of "torture" and government "acquiescence," are taking shape in the United States through the development of interpretive case law. Since the Initial Report, there have been a number of precedent-setting decisions relating to Article 3 protection

under the Torture Convention issued by the EOIR and by various federal district and circuit courts throughout the United States. Precedent administrative decisions by EOIR are available at http://www.usdoj.gov/eoir/vll/intdec/lib_indecitnet.html, and include:

- Matter of S-V-, 22 I&N Dec. 1306 (BIA 2000) (Applicant for Torture Convention protection must establish that the torture feared would be inflicted by or with the acquiescence of a public official or other person acting in an official capacity; therefore, protection does not extend to persons who fear private entities that a government is unable to control);

- Matter of G-A-, 23 I&N Dec. 366 (BIA 2002) (An Iranian Christian of Armenian descent demonstrated eligibility for Torture Convention protection by establishing that it is more likely than not that he will be tortured if deported to Iran based on a combination of factors, including his religion, his ethnicity, the duration of his residence in the United States, and his drug-related convictions in this country. The evidence of record demonstrated that Armenian Christians were subject to harsh and discriminatory treatment in Iran, that persons associated with narcotics trafficking, like G-A, faced particularly severe punishment, and that Iranians who had spent an extensive amount of time in the United States were perceived to be opponents of the Iranian Government or even pro-American spies. The combination of these traits, and the evidence of widespread use of torture in Iran, demonstrated that the respondent was likely to be subjected to torture if deported to Iran);

- Matter of J-E-, 23 I&N Dec. 291 (BIA 2002) (For an act to constitute "torture" it must satisfy each of the following five elements in the definition of torture set forth at 8 C.F.R. § 208.18(a): (1) the act must cause severe physical or mental pain or suffering; (2) the act must be intentionally inflicted; (3) the act must be inflicted for a proscribed purpose; (4) the act must be inflicted by or at the instigation of or with the consent or acquiescence of a public official who has custody or physical control of the victim; and (5) the act cannot arise from lawful sanctions. Neither the indefinite detention of criminal deportees by Haitian authorities nor the substandard prison conditions in Haiti constitute torture within the meaning of 8 C.F.R. § 208.18(a) where there is no evidence that the authorities intentionally detain deportees or create and maintain conditions in order to inflict torture. Isolated instances of mistreatment that may rise to the level of torture as defined in the Torture Convention are insufficient to establish that it is more likely than not that the respondent will be tortured if returned to Haiti).

37. Relevant decisions by federal courts on Article 3 claims are issued daily and are too numerous to list in this report. Generally, precedent decisions are publicly available on the Internet. Attached in Annex 6 is a sampling of federal court decisions on Article 3 claims.

38. The United States remains committed to providing Article 3 protection to all aliens in its territory who require such protection, and recognizes that there are no categories of aliens who are excluded from protection under Article 3. As such, some aliens who are subject to criminal- or security-related grounds and are thus ineligible for other immigration benefits or protection

may be eligible for protection under Article 3. As described in paragraph 171 of the Initial Report, the United States provides a more limited form of protection - "deferral of removal" - to aliens otherwise subject to exclusion grounds. At the time the Initial Report was submitted, implementing regulations authorized continued detention of aliens granted deferral of removal. In 2001, the Supreme Court held in *Zadvydas v. Davis*, 533 U.S. 678 (2001), discussed also in paragraph 132, that existing statutory authority under INA § 241(a)(6) to detain aliens with final orders of removal is generally limited to such detention as necessary to achieve removal in the reasonably foreseeable future. While the *Zadvydas* decision limits the authority of the Department of Homeland Security to detain certain aliens granted deferral of removal, DHS remains committed to ensuring the proper balance between United States obligations under the Torture Convention and DHS's mission to improve the security of the United States.

39. **Observance of Article 3 obligations in the extradition context.** As described in the Initial Report, in U.S. practice, an extradition judge's decision whether to certify extraditability is not dependent upon consideration of any humanitarian claims, including claims under the Torture Convention. After the Secretary of State receives a certification of extraditability from a magistrate or judge, the Secretary of State must determine whether a fugitive who has been found extraditable should actually be extradited to a requesting State. In determining whether a fugitive should be extradited, the Secretary of State is authorized to consider *de novo* any and all issues properly raised before the extradition court, as well as any other considerations for or against surrender, including whether it is more likely than not that the fugitive would face torture in the requesting State.

40. Pursuant to Department of State regulations set forth in the Initial Report, whenever allegations relating to torture are raised by the fugitive or other interested parties, appropriate policy and legal offices within the Department of State review and analyze information relevant to a particular case. Information provided by the relevant regional bureau, country desk, or U.S. embassy also plays an important role in the evaluation of torture claims. Based on the analysis of relevant information, the Secretary of State may decide to surrender the fugitive to the requesting State, deny surrender of the fugitive, or condition the extradition on the requesting State's provision of assurances, deemed to be credible by the Secretary of State, related to torture or aspects of the requesting State's criminal justice system that protect against mistreatment, such as regular access to counsel. Whether such assurances are sought is determined on a case-by-case basis, fully bearing in mind U.S. obligations under Article 3 of the Torture Convention.

41. The Secretary of State will evaluate claims for protection under Article 3 of the Torture Convention after judicial extradition proceedings have been completed. This position is based on the longstanding "rule of non-inquiry," which leaves to the consideration of the Secretary of State questions regarding the treatment extraditees may receive following their surrender for extradition. In U.S. practice, the Secretary of State is uniquely well-suited to determine the risks that a fugitive would be subject to torture upon his return to a requesting state. In appropriate cases, it may be necessary for the Secretary of State to decide against surrender or to obtain assurances as necessary from the foreign government to persuade the Secretary of State that the United States would be acting in compliance with Article 3 of the Convention.

42. The issue of whether federal courts in the United States can consider an extradition fugitive's claims under the Torture Convention was litigated in *Cornejo-Barreto v. Seifert*. A panel of the United States Court of Appeals for the Ninth Circuit concluded that a fugitive facing extradition has a statutory right to judicial review of his claims under the Torture Convention, which attaches not during the extradition or habeas corpus proceedings, but after all the legal avenues are exhausted and the Secretary of State has signed the surrender warrant. *Cornejo-Barreto v. Seifer*t, 218 F.3d 1004 (9th Cir. 2000). A different panel of the Ninth Circuit subsequently rejected this conclusion and, in agreement with the position of the Executive Branch, held that the Secretary of State's determination to extradite a fugitive is not subject to judicial review. *Cornejo-Barreto v. Seifert*, 379 F.3d 1075, 1089 (9th Cir. 2004). A majority of the Ninth Circuit judges voted to rehear the case *en banc*, but prior to the date of the rehearing, the Mexican government withdrew its extradition request pursuant to the dismissal of the Mexican state prosecution that served as the basis for the request. Upon motion of the government, the Ninth Circuit then dismissed the case as moot and vacated the second panel decision. *Cornejo-Barreto v. Seifert*, 839 F.3d 1307 (9th Cir. 2004). *In Mironescu v. Costner*, 345 F.Supp. 2d 538 (M.D.N.C. 2004) a district court recently held that a petitioner could not seek habeas review, asserting a CAT Article 3 claim, when the Secretary of State had not yet determined whether to extradite the petitioner, but concluded that it was inappropriate, given the stage of the proceedings, to decide whether the petitioner could seek habeas review after the Secretary has made a determination to extradite.

43. Since enactment of the Department of State regulations, torture claims have been raised in less than 1% of extradition cases and surrender warrants have been issued in all cases. In some of those cases, it was determined that the evidence submitted by the claimants provided no basis to conclude that it would be more likely than not that the claimants would be tortured. In several cases, assurances, which were deemed adequate, were received from the requesting country.

Article 4 (Torture as a criminal offense)

44. As discussed in the Initial Report and as restated in paragraph 16 above, within the United States, acts which would constitute torture under the Convention are punishable under state or federal law. This is also true of attempts to commit torture, conspiracies to commit torture and those who aid and abet the commission of an act of torture. Acts of torture committed outside the United States, as defined by the extraterritorial criminal torture statute, codified at 18 U.S.C. § 2340, in which the alleged offender is a national of the United States, or the alleged offender is present in the United States (irrespective of the nationality of the victim or alleged offender), are punishable under 18 U.S.C. § 2340A. The same prohibitions apply to persons who attempt to commit, conspire to commit, or aid and abet the commission of acts of torture within the definition contained in 18 U.S.C. § 2340.

Article 5 (Jurisdiction)

45. Since the submission of the Initial Report, two pieces of legislation, described below, were enacted that provide additional but distinct statutory bases for asserting jurisdiction over acts committed beyond the territory of the United States in addition to those discussed at

paragraph 185 of the Initial Report. In addition to the extraterritorial criminal torture statute, which establishes extra-territorial jurisdiction over certain offenses involving torture, the statutes discussed below extend criminal jurisdiction over an array of offenses, which may include torture, when committed within the "Special Maritime and Territorial Jurisdiction of the United States" (SMTJ). *See* 18 U.S.C. § 7. As discussed in the Initial Report, certain provisions of the federal criminal code apply to acts taking place outside United States geographical territory, but which fall within the SMTJ.

46. On November 22, 2000, the President signed into law the "Military Extraterritorial Jurisdiction Act (MEJA)," codified at 18. U.S.C. §§ 3261 et seq. This statute extends criminal jurisdiction over certain categories of individuals for conduct outside the United States that would constitute an offense punishable by imprisonment for more than 1 year if the conduct had been engaged in within the SMTJ. As reflected in House Report No. 106-778(I) which was adopted by the House Judiciary Committee when it considered the statute, the background and purpose of the statute was to amend federal law to extend the application of its criminal jurisdiction to persons, including civilians, both United States citizens and foreign nationals, who commit acts while employed by or otherwise accompanying the U.S. Armed Forces outside the United States. It also extends federal jurisdiction to active duty members of the Armed Forces who commit acts while outside the United States, with one or more other defendants, at least one of whom is not subject to the UCMJ. See 18 USC 3261(d)(2). It also extends federal jurisdiction to former members of the Armed Forces who commit such acts while they were members of the Armed Forces, but who are not tried for those crimes by military authorities and later cease to be subject to the Uniform Code of Military Justice. Because many federal crimes, such as sexual assault, arson, robbery, larceny, embezzlement, and fraud, did not have extraterritorial effect, there was a "jurisdictional gap" that in many cases allowed such crimes to go unpunished. Although host nations have jurisdiction to prosecute such acts committed within their territory, they frequently declined to exercise jurisdiction when an American was the victim or when the crime involved only property owned by Americans. Accordingly, the statute was designed to close this gap by establishing a new federal crime involving conduct that would constitute an offense punishable by imprisonment for more than 1 year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the U.S. As of January 1, 2005, there have been two prosecutions under MEJA, neither involving torture.

47. An additional legislative development that extended U.S. criminal jurisdiction extraterritorially was enacted on October 26, 2001, when the USA PATRIOT Act amended § 7 of Title 18 of the United States Code, which defines the Special Maritime and Territorial Jurisdiction (SMTJ) of the United States. In pertinent part, a new paragraph 9 added to § 7 provides that, with respect to an offense that would otherwise apply within the SMTJ, committed by or against a national of the United States, premises of United States military or other United States Government missions or entities in foreign States are within the SMTJ. This paragraph, however, does not apply with respect to an offense committed by a person described in section 3261(a) of Title 18, United States Code, which codifies a provision of the Military Extraterritorial Jurisdiction Act described above.[9]

48. The MEJA and SMTJ statutes each provide separate bases for asserting U.S. jurisdiction over extraterritorial crimes. Each statute was designed to address a different problem: MEJA was designed primarily to address the jurisdictional gap over civilians employed by, or accompanying, the armed forces overseas other than in times of a declared war; the expanded SMTJ in 18 U.S.C. §7(9), contained in the USA PATRIOT Act, was enacted as part of a comprehensive program to deal with the Global War on Terrorism. While neither statute was specifically designed to address torture, both statutes in fact complement the separate jurisdictional reach of the extraterritorial criminal torture statute. This is because, depending on the status of the offender or the victim, or the location of the offense, the U.S. may be able to assert jurisdiction over other crimes, which are related to torture, but may not meet the statutory elements of 18 U.S.C. §§ 2340 and 2340A, i.e. murder. It became apparent in 2004, however, that there was an unintended legislative anomaly to the enactment of 18 U.S.C. §7(9).

49. By expanding the territory within the SMTJ to include premises of United States military or other United States Government missions or entities in foreign States, the SMTJ statute had the effect of narrowing the reach of the extraterritorial criminal torture statute. The statute, by definition, only applies "outside the United States." The term "United States" was originally defined as including "all areas under the jurisdiction of the United States including any of the places described in sections 5 and 7 of this title [Title 18 of the U.S. Code, § 7 of which defines the Special Maritime and Territorial Jurisdiction of the United States] and section 46501(2) of title 49." Thus, when the USA PATRIOT Act expanded the SMTJ, the extraterritorial criminal torture statute no longer applied to areas included in the expanded SMTJ. This anomaly was corrected by § 1089 of the National Defense Authorization Act for Fiscal Year 2005 (NDAA05), which amended 18 U.S.C. §2340(3) to read as follows: "'United States' means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States." By narrowing the definition of the United States, and making that definition part of the extraterritorial criminal torture statute, the reach of that statute is expanded prospectively, and the anomaly presented by the expansion of the SMTJ is now avoided. It also became apparent in 2004, that the MEJA statute did not cover situations involving contractors, unless they were employed by the Department of Defense. In October 2004, §1088 of the NDAA05 amended MEJA so that it covered a much broader group of contractors. 18 U.S.C. §3267's definition of the term "employed by the Armed Forces outside the United States" in MEJA was amended to include "employees, contractors and subcontractors" of "any other Federal agency or any provisional authority, to the extent such employment relates to supporting the mission of the Department of Defense overseas."

50. **The extraterritorial criminal torture statute.** As discussed above in paragraph 12, the USA PATRIOT Act amended the extraterritorial criminal torture statute, codified at 18 U.S.C. §§ 2340, 2340A, to also provide extraterritorial jurisdiction over conspiracy to commit such offenses. As of January 1, 2005, the United States has considered applying the statute in several cases, but it has not initiated any prosecutions under this provision to date. In some cases, investigations are pending. As is necessarily true of any successful criminal prosecution, the available evidence must establish the various elements of the offense.

Accordingly, in order for the extraterritorial criminal torture statute to apply, the conduct must fall within the definition of torture, it must have been committed subsequent to the effective date of the statute (November 20, 1994), and it must have been committed "outside the United States."

51. The extraterritorial criminal torture statute is available to prosecute U.S. and foreign nationals "acting under the color of law," provided that the enumerated elements of the offense are met. As a result of initial investigations in some cases, although criminal charges have not been brought under the extraterritorial criminal statute, immigration charges have resulted. Also, as discussed above, U.S. employees and contractors may also be subject to other criminal statutes governing their conduct extraterritorially, which apply in a broader range of circumstances than those described in the extraterritorial criminal torture statute. For example, depending on the circumstances, U.S. employees and contractors may be subject to those criminal statutes defining crimes within the SMTJ, which as discussed above in paragraph 47, generally includes overseas facilities (except for certain persons, such as members of the armed forces and those employed by or accompanying them, who are subject to MEJA or the United States Code of Military Justice). Those statutes defining crimes within the SMTJ prohibit, for example, assault (18 U.S.C. § 113), maiming (18 U.S.C. § 114), manslaughter (18 U.S.C. § 1112), and murder (18 U.S.C. § 1111).

52. In the context of U.S. detention operations overseas, these criminal prohibitions may be available to prosecute abuses of detainees by particular members of the military (as noted, members of the military are also subject to the Uniform Code of Military Justice), intelligence and other non-military personnel. For example, on June 17, 2004, the Department of Justice announced that a contractor working for the Central Intelligence Agency had been indicted on charges stemming from the death of a prisoner in Afghanistan, Mr. Abdul Wali. The four-count indictment alleges that in June 2003 the contractor beat an Afghan prisoner who had surrendered voluntarily at the front of a U.S. detention facility near Asadabad in the northeast Kunar province of Afghanistan. The indictment includes two counts of assault causing serious injury and two counts of assault with a deadly weapon. Each count carries a maximum penalty of ten years in prison and a $250,000 fine upon conviction. The indictment charges that the assaults occurred within the expanded SMTJ provided by 18 U.S.C. §7(9).

Article 6 (Detention and preliminary inquiry in cases of extradition)
and Article 7 (Extradite or prosecute)

53. As described in the Initial Report, federal law and bilateral extradition treaties provide the legal basis by which the United States can either extradite or prosecute individuals alleged to have committed offenses involving torture, as required by Article 7 of the Convention. Acts which would constitute or involve the offense of torture, as defined under the Convention, and as interpreted by the understandings expressed by the United States at the time of ratification, are crimes under state or federal law, and subject to prosecution by the appropriate authorities. The crime of torture also continues to fall within the scope of extradition treaties concluded by the United States since the time of its Initial Report.

Article 8 (Extraditable offenses)

54. Consistent with Article 8 of the Convention, any act of torture within the meaning of the Convention continues to be an extraditable offense under relevant United States law and extradition treaties with countries that are also party to the Convention. The crime of torture continues to fall within the scope of extradition treaties concluded by the United States since the time of its Initial Report.

55. Since the Initial Report, the United States has received a small number of requests for extradition involving individuals wanted for serious human rights abuses or war crimes. Since October 1999, the United States extradited Elizaphan Ntakirutimana to the International Criminal Tribunal for Rwanda, which had requested his extradition for genocide, complicity in genocide, and crimes against humanity.

Article 9 (Mutual legal assistance)

56. As discussed in the Initial Report, United States law permits both law enforcement authorities and the courts to request and to provide many forms of "mutual legal assistance" in criminal cases covered by the provisions of the Torture Convention.

Article 10 (Education and Information)

57. As described in the Initial Report, a variety of training programs exist at the federal, state and local level to educate law enforcement personnel, corrections officers and immigration officials in the proper treatment of persons in custody, including information related to the prohibition against torture and other abuses. Training programs for the U.S. Armed Forces, particularly regarding the prohibition of torture and other standards governing detentions by the U.S. Armed Forces in Afghanistan, Guantanamo Bay, and Iraq are described in greater detail in Annex 1.

58. The United States continues to attach considerable importance to the task of providing education and information regarding the prohibition against torture and other abuses to persons who may be involved in the custody, interrogation, and treatment of persons arrested, detained or imprisoned. In furtherance of this effort, and as was the case with the Initial Report, this report will be posted on the U.S. Department of State web site: http://www.state.gov/g/drl.

59. As part of a broader effort to educate and inform the public, on June 26, 2004 honoring the U.N. International Day in Support of Victims of Torture, President Bush reaffirmed the U.S. commitment to ending torture and stated that the U.S. "stands against and will not tolerate torture." *See* Annex 2. In so doing, the President informed the public and the international community of U.S. programs aimed at combating torture and assisting victims of torture. President Bush issued a similar statement in honor of victims of torture on June 26, 2003, which can be found at http://www.whitehouse.gov/news/releases/2003/06/20030626-3.html, and the Department of State has also issued similar statements. Additionally, as allegations of abuses have surfaced with respect to detentions of foreign nationals by the U.S. Armed Forces

(*see* Annex 1), U.S. officials have repeatedly condemned the use of torture. At the same time, the U.S. Congress, advocacy groups, and the press have directed considerable attention to these issues.

Article 11 (Interrogation techniques)

60. As described in the Initial Report, police interrogation of criminal suspects is strictly regulated by court-made rules based on constitutional law. As a result, the methods and practices of interrogation of criminal suspects and their treatment while in custody are routinely subject to judicial review and revision.

61. Concerns have been raised about what detention and interrogation practices were authorized on the basis of the memorandum drafted by the Department of Justice's Office of Legal Counsel in August 2002 interpreting the extraterritorial criminal torture statute (discussed at paragraph 13). On June 22, 2004, upon the release of numerous government documents related to interrogation techniques and U.S. laws regarding torture, then White House Counsel Alberto Gonzales stated the following:

> "The administration has made clear before and I will reemphasize today that the President has not authorized, ordered or directed in any way any activity that would transgress the standards of the torture conventions or the torture statute, or other applicable laws. [L]et me say that the U.S. will treat people in our custody in accordance with all U.S. obligations including federal statutes, the U.S. Constitution and our treaty obligations. The President has said we do not condone or commit torture. Anyone engaged in conduct that constitutes torture will be held accountable."[10]

62. Interrogation techniques employed by U.S. government personnel and contractors have been reviewed in light of the revised Department of Justice Office of Legal Counsel memorandum of December 30, 2004. *See* Annex 1.

Article 12 (Prompt and impartial investigation)

63. As noted in the Initial Report, as a matter of law, policy and practice, the competent authorities at all levels of Government and in all components of the U.S. government should proceed with a thorough, prompt and impartial investigation whenever they have reason to believe that an act of torture or other abuse has been committed within their jurisdiction. The discussion under Article 2 above demonstrates the commitment of the law enforcement mechanisms in the United States to investigate and rigorously prosecute such abuses in cases within their respective spheres of jurisdiction. Depending on the circumstances, and as noted in the discussion referred to above, this may include prosecutions of misconduct that may arise at the federal, state, county or local law enforcement levels.

Article 13 (Right to complain)

64. As indicated in the Initial Report, individuals who allege that they have been subject to torture or other forms of mistreatment have numerous opportunities to bring complaints and to have their cases promptly and impartially examined by competent authorities.

65. **Legislation on Victims' Rights.** On October 30, 2004, President Bush signed H.R. 5107, known as the Justice for All Act of 2004. [Pub. L. 108-405] Title I of that Act amends the Federal criminal code to grant victims specified rights, including: (1) the right to be protected from the accused, to be heard at any public proceeding involving release, plea, or sentencing, and to be treated with fairness and respect; (2) the right to timely notice of any public proceeding involving the crime or any release or escape of the accused and to proceedings free from unreasonable delay; (3) the right to confer with the Government attorney; and (4) the right to full and timely restitution. It also authorizes grants to help states implement and enforce their own victims' rights laws. Other provisions of the law relate to the expanded and improved use of DNA evidence in the criminal justice system.

66. **Victims' Assistance Programs.** The Office for Victims of Crime (OVC) within the U.S. Department of Justice administers programs authorized by the Victims of Crime Act of 1984, as amended, in addition to the Crime Victims Fund (the Fund), which is also authorized by the same statute. The Fund is composed of criminal fines and penalties, special assessments, and bond forfeitures collected from convicted federal perpetrators, as well as gifts and donations received from the general public. Money deposited in this fund is used to support a wide range of activities on behalf of crime victims, including victim compensation and assistance services, demonstration programs, training and technical assistance, program evaluation and replication, and programs to assist victims of terrorism and mass violence.

67. OVC administers two major formula grant programs: Victim Assistance and Victim Compensation. During the past decade, these two grant programs have greatly improved the accessibility and quality of services for federal and state crime victims nationwide.

68. **Victim Assistance.** Each year, all 50 states, the District of Columbia and various U.S. territories are awarded OVC funds to support community-based organizations that serve crime victims. Approximately 6,400 grants are made to domestic violence shelters, rape crisis centers, child abuse programs, and victim service units in law enforcement agencies, prosecutors' offices, hospitals, and social service agencies. These programs provide services including crisis intervention, counseling, emergency shelter, criminal justice advocacy and emergency transportation. States and territories are required to give priority to programs serving victims of domestic violence, sexual assault, and child abuse. Additional funds must be set aside for underserved victims, such as survivors of homicide victims and victims of drunk drivers.

69. **Victim Compensation.** All 50 states, the District of Columbia, Puerto Rico and Guam have established compensation programs for crime victims. These programs reimburse victims for crime-related expenses such as medical costs, mental health counseling, funeral and burial costs, and lost wages or loss of support. Compensation is paid only when other financial resources, such as private insurance and offender restitution, do not cover the loss. Some expenses are not covered by most compensation programs, including theft, damage, and property loss. Although each state compensation program is administered independently, most programs have similar eligibility requirements and offer comparable benefits.

70. Congress has twice re-authorized the Torture Victims Relief Act (TVRA) [P.L. 105-320], since its initial enactment in 1998. Most recently, the TVRA Reauthorization Act of 2003 [P.L. 108-179], which authorized further increases in funding, was signed by the President on December 15, 2003. The Act authorizes funding for the U.S Department of Health and Human Services (HHS) to support treatment centers inside the U.S. and for programs for the treatment of victims of torture abroad. The Act also authorizes funding for the U.S. Agency for International Development (USAID) to support centers in foreign countries and programs for the treatment of victims of torture. Finally, as a result of the Act's authorizations of appropriations to the United Nations Voluntary Fund for Victims of Torture, the United States continues to lead the world in its support of the United Nations Voluntary Fund For Victims of Torture. Appropriations to the Fund, distributed through the Department of State, were:

Fiscal Year	*Amount*
1999	$3 million
2000	$5 million
2001	$5 million
2002	$5 million
2003	$5 million
2004	$5.5 million

71. **Domestic Assistance to Victims of Torture.** Since the late-1990's the National Institute of Mental Health of the National Institutes of Health within the U.S. Department of Health and Human Services has funded research for survivors of torture and related trauma. HHS, in coordination with other Departments and Congress, has reached out to representatives from the human rights, refugee, and medical communities to discuss treatment for torture survivors.

72. The Office of Refugee Resettlement (ORR) within the Agency for Children and Families (ACF) of the U.S. Department of Health and Human Services (HHS) awards funds to assist survivors of torture. In fiscal year (FY) 2000, the first year of this program, Congress appropriated $7.5 million for services and rehabilitation for survivors of torture. From FY 2001 through 2004, Congress has appropriated $10 million each year to HHS, which has supported 25 torture treatment programs in fifteen states.

73. The activities funded by ORR include the following: training refugee resettlement staff, English language teachers, volunteers and community services staff to identify torture survivors and refer them to the services they need; orienting refugees to the help available from mental health services; and orienting mental health professionals to serve refugees effectively across language and cultural barriers.

74. ORR works with a network of non-profit organizations around the country whose mission is to serve the needs of torture survivors. The services needed by survivors of torture are a combination of medical care, spiritual healing, psychological help and other social and legal services. The Center for Victims of Torture (CVT) in Minneapolis, Minnesota provides technical assistance to these organizations. CVT has assisted centers in building data management systems to manage clients, aided in the development of fundraising, and trained

professionals in the particulars in treating members of this population. Other examples of projects funded under this program include: the Arab Community Center for Economic and Social Services in Dearborn, Michigan, which operates a career counseling and training center to assist survivors identify career options; Community Mental Health Services in Falls Church, Virginia, which has a transitional housing program to provide housing for survivors for up to six months; and Solace/Safe Horizon, which provides survivors with culturally and linguistically appropriate mental health services.

75. **Foreign Assistance to Victims of Torture**. In keeping with its legislative mandate under the Torture Victims Relief Act of 1998 and its subsequent reauthorizations, the U.S. Agency for International Development (USAID) works through the Victims of Torture Fund (VTF) to assist the treatment and rehabilitation of individuals who suffer from the physical and psychological effects of torture. According to the International Rehabilitation Council for Torture Victims (IRCT), rehabilitation aims to empower the torture victim to regain the capacity, confidence, and ability to resume as full a life as possible. In FY 2000, Congress appropriated $7,500,000 to USAID for assistance to survivors of torture. For FY 2001 and 2002, Congress appropriated $10,000,000 in each year. The appropriation levels for FY 2003 and 2004 were $7,950,000 each year.

76. Toward this end, the Fund administers treatment programs based in 26 countries that span four regions (Latin America and the Caribbean, Africa, Asia and the Near East, and Europe and Eurasia). Currently, VTF is supporting treatment programs that attend to the medical, psychological, and social needs of torture survivors and their families. In addition to treatment services, some programs include advocacy, training, technical assistance, and research.

77. To complement the work that the Fund supports in the particular countries, the Fund also supports a global initiative through support for the Center for Victims of Torture (CVT) to strengthen the capacity of 15 treatment centers located in Africa, Asia, the Near East, Latin America, and Eastern Europe and to enhance their organizational and financial sustainability, clinical capacity and services, and advocacy campaigns.

78. Additionally, the Fund supports several regional initiatives. In Latin America and the Caribbean, the Fund supports the Inter-American Institute for Human Rights (IIHR) and the Center for Justice and International Law (CEJIL) and their collaborative work to provide psychological support for victims or relatives bringing claims of torture and cruel, inhuman, and degrading treatment before the Inter-American system of human rights. In Southern Africa, the Fund works through the Inter-African Network for Human Rights and Development (Afronet), a host organization for the Southern Africa Human Rights NGO Network (SAHRINGON), to strengthen the capacity of selected human rights nongovernmental organizations in the region to monitor, document, and advocate against torture and violence. In West Africa, the Fund supports the International Rescue Committee (IRC), the CVT, and Search for Common Ground (SFCG) in their program collaborating with national and sub-regional social organizations and employing a cross-border approach to facilitate the return and rehabilitation of refugees and to improve access to information.

Article 14 (Right of redress and/or compensation)

79. As described in the Initial Report, the legal system of the United States provides a variety of mechanisms through which persons subjected to torture or other abuse may seek redress, which are consistent with the obligations assumed by the United States upon ratification of the Convention.

80. **Civil actions in state and federal courts**. Individuals continue to file civil suits in state and federal courts seeking redress against officials for allegedly violating their rights, which may involve seeking monetary damages or equitable or declaratory relief. One of the most common methods by which prisoners seek redress against state and municipal officials is by means of a civil law suit for violations of fundamental rights pursuant to 42 U.S.C. § 1983. Some examples of such civil litigation follow:

- On February 20, 2003, the city of Oakland, CA agreed to a $10.9 million settlement with dozens of plaintiffs in federal court who said they were victimized by four Oakland police officers, infamously known as the "Riders." Allegations included excessive use of force, planting of evidence, and assault and battery. In addition to the monetary settlement, the Oakland Police Department was compelled to make systemic changes to bolster the accountability of the department;

- On September 26, 2002, the Court of Appeals of Arizona upheld the decision of a trial court jury that handed down a judgment against a local sheriff in an incident where an inmate in the county jail brutally attacked another inmate. The incident gave rise to a civil rights claim for damages under § 1983. The sheriff was found by the jury to have demonstrated deliberate indifference to inmate safety. The jury awarded, and the appellate court affirmed the award of compensatory and punitive damages;

- On April 5, 2002, a federal jury awarded a NY woman nearly $1.7 million in punitive and compensatory damages in a § 1983 civil rights suit after being victimized by the excessive force of a NY police officer;

- In June 2001, the city of Asbury Park, NJ agreed to a $5 million settlement with the family of a man who hung himself while in custody of the police. The police failed to notice the man committing suicide, despite video surveillance of his holding cell, until such a late point that he was left in a permanent vegetative state. The suit was settled just prior to June 11, 2001, the scheduled start date for the trial;

- In 2001, the District of Columbia spent over $3 million to settle allegations of police and prison guard brutality. Nearly $2 million was spent to settle 45 prisoner abuse cases that included inmate-on-inmate violence and beatings by prison guards. The remaining money was used to settle 48 allegations of police brutality and false arrest.

81. **Alien Tort Statute**. As discussed in the Initial Report, the Alien Tort Statute (ATS), which was enacted in 1789 and is currently codified at 28 U.S.C. § 1350, provides that "[the]

district courts shall have original jurisdiction in any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States." The United States Supreme Court recently had occasion to consider the ATS in *Sosa v. Alvarez-Machain*, 124 S.Ct. 2739 (2004). While adopting a restrictive interpretation of the range of civil actions that could be brought under this statute consistent with the intent of the legislators who originally enacted it, the Court left open the possibility that federal courts may recognize as a matter of federal common law claims for damages based on alleged violations of the law of nations.

82. **Torture Victims Protection Act (TVPA)**. As described in the Initial Report, the 1992 Torture Victims Protection Act allows both foreign nationals and United States citizens to claim damages against any individual who engages in torture or extrajudicial killing under "actual or apparent authority, or under color of law of any foreign nation." It allows suits for redress for torture or extrajudicial killings perpetrated by officials of foreign governments. In July 2002, following a four week trial of a suit brought under the TVPA, a federal jury in the Southern District of Florida in West Palm Beach returned a verdict of $54.6 million against two Salvadoran generals for their responsibility for the torture of three Salvadorans in the early 1980s. *Romagoza Arce v. Garcia*, No. 99-8364 CIV-Hurley (S.D. Fla. Feb 17, 2000). The U.S. Court of Appeals for the Eleventh Circuit subsequently reversed this decision on the grounds that the claims were time-barred by the statute of limitations. *Romagoza Arce v. Garcia*, No. 02-14427 (11th Cir. 2005).

83. **Treatment and rehabilitation**. As noted in the Initial Report, the United States continues to hold the view that in addition to monetary compensation, States should take steps to make available other forms of remedial benefits to victims of torture, including medical and psychiatric treatment as well as social and legal services. For examples of the U.S. commitment to such programs, see paragraphs 66-78.

84. The United States continues to be a haven for victims of persecution in foreign lands, including torture victims. Various private facilities exist in the United States for the treatment of individuals who suffered torture abroad. The CVT in Minneapolis, Minnesota, established in 1985, is the nation's pre-eminent comprehensive torture treatment center. Other facilities exist in the following locations: Hotevilla, Arizona; Phoenix, Arizona; Los Angeles, California; San Diego, California; San Francisco, California; San Jose, California; Denver, Colorado; Clearwater, Florida; Chicago, Illinois; Baltimore, Maryland; Dearborn, Michigan; Lincoln, Nebraska; New York, New York; Columbus, Ohio; Portland, Oregon; Philadelphia, Pennsylvania; and Falls Church, Virginia.

Article 15 (Coerced statements)

85. United States law continues to provide strict rules regarding the exclusion of coerced statements and the inadmissibility of illegally obtained evidence in criminal trials.

86. Also, some states have taken steps recently to further protect the rights of the accused. In 2003, Illinois passed a crime law that requires police to videotape or audiotape questioning of suspects in homicide cases for the entirety of the interview. The reform measure joins Illinois with Alaska and Minnesota as the leading states to require such tapings.

Article 16 (Other cruel, inhuman or degrading treatment or punishment)

87. As the President of the United States explained on the United Nations International Day in Support of Victims of Torture, in addition to its commitment to investigating and prosecuting all acts of torture, the United States will "undertake to prevent other cruel and unusual punishment in all territory under our jurisdiction." *See* Annex 2.

88. In the United States a robust legal and policy framework operates to give effect to U.S. obligations under Article 16 of the Torture Convention. Article 16 requires that States parties act to "prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity." The particular undertakings of Article 16 are those specified in Articles 10-13, "with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment." As we did in the Initial Report, we note the reservation to Article 16 included by the United States in its instrument of ratification: "That the United States considers itself bound by the obligation under Article 16 to prevent 'cruel, inhuman or degrading treatment or punishment,' only insofar as the term 'cruel, inhuman or degrading treatment or punishment' means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States." As described in the Initial Report, federal and state law provide extensive protections against conduct that may amount to cruel, inhuman or degrading treatment or punishment.

89. The Initial Report addressed a number of specific issues of concern where law enforcement authorities acted in a manner inconsistent with the legal framework described above. Many of the shortcomings described in the Initial Report continue to arise in particular instances. At the same time, however, U.S. law continues to provide effective mechanisms at the federal and state level to address such abuses and to prevent their recurrence.

90. As we noted earlier in paragraph 18, although the examples cited below in the discussion under Article 16, like other examples cited throughout the report, do not necessarily involve acts of torture as defined under Article 1 of the Convention, as ratified by the United States, or cruel, inhuman or degrading treatment or punishment as defined under Article 16 of the Convention, as ratified by the United States, they are included to illustrate the commitment of the United States, or as the case may be, the sub-Federal level authorities in the United States, to prevent and prosecute serious abuses, whether or not they fall within these definitions of torture or cruel, inhuman or degrading treatment or punishment.

91. **Police brutality**. Efforts continue to be made to punish and prevent police brutality. Indeed, the discussion in paragraph 21 above that includes an illustrative list of prosecutions of law enforcement officers who employed unlawful force illustrates both the continuing problems that arise in this area as well as the resolve of the United States to take action to both punish the perpetrators of such abuses and to prevent their recurrence. As discussed in the Initial Report, and as evidenced by the discussion above, certain excessive use of force by law enforcement

officers violates the United States Constitution and federal law, as well as the law of the state where the incident occurs. United States law, at both the federal and state level, continues to provide victims of such abuses several methods for seeking compensation and rehabilitation as well as grounds for punishing those who have used excessive force.

92. **Conditions of Confinement**. U.S. law enforcement authorities continue to work to improve conditions of confinement in detention facilities within the United States. In fact, the discussion in paragraph 27 above provides an illustration of such problems, as well as the mechanisms employed by the Civil Rights Division of the Department of Justice to challenge conditions of confinement in various prisons and other remedies available under federal and state law. United States law, at both the federal and state level, continues to provide inmates themselves with several methods to challenge conditions of confinement. Indeed, it is common practice in prisons and jails throughout the United States for inmates to challenge conditions of confinement in federal and state courts as evidenced by the numerous district and appellate court decisions handed down every year in federal reporters (collections of federal case decisions), and as further exemplified by the discussion under paragraph 27 above. Additionally, various non-governmental organizations continue to employ advocacy and litigation to draw attention to sub-standard conditions in the nation's prisons. For example, as a result of a class-action lawsuit over conditions for prisoners in a county jail in Washington State filed by the ACLU's National Prison Project in February 2002, a U.S. District Court approved a settlement agreement in January 2004 to improve conditions for inmates in the jail.

93. As indicated in the Initial Report, the United States Constitution, along with federal and state laws, establishes standards of care to which all inmates are entitled. The Federal Bureau of Prisons (BOP) meets its constitutional and statutory mandates by confining inmates in prisons and community-based facilities that are safe, humane, and appropriately secure, and that provide opportunities and programs to help inmates develop the personal and work-related skills they will need to maintain a crime-free lifestyle after release.

94. The BOP strives to ensure that all inmates in its custody are treated fairly and with dignity. The agency does not tolerate abuse of inmates, and takes all allegations of staff misconduct and the mistreatment of inmates very seriously. Every allegation is investigated vigorously and thoroughly. If warranted, offending staff are referred for prosecution.

95. **Supermaximum security prisons**. For certain violent inmates, supermaximum security ("supermax") facilities may be necessary, for among other reasons, to protect the safety of the community at large and of other members of the prison population. As discussed in the preceding paragraphs, U.S. law requires that prisons throughout the United States satisfy U.S. constitutional requirements. When they fail to do so, a variety of remedies are available, as described under Article 2 above. For example, in March 2003, the ACLU and others settled a lawsuit brought against Wisconsin's Department of Corrections regarding conditions at its supermax prison in Boscobel, Wisconsin. The settlement agreement included a ban on seriously mentally ill prisoners being housed in the facility; a modest improvement to exercise provision and rehabilitation programs; and a reduction in the use of restraints and electro-shock control devices.

96. **Sexual abuse of prisoners**. Law enforcement authorities in the United States continue to prevent and punish acts of sexual abuse committed against prisoners. Illustrative of the problem of sexual abuse in correctional facilities are the facts animating *United States v. Arizona* and *United States v. Michigan*, both filed in 1997 and dismissed in 1999 and 2000, respectively, subject to a settlement whereby state prisons agreed to make significant changes in conditions of confinement for female inmates. In these cases, brought pursuant to CRIPA, described above, the Department of Justice's Civil Rights Division sought to remedy a pattern or practice of sexual misconduct against female inmates by male staff, including sexual contact and unconstitutional invasions of privacy.

97. Enhancing the protections already in place under U.S. law, the Prison Rape Elimination Act of 2003 (PREA) [Pub. L. 108-79] was enacted by Congress to address the problem of sexual assault of persons in the custody of U.S. correctional agencies. The Act applies to all public and private institutions that house adult or juvenile offenders and is also relevant to community-based agencies. On September 4, 2003, President George W. Bush signed PREA into law. The purpose of the Act is to: (a) establish a zero-tolerance standard for the incidence of rape in prisons in the United States; (b) make the prevention of prison rape a top priority in each prison system; (c) develop and implement national standards for the detection, prevention, reduction, and punishment of prison rape; (d) increase the available data and information on the incidence of prison rape, consequently improving the management and administration of correctional facilities; (e) standardize the definitions used for collecting data on the incidence of prison rape; (f) increase the accountability of prison officials who fail to detect, prevent, reduce, and punish prison rape; (g) protect the Eighth Amendment rights of federal, state, and local prisoners; (h) increase the efficiency and effectiveness of federal expenditures through grant programs such as those dealing with health care, mental health care, disease prevention, crime prevention, investigation, and prosecution, prison construction, maintenance, and operation, race relations, poverty, unemployment, and homelessness; and (i) reduce the costs that prison rape imposes on interstate commerce.

98. Additionally, the Director of the Bureau of Prisons has repeatedly affirmed, both to BOP staff and the public, the agency's zero tolerance standard for sexual abuse of inmates. The agency is committed to developing systemic approaches to prevent and control sexual abuse in prisons. As part of this initiative, in 1997 the BOP issued a policy on sexual abuse and sexual assault prevention and intervention programs. Program Statement 5324.04, Sexual Abuse/Assault Prevention Programs, updated December 31, 1997, addresses (1) prevention of sexual assaults on inmates, (2) the safety and treatment needs of inmates who have been sexually assaulted, and (3) discipline and prosecution of those who sexually assault inmates. The policy requires that all staff receive training annually to recognize the physical, behavioral, and emotional signs of sexual assault, understand the identification and referral process when a sexual assault occurs, and have a basic understanding of sexual assault prevention and response techniques.

99. BOP staff receive training annually on this topic. BOP staff members know that inmates must report inappropriate conduct by staff and that inmates will be safeguarded against any reprisals by staff or inmates. BOP staff members also know that if they become aware of sexual activity occurring between staff and inmates, they must report such conduct or be subject to

disciplinary action. In addition, all federal inmates receive a pamphlet about sexual abuse; and, during orientation to the institution, inmates are taught that it is illegal for a staff member to have sexual contact with an inmate, how they should report such contact, and what process they will go through once a report is made.

100. The BOP takes seriously all allegations of sexual misconduct and refers such matters to appropriate investigative agencies. Allegations of mistreatment of prisoners are ordinarily investigated by the Department of Justice's Civil Rights Division or the Office of Inspector General. Some examples follow:

- On November 25, 2003, the Division reported its findings of its investigation of the McPherson Correctional facility in Newport, Arkansas. The Division found that serious problems existed at the McPherson facility with regard to sexual misconduct. The Division noted lapses in supervision of staff and inmates, privacy violations, and substandard investigations;

- On March 6, 2003, the Division reported its findings regarding the Santa Fe County Adult Detention Center in which the Division recommended that the Detention Center make more concerted efforts to guide and train staff, avoid leaving female inmates isolated and vulnerable, and improve the system of reporting and investigating allegations of sexual misconduct.

101. Examples of prosecutions of law enforcement officers for abusing female detainees and inmates by the U.S. Department of Justice's Civil Rights Division include the following examples:

- On September 24, 2003, a North Carolina state police officer pleaded guilty to a felony civil rights charge for coercing women, whom he stopped or arrested, into having sex with him. He was sentenced to ten years in prison;

- On November 9, 2000, a correctional officer captain from a jail in Florida pled guilty to having forcible sexual contact with a female inmate and was sentenced to 15 months in prison;

- On March 23, 2000 a U.S. Bureau of Prisons correctional officer in Oklahoma City was convicted of engaging in various degrees of sexual misconduct with five female inmates. He was sentenced to 146 months in prison;

- January 23, 2001 a Florida Department of Corrections officer with the Metro Dade Jail was convicted of assaulting a female inmate resulting in multiple contusions to her face, back and neck. He was sentenced to 17 months in prison.

102. **Restraint devices**. The use of restraint and electro-shock devices continues to form the basis of allegations of abuse by law enforcement officers. Advocacy groups have directed considerable attention to publicizing such allegations and taking legal action to remedy alleged abuses. According to a 2002 Amnesty International report, between 2000 and 2002, at least

four inmates died in the United States after being subdued in a restraint chair. In February 2001, the American Civil Liberty Union's National Prison Project and the Connecticut branch of the ACLU filed a lawsuit against the Connecticut Department of Corrections alleging that Connecticut prisoners held in a Virginia state prison, Wallens Ridge State Prison, were being subjected to cruel and unusual punishment in violation of the U.S. Constitution, by being placed in mechanical restraints for prolonged periods for minor offenses.

103. At the federal level, whether inmates are in the custody of the Federal Bureau of Prisons, or the U.S. Marshals Service (USMS), the use of restraint devices, including electro-shock devices, is permissible, subject to imposition in a manner consistent with the applicable policies and procedures. As described in greater detail below, such devices are sparingly used, if at all, and only as a last resort.

104. In federal prisons, the BOP's Program Statement 5566.05, Use of Force and Application of Restraints on Inmates, updated December 31, 1996, applies. It outlines specific procedures and protocols for the use of force and restraints. The BOP authorizes staff to use force only as a last alternative after all other reasonable efforts to resolve a situation have failed. Staff are authorized to use only the amount of force necessary to gain control of the inmate; to protect and ensure the safety of inmates, staff, and others; to prevent serious property damage; to enforce institution regulations; to prevent a crime or to apprehend someone who is believed to have committed a crime; and to ensure the security and good order of the institution. Staff may immediately use force if it is determined through sound correctional judgment that an inmate's behavior constitutes an immediate, serious threat to the safety of another individual, or to the security of the institution and its property. Staff may use force in an immediate (rather than calculated) fashion if it is determined through sound correctional judgment that an inmate's behavior constitutes an immediate, serious threat to the safety of another individual, or to the security of the institution and its property.

105. Staff are authorized to apply physical restraints to gain control of an inmate who appears to be dangerous because the inmate is assaulting another individual, destroying government property, attempting suicide, inflicting injury upon himself or herself, or displaying signs of imminent violence. Four-point restraints can be used when the warden has determined that this method is the only means available to maintain control of an inmate. The BOP uses soft four-point restraints unless soft restraints have been previously proven ineffective on the inmate. The BOP's use of restraint chairs is intended only for short-term use, such as transporting an inmate on or off of an airplane. The BOP policy outlines procedures that call for the guidance of health care personnel in the application of restraints and for qualified staff to regularly check the restraints and the inmate's medical condition.

106. The BOP routinely removes inmates from secure institutions, typically for medical treatment, inmate transfers, and court appearances. The safety of citizens and staff, as well as the security of inmates, is paramount during these moves. Some of these escorted trips involve high-risk inmates who require full physical restraints. To increase security and reduce the risk to the community in these instances, "stun belts" have been adopted for agency use, but only for Maximum custody inmates who require greater security than can be afforded through conventional restraints. To date the BOP has not activated the stun belt on an inmate.

107. The stun belt is a defensive device. Only trained, qualified staff members at the supervisory level are authorized to apply and activate a stun belt during an escorted trip. When activated, it produces a medically tested, less than lethal electrical charge of 50,000 volts, which temporarily immobilizes the inmate without causing permanent injury, allowing staff to regain immediate control of the situation. The stun belt has been determined to be essentially harmless to individuals in good health. The BOP medical staff have reviewed the stun belt and concluded the technology is medically safe for use on the great majority of the BOP's inmate population. The exceptions are: 1) pregnant female inmates, 2) inmates with heart disease, 3) inmates with multiple sclerosis, 4) inmates with muscular dystrophy, and 5) inmates who are epileptic. As part of pre-escort screening, inmates identified as having these conditions are prohibited from wearing the belt.

108. When federal pretrial detainees are remanded to the custody of the U.S. Marshals Service, USMS policies and procedures regarding restraints apply. However, the USMS does not operate any facilities that house pretrial detainees. Rather, the USMS contracts with state, local, and private jails throughout the United States to house and care for federal pretrial detainees. Although the daily safekeeping and care of federal pretrial detainees is the responsibility of these jails, the jails must nonetheless undergo regular USMS inspections under the standards promulgated by the U.S. Department of Justice and the American Correctional Association.

109. Stun belts are also used for courtroom security purposes to control potentially violent defendants. The stun belt is placed underneath the clothing of the individual, on the individual's waist, and is activated by remote control.

110. The USMS has distributed approximately 200 stun belts to district offices across the country, principally for use on high-risk federal prisoners in courtrooms. The use of stun belts is strictly regulated pursuant to USMS policy and procedures, including application and activation guidelines and reporting procedures. Any deputy who is authorized to employ the device must successfully complete a four-hour basic certification program, including a written and practical examination, ensuring that he/she is competent in the proper use of the belt. Stun belts are placed on federal prisoners in court only with the court's approval and are not utilized where a prisoner's medical condition would pose a danger with its application. In fact, the actual practice of the USMS reveals that stun belts have been sparingly activated. The USMS reports that there have been two instances in which USMS staff have intentionally activated the device. In both instances they were deployed in courtroom settings and the detainee suffered no injuries in either case. In addition, current FAA regulations have not approved the use of stun belts on board aircraft.

111. The USMS believes that, although resort to activation of stun belts is infrequent in U.S. courts, stun belts are a proper, safe, legal and effective part of the USMS overall courtroom security program. In instances in which USMS personnel must physically control a prisoner, this device, if activated, would allow USMS personnel to restrain the prisoner in a manner that presents less of a physical danger to U.S. personnel and others requiring protection from the accused. Alternatively, USMS personnel must either choose to strike a violent defendant with an expandable baton or with a hand/foot technique. Chemical/pepper spray is another option.

However, the use of such spray in the courtroom poses substantial difficulties in the cross contamination of other parties such as the judge and jurors, as well as a higher probability of physical injury to the prisoner and the USMS personnel. Finally, the United States Court of Appeals for the Ninth Circuit recently upheld the constitutionality of placing a stun belt on a defendant for security purposes in the courtroom. *Hawkins v. Comparet*, 251 F.3d 1230, 1240-42 (9th Cir. 2001). In that decision, the court recognized the effectiveness of the stun belt to ensure courtroom security without prejudicing a defendant's right to a fair trial. *See also United States v. Joseph*, 333 F.3d 587, 590-591 (5th Cir. 2003), cert. denied, 124 S.Ct. 446 2003).

112. At the state level, while the use of electro-shock devices continues in many state courts and prisons, some state courts have taken steps to curtail the application of such devices. In 2001, the Supreme Court of Indiana banned the use of stun belts on defendants in court. *Wrinkles v. State*, 749 N.E. 2d 1179, 1194 (Ind. 2001).

113. More recently, other states have also limited the use of stun belts. In 2002, the California Supreme Court ruled that the use of a stun belt requires a showing, on the record, of a manifest need for such restraints, supported by evidence of "violence or a threat of violence or other nonconforming conduct" by the defendant. *People v. Mar*, 52 P.3d 95, 104-5 (Cal. 2002). Illinois courts have begun taking steps to limit the use of stun belts during state trials. In 2004, the Appellate Court ruled that the use of stun belts must be held to the same stringent requirements as those for other physical restraints, and that failure to do so constituted a violation of the defendant's due process rights. *People v. Martinez*, 808 N.E.2d 1089 (Ill.App.Ct. 2004).

114. **Detention of juveniles**. The Department of Justice continues to make it a priority to investigate and remedy unlawful conditions in juvenile justice facilities across America. Between October 1, 1999 and January 1, 2005, the Civil Rights Division authorized 16 investigations covering 26 juvenile justice facilities, issued eight findings letters - letters detailing patterns or practices of civil rights violations and minimum remedial measures to remedy the violations - regarding conditions in 17 juvenile justice facilities, and entered 11 settlement agreements involving 26 facilities. In fiscal year 2004, the Civil Rights Division authorized five investigations of five facilities; issued three findings letters regarding conditions at six facilities; filed one lawsuit involving two facilities; and entered three consent decrees or agreements regarding four facilities.

115. The Civil Rights Division's investigations of juvenile facilities have revealed that, in various locations throughout the country, there are facilities that contravene the constitutional and/or statutory rights of the resident inmates. In December 2003, the Division sued Mississippi over the conditions of confinement at the Oakley Training School in Raymond, Mississippi and the Columbia Training School in Columbia, Mississippi. The Division's investigation found evidence of numerous abusive practices, including hogtying, pole-shackling, and placing suicidal students for extended periods of time into a "dark room," naked, with only a hole in the floor for a toilet. Children who became ill during strenuous physical exercise were made to eat their vomit. As of January 1, 2005, the Civil Rights Division remains in litigation with the State of Mississippi.

116. Although practice varies within prisons at the state level, in federal prisons, juveniles are not regularly held in prison with the regular prison population. Federal law prohibits juvenile offenders held in custody of federal authorities from being placed in correctional institutions or detention facilities in which they could have regular contact with adult offenders. *See* 18 U.S.C. § 5039.

117. **Care and Placement of Unaccompanied Alien Children**. In March 2003, § 462 of the Homeland Security Act of 2002 transferred functions under U.S. immigration laws regarding the care and placement of unaccompanied alien children (UACs) from the Commissioner of the Immigration and Naturalization Service to the Office of Refugee Resettlement (ORR) within the Administration for Children and Families (ACF) at the Department of Health and Human Services.

118. Responsibilities of ORR under the law include: making and implementing placement determinations and policies, identifying sufficient qualified placements to house UACs, ensuring that the interests of the child are considered in decisions related to the care and custody of UACs, reuniting UAC with guardians and/or sponsors, overseeing the infrastructure and personnel of UAC facilities, conducting investigations and inspections of facilities housing UACs, collecting and comparing statistical information on UACs, and compiling lists of qualified entities to provide legal representation for UACs.

119. The UAC Program has accomplished a great deal since its inception within ORR. The program has made great strides in improving overall services within facilities, including enhanced clinical and mental health services. The program has also been faced with a dramatic increase in the number of apprehended juveniles due to increased Department of Homeland Security border initiatives. As a result, the program has added over 300 shelter/foster care beds to accommodate the influx, marking a significant achievement for this program. This was accomplished without reliance on secure detention facilities. In fact, since March 2003 the program has dramatically reduced its reliance on secure detention by ensuring that only those with a severe criminal background are placed in a secure juvenile facility. Children are never mixed with an adult population, since the current facilities under contract are licensed to serve only juvenile populations. Currently, less than 2 percent of the total UAC population is in a secure environment. Finally, all facilities are required to ensure an appropriate level of care in terms of education, counseling, recreation and mental health services.

120. **Abuse of the institutionalized**. Between October 1 1999 and January 1, 2005, pursuant to CRIPA, described above in paragraph 26, the Civil Rights Division authorized 5 investigations covering 8 facilities housing persons with mental illness, 6 investigations covering 6 facilities housing persons with developmental disabilities, and 10 investigations covering 10 nursing homes. During that period, the Civil Rights Division entered into four settlement agreements concerning three facilities housing persons with mental illness, 10 settlement agreements concerning 17 facilities housing persons with developmental disabilities, and 3 settlements concerning 3 nursing homes. During that period, pursuant to CRIPA, the Civil Rights Division issued findings letters regarding conditions in 7 facilities for persons with mental illness, 5 facilities for persons with developmental disabilities, and 11 nursing homes. Some examples of these investigations follow:

- On January 12, 2004, the U.S. Department of Justice's Civil Rights Division and the State of Louisiana filed a complaint and consent decree in *United States v. Louisiana* (M.D. La.) regarding the Hammond and Pinecrest Developmental Centers. The action resolved an investigation into allegations of a pattern or practice of violations at the two facilities. Pinecrest and Hammond are the two largest state-owned and operated residential facilities in Louisiana serving persons with developmental disabilities. Staff at one of the facilities have been arrested for abuse such as kicking a resident, dragging him to his room, placing a blanket over his head, and hitting him. At the other facility, staff had left residents alone for long periods of time and when the residents were eventually found, they were found in appalling and unclean conditions. The Department of Justice's Civil Rights Division and the State of Louisiana entered into a consent decree in which the State agreed to remedy the alleged constitutional deficiencies;

- On February 17, 2004, the Civil Rights Division filed a complaint and a consent decree in *United States v. Breathitt County, Kentucky* (E.D. Ky.) regarding Nim Henson Geriatric Center, a case concerning unconstitutional conditions at the county nursing home, including the use of inappropriate medications for an elderly population, unnecessary medical interventions such as feeding tubes, and residents with untreated bed sores. For example, during the Division's investigation, the Division found that in many instances, residents' medical records contained no clinical justification for their medications, and frequently certain medications appeared to be prescribed inappropriately. Often, powerful psychotropic medications were administered to patients based solely on nurses' observations that they were "agitated," and a high number of Nim Henson residents displayed symptoms consistent with many of the harmful side effects of harmful medication use, particularly muscular rigidity, swallowing difficulties, restricted speech and movement, and mental confusion. The consent decree contains remedial measures addressing these and all of the Division's other findings of unconstitutional conditions at Nim Henson;

- In October 2001, the Civil Rights Division obtained the first court-ordered comprehensive community service plan for persons with developmental disabilities after President Bush signed the New Freedom Initiative (a domestic initiative to help Americans with disabilities by increasing access to assistive technologies, expanding educational opportunities, increasing the ability of Americans with disabilities to integrate into the workforce, and promoting increased access into daily community life). In 1997, the Division investigated all six of the residential facilities for persons with developmental disabilities operated by the Commonwealth of Puerto Rico. The Division found dire conditions at the institutions such as no running water, broken toilets, showers and sinks, as well as medication and food shortages. Many residents were found in filthy conditions and suffered serious injuries such as black eyes, deep cuts to the head, bruises, and significant weight loss. The Division responded quickly, filing suit and securing a series of agreements to remedy deficient conditions. The Division reached agreement on a comprehensive community-based

service plan whereby the Commonwealth would create a community system to serve the residents with developmental disabilities in the most integrated setting. As a result, the Commonwealth closed its deficient institutions and created a good community system. Virtually all of the residents who had been institutionalized in dire conditions now live in clean, safe homes staffed by caring and involved staff. The Division has conducted several monitoring tours of community placements and programs. Most recently, the Commonwealth committed to increasing its mental health care for former residents of institutions now living in the community.

121. **Prisoners on chain gangs**. Chain gangs are employed by a minority of states, where their use has sparked controversy. However, the use of chain gangs is not *per se* unconstitutional.

122. The Bureau of Prisons does not employ chain gangs. While only a minority of states and some local jurisdictions employ chain gang work crews, one county in Arizona has attracted particular attention for its approach. Maricopa County, Arizona operates four chain gangs, two for adult males, one for females, and one for juveniles. Common duty for chain gang members is to bury indigent members of the community. In the past, federal authorities have in some instances taken measures to regulate state authorities who have employed chain gangs.

123. Some states have stopped using chain gangs for a variety of reasons, including safety concerns for inmates. Although Alabama was the first state to resurrect the practice in 1995, it ended its chain gangs only two years later. Inmate safety was a significant factor behind Alabama's decision after a guard shot an inmate who attacked a fellow prisoner while they were chained together and the victim could not escape. Also, in 2002, the Alabama Supreme Court ruled that prison guards could be held liable for injuries suffered by a prisoner while on a chain gang.

124. One of the issues involved in the investigations by the Civil Rights Division of the Department of Justice into two Alabama prisons involved use of the "hitching post." The Department of Justice concluded that Alabama's systematic use of the hitching post constituted improper corporal punishment. Later, in *Hope v. Pelzer*, 536 U.S. 730 (2002), the Supreme Court agreed with the petitioner and the United States (which participated as a "friend of the court") that the use of the "hitching post" was, under the alleged circumstances, an unconstitutional practice. In that case, a hitching post referred to a metal bar located outdoors to which inmates were attached by means of mechanical restraints. The Court held that it is unconstitutional for prison officials to, with deliberate indifference to the health or safety of inmates, expose inmates to the "unnecessary and wanton infliction of pain." *Hope v. Pelzer*, 536 U.S. 730, 737 (2002) (internal quotation marks omitted).

125. **Adult aliens in immigration custody**. The Department of Homeland Security continues to address allegations that arise about the treatment of aliens held in immigration detention. Within the Department of Homeland Security, the Bureau of Immigration and Customs Enforcement (ICE), Office of Detention and Removal Operations (DRO) detains approximately 19,000 aliens in Service Processing Centers, Contract Detention Facilities and

local facilities through Inter-governmental Service Agreements (IGSA). ICE regularly meets at both the national and local levels with various non-governmental organizations (NGOs) (such as the American Immigration Lawyers Association, the American Bar Association, Catholic Charities, Las Americas) to address such allegations. A national NGO working group meets in Washington, D.C. at ICE Headquarters. ICE also regularly meets with consular officials to address allegations of mistreatment.

126. In a particularly noteworthy development since the Initial Report, in November 2000, the former Immigration and Naturalization Service (INS) promulgated the National Detention Standards (NDS). These 36 standards were the result of negotiations between the American Bar Association, the Department of Justice, the INS and other organizations involved in pro bono representation and advocacy for immigration detainees. The NDS provides policy and procedures for detention operations. Previously, policies governing detention operations were not consolidated in one location, but were instead sent to field officers via periodic memoranda containing guidance and policy statements. As a result, local differences among INS detention offices were possible.

127. The NDS are comprehensive, encompassing areas from legal access to religious and medical services, marriage requests to recreation. The four legal access standards concern visitation, access to legal materials, telephone access, and group presentations on legal rights. In July 2003, the 37th standard was introduced for Staff-Detainee Communication, which is discussed further at paragraph 137. Effective March 2003, the Office of Detention and Removal Operations became a division of ICE within the Department of Homeland Security. Effective September 2004, the Detainee Transfer standard was added. The 38 NDS can be accessed by the public and other interested parties via the Internet at http://www.ice.gov/graphics/dro/opsmanual/index.htm.

128. ICE is committed to ensuring that the conditions of confinement for aliens detained pursuant to ICE authority meet or exceed the National Detention Standards. These standards are based on current ICE detention policies, Bureau of Prisons' Program Statements and the widely accepted American Correctional Association Standards for Adult Local Detention Facilities, but are tailored to serve the unique needs of ICE detainees. All ICE facilities are required to comply with such standards. Additionally, wherever possible, ICE works with private contract facilities and state, local and federal government agencies which are holding aliens under Intergovernmental Service Agreements to ensure that non-ICE facilities comply with ICE's detention standards.

129. On January 24, 2002, DRO completed and implemented the Detention Management Control Program (DMCP) to operational components at all levels. The DMCP replaced the outdated INS Jail Inspection Program. The purpose of the DMCP is to prescribe policies, standards, and procedures for ICE detention operations and to ensure detention facilities are operated in a safe, secure and humane condition for both detainees and staff. The DMCP consists of a series of events designed to ensure that reviews/inspections of detention facilities are conducted in a uniform manner.

130. All Service Processing Centers, Contract Detention Facilities, and Intergovernmental Service Agreements are reviewed annually using procedures and guidance as outlined in DMCP. During FY 2003, a cumulative total of 8 Special Assessments were conducted as a result of reported significant incidents, reported deficiencies, at-risk detention reviews or significant media event. Some examples follow:

- A special assessment was prompted at a facility in Oklahoma following an escape. Health, welfare and safety issues were identified during the assessment. Corrective actions taken by ICE included the removal of all ICE detainees from the facility and the termination of the agreement;

- Following an escape of a detainee, a special assessment was conducted at a facility used in Washington. The population was ordered reduced due to health, welfare and safety issues. Monthly site visits were instituted until the facility became compliant with the contract and applicable standards. The contractor removed the Warden and Assistant Warden;

- After allegations of assault on a detainee by staff at a parish jail in Louisiana, a special assessment was conducted. The officer was arrested and prosecuted by the Parish District Attorney, other staff were terminated, and disciplinary action initiated. No further action by ICE was required.

131. ICE concluded capacity studies for its Service Processing Centers (SPCs) in 2003. These studies were conducted by an independent agency. They determined the proper population levels at each facility based on operational, design, and emergency capacity parameters. Pursuant to completion of these studies, ICE issued policy directives mandating facility compliance with assessed appropriate population levels.

132. Another noteworthy development since the Initial Report affecting the rights of aliens is the U.S. Supreme Court's decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001), which established, as a matter of statutory interpretation, certain limitations upon the government's ability to detain aliens. In *Zadvydas*, discussed above at paragraph 38, the Supreme Court construed INA § 241(a)(6), 8 U.S.C. § 1231(a)(6), the statute authorizing immigration detention of aliens after the issuance of a final order of removal, to require that an alien who "has effected entry into the United States" and been ordered removed may only be detained for a period reasonably necessary to remove the alien. The Court held that detention for six months after a final removal order is entered is presumptively reasonable. After six months, however, detention may not be reasonable absent evidence that removal is likely to occur in the reasonably foreseeable future or evidence that "special circumstances," such as a national security threat or an alien's dangerousness, may warrant continued detention. District and appellate courts have also held that where the alien has created the delay in removal, the alien's continued detention does not violate the statute. In light of this ruling, the regulations governing detentions of aliens were revised. Specifically, 8 C.F.R. § 241.4 was revised in November 2001 to provide post-order custody review procedures for inadmissible and deportable criminal and other aliens in detention whose prompt removal is delayed or impracticable because their own governments

have not agreed to their return. To implement the standards established in *Zadvydas*, an additional provision was promulgated. Section 241.13 of Title 8 of the C.F.R. establishes procedures to determine whether there is a significant likelihood that an alien who has effected an entry into the U.S. will be removed in the reasonably foreseeable future.

133. Finally, in January 2005 in *Clark v. Martinez*, 125 S.Ct. 716 (2005), the Supreme Court of the United States held that the construction of 8 U.S.C. § 1231(a)(6), which the Court announced in *Zadvydas* (discussed above), applies to aliens "ordered removed who are inadmissible under § 1182" of Title 8 of the United States Code, which sets forth the general classes of aliens ineligible to receive visas and ineligible for admission to the United States. Thus, the Court held that such aliens may be detained only as long as "reasonably necessary" to remove them from the United States and that the six-month presumptive detention period prescribed in *Zadvydas* applies to such aliens. Accordingly, the Court concluded that the detention of Sergio Suarez Martinez and Daniel Benitez, both Mariel Cubans who have been ordered removed and who are inadmissible under § 1182, was subject to the limitations articulated in *Zadvydas*.[11]

134. **Immigration detentions connected with September 11 investigations**. In response to the attacks against the United States on September 11, 2001, the United States initiated an investigation to identify any accomplices to the terrorists who committed the September 11 attacks and to prevent a future attack. Department of Justice officials from numerous components, including employees of the Federal Bureau of Investigation (FBI), the former Immigration and Naturalization Service, the United States Marshals Service, the Bureau of Prisons, the Criminal Division, and many United States Attorney's Offices, along with officials at the state level, worked tirelessly to do everything within their legal authority to protect against another terrorist attack. As a result of the Federal Bureau of Investigation's (FBI) investigation, known as "PENTTBOM" (Pentagon Twin Towers Bombing), 762 aliens were detained on immigration charges after the attacks.

135. During the course of these detentions and in their aftermath, individual detainees, their families and human rights and immigrant rights groups asserted a broad range of allegations of abuses resulting from the investigations and detentions. These assertions included that individuals did not receive prompt notice of the charges on which they were being held, that they were deprived of procedural protections, that the immigration proceedings were closed to the public, and in some cases, that detainees were physically abused. Several lawsuits have been filed. At least one has been settled, while others are still pending.

136. On June 2, 2003, the U.S. Department of Justice Office of the Inspector General (OIG) issued a report entitled "The September 11 Detainees: A Review of the Treatment of Aliens Held on Immigration Charges in Connection with the Investigation of the September 11 Attacks." The report is available at http://www.usdoj.gov/oig/special/0306/full.pdf. The OIG undertook this investigation pursuant to its responsibilities under the Inspector General Act and pursuant to its responsibilities under the USA PATRIOT Act, section 1001 of which requires the OIG to designate an official to review information and receive complaints alleging abuses of civil rights and civil liberties by employees and officials of the Department of Justice. The report described

DOJ's response to the attacks, including the PENTTBOM investigation. The OIG's report focused on the 762 aliens who were detained on immigration charges after the attacks. The report examined all aspects of the detainees' treatment, from the serving of the charging document to the policies governing the conditions of the detainees' confinement during their detention. Some of the detainees were held in Bureau of Prisons facilities, while others were held at INS detention centers or in state or local facilities under contract with INS. The report described the manner in which the BOP classified the detainees - initially putting them under its witness security group - and the problems this created for those who attempted to communicate with them. The report made 21 recommendations to address the issues identified in the DOJ OIG review. The recommendations covered a broad range of issues, including, *inter alia*, the adoption of clearer and more objective criteria to govern arrests, the development of more effective means of coordination and communication between the various law enforcement agencies involved in such investigations, and the need for new standards governing conditions of detention.

137. Both the Department of Justice and the Department of Homeland Security have responded to the various recommendations identified by the Department of Justice's OIG. The respective responses of the agencies, as well as the analyses of such reports by the Department of Justice's OIG, are available at: www.usdoj.gov/oig/special/0306/analysis.htm and http://www.usdoj.gov/oig/special/0401/index.htm. As evidenced by their responses to the OIG's report, in some cases the respective Departments adopted new policies, such as the adoption by the Department of Homeland Security's Immigration and Custom Enforcement (ICE) of a new detention standard on Staff-Detainee Communication. The central goal of this new standard is to ensure that ICE personnel monitor detention conditions and promptly address concerns that arise. The standard also includes specific timeframes during which officers must respond to certain enumerated detainee requests.

138. On December 18, 2003, DOJ's Office of Inspector General issued a supplemental report entitled "Supplemental Report on September 11 Detainees' Allegations of Abuse at the Metropolitan Detention Center (MDC) in Brooklyn, New York." This report is available at http://www.usdoj.gov/oig/special/0312/final.pdf. The report described the investigation conducted by the OIG concerning allegations that staff members of the Federal Bureau of Prisons' Metropolitan Detention Center in Brooklyn, New York physically and verbally abused aliens who were detained in connection with the terrorist attacks of September 11, 2001. It supplemented Chapter 7 of the June 2003 OIG report described above, in which the OIG found evidence that the conditions of detention at the MDC were excessively restrictive and unduly harsh. According to the OIG, those allegations included inadequate access to counsel, sporadic and mistaken information to detainees' families and attorneys about where they were being detained, lockdown for at least 23 hours a day, cells remaining illuminated 24 hours a day, detainees placed in heavy restraints whenever they were moved outside their cells, limited access to recreation, and inadequate notice to detainees about the process for filing complaints about their treatment. In its June 2003 report, the OIG also noted that there was evidence that some MDC correctional officers physically and verbally abused some September 11 detainees, particularly during the months immediately following the September 11 attacks. The

December 2003 supplemental report contained the results of the OIG's completed investigation into the allegations of abuse at the MDC. It recommended that the BOP consider taking disciplinary action against ten current BOP employees, counseling two current MDC employees, and informing employers of four former staff members about the OIG's findings against them. The Bureau of Prisons is continuing its investigation of the allegations of staff misconduct based on the OIG's report and recommendation and will consider appropriate action based on the results of that investigation.

139. Separate from the OIG's investigation into the MDC, allegations of abuse at the MDC were also investigated by the Bureau of Prisons' Office of Internal Affairs, the Department of Justice's Civil Rights Division and the United States Attorney's Office for the Eastern District of New York. Following a very thorough review, the Civil Rights Division and United States Attorney's Offices determined that there was no criminal conduct at the MDC facility. However, even if a matter is declined criminally at the Department of Justice, the OIG can continue that investigation to determine if there was misconduct that should result in disciplinary or other administrative action. In this case, the OIG did pursue the investigation as an administrative matter after prosecution was declined, and as noted above, the BOP Office of Internal Affairs is continuing its investigation into this matter.

140. **Capital punishment**. The issue of capital punishment remains a matter of active discussion within the United States. As was true when the United States submitted its Initial Report, a majority of the people in a majority of the states, and of the country as a whole, have chosen through their democratically elected representatives to provide the possibility of capital punishment for the most serious of crimes. Capital punishment is permitted by 38 states and by the Federal Government, whereas 12 states and the District of Colombia prohibit its use.

141. As has been explained elsewhere in this report and as discussed in detail in the Initial Report, the reservation to Article 16 contained in the U.S. instrument of ratification limits U.S. obligations under Article 16 of the Convention to the prohibitions against "cruel, unusual and inhumane treatment or punishment prohibited by the Fifth, Eighth, and/or Fourteenth Amendments to the Constitution of the United States." Moreover, the United States understanding, also included in the U.S. instrument of ratification, states that "The United States understands that international law does not prohibit the death penalty, and does not consider this Convention to restrict or prohibit the United States from applying the death penalty consistent with the Fifth, Eighth and/or Fourteenth Amendments to the Constitution of the United States, including any constitutional period of confinement prior to the imposition of the death penalty."

142. Accordingly, as stated in the Initial Report, the United States considers the issue of capital punishment to be outside the scope of its reporting obligations under the Torture Convention. Nevertheless, in an annex to the Initial Report, the United States provided for the information of the Committee a summary of some aspects of the issue. As a matter of courtesy to the Committee, the United States provides updated information on this issue in Annex 7.

III. ADDITIONAL INFORMATION REQUESTED BY THE COMMITTEE

143. By letter of May 21, 2004, the Committee requested "updated information concerning the situation in places of detention in Iraq, up to the time of the submission of the report." This and other relevant information regarding U.S. military operations is provided in Annex 1 for the Committee's review.

IV. OBSERVATIONS ON THE COMMITTEE'S CONCLUSIONS AND RECOMMENDATIONS

144. The United States has carefully considered the Committee's Conclusions and Recommendations. Observations of the United States on those conclusions and recommendations appear below.

The Committee expressed concern over "The failure of the State Party to enact a federal crime of torture in terms consistent with Article 1 of the Convention."

145. As was discussed in considerable detail in the Initial Report, every act of torture within the meaning of the Convention, as ratified by the United States, is illegal under existing federal and/or state law, and any individual who commits such an act is subject to penal sanctions as specified in criminal statutes at either the state or federal level. While the specific legal nomenclature and definitions vary from jurisdiction to jurisdiction, it is clear that any act of torture falling within the Convention would in fact be criminally prosecutable in every jurisdiction within the United States. The United States appreciates many merits in the suggestion advanced by the Committee. However, as the United States substantively has fulfilled the requirements of the Convention in this respect and for the reasons it determined to apply at the time it became party to the Convention, the United States has decided to retain the current statutory regime within the United States on this point.

The Committee expressed concern over "The reservation lodged to Article 16, in violation of the Convention, the effect of which is to limit the application of the Convention."

146. The Committee's use of the phrase "in violation of the Convention" is confusing as a matter of international treaty law. By their nature, reservations alter the scope of treaty obligations assumed by State Parties. Accordingly, reservations that are not prohibited by a treaty or by the applicable international law rules relating to reservations are not violations of that treaty. As the Torture Convention does not prohibit the making of a reservation and as the reservation in question is not incompatible with the object and purpose of the Convention, there is nothing in the U.S. reservation that would be unlawful or otherwise constitute a violation of the Convention.

147. The decision by the United States to condition its ratification upon a reservation to Article 16 (construing its obligations under Article 16 to prevent "cruel, inhuman or degrading treatment or punishment" only insofar as the term means the cruel, unusual and inhumane treatment or punishment prohibited by the Fifth, Eighth and/or Fourteenth Amendments to the

U.S. Constitution) was made after careful deliberation. Indeed, the existence of this reservation was a critical element in the decision by the United States to become a State Party to the Convention. The rationale set forth in the Initial Report, in particular the vague and ambiguous nature of the term "degrading treatment," remains equally valid at this time.

The Committee expressed concern over "The number of cases of police ill-treatment of civilians, and ill-treatment in prisons (including instances of inter-prisoner violence). Much of this ill-treatment by police and prison guards seems to be based upon discrimination."

148. Please see discussion under under Article 2 and Article 16 above. In a country of some 280 million people with a prison population of over 2 million people it is perhaps unavoidable, albeit unfortunate, that there are cases of abuse. Continuing U.S. efforts to deal with these problems and punish perpetrators of such acts are set out throughout this report. The United States fully agrees that the rights of detainees should be protected, in particular against unlawful discrimination.

The Committee expressed concern over "Alleged cases of sexual assault upon female detainees and prisoners by law enforcement officers and prison personnel. Female detainees and prisoners are also very often held in humiliating and degrading circumstances."

149. Please see discussion under Article 16 above.

The Committee expressed concern over "The use of electro-shock devices and restraint chairs as methods of constraint, which may violate the provisions of Article 16 of the Convention."

150. Please see discussion under Article 16 above.

The Committee expressed concern over "The excessively harsh regime of the 'supermaximum' prisons."

151. Please see discussion under Article 16 above.

The Committee expressed concern over "The use of 'chain gangs', particularly in public."

152. Please see discussion under Article 16 above.

The Committee expressed concern over "The legal action by prisoners seeking redress, which has been significantly restricted by the requirement of physical injury as a condition for bringing a successful action under the Prison Litigation Reform Act."

153. The Prison Litigation Reform Act of 1996 (PLRA), which was enacted as part of Pub. L. 104-134, contains several provisions designed to curtail frivolous lawsuits by prison inmates. One such provision is the requirement that no action shall be brought with respect to

prison conditions under federal law by a prisoner until such administrative remedies as are available are exhausted. Another is the provision that no federal civil action may be brought by a prisoner for mental or emotional injury suffered while in custody without a prior showing of physical injury. Courts of appeals have held that the physical injury requirement does not prevent a prisoner from obtaining injunctive or declaratory relief. *E.g.*, *Thompson v. Carter*, 284 F.3d 411, 418 (2d Cir. 2002). Moreover, the "physical injury" requirement has been challenged in U.S. courts and its constitutionality has been upheld. Since their enactment in 1996, the statutory amendments provided by the PLRA have achieved their fundamental purpose of restricting frivolous lawsuits by inmates that were disrupting the efficient operation of the federal judicial system.

The Committee expressed concern over "The holding of minors (juveniles) with adults in the regular prison population."

154. Please see discussion under Article 16.

Recommendations

"enact a federal crime of torture in terms consistent with Article 1 of the Convention and withdraw its reservations, interpretations and understandings relating to the Convention."

155. As described above, the United States respectfully disagrees with the Committee regarding the necessity and advisability of enacting a new federal crime of torture when existing U.S. law already provides that every act of torture within the meaning of the Torture Convention, as ratified by the United States, is prohibited by criminal law under existing federal and/or state law.

156. The United States respectfully reminds the Committee that the United States reached its conclusion that it would be necessary to condition U.S. ratification of the Convention on certain reservations, understandings and declarations as a result of a serious and careful review of U.S. law. The Initial Report sets forth the rationale for each of those reservations, understandings and declarations. While the United States has considered its existing reservations, understandings, and declarations in light of the Committee's recommendation, there have been no developments in the interim that have caused the United States to revise its view of the continuing validity and necessity of the conditions set forth in its instrument of ratification.

"take such steps as are necessary to ensure that those who violate the Convention are investigated, prosecuted and punished, especially those who are motivated by discriminatory purposes or sexual gratification."

157. Much of this report has described actions taken within the United States that are consistent with this recommendation. The United States Government is aware of continuing allegations of specific types of abuse and ill-treatment in particular cases. The United States believes that, overall, the country's law enforcement agencies and correctional institutions set and maintain high standards of conduct for their officers and treatment for persons in their custody. The United States believes that there is a deterrent effect on prospective individual

conduct due to the successful federal and state criminal prosecutions of law enforcement officers who are responsible for abuse. It also realizes that such conduct has not been eradicated and that its efforts in this regard must continue.

158. The discussion under Article 2 above provides accounts of examples of the Department of Justice's efforts to prosecute law enforcement officers for misconduct, as exemplified by the 284 convictions of law enforcement officers for violating federal civil rights statutes between October 1, 1999 and January 1, 2005. When sufficient evidence of a violation of an individual's constitutional rights is established, such cases are prosecuted by the Federal Government and substantial sentences are adjudged. Please refer also to the discussion under Article 16 above regarding police brutality and the action taken to remedy such abuses. In addition to federal law enforcement efforts, local and state prosecutions are also brought.

159. Recognizing that female offenders have different social, psychological, educational, family, and health care needs than male offenders, the Bureau of Prisons continues to design and implement special programs for women offenders. However, the BOP treats all inmates, male and female, in a firm, fair, and consistent manner, with a primary focus being the maintenance of the inmates' dignity and humanity. Prospective employees undergo a rigorous pre-employment screening and background check to ensure the highest standards of integrity. Once employed, staff receive initial training and refresher training at least annually throughout their careers regarding the importance of proper treatment of inmates, and appropriate boundaries between staff and inmates.

160. Despite these measures, there have been unfortunate instances where staff have violated these standards of trust. Federal law expressly criminalizes sexual activity between correctional workers and inmates in federal prisons. Every allegation is investigated thoroughly. In cases where an allegation of inappropriate conduct by a staff member towards an inmate is substantiated, offending staff are referred for prosecution, to eradicate this deplorable behavior. Examples of prosecutions of such conduct are provided in the discussion under Article 16 above.

"Abolish electro-shock stun belts and restraint chairs as methods of restraining those in custody; their use almost invariably leads to breaches of Article 16 of the Convention."

161. The policies regarding the use of restraint chairs adopted by the Department of Justice reflect an awareness that the use of restraint chairs and stun belts, while lawful, should nevertheless be carefully circumscribed. The Bureau of Prisons' use of restraint chairs is intended only for short-term use, such as transporting an inmate on or off of an airplane. In the course of several investigations, the Civil Rights Division of the Department of Justice has investigated the use of the restraint chair in non-federal jails and prisons. The Civil Rights Division has recommended that such devices should only be used to keep an inmate from hurting himself or others, when less restrictive means of controlling the inmate have failed. The use of such devices should be carefully controlled and the inmate should be monitored at least every 15 minutes, vital signs should be checked and opportunities for movement, eating, and toileting should be provided. Restraints should be removed as soon as the inmate is no longer a threat to himself or others.

162. In the course of its investigations of adult correctional facilities, juvenile correctional facilities and law enforcement agencies pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA) and the Pattern or Practice of Police Misconduct provision of the Crime Bill of 1994, described above, the Civil Rights Division has recommended limitations on the use of electro-shock weapons in both law enforcement agencies and corrections facilities, as well as increased training for officers using such weapons. However, the *per se* use of such restraints does not violate constitutional standards. Used appropriately, stun belts, stun guns, certain types of choke holds, and pepper spray can be effective tools for law enforcement under certain conditions where use of force is warranted due to the actions of a suspect whom the police are justifiably attempting to detain or arrest and in the correctional setting. In particular, these devices sometimes can be used as effective alternatives where more serious or deadly force would otherwise be justified. In the corrections setting, medical screening is required to determine if use of stun devices and pepper spray is contraindicated.

"Consider declaring in favor of Article 22 of the Convention."

163. At the time it undertook its domestic procedures to become a State Party to the Convention, the United States Executive and Legislative Branches gave substantial thought to the question of whether to avail the United States of the procedure set forth in Article 22. Since receiving the Committee's recommendation, the United States has further considered whether to make a declaration recognizing the competence of the Committee to consider communications made by or on behalf of individuals claiming to be victims of a violation of the Convention by the United States. While noting that at any time it could decide to reconsider the issue, the United States continues to decline to make such a declaration. As has been discussed at considerable length throughout this report, the United States legal system affords numerous opportunities for individuals to complain of abuse, and to seek remedies for such alleged violations. Accordingly, the United States will continue to direct its resources to addressing and dealing with violations of the Convention pursuant to the operation of its own domestic legal system.

"Ensure that minors (juveniles) are not held in prison with the regular prison population."

164. As stated under Article 16 above, in federal prisons, juveniles are not regularly held in prison with the regular prison population. Federal law prohibits juvenile offenders held in custody of federal authorities from being placed in correctional institutions or detention facilities in which they could have regular contact with adult offenders. *See* 18 U.S.C. § 5039. When a juvenile must be temporarily detained in an adult facility, it is for a minimal period of time and "sight and sound" separation from the adult offenders is ensured within the institution. The Bureau of Prisons has less than 300 juvenile offenders in its custody, and all such offenders are housed in contract facilities. All juvenile offenders in BOP custody are required to receive 50 hours per week of quality programming (e.g., GED, drug treatment, sex offender treatment, violent offender treatment).

165. The United States appreciates this opportunity to update its Initial Report on the operation of the Convention within the United States and looks forward to further work with the Committee Against Torture on these important issues.

V. ANNEXES

Annex 1

PART ONE

INDIVIDUALS UNDER THE CONTROL OF U.S. ARMED FORCES CAPTURED DURING OPERATIONS AGAINST AL-QAIDA, THE TALIBAN AND THEIR AFFILIATES AND SUPPORTERS

I. BACKGROUND ON THE WAR AGAINST AL-QAIDA, THE TALIBAN AND THEIR AFFILIATES AND SUPPORTERS

The United States and its coalition partners are engaged in a war against al-Qaida, the Taliban, and their affiliates and supporters. There is no question that under the law of armed conflict, the United States has the authority to detain persons who have engaged in unlawful belligerence until the cessation of hostilities. Like other wars, when they start we do not know when they will end. Still, we may detain combatants until the end of the war.

At the same time, the commitment of the United States to treat detainees humanely is clear and well documented.[12] A discussion of allegations of mistreatment of detainees appears in Part One, III.B and Part Two, III.B.

To understand U.S. actions in continuing to detain members of al-Qaida, the Taliban, and their affiliates and supporters, whether captured committing acts of belligerency themselves or directly supporting hostilities in aid of such enemy forces, the United States submits a brief summary of events in its war against al-Qaida, the Taliban, and their affiliates and supporters.

Summary of unlawful belligerent acts committed by al-Qaida

Although the events of September 11, 2001 indisputably brought conflict to U.S. soil, al-Qaida had engaged in acts of war against the United States long before that date. The reality is that for almost a decade before September 11, 2001, al-Qaida and its affiliates waged a war against the United States, although it did not show the depth of its goals until the morning of September 11, 2001.

In 1996, Usama bin Ladin issued a fatwa declaring war on the United States. In February 1998, he repeated the fatwa stating that it was the duty of all Muslims to kill U.S. citizens - civilian or military - and their allies everywhere. Six months later, on August 7, 1998, al-Qaida attacked two U.S. Embassies in Kenya and Tanzania, killing over 200 people and injuring approximately 5,000.

In 1999, an al-Qaida member attempted to carry out a bombing plot at the Los Angeles International Airport during the Millennium Celebrations. U.S. law enforcement foiled this attack, arresting Ahmed Ressam at Port Angeles at the U.S./Canadian border. The United States now knows that in October 2000, al-Qaida directed the attack on a U.S. naval warship, the USS Cole, while docked in the port of Aden, Yemen.[13] This attack killed 17 U.S. sailors and injured 39.

The horrific events of September 11, 2001 are well known. On that day, the United States suffered massive and brutal attacks carried out by nineteen al-Qaida suicide hijackers who crashed three U.S. commercial jets into the World Trade Center and the Pentagon, and were responsible for the downing of one commercial jet in Shanksville, Pennsylvania. These attacks resulted in approximately 3,000 individuals of 78 different nationalities reported dead or missing.

The United Nations Security Council immediately condemned these terrorist acts as a "threat to international peace and security" and recognized the "inherent right of individual or collective self-defense in accordance with the United Nations Charter." U.N. Sec. Council Res. 1368, U.N. Doc. No. S/RES/1368 (Sept. 12, 2001) (at <http://daccessdds.un.org/doc/UNDOC/GEN/N01/533/82/PDF/N0153382.pdf?OpenElement> (Visited March 1, 2005)); *see* U.N. Sec. Council Res. 1373, U.N. Doc. No. S/RES/1373 (Sept. 28, 2001) (at <http://www.un.org/News/Press/docs/2001/sc7158.doc.htm> (visited March 1, 2005)) (deciding that all States shall take certain steps to combat terrorism).

On September 12, 2001, less than 24 hours after the terrorist attacks against the United States, NATO declared the attacks to be an attack against all the 19 NATO member countries. The Allies - for the first time in NATO's history - invoked Article 5 of the Washington Treaty, which states that an armed attack against one or more NATO member countries is an attack against all. NATO followed this landmark decision by implementing practical measures aimed at assisting the United States. (At <http://www.nato.int/terrorism/index.htm#a> (visited February 26, 2005)).

On September 11, 2001, the Organization of American States (OAS) General Assembly immediately "condemned in the strongest terms, the terrorist acts visited upon the cities of New York and Washington, D.C." and expressed "full solidarity" with the government and people of the United States. Immediately thereafter, the foreign ministers of the States Parties to the 1947 Inter-American Treaty of Reciprocal Assistance (the Rio Treaty) declared, "these terrorist attacks against the United States of America are attacks against all American states." The ministers passed a resolution agreeing to "use all legally available measures to pursue, capture, extradite, and punish" anyone in their territories believed to be involved in terrorist activities. (At <http://www.oas.org/Assembly2001/assembly/gaassembly2000/GAterrorism.htm> (visited February 28, 2005)).

The Prime Minister of Australia also considered the attacks to be an armed attack justifying action in self-defense under Article IV of the ANZUS Treaty. *See* Statement of the Prime Minister, *Application of Anzus Treaty to Terrorist Attacks on the United States*, September 14, 2001, (at <http://www.pm.gov.au/news/media_releases/2001/media_release1241.htm> (visited February 26, 2005)).

The seriousness of the threat al-Qaida and its supporters posed to the security of the United States compelled it to act in self-defense. On October 7, 2001, President Bush invoked the United States' inherent right of self-defense and, as Commander in Chief of the Armed Forces of the United States, ordered U.S. Armed Forces to initiate action against terrorists and the Taliban regime harboring them in Afghanistan. The U.S. Armed Forces "initiated actions

designed to prevent and deter further attacks on the United States .. [including] measures against Al Qaeda terrorist training camps and military installations of the Taliban regime in Afghanistan." Letter from John Negroponte, U.S. Permanent Representative to the U.N., to Richard Ryan, President of the U.N. Security Council, U.N. Doc. No. S/2001/946 (Oct. 7, 2001), 40 I.L.M. 1281 (2001). (At <http://www.un.int/usa/s-2001-946.htm> (visited March 1, 2005)). The attacks commenced when United States and coalition forces launched "strikes against al Qaeda terrorist training camps and military installations of the Taliban regime in Afghanistan . . . designed to disrupt the use of Afghanistan as a terrorist base of operations, and to attack the military capability of the Taliban regime." (At <http://www.whitehouse.gov/news/releases/2001/10/20011007-8.html> (visited March 1, 2005)).

President Bush later stated that "[i]nternational terrorists, including members of al Qaida, have carried out attacks on United States diplomatic and military personnel and facilities abroad and on citizens and property within the United States on a scale that has created a state of armed conflict that requires the use of the United States Armed Forces." U.S. Military Order; Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism (Nov. 13, 2001), 66 Fed. Reg. 57,833 (2001), at Section 1(a). (At <http://www.whitehouse.gov/news/releases/2001/11/print/20011113-27.html> (visited March 1, 2005)).

Al-Qaida continues to wage armed conflict against the United States and its allies. On December 22, 2001, an al-Qaida associate, Richard Reid, attempted to destroy a U.S. airliner using explosives concealed in his shoe, a plot that the airline passengers foiled. In April 2002, al-Qaida firebombed a synagogue in Djerba, Tunisia, killing at least 20 people and injuring dozens. In June 2002, al-Qaida detonated a bomb outside the U.S. Consulate in Karachi, Pakistan, killing 11 persons and injuring 51. On October 6, 2002, al-Qaida was most likely responsible for a suicide attack against the French oil tanker, the MV Limburg, off the coast of Yemen, killing one and injuring four. On October 8, 2002, al-Qaida gunmen attacked U.S. Marines on Failaka Island in Kuwait, killing one U.S. Marine and wounding another. On November 28, 2002, in Mombasa, Kenya, al-Qaida detonated a car bomb in front of the Paradise Hotel, killing 15 persons and wounding 40 others. That same day, terrorists launched two anti-aircraft missiles at a civilian aircraft, and narrowly missed downing a Boeing 757 taking off from Mombassa en route to Israel. Al-Qaida claimed responsibility for the attacks.

On May 12, 2003, al-Qaida suicide bombers in Saudi Arabia attacked three residential compounds for foreign workers, killing 34, including 10 U.S. citizens, and injuring 139 others. On November 9, 2003, al-Qaida was responsible for the assault and bombing of a housing complex in Riyadh, Saudi Arabia, that killed 17 and injured 100 others. On November 15, 2003, two al-Qaida suicide truck bombs exploded outside the Neve Shalom and Beth Israel Synagogues in Istanbul, killing 20 and wounding 300 more. On November 20, 2003, two al-Qaida suicide truck bombs exploded near the British consulate and the HSBC Bank in Istanbul, killing 30, including the British Consul General, and injuring more than 309. In December 2003, al-Qaida conducted two assassination attempts against Pakistan President Musharraf.

In 2004, the Saudi-based al-Qaida network and associated extremists launched at least 11 attacks, killing more than 60 people, including 6 Americans, and wounding more than 225. Al-Qaida primarily focused on targets associated with U.S. and Western presence and Saudi security forces located in Riyadh, Yanbu, Jeddah, and Dhahran.

In October 2004, Abu Mus'ab al-Zarqawi announced a merger between his organization, Jama`at al-Tawhid was-al-Jihad or JTJ and Usama bin Ladin's al-Qaida. Bin Ladin endorsed Zarqawi as his official emissary in Iraq in December. The new organization, Al-Qaida of Jihad organization in the Land of the Two Rivers or QJBR, has the immediate goal of establishing an Islamic state in Iraq. Prior to the merger of the two organizations, Zarqawi's groups had been conducting a number of attacks in Iraq, including the attack responsible for the death of the Secretary-General's Special Representative for Iraq.

In conclusion, it is clear that al-Qaida and its affiliates and supporters have planned and continue to plan and perpetrate armed attacks against the United States and its coalition partners, and they directly target civilians in blatant violation of the laws of war.

II. DETAINEES - CAPTURING, HOLDING, RELEASING, AND/OR TRYING

A. Brief overview of the detainee populations held by the U.S. Armed Forces at Guantanamo Bay and in Afghanistan

During the course of the war in Afghanistan, the U.S. Armed Forces and allied forces have captured or procured the surrender of thousands of individuals fighting as part of the al-Qaida and Taliban effort. The law of war has long recognized the right to detain combatants until the cessation of hostilities.[14] Detaining enemy combatants prevents them from returning to the battlefield and engaging in further armed attacks against innocent civilians and U.S. forces. Further, detention serves as a deterrent against future attacks by denying the enemy the fighters needed to conduct war. Interrogations during detention enable the United States to gather important intelligence to prevent future attacks during ongoing hostilities.

The first group of enemy combatants captured in the war against al-Qaida, the Taliban, and their affiliates and supporters arrived in Guantanamo Bay, Cuba, in January 2002. The United States has approximately 520 detainees in custody at Guantanamo (at http://www.defenselink.mil/releases/2005/nr20050419-2661.html (visited April 28, 2005)) and slightly more than 500 detainees in Afghanistan. These numbers represent a small percentage of the total number of individuals the United States has detained, at one point or another, in fighting the war against al-Qaida and the Taliban.

Since the war began in Afghanistan (and long before the U.S. Supreme Court decisions in the detainee cases of June 2004), the United States has captured, screened and released approximately 10,000 individuals. It transferred to Guantanamo fewer than ten percent of those screened. The United States only wishes to hold those enemy combatants who are part of or are supporting Taliban or al-Qaida forces (or associated forces) and who, if released, would present a threat of reengaging in belligerent acts or directly aiding and supporting ongoing hostilities against the United States or its allies. We have made mistakes: of the detainees we have released, we have later recaptured or killed about 5% of them while they were engaged in hostile action against U.S. forces.

Detainees in Afghanistan and Guantanamo include many senior al-Qaida and Taliban operatives and leaders, in addition to rank-and-file jihadists who took up arms against the United States. The individuals currently held by the United States were at one time actively committing belligerent terrorist acts as part of al-Qaida, the Taliban or their affiliates and

supporters who engaged in hostilities against the United States and its allies. Generally, the enemy combatants held at Guantanamo Bay comprise enemy combatants who are part of al-Qaida, the Taliban, or affiliated forces, or their supporters, whether captured committing acts of belligerency themselves or directly supporting hostilities in aid of such enemy forces. Examples of enemy combatants held in U.S. custody include:

- Terrorists linked to major al-Qaida attacks on the United States, such as the East Africa U.S. Embassy bombings and the USS Cole attack;
- Terrorists who taught or received training on arms, explosives, surveillance, and interrogation resistance techniques at al-Qaida camps;
- Terrorists continuing to express their desire to kill Americans if released. In particular, some have threatened their guards and the families of the guards;
- Terrorists who have sworn personal allegiance ("bayat") to Usama bin Ladin; and
- Terrorists linked to several al-Qaida operational plans, including the targeting of U.S. facilities and interests.

Representative examples of specific Guantanamo detainees include:

- An al-Qaida explosives trainer who has provided information on the September 2001 assassination of Northern Alliance leader Ahmad Shah Masoud;
- A Taliban fighter linked to al-Qaida operatives connected to the East Africa U.S. Embassy bombings;
- An individual captured on the battlefield, with links to a financier of the September 11th plots, who attempted to enter the United States in August 2001 to meet hijacker Mohammed Atta;
- Two individuals associated with senior al-Qaida members developing remotely detonated explosive devices for use against U.S. forces;
- A member of an al-Qaida supported terrorist cell in Afghanistan that targeted civilians and was responsible for a grenade attack on a foreign journalist's automobile;
- An al-Qaida member who plotted to attack oil tankers in the Persian Gulf;
- An individual who served as a bodyguard for Usama bin Ladin;
- An al-Qaida member who served as an explosives trainer for al-Qaida and designed a prototype shoe bomb and a magnetic mine; and
- An individual who trained al-Qaida associates in the use of explosives and worked on a plot to use cell phones to detonate bombs.

B. Status of detainees at Guantanamo Bay and in Afghanistan

On February 7, 2002, shortly after the United States began operations in Afghanistan, President Bush's Press Secretary announced the President's determination that the Geneva Convention "appl[ies] to the Taliban detainees, but not to the al Qaeda international terrorists" because Afghanistan is a party to the Geneva Convention, but al Qaeda - an international terrorist group - is not. Statement by the U.S. Press Secretary, The James S. Brady Briefing Room, in Washington, D.C. (Feb. 7, 2002) (at <http://www.state.gov/s/l/38727.htm> (visited March 1, 2005)). Although the President determined that the Geneva Convention applies to Taliban detainees, he determined that, under Article 4, such detainees are not entitled to POW status. *Id.* He explained that:

> Under Article 4 of the Geneva Convention, … Taliban detainees are not entitled to POW status . . . .
>
> The Taliban have not effectively distinguished themselves from the civilian population of Afghanistan. Moreover, they have not conducted their operations in accordance with the laws and customs of war …
>
> Al Qaeda is an international terrorist group and cannot be considered a state party to the Geneva Convention. Its members, therefore, are not covered by the Geneva Convention, and are not entitled to POW status under the treaty.

Statement by the U.S. Press Secretary, The James S. Brady Briefing Room, in Washington, D.C. (Feb. 7, 2002) (at <http://www.state.gov/s/l/38727.htm> (visited March 1, 2005)); *see also*, White House Memorandum - Humane Treatment of al Qaeda and Taliban Detainees, February 7, 2002, at 2(c) & (d) (released and declassified in full on June 17, 2004). (At <http://www.washingtonpost.com/wp-srv/nation/documents/020702bush.pdf > (visited March 1, 2005)).

After the President's decision, the United States concluded that those who are part of al-Qaida, the Taliban or their affiliates and supporters, or support such forces are enemy combatants whom we may detain for the duration of hostilities; these unprivileged combatants do not enjoy the privileges of POWs (*i.e.*, privileged combatants) under the Third Geneva Convention.[15] International law, including the Geneva Conventions, has long recognized a nation's authority to detain unlawful enemy combatants without benefit of POW status.[16] *See, e.g.,* INGRID DETTER, THE LAW OF WAR 148 (2000) ("Unlawful combatants … though they are a legitimate target for any belligerent action, are not, if captured, entitled to any prisoner of war status."); *see also United States v. Lindh*, 212 F. Supp. 2d. 541, 558 (E.D. Va. 2002) (confirming the Executive branch view that "the Taliban falls far short when measured against the four GPW criteria for determining entitlement to lawful combatant immunity.")

Because there is no doubt under international law as to the status of al-Qaida, the Taliban, their affiliates and supporters, there is no need or requirement to review individually whether each enemy combatant detained at Guantanamo is entitled to POW status. For example, Article 5 of the Third Geneva Convention requires a tribunal in certain cases to determine whether a belligerent (or combatant) is entitled to POW status under the Convention only when

there is doubt under any of the categories enumerated in Article 4.[17] The United States concluded that Article 5 tribunals were unnecessary because there is no doubt as to the status of these individuals.

After the decisions of the U.S. Supreme Court in *Rasul v. Bush,* 124 S.Ct. 2686 (2004), and *Hamdi v. Rumsfeld*, 124 S.Ct. 2633 (2004), which are described below in Section G, the U.S. Government established a process on July 7, 2004, to conduct Combatant Status Review Tribunals (CSRTs) at Guantanamo Bay. (At <www.defenselink.mil/transcripts/ 2004/tr200440707-0981.html> (visited March 1, 2005) (Department of Defense Briefing on Combatant Status Review Tribunal, dated July 7, 2004)). Consistent with the Supreme Court decision in *Rasul*, these tribunals supplement the prior screening procedures and serve as fora for detainees to contest their designation as enemy combatants and thereby the legal basis for their detention. The tribunals were established in response to the Supreme Court decision in *Rasul* and draw upon guidance contained in the U.S. Supreme Court decision in *Hamdi* that would apply to citizen-enemy combatants in the United States.

C. Combatant status review tribunals (CSRTs) for detainees at Guantanamo Bay

Between August 2004 and January 2005, various Combatant Status Review Tribunals (CSRTs) have reviewed the status of all individuals detained at Guantanamo, in a fact-based proceeding, to determine whether the individual is still classified as an enemy combatant. As reflected in the Order establishing the CSRTs, an enemy combatant is "an individual who was part of or supporting Taliban or al Qaeda forces, or associated forces that are engaged in hostilities against the United States or its coalition partners. This includes any person who has committed a belligerent act or has directly supported hostilities in aid of enemy armed forces." CSRT Order B (at <http://www.defenselink.mil/news/Jul2004/d20040707review.pdf> (visited March 1, 2005)). Each detainee has the opportunity to contest such designation. The Deputy Secretary of Defense appointed the Secretary of the Navy, The Honorable Gordon England, to implement and oversee this process. On July 29, 2004, Secretary England issued the implementation directive for the CSRTs, giving specific procedural and substantive guidance. (At <http://www.defenselink.mil/news/Jul2004/d20040730comb.pdf> (visited March 1, 2005)). On July 12-14, 2004, the United States notified all detainees then at Guantanamo of their opportunity to contest their enemy combatant status under this process, and that a federal court has jurisdiction to entertain a petition for habeas corpus brought on their behalf. The Government has also provided them with information on how to file habeas corpus petitions in the U.S. court system. (At http://www.defenselink.mil/news/Dec2004/d20041209ARB.pdf (visited March 1, 2005)). When the Government has added new detainees, it has also informed them of these legal rights.

CSRTs offer many of the procedures contained in US Army Regulation 190-8. The Supreme Court specifically cited these Army procedures as sufficient for U.S. citizen-detainees entitled to due process under the U.S. Constitution. For example:

- Tribunals are composed of three neutral commissioned officers, plus a non-voting officer who serves as a recorder;

- Decisions are by a preponderance of the evidence by a majority of the voting members who are sworn to execute their duties impartially;

- The detainee has the right to (a) call reasonably available witnesses, (b) question witnesses called by the tribunal, (c) testify or otherwise address the tribunal, (d) not be compelled to testify, and (e) attend the open portions of the proceedings;

- An interpreter is provided to the detainee, if necessary; and

- The Tribunal creates a written report of its decision that the Staff Judge Advocate reviews for legal sufficiency. See CSRT Implementation Memorandum, July 29, 2004 (at <http://www.defenselink.mil/news/Jul2004/d20040730comb.pdf> (visited March 1, 2005)).

Unlike an Article 5 tribunal, the CSRT guarantees the detainee *additional* rights, such as the right to a personal representative to assist in reviewing information and preparing the detainee's case, presenting information, and questioning witnesses at the CSRT. The rules entitle the detainee to receive an unclassified summary of the evidence in advance of the hearing in the detainee's native language, and to introduce relevant documentary evidence. *See* CSRT Order g(1); Implementation Memorandum Encl. (1) F(8), H (5); CSRT Order g(10); Implementation Memorandum Encl. (1) F (6). In addition, the rules require the Recorder to search government files for, and provide to the Tribunal, any "evidence to suggest that the detainee should not be designated as an enemy combatant." *See* Implementation Memorandum Encl. (2), B(1). The detainee's Personal Representative also has access to the government files and can search for and provide relevant evidence that would support the detainee's position.

A higher authority (the CSRT Director) automatically reviews the result of every CSRT. He has the power to return the record to the tribunal for further proceedings if appropriate. *See* CSRT Order h; Implementation Memorandum Encl. (1) I (8). The CSRT Director is a two-star admiral - a senior military officer. CSRTs are transparent proceedings. Members of the media, the International Committee of the Red Cross (ICRC), and non-governmental organizations may observe military commissions and the unclassified portions of the CSRT proceedings. They also have access to the unclassified materials filed in Federal court. Every detainee now held at Guantanamo Bay has had a CSRT hearing. New detainees will have the same rights.

As of March 29, 2005, the CSRT Director had taken final action in all 558 cases. Thirty-eight detainees were determined no longer to be enemy combatants; twenty-three of them have been subsequently released to their home countries, and at the time of this Report's submission, arrangements are underway for the release of the others. (At <http://www.defenselink.mil/releases/2005/nr20050419-2661.html> (visited April 25, 2005)).

D. Assessing detainees for release/transfer

1. Guantanamo Bay

The detention of each Guantanamo detainee is reviewed annually by an Administrative Review Board (ARB), established by an order on May 11, 2004 (*Review Procedure Announced for Guantanamo Detainees*, Department of Defense Press Release, May 18, 2004)

(at <http://www.defenselink.mil/releases/2004/nr20040518-0806.html> (visited February 28, 2005)) and supplemented by an implementing directive on September 14, 2004. *See Implementation of Administrative Review Procedures for Enemy Combatants Detained at U.S. Naval Base Guantanamo Bay, Cuba* (at <http://www.defenselink.mil/news/Sep2004/d20040914adminreview.pdf> (visited February 28, 2005)).

The ARB assesses whether an enemy combatant continues to pose a threat to the United States or its allies, or whether there are other factors bearing on the need for continued detention. The process permits the detainee to appear in person before an ARB panel of three military officers to explain why the detainee is no longer a threat to the United States or its allies, and to provide information to support the detainee's release.

Each enemy combatant is provided with an unclassified written summary of the primary factors favoring the detainee's continued detention and the primary factors favoring the detainee's release or transfer from Guantanamo. The enemy combatant is also provided with a military officer to provide assistance throughout the ARB process. In addition, the review board will accept written information from the government of nationality, and from the detainee's relatives through that government, as well as from counsel representing detainees in habeas corpus proceedings. Based on all of this information, as well as submissions by U.S. Government agencies, the ARB makes a written assessment by majority vote on whether there is reason to believe that the enemy combatant no longer poses a threat to the United States or its allies in the ongoing armed conflict and any other factors bearing on the need for continued detention. The Board also makes a written recommendation on whether detention should be continued. The recommendations of the board are reviewed by a judge advocate for legal sufficiency and then go to the Designated Civilian Official (currently Secretary of the Navy Gordon England), who decides whether to release, transfer or continue to detain the individual.

As of April 26, 2005, the Department of Defense (DoD) has announced its intent to conduct Administrative Review Board reviews for 254 detainees; it has informed the detainees' respective host countries and asked them to notify the detainees' relatives; and it has invited them to provide information for the hearings. (At <www.defenselink.mil/news/combatant_Tribunals.html> (visited April 28, 2005)). The first Annual Administrative Review Board began on December 14, 2004, and 91 Administrative Review Boards have been conducted as of April 26, 2005.

The United States has no interest in detaining enemy combatants any longer than necessary. On an ongoing basis, even prior to the Annual Administrative Review Boards, the U.S. Government has reviewed the continued detention of each enemy combatant. The United States releases detainees when it believes they no longer continue to pose a threat to the United States and its allies. Furthermore, the United States has transferred some detainees to the custody of their home governments when those governments 1) are prepared to take the steps necessary to ensure that the person will not pose a continuing threat to the United States or its allies; and/or 2) are prepared to investigate or prosecute the person, as appropriate. The United States may also transfer a detainee to a country other than the country of the detainee's nationality, when the country requests transfer for purposes of criminal prosecution.

As of April 26, 2005, the United States has transferred 234 persons from Guantanamo - 169 transferred for release and 66 transferred to the custody of other governments for further detention, investigation, prosecution, or control. Of the 66 detainees who were transferred to the control of other governments, 29 were transferred to Pakistan, seven to Russia, five to Morocco, nine to the United Kingdom, six to France, four to Saudi Arabia, two to Belgium, one to Kuwait, one to Spain, one to Australia, and one to Sweden.

In some situations, it has been difficult to find locations to which to transfer safely detainees from Guantanamo when they do not want to return to their country of nationality or when they have expressed reasonable fears if returned. Until the United States can find a suitable location for the safe release of a detainee, the detainee remains in U.S. control.

It is often difficult to assess whether an individual released from Guantanamo will return to combat and pose a threat to the United States or its allies. Determining whether an individual truly poses a threat is made more difficult by information that is often ambiguous or conflicting, as well as by denial and deception efforts on the part of the individual detainees. Based on information seized at al-Qaida camps in Afghanistan and elsewhere, the United States is aware that Taliban and al-Qaida fighters are trained in counter-interrogation techniques and instructed to claim, for example, that they are cooks, religious students, or teachers. It has proven challenging to ascertain the true facts and has required a great deal of time to investigate fully the background of each detainee. There is a concerted, professional effort to assess information from the field, from interrogations, and from other detainees. In spite of rigorous U.S. review procedures, some detainees who were released from Guantanamo have returned to fighting in Afghanistan against U.S. and allied forces. Based on a variety of reports, as many as twelve individuals have returned to terrorism upon return to their country of citizenship.

Some examples of detainees who have returned to the fight include:

- A former Guantanamo detainee who reportedly killed an Afghan judge leaving a mosque in Afghanistan;

- A former Guantanamo detainee (released by the United States in January 2004) who was recaptured in May 2004 when he shot at U.S. forces and was found to be carrying a letter of introduction from the Taliban; and

- Two detainees (released from Guantanamo in May 2003 and April 2004, respectively) who were killed in the summer of 2004 while engaged in combat operations in Afghanistan.

The fact that some detainees upon their release are returning to combat underscores the ongoing nature of the armed conflict with al-Qaida and the practical reality that in defending itself against al-Qaida, the United States must proceed very carefully in its determination of whether a detainee no longer poses a threat to the United States and its allies.

2. Afghanistan

Detainees under DoD control in Afghanistan are subject to a review process that first determines whether an individual is an enemy combatant. The detaining Combatant Commander, or designee, shall review the initial determination that the detainee is an enemy combatant. This review is based on all available and relevant information available on the date of the review and may be subject to further review based upon newly discovered evidence or information. The Commander will review the initial determination that the detainee is an enemy combatant within 90 days from the time that a detainee comes under DoD control. After the initial 90-day status review, the detaining combatant commander, on an annual basis, is required to reassess the status of each detainee. Detainees assessed to be enemy combatants under this process remain under DoD control until they no longer present a threat. The review process is conducted under the authority of the Commander, U.S. Central Command (USCENTCOM). If, as a result of the periodic Enemy Combatant status review (90-day or annual), a detaining combatant commander concludes that a detainee no longer meets the definition of an enemy combatant, the detainee is released.

E. Transfers or releases to third countries

After it is determined that a detainee no longer continues to pose a threat to the U.S. security interests or that a detainee no longer meets the criteria of enemy combatant and is eligible for release or transfer, the United States generally seeks to return the detainee to his or her country of nationality. The Deparment of Defense has transferred detainees to the control of their governments of nationality when those governments are prepared to take the steps necessary to ensure that the detainees will not pose a continuing threat to the United States and only after the United States receives assurances that the government concerned will treat the detainee humanely and in a manner consistent with its international obligations. A detainee may be considered for transfer to a country other than his country of nationality, such as in circumstances where that country requests transfer of the detainee for purposes of criminal prosecution. Of particular concern to the United States is whether the foreign government concerned will treat the detainee humanely, in a manner consistent with its international obligations, and will not persecute the individual because of his race, religion, nationality, membership in a social group, or political opinion. In some cases, however, transfers cannot easily be arranged.

U.S. policy is not to transfer a person to a country if it is determined that it is more likely than not that the person will be tortured or, in appropriate cases, that the person has a well-founded fear of persecution and would not be disqualified from persecution protection on criminal- or security-related grounds. If a case were to arise in which the assurances obtained from the receiving government are not sufficient when balanced against treatment concerns, the United States would not transfer a detainee to the control of that government unless the concerns were satisfactorily resolved. Circumstances have arisen in the past where the Department of Defense elected not to transfer detainees to their country of origin because of torture concerns.

With respect to the application of these policies to detainees at Guantanamo Bay, the U.S. Government in February of 2005 filed factual declarations with a Federal court for use in domestic litigation. These declarations describe in greater detail the application of the policy described above as it applies to the detainees at Guantanamo Bay, and are attached as Tab 1 to this Annex.

F. Military commissions to try detainees held at Guantanamo Bay

In 2001, the President authorized military commissions to try those detainees charged with war crimes. *See Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism,* November 13, 2001 (at <http://www.whitehouse.gov/news/releases/2001/11/print/20011113-27.html> (visited February 28, 2005)). The Geneva Conventions recognize military fora as legitimate and appropriate to try those persons who engage in belligerent acts in contravention of the law of war. The United States has used military commissions throughout its history. During the Civil War, Union Commanders conducted more than 2,000 military commissions. Following the Civil War, the United States used military commissions to try eight conspirators (all U.S. citizens and civilians) in President Lincoln's assassination. During World War II, President Roosevelt used military commissions to prosecute eight Nazi saboteurs for spying (including at least one U.S. citizen). A military commission tried Japanese General Yamashita for war crimes committed while defending the Philippine Islands. In addition to the international war crimes tribunals, the Allied Powers, such as England, France, and the United States, tried hundreds of lesser-known persons by military commissions in Germany and the Pacific theater after World War II.

To date, the President has designated fifteen individuals as eligible for prosecution by military commission. Of those, the United States has since transferred three to their country of nationality, which has released them. Four Guantanamo detainees have been charged and have had preliminary hearings before a military commission. These four cases are currently in abeyance, pending appellate court review of the recent U.S. District Court for the District of Columbia's decision of November 8, 2004, in *Hamdan v. Rumsfeld*, 344 F. Supp. 2d 152 (D.D.C. 2004).

The U.S. District Court ruled that Hamdan, the petitioner, may not be tried by military commission unless and until a competent tribunal determines he is not entitled to Prisoner of War status under the Third Geneva Convention and until a procedural rule is altered regarding closure of the commission hearing to the accused. On November 12, 2004, the U.S. Government appealed that ruling to the U.S. Court of Appeals for the District of Columbia Circuit. The U.S. Court of Appeals ordered an expedited case schedule and held oral argument on April 7, 2005.

In light of this pending case, it will not be possible to address the Military Commissions in further detail at this time.

G. Access to U.S. courts

In 2003, petitions for writ of habeas corpus were filed in U.S. courts on behalf of some of the detainees at Guantanamo seeking review of their detention. On June 28, 2004, the United States Supreme Court, the highest judicial body in the United States, issued two decisions

pertinent to many enemy combatants. One of the decisions directly pertained to enemy combatants detained at Guantanamo Bay, and the other pertained to a citizen enemy combatant held in the United States. *See Rasul v. Bush,* 124 S.Ct. 2686 (2004); *Hamdi v. Rumsfeld*, 124 S.Ct. 2633 (2004); *see also Rumsfeld v. Padilla*, 124 S.Ct. 2711 (2004) (involving a decision on which U.S. Federal court has jurisdiction over habeas action). In *Rasul v. Bush,* the Supreme Court decided only the question of jurisdiction. The Court ruled that the U.S. District Court for the District of Columbia had jurisdiction to consider habeas challenges to the legality of the detention of foreign nationals at Guantanamo. 124 S.Ct. at 2698. The Court held that aliens apprehended abroad and detained at Guantanamo Bay, Cuba, as enemy combatants, "no less than citizens," could invoke the habeas jurisdiction of a district court. *Id.* at 2696. The Supreme Court left it to the lower courts to decide "[w]hether and what further proceedings may become necessary after [the United States Government parties] make their response to the merits of petitioners' claims." *Id.* at 2699. In *Hamdi v. Rumsfeld,* the Supreme Court held that the United States is entitled to detain enemy combatants, even American citizens, until the end of hostilities, in order to prevent the enemy combatants from returning to the field of battle and again taking up arms. The Court recognized the detention of such individuals is such a fundamental and accepted incident of war that it is part of the "necessary and appropriate" force that Congress authorized the President to use against nations, organizations, or persons associated with the September 11 terrorist attacks. 124 S.Ct. at 2639-42 (plurality op.); *id.,* at 2679 (Thomas J., dissenting).

A plurality of the Court addressed the entitlements of a U.S. citizen designated as an enemy combatant and held that the Due Process Clause of the U.S. Constitution requires "notice of the factual basis for [the citizen-detainee's] classification, and a fair opportunity to rebut the Government's factual assertions before a neutral decisionmaker." *Id.* at 2648. A plurality of the Court observed: "There remains the possibility that the [due process] standards we have articulated could be met by an appropriately authorized and properly constituted military tribunal," and proffered as a benchmark for comparison the regulations titled, Enemy Prisoners of War, Retained Personnel, Civilian Internees and Other Detainees, Army Regulation 190-8, §1-6 (1997). *Id.* at 2651.

These Supreme Court rulings have resulted in further proceedings at the Federal trial and appellate court levels. As of April 27, 2005, there are 55 habeas corpus cases involving 153 Guantanamo detainees pending before ten district court judges. These include thirty-nine Yemenis, twenty-six Saudis, eleven Kuwaitis, eleven Moroccans, ten Algerians, six Bahrainis, seven Tunisians, five Jordanians, five Sudanese, four Syrians, four Mauritanians, three Chinese, three Egyptians, three Libyans, two each from Palestine and Chad; and one from each of the following: Qatar, Kazakhstan, Tajikistan, Uganda, Iraq, Australia, Canada, Somalia, Turkey, Afghanistan, Pakistan and Ethiopia. Additionally, a habeas corpus petition has been filed under the name of "John Doe" on behalf of all detainees who do not currently have habeas corpus petitions pending. Other detainees may have since filed habeas corpus petitions. Due to the recent transfer of four British, one Australian and one Kuwaiti detainee, the government has moved to dismiss their petitions. Those motions are still pending.

The various habeas corpus petitions seek the detainees' release, claiming that the detentions violate the Fifth, Sixth, Eighth and Fourteenth Amendments, and the War Powers and Article I Suspension clauses of the Constitution. Some of the petitions have also alleged claims

under the Administrative Procedure Act, the Alien Tort Statute, Army Regulation 190-8, customary international law, and international treaties including the International Covenant on Civil and Political Rights, the Convention Against Torture, and the Geneva Conventions of 1949.

During the course of these habeas corpus proceedings, the Federal courts have reviewed or are reviewing numerous motions and other requests including motions to dismiss the petitions, motions to enjoin tribunal proceedings, including military commission prosecutions and transfers to foreign governments and requests for discovery. For example, in August 2004, the Federal District Court in the cases of *Gherebi v. Bush*, No. 04-CV-1164-RBW (D.D.C.) (unpublished ruling of Jul. 27, 2004), *Boumediene v. Bush,* No. 04-CV-1166-RJL (D.D.C.) (unpublished ruling of Aug. 3, 2004), and *El-Banna v. Bush,* No. 04-CV-1144-RWR (D.D.C.) (unpublished ruling of August 6, 2004) separately denied requests by petitioners for relief enjoining ongoing CSRT proceedings. *In re Guantanamo Detainee Cases*, 355 F.Supp.2d 443 (D.D.C. 2005). The judges ruled that the courts could address any alleged defect in the CSRT proceedings if petitioners later sought any relief with regard to their detention. Further, pursuant to briefing orders issued by Judge Green, the senior district court judge who was, until recently, coordinating the numerous detainee cases, the government filed factual returns in a number of the cases, indicating both the classified and unclassified factual bases for the enemy combatant status of each petitioner-detainee based on the record of CSRT proceedings. The court has full access to the records of the CSRT proceedings.

In January 2005, two district court judges reached conflicting decisions regarding the constitutional rights of enemy combatants at Guantanamo. In *Khalid v. Bush*, Judge Richard J. Leon determined that Congress had authorized the President to capture and detain enemy combatants and that the enemy combatants at Guantanamo do not have rights under the U.S. Constitution and that there was no viable theory under federal law, international treaties or customary international law that would make their detention unlawful. 355 F.Supp.2d 311 (D.D.C. 2005). In contrast, Judge Joyce Hens Green ruled that at least certain rights under the U.S. Constitution apply at Guantanamo and that that CSRT procedures were unconstitutional, as they did not comport with the Fifth Amendment right to due process. *In re Guantanamo Detainee Cases*, 355 F.Supp.2d 443 (D.D.C. 2005). Judge Green ruled that if the detainee was not going to have access to classified material, then counsel with access to such material should be permitted to advocate for the detainee at the CSRT. She also found that the inquiry conducted had been inadequate in cases where detainees alleged that coercion or torture was used during interrogations.

The parties have appealed two conflicting decisions to the U.S. Court of Appeals for the District of Columbia Circuit on an expedited basis.

In conclusion, domestic judicial proceedings are ongoing, which may address allegations of mistreatment that have arisen with respect to Guantanamo Bay. As described elsewhere in this report, individuals who engage in torture or other physical abuse of detainees are subject to prosecutions and other sanctions under U.S. law.

III. DETAINEES - TREATMENT

A. Description of conditions of detention at Department of Defense facilities

1. Guantanamo Bay

The Department of Defense has released to the public several photographs of the detention facilities in Guantanamo Bay. (At <http://www.defenselink.mil/home/features/gtmo> (visited March 17, 2005)). These photographs reflect U.S. policy and practices regarding treatment of detainees at Guantanamo Bay, including the U.S. requirement that all detainees receive adequate housing, recreation facilities, and medical facilities.

Detainees receive:

- Three meals per day that meet cultural dietary requirements;
- Adequate shelter, including cells with beds, mattresses, and sheets;
- Adequate clothing, including shoes, uniforms, and hygiene items;
- Opportunity to worship, including prayer beads, rugs, and copies of the Koran;
- The means to send and receive mail;
- Reading materials, including allowing detainees to keep books in their cells; and
- Excellent medical care.

All enemy combatants get state-of-the art medical and dental care that is comparable to that received by U.S. Armed Forces deployed overseas. Wounded enemy combatants are treated humanely and nursed back to health, and amputees are fitted with modern prosthetics.

Detainees write to and receive mail from their families and friends. Detainees who are illiterate, but trustworthy enough for a classroom setting, are taught to read and write in their native language so they, too, can communicate with their families and friends.

Enemy combatants at Guantanamo may worship as desired and in accordance with their beliefs. They have access to the Koran and other prayer accessories. Traditional garb is available for some detainees.

Where security permits, detainees are eligible for communal living in a new Medium Security Facility, with fan-cooled dormitories, family-style dinners, and increased outdoor recreation time, where they play board games like chess and checkers, and team sports like soccer.

The United States permits the International Committee of the Red Cross to visit privately with every detainee in DoD control at Guantanamo. Communications between the U.S. Government and the ICRC are confidential.

In addition, legal counsel representing the detainees in habeas corpus cases have visited detainees at Guantanamo since late August 2004. As of late April 2005, counsel in nineteen cases had personally met with the 74 detainees they represent, and counsel in seventeen of those cases have made repeat visits to Guantanamo. To date, every request by American counsel of record in the habeas cases to visit detainees at Guantanamo has been granted, after that counsel has received the requisite security clearance and agreed to the terms of the protective order issued by the Federal court. The Government does not monitor these meetings (or the written correspondence between counsel and detainees), which occur in a confidential manner. The Government also allows foreign and domestic media to visit the facilities.

2. Afghanistan

The Department of Defense holds individuals in Afghanistan in a safe, secure, and humane environment. The primary focus of DoD detainee operations in Afghanistan is to secure detainees from harm, recognizing the reality that the U.S. Armed Forces continue to engage in combat in Afghanistan.

The Department of Defense operates theater internment facilities at Kandahar and Bagram. These facilities house enemy combatants identified in the war against al-Qaida, the Taliban and their affiliates. The Department of Defense has registered with the ICRC individuals held under its control in Afghanistan. ICRC has access to these DoD facilities and conducts private interviews with detainees. In addition, the U.S. Armed Forces operates forward operating bases that, from time to time, may house on a temporary basis individuals detained because of combat operations against al-Qaida, Taliban, and affiliated forces.

The Department of Defense provides detainees in Afghanistan with adequate food, shelter, clothing, and opportunity to worship. In addition, DoD initiatives will increase available resources for literacy and education training. The Department of Defense also gives Afghani detainees information regarding the establishment of the new Afghan government, as well as a copy of the Afghan Constitution.

The U.S. Government is also in a process of improving the detention facilities at both Bagram and Kandahar. Improved facilities should be available to detainees later in 2005.

B. Allegations of mistreatment of persons detained by the Department of Defense

1. Introduction

The United States is well aware of the concerns about the mistreatment of persons detained by the Department of Defense in Afghanistan and at Guantanamo Bay, Cuba. Indeed, the United States has taken and continues to take all allegations of abuse very seriously.

Specifically, in response to specific complaints of abuse in Afghanistan and at Guantanamo Bay, Cuba, the Department of Defense has ordered a number of studies that focused, inter alia, on detainee operations and interrogation methods to determine if there was merit to the complaints of mistreatment.

Although these extensive investigative reports have identified problems and proffered recommendations, none of them found that any governmental policy directed, encouraged or condoned these abuses. The reports pertaining to Guantanamo Bay are summarized in Section B.2 below and those pertaining to Afghanistan are summarized in Section B.3 below.

In general, for both Afghanistan and Guantanamo Bay, these reports have assisted in identifying and investigating all credible allegations of abuse. When a credible allegation of improper conduct by DoD personnel surfaces, it is reviewed, and when factually warranted, investigated. As a result of investigation, administrative, disciplinary, or judicial action is taken as appropriate. Those credible allegations were and are now being resolved within the Combatant Command structure.

Concerns have also been generated by an August 1, 2002, memorandum prepared by the Office of Legal Counsel (OLC) at the U.S. Department of Justice (DOJ), on the definition of torture and the possible defenses to torture under U.S. law and a DoD Working Group Report on detainee operations, dated April 4, 2003, the latter of which was the basis for the Secretary of Defense's approval of certain counter resistance techniques on April 16, 2003. The 2002 DOJ OLC memorandum was withdrawn on June 22, 2004 and replaced with a December 30, 2004, memorandum interpreting the legal standards applicable under 18 U.S.C. 2340-2340A, also known as the Federal Torture Statute. *See* Annex 2.

On March 10, 2005 Vice Admiral Church (the former U.S. Naval Inspector General) released an executive summary of his report, which included an examination of this issue. His Report examined the precise question of "whether DoD had promulgated interrogation policies or guidance that directed, sanctioned or encouraged the abuse of detainees." Church Report, Executive Summary, at 3, released March 10, 2005 (relying upon data available as of September 30, 2005) (at <http://www.defenselink.mil/news/Mar2005/d20050310exe.pdf> (visited March 23, 2005)). In his Report, he wrote that "this was not the case," *id.*, finding that "it is clear that *none* of the approved policies - no matter which version the interrogators followed - would have permitted the types of abuse that occurred." *Id.*, at 15. In response to intensive questioning before the U.S. Senate Armed Services Committee as to whether the 2002 DOJ memo or subsequently authorized interrogation practices had contributed to individual soldiers committing abuses, he responded that "clearly there was no policy, written or otherwise, at any level, that directed or condoned torture or abuse; there was no link between the authorized interrogation techniques and the abuses that, in fact, occurred." Transcript at 7. Although Vice Admiral Church's investigation is the most comprehensive to date on this issue, it was consistent with the findings of earlier investigations on this point. *See, e.g.*, Army Inspector General Assessment, released July 2004 (at <http://www4.army.mil/ocpa/reports/ArmyIGDetaineeAbuse/index.html > (visited March 1, 2005)).

Vice Admiral Church's finding was also consistent with earlier statements by high-level U.S. officials, including by the previous White House Counsel Alberto Gonzales, who had stated:

> The administration has made clear before and I will reemphasize today that the President has not authorized, ordered or directed in any way any activity that would transgress the standards of the torture conventions or the torture statute, or other applicable laws.
>
> …
>
> … [L]et me say that the U.S. will treat people in our custody in accordance with all U.S. obligations including federal statutes, the U.S. Constitution and our treaty obligations. The President has said we do not condone or commit torture. Anyone engaged in conduct that constitutes torture will be held accountable.

Press Briefing by White House Counsel Judge Alberto Gonzales, DoD General Counsel William Haynes, DoD Deputy General Counsel Daniel Dell'Orto and Army Deputy Chief of Staff for Intelligence General Keith Alexander, June 22, 2004, (at <http://www.whitehouse.gov/news/releases/2004/06/20040622-14.html> (visited February 28, 2005)).

Subsequent to the release of the December 2004 DOJ memo interpreting the Federal Torture Statute, the Deputy Secretary of Defense ordered a "top-down" review within the Department to ensure that the policies, procedures, directives, regulations, and actions of the department comply fully with the requirements of the new Justice Department Memorandum.[18] The Office of Detainee Affairs in the Office of the Under Secretary of Defense for Policy coordinates this process of review.

2. Reports of abuses, summary of abuse investigations and actions to hold persons accountable - Guantanamo Bay

As described above in the introductory section, there have been multiple reports resulting from/investigations concerning the treatment of detainees at Guantanamo Bay. For example, the Naval Inspector General reviewed the intelligence and detainee operations at Guantanamo Bay to ensure compliance with DoD orders and policies. The review, conducted in May 2004, concluded that the Secretary of Defense's directions with respect to humane treatment of detainees and interrogation techniques were fully implemented. The Naval Inspector General documented eight minor infractions involving contact with detainees as stated below (two additional incidents occurred after this investigation was completed). In each of those cases, the chain of command took swift and effective action. Administrative actions ranging from admonishment to reduction in grade.[19]

In a subsequent report, the Naval Inspector General engaged in a comprehensive review of DoD detention operations and detainee interrogation operations covering not only Guantanamo, but Iraq and Afghanistan. This report expanded upon his earlier finding with

respect to interrogation operations at Guantanamo, noting that while "there have been over 24,000 interrogation sessions since the beginning of interrogation operations, there are only three cases of closed, substantiated interrogation-related abuse, all consisting of minor assaults in which MI interrogators, exceeded the bounds of approved interrogation policy." Church Report, Executive Summary, at 14, released March 10, 2005 (using data as of September 30, 2004) (at <www.defenselink.mil/news/Mar2005/d20050310exe.pdf> (visited March 23, 2005)). He highlighted that "[w]e found no link between approved interrogation techniques and detainee abuse." *Id.,* at 13.

One investigation remains ongoing and will be completed soon. On December 29, 2004, the Commander U.S. Southern Command appointed a General Officer to investigate the facts and circumstances surrounding allegations of detainee abuse contained in documents recently released under the Freedom of Information Act, including those released by the Federal Bureau of Investigation, and to conduct an inquiry into any credible allegation contained in those documents.

Therefore, although there have been allegations of serious abuse of detainees at Guantanamo Bay, the United States has not found evidence substantiating such claims. Instead, it has identified 10 substantiated incidents[20] of misconduct at Guantanamo:

- A female interrogator inappropriately touched a detainee on April 17, 2003 by running her fingers through the detainee's hair, and made sexually suggestive comments and body movements, including sitting on the detainee's lap, during an interrogation. The female interrogator received a written admonishment and additional training;

- On April 22, 2003, an interrogator assaulted a detainee by directing military policemen repeatedly to bring the detainee from a standing to a prone position and back. A review of medical records indicated superficial bruising to the detainee's knees. The interrogator received a letter of reprimand;

- A female interrogator, at an unknown date, in response to being spit upon by a detainee, assaulted the detainee by wiping red dye from a red magic marker on the detainee's shirt and telling the detainee that the red stain was blood. The interrogator received a verbal reprimand for her behavior;

- In October 2002, an interrogator used duct tape to tape shut the mouth of a detainee who was being extremely disruptive during an interrogation. The tape did not harm the detainee and the interrogator received a verbal reprimand for his behavior;

- A military policeman (MP) assaulted a detainee on September 17, 2002, by attempting to spray him with a hose after the detainee had thrown an unidentified, foul-smelling liquid on the MP. The MP received non-judicial punishment that included seven days restriction and reduction in grade from Specialist (E-4) to Private First Class (E-3);

- On March 23, 2003, after a detainee threw unidentified liquid on an MP, the MP sprayed the detainee with pepper spray. The MP declined non-judicial punishment,[21] and he was subsequently tried by special court-martial where he was acquitted of all charges;

- On April 10, 2003, after a detainee had struck an MP in the face (causing the MP to lose a tooth) and bitten another MP, the MP struck the detainee with a handheld radio. This MP was given non-judicial punishment, received 45 days extra-duty, and was reduced in grade from Specialist (E-4) to Private First Class (E-3);

- On January 4, 2004, an MP platoon leader received an initial allegation that one of his guards had thrown cleaning fluid on a detainee and later made inappropriate comments to the detainee. The platoon leader, however, did not properly investigate the allegation or report it to his chain of command. The initial allegation against the guard ultimately turned out to be substantiated. The MP was given non-judicial punishment and received forfeiture of pay of $150 per month for two months and reduction in grade from Private (E-2) to Private (E-1). The platoon leader was issued a reprimand for dereliction of duty;

- On February 10, 2004, an MP inappropriately joked with a detainee, and dared the detainee to throw a cup of water on him. After the detainee did so, the MP threw a cup of water on the detainee. The MP was removed from further duty because of these inappropriate actions;

- On February 15, 2004, a barber intentionally gave two detainees unusual haircuts, including an "inverse Mohawk," in an effort to frustrate the detainees' request for similar haircuts as a sign of unity. The barber and his company commander were both counseled because of this incident.

The above list of substantiated abuses and the subsequent punishment of those responsible at Guantanamo Bay demonstrates that misconduct will not be tolerated.

3. Reports of abuses, summary of abuse investigations and actions to hold persons accountable - Afghanistan

The United States acted swiftly in response to allegations of serious abuses by DoD personnel in Afghanistan. There have been 23 investigations into allegations of abuse of detainees in Afghanistan, of which 22 were substantiated and one was unsubstantiated. Seven investigations are open and continue to be investigated. As of March 1, 2005, penalties have varied and include 2 courts-martial, 10 non-judicial punishments, and two reprimands. A number of actions are still pending.

What follows are a few examples of substantiated abuses and a summary of the status:

- The investigations into the death of two detainees (Mr. Mullah Habibullah and Mr. Dilawar) at the Bagram detention facility on December 4 and 10, 2002 identified 28 military members who may have committed offenses punishable under the UCMJ.

Investigations determined that the detainees had been beaten by several military members. Commanders are considering the full range of administrative and disciplinary measures, including trial by court-martial. As of this writing, charges have been preferred against two military members;

- The Naval Criminal Investigation Service (NCIS) opened an investigation in May 2004 involving allegations of an Afghan police officer who claimed he was abused in while under coalition control in Gardez and Bagram. This investigation remains open.

As described in the Introduction to this Section, there have been multiple important substantive reports resulting from investigations into alleged detainee abuse in DoD facilities in Afghanistan, none of which found a governmental policy directing, encouraging, or condoning abuse:

- *Major General Ryder's report*

  This assessment of detention operations was completed on November 6, 2003. His report covered specific operations in Iraq and Afghanistan relating to the conduct of detention operations, identifying some difficulties and making some recommendations.

- *Army IG Assessment*

  The Army Inspector General (IG), LTG Mikolashek, released a report in July 2004 that reviewed U.S. Army detainee operations in Afghanistan and Iraq. As a part of this review, the Army IG inspected internment, detention operations, and interrogation procedures. The inspection was not an investigation into specific incidents but rather a comprehensive review of how the Army conducts detainee operations in those two countries. The Army IG found that the Army is properly accomplishing its mission with regard to the capture, care, and custody of detainees, and in its interrogation operations. Although cases of abuse were noted and numerous recommendations were made, the Report found that there was no systemic problem in detainee handling or flawed policy, doctrine, or training, and that the overwhelming majority of leaders and subordinate personnel understand and adhere to the requirement to treat detainees humanely and consistent with the laws of land warfare. The Report considered the abuse cases to be the result of individual instances of indiscipline, and not representative of policy, doctrine, or training. This report was released in July 2004. This report is available at http://www4.army.mil/ocpa/reports/ArmyIGDetaineeAbuse/index.htm (visited March 1, 2005).

- *Jacoby Review*

  In May 2004, Lieutenant General Barno, Commander, Combined Forces Command-Afghanistan, initiated an inspection of detainee operations in his area of responsibility in Afghanistan. The inspection was conducted by

Brigadier General Jacoby during the period May 19 through June 26, 2004. The primary purpose of this inspection was to ascertain the standard of treatment provided to persons detained by U.S. forces throughout the detention process from capture to release or detention. The Jacoby report did not disclose new allegations of abuse or misconduct. The consistent and overarching observation that flowed from the inspection was that forces assigned to the command understood the concept of humane treatment and were providing humane treatment to detainees consistent with the principles of the Geneva Conventions.

- *Church Report*

On May 25, 2004, the Secretary of Defense directed the Naval Inspector General at that time, Vice Admiral Albert T. Church, III, to conduct a comprehensive review of DoD Detention Operations and Detainee Interrogation Techniques in Guantanamo Bay, Cuba, Iraq, and Afghanistan. The Executive Summary of the Report was released on March 10, 2005, and relied upon data available as of September 30, 2004. Vice Admiral Church found that "the vast majority of detainees held" under DoD control "have been treated humanely, and that the overwhelming majority of U.S. personnel have served honorably." Executive Summary at 21. He found that "without exception, that the DoD officials and senior military commanders responsible for the formulation of interrogation policy evidenced the intent to treat detainees humanely which is fundamentally inconsistent with the notion that such officials or commanders ever accepted that detainee abuse would be permissible." *Id,* at 3. Although noting a number of "missed opportunities in the policy development process," for example, that "no specific guidance on interrogation techniques was provided to the commanders responsible for Afghanistan and Iraq…," he concluded that "authorized interrogation techniques have not been a causal factor in detainee abuse." *Id.,* at 13, 21. He could not identify a single overarching reason for abuse but addressed the stressful combat situation, particularly at the point of capture, commenting that "a breakdown of good order and discipline in some units could account for some incidents of abuse." *Id.*, at 16. Although he candidly pointed out: "[d]issemination of interrogation policy in Iraq and Afghanistan was generally poor and interrogators fell back on their training and experience, often relying on a broad interpretation of Army Field Manual F.M. 34-52," he continued, "[w]hile these problems of policy dissemination and compliance were certainly cause for concern, we found that they did not lead to the employment of illegal or abusive interrogation techniques." *Id.,* at 10. He found that interrogators knew that abusive behavior was prohibited. *Id.*, at 10, 15. The Executive Summary of this Report is available online (at www.defenselink.mil/news/Mar2005/d20050310exe.pdf (visited March 23, 2005)).

- *Naval Inspector General Report*

On January 13, 2005, the Deputy Secretary of Defense directed the Naval Inspector General, Vice Admiral Route, to review documents related to detainees recently released under the Freedom of Information Act, including those released by the Federal Bureau of Investigation, and to conduct an inquiry into any credible

allegations contained in those documents with respect to Afghanistan and Iraq. The Naval Inspector General will take any additional actions with respect to these documents, as he deems appropriate. The report is expected to be finalized soon.

IV. TRAINING OF U.S. ARMED FORCES

Personnel assigned to detention operations go through an extensive professional and sensitivity training process to ensure they understand the procedures for protecting the rights and dignity of detainees.

- Personnel mobilizing to detention operations receive training prior to deployment on detention facility operations, self-defense, safety, and rules on the use of force. Before beginning work, personnel again receive training on the law of armed conflict, the rules of engagement, the Standard Operating Procedures, military justice, and specific policies applying to detention operations in their area of responsibility. This is true of all service members deploying to serve in detention operations. All U.S. service members receive general training on the law of armed conflict, including the Geneva Conventions, as well as further law of armed conflict training commensurate with their duties;

- During their operational tours, U.S. service members continue to receive briefings and are briefed again before every detainee movement on the rules, procedures, and policies in operating detention facilities;

- Mobile training teams are visiting and training at every field detention site to conduct training as required by commanders on the proper handling of detainees;

- All interrogators and counterintelligence personnel are required to undergo 10 days of in-theater certification training. This certification process ensures all applicable standards are understood and enforced;

- Cultural awareness training is conducted for all military personnel during pre-deployment train-up and periodically while in the theater of operations;

- The Combat Training Centers operated by the U.S. Armed Forces in the United States and Germany include the synchronization and integration of detainee operations into every military unit's training rotation prior to deployment. The U.S. Army Military Police School sends a Mobile Training Team to conduct "train the trainer" education for their observer controllers on detainee operations. This training covers detainee operations, personal safety, forced cell movements, restraint procedures, communications with detainees, and case studies;

- It is a violation of the Uniform Code of Military Justice (UCMJ) for military personnel to abuse detainees and to fail to report instances of abuse. DoD personnel are trained on this requirement and briefed regularly on their responsibilities and the appropriate treatment of detainees, including the duty to report mistreatment.

PART TWO

INDIVIDUALS UNDER THE CONTROL OF U.S. ARMED FORCES IN IRAQ CAPTURED DURING MILITARY OPERATIONS

I. BACKGROUND ON U.S. MILITARY OPERATIONS IN IRAQ

The United States has approximately 150,000 U.S. military personnel currently deployed in Iraq as a part of the United Nations Security Council-authorized Multi-National Force in Iraq (MNF-I). This force includes 28 other nations and the North Atlantic Treaty Organization (which is providing training support) that are contributing approximately 25,000 military personnel to conduct stability operations in Iraq. Recognizing the importance of Iraq's successful transition to a democratically elected government and aware that the situation in Iraq continues to pose a threat to international peace and security, the Security Council authorized MNF-I to "take all necessary measures to contribute to the maintenance of security and stability in Iraq …" U.N. S.C. Res. 1546 (June 8, 2004). (At http://daccessdds.un.org/doc/UNDOC/GEN/N04/381/16/PDF/N0438116.pdf?OpenElement (visited March 5, 2005)). MNF-I plays a key role in supporting first the Iraqi Interim Government and now the Iraqi Transitional Government (ITG) in its effort to stabilize the current security situation to allow democracy and freedom to take root.

In January 2005, Iraq held its first democratic elections since the collapse of the Saddam Hussein regime. Even though Iraq has elected a National Assembly, there are still many hostile forces in Iraq that seek to thwart the country's transition to democracy and the rule of law by destabilizing the country through hostile armed attacks against civilian targets and MNF-I forces in Iraq. Saddam loyalists, former Baathists, international terrorists, and Islamic jihadists - knowing that they cannot win at the ballot box - have sustained a terrorist campaign designed to spread fear and instability.

MNF-I and Iraqi forces remain actively engaged in combating these hostile forces across Iraq. An essential tool in the effort to contain and end the violence is the ability of MNF-I to capture and detain hostile forces. UN Security Council Resolution 1546 authorizes MNF-I to take all necessary measures to contribute to the maintenance of security and stability in Iraq in accordance with the letters to the President of the Security Council from Dr. Ayad Allawi and Secretary of State Colin Powell. The letter from Secretary Powell noted the MNF-I's readiness to undertake those tasks necessary to counter the security threats posed by forces seeking to influence Iraq's future through violence, including the internment of individuals "where this is necessary for imperative reasons of security...." (At http://daccessdds.un.org/doc/UNDOC/GEN/N04/381/16/PDF/N0438116.pdf?OpenElement (visited March 5, 2005)). In addition, because hostilities are ongoing, MNF-I may continue to detain enemy prisoners of war ("EPWs"). MNF-I may also continue to detain civilian internees who were detained prior to June 28, 2004, as long as their detention remains necessary for imperative reasons of security. Finally, in accordance with UN Security Council Resolution 1546 and the authorities contained in Coalition Provisional Authority Memorandum No. 3 (Revised) (at http://cpa-iraq.org/regulations/20040627_CPAMEMO_3_Criminal_Procedures__Rev_.pdf

(visited March 1, 2005)), which continues in effect under the Transitional Administrative Law (TAL), MNF-I may apprehend individuals who are suspected of having committed criminal acts and who are not considered security internees. MNF-I may retain such criminal detainees in its facilities at the request of appropriate Iraqi authorities.

II. DETAINEES - CAPTURING, HOLDING, AND/OR RELEASING

A. Brief overview of the detainee population held by MNF-I

As of April 1, 2005, MNF-I was detaining approximately 10,000 persons in Iraq. The vast majority of the detainee population is composed of individuals who are held for imperative reasons of security, consistent with UN Security Council Resolution 1546. In addition to security internees, the MNF-I holds a small number of enemy prisoners of war (EPWs) and, on behalf of the ITG, a number of persons suspected of violating Iraqi criminal laws. The MNF-I has established several detention facilities in various locations throughout Iraq that are operated by the U.S. Army under the Commander, MNF-I. The U.S. Army operates three theater internment facilities: Abu Ghraib (Baghdad Central Correction Facility), Camp Cropper, and Camp Bucca.

B. Status review of detainees

Detainees under DoD control in Iraq undergo the review process described herein in order to confirm their status and ensure that they are being lawfully detained. Upon capture by a detaining unit, a detainee is moved as expeditiously as possible to a theater internment facility. A military magistrate reviews an individual's detention to assess whether to continue to detain or to release him or her. If detention is continued, the Combined Review and Release Board assumes the responsibility for subsequently reviewing whether continued detention is appropriate.

With regard to individuals detained on suspicion of having committed criminal acts, those individuals must be handed over to Iraqi authorities as soon as reasonably practicable, but may be held by MNF-I at the request of appropriate Iraqi authorities based on security or detention facility capacity considerations. If MNF-I retains custody at the request of appropriate Iraqi authorities, CPA Memorandum No. 3 (Revised) establishes a series of procedural protections for the detainee, including the right to remain silent, to consult with an attorney within 72 hours, to be promptly informed in writing of charges, to be brought before a judicial officer within 90 days, and to be visited by the ICRC. (At http://cpa-Iraq.org/regulations/20040627_CPAMEMO_3_Criminal_Procedures__Rev_.pdf (visited March 1, 2005)).

C. Decisions on continued detention or release of detainees

The Combined Review and Release Board (CRRB) was created to provide detainees a method by which to have their detention status reviewed. The CRRB first met on August 21, 2004. It consists of nine members: three MNF-I officers, and two members each from the Iraqi Ministry of Justice, Ministry of Interior, and Ministry of Human Rights.

The CRRB meets and reviews detention cases several times per week and reviews approximately 100 detainee files at each meeting. Consistent with the Geneva Conventions, the case of each detainee who remains in MNF-I custody is reviewed at least once every six months. The CRRB reviews the status of each detainee and recommends one of three options: release, conditional release, or continued detention. A detainee may file an appeal of internment to the CRRB for its consideration.

III. DETAINEES - TREATMENT

A. Description of conditions of detention in U.S. Department of Defense facilities

The primary goal of U.S. detention operations in Iraq has been to operate safe, secure, and humane facilities consistent with the Geneva Conventions. U.S. and other MNF-I forces continue to make physical improvements to various facilities throughout Iraq. Since the incidents of abuse at Abu Ghraib, the United States has made substantial improvements in all areas of detention operations, including facilities and living conditions. Families may visit detainees at visitation centers set up at each detention facility. Detainees are provided with prayer materials and allowed the open and free expression of religion in detention. Detainees also have access to medical facilities, consistent with the Geneva Conventions.

As set forth in CPA Memorandum No. 3 (Revised), and consistent with the provisions of the Geneva Conventions, the ICRC is provided with notice of detainees under the control of the U.S. contingent of MNF-I as soon as reasonably possible and is provided access to such detainees unless reasons of imperative military necessity require otherwise.

B. Allegations of mistreatment of persons detained by the Department of Defense

1. Legal framework

As noted above, UN Security Council Resolution 1546 provides authority for MNF-I security operations in Iraq, including detention operations. The United States contingent to MNF-I conducts its detention operations consistent with the Geneva Conventions, including pursuant to CPA Memorandum No. 3 (Revised), for operations after June 28, 2004. The Geneva Conventions prohibit the torture or inhumane treatment of protected persons. U.S. Armed Forces in Iraq are instructed to act consistently with these provisions with regard to all detainees and to treat all detainees humanely. Detainees under the control of U.S. Armed Forces receive shelter, food, clothing, water, and medical care, and are able to practice their religion.

U.S. military interrogators are instructed to conduct interrogations consistent with the Geneva Conventions. Further, military regulations strictly regulate permissible interrogation techniques. DoD policy prohibits the use of force, mental and physical torture, or any form of inhumane treatment during an interrogation.

Army Regulation (AR) 190-8 provides policy, procedures, and responsibilities for the administration and treatment of enemy prisoners of war (EPW), retained personnel (RP), civilian internees (CI), and other detainees in the custody of U.S. Armed Forces. (At <http://www.usapa.army.mil/pdffiles/r190_8.pdf>(visited March 1, 2005)). A.R. 190-8, paragraph 1-5 provides:

General Protection Policy

a. U.S. policy, relative to the treatment of EPW, CI and RP in the custody of the U.S. Armed Forces, is as follows:

(1) All persons captured, detained, interned, or otherwise held in U.S. Armed Forces custody during the course of conflict will be given humanitarian care and treatment from the moment they fall into the hands of U.S. forces until final release or repatriation.

(2) All persons taken into custody by U.S. forces will be provided with the protections of the 1949 Geneva Convention Relative to the Treatment of Prisoners of War (GPW) until some other legal status is determined by competent authority.

(3) The punishment of EPW, CI, and RP known to have, or suspected of having committed serious offenses will be administered [in accordance with] due process of law and under legally constituted authority per the GPW, [the 1949 Geneva Convention Relative to the Protection of Civilian Persons in Time of War], the Uniform Code of Military Justice and the Manual for Courts Martial.

(4) The inhumane treatment of EPW, CI, and RP is prohibited and is not justified under the stress of combat or with deep provocation. Inhumane treatment is a serious and punishable violation under international law and the Uniform Code of Military Justice (UCMJ).

DoD Directive 5100.77 further requires that all possible, suspected, or alleged violations of the law of war committed by United States persons be promptly reported, thoroughly investigated, and, where appropriate, remedied by corrective action. December 9, 1998, (at <http://www.dtic.mil/whs/directives/corres/pdf2/d510077p.pdf > (visited February 28, 2005)). For instance, U.S. forces are subject to the Uniform Code of Military Justice (UCMJ), which provides that those who commit acts of abuse, whether or not during an armed conflict, are criminally liable for their actions. Article 93 of the UCMJ provides: "Any person subject to this chapter who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his orders shall be punished as a court-martial may direct." A member of the U.S. forces suspected of mistreating or abusing persons in U.S. detention is subject to prosecution under this and other applicable UCMJ articles.[22]

In the context of detainee abuse cases, however, not every potentially applicable offense under the UCMJ has a parallel federal offense in the U.S. Code. For example, Failure to Obey a Lawful Order or Regulation (Article 92, UCMJ) and Dereliction of Duty (Article 92, UCMJ) have no comparable federal offenses in this context. Additionally, the Federal Torture Statute requires a much higher level of proof than does Article 93 of the UCMJ, which punishes cruelty and maltreatment of prisoners.

Interrogation techniques are developed and approved to ensure compliance with legal and policy requirements. Throughout the conflict in Iraq, military, policy, and legal officials have met and continue to meet regularly to review interrogation policy and procedures to ensure their compatibility with applicable domestic and international legal standards. The United States will continue to review and update its interrogation techniques in order to remain in full compliance with applicable law.

2. Reports of abuses and summary of abuse investigations

Allegations of detainee abuse at the Abu Ghraib prison in Iraq became known with incidents documented in photographs and reported in the media throughout the world. These photographs, which depict acts of abuse and mistreatment of detainees by certain members of the U.S. Armed Forces in Iraq, were abhorrent to the people of the United States and others around the world. These incidents, which to date could implicate 54 military personnel, involved blatant violations of the UCMJ and the law of war. The United States deeply regrets these abuses. Indeed, on May 6, 2004, the President of the United States said that he "was sorry for the humiliation suffered by the Iraqi prisoners and the humiliation suffered by their families" and that "the wrongdoers will be brought to justice…." Remarks by President Bush and His Majesty King Abdullah II of the Hashemite Kingdom of Jordan (at <http://www.whitehouse.gov/news/releases/2004/05/20040506-9.html> (visited March 1, 2005)).

In response to these allegations of abuse, the U.S. Government has acted swiftly to investigate and take action to address the abuses. The United States is investigating allegations of abuse thoroughly and making structural, personnel, and policy changes necessary to reduce the risk of further such incidents. All credible allegations of inappropriate conduct by U.S. personnel are thoroughly investigated. A rapid response to allegations of abuse, accompanied by accountability, sends an unequivocal signal to all U.S. military personnel and the international community that mistreatment of detainees will not be tolerated under any circumstances. To the extent allegations of misconduct have been levied against private contractors, the U.S. Department of Justice has conducted or initiated investigations. For example, following the reports at Abu Ghraib, the Department of Justice received referrals from Military Investigators regarding contract employees and their potential involvement in the abuses. DOJ subsequently opened an investigation.

At the direction of the President, the Secretary of Defense, and the military chain of command, nine different senior-level investigative bodies convened to review military policy from top-to-bottom in order to understand the facts in these cases and identify any systemic factors that may have been relevant. The assignment of these entities was to identify and investigate the circumstances of all alleged instances of abuse, review command structure and policy, and recommend personnel and policy changes to improve accountability and reduce the possibility of future abuse.

The United States has ordered a number of studies and reports subsequent to allegations of mistreatment in Iraq, particularly at Abu Ghraib. Again, as described in Part One of this Report, it is impossible to characterize and summarize fully these reports, but it can be stated that

although these investigations identified problems and made recommendations, none found a governmental policy directing, encouraging, or condoning the abuses that occurred. What follows is a brief summary of each of the investigative reports:

- *Miller Report*

  Major General Miller's report on detention and interrogation operations in Iraq was completed on September 9, 2003. General Miller's report assessed the conditions and operations of detention facilities in Iraq.

- *Ryder Report*

  Major General Ryder's assessment of detention operations in Iraq was completed on November 6, 2003, as described in Part 1, Section III.B.3. General Ryder's report covered specific operations in Iraq and Afghanistan relating to the conduct of detention operations.

- *Taguba Report*

  Major General Taguba completed his investigation into detainee operations and the 800th Military Police Brigade on March 12, 2004. This report focused primarily on the allegations of detainee abuse at the Abu Ghraib detention facility arising from disclosures made by U.S. service members.

- *The Army Inspector General Report*

  The Army Inspector General conducted a review of alleged detainee abuse committed by U.S. Army personnel in Iraq and Afghanistan, which was released in July 2004, as described in Part 1, Section III.B.3. (At <http://www4.army.mil/ocpa/ reports/ArmyIGDetaineeAbuse/ DAIG%20Detainee%20Operations%20Inspection%20Report.pdf> (visited March 1, 2005)).

- *Report by Major General Fay, Lieutenant General Jones, and General Kern*

  This was completed on August 13, 2004. This report covered Military Intelligence (MI) and DoD contractor interrogation policies in Iraq. This report revealed that 27 military personnel or civilians appeared to have abused Iraqi prisoners due to criminal activity or confusing interrogation rules. Twenty-three military intelligence personnel and four civilian contractors were alleged to be involved in abuse. Eight others, including six military officers and two civilians, were alleged to have learned of the abuse and to have failed to report the abuse to authorities. This report found 44 cases of abuse. In an interview after the report's release, General Kern told reporters, "We found that the pictures you have seen, as revolting as they are, were not the result of any doctrine, training or policy failures, but violations of the law and misconduct." (At http://www.defenselink.mil/transcripts/2004/tr20040825-1224.html

(visited April 5, 2005)). The report found that the abuses were carried out by a small group of "morally corrupt" soldiers and civilians and caused by a lack of discipline by leaders and soldiers of the brigade and a "failure or lack of leadership by multiple echelons" within a unit within the U.S. military forces in Iraq. *See* Report at 2. This report was publicly released and can be found online (at <http://news.findlaw.com/hdocs/docs/dod/fay82504rpt.pdf> (visited February 28, 2005)).

- *Schlessinger Report*

  This Report was completed in August 2004. The Secretary of Defense named a panel of four distinguished former public officials, including two former Secretaries of Defense, to evaluate the areas under review in the ongoing investigations and to determine if there was a need for additional areas of investigation. The Report found that "[n]o approved procedures called for or allowed the kinds of abuse that in fact occurred. There is no evidence of a policy of abuse promulgated by senior officials or military authorities." *See* Report at 5. It stated that "the most egregious instances of detainee abuse were caused by the aberrant behavior of a limited number of soldiers and the predilections of the non-commissioned officers on the night shift of Tier 1 at Abu Ghraib," although noting that "commanding officers and their staffs at various levels failed in their duties and that such failure contributed directly or indirectly to detainee abuse." *See* Report at p. 43. This report was publicly released and can be found online (at <http://www.defenselink.mil/news/Aug2004/ d20040824finalreport.pdf> (visited February 28, 2005)).

- *Formica Report*

  Brigadier General Formica initiated a report on May 15, 2004 that focuses on allegations of abuse by Special Operations Forces in Iraq. The investigation is complete. The report's contents are classified because of the highly sensitive operations that were examined and that remain ongoing.

- *Church Report*

  Vice Admiral Church's comprehensive review of DoD Detention Operations and Interrogation Techniques was completed on March 10, 2005 and is described in Part One, Section III.B.3. of this Annex. The Executive Summary of the Report is available at <http://www.defenselink.mil/news/Mar2005/d20050310exe.pdf> (visited March 23, 2005).

- *Naval Inspector General Report*

  The Naval Inspector General (Vice Admiral Route) is conducting a review of documents related to detainees recently released under the Freedom of Information Act and is expected to release his findings soon as described in Part 1, Section III.B.3.

From the nine reports that have been completed, it is clear that serious abuses occurred, but it is also clear that the vast majority of the 150,000 military personnel who that have been stationed in Iraq have conducted themselves honorably. The U.S. Armed Forces is committed to ensuring that those who committed abuses are accountable and that such abuses do not occur again.

It is important to remember that the U.S. Armed Forces began the process of assessing detainee operations, investigating allegations of abuse, and implementing changes at Abu Ghraib, well before the media and the international community began to focus on detainee abuse at that facility. Both before and after the public disclosure of these abuses, the United States pursued swift and thorough investigations of problems.

In conducting the major reviews, the United States reached out broadly, interviewed more than 1,700 people, and compiled more than 13,000 pages of information to address detainee abuse. Much of this information is publicly available. In an effort to be transparent and keep the public and our government informed, the Department of Defense delivered more than 60 briefings to the U.S. Congress.

The Department of Defense has improved its detention operations in Iraq and elsewhere, improvements have been made based upon the lessons learned, and in part because of the broad investigations and focused inquiries into specific allegations. These comprehensive reports, reforms, investigations and prosecutions make clear the commitment of the Department of Defense to do everything possible to ensure that detainee abuse such as occurred at Abu Ghraib never happens again.

Finally, the highest levels of the Department of Defense are reviewing and acting on all of the reports and investigations. The Department has established an inter-departmental committee, called the Senior Leadership Oversight Committee, that comprises senior members of the Joint Staff, the Provost Marshal General's Office, the Office of Detainee Affairs, and the Military Departments engaged in detention operations.

This group is specifically responsible for ensuring that the recommendations of the panels and investigations are followed through to their conclusion, and for monitoring changes made by combatant commands and the relevant offices in the Department of Defense. To date, the committee has met three times and has reviewed more than 600 recommendations. The Department has already implemented a significant number of recommendations and is examining the remainder of them. The Oversight Council will continue to meet on a periodic basis until the recommendations of the investigations and panels have been addressed fully.

3. Summary of actions to hold persons accountable

The Department of Defense takes all allegations of abuse seriously and investigates them. Those people who are found to have committed unlawful acts are held accountable and disciplined as the circumstances warrant. Investigations are thorough and have high priority.

Some criminal investigations have been completed and others continue with respect to abuse of detainees in Iraq. Although it would be inappropriate to comment on the specifics of on-going investigations, as of March 1, 2005, 190 incidents of abuse have been substantiated.

Some are minor, while others are not: penalties have ranged from administrative to criminal sanctions, including 30 courts-martial, 46 non-judicial punishments, 15 reprimands, and 15 administrative actions, separations, or other administrative relief. A number of actions are pending.

Some examples of service members convicted at a court-martial[23] for acts related to detainee maltreatment include:

(1) A Staff Sergeant, charged with numerous offenses related to maltreatment of detainees at the Abu Ghraib Detention Facility, pled guilty on October 21, 2004, at a General Court-Martial to conspiracy, maltreatment of detainees, simple battery, and indecent acts. The Military Judge sentenced him to 10 years confinement, total forfeitures of pay and allowances, reduction from Staff Sergeant (a non-commissioned officer rank) to the lowest enlisted grade (enlisted grade of Private), and discharge from the U.S. Army with a dishonorable discharge. Because of a plea agreement, the Staff Sergeant will ultimately be confined for eight years, if he cooperates with future prosecutions per the plea arrangement.

(2) A Sergeant, charged with numerous offenses related to maltreatment of detainees at the Abu-Ghraib Detention Facility, pled guilty on February 4, 2005, to battery, dereliction of duty, and false official statement. A court-martial panel sentenced him to confinement for 6 months, reduction to the lowest enlisted grade, and discharge from the U.S. Army with a bad conduct discharge.

(3) A Specialist charged with conspiracy to maltreat subordinates, dereliction of duty, and maltreatment of detainees at the Abu Ghraib Detention Facility, pled guilty to all charges at a Special Court-Martial on May 19, 2004. The Military Judge sentenced him to confinement for a period of 12 months, reduction in rank to the lowest enlisted grade, and a discharge from the U.S. Army with a bad conduct discharge.

(4) A Specialist, charged with numerous offenses related to maltreatment of detainees at the Abu Ghraib Detention Facility, was convicted on January 7, 2005, by a 10-member panel of five counts, including assault, maltreatment, and conspiracy. He was sentenced to 10 years confinement, total forfeitures of all pay and allowances, reduction to the lowest enlisted grade, and a dishonorable discharge from the U.S. Army.

(5) A Specialist, charged with participating in and directing the abuse of two Iraqi detainees by handcuffing the detainees together naked at the Abu Ghraib Detention Facility, was tried at a Special Court-Martial on September 1l, 2004, and convicted of conspiracy to maltreat detainees and the maltreatment of the detainees. The Specialist was sentenced to confinement for eight months, a reduction to the lowest enlisted grade, and a bad conduct discharge from the U.S. Army.

Over the course of 2005, substantially more information will become public on these matters as accountability processes come to completion. Accordingly, the United States will be prepared to present further information on the status of its investigations and prosecutions during its presentation of this Report to the Committee Against Torture.

C. Remedies for victims of abuse

The United States is committed to adequately compensating the victims of abuse and mistreatment by U.S. military personnel in Iraq. The U.S. Army is responsible for handling all claims in Iraq. Several claims statutes allow the United States to compensate victims of misconduct by U.S. military personnel. The primary mechanism for paying claims for allegations of abuse and mistreatment by U.S. personnel in Iraq is through the Foreign Claims Act (FCA), 10 U.S.C. § 2734. Under the FCA, Foreign Claims Commissions are tasked with investigating, adjudicating, and settling meritorious claims arising out of an individual's detention. There are currently 78 Foreign Claims Commission personnel in Iraq. Claims may be submitted to the claims personnel, who regularly visit detention facilities, or they may be presented to the Iraqi Assistance Center. For persons with U.S. residency, claims may be brought pursuant to the Military Claims Act, 10 U.S.C. § 2733. All allegations of detainee abuse are investigated by the U.S. Army Claims Service (USARCS), and the Department of the Army Office of the General Counsel is the approval authority.

In addition, the Secretary of Defense has directed the Secretary of the Army to review all claims for compensation based on allegations of abuse in Iraq and to act on them in his discretion. In instances where meritorious claims are not payable under the FCA or the MCA, the Secretary of the Army is responsible for identifying alternative authorities to provide compensation and either to take such action or forward the claim to the Deputy Secretary of Defense with a recommendation for action.

IV. TRAINING OF U.S. ARMED FORCES

As discussed in the section on training in Part 1, Section IV, of this Annex, U.S. Armed Forces receive significant training before being deployed and during their deployment. The United States incorporates by reference that section and reiterates that all employees and Armed Forces deployed in detention missions receive extensive training and education on the laws and customs of armed conflict, including humane treatment procedures and the obligations of the United States in conducting detention operations. With respect to Iraq, U.S. Armed Forces serving as interrogators and detention personnel are also trained to conduct themselves in accordance with the principles (including the prohibition on torture) set forth in the Geneva Conventions and to treat detainees humanely regardless of status.

Since allegations of abuse became known, corrections specialists are now stationed at detention facilities to provide additional skills and experience to the detention mission. In addition, the Department of Defense is developing procedures and policies to ensure that contractors used by the Department receive training and understand the U.S. Government's commitments and policies before being deployed in detention operations.

V. LESSONS LEARNED AND POLICY REFORMS

It is clear that certain individual service members committed serious abuses during U.S. detention operations in Iraq. Apart from proceedings to hold accountable the perpetrators of abuse, the U.S. Armed Forces have been studying the larger question of how to ensure that these types of abuses will not occur in the future. The nine detainee reports released to date have

made more than 300 recommendations for short and long-term changes to improve detainee handling, accountability, investigation, supervision, and coordination. Further investigations remain in progress. The Office of the Secretary of Defense, the Military Departments, the Combatant Commands, and the Joint Staff have each taken concrete steps to implement many of these changes and will continue to do so.

The Department of Defense has responded to the abuses committed by taking steps designed to improve senior-level supervision and coordination of detainee matters. The Secretary of Defense has:

- Established a Detainee Affairs office overseen by the Deputy Assistant Secretary of Defense for Detainee Affairs;
- Established a Joint Detainee Coordination Committee on Detainee Affairs;
- Issued a policy for "Handling of Reports from the International Committee of the Red Cross";
- Issued a policy on "Procedures for Investigations into the Death of Detainees in the Custody of the Armed Forces of the U.S."; and
- Initiated a department-wide review of detainee-related policy directives.

Other steps that the Department of Defense has taken include:

- Designation of a Major General as Deputy Commanding General for Detainee Operations, MNF-I. He is the Department's primary point of contact with the Iraqi Transitional Government for detainee operations. He is responsible for ensuring that all persons captured, detained, interned, or otherwise held in under MNF-I control are treated humanely and consistent with the Geneva Conventions and all applicable law from the moment they fall into the hands of U.S. forces until their final release from MNF-I control or their repatriation. He ensures that it is made clear that inhumane treatment is prohibited and is a punishable violation under the Uniform Code of Military Justice. All service members have an obligation to report allegations of detainee abuse to the responsible command or law enforcement agency;
- The posting of the Geneva Conventions and Camp rules in a language the detainee can understand;
- Ensuring widespread publication of the findings of reports and investigations by publishing unclassified information on the Department of Defense website http://www.defenselink.mil. The Department has established an entire sub-site on detainee operations.

Notes

[1] See, e.g., President's Statement on the United Nations International Day in Support of Victims of Torture, 39 Weekly Comp. Pres. Doc. 824 (June 30, 2003) ("Torture anywhere is an affront to human dignity everywhere."); *see also Message from the President of the United States Transmitting the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, S. Treaty Doc. No. 100-20, at ii (1988) ("Ratification of the Convention by the United States will clearly express United States opposition to torture, an abhorrent practice still prevalent in the world today.").

[2] Unless specified otherwise in this report, whenever the terms "torture" and "cruel, inhuman or degrading treatment or punishment" are employed in this report, they are understood to mean those terms as they are defined by the United States in its reservations and understandings. *See* Annex 3.

[3] The vast majority of these cases involve aliens in removal proceedings where regulations permit aliens to challenge their removal to countries under Article 3 of the Torture Convention.

[4] See in particular the examples cited in the discussion following Article 2 and Article 16.

[5] This policy has been articulated by the President of the United States and various United States governmental personnel. *See* www.whitehouse.gov/news/releases/2005/03/20050316-3.html (visited March 19, 2005); *see also* Declaration of Pierre-Richard Prosper at Annex 1, Tab 2; *see also* Declaration of Matthew C. Waxman at Annex 1, Tab 1; *see also* Letter from General Counsel of the Department of Defense William G. Haynes II to Senator Patrick Leahy of June 25, 2003.

[6] Shortly after its creation, the Department of Homeland Security reaffirmed its commitment to fulfilling U.S. obligations under Article 3 of the Torture Convention. *See* Immigration Relief under the Convention Against Torture for Serious Criminals and Human Rights Violators; Hearing Before the House Subcomm. on Immigration, Border Security, and Claims of the House Comm. on the Judiciary, 108th Cong., 1st Sess. 45, Serial No. 34, at 11 (July 11, 2003) (prepared statement of C. Stewart Verdery, Asst. Secretary for Policy and Planning, Border and Transportation Security Directorate, U.S. Dept. of Homeland Security). *See* http://commdocs.house.gov/committees/judiciary/hju88220.000/hju88220_0.HTM#19 (visited May 3, 2005) ("The Department of Homeland Security is committed to ensuring the proper balance between our convention obligations and our mission to make our communities safe. . . [W]e will fulfill the President's declaration that ... the United States is committed to the worldwide elimination of torture, and we are leading this fight by example.")

[7] The data were compiled by the EOIR and represent only decisions taken by the Immigration Courts.

[8] The data on grants of asylum by DHS (former INS) were compiled by U.S. Citizenship and Immigration Services (USCIS) of the U.S. Department of Homeland Security and reflect decisions on applications, including those filed by principal applicants on behalf of themselves

and family members. Accordingly, these statistics do not reflect the number of actual individuals who are granted asylum by DHS. The data on grants of asylum and withholding of removal by immigration judges were compiled by EOIR and reflect the actual numbers of individuals who were granted asylum or withholding of removal, as EOIR evaluates each individual claim separately. The data compiled by EOIR represent decisions taken by Immigration Courts; accordingly, they do not include decisions on cases appealed to the Board of Immigration Appeals. As a result, the data do not necessarily represent the final disposition on these cases.

[9] The carve out from the expanded definition of the SMTJ provided by 18 U.S.C.§7(9) for those as defined by MEJA, was the result of a legislative compromise to avoid the applicability of the complex MEJA provisions relating to initial appearances and removals to the United States. The SMTJ and MEJA statutes each provide a separate basis for asserting U.S. jurisdiction, and the legislative intent was to keep these jurisdictional bases separate and distinct, not to co-mingle them.

[10] Press Briefing by White House Counsel Judge Alberto Gonzales, DoD General Counsel William Haynes, Department of Defense Deputy General Counsel Daniel Dell'Orto and Army Deputy Chief of Staff for Intelligence General Keith Alexander, June 22, 2004, at <http://www.whitehouse.gov/news/releases/2004/06/20040622-14.html> (visited February 28, 2005).

[11] It should be that in its decision, the Supreme Court noted in *dicta*, "The Government fears that the security of our borders will be compromised if it must release into the country inadmissible aliens who cannot be removed. If that is so, Congress can attend to it." *Clark v. Martinez*, 125 S.Ct. 716, 727 (2005).

[12] *See* Annex 3. *See also* President's Statement on United Nations International Day in Support of Victims of Torture, 39 Weekly Comp. Pres. Doc. 824 (June 30, 2003).

[13] This was the first time that we knew that al-Qaida attacked U.S. military forces directly. There are other instances of violence, however, such as the June 1996 attack on Khobar Towers killing 19 U.S. service members, which bin Ladin called a "praiseworthy act of terrorism."

[14] As the Supreme Court recently made clear in *Hamdi*, the United States may detain enemy combatants, including U.S. citizens who are enemy combatants, for the duration of hostilities. The Court held that Congress has authorized such detentions. *Hamdi v. Rumsfeld*, 124 S.Ct. 2633, 2639-42 (2003). Notably, hostilities in Afghanistan have not yet ended.

[15] See, e.g., Secretary Rumsfeld's statement that the detainees "are not POWs" and instead are "unlawful combatants." Gerry J. Gilmore, *Rumsfeld Visits, Thanks U.S. Troops at Camp X-Ray in Cuba*, American Forces Press Service, Jan. 27, 2002. (At <http://www.defenselink.mil/news/Jan2002/n01272002_200201271.html> (visited April 11, 2002)).

[16] The U.S. Supreme Court, citing numerous authoritative international sources, has held that unlawful combatants "are subject to capture and detention, [as well as] trial and punishment by military tribunals for acts which render their belligerency unlawful." *See Ex parte Quirin*, 317 U.S. 1, 31 (1942) (citing GREAT BRITAIN, WAR OFFICE, MANUAL OF MILITARY, ch. xiv, §§ 445-451; REGOLAMENTO DI SERVIZIO IN GUERRA, § 133, 3 LEGGI E DECRETI DEL REGNO D'ITALIA (1896) 3184; 7 MOORE, DIGEST OF INTERNATIONAL LAW, § 1109; 2 HYDE, INTERNATIONAL LAW, §§ 654, 652; 2 HALLECK, INTERNATIONAL LAW (4th Ed. 1908) § 4; 2 OPPENHEIM, INTERNATIONAL LAW, § 254; HALL, INTERNATIONAL LAW, §§ 127, 135; BATY & MORGAN, WAR, ITS CONDUCT AND LEGAL RESULTS (1915) 172; BLUNTSCHI, DROIT INTERNATIONAL, §§ 570 bis).

[17] Article 5 states:

> "Should any doubt arise as to whether persons, having committed a belligerent act and having fallen into the hands of the enemy, belong to any of the categories enumerated in Article 4, such persons shall enjoy the *protection* of the present Convention *until* such time as their status has been determined by a competent tribunal." [emphasis added]. Geneva Convention Relative to the Treatment of Prisoners of War, 6 U.S.T. 3316, T.I.A.S. No. 3364, 75 U.N.T.S. 135, Signed at Geneva on Aug. 12, 1949; entered into force on Oct. 21, 1950 (entered into force for the United States, Feb. 2, 1956).

[18] Department of Defense Memorandum (Jan. 27, 2005).

[19] *See* 10 U.S.C. § 815. The intent of nonjudicial punishment (colloquially referred to as an "Article 15" or "Captain's Mast") is to provide the commander with enough latitude to resolve a disciplinary problem appropriately in order to maintain "good order and discipline" within the unit. Nonjudicial punishment is designed for minor offenses. It allows a commander to correct, educate, and reform offenders while simultaneously preserving the service member's record of service from unnecessary stigma and furthering military efficiency. A service member is provided appropriate due process rights when considered for nonjudicial punishment. The service member has the right to consult with counsel, the right to remain silent, turn down the nonjudicial punishment and, in turn, possibly face trial by court-martial (unless attached to or embarked upon a vessel), request an open hearing, a spokesperson to speak on the service member's behalf at the hearing, examine all available evidence, present evidence and call witnesses, and, if nonjudicial punishment is imposed, the right to appeal.

[20] There has also been an investigation in response to a request by the Australian Government following claims of mistreatment of two Australian detainees at Guantanamo. Although not initially substantiated, the Naval Criminal Investigative Service is conducting an independent investigation into these allegations of abuse.

[21] *See* description, *id*.

[22] A member, or former member, of the U.S. Armed Forces, who is either a national of the United States, or later present in the United States, who, while outside the United States, commits acts that meet the definition of torture under the relevant statute (18 U.S.C. §2340) is subject to federal prosecution under 18 U.S.C. §2340A, if not previously prosecuted for the same offense under the UCMJ.

A member of the U.S. Armed Forces who, while outside the United States, commits a crime that would constitute a felony if committed within the Special Maritime Territory Jurisdiction (SMTJ), and does so with one or more other defendants, at least one of whom is not subject to the UCMJ, is subject to federal prosecution. Similarly, a former member of the U.S. Armed Forces, who has ceased to be subject to the UCMJ, but who was subject to the UCMJ at the time that he was outside the territory of the United States and committed a crime that would be a felony if committed within the SMTJ, is subject to federal criminal prosecution.

[23] U.S. Armed Forces are subject to the Uniform Code of Military Justice (UCMJ), which provides that those who commit acts of abuse, whether or not during an armed conflict, may be held criminally liable for their actions. Article 93 of the UCMJ provides: "Any person subject to this chapter who is guilty of cruelty toward, or oppression or maltreatment of, any person subject to his orders shall be punished as a court-martial may direct." A member of the U.S. Armed Forces who is suspected of mistreating or abusing persons in U.S. detention is subject to prosecution under this and other applicable UCMJ articles.

Other charges that may apply will depend on the circumstances of the abuse. For example, U.S. Armed Forces may be charged with assault, Article 128, UCMJ, or if the abuse results in the death of a detainee, Article 118, Murder, or Article 119, Manslaughter, or Article 134, Negligent Homicide. For allegations of abuse involving theft of money or other possessions from a detainee, U.S. Armed Forces may be charged with Article 121, Larceny. For allegations of sexual assault, U.S. Armed Forces may be charged with Article 120, Rape, Article 125, Sodomy, or Article 134, Indecent Assault.

List of materials available for consultation in the files of the secretariat

Attachments to Annex I

TAB 1: Declarations on Transfers of Detainees from Guantanamo Bay

(Declarations of Matthew C. Waxman and Pierre-Richard Prosper)

Annex 2 - President's Statement on the United Nations International Day in Support of Victims of Torture

Annex 3 - December 30, 2004 Memorandum Opinion of the Acting Assistant Attorney General of the Office of Legal Counsel, United States Department of Justice, to the Deputy Attorney General on the Legal Standards Applicable under 18 U.S.C. §§ 2340-2340A, December 30, 2004. (Also available at http://www.usdoj.gov/olc/dagmemo.pdf)

Annex 4 - U.S. Reservations, Understandings, and Declarations Upon Ratification

Annex 5 - Relevant Constitutional, Legislative, and Regulatory Provisions

Annex 6 - Sample of U.S. Federal Court Decisions Related to Article 3 of the Torture Convention

Annex 7 - Capital Punishment

Comisac, Rena (CRT)

From: Comisac, Rena (CRT)
Sent: Friday, January 20, 2006 5:46 PM
To: Gorsuch, Neil M
Subject: FW: Trafficking Survivor Story

The bird has flown.

-----Original Message-----
From: Vargas, Omar (CRT)
Sent: Friday, January 20, 2006 5:08 PM
To: Comisac, Rena (CRT); Schlozman, Brad (CRT)
Subject: RE: Trafficking Survivor Story

Kimani left about 20 mins ago to deliver the CD.

-----Original Message-----
From: Comisac, Rena (CRT)
Sent: Friday, January 20, 2006 2:18 PM
To: Vargas, Omar (CRT); Schlozman, Brad (CRT)
Subject: RE: Trafficking Survivor Story

Yes, I think it would be good for a text box, so long as it does not unduly delay getting the report to Allyson.

-----Original Message-----
From: Vargas, Omar (CRT)
Sent: Friday, January 20, 2006 1:38 PM
To: Schlozman, Brad (CRT); Comisac, Rena (CRT)
Subject: RE: Trafficking Survivor Story

My goal is to complete edits by 2:30 and then have the CD sent over to Allyson and so it all depends on how long it takes Lou to draft the lines and for me to insert it.

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From: Schlozman, Brad (CRT)
Sent: Friday, January 20, 2006 1:36 PM
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Subject: RE: Trafficking Survivor Story

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From: Vargas, Omar (CRT)
Sent: Friday, January 20, 2006 1:34 PM
To: Comisac, Rena (CRT); Schlozman, Brad (CRT)
Subject: Trafficking Survivor Story

Lou de Baca just proposed a good idea for the report but I am afraid that time may have run out and so want to run it by you. He suggested that since we highlight a task force (Houston) and an NGO (CAST) it may be a good idea to highlight a survivor (affiliated with the Coalition of Immokolee Worker) that participates in CRT human trafficking training workshops. Lou is crafting a few lines in case you think it is worth inserting in a "text box."

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, January 20, 2006 5:49 PM
To: Comisac, Rena (CRT)
Subject: RE: Trafficking Survivor Story

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, January 20, 2006 5:51 PM
To: 'Allyson_N._Ho@who.eop.gov'
Subject: Trafficking Report

Rena Comisac hopefully will have transferred the report to you sometime today. Would appreciate your input on its substance and, somewhat pressingly but less importantly, whether we have the green light to use a POTUS photo. Document will have to be sent to the printer's next week and for some reason photos need to be set in place even before the text is finalized! Many thanks. NMG

Allyson_N._Ho@who.eop.gov

From: Allyson_N._Ho@who.eop.gov
Sent: Friday, January 20, 2006 6:29 PM
To: Gorsuch, Neil M
Subject: RE: Trafficking Report

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Please have someone involved in the production call the Photo Office (456-6709) and put in the request. The office can also email over a high resolution version (or whatever you need) of a certain photo.

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Friday, January 20, 2006 5:51 PM
To: Ho, Allyson N.
Subject: Trafficking Report

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, January 20, 2006 6:41 PM
To: 'Allyson_N._Ho@who.eop.gov'; Comisac, Rena (CRT)
Subject: Re: Trafficking Report

Thanks, Allyson! Adding Rena re: photo office. Have a good weekend!

-----Original Message-----
From: Allyson_N._Ho@who.eop.gov <Allyson_N._Ho@who.eop.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Fri Jan 20 18:28:34 2006
Subject: RE: Trafficking Report

I now have a CD from Omar Vargas that I assume contains the report you're referencing. As for the photo, I'm told that you will need to get sign off from the WH Photo Office, but that shouldn't be a problem.
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Schwartz, Arthur

From:	Schwartz, Arthur
Sent:	Monday, January 23, 2006 8:38 AM
To:	USDOJ- Office of Public Affairs
Cc:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing for Monday, January 23, 2006
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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

White House To Launch "Political Campaign" To Defend NSA Wiretapping. USA Today (1/23, Jackson, 2.31M) reports, "The White House launches a political campaign this week, not for a candidate but for a controversial program: warrantless surveillance of some U.S. citizens by the National Security Agency." President Bush "plans to defend the program in a counterterrorism speech today at Kansas State University, aides said." The speech "will kick off a flurry of administration activity leading to Senate hearings scheduled for Feb. 6." White House spokesman Scott McClellan said, "We are stepping up our efforts to educate the American people about this vital tool in the war on terrorism." Bush and aides "plan to repeat arguments they have made before: This is a limited program that kicks in only when one of the parties is beyond US borders and has some kind of link to the al-Qaeda terrorist organization." Just before Bush's speech today in Manhattan, KS, "Gen. Michael Hayden plans to discuss the surveillance program at the National Press Club. Hayden, the principal deputy director of national intelligence, once headed the National Security Agency, which conducts the surveillance." Attorney General Alberto Gonzales "is scheduled to address the issue in a speech Tuesday, McClellan said. On Wednesday, the president plans to visit the NSA headquarters at Fort Meade in Maryland."

Under the headline "Delicate Dance For Bush In Depicting Spy Program As Asset," the New York Times (1/23, Nagourney, 1.19M) reports, "With a campaign of high-profile national security events set for the next three days, following Karl Rove's blistering speech to Republicans on Friday," the White House "has effectively declared that it views its controversial secret surveillance program not as a political liability but as an asset, a way to attack Democrats and re-establish…Bush's standing after a difficult year." The Times adds, "Whether the White House can succeed depends very much, members of both parties say, on its success in framing a complicated debate when the country is torn between its historic aversion to governmental intrusion and its recent fear of terrorist attacks at home." Polls "suggest that Americans are divided," but "as the White House and Democrats are well aware, the issue can draw very different reactions depending on how it is presented. These next few days could prove critical, as both Mr. Bush and Congressional Democrats move aggressively to define what is at stake."

Yesterday, lawmakers appeared on the political talk shows to comment on the controversy. Reuters (1/23, Kenen) says "Democrats and some Republicans have said the Bush administration's classified warrantless eavesdropping program is illegal," while the AP (1/23, Yen) also covers the lawmakers' comments, saying "several" of them "said Sunday they will press…Bush to justify his decision to allow domestic eavesdropping, rebuffing GOP suggestions their criticism of broad executive authority puts the nation at risk." The AP adds, "During the Sunday talk shows, lawmakers were responding to efforts by White House aide Karl Rove to make national security the top partisan issue in the November midterm elections." Rove "made the comments about the time that new audiotape warnings by Osama bin Laden were released, threatening an upcoming attack on the US."

Lawmakers "from both parties" called "for Congress to consider whether new restrictions were needed on government surveillance in suspected terrorism cases involving people in the United States," says the Los Angeles Times (1/23, Richter, 958K). Congress, adds the Times, "is deeply divided on whether the Bush administration acted illegally in carrying out warrantless eavesdropping on communications in hopes of detecting terrorist plots," but "several influential lawmakers said Congress should play a larger role in determining how the surveillance should be run." McClellan "issued a written response to lawmakers' comments on the talk shows. 'Senate Democrats continue to engage in misleading and outlandish charges about this vital tool that helps us do exactly what the 9/11 commission said we needed to do -- connect the dots,' McClellan said.

Asked on ABC's This Week (1/22, Stephanopoulos) to say whether he agreed with former Vice President Al Gore that the use of the NSA for domestic surveillance "may be an impeachable offense" which deserves to be investigated by a special counsel, Sen. John Kerry replied, "I agree that we ought to have a special counsel investigate. I agree that we ought to have an independent commission because this Congress has proven itself unwilling to do what's necessary to perform its responsibilities." The Washington Times (1/23, Hudson, 90K) reports Kerry also "called the National Security Agency's program to eavesdrop on terror suspects illegal, but

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he said he will continue to support its funding." Kerry "was asked by host George Stephanopoulos, 'If you think this is a clear violation of the law, why not move to cut off funding for the program?' 'That's premature,' Mr. Kerry responded.'

Rep. Jane Harman, also on ABC's This Week (1/22, Stephanopoulos), responded, saying, "I have been part of this so-called Gang of Eight since 2003, and, yes, I have been briefed. … I have raised objections to the Gang of Eight procedure in formal hearings of our committee and all over the place. I also asked a lot of questions in the meetings, the most recent of which was last Friday for two hours." Harman went on to say, "On the process: I think the administration is violating the National Security Act of 1947 by failing to brief the full intelligence committees. … On the program, I believe we should be fully briefed. We should decide…whether the Foreign Intelligence Surveillance Act is being violated in any way by this program."

Sen. Charles Schumer was asked on CNN's Late Edition (1/22, Blitzer) to respond to footage of Vice President Cheney saying, "These actions are within the president's authority and responsibility under the constitution and laws, and these actions are vital to our security" in reference to the NSA domestic surveillance program. Schumer said, "We do have to be strong in the war on terror, and…Democrats aren't going to take a back seat to anybody on that. But…we can be both strong and have the rule of law. And a large number of people, not just Democrats, Republicans like John McCain, Sam Brownback, Arlen Specter have said they have real doubts about whether what the president did conformed to the law."

Sen. John McCain, asked on Fox News Sunday (1/22, Wallace), if he agrees that President Bush "has the legal authority to engage in these warrant-less wiretaps," replied, "I don't think so, but why not come to Congress? We can sort this all out. … I think they will get that authority, whatever is reasonable and needed, and increased abilities to monitor communications are clearly in order."

Commenting on the NSA domestic surveillance program Chairman of the House Intelligence Committee Peter Hoekstra, on ABC's This Week (1/22, Stephanopoulos), said, "When the program began…congressional leaders were brought in -- the leadership of the House and the Senate, the leadership of the House and Senate intelligence committees…I've been briefed four times on this. … I've been given every opportunity to ask questions about the program, to ask questions about the legality of the program, to understand the scope of the program and how it works and, most importantly, the impact it has. … And we're having a discussion about whether we need to expand the number of members on the committee that are briefed into the program."

Pentagon's Domestic Spying Program May Have Violated Regulations. Newsweek (1/30, Isikoff) reports on the Pentagon's Counterintelligence Field Activity, noting that its role is "'force protection' -- tracking threats and terrorist plots against military installations and personnel inside the United States." According to Newsweek, there are now "questions about whether CIFA exceeded its authority and conducted unauthorized spying on innocent people and organizations. A Pentagon memo obtained by NEWSWEEK shows that the deputy Defense secretary now acknowledges that some TALON reports may have contained information on U.S. citizens and groups that never should have been retained. The number of reports with names of U.S. persons could be in the thousands, says a senior Pentagon official who asked not be named because of the sensitivity of the subject." Newsweek adds, "It isn't clear how many groups and individuals were snagged by CIFA's dragnet. … CIFA researchers apparently cast a wide net and had a number of surveillance methods…at their disposal." Pentagon officials "have broadly defended CIFA as a legitimate response to the domestic terror threat. But at the same time, they acknowledge that an internal Pentagon review has found that CIFA's database contained some information that may have violated regulations."

Technology Changes Face Of Eavesdropping. The AP (1/23, Fordahl) reports, "In the past, intercepting communications meant just that -- copying a telegram mid-route, steaming open an envelope or attaching alligator clips to the copper wires that connected every telephone in the world. … But the old ways of communicating are heading into the sunset like the Pony Express and being replaced by phone calls, instant messages, e-mail and more that are converted into digital data before they gallop across the Internet and other advanced networks." The AP continues, "This constant interchange of massive amounts of data, converging into speeding bitstreams on common pipes, is both a blessing and a curse for eavesdroppers. … It's easier than ever to access wholesale feeds of data. But such work is also more controversial than traditional wiretapping, as seen in objections to post-9/11 warrantless domestic surveillance and to regulatory moves to require networks to be tap-

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friendly." The AP adds, "Critics question whether safeguards put in place a quarter century ago following FBI wiretapping misconduct are strong enough to prevent abuse in the 21st century. Others fear the information superhighway is turning out to be a fast path to mass surveillance. … 'The thing that really should worry people is that once the capability is there, people will abuse it,' said Jennifer Granick, executive director of Stanford University's Center for Internet and Society. 'The opportunity for abuse is so much greater, because so much more of our private information is transmitted over the network.' … Always a hot topic, the debate over wiretapping is further fueled today not only by the knowledge of what's possible but also by a dearth of details of what's actually happening. … What makes the White House surveillance program…a cause of such concern is that it skirts existing laws and employs techniques resembling a wide-mouthed vacuum before the fine-toothed combs can be wielded."

More Commentary. The Washington Post (1/23, A14, 744K) editorializes, "Especially without knowing the parameters of the surveillance, we hesitate to second-guess the president's argument that FISA's limits are unduly constraining." The surveillance "may be critical for national security, and a law written in a different technological age may well need to be refurbished. But the proper way to handle that -- which the administration rejected -- would have been to seek changes in the law, not to do a stealthy end run around the legislative process. In such an amorphous, long-running conflict as the war against terrorism, it's critical to ensure that limits are in place to prevent the executive branch from overreaching."

Columnist bob Herbert writes in the New York Times (1/23, 1.19M), "Have you ever talked sexy to your wife or your girlfriend -- or your husband or your boyfriend -- on the telephone? Would you keep talking if you thought that one of Dick Cheney's operatives was listening in? Talk about a chilling effect. … Freedom of speech in the United States covers matters trivial and profound. The corrosive damage that is being done to the First Amendment, that cornerstone of free speech, has been largely overlooked in the controversy over…Bush's decision to permit the government to eavesdrop without warrants on phone calls and e-mail messages inside the United States."

Deported Muslims Back In US For Lawsuit Against Officials, Guards. The New York Times (1/23, Bernstein, 1.19M) reports, "Hundreds of noncitizens were swept up on visa violations in the weeks after 9/11, held for months in a much-criticized federal detention center in Brooklyn as 'persons of interest' to terror investigators, and then deported. This week, one of them is back in New York and another is due today - the first to return to the United States." They are "no longer the accused but the accusers, among six former detainees who are coming back to give depositions in their federal lawsuits against top government officials and detention guards, at a time when the constitutionality of part of the government's counterterrorism offensive is under new scrutiny." The Times adds, "As in the cases of all the Muslim immigrants rounded up in the New York area after the terror attacks, the six were never accused of a crime related to 9/11; officials eventually cleared all of them of links to terrorism. A report by the inspector general of the Justice Department found systemic problems with immigrant detentions and widespread abuse at the federal detention center where the six had been held; several guards have since been disciplined."

US Law Firms Offering Free Legal Advice To Guantanamo Detainees. U.S. News and World Report (1/30, Bedard) reports in its "Washington Whispers" column that "some 57 American law firms are offering free legal advice to more than 150 'enemy combatants' held at the U.S. naval base at Guantanamo Bay, Cuba. A list provided to Whispers shows several prominent shops, many of which brag about their efforts on their websites. The pro bono service, organized by the Center for Constitutional Rights, is under the gun in conservative legal circles and some military offices that suggest it's bad form to help alleged terrorists while also working for clients involved in the war on terrorism like Boeing and General Dynamics."

Bin Laden Tape Seen As Effort To Exploit US War-Weariness. Newsweek (1/30, Hirsh, Hosenball, Yousafzai) reports on the audiotape released last week by Osama bin Laden, calling it "a cynical attempt to exploit American war-weariness, especially in Iraq." By offering a "a long-term truce on fair conditions," bin Laden "seemed to be trying to close the gap. All America had to do was withdraw from Arab lands." Newsweek also notes that some US officials "said they would not be terribly surprised if bin Laden were suing for peace. Other terrorism analysts suggested that, at a time when bin Laden's rival and sometime partner in Iraq, Abu Mussab al-Zarqawi, has offended many Muslims

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with his ruthless tactics, the Qaeda chieftain's main message was 'I'm still the main man.' Bin Laden may have been trying to appear reasonable and merciful to his own followers by playing the peacemaker."

Time (1/30, Ghosh) adds, "The U.S. believes the 10-minute taped message…was probably recorded sometime since November, partly because of a reference to British newspaper reports from that time about a purported proposal by President Bush to bomb al-Jazeera. The tape suggested that bin Laden is alive, if not quite well. A longtime bin Laden watcher, French terrorism expert Roland Jacquard, speculates that the decision not to release a videotape may reflect a desire to conceal the deterioration of his physical condition." Time also notes that bin Laden's resurfacing "has come at a time when the leadership of al-Qaeda appears to be under as much strain as at any time since the fall of the Taliban in 2001. Antiterrorism experts say the Saudi-born terrorist is no longer in active contact with field commanders, and his ability to plan and direct specific operations is hampered by his isolation."

US Believes Predator Attack In Pakistan Killed Senior Al Qaeda Members. Newsweek (1/30, Hirsh, Hosenball, Yousafzai) reports that the CIA and the Defense Department 'have stepped up missile strikes inside Pakistani tribal regions." Recently, a CIA-guided Predator drone "fired missiles at houses in the village of Damadola," killing at least 18 people. US officials "remained confident that the dead included some senior Qaeda members, and Pakistani authorities maintained that four to five Qaeda operatives were killed in the missile attack. … Civilians are another matter. The Predator killed several women and children, provoking demonstrations in the tribal region, many of them organized by the radical Pakistani Islamic alliance known as Muttehida Majlis Amal."

Newsweek (1/30, Hirsh, Hosenball, Yousafzai) adds, "Authority to fire Hellfire missiles from Predators has been delegated by the White House to the CIA, according to current and former counterterrorism officials who did not want to be named because the matter is classified. If officials conducting surveillance believe there is a strong chance of civilians' being killed in an attack, operatives are expected to consult higher-ranking agency officials before firing. In the case of the Damadola attack, according to a knowledgeable source who spoke on condition of anonymity because the subject was sensitive, CIA officials made the decision to launch the attack themselves. But they notified higher-ups in the administration, including White House officials, who had enough time to veto the strike if they wanted."

Time (1/30, Ghosh) reports, "A Peshawar-based Pakistani intelligence official speaking on condition of anonymity says Washington has an understanding with Islamabad that allows the U.S. to strike within Pakistan's border regions -- providing the Americans have actionable intelligence and especially if the Pakistanis won't or can't take firm action. Pakistan's caveat is that it would formally protest such strikes to deflect domestic criticism. Some ranking Pakistani officials deny such an agreement exists."

HOMELAND RESPONSE:

Reports Critical Of CIA Withheld From Agency's Web Site. U.S. News and World Report (1/30, Kaplan) reports, "The CIA's Center for the Study of Intelligence is one of the agency's most open branches. … But since 2003, at least three unclassified CSI reports -- all critical of the agency -- have been withheld from the CIA's website, U.S. News has learned. During that same time, the agency has placed online three other CSI reports, all of those relatively positive or neutral. Among the documents withheld: a tough 69-page report, 'Curing Analytic Pathologies.' The study, published quietly in December, argues that reform efforts have centralized authority but failed to change the intelligence community's core problem -- 'dysfunctional behaviors and practices within the individual agencies.' A second report, 'Analytic Culture in the U.S. Intelligence Community,' was published last May and found the nation's intelligence analysts isolated and lacking overseas experience and training in research techniques. A third report, 'Intelligence for a New Era in American Foreign Policy,' from 2004, is the record of an unclassified conference of intelligence veterans, several of whom made comments sharply critical of the intelligence community." While the three reports are available by mail through the CIA's public-affairs office," the CIA "declined to say why the reports are not posted online nor would it provide a full list of the center's unclassified publications."

TSA May Check Passenger Financial Records. USA Today (1/23, Frank, 2.31M) reports the Registered Traveler program "may require passengers to agree to a check of their personal and financial records, the

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Transportation Security Administration said. The TSA said it will require 'in-depth security background checks' that may involve 'using commercial data' for people applying to the…program that starts in June. The checks will help verify people's identities to prove they have no ties to terrorism." However, "Business Travel Coalition Chairman Kevin Mitchell said the databases 'are notoriously inaccurate' and could mistakenly label someone a terrorist. 'It raises a huge liability issue,' said Mitchell, who supports Registered Traveler." Meanwhile, "Congress barred the TSA from using commercial data on airline passengers after a government probe criticized the agency last year for improperly storing 100 million records on travelers when it said no data storage would occur. The TSA says the ban does not apply to Registered Traveler because the program is voluntary and the background checks would be done by companies at an airport."

Private Airports Resist Proposal To Restrict Airspace Around DC Permanently. The Washington Times/AP (1/22, Manning) reports that "as the TSA and other federal agencies weigh whether to" permanently restrict zones of airspace around Washington, DC, a group of "private airport operators in the Washington region are pushing for changes in rules that they say unfairly punish harmless private pilots in an overzealous effort to protect Washington." The "three, 60-mile wide overlapping rings" of restricted airspace were "initially temporary, but the FAA is weighing whether to make it a permanent regulation and is taking public comment through Feb. 6. Most private pilots, who could face fines or suspension of their licenses for violating the air space, don't want the zones to stay. The FAA has received more than 20,000 comments on the proposal."

Chertoff's Coattails Extend To Highest Levels Of Administration. The Legal Times (1/23, McLure) reports, "After a rocky year, things are looking brighter for some protégés of Homeland Security Secretary Michael Chertoff." The Times continues, "On Jan. 4, President George W. Bush granted a recess appointment to Julie Myers, making the 36-year-old former Chertoff chief of staff the head of Homeland Security's 15,000-employee Immigration and Customs Enforcement. … Just a day earlier, Alice Fisher, Chertoff's former deputy at the Justice Department who now heads the DOJ's Criminal Division, had been on national television touting the guilty plea federal prosecutors had extracted from Jack Abramoff. … That guilty plea had been won by a team of career prosecutors supervised by Noel Hillman, the head of the DOJ's public integrity section who was first hired by Chertoff as a federal prosecutor during Chertoff's tenure as U.S. attorney in New Jersey." The Times adds, "On the surface it would seem that Myers, Fisher, and Hillman, among others, have basked in the reflected glory of Chertoff, who once enjoyed, by Washington standards, a stainless reputation as a straight-shooting, mob-busting, former prosecutor turned general in the war on terror. … But Hurricane Katrina dented Chertoff's armor, leading critics to call into question his leadership at the DHS. And criticism of the response to Katrina as well as terror policies promulgated under Chertoff during his time at Justice has also tarred his understudies — some of whom were forced to claim their positions through the back door of presidential recess appointments. … Their successes — and their travails — provide a window into how one lawyer's high-flying career in public service can both open doors for and complicate the lives of his loyal aides and assistants."

Residents Of Renewed Oklahoma City Generally Unfazed By Fortier Release. Under the headline "Oklahoma City Moves Past Its Infamous Bombing," The Christian Science Monitor (1/23, Axtman, 61K) reports that "as time goes on, wounds heal, memories fade, and hearts soften. At some point in the past decade, Oklahoma City began to look forward instead of back" at the 1995 bombing of the Alfred P. Murrah federal building. "That may be the reason why Michael Fortier's release from prison Friday after serving more than a decade for his role in the bombing sent relatively few ripples through the community. While it's painful to learn of his freedom, some say, their lives no longer revolve around the details of that April day. Their city, in many ways, has been freed from its own prison -- through prayer and urban renewal. … Officials say the bombing…galvanized residents and created a sense of pride about the city. That, in turn, fueled the urban progress."

Residents Returning To New Orleans Overwhelm Emergency Rooms. The New York Times (1/23, Barringer, 1.19M) reports New Orleans' emergency rooms "are facing their own emergency. As thousands of residents have begun returning in the weeks since New Year's, there are far more sick people than there are doctors, nurses, beds and equipment to take care of

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them." The Times notes, "only seven of what had been 15 adult acute-care facilities in the city and three surrounding parishes are open, and only one-third of the acute-care beds. Hundreds or perhaps thousands of doctors and nurses never returned to New Orleans after the flood; long-term and psychiatric hospitals, not to mention hospices and rehabilitation centers, are now almost nonexistent in and around the city." Meanwhile, "The thought of next month's Mardi Gras festivities has local doctors so worried they have formed a committee just to plan for care during the first large-scale, signature event in the distorted post-hurricane world."

Expert Likely To Investigate Whether Patients Were Euthanized In New Orleans. USA Today (1/23, Johnson, 2.31M) reports, "Louisiana authorities investigating whether patients were euthanized at New Orleans-area hospitals after Hurricane Katrina probably will appoint a new medical consultant because the Pennsylvania coroner assisting the inquiry was indicted on federal charges Friday. Kris Wartelle, spokeswoman for Louisiana Attorney General Charles Foti, said the indictment of coroner Cyril Wecht will not slow the state inquiry into more than 200 deaths at hospitals and nursing homes after Katrina hit Aug. 29." Meanwhile, "Wecht's work in Louisiana was not addressed in the indictment, which among other things accuses him of trading unclaimed bodies at the Allegheny County morgue to a local university's research program in exchange for laboratory space to expand his consulting business."

"Louisiana Speaks" Forums Held For Hurricane Refugees. The Washington Times (1/23, 90K) reports, "Hurricane refugees from Louisiana told federal and state officials at forums across the South yesterday that what they want most when their state is rebuilt is affordable housing, better schools and stronger levees. Some refugees at the 'Louisiana Speaks' forums also worried that officials have no real plans to restore certain areas, such as New Orleans' impoverished Lower 9th Ward." The forums are sponsored by the Federal Emergency Management Agency and the Louisiana Recovery Authority. "Input…will be incorporated in a long-term regional plan for rebuilding South Louisiana after Hurricanes Katrina and Rita."

WAR NEWS:

Bush's Decision On Iraq War Called Return To US "Dominant Tradition." In its cover package, U.S. News and World Report (1/30, Barone) examines "the picture we have of the way America, and American presidents, go to war. It comports with what we think happened in World War I and, especially, in World War II. In this view of U.S. history, American presidents lead the nation only into wars that are forced upon them. There's only one problem. This picture is almost entirely contrary to the facts. Critics of George W. Bush like to say that Iraq was a war of choice -- a conflict that could have been avoided. But almost all American wars have been, to a greater or lesser degree, wars of choice. It is said that Bush went to war in Iraq without sufficient forces, without a game plan for the occupation, and without an exit strategy. Even if all those charges are true, then he has plenty of company in American history." Bush's decision to go to war in Iraq "a return to the dominant tradition of our history. The United States has never been an isolationist nation; Americans and American military forces have been roaming the globe since the Revolutionary War. Until the 20th century, the oceans seemed to protect the American homeland from attack, but not always."

Wartime Records Of Bush 43, 41 Compared. In a separate story in its cover package, U.S. News and World Report (1/30, Walsh) compares the wartime records of President Bush and his father, former President George H.W. Bush, noting that "there are more differences than similarities in their role as commander in chief. The 41st president was a coalition builder and a diplomat. The 43rd president was willing to go it alone and ignore international opprobrium. The first Bush had a sense of limits about American power. His son believes the military is his best tool for working his will abroad. The two men made the case for war in different fashion as well. It is true the father's job was easier than his son's. Saddam Hussein had invaded Kuwait and was an unmistakable threat. Nonetheless, George Herbert Walker Bush tried to build consensus at home and abroad before starting the Gulf War. George W. Bush made his case in a more controversial way, arguing for a pre-emptive strike to depose Saddam." US News adds, "It is striking that the son rarely cites his father as his role model as commander in chief. George W. Bush says the world has changed dramatically since his father's tenure, largely because of 9/11

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and the threat posed by terrorists. The challenges he faces, he says, are unique." US News also notes, "The senior Bush felt equipped…to challenge both the military and his advisers. George W. Bush seems more accepting of the advice of his in-house 'experts.'"

Bush Has Gotten "Broad Pass" On Expansion Of Executive Power. A separate story in U.S. News and World Report's (1/30, Tolson) cover package considers "just how imperial" the American president can be. Disclosures about Bush's "support for a National Security Agency-run domestic-spying program have pushed those questions to the fore once again. … Bush, so far, has gotten a broad pass on his amplification of the commander in chief's prerogatives, which many Americans view as justified in the name of the war on terrorism. But there are growing signs of resistance."

Bill Clinton Says President Should Not Micromanage Military Operations. In another story in its cover package, U.S. News and World Report (1/30, Walsh) interviews former President Bill Clinton about his views "on what it takes to lead during times of conflict and at times of peace." On "directly supervising the military and the issue of 'micromanagement' during a crisis," Clinton said, "Generally, it is best not to micromanage military operations, though in some cases it is unavoidable. For example, after the accidental bombing of the Chinese Embassy in Belgrade because of outdated maps, I had daily meetings to go over the proposed targets for the next day. On a few occasions, I disagreed with the military's choices, but wherever possible I tried to set policy and let them decide how best to carry it out." On "how much he relied on his senior military advisers," Clinton said, "I relied heavily on my military advisers for tactical advice. On the question of whether to use force, I sought their advice but made the final decisions myself, sometimes disagreeing with them, as in Kosovo and Haiti."

Sunni Political Block Commits To Talks With Shiite, Kurdish Groups. Reuters (1/23) reports, "Iraq's biggest Sunni political bloc committed itself on Sunday to talks with Shi'ites and Kurds to form a government of national unity, but said its key demands, including changes to the constitution, must be met." The United States "wants the Kurds and majority Shi'ites, who dominated last month's elections, to form a government that includes minority Sunnis. It hopes an inclusive coalition will undermine the raging Sunni Arab insurgency." The Iraqi Accordance Front, "which comprises three mainly Islamist Sunni Arab groups," said "it would appeal against the results of an election it believes was rigged but would still take part in talks on a new coalition government."

The Los Angeles Times (1/23, Boudreaux, 958K) that "a leader of Iraq's largest Sunni Arab political bloc said Sunday that he would shun any government that included officials responsible for police brutality against his minority sect, a stand aimed at removing the powerful Shiite interior minister." Tariq Hashimi of the Iraqi Accordance Front "spelled out its conditions for entering a 'national unity' administration after most Iraqi leaders called for such an outcome in order to quell the Sunni Muslim-led insurgency." Hashimi "said his Sunni bloc's first condition for entering the government was a guarantee of personal security for Sunnis, who he said had suffered abuse by the transitional regime's Interior Ministry police." He "set other terms: He demanded an end to official corruption, a 'charter of honor' that renounces sectarian and ethnic strife, an agreement to set a timetable for withdrawal of US forces, and a promise 'not to hamper' constitutional changes demanded by Sunnis to prevent the Shiite and Kurdish regions from dominating Iraq's oil wealth."

USA Today (1/23, Jervis, 2.31M) adds that "Iraqi election officials announced Friday that the Shiite and Kurdish coalitions won a combined 181 of the 275 seats in parliament, three shy of the two-thirds majority needed to name a new government for the next four years." The two major Sunni blocs, the Iraqi Accordance Front and the Iraqi Front for National Dialogue, "won a combined 55 seats." The Christian Science Monitor (1/23, Levinson, 61K) reports "it was no surprise that religious Shiites dominated the polls." But "the hard numbers have given new steam to Iraq's politicians, who are wheeling and dealing to find enough common ground on which to build the country's first freely elected four-year government." In a process that "could stretch into April, Iraq's factions will decide on a governing program, agree on whether the new Constitution can be changed, and haggle over the crucial positions of president, prime minister, and cabinet ministers."

Obama Calls US Presence "An Irritant" For Iraq. Commenting in his recent visit to Iraq on NBC's Meet the Press (1/22, Russert) Sen. Barack Obama said, "My position has been that it would not be responsible for us to unilaterally and precipitously draw troops down, regardless of the politics, because I think that all of us have a stake in seeing Iraq succeed." Obama added, "I have to emphasize that there is a

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cost for our presence there. We are an irritant. And we help spur the insurgency, even as we are defending a fledgling Iraqi government against that insurgency." Obama contended that the Sunnis "may feel that in fact the United States is the guy with the club standing behind the Shias and putting them in a position in which they have no power. … I think that what we want to do is we want to reach out to Sunni leadership that clearly has connections to the insurgency."

At Least 23 Iraqis Killed By Insurgents Over Weekend. The AP (1/23, Yacoub) reports, "Insurgents fired rocket-propelled grenades at a policeman's home northeast of Baghdad on Sunday, killing his four children and his brother and raising to at least 23 the number of Iraqis killed in attacks this weekend." Also Sunday, "police found the bullet-riddled bodies of nearly two dozen men abducted last week north of Baghdad after being rejected entry into a police academy, officials said."

Attacks Against Coalition Troops Increased 23% Last Year. USA Today (1/23, Jervis, 2.31M) reports, "The number of attacks against coalition troops, Iraqi security forces and civilians increased 29% last year, and insurgents are increasingly targeting Iraqis, the U.S. military says." Insurgents "launched 34,131 attacks last year, up from 26,496 the year before, according to U.S. military figures released Sunday."

Iraqi Professionals, US Contractors Leaving Iraq. The Washington Post (1/23, A1, Struck, 744K) reports "Iraq's top professionals -- doctors, lawyers, professors -- and businessmen have been targeted by shadowy political groups for kidnapping and ransom, as well as murder, some of them say. So many have fled the country that Iraq is in danger of losing the core of skilled people it needs most just as it is trying to build a newly independent society. … Professionals and businessmen with the means to escape are going to Jordan, Syria, Egypt or, if they have visas, to Western countries. Those left behind say they feel abandoned."

Meanwhile, the Washington Times (1/23, Behn, 90K) says "US private contractors, until now the biggest private-sector employers in Iraq, are preparing to leave as US money runs out and Iraqi ministries take charge of the reconstruction effort." The Times adds, "Most US-funded projects are scheduled to be completed by the end of this year, and it is unlikely that any significant new US funds will be forthcoming. Iraqi government ministries, which will be taking over responsibility for the reconstruction effort, tend to issue much smaller contracts that do not interest large US companies."

US Soldier Says Top Brass Directed Abu Ghraib Abuses. The Washington Post (1/23, A3, White, 744K) reports that Megan Ambuhl, "one of the original seven military police soldiers singled out by the Pentagon for their roles in abusive techniques" at Abu Ghraib, "is speaking out because she believes the truth has been obscured by high-ranking officials intent on covering up a policy of abuse. Though her defense differs little from the arguments made previously by the defendants' attorneys, Ambuhl's first-person description of the macabre world of Abu Ghraib provides a vivid perspective on how things went out of control at the prison outside of Baghdad." Ambuhl "has since married one of her fellow MPs -- Charles A. Graner Jr., the man the military has labeled the ringleader of the abusers -- and is on a mission to secure his release from prison." Ambuhl "says the military's top brass have dodged responsibility for what was going on at the prison by scapegoating her and other low-ranking soldiers. … Ambuhl says she and other MPs used aggressive techniques against detainees because that is what military intelligence soldiers and civilian interrogators told her to do."

US Hopes To Exploit Differences Among Iraqi Insurgent Factions. Time (1/30, McGirk) reports on the January 5 suicide in Ramadi, saying the blast was a "deadly miscalculation" by the group al Qaeda in Iraq. While the attack "killed two U.S. service members and more than 70 Iraqi police recruits," most of the victims "were local Sunnis, and they were joining the police force under the protection of tribal chieftains who, with the U.S. military's approval, are trying to impose order over their violent swath of Iraq." Time adds, "After the Jan. 5 blast, according to insurgents, tribal chiefs in Ramadi notified al-Qaeda that they were withdrawing protection in the city for the group's fighters. The jihadis responded by gunning down several prominent Sunni clerics and tribal leaders. Now al-Qaeda fighters who once swaggered through Ramadi are marked men." US officials in Iraq have tried to exploit the differences among the insurgent factions for months. There are "signs that at least in some parts of Iraq, the tension is boiling over. Iraqi security sources with contacts in the insurgency told TIME that fighting has erupted in several cities that have long been bastions of the resistance, including Fallujah, Samarra,

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Latifiya and Mahmoudiya. … Some Pentagon decision makers believe that the feuding within the insurgency may help U.S. and Iraqi troops quell the terrorist attacks that have made parts of the country ungovernable."

Iraqi Oil Production Declined For Third Straight Month In December. Newsweek (1/30, Johnson, Hastings) provides a negative view of Iraq's oil production, noting that across Iraq, there is "a major attack on oil facilities about once every three days. December was the third month in a row that Iraqi oil production went down, and it marked the lowest level of exports since the invasion. At a time when global supplies are stretched to their limits, the Iraqi oil bust helps keep world prices near record highs. But most of all, it's a disaster for efforts to get the country back on its feet." Iraqi oil "still isn't flowing at prewar levels." Newsweek adds that there is "certainly no question that the Bush administration, heavily peopled with veterans of the oil industry, focused on the importance of petroleum to Iraq's economy. Even as the rest of Baghdad was opened up to looters in April 2003, the Ministry of Oil was secured by U.S. troops. But no force was put in place to protect the pumps and pipes."

Army Interrogator Convicted Of Negligent Homicide Of Iraqi Detainee. The Washington Post (1/23, A2, White, 744K) reports, "Iraqi general into a sleeping bag during questioning in northern Iraq in 2003 was convicted of negligent homicide and negligent dereliction of duty late Saturday after a military jury in Colorado decided the general's death was not murder." Chief Warrant Officer Lewis E. Welshofer Jr. "was on trial for allegedly killing Iraqi Maj. Gen. Abed Hamed Mowhoush, a high-ranking Saddam Hussein loyalist who was believed to have been fueling the Iraqi insurgency in the Qaim area near the Syrian border." Mowhoush "died while bound in the Army sleeping bag, which was part of an aggressive interrogation tactic aimed at getting the general to talk." The Los Angeles Times (1/22, Riccardi, 958K) and New York Times (1/23, Schmitt, 1.19M) also report the story.

Halliburton Accused Of Exposing US Troops, Civilians To Polluted Water In Iraq. The Washington Post/AP (1/23, A2, Margasak) reports, "Troops and civilians at a US military base in Iraq were exposed to contaminated water last year, and employees for the responsible contractor, Halliburton Co., could not get their company to inform camp residents, according to interviews and internal company documents." Halliburton, "the company formerly headed by Vice President Cheney, disputes the allegations about water problems at Camp Junction City, in Ramadi, even though they were made by its own employees and documented in company e-mails." Sen. Byron Dorgan "is to chair an inquiry session into alleged neglect of water pollution at a U.S. base camp in Iraq."

Confusion Surrounds Question Of Who Will Preside Over Saddam Trial. The New York Times (1/23, Worth, 1.19M) reports, "Two days before the trial of Saddam Hussein is set to resume after a month's recess, confusion surrounds the tribunal that is trying him, with the identity of the judge who will preside in court still uncertain." The judge "who has become the trial's most public face, Rizgar Muhammad Amin, submitted a letter of resignation this month, saying he was fed up with criticism by high-ranking Iraqi officials who wanted him to be tougher with Mr. Hussein. A colleague on the five-judge panel, Said al-Hammash, is prepared to replace Judge Amin if he does not return Tuesday." But "in recent days President Jalal Talabani and other Iraqi leaders, apparently eager to dispel the widespread impression that Judge Amin was forced off the case through political pressure, have urged him to stay on." The tribunal "has not accepted Judge Amin's resignation. An American official who is close to the tribunal said Sunday that he did not know which judge would be presiding." Amin's "potential successor is facing troubles of his own. Last week, a senior Iraqi official petitioned the court to bar Judge Hammash from presiding at the trial, saying the judge was a former member of Mr. Hussein's Baath Party."

At FBI's Request, CBS Withheld Some Details About Iraqi Bomb Makers. The Washington Post (1/23, C1, Kurtz, 744K) reports in its "Media Notes" column, "In reporting last week that the FBI was making progress in identifying the origins of homemade bombs used against Americans in Iraq, CBS News agreed to withhold some details at the bureau's request. Rome Hartman, executive producer of the 'CBS Evening News,' says CBS News President Sean McManus and correspondent Jim Stewart spoke with FBI officials who 'made the case that putting in certain details might in their view jeopardize American lives. They felt very strongly about

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it.' During a 'very spirited' internal debate, Hartman says, the FBI's case 'felt to me, and to Sean and Jim in the end, to be a pretty persuasive argument. You ought to err on the side of discretion and caution.' Stewart's report mentioned that CBS was withholding part of the story."

No Word On Fate Of Kidnapped American Journalist. NBC Nightly News (1/22, story 5, 1:30, Williams) reported, "In Iraq today, still no update about kidnapped American journalist Jill Carroll. It's been two days since the deadline set by her captors, who threatened to kill her unless the US freed all Iraqi women prisoners."

The Christian Science Monitor (1/23, 61K) reports a delegation from the Council on American-Islamic Relations "arrived in Baghdad Saturday, adding its voice to what is described as an unprecedented outpouring of Muslim support for the release of American reporter Jill Carroll. 'The kidnapping of Jill Carroll does not benefit the kidnappers,' said Nihad Awad, executive director of the Washington-based group that represents US mosques and Islamic associations." At press time Sunday, David Cook, the Monitor's Washington bureau chief, "said that there has been no new information about Ms. Carroll."

The New York Times (1/23, Tavernise, 1.19M) runs a story headlined "Abduction Of US Reporter Underscores Risks In Iraq," a theme also covered in Peter Johnson's column in USA Today (1/23, 2.31M), titled "In Iraq, Specter Of Kidnapping Keeps Journalists On Edge."

In 1998, Pelosi Said Saddam Was Developing WMD. In its "History Lessons" column, the Washington Times (1/23, 90K) excerpts comments by Rep. Nancy Pelosi on December 16, 1998. Pelosi said, "As a member of the House Intelligence Committee, I am keenly aware that the proliferation of chemical and biological weapons is an issue of grave importance to all nations. Saddam Hussein has been engaged in the development of weapons of mass destruction technology which is a threat to countries in the region and he has made a mockery of the weapons inspection process. The responsibility of the United States in this conflict is to eliminate weapons of mass destruction, to minimize the danger to our troops and to diminish the suffering of the Iraqi people."

Pentagon Says Meeting Of Military Commanders Was "Uninhibited Exchange Of Ideas." The Washington Times (1/23, Scarborough, 90K) reports, "Pentagon officials say this month's closed-door conference of the military's top field commanders was gratifying, describing it as an uninhibited exchange of ideas rather than a fixed-agenda meeting monopolized by Defense Secretary Donald H. Rumsfeld. Officials said Mr. Rumsfeld, four-star generals and admirals, and top civilians brainstormed over two main topics: how to fight the war on Islamic terrorists and how to reconfigure the military for future threats." The conference "was composed of the most powerful military men in the world. Besides Mr. Rumsfeld, there were the nine combatant commanders from Europe, the Middle East, Asia and other commands; the four service chiefs; the Joint Chiefs chairman and vice chairman; defense undersecretaries and assistant secretaries; and the services' civilian secretaries."

Reagan Administration Official Criticizes "Disunity Of Command" In Iraq. Bing West, an assistant secretary of defense in the Reagan Administration, writes in the New York Times (1/23, 1.19M), "The lesson the Pentagon should learn from Iraq is to avoid another L. Paul Bremer. This is less a reflection on Mr. Bremer, who accurately described himself as 'the American viceroy' in Iraq and 'the president's man,' than on the position he and the American military commanders in Iraq were placed in by the White House's failure to put one person in charge." West adds that the "disunity of command reached its tragic apex in the spring of 2004, during what Mr. Bremer calls 'the most critical crisis of the occupation.' When four American contractors were killed and their bodies mutilated in Falluja on March 31, Mr. Bremer joined with Secretary of Defense Donald Rumsfeld and Gen. John Abizaid, the commander of American forces, in ordering the fractious city seized. Five days later, however, Mr. Bremer changed his mind after Sunni members of the Iraqi Governing Council threatened to quit in protest. He prevailed on General Abizaid to order the Marine battalions that were advancing through Falluja to halt. Mr. Bremer acknowledged that this 'temporary cessation of offensive action' would be 'rough on the military.' Secretary Rumsfeld, for his part, disagreed with the halt and urged General Abizaid to finish the attack. But as the military prepared to end things quickly, Mr. Bremer changed his mind about the 'temporary' cessation. He told President Bush that the assault would 'collapse the entire political process'; the president sided with his viceroy and told General Abizaid 'to

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let the political situation there develop.' Develop it did. The insurgents' morale soared and their defenses toughened." West concludes, "The singular lesson in war is to put either the civilian viceroy or (better) the general in charge, but not both."

Krugman Says Bush Has Given Up Trying To Win In Iraq. Paul Krugman writes in the New York Times (1/23, 1.19M), "In the State of the Union address, President Bush will surely assert, to choreographed applause, that he has a strategy for victory in Iraq. I don't believe him. In fact, I believe that three years into the conflict his administration refuses to admit defeat but has given up even trying to win." Krugman adds, "Power shortages are a crucial issue for ordinary Iraqis, and for the credibility of their government. … Lack of electricity isn't just an inconvenience. It prevents businesses from operating, destroys jobs and generates a sense of demoralization and rage that feeds the insurgency. So why is power scarcer than ever, almost three years after Saddam's fall? Sabotage by insurgents is one factor. But as an analysis of Iraq's electricity shortage in The Los Angeles Times last month showed, the blackouts are also the result of some incredible missteps by U.S. officials. … In short, U.S. officials thoroughly botched their handling of Iraq's electricity sector. They did much the same in the oil sector. But the Bush administration is determined to achieve victory in Iraq, so it must have a plan to rectify its errors, right? Um, no. Although there has been no formal declaration, all indications are that the Bush administration…doesn't plan to ask for any more money for Iraqi reconstruction." The Bush Administration "doesn't have a plan; it's entirely focused on short-term political gain. Mr. Bush is just getting by from sound bite to sound bite, while Iraq and America sink ever deeper into the quagmire."

Pakistani Prime Minister Condemns US Airstrike. The AP (1/23, A2) reports, "Pakistan's prime minister yesterday condemned an American airstrike on a remote Pakistani village, saying such attacks should be cleared with Islamabad first." Prime Minister Shaukat Aziz "said no understanding exists between US and Pakistani officials that allows American military forces to attack alleged terrorists in Pakistan without first consulting the government." Said Aziz, "The understanding is that we will work. … We will work in collaboration with each other."

Incidents On Afghan-Pakistan Border Highlight "Precarious" Anti-Terror Alliance. The Washington Post (1/23, A1, Witte, Khan, 744K) reports from Kabul, "Events along the ever-volatile Afghanistan-Pakistan border this month have exposed deep fault lines in the anti-terrorism alliance among the United States, Afghanistan and Pakistan, and officials on all sides say their joint efforts against militants in the region are now highly precarious." The "heightened tension comes as militant extremists and the United States have both become more aggressive in their tactics, with the Pakistani government caught in between." The Post adds recent incidents "have revealed just how tenuous relations among the countries have become." The Post adds, "Afghan government officials are feeling especially vulnerable now because the United States announced late last year that it would reduce its troop strength from 19,000 to 16,500. NATO soldiers are supposed to fill the gap by taking over some operations in the south, but the Netherlands, seen as pivotal to that transition, has wavered over whether it will send troops." Meanwhile, "the Taliban, al Qaeda and other groups that are trying to destabilize the nascent Afghan government appear to be taking advantage of the uncertainty."

Kerry Says Administration Misled Public On Tora Bora. On ABC's This Week (1/22, Stephanopoulos) Sen. John Kerry was shown a clip of Vice President Cheney saying, "The fact of the matter is, we have not been attacked in more than four years. That is not an accident, it's not just dumb luck." Asked if he agreed with the Vice President's assessment Kerry replied, "No. … The simple fact is that we had Osama bin Laden cornered, trapped, ready to be captured or killed in the mountains of Tora Bora. And this administration -- it is a fact -- has misled Americans about the knowledge they had of whether or not he was there, number one, and, number two, did not do everything that they could have in order to capture him. I know this. Others know this." Kerry went on to say, "So, yes, we have not been attacked here. Many people surmise that one of the reasons we haven't been attacked here is because they are being so successful at doing what they need to do to attack us in Iraq and elsewhere."

McCain Calls Lack Of Attack Since 9/11 "Indicator Of Some Success." Asked if he considered the failure to apprehend Osama bin Laden "a failure in the president's war on terror," Sen. John McCain, on Fox News Sunday (1/22, Wallace), said, "No. I don't think it's good that we haven't

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gotten him. … But look, the fact that there has not been an attack on the United States in four years is an indicator of some success. … So let's give the President and this Administration some credit for that."

Scheffer Affirms NATO Commitment To Afghanistan. NATO Secretary General Jaap de Hoop Scheffer writes in the Financial Times (1/23), "As NATO prepares to expand the operations of its International Security Assistance Force in Afghanistan to the country's more volatile south, where violence is intensifying, debate is under way about the role the alliance will play. … The debate surrounding this mission comes as no surprise. After all, NATO's operation in Afghanistan has been, from the start, a fundamentally new step for the alliance. It is also the most ambitious mission in NATO's history, in terms of the strategic distance from our home countries, in terms of the complexity of the challenges we face in Afghanistan and in terms of the multiple roles the alliance must take on." Scheffer adds, "No one should doubt NATO's resolve to carry out this mission. All 26 allies realise that fighting terrorism, and helping the Afghan people and their government, is a collective effort – not a matter of picking and choosing where one might wish to chip in. We have already been delivering for quite some time, with 10,000 troops in the country. In coming months, we will expand southwards, as an alliance united in our determination to help the Afghan people build the stability and peace they deserve."

NATO Official Says Alliance Must Adapt To Fight Terrorism. NATO Assistant Secretary General Marshall Billingslea writes in the Wall Street Journal (1/23, 2.11M), "As times have changed, so has the North Atlantic Alliance. That is particularly evident in the way NATO has moved to protect our citizens from terrorism. … The most dramatic illustration of NATO's new priorities is our support for the democratically elected government of Afghanistan. More than 9,000 troops and military advisers are currently deployed throughout multiple Afghan provinces in the form of Provincial Reconstruction Teams (PRTs). These troops from 25 NATO members and 11 partner nations are there to provide both security and support to local authorities and people, and are doing such things as digging wells, building schools and refurbishing mosques. In a similar vein, NATO is facilitating, together with several international organizations, the rehabilitation of Kabul International Airport, and has made significant investments in airports in Herat and Mazar-e-Sharif." Billingslea adds, "When NATO's 26 armaments chiefs meet in Brussels this spring, they will sit down to review NATO's counterterrorism technology efforts. My hope is that they will come armed with ideas on how to press ahead in the fight against terrorism. Our first challenge will be to review all the operations to see where additional support to NATO troops is urgently needed. Certainly we need to expand, intensify and better fund the ongoing technological program of work. But perhaps more importantly, we need to create a NATO-Technical Support Working Group on a trans-Atlantic scale."

Professor Says Bin Laden Tape Confirms He Is Isolated, Weak. Jonathan Stevenson, a professor of national security affairs at the US Naval War College, writes in the Wall Street Journal (1/23, 2.11M) that last week's missive from Osama bin Laden "confirmed several things that we knew or at least suspected: that he is isolated, besieged and physically weak. … In the recent tape, he asks the U.S. itself to stand down in Iraq and Afghanistan in exchange for a 'long truce.' As with the Madrid tape, bin Laden has made an offer that he knows will be refused." Stevenson adds, "Most likely bin Laden's hope is that his wider audience -- especially potential recruits -- will read U.S. beleaguerment as proof of al Qaeda's might. In suggesting that he himself maintains a significant degree of command over far-flung assets, he wants the world to believe that he and al Qaeda possess concentrated power that has not substantially diminished since 9/11. … The overarching significance of bin Laden's counterfactual assertion of authority, however, is how little it matters." Even if bin Laden "wanted to work toward coexistence, he wouldn't be able to deliver his end of the bargain precisely because he no longer enjoys close operational control over most of those he inspires. His word could be countermanded by Zarqawi, by a Moroccan in Spain, or by a British Pakistani. Quite simply, bin Laden's ideology and résumé have become bigger than the man himself."

USA Today Says Bin Laden Sought To Enhance Leadership Stature With New Tape. An editorial in USA Today (1/23, 2.31M) says the bin Laden tape "raised an interesting, and increasingly perplexing, question: What power, exactly, does the terrorist leader, who is likely living much as a cornered animal, have? To non-Muslim ears, bin Laden's message was clumsy and easy to dismiss. … But to

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Muslim ears…the same words sound very different. Bin Laden spoke in terms steeped in Islamic tradition. The truce that he offered, for example, recalls great past leaders, including the prophet Mohammed, who offered one in his battle with the Quraysh tribe that he eventually defeated. Bin Laden's aim was to give himself the stature of a leader -- specifically the leader who can realize the Muslim dream of establishing a caliphate, or worldwide Muslim superstate." USA adds, "Bin Laden's message offered nothing useful for Americans. Its value lies only in reminding us that Muslims are reacting to our messages in much the same way."

CORPORATE SCANDALS:

Judge To Review Former Gemstar-TV Guide Official's Plea Deal. The National Law Journal (1/23, Bronstad) reports, "The former chief executive of Gemstar-TV Guide International Inc. may face jail time if a federal judge in Los Angeles rejects his plea agreement this week." The Journal continues, "Henry Yuen, who was ousted in 2002 after Gemstar lost almost $3 billion in market capitalization due to accounting restatements, pleaded guilty in October to destroying computer files during a separate investigation by the U.S. Securities and Exchange Commission. As part of the deal, he agreed to pay a $250,000 fine and to donate $1 million to charity while serving two years' probation and six months of home detention." The Journal adds, "Prosecutors and Yuen's lawyers have said the sentence fits his crime of obstruction of justice, reiterating that he has not been charged with securities fraud. … But lawyers for Gemstar and the SEC have expressed concern about the plea agreement, with Gemstar lawyers calling it a 'travesty of justice.' … The company also said it spent $100 million in legal fees and lawsuit settlements because of Yuen." The Journal notes, "U.S. District Judge John Walter is expected to reject the agreement when he issues a final ruling on Yuen's sentence today. In December, Walter issued a tentative ruling criticizing the sentence, saying that it 'sends the wrong message to corporate America,' and is 'wholly inappropriate,' according to court transcripts."

Lay, Skilling Lawyers Press For Trial To Be Moved. The USA Today (1/23, Farrell) reports, "With jury selection in the trial of former Enron chiefs Ken Lay and Jeff Skilling scheduled to begin in Houston next Monday, their lawyers are insisting that the trial be moved out of state" because the attorneys "don't think Lay and Skilling can find an open-minded jury in Houston, whose residents bore the financial brunt of the highflying energy company's implosion four years ago." USA Today says that "Of 280 potential jurors who were surveyed last year, 80% said they had a negative bias toward Lay, Skilling or both." According to the article, "U.S. District Judge Sim Lake rejected the defense's motion several weeks ago. After a third defendant, former Enron accounting chief Rick Causey, agreed to plead guilty in late December, the defense team renewed its request." The defense team, "noted the 80% negative response among potential jurors was before Causey changed his plea. The 'media maelstrom' afterward about how Causey's plea could hurt Skilling and Lay only reinforced a presumption of guilt, defense lawyers argued." According to the article, "some jury experts agree with another defense motion asking that lawyers be able to question potential jurors without other juror candidates and spectators present." Judge Lake "is expected to rule this week on the defense motion to allow voir dire to be individualized," the article said.

Livedoor CEO Denies Allegations In His Blog. The Wall Street Journal (1/23, Morse) reports, "Takafumi Horie, the CEO of Internet-portal company Livedoor Co.," denied that he misled investors "on his Web log after a television program yesterday morning in Japan examined the widening allegations surrounding his company." The Journal quotes, Horie, "'The extent of the fabrications [in the program] is such that it is difficult to deny them one by one … 'I don't know who or how these stories were researched.'" The Journal noted that Tokyo prosecutors raided Livedor's offices Jan. 16 "as part of a probe of possible securities-law violations." The Journal further reports, "Yesterday's comments by Mr. Horie come amid growing speculation he will be questioned by prosecutors, who called the company's chief financial officer, Ryoji Miyauchi, and several other Livedoor executives to their offices Friday." According to the article, "Since prosecutors raided Livedoor, the company's share price has dropped by more than 50% to 336 yen ($2.92), taking many other Japanese stocks with it."

US Chamber Asks Congress To Soften Auditing Rule. The Washington Post (1/23, A7, Day, 744K) reports, "The U.S. Chamber of Commerce is asking the federal government to soften a rule adopted after financial

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scandals that accounting firms failed to expose at Enron Corp., WorldCom Inc., Freddie Mac and other major U.S. companies." The Chamber "wants the Securities and Exchange Commission to allow accounting firms to perform audits for any company within a year of having provided consulting or other services for that company. The current rule bars a company from hiring as its auditor any accounting firm that has performed other services for it within five years." The Chamber "makes its request in a policy paper it will release publicly today and circulated to some people last week. It is the group's latest effort to weaken some provisions of Sarbanes-Oxley, which it says has added burdensome and costly business regulations."

CRIMINAL LAW:

Google Stakes Reputation On Dispute With DOJ. USA Today (1/23, Hopkins) reports, "Google, facing its biggest public relations battle yet, has more at stake than competitors as it fights a federal government demand for data on how millions of users search the Internet." USA continues, "As the No. 1 online search company, Google has the highest profile, and a brand built on a "don't be evil" motto that it must defend as it expands further into search-related ventures. … 'That is their motto and their ambition, and they need to be true to that,' says Denise Garcia, an analyst who follows Google at W.R. Hambrecht." USA adds, "Google's stance will likely burnish its image as a search engine industry leader that can be trusted to guard its users' data, Garcia says. … But in the short run, investors are worried. Friday, stock in the company plummeted 8.5%, or $36.98 a share, to $399.46, a day after published reports of its refusal to bow to a Justice Department subpoena. It was Google's biggest daily percentage decline since it went public in August 2004. … Garcia said the subpoena fight was the biggest factor in the stock's decline. It also was driven by a weak revenue forecast earlier in the week by competitor Yahoo. That spooked investors anti-cipating Google's fourth-quarter results, due out Jan. 31."

Trial Of Former Atlanta Mayor Begins Today. The New York Times (1/23, Dao) reports, "He was, once, the go-go mayor of the South's most go-go city. Suave and acid-tongued, Bill Campbell was the protégé of a new black politics, steeped in the argot of civil rights yet able to smooth-talk corporate executives. Democrats from President Clinton on down courted him. … But those days are long gone. On Monday, Mr. Campbell, who left office in 2002, is to enter a federal court house here to defend himself against charges that he turned City Hall into a criminal enterprise during his eight years in office." The Times continues, "Mr. Campbell's trial will be the culmination of an investigation that dates back to at least 1999 and that has already led to convictions against 10 people on an array of charges that include bribery, tax fraud and perjury. Three of the people convicted worked in Mr. Campbell's administration. … The seven-count indictment alleges a wide-ranging conspiracy directed by Mr. Campbell and his associates to shake down companies trying to do business with the city. The indictment charges Mr. Campbell, 52, took payoffs totaling more than $150,000; accepted more than $100,000 in illegal campaign contributions; filed false personal income tax returns; and received gifts from contractors, including a $12,000 trip to Paris and nearly $10,000 worth of heating and air-conditioning equipment for his home. … But Mr. Campbell's lawyers assert that the case is built on shoddy evidence and unreliable witnesses who traded lenient punishment for their testimony."

Former DOJ Lawyer Says There Was No Cover Up In Cisneros Case. Former Justice Department attorney Robert Litt writes in the Washington Post (1/23, A15, 744K), "An independent counsel has issued a report claiming that officials of the Clinton administration blocked his investigation into allegations of tax violations by former housing secretary Henry Cisneros. Although these sensational charges have been trumpeted by partisans as evidence of Democratic corruption, they are completely false. … The independent counsel, David Barrett, was appointed to investigate charges that Cisneros had lied about payments he made to his mistress. … In 1997 Barrett came to the Justice Department, where I was serving in the Criminal Division, and asked permission to expand his case to investigate whether Cisneros had evaded income taxes over four years. … Nonpartisan career lawyers in the department's Criminal Division and in the Tax Division studied the independent counsel's application in great detail over several weeks. They met with his office, reviewed documents and interviewed witnesses. Each of them concluded that, with the exception of a single year's tax return, there were no reasonable grounds to investigate Cisneros for tax violations. These career lawyers found that the independent counsel's submission was

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full of legal and factual errors. … The conclusions of the career lawyers were reviewed in detail by other officials including myself, up to the attorney general. Every single lawyer in the Justice Department who reviewed this matter concurred in the analysis. … Sadly, this independent counsel seemed unable to recognize that different lawyers could reach different conclusions in good faith. Instead, he decided that everyone who disagreed with him could only be corrupt. He did not let the complete absence of evidence to support that fantasy deter him from smearing nonpolitical government lawyers, who have devoted their careers to serving the public, without hearing their side of the story. That's the real scandal."

Chicago City Clerk Not Resigning Despite Corruption Charges. The Chicago Tribune (1/21) reports, "Rebutting suggestions by the media and City Hall insiders that he would resign amid corruption charges, City Clerk James Laski said Friday he 'will continue to serve and represent the citizens of Chicago.' A federal investigation into his dealings 'are not connected to the operations of this office,' Laski said in a written statement. 'Employees of this office will continue to effectively serve the needs of the citizens of Chicago.' Meanwhile, U.S. Magistrate Judge Sidney Schenkier freed Laski from the requirement to wear an electronic monitoring device that had been ordered a week ago after the clerk was charged with bribery and obstruction of justice." The AP (1/21) adds Laski said in the statement "that reports that he has been absent from work recently have been exaggerated and unfair. … Laski says other than a few absences due to illness and two weeks of vacation he has taken to spend time with his family December for the past eleven years, he has been at work."

FBI Investigating Possible Contract Fraud By Veteran Connecticut City Official. The Connecticut Post (1/22, Cummings) reports a veteran Bridgeport employee "is under investigation for allegedly accepting kickbacks -- sometimes in the form of cash-filled envelopes passed openly at City Hall -- in exchange for awarding contracts. The FBI is probing the activities of Chris Kovachi, a 20-year city employee and specialist in the city's Housing Department, three separate sources confirmed. … Kovachi denied any wrongdoing when asked about the allegations," but "a former city employee, who asked not to be identified, told FBI agents about witnessing" contractor Wayne Jones "giving Kovachi an envelope filled with cash. City records show Jones was paid more than $717,000 over the last five years for various jobs." The Post adds, "Two sources within city government also confirmed the FBI is investigating Kovachi. … The sources stressed that the FBI is not investigating the entire housing office, and said the city is cooperating with the probe."

FBI Investigating Philadelphia Schools Contract. The Philadelphia Inquirer (1/22, Dilanian) reports, "Philadelphia schools chief Paul Vallas came to town three years ago promising to clean up the district's 'dysfunctional' workers' compensation system, which costs taxpayers tens of millions a year. But his pledge soon foundered on the shoals of the city's political culture. For reasons that Vallas has declined to publicly explain, the district hired a workers' compensation consultant with no government experience but with two important patrons: Democratic City Councilman Rick Mariano and Republican State House Speaker John Perzel. After Mariano personally introduced Danlin Management to Vallas, the newly formed company won a no-bid contract in 2003 to advise the district on ways to cut costs by reducing worker injuries and curbing fraud. The district's top financial officer at the time had concerns about Danlin but felt pressured by Vallas to hire the Center City firm, according to newly released records of the FBI's investigation into the matter."

FBI, IRS Investigating Possible Improper Political Activity By Fumo-Linked Nonprofit. The Philadelphia Inquirer (1/22, Cattabiani, Shiffman, McCoy) reports, "A South Philadelphia nonprofit with ties to State Sen. Vincent J. Fumo secretly financed a lawsuit to oust a powerful political opponent from the state Senate, sources said. The FBI is asking why the nonprofit -- created to clean streets and revitalize businesses in Fumo's district -- financed an unsuccessful 2001 lawsuit against the head of the state Senate, Republican Robert C. Jubelirer of Altoona, according to people familiar with the investigation." The Inquirer notes, "The nonprofit, Citizens Alliance for Better Neighborhoods, didn't pay for the lawsuit against Jubelirer directly, according to people familiar with the transaction. Instead, the nonprofit sent about $17,000 to Howard Cain, a longtime close political adviser to Fumo. Cain's political consulting firm then cut a $17,000 check for the suit, the sources said." The Inquirer adds, "For two years, the FBI, IRS agents and prosecutors have been aggressively scrutinizing a series of nonprofits

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connected to Fumo, looking at how Fumo raised money for them and how they spent it."

Houston Emerging As Major Center Of MS-13 Activity. The Austin American-Statesman (1/22, Ward) reports MS-13 is "a burgeoning criminal enterprise that has spread into 33 states and the District of Columbia, leaving a bloody trail of vicious crimes in its wake amid persistent reports that al Qaeda might be trying to use its smuggling network to sneak terrorists into the United States. … Its epicenter of recent growth has been neighborhoods of Central American immigrants in Houston, where federal investigators say the gang's membership and crimes have mushroomed. It is now facing a multiagency crackdown aimed at curbing its influence and violence. Los Angeles 'is still the place where you go to make your bones with MS-13, but Houston has emerged as a very large problem area,' FBI Special Supervisory Agent Stephen Kodak said in Washington. … 'It's like the old-time Mafia: They prey on their own, offering protection and then extorting money from other illegals who aren't likely to report the crimes,' Kodak said. 'It's definitely a growing problem.'" The American-Statesman notes, "'Law enforcement in 28 states have reported MS-13 members are engaged in retail drug trafficking, primarily trafficking in powdered cocaine, crack cocaine and marijuana, and, to a lesser extent, in methamphetamine and heroin,' Chris Swecker, assistant director of the FBI's criminal investigations division, testified before a U.S. House subcommittee in April 2005. 'The drug proceeds are then laundered through seemingly legitimate businesses.'"

Al Qaeda-MS-13 Alliance Seen As Unlikely. In a separate story, The Austin American-Statesman (1/22, Ward) reports, "Could al Qaeda terrorist operatives be teaming up with the MS-13 gang? No, federal investigators say. There is little, if any, evidence of such a link, and it is highly unlikely that the radical Muslim organization would align itself with a predominately Catholic gang, they say."

Five Indicted On Katrina-Related Fraud Charges. The Baton Rouge Advocate (1/21, Roberts) reports, "A Georgia man allegedly on his way to getting $125,000 in unemployment benefits for 49 imaginary people and four Baton Rouge residents who may have lied to get thousands in disaster relief are facing federal prison time." Drewey Pierre Whitaker, Ivory Profit, De'Ondra Profit, Monique C. Preston and Billy R. James were indicted by the federal grand jury. "The indictments — made public Friday — bring to 26 the total number of people who have been charged in Baton Rouge federal court with fraud in the aftermath of Hurricane Katrina. Nationwide, more than 180 people have been arrested, said Baton Rouge U.S. Attorney David Dugas, who oversees the national Hurricane Katrina Fraud Task Force. Whittaker faces five counts of wire fraud, each of which carries up to 30 years in prison, and 11 counts of illegal use of Social Security numbers, each of which carries up to five years in prison."

Former NOPD Officer Charged With Katrina-Related Theft. The Baton Rouge Advocate (1/21, Gyan) reports, "A federal grand jury accused a former New Orleans police officer Friday of driving across state lines with a new pickup truck looted from a Cadillac dealership during Hurricane Katrina. Willie Earl Bickham Jr. is charged with interstate transportation of a stolen motor vehicle: a black 2005 Chevrolet Silverado. Houston police arrested Bickham in November driving the stolen truck. Police said he admitted taking the vehicle." The Advocate adds, "U.S. Attorney Jim Letten said Friday that federal prosecutors and the FBI are keeping their ears 'close to the track' for incidents such as Bickham's that might arise and require federal attention." The AP (1/21) also reports on the charges.

Siemens Executives Indicted Over Alleged Sham Minority Partnership. The AP (1/21, Robinson) reports, "A Pennsylvania-based subsidiary of German electronics company Siemens AG and two of its executives have been indicted on charges of forming a sham partnership with a minority-owned company to land a $49 million county contract, prosecutors announced Friday. The minority-owned company and its owner were also charged. Both were previously indicted in the investigation. … A spokesman for Siemens Corp., the parent company for its U.S. operations, says it broke no laws and will fight the charges." The AP notes, 'Robert D. Grant, special agent in charge of the Chicago office of the FBI, said the government is 'determined to ensure that public contracts, especially those in the lucrative health care industry, are obtained based on merit and are not tainted by corruption.'"

The Chicago Tribune (1/20, Ciokajlo, Becker) reported on its Web site, "The charges were announced today in a superceding indictment that also added new charges against minority contractor Faust Villazan and his former company, Faustech Industries." Villazan "and Faustech originally were

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indicted in September for allegedly passing a $20,000 bribe to a Cook County employee to influence the award of the radiology contract during the construction of the new Stroger Hospital. … In the superceding indictment handed up late Thursday afternoon, prosecutors alleged the joint venture was a sham and did not comply with county contracting rules because Villazan received a flat fee of $500,000 and did not share in the profit or loss of the deal." The Tribune adds that Grant "said Villazan entered into the Siemens deal 'for the sole purpose of personal greed,' saying, in effect, 'I'm a minority business enterprise, and I'm for sale.'" However, in the version of the story which ran in Saturday's Chicago Tribune, the paper did not include Grant's statement.

The Chicago Sun-Times (1/21, Pallasch, Newbart) reports, "GE -- which lost to Siemens in the bidding -- sued the county and Siemens in federal court, alleging fraud in the bidding process. Siemens officials…lied in court and said there had been no fraud, officials said." US Attorney Patrick Fitzgerald "and Grant credited GE's civil lawsuit filed four years ago with starting the process of exposing the alleged fraud. 'If not for the light shed on this scheme by a competitor, this fraud might not have been uncovered,' Grant said.

New Orleans Man Sentenced To Prison For Credit Card Fraud. The AP (1/21) reports, "A New Orleans man has been sentenced to four years in prison and ordered to pay $35,000 in restitution after a jury found him guilty of stealing the credit card numbers of people and using them to buy merchandise that he would resell. The US Attorney's Office says Jerome McNeil and an accomplice recruited some cashiers at Kenner's Esplanade Mall and a restaurant to use a credit card skimmer to record customers credit card numbers. … US Attorney Jim Letten said the pair was so brazen that they even began to distribute business cards on the street."

Cities Report Shortage Of Police Recruits. The Christian Science Monitor (1/23, Axtman, 61K) says a "major shortage of police recruits" has "reached crisis proportions in some cities." The problem "has several sources: low pay, a big hole left by retiring baby boomers, and an image problem that steers the few young people who are interested in law-enforcement careers toward crime-scene investigation and forensics, rather than everyday street patrols." The Monitor adds, "To remedy the manpower shortage, some law-enforcement agencies are getting creative. They are giving new recruits help with down payments on homes and, for experienced officers in other locales, they are offering signing bonuses for switching to a new city. They're even encouraging their own officers to find new recruits in exchange for extra vacation time."

CIVIL LAW:

Federal Government May Take Hard Line On Contractors' Conflicts. The Washington Post (1/23, D4, Babcock, 744K) reports defense contractor Alion Science and Technology Corp. "faced the imminent loss of one of its largest contracts, a $275 million deal helping manage the Pentagon's military communications network. The government had just announced that Advanced Engineering & Sciences of Reston, a division of contracting giant ITT Industries Inc., would take over the work." But Alion is now "back in contention for the job. In a case that could signal a more aggressive federal approach toward potential conflicts of interest in contracting, Alion convinced government reviewers that a division of ITT should not be allowed to manage a program that potentially would be evaluating products made by the defense conglomerate -- or at least not without much more analysis then the Pentagon initially performed." This month, the Government Accountability Office "agreed, indicating that it was going to begin looking more closely at 'organizational conflicts of interest' -- the potential for a company to end up in a situation in which it is essentially evaluating itself or its competitors -- and would make sure contracting agencies begin paying more attention as well."

WSJournal Sees Evidence Of Fraud In Diagnosis Of Asbestos Ailments. The Wall Street Journal (1/23, 2.11M) editorializes, "Of all the unsavory details rolling out of investigations into the silicosis and asbestos scams, some of the ugliest concern doctors who abandoned their ethics to cash in. Even more disturbing is the growing evidence that what has allowed them to get away with this is a federal certification program. That's why a coalition of industry and other groups has began pushing the National Institute for Occupational Safety and Health (Niosh) to start policing its 'B-reader' program, which certifies doctors to read X-rays. The federal agency proposed new ethics rules in November, after a federal judge slammed several government-certified doctors who had ginned up sham

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diagnoses in a silicosis suit. But Niosh needs to go much further to clean up this corrupt corner of American medicine."

CIVIL RIGHTS:

Former Officials Say Bush Administration Has Politicized DOJ Voting Section. The Washington Post (1/23, Eggen, 744K) reports in a front page story that the Justice Department's voting section, "a small and usually obscure unit that enforces the Voting Rights Act and other federal election laws, has been thrust into the center of a growing debate over recent departures and controversial decisions in the Civil Rights Division as a whole." Many current and former lawyers "in the section charge that senior officials have exerted undue political influence in many of the sensitive voting-rights cases the unit handles. Most of the department's major voting-related actions over the past five years have been beneficial to the GOP, they say, including two in Georgia, one in Mississippi and a Texas redistricting plan orchestrated by Rep. Tom DeLay (R) in 2003." The section "also has lost about a third of its three dozen lawyers over the past nine months. Those who remain have been barred from offering recommendations in major voting-rights cases and have little input in the section's decisions on hiring and policy." Attorney General Alberto R. Gonzales "and his aides dispute such criticism and defend the department's actions in voting cases."

Demonstrators Mark 33rd Anniversary Of Roe V. Wade. Thousands of anti-abortion demonstrators gathered outside Minnesota's Capitol Sunday to mark the 33rd anniversary of the Roe v. Wade ruling. The AP (1/23, Lohn) reports that the Minnesota event was one of several nationwide yesterday. In San Francisco, "thousands of abortion opponents shouldering signs with slogans such as 'Peace Begins in the Womb' marched Saturday, while abortion rights supporters along the march route waved clothes hangers and shouted 'Bigots go home.' … In Idaho, nearly 400 abortion protesters marched at the Statehouse Saturday." The AP adds, "The largest abortion demonstration was expected Monday in Washington, D.C., where anti-abortion activists planned to converge on the mall to hear speakers supporting their cause and march on the Congress and Supreme Court."

Pro-Life Groups Optimistic About Movement's Future. The Washington Times (1/23, Price, 90K) reports, "As tens of thousands of abortion foes prepare for today's 33rd annual March for Life, they are buoyed by developments they see as promising for their cause, both at the state and federal levels. … Pro-life advocates are excited about broad abortion bans proposed by lawmakers in two states, Ohio and Indiana. It's their hope that these bills become law and that the statutes are eventually considered and upheld by a more conservative U.S. Supreme Court in a challenge to the Jan. 22, 1973, ruling in Roe v. Wade that abortion was a constitutional right." The Times notes that pro-life advocates "make it clear they are optimistic the Supreme Court will be more favorable to abortion restrictions, with the addition of Chief Justice John G. Roberts Jr. and this week's expected confirmation of Judge Samuel A. Alito Jr."

Roe Seen As Likely To Be Overturned If GOP President Is Elected In 2008. The Wall Street Journal's James Taranto (1/23) writes, "The Supreme Court is not racing the clock to resolve the abortion question. Most likely, sometime in the next decade the court will either overturn or reaffirm Roe. If President Bush gets to replace another pro-Roe justice or two, or a Republican is elected president in 2008, Roe will probably be history. Otherwise, it will be with us for another generation. In either case, politics will determine the outcome of what should have been a political matter all along."

Terms Of Abortion Debate Said To Have Caught Up With Public Attitudes. Time (1/30, Tumulty) reports, "Listening just to the alarms of abortion-rights groups on the one hand and the cheers of opponents on the other, you could come away with the impression that the fate of" Samuel Alito's nomination to the Supreme Court "will determine whether abortion remains available in this country. That is not what is at stake. Alito's confirmation would not produce the votes sufficient to overturn the Supreme Court's landmark Roe v. Wade decision guaranteeing abortion rights throughout the country. … Today the tussle is over not whether abortion will exist but how. In that respect, the terms of the debate have caught up with the public's attitude toward the issue: polls consistently show that most people in the U.S. want abortion to be legal; they just don't want it to be easy." Time adds, "Pollsters say that Americans' views on abortion have shifted relatively little since Roe v. Wade, that they have always been complicated and that sometimes they are even contradictory. In a survey by the Pew Research Center last July, for instance,

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65% of those polled said they oppose the idea of overturning Roe v. Wade, but nearly an identical percentage said they would like to see more legal restrictions. Among the most popular: mandatory waiting periods, parental- and spousal-notification requirements and a ban on all late-term abortions."

White House To Push Pentagon On Prayers Specifically Referencing Jesus Christ. An evangelical Christian chaplain's group says the White House will pressure the Pentagon to be more explicit in saying military chaplains can pray in the name of Jesus Christ. The Washington Times (1/23, Duin, 90K) reports, "The administration struck a deal on Thursday with Rep. Walter B. Jones, North Carolina Republican, said the Rev. Billy Baugham of the Greenville, S.C.-based International Conference of Evangelical Chaplain Endorsers. … Claude Allen, White House domestic policy adviser, promised the congressman that President Bush will take up the issue personally with Defense Secretary Donald H. Rumsfeld, said Mr. Baugham, who was involved in the discussion. … Mr. Jones' office, which confirmed that the conversation had taken place, says chaplains should be able to pray to whomever 'their faith tradition' demands, including named gods, saints or prophets."

ANTITRUST:

Albertson's Closes Deal for Sale To Consortium. The Wall Street Journal (1/23, Adamy, Berman) reports, "A consortium of retailers and financial buyers could announce a deal to acquire Albertson's Inc. for roughly $9.6 billion as early as today, say people familiar with the matter, offering an end to a tumultuous sale process. The Albertson's board was expected to meet last night to approve the deal, people familiar with the process said. As happened in December, it is possible the deal could collapse at the final moment. The deal could give grocery-store chain Supervalu Inc., which would acquire most of Albertson's stores, a challenge in freshening up hundreds of supermarkets. Meanwhile, drugstore operator CVS Corp., which would acquire Albertson's free-standing pharmacies, would pull closer to rival Walgreen Co., the nation's largest drugstore chain by revenue." According to the Journal, final terms were not known, but "they are expected to roughly mirror the ones that the board turned down in December," except that "Albertson's buyers would assume any antitrust risk involving Chicago-area stores, a sticking point that helped unwind a previous deal, said the people familiar with the matter." According to the Journal, "The buyout consortium is planning to pay about $26 per Albertson's share, said the people familiar with the matter. Based on the terms for the December deal, that would entail offering 0.182 of a share of Supervalu stock plus $20.25 in cash, or $26.05 in total, based on Friday's closing price. … Albertson's shares closed up 24 cents at $24.11, rising 1%, in 4 p.m. composite trading Friday on the New York Stock Exchange. Supervalu on Friday fell 34 cents, or 1%, to $31.85 on the NYSE."

The New York Times (1/23, Sorkin) reports, "While people involved in the negotiations were hopeful that this deal would be completed, they also cautioned that it remained possible that the talks could drag on or collapse altogether again if an unforeseen issue arises the way it did in December." Since that deal fell through, the Times reports, "the board of Albertsons has been under increased scrutiny from analysts and investors who have questioned why the December deal was abandoned at the last minute. Albertsons shares fell more than 10 percent after the company announced it had terminated talks." In the wake of the December breakdown, analysts were critical, and some shareholders called "for the resignation of Albertsons' chief executive, Larry R. Johnston, a former General Electric executive who was brought in to revive the business. The company's independent directors issued a statement pledging their support for him." IN this deal, "the buying group plans to break Albertsons into three parts by splitting the supermarket business in two and merging the drugstore business with CVS. Supervalu supermarkets is expected to acquire Albertsons' most attractive stores, like its Jewel stores in the Chicago area. Cerberus Capital and Kimco Realty plan to buy its underperforming businesses and either sell them and their real estate or try to institute a turnaround plan, depending on the store." The Times also notes, "The possible sale of Albertsons, based in Boise, Idaho, comes as traditional grocers are being squeezed by larger discount competitors like Costco and Wal-Mart Stores," and, "on the other end of the spectrum, … upscale rivals like Whole Foods and Trader Joe's."

Toshiba Beats Out GE To Buy Westinghouse. The Financial Times (1/23) reports, "Toshiba, the Japanese engineering company, has won the

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battle for control of Westinghouse, the US power plant arm of British Nuclear Fuels, with a bid of almost $5bn, more than double original expectations." Toshiba's competition included "General Electric of the US and Mitsubishi Heavy Industries of Japan." According to the article, "The group's bid of close to $5bn was not only the highest offer but BNFL decided it would also be the best for Westinghouse's future growth prospects and its workers, said a person close to BNFL." The board of directors "would make a final decision at a board meeting on Thursday," the paper reported. The Financial Times also notes political opposition to "a non-US group gaining control of Pittsburgh-based Westinghouse. Last month Ralph Hall, Republican chairman of the House of Representatives' energy subcommittee, wrote to the US Treasury arguing that Westinghouse's "sensitive technology" should not be controlled by a foreign company." Also, the article notes, "A person close to the deal said Toshiba was favoured because BNFL believed it was most likely to allow senior Westinghouse management to run the business on its own." But "GE was seen as having a more aggressive corporate culture than Toshiba, which could have harmed Westinghouse's chance of winning a Chinese nuclear reactor contract, it said. "

Nuclear Energy In Favor With Governments. The New York Times (1/23, Mouawad, Sorkin) reports some of the same facts, but also notes developments in the nuclear-power industry. The Times says, "Nuclear energy is gaining support with governments around the world amid high oil and natural gas prices, tight petroleum supplies and growing demand for electricity. Technology by Westinghouse is found in half the world's operating commercial nuclear power plants, according to the company's Web site." While nuclear opponents cite Three Mile Island, Chernobyl, and the problems of disposing of waste fuel, "nuclear energy never lost the favor of governments who view it as a reliable source of energy," the article says. The Times also says, "Energy companies are seeking licenses around the country to build new power plants, notably in Alabama and Mississippi. The Bush administration, which is also encouraging the development of nuclear energy as a way to reduce dependence on foreign energy sources, is seeking to streamline the application process and permits needed to build new plants."

ENVIRONMENT/INDIAN AFFAIRS:

Second Fatal West Virginia Accident Spurs Calls For Mine Safety Improvements. NBC Nightly News (1/22, story 4, 1:30, Williams) reported, "There are more questions about the mine fire that killed two miners" in West Virginia "and the demands for new safety regulations." NBC (Costello) added the fire "broke out Thursday afternoon on a conveyor belt two miles inside the Alma mine. They were using that same way to draw in fresh air. The government had banned that. But companies said digging fresh-air tunnels was expensive. So the Bush Administration allowed it." The Bush Administration "says it will look at getting better equipment and whether those oxygen tanks every miner wears should last longer than one hour. Congress will hear conditions coal miners work. The mine involved in the fire is owned by one of the country's biggest coal producers, the Massey Company."

US Ranks 28th In World On Key Environmental Standards. A nation-by-nation study of environmental performance shows that just six nations have achieved 85 percent or better success in meeting critical environmental goals including clean drinking water, low ozone levels, sustainable fisheries and low greenhouse gas emissions. The New York Times (1/23, Barringer, 1.19M) reports, "The study, jointly produced by Yale and Columbia Universities, ranked the United States 28th over all, behind most of Western Europe, Japan, Taiwan, Malaysia, Costa Rica and Chile, but ahead of Russia and South Korea. … The pilot study, called the 2006 Environmental Performance Index, has been reviewed by specialists both in the United States and internationally."

Senators Disagree On Fishing Quotas. The Washington Times (1/22, Price, 90K) reports, "A Senate spat over relaxed fishing quotas could snag the renewal of the 1976 Magnuson-Stevens Fishery Conservation and Management Act. Reauthorization of Senate Bill 2012, which governs offshore ocean fisheries, is expected by late spring, but differences remain over whether it should permit relaxed enforcement of annual catch limits for each fishery or impose strict limits. … The version of the bill approved by the Senate Commerce, Science and Transportation Committee on Dec. 15 had an amendment to soften annual fishing quotas, as a result of pressure by New England fishermen and the

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members of Congress who represent them. … Congressional observers say it is ironic that the difference of opinion regarding catch limits has made Massachusetts Democrats such as Sens. Edward M. Kennedy and John Kerry and Rep. Barney Frank, normally viewed as environmental champions, to favor looser controls on fishing. Meanwhile, Sen. Ted Stevens, Alaska Republican and Commerce Committee chairman, who favors oil drilling in the Arctic National Wildlife Refuge, is seen as a lawmaker dedicated to conservation of declining fish stocks and protection of their habitats with the bill."

Allen Foods Offers To Burn Chicken Manure, Producing Power And Reducing Waste. The Washington Post (1/23, B1, Morse) reports that Allen Family Foods "last week presented plans to the Dorchester County Council to burn chicken manure in Linkwood on Maryland's Eastern Shore. The resulting steam would help run an Allen Family Foods factory that processes leftover chicken parts" and help reduce the waste generated by chicken farms in Maryland. According to the article, "In Maryland, some leading conservationists back the project. If more manure is burned, they say, less will end up on farms and potentially in runoff." The Post says, "Chicken executives have been talking up manure burning for more than two decades. But it is technologically challenging, and no one has made it work commercially in the United States, according to industry executives and engineers." Additionally, Allen Family Foods has no assurance of regulatory approval; according to the article, the "Maryland Department of the Environment plans to question Allen Family Foods about odors and emissions. Allen said it won't start construction until it gets an operating permit from the department." The idea, the Post says, "goes back to at least 1983, when the Delmarva Power company experimented with the fuel at a power plant in Delaware, Delmarva Power spokesman Matt Likovich said. The utility later studied retrofitting another plant, in Maryland, estimating it would cost $50 million. Neither project got off the ground."

Royalty Payments For Use Of Public Land Have Not Kept Pace With Market Prices. The New York Times (1/23, Andrews, 1.19M) reports, "At a time when energy prices and industry profits are soaring, the federal government collected little more money last year than it did five years ago from the companies that extracted more than $60 billion in oil and gas from publicly owned lands and coastal waters. If royalty payments in fiscal 2005 for natural gas had risen in step with market prices, the government would have received about $700 million more than it actually did, a three-month investigation by The New York Times has found. But an often byzantine set of federal regulations, largely shaped and fiercely defended by the energy industry itself, allowed companies producing natural gas to provide the Interior Department with much lower sale prices - the crucial determinant for calculating government royalties - than they reported to their shareholders. As a result, the nation's taxpayers, collectively, the biggest owner of American oil and gas reserves, have missed much of the recent energy bonanza.'

WPost Urges Administration To Fund Ocean Research. The Washington Post (1/23, 744K) editorializes, "The Bush administration remains in denial about climate change and sometimes treats environmental protection as an inconvenience. Yet there was reason to hope, when the U.S. Commission on Ocean Policy issued its report more than a year ago, that President Bush would seize the issue of the dire threat to this country's coastal waters. … So far, it is an opportunity Mr. Bush has largely passed up. To be sure, there have been some constructive changes. Senate Commerce Committee Chairman Ted Stevens (R-Alaska) is pushing legislation to improve fisheries management." According to the Times, "a big test will come when the administration has to propose funding for oceans research in its coming budget."

FBI/DEA/ATF/USMS:

States Report Flood Of Potent Mexican Crystal Meth. The New York Times (1/23, Zernike, 1.19M) reports, "In the seven months since Iowa passed a law restricting the sale of cold medicines used to make methamphetamine, seizures of homemade methamphetamine laboratories have dropped to just 20 a month from 120. … But…officials in other states with similar restrictions" are "now worried about a new problem: the drop in home-cooked methamphetamine has been met by a new flood of crystal methamphetamine coming largely from Mexico. Sometimes called ice, crystal methamphetamine is far purer, and therefore even more highly addictive, than powdered home-cooked methamphetamine, a change that

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health officials say has led to greater risk of overdose." According to the Times, "although child welfare officials say they are removing fewer children from homes where parents are cooking the drug, the number of children being removed from homes where parents are using it has more than made up the difference."

DEA Investigation Uncovers Suspected Cocaine Trafficking Ring. The Madison (IN) Courier (1/23) reports, "More light is being shed on the Drug Enforcement Administration drug raid last week in the Courier area. Aaron Payne, a special deputy for the DEA, testified at a detention hearing Friday in Indianapolis. Payne was one of the lead investigators for the government during the yearlong investigation that lead to the arrests of 14 Courier-area residents on federal charges. Results of the investigation uncovered a Mexico-to-Chicago cocaine trafficking ring that then came through Madison. The indictment indicates that both John Scruggs and Randy Thomas were the ringleaders of the organization. They acquired cocaine from their sources in Chicago and then distributed it to 12 mid-level dealers in the Courier area, according to the federal indictment. During the investigation, Payne obtained court-ordered wiretaps on four telephone lines. The wiretaps began in November to accompany aerial surveillance already under way in the investigation."

Virginia "Pain Doctor" Loses License. The Roanoke (VA) Times (1/21) reports, "Roanoke pain doctor Cecil Knox was stripped of his right to practice medicine and sentenced to five years of probation Friday, marking the end of what has been called both a legitimate prosecution and an unnecessary persecution. The conclusion came as a relief to many in the packed federal courtroom, but outside, both camps still expressed regrets -- that loved ones who died were not around to see the day, and that chronic pain patients no longer have a physician they can trust. … Knox was first indicted in February 2002, along with his practice, his former office manager, Beverly Boone, and two employees. His charges included prescribing controlled substances such as the painkiller OxyContin outside the scope of legitimate medical practice, and the government said Knox's irresponsible behavior led to injury or death to patients. At one point, he faced more than 300 charges. … As part of the plea agreement, Knox voluntarily surrendered his medical license to the state of Virginia and his registration number for prescribing medicine to the Drug Enforcement Administration."

Lawsuit Settled In Texas In DEA-Involved Shooting. The San Antonio (TX) Express (1/23) reports that on Jan. 3, relatives of Ashley Villarreal gathered at San Fernando Cemetery and "observed what would have been her 17th birthday. The ceremony was half a celebration and half a call for justice over the controversial shooting by federal agents that put her in her grave when she was 14. But four days before the civil case was to head to trial, U.S. District Judge Fred Biery ruled Thursday that the government would be allowed to put on evidence that could have hurt the plaintiffs' case. Hours later, the wrongful-death suit was settled for $200,000 — far less than the $35 million listed in the plaintiffs' original demand letters to the government. Under the settlement, released Friday, the government denied any liability in the shooting that occurred during a stakeout for Ashley's father. The government argued that the agents fired at a Mitsubishi Eclipse driven by Ashley the night of Feb. 9, 2003, because they feared the car was going to hit one of them. 'This tragedy weighs heavily on all of those involved: the family, the special agents involved and the entire community,' said Joe Arabit, head of the Drug Enforcement Administration in San Antonio. 'The DEA is hopeful that the community can now move forward beyond this incident.'"

Canada Clears Way For Medical Marijuana Advocate To Be Deported To US. The Los Angeles Times (1/21, Bailey) reports, "A judge in Canada on Friday rejected an eleventh-hour appeal by a California medical marijuana refugee trying to avoid deportation to the United States, five years after fleeing to avoid a short jail stint he called a death sentence. Steve Kubby, a former Laguna Beach resident who was a 1998 Libertarian candidate for governor and one of the authors of California's watershed medical marijuana law, suffers from a rare form of adrenal cancer that can cause blood-pressure spikes that his doctors say are controlled by smoking cannabis. Canadian Federal Justice Yvon Pinard ruled that Immigration Canada may now proceed with its order to return Kubby to the U.S. — along with his wife, Michele, and two young children."

US Drug Agents Said To Be Hitting Drug Cartels In The Pocketbook. The Dallas Morning News (1/20, Mclemore) reports, "In the last three years,

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customs agents have seized more than $20 million in currency at the eight ports of entry from Brownsville to Del Rio – roughly one-fifth of the value of the bulk cash seizures the agency made nationally. While U.S. drug agents have long concentrated their efforts on stopping drugs at the border, they're increasingly going after the money, hitting the drug cartels in the pocketbook and providing invaluable intelligence of the trafficking networks. And with stricter controls on bank accounts and wire transfers, trafficking organizations are running piles of cash into Mexico, in cars, trucks, boats, and airplanes and even strapped to the bodies of couriers, federal officials said." The Morning News adds, DEA Administrator Karen Tandy, during a Senate hearing on narcotics control last March, called tracking the money the key to controlling the $65 billion a year trade in illegal drugs. 'To make a significant impact on the drug trade in America and around the world, there is no strategy more effective than following the money back to the sources of drug supply and taking away the dirty proceeds of that trade,' she said. 'But our efforts to date clearly have not successfully done the job.' Total seizures – which include all assets and can be in the form of cash, houses, guns and vehicles – amounted to well short of $1 billion, Ms. Tandy said. 'Drug traffickers pay more than that each year in fees to launder their ill-gotten gains,' she said. Officials said there is no established formula to determine what percentage of cash gets across the border successfully."

US, Venezuela Expected To Sign Anti-Drugs Agreement. The BBC (1/21) reports, "Venezuela and the US appear ready to sign a new agreement to fight international drug trafficking. … For the past five months all official relations between Venezuelan and US anti-narcotics agents have been frozen. But after tough negotiations between Venezuelan and US diplomats a new contract is now on the table. This accord will re-establish a basic working relationship in the fight against drugs. Luis Correa, the chief of Venezuela's anti-narcotics police unit, says the new agreement with Washington will be signed…once all the paperwork has been finalized."

IMMIGRATION:

Scholar Released From China Faces Deportation From US. The AP (1/23, Barakat) reports, "Nearly five years ago, the U.S. government exerted high-profile diplomatic pressure on China to secure the return of scholar Gao Zhan, a researcher at American University whom Beijing believed was a spy for Taiwan. … Now the Department of Homeland Security is pushing with equal vigor to have her deported back to China, despite objections from the Department of Justice and a federal judge. A hearing is scheduled Monday in immigration court to determine whether Gao poses a risk to national security, as DHS contends." The AP continues, "Gao's case became international news in February 2001 when the American University researcher and her family were arrested by the Chinese on suspicion of espionage. Her husband, Xue Donghua, and the couple's 5-year-old son were released after a month in custody. … But the Communist government charged Gao with espionage." The AP adds, "The State Department protested and worked hard to secure her release. Sen. George Allen, R-Va., was one of many elected officials who took up her cause and introduced legislation, which ultimately failed, to grant her U.S. citizenship in absentia. … The Chinese government put Gao on trial in July 2001, convicted her and sentenced her to prison. But they decided to deport her to the United States rather than imprison her, and Gao received a hero's welcome when she returned to the U.S. a month later. … Then in 2003 came shocking news: Gao had pleaded guilty to illegally exporting more than $1 million in military-grade computer microprocessors to a Chinese government agency. Court documents indicate that the scheme had preceded her 2001 arrest and that Gao knew the microprocessors could be used by the Chinese military. … She struck a plea bargain that resulted in a seven-month jail sentence, plus eight months in a halfway house. Her jail time was severely reduced because prosecutors believed Gao had cooperated with their investigation and provided useful information to the United States. … As part of the plea bargain, the Justice Department recommended to the Department of Homeland Security against deporting Gao after she served her sentence. … Normally such recommendations carry great weight, but in this case, DHS and U.S. Immigration and Customs Enforcement are ignoring the recommendation and pushing for deportation."

Illegal Immigration Is Contentious Issue Nationwide. The Christian Science Monitor (1/23, Knickerbocker, 61K) reports, "Immigration has become an increasingly contentious political and social issue around the country. Organizations patterned after the controversial

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'Minuteman Project' along the US-Mexico border have sprung up in New England, the Midwest, the South, and the Pacific Northwest. This has led to demonstrations and shouting matches with those opposed to what they call 'vigilantes.' State and local officials are working to limit government services to illegal immigrants and their children (such as college tuition and worker's compensation), requiring proof of citizenship to get a driver's license and cracking down on day labor sites where men - many in the country illegally - gather to seek work." The Monitor adds, "In Washington this year, Congress and the Bush administration are expected to continue wrangling over immigration reform. But most of the action, observers say, is likely to be at the state level: legislation and ballot initiatives."

Two California Police Departments Will Train To Enforce Immigration Laws. The Los Angeles Times (1/23, Winton, Yi, 958K) reports that the Costa Mesa Police Department and Orange County Sheriff's Department in California "are developing plans for their officers to be trained alongside federal immigration agents so they can understand and help enforce immigration laws. They are among the first in the nation to seek the training, and their effort has generated both interest from other agencies and protests from immigrants' rights groups." The Orange County Sheriff's Department "wants to send 200 deputies for special training by Immigration and Customs Enforcement, and hopes federal approval comes soon. Likewise, Costa Mesa seeks training for up to 40 officers initially, mostly detectives, gang investigators and jail personnel. The training will be to familiarize officers with immigration law, give them an understanding of the federal immigration bureaucracy and let them observe how federal agents do their jobs."

CONGRESS-ADMINISTRATION:

Alito Expected To Be Confirmed By Narrow Margin. Supreme Court nominee Samuel Alito appears to be headed for Senate confirmation by one of the narrowest margins in history. The Washington Times (1/23, Hurt, 90K) reports that while Alito has not lost the support of any Republicans, he has "won endorsement from only one Democrat. Republicans say they expect the vote to be close to the 55-45 partisan break in the chamber. … Republican leadership aides also say they are worried they may lose one of the Northeast Republicans who represent liberal states. Sens. Lincoln Chafee of Rhode Island and Olympia J. Snowe and Susan Collins, both of Maine, have declined to say how they will vote. Those same centrists, however, have said that a Democrat filibuster of the nominee would be out of order. Still, Democrat leaders insist, that option remains a possibility. … Majority Leader Bill Frist of Tennessee has made clear that if Democrats filibuster Judge Alito, he will move to change the rules in the Senate to ban such filibusters of judicial nominations."

The Legal Times (1/23, Goldman) reports, "There are any number of ways to fault the performance of Senate Democrats in their campaign to keep Samuel Alito Jr. -- seemingly as rock-ribbed a conservative as you'll find -- off the high court." The Times continues, "During Alito's weeklong confirmation hearings, Senate Judiciary Committee Democrats were, by turns, hostile, pedantic, bombastic and confused. Follow-up questions? No time for that. … There were larger strategic miscalculations as well: notably that the majority of pro-abortion rights Americans would rise up in outraged opposition to a nominee who had so clearly expressed disdain for abortion rights at several points during his legal career. Or that Americans would find credible the shrill discourse of Alito's opponents, which by now had been assimilated as so much background noise. … And there was last year's 'Gang of 14 filibuster deal, one that Democrats initially claimed as a victory but that helped seal their defeat. … The causes are myriad, but the result seems clear: Alito's opponents threw everything they had at him and nothing worked. He is now virtually guaranteed to be confirmed."

Kerry Will Vote Against Confirmation. Sen. John Kerry said yesterday he will vote against Alito's confirmation, saying the nominee would take the High Court "backwards." The AP (1/23) reports that Kerry, speaking on ABC's This Week with George Stephanopoulos, said, "I think he will shut the door of court access to the average person in America," adding, "I will vote against him because I think he will take the court backwards."

Allen Challenges Democrats To Attempt Filibuster. Sen. George Allen said on CNN's Late Edition (1/22, Blitzer), "Judge Alito has an outstanding record. … I think he's going to be an outstanding Supreme Court justice, respecting the will of the people in our representative democracy. And if the Democrats want to filibuster, let them. We'll pull the constitutional trigger. And as far as I'm concerned, it's not too much to ask a senator to get off his or her cushy seat and show some backbone and spine and vote yes or vote no, but vote."

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Alito Said To Be "Fitting Replacement" For O'Connor. In an op-ed for USA Today (1/23, 2.31M) the University of Notre Dame's Richard Garnett writes, "notwithstanding her recent 'liberal' votes in several hot-button cases, [Justice Sandra Day] O'Connor was for two decades a consistent and crucial partner with Chief Justice William Rehnquist in moving the court's constitutional doctrines in a more conservative direction: She believed, among other things, that ours is a national government of limited powers, that the states are sovereign laboratories of democracy, that religious faith and expression are protected by our Constitution and welcomed in the public square, and that our criminal laws best serve human dignity by preventing and punishing crime." Garnett adds, "Alito is an eminently worthy successor to O'Connor. What's more, he is all the more fitting a replacement, given their shared commitment to what has been quite rightly called our 'first freedom': The freedom of religion protected by the First Amendment."

Kennedy Seen As Supreme Court Swing Vote. Newsweek (1/30, Thomas, Taylor) reports that with the retirement of Supreme Court Justice Sandra Day O'Connor, Justice Anthony Kennedy "is seen by liberals and status-quo devotees as the remaining swing vote, a check on the court's rightward tilt as more justices are appointed by Republican presidents." Kennedy has 'evolved,' say the liberals -- much like other GOP-appointed justices before him, such as the late Harry Blackmun. Conservative lawyers scoff (though rarely on the record, lest they have to argue before Kennedy) that the justice is squishy and vainglorious, too worried about what the headlines will say about him. Other hard-liners regard him as a traitor."

NYTimes Argues Against Confirming Alito. An editorial in the New York Times (1/23, 1.19M) says Alito "is exactly the kind of legal thinker President Bush wants on the Supreme Court. He has a radically broad view of the president's power, and a radically narrow view of Congress's power. He has long argued that the Constitution does not protect abortion rights. He wants to reduce the rights and liberties of ordinary Americans, and has a history of tilting the scales of justice against the little guy. As senators prepare to vote on the nomination, they should ask themselves only one question: will replacing Sandra Day O'Connor with Judge Alito be a step forward for the nation, or a step backward?" Alito "may be a fine man, but he is not the kind of justice the country needs right now. Senators from both parties should oppose his nomination." The Times concludes, "If the far right takes over the Supreme Court, American law and life could change dramatically. If that happens, many senators who voted for Judge Alito will no doubt come to regret that they did not insist that Justice O'Connor's seat be filled with someone who shared her cautious, centrist approach to the law."

Bush To Unveil Market-Oriented Healthcare Proposals. The Los Angeles Times (1/23, Gosselin, 958K) reports President Bush is "preparing to unveil a series of proposals that are intended to make the nation's healthcare system more efficient, but are likely to revive a bitter debate — begun last year over Social Security — about how much of life's biggest risks Americans should bear on their own." Many of the proposals, "such as limits on medical malpractice lawsuits, are ones the president has failed to get through Congress," but "he plans to unveil the initiatives as part of his vision for reshaping U.S. healthcare policy, aides and advisors said." Possible initiatives include "offering additional tax breaks for the use of Health Savings Accounts, and making most out-of-pocket medical spending by individuals tax-deductible." Bush's supporters "say that the changes would help tame rocketing medical costs by encouraging people to buy their own healthcare insurance and become smarter shoppers, rather than relying on employers or government programs such as Medicare and Medicaid to cover their health costs." Critics "argue that Bush's expected proposals would undermine the employer-provided health insurance system that now covers most working Americans." Despite the "political drubbing that the administration sustained on Social Security and over the flawed rollout of its Medicare prescription drug benefit, Bush appears eager to return to the fray."

U.S. News and World Report (1/30, Walsh) reports that White House officials say that in his State of the Union Address, President Bush "will focus in particular on controlling healthcare costs, which polls show is a top priority for voters. Bush is expected, for example, to recommend raising the amount individuals can deposit in health savings accounts, offering additional tax breaks for those who buy private insurance on their own, and allowing more portability for health insurance when people change jobs."

Newsweek (1/30, Wolffe, Bailey) adds, "After a series of 'listening' sessions with Hill allies last month, White House aides told members they wanted to do something 'achievable' after last year's failure to overhaul Social Security

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and the tax code. In his State of the Union speech, Bush will return to his old idea of tax-free health savings accounts, hoping that will appeal to younger voters who can carry their savings from one job to another. And he'll tout the new Medicare prescription-drug benefits, urging seniors to stay the course despite early bureaucratic snafus that have left some without coverage."

Bush Expected To Portray Himself As "Thrifty." Time (1/30, Cooper, Allen) adds, "After five years of tax cuts and massive spending that brought back deficits and ensured that they will continue for years if not decades, Bush plans to use his State of the Union address on Jan. 31 to portray himself as, well, thrifty. He will talk about the need to rein in programs like Medicare, Medicaid and Social Security, and he'll tout the modest budget cuts that Congress passed at his request last year. His staff wants to make 'restraining spending' a defining Bush characteristic, along with spreading democracy around the world and prosecuting the war on terrorism." However, Time adds that Bush "has a huge credibility problem," but he hopes to "earn his credentials as a fiscal disciplinarian when he talks about the long-term challenges posed by the exploding cost of entitlement programs, which together take up half the budget and are immune to White House or congressional tinkering. He wants to use his remaining years in office to persuade Congress to make transformational, money-saving changes in those programs, especially Medicare."

Bush Likely To Propose New Nuclear Energy Program. U.S. News and World Report (1/30, Bedard) reports in its "Washington Whispers" column, "Energy experts are predicting that President Bush is likely to offer up a new nuclear program in his State of the Union address. … The experts think Bush will push a plan to reprocess spent nuclear fuel for use in advanced reactors."

Aides See 2006 As Start Of Bush's "Third Term." U.S. News and World Report (1/30, Walsh) reports that President Bush is about to embark on "what he hopes will be a fresh start for his presidency. Bush tells friends that despite the many setbacks of the past year, the country still wants him to provide strong leadership, and that's what he aims to do. But that also means being more realistic, Bush has concluded, so he is ready to trim his sails a bit. … Some Bush strategists see 2006 as the start of Bush's 'third term.' They regard his first four years as a period of solid achievement that culminated in his re-election victory. They see 2005 as a 'term' of its own, 12 months marked by disappointment. They hope '06 will start an upswing." US News adds, "On a personal level, Bush is described by aides as upbeat and eager to get started on the 2006 agenda." US News also that the "real kickoff of 2006 will be the State of the Union address January 31. … Bush will continue to argue that progress is being made against the insurgents in Iraq and that the domestic economy is strong. But Republican insiders say he will also emphasize a series of smaller proposals that they predict will find ready acceptance among voters."

2005 Called Worst Year Of Bush Presidency. Newsweek (1/30, Wolffe, Bailey) says that 2005 was "the worst year of [Bush's] presidency." Bush "knows he needs something smart to offer the anxious GOP majority on Capitol Hill as its members head home to face the voters this fall. So he's shelved the ambitious domestic agenda he launched a year ago, and gone back to the mantra that's worked so well in the last two election cycles: it's the war, stupid." The Bush team "will remind the public of the controversy over Bush's decision to eavesdrop on Americans without a warrant as he keeps an ear out for terrorist activity. But Bush's aides believe they can rebrand the domestic snooping program as 'enemy surveillance' vital to protecting the country. The well-worn plan is premised on the notion that three elections after 9/11, the Democrats still don't have an answer to that line of attack."

Bush Team Said To Be Worried About Photos Of Bush With Abramoff. Time (1/30, Zagorin, Allen) reports that the White House has sought to portray the scandal surrounding lobbyist Jack Abramoff "as a Capitol Hill affair with little relevance to them." But, President Bush's "memory may soon be unhappily refreshed. TIME has seen five photographs of Abramoff and the President that suggest a level of contact between them that Bush's aides have downplayed. While TIME's source refused to provide the pictures for publication, they are likely to see the light of day eventually because celebrity tabloids are on the prowl for them. And that has been a fear of the Bush team's for the past several months: that a picture of the President with the admitted felon could become the iconic image of direct presidential involvement in a burgeoning corruption scandal like the shots of President Bill Clinton at White House coffees for campaign contributors in the mid-1990s."

Reuters (1/23) reports Time magazine reports "at least five photos show U.S. President George W. Bush with the lobbyist at the center of a corruption scandal," Jack Abramoff.

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The White House "has tried to play down any contact with" Abramoff, who "pleaded guilty to fraud charges this month and agreed to help prosecutors in a congressional corruption investigation." TIME "did not publish the photographs, saying its source refused to provide them for publication. Most look like those taken at presidential receptions, it said." The White House has said Bush "does not know Abramoff and does not recall meeting him, and that the lobbyist attended two Hannukah receptions and a few staff-level meetings at the White House."

The AP (1/23) reports, "Both Washingtonian and Time magazines have reported the existence of about a half-dozen photos showing the two together." The White House "has acknowledged that Abramoff attended some events at the Executive Mansion, and spokeswoman Dana Perino said Sunday it's not surprising that the two would have met." Perino said, "The president has taken tens upon thousands of pictures at such events."

Bloomberg (1/23, Willis) reports one photograph "shows Bush, Abramoff and Raul Garza Sr., who was then chairman of the Kickapoo Indian tribe, an Abramoff client who is under indictment for allegedly embezzling more than $300,000 from his tribe, Time reported. Another photo bears Bush's signature and shows the president shaking hands with Abramoff. Three others are of Bush, Abramoff and one of the lobbyist's three sons." According to Time, Garza's "meeting with Bush took place in 2001 in the Eisenhower Executive Office Building, next to the White House. Garza said the session was arranged with the help of Abramoff and Grover Norquist, a Republican activist, the magazine reported." Garza's tribe "owned a casino in Bush's home state of Texas, and there is no indication the administration acted to benefit the Kickapoo tribe at Abramoff's behest, Time said."

Democrats Deny They Benefited From Abramoff Contributions. Sen. John Kerry, on ABC's This Week (1/22, Stephanopoulos), responded to allegations that his 2004 campaign said, "got about $100,000 from…Abramoff-affiliated lobbying groups." Kerry stated, "I've never met Jack Abramoff. I've never had a dime come to me from Jack Abramoff. And I'm not going to stand for them suggesting that. … This is a Republican scandal."

Asked if corruption tied to Jack Abramoff is a "bipartisan scandal," Sen. Barack Obama, appearing on NBC's Meet the Press (1/22, Russert), said, "The specific problem of inviting lobbyists in who have bundled huge sums of money to write legislation, having them -- oil and gas companies come in to write energy legislation, having drug companies come in and write the Medicare prescription drug bill, which we now see is not working for our seniors. Those are very particular problems of this administration and this Congress. And I think Jack Abramoff and the K Street Project -- that whole thing is a very particular Republican sin."

Sen. Dick Durbin, on Fox News Sunday (1/22, Wallace), said, "I've never met Jack Abramoff, his wife or had any meeting with him. He and his wife donated $204,000 to politicians over a five-year period of time. Every single penny went to a Republican congressman or senator. … It is dead wrong for the Republican National Committee to be arguing now that the K Street Project that Tom DeLay and many others created on Capitol Hill had something to do with Democrats."

Texas Tribe Says It Was Victimized By Abramoff. In a Wall Street Journal letter to the editor (1/23), Ronnie Thomas, chairman of the Alabama-Coushatta Tribe of Texas, says, "In a Jan. 5 editorial-page commentary – 'The Least Transparent Industry in America' -- Fergus Bordewich identified the Alabama-Coushatta Tribe of Texas as a client of Jack Abramoff. Our tribe was never a client of Mr. Abramoff; we've had absolutely no relationship with him, other than being a victim of his unethical actions. On behalf of one of his clients, Mr. Abramoff worked to prevent our tribe from securing the rights to seek economic opportunities afforded federally recognized tribes under the Indian Gaming Regulatory Act (IGRA). Moreover, he directed another of his tribal clients to request that our tribe make a $50,000 donation to the Capital Athletic Foundation. Members of that tribe have admitted that they misrepresented what the donation was for, telling us that it was to support a congressional fact-finding mission and never mentioning Mr. Abramoff. We now know that Mr. Abramoff used our donation to pay for his trip to Scotland with Rep. Bob Ney."

Levitt Compares Congressional Lobbying Scandal To Corporate Corruption. In a Washington Post op-ed (1/23, A15), Arthur Levitt Jr., former chairman of the Securities and Exchange Commission, said, "I've come to think that our federal government is plagued by some of the same problems that have been hurting corporate America, primarily a lack of transparency, accountability and independence. As with many of the disgraced corporations of the past few years -- Adelphia, Tyco and WorldCom, for example -- so it is with Congress: Conflicts of interest abound, oversight has been myopic and those given the public's trust have used it to

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enrich themselves." Lawmakers "need not look far for an example of how to reform themselves. Just as Congress passed the Sarbanes-Oxley Act in 2002 to clean up American industry, it should pass similar legislation to clean up American government." Congressional lobbyists "should be required to disclose weekly, online, which members of Congress they contributed to and met with, which staff members they lobbied, and what issues were discussed. Lobbyists also should have to affix their signature to these disclosures and, like CEOs who sign false financial statements, face serious criminal penalties if the disclosures are not accurate." Levitt also identifies reforms that would restore congressional accountability and independence.

Kristol Says Election Of Shadegg Would Show House GOP Is Committed To Reform. Bill Kristol, editor of The Weekly Standard, appearing on Fox News Sunday (1/22, Wallace), said, "I think one test will be the House Republican leadership fight for majority leader to see how seriously Republicans want to send a signal of reform. … I think John Shadegg, who is the conservative reformist candidate, both because he was not a member of the leadership previously and was sort of a rebel against the leadership, and he voted against some of the big government programs that President Bush signed, particularly the Medicare prescription drug benefit. So if you think the problem is that even Republicans have expanded the size of government, Shadegg would send a signal that the Republicans are coming back to not creating new entitlements."

McCain Says Lobbying Reform Proposals Not Addressing Earmarks. Asked if he thinks "Jack Abramoff and his influence-peddling" is "a Republican scandal" Sen. John McCain, on Fox News Sunday (1/22, Wallace), replied, "No, I think it's a bipartisan scandal, because the lobbying is out of control. But the reason why the lobbying is out of control is because of the process, the system that prevails here on Capitol Hill between Republican and Democrat, and that's a thing called earmarking or pork barrel projects." McCain added, "It's time we sat down together, because both Democrat and Republican proposals are very similar."

The AP (1/23) reports Sen. John McCain said "efforts by both Democrats and Republicans to reduce the influence of lobbyists are not addressing the core of the problem." In an appearance on "Fox News Sunday," Sen. McCain "renewed his criticism of 'earmarks,' late additions to bills that often provide millions of dollars for lawmakers' pet projects." Said McCain, "If we don't fix the earmarking, then I can assure you the corruption will go on." The AP adds McCain said "lobbying reform promoted last week by both parties doesn't deal with earmarking because many politicians perceive it to be 'their bread and butter and preserves their incumbency.'"

USA Today (1/23, 2.31M) reports Sen. McCain said "lobbying 'is out of control,' and efforts to curb it don't address the core problem of 'earmarking.'" McCain "described an earmark as a 'pork barrel project' funded 'in the middle of the night' by a single provision 'that nobody's ever seen or heard of' inserted in a bill about to be passed." McCain said it "was a bipartisan problem, but Sen. John Kerry, D-Mass., said it is a Republican scandal because the GOP controls Congress and the White House."

Novak Questions Whether Parties Will Unite To End "Scourge Of Earmarks." Syndicated columnist Robert Novak (1/23) writes that the GOP and Democratic versions of lobbyist reform that were revealed last week "each fell short of what is called for by the reformer most widely respected by the public, Sen. John McCain. … A reform of a system that has grown ever more rotten must have two salient characteristics in McCain's view. It must be bipartisan, and it must eviscerate, if not eliminate, earmarks." Novak says that McCain faces an extremely difficult task in convincing "Democrats to cooperate with Republicans when they now see an opportunity to crush the GOP," while weaning "his own party from its addiction to government pork." Novak notes, "Annual earmarks, non-existent two decades ago, now near 15,000. McCain sees this as the source of lobbyist corruption, the vehicle used to bribe Duke Cunningham and the focus for half the capital's lobbyists. Both parties are united in silly changes like keeping former congressmen off the House floor and further curtailing how much a lobbyist can spend on a lawmaker's lunch. Will they unite to get rid of the scourge of earmarks?"

Rove Raising His Profile In Advance Of 2006 Elections. Newsweek (1/30) reports in its "Periscope" column, "After months of staying out of the limelight amid scrutiny in the CIA leak investigation, [Deputy White House Chief of Staff Karl] Rove is back and circulating, as Bush and the GOP prepare for battle on the eve of the 2006 midterm elections. He's traveling on domestic swings with Bush and taking high-profile trips of his own." Newsweek notes that Rove 'is still under scrutiny' in the investigation into the leak of CIA operative Valerie Plame's name.

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Ripon Society Said To Offer Lobbyists Access To Lawmakers. The Washington Post (1/23, A4, Edsall, 744K) reports that since 1964, the Ripon Society "has tried to create a more inclusive GOP through 'moderate, progressive policy formation,' according to its official mission statement." But in "recent years, however, a leading public watchdog group suggests, the Ripon Society has added an unofficial mission: travel agency to lobbyists." Under president Richard S. Kessler, "himself a prominent Washington lobbyist, people who represent corporate interests before Congress have 'spent millions taking lawmakers to European capitals and U.S. resorts' under the auspices of the Ripon Society and the affiliated Ripon Educational Fund, the group Public Citizen charged in a new report." Frank Clemente, director of Public Citizen's Congress Watch, said the "lure for the lobbyists who fund them is that they also take the trips, and gain 'unbridled access' to influential lawmakers." The activities "the report detailed are not illegal, but ethics specialists say they do highlight the difficulty of proscribing certain common Washington practices, if lobbyists and lawmakers are determined to continue them." Kessler is also "president of Kessler & Associates. Among its clients, according to the most recent disclosure forms, are Pfizer Inc. and three other major drug companies; Altria Group Inc., the corporate parent of cigarette maker Philip Morris USA; and railroad giant Burlington Northern Santa Fe Corp." Public Citizen says "members of Congress have gone on trips costing the Ripon Society and Ripon Education Fund $742,000 since 2000. In addition, Kessler's clients have provided another $273,000 for congressional travel."

Bush Speaking Glowingly Of Mao Biography. The New York Times (1/23, Bumiller, 1.19M) reports in its "White House Letter" column, "When President Bush met with Chancellor Angela Merkel of Germany in the Oval Office this month, the talk turned to Ms. Merkel's childhood under Communism, then wandered to the subject of Mr. Bush's latest bedtime reading: 'Mao: The Unknown Story,' an 814-page biography that presents the Chinese dictator as another Hitler or Stalin. Participants in the meeting say Mr. Bush spoke glowingly of the book." The Times adds," The book might at first seem an odd choice for Mr. Bush, whose taste in biography, like that of other American presidents, runs to previous occupants of the Oval Office. But it is not so surprising given that 'Mao: The Unknown Story' has been embraced by the right as a searing indictment of Communism. … Scott McClellan, the White House press secretary, said last week that Laura Bush gave the book to her husband as a gift, and that the president had just finished reading it. Asked why Mr. Bush liked the book, Mr. McClellan said he would find out, then reported back on Friday that Mr. Bush had told him that 'Mao' 'really shows how brutal a tyrant he was' and that 'he was much more brutal than people assumed.'"

Conservative Book Club Attacks Barnes' New Book About Bush. The Washington Post (1/23, C1, Kurtz, 744K) reports in its "Media Notes" column that the Conservative Book Club has attacked Weekly standard executive editor Fred Barnes' forthcoming book, "Rebel-in-Chief: Inside the Bold and Controversial Presidency of George W. Bush." Book club editor in chief Jeffrey Rubin writes, "'Rebel-in-Chief' is filled with 'empty puffery.'' Rubin adds that Barnes is "too favorable toward 'all those things that Bush does to drive traditional conservatives to despair' in a way that 'call[s] into question his own understanding of conservatism. ... Fred Barnes isn't doing the president -- or the country -- any favors by celebrating his worst political tendencies.'"

Rice Pushes Diversity In State Department Workforce. The Washington Post (1/23, A13, Kamen, 744K) reports in its "In the Loop" column, "Secretary of State Condoleezza Rice caused a bit of a stir in Foggy Bottom last week when she unveiled plans to redeploy diplomats from Europe to world hot spots. And no promotions, she said, without service in dangerous posts and fluency in two foreign languages, especially those spoken by people who may fancy grenade launchers and scream 'Death to America.' She also talked about the need for a more diverse Foreign Service, something that might improve diplomats' feel for foreign cultures. After all, just because you speak the language doesn't mean you can figure out when someone is lying through his teeth." The Post adds, "Diversity is one area where neither the State Department nor the National Security Council nor the Pentagon, despite decades of talking about it, have claimed much success. … At the State Department, four of six undersecretaries working for Rice are women, but a check of the top 45 or so officials at the assistant secretary level and higher finds fewer than a half-dozen minorities."

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HHS IG Finds Low Rates Of Foster Care Visits, Poor Record Keeping. In the absence of proof from most of the states, federal officials are concerned that many foster children are not being visited regularly by caseworkers. The Washington Post (1/23, A13, 744K) reports, "Only 19 states and the District were able to produce computer-based reports detailing how often such visits occurred in fiscal 2003, according to a new report by the inspector general for the Department of Health and Human Services. Seventeen of those states required monthly visits. Yet, five reported that less than half of their foster care children were visited that frequently. Another five states reported a visitation rate of 75 percent or less. Most states said they lacked the resources to produce such a report or they did not have a computer record-keeping system."

DeLay Says He's Focused On Future. In her Pittsburgh Tribune-Review column (1/22), Salena Zito interviewed Rep. Tom DeLay, noting that it is his "nature to move forward, whatever chaos swirls around him." At a Houston campaign rally for Gov. Rick Perry, DeLay said, "My top priorities are my constituents ... homeland-border security, improving our regional transportation infrastructure and NASA." The Tribune-Review adds Democrats "hate DeLay because he beat them, often and hard -- and he enjoyed it. Democrats may be miles apart on issues but they're united when it comes to taking down a wounded Republican, especially this former House majority leader." DeLay said, "Politics has to be about the issues ... . (W)hen you personalize political differences, you might occasionally hurt your opponent but you ultimately just destroy yourself. Politics should be about who's right and wrong, not who's good and bad." DeLay "says he'd rather concentrate on keeping Republicans what even many Republicans say they no longer are -- the party of fiscal responsibility and reform."

Obama Draws Fire For Criticizing GOP Ethics Lapses, But Not Those Of Illinois Democrats. In his Chicago Tribune column (1/22), John Kass says Sen. Barack Obama is "trying to pull off a real miracle. Obama, the Chicago Democrat, is the lead public thwacker of Republicans on the corruption issue involving self-admitted crooked Republican lobbyist Jack Abramoff." The miracle is "that he's trying to do this and push ethics legislation, while avoiding mention of the corruption among Democrats in Illinois. Federal investigations are crawling through the administrations of Chicago Mayor Richard Daley and Gov. Rod Blagojevich while Obama skips the mess back home." Obama "can't discuss virtue in Washington without speaking to the sleaze in Chicago. If he does, he'll be just another suit mouthing hollow words. Barack Obama is better than that."

Most Find Medicare Drug Program Difficult To Understand. The AP (!/22, Lester) reported on an AP/Ipsos poll which found that most people, "particularly senior citizens, say they are having a hard time understanding the new Medicare prescription drug program. … More than half, 52 percent, of respondents say they think the program that began enrolling people on Jan. 1 is tough to understand. Two-thirds of older people surveyed and two-thirds of those who have signed up say they are confused by the program, which is intended to help many save more on their prescription drugs. A third said they had not decided what they think of the new program and 16 percent said they have little trouble figuring out the program."

McClellan Blames Late Enrollments For Drug Benefit's Difficulties. Time (1/30, Thottam) reports, "A quarter of the 24 million people now enrolled in Medicare Part D are 'dual eligibles,' people who qualify for both Medicaid and Medicare. In other words, they are among the poorest and frailest people in the country. More than 70% of them make less than $10,000 a year; 372,000 of them have Alzheimer's. Republicans realize that after Katrina, they cannot risk another crisis in which the government appears to be abandoning its most vulnerable citizens. Some are already making that connection." Time adds, "In an interview with TIME last week, Mark McClellan, administrator of the Centers for Medicare and Medicaid Services, said most people entered the new system without encountering trouble. He attributed much of the difficulty of those who did to the huge number of people who enrolled or switched plans at the end of December. Although assigned to plans, dual eligibles had the right to change by Dec. 31 to one that best suited their needs. The Medicare bureaucracy is still catching up with all that data, McClellan says." Time also notes that "in response to the bipartisan outrage, House Republican leaders are considering a proposal, initially suggested by Democrats, to extend the deadline for signing up for the new benefit from May 15 to Dec. 31, a House G.O.P. aide tells TIME."

Policy Group Charged With Sorting Through Details Of New Drug Program. The Washington Post (1/23, A13, Goldstein, 744K) reports on Tracey McCutcheon, acting deputy director of the Medicare Drug Policy Group at the

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Center for Medicare and Medicare Services (CMS). McCutcheon "is deep in the weeds of the largest, most complex and -- judging from its first three weeks -- messiest expansion of the program in its history." She "works 12-hour days, taking conference calls, combing through statutory language and rethinking the fine print of 60 pages of federal regulations she helped to write." The Post adds, "As complaints and confusion about the drug benefit have spread around the country this month, McCutcheon said, 'some of the specific issues that come up have been surprising.' Still, she said, 'you never bring up a huge program and have everything perfect.'"

Kristol Warns GOP Could Lose Seats Over Medicare Drug Benefit. Bill Kristol, editor of The Weekly Standard, said on Fox News Sunday (1/22, Wallace), "Republicans have much…to fear about the Medicare drug prescription benefit going bad and them being blamed for -- that was passed on a party vote, pretty much. That is an October ad, 'he voted for this Medicare benefit, which isn't a benefit, which is going to cost you a lot money, which has been incompetently administered' -- whatever the charge is going to be. That could cost a congressman his seat."

Obama Says Administration Has "Competence Issue." Asked on NBC's Meet the Press (1/22, Russert) if he agreed with Sen. Clinton that this administration "will go down in history as one of the worst," Sen. Barack Obama responded, "I agree with her remarks about cronyism and incompetence. I don't think that anybody who has been watching the news over the last year, who has seen what happened in New Orleans, who has seen some of the botched planning that took place, post-war in Iraq, would not think that there is a competence issue when it comes to this administration."

Celebrities Push Pet Causes On Capitol Hill. The Los Angeles Times (1/22, Shiver, 958K) reported on the "growing parade of celebrities trekking up Capitol Hill to talk to the nation's lawmakers about issues that rarely have anything to do with their day jobs. Trying to get attention for pet causes easily lost in the clutter of public policy debates, stars hope their cachet can make the difference in opening doors, getting media attention and scoring face time on C-SPAN. … For celebrities, testifying and lobbying in the nation's capital offers the ego stroke of being taken seriously on important issues, and a chance to make headlines for something other than their latest loves or public mishaps. … But it also can often backfire when it appears a celebrity is simply fronting for an issue in which he or she has no special expertise. In 2002, Sen. George V. Voinovich (R-Ohio) walked out of a Senate subcommittee hearing on the environmental effect of mountain mining when Kevin Richardson, a Kentucky native and member of the Backstreet Boys singing group, was called as a witness. Voinovich told reporters the proceedings had turned into 'a joke.'"

OTHER NEWS:

Oil Prices Could Climb Above $70 A Barrel. Crude oil futures reached a 20-year high Friday, closing at $68.35 a barrel on the New York Mercantile Exchange sparking speculation that oil could soon rise above $70 a barrel. The Wall Street Journal (1/23, Goodman, 2.11M) reports, "That is a significant milestone and a telling indication of sentiment in the market: The only time oil prices have traded above $70 was Aug. 30, 2005, just after Hurricane Katrina slammed into the Gulf Coast, blazing a trail of destruction through the oil industry."

The Christian Science Monitor (1/23, Scherer, 61K) adds, "This time, the main impetus appears to be a bad case of international jitters, ranging from Iran to Nigeria to Osama bin Laden. If the tensions don't cool off, energy analysts warn, consumers should brace themselves to pay more at the gas pump in weeks ahead."

NBC Nightly News (1/22, story 3, 1:00, Mathison) reported, "The natural price for oil is probably in the $70 a barrel. However if things do cool off in Iran the risk premium could be lowered and prices could fall off and could you see oil prices in the $60 neighborhood."

Investors Nervous Amid Oil, Profit Worries. The Wall Street Journal (1/23, Browning, 2.11M) reports, "With the current bull market now more than three years old, the question is whether the economy can improve enough to get people…to feel good enough to start buying stocks again." At the start of the year, amid "optimism that the Federal Reserve would soon stop raising short-term interest rates and that corporate profit and economic growth would remain robust, investors bid stocks up strongly. But then, two bad things happened: Oil prices surged again amid concerns over rebel activity in oil-producing Nigeria and the West's showdown with Iran over its nuclear program. Then, prominent companies such as Intel, Citigroup and General Electric

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announced quarterly results that missed Wall Street expectations. That double whammy raised questions…about whether investor expectations had gotten too high and stock prices had become 'frothy.'" The Journal adds, "If investors adjust this week to the Iran worries, some of that selling pressure could ease. But a more fundamental reason that investors are nervous is that they fear that some of the market's underpinnings have weakened, making it harder for stocks to hold up in the face of the oil and profit worries."

Euphoria About Close Above 11,000 Has Faded. USA Today (1/23, Shell, Krantz, 2.31M) adds, "When the Dow closed above 11,000 on Jan. 9 for the first time in 4½ years, Wall Street viewed it as a harbinger of better things to come. The euphoria was short-lived. The Dow Jones industrial average's fast start is history. And the bright outlook for stocks in 2006 has suddenly turned cloudy. A 213-point sell-off Friday, the Dow's biggest one-day point decline since March 24, 2003, not only erased the Dow's 3% year-to-date gain and left it 333 points below the key 11,000 level, it also chipped away at investors' confidence." The "sharp reversal could offset the psychological boost that accompanied the Dow's topping of 11,000. Wall Street was hoping that the upbeat headlines would increase investors' comfort level and make them more willing to commit fresh money to stocks. Now there's concern they will remain on the sidelines."

Greenspan To Leave Federal Reserve Chair Quietly. USA Today (1/23, Hagenbaugh, 2.31M) reports that Federal Reserve Chairman Alan Greenspan will leave his job "just as quietly as he came in more than 18 years ago. No speeches are planned for investors to parse his every word. No testimony is scheduled on Capitol Hill for lawmakers to hear the chairman's opinion on pet issues. And he's not accepting interview requests from the media. He will quietly walk out the door on the evening of Jan. 31 with very little fanfare. … Greenspan's last day at the Fed will be marked by a luncheon with other policymakers, and a staff reception is scheduled. Small, private parties are also being held around Washington to mark his departure."

The AP (1/23, Benac) says Greenspan has managed the US economy "with great assurance for the past 18 years, presiding over an era of remarkable prosperity (interrupted by two mild recessions). He has done this as chairman of the Federal Reserve Board, a powerful and somewhat mystical institution that guides U.S. monetary policy. From that vantage, Greenspan has steered the economy through multiple international and domestic crises while keeping inflation and unemployment in check and helping the country adapt to the tectonic shifts of globalization and technology."

Some Analysts Say Greenspan Is Leaving "A Prosperity Built On Borrowing." A front page story in the Washington Post (1/23, A1, Henderson, 744K) reports that Greenspan's legacy "will be judged not just by his record at the Fed, but also by the economy he bequeaths. And when he leaves office Jan. 31, Greenspan leaves a nation awash in debt -- record household debt and a record trade gap. Many analysts say his low interest rate policies contributed to these huge imbalances, which threaten the economy he nurtured." The Post adds, "Greenspan's Fed didn't do it alone, economists agree. Other factors helped fuel the borrowing binge, including global financial trends that have helped keep mortgage rates low and prompted lenders to extend more credit to more people. The result is a prosperity built on borrowing, say many economists."

Runway Warning System Said To Be Outdated. USA Today (1/23, Levin, 2.31M) reports, "An antiquated warning system for the nation's pilots has led dozens of them to receive unreliable information about slippery runways and to land in dangerous conditions, according to a USA TODAY review of accidents and pilot reports during the past decade. In at least 42 cases since 1995, pilots of commercial and corporate aircraft reported skidding off runways after receiving reports that the runways were safe, according to NASA's Aviation Safety Reporting System." USA Today notes, "Icy conditions came into play in last month's crash of a Southwest Airlines jet, which skidded off a snowy runway at Chicago's Midway Airport and onto a nearby road…killing a 6-year-old boy."

Poll Finds Support Among Young For Abstinence-Only Sex Education. The Washington Times (1/22, Harper, 90K) reports that there is support among young people for abstinence-only sex education programs. According to a new Harris Poll, "56 percent of people ages 18 to 24, and 60 percent of those 25 to 29 think abstinence programs effectively reduce or prevent the occurrence of HIV/AIDS. Another 49 percent of people ages 18 to 24 and 52 percent of those ages 25 to 29 say the programs reduce or prevent unwanted pregnancies. Among six age groups and three political groups, younger respondents showed the strongest support for abstinence

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over safe-sex programs." The poll of 1,961 adults "was conducted Dec. 8-14."

Duckworth Only Seriously Wounded Iraq Vet Running For Congress. USA Today (1/23, Stone, 2.31M) reports on Illinois House candidate Tammy Duckworth, an retired Army Major and Iraq war veteran who lost both her legs and the use of her right arm when her Blackhawk helicopter was hit by a rocket propelled grenade. Many "in Chicago's western suburbs have already heard" of Duckworth, the "only seriously wounded combat veteran running this year for Congress, whose ranks of members with military experience are at their lowest since World War II, according to Congressional Quarterly." At least "nine other veterans who served in the post-Sept. 11 military have announced House bids. All but one — Republican Van Taylor in Texas — are Democrats who have criticized the Bush administration's conduct of the war." Duckworth says it "was 'a bad decision' to invade Iraq. So she is competing on another field of battle: politics. She hopes to succeed retiring Rep. Henry Hyde, a Republican who has held a House seat for more than 30 years. Duckworth must first beat two other Democrats in a primary and then take on Peter Roskam, a Republican state senator in the GOP-leaning district." University of Virginia political analyst Larry Sabato said, "Since Vietnam, the Democratic Party has been viewed as the weaker on national security issues. Who better to make the case than veterans of the war? It's hard to accuse them of a lack of patriotism."

Ford To Announce Layoffs, Restructuring Plan Today. NBC Nightly News (1/22, lead story, 2:00, Thompson) reported, "Detroit is holding its collected breath as tomorrow Ford will announce its restructuring blueprint. Having lost more than a billion dollars in North America last year, Ford is expected to cut up to 30,000 hourly and salaried jobs and close several plants, as part of its 'way forward' plan. That way forward will hurt. Analysts say among the plants shuttered are Atlanta, where the Ford Taurus is built, St. Louis, SUV sales hurt by high gas prices, also plants in St. Paul, Minnesota and in Michigan, the goal to bring numbers in line with the numbers themselves." Though its "redesigned Mustang is a hot seller, its market share is shrinking, today just capturing 17% of the American market compared to 25% a decade ago. It is competition from foreign manufacturers plus labor costs and gas price that is has put Ford in a situation one analyst described as dire."

Girl's Death Sparks Reevaluation Of NYC Protective Services. The New York Times (1/23, 1.19M) editorializes, "In a city that has seen child abuse fatalities before, the death of Nixzmary Brown, just 7 years old, was a particularly horrifying one. … What raised the level of outrage was the disclosure that city workers inexplicably ignored or bungled opportunities to save her. It's reassuring that Mayor Michael Bloomberg acknowledged the city's failures, and that child welfare workers and supervisors involved in the case have been suspended or reassigned. Some may lose their jobs. A larger investigation will take place and thousands of cases are being reviewed. The self-examination, though, cannot stop there."

Top Iranian Official Warns Against Referral To Security Council. The Financial Times (1/23, Khalaf, Smyth) reports, "Iran's top nuclear official on Sunday warned Tehran would resume efforts to enrich uranium on an industrial scale if its case was reported to the UN Security Council, further raising the stakes in the crisis over its nuclear program. 'If the case goes to the Security Council, we're obliged...to lift all voluntary measures,' he said, specifying that this included industrial-scale uranium enrichment." The story continues: "Mr Larijani spoke at the start of a week of intense diplomacy. European officials will visit capitals represented on the 35-member IAEA governing board to lobby for an EU-backed resolution on referral. Meanwhile, Mr Larijani is likely to be in Moscow to discuss a Russian proposal to find a compromise, an effort to forestall the Europeans or at least temper the tone of any IAEA resolution." The Financial Times (1/23) also reports Larijani "ridiculed western governments' request for a document said to show a weapons design obtained from the illegal nuclear procurement network of Pakistani scientist A.Q. Khan, and suggested Tehran would not hand it over to UN inspectors." Larijani told the FT, "If you can find anyone in the world who can make a bomb with one and a half pages, we will cover their whole body with gold."

Meanwhile, under the headline "West Talks Tough With Iran, Treads Lightly," the Wall Street Journal (1/23, Robbins, 2.11M) reports, "As U.S. and European officials press to have Iran brought before the United Nations Security Council, they are also promising that Tehran won't face serious punishment there -- for quite a while. ... Even as they

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press for a showdown with Tehran, American officials privately acknowledge that they aren't sure how to calibrate political or economic sanctions to bring maximum pressure on Iran's leadership without alienating the country's pro-reform and pro-American public. In recent weeks, officials in Washington and London have begun thinking about an aggressive public-relations campaign, beamed into Iran, to counteract Tehran's certain efforts to incite a strong nationalist backlash."

Sadr Says His Militia Would Defend Iran If Attacked. Reuters (1/23) reports, "Firebrand Iraqi cleric Moqtada al-Sadr has assured Iran that his Shi'ite Muslim militiamen will support the Islamic Republic if it comes under attack, the official IRNA news agency reported on Sunday. … 'If neighboring Islamic countries, including Iran, should come under attack, then the Mehdi Army will support them,' Sadr said on a visit to Tehran."

Iran Seeking To Use Oil Production As Leverage In Confrontation Over Nuclear Program. NBC Nightly News (1/22, story 2, 1:30, Williams) reported, "Iran, one of the world's biggest oil producers, has refused to halt its nuclear program. And many nations, including the US, see that as a potential security threat." NBC (Jordan) added, "Iran is not just a serious diplomatic challenge for the US and its allies, it's also turning into a challenge to their economies. The price of unleaded still going up nationwide. Overseas, no sign of any real retreat in the price of crude. All this, say analysts, prove the market is worried about Iran, its nuclear program and the global economy, especially if the UN Security Council gets involved. But on the Sunday talk shows, no agreement on the best way to hold Iran accountable." Sen. Pat Roberts: "Sanctions don't work unless you have a unified position with all trading partners with Iran." Sen. Joseph Lieberman: "If we feel Iran having nuclear weapons is that much danger to the rest of the world, then we have to be prepared to take military action." Jordan: "The White House has been trying to convince the public the economy is doing well, but Iran could turn into a very unwelcome complication."

Iranians Said To Stand Behind Government's Atomic Program. The Washington Post (1/23, A9, Vick, 744K) reports, "If any doubt remains that Iranians support their government in its quest to harness the atom, the answer comes quickly and emphatically in Persepolis, the magnificent ruins that symbolize the ancient pride and fading glory bound up with the nuclear issue here. Ordinary Iranians overwhelmingly favor their country's nuclear ambitions, interviews and surveys show." The support "runs deep in the population of 68 million, cutting across differences of education, age and, most significantly, attitudes toward the fundamentalist government that the Bush administration says is intent on using an energy program as a cover for developing atomic weapons." The Post adds, "Interviews with Iranians touring the ruins on a holiday weekend here suggest the breadth of the challenge facing Western powers determined to freeze Iran's recently reactivated nuclear program."

Israel Playing "Childish Game," Iran Says. The AP (1/23, Karimi) reports, "Iran said Sunday that Israel would be making a 'fatal mistake' if it takes military action against Tehran's nuclear program and dismissed veiled threats from the Jewish state as a 'childish game.'" While Israeli "Defense Minister Shaul Mofaz stopped short of an outright threat of military action [in comments Saturday], he said Israel "must have the capability to defend itself...and this we are preparing." The story cites Iranian Foreign Ministry spokesman Hamid Reza Asefi as saying: "We consider Mofaz's comments a form of psychological warfare. Israel knows just how much of a fatal mistake it would be (to attack Iran). ... This is just a childish game by Israel." The Washington Times (1/23, Rabinovich, 90K) reports Israel's defense minister "hinted strongly over the weekend that his country would act unilaterally if necessary to prevent Iran from acquiring nuclear weapons."

West Pursuing "Frog Strategy" With Iran. Time (1/30, Shannon) reports in its "Notebook" column, "As Iran shows no signs of giving in to global calls to cease its nuclear-research activities, Western nations have been mapping out a careful, incremental plan to stop Tehran. The West's plan is informally known to diplomats as the frog strategy," referring "to the old saw that if you want to boil a frog, you put the unsuspecting amphibian in a pot of cold water. … The plan was crafted by U.S. Secretary of State Condoleezza Rice and her French, German and British counterparts. The E.U. trio requested a meeting of the International Atomic Energy Agency, now set for Feb. 2, to consider referring Iran to the U.N. Security Council. If the case goes there, the allies plan a three-step approach: first, a mild resolution exhorting Tehran to end its questionable atomic activity voluntarily. If after two or three months Iran remains intransigent, they would then propose a stronger Security Council order based on the U.N.'s authority to combat threats to international

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peace. Step three would call for targeted sanctions, such as a freeze on government bank accounts a possibility for which Tehran apparently began planning last week when it started to shift its foreign-currency reserves from E.U. banks." Proponents of the strategy "say that only the go-slow approach can win support from Russia and China. … As for a step four to the strategy, there is no clear one yet: an uncooperative frog is something nobody wants to talk about."

UBS To Stop Doing Business With Iran. The Wall Street Journal (1/23, 2.11M) reports, "UBS AG said yesterday that it will stop doing business with Iran because of the Swiss bank's economic and risk analysis of the situation in the country." UBS "will no longer deal with individuals, companies or state institutions such as Iran's central bank, said bank spokesman Serge Steiner. A similar policy is being implemented in Syria, he said."

McCain Says Military Action Must Be Only "Last Option." Asked on Fox News Sunday (1/22, Wallace), if believes the "diplomatic track" will "stop Iran from developing a nuclear capability," Sen. John McCain said, "I don't know. I believe we have to exhaust all those options. But we cannot take the military option off the table. But we have to make it very clear it's the last option."

Roberts Cites Difficulties In Targeting Iranian Nuclear Facilities. Commenting on possible military action against Iran's nuclear facilities, Sen. Pat Roberts, on CBS' Face the Nation (1/22, Schieffer), said, "Their whole operation is spread out much more broadly than they have in the past. I would never rule that out. But at this particular time, I just do not think that that is...any kind of an alternative."

Lieberman Describes Potential Air Attack. Sen. Joseph Lieberman, on CBS' Face the Nation (1/22, Schieffer), said, "The fact is that it's good that we're working with Britain, France, and Germany now. But the pace is too slow. We've got to try to take it to the United Nations. I'm pessimistic that Russia and China will let us do what we want to do. And then I think we've got to form a coalition of the willing, first to impose economic sanctions on Iran, and secondly, we can never take the military option off the table. And if we feel that Iran having nuclear weapons is that much a danger to the rest of the world, then we've got to be prepared to take military action to deter their ability to get nuclear weapons." Lieberman continued, "This would be primarily an air attack. It's not going to involve massive use of ground forces. … We never want to be in a position to have to essentially contract out the protection of our national security vis-a-vis Iran to another country like Israel. And it's not easy for the Israelis. They don't have the same aircraft capacity that we do, capable of doing this."

US Spent $1.9 Million To Help Boost Fatah In Palestinian Elections. Following a Sunday report in the Washington Post, the New York Times (1/23, Erlanger, 1.19M) reports this morning, "The United States spent about $1.9 million of its yearly $400 million in aid to the Palestinians on dozens of quick projects before elections this week to bolster the governing Fatah faction's image with voters and strengthen its hand in competing with the militant faction Hamas, American and Palestinian officials said Sunday. ... American and Palestinian officials who spoke anonymously because they were not authorized to speak to reporters said that the program, which started in August, was intended to help defeat Hamas and that the government had done a detailed political analysis to try to focus on constituencies where Hamas was doing well." Meanwhile, Micaela Schweitzer-Bluhm, a spokeswoman for the American consulate in East Jerusalem, told the Times: "The spending was intended 'to work with the Palestinian Authority to enhance democratic institutions and support democratic actors, not just Fatah.' ... Although American aid was always acknowledged publicly, Ms. Schweitzer-Bluhm said, 'Our logo was not always on the banner.'"

NBC Nightly News (1/22, story 6, 1:30, Fletcher) added, "Election fever in Gaza, from children shouting slogans to women running for Parliament. Palestinians swept along in a wave of democracy. Wednesday will be their first elections in 10 years. It's neck and neck between the only party ever to hold power, and the arch rivals are fundamentalist Hamas. They are toning down its rhetoric which calls for the destruction of Israel. Instead, they are focused on clean government, an end of corruption, and they don't rule out negotiations with Israel. Now Fatah is getting help. $2 million of foreign aid is being used to help financial the campaign, paying for a tree-planting ceremony, praising Mahoud Abbas."

Israel Braces For Likely Hamas Win. The AP (1/23, Federman) reports Acting Israeli PM Ehud Olmert "met with top military and political officials Sunday to discuss the growing likelihood that the militant group Hamas could dominate this week's Palestinian elections. The ascendance of Hamas has alarmed Israel, which appears to have been caught off guard by the group's surging popularity before Wednesday's vote." The New York Times (1/23, Erlanger,

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1.19M), meanwhile reports, "Fatah, the mainstay of the Palestinian Authority and the Palestine Liberation Organization, is in trouble, even ... in Nablus, one of the West Bank's toughest and largest cities, and a longtime stronghold for the group. Fatah is struggling to beat back" Hamas, "which won an astonishing 13 of Nablus's 15 local council seats a month ago, and elected an efficient, worldly yet devout mayor."

The Washington Times (1/23, Mitnick, 90K) also reports on the "kaleidoscope of campaign banners," noting "nowhere to be seen is the likeness of Palestinian Authority President Mahmoud Abbas. With his Fatah Party dangerously close to losing Wednesday's parliamentary elections to the Islamic militants of Hamas, the Palestinian moderate has taken a surprisingly low profile in a contest that many see as a referendum on his tenure." The Times adds, "Aides say election laws forbid campaigning by the president, who is not up for re-election." But "others say Palestinians are so disappointed with Mr. Abbas that he would only hurt his party." The New York Times (1/23, Erlanger, 1.19M) runs a similar story under the headline "In A Stronghold, Fatah Fights To Beat Back A Rising Hamas."

Wolfowitz's Drive Against World Bank "Corruption" Causes Controversy. The Financial Times (1/23, Balls, Alden) reports, "Paul Wolfowitz, president of the World Bank, has triggered a bitter conflict with the bank's senior career staff by empowering a group of close political advisers to pursue aggressively what he sees as widespread corruption surrounding bank projects." The dispute "has come to a head with the appointment last week of Suzanne Rich Folsom, a counsellor to Mr Wolfowitz with close ties to the Republican party, as the new director of the Department of Institutional Integrity, the internal bank watchdog that investigates suspected fraud and staff misconduct." Her appointment "has raised objections that a person close to Mr Wolfowitz, and with a political background, has been put into a senior position at a unit that was seen as independent of the president's office since it was set up in 2001."

China, Saudis Expected To Sign Energy Deal. The Wall Street Journal (1/23, Oster, 2.11M) reports, "China and Saudi Arabia are expected to sign a wide-ranging agreement today on energy cooperation amid Beijing's quest to secure more energy resources vital to fuel its fast-growing economy." China, "the world's second-biggest consumer of oil, has been seeking to tighten economic and political partnerships with its major oil suppliers across Central Asia, Africa and Latin America. Its quest has taken on added urgency since 2004, when the country's oil demand surged about 15%, helping underpin the biggest rise in international oil prices in a generation."

Russian Explosions Sever Gas Lines To Georgia. The New York Times (1/23, Chivers, 1.19M) reports, "Explosions in southern Russia on Sunday morning severed the country's natural gas pipelines to Georgia, swiftly plunging Russia's neighbor into heat and electricity shortages and causing a diplomatic flare-up between the nations. ... By late afternoon, President Mikheil Saakashvili of Georgia said gas flow had ceased and energy rationing would be necessary. ... The shortage was expected to last at least two days." According to the Times, "Russian officials initially said the explosions appeared accidental but later announced that a criminal investigation had begun and that the blasts were acts of sabotage."

Morales Sworn In As Bolivian President. The Financial Times (1/23, Weitzman) reports, "Evo Morales was sworn in on Sunday as Bolivia's first indigenous president in a historic and emotional ceremony that set the tone for his new government." In a long speech, Morales "warned the US not to try to dominate the region, promised to slash parliamentary salaries and stamp out corruption, and reaffirmed his commitment to nationalising Bolivia's hydrocarbons sector." He also "pledged to change Bolivia's economic model. 'We have to end neo-liberalism,' he said. A central theme was the long struggle by the indigenous majority in Bolivia against discrimination: 'We need to repair 500 years of history.'"

The New York Times (1/23, Forero, 1.19M) adds that "in the Congress, Mr. Morales asked for a moment of silence for Inca martyrs, for the Argentine guerrilla Che Guevara, who died in a failed effort to start a revolution here in 1967, and 'the millions of humans who have fallen in all of Latin America.'" In "a rambling, passionate speech" that "mixed Spanish and Aymara, Mr. Morales did not veer from the populist themes that enthralled his followers and gave him a landslide win in the election on Dec. 18."

The Washington Post (1/23, A1, Reel, 744K) reports on Morales' swearing-in under the headline "For Bolivian Majority, A New Promise," while Knight Ridder (1/23, Chang)

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notes Morales "demanded the world community cancel the impoverished Andean country's $6.43 billion in foreign debt, saying, 'This money definitely never helped our indigenous people.'"

India Cultivating Closer Ties With US Congress. The New York Times (1/23, Sengupta, 1.19M) reports, "New Delhi, the Indian capital, has had a flurry of visitors from Capitol Hill lately, with the American Embassy here recording 10 Congressional delegations in 2005 alone. The reasons for the newfound interest in India are self-evident: its growing strategic importance for an American administration eager to check Chinese dominion over Asia, the lure of the Indian market for American companies, and the emergence of Indian-Americans as an increasingly engaged political bloc. For India, too, the stakes are important. Rarely, if ever, has the United States Congress been as important for New Delhi. It alone can grant a boon that India desperately wants: approval of a deal signed last July by President Bush and Prime Minister Manmohan Singh to share nuclear materials, including fuel and reactors, to help this energy-starved country."

Martin Attempts To Tie Harper To Bush. NBC Nightly News (1/22, story 7, 2:00, Williams) reported, "As voters prepare to go to vote in Canada, there is mud slinging between liberals and conservatives and there are also attack ads against the US. … Paul Martin is in danger of being thrown out of power, weakened by financial scandal and voter fatigue. So there were a series of attack ads trying to link" Conservative Party leader Stephen Harper "to one of the least popular figures in Canada, George Bush. The liberals are playing off wide spread antipathy George Bush, including Iraq." Prime Minister Martin was shown saying, "Let me tell you, Stephen Harper, we have our own values, and we don't have to borrow from the farthest right in the US conservative movement." NBC noted, "On the campaign trail, Harper has kept his distance from US policy, too."

USA Today (1/23, For, 2.31M) reports, "The weekend before the election…Martin accused…Harper of being too much like U.S. Republicans." Harper "dismissed Martin's criticism and struck a confident note as he campaigned."

The Christian Science Monitor (1/23, Dube, 61K) reports, "Canada's Conservatives have captured the momentum as the country nears its Jan. 23 election date, with polls showing a majority of Canadians would be happy to see the Liberal Party's 13-year winning streak come to an end."

The New York Times (1/23, Krauss, 1.19M) reports, "A change in Ottawa would almost certainly bring, at the least, a warming of relations with Washington, which have been strained since the American-led invasion of Iraq and have worsened over a series of recent trade disputes and Canadian moves to soften domestic drug laws. Mr. Harper, while careful not to appear overly supportive of President Bush, has suggested he would reconsider Canada's refusal to join the American missile defense program. He has also promised to increase military spending and make a bigger contribution to NATO and peacekeeping operations in places like Haiti and Afghanistan. But he also said recently that he had no intention of sending troops to Iraq."

In an op-ed for the New York Times (1/23, 1.19M) the National Post's Andrew Coyne writes, "Slowly, by stages, rather than suddenly and violently, the Western world's most enduring political dynasty is cracking up. The Liberal Party of Canada, it is often noted, held power for more years in the 20th century than the Communist Party of the Soviet Union. … Though decidedly from the (libertarian) right of the party, Mr. Harper has learned to temper his ambitions to reshape Canada's federal system and rein in its sprawling government."

Chavez May Face Domestic Backlash. U.S. News and World Report (1/30, Cue) reports that December's election in Venezuela "further consolidated power" for President, Hugo Chavez. But "even as he uses influence and money to push other Latin America nations leftward, political watchers say Chavez may face a serious domestic backlash." Venezuela "has become increasingly polarized in the seven years since Chavez was first elected president. … Since Chavez took office, the country has gone through a cascade of political tumult: the adoption of a new Constitution that many consider antidemocratic, a failed coup attempt, an unsuccessful recall referendum that large segments of society say was fixed, and a costly two-month oil-workers strike. For disaffected Venezuelans, their president is simply illegitimate."

Left-Wing Parties Said To Be On The March In Latin America. U.S. News and World Report (1/30, Pethokoukis) reports that in country after country in Latin America, "left-wing parties with more skeptical attitudes toward free markets have been on the march. … Why the leftward turn? Some blame

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rampant inequality." But "fiery political rhetoric may not translate into radical economics, says analyst Carol Graham of the Brookings Institution." Most Latin American leaders "are modeling themselves on Tony Blair -- not Fidel Castro. … 'Although there's been lots of talk about the return of the left, the way the economies are being managed suggests otherwise,' Graham says."

Israeli Foreign Minister Says Sharon Disengagement Plan Changed Israeli Politics. Newsweek (1/30, Weymouth) interviews Israeli Foreign Minister Tzipi Livni. Asked, "What was [Ariel] Sharon's most important political contribution," Livini said, "The disengagement plan changed totally the terms of the conflict and the political map in Israel. It changed some of the right-wing understanding and should change the international community's attitude toward Israel. Until then, Israel was blamed as a country that wants to control the lives of the Palestinians and will not dismantle any settlements. What we did changed the relationship between Israel and the Palestinians and the status of Israel within the international community." Asked why she decided to join Sharon's new party, Livini said, "I entered Israel's political life and joined Likud because I thought it should lead Israel in terms of the Israeli-Palestinian conflict... Then I understood that there is no chance to get the Likud to be a united party because most Likud leaders couldn't make clear statements about the need for Israel to support a two-state solution."

Japanese Public Said To Have Become More Accepting Of US Military Presence. The New York Times (1/23, Brooke, 1.19M) reports, "After a United States Navy sailor was confined on an American base near here [Tokyo], accused of the Jan. 3 beating death of a Japanese woman, 20 people held a protest at the base. … A decade ago, when three American servicemen were detained on an American base in Okinawa for the rape of a 12-year-old girl, 85,000 people marched one weekend, many demanding the expulsion of American bases from the island. The difference is only partly explained by the way the United States handled the two cases. In 1995, American officials were much slower to allow the Japanese to place an American in custody; this time the suspect was transferred as soon as a Japanese arrest warrant was issued. Another major factor is the change in Japanese attitudes toward the military alliance with the United States. In 1995, the cold war had only recently ended, and many Japanese expressed the belief that Japan no longer needed American troops. But the most recent case occurred days after Taro Aso, the foreign minister, warned that China was becoming 'a considerable threat.'"

Zoellick Says Banned Beef Shipment To Japan Was An "Unacceptable Mistake." Reuters (1/23) reports Deputy Secretary of State Robert Zoellick "told Japanese Agriculture Minister Shoichi Nakagawa on Sunday that a beef shipment to Japan that resulted in a renewed ban on U.S. imports was an unacceptable mistake, according to a U.S. Embassy official. Japan, the biggest market for American beef, had just last month lifted a ban on imports imposed in 2003 after a U.S. case of the brain wasting mad cow disease. … The discovery on Friday of spinal material, believed to have a higher risk of causing a fatal human form of mad cow, in a shipment from the United States, prompted Japan to renew the ban. Tokyo had lifted the ban under strict conditions, including a stipulation that materials such as spinal cord tissue be removed."

New Liberian President Supports Stronger Ties To US. USA Today (1/23, For, 2.31M) reports, "Liberia's new president says she wants to rebuild close ties with the United States in the wake of a 14-year civil war that undermined the relationship. Ellen Johnson Sirleaf, sworn in Jan. 16 as Africa's first female head of state, said American help is essential to restoring vital services, such as running water and power. She warned that tens of thousands of former fighters could destabilize the country again if they don't get work or education."

Bird-Watching Pediatrician Among Turkey's Top Authorities On Avian Flu. The Wall Street Journal (1/23, A1, Shishkin, 2.11M) reports on Metehan Özen "one of Turkey's foremost birdwatchers" and a pediatrician who has monitored patients suspected of having bird flu. The Journal notes, "For years Dr. Özen's hospital job and his hobby existed in unconnected worlds. As Turkey grapples with the bird-flu outbreak here that has quickly infected at least 21 people and killed four, the doctor's two callings have put him in the middle of the quest to understand the virus and contain its spread. … In September, Dr. Özen warned colleagues at a medical congress that wild birds could bring

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avian flu to Turkey during the winter migratory season, and that is now an accepted theory."

Catholic Order's Influence In Latin America Noted. The Wall Street Journal (1/23, De Córdoba, 2.11M) reports on the Legion of Christ, "a fast-growing conservative Roman Catholic order. … Founded in 1941, the order concentrates on ministering to the wealthy and powerful in the belief that by evangelizing society's leaders, the beneficial impact on society is multiplied. Like the Jesuits who centuries ago whispered in the ear of Europe's princes, the Legion's priests today are the confessors and chaplains to some of the most powerful businessmen in Latin America."

Kim Jong Il Visit To China Regarded With Skepticism. In an op-ed for the Wall Street Journal's Melanie Kirkpatrick (1/23) writes, "North Korea's worst-kept secret was formally breached last week when Pyongyang confirmed, after the fact, that Kim Jong Il had paid an 'unofficial' visit to China. … Kim's travels took him to the thriving south of China, prompting speculation that he's finally, really, truly going to introduce substantive economic reforms to his nation, one of the poorest on the planet. Scholars and journalists rushed to interpret the visit as a sign that Kim is gearing up to follow China's path to prosperity through free markets. … Nowhere is that fantasy more indulged than in South Korea, where political leaders have been predicting since the '80s that the North's capitalist conversion is just around the corner." Kirkpatrick concludes, "Kim's recent trip to China isn't likely to result in economic transformation, or prosperity for his people. His authority depends on his ability to control the economy, keeping his people shackled to the state for food, shelter and work. That's the ugly bottom-line."

Bush Accused Of Failing To Promote Democracy In Russia. The Washington Post's Fred Hiatt (1/23) writes, "If promoting democracy is President Bush's largest ambition, then Russia is his largest failure. Not that President Vladimir Putin is the world's most repressive ruler -- far from it. … But no other nation has regressed from openness to authoritarianism during Bush's time in office as dramatically and decisively as Russia -- and with less apparent objection from Bush."

Rice Said To Lag Behind Foreign Policy Consensus. In his column for the Washington Post (1/23, 744K) Sebastian Mallaby writes that "the strange thing about Condoleezza Rice is that, when it comes to the stuff that a professor-politician should be really good at, she can be oddly flat-footed. … Rice gave two speeches last week calling for 'transformational diplomacy,' meaning diplomacy that will transform undemocratic societies: The internal affairs of other countries turn out to be important after all." Rice "has caught up with the 1990s consensus that powerful states may pose less of a problem than disintegrating weak ones and that the best hope for peace in the long term is a world of stable democracies."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times: (Check these)

"Health Plan To Revive Debate."
"King/Drew Hits Hard At Problem Personnel."
"Attorney's Perseverance Yields A Legal Masterpiece."
"Voter Discontent Boosts Hamas."
"Walt's Shoes At Disney Could Be A Fit For Jobs."
"Sri Lanka Still Wed To System."
"81 For The Books."

USA Today:

"Attacks In Iraq Jumped In 2005."
"Runway Reports Often Unreliable."
"Illinois Amputee Among 10 Post-9/11 Veterans Making Runs For Congress."

New York Times:

"As Profits Soar, Companies Pay US Less For Gas Rights."
"Seeking Edge In Spy Debate."
"In A Stronghold, Fatah Fights To Beat Back A Rising Hamas."
"Potent Mexican Meth Floods In As States Curb Domestic Variety."
"Held In 9/11 Net, Muslims Return To Accuse US."
"Answering The Fire Bell In The Company Of Women."

Washington Post:

"Politics Alleged in Voting Cases."
"For Bolivian Majority, A New Promise."
"Attacks Strain Efforts On Terror."
"As U.S. Economy Has Thrived, So Has Debt."
"Professionals Fleeing Iraq As Violence, Threats Persist."
"Swelling Textbook Costs Have College Students Saying, 'Pass.'"

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Washington Times:
"Contractors Leaving Iraq."
"Pentagon Hails Military Meeting."
"Pro-Life Groups See Brighter Days."
"Virginia Parish Demands Leader 'Repent.'"
"Abbas Under Radar As Elections Loom."
"Community Foils Planned Strip Club Outside Laurel."
"Banks Cater To Expanding Muslim Population."

Detroit Free Press:
"Faith, Focus Help Students Adjust To New High Schools."
"Ford Plan: Big Cuts, A Secret Strategy."
"Jobs Crisis Forces Granholm To Shift Her Focus."

Atlanta Journal-Constitution:
"Firms Get Sweet Deal On Public Gas Fields."
"Tale Of Two Aquariums"
"Bills Give Victims More Right To Use Force."
"Fulton Wants Houses Out To Put School In."
"Proposed Trust Could Serve As Boon For State's Arts."

Dallas Morning News: (Check these)
"Respite From Fire Risk Won't Ease Drought."
"Fort Hood Grieves For 12 Lost In Iraq."
"Ex-Enron Workers Pour Energy Into New Ventures."

Houston Chronicle:
"Energy Trading Regaining Its Spark."
"Kubiak Coming Home."
"Leftist Vows A New Era For Bolivia."
"Restoring New Orleans, House By House."
"Taxpayers Missing Out On Latest Energy Bonanza."

Story Lineup From Last Night's Network News:
ABC: Pre-empted by gold.
CBS: Pre-empted by football.
NBC: Ford Layoff Announcement; Iran Sanctions; Oil Pricing; WV Mine Fire; Kidnapped Journalist; Palestine Elections; Canadian Elections; Boys Education Gap; Papal Guard; Faberge Eggs.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Ford-restructuring; Gas prices; NFL playoffs.
CBS: Gas prices; Energy company royalty payments; NFL playoffs; Bryant-points record; Iraq-Saddam trial; Iraq-kidnapped journalist.
NPR: Lawmakers-domestic surveillance; Ford-restructuring; Gas prices; Bolivia-presidential inauguration; Israel-Palestinian violence; Navy-pirate ship seized; NFL playoffs; Ford's condition.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH — Speaks at Kansas State University. Manhattan, Kan.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: 11 a.m. APPROPRIATIONS _ Labor, Health and Human Services, Education, and Related Agencies Subcommittee. Hearing on mine safety, centering on the Sago mine disaster. Acting Assistant Labor Secretary David Dye; Ray McKinney, administrator, Coal Mine Safety and Health Administration; Deputy Assistant Labor Secretary Bob Friend; Edward Claire, associate solicitor, Division of Mine Safety and Health; Ben Hatfield, president and CEO, International Coal Group; Davitt McAteer, vice president of sponsored programs, Wheeling Jesuit University; Chris Hamilton, senior vice president, West Virginia Coal Association; Cecil Roberts, international president, United Mine Workers of America; Bruce Watzman, vice president of safety and health, National Mining Association. Location: Room 106, Dirksen.

US House: No scheduled events.

Other: PAKISTANI PRIME MINISTER SHAUKAT AZIZ _ Highlights: Meets with Defense Secretary Rumsfeld and visits Capitol Hill. 1 p.m. Speaks to the U.S. Chamber of Commerce on recent business and economic developments in Pakistan. 1615 H St. NW. Note: Equipment must be set up by 11 a.m. Media must be through security and seated by 1 p.m. Only pre-registered media with federal or city government issued credentials will be admitted. 2:30 p.m. Closed meeting of Senate Armed Services Committee. Room 222, Russell Senate Office Building. 4 p.m. Speaks on ``Pakistan: Anchor for Regional Peace and Security." Heritage Foundation, Allison Auditorium, 214 Massachusetts Ave. NE.

ITALIAN FOREIGN MINISTER GIANFRANCO FINI _ Highlights: Meets with Secretary of State Rice. Time TBA. 2:30 p.m. Meets with Vice President Cheney.

MARCH FOR LIFE _ Annual March for Life and related activities. Highlights: 8:30 a.m. Pro-life leaders hold a news conference to make a joint statement on the Alito confirmation. With members of the National Pro-Life Religious Council. Room 325, Russell Bldg. 9 a.m. Student pro-life activists deliver ``red rose messages" to members of

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Congress, the Supreme Court, President and Vice-President. 11 a.m. Rock for Life members gather for the March for Life at 7th St. and Madison Dr., on the Mall. Contact: Amber Dolle, 540-903-9572. 12 p.m. Rally at the intersection of 7th St. and the National Mall, followed by March for Life on Constitution Avenue to th Capitol and Supreme Court. 4 p.m. Rock for Life members attend the Silent No More post-abortion speak out and rally. At the Supreme Court, 1st St. and Maryland Ave. NE. Contact: Amber Dolle, 540-903-9572. 6 p.m. 24th Annual Rose Dinner, Hyatt-Regency, 400 New Jersey Ave, NW. Keynote address by Raymond Flynn, former Mayor of Boston and Ambassador to the Vatican.

HEALTH-HUMAN MANAGEMENT _ The World Congress Health and Human Management Congress meets. Agenda focuses on health and human capital management and improving corporate performance and costs. Highlights: 8 a.m. Session on incentives, productivity and healthcare costs, with Joseph Fortuna of Delphi Corp., Virginia Proestakes of General Electric, Walter Talamonti of Ford Motor Co. 5 p.m. Nobel Prize winner Milton Friedman speaks on how to cure the healthcare problem. Location: Ritz-Carlton Hotel, 1150 22nd St. NW.

ANTI-ABORTION BLOGGERS _ 9 a.m. The Family Research Council co-sponsors a one-day conference, Blogs4Life, for anti-abortion bloggers, along with MarchTogether.com and ProLifeBlogs.com. The meeting coiniclde s with the 33rd annula March for Life. Location: Family Research Council, 801 G St. NW.

TEEN RALLY FOR LIFE _ 8 a.m. Catholic teen rally and mass in conjunction with the March for Life. Highlights: 8 a.m. Sacrament of Confession. Close to 100 priests available for confessions in the Acela Club Restaurant. 8:45 a.m. Prayer and song rally with perfomances by Christian recording artists Steve Angrisano, Tony Melendez, the Toe Jam Band, and the ``Who Do You Say I Am?'' Band. 10 a.m. Mass with Cardinal Theordore McCarrick, accompanied by Cardinals Edward Egan of New York and Justin Rigali of Philadelphia, and Rev. Garard Francik, director of vocations at the Baltimore archdiocese. Location: MCI Center, 601 F St. NW.

ETHICS COMMISSION _ 9:30 a.m. Common Cause holds a panel discussion on how Congress can create an independent ethics commission, with Normaan Ornstein of AEI, attorney Stanley Brand, Dennis Thompson of Harvard University, others. Location: National Press Club.

IRAN-NUCLEAR _ 9:30 a.m. Sen. Jon Kyl, R-Ariz., The Committee on the Present Danger, and the Foundation for Defense of Democracies, hold a news conference to release the CPDs new Iran policy paper as well as the results of a poll on Iran conducted for the FDD. As President Bush prepares to deliver the State of the Union address, the CPD will release a new Iran Policy Paper calling for stronger actions to prevent Iran from acquiring nuclear weapons. Location: Room SC-6, Capitol (use North Visitors Entrance).

ABORTION _ 10 a.m. National Right to Life officials hold a press conference in response to the 33rd anniversary of Roe v. Wade. Location: National Press Club, Zenger Room.

DOMESTIC SPYING _ 10 a.m. Deputy National Intelligence Director Gen. Michael Hayden speaks on the domestic spying controversy. Location: National Press Club.

KATRINA-WOMEN _ 10 a.m. The National Council of Women's Organizations holds a briefing on the impact of hurricanes Katrina and Ritz on low-income women and families. Location: Room HC-8, Capitol.

REGIONAL PREPAREDNESS _ 11 a.m. - 12 p.m. The Heritage Foundation hosts a panel discussion on ``Building the Right Regional Network for Preparedness and Response,'' looking at federalism and regional organization within the Department of Homeland Security. With Thomas Lockwood, director, National Capital Region, Dept. of Homeland Security; Edwin Meese, chairman, Center for Legal and Judicial Studies, Heritage Foundation; retired General William Moore, consultant, Computer Sciences Corporation; and James Carafano, Heritage Foundation. Location: Lehrman Auditorium, Heritage Foundation, 214 Massachusetts Ave. NE.

LOBBYING REFORM _ 12 p.m. A coalition of reform groups hold a news conference to present a plan for lobbying reform to prevent the failures that made the Abramoff scandal possible, and critique current reform plans. With Joan Claybrook, president, Public Citizen; Fred Wertheimer, president, Democracy 21; Chellie Pingree, president, Common Cause, and others. Location: National Press Club, 14th and F Sts. NW.

FOREIGN AID _ 12 p.m. - 2:30 p.m. The American Enterprise Institute holds an afternoon conference on ``The Future of Foreign Aid? The Millenium Challenge Corporation Two Years On.'' A look at U.S. foreign aid and the new mechanism established by the Bush Administration. With Ambassador John Danilovich, Millenium Challenge

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Corporation; Ambassador Jose Brito, Embassy of Cape Verde; Adam Lerrick and Roger Noreiga, AEI; and Clay Lowery, Treasury Department. Location: Wohlstetter Conference Center, 12th floor, AEI, 1150 17th St. NW.

BIRD FLU-TRADE _ 12:30 p.m. - 2 p.m. Dr. Ron DeHaven, administrator of the USDA Animal and Plant Health Inspection Service, leads a discussion on whether avian influenza is a threat to the U.S. and what will be its impact on trade? Location: Tew Cardenas LLP, Suite 1150, 700 12th St, NW.

GONZALES-METHAMPHETAMINE _ 1 p.m. Attorney General Alberto R. Gonzales delivers remarks at the National Town Hall Meeting on Methamphetamine Awareness and Prevention. Location: Room 419, Dirksen Senate Office Building.

TROOPS-DRINKING WATER _ 1:30 p.m. The Senate Democratic Policy Committee holds a hearing to look into charges that KBR, a subsidiary of Halliburton, provided U.S. troops with water it knew was unsafe for human use. Location: Room 628, Dirksen.

DOLE-SENATE RACES _ 2 p.m. Senator Elizabeth Dole, R-NC, chair of the National Republican Senatorial Committee, holds a pen and pad briefing to discuss the 2006 Senate races. Location: National Republican Senatorial Committee, 425 Second St, NE.

INTELLIGENCE POLICY _ 2 p.m. The Center for Strategic and International Studies holds a speech by Rep. Mike Rogers on the future of intelligence policy and winning the war on terrorism. Location: B-1 conference level, 1800 K St. NW.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: MONDAY, JANUARY 23, 2006 7:45 AM EST

TODAY'S EDITION

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TERRORISM NEWS:

White House To Launch "Political Campaign" To Defend NSA Wiretapping. USA Today (1/23, Jackson, 2.31M) reports, "The White House launches a political campaign this week, not for a candidate but for a controversial program: warrantless surveillance of some U.S. citizens by the National Security Agency." President Bush "plans to defend the program in a counterterrorism speech today at Kansas State University, aides said." The speech "will kick off a flurry of administration activity leading to Senate hearings scheduled for Feb. 6." White House spokesman Scott McClellan said, "We are stepping up our efforts to educate the American people about this vital tool in the war on terrorism." Bush and aides "plan to repeat arguments they have made before: This is a limited program that kicks in only when one of the parties is beyond US borders and has some kind of link to the al-Qaeda terrorist organization." Just before Bush's speech today in Manhattan, KS, "Gen. Michael Hayden plans to discuss the surveillance program at the National Press Club. Hayden, the principal deputy director of national intelligence, once headed the National Security Agency, which conducts the surveillance." Attorney General Alberto Gonzales "is scheduled to address the issue in a speech Tuesday, McClellan said. On Wednesday, the president plans to visit the NSA headquarters at Fort Meade in Maryland."

Under the headline "Delicate Dance For Bush In Depicting Spy Program As Asset," the New York Times (1/23, Nagourney, 1.19M) reports, "With a campaign of high-profile national security events set for the next three days, following Karl Rove's blistering speech to Republicans on Friday," the White House "has effectively declared that it views its controversial secret surveillance program not as a political liability but as an asset, a way to attack Democrats and re-establish…Bush's standing after a difficult year." The Times adds, "Whether the White House can succeed depends very much, members of both parties say, on its success in framing a complicated debate when the country is torn between its historic aversion to governmental intrusion and its recent fear of terrorist attacks at home." Polls "suggest that Americans are divided," but "as the White House and Democrats are well aware, the issue can draw very different reactions depending on how it is presented. These next few days could prove critical, as both Mr. Bush and Congressional Democrats move aggressively to define what is at stake."

Yesterday, lawmakers appeared on the political talk shows to comment on the controversy. Reuters (1/23, Kenen) says "Democrats and some Republicans have said the Bush administration's classified warrantless eavesdropping program is illegal," while the AP (1/23, Yen) also covers the lawmakers' comments, saying "several" of them "said Sunday they will press…Bush to justify his decision to allow domestic eavesdropping, rebuffing GOP suggestions their criticism of broad executive authority puts the nation at risk." The AP adds, "During the Sunday talk shows, lawmakers were responding to efforts by White House aide Karl Rove to make national security the top partisan issue in the November midterm elections." Rove "made the comments about the time that new audiotape warnings by Osama bin Laden were released, threatening an upcoming attack on the US."

Lawmakers "from both parties" called "for Congress to consider whether new restrictions were needed on government surveillance in suspected terrorism cases involving people in the United States," says the Los Angeles Times (1/23, Richter, 958K). Congress, adds the Times, "is deeply divided on whether the Bush administration acted illegally in carrying out warrantless eavesdropping on communications in hopes of detecting terrorist plots," but "several influential lawmakers said Congress should play a larger role in determining how the surveillance should be run." McClellan "issued a written response to lawmakers' comments on the talk shows. 'Senate Democrats continue to engage in misleading and outlandish charges about this vital tool that helps us do exactly what the 9/11 commission said we needed to do -- connect the dots,' McClellan said.

Asked on ABC's This Week (1/22, Stephanopoulos) to say whether he agreed with former Vice President Al Gore that the use of the NSA for domestic surveillance "may be an impeachable offense" which deserves to be investigated by a special counsel, Sen. John Kerry replied, "I agree that we ought to have a special counsel investigate. I agree that we ought to have an independent commission because this Congress has proven itself unwilling to do what's necessary to perform its responsibilities." The Washington Times (1/23, Hudson, 90K) reports Kerry also "called the National Security Agency's program to eavesdrop on terror suspects illegal, but he said he will continue to support its funding." Kerry "was asked by host George Stephanopoulos, 'If you think this is a clear violation of the law, why not move to cut off funding for the program?' 'That's premature,' Mr. Kerry responded.'

Rep. Jane Harman, also on ABC's This Week (1/22, Stephanopoulos), responded, saying, "I have been part of this so-called Gang of Eight since 2003, and, yes, I have been briefed. … I have raised objections to the Gang of Eight procedure in formal hearings of our committee and all over the place. I also asked a lot of questions in the meetings, the most recent of which was last Friday for two hours." Harman went on to say, "On the process: I think the administration is

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violating the National Security Act of 1947 by failing to brief the full intelligence committees. … On the program, I believe we should be fully briefed. We should decide…whether the Foreign Intelligence Surveillance Act is being violated in any way by this program."

Sen. Charles Schumer was asked on CNN's Late Edition (1/22, Blitzer) to respond to footage of Vice President Cheney saying, "These actions are within the president's authority and responsibility under the constitution and laws, and these actions are vital to our security" in reference to the NSA domestic surveillance program. Schumer said, "We do have to be strong in the war on terror, and…Democrats aren't going to take a back seat to anybody on that. But…we can be both strong and have the rule of law. And a large number of people, not just Democrats, Republicans like John McCain, Sam Brownback, Arlen Specter have said they have real doubts about whether what the president did conformed to the law."

Sen. John McCain, asked on Fox News Sunday (1/22, Wallace), if he agrees that President Bush "has the legal authority to engage in these warrant-less wiretaps," replied, "I don't think so, but why not come to Congress? We can sort this all out. … I think they will get that authority, whatever is reasonable and needed, and increased abilities to monitor communications are clearly in order."

Commenting on the NSA domestic surveillance program Chairman of the House Intelligence Committee Peter Hoekstra, on ABC's This Week (1/22, Stephanopoulos), said, "When the program began…congressional leaders were brought in -- the leadership of the House and the Senate, the leadership of the House and Senate intelligence committees…I've been briefed four times on this. … I've been given every opportunity to ask questions about the program, to ask questions about the legality of the program, to understand the scope of the program and how it works and, most importantly, the impact it has. … And we're having a discussion about whether we need to expand the number of members on the committee that are briefed into the program."

Pentagon's Domestic Spying Program May Have Violated Regulations. Newsweek (1/30, Isikoff) reports on the Pentagon's Counterintelligence Field Activity, noting that its role is "'force protection' -- tracking threats and terrorist plots against military installations and personnel inside the United States." According to Newsweek, there are now "questions about whether CIFA exceeded its authority and conducted unauthorized spying on innocent people and organizations. A Pentagon memo obtained by NEWSWEEK shows that the deputy Defense secretary now acknowledges that some TALON reports may have contained information on U.S. citizens and groups that never should have been retained. The number of reports with names of U.S. persons could be in the thousands, says a senior Pentagon official who asked not be named because of the sensitivity of the subject." Newsweek adds, "It isn't clear how many groups and individuals were snagged by CIFA's dragnet. … CIFA researchers apparently cast a wide net and had a number of surveillance methods…at their disposal." Pentagon officials "have broadly defended CIFA as a legitimate response to the domestic terror threat. But at the same time, they acknowledge that an internal Pentagon review has found that CIFA's database contained some information that may have violated regulations."

Technology Changes Face Of Eavesdropping. The AP (1/23, Fordahl) reports, "In the past, intercepting communications meant just that -- copying a telegram mid-route, steaming open an envelope or attaching alligator clips to the copper wires that connected every telephone in the world. … But the old ways of communicating are heading into the sunset like the Pony Express and being replaced by phone calls, instant messages, e-mail and more that are converted into digital data before they gallop across the Internet and other advanced networks." The AP continues, "This constant interchange of massive amounts of data, converging into speeding bitstreams on common pipes, is both a blessing and a curse for eavesdroppers. … It's easier than ever to access wholesale feeds of data. But such work is also more controversial than traditional wiretapping, as seen in objections to post-9/11 warrantless domestic surveillance and to regulatory moves to require networks to be tap-friendly." The AP adds, "Critics question whether safeguards put in place a quarter century ago following FBI wiretapping misconduct are strong enough to prevent abuse in the 21st century. Others fear the information superhighway is turning out to be a fast path to mass surveillance. … 'The thing that really should worry people is that once the capability is there, people will abuse it,' said Jennifer Granick, executive director of Stanford University's Center for Internet and Society. 'The opportunity for abuse is so much greater, because so much more of our private information is transmitted over the network.' … Always a hot topic, the debate over wiretapping is further fueled today not only by the knowledge of what's possible but also by a dearth of details of what's actually happening. … What makes the White House surveillance program…a cause of such concern is that it skirts existing laws and employs techniques resembling a wide-mouthed vacuum before the fine-toothed combs can be wielded."

More Commentary. The Washington Post (1/23, A14, 744K) editorializes, "Especially without knowing the parameters of the surveillance, we hesitate to second-guess the president's argument that FISA's limits are unduly constraining." The surveillance "may be critical for national security, and a law written in a different technological age may well need to be refurbished. But the proper way to handle that -- which the administration rejected -- would have been to seek changes in the law, not to do a stealthy end run

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around the legislative process. In such an amorphous, long-running conflict as the war against terrorism, it's critical to ensure that limits are in place to prevent the executive branch from overreaching."

Columnist bob Herbert writes in the New York Times (1/23, 1.19M), "Have you ever talked sexy to your wife or your girlfriend -- or your husband or your boyfriend -- on the telephone? Would you keep talking if you thought that one of Dick Cheney's operatives was listening in? Talk about a chilling effect. … Freedom of speech in the United States covers matters trivial and profound. The corrosive damage that is being done to the First Amendment, that cornerstone of free speech, has been largely overlooked in the controversy over…Bush's decision to permit the government to eavesdrop without warrants on phone calls and e-mail messages inside the United States."

Deported Muslims Back In US For Lawsuit Against Officials, Guards. The New York Times (1/23, Bernstein, 1.19M) reports, "Hundreds of noncitizens were swept up on visa violations in the weeks after 9/11, held for months in a much-criticized federal detention center in Brooklyn as 'persons of interest' to terror investigators, and then deported. This week, one of them is back in New York and another is due today - the first to return to the United States." They are "no longer the accused but the accusers, among six former detainees who are coming back to give depositions in their federal lawsuits against top government officials and detention guards, at a time when the constitutionality of part of the government's counterterrorism offensive is under new scrutiny." The Times adds, "As in the cases of all the Muslim immigrants rounded up in the New York area after the terror attacks, the six were never accused of a crime related to 9/11; officials eventually cleared all of them of links to terrorism. A report by the inspector general of the Justice Department found systemic problems with immigrant detentions and widespread abuse at the federal detention center where the six had been held; several guards have since been disciplined."

US Law Firms Offering Free Legal Advice To Guantanamo Detainees. U.S. News and World Report (1/30, Bedard) reports in its "Washington Whispers" column that "some 57 American law firms are offering free legal advice to more than 150 'enemy combatants' held at the U.S. naval base at Guantanamo Bay, Cuba. A list provided to Whispers shows several prominent shops, many of which brag about their efforts on their websites. The pro bono service, organized by the Center for Constitutional Rights, is under the gun in conservative legal circles and some military offices that suggest it's bad form to help alleged terrorists while also working for clients involved in the war on terrorism like Boeing and General Dynamics."

Bin Laden Tape Seen As Effort To Exploit US War-Weariness. Newsweek (1/30, Hirsh, Hosenball, Yousafzai) reports on the audiotape released last week by Osama bin Laden, calling it "a cynical attempt to exploit American war-weariness, especially in Iraq." By offering a "a long-term truce on fair conditions," bin Laden "seemed to be trying to close the gap. All America had to do was withdraw from Arab lands." Newsweek also notes that some US officials "said they would not be terribly surprised if bin Laden were suing for peace. Other terrorism analysts suggested that, at a time when bin Laden's rival and sometime partner in Iraq, Abu Mussab al-Zarqawi, has offended many Muslims with his ruthless tactics, the Qaeda chieftain's main message was 'I'm still the main man.' Bin Laden may have been trying to appear reasonable and merciful to his own followers by playing the peacemaker."

Time (1/30, Ghosh) adds, "The U.S. believes the 10-minute taped message…was probably recorded sometime since November, partly because of a reference to British newspaper reports from that time about a purported proposal by President Bush to bomb al-Jazeera. The tape suggested that bin Laden is alive, if not quite well. A longtime bin Laden watcher, French terrorism expert Roland Jacquard, speculates that the decision not to release a videotape may reflect a desire to conceal the deterioration of his physical condition." Time also notes that bin Laden's resurfacing "has come at a time when the leadership of al-Qaeda appears to be under as much strain as at any time since the fall of the Taliban in 2001. Antiterrorism experts say the Saudi-born terrorist is no longer in active contact with field commanders, and his ability to plan and direct specific operations is hampered by his isolation."

US Believes Predator Attack In Pakistan Killed Senior Al Qaeda Members. Newsweek (1/30, Hirsh, Hosenball, Yousafzai) reports that the CIA and the Defense Department 'have stepped up missile strikes inside Pakistani tribal regions." Recently, a CIA-guided Predator drone "fired missiles at houses in the village of Damadola," killing at least 18 people. US officials "remained confident that the dead included some senior Qaeda members, and Pakistani authorities maintained that four to five Qaeda operatives were killed in the missile attack. … Civilians are another matter. The Predator killed several women and children, provoking demonstrations in the tribal region, many of them organized by the radical Pakistani Islamic alliance known as Muttehida Majlis Amal."

Newsweek (1/30, Hirsh, Hosenball, Yousafzai) adds, "Authority to fire Hellfire missiles from Predators has been

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delegated by the White House to the CIA, according to current and former counterterrorism officials who did not want to be named because the matter is classified. If officials conducting surveillance believe there is a strong chance of civilians' being killed in an attack, operatives are expected to consult higher-ranking agency officials before firing. In the case of the Damadola attack, according to a knowledgeable source who spoke on condition of anonymity because the subject was sensitive, CIA officials made the decision to launch the attack themselves. But they notified higher-ups in the administration, including White House officials, who had enough time to veto the strike if they wanted."

Time (1/30, Ghosh) reports, "A Peshawar-based Pakistani intelligence official speaking on condition of anonymity says Washington has an understanding with Islamabad that allows the U.S. to strike within Pakistan's border regions -- providing the Americans have actionable intelligence and especially if the Pakistanis won't or can't take firm action. Pakistan's caveat is that it would formally protest such strikes to deflect domestic criticism. Some ranking Pakistani officials deny such an agreement exists."

HOMELAND RESPONSE:

Reports Critical Of CIA Withheld From Agency's Web Site. U.S. News and World Report (1/30, Kaplan) reports, "The CIA's Center for the Study of Intelligence is one of the agency's most open branches. … But since 2003, at least three unclassified CSI reports -- all critical of the agency -- have been withheld from the CIA's website, U.S. News has learned. During that same time, the agency has placed online three other CSI reports, all of those relatively positive or neutral. Among the documents withheld: a tough 69-page report, 'Curing Analytic Pathologies.' The study, published quietly in December, argues that reform efforts have centralized authority but failed to change the intelligence community's core problem -- 'dysfunctional behaviors and practices within the individual agencies.' A second report, 'Analytic Culture in the U.S. Intelligence Community,' was published last May and found the nation's intelligence analysts isolated and lacking overseas experience and training in research techniques. A third report, 'Intelligence for a New Era in American Foreign Policy,' from 2004, is the record of an unclassified conference of intelligence veterans, several of whom made comments sharply critical of the intelligence community." While the three reports are available by mail through the CIA's public-affairs office," the CIA "declined to say why the reports are not posted online nor would it provide a full list of the center's unclassified publications."

TSA May Check Passenger Financial Records. USA Today (1/23, Frank, 2.31M) reports the Registered Traveler program "may require passengers to agree to a check of their personal and financial records, the Transportation Security Administration said. The TSA said it will require 'in-depth security background checks' that may involve 'using commercial data' for people applying to the…program that starts in June. The checks will help verify people's identities to prove they have no ties to terrorism." However, "Business Travel Coalition Chairman Kevin Mitchell said the databases 'are notoriously inaccurate' and could mistakenly label someone a terrorist. 'It raises a huge liability issue,' said Mitchell, who supports Registered Traveler." Meanwhile, "Congress barred the TSA from using commercial data on airline passengers after a government probe criticized the agency last year for improperly storing 100 million records on travelers when it said no data storage would occur. The TSA says the ban does not apply to Registered Traveler because the program is voluntary and the background checks would be done by companies at an airport."

Private Airports Resist Proposal To Restrict Airspace Around DC Permanently. The Washington Times/AP (1/22, Manning) reports that "as the TSA and other federal agencies weigh whether to" permanently restrict zones of airspace around Washington, DC, a group of "private airport operators in the Washington region are pushing for changes in rules that they say unfairly punish harmless private pilots in an overzealous effort to protect Washington." The "three, 60-mile wide overlapping rings" of restricted airspace were "initially temporary, but the FAA is weighing whether to make it a permanent regulation and is taking public comment through Feb. 6. Most private pilots, who could face fines or suspension of their licenses for violating the air space, don't want the zones to stay. The FAA has received more than 20,000 comments on the proposal."

Chertoff's Coattails Extend To Highest Levels Of Administration. The Legal Times (1/23, McLure) reports, "After a rocky year, things are looking brighter for some protégés of Homeland Security Secretary Michael Chertoff." The Times continues, "On Jan. 4, President George W. Bush granted a recess appointment to Julie Myers, making the 36-year-old former Chertoff chief of staff the head of Homeland Security's 15,000-employee Immigration and Customs Enforcement. … Just a day earlier, Alice Fisher, Chertoff's former deputy at the Justice Department who now heads the DOJ's Criminal Division, had been on national television touting the guilty plea federal prosecutors had extracted from Jack Abramoff. … That guilty

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plea had been won by a team of career prosecutors supervised by Noel Hillman, the head of the DOJ's public integrity section who was first hired by Chertoff as a federal prosecutor during Chertoff's tenure as U.S. attorney in New Jersey." The Times adds, "On the surface it would seem that Myers, Fisher, and Hillman, among others, have basked in the reflected glory of Chertoff, who once enjoyed, by Washington standards, a stainless reputation as a straight-shooting, mob-busting, former prosecutor turned general in the war on terror. … But Hurricane Katrina dented Chertoff's armor, leading critics to call into question his leadership at the DHS. And criticism of the response to Katrina as well as terror policies promulgated under Chertoff during his time at Justice has also tarred his understudies — some of whom were forced to claim their positions through the back door of presidential recess appointments. … Their successes — and their travails — provide a window into how one lawyer's high-flying career in public service can both open doors for and complicate the lives of his loyal aides and assistants."

Residents Of Renewed Oklahoma City Generally Unfazed By Fortier Release. Under the headline "Oklahoma City Moves Past Its Infamous Bombing," The Christian Science Monitor (1/23, Axtman, 61K) reports that "as time goes on, wounds heal, memories fade, and hearts soften. At some point in the past decade, Oklahoma City began to look forward instead of back" at the 1995 bombing of the Alfred P. Murrah federal building. "That may be the reason why Michael Fortier's release from prison Friday after serving more than a decade for his role in the bombing sent relatively few ripples through the community. While it's painful to learn of his freedom, some say, their lives no longer revolve around the details of that April day. Their city, in many ways, has been freed from its own prison -- through prayer and urban renewal. … Officials say the bombing…galvanized residents and created a sense of pride about the city. That, in turn, fueled the urban progress."

Residents Returning To New Orleans Overwhelm Emergency Rooms. The New York Times (1/23, Barringer, 1.19M) reports New Orleans' emergency rooms "are facing their own emergency. As thousands of residents have begun returning in the weeks since New Year's, there are far more sick people than there are doctors, nurses, beds and equipment to take care of them." The Times notes, "only seven of what had been 15 adult acute-care facilities in the city and three surrounding parishes are open, and only one-third of the acute-care beds. Hundreds or perhaps thousands of doctors and nurses never returned to New Orleans after the flood; long-term and psychiatric hospitals, not to mention hospices and rehabilitation centers, are now almost nonexistent in and around the city." Meanwhile, "The thought of next month's Mardi Gras festivities has local doctors so worried they have formed a committee just to plan for care during the first large-scale, signature event in the distorted post-hurricane world."

Expert Likely To Investigate Whether Patients Were Euthanized In New Orleans. USA Today (1/23, Johnson, 2.31M) reports, "Louisiana authorities investigating whether patients were euthanized at New Orleans-area hospitals after Hurricane Katrina probably will appoint a new medical consultant because the Pennsylvania coroner assisting the inquiry was indicted on federal charges Friday. Kris Wartelle, spokeswoman for Louisiana Attorney General Charles Foti, said the indictment of coroner Cyril Wecht will not slow the state inquiry into more than 200 deaths at hospitals and nursing homes after Katrina hit Aug. 29." Meanwhile, "Wecht's work in Louisiana was not addressed in the indictment, which among other things accuses him of trading unclaimed bodies at the Allegheny County morgue to a local university's research program in exchange for laboratory space to expand his consulting business."

"Louisiana Speaks" Forums Held For Hurricane Refugees. The Washington Times (1/23, 90K) reports, "Hurricane refugees from Louisiana told federal and state officials at forums across the South yesterday that what they want most when their state is rebuilt is affordable housing, better schools and stronger levees. Some refugees at the 'Louisiana Speaks' forums also worried that officials have no real plans to restore certain areas, such as New Orleans' impoverished Lower 9th Ward." The forums are sponsored by the Federal Emergency Management Agency and the Louisiana Recovery Authority. "Input…will be incorporated in a long-term regional plan for rebuilding South Louisiana after Hurricanes Katrina and Rita."

WAR NEWS:

Bush's Decision On Iraq War Called Return To US "Dominant Tradition." In its cover package, U.S. News and World Report (1/30, Barone) examines "the picture we have of the way America, and American presidents, go to war. It comports with what we think happened in World War I and, especially, in World War II. In this view of U.S. history, American presidents lead the nation only into wars that are forced upon them. There's only one problem. This picture is almost entirely contrary to the facts. Critics of George W. Bush like to say that Iraq was a war of choice -- a conflict that could have been avoided. But almost all American wars have been, to a greater or lesser degree, wars of choice. It is said

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that Bush went to war in Iraq without sufficient forces, without a game plan for the occupation, and without an exit strategy. Even if all those charges are true, then he has plenty of company in American history." Bush's decision to go to war in Iraq "a return to the dominant tradition of our history. The United States has never been an isolationist nation; Americans and American military forces have been roaming the globe since the Revolutionary War. Until the 20th century, the oceans seemed to protect the American homeland from attack, but not always."

Wartime Records Of Bush 43, 41 Compared. In a separate story in its cover package, U.S. News and World Report (1/30, Walsh) compares the wartime records of President Bush and his father, former President George H.W. Bush, noting that "there are more differences than similarities in their role as commander in chief. The 41st president was a coalition builder and a diplomat. The 43rd president was willing to go it alone and ignore international opprobrium. The first Bush had a sense of limits about American power. His son believes the military is his best tool for working his will abroad. The two men made the case for war in different fashion as well. It is true the father's job was easier than his son's. Saddam Hussein had invaded Kuwait and was an unmistakable threat. Nonetheless, George Herbert Walker Bush tried to build consensus at home and abroad before starting the Gulf War. George W. Bush made his case in a more controversial way, arguing for a pre-emptive strike to depose Saddam." US News adds, "It is striking that the son rarely cites his father as his role model as commander in chief. George W. Bush says the world has changed dramatically since his father's tenure, largely because of 9/11 and the threat posed by terrorists. The challenges he faces, he says, are unique." US News also notes, "The senior Bush felt equipped…to challenge both the military and his advisers. George W. Bush seems more accepting of the advice of his in-house 'experts.'"

Bush Has Gotten "Broad Pass" On Expansion Of Executive Power. A separate story in U.S. News and World Report's (1/30, Tolson) cover package considers "just how imperial" the American president can be. Disclosures about Bush's "support for a National Security Agency-run domestic-spying program have pushed those questions to the fore once again. … Bush, so far, has gotten a broad pass on his amplification of the commander in chief's prerogatives, which many Americans view as justified in the name of the war on terrorism. But there are growing signs of resistance."

Bill Clinton Says President Should Not Micromanage Military Operations. In another story in its cover package, U.S. News and World Report (1/30, Walsh) interviews former President Bill Clinton about his views "on what it takes to lead during times of conflict and at times of peace." On "directly supervising the military and the issue of 'micromanagement' during a crisis," Clinton said, "Generally, it is best not to micromanage military operations, though in some cases it is unavoidable. For example, after the accidental bombing of the Chinese Embassy in Belgrade because of outdated maps, I had daily meetings to go over the proposed targets for the next day. On a few occasions, I disagreed with the military's choices, but wherever possible I tried to set policy and let them decide how best to carry it out." On "how much he relied on his senior military advisers," Clinton said, "I relied heavily on my military advisers for tactical advice. On the question of whether to use force, I sought their advice but made the final decisions myself, sometimes disagreeing with them, as in Kosovo and Haiti."

Sunni Political Block Commits To Talks With Shiite, Kurdish Groups. Reuters (1/23) reports, "Iraq's biggest Sunni political bloc committed itself on Sunday to talks with Shi'ites and Kurds to form a government of national unity, but said its key demands, including changes to the constitution, must be met." The United States "wants the Kurds and majority Shi'ites, who dominated last month's elections, to form a government that includes minority Sunnis. It hopes an inclusive coalition will undermine the raging Sunni Arab insurgency." The Iraqi Accordance Front, "which comprises three mainly Islamist Sunni Arab groups," said "it would appeal against the results of an election it believes was rigged but would still take part in talks on a new coalition government."

The Los Angeles Times (1/23, Boudreaux, 958K) that "a leader of Iraq's largest Sunni Arab political bloc said Sunday that he would shun any government that included officials responsible for police brutality against his minority sect, a stand aimed at removing the powerful Shiite interior minister." Tariq Hashimi of the Iraqi Accordance Front "spelled out its conditions for entering a 'national unity' administration after most Iraqi leaders called for such an outcome in order to quell the Sunni Muslim-led insurgency." Hashimi "said his Sunni bloc's first condition for entering the government was a guarantee of personal security for Sunnis, who he said had suffered abuse by the transitional regime's Interior Ministry police." He "set other terms: He demanded an end to official corruption, a 'charter of honor' that renounces sectarian and ethnic strife, an agreement to set a timetable for withdrawal of US forces, and a promise 'not to hamper' constitutional changes demanded by Sunnis to prevent the Shiite and Kurdish regions from dominating Iraq's oil wealth."

USA Today (1/23, Jervis, 2.31M) adds that "Iraqi election officials announced Friday that the Shiite and Kurdish coalitions won a combined 181 of the 275 seats in parliament, three shy of the two-thirds majority needed to name a new government for the next four years." The two major Sunni blocs, the Iraqi Accordance Front and the Iraqi

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Front for National Dialogue, "won a combined 55 seats." The Christian Science Monitor (1/23, Levinson, 61K) reports "it was no surprise that religious Shiites dominated the polls." But "the hard numbers have given new steam to Iraq's politicians, who are wheeling and dealing to find enough common ground on which to build the country's first freely elected four-year government." In a process that "could stretch into April, Iraq's factions will decide on a governing program, agree on whether the new Constitution can be changed, and haggle over the crucial positions of president, prime minister, and cabinet ministers."

Obama Calls US Presence "An Irritant" For Iraq. Commenting in his recent visit to Iraq on NBC's Meet the Press (1/22, Russert) Sen. Barack Obama said, "My position has been that it would not be responsible for us to unilaterally and precipitously draw troops down, regardless of the politics, because I think that all of us have a stake in seeing Iraq succeed." Obama added, "I have to emphasize that there is a cost for our presence there. We are an irritant. And we help spur the insurgency, even as we are defending a fledgling Iraqi government against that insurgency." Obama contended that the Sunnis "may feel that in fact the United States is the guy with the club standing behind the Shias and putting them in a position in which they have no power. … I think that what we want to do is we want to reach out to Sunni leadership that clearly has connections to the insurgency."

At Least 23 Iraqis Killed By Insurgents Over Weekend. The AP (1/23, Yacoub) reports, "Insurgents fired rocket-propelled grenades at a policeman's home northeast of Baghdad on Sunday, killing his four children and his brother and raising to at least 23 the number of Iraqis killed in attacks this weekend." Also Sunday, "police found the bullet-riddled bodies of nearly two dozen men abducted last week north of Baghdad after being rejected entry into a police academy, officials said."

Attacks Against Coalition Troops Increased 23% Last Year. USA Today (1/23, Jervis, 2.31M) reports, "The number of attacks against coalition troops, Iraqi security forces and civilians increased 29% last year, and insurgents are increasingly targeting Iraqis, the U.S. military says." Insurgents "launched 34,131 attacks last year, up from 26,496 the year before, according to U.S. military figures released Sunday."

Iraqi Professionals, US Contractors Leaving Iraq. The Washington Post (1/23, A1, Struck, 744K) reports "Iraq's top professionals -- doctors, lawyers, professors -- and businessmen have been targeted by shadowy political groups for kidnapping and ransom, as well as murder, some of them say. So many have fled the country that Iraq is in danger of losing the core of skilled people it needs most just as it is trying to build a newly independent society. … Professionals and businessmen with the means to escape are going to Jordan, Syria, Egypt or, if they have visas, to Western countries. Those left behind say they feel abandoned."

Meanwhile, the Washington Times (1/23, Behn, 90K) says "US private contractors, until now the biggest private-sector employers in Iraq, are preparing to leave as US money runs out and Iraqi ministries take charge of the reconstruction effort." The Times adds, "Most US-funded projects are scheduled to be completed by the end of this year, and it is unlikely that any significant new US funds will be forthcoming. Iraqi government ministries, which will be taking over responsibility for the reconstruction effort, tend to issue much smaller contracts that do not interest large US companies."

US Soldier Says Top Brass Directed Abu Ghraib Abuses. The Washington Post (1/23, A3, White, 744K) reports that Megan Ambuhl, "one of the original seven military police soldiers singled out by the Pentagon for their roles in abusive techniques" at Abu Ghraib, "is speaking out because she believes the truth has been obscured by high-ranking officials intent on covering up a policy of abuse. Though her defense differs little from the arguments made previously by the defendants' attorneys, Ambuhl's first-person description of the macabre world of Abu Ghraib provides a vivid perspective on how things went out of control at the prison outside of Baghdad." Ambuhl "has since married one of her fellow MPs -- Charles A. Graner Jr., the man the military has labeled the ringleader of the abusers -- and is on a mission to secure his release from prison." Ambuhl "says the military's top brass have dodged responsibility for what was going on at the prison by scapegoating her and other low-ranking soldiers. … Ambuhl says she and other MPs used aggressive techniques against detainees because that is what military intelligence soldiers and civilian interrogators told her to do."

US Hopes To Exploit Differences Among Iraqi Insurgent Factions. Time (1/30, McGirk) reports on the January 5 suicide in Ramadi, saying the blast was a "deadly miscalculation" by the group al Qaeda in Iraq. While the attack "killed two U.S. service members and more than 70 Iraqi police recruits," most of the victims "were local Sunnis, and they were joining the police force under the protection of tribal chieftains who, with the U.S. military's approval, are trying to impose order over their violent swath of Iraq." Time adds, "After the Jan. 5 blast, according to insurgents, tribal chiefs in Ramadi notified al-Qaeda that they were withdrawing protection in the city for the group's fighters. The jihadis responded by gunning down several prominent Sunni clerics and tribal leaders. Now al-Qaeda fighters who once swaggered through Ramadi are marked men." US officials in Iraq have tried to exploit the differences among the insurgent

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factions for months. There are "signs that at least in some parts of Iraq, the tension is boiling over. Iraqi security sources with contacts in the insurgency told TIME that fighting has erupted in several cities that have long been bastions of the resistance, including Fallujah, Samarra, Latifiya and Mahmoudiya. … Some Pentagon decision makers believe that the feuding within the insurgency may help U.S. and Iraqi troops quell the terrorist attacks that have made parts of the country ungovernable."

Iraqi Oil Production Declined For Third Straight Month In December. Newsweek (1/30, Johnson, Hastings) provides a negative view of Iraq's oil production, noting that across Iraq, there is "a major attack on oil facilities about once every three days. December was the third month in a row that Iraqi oil production went down, and it marked the lowest level of exports since the invasion. At a time when global supplies are stretched to their limits, the Iraqi oil bust helps keep world prices near record highs. But most of all, it's a disaster for efforts to get the country back on its feet." Iraqi oil "still isn't flowing at prewar levels." Newsweek adds that there is "certainly no question that the Bush administration, heavily peopled with veterans of the oil industry, focused on the importance of petroleum to Iraq's economy. Even as the rest of Baghdad was opened up to looters in April 2003, the Ministry of Oil was secured by U.S. troops. But no force was put in place to protect the pumps and pipes."

Army Interrogator Convicted Of Negligent Homicide Of Iraqi Detainee. The Washington Post (1/23, A2, White, 744K) reports, "Iraqi general into a sleeping bag during questioning in northern Iraq in 2003 was convicted of negligent homicide and negligent dereliction of duty late Saturday after a military jury in Colorado decided the general's death was not murder." Chief Warrant Officer Lewis E. Welshofer Jr. "was on trial for allegedly killing Iraqi Maj. Gen. Abed Hamed Mowhoush, a high-ranking Saddam Hussein loyalist who was believed to have been fueling the Iraqi insurgency in the Qaim area near the Syrian border." Mowhoush "died while bound in the Army sleeping bag, which was part of an aggressive interrogation tactic aimed at getting the general to talk." The Los Angeles Times (1/22, Riccardi, 958K) and New York Times (1/23, Schmitt, 1.19M) also report the story.

Halliburton Accused Of Exposing US Troops, Civilians To Polluted Water In Iraq. The Washington Post/AP (1/23, A2, Margasak) reports, "Troops and civilians at a US military base in Iraq were exposed to contaminated water last year, and employees for the responsible contractor, Halliburton Co., could not get their company to inform camp residents, according to interviews and internal company documents." Halliburton, "the company formerly headed by Vice President Cheney, disputes the allegations about water problems at Camp Junction City, in Ramadi, even though they were made by its own employees and documented in company e-mails." Sen. Byron Dorgan "is to chair an inquiry session into alleged neglect of water pollution at a U.S. base camp in Iraq."

Confusion Surrounds Question Of Who Will Preside Over Saddam Trial. The New York Times (1/23, Worth, 1.19M) reports, "Two days before the trial of Saddam Hussein is set to resume after a month's recess, confusion surrounds the tribunal that is trying him, with the identity of the judge who will preside in court still uncertain." The judge "who has become the trial's most public face, Rizgar Muhammad Amin, submitted a letter of resignation this month, saying he was fed up with criticism by high-ranking Iraqi officials who wanted him to be tougher with Mr. Hussein. A colleague on the five-judge panel, Said al-Hammash, is prepared to replace Judge Amin if he does not return Tuesday." But "in recent days President Jalal Talabani and other Iraqi leaders, apparently eager to dispel the widespread impression that Judge Amin was forced off the case through political pressure, have urged him to stay on." The tribunal "has not accepted Judge Amin's resignation. An American official who is close to the tribunal said Sunday that he did not know which judge would be presiding." Amin's "potential successor is facing troubles of his own. Last week, a senior Iraqi official petitioned the court to bar Judge Hammash from presiding at the trial, saying the judge was a former member of Mr. Hussein's Baath Party."

At FBI's Request, CBS Withheld Some Details About Iraqi Bomb Makers. The Washington Post (1/23, C1, Kurtz, 744K) reports in its "Media Notes" column, "In reporting last week that the FBI was making progress in identifying the origins of homemade bombs used against Americans in Iraq, CBS News agreed to withhold some details at the bureau's request. Rome Hartman, executive producer of the 'CBS Evening News,' says CBS News President Sean McManus and correspondent Jim Stewart spoke with FBI officials who 'made the case that putting in certain details might in their view jeopardize American lives. They felt very strongly about it.' During a 'very spirited' internal debate, Hartman says, the FBI's case 'felt to me, and to Sean and Jim in the end, to be a pretty persuasive argument. You ought to err on the side of discretion and caution.' Stewart's report mentioned that CBS was withholding part of the story."

No Word On Fate Of Kidnapped American Journalist. NBC Nightly News (1/22, story 5, 1:30,

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Williams) reported, "In Iraq today, still no update about kidnapped American journalist Jill Carroll. It's been two days since the deadline set by her captors, who threatened to kill her unless the US freed all Iraqi women prisoners."

The Christian Science Monitor (1/23, 61K) reports a delegation from the Council on American-Islamic Relations "arrived in Baghdad Saturday, adding its voice to what is described as an unprecedented outpouring of Muslim support for the release of American reporter Jill Carroll. 'The kidnapping of Jill Carroll does not benefit the kidnappers,' said Nihad Awad, executive director of the Washington-based group that represents US mosques and Islamic associations." At press time Sunday, David Cook, the Monitor's Washington bureau chief, "said that there has been no new information about Ms. Carroll."

The New York Times (1/23, Tavernise, 1.19M) runs a story headlined "Abduction Of US Reporter Underscores Risks In Iraq," a theme also covered in Peter Johnson's column in USA Today (1/23, 2.31M), titled "In Iraq, Specter Of Kidnapping Keeps Journalists On Edge."

In 1998, Pelosi Said Saddam Was Developing WMD. In its "History Lessons" column, the Washington Times (1/23, 90K) excerpts comments by Rep. Nancy Pelosi on December 16, 1998. Pelosi said, "As a member of the House Intelligence Committee, I am keenly aware that the proliferation of chemical and biological weapons is an issue of grave importance to all nations. Saddam Hussein has been engaged in the development of weapons of mass destruction technology which is a threat to countries in the region and he has made a mockery of the weapons inspection process. The responsibility of the United States in this conflict is to eliminate weapons of mass destruction, to minimize the danger to our troops and to diminish the suffering of the Iraqi people."

Pentagon Says Meeting Of Military Commanders Was "Uninhibited Exchange Of Ideas." The Washington Times (1/23, Scarborough, 90K) reports, "Pentagon officials say this month's closed-door conference of the military's top field commanders was gratifying, describing it as an uninhibited exchange of ideas rather than a fixed-agenda meeting monopolized by Defense Secretary Donald H. Rumsfeld. Officials said Mr. Rumsfeld, four-star generals and admirals, and top civilians brainstormed over two main topics: how to fight the war on Islamic terrorists and how to reconfigure the military for future threats." The conference "was composed of the most powerful military men in the world. Besides Mr. Rumsfeld, there were the nine combatant commanders from Europe, the Middle East, Asia and other commands; the four service chiefs; the Joint Chiefs chairman and vice chairman; defense undersecretaries and assistant secretaries; and the services' civilian secretaries."

Reagan Administration Official Criticizes "Disunity Of Command" In Iraq. Bing West, an assistant secretary of defense in the Reagan Administration, writes in the New York Times (1/23, 1.19M), "The lesson the Pentagon should learn from Iraq is to avoid another L. Paul Bremer. This is less a reflection on Mr. Bremer, who accurately described himself as 'the American viceroy' in Iraq and 'the president's man,' than on the position he and the American military commanders in Iraq were placed in by the White House's failure to put one person in charge." West adds that the "disunity of command reached its tragic apex in the spring of 2004, during what Mr. Bremer calls 'the most critical crisis of the occupation.' When four American contractors were killed and their bodies mutilated in Falluja on March 31, Mr. Bremer joined with Secretary of Defense Donald Rumsfeld and Gen. John Abizaid, the commander of American forces, in ordering the fractious city seized. Five days later, however, Mr. Bremer changed his mind after Sunni members of the Iraqi Governing Council threatened to quit in protest. He prevailed on General Abizaid to order the Marine battalions that were advancing through Falluja to halt. Mr. Bremer acknowledged that this 'temporary cessation of offensive action' would be 'rough on the military.' Secretary Rumsfeld, for his part, disagreed with the halt and urged General Abizaid to finish the attack. But as the military prepared to end things quickly, Mr. Bremer changed his mind about the 'temporary' cessation. He told President Bush that the assault would 'collapse the entire political process'; the president sided with his viceroy and told General Abizaid 'to let the political situation there develop.' Develop it did. The insurgents' morale soared and their defenses toughened." West concludes, "The singular lesson in war is to put either the civilian viceroy or (better) the general in charge, but not both."

Krugman Says Bush Has Given Up Trying To Win In Iraq. Paul Krugman writes in the New York Times (1/23, 1.19M), "In the State of the Union address, President Bush will surely assert, to choreographed applause, that he has a strategy for victory in Iraq. I don't believe him. In fact, I believe that three years into the conflict his administration refuses to admit defeat but has given up even trying to win." Krugman adds, "Power shortages are a crucial issue for ordinary Iraqis, and for the credibility of their government. … Lack of electricity isn't just an inconvenience. It prevents businesses from operating, destroys jobs and generates a sense of demoralization and rage that feeds the insurgency. So why is power scarcer than ever, almost three years after Saddam's fall? Sabotage by insurgents is one factor. But as

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an analysis of Iraq's electricity shortage in The Los Angeles Times last month showed, the blackouts are also the result of some incredible missteps by U.S. officials. … In short, U.S. officials thoroughly botched their handling of Iraq's electricity sector. They did much the same in the oil sector. But the Bush administration is determined to achieve victory in Iraq, so it must have a plan to rectify its errors, right? Um, no. Although there has been no formal declaration, all indications are that the Bush administration…doesn't plan to ask for any more money for Iraqi reconstruction." The Bush Administration "doesn't have a plan; it's entirely focused on short-term political gain. Mr. Bush is just getting by from sound bite to sound bite, while Iraq and America sink ever deeper into the quagmire."

Pakistani Prime Minister Condemns US Airstrike. The AP (1/23, A2) reports, "Pakistan's prime minister yesterday condemned an American airstrike on a remote Pakistani village, saying such attacks should be cleared with Islamabad first." Prime Minister Shaukat Aziz "said no understanding exists between US and Pakistani officials that allows American military forces to attack alleged terrorists in Pakistan without first consulting the government." Said Aziz, "The understanding is that we will work. … We will work in collaboration with each other."

Incidents On Afghan-Pakistan Border Highlight "Precarious" Anti-Terror Alliance. The Washington Post (1/23, A1, Witte, Khan, 744K) reports from Kabul, "Events along the ever-volatile Afghanistan-Pakistan border this month have exposed deep fault lines in the anti-terrorism alliance among the United States, Afghanistan and Pakistan, and officials on all sides say their joint efforts against militants in the region are now highly precarious." The "heightened tension comes as militant extremists and the United States have both become more aggressive in their tactics, with the Pakistani government caught in between." The Post adds recent incidents "have revealed just how tenuous relations among the countries have become." The Post adds, "Afghan government officials are feeling especially vulnerable now because the United States announced late last year that it would reduce its troop strength from 19,000 to 16,500. NATO soldiers are supposed to fill the gap by taking over some operations in the south, but the Netherlands, seen as pivotal to that transition, has wavered over whether it will send troops." Meanwhile, "the Taliban, al Qaeda and other groups that are trying to destabilize the nascent Afghan government appear to be taking advantage of the uncertainty."

Kerry Says Administration Misled Public On Tora Bora. On ABC's This Week (1/22, Stephanopoulos) Sen. John Kerry was shown a clip of Vice President Cheney saying, "The fact of the matter is, we have not been attacked in more than four years. That is not an accident, it's not just dumb luck." Asked if he agreed with the Vice President's assessment Kerry replied, "No. … The simple fact is that we had Osama bin Laden cornered, trapped, ready to be captured or killed in the mountains of Tora Bora. And this administration -- it is a fact -- has misled Americans about the knowledge they had of whether or not he was there, number one, and, number two, did not do everything that they could have in order to capture him. I know this. Others know this." Kerry went on to say, "So, yes, we have not been attacked here. Many people surmise that one of the reasons we haven't been attacked here is because they are being so successful at doing what they need to do to attack us in Iraq and elsewhere."

McCain Calls Lack Of Attack Since 9/11 "Indicator Of Some Success." Asked if he considered the failure to apprehend Osama bin Laden "a failure in the president's war on terror," Sen. John McCain, on Fox News Sunday (1/22, Wallace), said, "No. I don't think it's good that we haven't gotten him. … But look, the fact that there has not been an attack on the United States in four years is an indicator of some success. … So let's give the President and this Administration some credit for that."

Scheffer Affirms NATO Commitment To Afghanistan. NATO Secretary General Jaap de Hoop Scheffer writes in the Financial Times (1/23), "As NATO prepares to expand the operations of its International Security Assistance Force in Afghanistan to the country's more volatile south, where violence is intensifying, debate is under way about the role the alliance will play. … The debate surrounding this mission comes as no surprise. After all, NATO's operation in Afghanistan has been, from the start, a fundamentally new step for the alliance. It is also the most ambitious mission in NATO's history, in terms of the strategic distance from our home countries, in terms of the complexity of the challenges we face in Afghanistan and in terms of the multiple roles the alliance must take on." Scheffer adds, "No one should doubt NATO's resolve to carry out this mission. All 26 allies realise that fighting terrorism, and helping the Afghan people and their government, is a collective effort – not a matter of picking and choosing where one might wish to chip in. We have already been delivering for quite some time, with 10,000 troops in the country. In coming months, we will expand southwards, as an alliance united in our determination to help the Afghan people build the stability and peace they deserve."

NATO Official Says Alliance Must Adapt To Fight Terrorism. NATO Assistant Secretary General Marshall Billingslea writes in the Wall Street Journal (1/23,

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2.11M), "As times have changed, so has the North Atlantic Alliance. That is particularly evident in the way NATO has moved to protect our citizens from terrorism. … The most dramatic illustration of NATO's new priorities is our support for the democratically elected government of Afghanistan. More than 9,000 troops and military advisers are currently deployed throughout multiple Afghan provinces in the form of Provincial Reconstruction Teams (PRTs). These troops from 25 NATO members and 11 partner nations are there to provide both security and support to local authorities and people, and are doing such things as digging wells, building schools and refurbishing mosques. In a similar vein, NATO is facilitating, together with several international organizations, the rehabilitation of Kabul International Airport, and has made significant investments in airports in Herat and Mazar-e-Sharif." Billingslea adds, "When NATO's 26 armaments chiefs meet in Brussels this spring, they will sit down to review NATO's counterterrorism technology efforts. My hope is that they will come armed with ideas on how to press ahead in the fight against terrorism. Our first challenge will be to review all the operations to see where additional support to NATO troops is urgently needed. Certainly we need to expand, intensify and better fund the ongoing technological program of work. But perhaps more importantly, we need to create a NATO-Technical Support Working Group on a trans-Atlantic scale."

Professor Says Bin Laden Tape Confirms He Is Isolated, Weak. Jonathan Stevenson, a professor of national security affairs at the US Naval War College, writes in the Wall Street Journal (1/23, 2.11M) that last week's missive from Osama bin Laden "confirmed several things that we knew or at least suspected: that he is isolated, besieged and physically weak. … In the recent tape, he asks the U.S. itself to stand down in Iraq and Afghanistan in exchange for a 'long truce.' As with the Madrid tape, bin Laden has made an offer that he knows will be refused." Stevenson adds, "Most likely bin Laden's hope is that his wider audience -- especially potential recruits -- will read U.S. beleaguerment as proof of al Qaeda's might. In suggesting that he himself maintains a significant degree of command over far-flung assets, he wants the world to believe that he and al Qaeda possess concentrated power that has not substantially diminished since 9/11. … The overarching significance of bin Laden's counterfactual assertion of authority, however, is how little it matters." Even if bin Laden "wanted to work toward coexistence, he wouldn't be able to deliver his end of the bargain precisely because he no longer enjoys close operational control over most of those he inspires. His word could be countermanded by Zarqawi, by a Moroccan in Spain, or by a British Pakistani. Quite simply, bin Laden's ideology and résumé have become bigger than the man himself."

USA Today Says Bin Laden Sought To Enhance Leadership Stature With New Tape. An editorial in USA Today (1/23, 2.31M) says the bin Laden tape "raised an interesting, and increasingly perplexing, question: What power, exactly, does the terrorist leader, who is likely living much as a cornered animal, have? To non-Muslim ears, bin Laden's message was clumsy and easy to dismiss. … But to Muslim ears…the same words sound very different. Bin Laden spoke in terms steeped in Islamic tradition. The truce that he offered, for example, recalls great past leaders, including the prophet Mohammed, who offered one in his battle with the Quraysh tribe that he eventually defeated. Bin Laden's aim was to give himself the stature of a leader -- specifically the leader who can realize the Muslim dream of establishing a caliphate, or worldwide Muslim superstate." USA adds, "Bin Laden's message offered nothing useful for Americans. Its value lies only in reminding us that Muslims are reacting to our messages in much the same way."

CORPORATE SCANDALS:

Judge To Review Former Gemstar-TV Guide Official's Plea Deal. The National Law Journal (1/23, Bronstad) reports, "The former chief executive of Gemstar-TV Guide International Inc. may face jail time if a federal judge in Los Angeles rejects his plea agreement this week." The Journal continues, "Henry Yuen, who was ousted in 2002 after Gemstar lost almost $3 billion in market capitalization due to accounting restatements, pleaded guilty in October to destroying computer files during a separate investigation by the U.S. Securities and Exchange Commission. As part of the deal, he agreed to pay a $250,000 fine and to donate $1 million to charity while serving two years' probation and six months of home detention." The Journal adds, "Prosecutors and Yuen's lawyers have said the sentence fits his crime of obstruction of justice, reiterating that he has not been charged with securities fraud. … But lawyers for Gemstar and the SEC have expressed concern about the plea agreement, with Gemstar lawyers calling it a 'travesty of justice.' … The company also said it spent $100 million in legal fees and lawsuit settlements because of Yuen." The Journal notes, "U.S. District Judge John Walter is expected to reject the agreement when he issues a final ruling on Yuen's sentence today. In December, Walter issued a tentative ruling criticizing the sentence, saying that it 'sends the wrong message to corporate America,' and is 'wholly inappropriate,' according to court transcripts."

Lay, Skilling Lawyers Press For Trial To Be Moved. The USA Today (1/23, Farrell) reports, "With jury

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selection in the trial of former Enron chiefs Ken Lay and Jeff Skilling scheduled to begin in Houston next Monday, their lawyers are insisting that the trial be moved out of state" because the attorneys "don't think Lay and Skilling can find an open-minded jury in Houston, whose residents bore the financial brunt of the highflying energy company's implosion four years ago." USA Today says that "Of 280 potential jurors who were surveyed last year, 80% said they had a negative bias toward Lay, Skilling or both." According to the article, "U.S. District Judge Sim Lake rejected the defense's motion several weeks ago. After a third defendant, former Enron accounting chief Rick Causey, agreed to plead guilty in late December, the defense team renewed its request." The defense team, "noted the 80% negative response among potential jurors was before Causey changed his plea. The 'media maelstrom' afterward about how Causey's plea could hurt Skilling and Lay only reinforced a presumption of guilt, defense lawyers argued." According to the article, "some jury experts agree with another defense motion asking that lawyers be able to question potential jurors without other juror candidates and spectators present." Judge Lake "is expected to rule this week on the defense motion to allow voir dire to be individualized," the article said.

Livedoor CEO Denies Allegations In His Blog. The Wall Street Journal (1/23, Morse) reports, "Takafumi Horie, the CEO of Internet-portal company Livedoor Co.," denied that he misled investors "on his Web log after a television program yesterday morning in Japan examined the widening allegations surrounding his company." The Journal quotes, Horie, "'The extent of the fabrications [in the program] is such that it is difficult to deny them one by one … 'I don't know who or how these stories were researched.'" The Journal noted that Tokyo prosecutors raided Livedor's offices Jan. 16 "as part of a probe of possible securities-law violations." The Journal further reports, "Yesterday's comments by Mr. Horie come amid growing speculation he will be questioned by prosecutors, who called the company's chief financial officer, Ryoji Miyauchi, and several other Livedoor executives to their offices Friday." According to the article, "Since prosecutors raided Livedoor, the company's share price has dropped by more than 50% to 336 yen ($2.92), taking many other Japanese stocks with it."

US Chamber Asks Congress To Soften Auditing Rule. The Washington Post (1/23, A7, Day, 744K) reports, "The U.S. Chamber of Commerce is asking the federal government to soften a rule adopted after financial scandals that accounting firms failed to expose at Enron Corp., WorldCom Inc., Freddie Mac and other major U.S. companies." The Chamber "wants the Securities and Exchange Commission to allow accounting firms to perform audits for any company within a year of having provided consulting or other services for that company. The current rule bars a company from hiring as its auditor any accounting firm that has performed other services for it within five years." The Chamber "makes its request in a policy paper it will release publicly today and circulated to some people last week. It is the group's latest effort to weaken some provisions of Sarbanes-Oxley, which it says has added burdensome and costly business regulations."

CRIMINAL LAW:

Google Stakes Reputation On Dispute With DOJ. USA Today (1/23, Hopkins) reports, "Google, facing its biggest public relations battle yet, has more at stake than competitors as it fights a federal government demand for data on how millions of users search the Internet." USA continues, "As the No. 1 online search company, Google has the highest profile, and a brand built on a "don't be evil" motto that it must defend as it expands further into search-related ventures. … 'That is their motto and their ambition, and they need to be true to that,' says Denise Garcia, an analyst who follows Google at W.R. Hambrecht." USA adds, "Google's stance will likely burnish its image as a search engine industry leader that can be trusted to guard its users' data, Garcia says. … But in the short run, investors are worried. Friday, stock in the company plummeted 8.5%, or $36.98 a share, to $399.46, a day after published reports of its refusal to bow to a Justice Department subpoena. It was Google's biggest daily percentage decline since it went public in August 2004. … Garcia said the subpoena fight was the biggest factor in the stock's decline. It also was driven by a weak revenue forecast earlier in the week by competitor Yahoo. That spooked investors anti-cipating Google's fourth-quarter results, due out Jan. 31."

Trial Of Former Atlanta Mayor Begins Today. The New York Times (1/23, Dao) reports, "He was, once, the go-go mayor of the South's most go-go city. Suave and acid-tongued, Bill Campbell was the protégé of a new black politics, steeped in the argot of civil rights yet able to smooth-talk corporate executives. Democrats from President Clinton on down courted him. … But those days are long gone. On Monday, Mr. Campbell, who left office in 2002, is to enter a federal court house here to defend himself against charges that he turned City Hall into a criminal enterprise during his eight years in office." The Times continues, "Mr. Campbell's trial will be the culmination of an investigation that dates back to at least 1999 and that has already led to convictions against 10 people on an array of charges that include bribery, tax fraud and perjury. Three of the people convicted worked in Mr. Campbell's administration. … The seven-count indictment alleges a wide-ranging conspiracy directed by Mr.

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Campbell and his associates to shake down companies trying to do business with the city. The indictment charges Mr. Campbell, 52, took payoffs totaling more than $150,000; accepted more than $100,000 in illegal campaign contributions; filed false personal income tax returns; and received gifts from contractors, including a $12,000 trip to Paris and nearly $10,000 worth of heating and air-conditioning equipment for his home. … But Mr. Campbell's lawyers assert that the case is built on shoddy evidence and unreliable witnesses who traded lenient punishment for their testimony."

Former DOJ Lawyer Says There Was No Cover Up In Cisneros Case. Former Justice Department attorney Robert Litt writes in the Washington Post (1/23, A15, 744K), "An independent counsel has issued a report claiming that officials of the Clinton administration blocked his investigation into allegations of tax violations by former housing secretary Henry Cisneros. Although these sensational charges have been trumpeted by partisans as evidence of Democratic corruption, they are completely false. … The independent counsel, David Barrett, was appointed to investigate charges that Cisneros had lied about payments he made to his mistress. … In 1997 Barrett came to the Justice Department, where I was serving in the Criminal Division, and asked permission to expand his case to investigate whether Cisneros had evaded income taxes over four years. … Nonpartisan career lawyers in the department's Criminal Division and in the Tax Division studied the independent counsel's application in great detail over several weeks. They met with his office, reviewed documents and interviewed witnesses. Each of them concluded that, with the exception of a single year's tax return, there were no reasonable grounds to investigate Cisneros for tax violations. These career lawyers found that the independent counsel's submission was full of legal and factual errors. … The conclusions of the career lawyers were reviewed in detail by other officials including myself, up to the attorney general. Every single lawyer in the Justice Department who reviewed this matter concurred in the analysis. … Sadly, this independent counsel seemed unable to recognize that different lawyers could reach different conclusions in good faith. Instead, he decided that everyone who disagreed with him could only be corrupt. He did not let the complete absence of evidence to support that fantasy deter him from smearing nonpolitical government lawyers, who have devoted their careers to serving the public, without hearing their side of the story. That's the real scandal."

Chicago City Clerk Not Resigning Despite Corruption Charges. The Chicago Tribune (1/21) reports, "Rebutting suggestions by the media and City Hall insiders that he would resign amid corruption charges, City Clerk James Laski said Friday he 'will continue to serve and represent the citizens of Chicago.' A federal investigation into his dealings 'are not connected to the operations of this office,' Laski said in a written statement. 'Employees of this office will continue to effectively serve the needs of the citizens of Chicago.' Meanwhile, U.S. Magistrate Judge Sidney Schenkier freed Laski from the requirement to wear an electronic monitoring device that had been ordered a week ago after the clerk was charged with bribery and obstruction of justice." The AP (1/21) adds Laski said in the statement "that reports that he has been absent from work recently have been exaggerated and unfair. … Laski says other than a few absences due to illness and two weeks of vacation he has taken to spend time with his family December for the past eleven years, he has been at work."

FBI Investigating Possible Contract Fraud By Veteran Connecticut City Official. The Connecticut Post (1/22, Cummings) reports a veteran Bridgeport employee "is under investigation for allegedly accepting kickbacks -- sometimes in the form of cash-filled envelopes passed openly at City Hall -- in exchange for awarding contracts. The FBI is probing the activities of Chris Kovachi, a 20-year city employee and specialist in the city's Housing Department, three separate sources confirmed. … Kovachi denied any wrongdoing when asked about the allegations," but "a former city employee, who asked not to be identified, told FBI agents about witnessing" contractor Wayne Jones "giving Kovachi an envelope filled with cash. City records show Jones was paid more than $717,000 over the last five years for various jobs." The Post adds, "Two sources within city government also confirmed the FBI is investigating Kovachi. … The sources stressed that the FBI is not investigating the entire housing office, and said the city is cooperating with the probe."

FBI Investigating Philadelphia Schools Contract. The Philadelphia Inquirer (1/22, Dilanian) reports, "Philadelphia schools chief Paul Vallas came to town three years ago promising to clean up the district's 'dysfunctional' workers' compensation system, which costs taxpayers tens of millions a year. But his pledge soon foundered on the shoals of the city's political culture. For reasons that Vallas has declined to publicly explain, the district hired a workers' compensation consultant with no government experience but with two important patrons: Democratic City Councilman Rick Mariano and Republican State House Speaker John Perzel. After Mariano personally introduced Danlin Management to Vallas, the newly formed company won a no-bid contract in 2003 to advise the district on ways to cut costs by reducing worker injuries and curbing

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fraud. The district's top financial officer at the time had concerns about Danlin but felt pressured by Vallas to hire the Center City firm, according to newly released records of the FBI's investigation into the matter."

FBI, IRS Investigating Possible Improper Political Activity By Fumo-Linked Nonprofit. The Philadelphia Inquirer (1/22, Cattabiani, Shiffman, McCoy) reports, "A South Philadelphia nonprofit with ties to State Sen. Vincent J. Fumo secretly financed a lawsuit to oust a powerful political opponent from the state Senate, sources said. The FBI is asking why the nonprofit -- created to clean streets and revitalize businesses in Fumo's district -- financed an unsuccessful 2001 lawsuit against the head of the state Senate, Republican Robert C. Jubelirer of Altoona, according to people familiar with the investigation." The Inquirer notes, "The nonprofit, Citizens Alliance for Better Neighborhoods, didn't pay for the lawsuit against Jubelirer directly, according to people familiar with the transaction. Instead, the nonprofit sent about $17,000 to Howard Cain, a longtime close political adviser to Fumo. Cain's political consulting firm then cut a $17,000 check for the suit, the sources said." The Inquirer adds, "For two years, the FBI, IRS agents and prosecutors have been aggressively scrutinizing a series of nonprofits connected to Fumo, looking at how Fumo raised money for them and how they spent it."

Houston Emerging As Major Center Of MS-13 Activity. The Austin American-Statesman (1/22, Ward) reports MS-13 is "a burgeoning criminal enterprise that has spread into 33 states and the District of Columbia, leaving a bloody trail of vicious crimes in its wake amid persistent reports that al Qaeda might be trying to use its smuggling network to sneak terrorists into the United States. … Its epicenter of recent growth has been neighborhoods of Central American immigrants in Houston, where federal investigators say the gang's membership and crimes have mushroomed. It is now facing a multiagency crackdown aimed at curbing its influence and violence. Los Angeles 'is still the place where you go to make your bones with MS-13, but Houston has emerged as a very large problem area,' FBI Special Supervisory Agent Stephen Kodak said in Washington. … 'It's like the old-time Mafia: They prey on their own, offering protection and then extorting money from other illegals who aren't likely to report the crimes,' Kodak said. 'It's definitely a growing problem.'" The American-Statesman notes, "'Law enforcement in 28 states have reported MS-13 members are engaged in retail drug trafficking, primarily trafficking in powdered cocaine, crack cocaine and marijuana, and, to a lesser extent, in methamphetamine and heroin,' Chris Swecker, assistant director of the FBI's criminal investigations division, testified before a U.S. House subcommittee in April 2005. 'The drug proceeds are then laundered through seemingly legitimate businesses.'"

Al Qaeda-MS-13 Alliance Seen As Unlikely. In a separate story, The Austin American-Statesman (1/22, Ward) reports, "Could al Qaeda terrorist operatives be teaming up with the MS-13 gang? No, federal investigators say. There is little, if any, evidence of such a link, and it is highly unlikely that the radical Muslim organization would align itself with a predominately Catholic gang, they say."

Five Indicted On Katrina-Related Fraud Charges. The Baton Rouge Advocate (1/21, Roberts) reports, "A Georgia man allegedly on his way to getting $125,000 in unemployment benefits for 49 imaginary people and four Baton Rouge residents who may have lied to get thousands in disaster relief are facing federal prison time." Drewey Pierre Whitaker, Ivory Profit, De'Ondra Profit, Monique C. Preston and Billy R. James were indicted by the federal grand jury. "The indictments — made public Friday — bring to 26 the total number of people who have been charged in Baton Rouge federal court with fraud in the aftermath of Hurricane Katrina. Nationwide, more than 180 people have been arrested, said Baton Rouge U.S. Attorney David Dugas, who oversees the national Hurricane Katrina Fraud Task Force. Whittaker faces five counts of wire fraud, each of which carries up to 30 years in prison, and 11 counts of illegal use of Social Security numbers, each of which carries up to five years in prison."

Former NOPD Officer Charged With Katrina-Related Theft. The Baton Rouge Advocate (1/21, Gyan) reports, "A federal grand jury accused a former New Orleans police officer Friday of driving across state lines with a new pickup truck looted from a Cadillac dealership during Hurricane Katrina. Willie Earl Bickham Jr. is charged with interstate transportation of a stolen motor vehicle: a black 2005 Chevrolet Silverado. Houston police arrested Bickham in November driving the stolen truck. Police said he admitted taking the vehicle." The Advocate adds, "U.S. Attorney Jim Letten said Friday that federal prosecutors and the FBI are keeping their ears 'close to the track' for incidents such as Bickham's that might arise and require federal attention." The AP (1/21) also reports on the charges.

Siemens Executives Indicted Over Alleged Sham Minority Partnership. The AP (1/21, Robinson) reports, "A Pennsylvania-based subsidiary of German electronics company Siemens AG and two of its executives have been indicted on charges of forming a sham partnership with a minority-owned company to land a $49 million county contract, prosecutors announced Friday. The minority-owned company and its owner were also charged. Both were previously indicted in the investigation. … A spokesman for

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Siemens Corp., the parent company for its U.S. operations, says it broke no laws and will fight the charges." The AP notes, 'Robert D. Grant, special agent in charge of the Chicago office of the FBI, said the government is 'determined to ensure that public contracts, especially those in the lucrative health care industry, are obtained based on merit and are not tainted by corruption.'"

The Chicago Tribune (1/20, Ciokajlo, Becker) reported on its Web site, "The charges were announced today in a superceding indictment that also added new charges against minority contractor Faust Villazan and his former company, Faustech Industries." Villazan "and Faustech originally were indicted in September for allegedly passing a $20,000 bribe to a Cook County employee to influence the award of the radiology contract during the construction of the new Stroger Hospital. … In the superceding indictment handed up late Thursday afternoon, prosecutors alleged the joint venture was a sham and did not comply with county contracting rules because Villazan received a flat fee of $500,000 and did not share in the profit or loss of the deal." The Tribune adds that Grant "said Villazan entered into the Siemens deal 'for the sole purpose of personal greed,' saying, in effect, 'I'm a minority business enterprise, and I'm for sale.'" However, in the version of the story which ran in Saturday's Chicago Tribune, the paper did not include Grant's statement.

The Chicago Sun-Times (1/21, Pallasch, Newbart) reports, "GE -- which lost to Siemens in the bidding -- sued the county and Siemens in federal court, alleging fraud in the bidding process. Siemens officials…lied in court and said there had been no fraud, officials said." US Attorney Patrick Fitzgerald "and Grant credited GE's civil lawsuit filed four years ago with starting the process of exposing the alleged fraud. 'If not for the light shed on this scheme by a competitor, this fraud might not have been uncovered,' Grant said.

New Orleans Man Sentenced To Prison For Credit Card Fraud. The AP (1/21) reports, "A New Orleans man has been sentenced to four years in prison and ordered to pay $35,000 in restitution after a jury found him guilty of stealing the credit card numbers of people and using them to buy merchandise that he would resell. The US Attorney's Office says Jerome McNeil and an accomplice recruited some cashiers at Kenner's Esplanade Mall and a restaurant to use a credit card skimmer to record customers credit card numbers. … US Attorney Jim Letten said the pair was so brazen that they even began to distribute business cards on the street."

Cities Report Shortage Of Police Recruits. The Christian Science Monitor (1/23, Axtman, 61K) says a "major shortage of police recruits" has "reached crisis proportions in some cities." The problem "has several sources: low pay, a big hole left by retiring baby boomers, and an image problem that steers the few young people who are interested in law-enforcement careers toward crime-scene investigation and forensics, rather than everyday street patrols." The Monitor adds, "To remedy the manpower shortage, some law-enforcement agencies are getting creative. They are giving new recruits help with down payments on homes and, for experienced officers in other locales, they are offering signing bonuses for switching to a new city. They're even encouraging their own officers to find new recruits in exchange for extra vacation time."

CIVIL LAW:

Federal Government May Take Hard Line On Contractors' Conflicts. The Washington Post (1/23, D4, Babcock, 744K) reports defense contractor Alion Science and Technology Corp. "faced the imminent loss of one of its largest contracts, a $275 million deal helping manage the Pentagon's military communications network. The government had just announced that Advanced Engineering & Sciences of Reston, a division of contracting giant ITT Industries Inc., would take over the work." But Alion is now "back in contention for the job. In a case that could signal a more aggressive federal approach toward potential conflicts of interest in contracting, Alion convinced government reviewers that a division of ITT should not be allowed to manage a program that potentially would be evaluating products made by the defense conglomerate -- or at least not without much more analysis then the Pentagon initially performed." This month, the Government Accountability Office "agreed, indicating that it was going to begin looking more closely at 'organizational conflicts of interest' -- the potential for a company to end up in a situation in which it is essentially evaluating itself or its competitors -- and would make sure contracting agencies begin paying more attention as well."

WSJournal Sees Evidence Of Fraud In Diagnosis Of Asbestos Ailments. The Wall Street Journal (1/23, 2.11M) editorializes, "Of all the unsavory details rolling out of investigations into the silicosis and asbestos scams, some of the ugliest concern doctors who abandoned their ethics to cash in. Even more disturbing is the growing evidence that what has allowed them to get away with this is a federal certification program. That's why a coalition of industry and other groups has began pushing the National Institute for Occupational Safety and Health (Niosh) to start policing its 'B-reader' program, which certifies doctors to read X-rays. The federal agency proposed new ethics rules in November, after a federal judge slammed several government-certified doctors who had ginned up sham

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diagnoses in a silicosis suit. But Niosh needs to go much further to clean up this corrupt corner of American medicine."

CIVIL RIGHTS:

Former Officials Say Bush Administration Has Politicized DOJ Voting Section. The Washington Post (1/23, Eggen, 744K) reports in a front page story that the Justice Department's voting section, "a small and usually obscure unit that enforces the Voting Rights Act and other federal election laws, has been thrust into the center of a growing debate over recent departures and controversial decisions in the Civil Rights Division as a whole." Many current and former lawyers "in the section charge that senior officials have exerted undue political influence in many of the sensitive voting-rights cases the unit handles. Most of the department's major voting-related actions over the past five years have been beneficial to the GOP, they say, including two in Georgia, one in Mississippi and a Texas redistricting plan orchestrated by Rep. Tom DeLay (R) in 2003." The section "also has lost about a third of its three dozen lawyers over the past nine months. Those who remain have been barred from offering recommendations in major voting-rights cases and have little input in the section's decisions on hiring and policy." Attorney General Alberto R. Gonzales "and his aides dispute such criticism and defend the department's actions in voting cases."

Demonstrators Mark 33rd Anniversary Of Roe V. Wade. Thousands of anti-abortion demonstrators gathered outside Minnesota's Capitol Sunday to mark the 33rd anniversary of the Roe v. Wade ruling. The AP (1/23, Lohn) reports that the Minnesota event was one of several nationwide yesterday. In San Francisco, "thousands of abortion opponents shouldering signs with slogans such as 'Peace Begins in the Womb' marched Saturday, while abortion rights supporters along the march route waved clothes hangers and shouted 'Bigots go home.' … In Idaho, nearly 400 abortion protesters marched at the Statehouse Saturday." The AP adds, "The largest abortion demonstration was expected Monday in Washington, D.C., where anti-abortion activists planned to converge on the mall to hear speakers supporting their cause and march on the Congress and Supreme Court."

Pro-Life Groups Optimistic About Movement's Future. The Washington Times (1/23, Price, 90K) reports, "As tens of thousands of abortion foes prepare for today's 33rd annual March for Life, they are buoyed by developments they see as promising for their cause, both at the state and federal levels. … Pro-life advocates are excited about broad abortion bans proposed by lawmakers in two states, Ohio and Indiana. It's their hope that these bills become law and that the statutes are eventually considered and upheld by a more conservative U.S. Supreme Court in a challenge to the Jan. 22, 1973, ruling in Roe v. Wade that abortion was a constitutional right." The Times notes that pro-life advocates "make it clear they are optimistic the Supreme Court will be more favorable to abortion restrictions, with the addition of Chief Justice John G. Roberts Jr. and this week's expected confirmation of Judge Samuel A. Alito Jr."

Roe Seen As Likely To Be Overturned If GOP President Is Elected In 2008. The Wall Street Journal's James Taranto (1/23) writes, "The Supreme Court is not racing the clock to resolve the abortion question. Most likely, sometime in the next decade the court will either overturn or reaffirm Roe. If President Bush gets to replace another pro-Roe justice or two, or a Republican is elected president in 2008, Roe will probably be history. Otherwise, it will be with us for another generation. In either case, politics will determine the outcome of what should have been a political matter all along."

Terms Of Abortion Debate Said To Have Caught Up With Public Attitudes. Time (1/30, Tumulty) reports, "Listening just to the alarms of abortion-rights groups on the one hand and the cheers of opponents on the other, you could come away with the impression that the fate of" Samuel Alito's nomination to the Supreme Court "will determine whether abortion remains available in this country. That is not what is at stake. Alito's confirmation would not produce the votes sufficient to overturn the Supreme Court's landmark Roe v. Wade decision guaranteeing abortion rights throughout the country. … Today the tussle is over not whether abortion will exist but how. In that respect, the terms of the debate have caught up with the public's attitude toward the issue: polls consistently show that most people in the U.S. want abortion to be legal; they just don't want it to be easy." Time adds, "Pollsters say that Americans' views on abortion have shifted relatively little since Roe v. Wade, that they have always been complicated and that sometimes they are even contradictory. In a survey by the Pew Research Center last July, for instance, 65% of those polled said they oppose the idea of overturning Roe v. Wade, but nearly an identical percentage said they would like to see more legal restrictions. Among the most popular: mandatory waiting periods, parental- and spousal-notification requirements and a ban on all late-term abortions."

White House To Push Pentagon On Prayers Specifically Referencing Jesus Christ. An evangelical Christian chaplain's group says the White House will pressure the Pentagon to be more explicit in saying military chaplains can pray in the name of Jesus Christ. The Washington Times (1/23, Duin, 90K) reports, "The administration struck a deal on Thursday with Rep. Walter B. Jones, North Carolina Republican, said the Rev. Billy

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Baugham of the Greenville, S.C.-based International Conference of Evangelical Chaplain Endorsers. … Claude Allen, White House domestic policy adviser, promised the congressman that President Bush will take up the issue personally with Defense Secretary Donald H. Rumsfeld, said Mr. Baugham, who was involved in the discussion. … Mr. Jones' office, which confirmed that the conversation had taken place, says chaplains should be able to pray to whomever 'their faith tradition' demands, including named gods, saints or prophets."

ANTITRUST:

Albertson's Closes Deal for Sale To Consortium. The Wall Street Journal (1/23, Adamy, Berman) reports, "A consortium of retailers and financial buyers could announce a deal to acquire Albertson's Inc. for roughly $9.6 billion as early as today, say people familiar with the matter, offering an end to a tumultuous sale process. The Albertson's board was expected to meet last night to approve the deal, people familiar with the process said. As happened in December, it is possible the deal could collapse at the final moment. The deal could give grocery-store chain Supervalu Inc., which would acquire most of Albertson's stores, a challenge in freshening up hundreds of supermarkets. Meanwhile, drugstore operator CVS Corp., which would acquire Albertson's free-standing pharmacies, would pull closer to rival Walgreen Co., the nation's largest drugstore chain by revenue." According to the Journal, final terms were not known, but "they are expected to roughly mirror the ones that the board turned down in December," except that "Albertson's buyers would assume any antitrust risk involving Chicago-area stores, a sticking point that helped unwind a previous deal, said the people familiar with the matter." According to the Journal, "The buyout consortium is planning to pay about $26 per Albertson's share, said the people familiar with the matter. Based on the terms for the December deal, that would entail offering 0.182 of a share of Supervalu stock plus $20.25 in cash, or $26.05 in total, based on Friday's closing price. … Albertson's shares closed up 24 cents at $24.11, rising 1%, in 4 p.m. composite trading Friday on the New York Stock Exchange. Supervalu on Friday fell 34 cents, or 1%, to $31.85 on the NYSE."

The New York Times (1/23, Sorkin) reports, "While people involved in the negotiations were hopeful that this deal would be completed, they also cautioned that it remained possible that the talks could drag on or collapse altogether again if an unforeseen issue arises the way it did in December." Since that deal fell through, the Times reports, "the board of Albertsons has been under increased scrutiny from analysts and investors who have questioned why the December deal was abandoned at the last minute. Albertsons shares fell more than 10 percent after the company announced it had terminated talks." In the wake of the December breakdown, analysts were critical, and some shareholders called "for the resignation of Albertsons' chief executive, Larry R. Johnston, a former General Electric executive who was brought in to revive the business. The company's independent directors issued a statement pledging their support for him." IN this deal, "the buying group plans to break Albertsons into three parts by splitting the supermarket business in two and merging the drugstore business with CVS. Supervalu supermarkets is expected to acquire Albertsons' most attractive stores, like its Jewel stores in the Chicago area. Cerberus Capital and Kimco Realty plan to buy its underperforming businesses and either sell them and their real estate or try to institute a turnaround plan, depending on the store." The Times also notes, "The possible sale of Albertsons, based in Boise, Idaho, comes as traditional grocers are being squeezed by larger discount competitors like Costco and Wal-Mart Stores," and, "on the other end of the spectrum, … upscale rivals like Whole Foods and Trader Joe's."

Toshiba Beats Out GE To Buy Westinghouse. The Financial Times (1/23) reports, "Toshiba, the Japanese engineering company, has won the battle for control of Westinghouse, the US power plant arm of British Nuclear Fuels, with a bid of almost $5bn, more than double original expectations." Toshiba's competition included "General Electric of the US and Mitsubishi Heavy Industries of Japan." According to the article, "The group's bid of close to $5bn was not only the highest offer but BNFL decided it would also be the best for Westinghouse's future growth prospects and its workers, said a person close to BNFL." The board of directors "would make a final decision at a board meeting on Thursday," the paper reported. The Financial Times also notes political opposition to "a non-US group gaining control of Pittsburgh-based Westinghouse. Last month Ralph Hall, Republican chairman of the House of Representatives' energy subcommittee, wrote to the US Treasury arguing that Westinghouse's "sensitive technology" should not be controlled by a foreign company." Also, the article notes, "A person close to the deal said Toshiba was favoured because BNFL believed it was most likely to allow senior Westinghouse management to run the business on its own." But "GE was seen as having a more aggressive corporate culture than Toshiba, which could have harmed Westinghouse's chance of winning a Chinese nuclear reactor contract, it said. "

Nuclear Energy In Favor With Governments. The New York Times (1/23, Mouawad, Sorkin) reports some of the same facts, but also notes developments in the nuclear-power industry. The Times says, "Nuclear energy is gaining support with governments around the world amid high oil and

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natural gas prices, tight petroleum supplies and growing demand for electricity. Technology by Westinghouse is found in half the world's operating commercial nuclear power plants, according to the company's Web site." While nuclear opponents cite Three Mile Island, Chernobyl, and the problems of disposing of waste fuel, "nuclear energy never lost the favor of governments who view it as a reliable source of energy," the article says. The Times also says, "Energy companies are seeking licenses around the country to build new power plants, notably in Alabama and Mississippi. The Bush administration, which is also encouraging the development of nuclear energy as a way to reduce dependence on foreign energy sources, is seeking to streamline the application process and permits needed to build new plants."

ENVIRONMENT/INDIAN AFFAIRS:

Second Fatal West Virginia Accident Spurs Calls For Mine Safety Improvements. NBC Nightly News (1/22, story 4, 1:30, Williams) reported, "There are more questions about the mine fire that killed two miners" in West Virginia "and the demands for new safety regulations." NBC (Costello) added the fire "broke out Thursday afternoon on a conveyor belt two miles inside the Alma mine. They were using that same way to draw in fresh air. The government had banned that. But companies said digging fresh-air tunnels was expensive. So the Bush Administration allowed it." The Bush Administration "says it will look at getting better equipment and whether those oxygen tanks every miner wears should last longer than one hour. Congress will hear conditions coal miners work. The mine involved in the fire is owned by one of the country's biggest coal producers, the Massey Company."

US Ranks 28th In World On Key Environmental Standards. A nation-by-nation study of environmental performance shows that just six nations have achieved 85 percent or better success in meeting critical environmental goals including clean drinking water, low ozone levels, sustainable fisheries and low greenhouse gas emissions. The New York Times (1/23, Barringer, 1.19M) reports, "The study, jointly produced by Yale and Columbia Universities, ranked the United States 28th over all, behind most of Western Europe, Japan, Taiwan, Malaysia, Costa Rica and Chile, but ahead of Russia and South Korea. … The pilot study, called the 2006 Environmental Performance Index, has been reviewed by specialists both in the United States and internationally."

Senators Disagree On Fishing Quotas. The Washington Times (1/22, Price, 90K) reports, "A Senate spat over relaxed fishing quotas could snag the renewal of the 1976 Magnuson-Stevens Fishery Conservation and Management Act. Reauthorization of Senate Bill 2012, which governs offshore ocean fisheries, is expected by late spring, but differences remain over whether it should permit relaxed enforcement of annual catch limits for each fishery or impose strict limits. … The version of the bill approved by the Senate Commerce, Science and Transportation Committee on Dec. 15 had an amendment to soften annual fishing quotas, as a result of pressure by New England fishermen and the members of Congress who represent them. … Congressional observers say it is ironic that the difference of opinion regarding catch limits has made Massachusetts Democrats such as Sens. Edward M. Kennedy and John Kerry and Rep. Barney Frank, normally viewed as environmental champions, to favor looser controls on fishing. Meanwhile, Sen. Ted Stevens, Alaska Republican and Commerce Committee chairman, who favors oil drilling in the Arctic National Wildlife Refuge, is seen as a lawmaker dedicated to conservation of declining fish stocks and protection of their habitats with the bill."

Allen Foods Offers To Burn Chicken Manure, Producing Power And Reducing Waste. The Washington Post (1/23, B1, Morse) reports that Allen Family Foods "last week presented plans to the Dorchester County Council to burn chicken manure in Linkwood on Maryland's Eastern Shore. The resulting steam would help run an Allen Family Foods factory that processes leftover chicken parts" and help reduce the waste generated by chicken farms in Maryland. According to the article, "In Maryland, some leading conservationists back the project. If more manure is burned, they say, less will end up on farms and potentially in runoff." The Post says, "Chicken executives have been talking up manure burning for more than two decades. But it is technologically challenging, and no one has made it work commercially in the United States, according to industry executives and engineers." Additionally, Allen Family Foods has no assurance of regulatory approval; according to the article, the "Maryland Department of the Environment plans to question Allen Family Foods about odors and emissions. Allen said it won't start construction until it gets an operating permit from the department." The idea, the Post says, "goes back to at least 1983, when the Delmarva Power company experimented with the fuel at a power plant in Delaware, Delmarva Power spokesman Matt Likovich said. The utility later studied retrofitting another plant, in Maryland, estimating it would cost $50 million. Neither project got off the ground."

Royalty Payments For Use Of Public Land Have Not Kept Pace With Market Prices. The New York Times (1/23, Andrews, 1.19M) reports, "At a time when

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energy prices and industry profits are soaring, the federal government collected little more money last year than it did five years ago from the companies that extracted more than $60 billion in oil and gas from publicly owned lands and coastal waters. If royalty payments in fiscal 2005 for natural gas had risen in step with market prices, the government would have received about $700 million more than it actually did, a three-month investigation by The New York Times has found. But an often byzantine set of federal regulations, largely shaped and fiercely defended by the energy industry itself, allowed companies producing natural gas to provide the Interior Department with much lower sale prices - the crucial determinant for calculating government royalties - than they reported to their shareholders. As a result, the nation's taxpayers, collectively, the biggest owner of American oil and gas reserves, have missed much of the recent energy bonanza.'

WPost Urges Administration To Fund Ocean Research. The Washington Post (1/23, 744K) editorializes, "The Bush administration remains in denial about climate change and sometimes treats environmental protection as an inconvenience. Yet there was reason to hope, when the U.S. Commission on Ocean Policy issued its report more than a year ago, that President Bush would seize the issue of the dire threat to this country's coastal waters. … So far, it is an opportunity Mr. Bush has largely passed up. To be sure, there have been some constructive changes. Senate Commerce Committee Chairman Ted Stevens (R-Alaska) is pushing legislation to improve fisheries management." According to the Times, "a big test will come when the administration has to propose funding for oceans research in its coming budget."

FBI/DEA/ATF/USMS:

States Report Flood Of Potent Mexican Crystal Meth. The New York Times (1/23, Zernike, 1.19M) reports, "In the seven months since Iowa passed a law restricting the sale of cold medicines used to make methamphetamine, seizures of homemade methamphetamine laboratories have dropped to just 20 a month from 120. … But…officials in other states with similar restrictions" are "now worried about a new problem: the drop in home-cooked methamphetamine has been met by a new flood of crystal methamphetamine coming largely from Mexico. Sometimes called ice, crystal methamphetamine is far purer, and therefore even more highly addictive, than powdered home-cooked methamphetamine, a change that health officials say has led to greater risk of overdose." According to the Times, "although child welfare officials say they are removing fewer children from homes where parents are cooking the drug, the number of children being removed from homes where parents are using it has more than made up the difference."

DEA Investigation Uncovers Suspected Cocaine Trafficking Ring. The Madison (IN) Courier (1/23) reports, "More light is being shed on the Drug Enforcement Administration drug raid last week in the Courier area. Aaron Payne, a special deputy for the DEA, testified at a detention hearing Friday in Indianapolis. Payne was one of the lead investigators for the government during the yearlong investigation that lead to the arrests of 14 Courier-area residents on federal charges. Results of the investigation uncovered a Mexico-to-Chicago cocaine trafficking ring that then came through Madison. The indictment indicates that both John Scruggs and Randy Thomas were the ringleaders of the organization. They acquired cocaine from their sources in Chicago and then distributed it to 12 mid-level dealers in the Courier area, according to the federal indictment. During the investigation, Payne obtained court-ordered wiretaps on four telephone lines. The wiretaps began in November to accompany aerial surveillance already under way in the investigation."

Virginia "Pain Doctor" Loses License. The Roanoke (VA) Times (1/21) reports, "Roanoke pain doctor Cecil Knox was stripped of his right to practice medicine and sentenced to five years of probation Friday, marking the end of what has been called both a legitimate prosecution and an unnecessary persecution. The conclusion came as a relief to many in the packed federal courtroom, but outside, both camps still expressed regrets -- that loved ones who died were not around to see the day, and that chronic pain patients no longer have a physician they can trust. … Knox was first indicted in February 2002, along with his practice, his former office manager, Beverly Boone, and two employees. His charges included prescribing controlled substances such as the painkiller OxyContin outside the scope of legitimate medical practice, and the government said Knox's irresponsible behavior led to injury or death to patients. At one point, he faced more than 300 charges. … As part of the plea agreement, Knox voluntarily surrendered his medical license to the state of Virginia and his registration number for prescribing medicine to the Drug Enforcement Administration."

Lawsuit Settled In Texas In DEA-Involved Shooting. The San Antonio (TX) Express (1/23) reports that on Jan. 3, relatives of Ashley Villarreal gathered at San Fernando Cemetery and "observed what would have been her 17th birthday. The ceremony was half a celebration and half a call for justice over the controversial shooting by federal agents that put her in her grave when she was 14. But four days before the civil case was to head to trial, U.S. District

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Judge Fred Biery ruled Thursday that the government would be allowed to put on evidence that could have hurt the plaintiffs' case. Hours later, the wrongful-death suit was settled for $200,000 — far less than the $35 million listed in the plaintiffs' original demand letters to the government. Under the settlement, released Friday, the government denied any liability in the shooting that occurred during a stakeout for Ashley's father. The government argued that the agents fired at a Mitsubishi Eclipse driven by Ashley the night of Feb. 9, 2003, because they feared the car was going to hit one of them. 'This tragedy weighs heavily on all of those involved: the family, the special agents involved and the entire community,' said Joe Arabit, head of the Drug Enforcement Administration in San Antonio. 'The DEA is hopeful that the community can now move forward beyond this incident.'"

Canada Clears Way For Medical Marijuana Advocate To Be Deported To US. The Los Angeles Times (1/21, Bailey) reports, "A judge in Canada on Friday rejected an eleventh-hour appeal by a California medical marijuana refugee trying to avoid deportation to the United States, five years after fleeing to avoid a short jail stint he called a death sentence. Steve Kubby, a former Laguna Beach resident who was a 1998 Libertarian candidate for governor and one of the authors of California's watershed medical marijuana law, suffers from a rare form of adrenal cancer that can cause blood-pressure spikes that his doctors say are controlled by smoking cannabis. Canadian Federal Justice Yvon Pinard ruled that Immigration Canada may now proceed with its order to return Kubby to the U.S. — along with his wife, Michele, and two young children."

US Drug Agents Said To Be Hitting Drug Cartels In The Pocketbook. The Dallas Morning News (1/20, Mclemore) reports, "In the last three years, customs agents have seized more than $20 million in currency at the eight ports of entry from Brownsville to Del Rio – roughly one-fifth of the value of the bulk cash seizures the agency made nationally. While U.S. drug agents have long concentrated their efforts on stopping drugs at the border, they're increasingly going after the money, hitting the drug cartels in the pocketbook and providing invaluable intelligence of the trafficking networks. And with stricter controls on bank accounts and wire transfers, trafficking organizations are running piles of cash into Mexico, in cars, trucks, boats, and airplanes and even strapped to the bodies of couriers, federal officials said." The Morning News adds, DEA Administrator Karen Tandy, during a Senate hearing on narcotics control last March, called tracking the money the key to controlling the $65 billion a year trade in illegal drugs. 'To make a significant impact on the drug trade in America and around the world, there is no strategy more effective than following the money back to the sources of drug supply and taking away the dirty proceeds of that trade,' she said. 'But our efforts to date clearly have not successfully done the job.' Total seizures – which include all assets and can be in the form of cash, houses, guns and vehicles – amounted to well short of $1 billion, Ms. Tandy said. 'Drug traffickers pay more than that each year in fees to launder their ill-gotten gains,' she said. Officials said there is no established formula to determine what percentage of cash gets across the border successfully."

US, Venezuela Expected To Sign Anti-Drugs Agreement. The BBC (1/21) reports, "Venezuela and the US appear ready to sign a new agreement to fight international drug trafficking. … For the past five months all official relations between Venezuelan and US anti-narcotics agents have been frozen. But after tough negotiations between Venezuelan and US diplomats a new contract is now on the table. This accord will re-establish a basic working relationship in the fight against drugs. Luis Correa, the chief of Venezuela's anti-narcotics police unit, says the new agreement with Washington will be signed…once all the paperwork has been finalized."

IMMIGRATION:

Scholar Released From China Faces Deportation From US. The AP (1/23, Barakat) reports, "Nearly five years ago, the U.S. government exerted high-profile diplomatic pressure on China to secure the return of scholar Gao Zhan, a researcher at American University whom Beijing believed was a spy for Taiwan. … Now the Department of Homeland Security is pushing with equal vigor to have her deported back to China, despite objections from the Department of Justice and a federal judge. A hearing is scheduled Monday in immigration court to determine whether Gao poses a risk to national security, as DHS contends." The AP continues, "Gao's case became international news in February 2001 when the American University researcher and her family were arrested by the Chinese on suspicion of espionage. Her husband, Xue Donghua, and the couple's 5-year-old son were released after a month in custody. … But the Communist government charged Gao with espionage." The AP adds, "The State Department protested and worked hard to secure her release. Sen. George Allen, R-Va., was one of many elected officials who took up her cause and introduced legislation, which ultimately failed, to grant her U.S. citizenship in absentia. … The Chinese government put Gao on trial in July 2001, convicted her and sentenced her to prison. But they decided to deport her to the United States rather than imprison her, and Gao received a hero's welcome

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when she returned to the U.S. a month later. … Then in 2003 came shocking news: Gao had pleaded guilty to illegally exporting more than $1 million in military-grade computer microprocessors to a Chinese government agency. Court documents indicate that the scheme had preceded her 2001 arrest and that Gao knew the microprocessors could be used by the Chinese military. … She struck a plea bargain that resulted in a seven-month jail sentence, plus eight months in a halfway house. Her jail time was severely reduced because prosecutors believed Gao had cooperated with their investigation and provided useful information to the United States. … As part of the plea bargain, the Justice Department recommended to the Department of Homeland Security against deporting Gao after she served her sentence. … Normally such recommendations carry great weight, but in this case, DHS and U.S. Immigration and Customs Enforcement are ignoring the recommendation and pushing for deportation."

Illegal Immigration Is Contentious Issue Nationwide. The Christian Science Monitor (1/23, Knickerbocker, 61K) reports, "Immigration has become an increasingly contentious political and social issue around the country. Organizations patterned after the controversial 'Minuteman Project' along the US-Mexico border have sprung up in New England, the Midwest, the South, and the Pacific Northwest. This has led to demonstrations and shouting matches with those opposed to what they call 'vigilantes.' State and local officials are working to limit government services to illegal immigrants and their children (such as college tuition and worker's compensation), requiring proof of citizenship to get a driver's license and cracking down on day labor sites where men - many in the country illegally - gather to seek work." The Monitor adds, "In Washington this year, Congress and the Bush administration are expected to continue wrangling over immigration reform. But most of the action, observers say, is likely to be at the state level: legislation and ballot initiatives."

Two California Police Departments Will Train To Enforce Immigration Laws. The Los Angeles Times (1/23, Winton, Yi, 958K) reports that the Costa Mesa Police Department and Orange County Sheriff's Department in California "are developing plans for their officers to be trained alongside federal immigration agents so they can understand and help enforce immigration laws. They are among the first in the nation to seek the training, and their effort has generated both interest from other agencies and protests from immigrants' rights groups." The Orange County Sheriff's Department "wants to send 200 deputies for special training by Immigration and Customs Enforcement, and hopes federal approval comes soon. Likewise, Costa Mesa seeks training for up to 40 officers initially, mostly detectives, gang investigators and jail personnel. The training will be to familiarize officers with immigration law, give them an understanding of the federal immigration bureaucracy and let them observe how federal agents do their jobs."

CONGRESS-ADMINISTRATION:

Alito Expected To Be Confirmed By Narrow Margin. Supreme Court nominee Samuel Alito appears to be headed for Senate confirmation by one of the narrowest margins in history. The Washington Times (1/23, Hurt, 90K) reports that while Alito has not lost the support of any Republicans, he has "won endorsement from only one Democrat. Republicans say they expect the vote to be close to the 55-45 partisan break in the chamber. … Republican leadership aides also say they are worried they may lose one of the Northeast Republicans who represent liberal states. Sens. Lincoln Chafee of Rhode Island and Olympia J. Snowe and Susan Collins, both of Maine, have declined to say how they will vote. Those same centrists, however, have said that a Democrat filibuster of the nominee would be out of order. Still, Democrat leaders insist, that option remains a possibility. … Majority Leader Bill Frist of Tennessee has made clear that if Democrats filibuster Judge Alito, he will move to change the rules in the Senate to ban such filibusters of judicial nominations."

The Legal Times (1/23, Goldman) reports, "There are any number of ways to fault the performance of Senate Democrats in their campaign to keep Samuel Alito Jr. -- seemingly as rock-ribbed a conservative as you'll find -- off the high court." The Times continues, "During Alito's weeklong confirmation hearings, Senate Judiciary Committee Democrats were, by turns, hostile, pedantic, bombastic and confused. Follow-up questions? No time for that. … There were larger strategic miscalculations as well: notably that the majority of pro-abortion rights Americans would rise up in outraged opposition to a nominee who had so clearly expressed disdain for abortion rights at several points during his legal career. Or that Americans would find credible the shrill discourse of Alito's opponents, which by now had been assimilated as so much background noise. … And there was last year's 'Gang of 14 filibuster deal, one that Democrats initially claimed as a victory but that helped seal their defeat. … The causes are myriad, but the result seems clear: Alito's opponents threw everything they had at him and nothing worked. He is now virtually guaranteed to be confirmed."

Kerry Will Vote Against Confirmation. Sen. John Kerry said yesterday he will vote against Alito's confirmation, saying the nominee would take the High Court "backwards." The AP (1/23) reports that Kerry, speaking on ABC's This Week with George Stephanopoulos, said, "I think he will shut the door of court access to the average person in America,"

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adding, "I will vote against him because I think he will take the court backwards."

Allen Challenges Democrats To Attempt Filibuster. Sen. George Allen said on CNN's Late Edition (1/22, Blitzer), "Judge Alito has an outstanding record. … I think he's going to be an outstanding Supreme Court justice, respecting the will of the people in our representative democracy. And if the Democrats want to filibuster, let them. We'll pull the constitutional trigger. And as far as I'm concerned, it's not too much to ask a senator to get off his or her cushy seat and show some backbone and spine and vote yes or vote no, but vote."

Alito Said To Be "Fitting Replacement" For O'Connor. In an op-ed for USA Today (1/23, 2.31M) the University of Notre Dame's Richard Garnett writes, "notwithstanding her recent 'liberal' votes in several hot-button cases, [Justice Sandra Day] O'Connor was for two decades a consistent and crucial partner with Chief Justice William Rehnquist in moving the court's constitutional doctrines in a more conservative direction: She believed, among other things, that ours is a national government of limited powers, that the states are sovereign laboratories of democracy, that religious faith and expression are protected by our Constitution and welcomed in the public square, and that our criminal laws best serve human dignity by preventing and punishing crime." Garnett adds, "Alito is an eminently worthy successor to O'Connor. What's more, he is all the more fitting a replacement, given their shared commitment to what has been quite rightly called our 'first freedom': The freedom of religion protected by the First Amendment."

Kennedy Seen As Supreme Court Swing Vote. Newsweek (1/30, Thomas, Taylor) reports that with the retirement of Supreme Court Justice Sandra Day O'Connor, Justice Anthony Kennedy "is seen by liberals and status-quo devotees as the remaining swing vote, a check on the court's rightward tilt as more justices are appointed by Republican presidents." Kennedy has 'evolved,' say the liberals -- much like other GOP-appointed justices before him, such as the late Harry Blackmun. Conservative lawyers scoff (though rarely on the record, lest they have to argue before Kennedy) that the justice is squishy and vainglorious, too worried about what the headlines will say about him. Other hard-liners regard him as a traitor."

NYTimes Argues Against Confirming Alito. An editorial in the New York Times (1/23, 1.19M) says Alito "is exactly the kind of legal thinker President Bush wants on the Supreme Court. He has a radically broad view of the president's power, and a radically narrow view of Congress's power. He has long argued that the Constitution does not protect abortion rights. He wants to reduce the rights and liberties of ordinary Americans, and has a history of tilting the scales of justice against the little guy. As senators prepare to vote on the nomination, they should ask themselves only one question: will replacing Sandra Day O'Connor with Judge Alito be a step forward for the nation, or a step backward?" Alito "may be a fine man, but he is not the kind of justice the country needs right now. Senators from both parties should oppose his nomination." The Times concludes, "If the far right takes over the Supreme Court, American law and life could change dramatically. If that happens, many senators who voted for Judge Alito will no doubt come to regret that they did not insist that Justice O'Connor's seat be filled with someone who shared her cautious, centrist approach to the law."

Bush To Unveil Market-Oriented Healthcare Proposals. The Los Angeles Times (1/23, Gosselin, 958K) reports President Bush is "preparing to unveil a series of proposals that are intended to make the nation's healthcare system more efficient, but are likely to revive a bitter debate — begun last year over Social Security — about how much of life's biggest risks Americans should bear on their own." Many of the proposals, "such as limits on medical malpractice lawsuits, are ones the president has failed to get through Congress," but "he plans to unveil the initiatives as part of his vision for reshaping U.S. healthcare policy, aides and advisors said." Possible initiatives include "offering additional tax breaks for the use of Health Savings Accounts, and making most out-of-pocket medical spending by individuals tax-deductible." Bush's supporters "say that the changes would help tame rocketing medical costs by encouraging people to buy their own healthcare insurance and become smarter shoppers, rather than relying on employers or government programs such as Medicare and Medicaid to cover their health costs." Critics "argue that Bush's expected proposals would undermine the employer-provided health insurance system that now covers most working Americans." Despite the "political drubbing that the administration sustained on Social Security and over the flawed rollout of its Medicare prescription drug benefit, Bush appears eager to return to the fray."

U.S. News and World Report (1/30, Walsh) reports that White House officials say that in his State of the Union Address, President Bush "will focus in particular on controlling healthcare costs, which polls show is a top priority for voters. Bush is expected, for example, to recommend raising the amount individuals can deposit in health savings accounts, offering additional tax breaks for those who buy private insurance on their own, and allowing more portability for health insurance when people change jobs."

Newsweek (1/30, Wolffe, Bailey) adds, "After a series of 'listening' sessions with Hill allies last month, White House aides told members they wanted to do something 'achievable' after last year's failure to overhaul Social Security and the tax code. In his State of the Union speech, Bush will return to his

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old idea of tax-free health savings accounts, hoping that will appeal to younger voters who can carry their savings from one job to another. And he'll tout the new Medicare prescription-drug benefits, urging seniors to stay the course despite early bureaucratic snafus that have left some without coverage."

Bush Expected To Portray Himself As "Thrifty." Time (1/30, Cooper, Allen) adds, "After five years of tax cuts and massive spending that brought back deficits and ensured that they will continue for years if not decades, Bush plans to use his State of the Union address on Jan. 31 to portray himself as, well, thrifty. He will talk about the need to rein in programs like Medicare, Medicaid and Social Security, and he'll tout the modest budget cuts that Congress passed at his request last year. His staff wants to make 'restraining spending' a defining Bush characteristic, along with spreading democracy around the world and prosecuting the war on terrorism." However, Time adds that Bush "has a huge credibility problem," but he hopes to "earn his credentials as a fiscal disciplinarian when he talks about the long-term challenges posed by the exploding cost of entitlement programs, which together take up half the budget and are immune to White House or congressional tinkering. He wants to use his remaining years in office to persuade Congress to make transformational, money-saving changes in those programs, especially Medicare."

Bush Likely To Propose New Nuclear Energy Program. U.S. News and World Report (1/30, Bedard) reports in its "Washington Whispers" column, "Energy experts are predicting that President Bush is likely to offer up a new nuclear program in his State of the Union address. … The experts think Bush will push a plan to reprocess spent nuclear fuel for use in advanced reactors."

Aides See 2006 As Start Of Bush's "Third Term." U.S. News and World Report (1/30, Walsh) reports that President Bush is about to embark on "what he hopes will be a fresh start for his presidency. Bush tells friends that despite the many setbacks of the past year, the country still wants him to provide strong leadership, and that's what he aims to do. But that also means being more realistic, Bush has concluded, so he is ready to trim his sails a bit. … Some Bush strategists see 2006 as the start of Bush's 'third term.' They regard his first four years as a period of solid achievement that culminated in his re-election victory. They see 2005 as a 'term' of its own, 12 months marked by disappointment. They hope '06 will start an upswing." US News adds, "On a personal level, Bush is described by aides as upbeat and eager to get started on the 2006 agenda." US News also that the "real kickoff of 2006 will be the State of the Union address January 31. … Bush will continue to argue that progress is being made against the insurgents in Iraq and that the domestic economy is strong. But Republican insiders say he will also emphasize a series of smaller proposals that they predict will find ready acceptance among voters."

2005 Called Worst Year Of Bush Presidency. Newsweek (1/30, Wolffe, Bailey) says that 2005 was "the worst year of [Bush's] presidency." Bush "knows he needs something smart to offer the anxious GOP majority on Capitol Hill as its members head home to face the voters this fall. So he's shelved the ambitious domestic agenda he launched a year ago, and gone back to the mantra that's worked so well in the last two election cycles: it's the war, stupid." The Bush team "will remind the public of the controversy over Bush's decision to eavesdrop on Americans without a warrant as he keeps an ear out for terrorist activity. But Bush's aides believe they can rebrand the domestic snooping program as 'enemy surveillance' vital to protecting the country. The well-worn plan is premised on the notion that three elections after 9/11, the Democrats still don't have an answer to that line of attack."

Bush Team Said To Be Worried About Photos Of Bush With Abramoff. Time (1/30, Zagorin, Allen) reports that the White House has sought to portray the scandal surrounding lobbyist Jack Abramoff "as a Capitol Hill affair with little relevance to them." But, President Bush's "memory may soon be unhappily refreshed. TIME has seen five photographs of Abramoff and the President that suggest a level of contact between them that Bush's aides have downplayed. While TIME's source refused to provide the pictures for publication, they are likely to see the light of day eventually because celebrity tabloids are on the prowl for them. And that has been a fear of the Bush team's for the past several months: that a picture of the President with the admitted felon could become the iconic image of direct presidential involvement in a burgeoning corruption scandal like the shots of President Bill Clinton at White House coffees for campaign contributors in the mid-1990s."

Reuters (1/23) reports Time magazine reports "at least five photos show U.S. President George W. Bush with the lobbyist at the center of a corruption scandal," Jack Abramoff. The White House "has tried to play down any contact with" Abramoff, who "pleaded guilty to fraud charges this month and agreed to help prosecutors in a congressional corruption investigation." TIME "did not publish the photographs, saying its source refused to provide them for publication. Most look like those taken at presidential receptions, it said." The White House has said Bush "does not know Abramoff and does not recall meeting him, and that the lobbyist attended two Hannukah receptions and a few staff-level meetings at the White House."

The AP (1/23) reports, "Both Washingtonian and Time magazines have reported the existence of about a half-dozen

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photos showing the two together." The White House "has acknowledged that Abramoff attended some events at the Executive Mansion, and spokeswoman Dana Perino said Sunday it's not surprising that the two would have met." Perino said, "The president has taken tens upon thousands of pictures at such events."

Bloomberg (1/23, Willis) reports one photograph "shows Bush, Abramoff and Raul Garza Sr., who was then chairman of the Kickapoo Indian tribe, an Abramoff client who is under indictment for allegedly embezzling more than $300,000 from his tribe, Time reported. Another photo bears Bush's signature and shows the president shaking hands with Abramoff. Three others are of Bush, Abramoff and one of the lobbyist's three sons." According to Time, Garza's "meeting with Bush took place in 2001 in the Eisenhower Executive Office Building, next to the White House. Garza said the session was arranged with the help of Abramoff and Grover Norquist, a Republican activist, the magazine reported." Garza's tribe "owned a casino in Bush's home state of Texas, and there is no indication the administration acted to benefit the Kickapoo tribe at Abramoff's behest, Time said."

Democrats Deny They Benefited From Abramoff Contributions. Sen. John Kerry, on ABC's This Week (1/22, Stephanopoulos), responded to allegations that his 2004 campaign said, "got about $100,000 from…Abramoff-affiliated lobbying groups." Kerry stated, "I've never met Jack Abramoff. I've never had a dime come to me from Jack Abramoff. And I'm not going to stand for them suggesting that. … This is a Republican scandal."

Asked if corruption tied to Jack Abramoff is a "bipartisan scandal," Sen. Barack Obama, appearing on NBC's Meet the Press (1/22, Russert), said, "The specific problem of inviting lobbyists in who have bundled huge sums of money to write legislation, having them -- oil and gas companies come in to write energy legislation, having drug companies come in and write the Medicare prescription drug bill, which we now see is not working for our seniors. Those are very particular problems of this administration and this Congress. And I think Jack Abramoff and the K Street Project -- that whole thing is a very particular Republican sin."

Sen. Dick Durbin, on Fox News Sunday (1/22, Wallace), said, "I've never met Jack Abramoff, his wife or had any meeting with him. He and his wife donated $204,000 to politicians over a five-year period of time. Every single penny went to a Republican congressman or senator. … It is dead wrong for the Republican National Committee to be arguing now that the K Street Project that Tom DeLay and many others created on Capitol Hill had something to do with Democrats."

Texas Tribe Says It Was Victimized By Abramoff. In a Wall Street Journal letter to the editor (1/23), Ronnie Thomas, chairman of the Alabama-Coushatta Tribe of Texas, says, "In a Jan. 5 editorial-page commentary – 'The Least Transparent Industry in America' -- Fergus Bordewich identified the Alabama-Coushatta Tribe of Texas as a client of Jack Abramoff. Our tribe was never a client of Mr. Abramoff; we've had absolutely no relationship with him, other than being a victim of his unethical actions. On behalf of one of his clients, Mr. Abramoff worked to prevent our tribe from securing the rights to seek economic opportunities afforded federally recognized tribes under the Indian Gaming Regulatory Act (IGRA). Moreover, he directed another of his tribal clients to request that our tribe make a $50,000 donation to the Capital Athletic Foundation. Members of that tribe have admitted that they misrepresented what the donation was for, telling us that it was to support a congressional fact-finding mission and never mentioning Mr. Abramoff. We now know that Mr. Abramoff used our donation to pay for his trip to Scotland with Rep. Bob Ney."

Levitt Compares Congressional Lobbying Scandal To Corporate Corruption. In a Washington Post op-ed (1/23, A15), Arthur Levitt Jr., former chairman of the Securities and Exchange Commission, said, "I've come to think that our federal government is plagued by some of the same problems that have been hurting corporate America, primarily a lack of transparency, accountability and independence. As with many of the disgraced corporations of the past few years -- Adelphia, Tyco and WorldCom, for example -- so it is with Congress: Conflicts of interest abound, oversight has been myopic and those given the public's trust have used it to enrich themselves." Lawmakers "need not look far for an example of how to reform themselves. Just as Congress passed the Sarbanes-Oxley Act in 2002 to clean up American industry, it should pass similar legislation to clean up American government." Congressional lobbyists "should be required to disclose weekly, online, which members of Congress they contributed to and met with, which staff members they lobbied, and what issues were discussed. Lobbyists also should have to affix their signature to these disclosures and, like CEOs who sign false financial statements, face serious criminal penalties if the disclosures are not accurate." Levitt also identifies reforms that would restore congressional accountability and independence.

Kristol Says Election Of Shadegg Would Show House GOP Is Committed To Reform. Bill Kristol, editor of The Weekly Standard, appearing on Fox News Sunday (1/22, Wallace), said, "I think one test will be the House Republican leadership fight for majority leader to see how seriously Republicans want to send a signal of reform. … I think John Shadegg, who is the conservative reformist candidate, both because he was not a member of the leadership previously and was sort of a rebel against the leadership, and he voted against some of the big government programs that President Bush signed, particularly the Medicare prescription drug benefit. So if you think the problem is that even Republicans

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have expanded the size of government, Shadegg would send a signal that the Republicans are coming back to not creating new entitlements."

McCain Says Lobbying Reform Proposals Not Addressing Earmarks. Asked if he thinks "Jack Abramoff and his influence-peddling" is "a Republican scandal" Sen. John McCain, on Fox News Sunday (1/22, Wallace), replied, "No, I think it's a bipartisan scandal, because the lobbying is out of control. But the reason why the lobbying is out of control is because of the process, the system that prevails here on Capitol Hill between Republican and Democrat, and that's a thing called earmarking or pork barrel projects." McCain added, "It's time we sat down together, because both Democrat and Republican proposals are very similar."

The AP (1/23) reports Sen. John McCain said "efforts by both Democrats and Republicans to reduce the influence of lobbyists are not addressing the core of the problem." In an appearance on "Fox News Sunday," Sen. McCain "renewed his criticism of 'earmarks,' late additions to bills that often provide millions of dollars for lawmakers' pet projects." Said McCain, "If we don't fix the earmarking, then I can assure you the corruption will go on." The AP adds McCain said "lobbying reform promoted last week by both parties doesn't deal with earmarking because many politicians perceive it to be 'their bread and butter and preserves their incumbency.'"

USA Today (1/23, 2.31M) reports Sen. McCain said "lobbying 'is out of control,' and efforts to curb it don't address the core problem of 'earmarking.'" McCain "described an earmark as a 'pork barrel project' funded 'in the middle of the night' by a single provision 'that nobody's ever seen or heard of' inserted in a bill about to be passed." McCain said it "was a bipartisan problem, but Sen. John Kerry, D-Mass., said it is a Republican scandal because the GOP controls Congress and the White House."

Novak Questions Whether Parties Will Unite To End "Scourge Of Earmarks." Syndicated columnist Robert Novak (1/23) writes that the GOP and Democratic versions of lobbyist reform that were revealed last week "each fell short of what is called for by the reformer most widely respected by the public, Sen. John McCain. … A reform of a system that has grown ever more rotten must have two salient characteristics in McCain's view. It must be bipartisan, and it must eviscerate, if not eliminate, earmarks." Novak says that McCain faces an extremely difficult task in convincing "Democrats to cooperate with Republicans when they now see an opportunity to crush the GOP," while weaning "his own party from its addiction to government pork." Novak notes, "Annual earmarks, non-existent two decades ago, now near 15,000. McCain sees this as the source of lobbyist corruption, the vehicle used to bribe Duke Cunningham and the focus for half the capital's lobbyists. Both parties are united in silly changes like keeping former congressmen off the House floor and further curtailing how much a lobbyist can spend on a lawmaker's lunch. Will they unite to get rid of the scourge of earmarks?"

Rove Raising His Profile In Advance Of 2006 Elections. Newsweek (1/30) reports in its "Periscope" column, "After months of staying out of the limelight amid scrutiny in the CIA leak investigation, [Deputy White House Chief of Staff Karl] Rove is back and circulating, as Bush and the GOP prepare for battle on the eve of the 2006 midterm elections. He's traveling on domestic swings with Bush and taking high-profile trips of his own." Newsweek notes that Rove 'is still under scrutiny" in the investigation into the leak of CIA operative Valerie Plame's name.

Ripon Society Said To Offer Lobbyists Access To Lawmakers. The Washington Post (1/23, A4, Edsall, 744K) reports that since 1964, the Ripon Society "has tried to create a more inclusive GOP through 'moderate, progressive policy formation,' according to its official mission statement." But in "recent years, however, a leading public watchdog group suggests, the Ripon Society has added an unofficial mission: travel agency to lobbyists." Under president Richard S. Kessler, "himself a prominent Washington lobbyist, people who represent corporate interests before Congress have 'spent millions taking lawmakers to European capitals and U.S. resorts' under the auspices of the Ripon Society and the affiliated Ripon Educational Fund, the group Public Citizen charged in a new report." Frank Clemente, director of Public Citizen's Congress Watch, said the "lure for the lobbyists who fund them is that they also take the trips, and gain 'unbridled access' to influential lawmakers." The activities "the report detailed are not illegal, but ethics specialists say they do highlight the difficulty of proscribing certain common Washington practices, if lobbyists and lawmakers are determined to continue them." Kessler is also "president of Kessler & Associates. Among its clients, according to the most recent disclosure forms, are Pfizer Inc. and three other major drug companies; Altria Group Inc., the corporate parent of cigarette maker Philip Morris USA; and railroad giant Burlington Northern Santa Fe Corp." Public Citizen says "members of Congress have gone on trips costing the Ripon Society and Ripon Education Fund $742,000 since 2000. In addition, Kessler's clients have provided another $273,000 for congressional travel."

Bush Speaking Glowingly Of Mao Biography. The New York Times (1/23, Bumiller, 1.19M) reports in its "White House Letter" column, "When President Bush met with Chancellor Angela Merkel of Germany in the Oval Office this month, the talk turned to Ms. Merkel's childhood under Communism, then wandered to the subject of Mr. Bush's latest bedtime reading: 'Mao: The Unknown Story,' an 814-

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page biography that presents the Chinese dictator as another Hitler or Stalin. Participants in the meeting say Mr. Bush spoke glowingly of the book." The Times adds," The book might at first seem an odd choice for Mr. Bush, whose taste in biography, like that of other American presidents, runs to previous occupants of the Oval Office. But it is not so surprising given that 'Mao: The Unknown Story' has been embraced by the right as a searing indictment of Communism. … Scott McClellan, the White House press secretary, said last week that Laura Bush gave the book to her husband as a gift, and that the president had just finished reading it. Asked why Mr. Bush liked the book, Mr. McClellan said he would find out, then reported back on Friday that Mr. Bush had told him that 'Mao' 'really shows how brutal a tyrant he was' and that 'he was much more brutal than people assumed.'"

Conservative Book Club Attacks Barnes' New Book About Bush. The Washington Post (1/23, C1, Kurtz, 744K) reports in its "Media Notes" column that the Conservative Book Club has attacked Weekly standard executive editor Fred Barnes' forthcoming book, "Rebel-in-Chief: Inside the Bold and Controversial Presidency of George W. Bush." Book club editor in chief Jeffrey Rubin writes, "'Rebel-in-Chief' is filled with 'empty puffery.'' Rubin adds that Barnes is "too favorable toward 'all those things that Bush does to drive traditional conservatives to despair' in a way that 'call[s] into question his own understanding of conservatism. ... Fred Barnes isn't doing the president -- or the country -- any favors by celebrating his worst political tendencies.'"

Rice Pushes Diversity In State Department Workforce. The Washington Post (1/23, A13, Kamen, 744K) reports in its "In the Loop" column, "Secretary of State Condoleezza Rice caused a bit of a stir in Foggy Bottom last week when she unveiled plans to redeploy diplomats from Europe to world hot spots. And no promotions, she said, without service in dangerous posts and fluency in two foreign languages, especially those spoken by people who may fancy grenade launchers and scream 'Death to America.' She also talked about the need for a more diverse Foreign Service, something that might improve diplomats' feel for foreign cultures. After all, just because you speak the language doesn't mean you can figure out when someone is lying through his teeth." The Post adds, "Diversity is one area where neither the State Department nor the National Security Council nor the Pentagon, despite decades of talking about it, have claimed much success. … At the State Department, four of six undersecretaries working for Rice are women, but a check of the top 45 or so officials at the assistant secretary level and higher finds fewer than a half-dozen minorities."

HHS IG Finds Low Rates Of Foster Care Visits, Poor Record Keeping. In the absence of proof from most of the states, federal officials are concerned that many foster children are not being visited regularly by caseworkers. The Washington Post (1/23, A13, 744K) reports, "Only 19 states and the District were able to produce computer-based reports detailing how often such visits occurred in fiscal 2003, according to a new report by the inspector general for the Department of Health and Human Services. Seventeen of those states required monthly visits. Yet, five reported that less than half of their foster care children were visited that frequently. Another five states reported a visitation rate of 75 percent or less. Most states said they lacked the resources to produce such a report or they did not have a computer record-keeping system."

DeLay Says He's Focused On Future. In her Pittsburgh Tribune-Review column (1/22), Salena Zito interviewed Rep. Tom DeLay, noting that it is his "nature to move forward, whatever chaos swirls around him." At a Houston campaign rally for Gov. Rick Perry, DeLay said, "My top priorities are my constituents ... homeland-border security, improving our regional transportation infrastructure and NASA." The Tribune-Review adds Democrats "hate DeLay because he beat them, often and hard -- and he enjoyed it. Democrats may be miles apart on issues but they're united when it comes to taking down a wounded Republican, especially this former House majority leader." DeLay said, "Politics has to be about the issues ... . (W)hen you personalize political differences, you might occasionally hurt your opponent but you ultimately just destroy yourself. Politics should be about who's right and wrong, not who's good and bad." DeLay "says he'd rather concentrate on keeping Republicans what even many Republicans say they no longer are -- the party of fiscal responsibility and reform."

Obama Draws Fire For Criticizing GOP Ethics Lapses, But Not Those Of Illinois Democrats. In his Chicago Tribune column (1/22), John Kass says Sen. Barack Obama is "trying to pull off a real miracle. Obama, the Chicago Democrat, is the lead public thwacker of Republicans on the corruption issue involving self-admitted crooked Republican lobbyist Jack Abramoff." The miracle is "that he's trying to do this and push ethics legislation, while avoiding mention of the corruption among Democrats in Illinois. Federal investigations are crawling through the administrations of Chicago Mayor Richard Daley and Gov. Rod Blagojevich while Obama skips the mess back home." Obama "can't discuss virtue in Washington without speaking to the sleaze in Chicago. If he does, he'll be just another suit mouthing hollow words. Barack Obama is better than that."

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Most Find Medicare Drug Program Difficult To Understand. The AP (!/22, Lester) reported on an AP/Ipsos poll which found that most people, "particularly senior citizens, say they are having a hard time understanding the new Medicare prescription drug program. … More than half, 52 percent, of respondents say they think the program that began enrolling people on Jan. 1 is tough to understand. Two-thirds of older people surveyed and two-thirds of those who have signed up say they are confused by the program, which is intended to help many save more on their prescription drugs. A third said they had not decided what they think of the new program and 16 percent said they have little trouble figuring out the program."

McClellan Blames Late Enrollments For Drug Benefit's Difficulties. Time (1/30, Thottam) reports, "A quarter of the 24 million people now enrolled in Medicare Part D are 'dual eligibles,' people who qualify for both Medicaid and Medicare. In other words, they are among the poorest and frailest people in the country. More than 70% of them make less than $10,000 a year; 372,000 of them have Alzheimer's. Republicans realize that after Katrina, they cannot risk another crisis in which the government appears to be abandoning its most vulnerable citizens. Some are already making that connection." Time adds, "In an interview with TIME last week, Mark McClellan, administrator of the Centers for Medicare and Medicaid Services, said most people entered the new system without encountering trouble. He attributed much of the difficulty of those who did to the huge number of people who enrolled or switched plans at the end of December. Although assigned to plans, dual eligibles had the right to change by Dec. 31 to one that best suited their needs. The Medicare bureaucracy is still catching up with all that data, McClellan says." Time also notes that "in response to the bipartisan outrage, House Republican leaders are considering a proposal, initially suggested by Democrats, to extend the deadline for signing up for the new benefit from May 15 to Dec. 31, a House G.O.P. aide tells TIME."

Policy Group Charged With Sorting Through Details Of New Drug Program. The Washington Post (1/23, A13, Goldstein, 744K) reports on Tracey McCutcheon, acting deputy director of the Medicare Drug Policy Group at the Center for Medicare and Medicare Services (CMS). McCutcheon "is deep in the weeds of the largest, most complex and -- judging from its first three weeks -- messiest expansion of the program in its history." She "works 12-hour days, taking conference calls, combing through statutory language and rethinking the fine print of 60 pages of federal regulations she helped to write." The Post adds, "As complaints and confusion about the drug benefit have spread around the country this month, McCutcheon said, 'some of the specific issues that come up have been surprising.' Still, she said, 'you never bring up a huge program and have everything perfect.'"

Kristol Warns GOP Could Lose Seats Over Medicare Drug Benefit. Bill Kristol, editor of The Weekly Standard, said on Fox News Sunday (1/22, Wallace), "Republicans have much…to fear about the Medicare drug prescription benefit going bad and them being blamed for -- that was passed on a party vote, pretty much. That is an October ad, 'he voted for this Medicare benefit, which isn't a benefit, which is going to cost you a lot money, which has been incompetently administered' -- whatever the charge is going to be. That could cost a congressman his seat."

Obama Says Administration Has "Competence Issue." Asked on NBC's Meet the Press (1/22, Russert) if he agreed with Sen. Clinton that this administration "will go down in history as one of the worst," Sen. Barack Obama responded, "I agree with her remarks about cronyism and incompetence. I don't think that anybody who has been watching the news over the last year, who has seen what happened in New Orleans, who has seen some of the botched planning that took place, post-war in Iraq, would not think that there is a competence issue when it comes to this administration."

Celebrities Push Pet Causes On Capitol Hill. The Los Angeles Times (1/22, Shiver, 958K) reported on the "growing parade of celebrities trekking up Capitol Hill to talk to the nation's lawmakers about issues that rarely have anything to do with their day jobs. Trying to get attention for pet causes easily lost in the clutter of public policy debates, stars hope their cachet can make the difference in opening doors, getting media attention and scoring face time on C-SPAN. … For celebrities, testifying and lobbying in the nation's capital offers the ego stroke of being taken seriously on important issues, and a chance to make headlines for something other than their latest loves or public mishaps. … But it also can often backfire when it appears a celebrity is simply fronting for an issue in which he or she has no special expertise. In 2002, Sen. George V. Voinovich (R-Ohio) walked out of a Senate subcommittee hearing on the environmental effect of mountain mining when Kevin Richardson, a Kentucky native and member of the Backstreet Boys singing group, was called as a witness. Voinovich told reporters the proceedings had turned into 'a joke.'"

OTHER NEWS:

Oil Prices Could Climb Above $70 A Barrel. Crude oil futures reached a 20-year high Friday, closing at $68.35 a barrel on the New York Mercantile Exchange sparking speculation that oil could soon rise above $70 a

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barrel. The Wall Street Journal (1/23, Goodman, 2.11M) reports, "That is a significant milestone and a telling indication of sentiment in the market: The only time oil prices have traded above $70 was Aug. 30, 2005, just after Hurricane Katrina slammed into the Gulf Coast, blazing a trail of destruction through the oil industry."

The Christian Science Monitor (1/23, Scherer, 61K) adds, "This time, the main impetus appears to be a bad case of international jitters, ranging from Iran to Nigeria to Osama bin Laden. If the tensions don't cool off, energy analysts warn, consumers should brace themselves to pay more at the gas pump in weeks ahead."

NBC Nightly News (1/22, story 3, 1:00, Mathison) reported, "The natural price for oil is probably in the $70 a barrel. However if things do cool off in Iran the risk premium could be lowered and prices could fall off and could you see oil prices in the $60 neighborhood."

Investors Nervous Amid Oil, Profit Worries. The Wall Street Journal (1/23, Browning, 2.11M) reports, "With the current bull market now more than three years old, the question is whether the economy can improve enough to get people…to feel good enough to start buying stocks again." At the start of the year, amid "optimism that the Federal Reserve would soon stop raising short-term interest rates and that corporate profit and economic growth would remain robust, investors bid stocks up strongly. But then, two bad things happened: Oil prices surged again amid concerns over rebel activity in oil-producing Nigeria and the West's showdown with Iran over its nuclear program. Then, prominent companies such as Intel, Citigroup and General Electric announced quarterly results that missed Wall Street expectations. That double whammy raised questions…about whether investor expectations had gotten too high and stock prices had become 'frothy.'" The Journal adds, "If investors adjust this week to the Iran worries, some of that selling pressure could ease. But a more fundamental reason that investors are nervous is that they fear that some of the market's underpinnings have weakened, making it harder for stocks to hold up in the face of the oil and profit worries."

Euphoria About Close Above 11,000 Has Faded. USA Today (1/23, Shell, Krantz, 2.31M) adds, "When the Dow closed above 11,000 on Jan. 9 for the first time in 4½ years, Wall Street viewed it as a harbinger of better things to come. The euphoria was short-lived. The Dow Jones industrial average's fast start is history. And the bright outlook for stocks in 2006 has suddenly turned cloudy. A 213-point sell-off Friday, the Dow's biggest one-day point decline since March 24, 2003, not only erased the Dow's 3% year-to-date gain and left it 333 points below the key 11,000 level, it also chipped away at investors' confidence." The "sharp reversal could offset the psychological boost that accompanied the Dow's topping of 11,000. Wall Street was hoping that the upbeat headlines would increase investors' comfort level and make them more willing to commit fresh money to stocks. Now there's concern they will remain on the sidelines."

Greenspan To Leave Federal Reserve Chair Quietly. USA Today (1/23, Hagenbaugh, 2.31M) reports that Federal Reserve Chairman Alan Greenspan will leave his job "just as quietly as he came in more than 18 years ago. No speeches are planned for investors to parse his every word. No testimony is scheduled on Capitol Hill for lawmakers to hear the chairman's opinion on pet issues. And he's not accepting interview requests from the media. He will quietly walk out the door on the evening of Jan. 31 with very little fanfare. … Greenspan's last day at the Fed will be marked by a luncheon with other policymakers, and a staff reception is scheduled. Small, private parties are also being held around Washington to mark his departure."

The AP (1/23, Benac) says Greenspan has managed the US economy "with great assurance for the past 18 years, presiding over an era of remarkable prosperity (interrupted by two mild recessions). He has done this as chairman of the Federal Reserve Board, a powerful and somewhat mystical institution that guides U.S. monetary policy. From that vantage, Greenspan has steered the economy through multiple international and domestic crises while keeping inflation and unemployment in check and helping the country adapt to the tectonic shifts of globalization and technology."

Some Analysts Say Greenspan Is Leaving "A Prosperity Built On Borrowing." A front page story in the Washington Post (1/23, A1, Henderson, 744K) reports that Greenspan's legacy "will be judged not just by his record at the Fed, but also by the economy he bequeaths. And when he leaves office Jan. 31, Greenspan leaves a nation awash in debt -- record household debt and a record trade gap. Many analysts say his low interest rate policies contributed to these huge imbalances, which threaten the economy he nurtured." The Post adds, "Greenspan's Fed didn't do it alone, economists agree. Other factors helped fuel the borrowing binge, including global financial trends that have helped keep mortgage rates low and prompted lenders to extend more credit to more people. The result is a prosperity built on borrowing, say many economists."

Runway Warning System Said To Be Outdated. USA Today (1/23, Levin, 2.31M) reports, "An antiquated warning system for the nation's pilots has led dozens of them to receive unreliable information about slippery runways and to land in dangerous conditions, according to a USA TODAY review of accidents and pilot reports during the past decade. In at least 42 cases since 1995, pilots of commercial and corporate aircraft reported skidding off runways after receiving reports that the runways were safe, according to NASA's Aviation Safety Reporting System." USA Today notes, "Icy conditions came into play in last month's crash of

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a Southwest Airlines jet, which skidded off a snowy runway at Chicago's Midway Airport and onto a nearby road…killing a 6-year-old boy."

Poll Finds Support Among Young For Abstinence-Only Sex Education. The Washington Times (1/22, Harper, 90K) reports that there is support among young people for abstinence-only sex education programs. According to a new Harris Poll, "56 percent of people ages 18 to 24, and 60 percent of those 25 to 29 think abstinence programs effectively reduce or prevent the occurrence of HIV/AIDS. Another 49 percent of people ages 18 to 24 and 52 percent of those ages 25 to 29 say the programs reduce or prevent unwanted pregnancies. Among six age groups and three political groups, younger respondents showed the strongest support for abstinence over safe-sex programs." The poll of 1,961 adults "was conducted Dec. 8-14."

Duckworth Only Seriously Wounded Iraq Vet Running For Congress. USA Today (1/23, Stone, 2.31M) reports on Illinois House candidate Tammy Duckworth, an retired Army Major and Iraq war veteran who lost both her legs and the use of her right arm when her Blackhawk helicopter was hit by a rocket propelled grenade. Many "in Chicago's western suburbs have already heard" of Duckworth, the "only seriously wounded combat veteran running this year for Congress, whose ranks of members with military experience are at their lowest since World War II, according to Congressional Quarterly." At least "nine other veterans who served in the post-Sept. 11 military have announced House bids. All but one — Republican Van Taylor in Texas — are Democrats who have criticized the Bush administration's conduct of the war." Duckworth says it "was 'a bad decision' to invade Iraq. So she is competing on another field of battle: politics. She hopes to succeed retiring Rep. Henry Hyde, a Republican who has held a House seat for more than 30 years. Duckworth must first beat two other Democrats in a primary and then take on Peter Roskam, a Republican state senator in the GOP-leaning district." University of Virginia political analyst Larry Sabato said, "Since Vietnam, the Democratic Party has been viewed as the weaker on national security issues. Who better to make the case than veterans of the war? It's hard to accuse them of a lack of patriotism."

Ford To Announce Layoffs, Restructuring Plan Today. NBC Nightly News (1/22, lead story, 2:00, Thompson) reported, "Detroit is holding its collected breath as tomorrow Ford will announce its restructuring blueprint. Having lost more than a billion dollars in North America last year, Ford is expected to cut up to 30,000 hourly and salaried jobs and close several plants, as part of its 'way forward' plan. That way forward will hurt. Analysts say among the plants shuttered are Atlanta, where the Ford Taurus is built, St. Louis, SUV sales hurt by high gas prices, also plants in St. Paul, Minnesota and in Michigan, the goal to bring numbers in line with the numbers themselves." Though its "redesigned Mustang is a hot seller, its market share is shrinking, today just capturing 17% of the American market compared to 25% a decade ago. It is competition from foreign manufacturers plus labor costs and gas price that is has put Ford in a situation one analyst described as dire."

Girl's Death Sparks Reevaluation Of NYC Protective Services. The New York Times (1/23, 1.19M) editorializes, "In a city that has seen child abuse fatalities before, the death of Nixzmary Brown, just 7 years old, was a particularly horrifying one. … What raised the level of outrage was the disclosure that city workers inexplicably ignored or bungled opportunities to save her. It's reassuring that Mayor Michael Bloomberg acknowledged the city's failures, and that child welfare workers and supervisors involved in the case have been suspended or reassigned. Some may lose their jobs. A larger investigation will take place and thousands of cases are being reviewed. The self-examination, though, cannot stop there."

Top Iranian Official Warns Against Referral To Security Council. The Financial Times (1/23, Khalaf, Smyth) reports, "Iran's top nuclear official on Sunday warned Tehran would resume efforts to enrich uranium on an industrial scale if its case was reported to the UN Security Council, further raising the stakes in the crisis over its nuclear program. 'If the case goes to the Security Council, we're obliged...to lift all voluntary measures,' he said, specifying that this included industrial-scale uranium enrichment." The story continues: "Mr Larijani spoke at the start of a week of intense diplomacy. European officials will visit capitals represented on the 35-member IAEA governing board to lobby for an EU-backed resolution on referral. Meanwhile, Mr Larijani is likely to be in Moscow to discuss a Russian proposal to find a compromise, an effort to forestall the Europeans or at least temper the tone of any IAEA resolution." The Financial Times (1/23) also reports Larijani "ridiculed western governments' request for a document said to show a weapons design obtained from the illegal nuclear procurement network of Pakistani scientist A.Q. Khan, and suggested Tehran would not hand it over to UN inspectors." Larijani told the FT, "If you can find anyone in the world who can make a bomb with one and a half pages, we will cover their whole body with gold."

Meanwhile, under the headline "West Talks Tough With Iran, Treads Lightly," the Wall Street Journal (1/23, Robbins, 2.11M) reports, "As U.S. and European officials press to have

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Iran brought before the United Nations Security Council, they are also promising that Tehran won't face serious punishment there -- for quite a while. ... Even as they press for a showdown with Tehran, American officials privately acknowledge that they aren't sure how to calibrate political or economic sanctions to bring maximum pressure on Iran's leadership without alienating the country's pro-reform and pro-American public. In recent weeks, officials in Washington and London have begun thinking about an aggressive public-relations campaign, beamed into Iran, to counteract Tehran's certain efforts to incite a strong nationalist backlash."

Sadr Says His Militia Would Defend Iran If Attacked. Reuters (1/23) reports, "Firebrand Iraqi cleric Moqtada al-Sadr has assured Iran that his Shi'ite Muslim militiamen will support the Islamic Republic if it comes under attack, the official IRNA news agency reported on Sunday. … 'If neighboring Islamic countries, including Iran, should come under attack, then the Mehdi Army will support them,' Sadr said on a visit to Tehran."

Iran Seeking To Use Oil Production As Leverage In Confrontation Over Nuclear Program. NBC Nightly News (1/22, story 2, 1:30, Williams) reported, "Iran, one of the world's biggest oil producers, has refused to halt its nuclear program. And many nations, including the US, see that as a potential security threat." NBC (Jordan) added, "Iran is not just a serious diplomatic challenge for the US and its allies, it's also turning into a challenge to their economies. The price of unleaded still going up nationwide. Overseas, no sign of any real retreat in the price of crude. All this, say analysts, prove the market is worried about Iran, its nuclear program and the global economy, especially if the UN Security Council gets involved. But on the Sunday talk shows, no agreement on the best way to hold Iran accountable." Sen. Pat Roberts: "Sanctions don't work unless you have a unified position with all trading partners with Iran." Sen. Joseph Lieberman: "If we feel Iran having nuclear weapons is that much danger to the rest of the world, then we have to be prepared to take military action." Jordan: "The White House has been trying to convince the public the economy is doing well, but Iran could turn into a very unwelcome complication."

Iranians Said To Stand Behind Government's Atomic Program. The Washington Post (1/23, A9, Vick, 744K) reports, "If any doubt remains that Iranians support their government in its quest to harness the atom, the answer comes quickly and emphatically in Persepolis, the magnificent ruins that symbolize the ancient pride and fading glory bound up with the nuclear issue here. Ordinary Iranians overwhelmingly favor their country's nuclear ambitions, interviews and surveys show." The support "runs deep in the population of 68 million, cutting across differences of education, age and, most significantly, attitudes toward the fundamentalist government that the Bush administration says is intent on using an energy program as a cover for developing atomic weapons." The Post adds, "Interviews with Iranians touring the ruins on a holiday weekend here suggest the breadth of the challenge facing Western powers determined to freeze Iran's recently reactivated nuclear program."

Israel Playing "Childish Game," Iran Says. The AP (1/23, Karimi) reports, "Iran said Sunday that Israel would be making a 'fatal mistake' if it takes military action against Tehran's nuclear program and dismissed veiled threats from the Jewish state as a 'childish game.'" While Israeli "Defense Minister Shaul Mofaz stopped short of an outright threat of military action [in comments Saturday], he said Israel "must have the capability to defend itself...and this we are preparing." The story cites Iranian Foreign Ministry spokesman Hamid Reza Asefi as saying: "We consider Mofaz's comments a form of psychological warfare. Israel knows just how much of a fatal mistake it would be (to attack Iran). ... This is just a childish game by Israel." The Washington Times (1/23, Rabinovich, 90K) reports Israel's defense minister "hinted strongly over the weekend that his country would act unilaterally if necessary to prevent Iran from acquiring nuclear weapons."

West Pursuing "Frog Strategy" With Iran. Time (1/30, Shannon) reports in its "Notebook" column, "As Iran shows no signs of giving in to global calls to cease its nuclear-research activities, Western nations have been mapping out a careful, incremental plan to stop Tehran. The West's plan is informally known to diplomats as the frog strategy," referring "to the old saw that if you want to boil a frog, you put the unsuspecting amphibian in a pot of cold water. … The plan was crafted by U.S. Secretary of State Condoleezza Rice and her French, German and British counterparts. The E.U. trio requested a meeting of the International Atomic Energy Agency, now set for Feb. 2, to consider referring Iran to the U.N. Security Council. If the case goes there, the allies plan a three-step approach: first, a mild resolution exhorting Tehran to end its questionable atomic activity voluntarily. If after two or three months Iran remains intransigent, they would then propose a stronger Security Council order based on the U.N.'s authority to combat threats to international peace. Step three would call for targeted sanctions, such as a freeze on government bank accounts a possibility for which Tehran apparently began planning last week when it started to shift its foreign-currency reserves from E.U. banks." Proponents of the strategy "say that only the go-slow approach can win support from Russia and China. … As for a step four to the strategy, there is no clear one yet: an uncooperative frog is something nobody wants to talk about."

UBS To Stop Doing Business With Iran. The Wall Street Journal (1/23, 2.11M) reports, "UBS AG said yesterday that it will stop doing business with Iran because of the Swiss bank's economic and risk analysis of the situation in the

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country." UBS "will no longer deal with individuals, companies or state institutions such as Iran's central bank, said bank spokesman Serge Steiner. A similar policy is being implemented in Syria, he said."

McCain Says Military Action Must Be Only "Last Option." Asked on Fox News Sunday (1/22, Wallace), if believes the "diplomatic track" will "stop Iran from developing a nuclear capability," Sen. John McCain said, "I don't know. I believe we have to exhaust all those options. But we cannot take the military option off the table. But we have to make it very clear it's the last option."

Roberts Cites Difficulties In Targeting Iranian Nuclear Facilities. Commenting on possible military action against Iran's nuclear facilities, Sen. Pat Roberts, on CBS' Face the Nation (1/22, Schieffer), said, "Their whole operation is spread out much more broadly than they have in the past. I would never rule that out. But at this particular time, I just do not think that that is...any kind of an alternative."

Lieberman Describes Potential Air Attack. Sen. Joseph Lieberman, on CBS' Face the Nation (1/22, Schieffer), said, "The fact is that it's good that we're working with Britain, France, and Germany now. But the pace is too slow. We've got to try to take it to the United Nations. I'm pessimistic that Russia and China will let us do what we want to do. And then I think we've got to form a coalition of the willing, first to impose economic sanctions on Iran, and secondly, we can never take the military option off the table. And if we feel that Iran having nuclear weapons is that much a danger to the rest of the world, then we've got to be prepared to take military action to deter their ability to get nuclear weapons." Lieberman continued, "This would be primarily an air attack. It's not going to involve massive use of ground forces. … We never want to be in a position to have to essentially contract out the protection of our national security vis-a-vis Iran to another country like Israel. And it's not easy for the Israelis. They don't have the same aircraft capacity that we do, capable of doing this."

US Spent $1.9 Million To Help Boost Fatah In Palestinian Elections. Following a Sunday report in the Washington Post, the New York Times (1/23, Erlanger, 1.19M) reports this morning, "The United States spent about $1.9 million of its yearly $400 million in aid to the Palestinians on dozens of quick projects before elections this week to bolster the governing Fatah faction's image with voters and strengthen its hand in competing with the militant faction Hamas, American and Palestinian officials said Sunday. ... American and Palestinian officials who spoke anonymously because they were not authorized to speak to reporters said that the program, which started in August, was intended to help defeat Hamas and that the government had done a detailed political analysis to try to focus on constituencies where Hamas was doing well." Meanwhile, Micaela Schweitzer-Bluhm, a spokeswoman for the American consulate in East Jerusalem, told the Times: "The spending was intended 'to work with the Palestinian Authority to enhance democratic institutions and support democratic actors, not just Fatah.' ... Although American aid was always acknowledged publicly, Ms. Schweitzer-Bluhm said, 'Our logo was not always on the banner.'"

NBC Nightly News (1/22, story 6, 1:30, Fletcher) added, "Election fever in Gaza, from children shouting slogans to women running for Parliament. Palestinians swept along in a wave of democracy. Wednesday will be their first elections in 10 years. It's neck and neck between the only party ever to hold power, and the arch rivals are fundamentalist Hamas. They are toning down its rhetoric which calls for the destruction of Israel. Instead, they are focused on clean government, an end of corruption, and they don't rule out negotiations with Israel. Now Fatah is getting help. $2 million of foreign aid is being used to help financial the campaign, paying for a tree-planting ceremony, praising Mahoud Abbas."

Israel Braces For Likely Hamas Win. The AP (1/23, Federman) reports Acting Israeli PM Ehud Olmert "met with top military and political officials Sunday to discuss the growing likelihood that the militant group Hamas could dominate this week's Palestinian elections. The ascendance of Hamas has alarmed Israel, which appears to have been caught off guard by the group's surging popularity before Wednesday's vote." The New York Times (1/23, Erlanger, 1.19M), meanwhile reports, "Fatah, the mainstay of the Palestinian Authority and the Palestine Liberation Organization, is in trouble, even ... in Nablus, one of the West Bank's toughest and largest cities, and a longtime stronghold for the group. Fatah is struggling to beat back" Hamas, "which won an astonishing 13 of Nablus's 15 local council seats a month ago, and elected an efficient, worldly yet devout mayor."

The Washington Times (1/23, Mitnick, 90K) also reports on the "kaleidoscope of campaign banners," noting "nowhere to be seen is the likeness of Palestinian Authority President Mahmoud Abbas. With his Fatah Party dangerously close to losing Wednesday's parliamentary elections to the Islamic militants of Hamas, the Palestinian moderate has taken a surprisingly low profile in a contest that many see as a referendum on his tenure." The Times adds, "Aides say election laws forbid campaigning by the president, who is not up for re-election." But "others say Palestinians are so disappointed with Mr. Abbas that he would only hurt his party." The New York Times (1/23, Erlanger, 1.19M) runs a similar story under the headline "In A Stronghold, Fatah Fights To Beat Back A Rising Hamas."

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Wolfowitz's Drive Against World Bank "Corruption" Causes Controversy. The Financial Times (1/23, Balls, Alden) reports, "Paul Wolfowitz, president of the World Bank, has triggered a bitter conflict with the bank's senior career staff by empowering a group of close political advisers to pursue aggressively what he sees as widespread corruption surrounding bank projects." The dispute "has come to a head with the appointment last week of Suzanne Rich Folsom, a counsellor to Mr Wolfowitz with close ties to the Republican party, as the new director of the Department of Institutional Integrity, the internal bank watchdog that investigates suspected fraud and staff misconduct." Her appointment "has raised objections that a person close to Mr Wolfowitz, and with a political background, has been put into a senior position at a unit that was seen as independent of the president's office since it was set up in 2001."

China, Saudis Expected To Sign Energy Deal. The Wall Street Journal (1/23, Oster, 2.11M) reports, "China and Saudi Arabia are expected to sign a wide-ranging agreement today on energy cooperation amid Beijing's quest to secure more energy resources vital to fuel its fast-growing economy." China, "the world's second-biggest consumer of oil, has been seeking to tighten economic and political partnerships with its major oil suppliers across Central Asia, Africa and Latin America. Its quest has taken on added urgency since 2004, when the country's oil demand surged about 15%, helping underpin the biggest rise in international oil prices in a generation."

Russian Explosions Sever Gas Lines To Georgia. The New York Times (1/23, Chivers, 1.19M) reports, "Explosions in southern Russia on Sunday morning severed the country's natural gas pipelines to Georgia, swiftly plunging Russia's neighbor into heat and electricity shortages and causing a diplomatic flare-up between the nations. ... By late afternoon, President Mikheil Saakashvili of Georgia said gas flow had ceased and energy rationing would be necessary. ... The shortage was expected to last at least two days." According to the Times, "Russian officials initially said the explosions appeared accidental but later announced that a criminal investigation had begun and that the blasts were acts of sabotage."

Morales Sworn In As Bolivian President. The Financial Times (1/23, Weitzman) reports, "Evo Morales was sworn in on Sunday as Bolivia's first indigenous president in a historic and emotional ceremony that set the tone for his new government." In a long speech, Morales "warned the US not to try to dominate the region, promised to slash parliamentary salaries and stamp out corruption, and reaffirmed his commitment to nationalising Bolivia's hydrocarbons sector." He also "pledged to change Bolivia's economic model. 'We have to end neo-liberalism,' he said. A central theme was the long struggle by the indigenous majority in Bolivia against discrimination: 'We need to repair 500 years of history.'"

The New York Times (1/23, Forero, 1.19M) adds that "in the Congress, Mr. Morales asked for a moment of silence for Inca martyrs, for the Argentine guerrilla Che Guevara, who died in a failed effort to start a revolution here in 1967, and 'the millions of humans who have fallen in all of Latin America.'" In "a rambling, passionate speech" that "mixed Spanish and Aymara, Mr. Morales did not veer from the populist themes that enthralled his followers and gave him a landslide win in the election on Dec. 18."

The Washington Post (1/23, A1, Reel, 744K) reports on Morales' swearing-in under the headline "For Bolivian Majority, A New Promise," while Knight Ridder (1/23, Chang) notes Morales "demanded the world community cancel the impoverished Andean country's $6.43 billion in foreign debt, saying, 'This money definitely never helped our indigenous people.'"

India Cultivating Closer Ties With US Congress. The New York Times (1/23, Sengupta, 1.19M) reports, "New Delhi, the Indian capital, has had a flurry of visitors from Capitol Hill lately, with the American Embassy here recording 10 Congressional delegations in 2005 alone. The reasons for the newfound interest in India are self-evident: its growing strategic importance for an American administration eager to check Chinese dominion over Asia, the lure of the Indian market for American companies, and the emergence of Indian-Americans as an increasingly engaged political bloc. For India, too, the stakes are important. Rarely, if ever, has the United States Congress been as important for New Delhi. It alone can grant a boon that India desperately wants: approval of a deal signed last July by President Bush and Prime Minister Manmohan Singh to share nuclear materials, including fuel and reactors, to help this energy-starved country."

Martin Attempts To Tie Harper To Bush. NBC Nightly News (1/22, story 7, 2:00, Williams) reported, "As voters prepare to go to vote in Canada, there is mud slinging between liberals and conservatives and there are also attack ads against the US. … Paul Martin is in danger of being thrown out of power, weakened by financial scandal and voter fatigue. So there were a series of attack ads trying to link" Conservative Party leader Stephen Harper "to one of the least popular figures in Canada, George Bush. The liberals are playing off wide spread antipathy George Bush, including Iraq." Prime Minister Martin was shown saying, "Let me tell you, Stephen Harper, we have our own values, and we don't have to borrow from the farthest right in the US conservative

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movement." NBC noted, "On the campaign trail, Harper has kept his distance from US policy, too."

USA Today (1/23, For, 2.31M) reports, "The weekend before the election…Martin accused…Harper of being too much like U.S. Republicans." Harper "dismissed Martin's criticism and struck a confident note as he campaigned."

The Christian Science Monitor (1/23, Dube, 61K) reports, "Canada's Conservatives have captured the momentum as the country nears its Jan. 23 election date, with polls showing a majority of Canadians would be happy to see the Liberal Party's 13-year winning streak come to an end."

The New York Times (1/23, Krauss, 1.19M) reports, "A change in Ottawa would almost certainly bring, at the least, a warming of relations with Washington, which have been strained since the American-led invasion of Iraq and have worsened over a series of recent trade disputes and Canadian moves to soften domestic drug laws. Mr. Harper, while careful not to appear overly supportive of President Bush, has suggested he would reconsider Canada's refusal to join the American missile defense program. He has also promised to increase military spending and make a bigger contribution to NATO and peacekeeping operations in places like Haiti and Afghanistan. But he also said recently that he had no intention of sending troops to Iraq."

In an op-ed for the New York Times (1/23, 1.19M) the National Post's Andrew Coyne writes, "Slowly, by stages, rather than suddenly and violently, the Western world's most enduring political dynasty is cracking up. The Liberal Party of Canada, it is often noted, held power for more years in the 20th century than the Communist Party of the Soviet Union. … Though decidedly from the (libertarian) right of the party, Mr. Harper has learned to temper his ambitions to reshape Canada's federal system and rein in its sprawling government."

Chavez May Face Domestic Backlash. U.S. News and World Report (1/30, Cue) reports that December's election in Venezuela "further consolidated power" for President, Hugo Chavez. But "even as he uses influence and money to push other Latin America nations leftward, political watchers say Chavez may face a serious domestic backlash." Venezuela "has become increasingly polarized in the seven years since Chavez was first elected president. … Since Chavez took office, the country has gone through a cascade of political tumult: the adoption of a new Constitution that many consider antidemocratic, a failed coup attempt, an unsuccessful recall referendum that large segments of society say was fixed, and a costly two-month oil-workers strike. For disaffected Venezuelans, their president is simply illegitimate."

Left-Wing Parties Said To Be On The March In Latin America. U.S. News and World Report (1/30, Pethokoukis) reports that in country after country in Latin America, "left-wing parties with more skeptical attitudes toward free markets have been on the march. … Why the leftward turn? Some blame rampant inequality." But "fiery political rhetoric may not translate into radical economics, says analyst Carol Graham of the Brookings Institution." Most Latin American leaders "are modeling themselves on Tony Blair -- not Fidel Castro. … 'Although there's been lots of talk about the return of the left, the way the economies are being managed suggests otherwise,' Graham says."

Israeli Foreign Minister Says Sharon Disengagement Plan Changed Israeli Politics. Newsweek (1/30, Weymouth) interviews Israeli Foreign Minister Tzipi Livni. Asked, "What was [Ariel] Sharon's most important political contribution," Livini said, "The disengagement plan changed totally the terms of the conflict and the political map in Israel. It changed some of the right-wing understanding and should change the international community's attitude toward Israel. Until then, Israel was blamed as a country that wants to control the lives of the Palestinians and will not dismantle any settlements. What we did changed the relationship between Israel and the Palestinians and the status of Israel within the international community." Asked why she decided to join Sharon's new party, Livini said, "I entered Israel's political life and joined Likud because I thought it should lead Israel in terms of the Israeli-Palestinian conflict... Then I understood that there is no chance to get the Likud to be a united party because most Likud leaders couldn't make clear statements about the need for Israel to support a two-state solution."

Japanese Public Said To Have Become More Accepting Of US Military Presence. The New York Times (1/23, Brooke, 1.19M) reports, "After a United States Navy sailor was confined on an American base near here [Tokyo], accused of the Jan. 3 beating death of a Japanese woman, 20 people held a protest at the base. … A decade ago, when three American servicemen were detained on an American base in Okinawa for the rape of a 12-year-old girl, 85,000 people marched one weekend, many demanding the expulsion of American bases from the island. The difference is only partly explained by the way the United States handled the two cases. In 1995, American officials were much slower to allow the Japanese to place an American in custody; this time the suspect was transferred as soon as a Japanese arrest warrant was issued. Another major factor is the change in Japanese attitudes toward the military alliance with the United States. In 1995, the cold war had only recently ended, and many Japanese expressed the belief that Japan no longer needed American troops. But the most recent case

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occurred days after Taro Aso, the foreign minister, warned that China was becoming 'a considerable threat.'"

Zoellick Says Banned Beef Shipment To Japan Was An "Unacceptable Mistake." Reuters (1/23) reports Deputy Secretary of State Robert Zoellick "told Japanese Agriculture Minister Shoichi Nakagawa on Sunday that a beef shipment to Japan that resulted in a renewed ban on U.S. imports was an unacceptable mistake, according to a U.S. Embassy official. Japan, the biggest market for American beef, had just last month lifted a ban on imports imposed in 2003 after a U.S. case of the brain wasting mad cow disease. … The discovery on Friday of spinal material, believed to have a higher risk of causing a fatal human form of mad cow, in a shipment from the United States, prompted Japan to renew the ban. Tokyo had lifted the ban under strict conditions, including a stipulation that materials such as spinal cord tissue be removed."

New Liberian President Supports Stronger Ties To US. USA Today (1/23, For, 2.31M) reports, "Liberia's new president says she wants to rebuild close ties with the United States in the wake of a 14-year civil war that undermined the relationship. Ellen Johnson Sirleaf, sworn in Jan. 16 as Africa's first female head of state, said American help is essential to restoring vital services, such as running water and power. She warned that tens of thousands of former fighters could destabilize the country again if they don't get work or education."

Bird-Watching Pediatrician Among Turkey's Top Authorities On Avian Flu. The Wall Street Journal (1/23, A1, Shishkin, 2.11M) reports on Metehan Özen "one of Turkey's foremost birdwatchers" and a pediatrician who has monitored patients suspected of having bird flu. The Journal notes, "For years Dr. Özen's hospital job and his hobby existed in unconnected worlds. As Turkey grapples with the bird-flu outbreak here that has quickly infected at least 21 people and killed four, the doctor's two callings have put him in the middle of the quest to understand the virus and contain its spread. … In September, Dr. Özen warned colleagues at a medical congress that wild birds could bring avian flu to Turkey during the winter migratory season, and that is now an accepted theory."

Catholic Order's Influence In Latin America Noted. The Wall Street Journal (1/23, De Córdoba, 2.11M) reports on the Legion of Christ, "a fast-growing conservative Roman Catholic order. … Founded in 1941, the order concentrates on ministering to the wealthy and powerful in the belief that by evangelizing society's leaders, the beneficial impact on society is multiplied. Like the Jesuits who centuries ago whispered in the ear of Europe's princes, the Legion's priests today are the confessors and chaplains to some of the most powerful businessmen in Latin America."

Kim Jong Il Visit To China Regarded With Skepticism. In an op-ed for the Wall Street Journal's Melanie Kirkpatrick (1/23) writes, "North Korea's worst-kept secret was formally breached last week when Pyongyang confirmed, after the fact, that Kim Jong Il had paid an 'unofficial' visit to China. … Kim's travels took him to the thriving south of China, prompting speculation that he's finally, really, truly going to introduce substantive economic reforms to his nation, one of the poorest on the planet. Scholars and journalists rushed to interpret the visit as a sign that Kim is gearing up to follow China's path to prosperity through free markets. … Nowhere is that fantasy more indulged than in South Korea, where political leaders have been predicting since the '80s that the North's capitalist conversion is just around the corner." Kirkpatrick concludes, "Kim's recent trip to China isn't likely to result in economic transformation, or prosperity for his people. His authority depends on his ability to control the economy, keeping his people shackled to the state for food, shelter and work. That's the ugly bottom-line."

Bush Accused Of Failing To Promote Democracy In Russia. The Washington Post's Fred Hiatt (1/23) writes, "If promoting democracy is President Bush's largest ambition, then Russia is his largest failure. Not that President Vladimir Putin is the world's most repressive ruler -- far from it. … But no other nation has regressed from openness to authoritarianism during Bush's time in office as dramatically and decisively as Russia -- and with less apparent objection from Bush."

Rice Said To Lag Behind Foreign Policy Consensus. In his column for the Washington Post (1/23, 744K) Sebastian Mallaby writes that "the strange thing about Condoleezza Rice is that, when it comes to the stuff that a professor-politician should be really good at, she can be oddly flat-footed. … Rice gave two speeches last week calling for 'transformational diplomacy,' meaning diplomacy that will transform undemocratic societies: The internal affairs of other countries turn out to be important after all." Rice "has caught up with the 1990s consensus that powerful states may pose less of a problem than disintegrating weak ones and that the best hope for peace in the long term is a world of stable democracies."

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THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times: (Check these)
"Health Plan To Revive Debate."
"King/Drew Hits Hard At Problem Personnel."
"Attorney's Perseverance Yields A Legal Masterpiece."
"Voter Discontent Boosts Hamas."
"Walt's Shoes At Disney Could Be A Fit For Jobs."
"Sri Lanka Still Wed To System."
"81 For The Books."

USA Today:
"Attacks In Iraq Jumped In 2005."
"Runway Reports Often Unreliable."
"Illinois Amputee Among 10 Post-9/11 Veterans Making Runs For Congress."

New York Times:
"As Profits Soar, Companies Pay US Less For Gas Rights."
"Seeking Edge In Spy Debate."
"In A Stronghold, Fatah Fights To Beat Back A Rising Hamas."
"Potent Mexican Meth Floods In As States Curb Domestic Variety."
"Held In 9/11 Net, Muslims Return To Accuse US."
"Answering The Fire Bell In The Company Of Women."

Washington Post:
"Politics Alleged in Voting Cases."
"For Bolivian Majority, A New Promise."
"Attacks Strain Efforts On Terror."
"As U.S. Economy Has Thrived, So Has Debt."
"Professionals Fleeing Iraq As Violence, Threats Persist."
"Swelling Textbook Costs Have College Students Saying, 'Pass.'"

Washington Times:
"Contractors Leaving Iraq."
"Pentagon Hails Military Meeting."
"Pro-Life Groups See Brighter Days."
"Virginia Parish Demands Leader 'Repent.'"
"Abbas Under Radar As Elections Loom."
"Community Foils Planned Strip Club Outside Laurel."
"Banks Cater To Expanding Muslim Population."

Detroit Free Press:
"Faith, Focus Help Students Adjust To New High Schools."
"Ford Plan: Big Cuts, A Secret Strategy."
"Jobs Crisis Forces Granholm To Shift Her Focus."

Atlanta Journal-Constitution:
"Firms Get Sweet Deal On Public Gas Fields."
"Tale Of Two Aquariums"
"Bills Give Victims More Right To Use Force."
"Fulton Wants Houses Out To Put School In."
"Proposed Trust Could Serve As Boon For State's Arts."

Dallas Morning News: (Check these)
"Respite From Fire Risk Won't Ease Drought."
"Fort Hood Grieves For 12 Lost In Iraq."
"Ex-Enron Workers Pour Energy Into New Ventures."

Houston Chronicle:
"Energy Trading Regaining Its Spark."
"Kubiak Coming Home."
"Leftist Vows A New Era For Bolivia."
"Restoring New Orleans, House By House."
"Taxpayers Missing Out On Latest Energy Bonanza."

Story Lineup From Last Night's Network News:
ABC: Pre-empted by gold.
CBS: Pre-empted by football.
NBC: Ford Layoff Announcement; Iran Sanctions; Oil Pricing; WV Mine Fire; Kidnapped Journalist; Palestine Elections; Canadian Elections; Boys Education Gap; Papal Guard; Faberge Eggs.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Ford-restructuring; Gas prices; NFL playoffs.
CBS: Gas prices; Energy company royalty payments; NFL playoffs; Bryant-points record; Iraq-Saddam trial; Iraq-kidnapped journalist.
NPR: Lawmakers-domestic surveillance; Ford-restructuring; Gas prices; Bolivia-presidential inauguration; Israel-Palestinian violence; Navy-pirate ship seized; NFL playoffs; Ford's condition.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Speaks at Kansas State University. Manhattan, Kan.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: 11 a.m. APPROPRIATIONS _ Labor, Health and Human Services, Education, and Related Agencies Subcommittee. Hearing on mine safety, centering on the Sago mine disaster. Acting Assistant Labor Secretary David Dye; Ray McKinney, administrator, Coal Mine Safety and Health Administration; Deputy Assistant Labor Secretary Bob Friend; Edward Claire, associate solicitor, Division of Mine Safety and Health; Ben Hatfield, president and CEO, International Coal Group; Davitt McAteer, vice president of sponsored programs, Wheeling Jesuit University; Chris Hamilton, senior vice president, West Virginia Coal Association; Cecil Roberts, international president, United Mine Workers of America; Bruce Watzman, vice president of

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safety and health, National Mining Association. Location: Room 106, Dirksen.

US House: No scheduled events.

Other: PAKISTANI PRIME MINISTER SHAUKAT AZIZ _ Highlights: Meets with Defense Secretary Rumsfeld and visits Capitol Hill. 1 p.m. Speaks to the U.S. Chamber of Commerce on recent business and economic developments in Pakistan. 1615 H St. NW. Note: Equipment must be set up by 11 a.m. Media must be through security and seated by 1 p.m. Only pre-registered media with federal or city government issued credentials will be admitted. 2:30 p.m. Closed meeting of Senate Armed Services Committee. Room 222, Russell Senate Office Building. 4 p.m. Speaks on ``Pakistan: Anchor for Regional Peace and Security." Heritage Foundation, Allison Auditorium, 214 Massachusetts Ave. NE.

ITALIAN FOREIGN MINISTER GIANFRANCO FINI _ Highlights: Meets with Secretary of State Rice. Time TBA. 2:30 p.m. Meets with Vice President Cheney.

MARCH FOR LIFE _ Annual March for Life and related activities. Highlights: 8:30 a.m. Pro-life leaders hold a news conference to make a joint statement on the Alito confirmation. With members of the National Pro-Life Religious Council. Room 325, Russell Bldg. 9 a.m. Student pro-life activists deliver ``red rose messages" to members of Congress, the Supreme Court, President and Vice-President. 11 a.m. Rock for Life members gather for the March for Life at 7th St. and Madison Dr., on the Mall. Contact: Amber Dolle, 540-903-9572. 12 p.m. Rally at the intersection of 7th St. and the National Mall, followed by March for Life on Constitution Avenue to th Capitol and Supreme Court. 4 p.m. Rock for Life members attend the Silent No More post-abortion speak out and rally. At the Supreme Court, 1st St. and Maryland Ave. NE. Contact: Amber Dolle, 540-903-9572. 6 p.m. 24th Annual Rose Dinner, Hyatt-Regency, 400 New Jersey Ave, NW. Keynote address by Raymond Flynn, former Mayor of Boston and Ambassador to the Vatican.

HEALTH-HUMAN MANAGEMENT _ The World Congress Health and Human Management Congress meets. Agenda focuses on health and human capital management and improving corporate performance and costs. Highlights: 8 a.m. Session on incentives, productivity and healthcare costs, with Joseph Fortuna of Delphi Corp., Virginia Proestakes of General Electric, Walter Talamonti of Ford Motor Co. 5 p.m. Nobel Prize winner Milton Friedman speaks on how to cure the healthcare problem. Location: Ritz-Carlton Hotel, 1150 22nd St. NW.

ANTI-ABORTION BLOGGERS _ 9 a.m. The Family Research Council co-sponsors a one-day conference, Blogs4Life, for anti-abortion bloggers, along with MarchTogether.com and ProLifeBlogs.com. The meeting coinicldes with the 33rd annula March for Life. Location: Family Research Council, 801 G St. NW.

TEEN RALLY FOR LIFE _ 8 a.m. Catholic teen rally and mass in conjunction with the March for Life. Highlights: 8 a.m. Sacrament of Confession. Close to 100 priests available for confessions in the Acela Club Restaurant. 8:45 a.m. Prayer and song rally with perfomances by Christian recording artists Steve Angrisano, Tony Melendez, the Toe Jam Band, and the ``Who Do You Say I Am?" Band. 10 a.m. Mass with Cardinal Theordore McCarrick, accompanied by Cardinals Edward Egan of New York and Justin Rigali of Philadelphia, and Rev. Garard Francik, director of vocations at the Baltimore archdiocese. Location: MCI Center, 601 F St. NW.

ETHICS COMMISSION _ 9:30 a.m. Common Cause holds a panel discussion on how Congress can create an independent ethics commission, with Normaan Ornstein of AEI, attorney Stanley Brand, Dennis Thompson of Harvard University, others. Location: National Press Club.

IRAN-NUCLEAR _ 9:30 a.m. Sen. Jon Kyl, R-Ariz., The Committee on the Present Danger, and the Foundation for Defense of Democracies, hold a news conference to release the CPDs new Iran policy paper as well as the results of a poll on Iran conducted for the FDD. As President Bush prepares to deliver the State of the Union address, the CPD will release a new Iran Policy Paper calling for stronger actions to prevent Iran from acquiring nuclear weapons. Location: Room SC-6, Capitol (use North Visitors Entrance).

ABORTION _ 10 a.m. National Right to Life officials hold a press conference in response to the 33rd anniversary of Roe v. Wade. Location: National Press Club, Zenger Room.

DOMESTIC SPYING _ 10 a.m. Deputy National Intelligence Director Gen. Michael Hayden speaks on the domestic spying controversy. Location: National Press Club.

KATRINA-WOMEN _ 10 a.m. The National Council of Women's Organizations holds a briefing on the impact of hurricanes Katrina and Ritz on low-income women and families. Location: Room HC-8, Capitol.

REGIONAL PREPAREDNESS _ 11 a.m. - 12 p.m. The Heritage Foundation hosts a panel discussion on ``Building the Right Regional Network for Preparedness and Response," looking at federalism and regional organization within the Department of Homeland Security. With Thomas Lockwood, director, National Capital Region, Dept. of Homeland Security; Edwin Meese, chairman, Center for Legal and Judicial Studies, Heritage Foundation; retired General William Moore, consultant, Computer Sciences Corporation; and James Carafano, Heritage Foundation. Location: Lehrman Auditorium, Heritage Foundation, 214 Massachusetts Ave. NE.

LOBBYING REFORM _ 12 p.m. A coalition of reform groups hold a news conference to present a plan for lobbying

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reform to prevent the failures that made the Abramoff scandal possible, and critique current reform plans. With Joan Claybrook, president, Public Citizen; Fred Wertheimer, president, Democracy 21; Chellie Pingree, president, Common Cause, and others. Location: National Press Club, 14th and F Sts. NW.

FOREIGN AID _ 12 p.m. - 2:30 p.m. The American Enterprise Institute holds an afternoon conference on ``The Future of Foreign Aid? The Millenium Challenge Corporation Two Years On." A look at U.S. foreign aid and the new mechanism established by the Bush Administration. With Ambassador John Danilovich, Millenium Challenge Corporation; Ambassador Jose Brito, Embassy of Cape Verde; Adam Lerrick and Roger Noreiga, AEI; and Clay Lowery, Treasury Department. Location: Wohlstetter Conference Center, 12th floor, AEI, 1150 17th St. NW.

BIRD FLU-TRADE _ 12:30 p.m. - 2 p.m. Dr. Ron DeHaven, administrator of the USDA Animal and Plant Health Inspection Service, leads a discussion on whether avian influenza is a threat to the U.S. and what will be its impact on trade? Location: Tew Cardenas LLP, Suite 1150, 700 12th St, NW.

GONZALES-METHAMPHETAMINE _ 1 p.m. Attorney General Alberto R. Gonzales delivers remarks at the National Town Hall Meeting on Methamphetamine Awareness and Prevention. Location: Room 419, Dirksen Senate Office Building.

TROOPS-DRINKING WATER _ 1:30 p.m. The Senate Democratic Policy Committee holds a hearing to look into charges that KBR, a subsidiary of Halliburton, provided U.S. troops with water it knew was unsafe for human use. Location: Room 628, Dirksen.

DOLE-SENATE RACES _ 2 p.m. Senator Elizabeth Dole, R-NC, chair of the National Republican Senatorial Committee, holds a pen and pad briefing to discuss the 2006 Senate races. Location: National Republican Senatorial Committee, 425 Second St, NE.

INTELLIGENCE POLICY _ 2 p.m. The Center for Strategic and International Studies holds a speech by Rep. Mike Rogers on the future of intelligence policy and winning the war on terrorism. Location: B-1 conference level, 1800 K St. NW.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: MONDAY, JANUARY 23, 2006 7:45 AM EST

TODAY'S EDITION

Terrorism News:

White House Steps Up Defense Of Domestic Spying Program (USAT) 5
Delicate Dance For Bush In Depicting Spy Program As Asset (NYT) 6
Lawmakers Seek Review Of Eavesdropping Rules (REU-Y2) 7
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TERRORISM NEWS:

White House Steps Up Defense Of Domestic Spying Program (USAT)

By David Jackson

USA Today, January 23, 2006

WASHINGTON — The White House launches a political campaign this week, not for a candidate but for a controversial program: warrantless surveillance of some U.S. citizens by the National Security Agency.

President Bush plans to defend the program in a counterterrorism speech today at Kansas State University, aides said. The speech will kick off a flurry of administration activity leading to Senate hearings scheduled for Feb. 6.

"We are stepping up our efforts to educate the American people about this vital tool in the war on terrorism," White House spokesman Scott McClellan said.

At the administration appearances, Bush and aides plan to repeat arguments they have made before: This is a limited program that kicks in only when one of the parties is beyond U.S. borders and has some kind of link to the al-Qaeda terrorist organization.

Just before Bush's speech today in Manhattan, Kan., Gen. Michael Hayden plans to discuss the surveillance program at the National Press Club. Hayden, the principal deputy director of national intelligence, once headed the National Security Agency, which conducts the surveillance.

Attorney General Alberto Gonzales is scheduled to address the issue in a speech Tuesday, McClellan said. On Wednesday, the president plans to visit the NSA headquarters at Fort Meade in Maryland.

Democrats say they also want to fight terrorism, but some say the once-secret program is unconstitutional because it permits eavesdropping on some U.S. citizens without a court warrant. "No one is above the law," said Josh Earnest, spokesman for the Democratic National Committee.

As for legal authority, Bush and his supporters have cited his constitutional power as commander in chief. They have also pointed to the congressional resolution passed after the Sept. 11, 2001, terrorist attacks that authorized force against the planners.

Some Republicans, including Sen. Arlen Specter, R-Pa., have questioned the program's legality in light of the Foreign Intelligence Surveillance Act (FISA). The act requires warrants from a special secret court when eavesdropping involves Americans. Specter, chairman of the Senate Judiciary Committee, plans to conduct the hearing Feb. 6.

Sen. John McCain, R-Ariz., speaking on Fox News Sunday, said he doesn't see the legal authority for the program. He suggested the administration sit down with members of Congress to discuss possible changes to the FISA law in light of advances in communication since the law passed in 1978. "Why not come to Congress?" McCain said. "We can sort this all out."

Sen. John Kerry, D-Mass., who lost the presidential election to Bush in 2004, said a special counsel should investigate the program. Appearing Sunday on ABC's This Week with George Stephanopoulos, Kerry said he welcomes the debate over the Bush policy. "There is a way to protect the Constitution and not go off on your own and violate it," Kerry said.

Some Republicans who attended their party's winter meeting during the weekend said the surveillance program should be an election-year issue. Karl Rove, Bush's top political adviser, said Friday in a speech, "This is an issue worthy of public debate."

"President Bush believes if al-Qaeda is calling somebody in America, it is in our national security interest to know who they're calling and why," Rove said.

He said later that "Democrats have a pre-9/11 view of the world."

Sen. Charles Schumer, D-N.Y., appearing Sunday on CNN's Late Edition, called Rove's remarks a "cheap shot" designed to take the spotlight off White House "incompetence" over Iraq, Hurricane Katrina and problems with its prescription-drug plan.

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He said Democrats would take a back seat to no one in “fighting a tough war on terror. But what Karl Rove is doing is trying to divert attention.”

Delicate Dance For Bush In Depicting Spy Program As Asset (NYT)

By Adam Nagourney

The New York Times, January 23, 2006

WASHINGTON, Jan. 22 - With a campaign of high-profile national security events set for the next three days, following Karl Rove's blistering speech to Republicans on Friday, the White House has effectively declared that it views its controversial secret surveillance program not as a political liability but as an asset, a way to attack Democrats and re-establish President Bush's standing after a difficult year.

Whether the White House can succeed depends very much, members of both parties say, on its success in framing a complicated debate when the country is torn between its historic aversion to governmental intrusion and its recent fear of terrorist attacks at home.

Polls suggest that Americans are divided over whether Mr. Bush has the authority to order the searches without warrants that critics say violate the law and that the president says are legal and critical to the nation's security.

But as the White House and Democrats are well aware, the issue can draw very different reactions depending on how it is presented. These next few days could prove critical, as both Mr. Bush and Congressional Democrats move aggressively to define what is at stake.

Americans may be willing to support extraordinary measures - perhaps extralegal ones - if they are posed in the starkest terms of protecting the nation from another calamitous attack. They are less likely to be supportive, members of both parties say, if the question is presented as a president breaking the law to spy on the nation's own citizens.

Viewed from the perspective of the battles over the Homeland Security Act or the USA Patriot Act, this White House holds a tactical edge; it has repeatedly proved highly effective in defining complicated debates against the Democratic Party. Applying the campaign lessons of simplicity and repetition, Mr. Bush and Mr. Rove, his chief political adviser, have systematically presented arguments in accessible if sometimes exaggerated terms, and they have regularly returned to the theme of terrorism since the attacks of Sept. 11, 2001.

Mr. Rove's speech on Friday to the Republican National Committee was a classic example. "Let me be as clear as I can be: President Bush believes if Al Qaeda is calling somebody in America, it is in our national security interest to know who they're calling and why," Mr. Rove said. "Some important Democrats clearly disagree."

Democrats - and, though Mr. Rove made no mention of this Friday, some Republicans, too - have indeed challenged the administration for eavesdropping without obtaining warrants. They argue, among other points, that the White House is bypassing legal mechanisms established in 1978 that already allow law enforcement agencies to move rapidly to monitor communications that might involve terrorists. Yet it is difficult to think of a Democrat who has actually argued that it is not "in our national security interest" to track Qaeda calls to the United States, as Mr. Rove contested; he did not offer any examples of whom he had in mind.

Beyond that tactical edge, the White House enjoys the advantage of its platform. The sheer crush of news media attention to a rare public speech by Mr. Rove could not have been lost on Democrats.

By contrast, there is no single Democrat who stands as the voice of opposition. That difference is likely to become particularly glaring this week, with a speech on Monday by Lt. Gen. Michael V. Hayden, the former head of the National Security Agency; a legal defense of the spying program on Tuesday by Attorney General Alberto R. Gonzales; and a visit by Mr. Bush to N.S.A. headquarters on Wednesday. This orchestrated campaign is the work of the same White House that initially offered a crouched, guarded response to the disclosure of the eavesdropping program last month.

Still, in many significant ways the task the White House faces now may prove more daunting than the battles it has waged on this terrain before.

A number of Republicans have joined Democrats in challenging the surveillance program, pointedly reminding the administration that precedents established today will be in place whenever a Democrat returns to power.

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"A lot of Democrats?" said one prominent Republican supporter of Mr. Bush, who did not want to be identified while being critical of a White House that famously does not brook criticism. "Democrats, Karl? Republicans, too."

David A. Keene, chairman of the American Conservative Union, said: "A lot of conservatives are very skeptical about it. It is not as clean-cut a political win as the administration thinks that it is."

Senator Arlen Specter, the Pennsylvania Republican and chairman of the Judiciary Committee, is planning hearings on the surveillance program. And in an interview on Fox News on Sunday, Senator John McCain of Arizona said he did not think the president had the legal authority for this operation, adding that the White House should seek Congressional approval to alter the 1978 provisions if it thinks they are not working now.

Mr. McCain also came to the defense of Democrats in response to Mr. Rove's suggestion that they were not committed to the nation's security. "Do I think that the president's leadership has been worthy of support of our party and our leadership?" he said. "Yes. But there's too many good Democrats over there who are as concerned about national security and work just as hard as I do."

Beyond that, one Republican analyst who is skeptical about the White House strategy said Mr. Bush's position was hardly helped by the fact that his credibility numbers have dropped along with his popularity since his re-election. Mr. Bush may find that, as some Democrats have suggested, the invocations of Sept. 11 do not have the force they once had.

For their part, Democrats said they have learned from their repeated defeats by this White House. The Democratic presidential candidate of 2004, Senator John Kerry of Massachusetts, said in an interview on Sunday that Mr. Rove and the White House were willfully distorting the Democratic position.

"He's playing an old game," Mr. Kerry said. "Every time they have a problem, they play the 9/11 card."

"We all support surveillance - that's where they are playing word games again," Mr. Kerry said. "You can protect the safety of the American people and you can protect the Constitution."

The political complexity of the issue was reflected in remarks by Governor Mitt Romney of Massachusetts, a Republican, who, like Mr. Kerry, is considering a run for president. Speaking by telephone on a trip to Iowa, Mr. Romney at first offered full support for the president's surveillance program.

"The eavesdropping is a big matter on the coasts for people who are inclined to dislike the president," Mr. Romney said. "The great majority of Americans think it is the president's first responsibility to protect the lives of the American citizens in an urgent setting where there is a threat of terrorism."

But Mr. Romney called back a few moments later to make clear that he would have a different view if the program were found to be unlawful.

"I would never suggest that the president should break the law," he said. "My guess is, my assumption is, he did not break the law. The president has a responsibility to follow the law, which I believe is likely to be found, but he also has a primary responsibility to protect the American people."

Lawmakers Seek Review Of Eavesdropping Rules (REU-Y2)

By Joanne Kenen

Reuters, January 23, 2006

U.S. surveillance laws should be reviewed and possibly rewritten to allow the type of eavesdropping that U.S. President George W. Bush has been criticized for authorizing, lawmakers from both parties said on Sunday.

Democrats and some Republicans have said the Bush administration's classified warrantless eavesdropping program is illegal. The White House has strongly defended the National Security Agency surveillance as both legal and essential. The Senate Judiciary Committee starts hearings on the issue on February 6.

The NSA has been monitoring communications, such as e-mail and telephone calls, into and out of the United States by people believed linked to al Qaeda or related groups.

An audio tape by Osama bin Laden that emerged last week threatening new attacks on the United States has heightened security concerns. Neither party can afford to be seen as failing to protect the country, particularly as corruption scandals and public questioning of the Iraq war loom over November's congressional elections.

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Lawmakers on several Sunday talk shows said that if the Foreign Intelligence Surveillance Act (FISA) does not give Bush the tools and legal framework he needs to monitor potential threats, the president should ask Congress to change the law rather than bypass it.

Massachusetts Democrat John Kerry, who endorsed former Vice President Al Gore's call for an independent investigation of the Bush program, said on ABC's "This Week" that some Republicans like Bush adviser Karl Rove are trying to equate Democratic opposition to warrantless spying as weakness.

"What he's (Rove) trying to pretend is somehow Democrats don't want to eavesdrop appropriately to protect the country. That's a lie," Kerry said. "We're prepared to eavesdrop wherever and whenever necessary in order to make America safer."

'THERE IS A WAY'

But Kerry said the spying has to be legal and constitutional and if Bush needs the law to be changed, "then come to us and tell us... There is a way to protect the Constitution and not go off on your own and violate it."

Other prominent Democratic senators including Dick Durbin of Illinois, Charles Schumer of New York and Joseph Lieberman of Connecticut made similar comments about reexamining the breadth and modernity of FISA in television interviews a few days after Rove urged Republicans to campaign on national security and the war on terror.

Arizona Republican Sen. John McCain (news, bio, voting record), who has also questioned the legality of the eavesdropping, also urged the administration to work with Congress on modernizing the 1978 FISA law to take into account technological changes in communications.

"I know of no member of Congress, frankly, who, if the administration came and said here's why we need this capability, that they wouldn't get it. And so let's have the hearings," McCain said on Fox News Sunday.

House Intelligence Committee chairman Pete Hoekstra of Michigan, a strong defender of the president's program, said on ABC's "This Week" that "we'll take a look at whether there needs to be a change in the law."

But his Senate counterpart Intelligence Committee chairman Pat Roberts of Kansas said he worried that the public debate about what the NSA can or cannot do would harm its intelligence gathering.

"Al Qaeda are not stupid," he said on CBS's "Face the Nation." "I really worry about losing that capability and seeing a diminished capacity for the president to act and detect a possible attack on the homeland, then do something about it."

White House spokeswoman Dana Perino said the administration continues to brief members of Congress as it has done more than a dozen times during the last several years.

Bush will visit the NSA on Wednesday as part of the effort to highlight the need for the program. Air Force Gen. Michael Hayden, former head of the NSA, will make a speech at the National Press Club on Monday and Attorney General Alberto Gonzales will speak on Tuesday.

Lawmakers Say Will Press Bush On Spying (AP-Y2)

By Hope Yen

AP2, January 23, 2006

Several lawmakers said Sunday they will press President Bush to justify his decision to allow domestic eavesdropping, rebuffing GOP suggestions their criticism of broad executive authority puts the nation at risk.

During the Sunday talk shows, lawmakers were responding to efforts by White House aide Karl Rove to make national security the top partisan issue in the November midterm elections. Rove made the comments about the time that new audiotape warnings by Osama bin Laden were released, threatening an upcoming attack on the U.S.

"I think Karl Rove made a big mistake last Friday to use this issue as his opening salvo to Republican operatives," said Rep. Jane Harman (news, bio, voting record), D-Calif., the senior Democrat on the Intelligence Committee.

"The terrorists aren't going to check our party registration before they blow us up. ...We're under attack as America," she said on ABC's "This Week."

"The NSA's terrorist surveillance program is targeted at al-Qaida communications coming into or going out of the United States," White House Press Secretary Scott McClellan said in a statement later Sunday. "It is a limited, hot pursuit effort by our intelligence community to detect and prevent attacks."

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He accused Democrats of making "misleading and outlandish charges about this vital tool that helps us do exactly what the 9/11 Commission said we needed to do connect the dots."

Sen. John McCain (news, bio, voting record), R-Ariz., appearing on "Fox News Sunday," said the new threats emphasize a greater need for Bush to fully consult with lawmakers from both parties on the best strategy for spy programs within the confines of the law.

"Do I think that the president's leadership has been worthy of support of our party and our leadership? Yes," McCain said.

But McCain questioned efforts to paint Democrats as weak on national security.

"There's too many good Democrats over there who are as concerned about national security and work just as hard as I do," McCain said.

On Friday, Rove outlined a blueprint for Republicans to prevail in the midterm elections, suggesting that Democrats have undermined anti-terror efforts by questioning Bush's authority to allow wiretapping without getting court approval first.

Bush has cited a congressional resolution passed after Sept. 11, 2001 that authorized him to use force in the fight against terrorism as allowing him to order the program. The program allows eavesdropping of international phone calls and e-mails of people deemed a terror risk.

Several lawmakers from both parties, including McCain and Senate Judiciary Committee Chairman Arlen Specter, have questioned the program's legality because Bush did not get court approval nor fully consult with Congress. Specter's committee will hold a hearing Feb. 6.

On Sunday, some Republicans echoed Rove's anti-terror themes, arguing that Bush should have broad power even if the 2001 congressional resolution did not expressly authorize or otherwise notify lawmakers of the domestic spying.

Sen. George Allen (news, bio, voting record), R-Va., who is considered a possible 2008 presidential contender, said there are many security measures he doesn't know — and shouldn't know — because it could risk alerting the enemy.

"Neither did I know what sort of intercepts or communications of financial assistance or other things that I don't know about," he said.

Allen cited in particular the new bin Laden tape which surfaced last week as evidence that the terror cells might exist in the U.S. and might be preparing to attack should law enforcement officials let their guard down.

"I find nothing wrong with having a hearing. This maybe ought to be something that you would ratify — yes, the president has this authority," Allen said on CNN's "Late Edition."

Sen. John Kerry, D-Mass. said Rove is being divisive by seeking to exploit the terror threat for political gain. Wartime should not give a president unchecked authority, he said on ABC's "This Week."

"You know, Osama bin Laden is going to die of kidney failure before he's killed by Karl Rove and his crowd," Kerry said. "We're prepared to eavesdrop wherever and whenever necessary in order to make America safer. But we need to put a procedure in place to protect the constitutional rights of Americans."

Lawmakers Debate New Limits On Spying (LAT)

By Paul Richter

The Los Angeles Times, January 23, 2006

WASHINGTON — Lawmakers of both parties Sunday called for Congress to consider whether new restrictions were needed on government surveillance in suspected terrorism cases involving people in the United States.

Congress is deeply divided on whether the Bush administration acted illegally in carrying out warrantless eavesdropping on communications in hopes of detecting terrorist plots.

But in interviews in advance of Senate hearings next month on the issue, several influential lawmakers said Congress should play a larger role in determining how the surveillance should be run.

"I know of no member of Congress, frankly, who if the administration came and said, 'Here's why we need this capability,' that they wouldn't get it," Sen. John McCain (R-Ariz.), who has questioned the legality of the eavesdropping, told "Fox News Sunday."

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"Let's have the administration come to Congress. I think they will get that authority, whatever is reasonable and needed, and increased abilities to monitor communications are clearly in order."

Sen. Richard J. Durbin of Illinois, the Senate's No. 2 Democrat, said that approaching Congress was "exactly the way [President Bush] should have handled it long ago."

"If the president came to us and said there are changes in technology, changes in the threat to America, we need to change and modify the law, you bet he would have a Congress ready to work with him," Durbin said on "Fox News Sunday."

On ABC's "This Week," Sen. John F. Kerry (D-Mass.) attacked Karl Rove, Bush's top political advisor, for his remarks to Republican activists last week, in which Rove said "some important Democrats clearly disagree" with the administration's belief that "it is in our national security interest" to know if terrorism suspects are communicating with people in the United States.

"What [Rove is] trying to pretend is somehow Democrats don't want to eavesdrop appropriately to protect the country. That's a lie," Kerry said. "We're prepared to eavesdrop wherever and whenever necessary in order to make America safer."

If the administration has determined that the current setup is unworkable, Kerry said, "then come to us and tell us how you can do it…. There is a way to protect the Constitution and not go off on your own and violate it."

Rep. Jane Harman of Venice, the ranking Democrat on the House Permanent Select Committee on Intelligence, said she believed the administration had broken the law by failing to fully brief the intelligence committees on the program.

"Congress should decide whether [the law] is being violated in any way by this program," she said on "This Week."

But Rep. Peter Hoekstra (R-Mich.), chairman of the House intelligence committee, said on the same program that he had been invited in the past to ask questions about the program and to consider whether it was legal.

"The problem we have right now is that we have a whole bunch of Democrats who were for this program before they were against it," Hoekstra said. "And the only thing that has changed is that the story was illegally, in a damaging way, leaked to the New York Times," which first reported the surveillance last month.

White House Press Secretary Scott McClellan issued a written response to lawmakers' comments on the talk shows.

"Senate Democrats continue to engage in misleading and outlandish charges about this vital tool that helps us do exactly what the 9/11 commission said we needed to do — connect the dots," McClellan said.

Kerry Criticizes NSA Wiretaps (WT)

By Audrey Hudson

The Washington Times, January 23, 2006

Sen. John Kerry yesterday called the National Security Agency's program to eavesdrop on terror suspects illegal, but he said he will continue to support its funding.

"It is a violation of law," said the Massachusetts Democrat and former presidential contender, who also backed former Vice President Al Gore in calling for a special investigation.

"I agree that we ought to have a special counsel investigate. I agree that we ought to have an independent commission because this Congress has proven itself unwilling to do what's necessary to perform its responsibilities," Mr. Kerry said.

Appearing on ABC's "This Week," Mr. Kerry was asked by host George Stephanopoulos, "If you think this is a clear violation of the law, why not move to cut off funding for the program?"

"That's premature," Mr. Kerry responded.

Under the authority of the president, who consulted on the matter with congressional leaders, the National Security Agency engaged in electronic surveillance of al Qaeda suspects, including U.S.-bound phone calls and e-mails, without a warrant.

Sen. George Allen, Virginia Republican, told CNN that Mr. Bush has the authority to conduct wiretapping of terror suspects.

"An argument can be made that the president, by virtue of his office and his role and responsibility, is to prevent attacks on the United States. The more specific authority he has right now was the Congress authorized the use of military force. And, in that use of military force, it was to wage war against those who have declared war on us, specifically al Qaeda."

"The point of the matter is that this is what you would expect," Mr. Allen said. "Wouldn't you want us to know what the enemies are plotting against us? This is focused. These intercepts are focused on calls from phones that are related to al Qaeda that may come into this country."

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Democrats and some Republicans question whether the eavesdropping is legal because the administration did not get consent from the Foreign Intelligence Surveillance Act court.

Sen. Arlen Specter, Pennsylvania Republican and chairman of the Senate Judiciary Committee, will hold hearings on the matter and has said he does not think the wiretapping was legal.

Sen. John McCain, Arizona Republican, also said yesterday that he did not think the actions were legal.

"Let us have the hearings," Mr. McCain said on "Fox News Sunday." "Let us have the administration come to Congress. I think they will get that authority, whatever is reasonable and needed, and increased abilities to monitor communications are clearly in order."

Sen. Charles E. Schumer, New York Democrat, told CNN that Mr. Bush needs to go after Osama bin Laden "through the system, rule of law, and checks and balances that we've had here."

"Tomorrow, if the president were to decide that he felt that he had to search Americans' homes without a warrant, to just go do it on his own and say, 'I need that power,' " would not be acceptable, Mr. Schumer said.

The Other Big Brother (NSWK)

By Michael Isikoff

Newsweek, January 30, 2006

The demonstration seemed harmless enough. Late on a June afternoon in 2004, a motley group of about 10 peace activists showed up outside the Houston headquarters of Halliburton, the giant military contractor once headed by Vice President Dick Cheney. They were there to protest the corporation's supposed "war profiteering." The demonstrators wore papier-mache masks and handed out free peanut-butter-and-jelly sandwiches to Halliburton employees as they left work. The idea, according to organizer Scott Parkin, was to call attention to allegations that the company was overcharging on a food contract for troops in Iraq. "It was tongue-in-street political theater," Parkin says.

But that's not how the Pentagon saw it. To U.S. Army analysts at the top-secret Counterintelligence Field Activity (CIFA), the peanut-butter protest was regarded as a potential threat to national security. Created three years ago by the Defense Department, CIFA's role is "force protection"—tracking threats and terrorist plots against military installations and personnel inside the United States. In May 2003, Paul Wolfowitz, then deputy Defense secretary, authorized a fact-gathering operation code-named TALON—short for Threat and Local Observation Notice—that would collect "raw information" about "suspicious incidents." The data would be fed to CIFA to help the Pentagon's "terrorism threat warning process," according to an internal Pentagon memo.

A Defense document shows that Army analysts wrote a report on the Halliburton protest and stored it in CIFA's database. It's not clear why the Pentagon considered the protest worthy of attention—although organizer Parkin had previously been arrested while demonstrating at ExxonMobil headquarters (the charges were dropped). But there are now questions about whether CIFA exceeded its authority and conducted unauthorized spying on innocent people and organizations. A Pentagon memo obtained by NEWSWEEK shows that the deputy Defense secretary now acknowledges that some TALON reports may have contained information on U.S. citizens and groups that never should have been retained. The number of reports with names of U.S. persons could be in the thousands, says a senior Pentagon official who asked not be named because of the sensitivity of the subject.

CIFA's activities are the latest in a series of disclosures about secret government programs that spy on Americans in the name of national security. In December, the ACLU obtained documents showing the FBI had investigated several activist groups, including People for the Ethical Treatment of Animals and Greenpeace, supposedly in an effort to discover possible ecoterror connections. At the same time, the White House has spent weeks in damage-control mode, defending the controversial program that allowed the National Security Agency to monitor the telephone conversations of U.S. persons suspected of terror links, without obtaining warrants.

Last Thursday, Cheney called the program "vital" to the country's defense against Al Qaeda. "Either we are serious about fighting this war on terror or not," he said in a speech to the Manhattan Institute, a conservative think tank. But as the new information about CIFA shows, the scope of the U.S. government's spying on Americans may be far more extensive than the public realizes.

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It isn't clear how many groups and individuals were snagged by CIFA's dragnet. Details about the program, including its size and budget, are classified. In December, NBC News obtained a 400-page compilation of reports that detailed a portion of TALON's surveillance efforts. It showed the unit had collected information on nearly four dozen antiwar meetings or protests, including one at a Quaker meetinghouse in Lake Worth, Fla., and a Students Against War demonstration at a military recruiting fair at the University of California, Santa Cruz. A Pentagon spokesman declined to say why a private company like Halliburton would be deserving of CIFA's protection. But in the past, Defense Department officials have said that the "force protection" mission includes military contractors since soldiers and Defense employees work closely with them and therefore could be in danger.

CIFA researchers apparently cast a wide net and had a number of surveillance methods—both secretive and mundane—at their disposal. An internal CIFA PowerPoint slide presentation recently obtained by William Arkin, a former U.S. Army intelligence analyst who writes widely about military affairs, gives some idea how the group operated. The presentation, which Arkin provided to NEWSWEEK, shows that CIFA analysts had access to law-enforcement reports and sensitive military and U.S. intelligence documents. (The group's motto appears at the bottom of each PowerPoint slide: "Counterintelligence 'to the Edge'.") But the organization also gleaned data from "open source Internet monitoring." In other words, they surfed the Web.

That may have been how the Pentagon came to be so interested in a small gathering outside Halliburton. On June 23, 2004, a few days before the Halliburton protest, an ad for the event appeared on houston.indymedia.org, a Web site for lefty Texas activists. "Stop the war profiteers," read the posting. "Bring out the kids, relatives, Dick Cheney, and your favorite corporate pigs at the trough as we will provide food for free."

Four months later, on Oct. 25, the TALON team reported another possible threat to national security. The source: a Miami antiwar Web page. "Website advertises protest planned at local military recruitment facility," the internal report warns. The database entry refers to plans by a south Florida group called the Broward Anti-War Coalition to protest outside a strip-mall recruiting office in Lauderhill, Fla. The TALON entry lists the upcoming protest as a "credible" threat. As it turned out, the entire event consisted of 15 to 20 activists waving a giant BUSH LIED sign. No one was arrested. "It's very interesting that the U.S. military sees a domestic peace group as a threat," says Paul Lefrak, a librarian who organized the protest.

Arkin says a close reading of internal CIFA documents suggests the agency may be expanding its Internet monitoring, and wants to be as surreptitious as possible. CIFA has contracted to buy "identity masking" software that would allow the agency to create phony Web identities and let them appear to be located in foreign countries, according to a copy of the contract with Computer Sciences Corp. (The firm declined to comment.)

Pentagon officials have broadly defended CIFA as a legitimate response to the domestic terror threat. But at the same time, they acknowledge that an internal Pentagon review has found that CIFA's database contained some information that may have violated regulations. The department is not allowed to retain information about U.S. citizens for more than 90 days—unless they are "reasonably believed" to have some link to terrorism, criminal wrongdoing or foreign intelligence. There was information that was "improperly stored," says a Pentagon spokesman who was authorized to talk about the program (but not to give his name). "It was an oversight." In a memo last week, obtained by NEWSWEEK, Deputy Defense Secretary Gordon England ordered CIFA to purge such information from its files—and directed that all Defense Department intelligence personnel receive "refresher training" on department policies.

That's not likely to stop the questions. Last week Democrats on the Senate intelligence committee pushed for an inquiry into CIFA's activities and who it's watching. "This is a significant Pandora's box [Pentagon officials] don't want opened," says Arkin. "What we're looking at is hints of what they're doing." As far as the Pentagon is concerned, that means we've already seen too much.

Eavesdropping Leaps Into 21st Century (AP)

By Matthew Fordahl

AP, January 23, 2006

SAN JOSE, Calif. -- In the past, intercepting communications meant just that _ copying a telegram mid-route, steaming open an envelope or attaching alligator clips to the copper wires that connected every telephone in the world.

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But the old ways of communicating are heading into the sunset like the Pony Express and being replaced by phone calls, instant messages, e-mail and more that are converted into digital data before they gallop across the Internet and other advanced networks.

This constant interchange of massive amounts of data, converging into speeding bitstreams on common pipes, is both a blessing and a curse for eavesdroppers.

It's easier than ever to access wholesale feeds of data. But such work is also more controversial than traditional wiretapping, as seen in objections to post-9/11 warrantless domestic surveillance and to regulatory moves to require networks to be tap-friendly.

Critics question whether safeguards put in place a quarter century ago following FBI wiretapping misconduct are strong enough to prevent abuse in the 21st century. Others fear the information superhighway is turning out to be a fast path to mass surveillance.

"The thing that really should worry people is that once the capability is there, people will abuse it," said Jennifer Granick, executive director of Stanford University's Center for Internet and Society. "The opportunity for abuse is so much greater, because so much more of our private information is transmitted over the network."

Always a hot topic, the debate over wiretapping is further fueled today not only by the knowledge of what's possible but also by a dearth of details of what's actually happening.

What makes the White House surveillance program _ acknowledged after The New York Times disclosed it in December _ a cause of such concern is that it skirts existing laws and employs techniques resembling a wide-mouthed vacuum before the fine-toothed combs can be wielded.

It's being performed by the ultra-secret National Security Agency, which is believed to have the most advanced information vacuuming technology available. The NSA did not return telephone calls seeking comment on its methods.

The agency's efforts are reported to enjoy the cooperation of telecommunications companies, which run the major backbones and junctions where data _ phone calls and Internet traffic _ is exchanged between carriers' networks. Those companies have refused to confirm or deny to The Associated Press whether they've cooperated with the program, which the White House says began in 2002 with the aim of preventing terrorist attacks.

But they could be helping in a number of ways to provide information on who's talking to whom, when, how long the communication lasts and, ultimately, the content itself. Under the laws bypassed by the Bush administration, warrants for wiretaps require some evidence of wrongdoing.

Given the huge amount of data that traverses networks, it's likely that one element of the program involves analyzing traffic to single out anyone who communicates with people in suspicious locations. Data accumulated for phone billing could be one of the sources.

Modern networks can yield such information not just for phone calls but also for any other type of communication that passes through. When the data is converted to packets, as in the Internet, each one contains a header with the origin and destination.

Even without support from a carrier, the NSA could be sniffing communication as it traverses the airwaves or passes through the millions of miles of fiber optic cable that are buried underground or beneath oceans.

The technical problem is in the fire hose of information involved, said Mark Rasch, a former Justice Department computer crimes prosecutor.

"The idea that the NSA could be sitting on every call going internationally, listening in on every possible language, for the words al-Qaida,' 'terrorist' or 'bombs' is just fallacy," he said. "Computers capable of doing that simply don't exist and hopefully never will."

But the technology does exist to quickly read just the destination or origin information.

That sort of monitoring, if done on a wide scale, creates thorny moral, ethical and legal problems because those channels are much more likely to contain the chatter of innocents than the machinations of terrorists. And it raises the question of how that traffic is used.

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"The thing about traffic analysis is you can mine that to any depth you want," said Bruce Schneier, chief technology officer of Counterpane Internet Security Inc.

In domestic criminal cases, law enforcement officials who want simply to know who is talking to whom _ excluding content _ need only tell a court it's important to a case. But that low burden of proof was established with the belief that only one line would be monitored.

When such surveillance is done on all outbound international calls, the law is not clear.

"I would say the Fourth Amendment (guaranteeing protection against unreasonable searches) is the Fourth Amendment, and the fact that you're invading the privacy of millions as opposed to dozens should make it worse, not better," said Rasch, who is now chief security counsel at Solutionary Inc., a security risk management firm.

It's believed that once the traffic analysis identifies "people of interest," they are then targeted for further surveillance and, possibly, full-content monitoring. Then, the NSA could simply mirror the data going to or coming from a target. It could even set up a parallel phone company or its own Internet Service Provider that would be invisible to its targets, Rasch said.

Critics note that the White House could easily have used the secret court created by the 1978 Foreign Intelligence Surveillance Act to get approval for such wiretaps, but chose instead to bypass it.

As it is, the FISA court has been criticized for rubber stamping requests.

"During the Clinton years, we were fighting that kangaroo court _ they never said no," Schneier said. "Here we are now wishing for the little oversight that the court had."

The NSA surveillance also raises questions about wiretapping in investigations unrelated to national security.

Responding to complaints by law enforcers that such digital communications as Internet telephony can stymie their eavesdropping, the FCC decided last year decided that the 1994 Communications Assistance for Law Enforcement Act should be extended next year to apply to some broadband Internet access providers and Voice over Internet Protocol (VoIP) companies.

CALEA compels those companies to proactively build out that capability, and network equipment vendors are starting to building surveillance tools into their gear in anticipation of compliance.

Some companies, such as VeriSign Inc. and NeuStar Inc., offer an all-in-one service for carriers and service providers, which some federal agencies have argued will actually enhance privacy for people not under investigation.

But critics say that rather than laying the groundwork for privacy, new regulations will more likely enable greater misuse.

"There's no question in my mind that once we make the networks less secure because of CALEA, we will exploit that lack of security to intercept communications under every legal authority asserted by the government," Rasch said.

The President's End Run (WP)

The Washington Post, January 23, 2006

THE MOST detailed legal justification to date for the National Security Agency's warrantless domestic surveillance has emerged from the Bush administration, but the 42-page version isn't any more convincing than its shorter predecessors. In some ways -- particularly in its broad conception of presidential power in wartime -- it is more disturbing.

As it had implied previously but never flatly stated, the administration asserted that the Foreign Intelligence Surveillance Act (FISA) would be unconstitutional if it were read to prevent the president from engaging in the kind of warrantless surveillance that the administration has been conducting.

This interpretation, with its expansive view of the commander in chief's powers, would call into question Congress's ability to prevent the administration from engaging in torture or cruel and inhuman treatment or to establish rules for detainees and military tribunals -- exactly the areas in which we have been encouraging Congress to step up to the plate.

The administration, appropriately, would prefer to avoid the constitutional argument. Instead, it contends first that FISA's warrant requirements were superseded by the post-Sept. 11 congressional Authorization for the Use of Military Force (AUMF), which allows the president to "use all necessary and appropriate force" to prevent "any future acts of international terrorism against the United States."

The administration cites this sweeping language and the Supreme Court's ruling in Hamdi v. Rumsfeld , in which a plurality found that the AUMF allowed the president to detain U.S. citizens captured on the battlefield as enemy combatants. The

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administration says that reasoning applies equally to "all traditional and accepted incidents of force . . . including warrantless electronic surveillance to intercept enemy communications both at home and abroad."

A critical difference between detention and surveillance, however, is that Congress has already passed a law outlining detailed requirements for domestic surveillance -- even during wartime; FISA specifically provides a 15-day grace period for warrantless surveillance in time of war. The vague wording of the AUMF can't reasonably be read to implicitly trump FISA.

The administration goes on to say that if the AUMF doesn't provide such approval, and if FISA is interpreted to prohibit such wiretapping outside its procedures (the law says it is to be the "exclusive means" for authorizing foreign intelligence surveillance), the statute would be unconstitutional.

President Bush, the paper says, "determined that the speed and agility required to carry out the NSA activities successfully could not have been achieved under FISA." Because those activities "are necessary to the defense of the United States from a subsequent terrorist attack, FISA would impermissibly interfere with the President's most solemn constitutional obligation -- to defend the United States against foreign attack."

Before and since the 1978 passage of FISA, presidents have asserted that they also possess the inherent constitutional authority to authorize warrantless searches. Yet there is a major difference between claiming such inherent presidential power and stretching it -- too far in our view -- to conclude that, when Congress has spoken on an issue, the president is free to ignore that legislative action.

Especially without knowing the parameters of the surveillance, we hesitate to second-guess the president's argument that FISA's limits are unduly constraining. The surveillance may be critical for national security, and a law written in a different technological age may well need to be refurbished. But the proper way to handle that -- which the administration rejected -- would have been to seek changes in the law, not to do a stealthy end run around the legislative process. In such an amorphous, long-running conflict as the war against terrorism, it's critical to ensure that limits are in place to prevent the executive branch from overreaching.

What's Left Unsaid (NYT)

By Bob Herbert

The New York Times, January 23, 2006

Have you ever talked sexy to your wife or your girlfriend - or your husband or your boyfriend - on the telephone? Would you keep talking if you thought that one of Dick Cheney's operatives was listening in?

Talk about a chilling effect.

What if you were thinking of running for Congress and you tried to bolster your understanding of terrorism by speaking with knowledgeable but controversial figures in the Middle East? How would you feel if you knew - or even suspected - that government agents were monitoring your conversations? Would you be less likely to engage in those conversations? Would you begin to censor yourself? Would your contacts still be willing to speak freely if they thought the feds were listening in?

Freedom of speech in the United States covers matters trivial and profound. The corrosive damage that is being done to the First Amendment, that cornerstone of free speech, has been largely overlooked in the controversy over President Bush's decision to permit the government to eavesdrop without warrants on phone calls and e-mail messages inside the United States.

Most of the attention generated by this domestic spying program has understandably been focused on its affront to the Fourth Amendment, which prohibits unreasonable searches, and its brazen violation of the Foreign Intelligence Surveillance Act, which established clear-cut rules for electronic surveillance in the U.S.

But there's an additional danger. When the government's spies are allowed to snoop willy-nilly on phone calls and e-mail in the United States, without the important legal constraint of having to seek a warrant, it means that the all-important First Amendment has developed a chill, symptomatic of a life-threatening illness.

The ostensible aim of the president's domestic surveillance program, conducted by the supersecret National Security Agency, is to home in on communications into and out of the United States that involve individuals or organizations suspected of some sort of terror connection. But, as The Times reported last week, F.B.I. officials have repeatedly complained that the N.S.A.

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has bombarded them with thousands upon thousands of unsubstantiated tips - names, telephone numbers, e-mail addresses and so forth - that have either led nowhere, or to completely innocent individuals.

Whatever its stated goals, the N.S.A. seems to be operating the greatest fishing expedition in the history of the world.

The American Civil Liberties Union, in a lawsuit seeking a halt to the spying, warned that scholars, lawyers, journalists and others who communicate with people outside the U.S. are already experiencing a chilling effect. People who are doing nothing wrong, but who feel they may become targets of the program, for whatever reasons, are curtailing their conversations and censoring their correspondence, according to the suit.

Laurence Tribe, a professor of constitutional law at Harvard, noted that people who are aware of the surveillance program and who believe that their political views may be seen as hostile by the government, may also become less candid in their telephone conversations and e-mail. Others could unwittingly become the victim of contacts by individuals that the government may be interested in.

He gave an example:

"I recently got a series of e-mails from someone, quite without invitation, that got rather scary in the sense that they started saying positive things about Osama bin Laden. I asked the person in reply to stop e-mailing me, and I got an e-mail today saying, 'Your request is permanently granted.' But in the meantime, granted or not granted, that could easily put me on some kind of targeting list."

Speaking about the potential long-term effect of widespread domestic spying, Professor Tribe said:

"The more people grow accustomed to a listening environment in which the ear of Big Brother is assumed to be behind every wall, behind every e-mail, and invisibly present in every electronic communication, telephonic or otherwise - that is the kind of society, as people grow accustomed to it, in which you can end up being boiled to death without ever noticing that the water is getting hotter, degree by degree.

"The background assumptions of privacy will be gradually eroded to the point where we'll wake up one day, or our children will, and it will seem quaint that people at one time, long ago, thought that they could speak in candor."

Held In 9/11 Net, Muslims Return To Accuse U.S. (NYT)

By Nina Bernstein

The New York Times, January 23, 2006

Hundreds of noncitizens were swept up on visa violations in the weeks after 9/11, held for months in a much-criticized federal detention center in Brooklyn as "persons of interest" to terror investigators, and then deported. This week, one of them is back in New York and another is due today - the first to return to the United States.

They are no longer the accused but the accusers, among six former detainees who are coming back to give depositions in their federal lawsuits against top government officials and detention guards, at a time when the constitutionality of part of the government's counterterrorism offensive is under new scrutiny.

As in the cases of all the Muslim immigrants rounded up in the New York area after the terror attacks, the six were never accused of a crime related to 9/11; officials eventually cleared all of them of links to terrorism. A report by the inspector general of the Justice Department found systemic problems with immigrant detentions and widespread abuse at the federal detention center where the six had been held; several guards have since been disciplined.

But as the six return to the city - four of them from Egypt, one from Pakistan, one from London - the conditions imposed by the United States government include the requirement that they be in the constant custody of federal marshals.

They are barred from calling anyone during their weeklong stays at an undisclosed New York hotel, where 12 days of closed depositions are to begin today. They can expect hours of questioning by lawyers representing at least 31 defendants in the lawsuits, including John Ashcroft, the former attorney general, and Robert S. Mueller III, the director of the F.B.I.

The first returning detainees, Yasser and Hany Ibrahim, who are brothers, say that putting themselves back in the hands of the government they are suing is an act of faith in America. In recent telephone interviews from Alexandria, Egypt, the two described themselves as frightened but resolute in pressing a 2002 class-action lawsuit charging that they were abused and deprived of due process because of their religion or national origin.

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"I'm seeking justice," said Yasser, 33, who had a Web site design business in Brooklyn before he and Hany, 29, a deli worker, were delivered in shackles to the Metropolitan Detention Center in Brooklyn 19 days after 9/11. "It's from the same system that did us injustice before. But I have faith in this system. I know what happened before was a mistake."

Charles S. Miller, a spokesman for the Justice Department, said officials would not comment on any aspect of the case, including the conditions of the men's return to the city and their allegations. But in court papers, the defendants deny wrongdoing, and department lawyers argue in part that the Sept. 11 attacks created "special factors" - including the need to detect and deter future terrorist attacks - that outweigh the plaintiffs' right to sue for damages for any constitutional violations.

The detainees' lawyers say that what happened at the Brooklyn detention center can be recognized four years later as the template for many of the counterterrorism measures now being fiercely challenged.

"The post-9/11 domestic immigration sweeps were the first example of the Bush administration's willingness to ignore the law and hold people outside the judicial system," said Rachel Meeropol, a lawyer for the Center for Constitutional Rights, which represents the Ibrahim brothers. "The kind of torture, interrogation and arbitrary detention that we now associate with Guantánamo and secret C.I.A. facilities really started right here, in Brooklyn."

Richard Peter Caro, a lawyer for Stuart Pray, the lieutenant who oversaw the detainees' arrival at the detention center, said yesterday: "We're glad that they're coming in to be deposed so we can really get at the facts and finally see what the evidence shows. I'm confident that my client will be found to have committed no wrongdoing at all."

Last week, the center filed a class-action suit against President Bush and other administration officials over the National Security Agency's domestic eavesdropping without warrants. Ms. Meeropol is one of the plaintiffs, contending that her communications with clients like the Ibrahims may have been monitored illegally. The government says the surveillance program is a legal and valuable tool in the war on terror.

Illegal recording of lawyer-client conversations was one of the abuses documented at the Brooklyn detention center in a scathing 2003 report by the Justice Department's inspector general. The report also found a pattern of physical abuse, some of it caught on prison videotape, including beatings and sexual humiliations like those described by the Ibrahim brothers or other former detainees. The report said it was Mr. Ashcroft's policy to hold detainees on any legal pretext until the F.B.I. cleared them, even though such clearances took months and many detainees were immigrants picked up by chance.

At the time, Mr. Ashcroft said he made "no apologies" for finding every legal way possible to protect the American public. Nonetheless, officials pledged to work on getting kinks out of the system, and said abuses would be punished.

Critics charge that the authority that Mr. Ashcroft asserted after 9/11 - to detain any noncitizen considered a "person of interest" secretly and indefinitely - is unconstitutional. Government officials argue that secrecy is needed to keep terrorists in the dark.

Mr. Ashcroft has sought to have the two lawsuits brought by the detainees dismissed. But in a decision appealed by the government, a federal judge in Brooklyn ruled in September that he and other defendants would have to answer questions, at a later deposition, in one of the suits: a 2004 complaint by another two of the six returning detainees.

Those two men, in their late 30's, are Ehab Elmaghraby, an Egyptian immigrant who ran a restaurant near Times Square, and Javaid Iqbal, a Pakistani immigrant whose Long Island customers knew him as "the cable guy."

"I am not afraid," Mr. Iqbal wrote last week in an e-mail message about his return. "I am also sure that justice will be served because peoples of U.S.A. are justice-loving people regardless of race and religion."

The Ibrahim brothers are more fearful. They say that their parents begged them not to return to the country where they were held in maximum security without charges for eight months and, the brothers charge, beaten and tormented by guards. "Part of my motivation is to make sure that what happened to us doesn't happen to more people in the future," said Yasser, who was due to arrive in New York today, joining his brother, who came on Friday.

Both spoke with nostalgia of the three or four years they lived in New York, on and off, before 9/11. When they were not working, they said, they hung out together in Greenwich Village, browsed electronics stores near Times Square and took friends on the rides at Coney Island. Hany proudly recalled how he worked his way up from stock boy to grill man and then manager of a deli in Ocean Parkway, Brooklyn. "The best I lived in my life was in New York," he said.

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Right after the World Trade Center attack, they said, their parents urged them to come home. "We assured them," Yasser recalled: " 'This is the United States. They don't arrest people for no charges. We didn't do anything, so nothing's going to happen to us.' "

But at 2 p.m. on Sept. 30, 2001, the lawsuit says, a dozen terrorism investigators from the F.B.I., the police and immigration services knocked at the door of the Ocean Parkway apartment that the brothers shared with several Egyptian and Moroccan friends. After questioning, the investigators took away Yasser, Hany and another man, all of whose tourist visas had expired.

Why investigators showed up is unclear, said their lawyer, Ms. Meeropol. But she noted that some interrogations were prompted by anonymous tips about "suspicious-looking" foreign men. Federal officials have contended that at a time when a second terror attack seemed imminent, all tips had to be checked. As a practical matter, once the brothers were labeled "of interest" to investigators, they were destined for the maximum-security unit of the Metropolitan Detention Center.

Physical abuse, the lawsuit says, began the moment they arrived, chained and shackled. As Yasser described it, guards supervised by Lieutenant Pray slammed his brother face-first into a wall where an American flag T-shirt had been taped, then did the same to him.

Pain became part of the brothers' daily routine, the lawsuit charges. Escort teams cursing them as Muslims and terrorists slammed them into every available wall when they were taken from their cells, twisted their wrists and fingers, and stepped on their leg chains so that they fell, their ankles bruised and bloody, according to the suit.

But worse than physical or verbal abuse, Yasser said, was "the feeling that we are being hidden from the outside world, and nobody knows in the outside world that we are arrested and in this place." Hany, who says he had a nervous breakdown when he returned to Egypt, recalled that guards and lieutenants terrified him by saying, "You're going to stay here the rest of your life."

At a closed immigration hearing on Nov. 20, three weeks after their arrest, the brothers agreed to immediate deportation. By Dec. 7, the lawsuit says, F.B.I. memos stated that clearance checks on the Ibrahims had shown no links to terrorism. But they were held six more months - Hany until May 29, 2002, and Yasser until June 6.

The suit asks the court to declare that all the detentions were unjustified and illegal, to award compensatory and punitive damages, and to order the government to return personal property it confiscated.

To prevent unnecessary detentions and abuses of noncitizens in the event of a new national emergency, the Justice Department's inspector general, Glenn A. Fine, in 2003 recommended changes in counterterrorism policy as well as disciplinary action against at least 10 guards and supervisors. In his last report to Congress, in August 2005, Mr. Fine said that many of his recommendations had been acted upon but that formal policy changes were still being negotiated.

The Federal Bureau of Prisons has fired two detention officers, suspended two for 30 days and demoted one in connection with the Brooklyn inquiry, said Traci Billingsley, a bureau spokeswoman.

The Ibrahim brothers say that when they finally reached home, they found that the presumption of guilt had followed them into an Egyptian secret service dossier that made them unemployable. Yasser, now married with a 2-year-old son, said he and Hany were eking out a living in a small jewelry business.

"It's going to be very difficult for me to go back for just a week and not to be able to see the places that I loved before," he said of his return. "America's the land of the free."

Home Washington Whispers (USNEWS)

U.S. News and World Report, January 23, 2006

Senator 'Taz" Races to Help Iditarod Icon

It's no surprise that Sen. Ted Stevens, Alaska's big man in Washington, is a fan of the Iditarod Trail Sled Dog Race. "It's such a great sport," he says of the annual 1,150-mile Anchorage-to-Nome adventure set to run in March. "It epitomizes the Alaskan spirit."

But he's not just an observer: He's a husky dog guy, and, with his wife, Catherine, is mushing an effort to save the life of their old friend and four-time Iditarod winner Susan Butcher, the face of the event. "She's a great friend," says Stevens of Butcher, 51, who's battling leukemia and in need of a bone marrow donor. Stevens tells us that he es in Washington, one named Princess Keely after the daughter of pal Sen. Conrad Burns, the other "Taz" for the nickname Sen. Trent Lott has given Stevens:

"Tasmanian Devil." "But," he says, " they had no place to run." So he gave the dogs to the daughters of Butcher and husband David Monson, who says Stevens still visits the dogs at their Trail Breaker Kennel when he's in Fairbanks.

Well, those visits sadly turned serious last December when Butcher was diagnosed. The Stevenses and Monson, backed by others of Susan's friends, including Bill Gates, George Lucas, and Colin Powell, then embarked on a race to boost bone marrow donor typing in hopes a match will be found. "She's a fantastic competitor," says Stevens, "and that's why we hope she'll win this last battle."

Cartoon: Bruce Beattie on the Democrats' Alito-Abramoff ploy

More from Washington Whispers

Pro Bono for the Gitmo Gang

Legal and military sources tell us that some 57 American law firms are offering free legal advice to more than 150 "enemy combatants" held at the U.S. naval base at Guantanamo Bay, Cuba. A list provided to Whispers shows several prominent shops, many of which brag about their efforts on their websites. The pro bono service, organized by the Center for Constitutional Rights, is under the gun in conservative legal circles and some military offices that suggest it's bad form to help alleged terrorists while also working for clients involved in the war on terrorism like Boeing and General Dynamics. But don't hate lawyers just because they're helping accused terrorists. Thurston Moore, chairman of Hunton & Williams, says pro bono "is the right thing to do." Moore adds that firms like his aren't working a detainee's criminal case, only the legality of imprisonment at Guantanamo. "If good lawyers did not take on engagements fundamental to our constitutional rights, our rights would be meaningless," he says.

Where There's Smoke There's Bill

Bill Clinton still has great timing. On approach to Bangor, Maine, recently, the cockpit of his jet filled with smoke, forcing a long layover. While he was on the ground, a military jet packed with 300 troops returning from Iraq happened to land, and he bounded out to meet them. Once the jet was fixed, he got back on, but the smoke reappeared, and he jumped off just as a second troop transport arrived from Iraq. Yes, he shook all their hands, too. "He was actually glad he was grounded," says spokesman Jay Carson , who adds that Bubba has since written to some of those troops. Now Clinton's visit will even figure in a documentary on troop greeters. "It was coincidentally being shot," says Carson, "and they're going to make President Clinton a big part of that."

Predator And Prey (NSWK)

By Michael Hirsh, Mark Hosenball And Sami Yousafzai

Newsweek, January 30, 2006

That familiar voice, at once menacing and gently lilting, was back. After more than a year in which some U.S. officials had speculated openly he might be dead, Osama bin Laden resurfaced in his usual way, unannounced, dressing up threats of death in reasonable tones. Holed up in some remote region believed to be along the Afghan-Pakistani border, the impresario of 9/11 seemed to be talking to his enemies more than his followers. And in his audiotape, recorded in recent weeks and secretly couriered as usual to an Al Jazeera bureau, there was also something new: an offer of an olive branch. In a cynical attempt to exploit American war-weariness, especially in Iraq, the terror leader noted that U.S. polls showed declining support for the war. For the first time, he proposed "a long-term truce on fair conditions" to the American people "so both sides can enjoy security and stability." Bin Laden, who once built his rep by pledging to destroy the "far enemy," now seemed to be trying to close the gap. All America had to do was withdraw from Arab lands.

The tape immediately touched off speculation as to its meaning. Vice President Dick Cheney, chronically skeptical of remorse from enemies, denounced the message as "a ploy." Other Bush administration officials suggested it was a sign of bin Laden's weakness and, perhaps, his own war-weariness. The tape surfaced at a time when the CIA and the Defense Department have stepped up missile strikes inside Pakistani tribal regions, where many experts believe bin Laden and his top deputy, Ayman al-Zawahiri, are hiding. Only days earlier, a CIA-guided Predator drone fired missiles at houses in the village of Damadola, aiming to kill Zawahiri. At least 18 people were obliterated, though probably not Zawahiri. U.S. officials remained confident that the dead included some senior Qaeda members, and Pakistani authorities maintained that four to five Qaeda operatives were

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killed in the missile attack. "We are still not sure who they were," said a senior official in Islamabad who spoke only on condition of anonymity. "We are still in the process of establishing their identity."

Among those thought to have been killed was Midhat Mursi al-Sayid Umar, an Egyptian explosives and poisons expert. It was Umar, also known as Abu Khabbab, who allegedly trained the suicide bombers who killed 17 U.S. sailors on the USS Cole in 2000. "If he was killed, then it's a big blow to bin Laden and Al Qaeda," says Sharif Mohammed, a Qaeda-linked Islamist in Pakistan. "He was responsible for running the Qaeda network in the West." (Umar may have also been researching germ and chemical warfare.) Another possible victim of the strike is Abu Obaidah al-Misri, Al Qaeda's chief of operations in Afghanistan's eastern Kunar province, where U.S. and Afghan forces regularly come under militant attack. Still, U.S. counterterrorism officials say they may never completely confirm the identities of terrorists who were blown up.

Civilians are another matter. The Predator killed several women and children, provoking demonstrations in the tribal region, many of them organized by the radical Pakistani Islamic alliance known as Muttehida Majlis Amal. The radicals hoped to use the attack to undermine support for Pakistani President Pervez Musharraf, America's close ally. Musharraf certainly is in a delicate position. He told visiting U.S. Under Secretary of State William Burns over the weekend that America needs to be more careful inside his borders.

Authority to fire Hellfire missiles from Predators has been delegated by the White House to the CIA, according to current and former counterterrorism officials who did not want to be named because the matter is classified. If officials conducting surveillance believe there is a strong chance of civilians' being killed in an attack, operatives are expected to consult higher-ranking agency officials before firing. In the case of the Damadola attack, according to a knowledgeable source who spoke on condition of anonymity because the subject was sensitive, CIA officials made the decision to launch the attack themselves. But they notified higher-ups in the administration, including White House officials, who had enough time to veto the strike if they wanted.

Despite the ethics—and public relations—issues, U.S. officials involved with the hunt for bin Laden and Zawahiri said they're quite sure that the benefits of the Predator campaign outweigh the costs. According to two former officials, several groups of missile-armed Predators—some of which are equipped with laser-guided gravity bombs—are based in the region. And a Pakistani official privy to intelligence says the January Predator strike was the fourth inside Pakistan's borders since May 2005 (two more than have been reported previously). Beginning earlier this month, the military and CIA have also begun to use the first production models of the Global Hawk unmanned recon aircraft, which can survey distances of more than 100 miles from 65,000 feet and direct the lower-flying Predator to precise targets.

The tribal region where Zawahiri was said to be has a long history of fierce resistance to central control, as both the British Raj and the Soviets who occupied neighboring Afghanistan found out. But none of those previous powers possessed similar technology to scour the countryside from the sky and to unleash remote-control missiles. The broad message of the Damadola strike, which flattened three houses and killed several families, is that tribesmen need to rethink their code. Those who are supposedly governed by the iron law of Pashtunwali—or automatic loyalty to fellow tribesmen or guests—now have to recalculate the cost of that, U.S. officials said. "The message to them is, 'You have to take a new measure now: your families are not safe if you protect the terrorists'," says one senior Pentagon official who would not speak about the attack on the record because the details are classified.

Although Zawahiri's wife is said to be a "Momand" Pashtun from that region—offering him considerable protection—the CIA has been having more success lately in developing sources in the area, with help from Pakistani intelligence. (According to several U.S. officials, the Pakistani intelligence service has allowed a large "liaison" team into the country, and has accepted a great deal of technical assistance.) Frank Anderson, a former CIA station chief in the region, says Pashtunwali goes only so far, especially with multimillion-dollar prices on the heads of top Qaeda suspects. "The noble savage whose word is his bond exists a lot more in literature than on the ground," he says archly.

U.S. officials also express confidence that, after years of infighting back in Washington, they are finally waging the global war on terror in a coherent way. Despite media coverage a year ago about a power struggle between the Pentagon and the CIA, the two agencies are working fairly well together now in the field, U.S. counterterrorism officials say. The CIA effectively has control inside Pakistan, where the U.S. military is not supposed to be operating (and the agency has "deniability" because it is

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engaged in covert operations that are never officially acknowledged). Indeed the Global Hawk and Predator systems are so sophisticated that live, high-resolution pictures are transmitted, via satellite links, to a large command post called the Global Response Center on the sixth floor of CIA headquarters in Langley, Va. There, officials can watch the satellite feeds in real time on large screens while other officials with headsets bark orders to operatives in the field.

Across the border in Afghanistan, meanwhile, U.S. Special Operations teams are operating day and night, battling Tali-ban insurgents who infiltrate from Pakistan. "It's quite a bloody little war down there," a U.S. military source said.

The upshot is that some U.S. officials said they would not be terribly surprised if bin Laden were suing for peace. Other terrorism analysts suggested that, at a time when bin Laden's rival and sometime partner in Iraq, Abu Mussab al-Zarqawi, has offended many Muslims with his ruthless tactics, the Qaeda chieftain's main message was "I'm still the main man." Bin Laden may have been trying to appear reasonable and merciful to his own followers by playing the peacemaker.

Still, the biggest challenge bin Laden had last week was getting the American people to take him seriously. For Americans, after four years of this kind of thing—and with the center of gravity now in Iraq—there seemed as much theater as threat to his latest missive. (Homeland Security Department officials languidly announced the threat level was unchanged, then fell silent.) The terror leader, who in the past has generally hewed to Qur'anic citations, referred to U.S. reports about abuse at Abu Ghraib and even quoted a left-wing U.S. author, William Blum, as saying that all the U.S. president has to do to get the terrorists off his back is announce "that American interference in the nations of the world has ended." The reference sent Blum's anti-imperialist treatise, "Rogue Nation," soaring from 200,000-plus in rankings on Amazon.com to 17. ("Oprah or Osama, it doesn't matter, as long as it begins with 'O'," Blum joked to NEWSWEEK.) Al Jazeera's Washington anchor, Hafez Al-Mirazi, later solicited Blum and Israeli author Natan Sharansky for his show "so we can have both Bush and bin Laden's favorite authors on."

In some respects bin Laden seemed to be playing, perhaps naively, into George W. Bush's hands. Nothing will do more to silence advocates of early withdrawal from Iraq than an endorsement from the chief author of the 9/11 attacks. But coming at a time when a new analysis suggests the war in Iraq could cost upwards of $2 trillion, and the U.S. economy is burdened with record budget deficits, the promise of an endless war could resonate with some Americans. "Don't let your strength and modern arms fool you," bin Laden said in his message. "We have nothing to lose. A swimmer in the ocean does not fear the rain." As he has so often, bin Laden closed by invoking his successful war against the Soviet Union in Afghanistan in the 1980s. "We bled their economy, and now they are nothing. In that there is a lesson for you." Perhaps there is. Americans just don't want to hear it from him.

Can Bin Laden Be Caught? (TIME)

By aparisim ghosh

Time, January 23, 2006

The voice was muffled, labored, weak--as you might expect from a man who has spent the past four years on the run. If it didn't belong to one of the world's most feared men, it would hardly scare a child. Having disappeared from view, sheltering in the mountains of Afghanistan and Pakistan, Osama bin Laden may have lost the ability to send a chill down the world's spine. Governments don't shut down airports or send security forces into red alert. Even when he makes the direst threats, we no longer feel compelled to slow down, much less stop, the course of our daily lives.

But bin Laden's re-emergence last Thursday was still a jolt, coming after a 13-month silence that raised questions about whether the al-Qaeda boss was incapacitated or even dead. The U.S. believes the 10-minute taped message, which aired on the Arab TV channel al-Jazeera, was probably recorded sometime since November, partly because of a reference to British newspaper reports from that time about a purported proposal by President Bush to bomb al-Jazeera. The tape suggested that bin Laden is alive, if not quite well. A longtime bin Laden watcher, French terrorism expert Roland Jacquard, speculates that the decision not to release a videotape may reflect a desire to conceal the deterioration of his physical condition. And if bin Laden's voice sounded more muted than in his last message, in December 2004, so did his rhetoric. He warned of forthcoming attacks on U.S. soil but didn't convey a sense of immediacy. "They are in the planning stages, and you will see them in the heart of your land as soon as the planning is complete," he said. He floated the idea of a cessation of hostilities with America if the U.S. withdraws troops from Iraq and Afghanistan. "We do not mind offering a long-term truce based on just conditions that we will stick

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to," bin Laden said. The White House didn't bite. "We do not negotiate with terrorists," spokesman Scott McClellan said. "We put them out of business."

That claim, of course, is undermined every day that bin Laden and his deputy and chief tactician, Ayman al-Zawahiri, remain on the loose. But bin Laden's resurfacing has come at a time when the leadership of al-Qaeda appears to be under as much strain as at any time since the fall of the Taliban in 2001. Antiterrorism experts say the Saudi-born terrorist is no longer in active contact with field commanders, and his ability to plan and direct specific operations is hampered by his isolation. In Iraq, scene of al-Qaeda's deadliest strikes since 9/11, the group's leader, Abu Mousab al-Zarqawi, is fighting battles with some Iraqi insurgent groups who want him dead almost as badly as the U.S. military does (see box). Meanwhile, an intensified U.S. push to hunt down al-Qaeda leaders has scored a series of apparent successes; just last week Pakistani intelligence officials claimed that a Jan. 13 U.S. air strike on the village of Damadola had killed as many as four senior operatives--although it may have missed its chief target, al-Zawahiri, whose voice was heard on an undated audiotape last Friday. Among some U.S. counterterrorism experts, there was speculation that the release of the bin Laden tape was al-Qaeda's attempt to boost the morale of its foot soldiers amid the run of bad p.r. Says an intelligence official: "The question is, Is this someone's way of changing the topic?"

It might be, but no one is confusing misdirection for surrender. While improved cooperation between the U.S. and Pakistan has apparently helped the U.S. zero in on bin Laden's lieutenants, credible intelligence on the main target's whereabouts is sketchy at best. Law-enforcement officials say that bin Laden's message aside, there are no signs of heightened al-Qaeda activity in the U.S., but they don't discount the possibility of a terrorist attack. "The threat's still real," says a U.S. intelligence official, "but because of this tape, does that make it any more real than it was before the tape? No." Today, the official says, al-Qaeda is not the same outfit it was on 9/11; it has morphed from a command-and-control organization into a philosophy that has "inspired cells around the world ... It's harder for them to coordinate, but it also makes them very dangerous."

Some terrorism experts believe that the perception that bin Laden is vulnerable may make jihadists more determined to carry out attacks. "I'd be worried over the next 60 to 90 days," says a former FBI counterterrorism official. "I believe if we don't hear from al-Qaeda in the near term, some will paint bin Laden as weakened and unable to deliver on his threat"--a possibility that may motivate terrorists to try to strike soon, to make good on the promises of their leader.

The reappearance of bin Laden came at a moment when U.S. intelligence officials felt pretty good about themselves. Even as the cassette tape was making its way out of bin Laden's secret lair, his pursuers were sending out signals across the borderlands between Pakistan and Afghanistan, where he may be hiding. In recent weeks U.S. and Pakistani intelligence agencies have stepped up their search for top al-Qaeda leaders, with the skies above the mountains buzzing with spy planes and unmanned Predator drones, and a network of local spies and informants has been scouring the landscape for information. A Pakistani security officer told TIME the CIA has installed sophisticated surveillance equipment in several offices of the ISI, Pakistan's spy agency, to monitor any radio and Internet communications between al-Qaeda and its sympathizers.

The objective is to tighten the net around bin Laden and his deputies. In December a U.S. guided-missile attack in North Waziristan, based on intelligence from agents on the ground, reportedly killed Hamza Rabia, an Egyptian believed to have been the latest occupant of al-Qaeda's No. 3 spot. Then, in early January, the U.S. and Pakistan seized on the chance to bag even bigger prey. Details of the Damadola operation are beginning to emerge, and they provide a tantalizing glimpse into the intensifying hunt for bin Laden. A Peshawar-based official told TIME that in the past month, Pakistani-intelligence field agents had been tracking two groups of men who had crossed the border from Afghanistan into Bajaur, a small, often restive tribal region that borders Afghanistan's Kunar province. In the days before the attack, the search zoomed in on the group headed for Damadola; counterterrorist officials believed that some top al-Qaeda figures, including possibly al-Zawahiri himself, might have been in that group. "We knew there were going to be some VIPs, and any of those were worthy" targets, says a U.S. official.

The infiltrators sheltered in a small compound of three houses just outside Damadola. Shortly after 3 a.m. on Jan. 13, locals say, several missiles fired from Predators crashed into the compound, practically obliterating the houses. According to news reports, Pakistani officials initially said it was possible that al-Zawahiri had been killed, then backed away from the claim. Villagers told journalists who arrived at the scene that 18 civilians had died (the number was later revised down to 13); they denied that any bodies had been removed or that any foreigners had been in the compound. But some Pakistani intelligence officials began telling media outlets last week they believe as many as four leading terrorists, including al-Zawahiri's son-in-law

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and Abu Khabab al-Masri, a top al-Qaeda bombmaker, died in the strike. The U.S. is still uncertain if DNA was recovered from the scene to allow experts to positively identify any terrorists killed there or how the IDs were made. Pakistani Prime Minister Shaukat Aziz told TIME late last week that so far investigators have recovered only bodies of civilians, "but our security forces are there in large numbers to get the facts. These things just cannot evaporate and disappear, if there is anything."

Although the missile strike provoked a round of protests in Pakistan's tribal areas that forced President Pervez Musharraf to distance his government from the operation, cooperation between the U.S. and Pakistan in the hunt for bin Laden has quietly deepened. A Peshawar-based Pakistani intelligence official speaking on condition of anonymity says Washington has an understanding with Islamabad that allows the U.S. to strike within Pakistan's border regions--providing the Americans have actionable intelligence and especially if the Pakistanis won't or can't take firm action. Pakistan's caveat is that it would formally protest such strikes to deflect domestic criticism. Some ranking Pakistani officials deny such an agreement exists.

The territory in which bin Laden may be hiding remains forbidding to outsiders. In pockets of Pakistan's borderlands, a resurgent Taliban has begun to impose its extreme brand of Islamic law, including a ban on music and the Internet, and the summary execution of criminals. Some counterterrorism experts, though, are cautiously optimistic that the turmoil in al-Qaeda's high command they hope was caused by the strike in Damadola may force its leaders to expose themselves. "You got to presume that all the al-Qaeda guys are asking each other who got smoked," says a former U.S. intelligence official. "When they stick their heads up to see who got whacked, it presents opportunities."

While the hope of finding al-Qaeda's bosses anytime soon remains just that--hope--the hunters have shown indications that they may be closer to picking up their targets' scent. A Pakistani intelligence official says Pakistani intelligence agents and CIA drones are searching the mountainsides for the second group that crossed from Afghanistan. In the message delivered last week, bin Laden signaled he would not allow himself to be captured alive. "I swore that I will not die except free, despite the bitter taste of death," he said. On that much, both bin Laden and his pursuers seem to agree: one way or another, his end will come.

HOMELAND RESPONSE:

A Tangled Web Woven (USNEWS)

By David E. Kaplan

U.S. News and World Report, January 23, 2006

The CIA's Center for the Study of Intelligence is one of the agency's most open branches. The in-house think tank sponsors studies on how to improve intelligence collection and analysis and publishes a respected journal, Studies in Intelligence. But since 2003, at least three unclassified CSI reports--all critical of the agency--have been withheld from the CIA's website, U.S. News has learned. During that same time, the agency has placed online three other CSI reports, all of those relatively positive or neutral.

Among the documents withheld: a tough 69-page report, "Curing Analytic Pathologies."The study, published quietly in December, argues that reform efforts have centralized authority but failed to change the intelligence community's core problem--"dysfunctional behaviors and practices within the individual agencies." A second report, "Analytic Culture in the U.S. Intelligence Community," was published last May and found the nation's intelligence analysts isolated and lacking overseas experience and training in research techniques. A third report, "Intelligence for a New Era in American Foreign Policy," from 2004, is the record of an unclassified conference of intelligence veterans, several of whom made comments sharply critical of the intelligence community.

The three reports are available through the CIA's public-affairs office, but only by mail, and one must know to ask for them. The CIA declined to say why the reports are not posted online nor would it provide a full list of the center's unclassified publications. "I find it baffling and bizarre to suggest we are not disseminating reports," says CIA spokeswoman Michelle Neff, "when the CSI independently mails out the final version of every unclassified finished paper." But some experts say it is the agency's response that is baffling. "This does not inspire confidence," says Steven Aftergood of the Federation of American Scientists.

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TSA: Program May Use Fliers' Financial Data (USAT)

By Thomas Frank

USA Today, January 23, 2006

A new program to speed travelers through airport security may require passengers to agree to a check of their personal and financial records, the Transportation Security Administration said.

The TSA said it will require "in-depth security background checks" that may involve "using commercial data" for people applying to the Registered Traveler program that starts in June. The checks will help verify people's identities to prove they have no ties to terrorism.

Commercial databases hold personal information from credit reports, property records, shopping histories and other records. TSA chief Kip Hawley said such data can be useful in flagging terrorists, who often won't appear in most U.S. commercial lists.

Business Travel Coalition Chairman Kevin Mitchell said the databases "are notoriously inaccurate" and could mistakenly label someone a terrorist. "It raises a huge liability issue," said Mitchell, who supports Registered Traveler.

The program will create reserved lanes for people who pass the background check and pay an annual fee, expected to be $80 to $100. Security requirements such as removing jackets and shoes will be lifted as approved passengers go through metal detectors.

Bill Connors, executive director of the National Business Travel Association, said some travelers are concerned.

"If you start asking for too much personal information, it's not worth it to me anymore," said Connors, another supporter of Registered Traveler.

Congress barred the TSA from using commercial data on airline passengers after a government probe criticized the agency last year for improperly storing 100 million records on travelers when it said no data storage would occur.

The TSA says the ban does not apply to Registered Traveler because the program is voluntary and the background checks would be done by companies at an airport. It would be the company that determines whether applicants pose a terrorist threat, TSA spokeswoman Amy von Walter said.

The TSA would approve background-check programs. Hawley, the TSA chief, said a background check must give "a high degree of confidence that an individual is not a terrorist."

"Using commercial data is one avenue," Hawley added.

A company running the only Registered Traveler program — at Orlando International Airport — recently experimented with giving applicants quizzes generated by commercial data to authenticate their identity.

However, the quizzes asked questions that were either too difficult, such as the year someone received their Social Security number, or so easy that "a terrorist … could pass the quiz on behalf of any person," according to a report by the company, Verified Identity Pass.

CEO Steven Brill said the company had success using document scanners to authenticate applicants' driver's licenses and passports. "There are other things we can do beyond that quiz," Brill said.

Private Airports Balk At Security (WT/AP)

By Stephen Manning, Associated Press

The Washington Times, January 22, 2006

Potomac Airfield in Fort Washington is small as airports go -- just one 2,600-foot runway used by light single- or twin-engine private planes.

Many pilots using it are recreational fliers, or those who want to go to Washington a few miles to the north.

The airport, which can even accommodate small private jets, isn't big enough to worry federal officials who fret over the use of planes to attack the District, according to owner David Wartofsky.

He compares its size to "an aircraft carrier, parked in a forest, at the bottom of a ravine in the most restrictive airspace in the world."

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But Potomac Airfield is one of three private airports that sit within a tightly controlled zone of airspace around Washington. And the Transportation Security Administration (TSA), which regulates security at the airport, doesn't appear to agree with Mr. Wartofsky that it is innocuous.

Late last year the agency shut down Potomac for nearly a month because of security violations.

Even as the TSA and other federal agencies weigh whether to make the restricted airspace zones permanent, Mr. Wartofsky and other private airport operators in the Washington region are pushing for changes in rules that they say unfairly punish harmless private pilots in an overzealous effort to protect Washington.

"My objective is to preserve the freedom of people who are not a threat," he said.

The federal government established a restricted flight zone over the capital after hijacked passenger jets were used to attack Washington and New York on September 11, 2001.

Made up of three, 60-mile wide overlapping rings that resemble Mickey Mouse ears on a map, the zones are meant to warn of any hostile plane that might be bearing down on Washington.

Private pilots can fly in the zones, but only under certain conditions.

In the Air Defense Identification Zone, or ADIZ, which forms much of the restricted air space, pilots must file a flight plan with the Federal Aviation Administration and use a special transponder code that allows air traffic controllers to identify them.

Security is tighter in the inner 15-mile Flight Restricted Zone, or FRZ, which sits directly over Washington. Private pilots who wish to fly within those areas must get a background check, along with using the special code and filing a flight plan.

The measure was initially temporary, but the FAA is weighing whether to make it a permanent regulation and is taking public comment through Feb. 6.

Most private pilots, who could face fines or suspension of their licenses for violating the air space, don't want the zones to stay. The FAA has received more than 20,000 comments on the proposal.

At an FAA-sponsored public forum at Washington Dulles International Airport, Aircraft Owners and Pilots Association President Phil Boyer implored federal officials, urged the FAA "not to take a bad idea and make it permanent."

FAA spokeswoman Laura Brown said the agency will review the comments before making a decision on the restricted zones. She did not know when the FAA would act.

The airports with arguably the most at stake in the decision are the "D.C. Three," including Potomac Airfield, that sit inside the highly restrictive inner zone. The other two are College Park Airport and Washington Executive/Hyde Field.

Chertoff's Wake (LEGALT)

By Jason McLure, Legal Times

Legal Times, January 23, 2006

After a rocky year, things are looking brighter for some protégés of Homeland Security Secretary Michael Chertoff.

On Jan. 4, President George W. Bush granted a recess appointment to Julie Myers, making the 36-year-old former Chertoff chief of staff the head of Homeland Security's 15,000-employee Immigration and Customs Enforcement.

Just a day earlier, Alice Fisher, Chertoff's former deputy at the Justice Department who now heads the DOJ's Criminal Division, had been on national television touting the guilty plea federal prosecutors had extracted from Jack Abramoff.

That guilty plea had been won by a team of career prosecutors supervised by Noel Hillman, the head of the DOJ's public integrity section who was first hired by Chertoff as a federal prosecutor during Chertoff's tenure as U.S. attorney in New Jersey.

On the surface it would seem that Myers, Fisher, and Hillman, among others, have basked in the reflected glory of Chertoff, who once enjoyed, by Washington standards, a stainless reputation as a straight-shooting, mob-busting, former prosecutor turned general in the war on terror.

But Hurricane Katrina dented Chertoff's armor, leading critics to call into question his leadership at the DHS. And criticism of the response to Katrina as well as terror policies promulgated under Chertoff during his time at Justice has also tarred his understudies — some of whom were forced to claim their positions through the back door of presidential recess appointments.

Their successes — and their travails — provide a window into how one lawyer's high-flying career in public service can both open doors for and complicate the lives of his loyal aides and assistants.

"When people get into positions of power, they tend to bring in people they know," says Michael Greenberger, a former Clinton-era DOJ official who now runs the Center for Health and Homeland Security at the University of Maryland. "The question is the competency of those people."

ALL IN THE FAMILY

The top rungs of Justice and the Department of Homeland Security are crowded with lawyers who've worked with Chertoff in a number of his previous jobs: as a federal prosecutor in New Jersey, as a partner at Latham & Watkins in New Jersey, as counsel to the Senate committee investigating the Clintons, and as the assistant attorney general overseeing the DOJ's Criminal Division.

READER COMMENTS

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Some have had an easier time in their roles than others. Myers perhaps suffered the most by her association with the post-Katrina Chertoff.

Myers and Chertoff both worked on the Whitewater investigation; Chertoff was special counsel to the Senate, and later Myers was a junior lawyer in independent counsel Kenneth Starr's office. After brief stints as an assistant U.S. attorney for the Eastern District of New York and at the Treasury Department, Myers became Chertoff's chief of staff in November 2002, during his tenure as assistant attorney general in charge of the DOJ's Criminal Division.

She then left the DOJ just 10 months later, after Chertoff won confirmation as a judge on the U.S. Court of Appeals for the 3rd Circuit, in the summer of 2003.

But when Chertoff returned to the Bush administration last year, he hadn't forgotten Myers, who had job-hopped from Justice to the Commerce Department to the White House's personnel office.

Her confirmation hearings couldn't have come at a tougher time. It was Sept. 15, 2005, and the political winds stirred up by Homeland Security's botched response to Hurricane Katrina were still blowing through Congress. Three days earlier, Michael Brown had resigned in disgrace as director of the Federal Emergency Management Agency, and Congress and the media were on the hunt for underqualified Bush administration cronies.

Myers fit the bill. Nominated to become head of the federal government's second-largest investigative agency, Myers had virtually no experience in immigration policy and a thin record of management of any sort. (Myers was unavailable for an interview. A spokesman for her office issued a statement saying, "She has great respect for Michael Chertoff and is extremely proud of her work with him.") And it couldn't have helped that the other DHS nominee before the Senate committee was Stewart Baker, an older and deeply experienced Washington lawyer and policy-maker who is now assistant secretary for policy at the department.

"I think we ought to have a meeting with [DHS Secretary] Mike Chertoff, either privately or publicly, to ask him why he particularly . . . thinks you're qualified for the job," Sen. George Voinovich (R-Ohio) told Myers, with her parents, her fiancé, and her future in-laws looking on from the audience. "Because based on the résumé, I don't think you are."

But Voinovich had hit on Myers' ace in the hole. Chertoff would not only speak privately with Voinovich but, according to one of the senator's aides, would play a key role in persuading the senator to back her nomination. When Bush bypassed the Senate to give Myers a controversial recess appointment over the holidays, there was nary a protest from the normally independent-minded Voinovich. "He believes she has the potential to be a good manager," says Marcie Ridgway, Voinovich's press secretary.

If Myers' credentials aren't impeccable, her connections certainly are. She is the niece of Gen. Richard Myers, the former chairman of the Joint Chiefs of Staff. Upon taking the helm at the DHS, Chertoff tapped her then-fiance (now husband), John Wood, who was once an aide to former Attorney General John Ashcroft, to be his chief of staff.

But Myers is far from the only government lawyer whose career has taken off after working for Chertoff. There's also Alice Fisher, who worked with Chertoff on the Whitewater investigation. After Fisher left the Senate committee, she joined Latham & Watkins, Chertoff's old firm. She became a partner at the firm in 2001, just as Chertoff tapped her to become one of five deputy assistants at the Criminal Division.

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When Chertoff left to join the federal bench in 2003, Fisher returned to private practice at Latham. But when Chertoff returned to the administration last year, Fisher, 38, was nominated to take his old job leading DOJ's 500-lawyer Criminal Division. (Fisher declined an interview request for this article.) That nomination was both helped and hindered by her ties to Chertoff and his tenure at Justice.

Sen. Mitch McConnell (R-Ky.), in his introduction of Fisher, went out of his way to point out that "Secretary Chertoff, who's worked closely with her over the years, has called her, quote, 'one of the best lawyers I've seen in my entire career.' "

But the Criminal Division's record under Chertoff and Fisher was far from flawless. After the Sept. 11, 2001, terrorist attacks, Justice was criticized for ordering the roundup and incarceration of hundreds of Muslims in the United States. The department was also embarrassed after it was forced to drop the much-touted 2003 convictions of members of an alleged Detroit terror cell amid allegations of prosecutorial misconduct.

And one of the Criminal Division's signature successes in the area of white-collar crime during Chertoff's tenure — the 2002 conviction of accounting firm Arthur Andersen for obstruction of justice — was later overturned by the U.S. Supreme Court.

Fisher and Chertoff's role in crafting some of the more controversial legal aspects of the Bush administration's war on terror also proved thorny. Ultimately, Fisher's confirmation was blocked in the Senate by Sen. Carl Levin (D-Mich.), over questions about her connections to legal policies used to justify the harsh treatment of foreign detainees.

In response, Bush granted Fisher a recess appointment, using the same constitutional provision that allowed him to appoint Myers without Senate approval. And, as with Myers, Fisher's husband is no stranger to Chertoff. W. Clinton Fisher III is currently a senior adviser for aviation policy at the DHS' Transportation Security Administration.

Although Sen. Patrick Leahy (D-Vt.) criticized Alice Fisher at the time of her nomination for having no prosecutorial experience and a thin trial record, her short tenure atop the Criminal Division has been marked by its success in winning guilty pleas from Abramoff and his former associate Michael Scanlon in the ongoing congressional corruption probe. One of the career DOJ attorneys supervising the 18-month investigation is Hillman, 49, the section chief of the public integrity division who followed Chertoff to Washington.

LENGTHY COATTAILS

Those close to Chertoff's inner circle are quick to credit the success of his protégés to their individual skills as much as to their relationship with the Cabinet secretary. "I think relatively talented people have gravitated to him over the years and want to learn at the knee of the master," says David Sandstedt, who worked under Chertoff at Justice and at Latham and is now a plaintiffs attorney in New York. "He takes his mentoring role very seriously and likes to see people learn and ultimately succeed."

Beyond Myers, Fisher, and Hillman, Chertoff's family tree within the federal government includes a number of other successful lawyers who regularly keep in contact, according to a number of lawyers who have worked with Chertoff. They include:

• Philip Perry: The career of the son-in-law of Vice President Dick Cheney has in many ways mirrored Chertoff's over the past decade. Also a former partner at Latham & Watkins, he worked on the Whitewater investigation with Chertoff and joined the DOJ after Bush's election in 2000. After stints at the Office of Management and Budget and back at Latham, Perry joined Chertoff at the DHS last year as the department's general counsel.

• John Elwood: First hired as a counsel to Chertoff in the Criminal Division, Elwood became an assistant solicitor general and argued several cases before the Supreme Court. He's now deputy assistant attorney general at Justice's Office of Legal Counsel, the office charged with providing the legal justification for the president's authorization of warrantless eavesdropping.

• Laura Parsky: She was brought to the Criminal Division by Chertoff and is now a deputy assistant attorney general overseeing computer crimes and child exploitation. Parsky is the daughter of high-flying investment banker Gerald Parsky, the California state chairman of the 2004 Bush-Cheney campaign who was once considered a candidate for Treasury secretary.

• David Nahmias: Hired for the DOJ by Chertoff, he became a deputy assistant attorney general under Chertoff's successor, Christopher Wray. He's now U.S. attorney for the Northern District of Georgia in Atlanta.

• Eric Jaso: A former Latham associate under Chertoff in New Jersey, he worked as a lawyer in Chertoff's office at the DOJ. Jaso is now an assistant U.S. attorney in New Jersey and is rumored to be in line for an appointment to the federal bench.

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• Matthew Martens: Another former Latham associate who followed Chertoff to Washington, he is now a federal prosecutor in Charlotte, N.C., and remains close to Chertoff, having dined with him in Charlotte last summer.

• Scott Weber: A former partner at Latham, he is now a lawyer in Chertoff's office at the DHS.

• Sigal Mandelker: Though she turned down a summer associate offer from Latham (she chose Covington & Burling), Mandelker made her way into Chertoff's inner circle at Justice through the DOJ's honors program and is now a lawyer in Chertoff's DHS office.

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Oklahoma City Moves Past Its Infamous Bombing (CSM)

By Kris Axtman

The Christian Science Monitor, January 23, 2006

HOUSTON - It's hard for many in Oklahoma City to remember a time when they didn't know the names Tim and Terry, the two angry men who killed 168 people - and changed the city's collective consciousness - by parking a two-ton bomb of farm fertilizer and fuel oil in front of the Alfred P. Murrah federal building in 1995.

But as time goes on, wounds heal, memories fade, and hearts soften. At some point in the past decade, Oklahoma City began to look forward instead of back.

That may be the reason why Michael Fortier's release from prison Friday after serving more than a decade for his role in the bombing sent relatively few ripples through the community.

While it's painful to learn of his freedom, some say, their lives no longer revolve around the details of that April day. Their city, in many ways, has been freed from its own prison - through prayer and urban renewal.

"Oklahoma City is a different city, completely, than it was in 1995," says Bob Spinks, president of United Way of Central Oklahoma in Oklahoma City. "There is a lot of urban revitalization going on that has created excitement, lots of new venues downtown, and the economy has been doing well here. So all of this mitigates the Fortier news a little bit."

Indeed, Oklahoma City has flourished since the bombing a decade ago. In addition to a new federal building, there are two sports stadiums, a performing-arts center, a central library, a "River Walk"- style canal in the hip Bricktown district, and a trolley linking everything.

Officials say the bombing - at the time, the worst terrorist attack in US history - galvanized residents and created a sense of pride about the city. That, in turn, fueled the urban progress.

"It has been over 10 years and a lot has happened since then," says John Call, a forensic psychologist and president of Crisis Management Consultants in Oklahoma City. The fact that Mr. Fortier's release got very little attention, says Dr. Call, proved to him that the city's residents are in the latter stages of healing - having moved beyond emotional acceptance to reconstruction of their lives. "It's not something that's talked about anymore," he says.

That's not to say that the attack has been forgotten.

Take Jim Denny, for instance. His two children were in the building's day-care center when the explosion occurred and they still suffer from injuries.

But he is unaffected by Fortier's release. "I have absolutely no problem with him getting out of jail. He was a key witness in both [the Timothy McVeigh and Terry Nichols] trials and, according to the juries, he was the one that basically sewed up their convictions. I say, he's served his time and he should be allowed to try to put his life back together."

The government will not confirm whether Fortier and his family will go into the federal Witness Protection Program, and survivors and relatives of the victims were provided few details when they were sent notices of his release last week. "They didn't give us a lot of advanced notice, and won't tell us what is going to happen to him," says Ken Thompson, who lost his mother in the bombing. "So it's a difficult time for us." But, he says, "most people understand that without its star witness, the government would not have gotten guilty verdicts. So to some degree, he has paid his debt to society."

Fortier received a 12-year sentence in exchange for testifying against Mr. McVeigh and Mr. Nichols, and has served 85 percent of it. He and his wife, Lori, had advance knowledge of the plot to bomb the federal building after McVeigh - an old Army buddy - stopped by their home in Kingman, Ariz., and told them about it, he testified in court.

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He also helped McVeigh steal and transport weapons that helped finance the scheme and was shown the target. He has apologized repeatedly for not alerting authorities and said he did not think McVeigh would go ahead with the plot.

"I deeply regret not taking the information I had to the police," he said at the time of his sentencing. "I sometimes daydream that I did do this and became a hero, but the reality is that I am not."

That Fortier will have to live with what he did is of little comfort to those who don't want him out of prison.

"I thought I was about over my anger, and I found out Tuesday evening from the Bureau of Prisons that I have a long way to go," says Jannie Coverdale, whose two grandchildren died inside the federal building's day care. She was their primary caregiver. "I have tried so hard to get over this anger and now I find out that Fortier is going to be hugging his kids again - when he helped take ours away. How is that justice?"

Patients Needing Care Overwhelm New Orleans's Hospital System (NYT)

By Felicity Barringer

The New York Times, January 23, 2006

NEW ORLEANS, Jan. 18 - The emergency rooms of this bedraggled region are facing their own emergency. As thousands of residents have begun returning in the weeks since New Year's, there are far more sick people than there are doctors, nurses, beds and equipment to take care of them.

The slow repopulation of the city picked up speed after the holidays as more schools reopened and, in the words of one emergency room doctor, the sicker people began to return. But only seven of what had been 15 adult acute-care facilities in the city and three surrounding parishes are open, and only one-third of the acute-care beds.

Hundreds or perhaps thousands of doctors and nurses never returned to New Orleans after the flood; long-term and psychiatric hospitals, not to mention hospices and rehabilitation centers, are now almost nonexistent in and around the city.

As a result, the returning residents have filled the functioning hospitals in and immediately around the city to capacity and beyond. Waiting times in emergency rooms have extended to as much as six hours, medical personnel at three hospitals reported.

Early one recent morning, doctors and nurses at East Jefferson General Hospital in Metairie, just outside of New Orleans, were already caring for five seriously ill or injured patients in the emergency room - because the hospital had no more beds to admit them to - while still managing a full load of incoming emergency patients near the entrance. Then two trauma victims from a car accident were brought in, followed by someone showing signs of appendicitis.

The staff had to "play musical chairs" with the accident victims and remaining patients to find everyone a bed and care for them, said Cheryl Carter, the nurse who directs emergency care.

"That's pretty much every day, pretty much every hospital," Ms. Carter said. "The waiting rooms look like a war center or a MASH unit. We look for more and more different ways to manage emergencies."

The city's sickest residents were among the first to leave New Orleans after Hurricane Katrina and should be the last to return, but that is not happening, said Dr. John Wales, chairman of the department of emergency medicine at East Jefferson, which for days has had more patients than it has beds. "I think they're coming back and the doctors who took care of them are not around," he said.

The Touro Infirmary is the only full-service hospital now functioning within the New Orleans city limits, and the lack of beds in the city has pushed patients to suburban hospitals like East Jefferson and filled them up. (Children's Hospital is also open in the city.) The situation is likely to get worse as flu season, which usually begins around late January here, hits its stride.

The thought of next month's Mardi Gras festivities has local doctors so worried they have formed a committee just to plan for care during the first large-scale, signature event in the distorted post-hurricane world. Dr. Jullette Saussy, who runs the 911 emergency medical service for the City of New Orleans, said that during Mardi Gras, the number of ambulance calls typically tripled, from an average of 120 a day to 360.

"There's a resource problem right now," said Dr. Peter DeBlieux, who heads the emergency department of Charity Hospital, a venerable institution for the city's poor, which no longer has a building and is operating out of Air Force tents in a far corner of

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the convention center. Patients with broken arms, he said, have at times been referred to Houma and Baton Rouge, cities that are, respectively, 50 and 80 miles away.

Five hospitals in the city, severely damaged by the storm, have been unable to reopen, including the Medical Center of Louisiana, the only Level 1 trauma center on the Gulf Coast, which is a combination of Charity and nearby University Hospital.

Some hospitals have opened neighborhood clinics or parking-lot tents for walk-in care, but some may never reopen, or may take up to a year to find the money to rebuild. The state wants to replace Charity, and its planned renovations to University Hospital could take several months or up to a year.

The city's rebuilding commission said in a report this week that if 65 percent of the region's prestorm population returns by July 1 - as many experts have predicted - the city will need to triple the number of hospital beds available, which would require hiring 2,550 medical staff members in less than six months and an "extraordinary expense" in housing them and paying them enough to return.

Cynthia Matherne, the designated regional coordinator for emergency management in an area that includes New Orleans and the parishes of Jefferson, St. Bernard and Plaquemines, said the problem of limited medical resources put pressure on emergency rooms from all directions.

"The problems we have are multiple," she said. Ordinarily, patients who have been stabilized after an emergency episode are gradually moved out to long-term acute care, rehabilitation or psychiatric facilities.

"But these have not reopened," Ms. Matherne said. "So all the psych patients end up being held in the E.R.'s. And when you're trying to discharge patients, there's no long-term care to discharge them to. There's no discharge to hospice care because there's none available." Home health aides are virtually nonexistent, she added.

"Hospitals are confronted with the question: How you are going to discharge these people?" Ms. Matherne said.

Dr. Saussy, of the New Orleans medical emergency response office, described a parallel problem among the ambulance units in the city. Because only Touro, with 273 beds, and Children's Hospital, with 125 beds, are open, city ambulances must often go to the three hospitals in nearby Jefferson Parish - East Jefferson General (444 beds), West Jefferson Medical Center (330 beds) and Ochsner Clinic Foundation (350 beds, expanding soon to 484).

"We have to wait hours to offload a patient," Dr. Saussy said. "That means we're not going to have that unit available to answer the next 911 call."

Ms. Matherne said the number of acute-care beds in the four parishes before the storm was 5,063, with an average of 4,083 filled each day. "Right now we're right at about 1,750 beds," she added.

Charity Hospital, once a magnet for some of the most severe medical emergencies - and for patients least likely to have insurance - is shuttered, leaving a jury-rigged emergency room under tents within the convention center. Dr. DeBlieux said 100 to 200 patients a day arrived with complaints ranging from major trauma or strokes to breaks and sprains.

Psychiatric patients are now being sent to emergency rooms unused to them. "We are overwhelmed with urban psychiatric patients we wouldn't have seen," said Dr. Joseph S. Guarisco, the chairman of emergency medicine at Ochsner.

Charity's lease at the convention center runs out in a few weeks, and the hospital is making plans to move its emergency room to another hospital building in Jefferson Parish.

In the early weeks after Hurricane Katrina, military medical units from the Army, Navy and Air Force set up temporary medical facilities around the city and helped with everything from diabetes to births to immunizations, but most of these units are gone.

For patients, a medical emergency usually means a long wait, unless it is life-threatening. Ben Cohen, who is 28 and lives in the Midcity neighborhood, started to have intense abdominal pain on Jan. 15 and spent four hours in the Touro emergency room before he was admitted. While there, he watched the single doctor on duty cope with a shooting victim and two trauma cases from a car accident.

"To their credit," Mr. Cohen said, "they did as good a job as they could have."

Dr. Wales at East Jefferson, like other emergency room directors, is trying to get more staff members to come back, particularly nurses and technicians and orderlies. "The issues include getting your existing staff a place to live," he said. "But they can't come back because there is no place. They won't come back without their families."

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Dr. Wales added, "At many levels, the disaster continues to unfold."

Post-Katrina Inquiry Likely To Need New Expert Coroner Helping In Investigation Of La. Hospital Deaths Indicted (USAT)

By Kevin Johnson

USA Today, January 23, 2006

Louisiana authorities investigating whether patients were euthanized at New Orleans-area hospitals after Hurricane Katrina probably will appoint a new medical consultant because the Pennsylvania coroner assisting the inquiry was indicted on federal charges Friday.

Kris Wartelle, spokeswoman for Louisiana Attorney General Charles Foti, said the indictment of coroner Cyril Wecht will not slow the state inquiry into more than 200 deaths at hospitals and nursing homes after Katrina hit Aug. 29. However, the 84-count indictment that accuses Wecht of using his position as Allegheny County, Pa., coroner to support his consulting business probably will lead to the appointment of "another expert" to review toxicology reports in the Louisiana inquiry, Wartelle said.

The investigation is examining whether any of the 64 patients who died at Memorial and Lindy Boggs hospitals were euthanized to end their suffering, and whether dozens of residents who died at nursing homes were mistreated or neglected. Last month, Wecht gave Louisiana investigators an analysis of toxicology tests in the hospital deaths. He and Louisiana officials have declined to comment on the report. Foti has said his inquiry is nearing a conclusion.

The indictment against Wecht, who has been involved in several high-profile death investigations across the country, comes as New Orleans District Attorney Eddie Jordan prepares to impanel a grand jury that will launch its own review of the hospital deaths.

Jordan said he is moving forward with his investigation and that it is too early to assess the impact of Wecht's involvement in the Louisiana inquiry. "We don't know what his findings were, and we don't know what the attorney general has found," Jordan said.

Wecht's work in Louisiana was not addressed in the indictment, which among other things accuses him of trading unclaimed bodies at the Allegheny County morgue to a local university's research program in exchange for laboratory space to expand his consulting business.

Mary Beth Buchanan, the U.S. attorney in Pittsburgh, said in court papers that from 1997 to 2004, Wecht's business, Wecht Pathology, made nearly $9 million. Wecht's share of that was estimated at $4.6 million, the indictment says.

"Cyril Wecht abused the position, authority and resources of the Allegheny County Coroner's Office to obtain money, property, services and other items of value for his personal benefit," Buchanan said.

Wecht has resigned from his position with Allegheny County, said his attorney Mark Rush.

"I would hope that (the indictment) would not be an issue" in the Louisiana investigation, Rush said.

The Louisiana investigation is looking into whether staff members at Memorial and Lindy Boggs administered lethal doses of morphine or other drugs to alleviate the suffering of critically ill patients whose conditions deteriorated when floodwaters swamped the city and power failures shut down the hospitals.

Forty-five people died at Memorial Hospital; 19 died at Lindy Boggs. Tenet Healthcare, which operates both hospitals, has said there was no wrongdoing and that it is cooperating with the investigation. Tenet declined to comment on Wecht's role in the inquiry.

Hurricane Refugees Demand Better Schools, Strong Levees (WT)

The Washington Times, January 23, 2006

ATLANTA (AP) -- Hurricane refugees from Louisiana told federal and state officials at forums across the South yesterday that what they want most when their state is rebuilt is affordable housing, better schools and stronger levees.

Some refugees at the "Louisiana Speaks" forums also worried that officials have no real plans to restore certain areas, such as New Orleans' impoverished Lower 9th Ward.

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"This (forum) is a good idea," Tereece Johnson, 40, said at the event in Atlanta. "But is it going to accomplish something? I can't say."

Most of the 30 forums -- sponsored by the Federal Emergency Management Agency and the Louisiana Recovery Authority -- were held in Louisiana. Six were held in Atlanta, Houston and four other cities where tens of thousands of Louisiana residents fled. Input from the forums will be incorporated in a long-term regional plan for rebuilding South Louisiana after Hurricanes Katrina and Rita.

But some were not yet ready to talk about the future.

"You're talking about rebuilding?" said Denise Herbert, 47 at the forum in Atlanta. "I want somebody to tell me where my mother is now," referring to 82-year-old Ethel Anna Herbert, who went missing more than five months ago.

Louisiana Gov. Kathleen Babineaux Blanco, who was at the Atlanta forum, talked to Miss Herbert and other refugees, who wanted help with immediate needs such as rental assistance and counseling.

"We have to do a combination of all of that," Mrs. Blanco said. "We have to take care of the immediate needs now, and we have to work for the future. And that has to be done simultaneously."

Many refugees said the availability of affordable housing will make or break their decision to return to New Orleans.

"I'd like to go back -- if I can get suitable housing," said Joseph Howard, 48, a hospital housekeeping worker who had to flee his rented house in midtown New Orleans.

Housing and transportation were major issues for two dozen refugees who attended the meeting held in Amite, La., a small community about 75 miles north of New Orleans.

"If we do decide to go back to New Orleans, will the rent go down?" said Sabrina Lee, a 25-year-old who can no longer afford the Uptown New Orleans place she rented before the storm.

However, the most pressing concern raised at the meetings in Louisiana involved flood control.

"Before we can make any decisions, we have to have answers on the levees," said Antoinette Harrell-Miller, who is unsure whether she'll return to the city.

In Houston, Gina Dupart said she was cautious about the value of yesterday's forum.

"We made a decision to come here to put our input in. We hope that it will be used to make [New Orleans] better in the rebuilding process. We didn't come here just to waste time," said Miss Dupart, 41.

WAR NEWS:

By Opting To Invade Iraq, George W. Bush Was Following In The Footsteps Of History (USNEWS)

By Michael Barone

U.S. News and World Report, January 23, 2006

America is attacked. The president addresses Congress in stirring terms. Senators and representatives, with a few eccentric exceptions, vote for a declaration of war, and the overwhelming majority of the people support the war effort without stint. The president appoints sterling generals and admirals and superintends massive war production. American troops surge to victory, and peace is made.

This is the picture we have of the way America, and American presidents, go to war. It comports with what we think happened in World War I and, especially, in World War II. In this view of U.S. history, American presidents lead the nation only into wars that are forced upon them.

There's only one problem. This picture is almost entirely contrary to the facts.

Critics of George W. Bush like to say that Iraq was a war of choice--a conflict that could have been avoided. But almost all American wars have been, to a greater or lesser degree, wars of choice. It is said that Bush went to war in Iraq without sufficient forces, without a game plan for the occupation, and without an exit strategy. Even if all those charges are true, then he has plenty of company in American history.

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For generations, presidents have wrestled with the difficult decision to lead the nation into war. Woodrow Wilson chose to bring the United States into World War I when he could have acquiesced to Germany's demand that we stop trading with Britain and France. Franklin Roosevelt, beginning in 1939, took daring and controversial decisions--starting with his sending massive aid to Britain and the Soviet Union against Nazi Germany--knowing they raised a grave risk that Germany or Japan would attack.

Military success was rarely guaranteed. In the early 1800s,the American military was small, and usually outnumbered. So there were practical limits on the president's ability to exercise his powers. Spurred by young "war hawks"like Henry Clay and John C. Calhoun, James Madison asked Congress for 10,000 troops to fight the British in 1811. Then, a year later, he imposed an embargo on trade and got Congress to vote, far from unanimously, to go to war. Madison's ability to prosecute the War of 1812 was so limited he was unable to prevent the burning of the White House and the Capitol.

Pirates of the Barbary Coast. Both the president and the American people had to learn that, in wartime, patience is definitely a virtue. Typically, the field of battle was far from Washington, and until the telegraph allowed Abraham Lincoln to communicate in real time with his generals, presidents learned of the course of battle only weeks or months later. In 1801, Thomas Jefferson sent the Navy and the Marines to take on the Barbary pirates, who were enslaving American merchants and demanding tribute. His ships set sail for the Barbary Coast in June 1801 but didn't complete their mission until September 1805.

The rationale for a war, then as now, was not always clear-cut. In 1846, James K. Polk started the war with Mexico by claiming, with murky evidence at best, that Mexican forces had crossed the Nueces River and "shed American blood on American soil." The treaty ending that war gave us more than half of Mexico's territory, including Texas and California.

As for the Civil War, almost no one anticipated its outbreak, course, and outcome. Only a few thought it would be a long war, notably William Tecumseh Sherman. While teaching at a military college in Louisiana in 1859, he wrote, "All here talk as if a dissolution of the Union were not only a possibility but a probability of easy execution. If attempted we will have Civil War of the most horrible kind." Abraham Lincoln had no such foresight. In his second inaugural, in March 1865, he admitted, "Neither party expected for the war the magnitude or the duration which it has already attained."

Nor did Lincoln seem to have a clear military strategy when the war began. He walked over to the War Department every day to read the latest telegraph dispatches and went through one general after another until he settled on Sherman and Ulysses S. Grant. And he did meet with resistance: Lincoln's Democratic opponents called for a compromise peace with the South, retaining slavery, or even letting the Confederacy go. In the summer of 1864 Lincoln seemed sure to be defeated for re-election. But Grant's advance through Virginia and siege of Petersburg and Sherman's capture of Atlanta and March to the Sea across Georgia convinced northern voters that the Union was on the road to victory. Lincoln was re-elected by a 55 to 45 percent margin. What were his plans for rebuilding the Union? After his assassination (five days after Robert E. Lee's surrender), no one knew.

Post-Civil War, America's appetite for military action seemed sated. The Army policed much of the South during Reconstruction until 1877 and fought against the Plains Indians. The Navy was largely scrapped; in the 1880s it was ranked 12th in the world, behind Turkey's and Sweden's. But America ceased to look inward in 1890, when the Census Bureau declared that the frontier had been closed and when Navy Capt. Alfred Thayer Mahan's The Influence of Sea Power Upon History focused American leaders' attentions abroad.

Rough Riders. A young New York politician and author named Theodore Roosevelt was one who looked beyond America's borders. At 38, he wangled an appointment as assistant secretary of the Navy. President William McKinley, a Civil War veteran and canny politician, had no eagerness for war. Roosevelt did. When the battleship Maine blew up in Havana harbor in February 1898, there was an outcry for war with Spain, which had been brutally suppressing a colonial rebellion in Cuba. Ten days later, when Navy Secretary John Long left the office after lunch, Assistant Secretary Roosevelt did an end run: He wrote out orders positioning the American fleet for battle with Spanish forces in Cuba and its Pacific colony of the Philippines. Long was unnerved but didn't reverse the orders. So the Navy was ready to go on the attack in April, when McKinley sent a war message to Congress and war was declared. The Spanish fleet was defeated in Manila harbor on May 1; Cuba was blockaded, and America won land and sea battles July 3 at Santiago Harbor and San Juan Hill (where Roosevelt led his Rough Riders in a well-publicized charge). Puerto Rico was invaded on July 25. A peace protocol was signed on August 13.

In retrospect, the military course of this war seems the most predictable of all of America's major wars--the Spanish fleet was decrepit, the American fleet was well positioned to fight, and the major problem was logistical, getting the Army down to

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Tampa and then to Cuba. Yet the war led to unpredicted and controversial military deployments. A major insurrection in the Philippines wasn't finally put down until 1902. A treaty giving the United States supervisory control over Cuba resulted in U.S. military occupation. And the country was not unanimously pro-war. Scholars, business moguls, and Democrats in the 1900 presidential campaign denounced American "imperialism."

The first three presidents to serve entirely in the 20th century--Theodore Roosevelt, William Howard Taft, and Woodrow Wilson--proclaimed that the United States had special responsibilities in the Western Hemisphere, and they dispatched troops accordingly. They saw the United States as a world power--with the world's largest economy, the largest population of any major power but Russia, and, by 1908, one of its largest navies. Which inevitably raised the question: When World War I broke out in Europe, in 1914, would the United States stand by or take part?

Wilson's instinct was to hold back. He sent his unofficial envoy, Col. Edward House, to Europe with proposals for peace. In a country reluctant to engage in a European caldron, Wilson ran for re-election in 1916 as "the man who has kept us out of war." But in January 1917 the Germans announced that their submarines would conduct unrestricted warfare against neutral, i.e., U.S., ships, and in February Wilson made public a telegram intercepted by British intelligence from the German foreign minister promising Mexico that it would get Arizona, New Mexico, and Texas if it entered the war against the United States. "It is a fearful thing to lead this great peaceful people into war," Wilson told Congress in April. But the stakes were great. "The world," Wilson intoned, "must be made safe for democracy."

Congress, with only minor dissent, agreed. The Senate voted 82 to 6 for war, the House 373 to 50. Still, large blocs of voters opposed the war--Progressives from the heavily German- and Scandinavian-American Upper Midwest, Socialists in New York and other big cities. Wilson responded with the sharpest suppression of free speech since the Civil War, and many critics of American involvement soon found themselves in jail. The railroads and shipping industry were also quickly nationalized--a degree of government control greater than in any later American war.

Unready, unset, go. The United States entered what was then called the Great War with military forces plainly insufficient for the struggle. It had virtually no air force. The Navy was far from combat readiness. An army of more than 1 million men was yet to be raised. It took time to assemble and transport the American expeditionary force, which did not come into play militarily until spring 1918, a year after the declaration of war. But under the leadership of Gen. John Pershing, U.S. troops performed well in key battles. By the fall of 1918, German forces were collapsing. An armistice was negotiated to take effect on 11:11 a.m. on November 11, the day we still celebrate as Veterans Day.

It was after the Great Depression and the election of Franklin Roosevelt, in 1932, that American policy entered its most isolationist phase. Roosevelt torpedoed the London financial conference in 1933, acquiesced in the passage of a Neutrality Act in 1935, and reduced military spending from the already low levels of the 1920s. But he also paid heed to what was happening in Europe. Roosevelt could understand German, and listening to Hitler's radio broadcasts, he developed at some point in the 1930s--by the time of the Munich agreement in September 1938 at the latest, his admiring biographer Conrad Black argues--the idea that the United States could not live with Nazi Germany.

Most Americans did not share that conviction; neither did some of Roosevelt's own appointees. That hardly deterred Roosevelt, however. Using his powers as chief executive, he increased military spending from hundreds of millions of dollars in 1938 to $6 billion in 1941. He instituted a military draft in an election year. He bypassed the Neutrality Act by providing destroyers to Britain in 1940. He declared the North Atlantic up to Iceland American territorial waters. He sped aid to the Soviet Union when Hitler's Germany attacked. And he cut off oil shipments to Japan. Tokyo responded by attacking Pearl Harbor on Dec.7, 1941. Four days later, Hitler declared war on the United States.

Roosevelt could say that World War II was not a war of choice. Yet the choices he made before Pearl Harbor certainly helped to provoke an attack, and they were choices that his political opponents bitterly condemned.

"Absolute victory." Despite Roosevelt's preparations, the United States entered this war, as it had most wars, without sufficient forces or even a coherent, workable military strategy. Nor was there a clear idea of what the endpoint would be--beyond Roosevelt's assurance in his speech to Congress on December 8 that "the American people, in their righteous might, will win through to absolute victory."

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At that moment, it was far from clear how victory would be achieved. The Pacific Fleet was gravely injured (though the aircraft carriers, luckily, were safe at sea); the Philippines were indefensible (as Roosevelt admitted in a fireside chat in February 1942); the weak British and Dutch forces seemed unlikely to stop Japan from sweeping through East Asia and what now is Indonesia and establishing bases from which they could threaten, as they did, India and Australia; Hitler's Army was at the gates of Moscow and was sweeping into the oil fields of the Caucasus, while Nazi forces were poised to sweep across Egypt and occupy the oil fields of the Middle East.

The picture seemed dismal for the United States and its Allies. The U.S. military was still being expanded, and in initial battles, especially in North Africa, its forces proved poorly trained and commanded. War production had been vastly expanded since 1940, but Roosevelt's goals seemed wholly unrealistic to many, and the newspapers were full of stories of bottlenecks and snafus. Not until June 1942, at the Battle of Midway, did the United States win a significant military victory, and that was closely fought.

Roosevelt did a masterful job, however, better than any other president, far better than Lincoln, of selecting the right commanders for the right tasks early on--Gen. John Marshall for organizing the Army, Adm. Ernest King for directing the Navy, Gen. Douglas MacArthur for the Pacific Theater, Gen. Dwight Eisenhower for the European Theater, and Gen. Matthew Arnold for the Army Air Force. He also did a masterful job, though the work often seemed chaotic, of organizing war production and producing tanks, airplanes, and ships in numbers far greater than almost anyone thought possible.

But plans changed, operations took longer than expected, troops early on performed below expectations, and materiel and equipment were not always plentiful or optimally functional. In the European Theater, the great brunt of casualties was borne by the Soviet Union, and it was possible in 1941 and 1942 that it would collapse. Roosevelt and Winston Churchill feared until nearly the end that Stalin might make a separate peace with Hitler as he had in August 1939. In the Pacific Theater, the fierce resistance of Japanese troops and the kamikaze attacks of 1944-45 made forward progress exceedingly costly in casualties.

As late as the summer of 1945, some military leaders hesitated to recommend invasion of Japan's home islands because they expected the cost to be 1 million American lives. And even after the atomic bombs exploded at Hiroshima and Nagasaki in August 1945, Japan's emperor had to persuade the military to surrender.

Neither Roosevelt nor Truman in 1945 had plans for what turned out to be the Cold War. The United States was now the world's prime military power. But Truman swiftly demobilized the forces, as public opinion demanded, and the draft was dropped. By 1949, the Soviets had their own atomic bomb--which raised the specter of mutual assured destruction if both sides were to employ the weapons they brandished.

Cold conflict. Truman set the United States on the course it followed, with some deviations, for the 40-plus years of the Cold War. As the Soviets moved to undermine governments in Eastern Europe and replace them with Communist regimes, Truman in March 1947 urged Congress to aid Greece and Turkey to prevent Communist takeover. In the process, he set out an ambitious goal: "It must be the policy of the United States to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures."

Under the Truman Doctrine, the draft was reinstated and the armed forces built back up, but in choosing whether to wage war Truman and his successors were constrained by the threat of nuclear war between the two superpowers. Even so, when North Korean troops crossed the 38th parallel in June 1950, Harry Truman felt obliged to defend South Korea. American forces proved insufficient after the Chinese unexpectedly invaded in November 1950, and the United States and its Allies were thrown back into a southern perimeter around Pusan. General MacArthur responded with an audacious amphibious landing at Inchon. He wanted to go farther, to bomb and attack the Chinese beyond Korea's northern boundary. Truman, fearful of a nuclear confrontation, said no--and when MacArthur persisted, fired him in April 1951. "There is no substitute for victory," MacArthur proclaimed in a speech at West Point. Truman's popularity plunged to a record low.

Only after a new president, Dwight Eisenhower, clandestinely threatened nuclear retaliation did the Communists agree to a compromise peace--a tie at best, not a victory for the United States.

Eisenhower sought to discourage further Soviet aggression by maintaining U.S. forces in Europe and Asia, by constructing alliances in the underdeveloped world, and by threatening massive retaliation with nuclear weapons even up to what his secretary of state, John Foster Dulles, called "the brink of war." The Soviet leader Nikita Khrushchev threatened to isolate U.S.

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forces in conventionally indefensible Berlin in 1957, 1960, and 1961 and installed nuclear missiles in Cuba in 1962; Eisenhower and John F. Kennedy faced down the threats to Berlin, and Kennedy after tense negotiations persuaded the Soviets to withdraw the missiles, by secretly withdrawing missiles from Turkey and guaranteeing there would be no further attempts to overthrow the Castro regime. Khrushchev's successors never again made such threats, but they did encourage coups and guerrilla movements in the Third World, with varying success.

And nowhere more so than in Vietnam. Viet Cong insurgents had been operating in South Vietnam, aided by Communist North Vietnam, since the country was divided in 1954. The United States, in line with the Truman Doctrine, sent economic and military aid to South Vietnam. The critical moment of escalation came in August 1963, when Kennedy approved a coup against the South Vietnamese president, Ngo Dinh Diem; in November, Diem was killed. This effectively gave the responsibility for South Vietnam to the United States. Kennedy's successor, Lyndon Johnson, eventually sent 540,000 U.S. soldiers to Vietnam. But Gen. William Westmoreland's strategy of using intense firepower in the jungles and mountains resulted in heavy American casualties while failing to break the hold of the Viet Cong in densely populated areas. Johnson's refusal to threaten nuclear weapons and his unwillingness to attack North Vietnam, for fear of the kind of Chinese intervention that had nearly defeated the United States in Korea, meant the Communists had no reason to agree to a Korea-style peace. American opinion turned against the war, forcing Johnson to retire. Richard Nixon reduced troop levels, and Gen. Creighton Abrams adopted a strategy of protecting populated areas and building up South Vietnamese forces. A North Vietnamese invasion was repelled in 1972 and a peace agreement signed in December. But in 1975 the North Vietnamese attacked again in force, and a newly elected Democratic Congress denied the aid sought by Nixon's successor, Gerald Ford, for the South Vietnamese. Saigon fell in April 1975--a galling defeat for America and a disaster for millions of South Vietnamese.

The outcome in Vietnam would inhibit American presidents and the American military for years to come. Jimmy Carter responded to the Soviet invasion of Afghanistan with an embargo on Soviet grain sales. When Iranian revolutionaries seized diplomats--an act of war under the laws of diplomacy--he responded with protracted negotiations and an eight-helicopter rescue mission that failed. Carter was defeated by Ronald Reagan in 1980; the hostages were released on Inauguration Day, immediately after the Gipper was sworn in. Reagan's vast defense buildup in the 1980s, and his endorsement of strategic missile defense, were one factor in convincing Soviet leaders that they could no longer match America.

Reluctant warrior. The success of Reagan's policies may now be fully measured. Ironically, he of all Cold War presidents was the most reluctant to use nuclear weapons; he was horrified at the destruction that would be caused by mutual assured destruction and initiated a strategic missile defense program, derided by his critics as "Star Wars," to make such mass annihilation impossible. During his presidency his defense secretary, Caspar Weinberger, and his national security adviser, Gen. Colin Powell, enunciated doctrines that, had they been applied retroactively, would have prevented almost every American president from going to war. America, they said, should do so only when it had overwhelming force, consensus support from the American people, and an endpoint or exit strategy clearly in hand.

Reagan actually used military force sparingly. In 1983, he withdrew forces from Lebanon, after 241 marines were killed by a massive truck bomb. But when a military coup in tiny Grenada took the life of the prime minister, a Marxist who nonetheless wanted to forge friendly ties with the United States, Reagan dispatched troops without hesitation.

The fall of the Berlin Wall and the end of the Cold War in 1989 freed presidents from the fear that military intervention would lead to nuclear war between the superpowers. But they still went to war only reluctantly. Saddam Hussein's occupation of Kuwait in 1990 presented George H.W. Bush with an occasion for war that met the standards set by Weinberger and Powell. The United States, still with a Cold War-size military and with plenty of allies, could deploy a sufficient military force (Bush asked his generals how many men they needed and doubled it), it had an easily realizable military strategy, and there was an obvious endpoint, the liberation of Kuwait. Even so, nearly half the U.S. Senate and a large minority in the House opposed military action. Ultimately, Bush rejected advice to continue on into Iraq, though that led to the massacre of many Kurds and Shiites, who had been encouraged to believe that they could count on American assistance.

Bill Clinton similarly seemed to follow the Weinberger-Powell prescription. When Army Rangers were killed in Somalia, Clinton quickly withdrew U.S. forces. He resisted intervention in Bosnia until it became clear that American forces would be

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called on to help Europeans withdraw, and force was used sparingly. The war in Kosovo was conducted entirely by air, to produce zero U.S. casualties. Actions against al Qaeda were limited to a few long-range airstrikes.

The way it was. The shock of September 11 set George W. Bush on a course closer to that which American presidents have followed in the past. He chose, with near unanimous support, to go to war in Afghanistan, even though it was not obvious that we had sufficient forces or a military strategy to ensure victory. The amazing capacities of the American military--with special forces on the ground directing precision bombing by B-2s flown in from Missouri--speedily ousted the Taliban regime. But Afghanistan is still a disorderly place, with a central government by no means wholly in control. Bush also chose to go to war in Iraq, this time against considerable opposition, with forces entirely capable of success in major military operations but not, or so critics have plausibly charged, sufficient to impose order in the months and years after. Nor is there a clear endpoint or exit strategy: Bush insists that American forces will leave when Iraqi forces can maintain order, but determining just when that might be will be a matter of fine and debatable judgment.

Bush's decision to go to war in Iraq has been attacked as a departure from the American tradition of war. But it is more of a return to the dominant tradition of our history. The United States has never been an isolationist nation; Americans and American military forces have been roaming the globe since the Revolutionary War. Until the 20th century, the oceans seemed to protect the American homeland from attack, but not always. The White House and the Capitol were burned in 1814, and James K. Polk went to war in 1846 after charging that American forces had been attacked on American soil. In any case, the oceans protect us no more and have not for many years.

Wars are chancy things. The friction of war, as the Prussian military philosopher Carl von Clausewitz wrote, is inevitable and its effects unpredictable. The responsibility for sending men to their deaths has weighed heavily on our commanders in chief. Photographs of Abraham Lincoln and Franklin Roosevelt show how the weight of making such awesome decisions aged these vigorous leaders, just as it has visibly aged George W. Bush over the past five years.

Our system of government gives millions of voters and members of the armed services and thousands of public officials in the legislative and executive branches a role in fighting America's wars. But the most difficult decisions, and the greatest burden of responsibility, have rested on America's presidents, who, relying on imperfect information, must make, and have often made, life-and-death decisions without being able to know for certain what effects they will have.

Not Like His Father (USNEWS)

By Kenneth T. Walsh

U.S. News and World Report, January 30, 2006

On New Year's Day, President George W. Bush was visiting wounded soldiers at San Antonio's Brooke Army Medical Center. He found himself by the bed of a badly burned soldier, swathed in bandages. He was told she might not pull through. Surrounded by her family, he couldn't summon words to express his feelings. "I sat there and wept with them," he recalled later. "I didn't know what else to do."

Fifteen years ago, President George H. W. Bush experienced his own emotional moments with the troops. On a Thanksgiving visit to Saudi Arabia amid a huge U.S. buildup in the Persian Gulf region, he grew flustered when a young lieutenant thanked him for being there. Tearing up, the president was momentarily speechless, then blurted out, "That's what Woody Allen said: 'Ninety percent of life is showing up.'"

It is a familiar scene for the father and son: those awkward meetings with soldiers in wartime, punctuated by the fact that neither is a man of natural eloquence.

The two Bush men are bound together in other ways. They are only the second father and son to become president (John Adams and John Quincy Adams were the first). And each launched a war against the same tyrant in the same country.

Yet curiously, there are more differences than similarities in their role as commander in chief. The 41st president was a coalition builder and a diplomat. The 43rd president was willing to go it alone and ignore international opprobrium. The first Bush had a sense of limits about American power. His son believes the military is his best tool for working his will abroad.

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The two men made the case for war in different fashion as well. It is true the father's job was easier than his son's. Saddam Hussein had invaded Kuwait and was an unmistakable threat. Nonetheless, George Herbert Walker Bush tried to build consensus at home and abroad before starting the Gulf War.

George W. Bush made his case in a more controversial way, arguing for a pre-emptive strike to depose Saddam. He spoke of how the Iraqi dictator might use weapons of mass destruction and of his ties to terrorists. Those claims have never been proved.

It is striking that the son rarely cites his father as his role model as commander in chief. George W. Bush says the world has changed dramatically since his father's tenure, largely because of 9/11 and the threat posed by terrorists. The challenges he faces, he says, are unique. As Vice President Dick Cheney told U.S. News in January, "We're talking about the possibility of a handful of terrorists--a relatively few individuals--able to get their hands on, say, a biological agent or a nuclear weapon and do enormous harm inside the United States. That's sort of the ultimate threat we face today. And it's a different kind of threat than we've ever faced before .... It forces us to think in new ways about how we defend the nation."

Grounded. This gospel of singularity informs Bush's role as commander in chief. It has led him to expand the authority and reach the presidency into areas his father never entered: domestic spying without warrants; detaining suspected terrorists without trial; conducting a vast, pre-emptive war against terrorists. "It requires certain qualities," says a senior White House official, "such as an unshakable will--and, particularly during a time of war--passion. Feelings are going to run higher than normal, and you have to be grounded, in the sense of knowing what you're doing and believing what you're doing is right."

Bush has said the terrorist attacks of 9/11 gave him his mission as president--to protect the nation from what he sees as a global network of "evildoers." The day after 9/11, he called advisers to the White House residence and urged them to prepare for a long struggle. Communicating the facts about the war would be difficult, the president said, partly because it might be impossible to reveal successes, lest such announcements expose U.S. counterterrorism methods and endanger American operatives. One of the biggest challenges, he cautioned, would be to stay the course. "The further we get from this day," he warned, "people are going to forget." He promised never to do that.

Bush believes he must keep up his campaign to convince the nation that the war is going well. "People see so much of the war on cable TV that the president needs to provide context,"says a senior administration official. That means countering news of casualties and war costs by emphasizing that America cannot abandon its new client state.

Bush's father, by contrast, saw the 1991 war with Iraq as a conventional conflict to be won by conventional means. And he had a strong sense of limits. George Herbert Walker Bush called off the ground battle after only 100 hours because Saddam's forces had been crushed. His refusal to take over Iraq and occupy Baghdad was widely criticized, but Bush argued that the United Nations never approved an occupation. He also insisted that occupying Iraq would have been vastly expensive in lives and money. His predictions have proved true--on his son's watch.

George H. W. Bush felt another constraint--what historians call "Vietnam syndrome," a reluctance by Americans to commit troops to potentially lengthy wars without a guarantee of success and a certainty of moral justification. "After the mess in Vietnam, many Americans didn't trust their leaders to send troops anywhere," says a former adviser. "So we developed a vast public outreach program." At one point, Bush even gave a speech justifying the coming conflict in theological terms, using the philosophies of Aquinas and Augustine to define what was a "just war."

Self-reliant. The senior Bush felt equipped--from his experience as vice president, former director of central intelligence, and U.S. envoy to the United Nations and to China--to challenge both the military and his advisers. George W. Bush seems more accepting of the advice of his in-house "experts." He went along with recommendations of Vice President Dick Cheney and Defense Secretary Donald Rumsfeld to minimize the number of troops needed in Iraq, which some military analysts and many Democrats have branded a mistake. Bush also accepted his advisers' claims that the occupation would be relatively easy and that the Iraqis would welcome U.S. soldiers as liberators. "We built a policy based on practicalities," says a former national security adviser to the father. "They built a policy based on assumptions."

In running the war, the elder Bush didn't micromanage the Pentagon, but he did pay close attention to certain tactics. He reviewed plans for bombing areas where civilian casualties were likely, for instance, and tried to select targets and ways of attack

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to minimize harm to noncombatants. If his son pays heed to such details, he has not disclosed it. In fact, he says he almost always leaves operational details to the military.

The father, a former Navy pilot shot down over the Pacific in World War II, knew all too well the perils of war. Perhaps that's why he seemed more troubled by the consequences than his son. On Dec. 31, 1990, as war approached, the elder Bush wrote a moving letter to his five children about how much he enjoyed their time at Camp David over Christmas. "I guess what I want you to know as a father is this: Every human life is precious," he wrote. "When the question is asked, 'How many lives are you willing to sacrifice?'--it tears at my heart. The answer, of course, is none--none at all." But Bush added: "I look at today's crisis as 'good'vs. 'evil'--Yes, it is that clear. ... Sometimes in life you have to act as you think best--you can't compromise, you can't give in--even if your critics are loud and numerous."

And what does the father think of the son's choices? He isn't privy to the high-level intelligence his son receives, so he defers to the judgment of his first-born. Besides, one of the traits the father shares with his son is loyalty, so he will let history judge both men by their deeds and their times.

Imbalance Of Power (USNEWS)

By Jay Tolson

U.S. News and World Report, January 23, 2006

During the Civil War, Abraham Lincoln got away with suspending habeas corpus and subjecting citizens to military law. Even more famously, he defied the law of the land by freeing enslaved Americans. During World War II, Franklin D. Roosevelt ordered the internment of Japanese-American citizens and received the Supreme Court's subsequent approval. Yet when Harry S. Truman ordered the Commerce Department to take over 87 steel plants crippled by striking workers during the Korean War, the high court ruled that he had pushed executive prerogative beyond acceptable bounds.

So just how imperial can the American president be? And more specifically, how, when, and how far can the powers that the Constitution invested in the commander in chief be extended?

Disclosures about George W. Bush's support for a National Security Agency-run domestic-spying program have pushed those questions to the fore once again. The headlines have fueled charges that his administration has, in post-9/11 measures ranging from indefinite detention of terrorism suspects (including two U.S. citizens) to torture and abuse of detainees around the world, taken presidential discretion to new, possibly illegal extremes. Joining a host of liberal voices, former Vice President Al Gore has decried a "truly breathtaking expansion of executive power" by the Bush administration.

Bush, so far, has gotten a broad pass on his amplification of the commander in chief's prerogatives, which many Americans view as justified in the name of the war on terrorism. But there are growing signs of resistance. Congressional hearings in February will examine the president's rationale for ignoring procedures instituted in the 1978 Foreign Intelligence Surveillance Act, namely the requirement that intelligence agencies secure a warrant from a special court before eavesdropping on U.S. citizens. Another congressional committee says it will oversee implementation of a new ban on the use of torture, which the president, even while signing the bill into law, suggested he would ignore when necessary. For its part, the Supreme Court is mulling over the possibility of hearings on detainee cases, although the Justice Department's solicitor general has argued that the court has no jurisdiction over them.

Whatever the solicitor general argues, cases involving possible executive overreach are almost certain to reach the high court. The American Civil Liberties Union and the Center for Constitutional Rights have filed separate suits to challenge the legality of warrantless domestic spying and to determine whether the NSA monitored lawyers, journalists, and academics involved with the Middle East. One plaintiff in the ACLU suit, journalist Christopher Hitchens, a prominent backer of Bush's war on terrorism and the war in Iraq, says that if the administration wants to engage in domestic spying, it "must ask Congress to change FISA, not ignore it."

Powering up. This in some ways goes to the nub of the historical and theoretical debate about executive authority: How does the commander in chief exercise extraordinary powers within the legal framework of the republic, including the constitutionally ordained separation of powers?

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Arguments for and against strong executive authority--"energy in the executive," as Alexander Hamilton phrased it--have been put forth by both sides of the conservative-liberal divide, depending largely on who is in the White House. From the 1950s through the '70s, liberal scholars and pundits were among the aggressive supporters of a stronger executive. Historians Henry Steele Commager and Arthur Schlesinger Jr. both took on critics who attacked Truman for not securing congressional authority when he sent troops to Korea. Richard Neustadt's 1960 study, Presidential Power, exalted FDR's strong leadership and lamented Dwight Eisenhower's allegedly listless presidency. But after both John F. Kennedy and Lyndon Johnson tried, with mixed results, to bring greater elan to the White House, Neustadt grew uneasy that his ideas were seen as providing a warrant for the Vietnam War debacle and Nixon administration abuses, including ille-gal wiretapping of political foes and antiwar activists. Schlesinger also changed his tune in his book The Imperial Presidency . But as liberals began deploring a lack of balance among government branches, conservative (and particularly neoconservative) thinkers supportive of Ronald Reagan's "morning in America" began to trot out the oldest justifications of a strong executive. "When you own the presidency," acknowledges Harvard political scientist Harvey Mansfield, a leading conservative defender of executive prerogative, "it looks like a far more valuable possession."

How Clinton Coped (USNEWS)

By Kenneth T. Walsh

U.S. News and World Report, January 23, 2006

Former President Bill Clinton didn't wage a full-fledged war during the eight years he was in office. But he did order American troops into harm's way on several occasions. From his home in Chappaqua, N.Y., Clinton offered his views, in an E-mail conversation with U.S. News 's Chief White House Correspondent Kenneth T. Walsh, on what it takes to lead during times of conflict and at times of peace. Excerpts:

On the most difficult decisions he faced regarding use of military force during his presidency. When we used the military in Bosnia, Kosovo, and Haiti, most Americans, most Republicans in Congress, and many Democrats were initially opposed to it.

On directly supervising the military and the issue of "micromanagement" during a crisis. Generally, it is best not to micromanage military operations, though in some cases it is unavoidable. For example, after the accidental bombing of the Chinese Embassy in Belgrade because of outdated maps, I had daily meetings to go over the proposed targets for the next day. On a few occasions, I disagreed with the military's choices, but wherever possible I tried to set policy and let them decide how best to carry it out.

On the challenges of being commander in chief in today's world. In the modern era, leadership involves dealing with the 24-hour news cycle and responding to the concerns of allies, international organizations, [and] at least the neutral countries that are well disposed to America. It's important to respond as quickly as possible to events and legitimate questions but not to be stampeded into actions or words that will compound events or create new problems.

The toughest part of the job as commander in chief. The hardest thing is knowing young Americans and innocent civilians in the theater of conflict might be killed or badly injured.

On whether presidential leadership is different in times of war and times of peace. In a military conflict, successful leadership requires clear objectives, a strategy to achieve them, a clear understanding with the military of the tactics to be used, and an ability to explain the decision to use force in terms of our interests and our values to people at home and around the world. These skills are also significant in pursuing proactive objectives. But during a conflict, clarity, consistency, concentration, and a willingness to evaluate and, if necessary, alter tactics are even more essential.

On how much he relied on his senior military advisers. I relied heavily on my military advisers for tactical advice. On the question of whether to use force, I sought their advice but made the final decisions myself, sometimes disagreeing with them, as in Kosovo and Haiti.

On the concerns of Pentagon planners. Our military leaders did not voice concerns about public opinion but did want a clear definition of military success including an exit strategy.

An example of contingency planning inside his government. In Kosovo, my senior advisers believed, as I did, that our air power would prevail but also had plans to introduce ground troops in the event it did not.

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On his feelings about sending troops into harm's way. In making life or death decisions, I leaned on the power of prayer, the example of my predecessors, the support of my cabinet and staff, the vice president, and, of course, Hillary.

Iraq Sunnis Commit To Coalition Talks (REU)

Reuters, January 23, 2006

BAGHDAD (Reuters) - Iraq's biggest Sunni political bloc committed itself on Sunday to talks with Shi'ites and Kurds to form a government of national unity, but said its key demands, including changes to the constitution, must be met.

The United States, keen to drive the political process toward a stable consensus, wants the Kurds and majority Shi'ites, who dominated last month's elections, to form a government that includes minority Sunnis. It hopes an inclusive coalition will undermine the raging Sunni Arab insurgency.

Four policemen were killed and nine wounded by a roadside bomb in Baquba, 65 km (40 miles) north of Baghdad. Thirteen other people were killed in attacks across Iraq, including a policeman's four nephews who died when a rocket hit his home.

The Iraqi Accordance Front, which comprises three mainly Islamist Sunni Arab groups, said it would appeal against the results of an election it believes was rigged but would still take part in talks on a new coalition government.

"It will be active in talks with other political blocs to form a unity government," said Tareq al-Hashemi, whose moderate Iraqi Islamic Party is the biggest member of the Front.

Hashemi said the election results did "not reflect the political and population weight" of the Front, which believes it should have won 11 more seats. The Sunni coalition would seek key ministries in the new government as compensation, he said.

The Front also intends to hold Shi'ites and Kurds to a promise, extracted under U.S. pressure, of reviewing the constitution approved in a referendum last October.

CONSTITUTION

Many Sunnis fear the constitution's provisions for regional autonomy will give Kurds and Shi'ites control over Iraq's vast oil reserves and eventually break the country apart.

"We ask the blocs not to put obstacles in the way of making some changes to the constitution," Hashemi told a news briefing.

After boycotting parliament last year, Sunni leaders had hoped a big turnout in the December 15 election would put them in a strong position to press for amendments, particularly on a new federal state structure, which they fear could give control of oil to Kurdish and Shi'ite regions in the north and south.

They had also hoped that other Shi'ite and secular groups opposed to decentralization would undermine the dominance of the main Shi'ite bloc, the Islamist Alliance, whose most powerful leaders are strongly in favor of federal autonomy.

But the success of the Alliance in coming close to retaining its majority may dampen Sunni hopes of securing amendments with the help of anti-federalist Shi'ites in parliament.

A Western diplomat closely involved in Iraq's political process said Sunni ambitions may have to focus now more on influencing legislation to be enacted that will spell out exactly how autonomous regions can be established and operate.

HOSTAGE

As U.S. and Iraqi forces hunted for kidnapped American reporter Jill Carroll, Iraq's Justice Ministry said six women prisoners held by U.S. forces would be released within a week.

Carroll's abductors threatened to kill her if all women prisoners in Iraq were not freed.

A joint Iraqi-U.S. review board approved the release of the women on January 17, before the kidnappers made their demand, but U.S. officials then apparently delayed freeing them so that it did not look like they were giving in to the hostage-takers.

"They delayed their release because of the connection with the kidnapping of the American journalist," a Justice Ministry spokesman said.

Iraqi military officials said they had intelligence indicating Abu Musab al-Zarqawi, the militant leader behind some of the bloodiest attacks, is in Diyala province near Baghdad.

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It is not the first time Iraqi officials have said they have closed in on the elusive Zarqawi, leader of al Qaeda in Iraq.

Army posts have been notified of Zarqawi's presence in Diyala, northeast of Baghdad, where there has been a surge in violence in the past few months, the officials said. It was not known exactly where in the province he was, one official said.

Saddam Hussein may be confronted from the witness stand by former associates when his trial resumes this week but defense counsel will call for a halt after the chief judge resigned complaining of government interference.

"There will be former regime members" among witnesses appearing on several days of hearings starting on Tuesday and lasting up to three weeks, a Western diplomat closely involved in the U.S.-sponsored trial told reporters on Sunday.

Sunnis Must Have Security, Leader Says (LAT)

By Richard Boudreaux

The Los Angeles Times, January 23, 2006

BAGHDAD — A leader of Iraq's largest Sunni Arab political bloc said Sunday that he would shun any government that included officials responsible for police brutality against his minority sect, a stand aimed at removing the powerful Shiite interior minister.

Tariq Hashimi of the Iraqi Accordance Front spelled out its conditions for entering a "national unity" administration after most Iraqi leaders called for such an outcome in order to quell the Sunni Muslim-led insurgency.

Sunni participation in Iraq's first full-term government since the 2003 ouster of Saddam Hussein is the top U.S. diplomatic priority here. Excluding the Sunnis could doom efforts to end the fighting through political means and to reduce the number U.S. forces in Iraq.

At least 17 Iraqis died in weekend fighting, and authorities Sunday found the bodies of 29 men apparently seized by insurgents last week after they had volunteered to join the police.

Two U.S. airmen were killed and another was wounded Sunday by a roadside bomb north of Baghdad, the military announced today.

The names of the airmen, assigned to the 586th Expeditionary Mission Support Group, were being withheld pending notification of next of kin.

Talks on forming a government have intensified since Friday's release of complete but uncertified returns from the Dec. 15 parliamentary election and are expected to last at least six weeks.

The Shiite Muslim and Kurdish blocs leading the transitional government are expected to join forces in a new ruling alliance. They won 181 seats in parliament, three short of the two-thirds majority required to form a new government, but could pick up the needed seats by making deals with smaller Shiite and Kurdish groups.

Most Shiite and Kurdish leaders have endorsed the U.S. goal of broadening the government to include Sunnis, whose two main blocs got 55 seats in parliament. Such an achievement, however, would require hard compromises among Shiites, Kurds and Sunni Arabs.

"There is no preordained outcome that we're going to get a deal involving all three of these groups," said a Western diplomat monitoring the talks. "They're all saying they are willing to explore it, but success is by no means assured."

At a news conference Sunday, Hashimi said his Sunni bloc's first condition for entering the government was a guarantee of personal security for Sunnis, who he said had suffered abuse by the transitional regime's Interior Ministry police.

"We have red lines against some figures who have harmed our people," he said without naming names. "We will not allow anyone who participated in human rights violations to take any ministerial posts."

The remark was clearly aimed at Bayan Jabr, whose reputation as interior minister has been stained by allegations of torture and killings of Sunni prisoners held by the predominantly Shiite police. Jabr, a powerful figure in the ruling Shiite alliance, has denied involvement in the alleged abuses.

Hashimi did not say who should run the Interior Ministry, nor did he insist that a Sunni get the job. That left open the possibility that the Shiite alliance, which has insisted on keeping control of the ministry, could find a candidate acceptable to the Sunnis.

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The Sunni leader set other terms: He demanded an end to official corruption, a "charter of honor" that renounces sectarian and ethnic strife, an agreement to set a timetable for withdrawal of U.S. forces, and a promise "not to hamper" constitutional changes demanded by Sunnis to prevent the Shiite and Kurdish regions from dominating Iraq's oil wealth.

The latter demand could be the most difficult to resolve. Abdelaziz Hakim, a powerful Shiite politician, opposes significant changes in the constitution, as do most of the Shiites elected to parliament.

Hashimi is expected to be a key player in negotiations over the coming weeks, along with President Jalal Talabani and Massoud Barzani, both Kurds, and either Prime Minister Ibrahim Jafari or Vice President Adel Abdul Mehdi — whoever is chosen the Shiite alliance's candidate to lead the new government.

Before the talks can advance, officials must resolve challenges by Shiite, Kurdish and Sunni parties to the precise seat allocations announced Friday, a process that will take 10 days.

Police said the 29 bodies found Sunday were apparently those of men who had traveled in a larger group from the city of Samarra to Baghdad to join the police force. Dozens in the group were rejected, and many were abducted at insurgent roadblocks while returning home last week. Ten other bodies were found Saturday in the same area of Salahuddin province, about 40 miles north of Baghdad.

In Sunday's deadliest incident, assailants fired rocket-propelled grenades into the home of a Shiite policeman in Balad Ruz, 45 miles northeast of Baghdad, killing his brother and four of his brother's children, ages 6 to 13.

Meanwhile, the two parties of the Kurdish bloc signed an accord to create a single Kurdish government in three northern provinces, formally ending years of division and animosity that erupted in violence in the mid-1990s. The unification was aimed at bolstering the region's relative autonomy from Iraq's central government.

The accord will put Barzani's Kurdistan Democratic Party, which runs Irbil and Dahuk provinces, in charge of Sulaymaniya province as well. A representative of the Patriotic Union of Kurdistan will be named to head the region's militia, and Cabinet posts will be divided.

Amid Sunni Suspicions, Iraq's Leaders Try To Find Officials Not Tied To Militias (USAT)

By Rick Jervis

USA Today, January 23, 2006

BAGHDAD — As Iraq's political leaders start forming a coalition government, the naming of its interior and defense chiefs will be a key issue, a former U.S. official and an Iraqi adviser say.

The United States wants to ensure that the figures running Iraq's two main security ministries are free of ties to ethnic and religious militias, such as the Shiite Badr Brigade or Kurdish peshmerga, says Matt Sherman, former U.S. deputy chief adviser to the Interior Ministry.

“The trick will be finding an individual (without militia ties) … who has enough political influence to be effective,” Sherman says.

Iraqi election officials announced Friday that the Shiite and Kurdish coalitions won a combined 181 of the 275 seats in parliament, three shy of the two-thirds majority needed to name a new government for the next four years.

The two major Sunni blocs, the Iraqi Accordance Front and the Iraqi Front for National Dialogue, won a combined 55 seats.

Last year, the Shiite-controlled Interior Ministry was hit by allegations of torture. Bodies of prisoners, mostly Sunni, were found with their hands and legs bound, shot through the head, after having been picked up by gunmen in police uniforms. U.S. forces discovered two groups of Interior Ministry prison cells where prisoners showed signs of maltreatment.

Shiites and Kurds absorbed the brunt of repression under the rule of Saddam Hussein's Sunni government. They are wary of handing over control of the police forces, run by the Interior Ministry, says Basam Ridha, an adviser to transitional Prime Minster Ibrahim al-Jaafari, who is aligned with the largest Shiite bloc.

“There will always be accusations, especially from Sunnis,” of ties to militias, Ridha says. “There's a great deal of negotiations going on. Obviously, we'll have a say in the matter.”

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Sunni leader Tariq al-Hashimi warns that Sunni Arabs will reject any minister involved in violence against Sunnis. Bayan Jabr, Interior minister under the transitional government, has denied that his forces abused Sunni prisoners or targeted influential Sunnis for assassinations.

Militias are outlawed under an Iraqi law crafted under U.S. guidance in 2003. Many members of the armed groups, including some who fought against Saddam, have joined Iraq's uniformed government security forces but retain loyalty to their religious or ethnic sects.

Finding a leader without some connection to former militias may be a daunting task, Sherman says. "Those individuals are very limited," he says. "There's a fine line to toe there. You don't just want a figurehead in that position."

In Iraq on Sunday:

•Insurgents attacked the home of an Iraqi policeman with rocket-propelled grenades in Balad Ruz, 45 miles northeast of Baghdad, the Iraqi police Joint Coordination Center told the Associated Press. The officer's four children, ages 6 to 11, and their uncle were killed, the center said. The officer was unharmed.

•Police found the bullet-riddled bodies of 23 men kidnapped Wednesday after being rejected entry into a police training academy. The bodies were found partially buried in the village of Nibaei, near Dujail, about 50 miles north of Baghdad, Interior Ministry police Lt. Thair Mahmoud said.

•There was no word on the fate of American journalist Jill Carroll, kidnapped in Baghdad on Jan. 7 and last seen in a video released Jan. 17. Her kidnappers threatened to kill the 28-year-old in 72 hours unless all Iraqi female prisoners in U.S. custody were released.

Iraq's Next Big Hurdle: Unity Government (CSM)

By Charles Levinson, Correspondent Of The Christian Science Monitor

The Christian Science Monitor, January 23, 2006

BAGHDAD - When Iraq's election results were released Friday, it was no surprise that religious Shiites dominated the polls.

But the hard numbers have given new steam to Iraq's politicians, who are wheeling and dealing to find enough common ground on which to build the country's first freely elected four-year government.

In a process that could stretch into April, Iraq's factions will decide on a governing program, agree on whether the new Constitution can be changed, and haggle over the crucial positions of president, prime minister, and cabinet ministers.

The Shiite alliance, with 128 of 275 seats, will dominate the talks, but its members must reach out to others to find the two-thirds majority needed to form a government. Whom they tap as allies or exclude may affect stability for years to come, experts say.

All of Iraq's politicians are touting national unity and the need for Sunni Arab participation in the government. It is widely believed to be a necessary step toward taking the steam out of a relentless insurgency.

But those politicians have very different ideas of what national unity and Sunni participation actually entails..

"There is no preordained outcome that we are actually going to get a deal involving all three of these groups," says one Western diplomat in Baghdad. "I can only tell you that they are all saying they are willing to explore it."

Shiites are insisting that the election results dictate the distribution of the spoils, meaning they should be given the majority of the cabinet posts. The Sunni Arabs are pushing for a piece of the pie that may not be justified by vote tallies alone. They hold a powerful bargaining chip: sway with the Sunni-led insurgency.

"If the country is going to be unified, then you have to take into account the armed resistance, which continues to show that it is capable of baring its teeth," says Wamidh Nadhmi, a professor of political science at Baghdad University. "Dealing with the resistance means making the Sunni politicians happy."

It's a reality that infuriates Shiites, who feel the threat of violence is compelling them to relinquish power they won fairly. If violence works for Sunni Arabs, they wonder aloud, then why should Shiites continue to show restraint?

"They can't do both at the same time, resistance and violence on one side, and playing politics on the other side. This is unacceptable," says Adel Abdel Mahdi, a powerful Shiite and a frontrunner to replace Ibrahim Jaafari as prime minister.

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If current rhetoric is more than just political brinkmanship and tough talk, then Iraq's Sunni Arab and Shiite parties have seemingly irreconcilable differences on issues such as security policy, the exclusion of former Baathists from government, and amending the Constitution.

Among the principal stumbling blocks in negotiations is control of the ministries of Interior and Defense. The current minister of Interior, Bayan Jabr, essentially the country's chief law enforcement officer, is loyal to Badr, the Shiite militia aligned with the Supreme Council for Islamic Revolution in Iraq (SCIRI), the core of the Shiite political alliance.

Critics say Mr. Jabr has turned the Iraqi police force into a glorified Shiite militia that indiscriminately targets Sunni Arab neighborhoods and cities in an attempt to quash the insurgency.

"We must have the Defense and the Interior to ensure the security of our cities, and to stop the terrorizing of our supporters," says Salman al-Jumayli, a spokesperson for the Sunni Accordance Front, which has 44 seats in the coming parliament.

For Shiites such concessions are unlikely. After decades of suffering under the old regime, the recently empowered Shiites are not about to relinquish control of the ministries that were responsible for much of that oppression. "We won the elections and these ministries are our right," says Jawad al-Malaki, a leading member of the Shiite Dawa Party.

The issue of de- Baathification - a ban on former Baath Party members in government - will also figure prominently in the dealmaking. Shiites call many of the Sunni Arabs who have risen to the fore in recent months Saddamists, Baathists, and outright terrorists.

"The Shiites have turned de-Baathification into de-Sunnification," says Mr. Jumayli. "They're only targeting Sunnis and they've turned it into a weapon to get rid of all their political opponents."

Shiite unwillingness to negotiate on the issue has added to the Sunni Arabs' sense of exclusion and marginalization. It has also meant that even those posts that have gone to Sunni Arabs, such as the outgoing Ministry of Defense, have gone to Sunnis handpicked by Shiites, who are largely out of step with the majority of the country's Sunni Arabs.

What to do with the country's infant Constitution is another issue negotiators will have to address.

The drafting process and referendum on the historic charter last fall signaled a turning point in Sunni Arab willingness to engage with the political process. Their reluctant endorsement, however, came with a condition: The document could be amended at a later date to strengthen language aimed at preventing the breakup of Iraq. Earlier this month, some Shiite leaders seemed to be reneging on that agreement, calling any substantial changes to the Constitution unacceptable.

With such significant differences to overcome, many worry the Shiites will decide that a true national unity government is more trouble than it's worth, and team up with the Kurds as they did in the last government.

But even if Iraq's disparate factions find a way to put aside their differences to form an inclusive government, true national unity remains elusive, says Mohammed al-Sheikhly, president of the Center for Transitional Justice in Iraq.

"We got rid of Saddam Hussein, but now we have 40 Saddam Husseins, a bunch of political leaders with a power complex, who only want to rule. They are all hypocrites whose programs talk about national unity, and a united Iraq, but whose actions say the opposite."

At Least 23 Iraqis Die In Weekend Attacks (AP)

By Sameer N. Yacoub

The Associated Press, January 23, 2006

BAGHDAD, Iraq -- Insurgents fired rocket-propelled grenades at a policeman's home northeast of Baghdad on Sunday, killing his four children and his brother and raising to at least 23 the number of Iraqis killed in attacks this weekend.

Also Sunday, police found the bullet-riddled bodies of nearly two dozen men abducted last week north of Baghdad after being rejected entry into a police academy, officials said.

The U.S. military announced Monday that a roadside bomb blast killed two U.S. airmen and wounded another Sunday near Taji, 12 miles north of Baghdad. At least 2,226 U.S. military personnel have been killed since the Iraq war began in March 2003, according to an Associated Press count.

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The violence continued as Iraq's political parties began gearing up for talks on a new coalition government that U.S. officials hope will win the confidence of disaffected Sunni Arabs and undermine support for the insurgency. That would hasten the time when U.S. and other foreign troops can go home.

There was still no word on the fate of kidnapped American journalist Jill Carroll two days after a deadline set by her captors. They had threatened to kill the 28-year-old freelancer for The Christian Science Monitor unless all Iraqi women detainees were freed.

Iraqi officials have said they expect the Americans to free six of the nine women they are holding this week. U.S. authorities have not confirmed the claim.

The attack on the policeman's home occurred in Balad Ruz, 45 miles northeast of Baghdad, according to the Iraqi police Joint Coordination Center. The officer's four children, ages 6 to 11, and his brother were killed, the center said. The officer was unharmed, but his wife was wounded.

Sunni-led insurgents often target police as part of their campaign to try to undermine support for the U.S.-backed government.

Four policemen were killed and nine were wounded Sunday when a roadside bomb exploded near their patrol in the tense city of Baqouba, 35 miles northeast of Baghdad, police said. Police also said a man was gunned down at a west Baghdad gas station and another was slain in a market in the capital's Amil district.

The bodies of the 23 men were found partially buried near Dujail, about 50 miles north of Baghdad, said Interior Ministry police Lt. Thair Mahmoud. They had been abducted Wednesday while traveling from Baghdad to their homes in Samarra after failing to be accepted at a police recruit center.

Elsewhere, the bodies of prominent Sunni Arab tribal leader, Sayid Ibrahim Ali, 75, and his 28-year-old son, Ayad, were found in a field near Hawija, 150 miles north of Baghdad, police said. They were shot as they left a funeral Saturday.

In the central city of Mashru, police found the bodies of two blindfolded men who had been shot in the head and chest.

U.S. soldiers, meanwhile, killed three gunmen firing from several cars north of Beiji, 155 miles north of Baghdad, on Saturday, the military said Sunday. Six Iraqis were detained and soldiers destroyed four cars after one was found rigged for use as a car bomb. Twelve other people were reported killed in sporadic violence on Saturday.

Nevertheless, U.S. Brig. Gen. Don Alston said insurgent attacks nationwide fell 40 percent during the week ending Saturday, compared with the previous week. Attacks in Baghdad fell 80 percent for the same period, he told reporters.

The reduction in attacks occurred as security was stepped up in Baghdad and other insurgent hotspots ahead of the announcement last Friday of the results of the Dec. 15 national elections for a new parliament. An alliance of Shiite religious parties won the biggest bloc of seats but not enough to govern without partners.

U.S. officials hope the Shiite alliance, which won 128 of the 275 seats, will include a significant number of Sunni Arabs in the new coalition. Contacts are under way among the nation's Shiite, Sunni and Kurdish politicians but the negotiations could take weeks.

Shiite leaders have said they would include Sunni Arabs if they are willing to work actively to lure fellow Sunnis away from the insurgency. Two Sunni coalitions won a total of 55 seats, far more than the 17 held by Sunnis in the outgoing parliament.

On Sunday, however, leading Sunni Arab politicians made clear they have conditions of their own, including moves away from sectarian divisions and curbs on Shiite-led government security services.

"We have `red lines' on some figures who harmed our people, and we will not allow anyone who participated in human rights violation to take any ministerial posts," Sunni politician Tariq al-Hashimi told reporters.

He appeared to be referring to Interior Minister Bayan Jabr, who is responsible for paramilitary police units accused of assassinating Sunni clerics and civilians as part of the battle against insurgents. Jabr has denied targeting innocent civilians.

Al-Hashimi said the new government must address Sunni Arab opposition to the new constitution, including provisions transforming Iraq into a federal state and purging members of Saddam Hussein's Baath party from government jobs.

But Iraq's most powerful Shiite politician, Abdul Aziz al-Hakim, has said the Shiites would oppose major concessions on some key Sunni demands.

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Also Sunday, a U.S. official said members of Saddam's ousted regime, including some in custody, may testify when the trial against the ex-leader and seven other defendants resumes Tuesday. The official did not identify the expected witnesses and briefed reporters on condition of anonymity due to security measures surrounding the trial.

Saddam and the others are charged in the 1982 massacre of more than 140 Shiites in Dujail following an assassination attempt against the former Iraqi leader. The official said the next session is expected to last three days.

Attacks In Iraq Jumped In 2005 Insurgents Widen Aim To Iraqi Forces (USAT)

By Rick Jervis

USA Today, January 23, 2006

BAGHDAD — The number of attacks against coalition troops, Iraqi security forces and civilians increased 29% last year, and insurgents are increasingly targeting Iraqis, the U.S. military says.

Insurgents launched 34,131 attacks last year, up from 26,496 the year before, according to U.S. military figures released Sunday.

Insurgents are widening their attacks to include the expanding Iraqi forces engaged in the fighting, said Brig. Gen. Donald Alston, a coalition spokesman.

He added, "It tells me the coalition and the Iraqi forces have been very aggressive in taking the fight to the enemy."

The number of trained and equipped Iraqi security forces has grown to 227,000. They outnumber U.S. forces in Iraq. They are often more exposed and are taking a more visible role in fighting the insurgency.

"They're easier targets," said Andrew Krepinevich, a counterinsurgency expert at the Center for Strategic and Budgetary Assessments, a Washington-based defense think tank.

In 2005, 2,713 Iraqi police and military were killed, according to the Brookings Institute, a Washington-based think tank. Similar numbers for 2004 were not available, and Iraq's government has not released comprehensive casualty numbers for Iraqi security forces. Thousands of Iraqi civilians have also been killed, but no precise tally is available.

U.S. forces have become more effective at protecting against attacks. In 2004, 714 U.S. troops were killed in action and 673 last year, despite the increase in attacks. The number of wounded dropped 26%, from 7,990 to 5,939 during the same period.

The U.S. military attributes that to an increase in effectiveness in protecting its forces against roadside bombs and other attacks. Maj. Gen. William Webster said recently that 10% of the attacks against U.S. forces cause casualties, down from about 25%-30% a year ago.

The new statistics show:

•The number of car bombs more than doubled to 873 last year from 420 the year before. The number of suicide car bombs went to 411 from 133.

• Sixty-seven attackers wore suicide vests last year, up from seven in 2004. Suicide and car bombs are often targeted at Iraqis, causing high casualties.

•Roadside bombs, or improvised explosive devices, as the military calls them, continue to be the most common weapon. Roadside bombs increased to 10,953 in 2005 from 5,607 the year before. Those numbers include roadside bombs that are discovered and defused. These bombs account for nearly one-third of all insurgent attacks.

Professionals Fleeing Iraq As Violence, Threats Persist (WP)

By Doug Struck

The Washington Post, January 23, 2006

BAGHDAD -- The office of Iraq's most eminent cardiologist is padlocked. A handwritten sign is taped on his wooden door in the private clinic in Baghdad: Patients of Dr. Omar Kubasi should call him in Amman, Jordan.

There, Kubasi, 63, spends his days sitting at a cafe with other physicians and professionals from Iraq. Frustrated, he watches from afar as the medical education system he helped set up during his 36-year career slowly disintegrates. His teaching doctors are fleeing the country in fear. Younger physicians are looking for other countries to train in. Even patients are leaving, no longer confident in the care they can get in Iraq.

"I think it's part of the plan for the country's destruction," Kubasi said by telephone. "The situation in the last six months has gotten so bad, we couldn't continue."

Kubasi left Baghdad in May after he and nine other doctors received letters, written in a childish hand, telling them they would be killed if they did not stop working in their native Iraq. He and his colleagues had been the objects of threats before, but the last carried a foreboding urgency, he said.

Iraq's top professionals -- doctors, lawyers, professors -- and businessmen have been targeted by shadowy political groups for kidnapping and ransom, as well as murder, some of them say. So many have fled the country that Iraq is in danger of losing the core of skilled people it needs most just as it is trying to build a newly independent society.

"It's creating a brain drain," said Amer Hassan Fayed, assistant dean of political science at Baghdad University. "We could end up with a society without knowledge. How can such a society make progress?"

Professionals and businessmen with the means to escape are going to Jordan, Syria, Egypt or, if they have visas, to Western countries. Those left behind say they feel abandoned.

Ahmed Meer Ali, a 27-year-old resident doctor, is left alone to man the private hospital where Kubasi's office is locked and shuttered. Most of the specialists who worked there, providing care to patients and guidance to Ali, have left.

"They are the ones with specialties from England or the U.S.A. They were the ones teaching me," he said. "Now, some patients even go to Iran to get care. In the past, no one in Iraq would go to Iran."

And many educated young Iraqis are hoping to follow.

"Of course I would leave if I could," said Ihana Nabil, 22, who will soon graduate from Baghdad University with a degree in political science. "There's no peace, no stability and no jobs here," she said. Other students at the campus, a temporary oasis in a violent city, agreed.

Exodus is not new to the country. Iraqis who could flee Saddam Hussein's repressive rule did: Poor Shiite Muslims sneaked across the border into Iran, and Sunni Arabs crossed the mountains into Syria or the desert to Jordan. People often waited years for permission to attend a seminar or do business in another country and then would disappear there. Hussein began holding such people's families hostage to guarantee their return.

Many of those émigrés flooded back into Iraq when Hussein fell. But the country's instability and daily regimen of violence have made some reconsider their return. Others who stayed throughout Hussein's rule are finally saying goodbye to their homeland now.

Numbers are impossible to document, partly because those who leave often tell passport officials they are going out of the country for a short visit. Often without telling friends or neighbors, they take a few things from their homes, lock the doors and vanish.

An official at the Interior Ministry's statistics office said the number of Iraqis traveling overland to Jordan held steady at about 200 to 250 a day from July 2004 to June 2005. Since last July, however, the number crossing the border -- excluding truckers and traders -- has ballooned to 1,100 a day, according to the official.

"They may come back if it's safe," Fayed said.

Or they may not. Since the fall of Hussein, kidnapping has mushroomed into a lucrative business. Even children are snatched, to be ransomed the same day for a few hundred dollars from their distraught parents.

Anyone displaying signs of wealth, often professionals and businessmen, are particular targets of kidnappers in search of high ransoms. However, payment is no guarantee a hostage will not simply be killed and dumped; some authorities claim dozens of bodies are found every day but never reported.

That danger is overlaid by the activities of an insurgency that aims to terrify the society by means of bombings, murder and abduction -- or threats. In addition, the death toll from sectarian violence among Sunnis, Shiites and Kurds has climbed steadily.

"Professors have been threatened. Doctors have been killed in their clinics. Killing has become common," Fayed said. "Some people believe this is intentional, to try to empty Iraq of its elite."

Kubasi, the former head of Iraq's military medical corps, believes that. In late April, his secretary handed him a letter written in what he called "bad Arabic" giving them all by May 6 -- 10 days -- to leave the country. He showed the letter to authorities, who suggested he had faked it. By May 8, Kubasi was in Jordan.

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His three sons and his daughter are all physicians. They could not risk staying, he said.

"Every day, we sit here, 10 or 12 of us, senior professionals, just discussing the situation," Kubasi said from Amman. "It's mental death to sit here. But even my patients say I should not come back. Really, really, I could not pay for a kidnapper's ransom. And in that case, you would be killed."

It frustrates him to watch the medical training system he helped create fall apart. "The circuit of teaching, training and care is being broken. It may not be recovered," he said.

"Our medical schools and doctors are known all over the Arab world. The teaching care was excellent, based on the British system. We were successful under Saddam Hussein to start our own postgraduate studies, including many medical specialties. Now they are ridding the country of all of this."

Um Mustafa and her husband, a businessman, had hoped to stay. But they abandoned that goal when thieves burst into their bedroom, held their young son in a headlock, with a gun to his head, and demanded that his parents hand over all their gold and jewelry.

"We didn't want to leave," said Um Mustafa, 27, who still fears attack and asked not to be fully identified. "We were a very happy family. Wealthy. My husband had a good job. We had money, a house, car and servants."

The men terrorized the family for more than two hours, threatening to kill or kidnap their 6-year-old son, while their 2-year-old cried. They beat Um Mustafa's husband, finally leaving when they were satisfied they had found all the jewelry, guns and money in the house. They left the couple bound with plastic handcuffs and locked in a room, saying they would burn the house as they left.

"Maybe God wanted to give us a new life," Um Mustafa said. "They didn't kill us."

She and her husband decided to move to Jordan. But they heard that Jordanian authorities, worried about the influx, were making life more difficult for Iraqis there. So they have bought tickets to Cairo instead.

"We don't know how we will live there. My husband will have to find a new job. I will go to work," she said. "Leaving the country was not an easy decision. Any time you start a new life, it's very difficult. But it will be better than staying here in a country were there is no safety anymore.

"I've been through four wars. I never, never felt like leaving before," Um Mustafa said. "Now, life in Iraq has become unsafe. I don't feel safe in my own bedroom -- or in the whole country."

Contractors Leaving Iraq (WT)

By Sharon Behn

The Washington Times, January 23, 2006

U.S. private contractors, until now the biggest private-sector employers in Iraq, are preparing to leave as U.S. money runs out and Iraqi ministries take charge of the reconstruction effort.

"We are drawing down," said Ken Oscar, Fluor Corp.'s vice president for strategy. "We are not done by any stretch of the imagination, but we are drawing down."

The engineering and construction giant at one time had 250 to 300 people from the United States in Iraq, and employed roughly 20,000 Iraqis.

Now, as the U.S.-funded part of the reconstruction effort comes to a close, Fluor has, perhaps, 100 Americans left in the country and is phasing out the Iraqi jobs.

"The net [result] is a lot less employment for Iraqis," Mr. Oscar said, even though much work remains to be done.

Most U.S.-funded projects are scheduled to be completed by the end of this year, and it is unlikely that any significant new U.S. funds will be forthcoming. Iraqi government ministries, which will be taking over responsibility for the reconstruction effort, tend to issue much smaller contracts that do not interest large U.S. companies.

"Congress has made it clear that it will not provide any more money," said retired Col. Paul Hughes of the United States Institute of Peace. "Those [companies] with existing contracts will fulfill those, while hoping for new funding sources from the international community."

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The World Bank said in 2003 that it would take $56 billion to rebuild Iraq's infrastructure. The United States appropriated $18.7 billion toward the effort, much of which has been allotted to specific projects.

The non-U.S. donor community pledged $13.5 billion to help restore Iraq, but few countries are willing to fulfill their pledges amid a raging insurgency and perceived political instability. About $1 billion of that money has been disbursed.

"It takes time to do these things," Mr. Oscar said. "We got rid of their bad government, put them on their way to democracy and jump-started their infrastructure. Can [the Iraqis] pick it up from there? I don't know."

About 3,500 megawatts of electricity have been put online at a cost of $4 billion, Mr. Oscar said, but much of the work has been stopgap, such as refurbishing older plants rather than building modern ones.

"When summer comes, there may be serious power shortages," he said.

Fluor's experience is typical of the large U.S. contractors in the country. They did as much as they could given the security situation -- which absorbed 20 percent of the $18.7 billion -- and the time has come to leave.

"We are not here to rebuild the country," said Brig. Gen. William McCoy, the Army Corps of Engineers commander overseeing the work. "We are here to give Iraq a jump-start."

Some contractors say privately that they do not want to deal with the Iraqi government and that, without the protection and support of the U.S. military, it is simply not safe to work in Iraq.

"The only ones left are the ones who want to work for the [Iraqi] ministries, and there are not many of those because they are so corrupt," said Charles D. Hartman, chairman of the construction and energy committee of the Turkish-U.S. Business Council.

"None of my people are there," said Mr. Hartman, who also consults for a large Turkish company. "None of the big construction groups are down there."

Just last week, fatal attacks were launched against U.S. and Iraqi personal security details in Baghdad and in the southern city of Basra.

Nine bodyguards escorting an engineer working for the Orascom cell-phone company were killed in an ambush in Baghdad on Wednesday, unable to protect their client, who was kidnapped, a physician at the scene told The Washington Times.

The same day, a convoy carrying U.S. civilian security personnel in Basra was hit by a roadside bomb, killing two passengers and seriously wounding a third, the U.S. Embassy reported.

Former Abu Ghraib Guard Calls Top Brass Culpable For Abuse (WP)

By Josh White

The Washington Post, January 23, 2006

Stepping into the Abu Ghraib prison for the first time, Megan Ambuhl was stunned. There were naked men in dusty cells, male prisoners wearing women's underwear, others hooded and shackled in contorted positions to metal railings.

An enlisted officer giving her a tour of the U.S. facility in October 2003 pointed to a group of detainees chained to a cell. He said the bars had often "been decorated like a Christmas tree," with prisoners as ornaments.

"He explained it was a military intelligence tactic," Ambuhl said in a recent interview, speaking publicly for the first time since the Abu Ghraib prison abuse was disclosed nearly two years ago. "He said it was to break the detainees that were being interrogated. It was clear it was a military intelligence facility. As I saw it, I thought that if they were doing it, it must be all right for them to be doing it."

One of the original seven military police soldiers singled out by the Pentagon for their roles in abusive techniques, Ambuhl is speaking out because she believes the truth has been obscured by high-ranking officials intent on covering up a policy of abuse. Though her defense differs little from the arguments made previously by the defendants' attorneys, Ambuhl's first-person description of the macabre world of Abu Ghraib provides a vivid perspective on how things went out of control at the prison outside of Baghdad, a place where there were few rules and little guidance. Her account also shows that some of the abusive tactics were in place when the MPs arrived at the prison.

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Ambuhl has since married one of her fellow MPs -- Charles A. Graner Jr., the man the military has labeled the ringleader of the abusers -- and is on a mission to secure his release from prison.

Now out of the Army, punished with a reduction in rank and a fine for dereliction of duty but no prison time, Ambuhl says the military's top brass have dodged responsibility for what was going on at the prison by scapegoating her and other low-ranking soldiers.

By the time of her tour in 2003, Ambuhl had been in the Army reserves for about a year. She realized she was walking into something she clearly did not understand. Her unit, the 372nd Military Police Company, had been trained to do combat support jobs, not detention. She was ordered to work the night shift and said she asked few questions because she did not know what questions to ask.

Ambuhl says she and other MPs used aggressive techniques against detainees because that is what military intelligence soldiers and civilian interrogators told her to do.

She described a "roster board" that included which military intelligence "treatment" to give to certain detainees and said trainers from the U.S. detention facility at Guantanamo Bay, Cuba, taught the MPs how to put detainees in "stress positions." She said military intelligence officials told them to keep detainees naked, embarrass them or make them exercise until they reached exhaustion.

"We were told to handcuff people in uncomfortable positions, to put people on [Meals Ready to Eat] boxes, to pour cold water on them, to make them do physical training," said Ambuhl, who worked the night shift on Tier 1B. "We did what we were told to do."

That defense has not worked well for several of the MPs charged with abuse, most notably Graner, who worked the night shift on Tier 1A, alongside Ambuhl. Graner is serving a 10-year sentence at Fort Leavenworth, Kan.

Ambuhl married Graner last April after his conviction, sending marriage documents to him to sign in prison. The Army has prevented them from meeting or even speaking, alleging that they are co-conspirators.

Ambuhl knows that many people consider him a monster but says that is because the military has done an effective job of painting him as a ringleader and because people do not know him.

"I love being around him," said Ambuhl, 31, of Centreville, who has taken Graner's last name. Their relationship developed while the two were marooned for months at a base in Baghdad after the abuse was discovered and after Graner's relationship with Lynndie R. England, another MP serving a prison sentence for abuse, had ended. "We understand each other. I put my life in his hands day in and day out, and there isn't anyone I'd rather trust with my life, knowing everything I know."

Now back in her job as a histology lab technician, Ambuhl is determined to tell the public her version of events to free Graner. She has built a Web site, which includes documents and discussion, at http://www.supportmpscapegoats.com , where she also has a petition on Graner's behalf.

Military officials "have been trying to conceal that it was a policy that spiraled out of control," Ambuhl said, a rare moment of anger rising in her voice. "They made us out to be the cause of every ill in Iraq."

Paul Boyce, an Army spokesman, said there have been more than 500 investigations into allegations of detainee mistreatment and that the Army is taking each allegation seriously.

"Thus far, allegations against more than 251 military members have been addressed in courts-martial, non-judicial punishment and other adverse administrative actions," Boyce said.

It was in early October 2003 that Ambuhl's unit made its way to Abu Ghraib from an assignment in Hilla, Iraq , where it conducted neighborhood searches for insurgents in what the military calls "law-and-order missions." Ambuhl, a Humvee driver in Hilla, said she received no training in dealing with enemy prisoners of war, was never specifically instructed about the Geneva Conventions and was presented with no standard operating procedures for the prison. In the middle of a war, a world away from Northern Virginia, Ambuhl did not question her superiors.

Ivan L. "Chip" Frederick II, who worked in the prison's higher security facility -- called the "hard site" -- and was also convicted of abusing prisoners, told investigators after his conviction that he, too, was shown the aggressive tactics on his first tour of the prison.

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"He didn't say anything about the detainees, how to treat them, etc., but when we went in 1A, I did see detainees handcuffed to the bars and naked," according to Frederick's sworn statement. "I asked him about it and he told me MI ran the section, they didn't want the detainees talking to one another and that was their punishment."

Ambuhl's unit arrived just weeks after Maj. Gen. Geoffrey D. Miller, then Guantanamo Bay's commander, made a visit to Iraq to help set up the Abu Ghraib operation. She said some of the tactics her unit employed -- such as stress positions, the use of dogs, and nudity -- came from teams Miller later sent over. Pentagon investigations have shown that such tactics were in use on high-value detainees held in Cuba almost a year earlier, but also determined that there was no policy of abuse.

Pentagon and Army officials have argued that the abuse at Abu Ghraib was isolated to a few individuals who decided to break the rules.

Ambuhl said some of the images seen in the photos depicted events that occurred every day.

"At the very least, there were a whole slew of people who knew about it," Ambuhl said. "These pictures were in no way hidden. We didn't sneak around pretending this wasn't going on."

Members of Other Government Agencies (OGA) -- a euphemism for the CIA -- were all over the hard site, keeping as many as 100 detainees there for interrogations. Once, two men with OGA had finished interrogating a detainee in a shower room and asked her to go get him.

"They said it would be funny if I burned him with my cigarette," Ambuhl said, adding that she tossed her cigarette before releasing the detainee, who was shackled to a window.

She said in hindsight she should have intervened.

"None of us were in the right frame of mind to get help for this situation," she said. "This was the norm. We didn't know any different. Maybe that's why they sent a combat support unit to do it. We wouldn't know how it was supposed to work, and we wouldn't question it.

"I wish I had done more to stop it," she said.

A Rebel Crack-Up? (TIME)

By tim mcGirk

Time, January 23, 2006

Even by the standards of al-Qaeda in Iraq, the suicide bombing in Ramadi on Jan. 5 was stunning for its audacity. The bomber had blended into the ranks of Iraqi police recruits outside the Ramadi Glass and Ceramics Works before blowing up his explosive vest, loaded with ball bearings for maximum devastation. The blast killed two U.S. service members and more than 70 Iraqi police recruits--but it also turned out to be a deadly miscalculation by the jihadis and their leader, Abu Mousab al-Zarqawi. Most of the victims were local Sunnis, and they were joining the police force under the protection of tribal chieftains who, with the U.S. military's approval, are trying to impose order over their violent swath of Iraq. After the Jan. 5 blast, according to insurgents, tribal chiefs in Ramadi notified al-Qaeda that they were withdrawing protection in the city for the group's fighters. The jihadis responded by gunning down several prominent Sunni clerics and tribal leaders. Now al-Qaeda fighters who once swaggered through Ramadi are marked men. "It's war," says an Iraqi intelligence officer with contacts among the insurgents.

For months, U.S. officials in Iraq have tried to exploit growing differences over tactics and aims among factions of the insurgency, a push first detailed by TIME in December. Although reports of clashes between Iraqi nationalist groups and religious extremists linked to al-Qaeda remain difficult to quantify, there are signs that at least in some parts of Iraq, the tension is boiling over. Iraqi security sources with contacts in the insurgency told TIME that fighting has erupted in several cities that have long been bastions of the resistance, including Fallujah, Samarra, Latifiya and Mahmoudiya. In one recent incident, according to an Iraqi security source, insurgents wounded a Palestinian member of al-Qaeda, tracked him to a Baghdad hospital and then kidnapped him from his bed and handed him over to U.S. forces. Some Pentagon decision makers believe that the feuding within the insurgency may help U.S. and Iraqi troops quell the terrorist attacks that have made parts of the country ungovernable. "We're starting to see a little bit more every day," says Army Lieut. General Ray Odierno, assistant to the Chairman of the Joint Chiefs of Staff. In places like Ramadi and Fallujah, Odierno says, "we've had some Iraqi insurgents' groups actually put up defenses to protect their people against al-Qaeda forces."

What's behind the rift? Even though some Iraqi insurgent groups have cooperated with jihadist fighters to battle U.S. troops, insurgent leaders say they have grown sick of al-Qaeda's killing innocent Iraqi Shi'ites, whom al-Zarqawi considers infidels. Cracks in al-Qaeda's alliance with the Iraqi groups became more pronounced after the Dec. 15 election. Al-Zarqawi saw the poll as a detour from his goal of turning Iraq into a base from which al-Qaeda could spread terrorism throughout the Middle East and Europe. Many Sunni resistance groups have a narrower focus: ridding Iraq of all occupation forces--U.S. troops and the pro-Iranian militias that slipped across the border. Sunni politicians managed to convince some key rebel groups that unless the Sunni minority voted, the elections would enhance the power of Kurdish and religious Shi'ite parties, some of which have ties to Iran. (Election results released last week showed that Sunni Arab parties will hold 55 seats in the new parliament, up from 17 in the previous one.) Abu Noor al-Iraqi, a leader of the Unified Leadership of Mujahedin, a new amalgam of four nationalist guerrilla outfits, tells TIME that "when al-Zarqawi's group threatened to attack the polling centers, we stood against them."

Since then, the fissures between the nationalists and al-Zarqawi have widened. U.S. political and military officers persuaded some Sunni tribal chiefs to send their youths into the security forces to ensure that Sunnisnot Shi'ite outsiders--would command their cities' police. But in recent meetings with various insurgent groups, says a nationalist field commander near Ramadi, al-Zarqawi's lieutenants made it clear that any Iraqi who joined the security forces was considered the enemy, thus drawing a battle line between the jihadis and their former comrades. In Latifiya, outside Baghdad, al-Zarqawi's fighters pressed Sunnis to desert a mixed Sunni-Shi'ite battalion under U.S. command. When the Sunnis refused, al-Qaeda shelled the camp with mortars. Local insurgents responded by hunting down al-Qaeda's chief for southern Baghdad and killing him and four Syrian fighters.

Al-Zarqawi's men, though, have shown few signs of backing down. In Latifiya last week, al-Qaeda fighters captured and murdered five members of the nationalist Islamic Army in Iraq and assassinated a Sunni colonel. After the backlash in Ramadi, al-Zarqawi's men supposedly retreated into the rocky western deserts but have continued to target local leaders. A senior security officer says jihadist fighters followed a Ramadi chieftain from the powerful Dulaimi tribe into Baghdad on Wednesday; handcuffed him, a nephew and a senior security officer for the western provinces; and executed each of them with a bullet through the head. In Samarra members of the Alboubaz tribe killed four foreign fighters and drove out 11 others after the assassination of a local police chief. After the tribesmen urged Sunni youths to join the local police, al-Zarqawi got his revenge. The instructors weren't going to make the same mistake they had made in Ramadi by allowing recruits to become an easy target for a suicide bomber, so they had them sign up in Baghdad. But al-Zarqawi's men were tipped off. Al-Qaeda ambushed the Sunnis' bus on the road and kidnapped the recruits. Their bodies have yet to be found.

Such clashes don't spell the end of the insurgency. U.S. officials believe that even if terrorist attacks subsided, many Sunni insurgents would continue attacking U.S. and Iraqi forces if they felt their interests were being shortchanged by a Shi'ite-led government in Baghdad. U.S. Senator Jack Reed, who was briefed on the insurgency during a visit to Iraq earlier this month, cautions against giddiness at reports of a backlash against al-Qaeda. "The center of mass of the insurgency is not the foreign terrorists," the Rhode Island Democrat told TIME. "They're a small band able to create spectacular attacks. But the real long-term danger is the Sunnis continuing to fight." The U.S. is still a long way from persuading them to stop.

Baghdad's Big Oil Bust (NSWK)

By Scott Johnson And Michael Hastings

Newsweek, January 23, 2006

Guarding the Fatah oil refinery used to be a pretty straightforward job for Saif Mohammed. Insurgents hit only sporadically, and usually missed important targets. But by early last year, attackers were using rocket-propelled grenades, mortars and heavy machine guns in brazen daylight assaults. They seemed to know about everything and everybody in the refinery. Ambushes were common. "We were afraid to even take vacation and go home," says 26-year-old Mohammed. "The people who worked with us used to tip off the fighters. They wanted to play both sides—to keep their jobs and be informants for the terrorists."

When insurgents killed the man Mohammed shared guard duty with last April, then threatened Mohammed with the same, he quit. In the past year, there have been close to 20 large-scale assaults on Fatah, part of Iraq's largest oil-production complex in Bayji. Last month the Bayji site shut down completely for two weeks. It re-opened with the New Year, but three days later

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insurgents pinned down a 60-truck fuel convoy in an hourlong gun battle. Across the country, there's a major attack on oil facilities about once every three days. December was the third month in a row that Iraqi oil production went down, and it marked the lowest level of exports since the invasion. At a time when global supplies are stretched to their limits, the Iraqi oil bust helps keep world prices near record highs. But most of all, it's a disaster for efforts to get the country back on its feet.

Only three years ago, before the United States led the invasion of Iraq, the Bush administration dreamed of liberating the country on the cheap. Billions in untapped oil reserves were going to pay for reconstruction and nation-building. But hundreds of billions of American tax dollars later, Iraq's oil still isn't flowing at prewar levels. And in a country where 90 percent of the government's $35 billon in revenues comes from petroleum, the old promise has come to seem a curse. "Some people wish we didn't have all this oil," says National Assembly Speaker Hajim al-Hassani, "because it has brought us all these problems."

What happened? There's certainly no question that the Bush administration, heavily peopled with veterans of the oil industry, focused on the importance of petroleum to Iraq's economy. Even as the rest of Baghdad was opened up to looters in April 2003, the Ministry of Oil was secured by U.S. troops. But no force was put in place to protect the pumps and pipes. In August 2003, the Americans awarded $40 million to a private security firm for the training of 5,500 Iraqis. But the program was quickly terminated as too expensive, say U.S. officials. Then the American military took responsibility for the Oil Protection Force, but guards were never deployed to cover 4,350 miles of pipeline. Finally, last summer, a new 4,000-man unit called the Strategic Infrastructure Battalions started training. But the SIBs quickly fell into bureaucratic cracks. "The ministers have had the hardest time figuring out who the SIBs even work for," says Brig. Gen. William H. McCoy, commander of the Army Corps of Engineers in Baghdad.

Washington has allocated $1.7 billion to finance oil projects across the country, but only $77 million worth of reconstruction has been completed. Oil Minister Ibrahim Mohammed Bahar al-Aloum says U.S confusion and incompetence has kept the work tangled in red tape. "Most of these projects were supposed to be done last year," Bahar al-Aloum told NEWSWEEK. "If U.S. money had been made available, Iraqis could have done the job faster." Yet the United States has signaled it no longer wants to be the principal donor. Other foreign investors are biding their time, hoping some sort of peace can be restored. For workers worried about ambushes, such notions seem lost in a distant future.

U.S. Army Officer Convicted In Death Of Iraqi Detainee (WP)

By Josh White

The Washington Post, January 23, 2006

An Army interrogator who stuffed an uncooperative Iraqi general into a sleeping bag during questioning in northern Iraq in 2003 was convicted of negligent homicide and negligent dereliction of duty late Saturday after a military jury in Colorado decided the general's death was not murder.

Chief Warrant Officer Lewis E. Welshofer Jr., 43, was on trial for allegedly killing Iraqi Maj. Gen. Abed Hamed Mowhoush, a high-ranking Saddam Hussein loyalist who was believed to have been fueling the Iraqi insurgency in the Qaim area near the Syrian border. Mowhoush died while bound in the Army sleeping bag, which was part of an aggressive interrogation tactic aimed at getting the general to talk.

During his week-long court-martial in Colorado Springs, Welshofer testified that he used the sleeping bag after other attempts to elicit information from Mowhoush failed, and that he believed the "claustrophobic" technique had been approved by his commanders as a "stress position," according to reports by the Associated Press and trial observers with Human Rights First.

Welshofer's supervisor, Army Maj. Jessica Voss, testified that she approved the use of the sleeping bag but was unaware that Welshofer would bind the general with a cord or straddle his chest while questioning him.

Mowhoush, who the Army believed had met with Hussein after the United States invaded Iraq and who had allegedly financed insurgent attacks, was a huge catch for U.S. troops in November 2003. But he proved to be very stubborn, and several attempts over two weeks of interrogations at a facility known as the "Blacksmith Hotel" yielded little information.

According to court testimony and classified accounts of his treatment obtained by The Washington Post, Mowhoush was subjected to harsh beatings by a secret group of Iraqi paramilitaries, code-named Scorpions, who worked with the CIA. One witness who testified behind a curtain during Welshofer's trial was accidentally identified as having worked with the CIA, and

witnesses also described how Mowhoush was beaten so badly by the Iraqi natives that he had a hard time breathing and could not walk on his own.

The case not only exposed the secret CIA group but also revealed how U.S. officials were giving unclear guidance regarding interrogation methods during a frustrating part of the war, including at least one message from Baghdad telling interrogators that the "gloves are coming off" and asking for interrogation-technique wish lists. The sleeping-bag technique was one Welshofer wanted to use and for which he sought approval.

"What he was doing he was doing in the open, and he was doing it because he believed the information in fact would save lives," said Frank Spinner, Welshofer's civilian defense attorney, according to the AP. Spinner added that he was disappointed with the verdict. "The verdict recognizes the context in which these events took place. It was a very difficult time in Iraq. There was confusion, and they were not getting clear guidance from headquarters."

David Danzig, manager of Human Rights First's "End Torture Now" campaign and a trial observer, wrote in a daily court-martial blog that Welshofer was trying to sort out guidance from superiors in Baghdad while coming up with interrogation tactics that went beyond outdated Cold War thinking.

"They recognized that what we practiced in the schoolhouse was not working," Danzig quoted Welshofer's testimony. "They were looking for ideas outside the box."

That Welshofer was spared a murder conviction -- and a potential life sentence -- indicates that the jury believed Welshofer did not try kill Mowhoush, but that he should have known the tactic he used could lead to death. Mowhoush stopped breathing during the interrogation, and attempts to revive him failed. The negligent-homicide conviction could result in a maximum three-year prison sentence, and the negligent-dereliction-of-duty conviction an additional three months. Sentencing hearings are to begin today.

Maj. Tiernan Dolan, who prosecuted the case, said that the treatment Welshofer imposed on Mowhoush "could fairly be described as torture" and that he "treated that general worse than you would treat a dog," knowing that he had an obligation to treat the detainee humanely, the AP reported.

Chief Warrant Officer Jefferson L. Williams, an intelligence analyst, and Spec. Jerry L. Loper, a guard, had murder charges against them dropped and received immunity to testify against Welshofer. A fourth soldier, Sgt. 1st Class William Sommer, also had a murder charge dropped and faces possible administrative punishment. All three were present during the interrogation that led to Mowhoush's death.

Interrogator Convicted In Iraqi's Death (LAT)

By Nicholas Riccardi, Times Staff Writer

The Los Angeles Times, January 22, 2006

FT. CARSON, Colo. — A military jury late Saturday convicted an Army interrogator of negligent homicide in the death of an Iraqi general who had been stuffed face-first into a sleeping bag.

After seven hours of deliberations, the six-officer panel found Chief Warrant Officer Lewis E. Welshofer Jr. guilty of the charge, which carries a maximum sentence of three years in military prison. Had he been convicted of murder, he could have been given a life sentence.

The panel also found Welshofer guilty of dereliction of duty.

Welshofer, 43, is the highest-ranking officer tried on murder charges in a case of detainee abuse in the Bush administration's war on terrorism, human rights monitors say.

Welshofer stood mute in his dark-green uniform as he listened to the verdict, swallowing silently.

Prosecutors left the courtroom without commenting, forbidden from talking to reporters by their superiors. Defense attorney Frank Spinner said: "I think the verdict recognizes the context in which these events took place. It was a very difficult time in Iraq."

The verdict in the court-martial came hours after Spinner contended that the interrogator had been heeding an August 2003 e-mail from the office of the U.S. commander in Iraq.

The e-mail cited by the defense, from Capt. William Ponce, said: "The gloves are coming off, gentlemen…. We want these individuals broken. Casualties are mounting."

In a reply to the e-mail, Welshofer wrote that the military needed to loosen its standards, which he said were more useful during World War II. "Today's enemies, especially in southwest Asia, understand force, not … mind games."

Welshofer was rebuked for suggesting violations of the Geneva Convention. But two weeks later, a Sept. 10 memo from the top commander in Iraq authorized several new interrogation techniques, including one that Welshofer says gave him permission to stuff Maj. Gen. Abed Hamed Mowhoush into the sleeping bag, bind him with an electrical cord, straddle his chest and occasionally cover his mouth.

Mowhoush, 57, who had been brutally beaten two days earlier — allegedly by CIA contractors — died in the bag, in a prison in the Iraqi border town of Qaim. The prosecution contended he suffocated; the defense argued he died of a heart attack.

"An interrogator's job, when you're told to take the gloves off and you have techniques called 'Fear Up, Harsh' … is to make the detainee uncomfortable," said Spinner, referring to techniques detailed in the Sept. 10 memo. "Your job is to put [the detainee] under stress."

That does not mean jettisoning decades of standards, countered the lead prosecutor, Maj. Tiernan Dolan. "This case … has been about our officer corps' need to maintain the high ground, especially in a country like Iraq, where our presence may be resented," he told the military panel. "If we can't set an example under harsh circumstances, we'll no longer be who we are."

Saturday's closing arguments encapsulated a debate since the Sept. 11 attacks over how to treat an enemy that does not follow the regular rules of war.

Mowhoush, once a confidant of Saddam Hussein, allegedly was leading the growing insurgency in western Iraq when he surrendered to U.S. forces in November 2003.

Shadowing the closing arguments was the CIA's role in Mowhoush's interrogations.

Welshofer had interrogated the general several times, once slapping him in the chest, before the interviews turned markedly more violent, according to witnesses at the trial. Iraqi nationals apparently in the employ of the CIA entered the interrogation room Nov. 24 and beat Mowhoush for 30 minutes with rubber hoses and insulation.

Welshofer said he did not control that session, but other witnesses testified that he seemed to be directing the questioning. Mowhoush had to be carried back to his cell.

The next day, Welshofer's team took Mowhoush to the prison roof and pinned him down while the lead interrogator poured water on his face, according to multiple witnesses. Welshofer and another interrogator also repeatedly hit the general's elbows — an action Welshofer has characterized as more like tapping, saying it was intended to be an annoyance.

That night, according to a witness who testified from behind a green tarp, Welshofer talked about the latest regulations from Lt. Gen. Ricardo Sanchez, then U.S. commander in Baghdad. The witness, whom an attorney inadvertently implied worked for the CIA, said that Welshofer said "he was pretty sure they were breaking those rules every day."

The next morning, Mowhoush was stuffed into the sleeping bag, and soon died.

Though court rules forbade anyone from naming the CIA during the trial, Spinner questioned why "civilian interrogators" who presided over a beating were not being prosecuted. "How is it that this … witness is so concerned about the Army applying their rules when we know his own organization was so flagrantly violating the rules?" Spinner said.

Spinner also scoffed at criticism of his client's tactics.

"We're putting interrogators on the front line, and even as people are dying, we are saying, 'Get that info,' " Spinner said, but " 'if there are gray areas, back off; take the easy right [action].' And so what if a few more U.S. soldiers die?"

Dolan replied that the urgency of the situation in Iraq did not give Welshofer permission to violate the law. "Because the need for intelligence was so great and soldiers are dying, we should abandon our values?" he asked rhetorically. "That ain't the law and that isn't what makes us what we are. We're a nation of laws."

The sleeping-bag technique had been approved by Welshofer's supervisor, but he said he had not told her that he sat on detainees' chests or occasionally covered their mouths to prevent them from talking over his questions.

He said he'd used the technique a dozen to two dozen times in Iraq.

Dolan said the fact that Welshofer had not told his supervisor all of the details of the sleeping-bag technique showed he had been trying to conceal illegal behavior. The prosecutor called the method "the most dangerous technique in [Welshofer's] bag of unauthorized tricks and techniques."

Dolan emphasized the testimony of two witnesses that the general had stilled for several minutes with Welshofer straddling him, and that Welshofer then stood. The witnesses said that the general gasped as if he had been drowning and that Welshofer expressed relief that he had not died, then flipped him over and sat on his back.

Welshofer denied their account.

The judge, Col. Mark Toole, instructed the jury that even if Welshofer believed the sleeping-bag technique was permitted, that did not clear him of criminal responsibility.

"Authority to use certain interrogation techniques does not justify or make lawful a death," he said. "The killing of a detainee during interrogation is never justified."

David Danziger of Human Rights First, a New York-based group that observed the trial, said the case demonstrated broader problems. "I think it's shocking what Chief Welshofer did, and I think it's shocking what was authorized," he said. "The Army, Sanchez and others opened the door to these abuses by putting out guidance that changed a lot, was unclear and didn't serve the soldiers in the field."

Welshofer's sentencing is expected Monday.

Army Interrogator Is Convicted Of Negligent Homicide (NYT)

By Eric Schmitt

The New York Times, January 23, 2006

WASHINGTON, Jan. 22 - A senior Army interrogator was convicted late Saturday of negligent homicide in the death of an Iraqi general after he shoved the general head-first into a sleeping bag, sat on his chest and put his hands over his mouth.

A six-officer jury at Fort Carson, Colo., found the interrogator, Chief Warrant Officer Lewis E. Welshofer Jr., guilty of the charge, which carries a maximum sentence of three years in a military prison. He was also found guilty of negligent dereliction of duty. He was acquitted of murder and assault charges. Sentencing is scheduled for Monday.

Army prosecutors contended that Mr. Welshofer, 43, a chief interrogator with the Third Armored Cavalry Regiment in Qaim, Iraq, suffocated Maj. Gen. Abed Hamed Mowhoush after wrapping him in the sleeping bag and sitting on him during an interrogation session on Nov. 26, 2003. Prosecutors said Mr. Welshofer knew his interrogation techniques were potentially lethal and against Army standards.

Defense lawyers countered that Mr. Welshofer, a 19-year Army veteran, did nothing illegal and was using a technique that his commander had approved for use on uncooperative prisoners. They also said that General Mowhoush, 57, whom the lawyers said weighed more than 250 pounds, died from an irregular heart rhythm caused by heart disease and stress.

The widely publicized incident has drawn attention from human rights groups as one of the worst instances of abuse against detainees in American custody in Iraq, and because General Mowhoush had been beaten shortly before his death by a team that included one or more C.I.A. contract workers.

The case also underscores the confusion among military interrogators and their superiors over the use of aggressive interrogation techniques in the summer and fall of 2003, when the insurgency in Iraq was rapidly gaining momentum and ferocity, and top Pentagon officials and commanders in Iraq were demanding better intelligence with which to attack the militants.

Testimony at Mr. Welshofer's court-martial last week confirmed that a team of Iraqis had beaten the general two days before he died, but the C.I.A.'s involvement remained largely unaddressed.

At one point, a defense lawyer, Frank Spinner, questioned a witness whose identity was so secret that he was shielded from reporters and others in the courtroom by a green tarp suspended from the ceiling, The Associated Press reported. The witness said that when he spoke to Mr. Welshofer on the day before General Mowhoush died, he was alarmed when Mr. Welshofer told him he thought the Army's interrogation guidelines were being broken every day.

"And you didn't report it to the C.I.A.?" Mr. Spinner asked. He then stopped himself and quickly apologized to the judge.

Mr. Welshofer and his lawyers argued that the Army had provided no guidance for authorized and unauthorized techniques. "It was not clear on what we were to do," Mr. Welshofer testified last Thursday, The Rocky Mountain News reported.

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Mr. Welshofer said he received an e-mail message from his unit's commanders saying that there were no rules for interrogations yet, and that top officers were "tired of taking casualties and that the gloves were coming off." He said he never received memorandums from Sept. 14 and Oct. 12, which first authorized the use of "stress positions" but called for the prior approval of Lt. Gen. Ricardo S. Sanchez, the top general in Iraq at the time.

As a result, Mr. Welshofer said he escalated his tactics over the course of several interviews to frighten the general, who was providing little useful information. Mr. Welshofer and another interrogator designed the sleeping bag technique as a last resort, believing it would create a claustrophobic effect on a prisoner, Mr. Spinner said in a telephone interview on Sunday. A small hole was cut in the bottom of the sleeping bag to allow the detainee to breathe.

General Mowhoush was considered a prized intelligence prospect. He had been commander of air defenses in western Iraq under Saddam Hussein, and military intelligence officials believed he was a suspected leader and financier of the insurgency there, providing money and housing for fighters coming in from Syria. General Mowhoush had surrendered to military authorities two weeks before his death, saying he wanted to secure the release of his four sons in American custody.

But the military prosecutor, Maj. Tiernan Dolan, said Mr. Welshofer abused General Mowhoush, treating him "worse than you would treat a dog," The A.P. reported.

An Army spokesman, Paul Boyce, said in an e-mail message on Sunday that more than 500 investigations had examined allegations of detainee mistreatment. Thus far, he said, allegations against at least 251 military members have been addressed in courts-martial, nonjudicial punishment and other administrative penalties.

Workers Allege Halliburton Knew Their Water Was Foul (WP)

By Larry Margasak

The Washington Post, January 23, 2006

Troops and civilians at a U.S. military base in Iraq were exposed to contaminated water last year, and employees for the responsible contractor, Halliburton Co., could not get their company to inform camp residents, according to interviews and internal company documents.

Halliburton, the company formerly headed by Vice President Cheney, disputes the allegations about water problems at Camp Junction City, in Ramadi, even though they were made by its own employees and documented in company e-mails.

"We exposed a base camp population (military and civilian) to a water source that was not treated," said a July 15, 2005, memo written by William Granger, the official for Halliburton's KBR subsidiary who was in charge of water quality in Iraq and Kuwait.

"The level of contamination was roughly 2x the normal contamination of untreated water from the Euphrates River," Granger wrote in one of several documents. The Associated Press obtained the documents from Senate Democrats who are holding a public inquiry into the allegations today.

Sen. Byron L. Dorgan (D-N.D.), who is scheduled to chair the session, held a number of similar inquiries last year on contracting abuses in Iraq. He said Democrats were acting on their own because they had not been able to persuade Republican committee chairmen to investigate.

Ben Carter, Halliburton's former water-treatment expert at Camp Junction City, said he discovered the problem last March, a statement confirmed by his e-mail the day after he tested the water. Though bottled water was available for drinking, the contaminated water was used for virtually everything else, including handwashing, laundry, bathing and making coffee, Carter said.

Another former Halliburton employee who worked at the base, Ken May of Louisville, said there were numerous instances of diarrhea and stomach cramps.

A spokeswoman for Halliburton said its own inspection found neither contaminated water nor medical evidence to substantiate reports of illnesses at the base.

The company now operates its own water-treatment plant there, spokeswoman Melissa Norcross said.

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A military medical unit that visited Camp Ramadi in mid-April found nothing out of the ordinary in terms of water quality, said Marine Corps Maj. Tim Keefe, a military spokesman. Water-quality testing records from May 23 show the water within normal parameters, he said. "The allegations appear not to have merit," Keefe said.

Granger's July 15 memo said the exposure had gone on for "possibly a year" and added, "I am not sure if any attempt to notify the exposed population was ever made."

The first memo on the problem -- written by Carter to Halliburton officials on March 24, 2005 -- was an "incident report" from tests Carter performed the previous day.

"It is my opinion that the water source is without question contaminated with numerous micro-organisms, including Coliform bacteria," Carter wrote. "There is little doubt that raw sewage is routinely dumped upstream of intake much less than the required 2 mile distance.

"Therefore, it is my conclusion that chlorination of our water tanks while certainly beneficial is not sufficient protection from parasitic exposure."

Carter said he resigned in early April after Halliburton officials did not take any action to inform the camp population.

The water expert said he told company officials at the base that they would have to notify the military. "They told me it was none of my concern and to keep my mouth shut," he said.

On at least one occasion, Carter said, he spoke to the chief military surgeon at the base, asking him whether he was aware of stomach problems afflicting people. He said the surgeon told him he would look into it.

"They brushed it under the carpet," Carter said. "I told everyone, 'Don't take showers; use bottled water.' "

A July 14, 2005, memo showed that Halliburton's public relations department knew of the problem.

"I don't want to turn it into a big issue right now," staff member Jennifer Dellinger wrote in the memo, "but if we end up getting some media calls I want to make sure we have all the facts so we are ready to respond."

Hussein's Trial Is Set To Resume, But Who Will Preside? (NYT)

By Robert F. Worth

The New York Times, January 23, 2006

BAGHDAD, Iraq, Jan. 22 - Two days before the trial of Saddam Hussein is set to resume after a month's recess, confusion surrounds the tribunal that is trying him, with the identity of the judge who will preside in court still uncertain.

The judge who has become the trial's most public face, Rizgar Muhammad Amin, submitted a letter of resignation this month, saying he was fed up with criticism by high-ranking Iraqi officials who wanted him to be tougher with Mr. Hussein. A colleague on the five-judge panel, Said al-Hammash, is prepared to replace Judge Amin if he does not return Tuesday.

But in recent days President Jalal Talabani and other Iraqi leaders, apparently eager to dispel the widespread impression that Judge Amin was forced off the case through political pressure, have urged him to stay on. The tribunal has not accepted Judge Amin's resignation. An American official who is close to the tribunal said Sunday that he did not know which judge would be presiding.

"We'll know for sure on Tuesday morning at about 10 o'clock," said the official, who spoke on condition of anonymity in an effort to avoid the appearance of interfering in the tribunal's decisions.

Judge Amin's potential successor is facing troubles of his own. Last week, a senior Iraqi official petitioned the court to bar Judge Hammash from presiding at the trial, saying the judge was a former member of Mr. Hussein's Baath Party. The official, Ali Feisal al-Lami, is a director of the de-Baathification commission, set up to purge former high-level Baathists from public office. Judge Hammash has denied that he was a Baathist.

The office of Prime Minister Ibrahim al-Jaafari has told the tribunal to ignore Mr. Lami's petition, saying he has no authority over the judges. But one tribunal official said he believed that to avoid controversy, the body might choose to pass over Judge Hammash even if Judge Amin resigns. The official spoke on condition of anonymity, saying he was not authorized to speak publicly.

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The judicial disputes have threatened to bring further disarray to a trial that has already seen its share of chaos. Some judges on the tribunal say they fear that Mr. Hussein and his fellow defendants, who have unleashed repeated broadsides against the tribunal, will pick up on the questions surrounding Judge Amin's resignation and stir further conflict.

The trial, which started on Oct. 19, will resume with more testimony from witnesses to the massacre of 148 men and boys in the Shiite town of Dujail, north of Baghdad, in 1982 after an assassination attempt there against Mr. Hussein. Former members of Mr. Hussein's government could be among those who are called to testify in the next two weeks, the American official said.

The current phase of the trial, the first of several expected cases against Mr. Hussein and other top officials in his government, is likely to last at least until the end of May, the official said.

As Iraqi parties positioned themselves on Sunday after the release of election results, Tariq al-Hashemi, a leader of Iraq's largest Sunni Arab political coalition, said Sunni Arabs would not accept the inclusion in a new government of any official who was involved in violence against Sunnis by the Shiite-led security forces. The warning appeared to be aimed at Bayan Jabr, the current interior minister, who is widely believed by Sunnis to have orchestrated death squads that have carried out killings.

Mr. Hashemi's coalition, the Iraqi Consensus Front, won 44 of the new Parliament's 275 seats in the December elections, and is expected to be part of a government with the Shiite and Kurdish alliances. But at a news conference on Sunday, Mr. Hashemi also said the group's leaders would consult with party members before deciding whether to be part of a government or the opposition.

Insurgent violence left at least a dozen people dead across Iraq on Sunday. In Baquba, the bodies of five policemen, some mutilated, were left outside a hospital, police officials said. In Balad Ruz, northeast of Baghdad, insurgents fired rocket-propelled grenades at the home of a police officer, killing five of his relatives but leaving the officer unharmed, the police said.

North of Baghdad in Hawija, the bodies of a prominent Sunni Arab tribal leader and his son were found shot to death with their hands bound. The leader, Ibrahim Ali al-Neami, 75, and his 28 year-old son, Ziad, were last seen Saturday leaving their home south of Kirkuk for a funeral in Hawija, the police said.

The last of three Reuters journalists who had been detained by the American military in Iraq was freed Sunday after nearly eight months without being charged, the agency reported. Samir Muhammad Noor, a 30 year-old cameraman, was arrested in June. Two other Reuters journalists, also Iraqis, were released Jan. 15, also without being charged.

After Bode Miller's Downhill Turn, Two Weeks On The Lift (WP)

By Howard Kurtz

The Washington Post, January 23, 2006

Bad-boy behavior pays off, big time.

Skiing star Bode Miller goes on "60 Minutes," shoots off his mouth about getting drunk before a big competition, rips the CBS program for airing his remarks, holds a news conference to apologize and winds up on the cover of Time and Newsweek. Not exactly a downhill trajectory.

Journalists can't resist a troublemaking athlete who produces a blizzard of controversy instead of the usual sports cliches. And in the media world, doing bad things only fuels your celebrity, as Martha Stewart's post-jail television and radio gigs make clear.

"Skiing's Wild Child," declared Time. "Fast, loose and seemingly out of control," with "a smirking disrespect for the media," gushed Newsweek. In the run-up to the Olympics, it was Miller Time.

The storm began days before the Jan. 8 edition of "60 Minutes," with a CBS press release headlined "Bode Miller on Skiing Drunk." Miller told Bob Simon about his Saturday night drinking, saying: "There's been times when I've been in really tough shape at the top of the course" and that it's hard to ski "when you're wasted." It was presented as a light moment, but there was no missing the potential for a media avalanche.

While some sportswriters dismissed this as less than shocking, Ron Judd wrote in the Seattle Times: "Miller's confession to skiing drunk was highly uncouth, and it makes you want to slap the guy upside the head." Ray Grass wondered in Salt Lake City's Deseret Morning News: "Tell me, please, why anyone would go before millions of viewers and brag about being 'wasted' in the starting gate?"

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Maybe because all publicity is good publicity?

Miller's agent, Lowell Taub, complained about an "out-of-context and salacious headline involving drunkenness." Miller, in his Denver Post blog, called "60 Minutes" "probably the most reputable and prestigious news program in the U.S., and I told them the story to test their integrity. . . . If they were interested in doing the right thing, or doing what they should be doing in terms of painting a role model for kids, they would have left that stuff out."

Say wha' ? Miller says on camera that he skis impaired to see whether television's oldest newsmagazine would protect him by cutting it out?

In any event, the head of U.S. skiing was not amused, calling Miller's comments "unacceptable" and "irresponsible." Under pressure, Miller summoned journalists in Switzerland and apologized to his friends, family and supporters.

"I don't need the media," Miller boasted to Newsweek, but he's too smart to believe that he could have amassed millions of dollars without all the journalistic adulation.

There was a time when an athlete's reputation might have been marred by such frank talk about drinking and hangovers, but that now seems very 20th century. Miller already has a Sirius satellite radio show and the kind of swaggering image that money can't buy. If he misbehaves at the Olympics, he'll probably get his own cable show.Thumbs Down

Fred Barnes, executive editor of the Weekly Standard, is pretty conservative. And his forthcoming book, "Rebel-in-Chief: Inside the Bold and Controversial Presidency of George W. Bush," sounds like it would appeal to the right. But the Conservative Book Club has not only declined to offer the Barnes volume, it has also attacked the book.

"Rebel-in-Chief" is filled with "empty puffery," writes book club Editor-in-Chief Jeffrey Rubin. Barnes is too favorable toward "all those things that Bush does to drive traditional conservatives to despair" in a way that "call[s] into question his own understanding of conservatism. . . . Fred Barnes isn't doing the president -- or the country -- any favors by celebrating his worst political tendencies."

Barnes says he doesn't believe that an unsuccessful bid for his book by Regnery Publishing, owned by the book club's parent company, was a factor in the slam. "I guess they don't like Bush, or me, either," he says of the club. "But going out of the way to say 'don't read this book' is a bit unusual."Explosive Story

In reporting last week that the FBI was making progress in identifying the origins of homemade bombs used against Americans in Iraq, CBS News agreed to withhold some details at the bureau's request.

Rome Hartman, executive producer of the "CBS Evening News," says CBS News President Sean McManus and correspondent Jim Stewart spoke with FBI officials who "made the case that putting in certain details might in their view jeopardize American lives. They felt very strongly about it."

During a "very spirited" internal debate, Hartman says, the FBI's case "felt to me, and to Sean and Jim in the end, to be a pretty persuasive argument. You ought to err on the side of discretion and caution." Stewart's report mentioned that CBS was withholding part of the story.Blogging Manifestos

The lightning-quick online pundits known as bloggers are turning to a far older and slower technology: book publishing.

In his forthcoming "An Army of Davids," Instapundit's Glenn Reynolds casts bloggers as an increasingly influential check on the mainstream media: "Where before journalists and pundits could bloviate at leisure, offering illogical analysis or citing 'facts' that were in fact false, now the Sunday morning op-eds have already been dissected on Saturday night, within hours of their appearing on newspapers' Web sites." He also predicts a backlash from "Old Media guys" who resent the scrutiny.

Reynolds praises "flash media" -- bloggers who spontaneously organize around a sudden event -- and says that "even when Big Media snubs such coverage, bloggers let hundreds of thousands of people read about, see and sometimes even experience via video a story that they would otherwise miss."

Daily Kos founder Markos Moulitsas, who speaks regularly with Democratic leaders, will soon publish "Crashing the Gate," his indictment of "a progressive movement that is failing to keep up with the times," including "issue groups that don't realize it's no longer 1975 or even 1995" and "an incestuous relationship between the party committees and consultants that serve themselves more than our candidates."

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Urging people to pre-order the book online, Moulitsas writes: "Help us debut on the best seller list. Wingers like [Ann] Coulter get an automatic berth on the best seller list thanks to TWO conservative book clubs (our first doesn't launch until March or so) and bulk purchases from organizations. We don't have those advantages. But we've got you guys."

Andrew Sullivan, one of the blogging pioneers, is finishing "The Conservative Soul: How We Lost It; How to Get It Back." He calls it "an attempt to grapple with the way in which American conservatism has shifted in recent years from an emphasis on small government, individual freedom and a 'leave-us-alone' coalition into a big-spending, big-government force for correcting human immorality and delivering us from foreign evil."

Why do folks with instant access to an audience labor over manuscripts? Sullivan puts it this way: "The blog is a short form. It's provisional and meandering. A book is a longer project, it requires sustained concentration on one line of argument or one central topic. I find it really hard to flip from one mode of writing to another. . . . So right now, I try not to blog at all until I have spent a few hours on the book."If Only the Democrats Had Known

The Exponent, the student paper at Purdue University, carried a routine wire-service item that began: "Supreme Court nominee Samuel Alito told senators Monday that good judges don't have an agenda." The final sentence said: "His motive for shooting John Paul in the abdomen on May 13, 1981, remains unclear."

A subsequent correction, as noted by the Web site Regret the Error, said nothing about the charge of attempted assassination. The item, the paper said, merely "contained a sentence that was not intended to be part of the brief."

Jill Carroll: Chorus Of Support From Muslim Leaders (CSM)

The Christian Science Monitor, January 23, 2006

A delegation from the Council on American-Islamic Relations arrived in Baghdad Saturday, adding its voice to what is described as an unprecedented outpouring of Muslim support for the release of American reporter Jill Carroll.

"The kidnapping of Jill Carroll does not benefit the kidnappers," said Nihad Awad, executive director of the Washington-based group that represents US mosques and Islamic associations. "She has been friendly and respectful of the Iraqi people, not an enemy," he added.

At press time Sunday, David Cook, the Monitor's Washington bureau chief, said that there has been no new information about Ms. Carroll. "We are continuing to watch developments in Iraq and doing all we can to speed Jill's release, unharmed, to her family."

Also joining the Muslim voices calling for Carroll's release was Yasser al-Sirri, director of the London-based Islamic Observation Centre. He called on the "Brigades of Vengeance" - the group that is demanding Iraqi women prisoners be let out - to release Carroll rather than tarnish the image of Islam.

A spokesman in Iraq's Justice Ministry said Sunday that it still expects US forces to release six of nine Iraqi women prisoners this week, despite US comments to the contrary.

"The Iraqi detainees will be released within a week from today," the Justice Ministry spokesman told Reuters. A US military spokesman declined comment.

US troops have raided homes in several areas of Baghdad in recent days. "All of a sudden we heard an explosion. They blew open the front door and fired stun grenades into the living room. They rounded us up and threw me on the floor and a soldier put me on the floor and kept his boot on my back," Hamdiya Sabri told Reuters.

The US soldiers asked if the family members knew anything about the neighbors and then they asked about Carroll. "They told us that they had a tip that the American journalist was being held in this area and asked me what I thought of her," said Thamir Nazih. "I said I was sympathetic about Jill Carroll and that she is innocent. Then they asked me if I knew any terrorists - this only after they stormed the house and humiliated my family."

After the search, a US soldier promised $300 compensation and apologized. The soldiers took away Jassim, the youngest son of the family, saying he would be questioned and freed in a day or two.

On Friday, Adnan al-Dulaimi of the Sunni Iraqi Accordance Front, a leading Sunni political group, held a press conference to denounce the kidnapping. "I am asking you to release this woman. By kidnapping her, you are insulting me. You're insulting the work that I've been doing for Iraq. To the men who are kidnapping her: You know that the woman has a special status in our

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religion, our culture, and our principles. I'm asking those men who have kidnapped her to release her unconditionally.... I have worked hard in the past to secure the release of Iraqi prisoners. The arrest of this noble journalist will complicate my efforts to release Iraqi prisoners."

• Material from the wire services was used in this report.

Abduction Of U.S. Reporter Underscores Risks In Iraq (NYT)

By Sabrina Tavernise

The New York Times, January 23, 2006

BAGHDAD, Iraq, Jan. 22 - The tools of her trade were a notebook, pen, Islamic head covering and Arabic name to pass unnoticed through Iraqi streets.

Together with an interpreter and a driver, Jill Carroll, a 28-year-old American journalist, was able to slip quietly inside Iraqi society, telling stories about the lives of the Iraqis she met.

But on the morning of Jan. 7, Ms. Carroll was kidnapped, seized by gunmen in Baghdad who blocked her car and killed her interpreter as he tried to call for help.

Now her threadbare room in an inexpensive hotel here is the command center that other reporters are using to try to secure her release.

The seizure of Ms. Carroll, whose image from a video with armed men at her side is now familiar in many American households, has underscored the risks to foreigners of working here, particularly freelance journalists, who operate with little or no protection.

When Ms. Carroll arrived in 2003 - fresh from Arabic lessons and a job at an English-language newspaper in Jordan - Iraq was wide open. Journalists drove around in their own cars, talking to Iraqis as they emerged in a daze from cramped lives under Saddam Hussein.

"You were eating at restaurants," said Ashraf Khalil, a reporter for The Los Angeles Times who was working in Iraq as a freelancer at the time and knows Ms. Carroll. "You were hailing cabs at night. You were speaking English on the street."

Freelancing was not easy. Mr. Khalil described how Ms. Carroll and he discovered a $5 special of Middle Eastern salad and a hard boiled egg with beef at a nearby hotel. Her hotel, the Musafir, was one of the cheapest frequented by Western reporters: two-room suites were shared for $30 per person per night.

But Ms. Carroll, who graduated from the University of Massachusetts in 1999 with a bachelor's degree in journalism, was glad for the chance to work on such a big story.

She described the motivation in an article for The American Journalism Review published last year. "The cubicle walls are closing in," she wrote. "You'd rather jump off a cliff than cover one more zoning board meeting and just when one of the biggest stories in years is developing in Iraq, those foreign correspondent aspirations seem ever further out of reach."

"There's only one way out," Ms. Carroll wrote. "Pull up stakes, clean out that savings account and get on a plane to Baghdad."

As a woman, Ms. Carroll had a special advantage. She could dress in the Islamic head covering, a hijab, and the long black cloak, the abaya, and move around Baghdad's streets relatively unnoticed. Women who were reporters often saw themselves as less vulnerable to kidnappings than their male colleagues, partly because of the disguise afforded by Iraqi dress.

"We can put on our scarves and abayas," said Jackie Spinner, a reporter for The Washington Post. "She felt that it was an extra security blanket. I definitely felt that way."

Ms. Carroll got to know the story well. She went into Iraqi homes. She shopped for clothes in Baghdad. She used her Arabic and went by the name Zaineb.

As the months passed, Baghdad became increasingly dangerous, and news organizations began to require reporters to travel with two cars - a passenger car and a backup or "chase" car - and armed guards. In September 2004, two American engineers and a Briton were kidnapped and beheaded. A month later, a British-Iraqi aid official and longtime Baghdad resident, Margaret Hassan, was kidnapped and later killed.

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But Ms. Carroll, who had begun to write regularly for The Christian Science Monitor, continued to work with her small team. She wrote in her Journalism Review article that it seemed safer that way.

It is still unclear precisely what happened on Jan. 7. At least one witness said the kidnappers mistakenly drove down a dead-end street, suggesting that the seizure was not well planned and that another car could have helped stop them.

In Iraq, danger presents itself on a daily basis, and the taking of Ms. Carroll, who was described by her colleagues as cautious, probably had as much to do with circumstance as anything else.

The Monitor was one of the few American news organizations with a bureau in Baghdad that did not use a Western security adviser. The paper's Washington bureau chief, David Cook, said by telephone on Sunday that the paper left decisions of whether to use guards or a chase car up to the reporters, and that Ms. Carroll, as a freelance reporter, had the same access to these things as did staff employees.

Still, Ms. Carroll talked to the paper's foreign editor about security issues on more than one occasion, Mr. Cook said. She is covered under a life insurance policy paid for by the paper while she is on assignment, he said.

Freelance writers who have worked in Baghdad expressed concerns about returning solo. Kimberly Johnson, who worked here this summer, said she had been told by one large American news organization that it could not accept her articles because it could not pay for adequate security. David Enders, a freelance writer based in New York, said an assignment with an American magazine had fallen through, apparently because of security concerns.

"You can go days and weeks and there's no significant event," Ms. Spinner said. "Then something happens and you are reminded again that you are in the most dangerous place the press has ever known."

In Iraq, Specter Of Kidnapping Keeps Journalists On Edge (USAT)

USA Today, January 23, 2006

In September 2004, Wall Street Journal reporter Farnaz Fassihi wrote in an e-mail to friends that reporting from Baghdad "was like being under virtual house arrest."

The threat of bombings and kidnappings, she said, precluded her from living anything close to a normal personal or professional life.

"My most pressing concern every day is not to write a (great) story but to stay alive and make sure our Iraqi employees stay alive," she wrote in her e-mail, which got national attention after it was posted on websites. "In Baghdad I am a security personnel first, a reporter second."

On Sunday, kidnapped freelance reporter Jill Carroll began her third week of captivity in Iraq with no further word on her status after Tuesday's video in which her captors threatened to kill her in 72 hours unless the U.S. military released female Iraqi prisoners.

And Fassihi says that although the threat level for reporters in Iraq has ebbed and flowed, not much had changed. Iraq, she says, is a dangerous place, especially for American journalists.

"I'm terrified for Jill. I'm terrified for everyone I know in Baghdad," Fassihi says from New York, where she is awaiting a new assignment in Beirut after three years in Baghdad. She left there last month.

Carroll is the 36th reporter to be kidnapped since April 2004, according to the New York-based Committee to Protect Journalists. Six of them have been killed. Her abduction has resonated with the tightknit press corps in Baghdad, where she is well-known.

Her kidnapping has prompted media outlets to revisit security precautions and share information with each other, just as network and cable news outlets do in set weekly meeting, says Chuck Lustig, who directs ABC's foreign coverage.

News outlets know "that at any time you could get a phone call saying something has happened," Lustig says. "Every time something like this happens, you review your security procedures to make sure you are doing everything you can to make your people safe."

NBC News correspondent Richard Engel, who has spent three years in Iraq, says reporters there go through stages about the possibility of being kidnapped. "The first is, 'It'll never happen to me.' The next is, 'It might happen.' The third is, 'I've been here long enough it's probably going to happen.' And the fourth is, 'I've got to get out of here.' "

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Engel describes himself as being between “two and three.” He says, “I don't think anyone who is there is under the impression that it couldn't be them.”

CBS News correspondent Lara Logan, who has traveled back and forth to Iraq frequently in recent years, says, “Your whole ability to function is affected by the possibility of being kidnapped, and you trying to limit the possibility of anything like that happening to you.”

Logan, who reported on Carroll's abduction on Friday's CBS Evening News, says she looks at Carroll's case “as a story, but also, ‘What did she do that I cannot do the next time I'm there?' ”

Though print reporters, by wearing local clothes and keeping a low profile, can often do their work without attracting attention, TV correspondents and photojournalists have a harder time, because “when you pull out the camera, the game is over,” Logan says.

No reporter — print or electronic — is safe in Iraq, Engel says. “In Iraq you can't do anything privately. You can't move around the country and not have people know where you are going. People talk; you can't keep secrets very well.”

But, notes Cox Newspapers correspondent Larry Kaplow, “the situation is still much worse for Iraqis than for us. There are about 10 to 30 kidnappings of Iraqis daily, according to officials. It's dangerous for everyone, and you can get in trouble even if you do everything right.”

History Lessons (WT)

The Washington Times, January 23, 2006

Rep. Nancy Pelosi, Dec. 16, 1998:

As a member of the House Intelligence Committee, I am keenly aware that the proliferation of chemical and biological weapons is an issue of grave importance to all nations. Saddam Hussein has been engaged in the development of weapons of mass destruction technology which is a threat to countries in the region and he has made a mockery of the weapons inspection process. The responsibility of the United States in this conflict is to eliminate weapons of mass destruction, to minimize the danger to our troops and to diminish the suffering of the Iraqi people... I believe in negotiated solutions to international conflict. This is, unfortunately, not going to be the case in this situation where Saddam Hussein has been a repeat offender, ignoring the international community's requirement that he come clean with his weapons program.

Pentagon Hails Military Meeting (WT)

By Rowan Scarborough

The Washington Times, January 23, 2006

Pentagon officials say this month's closed-door conference of the military's top field commanders was gratifying, describing it as an uninhibited exchange of ideas rather than a fixed-agenda meeting monopolized by Defense Secretary Donald H. Rumsfeld.

Officials said Mr. Rumsfeld, four-star generals and admirals, and top civilians brainstormed over two main topics: how to fight the war on Islamic terrorists and how to reconfigure the military for future threats.

"Four years ago, we could not have had a discussion like this without people getting into parochial interests," said a senior defense official. "Rumsfeld didn't steer the discussion. They all went at it."

The Pentagon conference room was full of top brass Mr. Rumsfeld handpicked during the past five years in a search for out-of-the-box thinkers who would "lean forward" in a war against Islamic terrorists.

It is clearly Mr. Rumsfeld's Pentagon today, but it was not always that way. Mr. Rumsfeld inherited Joint Chiefs and four-star combatant commanders, in this case ones promoted by President Clinton. "Rummy would have to drive the discussion at earlier commanders' conferences," said the defense official.

In those days, Mr. Rumsfeld did not always share his thinking with them, and in some cases had outright clashes, such as with Gen. Eric Shinseki, the former Army Chief of Staff. Mr. Rumsfeld solved his Army problem by picking Mr. Shinseki's successor from the ranks of the retired. The new chief, Gen. Peter Schoomaker, had worked closely with Mr. Rumsfeld on transforming U.S. Special Operations Command.

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At the Jan. 9-11 biannual commanders' conference, around-the-table discussions kicked off once the Joint Staff -- the planning and operations arm of the Joint Chiefs of Staff -- presented a slide show on a particular topic. There were candid back-and-forths about both successes and failures.

One failure, two defense officials said, is that Mr. Rumsfeld still does not think the Pentagon is doing a good job of destroying al Qaeda cells planning attacks on Americans. He has come to call the problem "find, fix and finish -- in other words finding their general location, getting an exact fix on their whereabouts, and finishing them by killing or capturing them.

"It's got to get a lot better," said a second senior defense official. "The conference got very passionate. It's passion with a purpose."

Asked which general talked the most about the need for intelligence, the source declined to name names, but said it was "the commander where most of the action is right now." That would be Gen. John Abizaid, who heads U.S. Central Command. He is overseeing wars in Afghanistan and Iraq and is in charge of the military's hunt for Osama bin Laden.

Sources said Mr. Rumsfeld already has improved Pentagon intelligence collection by beefing up the Defense Intelligence Agency and giving its agents more power; naming an undersecretary of defense for intelligence; empowering special operations forces to spy; and embedding intelligence officers in newly configured Army combat brigades.

The conference was composed of the most powerful military men in the world. Besides Mr. Rumsfeld, there were the nine combatant commanders from Europe, the Middle East, Asia and other commands; the four service chiefs; the Joint Chiefs chairman and vice chairman; defense undersecretaries and assistant secretaries; and the services' civilian secretaries.

All of them were picked by Mr. Rumsfeld, some after closely working with the secretary in other roles. Gen. Abizaid, for example, had directed the Joint Staff, putting him in frequent contact with the chief.

The conference typically convened at 8 a.m. and lasted until the late afternoon.

Mr. Rumsfeld's spokesman, Larry Di Rita, said of the conference, "It's freewheeling, but it's not unstructured. When this group gets together, it's not like some off-site corporate retreat. It is people focusing on real problems and working off an agreed set of assumptions."

Fighting Ourselves In Falluja (NYT)

By Bing West

The New York Times, January 23, 2006

Newport, R.I.

THE persistence of the insurgency in Iraq has divided America in a way not seen since Vietnam. Now the blame game among the principals has begun. The former presidential envoy to Iraq, L. Paul Bremer III, has written in his new memoir that he informed President Bush that the military did not have "a strategy to win."

Quite. The lesson the Pentagon should learn from Iraq is to avoid another L. Paul Bremer. This is less a reflection on Mr. Bremer, who accurately described himself as "the American viceroy" in Iraq and "the president's man," than on the position he and the American military commanders in Iraq were placed in by the White House's failure to put one person in charge.

In 1967, when confusion among military and civilian officials in Vietnam was undermining the war effort, President Lyndon B. Johnson placed all civilian reconstruction and security functions under the top general, William Westmoreland, insuring unity of command under Westmoreland's successor Creighton Abrams. Confronting similar confusion in Iraq, President Bush unfortunately assigned to the military the responsibility for security but gave Mr. Bremer the authority to shape, recruit, train and finance the Iraqi military and police.

Mr. Bremer writes that he believed the Iraqi military should not "have internal security duties" and that the police should be trained by American civilians. But not enough civilians ever arrived to do the job. Mr. Bremer was unable to design a strategy for building up the Iraqi military and police. This failure extended the period in which the American military had to do the fighting while also taking over the training of both Mr. Bremer's new army and the police.

This disunity of command reached its tragic apex in the spring of 2004, during what Mr. Bremer calls "the most critical crisis of the occupation." When four American contractors were killed and their bodies mutilated in Falluja on March 31, Mr.

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Bremer joined with Secretary of Defense Donald Rumsfeld and Gen. John Abizaid, the commander of American forces, in ordering the fractious city seized.

Five days later, however, Mr. Bremer changed his mind after Sunni members of the Iraqi Governing Council threatened to quit in protest. He prevailed on General Abizaid to order the Marine battalions that were advancing through Falluja to halt. Mr. Bremer acknowledged that this "temporary cessation of offensive action" would be "rough on the military."

Secretary Rumsfeld, for his part, disagreed with the halt and urged General Abizaid to finish the attack. But as the military prepared to end things quickly, Mr. Bremer changed his mind about the "temporary" cessation. He told President Bush that the assault would "collapse the entire political process"; the president sided with his viceroy and told General Abizaid "to let the political situation there develop."

Develop it did. The insurgents' morale soared and their defenses toughened. According to Pentagon reports, 21 marines were killed around the city in April, and 25 were killed over the next six months as Falluja degenerated into Taliban-style rule and became the lair of the terrorist Abu Musab al-Zarqawi. And then 70 American soldiers and marines were killed in the main assault on Falluja that eventually took place in November. The cost of dithering: 116 American lives. Because of the stop-and-start decision-making, Falluja developed into the fiercest battle yet of the Iraqi war.

The lines of authority, responsibility and communications to the president were fatally tangled. The establishment of two independent chains of command in the midst of war guaranteed error and human loss. The result was indeed "rough on the military." Ask the soldiers and marines who fought at Falluja.

The singular lesson in war is to put either the civilian viceroy or (better) the general in charge, but not both.

Iraq's Power Vacuum (NYT)

By Paul Krugman

The New York Times, January 23, 2006

In the State of the Union address, President Bush will surely assert, to choreographed applause, that he has a strategy for victory in Iraq. I don't believe him. In fact, I believe that three years into the conflict his administration refuses to admit defeat but has given up even trying to win.

To explain myself, let me tell you some stories about electricity.

Power shortages are a crucial issue for ordinary Iraqis, and for the credibility of their government. As Muhsin Shlash, Iraq's electricity minister, said last week, "When you lose electricity the country is destroyed, nothing works, all industry is down and terrorist activity is increased."

Mr. Shlash has reason to be strident. In today's Iraq, blackouts are the rule rather than the exception. According to Agence France-Presse, Baghdad and "much of the central regions" - in other words, the areas where the insurgency is most active and dangerous - currently get only between two and six hours of power a day.

Lack of electricity isn't just an inconvenience. It prevents businesses from operating, destroys jobs and generates a sense of demoralization and rage that feeds the insurgency.

So why is power scarcer than ever, almost three years after Saddam's fall? Sabotage by insurgents is one factor. But as an analysis of Iraq's electricity shortage in The Los Angeles Times last month showed, the blackouts are also the result of some incredible missteps by U.S. officials.

Most notably, during the period when Iraq was run by U.S. officials, they decided to base their electricity plan on natural gas: in order to boost electrical output, American companies were hired to install gas-fired generators in power plants across Iraq. But, as The Los Angeles Times explains, "pipelines needed to transport the gas" - that is, to supply gas to the new generators - "weren't built because Iraq's Oil Ministry, with U.S. encouragement, concentrated instead on boosting oil production." Whoops.

Meanwhile, in the early days of the occupation U.S. officials chose not to raise the prices of electricity and fuel, which had been kept artificially cheap under Saddam, for fear of creating unrest. But as a first step toward their dream of turning Iraq into a free-market utopia, they removed tariffs and other restrictions on the purchase of imported consumer goods.

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The result was that wealthy and middle-class Iraqis rushed to buy imported refrigerators, heaters and other power-hungry products, and the demand for electricity surged - with no capacity available to meet that surge in demand. This caused even more blackouts.

In short, U.S. officials thoroughly botched their handling of Iraq's electricity sector. They did much the same in the oil sector. But the Bush administration is determined to achieve victory in Iraq, so it must have a plan to rectify its errors, right?

Um, no. Although there has been no formal declaration, all indications are that the Bush administration, which once made grand promises about a program to rebuild Iraq comparable to the Marshall Plan, doesn't plan to ask for any more money for Iraqi reconstruction.

Another Los Angeles Times report on Iraq reconstruction contains some jaw-dropping quotes from U.S. officials, who now seem to be lecturing the Iraqis on self-reliance. "The world is a competitive place," declared the economics counselor at the U.S. embassy. "No pain, no gain," said another official. "We were never intending to rebuild Iraq," said a third. We came, we saw, we conquered, we messed up your infrastructure, we're outta here.

Mr. Shlash certainly sounds as if he's given up expecting more American help. "The American donation is almost finished," he said, "and it was not that effective." Yet he also emphasized the obvious: partly because of the similar failure of reconstruction in the oil sector, Iraq's government doesn't have the funds to do much power plant construction. In fact, it will be hard pressed to maintain the capacity it has, and protect that capacity from insurgent attacks.

And if reconstruction stalls, as seems inevitable, it's hard to see how anything else in Iraq can go right.

So what does it mean that the Bush administration is apparently walking away from responsibility for Iraq's reconstruction? It means that the administration doesn't have a plan; it's entirely focused on short-term political gain. Mr. Bush is just getting by from sound bite to sound bite, while Iraq and America sink ever deeper into the quagmire.

Pakistan Says U.S. Should Communicate Before Airstrikes (AP)

Associated Press

AP, January 23, 2006

Pakistan's prime minister yesterday condemned an American airstrike on a remote Pakistani village, saying such attacks should be cleared with Islamabad first.

Prime Minister Shaukat Aziz said no understanding exists between U.S. and Pakistani officials that allows American military forces to attack alleged terrorists in Pakistan without first consulting the government.

"The understanding is that we will work together," Aziz said. "We will work in collaboration with each other."

Aziz said Pakistani officials were given no notice before the Jan. 13 attack that killed at least 13. The attack was apparently aimed at al Qaeda's No. 2 leader, Ayman Zawahiri, who was not there.

Pakistan, Aziz said, "has regretted and condemned the incident and said that such incidents should not reoccur. We need to work together. There is no difference in the objectives of the two countries, so there is no reason why we shouldn't communicate."

Pakistan is a key U.S. ally, but it has strongly protested the airstrike, which has angered many in the Muslim nation of 150 million and sparked friction between Islamabad and Washington.

Aziz is to meet this week with President Bush and Defense Secretary Donald H. Rumsfeld.

Attacks Strain Efforts On Terror (WP)

By Griff Witte And Kamran Khan

The Washington Post, January 23, 2006

KABUL, Afghanistan, Jan. 22 -- Events along the ever-volatile Afghanistan-Pakistan border this month have exposed deep fault lines in the anti-terrorism alliance among the United States, Afghanistan and Pakistan, and officials on all sides say their joint efforts against militants in the region are now highly precarious.

The heightened tension comes as militant extremists and the United States have both become more aggressive in their tactics, with the Pakistani government caught in between.

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Two incidents in particular, which each killed more than a dozen people, have revealed just how tenuous relations among the countries have become.

In the first, U.S. missiles struck a house in the Pakistani village of Damadola where Ayman Zawahiri, the deputy leader of al Qaeda, was thought to be having dinner. In the second, three days later in the Afghan town of Spin Boldak, a man drove a motorbike into a crowd gathered to watch a wrestling match and blew himself up.

Because the incidents took place on opposite sides of the border, they elicited responses with vastly different focuses. After the U.S. missile strike, thousands of Pakistanis took to the streets to condemn the United States. After the suicide bombing, thousands of Afghans took to the streets to condemn Pakistan.

The United States -- long frustrated because its soldiers are in Afghanistan while most of the militants they are hunting are believed to be in Pakistan -- has begun using unmanned aircraft known as Predators armed with Hellfire missiles to reach across the border. Pakistani officials are apparently notified in advance of such missions, and assist with intelligence. But the angry public response there to this month's attack raised questions about whether the government of Gen. Pervez Musharraf -- which has sought to cultivate ties to the West without alienating radical Islamic groups at home -- can handle the domestic political fallout.

Afghanistan, for its part, has applauded the more aggressive U.S. stance. Afghan officials say they want the United States to go even further to stop Pakistan-based militants, who are hitting hard at a time when international commitments to securing Afghanistan have come into doubt.

Meanwhile, along the border, tensions continue to rise.

"We have a lot of grief in our hearts," said Abdul Hakim Jan, an Afghan tribal leader who helped organize a protest beside a border crossing Wednesday following the deadliest suicide bombing in Afghanistan in the four years since the fall of Taliban rule. "All the terrorists and the enemies of Afghanistan are because of Pakistan. They are receiving their training there and they are being sent to Afghanistan for attacks."

Pakistani tribal leaders, for their part, look a few miles west for the source of their troubles: the American military presence in Afghanistan. Throughout the past week and continuing Sunday, tens of thousands of Pakistanis have participated in boisterous rallies at which protesters burned effigies of President Bush, chanted "Long live Osama!" and denounced the Pakistani government for cooperating with the United States.

"People are so angry that this could become a major movement against the American slaves who are ruling Pakistan these days," said Liaquat Baluch, a leader of Jamaat-e-Islami, the country's largest Islamic party.

Volatility in the border region is nothing new. For centuries, the rugged, mountainous area has been largely beyond the control of any government. Both sides of the border are populated by religiously conservative Pashtuns, who in recent decades have freely transported money, drugs and weapons back and forth across the porous boundary.

But since the United States invaded Afghanistan and toppled the Taliban after the attacks of Sept. 11, 2001, the border has taken on special significance. On the Afghan side, the United States has 19,000 troops who provide crucial support for the government and who enjoy a relative degree of popularity. On the Pakistani side, U.S. troops are officially forbidden from pursuing terrorists. As a consequence, many Islamic militants who found sanctuary in Afghanistan before Sept. 11 reportedly have taken refuge in the semiautonomous tribal areas where sympathies for al Qaeda and its leader, Osama bin Laden, run high.

Until recently, the United States had been dependent on raids by Pakistani security forces to catch the fugitives, with mixed results. But in the predawn hours of Jan. 13, the United States used a different tactic, firing Hellfire missiles from drones in a bid to kill Zawahiri. Pakistani and U.S. intelligence sources have said they expected him to show up for dinner at a house in Damadola, but they now believe he was not there.

The missiles killed at least 13 others. After the attack, local officials said that only villagers were killed, among them women and children, who were buried nearby. But Pakistani intelligence sources have since asserted, without offering proof, that a handful of foreign al Qaeda militants also died, possibly including its chief explosives expert, a son-in-law of Zawahiri and an operational leader in Pakistan and Afghanistan.

The Pakistani government's response has been as conflicted as the reports. Some officials joined with the protesters in vehemently denouncing the attack, while others acknowledged that militants operate in the area. Even as the Foreign Ministry

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lodged a formal objection with the U.S. Embassy, Musharraf stayed silent in public, except to warn his countrymen not to harbor terrorists.

Pakistani Foreign Minister Khurshid Mahmud Kasuri acknowledged in an interview that the strike has put stress on the government, which since 2001 has walked a fine line of assisting the U.S. anti-terrorism campaign -- and receiving billions of dollars in aid in return -- while also trying to appease radical Islamic constituencies at home.

"Such an action creates immense internal problems for us as the perception grows that the U.S. has no respect for our sovereignty," Kasuri said.

U.S. officials, however, say Pakistan's objections amount to posturing. According to American military and intelligence sources who spoke on condition of anonymity, Pakistan had signed off on this month's strike beforehand and had even assisted with gathering pre-attack intelligence.

The use of Predator drones to strike targets in Pakistan is relatively new, and several security officials said it could not happen without the consent of the Pakistani government. There have been at least three such attacks since last May; one in December reportedly succeeded in killing a senior al Qaeda commander, Hamza Rabia.

But now, it remains unclear whether Predator attacks will be allowed to continue.

On Saturday, in a meeting with U.S. Undersecretary of State R. Nicholas Burns, Musharraf said attacks such as the one aimed at Zawahiri "should not be repeated," according to Pakistani Foreign Ministry spokeswoman Tasneem Aslam.

Pakistani Prime Minister Shaukat Aziz, who on Sunday denied that Pakistan had received prior notice of this month's attack, is expected to raise the issue with Bush when they meet at the White House this week.

A senior Pakistani intelligence official, however, said nothing was likely to change in terms of actual U.S. and Pakistani efforts at hunting militants.

"Proper protest has been made, but this will not alter the ground rules and intelligence cooperation with the U.S. It will continue as usual," the official said.

The latest U.S. missile strike came as suicide attacks by militants have been on the rise in Afghanistan, particularly in southern and eastern areas bordering Pakistan. In a country where such attacks have traditionally been rare, Afghan officials blame foreigners.

"It is difficult for me to imagine how it can happen without some kind of support from outside Afghanistan," said Foreign Minister Abdullah Abdullah.

Others direct blame squarely at Pakistan, which they believe is trying to gain more influence in Afghanistan by sowing instability.

"We were using Pakistan as a base during the resistance times," said Hakim Taniwal, governor of Paktia province, referring to the U.S.-funded guerrilla war against Soviet occupation troops during the 1980s. "Now al Qaeda and Taliban are also using the Pakistani side to attack in Afghanistan."

Afghan government officials are feeling especially vulnerable now because the United States announced late last year that it would reduce its troop strength from 19,000 to 16,500. NATO soldiers are supposed to fill the gap by taking over some operations in the south, but the Netherlands, seen as pivotal to that transition, has wavered over whether it will send troops.

Meanwhile, the Taliban, al Qaeda and other groups that are trying to destabilize the nascent Afghan government appear to be taking advantage of the uncertainty.

"At the strategic level of war, this is a defensive insurgency," said Chris Mason, a retired U.S. diplomat who served in Afghanistan and is now a senior fellow at the Center for Advanced Defense Studies in Washington. "They're inserting just enough insurgents to shut down meaningful reconstruction in the south and keep the population on the fence."

Khan reported from Karachi, Pakistan.

Nato's Force Will Live Up To Its Afghan Pledges (FT)

By Jaap de Hoop Scheffer

Financial Times, January 22, 2006

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As Nato prepares to expand the operations of its International Security Assistance Force in Afghanistan to the country's more volatile south, where violence is intensifying, debate is under way about the role the alliance will play. Taliban fighters, meanwhile, are stepping up terrorist attacks on international forces, trying to scare us off before we even arrive.

The debate surrounding this mission comes as no surprise. After all, Nato's operation in Afghanistan has been, from the start, a fundamentally new step for the alliance. It is also the most ambitious mission in Nato's history, in terms of the strategic distance from our home countries, in terms of the complexity of the challenges we face in Afghanistan and in terms of the multiple roles the alliance must take on.

In all these ways, this mission may be a first for Nato – but I do not believe it will be the last of its kind. The alliance will probably be called on in future to take on other, similar challenges. That is one reason why it is so important to get this one right.

We have already made a good start. Less than five years ago, Afghanistan was the launch pad for the worst terrorist attacks in history. It was also one of the most wretched countries on earth. Today, the Taliban and al-Qaeda are out of power and under pressure. And the people of Afghanistan have just elected their first true parliament, with levels of representation by women that could not have been imagined just a few years ago.

This is enormous progress but there is a long way to go. Afghanistan still needs our help and it will get it. The Afghanistan conference in London next week will show that the international community – including Nato – is still standing squarely behind this country. None of us can afford to let it slip back into chaos and become once again a breeding ground for international terrorism. Our commitment to Afghanistan is not only a question of self-interest: it is also a question of solidarity and obligation. Solidarity with the Afghan people, who have asked for our help. Solidarity between all Nato allies, who decided together to take this mission on, and who should implement that decision together. Solidarity with the United Nations, which passed the resolutions guiding Nato's mission. And it is an obligation for Nato, as the security foundation for Afghanistan's recovery, to stay the course and continue to play an essential role.

We will meet that obligation. Isaf will continue to contribute to stability, and will help to extend the authority of the Afghan government. Nato Provincial Reconstruction teams, joint civil and military groups, are in the provinces of Afghanistan helping rebuild the infrastructure, promoting development and defusing tension as "honest brokers". They are protected by larger military forces, whose job is to ensure that the teams can carry out their mission unimpeded and in safety. And Nato is also helping the Afghan security forces develop, so that they can increasingly provide for their country's security.

Of course, Isaf – a Nato-led force that takes its political direction from Brussels – is not the only international military force in Afghanistan. The US-led coalition, Operation Enduring Freedom (which also includes some Nato member states), has been taking on the Taliban and al-Qaeda there since 2001. Nato's mission is different and it is distinct. With this in mind, allies have agreed command arrangements to ensure that the two missions do not get in each other's way.

Let there be no doubt, however: Isaf forces will not go to the south with one arm tied behind their back. All Nato allies are aware that there are real security challenges in the region and that violence is escalating. They must, and will, meet these challenges. Nato forces will have the rules of engagement and the equipment they need to deal head-on with any dangers to their security or to their mission. If potential attackers threaten Nato personnel or their ability to do their job – which is to help create a secure environment so that Afghans can build better lives – then Isaf will be able to undertake robust military action.

No one should doubt Nato's resolve to carry out this mission. All 26 allies realise that fighting terrorism, and helping the Afghan people and their government, is a collective effort – not a matter of picking and choosing where one might wish to chip in.

We have already been delivering for quite some time, with 10,000 troops in the country. In coming months, we will expand southwards, as an alliance united in our determination to help the Afghan people build the stability and peace they deserve.

The writer is secretary-general of Nato

Alliance Upgrade (WSJ)

By Marshall Billingslea

The Wall Street Journal, January 23, 2006

As times have changed, so has the North Atlantic Alliance. That is particularly evident in the way NATO has moved to protect our citizens from terrorism. Over the past few years, the Alliance has intensified armaments cooperation, and has launched and expanded several operations and missions (among other things) to address this threat.

The most dramatic illustration of NATO's new priorities is our support for the democratically elected government of Afghanistan. More than 9,000 troops and military advisers are currently deployed throughout multiple Afghan provinces in the form of Provincial Reconstruction Teams (PRTs). These troops from 25 NATO members and 11 partner nations are there to provide both security and support to local authorities and people, and are doing such things as digging wells, building schools and refurbishing mosques. In a similar vein, NATO is facilitating, together with several international organizations, the rehabilitation of Kabul International Airport, and has made significant investments in airports in Herat and Mazar-e-Sharif. While these airports are important for NATO operations, they are also crucial to Afghanistan's new free-market economy.

Importantly, in a clear demonstration of resolve and determination to support the Afghan people, the Alliance has recently taken decisions to boost its forces even further, and to deploy additional Provincial Reconstruction Teams in the southern part of Afghanistan. A number of NATO nations are now undertaking the necessary domestic processes to deploy the needed forces.

Both in and out of Iraq, NATO maintains a training mission for Iraqi military officers. Last year, several hundred officers were trained at NATO facilities in Europe, and at various national institutions. New training facilities at Ar Rustimiyah, near Baghdad, were constructed and are now functioning alongside the new Iraqi military academy. Likewise, NATO nations supplied thousands of tons of weaponry and equipment to the new Iraqi military. From assault rifles to more than two battalions' worth of tanks and several dozen armored combat vehicles, NATO nations have shown that they are firmly committed to helping the government of Iraq. This year we will see a further increase in these efforts to help the new Iraqi democracy.

Closer to home, NATO runs both naval and air missions to protect the security of its members. At sea, Operation Active Endeavor is NATO's ongoing maritime interdiction effort. The operation has led to several critical boardings of suspect vessels and multiple findings of explosives, weaponry and drugs being smuggled on vessels in the Mediterranean. From the air, the NATO AWACS fleet has provided critical monitoring of air traffic during high-profile events such as the 2004 Olympics in Athens. * * *

As importantly, NATO has intensified its armaments cooperation to ensure that the troops deployed in these operations are equipped with the right kinds of technologies and capabilities.

Two years ago, NATO created an ambitious technology program. Ten critical areas were identified to strengthen our collective defense against terrorism, and each is led by a member country. Spain heads efforts to disable homemade terrorist bombs, Germany to develop new counter-terrorist reconnaissance capabilities, Britain to minimize the danger to civilian aircraft from shoulder-fired missiles, Italy to protect harbors from underwater divers with explosives, the U.S. to improve the aerial deployment of special operations forces and equipment, and so on.

This "Defense Against Terrorism" program has already brought results in a short period of time. For example, a new laser system capable of detecting trace amounts of explosives on surfaces (e.g. car door handles) is being prototyped. A novel technique for creating a sonar "wall of sound" as a trip-wire across harbor entrances is also making progress. Bulgaria is now testing new composites to shield helicopters against the blast of a rocket propelled grenade.

That said, while we are moving in the right direction, a significant infusion of expertise, and funding, is needed for NATO to move forward more quickly on devising better technologies. Despite its successes, the program remains underfunded. We also need additional, dedicated test facilities and training ranges where we can experiment with emerging prototypes.

But perhaps our biggest challenge is that of simply getting visibility on all the potentially useful technologies "out there." Across North America and Europe, there are tens of thousands of large and small companies, universities, government institutes and -- in some cases -- garages and hobby shops of inventors, all of whom may have something to offer the fight against terrorism. The inventiveness and creativity of our private sectors is one of the greatest assets NATO nations have in the fight against terrorism. We need to do a better job of tapping into that creativity.

In the United States, through the Pentagon's Technical Support Working Group, the federal government solicits proposals from a broad segment of the private sector on counterterrorism technology. This group has had remarkable successes. But the group still is limited in the people it can reach, restricted principally to North America and a few partner countries.

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NATO needs this kind of solution which would let its member nations reach out to the private sector, across national boundaries, for counterterrorism technology. For instance, the U.S. Department of Homeland Security recently solicited industry proposals on 26 specific technologies such as small, portable masks for law enforcement officers to help them escape suddenly contaminated areas. I am sure that there will be dozens of ideas on how to manufacture these masks. But who knows what other innovations and capabilities are out there in Europe, in someone's hobby shop? * * *

When NATO's 26 armaments chiefs meet in Brussels this spring, they will sit down to review NATO's counterterrorism technology efforts. My hope is that they will come armed with ideas on how to press ahead in the fight against terrorism. Our first challenge will be to review all the operations to see where additional support to NATO troops is urgently needed. Certainly we need to expand, intensify and better fund the ongoing technological program of work. But perhaps more importantly, we need to create a NATO-Technical Support Working Group on a trans-Atlantic scale.

Mr. Billingslea is an assistant secretary general of NATO, and a former acting U.S. assistant secretary of defense for special operations and low-intensity conflict.

Bin Laden TV (WSJ)

By Jonathan Stevenson

The Wall Street Journal, January 23, 2006

Last week's videotaped missive from Osama bin Laden -- his first in over a year -- confirmed several things that we knew or at least suspected: that he is isolated, besieged and physically weak. More substantively, it continued a general pattern, but with significant variations. After the Madrid bombings in March 2004, bin Laden attempted to isolate the U.S. by offering to refrain from attacking its European allies if they withheld assistance in any American strategic endeavor affecting Muslims. In the recent tape, he asks the U.S. itself to stand down in Iraq and Afghanistan in exchange for a "long truce." As with the Madrid tape, bin Laden has made an offer that he knows will be refused.

Why the truce offer? By merely indicating a desire for the peaceful reconstruction of Afghanistan and Iraq, he may secure broader Muslim support. In turn, he might erase any political dividends, in the Muslim world, accruing to the West on account of its state-building efforts.

Although the tape was made before the qualifiedly successful Predator strike on high-level al Qaeda operatives in Pakistan, its release following that attack still could prevent actual or potential recruits from becoming demoralized. By way of the threat of planned terrorist attacks on U.S. territory, the tape could constitute a "strategic communication" aimed at shifting U.S. energies away from Iraq and Afghanistan and toward homeland security. Such reallocation would be to al Qaeda's advantage in Iraq and Afghanistan.

Bin Laden's démarche has other, more opaque, designs. In threatening the U.S. with attacks that are purportedly being planned in Baghdad, and declaring that "our situation is getting better while yours is getting worse," he is making four observations: (1) the U.S. counterterrorism campaign in Iraq is failing; (2) Iraq has indeed replaced Afghanistan as a training ground for jihadi terrorists and a center for global (not just local and regional) operational terrorist planning; (3) American homeland security is ineffective; and (4) bin Laden, despite his besiegement in (most likely) the tribal areas of Pakistan, still has strategic control over the jihadist movement in general, and over Abu Musab al-Zarqawi -- leader of al Qaeda in Mesopotamia, the foreign component of the Iraq insurgency -- in particular. The bad news is that bin Laden's first two points appear valid, the third at least partly true, and the fourth untrue but largely irrelevant to the counterterrorist effort.

The fact that violence in Iraq has continued unabated since the elections indicates that despite a more conciliatory attitude on the part of many Iraqi Sunnis, a critical sufficiency of those engaged in political violence remain unmoved. Whether apparent infighting between foreign jihadists and Iraqi nationalist insurgents will significantly compromise the overall effort is uncertain. Moreover, evidence has emerged that Iraqi Sunnis are increasingly susceptible to Islamist radicalization, and that insurgents blooded in Iraq itself are more interested in operating outside Iraq (e.g., in Jordan).

Most likely bin Laden's hope is that his wider audience -- especially potential recruits -- will read U.S. beleaguerment as proof of al Qaeda's might. In suggesting that he himself maintains a significant degree of command over far-flung assets, he wants the world to believe that he and al Qaeda possess concentrated power that has not substantially diminished since 9/11. It

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would seem, then, that he is still in a position to dictate his own strategic agenda. But this is not the case. Although he and his right-hand man, Ayman al-Zawahiri, appear to have some differences with Zarqawi, there is little evidence that they have been able to influence his tactics. And Spanish and British authorities have been unable to find an operational link between al Qaeda's core leadership and the European jihadists who bombed Madrid and London.

The overarching significance of bin Laden's counterfactual assertion of authority, however, is how little it matters. It has long been clear that al Qaeda was forced to disperse and atomize after the Afghanistan intervention in late 2001. For some time thereafter, though, it appeared that al Qaeda middlemen remained integral to local operations. The situation changed after Madrid, and London reinforced it. The clearest lesson of those bombings was that jihadis were increasingly homegrown. Indeed, the emerging pattern is for diaspora Muslims (especially European ones, alienated from host and home country) to seek identity in the ummah, the "universal community" of believers. In that community, bin Laden's narrative of Islam's humiliation, and its need to respond with violence, flourish. Accordingly, recruits to the jihad can be moved to politically and religiously motivated violence regardless of his personal fate or actions.

In this light, it is tempting to dismiss bin Laden's offer as a haughty act of desperation, or an effort to buy time, as terrorist cease-fire proposals often are. A more nuanced extension of this logic would be that he is explicitly dialing back his ambition of a global caliphate and would now settle for a limited U.S. stand-down, which could help render his demands moderate enough to become subject to at least tacit accommodation. Such thinking would be wishful, and not much more. Even if he really wanted to work toward coexistence, he wouldn't be able to deliver his end of the bargain precisely because he no longer enjoys close operational control over most of those he inspires. His word could be countermanded by Zarqawi, by a Moroccan in Spain, or by a British Pakistani. Quite simply, bin Laden's ideology and résumé have become bigger than the man himself.

To Muslim Ears, Bin Laden's Words Carry Different Meaning (USAT)

USA Today, January 23, 2006

Osama bin Laden is almost certainly hiding in a cave somewhere in wild, western Pakistan. He has a $50-million bounty on his head — not exactly something that encourages him to trust those around him. He can't touch a cell or satellite phone for fear it will give away his location. He is isolated.

Yet last week he managed to get a new and bizarre audiotape aired on his favorite TV station, Al-Jazeera. It was the first time in more than a year that the world has heard from him. In it, he threatened the USA but offered a vague, conditional truce. The tape raised an interesting, and increasingly perplexing, question: What power, exactly, does the terrorist leader, who is likely living much as a cornered animal, have?

To non-Muslim ears, bin Laden's message was clumsy and easy to dismiss. Quite apart from grandiose declarations the USA is destined to "loss and shame forever," for example, and his off-base descriptions of U.S. anti-war opinion polls and their meaning, who could seriously consider the offer of a truce? His message echoed a similarly crude bin Laden attempt to influence a vote against President Bush before the last U.S. election, as well as earlier truce offers to European countries if they withdrew from Iraq.

But to Muslim ears — and here is the problem — the same words sound very different. Bin Laden spoke in terms steeped in Islamic tradition. The truce that he offered, for example, recalls great past leaders, including the prophet Mohammed, who offered one in his battle with the Quraysh tribe that he eventually defeated. Bin Laden's aim was to give himself the stature of a leader — specifically the leader who can realize the Muslim dream of establishing a caliphate, or worldwide Muslim superstate. And though it might seem ludicrous for a man on the run to pit himself against the most powerful nation in history, for many Muslims it isn't.

Bin Laden's inspirational power can't be quantified like missile strikes and battles. But it's evident in the waves of recruits for suicide bombings in Iraq and, increasingly, in Afghanistan. It's in surveys that show Muslims increasingly seeing the war on terror as a war on Islam.

The most effective way to strike back is to help stoke a war within, not against, Islam. Many Muslims do not want to follow the medieval version of Islam that bin Laden promotes. Yet many U.S. policies and practices — notably the ill-considered war in Iraq and the government's weak reaction to torture there — played into bin Laden's effort to cast the fight as a clash of civilizations.

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Bin Laden is a mass murderer with the blood of thousands of Americans on his hands, and he promises to kill more. His capture or assassination should remain a priority. But the power of his message, too, has to be killed off. That requires an equally potent message that leads Muslims away from the common perception that the United States is the cause of their problems.

Bin Laden's message offered nothing useful for Americans. Its value lies only in reminding us that Muslims are reacting to our messages in much the same way.

CORPORATE SCANDALS:

Top Exec's Plea Bargain In Judge's Crosshairs (LAW)

By Amanda Bronstad, The National Law Journal

National Law Journal, January 23, 2006

The former chief executive of Gemstar-TV Guide International Inc. may face jail time if a federal judge in Los Angeles rejects his plea agreement this week.

Henry Yuen, who was ousted in 2002 after Gemstar lost almost $3 billion in market capitalization due to accounting restatements, pleaded guilty in October to destroying computer files during a separate investigation by the U.S. Securities and Exchange Commission. As part of the deal, he agreed to pay a $250,000 fine and to donate $1 million to charity while serving two years' probation and six months of home detention.

Prosecutors and Yuen's lawyers have said the sentence fits his crime of obstruction of justice, reiterating that he has not been charged with securities fraud.

'TRAVESTY OF JUSTICE'

But lawyers for Gemstar and the SEC have expressed concern about the plea agreement, with Gemstar lawyers calling it a "travesty of justice."

The company also said it spent $100 million in legal fees and lawsuit settlements because of Yuen.

U.S. District Judge John Walter is expected to reject the agreement when he issues a final ruling on Yuen's sentence today. In December, Walter issued a tentative ruling criticizing the sentence, saying that it "sends the wrong message to corporate America," and is "wholly inappropriate," according to court transcripts.

With a plea deal scrapped, federal prosecutors could add charges against Yuen or drop the case altogether. Yuen, who would have the option to withdraw from the agreement, may face a new sentence from the judge or a potential jury in the near future.

That would appease lawyers for the SEC and Gemstar.

"We believe the original plea agreement was not appropriate for the damage that Mr. Yuen has caused the company and its shareholders," said Richard Stone, a partner at Washington's Hogan & Hartson who represents Los Angeles-based Gemstar.

Thom Mrozek, a spokesman for the U.S. Attorney's Office in Los Angeles, said, "we've encouraged the court to accept the plea agreement filed last year."

Mike Piazza, trial counsel at the SEC's Pacific regional office, said the SEC's reluctance to accept the plea agreement is "unusual."

"We put tremendous amounts of resources on the case, 10 investigative attorneys, crossed over 2 1/2 years and settled with four of the five individual defendants," Piazza said. "That tells you how the SEC feels about the case. We put a lot of resources into it."

Yuen's attorney, Stanley Arkin, a partner at New York-based Arkin Kaplan, expressed frustration about the recent changes in the case. "We don't know what's going to happen here, and the fact is we're searching."

The SEC has filed a civil suit against Yuen and Elsie Leung, the company's former chief financial officer, alleging that they overstated company revenue to increase the company's stock price. Leung settled the claims.

The SEC wrapped up its civil case against Yuen in trial last month and is waiting for a judge's final decision.

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Lawyers Want Enron Trial Moved Out Of State Fair-minded Jury Too Hard To Find In Houston, They Say (USAT)

By Greg Farrell

USA Today, January 23, 2006

With jury selection in the trial of former Enron chiefs Ken Lay and Jeff Skilling scheduled to begin in Houston next Monday, their lawyers are insisting that the trial be moved out of state.

They don't think Lay and Skilling can find an open-minded jury in Houston, whose residents bore the financial brunt of the highflying energy company's implosion four years ago.

"What we fear, in a situation as radioactive as this one, is that we'll have a so-called stealth juror," says Mike Ramsey, Lay's lead attorney, referring to someone secretly determined to find a defendant guilty.

"The most important thing we have to care about is a fair-minded jury, an unbiased jury," he says. "We've got to have jurors smart enough and brave enough to know that if they deliver a not guilty verdict, they're going to be asked about that the next day on the Today show."

Of 280 potential jurors who were surveyed last year, 80% said they had a negative bias toward Lay, Skilling or both.

"That's huge," says Howard Varinsky, a veteran jury consultant who aided prosecutors of Martha Stewart and Scott Peterson. "If you get 60%, that's a lot, but 80% is near virtually everyone."

Rusty Hardin, the attorney who represented Arthur Andersen in the first Enron-related case to go to trial four years ago, says he's surprised at how controversial the Enron case still is.

"It remains to me, in 30 years as a prosecutor and defense lawyer, the most polarizing case I've ever seen with jurors."

Still, moving the case to Denver, Phoenix or Atlanta, as defense lawyers requested recently, might not solve the problem. "Are they any better off anywhere else?" Hardin asks.

U.S. District Judge Sim Lake rejected the defense's motion several weeks ago. After a third defendant, former Enron accounting chief Rick Causey, agreed to plead guilty in late December, the defense team renewed its request.

They noted the 80% negative response among potential jurors was before Causey changed his plea. The "media maelstrom" afterward about how Causey's plea could hurt Skilling and Lay only reinforced a presumption of guilt, defense lawyers argued.

Instead of moving the trial, some jury experts agree with another defense motion asking that lawyers be able to question potential jurors without other juror candidates and spectators present. Lake is planning to follow normal federal court procedure for jury selection, or voir dire, where candidates are questioned together in open court. That will hurt the defense, say jury consultants, because people are reluctant to admit in front of strangers that they can't be fair.

Lake is expected to rule this week on the defense motion to allow voir dire to be individualized.

Livedoor CEO Denies Allegations (WSJ)

By Andrew Morse

The Wall Street Journal, January 23, 2006

TOKYO -- The chief executive officer of a Japanese Internet company that is the subject of an investigation denied having misled investors to inflate his company's stock price.

Takafumi Horie, the CEO of Internet-portal company Livedoor Co., made the denial on his Web log after a television program yesterday morning in Japan examined the widening allegations surrounding his company.

"The extent of the fabrications [in the program] is such that it is difficult to deny them one by one," Mr. Horie wrote in his blog. "I don't know who or how these stories were researched."

Livedoor's offices were raided by Tokyo prosecutors Jan. 16 as part of a probe of possible securities-law violations. Japanese media reports have said prosecutors suspect the company improperly handled a subsidiary's 2004 acquisition of a publishing company that was owned by a fund run by the Livedoor group. The prosecutors, who acknowledge that they are conducting an investigation, haven't commented.

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Mr. Horie has challenged traditional Japanese business norms by staging hostile takeovers and aggressively splitting his company's stock. He has irritated Japan's corporate elites by eschewing such customs as wearing suits and ties to news conferences, making him a hero to many younger Japanese.

Yesterday's comments by Mr. Horie come amid growing speculation he will be questioned by prosecutors, who called the company's chief financial officer, Ryoji Miyauchi, and several other Livedoor executives to their offices Friday.

The situation took a tragic turn last week when a confidant of Mr. Horie's, Hideaki Noguchi, was found dead in southern Japan from an apparent suicide. A funeral service was held yesterday.

Since prosecutors raided Livedoor, the company's share price has dropped by more than 50% to 336 yen ($2.92), taking many other Japanese stocks with it. Wednesday, selling pressure became so great that the Tokyo Stock Exchange was forced to close early because it couldn't handle the volume of orders. Friday, the exchange warned investors about potential disclosure irregularities at Livedoor and an affiliated company.

U.S. Chamber Asks Congress For Softening Of Rule On Auditing (WP)

By Kathleen Day

The Washington Post, January 23, 2006

The U.S. Chamber of Commerce is asking the federal government to soften a rule adopted after financial scandals that accounting firms failed to expose at Enron Corp., WorldCom Inc., Freddie Mac and other major U.S. companies.

The chamber, which lobbies for businesses large and small, wants the Securities and Exchange Commission to allow accounting firms to perform audits for any company within a year of having provided consulting or other services for that company.

The current rule bars a company from hiring as its auditor any accounting firm that has performed other services for it within five years. The SEC adopted the rule three years ago as required by the Sarbanes-Oxley Act, which Congress passed to tighten corporate accountability and make it harder for companies to mislead investors about corporate financial health.

The chamber makes its request in a policy paper it will release publicly today and circulated to some people last week. It is the group's latest effort to weaken some provisions of Sarbanes-Oxley, which it says has added burdensome and costly business regulations.

Supporters of Sarbanes-Oxley say a waiting period of a year or less could put auditors in the position of reviewing their own work and create conflicts of interest that the law was intended to prevent.

In its paper, the chamber also asks Congress to set clear guidelines on when the Justice Department can bring criminal charges against companies. The clarification is needed to "rein in" the department, whose successful prosecution of the accounting firm Arthur Andersen LLP put the company out of business and "led directly to severe job dislocations for 28,000 people," the paper says.

Uncertainty about the circumstances under which accounting firms can be indicted has raised the cost of their liability insurance, according to the paper, written by David C. Chavern, a chamber vice president. That has imposed a big barrier to new firms entering the field, he wrote.

The Justice Department recently dropped its case against Andersen after the Supreme Court reversed the conviction in May. The court ruled unanimously that jury instructions from the trial judge were too broad and allowed jurors to find the company guilty even if its officials did not intend to break the law.

The chamber's paper also calls on the SEC, the Public Company Accounting Oversight Board -- an audit review panel established under Sarbanes-Oxley -- and other government agencies to promote creation of large accounting firms that could compete with the four companies that dominate the business. That would give companies more choices when hiring firms to review their financial statements and, in the process, be better for the nation's economy, the paper says.

SEC spokesman John Nester said the agency would not comment on the chamber's requests because it has not seen the paper. In December, SEC Chairman Christopher Cox said in a speech to a group of accountants that he wants to make sure that government rules don't impede competition among auditing firms.

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Justice Department spokesman Bryan Sierra also would not comment because no one there has seen the chamber's paper. The department has issued clear guidance on factors it considers to determine whether to prosecute a company, he said.

CRIMINAL LAW:

Google's Reputation At Stake In Fight With Government (USAT)

By Jim Hopkins, Usa Today

USA Today, January 23, 2006

SAN FRANCISCO — Google, facing its biggest public relations battle yet, has more at stake than competitors as it fights a federal government demand for data on how millions of users search the Internet. (Related item: Google battles government over porn investigation)

As the No. 1 online search company, Google has the highest profile, and a brand built on a "don't be evil" motto that it must defend as it expands further into search-related ventures.

"That is their motto and their ambition, and they need to be true to that," says Denise Garcia, an analyst who follows Google at W.R. Hambrecht.

Google's stance will likely burnish its image as a search engine industry leader that can be trusted to guard its users' data, Garcia says.

But in the short run, investors are worried. Friday, stock in the company plummeted 8.5%, or $36.98 a share, to $399.46, a day after published reports of its refusal to bow to a Justice Department subpoena. It was Google's biggest daily percentage decline since it went public in August 2004.

Garcia said the subpoena fight was the biggest factor in the stock's decline. It also was driven by a weak revenue forecast earlier in the week by competitor Yahoo. That spooked investors anti-cipating Google's fourth-quarter results, due out Jan. 31.

The Justice Department asked a federal judge in San Jose on Wednesday for an order to force Google to turn over the records as part of the administration's efforts to revive an online pornography law.

The other major search providers — Yahoo, Microsoft's MSN and Time Warner's America Online — have cooperated with the government. Company representatives all said that they did not turn over data that identified individual users.

Google, MSN, AOL and Yahoo declined to say whether they had received other government subpoenas in the past year, company representatives said Friday.

Google co-founder Larry Page reiterated the company's opposition Friday in an interview with ABC News.

"Our company relies on having the trust of our users," Page told the network. "That's a very strong motivation for us. ... I think instead we should have laws that protect the privacy of data, for example, from government requests and other kinds of requests."

More than its competitors, Google has been dogged by privacy concerns.

Launched in 1998, Google now controls the world's biggest computer network and database — a mountain of electronic information that includes every search by its millions of users.

"Privacy advocates have put a big red bull's eye on it," says Jeff Nolan, a Silicon Valley venture capitalist.

In resisting the Justice Department's request, Google doesn't want to further rile privacy advocates or worry users, says search engine expert John Battelle.

Google's stance comes as it mounts defenses against the sort of government intrusion posed by the Justice Department.

It has been beefing up its Washington political operation with the addition of company lobbyists working with an outside lobbying firm, for example.

Trial Of Former Atlanta Mayor Set To Begin Monday (NYT)

By James Dao

The New York Times, January 23, 2006

DOJ_NMG_0010047

ATLANTA, Ga., Jan. 20 - He was, once, the go-go mayor of the South's most go-go city. Suave and acid-tongued, Bill Campbell was the protégé of a new black politics, steeped in the argot of civil rights yet able to smooth-talk corporate executives. Democrats from President Clinton on down courted him.

But those days are long gone. On Monday, Mr. Campbell, who left office in 2002, is to enter a federal court house here to defend himself against charges that he turned City Hall into a criminal enterprise during his eight years in office.

"I know that I'm innocent," Mr. Campbell said on Friday on a local radio station, V-103.

Mr. Campbell's trial will be the culmination of an investigation that dates back to at least 1999 and that has already led to convictions against 10 people on an array of charges that include bribery, tax fraud and perjury. Three of the people convicted worked in Mr. Campbell's administration.

The seven-count indictment alleges a wide-ranging conspiracy directed by Mr. Campbell and his associates to shake down companies trying to do business with the city. The indictment charges Mr. Campbell, 52, took payoffs totaling more than $150,000; accepted more than $100,000 in illegal campaign contributions; filed false personal income tax returns; and received gifts from contractors, including a $12,000 trip to Paris and nearly $10,000 worth of heating and air-conditioning equipment for his home.

But Mr. Campbell's lawyers assert that the case is built on shoddy evidence and unreliable witnesses who traded lenient punishment for their testimony. "If there was one issue that ran through this, it was the issue of plea deals and immunity," Mr. Campbell's lead lawyer, Billy Martin, said in court on Thursday.

In the months before the trial, Mr. Campbell, who now works as a lawyer in Florida, mounted an aggressive public relations campaign in Atlanta, appearing at local black churches, on sympathetic radio programs and at upbeat rallies.

Often, Mr. Campbell or his supporters have attacked the prosecution as racially motivated. When news of the federal investigation was first reported in 2000, Mr. Campbell denounced the investigators as "forces of evil" who might have been motivated by "ideological differences regarding my aggressive stand on affirmative action."

Concerned that the trial, expected to last at least six weeks, will turn heavily on racial issues, Judge Richard W. Story of the Federal District Court made an unusual plea from the bench on Thursday that the trial rely on law and evidence, "and not judge a man based on the color of his skin."

Judge Story was reacting to what seemed to be a pattern by both the defense and the prosecution of striking potential jurors based on race. Mr. Campbell's team removed 10 potential jurors, all white. The prosecution removed six people, all but one black. The final jury consisted of seven blacks and five whites.

Asked if race was a factor for picking jurors, Fred Orr, one of Mr. Campbell's lawyers, said no. "We're happy with the whites on the jury and I think they are happy with the black jurors," he said, referring to the prosecutors.

Michael Leo Owens, an assistant professor of urban politics at Emory University in Atlanta, said Mr. Campbell, while mayor, made a practice of discerning racial bias in his critics, whether they were newspaper writers, rival politicians or federal prosecutors.

"He was good at challenging those who questioned him," Mr. Owens said. "And if the questions persisted, he would revert to saying: `It's all about race.' " Mr. Owens added that such arguments "still resonated" for many blacks in Atlanta.

Yet it was not always that way for Mr. Campbell, political analysts say. A Duke University law graduate who worked in Atlanta as a lawyer for the United States Justice Department and in private law practice, Mr. Campbell became known as a pro-business protégé of Mayor Maynard Jackson in his early days in politics.

He was the son of the head of the N.A.A.C.P. chapter in Raleigh, N.C., and gained modest fame for integrating the Raleigh schools at the age of 7. In 1981, he was elected to the Atlanta City Council representing the district where the Rev. Dr. Martin Luther King Jr. once preached, and gained a reputation for being a moderate on racial issues.

"I think Atlanta has dealt with its racial concerns better than any other city in this country," he said in a 1994 interview.

But as mayor, he used increasingly heated oratory to attack what he considered the racial motivations of his critics. When, for instance, the Southeastern Legal Foundation, a nonprofit group, filed a lawsuit challenging the city's affirmative action program, Mr. Campbell likened the plaintiffs to the Ku Klux Klan. "They want us to be able to dunk, to dance and to run, but not to run our own businesses," he said at the time.

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Yet at the same time, Atlanta was experiencing explosive growth early in his tenure, and political analysts say Mr. Campbell deserves some credit for that boom. He also won plaudits for his response to the bombing at the Centennial Olympic Park during the 1996 Olympic Games.

But he also established a legacy of poor management. William Boone, a professor of political science at Clark Atlanta University, said Mr. Campbell was slow, or inept, at dealing with major problems he inherited, including an overtaxed sewer system, grinding poverty and traffic-clogged roads. When he left office, the city was facing an $80 million budget shortfall.

"The city was literally crumbling from below ground, and no real action was being taken to address the problems," Mr. Boone said. He added that Mr. Campbell's tenure looks even worse today in comparison with his popular successor, Mayor Shirley Franklin, who overwhelmingly won re-election last year after restoring the city's fiscal health.

On Atlanta's streets, Mr. Campbell remains a polarizing figure. More often than not, whites speak disparagingly about him, while blacks tend to defend him as a victim of a racially or politically motivated investigation.

"A lot of irreparable damage has been done to this city because of him, so I'm glad justice is being done," said Margaret Surber, 23 and white, as she took orders at a Caribou Coffee shop in East Atlanta. "I'm just glad we have Shirley Franklin now."

But Mary Burden, who is black, said the prosecutors should have left Mr. Campbell alone, saying she believes corruption is common among politicians.

"I think they probably wanted him to be an Uncle Tom and he wouldn't go for it," Ms. Burdon said outside a midtown YMCA. "He was a good mayor up to the end."

A Fake Cisneros Scandal (WP)

By Robert Litt

The Washington Post, January 23, 2006

An independent counsel has issued a report claiming that officials of the Clinton administration blocked his investigation into allegations of tax violations by former housing secretary Henry Cisneros. Although these sensational charges have been trumpeted by partisans as evidence of Democratic corruption, they are completely false.

I know; I was there.

The independent counsel, David Barrett, was appointed to investigate charges that Cisneros had lied about payments he made to his mistress. (After investigating this charge for several years, Barrett meekly allowed Cisneros to plead guilty to a misdemeanor charge with a promise of no jail time.)

In 1997 Barrett came to the Justice Department, where I was serving in the Criminal Division, and asked permission to expand his case to investigate whether Cisneros had evaded income taxes over four years. The law allowed the attorney general to grant him that jurisdiction if there were "reasonable grounds to believe that further investigation" of possible tax violations was needed.

Nonpartisan career lawyers in the department's Criminal Division and in the Tax Division studied the independent counsel's application in great detail over several weeks. They met with his office, reviewed documents and interviewed witnesses. Each of them concluded that, with the exception of a single year's tax return, there were no reasonable grounds to investigate Cisneros for tax violations.

These career lawyers found that the independent counsel's submission was full of legal and factual errors. For example, the independent counsel claimed that Cisneros had failed to report over $100,000 in income during 1991, but he was unable to produce evidence that there was any unreported income at all.

The conclusions of the career lawyers were reviewed in detail by other officials including myself, up to the attorney general. Every single lawyer in the Justice Department who reviewed this matter concurred in the analysis. As a result, Barrett's jurisdiction was expanded to permit him to investigate one tax year, for which there was barely adequate evidence -- although as it turned out, he never brought any tax charges.

Ironically, jurisdiction to investigate one year's tax violations in effect permitted the independent counsel to investigate all tax years. Under established legal principles, evidence of conduct in one year can be relevant to show tax evasion in another year. Everyone at the department recognized this; apparently, the independent counsel did not.

Far from conspiring to block the independent counsel from investigating tax violations, therefore, the Justice Department bent over backward to permit him to do so. Attorney General Janet Reno had no hesitancy in recommending the appointment of independent counsels when the facts justified it: She sought a half-dozen independent counsels during her tenure. As for me, it has been reported that I recommended appointment of an independent counsel to investigate Vice President Al Gore. Had the law and the facts justified it in this case, the attorney general would have granted the independent counsel's request.

In short, there was no conspiracy, no outside political influence, no improper conduct. There was only a good-faith evaluation of the facts and the law that produced a different result from the one the independent counsel desired. Even the Bush administration told Barrett that there was "no actual evidence" of a conspiracy to obstruct justice.

It is the independent counsel's behavior that warrants examination here. His completely unfounded investigation into the alleged obstruction of justice lasted over six years and cost the taxpayers tens of millions of dollars -- even though the issue was simple and straightforward, and even though the statute of limitations expired during his investigation. In that time he never contacted me or any other Justice Department lawyer to find out what we had to say. At the same time he apparently required one IRS lawyer to testify almost 30 times -- surely a record in any federal criminal investigation. His investigation might still be going on if the court that oversees independent counsels had not ordered him to stop. And yet his report contains no evidence supporting his scurrilous charges.

Sadly, this independent counsel seemed unable to recognize that different lawyers could reach different conclusions in good faith. Instead, he decided that everyone who disagreed with him could only be corrupt. He did not let the complete absence of evidence to support that fantasy deter him from smearing nonpolitical government lawyers, who have devoted their careers to serving the public, without hearing their side of the story. That's the real scandal.

The writer, a Washington lawyer, served from 1994 to 1999 in the Justice Department, where his last position was principal associate deputy attorney general.

Laski To Stay On The Job Despite Charges (CHIT)

Chicago Tribune, January 23, 2006

CHICAGO -- Rebutting suggestions by the media and City Hall insiders that he would resign amid corruption charges, City Clerk James Laski said Friday he "will continue to serve and represent the citizens of Chicago."

A federal investigation into his dealings "are not connected to the operations of this office," Laski said in a written statement. "Employees of this office will continue to effectively serve the needs of the citizens of Chicago."

Meanwhile, U.S. Magistrate Judge Sidney Schenkier freed Laski from the requirement to wear an electronic monitoring device that had been ordered a week ago after the clerk was charged with bribery and obstruction of justice.

The decision was supported by federal prosecutors and Laski's lawyer, Anthony Pinelli. "Mr. Laski is not a flight risk nor is he charged with a violent crime," Pinelli said.

Federal prosecutors allege that Laski received bribes from Michael "Mick" Jones, an old friend and top aide in the clerk's office, in return for landing city business for Jones' trucking company. Pinelli said Laski denies the charges.

In a three-paragraph statement, Laski said he was "precluded from commenting" on the charges lodged against him. But he took strong exception to reports that he has been absent from his post.

Laski said he took two weeks of vacation in December and made the decision to stay away from the last three City Council meetings so they wouldn't turn into a "media circus."

City Clerk Denies Reports That He Has Not Been At Work In Recent Weeks (AP)

AP, January 23, 2006

CHICAGO Chicago City Clerk James Laski says he has been at work in recent weeks -- despite reports to the contrary.The 52-year-old Laski is charged with soliciting payoffs in exchange for getting a trucking company operator city business and with pressuring a witness to lie to a federal grand jury.Laski said in a written statement today that reports that he has been absent from work recently have been exaggerated and unfair. He declined to comment on the federal charges.Laski says other than a few absences due to illness and two weeks of vacation he has taken to spend time with his family December for the past eleven

years, he has been at work.Laski said after he was indicted January 13th that he would continue to work as City Clerk. Elected officials in Chicago lose their jobs upon a conviction.

City Employeenfacing Proben On Kickbacks (CTPOST)

By BILL CUMMINGS

Connecticut Post, January 22, 2006

BRIDGEPORT — A veteran city employee is under investigation for allegedly accepting kickbacks — sometimes in the form of cash-filled envelopes passed openly at City Hall — in exchange for awarding contracts.

The FBI is probing the activities of Chris Kovachi, a 20-year city employee and specialist in the city's Housing Department, three separate sources confirmed.

Kovachi, who is paid $42,271 a year, helps hire contractors and sets up rehabilitation work on city-owned housing so the units can be rented or sold to low-income residents. Federal dollars are used to fund the programs.

Kovachi denied any wrongdoing when asked about the allegations.

"I don't know anything about it. I talked to the FBI way back, about Ganim," Kovachi said, referring to former Mayor Joseph P. Ganim, who is serving nine years in jail on federal corruption charges.

"There is nothing I can comment on. I have done nothing wrong," he said.

Sources also said FBI agents are interested in city contractors who allegedly paid Kovachi in exchange for receiving work.

One of those contractors is Wayne Jones, of Jones and Jones Construction in Bridgeport. A former city employee, who asked not to be identified, told FBI agents about witnessing Jones giving Kovachi an envelope filled with cash.

City records show Jones was paid more than $717,000 over the last five years for various jobs.

Jones did not return numerous calls seeking comment. An effort to interview him at his 48 Sherman St. home was unsuccessful.

A next-door neighbor said Jones moved out a month ago. The neighbor knew Jones was a contractor, and said he worked out of a pickup truck that was often parked at the duplex.

Jones has not been charged with any crimes, and neither has Kovachi, who also lives in Bridgeport. Meanwhile, sources said FBI agents have interviewed city employees in the housing office, and agents have obtained documents relating to Kovachi's activities in the office.

Mayor John M. Fabrizi declined comment about the investigation. "I can neither confirm or deny this. I'm aware of several issues, but I'm not at liberty to speak about it," Fabrizi said.

Lisa Bull, a spokeswoman for the FBI, also declined comment.

The former city employee, who was interviewed by the FBI six times last year while working in the housing office, told the Connecticut Post about witnessing Kovachi accepting an envelope stuffed with money from Wayne Jones.

The exchange took place last summer, in the hallway outside the city's housing office at City Hall on Lyons Terrace, the source said.

"Chris walked past my desk and the envelope fell out of his back pocket. I picked it up and it was filled with hundred dollar bills, maybe $2,000 to $3,000. I said, 'What's this?' and Chris took it from me and said, 'He owed me money,' " the source said.

"Chris would get friends to lower bids so they can get jobs. He would want them to pay him off," the source said.

The source told FBI agents about five incidents in which envelopes were passed to Kovachi by various contractors. Kovachi said the witness may have "misinterpreted" what was passed to him. He said he had no recollection of the specific event described by the witness.

Two sources within city government also confirmed the FBI is investigating Kovachi. Those sources were aware of allegations that envelopes of cash were passed in City Hall, but said they had no direct knowledge of that activity.

But the two sources said they have first-hand information that Kovachi is the focus of a federal investigation. The sources stressed that the FBI is not investigating the entire housing office, and said the city is cooperating with the probe.

None of the sources were aware of city employees who testified before a grand jury, which usually occurs before an indictment is brought.

The city's Housing Department is divided into several divisions, and Kovachi works primarily in the HOME program, a federally funded initiative to renovate and build units for low-income renters or first time home buyers.

The city receives about $1.8 million annually from federal sources to fund the HOME program.

The probe began after city officials received credible information that Kovachi was taking kickbacks, sources said. Officials alerted city police, who in turn contacted federal authorities about the possible corruption.

The Housing Department was reorganized two years ago after longtime director, Para Rosario, was forced out over allegations of incompetence.

After taking over Rosario's office, officials found hundreds of thousands of dollars in checks written to the city that had not been deposited, and a host of other irregularities.

FBI Probe: Schools Vs. Political Connection (PHI)

By Ken Dilanian

The Philadelphia Inquirer, January 23, 2006

Philadelphia schools chief Paul Vallas came to town three years ago promising to clean up the district's "dysfunctional" workers' compensation system, which costs taxpayers tens of millions a year.

But his pledge soon foundered on the shoals of the city's political culture. For reasons that Vallas has declined to publicly explain, the district hired a workers' compensation consultant with no government experience but with two important patrons: Democratic City Councilman Rick Mariano and Republican State House Speaker John Perzel.

After Mariano personally introduced Danlin Management to Vallas, the newly formed company won a no-bid contract in 2003 to advise the district on ways to cut costs by reducing worker injuries and curbing fraud.

The district's top financial officer at the time had concerns about Danlin but felt pressured by Vallas to hire the Center City firm, according to newly released records of the FBI's investigation into the matter.

When Danlin ran into problems in 2004, Perzel's office stepped in, pressing Vallas to keep paying the company even after senior district staffers had concluded it wasn't delivering what it had promised, records show. Vallas in turn got personally involved, the records show.

Danlin's managing director contributed $10,000 to Perzel's campaign fund in 2003, including $5,000 a day after the firm won its schools contract, public records show.

Danlin was eventually fired in late 2004, but not before taxpayers paid the company $393,750, court records indicate. The now-defunct firm is suing the school district, alleging breach of contract, and taxpayers are paying a well-connected law firm, Blank Rome L.L.P., to defend the district.

In a statement, Vallas said he didn't pressure anyone and said it was his decision to drop Danlin for poor performance. He declined further comment, citing Danlin's lawsuit.

In October, Danlin managing director Joseph Pellecchia was charged as part of an alleged conspiracy to bribe Mariano.

Pellecchia, who pleaded not guilty, is accused of laundering a $6,672 check for Mariano and then seeking the councilman's help with the Danlin contract. Mariano also has pleaded not guilty.

In a brief interview, Pellecchia argued that Danlin saved the school district money and was fired for political reasons. The FBI should be investigating the school district, not City Hall, he said.

"I told the feds they were in the wrong building," he said, before declining to comment further.

There is no sign that federal authorities are scrutinizing Perzel's efforts for Danlin. Helping a campaign contributor is not illegal unless political cash is exchanged directly for favors.

But newly obtained records in the investigation, including school district memos and written accounts of FBI interviews, offer a rare look at how Perzel - who runs a GOP House majority in Harrisburg that controls billions of dollars - involved himself in the minutiae of school district spending decisions to aid a friendly firm.

The records also suggest that Vallas went to considerable lengths to accommodate politicians who wanted to help a private company, despite the concerns of his staff.

In an interview with the FBI, the school district's former chief financial officer, Michael Harris, said Vallas repeatedly asked him what he was doing about Danlin. Although Vallas never actually ordered him to hire the company, Harris said, the message was clear:

Harris "felt a steady pressure by these inquiries that this is what Vallas and his staff wanted done," the FBI report says.

It's unclear how much money, if any, the district saved by hiring Danlin. A Danlin representative who declined to be identified said the firm made recommendations that saved as much as a million dollars.

The school district released a statement Friday asserting that, under a new consultant hired after Danlin, the district had saved about $5 million in the workers' compensation program by paying lump-sum settlements to workers claiming injuries.

The statement added that, when it comes to contracts, "it is not unusual for suggestions and recommendations to come from public officials." All firms are evaluated on their merits, it said.

Perzel declined to comment about Danlin, but his chief of staff, Brian Preski, said that assisting the company was the sort of thing the speaker does every day.

"It's the nature of this job," Preski said. "Like any other person that comes to see us, we'll try to get them the right meeting with the person who is a decision-maker. But in the end, it's that agency's decision whether they use them or not."

Preski said the political contributions were irrelevant.

"It's never been a part of any decision to us to help or not help anybody," Preski said. Perzel "has over 9,000 contributors."

Runaway costs

Vallas first raised the issue of workers' compensation costs in August 2002, shortly after arriving from Chicago.

About 17 percent of the district's nonteaching employees were absent daily, he noted, and in some job categories, as many as 10 percent of the missing workers were out on disability.

"In a nutshell, we almost have a dysfunctional workers' compensation system," Vallas said in November 2002. "We simply spend far too much."

A month later, Vallas was introduced to Pellecchia by Mariano, records show. Harris also attended that meeting.

"Mariano told Vallas and Harris that Pellecchia was a friend and he would appreciate if Pellecchia and the school district could work together," an FBI report states.

In an interview with the FBI last year, Vallas said he did not recall meeting with Mariano about Danlin - until an FBI agent refreshed his memory with a copy of his date book.

As a rule, Vallas said, he doesn't meet with business people seeking contracts. But, he told the FBI, it's different when the request comes from a councilman.

"If Danlin called, it would not have been put on the calendar," the FBI quoted him as saying.

Vallas also talked to the FBI about Perzel. He told agents that the speaker had asked him to listen to Danlin's proposal, saying: "Do whatever you want with these guys. Whatever is best for the school."

As speaker, Perzel has been chiefly responsible for channeling billions of state tax dollars to the school district.

Danlin was a new company, but Pellecchia told the district that he had years of experience advising private businesses on reducing workers' compensation costs. Danlin's staff included a medical doctor and a longtime workers' compensation consultant.

Pellecchia also had the backing of the Teamsters union, whose officials lobbied the school district and Perzel on Danlin's behalf, according to documents and interviews.

Still, Harris told the FBI that he was never satisfied with Danlin's proposal. He moved forward with it only after he "was frequently asked by Vallas and members of his staff how things were going with Danlin Management Group and if they were going to get a contract," FBI records state.

In an e-mail, Harris, who has since taken a job at the University of Pennsylvania, declined to comment.

Contract disputes

A $225,000 no-bid contract was approved in September 2003. By April 2004, records show, Danlin was pitching a huge expansion of its duties that would have earned it up to $1.5 million a year. But the district official who worked most closely with

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Danlin - risk management director Gina Pellegrino - had become unhappy with the firm's work. She was unimpressed with the new proposal.

"Danlin proposes savings each year that barely cover the cost of their contract ($500,000 to $1,000,000)," she wrote in an April 14, 2004, e-mail. "The district could just not hire them and save almost as much money as they present in projected savings."

By June 2004, Pellegrino was trying to fire Danlin, records show. Perzel's office was not pleased.

"What is going on?" Preski, the chief of staff, wrote in an e-mail to Tim Spreitzer, Vallas' chief of staff. "What did we meet about if this lady has this kind of power and can change what we agreed to?"

The firm stayed on, and a month later, Danlin and the district were fighting over payments. Preski e-mailed again, trying to get the district to pay Danlin extra money - in addition to the $225,000 contract - from bonds sold to raise money to settle workers' compensation cases.

"Just got another call that Pellecchia has not been paid, thought we had this resolved, can you please check into this?" Preski wrote on July 20, 2004.

Spreitzer replied: "The problem is that they've submitted an inflated invoice for $285,000; it is totally outrageous and beyond the pale. They are entitled to no more than $150,000 on the workers' comp bond transaction... they just refused to listen. Paul [Vallas] and I will call you on this issue today."

Preski responded: "Can you pay them the 150k and agree to work on issues surrounding the rest."

The school district's reply is not in the records, but Danlin was able to hang on for a few more months. Perzel attended another meeting with school officials about Danlin in September 2004, according to Danlin's lawsuit.

By November, however, Vallas had also become dissatisfied, and Danlin was no longer working for the school district. The firm is now out of business. The landlord of its former offices at 1818 Market St. has obtained a $59,967 judgment against the company for unpaid rent.

Nonprofit Paid For Suit Against Fumo Opponent (PHI)

By Mario F. Cattabiani, John Shiffman And Craig R. Mccoy

The Philadelphia Inquirer, January 23, 2006

A South Philadelphia nonprofit with ties to State Sen. Vincent J. Fumo secretly financed a lawsuit to oust a powerful political opponent from the state Senate, sources said.

The FBI is asking why the nonprofit - created to clean streets and revitalize businesses in Fumo's district - financed an unsuccessful 2001 lawsuit against the head of the state Senate, Republican Robert C. Jubelirer of Altoona, according to people familiar with the investigation.

Fumo, the influential Philadelphia Democrat, has clashed with Jubelirer politically, and personally. In one 2004 episode that grabbed headlines, Fumo, irate at a Republican parliamentary maneuver, called Jubelirer "a faggot" on the Senate floor. Fumo later apologized to the gay community.

The nonprofit, Citizens Alliance for Better Neighborhoods, didn't pay for the lawsuit against Jubelirer directly, according to people familiar with the transaction.

Instead, the nonprofit sent about $17,000 to Howard Cain, a longtime close political adviser to Fumo. Cain's political consulting firm then cut a $17,000 check for the suit, the sources said.

Nonprofits are barred by law from spending money on politics.

Fumo did not respond to a request for comment Friday. Cain declined to comment, as did federal prosecutors.

In an e-mail Friday, Fumo's lawyer, Richard A. Sprague, said Citizens Alliance had every right to get involved in what he called a "matter in the public interest to all Pennsylvanians."

The issue in the case was whether Jubelirer could serve as lieutenant governor while holding on to his Senate seat.

"In my opinion, it is perfectly appropriate for a nonprofit, including Citizens Alliance, to be concerned in fundamental issues of constitutional interpretation, which are of great public importance," Sprague wrote.

"There are many possible reasons why a nonprofit would wish to remain anonymous, including the possibility of retaliation from the very officials involved in the litigation," he added.

Jubelirer said he never knew about the funding of the suit until last week.

"There should have been complete transparency," Jubelirer said. "At least they should have been a little bit more honest and upfront."

Of Citizens Alliance, he said: "This is certainly not part of their mission. It is supposed to be helping people in South Philadelphia to live somewhat of a better life."

For two years, the FBI, IRS agents and prosecutors have been aggressively scrutinizing a series of nonprofits connected to Fumo, looking at how Fumo raised money for them and how they spent it.

The investigation began after The Inquirer reported that Fumo had cut a secret deal with Peco Energy Co. The utility donated $17 million to Citizens Alliance after he dropped his opposition to the utility's deregulation plans. Fumo also arranged for the group to get $10 million from the Delaware River Port Authority.

Citizens Alliance is staffed with former and current Fumo aides. Public records show that the group's executive director, Ruth Arnao - a former legislative aide for Fumo - has signed annual tax forms for the group stating that it did not engage in politics.

Arnao did not respond to a request for comment.

The FBI/IRS investigation into Citizens Alliance is wide-ranging and focuses in part on whether the nonprofit broke the law by spending money on politics.

As The Inquirer has previously reported, the nonprofit spent $215,000 for political polling, money that was later reimbursed by a Fumo political-action committee.

Authorities are also pursuing allegations of obstruction of justice. Fumo aides who have appeared before a grand jury have been asked whether records were destroyed after the probe began, sources have told The Inquirer.

Fumo has been at odds with Jubelirer for more than a decade. In 1993, the two almost came to blows in the Senate chamber.

"His hand was cocked," Jubelirer said in 2004, remembering the incident. "He was going to hit me with a sucker punch."

The legal fight with Jubelirer, the Senate's president pro tempore, played out after Gov. Tom Ridge quit midterm to become U.S. homeland security director. Lt. Gov. Mark Schweiker became governor, and Jubelirer stepped up to fill the lieutenant governor's job - but kept his Senate seat.

Then-Rep. John A. Lawless filed a lawsuit in Commonwealth Court, contending that the state constitution barred Jubelirer from holding both posts. Lawless was a Montgomery County Republican when he filed the lawsuit, but he is now considering running for the state Senate as a Democrat.

Lawless' suit argued that Jubelirer should resign from the Senate and a special election be held to fill his seat.

At the time, the hand of Citizens Alliance in the case was not made public.

Fumo did file a separate friend-of-the-court brief urging the judges to take up the case.

The brief, written by Christopher B. Craig, a Fumo legislative counsel, said that "Senator Fumo does not take a position" on the ultimate question, whether Jubelirer should hold both jobs.

Rather, it said Jubelirer was wrong when he argued that only the Senate could decide the matter. Fumo argued that courts needed to intervene to remove "a cloud of uncertainty."

Ultimately, Commonwealth Court agreed to hear the case, thanking Fumo for his brief. It then ruled against Lawless, permitting Jubelirer to hold both jobs.

Jubelirer did so from October 2001 until January 2003, when Gov. Rendell and Lt. Gov. Catherine Baker Knoll took office.

As for Lawless, he lost his seat in 2002 after 12 years. He eventually became corporate secretary to the Delaware River Port Authority, a job that now pays $116,699; a top DRPA official said last week that Fumo, an alternate DRPA board member, was instrumental in Lawless' hiring there.

While declining to discuss the suit, Lawless praised Fumo and said that The Inquirer is pursuing "a witch hunt" against the state senator.

He said that he and the senator often bumped heads on issues in Harrisburg.

"I wasn't a Fumocrat," Lawless said.

Nonetheless, Lawless said, after losing his House seat, Fumo surprisingly returned his call and offered help to get him a new job.

"I said, 'Why would you help me?' He said, and I remember it to this day, 'Because it's easy to be someone's friend when they are on top. Be their friend when they are on the bottom. That's the hard part,' " Lawless recalled.

Although Lawless declined to comment about the suit, the two other plaintiffs in the action, as well as the lawyer in the case, all said they had been interviewed in recent weeks by the FBI about the matter.

One of those plaintiffs, Joseph H. Wiedemer, a resident of Jubelirer's district, said that Lawless told him at one point that he was trying to arrange for Fumo to cover the legal fees.

Gerald C. Grimaud, a lawyer for Lawless, Wiedemer and the other plaintiff, Charles A. Pascal Jr., said that "a Philadelphia corporation" paid him $17,000 as a retainer before he filed the suit in Harrisburg in October 2001.

Grimaud said he had given a copy of the check to the FBI. Although he would not say who had paid him, Grimaud explained the payment this way:

"In my mind, it was because there are not a lot of people willing to take significant action against powerful people, and Sen. Jubelirer was and still remains one of the most powerful persons in the state."

Sources said the check for the legal bills came from Venture Analysis Inc., the political consulting firm formed by Cain in 1978.

Cain has worked with Fumo in various positions for more than two decades and is considered one of his most trusted advisers.

Bruce Ledewitz, a law professor at Duquesne University and an expert on the state constitution, followed the Jubelirer lawsuit closely and never heard that Fumo's nonprofit might be involved.

"What we need in Pennsylvania is to have everything transparent," Ledewitz said. "The people need to be assured that there are no secret deals, that there are no behind-the-scenes agreements, that everything is happening right in front of us."

Nonprofits are barred from spending money on political activities. In an interview, Marcus S. Owens, the former head of the IRS division that regulates nonprofits, said the agency might raise questions about the polling and the lawsuit.

The IRS would frown on any spending it believed would benefit a political agenda as opposed to the public goals of the nonprofit, he said.

In its incorporation papers, Citizens Alliance said its purpose was "to promote public health, housing, safety and education in the City and County of Philadelphia."

MARA SALVATRUCHA New Breed Of Street Gang Spreads Through Texas, U.S. (AAS)

By Mike Ward, AMERICAN-STATESMAN STAFF

Austin American-Statesman, January 22, 2006

ABILENE — It was almost half his life ago, when he was just 12 or 13, but Daniel Teran Flores remembers the beating well. A group of youths in his neighborhood, in a working-class slum of Tegucigalpa, Honduras, surrounded him one day and kicked and slapped and punched him until he consented to join a neighborhood clique.

He did, after just a few minutes of being bruised and bloodied.

"Eme Ese," they called it in Spanish. La Mara Salvatrucha.

"All my friends went with (MS)," he explained in broken English. "So I did, too."

Now 24, Flores sits in a state prison on the wind-swept prairie just outside Abilene, serving a 10-year sentence for aggravated kidnapping and aggravated robbery for abducting and threatening a member of a rival gang and his girlfriend, police say. He is one of 24 convicts locked in Texas prisons who are confirmed members of MS-13, as the gang is known. It's a burgeoning criminal enterprise that has spread into 33 states and the District of Columbia, leaving a bloody trail of vicious crimes in its wake amid persistent reports that al Qaeda might be trying to use its smuggling network to sneak terrorists into the United States.

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"America's most dangerous gang," officials have called it.

Its epicenter of recent growth has been neighborhoods of Central American immigrants in Houston, where federal investigators say the gang's membership and crimes have mushroomed. It is now facing a multiagency crackdown aimed at curbing its influence and violence.

Los Angeles "is still the place where you go to make your bones with MS-13, but Houston has emerged as a very large problem area," FBI Special Supervisory Agent Stephen Kodak said in Washington. "Just a couple of years ago, MS-13 wasn't really on the radar screen there. Now, they're all over it."

Recent FBI estimates indicate that MS-13 has 8,000 to 10,000 members — men and women — in the United States, not the largest gang. Nationwide, there are thought to be more than 800,000 members in 30,000 street gangs. But MS-13 is the only one targeted by an FBI national task force, a testament to its threat to public safety.

In Houston, federal and state investigators estimate that MS-13 may have as many as 500 members. More have been confirmed in Dallas and San Antonio, authorities say. And although Austin police say they have confirmed no MS-13 activity yet, federal investigators say that could change.

"We've had some MS-13 related graffiti, but we think it's wannabes or people who think it's cool," said Sgt. Mark Ballagia of the Austin Police Department's gang suppression unit. "It's sprung up in the past year."

Some federal authorities compare the growth and violence of MS-13 with the Jamaican drug posses of the 1980s who helped spread crack cocaine across the United States, leaving a trail of thousands of murders and violent crimes in more than 30 states before a federal task force sent hundreds of its members to prison.

"It's like the old-time Mafia: They prey on their own, offering protection and then extorting money from other illegals who aren't likely to report the crimes," Kodak said. "It's definitely a growing problem."

Ironically, according to most versions of the gang's history, MS-13 was formed in Los Angeles more than two decades ago to protect Salvadoran immigrants from falling victim to established Hispanic street gangs. Initially, the gang operated in loosely organized cells that grew neighborhood by neighborhood, from city to city, generally following the migration of Salvadoran immigrants across the United States, each governed by a member known as the "shot caller," according to federal investigators. It also spread back to Central America.

Although the gang still lacks a centralized leadership structure, operating in local groups called "cliques," federal investigators say the leaders in Los Angeles appear to carry the most clout.

In the past two years, MS-13 cells have been surfacing with alarming frequency across the United States — from mega-cities such as Houston, Boston and New York to smaller cities such as Madison, Wis., Oregon City, Ore., and Reno, Nev., to small towns on the North Carolina coast.

"In those fishing villages, where there are a lot of Salvadorans, you'll find an MS problem," Kodak said. "Right now, they're growing. . . . They're recruiting here in the United States."

In Texas, a life of crime, violence

MS-13's rap sheet in Texas reads like a Top Ten list of ugly crimes: murder, rape, kidnapping, extortion, drug trafficking, car theft, robbery, aggravated assault, illegal firearm sales and immigrant smuggling.

The latest episode to make news was a November shootout in Houston with FBI agents that left two gang members dead and four in jail. In a military-style operation, six MS-13 members in ski masks burst into a house where they thought a rival gang had stored drugs. Instead, federal agents lay in wait.

The FBI is investigating whether gang members are receiving formal training in weapons and military tactics, which promises to increase fears about the group and step up the federal crackdown.

Luis Ascencio, 24, could be a poster boy for what officials insist is a growing threat.

The former construction worker is serving a 20-year sentence for raping a prostitute at gunpoint in August 2002. Speaking from an interview booth at the Darrington prison in Rosharon, a short drive southwest of the Houston neighborhoods where MS-13 holds sway, Ascencio is open about his gang ties.

He fits the profile: buzz-cut hair, tattoos that spiderweb across his arms and chest, matter-of-fact about his allegiance to MS-13.

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He sold drugs and guns out of his pickup, he explains in broken English. An AK-47? "No problem. $600. I could get you whatever you want.

"I probably sold 200 guns.

"I brought in girls from Mexico. For prostitution? Yes. . . . We have a strong network in Houston."

Although many MS-13 members entered the United States illegally as teenagers, Ascencio says he came to Houston with his mother, from a poor working-class neighborhood in El Salvador, when he was 7. She found work as a cook at a well-known Mexican restaurant chain, Ninfa's.

He joined the gang at 14, Ascencio says, encouraged by boyhood friends in his Spring Branch neighborhood who were members. "They were all from El Salvador," he said.

Kicked out of school soon after he joined MS-13 — "for fighting," he says — Ascencio says his "homeboys" soon found him work in construction. With better English than most, he says, he was soon making up to $600 a week as a translator for mostly Mexican crews in the Houston area. His nickname? "Chaos," police records show.

Ascencio talks about "the war," the ongoing battles with rival gangs in Southwest Houston, and how much he looks forward to rejoining the gang when he leaves prison.

"It's a good thing," he says when asked about being a Mara. "We're all over the U.S. now."

A broad smile crosses his face.

"Life is a risk," Ascencio says, shrugging off questions about the violence and characterizations by some authorities that MS-13 members are terrorists. "A lot of people in the world doing the same as we are . . . I'm with them."

Why, he is asked. "Just pride. I'm a homeboy."

As he rocks back in his chair, a tattoo emerges among the many on his arms and chest. "FTW," it reads. "(Expletive) the world," Ascencio says with a grin.

'These youngsters are monsters'

If the gang is considered a top crime threat in the United States, it is just as notorious in Central America. And deadly.

In Honduras, MS-13 is considered a terrorist organization. President Ricardo Maduro, whose son was kidnapped and killed by gangs eight years ago, has ordered zero tolerance for gangs, using a new law making illicit association a crime. Mexican federal police last year rounded up hundreds of Maras after officials labeled the group a threat to national security. Like their counterparts in Honduras, Salvadoran authorities have imprisoned thousands of MS-13 members.

During the past two years, MS-13 members have been linked to or charged with horrific crimes: the gunning down of 28 men, women and children on a bus in Honduras two days before Christmas in 2004, purportedly in retaliation for a mysterious prison fire that killed 100 MS-13 members; machete attacks on rivals; retaliation rapes; drive-by shootings; even a beheading in Honduras in which a note to the country's president was reportedly pinned to the victim.

They have become killing machines, Honduran National Police Minister Oscar Alvarez said in an interview last year with National Public Radio. "They might be youngsters, they might be poor, but these youngsters are monsters," he said.

During the past two years, U.S. investigators say, brutal attacks have become the gang's calling card in the United States, as well.

In July 2003, the body of Brenda Paz, a former MS-13 member, was found dumped in a brier patch along the bucolic Shenandoah River in rural Virginia. She had been fatally stabbed, her head almost severed. She was 17 and pregnant.

She also was cooperating with investigators trying to bust the gang in at least six states, including Texas.

The previous May, MS-13 members in Alexandria, Va., used a machete to hack off several fingers of a rival gang member. In a neighboring suburb the same year, a teenager and his girlfriend were gunned down by MS-13 members who mistakenly thought they were with a rival gang.

In Texas, although shootings have marked the gang's rise in recent years, other crimes have attracted the attention of law enforcement. In 2002, investigators linked the gang to a truckload of stolen infant formula — which police suspected at the time was to be sold to support gang operations. A year later, lawmakers at a congressional hearing were told that MS-13 members in Texas were suspected of working with fences to steal large amounts of clothing, cigarettes and infant formula — in many cases,

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using shoplifting crews who hit drug stores, discount retailers and other merchants in swings through Texas, Oklahoma and Arkansas.

"Law enforcement in 28 states have reported MS-13 members are engaged in retail drug trafficking, primarily trafficking in powdered cocaine, crack cocaine and marijuana, and, to a lesser extent, in methamphetamine and heroin," Chris Swecker, assistant director of the FBI's criminal investigations division, testified before a U.S. House subcommittee in April 2005. "The drug proceeds are then laundered through seemingly legitimate businesses."

In the past, U.S. authorities routinely deported MS-13 members to their home countries. There, they were soon released and either spread gang activity or slipped back into the United States. Now, more and more MS-13 members are landing in state and federal prisons in the United States. Or they are imprisoned after being sent back home.

Still, officials concede, the influx continues.

For Flores, the MS-13 member from Honduras, the gang for years gave him many of the necessities of life. It smuggled him on a train through Mexico, across the border at Matamoros and onto a bus to Houston, he said. It paid the rent at the apartment where he lived. It provided his car. It helped him get a job as a roofer.

So far, he has never been deported.

Like other imprisoned MS-13 members, most of whom have deportation tags on their prison files, Flores expects he will be sent home after he completes his prison term in 2008. Those who insist that they want to remain in the gang say they expect to be able to slip back into the United States as they did before.

Flores says he wants to go back to Honduras, finish school and get married. And stay away from gang life.

Flores concedes that will be difficult, perhaps impossible. Like other gangs, MS-13 has a "blood-in, blood-out" policy, officials say, meaning that if members renounce their affiliation, they will be killed.

"I already know gangs. It's got me in trouble," he says, shaking his head. I'm not going to put myself with MS anymore."

In 10 years?

"I may be a teacher," he says.

"Or I may be dead."

Despite Denials, Rumors Of Al Qaeda Ties Linger (AAS)

By Mike Ward, AMERICAN-STATESMAN STAFF

Austin American-Statesman, January 22, 2006

Could al Qaeda terrorist operatives be teaming up with the MS-13 gang?

No, federal investigators say. There is little, if any, evidence of such a link, and it is highly unlikely that the radical Muslim organization would align itself with a predominately Catholic gang, they say.

But questions linger.

In September 2004, The Washington Times reported that a top al Qaeda lieutenant, Adnan G. El Shukrijumah, had been spotted two months earlier meeting at a Tegucigalpa, Honduras, cafe with MS-13 leaders.

Then-Attorney General John Ashcroft confirmed that the meeting was being investigated.

Shukrijumah, a cell leader for whom the United States has offered a $5 million reward, is a former South Florida resident and pilot who federal officials thought helped plan the Sept. 11 attacks. He was among seven al Qaeda suspects publicly identified by Ashcroft as being involved in planning for new attacks.

In 2004, U.S. authorities suspected that the Saudi-born Shukrijuman had sought meetings with MS-13 leaders who they said control immigrant smuggling routes into the United States through Mexico.

Ashcroft later confirmed that Shukrijumah had attempted to acquire radioactive material for the production and smuggling of a "dirty bomb" into the U.S.

Federal officials subsequently downplayed and then refuted the reports about the Honduran meeting.

In February 2005, a U.S. diplomat in Matamoros, Tamaulipas, renewed concern that al Qaeda and MS-13 might be working together. Consul John Naland's comments came after the arrest of an MS-13 member in Matamoros who was accused

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of trying to smuggle three immigrants into the United States and a week after federal officials confirmed the arrest of Ebner Anibal Rivera-Paz, the reputed head of the Honduran MS-13 organization outside Falfurrias, north of McAllen.

MS-13 "might be just the kind of group which would take money to smuggle an honest-to-goodness terrorist into the United States," Naland said.

Storm Scam Leads To Indictments (BRA)

By PENNY BROWN ROBERTS, Advocate staff writer

Baton Rouge Advocate, January 21, 2006

A Georgia man allegedly on his way to getting $125,000 in unemployment benefits for 49 imaginary people and four Baton Rouge residents who may have lied to get thousands in disaster relief are facing federal prison time.

A grand jury handed up indictments this week against Drewey Pierre Whitaker, 44, formerly of Villa Rica, Ga., and Ivory Profit, 30; De'Ondra Profit, 34; Monique C. Preston, 24, and Billy R. James, 30, all of Baton Rouge.

The indictments — made public Friday — bring to 26 the total number of people who have been charged in Baton Rouge federal court with fraud in the aftermath of Hurricane Katrina.

Nationwide, more than 180 people have been arrested, said Baton Rouge U.S. Attorney David Dugas, who oversees the national Hurricane Katrina Fraud Task Force.

Whittaker faces five counts of wire fraud, each of which carries up to 30 years in prison, and 11 counts of illegal use of Social Security numbers, each of which carries up to five years in prison.

The indictment alleges that in September, Whittaker found a New Orleans family with the same last name and filed for FEMA disaster assistance, "falsely claiming that family's home was his own primary residence and that it had been damaged by the disaster."

At the same time, the indictment claims, he applied for disaster unemployment assistance from the Louisiana Department of Labor, claiming he lost his job with a trash-hauling service in New Orleans.

A month later, according to the indictment, Whittaker sought unemployment benefits for 49 imaginary people with the last name Ramirez or Garcia — all of them with the same birth date and fake Social Security numbers that varied by one or two digits.

When postal authorities confronted Whittaker in November while he was picking up a stack of debit cards mailed to his post office box, he told them he was "picking up the cards for his wife's relatives, all of whom he claimed were living at his residence in Villa Rica, Georgia," the indictment alleges.

Two days later, he fled to Albany, Ga., where he was arrested a month later. He is scheduled to appear before U.S. Magistrate Christine Noland on Monday afternoon.

A criminal complaint unsealed in November contends the Louisiana Department of Labor paid Whittaker $31,360 and that had the fraud not been discovered, he would have gotten $125,000.

Ivory Profit is charged with eight counts of making false and fraudulent claims for disaster assistance benefits and eight counts of illegal use of a Social Security number, each of which carries up to five years in prison.

De'Ondra Profit is charged with illegal conversion of government property — namely two checks from the Federal Emergency Management Agency for expedited disaster assistance, which carries up to 10 years in prison.

An indictment against the pair alleges Ivory Profit filed five fraudulent FEMA applications in his own name and three in De'Ondra Profit's name, using New Orleans and Harvey addresses and fake Social Security numbers.

FEMA sent the Profits two $2,000 checks, the indictment claims, which De'Ondra Profit cashed.

Preston, 10210 Avenue L., Apt. 120, was charged with one count of making false and fraudulent claims for disaster-assistance benefits and one count of making false and fraudulent statements to FEMA. She faces up to five years in prison per count if convicted.

According to the indictment, Preston got $2,000 after applying for disaster-relief benefits over the Internet in December, claiming she lived on Seventh Street in New Orleans.

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James, 675 Wooddale Blvd., Apt. 75, was charged with one count of making false and fraudulent claims for disaster-assistance benefits and one count of making false and fraudulent statements to FEMA. He faces up to five years in prison per count if convicted.

The indictment alleges James got $2,000 after applying for disaster-relief benefits in September, claiming he lived at the same address in Apt. 142.

Ex-N.O. Officer Charged In Post-Katrina Theft (BRA)

By JOE GYAN JR., Advocate staff writer

Baton Rouge Advocate, January 21, 2006

NEW ORLEANS — A federal grand jury accused a former New Orleans police officer Friday of driving across state lines with a new pickup truck looted from a Cadillac dealership during Hurricane Katrina.

Willie Earl Bickham Jr. is charged with interstate transportation of a stolen motor vehicle: a black 2005 Chevrolet Silverado.

Houston police arrested Bickham in November driving the stolen truck. Police said he admitted taking the vehicle.

More than 200 vehicles were stolen from Sewell Cadillac Chevrolet in New Orleans in the aftermath of the Aug. 29 hurricane. New Orleans police acknowledged that some of the vehicles were taken to replace flooded patrol cars.

The Louisiana Attorney General's Office is investigating the Sewell matter.

U.S. Attorney Jim Letten said Friday that federal prosecutors and the FBI are keeping their ears "close to the track" for incidents such as Bickham's that might arise and require federal attention.

The 36-year-old Bickham joined the New Orleans Police Department in 1992 and resigned from the force the week after Katrina.

If convicted, he faces up to 10 years in prison and $250,000 in fines.

Letten said Bickham is free on bond.

He is scheduled to appear in a New Orleans federal court Feb. 3.

Former NOPD Cop Indicted On Federal Charges (AP)

AP, January 23, 2006

NEW ORLEANS A former New Orleans police officer today faces a federal charge of allegedly driving a pickup looted from a Cadillac dealership across state lines.U-S Attorney Jim Letten says 36-year-old Willie Earl Bickham Junior was charged with felony interstate transportation of a stolen vehicle after his arrest in Houston.Bickham, who resigned from the police department the week after Hurricane Katrina, faces up to 10 years in prison if convicted. Copyright 2006 Associated Press. All rights reserved. This material may not be published, broadcast, rewritten, or redistributed.

Siemens Subsidiary Charged With $49 Million Contract Fraud (AP)

By MIKE ROBINSON, AP Legal Affairs Writer

AP, January 21, 2006

A Pennsylvania-based subsidiary of German electronics company Siemens AG and two of its executives have been indicted on charges of forming a sham partnership with a minority-owned company to land a $49 million county contract, prosecutors announced Friday.

The minority-owned company and its owner were also charged. Both were previously indicted in the investigation.

"Once again, we're here because fraud was involved in a major contract in Cook County," U.S. Attorney Patrick J. Fitzgerald told reporters in announcing the indictment that was returned Thursday.

Siemens Medical Solutions USA Inc., based in Malvern, Pa., was charged with fraudulently telling officials that it was partnering in the bid for the contract to provide radiology equipment to the county's new John H. Stroger Jr. Hospital with a minority-owned business, Faustech Industries Inc.

Prosecutors said Siemens claimed to be in partnership with Faustech because county officials were requiring that it was necessary to have 30 percent minority ownership to win the contract.

But in reality Siemens paid Faustech's sole owner, Faust Villazan, a flat fee of $500,000 to pose as a partner, according to the indictment. It said that Faustech had no partnership stake.

A spokesman for Siemens Corp., the parent company for its U.S. operations, says it broke no laws and will fight the charges.

"We felt the agreement was consistent with the minority rules," said spokesman Jack Bergen. "... The worst one could say is that we were in the wrong place in the wrong time."

Prosecutors said the alleged scheme frustrated the intention of county rules that were designed to ensure that minority-owned companies not only get a payment out of such contracts but share in the management and any profits or losses resulting from the enterprise.

The alleged scam was uncovered in 2000 when Fairfield, Conn.-based General Electric Co., which also had sought the contract, filed a lawsuit that claimed fraud was involved in awarding the contract to Siemens.

Robert D. Grant, special agent in charge of the Chicago office of the FBI, said the government is "determined to ensure that public contracts, especially those in the lucrative health care industry, are obtained based on merit and are not tainted by corruption."

Siemens Medical Solutions was charged with one count of wire fraud and one count of mail fraud. The company is a wholly owned U.S. medical supply subsidiary of Siemens AG, which is publicly traded and has headquarters in Erlangen, Germany.

Prosecutors also charged a pair of Siemens executives. Daniel Desmond, 43, of suburban Arlington Heights, was charged with one count each of mail fraud and wire fraud and perjury stemming from the General Electric suit. He is the district business administrator of the Siemens Medical district office in the Chicago suburb of Hoffman Estates.

His attorney, Royal B. Martin, said in a statement Friday that Desmond acted "in the best interests of both Cook County and his employer, Siemens, and welcomes having an impartial jury of his peers judge his conduct."

Ellen Roth, 61, of Ridgewood, N.J., an in-house attorney for Siemens, was charged with one count each of mail fraud, wire fraud and making false statements to the FBI. Telephone messages left for Roth and her attorney were not immediately returned.

Villazan, 44, of Western Springs and Faustech were indicted in September on charges of mail fraud, wire fraud and bribery in the case and denied the charges. The fresh indictment repeated those charges.

His attorney, Terrence Gillespie, said Friday he hadn't yet read the indictment and refused to comment.

"We're certainly not surprised," Gillespie said Friday. "We've known this was coming for a while."

Siemens' U.S.-listed shares fell $1.87, or 2.2 percent, to close at $84.23 on the New York Stock Exchange Friday.

Stroger Contractor Indicted In 'Sham' (CHIT)

By Mickey Ciokajlo And Robert Becker, Tribune Staff Reporters

Chicago Tribune, January 23, 2006

A federal grand jury has indicted Siemens Medical Solutions USA Inc. and two of its employees on fraud charges related to the awarding of a $49 million Cook County hospital contract.

The charges were announced today in a superceding indictment that also added new charges against minority contractor Faust Villazan and his former company, Faustech Industries.

Villazan, 44, of Western Springs, and Faustech originally were indicted in September for allegedly passing a $20,000 bribe to a Cook County employee to influence the award of the radiology contract during the construction of the new Stroger Hospital.

Villazan had joined with Siemens to form a joint venture in bidding on the contract. County rules at the time required a certain percentage of minority participation in contracts, and Villazan was a minority businessman.

In the superceding indictment handed up late Thursday afternoon, prosecutors alleged the joint venture was a sham and did not comply with county contracting rules because Villazan received a flat fee of $500,000 and did not share in the profit or loss of the deal.

Cook County required that 30 percent of the hospital contract go toward a minority- or women-owned business, U.S. Atty. Patrick Fitzgerald said at a news conference today to announce the charges.

"A minority business enterprise had to share in the risks and the losses, if the contract lost (money), and also share in the profits and genuinely in the work of what was happening," Fitzgerald said. "It was not simply you had to pay an amount of money to have a minority business affiliated with the contract."

Robert Grant, special agent in charge of the FBI's Chicago office, said Villazan entered into the Siemens deal "for the sole purpose of personal greed," saying, in effect, "I'm a minority business enterprise, and I'm for sale."

In the superceding indictment, Villazan and Faustech, which is now out of business, were charged with one count each of wire fraud, mail fraud and bribery.

Siemens Medical Solutions USA Inc., formerly Siemens Medical Systems, was indicted on one count each of wire fraud and mail fraud. A subsidiary of Siemens AG, of Germany, the unit has a local field office in Hoffman Estates.

Company employee Daniel Desmond, 43, of Arlington Heights, was indicted on one count each of mail and wire fraud as well as one count of perjury. Desmond was the company's district business administrator and was president of DD Industries, the joint venture that was formed for the bid and named after him.

Also, in-house Siemens lawyer Ellen Roth, 61, of Ridgewood, N.J., was indicted on one count each of wire fraud, mail fraud and making false statements to the FBI.

The defendants are to be arraigned at a later date in U.S. District Court in Chicago, prosecutors said.

DD Industries was awarded the county contract on Aug. 9, 2000. But that October, a competitor, GE Medical Systems, filed suit in federal court alleging fraud in the awarding of the contract.

The parties ultimately settled the suit, and nearly all of Stroger Hospital's radiology contract was transferred to GE, prosecutors said.

The superceding indict alleges that during court proceedings in the GE suit, the defendants concealed the side agreement between Siemens and Villazan, promising him the $500,000 payment.

Prosecutors said Desmond perjured himself in his trial testimony, and that an unnamed Siemens attorney kept Roth and corporate management apprised of the proceedings, and they did nothing to correct the official record.

Finally, Roth lied to FBI agents when they questioned her last September about an e-mail that confirmed the $500,000 flat-fee agreement between Siemens and Villazan, Fitzgerald said.

"If not for the light shed on the scheme by a competitor, this fraud might not have been uncovered," Grant said.

Desmond's attorney, Royal B. Martin, said in a statement that Desmond acted "in the best interests of both Cook County and his employer, Siemens, and welcomes having an impartial jury of his peers judge his conduct."

Villazan's attorney, Terrence Gillespie, said he had not yet read the indictment and refused to comment.

"We're certainly not surprised," Gillespie said. "We've known this was coming for a while."

A telephone message left with Roth was not immediately returned, the Associated Press reported.

If found guilty of the charges, the defendants face prison sentences of 5 to 10 years and fines in the hundreds of thousands of dollars, prosecutors said.

The Associated Press contributed to this story.

Firm Indicted In Scheme To Get Contract At Stroger Hospital (CHIT)

By Robert Becker And Mickey Ciokajlo, Tribune Staff Reporters

Chicago Tribune, January 23, 2006

A major corporation and two of its employees were indicted in a fraudulent scheme to win a $49 million Cook County contract, a deal that also involved bribery of a county employee, federal prosecutors alleged Friday.

A grand jury late Thursday handed up indictments against Siemens Medical Solutions USA Inc., a subsidiary of Germany-based Siemens AG, one of its in-house lawyers and a locally based district manager.

The officials allegedly schemed with a minority contractor, Faust Villazan, in setting up a shell company to win the contract for radiology equipment at the then-new Stroger Hospital.

U.S. Atty. Patrick Fitzgerald said Villazan and his company, Faustech Industries Inc., received a flat fee of $500,000 without providing any real service and without sharing in the risks or profits of the deal.

"The joint venture was, in fact, a sham," Fitzgerald said.

The Siemens subsidiary, company lawyer Ellen Roth and Hoffman Estates-based administrator Daniel Desmond were each indicted on one count of wire fraud and mail fraud.

Desmond, 43, of Arlington Heights, was also charged with perjury for allegedly lying about the deal in federal court after a competitor filed a lawsuit to nullify the deal. Roth, 61, of Ridgewood, N.J., was also charged with allegedly lying to FBI agents in 2004.

In September, Villazan and Faustech had been indicted on a bribery charge. Villazan allegedly paid a $20,000 bribe to an employee in the county's contract compliance office to influence the deal. The employee has not been charged or named by prosecutors. Thursday's superseding indictment added fraud charges against Villazan and Faustech.

Siemens officials and attorneys for the defendants denied any wrongdoing. "We broke no law, and the worst one can say is we were in the wrong place at the wrong time," said Jack Bergen, Siemen's senior vice president for corporate affairs and marketing.

"It is very sad that the government has chosen to seek federal charges in this case, especially against Ellen Roth, who has an excellent reputation as a lawyer and as a person," said her lawyer, Michael Monico. "We look forward to a trial and being vindicated in this matter."

The allegations underlying the indictments were originally brought to light more than five years ago when General Electric, a losing bidder for the radiology contract, filed a lawsuit in federal court. A magistrate determined that the joint venture did not comply with county minority set-aside guidelines, causing the County Board to cancel the deal and award the contract to GE for $57 million.

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Medical Supplier's Officials Indicted In Cover-up (CHIST)

By ABDON M. PALLASCH AND DAVE NEWBART, Staff Reporters

Chicago Sun-Times, January 21, 2006

An executive and an attorney for medical supply giant Siemens have been indicted for allegedly lying to the FBI and a federal judge to cover up a scheme in which Siemens paid a minority businessman to be their phony partner in a $49 million Cook County contract.

"They went before a judge and took an oath," said U.S. Attorney Patrick Fitzgerald.

Last year, a grand jury indicted businessman Faust Villazan for allegedly bribing an unidentified Cook County official with $20,000 to approve his bid for Siemens to supply radiology equipment at Cook County Hospital for $49 million.

All deny wrongdoing

The superseding indictment handed up late Thursday and made public Friday adds as defendants Siemens Medical Solutions USA, an American subsidiary of Germany's Siemens AG, an electronics powerhouse; Daniel Desmond, the business administrator of SMS's Hoffman Estates office, and Ellen Roth, in-house attorney for Siemens, USA.

Attorneys and representatives for Siemens, Roth, Desmond and Villazan all denied wrongdoing by their clients said they would be vindicated in court.

Instead of following the county's rules, which require a company to have a 30 percent minority partner, Siemens allegedly privately agreed to pay Villazan $500,000 to pretend to be a 30 percent partner.

"He had to share in the risks, the losses, the profits and the work," Fitzgerald said.

Siemens stood to make most of the profits from the $49 million deal under the secret agreement prepared with the knowledge of Siemens officials, Fitzgerald said.

GE -- which lost to Siemens in the bidding -- sued the county and Siemens in federal court, alleging fraud in the bidding process. Siemens officials, including Roth and Desmond, lied in court and said there had been no fraud, officials said. Roth told

the FBI she would be "shocked" to learn that Siemens entered into any "side" agreement with Villazan to pay him just $500,000 on the deal instead of 30 percent, Fitzgerald said.

Chicago FBI chief Robert Grant said the true victims of the fraud were minority-owned businesses the county's rules were designed to help.

Fitzgerald would not elaborate on the $20,000 bribe Villazan allegedly paid a still-unidentified county official, or whether the donations Villazan and Siemens made to Cook County commissioners on the eve of the contract implicated any commissioner. Smiling, Fitzgerald acknowledged that count is "a bit skimpy" but noted the investigation continues.

Civil lawsuit credited

Fitzgerald's office has subpoenaed information from Commissioner Roberto Maldonado and interviewed Commissioner Joseph Mario Moreno. Villazan also made donations to County Board President John Stroger and Commissioner Deborah Sims.

Faustech and Siemens gave $3,000 to Maldonado before the bids were to be submitted. They gave Moreno $1,500 on July 2, 1999, and Stroger $500 on April 26, 2000.

"I think the feds should continue their investigation the way that they are doing," Maldonado said.

"It's unfortunate that anyone has to get involved in doing stuff like that to get business," Moreno said. "Certainly it doesn't surprise me."

Fitzgerald and Grant credited GE's civil lawsuit filed four years ago with starting the process of exposing the alleged fraud.

"If not for the light shed on this scheme by a competitor, this fraud might not have been uncovered," Grant said.

"I'm pleased to see that both the individuals and the companies involved are being called to account for their roles in perpetrating this scheme and attempting to cover it up," said GE's attorney Kathy Roach.

U.S. Magistrate Judge Geraldine Soat Brown ruled in the civil case that Faustech appeared to have been brought into the deal merely to facilitate "access" for Siemens executives to county officials.

Man Gets Four Years In Lucrative Credit Card Scam (AP)

AP, January 23, 2006

NEW ORLEANS A New Orleans man has been sentenced to four years in prison and ordered to pay 35-thousand dollars in restitution after a jury found him guilty of stealing the credit card numbers of people and using them to buy merchandise that he would resell.The U-S Attorney's Office says Jerome McNeil and an accomplice recruited some cashiers at Kenner's Esplanade Mall and a restaurant to use a credit card skimmer to record customers credit card numbers.McNeil then used those numbers to purchase items and sell them on the street at half price.U-S Attorney Jim Letten said the pair was so brazen that they even began to distribute business cards on the street.Letten said McNeil and his accomplice earned between six-thousand and eight-thousand dollars a day in cash between November 2002 and January 2003.(From WWL-TV, New Orleans)

Calling All Future Police Officers (CSM)

By Kris Axtman

The Christian Science Monitor, January 23, 2006

HOUSTON - It seems that police work - the ho-hum "protect and serve" variety once glamorized in the 1970s and '80s on TV shows like "Adam-12," "CHiPs," and "Hill Street Blues" - went out with wide lapels.

The result is a major shortage of police recruits - which has reached crisis proportions in some cities - and fewer cops on the street than top brass say are needed for public protection.

The problem has several sources: low pay, a big hole left by retiring baby boomers, and an image problem that steers the few young people who are interested in law-enforcement careers toward crime-scene investigation and forensics, rather than everyday street patrols.

To remedy the manpower shortage, some law-enforcement agencies are getting creative. They are giving new recruits help with down payments on homes and, for experienced officers in other locales, they are offering signing bonuses for switching to a new city. They're even encouraging their own officers to find new recruits in exchange for extra vacation time.

"I haven't been to a place in this country where agencies aren't concerned about the number and quality of their officers," says Elaine Deck, who studies recruitment issues for the International Association of Chiefs of Police in Alexandria, Va.

The shortage has made officer retention a top concern of police departments, most of which report they are 10 percent shy of the numbers they need, she says. Law-enforcement agencies say the consequences are slower emergency-response times and backlogs in criminal cases.

In an aggressive move to get more boots on the ground, the Houston Police Department wants to offer $7,000 signing bonuses to any police officer who moves here and completes a 12-week modified training academy.

The idea is to lure experienced officers from other Texas law-enforcement agencies, so the city won't have to spend as much time training them. In return, the relocated officers will receive financial credit for up to five years of experience elsewhere - something that is not typically done.

The proposal came before a city council committee last week and hasn't yet been set for a full vote. The department hopes to train 70 "lateral" officers - those with experience in other Texas agencies - in March.

"I can't ever remember having a full lateral class, but we are already getting inquiries," says Craig Ferrell Jr., the department's general counsel, who says lateral classes average between 25 and 35 officers.

At the San Diego County Sheriff's Department in California, officials say such incentives are working. Down 10 percent on its staffing earlier this year, the department tripled its advertising budget and began offering signing bonuses of up to $5,000.

"It's starting to pick up. The incentives are helping," says Lt. Mike Barletta in the department's personnel division. "What we are actually doing is robbing nearby agencies of their people."

The recruiting has left some hard feelings at nearby agencies, but the sheriff's department's ad campaign is helping overall recruitment in the area by promoting law enforcement as a desirable career, he says.

The San Diego County department, like many agencies nationwide, began to see the number of recruits fall in the 1990s, but the drop-off became a crisis only in the past few years as retirements increased.

Lieutenant Barletta, for his part, also blames the media, which he says began to demonize police officers after the Rodney King beating by Los Angeles police officers in 1991.

"The glamour was taken off the job, and people began to think that all cops were bad," he says. "Who would want to put up with that?"

To try to make law enforcement an appealing career again, agencies across the nation are resorting to advertising campaigns. Others are changing physical agility tests to more accurately reflect the kind of work their officers do. Some are streamlining the recruiting process to put officers on the streets faster.

Some analysts ask, though, if such efforts will yield many recruits among a generation of young people with different ideas about work. "Those of us who began working in the 1960s and '70s live to work. Our identity is wrapped up in what we do," says Ms. Deck. "Young people today work to live. They are more concerned about spending time with family and friends."

That means working late or on weekends is less acceptable. The average starting salary, $32,000 a year, is another deterrent - especially as the economy picks back up.

"Police work, like patrolling, is dangerous, and the pay is too low," says Brittaney Riojas, a bubbly junior at Houston's High School for Law Enforcement and Criminal Justice.

Like many of her fellow students who have grown up in the computer age, Brittaney doesn't find old-fashioned police work very exciting. She wants to do crime-scene investigations. "Shows like 'CSI,' 'Without a Trace,' 'Numb3rs,' they make it seem so interesting," she says.

Aaron Najera, a junior, is one of the few at the magnet school interested in traditional policing. Given the staffing shortages, he doesn't expect to have a problem getting a police job here when he turns 21. "Since I was a kid, I've wanted to be a superhero who went around helping people. I figure the closest thing to that is a police officer."

CIVIL LAW:

Case Puts Focus On Conflicts Of Interest In Contracts (WP)

By Charles R. Babcock

The Washington Post, January 23, 2006

DOJ_NMG_0010066

In August, local defense contractor Alion Science and Technology Corp. faced the imminent loss of one of its largest contracts, a $275 million deal helping manage the Pentagon's military communications network. The government had just announced that Advanced Engineering & Sciences of Reston, a division of contracting giant ITT Industries Inc., would take over the work.

But today Alion, which has helped run the Pentagon's Joint Spectrum Center in Annapolis for decades, is back in contention for the job.

In a case that could signal a more aggressive federal approach toward potential conflicts of interest in contracting, Alion convinced government reviewers that a division of ITT should not be allowed to manage a program that potentially would be evaluating products made by the defense conglomerate -- or at least not without much more analysis then the Pentagon initially performed.

This month, the Government Accountability Office agreed, indicating that it was going to begin looking more closely at "organizational conflicts of interest" -- the potential for a company to end up in a situation in which it is essentially evaluating itself or its competitors -- and would make sure contracting agencies begin paying more attention as well.

The spectrum center oversees the military's expanding demand for radio frequencies, and it evaluates communications equipment for the armed services. Because ITT makes radio equipment, the GAO said that before the company could be awarded the contract, the military had to more carefully study its potentially "impaired objectivity" in carrying out the work.

The decision was "a bit of a shocker," said Christopher R. Yukins, who follows the issue as an associate professor of government contract law at the George Washington University Law School. The GAO sustains only about one of every five bid protests. While it had made a similar decision last year, Yukins said this case goes further and is a "clear statement [the GAO] is going to be second-guessing agencies, not deferring to them," if their analysis of possible conflicts is not thorough or well documented.

The potential for organizational conflicts is a growing concern as the government outsources more technical work to private companies and the defense industry continues to consolidate. In a recent paper, Daniel I. Gordon, who runs the GAO's bid protest operation, called organizational conflicts "a significant part" of the federal procurement landscape that "present an integrity challenge and merit attention."

Yukins added that Congress also has expressed concern about possible conflicts among "lead systems integrators," the contractors who in effect run large defense programs and pick other contractors to provide goods and services for the job. The defense authorization bill President Bush just signed includes a provision requiring the Defense Department to report on actions it is taking to prevent or mitigate such problems.

The contracting industry recognizes the potential problem but cautions agencies not to go too far. Chris Jahn, president of the Contract Services Association, a trade group representing more than 200 companies that perform $40 billion in government services contracts, said: "Where conflicts of interest do exist, contractors should disclose them and take necessary precautions to limit them, but they should still be allowed to fairly compete for those contracts. The government needs to then make an informed decision as to whether those conflicts are a significant issue."

Alion and ITT declined to comment on the substance of the recent GAO decision because the final contract winner hasn't been determined.

The new contract for managing the spectrum office is worth up to $500 million over 10 years. Officials at the Defense Information Systems Agency (DISA), which issued the award, said the agency would be "carefully reviewing GAO's decision and determining how best to proceed." In the meantime, the agency said Alion's current contract would be extended.

Alion, an employee-owned company that does almost all of its business with the Pentagon, has held contracts to help manage the Annapolis spectrum center since the 1960s.

The context for the dispute over the new contract is described in a U.S. Court of Federal Claims decision last fall. In ruling against an Alion effort to postpone the ITT award, Judge Lawrence J. Block noted that technology is changing how the military operates.

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He described special forces troops in Afghanistan using space age communications while riding mules to call in precision airstrikes against Taliban targets. Such reliance has given the military "a nearly insatiable appetite" for new communications technology, Block wrote, and a crucial need for a range of electromagnetic spectrum.

Block's ruling said the Pentagon spectrum office experienced "a sea change" in the way it approached its job and sought a new contractor to supply more technical expertise. DISA concluded that only the ITT division could supply the personnel needed for the new work, which included preparing for important international meetings on use of the spectrum.

When the defense agency picked Advanced Engineering and Sciences in August, Alion filed a protest raising the conflict issue. That led the Pentagon to take "corrective action," the GAO decision said. It asked the bidders to submit revised plans for dealing with conflicts. ITT raised the idea of using subcontractors protected by a firewall to perform any functions it could not. DISA concluded the maximum potential for "impaired objectivity" would be 15 percent of the contract's projects and reconfirmed its award to the ITT division.

In sustaining a second Alion protest, the GAO noted that it was clear that ITT sold many radio and radar systems to the Defense Department and foreign governments.

It said DISA had "failed to reasonably identify and evaluate" ITT's possible conflicts.

Beware The B-Readers (WSJ)

The Wall Street Journal, January 23, 2006

Of all the unsavory details rolling out of investigations into the silicosis and asbestos scams, some of the ugliest concern doctors who abandoned their ethics to cash in. Even more disturbing is the growing evidence that what has allowed them to get away with this is a federal certification program.

That's why a coalition of industry and other groups has began pushing the National Institute for Occupational Safety and Health (Niosh) to start policing its "B-reader" program, which certifies doctors to read X-rays. The federal agency proposed new ethics rules in November, after a federal judge slammed several government-certified doctors who had ginned up sham diagnoses in a silicosis suit. But Niosh needs to go much further to clean up this corrupt corner of American medicine.

Niosh's B-reader program started in the 1970s, as the government tracked coal workers with black lung disease. Niosh was concerned about the competence of doctors reading chest X-rays, so it began a training course and test. Those who pass become known as "B-readers." By all accounts the test is difficult; pass rates can hover around 50%, a number that's even lower for recertification. Over time the program has certified some 1,200 B-readers, of which there are more than 500 today.

Most of these professionals perform valuable roles in the occupational-hazard world. But a growing number of B-readers are now leveraging their credentials to abet fraudulent litigation. These doctors churn out staggering numbers of X-ray "readings" that purport to find diseases such as asbestosis and silicosis -- readings that are then seen to come with a "government stamp of approval." Their standing is so high that litigators often forward their work as proof of a diagnosis, even though the medical world universally agrees that X-rays alone never prove a serious illness. In short, a program designed to raise standards has been hijacked for the opposite purpose. * * *

Reading any X-ray is tricky, and studies show there is a 30% variance in how even honest doctors read the same chest film. Yet the B-readers who've hired themselves out to lawyers have proven that their work has little to do with medicine.

In a 2004 study published in the journal Radiology, Johns Hopkins researchers obtained 492 chest X-rays that had been used in asbestos litigation. They then had these same X-rays examined by six independent B-readers, none of whom were told what the original interpretations had been, or even that the X-rays had been used in litigation. The initial (lawyer-retained) B-readers had found that 96% of the cases revealed abnormalities. The independent panel found 4.5%.

Niosh has also found amazing disparities. One famous example involved a tort bar scheme called the National Tire Workers Litigation Project, which sent doctors around the country in mobile X-ray vans to screen rubber workers for asbestosis. Information distributed to tire workers stated that 64% of those screened at one location had shown positive for asbestosis, and 94% at a second location. Yet when Niosh had an independent panel evaluate X-rays of tire workers most at risk for the disease, it found asbestosis in 0.2%.

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What kicked off this recent scrutiny of B-readers was Texas federal Judge Janis Graham Jack's withering decision in a giant silicosis suit last July, in which she found that doctors had been "manufacturing" claims for money. Of the seven physicians she singled out for special criticism, five were Niosh-certified B-readers. Some of these doctors simply signed diagnosing language provided to them by others. Some did not write, read or sign their own reports. More than 6,000 of the 10,000 silicosis plaintiffs had also filed asbestos claims, despite the medical rarity of having both diseases; sometimes the same doctor had signed both reports.

None of this is surprising considering these "doctors" have become little more than experts-for-hire. Certain B-readers long ago came to understand that their government-issued credentials made them valuable in court, and therefore worth a lot of money. Many doctors are paid more if they find a disease than if they don't. Dr. Ray Harron, a key figure in silicosis-asbestos diagnoses, made an estimated $5 million for his work for one screening company. * * *

In a better world, these doctors would have been stopped long ago by state medical boards, which are supposed to enforce medical standards. These bodies have come in for a lot of deserved criticism of late for their reluctance to discipline these doctors, yet so far have shown no signs of cracking down.

Another possibility is greater involvement by professional bodies, although that has its limits. The current ethics committee chair for the American College of Radiology, Dr. Leonard Berlin, tells us that even if the college has real evidence of wrongdoing, the most it can do is "either suspend or revoke their membership. It doesn't stop them from practicing."

Which gets back to Niosh. The agency's new ethics rules are a good start, particularly as they are aimed at B-readers involved in litigation. But the outside commentators are on to something when they suggest that Niosh also audit doctors who receive its government-sanctioned credentials. The agency already conducts an audit program for respirator devices, and a similar one could be set up for B-readers. It might start by investigating the X-rays that Judge Jack still has in her court document depository.

If Niosh isn't willing to audit, perhaps it should abolish the B-reader program altogether. Other countries have managed to turn out qualified X-ray readers without such special credentials. But certainly the last thing we need is for the federal government to keep blithely providing yet more "expert witnesses" to corrupt the court system.

CIVIL RIGHTS:

Politics Alleged In Voting Cases (WP)

By Dan Eggen

The Washington Post, January 23, 2006

The Justice Department's voting section, a small and usually obscure unit that enforces the Voting Rights Act and other federal election laws, has been thrust into the center of a growing debate over recent departures and controversial decisions in the Civil Rights Division as a whole.

Many current and former lawyers in the section charge that senior officials have exerted undue political influence in many of the sensitive voting-rights cases the unit handles. Most of the department's major voting-related actions over the past five years have been beneficial to the GOP, they say, including two in Georgia, one in Mississippi and a Texas redistricting plan orchestrated by Rep. Tom DeLay (R) in 2003.

The section also has lost about a third of its three dozen lawyers over the past nine months. Those who remain have been barred from offering recommendations in major voting-rights cases and have little input in the section's decisions on hiring and policy.

"If the Department of Justice and the Civil Rights Division is viewed as political, there is no doubt that credibility is lost," former voting-section chief Joe Rich said at a recent panel discussion in Washington. He added: "The voting section is always subject to political pressure and tension. But I never thought it would come to this."

Attorney General Alberto R. Gonzales and his aides dispute such criticism and defend the department's actions in voting cases. "We're not going to politicize decisions within the department," he told reporters last month after The Washington Post had disclosed staff memoranda recommending objections to a Georgia voter-identification plan and to the Texas redistricting.

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The 2005 Georgia case has been particularly controversial within the section. Staff members complain that higher-ranking Justice officials ignored serious problems with data supplied by the state in approving the plan, which would have required voters to carry photo identification.

Georgia provided Justice with information on Aug. 26 suggesting that tens of thousands of voters may not have driver's licenses or other identification required to vote, according to officials and records. That added to the concerns of a team of voting-section employees who had concluded that the Georgia plan would hurt black voters.

But higher-ranking officials disagreed, and approved the plan later that day. They said that as many as 200,000 of those without ID cards were felons and illegal immigrants and that they would not be eligible to vote anyway.

One of the officials involved in the decision was Hans von Spakovsky, a former head of the Fulton County GOP in Atlanta, who had long advocated a voter-identification law for the state and oversaw many voting issues at Justice. Justice spokesman Eric W. Holland said von Spakovsky's previous activities did not require a recusal and had no impact on his actions in the Georgia case.

Holland denied a request to interview von Spakovsky, saying that department policy "does not authorize the media to conduct interviews with staff attorneys." Von Spakovsky has since been named to the Federal Election Commission in a recess appointment by President Bush.

In written answers to questions from The Post, Holland called allegations of partisanship in the voting section "categorically untrue." He said the Bush administration has approved the vast majority of the approximately 3,000 redistricting plans it has reviewed, including many drawn up by Democrats.

Holland and other Justice officials also emphasize the Bush administration's aggressive enforcement of laws requiring foreign-language ballot information in districts where minorities make up a significant portion of the population. Since 2001, the division has filed 14 lawsuits to provide comprehensive language programs for minorities, including the first aimed at Filipino and Vietnamese voters, he said.

"We have undertaken the most vigorous enforcement of the language minority provisions of the Voting Rights Act in its history," Holland said.

Some lawyers who have recently left the Civil Rights Division, such as Rich at the Lawyers' Committee for Civil Rights Under Law and William Yeomans at the American Constitution Society, have taken the unusual step of publicly criticizing the way voting matters have been handled. Other former and current employees have discussed the controversy on the condition of anonymity for fear of retribution.

These critics say that the total number of redistricting cases approved under Bush means little because the section has always cleared the vast majority of the hundreds of plans it reviews every year.

The Bush administration has also initiated relatively few cases under Section 2, the main anti-discrimination provision of the Voting Rights Act, filing seven lawsuits over the past five years -- including the department's first reverse-discrimination complaint on behalf of white voters. The only case involving black voters was begun under the previous administration and formally filed by transitional leadership in early 2001.

By comparison, department records show, 14 Section 2 lawsuits were filed during the last two years of Bill Clinton's presidency alone.

Conflicts in the voting-rights arena at Justice are not new, particularly during Republican administrations, when liberal-leaning career lawyers often clash with more conservative political appointees, experts say. The conflicts have been further exacerbated by recent court rulings that have made it more difficult for Justice to challenge redistricting plans.

William Bradford Reynolds, the civil rights chief during the Reagan administration, opposed affirmative-action remedies and court-ordered busing -- and regularly battled with career lawyers in the division as a result. During the administration of George H.W. Bush, the division aggressively pushed for the creation of districts that were more than 60 percent black in a strategy designed to produce more solidly white and Republican districts in the South.

These districts were widely credited with boosting the GOP in the region during the 1994 elections.

Rich, who worked in the Civil Rights Division for 37 years, said the conflicts in the current administration are more severe than in earlier years. "I was there in the Reagan years, and this is worse," he said.

But Michael A. Carvin, a civil rights deputy under Reagan, said such allegations amount to "revisionist history." He contended that the voting section has long tilted to the left politically.

Carvin and other conservatives also say the opinions of career lawyers in the section frequently have been at odds with the courts, including a special panel in Texas that rejected challenges to the Republican-sponsored redistricting plan there. The Supreme Court has since agreed to hear the case.

"The notion that they are somehow neutral or somehow ideologically impartial is simply not supported by the evidence," Carvin said. "It hasn't been the politicos that were departing from the law or normal practice, but the voting-rights section."

In Mississippi in 2002, Justice political appointees rejected a recommendation from career lawyers to approve a redistricting plan favorable to Democrats. While Justice delayed issuing a final decision, a panel of three GOP federal judges approved a plan favorable to a Republican congressman.

The division has also issued unusually detailed legal opinions favoring Republicans in at least two states, contrary to what former staff members describe as a dictum to avoid unnecessary involvement in partisan disputes. The practice ended up embarrassing the department in Arizona in 2005, when Justice officials had to rescind a letter that wrongly endorsed the legality of a GOP bill limiting provisional ballots.

In Georgia, a federal judge eventually ruled against the voter identification plan on constitutional grounds, likening it to a poll tax from the Jim Crow era. The measure would have required voters to pay $20 for a special card if they did not have photo identification; Georgia Republicans are pushing ahead this year with a bill that does not charge a fee for the card.

Holland called the data in the case "very straightforward," and said it showed statistically that 100 percent of Georgians had identification and that no racial disparities were evident.

But an Aug. 25 staff memo that recommended opposing the plan disparaged the quality of the state's information and said that only limited conclusions could be drawn from it.

"They took all that data and willfully misread it," one source familiar with the case said. "They were only looking for statistics that would back up their view."

Mark Posner, a former longtime Civil Rights Division lawyer who teaches election law at American University, noted that Justice could have taken as many as 60 more days -- rather than seven hours -- to issue an opinion because of the new data.

Staff writer Thomas B. Edsall and researcher Julie Tate contributed to this report.

Demonstrators Mark Roe V. Wade Anniversary (AP)

By Martiga Lohn

The Associated Press, January 23, 2006

ST. PAUL, Minn. -- Thousands of abortion opponents massed outside Minnesota's Capitol on Sunday in one of several protests nationwide on the 33rd anniversary of the Roe v. Wade ruling, amid heightened hopes and fears over what a new face on the Supreme Court will mean for the decision establishing abortion rights.

A crowd of sign-wavers clad in parkas, winter boots and collars turned up against a cutting wind to call for a ban on public funding of abortion.

"We must stop abortion in our state," said Scott Fischbach, head of Minnesota Citizens Concerned for Life. "Things are changing in this country."

Many abortion opponents said they were heartened by President Bush's choice of Samuel Alito to replace Justice Sandra Day O'Connor, a moderate who was often the court's swing vote.

Alito, who appears to have solid support from the Senate's Republican majority, refused during his confirmation hearings to agree with assertions by Democrats that Roe v. Wade was "settled law," upsetting supporters of abortion rights and heartening opponents.

"We have a dream today that someday soon this will not be an anniversary of sadness, but an anniversary of justice restored," said Minnesota's Republican Gov. Tim Pawlenty.

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In San Francisco, thousands of abortion opponents shouldering signs with slogans such as "Peace Begins in the Womb" marched Saturday, while abortion rights supporters along the march route waved clothes hangers and shouted "Bigots go home."

"Abortion rights have been slowly whittled away while we haven't even been looking," said Kitty Striker, 22, who decorated her hair with small coat hanger replicas for the counter-protest. "That's what's so shocking and so scary to me."

In Idaho, nearly 400 abortion protesters marched at the Statehouse Saturday, including Reid Richardson and his 5-year-old stepdaughter, Allie Zebley, who carried sign with her ultrasound photo and the words, "This is me at 16 weeks."

About half that number gathered Sunday outside the Idaho Capitol in support of abortion rights.

"When American women are barred from accessing health services at the whim of a politician's religious beliefs, we are not in a democracy at all," said Bree Herndon-Michael, a member of the Idaho Women's Network.

The largest abortion demonstration was expected Monday in Washington, D.C., where anti-abortion activists planned to converge on the mall to hear speakers supporting their cause and march on the Congress and Supreme Court.

Many who support abortion rights held a candlelight vigil in front of the Supreme Court Sunday night, waving signs that read: "Alito-No Justice For Women," and "Keep Abortion Legal."

The nation's high court made abortion legal on Jan. 22, 1973. But efforts to restrict or outlaw the procedure have been just as enduring; 34 states have passed laws requiring parents either to be notified or to give consent when their underage daughters seek abortions.

This year, abortion foes in Minnesota will try to encourage the Legislature to ban public funding of abortions for Medicaid recipients, which has been required since a 1995 state Supreme Court decision. They are also campaigning against the re-election of a justice who supported the decision.

In Michigan, a group of ministry leaders used the anniversary to launch a new anti-abortion organization, Michigan Chooses Life. One goal is to support efforts to get a measure on the 2006 ballot that would change the state constitution to legally define a person as existing at the moment of conception. The American Civil Liberties Union of Michigan has said that even if the measure does succeed, it will be challenged in court.

Pro-life Groups See Brighter Days (WT)

By Joyce Howard Price

The Washington Times, January 23, 2006

As tens of thousands of abortion foes prepare for today's 33rd annual March for Life, they are buoyed by developments they see as promising for their cause, both at the state and federal levels.

"The pro-life movement is in the best position it has ever been in," said Wendy Wright, executive vice president of Concerned Women for America (CWA).

Pro-life advocates are excited about broad abortion bans proposed by lawmakers in two states, Ohio and Indiana.

It's their hope that these bills become law and that the statutes are eventually considered and upheld by a more conservative U.S. Supreme Court in a challenge to the Jan. 22, 1973, ruling in Roe v. Wade that abortion was a constitutional right.

"We're seeing, after many years of education and work, that people are beginning to understand the pro-life movement. The culture is shifting to a more pro-life perspective," said Tony Perkins, president of the Family Research Council, which opposes abortion.

Miss Wright of CWA agrees. "The American public better understands what abortion has done to women and our country" by destroying innocent lives, she said.

The March for Life, sponsored by the March for Life Education and Defense Fund, is held annually in Washington, on or near the anniversary of the Roe v. Wade ruling. March leaders have estimated the number of protest marchers each of the past two years at 100,000.

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As usual, this year's event begins with a noon rally. But unlike the past, it will not be held on the Ellipse near the White House. The staging area "will be on the Mall at Seventh Street," march organizer Nellie Gray said. After the rally, the crowd will march along Constitution Avenue, passing Congress and ending at the Supreme Court on First Street Northeast.

Pro-life advocates make it clear they are optimistic the Supreme Court will be more favorable to abortion restrictions, with the addition of Chief Justice John G. Roberts Jr. and this week's expected confirmation of Judge Samuel A. Alito Jr.

Judge Alito said he would have "an open mind" about any challenge to Roe v. Wade, while previous nominees such as Ruth Bader Ginsburg and Stephen G. Breyer have declared Roe fundamental law.

Vicki Saporta, president of the National Abortion Federation, said that Judge Alito "has not been confirmed yet" and that advocates for abortion rights are "still trying to defeat his nomination."

She said she isn't afraid of the abortion bans some states are eyeing. "I think any such law would be declared unconstitutional," she said.

Pro-life and pro-choice advocates alike saw victory in a unanimous opinion the Supreme Court rendered Wednesday, when it said lower courts erred by ruling a New Hampshire law requiring parental notification for minors seeking abortions was unconstitutional.

"The justices respected the law of the state and the right of parents to know if their minor daughter will have an abortion," said Carrie Gordon Earll, senior analyst for bioethics with Focus on the Family, a pro-life group based in Colorado Springs.

On the other side, Ms. Saporta said she is encouraged that the Supreme Court asked lower courts to examine the potential for parental notification waivers in cases where a girl's health is at risk in an emergency. At this time, waivers are permitted if a pregnant teenager's life is at risk but not for health emergencies that are not life-threatening.

It's still uncertain whether the Ohio and Indiana bills to ban abortions in those states will advance. Jon A. Husted, Ohio's Republican House Speaker, said Wednesday he plans no more hearings on the measure.

Indiana Gov. Mitch Daniels, a Republican who opposes abortion, told the Associated Press on Wednesday he thinks the proposed abortion ban in that state has a "very limited prospect of ultimate success" until Americans become less divided on abortion.

In a report last week, the group NARAL Pro-Choice America gave 19 states a failing grade in reproductive rights. Ohio, Indiana and South Dakota made the list, as did Virginia, Alabama, Arkansas, Idaho, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, North Dakota, Pennsylvania, South Carolina, Texas, Utah and Wisconsin.

If You Choose Not To Decide, You Still Have Made A Choice (WSJ)

By James Taranto

The Wall Street Journal, January 23, 2006

The astonishing thing about Justice Sandra Day O'Connor's opinion in Ayotte v. Planned Parenthood -- last week's case involving New Hampshire's Parental Notification Prior to Abortion Act -- is that it was for a unanimous court. This is the first time in the 33-year history of Supreme Court abortion jurisprudence that the court has decided a case by a 9-0 vote. That unanimity is the key to understanding Ayotte's significance, which is political more than legal.

The court vacated a ruling of the First U.S. Circuit Court of Appeals that had overturned the statute on the ground that in some cases it imposed an "undue burden" on a girl seeking an abortion, which is unconstitutional under the 1992 Planned Parenthood v. Casey precedent. The justices sent the case back to the lower court with the instruction that it issue "either an injunction prohibiting [only] unconstitutional applications or a holding that consistency with legislative intent requires in validating the statute in toto." Whatever the First Circuit does, it is likely to be appealed, so the case stands a good chance of ending up before the high court again.

If the court does rule on the statute again, it is sure to be divided. In the Casey case, Justice John Paul Stevens disagreed with the majority's rationale for upholding a parental consent statute. Justices Ruth Bader Ginsburg and Stephen Breyer have indicated that their approach to the question is similar to Justice Stevens's. On the other side, Justices Antonin Scalia and Clarence Thomas argued in Casey that there is no constitutional protection for abortion.

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Under normal circumstances, all these justices probably would have filed or joined separate concurring or dissenting opinions in Ayotte expressing or reiterating their views. Instead, they silently joined Justice O'Connor's decision, which they were able to do because she stipulated at the outset that "we do not revisit our abortion precedents today." The justices agreed to disagree, and found common ground by reaching the narrowest possible conclusion. They also did it very quickly, deciding the case just seven weeks after it was argued, and in time to dispose of it -- at least for now -- before Samuel Alito takes his seat.

Why would the court do this? Probably for institutional reasons -- to insulate itself from politics. The court currently is in flux: It has a new chief justice; it is about to get a new associate justice; and another vacancy or two -- with the attendant political battle -- is a distinct possibility in the next few years. For the court's sake, it is better to leave any consideration or reconsideration of the constitutionality of abortion for a time of greater stability in the court's personnel.

Consider what might have happened if the initial vote on whether to uphold the New Hampshire law was 5-4, with Justice O'Connor in the majority (on either side). If the court had dealt with the case at its usual pace, it would not have been decided before Judge Alito's confirmation, which means the case would be reheard, and Justice Alito would cast the deciding vote.

That in itself is unproblematic, but in the normal course of things, Justices Scalia and Thomas would write separate opinions, either concurrences or dissents, restating their view that Roe v. Wade should be overturned. Suppose further that Justice Alito and Chief Justice John Roberts agreed with Justices Scalia and Thomas. Then there would be four justices on record for overturning Roe.

This would drastically raise the stakes if Justice Stevens or Justice Ginsburg were to retire. There has never been a Supreme Court vacancy at a time when the court was split 4-4 between justices on record supporting Roe and those favoring its invalidation -- though there was reason to suspect the court was evenly divided in 1987, when President Reagan unsuccessfully nominated Robert Bork. Justice Scalia had not yet taken a position, but his views were easy to guess. Justice O'Connor, although she had refrained from either endorsing or opposing Roe explicitly, had voted with dissenters William Rehnquist and Byron White in cases involving abortion regulation and thus was easily mistaken for a Roe foe. Considering the ugliness of the Bork battle and the bitterness that lingers nearly two decades later, the court did itself and the country a service by avoiding this divisive matter for now.

In addition, if one assumes that both Chief Justice Roberts and Judge Alito are inclined to overturn Roe, there are good strategic reasons why both anti- and pro-Roe justices would not want them to say so immediately. The anti-Roe side does not have enough votes to prevail, even with the new justices; whereas the pro-Roe side may hold out hope of persuading one or both of them, which would be much harder to do once they have gone on the record. Only Chief Justice Warren Burger has ever switched sides on Roe after publicly taking a position, and he retired less than two weeks later.

Ayotte is reminiscent of Bush v. Palm Beach County Canvassing Board, the first 2000 election case, in which the justices unanimously vacated a ruling of the Florida Supreme Court that was designed to manufacture votes for Al Gore, and instructed the state court to find an equitable solution to the election dispute. Everyone remembers what happened eight days later, when a sharply divided Supreme Court, in Bush v. Gore, effectively decided the election in George W. Bush's favor. The court paid an institutional price for doing so. But in Bush v. Palm Beach, the justices were united in an attempt to avoid this eventuality by giving Florida's high court a chance to resolve the matter.

Unlike in the election cases, the Supreme Court is not racing the clock to resolve the abortion question. Most likely, sometime in the next decade the court will either overturn or reaffirm Roe. If President Bush gets to replace another pro-Roe justice or two, or a Republican is elected president in 2008, Roe will probably be history. Otherwise, it will be with us for another generation. In either case, politics will determine the outcome of what should have been a political matter all along, but the political battles over the next court appointees may be less bloody than if Chief Justice Roberts and Justice Alito took a position now.

As a matter of law, Ayotte itself is no more than a historical footnote. But if it helps to bring about a civilized resolution of an issue that has roiled American politics for decades, it will deserve to be remembered as a great act of judicial statesmanship.

Where The Real Action Is... (TIME)

By karen tumulty

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Time, January 23, 2006

Not since the doomed Robert Bork has there been a Supreme Court nominee with such a clear record of opposition to abortion. And yet, as Samuel Alito moves closer to Senate confirmation this week, the rumble that many expected over his position on the issue has failed to materialize. That in itself tells us something about the nature of the abortion wars today.

Listening just to the alarms of abortion-rights groups on the one hand and the cheers of opponents on the other, you could come away with the impression that the fate of Alito's nomination will determine whether abortion remains available in this country. That is not what is at stake. Alito's confirmation would not produce the votes sufficient to overturn the Supreme Court's landmark Roe v. Wade decision guaranteeing abortion rights throughout the country. And even if Roe is reversed in the future, states will be free to preserve abortion rights, and many almost surely will. Today the tussle is over not whether abortion will exist but how. In that respect, the terms of the debate have caught up with the public's attitude toward the issue: polls consistently show that most people in the U.S. want abortion to be legal; they just don't want it to be easy.

That sentiment has been expressed in a variety of measures passed by legislatures since a 1989 Supreme Court ruling gave states more leeway to restrict abortion. It's a reality the Supreme Court reaffirmed just last week. In a narrowly written but unanimous decision authored by Sandra Day O'Connor, the high court backed away from directly interfering with a New Hampshire law. The Justices said a lower court should not have struck down a parental-notification requirement entirely, and ordered the judges to come up with a more limited version that would protect the health of girls seeking abortions in emergency situations.

On the eve of the 33rd anniversary of Roe v. Wade, TIME took a look at the situation in the state of Missouri, where the 1989 case originated, to explore how the shifting battlefield affects the making of abortion law and to examine the impact of state restrictions on women who find themselves unhappily pregnant.

Consider, for example, the case of a 22-year-old unmarried woman we will call Lisa, who missed her period last November. Lisa, who was managing a restaurant, decided to have an abortion. Her timing could have been better. Just the month before, Springfield's only abortion provider, which had been operating five days a week just 15 minutes from her home, closed its doors. "The environment here in Missouri is so hostile," its administrator told the local paper. With four abortion doctors left in the state, compared with 10 as recently as 1996, Lisa's closest alternative turned out to be the Planned Parenthood clinic in St. Louis, an eight-hour round trip by car. That meant Lisa, who has no car, not only had to ask a friend to drive her but also had to come up with an excuse for missing two days of work, because she was afraid to tell her boss the truth. Two weeks later, she had to make the trip again, for a follow-up exam that lasted about five minutes. She figures the whole episode--the clinic's bill, the prescription for the abortion drug mifepristone, gasoline, food and incidentals--cost her a little more than $600. "It was all very frustrating," Lisa told TIME a month after her abortion. "I only recently paid back everyone I borrowed money from."

Increasingly, the question of how difficult it is to get an abortion--and sometimes whether you can get one at all--depends on where you live and how much money you have. Last year state legislatures across the country passed 52 new laws restricting abortion, more than twice as many as in 2004.

Few states were more active than Missouri, where Republicans last year took control of the Governor's mansion and both houses of the legislature for the first time in 84 years and thus strengthened the antiabortion majority in the statehouse in Jefferson City. Governor Matt Blunt even summoned the legislature into special session in September to pass bills that allow civil suits to be brought against anyone who helps a Missouri teen obtain an abortion without a parent's consent and that require doctors who perform abortions to have privileges at a hospital within 30 miles of the clinic. Generally, only local doctors can get those, and abortion providers often do not live close to where they work. That was largely why the Springfield clinic closed. The Missouri legislature is back in session this month, and abortion-rights foes have another list of bills they hope to pass, including one that would protect pharmacists who refuse to fill prescriptions for morning-after pills from lawsuits and employer sanctions, give tax credits to centers that discourage pregnant women from having abortions, and require that pain relief be given to fetuses that are aborted after 20 weeks of pregnancy.

One reason that abortion-rights opponents in Missouri and elsewhere succeed in winning restrictions is that regulations on the procedure generally enjoy broad popular support, even among people who say they want to keep abortion legal. Pollsters say that Americans' views on abortion have shifted relatively little since Roe v. Wade, that they have always been complicated and that

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sometimes they are even contradictory. In a survey by the Pew Research Center last July, for instance, 65% of those polled said they oppose the idea of overturning Roe v. Wade, but nearly an identical percentage said they would like to see more legal restrictions. Among the most popular: mandatory waiting periods, parental- and spousal-notification requirements and a ban on all late-term abortions.

Americans tend to have little sympathy or support for the reasons most women seek an abortion. In a 2004 study, the Guttmacher Institute--an abortion-rights advocacy group whose data are considered the best on the issue and are cited by both sides in the debate--found that the two most common reasons given by women are that "having a baby would dramatically change my life" and "I can't afford a baby now." Both were mentioned by more than 70% of the 1,160 women surveyed. And yet numerous polls have found that most Americans say they think abortion should be illegal in those circumstances--a position that cannot be reconciled with their expressed support for Roe v. Wade. In a Pew poll last October, a majority of Americans said they supported legal abortion only in the case of rape, when the mother's life or health is endangered or when there is a strong chance of serious birth defect.

No one so far has seriously tried to legislate the reasons a woman can have an abortion, but restrictions have taken many other forms. Do these laws actually bring about a reduction in the number of abortions, a goal that abortion-rights advocates also support? Even before many of the restrictions went into effect, the abortion rate and the overall number of abortions in the U.S. were on the decline. In 2000, the latest year for which Guttmacher has compiled statistics, the abortion rate was 21.3 abortions per 1,000 women ages 15 to 44, which was the lowest since 1974 and down from a peak of 29.3 abortions per 1,000 women in 1980 and 1981. In 2000 a total of 1.31 million pregnancies ended in abortion, down from a high of 1.61 million in 1990. In Missouri the reductions in both figures in recent years have been even sharper.

The reason for the declines is a matter of dispute. Economic growth, better contraception and safe-sex practices probably all contribute to the trend. But a 2004 study by researcher Michael J. New for the conservative Heritage Foundation found that states that have adopted laws regulating abortion experienced a larger decline than those that have not. Reductions are particularly steep, he found, in states that restricted the use of Medicaid funds to pay for poor women's abortions and those that required pre-abortion counseling about fetal development and abortion risks. (Lisa complied with that rule by phone.)

Some of those who deal with women seeking abortions have different theories. "The restrictions may stop some, but we think things like the 24-hour waiting period and the reduction of the numbers of clinics do not reduce abortions. They increase later abortion," says St. Louis--region Planned Parenthood CEO Paula Gianino, who has been at the organization for 15 years. While Missouri keeps no statistics that would back up that contention, a 2000 study by Guttmacher conducted in Mississippi found that the percentage of second-trimester abortions increased after the state adopted mandatory counseling and waiting periods in 1992.

Despite that, Gianino says, women overall are having abortions at earlier stages of gestation than ever, largely because better pregnancy tests are on the shelves of every drugstore. And there are alternatives to surgical abortion that weren't around years ago, which give women a greater incentive to make their abortion decision early in their pregnancy. Fully 24% of the St. Louis Planned Parenthood clinic's first-trimester abortions are being done with mifepristone, formerly called RU-486, which was federally approved in 2000 for use in the first 49 days of pregnancy. Two years ago, it was only 18%. And finally, there is an alternative that one side of the debate calls contraception and the other considers abortion: the so-called morning-after pill, which must be taken within 72 hours of intercourse to be effective. The Planned Parenthood affiliate in St. Louis performed about the same number of abortions (approximately 6,300) in 2004 as in 2003. But in the same time period, the number of morning-after kits they dispensed--containing a pregnancy test, four birth-control pills and a booklet advising the user not to take the pills if already pregnant--jumped, to 8,000 from 6,500.

Missouri's new restriction concerning minors is already having an impact. Missouri has become the first state to extend its parental-notification law beyond its state line, a move aimed across the Mississippi River at the Hope Clinic, a low-slung building that sits amid a vast industrial park in Granite City, Ill. A recent morning found a security guard posted out front and a waiting room filled with anxious-looking young women, along with a few boyfriends, husbands and children. Because Illinois has no parental-notification law, Hope Clinic had been the easiest option for Missouri teens seeking to get an abortion without telling their

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parents. But the new Missouri law that makes it possible to sue anyone who provides an abortion to a Missouri resident under age 18 without written consent of a parent has Hope demanding proof of age of all prospective patients.

Hope counselor Zoila Rendon-Ochoa recently received a call from a St. Louis woman who spoke only Spanish and identified herself as an illegal Mexican immigrant working as a dishwasher in a restaurant kitchen. In her ninth week of pregnancy, she had left Mexico with no birth certificate; she had no driver's license or other identification. "I can't have this baby," she pleaded. Recalls Rendon-Ochoa: "Before the law, we could have given her an abortion. She kept saying to me, 'You can trust me. I'm 24,' but we couldn't prove it. She asked me, 'Where do I go now?' I couldn't tell her. I would guess that she carried the baby to term."

In another case at Hope, a 17-year-old high school student from St. Louis appeared with her boyfriend. She said she did not know where her mother or father was. She was told to get a judge's order that would allow the abortion without parental consent. Another 17-year-old who was turned away said she would return after her birthday in several weeks, thus increasing the risk and expense of the procedure.

Some abortion-rights foes say that if they want to win the political battle in the long run, they will have to prove that there are alternatives to abortion and that they can work. In 1997, for instance, Missouri passed a tax credit for donations to maternity homes. These activists also acknowledge that they bear a special burden to help women trying to raise babies they can't afford. Larry Weber, executive director of the Missouri Catholic Conference, notes that the year after abortion-rights opponents helped rally support in 1993 to make more people eligible for Medicaid, the abortion rate dropped sharply.

It's impossible to say precisely what caused the drop, and the rate was up again slightly two years later. Meanwhile, those on the other side say that reducing the number of abortions is not the only measure of success. "You have to look at the long-term social effects," says Pamela Sumners, Missouri executive director of NARAL Pro-Choice, the abortion-rights advocacy group. "There's a greater likelihood that teenage mothers in particular and their children will wind up on public assistance, drop out of high school, end up in low-wage jobs--all things that are not good for society."

Both sides might look to college dropout Jessica Schutte, 23, to make their point. When Schutte got pregnant in the fall of 2004, her family members urged her to have an abortion, but she resisted, figuring it wasn't her baby's fault that she hadn't used birth control. Things didn't work out with her boyfriend, so he started making calls to find her a place to live and came upon Our Lady's Inn, a St. Louis maternity home. Schutte was 8 1/2 months along and terrified when she moved in, figuring that she had landed in what amounted to a homeless shelter. But the inn gave her classes in child development and taught her how to feed a baby, when to get him vaccinated, even how to clean a house. It also taught her about safe sex. "I learned how to be a good parent, and I became confident that I could do that," she says.

But she still can't do it alone. Earlier this month, she got a $7-an-hour cashier job at a Family Dollar store; about $30 of her $200-a-week paycheck goes to child care for her son Hayden, 8 months old. She still lives in an apartment subsidized and furnished by Our Lady's Inn. Pointing to her spartan surroundings, she notes, "All the furniture in this apartment is theirs. All of it: the TV, the bed, the couch, the crib, the coffee table, dishes--everything I need."

Schutte talks of paying off her $2,500 student debt, getting state grants to go back to nursing school and eventually moving back to her hometown, Cedar Hill. All those things are going to take more than a few donations from a do-gooder group. But just like Lisa, Jessica Schutte had a choice when it came to having an abortion. And she decided, no matter how hard it gets, she wants to watch that choice grow up.

White House To Push Military On Jesus Prayer (WT)

By Julia Duin

The Washington Times, January 23, 2006

The White House will pressure the Pentagon into being more explicit in saying that military chaplains can pray in the name of Jesus Christ, an evangelical Christian chaplains' group says.

The administration struck a deal on Thursday with Rep. Walter B. Jones, North Carolina Republican, said the Rev. Billy Baugham of the Greenville, S.C.-based International Conference of Evangelical Chaplain Endorsers.

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Since October, Mr. Jones has arranged for letters from 74 members of Congress demanding an executive order to end reported religious discrimination against evangelical Christian chaplains.

Claude Allen, White House domestic policy adviser, promised the congressman that President Bush will take up the issue personally with Defense Secretary Donald H. Rumsfeld, said Mr. Baugham, who was involved in the discussion.

"He asked Jones if he'd be satisfied with less than an executive order, and Jones said 'yes,' " he said.

Mr. Jones' office, which confirmed that the conversation had taken place, says chaplains should be able to pray to whomever "their faith tradition" demands, including named gods, saints or prophets.

Although no branch of the U.S. military explicitly forbids sectarian prayer, some say overtly evangelical Christian chaplains are whisked out of official ceremonies if they insist on praying in Jesus' name.

Army Chaplain Capt. Jonathan Stertzbach, now serving as a field artillery chaplain with the Army's 10th Mountain Division in Iraq, says the rules on the ground are less tolerant than military officials admit.

"When we were at chaplain school," he said in a phone interview from Camp Liberty near Baghdad, "there was a Muslim chaplain candidate. When he prayed in the name of 'Allah, the most blessed and beautiful,' he was talked to the next day.

"So he switched to 'the most generous and eternal God.' You need to allow people to pray according to their faith group. Many faith groups do not pray in general and generic terms ... For Christian groups, the name of Jesus is from where all the power comes."

Four weeks ago at a funeral for a slain sergeant, a brigade chaplain asked Capt. Stertzbach to "modify" his prayers to begin with, "Please pray according to your faith as I pray according to mine," and to end with "in Thy name we pray." He then could add, "and in Jesus' name I pray."

In Iraq, "it seems like there is an unwritten expectation. We don't know what's going on. We are asking for answers and not getting them," he said.

"When we come to a monthly division training meeting, we are told we cannot do this, and if you do this, you will be punished," the captain said.

Martha Rudd, an Army spokeswoman, said sectarian prayer has not been an issue among its 2,700 chaplains.

"Chaplains are advised to consider their audience when they're speaking publicly and be considerate of a plurality of views in the audience," she said. "But we don't tell them how they can and cannot pray."

But the military does, Capt. Stertzbach said, citing a speech last May in Fort Drum, N.Y., by Army Lt. Col. Phillip Wright, chief of about 40 division chaplains.

Lt. Col. Wright, he said, expressed sympathy for chaplains wanting to pray in the name of Jesus, but urged his listeners to not insist on it, "or we are going to lose our ability to pray at all. If anyone does this without my knowledge, I will crunch you."

When contacted at Fort Drum, Lt. Col. Wright denied that he had said those words.

"I've never told chaplains they cannot pray in Jesus' name," he said. "Sometimes I've told them it's not a correct time to espouse their theology to everyone, [but] there is no regulation that says you cannot pray in Jesus' name."

ANTITRUST:

Albertson's Deal May Be Set Monday (WSJ)

By Janet Adamy And Dennis K. Berman

The Wall Street Journal, January 23, 2006

A consortium of retailers and financial buyers could announce a deal to acquire Albertson's Inc. for roughly $9.6 billion as early as today, say people familiar with the matter, offering an end to a tumultuous sale process.

The Albertson's board was expected to meet last night to approve the deal, people familiar with the process said. As happened in December, it is possible the deal could collapse at the final moment.

The deal could give grocery-store chain Supervalu Inc., which would acquire most of Albertson's stores, a challenge in freshening up hundreds of supermarkets. Meanwhile, drugstore operator CVS Corp., which would acquire Albertson's free-standing pharmacies, would pull closer to rival Walgreen Co., the nation's largest drugstore chain by revenue.

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Final terms weren't known last night, but they are expected to roughly mirror the ones that the board turned down in December. One significant exception: Albertson's buyers would assume any antitrust risk involving Chicago-area stores, a sticking point that helped unwind a previous deal, said the people familiar with the matter.

Under the previous deal, CVS was going to buy Albertson's pharmacy business for as much as $4 billion. A group led by private-equity firm Cerberus Capital Management LP and Kimco Realty Corp. was going to acquire poorly performing Albertson's stores for the value of their real estate in areas including Dallas, Florida, Northern California and the Rocky Mountains. That group also includes Schottenstein Realty Co. of Miami, Lubert-Adler Partners of Philadelphia and Klaff Realty LP of Chicago.

Supervalu was going to swap stock and cash for hundreds of Albertson's better-performing stores, including stores operating under the names Shaw's Supermarkets, Jewel-Osco, Acme, Star Market and Bristol Farms and a few hundred more Albertsons-flagged stores in Southern California and throughout the West.

The buyout consortium is planning to pay about $26 per Albertson's share, said the people familiar with the matter. Based on the terms for the December deal, that would entail offering 0.182 of a share of Supervalu stock plus $20.25 in cash, or $26.05 in total, based on Friday's closing price.

Albertson's shares closed up 24 cents at $24.11, rising 1%, in 4 p.m. composite trading Friday on the New York Stock Exchange. Supervalu on Friday fell 34 cents, or 1%, to $31.85 on the NYSE.

A spokeswoman for Supervalu declined to comment. Representatives from Albertson's and CVS didn't return calls seeking comment.

The same buyer group was on the brink of closing a deal with Albertson's days before Christmas. But at the last minute, Albertson's board rejected the deal in part because the grocers couldn't agree who should shoulder the responsibility if antitrust regulators raised flags in markets where both companies operate grocery stores, particularly the Chicago area.

In addition to frustrating investors, who had bid up the shares in anticipation of a deal, the collapse embarrassed CVS, which prematurely sent analysts an email promising to brief them on the deal only to have it fall through.

Supervalu will have to revive Albertson's stores in the face of growing competition from Wal-Mart Stores Inc. and other discounters. The company is buying Albertson's most successful divisions, which control large pieces of the grocery business in their respective regions.

But even those stores suffer from years of poor and inconsistent strategies -- from piecemeal price lowering to adding cost-saving but unfriendly self-checkout lanes -- that made it harder to fend off new competition.

A deal would expand the presence of Supervalu, of Eden Prairie, Minn., on the East Coast and make it a much larger national grocery player. Supervalu has become one of the most successful grocery chains in the country by operating and licensing small, cheap food stores under the Save-A-Lot name that cater to low- and middle-income households.

If a deal is completed, Supervalu would have to orchestrate larger-scale changes while navigating the grocery industry's growing woes, including contracts that make labor costs higher than those of new competitors and changes in consumers' shopping patterns. It would also raise the profile of Jeff Noddle, the Supervalu chief executive who joined the company three decades ago as a retail-operations director.

For CVS, of Woonsocket, R.I., the deal would broaden its presence on the West Coast, particularly in California. One challenge would be extracting the free-standing drugstores from the Albertson's umbrella. Albertson's co-brands its stand-alone pharmacies with its stores in many markets, a strategy that has contributed to success of those pharmacies, Albertson's officials have said.

For Albertson's, a sale would relieve shareholders and help redeem Chief Executive Larry Johnston. The Boise, Idaho, chain, which operates about 2,500 stores across the country, said in September it was putting itself up for sale after years of losing sales to new discount competitors and the small but lucrative batch of upscale stores like Whole Foods Market Inc.

In the late 1990s, as grocery stores bulked up to compete against Wal-Mart, Albertson's spent billions of dollars to buy rivals with the hope it could cut costs and broaden sales.

But the deals left Albertson's bloated and without any clear advantages over traditional grocery competitors, which were aggressively lowering their prices, adding more natural food and putting a more distinct stamp on the shopping experience. Albertson's hired Mr. Johnston, a former General Electric Co. executive, at the beginning of the decade but he failed to turn

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around the company. Investors have been growing impatient with him and their frustrations reached a boiling point after the deal collapsed last month.

For the fiscal third quarter ended Nov. 3, Albertson's posted net income of $77 million, or 21 cents a share, compared with net of $110 million, or 29 cents a share, in the year-ago period. Sales were roughly flat at $9.95 billion.

Albertsons Nears Deal, Yet Again, To Sell Itself (NYT)

By Andrew Ross Sorkin

The New York Times, January 23, 2006

After rejecting a nearly identical deal at the 11th hour last month, Albertsons, the giant supermarket chain, was close to a reaching a new pact last night to sell itself to a group of companies and investment firms for about $9.7 billion in cash and stock, people involved in the talks said.

The sale, which the company is hoping to announce today, would be to a consortium that includes the CVS drugstore chain; Supervalu supermarkets; Cerberus Capital Management, an investment fund; and Kimco Realty, a real estate investment company.

Albertsons, which owns the supermarket brands American Stores, Shaws, Jewel-Osco, Acme Markets, Sav-on and Osco Drug, decided to reconsider a sale after the investment group approached the company last week with a slightly improved offer. The biggest difference between the scuttled deal and the new one is that the buying group has agreed to assume any risk that the deal will run afoul of antitrust regulators, virtually guaranteeing that the transaction will be completed.

While people involved in the negotiations were hopeful that this deal would be completed, they also cautioned that it remained possible that the talks could drag on or collapse altogether again if an unforeseen issue arises the way it did in December.

Since that deal fell apart, the board of Albertsons has been under increased scrutiny from analysts and investors who have questioned why the December deal was abandoned at the last minute. Albertsons shares fell more than 10 percent after the company announced it had terminated talks.

At the time, analysts were critical of the company. Stephen Chick, an analyst at J. P. Morgan, lamented in a note to investors that the sales process had been "bungled." Robert Summers, an analyst at Bear Stearns, said: "We find it unlikely that another bidder emerges for a more attractive offer."

There were angry calls from some shareholders for the resignation of Albertsons' chief executive, Larry R. Johnston, a former General Electric executive who was brought in to revive the business. The company's independent directors issued a statement pledging their support for him.

In the latest deal, the buying group plans to break Albertsons into three parts by splitting the supermarket business in two and merging the drugstore business with CVS. Supervalu supermarkets is expected to acquire Albertsons' most attractive stores, like its Jewel stores in the Chicago area. Cerberus Capital and Kimco Realty plan to buy its underperforming businesses and either sell them and their real estate or try to institute a turnaround plan, depending on the store.

The group is expected to pay slightly more than $26 a share in cash and stock, people involved in the talks said. CVS, Cerberus Capital and Kimco Realty are planning to contribute slightly more than $20 in cash, while Supervalu is expected to pay the rest in its stock.

Shares of Albertsons closed on Friday at $24.11, up 24 cents, or 1 percent, on speculation that a deal could be reached.

The possible sale of Albertsons, based in Boise, Idaho, comes as traditional grocers are being squeezed by larger discount competitors like Costco and Wal-Mart Stores, which now has more than 1,000 supermarkets within its stores around the country. Wal-Mart had grocery sales of $109 billion in 2004, according to Retail Forward, a research firm in Columbus, Ohio. That was nearly double the revenue of Kroger, the next closest competitor among the traditional supermarket chains, which had $56 billion in sales in 2004.

On the other end of the spectrum, Albertsons is also being squeezed by upscale rivals like Whole Foods and Trader Joe's.

Over the last five years, sales at Kroger, Albertsons and Safeway, the country's three largest supermarket chains, have stagnated and profits have been weak. Albertsons has 2,500 stores in 37 states.

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Toshiba Wins $5bn Westinghouse Deal (FT)

By Rebecca Bream and Carola Hoyos

Financial Times, January 23, 2006

Toshiba, the Japanese engineering company, has won the battle for control of Westinghouse, the US power plant arm of British Nuclear Fuels, with a bid of almost $5bn, more than double original expectations.

Toshiba was competing against General Electric of the US and Mitsubishi Heavy Industries of Japan, and in recent weeks the bidding had grown increasingly fierce. GE formed a partnership with Hitachi of Japan, and Mitsubishi started working with the Washington Group of the US, in efforts to clinch the deal.

But late on Saturday night Mike Parker and Gordon Campbell, chief executive and chairman of UK government-owned BNFL, decided to sell Westinghouse to Toshiba. The group's bid of close to $5bn was not only the highest offer but BNFL decided it would also be the best for Westinghouse's future growth prospects and its workers, said a person close to BNFL.

BNFL said on Sunday that its directors would make a final decision at a board meeting on Thursday.

Toshiba is said to have promised to invite a US partner to take a minority stake in Westinghouse, which designs nuclear power plants and manufactures reactors.

Shaw, the Louisiana-based engineering group whose bid for Westinghouse was rejected this month, is believed to be considering taking a small stake in the business.

There has been some US political opposition to a non-US group gaining control of Pittsburgh-based Westinghouse. Last month Ralph Hall, Republican chairman of the House of Representatives' energy subcommittee, wrote to the US Treasury arguing that Westinghouse's "sensitive technology" should not be controlled by a foreign company.

Westinghouse was originally expected to attract bids in the region of $2bn when it was put up for sale by BNFL in July.

A person close to the deal said the amount raised is likely to bolster Mr Parker and Mr Campbell's decision to press ahead with the sale in the face of criticism from some UK politicians and trade unions, who thought the government should retain ownership of Westinghouse.

GE and Mitsubishi were initially seen as the frontrunners in the battle for Westinghouse.

A person close to the deal said Toshiba was favoured because BNFL believed it was most likely to allow senior Westinghouse management to run the business on its own with minimal interference from its new corporate parent.

GE was seen as having a more aggressive corporate culture than Toshiba, which could have harmed Westinghouse's chance of winning a Chinese nuclear reactor contract, it said.

With nuclear assets in the US, GE could have faced antitrust difficulties.

Toshiba May Buy Westinghouse For $5 Billion (New York Times)

By Jad Mouawad And Andrew Ross Sorkin

New York Times, January 23, 2006

After weeks of a fierce bidding war, the Toshiba Corporation of Japan is near a deal to buy Westinghouse Electric, a builder of nuclear power plants, for about $5 billion, a person involved in the talks said yesterday.

Toshiba beat competing bids from General Electric, Hitachi and Mitsubishi Heavy Industries, and it is in exclusive talks with Westinghouse, this person said. Westinghouse, based in Monroeville, Pa., is controlled by British Nuclear Fuels, which in turn is controlled by the British government.

Mitsubishi made an offer of more than $2.5 billion for Westinghouse last summer, and The Wall Street Journal reported last week that G.E. and Hitachi had teamed up to make a $3.5 billion bid. But Toshiba made a last-minute, higher offer, the person said.

Nuclear energy is gaining support with governments around the world amid high oil and natural gas prices, tight petroleum supplies and growing demand for electricity. Technology by Westinghouse is found in half the world's operating commercial nuclear power plants, according to the company's Web site. The company has 8,500 employees.

Since the 1979 Three Mile Island accident, no new nuclear power-plants have been built in the United States. Opponents of nuclear power say the 1986 explosion of the Chernobyl power plant in Ukraine and the problems associated with the disposal

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of waste fuel illustrate the dangers of nuclear energy for the environment. But elsewhere, nuclear energy never lost the favor of governments who view it as a reliable source of energy.

Even in the United States, the appeal of nuclear power has risen as prices for natural gas and coal, which power most of America's power plants, have risen in recent months.

Energy companies are seeking licenses around the country to build new power plants, notably in Alabama and Mississippi. The Bush administration, which is also encouraging the development of nuclear energy as a way to reduce dependence on foreign energy sources, is seeking to streamline the application process and permits needed to build new plants.

British Nuclear bought Westinghouse's nuclear business from the CBS Corporation for $1.1 billion in 1999, ridding the company of its last industrial vestige. The sale completed the transformation of what was once called the Westinghouse Electric Corporation into a media conglomerate.

The sale of Westinghouse to a Japanese company may raise security concerns at a time when Iran is seeking to develop a nuclear program of its own.

Worldwide, there are 443 nuclear plants used for electricity generation in 31 countries, according to the Nuclear Energy Institute. Of these, 103 are in the United States, where they account for about a fifth of power production. Twenty-four new nuclear plants are under construction in 10 countries.

ENVIRONMENT/INDIAN AFFAIRS:

United States Ranks 28th On Environment, A New Study Says (NYT)

By Felicity Barringer

The New York Times, January 23, 2006

WASHINGTON, Jan. 22 - A pilot nation-by-nation study of environmental performance shows that just six nations - led by New Zealand, followed by five from Northern Europe - have achieved 85 percent or better success in meeting a set of critical environmental goals ranging from clean drinking water and low ozone levels to sustainable fisheries and low greenhouse gas emissions.

The study, jointly produced by Yale and Columbia Universities, ranked the United States 28th over all, behind most of Western Europe, Japan, Taiwan, Malaysia, Costa Rica and Chile, but ahead of Russia and South Korea.

The bottom half of the rankings is largely filled with the countries of Africa and Central and South Asia. Pakistan and India both rank among the 20 lowest-scoring countries, with overall success rates of 41.1 percent and 47.7 percent, respectively.

The pilot study, called the 2006 Environmental Performance Index, has been reviewed by specialists both in the United States and internationally.

Using a new variant of the methodology the two universities have applied in their Environmental Sustainability Index, produced in four previous years, the study was intended to focus more attention on how various governments have played the environmental hands they have been dealt, said Daniel C. Esty, the director of the Yale Center for Environmental Law and Policy and an author of the report.

The earlier sustainability measurements "tell you something about long-term trajectories," Mr. Esty said. "We think this tool has a much greater application in the policy context."

For instance, Britain ranked 65th in last year's sustainability index, but 5th in the latest study, among the 133 nations measured. Among the reasons for the earlier low ranking, Mr. Esty said, was that "they cut down almost all their trees 500 years ago and before," something that modern British governments could not control.

The 16 indicators used in the latest study, the report says, provide "a powerful tool for evaluating environmental investments and improving policy results."

The report will be issued during the World Economic Forum, an annual conclave of business and political leaders which meets in Davos, Switzerland, this week. Mr. Esty said the report was also intended as a tool to help monitor progress on the environmental issues included among the Millennium Development goals adopted by 189 nations at the United Nations Millennium Summit.

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"It's like holding up a mirror and having someone help you see what you couldn't see before," he said. But the report acknowledges "serious data gaps" that resulted in leaving more than 65 countries out of the rankings. In addition, some thorny methodological issues, like how to measure land degradation or loss of wetlands, have no widely accepted solutions, the report noted, and the authors used the best measures they had available.

Like the sustainability index produced last year, the pilot study ranks countries within their geographic peer groups, so that nations in arid regions or tropical ones can be measured against one another. So Belgium's overall ranking of 39, with a 75.9 percent score, can be viewed by region and by issue. Belgium ranks last, for instance, among European countries in protection of its water resources.

Air quality rankings tend to favor less industrialized nations like Uganda, Gabon, Ecuador and Sri Lanka. Among the countries of the Americas, the United States ranks in the bottom third on this scale.

In the Americas, the United States is at the bottom of the scale measuring agricultural, forest and fisheries management, in part because the study is weighted against countries with a high level of crop subsidies. The study's authors say that such subsidies "in agriculture, fisheries and energy sectors have been shown to have negative impacts on resource use and management practices."

In the area of environmental health, the study measured such factors as sanitation, lead exposure and indoor air pollution, a particular concern in the least developed countries, where indoor home fires may be common. In those measures, the richest countries, including the United States, Canada, Australia, New Zealand, Japan, France, Britain, Ireland and the countries of Northern and Central Europe score near 100 percent.

On the same scale, the poorest countries fared worst, with 32 of 37 sub-Saharan African nations, along with Bangladesh, Haiti, Yemen, Tajikistan, Laos, Cambodia and Papua New Guinea, scoring at or below 40 percent. Chad and Niger rank last in the world, with scores of 0 percent and 1 percent, respectively.

"In the zone we capture as the field of play, they're at the very bottom," Mr. Esty said. "It doesn't mean that nobody there has a toilet. It means a very, very small percent do."

The energy sustainability portion of the index factors national wealth into measurements of energy efficiency and greenhouse-gas emissions. Nonetheless, all but three of the top 25 spots in the worldwide rankings are occupied by countries in economic distress, including Uganda, Chad and Myanmar. Switzerland, Costa Rica and Peru are the exceptions.

The study's definition of renewable energy resources does not include nuclear power - in part, Mr. Esty said, because countries with a high proportion of nuclear-fueled energy, like Japan, the Czech Republic and France, reaped the benefits of their energy choices by earning high rankings on the study's other scales, like the air quality index measuring particulate matter.

To create another scale that disproportionately favored nuclear-energy users would have undermined the overall reliability of the study, he said. As a result, the renewable-energy rankings tilt heavily toward countries reliant on hydropower, like tiny Bhutan.

The study shows that annual carbon dioxide emissions, measured as metric tons per $1 million of gross domestic product, average about 363 tons. North Korea, Turkmenistan, Ukraine, Uzbekistan and Mongolia rank at the bottom of the scale, with amounts ranging from Mongolia's 1,992 tons to North Korea's 4,859 tons.

Carbon dioxide emissions from nations with rapid economic expansion, like China and India, are more than double the world average (731 tons and 621 tons, respectively). The United States, at 171 tons per $1 million of gross domestic product, ranks well behind some other nations in the Group of 8, the major industrial powers - France (56), Japan (57), Germany (80) and Britain (118) - but close to Canada (168), ahead of Australia (209) and far ahead of Russia (914).

Senate Entwined In Debate Over Fishing Quotas (WT)

By Joyce Howard Price, The Washington Times

The Washington Times, January 22, 2006

A Senate spat over relaxed fishing quotas could snag the renewal of the 1976 Magnuson-Stevens Fishery Conservation and Management Act.

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Reauthorization of Senate Bill 2012, which governs offshore ocean fisheries, is expected by late spring, but differences remain over whether it should permit relaxed enforcement of annual catch limits for each fishery or impose strict limits.

"Aside from the issue of catch limits, [the bill] is pretty non-controversial," said Lee Crockett, executive director of the Marine Fish Conservation Network, a coalition of 175 organizations that includes a mix of commercial and recreational fishermen as well as environmentalists.

The version of the bill approved by the Senate Commerce, Science and Transportation Committee on Dec. 15 had an amendment to soften annual fishing quotas, as a result of pressure by New England fishermen and the members of Congress who represent them.

It was the collapse of that region's cod stock in the late 1980s and early 1990s that led to the realization that fish stock is finite, environmentalists say. According to the National Marine Fisheries Service, nearly half of the major fish stocks found in the ocean off New England were overfished last year.

As originally drafted, the bill called for fishery management councils, where annual catch limits were exceeded, to have their quotas reduced by that amount the following year.

But since New England fishermen "routinely exceed their quotas," sometimes by as much as 200 percent yearly, Mr. Crockett said, the industry there is seeking "indirect management tools" other than lowering the quota to reduce the following year's catch.

Congressional observers say it is ironic that the difference of opinion regarding catch limits has made Massachusetts Democrats such as Sens. Edward M. Kennedy and John Kerry and Rep. Barney Frank, normally viewed as environmental champions, to favor looser controls on fishing.

Meanwhile, Sen. Ted Stevens, Alaska Republican and Commerce Committee chairman, who favors oil drilling in the Arctic National Wildlife Refuge, is seen as a lawmaker dedicated to conservation of declining fish stocks and protection of their habitats with the bill.

"Senator Stevens has said the reauthorization of the Magnuson-Stevens Act will be one of his legacies. He blocked any attempts to get it reauthorized until he became chairman of the Commerce Committee," said Phil Kline, senior fisheries policy adviser for Oceana, an oceans advocacy nonprofit group.

"We know Senator Stevens wants the bill moved out of the Senate by the end of May," said Mr. Kline, who previously worked as a West Coast fisherman for three decades.

He noted that Mr. Stevens was responsible for an important modification made to the Magnuson-Stevens Act when it was last reauthorized in 1996. At that time, its "focus was changed from fishing and exploitation to conservation," Mr. Kline said.

He considers the bill a "good solid starting point" for reducing excessive fishing and protecting fish environments. "It's not perfect, but it's a great start in improving our oceans," he said.

An Answer To Waste Worries? (WP)

By Dan Morse

The Washington Post, January 23, 2006

Why burn chicken manure? For starters, consider how effectively chickens produce it.

On the Delmarva Peninsula -- a chicken-growing mecca that includes Delaware and the Eastern Shores of Maryland and Virginia -- 571 million birds create enough manure annually to fill a line of backyard swimming pools stretching from Washington to Philadelphia.

But disposal options are limited. The leading method, spreading on farms, works well as a fertilizer until too much is applied. Then chemicals can seep into streams and end up in the Chesapeake Bay. A newer option turns manure into dried, little pellets of fertilizer that can be transported out of state and sold to farmers and golf courses. But that product has drawn fewer buyers than hoped.

Which brings us to chicken producer Allen Family Foods Inc. The company last week presented plans to the Dorchester County Council to burn chicken manure in Linkwood on Maryland's Eastern Shore. The resulting steam would help run an Allen

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Family Foods factory that processes leftover chicken parts such as heads, feet and feathers, turning them into ingredients for animal feed.

Allen Family Foods said it has sorted through the technical barriers that sunk its previous manure-burning plans. The proposed furnace would burn about 1 1/2 tractor-trailer loads of manure a day.

That would be only about 2 percent of Delmarva's annual manure load. But backers see the project as one potential answer to the chicken industry's huge waste disposal needs because if burning proves safe, the technology could expand and consume more manure.

In Britain, three giant poultry-manure burners are producing electricity. In Minnesota, a facility using technology similar to the British plants is going up that is designed to burn 100 tractor-trailer loads of turkey waste a day.

In Maryland, some leading conservationists back the project. If more manure is burned, they say, less will end up on farms and potentially in runoff.

"Conceptually, we think it's a great idea," said Beth McGee, a senior water quality scientist for the Chesapeake Bay Foundation. "There's a lot of reasons to like these projects."

Development is one of those reasons. If it sounds as though the Eastern Shore is overrun with manure, it isn't. The smells aren't everywhere and can be fleeting. Subdivisions are popping up and taking up farmland, Allen Family Foods said. And state planners predict that the Eastern Shore's population will begin to increase at a faster rate than many of Maryland's counties closer to Washington and Baltimore.

"If we don't find alternative uses [for manure], it's going to be hard to keep growing chickens," Mike Pilcher, Allen Family Foods vice president of operations, said of an industry valued at $1.7 billion in the Delmarva Peninsula.

Chicken executives have been talking up manure burning for more than two decades. But it is technologically challenging, and no one has made it work commercially in the United States, according to industry executives and engineers.

Nor is it assured that Allen Family Foods will get regulatory approval. The Maryland Department of the Environment plans to question Allen Family Foods about odors and emissions. Allen said it won't start construction until it gets an operating permit from the department.

At least a few residents in Dorchester County have vowed to fight the project. "If it's never been done in the United States, why should we be the guinea pigs?" resident Jim Dolan said.

The idea of burning chicken manure goes back to at least 1983, when the Delmarva Power company experimented with the fuel at a power plant in Delaware, Delmarva Power spokesman Matt Likovich said. The utility later studied retrofitting another plant, in Maryland, estimating it would cost $50 million. Neither project got off the ground.

Burning chicken manure isn't easy. Unlike lumps of coal, manure is an inconsistent fuel because of where it comes from.

Birds grow up inside large chicken houses. In Delmarva, the houses typically are slightly longer than football fields and hold about 25,000 birds that live atop beds of sawdust or wood shavings. The bedding can get wet from roof or pipe leaks, among other things.

When the birds are hauled off to slaughterhouses, workers drive tractors into the houses to clean them out. During full cleans, the bedding is generally nine parts manure and one part wood product, and is called "chicken litter."

The litter's varying moisture content can become a problem when burning.

Under many burner designs, chicken litter is fed into the furnace on conveyor grates. The drier sections tend to burn first while wetter sections can pass through uncombusted.

There have been other attempts to burn chicken waste in Maryland. In 1999, a quasi-government group called Maryland Environmental Service fed cubed chicken litter into a furnace burner that produced electricity and thermal power for a state prison complex in Somerset County. But as the manure burned inside the combustor, the resulting ash gummed up air-supply holes. "It was a difficult fuel to work with," said James Allen, operations manager of the complex's power plant.

In light of such failures, Delmarva poultry giant Perdue Farms passed on burning several years ago. Its solution: Spend $12 million to build a plant to dry chicken litter, convert it into pellets and sell it as fertilizer. The company had hoped it would consume about 80,000 tons of chicken litter a year this way. The product is well-liked by golf course managers and farmers. But

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it's not as rich in nutrients as other commercial fertilizer. Over the next year, Perdue expects to use about 65,000 tons of chicken litter in making the fertilizer. The company said it might burn in the future.

Others say burning is the way to go.

For years, the company Fibrowatt, which is building the Minnesota turkey excrement unit, has eyed Maryland's chicken manure. Several years ago, Fibrowatt asked Maryland officials for tax credits to help it build a litter-to-energy plant. That effort drew concern at Perdue Farms, where officials argued that such measures could unfairly favor one company and questioned whether there would be enough manure to supply all the proposed projects. Countered Carl Strickler, chief operating officer of Fibrowatt: "There's definitely enough for everybody."

Allen Family Foods has gone down the manure-furnace path before. Several years ago, it partnered with an engineering firm in Michigan to build one in Hurlock in Dorchester County. But that project ran aground after technical design and cost problems.

The proposed unit under review isn't as complicated. It is designed to overcome the difficulties of burning higher-moisture litter by directing hot air at it.

Neither Allen Family Foods nor the engineers would disclose costs. But such a burner package would generally cost more than $1 million, experts say.

When Allen Family Foods presented its plans in Dorchester County last week, they received a skeptical but somewhat welcome reception. County resident Glen Payne told the council that he was worried about odors and emissions. He said he'd been to Britain and scoped out a facility. "People in that plant wore masks," he said.

But Dave Mooney, one of the Georgia engineers hired by Allen Family Foods, said his design mimics elements employed in Britain for odor control. The manure would be stored in a room with negative air pressure. Inside it would stink. Outside, it wouldn't, he said.

Council President Glenn L. Bramble, a lifelong county resident, called the venture a good idea as long as it met environmental requirements.

He didn't anticipate a significant increase in truck traffic. And he said the common practice of spreading chicken manure on farms hasn't always been ideal.

"I know it's part of the process," he told the Allen Family Foods executives. "But when they spread that on the field, for about two or three days, it's bad. It's no question about that. But I live with that; I don't complain. But, I mean, I have to put the windows up."

As Profits Soar, Companies Pay U.S. Less For Gas Rights (NYT)

By Edmund L. Andrews

The New York Times, January 23, 2006

WASHINGTON, Jan. 22 - At a time when energy prices and industry profits are soaring, the federal government collected little more money last year than it did five years ago from the companies that extracted more than $60 billion in oil and gas from publicly owned lands and coastal waters.

If royalty payments in fiscal 2005 for natural gas had risen in step with market prices, the government would have received about $700 million more than it actually did, a three-month investigation by The New York Times has found.

But an often byzantine set of federal regulations, largely shaped and fiercely defended by the energy industry itself, allowed companies producing natural gas to provide the Interior Department with much lower sale prices - the crucial determinant for calculating government royalties - than they reported to their shareholders.

As a result, the nation's taxpayers, collectively, the biggest owner of American oil and gas reserves, have missed much of the recent energy bonanza.

The disparities in gas prices parallel those uncovered just five years ago in a wave of scandals involving royalty payments for oil. From 1998 to 2001, a dozen major companies, while admitting no wrongdoing, paid a total of $438 million to settle charges that they had fraudulently understated their sale prices for oil.

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Since then, the government has tightened its rules for oil payments. But with natural gas, the Bush administration recently loosened the rules and eased its audits intended to uncover cheating.

Industry executives deny any wrongdoing, arguing that the disparities stem primarily from different rules for calculating the sale prices for paying royalties and the sale prices for informing shareholders.

"The price of gas downstream is always going to be higher because you have costs that have to be recouped for getting it to the customer," said Robert H. Davis, a spokesman for Exxon Mobil. "You have to process the gas. You have to transport it, and you have to sell it. There will always be a discrepancy there."

Companies that pump oil and gas on federal property are required to pay the government royalties, usually 12 percent to 16 percent of the value of what they sell.

Royalties for natural gas have climbed sharply in the last three years. But while prices nearly doubled from 2001 to 2005, the $5.15 billion in gas royalties for 2005 was less than the $5.35 billion in 2001. When oil and gas are combined, royalties were about $8 billion in 2005, almost the same as in 2001.

Because much of the information about specific transactions is kept secret, it remains unclear to what extent, if at all, the weakness in royalty payments stems from deliberate cheating or from issues with the rules themselves.

But one major producer, Burlington Resources, admitted to shareholders last year that it might have underpaid about $76 million in gas royalties in the 1990's. And in Alabama, a jury ruled in 2003 that Exxon had cheated on $63.6 million worth of royalties from gas wells in state-owned waters. The jury awarded $11.9 billion in punitive damages, which a judge later reduced to $3.5 billion. Exxon disputes the charges and is appealing the verdict.

The possible losses to taxpayers in gas could be even higher than the losses tied to the scandals over oil royalties. For one thing, natural gas production on federal land is worth twice as much as oil.

Moreover, the Interior Department has scaled back on full audits, pushed out a couple of its more aggressive auditors and been criticized by its own inspector general for the audits that it did pursue.

"We are talking about the same issues and in many cases the same players as before," said Danielle Brian, executive director of the Project on Government Oversight, a nonprofit watchdog group that exposed many of the oil royalty scandals.

"These companies had knowingly been cheating on oil for years, if not decades," Ms. Brian continued. "To ignore the likelihood that the same thing is happening on the gas side is absurd."

Johnnie M. Burton, director of the Interior Department's Minerals Management Service, said the disparities were mostly the result of deductions that the regulations let companies take, reducing the sale prices they report to the government.

But Ms. Burton said she had not known and could not explain why companies were reporting higher sale prices to their shareholders and to the Securities and Exchange Commission than to her office.

"I can't answer because I don't know," she said in an interview. "We don't look at S.E.C. filings. We don't have enough staff to do all of that. If we were to do that, then we would have to have more staff and more budget. You know, there is such a thing as budget constraint, and it's been real tough, let me tell you." The contrasts between what companies are telling the government and what they are telling shareholders is stark.

The Interior Department, using the numbers given by companies paying royalties, said the average sale price of natural gas on federal leases was $5.62 per thousand cubic feet in fiscal 2005, which ended Sept. 30.

By contrast, Exxon told shareholders that it received about $6.88 per thousand cubic feet in the nine months that ended Sept. 30. Chevron said its average price in that period was $6.49. Kerr-McGee, which suffered huge losses from hedging against a drop in prices, nonetheless said it still received an average price of $6.59.

"There's no reason why what the companies report to their shareholders should be higher than what they report" to the Minerals Management Service, said Lee Helfrich, a lawyer who has represented California in many battles with the industry over royalties. "The ultimate goals or mission of the S.E.C. and the M.M.S. are different, but the information reported to each should be the same."

In the scandals over oil royalties in the 1990's, government investigators, aided by industry whistle-blowers and investigation by the Project on Government Oversight, found that companies were using a host of tricks to understate their sale prices.

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These included buy-sell agreements in which producers swapped oil with each other at artificially low prices and then resold it at higher prices. Companies also sold oil at below-market prices to their own affiliates, classified high-priced "sweet" oil as much cheaper "sour" oil and padded their deductions for transportation costs.

In the wake of the scandals, the outgoing Clinton administration pushed through tough new rules for valuing crude oil, which relied on comparing company reports with an index of spot market prices.

A Pro-Industry Approach

But the Bush administration did not close any loopholes for valuing natural gas. Indeed, in March 2005 it expanded the list of deductions and decided against valuing sales at spot-market prices when companies were selling to their own affiliates.

The industry-friendly stance was intentional. Mr. Bush and top White House officials also placed a top priority on promoting domestic energy production. Vice President Dick Cheney's energy task force called for giving lucrative new incentives to companies that drill in the Gulf of Mexico and other high-risk areas.

The Bush administration also took a much more relaxed approach to auditing and fraud prevention. In 2003, the Interior Department's inspector general declared that the auditing process was "ineffective" and "lacked accountability" and that many of the auditors were unqualified.

In one instance, inspectors discovered that auditors had lost the working papers for an important audit and tried to cover up their blunder by creating and back-dating false documents. Rather than punish anybody, the inspector general recounted, the minerals service gave the employee who produced the new documents a financial bonus for "creativity."

Administration officials said last week that they had addressed most of the criticisms and that the inspector general had since said its corrective actions were "sufficient."

The Interior Department also fired two of its most aggressive and successful auditors. One of them was Bobby L. Maxwell, a veteran auditor who had recovered hundreds of millions of dollars in underpayments over a 22-year career and received an award for meritorious service in 2003 from Interior Secretary Gale A. Norton.

Mr. Maxwell was fired in early 2005 after clashing with superiors over his belief that Kerr-McGee had shortchanged the government $12 million. Mr. Maxwell charged that he had been wrongfully fired, and the government paid him an undisclosed amount of money to settle out of court.

Mr. Maxwell is now pursuing Kerr-McGee, which has denied any guilt, with his own lawsuit under the False Claims Act, which allows private citizens who prove fraud to collect some of the money they help recover.

Patrick Etchart, a spokesman for the Minerals Management Service in Denver, said that Mr. Maxwell lost his job because of a reorganization and that he had declined an offer to move to a different city.

But lawmakers who wrestled with the government over previous royalty scandals are dubious.

"It's all gotten worse, not better," said Representative Carolyn B. Maloney, Democrat of New York, who led Congressional investigations into cheating on oil royalties in the 1990's. "They make the process so complicated that no one can really follow the money."

Ending Detailed Inspections

Perhaps the most striking example of sluggish auditing is the government's effort to collect back royalties from companies that blatantly ignored one of the government's basic rules.

Under current rules aimed at promoting energy production in deep waters, companies can produce large volumes of oil and gas without paying royalties at all. But the rules also require companies to start paying royalties if market prices climb above certain "threshold" levels.

As it happens, market prices have been above those levels since the 2003 fiscal year. But even though dozens of companies never bothered to start paying, Ms. Burton said earlier this month that the government had yet to demand repayment three months into the 2006 fiscal year.

"It's more complicated than you might think," said Lucy Querques Dennett , associate director of the Minerals Management Service in charge of the issue.

But enforcing the rules about price thresholds is easy compared with verifying the actual sale value of natural gas.

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Over the last four years, the Bush administration has ordered its auditors to move away from detailed inspections in favor of a more cursory approach of looking for anomalies in company reports. If a company in Louisiana, say, reported prices that differed from those of other companies in the same region, it would attract closer scrutiny.

Mr. Etchart, the agency's spokesman, said that the number of full-scale audits had declined slightly over the past few years and that the budget for compliance had fallen.

But he said the government still took a "close look" at 71 percent of oil and gas production. "Our strategy would obviously be to focus on anomalies," he said, "but it is also to focus on large producing areas."

The agency's strategy has drawn protests, however, from many states, which are entitled to a share of federal royalties, and from some of the Interior Department's most aggressive auditors.

One of those auditors was Kevin Gambrell, director of the Federal Indian Minerals Office in Farmington, N.M. Mr. Gambrell fought with his superiors over many issues, one of which was their demand that he do fewer audits and simply monitor posted prices of companies in the same area.

"Where the M.M.S. approach falls short is that there are so many different types of deductions you can take in getting gas and oil to the market, and there are so many premiums and bonuses in the contracts," Mr. Gambrell said in a recent interview. "You have to take a detailed look at the contracts to know what's going on."

The Interior Department forced Mr. Gambrell out in 2003, charging that he had improperly destroyed office documents. Mr. Gambrell sued for wrongful termination, arguing that he had discarded only copies of documents. He also presented evidence that his office had recovered eight times as much money as offices that used the administration's preferred approach.

The government settled his case in 2004 by clearing him of any wrongdoing and paying him an undisclosed amount of money.

For practical purposes, the biggest cost to taxpayers may have less to do with cheating and fraud than with the government's inscrutable rules.

Consider the case of Burlington Resources, a Houston-based producer that ConocoPhillips acquired in December for $35.6 billion. Burlington paid $8.5 million in 2001 to settle charges of cheating related to its oil royalties. Last March, Burlington disclosed that it might also have underpaid gas royalties by about $76 million during the 1990's. It set aside $81 million to cover possible litigation costs.

Unlike others, Burlington executives provided information to The Times on the royalties it paid for natural gas and on the sale prices that it has reported to the Interior Department since 2002.

During those four years, Burlington said it paid $627 million in gas royalties and that its annual payment shot up from $89 million in 2002 to $233 million in 2005.

That surge in royalties does track closely with the rise in market prices. But Burlington's numbers also highlight the essential issue raised by many critics: the rules let companies understate the value of their gas sales by taking scores of deductions.

Those deductions include the cost of transportation, processing, brokerage fees, pipeline reservation fees and even certain "theoretical losses" for companies that own their own pipelines.

In 2001, Burlington reported an average price of $1.98 per thousand cubic feet to the government but an average sale price of $3.20 to its shareholders. In 2005, the company reported an average sale price of $5.75 to the government and $6.46 to shareholders.

Keeping Royalties Secret

James Bartlett, a spokesman for Burlington, said part of the discrepancy resulted from the fact that much of Burlington's production is in the Rocky Mountains, where natural gas fetches lower prices.

The federal government does not require companies to divulge the amount of royalties they pay or what they tell the government about sale prices. And unlike Burlington Resources, Exxon and most other major oil companies refused to disclose the information when asked.

"It's not required information," said Mr. Davis of Exxon, echoing responses from Chevron, Royal Dutch/Shell and other big producers. "We're not going to publish it."

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Oceans In Peril (WP)

The Washington Post, January 23, 2006

THE BUSH administration remains in denial about climate change and sometimes treats environmental protection as an inconvenience. Yet there was reason to hope, when the U.S. Commission on Ocean Policy issued its report more than a year ago, that President Bush would seize the issue of the dire threat to this country's coastal waters. The commission was the second major task force in recent years to detail the rapidly deteriorating ecology of America's oceans. All serious looks at the issue have reached similar conclusions: that current human use of oceans is unsustainable and that without dramatic changes in the ways the waters are exploited and enjoyed, the seas will die out. The magnitude of the crisis offers an opportunity for the president to lead on a preeminent environmental issue.

So far, it is an opportunity Mr. Bush has largely passed up. To be sure, there have been some constructive changes. Senate Commerce Committee Chairman Ted Stevens (R-Alaska) is pushing legislation to improve fisheries management. Regional fisheries managers have acted to protect deep sea corals. And, explains James L. Connaughton, chairman of the White House Council on Environmental Policy, the president has moved to improve coordination on ocean-related policy by the many agencies of government that have jurisdiction over aspects of the problem, a key commission concern. The administration is developing a long-term research plan and is planning to protect a large area around some Hawaiian islands as a marine sanctuary. All of this is promising -- though a big test will come when the administration has to propose funding for oceans research in its coming budget.

Still, there is little sense of urgency about a problem the oceans commission described in stark terms: Americans, the report warns, are "starting to love our oceans to death." If that is to be averted, "reform needs to start now, while it is still possible to reverse distressing declines." Mr. Connaughton says Mr. Bush is deeply committed to the problem. Yet the president himself does not talk about it.

Tackling this meaningfully is going to require regulatory initiatives across a range of areas: pollution, runoff, development, environmentally harmful farming practices and others, requiring substantial sums. None of this is possible without sustained and vocal presidential leadership. Ecosystems are at a tipping point, verging on a collapse from which they won't recover. The stakes are as immense as the oceans, which will not wait for the White House to gear up to save them.

FBI/DEA/ATF/USMS:

Potent Mexican Meth Floods In As States Curb Domestic Variety (NYT)

By Kate Zernike

The New York Times, January 23, 2006

DES MOINES, Jan. 18 - In the seven months since Iowa passed a law restricting the sale of cold medicines used to make methamphetamine, seizures of homemade methamphetamine laboratories have dropped to just 20 a month from 120. People once terrified about the neighbor's house blowing up now walk up to the state's drug policy director, Marvin Van Haaften, at his local Wal-Mart to thank him for making them safer.

But Mr. Van Haaften, like officials in other states with similar restrictions, is now worried about a new problem: the drop in home-cooked methamphetamine has been met by a new flood of crystal methamphetamine coming largely from Mexico.

Sometimes called ice, crystal methamphetamine is far purer, and therefore even more highly addictive, than powdered home-cooked methamphetamine, a change that health officials say has led to greater risk of overdose. And because crystal methamphetamine costs more, the police say thefts are increasing, as people who once cooked at home now have to buy it.

The University of Iowa Burn Center, which in 2004 spent $2.8 million treating people whose skin had been scorched off by the toxic chemicals used to make methamphetamine at home, says it now sees hardly any cases of that sort. Drug treatment centers, on the other hand, say they are treating just as many or more methamphetamine addicts.

And although child welfare officials say they are removing fewer children from homes where parents are cooking the drug, the number of children being removed from homes where parents are using it has more than made up the difference.

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"It's killing us, this Mexican ice," said Mr. Van Haaften, a former sheriff. "I'm not sure we can control it as well as we can the meth labs in your community."

The influx of the more potent drug shows the fierce hold of methamphetamine, which has devastated many towns once far removed from violent crime or drugs. As Congress prepares to restrict the sale of pseudoephedrine, the cold medicine ingredient that is used to make methamphetamine, officials here and in other states that have recently imposed similar restrictions caution that they fall far short of a solution.

"You can't legislate away demand," said Betty Oldenkamp, secretary of human services in South Dakota, where the governor this month proposed tightening a law that last year restricted customers to two packs of pseudoephedrine per store. "The law enforcement aspects are tremendously important, but we also have to do something to address the demand."

Here, officials boast that their law restricting pseudoephedrine, which took effect in May, has been faster than any other state's in reducing methamphetamine laboratories. Still, when Mr. Van Haaften, director of the Governor's Office of Drug Control Policy, surveyed the local police, 74 percent said that the law had not changed demand, and 61 percent said supply had remained steady or increased.

In a survey of treatment professionals, 92 percent said they had seen as many or more methamphetamine addicts; the state treated 6,000 in 2005 and expects to treat more than 7,000 this year, based on current trends. Some health officials said abuse among women, typically the biggest users of methamphetamine, was rising particularly fast.

While seizures of powdered methamphetamine declined to 4,572 in 2005 from 6,488 in 2001, seizures of crystal methamphetamine increased, to 2,025 from one.

Federal drug agents tend to describe ice as methamphetamine that is at least 90 percent pure. Officials here say much of their crystal methamphetamine is less pure - "dirty ice," they call it. But either is far more potent than homemade powdered methamphetamine; a "good cook" yields a drug that is about 42 percent pure, but around 25 percent is more common. And in the first four months after the law took effect here, average purity went to 80 percent from 47 percent.

Other states have seen the same.

"The Mexican drug cartels were right there to feed that demand," said Tom Cunningham, the drug task force coordinator for the district attorneys council for Oklahoma, the first state to put pseudoephedrine behind pharmacy counters, in 2004. "They have always supplied marijuana, cocaine, and heroin. When we took away the local meth lab, they simply added methamphetamine to the truck."

A methamphetamine cook could make an ounce for $50 on a stovetop or in a lab in a car; that same amount now costs $800 to $1,500 on the street, the police say.

"Our burglaries have just skyrocketed," said Jerry Furness, who represents Buchanan County, 150 miles northeast of Des Moines, on the Iowa drug task force. "The state asks how the decrease in meth labs has reduced danger to citizens, and it has, as far as potential explosions. But we've had a lot of burglaries where the occupants are home at the time, and that's probably more of a risk. So it's kind of evening out."

When the state surveyed the children in state protection in southeastern Iowa four months after the law took effect, it found that 49 percent were taken from parents who had been using methamphetamine, the same percentage as two years earlier, even as police said they were removing fewer children from homes with laboratories.

Some law enforcement officials say that addicts may find the crystal form more desirable. "If they don't have to mess with precursor chemicals, it's actually a bit easier on them, and safer," said Kevin Glaser, a drug task force supervisor for the state highway patrol in Missouri, which last year led the nation in methamphetamine lab seizures.

But the switch has also increased the risks. "People are overdosing; they're not expecting it to do this much," said Darcy Jensen, director of Prairie View Prevention Services in South Dakota. "They don't realize that that fourth of a gram they're used to using is double or triple in potency."

Federal officials say there are 1.4 million methamphetamine addicts in the United States, concentrated in the West, where the drug began to take hold in the late 1980's, and the Midwest and South, where it moved in the mid- and late 1990's.

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Drug enforcement officials have always said that 80 percent of the nation's supply comes from so-called super labs, those able to make 10 pounds or more. But in some counties here, officials say that all the methamphetamine came from mom-and-pop labs that made the drug by cooking pseudoephedrine with toxic farm and household chemicals.

Law enforcement focused on the laboratories because they were so destructive: the police found children who had drunk lye thinking it was water, or went without food as parents went through the long binge-and-sleep cycles of using. Laboratories in homes, motels, abandoned farm buildings or cars frequently exploded, or dumped their toxic chemicals into drains or soil. Small police departments spent much of their time attending to contaminated sites.

More than 30 states have restricted pseudoephedrine in some way. Nine have put it behind pharmacy counters, and Oregon now requires a prescription to obtain it.

Addicts and cookers have proved to be skilled at getting around the restrictions; as one state imposes a law, bordering states see an increase in laboratories. Oklahoma recently linked its pharmacies by a computer database to track sales after discovering that cooks were going county-to-county buying from several pharmacies a day.

Iowa's law passed unanimously. As in other states, officials say the number of laboratories had already begun to decline, most likely because cooks feared they would be caught because there was so much public attention on the problem.

The law resulted in a decline of at least 80 percent. Police found 138 laboratories from June to December, down from 673 for the same period the year before. The state had hit a high of 1,500 lab busts in 2004, but with the law, had 731 for 2005, and expects just 257 this year. Law enforcement says the costs of policing and cleaning up labs will drop to $528,000 next year from $2.6 million in 2004.

But here and in many of the states with recent pseudoephedrine restrictions, frustration with the stubborn rate of addiction has moved the discussion from enforcement to treatment and demand reduction.

That discussion, officials say, will be much tougher.

After listening to Mr. Van Haaften's report on the effects of the law this week, State Representative Clel Baudler, a former state trooper who now heads the public safety committee for the Iowa General Assembly, charged his committee to come back to the next meeting with strategies to reduce demand.

"My fear is, when I ask what they think we should do, they'll say 'I don't know,' " Mr. Baudler said in an interview afterward. "We've increased penalties, we've increased prison time, we're still not getting in front of it."

Officials say they never advertised the law as one that would reduce methamphetamine addiction. Still, they are surprised at how the drug has hung on.

"Things that are highly destructive, including diseases, tend to be self-limiting," said Arthur Schut, president of the Mid-Eastern Council on Chemical Abuse in Iowa City, and a member of the state's drug policy advisory council. "This has been devastating. It's remarkable how quickly people are damaged by it."

Mr. Van Haaften, too, knows that it was too much to hope that the law would reduce demand. Still, he says, "I had a little hope."

"I knew of the addictive nature, but in my heart, I believed people didn't want to deal with dealers," he said. "They have guns, it's dangerous, if you make your own it's safer. I hoped for a dip, but the availability did not allow that to happen."

Investigator: News Of Raid Was Leaked To Drug Suspects (MADCOUR)

By Donovan Estridge, Courier Staff Writer

Madison (IN) Courier, January 23, 2006

INDIANAPOLIS — More light is being shed on the Drug Enforcement Administration drug raid last week in the Courierarea.

Aaron Payne, a special deputy for the DEA, testified at a detention hearing Friday in Indianapolis.

Payne was one of the lead investigators for the government during the yearlong investigation that lead to the arrests of 14 Courierarea residents on federal charges. Results of the investigation uncovered a Mexico-to-Chicago cocaine trafficking ring that then came through Madison. The indictment indicates that both John Scruggs and Randy Thomas were the ringleaders of the organization. They acquired cocaine from their sources in Chicago and then distributed it to 12 mid-level dealers in the Courierarea, according to the federal indictment

During the investigation, Payne obtained court-ordered wiretaps on four telephone lines. The wiretaps began in November to accompany aerial surveillance already under way in the investigation.

"We had four target phones during the course of our investigation," Payne said.

The first two phones were cellular phones belonging to Audra Gray. According to the U.S. Attorney's office, Gray was Thomas' girlfriend and acted as the "bookkeeper" for the organization. She would call various mid-level dealers to set up cocaine transactions.

According to Payne's testimony, the third and fourth phones belonged to Scruggs. The wiretaps allowed the DEA to document different cocaine transactions that would later be used in the indictment.

"During one of the conversations we heard Gray say there was a 'Mexican standoff' between the conspirators," Payne said.

During the investigation, a date was set with the DEA and local authorities to take down the operation. Payne testified that Jan. 12 was chosen as the day the warrants would be served.

Testimony at the hearing Friday indicated that the night before the scheduled drug sweep, authorities overheard a phone conversation between Joseph Griffin and Thomas. Payne testified that Griffin somehow received information that a major police operation was about to take place. Upon receiving the tip, Griffin contacted leaders inside the conspiracy, Payne testified.

"Griffin called Thomas as said, 'There are cops at the armory. They have a list of names. Get out," Payne testified.

Payne also testified that the phone conversation ended with Thomas saying he would contact Scruggs and inform him of the news. Thomas and Scruggs later called their mid-level dealers to tell them.

The next day when authorities began their sweep across the area, they did not find Thomas and Scruggs at their residence. They did find several individuals with large amounts of money.

Authorities reported a conversation between Estes and Thomas after the leak.

"They (police) have a list of names. We need to get the (expletive) out of here," Payne testified that Estes said in a phone conversation.

Despite the leak, authorities apprehend all of the individuals in the Madison area suspected to be involved in the trafficking.

U.S. Assistant Attorney Josh Minkler said the source of the leak is under investigation.

Pain Doctor Loses License, But Gets No Jail Time (ROT)

By Lindsey Nair

Roanoke (VA) Times, January 21, 2006

ABINGDON -- Roanoke pain doctor Cecil Knox was stripped of his right to practice medicine and sentenced to five years of probation Friday, marking the end of what has been called both a legitimate prosecution and an unnecessary persecution.

The conclusion came as a relief to many in the packed federal courtroom, but outside, both camps still expressed regrets -- that loved ones who died were not around to see the day, and that chronic pain patients no longer have a physician they can trust.

"The ordeal is finally behind me," Knox said, "but it is not finished for the patients."

John Brownlee, U.S. Attorney for the Western District of Virginia, said he believes Knox knows "in his heart of hearts" what he did.

"I think the community is safer today now that Dr. Knox is not a doctor," Brownlee said.

Knox was first indicted in February 2002, along with his practice, his former office manager, Beverly Boone, and two employees. His charges included prescribing controlled substances such as the painkiller OxyContin outside the scope of legitimate medical practice, and the government said Knox's irresponsible behavior led to injury or death to patients.

At one point, he faced more than 300 charges.

Knox's October 2003 trial ended with not guilty verdicts on about half the charges. The jury was hung on the rest. Boone was acquitted.

A few months later, Knox and Boone were indicted a second time, but Knox's battle with non-Hodgkin's lymphoma delayed the trial.

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Knox's illness eventually went into remission, but before the second trial, he decided to plead guilty to felony racketeering, two counts of felony marijuana distribution and misdemeanor health care fraud.

Charges against Boone and the other employees, with the exception of Tiffany Durham, who pleaded guilty, eventually were dropped. Durham has not yet been sentenced.

A disagreement between the prosecution and defense created some anxiety as Friday's sentencing kicked off. Knox believed his plea agreement did not include the possibility of jail time, while the government thought he could potentially receive up to 12 months in jail.

U.S. District Judge James Jones ruled quickly on the disagreement, saying he favored the government's position.

Arguing for jail time, prosecutor Tom Bondurant said the doctor was essentially a drug dealer, and drug dealers usually face incarceration. He also pointed out that Knox's deceased patients were not there to testify for themselves.

But defense attorneys John Lichtenstein and Tony Anderson said Knox was a more caring doctor than many, adding that a jury chose not to find him guilty after the first trial. Because Knox faces a life-threatening disease, they said, probation would be the best option for him.

Before Jones pronounced sentencing, Knox addressed the court.

"I would like the opportunity to speak to you from my heart," he said, telling Jones that he's had a hard time understanding the charges against him. "If ever there were errors made, they were made with the intentions of trying to ease my patients' suffering and prolong their lives."

Jones said he had no doubt that neither side would be completely satisfied with his decision. But he stressed that the government succeeded in removing Knox from medical practice while Knox, in turn, avoided jail time.

As part of the plea agreement, Knox voluntarily surrendered his medical license to the state of Virginia and his registration number for prescribing medicine to the Drug Enforcement Administration.

In a letter to Jones, William Harp, executive director for the Virginia Board of Medicine, wrote: "In my opinion, the citizens of Virginia are well-served by the removal from practice of a physician who has engaged in the illegal distribution of controlled substances as well as billing fraud."

But Harp said Thursday that a physician convicted of a felony who has his license mandatorily suspended can reapply for the license as early as the next meeting of the board. And Laura DiCesare with the DEA said a doctor in that situation can also reapply for his registration number.

Knox, who is now working as a cobbler at Shafer's Shoe Repair in Roanoke, said it was too early to comment on that issue.

"I think that his goal all along has been at some point, when he gets his health concerns under control, to return to the practice of medicine," Anderson said.

Tammy Walton, who attended the sentencing, blames Knox for her late brother's poor quality of life in his final years. She said Knox got off too lightly but was gratified that he lost his medical license.

"When you realize what he gave up, I think that is what is so important," she said. "And really, he gave it up for his freedom."

Faron Kidd, whose brother, Monte Kidd, died four years ago, agreed that Knox's sentence was not strict enough. Monte Kidd was Knox's patient.

"Dr. Knox has had four more years than my brother did," he said.

But others who attended the hearing crowded around Knox afterward, hugging him and shaking his hand.

Tom Ballard and Rick Dudding credit Knox with saving them from debilitating pain. Dudding says it was Knox who helped him to walk again.

"They say he hurt people. He didn't hurt people; he's got a heart bigger than this world," Dudding said.

Many former patients said they cannot find a good pain specialist now that Knox has been prosecuted.

"Nobody wants to handle chronic pain because of this," Ballard said.

It's because of that, Knox said, that he does not feel completely vindicated.

"When I see all patients able to exercise their right to appropriate pain management," he said, "I will feel like this has been a small step toward that victory."

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Lawsuit In 2003 Shooting By DEA Settled For $200,000 (SAEN)

By Guillermo Contreras, Express-News Staff Writer

San Antonio (TX) Express-News, January 23, 2006

On Jan. 3, relatives of Ashley Villarreal, many of them in tears, gathered at San Fernando Cemetery No. 2. They shared cake, released balloons and observed what would have been her 17th birthday.

The ceremony was half a celebration and half a call for justice over the controversial shooting by federal agents that put her in her grave when she was 14.

But four days before the civil case was to head to trial, U.S. District Judge Fred Biery ruled Thursday that the government would be allowed to put on evidence that could have hurt the plaintiffs' case.

Hours later, the wrongful-death suit was settled for $200,000 — far less than the $35 million listed in the plaintiffs' original demand letters to the government.

Under the settlement, released Friday, the government denied any liability in the shooting that occurred during a stakeout for Ashley's father.

Ashley Villarreal

The government argued that the agents fired at a Mitsubishi Eclipse driven by Ashley the night of Feb. 9, 2003, because they feared the car was going to hit one of them.

"This tragedy weighs heavily on all of those involved: the family, the special agents involved and the entire community," said Joe Arabit, head of the Drug Enforcement Administration in San Antonio. "The DEA is hopeful that the community can now move forward beyond this incident."

The plaintiffs included Ashley's mother, Ashley's paternal grandmother, and Daniel Robles, a man who was in the car when Ashley was shot. They were advised by their lawyers not to comment.

The League of United Latin American Citizens said the settlement means the DEA's policies, such as its policy on deadly force, will not be scrutinized in a trial to determine if they were adequate.

DEA's policy on deadly force says agents may use such force when they have a reasonable belief that they are in imminent danger of death or serious injury. The policy allows verbal commands if feasible, and only if they do not increase danger to the agent or others.

It also allows an agent to fire at the driver or other occupants of a moving vehicle only if the agent, a fellow agent, "or another" is in imminent danger of death or serious physical injury and the use of such force outweighs the risks to the safety of the agent or "other persons." Weapons may not be fired solely to disable moving vehicles, the policy states.

Ashley was shot after the Eclipse she was driving left her paternal grandmother's house in the 800 block of South San Joaquin and was surrounded by undercover DEA vehicles at nearby Motes Street.

DEA agents had been staking out the home for Ashley's father, Joey Villarreal, whom the agents linked to a cocaine distribution ring. The agents sought Villarreal because they had received information that he was preparing to flee to Mexico to avoid being arrested.

According to investigative reports, agents who had been watching the San Joaquin house thought Robles, who got in the car with Ashley, was Joey Villarreal, but were unsure because it was dark.

The agents contend they fired into the darkened Eclipse after the car hit at least two undercover vehicles and then appeared to try to run down agents.

The agents also said they had on vests identifying them as police, and that they ordered the car's occupants to show their hands before they were forced to fire. Ashley's family disputes the government's version.

The Bexar County district attorney's office said in March 2004 that it wouldn't prosecute any of the agents because federal law generally shields agents from prosecution by local authorities.

State prosecutors also said they couldn't prove the agents did not shoot in self-defense.

At Thursday's hearing, Biery granted the government's request to exclude from the trial plaintiff evidence he deemed prejudicial. Among it was an autopsy photo of Ashley's shaved head that showed where she had been struck by a bullet.

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The judge said he didn't want to retry Joey Villarreal, but said he would allow the government to use some evidence from the criminal case that connected him to drug trafficking, and items the government planned to use to show Ashley had been driving without a license since she was 12. The plaintiffs contended the evidence was prejudicial or irrelevant.

Over objections by the plaintiffs, the judge allowed the government to use several pieces of evidence, such as pictures of guns, body armor, surveillance equipment law officers seized in probes connected to the Joey Villarreal case — including some taken from the property on San Joaquin.

Biery also said jurors would hear details of "a family situation that's not the best in the world" and arguments that agents "acted too quickly."

"We also have a 14-year-old gorgeous little girl who didn't get to choose any circumstances into which she was born," Biery said.

Eight hours later, the plaintiffs and their relatives tearfully signed the settlement after their lawyers told them of the waning chances of their case. Ashley's father, summoned to San Antonio for the trial, will soon head back to Beaumont to continue to serve the 19 years in federal prison he got for a drug-trafficking conspiracy.

Medical Pot Advocate Loses Bid To Bar Deportation From Canada (LAT)

By Eric Bailey, Times Staff Writer

The Los Angeles Times, January 23, 2006

SACRAMENTO — A judge in Canada on Friday rejected an eleventh-hour appeal by a California medical marijuana refugee trying to avoid deportation to the United States, five years after fleeing to avoid a short jail stint he called a death sentence.

Steve Kubby, a former Laguna Beach resident who was a 1998 Libertarian candidate for governor and one of the authors of California's watershed medical marijuana law, suffers from a rare form of adrenal cancer that can cause blood-pressure spikes that his doctors say are controlled by smoking cannabis.

Canadian Federal Justice Yvon Pinard ruled that Immigration Canada may now proceed with its order to return Kubby to the U.S. — along with his wife, Michele, and two young children — as soon as next week.

Kubby was sentenced in March 2001 to four months in jail by a Placer County judge for possession of a peyote button and a hallucinogenic mushroom after jurors acquitted him of more serious charges that he was selling pot grown in his basement medical marijuana garden.

The peyote and mushroom were in his possession, Kubby said, for an artist's rendering to be used in a book he wrote on the drug war while living in Olympic Valley, just north of Lake Tahoe.

Amid wrangling with authorities over his sentence, Kubby moved with his family to British Columbia in May 2001.

If jailed and not allowed to use marijuana, Kubby contends, he will die behind bars. Jailhouse use of medical marijuana is not allowed in California, where voters in 1996 approved the nation's first law allowing the use of cannabis as medicine with a doctor's recommendation.

Around the time Kubby moved to Canada, judges in Placer County ordered his original misdemeanor convictions converted to felonies. Kubby, who says he now could face up to three years behind bars, has appealed those rulings, which he calls a miscarriage of justice.

Kubby also worries that prosecutors will attempt to extend his jail stay because he left the country and later was declared a fugitive.

"They don't want to admit it's political," Kubby said of officials in Placer County. "I committed the unpardonable sin of helping pass a medical marijuana law that police and prosecutors hate."

Authorities in Canada "were sold a bill of goods" by counterparts in the U.S., Kubby said, adding, "There's this failure on the part of Canadian officials to accept that there could be this much animosity and determination to harm me on the part of officials in Placer County."

Placer County Dist. Atty. Bradford R. Fenocchio could not be reached for comment.

Michele Kubby, who has been representing her husband in court, expressed hope after Friday's ruling that she could push their case to the Canadian Supreme Court.

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"I've got to do whatever I can to keep Steve away from Placer County," she said. "No one believes that removing his cannabis will kill him. But I'm the one who will be left a widow."

U.S. Agents Catching Cash At Border (DMN)

By David Mclemore, The Dallas Morning News

The Dallas Morning News, January 21, 2006

LAREDO – For Mexican smuggling organizations, the border is a two-way street. Drugs, people and other contraband move north. The money moves south.

In the last three years, customs agents have seized more than $20 million in currency at the eight ports of entry from Brownsville to Del Rio – roughly one-fifth of the value of the bulk cash seizures the agency made nationally.

While U.S. drug agents have long concentrated their efforts on stopping drugs at the border, they're increasingly going after the money, hitting the drug cartels in the pocketbook and providing invaluable intelligence of the trafficking networks. And with stricter controls on bank accounts and wire transfers, trafficking organizations are running piles of cash into Mexico, in cars, trucks, boats, and airplanes and even strapped to the bodies of couriers, federal officials said.

"We're seeing bigger amounts of cash coming across, and we're seeing deeper concealment," said Hector Mancha, assistant port director for security at Laredo. "They don't just throw it in a bag in the trunk of their car anymore."

In just one hit in February, agents at Laredo found $1.2 million in $20s, $50s and $100s stashed in the rear quarter panel of a 2003 Honda Accord.

And Sunday, at the international bridge in Hidalgo 150 miles downriver, three women were charged with bulk currency smuggling when officers found $55,940 in cash hidden in bundles underneath clothing and wrapped in white plastic bags in the back of their 1995 Mercury Villager. They were turned over to Immigration and Customs Enforcement.

"It's never a dull moment on the border," said Mark Pacheco, Customs and Border Protection's assistant port director for tactical operations at Laredo. "There are days it seems almost impossible. But then you find that hidden compartment filled with cash, you get pretty excited. You know that's going to hurt the bad guys."

Crimes of cash

Although it's not a crime to carry any amount of cash across the border, it is a federal offense not to declare any amount over $10,000 or conceal it from agents as you enter or leave the country. If the proceeds are determined to stem from illegal activity, charges of bulk currency smuggling can lead to a prison sentence.

Customs agents, Drug Enforcement Administration agents and the FBI are cracking down on currency smuggling as a way to attack the Mexican trafficking organizations, some of which have roots in Dallas and other Texas cities.

In a Jan. 11 national money laundering threat assessment, officials cited an increase in the movement of bulk cash south across the border. It was the first multi-agency analysis of methods that drug traffickers use to disguise their profits.

DEA Administrator Karen Tandy, during a Senate hearing on narcotics control last March, called tracking the money the key to controlling the $65 billion a year trade in illegal drugs.

"To make a significant impact on the drug trade in America and around the world, there is no strategy more effective than following the money back to the sources of drug supply and taking away the dirty proceeds of that trade," she said. "But our efforts to date clearly have not successfully done the job."

Total seizures – which include all assets and can be in the form of cash, houses, guns and vehicles – amounted to well short of $1 billion, Ms. Tandy said.

"Drug traffickers pay more than that each year in fees to launder their ill-gotten gains," she said. Officials said there is no established formula to determine what percentage of cash gets across the border successfully.

Homeland Security's investigation arm, Immigration and Customs Enforcement, has taken a lead role in the escalating hunt for trafficking organizations' money.

Since it was created in 2003, ICE arrests in financial investigations increased from 1,224 that year to 1,567 in fiscal year 2005. Nationally, ICE agents have seized more than $477 million in trafficking assets over the last three years, with $100 million of

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that in bulk currency. The seized cash goes into a fund to buy equipment and to be given in grants to local law enforcement, officials said.

In South Texas, ICE investigators participate in multi-agency investigations that target the choke points for the movement of money southward: bus stations, trucking firms and what investigators call the money services businesses – wire transfer offices and "casas de cambio" or currency exchange houses.

"We don't depend on one strategy," said Jerry Robinette, deputy special agent-in-charge of the San Antonio ICE office. "We don't look just at bulk currency but all the ways that money can move into the pipeline south.

The last stop for federal investigators is the border.

In Texas, customs officers have found currency "in car speakers, engine manifolds, boxes of detergent and any number of false compartments in vehicles," said Donna De La Torre, customs director of field operations at Laredo.

"The smugglers are limited only by their creativity on how they will smuggle cash across the border," said Ms. De La Torre. "Often, the way they brought the drugs in are used to carry the cash back."

She said officers at ports of entry go through an eight-day school on how to conduct outbound inspections and act as "human lie detectors."

Still, much of what they do, she said, "stems from years of experience in studying people as they cross the bridge."

Walking cash register

Over the Christmas holidays, when cross-border traffic swells, customs inspectors searched a 51-year-old man as he attempted to walk into Mexico, one of the 12,000 daily pedestrians who cross at Laredo.

Officers found more than $55,000 in cash taped in packets around his body.

U.S. searches of outbound traffic are a fairly new phenomenon along the border. Sporadically, officers will stop southbound drivers to ask if they have cash in excess of $10,000 to declare. Who gets picked for a closer look depends on a number of factors, Officer Pacheco said.

"We look at the drivers, at their demeanor, when we ask them questions about undeclared currency. And we look at the vehicles to see if anything seems out of the ordinary," he said.

It's also a matter of timing.

"We try to be unpredictable," he said. "We want to keep the smugglers off-balance. But they follow us pretty closely."

Customs officers said that spotters for the traffickers keep a close watch on the border crossings. Armed with cellphones or two-way radios, traffickers can signal northbound drug shipments and southbound cash deliveries where and when border enforcement has tightened.

Once picked for secondary inspection, baggage and personal items in the car are removed and searched. Specially trained "currency dogs" are brought in to see if they pick up the scent of cold cash. Officers check door panels, fenders, the trunk, under the hood and under the car. If something triggers a deeper suspicion, they bring out the high-tech gear, such as portable X-ray machines and fiber-optic cameras.

"There is no formula for who smuggles the cash," Officer Pacheco said. "We've caught young men and grandmas and mothers with kids in the car. They drive up in old beat-up trucks and Volvo SUVs. Every case is different."

Most are mules or couriers hired by the traffickers to drive the cash out of the United States. On rare occasions, those carrying hidden cash may be doing so for innocent reasons.

"We'll try to mitigate the cases of people who were just trying to take money home to Mexico," Officer Pacheco said. Those cases may be assessed a fine for failure to declare the money and be sent on their way."

On Thursday, Laredo customs officers found a man attempting to carry $25,000 in U.S. currency into Mexico in a duffel bag in his truck. Although the man initially raised suspicions, officials released him with a $1,000 fine for failure to disclose the cash. It was believed he was carrying the money home to his family.

That, said Officer Pacheco, is an increasingly rare occurrence.

US, Venezuela To Seal Drug Accord (BBC)

By Greg Morsbach, BBC news, Caracas

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BBC, January 23, 2006

Hugo Chavez believed US drugs officials were spying on him Venezuela and the US appear ready to sign a new agreement to fight international drug trafficking.

Last year Venezuelan President Hugo Chavez ordered the US Drug Enforcement Administration (DEA) to cease all its operations inside Venezuela.

He dissolved a joint taskforce because he believed DEA officials were spying on his government - a claim the US has always denied.

Much Colombian-produced cocaine is trafficked through Venezuela to the US.

At source

For the past five months all official relations between Venezuelan and US anti-narcotics agents have been frozen.

But after tough negotiations between Venezuelan and US diplomats a new contract is now on the table.

This accord will re-establish a basic working relationship in the fight against drugs.

Luis Correa, the chief of Venezuela's anti-narcotics police unit, says the new agreement with Washington will be signed next week, once all the paperwork has been finalised.

Venezuela will have to hand back US surveillance equipment and computer hardware it confiscated from the US embassy last August, when the joint narcotics programme was suspended.

Although this new deal is one US State Department officials believe they can live with, it will not give the US the same far-reaching powers it used to enjoy as an independent partner.

Some US officials doubt whether a fully fledged joint operation will be set up again.

They believe the US will in future have to rely more heavily on intercepting drug traffickers at the source in Colombia rather than targeting them in transit through Venezuela, because of the new conditions the Americans will be working under.

IMMIGRATION:

Scholar Released By China Now Facing Deportation By U.S. (AP)

By Matthew Barakat, Associated Press Writer

AP, January 23, 2006

ALEXANDRIA, Va. -- Nearly five years ago, the U.S. government exerted high-profile diplomatic pressure on China to secure the return of scholar Gao Zhan, a researcher at American University whom Beijing believed was a spy for Taiwan.

Now the Department of Homeland Security is pushing with equal vigor to have her deported back to China, despite objections from the Department of Justice and a federal judge. A hearing is scheduled Monday in immigration court to determine whether Gao poses a risk to national security, as DHS contends.

Gao's case became international news in February 2001 when the American University researcher and her family were arrested by the Chinese on suspicion of espionage. Her husband, Xue Donghua, and the couple's 5-year-old son were released after a month in custody.

But the Communist government charged Gao with espionage.

The State Department protested and worked hard to secure her release. Sen. George Allen, R-Va., was one of many elected officials who took up her cause and introduced legislation, which ultimately failed, to grant her U.S. citizenship in absentia.

The Chinese government put Gao on trial in July 2001, convicted her and sentenced her to prison. But they decided to deport her to the United States rather than imprison her, and Gao received a hero's welcome when she returned to the U.S. a month later.

She spoke out frequently upon her return against human-rights abuses in China. A naturalization ceremony was scheduled for her, but abruptly canceled.

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Then in 2003 came shocking news: Gao had pleaded guilty to illegally exporting more than $1 million in military-grade computer microprocessors to a Chinese government agency. Court documents indicate that the scheme had preceded her 2001 arrest and that Gao knew the microprocessors could be used by the Chinese military.

She struck a plea bargain that resulted in a seven-month jail sentence, plus eight months in a halfway house. Her jail time was severely reduced because prosecutors believed Gao had cooperated with their investigation and provided useful information to the United States.

As part of the plea bargain, the Justice Department recommended to the Department of Homeland Security against deporting Gao after she served her sentence.

Normally such recommendations carry great weight, but in this case, DHS and U.S. Immigration and Customs Enforcement are ignoring the recommendation and pushing for deportation.

Monday's hearing will determine whether Gao is a national security risk. If she is found to be a national security threat, she would almost certainly be deported. If not, a hearing in February is scheduled to determine whether Gao should be granted asylum.

Ladan Mirbagheri Smith, Gao's immigration lawyer, said Gao would face persecution in China given the 10-year prison sentence looming over her.

And earlier this month, U.S. District Judge T.S. Ellis III, who sentenced Gao, said he never anticipated that she would face deportation and that if Gao were truly a national security risk, prosecutors would have brought more serious charges.

"I certainly never contemplated that she would face this situation," Ellis said at a post-trial hearing for Xue, who was convicted along with Gao of tax evasion for failing to report profits from the microprocessor sales on the their joint tax return. "Only the most serious proof (that Gao is a national security risk) should change that."

Ellis has allowed Xue to remain free and deferred the start of his prison sentence while Gao's case remains unresolved.

Ellis declined, though, to formally intervene in Gao's immigration case, saying the matter should be resolved by an immigration judge.

ICE spokesman Dean Boyd said the department's rationale for seeking Gao's deportation is plain given the crime for which she was convicted.

"We know she was exporting sensitive technology with missile applications to Chinese government entities," Boyd said. "A lot of our agents have invested quite a bit of time in this investigation."

Gao wrote a letter to Ellis in July seeking leniency for her husband and bemoaning her plight.

"I am writing in despair. I am cursing the day of my birth just like Job. I would have wished a quick end to my suffering if not for the sake of my children," Gao wrote. "My own situation is as bad as can be, according to my lawyer. ICE could hold me for years while labeling me as a threat to national security. I am not sure if I could survive it."

Xue said he feels double-crossed by government agents who led the family to believe that Gao would not face deportation after serving her sentence.

"If it was ICE's intention or determination to deport Gao to the Chinese government, the should have mentioned the issue during the (plea-bargain) process," Xue wrote in court papers on his wife's behalf.

Across The Country, Many Mobilize Against Illegal Immigration (CSM)

By Brad Knickerbocker, Staff Writer Of The Christian Science Monitor

The Christian Science Monitor, January 23, 2006

Immigration has become an increasingly contentious political and social issue around the country.

Organizations patterned after the controversial "Minuteman Project" along the US-Mexico border have sprung up in New England, the Midwest, the South, and the Pacific Northwest. This has led to demonstrations and shouting matches with those opposed to what they call "vigilantes."

State and local officials are working to limit government services to illegal immigrants and their children (such as college tuition and worker's compensation), requiring proof of citizenship to get a driver's license and cracking down on day labor sites where men - many in the country illegally - gather to seek work.

Concerns over terrorism, identity theft, and the national methamphetamine epidemic (which is fueled by Mexican drug cartels and Hispanic gangs operating far from the border) are part of the picture. But some observers warn of an upsurge in "nativism" - the kind of anti-immigrant feeling that has swelled at other times in US history.

"This is a really significant issue right now," says Mark Pitcavage, a historian of extremist movements with the Anti-Defamation League and an adviser to law-enforcement agencies.

For years, says Dr. Pitcavage, some organizations have been critical of what they see as lax immigration policies promoted by both Republican and Democratic administrations.

There are about 11 million illegal immigrants in the US today, a figure that grows by some 500,000 a year, according to the Center for Immigration Studies. In a recent paper, the center's research director, Steven Camarota, reports that there now are more than 35 million immigrants (legal and illegal) living in the US. That amounts to more than 12 percent of the total population, the highest percentage in eight decades.

While many illegal immigrants enter the country to do jobs most US citizens shun, the National Research Council has estimated that the net cost of immigrants ranges from $11 billion to $22 billion a year. Camarota notes that the proportion of immigrant-headed households using at least one major welfare program is 29 percent, compared with 18 percent for native households.

Many immigration reformers are concerned that the kind of temporary guest worker program President Bush, businesses, and some members of Congress favor will exacerbate the situation.

"They need to fix the system," said Dan Stein, president of the Federation for American Immigration Reform, in a fund-raising message. "Not only do they need to make the enforcement commitments work, they need to reduce immigration ... and eliminate the nepotistic family chain migration system that fuels the seeds of unmanageable immigration growth."

Recently, that concern about immigration has developed into a widespread political movement. But it's also developed more radical offshoots.

"Not surprisingly, when you see a movement like this emerge, you see extremists actively working to exploit that mainstream sentiment ... as a wedge to recruit or to propagandize," says Pitcavage.

Devin Burghart of the Center for New Community, a faith-based human rights organization in Chicago, estimates that the "Minutemen" have spawned at least 40 new groups in more than a dozen states.

In some areas, the rise in extreme anti-immigrant sentiment has resulted in attacks on Hispanic men, and conspiracy theories. One theory warns of "la reconquista," the invasion of the US southwest by Mexicans determined to take back territory lost in the 19th century.

Movement across the US-Mexico border has gone on for centuries, says Jean Rosenfeld, of the UCLA Center for the Study of Religion. But today, says Dr. Rosenfeld, "The nativist narrative ... signals a high tide of resurgent xenophobia."

While communities from New England to the Pacific Northwest are seeing notable growth in the Hispanic population, the most dramatic increases have been in the South, reports the Pew Hispanic Center. Most of those migrants are men who lack legal status, reports Pew.

Since the last census, the Hispanic population in Georgia has grown faster than any other state. The need for laborers to accommodate the residential and commercial building boom around Atlanta is a big part of that. The rate of Hispanic births is twice the official Hispanic population there. Anti-immigration activists opposed to multiculturalism have taken to calling the state "Georgiafornia."

In Washington this year, Congress and the Bush administration are expected to continue wrangling over immigration reform. But most of the action, observers say, is likely to be at the state level: legislation and ballot initiatives.

In 2004, Arizonans approved Proposition 200, which requires proof of citizenship to vote or to apply for state benefits. Up to a dozen states could have similar measures on the ballot this year. Lawmakers in North Carolina and New Hampshire are considering proposals authorizing state and local law officers to enforce federal immigration law. Massachusetts state representatives recently defeated a bill that would have allowed undocumented immigrant students to pay the same discounted college tuition rate as state residents.

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In the post-9/11 era, attitudes toward foreign immigration are unique in some ways. But there are similarities to the 1850s and the early 20th century, when violent reactions to immigrants - charges that they took jobs, caused crime, and were not loyal to the US - were common.

"I mean from Germans to Irish Catholics to Jews to Hispanics virtually the same kinds of things have been said," says Mark Potok of Southern Poverty Law Center, who monitors extremist activities in the US. Such sentiment historically abates, says Pitcavage. "The sooner we get this cycle over with, the happier I'll be."

Police Split On Migrant Plan (LAT)

By Richard Winton And Daniel Yi

The Los Angeles Times, January 23, 2006

The push by two Orange County police agencies to arrange training for some of their officers to help enforce federal immigration laws has opened a rift in Southern California law enforcement circles, with some officials fearing the move will harm crime-fighting efforts.

The Costa Mesa Police Department and Orange County Sheriff's Department are developing plans for their officers to be trained alongside federal immigration agents so they can understand and help enforce immigration laws.

They are among the first in the nation to seek the training, and their effort has generated both interest from other agencies and protests from immigrants' rights groups.

"Dozens of jurisdictions have reached out to us and asked us for copies of this policy," said Jon Fleischman, a spokesman for the Sheriff's Department. "Like with any instrument that provides a resource to find criminals, departments are looking at this to see if this will help fight crime."

But in Los Angeles, the county's two top cops — Sheriff Lee Baca and police Chief William J. Bratton — have come out solidly against such steps, saying it would damage hard-earned efforts to build trust in immigrant communities.

They argue that local police are busy enough dealing with crime and that immigration enforcement should be left to the federal government.

"The Orange County talk is cheap," Baca said. "I want to see how arresting a young 18-year-old girl trying to get a job goes down when robbery and burglary calls for service aren't being responded to. The public will say, 'We've had enough of this.' Let the federal government do its job."

The two Orange County agencies say they would not conduct sweeps but only check the status of suspects they stop.

For nearly three decades, the LAPD has enforced a strict policy prohibiting officers from stopping or questioning someone solely based on their immigration status. The policy, known as Special Order 40 and approved by then-Chief Daryl Gates, was part of an effort to improve relations between officers and illegal immigrants, who officials say were often afraid to report crimes or cooperate as witnesses.

"It's not a matter of politics. It's a matter of practical policing," said LAPD Assistant Chief George Gascon. "If an undocumented woman is raped and doesn't report it, the suspect who raped that woman, remember, could be the suspect who rapes someone else's sister, mother or wife later."

But politics is clearly intertwined in the debate.

Activists fighting illegal immigration, including people involved in the Minuteman Project, have cheered the efforts in Orange County to enforce all laws at the local level. In Los Angeles, immigrant rights groups have been pressing their case to Bratton and Mayor Antonio Villaraigosa, who came out last week against training officers for immigration enforcement.

Still, the issue has been getting law enforcement's attention nationally. The International Assn. of Chiefs of Police has opposed any efforts in the U.S. to require local police to enforce immigration laws.

The Orange County Sheriff's Department wants to send 200 deputies for special training by Immigration and Customs Enforcement, and hopes federal approval comes soon. Likewise, Costa Mesa seeks training for up to 40 officers initially, mostly detectives, gang investigators and jail personnel.

The training will be to familiarize officers with immigration law, give them an understanding of the federal immigration bureaucracy and let them observe how federal agents do their jobs.

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The training will help the officers work more smoothly with federal agents to verify the immigration status of people they suspect of criminal wrongdoing, said Costa Mesa Mayor Allan Mansoor, a strong supporter of the plan who is also an Orange County sheriff's deputy. If a suspect is found to be an illegal immigrant, police would report that to federal officials, who will ultimately have the power to start deportation proceedings, he said.

Giving local officers the ability to immediately access criminal suspects' immigration status is significant: If an officer finds that a suspect is an illegal immigrant, the suspect can be detained on that charge, even if there is not enough evidence to make an arrest on the crime initially suspected. And if the check finds that the suspect was previously deported and then came back into the United States — a more serious charge — the officers could also immediately make an arrest.

By contrast, LAPD officers are for the most part prohibited from checking a suspect's immigration record at the time of arrest. If a suspect is arrested, the immigration status is usually discovered later, during booking and charging.

Mansoor emphasized that officers wouldn't be looking for illegal immigrants.

"The focus is criminal offenders," he said. "This will make the community safer for everyone, including people who are here illegally but otherwise are law-abiding."

Sheriff's officials said the training would help deputies more easily identify illegal immigrants with convictions in their home country who are now in the United States.

Supporters of the policy also counter objections by Baca and other opponents that the training would make illegal immigrants less likely to cooperate with law enforcement. The supporters point out that many of the criminals who prey on immigrant communities are themselves illegal immigrants. Mansoor and others say residents will understand that the training is designed to take such people off the streets, not pick on the average person.

As for concerns that the new policy would lead to deportation of undocumented immigrants who are initially suspected of crimes but ultimately not charged or found not guilty, Mansoor added: "If someone is here illegally, they can be deported as is, now. There is no expectation that if you are here illegally, you are allowed to stay."

The policy has won the two agencies praise from anti-illegal immigration groups, and at least two other Orange County cities — Westminster and Garden Grove — are considering similar training. But the two agencies have also been dealing with a backlash from some among Orange County's Latinos.

Paty Madueno, a leader with an umbrella group of churches in Orange County, said the policy "has caused fear, panic and hate.... I know there are a lot of families that are very worried."

The debate underscores the sensitive relationship between local police and federal immigration authorities — especially in Southern California, with its large immigrant communities. In Los Angeles, some officers have grumbled that Special Order 40 is too restrictive and makes it difficult for them to identify suspects.

The department last year drew scrutiny from some immigrant groups when it "clarified" Special Order 40.

The clarification allows officers to arrest and initiate immigration checks on suspects they believe to be convicted violent felons who were deported but then reentered the U.S. illegally. The change came after some anti-gang detectives learned that a suspect they helped convict of a violent crime and was later deported to Mexico was back in Los Angeles. They were not sure whether they could arrest him under Special Order 40.

With the moves in Orange County garnering national headlines last week, Los Angeles officials reassured residents that they had no plans to follow suit.

It's a message even some Orange County cities are sending out.

"It doesn't seem to me that local governments' taking on [enforcement of immigration laws] as an initiative is necessarily the best use of local resources," said Irvine Mayor Beth Krom. "Why create an environment that pits neighbor against neighbor or causes a person in line at the grocery store to look suspiciously around?"

Times staff writers David Haldane and Jennifer Delson contributed to this report.

CONGRESS-ADMINISTRATION:

Alito Confirmation May Be Tight (WT)

By Charles Hurt

The Washington Times, January 23, 2006

Federal Judge Samuel A. Alito Jr. appears headed for confirmation to the Supreme Court this week with one of the narrowest Senate approvals in history.

Though Judge Alito hasn't lost support from any Republicans, he has won endorsement from only one Democrat. Republicans say they expect the vote to be close to the 55-45 partisan break in the chamber.

Several centrist Democrats who voted to confirm Chief Justice John G. Roberts Jr. and have been courted by the White House during the Alito confirmation process already said they will vote against Judge Alito. Those include Sens. Max Baucus of Montana, Ron Wyden of Oregon and Ken Salazar of Colorado.

Republican leadership aides also say they are worried they may lose one of the Northeast Republicans who represent liberal states. Sens. Lincoln Chafee of Rhode Island and Olympia J. Snowe and Susan Collins, both of Maine, have declined to say how they will vote.

Those same centrists, however, have said that a Democrat filibuster of the nominee would be out of order.

Still, Democrat leaders insist, that option remains a possibility.

"Nothing is off the table," Sen. Charles E. Schumer, New York Democrat, said yesterday on CNN's "Late Edition."

Sen. George Allen, Virginia Republican, seemed to almost relish the threat.

"Judge Alito has an outstanding record. He had the unanimous highest recommendation of the [American Bar Association]. He has 15 years as a circuit court judge," said Mr. Allen, adding that "if the Democrats want to filibuster, let them. We'll pull the constitutional trigger."

Majority Leader Bill Frist of Tennessee has made clear that if Democrats filibuster Judge Alito, he will move to change the rules in the Senate to ban such filibusters of judicial nominations.

While Mr. Schumer, who sits on the Judiciary Committee, said the filibuster remains an option, he also seemed wary of going that route.

"A filibuster is a very large thing to do. It's not done very often, and so you've got to give it a lot of thought," he said. "There is no question many are disappointed in some of the answers that Samuel Alito gave, but to vote against him is one thing and to filibuster requires what I think is a much higher standard."

Also yesterday, Sen. John Kerry, the Massachusetts Democrat who lost the 2004 presidential election, said he will vote against confirmation.

He said he opposes Judge Alito, in part, because "he refuses even to go as far as John Roberts in affirming settled law," an apparent reference to Chief Justice Roberts' assertion that federal abortion rights are settled law.

Court observers say Chief Justice Roberts left himself plenty of room during his Supreme Court hearings to overturn abortion rights if given the opportunity.

A vote on Judge Alito by the Senate Judiciary Committee is scheduled for tomorrow with debate on the floor to start Wednesday. A final vote is expected by next Tuesday.

Did Democrats Seal Their Defeat In Alito Hearings? (LAW)

By T.r. Goldman, Legal Times

Legal Times, January 23, 2006

There are any number of ways to fault the performance of Senate Democrats in their campaign to keep Samuel Alito Jr. -- seemingly as rock-ribbed a conservative as you'll find -- off the high court.

During Alito's weeklong confirmation hearings, Senate Judiciary Committee Democrats were, by turns, hostile, pedantic, bombastic and confused. Follow-up questions? No time for that.

There were larger strategic miscalculations as well: notably that the majority of pro-abortion rights Americans would rise up in outraged opposition to a nominee who had so clearly expressed disdain for abortion rights at several points during his legal career. Or that Americans would find credible the shrill discourse of Alito's opponents, which by now had been assimilated as so much background noise.

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And there was last year's "Gang of 14" filibuster deal, one that Democrats initially claimed as a victory but that helped seal their defeat.

The causes are myriad, but the result seems clear: Alito's opponents threw everything they had at him and nothing worked. He is now virtually guaranteed to be confirmed.

THE NUMBERS GAME

There was one thing, of course, Senate Democrats couldn't control: the Republicans' 55-44 majority.

"Alito walked in there with all 10 Republican [committee] votes and 51 votes on the floor, and they knew it," says Jeffrey Berman, who runs the Western region of People For the American Way. "They just set up a four-corners offense and ran out the clock."

In fact, numbers tell the story in almost every judicial nomination. The party in power in the Senate, especially if that party controls the White House, always gets its man -- at least it has since 1930. "I'm proud of the Democratic senators," says Berman, the former chief counsel to committee Democrat Sen. Charles Schumer, N.Y. "They just don't have enough of them."

They do have enough to filibuster, as it technically takes 41 votes, and there are 44 Democrats. But that's not happening, either. In part that's because, in practical terms, it takes several more than 41, says University of Connecticut professor David Yalof, who notes that it's tough to get Democratic senators from GOP-leaning states like Nebraska, Arkansas and Louisiana to go along.

Last year's Gang of 14 compromise over judicial nominees instantly raised the standard for filibustering. That deal, in turn, stemmed from the Democrats' promiscuous use of the filibuster against 10 federal appeals court judges in 2004, which, in the opinion of some, made using it to block Alito's nomination that much harder. And three of those judges still wound up on the federal bench.

"We shot our wad. We filibustered 10 guys, and at the end of the day the worst got on anyway," says a former Judiciary Committee counsel. "If we had not used the filibuster and pissed off the Republicans over the past four years, if it was seriously being entertained for the first time [against Alito], we might have succeeded."

NOT ASKED, NOT ANSWERED

Still, a filibuster wasn't the Democrats' only option. There were the hearings. And it's clear from a close reading of the Alito transcript that his Democratic interrogators did not give him a free pass.

Democrats hammered the 55-year-old federal appeals court judge for three days and more than a dozen hours on a broad range of subjects. They discussed obscure constitutional theories, the scope of executive power, the role of foreign law in Court deliberations, stare decisis and privacy -- again and again and again.

Alito fended them all off with the same sturdy stiff-arm. In the end there was simply no issue on which Democrats found traction.

Indeed, the whole week -- a festival of modern senatorial oratory -- will be remembered largely for one silent image: the tearful exit of Alito's wife, Martha-Ann, from the hearing room after Sen. Lindsey Graham, R-S.C., apologized to the Alito family for the hearings' harsh tone.

The Democrats' speechifying, of course, could have been sharper and more pungent, a more prosecutorial cross-examination than political stump speech.

There also could have been a concerted effort to redefine Alito's 1985 job application to the Reagan Justice Department, in which he laid out his conservative jurisprudential philosophy and his opposition to abortion. They could have called it a personal essay, for example, so that his opinions were seen more as bedrock convictions than the kind of posturing one does simply to get a job.

But that's a tough assignment for any panel of questioners, let alone a group of notoriously independent senators just back from recess with little inclination to coordinate their efforts, anyway. And who knows whether better questioning would have led to more satisfying answers.

The back-and-forth is a dance that is becoming increasingly orchestrated, notes Mark Gitenstein, who was chief counsel to the Judiciary Committee in the 1980s.

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"The nominees know what the basic questions are -- they don't change much -- and the committee knows what the answers will be," says Gitenstein, a partner at Mayer, Brown, Rowe & Maw. "But the American people are not finding anything out about these nominees. There's no real jurisprudential debate."

There's also the conundrum of any confirmation hearing: To really dig inside a nominee's mind, senators have to ask questions "so arcane people can't tell what the hell you're talking about," Gitenstein says. "But if you ask general questions, it's easy to give a general answer."

Starting with Chief Justice John Roberts Jr., the responses reached a new level of sophistication, he adds. "Roberts did a very excellent job of giving an answer which sounded like it was saying something and didn't. Alito did the same thing, if not as polished."

THE VANGUARD

To Republicans, there was a disingenuousness to the Democrats' strategy. In an attempt to replicate their crowning success, the defeat of Robert Bork in 1987, they reached into a similar bag of tricks to try to demonize Alito to the American public.

"They stir these things up and the nominee spends all this time trying to rebut them," explained Alabama Republican Sen. Jeff Sessions during a break in the hearings earlier this month. "The nominee hits the hearings a little bit under a cloud -- this is the Supreme Court and everybody's watching. [Sen. Edward] Kennedy is the point of this flying wedge; he's the guy who does the heavy lifting."

The Massachusetts mauler was true to form, repeatedly assailing Alito's credibility on something that, on its face, did not appear that grave -- namely, Alito's failure to put cases involving Vanguard, the mutual fund company in which he owned shares, on his recusal sheet.

True, during his 1990 confirmation hearings for a seat on the 3rd U.S. Circuit Court of Appeals, Alito explicitly promised the Senate that he would recuse himself from any Vanguard cases. But as he repeatedly pointed out, there was never the slightest possibility that any ruling he made could have affected the price of his mutual fund.

Then there was the Concerned Alumni of Princeton, the defunct group to which Alito once belonged. Democrats hit the issue hard, asking how Alito, an immigrant's son, could have associated himself with a group dedicated to keeping minorities out of Princeton.

But the CAP issue also failed to gather much traction, possibly because no proof could be found that Alito had anything more than a marginal connection to the group.

ABORTION WRONGS

Despite their superior numbers, the White House and its allies in the Senate weren't taking any chances on their man.

Might he fare badly in comparison with Roberts, whose stellar performance four months earlier became a benchmark for all future nominees?

No problem. Make sure early on that everyone believes Alito is not in the same league as Roberts -- whether he is or not.

"They played a great game of lowered expectations," adds the former committee counsel. "Roberts was a rock star; this guy was a high school bandleader."

Republicans also did a better job than Democrats of framing the nominee. "Alito was presented, both by himself and his sponsors, as a conventional person, a middle-of-the-road American," says political scientist Andrew Seligsohn, who teaches at Hartwick College in Oneonta, N.Y. "And we're being asked to believe that this conventional guy will act radically. That's hard to believe."

Democrats, he says, "never put together the case that while this guy may look conventional, the judicial philosophy to which he subscribes is radical."

Even Alito's answers on abortion, which justifiably raised fears among pro-abortion rights senators, failed to make much impact at the hearings. This despite the fact that Gallup Poll data for the past 30 years consistently show that a majority of Americans believe abortion should remain legal.

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It's possible that a certain complacency about abortion has set in. Today virtually no woman of reproductive age in the United States has known a time when abortion was illegal. And a lot of the barriers to abortion don't sound threatening, anyway, adds Patton Boggs partner John Jonas. "You want parental notification; you don't want late-term abortions," he says.

For most people, overturning Roe v. Wade does not seem like a real possibility, notes Jonas, a former Hill staffer. "It's like the draft. 'Oh, they're going to bring back the draft. That's not a credible threat.'"

And while Beltway politicians may be aggrieved that Alito and other recent Supreme Court nominees are able to get away with saying nothing, many Americans don't seem to mind, notes another former Senate staffer.

"We've been through this enough, and to some extent people are getting a little savvier. People don't expect judges to be politicians," he says. "It's a distinction not being lost on the people, although politicians have not yet caught up with it."

There are exceptions, including former Sen. Alan Simpson, R-Wyo., who says he never paid attention to ideology. "I laid my blood on the line for Clarence Thomas, and if the issue is abortion, I must have missed something, because I'm pro-choice."

In fact, says Simpson, he'd prefer a Court with members who hold strongly opposing views. "It would be a wonderful thing to have a Bork and a Tribe on the Court," he says, referring to defeated Supreme Court nominee Robert Bork and liberal Harvard Law professor Laurence Tribe. "You throw guys of this brilliance in a room with their seven colleagues. I can't imagine the richness of the discussion."

Kerry Says He Won't Vote For Alito (BOS)

The Boston Globe, January 23, 2006

WASHINGTON --Sen. John Kerry said Sunday he will vote against Supreme Court nominee Judge Samuel A. Alito Jr. because he fears Alito would take the country "backwards."

Kerry, the failed Democratic nominee for president in 2004, also voted against now-Supreme Court Chief Justice John Roberts. But Alito, Kerry said Sunday, goes even farther than Roberts in undermining established legal precedents.

A flash point during Alito's confirmation hearings was a 1985 memo he wrote saying that the "Constitution does not protect a right to an abortion" despite the Supreme Court's 1973 Row v. Wade decision.

"I think he will shut the door of court access to the average person in America ... ," Kerry said Sunday on ABC's "This Week with George Stephanopoulos." "I will vote against him because I think he will take the court backwards."

The Senate Judiciary Committee will vote on Alito's nomination to replace retiring Justice Sandra Day O'Connor on Tuesday, with the full Senate starting final debate the next day.

Most if not all of the Senate's 55 Republicans are expected to support him, which would give him enough votes for confirmation if the 44 Democrats and independent Sen. Jim Jeffords of Vermont don't attempt a filibuster.

On Sunday Kerry also criticized President Bush's wireless wiretaps, calling the program, "a violation of the law."

A voice recording with new threats from Osama bin Laden released last week underscored a major White House failure in the war on terror, Kerry also said.

"The fact is, when they had a chance to kill or capture Osama bin Laden they didn't do it," Kerry said. "Osama bin Laden is going to die of kidney failure before he's killed by Karl Rove and his crowd."

There have long been unconfirmed rumors that bin Laden is suffering from kidney failure and requires regular medical care.

Kerry also called the corruption surrounding convicted lobbyist Jack Abramoff a GOP scandal. The junior senator from Massachusetts pointed to the party that dominates Washington politics.

"They run the House of Representatives. They run the Senate. They have the White House. They're controlling who goes on the judiciary," Kerry, the Democrats' nominee for president in 2004, said on ABC's "This Week."

"They have not done the things necessary in order to press forward on this," Kerry said.

He also did not rule out a 2008 run for president, and rebuffed criticisms from Democratic strategics in an upcoming article in GQ magazine who charged that he was a lackluster candidate for the next presidential election.

Kerry said he doesn't listen to insider Washington chitchat and that another run for president is, "a decision for the future."

"I"m going to listen to my heart and my gut" Kerry said.

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Two Justices Who 'get' Religion (USAT)

By Richard W. Garnett

USA Today, January 23, 2006

The conventional wisdom is that Judge Samuel Alito will be confirmed by the Senate to serve on the Supreme Court, despite the energetic opposition of left-leaning interest groups and some senators' aggressive, at times unseemly and misleading, interrogations. This is, of course, as it should be. Alito has a distinguished record of public service and a strikingly sharp legal mind.

Judge Samuel Alito is a fitting replacement for Justice Sandra Day O'Connor, given their shared commitment to religious freedom.

AP photos

It is interesting to note, though, that one of the most important players in Alito's recent Senate confirmation hearings wasn't even in the room: Justice Sandra Day O'Connor, a pioneering jurist who has lived "greatly in the law," to take a phrase from Justice Oliver Wendell Holmes in the early 1900s.

Unfortunately, though, her work and legacy were misused and distorted by some of Alito's critics, who appear to worry that his understanding of the Constitution's requirements might not coincide with their own policy preferences. And so, during the confirmation battle, we heard repeatedly that O'Connor has been a "moderate," "swing" justice and tirelessly resisted the efforts of conservatives and the "religious right" to "turn back the clock" or "push the court to the right."

This description is not entirely wrong, but it is incomplete. In fact, and notwithstanding her recent "liberal" votes in several hot-button cases, O'Connor was for two decades a consistent and crucial partner with Chief Justice William Rehnquist in moving the court's constitutional doctrines in a more conservative direction: She believed, among other things, that ours is a national government of limited powers, that the states are sovereign laboratories of democracy, that religious faith and expression are protected by our Constitution and welcomed in the public square, and that our criminal laws best serve human dignity by preventing and punishing crime.

ON RELIGION:

Faith. Religion. Spirituality. Meaning. A weekly column seeks to illuminate the national conversation. Read the series online at religion.usatoday.com.

Alito is an eminently worthy successor to O'Connor. What's more, he is all the more fitting a replacement, given their shared commitment to what has been quite rightly called our "first freedom": The freedom of religion protected by the First Amendment.

Like O'Connor, Alito understands that our Constitution does not regard religious faith with grudging suspicion, or as a bizarre quirk or quaint relic. They both appreciate that, in our traditions and laws, religious freedom is cherished as a basic human right and a non-negotiable aspect of human dignity. This is why both jurists have occasionally come under fire from activists who misunderstand the "separation of church and state."

Our Constitution separates church and state not to confine religious belief or silence religious expression, but to curb the ambitions and reach of governments. The point of the First Amendment is not to "put religion in its place," but instead to protect religion by keeping the government "in its place." The Amendment's Establishment Clause is not a sword, driving private religious expression from the marketplace of ideas; rather, it is a shield that constrains government precisely to protect religiously motivated speech and action.

In case after case, O'Connor has vindicated this understanding. For example, in the 1994 Kiryas Joel case, she insisted that "government impartiality, not animosity, toward religion" is the constitutional touchstone, and that the First Amendment neither requires nor permits "hostility to religion, religious ideas, religious people, or religious schools." Yes, as in the recent Ten Commandments cases, she has disapproved religious activities or expressions that, in her view, exclude some by endorsing the faith of others.

At the same time, though, she has vigorously defended accommodations for religious believers and their right to participate fully and speak openly in the public square. Accordingly, in Rosenberger v. University of Virginia, she agreed that the First Amendment does not permit a state university to exclude a student newspaper from a program designed to fund student activities and publications simply because the paper endorsed and proposed a Christian perspective.

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Alito has been equally vigilant and clear in policing discrimination against religious believers, conduct and expression. In a 1999 case, he wrote that the First Amendment did not permit the police department of Newark, N.J., to exempt officers from its no-beards policy on medical grounds while refusing similar accommodations to Muslims.

He said the department had, in effect, made "a value judgment in favor of secular motivations, but not religious motivations." That same year, he upheld Jersey City's holiday display — which included, among other things, a crèche and a menorah — emphasizing that the display was a permissible recognition of citizens' faith and the city's diversity, not an unconstitutional establishment of religion.

More recently, he required the public school district in Stafford Township, N.J., to provide a religious youth group the same access to its literature-distribution program that other community groups enjoyed. Echoing the court's decision in Rosenberger, he insisted that the First Amendment does not permit such exclusion on the basis of the group's religious identity and viewpoint.

At the heart of O'Connor's legacy is an insistence that our Constitution does not mandate a public square scrubbed clean of religious symbols and speech, and that equality and neutrality — not hostility or marginalization — are the watchwords of our First Amendment. With Judge Alito, that legacy is in good hands.

Richard W. Garnett is a Lilly Endowment associate professor of law at the University of Notre Dame.

O'Connor's Rightful Heir? (NSWK)

By Evan Thomas And Stuart Taylor Jr.

Newsweek, January 23, 2006

When conservative Washington lawyers who argue before the Supreme Court talk about "the Greenhouse Effect," they don't mean global warming. The Greenhouse in question is Linda Greenhouse, the longtime and esteemed Supreme Court reporter for The New York Times. The "effect" is to subtly push Supreme Court justices to the left. Unless a jurist comes to the court with very strongly held, or even fixed, conservative views, there is a tendency to be seduced by the liberal legal establishment that dominates at elite law schools like Harvard and Yale. Those schools produce a disproportionate number of the law clerks who generally draft opinions for the justices, as well as the sort of professor routinely tapped as a source by Greenhouse, who is regarded as a legal scholar in her own right.

That, at least, is the view of conservatives like U.S. Court of Appeals Judge Laurence Silberman, who popularized the term some years ago. The chief "victim" of the Greenhouse Effect is usually said to be Justice Anthony Kennedy, who has drifted to the left since his appointment almost two decades ago. With the departure of Justice Sandra Day O'Connor from the Supreme Court, Kennedy is seen by liberals and status-quo devotees as the remaining swing vote, a check on the court's rightward tilt as more justices are appointed by Republican presidents.

Kennedy's linchpin role was on display last week, when he wrote the majority opinion in a closely watched case. By a 6-to-3 vote, the court rejected the Bush Justice Department's effort to block a controversial Oregon law that allows physicians to assist the suicide of terminally ill patients. About 30 people a year avail themselves of Oregon's "right to die" law, obtaining a prescription for a lethal dose of drugs. Former attorney general John Ashcroft intervened to stop the practice, but the Supreme Court ruled last week that Ashcroft had overstepped his authority.

Conservatives took some consolation in the vote of Chief Justice John Roberts. In his first significant decision since his confirmation, he joined in dissent with the court's right wing, Justices Clarence Thomas and Antonin Scalia. If, as expected, Judge Samuel Alito is confirmed, conservatives think they will have a reasonably reliable fourth vote. But Kennedy remains at best a wild card; in some important arenas, most notably abortion and gay rights, he has been a winning vote for the court's liberal camp.

Kennedy has "evolved," say the liberals—much like other GOP-appointed justices before him, such as the late Harry Blackmun. Conservative lawyers scoff (though rarely on the record, lest they have to argue before Kennedy) that the justice is squishy and vainglorious, too worried about what the headlines will say about him.

Other hard-liners regard him as a traitor. He was chosen by Ronald Reagan in 1987 after fiery conservative Robert Bork was rejected by the Democratic-controlled Senate and Reagan's next choice, Judge Douglas Ginsburg, dropped out after he admitted to having smoked marijuana as a Harvard law professor. At first Kennedy seemed to be a solid conservative, siding with

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the state in criminal-rights cases. Some even began calling him "Bork without the beard" and predicting that he'd be chief justice one day. But then in 1992, Kennedy joined the majority opinion upholding a woman's right to abortion. Just before he took the bench the day of the decision, Kennedy told a reporter, "Sometimes you don't know if you're Caesar about to cross the Rubicon or Captain Queeg cutting your own towline." Then he excused himself to "brood." No one was quite sure what he meant by that mixed metaphor, but it was seen as a bad sign for conservatives, who figured they could no longer count on him. Indeed, Kennedy went on to author a landmark 2003 decision that established, for the first time, constitutional protection for homosexual sodomy. "Gay people are entitled to respect for their private lives," wrote Kennedy. "The state cannot demean their existence or control their destiny."

Kennedy is by no means always or even often on the left. He has dissented, for instance, from decisions upholding affirmative action. But for the time being, he may be the one justice standing between conservatives and a predictable Supreme Court majority.

Judge Alito's Radical Views (NYT)

The New York Times, January 23, 2006

If Judge Samuel Alito Jr.'s confirmation hearings lacked drama, apart from his wife's bizarrely over-covered crying jag, it is because they confirmed the obvious. Judge Alito is exactly the kind of legal thinker President Bush wants on the Supreme Court. He has a radically broad view of the president's power, and a radically narrow view of Congress's power. He has long argued that the Constitution does not protect abortion rights. He wants to reduce the rights and liberties of ordinary Americans, and has a history of tilting the scales of justice against the little guy.

As senators prepare to vote on the nomination, they should ask themselves only one question: will replacing Sandra Day O'Connor with Judge Alito be a step forward for the nation, or a step backward? Instead of Justice O'Connor's pragmatic centrism, which has kept American law on a steady and well-respected path, Judge Alito is likely to bring a movement conservative's approach to his role and to the Constitution.

Judge Alito may be a fine man, but he is not the kind of justice the country needs right now. Senators from both parties should oppose his nomination.

It is likely that Judge Alito was chosen for his extreme views on presidential power. The Supreme Court, with Justice O'Connor's support, has played a key role in standing up to the Bush administration's radical view of its power, notably that it can hold, indefinitely and without trial, anyone the president declares an "unlawful enemy combatant."

Judge Alito would no doubt try to change the court's approach. He has supported the fringe "unitary executive" theory, which would give the president greater power to detain Americans and would throw off the checks and balances built into the Constitution. He has also put forth the outlandish idea that if the president makes a statement when he signs a bill into law, a court interpreting the law should give his intent the same weight it gives to Congress's intent in writing and approving the law.

Judge Alito would also work to reduce Congress's power in other ways. In a troubling dissent, he argued that Congress exceeded its authority when it passed a law banning machine guns, and as a government lawyer he insisted Congress did not have the power to protect car buyers from falsified odometers.

There is every reason to believe, based on his long paper trail and the evasive answers he gave at his hearings, that Judge Alito would quickly vote to overturn Roe v. Wade. So it is hard to see how Senators Lincoln Chaffee, Olympia Snowe and Susan Collins, all Republicans, could square support for Judge Alito with their commitment to abortion rights.

Judge Alito has consistently shown a bias in favor of those in power over those who need the law to protect them. Women, racial minorities, the elderly and workers who come to court seeking justice should expect little sympathy. In the same flat bureaucratic tones he used at the hearings, he is likely to insist that the law can do nothing for them.

The White House has tried to create an air of inevitability around this nomination. But there is no reason to believe that Judge Alito is any more popular than the president who nominated him. Outside a small but vocal group of hard-core conservatives, America has greeted the nomination with a shrug - and counted on its senators to make the right decision.

The real risk for senators lies not in opposing Judge Alito, but in voting for him. If the far right takes over the Supreme Court, American law and life could change dramatically. If that happens, many senators who voted for Judge Alito will no doubt come to

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regret that they did not insist that Justice O'Connor's seat be filled with someone who shared her cautious, centrist approach to the law.

Health Plan To Revive Debate (LAT)

By Peter G. Gosselin

The Los Angeles Times, January 23, 2006

WASHINGTON — President Bush is preparing to unveil a series of proposals intended to make the nation's healthcare system more efficient, but he is likely to revive a bitter debate — begun last year over Social Security — about how much of life's biggest risks Americans should bear on their own.

Although many of the proposals, such as limits on medical malpractice lawsuits, are ones the president has failed to get through Congress, he plans to unveil new initiatives as part of his vision for reshaping U.S. healthcare policy, aides and advisors said.

Among the possible initiatives: offering additional tax breaks for the use of Health Savings Accounts, and making most out-of-pocket medical spending by individuals tax-deductible. Currently, individuals must spend 7.5% of their annual incomes on healthcare before they qualify for an income tax deduction.

Bush's supporters say that the changes would help tame rocketing medical costs by encouraging people to buy their own healthcare insurance and become smarter shoppers, rather than relying on employers or government programs such as Medicare and Medicaid to cover their health costs.

Critics argue that Bush's expected proposals would undermine the employer-provided health insurance system that covers most working Americans. And, they say, it would encourage them to switch to the Bush-authored Health Savings Accounts, established in 2003, under which they would bear more of the financial risks of illness and injury.

Just as with Bush's Social Security personal accounts proposal, the president would be seeking to persuade Americans to rely less on government-provided or employer-provided safety nets and more on themselves.

He would also exhibit the kind of combativeness that has become a trademark of his time in Washington. Despite the political drubbing that the administration sustained on Social Security and over the flawed rollout of its Medicare prescription drug benefit, Bush appears eager to return to the fray.

"We may be looking at the start of a fundamental shift in what we mean by health insurance, from a system where we share risks to one where it's up to individuals to make their own deals and bear their own risks," said Drew E. Altman, president of the nonpartisan California-based Kaiser Family Foundation.

"The danger," Altman said, "is that this new arrangement could work out very well for some people, especially the young, the healthy and the affluent, but be very bad for the health system as a whole."

The Health Savings Accounts, known as HSAs, are designed to encourage people to cover a substantial portion of their healthcare costs by opening tax-advantaged accounts from which they can pay routine medical expenses. The account must be paired with a high-deductible insurance policy to cover catastrophic medical costs.

The theory behind the accounts is that people who pay more of their own costs become better consumers and less likely to demand unnecessary care. Proponents say the accounts would encourage people who have no insurance to buy at least some coverage.

Detractors fear that the accounts will attract only the healthiest Americans, leaving traditional employer-provided plans with people who have the highest health costs.

Bush signaled his readiness to act on healthcare in a campaign-style speech in Virginia last week, saying that government must ensure "healthcare is available and affordable." He explicitly linked the proposals he will make in this year's State of the Union address later this month and new budget plan to last year's Social Security fight by discussing healthcare in the same "ownership society" terms that he used in touting Social Security personal accounts.

"I think people ought to be allowed to own their own healthcare account and make decisions for what's best for them," Bush told his audience.

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Last year, Bush made a considerable effort trying to convince Americans that younger workers should be allowed to divert a portion of their Social Security taxes into stock and bond accounts that they would own and control. In return, their traditional Social Security benefit would be reduced. But the plan failed to gain popularity with the public or in Congress amid a debate over whether it would undermine the finances of the overall program and would leave workers too exposed to stock market risk.

Much of the president's recent thinking about healthcare appears to be influenced by former Reagan administration economist John F. Cogan, now at Stanford University, and former Bush chief economic advisor R. Glenn Hubbard, now dean of Columbia University business school.

The two, together with Stanford economist Daniel P. Kessler, have just unveiled a plan for overhauling the nation's healthcare system.

The proposals include new tax breaks for individual health spending, an expanded system of "report cards" on doctors and hospitals, stricter enforcement of antimonopoly laws against health providers and insurers, and a limit on malpractice suits.

Hubbard briefed congressional leaders on the proposals last week, and according to congressional staff members, has been asked by the White House to begin a nationwide speaking tour aimed at drumming up public support for the measures.

In recent interviews and in a new book, "Healthy, Wealthy and Wise," the economists portrayed their ideas as modest first steps that would not drastically alter the current employer-based healthcare system in the next few years and would shave a comparatively small $60 billion from the nation's $1.9 trillion annual healthcare tab.

But the three also say that their proposals could eventually result in HSAs replacing the entire system, including Medicare and Medicaid. "There's no reason to have a separate Medicare and Medicaid arrangement if you had these souped-up HSAs," Hubbard said.

Many analysts believe that the two big government programs or something like them are needed because the elderly, poor and disabled who are covered by them have the most costly care — and, especially in the case of Medicaid, are the least able to afford it. Hubbard said such problems can be handled by government subsidies.

The measures are attracting criticism from a variety of political quarters even before Bush's formal embrace of them.

From the left, Sen. Edward M. Kennedy (D-Mass.) blasted administration calls for more tax breaks and additional deregulation, saying the president "continues to do the wrong thing on healthcare."

"On top of the Medicare mess, Bush's savings accounts are a tax giveaway to the wealthy and healthy that will drive costs up even further," Kennedy said.

From the moderate right, Douglas Holtz-Eakin, a former Bush economic advisor and Republican-appointed director of the Congressional Budget Office, described the idea of tax deductions for people's out-of-pocket medical expenditures as "really bad tax policy."

Holtz-Eakin, who is a fellow with the Council on Foreign Relations, warned that the deduction would tempt people to treat almost all of their spending as health-related and wreak havoc at the Internal Revenue Service.

"I could make an argument that my running shoes are a health expense," he said. "They're preventive medicine."

However, the problems that Bush would be likely to face in making the case for substantial healthcare change run far deeper than what kind of tax deductions people would claim.

Most conservatives — including those in the administration — believe that the root cause of most problems with the nation's healthcare system is that most Americans are over-insured.

They argue that insurance keeps people from feeling the sting of prices and therefore from being wise consumers. Hence, conservatives' interest in making individuals take more risk and bear more responsibility for healthcare, retirement savings and other social safety nets.

But a wide array of polls reveal that, if anything, people feel underinsured, and have little interest in adding to the financial risks they face.

"The average American isn't interested in having more of his or her skin in the game," said Robert D. Reischauer, president of the Urban Institute, a centrist Washington think tank. "They already think they are paying plenty for healthcare and bearing enough of the risk as it is."

The conservative critique of what's wrong with American healthcare may create a vexing problem for the president.

In the past, Bush has scored crucial political points with swing voters for tackling the nation's tough problems, even if they did not agree with him. This was true in the case of the dividend tax cut and has been especially true of the Iraq war.

It seems unlikely, however, that the president would be able to pull off a similar political maneuver with healthcare.

That is because many conservatives believe that the reason most Americans have too much employer-provided health insurance is that Washington lavishes too many tax breaks on companies to provide it. But instead of cutting back on the breaks offered employers, Bush proposes giving new breaks to individuals. In effect, he is leveling the tax playing field by raising the latter up, rather than cutting the former down.

In an era of giant federal budget deficits, offering one set of tax breaks to counteract another might prove a hard sell.

Cogan and Hubbard acknowledged the problem but argued that proposals such as theirs were the only ones that could win congressional passage.

"There's no question that the right answer is to repeal the tax exclusion for employer-provided health insurance," Hubbard said. "But there's no chance politically that that will happen."

Bush's Third Term (USNEWS)

By Kenneth T. Walsh

U.S. News and World Report, January 23, 2006

When visitors ask President Bush how he deals with pressure, he often points to a portrait of Abraham Lincoln gazing beatifically from a wall near his desk in the Oval Office. The painting, by artist George Henry Story, depicts a confident, serene Lincoln circa 1861, when the Union was embroiled in its struggle with the Confederacy. In tough times, Bush imagines what it was like to be commander in chief when the country was tearing itself apart, with brother killing brother and the survival of the United States at stake. Compared with that, Bush likes to say, he has it easy. What Bush admires about Lincoln, and tries to emulate, is the Great Emancipator's resolve and commitment to a cause--the fact that, as Bush told one guest, "he had such a clear vision about keeping this country united, in spite of the incredibly divisive times in which he lived."

Now Bush is trying to apply the lessons of Lincoln more seriously than ever as he embarks on what he hopes will be a fresh start for his presidency. Bush tells friends that despite the many setbacks of the past year, the country still wants him to provide strong leadership, and that's what he aims to do. But that also means being more realistic, Bush has concluded, so he is ready to trim his sails a bit.

"Last year we played big-ball politics, going for home runs," says a key Republican strategist. "This year will probably be drag bunts and singles." Adds a senior White House official: "We are a nation at war, and it's in this president's DNA to lay out a bold, aggressive vision and agenda--but we'll be realistic in what we ask the Congress to do during midterm elections." Some Bush strategists see 2006 as the start of Bush's "third term."They regard his first four years as a period of solid achievement that culminated in his re-election victory. They see 2005 as a "term" of its own, 12 months marked by disappointment. They hope '06 will start an upswing.

First off, White House strategists expect the Senate to easily confirm Samuel Alito for the Supreme Court in the next few weeks--a victory for Bush just when he needs one. But the real kickoff of 2006 will be the State of the Union address January 31. "The State of the Union will provide a good opportunity to focus on the president and his agenda," Republican National Chairman Ken Mehlman told U.S. News .

Bush will continue to argue that progress is being made against the insurgents in Iraq and that the domestic economy is strong. But Republican insiders say he will also emphasize a series of smaller proposals that they predict will find ready acceptance among voters. This replicates an approach that was successful for President Clinton, who regularly announced small-bore but popular initiatives, such as endorsing the use of school uniforms to enhance discipline and encouraging curfews for teenagers. The tactic helped Clinton stay connected to everyday Americans, which boosted his job-approval ratings even when other things went wrong.

The Bush Battle Plan (NSWK)

By Richard Wolffe And Holly Bailey

Newsweek, January 23, 2006

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For any White House aide, it should have been an easy crowd: a group of pro-Bush business lobbyists at the U.S. Chamber of Commerce, a short walk from the West Wing. But when chief of staff Andy Card delivered a preview of the president's 2006 agenda earlier this month, the audience grew visibly listless. One checked his BlackBerry for e-mails, while another furtively read her copy of The Washington Post. Several yawned. Instead of concentrating on the issues his business friends care about—like taxes or trade—Card spent most of his time on a single topic. "The war on terror must be won in order to be able to have this sound economy that you're part of," he declared. His allies were unimpressed. "No one is naive enough to say that we shouldn't care about Iraq," said one GOP lobbyist, who declined to be named so as not to annoy the White House. "But there are other priorities that also deserve some tending to."

President George W. Bush hasn't forgotten his friends at the Chamber of Commerce, or their wish list of tax cuts and immigration reform. But after the worst year of his presidency—after a slump in support for his Iraq policy, the ravages of Hurricane Katrina and a wave of worry about corrupt lobbyists—Bush knows he needs something smart to offer the anxious GOP majority on Capitol Hill as its members head home to face the voters this fall. So he's shelved the ambitious domestic agenda he launched a year ago, and gone back to the mantra that's worked so well in the last two election cycles: it's the war, stupid. Karl Rove fired the first shots at the GOP's annual winter meeting last week, and Team Bush will take the strategy to the streets this week in Kansas and at the National Security Agency. The latter site will remind the public of the controversy over Bush's decision to eavesdrop on Americans without a warrant as he keeps an ear out for terrorist activity. But Bush's aides believe they can rebrand the domestic snooping program as "enemy surveillance" vital to protecting the country.

The well-worn plan is premised on the notion that three elections after 9/11, the Democrats still don't have an answer to that line of attack. "There's a national debate on what we're doing to protect the country," said one senior Bush aide, who declined to be named while talking about political strategy in advance of the State of the Union speech, slated for Jan. 31. "It's something we're very comfortable with, while the Democrats are dancing around it pretty gingerly." He's got a point. While some Democrats (like former veep Al Gore) have accused the White House of breaking the law, the party's congressional leaders have thus far merely demanded a full investigation into the program.

But will such a dog-eared playbook be sufficient? After a series of "listening" sessions with Hill allies last month, White House aides told members they wanted to do something "achievable" after last year's failure to overhaul Social Security and the tax code. In his State of the Union speech, Bush will return to his old idea of tax-free health savings accounts, hoping that will appeal to younger voters who can carry their savings from one job to another. And he'll tout the new Medicare prescription-drug benefits, urging seniors to stay the course despite early bureaucratic snafus that have left some without coverage. Tom Cole, a deputy House whip from Oklahoma who attended one meeting, told NEWSWEEK: "The real challenge for the administration in 2006 is to show follow-through, to show the American people that this government is competent and can get things done."

The biggest obstacle on that path may be the GOP's lobbying scandals. Bush called for "high standards for conduct of public officials" last week, and he's likely to talk broadly about reforming the federal budget in his State of the Union—including an attempt to limit pork-barrel spending. But the debate is complicated, his aides say, by a House GOP leadership contest between candidates with close ties of their own to lobbyists.

That may be one reason Andy Card shunned most of the agenda pushed by business lobbyists at the Chamber of Commerce. Instead, before he left, he described a poster of Uncle Sam hanging in the office of Defense Secretary Donald Rumsfeld: "It says WE'RE AT WAR. WHAT ARE YOU DOING TO HELP?" Nobody expects the K Street crowd to swap their business suits for body armor. But Team Bush hopes they will re-enlist—and go once more unto the breach for their embattled commander in chief.

Hey, Big Spender ... (TIME)

By matthew cooper and mike allen

Time, January 23, 2006

The White House's RooseveltÂ Room is wired for PowerPoint presentations, and most officials also bring handouts when they brief George W. Bush and his inner circle. But Budget Director Josh Bolten, who has spent months walking the President through a problem that could dramatically affect his legacy, sticks to colorful charts on old-fashioned easels. The lights stay on,

so nobody dozes off, and there's no paper to wander through. It's dense material, after all. "I keep everyone's attention focused on what I want them to focus on," Bolten said.

The President will need all the colorful charts he can muster. After five years of tax cuts and massive spending that brought back deficits and ensured that they will continue for years if not decades, Bush plans to use his State of the Union address on Jan. 31 to portray himself as, well, thrifty. He will talk about the need to rein in programs like Medicare, Medicaid and Social Security, and he'll tout the modest budget cuts that Congress passed at his request last year. His staff wants to make "restraining spending" a defining Bush characteristic, along with spreading democracy around the world and prosecuting the war on terrorism.

Why the change of heart? Bush has always shared the conservative aversion to big government programs, his aides insist. There are also short-term political points at stake. The Jack Abramoff lobbying scandal makes this an ideal time to go after what are known as earmarks--that is, spending placed in legislation, often without public review, for specific projects. That pork is a mainstay of the lobbying industry. And there is little money to spend anyway, so Bush might as well retool himself as a fearless budget cop. "Listen, we got a lot of people in Washington who preach fiscal discipline, and then they go on to vote against spending restraint," Bush told the Economic Club of Chicago just after New Year's.

But Bush himself has a huge credibility problem. The $236 billion Clinton surplus of 2000 has become a $400 billion annual deficit. Setting aside Social Security, about a quarter of what the government has spent since Bush became President has been borrowed. And estimates from the nonpartisan Congressional Budget Office (CBO) show that if his tax cuts are made permanent--as he is advocating--deficits will persist for at least 10 years.

Even Bush's supporters criticize his lack of fiscal restraint. They look with dismay at figures showing that the federal workforce of about 2.7 million is roughly the same size it was at the beginning of President Bill Clinton's second term. And they point out that Bush has not vetoed a single bill since taking office. "It's hard to veto something from a Congress dominated by your own party," says Murray Weidenbaum, who was chairman of the Council of Economic Advisers under President Ronald Reagan, "but Bush should have been tougher on the spending side. That's been a disappointment."

In Bush's defense, Bolten points to the economy the President inherited. "We ended up in our deficit situation because we had this burst bubble," he said during an interview in his office, which features a Norman Rockwell painting of a runaway train. "Revenues just disappeared, and this was well before the President's tax cuts." But when Bush came into office, the CBO was actually projecting surpluses for years to come, until the tax cuts hit and the deficit started growing. If the tax cuts don't expire, many economists say, the revenue gap will persist.

It's true that the President pushed through some tough budget cuts last year, notably the virtual elimination of popular programs like Clinton's community policing initiatives, which provided money to local government for nontraditional patrols. Bush's plans for 2007 will be slightly tougher still, and the prospect of those cuts has already led some Cabinet Secretaries to push back, hoping to preserve pet programs. A few Secretaries have tried to go behind Bolten's back to undo the potential damage. Instead of sticking to the White House's cumbersome appeals process, which involves meetings with officials of escalating rank, they pleaded for mercy when meeting with Bush on other issues. "The President consistently knocked back the end runs," Bolten recalled with relish. "He always outed them to me--usually, if possible, in their presence. He's willing to take some pretty tough political medicine to make the budget come out right, and he's spread that philosophy across the Cabinet, which is very helpful to me."

Administration officials said they expect the proposals for cuts and eliminations to be similar to those of last year, when Bush asked for $16 billion in savings in 154 programs and Congress wound up passing $6 billion in savings in 89 programs. Bolten said that he "started this conversation with the President toward the end of the summer" and that Bush began by calling for stable or increased funding for priorities like the military. "On the other things, every step along the way, he directed a tight budget," Bolten said. "Toward the middle of the process, I came to him with some areas where we were going to need to take some cuts in programs that are politically popular. In almost every instance, he said, 'Yes, go ahead and do it.' We had in the room the President's legislative, political and communications advisers, some of whom periodically disagreed. But in almost every case, he backed up my recommendation to take a hard line on some of the spending that was not at the top of the priority list."

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In his State of the Union speech, Bush is expected to propose no expensive new initiatives and focus instead on midsize ideas like promoting more rigorous education in basic math and science. But he will suggest changes that won't necessarily save the government money--like expanding Health Savings Accounts, which allow individuals to save for health care in tax-free, 401(k)-style accounts. And when you hear about Katrina and the wars in Iraq and Afghanistan, don't assume their final cost figures will be spelled out in the budget Bush is sending to Congress six days after the address. Those will appear in so-called supplemental requests for money, adding further to the deficit.

Yet Bush hopes to earn his credentials as a fiscal disciplinarian when he talks about the long-term challenges posed by the exploding cost of entitlement programs, which together take up half the budget and are immune to White House or congressional tinkering. He wants to use his remaining years in office to persuade Congress to make transformational, money-saving changes in those programs, especially Medicare.

"We need to cut the rate of growth of those programs," Bolten said. No amount of tax increases or spending cuts in the regular budget would be enough to cover the looming costs of baby-boomer retirees, he said. "Medicare must be put on a path toward a more market-oriented system," Bolten said. "We're ultimately going to have to look at whether the system needs to be more means-tested," referring to differences in benefits depending on income.

Leon Panetta, a Democrat who was Budget Director under Clinton and is a former chairman of the House Budget Committee, chuckled when he heard about Bush's plan to project an image of restraint. "What the hell's he using for numbers to map that out?" Panetta asked over the phone from Seaside, Calif., where he runs the Panetta Institute, a nonpartisan center for the study of public policy. "He has put us in a deep hole that's going to be very tough to get out of."

The federal debt has risen from $5.7 trillion when Bush took office to more than $8 trillion today. According to the U.S. Comptroller General, there is already some $40 trillion in unfunded liabilities--promised payments that current revenue streams won't be able to cover--in the Medicare and Social Security systems. Of that, $8 trillion comes from Bush's prescription-drug plan alone--a figure that is equal to all the national debt that has been accumulating since the time of George Washington.

But Bush never promised the U.S. another Ronald Reagan. That President went to Washington declaring that government was the problem and vowing to do away with whole agencies. Bush pointedly never called for eliminating traditional conservative targets like the Department of Education. "Those efforts typically aren't successful, and they weren't at the core of animating this President's view of conservatism," Bolten said. Instead, Bush's "compassionate conservative" philosophy called for more limited but still robust government, including creating an office for faith-based initiatives and backing the No Child Left Behind law.

When Reagan and President George H.W. Bush saw their deficits spinning out of control, they both raised taxes. But this President has adamantly refused to rescind any of his tax cuts. He wants to make permanent many cuts that are due to expire--such as the estate tax and the 15% rate on capital gains.

Democrats and many economists feel that that's a guarantee of more deficits. But Bush insists that failure to extend tax cuts--which he calls a tax increase--won't cure the deficit because it will slow down a fragile economy. "In my judgment," Bush told a crowd of business people at a moving-van lot in northern Virginia last week, "the best way to solve the deficit is to grow the economy--not run up your taxes." But the reality is that with the help of his tax cuts, Bush has already piled on more than a trillion dollars to the national debt.

Prodded by congressional Republicans, Clinton gave the nation diminishing deficits and even a surplus. That allowed Bush, then the Texas Governor, to call for deep tax cuts, with the signature campaign line that "it's the people's money." But he knew the danger. Announcing his tax-cutting plan to the Greater Des Moines Chamber of Commerce in 1999, he warned, "What is risky is when politicians are given charge of a surplus." With reporting by With reporting by Jeremy Caplan

When George Met Jack (TIME)

By adam zagorin

Time, January 23, 2006

As details poured out aboutÂ the illegal and unseemly activities of Republican lobbyist Jack Abramoff, White House officials sought to portray the scandal as a Capitol Hill affair with little relevance to them. Peppered for days with questions about Abramoff's visits to the White House, press secretary Scott McClellan said the now disgraced lobbyist had attended two huge

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holiday receptions and a few "staff-level meetings" that were not worth describing further. "The President does not know him, nor does the President recall ever meeting him," McClellan said.

The President's memory may soon be unhappily refreshed. TIME has seen five photographs of Abramoff and the President that suggest a level of contact between them that Bush's aides have downplayed. While TIME's source refused to provide the pictures for publication, they are likely to see the light of day eventually because celebrity tabloids are on the prowl for them. And that has been a fear of the Bush team's for the past several months: that a picture of the President with the admitted felon could become the iconic image of direct presidential involvement in a burgeoning corruption scandal like the shots of President Bill Clinton at White House coffees for campaign contributors in the mid-1990s.

In one shot that TIME saw, Bush appears with Abramoff, several unidentified people and Raul Garza Sr., a Texan Abramoff represented who was then chairman of the Kickapoo Indians, which owned a casino in southern Texas. Garza, who is wearing jeans and a bolo tie in the picture, told TIME that Bush greeted him as "Jefe," or "chief" in Spanish. Another photo shows Bush shaking hands with Abramoff in front of a window and a blue drape. The shot bears Bush's signature, perhaps made by a machine. Three other photos are of Bush, Abramoff and, in each view, one of the lobbyist's sons (three of his five children are boys). A sixth picture shows several Abramoff children with Bush and House Speaker Dennis Hastert, who is now pushing to tighten lobbying laws after declining to do so last year when the scandal was in its early stages.

Most of the pictures have the formal look of photos taken at presidential receptions. The images of Bush, Abramoff and one of his sons appear to be the rapid-fire shots--known in White House parlance as clicks-- that the President snaps with top supporters before taking the podium at fund-raising receptions. Over five years, Bush has posed for tens of thousands of such shots--many with people he does not know. Last month 9,500 people attended holiday receptions at the White House, and most went two by two through a line for a photo with the President and the First Lady. The White House is generous about providing copies--in some cases, signed by the President--that become centerpieces for "walls of fame" throughout status-conscious Washington.

Abramoff knew the game. In a 2001 e-mail to a lawyer for tribal leader Lovelin Poncho, he crows about an upcoming meeting at the White House that he had arranged for Poncho and says it should be a priceless asset in his client's upcoming re-election campaign as chief of Louisiana's Coushatta Indians. "By all means mention [in the tribal newsletter] that the Chief is being asked to confer with the President and is coming to Washington for this purpose in May," Abramoff writes. "We'll definitely have a photo from the opportunity, which he can use." The lawyer had asked about attire, and Abramoff advises, "As to dress, probably suit and tie would work best."

The e-mail, now part of a wide-ranging federal investigation into lobbying practices and lobbyists' relationships with members of Congress, offers a window into Abramoff's willingness to trade on ties to the White House and to invoke Bush's name to impress clients who were spending tens of millions of dollars on Abramoff's advice.

Abramoff was once in better graces at 1600 Pennsylvania Avenue, having raised at least $100,000 for the President's re-election campaign. During 2001 and 2002, his support for Republicans and connections to the White House won him invitations to Hanukkah receptions, each attended by 400 to 500 people. McClellan has said Abramoff may have been present at "other widely attended" events. He was also admitted to the White House complex for meetings with several staff members, including one with presidential senior adviser Karl Rove, one of the most coveted invitations in Washington.

Michael Scanlon, who is Abramoff's former partner and has pleaded guilty to conspiring to bribe a Congressman, in 2001 told the New Times of Fort Lauderdale, Fla., that Abramoff had "a relationship" with the President. "He doesn't have a bat phone or anything, but if he wanted an appointment, he would have one," Scanlon said. Nonsense, say others. A former White House official familiar with some Abramoff requests to the White House said Abramoff had some meetings with Administration officials in 2001 and 2002, but he was later frozen out because aides became suspicious of his funding sources and annoyed that the issues he raised did not mesh with their agenda. A top Republican official said it was clear to him that Abramoff couldn't pick up the phone and reach Bush aides because Abramoff had asked the official to serve as an intermediary.

The White House describes the number of Abramoff's meetings with staff members only as "a few," even though senior Bush aides have precise data about them. McClellan will not give details, saying he doesn't "get into discussing staff-level meetings." During a televised briefing, he added, "We're not going to engage in a fishing expedition." Pressed for particulars

about Abramoff's White House contacts, McClellan said with brio, "People are insinuating things based on no evidence whatsoever." But he said he cannot "say with absolute certainty that [Abramoff] did not have any other visits" apart from those disclosed. Another White House official said, "The decision was made don't put out any additional information." That reticence has been eagerly seized upon by some Democrats. Senate minority leader Harry Reid of Nevada wrote to Bush last week to demand details, saying Abramoff "may have had undue and improper influence within your Administration."

Garza, the bolo-wearing former chairman of the Kickapoo Traditional Tribe of Texas, has fond memories of his session with Bush, which he said was held in 2001 in the Eisenhower Executive Office Building, next to the White House. According to e-mails in the hands of investigators, the meeting was arranged with the help of Abramoff and Grover Norquist, president of Americans for Tax Reform. In an April 18, 2001, e-mail to Abramoff, Norquist wrote that he would be "honored" if Abramoff "could come to the White House meeting."

Garza--known in his native Kickapoo language as Makateonenodua, or black buffalo--is under federal indictment for allegedly embezzling more than $300,000 from his tribe. Through his spokesman, Garza said that during the session, Bush talked about policy matters and thanked those present for supporting his agenda, then took questions from the audience of about two dozen people. Garza told TIME, "We were very happy that Jack Abramoff helped us to be with the President. Bush was in a very good mood--very upbeat and positive." No evidence has emerged that the Bush Administration has done anything for the Kickapoo at Abramoff's behest.

Three attendees who spoke to TIME recall that Abramoff was present, and three of them say that's where the picture of Bush, Abramoff and the former Kickapoo chairman was taken. The White House has a different description of the event Garza attended. "The President stopped by a meeting with 21 state legislators and two tribal leaders," spokeswoman Erin Healy said. "Available records show that Mr. Abramoff was not in attendance."

TIME Magazine Says Bush Photographed With Abramoff (REU-Y2)

Reuters, January 23, 2006

At least five photos show U.S. President George W. Bush with the lobbyist at the center of a corruption scandal, TIME magazine reported on Sunday.

The White House has tried to play down any contact with Jack Abramoff, who pleaded guilty to fraud charges this month and agreed to help prosecutors in a congressional corruption investigation.

TIME did not publish the photographs, saying its source refused to provide them for publication. Most look like those taken at presidential receptions, it said.

The White House has said Bush does not know Abramoff and does not recall meeting him, and that the lobbyist attended two Hannukah receptions and a few staff-level meetings at the White House.

"Mr. Abramoff admitted being involved in outrageous wrongdoing," White House spokeswoman Dana Perino said on Sunday.

"The president does not recall meeting him. We have previously indicated, however, it would not be surprising if the president met him at some of the widely attended events we know they both attended," she said. "The president has taken tens upon thousands of pictures at such events."

TIME said in one photograph Bush appears with Abramoff and Raul Garza, then chairman of the Kickapoo Indians, which owned a casino in Texas and were represented by the lobbyist. It also included several other unidentified people.

TIME quotes White House spokeswoman Erin Healy as saying that available records show Abramoff was not at the event attended by Garza.

Another photo shows Bush shaking hands with Abramoff in front of a window and a blue drape, the magazine said. The photo carries Bush's signature, which may have been machine-made, it said.

Three other photos show Bush, Abramoff and one of the lobbyist's sons, the magazine said.

Prosecutors are investigating whether members of Congress gave the lobbyist and his clients favorable treatment in return for campaign contributions or gifts. The scandal broke as Republicans try to retain control of Congress in mid-term elections in November.

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Republican Rep. Bob Ney (news, bio, voting record) of Ohio, who has denied wrongdoing, is under investigation in the scandal. Rep. Tom DeLay, a Texas Republican who stepped down as majority leader, has been under a cloud due to his association with Abramoff.

The Republican National Committee has said Bush's re-election campaign was giving to charity $6,000 in contributions linked to Abramoff.

Reports: Bush, Abramoff Together In Photos (AP)

AP, January 23, 2006

Although President Bush says he doesn't recall meeting convicted lobbyist Jack Abramoff, the two have reportedly turned up in photos together.

Both Washingtonian and Time magazines have reported the existence of about a half-dozen photos showing the two together.

Time reported on its Web site Sunday that its staff members have seen at least six photos featuring Bush and Abramoff, who has pleaded guilty to federal charges stemming from his lobbying practices and has pledged to cooperate with investigators. They appeared to have been taken at White House functions, according to the reports.

The White House has acknowledged that Abramoff attended some events at the Executive Mansion, and spokeswoman Dana Perino said Sunday it's not surprising that the two would have met.

"The president has taken tens upon thousands of pictures at such events," Perino said.

Abramoff met a few times with White House staff and attended Hanukkah receptions in 2001 and 2002, the White House has said, but officials there have refused to disclose how many times he's been into the complex or what business he had there.

The White House also has not released any photos featuring the president and Abramoff, who was declared a Bush "pioneer" for raising at least $100,000 for the Bush-Cheney '04 re-election campaign.

Contributions that came directly from Abramoff, his wife and one of the American Indian tribes he represented — a total of $6,000 — were donated to the American Heart Association by the campaign just days after Abramoff entered his guilty pleas.

The White House, after playing down the Bush-Abramoff photos and the lobbyist's ties to the president, criticized Abramoff for breaking the law. "Mr. Abramoff admitted being involved in outrageous wrongdoing," Perino said.

Bush, Lobbyist Abramoff Appear In 5 Photos, Time Says (Update1) (BLOOM)

By Bob Willis

Bloomberg, January 23, 2006

Jan. 22 (Bloomberg) -- President George W. Bush was photographed at least five times with Republican lobbyist Jack Abramoff, who is at the center of a federal corruption probe, Time magazine reported.

One photograph shows Bush, Abramoff and Raul Garza Sr., who was then chairman of the Kickapoo Indian tribe, an Abramoff client who is under indictment for allegedly embezzling more than $300,000 from his tribe, Time reported. Another photo bears Bush's signature and shows the president shaking hands with Abramoff. Three others are of Bush, Abramoff and one of the lobbyist's three sons.

None of the photographs were released for publication, Time said. The magazine said its reporters viewed them. Time did not say who provided the images, which the magazine reported appear to have been taken at presidential receptions.

White House spokeswoman Dana Perino didn't immediately respond to a request for comment. Administration spokesman Scott McClellan said last week that Abramoff attended White House Hanukkah receptions in 2001 and 2002 and ``a few staff-level meetings." McClellan refused to say who Abramoff met with or what the meetings were about.

``We're not going to engage in some sort of fishing expedition," McClellan said Jan. 19. He said previously that Bush doesn't recall meeting Abramoff.

Abramoff, 46, pleaded guilty Jan. 3 to conspiracy to corrupt public officials and has agreed to cooperate in a federal investigation into influence peddling in Washington.

Fund Raising

Abramoff raised at least $100,000 for Bush's 2004 campaign, qualifying him for the ``Pioneer'' donor club. The Republican National Committee said after Abramoff's guilty plea that the campaign donated to charity $6,000 of funds directly linked to the lobbyist, representing three $2,000 contributions made by Abramoff, his wife and the Saginaw Chippewa Indian Tribe he represented.

According to Time, Garza's meeting with Bush took place in 2001 in the Eisenhower Executive Office Building, next to the White House. Garza said the session was arranged with the help of Abramoff and Grover Norquist, a Republican activist, the magazine reported.

Garza's tribe owned a casino in Bush's home state of Texas, and there is no indication the administration acted to benefit the Kickapoo tribe at Abramoff's behest, Time said.

Senate Democratic Leader Harry Reid last week called on the administration to give details about any meetings White House officials had with Abramoff. In Congress, the Abramoff investigation has ensnared former top aides to ex-House Majority Leader Tom DeLay, who is under indictment in Texas for alleged campaign-finance violations in a separate case. Representative Bob Ney, an Ohio Republican, said Jan. 16 he would step aside as chairman of the House Administration Committee because of allegations he received gifts from Abramoff.

Are We Capable Of Crafting A 'Pax Americana'? (WSJ)

The Wall Street Journal, January 23, 2006

In regard to George Melloan's Jan. 17 Global View "Getting Serious About Iran" and "Russia Must Be Strong" by Sergei Invanov, deputy prime minister and minister of defense of the Russian Federation (editorial page, Jan. 11):

I agree with Mr. Melloan's conclusion that we must be prepared, both politically and militarily, to deal with the serious threat to regional and global stability that an unchecked Iran poses. The threat will increase to "critical mass" within a few years if immediate and resolute action is not taken now and we may, again, have to go it alone.

Russia and China are the unknowns in the current response equation. Iran's threat to disrupt its oil production should any sanctions be implemented by the U.N. Security Council has its greatest impact on Russia and China by virtue of their technology and energy contracts, although it is significant for the rest of the world also. I don't believe we can count on either nation to support direct intervention, even if it is multilateral. An abstention from them on the issue before the Security Council would be the best result we could hope for.

Mr. Ivanov makes a very convincing statement that Russia will continue its own threat assessment and preparation for defense. Without specifically mentioning Russia's specific theater of concern (Chechnya), Mr. Ivanov confirms Russia's intent to hegemony in its own backyard. Can this be read as a warning to the West to keep our noses out? He mentions "pre-emption" of emerging threats. Do the Russians acknowledge the rapidly emerging threat Iran represents and are they willing to allow or to participate in pre-emption? Or do they perhaps have a "commitment" they must honor? Iran must not become a member of the nuclear club for the foreseeable future if we are to have any hope of realizing a more peaceful and prosperous Middle East. The fledgling democracy in Iraq and sputtering progress in Israel and Palestine depend on it.

Should Iran's production go off-line, would, or could, other regional oil producing states increase production to ameliorate the serious impact on oil prices that would follow? This will really show us who our friends are.

Are we capable of crafting a Pax Americana? The world is very close to the edge and I believe we are the only ones capable -- with that capability comes the duty to exercise it for the good.

Sean O'Hara

Ventura, Calif.

Our Tribe Was a Victim, Not a Client, of Abramoff

In a Jan. 5 editorial-page commentary -- "The Least Transparent Industry in America" -- Fergus Bordewich identified the Alabama-Coushatta Tribe of Texas as a client of Jack Abramoff. Our tribe was never a client of Mr. Abramoff; we've had absolutely no relationship with him, other than being a victim of his unethical actions.

On behalf of one of his clients, Mr. Abramoff worked to prevent our tribe from securing the rights to seek economic opportunities afforded federally recognized tribes under the Indian Gaming Regulatory Act (IGRA). Moreover, he directed another

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of his tribal clients to request that our tribe make a $50,000 donation to the Capital Athletic Foundation. Members of that tribe have admitted that they misrepresented what the donation was for, telling us that it was to support a congressional fact-finding mission and never mentioning Mr. Abramoff. We now know that Mr. Abramoff used our donation to pay for his trip to Scotland with Rep. Bob Ney.

Mr. Bordewich also wrote that there must be more transparency and accountability in Indian gaming. We agree. In fact, we support Sen. John McCain's effort to amend the Indian Gaming Regulatory Act to require more transparency and accountability. Unfortunately, the Alabama-Coushatta, along with a handful of other federally recognized tribes, are not covered by IGRA. It was the very fact that we were not covered by IGRA that allowed Mr. Abramoff to victimize our tribe. To make Indian gaming more transparent and accountable, Congress must also require that all federally recognized tribes fall under the purview of IGRA.

Mr. Abramoff's manipulation created difficult circumstances for our tribe, but throughout we have adhered to our tribal values, our honesty and our integrity. We hope Congress will act to make sure that in the future all tribes are afforded the protections of IGRA.

Ronnie Thomas

Chairman

Alabama-Coushatta Tribe of Texas

Livingston, Texas

In Italy, We're Preparing for the Best Games Ever

Quentin Letts, in his Jan. 13 editorial-page piece "Never Say Neve Again," has some fun ridiculing the Torino 2006 Winter Olympics, and I certainly don't want to deprive him of his laughs. But I would like to point out that on a number of points the picture he paints is a far cry from reality.

Torino 2006 will involve 2,500 athletes from 85 countries performing before a world-wide audience of up to four billion people. Italy is excited about hosting an event of this kind -- witness the 40,000 Italians who have applied to volunteer at the games.

The games will be a showcase of sporting excellence, and although perhaps not sharing the limelight in England of soccer or cricket, winter sports such as slalom, ice hockey and ski jumping are of great significance to many nations, such as Canada, Austria and Japan, and are enjoyed by people of many nations.

The Olympic Games will also bring many social and economic benefits to Italy. Contrary to what Mr. Letts suggests, we are operating within our approved budget of $1.1 billion, which, together with public investments, is expected to generate added value of $17.4 billion to the Italian economy and boost our GDP by 0.2%.

We are also on track with our ticket sales, having reached 81% of budgeted sales. Many more tickets are expected to be sold over the coming six weeks -- Italians are famous for their spontaneity, and as event organizers we have always expected strong domestic sales close to games time.

In addition, all 14 Olympic competition venues have been tested -- some twice -- and we are looking forward to hosting the best Winter Games ever. If we accomplish this, perhaps even Mr. Letts will be persuaded to join the other four billion viewers (or even make an actual visit).

Giuseppe Gattino

Media Director

Torino, Italy

Quentin Letts's snide, condescending views on the Winter Olympics are, quite frankly, appalling. He only exposes his ignorance of true sportsmanship and proves that he is not a sportsman at all, just an irritant.

Jennifer Gustafson

Northville, Mich.

A Desperate Ploy

Mary Anastasia O'Grady's Jan. 20 Americas column "Ottawa's Ruling Liberals May Suffer Frostbite" was generally on the mark, but it may lead your readers to believe anti-Americanism is playing a much bigger role in the campaign than is actually the case. It's true the Liberal Party is attempting to raise doubts about the fitness of the Conservative candidate Stephen Harper to be

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prime minister by linking him to what they characterize as right-wing American think tanks. But many voters view this simply as a desperate ploy on the part of a governing party that feels its grip on power slipping away.

The most important issues at play in this election are domestic ones, such as the perennial challenge of ensuring that all regions in Canada are properly represented in national political life. Your readers would likely be surprised at just how little attention has been focused on foreign relations, including the issue of Canada's relations with the U.S.

Aidan Carter

Toronto, Ontario

Do the Right Thing

In many situations, it is difficult to determine what is right and what is wrong. In the case raised in your article "Retired Black Cops Pressure Georgia for Pension Equity" (page one, Jan. 16), there should be no such difficulty. The state of Georgia should immediately act to fund the claims of those black police officers wrongfully excluded from the retirement plan, even though the exclusions occurred years ago. To accept the usual "glacial pace" for righting this wrong would be deplorable. Some things are right. And they should be acted on promptly.

Dave Southern

Winnetka, Ill.

Cutting The Corruption (WP)

By Arthur Levitt Jr.

The Washington Post, January 23, 2006

Having served in Washington for eight years, I can't say that the current scandal surrounding lobbyist Jack Abramoff and various members of Congress comes as any great surprise.

During my tenure as chairman of the Securities and Exchange Commission, I worked with many decent, well-intentioned representatives and senators. Yet on issue after issue, it was clear that the interlocking systems of campaign finance, lobbying and policymaking were breaking down. Indeed, because many of the issues before the SEC were far from the front of the public's mind, the influence of high-priced lobbyists on the system was easy to detect and especially brazen.

From battles over auditing reforms to the expensing of stock options, the concerns of ordinary investors often were subsumed to the interests of industry lobbyists by Republicans and Democrats alike. Every day the SEC would receive letters from lawmakers opposing some proposed regulatory change -- letters that eerily mimicked the rhetoric of one industry trade group or another. In addition to making thousands of dollars in campaign donations, companies would concoct phony "grass-roots" coalitions -- usually made up of executives and compliant employees -- to rally for the cause and pressure lawmakers.

And when all else failed, lobbyists would cash in their chits with members of relevant House and Senate committees to threaten the SEC -- an independent regulatory agency -- with budget cuts to get what they wanted. Regrettably, I occasionally found myself succumbing to this immense pressure in order to save the commission. Many of the reforms that were thwarted in this way could have saved investors some of the pain from the scandals of the past five years.

Now removed from Washington and viewing its problems from the perspective of the private sector, I've come to think that our federal government is plagued by some of the same problems that have been hurting corporate America, primarily a lack of transparency, accountability and independence. As with many of the disgraced corporations of the past few years -- Adelphia, Tyco and WorldCom, for example -- so it is with Congress: Conflicts of interest abound, oversight has been myopic and those given the public's trust have used it to enrich themselves.

The debate about how to clean up Congress has just begun, and undoubtedly it will consume much of that body's time during this election year. But lawmakers need not look far for an example of how to reform themselves. Just as Congress passed the Sarbanes-Oxley Act in 2002 to clean up American industry, it should pass similar legislation to clean up American government.

One of the emphases of Sarbanes-Oxley was improving the disclosure regime in corporate America. New rules expanded what critical information was disclosed and how often, and they required the CEO and chief financial officer to attest to the

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accuracy of their company's financial reports. As a result, it is possible to know more about the performance of an executive of a company in which you own stock than about your member of Congress.

To remedy that, congressional lobbyists should be required to disclose weekly, online, which members of Congress they contributed to and met with, which staff members they lobbied, and what issues were discussed. Lobbyists also should have to affix their signature to these disclosures and, like CEOs who sign false financial statements, face serious criminal penalties if the disclosures are not accurate.

But disclosure is only part of the solution; independence is also critical. That's why auditing firms are now forbidden from providing non-audit services to auditing clients, why companies can no longer give personal loans to executives or directors, and why a majority of a board of directors must be independent of the company itself. In Washington, any number of conflicts of interest between members of Congress, their staffs, lobbyists and contributors must be untangled. To begin to do this, former members of Congress should be prohibited from visiting the floor of the House, the prohibition on lobbying by former members and their staffs should be extended from one year to four, and all gifts and travel for members and their employees should be banned.

Finally, accountability must be restored. Currently, Congress's ethics committees resemble some of the worst corporate boards from the mid-1990s -- appointed by management and wholly dependent on it for career advancement. Just as corporate boards have been strengthened by rules establishing independent audit committees, Congress would be well-served by scrapping its current ethics committees and replacing them with an independent ethics commission made up of former judges, former members of Congress and other eminent citizens.

Moreover, as with good corporate governance, there needs to be more democracy in American governance. Partisan gerrymandering has created a Congress in which more than 95 percent of the members are assured of keeping their seats for life. Just as shareholders must have access to the proxy to hold corporate board members accountable, citizens must be confident that when they go into the voting booth their votes will be meaningful. It's time to explore ways to lower the barriers of entry for challengers -- through, for instance, free television airtime for all candidates. And to create more competitive congressional districts, we need to follow the leads of states such as Arizona and Iowa and put the responsibility of drawing district boundaries in the hands of nonpartisan boards.

But ultimately, no rule or regulation can transform an organization on its own. What's needed is a cultural change in which those who do the bidding of lobbyists, cash in their positions on Capitol Hill for huge paychecks and accept gifts are scorned, not praised. Accomplishing that requires real leadership, and that's something that only we -- as citizens and voters -- can give to ourselves.

The writer was chairman of the Securities and Exchange Commission from 1993 to 2001. He is now a senior adviser to the Carlyle Group, a global investment firm.

McCain: Reform Efforts Don't Address Core (AP-Y2)

AP2, January 23, 2006

Sen. John McCain (news, bio, voting record) said efforts by both Democrats and Republicans to reduce the influence of lobbyists are not addressing the core of the problem.

Appearing on "Fox News Sunday," the Arizona Republican renewed his criticism of "earmarks," late additions to bills that often provide millions of dollars for lawmakers' pet projects.

"If we don't fix the earmarking, then I can assure you the corruption will go on," McCain said.

He described an "earmark" as "a single provision in a line that nobody's ever seen or heard of, and most times we don't find out until days or weeks afterwards

"Then you've got a process that breeds corruption," he said. "And it makes good people do bad things."

McCain said lobbying reform promoted last week by both parties doesn't deal with earmarking because many politicians perceive it to be "their bread and butter and preserves their incumbency."

Corruption that stems from lobbying is a bipartisan problem, McCain said. "I think it's a bipartisan scandal because the lobbying is out of control," McCain said.

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Sen. John Kerry called the corruption surrounding convicted lobbyist Jack Abramoff a GOP scandal. The Massachusetts Democrat pointed to the party that dominates Washington politics.

"They run the House of Representatives. They run the Senate. They have the White House. They're controlling who goes on the judiciary," Kerry, the Democrats' nominee for president in 2004, said on ABC's "This Week."

"They have not done the things necessary in order to press forward on this," Kerry said.

McCain Speaks Out Against 'earmarks' (USAT)

USA Today, January 23, 2006

Lobbying "is out of control," and efforts to curb it don't address the core problem of "earmarking," Sen. John McCain told Fox News Sunday. McCain, R-Ariz., described an earmark as a "pork barrel project" funded "in the middle of the night" by a single provision "that nobody's ever seen or heard of" inserted in a bill about to be passed. "Then you've got a process that breeds corruption. And it makes good people do bad things," McCain said. He said lobbying changes promoted last week don't deal with earmarking because many politicians perceive it to be "their bread and butter, and (it) preserves their incumbency."

McCain said it was a bipartisan problem, but Sen. John Kerry, D-Mass., said it is a Republican scandal because the GOP controls Congress and the White House. Republicans "have not done the things necessary in order to press forward on this," Kerry said on ABC's This Week.

'Time': Bush in photos with Abramoff

Although President Bush says he doesn't recall meeting convicted lobbyist Jack Abramoff, Time magazine reported that its staff members have seen five photos of the two apparently taken at White House functions.

The White House has not released photos of the president and Abramoff but has said the lobbyist met a few times with White House staff and attended Hanukkah receptions in 2001 and 2002. Spokeswoman Dana Perino said it's not surprising that the two would have met.

"The president has taken tens upon thousands of pictures at such events," Perino said.

Abramoff was a Bush-Cheney 2004 campaign fundraiser at the "Pioneer" level of at least $100,000. He pleaded guilty Jan. 3 to federal charges stemming from his lobbying practices and has agreed to cooperate with investigators.

'72 Nixon challenger enters Calif. race

Former congressman Paul "Pete" McCloskey said he will challenge Rep. Richard Pombo for the Republican nomination in his Northern California district. McCloskey, 78, challenged President Nixon for renomination in 1972 on an anti-Vietnam War platform. McCloskey said he's getting back into politics because of his concern for the environment and what he sees as a shift away from traditional Republican values in Washington. "Winning isn't the issue. The issue is forcing a debate on which way the Republican Party goes," McCloskey said.

Wayne Johnson, a spokesman for Pombo, said McCloskey is "a stalking horse for the Democratic Party" and has no chance of winning.

McCain's Awesome Battle For Reform (CHIST)

By Robert Novak

Chicago Sun-Times, January 23, 2006

The Republican and Democratic versions of lobbyist reform trotted out last week had very different styles. The austere Republican presentation professed desire for bipartisanship. The gaudy Democratic show equated the GOP with original sin. But each fell short of what is called for by the reformer most widely respected by the public, Sen. John McCain.

"I'm very disappointed," McCain told me, "to see the Democrats trying to turn this issue into attacking Republicans." He was no less upset with open avowal by House Speaker J. Dennis Hastert and the House Republican establishment of earmarking funds that McCain considers the seedbed of lobbyist corruption. The Democrats, in their anti-Republican light show, ignored earmarks.

A reform of a system that has grown ever more rotten must have two salient characteristics, in McCain's view. It must be bipartisan, and it must eviscerate, if not eliminate, earmarks. McCain exerts extraordinary influence for a politician without a formal leadership role or a government office, but the magnitude of his task is awesome. He must persuade Democrats to

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cooperate with Republicans when they now see an opportunity to crush the GOP, and he must wean his own party from its addiction to government pork.

Rep. David Dreier, chairman of the House Rules Committee, discovered the difficulty of McCain's first task two weeks ago when Hastert assigned Dreier to come up with a lobbying reform package. Initially, he approached the ranking Democrat on the Rules Committee, Rep. Louise Slaughter, who, like many House Democrats, has grown acerbic as the party enters its 12th year in the minority. She responded to Dreier's appeal for bipartisanship with cold shoulder and hot tongue.

Dreier next went to House Minority Whip Steny Hoyer, who is viewed by Republicans as the ablest Democrat in the House but one with whom they can do business. Dreier first got the impression Hoyer might cooperate on lobbyist reform. But when that word leaked out, Dreier found Hoyer totally uninterested. "This is not a problem of rules," Hoyer told me he informed Dreier. "It's a problem of conduct, Republican conduct." If so, I suggested, the only solution is a return to Democratic control of Congress, and Hoyer said I got that right.

In Dreier's joint press conference with Hastert last Tuesday, he cited reform-minded Democratic Rep. Martin Meehan as his bipartisan partner. When I called Meehan, he conceded he was flying solo and did not seem too comfortable about it. But when I mentioned that Hastert and Dreier advocated reforming the so-called "527" loophole in campaign reform that permits mainly Democratic non-transparent funding, Meehan brightened. "That's a poison pill," he told me, meaning he could be off the bipartisan hook.

Hastert looked morose talking about lobbyist reform last Tuesday, but enthusiastic Democrats lined up at the Library of Congress the next day were reminiscent of the Newt Gingrich Republicans on the steps of the Capitol in 1994. Democrats finally see a route back to power.

Democrats did not mention earmarks, since even in their minority status they get 45 percent of the pork. Hastert was defiant in defending earmarks: "Quite frankly, we also have to observe the rights of [House] members to represent their districts and to be active in favor of things that they think will help."

Earmarking is the main issue separating three candidates for House majority leader in the Feb. 2 election by the Republican Conference. John Boehner and John Shadegg oppose them. Acting Majority Leader Roy Blunt, the front-runner, supports earmarks but says each should be identified with the sponsoring member of Congress. Actually, that's the way the system works now, with lawmakers, including Blunt, rushing out news releases to advertise what they have done for their district.

Annual earmarks, nonexistent two decades ago, now near 15,000. McCain sees this as the source of lobbyist corruption, the vehicle used to bribe Duke Cunningham and the focus for half of the capital's lobbyists. Both parties are united in silly changes like keeping former congressmen off the House floor and further curtailing how much a lobbyist can spend on a lawmaker's lunch. Will they unite to get rid of the scourge of earmarks?

Politics: No Longer Lying Low, 'Rove Is In The House!' (NSWK)

By Holly Bailey

Newsweek, January 23, 2006

The Republican National Committee organized a forum for conservative bloggers earlier this month, telling attendees they'd be briefed by RNC Chairman Ken Mehlman and other party operatives on the 2006 political outlook. But a surprise guest arrived. "Karl Rove is in the house!!!" wrote Matt Margolis, who was live-blogging the event for his site, Blogs for Bush. While Rove implored the group to keep the substance of his remarks off the record, some bloggers posted photos and snippets of their talk with the president's top political adviser, which included a discussion on the politics of the war and the upcoming midterm elections. Rove told the group that he regularly reads their blogs and spent more than a half hour answering questions. "I think we all found ourselves a little surprised to have received that kind of attention," Ed Morrissey, who wrote about Rove on his blog, Captain's Quarters, told NEWSWEEK. "I think he was taking our temperature a bit, which I found interesting."

After months of staying out of the limelight amid scrutiny in the CIA leak investigation, Rove is back and circulating, as Bush and the GOP prepare for battle on the eve of the 2006 midterm elections. He's traveling on domestic swings with Bush and taking high-profile trips of his own. On Jan. 12, Rove was roasted by the Austin Headliners Club, where he faced friendly jabs from a bipartisan panel. In his roast, Democrat Lowell Lebermann cited parallels between the Monica Lewinsky scandal and the Valerie

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Plame case: "They involved two pudgy people in the White House who couldn't keep their mouth shut." Rove, who sat center stage, blushed and laughed. Last Friday, Rove delivered a lunchtime address before several hundred RNC members, defending the president's eavesdropping program and blasting Dems critical of the war on terror. Yet Rove, who is still under scrutiny in the Plame leak, didn't stick around for the lengthy standing ovation he received. Within seconds of concluding the speech, Rove had dashed offstage and out a side entrance, avoiding a group of protesters dressed as plumbers to signify the ongoing leak investigation.

Lobbyists Help Fund Ripon Society Travel (WP)

By Thomas B. Edsall

The Washington Post, January 23, 2006

Since 1964, the Ripon Society has tried to create a more inclusive GOP through "moderate, progressive policy formation," according to its official mission statement.

In recent years, however, a leading public watchdog group suggests, the Ripon Society has added an unofficial mission: travel agency to lobbyists.

Under president Richard S. Kessler, himself a prominent Washington lobbyist, people who represent corporate interests before Congress have "spent millions taking lawmakers to European capitals and U.S. resorts" under the auspices of the Ripon Society and the affiliated Ripon Educational Fund, the group Public Citizen charged in a new report.

The lure for the lobbyists who fund them is that they also take the trips, and gain "unbridled access" to influential lawmakers, said Frank Clemente, director of Public Citizen's Congress Watch.

The practice is a way of "skirting congressional ethics rules that forbid lobbyists from paying for congressional travel," the report charges.

The activities the report detailed are not illegal, but ethics specialists say they do highlight the difficulty of proscribing certain common Washington practices, if lobbyists and lawmakers are determined to continue them.

Kessler declined to comment on the report but authorized former representative Bill Frenzel (R-Minn.), who has been active in the Ripon Society, to speak on his behalf. He said, "We did what everybody else did," including getting legal counsel to approve all spending decisions, and obtaining letters of approval from the ethics committees of the House and Senate approving the trips.

In addition to his Ripon Society role, Kessler is president of Kessler & Associates. Among its clients, according to the most recent disclosure forms, are Pfizer Inc. and three other major drug companies; Altria Group Inc., the corporate parent of cigarette maker Philip Morris USA; and railroad giant Burlington Northern Santa Fe Corp. Until the start of 2003, he served as finance chairman of the Ripon Education Fund. At the end of 2002, Frenzel said the society and the education fund became two organizations, and he and Kessler left the education fund board.

The Ripon Society has three levels of membership for corporate supporters: founder for $12,500, millennium club for $25,000 and chairman's club for $35,000.

According to Public Citizen, members of Congress have gone on trips costing the Ripon Society and Ripon Education Fund $742,000 since 2000. In addition, Kessler's clients have provided another $273,000 for congressional travel.

During 2003 and 2004, the 19 board members of the two Ripon organizations included 17 registered lobbyists. Ten of those were people who lobby for Kessler clients.

The Ripon Education Fund has provided members of Congress trips to conferences held in a number of European capitals, including London in 2003 and Budapest in 2004.

These trips have drawn notice before. On the August 2003 trip to London, the Education Fund picked up the tab for 20 members of Congress, including Rep. Thomas M. Reynolds (N.Y.), chairman of the National Republican Congressional Committee, and Rep. Michael G. Oxley (R-Ohio), chairman of the House Financial Services Committee. The elected officials were accompanied by more than 100 lobbyists, The Washington Post reported at the time. These included representatives of American Express, Bristol-Myers Squibb Co. and General Motors Corp.

The lobbyists paid their own way, as well as a $9,500 corporate sponsor fee.

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Ripon Society Chief Administrative Officer George McNeill said the organization has held three domestic conferences this year and last, in Key Biscayne, Palm Beach and Dallas. He said he could not estimate the number of lobbyists who attended, paying their own way. The society pays the costs for elected officials and congressional staff, and for academics and other experts addressing the conferences, McNeill said.

McNeill adamantly defended the conferences. "We are not skirting any ethics rules," he said, adding that the society has a "hard and fast," if unwritten, rule that "we don't allow any lobbying."

Sometimes A Book Is Indeed Just A Book. But When? (NYT)

By Elisabeth Bumiller

The New York Times, January 23, 2006

WASHINGTON

When President Bush met with Chancellor Angela Merkel of Germany in the Oval Office this month, the talk turned to Ms. Merkel's childhood under Communism, then wandered to the subject of Mr. Bush's latest bedtime reading: "Mao: The Unknown Story," an 814-page biography that presents the Chinese dictator as another Hitler or Stalin.

Participants in the meeting say Mr. Bush spoke glowingly of the book, a 10-year project by Jung Chang, the author of the hugely successful memoir "Wild Swans," and her husband, Jon Halliday, a British historian. "Mao" has been at the top of best-seller lists in Britain and Germany, and was published to mixed reviews late last year in the United States.

The book might at first seem an odd choice for Mr. Bush, whose taste in biography, like that of other American presidents, runs to previous occupants of the Oval Office. But it is not so surprising given that "Mao: The Unknown Story" has been embraced by the right as a searing indictment of Communism.

Other reviewers have praised the book's brutal portrait of Mao as a corrective to sunnier biographies, even as they have questioned some of its prodigious research and accused the authors of a moralistic, good-and-evil version of history. Scott McClellan, the White House press secretary, said last week that Laura Bush gave the book to her husband as a gift, and that the president had just finished reading it.

Asked why Mr. Bush liked the book, Mr. McClellan said he would find out, then reported back on Friday that Mr. Bush had told him that "Mao" "really shows how brutal a tyrant he was" and that "he was much more brutal than people assumed."

Mr. Bush also said, Mr. McClellan recounted, that "millions upon millions were killed because of his policies." On that score, the book is both sweeping and specific, with a first chapter that begins with this sentence: "Mao Zedong, who for decades held absolute power over the lives of one-quarter of the world's population, was responsible for well over 70 million deaths in peacetime, more than any other 20th-century leader."

Ms. Chang and Mr. Halliday said in a telephone interview from Paris on Friday, during a long weekend away from their home in London, that they were "thrilled" that Mr. Bush had read the book. Ms. Chang, whose "Wild Swans," about her family's oppression under Mao, sold 10 million copies worldwide, said she surmised that Mr. Bush was drawn to the book because "it's a very dramatic story about a roller-coaster life." She also said that since Mr. Bush was dealing with the current Chinese leadership, "it's not surprising that he should want to know from what roots this regime has grown."

American scholars say that Mr. Bush was no doubt drawn to the narrative but also to a book that is in effect an argument for the president's second-term agenda of spreading democracy around the world. One major revelation of the book, for example, is Stalin's powerful role in Mao's rise.

"The book certainly makes an effective case for the wickedness of dictatorship," said Andrew J. Nathan, a specialist in Chinese politics at Columbia University. "It doesn't talk about democracy, but for a person who believes in democracy, this is a valuable brief."

But Mr. Nathan, who last year in The London Review of Books criticized what he called the authors' vague and inaccessible sourcing, said that the biography presented Mao as a "comic-book monster," with little explanation of the psychological, sociological and historical forces that allowed him to rise. He also said he was skeptical that the book would help in understanding China's current leadership.

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"Today's Communist Party is a highly developed bureaucracy, like IBM or General Motors," Mr. Nathan said. "It's not the Communist Party of Mao's time."

At least one historian said that perhaps people were reading too much into Mr. Bush's choice of reading, and that sometimes a book on Mao is just a book on Mao.

"To be honest, I'm not sure that it's so weird for him to be reading this," said Doris Kearns Goodwin, the author most recently of "Team of Rivals," a best-selling account of Abraham Lincoln's relationship with his cabinet which, Mr. McClellan said, Mr. Bush finished before starting the Mao book.

(Over the past year Mr. Bush's reading has also included, Mr. McClellan said, "Nine Parts of Desire: The Hidden World of Islamic Women," by Geraldine Brooks; "When Trumpets Call: Theodore Roosevelt After the White House," by Patricia O'Toole; and "1776," by David McCullough.)

Ms. Goodwin said that while presidents read about other presidents for guidance and solace, "partly why presidents read is the reason that we all read: to relax, to replenish our energy and to go into another era and another time."

When Lincoln was president, she added, he went to plays more than 100 times. Lincoln was of course assassinated at the theater, but throughout his presidency drama had served as a form of escape.

"He said that when the lights went down, he could imagine he was back in Shakespeare's time, watching kings and queens battle out dramas that were equally as great as the Civil War," Ms. Goodwin said. "And it just allowed him, I think, to remove himself from the pressures of the day."

Diversity Now A Foreign Concept (WP)

By Al Kamen

The Washington Post, January 23, 2006

Secretary of State Condoleezza Rice caused a bit of a stir in Foggy Bottom last week when she unveiled plans to redeploy diplomats from Europe to world hot spots.

And no promotions, she said, without service in dangerous posts and fluency in two foreign languages, especially those spoken by people who may fancy grenade launchers and scream "Death to America."

She also talked about the need for a more diverse Foreign Service, something that might improve diplomats' feel for foreign cultures. After all, just because you speak the language doesn't mean you can figure out when someone is lying through his teeth. (There's a reason Afghan-born American diplomat Zalmay Khalilzad gets generally rave reviews for his work in the Middle East.)

Diversity is one area where neither the State Department nor the National Security Council nor the Pentagon, despite decades of talking about it, have claimed much success. The NSC, for example, with about 230 employees, has a total -- by our quick count -- of perhaps nine Latinos, African Americans, Asian Americans and Middle Easterners in mid-level or top positions.

At the State Department, four of six undersecretaries working for Rice are women, but a check of the top 45 or so officials at the assistant secretary level and higher finds fewer than a half-dozen minorities.

And at the Pentagon, although the uniformed folks have made great strides over the years up and down the ladder, minorities in the mid-level or higher civilian policymaking positions are said to be quite scarce, despite oral and written admonitions and pounding on the table by Defense Secretary Donald H. Rumsfeld , a sponsor of the Voting Rights Act when he was in Congress in the '60s.

"It cannot be that the last three secretaries of state -- the daughter of European immigrants, the son of Jamaican immigrants and a daughter of the American segregated South -- would be more diverse than the Foreign Service with which they work," Rice said.

Alas.A Chief Disagreement

There was something odd last week about the artwork on Amazon.com for Weekly Standard Executive Editor Fred Barnes 's new book on President Bush, titled "Rebel-in-Chief: Inside the Bold and Controversial Presidency of George W. Bush ." Amazon's blurb touts it as "How George W. Bush Is Redefining the Conservative Movement and Transforming America."

The book jacket has a lovely blue and white cover and a photograph of Bush, sleeves rolled up, looking off in a leaderly way.

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But there's a second smaller image of a book that doesn't seem to have the same Barnes touch. There's a picture of an upset Bush being led off in handcuffs and titled: "Felon-in-Chief: How George W. Bush is Redefining Greed and Corruption and Destroying America."

Last week someone posted a picture of the latter "book" right below the real one. It's posted as a "Customer image from J. Wolf ." It was still up as of last night.Party Politics

Don't forget! Wednesday is the big birthday bash for Sen. Conrad Burns (R-Mont.), who's celebrating his 70th at powerhouse lobbying firm Cassidy & Associates. No need to bring a special gift -- no ties, shirts or such -- according to the invite.

Oh, but if you want to host the bash, that'll be $2,000 per political action committee and $1,000 per person. Simple attendance is $1,000 per PAC and only $500 per person.

Good to see venerable Washington-style birthday traditions continue even in these troubled times.Young May Return to His Old Country

As expected, de facto ambassador to Taiwan Douglas Paal resigned last week after three years on the job. An inspector general's report last summer sharply criticized Paal for his management style and the office's low staff morale, the Asian press reported.

The buzz in Taipei is that career diplomat Stephen M. Young , former number two in Taiwan and more recently ambassador to Kyrgyzstan, is heading back to the island to run the U.S. diplomatic operation.Moving On . . .

Susan Aheron Magill , longtime chief of staff to Sen. John W. Warner (R-Va.), is retiring after 28 years on the Hill, the past 24 working for Warner. Magill, who was executive director of the Joint Congressional Committee for President Bill Clinton's second inauguration, is going private sector, taking a senior executive position in government affairs with the Pew Charitable Trusts.

Nina Shokraii Rees , formerly special assistant for domestic policy in Vice President Cheney's office and more recently the Education Department's highly regarded assistant deputy secretary and head of the department's Office of Innovation and Improvement, has moved to the Knowledge Universe Learning Group.

Report Reveals Low Rates Of Foster Care Visitation, Reliable Record-Keeping (WP)

The Washington Post, January 23, 2006

Lacking proof from most of the states, federal officials are concerned that many foster children are not being visited regularly by caseworkers.

Only 19 states and the District were able to produce computer-based reports detailing how often such visits occurred in fiscal 2003, according to a new report by the inspector general for the Department of Health and Human Services.

Seventeen of those states required monthly visits. Yet, five reported that less than half of their foster care children were visited that frequently. Another five states reported a visitation rate of 75 percent or less.

Most states said they lacked the resources to produce such a report or they did not have a computer record-keeping system. The federal government and state governments have spent $2.8 billion developing such systems since 1994.

"We're not surprised at what the inspector general found," said Wade Horn, HHS assistant secretary for children and families. He said he shared concerns that states need to do a better job of tracking caseworker visits.

Child welfare experts say caseworker visits are among the most important tools states can use to protect foster children. "The more frequently a child is visited in foster care, the better the outcome for that child," Horn said.

Nationally, about 500,000 children are in foster care, a number that has been declining in recent years, Horn said.

All states must comply with federal regulations to get federal funding for their foster care programs, but each state determines how services are provided. Forty-three states call for monthly visitation. The others set visitation standards ranging from weekly to quarterly.

The government can financially penalize states that do not show improvement in key areas such as caseworker visits. So far, the Bush administration has resisted that approach. "The goal of the [reviews] has not been to penalize states, but to work with them to improve the effectiveness of their child welfare systems," Horn said.

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He said he was prepared to enact sanctions for states that fail to improve. "Our hope is that every state will show progress," he said.

Daniel R. Levinson, the HHS inspector general, recommended that the government promote the development of computer tracking systems, which would improve states' abilities to ensure caseworkers visit foster children.

The federal government provides 75 percent of the funding for such automated systems, Horn said. The IG's report noted that 45 states and the District are in various stages of developing their computer systems but six states, unnamed in the report, have no such systems planned.

For the 31 states that could not produce reports, the IG's office repeated some reasons they were given. "We don't have the manpower to generate reports," an unidentified official from New Mexico told the inspector general.

The IG's office found the following rates for monthly visitation in 2003: Wyoming, 27 percent; West Virginia, 42 percent; the District, 43 percent; Kentucky, 44 percent; New Hampshire, 49 percent; Massachusetts, 50 percent; Tennessee, 53 percent; Arizona, 59 percent; Arkansas, 71 percent; and Texas, 75 percent.

Tom DeLay, Right Or Wrong (PTR)

By Salena Zito

Pittsburgh Tribune-Review, January 23, 2006

Hold a rearview mirror up to U.S. Rep. Tom DeLay and ask how he views his past. He'll likely wave you off and say he has his eyes on the windshield, concentrating on what's in front of him.

It's DeLay's nature to move forward, whatever chaos swirls around him.

"My top priorities are my constituents ... homeland-border security, improving our regional transportation infrastructure and NASA," DeLay told me during a campaign rally here this month for Texas Gov. Rick Perry.

In 2005 DeLay helped pass two major border-security and immigration-enforcement bills, a six-year highway-funding bill and NASA's first reauthorization bill since President Bush laid out his vision for space exploration.

Democrats hate DeLay because he beat them, often and hard -- and he enjoyed it. Democrats may be miles apart on issues but they're united when it comes to taking down a wounded Republican, especially this former House majority leader.

Ask DeLay about that, and he flashes a smile: "Politics has to be about the issues ... . (W)hen you personalize political differences, you might occasionally hurt your opponent but you ultimately just destroy yourself. Politics should be about who's right and wrong, not who's good and bad."

DeLay, in his 11th House term and who turns 59 in April, says he'd rather concentrate on keeping Republicans what even many Republicans say they no longer are -- the party of fiscal responsibility and reform.

"It's not enough to keep the conservative majority strong; it needs to be stronger," he says. "And that means focusing on the issues ... five and 10 years down the road.

"For instance, I'm all for tax cuts, but we need to start seriously talking about tax reform ... . (R)egulation and litigation that now hamstring small businesses, competition and job creation do not just need tweaks -- they demand long-term, comprehensive reform."

DeLay wants to reform retirement security, the health-care system and Congress' appropriations process. "It's not enough for conservatives to enact our agenda for 2006. We need to always be moving toward our goals for 2016."

As he moves over to the House Appropriations Committee from his very public descent from the leadership, DeLay is thinking of what it will take to keep spending down.

"Two things -- discipline and reform. ... We need structural, internal reforms to level the playing field for those of us who want to limit government."

He appears to have learned his lesson after being roundly pummeled earlier in the year for saying there was no fat left to cut out of a heavily earmarked budget.

DeLay has planted many thorns in Democrats' sides over the years but none has been sharper than redistricting. The U.S. Supreme Court will examine the constitutionality of the Lone Star State's GOP-orchestrated 2003 redistricting, which gave Republicans a 2-to-1 advantage in congressional seats.

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Although Democrats brilliantly branded "redistricting" as a dirty word, DeLay says the average voter doesn't get what it's all about.

"The redistricting process was put in place by our Founding Fathers and has existed essentially unchanged since 1789.

"For all the hand-wringing people do about partisan politics, the fact of the matter is that the redistricting process pretty accurately reflects the will of the people." It can be nasty and partisan, "but it works, just as the Founders imagined it would."

The bipartisan criticism of Tom DeLay is that his aggressive style was his undoing. Even those members of Congress whom he helped to elect and re-elect grew tired of it, distancing themselves for their own survival.

Of course, DeLay's suspect indictment on trumped-up campaign-finance charges by Ronnie Earle, the partisan Texas prosecutor and media hound, hasn't helped. Neither has his nexus -- real or perceived, ancillary or intimate -- to shady lobbyist Jack Abramoff.

The real test for DeLay now rests with folks in the 22nd Congressional District who sent him to Washington 22 years ago. He faces a tough re-election, and recent polls show his troubles have taken their toll.

If he can weather that storm, Tom DeLay will return to Washington wounded but by no means dead. He may no longer be the leader, but as the consummate deal-maker and doer he is, DeLay will continue to exert extraordinary influence.

Obama Might Be Walking On Hot Water (CHIT)

By John Kass

Chicago Tribune, January 23, 2006

Everybody knows that when U.S. Sen. Barack Obama walks, lilacs bloom from his every footstep, even in parking lots.

He can cross the Potomac without bridge or boat. When his fellow Democrats became hungry, he feeds them by the thousands with two perch and a bag of Cheetos. And what about that nice Shiraz flowing from the Senate water cooler?

According to his glowing media, there is nothing he can't do. And when he saved Sen. Hillary Clinton from her own big mouth--she told a black audience that Congress was a "plantation, and you know what I'm talking about"--I became a believer too.

But now he's trying to pull off a real miracle.

Obama, the Chicago Democrat, is the lead public thwacker of Republicans on the corruption issue involving self-admitted crooked Republican lobbyist Jack Abramoff. Obama was scheduled for more public thwacking on NBC's "Meet the Press" on Sunday. But that's not the miracle.

The miracle is that he's trying to do this and push ethics legislation, while avoiding mention of the corruption among Democrats in Illinois. Federal investigations are crawling through the administrations of Chicago Mayor Richard Daley and Gov. Rod Blagojevich while Obama skips the mess back home.

I like Obama, and I've told you so. And I called to tell him, respectfully, that I thought he made a big mistake by being maneuvered into the role of designated hitter.

"This stuff is always hard and it's always messy because no party's got clean hands," Obama told me over the phone. "But you know, if you've got an opportunity to at least move the ball forward a little bit, then I figure you should take the opportunity. Everybody in Washington at least seems embarrassed enough now that it's possible to move the ball forward. And that's what I'm going to try to do."

But he can't discuss virtue in Washington without speaking to the sleaze in Chicago. If he does, he'll be just another suit mouthing hollow words. Barack Obama is better than that.

He didn't call a news conference condemning City Hall for corruption. For example, he didn't condemn the Duffs, the mayor's white friends who received $100 million in affirmative action contracts from the Daley administration that should have gone to minorities.

"As you know, it's not my habit to hold press conferences to chase headlines," Obama said. "If somebody's asking my opinion, I'll tell it."

The senator has been asked. In August of 2005, with the patronage scandal and Hired Truck scandal swamping Mayor Daley, Obama said corruption bothered him. He was asked if he'd support Daley if the mayor seeks re-election in 2007.

"I think that what has happened ... gives me huge pause," Obama said.

Later, a reporter asked him if it were true that Daley's scandals had given him pause in considering an endorsement. According to the Tribune article of Aug. 5, 2005, Obama snapped: "That's not what I said. ... Don't put words in my mouth."

But since he accepted the job of Sen. Thwackum in a Democratic Party news conference last week, he can't avoid the issue. (One of those Democrats was U.S. Rep. Jan Schakowsky (D-Ill.), whose husband, political activist Robert Creamer, will be sentenced soon after being convicted of a check-kiting scam.)

"I had to participate in the news conference," Obama told me on Friday. "But my main goal is going to be to see if I can get Democrats and Republicans to sit down and try to figure out if there's a solution to this thing."

That's not what Democratic Party leaders want. They want him to kick Republican political behinds on national TV. Yet the first time someone close to Obama screws up with a campaign check, he'll be called a hypocrite. That's the trap.

And while the temptation among his Washington media champions who share his politics will be to ignore the Chicago corruption, there's an unavoidable connection.

U.S. Rep. Rahm Emmanuel (D-Ill.), who runs the national party's effort to elect more Democrats to the House, was himself elected to Congress with the help of corrupt city water department boss Don Tomczak, who ran a patronage army for Daley that is under federal investigation. Tomczak, who pleaded guilty, is cooperating with prosecutors.

Emmanuel has said he was unaware of Tomczak's political help. Obama didn't want to touch this one.

"Well, a lot of this stuff is going to play itself out," he said. "My goal is just to see if there's some low hanging fruit that we should go ahead and take care of, and that's what I want to do."

Former House Majority Leader Tom Delay of Texas, the most prominent Republican scorched so far, complains prosecutors are out to "criminalize politics." That's the same line used by the Daleys.

"No party has a monopoly on virtue," Obama said. "And I think there are some things that are clearly out of bounds. Are there gray areas? Sure. But my goal is just to get it to where the stuff that is clearly black and white is off the table."

Poll: Most Find Medicare Program Confusing (AP)

By Will Lester

The Associated Press, January 23, 2006

WASHINGTON -- Confusion by consumers may be one of the biggest problems at the startup of the new Medicare prescription drug program, an AP-Ipsos poll suggests.

Most people find the new Medicare prescription drug program hard to navigate, especially older people and those who have enrolled to get the drug benefit.

The program requires people to choose from among dozens of competing private insurance plans. Along with seniors and those who have enrolled, those most likely to acknowledge difficulties live in rural areas or are college graduates.

More than half, 52 percent, of respondents say they think the program that began enrolling people on Jan. 1 is tough to understand, the poll found.

Two-thirds of older people surveyed and two-thirds of those who have signed up say they are confused by the program, which is intended to help many save money on their prescription drugs.

"We're getting a pretty steady stream of questions," said insurance counselor Edith Goodin Thompson, of the Aging and Disability Resource Center for Broward County in south Florida.

"The typical call is 'I need a plan. I have gone on my computer and done the research and I don't understand."

The multiple plans and varied rules can confuse the well educated.

"I pretty much completed a master's degree in psychology and I can't understand it," said Raymond Lloyd, a Republican-leaning retiree from Silt, Colo. "For the elderly who don't have their full faculties and the poor people who are not well educated, God help 'em."

One-third said they had not decided what they think of the new program and 16 percent said they have little trouble figuring out the program.

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One who finds it easy to understand is Kathy Herndon of Savannah, Ga., who has worked for three decades in a dentist's office.

"I'm sure it would be confusing unless you're used to dealing with it," she said.

The poorest people in the program have a specific plan chosen at first for them; those with higher incomes have to pick one. People who struggle with a selection often turn to their pharmacists.

Marlene Brantley, a pharmacist in Arnaudville, La., said that serving Hurricane Katrina evacuees seemed like "a walk in the park" when compared with helping Medicare beneficiaries in recent weeks.

She said there are too many plans and too many lists of available drugs, forcing pharmacists to spend a lot of time trying to determine if people are eligible for a particular plan.

"If we don't get help, I see us all throwing up our hands and quitting," Brantley said last week at a Democratic-sponsored forum on Capitol Hill.

Soon after enrollment opened, it became apparent there was widespread confusion, so the government increased from 150 to 4,000 the number of workers at a pharmacy help line.

Questions also can go through the Centers for Medicare and Medicaid Services -- 1-800-Medicare or http://www.cms.hhs.gov -- or local aging agencies.

The public's understanding of the program is one of several problems that have plagued the Bush administration initiative.

Tens of thousands of elderly poor people have had trouble getting their medicine after they were canceled from Medicaid prescription drug coverage but not properly listed as eligible for the new program.

"Most of these people are vulnerable and frail," said Jean Finberg of the National Senior Citizens Law Center. "Our government is not protecting these people, and the new plan is too complicated."

Medicare spokesman Gary Karr said millions of people are getting their prescription drugs through the new program, despite the glitches.

"We certainly acknowledge there have been some problems," Karr said. "This is a $30-$40 billion program. It's a big transition for many people."

About 3.6 million people have enrolled, in addition to the 6.4 million elderly poor shifted from Medicaid, the government health care program for the poor that had provided their drug coverage.

But the public has doubts about the savings now.

Of those people who have enrolled in the program or have family members enrolled, six in 10 in the poll said they have noticed no significant savings.

Half of the Republicans surveyed say the drug program is hard to understand while six in 10 Democrats say they feel that way.

Take Two Aspirin And Read This Now (TIME)

By jyoti thottam

Time, January 23, 2006

A month ago, Tracy Patterson wasÂ simply a woman with more than her fair share of sickness. With multiple birth defects, chronic pain, asthma and bipolar disorder, Patterson, 35, struggled to get by on $832 a month in disability assistance. But at least one thing in her life was taken care of. California's Medicaid program paid for more than a dozen medications every month. "I always got my meds on time," she says. That changed on Jan. 1, when Medicare's prescription-drug benefit went into effect. Patterson was one of 6.2 million people automatically shifted into the program from Medicaid, and her story has become part of an urgent, nationwide call to fix what both Republicans and Democrats say was a botched transition to the controversial new plan.

Patterson says the abrupt switch has pushed her to the edge. She spent a week without medication, trying to figure out the new plan, called Medicare Part D, and then learned that under the terms of her policy, she would have to pay $308.68 for a month's supply of morphine, which she takes for her chronic pain. "I flipped out," she says. "First I was shocked, then I started crying. Now I'm just numb. I'm bipolar. I'm kind of getting depressed." Patterson sobs at the idea of borrowing money she can't pay

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back. "Whoever voted this into policy was a bunch of jerks, and they never knew what it was like to live on a fixed income and have to have medication."

Any policymakers who once might have glossed over her frustration as a side effect of sudden change are thinking twice. "Katrina showed government's failure to respond, and we can't afford those failures again," says Republican Senator Norm Coleman of Minnesota. A quarter of the 24 million people now enrolled in Medicare Part D are "dual eligibles," people who qualify for both Medicaid and Medicare. In other words, they are among the poorest and frailest people in the country. More than 70% of them make less than $10,000 a year; 372,000 of them have Alzheimer's. Republicans realize that after Katrina, they cannot risk another crisis in which the government appears to be abandoning its most vulnerable citizens. Some are already making that connection. Aniela Toscano, 56, a New Yorker living in a shelter, has run up $885 in credit-card debt thanks to a brand-new bill for drugs and is worried that she can no longer afford her seizure medication. "What happened in New Orleans?" she says. "They let those people die. Why not us?"

Thankfully, no one is waiting for another slow-motion catastrophe to unfold. Governors of more than 20 states have pledged emergency funds to help people, at least temporarily, pay for drugs they are having trouble getting. Insurers say they expect to have any remaining problems fixed in the next two weeks, although patient advocates are skeptical. And in response to the bipartisan outrage, House Republican leaders are considering a proposal, initially suggested by Democrats, to extend the deadline for signing up for the new benefit from May 15 to Dec. 31, a House G.O.P. aide tells TIME. The difficult transition, though, is more than just a product of bureaucratic fumbling. It is a significant step in the march of U.S. health care toward a free-market system governed by choice and risk. President George W. Bush is expected to make that movement a central element in his State of the Union address next week and to emphasize its promise. The patients, families and pharmacists caught up in Part D know its price, at least in the short term.

The fundamental goal of Medicare Part D is hard to argue with. Medicare has no drug benefit; Part D provides one. When Medicare was established in 1965 as a Great Society health-care program for seniors, prescription drugs were a minor planet in the universe of medical treatment. They now account for 11% of every health-care dollar spent. But more than a quarter of the 42 million people on Medicare had no drug coverage at all last year.

The law that was passed in 2003 is not really an expansion of Medicare, which is an entitlement with standardized care. Part D, although funded by Medicare, is actually private insurance, similar in design to high-deductible health policies that shift more of the costs to members in an effort to make them more conscious of what they're spending. "People are used to it being an entitlement, but [Part D] wasn't the same sort of generous benefit that Medicare is," says David Scrase, president of Presbyterian Health Plan, a Part D provider in Albuquerque, N.M.

The array of selections available under Part D--even Alaska, with only 53,000 eligible recipients, has almost 30 plans, all with different premiums, deductibles, co-pays and covered drugs--has bewildered seniors trying to choose. But that confusion is only part of what has gone wrong. The main reason for the problems of the past three weeks is that the vast majority of enrollees--20.4 million of 24 million--already had some kind of drug benefit, in many cases Medicaid, and were automatically switched to Part D. Their information had to make its way through several layers of private and public bureaucracy for the new system to work. Medicare allowed people to sign up for Part D until Dec. 31 for coverage on Jan. 1, but insurers couldn't process their enrollment cards fast enough to be ready by then. People eligible for both Medicaid and Medicare were assigned to plans randomly, in many cases to plans that did not cover the drugs they took. Insurers are supposed to cover 30-day emergency supplies of medicines that are not included in their plan, but many companies are stonewalling on fulfilling that guarantee. So many seniors have had to pay out of pocket for their drugs or go without. Medicare promised subsidies to poor people for their co-payments and deductibles, but insurers still do not have complete information on who is eligible for the extra help.

Some insurers blame pharmacists for lacking the right software or failing to carry out stated policies, while pharmacists say Part D has been a disaster for them too. Many of them have been handing out prescriptions but don't expect reimbursements from Medicare until early February. That cash-flow crunch is putting some pharmacies in danger. Art Whitney of Rockland, Calif., borrowed $500,000 to cover what he owes his wholesaler. "I've been in business since '87, and I've never borrowed a nickel," he says.

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Why shift so many people, particularly those least equipped to handle a chaotic change, all at once into a system with so many moving parts? Health-care advocates have been asking that question for at least two years. In January 2004, the Kaiser Family Foundation, a nonpartisan health-care research group, published a report predicting that dual eligibles would be "overwhelmed" by a sudden change to Part D. The report of a Kaiser gathering of Medicaid directors from 11 states held last November to discuss concerns about the Part D transition reads like a screenplay for the horror stories that followed. "It wasn't that they didn't know," says Drew Altman, president of the foundation.

In an interview with TIME last week, Mark McClellan, administrator of the Centers for Medicare and Medicaid Services, said most people entered the new system without encountering trouble. He attributed much of the difficulty of those who did to the huge number of people who enrolled or switched plans at the end of December. Although assigned to plans, dual eligibles had the right to change by Dec. 31 to one that best suited their needs. The Medicare bureaucracy is still catching up with all that data, McClellan says. "Those are the issues that we're working through right now."

McClellan, along with the insurers, is closely watching whether the bad publicity from the start of Part D will affect enrollment. The pace of voluntary enrollment so far is picking up, with 2.6 million people signing up since Dec. 13. High enrollment is crucial to the program's success. Any insurance program relies on pooling the risk of a large group of people, and insurers that can't capture enough members will eventually have to shut down.

Any talk of turning Medicare into market share, of course, is catnip to Democrats, who are ready to use the Medicare mess against Republicans in the November midterm elections. Seniors tend to turn out for midterms in higher numbers than younger people, "so there's a real opportunity here," says Democratic pollster Mark Mellman. The Democratic Congressional Campaign Committee is advising candidates to visit senior centers and press the argument that the drug benefit was written by and for the health-care lobby. Those candidates hope to point out, for example, that drug manufacturers lobbied to avoid negotiating drug prices directly with Medicare. Instead, Medicare provides funds to insurers, which use intermediaries called pharmacy benefit managers, who then negotiate with the drugmakers. That system breaks Medicare into smaller purchasing pools, and drugmakers get higher prices. Insurers, meanwhile, successfully lobbied for a provision that limits potential losses in the first two years.

Republicans insist that January's rough transition will be all but forgotten by November. And they will remind voters that Democrats were unable to get any drug benefit, however flawed, passed while they were in power. "Seniors would have nothing if it weren't for Republicans passing this plan," says Amy Call, spokeswoman for Senate majority leader Bill Frist. G.O.P. leaders have so far rejected the major changes proposed by Democrats, including allowing direct negotiation with drugmakers and easing the rules on reimportation of drugs from Canada.

They are taking seriously the bipartisan calls from states to be reimbursed for the tens of millions of dollars in emergency funds states have set aside to cover the gaps in Part D coverage. Health and Human Services Secretary Michael Leavitt spent last week on damage-control patrol, trying to placate anxious seniors and state lawmakers angry about footing the bill for Medicare's mistakes. Maine Republican Senator Olympia Snowe said Leavitt reassured her on Friday that the Federal Government would use its authority to compel insurance plans to reimburse the states directly. Maine has spent $5 million.

Ultimately, the future of Medicare Part D will depend not just on Republicans or Democrats, insurers or drugmakers, pharmacists or health-care experts. It will hinge on the willingness of the millions of people eligible for Medicare to submit to this experiment in free-market health care. Americans could decide that the health of the old, the sick and the needy deserves a system separate from the one that rules whether Internet companies and T shirt makers live or die. But if enough people agree to endure the smaller upheavals that are sure to come, Part D gives them a drug benefit based on the American ideal of unlimited choice. Some plans will change their rules or increase their prices; others won't survive, and their members will again have to navigate a new plan. For those without any drug coverage at all, that may be a risk worth taking.

The Eye Of A Medicare Hurricane (WP)

By Amy Goldstein

The Washington Post, January 23, 2006

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If a health plan pays a pharmacy for medicine it dispensed to an elderly patient, before realizing that the person already had switched to a different health plan, how do the insurance companies settle up? If a pharmacy run by a federally funded health clinic wants to cover some costs that its Medicare patients are supposed to pay on their own, is that legal? And how much of a refund should patients get if they have chipped in to cover part of the price of their medicine before the government determined they are so poor that they should not have had to pay in the first place?

Such brainteasers would have been unimaginable through most of the four decades that Medicare has provided health insurance to the nation's elderly. But since Jan. 1, when the program's new drug benefit began, such questions surface routinely. Often as not, they land on Tracey McCutcheon's desk.

As acting deputy director of the Medicare Drug Policy Group at the Center for Medicare and Medicare Services (CMS), McCutcheon is deep in the weeds of the largest, most complex and -- judging from its first three weeks -- messiest expansion of the program in its history. From a first-floor office in an immense government building in a western suburb of Baltimore, she works 12-hour days, taking conference calls, combing through statutory language and rethinking the fine print of 60 pages of federal regulations she helped to write.

"Lots of moving parts," is the way she describes her job, with understatement.

McCutcheon, 52, is not a longtime federal bureaucrat. She had worked for several of the Washington area's major hospital systems and health plans, most recently for a disease management offshoot of Inova Health System. When she began thinking about what she wanted to do next, she realized, "I may have sort of a regulatory bent" -- drawn, as she was, to solving problems, making systems work and complying with government rules.

She began to commute from her home in Silver Spring to a job as "health insurance specialist" at CMS headquarters in February 2003. She remembers that, in the first days, her boss remarked that Congress was starting to look serious about prescription drug legislation it had been debating for years. The bill passed late that year.

Today, McCutcheon is a GS-15 with a staff of about 50, now that she has been promoted to acting deputy of a group within the agency that sets policy for health plans. Her speech and writing are sprinkled with obscure abbreviations: TrOOP (true out-of-pocket cost, or the sum Medicare patients must pay in deductibles and co-pays before the drug coverage begins) and LIS (low-income subsidy for poor older people).

Shortly before the benefit took effect, McCutcheon found herself debating what the word "person" means. The context was an aspect of the Medicare law that says out-of-pocket costs are to be paid by the beneficiary or other person on their behalf. The challenge was to find a way to allow charitable organizations to chip in.

Currently, she and her staff are rethinking a rule that allows health plans to "co-brand," when they place on the prescription drug card they give patients the name of a second company, such as a drug store. The worry is that patients might mistakenly believe they can fill prescriptions only at the store named on the card.

Such matters are arcane, but they also have broad implications for whether insurers remain in the program, whether pharmacists are willing to fill prescriptions and -- most of all -- whether the nation's older patients come to believe the federal insurance for medicine is worthwhile.

As complaints and confusion about the drug benefit have spread around the country this month, McCutcheon said, "some of the specific issues that come up have been surprising." Still, she said, "you never bring up a huge program and have everything perfect."

Celebrities Capitalize On Star Power In D.C. (LAT)

By Jube Shiver Jr., Times Staff Writer

The Los Angeles Times, January 22, 2006

WASHINGTON — In four decades as a guitarist with such iconic rock bands as the Byrds and Crosby, Stills, Nash & Young, David Crosby played in front of millions of fans at such venues as Woodstock, the Fillmore East, the Hollywood Bowl and London's Wembley Stadium.

Lately, one of his regular gigs has been at one of the nation's most elite clubs: the U.S. Senate.

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Last year, the shaggy-haired, 64-year-old musician donned a suit in lieu of his usual bluejeans to lobby the Senate Committee on Indian Affairs, seeking to thwart plans to expand Chumash casinos and commercial developments near his home in the tranquil Santa Ynez Valley in Santa Barbara County. On another occasion, Crosby opined to lawmakers on campaign finance reform.

"Being a celebrity cuts both ways in Washington," Crosby said. "In some ways it gets you access. But in other ways it makes people dismiss you. You have to be insanely careful about what you say."

Crosby is part of a growing parade of celebrities trekking up Capitol Hill to talk to the nation's lawmakers about issues that rarely have anything to do with their day jobs. Trying to get attention for pet causes easily lost in the clutter of public policy debates, stars hope their cachet can make the difference in opening doors, getting media attention and scoring face time on C-SPAN.

During the last year, Washington's show has starred actress Salma Hayek testifying before the Senate Judiciary Committee on domestic violence about how she became familiar with the issue researching a movie role. Jazz musician and New Orleans native Wynton Marsalis told the House Subcommittee on Economic Development, Public Buildings and Emergency Management how important it was to rebuild after Hurricane Katrina.

Actress and AIDS activist Ashley Judd spoke to the Senate Foreign Relations Committee on the need to develop an HIV vaccine for Africa. Actor Don Cheadle, who starred in the movie "Hotel Rwanda" set in that country's 1994 civil war, joined five members of Congress on a fact-finding mission to learn about refugees in Sudan.

When it comes to hobnobbing with lawmakers, U2 frontman Bono ranks as Washington's reigning celebrity lobbyist. House Minority Leader Nancy Pelosi (D-San Francisco) is a frequent guest at the band's concerts. In October, Bono lunched for 90 minutes with President Bush at the White House, where the two discussed debt relief, AIDS, malaria and world trade, White House Press Secretary Scott McClellan said.

"More and more celebrities are lobbying for particular causes," said Darrell West, a professor of political science at Brown University and author of the book "Celebrity Politics." "They attract the TV cameras, and celebrities are great fundraisers."

For celebrities, testifying and lobbying in the nation's capital offers the ego stroke of being taken seriously on important issues, and a chance to make headlines for something other than their latest loves or public mishaps.

In an e-mail to the Los Angeles Times, actress Mary Tyler Moore said her lobbying on behalf of the Diabetes Research Foundation stemmed from her own experiences as a diabetic. Having the disease "has fueled my desire to help … find a cure," Moore said.

After actor Michael J. Fox testified on Capitol Hill in 1999 about his battles with Parkinson's disease, lawmakers urged the National Institutes of Health to intensify the government's search for better treatments. Since then research grants for Parkinson's have jumped more than tenfold from $25 million to as much as $300 million this year, said Robin Elliott, executive director of the Parkinson's Disease Foundation.

"In a television culture, celebrity has become crucial to advancing all kinds of causes," Elliott said.

But it also can often backfire when it appears a celebrity is simply fronting for an issue in which he or she has no special expertise.

In 2002, Sen. George V. Voinovich (R-Ohio) walked out of a Senate subcommittee hearing on the environmental effect of mountain mining when Kevin Richardson, a Kentucky native and member of the Backstreet Boys singing group, was called as a witness. Voinovich told reporters the proceedings had turned into "a joke."

Lou Diamond Phillips, star of such films as "La Bamba" and "Young Guns," said it was unfair to assume celebrities were unqualified to testify. Phillips said he met resistance when he testified in 2002 about extending veterans benefits to Filipinos who had fought in World War II. Phillips is part Filipino and the son of a war veteran.

"It upsets me that people don't think we have the right to speak out," Phillips said in an interview. "We are citizens like everybody else. I made it certain to the senators that I was no carpetbagger."

When Crosby testified last summer on the tribal development plans, Connecticut blogger Edward Janusz questioned his qualifications.

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"Mr. Crosby seems like an intelligent person," Janusz said in an interview. "But I'm more inclined to listen to people who are personally involved and have some expertise."

Congressional hearings for decades were mostly dominated by nondescript government, industry and academic experts. Stars called to testify typically were asked about issues directly related to the entertainment industry, such as when the House Un-American Activities Committee in the 1940s investigated alleged Communist infiltration of Hollywood.

Credit former top Hollywood lobbyist Jack Valenti and Washington lawyer Michael Gardner with helping demonstrate during the 1980s the clout celebrities could have on Capitol Hill. They mobilized some of Hollywood's biggest names to counter government efforts to end financial syndication rules that forbade broadcasters from owning any of the TV programs they aired.

Valenti squired Warren Beatty, Stefanie Powers, Charlton Heston and Kirk Douglas to Washington to testify, lobby and pose for snapshots with star-struck lawmakers.

Gardner took Mary Tyler Moore, Alan Alda and Jean Stapleton to make the rounds of federal regulators who were siding with the TV networks in favor of the rule change.

In the end, the beleaguered television networks were outmatched by Hollywood's star power.

Financial syndication rules were preserved for nearly a decade before a judicial ruling ended them in the early 1990s.

Valenti, who retired in 2004 as head of the Motion Picture Assn. of America after 38 years, has a relatively simple explanation for why celebrity testimony can be so effective: Congressional hearings are dreadfully dull.

"Most people come in and duck their heads and read their testimony and leave no lasting impression," he said.

But by virtue of their star power and training, Valenti said, "actors can give Oscar-winning performances."

OTHER NEWS:

Oil Again Flirting With $70 A Barrel (WSJ)

By Leah Mcgrath Goodman

The Wall Street Journal, January 23, 2006

Crude oil has its sights set firmly on record territory again.

Crude-oil futures settled at a 20-week high of $68.35 a barrel Friday on the New York Mercantile Exchange, up $1.52, sparking talk that oil could soon challenge its nominal record just above $70.

That is a significant milestone and a telling indication of sentiment in the market: The only time oil prices have traded above $70 was Aug. 30, 2005, just after Hurricane Katrina slammed into the Gulf Coast, blazing a trail of destruction through the oil industry.

Months after Katrina and Hurricane Rita, which followed, three refineries remain offline, representing 5% of total U.S. capacity. But now, a host of other factors have conspired to push oil toward its hurricane peak, making it harder to attribute price increases to one extraordinary event and underscoring the fact that prices have staked out a persistently high place.

"Geopolitical fears and technical momentum continue to target the $70-a-barrel mark," said Michael Guido, director of commodity strategy for Société Générale in New York.

Fears of potential disruptions, never far beneath the surface, bubbled up last week as civil unrest in Nigeria, a major oil exporter, cut crude-oil exports by about 200,000 barrels a day, or 10%.

Tensions over Iran's nuclear ambitions flared, too, as the U.S. sought to rally international support for halting Tehran's work on nuclear-power projects, which could be converted into nuclear-weapon capabilities.

On top of that, heavy maintenance work at U.S. refineries and signs of strong demand for oil this year have helped cement the gains.

The leap in oil, which climbed steadily last week, has gained the attention of other markets. Though earnings jitters may have played a large role behind big declines in U.S. stock indexes last week, analysts cited the oil rally as hurting stocks, except those of energy companies.

Natural-gas futures saw substantial gains, too, Friday for the second session in a row, in tandem with a broad-based rally in the petroleum complex.

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The rise in oil has come despite gains in U.S. petroleum inventories this year, as traders continue to worry about signs of rising global demand in 2006 with little improvement to supplies.

Growing supply worries were reflected in weekly data released Friday from the Commodity Futures Trading Commission, which reported oil speculators maintained only a thin net-short position of 1,676 contracts in crude futures as of Tuesday.

While that was slightly higher than the prior week's net-short position, speculators continued to load up on bets that oil prices would rise.

The rally in oil also has prompted big banks to revise their oil forecasts higher. Goldman Sachs, which caused a splash last year with its super-spike oil call, raised its 2006 crude-oil price forecast last week, seeing prices above $70 a barrel by the fourth quarter but adding that significant supply disruptions could push prices above that level much sooner.

Oil Prices Climb To Katrina Levels (CSM)

By Ron Scherer

The Christian Science Monitor, January 23, 2006

NEW YORK - This may sound eerily familiar: oil prices are spiking, sending shivers from Wall Street to Main Street.

Since the new year began, crude oil has soared more than $7 a barrel to $68.35 - the highest level since late August when hurricane Katrina roiled energy markets. This time, the main impetus appears to be a bad case of international jitters, ranging from Iran to Nigeria to Osama bin Laden. If the tensions don't cool off, energy analysts warn, consumers should brace themselves to pay more at the gas pump in weeks ahead. "It's been one thing after another," says Phil Flynn of Alaron Trading in Chicago.

On Friday, rising oil prices and disappointing earnings sent the Dow Jones Industrial Average into a 213 point dive, one of the sharpest declines since spring 2003. One reason for Wall Street's concern: if the price of oil stays high, it will take money out of people's pockets in a year when consumers are expected to moderate spending anyway.

"Consumer spending may slow down a bit more than thought," says David Wyss, chief economist at Standard & Poor's in New York. "But, it won't drive us into a recession - that would probably take oil going well over $100 a barrel."

Rising oil prices could increase the prices Americans pay for everything from pizza delivery - yes, there is an extra $1 fuel surcharge - to how much money it will cost to get the kids back and forth to hockey practice.

So far, however, many companies have absorbed their higher energy costs. Last year, food and energy added just 1.2 percentage points to the inflation rate, which averaged 3.4 percent.

Still, energy costs are one of the factors the Federal Reserve monitors. The Fed will meet next Tuesday and is expected to raise rates for the fourteenth consecutive time by a quarter percentage point.

Beyond that, how the Fed acts will depend on inflation prospects and its own analysis of the economy.

Typically, oil prices start to retreat by this time in January since there are only about six weeks left to the worst part of the home heating oil season. Other than early December, this winter has been milder in the US than some meteorologists expected. Last Friday, the temperature reached 61 degrees in New York.

While winter in the US has been relatively mild, parts of Europe have faced bitter conditions. This has lead to much higher use of heating oil and natural gas. Last week, fierce winter conditions led Russia to curtail production of oil in its Arctic regions.

But geopolitical uncertainty has shaken up energy markets even more than cold weather in Europe.

Iran, faced with the prospect of economic sanctions for restarting its nuclear program, has warned that the price of oil might rise if the West intervenes. The country's leaders have been vague in explaining how that might happen. Iran exports 2.5 million barrels of oil per day, a significant amount going to Asia.

The other trouble spot is Nigeria which exports about 2.25 million barrels of crude per day, most of it suitable for producing gasoline. Tribal frictions have cut production by about 100,000 to 200,000 barrels of oil per day.

"It's not sizable but any amount has gotten people nervous," says John Felmy, chief economist at the American Petroleum Institute in Washington.

Sunday, the situation in Nigeria remained murky, at best. Four foreign oil workers have been kidnapped by guerrilla forces demanding the release of some tribal leaders. Nigerian newspapers are warning that there could be more attacks in the Niger Delta but the government says it is negotiating in order to calm the region.

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Some analysts say the markets will retreat in the weeks ahead. "Once the market realizes there is no real threat of an immediate conflict, the market will calm down and we will see oil prices back in the $50s or $60s per barrel," says Eugenio Aleman, a senior economist at Wells Fargo Banks in Minneapolis. "This is highly political."

Before the jitters in the market, some analysts thought the price would head lower. OPEC oil ministers are still talking about reducing oil production this spring, to avoid a supply glut. The Energy Information Administration (EIA) is forecasting the average price for oil will be $63.30 this year.

"If there was no anxiety about Iran and Nigeria and other countries, we think prices would be much lower than they are now," says Mark Rodekohr, an EIA analyst.

Even though Mr. Rodekohr says that the price of oil should be going lower during the year, he says he would not be surprised to see the price rise to the $70 range, back where it was soon after hurricane Katrina struck. "The key is how long - will it be a day or two or is there enough anxiety to drive it for a little while longer?"

If the price of oil stays high in the weeks ahead, it will likely be reflected in the price at the pump. So far, gasoline price gains have remained relatively modest given the rise in oil prices. Nationally, gasoline is about $2.30 a gallon, up from $2.09 a gallon only a few months ago.

"Oil prices at this level are not factored into the price of gasoline," says Rodekohr.

For 2006, EIA expects a price range of $2.25 to $2.50 a gallon. "We don't see any reason to think it will go below $2," he says. And, if oil moves above $70 a barrel for a sustained period, he says, prices at the pump will move quite a bit higher-even before the spring driving season begins.

There's Little Margin For Error (WSJ)

By E.s. Browning

The Wall Street Journal, January 23, 2006

For the past six months, Henry Herrmann's view of stocks has tracked the price of oil pretty closely. He isn't alone in that, so unless the oil outlook does a smart about-face, the stock market could be facing some rough going.

Mr. Herrmann oversees $41 billion in investments as chief executive at money-management group Waddell & Reed in Overland Park, Kan. With oil prices soaring last summer after hurricanes hobbled oil facilities in the Gulf, he worried about economic damage and had his fund managers pull back a bit from stocks. They kept some money in cash rather than invest it.

Then, as oil prices moderated in the fall and U.S. economic reports came in strong, he became more bullish, putting money into more speculative areas such as technology stocks.

Now, with oil back near $70 a barrel, Mr. Herrmann is beginning to hunker down again. So are a lot of other investors. That helps explain why the Dow Jones Industrial Average fell 213.32 points Friday for its biggest one-day percentage decline since 2003. With the current bull market now more than three years old, the question is whether the economy can improve enough to get people like Mr. Herrmann to feel good enough to start buying stocks again.

"We don't have much margin for error," Mr. Herrmann says. "We can't afford to lose two million barrels a day being exported out of Iran."

What worries him is that the problems weighing on the economy "won't go away real soon." It isn't just that expensive oil serves as a tax on consumers and businesses alike. Interest rates have been rising as well, and the two together are damping growth. "I don't think $70 oil translates into a huge economic problem," he says. "But who says it can't go to $80? Who says it can't go to $90?"

At the start of the year, such worries were far from investors' minds. Amid optimism that the Federal Reserve would soon stop raising short-term interest rates and that corporate profit and economic growth would remain robust, investors bid stocks up strongly.

But then, two bad things happened: Oil prices surged again amid concerns over rebel activity in oil-producing Nigeria and the West's showdown with Iran over its nuclear program. Then, prominent companies such as Intel, Citigroup and General Electric announced quarterly results that missed Wall Street expectations. That double whammy raised questions, in Mr. Herrmann's words, about whether investor expectations had gotten too high and stock prices had become "frothy." Seeing the

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market soaring at the start of January, he and some other investment pros began to worry that stocks were getting ahead of themselves. Just over a week ago, they began slowly to pull back from their more speculative investments. Their selling accelerated Friday, when the Dow Jones Industrial Average lost 1.96% to close at 10667.39. The Nasdaq Composite Index fell 54.11, or 2.35%, to 2247.7, and the Standard & Poor's Composite Index of 500 stocks declined 23.55, or 1.83%, to 1261.49.

That day's market downturn was due in part to the fear of the unknown concerning Iran.

If investors adjust this week to the Iran worries, some of that selling pressure could ease. But a more fundamental reason that investors are nervous is that they fear that some of the market's underpinnings have weakened, making it harder for stocks to hold up in the face of the oil and profit worries.

"The bulls have gotten ground up for burgers," says Ken Tower, chief market strategist at CyberTrader, an arm of brokerage firm Charles Schwab. Because this bull market is getting on in years, he says, there may not be a lot of people left who are interested in stocks and have much extra money still to invest. "It is probably too soon to declare that the bull market is dead, but I think this is just a risky period for bullish investors," Mr. Tower says.

Bull markets have varied enormously in length historically, but over the past 60 years, the typical one has lasted around three years.

Mr. Tower stresses that he isn't saying stocks have entered a bear market now.

While the Dow industrials are down 0.5% for 2006, after a decline of 0.6% last year, the S&P 500 and the Nasdaq Composite Index both were up last year and still are showing gains this year. But Mr. Tower does worry that a bear market could begin some time this year, as investors become disenchanted with corporate performance and some are enticed away by higher interest rates in money-market funds and bonds.

That still isn't the prevailing view, however.

"If we started to get a string of bad days for the market and a string of earnings that appeared to be low-quality or meaningful misses, I might get more worried," says John Waterman, chief investment officer at Rittenhouse Asset Management in Radnor, Pa., an arm of financial-services group Nuveen Investments.

But while the pace of profit gains may slow a bit this year, he says, he expects a resilient economy to keep profits growing. "I'm not sure Friday's selloff was as much the result of oil prices as it was the visibility of the Iran issue, the fear of a supply cutoff," as well as worry about some kind of military action, he says.

He hopes the Iran situation won't spin out of control and that investors once again will shift their attention to the economy's underlying strength.

Mr. Waterman does see a risk that profits may not match bullish Wall Street expectations calling for double-digit growth overall in profit at companies in the S&P 500. But he thinks profits will be able to rise 6% to 8%. That may not be good enough to support some of the highfliers, such as Google, which tumbled 14% last week. But while energy and technology companies may face headwinds, he says, other big stocks may still be able to rise.

So, is the bull market running on empty or is it about to speed up again? More fourth-quarter earnings results in the days ahead will provide clearer indications.

If big companies avoid too many disappointments along the lines of GE's and Citigroup's, if the world political situation calms down and if, after its meeting on Jan. 31, the Fed indicates again that it is getting near the end of its rate-increase cycle, stocks could find better support. If those things don't happen, investors will pay more attention to concerns such as those that bother Messrs. Herrmann and Tower.

Thrill Of Dow 11,000 Already Gone Market Started Off Year Strong But Is Fizzling Fast (USAT)

By Adam Shell And Matt Krantz

USA Today, January 23, 2006

When the Dow closed above 11,000 on Jan. 9 for the first time in 4½ years, Wall Street viewed it as a harbinger of better things to come. The euphoria was short-lived.

The Dow Jones industrial average's fast start is history. And the bright outlook for stocks in 2006 has suddenly turned cloudy.

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A 213-point sell-off Friday, the Dow's biggest one-day point decline since March 24, 2003, not only erased the Dow's 3% year-to-date gain and left it 333 points below the key 11,000 level, it also chipped away at investors' confidence.

"We're seeing optimism fading," says Janna Sampson, a portfolio manager at OakBrook Investments.

Heading into the year, investors were in a bullish frame of mind due to their belief that the Federal Reserve will stop raising interest rates soon. But a lethal mix of negative news last week, including disappointing earnings reports from blue-chip companies, new threats from Osama bin Laden, a spike in oil prices above $68 a barrel and angst over Iran's nuclear ambitions, put investors on the defensive.

The Dow's sharp reversal could offset the psychological boost that accompanied the Dow's topping of 11,000. Wall Street was hoping that the upbeat headlines would increase investors' comfort level and make them more willing to commit fresh money to stocks. Now there's concern they will remain on the sidelines.

"If we don't see individual investors come in, that could be a sign that it will be tough to break out of the trading range to the upside," says Jeff Kleintop, chief investment strategist at PNC Advisors.

The Dow's relapse also raises the odds that the stock market will finish lower in January, despite a fast start. That's not good news. Historically, stocks have tended to finish the full year lower after declines in January.

The biggest drag on the Dow was disappointing earnings from key companies, says Todd Leone, head trader at SG Cowen. Earnings season was supposed to give investors a vote of confidence. But instead, they've been barraged by a flurry of disappointments from bellwethers, such as Yahoo, Intel and Citigroup. So far, 24% of the 95 companies in the Standard & Poor's 500 that have reported earnings have missed estimates, Thomson Financial says. That's up slightly from the historical average of 20%. But since another 141 S&P 500 members report next week, it's too early to make any judgments.

The disappointments haven't been severe enough to completely derail what's expected to be a positive earnings season. Companies in the S&P 500 are expected to post 13.1% growth, making it the 15th-consecutive quarter of double-digit growth, says John Butters, analyst at Thomson Financial.

Greenspan's Exit From The Fed Will Be Low-key After 18 Years, He'll Leave The Limelight To His Successor, Bernanke (USAT)

By Barbara Hagenbaugh

USA Today, January 23, 2006

WASHINGTON — Alan Greenspan has little more than a week to go as chairman of the Federal Reserve, and he's going out just as quietly as he came in more than 18 years ago.

No speeches are planned for investors to parse his every word. No testimony is scheduled on Capitol Hill for lawmakers to hear the chairman's opinion on pet issues. And he's not accepting interview requests from the media. He will quietly walk out the door on the evening of Jan. 31 with very little fanfare.

"It's a natural part of the transition," says Tom Gallagher, political economist for ISI Group, an economic consulting firm. "Once his successor was named, it made sense that he kind of take a step back."

Says former Fed governor Lyle Gramley, "Greenspan quite understandably doesn't want to upstage the new chairman."

Former Fed governor and White House economic adviser Ben Bernanke was chosen by President Bush to replace the retiring Greenspan. He has been approved by a Senate panel and is expected to be confirmed soon by the Senate. Bernanke is staying at the Council of Economic Advisers until he takes over Feb. 1.

Greenspan's last day at the Fed will be marked by a luncheon with other policymakers, and a staff reception is scheduled. Small, private parties are also being held around Washington to mark his departure.

Greenspan's quiet departure follows similar exits by other Fed chairmen. Greenspan replaced Paul Volcker in 1987. Volcker, like Greenspan, had a larger-than-life reputation after receiving credit for arresting runaway inflation. He, too, left the Fed with little hoopla.

"There are observances of the occasion occurring at the Fed on a modest scale," former Fed research director Michael Prell says. "I'm not surprised that there isn't anything more."

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But JP Morgan Chase senior economist James Glassman says Greenspan has missed an opportunity to stress his opinions on a variety of matters while still chairman. For example, he could have stressed his views of the positive impacts of globalization in an effort to ease some anti-trade opinions in Congress.

"He should have done a victory lap," Glassman says. But "he somehow just seems to be fading out."

Just because Greenspan is silent now doesn't mean he'll be quiet forever. He has many options, such as writing a book, going on the speaker's circuit or consulting. That would help Greenspan, who made millions as a consultant before joining the Fed, build up his bank account a bit.

"I can't conceive of this guy not continuing his avid interest in what's going on in the world, and if that happens, why shouldn't he sell it?" Gramley says "He deserves to be able to benefit from the fact that he's been in public service for 18 years and has been vastly underpaid during the whole period."

Greenspan's salary in 2005 was $180,100, less than a quarter what he earned in salary, speeches and company director fees the year before he joined the Fed, according to his financial filings at the time.

Iconic Fed Chief Prepares His Departure (AP)

By Nancy Benac

The Associated Press, January 23, 2006

WASHINGTON — America has embraced Alan Greenspan with irrational exuberance. The slight, aging economist with the supersize glasses and claymation facial expressions has inspired a symphonic overture, a country music paean and a red-hot gallery exhibition of "Alan as Art." Queen Elizabeth awarded him honorary knighthood.

"Our contemporary Greek oracle," says linguist Robin Lakoff from California.

"Larger than life," says lawyer Lanny Davis from Washington.

"This guy has become famous for being really, really brilliant and really, really smart about something, but most people have no idea what it is he does," says pop culture expert Robert Thompson from New York.

What he has done, it turns out, is manage the U.S. economy with great assurance for the past 18 years, presiding over an era of remarkable prosperity (interrupted by two mild recessions).

He has done this as chairman of the Federal Reserve Board, a powerful and somewhat mystical institution that guides U.S. monetary policy.

From that vantage, Greenspan has steered the economy through multiple international and domestic crises while keeping inflation and unemployment in check and helping the country adapt to the tectonic shifts of globalization and technology. His influence extends even into the lexicon.

Irrational exuberance? Credit Greenspan for the captivating phrase.

He said it once — in 1996, hoping to temper the zeal of stock investors willing to pay any price. The phrase soon became part of American culture.

When Dickinson College music professor Robert Pound heard it, he decided the phrase would be the perfect title for an overture with an erratic, wild quality that he had been itching to write.

Now, as the 79-year-old Greenspan prepares to retire from the Fed at month's end, Pound has sent him a signed copy of the overture's score to honor Greenspan's work as Fed chairman.

Retrospectives, farewells and tributes to the "Greenspan era" have proliferated since the Fed chief made it known that he is retiring on Jan. 31. His successor will be Ben Bernanke, chairman of the White House Council of Economic Advisers.

Bernanke's first order of business after being nominated was to reassure the world that his priority as Fed head would be to continue the policies of the "Greenspan years." That sent the stock market soaring.

In a 93-page analysis of the "Greenspan Standard" that was released last summer, Princeton University economists Alan Blinder and Ricardo Reis concluded, "We think he has a legitimate claim to being the greatest central banker who ever lived."

Saying goodbye to Greenspan will not be easy.

Vice President Dick Cheney, trying to offer reassurance about the days ahead, spoke well of Bernanke in a Fox News interview, then added: "Besides, Chairman Greenspan is only a phone call away."

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Sen. John McCain, R-Ariz., reflected the country's infatuation with the Fed chief when he was asked in 1999 whether Greenspan should be appointed to another term.

"I would not only reappoint Mr. Greenspan," McCain said, "if Mr. Greenspan should happen to die — God forbid — I would do like we did in the movie, 'Weekend at Bernie's.' I'd prop him up and put a pair of dark glasses on him and keep him as long as we could."

As Economy Thrived Under Greenspan, So Did Debt (WP)

By Nell Henderson

The Washington Post, January 23, 2006

Beverly Wilmore is bracing for the tuition bills about to start rolling in after her 19-year-old daughter starts at Towson University this week. But she's not too worried -- she figures she and her husband can borrow against their four-bedroom Gaithersburg home, which has appreciated from $250,000 when they bought it in 2000 to about $400,000 now.

And as the home's value rose, two years ago the Wilmores refinanced their mortgage, cutting their monthly home-loan payments by hundreds of dollars, she recalled.

Like many families who caught the housing boom, the Wilmores now have more debt than before they bought their home, but they also are wealthier. "I'm thankful for the low interest rate," said Wilmore, 42, a special-education teacher.

The Wilmores are among the millions of Americans who have prospered during Alan Greenspan's 18 years as chairman of the Federal Reserve. They lived through nearly two decades of generally stable economic growth with low inflation, low unemployment and modest interest rates. Under Greenspan's watch, the economy thrived despite stock market crashes, international financial crises, terrorist attacks, wars and other shocks. No wonder, as Greenspan prepares to retire next week, economists have lauded him as the greatest central banker ever.

Still, his legacy will be judged not just by his record at the Fed, but also by the economy he bequeaths. And when he leaves office Jan. 31, Greenspan leaves a nation awash in debt -- record household debt and a record trade gap.

Many analysts say his low interest rate policies contributed to these huge imbalances, which threaten the economy he nurtured.

"The jury is out on his legacy in large part because of the debt" and the trade deficit, said Stephen S. Roach, chief economist at Morgan Stanley. "You will not be able to truly judge his accomplishments until we see how this plays out in the post-Greenspan era."Creating Debt

Greenspan and his Fed colleagues agree that part of the growth in household debt and the trade gap is the side effect of policies that helped steady the U.S. economy after the stock bubble burst in 2000. The Fed's low interest rates encouraged consumers to borrow and spend on houses, autos and other goods, spurring economic growth for several years when businesses were cutting jobs and reluctant to invest. And it was no surprise that consumers spent much of their borrowed money on imports, causing the trade deficit to swell. But in the view of central bank policymakers, the alternative would have been worse -- a longer and more painful downturn.

Greenspan's Fed didn't do it alone, economists agree. Other factors helped fuel the borrowing binge, including global financial trends that have helped keep mortgage rates low and prompted lenders to extend more credit to more people.

The result is a prosperity built on borrowing, say many economists, pointing to a string of recent records and firsts:

· U.S. household debt hit a record $11.4 trillion in last year's third quarter, which ended Sept. 30, after shooting up at the fastest rate since 1985, according to Fed data.

· U.S. households spent a record 13.75 percent of their after-tax, or disposable, income on servicing their debts in the third quarter, the Fed reported.

· The trade deficit for last year is estimated to have swollen to another record high, above $700 billion, increasing America's indebtedness to foreigners.

"The economy's increasing reliance on unprecedented levels of debt is clearly unsustainable and extremely troubling," said Charles W. McMillion, chief economist with MBG Information Services, a financial analysis firm. "The only serious questions are when and how will current imbalances be addressed and what will be the consequences."

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The Fed chairman told Congress in June: "I think we've learned very early on in economic history that debt in modest quantities does enhance the rate of growth of an economy and does create higher standards of living, but in excess, creates very serious problems."

Greenspan didn't define "excess," but economists see troubling possibilities: A sudden reversal in housing prices could trigger a recession if consumers cut back on spending and households have trouble paying their mortgages. The trade gap could swell to a point that forces a sharp fall in the dollar and surge in interest rates, also causing a recession.

Even without a crisis, the debt load will weigh on the economy simply because of the interest to be paid on it, which leaves less money to spend on other things and prevents living standards from rising as fast as they would otherwise, some analysts believe.The Past Five Years

To understand how all this debt built up, recall how things looked in early 2001.

In January 2001, Beverly and Kevin Wilmore were excitedly overseeing construction of their home, looking forward to moving in with their two children the following year.

But from his office at the Fed's marble headquarters on Constitution Avenue NW, Greenspan saw that the economy was sputtering. Stock prices had been sliding for nearly a year after peaking in early 2000 at the height of the tech boom. Retail sales had soured. Businesses were throttling back on production and investment.

On Jan. 3, 2001, Greenspan convened a conference call meeting of the central bank's top policymakers. They agreed to cut the Fed's benchmark short-term interest rate for the first time in more than two years, to 6 percent from 6.5 percent.

That action marked the beginning of an aggressive campaign by Greenspan and his colleagues to prevent the bursting of the stock market bubble from devastating the U.S. economy.

Greenspan had studied the Great Depression of the 1930s and believed it resulted largely from the Fed's mistakes in tightening credit after the 1929 stock market crash. He also had seen Japan's central bank ease credit too cautiously after that country's property bubble burst in the early 1990s, triggering a decade-long economic slump. He would do the opposite, dramatically easing credit -- by cutting interest rates -- to cushion the economy's landing.

The Greenspan Fed lowered its benchmark rate another 12 times over the next 2 1/2 years as the economy struggled to regain its footing, cutting the rate to 1 percent by June 2003, the lowest level since 1959.

The benchmark federal funds rate, the overnight rate on loans between banks, influences many other longer-term rates in the economy, including those on mortgages, car loans and business loans. Low interest rates encourage consumers and businesses to borrow and spend, stimulating economic growth.

The Fed's rate cuts had little effect on corporate America, which had overinvested in equipment, software and factories during the late 1990s boom; businesses retrenched, slashing both payrolls and spending plans, tipping the economy into recession from March through November of 2001.

But low interest rates worked like an intoxicant on consumers, who snapped up new cars and trucks with no-interest loans and seized on low mortgage rates to buy new homes and refinance old home loans. Those sales and refinancings freed up more cash to spend. Households used much of that extra money to pay off credit cards, student loans and other, higher-interest rate debt -- "cleaning up their balance sheets," in economists' terms. They also kept shopping through the recession, the terrorist attacks and the rocky economic recovery that followed.

The tonic worked. Household spending rose in 2001, 2002, and 2004, even as the wealth and income of the typical household fell or remained flat in the same period, according to an analysis by Moody's Economy.com. The recession was one of the mildest on record. The economy has been growing since November 2001 and was strong enough by mid-2004 for the Fed to start raising the benchmark rate.

Fed officials expected then that longer-term rates, such as mortgages, would rise as well, causing consumers to borrow less and save more.

But it didn't work out that way. For several reasons -- low inflation, economic stability and foreign investors pouring their savings into U.S. stocks, bonds and other assets -- long-term interest rates fell for a year after the Fed started raising the benchmark rate and have stayed relatively low.

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Mortgage rates also fell, prompting homeowners to refinance repeatedly. Changes in the financial industry made it easier for homeowners to tap their home equity through refinancing. Lenders provided adjustable-rate mortgages that enabled home buyers to pay higher prices while temporarily making low monthly loan payments.

The housing market kept booming. Consumer debt and spending kept climbing.Living With the Debt

Many households are happy with the results. Homeownership climbed above 69 percent in late 2004, which means millions more people gained a store of wealth that can grow and be available in hard times.

And home values have skyrocketed, pumping up household wealth to a record $51 trillion in the third quarter, according to Fed data.

But household debt rose faster in recent years than wealth or disposable income, reaching an unprecedented 126.1 percent of after-tax income in the third quarter, double its 1980 level.

All this debt isn't straining households so far. Late payments on credit card loans and other forms of consumer debt declined in the third quarter, the American Bankers Association reports. Although delinquency rates probably rose in the last three months of the year because of the delayed effects of the hurricanes, those rates are likely to fall this year because of the strong economy, said ABA chief economist James Chessen. "I think it will be a pretty good year for consumer debt and the ability to pay your loans," he said

These national figures combine all U.S. households, but debt tends to weigh most heavily on low-income families, other analysts note.

Many households with incomes below $50,000 a year, the bottom half of the income distribution, have mortgages at higher interest rates, plus car loans, student loans and credit card debt, said Mark Zandi, chief economist at Economy.com. "Their balance sheets are a mess," and they will have a harder time as interest rates rise, he said.

Indeed, U.S. households collectively spent more than their combined income in the second and third quarters of last year. The only way to do that is by selling assets, dipping into savings or borrowing.

When questioned on Capitol Hill in June about criticism that the Fed's strategy had helped inflate a housing bubble, Greenspan suggested that such imbalances were an acceptable price for avoiding another depression or a Japan-like economic stagnation.

"We knew that in the process of what we were doing -- that is, addressing the consequence of a very severe deflation of a [stock] bubble -- carried with it potential side effects," Greenspan said. "As best we can judge, things have turned out reasonably as we had expected, both positively and negatively, but in our judgment, the positive effects of the policy far exceeded the negative ones."

If Greenspan's strategy of raising rates in small, steady steps works, rising interest rates will cause the housing market to simmer gradually, households will save more, and the trade gap will narrow without great damage to the overall economy.

If so, Greenspan will go down in history with his reputation untarnished.

As Beverly Wilmore put it, as she recounted her family's recent experience, "We've prospered."

Runway Reports Often Unreliable Braking Conditions Not Always What Pilots Told (USAT)

By Alan Levin

USA Today, January 23, 2006

An antiquated warning system for the nation's pilots has led dozens of them to receive unreliable information about slippery runways and to land in dangerous conditions, according to a USA TODAY review of accidents and pilot reports during the past decade.

In at least 42 cases since 1995, pilots of commercial and corporate aircraft reported skidding off runways after receiving reports that the runways were safe, according to NASA's Aviation Safety Reporting System.

The reports shed light on the weaknesses of a warning system in which pilots rely on other pilots who have landed recently on slick runways to report conditions on a scale that ranks braking from “good” to “nil.” The reports, relayed by air traffic controllers, are subjective, and the braking abilities of different types of planes vary.

Icy conditions came into play in last month's crash of a Southwest Airlines jet, which skidded off a snowy runway at Chicago's Midway Airport and onto a nearby road. The jet struck a passing car, killing a 6-year-old boy.

Among the issues being investigated are the condition of the runway and the information passed to pilots by controllers, says Keith Holloway, a spokesman for the National Transportation Safety Board.

Pilots and investigators have long complained that pilots aren't given enough information about slippery runways, accident records show. It "can be a life-and-death matter," says Bernard Loeb, ex-chief of the NTSB's aviation division.

Most of the cases reviewed by USA TODAY occurred during winter months. No one was injured.

The NTSB has issued recommendations for a better system since 1982, when two passengers died at Boston's Logan International Airport when a World Airways DC-10 skidded off the end of an icy runway and broke apart.

"We don't really have a good standardized method to determine if the runway is contaminated," says Capt. Mitchell Serber, a pilot who specializes in runway safety for the Air Line Pilots Association.

The Federal Aviation Administration, which regulates airlines and airports, has sought better ways to inform pilots about slippery runways, spokeswoman Laura Brown says. She says there is no practical way with current technology to create a more standardized system.

Youths Support Abstinence As Sex Education (WT)

By Jennifer Harper, The Washington Times

The Washington Times, January 22, 2006

Critics of abstinence-only sex-education programs may be too hasty in judgment. There is support for the method among age groups that count -- the young.

According to a new Harris Poll, 56 percent of people ages 18 to 24, and 60 percent of those 25 to 29 think abstinence programs effectively reduce or prevent the occurrence of HIV/AIDS. Another 49 percent of people ages 18 to 24 and 52 percent of those ages 25 to 29 say the programs reduce or prevent unwanted pregnancies.

Among six age groups and three political groups, younger respondents showed the strongest support for abstinence over safe-sex programs.

"The most striking, and surely the most important differences among various demographic groups are the differences between younger and older adults," the poll states. "Adults under the age of 30 are more likely to believe that abstinence programs are effective, and it is of course these adults who are the main targets for the programs."

Indeed, the poll found that 43 percent of 30- to 39-year-olds felt abstinence programs were effective against HIV/AIDS; the number fell to 41 percent among those 40 to 49, 37 percent among those 50 to 64 and 31 percent for those older than 65.

Older people less often agreed that the programs were effective against pregnancy -- ranging between 30 percent to 33 percent among those from 40-plus to more than 65 years.

The findings also had a partisan divide.

Among Republicans, 50 percent felt abstinence programs were effective against HIV/AIDS and 46 percent felt they countered unwanted pregnancies. Among Democrats, the numbers were 39 percent and 28 percent, respectively. Among independents, the numbers were 34 and 32.

The poll of 1,961 adults was conducted Dec. 8-14..

The U.S. Department of Health and Human Services set aside $31 million two years ago to help 50 communities in 22 states and the District develop abstinence-only education programs. A first-year review by HHS revealed a cultural change: Majorities of the participants had experienced a change in attitude.

The agency found that students had become more supportive of abstinence and less supportive of teen sex, with a keener awareness of the consequences for risky behavior.

Researchers at Ohio's Case Western Reserve University School of Medicine had similar findings after they examined the effectiveness of For Keeps, an abstinence-until-marriage program for 25,000 students in Cleveland.

"Abstinence-only intervention can influence knowledge, beliefs and intentions, and among sexually experienced students may reduce the prevalence of casual sex," said epidemiologist Elaine Borawski.

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"Kissing is Good," an investigation of youthful sexual behavior released last month by the University of Tennessee, found that teens who only kissed had "better relationships" with one another -- and in future romances.

Illinois Amputee Among 10 Post-9/11 Veterans Making Runs For Congress (USAT)

By Andrea Stone

USA Today, January 23, 2006

ELK GROVE VILLAGE, Ill. — The lunchtime crowd is thinning at Portillo's Hot Dogs near O'Hare Airport when the candidate arrives. Leaning on a cane, she moves slowly on her $120,000 bionic legs with a stooped and halting stride. "Hi! I'm Tammy Duckworth, the Iraq war veteran running for Congress. You might have heard of me?" she says, extending her mangled right arm to shake hands.

Indeed, many here in Chicago's western suburbs have already heard of the Illinois National Guard helicopter pilot who lost both legs and full use of her right arm when a rocket-propelled grenade hit her Blackhawk in a 2004 attack in Iraq.

Maj. Ladda "Tammy" Duckworth, 37, spent nearly a year at Washington's Walter Reed Army Medical Center, and her rehabilitation has been chronicled in national media, including USA TODAY.

Duckworth is the only seriously wounded combat veteran running this year for Congress, whose ranks of members with military experience are at their lowest since World War II, according to Congressional Quarterly.

But at least nine other veterans who served in the post-Sept. 11 military have announced House bids. All but one — Republican Van Taylor in Texas — are Democrats who have criticized the Bush administration's conduct of the war. They join dozens of older veterans from both parties touting military credentials as U.S. troops head into a fourth year in Iraq.

Veterans have long returned from battle to continue their public service in politics, but the current field of candidates with military experience may be the largest since World War II.

The new candidates reflect their times. Support for the war, and the Republican administration behind it, is at its lowest: 61% disapprove of President Bush's handling of Iraq, according to a mid-December USA TODAY/CNN/Gallup Poll.

Duckworth says it was "a bad decision" to invade Iraq. So she is competing on another field of battle: politics. She hopes to succeed retiring Rep. Henry Hyde, a Republican who has held a House seat for more than 30 years. Duckworth must first beat two other Democrats in a primary and then take on Peter Roskam, a Republican state senator in the GOP-leaning district.

Duckworth says politics doesn't compare to what she's already overcome. She recalled the "nightmare" of Nov. 12, 2004, when crewmates struggled to carry her maimed body to safety, dropping her because her gushing blood made her too slippery.

"They gave me a second chance at life," she said, choking back tears, during an interview. "I've just got to do something — just to be more."

John Szeliga, 29, a salesman here, is the kind of voter Duckworth and her fellow veterans-turned-candidates hope to attract. "Her story is pretty cool," he said. "Being a veteran, crashing a helicopter, now running for Congress. Not too many people do that."

At least not lately. One in four House members and fewer than one in three senators have served in the military, Congressional Quarterly says. In the USA, 12% are veterans, the Census Bureau says.

After World War II, future presidents John Kennedy and Richard Nixon were among veterans who ran for Congress almost as soon as they got home. It took more than a decade for Vietnam veterans, many of whom were reviled for their role in the unpopular war, to get into national politics. Today, their ranks include Sens. John McCain, R-Ariz., and John Kerry, D-Mass.

Republicans tried in 1992 to recruit Persian Gulf War veterans to challenge Democrats who opposed ousting Saddam Hussein from Kuwait. Few answered the call.

Today, Democrats lead the recruiting drive, focusing on GOP-majority districts where being strong on defense plays well.

The numbers of veterans running as Democrats are all the more remarkable given a Military Times Poll late last year that found 56% of active-duty troops consider themselves Republicans and 13% are Democrats.

"Since Vietnam, the Democratic Party has been viewed as the weaker on national security issues," University of Virginia political scientist Larry Sabato says. "Who better to make the case than veterans of the war? It's hard to accuse them of a lack of patriotism."

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Democrats thought they inoculated themselves when they nominated Kerry, a Vietnam combat veteran, for president in 2004, only to see his military record picked apart over his later anti-war activities.

Being a veteran isn't enough, says Stuart Rothenberg, editor of the independent Rothenberg Political Report. He says some Democrats have rallied around political novices with military experience after they couldn't attract more experienced candidates.

"A strategy based merely on recruiting veterans, even Iraq war veterans, overemphasizes a single credential," Rothenberg says.

Carl Forti, a spokesman for the National Republican Congressional Committee, agrees. "You also have to be a good candidate," he says.

Still, some Democrats took heart from a special House election in August, when Iraq combat veteran Paul Hackett lost by fewer than 4,000 votes in an Ohio district that went 64% for Bush in 2004.

The Republican who beat him, Jean Schmidt, helped rally Democrats in November during a heated House floor speech. She said a constituent asked her to tell Rep. Jack Murtha, D-Pa., a decorated veteran who has called for troop withdrawals in Iraq, that "cowards cut and run, Marines never do."

"When Schmidt called Jack Murtha a coward, she called each and every one of us a coward," says Eric Massa, a former military aide to Gen. Wesley Clark, who is challenging Rep. Randy Kuhl, R-N.Y.

Massa and Duckworth are among the "Fighting Democrats" party leaders hope will help recapture the House after 12 years of GOP rule. Some have formed a political action committee (www.bandofbrothers2006.org) to support veteran-candidates and fight back against conservative campaigns like the ones that targeted Sen. Max Cleland. The Georgia Democrat, who lost three limbs in Vietnam, was defeated in 2002 by Republican Saxby Chambliss, who ran ads picturing Cleland with Osama bin Laden.

Cleland says there is "a disquiet in the gut" of returning veterans. "They want to come back and tell the truth about Iraq," he says.

The Democratic veterans differ on domestic issues but contend the Bush administration failed to provide enough troops, armor and planning in Iraq and has no strategy to get out. Some, such as Duckworth, say troops should be withdrawn gradually. Others, such as Patrick Murphy, a military lawyer who served in Baghdad and is challenging Rep. Michael Fitzpatrick, R-Pa., favor a timeline for withdrawal.

"They can't give us a snow job," says Murphy, 32. "We've seen with our own eyes."

The candidates insist they are not one-issue politicians. Chris Carney, a Naval reservist who served as a special adviser at the Pentagon two years ago, says he decided to run against Rep. Don Sherwood, R-Pa., last March at the height of the right-to-die controversy over Terri Schiavo.

"I didn't think it was Congress' business" to get involved with the brain-damaged woman's fate, he says. "That was the final straw of politics at the extreme."

It was no accident, either, that Duckworth's first campaign speech was on a subject of great interest in her upper-middle-class district: taxes targeting the affluent. "If I suck you in here because of my legs, that's great," she said. "Now let's talk about the really important stuff to people in my district."

Rothenberg calls Duckworth "one of the stronger" veterans running. Her story and charismatic personality first caught Democrats' attention soon after she arrived at the Army rehab hospital in Washington. It was there that Sen. Dick Durbin of Illinois, the Democrats' No. 2 leader, first met her and invited her to attend last year's State of the Union address.

"Seeing the pageantry of what I had just given up my legs for was very emotional," she recalls. Duckworth returned to Capitol Hill in March to testify about veterans' care and was struck by "the need to have more people serving in Congress who've been there."

When Durbin asked her to run last summer, she thought, "It's my generation's turn to step forward."

The national party's enthusiasm for Duckworth wasn't matched, at least initially, among local Democrats, who noted she lives 3 miles outside the district. The Constitution requires only that representatives live in the state, and Duckworth says she is "emotionally attached" to her house, which was modified for her wheelchair.

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Before Duckworth got in the race, local Democrats had backed Christine Cegelis, a computer consultant who won 44% of the vote against Hyde in 2004. But Cegelis has raised little money and lacks Duckworth's "star power," University of Illinois-Springfield political scientist Kent Redfield says.

Wheaton College professor Lindy Scott is also running in the primary.

Roskam says that after "knocking on 3,500 doors," he believes Iraq isn't a "resonant theme" for voters.

But at a recent meeting in Schaumburg, Democratic activists sat raptly as Duckworth rattled off stories about Iraq, including how U.S. forces gave body armor to Iraqi troops just before missions so they wouldn't sell it to insurgents.

The next day, even Cegelis admitted Duckworth's war stories were "extremely compelling," noting they opened her eyes to what is happening in Iraq. Still, she says the move to field veterans instead of more liberal candidates who she believes would appeal to the party's base is "about symbols, and that's very disappointing."

Democratic committeeman Rocco Terranova says that although many "were a little disenchanted" when Duckworth was drafted into the race, they've adjusted.

"She's a war hero," he says, "and the war's on everybody's mind."

Fixing Children's Services (NYT)

The New York Times, January 23, 2006

In a city that has seen child abuse fatalities before, the death of Nixzmary Brown, just 7 years old, was a particularly horrifying one. She endured what may have been months of torture and starvation while in the care of her stepfather and mother, finally succumbing after a beating that police said was prompted by a missing container of yogurt. What raised the level of outrage was the disclosure that city workers inexplicably ignored or bungled opportunities to save her.

It's reassuring that Mayor Michael Bloomberg acknowledged the city's failures, and that child welfare workers and supervisors involved in the case have been suspended or reassigned. Some may lose their jobs. A larger investigation will take place and thousands of cases are being reviewed. The self-examination, though, cannot stop there.

Within about two months of Nixzmary's death, three other children, also known to New York's department of child welfare, died in the care of their parents. All four lived in Brooklyn. Three - including Nixzmary - were handled by the Administration for Children's Services office in Bedford-Stuyvesant. One toddler drowned in a bathtub while his mother listened to music in the next room. Police say another child was fatally beaten by her father, and in another case a baby was reportedly squeezed until his ribs broke. It all recalls a time a decade ago when Elisa Izquierdo, a 6-year-old who had been repeatedly abused, was killed by her mother, and the city, in response to the outcry, created Children's Services.

The public is always rightfully enraged when one of these awful deaths occurs because the government was indifferent to the needs of its most fragile citizens. But perhaps it is even worse - certainly it is more frustrating - when the city seems to have been trying hard to meet its obligations. Since the death of Elisa Izquierdo, New York has devoted an increasing amount of attention and money to protecting children at risk. The Bloomberg administration - which has shielded Children's Services from budget cuts it demanded from other city agencies last fall - says that caseworkers are not overburdened. Each handles a load of fewer than 12 cases at a time, the city says, well below a national standard of about 15.

Some employees at Children's Services point to the city's very strong policy of trying to keep even very troubled families intact as a source of tension. The idea that even parents who are potential abusers may be allowed to keep their children is troubling, except to those who remember the many ruined lives that emerged from the foster care system back when city workers were urged to remove children from any doubtful home. Perhaps the balance needs to be readjusted, but there are no perfect solutions when it comes to this kind of choice.

However hard New York has tried, the very fact that City Hall has announced it will be hiring 525 additional child-protection workers suggests more can be done. And while Children's Services was progressing, the improvement seemed to bypass the office in Bedford-Stuyvesant. That is an old story: a troubled corner of an agency with a high-stress mission, a place where bad workers are dumped while most good employees flee as soon as possible. And the last chapter is almost always a terrible one.

Iran Warns Against UN Referral (FT)

By Roula Khalaf And Gareth Smyth In Tehran

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Financial Times, January 23, 2006

Iran's top nuclear official on Sunday warned Tehran would resume efforts to enrich uranium on an industrial scale if its case was reported to the UN Security Council, further raising the stakes in the crisis over its nuclear programme.

Tehran earlier this month moved to resume nuclear research, including some small-scale enrichment. But Ali Larijani, secretary of the Supreme National Security Council, which handles the nuclear issue, said in an interview with the Financial Times that a referral to the United Nations would force Tehran to broaden significantly the scale of such work.

"If the case goes to the Security Council, we're obliged . . . to lift all voluntary measures," he said, specifying that this included industrial-scale uranium enrichment.

The European Union and US have been pushing to get Iran's case reported to the UN Security Council since Tehran announced it would restart its nuclear research two weeks ago. The US and European governments consider the move a breach of a 2004 agreement with Iran.

A referral could come as soon as next week at an extraordinary session of the International Atomic Energy Agency, the governing board of the UN's nuclear watchdog. Such a move could lead eventually to sanctions.

The US and EU argue that involving the Security Council would strengthen the IAEA's hand. But Mr Larijani's warning appears designed to show that greater diplomatic pressure would instead undermine both the IAEA's work and attempts to curtail Iran's programme.

Iran has always intended to develop industrial-scale uranium enrichment, which can be used for nuclear reactors or atomic weapons, but stopped all preparatory work during two-year talks with Europeans.

Nuclear experts say assembling enough centrifuges and preparing for industrial production could still take years.

Mr Larijani spoke at the start of a week of intense diplomacy. European officials will visit capitals represented on the 35-member IAEA governing board to lobby for an EU-backed resolution on referral.

Meanwhile, Mr Larijani is likely to be in Moscow to discuss a Russian proposal to find a compromise, an effort to forestall the Europeans or at least temper the tone of any IAEA resolution.

Moscow has proposed a joint venture to enrich uranium on Russian soil for use in Iranian reactors. In his interview Mr Larijani said the proposal "had to become complete. Gaps have to be filled.

"We have to see what potential this idea has for being productive," he said.

"There are two issues to be considered: one is Iran's right to enrichment, and the other is non-diversion [of nuclear material to weapons].

"Any solution should be consistent with these two considerations. The scale, extent and timing can all be discussed."

Iran Mocks West Over 'N-weapon Design' Request (FT)

Financial Times, January 23, 2006

Iraq's top security official on Sunday ridiculed western governments' request for a document said to show a weapons design obtained from the illegal nuclear procurement network of Pakistani scientist A.Q. Khan, and suggested Tehran would not hand it over to UN inspectors.

"If you can find anyone in the world who can make a bomb with one and a half pages, we will cover their whole body with gold," Ali Larijani, secretary of the Supreme National Security Council, told the FT.

According to the International Atomic Energy Agency, the UN watchdog, in January 2005 Iran showed the agency a document it received in 1987 on casting enriched uranium into "hemispherical forms", a design consistent with weapons production.

Iran says the document was offered by the procurement network without Iran requesting it.

European diplomats argue the document, which Iran refused to give to UN inspectors, backs up suspicions Tehran has nuclear weapons ambitions – something it has always denied. The request for the document was included in letters sent by the five permanent members of the UN Security Council to Iran earlier this month. But Mr Larijani said the document was "not important" and those seeking it merely wanted to use it as "propaganda" against Tehran.

The spat over the document reflects the frustration of IAEA inspectors at the pace of Iranian co-operation.

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Mr Larijani – who travelled to Vienna last week to meet Mohamed ElBaradei, the IAEA director – said Iran was determined to keep close relations with the agency. But he said "there should be a limit" to demands for access to military sites, particularly as Iran had already allowed inspectors into "more than 20" military installations.

Mr Larijani argued Iran was not to blame for the breakdown in talks with the so-called EU3 – France, Germany and the UK. He said the aim of the negotiations had been finding "objective guarantees" Iran could not divert material from its nuclear programme for weapons use, and that Tehran had therefore agreed to suspend all uranium enrichment activities while talks continued.

"After two and a half years, the Europeans came up with a proposal that covered everything apart from nuclear fuel production," he said. "At this point, we distrusted them."

European officials say the talks' failure and Iran's recent resumption of nuclear research have left them no choice but to report the case to the Security Council, where they want a more authoritative call on Tehran to co-operate with the IAEA and resume the suspension.

But Mr Larijani said there was "no international consensus" against Iran, despite European confidence of a majority at the 35-member IAEA board meeting due on February 2-3. He suggested Europe would lose as much as Iran from escalation. While playing down reports Iran was moving financial assets out of European banks – he said such transfers occured all the time – Mr Larijani said Europe could put at risk economic interests in Iran, including in the energy sector. "Isolation is not without problems [for us], but it also makes problems for others," he said. "This is a lose-lose game and we don't recommend it."

West Talks Tough With Iran, Treads Lightly (WSJ)

By Carla Anne Robbins, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, January 23, 2006

WASHINGTON -- As U.S. and European officials press to have Iran brought before the United Nations Security Council, they are also promising that Tehran won't face serious punishment there -- for quite a while.

Iran has few friends left after deciding to resume efforts to enrich uranium, a process that could advance it a big step closer to being able to build a nuclear weapon. But there are reasons the move toward international penalties might not be swift. As the Organization of Petroleum Exporting Countries' second-largest producer, Iran has considerable economic leverage. It also may benefit from the "Iraq effect." There is widespread anxiety that any U.N. action -- unless carefully constrained -- could open the door for another U.S.-led war.

Even as they press for a showdown with Tehran, American officials privately acknowledge that they aren't sure how to calibrate political or economic sanctions to bring maximum pressure on Iran's leadership without alienating the country's pro-reform and pro-American public. In recent weeks, officials in Washington and London have begun thinking about an aggressive public-relations campaign, beamed into Iran, to counteract Tehran's certain efforts to incite a strong nationalist backlash.

Explicit and perceived threats have been ping-ponging across the Mideast and Europe, with the Bush administration sounding comparatively more restrained.

Iran said Friday that it is pressing OPEC to cut oil production, and its officials have offered conflicting accounts of whether they have started pulling currency from overseas banks to avoid sanctions. In a speech on France's nuclear deterrent last week, President Jacques Chirac warned that any state considering using "terrorist means against us" might face a nuclear response -- a threat some saw as directed at Tehran. And Israel's defense minister warned that his country "will not be able to accept an Iranian nuclear capability."

U.S. and European officials say they expect to win a solid majority of votes for a referral to the U.N. when the 35-member board of the International Atomic Energy Agency meets in Vienna early next month. The Russians are still arguing for postponing action at least until March, and Western diplomats say they have yet to decide whether it would be better to wait for Moscow's vote with no guarantee that it will ever materialize.

Hoping to calm anxieties, British Foreign Secretary Jack Straw has repeatedly pledged that military action against Iran is "not an option" for either Britain or the U.S.

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American officials have been less definitive, but they, too, have been emphasizing that pressure on Iran will be applied "gradually" and "incrementally," and that any real discussion of sanctions is likely still months down the road.

How Iran will react is hard to predict. For two years, it has managed to sidestep a referral with a series of last-minute concessions. And the Russians are still offering -- with U.S. and European support -- a compromise that would have Iran's uranium processed into low-enriched power-plant fuel on Russian soil.

Iran says its program is peaceful. But hard-line President Mahmoud Ahmadinejad has made clear his disdain for international opinion and shown little interest in Moscow's proposal. His government, which earned billions of dollars in oil revenue last year, is also getting richer, as each defiant statement drives up prices on the international oil market. If the crisis gets hotter, Iran runs the risk of driving away other business. In a possible sign of that, a spokesman for UBS AG said the Swiss bank would cease doing business with customers in Iran.

Abbas Milani, an expert on Iran's politics at Stanford University's Hoover Institution, says Iranian government officials believe "they've already bought the Chinese and Russians" with oil and other financial deals. And "they believe if the price of oil goes high enough, the Europeans will back down."

U.S. and European officials have begun preliminary discussions about strategy once Iran's case is referred to the Security Council. The pace of any action, they say, will likely be driven by Tehran's response: whether it signals an interest in compromise, or makes good on its threats to stop cooperating with U.N. arms inspectors or to begin large-scale enrichment.

In the current environment, the likely first step would be either a presidential statement (less formal but requires the consensus of all 15 Security Council members) or a resolution (which requires nine votes and no veto). Either would call on Iran to suspend uranium enrichment, return to negotiations with the Europeans, and provide fuller access and answers to IAEA inspectors.

Given the nervousness of veto-wielding members China and Russia, this first effort is unlikely to include any, even generic, threat of punishment. But U.S. and European diplomats say they are likely to press for the first resolution to be brought under the U.N. Charter's Chapter VII, which gives the Security Council power to compel action by member states to "restore international peace and security." With memories of the Iraq debate ever present, Russia, China or other council members may resist, fearful that Chapter VII could be the first step toward an "all-necessary-means" resolution, opening the door to military action.

If Iran fails to comply, officials say, there could still be one or more resolutions warning of possible punishments, without imposing any. One senior U.S. official notes that it took eight months and two resolutions for the Security Council to threaten Syria last fall with possible "further action," if it failed to cooperate with the investigation into the assassination of former Lebanese Prime Minister Rafik Hariri. The council has yet to impose any punishments in that case.

As for what sanctions the U.S. and Europe might press for, officials say they could start with a travel ban for key government leaders and a ban on sales to Iran's nuclear and missile programs and any front companies. A difficult question, however, would be whether to prohibit further Russian involvement in Iran's nearly completed civilian nuclear-power plant at Bushehr. Beyond Moscow's likely resistance, diplomats say, the move would play into Tehran's claim that the West is trying to deprive the country of peaceful nuclear power.

The U.S. and Europe might also argue for a freeze of financial assets for key government figures, and a ban on sales of military and dual-use items. Stiffer penalties might include bans on investments in Iran's oil industry or even sales of oil and gas equipment.

Whether Russia or China would go along is unknown. Three years after the IAEA referred North Korea to the Security Council, the council has yet to act because of Chinese opposition. U.S. and European officials also acknowledge they don't know which, if any, of these pressures is likely to get Tehran to blink.

Mr. Milani from the Hoover Institution is arguing for "smart sanctions": cracking down on the government's finances, and military- and nuclear-related trade, while encouraging significantly more contact and trade with Iran's civil society, in hopes of sparking a democratic movement. He acknowledges that such a policy would be politically difficult for the U.S. to put into practice, especially amid the standoff, and it could take years to produce results.

He is skeptical that any outside pressure, short of a full ban on Iran's gasoline imports and oil and gas exports, would persuade Mr. Ahmadinejad and the clerical establishment to curtail their nuclear ambitions.

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Iraq's Sadr Says His Militia Will Support Iran (REU)

Reuters, January 23, 2006

TEHRAN, Jan 22 (Reuters) - Firebrand Iraqi cleric Moqtada al-Sadr has assured Iran that his Shi'ite Muslim militiamen will support the Islamic Republic if it comes under attack, the official IRNA news agency reported on Sunday.

Although the United States and Israel have said they prefer diplomacy as a means to solve a dispute over Iran's atomic programme, they have not ruled out military options.

Washington accuses Iran of seeking nuclear weapons, a charge Tehran denies.

"If neighbouring Islamic countries, including Iran, should come under attack, then the Mehdi Army will support them," Sadr said on a visit to Tehran.

Sadr's Mehdi Army militia rose up against U.S. occupying forces in Iraq in 2004.

In Iran, Sadr has met Ali Larijani, secretary of Iran's Supreme National Security Council, and Foreign Minister Manouchehr Mottaki.

In Iran, Power Written In Stone (WP)

By Karl Vick

The Washington Post, January 23, 2006

PERSEPOLIS, Iran -- Wearing a stocking cap and an air of indignation, Mohammad Ahmadi pointed to the wall in front of him. It bore a splendid frieze dating from early in the millennia-long span of Iran's existence -- as a nation, an empire or simply a group of people who speak the same language.

"These are Armenians," Ahmadi said of three figures carved in vivid profile, one leading a horse. "They were bringing gifts to the king of Iran 2,500 years ago. And now they have a nuclear power plant.

"Do you want to see the Indians?" he said, indicating a lower column. "They didn't have shoes. Now they have nine nuclear plants.

"I am not a political person. I only finished high school, and I do not have much knowledge. But if I think like this, imagine how the others think."

If any doubt remains that Iranians support their government in its quest to harness the atom, the answer comes quickly and emphatically in Persepolis, the magnificent ruins that symbolize the ancient pride and fading glory bound up with the nuclear issue here.

Ordinary Iranians overwhelmingly favor their country's nuclear ambitions, interviews and surveys show. The support runs deep in the population of 68 million, cutting across differences of education, age and, most significantly, attitudes toward the fundamentalist government that the Bush administration says is intent on using an energy program as a cover for developing atomic weapons.

"Look at all this civilization!" said Mehrdad Khanban, 23, the sweep of his arm taking in the towering pillars and regal staircases of the stone city founded by Darius the Great in about 518 B.C. in the southern corner of Iran first known as Persia. "What has George Bush got? And he's telling Iranians what to do?"

Interviews with Iranians touring the ruins on a holiday weekend here suggest the breadth of the challenge facing Western powers determined to freeze Iran's recently reactivated nuclear program. The Tehran government this month ended a two-year moratorium on nuclear research by removing seals placed on uranium enrichment equipment by the International Atomic Energy Agency, the U.N. watchdog on nuclear power. In the diplomatic flurry that followed, European and U.S. officials began maneuvering toward referring Tehran to the U.N. Security Council, which could impose sanctions.

The threat has had no visible effect here.

"We will cope," Khanban said with a shrug. A soccer coach from the city of Karaj, near Tehran, he said he was no fan of Iran's ruling clerics or its hard-line president, Mahmoud Ahmadinejad, whose fiery rhetoric against Israel has alarmed many outside the country. But Khanban separated Iran's government from its aspiration to produce nuclear power -- bad news for Western diplomats who hope to cleave Iran's government from its people on the nuclear issue, perhaps through so-called smart sanctions such as restrictions on official travel abroad.

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"There are so many people who don't like our government, who do not like it at all," Khanban said. "But they do not want this country to be ruled by foreigners. Like Iraq, for example."

"Everyone is united on this," said Rahimeh Goodarzi, 52, clutching her enveloping black chador to her chin at an exhibit of artifacts. "We love our country."

Many Iranians also emphasized that their enthusiasm was for nuclear power, not weapons.

"We really want it. Every country should have it. But I don't think it should be used for military purposes," said Parisa, 28, who was visiting from nearby Shiraz. Enjoying the sun on a stone slab, she declined to provide her surname after criticizing the government. "Everybody I know says they want it, but they want it for peaceful purposes."

Iran's copious oil and gas reserves will eventually run out, Parisa said, and in any case petroleum has brought little good to the people. "It's black magic," she said. Per capita statistics show ordinary Iranians are less well off than they were 30 years ago, and many see investment in technology, including nuclear research, as a revival of development that had slowed in Iran in recent decades.

"If you look at this place, you realize that 2,500 years ago Iranians were very advanced, more than other people," said Abolghasem Fotoohi, 32, an engineer from the eastern city of Mashhad. "Any Iranian would like his country to improve, and then we would not need other countries. We could stand by ourselves."

Arta Menhadji, who studied metallurgy but works as a soccer coach, found an example in the museum tucked in the center of the ruins, guarded by huge sculptures of a beast with the body of a bull, the wings of a bird and the head of a bearded man. One exhibit showed a bowl used for melting metal in ancient times.

"At the moment, we haven't got much to talk about in metallurgy, especially compared to America. A nuclear industry would involve some things related to that," he said.

"Yes, it's obvious," Khanban said. "I mean, look at this place. At the time it was built, there was no America. See where we were then and where we are now. And see where they were then and where they are now."

Inside the museum, Aboozar Ghalenoi, 24, pointed out a framed declaration. Translated from cuneiform, it was attributed to Xerxes, the son of Darius who ushered Persepolis to a glory that survived only until the city was sacked by Alexander the Great in 330 B.C.

"I am not hot-tempered," the text declared. "What things develop my anger, I hold firmly under control by my thinking power. I am firmly ruling over my impulses."

"Did you read that and know that Iranians are not after nuclear weapons?" Ghalenoi asked. "All the great people of Iran have always spoken about peace. We need nuclear power for electricity and for medical uses.

"But countries like Israel, that's not what they want," he went on. "They want to use it against people. Unfortunately, the Americans support them."

The shift from civilian to military came easily, at least in conversation.

"You see, Israel has got so many of them," said Mohsen Seddighi, carrying his daughter on his shoulders. "And even Jacques Chirac is saying: If any country attacks us, we're going to use it. So why shouldn't we have it?"

At the company he works for, a domestic airline, "99 percent, even 100 percent of people are together on this," Seddighi said. "For civilian use."

Iran: Israel Engaged In 'Childish Game' (AP)

By Nasser Karimi, Associated Press Writer

AP, January 23, 2006

Iran said Sunday that Israel would be making a "fatal mistake" if it takes military action against Tehran's nuclear program and dismissed veiled threats from the Jewish state as a "childish game."

On Saturday, Israel repeated that it would not accept a nuclear Iran under any circumstances and was preparing for the possible failure of diplomatic efforts.

While Defense Minister Shaul Mofaz stopped short of an outright threat of military action, he said Israel "must have the capability to defend itself...and this we are preparing."

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Iranian Foreign Ministry spokesman Hamid Reza Asefi said Israel was only trying to add to Western pressure on Iran to give up its nuclear program.

"We consider Mofaz's comments a form of psychological warfare. Israel knows just how much of a fatal mistake it would be (to attack Iran)," Asefi told reporters. "This is just a childish game by Israel."

Israel views Iran as its biggest threat and has joined Washington in accusing Tehran of trying to building nuclear weapons. Iran says its nuclear program is for electricity generation.

German Foreign Minister Frank-Walter Steinmeier cautioned Sunday against a "militarization of thinking" on how to keep Iran from developing nuclear weapons.

"Rather, we should see that we use and exhaust to the best of our powers the diplomatic solutions that remain available," Steinmeier said in an ARD television interview.

Israel, whose warplanes destroyed an unfinished Iraqi reactor in 1981, maintains a nuclear monopoly in the Middle East. While it neither acknowledges nor denies nuclear arms, Israel is thought to have about 200 nuclear warheads deployed on ballistic missiles, aircraft and submarines, according to the Washington-based Carnegie Endowment for International Peace.

Asefi's threats were not limited to Israel, and he warned European powers to resume talks.

"We advise them (Europe) not to choose any path except dialogue. If there is a retribution to be paid, that will include Europe too," Asefi said, adding that Iran plans to continue cooperation with the UN nuclear watchdog, the International Atomic Energy Agency.

Last week, European powers drafted a resolution calling for Iran's referral to the U.N Security Council to resolve its nuclear issue. The resolution stopped short of calling for sanctions.

Several days later, French President Jacques Chirac said France could respond with nuclear weapons against any state-sponsored terror attack — comments seen by some as a reference to Iran.

Iran's nuclear dispute with the West intensified when it removed U.N. seals from its main uranium enrichment facility in Natanz, central Iran, on Jan. 10 and resumed research on nuclear fuel — including small-scale enrichment — after a 2 1/2-year freeze.

The removal of the seals alarmed Western capitals, where Iran is suspected of using its civilian nuclear program as a cover to develop an atomic bomb.

Iran has repeatedly said it is willing to offer guarantees that its nuclear program will not be used to manufacture weapons but it has so far refused to give up its right under the Nuclear Nonproliferation Treaty to enrich uranium and produce nuclear fuel — usable either in reactors or weapons.

Also Sunday, an estimated 1,000 athletes and staff from the government's physical education organization formed a human chain at a nuclear fuel research center in central city of Isfahan, declaring support for Iran's nuclear program.

For the second time in two days, Iran on Sunday denied that it was withdrawing foreign currency reserves from European banks.

"Iran's foreign currency reserves will be kept in all banks we trust in the world, including European and non-European banks," the Central Bank said.

On Friday, Iran's Students News Agency reported that Iran's Central Bank governor said Iran had begun moving its foreign currency reserves to an undisclosed location — a move seen as an attempt by Tehran to protect is resources against possible U.N. Security Council sanctions.

Estimates put Iranian funds in Europe at as much as $50 billion.

Mofaz Threatens To Halt Iran's Nuke Plans (WT)

By Abraham Rabinovich, The Washington Times

The Washington Times, January 23, 2006

JERUSALEM -- Israel's defense minister hinted strongly over the weekend that his country would act unilaterally if necessary to prevent Iran from acquiring nuclear weapons.

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Shaul Mofaz, who hails from the same hometown as Iranian President Mahmoud Ahmadinejad, also warned the Iranian leader that his policies risked bringing destruction to his own people.

"I want to address President Ahmadinejad, who is from the city where I was born," said Mr. Mofaz at the opening session Saturday of the Herzliya Conference, an annual strategic seminar.

"I address you as someone who leads his country with an ideology of hate, terror and anti-Semitism. I suggest you look at history and see what happened to others who tried to wipe out the Jewish people. In the end, they brought destruction on their own people."

Mr. Mofaz said Israel was relying "at present" on international efforts to forestall Iran's nuclear efforts, but suggested that it would take the matter into its own hands if necessary.

"Israel is not prepared to accept the nuclear arming of Iran and it must prepare to defend itself, with all that that implies," he said.

The warning was the sharpest yet by an Israeli leader. Prime Minister Ariel Sharon, who remains in a coma after a stroke three weeks ago, had been circumspect on the subject, saying the issue was not one on which Israel was taking the lead.

Maj. Gen. Dan Halutz, head of the Israeli armed forces, was cautious when asked to respond to Mr. Mofaz' remarks.

"I am not going to deal with the solutions to the Iranian nuclear problem," he said. "Israel is not helpless -- that it is enough of an answer."

Iran's state-controlled news agency quoted Foreign Ministry spokesman Hamid Reza Asefi as dismissing the Israeli remarks as part of "a psychological war" and as "child's play."

Both Mr. Mofaz and Mr. Ahmadinejad hail from the city of Garmsar, southeast of Tehran, which Mr. Mofaz left at age 9 with his family in 1957 to emigrate to Israel. Mr. Ahmadinejad was born there in 1956, so the pair apparently resided in proximity for a year.

Mr. Mofaz's mention of his Iranian roots might have been intended to counter Mr. Ahmadinejad's call for Israelis to be "sent back" to Europe. Half of Israeli Jews hail from the Muslim world, including Iran.

In addition to Mr. Mofaz, Israeli President Moshe Katsav was born in Iran, as was a former Air Force commander, Eitan Ben-Eliyahu. Gen. Halutz, the present chief of staff, has partial Iranian roots as well.

Mr. Mofaz's remarks were sharply criticized by some Israelis, including a former Likud Defense Minister Moshe Arens.

"This issue is too sensitive for public threats," he said.

The Likud chairman of the Knesset Foreign Affairs and Defense Committee, Yuval Steinitz, accused Mr. Mofaz of electioneering.

A Slow Iran Squeeze (TIME)

By elaine shannon

Time, January 23, 2006

As Iran shows noÂ signs of giving in to global calls to cease its nuclear-research activities, Western nations have been mapping out a careful, incremental plan to stop Tehran. The West's plan is informally known to diplomats as the frog strategy-- with no disrespect to the French, who are among its key tacticians. The name refers to the old saw that if you want to boil a frog, you put the unsuspecting amphibian in a pot of cold water. "This time it will be an Iranian frog," says a European diplomat. "The strategy is to heat slowly but steadily and try to keep the frog inside."

The plan was crafted by U.S. Secretary of State Condoleezza Rice and her French, German and British counterparts. The E.U. trio requested a meeting of the International Atomic Energy Agency, now set for Feb. 2, to consider referring Iran to the U.N. Security Council. If the case goes there, the allies plan a three-step approach: first, a mild resolution exhorting Tehran to end its questionable atomic activity voluntarily. If after two or three months Iran remains intransigent, they would then propose a stronger Security Council order based on the U.N.'s authority to combat threats to international peace. Step three would call for targeted sanctions, such as a freeze on government bank accounts a possibility for which Tehran apparently began planning last week when it started to shift its foreign-currency reserves from E.U. banks.

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The frog strategy may infuriate U.S. hard-liners who argue that it does little to hinder Iran's nuclear work right now. But proponents say that only the go-slow approach can win support from Russia and China. "The diplomacy with the Russians and the Chinese is very intense," says a key official. Rice, scheduled to travel to London next week for a conference on Afghanistan, may stop first in Moscow for talks with Russian officials. She needs Moscow's backing to win Beijing's--and ultimately to gain Iran's compliance. As for a step four to the strategy, there is no clear one yet: an uncooperative frog is something nobody wants to talk about.

UBS Halts Iran Business, Citing Risks Facing Nation (WSJ)

A Wall Street Journal News Roundup

The Wall Street Journal, January 23, 2006

UBS AG said yesterday that it will stop doing business with Iran because of the Swiss bank's economic and risk analysis of the situation in the country.

UBS will no longer deal with individuals, companies or state institutions such as Iran's central bank, said bank spokesman Serge Steiner. A similar policy is being implemented in Syria, he said.

Mr. Steiner said that political motives didn't drive the decision. "It's purely a business decision that is taking many factors into account," Mr. Steiner said. The move comes as a global conflict about Iran's nuclear policy heats up.

All existing business with customers in Iran will be canceled, but Iranians in exile aren't affected by the decision, Mr. Steiner said, confirming an article in Swiss weekly SonntagsZeitung.

"It is a carefully prepared measure that has been under consideration since last fall," Mr. Steiner said.

Mr. Steiner declined to specify the volume of business affected by the bank's decision. He said UBS's decision to pull out of Iran had been made after finding that high compliance costs weren't likely to be outweighed by benefits it expected from business with clients in the country.

He rejected the idea that the bank made the decision in order to protect ties with the U.S., one of Tehran's fiercest opponents in the global political arena. UBS does a large part of its business in the U.S.

UBS is the world's largest asset manager, and its rivals will closely watch its decision. Credit Suisse Group, Switzerland's second-biggest bank after UBS, also indicated yesterday that it is considering terminating relationships with Iran. "We are closely looking at the developments and we're increasingly worried," a spokesman said.

Iran faces referral to the United Nations Security Council for possible sanctions, after failing to convince the world its atomic program is peaceful, and the country said on Friday it was moving foreign holdings out of Europe.

U.S. Funds Enter Fray In Palestinian Elections (WP)

By Scott Wilson And Glenn Kessler

The Washington Post, January 22, 2006

RAMALLAH, West Bank -- The Bush administration is spending foreign aid money to increase the popularity of the Palestinian Authority on the eve of crucial elections in which the governing party faces a serious challenge from the radical Islamic group Hamas.

The approximately $2 million program is being led by a division of the U.S. Agency for International Development. But no U.S. government logos appear with the projects or events being undertaken as part of the campaign, which bears no evidence of U.S. involvement and does not fall within the definitions of traditional development work.

U.S. officials say their low profile is meant to ensure that the Palestinian Authority receives public credit for a collection of small, popular projects and events to be unveiled before Palestinians select their first parliament in a decade. Internal documents outlining the program describe the effort as "a temporary paradigm shift" in the way the aid agency operates. The plan was designed with the help of a former U.S. Army Special Forces officer who worked in postwar Afghanistan on democracy-building projects.

U.S. and Palestinian officials say they fear the election, scheduled for Wednesday, will result in a large Hamas presence in the 132-seat legislature. Hamas, formally known as the Islamic Resistance Movement, is at war with Israel and is classified by the U.S. government as a terrorist organization. But its reputation for competence and accountability in providing social services

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has made it a stiff rival of the secular Fatah movement, which runs the Palestinian Authority and has long been the largest party in the Palestinian territories.

The plan's $2 million budget, although a tiny fraction of USAID's work here, is likely more than what any Palestinian party will have spent by election day. A media consultant for Hamas said the organization would likely spend less than $1 million on its campaign.

Elements of the U.S.-funded program include a street-cleaning campaign, distributing free food and water to Palestinians at border crossings, donating computers to community centers and sponsoring a national youth soccer tournament. U.S. officials are coordinating the program through Rafiq Husseini, chief of staff to Mahmoud Abbas, the president of the Palestinian Authority and leader of Fatah.

In recent days, Arabic-language papers have been filled with U.S.-funded advertisements announcing the events in the name of the Palestinian Authority, which the public closely identifies with Fatah. Some of the events, such as a U.S.-financed tree-planting ceremony here in Ramallah that Abbas attended last week, have resembled Fatah rallies, with participants wearing the trademark black-and-white kaffiyehs emblazoned with the party logo, walls plastered with Fatah candidates' posters, and banks of TV cameras invited to record the event.

"Public outreach is integrated into the design of each project to highlight the role of the P.A. in meeting citizens needs," said a progress report distributed this month to USAID and State Department officials. "The plan is to have events running every day of the coming week, beginning 13 January, such that there is a constant stream of announcements and public outreach about positive happenings all over Palestinian areas in the critical week before the elections."'Window of Opportunity'

The program highlights the central challenge facing the Bush administration as it promotes democracy in the Middle East. Free elections in the Arab world, where most countries have been run for years by unelected autocracies or unchallenged parties like Fatah, often result in strong showings by radical Islamic movements opposed to the policies of the United States and to its chief regional ally, Israel. But in attempting to manage the results, the administration risks undermining the democratic goals it is promoting.

U.S. officials and consultants involved in the program acknowledge that it generated debate inside the aid agency and the two firms hired to manage the project. But U.S. officials said the goal of limiting Hamas's influence in the next Palestinian government overshadowed concerns about the decision not to disclose the U.S. government's role in the campaign.

"We are not favoring any particular party," said James A. Bever, the USAID mission director for the West Bank and the Gaza Strip. "But we do not support parties that are on the terrorism list. We are here to support the democratic process."

Another U.S. official involved in the program said: "I'm not going to apologize for it. I'm proud of the work we've done."

"We weren't trying to be some black-box SWAT operation," said the official, who declined to be named because he was not authorized to speak for the record. "But we want to be able to say we did everything we could to support peaceful coexistence here. There's no tomorrow if we end up with a worsening conflict" after the elections.

Hamas is reaping the benefits of years of grass-roots social work and political organizing in the West Bank and Gaza as it prepares for its first national election. It opposes Israel's right to exist and has vowed to maintain its armed wing, which has carried out attacks and suicide bombings inside Israel and the territories.

The Palestinian Authority, meanwhile, is suffering from a reputation for corruption, divisions within Fatah and a continuing Israeli occupation of the West Bank that has made Abbas's pursuit of a negotiated peace settlement unappealing to many Palestinians. Public opinion polls have shown the race tightening in recent weeks, with Hamas now running even with Fatah.

According to interviews with U.S. and Palestinian officials here and in Washington as well as project documents obtained by The Washington Post, the plan to help promote the Palestinian Authority, and by extension Fatah, began emerging as Israel ended its 38-year occupation of Gaza in August.

"In light of the Israeli disengagement from Gaza, a critical window of opportunity has emerged," stated an October document outlining the scope of the Gaza Action Plan Support Unit, as the program is known. The document, prepared by ARD, a consulting firm based in Burlington, Vt., that was hired to manage the project, said the goal was to "help lay the foundation for successful, moderate leadership in Gaza as well as the West Bank." It listed the Palestinian Authority as its "direct beneficiary."

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Most U.S. development assistance here, which last year totaled roughly $400 million, consists of water pipelines, sewage treatment plants, public libraries and roads, which bear the USAID logo alongside the seal of the Palestinian Authority. But Bever said the agency, which previously wanted to showcase U.S. aid, recently decided to emphasize the Palestinian Authority's role to a greater degree after polls showed a majority of Palestinians are aware of the overall extent of U.S. assistance.Downplaying U.S. Credit

The project is supervised by USAID's Office of Transition Initiatives, which specializes in promoting U.S. interests during times of political change in foreign countries and has the ability to spend money faster than other departments, according to agency officials.

The office hired ARD, which in turn subcontracted the project to a Washington-based firm, Strategic Assessments Initiative, or SAI, known for its largely academic work on issues such as Palestinian security reform. SAI had no experience in development work and had never worked for USAID.

Amjad Atallah, the company's president, said he was not authorized to talk about the project, though he said it raised concerns within his organization. Atallah said he agreed to work on the contract only after USAID agreed to his requests that Palestinian teams work in the field and that the program be coordinated through the office of President Abbas, who is not a candidate in the election.

USAID also brought in an independent consultant, Larry Sampler, to "help us think about how to do this," the U.S. official involved in the program said. Sampler was described by people who know him as an earnest, intense man who served 15 years in the Army Special Forces and worked as a U.S. contractor in Afghanistan.

According to documents from a planning presentation Sampler gave to U.S. officials in Washington and Tel Aviv in October, he raised several questions about how closely the U.S. government should be identified with the project. The documents also suggest that U.S. officials expected the project to become involved in party politics.

"To whom should credit accrue?" Sampler asked in one slide of the presentation. "Issues of branding and how closely associated candidates and parties want to be or should be associated with the USG [U.S. government]. What should be the nature of that relationship?"

Plans called for roughly 40 small projects or events, ranging in cost from $5,000 to $50,000 each, that would benefit the Palestinian Authority. No USAID logos would be used.

Asked if the decision not to use the USAID brand was a way to hide its involvement, Bever said, "I could see it could look that way." He said some of the projects might bear the agency logo, although it was not apparent on those visited by reporters from The Post or in ads published this week.

"We wanted to give maximum credit to the Palestinian Authority and to the freely elected president, Mahmoud Abbas, for taking the initiative and for inviting us to help get the message out to the Palestinian people," Bever said.

The point man in Abbas's office was his chief of staff, Husseini, a member of a prominent Jerusalem family. In an interview last week, Husseini said U.S. officials told him they had about $2 million to spend on 30 or so projects before the elections. He said his office provided them with "names of people who could do this best."

"It was some small money to help us quickly affect the lives of people. It was to show that the Palestinian Authority cares," Husseini said. "They were very responsive and understood we needed to have a better impact."

"Campaigning may come into this, but only marginally," Husseini said. "It is not political campaigning, but campaigning for the Palestinian national cause, as Mahmoud Abbas sees it."

In recent days, the newspapers Al-Ayam and Al-Quds have featured ads for projects described in the Action Plan Support Unit's most recent progress report. On some days, three such ads -- all bearing the seal of the Palestinian Authority but no USAID logo -- appeared on a single page.

"Why so many ads at the same time?" said Saad Abdul Hadi, whose Ramallah-based public relations company, Al-Nasher, is doing the advertising. "Because we are in a very sensitive time, in the elections. That's why now."

In Jericho last week, 10 teams gathered in the municipal stadium in the hopes of winning the first-ever Olive Cup, the U.S.-funded championship of Palestinian youth soccer. As boys darted across the patchy field in uniforms purchased with money from

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USAID, banners bearing the emblem of the Palestinian Authority and a new logo created for the U.S.-funded projects celebrated the event, which was attended by several hundred Palestinians.

Ibrahim Sabbah, 40, director of the sports division of the Ministry of Youth and Sports, said he had been asking Palestinian leaders for years to finance such a tournament. This month, Husseini's office told him $10,000 was available immediately.

"I was very surprised," Sabbah said. "And very happy. We were able to do this very quickly because we had been planning it for years. But we'd never had the money until now."

Sabbah said he knew only that the funds came from the Palestinian Authority president's office. It didn't matter who paid for the event, he said happily, as teams from Jenin and Nablus took the field. In a few hours, representatives from Husseini's office would arrive with the Olive Cup trophy and medals for the winners.

Kessler reported from Washington.

U.S. Spent $1.9 Million To Aid Fatah In Palestinian Elections (NYT)

By Steven Erlanger

The New York Times, January 23, 2006

JERUSALEM, Jan. 22 - The United States spent about $1.9 million of its yearly $400 million in aid to the Palestinians on dozens of quick projects before elections this week to bolster the governing Fatah faction's image with voters and strengthen its hand in competing with the militant faction Hamas, American and Palestinian officials said Sunday.

The spending was intended "to work with the Palestinian Authority to enhance democratic institutions and support democratic actors, not just Fatah," said Micaela Schweitzer-Bluhm, a spokeswoman for the American consulate in East Jerusalem. The program, run by the United States Agency for International Development, was described Sunday in The Washington Post.

American and Palestinian officials who spoke anonymously because they were not authorized to speak to reporters said that the program, which started in August, was intended to help defeat Hamas and that the government had done a detailed political analysis to try to focus on constituencies where Hamas was doing well. The international development agency's Office of Transition Initiatives was allowed as much as $30,000 in discretionary spending for each project instead of the $10,000 usually allotted.

The projects - including tree planting, schoolroom additions, a soccer tournament, street cleaning and computers at community centers - were coordinated with President Mahmoud Abbas and meant to be associated with him and the Palestinian Authority, which is run by Fatah. Although American aid was always acknowledged publicly, Ms. Schweitzer-Bluhm said, "our logo was not always on the banner."

A senior Palestinian official said many of the 45 projects aimed at Gaza were not carried out; the procurement bureaucracy proved difficult; and the projects had little or no impact on municipal voting, where Hamas did very well. Mr. Abbas was reluctant to show up to claim credit for the projects, the official said.

"Working with democracies and democratic parties is normal for the U.S. government all around the world," Ms. Schweiter-Bluhm said.

In Jerusalem on Sunday, the Israeli cabinet met to discuss policy toward the Palestinian Authority should Hamas do well or even win in elections on Wednesday for the Palestinian Legislative Council.

Israel says it will refuse to deal with Hamas, which it, the United States and the European Union consider a terrorist group that seeks the destruction of Israel. If Hamas wins, Israel might even stop paying the Palestinian Authority the taxes it collects on its behalf, the daily Yediot Aharonot reported.

Hamas, running for the first time in Palestinian Authority elections, says that it is prepared to consider a long-term truce with Israel within its 1967 boundaries. But it rejects the 1993 Oslo accords and a permanent two-state solution.

Israel's chief of staff, Lt. Gen. Dan Halutz, warned Sunday that violence could follow the Palestinian vote, especially if Hamas won, suggesting that the ruling Fatah faction might resist the results. "We have to prepare for the possibility of an escalation with the Palestinians, for the next round of violence," he said in a speech to a security conference in Herzliya.

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On Saturday night, Defense Minister Shaul Mofaz said Israel could act alone if the elections produced a Palestinian Authority that was not "a legitimate and effective partner" for peace talks. If so, Israel would continue to seek "to establish defensible borders, strengthen settlement blocs, keep Jerusalem undivided, including its surrounding area, and demilitarize the Palestinian territory," code for Israeli Army sweeps.

Mr. Mofaz also warned Iran that Israel would not tolerate an Iran with nuclear arms: "We are giving priority at this stage to diplomatic action. But in any case we cannot tolerate a nuclear option for Iran, and we must prepare ourselves."

Israel has nuclear weapons but does not say so. Mr. Mofaz, who was born in Iran, is a member of the Kadima Party, which is led by Ehud Olmert, the acting prime minister.

In the Palestinian election, Marwan Barghouti, the imprisoned leader of the Fatah list, was allowed by Israel to give interviews to the Arab satellite stations Al Jazeera and Al Arabiya, each popular with Palestinians. He called for a large turnout and repeated his prediction that Hamas and Fatah "are heading toward being partners in the field, and in Parliament." He called for "a broad national reform government with the participation of all."

But Nabil Shaath, a Fatah veteran, suggested that it would form a coalition with independents, leaving Hamas in opposition. "With Hamas, it will be very difficult to reach a joint program" that includes negotiations with Israel, he said.

In Gaza City, at least one person was killed and two were wounded when a car exploded Sunday. A militant group accused Israel of trying to kill its fighters, but the Israeli Army denied involvement in the blast. It said that it had carried out an airstrike on three gunmen it believed had been trying to enter Israel near Karni, and that at least one man had been killed.

Israeli Leaders Brace For Hamas Landslide (AP)

By Josef Federman, Associated Press Writer

AP, January 23, 2006

Acting Israeli Prime Minister Ehud Olmert met with top military and political officials Sunday to discuss the growing likelihood that the militant group Hamas could dominate this week's Palestinian elections.

The ascendance of Hamas has alarmed Israel, which appears to have been caught off guard by the group's surging popularity before Wednesday's vote. Hamas has killed hundreds of Israelis in suicide bombings and remains committed to Israel's destruction.

"What Israel has to do is the big question," Cabinet minister Tzachi Hanegbi said before Sunday's meeting. "We have to think hard and explore all the options."

The United States and European Union also have been scrambling to figure out how to deal with Hamas. U.S. officials confirmed Sunday they have been directing money to promote democratic parties in the election but denied the move was aimed against Hamas.

Hamas, best known for its suicide attacks, has won over the Palestinian public in its first run for the legislature by focusing on domestic concerns, halting corruption and restoring law and order to the chaotic West Bank and Gaza Strip.

In contrast, the ruling Fatah Party has been unable to shed its corrupt image or overcome infighting. Recent opinion polls show the two movements running even.

While some security officials privately support a dialogue with Hamas, top leaders, including military chief Lt. Gen. Dan Halutz and Defense Minister Shaul Mofaz, say the group must disarm and revoke its charter calling for Israel's elimination.

"Regarding the elections in the Palestinian authority, there are three options: that Fatah wins, that Hamas wins or anarchy wins. One of these results could put all progress back several years," Halutz told an academic conference Sunday, apparently referring to Hamas and warning that violence could follow the election.

Commentators said Olmert's meeting Sunday — which included the army chief, head of the Shin Bet security agency, and the justice and defense ministers — reflected a failure by Israel to detect Hamas' growing popularity, despite its strong performance in Palestinian municipal voting in recent months.

"Their assumption was Fatah will handily win any election," said Mouin Rabbani, an analyst with the International Crisis Group based in Jordan.

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Palestinian leader Mahmoud Abbas has said he hopes Hamas would tame its positions once it formally joins the political system, but other Fatah officials sent mixed signals over whether they would work with the Islamic group. Palestinian Information Minister Nabil Shaath, a top Fatah official, said Hamas must accept the principle of peace with Israel if it wants to share power.

However, Fatah's top candidate, the jailed Palestinian uprising leader Marwan Barghouti, said Sunday that "Hamas will be part and parcel of the Palestinian Authority" after the vote. Barghouti was interviewed in an Israeli prison by the Arab satellite TV station Al-Jazeera.

The United States and EU both consider Hamas a terrorist group, and both have said millions of dollars in aid to the Palestinians could be jeopardized.

"As a matter of policy, we don't deal with Hamas," said Stewart Tuttle, the U.S. Embassy spokesman in Tel Aviv. "If Hamas members win seats ... we are not going to deal with those individuals."

The U.S. Agency for International Development has used a special $1.9 million budget to promote democratic parties in the Palestinian election, said a U.S. Consulate spokeswoman in Jerusalem, Micaela Schweitzer-Bluhm.

She denied that the money, used in part to clean streets, distribute free food and water and to help fund a youth soccer tournament, was used to boost Fatah's prospects.

Behind the scenes, U.S. officials are considering the possibility of distinguishing between Hamas legislators tied to violence and those who are not — a position Israel rejects. European diplomats said they would decide what to do after election results are in.

The West Bank and Gaza Strip have been plagued by chaos and lawlessness in recent months, and some armed groups have threatened to disrupt the voting.

Visiting election commission offices on Sunday, Abbas was resolute. "Orders have been issued to security forces to strike with an iron fist against anyone who would try to sabotage this election," he said.

In other developments, an Israeli aircraft fired at three Palestinian gunmen trying to enter Israel from the Gaza Strip, killing one man and wounding two, according to the army and Palestinian officials. The Popular Resistance Committees, a tiny militant group not running in the election, vowed revenge.

Separately, Benjamin Netanyahu, the leader of the battered Likud Party, said Sunday that he would be willing to make "significant concessions" in a final peace deal with the Palestinians if his party wins elections March 28.

However, he spelled out a tough negotiating line, saying Israel's final borders would include east Jerusalem, the Jordan Valley and other parts of the West Bank — areas the Palestinians want for a future state — if a government run by Netanyahu signs a peace accord with the Palestinians.

In A Stronghold, Fatah Fights To Beat Back A Rising Hamas (NYT)

By Steven Erlanger

The New York Times, January 23, 2006

NABLUS, West Bank - Nasser Joumaa, pale and thin, was facing some tough questions from his own Fatah members.

"Our generation is being ignored," said a tall, bearded man in a small house, packed and cloudy with cigarette smoke, as more young men listened at the windows. "Where are the respected people to vote for on Fatah's list? Not you, Nasser, but there are corrupted people in this list."

Mr. Joumaa, 39 and respected here for his military and political prowess, looked pained. "I share your concerns," he said. "People are angry with Fatah and its performance, and so am I. I'm one of the angry members of Fatah. But we express our anger inside. We face a bigger challenge now from Hamas, and in a difficult situation we stand together."

Fatah, the mainstay of the Palestinian Authority and the Palestine Liberation Organization, is in trouble, even here in Nablus, one of the West Bank's toughest and largest cities, and a longtime stronghold for the group. Fatah is struggling to beat back the radical Islamic movement Hamas - which won an astonishing 13 of Nablus's 15 local council seats a month ago, and elected an efficient, worldly yet devout mayor, Adli Yaish.

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Palestinians vote Wednesday in elections for a new legislature, the first such vote in a decade. The United States, which lists Hamas as a terrorist organization, has quietly spent almost $2 million on dozens of quick projects to strengthen Fatah's hand, American and Palestinian officials say. [Page 10]

The coming vote is the first time that Hamas has run in elections for roles within the Palestinian Authority - because the authority was set up in the 1993 Oslo accords with Israel, which Hamas is committed to destroy.

But Mr. Joumaa is convinced that Hamas means to destroy Fatah first, if not now then by stages, and he warns Fatah members not to lose sight of the longer battle.

"Hamas talks of partnership with Fatah, but it wants to replace Fatah," he said. "We have power and authority, and we can't just give it up. We don't know Hamas's real program or goals, or to whom they will be subject. We cannot leave ourselves in Hamas's control."

Nablus is a stunning city, set in a steep valley, founded by the Romans in A.D. 72 and proud of its ancient aqueducts. It is the second-largest city in the West Bank, with some 325,000 people. But it has also been severely affected by the Israeli-Palestinian conflict, especially in the last five years, with the highest number of casualties, most severe physical damage and most intensive restrictions on movement in the West Bank, according to a report issued by the United Nations Office for the Coordination of Humanitarian Affairs in December. Fatah and the Palestinian Authority are paying the price for the economy and the border closures, as well as for Fatah's reputation for corruption.

Palestinian opinion polls vary, but all show that Fatah still leads Hamas, but not by much, and Hamas seems to be gaining. Fatah has 42 percent to Hamas's 35 percent, according to pollster Khalil Shikaki of the Palestinian Center for Policy and Survey Research; it has 35 percent to Hamas's 30 percent, with a larger number of undecided voters, according to Nader Said, a poll director for Birzeit University in Ramallah. Both polls have margins of error of at least 2 percent, but both show Fatah holding onto a majority, especially in coalition with other secular candidate lists like the Popular Front for the Liberation of Palestine, that of the independent Mustafa Barghouti, and another independent list called the Third Way, headed by the former finance minister Salam Fayyad, the likely next prime minister.

Both independent lists are getting aid from European and American supporters. But Fatah and Mr. Joumaa are worried that those competing independents, especially in constituencies, where many are also using the Fatah symbol, could allow Hamas candidates to win with small pluralities. Each voter will cast two ballots. Half of the 132 seats will be determined by votes for party lists, and half by votes in 16 local districts, which are harder to predict through polling.

Abbas Under Radar As Elections Loom (WT)

By Joshua Mitnick

The Washington Times, January 23, 2006

RAMALLAH, West Bank -- A kaleidoscope of campaign banners floats above traffic-choked el-Manara Square: Images of the late Palestinian leader Yasser Arafat smile against the background of Jerusalem, while jailed militant Marwan Barghouti waves his shackled hands in defiance of Israel.

But nowhere to be seen is the likeness of Palestinian Authority President Mahmoud Abbas.

With his Fatah Party dangerously close to losing Wednesday's parliamentary elections to the Islamic militants of Hamas, the Palestinian moderate has taken a surprisingly low profile in a contest that many see as a referendum on his tenure.

Aides say election laws forbid campaigning by the president, who is not up for re-election. But others say Palestinians are so disappointed with Mr. Abbas that he would only hurt his party.

"He represents an image that can be harmful to the campaign," said Basem Ezbidi, a political science professor at Ramallah's Birzeit University.

"On a popular level, people do not see him really as someone whom they can trust to deliver because they've given him a full year to deliver, and he didn't. There's an ironic thing: Here the Palestinian public and the Israeli government meet."

Mr. Abbas was elected in January 2005 with 62 percent of the vote, buoying hopes that he would be able to rein in Palestinian gunmen and resume peace talks with Israel. But he has achieved neither.

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With the political party bequeathed to him by Mr. Arafat disintegrating, Mr. Abbas' authority is being widely questioned. If Fatah performs poorly on Wednesday, he will be seen as a lame-duck president with no mandate to lead.

Mr. Abbas "will be in bad shape if Fatah gets less than what is expected or loses the majority," said Mohammed Yaghi, a columnist for the Al-Ayyam newspaper. "Hamas will haggle with him on everything."

The president backed these elections in hopes that, with Hamas as a part of the Palestinian parliament, he could exert more leverage over the Islamist militants. But Fatah members now are questioning the wisdom of that strategy.

"Many are skeptical that he is really for Fatah," Mr. Yaghi said. "Many are saying that he doesn't care, that he only has a [diplomatic] program and that is his main concern."

There are other signs of disarray. Gangs from Fatah's military wing, the Al Aqsa Martyrs Brigade, have threatened to disrupt voting because their patrons are not on the ballot. And Prime Minister Ahmed Qureia embarrassed the president this month by suggesting the vote be delayed.

The implosion of Fatah is one of the main reasons why Hamas is poised to do much better than anyone expected a few months ago. According to a Birzeit University survey last week, Fatah's popularity stands at 35 percent, while Hamas' has surged to 31 percent.

The pressure is starting to show on Mr. Abbas, who is seldom pictured smiling in Palestinian newspapers these days and has offered to step down if he cannot carry out his agenda.

There is still some sympathy for Mr. Abbas in the streets of Ramallah, where he is perceived as an honest politician. "You can tell he is a good person, and he gave it his best shot," said Nasser Ibrahim, a lifelong Fatah supporter who will not vote for the party this year.

But Mr. Abbas' colleagues in Fatah aren't likely to be forgiving if the party performs poorly on Wednesday, enhancing his reputation as a weak leader, said Mr. Ezbidi, the professor at Birzeit University.

"Such an image will continue to exist for some time," he said. "I do not see Mahmoud Abbas part of the political scene eight months from now. I see him disappearing somehow and resigning."

In A Stronghold, Fatah Fights To Beat Back A Rising Hamas (NYT)

By Steven Erlanger

The New York Times, January 23, 2006

NABLUS, West Bank, Jan. 20 - Nasser Joumaa, pale and thin, was facing some tough questions from his own Fatah members.

"Our generation is being ignored," said a tall, bearded man in a small house, packed and cloudy with cigarette smoke, as more young men listened at the windows. "Where are the respected people to vote for on Fatah's list? Not you, Nasser, but there are corrupted people in this list."

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Palestinian opinion polls vary, but all show that Fatah still leads Hamas, but not by much, and Hamas seems to be gaining. Fatah has 42 percent to Hamas's 35 percent, according to pollster Khalil Shikaki of the Palestinian Center for Policy and Survey Research; it has 35 percent to Hamas's 30 percent, with a larger number of undecided voters, according to Nader Said, a poll director for Birzeit University in Ramallah. Both polls have margins of error of at least 2 percent, but both show Fatah holding onto a majority, especially in coalition with other secular candidate lists like the Popular Front for the Liberation of Palestine, that of the independent Mustafa Barghouti, and another independent list called the Third Way, headed by the former finance minister Salam Fayyad, the likely next prime minister.

Both independent lists are getting aid from European and American supporters. But Fatah and Mr. Joumaa are worried that those competing independents, especially in constituencies, where many are also using the Fatah symbol, could allow Hamas candidates to win with small pluralities. Each voter will cast two ballots. Half of the 132 seats will be determined by votes for party lists, and half by votes in 16 local districts, which are harder to predict through polling.

So Fatah is trying to overcome its internal hatreds and unite, at the end, to face down Hamas, including pressing Fatah members running independently to withdraw. It is not easy for some in Fatah, upset that Hamas is even being allowed to take part. Fatah activists in the Balata refugee camp in Nablus insist they will not allow the elections to proceed, and there are worries of election-day violence.

Mr. Joumaa has reasons to be angry with Fatah's leader, President Mahmoud Abbas, who mismanaged its party primaries, finally scrapping them. Mr. Joumaa was a top member of a rival slate of 40-somethings led by the jailed leader Marwan Barghouti and was unhappy when that slate was merged with the official Fatah one. He is No. 18 on the list, so will be elected to the new legislature (as will Marwan Barghouti, who is No. 1), and his posters show him with Mr. Barghouti and the slogan: "Only the shoulders of the fighters can raise the torches of freedom. Vote for Fatah."

It has been an extraordinary personal journey for Mr. Joumaa, who spent 14 months in a Palestinian prison beginning in 1996, when older Fatah figures accused him of disloyalty. He was tortured there, and watched his best friend die there from torture, but then became the commander of Al Aksa Martyrs Brigades in Nablus. He was wanted by the Israelis and kept hidden, even as his mother was dying, 15 months ago, from cancer. When her body was laid out in a crowded mosque, however, he slipped in to pay last respects.

With the cease-fire brokered by Mr. Abbas early in 2005, Mr. Joumaa is no longer being hunted. He has laid aside his arms - for good, he hopes - and turned to Fatah politics, one of the young men toughened by a life under Israeli occupation and by Palestinian misrule. Between Sept. 29, 2000, and Oct. 31, 2005, 522 Palestinians were killed in Nablus, including 80 children and 28 women - 27.8 percent of all West Bank Palestinians killed, according to the December United Nations report.

A center for Palestinian militancy, Nablus is surrounded by six Israeli checkpoints and 53 other physical obstacles to travel, and by 14 Israeli settlements and 26 settlement outposts. But with the cease-fire, the number of military incursions and curfews has dropped and some of the obstacles have been removed, and the number of deaths and injuries has dropped considerably from 2004.

So there is some new optimism here, but not much confidence, and many men still have difficulty getting permission to travel out of Nablus.

Mr. Yaish, the new Hamas mayor here, only three weeks in office, is an example of why the group is doing well. He is devout, but wealthy from auto parts and a Mercedes agency. He studied mechanical engineering in England from 1970 to 1975

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and speaks English fluently; he speaks the modern language of efficiency and budget oversight; he keeps a picture of Yasir Arafat in his office and not Sheik Ahmed Yassin, the Hamas leader killed by Israel in March 2004.

"This is a government office," Mr. Yaish said. "President Abbas said to leave the photos of Arafat in offices, so we left it. Sheik Yassin was not elected, and this is not my house."

Mr. Yaish agrees that some people will vote differently on national and local issues, and he expects Hamas to get nowhere close to the 73 percent of the local vote it received a month ago. "We want partnership with Fatah," he said. "Democracy is competition and makes us stronger."

Hamas in the legislature will monitor government work, especially finances and accounts, to prevent corruption, he said, and to improve tax collection. "The same party as judge and jury is not good," he said. "If there is no oversight, even a good man can be tempted."

Hamas opposes negotiations with Israel, but Mr. Yaish thinks its presence in the legislature will stiffen the Palestinian Authority's back in dealings with Israel. "I don't like the Palestinian Authority to negotiate from a weak position," Mr. Yaish said, pragmatically. "We're occupied, and I want my government to talk harder to Israel."

Mouna Mansour is another Hamas candidate, 44 years old, a physics teacher and the widow of a famous local Hamas leader, Jamal Mansour, who was assassinated in 2001 by an Israeli missile strike on his office. His colleague and six others, including two children, also died in what the State Department then called "excessive" and "a new and dangerous escalation."

Today, Mrs. Mansour lives in a building named for her husband in an apartment filled with his "martyrdom" posters. She is practical and straightforward. "Hamas wants to be in the legislature to protect the resistance against occupation," she said. "It is our strategic choice. Our political role is to back the resistance."

But resistance is not just arms and bombs, she insists. "Resistance is also the farmer steadfast on his land, or the factory worker hiring as many as he can and making local products," she said.

"We will be partners with Fatah," she said. "The role of the legislature is accountability."

Should the cease-fire with Israel continue? "It's needed for a period of time, because our people are exhausted by the occupation," she said, and then added, smiling: "It's a time for the warriors to rest up."

That is exactly what Israel warns, that Hamas has not changed its goals.

Mr. Yaish says benignly: "I say to the world with open heart: 'Don't worry so much.' "

Mr. Joumaa thinks differently. "Hamas wants to infiltrate the institutions and take over," he said. "I think a Palestinian state now is farther away."

Wolfowitz Triggers Graft Storm At World Bank (FT)

By Andrew Balls And Edward Alden In Washington

Financial Times, January 23, 2006

Paul Wolfowitz, president of the World Bank, has triggered a bitter conflict with the bank's senior career staff by empowering a group of close political advisers to pursue aggressively what he sees as widespread corruption surrounding bank projects.

The dispute has come to a head with the appointment last week of Suzanne Rich Folsom, a counsellor to Mr Wolfowitz with close ties to the Republican party, as the new director of the Department of Institutional Integrity, the internal bank watchdog that investigates suspected fraud and staff misconduct.

Her appointment has raised objections that a person close to Mr Wolfowitz, and with a political background, has been put into a senior position at a unit that was seen as independent of the president's office since it was set up in 2001.

Robert Hindle, previously the senior manager of the unit and a long-time World Bank employee, resigned in November largely as a result of what four current and former bank sources said was concern at the targeting of employees who had worked on projects that developed corruption problems, and pressure on two occasions from Ms Rich Folsom to bypass internal rules on investigating the e-mail records of a number of employees.

Ms Rich Folsom, who was brought into the bank by James Wolfensohn, Mr Wolfowitz's predecessor, denies strongly any breach of internal rules. She insisted that in every case she followed proper procedures that require the bank's general counsel

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and another senior manager to approve any investigation of staff e-mails. “I have never asked Robert Hindle to circumvent any procedures,” she told the Financial Times.

Mr Wolfowitz said those alleging violations of e-mail procedure “are trying to get me not to be tough on these issues. I just would like to say I don’t intend to be intimidated”.

“We are in a transition, but I think it’s extremely important that we be moving from talking about corruption to dealing with corruption,” he said in an interview.

The World Bank Staff Association has raised concerns over the process that led to Ms Rich Folsom’s appointment and has heard complaints about e-mail checks from a number of parties. Alison Cave, chair of the association, said: “To clear up any questions, it would be a good idea to have an independent investigation or audit of the department.”

A number of senior bank staff and executive directors representing member countries, who asked not to be quoted, complain of a lack of consultation by Mr Wolfowitz’s advisers, and an atmosphere of suspicion.

Roberto Dañino, the bank’s general counsel and a former prime minister of Peru, this month also announced his resignation because, friends said, he was unhappy at the way the bank was being run by Mr Wolfowitz. Mr Hindle and Mr Dañino both declined comment.

Mr Wolfowitz’s appointment last year was greeted with apprehension by some long-time staff. Many Republicans believe the bank is plagued by corruption. Ms Rich Folsom was hired by Mr Wolfensohn with the task of improving the bank’s relations with Congressional Republicans.

China Will Strike An Energy Deal With The Saudis (WSJ)

By Shai Oster, Dow Jones Newswires

The Wall Street Journal, January 23, 2006

BEIJING -- China and Saudi Arabia are expected to sign a wide-ranging agreement today on energy cooperation amid Beijing's quest to secure more energy resources vital to fuel its fast-growing economy.

China, the world's second-biggest consumer of oil, has been seeking to tighten economic and political partnerships with its major oil suppliers across Central Asia, Africa and Latin America. Its quest has taken on added urgency since 2004, when the country's oil demand surged about 15%, helping underpin the biggest rise in international oil prices in a generation.

Although the pace of increase in China's oil demand slowed last year, the average price it paid per 11,000 tons of imported oil surged 38% from 2004 as global oil prices hit record highs. China needs vast supplies of energy to fuel its economy, which grew about 10% last year. A key supplier to the country's fuel needs is Saudi Arabia, which accounts for roughly 17% of China's oil imports.

The Sino-Saudi memorandum of understanding is set to be signed during Saudi King Abdullah's three-day visit to Beijing, a Saudi official said yesterday. It will call for increased cooperation and investment between the two countries in oil, natural gas and minerals, but it won't specify any projects or dollar amounts, another Saudi official said. Other details of the agreement weren't immediately available.

King Abdullah arrived in China yesterday in the first visit here by a Saudi ruler since the two countries re-established diplomatic ties in 1990. He is scheduled to meet today with Chinese President Hu Jintao and tomorrow with No. 2 Communist Party leader Wu Bangguo and Premier Wen Jiabao. Chinese Foreign Ministry spokesman Kong Quan said last week that the Chinese and Saudi leaders are expected to discuss energy cooperation, fighting terrorism and telecommunications, among other issues.

King Abdullah's China visit is part of a four-nation Asian tour that will also include stops in India, Malaysia and Pakistan. Members of his delegation include Saudi Oil Minister Ali Naimi.

China's oil imports from Saudi Arabia have roughly doubled in recent years, from 12.5 million tons in 2002 to 22 million tons for the first 11 months of 2005.

Chinese and Saudi oil companies have already signed several deals. China Petroleum & Chemical Corp., or Sinopec, China's second-biggest oil producer by volume and its largest refiner, is drilling for natural gas in Saudi Arabia. The company also has signed a deal with Saudi Arabia's state oil company, Saudi Aramco, to build a huge refinery in the southern Chinese

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province of Fujian with Exxon Mobil Corp. as a partner. Aramco also has begun engineering work with Sinopec for a second refinery in China's northeastern port city of Qingdao.

The Saudi king's visit comes on the heels of a major diplomatic push by China in West Africa, including Nigeria, where Cnooc Ltd., China's largest offshore oil producer by volume, recently concluded a deal to acquire a large stake in an offshore oil field. Last week, Chinese Foreign Minister Li Zhaoxing traveled to Cape Verde, Senegal, Mali, Liberia and Nigeria.

China also has drawn closer recently to other large energy producers, such as Venezuela, where ties with the U.S. have frayed.

The agreement comes as renewed political instability in key oil-producing countries in the Middle East and Africa has pushed oil prices back up toward the record highs hit in the summer of 2005. On Friday, oil prices hit a four-month high of $68.35 a barrel, as traders worried that militants in Nigeria were targeting oil facilities.

Meanwhile, a political standoff between Iran and the West has oil traders nervous. The U.S. and several European nations have been calling for Iran to be referred to the United Nations Security Council over its moves to restart a uranium-enrichment program, a process that is used in producing nuclear weapons. Iran is the second-largest oil producer in the Organization of Petroleum Exporting Countries, after Saudi Arabia. Some analysts worry that it could respond to possible U.N.-imposed sanctions against it with an oil embargo.

OPEC is scheduled to meet Jan. 31 to decide on its oil-production policy for the spring. A person familiar with Saudi Arabia's oil policy said Saudi Arabia and other OPEC countries don't support Iran's call for the producer bloc to lower the group's daily oil-production quota by one million barrels. Iran says the cuts are needed to prevent overproduction from glutting the market and bringing oil prices sharply down.

--Tang Hanting in Shanghai contributed to this article.

Explosions In Southern Russia Sever Gas Lines To Georgia (NYT)

By C. J. Chivers

The New York Times, January 23, 2006

MOSCOW, Jan. 22 - Explosions in southern Russia on Sunday morning severed the country's natural gas pipelines to Georgia, swiftly plunging Russia's neighbor into heat and electricity shortages and causing a diplomatic flare-up between the nations.

Two more explosions hours later severed one of Russia's main electricity cables to Georgia, deepening the electricity shortage even as the gas supply in Georgia dwindled. Russia supplies Georgia with all of its natural gas.

By late afternoon, President Mikheil Saakashvili of Georgia said gas flow had ceased and energy rationing would be necessary. He ordered universities closed and said Georgia was seeking fuel from Iran and Azerbaijan. Hospitals were being provided emergency propane and oil, he said.

The shortage was expected to last at least two days, as Russian technicians rushed to repair the severed main and reserve lines. Georgia, usually balmy, was having a cold snap, with temperatures dropping below freezing at night and hovering just above by day.

The break in supply - which also led to shortages in Armenia, which receives gas from Russia after it passes through the Georgian pipeline network - raised fresh questions about Russia's reliability as an energy partner and exposed anew the tensions between Russia and Georgia, a nation formerly under Soviet rule that has spurned Moscow in recent years.

Russian officials initially said the explosions appeared accidental but later announced that a criminal investigation had begun and that the blasts were acts of sabotage, perhaps by insurgents in the region using makeshift bombs.

Mr. Saakashvili disputed that contention, saying that the break in supply seemed intended to put political and economic pressure on Georgia, which since 2003 has been pursuing a strongly pro-Western course. He offered no evidence for his position, but said the circumstances were suspicious.

"We don't think it is accidental in any way," Mr. Saakashvili said in a telephone interview from Tbilisi, Georgia's capital. "The places where it happened, the environment in which it happened, the history in which it happened - this all looks like a policy decision."

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No insurgent group claimed immediate responsibility for sabotage, and Mr. Saakashvili noted that none of the guerrilla or terrorist bands in the region had threatened Georgia. Those bands often act in coordination with Islamic separatists in nearby Chechnya.

Mr. Saakashvili said that the flow of gas had ceased as Russia had been trying to pressure Georgia into selling Russia the Georgian gas pipeline network, and that officials at several levels of the Russian government had been issuing veiled threats in recent weeks.

He also said that this was the first winter since the collapse of the Soviet Union that Georgia had not had electricity and gas shortages, and that Russia probably resented that success. Mr. Saakashvili compared the gas shortage with the recent pricing dispute between Russia and Ukraine, which led Russia to briefly cut the flow for Ukraine and brought widespread Western criticism of Russia's handling of the incident. "This is not civilized behavior," he said.

A spokesman from President Vladimir V. Putin dismissed Mr. Saakashvili's characterization, suggesting that the notion that either the Kremlin or Gazprom, Russia's gas monopoly, would destroy sections of Russia's pipelines was absurd.

"If he is postulating that Gazprom or Moscow was standing behind these explosions, I don't think that there is any need for comment on this," said the spokesman, Dmitri Peskov. "There is no need for any attempt for politicization. It has nothing to do with politics. It has nothing to do with pressure. It is a situation of an emergency."

The Russian Foreign Ministry reacted angrily, issuing a statement calling the Georgian government's remarks "hysteria and bacchanalia," a reference to Georgians' fondness for wine. The ministry suggested that Georgian officials "have decided to irrevocably ruin relations with Russia."

Four explosions on Russia's side of the border created the shortages, Georgian and Russian officials said. The first two occurred roughly at the same time, before sunrise, severing the main and reserve gas pipelines that flow into Georgia from the Russian supply network.

Later in the morning, two more explosions severed a power transmission cable in two places.

Aleko Khetaguri, the deputy energy minister in Georgia, said in a telephone interview that as a result of the explosions, Georgia had lost all gas flow and roughly a quarter of its electricity, including electricity that was generated from domestic turbines powered by Russian gas.

Gas provides heat and cooking fuel in many of Georgia's urban households, he said, but in the countryside many homes are warmed with wood or kerosene.

Mr. Khetaguri predicted that repairs to the main line would take three days, and to the reserve line one month. He said repairs to the electric transmission line, which provides roughly 5 percent of Georgia's electricity, would take about a week.

While Georgia depends in full on Russian gas, it has shifted its electricity supply to accept more energy from Turkey and Armenia. It also expects to import gas from Azerbaijan and Central Asia late this year when construction is complete on a network from the Caspian Sea, decreasing its reliance on its former rulers in Moscow, with whom it quarrels on several issues.

Officials in Armenia said the situation was not as dire, because the country had fuel reserves. Still, they called for conservation and said electricity would be cut to some nonessential customers, news agencies reported.

Mr. Saakashvili said that to meet demand in Georgia, electricity would be shut off temporarily in different districts on the grid, rotating the shortages until the crisis was resolved. Mr. Khetaguri said that as of Sunday night Georgia was still "supplying electricity to the entire country, but with interruptions."

Bolivia's Morales Rejects US Domination (FT)

By Hal Weitzman In La Paz

Financial Times, January 23, 2006

Evo Morales was sworn in on Sunday as Bolivia's first indigenous president in a historic and emotional ceremony that set the tone for his new government.

In a long speech, Mr Morales warned the US not to try to dominate the region, promised to slash parliamentary salaries and stamp out corruption, and reaffirmed his commitment to nationalising Bolivia's hydrocarbons sector.

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He also pledged to change Bolivia's economic model. "We have to end neo-liberalism," he said. A central theme was the long struggle by the indigenous majority in Bolivia against discrimination: "We need to repair 500 years of history."

Mr Morales reiterated the need to nationalise the gas sector, the second largest in the region. "All our natural resources need to be returned to the Bolivian people, in order for us to end poverty," he said.

The president, who has rejected expropriating the assets of multinational energy companies operating in Bolivia's gas sector, said he wanted foreign investment but under the principle that the state would be treated as an equal partner.

One of Mr Morales's senior economic advisers said on Friday that Repsol and Total, two of the biggest foreign investors in the gas sector, had indicated they were prepared to drop a threat to take Bolivia to international arbitration over a hydrocarbons law that raised taxes on foreign investors.

Rafael Ramírez, Venezuela's energy minister, said over the weekend that PDVSA, the Venezuelan state energy company, would help to develop the Bolivian gas reserves.

Mr Morales also addressed his campaign commitment to decriminalise cultivation of coca – raw material for cocaine – which had caused concern in the US, sponsor of eradication efforts in the Bolivian highlands. The new president vowed to clamp down on drug trafficking and cocaine production.

He said: "I want an agreement with the US to fight narcotrafficking, but the fight against drugs must not be an excuse for the US to dominate our people."

Earlier, one of his advisers said two of the biggest investors in the gas sector had indicated they were prepared to drop a threat to take the country to arbitration over a hydrocarbons law that raised taxes on foreign investors.

Carlos Villegas, tipped as a cabinet minister, said Repsol and Total had signalled they were willing to renegotiate their contracts to give a greater share of profits to Bolivia.

That could make it more difficult for British Gas to carry out its threat to go to international arbitration. Petrobras has said it is prepared to accept lower profits.

Mr Villegas said that although Mr Morales had threatened during the presidential campaign to nationalise the hydrocarbons sector, the new government would respect the property rights of foreign investors.

The inauguration came a day after the investiture of the former coca growers' leader in a ceremony at Tiwanaku, a pre-Inca ruin.

"Today begins a new era for the indigenous people of the world, a new life in which we seek equality and justice," Mr Morales told a crowd of 20,000.

He vowed to "fight neo-liberalism" and to "complete the struggle of Che Guevara".

Mr Morales's campaign pledge to decriminalise coca cultivation has caused concern in the US, which sponsors eradication efforts.

Washington had refused to talk to Mr Morales directly, but there were signs of a thaw at the weekend when Thomas Shannon, US assistant secretary of state for western hemisphere affairs, visited the incoming president at his home in La Paz.

"We wish the new democratically elected government success," Mr Shannon said afterwards. "We are ready to begin a process of dialogue to determine how our two governments can work together on a common agenda." The new president has an approval rating of 74 per cent, according to a poll.

Indians In Bolivia Celebrate Swearing In Of One Of Their Own (NYT)

By Juan Forero

The New York Times, January 23, 2006

LA PAZ, Bolivia, Jan. 22 - Evo Morales, a Socialist protest leader and steadfast critic of American policies in the region, was sworn in Sunday as president of Bolivia, the first Indian to hold the position in this landlocked country whose indigenous majority had long felt oppressed and cut off from political power.

With tears welling in his eyes, his left fist raised and his right hand over his heart, Mr. Morales, 46, an Aymara Indian, took the oath of office as the leaders of 11 countries, American diplomats and the crown prince of Spain watched from the gallery of the country's ornate 19th-century Congress.

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The son of a shepherd who grew up in an adobe home in the frigid highlands, Mr. Morales was dressed true to his anti-establishment roots, in a wool jacket featuring white pre-Hispanic motifs on the lapels and an open-neck shirt, but no tie.

Outside, tens of thousands of people celebrated, many of them Aymara and Quechua Indians, tin and silver miners, coca farmers and leftists from around the world. They blew cow horns, danced to brass bands and waved the seven-colored wipala flag of the Andean Indian nation. By evening, Mr. Morales and his vice president, Álvaro García, a former guerrilla leader who spent five years in jail for rebellion, had joined them.

"This is a historic day," said Gregorio Mamani, 43, like Mr. Morales an Aymara. "I am so happy that after so many years, we have an indigenous president, one we can be proud of before the whole world."

In the Congress, Mr. Morales asked for a moment of silence for Inca martyrs, for the Argentine guerrilla Che Guevara, who died in a failed effort to start a revolution here in 1967, and "the millions of humans who have fallen in all of Latin America." In a rambling, passionate speech that mixed Spanish and Aymara, Mr. Morales did not veer from the populist themes that enthralled his followers and gave him a landslide win in the election on Dec. 18.

He criticized "neoliberal reforms," the American-backed free-market prescriptions that are now being tested throughout the continent, for failing to pull Bolivians out of poverty. He lamented that there were no high-ranking Indians in the army, and he railed against the corruption of past governments.

Mr. Morales promised to "change our history" and give voice to the downtrodden.

"I want to say to you, my Indian brothers concentrated here in Bolivia, that the 500-year campaign of resistance has not been in vain," Mr. Morales said moments after being sworn in. "This democratic, cultural fight is part of the fight of our ancestors, it is the continuity of the fight of Tupac Katari, it is a continuity of the fight of Che Guevara."

But while Mr. Morales is clearly among the more anti-establishment in a crop of leftist leaders who have recently swept to power in Latin America, he has tempered his tone since his victory and has spoken of the need for Bolivia to trade and build ties with other countries. "I have learned that the president of a government has to do good business deals for his country," Mr. Morales said Sunday.

Unlike his predecessors, Mr. Morales enters the presidency with overwhelming good will from inside Bolivia and beyond. The economy is solid, having grown at 4 percent in 2005, the best measure in years. The International Monetary Fund in December wrote off the country's $231 million debt, while the deficit has shrunk significantly, thanks to higher tax revenues and spending constraints.

Political analysts say the sound economic picture, coupled with the mandate that propelled Mr. Morales to power, should give his government time to maneuver.

Still, he has to keep in mind supporters in the crowd like Gregorio Machicado Quispe, 48, who said, "We expect a complete change."

"The government needs to favor the poor, suffering classes," he said. "We have to control the wealth here in Bolivia."

Gustavo Torrico Landa, 46, a congressman from Mr. Morales's Movement Toward Socialism Party, said: "The government has to show that it has begun to function But it's not like Evo on the 22nd becomes president and this becomes Switzerland on the 24th."

Indeed, Bolivian officials close to Mr. Morales, including his top economic adviser, Carlos Villegas, said in interviews that the government was carefully considering what economic path to take.

That means determining everything from how to attend to poor farmers, a priority for Mr. Morales, to how much foreign aid to receive from the United States and other countries, which officials say cannot come with tough conditions.

Mr. Morales and other officials have also said trade is important, but have not decided what kind of agreements should be signed. In the meantime, Bolivia plans to ask Washington for an extension on a preferential trade deal that ends in December, Mr. Villegas said.

"The only path for Bolivia is to open itself to the world, but under better conditions than in the past," said Juan Ramón Quintana, another adviser to the president.

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The policies that will be most closely watched, especially by multinational oil companies like Petrobras of Brazil and Repsol of Spain, will be in Bolivia's huge natural gas industry. Mr. Morales plans greater control, increasing taxes on the companies, but on Sunday he also said his government needed help from energy experts in formulating a policy.

Mr. Morales's history as leader of the country's coca farmers, and his campaign pledge to become a "nightmare" for the United States, has worried American officials concerned that his presidency could lead to instability and increased drug trafficking. On Sunday, he praised one of his closest allies, Fidel Castro of Cuba, and he warned that the United States could not use the fight against drugs "as an excuse" to "dominate and submit other peoples."

Yet, in his speech after the swearing in, he also welcomed Thomas Shannon, the assistant secretary of state for Western Hemisphere affairs, who was at the inauguration. Mr. Morales had a cordial meeting on Saturday night with Mr. Shannon and David Greenlee, the American ambassador, which will probably lead to more talks.

"We have international support," Mr. Morales said. "There is international solidarity."

For Bolivian Majority, A New Promise (WP)

By Monte Reel

The Washington Post, January 23, 2006

LA PAZ, Bolivia, Jan. 22 -- The streets of this colonial city erupted in song and fireworks Sunday to celebrate the inauguration of Evo Morales, Bolivia's first Indian president, who promised to begin reversing centuries of social injustice, shield the country from U.S. influence and reclaim natural resources that he says have been exploited by international capitalism.

Morales, 46, broke into tears before addressing Bolivia's Congress and the presidents of many neighboring South American countries, a gathering that illustrated the region's ongoing political shift toward socialism. The former coca grower likened his historic rise to power in Bolivia, where people of Indian descent make up more than 60 percent of the population, to the end of apartheid in South Africa.

"This morning I was very happy to see my brothers and sisters singing in the historical Plaza Murillo and Plaza San Francisco," Morales said, referring to the celebrations attended by thousands of indigenous citizens in the city's main squares. "Forty or 50 years ago, we didn't even have the right to enter the Plaza San Francisco or the Plaza Murillo."

Morales won the election riding a wave of discontent against the elites who have traditionally ruled the country. Massive protests have become a regular part of Bolivian life in recent years, helping to oust two presidents since 2003. But the atmosphere of celebration in the streets that lasted deep into the night was a reflection of the widespread support Morales enjoys upon entering office. An opinion poll released this weekend by the Bolivian firm Apoyo said that support for Morales stands at 74 percent, an unprecedented level in the country's recent history.

"All of the other governments we have had in this country have been corrupt and have stolen from the people," said Felix Flores, an unemployed 60-year-old Quechua Indian who traveled to La Paz from Cochabamba to celebrate in Plaza San Francisco with thousands of others. "With all of that money they robbed, they could have created sources for jobs. Now Evo will."

A big part of Morales's message has centered on the idea of self-determination, and he has frequently criticized the United States as an "imperial power" whose interests often run counter to those of Bolivia. The United States is Bolivia's leading provider of development aid, contributing about $655 million from 2000 to 2004. But Morales contends his country has been hurt by "neo-liberalism," a term commonly used in the region to describe Washington-backed economic policies that encourage free trade and a minimum of national commercial intervention. On Sunday, Morales labeled the policy a failure that had impoverished Bolivia while enriching wealthy foreign interests, and he vowed to protect the country from its effects.

Bolivia, with 9 million citizens, remains the poorest country in South America, but it has the second-largest reserves of natural gas on the continent. Morales has pledged to nationalize the country's fuel industry and woo investment from Latin America, Europe and Asia to industrialize the sector.

Expectations for change run high among his supporters, and Morales promised Sunday to convene a representative assembly to rewrite the country's constitution to more equitably distribute political power. He has tried to mollify concerns of international investors by promising not to seize private property when nationalizing the fuel sector. He has also said he wants to decriminalize the growing of coca plants and refocus the fight against drugs on those who turn the crop into cocaine.

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"The fight against narco-trafficking, against drugs, against cocaine, cannot be an excuse for the government of the United States to dominate our communities," Morales told the crowd, a number of whom chewed coca leaves, reflecting a long Bolivian tradition.

Many analysts suggest that Morales's frequent jabs at the United States are rooted in his experience as a coca farmer and -- unlike those of Venezuela's Hugo Chavez and Cuba's Fidel Castro -- less in a specific political ideology. But many of his supporters already are linking Morales to those two leaders, whom Morales calls inspirations. In Plaza San Francisco, vendors enjoyed brisk business selling T-shirts with the names of a socialist icon and three presidents printed in simple block letters on the front: "Ché, Fidel, Chavez, Evo."

"Evo professes a deep and close friendship with Chavez and Castro, but he's more of a product of American policy than his relationship with those two," said Eduardo Gamarra, a Bolivia analyst at Florida International University. "He's a product of the coca wars, and he should be understood in that context."

Bolivia is the latest in a line of South American countries to elect presidential candidates from socialist or unionist backgrounds. Last week, Chile elected the Socialist Party's Michelle Bachelet to succeed Ricardo Lagos, another Socialist who embraced free trade as a way to fund increased social spending in his country. And in their most recent elections, Brazil, Argentina and Uruguay have also elected presidents with backgrounds in social activism.

In Peru, elections this year will replace outgoing President Alejandro Toledo, who became the first South American president of indigenous descent when he was elected in 2000. A front-runner is former colonel Ollanta Humala, a socialist.

Morales was born in a thatched-roof shack in Bolivia's western highlands, and he worked as a shepherd as a young boy. As a teenager, he was a brick worker, baker and trumpet player in a traveling band. After settling in the tropical Chapare region to grow coca, he became involved in politics as the head of the Federation of Coca Farmers, which often pitted him against U.S. officials who wanted to reduce cocaine traffic by reducing the harvests of coca leaves, which must be chemically processed to produce cocaine.

His criticisms of the United States are widely admired among his supporters, such as those who waved banners throughout the day in Plaza San Francisco. To them, such comments prove Morales has the courage to stand up for himself and his country.

"This is our day," said Pablo Mercado, 48, a city worker in La Paz who waited for the new president to parade through the streets of the city after his speech. "Finally we have something to celebrate."

Morales, Bolivia's 1st Indigenous President, Inaugurated (KRT)

By Jack Chang

Knight Ridder, January 23, 2006

LA PAZ, Bolivia - Evo Morales Aima - a peasant leader born into grueling poverty - assumed Bolivia's presidency Sunday with an emotional speech that laid out the most complete picture yet of his leftist agenda.

The 46-year-old Aymara Indian, his troubled country's first indigenous president, fleshed out controversial proposals he made throughout his historic campaign, including plans to nationalize Bolivia's vast natural gas resources and block U.S.-backed anti-drug efforts.

After tearfully accepting the country's red, green and gold presidential banner, Morales began his wide-ranging, 90-minute address with a minute of silence dedicated to leftist heroes such as revolutionary Ernesto "Che" Guevara, fellow activists and Bolivia's indigenous people, who make up more than 70 percent of the country.

"We are here to change our history," he said standing at the front of the Congressional chamber filled with newly elected representatives, loved ones and world leaders, including 11 heads of state. "This is the conscience of the people, our people, the fight of our people."

With regular promises to be a "nightmare" for the United States, Morales has been a rising star of Latin America's populist left and is closely allied to Venezuelan President Hugo Chavez and Cuban leader Fidel Castro, both ideological foes of the Bush administration. His election marked another significant challenge to U.S. policy in the region.

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Morales went on to detail plans to "industrialize" Bolivia's natural gas, hinting the country could take over resource extraction now performed by foreign companies. Bolivia claims Latin America's second largest natural gas reserves.

He also demanded the world community cancel the impoverished Andean country's $6.43 billion in foreign debt, saying, "This money definitely never helped our indigenous people."

Acknowledging those roots, Morales spoke for about three minutes in Aymara and used the Inca language of Quechua to thank Brazilian President Luiz Inacio Lula da Silva and other presidents for coming. The day before, Morales took part in an indigenous purifying ceremony on the site of an ancient temple outside the capital.

After the inauguration ceremony, Venezuelan President Hugo Chavez appeared beside Morales on the balcony of the presidential palace to view Bolivian troops. They were joined by Prince Felipe of Spain, Slovenia President Janez Dronvsek and other international figures.

Morales regularly condemns U.S.-backed economic policies promoting open markets and privatized state industries. He has also opposed U.S. efforts to end Bolivian cultivation of coca leaf, the prime ingredient in cocaine. The country ranks as the world's third biggest coca grower and a major source of cocaine to Europe and the rest of South America, according to U.S. estimates.

Despite those tensions, U.S. Assistant Secretary of State Thomas Shannon Morales visited with Morales on Saturday night at his home in La Paz for a 45-minute meeting both men said would launch a series of encounters.

Shannon said they did not discuss the coca issue but talked generally about how to continue the dialogue.

"We want the Bolivian people to succeed and for the Bolivian people to succeed, this government needs to succeed," Shannon said. "This is a democratically elected government."

Sunday morning, Morales also tried to mend fences with President Ricardo Lagos of neighboring Chile, which sparked enduring Bolivian animosity during the 19th century by seizing the country's coastline.

Lagos attended Morales' inauguration Sunday, becoming the first Chilean president to pay an official visit to Bolivia in decades. Both leaders said the two countries were dedicated to resolving their historical conflict.

Morales will lead a country of 8.9 million that has been wracked with social conflict over the past three years, during which massive protests and blockades over natural resource management have ousted two presidents.

It is also divided along geographic lines, with the resource-rich eastern Bolivian province of Santa Cruz demanding more independence. Bolivians will decide later this year whether to grant more autonomy to provinces and will also rewrite its constitution.

Yet the peasant leader takes power with enormous political backing, having won the presidency last month with nearly 54 percent of the vote, the first majority won by a presidential candidate since the return of democracy in 1982. His Movement Toward Socialism party controls the Congress.

Nuclear Deal And Iran Complicate Efforts By U.S. And India To Improve Ties (New York Times)

By Somini Sengupta

New York Times, January 23, 2006

NEW DELHI, Jan. 22 - Senator John Kerry was here recently, inquiring about nuclear bargains being struck between India and the United States. Senator Max Baucus, Democrat of Montana, was here, too, calling on India to open its retail sector to American business.

And Representative Dan Burton, an Indiana Republican, regarded here as more foe than friend, led a delegation of six last November and left praising India's advances.

New Delhi, the Indian capital, has had a flurry of visitors from Capitol Hill lately, with the American Embassy here recording 10 Congressional delegations in 2005 alone.

The reasons for the newfound interest in India are self-evident: its growing strategic importance for an American administration eager to check Chinese dominion over Asia, the lure of the Indian market for American companies, and the emergence of Indian-Americans as an increasingly engaged political bloc.

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For India, too, the stakes are important. Rarely, if ever, has the United States Congress been as important for New Delhi. It alone can grant a boon that India desperately wants: approval of a deal signed last July by President Bush and Prime Minister Manmohan Singh to share nuclear materials, including fuel and reactors, to help this energy-starved country.

Before the White House proposes the legislation before Congress, it has required India, which has already developed nuclear weapons, to present a detailed plan to segregate reactors for either civilian or military use.

"We expect that India will propose a civil-military separation plan that is credible, transparent, and defensible from a nonproliferation standpoint," White House officials told Congress last week, in response to a list of 82 questions submitted by Senator Richard G. Lugar, Republican of Indiana.

Negotiations held here last week, between the main architects of the nuclear deal, did not appear to yield anything close to an agreement. Whether the White House will be able to present legislation, as it had hoped, before Mr. Bush's scheduled visit to India in early March remains unclear.

"A deal is certainly possible and within reach," R. Nicholas Burns, under secretary of state for political affairs, said in an interview on Friday. "It's not going to be easy to reach."

The Indian foreign secretary, Shyam Saran, put it this way at a news briefing on Friday: "We need to have more discussion on this particular subject."

The nuclear issue presents a delicate dance for both sides. After India detonated a nuclear weapon in 1998, the United States penalized New Delhi. For its part, India, which never signed the Nuclear Nonproliferation Treaty, had long maintained that America and others in the nuclear club had no right to say who could or could not possess the bomb.

In a nod to India's growing strategic importance, Mr. Bush is willing to support peaceful Indian nuclear ambitions, even as Washington has taken steps to try to prevent other countries, like Iran and North Korea, from advancing their nuclear programs. In particular, Washington would like India's help in isolating Iran, a traditional Indian ally, as Iran tries to jump-start its nuclear ambitions.

For India, which has long positioned itself as a leader of nonaligned developing countries, and which has competing interests of its own, the choice is not an easy one.

Iran is among India's most important energy suppliers, and talks are under way to build an ambitious $4 billion pipeline to transport Iranian natural gas to India, via Pakistan.

Commenting on the three-way tango, The Business Standard, an English-language daily, published an editorial last week that asked bluntly: "Is supporting the U.S. a good option? If not, what other option is there?"

This is where both the United States and India begin to feel the burden of democracy. In both countries, legislators are equally exercised by the Iran standoff.

The United States wants India's support to refer Iran to the United Nations Security Council when the issue goes before the International Atomic Energy Agency on Feb. 2. Last September, India voted along with the United States when Iran came up before the agency, a part of the United Nations, but India's leaders have since been noncommittal.

Congress is closely watching how India casts its vote this time, with members saying that it could influence whether they support the Indian nuclear deal.

"It is extremely important that we know India will stand united with us in that effort," Senator Kerry, a Democrat of Massachusetts, said in an e-mail message this week.

At the news briefing on Friday, Mr. Saran sidestepped a question on how United States lawmakers would view India's stance on Iran, saying he sensed strong bipartisan support for "a much stronger U.S.-India relationship" on Capitol Hill.

Questions are bubbling from within the Indian Parliament about the virtues of locking arms with the United States, at the expense of Iran. A coalition of leftist parties, led by the Communist Party of India (Marxist), has all but threatened to cripple his government should Mr. Singh side with Washington.

In the United States-India nuclear negotiations there are several sticking points. For the United States, the red-flag issues include how many nuclear reactors will be operated under its desired safeguards, and whether they will be run that way forever.

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The Indians point out that their civilian and military nuclear facilities have never been segregated. Any future segregation would have to be done in a manner that its government regards to be "necessary for our strategic program," according to a senior official who refused to be identified because of the delicate nature of diplomatic negotiations.

Should India not vote to report Iran to the Security Council next month, argued George Perkovich, vice president for studies at the Washington-based Carnegie Endowment for International Peace, it could imperil India's own credibility as a stalwart of nonproliferation.

On Friday, Mr. Saran once again cautioned that "confrontation should be avoided" with Iran. Sitting on his right, Mr. Burns, the under secretary of state, criticized Iran for having "crossed so many international red lines."

Canada's PM Candidates Make Final Rounds Martin Takes Aim At Conservative Party's Harper As Voters Head To Polls (USAT)

By Rebecca Cook Dube Special For

USA Today, January 23, 2006

TORONTO — Canadians go to the polls today in an election that could unseat the ruling Liberal Party and elec t the first Conservative prime minister in 13 years.

The weekend before the election, Liberal Prime Minister Paul Martin accused Conservative Party leader Stephen Harper of being too much like U.S. Republicans. “We have a party (the Conservatives) that basically draws its influences from the farthest right of the U.S. conservative movement,” Martin said Saturday at a campaign rally. “Let me tell you, Stephen Harper, we have our own values in Canada.”

Harper dismissed Martin's criticism and struck a confident note as he campaigned.

“Only the Conservative Party can bring this country together,” Harper, 46, told supporters. He said Martin “has not provided a single compelling reason why his government should be re-elected.”

Harper has run as a moderate, promising to protect the social services that Canadians hold dear, especially health care. Canada has near-record-low unemployment and several years of federal budget surpluses. Harper and Martin have promised tax cuts.

Martin has quarreled with the Bush administration on such issues as Canada's refusing to take part in the missile defense scheme, condemning the Iraq war and criticizing the United States for rejecting the Kyoto Protocol on greenhouse gas emissions. Harper has distanced himself from Bush but is more in step with the U.S. president. For example, Harper says he would reconsider Martin's refusal to take part in the U.S. missile defense program.

The Liberals have struggled in the wake of two corruption investigations. Although Martin has been exonerated by an ongoing inquiry into a kickback scheme in the 1990s involving public funds, the investigation has implicated some other Liber als.

Harper hammered on that Sunday, saying, “When we are in office, we will do everything in our powerto make sure the kind s of scandal and corruptionwe see from this government is never allowed tooccur again in this country.”

In the last election, in June 2004, the Liberals eked out a victory after warning voters that Conservatives were too right-wing for Canada. “We won then, and we're going to win this election,” Martin, 67, said ata campaign rally.

The poll projections over the weekend predicted the Conservatives would win a minority government — meaning they'd have a plurality but not a majority of votes in Parliament and would have to ally with other parties to pass laws.

“The only issue is how many seats are the Liberals going to lose,” said Nik Nanos, president of SES Research in Ottawa, an independent polling firm.

The SES poll on Sunday showed the Conservatives maintaining a 6-percentage-point lead. Thirty-six percent of respondents said they planned to vote Conservative; 30% said they would vote Liberal; 17% for the New Democratic Party; 11% for the Bloc Québécois; and 6% for the Green Party. The poll, conducted for the CPAC public affairs cable channel, surveyed 1,200 Canadians Friday-Sunday and had a margin of error of +/-3 percentage points.

Canada's Surging Conservatives (CSM)

By Rebecca Cook Dube, Correspondent Of The Christian Science Monitor

DOJ_NMG_0010177

The Christian Science Monitor, January 23, 2006

TORONTO - Canada's Conservatives have captured the momentum as the country nears its Jan. 23 election date, with polls showing a majority of Canadians would be happy to see the Liberal Party's 13-year winning streak come to an end.

Perhaps the most dramatic campaign story has unfolded in Quebec, where Conservatives failed to win a single seat in the last election. According to a recent poll, the Conservatives' leader, Stephen Harper, is more popular in Quebec than he is in his home province of Alberta, the most conservative region in the country.

"That's like saying George Bush has higher positives [ratings] in Massachusetts than in the state of Texas," says Tim Woolstencroft, managing partner with Strategic Counsel, the Toronto firm that conducted the poll. "It's stunning." Nationwide, Mr. Harper's favorable rating is over 50 percent.

Though Liberals are warning of Harper's ties to the American right, and American conservatives are cheering Harper, the Canadian Conservative leader bears little resemblance to his US counterparts. This isn't your typical US conservative

Throughout the campaign, Harper has reassured Canadians he will uphold the nation's extensive social-service network, especially the healthcare system. He has also promised not to seek any changes in abortion law. And although he initially supported the US war in Iraq, Harper has more recently said he would not send Canadian troops there.

Some see parallels between Harper's campaign and the successful election bid of Australian Prime Minister John Howard, which ended the 13-year rule of the more liberal Australian Labour Party.

Like Mr. Howard's campaign, Harper's featured solid, easily understandable promises with price tags attached: a $100-per-month child-care subsidy for parents, for example, and pledge to cut the federal sales tax to 5 percent from 7 percent.

"Cash value for voters, cash for child care - they can understand what that means," says Stephen Clarkson, a professor of political economy at the University of Toronto.

Meanwhile, the Liberals "didn't say much in the first half of the campaign, and then they got a lot of bad news," he adds, referring to a corruption scandal miring the Liberals' campaign. Clean government

Harper's campaign focused on promises to clean up government in the wake of a Liberal corruption scandal. In November, Justice John Gomery released the results of his investigation into an advertising kickback scandal in Quebec in the 1990s.

While the report exonerated Mr. Martin, who was finance minister at the time, Justice Gomery said former Liberal Prime Minister Jean Chrétien and others with ties to the Liberals bear responsibility for the misspending of millions of dollars of public money meant for a national unity campaign in the French-speaking province.

The Conservatives' attempt to paint the Liberals as corrupt was bolstered at the end of December, when federal police confirmed they were investigating allegations that Liberal officials secretly tipped off certain investors before an important tax policy announcement.

Though that investigation is not expected to be completed for several months, it added to Martin's woes and hindered his efforts to spread his party's message.

"The Liberals have self-destructed," says Professor Clarkson, who wrote a recent book called "Big Red Machine: How the Liberal Party Dominates Canadian Politics."

Clarkson says he's now working on a sequel: "How the Big Red Machine Became the Little Red Machine."

While several Liberal officials garnered negative publicity during the campaign for ill-considered remarks, Conservative politicians ran a nearly error-free campaign. There were no repeats of the 2004 election, when outspoken Alberta premier Ralph Klein stirred up controversy with remarks about privatizing healthcare.

Asked about his restraint in this campaign, Mr. Klein quipped, "Duct tape works." Liberals' tactics and hopes foiled

In a similar election19 months ago, the Liberal campaign of Prime Minister Paul Martin persuaded Canadians that a Conservative government led by Harper would be too different, too extreme, and just too right-wing.

But similar tactics this time have fallen on deaf ears. And Harper has successfully campaigned on an anticorruption platform as a moderate who would bring positive but not drastic change to Canada.

A Strategic Counsel poll conducted for The Globe and Mail newspaper Jan. 18-21 gave the Conservatives a 10-point lead over the Liberals, with the two parties registering support of 37 percent and 27 percent respectively.

Four other independent polls confirm the Conservatives' momentum.

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"Canadians haven't shifted to the right - Conservatives have moved to the center," says Mr. Woolstencroft of The Strategic Counsel.

When the campaign started in late November, most analysts bet the result would be another minority Liberal government.

Now the big debate is whether the Conservatives will win a minority or a majority in Parliament.

"It would take a miracle" for Liberals to win this election, Woolstencroft says. "The train has long left the station."

Conservative Win In Canada Could Help Repair Ties To U.S. (NYT)

By Clifford Krauss

The New York Times, January 23, 2006

TORONTO, Jan. 22 - Unless every national poll here is amiss, what has been perhaps the world's winningest political party is heading toward a humiliating defeat on Monday.

Stephen Harper, 46, an economist and social conservative who is writing a history of ice hockey, appears poised to lead his Conservative Party to victory over the Liberal Party of Prime Minister Paul Martin, something that seemed highly improbable just a few weeks ago. The Liberals won the last four national elections, governing Canada for 13 years - as the party did for three-quarters of the past century.

But whether a Harper victory would represent a seismic shift, in a country that has long promoted itself as a beacon of social democracy and frequent critic of American foreign policy, remains an open question. If he cannot muster a majority in the House of Commons, Mr. Harper may lead a weak, unstable government opposed by three left-of-center parties represented in Parliament.

Mr. Harper - in a campaign largely free of ideology - promised to cut the national sales tax, grant families child care for preschoolers and introduce mandatory prison sentences. A longtime member of the House of Commons representing Alberta, he has a conservative record, but steered clear in recent months of promising major changes to the national health insurance program.

The absence of strong ideological overtones would appear to make a Thatcherite-style revolution unlikely, even in the face of a strong Conservative showing. Mr. Harper even noted that judges appointed by Liberal governments and an appointed Senate filled with Liberals would serve as checks on his power.

"I'm basically a cautious person," Mr. Harper said in a recent speech. "I believe it's better to light one candle than to promise a million light bulbs."

A change in Ottawa would almost certainly bring, at the least, a warming of relations with Washington, which have been strained since the American-led invasion of Iraq and have worsened over a series of recent trade disputes and Canadian moves to soften domestic drug laws.

Mr. Harper, while careful not to appear overly supportive of President Bush, has suggested he would reconsider Canada's refusal to join the American missile defense program. He has also promised to increase military spending and make a bigger contribution to NATO and peacekeeping operations in places like Haiti and Afghanistan. But he also said recently that he had no intention of sending troops to Iraq.

Mr. Martin, a former finance minister and shipping executive, has tried to emphasize the Liberal government's stewardship of the strong national economy, marked by low inflation and unemployment, a strengthening currency and a large budget surplus. He has promised to create a national child care program, expand aid grants to college students and ban handguns.

These are not unpopular stances, but the decline of Liberal fortunes is due less to any shift in Canadian public opinion than to two years of federal inquiries. Those investigations documented an embarrassing party money-laundering and campaign-finance scheme that had been devised to counter separatists after the close referendum on Quebec sovereignty in 1995.

Adding to the Liberal Party troubles, in the middle of the campaign, federal police investigators announced that they were looking into reports of possible Liberal government leaks of tax information to friendly investors that had spurred a flurry of insider trading.

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And in Quebec, once a bastion of Liberal support, the party's free fall quickened with the publication of a book documenting allegations that the federal government had laundered millions of dollars of illegal aid to a group opposing separatists during the referendum campaign.

In recent weeks, the Liberals tried to recover votes with advertisements linking Mr. Harper to Mr. Bush, who is unpopular in Canada, and suggestions in speeches that Mr. Harper would attempt to reverse the legalization of same-sex marriage and abortion rights.

"A Harper victory will put a smile on George W. Bush's face," one Martin commercial said.

Various national polls in the final days of the campaign showed the Conservatives about 10 points ahead of the Liberals, but the Conservatives could still fail to win a majority in the House of Commons.

Mr. Harper leads a party that only three years ago merged a very conservative Canadian Alliance party with the much more moderate Progressive Conservative party.

"There are different factions and backgrounds and points of view in the Conservative coalition," noted Desmond Morton, a McGill University historian. It will not be easy to manage the factions, he said.

Mr. Harper's greatest success so far has been his surprising breakthrough in socially liberal Quebec, by taking votes away from both the Liberals and the separatist Bloc Québécois.

In From The Cold (NYT)

By Andrew Coyne

The New York Times, January 23, 2006

Toronto

AN outsider watching the Canadian election today may be forgiven for wondering what the fuss is about. A centrist Liberal government is about to be replaced, if the polls are correct, by a centrist Conservative one. Like its predecessor, the new government will probably hold only a minority of the seats in Parliament, meaning it will have to work with the other parties to pass legislation. Small earthquake in Canada; not many hurt.

But beneath Canada's placid surface, the tectonic plates are shifting.

Slowly, by stages, rather than suddenly and violently, the Western world's most enduring political dynasty is cracking up. The Liberal Party of Canada, it is often noted, held power for more years in the 20th century than the Communist Party of the Soviet Union. It has governed Canada, with occasional Conservative interludes, more or less since the First World War. Not for nothing is the system sometimes called "one-and-a-half-party rule."

Since the election of 1993, especially, the Liberals have ruled all but unopposed, the opposition having fractured into several regionally based parties. But you know what they say about absolute power, and sure enough the Liberals were implicated in a series of scandals, including a huge kickback scheme in Quebec.

At the same time, the party was beset by internal divisions, culminating in the sitting prime minister, Jean Chrétien, being forced from office by his own party. His successor, Paul Martin, came to power with enormous expectations, owing to his success as finance minister in taming our national deficits.

Mr. Martin quickly fell short of the mark. In 2004, the once-invincible Liberals were reduced to a minority, thanks in part to the scandal in Quebec, in part to disappointment with Mr. Martin, and in part to the resurrection of a united Conservative opposition led by Stephen Harper.

A dour economist from Alberta, Mr. Harper is no one's idea of a natural politician. But he is blessed with both a first-rate mind for policy and a sure strategic sense. Though decidedly from the (libertarian) right of the party, Mr. Harper has learned to temper his ambitions to reshape Canada's federal system and rein in its sprawling government. It isn't that he has suddenly been transformed into a moderate, in the mold of the party's hapless past leaders, but he has been converted to incrementalism.

Mr. Harper bet the election on this strategy. The Conservatives had been so far from power for so long, he calculated, that they had become an unknown quantity to many voters. Fear of the unknown was the Liberals' last remaining political weapon, their sole defense against widespread public fatigue with their government. Deny the Liberals that, and they would collapse.

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Whatever his ideological objectives, Mr. Harper has as his first goal to make his party into a permanent contender for power: to end one-and-a-half party rule, forever. That is a matter not only of building a lasting electoral coalition, but given Canada's peculiar political history, of reforming its institutions. Conservative predecessors had won smashing victories, only to be overwhelmed in office by the vested interests of Liberaldom.

To avoid the same fate, Mr. Harper will have to confront the entrenched apparatus of Liberal rule, including the vast network of dependent client groups the party has cultivated over the years: big businesses, small businesses, activist groups, ethnic organizations, all on the federal dole and close to the ruling party.

He will also have to make reforms to Canada's outmoded democratic institutions, notably the appointed Senate, in which the Liberals, quelle surprise, hold a majority of the seats.

Last, he will have to set aside some of his own privileges, placing limits on the powers of patronage with which prime ministers have consolidated their rule. The Conservatives must plan for when they are again out of power and remove the instruments by which they were kept out.

Previous Conservative prime ministers aspired only to run the Liberal machine for themselves, leaving the motor running for the Liberals when they returned. Mr. Harper wants to dismantle it, piece by piece.

The Hugo Factor (USNEWS)

By Eduardo Cue

U.S. News and World Report, January 23, 2006

CARACAS, VENEZUELA--The palm trees and 19th-century, British-made, forged-iron fountain that grace the courtyard of Venezuela's neoclassical Congress buildings offer a cool respite from the chronic noise and pollution of this capital's historic center. Today, the white-and-lime-colored structure, once the site of a convent, is home to a most unusual institution--a freely elected legislature whose 167 members are, each and every one, government loyalists.

Latin America: A slight lean left

More from Nation & World

This unprecedented situation in a nominally democratic country resulted from the December election boycott by Venezuela's opposition parties to protest what they feared would be a rigged vote, a charge some believe was a cover for their anticipated defeat. Whatever the case, their last-minute withdrawal prompted most voters to stay home and produced a rubber-stamp legislature for the country's fiery leftist president, Hugo Chavez.

Polarization. The election results further consolidated power for Chavez, who allies himself with Cuba's Fidel Castro and gleefully flaunts his bad-boy reputation with Washington. But even as he uses influence and money to push other Latin America nations leftward, political watchers say Chavez may face a serious domestic backlash. "The conditions now exist," says Luis Vicente Leon, head of the Datanalisis polling organization, "for the radicalization of the debate and the formation of extreme groups to get rid of Chavez."

This country of 25 million people--whose importance is magnified by being the world's fifth-largest oil exporter (and fourth-largest U.S. oil supplier)--has become increasingly polarized in the seven years since Chavez was first elected president. "There exists in Venezuelan society today what we have never seen before, the division and resentment between social classes," remarked a young woman who would give only her first name, Mariana.

Since Chavez took office, the country has gone through a cascade of political tumult: the adoption of a new Constitution that many consider antidemocratic, a failed coup attempt, an unsuccessful recall referendum that large segments of society say was fixed, and a costly two-month oil-workers strike. For disaffected Venezuelans, their president is simply illegitimate. "His only objective is to remain in power; he does not have a model for the country," says Miguel Henrique Otero, editor of El Nacional, one of Caracas's leading dailies. Rejecting any Chavez comparison with the early days of the Cuban Revolution, he adds: "It's just the opposite. There is no ideology--they just want to steal and get rich."

Chavez says his goal is to create a 21st-century socialism, a nebulous and ill-defined mix of Soviet collectivism, Chinese-style capitalism, and Cuban populism. To date, his socialist model has tried to sidestep private enterprise by setting up nearly 7,000 state-financed cooperatives employing some 200,000 persons, creating state enterprises, and increasing government

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controls on the banking sector and the oil industry, which accounts for 80 percent of export earnings. The Venezuelan president also pushed a restrictive press law through the National Assembly and packed the Supreme Court by increasing the number of its judges from 20 to 32. Four of the five members of the National Electoral Council are Chavez loyalists.

For the average Venezuelan, however, perhaps the most troublesome aspect of his "Bolivarian Revolution," named after Simon Bolivar, the 19th-century independence hero, are Chavez's harsh verbal attacks against private ownership--although, in fact, few acres have been collectivized and only a handful of abandoned factories expropriated. Chavez put a halt to the exercise and stopped talking about the issue after polls showed that the vast majority of Venezuelans favor private property. "This is not the Cuba of Batista. This is not an island," says Cesar Perez Vivas, the secretary general of the center-right Social Christian Party known as Copei, referring to Fulgencio Batista, the Cuban dictator overthrown by Castro. "A very strong base of democratic values exists here."

A Slight Lean Left (USNEWS)

By James M. Pethokoukis

U.S. News and World Report, January 23, 2006

Brazil," it has been quipped," is the country of the future and always will be." But back in the 1990s, Brazil and the rest of Latin America generated some real economic momentum. Growth boomed--the region's gross domestic product grew 79 percent--as governments dismantled trade barriers and sold state-owned companies. The change was more evidence of what political scientist Francis Fukuyama referred to as the "end of history," with democratic capitalism triumphant.

Catchy hypothesis. But the "domino theory" might better describe recent events in the region. In country after country, left-wing parties with more skeptical attitudes toward free markets have been on the march. Turns out that Venezuela's Hugo Chavez was just the prologue. On January 15, socialist doctor and former Defense Minister Michelle Bachelet won a runoff for the Chilean presidency, while the indigenous Bolivian politician Evo Morales--who once described capitalism as mankind's "worst enemy"--took office January 22. They join leftists of various flavors who, since 2002, have captured the presidencies of Brazil, Argentina, and Uruguay. And Mexico and Peru could be next.

Cronies. Why the leftward turn? Some blame rampant inequality. "The region went through a period of free-market reform in the '90s ... but there was too much crony capitalism,"says Alvaro Vargas Llosa, director of the Center on Global Prosperity. "Clearly there's been a backlash."Then, after the boom came a bust from 1998 through 2003, triggered by the Asian currency crisis. And even though regional economic growth has returned to a 4 percent annual pace, spurred on, in part, by the rising price of oil and other commodities, the turnover in governments continues. Hardly a paradox, says Morgan Stanley economist Gray Newman. "Those headline numbers mask a real unevenness in growth,"he explains. Chinese demand and rising prices may boost economic growth stats in these commodity-based economies, but not jobs or incomes. Yet fiery political rhetoric may not translate into radical economics, says analyst Carol Graham of the Brookings Institution. While Chavez and Morales favor more statist policies, most other leaders are modeling themselves on Tony Blair--not Fidel Castro. Bachelet has vowed to continue Chile's free-market approach, a set of policies begun back in the 1970s by the "Chicago Boys," a group of University of Chicago-trained Chilean economists working under the Augusto Pinochet administration. And Brazil's socialist president, Luiz Inacio Lula da Silva, is considered by investors to be a budget hawk. "Although there's been lots of talk about the return of the left, the way the economies are being managed suggests otherwise," Graham says.

Woman Of Iron And Silk (NSWK)

By Lally Weymouth

Newsweek, January 23, 2006

Tzipi Livni is a rising star in Israel. She was one of Ariel Sharon's favorite colleagues—the first person he asked to join his new party, Kadima. She's also very popular among Israeli voters, who consider her honest and tough. Now, with Sharon in a coma and new elections looming, Livni is working closely with Acting Prime Minister Ehud Olmert to secure a Kadima victory. NEWSWEEK's Lally Weymouth met with Livni last week in Israel. Excerpts:

WEYMOUTH: You grew up in a hard-line Likud household?

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LIVNI: Today was the memorial for my father. I just came from the graveyard. On his gravestone is written here lies the head of operations of the irgun [an underground organization that fought for the establishment of the state of Israel]. On his tombstone is a map of Greater Israel, with both sides of the Jordan Valley as part of Israel. Many ask if territorial compromise is against my father's ideology. I say he taught me to believe in a democratic Israel as a homeland for the Jewish people where all enjoy equal rights. [But] I came to the conclusion that I... have to choose, and my choice is to [create] a homeland for the Jewish people but only in part of the land of Israel.

You decided you can't rule over another people?

It's against my values.

Has your position evolved over time?

No, I understood there was a need to divide the land, but I thought Labor did it the wrong way.

What was Sharon's most important political contribution?

The disengagement plan changed totally the terms of the conflict and the political map in Israel. It changed some of the right-wing understanding and should change the international community's attitude toward Israel. Until then, Israel was blamed as a country that wants to control the lives of the Palestinians and will not dismantle any settlements. What we did changed the relationship between Israel and the Palestinians and the status of Israel within the international community.

You and Sharon had a close relationship.

I feel that I gained his trust and confidence in the last two or three years. We could speak and he could feel he would not read it in tomorrow's newspapers.

How did you make up your mind to join Sharon's new party?

I entered Israel's political life and joined Likud because I thought it should lead Israel in terms of the Israeli-Palestinian conflict... Then I understood that there is no chance to get the Likud to be a united party because most Likud leaders couldn't make clear statements about the need for Israel to support a two-state solution. Until now, every Likud platform starts with the word "no" to a Palestinian state, "no" to the disengagement plan, "no" to this and "no" to that.

You need a party that puts forward [your] values?

It is important to understand the real meaning of a two-state solution. Israel was established as a homeland for the Jewish people. This should be also the true meaning of the future Palestinian state. It should be the answer for the Palestinians wherever they are: those who live in the territories and those who are being kept as political cards in refugee camps. In other words, the establishment of a Palestinian state takes [care of] what the Palestinians call "the right of return."

What do you do about the fact that after the Palestinian elections next week, Hamas may become a large part of the Palestinian government?

Israel made clear in the last few months that the participation of Hamas in the Palestinian Authority elections is totally against any kind of democratic values.

Will you cut off any Hamas-Palestinian government?

Israel cannot communicate with terrorist organizations... Abu Mazen says he is weak. When a leader is weak and cannotconfront the terrorist organizations, this is the real importance of the international community—to say it will not accept terrorist organizations as part of any parliament, any government.

It seemed as if Sharon's strategy was to decide on Israel's borders without a Palestinian partner.

The message is that Israel is no longer the Palestinian excuse for not fighting terrorism. We took our forces out of the Gaza Strip; we dismantled the settlements, and now Israel is no longer the excuse. And now we are back on the track of the Roadmap; we are not talking now about more unilateral steps. Our expectation is that the Palestinians will implement their word.

Sailor's Case Reflects Shift In U.S.-Japan Military Link (NYT)

By James Brooke

The New York Times, January 23, 2006

DOJ_NMG_0010183

TOKYO, Jan. 22 - After a United States Navy sailor was confined on an American base near here, accused of the Jan. 3 beating death of a Japanese woman, 20 people held a protest at the base. One man held up a sign that read, in English, "Dear Sailors, Don't Kill Local Women."

A decade ago, when three American servicemen were detained on an American base in Okinawa for the rape of a 12-year-old girl, 85,000 people marched one weekend, many demanding the expulsion of American bases from the island.

The difference is only partly explained by the way the United States handled the two cases. In 1995, American officials were much slower to allow the Japanese to place an American in custody; this time the suspect was transferred as soon as a Japanese arrest warrant was issued. Another major factor is the change in Japanese attitudes toward the military alliance with the United States.

In 1995, the cold war had only recently ended, and many Japanese expressed the belief that Japan no longer needed American troops. But the most recent case occurred days after Taro Aso, the foreign minister, warned that China was becoming "a considerable threat."

Koji Murata, an international relations professor at Doshisha University, said: "Japanese people are more and more concerned about China's economic and military rise, and North Korea. Japanese people are getting more and more realistic and think we have to sustain the military relation with the U.S."

Indeed, after a few days, coverage of the murder case had vanished from the Japanese news media. Instead, two Tokyo newspapers ran front-page photographs of Japanese Self-Defense Force soldiers and United States Marine Corps instructors practicing amphibious landings near San Diego.

"Japanese media has changed its attitude," Tatsuya Yoshioka, director of Peace Boat, a private group devoted to reducing military tensions in the region. "There is a completely hostile nationalism against North Korea and China that is promoted in the Japanese media, and on television."

In the fall of 1995, popular anger stewed in Okinawa as the three Americans suspected of rape were kept in American military custody for almost two months until there was a Japanese indictment. In March 1996, a Japanese court convicted the three Americans and gave them sentences ranging from six and a half to seven years. The sentences were served in a Japanese prison.

Under the agreement regulating relations between Japan and the American military, the United States is not required to hand over American military personnel suspected of committing crimes off duty and off base without an indictment. But after the Okinawa rape case, the United States agreed to give "sympathetic consideration" to the early transfer of suspects of major crimes.

The suspect in the new case, William O. Reese, 21, was the fourth such transfer; he was transferred as soon as a Japanese arrest warrant was obtained, four days after the victim, Yoshie Sato, 56, died. She had a fractured skull and her purse was missing the equivalent of $131.

The Navy allowed the transfer to be filmed for Japanese television.

"Transfer of custody is absolutely the right thing to do in this case," Rear Adm. James D. Kelly, commander of American naval forces in Japan, said in a statement. The United States military made other gestures. Admiral Kelly expressed regret and apologized to the victim's family.

About 100 United States Navy officers and sailors attended a wake for Ms. Sato. Admiral Kelly and Capt. Ed McNamee, commander of the Kitty Hawk, the aircraft carrier where the sailor was billeted, burned incense in her memory.

In Tokyo, the American Embassy promised close cooperation with Japanese authorities. Ambassador J. Thomas Schieffer expressed his "personal sorrow and outrage about the uncivilized behavior that resulted in the death of Ms. Yoshie Sato."

Some analysts note the gap between attitudes in Yokosuka, the city where the sailor is based, and those in Okinawa. Yokosuka is 30 miles from downtown Tokyo and is the home district of the Japanese prime minister, Junichiro Koizumi, who is vigorously pro-American. In contrast, Okinawa has long resented the fact that about half the Americans based in Japan, currently about 50,000, are stationed there.

US Made Mistake On Japan Beef: Zoellick Quoted (REU-Y2)

DOJ_NMG_0010184

Reuters, January 23, 2006

U.S. Deputy Secretary of State Robert Zoellick told Japanese Agriculture Minister Shoichi Nakagawa on Sunday that a beef shipment to Japan that resulted in a renewed ban on U.S. imports was an unacceptable mistake, according to a U.S. Embassy official.

Japan, the biggest market for American beef, had just last month lifted a ban on imports imposed in 2003 after a U.S. case of the brain wasting mad cow disease.

The ban, which halted trade worth some $1.4 billion a year, had become an irritant in otherwise close bilateral ties, leading to strong pressure from Washington on the Japanes government.

The discovery on Friday of spinal material, believed to have a higher risk of causing a fatal human form of mad cow, in a shipment from the United States, prompted Japan to renew the ban.

Tokyo had lifted the ban under strict conditions, including a stipulation that materials such as spinal cord tissue be removed.

Experts believe humans can contract a type of mad cow, or bovine spongiform encephalopathy (BSE), by eating contaminated meat.

Zoellick, who met with Nakagawa for about an hour in Tokyo, also expressed sincere regret, the official at the U.S. embassy in Tokyo said.

"The U.S. has a commitment to Japan regarding beef exports and that is a commitment that we take seriously," the official quoted Zoellick as saying, adding that the U.S. Department of Agriculture has launched an investigation.

Nakagawa later told reporters he had called on Zoellick to take thorough measures so the agreement between the two nations on beef imports would not be violated again.

The announcement on Friday that the ban would be renewed raised questions about the initial decision to lift the ban as well as the overall trustworthiness of U.S. products, topics that will be high on the agenda when Zoellick meets Foreign Minister Taro Aso on Monday.

Aso said in a speech on Saturday that it was likely to take time before imports could once more be resumed and that the mistake inevitably raised questions about management on the U.S. side.

"We can only begin talk about imports after the management scheme is made certain," he was quoted by Kyodo news as saying.

"Unless this is solved quickly, trust in the United States will fall still further."

Such trust is falling among consumers, many of whom have expressed a reluctance to eat U.S. beef again even after imports resume.

"The United States does not understand the feelings of Japan" over the beef issue, Tsutomu Takebe, secretary general of the ruling Liberal Democratic Party, said in a Sunday speech shown on NHK national television.

Liberian Leader Wants Closer Relationship With U.S. (USAT)

By Rob Crilly Special For

USA Today, January 23, 2006

MONROVIA, Liberia — Liberia's new president says she wants to rebuild close ties with the United States in the wake of a 14-year civil war that undermined the relationship.

Ellen Johnson Sirleaf, sworn in Jan. 16 as Africa's first female head of state, said American help is essential to restoring vital services, such as running water and power. She warned that tens of thousands of former fighters could destabilize the country again if they don't get work or education.

Liberia is struggling to recover from a civil war that raged from 1989 to 2003. The fighting left 200,000 dead. Almost half the country's 3.5 million people were forced to flee their homes.

Relations with the United States suffered as President Charles Taylor, a former warlord, was accused of spreading violence to neighboring states and allowing al-Qaeda and other terror groups to profit from Liberia's diamond resources.

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Taylor eventually gave up office in 2003, paving the way for elections last fall that saw Harvard-educated Sirleaf become president.

She faces an enormous challenge as she tries to rebuild a country founded by freed American slaves in 1847. Liberia is one of the poorest nations in the world, rated 206th out of 208 in a World Bank ranking of income per person. It owes $3.5 billion to creditors.

The civil war left the entire country without running water or regular electricity. As Sirleaf spoke with USA TODAY on Saturday, power outages cut off electricity to her fourth floor office in Liberia's executive mansion.

Outside, garbage from the inauguration ceremony was being burned, sending acrid smoke spiraling into the sky.

The United States pledged to give Liberia almost $1 billion for reconstruction, spread over three years from 2004 to 2006. The funds include $75 million for work and education programs for the 100,000 militiamen — many just boys — who gave up their guns at the end of the war.

Sirleaf, 67, said she wants U.S. help rebuilding the country's shattered infrastructure and more money to keep the young fighters out of trouble.

"We cannot fail because then they will remain vulnerable to any kind of group intent on trouble that might try to recruit them," she said.

Sirleaf spent her first week in office meeting other West African leaders and discussing regional security problems. Street riots broke out in neighboring Ivory Coast last week and have the potential to shatter Liberia's fragile peace, she said.

One of the big questions she must address is the future of Taylor. It has been more than two years since he went into exile in Nigeria under a peace deal brokered as rebels closed in on him in Monrovia. He remains wanted by a United Nations-backed war crimes tribunal in Sierra Leone, where he is accused of fueling a decade-long civil war.

The United States has repeatedly pressed Nigeria to hand over Taylor, but Nigerian officials have refused, saying they would surrender him only to a democratically elected president in Liberia.

Sirleaf said she was consulting with regional leaders to find a way to bring the former warlord to justice without igniting a fresh conflict with his allies.

"We have to find a way not to leave him where he is, but to make sure that Liberia is safe," she said. "That's what makes it such a difficult thing. That's why it's not a done deal."

First lady Laura Bush and U.S. Secretary of State Condoleezza Rice traveled to the Liberian capital, Monrovia, to witness Sirleaf's inauguration.

Sirleaf said their presence signified improving relations.

"It helps to start … the restoration of confidence in the ability of the (Liberian) government to meet the needs of the population and to manage the resources of the country efficiently, effectively and honestly," she said.

Doctor-Birdwatcher Finds His 2 Callings United By Avian Flu (WSJ)

By Philip Shishkin

The Wall Street Journal, January 23, 2006

MALATYA, Turkey -- On a recent Sunday, Metehan Özen -- one of Turkey's foremost birdwatchers -- trained his $1,500 Leica telescope on an orange-chested Merlin falcon and watched it devour a smaller bird in a flurry of claws, flying feathers and blood.

A few days earlier, two boys played with a dead crow, developed a fever and were brought to Dr. Özen's pediatric hospital ward. There, the specialist in infectious diseases monitored them closely for signs of bird flu.

For years Dr. Özen's hospital job and his hobby existed in unconnected worlds. As Turkey grapples with the bird-flu outbreak here that has quickly infected at least 21 people and killed four, the doctor's two callings have put him in the middle of the quest to understand the virus and contain its spread.

Fellow doctors used to tease him about birdwatching. His wife, he says, was annoyed with his frequent Sunday absences. A week ago, after appearing on a television talk show about avian flu, Dr. Özen sipped a beer and said: "People used to make fun of me."

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Not anymore. Over the past two weeks, as the virus rolled out across Turkey, the 37-year-old Dr. Özen briefed the country's top public-health officials about the epidemiology of avian flu and about the migratory routes of wild birds. They are suspected of introducing the virus to domestic poultry, which in turn can infect people. He took a long bus drive amid heavy snowfall and howling wolves to get to the scene of the first human cases near the Southeastern town of Van. There, he saw infected children and their chest X-rays, and visited the parents of three who had died. He helped draft the government's measures to combat the virus, including culling poultry and isolating domestic birds from humans and wild birds, and persuaded officials to ban the hunting of all wild fowl.

In September, Dr. Özen warned colleagues at a medical congress that wild birds could bring avian flu to Turkey during the winter migratory season, and that is now an accepted theory. Trade in infected poultry is another means for the virus to spread. "When you compare maps of migration patterns with maps showing bird-flu outbreaks, they often match each other," said Mehmet Ali Torunoglu, the head of the communicable diseases section at Turkey's ministry of health. "Metehan seems to be right."

Last week, the Food and Agriculture Organization of the United Nations urged countries along the flyways of migratory birds "to be highly vigilant and be prepared for a further spread of the disease in animals." Major flyways run North to South, connecting Siberia, the Middle East, parts of Asia, Africa and Southern Europe.

In late 2004, Dr. Özen tracked a satellite-tagged goose as it flew from Northern Russia, down to Kazakhstan, Eastern Turkey and Iraq, and then back. The goose's stops along the route gave Dr. Özen ideas about how the virus could spread through migratory flyways.

After visiting Van, Dr. Özen spent some time working with a team of experts at the Turkish health ministry's crisis center in the capital of Ankara. When he returned home, bad news awaited him at his hospital. The two young boys who had found a dead crow in their backyard had a mild form of viral pneumonia, a possible symptom of bird flu. In its human form, the virus often attacks the lungs and causes them to fail. Dr. Özen put the boys in an isolated ward, and waited uneasily for the results of tests that can determine bird flu.

They came back negative. So after his tense week, Dr. Özen headed out into the countryside for his usual pastime, but with a difference: Avian flu was never off his mind. Now, "every bird you see is suspect," Dr. Özen says.

He awoke at 6 on Sunday morning and set off to explore the rich avian world of the Karakaya lake on the outskirts of Malatya, an Eastern Anatolian town known mostly for its apricot orchards. Accompanied by two buddies -- a plastic surgeon and a railroad worker -- Dr. Özen was soon announcing the sightings of particularly interesting birds by chanting "aha, aha, aha...ha-ha-ha!"

A stocky beige barn owl, drowsy and slow in the early morning sunshine, was being chased and harassed by two nimble magpies swerving around it like two fighter-jets. A group of gray herons, their long necks recoiled for a nap, stood motionless on the shore. Two pygmy cormorants, an endangered species, flew across the bright blue sky. Thousands of ducks and Armenian gulls, their numbers swelled by winter migration, crisscrossed the lake. Hearing a barely audible trill, Dr. Özen identified the source as a little bird called chiffchaff.

Hundreds of gray coots that cannot fly particularly well followed one another in lemming-like tumbles into the water. A cat from a local village snatched a coot and made off with it into the lakeside shrubbery. Dr. Özen pondered out loud the interactions among species. "If the coot is infected, and the cat eats it, he could catch the virus, too," he said.

In the village of Toygar, right on the shore of the Karakaya lake, several roosters crossed the road and headed toward the water to mingle with hundreds of wild ducks. "This is exactly what I fear," Dr. Özen said. For most people, close contact with wildfowl is extremely rare, but domestic poultry routinely mix both with wild birds and with people. Sure enough, two children hopped off a donkey cart next to a wooden shack and approached the roosters.

Hasan Basri Tetik, a village elder in a traditional Anatolian knit hat, complained that some local peasants were ignoring government appeals to keep their poultry isolated from wildfowl and from people. Mr. Tetik now throws feed to his chickens from what he considers a safe distance.

As he continued his birdwatching tour, Dr. Özen's mobile phone buzzed on his belt. Someone from the university hospital where he works was calling to say that a dead bird had been found on campus and to ask Dr. Özen for help. He suggested

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calling local authorities. "If they call me about every dead bird, I'm finished," the doctor said, laughing. "It's winter, you know, birds die in winter all the time."

The next day at the hospital, a colleague sought Dr. Özen's opinion about eight farmers who checked into the infectious diseases department. The farmers had handled dead chickens that later tested positive for bird flu. A village elder insisted the men go to the hospital right away.

Dr. Özen rushed upstairs and took their mouth-swab and blood samples for further testing. Since the men had no flu symptoms and were growing bored in the isolated ward, Dr. Özen decided to release them, but he told them to report back at the smallest sign of sickness. He got on the phone to the local public-health authorities and ordered a pre-emptive regimen of the drug Tamiflu for the farmers, just to be safe.

As a child, Dr. Özen wanted to follow in his father's footsteps and join the air force. But his mother convinced him to study medicine. Always an avid hiker, he got into birdwatching in 1999.

Since then, he has sighted around 370 species out of Turkey's estimated 456, and he is at work on a "Birds of Turkey" volume. He and his buddies are now preparing a trip to look for a bird called the Great Bustard because at 26 pounds it's the heaviest thing flying in these parts. "The coolest bird isn't the one you've seen, but the one you haven't seen," he says.

Wealthy Kingdom With Elite Backing, A Catholic Order Has Pull In Mexico (WSJ)

By José De Córdoba

The Wall Street Journal, January 23, 2006

MEXICO CITY -- Two years ago, a handful of Latin American billionaires and some of the world's top financiers gathered at New York's Plaza Hotel. They were honoring Mexican plutocrat Carlos Slim and raising money for schools for poor children run by the Legion of Christ, a fast-growing conservative Roman Catholic order.

Among those giving speeches at the black-tie gala were the Rev. Marcial Maciel, the 85-year-old Mexican founder of the Legion, and Citigroup Inc. Chairman Sanford Weill. Within hours, the diverse group of 500 well-wishers raised $725,000.

The Legion was in its element. Founded in 1941, the order concentrates on ministering to the wealthy and powerful in the belief that by evangelizing society's leaders, the beneficial impact on society is multiplied. Like the Jesuits who centuries ago whispered in the ear of Europe's princes, the Legion's priests today are the confessors and chaplains to some of the most powerful businessmen in Latin America.

"The soul of a trash collector is as important as the soul of Carlos Slim, but if Slim is converted, think of the influence and power for good he would wield," says Luanne Zurlo, a former Goldman Sachs securities analyst who organized the benefit. Mr. Slim, Latin America's richest man with a fortune estimated at $24 billion, says he's not a highly devout Catholic but is helping the Legion create 50 low-cost universities in Latin America.

The Legion has become an important player in promoting the Vatican's social agenda and defending Catholicism's Latin American heartland from inroads made by evangelical Protestant groups. When the church was struggling to find priests in Germany, the Legion recruited German-speaking seminarians from Brazil to fill the gap. In Rome and Mexico City, Legion universities offer advanced degrees in bioethics that stress the limits morality should put on science.

The Legion's critics charge that its focus on the wealthy reinforces the sharp class divides that have long held Latin America back socially and economically. They say the Legion fosters intolerance and social climbing rather than devotion to Christ's gospel. Some in Mexico, instead of referring to the order's followers as Legionnaires of Christ, call them the "Millionaires of Christ."

More troubling for the Legion, Father Maciel, the order's founder, has been dogged for nearly a decade by widely publicized accusations that he sexually molested at least eight teenage seminarians from the 1940s through the early 1960s. Father Maciel denies the accusations. Many Catholic activists, angry with the church over cover-ups in priest sex-abuse cases, believe the Vatican has protected Father Maciel because of the Legion's reach and power.

The Legion operates in some 20 countries, including the U.S., Chile, Spain, Brazil and Ireland, but its influence is greatest in Mexico. Here it runs the country's fastest-growing network of Catholic schools for the well-to-do, and each spring mobilizes 20,000 volunteers to travel to remote towns and urge wavering Catholics to keep the faith.

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Catholic orders such as the Legion, the Franciscans and the Jesuits are largely independent of the church's diocesan governing structure and answer to their own directors based in Rome. To be active in a given diocese, however, they must obtain permission from the local bishop and are subject to his authority.

Even as the church struggles to recruit priests, the Legion's nine seminaries have turned out 650 ordained priests, many of whom come from wealthy families. That is up from 210 priests in 1990. The Legion's ranks also include about 2,500 seminarians studying to be priests and 1,000 "consecrated women" -- lay nuns who pledge to remain chaste and poor -- as well as some 65,000 lay supporters, in a group known as Regnum Christi.

Charitable works make up about $50 million of the Legion's $650 million yearly budget. It operates a network of 21 Mano Amiga schools for some 13,000 poor children, whose parents pay about $20 a month in tuition. Regnum Christi members have started many of Mexico's leading charitable efforts, such as a program through which supermarket customers donate money for a national food bank. In El Salvador and Mexico, the order has built small towns for disaster victims complete with schools, churches and medical facilities.

"The Legion is the only Mexican multinational in the world of religion," says Dionisio Garza Medina, chairman of Alfa, a large conglomerate in Monterrey, Mexico, and brother of the Legion's vicar general, the Rev. Luis Garza Medina. A sister of the two men is a consecrated woman.

Controversy often follows the Legion as it expands into new countries. Two years ago, Legion priests were barred from working in the archdiocese of St. Paul and Minneapolis after St. Paul Archbishop Harry Flynn said he worried that the Legion was building a "parallel church" behind the backs of local priests.

In 2004, two Baton Rouge, La., Catholic schools warned parents about the Legion's "questionable methods." Members of Regnum Christi paid for Baton Rouge students to fly to Los Angeles for a screening of Mel Gibson's "The Passion of the Christ" without notifying the schools. A spokesman for the Legion says the incidents were "misunderstandings" caused by the Legion's relative youth and overzealous Regnum Christi members.

The Legion was a favorite of Pope John Paul II, who liked its mix of religious fervor and conservative doctrine. Over the years, the late pontiff often praised Father Maciel's work. "John Paul used to talk about the Legion all the time, holding them up as examples while reading us the riot act," says the Rev. Vincent O'Keefe, a former deputy director of the Jesuits, a prominent order which fell into papal disfavor due to the liberal beliefs of some of its members.

Soon after John Paul II ascended to the papal throne in 1978, he made it known he wanted to become the first pontiff to visit Mexico, the world's second-biggest Catholic country after Brazil but one whose government was stridently anticlerical. Father Maciel wrangled an invitation by appealing to the then-president's devout mother and sisters, according to papal biographer George Weigel. That trip eventually led Mexico to establish diplomatic relations with the Vatican. In recent years, Father Maciel arranged a private audience with John Paul for President Vicente Fox's first wife, who worked in Rome for the Legion for a year.

Mr. Maciel today writes warm letters to Marta Fox, the president's powerful second wife, according to two friends of Marta Fox. One friend says the letters address her as "Mi muy querida Martita," or "My very dear Martita." Marta Fox's office didn't respond to a request for comment.

Ties to the Elite

The Legion's close ties with the elite are most evident in Monterrey, a city of four million that has long been dominated by businessmen in the so-called Group of Ten. For decades, Jesuits played a major role educating the children of the wealthy there, but the order veered leftward and was expelled in 1968 by the local bishop, who accused Jesuits of backing a strike at a local university. Since then, the Legion has set the social and intellectual tone for Monterrey's wealthy through a web of schools, clubs and charitable organizations.

Many of Monterrey's entrepreneurs and executives send their children to single-sex Legion schools where they make connections that last a lifetime. "They are very good educators," says Mr. Slim. "My children studied with them."

Middle-class parents struggle to pay the high tuitions of nearly $900 a month, convinced that their children will benefit from school ties, says David Martinez, a former member of Regnum Christi who studied in Legion schools and is now managing director of the New York-based hedge fund Fintech.

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At the Legion's after-school youth clubs, where the catechism is mixed with soccer and games, "vocation hunters" recruit candidates to become priests or consecrated women. As a first step, teenagers are encouraged to donate a year to the Catholic Church by volunteering for the Legion's world-wide operations. Around Monterrey, Legion priests dress in smart double-breasted black suits and sport cufflinks along with a clerical collar. Consecrated women wear ankle-length dresses.

In October, Monterrey's establishment turned out to see a newly ordained priest, the Rev. Benjamín Clariond -- whose father and uncle are former state governors -- celebrate his first mass in the city. The event was amply covered in the society pages of Monterrey's leading newspaper, which put 64 photographs of the event on its Web site.

Like the Clarionds or the Garza Medinas, almost every prominent clan in Monterrey has a son who is a Legion priest or a daughter who is a consecrated woman. Talk at dinner parties of the "movement" or the "kingdom," referring to Regnum Christi, is common. Mr. Martinez, the hedge fund manager, says Father Maciel is "worshipped" by Mexico's upper class because for 60 years he has made Mexico's rich feel as if "Christ loves them more than other people, and is using them as part of a divine plan."

The Legion's influence extends to the workplace, too, where many companies pay for Legion evangelists to lead weekly discussions on Catholic values. At Grupo Novem S.A. de C.V., a water-systems company owned by a family of Legion supporters, employees are urged to attend one-hour seminars on such subjects as marriage and human cloning. Message boards in the building extol the "Moral Value of the Month."

Oppressive Climate

The order's critics say the Legion creates an oppressive climate for those who don't follow orthodox Catholic teaching. José Zumaya, a psychiatrist who counsels couples in Monterrey, says some of his upper-class clients suffer from what he calls "Legionary syndrome," referring mainly to a dread of social ostracism if they get divorced. "They feel their children will have to leave school, they will lose all their friends, and there will be consequences for the husband at work as well," says Dr. Zumaya.

In December 2004, the University of Monterrey, a private Catholic institution that isn't affiliated with the Legion, fired five professors and a dean, most of whom taught women's studies. The fired dean blamed Mr. Garza Medina, a strong Legion supporter who in addition to his business interests serves as chairman of the university's board of trustees. Vice Rector Victor Zuñiga denies that the chairman played a role and says the dean was fired for poor performance. The Legion says it had nothing to do with the firings. A spokesman for Mr. Garza Medina says the university had no links to the Legion of Christ, and also cites poor performance as the reason for the dean's firing.

Mr. Zuñiga says a theology professor was fired around the same time because many parents disliked her questioning such topics as papal infallibility. He defends the decision, saying such questioning was akin to challenging President Bush's patriotism at a Texas university after the terrorist attacks of Sept. 11, 2001.

The Legion points out that it serves more than Latin America's wealthy bastions. One day last summer, in San Francisco, a sweltering thatched-roof hamlet of Maya Indians in the southern Mexican state of Quintana Roo, premedical students from the Legion's Anahuac University, under the direction of a young doctor, examined a long line of children and dispensed medicines. Other college volunteers played with dozens of barefoot children and taught catechism lessons.

"How many sacraments are there?" asked Pablo Orvananos, a bearded tourism major. "Seven," answered a little girl, getting a lollipop as a prize.

When he started the Legion in 1941, Father Maciel was an ambitious 20-year old, the scion of provincial Catholic aristocracy. Three of his uncles were bishops and a fourth led an army of peasants against the Mexican government during the 1926 Cristero War, a struggle over state control of the Catholic Church that raged on and off until 1941 and cost some 250,000 lives. According to the Legion's official history, Pope Pius XII ordered Father Maciel in 1946 to recruit Latin American leaders and said the congregation should be like an evangelizing "army in battle formation."

Constantly traveling, Father Maciel proved to be adroit at raising money from rich Mexicans, in particular Flora Barragán de Garza, the Monterrey widow of one of the wealthiest men in Mexico at the time. One technique: Seminarians would write affectionate letters detailing their financial needs to Mrs. Garza, whom they addressed as their "mother." Mrs. Garza responded generously. She bought a Mercedes-Benz for Father Maciel and land in Mexico City that the Legion used to build its first school, Instituto Cumbres, or "The Heights," in 1952.

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From 1956 to 1958, Vatican investigators relieved Father Maciel of his position while they looked into a range of charges about his conduct, although allegations of sexual abuse weren't raised at that time. Absolved by that inquiry, Father Maciel regained command of the Legion in 1959.

In 1997, eight men went public with complaints, made previously through informal church channels to the Vatican, that Father Maciel had abused them when they were seminarians in the 1940s and 1950s. The Vatican unit that investigates such charges -- then under the direction of Cardinal Joseph Ratzinger -- quickly tabled a formal complaint, filed with church authorities in 1998. In Mexico, leading media companies also ignored the allegations. When a small cable-television station ran a documentary about them, leading businessmen organized an advertiser boycott that almost drove the station into bankruptcy.

The investigation into Father Maciel seemed dead until last year, when it emerged that Cardinal Ratzinger had revived the probe in the waning days of Pope John Paul II's reign. In January 2005, soon after the probe began, Father Maciel resigned as head of the Legion, citing his advanced age. In April, a top Vatican investigator went to New York and Mexico to interview Father Maciel's accusers. The same month Cardinal Ratzinger became Pope Benedict XVI.

Today, the investigation remains open. The Legion is under the direction of the Rev. Alvaro Corcuera, a 47-year-old Mexican, who says he'll continue to govern "in the strictest fidelity" to the spirit of the founder.

The accusations against Father Maciel appear not to have damped the fervor of the Legion's well-to-do followers. In November, some 10,000 Regnum Christi members gathered under a huge tent in Guadalajara, Mexico, where they gave Father Corcuera a rock-star's welcome. As a guitar-strumming Legion priest sang a song honoring Father Maciel, Father Corcuera praised the founder's mother, Mamá Maurita, whom the Legion is lobbying to be made a saint.

Night Train To Guangzhou (WSJ)

By Melanie Kirkpatrick

The Wall Street Journal, January 23, 2006

North Korea's worst-kept secret was formally breached last week when Pyongyang confirmed, after the fact, that Kim Jong Il had paid an "unofficial" visit to China.

It's a tale worthy of Ian Fleming: A reclusive, nuke-armed dictator, afraid of flying, travels on a custom-fitted luxury train. The media scramble to confirm sightings after rumors surface in a dispatch from a South Korean news agency. A few days later a Japanese TV network airs hazy footage of a little fatso with a bouffant hair-do leaving a hotel in Guangzhou. Where's Waldo?

The North Korean leader is also apparently afraid of assassination -- with reason. The last time he went to China, a massive explosion rocked a railway station on the Korean side of the border a few hours after his train passed through -- causing many to believe that his subjects, who have no access to the ballot box, were expressing their political views. On this trip, the only reported damage caused was to the guests at the 850-room White Swan Hotel in the boomtown of Guangzhou, evicted en masse to make way for the Dear Leader and his entourage.

Kim's travels took him to the thriving south of China, prompting speculation that he's finally, really, truly going to introduce substantive economic reforms to his nation, one of the poorest on the planet. Scholars and journalists rushed to interpret the visit as a sign that Kim is gearing up to follow China's path to prosperity through free markets. (What's the Korean for "to get rich is glorious"?) Nowhere is that fantasy more indulged than in South Korea, where political leaders have been predicting since the '80s that the North's capitalist conversion is just around the corner. A senior official in Seoul noted that Kim's delegation included mostly technocrats -- no generals -- and predicted a surge in special economic zones in the North. Much was made of the fact that a banquet in Beijing Kim praised China's "shining achievements."

If all the hype engendered by Kim's trip sounds familiar, it should. A few years ago, Pyongyang's decision to end food rationing and sanction some private agricultural markets was heralded as the beginning of "Chinese-style" reform. So, too, was the creation of the Kaesong industrial zone, on the southern border; 15 South Korean companies now operate there using cheap Northern labor. In 2002, the North's leaders even went so far as to utter the previously taboo words, "economic reform."

In any event, every indication that North Korea is liberalizing is countered by evidence of precisely the opposite. Last fall, the government banned the private farmers' markets that fed much of the urban population. Shortly before Kim's journey, Pyongyang

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announced the end of international food aid that had been feeding up to a third of the people. It evicted the World Food Program and told European aid groups to get out by spring. Now, Pyongyang will have to find other sources to avoid shortages.

Two million died in the famine of the late 1990s. And that's where China and, especially, South Korea come in. Pyongyang blithely takes their food aid, which has few or no conditions attached. The U.N., by contrast, requires in-country monitors to confirm that aid was delivered to the starving civilians for whom it was intended. In addition to food, the South's overall economic influence in the North is growing rapidly; two-way trade reached $1.05 billion last year compared with $697 million in 2004.

There's another aspect of North Korea's economy that has received attention recently: its black-market trade in weapons, drugs and counterfeit dollars. President Bush signed an executive order in June authorizing financial sanctions against WMD-proliferators as well as those providing support to them. It didn't take long for North Korea to feel the heat. In September the Treasury used a provision of the Patriot Act to ban U.S. companies from doing business with the Macau-based Banco Delta Asia, saying it helped North Korea launder money. In October, Treasury blacklisted eight North Korean companies, calling them fronts for proliferating WMD. In December, it warned U.S. banks that North Korea might be looking for new channels for laundering money and urged them to "take reasonable steps to guard against the abuse of their financial services by North Korea."

Finally, there is one other potential pressure on the North's economy: its people. It's getting harder for Pyongyang to keep news of the outside world from seeping in. One of the more subversive tools are South Korean soap operas, videotapes of which are finding their way to the North. After DVD players became commonplace in China, discarded video-players were sold on to North Korea. When measured against the South, the workers' paradise looks less celestial.

Kim's recent trip to China isn't likely to result in economic transformation, or prosperity for his people. His authority depends on his ability to control the economy, keeping his people shackled to the state for food, shelter and work. That's the ugly bottom-line.

Bush's Big Silence (WP)

By Fred Hiatt

The Washington Post, January 23, 2006

If promoting democracy is President Bush's largest ambition, then Russia is his largest failure.

Not that President Vladimir Putin is the world's most repressive ruler -- far from it. Dictatorships in Burma, North Korea and Zimbabwe are more stifling. So, for that matter, are tyrannies in Russia's neighborhood, such as Belarus, Uzbekistan and Turkmenistan.

But no other nation has regressed from openness to authoritarianism during Bush's time in office as dramatically and decisively as Russia -- and with less apparent objection from Bush.

Of course, no U.S. president is responsible for Russia's fate; Russians are. Yet Syrians and Egyptians will determine their own fates, too, and that doesn't stop Bush from wielding U.S. diplomacy and rhetoric to aid pro-democracy forces in their countries. His foreign policy is grounded in the belief that over time the United States can be a force for liberty throughout the world.

So his insouciance with respect to Russia is a mystery. Does it mask a calculation that what happens inside Russia just isn't as important as democratic development in the Middle East, given the U.S. war against radical Islamic terrorists? That it makes sense to keep Putin as a partner while fighting those more pertinent battles?

That would be a miscalculation, for at least three reasons. First, Russia is one front in the war. Its brutal tactics in the southern province of Chechnya are radicalizing Muslim residents there; growing Slavic nationalism risks alienating Muslim minorities in other parts of Russia; and Putin's succor of dictators in neighboring Islamic countries such as Uzbekistan helps create the kind of terror-incubators that Bush said after Sept. 11 could no longer be tolerated.

Second, while an authoritarian Russia may offer tactical cooperation from time to time according to its interests, it cannot be a strategic partner of the America that Bush described in his second inaugural address, because the two countries' values and goals will differ so sharply.

Third, and perhaps most damaging to Bush's strategy, is the negative example Russia provides. In the 1990s, democratization seemed inexorable. Countries were moving toward freedom at different speeds, and some hadn't moved at all --

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but with the fall of communism, all eventually would. The ease and speed with which Putin has reversed course saps the sense of momentum and inevitability that could be Bush's biggest ally.

Irina Yasina, director of a pro-democracy foundation in Moscow, said the mood in Russia today resembles what Russians recall as the "stagnation era" under General Secretary Leonid Brezhnev. Yasina, 42, remembers as a 10-year-old being told by her father -- the now well-known liberal economist Yevgeny Yasin -- that he felt buried alive by the communist system.

"But at least then we knew that we were at the end of something," Yasina, a former journalist, said during a visit to Washington last week. "What is most frightening now is that we don't know whether something is ending or is only just beginning."

This month Putin signed legislation that could shutter Yasina's foundation and many other civic organizations. The law creates a Soviet-style bureaucracy to register nongovernmental organizations, leaving the qualifications so vague that the bureaucrats, or the Kremlin, will be free to license or reject as they choose.

Yasina's foundation is a likely target because it was founded, and is still largely endowed, by billionaire oilman Mikhail Khodorkovsky, whom Putin has had confined to a labor camp near the Chinese border because the tycoon dared hint of a political challenge. The camp is a nine-hour plane ride followed by a 15-hour train ride from Moscow, but sometimes when his lawyers arrive they are told they cannot see their client because lawyer visiting hours coincide with forced-labor hours, Yasina said. Khodorkovsky's visit with his wife, promised for month's end, was canceled -- because, he was told, the visiting room is undergoing renovation.

This may seem petty, but pettiness and paranoia are hallmarks of a president who increasingly has isolated himself from anyone but former KGB agents like himself. The broadcast media are Kremlin-controlled, as are parliament, provincial governors, unjailed business tycoons and the judiciary. All of these sectors were free and independent when Putin -- and Bush -- took office.

Now, although they are weak and he is strong, Putin is going after civic organizations, because they are the final outposts of independent activity -- and because he is convinced that the CIA will use such groups to threaten his regime.

This is the man whom Bush will visit in July when Putin hosts a Group of Eight meeting in St. Petersburg. There will be fine photo opportunities in repainted czarist palaces, and the message Putin wants to send his subjects will be clear: I am a czar, and the leaders of the world's democracies do not care; they accept me. The question for Bush is whether he is happy to help Putin send that message.

Rice's Blind Spot (WP)

By Sebastian Mallaby

The Washington Post, January 23, 2006

Nobody doubts her star power. She speaks Russian and talks football, wears dominatrix boots and plays Dvorak, weaves her segregated Alabama childhood into speeches about geopolitics. But the strange thing about Condoleezza Rice is that, when it comes to the stuff that a professor-politician should be really good at, she can be oddly flat-footed. This was true when she emerged as George W. Bush's fitness buddy and foreign policy tutor seven years ago. It is still true now.

In January 2000, as the Bush campaign got underway, Rice published a manifesto in Foreign Affairs that laid out the classic "realist" position: American diplomacy should "focus on power relationships and great-power politics" rather than on other countries' internal affairs. "Some worry that this view of the world ignores the role of values, particularly human rights and the promotion of democracy," she acknowledged. But the priority for U.S. foreign policy was to deal with powerful governments, whose "fits of anger or acts of beneficence affect hundreds of millions of people."

Even six years ago, this was an outdated position. The Clinton administration was certainly preoccupied with powers such as Russia and China, but it was also tracking Islamic terrorists who had already attacked the World Trade Center. The importance of other non-state actors, from rebels to environmentalists to bond traders, had become a cliche of globalization commentary; AIDS had been recognized as a security threat. The era of great-power politics was widely thought to have ended with the collapse of the Soviet Union. Rice seemed like a Sovietologist who hadn't quite caught up.

Even more curiously, Rice was leaning against the tide in her own party. Ever since the 1970s, the heyday of the ultra-realist Henry Kissinger, his followers had been retreating. The realists favored accommodation with pro-American autocrats, but then

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Iran's shah fell, followed by dictators in the Philippines and South Korea -- and the realists found themselves on the wrong side of history. Likewise, the realists favored detente with the Soviets, but Reagan's denunciations of the evil empire proved more effective. Time and again, the idea that diplomacy consisted mainly of relations with powerful governments proved wrong. As a rising cadre of neoconservative Republicans argued, diplomacy was often about judging the currents within countries -- and backing democratic ones.

Fast-forward to 2006. Rice gave two speeches last week calling for "transformational diplomacy," meaning diplomacy that will transform undemocratic societies: The internal affairs of other countries turn out to be important after all. "The greatest threats now emerge more within states than between them," she said Wednesday. "The fundamental character of regimes now matters more than the international distribution of power. In this world it is impossible to draw neat, clear lines between our security interests, our development efforts and our democratic ideals."

Well, that's quite a turnaround. But it's not a completely satisfying one, because the debate has recently moved on. Rice has caught up with the 1990s consensus that powerful states may pose less of a problem than disintegrating weak ones and that the best hope for peace in the long term is a world of stable democracies. But she's only half-acknowledging the next question: Yes, weak and autocratic states are a problem, but can we do anything about them?

The best formulation of this new debate comes from Francis Fukuyama, who famously proclaimed the universality of the democratic urge in his 1989 essay on history's end. Fukuyama certainly believes in spreading U.S. values, but he has emerged as a critic of the Iraq war because he believes its ambitions were unrealizable. The United States lacks the instruments to transform other societies, Fukuyama argues; to build nations you must first build institutions, and nobody knows how to do that. Conservatives, who have long preached the limits to what government can achieve with domestic social policies, should wake up to government's limits in foreign policy as well.

Rice shows some signs of seeing this. She is not content with the instruments of foreign policy as they exist, and her speeches last week were about fostering new ones -- a strengthened office for post-conflict stabilization and a reconfigured foreign aid program. But this only begins to confront Fukuyama's worry, which is that no amount of tinkering with the apparatus of government will make nation-building possible. Creating a functional Iraq or Afghanistan requires creating norms of work and trust and honesty, and such norms can't be conjured by outsiders, no matter how well organized they are.

The big question today in foreign policy is not whether you are a realist or an idealist. It's whether you are an optimist or a pessimist: whether you think that Iraq has gone badly merely because the Bush administration mishandled it, or whether you believe that no amount of skillful management could have achieved stability after three years. I've watched Rice handle squadrons of aggressive journalists, and there's no doubting her intellect. But her forays into grand theory are disappointing. Last week's call for "transformational diplomacy" merely slides past today's big question. It doesn't offer an answer.

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TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

White House Steps Up Defense Of Domestic Spying Program (USAT)

By David Jackson

USA Today, January 23, 2006

WASHINGTON — The White House launches a political campaign this week, not for a candidate but for a controversial program: warrantless surveillance of some U.S. citizens by the National Security Agency.

President Bush plans to defend the program in a counterterrorism speech today at Kansas State University, aides said. The speech will kick off a flurry of administration activity leading to Senate hearings scheduled for Feb. 6.

"We are stepping up our efforts to educate the American people about this vital tool in the war on terrorism," White House spokesman Scott McClellan said.

At the administration appearances, Bush and aides plan to repeat arguments they have made before: This is a limited program that kicks in only when one of the parties is beyond U.S. borders and has some kind of link to the al-Qaeda terrorist organization.

Just before Bush's speech today in Manhattan, Kan., Gen. Michael Hayden plans to discuss the surveillance program at the National Press Club. Hayden, the principal deputy director of national intelligence, once headed the National Security Agency, which conducts the surveillance.

Attorney General Alberto Gonzales is scheduled to address the issue in a speech Tuesday, McClellan said. On Wednesday, the president plans to visit the NSA headquarters at Fort Meade in Maryland.

Democrats say they also want to fight terrorism, but some say the once-secret program is unconstitutional because it permits eavesdropping on some U.S. citizens without a court warrant. "No one is above the law," said Josh Earnest, spokesman for the Democratic National Committee.

As for legal authority, Bush and his supporters have cited his constitutional power as commander in chief. They have also pointed to the congressional resolution passed after the Sept. 11, 2001, terrorist attacks that authorized force against the planners.

Some Republicans, including Sen. Arlen Specter, R-Pa., have questioned the program's legality in light of the Foreign Intelligence Surveillance Act (FISA). The act requires warrants from a special secret court when eavesdropping involves Americans. Specter, chairman of the Senate Judiciary Committee, plans to conduct the hearing Feb. 6.

Sen. John McCain, R-Ariz., speaking on Fox News Sunday, said he doesn't see the legal authority for the program. He suggested the administration sit down with members of Congress to discuss possible changes to the FISA law in light of advances in communication since the law passed in 1978. "Why not come to Congress?" McCain said. "We can sort this all out."

Sen. John Kerry, D-Mass., who lost the presidential election to Bush in 2004, said a special counsel should investigate the program. Appearing Sunday on ABC's This Week with George Stephanopoulos, Kerry said he welcomes the debate over the Bush policy. "There is a way to protect the Constitution and not go off on your own and violate it," Kerry said.

Some Republicans who attended their party's winter meeting during the weekend said the surveillance program should be an election-year issue. Karl Rove, Bush's top political adviser, said Friday in a speech, "This is an issue worthy of public debate."

"President Bush believes if al-Qaeda is calling somebody in America, it is in our national security interest to know who they're calling and why," Rove said.

He said later that "Democrats have a pre-9/11 view of the world."

Sen. Charles Schumer, D-N.Y., appearing Sunday on CNN's Late Edition, called Rove's remarks a "cheap shot" designed to take the spotlight off White House "incompetence" over Iraq, Hurricane Katrina and problems with its prescription-drug plan.

He said Democrats would take a back seat to no one in "fighting a tough war on terror. But what Karl Rove is doing is trying to divert attention."

Delicate Dance For Bush In Depicting Spy Program As Asset (NYT)

By Adam Nagourney

The New York Times, January 23, 2006

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WASHINGTON, Jan. 22 - With a campaign of high-profile national security events set for the next three days, following Karl Rove's blistering speech to Republicans on Friday, the White House has effectively declared that it views its controversial secret surveillance program not as a political liability but as an asset, a way to attack Democrats and re-establish President Bush's standing after a difficult year.

Whether the White House can succeed depends very much, members of both parties say, on its success in framing a complicated debate when the country is torn between its historic aversion to governmental intrusion and its recent fear of terrorist attacks at home.

Polls suggest that Americans are divided over whether Mr. Bush has the authority to order the searches without warrants that critics say violate the law and that the president says are legal and critical to the nation's security.

But as the White House and Democrats are well aware, the issue can draw very different reactions depending on how it is presented. These next few days could prove critical, as both Mr. Bush and Congressional Democrats move aggressively to define what is at stake.

Americans may be willing to support extraordinary measures - perhaps extralegal ones - if they are posed in the starkest terms of protecting the nation from another calamitous attack. They are less likely to be supportive, members of both parties say, if the question is presented as a president breaking the law to spy on the nation's own citizens.

Viewed from the perspective of the battles over the Homeland Security Act or the USA Patriot Act, this White House holds a tactical edge; it has repeatedly proved highly effective in defining complicated debates against the Democratic Party. Applying the campaign lessons of simplicity and repetition, Mr. Bush and Mr. Rove, his chief political adviser, have systematically presented arguments in accessible if sometimes exaggerated terms, and they have regularly returned to the theme of terrorism since the attacks of Sept. 11, 2001.

Mr. Rove's speech on Friday to the Republican National Committee was a classic example. "Let me be as clear as I can be: President Bush believes if Al Qaeda is calling somebody in America, it is in our national security interest to know who they're calling and why," Mr. Rove said. "Some important Democrats clearly disagree."

Democrats - and, though Mr. Rove made no mention of this Friday, some Republicans, too - have indeed challenged the administration for eavesdropping without obtaining warrants. They argue, among other points, that the White House is bypassing legal mechanisms established in 1978 that already allow law enforcement agencies to move rapidly to monitor communications that might involve terrorists. Yet it is difficult to think of a Democrat who has actually argued that it is not "in our national security interest" to track Qaeda calls to the United States, as Mr. Rove contested; he did not offer any examples of whom he had in mind.

Beyond that tactical edge, the White House enjoys the advantage of its platform. The sheer crush of news media attention to a rare public speech by Mr. Rove could not have been lost on Democrats.

By contrast, there is no single Democrat who stands as the voice of opposition. That difference is likely to become particularly glaring this week, with a speech on Monday by Lt. Gen. Michael V. Hayden, the former head of the National Security Agency; a legal defense of the spying program on Tuesday by Attorney General Alberto R. Gonzales; and a visit by Mr. Bush to N.S.A. headquarters on Wednesday. This orchestrated campaign is the work of the same White House that initially offered a crouched, guarded response to the disclosure of the eavesdropping program last month.

Still, in many significant ways the task the White House faces now may prove more daunting than the battles it has waged on this terrain before.

A number of Republicans have joined Democrats in challenging the surveillance program, pointedly reminding the administration that precedents established today will be in place whenever a Democrat returns to power.

"A lot of Democrats?" said one prominent Republican supporter of Mr. Bush, who did not want to be identified while being critical of a White House that famously does not brook criticism. "Democrats, Karl? Republicans, too."

David A. Keene, chairman of the American Conservative Union, said: "A lot of conservatives are very skeptical about it. It is not as clean-cut a political win as the administration thinks that it is."

Senator Arlen Specter, the Pennsylvania Republican and chairman of the Judiciary Committee, is planning hearings on the surveillance program. And in an interview on Fox News on Sunday, Senator John McCain of Arizona said he did not think the president had the legal authority for this operation, adding that the White House should seek Congressional approval to alter the 1978 provisions if it thinks they are not working now.

Mr. McCain also came to the defense of Democrats in response to Mr. Rove's suggestion that they were not committed to the nation's security. "Do I think that the president's leadership has been worthy of support of our party and our leadership?" he said. "Yes. But there's too many good Democrats over there who are as concerned about national security and work just as hard as I do."

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Beyond that, one Republican analyst who is skeptical about the White House strategy said Mr. Bush's position was hardly helped by the fact that his credibility numbers have dropped along with his popularity since his re-election. Mr. Bush may find that, as some Democrats have suggested, the invocations of Sept. 11 do not have the force they once had.

For their part, Democrats said they have learned from their repeated defeats by this White House. The Democratic presidential candidate of 2004, Senator John Kerry of Massachusetts, said in an interview on Sunday that Mr. Rove and the White House were willfully distorting the Democratic position.

"He's playing an old game," Mr. Kerry said. "Every time they have a problem, they play the 9/11 card."

"We all support surveillance - that's where they are playing word games again," Mr. Kerry said. "You can protect the safety of the American people and you can protect the Constitution."

The political complexity of the issue was reflected in remarks by Governor Mitt Romney of Massachusetts, a Republican, who, like Mr. Kerry, is considering a run for president. Speaking by telephone on a trip to Iowa, Mr. Romney at first offered full support for the president's surveillance program.

"The eavesdropping is a big matter on the coasts for people who are inclined to dislike the president," Mr. Romney said. "The great majority of Americans think it is the president's first responsibility to protect the lives of the American citizens in an urgent setting where there is a threat of terrorism."

But Mr. Romney called back a few moments later to make clear that he would have a different view if the program were found to be unlawful.

"I would never suggest that the president should break the law," he said. "My guess is, my assumption is, he did not break the law. The president has a responsibility to follow the law, which I believe is likely to be found, but he also has a primary responsibility to protect the American people."

Lawmakers Seek Review Of Eavesdropping Rules (REU-Y2)

By Joanne Kenen

Reuters, January 23, 2006

U.S. surveillance laws should be reviewed and possibly rewritten to allow the type of eavesdropping that U.S. President George W. Bush has been criticized for authorizing, lawmakers from both parties said on Sunday.

Democrats and some Republicans have said the Bush administration's classified warrantless eavesdropping program is illegal. The White House has strongly defended the National Security Agency surveillance as both legal and essential. The Senate Judiciary Committee starts hearings on the issue on February 6.

The NSA has been monitoring communications, such as e-mail and telephone calls, into and out of the United States by people believed linked to al Qaeda or related groups.

An audio tape by Osama bin Laden that emerged last week threatening new attacks on the United States has heightened security concerns. Neither party can afford to be seen as failing to protect the country, particularly as corruption scandals and public questioning of the Iraq war loom over November's congressional elections.

Lawmakers on several Sunday talk shows said that if the Foreign Intelligence Surveillance Act (FISA) does not give Bush the tools and legal framework he needs to monitor potential threats, the president should ask Congress to change the law rather than bypass it.

Massachusetts Democrat John Kerry, who endorsed former Vice President Al Gore's call for an independent investigation of the Bush program, said on ABC's "This Week" that some Republicans like Bush adviser Karl Rove are trying to equate Democratic opposition to warrantless spying as weakness.

"What he's (Rove) trying to pretend is somehow Democrats don't want to eavesdrop appropriately to protect the country. That's a lie," Kerry said. "We're prepared to eavesdrop wherever and whenever necessary in order to make America safer."

'THERE IS A WAY'

But Kerry said the spying has to be legal and constitutional and if Bush needs the law to be changed, "then come to us and tell us... There is a way to protect the Constitution and not go off on your own and violate it."

Other prominent Democratic senators including Dick Durbin of Illinois, Charles Schumer of New York and Joseph Lieberman of Connecticut made similar comments about reexamining the breadth and modernity of FISA in television interviews a few days after Rove urged Republicans to campaign on national security and the war on terror.

Arizona Republican Sen. John McCain (news, bio, voting record), who has also questioned the legality of the eavesdropping, also urged the administration to work with Congress on modernizing the 1978 FISA law to take into account technological changes in communications.

"I know of no member of Congress, frankly, who, if the administration came and said here's why we need this capability, that they wouldn't get it. And so let's have the hearings," McCain said on Fox News Sunday.

House Intelligence Committee chairman Pete Hoekstra of Michigan, a strong defender of the president's program, said on ABC's "This Week" that "we'll take a look at whether there needs to be a change in the law."

But his Senate counterpart Intelligence Committee chairman Pat Roberts of Kansas said he worried that the public debate about what the NSA can or cannot do would harm its intelligence gathering.

"Al Qaeda are not stupid," he said on CBS's "Face the Nation." "I really worry about losing that capability and seeing a diminished capacity for the president to act and detect a possible attack on the homeland, then do something about it."

White House spokeswoman Dana Perino said the administration continues to brief members of Congress as it has done more than a dozen times during the last several years.

Bush will visit the NSA on Wednesday as part of the effort to highlight the need for the program. Air Force Gen. Michael Hayden, former head of the NSA, will make a speech at the National Press Club on Monday and Attorney General Alberto Gonzales will speak on Tuesday.

Lawmakers Say Will Press Bush On Spying (AP-Y2)

By Hope Yen

AP2, January 23, 2006

Several lawmakers said Sunday they will press President Bush to justify his decision to allow domestic eavesdropping, rebuffing GOP suggestions their criticism of broad executive authority puts the nation at risk.

During the Sunday talk shows, lawmakers were responding to efforts by White House aide Karl Rove to make national security the top partisan issue in the November midterm elections. Rove made the comments about the time that new audiotape warnings by Osama bin Laden were released, threatening an upcoming attack on the U.S.

"I think Karl Rove made a big mistake last Friday to use this issue as his opening salvo to Republican operatives," said Rep. Jane Harman (news, bio, voting record), D-Calif., the senior Democrat on the Intelligence Committee.

"The terrorists aren't going to check our party registration before they blow us up. ...We're under attack as America," she said on ABC's "This Week."

"The NSA's terrorist surveillance program is targeted at al-Qaida communications coming into or going out of the United States," White House Press Secretary Scott McClellan said in a statement later Sunday. "It is a limited, hot pursuit effort by our intelligence community to detect and prevent attacks."

He accused Democrats of making "misleading and outlandish charges about this vital tool that helps us do exactly what the 9/11 Commission said we needed to do connect the dots."

Sen. John McCain (news, bio, voting record), R-Ariz., appearing on "Fox News Sunday," said the new threats emphasize a greater need for Bush to fully consult with lawmakers from both parties on the best strategy for spy programs within the confines of the law.

"Do I think that the president's leadership has been worthy of support of our party and our leadership? Yes," McCain said.

But McCain questioned efforts to paint Democrats as weak on national security.

"There's too many good Democrats over there who are as concerned about national security and work just as hard as I do," McCain said.

On Friday, Rove outlined a blueprint for Republicans to prevail in the midterm elections, suggesting that Democrats have undermined anti-terror efforts by questioning Bush's authority to allow wiretapping without getting court approval first.

Bush has cited a congressional resolution passed after Sept. 11, 2001 that authorized him to use force in the fight against terrorism as allowing him to order the program. The program allows eavesdropping of international phone calls and e-mails of people deemed a terror risk.

Several lawmakers from both parties, including McCain and Senate Judiciary Committee Chairman Arlen Specter, have questioned the program's legality because Bush did not get court approval nor fully consult with Congress. Specter's committee will hold a hearing Feb. 6.

On Sunday, some Republicans echoed Rove's anti-terror themes, arguing that Bush should have broad power even if the 2001 congressional resolution did not expressly authorize or otherwise notify lawmakers of the domestic spying.

Sen. George Allen (news, bio, voting record), R-Va., who is considered a possible 2008 presidential contender, said there are many security measures he doesn't know — and shouldn't know — because it could risk alerting the enemy.

"Neither did I know what sort of intercepts or communications of financial assistance or other things that I don't know about," he said.

Allen cited in particular the new bin Laden tape which surfaced last week as evidence that the terror cells might exist in the U.S. and might be preparing to attack should law enforcement officials let their guard down.

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"I find nothing wrong with having a hearing. This maybe ought to be something that you would ratify — yes, the president has this authority," Allen said on CNN's "Late Edition."

Sen. John Kerry, D-Mass. said Rove is being divisive by seeking to exploit the terror threat for political gain. Wartime should not give a president unchecked authority, he said on ABC's "This Week."

"You know, Osama bin Laden is going to die of kidney failure before he's killed by Karl Rove and his crowd," Kerry said. "We're prepared to eavesdrop wherever and whenever necessary in order to make America safer. But we need to put a procedure in place to protect the constitutional rights of Americans."

Lawmakers Debate New Limits On Spying (LAT)

By Paul Richter

The Los Angeles Times, January 23, 2006

WASHINGTON — Lawmakers of both parties Sunday called for Congress to consider whether new restrictions were needed on government surveillance in suspected terrorism cases involving people in the United States.

Congress is deeply divided on whether the Bush administration acted illegally in carrying out warrantless eavesdropping on communications in hopes of detecting terrorist plots.

But in interviews in advance of Senate hearings next month on the issue, several influential lawmakers said Congress should play a larger role in determining how the surveillance should be run.

"I know of no member of Congress, frankly, who if the administration came and said, 'Here's why we need this capability,' that they wouldn't get it," Sen. John McCain (R-Ariz.), who has questioned the legality of the eavesdropping, told "Fox News Sunday."

"Let's have the administration come to Congress. I think they will get that authority, whatever is reasonable and needed, and increased abilities to monitor communications are clearly in order."

Sen. Richard J. Durbin of Illinois, the Senate's No. 2 Democrat, said that approaching Congress was "exactly the way [President Bush] should have handled it long ago."

"If the president came to us and said there are changes in technology, changes in the threat to America, we need to change and modify the law, you bet he would have a Congress ready to work with him," Durbin said on "Fox News Sunday."

On ABC's "This Week," Sen. John F. Kerry (D-Mass.) attacked Karl Rove, Bush's top political advisor, for his remarks to Republican activists last week, in which Rove said "some important Democrats clearly disagree" with the administration's belief that "it is in our national security interest" to know if terrorism suspects are communicating with people in the United States.

"What [Rove is] trying to pretend is somehow Democrats don't want to eavesdrop appropriately to protect the country. That's a lie," Kerry said. "We're prepared to eavesdrop wherever and whenever necessary in order to make America safer."

If the administration has determined that the current setup is unworkable, Kerry said, "then come to us and tell us how you can do it…. There is a way to protect the Constitution and not go off on your own and violate it."

Rep. Jane Harman of Venice, the ranking Democrat on the House Permanent Select Committee on Intelligence, said she believed the administration had broken the law by failing to fully brief the intelligence committees on the program.

"Congress should decide whether [the law] is being violated in any way by this program," she said on "This Week."

But Rep. Peter Hoekstra (R-Mich.), chairman of the House intelligence committee, said on the same program that he had been invited in the past to ask questions about the program and to consider whether it was legal.

"The problem we have right now is that we have a whole bunch of Democrats who were for this program before they were against it," Hoekstra said. "And the only thing that has changed is that the story was illegally, in a damaging way, leaked to the New York Times," which first reported the surveillance last month.

White House Press Secretary Scott McClellan issued a written response to lawmakers' comments on the talk shows.

"Senate Democrats continue to engage in misleading and outlandish charges about this vital tool that helps us do exactly what the 9/11 commission said we needed to do — connect the dots," McClellan said.

Kerry Criticizes NSA Wiretaps (WT)

By Audrey Hudson

The Washington Times, January 23, 2006

Sen. John Kerry yesterday called the National Security Agency's program to eavesdrop on terror suspects illegal, but he said he will continue to support its funding.

"It is a violation of law," said the Massachusetts Democrat and former presidential contender, who also backed former Vice President Al Gore in calling for a special investigation.

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"I agree that we ought to have a special counsel investigate. I agree that we ought to have an independent commission because this Congress has proven itself unwilling to do what's necessary to perform its responsibilities," Mr. Kerry said.

Appearing on ABC's "This Week," Mr. Kerry was asked by host George Stephanopoulos, "If you think this is a clear violation of the law, why not move to cut off funding for the program?"

"That's premature," Mr. Kerry responded.

Under the authority of the president, who consulted on the matter with congressional leaders, the National Security Agency engaged in electronic surveillance of al Qaeda suspects, including U.S.-bound phone calls and e-mails, without a warrant.

Sen. George Allen, Virginia Republican, told CNN that Mr. Bush has the authority to conduct wiretapping of terror suspects.

"An argument can be made that the president, by virtue of his office and his role and responsibility, is to prevent attacks on the United States. The more specific authority he has right now was the Congress authorized the use of military force. And, in that use of military force, it was to wage war against those who have declared war on us, specifically al Qaeda."

"The point of the matter is that this is what you would expect," Mr. Allen said. "Wouldn't you want us to know what the enemies are plotting against us? This is focused. These intercepts are focused on calls from phones that are related to al Qaeda that may come into this country."

Democrats and some Republicans question whether the eavesdropping is legal because the administration did not get consent from the Foreign Intelligence Surveillance Act court.

Sen. Arlen Specter, Pennsylvania Republican and chairman of the Senate Judiciary Committee, will hold hearings on the matter and has said he does not think the wiretapping was legal.

Sen. John McCain, Arizona Republican, also said yesterday that he did not think the actions were legal.

"Let us have the hearings," Mr. McCain said on "Fox News Sunday." "Let us have the administration come to Congress. I think they will get that authority, whatever is reasonable and needed, and increased abilities to monitor communications are clearly in order."

Sen. Charles E. Schumer, New York Democrat, told CNN that Mr. Bush needs to go after Osama bin Laden "through the system, rule of law, and checks and balances that we've had here."

"Tomorrow, if the president were to decide that he felt that he had to search Americans' homes without a warrant, to just go do it on his own and say, 'I need that power,' " would not be acceptable, Mr. Schumer said.

The Other Big Brother (NSWK)

By Michael Isikoff

Newsweek, January 30, 2006

The demonstration seemed harmless enough. Late on a June afternoon in 2004, a motley group of about 10 peace activists showed up outside the Houston headquarters of Halliburton, the giant military contractor once headed by Vice President Dick Cheney. They were there to protest the corporation's supposed "war profiteering." The demonstrators wore papier-mache masks and handed out free peanut-butter-and-jelly sandwiches to Halliburton employees as they left work. The idea, according to organizer Scott Parkin, was to call attention to allegations that the company was overcharging on a food contract for troops in Iraq. "It was tongue-in-street political theater," Parkin says.

But that's not how the Pentagon saw it. To U.S. Army analysts at the top-secret Counterintelligence Field Activity (CIFA), the peanut-butter protest was regarded as a potential threat to national security. Created three years ago by the Defense Department, CIFA's role is "force protection"—tracking threats and terrorist plots against military installations and personnel inside the United States. In May 2003, Paul Wolfowitz, then deputy Defense secretary, authorized a fact-gathering operation code-named TALON—short for Threat and Local Observation Notice—that would collect "raw information" about "suspicious incidents." The data would be fed to CIFA to help the Pentagon's "terrorism threat warning process," according to an internal Pentagon memo.

A Defense document shows that Army analysts wrote a report on the Halliburton protest and stored it in CIFA's database. It's not clear why the Pentagon considered the protest worthy of attention—although organizer Parkin had previously been arrested while demonstrating at ExxonMobil headquarters (the charges were dropped). But there are now questions about whether CIFA exceeded its authority and conducted unauthorized spying on innocent people and organizations. A Pentagon memo obtained by NEWSWEEK shows that the deputy Defense secretary now acknowledges that some TALON reports may have contained information on U.S. citizens and groups that never should have been retained. The number of reports with names of U.S. persons could be in the thousands, says a senior Pentagon official who asked not be named because of the sensitivity of the subject.

CIFA's activities are the latest in a series of disclosures about secret government programs that spy on Americans in the name of national security. In December, the ACLU obtained documents showing the FBI had investigated several activist

groups, including People for the Ethical Treatment of Animals and Greenpeace, supposedly in an effort to discover possible ecoterror connections. At the same time, the White House has spent weeks in damage-control mode, defending the controversial program that allowed the National Security Agency to monitor the telephone conversations of U.S. persons suspected of terror links, without obtaining warrants.

Last Thursday, Cheney called the program "vital" to the country's defense against Al Qaeda. "Either we are serious about fighting this war on terror or not," he said in a speech to the Manhattan Institute, a conservative think tank. But as the new information about CIFA shows, the scope of the U.S. government's spying on Americans may be far more extensive than the public realizes.

It isn't clear how many groups and individuals were snagged by CIFA's dragnet. Details about the program, including its size and budget, are classified. In December, NBC News obtained a 400-page compilation of reports that detailed a portion of TALON's surveillance efforts. It showed the unit had collected information on nearly four dozen antiwar meetings or protests, including one at a Quaker meetinghouse in Lake Worth, Fla., and a Students Against War demonstration at a military recruiting fair at the University of California, Santa Cruz. A Pentagon spokesman declined to say why a private company like Halliburton would be deserving of CIFA's protection. But in the past, Defense Department officials have said that the "force protection" mission includes military contractors since soldiers and Defense employees work closely with them and therefore could be in danger.

CIFA researchers apparently cast a wide net and had a number of surveillance methods—both secretive and mundane—at their disposal. An internal CIFA PowerPoint slide presentation recently obtained by William Arkin, a former U.S. Army intelligence analyst who writes widely about military affairs, gives some idea how the group operated. The presentation, which Arkin provided to NEWSWEEK, shows that CIFA analysts had access to law-enforcement reports and sensitive military and U.S. intelligence documents. (The group's motto appears at the bottom of each PowerPoint slide: "Counterintelligence 'to the Edge'.") But the organization also gleaned data from "open source Internet monitoring." In other words, they surfed the Web.

That may have been how the Pentagon came to be so interested in a small gathering outside Halliburton. On June 23, 2004, a few days before the Halliburton protest, an ad for the event appeared on houston.indymedia.org, a Web site for lefty Texas activists. "Stop the war profiteers," read the posting. "Bring out the kids, relatives, Dick Cheney, and your favorite corporate pigs at the trough as we will provide food for free."

Four months later, on Oct. 25, the TALON team reported another possible threat to national security. The source: a Miami antiwar Web page. "Website advertises protest planned at local military recruitment facility," the internal report warns. The database entry refers to plans by a south Florida group called the Broward Anti-War Coalition to protest outside a strip-mall recruiting office in Lauderhill, Fla. The TALON entry lists the upcoming protest as a "credible" threat. As it turned out, the entire event consisted of 15 to 20 activists waving a giant BUSH LIED sign. No one was arrested. "It's very interesting that the U.S. military sees a domestic peace group as a threat," says Paul Lefrak, a librarian who organized the protest.

Arkin says a close reading of internal CIFA documents suggests the agency may be expanding its Internet monitoring, and wants to be as surreptitious as possible. CIFA has contracted to buy "identity masking" software that would allow the agency to create phony Web identities and let them appear to be located in foreign countries, according to a copy of the contract with Computer Sciences Corp. (The firm declined to comment.)

Pentagon officials have broadly defended CIFA as a legitimate response to the domestic terror threat. But at the same time, they acknowledge that an internal Pentagon review has found that CIFA's database contained some information that may have violated regulations. The department is not allowed to retain information about U.S. citizens for more than 90 days—unless they are "reasonably believed" to have some link to terrorism, criminal wrongdoing or foreign intelligence. There was information that was "improperly stored," says a Pentagon spokesman who was authorized to talk about the program (but not to give his name). "It was an oversight." In a memo last week, obtained by NEWSWEEK, Deputy Defense Secretary Gordon England ordered CIFA to purge such information from its files—and directed that all Defense Department intelligence personnel receive "refresher training" on department policies.

That's not likely to stop the questions. Last week Democrats on the Senate intelligence committee pushed for an inquiry into CIFA's activities and who it's watching. "This is a significant Pandora's box [Pentagon officials] don't want opened," says Arkin. "What we're looking at is hints of what they're doing." As far as the Pentagon is concerned, that means we've already seen too much.

Eavesdropping Leaps Into 21st Century (AP)

By Matthew Fordahl
AP, January 23, 2006

SAN JOSE, Calif. -- In the past, intercepting communications meant just that _ copying a telegram mid-route, steaming open an envelope or attaching alligator clips to the copper wires that connected every telephone in the world.

But the old ways of communicating are heading into the sunset like the Pony Express and being replaced by phone calls, instant messages, e-mail and more that are converted into digital data before they gallop across the Internet and other advanced networks.

This constant interchange of massive amounts of data, converging into speeding bitstreams on common pipes, is both a blessing and a curse for eavesdroppers.

It's easier than ever to access wholesale feeds of data. But such work is also more controversial than traditional wiretapping, as seen in objections to post-9/11 warrantless domestic surveillance and to regulatory moves to require networks to be tap-friendly.

Critics question whether safeguards put in place a quarter century ago following FBI wiretapping misconduct are strong enough to prevent abuse in the 21st century. Others fear the information superhighway is turning out to be a fast path to mass surveillance.

"The thing that really should worry people is that once the capability is there, people will abuse it," said Jennifer Granick, executive director of Stanford University's Center for Internet and Society. "The opportunity for abuse is so much greater, because so much more of our private information is transmitted over the network."

Always a hot topic, the debate over wiretapping is further fueled today not only by the knowledge of what's possible but also by a dearth of details of what's actually happening.

What makes the White House surveillance program _ acknowledged after The New York Times disclosed it in December _ a cause of such concern is that it skirts existing laws and employs techniques resembling a wide-mouthed vacuum before the fine-toothed combs can be wielded.

It's being performed by the ultra-secret National Security Agency, which is believed to have the most advanced information vacuuming technology available. The NSA did not return telephone calls seeking comment on its methods.

The agency's efforts are reported to enjoy the cooperation of telecommunications companies, which run the major backbones and junctions where data _ phone calls and Internet traffic _ is exchanged between carriers' networks. Those companies have refused to confirm or deny to The Associated Press whether they've cooperated with the program, which the White House says began in 2002 with the aim of preventing terrorist attacks.

But they could be helping in a number of ways to provide information on who's talking to whom, when, how long the communication lasts and, ultimately, the content itself. Under the laws bypassed by the Bush administration, warrants for wiretaps require some evidence of wrongdoing.

Given the huge amount of data that traverses networks, it's likely that one element of the program involves analyzing traffic to single out anyone who communicates with people in suspicious locations. Data accumulated for phone billing could be one of the sources.

Modern networks can yield such information not just for phone calls but also for any other type of communication that passes through. When the data is converted to packets, as in the Internet, each one contains a header with the origin and destination.

Even without support from a carrier, the NSA could be sniffing communication as it traverses the airwaves or passes through the millions of miles of fiber optic cable that are buried underground or beneath oceans.

The technical problem is in the fire hose of information involved, said Mark Rasch, a former Justice Department computer crimes prosecutor.

"The idea that the NSA could be sitting on every call going internationally, listening in on every possible language, for the words al-Qaida,' 'terrorist' or 'bombs' is just fallacy," he said. "Computers capable of doing that simply don't exist and hopefully never will."

But the technology does exist to quickly read just the destination or origin information.

That sort of monitoring, if done on a wide scale, creates thorny moral, ethical and legal problems because those channels are much more likely to contain the chatter of innocents than the machinations of terrorists. And it raises the question of how that traffic is used.

"The thing about traffic analysis is you can mine that to any depth you want," said Bruce Schneier, chief technology officer of Counterpane Internet Security Inc.

In domestic criminal cases, law enforcement officials who want simply to know who is talking to whom _ excluding content _ need only tell a court it's important to a case. But that low burden of proof was established with the belief that only one line would be monitored.

When such surveillance is done on all outbound international calls, the law is not clear.

"I would say the Fourth Amendment (guaranteeing protection against unreasonable searches) is the Fourth Amendment, and the fact that you're invading the privacy of millions as opposed to dozens should make it worse, not better," said Rasch, who is now chief security counsel at Solutionary Inc., a security risk management firm.

It's believed that once the traffic analysis identifies "people of interest," they are then targeted for further surveillance and, possibly, full-content monitoring. Then, the NSA could simply mirror the data going to or coming from a target. It could even set up a parallel phone company or its own Internet Service Provider that would be invisible to its targets, Rasch said.

Critics note that the White House could easily have used the secret court created by the 1978 Foreign Intelligence Surveillance Act to get approval for such wiretaps, but chose instead to bypass it.

As it is, the FISA court has been criticized for rubber stamping requests.

"During the Clinton years, we were fighting that kangaroo court _ they never said no," Schneier said. "Here we are now wishing for the little oversight that the court had."

The NSA surveillance also raises questions about wiretapping in investigations unrelated to national security.

Responding to complaints by law enforcers that such digital communications as Internet telephony can stymie their eavesdropping, the FCC decided last year decided that the 1994 Communications Assistance for Law Enforcement Act should be extended next year to apply to some broadband Internet access providers and Voice over Internet Protocol (VoIP) companies.

CALEA compels those companies to proactively build out that capability, and network equipment vendors are starting to building surveillance tools into their gear in anticipation of compliance.

Some companies, such as VeriSign Inc. and NeuStar Inc., offer an all-in-one service for carriers and service providers, which some federal agencies have argued will actually enhance privacy for people not under investigation.

But critics say that rather than laying the groundwork for privacy, new regulations will more likely enable greater misuse.

"There's no question in my mind that once we make the networks less secure because of CALEA, we will exploit that lack of security to intercept communications under every legal authority asserted by the government," Rasch said.

The President's End Run (WP)

The Washington Post, January 23, 2006

THE MOST detailed legal justification to date for the National Security Agency's warrantless domestic surveillance has emerged from the Bush administration, but the 42-page version isn't any more convincing than its shorter predecessors. In some ways -- particularly in its broad conception of presidential power in wartime -- it is more disturbing.

As it had implied previously but never flatly stated, the administration asserted that the Foreign Intelligence Surveillance Act (FISA) would be unconstitutional if it were read to prevent the president from engaging in the kind of warrantless surveillance that the administration has been conducting.

This interpretation, with its expansive view of the commander in chief's powers, would call into question Congress's ability to prevent the administration from engaging in torture or cruel and inhuman treatment or to establish rules for detainees and military tribunals -- exactly the areas in which we have been encouraging Congress to step up to the plate.

The administration, appropriately, would prefer to avoid the constitutional argument. Instead, it contends first that FISA's warrant requirements were superseded by the post-Sept. 11 congressional Authorization for the Use of Military Force (AUMF), which allows the president to "use all necessary and appropriate force" to prevent "any future acts of international terrorism against the United States."

The administration cites this sweeping language and the Supreme Court's ruling in Hamdi v. Rumsfeld , in which a plurality found that the AUMF allowed the president to detain U.S. citizens captured on the battlefield as enemy combatants. The administration says that reasoning applies equally to "all traditional and accepted incidents of force . . . including warrantless electronic surveillance to intercept enemy communications both at home and abroad."

A critical difference between detention and surveillance, however, is that Congress has already passed a law outlining detailed requirements for domestic surveillance -- even during wartime; FISA specifically provides a 15-day grace period for warrantless surveillance in time of war. The vague wording of the AUMF can't reasonably be read to implicitly trump FISA.

The administration goes on to say that if the AUMF doesn't provide such approval, and if FISA is interpreted to prohibit such wiretapping outside its procedures (the law says it is to be the "exclusive means" for authorizing foreign intelligence surveillance), the statute would be unconstitutional.

President Bush, the paper says, "determined that the speed and agility required to carry out the NSA activities successfully could not have been achieved under FISA." Because those activities "are necessary to the defense of the United States from a subsequent terrorist attack, FISA would impermissibly interfere with the President's most solemn constitutional obligation -- to defend the United States against foreign attack."

Before and since the 1978 passage of FISA, presidents have asserted that they also possess the inherent constitutional authority to authorize warrantless searches. Yet there is a major difference between claiming such inherent presidential power and stretching it -- too far in our view -- to conclude that, when Congress has spoken on an issue, the president is free to ignore that legislative action.

Especially without knowing the parameters of the surveillance, we hesitate to second-guess the president's argument that FISA's limits are unduly constraining. The surveillance may be critical for national security, and a law written in a different technological age may well need to be refurbished. But the proper way to handle that -- which the administration rejected -- would have been to seek changes in the law, not to do a stealthy end run around the legislative process. In such an amorphous, long-running conflict as the war against terrorism, it's critical to ensure that limits are in place to prevent the executive branch from overreaching.

What's Left Unsaid (NYT)

By Bob Herbert

The New York Times, January 23, 2006

Have you ever talked sexy to your wife or your girlfriend - or your husband or your boyfriend - on the telephone? Would you keep talking if you thought that one of Dick Cheney's operatives was listening in?

Talk about a chilling effect.

What if you were thinking of running for Congress and you tried to bolster your understanding of terrorism by speaking with knowledgeable but controversial figures in the Middle East? How would you feel if you knew - or even suspected - that government agents were monitoring your conversations? Would you be less likely to engage in those conversations? Would you begin to censor yourself? Would your contacts still be willing to speak freely if they thought the feds were listening in?

Freedom of speech in the United States covers matters trivial and profound. The corrosive damage that is being done to the First Amendment, that cornerstone of free speech, has been largely overlooked in the controversy over President Bush's decision to permit the government to eavesdrop without warrants on phone calls and e-mail messages inside the United States.

Most of the attention generated by this domestic spying program has understandably been focused on its affront to the Fourth Amendment, which prohibits unreasonable searches, and its brazen violation of the Foreign Intelligence Surveillance Act, which established clear-cut rules for electronic surveillance in the U.S.

But there's an additional danger. When the government's spies are allowed to snoop willy-nilly on phone calls and e-mail in the United States, without the important legal constraint of having to seek a warrant, it means that the all-important First Amendment has developed a chill, symptomatic of a life-threatening illness.

The ostensible aim of the president's domestic surveillance program, conducted by the supersecret National Security Agency, is to home in on communications into and out of the United States that involve individuals or organizations suspected of some sort of terror connection. But, as The Times reported last week, F.B.I. officials have repeatedly complained that the N.S.A. has bombarded them with thousands upon thousands of unsubstantiated tips - names, telephone numbers, e-mail addresses and so forth - that have either led nowhere, or to completely innocent individuals.

Whatever its stated goals, the N.S.A. seems to be operating the greatest fishing expedition in the history of the world.

The American Civil Liberties Union, in a lawsuit seeking a halt to the spying, warned that scholars, lawyers, journalists and others who communicate with people outside the U.S. are already experiencing a chilling effect. People who are doing nothing wrong, but who feel they may become targets of the program, for whatever reasons, are curtailing their conversations and censoring their correspondence, according to the suit.

Laurence Tribe, a professor of constitutional law at Harvard, noted that people who are aware of the surveillance program and who believe that their political views may be seen as hostile by the government, may also become less candid in their telephone conversations and e-mail. Others could unwittingly become the victim of contacts by individuals that the government may be interested in.

He gave an example:

"I recently got a series of e-mails from someone, quite without invitation, that got rather scary in the sense that they started saying positive things about Osama bin Laden. I asked the person in reply to stop e-mailing me, and I got an e-mail today saying, 'Your request is permanently granted.' But in the meantime, granted or not granted, that could easily put me on some kind of targeting list."

Speaking about the potential long-term effect of widespread domestic spying, Professor Tribe said:

"The more people grow accustomed to a listening environment in which the ear of Big Brother is assumed to be behind every wall, behind every e-mail, and invisibly present in every electronic communication, telephonic or otherwise - that is the kind

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of society, as people grow accustomed to it, in which you can end up being boiled to death without ever noticing that the water is getting hotter, degree by degree.

"The background assumptions of privacy will be gradually eroded to the point where we'll wake up one day, or our children will, and it will seem quaint that people at one time, long ago, thought that they could speak in candor."

Held In 9/11 Net, Muslims Return To Accuse U.S. (NYT)

By Nina Bernstein

The New York Times, January 23, 2006

Hundreds of noncitizens were swept up on visa violations in the weeks after 9/11, held for months in a much-criticized federal detention center in Brooklyn as "persons of interest" to terror investigators, and then deported. This week, one of them is back in New York and another is due today - the first to return to the United States.

They are no longer the accused but the accusers, among six former detainees who are coming back to give depositions in their federal lawsuits against top government officials and detention guards, at a time when the constitutionality of part of the government's counterterrorism offensive is under new scrutiny.

As in the cases of all the Muslim immigrants rounded up in the New York area after the terror attacks, the six were never accused of a crime related to 9/11; officials eventually cleared all of them of links to terrorism. A report by the inspector general of the Justice Department found systemic problems with immigrant detentions and widespread abuse at the federal detention center where the six had been held; several guards have since been disciplined.

But as the six return to the city - four of them from Egypt, one from Pakistan, one from London - the conditions imposed by the United States government include the requirement that they be in the constant custody of federal marshals.

They are barred from calling anyone during their weeklong stays at an undisclosed New York hotel, where 12 days of closed depositions are to begin today. They can expect hours of questioning by lawyers representing at least 31 defendants in the lawsuits, including John Ashcroft, the former attorney general, and Robert S. Mueller III, the director of the F.B.I.

The first returning detainees, Yasser and Hany Ibrahim, who are brothers, say that putting themselves back in the hands of the government they are suing is an act of faith in America. In recent telephone interviews from Alexandria, Egypt, the two described themselves as frightened but resolute in pressing a 2002 class-action lawsuit charging that they were abused and deprived of due process because of their religion or national origin.

"I'm seeking justice," said Yasser, 33, who had a Web site design business in Brooklyn before he and Hany, 29, a deli worker, were delivered in shackles to the Metropolitan Detention Center in Brooklyn 19 days after 9/11. "It's from the same system that did us injustice before. But I have faith in this system. I know what happened before was a mistake."

Charles S. Miller, a spokesman for the Justice Department, said officials would not comment on any aspect of the case, including the conditions of the men's return to the city and their allegations. But in court papers, the defendants deny wrongdoing, and department lawyers argue in part that the Sept. 11 attacks created "special factors" - including the need to detect and deter future terrorist attacks - that outweigh the plaintiffs' right to sue for damages for any constitutional violations.

The detainees' lawyers say that what happened at the Brooklyn detention center can be recognized four years later as the template for many of the counterterrorism measures now being fiercely challenged.

"The post-9/11 domestic immigration sweeps were the first example of the Bush administration's willingness to ignore the law and hold people outside the judicial system," said Rachel Meeropol, a lawyer for the Center for Constitutional Rights, which represents the Ibrahim brothers. "The kind of torture, interrogation and arbitrary detention that we now associate with Guantánamo and secret C.I.A. facilities really started right here, in Brooklyn."

Richard Peter Caro, a lawyer for Stuart Pray, the lieutenant who oversaw the detainees' arrival at the detention center, said yesterday: "We're glad that they're coming in to be deposed so we can really get at the facts and finally see what the evidence shows. I'm confident that my client will be found to have committed no wrongdoing at all."

Last week, the center filed a class-action suit against President Bush and other administration officials over the National Security Agency's domestic eavesdropping without warrants. Ms. Meeropol is one of the plaintiffs, contending that her communications with clients like the Ibrahims may have been monitored illegally. The government says the surveillance program is a legal and valuable tool in the war on terror.

Illegal recording of lawyer-client conversations was one of the abuses documented at the Brooklyn detention center in a scathing 2003 report by the Justice Department's inspector general. The report also found a pattern of physical abuse, some of it caught on prison videotape, including beatings and sexual humiliations like those described by the Ibrahim brothers or other former detainees. The report said it was Mr. Ashcroft's policy to hold detainees on any legal pretext until the F.B.I. cleared them, even though such clearances took months and many detainees were immigrants picked up by chance.

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At the time, Mr. Ashcroft said he made "no apologies" for finding every legal way possible to protect the American public. Nonetheless, officials pledged to work on getting kinks out of the system, and said abuses would be punished.

Critics charge that the authority that Mr. Ashcroft asserted after 9/11 - to detain any noncitizen considered a "person of interest" secretly and indefinitely - is unconstitutional. Government officials argue that secrecy is needed to keep terrorists in the dark.

Mr. Ashcroft has sought to have the two lawsuits brought by the detainees dismissed. But in a decision appealed by the government, a federal judge in Brooklyn ruled in September that he and other defendants would have to answer questions, at a later deposition, in one of the suits: a 2004 complaint by another two of the six returning detainees.

Those two men, in their late 30's, are Ehab Elmaghraby, an Egyptian immigrant who ran a restaurant near Times Square, and Javaid Iqbal, a Pakistani immigrant whose Long Island customers knew him as "the cable guy."

"I am not afraid," Mr. Iqbal wrote last week in an e-mail message about his return. "I am also sure that justice will be served because peoples of U.S.A. are justice-loving people regardless of race and religion."

The Ibrahim brothers are more fearful. They say that their parents begged them not to return to the country where they were held in maximum security without charges for eight months and, the brothers charge, beaten and tormented by guards. "Part of my motivation is to make sure that what happened to us doesn't happen to more people in the future," said Yasser, who was due to arrive in New York today, joining his brother, who came on Friday.

Both spoke with nostalgia of the three or four years they lived in New York, on and off, before 9/11. When they were not working, they said, they hung out together in Greenwich Village, browsed electronics stores near Times Square and took friends on the rides at Coney Island. Hany proudly recalled how he worked his way up from stock boy to grill man and then manager of a deli in Ocean Parkway, Brooklyn. "The best I lived in my life was in New York," he said.

Right after the World Trade Center attack, they said, their parents urged them to come home. "We assured them," Yasser recalled: " 'This is the United States. They don't arrest people for no charges. We didn't do anything, so nothing's going to happen to us.' "

But at 2 p.m. on Sept. 30, 2001, the lawsuit says, a dozen terrorism investigators from the F.B.I., the police and immigration services knocked at the door of the Ocean Parkway apartment that the brothers shared with several Egyptian and Moroccan friends. After questioning, the investigators took away Yasser, Hany and another man, all of whose tourist visas had expired.

Why investigators showed up is unclear, said their lawyer, Ms. Meeropol. But she noted that some interrogations were prompted by anonymous tips about "suspicious-looking" foreign men. Federal officials have contended that at a time when a second terror attack seemed imminent, all tips had to be checked. As a practical matter, once the brothers were labeled "of interest" to investigators, they were destined for the maximum-security unit of the Metropolitan Detention Center.

Physical abuse, the lawsuit says, began the moment they arrived, chained and shackled. As Yasser described it, guards supervised by Lieutenant Pray slammed his brother face-first into a wall where an American flag T-shirt had been taped, then did the same to him.

Pain became part of the brothers' daily routine, the lawsuit charges. Escort teams cursing them as Muslims and terrorists slammed them into every available wall when they were taken from their cells, twisted their wrists and fingers, and stepped on their leg chains so that they fell, their ankles bruised and bloody, according to the suit.

But worse than physical or verbal abuse, Yasser said, was "the feeling that we are being hidden from the outside world, and nobody knows in the outside world that we are arrested and in this place." Hany, who says he had a nervous breakdown when he returned to Egypt, recalled that guards and lieutenants terrified him by saying, "You're going to stay here the rest of your life."

At a closed immigration hearing on Nov. 20, three weeks after their arrest, the brothers agreed to immediate deportation. By Dec. 7, the lawsuit says, F.B.I. memos stated that clearance checks on the Ibrahims had shown no links to terrorism. But they were held six more months - Hany until May 29, 2002, and Yasser until June 6.

The suit asks the court to declare that all the detentions were unjustified and illegal, to award compensatory and punitive damages, and to order the government to return personal property it confiscated.

To prevent unnecessary detentions and abuses of noncitizens in the event of a new national emergency, the Justice Department's inspector general, Glenn A. Fine, in 2003 recommended changes in counterterrorism policy as well as disciplinary action against at least 10 guards and supervisors. In his last report to Congress, in August 2005, Mr. Fine said that many of his recommendations had been acted upon but that formal policy changes were still being negotiated.

The Federal Bureau of Prisons has fired two detention officers, suspended two for 30 days and demoted one in connection with the Brooklyn inquiry, said Traci Billingsley, a bureau spokeswoman.

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The Ibrahim brothers say that when they finally reached home, they found that the presumption of guilt had followed them into an Egyptian secret service dossier that made them unemployable. Yasser, now married with a 2-year-old son, said he and Hany were eking out a living in a small jewelry business.

"It's going to be very difficult for me to go back for just a week and not to be able to see the places that I loved before," he said of his return. "America's the land of the free."

Home Washington Whispers (USNEWS)

U.S. News and World Report, January 23, 2006

Senator 'Taz" Races to Help Iditarod Icon

It's no surprise that Sen. Ted Stevens, Alaska's big man in Washington, is a fan of the Iditarod Trail Sled Dog Race. "It's such a great sport," he says of the annual 1,150-mile Anchorage-to-Nome adventure set to run in March. "It epitomizes the Alaskan spirit."

But he's not just an observer: He's a husky dog guy, and, with his wife, Catherine, is mushing an effort to save the life of their old friend and four-time Iditarod winner Susan Butcher, the face of the event. "She's a great friend," says Stevens of Butcher, 51, who's battling leukemia and in need of a bone marrow donor. Stevens tells us that he es in Washington, one named Princess Keely after the daughter of pal Sen. Conrad Burns, the other "Taz" for the nickname Sen. Trent Lott has given Stevens: "Tasmanian Devil." "But," he says, " they had no place to run." So he gave the dogs to the daughters of Butcher and husband David Monson, who says Stevens still visits the dogs at their Trail Breaker Kennel when he's in Fairbanks.

Well, those visits sadly turned serious last December when Butcher was diagnosed. The Stevenses and Monson, backed by others of Susan's friends, including Bill Gates, George Lucas, and Colin Powell, then embarked on a race to boost bone marrow donor typing in hopes a match will be found. "She's a fantastic competitor," says Stevens, "and that's why we hope she'll win this last battle."

Cartoon: Bruce Beattie on the Democrats' Alito-Abramoff ploy

More from Washington Whispers

Pro Bono for the Gitmo Gang

Legal and military sources tell us that some 57 American law firms are offering free legal advice to more than 150 "enemy combatants" held at the U.S. naval base at Guantanamo Bay, Cuba. A list provided to Whispers shows several prominent shops, many of which brag about their efforts on their websites. The pro bono service, organized by the Center for Constitutional Rights, is under the gun in conservative legal circles and some military offices that suggest it's bad form to help alleged terrorists while also working for clients involved in the war on terrorism like Boeing and General Dynamics. But don't hate lawyers just because they're helping accused terrorists. Thurston Moore, chairman of Hunton & Williams, says pro bono "is the right thing to do." Moore adds that firms like his aren't working a detainee's criminal case, only the legality of imprisonment at Guantanamo. "If good lawyers did not take on engagements fundamental to our constitutional rights, our rights would be meaningless," he says.

Where There's Smoke There's Bill

Bill Clinton still has great timing. On approach to Bangor, Maine, recently, the cockpit of his jet filled with smoke, forcing a long layover. While he was on the ground, a military jet packed with 300 troops returning from Iraq happened to land, and he bounded out to meet them. Once the jet was fixed, he got back on, but the smoke reappeared, and he jumped off just as a second troop transport arrived from Iraq. Yes, he shook all their hands, too. "He was actually glad he was grounded," says spokesman Jay Carson , who adds that Bubba has since written to some of those troops. Now Clinton's visit will even figure in a documentary on troop greeters. "It was coincidentally being shot," says Carson, "and they're going to make President Clinton a big part of that."

Predator And Prey (NSWK)

By Michael Hirsh, Mark Hosenball And Sami Yousafzai

Newsweek, January 30, 2006

That familiar voice, at once menacing and gently lilting, was back. After more than a year in which some U.S. officials had speculated openly he might be dead, Osama bin Laden resurfaced in his usual way, unannounced, dressing up threats of death in reasonable tones. Holed up in some remote region believed to be along the Afghan-Pakistani border, the impresario of 9/11 seemed to be talking to his enemies more than his followers. And in his audiotape, recorded in recent weeks and secretly couriered as usual to an Al Jazeera bureau, there was also something new: an offer of an olive branch. In a cynical attempt to exploit American war-weariness, especially in Iraq, the terror leader noted that U.S. polls showed declining support for the war. For the first time, he proposed "a long-term truce on fair conditions" to the American people "so both sides can enjoy security and

stability." Bin Laden, who once built his rep by pledging to destroy the "far enemy," now seemed to be trying to close the gap. All America had to do was withdraw from Arab lands.

The tape immediately touched off speculation as to its meaning. Vice President Dick Cheney, chronically skeptical of remorse from enemies, denounced the message as "a ploy." Other Bush administration officials suggested it was a sign of bin Laden's weakness and, perhaps, his own war-weariness. The tape surfaced at a time when the CIA and the Defense Department have stepped up missile strikes inside Pakistani tribal regions, where many experts believe bin Laden and his top deputy, Ayman al-Zawahiri, are hiding. Only days earlier, a CIA-guided Predator drone fired missiles at houses in the village of Damadola, aiming to kill Zawahiri. At least 18 people were obliterated, though probably not Zawahiri. U.S. officials remained confident that the dead included some senior Qaeda members, and Pakistani authorities maintained that four to five Qaeda operatives were killed in the missile attack. "We are still not sure who they were," said a senior official in Islamabad who spoke only on condition of anonymity. "We are still in the process of establishing their identity."

Among those thought to have been killed was Midhat Mursi al-Sayid Umar, an Egyptian explosives and poisons expert. It was Umar, also known as Abu Khabbab, who allegedly trained the suicide bombers who killed 17 U.S. sailors on the USS Cole in 2000. "If he was killed, then it's a big blow to bin Laden and Al Qaeda," says Sharif Mohammed, a Qaeda-linked Islamist in Pakistan. "He was responsible for running the Qaeda network in the West." (Umar may have also been researching germ and chemical warfare.) Another possible victim of the strike is Abu Obaidah al-Misri, Al Qaeda's chief of operations in Afghanistan's eastern Kunar province, where U.S. and Afghan forces regularly come under militant attack. Still, U.S. counterterrorism officials say they may never completely confirm the identities of terrorists who were blown up.

Civilians are another matter. The Predator killed several women and children, provoking demonstrations in the tribal region, many of them organized by the radical Pakistani Islamic alliance known as Muttehida Majlis Amal. The radicals hoped to use the attack to undermine support for Pakistani President Pervez Musharraf, America's close ally. Musharraf certainly is in a delicate position. He told visiting U.S. Under Secretary of State William Burns over the weekend that America needs to be more careful inside his borders.

Authority to fire Hellfire missiles from Predators has been delegated by the White House to the CIA, according to current and former counterterrorism officials who did not want to be named because the matter is classified. If officials conducting surveillance believe there is a strong chance of civilians' being killed in an attack, operatives are expected to consult higher-ranking agency officials before firing. In the case of the Damadola attack, according to a knowledgeable source who spoke on condition of anonymity because the subject was sensitive, CIA officials made the decision to launch the attack themselves. But they notified higher-ups in the administration, including White House officials, who had enough time to veto the strike if they wanted.

Despite the ethics—and public relations—issues, U.S. officials involved with the hunt for bin Laden and Zawahiri said they're quite sure that the benefits of the Predator campaign outweigh the costs. According to two former officials, several groups of missile-armed Predators—some of which are equipped with laser-guided gravity bombs—are based in the region. And a Pakistani official privy to intelligence says the January Predator strike was the fourth inside Pakistan's borders since May 2005 (two more than have been reported previously). Beginning earlier this month, the military and CIA have also begun to use the first production models of the Global Hawk unmanned recon aircraft, which can survey distances of more than 100 miles from 65,000 feet and direct the lower-flying Predator to precise targets.

The tribal region where Zawahiri was said to be has a long history of fierce resistance to central control, as both the British Raj and the Soviets who occupied neighboring Afghanistan found out. But none of those previous powers possessed similar technology to scour the countryside from the sky and to unleash remote-control missiles. The broad message of the Damadola strike, which flattened three houses and killed several families, is that tribesmen need to rethink their code. Those who are supposedly governed by the iron law of Pashtunwali—or automatic loyalty to fellow tribesmen or guests—now have to recalculate the cost of that, U.S. officials said. "The message to them is, 'You have to take a new measure now: your families are not safe if you protect the terrorists'," says one senior Pentagon official who would not speak about the attack on the record because the details are classified.

Although Zawahiri's wife is said to be a "Momand" Pashtun from that region—offering him considerable protection—the CIA has been having more success lately in developing sources in the area, with help from Pakistani intelligence. (According to several U.S. officials, the Pakistani intelligence service has allowed a large "liaison" team into the country, and has accepted a great deal of technical assistance.) Frank Anderson, a former CIA station chief in the region, says Pashtunwali goes only so far, especially with multimillion-dollar prices on the heads of top Qaeda suspects. "The noble savage whose word is his bond exists a lot more in literature than on the ground," he says archly.

U.S. officials also express confidence that, after years of infighting back in Washington, they are finally waging the global war on terror in a coherent way. Despite media coverage a year ago about a power struggle between the Pentagon and the CIA,

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the two agencies are working fairly well together now in the field, U.S. counterterrorism officials say. The CIA effectively has control inside Pakistan, where the U.S. military is not supposed to be operating (and the agency has "deniability" because it is engaged in covert operations that are never officially acknowledged). Indeed the Global Hawk and Predator systems are so sophisticated that live, high-resolution pictures are transmitted, via satellite links, to a large command post called the Global Response Center on the sixth floor of CIA headquarters in Langley, Va. There, officials can watch the satellite feeds in real time on large screens while other officials with headsets bark orders to operatives in the field.

Across the border in Afghanistan, meanwhile, U.S. Special Operations teams are operating day and night, battling Tali-ban insurgents who infiltrate from Pakistan. "It's quite a bloody little war down there," a U.S. military source said.

The upshot is that some U.S. officials said they would not be terribly surprised if bin Laden were suing for peace. Other terrorism analysts suggested that, at a time when bin Laden's rival and sometime partner in Iraq, Abu Mussab al-Zarqawi, has offended many Muslims with his ruthless tactics, the Qaeda chieftain's main message was "I'm still the main man." Bin Laden may have been trying to appear reasonable and merciful to his own followers by playing the peacemaker.

Still, the biggest challenge bin Laden had last week was getting the American people to take him seriously. For Americans, after four years of this kind of thing—and with the center of gravity now in Iraq—there seemed as much theater as threat to his latest missive. (Homeland Security Department officials languidly announced the threat level was unchanged, then fell silent.) The terror leader, who in the past has generally hewed to Qur'anic citations, referred to U.S. reports about abuse at Abu Ghraib and even quoted a left-wing U.S. author, William Blum, as saying that all the U.S. president has to do to get the terrorists off his back is announce "that American interference in the nations of the world has ended." The reference sent Blum's anti-imperialist treatise, "Rogue Nation," soaring from 200,000-plus in rankings on Amazon.com to 17. ("Oprah or Osama, it doesn't matter, as long as it begins with 'O'," Blum joked to NEWSWEEK.) Al Jazeera's Washington anchor, Hafez Al-Mirazi, later solicited Blum and Israeli author Natan Sharansky for his show "so we can have both Bush and bin Laden's favorite authors on."

In some respects bin Laden seemed to be playing, perhaps naively, into George W. Bush's hands. Nothing will do more to silence advocates of early withdrawal from Iraq than an endorsement from the chief author of the 9/11 attacks. But coming at a time when a new analysis suggests the war in Iraq could cost upwards of $2 trillion, and the U.S. economy is burdened with record budget deficits, the promise of an endless war could resonate with some Americans. "Don't let your strength and modern arms fool you," bin Laden said in his message. "We have nothing to lose. A swimmer in the ocean does not fear the rain." As he has so often, bin Laden closed by invoking his successful war against the Soviet Union in Afghanistan in the 1980s. "We bled their economy, and now they are nothing. In that there is a lesson for you." Perhaps there is. Americans just don't want to hear it from him.

Can Bin Laden Be Caught? (TIME)

By aparisim ghosh

Time, January 23, 2006

The voice was muffled, labored, weak--as you might expect from a man who has spent the past four years on the run. If it didn't belong to one of the world's most feared men, it would hardly scare a child. Having disappeared from view, sheltering in the mountains of Afghanistan and Pakistan, Osama bin Laden may have lost the ability to send a chill down the world's spine. Governments don't shut down airports or send security forces into red alert. Even when he makes the direst threats, we no longer feel compelled to slow down, much less stop, the course of our daily lives.

But bin Laden's re-emergence last Thursday was still a jolt, coming after a 13-month silence that raised questions about whether the al-Qaeda boss was incapacitated or even dead. The U.S. believes the 10-minute taped message, which aired on the Arab TV channel al-Jazeera, was probably recorded sometime since November, partly because of a reference to British newspaper reports from that time about a purported proposal by President Bush to bomb al-Jazeera. The tape suggested that bin Laden is alive, if not quite well. A longtime bin Laden watcher, French terrorism expert Roland Jacquard, speculates that the decision not to release a videotape may reflect a desire to conceal the deterioration of his physical condition. And if bin Laden's voice sounded more muted than in his last message, in December 2004, so did his rhetoric. He warned of forthcoming attacks on U.S. soil but didn't convey a sense of immediacy. "They are in the planning stages, and you will see them in the heart of your land as soon as the planning is complete," he said. He floated the idea of a cessation of hostilities with America if the U.S. withdraws troops from Iraq and Afghanistan. "We do not mind offering a long-term truce based on just conditions that we will stick to," bin Laden said. The White House didn't bite. "We do not negotiate with terrorists," spokesman Scott McClellan said. "We put them out of business."

That claim, of course, is undermined every day that bin Laden and his deputy and chief tactician, Ayman al-Zawahiri, remain on the loose. But bin Laden's resurfacing has come at a time when the leadership of al-Qaeda appears to be under as much strain as at any time since the fall of the Taliban in 2001. Antiterrorism experts say the Saudi-born terrorist is no longer in

active contact with field commanders, and his ability to plan and direct specific operations is hampered by his isolation. In Iraq, scene of al-Qaeda's deadliest strikes since 9/11, the group's leader, Abu Mousab al-Zarqawi, is fighting battles with some Iraqi insurgent groups who want him dead almost as badly as the U.S. military does (see box). Meanwhile, an intensified U.S. push to hunt down al-Qaeda leaders has scored a series of apparent successes; just last week Pakistani intelligence officials claimed that a Jan. 13 U.S. air strike on the village of Damadola had killed as many as four senior operatives--although it may have missed its chief target, al-Zawahiri, whose voice was heard on an undated audiotape last Friday. Among some U.S. counterterrorism experts, there was speculation that the release of the bin Laden tape was al-Qaeda's attempt to boost the morale of its foot soldiers amid the run of bad p.r. Says an intelligence official: "The question is, Is this someone's way of changing the topic?"

It might be, but no one is confusing misdirection for surrender. While improved cooperation between the U.S. and Pakistan has apparently helped the U.S. zero in on bin Laden's lieutenants, credible intelligence on the main target's whereabouts is sketchy at best. Law-enforcement officials say that bin Laden's message aside, there are no signs of heightened al-Qaeda activity in the U.S., but they don't discount the possibility of a terrorist attack. "The threat's still real," says a U.S. intelligence official, "but because of this tape, does that make it any more real than it was before the tape? No." Today, the official says, al-Qaeda is not the same outfit it was on 9/11; it has morphed from a command-and-control organization into a philosophy that has "inspired cells around the world ... It's harder for them to coordinate, but it also makes them very dangerous."

Some terrorism experts believe that the perception that bin Laden is vulnerable may make jihadists more determined to carry out attacks. "I'd be worried over the next 60 to 90 days," says a former FBI counterterrorism official. "I believe if we don't hear from al-Qaeda in the near term, some will paint bin Laden as weakened and unable to deliver on his threat"--a possibility that may motivate terrorists to try to strike soon, to make good on the promises of their leader.

The reappearance of bin Laden came at a moment when U.S. intelligence officials felt pretty good about themselves. Even as the cassette tape was making its way out of bin Laden's secret lair, his pursuers were sending out signals across the borderlands between Pakistan and Afghanistan, where he may be hiding. In recent weeks U.S. and Pakistani intelligence agencies have stepped up their search for top al-Qaeda leaders, with the skies above the mountains buzzing with spy planes and unmanned Predator drones, and a network of local spies and informants has been scouring the landscape for information. A Pakistani security officer told TIME the CIA has installed sophisticated surveillance equipment in several offices of the ISI, Pakistan's spy agency, to monitor any radio and Internet communications between al-Qaeda and its sympathizers.

The objective is to tighten the net around bin Laden and his deputies. In December a U.S. guided-missile attack in North Waziristan, based on intelligence from agents on the ground, reportedly killed Hamza Rabia, an Egyptian believed to have been the latest occupant of al-Qaeda's No. 3 spot. Then, in early January, the U.S. and Pakistan seized on the chance to bag even bigger prey. Details of the Damadola operation are beginning to emerge, and they provide a tantalizing glimpse into the intensifying hunt for bin Laden. A Peshawar-based official told TIME that in the past month, Pakistani-intelligence field agents had been tracking two groups of men who had crossed the border from Afghanistan into Bajaur, a small, often restive tribal region that borders Afghanistan's Kunar province. In the days before the attack, the search zoomed in on the group headed for Damadola; counterterrorist officials believed that some top al-Qaeda figures, including possibly al-Zawahiri himself, might have been in that group. "We knew there were going to be some VIPs, and any of those were worthy" targets, says a U.S. official.

The infiltrators sheltered in a small compound of three houses just outside Damadola. Shortly after 3 a.m. on Jan. 13, locals say, several missiles fired from Predators crashed into the compound, practically obliterating the houses. According to news reports, Pakistani officials initially said it was possible that al-Zawahiri had been killed, then backed away from the claim. Villagers told journalists who arrived at the scene that 18 civilians had died (the number was later revised down to 13); they denied that any bodies had been removed or that any foreigners had been in the compound. But some Pakistani intelligence officials began telling media outlets last week they believe as many as four leading terrorists, including al-Zawahiri's son-in-law and Abu Khabab al-Masri, a top al-Qaeda bombmaker, died in the strike. The U.S. is still uncertain if DNA was recovered from the scene to allow experts to positively identify any terrorists killed there or how the IDs were made. Pakistani Prime Minister Shaukat Aziz told TIME late last week that so far investigators have recovered only bodies of civilians, "but our security forces are there in large numbers to get the facts. These things just cannot evaporate and disappear, if there is anything."

Although the missile strike provoked a round of protests in Pakistan's tribal areas that forced President Pervez Musharraf to distance his government from the operation, cooperation between the U.S. and Pakistan in the hunt for bin Laden has quietly deepened. A Peshawar-based Pakistani intelligence official speaking on condition of anonymity says Washington has an understanding with Islamabad that allows the U.S. to strike within Pakistan's border regions--providing the Americans have actionable intelligence and especially if the Pakistanis won't or can't take firm action. Pakistan's caveat is that it would formally protest such strikes to deflect domestic criticism. Some ranking Pakistani officials deny such an agreement exists.

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The territory in which bin Laden may be hiding remains forbidding to outsiders. In pockets of Pakistan's borderlands, a resurgent Taliban has begun to impose its extreme brand of Islamic law, including a ban on music and the Internet, and the summary execution of criminals. Some counterterrorism experts, though, are cautiously optimistic that the turmoil in al-Qaeda's high command they hope was caused by the strike in Damadola may force its leaders to expose themselves. "You got to presume that all the al-Qaeda guys are asking each other who got smoked," says a former U.S. intelligence official. "When they stick their heads up to see who got whacked, it presents opportunities."

While the hope of finding al-Qaeda's bosses anytime soon remains just that--hope--the hunters have shown indications that they may be closer to picking up their targets' scent. A Pakistani intelligence official says Pakistani intelligence agents and CIA drones are searching the mountainsides for the second group that crossed from Afghanistan. In the message delivered last week, bin Laden signaled he would not allow himself to be captured alive. "I swore that I will not die except free, despite the bitter taste of death," he said. On that much, both bin Laden and his pursuers seem to agree: one way or another, his end will come.

HOMELAND RESPONSE:

A Tangled Web Woven (USNEWS)

By David E. Kaplan

U.S. News and World Report, January 23, 2006

The CIA's Center for the Study of Intelligence is one of the agency's most open branches. The in-house think tank sponsors studies on how to improve intelligence collection and analysis and publishes a respected journal, Studies in Intelligence. But since 2003, at least three unclassified CSI reports--all critical of the agency--have been withheld from the CIA's website, U.S. News has learned. During that same time, the agency has placed online three other CSI reports, all of those relatively positive or neutral.

Among the documents withheld: a tough 69-page report, "Curing Analytic Pathologies."The study, published quietly in December, argues that reform efforts have centralized authority but failed to change the intelligence community's core problem--"dysfunctional behaviors and practices within the individual agencies." A second report, "Analytic Culture in the U.S. Intelligence Community," was published last May and found the nation's intelligence analysts isolated and lacking overseas experience and training in research techniques. A third report, "Intelligence for a New Era in American Foreign Policy," from 2004, is the record of an unclassified conference of intelligence veterans, several of whom made comments sharply critical of the intelligence community.

The three reports are available through the CIA's public-affairs office, but only by mail, and one must know to ask for them. The CIA declined to say why the reports are not posted online nor would it provide a full list of the center's unclassified publications. "I find it baffling and bizarre to suggest we are not disseminating reports," says CIA spokeswoman Michelle Neff, "when the CSI independently mails out the final version of every unclassified finished paper." But some experts say it is the agency's response that is baffling. "This does not inspire confidence," says Steven Aftergood of the Federation of American Scientists.

TSA: Program May Use Fliers' Financial Data (USAT)

By Thomas Frank

USA Today, January 23, 2006

A new program to speed travelers through airport security may require passengers to agree to a check of their personal and financial records, the Transportation Security Administration said.

The TSA said it will require “in-depth security background checks” that may involve “using commercial data” for people applying to the Registered Traveler program that starts in June. The checks will help verify people's identities to prove they have no ties to terrorism.

Commercial databases hold personal information from credit reports, property records, shopping histories and other records. TSA chief Kip Hawley said such data can be useful in flagging terrorists, who often won't appear in most U.S. commercial lists.

Business Travel Coalition Chairman Kevin Mitchell said the databases “are notoriously inaccurate” and could mistakenly label someone a terrorist. “It raises a huge liability issue,” said Mitchell, who supports Registered Traveler.

The program will create reserved lanes for people who pass the background check and pay an annual fee, expected to be $80 to $100. Security requirements such as removing jackets and shoes will be lifted as approved passengers go through metal detectors.

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Bill Connors, executive director of the National Business Travel Association, said some travelers are concerned.

"If you start asking for too much personal information, it's not worth it to me anymore," said Connors, another supporter of Registered Traveler.

Congress barred the TSA from using commercial data on airline passengers after a government probe criticized the agency last year for improperly storing 100 million records on travelers when it said no data storage would occur.

The TSA says the ban does not apply to Registered Traveler because the program is voluntary and the background checks would be done by companies at an airport. It would be the company that determines whether applicants pose a terrorist threat, TSA spokeswoman Amy von Walter said.

The TSA would approve background-check programs. Hawley, the TSA chief, said a background check must give "a high degree of confidence that an individual is not a terrorist."

"Using commercial data is one avenue," Hawley added.

A company running the only Registered Traveler program — at Orlando International Airport — recently experimented with giving applicants quizzes generated by commercial data to authenticate their identity.

However, the quizzes asked questions that were either too difficult, such as the year someone received their Social Security number, or so easy that "a terrorist … could pass the quiz on behalf of any person," according to a report by the company, Verified Identity Pass.

CEO Steven Brill said the company had success using document scanners to authenticate applicants' driver's licenses and passports. "There are other things we can do beyond that quiz," Brill said.

Private Airports Balk At Security (WT/AP)

By Stephen Manning, Associated Press

The Washington Times, January 22, 2006

Potomac Airfield in Fort Washington is small as airports go -- just one 2,600-foot runway used by light single- or twin-engine private planes.

Many pilots using it are recreational fliers, or those who want to go to Washington a few miles to the north.

The airport, which can even accommodate small private jets, isn't big enough to worry federal officials who fret over the use of planes to attack the District, according to owner David Wartofsky.

He compares its size to "an aircraft carrier, parked in a forest, at the bottom of a ravine in the most restrictive airspace in the world."

But Potomac Airfield is one of three private airports that sit within a tightly controlled zone of airspace around Washington. And the Transportation Security Administration (TSA), which regulates security at the airport, doesn't appear to agree with Mr. Wartofsky that it is innocuous.

Late last year the agency shut down Potomac for nearly a month because of security violations.

Even as the TSA and other federal agencies weigh whether to make the restricted airspace zones permanent, Mr. Wartofsky and other private airport operators in the Washington region are pushing for changes in rules that they say unfairly punish harmless private pilots in an overzealous effort to protect Washington.

"My objective is to preserve the freedom of people who are not a threat," he said.

The federal government established a restricted flight zone over the capital after hijacked passenger jets were used to attack Washington and New York on September 11, 2001.

Made up of three, 60-mile wide overlapping rings that resemble Mickey Mouse ears on a map, the zones are meant to warn of any hostile plane that might be bearing down on Washington.

Private pilots can fly in the zones, but only under certain conditions.

In the Air Defense Identification Zone, or ADIZ, which forms much of the restricted air space, pilots must file a flight plan with the Federal Aviation Administration and use a special transponder code that allows air traffic controllers to identify them.

Security is tighter in the inner 15-mile Flight Restricted Zone, or FRZ, which sits directly over Washington. Private pilots who wish to fly within those areas must get a background check, along with using the special code and filing a flight plan.

The measure was initially temporary, but the FAA is weighing whether to make it a permanent regulation and is taking public comment through Feb. 6.

Most private pilots, who could face fines or suspension of their licenses for violating the air space, don't want the zones to stay. The FAA has received more than 20,000 comments on the proposal.

At an FAA-sponsored public forum at Washington Dulles International Airport, Aircraft Owners and Pilots Association President Phil Boyer implored federal officials, urged the FAA "not to take a bad idea and make it permanent."

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FAA spokeswoman Laura Brown said the agency will review the comments before making a decision on the restricted zones. She did not know when the FAA would act.

The airports with arguably the most at stake in the decision are the "D.C. Three," including Potomac Airfield, that sit inside the highly restrictive inner zone. The other two are College Park Airport and Washington Executive/Hyde Field.

Chertoff's Wake (LEGALT)

By Jason McLure, Legal Times

Legal Times, January 23, 2006

After a rocky year, things are looking brighter for some protégés of Homeland Security Secretary Michael Chertoff.

On Jan. 4, President George W. Bush granted a recess appointment to Julie Myers, making the 36-year-old former Chertoff chief of staff the head of Homeland Security's 15,000-employee Immigration and Customs Enforcement.

Just a day earlier, Alice Fisher, Chertoff's former deputy at the Justice Department who now heads the DOJ's Criminal Division, had been on national television touting the guilty plea federal prosecutors had extracted from Jack Abramoff.

That guilty plea had been won by a team of career prosecutors supervised by Noel Hillman, the head of the DOJ's public integrity section who was first hired by Chertoff as a federal prosecutor during Chertoff's tenure as U.S. attorney in New Jersey.

On the surface it would seem that Myers, Fisher, and Hillman, among others, have basked in the reflected glory of Chertoff, who once enjoyed, by Washington standards, a stainless reputation as a straight-shooting, mob-busting, former prosecutor turned general in the war on terror.

But Hurricane Katrina dented Chertoff's armor, leading critics to call into question his leadership at the DHS. And criticism of the response to Katrina as well as terror policies promulgated under Chertoff during his time at Justice has also tarred his understudies — some of whom were forced to claim their positions through the back door of presidential recess appointments.

Their successes — and their travails — provide a window into how one lawyer's high-flying career in public service can both open doors for and complicate the lives of his loyal aides and assistants.

"When people get into positions of power, they tend to bring in people they know," says Michael Greenberger, a former Clinton-era DOJ official who now runs the Center for Health and Homeland Security at the University of Maryland. "The question is the competency of those people."

ALL IN THE FAMILY

The top rungs of Justice and the Department of Homeland Security are crowded with lawyers who've worked with Chertoff in a number of his previous jobs: as a federal prosecutor in New Jersey, as a partner at Latham & Watkins in New Jersey, as counsel to the Senate committee investigating the Clintons, and as the assistant attorney general overseeing the DOJ's Criminal Division.

READER COMMENTS

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Some have had an easier time in their roles than others. Myers perhaps suffered the most by her association with the post-Katrina Chertoff.

Myers and Chertoff both worked on the Whitewater investigation; Chertoff was special counsel to the Senate, and later Myers was a junior lawyer in independent counsel Kenneth Starr's office. After brief stints as an assistant U.S. attorney for the Eastern District of New York and at the Treasury Department, Myers became Chertoff's chief of staff in November 2002, during his tenure as assistant attorney general in charge of the DOJ's Criminal Division.

She then left the DOJ just 10 months later, after Chertoff won confirmation as a judge on the U.S. Court of Appeals for the 3rd Circuit, in the summer of 2003.

But when Chertoff returned to the Bush administration last year, he hadn't forgotten Myers, who had job-hopped from Justice to the Commerce Department to the White House's personnel office.

Her confirmation hearings couldn't have come at a tougher time. It was Sept. 15, 2005, and the political winds stirred up by Homeland Security's botched response to Hurricane Katrina were still blowing through Congress. Three days earlier, Michael Brown had resigned in disgrace as director of the Federal Emergency Management Agency, and Congress and the media were on the hunt for underqualified Bush administration cronies.

Myers fit the bill. Nominated to become head of the federal government's second-largest investigative agency, Myers had virtually no experience in immigration policy and a thin record of management of any sort. (Myers was unavailable for an interview. A spokesman for her office issued a statement saying, "She has great respect for Michael Chertoff and is extremely proud of her work with him.") And it couldn't have helped that the other DHS nominee before the Senate committee was Stewart

Baker, an older and deeply experienced Washington lawyer and policy-maker who is now assistant secretary for policy at the department.

"I think we ought to have a meeting with [DHS Secretary] Mike Chertoff, either privately or publicly, to ask him why he particularly . . . thinks you're qualified for the job," Sen. George Voinovich (R-Ohio) told Myers, with her parents, her fiancé, and her future in-laws looking on from the audience. "Because based on the résumé, I don't think you are."

But Voinovich had hit on Myers' ace in the hole. Chertoff would not only speak privately with Voinovich but, according to one of the senator's aides, would play a key role in persuading the senator to back her nomination. When Bush bypassed the Senate to give Myers a controversial recess appointment over the holidays, there was nary a protest from the normally independent-minded Voinovich. "He believes she has the potential to be a good manager," says Marcie Ridgway, Voinovich's press secretary.

If Myers' credentials aren't impeccable, her connections certainly are. She is the niece of Gen. Richard Myers, the former chairman of the Joint Chiefs of Staff. Upon taking the helm at the DHS, Chertoff tapped her then-fiance (now husband), John Wood, who was once an aide to former Attorney General John Ashcroft, to be his chief of staff.

But Myers is far from the only government lawyer whose career has taken off after working for Chertoff. There's also Alice Fisher, who worked with Chertoff on the Whitewater investigation. After Fisher left the Senate committee, she joined Latham & Watkins, Chertoff's old firm. She became a partner at the firm in 2001, just as Chertoff tapped her to become one of five deputy assistants at the Criminal Division.

When Chertoff left to join the federal bench in 2003, Fisher returned to private practice at Latham. But when Chertoff returned to the administration last year, Fisher, 38, was nominated to take his old job leading DOJ's 500-lawyer Criminal Division. (Fisher declined an interview request for this article.) That nomination was both helped and hindered by her ties to Chertoff and his tenure at Justice.

Sen. Mitch McConnell (R-Ky.), in his introduction of Fisher, went out of his way to point out that "Secretary Chertoff, who's worked closely with her over the years, has called her, quote, 'one of the best lawyers I've seen in my entire career.' "

But the Criminal Division's record under Chertoff and Fisher was far from flawless. After the Sept. 11, 2001, terrorist attacks, Justice was criticized for ordering the roundup and incarceration of hundreds of Muslims in the United States. The department was also embarrassed after it was forced to drop the much-touted 2003 convictions of members of an alleged Detroit terror cell amid allegations of prosecutorial misconduct.

And one of the Criminal Division's signature successes in the area of white-collar crime during Chertoff's tenure — the 2002 conviction of accounting firm Arthur Andersen for obstruction of justice — was later overturned by the U.S. Supreme Court.

Fisher and Chertoff's role in crafting some of the more controversial legal aspects of the Bush administration's war on terror also proved thorny. Ultimately, Fisher's confirmation was blocked in the Senate by Sen. Carl Levin (D-Mich.), over questions about her connections to legal policies used to justify the harsh treatment of foreign detainees.

In response, Bush granted Fisher a recess appointment, using the same constitutional provision that allowed him to appoint Myers without Senate approval. And, as with Myers, Fisher's husband is no stranger to Chertoff. W. Clinton Fisher III is currently a senior adviser for aviation policy at the DHS' Transportation Security Administration.

Although Sen. Patrick Leahy (D-Vt.) criticized Alice Fisher at the time of her nomination for having no prosecutorial experience and a thin trial record, her short tenure atop the Criminal Division has been marked by its success in winning guilty pleas from Abramoff and his former associate Michael Scanlon in the ongoing congressional corruption probe. One of the career DOJ attorneys supervising the 18-month investigation is Hillman, 49, the section chief of the public integrity division who followed Chertoff to Washington.

LENGTHY COATTAILS

Those close to Chertoff's inner circle are quick to credit the success of his protégés to their individual skills as much as to their relationship with the Cabinet secretary. "I think relatively talented people have gravitated to him over the years and want to learn at the knee of the master," says David Sandstedt, who worked under Chertoff at Justice and at Latham and is now a plaintiffs attorney in New York. "He takes his mentoring role very seriously and likes to see people learn and ultimately succeed."

Beyond Myers, Fisher, and Hillman, Chertoff's family tree within the federal government includes a number of other successful lawyers who regularly keep in contact, according to a number of lawyers who have worked with Chertoff. They include:

· Philip Perry: The career of the son-in-law of Vice President Dick Cheney has in many ways mirrored Chertoff's over the past decade. Also a former partner at Latham & Watkins, he worked on the Whitewater investigation with Chertoff and joined the DOJ after Bush's election in 2000. After stints at the Office of Management and Budget and back at Latham, Perry joined Chertoff at the DHS last year as the department's general counsel.

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· John Elwood: First hired as a counsel to Chertoff in the Criminal Division, Elwood became an assistant solicitor general and argued several cases before the Supreme Court. He's now deputy assistant attorney general at Justice's Office of Legal Counsel, the office charged with providing the legal justification for the president's authorization of warrantless eavesdropping.

· Laura Parsky: She was brought to the Criminal Division by Chertoff and is now a deputy assistant attorney general overseeing computer crimes and child exploitation. Parsky is the daughter of high-flying investment banker Gerald Parsky, the California state chairman of the 2004 Bush-Cheney campaign who was once considered a candidate for Treasury secretary.

· David Nahmias: Hired for the DOJ by Chertoff, he became a deputy assistant attorney general under Chertoff's successor, Christopher Wray. He's now U.S. attorney for the Northern District of Georgia in Atlanta.

· Eric Jaso: A former Latham associate under Chertoff in New Jersey, he worked as a lawyer in Chertoff's office at the DOJ. Jaso is now an assistant U.S. attorney in New Jersey and is rumored to be in line for an appointment to the federal bench.

· Matthew Martens: Another former Latham associate who followed Chertoff to Washington, he is now a federal prosecutor in Charlotte, N.C., and remains close to Chertoff, having dined with him in Charlotte last summer.

· Scott Weber: A former partner at Latham, he is now a lawyer in Chertoff's office at the DHS.

· Sigal Mandelker: Though she turned down a summer associate offer from Latham (she chose Covington & Burling), Mandelker made her way into Chertoff's inner circle at Justice through the DOJ's honors program and is now a lawyer in Chertoff's DHS office.

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Oklahoma City Moves Past Its Infamous Bombing (CSM)

By Kris Axtman

The Christian Science Monitor, January 23, 2006

HOUSTON - It's hard for many in Oklahoma City to remember a time when they didn't know the names Tim and Terry, the two angry men who killed 168 people - and changed the city's collective consciousness - by parking a two-ton bomb of farm fertilizer and fuel oil in front of the Alfred P. Murrah federal building in 1995.

But as time goes on, wounds heal, memories fade, and hearts soften. At some point in the past decade, Oklahoma City began to look forward instead of back.

That may be the reason why Michael Fortier's release from prison Friday after serving more than a decade for his role in the bombing sent relatively few ripples through the community.

While it's painful to learn of his freedom, some say, their lives no longer revolve around the details of that April day. Their city, in many ways, has been freed from its own prison - through prayer and urban renewal.

"Oklahoma City is a different city, completely, than it was in 1995," says Bob Spinks, president of United Way of Central Oklahoma in Oklahoma City. "There is a lot of urban revitalization going on that has created excitement, lots of new venues downtown, and the economy has been doing well here. So all of this mitigates the Fortier news a little bit."

Indeed, Oklahoma City has flourished since the bombing a decade ago. In addition to a new federal building, there are two sports stadiums, a performing-arts center, a central library, a "River Walk"- style canal in the hip Bricktown district, and a trolley linking everything.

Officials say the bombing - at the time, the worst terrorist attack in US history - galvanized residents and created a sense of pride about the city. That, in turn, fueled the urban progress.

"It has been over 10 years and a lot has happened since then," says John Call, a forensic psychologist and president of Crisis Management Consultants in Oklahoma City. The fact that Mr. Fortier's release got very little attention, says Dr. Call, proved to him that the city's residents are in the latter stages of healing - having moved beyond emotional acceptance to reconstruction of their lives. "It's not something that's talked about anymore," he says.

That's not to say that the attack has been forgotten.

Take Jim Denny, for instance. His two children were in the building's day-care center when the explosion occurred and they still suffer from injuries.

But he is unaffected by Fortier's release. "I have absolutely no problem with him getting out of jail. He was a key witness in both [the Timothy McVeigh and Terry Nichols] trials and, according to the juries, he was the one that basically sewed up their convictions. I say, he's served his time and he should be allowed to try to put his life back together."

The government will not confirm whether Fortier and his family will go into the federal Witness Protection Program, and survivors and relatives of the victims were provided few details when they were sent notices of his release last week. "They didn't give us a lot of advanced notice, and won't tell us what is going to happen to him," says Ken Thompson, who lost his mother in the bombing. "So it's a difficult time for us." But, he says, "most people understand that without its star witness, the government would not have gotten guilty verdicts. So to some degree, he has paid his debt to society."

Fortier received a 12-year sentence in exchange for testifying against Mr. McVeigh and Mr. Nichols, and has served 85 percent of it. He and his wife, Lori, had advance knowledge of the plot to bomb the federal building after McVeigh - an old Army buddy - stopped by their home in Kingman, Ariz., and told them about it, he testified in court.

He also helped McVeigh steal and transport weapons that helped finance the scheme and was shown the target. He has apologized repeatedly for not alerting authorities and said he did not think McVeigh would go ahead with the plot.

"I deeply regret not taking the information I had to the police," he said at the time of his sentencing. "I sometimes daydream that I did do this and became a hero, but the reality is that I am not."

That Fortier will have to live with what he did is of little comfort to those who don't want him out of prison.

"I thought I was about over my anger, and I found out Tuesday evening from the Bureau of Prisons that I have a long way to go," says Jannie Coverdale, whose two grandchildren died inside the federal building's day care. She was their primary caregiver. "I have tried so hard to get over this anger and now I find out that Fortier is going to be hugging his kids again - when he helped take ours away. How is that justice?"

Patients Needing Care Overwhelm New Orleans's Hospital System (NYT)

By Felicity Barringer

The New York Times, January 23, 2006

NEW ORLEANS, Jan. 18 - The emergency rooms of this bedraggled region are facing their own emergency. As thousands of residents have begun returning in the weeks since New Year's, there are far more sick people than there are doctors, nurses, beds and equipment to take care of them.

The slow repopulation of the city picked up speed after the holidays as more schools reopened and, in the words of one emergency room doctor, the sicker people began to return. But only seven of what had been 15 adult acute-care facilities in the city and three surrounding parishes are open, and only one-third of the acute-care beds.

Hundreds or perhaps thousands of doctors and nurses never returned to New Orleans after the flood; long-term and psychiatric hospitals, not to mention hospices and rehabilitation centers, are now almost nonexistent in and around the city.

As a result, the returning residents have filled the functioning hospitals in and immediately around the city to capacity and beyond. Waiting times in emergency rooms have extended to as much as six hours, medical personnel at three hospitals reported.

Early one recent morning, doctors and nurses at East Jefferson General Hospital in Metairie, just outside of New Orleans, were already caring for five seriously ill or injured patients in the emergency room - because the hospital had no more beds to admit them to - while still managing a full load of incoming emergency patients near the entrance. Then two trauma victims from a car accident were brought in, followed by someone showing signs of appendicitis.

The staff had to "play musical chairs" with the accident victims and remaining patients to find everyone a bed and care for them, said Cheryl Carter, the nurse who directs emergency care.

"That's pretty much every day, pretty much every hospital," Ms. Carter said. "The waiting rooms look like a war center or a MASH unit. We look for more and more different ways to manage emergencies."

The city's sickest residents were among the first to leave New Orleans after Hurricane Katrina and should be the last to return, but that is not happening, said Dr. John Wales, chairman of the department of emergency medicine at East Jefferson, which for days has had more patients than it has beds. "I think they're coming back and the doctors who took care of them are not around," he said.

The Touro Infirmary is the only full-service hospital now functioning within the New Orleans city limits, and the lack of beds in the city has pushed patients to suburban hospitals like East Jefferson and filled them up. (Children's Hospital is also open in the city.) The situation is likely to get worse as flu season, which usually begins around late January here, hits its stride.

The thought of next month's Mardi Gras festivities has local doctors so worried they have formed a committee just to plan for care during the first large-scale, signature event in the distorted post-hurricane world. Dr. Jullette Saussy, who runs the 911 emergency medical service for the City of New Orleans, said that during Mardi Gras, the number of ambulance calls typically tripled, from an average of 120 a day to 360.

"There's a resource problem right now," said Dr. Peter DeBlieux, who heads the emergency department of Charity Hospital, a venerable institution for the city's poor, which no longer has a building and is operating out of Air Force tents in a far corner of the convention center. Patients with broken arms, he said, have at times been referred to Houma and Baton Rouge, cities that are, respectively, 50 and 80 miles away.

Five hospitals in the city, severely damaged by the storm, have been unable to reopen, including the Medical Center of Louisiana, the only Level 1 trauma center on the Gulf Coast, which is a combination of Charity and nearby University Hospital.

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Some hospitals have opened neighborhood clinics or parking-lot tents for walk-in care, but some may never reopen, or may take up to a year to find the money to rebuild. The state wants to replace Charity, and its planned renovations to University Hospital could take several months or up to a year.

The city's rebuilding commission said in a report this week that if 65 percent of the region's prestorm population returns by July 1 - as many experts have predicted - the city will need to triple the number of hospital beds available, which would require hiring 2,550 medical staff members in less than six months and an "extraordinary expense" in housing them and paying them enough to return.

Cynthia Matherne, the designated regional coordinator for emergency management in an area that includes New Orleans and the parishes of Jefferson, St. Bernard and Plaquemines, said the problem of limited medical resources put pressure on emergency rooms from all directions.

"The problems we have are multiple," she said. Ordinarily, patients who have been stabilized after an emergency episode are gradually moved out to long-term acute care, rehabilitation or psychiatric facilities.

"But these have not reopened," Ms. Matherne said. "So all the psych patients end up being held in the E.R.'s. And when you're trying to discharge patients, there's no long-term care to discharge them to. There's no discharge to hospice care because there's none available." Home health aides are virtually nonexistent, she added.

"Hospitals are confronted with the question: How you are going to discharge these people?" Ms. Matherne said.

Dr. Saussy, of the New Orleans medical emergency response office, described a parallel problem among the ambulance units in the city. Because only Touro, with 273 beds, and Children's Hospital, with 125 beds, are open, city ambulances must often go to the three hospitals in nearby Jefferson Parish - East Jefferson General (444 beds), West Jefferson Medical Center (330 beds) and Ochsner Clinic Foundation (350 beds, expanding soon to 484).

"We have to wait hours to offload a patient," Dr. Saussy said. "That means we're not going to have that unit available to answer the next 911 call."

Ms. Matherne said the number of acute-care beds in the four parishes before the storm was 5,063, with an average of 4,083 filled each day. "Right now we're right at about 1,750 beds," she added.

Charity Hospital, once a magnet for some of the most severe medical emergencies - and for patients least likely to have insurance - is shuttered, leaving a jury-rigged emergency room under tents within the convention center. Dr. DeBlieux said 100 to 200 patients a day arrived with complaints ranging from major trauma or strokes to breaks and sprains.

Psychiatric patients are now being sent to emergency rooms unused to them. "We are overwhelmed with urban psychiatric patients we wouldn't have seen," said Dr. Joseph S. Guarisco, the chairman of emergency medicine at Ochsner.

Charity's lease at the convention center runs out in a few weeks, and the hospital is making plans to move its emergency room to another hospital building in Jefferson Parish.

In the early weeks after Hurricane Katrina, military medical units from the Army, Navy and Air Force set up temporary medical facilities around the city and helped with everything from diabetes to births to immunizations, but most of these units are gone.

For patients, a medical emergency usually means a long wait, unless it is life-threatening. Ben Cohen, who is 28 and lives in the Midcity neighborhood, started to have intense abdominal pain on Jan. 15 and spent four hours in the Touro emergency room before he was admitted. While there, he watched the single doctor on duty cope with a shooting victim and two trauma cases from a car accident.

"To their credit," Mr. Cohen said, "they did as good a job as they could have."

Dr. Wales at East Jefferson, like other emergency room directors, is trying to get more staff members to come back, particularly nurses and technicians and orderlies. "The issues include getting your existing staff a place to live," he said. "But they can't come back because there is no place. They won't come back without their families."

Dr. Wales added, "At many levels, the disaster continues to unfold."

Post-Katrina Inquiry Likely To Need New Expert Coroner Helping In Investigation Of La. Hospital Deaths Indicted (USAT)

By Kevin Johnson

USA Today, January 23, 2006

Louisiana authorities investigating whether patients were euthanized at New Orleans-area hospitals after Hurricane Katrina probably will appoint a new medical consultant because the Pennsylvania coroner assisting the inquiry was indicted on federal charges Friday.

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Kris Wartelle, spokeswoman for Louisiana Attorney General Charles Foti, said the indictment of coroner Cyril Wecht will not slow the state inquiry into more than 200 deaths at hospitals and nursing homes after Katrina hit Aug. 29. However, the 84-count indictment that accuses Wecht of using his position as Allegheny County, Pa., coroner to support his consulting business probably will lead to the appointment of "another expert" to review toxicology reports in the Louisiana inquiry, Wartelle said.

The investigation is examining whether any of the 64 patients who died at Memorial and Lindy Boggs hospitals were euthanized to end their suffering, and whether dozens of residents who died at nursing homes were mistreated or neglected. Last month, Wecht gave Louisiana investigators an analysis of toxicology tests in the hospital deaths. He and Louisiana officials have declined to comment on the report. Foti has said his inquiry is nearing a conclusion.

The indictment against Wecht, who has been involved in several high-profile death investigations across the country, comes as New Orleans District Attorney Eddie Jordan prepares to impanel a grand jury that will launch its own review of the hospital deaths.

Jordan said he is moving forward with his investigation and that it is too early to assess the impact of Wecht's involvement in the Louisiana inquiry. "We don't know what his findings were, and we don't know what the attorney general has found," Jordan said.

Wecht's work in Louisiana was not addressed in the indictment, which among other things accuses him of trading unclaimed bodies at the Allegheny County morgue to a local university's research program in exchange for laboratory space to expand his consulting business.

Mary Beth Buchanan, the U.S. attorney in Pittsburgh, said in court papers that from 1997 to 2004, Wecht's business, Wecht Pathology, made nearly $9 million. Wecht's share of that was estimated at $4.6 million, the indictment says.

"Cyril Wecht abused the position, authority and resources of the Allegheny County Coroner's Office to obtain money, property, services and other items of value for his personal benefit," Buchanan said.

Wecht has resigned from his position with Allegheny County, said his attorney Mark Rush.

"I would hope that (the indictment) would not be an issue" in the Louisiana investigation, Rush said.

The Louisiana investigation is looking into whether staff members at Memorial and Lindy Boggs administered lethal doses of morphine or other drugs to alleviate the suffering of critically ill patients whose conditions deteriorated when floodwaters swamped the city and power failures shut down the hospitals.

Forty-five people died at Memorial Hospital; 19 died at Lindy Boggs. Tenet Healthcare, which operates both hospitals, has said there was no wrongdoing and that it is cooperating with the investigation. Tenet declined to comment on Wecht's role in the inquiry.

Hurricane Refugees Demand Better Schools, Strong Levees (WT)

The Washington Times, January 23, 2006

ATLANTA (AP) -- Hurricane refugees from Louisiana told federal and state officials at forums across the South yesterday that what they want most when their state is rebuilt is affordable housing, better schools and stronger levees.

Some refugees at the "Louisiana Speaks" forums also worried that officials have no real plans to restore certain areas, such as New Orleans' impoverished Lower 9th Ward.

"This (forum) is a good idea," Tereece Johnson, 40, said at the event in Atlanta. "But is it going to accomplish something? I can't say."

Most of the 30 forums -- sponsored by the Federal Emergency Management Agency and the Louisiana Recovery Authority -- were held in Louisiana. Six were held in Atlanta, Houston and four other cities where tens of thousands of Louisiana residents fled. Input from the forums will be incorporated in a long-term regional plan for rebuilding South Louisiana after Hurricanes Katrina and Rita.

But some were not yet ready to talk about the future.

"You're talking about rebuilding?" said Denise Herbert, 47 at the forum in Atlanta. "I want somebody to tell me where my mother is now," referring to 82-year-old Ethel Anna Herbert, who went missing more than five months ago.

Louisiana Gov. Kathleen Babineaux Blanco, who was at the Atlanta forum, talked to Miss Herbert and other refugees, who wanted help with immediate needs such as rental assistance and counseling.

"We have to do a combination of all of that," Mrs. Blanco said. "We have to take care of the immediate needs now, and we have to work for the future. And that has to be done simultaneously."

Many refugees said the availability of affordable housing will make or break their decision to return to New Orleans.

"I'd like to go back -- if I can get suitable housing," said Joseph Howard, 48, a hospital housekeeping worker who had to flee his rented house in midtown New Orleans.

Housing and transportation were major issues for two dozen refugees who attended the meeting held in Amite, La., a small community about 75 miles north of New Orleans.

"If we do decide to go back to New Orleans, will the rent go down?" said Sabrina Lee, a 25-year-old who can no longer afford the Uptown New Orleans place she rented before the storm.

However, the most pressing concern raised at the meetings in Louisiana involved flood control.

"Before we can make any decisions, we have to have answers on the levees," said Antoinette Harrell-Miller, who is unsure whether she'll return to the city.

In Houston, Gina Dupart said she was cautious about the value of yesterday's forum.

"We made a decision to come here to put our input in. We hope that it will be used to make [New Orleans] better in the rebuilding process. We didn't come here just to waste time," said Miss Dupart, 41.

WAR NEWS:

By Opting To Invade Iraq, George W. Bush Was Following In The Footsteps Of History (USNEWS)

By Michael Barone

U.S. News and World Report, January 23, 2006

America is attacked. The president addresses Congress in stirring terms. Senators and representatives, with a few eccentric exceptions, vote for a declaration of war, and the overwhelming majority of the people support the war effort without stint. The president appoints sterling generals and admirals and superintends massive war production. American troops surge to victory, and peace is made.

This is the picture we have of the way America, and American presidents, go to war. It comports with what we think happened in World War I and, especially, in World War II. In this view of U.S. history, American presidents lead the nation only into wars that are forced upon them.

There's only one problem. This picture is almost entirely contrary to the facts.

Critics of George W. Bush like to say that Iraq was a war of choice--a conflict that could have been avoided. But almost all American wars have been, to a greater or lesser degree, wars of choice. It is said that Bush went to war in Iraq without sufficient forces, without a game plan for the occupation, and without an exit strategy. Even if all those charges are true, then he has plenty of company in American history.

For generations, presidents have wrestled with the difficult decision to lead the nation into war. Woodrow Wilson chose to bring the United States into World War I when he could have acquiesced to Germany's demand that we stop trading with Britain and France. Franklin Roosevelt, beginning in 1939, took daring and controversial decisions--starting with his sending massive aid to Britain and the Soviet Union against Nazi Germany--knowing they raised a grave risk that Germany or Japan would attack.

Military success was rarely guaranteed. In the early 1800s,the American military was small, and usually outnumbered. So there were practical limits on the president's ability to exercise his powers. Spurred by young "war hawks"like Henry Clay and John C. Calhoun, James Madison asked Congress for 10,000 troops to fight the British in 1811. Then, a year later, he imposed an embargo on trade and got Congress to vote, far from unanimously, to go to war. Madison's ability to prosecute the War of 1812 was so limited he was unable to prevent the burning of the White House and the Capitol.

Pirates of the Barbary Coast. Both the president and the American people had to learn that, in wartime, patience is definitely a virtue. Typically, the field of battle was far from Washington, and until the telegraph allowed Abraham Lincoln to communicate in real time with his generals, presidents learned of the course of battle only weeks or months later. In 1801, Thomas Jefferson sent the Navy and the Marines to take on the Barbary pirates, who were enslaving American merchants and demanding tribute. His ships set sail for the Barbary Coast in June 1801 but didn't complete their mission until September 1805.

The rationale for a war, then as now, was not always clear-cut. In 1846, James K. Polk started the war with Mexico by claiming, with murky evidence at best, that Mexican forces had crossed the Nueces River and "shed American blood on American soil." The treaty ending that war gave us more than half of Mexico's territory, including Texas and California.

As for the Civil War, almost no one anticipated its outbreak, course, and outcome. Only a few thought it would be a long war, notably William Tecumseh Sherman. While teaching at a military college in Louisiana in 1859, he wrote, "All here talk as if a dissolution of the Union were not only a possibility but a probability of easy execution. If attempted we will have Civil War of the most horrible kind." Abraham Lincoln had no such foresight. In his second inaugural, in March 1865, he admitted, "Neither party expected for the war the magnitude or the duration which it has already attained."

Nor did Lincoln seem to have a clear military strategy when the war began. He walked over to the War Department every day to read the latest telegraph dispatches and went through one general after another until he settled on Sherman and Ulysses

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S. Grant. And he did meet with resistance: Lincoln's Democratic opponents called for a compromise peace with the South, retaining slavery, or even letting the Confederacy go. In the summer of 1864 Lincoln seemed sure to be defeated for re-election. But Grant's advance through Virginia and siege of Petersburg and Sherman's capture of Atlanta and March to the Sea across Georgia convinced northern voters that the Union was on the road to victory. Lincoln was re-elected by a 55 to 45 percent margin. What were his plans for rebuilding the Union? After his assassination (five days after Robert E. Lee's surrender), no one knew.

Post-Civil War, America's appetite for military action seemed sated. The Army policed much of the South during Reconstruction until 1877 and fought against the Plains Indians. The Navy was largely scrapped; in the 1880s it was ranked 12th in the world, behind Turkey's and Sweden's. But America ceased to look inward in 1890, when the Census Bureau declared that the frontier had been closed and when Navy Capt. Alfred Thayer Mahan's The Influence of Sea Power Upon History focused American leaders' attentions abroad.

Rough Riders. A young New York politician and author named Theodore Roosevelt was one who looked beyond America's borders. At 38, he wangled an appointment as assistant secretary of the Navy. President William McKinley, a Civil War veteran and canny politician, had no eagerness for war. Roosevelt did. When the battleship Maine blew up in Havana harbor in February 1898, there was an outcry for war with Spain, which had been brutally suppressing a colonial rebellion in Cuba. Ten days later, when Navy Secretary John Long left the office after lunch, Assistant Secretary Roosevelt did an end run: He wrote out orders positioning the American fleet for battle with Spanish forces in Cuba and its Pacific colony of the Philippines. Long was unnerved but didn't reverse the orders. So the Navy was ready to go on the attack in April, when McKinley sent a war message to Congress and war was declared. The Spanish fleet was defeated in Manila harbor on May 1; Cuba was blockaded, and America won land and sea battles July 3 at Santiago Harbor and San Juan Hill (where Roosevelt led his Rough Riders in a well-publicized charge). Puerto Rico was invaded on July 25. A peace protocol was signed on August 13.

In retrospect, the military course of this war seems the most predictable of all of America's major wars--the Spanish fleet was decrepit, the American fleet was well positioned to fight, and the major problem was logistical, getting the Army down to Tampa and then to Cuba. Yet the war led to unpredicted and controversial military deployments. A major insurrection in the Philippines wasn't finally put down until 1902. A treaty giving the United States supervisory control over Cuba resulted in U.S. military occupation. And the country was not unanimously pro-war. Scholars, business moguls, and Democrats in the 1900 presidential campaign denounced American "imperialism."

The first three presidents to serve entirely in the 20th century--Theodore Roosevelt, William Howard Taft, and Woodrow Wilson--proclaimed that the United States had special responsibilities in the Western Hemisphere, and they dispatched troops accordingly. They saw the United States as a world power--with the world's largest economy, the largest population of any major power but Russia, and, by 1908, one of its largest navies. Which inevitably raised the question: When World War I broke out in Europe, in 1914, would the United States stand by or take part?

Wilson's instinct was to hold back. He sent his unofficial envoy, Col. Edward House, to Europe with proposals for peace. In a country reluctant to engage in a European caldron, Wilson ran for re-election in 1916 as "the man who has kept us out of war." But in January 1917 the Germans announced that their submarines would conduct unrestricted warfare against neutral, i.e., U.S., ships, and in February Wilson made public a telegram intercepted by British intelligence from the German foreign minister promising Mexico that it would get Arizona, New Mexico, and Texas if it entered the war against the United States. "It is a fearful thing to lead this great peaceful people into war," Wilson told Congress in April. But the stakes were great. "The world," Wilson intoned, "must be made safe for democracy."

Congress, with only minor dissent, agreed. The Senate voted 82 to 6 for war, the House 373 to 50. Still, large blocs of voters opposed the war--Progressives from the heavily German- and Scandinavian-American Upper Midwest, Socialists in New York and other big cities. Wilson responded with the sharpest suppression of free speech since the Civil War, and many critics of American involvement soon found themselves in jail. The railroads and shipping industry were also quickly nationalized--a degree of government control greater than in any later American war.

Unready, unset, go. The United States entered what was then called the Great War with military forces plainly insufficient for the struggle. It had virtually no air force. The Navy was far from combat readiness. An army of more than 1 million men was yet to be raised. It took time to assemble and transport the American expeditionary force, which did not come into play militarily until spring 1918, a year after the declaration of war. But under the leadership of Gen. John Pershing, U.S. troops performed well in key battles. By the fall of 1918, German forces were collapsing. An armistice was negotiated to take effect on 11:11 a.m. on November 11, the day we still celebrate as Veterans Day.

It was after the Great Depression and the election of Franklin Roosevelt, in 1932, that American policy entered its most isolationist phase. Roosevelt torpedoed the London financial conference in 1933, acquiesced in the passage of a Neutrality Act in 1935, and reduced military spending from the already low levels of the 1920s. But he also paid heed to what was happening in

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Europe. Roosevelt could understand German, and listening to Hitler's radio broadcasts, he developed at some point in the 1930s--by the time of the Munich agreement in September 1938 at the latest, his admiring biographer Conrad Black argues--the idea that the United States could not live with Nazi Germany.

Most Americans did not share that conviction; neither did some of Roosevelt's own appointees. That hardly deterred Roosevelt, however. Using his powers as chief executive, he increased military spending from hundreds of millions of dollars in 1938 to $6 billion in 1941. He instituted a military draft in an election year. He bypassed the Neutrality Act by providing destroyers to Britain in 1940. He declared the North Atlantic up to Iceland American territorial waters. He sped aid to the Soviet Union when Hitler's Germany attacked. And he cut off oil shipments to Japan. Tokyo responded by attacking Pearl Harbor on Dec.7, 1941. Four days later, Hitler declared war on the United States.

Roosevelt could say that World War II was not a war of choice. Yet the choices he made before Pearl Harbor certainly helped to provoke an attack, and they were choices that his political opponents bitterly condemned.

"Absolute victory." Despite Roosevelt's preparations, the United States entered this war, as it had most wars, without sufficient forces or even a coherent, workable military strategy. Nor was there a clear idea of what the endpoint would be--beyond Roosevelt's assurance in his speech to Congress on December 8 that "the American people, in their righteous might, will win through to absolute victory."

At that moment, it was far from clear how victory would be achieved. The Pacific Fleet was gravely injured (though the aircraft carriers, luckily, were safe at sea); the Philippines were indefensible (as Roosevelt admitted in a fireside chat in February 1942); the weak British and Dutch forces seemed unlikely to stop Japan from sweeping through East Asia and what now is Indonesia and establishing bases from which they could threaten, as they did, India and Australia; Hitler's Army was at the gates of Moscow and was sweeping into the oil fields of the Caucasus, while Nazi forces were poised to sweep across Egypt and occupy the oil fields of the Middle East.

The picture seemed dismal for the United States and its Allies. The U.S. military was still being expanded, and in initial battles, especially in North Africa, its forces proved poorly trained and commanded. War production had been vastly expanded since 1940, but Roosevelt's goals seemed wholly unrealistic to many, and the newspapers were full of stories of bottlenecks and snafus. Not until June 1942, at the Battle of Midway, did the United States win a significant military victory, and that was closely fought.

Roosevelt did a masterful job, however, better than any other president, far better than Lincoln, of selecting the right commanders for the right tasks early on--Gen. John Marshall for organizing the Army, Adm. Ernest King for directing the Navy, Gen. Douglas MacArthur for the Pacific Theater, Gen. Dwight Eisenhower for the European Theater, and Gen. Matthew Arnold for the Army Air Force. He also did a masterful job, though the work often seemed chaotic, of organizing war production and producing tanks, airplanes, and ships in numbers far greater than almost anyone thought possible.

But plans changed, operations took longer than expected, troops early on performed below expectations, and materiel and equipment were not always plentiful or optimally functional. In the European Theater, the great brunt of casualties was borne by the Soviet Union, and it was possible in 1941 and 1942 that it would collapse. Roosevelt and Winston Churchill feared until nearly the end that Stalin might make a separate peace with Hitler as he had in August 1939. In the Pacific Theater, the fierce resistance of Japanese troops and the kamikaze attacks of 1944-45 made forward progress exceedingly costly in casualties.

As late as the summer of 1945, some military leaders hesitated to recommend invasion of Japan's home islands because they expected the cost to be 1 million American lives. And even after the atomic bombs exploded at Hiroshima and Nagasaki in August 1945, Japan's emperor had to persuade the military to surrender.

Neither Roosevelt nor Truman in 1945 had plans for what turned out to be the Cold War. The United States was now the world's prime military power. But Truman swiftly demobilized the forces, as public opinion demanded, and the draft was dropped. By 1949, the Soviets had their own atomic bomb--which raised the specter of mutual assured destruction if both sides were to employ the weapons they brandished.

Cold conflict. Truman set the United States on the course it followed, with some deviations, for the 40-plus years of the Cold War. As the Soviets moved to undermine governments in Eastern Europe and replace them with Communist regimes, Truman in March 1947 urged Congress to aid Greece and Turkey to prevent Communist takeover. In the process, he set out an ambitious goal: "It must be the policy of the United States to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures."

Under the Truman Doctrine, the draft was reinstated and the armed forces built back up, but in choosing whether to wage war Truman and his successors were constrained by the threat of nuclear war between the two superpowers. Even so, when North Korean troops crossed the 38th parallel in June 1950, Harry Truman felt obliged to defend South Korea. American forces proved insufficient after the Chinese unexpectedly invaded in November 1950, and the United States and its Allies were thrown back into a southern perimeter around Pusan. General MacArthur responded with an audacious amphibious landing at Inchon.

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He wanted to go farther, to bomb and attack the Chinese beyond Korea's northern boundary. Truman, fearful of a nuclear confrontation, said no--and when MacArthur persisted, fired him in April 1951. "There is no substitute for victory," MacArthur proclaimed in a speech at West Point. Truman's popularity plunged to a record low.

Only after a new president, Dwight Eisenhower, clandestinely threatened nuclear retaliation did the Communists agree to a compromise peace--a tie at best, not a victory for the United States.

Eisenhower sought to discourage further Soviet aggression by maintaining U.S. forces in Europe and Asia, by constructing alliances in the underdeveloped world, and by threatening massive retaliation with nuclear weapons even up to what his secretary of state, John Foster Dulles, called "the brink of war." The Soviet leader Nikita Khrushchev threatened to isolate U.S. forces in conventionally indefensible Berlin in 1957, 1960, and 1961 and installed nuclear missiles in Cuba in 1962; Eisenhower and John F. Kennedy faced down the threats to Berlin, and Kennedy after tense negotiations persuaded the Soviets to withdraw the missiles, by secretly withdrawing missiles from Turkey and guaranteeing there would be no further attempts to overthrow the Castro regime. Khrushchev's successors never again made such threats, but they did encourage coups and guerrilla movements in the Third World, with varying success.

And nowhere more so than in Vietnam. Viet Cong insurgents had been operating in South Vietnam, aided by Communist North Vietnam, since the country was divided in 1954. The United States, in line with the Truman Doctrine, sent economic and military aid to South Vietnam. The critical moment of escalation came in August 1963, when Kennedy approved a coup against the South Vietnamese president, Ngo Dinh Diem; in November, Diem was killed. This effectively gave the responsibility for South Vietnam to the United States. Kennedy's successor, Lyndon Johnson, eventually sent 540,000 U.S. soldiers to Vietnam. But Gen. William Westmoreland's strategy of using intense firepower in the jungles and mountains resulted in heavy American casualties while failing to break the hold of the Viet Cong in densely populated areas. Johnson's refusal to threaten nuclear weapons and his unwillingness to attack North Vietnam, for fear of the kind of Chinese intervention that had nearly defeated the United States in Korea, meant the Communists had no reason to agree to a Korea-style peace. American opinion turned against the war, forcing Johnson to retire. Richard Nixon reduced troop levels, and Gen. Creighton Abrams adopted a strategy of protecting populated areas and building up South Vietnamese forces. A North Vietnamese invasion was repelled in 1972 and a peace agreement signed in December. But in 1975 the North Vietnamese attacked again in force, and a newly elected Democratic Congress denied the aid sought by Nixon's successor, Gerald Ford, for the South Vietnamese. Saigon fell in April 1975--a galling defeat for America and a disaster for millions of South Vietnamese.

The outcome in Vietnam would inhibit American presidents and the American military for years to come. Jimmy Carter responded to the Soviet invasion of Afghanistan with an embargo on Soviet grain sales. When Iranian revolutionaries seized diplomats--an act of war under the laws of diplomacy--he responded with protracted negotiations and an eight-helicopter rescue mission that failed. Carter was defeated by Ronald Reagan in 1980; the hostages were released on Inauguration Day, immediately after the Gipper was sworn in. Reagan's vast defense buildup in the 1980s, and his endorsement of strategic missile defense, were one factor in convincing Soviet leaders that they could no longer match America.

Reluctant warrior. The success of Reagan's policies may now be fully measured. Ironically, he of all Cold War presidents was the most reluctant to use nuclear weapons; he was horrified at the destruction that would be caused by mutual assured destruction and initiated a strategic missile defense program, derided by his critics as "Star Wars," to make such mass annihilation impossible. During his presidency his defense secretary, Caspar Weinberger, and his national security adviser, Gen. Colin Powell, enunciated doctrines that, had they been applied retroactively, would have prevented almost every American president from going to war. America, they said, should do so only when it had overwhelming force, consensus support from the American people, and an endpoint or exit strategy clearly in hand.

Reagan actually used military force sparingly. In 1983, he withdrew forces from Lebanon, after 241 marines were killed by a massive truck bomb. But when a military coup in tiny Grenada took the life of the prime minister, a Marxist who nonetheless wanted to forge friendly ties with the United States, Reagan dispatched troops without hesitation.

The fall of the Berlin Wall and the end of the Cold War in 1989 freed presidents from the fear that military intervention would lead to nuclear war between the superpowers. But they still went to war only reluctantly. Saddam Hussein's occupation of Kuwait in 1990 presented George H.W. Bush with an occasion for war that met the standards set by Weinberger and Powell. The United States, still with a Cold War-size military and with plenty of allies, could deploy a sufficient military force (Bush asked his generals how many men they needed and doubled it), it had an easily realizable military strategy, and there was an obvious endpoint, the liberation of Kuwait. Even so, nearly half the U.S. Senate and a large minority in the House opposed military action. Ultimately, Bush rejected advice to continue on into Iraq, though that led to the massacre of many Kurds and Shiites, who had been encouraged to believe that they could count on American assistance.

Bill Clinton similarly seemed to follow the Weinberger-Powell prescription. When Army Rangers were killed in Somalia, Clinton quickly withdrew U.S. forces. He resisted intervention in Bosnia until it became clear that American forces would be

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called on to help Europeans withdraw, and force was used sparingly. The war in Kosovo was conducted entirely by air, to produce zero U.S. casualties. Actions against al Qaeda were limited to a few long-range airstrikes.

The way it was. The shock of September 11 set George W. Bush on a course closer to that which American presidents have followed in the past. He chose, with near unanimous support, to go to war in Afghanistan, even though it was not obvious that we had sufficient forces or a military strategy to ensure victory. The amazing capacities of the American military--with special forces on the ground directing precision bombing by B-2s flown in from Missouri--speedily ousted the Taliban regime. But Afghanistan is still a disorderly place, with a central government by no means wholly in control. Bush also chose to go to war in Iraq, this time against considerable opposition, with forces entirely capable of success in major military operations but not, or so critics have plausibly charged, sufficient to impose order in the months and years after. Nor is there a clear endpoint or exit strategy: Bush insists that American forces will leave when Iraqi forces can maintain order, but determining just when that might be will be a matter of fine and debatable judgment.

Bush's decision to go to war in Iraq has been attacked as a departure from the American tradition of war. But it is more of a return to the dominant tradition of our history. The United States has never been an isolationist nation; Americans and American military forces have been roaming the globe since the Revolutionary War. Until the 20th century, the oceans seemed to protect the American homeland from attack, but not always. The White House and the Capitol were burned in 1814, and James K. Polk went to war in 1846 after charging that American forces had been attacked on American soil. In any case, the oceans protect us no more and have not for many years.

Wars are chancy things. The friction of war, as the Prussian military philosopher Carl von Clausewitz wrote, is inevitable and its effects unpredictable. The responsibility for sending men to their deaths has weighed heavily on our commanders in chief. Photographs of Abraham Lincoln and Franklin Roosevelt show how the weight of making such awesome decisions aged these vigorous leaders, just as it has visibly aged George W. Bush over the past five years.

Our system of government gives millions of voters and members of the armed services and thousands of public officials in the legislative and executive branches a role in fighting America's wars. But the most difficult decisions, and the greatest burden of responsibility, have rested on America's presidents, who, relying on imperfect information, must make, and have often made, life-and-death decisions without being able to know for certain what effects they will have.

Not Like His Father (USNEWS)

By Kenneth T. Walsh

U.S. News and World Report, January 30, 2006

On New Year's Day, President George W. Bush was visiting wounded soldiers at San Antonio's Brooke Army Medical Center. He found himself by the bed of a badly burned soldier, swathed in bandages. He was told she might not pull through. Surrounded by her family, he couldn't summon words to express his feelings. "I sat there and wept with them," he recalled later. "I didn't know what else to do."

Fifteen years ago, President George H. W. Bush experienced his own emotional moments with the troops. On a Thanksgiving visit to Saudi Arabia amid a huge U.S. buildup in the Persian Gulf region, he grew flustered when a young lieutenant thanked him for being there. Tearing up, the president was momentarily speechless, then blurted out, "That's what Woody Allen said: 'Ninety percent of life is showing up.'"

It is a familiar scene for the father and son: those awkward meetings with soldiers in wartime, punctuated by the fact that neither is a man of natural eloquence.

The two Bush men are bound together in other ways. They are only the second father and son to become president (John Adams and John Quincy Adams were the first). And each launched a war against the same tyrant in the same country.

Yet curiously, there are more differences than similarities in their role as commander in chief. The 41st president was a coalition builder and a diplomat. The 43rd president was willing to go it alone and ignore international opprobrium. The first Bush had a sense of limits about American power. His son believes the military is his best tool for working his will abroad.

The two men made the case for war in different fashion as well. It is true the father's job was easier than his son's. Saddam Hussein had invaded Kuwait and was an unmistakable threat. Nonetheless, George Herbert Walker Bush tried to build consensus at home and abroad before starting the Gulf War.

George W. Bush made his case in a more controversial way, arguing for a pre-emptive strike to depose Saddam. He spoke of how the Iraqi dictator might use weapons of mass destruction and of his ties to terrorists. Those claims have never been proved.

It is striking that the son rarely cites his father as his role model as commander in chief. George W. Bush says the world has changed dramatically since his father's tenure, largely because of 9/11 and the threat posed by terrorists. The challenges he faces, he says, are unique. As Vice President Dick Cheney told U.S. News in January, "We're talking about the possibility of a

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handful of terrorists--a relatively few individuals--able to get their hands on, say, a biological agent or a nuclear weapon and do enormous harm inside the United States. That's sort of the ultimate threat we face today. And it's a different kind of threat than we've ever faced before .... It forces us to think in new ways about how we defend the nation."

Grounded. This gospel of singularity informs Bush's role as commander in chief. It has led him to expand the authority and reach the presidency into areas his father never entered: domestic spying without warrants; detaining suspected terrorists without trial; conducting a vast, pre-emptive war against terrorists. "It requires certain qualities," says a senior White House official, "such as an unshakable will--and, particularly during a time of war--passion. Feelings are going to run higher than normal, and you have to be grounded, in the sense of knowing what you're doing and believing what you're doing is right."

Bush has said the terrorist attacks of 9/11 gave him his mission as president--to protect the nation from what he sees as a global network of "evildoers." The day after 9/11, he called advisers to the White House residence and urged them to prepare for a long struggle. Communicating the facts about the war would be difficult, the president said, partly because it might be impossible to reveal successes, lest such announcements expose U.S. counterterrorism methods and endanger American operatives. One of the biggest challenges, he cautioned, would be to stay the course. "The further we get from this day," he warned, "people are going to forget." He promised never to do that.

Bush believes he must keep up his campaign to convince the nation that the war is going well. "People see so much of the war on cable TV that the president needs to provide context,"says a senior administration official. That means countering news of casualties and war costs by emphasizing that America cannot abandon its new client state.

Bush's father, by contrast, saw the 1991 war with Iraq as a conventional conflict to be won by conventional means. And he had a strong sense of limits. George Herbert Walker Bush called off the ground battle after only 100 hours because Saddam's forces had been crushed. His refusal to take over Iraq and occupy Baghdad was widely criticized, but Bush argued that the United Nations never approved an occupation. He also insisted that occupying Iraq would have been vastly expensive in lives and money. His predictions have proved true--on his son's watch.

George H. W. Bush felt another constraint--what historians call "Vietnam syndrome," a reluctance by Americans to commit troops to potentially lengthy wars without a guarantee of success and a certainty of moral justification. "After the mess in Vietnam, many Americans didn't trust their leaders to send troops anywhere," says a former adviser. "So we developed a vast public outreach program." At one point, Bush even gave a speech justifying the coming conflict in theological terms, using the philosophies of Aquinas and Augustine to define what was a "just war."

Self-reliant. The senior Bush felt equipped--from his experience as vice president, former director of central intelligence, and U.S. envoy to the United Nations and to China--to challenge both the military and his advisers. George W. Bush seems more accepting of the advice of his in-house "experts." He went along with recommendations of Vice President Dick Cheney and Defense Secretary Donald Rumsfeld to minimize the number of troops needed in Iraq, which some military analysts and many Democrats have branded a mistake. Bush also accepted his advisers' claims that the occupation would be relatively easy and that the Iraqis would welcome U.S. soldiers as liberators. "We built a policy based on practicalities," says a former national security adviser to the father. "They built a policy based on assumptions."

In running the war, the elder Bush didn't micromanage the Pentagon, but he did pay close attention to certain tactics. He reviewed plans for bombing areas where civilian casualties were likely, for instance, and tried to select targets and ways of attack to minimize harm to noncombatants. If his son pays heed to such details, he has not disclosed it. In fact, he says he almost always leaves operational details to the military.

The father, a former Navy pilot shot down over the Pacific in World War II, knew all too well the perils of war. Perhaps that's why he seemed more troubled by the consequences than his son. On Dec. 31, 1990, as war approached, the elder Bush wrote a moving letter to his five children about how much he enjoyed their time at Camp David over Christmas. "I guess what I want you to know as a father is this: Every human life is precious," he wrote. "When the question is asked, 'How many lives are you willing to sacrifice?'--it tears at my heart. The answer, of course, is none--none at all." But Bush added: "I look at today's crisis as 'good'vs. 'evil'--Yes, it is that clear. ... Sometimes in life you have to act as you think best--you can't compromise, you can't give in--even if your critics are loud and numerous."

And what does the father think of the son's choices? He isn't privy to the high-level intelligence his son receives, so he defers to the judgment of his first-born. Besides, one of the traits the father shares with his son is loyalty, so he will let history judge both men by their deeds and their times.

Imbalance Of Power (USNEWS)

By Jay Tolson

U.S. News and World Report, January 23, 2006

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During the Civil War, Abraham Lincoln got away with suspending habeas corpus and subjecting citizens to military law. Even more famously, he defied the law of the land by freeing enslaved Americans. During World War II, Franklin D. Roosevelt ordered the internment of Japanese-American citizens and received the Supreme Court's subsequent approval. Yet when Harry S. Truman ordered the Commerce Department to take over 87 steel plants crippled by striking workers during the Korean War, the high court ruled that he had pushed executive prerogative beyond acceptable bounds.

So just how imperial can the American president be? And more specifically, how, when, and how far can the powers that the Constitution invested in the commander in chief be extended?

Disclosures about George W. Bush's support for a National Security Agency-run domestic-spying program have pushed those questions to the fore once again. The headlines have fueled charges that his administration has, in post-9/11 measures ranging from indefinite detention of terrorism suspects (including two U.S. citizens) to torture and abuse of detainees around the world, taken presidential discretion to new, possibly illegal extremes. Joining a host of liberal voices, former Vice President Al Gore has decried a "truly breathtaking expansion of executive power" by the Bush administration.

Bush, so far, has gotten a broad pass on his amplification of the commander in chief's prerogatives, which many Americans view as justified in the name of the war on terrorism. But there are growing signs of resistance. Congressional hearings in February will examine the president's rationale for ignoring procedures instituted in the 1978 Foreign Intelligence Surveillance Act, namely the requirement that intelligence agencies secure a warrant from a special court before eavesdropping on U.S. citizens. Another congressional committee says it will oversee implementation of a new ban on the use of torture, which the president, even while signing the bill into law, suggested he would ignore when necessary. For its part, the Supreme Court is mulling over the possibility of hearings on detainee cases, although the Justice Department's solicitor general has argued that the court has no jurisdiction over them.

Whatever the solicitor general argues, cases involving possible executive overreach are almost certain to reach the high court. The American Civil Liberties Union and the Center for Constitutional Rights have filed separate suits to challenge the legality of warrantless domestic spying and to determine whether the NSA monitored lawyers, journalists, and academics involved with the Middle East. One plaintiff in the ACLU suit, journalist Christopher Hitchens, a prominent backer of Bush's war on terrorism and the war in Iraq, says that if the administration wants to engage in domestic spying, it "must ask Congress to change FISA, not ignore it."

Powering up. This in some ways goes to the nub of the historical and theoretical debate about executive authority: How does the commander in chief exercise extraordinary powers within the legal framework of the republic, including the constitutionally ordained separation of powers?

Arguments for and against strong executive authority--"energy in the executive," as Alexander Hamilton phrased it--have been put forth by both sides of the conservative-liberal divide, depending largely on who is in the White House. From the 1950s through the '70s, liberal scholars and pundits were among the aggressive supporters of a stronger executive. Historians Henry Steele Commager and Arthur Schlesinger Jr. both took on critics who attacked Truman for not securing congressional authority when he sent troops to Korea. Richard Neustadt's 1960 study, Presidential Power, exalted FDR's strong leadership and lamented Dwight Eisenhower's allegedly listless presidency. But after both John F. Kennedy and Lyndon Johnson tried, with mixed results, to bring greater elan to the White House, Neustadt grew uneasy that his ideas were seen as providing a warrant for the Vietnam War debacle and Nixon administration abuses, including ille-gal wiretapping of political foes and antiwar activists. Schlesinger also changed his tune in his book The Imperial Presidency . But as liberals began deploring a lack of balance among government branches, conservative (and particularly neoconservative) thinkers supportive of Ronald Reagan's "morning in America" began to trot out the oldest justifications of a strong executive. "When you own the presidency," acknowledges Harvard political scientist Harvey Mansfield, a leading conservative defender of executive prerogative, "it looks like a far more valuable possession."

How Clinton Coped (USNEWS)

By Kenneth T. Walsh

U.S. News and World Report, January 23, 2006

Former President Bill Clinton didn't wage a full-fledged war during the eight years he was in office. But he did order American troops into harm's way on several occasions. From his home in Chappaqua, N.Y., Clinton offered his views, in an E-mail conversation with U.S. News 's Chief White House Correspondent Kenneth T. Walsh, on what it takes to lead during times of conflict and at times of peace. Excerpts:

On the most difficult decisions he faced regarding use of military force during his presidency. When we used the military in Bosnia, Kosovo, and Haiti, most Americans, most Republicans in Congress, and many Democrats were initially opposed to it.

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On directly supervising the military and the issue of "micromanagement" during a crisis. Generally, it is best not to micromanage military operations, though in some cases it is unavoidable. For example, after the accidental bombing of the Chinese Embassy in Belgrade because of outdated maps, I had daily meetings to go over the proposed targets for the next day. On a few occasions, I disagreed with the military's choices, but wherever possible I tried to set policy and let them decide how best to carry it out.

On the challenges of being commander in chief in today's world. In the modern era, leadership involves dealing with the 24-hour news cycle and responding to the concerns of allies, international organizations, [and] at least the neutral countries that are well disposed to America. It's important to respond as quickly as possible to events and legitimate questions but not to be stampeded into actions or words that will compound events or create new problems.

The toughest part of the job as commander in chief. The hardest thing is knowing young Americans and innocent civilians in the theater of conflict might be killed or badly injured.

On whether presidential leadership is different in times of war and times of peace. In a military conflict, successful leadership requires clear objectives, a strategy to achieve them, a clear understanding with the military of the tactics to be used, and an ability to explain the decision to use force in terms of our interests and our values to people at home and around the world. These skills are also significant in pursuing proactive objectives. But during a conflict, clarity, consistency, concentration, and a willingness to evaluate and, if necessary, alter tactics are even more essential.

On how much he relied on his senior military advisers. I relied heavily on my military advisers for tactical advice. On the question of whether to use force, I sought their advice but made the final decisions myself, sometimes disagreeing with them, as in Kosovo and Haiti.

On the concerns of Pentagon planners. Our military leaders did not voice concerns about public opinion but did want a clear definition of military success including an exit strategy.

An example of contingency planning inside his government. In Kosovo, my senior advisers believed, as I did, that our air power would prevail but also had plans to introduce ground troops in the event it did not.

On his feelings about sending troops into harm's way. In making life or death decisions, I leaned on the power of prayer, the example of my predecessors, the support of my cabinet and staff, the vice president, and, of course, Hillary.

Iraq Sunnis Commit To Coalition Talks (REU)

Reuters, January 23, 2006

BAGHDAD (Reuters) - Iraq's biggest Sunni political bloc committed itself on Sunday to talks with Shi'ites and Kurds to form a government of national unity, but said its key demands, including changes to the constitution, must be met.

The United States, keen to drive the political process toward a stable consensus, wants the Kurds and majority Shi'ites, who dominated last month's elections, to form a government that includes minority Sunnis. It hopes an inclusive coalition will undermine the raging Sunni Arab insurgency.

Four policemen were killed and nine wounded by a roadside bomb in Baquba, 65 km (40 miles) north of Baghdad. Thirteen other people were killed in attacks across Iraq, including a policeman's four nephews who died when a rocket hit his home.

The Iraqi Accordance Front, which comprises three mainly Islamist Sunni Arab groups, said it would appeal against the results of an election it believes was rigged but would still take part in talks on a new coalition government.

"It will be active in talks with other political blocs to form a unity government," said Tareq al-Hashemi, whose moderate Iraqi Islamic Party is the biggest member of the Front.

Hashemi said the election results did "not reflect the political and population weight" of the Front, which believes it should have won 11 more seats. The Sunni coalition would seek key ministries in the new government as compensation, he said.

The Front also intends to hold Shi'ites and Kurds to a promise, extracted under U.S. pressure, of reviewing the constitution approved in a referendum last October.

CONSTITUTION

Many Sunnis fear the constitution's provisions for regional autonomy will give Kurds and Shi'ites control over Iraq's vast oil reserves and eventually break the country apart.

"We ask the blocs not to put obstacles in the way of making some changes to the constitution," Hashemi told a news briefing.

After boycotting parliament last year, Sunni leaders had hoped a big turnout in the December 15 election would put them in a strong position to press for amendments, particularly on a new federal state structure, which they fear could give control of oil to Kurdish and Shi'ite regions in the north and south.

They had also hoped that other Shi'ite and secular groups opposed to decentralization would undermine the dominance of the main Shi'ite bloc, the Islamist Alliance, whose most powerful leaders are strongly in favor of federal autonomy.

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But the success of the Alliance in coming close to retaining its majority may dampen Sunni hopes of securing amendments with the help of anti-federalist Shi'ites in parliament.

A Western diplomat closely involved in Iraq's political process said Sunni ambitions may have to focus now more on influencing legislation to be enacted that will spell out exactly how autonomous regions can be established and operate.

HOSTAGE

As U.S. and Iraqi forces hunted for kidnapped American reporter Jill Carroll, Iraq's Justice Ministry said six women prisoners held by U.S. forces would be released within a week.

Carroll's abductors threatened to kill her if all women prisoners in Iraq were not freed.

A joint Iraqi-U.S. review board approved the release of the women on January 17, before the kidnappers made their demand, but U.S. officials then apparently delayed freeing them so that it did not look like they were giving in to the hostage-takers.

"They delayed their release because of the connection with the kidnapping of the American journalist," a Justice Ministry spokesman said.

Iraqi military officials said they had intelligence indicating Abu Musab al-Zarqawi, the militant leader behind some of the bloodiest attacks, is in Diyala province near Baghdad.

It is not the first time Iraqi officials have said they have closed in on the elusive Zarqawi, leader of al Qaeda in Iraq.

Army posts have been notified of Zarqawi's presence in Diyala, northeast of Baghdad, where there has been a surge in violence in the past few months, the officials said. It was not known exactly where in the province he was, one official said.

Saddam Hussein may be confronted from the witness stand by former associates when his trial resumes this week but defense counsel will call for a halt after the chief judge resigned complaining of government interference.

"There will be former regime members" among witnesses appearing on several days of hearings starting on Tuesday and lasting up to three weeks, a Western diplomat closely involved in the U.S.-sponsored trial told reporters on Sunday.

Sunnis Must Have Security, Leader Says (LAT)

By Richard Boudreaux

The Los Angeles Times, January 23, 2006

BAGHDAD — A leader of Iraq's largest Sunni Arab political bloc said Sunday that he would shun any government that included officials responsible for police brutality against his minority sect, a stand aimed at removing the powerful Shiite interior minister.

Tariq Hashimi of the Iraqi Accordance Front spelled out its conditions for entering a "national unity" administration after most Iraqi leaders called for such an outcome in order to quell the Sunni Muslim-led insurgency.

Sunni participation in Iraq's first full-term government since the 2003 ouster of Saddam Hussein is the top U.S. diplomatic priority here. Excluding the Sunnis could doom efforts to end the fighting through political means and to reduce the number U.S. forces in Iraq.

At least 17 Iraqis died in weekend fighting, and authorities Sunday found the bodies of 29 men apparently seized by insurgents last week after they had volunteered to join the police.

Two U.S. airmen were killed and another was wounded Sunday by a roadside bomb north of Baghdad, the military announced today.

The names of the airmen, assigned to the 586th Expeditionary Mission Support Group, were being withheld pending notification of next of kin.

Talks on forming a government have intensified since Friday's release of complete but uncertified returns from the Dec. 15 parliamentary election and are expected to last at least six weeks.

The Shiite Muslim and Kurdish blocs leading the transitional government are expected to join forces in a new ruling alliance. They won 181 seats in parliament, three short of the two-thirds majority required to form a new government, but could pick up the needed seats by making deals with smaller Shiite and Kurdish groups.

Most Shiite and Kurdish leaders have endorsed the U.S. goal of broadening the government to include Sunnis, whose two main blocs got 55 seats in parliament. Such an achievement, however, would require hard compromises among Shiites, Kurds and Sunni Arabs.

"There is no preordained outcome that we're going to get a deal involving all three of these groups," said a Western diplomat monitoring the talks. "They're all saying they are willing to explore it, but success is by no means assured."

At a news conference Sunday, Hashimi said his Sunni bloc's first condition for entering the government was a guarantee of personal security for Sunnis, who he said had suffered abuse by the transitional regime's Interior Ministry police.

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"We have red lines against some figures who have harmed our people," he said without naming names. "We will not allow anyone who participated in human rights violations to take any ministerial posts."

The remark was clearly aimed at Bayan Jabr, whose reputation as interior minister has been stained by allegations of torture and killings of Sunni prisoners held by the predominantly Shiite police. Jabr, a powerful figure in the ruling Shiite alliance, has denied involvement in the alleged abuses.

Hashimi did not say who should run the Interior Ministry, nor did he insist that a Sunni get the job. That left open the possibility that the Shiite alliance, which has insisted on keeping control of the ministry, could find a candidate acceptable to the Sunnis.

The Sunni leader set other terms: He demanded an end to official corruption, a "charter of honor" that renounces sectarian and ethnic strife, an agreement to set a timetable for withdrawal of U.S. forces, and a promise "not to hamper" constitutional changes demanded by Sunnis to prevent the Shiite and Kurdish regions from dominating Iraq's oil wealth.

The latter demand could be the most difficult to resolve. Abdelaziz Hakim, a powerful Shiite politician, opposes significant changes in the constitution, as do most of the Shiites elected to parliament.

Hashimi is expected to be a key player in negotiations over the coming weeks, along with President Jalal Talabani and Massoud Barzani, both Kurds, and either Prime Minister Ibrahim Jafari or Vice President Adel Abdul Mehdi — whoever is chosen the Shiite alliance's candidate to lead the new government.

Before the talks can advance, officials must resolve challenges by Shiite, Kurdish and Sunni parties to the precise seat allocations announced Friday, a process that will take 10 days.

Police said the 29 bodies found Sunday were apparently those of men who had traveled in a larger group from the city of Samarra to Baghdad to join the police force. Dozens in the group were rejected, and many were abducted at insurgent roadblocks while returning home last week. Ten other bodies were found Saturday in the same area of Salahuddin province, about 40 miles north of Baghdad.

In Sunday's deadliest incident, assailants fired rocket-propelled grenades into the home of a Shiite policeman in Balad Ruz, 45 miles northeast of Baghdad, killing his brother and four of his brother's children, ages 6 to 13.

Meanwhile, the two parties of the Kurdish bloc signed an accord to create a single Kurdish government in three northern provinces, formally ending years of division and animosity that erupted in violence in the mid-1990s. The unification was aimed at bolstering the region's relative autonomy from Iraq's central government.

The accord will put Barzani's Kurdistan Democratic Party, which runs Irbil and Dahuk provinces, in charge of Sulaymaniya province as well. A representative of the Patriotic Union of Kurdistan will be named to head the region's militia, and Cabinet posts will be divided.

Amid Sunni Suspicions, Iraq's Leaders Try To Find Officials Not Tied To Militias (USAT)

By Rick Jervis

USA Today, January 23, 2006

BAGHDAD — As Iraq's political leaders start forming a coalition government, the naming of its interior and defense chiefs will be a key issue, a former U.S. official and an Iraqi adviser say.

The United States wants to ensure that the figures running Iraq's two main security ministries are free of ties to ethnic and religious militias, such as the Shiite Badr Brigade or Kurdish peshmerga, says Matt Sherman, former U.S. deputy chief adviser to the Interior Ministry.

“The trick will be finding an individual (without militia ties) … who has enough political influence to be effective,” Sherman says.

Iraqi election officials announced Friday that the Shiite and Kurdish coalitions won a combined 181 of the 275 seats in parliament, three shy of the two-thirds majority needed to name a new government for the next four years.

The two major Sunni blocs, the Iraqi Accordance Front and the Iraqi Front for National Dialogue, won a combined 55 seats.

Last year, the Shiite-controlled Interior Ministry was hit by allegations of torture. Bodies of prisoners, mostly Sunni, were found with their hands and legs bound, shot through the head, after having been picked up by gunmen in police uniforms. U.S. forces discovered two groups of Interior Ministry prison cells where prisoners showed signs of maltreatment.

Shiites and Kurds absorbed the brunt of repression under the rule of Saddam Hussein's Sunni government. They are wary of handing over control of the police forces, run by the Interior Ministry, says Basam Ridha, an adviser to transitional Prime Minster Ibrahim al-Jaafari, who is aligned with the largest Shiite bloc.

“There will always be accusations, especially from Sunnis,” of ties to militias, Ridha says. “There's a great deal of negotiations going on. Obviously, we'll have a say in the matter.”

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Sunni leader Tariq al-Hashimi warns that Sunni Arabs will reject any minister involved in violence against Sunnis. Bayan Jabr, Interior minister under the transitional government, has denied that his forces abused Sunni prisoners or targeted influential Sunnis for assassinations.

Militias are outlawed under an Iraqi law crafted under U.S. guidance in 2003. Many members of the armed groups, including some who fought against Saddam, have joined Iraq's uniformed government security forces but retain loyalty to their religious or ethnic sects.

Finding a leader without some connection to former militias may be a daunting task, Sherman says. “Those individuals are very limited,” he says. “There's a fine line to toe there. You don't just want a figurehead in that position.”

In Iraq on Sunday:

·Insurgents attacked the home of an Iraqi policeman with rocket-propelled grenades in Balad Ruz, 45 miles northeast of Baghdad, the Iraqi police Joint Coordination Center told the Associated Press. The officer's four children, ages 6 to 11, and their uncle were killed, the center said. The officer was unharmed.

·Police found the bullet-riddled bodies of 23 men kidnapped Wednesday after being rejected entry into a police training academy. The bodies were found partially buried in the village of Nibaei, near Dujail, about 50 miles north of Baghdad, Interior Ministry police Lt. Thair Mahmoud said.

·There was no word on the fate of American journalist Jill Carroll, kidnapped in Baghdad on Jan. 7 and last seen in a video released Jan. 17. Her kidnappers threatened to kill the 28-year-old in 72 hours unless all Iraqi female prisoners in U.S. custody were released.

Iraq's Next Big Hurdle: Unity Government (CSM)

By Charles Levinson, Correspondent Of The Christian Science Monitor

The Christian Science Monitor, January 23, 2006

BAGHDAD - When Iraq's election results were released Friday, it was no surprise that religious Shiites dominated the polls.

But the hard numbers have given new steam to Iraq's politicians, who are wheeling and dealing to find enough common ground on which to build the country's first freely elected four-year government.

In a process that could stretch into April, Iraq's factions will decide on a governing program, agree on whether the new Constitution can be changed, and haggle over the crucial positions of president, prime minister, and cabinet ministers.

The Shiite alliance, with 128 of 275 seats, will dominate the talks, but its members must reach out to others to find the two-thirds majority needed to form a government. Whom they tap as allies or exclude may affect stability for years to come, experts say.

All of Iraq's politicians are touting national unity and the need for Sunni Arab participation in the government. It is widely believed to be a necessary step toward taking the steam out of a relentless insurgency.

But those politicians have very different ideas of what national unity and Sunni participation actually entails..

"There is no preordained outcome that we are actually going to get a deal involving all three of these groups," says one Western diplomat in Baghdad. "I can only tell you that they are all saying they are willing to explore it."

Shiites are insisting that the election results dictate the distribution of the spoils, meaning they should be given the majority of the cabinet posts. The Sunni Arabs are pushing for a piece of the pie that may not be justified by vote tallies alone. They hold a powerful bargaining chip: sway with the Sunni-led insurgency.

"If the country is going to be unified, then you have to take into account the armed resistance, which continues to show that it is capable of baring its teeth," says Wamidh Nadhmi, a professor of political science at Baghdad University. "Dealing with the resistance means making the Sunni politicians happy."

It's a reality that infuriates Shiites, who feel the threat of violence is compelling them to relinquish power they won fairly. If violence works for Sunni Arabs, they wonder aloud, then why should Shiites continue to show restraint?

"They can't do both at the same time, resistance and violence on one side, and playing politics on the other side. This is unacceptable," says Adel Abdel Mahdi, a powerful Shiite and a frontrunner to replace Ibrahim Jaafari as prime minister.

If current rhetoric is more than just political brinkmanship and tough talk, then Iraq's Sunni Arab and Shiite parties have seemingly irreconcilable differences on issues such as security policy, the exclusion of former Baathists from government, and amending the Constitution.

Among the principal stumbling blocks in negotiations is control of the ministries of Interior and Defense. The current minister of Interior, Bayan Jabr, essentially the country's chief law enforcement officer, is loyal to Badr, the Shiite militia aligned with the Supreme Council for Islamic Revolution in Iraq (SCIRI), the core of the Shiite political alliance.

Critics say Mr. Jabr has turned the Iraqi police force into a glorified Shiite militia that indiscriminately targets Sunni Arab neighborhoods and cities in an attempt to quash the insurgency.

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"We must have the Defense and the Interior to ensure the security of our cities, and to stop the terrorizing of our supporters," says Salman al-Jumayli, a spokesperson for the Sunni Accordance Front, which has 44 seats in the coming parliament.

For Shiites such concessions are unlikely. After decades of suffering under the old regime, the recently empowered Shiites are not about to relinquish control of the ministries that were responsible for much of that oppression. "We won the elections and these ministries are our right," says Jawad al-Malaki, a leading member of the Shiite Dawa Party.

The issue of de- Baathification - a ban on former Baath Party members in government - will also figure prominently in the dealmaking. Shiites call many of the Sunni Arabs who have risen to the fore in recent months Saddamists, Baathists, and outright terrorists.

"The Shiites have turned de-Baathification into de-Sunnification," says Mr. Jumayli. "They're only targeting Sunnis and they've turned it into a weapon to get rid of all their political opponents."

Shiite unwillingness to negotiate on the issue has added to the Sunni Arabs' sense of exclusion and marginalization. It has also meant that even those posts that have gone to Sunni Arabs, such as the outgoing Ministry of Defense, have gone to Sunnis handpicked by Shiites, who are largely out of step with the majority of the country's Sunni Arabs.

What to do with the country's infant Constitution is another issue negotiators will have to address.

The drafting process and referendum on the historic charter last fall signaled a turning point in Sunni Arab willingness to engage with the political process. Their reluctant endorsement, however, came with a condition: The document could be amended at a later date to strengthen language aimed at preventing the breakup of Iraq. Earlier this month, some Shiite leaders seemed to be reneging on that agreement, calling any substantial changes to the Constitution unacceptable.

With such significant differences to overcome, many worry the Shiites will decide that a true national unity government is more trouble than it's worth, and team up with the Kurds as they did in the last government.

But even if Iraq's disparate factions find a way to put aside their differences to form an inclusive government, true national unity remains elusive, says Mohammed al-Sheikhly, president of the Center for Transitional Justice in Iraq.

"We got rid of Saddam Hussein, but now we have 40 Saddam Husseins, a bunch of political leaders with a power complex, who only want to rule. They are all hypocrites whose programs talk about national unity, and a united Iraq, but whose actions say the opposite."

At Least 23 Iraqis Die In Weekend Attacks (AP)

By Sameer N. Yacoub

The Associated Press, January 23, 2006

BAGHDAD, Iraq -- Insurgents fired rocket-propelled grenades at a policeman's home northeast of Baghdad on Sunday, killing his four children and his brother and raising to at least 23 the number of Iraqis killed in attacks this weekend.

Also Sunday, police found the bullet-riddled bodies of nearly two dozen men abducted last week north of Baghdad after being rejected entry into a police academy, officials said.

The U.S. military announced Monday that a roadside bomb blast killed two U.S. airmen and wounded another Sunday near Taji, 12 miles north of Baghdad. At least 2,226 U.S. military personnel have been killed since the Iraq war began in March 2003, according to an Associated Press count.

The violence continued as Iraq's political parties began gearing up for talks on a new coalition government that U.S. officials hope will win the confidence of disaffected Sunni Arabs and undermine support for the insurgency. That would hasten the time when U.S. and other foreign troops can go home.

There was still no word on the fate of kidnapped American journalist Jill Carroll two days after a deadline set by her captors. They had threatened to kill the 28-year-old freelancer for The Christian Science Monitor unless all Iraqi women detainees were freed.

Iraqi officials have said they expect the Americans to free six of the nine women they are holding this week. U.S. authorities have not confirmed the claim.

The attack on the policeman's home occurred in Balad Ruz, 45 miles northeast of Baghdad, according to the Iraqi police Joint Coordination Center. The officer's four children, ages 6 to 11, and his brother were killed, the center said. The officer was unharmed, but his wife was wounded.

Sunni-led insurgents often target police as part of their campaign to try to undermine support for the U.S.-backed government.

Four policemen were killed and nine were wounded Sunday when a roadside bomb exploded near their patrol in the tense city of Baqouba, 35 miles northeast of Baghdad, police said. Police also said a man was gunned down at a west Baghdad gas station and another was slain in a market in the capital's Amil district.

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The bodies of the 23 men were found partially buried near Dujail, about 50 miles north of Baghdad, said Interior Ministry police Lt. Thair Mahmoud. They had been abducted Wednesday while traveling from Baghdad to their homes in Samarra after failing to be accepted at a police recruit center.

Elsewhere, the bodies of prominent Sunni Arab tribal leader, Sayid Ibrahim Ali, 75, and his 28-year-old son, Ayad, were found in a field near Hawija, 150 miles north of Baghdad, police said. They were shot as they left a funeral Saturday.

In the central city of Mashru, police found the bodies of two blindfolded men who had been shot in the head and chest.

U.S. soldiers, meanwhile, killed three gunmen firing from several cars north of Beiji, 155 miles north of Baghdad, on Saturday, the military said Sunday. Six Iraqis were detained and soldiers destroyed four cars after one was found rigged for use as a car bomb. Twelve other people were reported killed in sporadic violence on Saturday.

Nevertheless, U.S. Brig. Gen. Don Alston said insurgent attacks nationwide fell 40 percent during the week ending Saturday, compared with the previous week. Attacks in Baghdad fell 80 percent for the same period, he told reporters.

The reduction in attacks occurred as security was stepped up in Baghdad and other insurgent hotspots ahead of the announcement last Friday of the results of the Dec. 15 national elections for a new parliament. An alliance of Shiite religious parties won the biggest bloc of seats but not enough to govern without partners.

U.S. officials hope the Shiite alliance, which won 128 of the 275 seats, will include a significant number of Sunni Arabs in the new coalition. Contacts are under way among the nation's Shiite, Sunni and Kurdish politicians but the negotiations could take weeks.

Shiite leaders have said they would include Sunni Arabs if they are willing to work actively to lure fellow Sunnis away from the insurgency. Two Sunni coalitions won a total of 55 seats, far more than the 17 held by Sunnis in the outgoing parliament.

On Sunday, however, leading Sunni Arab politicians made clear they have conditions of their own, including moves away from sectarian divisions and curbs on Shiite-led government security services.

"We have `red lines' on some figures who harmed our people, and we will not allow anyone who participated in human rights violation to take any ministerial posts," Sunni politician Tariq al-Hashimi told reporters.

He appeared to be referring to Interior Minister Bayan Jabr, who is responsible for paramilitary police units accused of assassinating Sunni clerics and civilians as part of the battle against insurgents. Jabr has denied targeting innocent civilians.

Al-Hashimi said the new government must address Sunni Arab opposition to the new constitution, including provisions transforming Iraq into a federal state and purging members of Saddam Hussein's Baath party from government jobs.

But Iraq's most powerful Shiite politician, Abdul Aziz al-Hakim, has said the Shiites would oppose major concessions on some key Sunni demands.

Also Sunday, a U.S. official said members of Saddam's ousted regime, including some in custody, may testify when the trial against the ex-leader and seven other defendants resumes Tuesday. The official did not identify the expected witnesses and briefed reporters on condition of anonymity due to security measures surrounding the trial.

Saddam and the others are charged in the 1982 massacre of more than 140 Shiites in Dujail following an assassination attempt against the former Iraqi leader. The official said the next session is expected to last three days.

Attacks In Iraq Jumped In 2005 Insurgents Widen Aim To Iraqi Forces (USAT)

By Rick Jervis

USA Today, January 23, 2006

BAGHDAD — The number of attacks against coalition troops, Iraqi security forces and civilians increased 29% last year, and insurgents are increasingly targeting Iraqis, the U.S. military says.

Insurgents launched 34,131 attacks last year, up from 26,496 the year before, according to U.S. military figures released Sunday.

Insurgents are widening their attacks to include the expanding Iraqi forces engaged in the fighting, said Brig. Gen. Donald Alston, a coalition spokesman.

He added, “It tells me the coalition and the Iraqi forces have been very aggressive in taking the fight to the enemy.”

The number of trained and equipped Iraqi security forces has grown to 227,000. They outnumber U.S. forces in Iraq. They are often more exposed and are taking a more visible role in fighting the insurgency.

“They're easier targets,” said Andrew Krepinevich, a counterinsurgency expert at the Center for Strategic and Budgetary Assessments, a Washington-based defense think tank.

In 2005, 2,713 Iraqi police and military were killed, according to the Brookings Institute, a Washington-based think tank. Similar numbers for 2004 were not available, and Iraq's government has not released comprehensive casualty numbers for Iraqi security forces. Thousands of Iraqi civilians have also been killed, but no precise tally is available.

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U.S. forces have become more effective at protecting against attacks. In 2004, 714 U.S. troops were killed in action and 673 last year, despite the increase in attacks. The number of wounded dropped 26%, from 7,990 to 5,939 during the same period.

The U.S. military attributes that to an increase in effectiveness in protecting its forces against roadside bombs and other attacks. Maj. Gen. William Webster said recently that 10% of the attacks against U.S. forces cause casualties, down from about 25%-30% a year ago.

The new statistics show:

·The number of car bombs more than doubled to 873 last year from 420 the year before. The number of suicide car bombs went to 411 from 133.

· Sixty-seven attackers wore suicide vests last year, up from seven in 2004. Suicide and car bombs are often targeted at Iraqis, causing high casualties.

·Roadside bombs, or improvised explosive devices, as the military calls them, continue to be the most common weapon. Roadside bombs increased to 10,953 in 2005 from 5,607 the year before. Those numbers include roadside bombs that are discovered and defused. These bombs account for nearly one-third of all insurgent attacks.

Professionals Fleeing Iraq As Violence, Threats Persist (WP)

By Doug Struck

The Washington Post, January 23, 2006

BAGHDAD -- The office of Iraq's most eminent cardiologist is padlocked. A handwritten sign is taped on his wooden door in the private clinic in Baghdad: Patients of Dr. Omar Kubasi should call him in Amman, Jordan.

There, Kubasi, 63, spends his days sitting at a cafe with other physicians and professionals from Iraq. Frustrated, he watches from afar as the medical education system he helped set up during his 36-year career slowly disintegrates. His teaching doctors are fleeing the country in fear. Younger physicians are looking for other countries to train in. Even patients are leaving, no longer confident in the care they can get in Iraq.

"I think it's part of the plan for the country's destruction," Kubasi said by telephone. "The situation in the last six months has gotten so bad, we couldn't continue."

Kubasi left Baghdad in May after he and nine other doctors received letters, written in a childish hand, telling them they would be killed if they did not stop working in their native Iraq. He and his colleagues had been the objects of threats before, but the last carried a foreboding urgency, he said.

Iraq's top professionals -- doctors, lawyers, professors -- and businessmen have been targeted by shadowy political groups for kidnapping and ransom, as well as murder, some of them say. So many have fled the country that Iraq is in danger of losing the core of skilled people it needs most just as it is trying to build a newly independent society.

"It's creating a brain drain," said Amer Hassan Fayed, assistant dean of political science at Baghdad University. "We could end up with a society without knowledge. How can such a society make progress?"

Professionals and businessmen with the means to escape are going to Jordan, Syria, Egypt or, if they have visas, to Western countries. Those left behind say they feel abandoned.

Ahmed Meer Ali, a 27-year-old resident doctor, is left alone to man the private hospital where Kubasi's office is locked and shuttered. Most of the specialists who worked there, providing care to patients and guidance to Ali, have left.

"They are the ones with specialties from England or the U.S.A. They were the ones teaching me," he said. "Now, some patients even go to Iran to get care. In the past, no one in Iraq would go to Iran."

And many educated young Iraqis are hoping to follow.

"Of course I would leave if I could," said Ihana Nabil, 22, who will soon graduate from Baghdad University with a degree in political science. "There's no peace, no stability and no jobs here," she said. Other students at the campus, a temporary oasis in a violent city, agreed.

Exodus is not new to the country. Iraqis who could flee Saddam Hussein's repressive rule did: Poor Shiite Muslims sneaked across the border into Iran, and Sunni Arabs crossed the mountains into Syria or the desert to Jordan. People often waited years for permission to attend a seminar or do business in another country and then would disappear there. Hussein began holding such people's families hostage to guarantee their return.

Many of those émigrés flooded back into Iraq when Hussein fell. But the country's instability and daily regimen of violence have made some reconsider their return. Others who stayed throughout Hussein's rule are finally saying goodbye to their homeland now.

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Numbers are impossible to document, partly because those who leave often tell passport officials they are going out of the country for a short visit. Often without telling friends or neighbors, they take a few things from their homes, lock the doors and vanish.

An official at the Interior Ministry's statistics office said the number of Iraqis traveling overland to Jordan held steady at about 200 to 250 a day from July 2004 to June 2005. Since last July, however, the number crossing the border -- excluding truckers and traders -- has ballooned to 1,100 a day, according to the official.

"They may come back if it's safe," Fayed said.

Or they may not. Since the fall of Hussein, kidnapping has mushroomed into a lucrative business. Even children are snatched, to be ransomed the same day for a few hundred dollars from their distraught parents.

Anyone displaying signs of wealth, often professionals and businessmen, are particular targets of kidnappers in search of high ransoms. However, payment is no guarantee a hostage will not simply be killed and dumped; some authorities claim dozens of bodies are found every day but never reported.

That danger is overlaid by the activities of an insurgency that aims to terrify the society by means of bombings, murder and abduction -- or threats. In addition, the death toll from sectarian violence among Sunnis, Shiites and Kurds has climbed steadily.

"Professors have been threatened. Doctors have been killed in their clinics. Killing has become common," Fayed said. "Some people believe this is intentional, to try to empty Iraq of its elite."

Kubasi, the former head of Iraq's military medical corps, believes that. In late April, his secretary handed him a letter written in what he called "bad Arabic" giving them all by May 6 -- 10 days -- to leave the country. He showed the letter to authorities, who suggested he had faked it. By May 8, Kubasi was in Jordan.

His three sons and his daughter are all physicians. They could not risk staying, he said.

"Every day, we sit here, 10 or 12 of us, senior professionals, just discussing the situation," Kubasi said from Amman. "It's mental death to sit here. But even my patients say I should not come back. Really, really, I could not pay for a kidnapper's ransom. And in that case, you would be killed."

It frustrates him to watch the medical training system he helped create fall apart. "The circuit of teaching, training and care is being broken. It may not be recovered," he said.

"Our medical schools and doctors are known all over the Arab world. The teaching care was excellent, based on the British system. We were successful under Saddam Hussein to start our own postgraduate studies, including many medical specialties. Now they are ridding the country of all of this."

Um Mustafa and her husband, a businessman, had hoped to stay. But they abandoned that goal when thieves burst into their bedroom, held their young son in a headlock, with a gun to his head, and demanded that his parents hand over all their gold and jewelry.

"We didn't want to leave," said Um Mustafa, 27, who still fears attack and asked not to be fully identified. "We were a very happy family. Wealthy. My husband had a good job. We had money, a house, car and servants."

The men terrorized the family for more than two hours, threatening to kill or kidnap their 6-year-old son, while their 2-year-old cried. They beat Um Mustafa's husband, finally leaving when they were satisfied they had found all the jewelry, guns and money in the house. They left the couple bound with plastic handcuffs and locked in a room, saying they would burn the house as they left.

"Maybe God wanted to give us a new life," Um Mustafa said. "They didn't kill us."

She and her husband decided to move to Jordan. But they heard that Jordanian authorities, worried about the influx, were making life more difficult for Iraqis there. So they have bought tickets to Cairo instead.

"We don't know how we will live there. My husband will have to find a new job. I will go to work," she said. "Leaving the country was not an easy decision. Any time you start a new life, it's very difficult. But it will be better than staying here in a country were there is no safety anymore.

"I've been through four wars. I never, never felt like leaving before," Um Mustafa said. "Now, life in Iraq has become unsafe. I don't feel safe in my own bedroom -- or in the whole country."

Contractors Leaving Iraq (WT)

By Sharon Behn

The Washington Times, January 23, 2006

U.S. private contractors, until now the biggest private-sector employers in Iraq, are preparing to leave as U.S. money runs out and Iraqi ministries take charge of the reconstruction effort.

"We are drawing down," said Ken Oscar, Fluor Corp.'s vice president for strategy. "We are not done by any stretch of the imagination, but we are drawing down."

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The engineering and construction giant at one time had 250 to 300 people from the United States in Iraq, and employed roughly 20,000 Iraqis.

Now, as the U.S.-funded part of the reconstruction effort comes to a close, Fluor has, perhaps, 100 Americans left in the country and is phasing out the Iraqi jobs.

"The net [result] is a lot less employment for Iraqis," Mr. Oscar said, even though much work remains to be done.

Most U.S.-funded projects are scheduled to be completed by the end of this year, and it is unlikely that any significant new U.S. funds will be forthcoming. Iraqi government ministries, which will be taking over responsibility for the reconstruction effort, tend to issue much smaller contracts that do not interest large U.S. companies.

"Congress has made it clear that it will not provide any more money," said retired Col. Paul Hughes of the United States Institute of Peace. "Those [companies] with existing contracts will fulfill those, while hoping for new funding sources from the international community."

The World Bank said in 2003 that it would take $56 billion to rebuild Iraq's infrastructure. The United States appropriated $18.7 billion toward the effort, much of which has been allotted to specific projects.

The non-U.S. donor community pledged $13.5 billion to help restore Iraq, but few countries are willing to fulfill their pledges amid a raging insurgency and perceived political instability. About $1 billion of that money has been disbursed.

"It takes time to do these things," Mr. Oscar said. "We got rid of their bad government, put them on their way to democracy and jump-started their infrastructure. Can [the Iraqis] pick it up from there? I don't know."

About 3,500 megawatts of electricity have been put online at a cost of $4 billion, Mr. Oscar said, but much of the work has been stopgap, such as refurbishing older plants rather than building modern ones.

"When summer comes, there may be serious power shortages," he said.

Fluor's experience is typical of the large U.S. contractors in the country. They did as much as they could given the security situation -- which absorbed 20 percent of the $18.7 billion -- and the time has come to leave.

"We are not here to rebuild the country," said Brig. Gen. William McCoy, the Army Corps of Engineers commander overseeing the work. "We are here to give Iraq a jump-start."

Some contractors say privately that they do not want to deal with the Iraqi government and that, without the protection and support of the U.S. military, it is simply not safe to work in Iraq.

"The only ones left are the ones who want to work for the [Iraqi] ministries, and there are not many of those because they are so corrupt," said Charles D. Hartman, chairman of the construction and energy committee of the Turkish-U.S. Business Council.

"None of my people are there," said Mr. Hartman, who also consults for a large Turkish company. "None of the big construction groups are down there."

Just last week, fatal attacks were launched against U.S. and Iraqi personal security details in Baghdad and in the southern city of Basra.

Nine bodyguards escorting an engineer working for the Orascom cell-phone company were killed in an ambush in Baghdad on Wednesday, unable to protect their client, who was kidnapped, a physician at the scene told The Washington Times.

The same day, a convoy carrying U.S. civilian security personnel in Basra was hit by a roadside bomb, killing two passengers and seriously wounding a third, the U.S. Embassy reported.

Former Abu Ghraib Guard Calls Top Brass Culpable For Abuse (WP)

By Josh White

The Washington Post, January 23, 2006

Stepping into the Abu Ghraib prison for the first time, Megan Ambuhl was stunned. There were naked men in dusty cells, male prisoners wearing women's underwear, others hooded and shackled in contorted positions to metal railings.

An enlisted officer giving her a tour of the U.S. facility in October 2003 pointed to a group of detainees chained to a cell. He said the bars had often "been decorated like a Christmas tree," with prisoners as ornaments.

"He explained it was a military intelligence tactic," Ambuhl said in a recent interview, speaking publicly for the first time since the Abu Ghraib prison abuse was disclosed nearly two years ago. "He said it was to break the detainees that were being interrogated. It was clear it was a military intelligence facility. As I saw it, I thought that if they were doing it, it must be all right for them to be doing it."

One of the original seven military police soldiers singled out by the Pentagon for their roles in abusive techniques, Ambuhl is speaking out because she believes the truth has been obscured by high-ranking officials intent on covering up a policy of abuse. Though her defense differs little from the arguments made previously by the defendants' attorneys, Ambuhl's first-person

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description of the macabre world of Abu Ghraib provides a vivid perspective on how things went out of control at the prison outside of Baghdad, a place where there were few rules and little guidance. Her account also shows that some of the abusive tactics were in place when the MPs arrived at the prison.

Ambuhl has since married one of her fellow MPs -- Charles A. Graner Jr., the man the military has labeled the ringleader of the abusers -- and is on a mission to secure his release from prison.

Now out of the Army, punished with a reduction in rank and a fine for dereliction of duty but no prison time, Ambuhl says the military's top brass have dodged responsibility for what was going on at the prison by scapegoating her and other low-ranking soldiers.

By the time of her tour in 2003, Ambuhl had been in the Army reserves for about a year. She realized she was walking into something she clearly did not understand. Her unit, the 372nd Military Police Company, had been trained to do combat support jobs, not detention. She was ordered to work the night shift and said she asked few questions because she did not know what questions to ask.

Ambuhl says she and other MPs used aggressive techniques against detainees because that is what military intelligence soldiers and civilian interrogators told her to do.

She described a "roster board" that included which military intelligence "treatment" to give to certain detainees and said trainers from the U.S. detention facility at Guantanamo Bay, Cuba, taught the MPs how to put detainees in "stress positions." She said military intelligence officials told them to keep detainees naked, embarrass them or make them exercise until they reached exhaustion.

"We were told to handcuff people in uncomfortable positions, to put people on [Meals Ready to Eat] boxes, to pour cold water on them, to make them do physical training," said Ambuhl, who worked the night shift on Tier 1B. "We did what we were told to do."

That defense has not worked well for several of the MPs charged with abuse, most notably Graner, who worked the night shift on Tier 1A, alongside Ambuhl. Graner is serving a 10-year sentence at Fort Leavenworth, Kan.

Ambuhl married Graner last April after his conviction, sending marriage documents to him to sign in prison. The Army has prevented them from meeting or even speaking, alleging that they are co-conspirators.

Ambuhl knows that many people consider him a monster but says that is because the military has done an effective job of painting him as a ringleader and because people do not know him.

"I love being around him," said Ambuhl, 31, of Centreville, who has taken Graner's last name. Their relationship developed while the two were marooned for months at a base in Baghdad after the abuse was discovered and after Graner's relationship with Lynndie R. England, another MP serving a prison sentence for abuse, had ended. "We understand each other. I put my life in his hands day in and day out, and there isn't anyone I'd rather trust with my life, knowing everything I know."

Now back in her job as a histology lab technician, Ambuhl is determined to tell the public her version of events to free Graner. She has built a Web site, which includes documents and discussion, at http://www.supportmpscapegoats.com , where she also has a petition on Graner's behalf.

Military officials "have been trying to conceal that it was a policy that spiraled out of control," Ambuhl said, a rare moment of anger rising in her voice. "They made us out to be the cause of every ill in Iraq."

Paul Boyce, an Army spokesman, said there have been more than 500 investigations into allegations of detainee mistreatment and that the Army is taking each allegation seriously.

"Thus far, allegations against more than 251 military members have been addressed in courts-martial, non-judicial punishment and other adverse administrative actions," Boyce said.

It was in early October 2003 that Ambuhl's unit made its way to Abu Ghraib from an assignment in Hilla, Iraq, where it conducted neighborhood searches for insurgents in what the military calls "law-and-order missions." Ambuhl, a Humvee driver in Hilla, said she received no training in dealing with enemy prisoners of war, was never specifically instructed about the Geneva Conventions and was presented with no standard operating procedures for the prison. In the middle of a war, a world away from Northern Virginia, Ambuhl did not question her superiors.

Ivan L. "Chip" Frederick II, who worked in the prison's higher security facility -- called the "hard site" -- and was also convicted of abusing prisoners, told investigators after his conviction that he, too, was shown the aggressive tactics on his first tour of the prison.

"He didn't say anything about the detainees, how to treat them, etc., but when we went in 1A, I did see detainees handcuffed to the bars and naked," according to Frederick's sworn statement. "I asked him about it and he told me MI ran the section, they didn't want the detainees talking to one another and that was their punishment."

Ambuhl's unit arrived just weeks after Maj. Gen. Geoffrey D. Miller, then Guantanamo Bay's commander, made a visit to Iraq to help set up the Abu Ghraib operation. She said some of the tactics her unit employed -- such as stress positions, the use

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of dogs, and nudity -- came from teams Miller later sent over. Pentagon investigations have shown that such tactics were in use on high-value detainees held in Cuba almost a year earlier, but also determined that there was no policy of abuse.

Pentagon and Army officials have argued that the abuse at Abu Ghraib was isolated to a few individuals who decided to break the rules.

Ambuhl said some of the images seen in the photos depicted events that occurred every day.

"At the very least, there were a whole slew of people who knew about it," Ambuhl said. "These pictures were in no way hidden. We didn't sneak around pretending this wasn't going on."

Members of Other Government Agencies (OGA) -- a euphemism for the CIA -- were all over the hard site, keeping as many as 100 detainees there for interrogations. Once, two men with OGA had finished interrogating a detainee in a shower room and asked her to go get him.

"They said it would be funny if I burned him with my cigarette," Ambuhl said, adding that she tossed her cigarette before releasing the detainee, who was shackled to a window.

She said in hindsight she should have intervened.

"None of us were in the right frame of mind to get help for this situation," she said. "This was the norm. We didn't know any different. Maybe that's why they sent a combat support unit to do it. We wouldn't know how it was supposed to work, and we wouldn't question it.

"I wish I had done more to stop it," she said.

A Rebel Crack-Up? (TIME)

By tim mcGirk

Time, January 23, 2006

Even by the standards of al-Qaeda in Iraq, the suicide bombing in Ramadi on Jan. 5 was stunning for its audacity. The bomber had blended into the ranks of Iraqi police recruits outside the Ramadi Glass and Ceramics Works before blowing up his explosive vest, loaded with ball bearings for maximum devastation. The blast killed two U.S. service members and more than 70 Iraqi police recruits--but it also turned out to be a deadly miscalculation by the jihadis and their leader, Abu Mousab al-Zarqawi. Most of the victims were local Sunnis, and they were joining the police force under the protection of tribal chieftains who, with the U.S. military's approval, are trying to impose order over their violent swath of Iraq. After the Jan. 5 blast, according to insurgents, tribal chiefs in Ramadi notified al-Qaeda that they were withdrawing protection in the city for the group's fighters. The jihadis responded by gunning down several prominent Sunni clerics and tribal leaders. Now al-Qaeda fighters who once swaggered through Ramadi are marked men. "It's war," says an Iraqi intelligence officer with contacts among the insurgents.

For months, U.S. officials in Iraq have tried to exploit growing differences over tactics and aims among factions of the insurgency, a push first detailed by TIME in December. Although reports of clashes between Iraqi nationalist groups and religious extremists linked to al-Qaeda remain difficult to quantify, there are signs that at least in some parts of Iraq, the tension is boiling over. Iraqi security sources with contacts in the insurgency told TIME that fighting has erupted in several cities that have long been bastions of the resistance, including Fallujah, Samarra, Latifiya and Mahmoudiya. In one recent incident, according to an Iraqi security source, insurgents wounded a Palestinian member of al-Qaeda, tracked him to a Baghdad hospital and then kidnapped him from his bed and handed him over to U.S. forces. Some Pentagon decision makers believe that the feuding within the insurgency may help U.S. and Iraqi troops quell the terrorist attacks that have made parts of the country ungovernable. "We're starting to see a little bit more every day," says Army Lieut. General Ray Odierno, assistant to the Chairman of the Joint Chiefs of Staff. In places like Ramadi and Fallujah, Odierno says, "we've had some Iraqi insurgents' groups actually put up defenses to protect their people against al-Qaeda forces."

What's behind the rift? Even though some Iraqi insurgent groups have cooperated with jihadist fighters to battle U.S. troops, insurgent leaders say they have grown sick of al-Qaeda's killing innocent Iraqi Shi'ites, whom al-Zarqawi considers infidels. Cracks in al-Qaeda's alliance with the Iraqi groups became more pronounced after the Dec. 15 election. Al-Zarqawi saw the poll as a detour from his goal of turning Iraq into a base from which al-Qaeda could spread terrorism throughout the Middle East and Europe. Many Sunni resistance groups have a narrower focus: ridding Iraq of all occupation forces--U.S. troops and the pro-Iranian militias that slipped across the border. Sunni politicians managed to convince some key rebel groups that unless the Sunni minority voted, the elections would enhance the power of Kurdish and religious Shi'ite parties, some of which have ties to Iran. (Election results released last week showed that Sunni Arab parties will hold 55 seats in the new parliament, up from 17 in the previous one.) Abu Noor al-Iraqi, a leader of the Unified Leadership of Mujahedin, a new amalgam of four nationalist guerrilla outfits, tells TIME that "when al-Zarqawi's group threatened to attack the polling centers, we stood against them."

Since then, the fissures between the nationalists and al-Zarqawi have widened. U.S. political and military officers persuaded some Sunni tribal chiefs to send their youths into the security forces to ensure that Sunnisnot Shi'ite outsiders--would

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command their cities' police. But in recent meetings with various insurgent groups, says a nationalist field commander near Ramadi, al-Zarqawi's lieutenants made it clear that any Iraqi who joined the security forces was considered the enemy, thus drawing a battle line between the jihadis and their former comrades. In Latifiya, outside Baghdad, al-Zarqawi's fighters pressed Sunnis to desert a mixed Sunni-Shi'ite battalion under U.S. command. When the Sunnis refused, al-Qaeda shelled the camp with mortars. Local insurgents responded by hunting down al-Qaeda's chief for southern Baghdad and killing him and four Syrian fighters.

Al-Zarqawi's men, though, have shown few signs of backing down. In Latifiya last week, al-Qaeda fighters captured and murdered five members of the nationalist Islamic Army in Iraq and assassinated a Sunni colonel. After the backlash in Ramadi, al-Zarqawi's men supposedly retreated into the rocky western deserts but have continued to target local leaders. A senior security officer says jihadist fighters followed a Ramadi chieftain from the powerful Dulaimi tribe into Baghdad on Wednesday; handcuffed him, a nephew and a senior security officer for the western provinces; and executed each of them with a bullet through the head. In Samarra members of the Alboubaz tribe killed four foreign fighters and drove out 11 others after the assassination of a local police chief. After the tribesmen urged Sunni youths to join the local police, al-Zarqawi got his revenge. The instructors weren't going to make the same mistake they had made in Ramadi by allowing recruits to become an easy target for a suicide bomber, so they had them sign up in Baghdad. But al-Zarqawi's men were tipped off. Al-Qaeda ambushed the Sunnis' bus on the road and kidnapped the recruits. Their bodies have yet to be found.

Such clashes don't spell the end of the insurgency. U.S. officials believe that even if terrorist attacks subsided, many Sunni insurgents would continue attacking U.S. and Iraqi forces if they felt their interests were being shortchanged by a Shi'ite-led government in Baghdad. U.S. Senator Jack Reed, who was briefed on the insurgency during a visit to Iraq earlier this month, cautions against giddiness at reports of a backlash against al-Qaeda. "The center of mass of the insurgency is not the foreign terrorists," the Rhode Island Democrat told TIME. "They're a small band able to create spectacular attacks. But the real long-term danger is the Sunnis continuing to fight." The U.S. is still a long way from persuading them to stop.

Baghdad's Big Oil Bust (NSWK)

By Scott Johnson And Michael Hastings

Newsweek, January 23, 2006

Guarding the Fatah oil refinery used to be a pretty straightforward job for Saif Mohammed. Insurgents hit only sporadically, and usually missed important targets. But by early last year, attackers were using rocket-propelled grenades, mortars and heavy machine guns in brazen daylight assaults. They seemed to know about everything and everybody in the refinery. Ambushes were common. "We were afraid to even take vacation and go home," says 26-year-old Mohammed. "The people who worked with us used to tip off the fighters. They wanted to play both sides—to keep their jobs and be informants for the terrorists."

When insurgents killed the man Mohammed shared guard duty with last April, then threatened Mohammed with the same, he quit. In the past year, there have been close to 20 large-scale assaults on Fatah, part of Iraq's largest oil-production complex in Bayji. Last month the Bayji site shut down completely for two weeks. It re-opened with the New Year, but three days later insurgents pinned down a 60-truck fuel convoy in an hourlong gun battle. Across the country, there's a major attack on oil facilities about once every three days. December was the third month in a row that Iraqi oil production went down, and it marked the lowest level of exports since the invasion. At a time when global supplies are stretched to their limits, the Iraqi oil bust helps keep world prices near record highs. But most of all, it's a disaster for efforts to get the country back on its feet.

Only three years ago, before the United States led the invasion of Iraq, the Bush administration dreamed of liberating the country on the cheap. Billions in untapped oil reserves were going to pay for reconstruction and nation-building. But hundreds of billions of American tax dollars later, Iraq's oil still isn't flowing at prewar levels. And in a country where 90 percent of the government's $35 billon in revenues comes from petroleum, the old promise has come to seem a curse. "Some people wish we didn't have all this oil," says National Assembly Speaker Hajim al-Hassani, "because it has brought us all these problems."

What happened? There's certainly no question that the Bush administration, heavily peopled with veterans of the oil industry, focused on the importance of petroleum to Iraq's economy. Even as the rest of Baghdad was opened up to looters in April 2003, the Ministry of Oil was secured by U.S. troops. But no force was put in place to protect the pumps and pipes. In August 2003, the Americans awarded $40 million to a private security firm for the training of 5,500 Iraqis. But the program was quickly terminated as too expensive, say U.S. officials. Then the American military took responsibility for the Oil Protection Force, but guards were never deployed to cover 4,350 miles of pipeline. Finally, last summer, a new 4,000-man unit called the Strategic Infrastructure Battalions started training. But the SIBs quickly fell into bureaucratic cracks. "The ministers have had the hardest time figuring out who the SIBs even work for," says Brig. Gen. William H. McCoy, commander of the Army Corps of Engineers in Baghdad.

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Washington has allocated $1.7 billion to finance oil projects across the country, but only $77 million worth of reconstruction has been completed. Oil Minister Ibrahim Mohammed Bahar al-Aloum says U.S confusion and incompetence has kept the work tangled in red tape. "Most of these projects were supposed to be done last year," Bahar al-Aloum told NEWSWEEK. "If U.S. money had been made available, Iraqis could have done the job faster." Yet the United States has signaled it no longer wants to be the principal donor. Other foreign investors are biding their time, hoping some sort of peace can be restored. For workers worried about ambushes, such notions seem lost in a distant future.

U.S. Army Officer Convicted In Death Of Iraqi Detainee (WP)

By Josh White

The Washington Post, January 23, 2006

An Army interrogator who stuffed an uncooperative Iraqi general into a sleeping bag during questioning in northern Iraq in 2003 was convicted of negligent homicide and negligent dereliction of duty late Saturday after a military jury in Colorado decided the general's death was not murder.

Chief Warrant Officer Lewis E. Welshofer Jr., 43, was on trial for allegedly killing Iraqi Maj. Gen. Abed Hamed Mowhoush, a high-ranking Saddam Hussein loyalist who was believed to have been fueling the Iraqi insurgency in the Qaim area near the Syrian border. Mowhoush died while bound in the Army sleeping bag, which was part of an aggressive interrogation tactic aimed at getting the general to talk.

During his week-long court-martial in Colorado Springs, Welshofer testified that he used the sleeping bag after other attempts to elicit information from Mowhoush failed, and that he believed the "claustrophobic" technique had been approved by his commanders as a "stress position," according to reports by the Associated Press and trial observers with Human Rights First.

Welshofer's supervisor, Army Maj. Jessica Voss, testified that she approved the use of the sleeping bag but was unaware that Welshofer would bind the general with a cord or straddle his chest while questioning him.

Mowhoush, who the Army believed had met with Hussein after the United States invaded Iraq and who had allegedly financed insurgent attacks, was a huge catch for U.S. troops in November 2003. But he proved to be very stubborn, and several attempts over two weeks of interrogations at a facility known as the "Blacksmith Hotel" yielded little information.

According to court testimony and classified accounts of his treatment obtained by The Washington Post, Mowhoush was subjected to harsh beatings by a secret group of Iraqi paramilitaries, code-named Scorpions, who worked with the CIA. One witness who testified behind a curtain during Welshofer's trial was accidentally identified as having worked with the CIA, and witnesses also described how Mowhoush was beaten so badly by the Iraqi natives that he had a hard time breathing and could not walk on his own.

The case not only exposed the secret CIA group but also revealed how U.S. officials were giving unclear guidance regarding interrogation methods during a frustrating part of the war, including at least one message from Baghdad telling interrogators that the "gloves are coming off" and asking for interrogation-technique wish lists. The sleeping-bag technique was one Welshofer wanted to use and for which he sought approval.

"What he was doing he was doing in the open, and he was doing it because he believed the information in fact would save lives," said Frank Spinner, Welshofer's civilian defense attorney, according to the AP. Spinner added that he was disappointed with the verdict. "The verdict recognizes the context in which these events took place. It was a very difficult time in Iraq. There was confusion, and they were not getting clear guidance from headquarters."

David Danzig, manager of Human Rights First's "End Torture Now" campaign and a trial observer, wrote in a daily court-martial blog that Welshofer was trying to sort out guidance from superiors in Baghdad while coming up with interrogation tactics that went beyond outdated Cold War thinking.

"They recognized that what we practiced in the schoolhouse was not working," Danzig quoted Welshofer's testimony. "They were looking for ideas outside the box."

That Welshofer was spared a murder conviction -- and a potential life sentence -- indicates that the jury believed Welshofer did not try kill Mowhoush, but that he should have known the tactic he used could lead to death. Mowhoush stopped breathing during the interrogation, and attempts to revive him failed. The negligent-homicide conviction could result in a maximum three-year prison sentence, and the negligent-dereliction-of-duty conviction an additional three months. Sentencing hearings are to begin today.

Maj. Tiernan Dolan, who prosecuted the case, said that the treatment Welshofer imposed on Mowhoush "could fairly be described as torture" and that he "treated that general worse than you would treat a dog," knowing that he had an obligation to treat the detainee humanely, the AP reported.

Chief Warrant Officer Jefferson L. Williams, an intelligence analyst, and Spec. Jerry L. Loper, a guard, had murder charges against them dropped and received immunity to testify against Welshofer. A fourth soldier, Sgt. 1st Class William Sommer, also

had a murder charge dropped and faces possible administrative punishment. All three were present during the interrogation that led to Mowhoush's death.

Interrogator Convicted In Iraqi's Death (LAT)

By Nicholas Riccardi, Times Staff Writer

The Los Angeles Times, January 22, 2006

FT. CARSON, Colo. — A military jury late Saturday convicted an Army interrogator of negligent homicide in the death of an Iraqi general who had been stuffed face-first into a sleeping bag.

After seven hours of deliberations, the six-officer panel found Chief Warrant Officer Lewis E. Welshofer Jr. guilty of the charge, which carries a maximum sentence of three years in military prison. Had he been convicted of murder, he could have been given a life sentence.

The panel also found Welshofer guilty of dereliction of duty.

Welshofer, 43, is the highest-ranking officer tried on murder charges in a case of detainee abuse in the Bush administration's war on terrorism, human rights monitors say.

Welshofer stood mute in his dark-green uniform as he listened to the verdict, swallowing silently.

Prosecutors left the courtroom without commenting, forbidden from talking to reporters by their superiors. Defense attorney Frank Spinner said: "I think the verdict recognizes the context in which these events took place. It was a very difficult time in Iraq."

The verdict in the court-martial came hours after Spinner contended that the interrogator had been heeding an August 2003 e-mail from the office of the U.S. commander in Iraq.

The e-mail cited by the defense, from Capt. William Ponce, said: "The gloves are coming off, gentlemen…. We want these individuals broken. Casualties are mounting."

In a reply to the e-mail, Welshofer wrote that the military needed to loosen its standards, which he said were more useful during World War II. "Today's enemies, especially in southwest Asia, understand force, not … mind games."

Welshofer was rebuked for suggesting violations of the Geneva Convention. But two weeks later, a Sept. 10 memo from the top commander in Iraq authorized several new interrogation techniques, including one that Welshofer says gave him permission to stuff Maj. Gen. Abed Hamed Mowhoush into the sleeping bag, bind him with an electrical cord, straddle his chest and occasionally cover his mouth.

Mowhoush, 57, who had been brutally beaten two days earlier — allegedly by CIA contractors — died in the bag, in a prison in the Iraqi border town of Qaim. The prosecution contended he suffocated; the defense argued he died of a heart attack.

"An interrogator's job, when you're told to take the gloves off and you have techniques called 'Fear Up, Harsh' … is to make the detainee uncomfortable," said Spinner, referring to techniques detailed in the Sept. 10 memo. "Your job is to put [the detainee] under stress."

That does not mean jettisoning decades of standards, countered the lead prosecutor, Maj. Tiernan Dolan. "This case … has been about our officer corps' need to maintain the high ground, especially in a country like Iraq, where our presence may be resented," he told the military panel. "If we can't set an example under harsh circumstances, we'll no longer be who we are."

Saturday's closing arguments encapsulated a debate since the Sept. 11 attacks over how to treat an enemy that does not follow the regular rules of war.

Mowhoush, once a confidant of Saddam Hussein, allegedly was leading the growing insurgency in western Iraq when he surrendered to U.S. forces in November 2003.

Shadowing the closing arguments was the CIA's role in Mowhoush's interrogations.

Welshofer had interrogated the general several times, once slapping him in the chest, before the interviews turned markedly more violent, according to witnesses at the trial. Iraqi nationals apparently in the employ of the CIA entered the interrogation room Nov. 24 and beat Mowhoush for 30 minutes with rubber hoses and insulation.

Welshofer said he did not control that session, but other witnesses testified that he seemed to be directing the questioning. Mowhoush had to be carried back to his cell.

The next day, Welshofer's team took Mowhoush to the prison roof and pinned him down while the lead interrogator poured water on his face, according to multiple witnesses. Welshofer and another interrogator also repeatedly hit the general's elbows — an action Welshofer has characterized as more like tapping, saying it was intended to be an annoyance.

That night, according to a witness who testified from behind a green tarp, Welshofer talked about the latest regulations from Lt. Gen. Ricardo Sanchez, then U.S. commander in Baghdad. The witness, whom an attorney inadvertently implied worked for the CIA, said that Welshofer said "he was pretty sure they were breaking those rules every day."

The next morning, Mowhoush was stuffed into the sleeping bag, and soon died.

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Though court rules forbade anyone from naming the CIA during the trial, Spinner questioned why "civilian interrogators" who presided over a beating were not being prosecuted. "How is it that this … witness is so concerned about the Army applying their rules when we know his own organization was so flagrantly violating the rules?" Spinner said.

Spinner also scoffed at criticism of his client's tactics.

"We're putting interrogators on the front line, and even as people are dying, we are saying, 'Get that info,' " Spinner said, but " 'if there are gray areas, back off; take the easy right [action].' And so what if a few more U.S. soldiers die?"

Dolan replied that the urgency of the situation in Iraq did not give Welshofer permission to violate the law. "Because the need for intelligence was so great and soldiers are dying, we should abandon our values?" he asked rhetorically. "That ain't the law and that isn't what makes us what we are. We're a nation of laws."

The sleeping-bag technique had been approved by Welshofer's supervisor, but he said he had not told her that he sat on detainees' chests or occasionally covered their mouths to prevent them from talking over his questions.

He said he'd used the technique a dozen to two dozen times in Iraq.

Dolan said the fact that Welshofer had not told his supervisor all of the details of the sleeping-bag technique showed he had been trying to conceal illegal behavior. The prosecutor called the method "the most dangerous technique in [Welshofer's] bag of unauthorized tricks and techniques."

Dolan emphasized the testimony of two witnesses that the general had stilled for several minutes with Welshofer straddling him, and that Welshofer then stood. The witnesses said that the general gasped as if he had been drowning and that Welshofer expressed relief that he had not died, then flipped him over and sat on his back.

Welshofer denied their account.

The judge, Col. Mark Toole, instructed the jury that even if Welshofer believed the sleeping-bag technique was permitted, that did not clear him of criminal responsibility.

"Authority to use certain interrogation techniques does not justify or make lawful a death," he said. "The killing of a detainee during interrogation is never justified."

David Danziger of Human Rights First, a New York-based group that observed the trial, said the case demonstrated broader problems. "I think it's shocking what Chief Welshofer did, and I think it's shocking what was authorized," he said. "The Army, Sanchez and others opened the door to these abuses by putting out guidance that changed a lot, was unclear and didn't serve the soldiers in the field."

Welshofer's sentencing is expected Monday.

Army Interrogator Is Convicted Of Negligent Homicide (NYT)

By Eric Schmitt

The New York Times, January 23, 2006

WASHINGTON, Jan. 22 - A senior Army interrogator was convicted late Saturday of negligent homicide in the death of an Iraqi general after he shoved the general head-first into a sleeping bag, sat on his chest and put his hands over his mouth.

A six-officer jury at Fort Carson, Colo., found the interrogator, Chief Warrant Officer Lewis E. Welshofer Jr., guilty of the charge, which carries a maximum sentence of three years in a military prison. He was also found guilty of negligent dereliction of duty. He was acquitted of murder and assault charges. Sentencing is scheduled for Monday.

Army prosecutors contended that Mr. Welshofer, 43, a chief interrogator with the Third Armored Cavalry Regiment in Qaim, Iraq, suffocated Maj. Gen. Abed Hamed Mowhoush after wrapping him in the sleeping bag and sitting on him during an interrogation session on Nov. 26, 2003. Prosecutors said Mr. Welshofer knew his interrogation techniques were potentially lethal and against Army standards.

Defense lawyers countered that Mr. Welshofer, a 19-year Army veteran, did nothing illegal and was using a technique that his commander had approved for use on uncooperative prisoners. They also said that General Mowhoush, 57, whom the lawyers said weighed more than 250 pounds, died from an irregular heart rhythm caused by heart disease and stress.

The widely publicized incident has drawn attention from human rights groups as one of the worst instances of abuse against detainees in American custody in Iraq, and because General Mowhoush had been beaten shortly before his death by a team that included one or more C.I.A. contract workers.

The case also underscores the confusion among military interrogators and their superiors over the use of aggressive interrogation techniques in the summer and fall of 2003, when the insurgency in Iraq was rapidly gaining momentum and ferocity, and top Pentagon officials and commanders in Iraq were demanding better intelligence with which to attack the militants.

Testimony at Mr. Welshofer's court-martial last week confirmed that a team of Iraqis had beaten the general two days before he died, but the C.I.A.'s involvement remained largely unaddressed.

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At one point, a defense lawyer, Frank Spinner, questioned a witness whose identity was so secret that he was shielded from reporters and others in the courtroom by a green tarp suspended from the ceiling, The Associated Press reported. The witness said that when he spoke to Mr. Welshofer on the day before General Mowhoush died, he was alarmed when Mr. Welshofer told him he thought the Army's interrogation guidelines were being broken every day.

"And you didn't report it to the C.I.A.?" Mr. Spinner asked. He then stopped himself and quickly apologized to the judge.

Mr. Welshofer and his lawyers argued that the Army had provided no guidance for authorized and unauthorized techniques. "It was not clear on what we were to do," Mr. Welshofer testified last Thursday, The Rocky Mountain News reported.

Mr. Welshofer said he received an e-mail message from his unit's commanders saying that there were no rules for interrogations yet, and that top officers were "tired of taking casualties and that the gloves were coming off." He said he never received memorandums from Sept. 14 and Oct. 12, which first authorized the use of "stress positions" but called for the prior approval of Lt. Gen. Ricardo S. Sanchez, the top general in Iraq at the time.

As a result, Mr. Welshofer said he escalated his tactics over the course of several interviews to frighten the general, who was providing little useful information. Mr. Welshofer and another interrogator designed the sleeping bag technique as a last resort, believing it would create a claustrophobic effect on a prisoner, Mr. Spinner said in a telephone interview on Sunday. A small hole was cut in the bottom of the sleeping bag to allow the detainee to breathe.

General Mowhoush was considered a prized intelligence prospect. He had been commander of air defenses in western Iraq under Saddam Hussein, and military intelligence officials believed he was a suspected leader and financier of the insurgency there, providing money and housing for fighters coming in from Syria. General Mowhoush had surrendered to military authorities two weeks before his death, saying he wanted to secure the release of his four sons in American custody.

But the military prosecutor, Maj. Tiernan Dolan, said Mr. Welshofer abused General Mowhoush, treating him "worse than you would treat a dog," The A.P. reported.

An Army spokesman, Paul Boyce, said in an e-mail message on Sunday that more than 500 investigations had examined allegations of detainee mistreatment. Thus far, he said, allegations against at least 251 military members have been addressed in courts-martial, nonjudicial punishment and other administrative penalties.

Workers Allege Halliburton Knew Their Water Was Foul (WP)

By Larry Margasak

The Washington Post, January 23, 2006

Troops and civilians at a U.S. military base in Iraq were exposed to contaminated water last year, and employees for the responsible contractor, Halliburton Co., could not get their company to inform camp residents, according to interviews and internal company documents.

Halliburton, the company formerly headed by Vice President Cheney, disputes the allegations about water problems at Camp Junction City, in Ramadi, even though they were made by its own employees and documented in company e-mails.

"We exposed a base camp population (military and civilian) to a water source that was not treated," said a July 15, 2005, memo written by William Granger, the official for Halliburton's KBR subsidiary who was in charge of water quality in Iraq and Kuwait.

"The level of contamination was roughly 2x the normal contamination of untreated water from the Euphrates River," Granger wrote in one of several documents. The Associated Press obtained the documents from Senate Democrats who are holding a public inquiry into the allegations today.

Sen. Byron L. Dorgan (D-N.D.), who is scheduled to chair the session, held a number of similar inquiries last year on contracting abuses in Iraq. He said Democrats were acting on their own because they had not been able to persuade Republican committee chairmen to investigate.

Ben Carter, Halliburton's former water-treatment expert at Camp Junction City, said he discovered the problem last March, a statement confirmed by his e-mail the day after he tested the water. Though bottled water was available for drinking, the contaminated water was used for virtually everything else, including handwashing, laundry, bathing and making coffee, Carter said.

Another former Halliburton employee who worked at the base, Ken May of Louisville, said there were numerous instances of diarrhea and stomach cramps.

A spokeswoman for Halliburton said its own inspection found neither contaminated water nor medical evidence to substantiate reports of illnesses at the base.

The company now operates its own water-treatment plant there, spokeswoman Melissa Norcross said.

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A military medical unit that visited Camp Ramadi in mid-April found nothing out of the ordinary in terms of water quality, said Marine Corps Maj. Tim Keefe, a military spokesman. Water-quality testing records from May 23 show the water within normal parameters, he said. "The allegations appear not to have merit," Keefe said.

Granger's July 15 memo said the exposure had gone on for "possibly a year" and added, "I am not sure if any attempt to notify the exposed population was ever made."

The first memo on the problem -- written by Carter to Halliburton officials on March 24, 2005 -- was an "incident report" from tests Carter performed the previous day.

"It is my opinion that the water source is without question contaminated with numerous micro-organisms, including Coliform bacteria," Carter wrote. "There is little doubt that raw sewage is routinely dumped upstream of intake much less than the required 2 mile distance.

"Therefore, it is my conclusion that chlorination of our water tanks while certainly beneficial is not sufficient protection from parasitic exposure."

Carter said he resigned in early April after Halliburton officials did not take any action to inform the camp population.

The water expert said he told company officials at the base that they would have to notify the military. "They told me it was none of my concern and to keep my mouth shut," he said.

On at least one occasion, Carter said, he spoke to the chief military surgeon at the base, asking him whether he was aware of stomach problems afflicting people. He said the surgeon told him he would look into it.

"They brushed it under the carpet," Carter said. "I told everyone, 'Don't take showers; use bottled water.' "

A July 14, 2005, memo showed that Halliburton's public relations department knew of the problem.

"I don't want to turn it into a big issue right now," staff member Jennifer Dellinger wrote in the memo, "but if we end up getting some media calls I want to make sure we have all the facts so we are ready to respond."

Hussein's Trial Is Set To Resume, But Who Will Preside? (NYT)

By Robert F. Worth

The New York Times, January 23, 2006

BAGHDAD, Iraq, Jan. 22 - Two days before the trial of Saddam Hussein is set to resume after a month's recess, confusion surrounds the tribunal that is trying him, with the identity of the judge who will preside in court still uncertain.

The judge who has become the trial's most public face, Rizgar Muhammad Amin, submitted a letter of resignation this month, saying he was fed up with criticism by high-ranking Iraqi officials who wanted him to be tougher with Mr. Hussein. A colleague on the five-judge panel, Said al-Hammash, is prepared to replace Judge Amin if he does not return Tuesday.

But in recent days President Jalal Talabani and other Iraqi leaders, apparently eager to dispel the widespread impression that Judge Amin was forced off the case through political pressure, have urged him to stay on. The tribunal has not accepted Judge Amin's resignation. An American official who is close to the tribunal said Sunday that he did not know which judge would be presiding.

"We'll know for sure on Tuesday morning at about 10 o'clock," said the official, who spoke on condition of anonymity in an effort to avoid the appearance of interfering in the tribunal's decisions.

Judge Amin's potential successor is facing troubles of his own. Last week, a senior Iraqi official petitioned the court to bar Judge Hammash from presiding at the trial, saying the judge was a former member of Mr. Hussein's Baath Party. The official, Ali Feisal al-Lami, is a director of the de-Baathification commission, set up to purge former high-level Baathists from public office. Judge Hammash has denied that he was a Baathist.

The office of Prime Minister Ibrahim al-Jaafari has told the tribunal to ignore Mr. Lami's petition, saying he has no authority over the judges. But one tribunal official said he believed that to avoid controversy, the body might choose to pass over Judge Hammash even if Judge Amin resigns. The official spoke on condition of anonymity, saying he was not authorized to speak publicly.

The judicial disputes have threatened to bring further disarray to a trial that has already seen its share of chaos. Some judges on the tribunal say they fear that Mr. Hussein and his fellow defendants, who have unleashed repeated broadsides against the tribunal, will pick up on the questions surrounding Judge Amin's resignation and stir further conflict.

The trial, which started on Oct. 19, will resume with more testimony from witnesses to the massacre of 148 men and boys in the Shiite town of Dujail, north of Baghdad, in 1982 after an assassination attempt there against Mr. Hussein. Former members of Mr. Hussein's government could be among those who are called to testify in the next two weeks, the American official said.

The current phase of the trial, the first of several expected cases against Mr. Hussein and other top officials in his government, is likely to last at least until the end of May, the official said.

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As Iraqi parties positioned themselves on Sunday after the release of election results, Tariq al-Hashemi, a leader of Iraq's largest Sunni Arab political coalition, said Sunni Arabs would not accept the inclusion in a new government of any official who was involved in violence against Sunnis by the Shiite-led security forces. The warning appeared to be aimed at Bayan Jabr, the current interior minister, who is widely believed by Sunnis to have orchestrated death squads that have carried out killings.

Mr. Hashemi's coalition, the Iraqi Consensus Front, won 44 of the new Parliament's 275 seats in the December elections, and is expected to be part of a government with the Shiite and Kurdish alliances. But at a news conference on Sunday, Mr. Hashemi also said the group's leaders would consult with party members before deciding whether to be part of a government or the opposition.

Insurgent violence left at least a dozen people dead across Iraq on Sunday. In Baquba, the bodies of five policemen, some mutilated, were left outside a hospital, police officials said. In Balad Ruz, northeast of Baghdad, insurgents fired rocket-propelled grenades at the home of a police officer, killing five of his relatives but leaving the officer unharmed, the police said.

North of Baghdad in Hawija, the bodies of a prominent Sunni Arab tribal leader and his son were found shot to death with their hands bound. The leader, Ibrahim Ali al-Neami, 75, and his 28 year-old son, Ziad, were last seen Saturday leaving their home south of Kirkuk for a funeral in Hawija, the police said.

The last of three Reuters journalists who had been detained by the American military in Iraq was freed Sunday after nearly eight months without being charged, the agency reported. Samir Muhammad Noor, a 30 year-old cameraman, was arrested in June. Two other Reuters journalists, also Iraqis, were released Jan. 15, also without being charged.

After Bode Miller's Downhill Turn, Two Weeks On The Lift (WP)

By Howard Kurtz

The Washington Post, January 23, 2006

Bad-boy behavior pays off, big time.

Skiing star Bode Miller goes on "60 Minutes," shoots off his mouth about getting drunk before a big competition, rips the CBS program for airing his remarks, holds a news conference to apologize and winds up on the cover of Time and Newsweek. Not exactly a downhill trajectory.

Journalists can't resist a troublemaking athlete who produces a blizzard of controversy instead of the usual sports cliches. And in the media world, doing bad things only fuels your celebrity, as Martha Stewart's post-jail television and radio gigs make clear.

"Skiing's Wild Child," declared Time. "Fast, loose and seemingly out of control," with "a smirking disrespect for the media," gushed Newsweek. In the run-up to the Olympics, it was Miller Time.

The storm began days before the Jan. 8 edition of "60 Minutes," with a CBS press release headlined "Bode Miller on Skiing Drunk." Miller told Bob Simon about his Saturday night drinking, saying: "There's been times when I've been in really tough shape at the top of the course" and that it's hard to ski "when you're wasted." It was presented as a light moment, but there was no missing the potential for a media avalanche.

While some sportswriters dismissed this as less than shocking, Ron Judd wrote in the Seattle Times: "Miller's confession to skiing drunk was highly uncouth, and it makes you want to slap the guy upside the head." Ray Grass wondered in Salt Lake City's Deseret Morning News: "Tell me, please, why anyone would go before millions of viewers and brag about being 'wasted' in the starting gate?"

Maybe because all publicity is good publicity?

Miller's agent, Lowell Taub, complained about an "out-of-context and salacious headline involving drunkenness." Miller, in his Denver Post blog, called "60 Minutes" "probably the most reputable and prestigious news program in the U.S., and I told them the story to test their integrity. . . . If they were interested in doing the right thing, or doing what they should be doing in terms of painting a role model for kids, they would have left that stuff out."

Say wha' ? Miller says on camera that he skis impaired to see whether television's oldest newsmagazine would protect him by cutting it out?

In any event, the head of U.S. skiing was not amused, calling Miller's comments "unacceptable" and "irresponsible." Under pressure, Miller summoned journalists in Switzerland and apologized to his friends, family and supporters.

"I don't need the media," Miller boasted to Newsweek, but he's too smart to believe that he could have amassed millions of dollars without all the journalistic adulation.

There was a time when an athlete's reputation might have been marred by such frank talk about drinking and hangovers, but that now seems very 20th century. Miller already has a Sirius satellite radio show and the kind of swaggering image that money can't buy. If he misbehaves at the Olympics, he'll probably get his own cable show.Thumbs Down

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Fred Barnes, executive editor of the Weekly Standard, is pretty conservative. And his forthcoming book, "Rebel-in-Chief: Inside the Bold and Controversial Presidency of George W. Bush," sounds like it would appeal to the right. But the Conservative Book Club has not only declined to offer the Barnes volume, it has also attacked the book.

"Rebel-in-Chief" is filled with "empty puffery," writes book club Editor-in-Chief Jeffrey Rubin. Barnes is too favorable toward "all those things that Bush does to drive traditional conservatives to despair" in a way that "call[s] into question his own understanding of conservatism. . . . Fred Barnes isn't doing the president -- or the country -- any favors by celebrating his worst political tendencies."

Barnes says he doesn't believe that an unsuccessful bid for his book by Regnery Publishing, owned by the book club's parent company, was a factor in the slam. "I guess they don't like Bush, or me, either," he says of the club. "But going out of the way to say 'don't read this book' is a bit unusual."Explosive Story

In reporting last week that the FBI was making progress in identifying the origins of homemade bombs used against Americans in Iraq, CBS News agreed to withhold some details at the bureau's request.

Rome Hartman, executive producer of the "CBS Evening News," says CBS News President Sean McManus and correspondent Jim Stewart spoke with FBI officials who "made the case that putting in certain details might in their view jeopardize American lives. They felt very strongly about it."

During a "very spirited" internal debate, Hartman says, the FBI's case "felt to me, and to Sean and Jim in the end, to be a pretty persuasive argument. You ought to err on the side of discretion and caution." Stewart's report mentioned that CBS was withholding part of the story.Blogging Manifestos

The lightning-quick online pundits known as bloggers are turning to a far older and slower technology: book publishing.

In his forthcoming "An Army of Davids," Instapundit's Glenn Reynolds casts bloggers as an increasingly influential check on the mainstream media: "Where before journalists and pundits could bloviate at leisure, offering illogical analysis or citing 'facts' that were in fact false, now the Sunday morning op-eds have already been dissected on Saturday night, within hours of their appearing on newspapers' Web sites." He also predicts a backlash from "Old Media guys" who resent the scrutiny.

Reynolds praises "flash media" -- bloggers who spontaneously organize around a sudden event -- and says that "even when Big Media snubs such coverage, bloggers let hundreds of thousands of people read about, see and sometimes even experience via video a story that they would otherwise miss."

Daily Kos founder Markos Moulitsas, who speaks regularly with Democratic leaders, will soon publish "Crashing the Gate," his indictment of "a progressive movement that is failing to keep up with the times," including "issue groups that don't realize it's no longer 1975 or even 1995" and "an incestuous relationship between the party committees and consultants that serve themselves more than our candidates."

Urging people to pre-order the book online, Moulitsas writes: "Help us debut on the best seller list. Wingers like [Ann] Coulter get an automatic berth on the best seller list thanks to TWO conservative book clubs (our first doesn't launch until March or so) and bulk purchases from organizations. We don't have those advantages. But we've got you guys."

Andrew Sullivan, one of the blogging pioneers, is finishing "The Conservative Soul: How We Lost It; How to Get It Back." He calls it "an attempt to grapple with the way in which American conservatism has shifted in recent years from an emphasis on small government, individual freedom and a 'leave-us-alone' coalition into a big-spending, big-government force for correcting human immorality and delivering us from foreign evil."

Why do folks with instant access to an audience labor over manuscripts? Sullivan puts it this way: "The blog is a short form. It's provisional and meandering. A book is a longer project, it requires sustained concentration on one line of argument or one central topic. I find it really hard to flip from one mode of writing to another. . . . So right now, I try not to blog at all until I have spent a few hours on the book."If Only the Democrats Had Known

The Exponent, the student paper at Purdue University, carried a routine wire-service item that began: "Supreme Court nominee Samuel Alito told senators Monday that good judges don't have an agenda." The final sentence said: "His motive for shooting John Paul in the abdomen on May 13, 1981, remains unclear."

A subsequent correction, as noted by the Web site Regret the Error, said nothing about the charge of attempted assassination. The item, the paper said, merely "contained a sentence that was not intended to be part of the brief."

Jill Carroll: Chorus Of Support From Muslim Leaders (CSM)

The Christian Science Monitor, January 23, 2006

A delegation from the Council on American-Islamic Relations arrived in Baghdad Saturday, adding its voice to what is described as an unprecedented outpouring of Muslim support for the release of American reporter Jill Carroll.

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"The kidnapping of Jill Carroll does not benefit the kidnappers," said Nihad Awad, executive director of the Washington-based group that represents US mosques and Islamic associations. "She has been friendly and respectful of the Iraqi people, not an enemy," he added.

At press time Sunday, David Cook, the Monitor's Washington bureau chief, said that there has been no new information about Ms. Carroll. "We are continuing to watch developments in Iraq and doing all we can to speed Jill's release, unharmed, to her family."

Also joining the Muslim voices calling for Carroll's release was Yasser al-Sirri, director of the London-based Islamic Observation Centre. He called on the "Brigades of Vengeance" - the group that is demanding Iraqi women prisoners be let out - to release Carroll rather than tarnish the image of Islam.

A spokesman in Iraq's Justice Ministry said Sunday that it still expects US forces to release six of nine Iraqi women prisoners this week, despite US comments to the contrary.

"The Iraqi detainees will be released within a week from today," the Justice Ministry spokesman told Reuters. A US military spokesman declined comment.

US troops have raided homes in several areas of Baghdad in recent days. "All of a sudden we heard an explosion. They blew open the front door and fired stun grenades into the living room. They rounded us up and threw me on the floor and a soldier put me on the floor and kept his boot on my back," Hamdiya Sabri told Reuters.

The US soldiers asked if the family members knew anything about the neighbors and then they asked about Carroll. "They told us that they had a tip that the American journalist was being held in this area and asked me what I thought of her," said Thamir Nazih. "I said I was sympathetic about Jill Carroll and that she is innocent. Then they asked me if I knew any terrorists - this only after they stormed the house and humiliated my family."

After the search, a US soldier promised $300 compensation and apologized. The soldiers took away Jassim, the youngest son of the family, saying he would be questioned and freed in a day or two.

On Friday, Adnan al-Dulaimi of the Sunni Iraqi Accordance Front, a leading Sunni political group, held a press conference to denounce the kidnapping. "I am asking you to release this woman. By kidnapping her, you are insulting me. You're insulting the work that I've been doing for Iraq. To the men who are kidnapping her: You know that the woman has a special status in our religion, our culture, and our principles. I'm asking those men who have kidnapped her to release her unconditionally.... I have worked hard in the past to secure the release of Iraqi prisoners. The arrest of this noble journalist will complicate my efforts to release Iraqi prisoners."

· Material from the wire services was used in this report.

Abduction Of U.S. Reporter Underscores Risks In Iraq (NYT)

By Sabrina Tavernise

The New York Times, January 23, 2006

BAGHDAD, Iraq, Jan. 22 - The tools of her trade were a notebook, pen, Islamic head covering and Arabic name to pass unnoticed through Iraqi streets.

Together with an interpreter and a driver, Jill Carroll, a 28-year-old American journalist, was able to slip quietly inside Iraqi society, telling stories about the lives of the Iraqis she met.

But on the morning of Jan. 7, Ms. Carroll was kidnapped, seized by gunmen in Baghdad who blocked her car and killed her interpreter as he tried to call for help.

Now her threadbare room in an inexpensive hotel here is the command center that other reporters are using to try to secure her release.

The seizure of Ms. Carroll, whose image from a video with armed men at her side is now familiar in many American households, has underscored the risks to foreigners of working here, particularly freelance journalists, who operate with little or no protection.

When Ms. Carroll arrived in 2003 - fresh from Arabic lessons and a job at an English-language newspaper in Jordan - Iraq was wide open. Journalists drove around in their own cars, talking to Iraqis as they emerged in a daze from cramped lives under Saddam Hussein.

"You were eating at restaurants," said Ashraf Khalil, a reporter for The Los Angeles Times who was working in Iraq as a freelancer at the time and knows Ms. Carroll. "You were hailing cabs at night. You were speaking English on the street."

Freelancing was not easy. Mr. Khalil described how Ms. Carroll and he discovered a $5 special of Middle Eastern salad and a hard boiled egg with beef at a nearby hotel. Her hotel, the Musafir, was one of the cheapest frequented by Western reporters: two-room suites were shared for $30 per person per night.

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But Ms. Carroll, who graduated from the University of Massachusetts in 1999 with a bachelor's degree in journalism, was glad for the chance to work on such a big story.

She described the motivation in an article for The American Journalism Review published last year. "The cubicle walls are closing in," she wrote. "You'd rather jump off a cliff than cover one more zoning board meeting and just when one of the biggest stories in years is developing in Iraq, those foreign correspondent aspirations seem ever further out of reach."

"There's only one way out," Ms. Carroll wrote. "Pull up stakes, clean out that savings account and get on a plane to Baghdad."

As a woman, Ms. Carroll had a special advantage. She could dress in the Islamic head covering, a hijab, and the long black cloak, the abaya, and move around Baghdad's streets relatively unnoticed. Women who were reporters often saw themselves as less vulnerable to kidnappings than their male colleagues, partly because of the disguise afforded by Iraqi dress.

"We can put on our scarves and abayas," said Jackie Spinner, a reporter for The Washington Post. "She felt that it was an extra security blanket. I definitely felt that way."

Ms. Carroll got to know the story well. She went into Iraqi homes. She shopped for clothes in Baghdad. She used her Arabic and went by the name Zaineb.

As the months passed, Baghdad became increasingly dangerous, and news organizations began to require reporters to travel with two cars - a passenger car and a backup or "chase" car - and armed guards. In September 2004, two American engineers and a Briton were kidnapped and beheaded. A month later, a British-Iraqi aid official and longtime Baghdad resident, Margaret Hassan, was kidnapped and later killed.

But Ms. Carroll, who had begun to write regularly for The Christian Science Monitor, continued to work with her small team. She wrote in her Journalism Review article that it seemed safer that way.

It is still unclear precisely what happened on Jan. 7. At least one witness said the kidnappers mistakenly drove down a dead-end street, suggesting that the seizure was not well planned and that another car could have helped stop them.

In Iraq, danger presents itself on a daily basis, and the taking of Ms. Carroll, who was described by her colleagues as cautious, probably had as much to do with circumstance as anything else.

The Monitor was one of the few American news organizations with a bureau in Baghdad that did not use a Western security adviser. The paper's Washington bureau chief, David Cook, said by telephone on Sunday that the paper left decisions of whether to use guards or a chase car up to the reporters, and that Ms. Carroll, as a freelance reporter, had the same access to these things as did staff employees.

Still, Ms. Carroll talked to the paper's foreign editor about security issues on more than one occasion, Mr. Cook said. She is covered under a life insurance policy paid for by the paper while she is on assignment, he said.

Freelance writers who have worked in Baghdad expressed concerns about returning solo. Kimberly Johnson, who worked here this summer, said she had been told by one large American news organization that it could not accept her articles because it could not pay for adequate security. David Enders, a freelance writer based in New York, said an assignment with an American magazine had fallen through, apparently because of security concerns.

"You can go days and weeks and there's no significant event," Ms. Spinner said. "Then something happens and you are reminded again that you are in the most dangerous place the press has ever known."

In Iraq, Specter Of Kidnapping Keeps Journalists On Edge (USAT)

USA Today, January 23, 2006

In September 2004, Wall Street Journal reporter Farnaz Fassihi wrote in an e-mail to friends that reporting from Baghdad "was like being under virtual house arrest."

The threat of bombings and kidnappings, she said, precluded her from living anything close to a normal personal or professional life.

"My most pressing concern every day is not to write a (great) story but to stay alive and make sure our Iraqi employees stay alive," she wrote in her e-mail, which got national attention after it was posted on websites. "In Baghdad I am a security personnel first, a reporter second."

On Sunday, kidnapped freelance reporter Jill Carroll began her third week of captivity in Iraq with no further word on her status after Tuesday's video in which her captors threatened to kill her in 72 hours unless the U.S. military released female Iraqi prisoners.

And Fassihi says that although the threat level for reporters in Iraq has ebbed and flowed, not much had changed. Iraq, she says, is a dangerous place, especially for American journalists.

"I'm terrified for Jill. I'm terrified for everyone I know in Baghdad," Fassihi says from New York, where she is awaiting a new assignment in Beirut after three years in Baghdad. She left there last month.

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Carroll is the 36th reporter to be kidnapped since April 2004, according to the New York-based Committee to Protect Journalists. Six of them have been killed. Her abduction has resonated with the tightknit press corps in Baghdad, where she is well-known.

Her kidnapping has prompted media outlets to revisit security precautions and share information with each other, just as network and cable news outlets do in set weekly meeting, says Chuck Lustig, who directs ABC's foreign coverage.

News outlets know "that at any time you could get a phone call saying something has happened," Lustig says. "Every time something like this happens, you review your security procedures to make sure you are doing everything you can to make your people safe."

NBC News correspondent Richard Engel, who has spent three years in Iraq, says reporters there go through stages about the possibility of being kidnapped. "The first is, 'It'll never happen to me.' The next is, 'It might happen.' The third is, 'I've been here long enough it's probably going to happen.' And the fourth is, 'I've got to get out of here.' "

Engel describes himself as being between "two and three." He says, "I don't think anyone who is there is under the impression that it couldn't be them."

CBS News correspondent Lara Logan, who has traveled back and forth to Iraq frequently in recent years, says, "Your whole ability to function is affected by the possibility of being kidnapped, and you trying to limit the possibility of anything like that happening to you."

Logan, who reported on Carroll's abduction on Friday's CBS Evening News, says she looks at Carroll's case "as a story, but also, 'What did she do that I cannot do the next time I'm there?' "

Though print reporters, by wearing local clothes and keeping a low profile, can often do their work without attracting attention, TV correspondents and photojournalists have a harder time, because "when you pull out the camera, the game is over," Logan says.

No reporter — print or electronic — is safe in Iraq, Engel says. "In Iraq you can't do anything privately. You can't move around the country and not have people know where you are going. People talk; you can't keep secrets very well."

But, notes Cox Newspapers correspondent Larry Kaplow, "the situation is still much worse for Iraqis than for us. There are about 10 to 30 kidnappings of Iraqis daily, according to officials. It's dangerous for everyone, and you can get in trouble even if you do everything right."

History Lessons (WT)

The Washington Times, January 23, 2006

Rep. Nancy Pelosi, Dec. 16, 1998:

As a member of the House Intelligence Committee, I am keenly aware that the proliferation of chemical and biological weapons is an issue of grave importance to all nations. Saddam Hussein has been engaged in the development of weapons of mass destruction technology which is a threat to countries in the region and he has made a mockery of the weapons inspection process. The responsibility of the United States in this conflict is to eliminate weapons of mass destruction, to minimize the danger to our troops and to diminish the suffering of the Iraqi people... I believe in negotiated solutions to international conflict. This is, unfortunately, not going to be the case in this situation where Saddam Hussein has been a repeat offender, ignoring the international community's requirement that he come clean with his weapons program.

Pentagon Hails Military Meeting (WT)

By Rowan Scarborough

The Washington Times, January 23, 2006

Pentagon officials say this month's closed-door conference of the military's top field commanders was gratifying, describing it as an uninhibited exchange of ideas rather than a fixed-agenda meeting monopolized by Defense Secretary Donald H. Rumsfeld.

Officials said Mr. Rumsfeld, four-star generals and admirals, and top civilians brainstormed over two main topics: how to fight the war on Islamic terrorists and how to reconfigure the military for future threats.

"Four years ago, we could not have had a discussion like this without people getting into parochial interests," said a senior defense official. "Rumsfeld didn't steer the discussion. They all went at it."

The Pentagon conference room was full of top brass Mr. Rumsfeld handpicked during the past five years in a search for out-of-the-box thinkers who would "lean forward" in a war against Islamic terrorists.

It is clearly Mr. Rumsfeld's Pentagon today, but it was not always that way. Mr. Rumsfeld inherited Joint Chiefs and four-star combatant commanders, in this case ones promoted by President Clinton. "Rummy would have to drive the discussion at earlier commanders' conferences," said the defense official.

In those days, Mr. Rumsfeld did not always share his thinking with them, and in some cases had outright clashes, such as with Gen. Eric Shinseki, the former Army Chief of Staff. Mr. Rumsfeld solved his Army problem by picking Mr. Shinseki's successor from the ranks of the retired. The new chief, Gen. Peter Schoomaker, had worked closely with Mr. Rumsfeld on transforming U.S. Special Operations Command.

At the Jan. 9-11 biannual commanders' conference, around-the-table discussions kicked off once the Joint Staff -- the planning and operations arm of the Joint Chiefs of Staff -- presented a slide show on a particular topic. There were candid back-and-forths about both successes and failures.

One failure, two defense officials said, is that Mr. Rumsfeld still does not think the Pentagon is doing a good job of destroying al Qaeda cells planning attacks on Americans. He has come to call the problem "find, fix and finish -- in other words finding their general location, getting an exact fix on their whereabouts, and finishing them by killing or capturing them.

"It's got to get a lot better," said a second senior defense official. "The conference got very passionate. It's passion with a purpose."

Asked which general talked the most about the need for intelligence, the source declined to name names, but said it was "the commander where most of the action is right now." That would be Gen. John Abizaid, who heads U.S. Central Command. He is overseeing wars in Afghanistan and Iraq and is in charge of the military's hunt for Osama bin Laden.

Sources said Mr. Rumsfeld already has improved Pentagon intelligence collection by beefing up the Defense Intelligence Agency and giving its agents more power; naming an undersecretary of defense for intelligence; empowering special operations forces to spy; and embedding intelligence officers in newly configured Army combat brigades.

The conference was composed of the most powerful military men in the world. Besides Mr. Rumsfeld, there were the nine combatant commanders from Europe, the Middle East, Asia and other commands; the four service chiefs; the Joint Chiefs chairman and vice chairman; defense undersecretaries and assistant secretaries; and the services' civilian secretaries.

All of them were picked by Mr. Rumsfeld, some after closely working with the secretary in other roles. Gen. Abizaid, for example, had directed the Joint Staff, putting him in frequent contact with the chief.

The conference typically convened at 8 a.m. and lasted until the late afternoon.

Mr. Rumsfeld's spokesman, Larry Di Rita, said of the conference, "It's freewheeling, but it's not unstructured. When this group gets together, it's not like some off-site corporate retreat. It is people focusing on real problems and working off an agreed set of assumptions."

Fighting Ourselves In Falluja (NYT)

By Bing West

The New York Times, January 23, 2006

Newport, R.I.

THE persistence of the insurgency in Iraq has divided America in a way not seen since Vietnam. Now the blame game among the principals has begun. The former presidential envoy to Iraq, L. Paul Bremer III, has written in his new memoir that he informed President Bush that the military did not have "a strategy to win."

Quite. The lesson the Pentagon should learn from Iraq is to avoid another L. Paul Bremer. This is less a reflection on Mr. Bremer, who accurately described himself as "the American viceroy" in Iraq and "the president's man," than on the position he and the American military commanders in Iraq were placed in by the White House's failure to put one person in charge.

In 1967, when confusion among military and civilian officials in Vietnam was undermining the war effort, President Lyndon B. Johnson placed all civilian reconstruction and security functions under the top general, William Westmoreland, insuring unity of command under Westmoreland's successor Creighton Abrams. Confronting similar confusion in Iraq, President Bush unfortunately assigned to the military the responsibility for security but gave Mr. Bremer the authority to shape, recruit, train and finance the Iraqi military and police.

Mr. Bremer writes that he believed the Iraqi military should not "have internal security duties" and that the police should be trained by American civilians. But not enough civilians ever arrived to do the job. Mr. Bremer was unable to design a strategy for building up the Iraqi military and police. This failure extended the period in which the American military had to do the fighting while also taking over the training of both Mr. Bremer's new army and the police.

This disunity of command reached its tragic apex in the spring of 2004, during what Mr. Bremer calls "the most critical crisis of the occupation." When four American contractors were killed and their bodies mutilated in Falluja on March 31, Mr. Bremer joined with Secretary of Defense Donald Rumsfeld and Gen. John Abizaid, the commander of American forces, in ordering the fractious city seized.

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Five days later, however, Mr. Bremer changed his mind after Sunni members of the Iraqi Governing Council threatened to quit in protest. He prevailed on General Abizaid to order the Marine battalions that were advancing through Falluja to halt. Mr. Bremer acknowledged that this "temporary cessation of offensive action" would be "rough on the military."

Secretary Rumsfeld, for his part, disagreed with the halt and urged General Abizaid to finish the attack. But as the military prepared to end things quickly, Mr. Bremer changed his mind about the "temporary" cessation. He told President Bush that the assault would "collapse the entire political process"; the president sided with his viceroy and told General Abizaid "to let the political situation there develop."

Develop it did. The insurgents' morale soared and their defenses toughened. According to Pentagon reports, 21 marines were killed around the city in April, and 25 were killed over the next six months as Falluja degenerated into Taliban-style rule and became the lair of the terrorist Abu Musab al-Zarqawi. And then 70 American soldiers and marines were killed in the main assault on Falluja that eventually took place in November. The cost of dithering: 116 American lives. Because of the stop-and-start decision-making, Falluja developed into the fiercest battle yet of the Iraqi war.

The lines of authority, responsibility and communications to the president were fatally tangled. The establishment of two independent chains of command in the midst of war guaranteed error and human loss. The result was indeed "rough on the military." Ask the soldiers and marines who fought at Falluja.

The singular lesson in war is to put either the civilian viceroy or (better) the general in charge, but not both.

Iraq's Power Vacuum (NYT)

By Paul Krugman

The New York Times, January 23, 2006

In the State of the Union address, President Bush will surely assert, to choreographed applause, that he has a strategy for victory in Iraq. I don't believe him. In fact, I believe that three years into the conflict his administration refuses to admit defeat but has given up even trying to win.

To explain myself, let me tell you some stories about electricity.

Power shortages are a crucial issue for ordinary Iraqis, and for the credibility of their government. As Muhsin Shlash, Iraq's electricity minister, said last week, "When you lose electricity the country is destroyed, nothing works, all industry is down and terrorist activity is increased."

Mr. Shlash has reason to be strident. In today's Iraq, blackouts are the rule rather than the exception. According to Agence France-Presse, Baghdad and "much of the central regions" - in other words, the areas where the insurgency is most active and dangerous - currently get only between two and six hours of power a day.

Lack of electricity isn't just an inconvenience. It prevents businesses from operating, destroys jobs and generates a sense of demoralization and rage that feeds the insurgency.

So why is power scarcer than ever, almost three years after Saddam's fall? Sabotage by insurgents is one factor. But as an analysis of Iraq's electricity shortage in The Los Angeles Times last month showed, the blackouts are also the result of some incredible missteps by U.S. officials.

Most notably, during the period when Iraq was run by U.S. officials, they decided to base their electricity plan on natural gas: in order to boost electrical output, American companies were hired to install gas-fired generators in power plants across Iraq. But, as The Los Angeles Times explains, "pipelines needed to transport the gas" - that is, to supply gas to the new generators - "weren't built because Iraq's Oil Ministry, with U.S. encouragement, concentrated instead on boosting oil production." Whoops.

Meanwhile, in the early days of the occupation U.S. officials chose not to raise the prices of electricity and fuel, which had been kept artificially cheap under Saddam, for fear of creating unrest. But as a first step toward their dream of turning Iraq into a free-market utopia, they removed tariffs and other restrictions on the purchase of imported consumer goods.

The result was that wealthy and middle-class Iraqis rushed to buy imported refrigerators, heaters and other power-hungry products, and the demand for electricity surged - with no capacity available to meet that surge in demand. This caused even more blackouts.

In short, U.S. officials thoroughly botched their handling of Iraq's electricity sector. They did much the same in the oil sector. But the Bush administration is determined to achieve victory in Iraq, so it must have a plan to rectify its errors, right?

Um, no. Although there has been no formal declaration, all indications are that the Bush administration, which once made grand promises about a program to rebuild Iraq comparable to the Marshall Plan, doesn't plan to ask for any more money for Iraqi reconstruction.

Another Los Angeles Times report on Iraq reconstruction contains some jaw-dropping quotes from U.S. officials, who now seem to be lecturing the Iraqis on self-reliance. "The world is a competitive place," declared the economics counselor at the U.S.

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embassy. "No pain, no gain," said another official. "We were never intending to rebuild Iraq," said a third. We came, we saw, we conquered, we messed up your infrastructure, we're outta here.

Mr. Shlash certainly sounds as if he's given up expecting more American help. "The American donation is almost finished," he said, "and it was not that effective." Yet he also emphasized the obvious: partly because of the similar failure of reconstruction in the oil sector, Iraq's government doesn't have the funds to do much power plant construction. In fact, it will be hard pressed to maintain the capacity it has, and protect that capacity from insurgent attacks.

And if reconstruction stalls, as seems inevitable, it's hard to see how anything else in Iraq can go right.

So what does it mean that the Bush administration is apparently walking away from responsibility for Iraq's reconstruction? It means that the administration doesn't have a plan; it's entirely focused on short-term political gain. Mr. Bush is just getting by from sound bite to sound bite, while Iraq and America sink ever deeper into the quagmire.

Pakistan Says U.S. Should Communicate Before Airstrikes (AP)

Associated Press

AP, January 23, 2006

Pakistan's prime minister yesterday condemned an American airstrike on a remote Pakistani village, saying such attacks should be cleared with Islamabad first.

Prime Minister Shaukat Aziz said no understanding exists between U.S. and Pakistani officials that allows American military forces to attack alleged terrorists in Pakistan without first consulting the government.

"The understanding is that we will work together," Aziz said. "We will work in collaboration with each other."

Aziz said Pakistani officials were given no notice before the Jan. 13 attack that killed at least 13. The attack was apparently aimed at al Qaeda's No. 2 leader, Ayman Zawahiri, who was not there.

Pakistan, Aziz said, "has regretted and condemned the incident and said that such incidents should not reoccur. We need to work together. There is no difference in the objectives of the two countries, so there is no reason why we shouldn't communicate."

Pakistan is a key U.S. ally, but it has strongly protested the airstrike, which has angered many in the Muslim nation of 150 million and sparked friction between Islamabad and Washington.

Aziz is to meet this week with President Bush and Defense Secretary Donald H. Rumsfeld.

Attacks Strain Efforts On Terror (WP)

By Griff Witte And Kamran Khan

The Washington Post, January 23, 2006

KABUL, Afghanistan, Jan. 22 -- Events along the ever-volatile Afghanistan-Pakistan border this month have exposed deep fault lines in the anti-terrorism alliance among the United States, Afghanistan and Pakistan, and officials on all sides say their joint efforts against militants in the region are now highly precarious.

The heightened tension comes as militant extremists and the United States have both become more aggressive in their tactics, with the Pakistani government caught in between.

Two incidents in particular, which each killed more than a dozen people, have revealed just how tenuous relations among the countries have become.

In the first, U.S. missiles struck a house in the Pakistani village of Damadola where Ayman Zawahiri, the deputy leader of al Qaeda, was thought to be having dinner. In the second, three days later in the Afghan town of Spin Boldak, a man drove a motorbike into a crowd gathered to watch a wrestling match and blew himself up.

Because the incidents took place on opposite sides of the border, they elicited responses with vastly different focuses. After the U.S. missile strike, thousands of Pakistanis took to the streets to condemn the United States. After the suicide bombing, thousands of Afghans took to the streets to condemn Pakistan.

The United States -- long frustrated because its soldiers are in Afghanistan while most of the militants they are hunting are believed to be in Pakistan -- has begun using unmanned aircraft known as Predators armed with Hellfire missiles to reach across the border. Pakistani officials are apparently notified in advance of such missions, and assist with intelligence. But the angry public response there to this month's attack raised questions about whether the government of Gen. Pervez Musharraf -- which has sought to cultivate ties to the West without alienating radical Islamic groups at home -- can handle the domestic political fallout.

Afghanistan, for its part, has applauded the more aggressive U.S. stance. Afghan officials say they want the United States to go even further to stop Pakistan-based militants, who are hitting hard at a time when international commitments to securing Afghanistan have come into doubt.

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Meanwhile, along the border, tensions continue to rise.

"We have a lot of grief in our hearts," said Abdul Hakim Jan, an Afghan tribal leader who helped organize a protest beside a border crossing Wednesday following the deadliest suicide bombing in Afghanistan in the four years since the fall of Taliban rule. "All the terrorists and the enemies of Afghanistan are because of Pakistan. They are receiving their training there and they are being sent to Afghanistan for attacks."

Pakistani tribal leaders, for their part, look a few miles west for the source of their troubles: the American military presence in Afghanistan. Throughout the past week and continuing Sunday, tens of thousands of Pakistanis have participated in boisterous rallies at which protesters burned effigies of President Bush, chanted "Long live Osama!" and denounced the Pakistani government for cooperating with the United States.

"People are so angry that this could become a major movement against the American slaves who are ruling Pakistan these days," said Liaquat Baluch, a leader of Jamaat-e-Islami, the country's largest Islamic party.

Volatility in the border region is nothing new. For centuries, the rugged, mountainous area has been largely beyond the control of any government. Both sides of the border are populated by religiously conservative Pashtuns, who in recent decades have freely transported money, drugs and weapons back and forth across the porous boundary.

But since the United States invaded Afghanistan and toppled the Taliban after the attacks of Sept. 11, 2001, the border has taken on special significance. On the Afghan side, the United States has 19,000 troops who provide crucial support for the government and who enjoy a relative degree of popularity. On the Pakistani side, U.S. troops are officially forbidden from pursuing terrorists. As a consequence, many Islamic militants who found sanctuary in Afghanistan before Sept. 11 reportedly have taken refuge in the semiautonomous tribal areas where sympathies for al Qaeda and its leader, Osama bin Laden, run high.

Until recently, the United States had been dependent on raids by Pakistani security forces to catch the fugitives, with mixed results. But in the predawn hours of Jan. 13, the United States used a different tactic, firing Hellfire missiles from drones in a bid to kill Zawahiri. Pakistani and U.S. intelligence sources have said they expected him to show up for dinner at a house in Damadola, but they now believe he was not there.

The missiles killed at least 13 others. After the attack, local officials said that only villagers were killed, among them women and children, who were buried nearby. But Pakistani intelligence sources have since asserted, without offering proof, that a handful of foreign al Qaeda militants also died, possibly including its chief explosives expert, a son-in-law of Zawahiri and an operational leader in Pakistan and Afghanistan.

The Pakistani government's response has been as conflicted as the reports. Some officials joined with the protesters in vehemently denouncing the attack, while others acknowledged that militants operate in the area. Even as the Foreign Ministry lodged a formal objection with the U.S. Embassy, Musharraf stayed silent in public, except to warn his countrymen not to harbor terrorists.

Pakistani Foreign Minister Khurshid Mahmud Kasuri acknowledged in an interview that the strike has put stress on the government, which since 2001 has walked a fine line of assisting the U.S. anti-terrorism campaign -- and receiving billions of dollars in aid in return -- while also trying to appease radical Islamic constituencies at home.

"Such an action creates immense internal problems for us as the perception grows that the U.S. has no respect for our sovereignty," Kasuri said.

U.S. officials, however, say Pakistan's objections amount to posturing. According to American military and intelligence sources who spoke on condition of anonymity, Pakistan had signed off on this month's strike beforehand and had even assisted with gathering pre-attack intelligence.

The use of Predator drones to strike targets in Pakistan is relatively new, and several security officials said it could not happen without the consent of the Pakistani government. There have been at least three such attacks since last May; one in December reportedly succeeded in killing a senior al Qaeda commander, Hamza Rabia.

But now, it remains unclear whether Predator attacks will be allowed to continue.

On Saturday, in a meeting with U.S. Undersecretary of State R. Nicholas Burns, Musharraf said attacks such as the one aimed at Zawahiri "should not be repeated," according to Pakistani Foreign Ministry spokeswoman Tasneem Aslam.

Pakistani Prime Minister Shaukat Aziz, who on Sunday denied that Pakistan had received prior notice of this month's attack, is expected to raise the issue with Bush when they meet at the White House this week.

A senior Pakistani intelligence official, however, said nothing was likely to change in terms of actual U.S. and Pakistani efforts at hunting militants.

"Proper protest has been made, but this will not alter the ground rules and intelligence cooperation with the U.S. It will continue as usual," the official said.

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The latest U.S. missile strike came as suicide attacks by militants have been on the rise in Afghanistan, particularly in southern and eastern areas bordering Pakistan. In a country where such attacks have traditionally been rare, Afghan officials blame foreigners.

"It is difficult for me to imagine how it can happen without some kind of support from outside Afghanistan," said Foreign Minister Abdullah Abdullah.

Others direct blame squarely at Pakistan, which they believe is trying to gain more influence in Afghanistan by sowing instability.

"We were using Pakistan as a base during the resistance times," said Hakim Taniwal, governor of Paktia province, referring to the U.S.-funded guerrilla war against Soviet occupation troops during the 1980s. "Now al Qaeda and Taliban are also using the Pakistani side to attack in Afghanistan."

Afghan government officials are feeling especially vulnerable now because the United States announced late last year that it would reduce its troop strength from 19,000 to 16,500. NATO soldiers are supposed to fill the gap by taking over some operations in the south, but the Netherlands, seen as pivotal to that transition, has wavered over whether it will send troops.

Meanwhile, the Taliban, al Qaeda and other groups that are trying to destabilize the nascent Afghan government appear to be taking advantage of the uncertainty.

"At the strategic level of war, this is a defensive insurgency," said Chris Mason, a retired U.S. diplomat who served in Afghanistan and is now a senior fellow at the Center for Advanced Defense Studies in Washington. "They're inserting just enough insurgents to shut down meaningful reconstruction in the south and keep the population on the fence."

Khan reported from Karachi, Pakistan.

Nato's Force Will Live Up To Its Afghan Pledges (FT)

By Jaap de Hoop Scheffer

Financial Times, January 22, 2006

As Nato prepares to expand the operations of its International Security Assistance Force in Afghanistan to the country's more volatile south, where violence is intensifying, debate is under way about the role the alliance will play. Taliban fighters, meanwhile, are stepping up terrorist attacks on international forces, trying to scare us off before we even arrive.

The debate surrounding this mission comes as no surprise. After all, Nato's operation in Afghanistan has been, from the start, a fundamentally new step for the alliance. It is also the most ambitious mission in Nato's history, in terms of the strategic distance from our home countries, in terms of the complexity of the challenges we face in Afghanistan and in terms of the multiple roles the alliance must take on.

In all these ways, this mission may be a first for Nato – but I do not believe it will be the last of its kind. The alliance will probably be called on in future to take on other, similar challenges. That is one reason why it is so important to get this one right.

We have already made a good start. Less than five years ago, Afghanistan was the launch pad for the worst terrorist attacks in history. It was also one of the most wretched countries on earth. Today, the Taliban and al-Qaeda are out of power and under pressure. And the people of Afghanistan have just elected their first true parliament, with levels of representation by women that could not have been imagined just a few years ago.

This is enormous progress but there is a long way to go. Afghanistan still needs our help and it will get it. The Afghanistan conference in London next week will show that the international community – including Nato – is still standing squarely behind this country. None of us can afford to let it slip back into chaos and become once again a breeding ground for international terrorism. Our commitment to Afghanistan is not only a question of self-interest: it is also a question of solidarity and obligation. Solidarity with the Afghan people, who have asked for our help. Solidarity between all Nato allies, who decided together to take this mission on, and who should implement that decision together. Solidarity with the United Nations, which passed the resolutions guiding Nato's mission. And it is an obligation for Nato, as the security foundation for Afghanistan's recovery, to stay the course and continue to play an essential role.

We will meet that obligation. Isaf will continue to contribute to stability, and will help to extend the authority of the Afghan government. Nato Provincial Reconstruction teams, joint civil and military groups, are in the provinces of Afghanistan helping rebuild the infrastructure, promoting development and defusing tension as "honest brokers". They are protected by larger military forces, whose job is to ensure that the teams can carry out their mission unimpeded and in safety. And Nato is also helping the Afghan security forces develop, so that they can increasingly provide for their country's security.

Of course, Isaf – a Nato-led force that takes its political direction from Brussels – is not the only international military force in Afghanistan. The US-led coalition, Operation Enduring Freedom (which also includes some Nato member states), has been taking on the Taliban and al-Qaeda there since 2001. Nato's mission is different and it is distinct. With this in mind, allies have agreed command arrangements to ensure that the two missions do not get in each other's way.

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Let there be no doubt, however: Isaf forces will not go to the south with one arm tied behind their back. All Nato allies are aware that there are real security challenges in the region and that violence is escalating. They must, and will, meet these challenges. Nato forces will have the rules of engagement and the equipment they need to deal head-on with any dangers to their security or to their mission. If potential attackers threaten Nato personnel or their ability to do their job – which is to help create a secure environment so that Afghans can build better lives – then Isaf will be able to undertake robust military action.

No one should doubt Nato's resolve to carry out this mission. All 26 allies realise that fighting terrorism, and helping the Afghan people and their government, is a collective effort – not a matter of picking and choosing where one might wish to chip in.

We have already been delivering for quite some time, with 10,000 troops in the country. In coming months, we will expand southwards, as an alliance united in our determination to help the Afghan people build the stability and peace they deserve.

The writer is secretary-general of Nato

Alliance Upgrade (WSJ)

By Marshall Billingslea

The Wall Street Journal, January 23, 2006

As times have changed, so has the North Atlantic Alliance. That is particularly evident in the way NATO has moved to protect our citizens from terrorism. Over the past few years, the Alliance has intensified armaments cooperation, and has launched and expanded several operations and missions (among other things) to address this threat.

The most dramatic illustration of NATO's new priorities is our support for the democratically elected government of Afghanistan. More than 9,000 troops and military advisers are currently deployed throughout multiple Afghan provinces in the form of Provincial Reconstruction Teams (PRTs). These troops from 25 NATO members and 11 partner nations are there to provide both security and support to local authorities and people, and are doing such things as digging wells, building schools and refurbishing mosques. In a similar vein, NATO is facilitating, together with several international organizations, the rehabilitation of Kabul International Airport, and has made significant investments in airports in Herat and Mazar-e-Sharif. While these airports are important for NATO operations, they are also crucial to Afghanistan's new free-market economy.

Importantly, in a clear demonstration of resolve and determination to support the Afghan people, the Alliance has recently taken decisions to boost its forces even further, and to deploy additional Provincial Reconstruction Teams in the southern part of Afghanistan. A number of NATO nations are now undertaking the necessary domestic processes to deploy the needed forces.

Both in and out of Iraq, NATO maintains a training mission for Iraqi military officers. Last year, several hundred officers were trained at NATO facilities in Europe, and at various national institutions. New training facilities at Ar Rustimiyah, near Baghdad, were constructed and are now functioning alongside the new Iraqi military academy. Likewise, NATO nations supplied thousands of tons of weaponry and equipment to the new Iraqi military. From assault rifles to more than two battalions' worth of tanks and several dozen armored combat vehicles, NATO nations have shown that they are firmly committed to helping the government of Iraq. This year we will see a further increase in these efforts to help the new Iraqi democracy.

Closer to home, NATO runs both naval and air missions to protect the security of its members. At sea, Operation Active Endeavor is NATO's ongoing maritime interdiction effort. The operation has led to several critical boardings of suspect vessels and multiple findings of explosives, weaponry and drugs being smuggled on vessels in the Mediterranean. From the air, the NATO AWACS fleet has provided critical monitoring of air traffic during high-profile events such as the 2004 Olympics in Athens.

* * *

As importantly, NATO has intensified its armaments cooperation to ensure that the troops deployed in these operations are equipped with the right kinds of technologies and capabilities.

Two years ago, NATO created an ambitious technology program. Ten critical areas were identified to strengthen our collective defense against terrorism, and each is led by a member country. Spain heads efforts to disable homemade terrorist bombs, Germany to develop new counter-terrorist reconnaissance capabilities, Britain to minimize the danger to civilian aircraft from shoulder-fired missiles, Italy to protect harbors from underwater divers with explosives, the U.S. to improve the aerial deployment of special operations forces and equipment, and so on.

This "Defense Against Terrorism" program has already brought results in a short period of time. For example, a new laser system capable of detecting trace amounts of explosives on surfaces (e.g. car door handles) is being prototyped. A novel technique for creating a sonar "wall of sound" as a trip-wire across harbor entrances is also making progress. Bulgaria is now testing new composites to shield helicopters against the blast of a rocket propelled grenade.

That said, while we are moving in the right direction, a significant infusion of expertise, and funding, is needed for NATO to move forward more quickly on devising better technologies. Despite its successes, the program remains underfunded. We also need additional, dedicated test facilities and training ranges where we can experiment with emerging prototypes.

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But perhaps our biggest challenge is that of simply getting visibility on all the potentially useful technologies "out there." Across North America and Europe, there are tens of thousands of large and small companies, universities, government institutes and -- in some cases -- garages and hobby shops of inventors, all of whom may have something to offer the fight against terrorism. The inventiveness and creativity of our private sectors is one of the greatest assets NATO nations have in the fight against terrorism. We need to do a better job of tapping into that creativity.

In the United States, through the Pentagon's Technical Support Working Group, the federal government solicits proposals from a broad segment of the private sector on counterterrorism technology. This group has had remarkable successes. But the group still is limited in the people it can reach, restricted principally to North America and a few partner countries.

NATO needs this kind of solution which would let its member nations reach out to the private sector, across national boundaries, for counterterrorism technology. For instance, the U.S. Department of Homeland Security recently solicited industry proposals on 26 specific technologies such as small, portable masks for law enforcement officers to help them escape suddenly contaminated areas. I am sure that there will be dozens of ideas on how to manufacture these masks. But who knows what other innovations and capabilities are out there in Europe, in someone's hobby shop? * * *

When NATO's 26 armaments chiefs meet in Brussels this spring, they will sit down to review NATO's counterterrorism technology efforts. My hope is that they will come armed with ideas on how to press ahead in the fight against terrorism. Our first challenge will be to review all the operations to see where additional support to NATO troops is urgently needed. Certainly we need to expand, intensify and better fund the ongoing technological program of work. But perhaps more importantly, we need to create a NATO-Technical Support Working Group on a trans-Atlantic scale.

Mr. Billingslea is an assistant secretary general of NATO, and a former acting U.S. assistant secretary of defense for special operations and low-intensity conflict.

Bin Laden TV (WSJ)

By Jonathan Stevenson

The Wall Street Journal, January 23, 2006

Last week's videotaped missive from Osama bin Laden -- his first in over a year -- confirmed several things that we knew or at least suspected: that he is isolated, besieged and physically weak. More substantively, it continued a general pattern, but with significant variations. After the Madrid bombings in March 2004, bin Laden attempted to isolate the U.S. by offering to refrain from attacking its European allies if they withheld assistance in any American strategic endeavor affecting Muslims. In the recent tape, he asks the U.S. itself to stand down in Iraq and Afghanistan in exchange for a "long truce." As with the Madrid tape, bin Laden has made an offer that he knows will be refused.

Why the truce offer? By merely indicating a desire for the peaceful reconstruction of Afghanistan and Iraq, he may secure broader Muslim support. In turn, he might erase any political dividends, in the Muslim world, accruing to the West on account of its state-building efforts.

Although the tape was made before the qualifiedly successful Predator strike on high-level al Qaeda operatives in Pakistan, its release following that attack still could prevent actual or potential recruits from becoming demoralized. By way of the threat of planned terrorist attacks on U.S. territory, the tape could constitute a "strategic communication" aimed at shifting U.S. energies away from Iraq and Afghanistan and toward homeland security. Such reallocation would be to al Qaeda's advantage in Iraq and Afghanistan.

Bin Laden's démarche has other, more opaque, designs. In threatening the U.S. with attacks that are purportedly being planned in Baghdad, and declaring that "our situation is getting better while yours is getting worse," he is making four observations: (1) the U.S. counterterrorism campaign in Iraq is failing; (2) Iraq has indeed replaced Afghanistan as a training ground for jihadi terrorists and a center for global (not just local and regional) operational terrorist planning; (3) American homeland security is ineffective; and (4) bin Laden, despite his besiegement in (most likely) the tribal areas of Pakistan, still has strategic control over the jihadist movement in general, and over Abu Musab al-Zarqawi -- leader of al Qaeda in Mesopotamia, the foreign component of the Iraq insurgency -- in particular. The bad news is that bin Laden's first two points appear valid, the third at least partly true, and the fourth untrue but largely irrelevant to the counterterrorist effort.

The fact that violence in Iraq has continued unabated since the elections indicates that despite a more conciliatory attitude on the part of many Iraqi Sunnis, a critical sufficiency of those engaged in political violence remain unmoved. Whether apparent infighting between foreign jihadists and Iraqi nationalist insurgents will significantly compromise the overall effort is uncertain. Moreover, evidence has emerged that Iraqi Sunnis are increasingly susceptible to Islamist radicalization, and that insurgents blooded in Iraq itself are more interested in operating outside Iraq (e.g., in Jordan).

Most likely bin Laden's hope is that his wider audience -- especially potential recruits -- will read U.S. beleaguerment as proof of al Qaeda's might. In suggesting that he himself maintains a significant degree of command over far-flung assets, he

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wants the world to believe that he and al Qaeda possess concentrated power that has not substantially diminished since 9/11. It would seem, then, that he is still in a position to dictate his own strategic agenda. But this is not the case. Although he and his right-hand man, Ayman al-Zawahiri, appear to have some differences with Zarqawi, there is little evidence that they have been able to influence his tactics. And Spanish and British authorities have been unable to find an operational link between al Qaeda's core leadership and the European jihadists who bombed Madrid and London.

The overarching significance of bin Laden's counterfactual assertion of authority, however, is how little it matters. It has long been clear that al Qaeda was forced to disperse and atomize after the Afghanistan intervention in late 2001. For some time thereafter, though, it appeared that al Qaeda middlemen remained integral to local operations. The situation changed after Madrid, and London reinforced it. The clearest lesson of those bombings was that jihadis were increasingly homegrown. Indeed, the emerging pattern is for diaspora Muslims (especially European ones, alienated from host and home country) to seek identity in the ummah, the "universal community" of believers. In that community, bin Laden's narrative of Islam's humiliation, and its need to respond with violence, flourish. Accordingly, recruits to the jihad can be moved to politically and religiously motivated violence regardless of his personal fate or actions.

In this light, it is tempting to dismiss bin Laden's offer as a haughty act of desperation, or an effort to buy time, as terrorist cease-fire proposals often are. A more nuanced extension of this logic would be that he is explicitly dialing back his ambition of a global caliphate and would now settle for a limited U.S. stand-down, which could help render his demands moderate enough to become subject to at least tacit accommodation. Such thinking would be wishful, and not much more. Even if he really wanted to work toward coexistence, he wouldn't be able to deliver his end of the bargain precisely because he no longer enjoys close operational control over most of those he inspires. His word could be countermanded by Zarqawi, by a Moroccan in Spain, or by a British Pakistani. Quite simply, bin Laden's ideology and résumé have become bigger than the man himself.

To Muslim Ears, Bin Laden's Words Carry Different Meaning (USAT)

USA Today, January 23, 2006

Osama bin Laden is almost certainly hiding in a cave somewhere in wild, western Pakistan. He has a $50-million bounty on his head — not exactly something that encourages him to trust those around him. He can't touch a cell or satellite phone for fear it will give away his location. He is isolated.

Yet last week he managed to get a new and bizarre audiotape aired on his favorite TV station, Al-Jazeera. It was the first time in more than a year that the world has heard from him. In it, he threatened the USA but offered a vague, conditional truce. The tape raised an interesting, and increasingly perplexing, question: What power, exactly, does the terrorist leader, who is likely living much as a cornered animal, have?

To non-Muslim ears, bin Laden's message was clumsy and easy to dismiss. Quite apart from grandiose declarations the USA is destined to "loss and shame forever," for example, and his off-base descriptions of U.S. anti-war opinion polls and their meaning, who could seriously consider the offer of a truce? His message echoed a similarly crude bin Laden attempt to influence a vote against President Bush before the last U.S. election, as well as earlier truce offers to European countries if they withdrew from Iraq.

But to Muslim ears — and here is the problem — the same words sound very different. Bin Laden spoke in terms steeped in Islamic tradition. The truce that he offered, for example, recalls great past leaders, including the prophet Mohammed, who offered one in his battle with the Quraysh tribe that he eventually defeated. Bin Laden's aim was to give himself the stature of a leader — specifically the leader who can realize the Muslim dream of establishing a caliphate, or worldwide Muslim superstate. And though it might seem ludicrous for a man on the run to pit himself against the most powerful nation in history, for many Muslims it isn't.

Bin Laden's inspirational power can't be quantified like missile strikes and battles. But it's evident in the waves of recruits for suicide bombings in Iraq and, increasingly, in Afghanistan. It's in surveys that show Muslims increasingly seeing the war on terror as a war on Islam.

The most effective way to strike back is to help stoke a war within, not against, Islam. Many Muslims do not want to follow the medieval version of Islam that bin Laden promotes. Yet many U.S. policies and practices — notably the ill-considered war in Iraq and the government's weak reaction to torture there — played into bin Laden's effort to cast the fight as a clash of civilizations.

Bin Laden is a mass murderer with the blood of thousands of Americans on his hands, and he promises to kill more. His capture or assassination should remain a priority. But the power of his message, too, has to be killed off. That requires an equally potent message that leads Muslims away from the common perception that the United States is the cause of their problems.

Bin Laden's message offered nothing useful for Americans. Its value lies only in reminding us that Muslims are reacting to our messages in much the same way.

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CORPORATE SCANDALS:

Top Exec's Plea Bargain In Judge's Crosshairs (LAW)

By Amanda Bronstad, The National Law Journal

National Law Journal, January 23, 2006

The former chief executive of Gemstar-TV Guide International Inc. may face jail time if a federal judge in Los Angeles rejects his plea agreement this week.

Henry Yuen, who was ousted in 2002 after Gemstar lost almost $3 billion in market capitalization due to accounting restatements, pleaded guilty in October to destroying computer files during a separate investigation by the U.S. Securities and Exchange Commission. As part of the deal, he agreed to pay a $250,000 fine and to donate $1 million to charity while serving two years' probation and six months of home detention.

Prosecutors and Yuen's lawyers have said the sentence fits his crime of obstruction of justice, reiterating that he has not been charged with securities fraud.

'TRAVESTY OF JUSTICE'

But lawyers for Gemstar and the SEC have expressed concern about the plea agreement, with Gemstar lawyers calling it a "travesty of justice."

The company also said it spent $100 million in legal fees and lawsuit settlements because of Yuen.

U.S. District Judge John Walter is expected to reject the agreement when he issues a final ruling on Yuen's sentence today. In December, Walter issued a tentative ruling criticizing the sentence, saying that it "sends the wrong message to corporate America," and is "wholly inappropriate," according to court transcripts.

With a plea deal scrapped, federal prosecutors could add charges against Yuen or drop the case altogether. Yuen, who would have the option to withdraw from the agreement, may face a new sentence from the judge or a potential jury in the near future.

That would appease lawyers for the SEC and Gemstar.

"We believe the original plea agreement was not appropriate for the damage that Mr. Yuen has caused the company and its shareholders," said Richard Stone, a partner at Washington's Hogan & Hartson who represents Los Angeles-based Gemstar.

Thom Mrozek, a spokesman for the U.S. Attorney's Office in Los Angeles, said, "we've encouraged the court to accept the plea agreement filed last year."

Mike Piazza, trial counsel at the SEC's Pacific regional office, said the SEC's reluctance to accept the plea agreement is "unusual."

"We put tremendous amounts of resources on the case, 10 investigative attorneys, crossed over 2 1/2 years and settled with four of the five individual defendants," Piazza said. "That tells you how the SEC feels about the case. We put a lot of resources into it."

Yuen's attorney, Stanley Arkin, a partner at New York-based Arkin Kaplan, expressed frustration about the recent changes in the case. "We don't know what's going to happen here, and the fact is we're searching."

The SEC has filed a civil suit against Yuen and Elsie Leung, the company's former chief financial officer, alleging that they overstated company revenue to increase the company's stock price. Leung settled the claims.

The SEC wrapped up its civil case against Yuen in trial last month and is waiting for a judge's final decision.

Lawyers Want Enron Trial Moved Out Of State Fair-minded Jury Too Hard To Find In Houston, They Say (USAT)

By Greg Farrell

USA Today, January 23, 2006

With jury selection in the trial of former Enron chiefs Ken Lay and Jeff Skilling scheduled to begin in Houston next Monday, their lawyers are insisting that the trial be moved out of state.

They don't think Lay and Skilling can find an open-minded jury in Houston, whose residents bore the financial brunt of the highflying energy company's implosion four years ago.

“What we fear, in a situation as radioactive as this one, is that we'll have a so-called stealth juror,” says Mike Ramsey, Lay's lead attorney, referring to someone secretly determined to find a defendant guilty.

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"The most important thing we have to care about is a fair-minded jury, an unbiased jury," he says. "We've got to have jurors smart enough and brave enough to know that if they deliver a not guilty verdict, they're going to be asked about that the next day on the Today show."

Of 280 potential jurors who were surveyed last year, 80% said they had a negative bias toward Lay, Skilling or both.

"That's huge," says Howard Varinsky, a veteran jury consultant who aided prosecutors of Martha Stewart and Scott Peterson. "If you get 60%, that's a lot, but 80% is near virtually everyone."

Rusty Hardin, the attorney who represented Arthur Andersen in the first Enron-related case to go to trial four years ago, says he's surprised at how controversial the Enron case still is.

"It remains to me, in 30 years as a prosecutor and defense lawyer, the most polarizing case I've ever seen with jurors."

Still, moving the case to Denver, Phoenix or Atlanta, as defense lawyers requested recently, might not solve the problem. "Are they any better off anywhere else?" Hardin asks.

U.S. District Judge Sim Lake rejected the defense's motion several weeks ago. After a third defendant, former Enron accounting chief Rick Causey, agreed to plead guilty in late December, the defense team renewed its request.

They noted the 80% negative response among potential jurors was before Causey changed his plea. The "media maelstrom" afterward about how Causey's plea could hurt Skilling and Lay only reinforced a presumption of guilt, defense lawyers argued.

Instead of moving the trial, some jury experts agree with another defense motion asking that lawyers be able to question potential jurors without other juror candidates and spectators present. Lake is planning to follow normal federal court procedure for jury selection, or voir dire, where candidates are questioned together in open court. That will hurt the defense, say jury consultants, because people are reluctant to admit in front of strangers that they can't be fair.

Lake is expected to rule this week on the defense motion to allow voir dire to be individualized.

Livedoor CEO Denies Allegations (WSJ)

By Andrew Morse

The Wall Street Journal, January 23, 2006

TOKYO -- The chief executive officer of a Japanese Internet company that is the subject of an investigation denied having misled investors to inflate his company's stock price.

Takafumi Horie, the CEO of Internet-portal company Livedoor Co., made the denial on his Web log after a television program yesterday morning in Japan examined the widening allegations surrounding his company.

"The extent of the fabrications [in the program] is such that it is difficult to deny them one by one," Mr. Horie wrote in his blog. "I don't know who or how these stories were researched."

Livedoor's offices were raided by Tokyo prosecutors Jan. 16 as part of a probe of possible securities-law violations. Japanese media reports have said prosecutors suspect the company improperly handled a subsidiary's 2004 acquisition of a publishing company that was owned by a fund run by the Livedoor group. The prosecutors, who acknowledge that they are conducting an investigation, haven't commented.

Mr. Horie has challenged traditional Japanese business norms by staging hostile takeovers and aggressively splitting his company's stock. He has irritated Japan's corporate elites by eschewing such customs as wearing suits and ties to news conferences, making him a hero to many younger Japanese.

Yesterday's comments by Mr. Horie come amid growing speculation he will be questioned by prosecutors, who called the company's chief financial officer, Ryoji Miyauchi, and several other Livedoor executives to their offices Friday.

The situation took a tragic turn last week when a confidant of Mr. Horie's, Hideaki Noguchi, was found dead in southern Japan from an apparent suicide. A funeral service was held yesterday.

Since prosecutors raided Livedoor, the company's share price has dropped by more than 50% to 336 yen ($2.92), taking many other Japanese stocks with it. Wednesday, selling pressure became so great that the Tokyo Stock Exchange was forced to close early because it couldn't handle the volume of orders. Friday, the exchange warned investors about potential disclosure irregularities at Livedoor and an affiliated company.

U.S. Chamber Asks Congress For Softening Of Rule On Auditing (WP)

By Kathleen Day

The Washington Post, January 23, 2006

The U.S. Chamber of Commerce is asking the federal government to soften a rule adopted after financial scandals that accounting firms failed to expose at Enron Corp., WorldCom Inc., Freddie Mac and other major U.S. companies.

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The chamber, which lobbies for businesses large and small, wants the Securities and Exchange Commission to allow accounting firms to perform audits for any company within a year of having provided consulting or other services for that company.

The current rule bars a company from hiring as its auditor any accounting firm that has performed other services for it within five years. The SEC adopted the rule three years ago as required by the Sarbanes-Oxley Act, which Congress passed to tighten corporate accountability and make it harder for companies to mislead investors about corporate financial health.

The chamber makes its request in a policy paper it will release publicly today and circulated to some people last week. It is the group's latest effort to weaken some provisions of Sarbanes-Oxley, which it says has added burdensome and costly business regulations.

Supporters of Sarbanes-Oxley say a waiting period of a year or less could put auditors in the position of reviewing their own work and create conflicts of interest that the law was intended to prevent.

In its paper, the chamber also asks Congress to set clear guidelines on when the Justice Department can bring criminal charges against companies. The clarification is needed to "rein in" the department, whose successful prosecution of the accounting firm Arthur Andersen LLP put the company out of business and "led directly to severe job dislocations for 28,000 people," the paper says.

Uncertainty about the circumstances under which accounting firms can be indicted has raised the cost of their liability insurance, according to the paper, written by David C. Chavern, a chamber vice president. That has imposed a big barrier to new firms entering the field, he wrote.

The Justice Department recently dropped its case against Andersen after the Supreme Court reversed the conviction in May. The court ruled unanimously that jury instructions from the trial judge were too broad and allowed jurors to find the company guilty even if its officials did not intend to break the law.

The chamber's paper also calls on the SEC, the Public Company Accounting Oversight Board -- an audit review panel established under Sarbanes-Oxley -- and other government agencies to promote creation of large accounting firms that could compete with the four companies that dominate the business. That would give companies more choices when hiring firms to review their financial statements and, in the process, be better for the nation's economy, the paper says.

SEC spokesman John Nester said the agency would not comment on the chamber's requests because it has not seen the paper. In December, SEC Chairman Christopher Cox said in a speech to a group of accountants that he wants to make sure that government rules don't impede competition among auditing firms.

Justice Department spokesman Bryan Sierra also would not comment because no one there has seen the chamber's paper. The department has issued clear guidance on factors it considers to determine whether to prosecute a company, he said.

CRIMINAL LAW:

Google's Reputation At Stake In Fight With Government (USAT)

By Jim Hopkins, Usa Today

USA Today, January 23, 2006

SAN FRANCISCO — Google, facing its biggest public relations battle yet, has more at stake than competitors as it fights a federal government demand for data on how millions of users search the Internet. (Related item: Google battles government over porn investigation)

As the No. 1 online search company, Google has the highest profile, and a brand built on a "don't be evil" motto that it must defend as it expands further into search-related ventures.

"That is their motto and their ambition, and they need to be true to that," says Denise Garcia, an analyst who follows Google at W.R. Hambrecht.

Google's stance will likely burnish its image as a search engine industry leader that can be trusted to guard its users' data, Garcia says.

But in the short run, investors are worried. Friday, stock in the company plummeted 8.5%, or $36.98 a share, to $399.46, a day after published reports of its refusal to bow to a Justice Department subpoena. It was Google's biggest daily percentage decline since it went public in August 2004.

Garcia said the subpoena fight was the biggest factor in the stock's decline. It also was driven by a weak revenue forecast earlier in the week by competitor Yahoo. That spooked investors anti-cipating Google's fourth-quarter results, due out Jan. 31.

The Justice Department asked a federal judge in San Jose on Wednesday for an order to force Google to turn over the records as part of the administration's efforts to revive an online pornography law.

The other major search providers — Yahoo, Microsoft's MSN and Time Warner's America Online — have cooperated with the government. Company representatives all said that they did not turn over data that identified individual users.

Google, MSN, AOL and Yahoo declined to say whether they had received other government subpoenas in the past year, company representatives said Friday.

Google co-founder Larry Page reiterated the company's opposition Friday in an interview with ABC News.

"Our company relies on having the trust of our users," Page told the network. "That's a very strong motivation for us. ... I think instead we should have laws that protect the privacy of data, for example, from government requests and other kinds of requests."

More than its competitors, Google has been dogged by privacy concerns.

Launched in 1998, Google now controls the world's biggest computer network and database — a mountain of electronic information that includes every search by its millions of users.

"Privacy advocates have put a big red bull's eye on it," says Jeff Nolan, a Silicon Valley venture capitalist.

In resisting the Justice Department's request, Google doesn't want to further rile privacy advocates or worry users, says search engine expert John Battelle.

Google's stance comes as it mounts defenses against the sort of government intrusion posed by the Justice Department.

It has been beefing up its Washington political operation with the addition of company lobbyists working with an outside lobbying firm, for example.

Trial Of Former Atlanta Mayor Set To Begin Monday (NYT)

By James Dao

The New York Times, January 23, 2006

ATLANTA, Ga., Jan. 20 - He was, once, the go-go mayor of the South's most go-go city. Suave and acid-tongued, Bill Campbell was the protégé of a new black politics, steeped in the argot of civil rights yet able to smooth-talk corporate executives. Democrats from President Clinton on down courted him.

But those days are long gone. On Monday, Mr. Campbell, who left office in 2002, is to enter a federal court house here to defend himself against charges that he turned City Hall into a criminal enterprise during his eight years in office.

"I know that I'm innocent," Mr. Campbell said on Friday on a local radio station, V-103.

Mr. Campbell's trial will be the culmination of an investigation that dates back to at least 1999 and that has already led to convictions against 10 people on an array of charges that include bribery, tax fraud and perjury. Three of the people convicted worked in Mr. Campbell's administration.

The seven-count indictment alleges a wide-ranging conspiracy directed by Mr. Campbell and his associates to shake down companies trying to do business with the city. The indictment charges Mr. Campbell, 52, took payoffs totaling more than $150,000; accepted more than $100,000 in illegal campaign contributions; filed false personal income tax returns; and received gifts from contractors, including a $12,000 trip to Paris and nearly $10,000 worth of heating and air-conditioning equipment for his home.

But Mr. Campbell's lawyers assert that the case is built on shoddy evidence and unreliable witnesses who traded lenient punishment for their testimony. "If there was one issue that ran through this, it was the issue of plea deals and immunity," Mr. Campbell's lead lawyer, Billy Martin, said in court on Thursday.

In the months before the trial, Mr. Campbell, who now works as a lawyer in Florida, mounted an aggressive public relations campaign in Atlanta, appearing at local black churches, on sympathetic radio programs and at upbeat rallies.

Often, Mr. Campbell or his supporters have attacked the prosecution as racially motivated. When news of the federal investigation was first reported in 2000, Mr. Campbell denounced the investigators as "forces of evil" who might have been motivated by "ideological differences regarding my aggressive stand on affirmative action."

Concerned that the trial, expected to last at least six weeks, will turn heavily on racial issues, Judge Richard W. Story of the Federal District Court made an unusual plea from the bench on Thursday that the trial rely on law and evidence, "and not judge a man based on the color of his skin."

Judge Story was reacting to what seemed to be a pattern by both the defense and the prosecution of striking potential jurors based on race. Mr. Campbell's team removed 10 potential jurors, all white. The prosecution removed six people, all but one black. The final jury consisted of seven blacks and five whites.

Asked if race was a factor for picking jurors, Fred Orr, one of Mr. Campbell's lawyers, said no. "We're happy with the whites on the jury and I think they are happy with the black jurors," he said, referring to the prosecutors.

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Michael Leo Owens, an assistant professor of urban politics at Emory University in Atlanta, said Mr. Campbell, while mayor, made a practice of discerning racial bias in his critics, whether they were newspaper writers, rival politicians or federal prosecutors.

"He was good at challenging those who questioned him," Mr. Owens said. "And if the questions persisted, he would revert to saying: `It's all about race.' " Mr. Owens added that such arguments "still resonated" for many blacks in Atlanta.

Yet it was not always that way for Mr. Campbell, political analysts say. A Duke University law graduate who worked in Atlanta as a lawyer for the United States Justice Department and in private law practice, Mr. Campbell became known as a pro-business protégé of Mayor Maynard Jackson in his early days in politics.

He was the son of the head of the N.A.A.C.P. chapter in Raleigh, N.C., and gained modest fame for integrating the Raleigh schools at the age of 7. In 1981, he was elected to the Atlanta City Council representing the district where the Rev. Dr. Martin Luther King Jr. once preached, and gained a reputation for being a moderate on racial issues.

"I think Atlanta has dealt with its racial concerns better than any other city in this country," he said in a 1994 interview.

But as mayor, he used increasingly heated oratory to attack what he considered the racial motivations of his critics. When, for instance, the Southeastern Legal Foundation, a nonprofit group, filed a lawsuit challenging the city's affirmative action program, Mr. Campbell likened the plaintiffs to the Ku Klux Klan. "They want us to be able to dunk, to dance and to run, but not to run our own businesses," he said at the time.

Yet at the same time, Atlanta was experiencing explosive growth early in his tenure, and political analysts say Mr. Campbell deserves some credit for that boom. He also won plaudits for his response to the bombing at the Centennial Olympic Park during the 1996 Olympic Games.

But he also established a legacy of poor management. William Boone, a professor of political science at Clark Atlanta University, said Mr. Campbell was slow, or inept, at dealing with major problems he inherited, including an overtaxed sewer system, grinding poverty and traffic-clogged roads. When he left office, the city was facing an $80 million budget shortfall.

"The city was literally crumbling from below ground, and no real action was being taken to address the problems," Mr. Boone said. He added that Mr. Campbell's tenure looks even worse today in comparison with his popular successor, Mayor Shirley Franklin, who overwhelmingly won re-election last year after restoring the city's fiscal health.

On Atlanta's streets, Mr. Campbell remains a polarizing figure. More often than not, whites speak disparagingly about him, while blacks tend to defend him as a victim of a racially or politically motivated investigation.

"A lot of irreparable damage has been done to this city because of him, so I'm glad justice is being done," said Margaret Surber, 23 and white, as she took orders at a Caribou Coffee shop in East Atlanta. "I'm just glad we have Shirley Franklin now."

But Mary Burden, who is black, said the prosecutors should have left Mr. Campbell alone, saying she believes corruption is common among politicians.

"I think they probably wanted him to be an Uncle Tom and he wouldn't go for it," Ms. Burdon said outside a midtown YMCA. "He was a good mayor up to the end."

A Fake Cisneros Scandal (WP)

By Robert Litt

The Washington Post, January 23, 2006

An independent counsel has issued a report claiming that officials of the Clinton administration blocked his investigation into allegations of tax violations by former housing secretary Henry Cisneros. Although these sensational charges have been trumpeted by partisans as evidence of Democratic corruption, they are completely false.

I know; I was there.

The independent counsel, David Barrett, was appointed to investigate charges that Cisneros had lied about payments he made to his mistress. (After investigating this charge for several years, Barrett meekly allowed Cisneros to plead guilty to a misdemeanor charge with a promise of no jail time.)

In 1997 Barrett came to the Justice Department, where I was serving in the Criminal Division, and asked permission to expand his case to investigate whether Cisneros had evaded income taxes over four years. The law allowed the attorney general to grant him that jurisdiction if there were "reasonable grounds to believe that further investigation" of possible tax violations was needed.

Nonpartisan career lawyers in the department's Criminal Division and in the Tax Division studied the independent counsel's application in great detail over several weeks. They met with his office, reviewed documents and interviewed witnesses. Each of them concluded that, with the exception of a single year's tax return, there were no reasonable grounds to investigate Cisneros for tax violations.

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These career lawyers found that the independent counsel's submission was full of legal and factual errors. For example, the independent counsel claimed that Cisneros had failed to report over $100,000 in income during 1991, but he was unable to produce evidence that there was any unreported income at all.

The conclusions of the career lawyers were reviewed in detail by other officials including myself, up to the attorney general. Every single lawyer in the Justice Department who reviewed this matter concurred in the analysis. As a result, Barrett's jurisdiction was expanded to permit him to investigate one tax year, for which there was barely adequate evidence -- although as it turned out, he never brought any tax charges.

Ironically, jurisdiction to investigate one year's tax violations in effect permitted the independent counsel to investigate all tax years. Under established legal principles, evidence of conduct in one year can be relevant to show tax evasion in another year. Everyone at the department recognized this; apparently, the independent counsel did not.

Far from conspiring to block the independent counsel from investigating tax violations, therefore, the Justice Department bent over backward to permit him to do so. Attorney General Janet Reno had no hesitancy in recommending the appointment of independent counsels when the facts justified it: She sought a half-dozen independent counsels during her tenure. As for me, it has been reported that I recommended appointment of an independent counsel to investigate Vice President Al Gore. Had the law and the facts justified it in this case, the attorney general would have granted the independent counsel's request.

In short, there was no conspiracy, no outside political influence, no improper conduct. There was only a good-faith evaluation of the facts and the law that produced a different result from the one the independent counsel desired. Even the Bush administration told Barrett that there was "no actual evidence" of a conspiracy to obstruct justice.

It is the independent counsel's behavior that warrants examination here. His completely unfounded investigation into the alleged obstruction of justice lasted over six years and cost the taxpayers tens of millions of dollars -- even though the issue was simple and straightforward, and even though the statute of limitations expired during his investigation. In that time he never contacted me or any other Justice Department lawyer to find out what we had to say. At the same time he apparently required one IRS lawyer to testify almost 30 times -- surely a record in any federal criminal investigation. His investigation might still be going on if the court that oversees independent counsels had not ordered him to stop. And yet his report contains no evidence supporting his scurrilous charges.

Sadly, this independent counsel seemed unable to recognize that different lawyers could reach different conclusions in good faith. Instead, he decided that everyone who disagreed with him could only be corrupt. He did not let the complete absence of evidence to support that fantasy deter him from smearing nonpolitical government lawyers, who have devoted their careers to serving the public, without hearing their side of the story. That's the real scandal.

The writer, a Washington lawyer, served from 1994 to 1999 in the Justice Department, where his last position was principal associate deputy attorney general.

Laski To Stay On The Job Despite Charges (CHIT)

Chicago Tribune, January 23, 2006

CHICAGO -- Rebutting suggestions by the media and City Hall insiders that he would resign amid corruption charges, City Clerk James Laski said Friday he "will continue to serve and represent the citizens of Chicago."

A federal investigation into his dealings "are not connected to the operations of this office," Laski said in a written statement. "Employees of this office will continue to effectively serve the needs of the citizens of Chicago."

Meanwhile, U.S. Magistrate Judge Sidney Schenkier freed Laski from the requirement to wear an electronic monitoring device that had been ordered a week ago after the clerk was charged with bribery and obstruction of justice.

The decision was supported by federal prosecutors and Laski's lawyer, Anthony Pinelli. "Mr. Laski is not a flight risk nor is he charged with a violent crime," Pinelli said.

Federal prosecutors allege that Laski received bribes from Michael "Mick" Jones, an old friend and top aide in the clerk's office, in return for landing city business for Jones' trucking company. Pinelli said Laski denies the charges.

In a three-paragraph statement, Laski said he was "precluded from commenting" on the charges lodged against him. But he took strong exception to reports that he has been absent from his post.

Laski said he took two weeks of vacation in December and made the decision to stay away from the last three City Council meetings so they wouldn't turn into a "media circus."

City Clerk Denies Reports That He Has Not Been At Work In Recent Weeks (AP)

AP, January 23, 2006

CHICAGO Chicago City Clerk James Laski says he has been at work in recent weeks -- despite reports to the contrary.The 52-year-old Laski is charged with soliciting payoffs in exchange for getting a trucking company operator city business and with

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pressuring a witness to lie to a federal grand jury.Laski said in a written statement today that reports that he has been absent from work recently have been exaggerated and unfair. He declined to comment on the federal charges.Laski says other than a few absences due to illness and two weeks of vacation he has taken to spend time with his family December for the past eleven years, he has been at work.Laski said after he was indicted January 13th that he would continue to work as City Clerk. Elected officials in Chicago lose their jobs upon a conviction.

City Employeenfacing Proben On Kickbacks (CTPOST)

By BILL CUMMINGS

Connecticut Post, January 22, 2006

BRIDGEPORT — A veteran city employee is under investigation for allegedly accepting kickbacks — sometimes in the form of cash-filled envelopes passed openly at City Hall — in exchange for awarding contracts.

The FBI is probing the activities of Chris Kovachi, a 20-year city employee and specialist in the city's Housing Department, three separate sources confirmed.

Kovachi, who is paid $42,271 a year, helps hire contractors and sets up rehabilitation work on city-owned housing so the units can be rented or sold to low-income residents. Federal dollars are used to fund the programs.

Kovachi denied any wrongdoing when asked about the allegations.

"I don't know anything about it. I talked to the FBI way back, about Ganim," Kovachi said, referring to former Mayor Joseph P. Ganim, who is serving nine years in jail on federal corruption charges.

"There is nothing I can comment on. I have done nothing wrong," he said.

Sources also said FBI agents are interested in city contractors who allegedly paid Kovachi in exchange for receiving work.

One of those contractors is Wayne Jones, of Jones and Jones Construction in Bridgeport. A former city employee, who asked not to be identified, told FBI agents about witnessing Jones giving Kovachi an envelope filled with cash.

City records show Jones was paid more than $717,000 over the last five years for various jobs.

Jones did not return numerous calls seeking comment. An effort to interview him at his 48 Sherman St. home was unsuccessful.

A next-door neighbor said Jones moved out a month ago. The neighbor knew Jones was a contractor, and said he worked out of a pickup truck that was often parked at the duplex.

Jones has not been charged with any crimes, and neither has Kovachi, who also lives in Bridgeport. Meanwhile, sources said FBI agents have interviewed city employees in the housing office, and agents have obtained documents relating to Kovachi's activities in the office.

Mayor John M. Fabrizi declined comment about the investigation. "I can neither confirm or deny this. I'm aware of several issues, but I'm not at liberty to speak about it," Fabrizi said.

Lisa Bull, a spokeswoman for the FBI, also declined comment.

The former city employee, who was interviewed by the FBI six times last year while working in the housing office, told the Connecticut Post about witnessing Kovachi accepting an envelope stuffed with money from Wayne Jones.

The exchange took place last summer, in the hallway outside the city's housing office at City Hall on Lyons Terrace, the source said.

"Chris walked past my desk and the envelope fell out of his back pocket. I picked it up and it was filled with hundred dollar bills, maybe $2,000 to $3,000. I said, 'What's this?' and Chris took it from me and said, 'He owed me money,' " the source said.

"Chris would get friends to lower bids so they can get jobs. He would want them to pay him off," the source said.

The source told FBI agents about five incidents in which envelopes were passed to Kovachi by various contractors. Kovachi said the witness may have "misinterpreted" what was passed to him. He said he had no recollection of the specific event described by the witness.

Two sources within city government also confirmed the FBI is investigating Kovachi. Those sources were aware of allegations that envelopes of cash were passed in City Hall, but said they had no direct knowledge of that activity.

But the two sources said they have first-hand information that Kovachi is the focus of a federal investigation. The sources stressed that the FBI is not investigating the entire housing office, and said the city is cooperating with the probe.

None of the sources were aware of city employees who testified before a grand jury, which usually occurs before an indictment is brought.

The city's Housing Department is divided into several divisions, and Kovachi works primarily in the HOME program, a federally funded initiative to renovate and build units for low-income renters or first time home buyers.

The city receives about $1.8 million annually from federal sources to fund the HOME program.

The probe began after city officials received credible information that Kovachi was taking kickbacks, sources said. Officials alerted city police, who in turn contacted federal authorities about the possible corruption.

The Housing Department was reorganized two years ago after longtime director, Para Rosario, was forced out over allegations of incompetence.

After taking over Rosario's office, officials found hundreds of thousands of dollars in checks written to the city that had not been deposited, and a host of other irregularities.

FBI Probe: Schools Vs. Political Connection (PHI)

By Ken Dilanian

The Philadelphia Inquirer, January 23, 2006

Philadelphia schools chief Paul Vallas came to town three years ago promising to clean up the district's "dysfunctional" workers' compensation system, which costs taxpayers tens of millions a year.

But his pledge soon foundered on the shoals of the city's political culture. For reasons that Vallas has declined to publicly explain, the district hired a workers' compensation consultant with no government experience but with two important patrons: Democratic City Councilman Rick Mariano and Republican State House Speaker John Perzel.

After Mariano personally introduced Danlin Management to Vallas, the newly formed company won a no-bid contract in 2003 to advise the district on ways to cut costs by reducing worker injuries and curbing fraud.

The district's top financial officer at the time had concerns about Danlin but felt pressured by Vallas to hire the Center City firm, according to newly released records of the FBI's investigation into the matter.

When Danlin ran into problems in 2004, Perzel's office stepped in, pressing Vallas to keep paying the company even after senior district staffers had concluded it wasn't delivering what it had promised, records show. Vallas in turn got personally involved, the records show.

Danlin's managing director contributed $10,000 to Perzel's campaign fund in 2003, including $5,000 a day after the firm won its schools contract, public records show.

Danlin was eventually fired in late 2004, but not before taxpayers paid the company $393,750, court records indicate. The now-defunct firm is suing the school district, alleging breach of contract, and taxpayers are paying a well-connected law firm, Blank Rome L.L.P., to defend the district.

In a statement, Vallas said he didn't pressure anyone and said it was his decision to drop Danlin for poor performance. He declined further comment, citing Danlin's lawsuit.

In October, Danlin managing director Joseph Pellecchia was charged as part of an alleged conspiracy to bribe Mariano.

Pellecchia, who pleaded not guilty, is accused of laundering a $6,672 check for Mariano and then seeking the councilman's help with the Danlin contract. Mariano also has pleaded not guilty.

In a brief interview, Pellecchia argued that Danlin saved the school district money and was fired for political reasons. The FBI should be investigating the school district, not City Hall, he said.

"I told the feds they were in the wrong building," he said, before declining to comment further.

There is no sign that federal authorities are scrutinizing Perzel's efforts for Danlin. Helping a campaign contributor is not illegal unless political cash is exchanged directly for favors.

But newly obtained records in the investigation, including school district memos and written accounts of FBI interviews, offer a rare look at how Perzel - who runs a GOP House majority in Harrisburg that controls billions of dollars - involved himself in the minutiae of school district spending decisions to aid a friendly firm.

The records also suggest that Vallas went to considerable lengths to accommodate politicians who wanted to help a private company, despite the concerns of his staff.

In an interview with the FBI, the school district's former chief financial officer, Michael Harris, said Vallas repeatedly asked him what he was doing about Danlin. Although Vallas never actually ordered him to hire the company, Harris said, the message was clear:

Harris "felt a steady pressure by these inquiries that this is what Vallas and his staff wanted done," the FBI report says.

It's unclear how much money, if any, the district saved by hiring Danlin. A Danlin representative who declined to be identified said the firm made recommendations that saved as much as a million dollars.

The school district released a statement Friday asserting that, under a new consultant hired after Danlin, the district had saved about $5 million in the workers' compensation program by paying lump-sum settlements to workers claiming injuries.

The statement added that, when it comes to contracts, "it is not unusual for suggestions and recommendations to come from public officials." All firms are evaluated on their merits, it said.

Perzel declined to comment about Danlin, but his chief of staff, Brian Preski, said that assisting the company was the sort of thing the speaker does every day.

"It's the nature of this job," Preski said. "Like any other person that comes to see us, we'll try to get them the right meeting with the person who is a decision-maker. But in the end, it's that agency's decision whether they use them or not."

Preski said the political contributions were irrelevant.

"It's never been a part of any decision to us to help or not help anybody," Preski said. Perzel "has over 9,000 contributors."

Runaway costs

Vallas first raised the issue of workers' compensation costs in August 2002, shortly after arriving from Chicago.

About 17 percent of the district's nonteaching employees were absent daily, he noted, and in some job categories, as many as 10 percent of the missing workers were out on disability.

"In a nutshell, we almost have a dysfunctional workers' compensation system," Vallas said in November 2002. "We simply spend far too much."

A month later, Vallas was introduced to Pellecchia by Mariano, records show. Harris also attended that meeting.

"Mariano told Vallas and Harris that Pellecchia was a friend and he would appreciate if Pellecchia and the school district could work together," an FBI report states.

In an interview with the FBI last year, Vallas said he did not recall meeting with Mariano about Danlin - until an FBI agent refreshed his memory with a copy of his date book.

As a rule, Vallas said, he doesn't meet with business people seeking contracts. But, he told the FBI, it's different when the request comes from a councilman.

"If Danlin called, it would not have been put on the calendar," the FBI quoted him as saying.

Vallas also talked to the FBI about Perzel. He told agents that the speaker had asked him to listen to Danlin's proposal, saying: "Do whatever you want with these guys. Whatever is best for the school."

As speaker, Perzel has been chiefly responsible for channeling billions of state tax dollars to the school district.

Danlin was a new company, but Pellecchia told the district that he had years of experience advising private businesses on reducing workers' compensation costs. Danlin's staff included a medical doctor and a longtime workers' compensation consultant.

Pellecchia also had the backing of the Teamsters union, whose officials lobbied the school district and Perzel on Danlin's behalf, according to documents and interviews.

Still, Harris told the FBI that he was never satisfied with Danlin's proposal. He moved forward with it only after he "was frequently asked by Vallas and members of his staff how things were going with Danlin Management Group and if they were going to get a contract," FBI records state.

In an e-mail, Harris, who has since taken a job at the University of Pennsylvania, declined to comment.

Contract disputes

A $225,000 no-bid contract was approved in September 2003. By April 2004, records show, Danlin was pitching a huge expansion of its duties that would have earned it up to $1.5 million a year. But the district official who worked most closely with Danlin - risk management director Gina Pellegrino - had become unhappy with the firm's work. She was unimpressed with the new proposal.

"Danlin proposes savings each year that barely cover the cost of their contract ($500,000 to $1,000,000)," she wrote in an April 14, 2004, e-mail. "The district could just not hire them and save almost as much money as they present in projected savings."

By June 2004, Pellegrino was trying to fire Danlin, records show. Perzel's office was not pleased.

"What is going on?" Preski, the chief of staff, wrote in an e-mail to Tim Spreitzer, Vallas' chief of staff. "What did we meet about if this lady has this kind of power and can change what we agreed to?"

The firm stayed on, and a month later, Danlin and the district were fighting over payments. Preski e-mailed again, trying to get the district to pay Danlin extra money - in addition to the $225,000 contract - from bonds sold to raise money to settle workers' compensation cases.

"Just got another call that Pellecchia has not been paid, thought we had this resolved, can you please check into this?" Preski wrote on July 20, 2004.

Spreitzer replied: "The problem is that they've submitted an inflated invoice for $285,000; it is totally outrageous and beyond the pale. They are entitled to no more than $150,000 on the workers' comp bond transaction... they just refused to listen. Paul [Vallas] and I will call you on this issue today."

Preski responded: "Can you pay them the 150k and agree to work on issues surrounding the rest."

The school district's reply is not in the records, but Danlin was able to hang on for a few more months. Perzel attended another meeting with school officials about Danlin in September 2004, according to Danlin's lawsuit.

By November, however, Vallas had also become dissatisfied, and Danlin was no longer working for the school district. The firm is now out of business. The landlord of its former offices at 1818 Market St. has obtained a $59,967 judgment against the company for unpaid rent.

Nonprofit Paid For Suit Against Fumo Opponent (PHI)

By Mario F. Cattabiani, John Shiffman And Craig R. Mccoy

The Philadelphia Inquirer, January 23, 2006

A South Philadelphia nonprofit with ties to State Sen. Vincent J. Fumo secretly financed a lawsuit to oust a powerful political opponent from the state Senate, sources said.

The FBI is asking why the nonprofit - created to clean streets and revitalize businesses in Fumo's district - financed an unsuccessful 2001 lawsuit against the head of the state Senate, Republican Robert C. Jubelirer of Altoona, according to people familiar with the investigation.

Fumo, the influential Philadelphia Democrat, has clashed with Jubelirer politically, and personally. In one 2004 episode that grabbed headlines, Fumo, irate at a Republican parliamentary maneuver, called Jubelirer "a faggot" on the Senate floor. Fumo later apologized to the gay community.

The nonprofit, Citizens Alliance for Better Neighborhoods, didn't pay for the lawsuit against Jubelirer directly, according to people familiar with the transaction.

Instead, the nonprofit sent about $17,000 to Howard Cain, a longtime close political adviser to Fumo. Cain's political consulting firm then cut a $17,000 check for the suit, the sources said.

Nonprofits are barred by law from spending money on politics.

Fumo did not respond to a request for comment Friday. Cain declined to comment, as did federal prosecutors.

In an e-mail Friday, Fumo's lawyer, Richard A. Sprague, said Citizens Alliance had every right to get involved in what he called a "matter in the public interest to all Pennsylvanians."

The issue in the case was whether Jubelirer could serve as lieutenant governor while holding on to his Senate seat.

"In my opinion, it is perfectly appropriate for a nonprofit, including Citizens Alliance, to be concerned in fundamental issues of constitutional interpretation, which are of great public importance," Sprague wrote.

"There are many possible reasons why a nonprofit would wish to remain anonymous, including the possibility of retaliation from the very officials involved in the litigation," he added.

Jubelirer said he never knew about the funding of the suit until last week.

"There should have been complete transparency," Jubelirer said. "At least they should have been a little bit more honest and upfront."

Of Citizens Alliance, he said: "This is certainly not part of their mission. It is supposed to be helping people in South Philadelphia to live somewhat of a better life."

For two years, the FBI, IRS agents and prosecutors have been aggressively scrutinizing a series of nonprofits connected to Fumo, looking at how Fumo raised money for them and how they spent it.

The investigation began after The Inquirer reported that Fumo had cut a secret deal with Peco Energy Co. The utility donated $17 million to Citizens Alliance after he dropped his opposition to the utility's deregulation plans. Fumo also arranged for the group to get $10 million from the Delaware River Port Authority.

Citizens Alliance is staffed with former and current Fumo aides. Public records show that the group's executive director, Ruth Arnao - a former legislative aide for Fumo - has signed annual tax forms for the group stating that it did not engage in politics.

Arnao did not respond to a request for comment.

The FBI/IRS investigation into Citizens Alliance is wide-ranging and focuses in part on whether the nonprofit broke the law by spending money on politics.

As The Inquirer has previously reported, the nonprofit spent $215,000 for political polling, money that was later reimbursed by a Fumo political-action committee.

Authorities are also pursuing allegations of obstruction of justice. Fumo aides who have appeared before a grand jury have been asked whether records were destroyed after the probe began, sources have told The Inquirer.

Fumo has been at odds with Jubelirer for more than a decade. In 1993, the two almost came to blows in the Senate chamber.

"His hand was cocked," Jubelirer said in 2004, remembering the incident. "He was going to hit me with a sucker punch."

The legal fight with Jubelirer, the Senate's president pro tempore, played out after Gov. Tom Ridge quit midterm to become U.S. homeland security director. Lt. Gov. Mark Schweiker became governor, and Jubelirer stepped up to fill the lieutenant governor's job - but kept his Senate seat.

Then-Rep. John A. Lawless filed a lawsuit in Commonwealth Court, contending that the state constitution barred Jubelirer from holding both posts. Lawless was a Montgomery County Republican when he filed the lawsuit, but he is now considering running for the state Senate as a Democrat.

Lawless' suit argued that Jubelirer should resign from the Senate and a special election be held to fill his seat.

At the time, the hand of Citizens Alliance in the case was not made public.

Fumo did file a separate friend-of-the-court brief urging the judges to take up the case.

The brief, written by Christopher B. Craig, a Fumo legislative counsel, said that "Senator Fumo does not take a position" on the ultimate question, whether Jubelirer should hold both jobs.

Rather, it said Jubelirer was wrong when he argued that only the Senate could decide the matter. Fumo argued that courts needed to intervene to remove "a cloud of uncertainty."

Ultimately, Commonwealth Court agreed to hear the case, thanking Fumo for his brief. It then ruled against Lawless, permitting Jubelirer to hold both jobs.

Jubelirer did so from October 2001 until January 2003, when Gov. Rendell and Lt. Gov. Catherine Baker Knoll took office.

As for Lawless, he lost his seat in 2002 after 12 years. He eventually became corporate secretary to the Delaware River Port Authority, a job that now pays $116,699; a top DRPA official said last week that Fumo, an alternate DRPA board member, was instrumental in Lawless' hiring there.

While declining to discuss the suit, Lawless praised Fumo and said that The Inquirer is pursuing "a witch hunt" against the state senator.

He said that he and the senator often bumped heads on issues in Harrisburg.

"I wasn't a Fumocrat," Lawless said.

Nonetheless, Lawless said, after losing his House seat, Fumo surprisingly returned his call and offered help to get him a new job.

"I said, 'Why would you help me?' He said, and I remember it to this day, 'Because it's easy to be someone's friend when they are on top. Be their friend when they are on the bottom. That's the hard part,' " Lawless recalled.

Although Lawless declined to comment about the suit, the two other plaintiffs in the action, as well as the lawyer in the case, all said they had been interviewed in recent weeks by the FBI about the matter.

One of those plaintiffs, Joseph H. Wiedemer, a resident of Jubelirer's district, said that Lawless told him at one point that he was trying to arrange for Fumo to cover the legal fees.

Gerald C. Grimaud, a lawyer for Lawless, Wiedemer and the other plaintiff, Charles A. Pascal Jr., said that "a Philadelphia corporation" paid him $17,000 as a retainer before he filed the suit in Harrisburg in October 2001.

Grimaud said he had given a copy of the check to the FBI. Although he would not say who had paid him, Grimaud explained the payment this way:

"In my mind, it was because there are not a lot of people willing to take significant action against powerful people, and Sen. Jubelirer was and still remains one of the most powerful persons in the state."

Sources said the check for the legal bills came from Venture Analysis Inc., the political consulting firm formed by Cain in 1978.

Cain has worked with Fumo in various positions for more than two decades and is considered one of his most trusted advisers.

Bruce Ledewitz, a law professor at Duquesne University and an expert on the state constitution, followed the Jubelirer lawsuit closely and never heard that Fumo's nonprofit might be involved.

"What we need in Pennsylvania is to have everything transparent," Ledewitz said. "The people need to be assured that there are no secret deals, that there are no behind-the-scenes agreements, that everything is happening right in front of us."

Nonprofits are barred from spending money on political activities. In an interview, Marcus S. Owens, the former head of the IRS division that regulates nonprofits, said the agency might raise questions about the polling and the lawsuit.

The IRS would frown on any spending it believed would benefit a political agenda as opposed to the public goals of the nonprofit, he said.

In its incorporation papers, Citizens Alliance said its purpose was "to promote public health, housing, safety and education in the City and County of Philadelphia."

MARA SALVATRUCHA New Breed Of Street Gang Spreads Through Texas, U.S. (AAS)

By Mike Ward, AMERICAN-STATESMAN STAFF

Austin American-Statesman, January 22, 2006

ABILENE — It was almost half his life ago, when he was just 12 or 13, but Daniel Teran Flores remembers the beating well. A group of youths in his neighborhood, in a working-class slum of Tegucigalpa, Honduras, surrounded him one day and kicked and slapped and punched him until he consented to join a neighborhood clique.

He did, after just a few minutes of being bruised and bloodied.

"Eme Ese," they called it in Spanish. La Mara Salvatrucha.

"All my friends went with (MS)," he explained in broken English. "So I did, too."

Now 24, Flores sits in a state prison on the wind-swept prairie just outside Abilene, serving a 10-year sentence for aggravated kidnapping and aggravated robbery for abducting and threatening a member of a rival gang and his girlfriend, police say. He is one of 24 convicts locked in Texas prisons who are confirmed members of MS-13, as the gang is known. It's a burgeoning criminal enterprise that has spread into 33 states and the District of Columbia, leaving a bloody trail of vicious crimes in its wake amid persistent reports that al Qaeda might be trying to use its smuggling network to sneak terrorists into the United States.

"America's most dangerous gang," officials have called it.

Its epicenter of recent growth has been neighborhoods of Central American immigrants in Houston, where federal investigators say the gang's membership and crimes have mushroomed. It is now facing a multiagency crackdown aimed at curbing its influence and violence.

Los Angeles "is still the place where you go to make your bones with MS-13, but Houston has emerged as a very large problem area," FBI Special Supervisory Agent Stephen Kodak said in Washington. "Just a couple of years ago, MS-13 wasn't really on the radar screen there. Now, they're all over it."

Recent FBI estimates indicate that MS-13 has 8,000 to 10,000 members — men and women — in the United States, not the largest gang. Nationwide, there are thought to be more than 800,000 members in 30,000 street gangs. But MS-13 is the only one targeted by an FBI national task force, a testament to its threat to public safety.

In Houston, federal and state investigators estimate that MS-13 may have as many as 500 members. More have been confirmed in Dallas and San Antonio, authorities say. And although Austin police say they have confirmed no MS-13 activity yet, federal investigators say that could change.

"We've had some MS-13 related graffiti, but we think it's wannabes or people who think it's cool," said Sgt. Mark Ballagia of the Austin Police Department's gang suppression unit. "It's sprung up in the past year."

Some federal authorities compare the growth and violence of MS-13 with the Jamaican drug posses of the 1980s who helped spread crack cocaine across the United States, leaving a trail of thousands of murders and violent crimes in more than 30 states before a federal task force sent hundreds of its members to prison.

"It's like the old-time Mafia: They prey on their own, offering protection and then extorting money from other illegals who aren't likely to report the crimes," Kodak said. "It's definitely a growing problem."

Ironically, according to most versions of the gang's history, MS-13 was formed in Los Angeles more than two decades ago to protect Salvadoran immigrants from falling victim to established Hispanic street gangs. Initially, the gang operated in loosely organized cells that grew neighborhood by neighborhood, from city to city, generally following the migration of Salvadoran immigrants across the United States, each governed by a member known as the "shot caller," according to federal investigators. It also spread back to Central America.

Although the gang still lacks a centralized leadership structure, operating in local groups called "cliques," federal investigators say the leaders in Los Angeles appear to carry the most clout.

In the past two years, MS-13 cells have been surfacing with alarming frequency across the United States — from mega-cities such as Houston, Boston and New York to smaller cities such as Madison, Wis., Oregon City, Ore., and Reno, Nev., to small towns on the North Carolina coast.

"In those fishing villages, where there are a lot of Salvadorans, you'll find an MS problem," Kodak said. "Right now, they're growing. . . . They're recruiting here in the United States."

In Texas, a life of crime, violence

MS-13's rap sheet in Texas reads like a Top Ten list of ugly crimes: murder, rape, kidnapping, extortion, drug trafficking, car theft, robbery, aggravated assault, illegal firearm sales and immigrant smuggling.

The latest episode to make news was a November shootout in Houston with FBI agents that left two gang members dead and four in jail. In a military-style operation, six MS-13 members in ski masks burst into a house where they thought a rival gang had stored drugs. Instead, federal agents lay in wait.

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The FBI is investigating whether gang members are receiving formal training in weapons and military tactics, which promises to increase fears about the group and step up the federal crackdown.

Luis Ascencio, 24, could be a poster boy for what officials insist is a growing threat.

The former construction worker is serving a 20-year sentence for raping a prostitute at gunpoint in August 2002. Speaking from an interview booth at the Darrington prison in Rosharon, a short drive southwest of the Houston neighborhoods where MS-13 holds sway, Ascencio is open about his gang ties.

He fits the profile: buzz-cut hair, tattoos that spiderweb across his arms and chest, matter-of-fact about his allegiance to MS-13.

He sold drugs and guns out of his pickup, he explains in broken English. An AK-47? "No problem. $600. I could get you whatever you want.

"I probably sold 200 guns.

"I brought in girls from Mexico. For prostitution? Yes. . . . We have a strong network in Houston."

Although many MS-13 members entered the United States illegally as teenagers, Ascencio says he came to Houston with his mother, from a poor working-class neighborhood in El Salvador, when he was 7. She found work as a cook at a well-known Mexican restaurant chain, Ninfa's.

He joined the gang at 14, Ascencio says, encouraged by boyhood friends in his Spring Branch neighborhood who were members. "They were all from El Salvador," he said.

Kicked out of school soon after he joined MS-13 — "for fighting," he says — Ascencio says his "homeboys" soon found him work in construction. With better English than most, he says, he was soon making up to $600 a week as a translator for mostly Mexican crews in the Houston area. His nickname? "Chaos," police records show.

Ascencio talks about "the war," the ongoing battles with rival gangs in Southwest Houston, and how much he looks forward to rejoining the gang when he leaves prison.

"It's a good thing," he says when asked about being a Mara. "We're all over the U.S. now."

A broad smile crosses his face.

"Life is a risk," Ascencio says, shrugging off questions about the violence and characterizations by some authorities that MS-13 members are terrorists. "A lot of people in the world doing the same as we are . . . I'm with them."

Why, he is asked. "Just pride. I'm a homeboy."

As he rocks back in his chair, a tattoo emerges among the many on his arms and chest. "FTW," it reads. "(Expletive) the world," Ascencio says with a grin.

'These youngsters are monsters'

If the gang is considered a top crime threat in the United States, it is just as notorious in Central America. And deadly.

In Honduras, MS-13 is considered a terrorist organization. President Ricardo Maduro, whose son was kidnapped and killed by gangs eight years ago, has ordered zero tolerance for gangs, using a new law making illicit association a crime. Mexican federal police last year rounded up hundreds of Maras after officials labeled the group a threat to national security. Like their counterparts in Honduras, Salvadoran authorities have imprisoned thousands of MS-13 members.

During the past two years, MS-13 members have been linked to or charged with horrific crimes: the gunning down of 28 men, women and children on a bus in Honduras two days before Christmas in 2004, purportedly in retaliation for a mysterious prison fire that killed 100 MS-13 members; machete attacks on rivals; retaliation rapes; drive-by shootings; even a beheading in Honduras in which a note to the country's president was reportedly pinned to the victim.

They have become killing machines, Honduran National Police Minister Oscar Alvarez said in an interview last year with National Public Radio. "They might be youngsters, they might be poor, but these youngsters are monsters," he said.

During the past two years, U.S. investigators say, brutal attacks have become the gang's calling card in the United States, as well.

In July 2003, the body of Brenda Paz, a former MS-13 member, was found dumped in a brier patch along the bucolic Shenandoah River in rural Virginia. She had been fatally stabbed, her head almost severed. She was 17 and pregnant.

She also was cooperating with investigators trying to bust the gang in at least six states, including Texas.

The previous May, MS-13 members in Alexandria, Va., used a machete to hack off several fingers of a rival gang member. In a neighboring suburb the same year, a teenager and his girlfriend were gunned down by MS-13 members who mistakenly thought they were with a rival gang.

In Texas, although shootings have marked the gang's rise in recent years, other crimes have attracted the attention of law enforcement. In 2002, investigators linked the gang to a truckload of stolen infant formula — which police suspected at the time was to be sold to support gang operations. A year later, lawmakers at a congressional hearing were told that MS-13 members in Texas were suspected of working with fences to steal large amounts of clothing, cigarettes and infant formula — in many cases,

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using shoplifting crews who hit drug stores, discount retailers and other merchants in swings through Texas, Oklahoma and Arkansas.

"Law enforcement in 28 states have reported MS-13 members are engaged in retail drug trafficking, primarily trafficking in powdered cocaine, crack cocaine and marijuana, and, to a lesser extent, in methamphetamine and heroin," Chris Swecker, assistant director of the FBI's criminal investigations division, testified before a U.S. House subcommittee in April 2005. "The drug proceeds are then laundered through seemingly legitimate businesses."

In the past, U.S. authorities routinely deported MS-13 members to their home countries. There, they were soon released and either spread gang activity or slipped back into the United States. Now, more and more MS-13 members are landing in state and federal prisons in the United States. Or they are imprisoned after being sent back home.

Still, officials concede, the influx continues.

For Flores, the MS-13 member from Honduras, the gang for years gave him many of the necessities of life. It smuggled him on a train through Mexico, across the border at Matamoros and onto a bus to Houston, he said. It paid the rent at the apartment where he lived. It provided his car. It helped him get a job as a roofer.

So far, he has never been deported.

Like other imprisoned MS-13 members, most of whom have deportation tags on their prison files, Flores expects he will be sent home after he completes his prison term in 2008. Those who insist that they want to remain in the gang say they expect to be able to slip back into the United States as they did before.

Flores says he wants to go back to Honduras, finish school and get married. And stay away from gang life.

Flores concedes that will be difficult, perhaps impossible. Like other gangs, MS-13 has a "blood-in, blood-out" policy, officials say, meaning that if members renounce their affiliation, they will be killed.

"I already know gangs. It's got me in trouble," he says, shaking his head. I'm not going to put myself with MS anymore."

In 10 years?

"I may be a teacher," he says.

"Or I may be dead."

Despite Denials, Rumors Of Al Qaeda Ties Linger (AAS)

By Mike Ward, AMERICAN-STATESMAN STAFF

Austin American-Statesman, January 22, 2006

Could al Qaeda terrorist operatives be teaming up with the MS-13 gang?

No, federal investigators say. There is little, if any, evidence of such a link, and it is highly unlikely that the radical Muslim organization would align itself with a predominately Catholic gang, they say.

But questions linger.

In September 2004, The Washington Times reported that a top al Qaeda lieutenant, Adnan G. El Shukrijumah, had been spotted two months earlier meeting at a Tegucigalpa, Honduras, cafe with MS-13 leaders.

Then-Attorney General John Ashcroft confirmed that the meeting was being investigated.

Shukrijumah, a cell leader for whom the United States has offered a $5 million reward, is a former South Florida resident and pilot who federal officials thought helped plan the Sept. 11 attacks. He was among seven al Qaeda suspects publicly identified by Ashcroft as being involved in planning for new attacks.

In 2004, U.S. authorities suspected that the Saudi-born Shukrijuman had sought meetings with MS-13 leaders who they said control immigrant smuggling routes into the United States through Mexico.

Ashcroft later confirmed that Shukrijumah had attempted to acquire radioactive material for the production and smuggling of a "dirty bomb" into the U.S.

Federal officials subsequently downplayed and then refuted the reports about the Honduran meeting.

In February 2005, a U.S. diplomat in Matamoros, Tamaulipas, renewed concern that al Qaeda and MS-13 might be working together. Consul John Naland's comments came after the arrest of an MS-13 member in Matamoros who was accused of trying to smuggle three immigrants into the United States and a week after federal officials confirmed the arrest of Ebner Anibal Rivera-Paz, the reputed head of the Honduran MS-13 organization outside Falfurrias, north of McAllen.

MS-13 "might be just the kind of group which would take money to smuggle an honest-to-goodness terrorist into the United States," Naland said.

Storm Scam Leads To Indictments (BRA)

By PENNY BROWN ROBERTS, Advocate staff writer

Baton Rouge Advocate, January 21, 2006

DOJ_NMG_0010272

A Georgia man allegedly on his way to getting $125,000 in unemployment benefits for 49 imaginary people and four Baton Rouge residents who may have lied to get thousands in disaster relief are facing federal prison time.

A grand jury handed up indictments this week against Drewey Pierre Whitaker, 44, formerly of Villa Rica, Ga., and Ivory Profit, 30; De'Ondra Profit, 34; Monique C. Preston, 24, and Billy R. James, 30, all of Baton Rouge.

The indictments — made public Friday — bring to 26 the total number of people who have been charged in Baton Rouge federal court with fraud in the aftermath of Hurricane Katrina.

Nationwide, more than 180 people have been arrested, said Baton Rouge U.S. Attorney David Dugas, who oversees the national Hurricane Katrina Fraud Task Force.

Whittaker faces five counts of wire fraud, each of which carries up to 30 years in prison, and 11 counts of illegal use of Social Security numbers, each of which carries up to five years in prison.

The indictment alleges that in September, Whittaker found a New Orleans family with the same last name and filed for FEMA disaster assistance, "falsely claiming that family's home was his own primary residence and that it had been damaged by the disaster."

At the same time, the indictment claims, he applied for disaster unemployment assistance from the Louisiana Department of Labor, claiming he lost his job with a trash-hauling service in New Orleans.

A month later, according to the indictment, Whittaker sought unemployment benefits for 49 imaginary people with the last name Ramirez or Garcia — all of them with the same birth date and fake Social Security numbers that varied by one or two digits.

When postal authorities confronted Whittaker in November while he was picking up a stack of debit cards mailed to his post office box, he told them he was "picking up the cards for his wife's relatives, all of whom he claimed were living at his residence in Villa Rica, Georgia," the indictment alleges.

Two days later, he fled to Albany, Ga., where he was arrested a month later. He is scheduled to appear before U.S. Magistrate Christine Noland on Monday afternoon.

A criminal complaint unsealed in November contends the Louisiana Department of Labor paid Whittaker $31,360 and that had the fraud not been discovered, he would have gotten $125,000.

Ivory Profit is charged with eight counts of making false and fraudulent claims for disaster assistance benefits and eight counts of illegal use of a Social Security number, each of which carries up to five years in prison.

De'Ondra Profit is charged with illegal conversion of government property — namely two checks from the Federal Emergency Management Agency for expedited disaster assistance, which carries up to 10 years in prison.

An indictment against the pair alleges Ivory Profit filed five fraudulent FEMA applications in his own name and three in De'Ondra Profit's name, using New Orleans and Harvey addresses and fake Social Security numbers.

FEMA sent the Profits two $2,000 checks, the indictment claims, which De'Ondra Profit cashed.

Preston, 10210 Avenue L., Apt. 120, was charged with one count of making false and fraudulent claims for disaster-assistance benefits and one count of making false and fraudulent statements to FEMA. She faces up to five years in prison per count if convicted.

According to the indictment, Preston got $2,000 after applying for disaster-relief benefits over the Internet in December, claiming she lived on Seventh Street in New Orleans.

James, 675 Wooddale Blvd., Apt. 75, was charged with one count of making false and fraudulent claims for disaster-assistance benefits and one count of making false and fraudulent statements to FEMA. He faces up to five years in prison per count if convicted.

The indictment alleges James got $2,000 after applying for disaster-relief benefits in September, claiming he lived at the same address in Apt. 142.

Ex-N.O. Officer Charged In Post-Katrina Theft (BRA)

By JOE GYAN JR., Advocate staff writer

Baton Rouge Advocate, January 21, 2006

NEW ORLEANS — A federal grand jury accused a former New Orleans police officer Friday of driving across state lines with a new pickup truck looted from a Cadillac dealership during Hurricane Katrina.

Willie Earl Bickham Jr. is charged with interstate transportation of a stolen motor vehicle: a black 2005 Chevrolet Silverado.

Houston police arrested Bickham in November driving the stolen truck. Police said he admitted taking the vehicle.

More than 200 vehicles were stolen from Sewell Cadillac Chevrolet in New Orleans in the aftermath of the Aug. 29 hurricane. New Orleans police acknowledged that some of the vehicles were taken to replace flooded patrol cars.

The Louisiana Attorney General's Office is investigating the Sewell matter.

U.S. Attorney Jim Letten said Friday that federal prosecutors and the FBI are keeping their ears “close to the track” for incidents such as Bickham’s that might arise and require federal attention.

The 36-year-old Bickham joined the New Orleans Police Department in 1992 and resigned from the force the week after Katrina.

If convicted, he faces up to 10 years in prison and $250,000 in fines.

Letten said Bickham is free on bond.

He is scheduled to appear in a New Orleans federal court Feb. 3.

Former NOPD Cop Indicted On Federal Charges (AP)

AP, January 23, 2006

NEW ORLEANS A former New Orleans police officer today faces a federal charge of allegedly driving a pickup looted from a Cadillac dealership across state lines.U-S Attorney Jim Letten says 36-year-old Willie Earl Bickham Junior was charged with felony interstate transportation of a stolen vehicle after his arrest in Houston.Bickham, who resigned from the police department the week after Hurricane Katrina, faces up to 10 years in prison if convicted. Copyright 2006 Associated Press. All rights reserved. This material may not be published, broadcast, rewritten, or redistributed.

Siemens Subsidiary Charged With $49 Million Contract Fraud (AP)

By MIKE ROBINSON, AP Legal Affairs Writer

AP, January 21, 2006

A Pennsylvania-based subsidiary of German electronics company Siemens AG and two of its executives have been indicted on charges of forming a sham partnership with a minority-owned company to land a $49 million county contract, prosecutors announced Friday.

The minority-owned company and its owner were also charged. Both were previously indicted in the investigation.

"Once again, we're here because fraud was involved in a major contract in Cook County," U.S. Attorney Patrick J. Fitzgerald told reporters in announcing the indictment that was returned Thursday.

Siemens Medical Solutions USA Inc., based in Malvern, Pa., was charged with fraudulently telling officials that it was partnering in the bid for the contract to provide radiology equipment to the county's new John H. Stroger Jr. Hospital with a minority-owned business, Faustech Industries Inc.

Prosecutors said Siemens claimed to be in partnership with Faustech because county officials were requiring that it was necessary to have 30 percent minority ownership to win the contract.

But in reality Siemens paid Faustech's sole owner, Faust Villazan, a flat fee of $500,000 to pose as a partner, according to the indictment. It said that Faustech had no partnership stake.

A spokesman for Siemens Corp., the parent company for its U.S. operations, says it broke no laws and will fight the charges.

"We felt the agreement was consistent with the minority rules," said spokesman Jack Bergen. "... The worst one could say is that we were in the wrong place in the wrong time."

Prosecutors said the alleged scheme frustrated the intention of county rules that were designed to ensure that minority-owned companies not only get a payment out of such contracts but share in the management and any profits or losses resulting from the enterprise.

The alleged scam was uncovered in 2000 when Fairfield, Conn.-based General Electric Co., which also had sought the contract, filed a lawsuit that claimed fraud was involved in awarding the contract to Siemens.

Robert D. Grant, special agent in charge of the Chicago office of the FBI, said the government is "determined to ensure that public contracts, especially those in the lucrative health care industry, are obtained based on merit and are not tainted by corruption."

Siemens Medical Solutions was charged with one count of wire fraud and one count of mail fraud. The company is a wholly owned U.S. medical supply subsidiary of Siemens AG, which is publicly traded and has headquarters in Erlangen, Germany.

Prosecutors also charged a pair of Siemens executives. Daniel Desmond, 43, of suburban Arlington Heights, was charged with one count each of mail fraud and wire fraud and perjury stemming from the General Electric suit. He is the district business administrator of the Siemens Medical district office in the Chicago suburb of Hoffman Estates.

His attorney, Royal B. Martin, said in a statement Friday that Desmond acted "in the best interests of both Cook County and his employer, Siemens, and welcomes having an impartial jury of his peers judge his conduct."

Ellen Roth, 61, of Ridgewood, N.J., an in-house attorney for Siemens, was charged with one count each of mail fraud, wire fraud and making false statements to the FBI. Telephone messages left for Roth and her attorney were not immediately returned.

Villazan, 44, of Western Springs and Faustech were indicted in September on charges of mail fraud, wire fraud and bribery in the case and denied the charges. The fresh indictment repeated those charges.

His attorney, Terrence Gillespie, said Friday he hadn't yet read the indictment and refused to comment.

"We're certainly not surprised," Gillespie said Friday. "We've known this was coming for a while."

Siemens' U.S.-listed shares fell $1.87, or 2.2 percent, to close at $84.23 on the New York Stock Exchange Friday.

Stroger Contractor Indicted In 'Sham' (CHIT)

By Mickey Ciokajlo And Robert Becker, Tribune Staff Reporters

Chicago Tribune, January 23, 2006

A federal grand jury has indicted Siemens Medical Solutions USA Inc. and two of its employees on fraud charges related to the awarding of a $49 million Cook County hospital contract.

The charges were announced today in a superceding indictment that also added new charges against minority contractor Faust Villazan and his former company, Faustech Industries.

Villazan, 44, of Western Springs, and Faustech originally were indicted in September for allegedly passing a $20,000 bribe to a Cook County employee to influence the award of the radiology contract during the construction of the new Stroger Hospital.

Villazan had joined with Siemens to form a joint venture in bidding on the contract. County rules at the time required a certain percentage of minority participation in contracts, and Villazan was a minority businessman.

In the superceding indictment handed up late Thursday afternoon, prosecutors alleged the joint venture was a sham and did not comply with county contracting rules because Villazan received a flat fee of $500,000 and did not share in the profit or loss of the deal.

Cook County required that 30 percent of the hospital contract go toward a minority- or women-owned business, U.S. Atty. Patrick Fitzgerald said at a news conference today to announce the charges.

"A minority business enterprise had to share in the risks and the losses, if the contract lost (money), and also share in the profits and genuinely in the work of what was happening," Fitzgerald said. "It was not simply you had to pay an amount of money to have a minority business affiliated with the contract."

Robert Grant, special agent in charge of the FBI's Chicago office, said Villazan entered into the Siemens deal "for the sole purpose of personal greed," saying, in effect, "I'm a minority business enterprise, and I'm for sale."

In the superceding indictment, Villazan and Faustech, which is now out of business, were charged with one count each of wire fraud, mail fraud and bribery.

Siemens Medical Solutions USA Inc., formerly Siemens Medical Systems, was indicted on one count each of wire fraud and mail fraud. A subsidiary of Siemens AG, of Germany, the unit has a local field office in Hoffman Estates.

Company employee Daniel Desmond, 43, of Arlington Heights, was indicted on one count each of mail and wire fraud as well as one count of perjury. Desmond was the company's district business administrator and was president of DD Industries, the joint venture that was formed for the bid and named after him.

Also, in-house Siemens lawyer Ellen Roth, 61, of Ridgewood, N.J., was indicted on one count each of wire fraud, mail fraud and making false statements to the FBI.

The defendants are to be arraigned at a later date in U.S. District Court in Chicago, prosecutors said.

DD Industries was awarded the county contract on Aug. 9, 2000. But that October, a competitor, GE Medical Systems, filed suit in federal court alleging fraud in the awarding of the contract.

The parties ultimately settled the suit, and nearly all of Stroger Hospital's radiology contract was transferred to GE, prosecutors said.

The superceding indict alleges that during court proceedings in the GE suit, the defendants concealed the side agreement between Siemens and Villazan, promising him the $500,000 payment.

Prosecutors said Desmond perjured himself in his trial testimony, and that an unnamed Siemens attorney kept Roth and corporate management apprised of the proceedings, and they did nothing to correct the official record.

Finally, Roth lied to FBI agents when they questioned her last September about an e-mail that confirmed the $500,000 flat-fee agreement between Siemens and Villazan, Fitzgerald said.

"If not for the light shed on the scheme by a competitor, this fraud might not have been uncovered," Grant said.

Desmond's attorney, Royal B. Martin, said in a statement that Desmond acted "in the best interests of both Cook County and his employer, Siemens, and welcomes having an impartial jury of his peers judge his conduct."

Villazan's attorney, Terrence Gillespie, said he had not yet read the indictment and refused to comment.

"We're certainly not surprised," Gillespie said. "We've known this was coming for a while."

A telephone message left with Roth was not immediately returned, the Associated Press reported.

If found guilty of the charges, the defendants face prison sentences of 5 to 10 years and fines in the hundreds of thousands of dollars, prosecutors said.

The Associated Press contributed to this story.

Firm Indicted In Scheme To Get Contract At Stroger Hospital (CHIT)

By Robert Becker And Mickey Ciokajlo, Tribune Staff Reporters

Chicago Tribune, January 23, 2006

A major corporation and two of its employees were indicted in a fraudulent scheme to win a $49 million Cook County contract, a deal that also involved bribery of a county employee, federal prosecutors alleged Friday.

A grand jury late Thursday handed up indictments against Siemens Medical Solutions USA Inc., a subsidiary of Germany-based Siemens AG, one of its in-house lawyers and a locally based district manager.

The officials allegedly schemed with a minority contractor, Faust Villazan, in setting up a shell company to win the contract for radiology equipment at the then-new Stroger Hospital.

U.S. Atty. Patrick Fitzgerald said Villazan and his company, Faustech Industries Inc., received a flat fee of $500,000 without providing any real service and without sharing in the risks or profits of the deal.

"The joint venture was, in fact, a sham," Fitzgerald said.

The Siemens subsidiary, company lawyer Ellen Roth and Hoffman Estates-based administrator Daniel Desmond were each indicted on one count of wire fraud and mail fraud.

Desmond, 43, of Arlington Heights, was also charged with perjury for allegedly lying about the deal in federal court after a competitor filed a lawsuit to nullify the deal. Roth, 61, of Ridgewood, N.J., was also charged with allegedly lying to FBI agents in 2004.

In September, Villazan and Faustech had been indicted on a bribery charge. Villazan allegedly paid a $20,000 bribe to an employee in the county's contract compliance office to influence the deal. The employee has not been charged or named by prosecutors. Thursday's superseding indictment added fraud charges against Villazan and Faustech.

Siemens officials and attorneys for the defendants denied any wrongdoing. "We broke no law, and the worst one can say is we were in the wrong place at the wrong time," said Jack Bergen, Siemen's senior vice president for corporate affairs and marketing.

"It is very sad that the government has chosen to seek federal charges in this case, especially against Ellen Roth, who has an excellent reputation as a lawyer and as a person," said her lawyer, Michael Monico. "We look forward to a trial and being vindicated in this matter."

The allegations underlying the indictments were originally brought to light more than five years ago when General Electric, a losing bidder for the radiology contract, filed a lawsuit in federal court. A magistrate determined that the joint venture did not comply with county minority set-aside guidelines, causing the County Board to cancel the deal and award the contract to GE for $57 million.

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Medical Supplier's Officials Indicted In Cover-up (CHIST)

By ABDON M. PALLASCH AND DAVE NEWBART, Staff Reporters

Chicago Sun-Times, January 21, 2006

An executive and an attorney for medical supply giant Siemens have been indicted for allegedly lying to the FBI and a federal judge to cover up a scheme in which Siemens paid a minority businessman to be their phony partner in a $49 million Cook County contract.

"They went before a judge and took an oath," said U.S. Attorney Patrick Fitzgerald.

Last year, a grand jury indicted businessman Faust Villazan for allegedly bribing an unidentified Cook County official with $20,000 to approve his bid for Siemens to supply radiology equipment at Cook County Hospital for $49 million.

All deny wrongdoing

The superseding indictment handed up late Thursday and made public Friday adds as defendants Siemens Medical Solutions USA, an American subsidiary of Germany's Siemens AG, an electronics powerhouse; Daniel Desmond, the business administrator of SMS's Hoffman Estates office, and Ellen Roth, in-house attorney for Siemens, USA.

Attorneys and representatives for Siemens, Roth, Desmond and Villazan all denied wrongdoing by their clients said they would be vindicated in court.

Instead of following the county's rules, which require a company to have a 30 percent minority partner, Siemens allegedly privately agreed to pay Villazan $500,000 to pretend to be a 30 percent partner.

"He had to share in the risks, the losses, the profits and the work," Fitzgerald said.

Siemens stood to make most of the profits from the $49 million deal under the secret agreement prepared with the knowledge of Siemens officials, Fitzgerald said.

GE -- which lost to Siemens in the bidding -- sued the county and Siemens in federal court, alleging fraud in the bidding process. Siemens officials, including Roth and Desmond, lied in court and said there had been no fraud, officials said. Roth told the FBI she would be "shocked" to learn that Siemens entered into any "side" agreement with Villazan to pay him just $500,000 on the deal instead of 30 percent, Fitzgerald said.

Chicago FBI chief Robert Grant said the true victims of the fraud were minority-owned businesses the county's rules were designed to help.

Fitzgerald would not elaborate on the $20,000 bribe Villazan allegedly paid a still-unidentified county official, or whether the donations Villazan and Siemens made to Cook County commissioners on the eve of the contract implicated any commissioner. Smiling, Fitzgerald acknowledged that count is "a bit skimpy" but noted the investigation continues.

Civil lawsuit credited

Fitzgerald's office has subpoenaed information from Commissioner Roberto Maldonado and interviewed Commissioner Joseph Mario Moreno. Villazan also made donations to County Board President John Stroger and Commissioner Deborah Sims.

Faustech and Siemens gave $3,000 to Maldonado before the bids were to be submitted. They gave Moreno $1,500 on July 2, 1999, and Stroger $500 on April 26, 2000.

"I think the feds should continue their investigation the way that they are doing," Maldonado said.

"It's unfortunate that anyone has to get involved in doing stuff like that to get business," Moreno said. "Certainly it doesn't surprise me."

Fitzgerald and Grant credited GE's civil lawsuit filed four years ago with starting the process of exposing the alleged fraud.

"If not for the light shed on this scheme by a competitor, this fraud might not have been uncovered," Grant said.

"I'm pleased to see that both the individuals and the companies involved are being called to account for their roles in perpetrating this scheme and attempting to cover it up," said GE's attorney Kathy Roach.

U.S. Magistrate Judge Geraldine Soat Brown ruled in the civil case that Faustech appeared to have been brought into the deal merely to facilitate "access" for Siemens executives to county officials.

Man Gets Four Years In Lucrative Credit Card Scam (AP)

AP, January 23, 2006

NEW ORLEANS A New Orleans man has been sentenced to four years in prison and ordered to pay 35-thousand dollars in restitution after a jury found him guilty of stealing the credit card numbers of people and using them to buy merchandise that he would resell.The U-S Attorney's Office says Jerome McNeil and an accomplice recruited some cashiers at Kenner's Esplanade Mall and a restaurant to use a credit card skimmer to record customers credit card numbers.McNeil then used those numbers to purchase items and sell them on the street at half price.U-S Attorney Jim Letten said the pair was so brazen that they even began to distribute business cards on the street.Letten said McNeil and his accomplice earned between six-thousand and eight-thousand dollars a day in cash between November 2002 and January 2003.(From WWL-TV, New Orleans)

Calling All Future Police Officers (CSM)

By Kris Axtman

The Christian Science Monitor, January 23, 2006

HOUSTON - It seems that police work - the ho-hum "protect and serve" variety once glamorized in the 1970s and '80s on TV shows like "Adam-12," "CHiPs," and "Hill Street Blues" - went out with wide lapels.

The result is a major shortage of police recruits - which has reached crisis proportions in some cities - and fewer cops on the street than top brass say are needed for public protection.

The problem has several sources: low pay, a big hole left by retiring baby boomers, and an image problem that steers the few young people who are interested in law-enforcement careers toward crime-scene investigation and forensics, rather than everyday street patrols.

To remedy the manpower shortage, some law-enforcement agencies are getting creative. They are giving new recruits help with down payments on homes and, for experienced officers in other locales, they are offering signing bonuses for switching to a new city. They're even encouraging their own officers to find new recruits in exchange for extra vacation time.

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"I haven't been to a place in this country where agencies aren't concerned about the number and quality of their officers," says Elaine Deck, who studies recruitment issues for the International Association of Chiefs of Police in Alexandria, Va.

The shortage has made officer retention a top concern of police departments, most of which report they are 10 percent shy of the numbers they need, she says. Law-enforcement agencies say the consequences are slower emergency-response times and backlogs in criminal cases.

In an aggressive move to get more boots on the ground, the Houston Police Department wants to offer $7,000 signing bonuses to any police officer who moves here and completes a 12-week modified training academy.

The idea is to lure experienced officers from other Texas law-enforcement agencies, so the city won't have to spend as much time training them. In return, the relocated officers will receive financial credit for up to five years of experience elsewhere - something that is not typically done.

The proposal came before a city council committee last week and hasn't yet been set for a full vote. The department hopes to train 70 "lateral" officers - those with experience in other Texas agencies - in March.

"I can't ever remember having a full lateral class, but we are already getting inquiries," says Craig Ferrell Jr., the department's general counsel, who says lateral classes average between 25 and 35 officers.

At the San Diego County Sheriff's Department in California, officials say such incentives are working. Down 10 percent on its staffing earlier this year, the department tripled its advertising budget and began offering signing bonuses of up to $5,000.

"It's starting to pick up. The incentives are helping," says Lt. Mike Barletta in the department's personnel division. "What we are actually doing is robbing nearby agencies of their people."

The recruiting has left some hard feelings at nearby agencies, but the sheriff's department's ad campaign is helping overall recruitment in the area by promoting law enforcement as a desirable career, he says.

The San Diego County department, like many agencies nationwide, began to see the number of recruits fall in the 1990s, but the drop-off became a crisis only in the past few years as retirements increased.

Lieutenant Barletta, for his part, also blames the media, which he says began to demonize police officers after the Rodney King beating by Los Angeles police officers in 1991.

"The glamour was taken off the job, and people began to think that all cops were bad," he says. "Who would want to put up with that?"

To try to make law enforcement an appealing career again, agencies across the nation are resorting to advertising campaigns. Others are changing physical agility tests to more accurately reflect the kind of work their officers do. Some are streamlining the recruiting process to put officers on the streets faster.

Some analysts ask, though, if such efforts will yield many recruits among a generation of young people with different ideas about work. "Those of us who began working in the 1960s and '70s live to work. Our identity is wrapped up in what we do," says Ms. Deck. "Young people today work to live. They are more concerned about spending time with family and friends."

That means working late or on weekends is less acceptable. The average starting salary, $32,000 a year, is another deterrent - especially as the economy picks back up.

"Police work, like patrolling, is dangerous, and the pay is too low," says Brittaney Riojas, a bubbly junior at Houston's High School for Law Enforcement and Criminal Justice.

Like many of her fellow students who have grown up in the computer age, Brittaney doesn't find old-fashioned police work very exciting. She wants to do crime-scene investigations. "Shows like 'CSI,' 'Without a Trace,' 'Numb3rs,' they make it seem so interesting," she says.

Aaron Najera, a junior, is one of the few at the magnet school interested in traditional policing. Given the staffing shortages, he doesn't expect to have a problem getting a police job here when he turns 21. "Since I was a kid, I've wanted to be a superhero who went around helping people. I figure the closest thing to that is a police officer."

CIVIL LAW:

Case Puts Focus On Conflicts Of Interest In Contracts (WP)

By Charles R. Babcock

The Washington Post, January 23, 2006

In August, local defense contractor Alion Science and Technology Corp. faced the imminent loss of one of its largest contracts, a $275 million deal helping manage the Pentagon's military communications network. The government had just announced that Advanced Engineering & Sciences of Reston, a division of contracting giant ITT Industries Inc., would take over the work.

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But today Alion, which has helped run the Pentagon's Joint Spectrum Center in Annapolis for decades, is back in contention for the job.

In a case that could signal a more aggressive federal approach toward potential conflicts of interest in contracting, Alion convinced government reviewers that a division of ITT should not be allowed to manage a program that potentially would be evaluating products made by the defense conglomerate -- or at least not without much more analysis then the Pentagon initially performed.

This month, the Government Accountability Office agreed, indicating that it was going to begin looking more closely at "organizational conflicts of interest" -- the potential for a company to end up in a situation in which it is essentially evaluating itself or its competitors -- and would make sure contracting agencies begin paying more attention as well.

The spectrum center oversees the military's expanding demand for radio frequencies, and it evaluates communications equipment for the armed services. Because ITT makes radio equipment, the GAO said that before the company could be awarded the contract, the military had to more carefully study its potentially "impaired objectivity" in carrying out the work.

The decision was "a bit of a shocker," said Christopher R. Yukins, who follows the issue as an associate professor of government contract law at the George Washington University Law School. The GAO sustains only about one of every five bid protests. While it had made a similar decision last year, Yukins said this case goes further and is a "clear statement [the GAO] is going to be second-guessing agencies, not deferring to them," if their analysis of possible conflicts is not thorough or well documented.

The potential for organizational conflicts is a growing concern as the government outsources more technical work to private companies and the defense industry continues to consolidate. In a recent paper, Daniel I. Gordon, who runs the GAO's bid protest operation, called organizational conflicts "a significant part" of the federal procurement landscape that "present an integrity challenge and merit attention."

Yukins added that Congress also has expressed concern about possible conflicts among "lead systems integrators," the contractors who in effect run large defense programs and pick other contractors to provide goods and services for the job. The defense authorization bill President Bush just signed includes a provision requiring the Defense Department to report on actions it is taking to prevent or mitigate such problems.

The contracting industry recognizes the potential problem but cautions agencies not to go too far. Chris Jahn, president of the Contract Services Association, a trade group representing more than 200 companies that perform $40 billion in government services contracts, said: "Where conflicts of interest do exist, contractors should disclose them and take necessary precautions to limit them, but they should still be allowed to fairly compete for those contracts. The government needs to then make an informed decision as to whether those conflicts are a significant issue."

Alion and ITT declined to comment on the substance of the recent GAO decision because the final contract winner hasn't been determined.

The new contract for managing the spectrum office is worth up to $500 million over 10 years. Officials at the Defense Information Systems Agency (DISA), which issued the award, said the agency would be "carefully reviewing GAO's decision and determining how best to proceed." In the meantime, the agency said Alion's current contract would be extended.

Alion, an employee-owned company that does almost all of its business with the Pentagon, has held contracts to help manage the Annapolis spectrum center since the 1960s.

The context for the dispute over the new contract is described in a U.S. Court of Federal Claims decision last fall. In ruling against an Alion effort to postpone the ITT award, Judge Lawrence J. Block noted that technology is changing how the military operates.

He described special forces troops in Afghanistan using space age communications while riding mules to call in precision airstrikes against Taliban targets. Such reliance has given the military "a nearly insatiable appetite" for new communications technology, Block wrote, and a crucial need for a range of electromagnetic spectrum.

Block's ruling said the Pentagon spectrum office experienced "a sea change" in the way it approached its job and sought a new contractor to supply more technical expertise. DISA concluded that only the ITT division could supply the personnel needed for the new work, which included preparing for important international meetings on use of the spectrum.

When the defense agency picked Advanced Engineering and Sciences in August, Alion filed a protest raising the conflict issue. That led the Pentagon to take "corrective action," the GAO decision said. It asked the bidders to submit revised plans for dealing with conflicts. ITT raised the idea of using subcontractors protected by a firewall to perform any functions it could not. DISA concluded the maximum potential for "impaired objectivity" would be 15 percent of the contract's projects and reconfirmed its award to the ITT division.

In sustaining a second Alion protest, the GAO noted that it was clear that ITT sold many radio and radar systems to the Defense Department and foreign governments.

It said DISA had "failed to reasonably identify and evaluate" ITT's possible conflicts.

Beware The B-Readers (WSJ)

The Wall Street Journal, January 23, 2006

Of all the unsavory details rolling out of investigations into the silicosis and asbestos scams, some of the ugliest concern doctors who abandoned their ethics to cash in. Even more disturbing is the growing evidence that what has allowed them to get away with this is a federal certification program.

That's why a coalition of industry and other groups has began pushing the National Institute for Occupational Safety and Health (Niosh) to start policing its "B-reader" program, which certifies doctors to read X-rays. The federal agency proposed new ethics rules in November, after a federal judge slammed several government-certified doctors who had ginned up sham diagnoses in a silicosis suit. But Niosh needs to go much further to clean up this corrupt corner of American medicine.

Niosh's B-reader program started in the 1970s, as the government tracked coal workers with black lung disease. Niosh was concerned about the competence of doctors reading chest X-rays, so it began a training course and test. Those who pass become known as "B-readers." By all accounts the test is difficult; pass rates can hover around 50%, a number that's even lower for recertification. Over time the program has certified some 1,200 B-readers, of which there are more than 500 today.

Most of these professionals perform valuable roles in the occupational-hazard world. But a growing number of B-readers are now leveraging their credentials to abet fraudulent litigation. These doctors churn out staggering numbers of X-ray "readings" that purport to find diseases such as asbestosis and silicosis -- readings that are then seen to come with a "government stamp of approval." Their standing is so high that litigators often forward their work as proof of a diagnosis, even though the medical world universally agrees that X-rays alone never prove a serious illness. In short, a program designed to raise standards has been hijacked for the opposite purpose. * * *

Reading any X-ray is tricky, and studies show there is a 30% variance in how even honest doctors read the same chest film. Yet the B-readers who've hired themselves out to lawyers have proven that their work has little to do with medicine.

In a 2004 study published in the journal Radiology, Johns Hopkins researchers obtained 492 chest X-rays that had been used in asbestos litigation. They then had these same X-rays examined by six independent B-readers, none of whom were told what the original interpretations had been, or even that the X-rays had been used in litigation. The initial (lawyer-retained) B-readers had found that 96% of the cases revealed abnormalities. The independent panel found 4.5%.

Niosh has also found amazing disparities. One famous example involved a tort bar scheme called the National Tire Workers Litigation Project, which sent doctors around the country in mobile X-ray vans to screen rubber workers for asbestosis. Information distributed to tire workers stated that 64% of those screened at one location had shown positive for asbestosis, and 94% at a second location. Yet when Niosh had an independent panel evaluate X-rays of tire workers most at risk for the disease, it found asbestosis in 0.2%.

What kicked off this recent scrutiny of B-readers was Texas federal Judge Janis Graham Jack's withering decision in a giant silicosis suit last July, in which she found that doctors had been "manufacturing" claims for money. Of the seven physicians she singled out for special criticism, five were Niosh-certified B-readers. Some of these doctors simply signed diagnosing language provided to them by others. Some did not write, read or sign their own reports. More than 6,000 of the 10,000 silicosis plaintiffs had also filed asbestos claims, despite the medical rarity of having both diseases; sometimes the same doctor had signed both reports.

None of this is surprising considering these "doctors" have become little more than experts-for-hire. Certain B-readers long ago came to understand that their government-issued credentials made them valuable in court, and therefore worth a lot of money. Many doctors are paid more if they find a disease than if they don't. Dr. Ray Harron, a key figure in silicosis-asbestos diagnoses, made an estimated $5 million for his work for one screening company. * * *

In a better world, these doctors would have been stopped long ago by state medical boards, which are supposed to enforce medical standards. These bodies have come in for a lot of deserved criticism of late for their reluctance to discipline these doctors, yet so far have shown no signs of cracking down.

Another possibility is greater involvement by professional bodies, although that has its limits. The current ethics committee chair for the American College of Radiology, Dr. Leonard Berlin, tells us that even if the college has real evidence of wrongdoing, the most it can do is "either suspend or revoke their membership. It doesn't stop them from practicing."

Which gets back to Niosh. The agency's new ethics rules are a good start, particularly as they are aimed at B-readers involved in litigation. But the outside commentators are on to something when they suggest that Niosh also audit doctors who receive its government-sanctioned credentials. The agency already conducts an audit program for respirator devices, and a similar one could be set up for B-readers. It might start by investigating the X-rays that Judge Jack still has in her court document depository.

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If Niosh isn't willing to audit, perhaps it should abolish the B-reader program altogether. Other countries have managed to turn out qualified X-ray readers without such special credentials. But certainly the last thing we need is for the federal government to keep blithely providing yet more "expert witnesses" to corrupt the court system.

CIVIL RIGHTS:

Politics Alleged In Voting Cases (WP)

By Dan Eggen

The Washington Post, January 23, 2006

The Justice Department's voting section, a small and usually obscure unit that enforces the Voting Rights Act and other federal election laws, has been thrust into the center of a growing debate over recent departures and controversial decisions in the Civil Rights Division as a whole.

Many current and former lawyers in the section charge that senior officials have exerted undue political influence in many of the sensitive voting-rights cases the unit handles. Most of the department's major voting-related actions over the past five years have been beneficial to the GOP, they say, including two in Georgia, one in Mississippi and a Texas redistricting plan orchestrated by Rep. Tom DeLay (R) in 2003.

The section also has lost about a third of its three dozen lawyers over the past nine months. Those who remain have been barred from offering recommendations in major voting-rights cases and have little input in the section's decisions on hiring and policy.

"If the Department of Justice and the Civil Rights Division is viewed as political, there is no doubt that credibility is lost," former voting-section chief Joe Rich said at a recent panel discussion in Washington. He added: "The voting section is always subject to political pressure and tension. But I never thought it would come to this."

Attorney General Alberto R. Gonzales and his aides dispute such criticism and defend the department's actions in voting cases. "We're not going to politicize decisions within the department," he told reporters last month after The Washington Post had disclosed staff memoranda recommending objections to a Georgia voter-identification plan and to the Texas redistricting.

The 2005 Georgia case has been particularly controversial within the section. Staff members complain that higher-ranking Justice officials ignored serious problems with data supplied by the state in approving the plan, which would have required voters to carry photo identification.

Georgia provided Justice with information on Aug. 26 suggesting that tens of thousands of voters may not have driver's licenses or other identification required to vote, according to officials and records. That added to the concerns of a team of voting-section employees who had concluded that the Georgia plan would hurt black voters.

But higher-ranking officials disagreed, and approved the plan later that day. They said that as many as 200,000 of those without ID cards were felons and illegal immigrants and that they would not be eligible to vote anyway.

One of the officials involved in the decision was Hans von Spakovsky, a former head of the Fulton County GOP in Atlanta, who had long advocated a voter-identification law for the state and oversaw many voting issues at Justice. Justice spokesman Eric W. Holland said von Spakovsky's previous activities did not require a recusal and had no impact on his actions in the Georgia case.

Holland denied a request to interview von Spakovsky, saying that department policy "does not authorize the media to conduct interviews with staff attorneys." Von Spakovsky has since been named to the Federal Election Commission in a recess appointment by President Bush.

In written answers to questions from The Post, Holland called allegations of partisanship in the voting section "categorically untrue." He said the Bush administration has approved the vast majority of the approximately 3,000 redistricting plans it has reviewed, including many drawn up by Democrats.

Holland and other Justice officials also emphasize the Bush administration's aggressive enforcement of laws requiring foreign-language ballot information in districts where minorities make up a significant portion of the population. Since 2001, the division has filed 14 lawsuits to provide comprehensive language programs for minorities, including the first aimed at Filipino and Vietnamese voters, he said.

"We have undertaken the most vigorous enforcement of the language minority provisions of the Voting Rights Act in its history," Holland said.

Some lawyers who have recently left the Civil Rights Division, such as Rich at the Lawyers' Committee for Civil Rights Under Law and William Yeomans at the American Constitution Society, have taken the unusual step of publicly criticizing the

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way voting matters have been handled. Other former and current employees have discussed the controversy on the condition of anonymity for fear of retribution.

These critics say that the total number of redistricting cases approved under Bush means little because the section has always cleared the vast majority of the hundreds of plans it reviews every year.

The Bush administration has also initiated relatively few cases under Section 2, the main anti-discrimination provision of the Voting Rights Act, filing seven lawsuits over the past five years -- including the department's first reverse-discrimination complaint on behalf of white voters. The only case involving black voters was begun under the previous administration and formally filed by transitional leadership in early 2001.

By comparison, department records show, 14 Section 2 lawsuits were filed during the last two years of Bill Clinton's presidency alone.

Conflicts in the voting-rights arena at Justice are not new, particularly during Republican administrations, when liberal-leaning career lawyers often clash with more conservative political appointees, experts say. The conflicts have been further exacerbated by recent court rulings that have made it more difficult for Justice to challenge redistricting plans.

William Bradford Reynolds, the civil rights chief during the Reagan administration, opposed affirmative-action remedies and court-ordered busing -- and regularly battled with career lawyers in the division as a result. During the administration of George H.W. Bush, the division aggressively pushed for the creation of districts that were more than 60 percent black in a strategy designed to produce more solidly white and Republican districts in the South.

These districts were widely credited with boosting the GOP in the region during the 1994 elections.

Rich, who worked in the Civil Rights Division for 37 years, said the conflicts in the current administration are more severe than in earlier years. "I was there in the Reagan years, and this is worse," he said.

But Michael A. Carvin, a civil rights deputy under Reagan, said such allegations amount to "revisionist history." He contended that the voting section has long tilted to the left politically.

Carvin and other conservatives also say the opinions of career lawyers in the section frequently have been at odds with the courts, including a special panel in Texas that rejected challenges to the Republican-sponsored redistricting plan there. The Supreme Court has since agreed to hear the case.

"The notion that they are somehow neutral or somehow ideologically impartial is simply not supported by the evidence," Carvin said. "It hasn't been the politicos that were departing from the law or normal practice, but the voting-rights section."

In Mississippi in 2002, Justice political appointees rejected a recommendation from career lawyers to approve a redistricting plan favorable to Democrats. While Justice delayed issuing a final decision, a panel of three GOP federal judges approved a plan favorable to a Republican congressman.

The division has also issued unusually detailed legal opinions favoring Republicans in at least two states, contrary to what former staff members describe as a dictum to avoid unnecessary involvement in partisan disputes. The practice ended up embarrassing the department in Arizona in 2005, when Justice officials had to rescind a letter that wrongly endorsed the legality of a GOP bill limiting provisional ballots.

In Georgia, a federal judge eventually ruled against the voter identification plan on constitutional grounds, likening it to a poll tax from the Jim Crow era. The measure would have required voters to pay $20 for a special card if they did not have photo identification; Georgia Republicans are pushing ahead this year with a bill that does not charge a fee for the card.

Holland called the data in the case "very straightforward," and said it showed statistically that 100 percent of Georgians had identification and that no racial disparities were evident.

But an Aug. 25 staff memo that recommended opposing the plan disparaged the quality of the state's information and said that only limited conclusions could be drawn from it.

"They took all that data and willfully misread it," one source familiar with the case said. "They were only looking for statistics that would back up their view."

Mark Posner, a former longtime Civil Rights Division lawyer who teaches election law at American University, noted that Justice could have taken as many as 60 more days -- rather than seven hours -- to issue an opinion because of the new data.

Staff writer Thomas B. Edsall and researcher Julie Tate contributed to this report.

Demonstrators Mark Roe V. Wade Anniversary (AP)

By Martiga Lohn

The Associated Press, January 23, 2006

ST. PAUL, Minn. -- Thousands of abortion opponents massed outside Minnesota's Capitol on Sunday in one of several protests nationwide on the 33rd anniversary of the Roe v. Wade ruling, amid heightened hopes and fears over what a new face on the Supreme Court will mean for the decision establishing abortion rights.

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A crowd of sign-wavers clad in parkas, winter boots and collars turned up against a cutting wind to call for a ban on public funding of abortion.

"We must stop abortion in our state," said Scott Fischbach, head of Minnesota Citizens Concerned for Life. "Things are changing in this country."

Many abortion opponents said they were heartened by President Bush's choice of Samuel Alito to replace Justice Sandra Day O'Connor, a moderate who was often the court's swing vote.

Alito, who appears to have solid support from the Senate's Republican majority, refused during his confirmation hearings to agree with assertions by Democrats that Roe v. Wade was "settled law," upsetting supporters of abortion rights and heartening opponents.

"We have a dream today that someday soon this will not be an anniversary of sadness, but an anniversary of justice restored," said Minnesota's Republican Gov. Tim Pawlenty.

In San Francisco, thousands of abortion opponents shouldering signs with slogans such as "Peace Begins in the Womb" marched Saturday, while abortion rights supporters along the march route waved clothes hangers and shouted "Bigots go home."

"Abortion rights have been slowly whittled away while we haven't even been looking," said Kitty Striker, 22, who decorated her hair with small coat hanger replicas for the counter-protest. "That's what's so shocking and so scary to me."

In Idaho, nearly 400 abortion protesters marched at the Statehouse Saturday, including Reid Richardson and his 5-year-old stepdaughter, Allie Zebley, who carried sign with her ultrasound photo and the words, "This is me at 16 weeks."

About half that number gathered Sunday outside the Idaho Capitol in support of abortion rights.

"When American women are barred from accessing health services at the whim of a politician's religious beliefs, we are not in a democracy at all," said Bree Herndon-Michael, a member of the Idaho Women's Network.

The largest abortion demonstration was expected Monday in Washington, D.C., where anti-abortion activists planned to converge on the mall to hear speakers supporting their cause and march on the Congress and Supreme Court.

Many who support abortion rights held a candlelight vigil in front of the Supreme Court Sunday night, waving signs that read: "Alito-No Justice For Women," and "Keep Abortion Legal."

The nation's high court made abortion legal on Jan. 22, 1973. But efforts to restrict or outlaw the procedure have been just as enduring; 34 states have passed laws requiring parents either to be notified or to give consent when their underage daughters seek abortions.

This year, abortion foes in Minnesota will try to encourage the Legislature to ban public funding of abortions for Medicaid recipients, which has been required since a 1995 state Supreme Court decision. They are also campaigning against the re-election of a justice who supported the decision.

In Michigan, a group of ministry leaders used the anniversary to launch a new anti-abortion organization, Michigan Chooses Life. One goal is to support efforts to get a measure on the 2006 ballot that would change the state constitution to legally define a person as existing at the moment of conception. The American Civil Liberties Union of Michigan has said that even if the measure does succeed, it will be challenged in court.

Pro-life Groups See Brighter Days (WT)

By Joyce Howard Price

The Washington Times, January 23, 2006

As tens of thousands of abortion foes prepare for today's 33rd annual March for Life, they are buoyed by developments they see as promising for their cause, both at the state and federal levels.

"The pro-life movement is in the best position it has ever been in," said Wendy Wright, executive vice president of Concerned Women for America (CWA).

Pro-life advocates are excited about broad abortion bans proposed by lawmakers in two states, Ohio and Indiana.

It's their hope that these bills become law and that the statutes are eventually considered and upheld by a more conservative U.S. Supreme Court in a challenge to the Jan. 22, 1973, ruling in Roe v. Wade that abortion was a constitutional right.

"We're seeing, after many years of education and work, that people are beginning to understand the pro-life movement. The culture is shifting to a more pro-life perspective," said Tony Perkins, president of the Family Research Council, which opposes abortion.

Miss Wright of CWA agrees. "The American public better understands what abortion has done to women and our country" by destroying innocent lives, she said.

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The March for Life, sponsored by the March for Life Education and Defense Fund, is held annually in Washington, on or near the anniversary of the Roe v. Wade ruling. March leaders have estimated the number of protest marchers each of the past two years at 100,000.

As usual, this year's event begins with a noon rally. But unlike the past, it will not be held on the Ellipse near the White House. The staging area "will be on the Mall at Seventh Street," march organizer Nellie Gray said. After the rally, the crowd will march along Constitution Avenue, passing Congress and ending at the Supreme Court on First Street Northeast.

Pro-life advocates make it clear they are optimistic the Supreme Court will be more favorable to abortion restrictions, with the addition of Chief Justice John G. Roberts Jr. and this week's expected confirmation of Judge Samuel A. Alito Jr.

Judge Alito said he would have "an open mind" about any challenge to Roe v. Wade, while previous nominees such as Ruth Bader Ginsburg and Stephen G. Breyer have declared Roe fundamental law.

Vicki Saporta, president of the National Abortion Federation, said that Judge Alito "has not been confirmed yet" and that advocates for abortion rights are "still trying to defeat his nomination."

She said she isn't afraid of the abortion bans some states are eyeing. "I think any such law would be declared unconstitutional," she said.

Pro-life and pro-choice advocates alike saw victory in a unanimous opinion the Supreme Court rendered Wednesday, when it said lower courts erred by ruling a New Hampshire law requiring parental notification for minors seeking abortions was unconstitutional.

"The justices respected the law of the state and the right of parents to know if their minor daughter will have an abortion," said Carrie Gordon Earll, senior analyst for bioethics with Focus on the Family, a pro-life group based in Colorado Springs.

On the other side, Ms. Saporta said she is encouraged that the Supreme Court asked lower courts to examine the potential for parental notification waivers in cases where a girl's health is at risk in an emergency. At this time, waivers are permitted if a pregnant teenager's life is at risk but not for health emergencies that are not life-threatening.

It's still uncertain whether the Ohio and Indiana bills to ban abortions in those states will advance. Jon A. Husted, Ohio's Republican House Speaker, said Wednesday he plans no more hearings on the measure.

Indiana Gov. Mitch Daniels, a Republican who opposes abortion, told the Associated Press on Wednesday he thinks the proposed abortion ban in that state has a "very limited prospect of ultimate success" until Americans become less divided on abortion.

In a report last week, the group NARAL Pro-Choice America gave 19 states a failing grade in reproductive rights. Ohio, Indiana and South Dakota made the list, as did Virginia, Alabama, Arkansas, Idaho, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, North Dakota, Pennsylvania, South Carolina, Texas, Utah and Wisconsin.

If You Choose Not To Decide, You Still Have Made A Choice (WSJ)

By James Taranto

The Wall Street Journal, January 23, 2006

The astonishing thing about Justice Sandra Day O'Connor's opinion in Ayotte v. Planned Parenthood -- last week's case involving New Hampshire's Parental Notification Prior to Abortion Act -- is that it was for a unanimous court. This is the first time in the 33-year history of Supreme Court abortion jurisprudence that the court has decided a case by a 9-0 vote. That unanimity is the key to understanding Ayotte's significance, which is political more than legal.

The court vacated a ruling of the First U.S. Circuit Court of Appeals that had overturned the statute on the ground that in some cases it imposed an "undue burden" on a girl seeking an abortion, which is unconstitutional under the 1992 Planned Parenthood v. Casey precedent. The justices sent the case back to the lower court with the instruction that it issue "either an injunction prohibiting [only] unconstitutional applications or a holding that consistency with legislative intent requires invalidating the statute in toto." Whatever the First Circuit does, it is likely to be appealed, so the case stands a good chance of ending up before the high court again.

If the court does rule on the statute again, it is sure to be divided. In the Casey case, Justice John Paul Stevens disagreed with the majority's rationale for upholding a parental consent statute. Justices Ruth Bader Ginsburg and Stephen Breyer have indicated that their approach to the question is similar to Justice Stevens's. On the other side, Justices Antonin Scalia and Clarence Thomas argued in Casey that there is no constitutional protection for abortion.

Under normal circumstances, all these justices probably would have filed or joined separate concurring or dissenting opinions in Ayotte expressing or reiterating their views. Instead, they silently joined Justice O'Connor's decision, which they were able to do because she stipulated at the outset that "we do not revisit our abortion precedents today." The justices agreed to disagree, and found common ground by reaching the narrowest possible conclusion. They also did it very quickly, deciding the case just seven weeks after it was argued, and in time to dispose of it -- at least for now -- before Samuel Alito takes his seat.

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Why would the court do this? Probably for institutional reasons -- to insulate itself from politics. The court currently is in flux: It has a new chief justice; it is about to get a new associate justice; and another vacancy or two -- with the attendant political battle -- is a distinct possibility in the next few years. For the court's sake, it is better to leave any consideration or reconsideration of the constitutionality of abortion for a time of greater stability in the court's personnel.

Consider what might have happened if the initial vote on whether to uphold the New Hampshire law was 5-4, with Justice O'Connor in the majority (on either side). If the court had dealt with the case at its usual pace, it would not have been decided before Judge Alito's confirmation, which means the case would be reheard, and Justice Alito would cast the deciding vote.

That in itself is unproblematic, but in the normal course of things, Justices Scalia and Thomas would write separate opinions, either concurrences or dissents, restating their view that Roe v. Wade should be overturned. Suppose further that Justice Alito and Chief Justice John Roberts agreed with Justices Scalia and Thomas. Then there would be four justices on record for overturning Roe.

This would drastically raise the stakes if Justice Stevens or Justice Ginsburg were to retire. There has never been a Supreme Court vacancy at a time when the court was split 4-4 between justices on record supporting Roe and those favoring its invalidation -- though there was reason to suspect the court was evenly divided in 1987, when President Reagan unsuccessfully nominated Robert Bork. Justice Scalia had not yet taken a position, but his views were easy to guess. Justice O'Connor, although she had refrained from either endorsing or opposing Roe explicitly, had voted with dissenters William Rehnquist and Byron White in cases involving abortion regulation and thus was easily mistaken for a Roe foe. Considering the ugliness of the Bork battle and the bitterness that lingers nearly two decades later, the court did itself and the country a service by avoiding this divisive matter for now.

In addition, if one assumes that both Chief Justice Roberts and Judge Alito are inclined to overturn Roe, there are good strategic reasons why both anti- and pro-Roe justices would not want them to say so immediately. The anti-Roe side does not have enough votes to prevail, even with the new justices; whereas the pro-Roe side may hold out hope of persuading one or both of them, which would be much harder to do once they have gone on the record. Only Chief Justice Warren Burger has ever switched sides on Roe after publicly taking a position, and he retired less than two weeks later.

Ayotte is reminiscent of Bush v. Palm Beach County Canvassing Board, the first 2000 election case, in which the justices unanimously vacated a ruling of the Florida Supreme Court that was designed to manufacture votes for Al Gore, and instructed the state court to find an equitable solution to the election dispute. Everyone remembers what happened eight days later, when a sharply divided Supreme Court, in Bush v. Gore, effectively decided the election in George W. Bush's favor. The court paid an institutional price for doing so. But in Bush v. Palm Beach, the justices were united in an attempt to avoid this eventuality by giving Florida's high court a chance to resolve the matter.

Unlike in the election cases, the Supreme Court is not racing the clock to resolve the abortion question. Most likely, sometime in the next decade the court will either overturn or reaffirm Roe. If President Bush gets to replace another pro-Roe justice or two, or a Republican is elected president in 2008, Roe will probably be history. Otherwise, it will be with us for another generation. In either case, politics will determine the outcome of what should have been a political matter all along, but the political battles over the next court appointees may be less bloody than if Chief Justice Roberts and Justice Alito took a position now.

As a matter of law, Ayotte itself is no more than a historical footnote. But if it helps to bring about a civilized resolution of an issue that has roiled American politics for decades, it will deserve to be remembered as a great act of judicial statesmanship.

Where The Real Action Is... (TIME)

By karen tumulty

Time, January 23, 2006

Not since the doomed Robert Bork has there been a Supreme Court nominee with such a clear record of opposition to abortion. And yet, as Samuel Alito moves closer to Senate confirmation this week, the rumble that many expected over his position on the issue has failed to materialize. That in itself tells us something about the nature of the abortion wars today.

Listening just to the alarms of abortion-rights groups on the one hand and the cheers of opponents on the other, you could come away with the impression that the fate of Alito's nomination will determine whether abortion remains available in this country. That is not what is at stake. Alito's confirmation would not produce the votes sufficient to overturn the Supreme Court's landmark Roe v. Wade decision guaranteeing abortion rights throughout the country. And even if Roe is reversed in the future, states will be free to preserve abortion rights, and many almost surely will. Today the tussle is over not whether abortion will exist but how. In that respect, the terms of the debate have caught up with the public's attitude toward the issue: polls consistently show that most people in the U.S. want abortion to be legal; they just don't want it to be easy.

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That sentiment has been expressed in a variety of measures passed by legislatures since a 1989 Supreme Court ruling gave states more leeway to restrict abortion. It's a reality the Supreme Court reaffirmed just last week. In a narrowly written but unanimous decision authored by Sandra Day O'Connor, the high court backed away from directly interfering with a New Hampshire law. The Justices said a lower court should not have struck down a parental-notification requirement entirely, and ordered the judges to come up with a more limited version that would protect the health of girls seeking abortions in emergency situations.

On the eve of the 33rd anniversary of Roe v. Wade, TIME took a look at the situation in the state of Missouri, where the 1989 case originated, to explore how the shifting battlefield affects the making of abortion law and to examine the impact of state restrictions on women who find themselves unhappily pregnant.

Consider, for example, the case of a 22-year-old unmarried woman we will call Lisa, who missed her period last November. Lisa, who was managing a restaurant, decided to have an abortion. Her timing could have been better. Just the month before, Springfield's only abortion provider, which had been operating five days a week just 15 minutes from her home, closed its doors. "The environment here in Missouri is so hostile," its administrator told the local paper. With four abortion doctors left in the state, compared with 10 as recently as 1996, Lisa's closest alternative turned out to be the Planned Parenthood clinic in St. Louis, an eight-hour round trip by car. That meant Lisa, who has no car, not only had to ask a friend to drive her but also had to come up with an excuse for missing two days of work, because she was afraid to tell her boss the truth. Two weeks later, she had to make the trip again, for a follow-up exam that lasted about five minutes. She figures the whole episode--the clinic's bill, the prescription for the abortion drug mifepristone, gasoline, food and incidentals--cost her a little more than $600. "It was all very frustrating," Lisa told TIME a month after her abortion. "I only recently paid back everyone I borrowed money from."

Increasingly, the question of how difficult it is to get an abortion--and sometimes whether you can get one at all--depends on where you live and how much money you have. Last year state legislatures across the country passed 52 new laws restricting abortion, more than twice as many as in 2004.

Few states were more active than Missouri, where Republicans last year took control of the Governor's mansion and both houses of the legislature for the first time in 84 years and thus strengthened the antiabortion majority in the statehouse in Jefferson City. Governor Matt Blunt even summoned the legislature into special session in September to pass bills that allow civil suits to be brought against anyone who helps a Missouri teen obtain an abortion without a parent's consent and that require doctors who perform abortions to have privileges at a hospital within 30 miles of the clinic. Generally, only local doctors can get those, and abortion providers often do not live close to where they work. That was largely why the Springfield clinic closed. The Missouri legislature is back in session this month, and abortion-rights foes have another list of bills they hope to pass, including one that would protect pharmacists who refuse to fill prescriptions for morning-after pills from lawsuits and employer sanctions, give tax credits to centers that discourage pregnant women from having abortions, and require that pain relief be given to fetuses that are aborted after 20 weeks of pregnancy.

One reason that abortion-rights opponents in Missouri and elsewhere succeed in winning restrictions is that regulations on the procedure generally enjoy broad popular support, even among people who say they want to keep abortion legal. Pollsters say that Americans' views on abortion have shifted relatively little since Roe v. Wade, that they have always been complicated and that sometimes they are even contradictory. In a survey by the Pew Research Center last July, for instance, 65% of those polled said they oppose the idea of overturning Roe v. Wade, but nearly an identical percentage said they would like to see more legal restrictions. Among the most popular: mandatory waiting periods, parental- and spousal-notification requirements and a ban on all late-term abortions.

Americans tend to have little sympathy or support for the reasons most women seek an abortion. In a 2004 study, the Guttmacher Institute--an abortion-rights advocacy group whose data are considered the best on the issue and are cited by both sides in the debate--found that the two most common reasons given by women are that "having a baby would dramatically change my life" and "I can't afford a baby now." Both were mentioned by more than 70% of the 1,160 women surveyed. And yet numerous polls have found that most Americans say they think abortion should be illegal in those circumstances--a position that cannot be reconciled with their expressed support for Roe v. Wade. In a Pew poll last October, a majority of Americans said they supported legal abortion only in the case of rape, when the mother's life or health is endangered or when there is a strong chance of serious birth defect.

No one so far has seriously tried to legislate the reasons a woman can have an abortion, but restrictions have taken many other forms. Do these laws actually bring about a reduction in the number of abortions, a goal that abortion-rights advocates also support? Even before many of the restrictions went into effect, the abortion rate and the overall number of abortions in the U.S. were on the decline. In 2000, the latest year for which Guttmacher has compiled statistics, the abortion rate was 21.3 abortions per 1,000 women ages 15 to 44, which was the lowest since 1974 and down from a peak of 29.3 abortions per 1,000 women in

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1980 and 1981. In 2000 a total of 1.31 million pregnancies ended in abortion, down from a high of 1.61 million in 1990. In Missouri the reductions in both figures in recent years have been even sharper.

The reason for the declines is a matter of dispute. Economic growth, better contraception and safe-sex practices probably all contribute to the trend. But a 2004 study by researcher Michael J. New for the conservative Heritage Foundation found that states that have adopted laws regulating abortion experienced a larger decline than those that have not. Reductions are particularly steep, he found, in states that restricted the use of Medicaid funds to pay for poor women's abortions and those that required pre-abortion counseling about fetal development and abortion risks. (Lisa complied with that rule by phone.)

Some of those who deal with women seeking abortions have different theories. "The restrictions may stop some, but we think things like the 24-hour waiting period and the reduction of the numbers of clinics do not reduce abortions. They increase later abortion," says St. Louis--region Planned Parenthood CEO Paula Gianino, who has been at the organization for 15 years. While Missouri keeps no statistics that would back up that contention, a 2000 study by Guttmacher conducted in Mississippi found that the percentage of second-trimester abortions increased after the state adopted mandatory counseling and waiting periods in 1992.

Despite that, Gianino says, women overall are having abortions at earlier stages of gestation than ever, largely because better pregnancy tests are on the shelves of every drugstore. And there are alternatives to surgical abortion that weren't around years ago, which give women a greater incentive to make their abortion decision early in their pregnancy. Fully 24% of the St. Louis Planned Parenthood clinic's first-trimester abortions are being done with mifepristone, formerly called RU-486, which was federally approved in 2000 for use in the first 49 days of pregnancy. Two years ago, it was only 18%. And finally, there is an alternative that one side of the debate calls contraception and the other considers abortion: the so-called morning-after pill, which must be taken within 72 hours of intercourse to be effective. The Planned Parenthood affiliate in St. Louis performed about the same number of abortions (approximately 6,300) in 2004 as in 2003. But in the same time period, the number of morning-after kits they dispensed--containing a pregnancy test, four birth-control pills and a booklet advising the user not to take the pills if already pregnant--jumped, to 8,000 from 6,500.

Missouri's new restriction concerning minors is already having an impact. Missouri has become the first state to extend its parental-notification law beyond its state line, a move aimed across the Mississippi River at the Hope Clinic, a low-slung building that sits amid a vast industrial park in Granite City, Ill. A recent morning found a security guard posted out front and a waiting room filled with anxious-looking young women, along with a few boyfriends, husbands and children. Because Illinois has no parental-notification law, Hope Clinic had been the easiest option for Missouri teens seeking to get an abortion without telling their parents. But the new Missouri law that makes it possible to sue anyone who provides an abortion to a Missouri resident under age 18 without written consent of a parent has Hope demanding proof of age of all prospective patients.

Hope counselor Zoila Rendon-Ochoa recently received a call from a St. Louis woman who spoke only Spanish and identified herself as an illegal Mexican immigrant working as a dishwasher in a restaurant kitchen. In her ninth week of pregnancy, she had left Mexico with no birth certificate; she had no driver's license or other identification. "I can't have this baby," she pleaded. Recalls Rendon-Ochoa: "Before the law, we could have given her an abortion. She kept saying to me, 'You can trust me. I'm 24,' but we couldn't prove it. She asked me, 'Where do I go now?' I couldn't tell her. I would guess that she carried the baby to term."

In another case at Hope, a 17-year-old high school student from St. Louis appeared with her boyfriend. She said she did not know where her mother or father was. She was told to get a judge's order that would allow the abortion without parental consent. Another 17-year-old who was turned away said she would return after her birthday in several weeks, thus increasing the risk and expense of the procedure.

Some abortion-rights foes say that if they want to win the political battle in the long run, they will have to prove that there are alternatives to abortion and that they can work. In 1997, for instance, Missouri passed a tax credit for donations to maternity homes. These activists also acknowledge that they bear a special burden to help women trying to raise babies they can't afford. Larry Weber, executive director of the Missouri Catholic Conference, notes that the year after abortion-rights opponents helped rally support in 1993 to make more people eligible for Medicaid, the abortion rate dropped sharply.

It's impossible to say precisely what caused the drop, and the rate was up again slightly two years later. Meanwhile, those on the other side say that reducing the number of abortions is not the only measure of success. "You have to look at the long-term social effects," says Pamela Sumners, Missouri executive director of NARAL Pro-Choice, the abortion-rights advocacy group. "There's a greater likelihood that teenage mothers in particular and their children will wind up on public assistance, drop out of high school, end up in low-wage jobs--all things that are not good for society."

Both sides might look to college dropout Jessica Schutte, 23, to make their point. When Schutte got pregnant in the fall of 2004, her family members urged her to have an abortion, but she resisted, figuring it wasn't her baby's fault that she hadn't used birth control. Things didn't work out with her boyfriend, so he started making calls to find her a place to live and came upon Our

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Lady's Inn, a St. Louis maternity home. Schutte was 8 1/2 months along and terrified when she moved in, figuring that she had landed in what amounted to a homeless shelter. But the inn gave her classes in child development and taught her how to feed a baby, when to get him vaccinated, even how to clean a house. It also taught her about safe sex. "I learned how to be a good parent, and I became confident that I could do that," she says.

But she still can't do it alone. Earlier this month, she got a $7-an-hour cashier job at a Family Dollar store; about $30 of her $200-a-week paycheck goes to child care for her son Hayden, 8 months old. She still lives in an apartment subsidized and furnished by Our Lady's Inn. Pointing to her spartan surroundings, she notes, "All the furniture in this apartment is theirs. All of it: the TV, the bed, the couch, the crib, the coffee table, dishes--everything I need."

Schutte talks of paying off her $2,500 student debt, getting state grants to go back to nursing school and eventually moving back to her hometown, Cedar Hill. All those things are going to take more than a few donations from a do-gooder group. But just like Lisa, Jessica Schutte had a choice when it came to having an abortion. And she decided, no matter how hard it gets, she wants to watch that choice grow up.

White House To Push Military On Jesus Prayer (WT)

By Julia Duin

The Washington Times, January 23, 2006

The White House will pressure the Pentagon into being more explicit in saying that military chaplains can pray in the name of Jesus Christ, an evangelical Christian chaplains' group says.

The administration struck a deal on Thursday with Rep. Walter B. Jones, North Carolina Republican, said the Rev. Billy Baugham of the Greenville, S.C.-based International Conference of Evangelical Chaplain Endorsers.

Since October, Mr. Jones has arranged for letters from 74 members of Congress demanding an executive order to end reported religious discrimination against evangelical Christian chaplains.

Claude Allen, White House domestic policy adviser, promised the congressman that President Bush will take up the issue personally with Defense Secretary Donald H. Rumsfeld, said Mr. Baugham, who was involved in the discussion.

"He asked Jones if he'd be satisfied with less than an executive order, and Jones said 'yes,' " he said.

Mr. Jones' office, which confirmed that the conversation had taken place, says chaplains should be able to pray to whomever "their faith tradition" demands, including named gods, saints or prophets.

Although no branch of the U.S. military explicitly forbids sectarian prayer, some say overtly evangelical Christian chaplains are whisked out of official ceremonies if they insist on praying in Jesus' name.

Army Chaplain Capt. Jonathan Stertzbach, now serving as a field artillery chaplain with the Army's 10th Mountain Division in Iraq, says the rules on the ground are less tolerant than military officials admit.

"When we were at chaplain school," he said in a phone interview from Camp Liberty near Baghdad, "there was a Muslim chaplain candidate. When he prayed in the name of 'Allah, the most blessed and beautiful,' he was talked to the next day.

"So he switched to 'the most generous and eternal God.' You need to allow people to pray according to their faith group. Many faith groups do not pray in general and generic terms ... For Christian groups, the name of Jesus is from where all the power comes."

Four weeks ago at a funeral for a slain sergeant, a brigade chaplain asked Capt. Stertzbach to "modify" his prayers to begin with, "Please pray according to your faith as I pray according to mine," and to end with "in Thy name we pray." He then could add, "and in Jesus' name I pray."

In Iraq, "it seems like there is an unwritten expectation. We don't know what's going on. We are asking for answers and not getting them," he said.

"When we come to a monthly division training meeting, we are told we cannot do this, and if you do this, you will be punished," the captain said.

Martha Rudd, an Army spokeswoman, said sectarian prayer has not been an issue among its 2,700 chaplains.

"Chaplains are advised to consider their audience when they're speaking publicly and be considerate of a plurality of views in the audience," she said. "But we don't tell them how they can and cannot pray."

But the military does, Capt. Stertzbach said, citing a speech last May in Fort Drum, N.Y., by Army Lt. Col. Phillip Wright, chief of about 40 division chaplains.

Lt. Col. Wright, he said, expressed sympathy for chaplains wanting to pray in the name of Jesus, but urged his listeners to not insist on it, "or we are going to lose our ability to pray at all. If anyone does this without my knowledge, I will crunch you."

When contacted at Fort Drum, Lt. Col. Wright denied that he had said those words.

"I've never told chaplains they cannot pray in Jesus' name," he said. "Sometimes I've told them it's not a correct time to espouse their theology to everyone, [but] there is no regulation that says you cannot pray in Jesus' name."

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ANTITRUST:

Albertson's Deal May Be Set Monday (WSJ)

By Janet Adamy And Dennis K. Berman

The Wall Street Journal, January 23, 2006

A consortium of retailers and financial buyers could announce a deal to acquire Albertson's Inc. for roughly $9.6 billion as early as today, say people familiar with the matter, offering an end to a tumultuous sale process.

The Albertson's board was expected to meet last night to approve the deal, people familiar with the process said. As happened in December, it is possible the deal could collapse at the final moment.

The deal could give grocery-store chain Supervalu Inc., which would acquire most of Albertson's stores, a challenge in freshening up hundreds of supermarkets. Meanwhile, drugstore operator CVS Corp., which would acquire Albertson's free-standing pharmacies, would pull closer to rival Walgreen Co., the nation's largest drugstore chain by revenue.

Final terms weren't known last night, but they are expected to roughly mirror the ones that the board turned down in December. One significant exception: Albertson's buyers would assume any antitrust risk involving Chicago-area stores, a sticking point that helped unwind a previous deal, said the people familiar with the matter.

Under the previous deal, CVS was going to buy Albertson's pharmacy business for as much as $4 billion. A group led by private-equity firm Cerberus Capital Management LP and Kimco Realty Corp. was going to acquire poorly performing Albertson's stores for the value of their real estate in areas including Dallas, Florida, Northern California and the Rocky Mountains. That group also includes Schottenstein Realty Co. of Miami, Lubert-Adler Partners of Philadelphia and Klaff Realty LP of Chicago.

Supervalu was going to swap stock and cash for hundreds of Albertson's better-performing stores, including stores operating under the names Shaw's Supermarkets, Jewel-Osco, Acme, Star Market and Bristol Farms and a few hundred more Albertsons-flagged stores in Southern California and throughout the West.

The buyout consortium is planning to pay about $26 per Albertson's share, said the people familiar with the matter. Based on the terms for the December deal, that would entail offering 0.182 of a share of Supervalu stock plus $20.25 in cash, or $26.05 in total, based on Friday's closing price.

Albertson's shares closed up 24 cents at $24.11, rising 1%, in 4 p.m. composite trading Friday on the New York Stock Exchange. Supervalu on Friday fell 34 cents, or 1%, to $31.85 on the NYSE.

A spokeswoman for Supervalu declined to comment. Representatives from Albertson's and CVS didn't return calls seeking comment.

The same buyer group was on the brink of closing a deal with Albertson's days before Christmas. But at the last minute, Albertson's board rejected the deal in part because the grocers couldn't agree who should shoulder the responsibility if antitrust regulators raised flags in markets where both companies operate grocery stores, particularly the Chicago area.

In addition to frustrating investors, who had bid up the shares in anticipation of a deal, the collapse embarrassed CVS, which prematurely sent analysts an email promising to brief them on the deal only to have it fall through.

Supervalu will have to revive Albertson's stores in the face of growing competition from Wal-Mart Stores Inc. and other discounters. The company is buying Albertson's most successful divisions, which control large pieces of the grocery business in their respective regions.

But even those stores suffer from years of poor and inconsistent strategies -- from piecemeal price lowering to adding cost-saving but unfriendly self-checkout lanes -- that made it harder to fend off new competition.

A deal would expand the presence of Supervalu, of Eden Prairie, Minn., on the East Coast and make it a much larger national grocery player. Supervalu has become one of the most successful grocery chains in the country by operating and licensing small, cheap food stores under the Save-A-Lot name that cater to low- and middle-income households.

If a deal is completed, Supervalu would have to orchestrate larger-scale changes while navigating the grocery industry's growing woes, including contracts that make labor costs higher than those of new competitors and changes in consumers' shopping patterns. It would also raise the profile of Jeff Noddle, the Supervalu chief executive who joined the company three decades ago as a retail-operations director.

For CVS, of Woonsocket, R.I., the deal would broaden its presence on the West Coast, particularly in California. One challenge would be extracting the free-standing drugstores from the Albertson's umbrella. Albertson's co-brands its stand-alone pharmacies with its stores in many markets, a strategy that has contributed to success of those pharmacies, Albertson's officials have said.

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For Albertson's, a sale would relieve shareholders and help redeem Chief Executive Larry Johnston. The Boise, Idaho, chain, which operates about 2,500 stores across the country, said in September it was putting itself up for sale after years of losing sales to new discount competitors and the small but lucrative batch of upscale stores like Whole Foods Market Inc.

In the late 1990s, as grocery stores bulked up to compete against Wal-Mart, Albertson's spent billions of dollars to buy rivals with the hope it could cut costs and broaden sales.

But the deals left Albertson's bloated and without any clear advantages over traditional grocery competitors, which were aggressively lowering their prices, adding more natural food and putting a more distinct stamp on the shopping experience. Albertson's hired Mr. Johnston, a former General Electric Co. executive, at the beginning of the decade but he failed to turn around the company. Investors have been growing impatient with him and their frustrations reached a boiling point after the deal collapsed last month.

For the fiscal third quarter ended Nov. 3, Albertson's posted net income of $77 million, or 21 cents a share, compared with net of $110 million, or 29 cents a share, in the year-ago period. Sales were roughly flat at $9.95 billion.

Albertsons Nears Deal, Yet Again, To Sell Itself (NYT)

By Andrew Ross Sorkin

The New York Times, January 23, 2006

After rejecting a nearly identical deal at the 11th hour last month, Albertsons, the giant supermarket chain, was close to a reaching a new pact last night to sell itself to a group of companies and investment firms for about $9.7 billion in cash and stock, people involved in the talks said.

The sale, which the company is hoping to announce today, would be to a consortium that includes the CVS drugstore chain; Supervalu supermarkets; Cerberus Capital Management, an investment fund; and Kimco Realty, a real estate investment company.

Albertsons, which owns the supermarket brands American Stores, Shaws, Jewel-Osco, Acme Markets, Sav-on and Osco Drug, decided to reconsider a sale after the investment group approached the company last week with a slightly improved offer. The biggest difference between the scuttled deal and the new one is that the buying group has agreed to assume any risk that the deal will run afoul of antitrust regulators, virtually guaranteeing that the transaction will be completed.

While people involved in the negotiations were hopeful that this deal would be completed, they also cautioned that it remained possible that the talks could drag on or collapse altogether again if an unforeseen issue arises the way it did in December.

Since that deal fell apart, the board of Albertsons has been under increased scrutiny from analysts and investors who have questioned why the December deal was abandoned at the last minute. Albertsons shares fell more than 10 percent after the company announced it had terminated talks.

At the time, analysts were critical of the company. Stephen Chick, an analyst at J. P. Morgan, lamented in a note to investors that the sales process had been "bungled." Robert Summers, an analyst at Bear Stearns, said: "We find it unlikely that another bidder emerges for a more attractive offer."

There were angry calls from some shareholders for the resignation of Albertsons' chief executive, Larry R. Johnston, a former General Electric executive who was brought in to revive the business. The company's independent directors issued a statement pledging their support for him.

In the latest deal, the buying group plans to break Albertsons into three parts by splitting the supermarket business in two and merging the drugstore business with CVS. Supervalu supermarkets is expected to acquire Albertsons' most attractive stores, like its Jewel stores in the Chicago area. Cerberus Capital and Kimco Realty plan to buy its underperforming businesses and either sell them and their real estate or try to institute a turnaround plan, depending on the store.

The group is expected to pay slightly more than $26 a share in cash and stock, people involved in the talks said. CVS, Cerberus Capital and Kimco Realty are planning to contribute slightly more than $20 in cash, while Supervalu is expected to pay the rest in its stock.

Shares of Albertsons closed on Friday at $24.11, up 24 cents, or 1 percent, on speculation that a deal could be reached.

The possible sale of Albertsons, based in Boise, Idaho, comes as traditional grocers are being squeezed by larger discount competitors like Costco and Wal-Mart Stores, which now has more than 1,000 supermarkets within its stores around the country. Wal-Mart had grocery sales of $109 billion in 2004, according to Retail Forward, a research firm in Columbus, Ohio. That was nearly double the revenue of Kroger, the next closest competitor among the traditional supermarket chains, which had $56 billion in sales in 2004.

On the other end of the spectrum, Albertsons is also being squeezed by upscale rivals like Whole Foods and Trader Joe's.

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Over the last five years, sales at Kroger, Albertsons and Safeway, the country's three largest supermarket chains, have stagnated and profits have been weak. Albertsons has 2,500 stores in 37 states.

Toshiba Wins $5bn Westinghouse Deal (FT)

By Rebecca Bream and Carola Hoyos

Financial Times, January 23, 2006

Toshiba, the Japanese engineering company, has won the battle for control of Westinghouse, the US power plant arm of British Nuclear Fuels, with a bid of almost $5bn, more than double original expectations.

Toshiba was competing against General Electric of the US and Mitsubishi Heavy Industries of Japan, and in recent weeks the bidding had grown increasingly fierce. GE formed a partnership with Hitachi of Japan, and Mitsubishi started working with the Washington Group of the US, in efforts to clinch the deal.

But late on Saturday night Mike Parker and Gordon Campbell, chief executive and chairman of UK government-owned BNFL, decided to sell Westinghouse to Toshiba. The group's bid of close to $5bn was not only the highest offer but BNFL decided it would also be the best for Westinghouse's future growth prospects and its workers, said a person close to BNFL.

BNFL said on Sunday that its directors would make a final decision at a board meeting on Thursday.

Toshiba is said to have promised to invite a US partner to take a minority stake in Westinghouse, which designs nuclear power plants and manufactures reactors.

Shaw, the Louisiana-based engineering group whose bid for Westinghouse was rejected this month, is believed to be considering taking a small stake in the business.

There has been some US political opposition to a non-US group gaining control of Pittsburgh-based Westinghouse. Last month Ralph Hall, Republican chairman of the House of Representatives' energy subcommittee, wrote to the US Treasury arguing that Westinghouse's "sensitive technology" should not be controlled by a foreign company.

Westinghouse was originally expected to attract bids in the region of $2bn when it was put up for sale by BNFL in July.

A person close to the deal said the amount raised is likely to bolster Mr Parker and Mr Campbell's decision to press ahead with the sale in the face of criticism from some UK politicians and trade unions, who thought the government should retain ownership of Westinghouse.

GE and Mitsubishi were initially seen as the frontrunners in the battle for Westinghouse.

A person close to the deal said Toshiba was favoured because BNFL believed it was most likely to allow senior Westinghouse management to run the business on its own with minimal interference from its new corporate parent.

GE was seen as having a more aggressive corporate culture than Toshiba, which could have harmed Westinghouse's chance of winning a Chinese nuclear reactor contract, it said.

With nuclear assets in the US, GE could have faced antitrust difficulties.

Toshiba May Buy Westinghouse For $5 Billion (New York Times)

By Jad Mouawad And Andrew Ross Sorkin

New York Times, January 23, 2006

After weeks of a fierce bidding war, the Toshiba Corporation of Japan is near a deal to buy Westinghouse Electric, a builder of nuclear power plants, for about $5 billion, a person involved in the talks said yesterday.

Toshiba beat competing bids from General Electric, Hitachi and Mitsubishi Heavy Industries, and it is in exclusive talks with Westinghouse, this person said. Westinghouse, based in Monroeville, Pa., is controlled by British Nuclear Fuels, which in turn is controlled by the British government.

Mitsubishi made an offer of more than $2.5 billion for Westinghouse last summer, and The Wall Street Journal reported last week that G.E. and Hitachi had teamed up to make a $3.5 billion bid. But Toshiba made a last-minute, higher offer, the person said.

Nuclear energy is gaining support with governments around the world amid high oil and natural gas prices, tight petroleum supplies and growing demand for electricity. Technology by Westinghouse is found in half the world's operating commercial nuclear power plants, according to the company's Web site. The company has 8,500 employees.

Since the 1979 Three Mile Island accident, no new nuclear power-plants have been built in the United States. Opponents of nuclear power say the 1986 explosion of the Chernobyl power plant in Ukraine and the problems associated with the disposal of waste fuel illustrate the dangers of nuclear energy for the environment. But elsewhere, nuclear energy never lost the favor of governments who view it as a reliable source of energy.

Even in the United States, the appeal of nuclear power has risen as prices for natural gas and coal, which power most of America's power plants, have risen in recent months.

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Energy companies are seeking licenses around the country to build new power plants, notably in Alabama and Mississippi. The Bush administration, which is also encouraging the development of nuclear energy as a way to reduce dependence on foreign energy sources, is seeking to streamline the application process and permits needed to build new plants.

British Nuclear bought Westinghouse's nuclear business from the CBS Corporation for $1.1 billion in 1999, ridding the company of its last industrial vestige. The sale completed the transformation of what was once called the Westinghouse Electric Corporation into a media conglomerate.

The sale of Westinghouse to a Japanese company may raise security concerns at a time when Iran is seeking to develop a nuclear program of its own.

Worldwide, there are 443 nuclear plants used for electricity generation in 31 countries, according to the Nuclear Energy Institute. Of these, 103 are in the United States, where they account for about a fifth of power production. Twenty-four new nuclear plants are under construction in 10 countries.

ENVIRONMENT/INDIAN AFFAIRS:

United States Ranks 28th On Environment, A New Study Says (NYT)

By Felicity Barringer

The New York Times, January 23, 2006

WASHINGTON, Jan. 22 - A pilot nation-by-nation study of environmental performance shows that just six nations - led by New Zealand, followed by five from Northern Europe - have achieved 85 percent or better success in meeting a set of critical environmental goals ranging from clean drinking water and low ozone levels to sustainable fisheries and low greenhouse gas emissions.

The study, jointly produced by Yale and Columbia Universities, ranked the United States 28th over all, behind most of Western Europe, Japan, Taiwan, Malaysia, Costa Rica and Chile, but ahead of Russia and South Korea.

The bottom half of the rankings is largely filled with the countries of Africa and Central and South Asia. Pakistan and India both rank among the 20 lowest-scoring countries, with overall success rates of 41.1 percent and 47.7 percent, respectively.

The pilot study, called the 2006 Environmental Performance Index, has been reviewed by specialists both in the United States and internationally.

Using a new variant of the methodology the two universities have applied in their Environmental Sustainability Index, produced in four previous years, the study was intended to focus more attention on how various governments have played the environmental hands they have been dealt, said Daniel C. Esty, the director of the Yale Center for Environmental Law and Policy and an author of the report.

The earlier sustainability measurements "tell you something about long-term trajectories," Mr. Esty said. "We think this tool has a much greater application in the policy context."

For instance, Britain ranked 65th in last year's sustainability index, but 5th in the latest study, among the 133 nations measured. Among the reasons for the earlier low ranking, Mr. Esty said, was that "they cut down almost all their trees 500 years ago and before," something that modern British governments could not control.

The 16 indicators used in the latest study, the report says, provide "a powerful tool for evaluating environmental investments and improving policy results."

The report will be issued during the World Economic Forum, an annual conclave of business and political leaders which meets in Davos, Switzerland, this week. Mr. Esty said the report was also intended as a tool to help monitor progress on the environmental issues included among the Millennium Development goals adopted by 189 nations at the United Nations Millennium Summit.

"It's like holding up a mirror and having someone help you see what you couldn't see before," he said. But the report acknowledges "serious data gaps" that resulted in leaving more than 65 countries out of the rankings. In addition, some thorny methodological issues, like how to measure land degradation or loss of wetlands, have no widely accepted solutions, the report noted, and the authors used the best measures they had available.

Like the sustainability index produced last year, the pilot study ranks countries within their geographic peer groups, so that nations in arid regions or tropical ones can be measured against one another. So Belgium's overall ranking of 39, with a 75.9 percent score, can be viewed by region and by issue. Belgium ranks last, for instance, among European countries in protection of its water resources.

Air quality rankings tend to favor less industrialized nations like Uganda, Gabon, Ecuador and Sri Lanka. Among the countries of the Americas, the United States ranks in the bottom third on this scale.

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In the Americas, the United States is at the bottom of the scale measuring agricultural, forest and fisheries management, in part because the study is weighted against countries with a high level of crop subsidies. The study's authors say that such subsidies "in agriculture, fisheries and energy sectors have been shown to have negative impacts on resource use and management practices."

In the area of environmental health, the study measured such factors as sanitation, lead exposure and indoor air pollution, a particular concern in the least developed countries, where indoor home fires may be common. In those measures, the richest countries, including the United States, Canada, Australia, New Zealand, Japan, France, Britain, Ireland and the countries of Northern and Central Europe score near 100 percent.

On the same scale, the poorest countries fared worst, with 32 of 37 sub-Saharan African nations, along with Bangladesh, Haiti, Yemen, Tajikistan, Laos, Cambodia and Papua New Guinea, scoring at or below 40 percent. Chad and Niger rank last in the world, with scores of 0 percent and 1 percent, respectively.

"In the zone we capture as the field of play, they're at the very bottom," Mr. Esty said. "It doesn't mean that nobody there has a toilet. It means a very, very small percent do."

The energy sustainability portion of the index factors national wealth into measurements of energy efficiency and greenhouse-gas emissions. Nonetheless, all but three of the top 25 spots in the worldwide rankings are occupied by countries in economic distress, including Uganda, Chad and Myanmar. Switzerland, Costa Rica and Peru are the exceptions.

The study's definition of renewable energy resources does not include nuclear power - in part, Mr. Esty said, because countries with a high proportion of nuclear-fueled energy, like Japan, the Czech Republic and France, reaped the benefits of their energy choices by earning high rankings on the study's other scales, like the air quality index measuring particulate matter.

To create another scale that disproportionately favored nuclear-energy users would have undermined the overall reliability of the study, he said. As a result, the renewable-energy rankings tilt heavily toward countries reliant on hydropower, like tiny Bhutan.

The study shows that annual carbon dioxide emissions, measured as metric tons per $1 million of gross domestic product, average about 363 tons. North Korea, Turkmenistan, Ukraine, Uzbekistan and Mongolia rank at the bottom of the scale, with amounts ranging from Mongolia's 1,992 tons to North Korea's 4,859 tons.

Carbon dioxide emissions from nations with rapid economic expansion, like China and India, are more than double the world average (731 tons and 621 tons, respectively). The United States, at 171 tons per $1 million of gross domestic product, ranks well behind some other nations in the Group of 8, the major industrial powers - France (56), Japan (57), Germany (80) and Britain (118) - but close to Canada (168), ahead of Australia (209) and far ahead of Russia (914).

Senate Entwined In Debate Over Fishing Quotas (WT)

By Joyce Howard Price, The Washington Times

The Washington Times, January 22, 2006

A Senate spat over relaxed fishing quotas could snag the renewal of the 1976 Magnuson-Stevens Fishery Conservation and Management Act.

Reauthorization of Senate Bill 2012, which governs offshore ocean fisheries, is expected by late spring, but differences remain over whether it should permit relaxed enforcement of annual catch limits for each fishery or impose strict limits.

"Aside from the issue of catch limits, [the bill] is pretty non-controversial," said Lee Crockett, executive director of the Marine Fish Conservation Network, a coalition of 175 organizations that includes a mix of commercial and recreational fishermen as well as environmentalists.

The version of the bill approved by the Senate Commerce, Science and Transportation Committee on Dec. 15 had an amendment to soften annual fishing quotas, as a result of pressure by New England fishermen and the members of Congress who represent them.

It was the collapse of that region's cod stock in the late 1980s and early 1990s that led to the realization that fish stock is finite, environmentalists say. According to the National Marine Fisheries Service, nearly half of the major fish stocks found in the ocean off New England were overfished last year.

As originally drafted, the bill called for fishery management councils, where annual catch limits were exceeded, to have their quotas reduced by that amount the following year.

But since New England fishermen "routinely exceed their quotas," sometimes by as much as 200 percent yearly, Mr. Crockett said, the industry there is seeking "indirect management tools" other than lowering the quota to reduce the following year's catch.

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Congressional observers say it is ironic that the difference of opinion regarding catch limits has made Massachusetts Democrats such as Sens. Edward M. Kennedy and John Kerry and Rep. Barney Frank, normally viewed as environmental champions, to favor looser controls on fishing.

Meanwhile, Sen. Ted Stevens, Alaska Republican and Commerce Committee chairman, who favors oil drilling in the Arctic National Wildlife Refuge, is seen as a lawmaker dedicated to conservation of declining fish stocks and protection of their habitats with the bill.

"Senator Stevens has said the reauthorization of the Magnuson-Stevens Act will be one of his legacies. He blocked any attempts to get it reauthorized until he became chairman of the Commerce Committee," said Phil Kline, senior fisheries policy adviser for Oceana, an oceans advocacy nonprofit group.

"We know Senator Stevens wants the bill moved out of the Senate by the end of May," said Mr. Kline, who previously worked as a West Coast fisherman for three decades.

He noted that Mr. Stevens was responsible for an important modification made to the Magnuson-Stevens Act when it was last reauthorized in 1996. At that time, its "focus was changed from fishing and exploitation to conservation," Mr. Kline said.

He considers the bill a "good solid starting point" for reducing excessive fishing and protecting fish environments. "It's not perfect, but it's a great start in improving our oceans," he said.

An Answer To Waste Worries? (WP)

By Dan Morse

The Washington Post, January 23, 2006

Why burn chicken manure? For starters, consider how effectively chickens produce it.

On the Delmarva Peninsula -- a chicken-growing mecca that includes Delaware and the Eastern Shores of Maryland and Virginia -- 571 million birds create enough manure annually to fill a line of backyard swimming pools stretching from Washington to Philadelphia.

But disposal options are limited. The leading method, spreading on farms, works well as a fertilizer until too much is applied. Then chemicals can seep into streams and end up in the Chesapeake Bay. A newer option turns manure into dried, little pellets of fertilizer that can be transported out of state and sold to farmers and golf courses. But that product has drawn fewer buyers than hoped.

Which brings us to chicken producer Allen Family Foods Inc. The company last week presented plans to the Dorchester County Council to burn chicken manure in Linkwood on Maryland's Eastern Shore. The resulting steam would help run an Allen Family Foods factory that processes leftover chicken parts such as heads, feet and feathers, turning them into ingredients for animal feed.

Allen Family Foods said it has sorted through the technical barriers that sunk its previous manure-burning plans. The proposed furnace would burn about 1 1/2 tractor-trailer loads of manure a day.

That would be only about 2 percent of Delmarva's annual manure load. But backers see the project as one potential answer to the chicken industry's huge waste disposal needs because if burning proves safe, the technology could expand and consume more manure.

In Britain, three giant poultry-manure burners are producing electricity. In Minnesota, a facility using technology similar to the British plants is going up that is designed to burn 100 tractor-trailer loads of turkey waste a day.

In Maryland, some leading conservationists back the project. If more manure is burned, they say, less will end up on farms and potentially in runoff.

"Conceptually, we think it's a great idea," said Beth McGee, a senior water quality scientist for the Chesapeake Bay Foundation. "There's a lot of reasons to like these projects."

Development is one of those reasons. If it sounds as though the Eastern Shore is overrun with manure, it isn't. The smells aren't everywhere and can be fleeting. Subdivisions are popping up and taking up farmland, Allen Family Foods said. And state planners predict that the Eastern Shore's population will begin to increase at a faster rate than many of Maryland's counties closer to Washington and Baltimore.

"If we don't find alternative uses [for manure], it's going to be hard to keep growing chickens," Mike Pilcher, Allen Family Foods vice president of operations, said of an industry valued at $1.7 billion in the Delmarva Peninsula.

Chicken executives have been talking up manure burning for more than two decades. But it is technologically challenging, and no one has made it work commercially in the United States, according to industry executives and engineers.

Nor is it assured that Allen Family Foods will get regulatory approval. The Maryland Department of the Environment plans to question Allen Family Foods about odors and emissions. Allen said it won't start construction until it gets an operating permit from the department.

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At least a few residents in Dorchester County have vowed to fight the project. "If it's never been done in the United States, why should we be the guinea pigs?" resident Jim Dolan said.

The idea of burning chicken manure goes back to at least 1983, when the Delmarva Power company experimented with the fuel at a power plant in Delaware, Delmarva Power spokesman Matt Likovich said. The utility later studied retrofitting another plant, in Maryland, estimating it would cost $50 million. Neither project got off the ground.

Burning chicken manure isn't easy. Unlike lumps of coal, manure is an inconsistent fuel because of where it comes from.

Birds grow up inside large chicken houses. In Delmarva, the houses typically are slightly longer than football fields and hold about 25,000 birds that live atop beds of sawdust or wood shavings. The bedding can get wet from roof or pipe leaks, among other things.

When the birds are hauled off to slaughterhouses, workers drive tractors into the houses to clean them out. During full cleans, the bedding is generally nine parts manure and one part wood product, and is called "chicken litter."

The litter's varying moisture content can become a problem when burning.

Under many burner designs, chicken litter is fed into the furnace on conveyor grates. The drier sections tend to burn first while wetter sections can pass through uncombusted.

There have been other attempts to burn chicken waste in Maryland. In 1999, a quasi-government group called Maryland Environmental Service fed cubed chicken litter into a furnace burner that produced electricity and thermal power for a state prison complex in Somerset County. But as the manure burned inside the combustor, the resulting ash gummed up air-supply holes. "It was a difficult fuel to work with," said James Allen, operations manager of the complex's power plant.

In light of such failures, Delmarva poultry giant Perdue Farms passed on burning several years ago. Its solution: Spend $12 million to build a plant to dry chicken litter, convert it into pellets and sell it as fertilizer. The company had hoped it would consume about 80,000 tons of chicken litter a year this way. The product is well-liked by golf course managers and farmers. But it's not as rich in nutrients as other commercial fertilizer. Over the next year, Perdue expects to use about 65,000 tons of chicken litter in making the fertilizer. The company said it might burn in the future.

Others say burning is the way to go.

For years, the company Fibrowatt, which is building the Minnesota turkey excrement unit, has eyed Maryland's chicken manure. Several years ago, Fibrowatt asked Maryland officials for tax credits to help it build a litter-to-energy plant. That effort drew concern at Perdue Farms, where officials argued that such measures could unfairly favor one company and questioned whether there would be enough manure to supply all the proposed projects. Countered Carl Strickler, chief operating officer of Fibrowatt: "There's definitely enough for everybody."

Allen Family Foods has gone down the manure-furnace path before. Several years ago, it partnered with an engineering firm in Michigan to build one in Hurlock in Dorchester County. But that project ran aground after technical design and cost problems.

The proposed unit under review isn't as complicated. It is designed to overcome the difficulties of burning higher-moisture litter by directing hot air at it.

Neither Allen Family Foods nor the engineers would disclose costs. But such a burner package would generally cost more than $1 million, experts say.

When Allen Family Foods presented its plans in Dorchester County last week, they received a skeptical but somewhat welcome reception. County resident Glen Payne told the council that he was worried about odors and emissions. He said he'd been to Britain and scoped out a facility. "People in that plant wore masks," he said.

But Dave Mooney, one of the Georgia engineers hired by Allen Family Foods, said his design mimics elements employed in Britain for odor control. The manure would be stored in a room with negative air pressure. Inside it would stink. Outside, it wouldn't, he said.

Council President Glenn L. Bramble, a lifelong county resident, called the venture a good idea as long as it met environmental requirements.

He didn't anticipate a significant increase in truck traffic. And he said the common practice of spreading chicken manure on farms hasn't always been ideal.

"I know it's part of the process," he told the Allen Family Foods executives. "But when they spread that on the field, for about two or three days, it's bad. It's no question about that. But I live with that; I don't complain. But, I mean, I have to put the windows up."

As Profits Soar, Companies Pay U.S. Less For Gas Rights (NYT)

By Edmund L. Andrews

The New York Times, January 23, 2006

WASHINGTON, Jan. 22 - At a time when energy prices and industry profits are soaring, the federal government collected little more money last year than it did five years ago from the companies that extracted more than $60 billion in oil and gas from publicly owned lands and coastal waters.

If royalty payments in fiscal 2005 for natural gas had risen in step with market prices, the government would have received about $700 million more than it actually did, a three-month investigation by The New York Times has found.

But an often byzantine set of federal regulations, largely shaped and fiercely defended by the energy industry itself, allowed companies producing natural gas to provide the Interior Department with much lower sale prices - the crucial determinant for calculating government royalties - than they reported to their shareholders.

As a result, the nation's taxpayers, collectively, the biggest owner of American oil and gas reserves, have missed much of the recent energy bonanza.

The disparities in gas prices parallel those uncovered just five years ago in a wave of scandals involving royalty payments for oil. From 1998 to 2001, a dozen major companies, while admitting no wrongdoing, paid a total of $438 million to settle charges that they had fraudulently understated their sale prices for oil.

Since then, the government has tightened its rules for oil payments. But with natural gas, the Bush administration recently loosened the rules and eased its audits intended to uncover cheating.

Industry executives deny any wrongdoing, arguing that the disparities stem primarily from different rules for calculating the sale prices for paying royalties and the sale prices for informing shareholders.

"The price of gas downstream is always going to be higher because you have costs that have to be recouped for getting it to the customer," said Robert H. Davis, a spokesman for Exxon Mobil. "You have to process the gas. You have to transport it, and you have to sell it. There will always be a discrepancy there."

Companies that pump oil and gas on federal property are required to pay the government royalties, usually 12 percent to 16 percent of the value of what they sell.

Royalties for natural gas have climbed sharply in the last three years. But while prices nearly doubled from 2001 to 2005, the $5.15 billion in gas royalties for 2005 was less than the $5.35 billion in 2001. When oil and gas are combined, royalties were about $8 billion in 2005, almost the same as in 2001.

Because much of the information about specific transactions is kept secret, it remains unclear to what extent, if at all, the weakness in royalty payments stems from deliberate cheating or from issues with the rules themselves.

But one major producer, Burlington Resources, admitted to shareholders last year that it might have underpaid about $76 million in gas royalties in the 1990's. And in Alabama, a jury ruled in 2003 that Exxon had cheated on $63.6 million worth of royalties from gas wells in state-owned waters. The jury awarded $11.9 billion in punitive damages, which a judge later reduced to $3.5 billion. Exxon disputes the charges and is appealing the verdict.

The possible losses to taxpayers in gas could be even higher than the losses tied to the scandals over oil royalties. For one thing, natural gas production on federal land is worth twice as much as oil.

Moreover, the Interior Department has scaled back on full audits, pushed out a couple of its more aggressive auditors and been criticized by its own inspector general for the audits that it did pursue.

"We are talking about the same issues and in many cases the same players as before," said Danielle Brian, executive director of the Project on Government Oversight, a nonprofit watchdog group that exposed many of the oil royalty scandals.

"These companies had knowingly been cheating on oil for years, if not decades," Ms. Brian continued. "To ignore the likelihood that the same thing is happening on the gas side is absurd."

Johnnie M. Burton, director of the Interior Department's Minerals Management Service, said the disparities were mostly the result of deductions that the regulations let companies take, reducing the sale prices they report to the government.

But Ms. Burton said she had not known and could not explain why companies were reporting higher sale prices to their shareholders and to the Securities and Exchange Commission than to her office.

"I can't answer because I don't know," she said in an interview. "We don't look at S.E.C. filings. We don't have enough staff to do all of that. If we were to do that, then we would have to have more staff and more budget. You know, there is such a thing as budget constraint, and it's been real tough, let me tell you." The contrasts between what companies are telling the government and what they are telling shareholders is stark.

The Interior Department, using the numbers given by companies paying royalties, said the average sale price of natural gas on federal leases was $5.62 per thousand cubic feet in fiscal 2005, which ended Sept. 30.

By contrast, Exxon told shareholders that it received about $6.88 per thousand cubic feet in the nine months that ended Sept. 30. Chevron said its average price in that period was $6.49. Kerr-McGee, which suffered huge losses from hedging against a drop in prices, nonetheless said it still received an average price of $6.59.

"There's no reason why what the companies report to their shareholders should be higher than what they report" to the Minerals Management Service, said Lee Helfrich, a lawyer who has represented California in many battles with the industry over royalties. "The ultimate goals or mission of the S.E.C. and the M.M.S. are different, but the information reported to each should be the same."

In the scandals over oil royalties in the 1990's, government investigators, aided by industry whistle-blowers and investigation by the Project on Government Oversight, found that companies were using a host of tricks to understate their sale prices.

These included buy-sell agreements in which producers swapped oil with each other at artificially low prices and then resold it at higher prices. Companies also sold oil at below-market prices to their own affiliates, classified high-priced "sweet" oil as much cheaper "sour" oil and padded their deductions for transportation costs.

In the wake of the scandals, the outgoing Clinton administration pushed through tough new rules for valuing crude oil, which relied on comparing company reports with an index of spot market prices.

A Pro-Industry Approach

But the Bush administration did not close any loopholes for valuing natural gas. Indeed, in March 2005 it expanded the list of deductions and decided against valuing sales at spot-market prices when companies were selling to their own affiliates.

The industry-friendly stance was intentional. Mr. Bush and top White House officials also placed a top priority on promoting domestic energy production. Vice President Dick Cheney's energy task force called for giving lucrative new incentives to companies that drill in the Gulf of Mexico and other high-risk areas.

The Bush administration also took a much more relaxed approach to auditing and fraud prevention. In 2003, the Interior Department's inspector general declared that the auditing process was "ineffective" and "lacked accountability" and that many of the auditors were unqualified.

In one instance, inspectors discovered that auditors had lost the working papers for an important audit and tried to cover up their blunder by creating and back-dating false documents. Rather than punish anybody, the inspector general recounted, the minerals service gave the employee who produced the new documents a financial bonus for "creativity."

Administration officials said last week that they had addressed most of the criticisms and that the inspector general had since said its corrective actions were "sufficient."

The Interior Department also fired two of its most aggressive and successful auditors. One of them was Bobby L. Maxwell, a veteran auditor who had recovered hundreds of millions of dollars in underpayments over a 22-year career and received an award for meritorious service in 2003 from Interior Secretary Gale A. Norton.

Mr. Maxwell was fired in early 2005 after clashing with superiors over his belief that Kerr-McGee had shortchanged the government $12 million. Mr. Maxwell charged that he had been wrongfully fired, and the government paid him an undisclosed amount of money to settle out of court.

Mr. Maxwell is now pursuing Kerr-McGee, which has denied any guilt, with his own lawsuit under the False Claims Act, which allows private citizens who prove fraud to collect some of the money they help recover.

Patrick Etchart, a spokesman for the Minerals Management Service in Denver, said that Mr. Maxwell lost his job because of a reorganization and that he had declined an offer to move to a different city.

But lawmakers who wrestled with the government over previous royalty scandals are dubious.

"It's all gotten worse, not better," said Representative Carolyn B. Maloney, Democrat of New York, who led Congressional investigations into cheating on oil royalties in the 1990's. "They make the process so complicated that no one can really follow the money."

Ending Detailed Inspections

Perhaps the most striking example of sluggish auditing is the government's effort to collect back royalties from companies that blatantly ignored one of the government's basic rules.

Under current rules aimed at promoting energy production in deep waters, companies can produce large volumes of oil and gas without paying royalties at all. But the rules also require companies to start paying royalties if market prices climb above certain "threshold" levels.

As it happens, market prices have been above those levels since the 2003 fiscal year. But even though dozens of companies never bothered to start paying, Ms. Burton said earlier this month that the government had yet to demand repayment three months into the 2006 fiscal year.

"It's more complicated than you might think," said Lucy Querques Dennett , associate director of the Minerals Management Service in charge of the issue.

But enforcing the rules about price thresholds is easy compared with verifying the actual sale value of natural gas.

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Over the last four years, the Bush administration has ordered its auditors to move away from detailed inspections in favor of a more cursory approach of looking for anomalies in company reports. If a company in Louisiana, say, reported prices that differed from those of other companies in the same region, it would attract closer scrutiny.

Mr. Etchart, the agency's spokesman, said that the number of full-scale audits had declined slightly over the past few years and that the budget for compliance had fallen.

But he said the government still took a "close look" at 71 percent of oil and gas production. "Our strategy would obviously be to focus on anomalies," he said, "but it is also to focus on large producing areas."

The agency's strategy has drawn protests, however, from many states, which are entitled to a share of federal royalties, and from some of the Interior Department's most aggressive auditors.

One of those auditors was Kevin Gambrell, director of the Federal Indian Minerals Office in Farmington, N.M. Mr. Gambrell fought with his superiors over many issues, one of which was their demand that he do fewer audits and simply monitor posted prices of companies in the same area.

"Where the M.M.S. approach falls short is that there are so many different types of deductions you can take in getting gas and oil to the market, and there are so many premiums and bonuses in the contracts," Mr. Gambrell said in a recent interview. "You have to take a detailed look at the contracts to know what's going on."

The Interior Department forced Mr. Gambrell out in 2003, charging that he had improperly destroyed office documents. Mr. Gambrell sued for wrongful termination, arguing that he had discarded only copies of documents. He also presented evidence that his office had recovered eight times as much money as offices that used the administration's preferred approach.

The government settled his case in 2004 by clearing him of any wrongdoing and paying him an undisclosed amount of money.

For practical purposes, the biggest cost to taxpayers may have less to do with cheating and fraud than with the government's inscrutable rules.

Consider the case of Burlington Resources, a Houston-based producer that ConocoPhillips acquired in December for $35.6 billion. Burlington paid $8.5 million in 2001 to settle charges of cheating related to its oil royalties. Last March, Burlington disclosed that it might also have underpaid gas royalties by about $76 million during the 1990's. It set aside $81 million to cover possible litigation costs.

Unlike others, Burlington executives provided information to The Times on the royalties it paid for natural gas and on the sale prices that it has reported to the Interior Department since 2002.

During those four years, Burlington said it paid $627 million in gas royalties and that its annual payment shot up from $89 million in 2002 to $233 million in 2005.

That surge in royalties does track closely with the rise in market prices. But Burlington's numbers also highlight the essential issue raised by many critics: the rules let companies understate the value of their gas sales by taking scores of deductions.

Those deductions include the cost of transportation, processing, brokerage fees, pipeline reservation fees and even certain "theoretical losses" for companies that own their own pipelines.

In 2001, Burlington reported an average price of $1.98 per thousand cubic feet to the government but an average sale price of $3.20 to its shareholders. In 2005, the company reported an average sale price of $5.75 to the government and $6.46 to shareholders.

Keeping Royalties Secret

James Bartlett, a spokesman for Burlington, said part of the discrepancy resulted from the fact that much of Burlington's production is in the Rocky Mountains, where natural gas fetches lower prices.

The federal government does not require companies to divulge the amount of royalties they pay or what they tell the government about sale prices. And unlike Burlington Resources, Exxon and most other major oil companies refused to disclose the information when asked.

"It's not required information," said Mr. Davis of Exxon, echoing responses from Chevron, Royal Dutch/Shell and other big producers. "We're not going to publish it."

Oceans In Peril (WP)

The Washington Post, January 23, 2006

THE BUSH administration remains in denial about climate change and sometimes treats environmental protection as an inconvenience. Yet there was reason to hope, when the U.S. Commission on Ocean Policy issued its report more than a year ago, that President Bush would seize the issue of the dire threat to this country's coastal waters. The commission was the second major task force in recent years to detail the rapidly deteriorating ecology of America's oceans. All serious looks at the

issue have reached similar conclusions: that current human use of oceans is unsustainable and that without dramatic changes in the ways the waters are exploited and enjoyed, the seas will die out. The magnitude of the crisis offers an opportunity for the president to lead on a preeminent environmental issue.

So far, it is an opportunity Mr. Bush has largely passed up. To be sure, there have been some constructive changes. Senate Commerce Committee Chairman Ted Stevens (R-Alaska) is pushing legislation to improve fisheries management. Regional fisheries managers have acted to protect deep sea corals. And, explains James L. Connaughton, chairman of the White House Council on Environmental Policy, the president has moved to improve coordination on ocean-related policy by the many agencies of government that have jurisdiction over aspects of the problem, a key commission concern. The administration is developing a long-term research plan and is planning to protect a large area around some Hawaiian islands as a marine sanctuary. All of this is promising -- though a big test will come when the administration has to propose funding for oceans research in its coming budget.

Still, there is little sense of urgency about a problem the oceans commission described in stark terms: Americans, the report warns, are "starting to love our oceans to death." If that is to be averted, "reform needs to start now, while it is still possible to reverse distressing declines." Mr. Connaughton says Mr. Bush is deeply committed to the problem. Yet the president himself does not talk about it.

Tackling this meaningfully is going to require regulatory initiatives across a range of areas: pollution, runoff, development, environmentally harmful farming practices and others, requiring substantial sums. None of this is possible without sustained and vocal presidential leadership. Ecosystems are at a tipping point, verging on a collapse from which they won't recover. The stakes are as immense as the oceans, which will not wait for the White House to gear up to save them.

FBI/DEA/ATF/USMS:

Potent Mexican Meth Floods In As States Curb Domestic Variety (NYT)

By Kate Zernike

The New York Times, January 23, 2006

DES MOINES, Jan. 18 - In the seven months since Iowa passed a law restricting the sale of cold medicines used to make methamphetamine, seizures of homemade methamphetamine laboratories have dropped to just 20 a month from 120. People once terrified about the neighbor's house blowing up now walk up to the state's drug policy director, Marvin Van Haaften, at his local Wal-Mart to thank him for making them safer.

But Mr. Van Haaften, like officials in other states with similar restrictions, is now worried about a new problem: the drop in home-cooked methamphetamine has been met by a new flood of crystal methamphetamine coming largely from Mexico.

Sometimes called ice, crystal methamphetamine is far purer, and therefore even more highly addictive, than powdered home-cooked methamphetamine, a change that health officials say has led to greater risk of overdose. And because crystal methamphetamine costs more, the police say thefts are increasing, as people who once cooked at home now have to buy it.

The University of Iowa Burn Center, which in 2004 spent $2.8 million treating people whose skin had been scorched off by the toxic chemicals used to make methamphetamine at home, says it now sees hardly any cases of that sort. Drug treatment centers, on the other hand, say they are treating just as many or more methamphetamine addicts.

And although child welfare officials say they are removing fewer children from homes where parents are cooking the drug, the number of children being removed from homes where parents are using it has more than made up the difference.

"It's killing us, this Mexican ice," said Mr. Van Haaften, a former sheriff. "I'm not sure we can control it as well as we can the meth labs in your community."

The influx of the more potent drug shows the fierce hold of methamphetamine, which has devastated many towns once far removed from violent crime or drugs. As Congress prepares to restrict the sale of pseudoephedrine, the cold medicine ingredient that is used to make methamphetamine, officials here and in other states that have recently imposed similar restrictions caution that they fall far short of a solution.

"You can't legislate away demand," said Betty Oldenkamp, secretary of human services in South Dakota, where the governor this month proposed tightening a law that last year restricted customers to two packs of pseudoephedrine per store. "The law enforcement aspects are tremendously important, but we also have to do something to address the demand."

Here, officials boast that their law restricting pseudoephedrine, which took effect in May, has been faster than any other state's in reducing methamphetamine laboratories. Still, when Mr. Van Haaften, director of the Governor's Office of Drug Control Policy, surveyed the local police, 74 percent said that the law had not changed demand, and 61 percent said supply had remained steady or increased.

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In a survey of treatment professionals, 92 percent said they had seen as many or more methamphetamine addicts; the state treated 6,000 in 2005 and expects to treat more than 7,000 this year, based on current trends. Some health officials said abuse among women, typically the biggest users of methamphetamine, was rising particularly fast.

While seizures of powdered methamphetamine declined to 4,572 in 2005 from 6,488 in 2001, seizures of crystal methamphetamine increased, to 2,025 from one.

Federal drug agents tend to describe ice as methamphetamine that is at least 90 percent pure. Officials here say much of their crystal methamphetamine is less pure - "dirty ice," they call it. But either is far more potent than homemade powdered methamphetamine; a "good cook" yields a drug that is about 42 percent pure, but around 25 percent is more common. And in the first four months after the law took effect here, average purity went to 80 percent from 47 percent.

Other states have seen the same.

"The Mexican drug cartels were right there to feed that demand," said Tom Cunningham, the drug task force coordinator for the district attorneys council for Oklahoma, the first state to put pseudoephedrine behind pharmacy counters, in 2004. "They have always supplied marijuana, cocaine, and heroin. When we took away the local meth lab, they simply added methamphetamine to the truck."

A methamphetamine cook could make an ounce for $50 on a stovetop or in a lab in a car; that same amount now costs $800 to $1,500 on the street, the police say.

"Our burglaries have just skyrocketed," said Jerry Furness, who represents Buchanan County, 150 miles northeast of Des Moines, on the Iowa drug task force. "The state asks how the decrease in meth labs has reduced danger to citizens, and it has, as far as potential explosions. But we've had a lot of burglaries where the occupants are home at the time, and that's probably more of a risk. So it's kind of evening out."

When the state surveyed the children in state protection in southeastern Iowa four months after the law took effect, it found that 49 percent were taken from parents who had been using methamphetamine, the same percentage as two years earlier, even as police said they were removing fewer children from homes with laboratories.

Some law enforcement officials say that addicts may find the crystal form more desirable. "If they don't have to mess with precursor chemicals, it's actually a bit easier on them, and safer," said Kevin Glaser, a drug task force supervisor for the state highway patrol in Missouri, which last year led the nation in methamphetamine lab seizures.

But the switch has also increased the risks. "People are overdosing; they're not expecting it to do this much," said Darcy Jensen, director of Prairie View Prevention Services in South Dakota. "They don't realize that that fourth of a gram they're used to using is double or triple in potency."

Federal officials say there are 1.4 million methamphetamine addicts in the United States, concentrated in the West, where the drug began to take hold in the late 1980's, and the Midwest and South, where it moved in the mid- and late 1990's.

Drug enforcement officials have always said that 80 percent of the nation's supply comes from so-called super labs, those able to make 10 pounds or more. But in some counties here, officials say that all the methamphetamine came from mom-and-pop labs that made the drug by cooking pseudoephedrine with toxic farm and household chemicals.

Law enforcement focused on the laboratories because they were so destructive: the police found children who had drunk lye thinking it was water, or went without food as parents went through the long binge-and-sleep cycles of using. Laboratories in homes, motels, abandoned farm buildings or cars frequently exploded, or dumped their toxic chemicals into drains or soil. Small police departments spent much of their time attending to contaminated sites.

More than 30 states have restricted pseudoephedrine in some way. Nine have put it behind pharmacy counters, and Oregon now requires a prescription to obtain it.

Addicts and cookers have proved to be skilled at getting around the restrictions; as one state imposes a law, bordering states see an increase in laboratories. Oklahoma recently linked its pharmacies by a computer database to track sales after discovering that cooks were going county-to-county buying from several pharmacies a day.

Iowa's law passed unanimously. As in other states, officials say the number of laboratories had already begun to decline, most likely because cooks feared they would be caught because there was so much public attention on the problem.

The law resulted in a decline of at least 80 percent. Police found 138 laboratories from June to December, down from 673 for the same period the year before. The state had hit a high of 1,500 lab busts in 2004, but with the law, had 731 for 2005, and expects just 257 this year. Law enforcement says the costs of policing and cleaning up labs will drop to $528,000 next year from $2.6 million in 2004.

But here and in many of the states with recent pseudoephedrine restrictions, frustration with the stubborn rate of addiction has moved the discussion from enforcement to treatment and demand reduction.

That discussion, officials say, will be much tougher.

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After listening to Mr. Van Haaften's report on the effects of the law this week, State Representative Clel Baudler, a former state trooper who now heads the public safety committee for the Iowa General Assembly, charged his committee to come back to the next meeting with strategies to reduce demand.

"My fear is, when I ask what they think we should do, they'll say 'I don't know,' " Mr. Baudler said in an interview afterward. "We've increased penalties, we've increased prison time, we're still not getting in front of it."

Officials say they never advertised the law as one that would reduce methamphetamine addiction. Still, they are surprised at how the drug has hung on.

"Things that are highly destructive, including diseases, tend to be self-limiting," said Arthur Schut, president of the Mid-Eastern Council on Chemical Abuse in Iowa City, and a member of the state's drug policy advisory council. "This has been devastating. It's remarkable how quickly people are damaged by it."

Mr. Van Haaften, too, knows that it was too much to hope that the law would reduce demand. Still, he says, "I had a little hope."

"I knew of the addictive nature, but in my heart, I believed people didn't want to deal with dealers," he said. "They have guns, it's dangerous, if you make your own it's safer. I hoped for a dip, but the availability did not allow that to happen."

Investigator: News Of Raid Was Leaked To Drug Suspects (MADCOUR)

By Donovan Estridge, Courier Staff Writer

Madison (IN) Courier, January 23, 2006

INDIANAPOLIS — More light is being shed on the Drug Enforcement Administration drug raid last week in the Courierarea.

Aaron Payne, a special deputy for the DEA, testified at a detention hearing Friday in Indianapolis.

Payne was one of the lead investigators for the government during the yearlong investigation that lead to the arrests of 14 Courierarea residents on federal charges. Results of the investigation uncovered a Mexico-to-Chicago cocaine trafficking ring that then came through Madison. The indictment indicates that both John Scruggs and Randy Thomas were the ringleaders of the organization. They acquired cocaine from their sources in Chicago and then distributed it to 12 mid-level dealers in the Courierarea, according to the federal indictment

During the investigation, Payne obtained court-ordered wiretaps on four telephone lines. The wiretaps began in November to accompany aerial surveillance already under way in the investigation.

“We had four target phones during the course of our investigation,” Payne said.

The first two phones were cellular phones belonging to Audra Gray. According to the U.S. Attorney’s office, Gray was Thomas’ girlfriend and acted as the “bookkeeper” for the organization. She would call various mid-level dealers to set up cocaine transactions.

According to Payne’s testimony, the third and fourth phones belonged to Scruggs. The wiretaps allowed the DEA to document different cocaine transactions that would later be used in the indictment.

“During one of the conversations we heard Gray say there was a ‘Mexican standoff’ between the conspirators,” Payne said.

During the investigation, a date was set with the DEA and local authorities to take down the operation. Payne testified that Jan. 12 was chosen as the day the warrants would be served.

Testimony at the hearing Friday indicated that the night before the scheduled drug sweep, authorities overheard a phone conversation between Joseph Griffin and Thomas. Payne testified that Griffin somehow received information that a major police operation was about to take place. Upon receiving the tip, Griffin contacted leaders inside the conspiracy, Payne testified.

“Griffin called Thomas as said, ‘There are cops at the armory. They have a list of names. Get out,” Payne testified.

Payne also testified that the phone conversation ended with Thomas saying he would contact Scruggs and inform him of the news. Thomas and Scruggs later called their mid-level dealers to tell them.

The next day when authorities began their sweep across the area, they did not find Thomas and Scruggs at their residence. They did find several individuals with large amounts of money.

Authorities reported a conversation between Estes and Thomas after the leak.

“They (police) have a list of names. We need to get the (expletive) out of here,” Payne testified that Estes said in a phone conversation.

Despite the leak, authorities apprehend all of the individuals in the Madison area suspected to be involved in the trafficking.

U.S. Assistant Attorney Josh Minkler said the source of the leak is under investigation.

Pain Doctor Loses License, But Gets No Jail Time (ROT)

By Lindsey Nair

Roanoke (VA) Times, January 21, 2006

DOJ_NMG_0010301

ABINGDON -- Roanoke pain doctor Cecil Knox was stripped of his right to practice medicine and sentenced to five years of probation Friday, marking the end of what has been called both a legitimate prosecution and an unnecessary persecution.

The conclusion came as a relief to many in the packed federal courtroom, but outside, both camps still expressed regrets -- that loved ones who died were not around to see the day, and that chronic pain patients no longer have a physician they can trust.

"The ordeal is finally behind me," Knox said, "but it is not finished for the patients."

John Brownlee, U.S. Attorney for the Western District of Virginia, said he believes Knox knows "in his heart of hearts" what he did.

"I think the community is safer today now that Dr. Knox is not a doctor," Brownlee said.

Knox was first indicted in February 2002, along with his practice, his former office manager, Beverly Boone, and two employees. His charges included prescribing controlled substances such as the painkiller OxyContin outside the scope of legitimate medical practice, and the government said Knox's irresponsible behavior led to injury or death to patients.

At one point, he faced more than 300 charges.

Knox's October 2003 trial ended with not guilty verdicts on about half the charges. The jury was hung on the rest. Boone was acquitted.

A few months later, Knox and Boone were indicted a second time, but Knox's battle with non-Hodgkin's lymphoma delayed the trial.

Knox's illness eventually went into remission, but before the second trial, he decided to plead guilty to felony racketeering, two counts of felony marijuana distribution and misdemeanor health care fraud.

Charges against Boone and the other employees, with the exception of Tiffany Durham, who pleaded guilty, eventually were dropped. Durham has not yet been sentenced.

A disagreement between the prosecution and defense created some anxiety as Friday's sentencing kicked off. Knox believed his plea agreement did not include the possibility of jail time, while the government thought he could potentially receive up to 12 months in jail.

U.S. District Judge James Jones ruled quickly on the disagreement, saying he favored the government's position.

Arguing for jail time, prosecutor Tom Bondurant said the doctor was essentially a drug dealer, and drug dealers usually face incarceration. He also pointed out that Knox's deceased patients were not there to testify for themselves.

But defense attorneys John Lichtenstein and Tony Anderson said Knox was a more caring doctor than many, adding that a jury chose not to find him guilty after the first trial. Because Knox faces a life-threatening disease, they said, probation would be the best option for him.

Before Jones pronounced sentencing, Knox addressed the court.

"I would like the opportunity to speak to you from my heart," he said, telling Jones that he's had a hard time understanding the charges against him. "If ever there were errors made, they were made with the intentions of trying to ease my patients' suffering and prolong their lives."

Jones said he had no doubt that neither side would be completely satisfied with his decision. But he stressed that the government succeeded in removing Knox from medical practice while Knox, in turn, avoided jail time.

As part of the plea agreement, Knox voluntarily surrendered his medical license to the state of Virginia and his registration number for prescribing medicine to the Drug Enforcement Administration.

In a letter to Jones, William Harp, executive director for the Virginia Board of Medicine, wrote: "In my opinion, the citizens of Virginia are well-served by the removal from practice of a physician who has engaged in the illegal distribution of controlled substances as well as billing fraud."

But Harp said Thursday that a physician convicted of a felony who has his license mandatorily suspended can reapply for the license as early as the next meeting of the board. And Laura DiCesare with the DEA said a doctor in that situation can also reapply for his registration number.

Knox, who is now working as a cobbler at Shafer's Shoe Repair in Roanoke, said it was too early to comment on that issue.

"I think that his goal all along has been at some point, when he gets his health concerns under control, to return to the practice of medicine," Anderson said.

Tammy Walton, who attended the sentencing, blames Knox for her late brother's poor quality of life in his final years. She said Knox got off too lightly but was gratified that he lost his medical license.

"When you realize what he gave up, I think that is what is so important," she said. "And really, he gave it up for his freedom."

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Faron Kidd, whose brother, Monte Kidd, died four years ago, agreed that Knox's sentence was not strict enough. Monte Kidd was Knox's patient.

"Dr. Knox has had four more years than my brother did," he said.

But others who attended the hearing crowded around Knox afterward, hugging him and shaking his hand.

Tom Ballard and Rick Dudding credit Knox with saving them from debilitating pain. Dudding says it was Knox who helped him to walk again.

"They say he hurt people. He didn't hurt people; he's got a heart bigger than this world," Dudding said.

Many former patients said they cannot find a good pain specialist now that Knox has been prosecuted.

"Nobody wants to handle chronic pain because of this," Ballard said.

It's because of that, Knox said, that he does not feel completely vindicated.

"When I see all patients able to exercise their right to appropriate pain management," he said, "I will feel like this has been a small step toward that victory."

Lawsuit In 2003 Shooting By DEA Settled For $200,000 (SAEN)

By Guillermo Contreras, Express-News Staff Writer

San Antonio (TX) Express-News, January 23, 2006

On Jan. 3, relatives of Ashley Villarreal, many of them in tears, gathered at San Fernando Cemetery No. 2. They shared cake, released balloons and observed what would have been her 17th birthday.

The ceremony was half a celebration and half a call for justice over the controversial shooting by federal agents that put her in her grave when she was 14.

But four days before the civil case was to head to trial, U.S. District Judge Fred Biery ruled Thursday that the government would be allowed to put on evidence that could have hurt the plaintiffs' case.

Hours later, the wrongful-death suit was settled for $200,000 — far less than the $35 million listed in the plaintiffs' original demand letters to the government.

Under the settlement, released Friday, the government denied any liability in the shooting that occurred during a stakeout for Ashley's father.

Ashley Villarreal

The government argued that the agents fired at a Mitsubishi Eclipse driven by Ashley the night of Feb. 9, 2003, because they feared the car was going to hit one of them.

"This tragedy weighs heavily on all of those involved: the family, the special agents involved and the entire community," said Joe Arabit, head of the Drug Enforcement Administration in San Antonio. "The DEA is hopeful that the community can now move forward beyond this incident."

The plaintiffs included Ashley's mother, Ashley's paternal grandmother, and Daniel Robles, a man who was in the car when Ashley was shot. They were advised by their lawyers not to comment.

The League of United Latin American Citizens said the settlement means the DEA's policies, such as its policy on deadly force, will not be scrutinized in a trial to determine if they were adequate.

DEA's policy on deadly force says agents may use such force when they have a reasonable belief that they are in imminent danger of death or serious injury. The policy allows verbal commands if feasible, and only if they do not increase danger to the agent or others.

It also allows an agent to fire at the driver or other occupants of a moving vehicle only if the agent, a fellow agent, "or another" is in imminent danger of death or serious physical injury and the use of such force outweighs the risks to the safety of the agent or "other persons." Weapons may not be fired solely to disable moving vehicles, the policy states.

Ashley was shot after the Eclipse she was driving left her paternal grandmother's house in the 800 block of South San Joaquin and was surrounded by undercover DEA vehicles at nearby Motes Street.

DEA agents had been staking out the home for Ashley's father, Joey Villarreal, whom the agents linked to a cocaine distribution ring. The agents sought Villarreal because they had received information that he was preparing to flee to Mexico to avoid being arrested.

According to investigative reports, agents who had been watching the San Joaquin house thought Robles, who got in the car with Ashley, was Joey Villarreal, but were unsure because it was dark.

The agents contend they fired into the darkened Eclipse after the car hit at least two undercover vehicles and then appeared to try to run down agents.

The agents also said they had on vests identifying them as police, and that they ordered the car's occupants to show their hands before they were forced to fire. Ashley's family disputes the government's version.

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The Bexar County district attorney's office said in March 2004 that it wouldn't prosecute any of the agents because federal law generally shields agents from prosecution by local authorities.

State prosecutors also said they couldn't prove the agents did not shoot in self-defense.

At Thursday's hearing, Biery granted the government's request to exclude from the trial plaintiff evidence he deemed prejudicial. Among it was an autopsy photo of Ashley's shaved head that showed where she had been struck by a bullet.

The judge said he didn't want to retry Joey Villarreal, but said he would allow the government to use some evidence from the criminal case that connected him to drug trafficking, and items the government planned to use to show Ashley had been driving without a license since she was 12. The plaintiffs contended the evidence was prejudicial or irrelevant.

Over objections by the plaintiffs, the judge allowed the government to use several pieces of evidence, such as pictures of guns, body armor, surveillance equipment law officers seized in probes connected to the Joey Villarreal case — including some taken from the property on San Joaquin.

Biery also said jurors would hear details of "a family situation that's not the best in the world" and arguments that agents "acted too quickly."

"We also have a 14-year-old gorgeous little girl who didn't get to choose any circumstances into which she was born," Biery said.

Eight hours later, the plaintiffs and their relatives tearfully signed the settlement after their lawyers told them of the waning chances of their case. Ashley's father, summoned to San Antonio for the trial, will soon head back to Beaumont to continue to serve the 19 years in federal prison he got for a drug-trafficking conspiracy.

Medical Pot Advocate Loses Bid To Bar Deportation From Canada (LAT)

By Eric Bailey, Times Staff Writer

The Los Angeles Times, January 23, 2006

SACRAMENTO — A judge in Canada on Friday rejected an eleventh-hour appeal by a California medical marijuana refugee trying to avoid deportation to the United States, five years after fleeing to avoid a short jail stint he called a death sentence.

Steve Kubby, a former Laguna Beach resident who was a 1998 Libertarian candidate for governor and one of the authors of California's watershed medical marijuana law, suffers from a rare form of adrenal cancer that can cause blood-pressure spikes that his doctors say are controlled by smoking cannabis.

Canadian Federal Justice Yvon Pinard ruled that Immigration Canada may now proceed with its order to return Kubby to the U.S. — along with his wife, Michele, and two young children — as soon as next week.

Kubby was sentenced in March 2001 to four months in jail by a Placer County judge for possession of a peyote button and a hallucinogenic mushroom after jurors acquitted him of more serious charges that he was selling pot grown in his basement medical marijuana garden.

The peyote and mushroom were in his possession, Kubby said, for an artist's rendering to be used in a book he wrote on the drug war while living in Olympic Valley, just north of Lake Tahoe.

Amid wrangling with authorities over his sentence, Kubby moved with his family to British Columbia in May 2001.

If jailed and not allowed to use marijuana, Kubby contends, he will die behind bars. Jailhouse use of medical marijuana is not allowed in California, where voters in 1996 approved the nation's first law allowing the use of cannabis as medicine with a doctor's recommendation.

Around the time Kubby moved to Canada, judges in Placer County ordered his original misdemeanor convictions converted to felonies. Kubby, who says he now could face up to three years behind bars, has appealed those rulings, which he calls a miscarriage of justice.

Kubby also worries that prosecutors will attempt to extend his jail stay because he left the country and later was declared a fugitive.

"They don't want to admit it's political," Kubby said of officials in Placer County. "I committed the unpardonable sin of helping pass a medical marijuana law that police and prosecutors hate."

Authorities in Canada "were sold a bill of goods" by counterparts in the U.S., Kubby said, adding, "There's this failure on the part of Canadian officials to accept that there could be this much animosity and determination to harm me on the part of officials in Placer County."

Placer County Dist. Atty. Bradford R. Fenocchio could not be reached for comment.

Michele Kubby, who has been representing her husband in court, expressed hope after Friday's ruling that she could push their case to the Canadian Supreme Court.

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"I've got to do whatever I can to keep Steve away from Placer County," she said. "No one believes that removing his cannabis will kill him. But I'm the one who will be left a widow."

U.S. Agents Catching Cash At Border (DMN)

By David Mclemore, The Dallas Morning News

The Dallas Morning News, January 21, 2006

LAREDO – For Mexican smuggling organizations, the border is a two-way street. Drugs, people and other contraband move north. The money moves south.

In the last three years, customs agents have seized more than $20 million in currency at the eight ports of entry from Brownsville to Del Rio – roughly one-fifth of the value of the bulk cash seizures the agency made nationally.

While U.S. drug agents have long concentrated their efforts on stopping drugs at the border, they're increasingly going after the money, hitting the drug cartels in the pocketbook and providing invaluable intelligence of the trafficking networks. And with stricter controls on bank accounts and wire transfers, trafficking organizations are running piles of cash into Mexico, in cars, trucks, boats, and airplanes and even strapped to the bodies of couriers, federal officials said.

"We're seeing bigger amounts of cash coming across, and we're seeing deeper concealment," said Hector Mancha, assistant port director for security at Laredo. "They don't just throw it in a bag in the trunk of their car anymore."

In just one hit in February, agents at Laredo found $1.2 million in $20s, $50s and $100s stashed in the rear quarter panel of a 2003 Honda Accord.

And Sunday, at the international bridge in Hidalgo 150 miles downriver, three women were charged with bulk currency smuggling when officers found $55,940 in cash hidden in bundles underneath clothing and wrapped in white plastic bags in the back of their 1995 Mercury Villager. They were turned over to Immigration and Customs Enforcement.

"It's never a dull moment on the border," said Mark Pacheco, Customs and Border Protection's assistant port director for tactical operations at Laredo. "There are days it seems almost impossible. But then you find that hidden compartment filled with cash, you get pretty excited. You know that's going to hurt the bad guys."

Crimes of cash

Although it's not a crime to carry any amount of cash across the border, it is a federal offense not to declare any amount over $10,000 or conceal it from agents as you enter or leave the country. If the proceeds are determined to stem from illegal activity, charges of bulk currency smuggling can lead to a prison sentence.

Customs agents, Drug Enforcement Administration agents and the FBI are cracking down on currency smuggling as a way to attack the Mexican trafficking organizations, some of which have roots in Dallas and other Texas cities.

In a Jan. 11 national money laundering threat assessment, officials cited an increase in the movement of bulk cash south across the border. It was the first multi-agency analysis of methods that drug traffickers use to disguise their profits.

DEA Administrator Karen Tandy, during a Senate hearing on narcotics control last March, called tracking the money the key to controlling the $65 billion a year trade in illegal drugs.

"To make a significant impact on the drug trade in America and around the world, there is no strategy more effective than following the money back to the sources of drug supply and taking away the dirty proceeds of that trade," she said. "But our efforts to date clearly have not successfully done the job."

Total seizures – which include all assets and can be in the form of cash, houses, guns and vehicles – amounted to well short of $1 billion, Ms. Tandy said.

"Drug traffickers pay more than that each year in fees to launder their ill-gotten gains," she said. Officials said there is no established formula to determine what percentage of cash gets across the border successfully.

Homeland Security's investigation arm, Immigration and Customs Enforcement, has taken a lead role in the escalating hunt for trafficking organizations' money.

Since it was created in 2003, ICE arrests in financial investigations increased from 1,224 that year to 1,567 in fiscal year 2005. Nationally, ICE agents have seized more than $477 million in trafficking assets over the last three years, with $100 million of that in bulk currency. The seized cash goes into a fund to buy equipment and to be given in grants to local law enforcement, officials said.

In South Texas, ICE investigators participate in multi-agency investigations that target the choke points for the movement of money southward: bus stations, trucking firms and what investigators call the money services businesses – wire transfer offices and "casas de cambio" or currency exchange houses.

"We don't depend on one strategy," said Jerry Robinette, deputy special agent-in-charge of the San Antonio ICE office. "We don't look just at bulk currency but all the ways that money can move into the pipeline south.

The last stop for federal investigators is the border.

In Texas, customs officers have found currency "in car speakers, engine manifolds, boxes of detergent and any number of false compartments in vehicles," said Donna De La Torre, customs director of field operations at Laredo.

"The smugglers are limited only by their creativity on how they will smuggle cash across the border," said Ms. De La Torre. "Often, the way they brought the drugs in are used to carry the cash back."

She said officers at ports of entry go through an eight-day school on how to conduct outbound inspections and act as "human lie detectors."

Still, much of what they do, she said, "stems from years of experience in studying people as they cross the bridge."

Walking cash register

Over the Christmas holidays, when cross-border traffic swells, customs inspectors searched a 51-year-old man as he attempted to walk into Mexico, one of the 12,000 daily pedestrians who cross at Laredo.

Officers found more than $55,000 in cash taped in packets around his body.

U.S. searches of outbound traffic are a fairly new phenomenon along the border. Sporadically, officers will stop southbound drivers to ask if they have cash in excess of $10,000 to declare. Who gets picked for a closer look depends on a number of factors, Officer Pacheco said.

"We look at the drivers, at their demeanor, when we ask them questions about undeclared currency. And we look at the vehicles to see if anything seems out of the ordinary," he said.

It's also a matter of timing.

"We try to be unpredictable," he said. "We want to keep the smugglers off-balance. But they follow us pretty closely."

Customs officers said that spotters for the traffickers keep a close watch on the border crossings. Armed with cellphones or two-way radios, traffickers can signal northbound drug shipments and southbound cash deliveries where and when border enforcement has tightened.

Once picked for secondary inspection, baggage and personal items in the car are removed and searched. Specially trained "currency dogs" are brought in to see if they pick up the scent of cold cash. Officers check door panels, fenders, the trunk, under the hood and under the car. If something triggers a deeper suspicion, they bring out the high-tech gear, such as portable X-ray machines and fiber-optic cameras.

"There is no formula for who smuggles the cash," Officer Pacheco said. "We've caught young men and grandmas and mothers with kids in the car. They drive up in old beat-up trucks and Volvo SUVs. Every case is different."

Most are mules or couriers hired by the traffickers to drive the cash out of the United States. On rare occasions, those carrying hidden cash may be doing so for innocent reasons.

"We'll try to mitigate the cases of people who were just trying to take money home to Mexico," Officer Pacheco said. Those cases may be assessed a fine for failure to declare the money and be sent on their way."

On Thursday, Laredo customs officers found a man attempting to carry $25,000 in U.S. currency into Mexico in a duffel bag in his truck. Although the man initially raised suspicions, officials released him with a $1,000 fine for failure to disclose the cash. It was believed he was carrying the money home to his family.

That, said Officer Pacheco, is an increasingly rare occurrence.

US, Venezuela To Seal Drug Accord (BBC)

By Greg Morsbach, BBC news, Caracas

BBC, January 23, 2006

Hugo Chavez believed US drugs officials were spying on him Venezuela and the US appear ready to sign a new agreement to fight international drug trafficking.

Last year Venezuelan President Hugo Chavez ordered the US Drug Enforcement Administration (DEA) to cease all its operations inside Venezuela.

He dissolved a joint taskforce because he believed DEA officials were spying on his government - a claim the US has always denied.

Much Colombian-produced cocaine is trafficked through Venezuela to the US.

At source

For the past five months all official relations between Venezuelan and US anti-narcotics agents have been frozen.

But after tough negotiations between Venezuelan and US diplomats a new contract is now on the table.

This accord will re-establish a basic working relationship in the fight against drugs.

Luis Correa, the chief of Venezuela's anti-narcotics police unit, says the new agreement with Washington will be signed next week, once all the paperwork has been finalised.

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Venezuela will have to hand back US surveillance equipment and computer hardware it confiscated from the US embassy last August, when the joint narcotics programme was suspended.

Although this new deal is one US State Department officials believe they can live with, it will not give the US the same far-reaching powers it used to enjoy as an independent partner.

Some US officials doubt whether a fully fledged joint operation will be set up again.

They believe the US will in future have to rely more heavily on intercepting drug traffickers at the source in Colombia rather than targeting them in transit through Venezuela, because of the new conditions the Americans will be working under.

IMMIGRATION:

Scholar Released By China Now Facing Deportation By U.S. (AP)

By Matthew Barakat, Associated Press Writer

AP, January 23, 2006

ALEXANDRIA, Va. -- Nearly five years ago, the U.S. government exerted high-profile diplomatic pressure on China to secure the return of scholar Gao Zhan, a researcher at American University whom Beijing believed was a spy for Taiwan.

Now the Department of Homeland Security is pushing with equal vigor to have her deported back to China, despite objections from the Department of Justice and a federal judge. A hearing is scheduled Monday in immigration court to determine whether Gao poses a risk to national security, as DHS contends.

Gao's case became international news in February 2001 when the American University researcher and her family were arrested by the Chinese on suspicion of espionage. Her husband, Xue Donghua, and the couple's 5-year-old son were released after a month in custody.

But the Communist government charged Gao with espionage.

The State Department protested and worked hard to secure her release. Sen. George Allen, R-Va., was one of many elected officials who took up her cause and introduced legislation, which ultimately failed, to grant her U.S. citizenship in absentia.

The Chinese government put Gao on trial in July 2001, convicted her and sentenced her to prison. But they decided to deport her to the United States rather than imprison her, and Gao received a hero's welcome when she returned to the U.S. a month later.

She spoke out frequently upon her return against human-rights abuses in China. A naturalization ceremony was scheduled for her, but abruptly canceled.

Then in 2003 came shocking news: Gao had pleaded guilty to illegally exporting more than $1 million in military-grade computer microprocessors to a Chinese government agency. Court documents indicate that the scheme had preceded her 2001 arrest and that Gao knew the microprocessors could be used by the Chinese military.

She struck a plea bargain that resulted in a seven-month jail sentence, plus eight months in a halfway house. Her jail time was severely reduced because prosecutors believed Gao had cooperated with their investigation and provided useful information to the United States.

As part of the plea bargain, the Justice Department recommended to the Department of Homeland Security against deporting Gao after she served her sentence.

Normally such recommendations carry great weight, but in this case, DHS and U.S. Immigration and Customs Enforcement are ignoring the recommendation and pushing for deportation.

Monday's hearing will determine whether Gao is a national security risk. If she is found to be a national security threat, she would almost certainly be deported. If not, a hearing in February is scheduled to determine whether Gao should be granted asylum.

Ladan Mirbagheri Smith, Gao's immigration lawyer, said Gao would face persecution in China given the 10-year prison sentence looming over her.

And earlier this month, U.S. District Judge T.S. Ellis III, who sentenced Gao, said he never anticipated that she would face deportation and that if Gao were truly a national security risk, prosecutors would have brought more serious charges.

"I certainly never contemplated that she would face this situation," Ellis said at a post-trial hearing for Xue, who was convicted along with Gao of tax evasion for failing to report profits from the microprocessor sales on the their joint tax return. "Only the most serious proof (that Gao is a national security risk) should change that."

Ellis has allowed Xue to remain free and deferred the start of his prison sentence while Gao's case remains unresolved.

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Ellis declined, though, to formally intervene in Gao's immigration case, saying the matter should be resolved by an immigration judge.

ICE spokesman Dean Boyd said the department's rationale for seeking Gao's deportation is plain given the crime for which she was convicted.

"We know she was exporting sensitive technology with missile applications to Chinese government entities," Boyd said. "A lot of our agents have invested quite a bit of time in this investigation."

Gao wrote a letter to Ellis in July seeking leniency for her husband and bemoaning her plight.

"I am writing in despair. I am cursing the day of my birth just like Job. I would have wished a quick end to my suffering if not for the sake of my children," Gao wrote. "My own situation is as bad as can be, according to my lawyer. ICE could hold me for years while labeling me as a threat to national security. I am not sure if I could survive it."

Xue said he feels double-crossed by government agents who led the family to believe that Gao would not face deportation after serving her sentence.

"If it was ICE's intention or determination to deport Gao to the Chinese government, the should have mentioned the issue during the (plea-bargain) process," Xue wrote in court papers on his wife's behalf.

Across The Country, Many Mobilize Against Illegal Immigration (CSM)

By Brad Knickerbocker, Staff Writer Of The Christian Science Monitor

The Christian Science Monitor, January 23, 2006

Immigration has become an increasingly contentious political and social issue around the country.

Organizations patterned after the controversial "Minuteman Project" along the US-Mexico border have sprung up in New England, the Midwest, the South, and the Pacific Northwest. This has led to demonstrations and shouting matches with those opposed to what they call "vigilantes."

State and local officials are working to limit government services to illegal immigrants and their children (such as college tuition and worker's compensation), requiring proof of citizenship to get a driver's license and cracking down on day labor sites where men - many in the country illegally - gather to seek work.

Concerns over terrorism, identity theft, and the national methamphetamine epidemic (which is fueled by Mexican drug cartels and Hispanic gangs operating far from the border) are part of the picture. But some observers warn of an upsurge in "nativism" - the kind of anti-immigrant feeling that has swelled at other times in US history.

"This is a really significant issue right now," says Mark Pitcavage, a historian of extremist movements with the Anti-Defamation League and an adviser to law-enforcement agencies.

For years, says Dr. Pitcavage, some organizations have been critical of what they see as lax immigration policies promoted by both Republican and Democratic administrations.

There are about 11 million illegal immigrants in the US today, a figure that grows by some 500,000 a year, according to the Center for Immigration Studies. In a recent paper, the center's research director, Steven Camarota, reports that there now are more than 35 million immigrants (legal and illegal) living in the US. That amounts to more than 12 percent of the total population, the highest percentage in eight decades.

While many illegal immigrants enter the country to do jobs most US citizens shun, the National Research Council has estimated that the net cost of immigrants ranges from $11 billion to $22 billion a year. Camarota notes that the proportion of immigrant-headed households using at least one major welfare program is 29 percent, compared with 18 percent for native households.

Many immigration reformers are concerned that the kind of temporary guest worker program President Bush, businesses, and some members of Congress favor will exacerbate the situation.

"They need to fix the system," said Dan Stein, president of the Federation for American Immigration Reform, in a fund-raising message. "Not only do they need to make the enforcement commitments work, they need to reduce immigration ... and eliminate the nepotistic family chain migration system that fuels the seeds of unmanageable immigration growth."

Recently, that concern about immigration has developed into a widespread political movement. But it's also developed more radical offshoots.

"Not surprisingly, when you see a movement like this emerge, you see extremists actively working to exploit that mainstream sentiment ... as a wedge to recruit or to propagandize," says Pitcavage.

Devin Burghart of the Center for New Community, a faith-based human rights organization in Chicago, estimates that the "Minutemen" have spawned at least 40 new groups in more than a dozen states.

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In some areas, the rise in extreme anti-immigrant sentiment has resulted in attacks on Hispanic men, and conspiracy theories. One theory warns of "la reconquista," the invasion of the US southwest by Mexicans determined to take back territory lost in the 19th century.

Movement across the US-Mexico border has gone on for centuries, says Jean Rosenfeld, of the UCLA Center for the Study of Religion. But today, says Dr. Rosenfeld, "The nativist narrative ... signals a high tide of resurgent xenophobia."

While communities from New England to the Pacific Northwest are seeing notable growth in the Hispanic population, the most dramatic increases have been in the South, reports the Pew Hispanic Center. Most of those migrants are men who lack legal status, reports Pew.

Since the last census, the Hispanic population in Georgia has grown faster than any other state. The need for laborers to accommodate the residential and commercial building boom around Atlanta is a big part of that. The rate of Hispanic births is twice the official Hispanic population there. Anti-immigration activists opposed to multiculturalism have taken to calling the state "Georgiafornia."

In Washington this year, Congress and the Bush administration are expected to continue wrangling over immigration reform. But most of the action, observers say, is likely to be at the state level: legislation and ballot initiatives.

In 2004, Arizonans approved Proposition 200, which requires proof of citizenship to vote or to apply for state benefits. Up to a dozen states could have similar measures on the ballot this year. Lawmakers in North Carolina and New Hampshire are considering proposals authorizing state and local law officers to enforce federal immigration law. Massachusetts state representatives recently defeated a bill that would have allowed undocumented immigrant students to pay the same discounted college tuition rate as state residents.

In the post-9/11 era, attitudes toward foreign immigration are unique in some ways. But there are similarities to the 1850s and the early 20th century, when violent reactions to immigrants - charges that they took jobs, caused crime, and were not loyal to the US - were common.

"I mean from Germans to Irish Catholics to Jews to Hispanics virtually the same kinds of things have been said," says Mark Potok of Southern Poverty Law Center, who monitors extremist activities in the US. Such sentiment historically abates, says Pitcavage. "The sooner we get this cycle over with, the happier I'll be."

Police Split On Migrant Plan (LAT)

By Richard Winton And Daniel Yi

The Los Angeles Times, January 23, 2006

The push by two Orange County police agencies to arrange training for some of their officers to help enforce federal immigration laws has opened a rift in Southern California law enforcement circles, with some officials fearing the move will harm crime-fighting efforts.

The Costa Mesa Police Department and Orange County Sheriff's Department are developing plans for their officers to be trained alongside federal immigration agents so they can understand and help enforce immigration laws.

They are among the first in the nation to seek the training, and their effort has generated both interest from other agencies and protests from immigrants' rights groups.

"Dozens of jurisdictions have reached out to us and asked us for copies of this policy," said Jon Fleischman, a spokesman for the Sheriff's Department. "Like with any instrument that provides a resource to find criminals, departments are looking at this to see if this will help fight crime."

But in Los Angeles, the county's two top cops — Sheriff Lee Baca and police Chief William J. Bratton — have come out solidly against such steps, saying it would damage hard-earned efforts to build trust in immigrant communities.

They argue that local police are busy enough dealing with crime and that immigration enforcement should be left to the federal government.

"The Orange County talk is cheap," Baca said. "I want to see how arresting a young 18-year-old girl trying to get a job goes down when robbery and burglary calls for service aren't being responded to. The public will say, 'We've had enough of this.' Let the federal government do its job."

The two Orange County agencies say they would not conduct sweeps but only check the status of suspects they stop.

For nearly three decades, the LAPD has enforced a strict policy prohibiting officers from stopping or questioning someone solely based on their immigration status. The policy, known as Special Order 40 and approved by then-Chief Daryl Gates, was part of an effort to improve relations between officers and illegal immigrants, who officials say were often afraid to report crimes or cooperate as witnesses.

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"It's not a matter of politics. It's a matter of practical policing," said LAPD Assistant Chief George Gascon. "If an undocumented woman is raped and doesn't report it, the suspect who raped that woman, remember, could be the suspect who rapes someone else's sister, mother or wife later."

But politics is clearly intertwined in the debate.

Activists fighting illegal immigration, including people involved in the Minuteman Project, have cheered the efforts in Orange County to enforce all laws at the local level. In Los Angeles, immigrant rights groups have been pressing their case to Bratton and Mayor Antonio Villaraigosa, who came out last week against training officers for immigration enforcement.

Still, the issue has been getting law enforcement's attention nationally. The International Assn. of Chiefs of Police has opposed any efforts in the U.S. to require local police to enforce immigration laws.

The Orange County Sheriff's Department wants to send 200 deputies for special training by Immigration and Customs Enforcement, and hopes federal approval comes soon. Likewise, Costa Mesa seeks training for up to 40 officers initially, mostly detectives, gang investigators and jail personnel.

The training will be to familiarize officers with immigration law, give them an understanding of the federal immigration bureaucracy and let them observe how federal agents do their jobs.

The training will help the officers work more smoothly with federal agents to verify the immigration status of people they suspect of criminal wrongdoing, said Costa Mesa Mayor Allan Mansoor, a strong supporter of the plan who is also an Orange County sheriff's deputy. If a suspect is found to be an illegal immigrant, police would report that to federal officials, who will ultimately have the power to start deportation proceedings, he said.

Giving local officers the ability to immediately access criminal suspects' immigration status is significant: If an officer finds that a suspect is an illegal immigrant, the suspect can be detained on that charge, even if there is not enough evidence to make an arrest on the crime initially suspected. And if the check finds that the suspect was previously deported and then came back into the United States — a more serious charge — the officers could also immediately make an arrest.

By contrast, LAPD officers are for the most part prohibited from checking a suspect's immigration record at the time of arrest. If a suspect is arrested, the immigration status is usually discovered later, during booking and charging.

Mansoor emphasized that officers wouldn't be looking for illegal immigrants.

"The focus is criminal offenders," he said. "This will make the community safer for everyone, including people who are here illegally but otherwise are law-abiding."

Sheriff's officials said the training would help deputies more easily identify illegal immigrants with convictions in their home country who are now in the United States.

Supporters of the policy also counter objections by Baca and other opponents that the training would make illegal immigrants less likely to cooperate with law enforcement. The supporters point out that many of the criminals who prey on immigrant communities are themselves illegal immigrants. Mansoor and others say residents will understand that the training is designed to take such people off the streets, not pick on the average person.

As for concerns that the new policy would lead to deportation of undocumented immigrants who are initially suspected of crimes but ultimately not charged or found not guilty, Mansoor added: "If someone is here illegally, they can be deported as is, now. There is no expectation that if you are here illegally, you are allowed to stay."

The policy has won the two agencies praise from anti-illegal immigration groups, and at least two other Orange County cities — Westminster and Garden Grove — are considering similar training. But the two agencies have also been dealing with a backlash from some among Orange County's Latinos.

Paty Madueno, a leader with an umbrella group of churches in Orange County, said the policy "has caused fear, panic and hate.... I know there are a lot of families that are very worried."

The debate underscores the sensitive relationship between local police and federal immigration authorities — especially in Southern California, with its large immigrant communities. In Los Angeles, some officers have grumbled that Special Order 40 is too restrictive and makes it difficult for them to identify suspects.

The department last year drew scrutiny from some immigrant groups when it "clarified" Special Order 40.

The clarification allows officers to arrest and initiate immigration checks on suspects they believe to be convicted violent felons who were deported but then reentered the U.S. illegally. The change came after some anti-gang detectives learned that a suspect they helped convict of a violent crime and was later deported to Mexico was back in Los Angeles. They were not sure whether they could arrest him under Special Order 40.

With the moves in Orange County garnering national headlines last week, Los Angeles officials reassured residents that they had no plans to follow suit.

It's a message even some Orange County cities are sending out.

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"It doesn't seem to me that local governments' taking on [enforcement of immigration laws] as an initiative is necessarily the best use of local resources," said Irvine Mayor Beth Krom. "Why create an environment that pits neighbor against neighbor or causes a person in line at the grocery store to look suspiciously around?"

Times staff writers David Haldane and Jennifer Delson contributed to this report.

CONGRESS-ADMINISTRATION:

Alito Confirmation May Be Tight (WT)

By Charles Hurt

The Washington Times, January 23, 2006

Federal Judge Samuel A. Alito Jr. appears headed for confirmation to the Supreme Court this week with one of the narrowest Senate approvals in history.

Though Judge Alito hasn't lost support from any Republicans, he has won endorsement from only one Democrat. Republicans say they expect the vote to be close to the 55-45 partisan break in the chamber.

Several centrist Democrats who voted to confirm Chief Justice John G. Roberts Jr. and have been courted by the White House during the Alito confirmation process already said they will vote against Judge Alito. Those include Sens. Max Baucus of Montana, Ron Wyden of Oregon and Ken Salazar of Colorado.

Republican leadership aides also say they are worried they may lose one of the Northeast Republicans who represent liberal states. Sens. Lincoln Chafee of Rhode Island and Olympia J. Snowe and Susan Collins, both of Maine, have declined to say how they will vote.

Those same centrists, however, have said that a Democrat filibuster of the nominee would be out of order.

Still, Democrat leaders insist, that option remains a possibility.

"Nothing is off the table," Sen. Charles E. Schumer, New York Democrat, said yesterday on CNN's "Late Edition."

Sen. George Allen, Virginia Republican, seemed to almost relish the threat.

"Judge Alito has an outstanding record. He had the unanimous highest recommendation of the [American Bar Association]. He has 15 years as a circuit court judge," said Mr. Allen, adding that "if the Democrats want to filibuster, let them. We'll pull the constitutional trigger."

Majority Leader Bill Frist of Tennessee has made clear that if Democrats filibuster Judge Alito, he will move to change the rules in the Senate to ban such filibusters of judicial nominations.

While Mr. Schumer, who sits on the Judiciary Committee, said the filibuster remains an option, he also seemed wary of going that route.

"A filibuster is a very large thing to do. It's not done very often, and so you've got to give it a lot of thought," he said. "There is no question many are disappointed in some of the answers that Samuel Alito gave, but to vote against him is one thing and to filibuster requires what I think is a much higher standard."

Also yesterday, Sen. John Kerry, the Massachusetts Democrat who lost the 2004 presidential election, said he will vote against confirmation.

He said he opposes Judge Alito, in part, because "he refuses even to go as far as John Roberts in affirming settled law," an apparent reference to Chief Justice Roberts' assertion that federal abortion rights are settled law.

Court observers say Chief Justice Roberts left himself plenty of room during his Supreme Court hearings to overturn abortion rights if given the opportunity.

A vote on Judge Alito by the Senate Judiciary Committee is scheduled for tomorrow with debate on the floor to start Wednesday. A final vote is expected by next Tuesday.

Did Democrats Seal Their Defeat In Alito Hearings? (LAW)

By T.r. Goldman, Legal Times

Legal Times, January 23, 2006

There are any number of ways to fault the performance of Senate Democrats in their campaign to keep Samuel Alito Jr. -- seemingly as rock-ribbed a conservative as you'll find -- off the high court.

During Alito's weeklong confirmation hearings, Senate Judiciary Committee Democrats were, by turns, hostile, pedantic, bombastic and confused. Follow-up questions? No time for that.

There were larger strategic miscalculations as well: notably that the majority of pro-abortion rights Americans would rise up in outraged opposition to a nominee who had so clearly expressed disdain for abortion rights at several points during his legal

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career. Or that Americans would find credible the shrill discourse of Alito's opponents, which by now had been assimilated as so much background noise.

And there was last year's "Gang of 14" filibuster deal, one that Democrats initially claimed as a victory but that helped seal their defeat.

The causes are myriad, but the result seems clear: Alito's opponents threw everything they had at him and nothing worked. He is now virtually guaranteed to be confirmed.

THE NUMBERS GAME

There was one thing, of course, Senate Democrats couldn't control: the Republicans' 55-44 majority.

"Alito walked in there with all 10 Republican [committee] votes and 51 votes on the floor, and they knew it," says Jeffrey Berman, who runs the Western region of People For the American Way. "They just set up a four-corners offense and ran out the clock."

In fact, numbers tell the story in almost every judicial nomination. The party in power in the Senate, especially if that party controls the White House, always gets its man -- at least it has since 1930. "I'm proud of the Democratic senators," says Berman, the former chief counsel to committee Democrat Sen. Charles Schumer, N.Y. "They just don't have enough of them."

They do have enough to filibuster, as it technically takes 41 votes, and there are 44 Democrats. But that's not happening, either. In part that's because, in practical terms, it takes several more than 41, says University of Connecticut professor David Yalof, who notes that it's tough to get Democratic senators from GOP-leaning states like Nebraska, Arkansas and Louisiana to go along.

Last year's Gang of 14 compromise over judicial nominees instantly raised the standard for filibustering. That deal, in turn, stemmed from the Democrats' promiscuous use of the filibuster against 10 federal appeals court judges in 2004, which, in the opinion of some, made using it to block Alito's nomination that much harder. And three of those judges still wound up on the federal bench.

"We shot our wad. We filibustered 10 guys, and at the end of the day the worst got on anyway," says a former Judiciary Committee counsel. "If we had not used the filibuster and pissed off the Republicans over the past four years, if it was seriously being entertained for the first time [against Alito], we might have succeeded."

NOT ASKED, NOT ANSWERED

Still, a filibuster wasn't the Democrats' only option. There were the hearings. And it's clear from a close reading of the Alito transcript that his Democratic interrogators did not give him a free pass.

Democrats hammered the 55-year-old federal appeals court judge for three days and more than a dozen hours on a broad range of subjects. They discussed obscure constitutional theories, the scope of executive power, the role of foreign law in Court deliberations, stare decisis and privacy -- again and again and again.

Alito fended them all off with the same sturdy stiff-arm. In the end there was simply no issue on which Democrats found traction.

Indeed, the whole week -- a festival of modern senatorial oratory -- will be remembered largely for one silent image: the tearful exit of Alito's wife, Martha-Ann, from the hearing room after Sen. Lindsey Graham, R-S.C., apologized to the Alito family for the hearings' harsh tone.

The Democrats' speechifying, of course, could have been sharper and more pungent, a more prosecutorial cross-examination than political stump speech.

There also could have been a concerted effort to redefine Alito's 1985 job application to the Reagan Justice Department, in which he laid out his conservative jurisprudential philosophy and his opposition to abortion. They could have called it a personal essay, for example, so that his opinions were seen more as bedrock convictions than the kind of posturing one does simply to get a job.

But that's a tough assignment for any panel of questioners, let alone a group of notoriously independent senators just back from recess with little inclination to coordinate their efforts, anyway. And who knows whether better questioning would have led to more satisfying answers.

The back-and-forth is a dance that is becoming increasingly orchestrated, notes Mark Gitenstein, who was chief counsel to the Judiciary Committee in the 1980s.

"The nominees know what the basic questions are -- they don't change much -- and the committee knows what the answers will be," says Gitenstein, a partner at Mayer, Brown, Rowe & Maw. "But the American people are not finding anything out about these nominees. There's no real jurisprudential debate."

There's also the conundrum of any confirmation hearing: To really dig inside a nominee's mind, senators have to ask questions "so arcane people can't tell what the hell you're talking about," Gitenstein says. "But if you ask general questions, it's easy to give a general answer."

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Starting with Chief Justice John Roberts Jr., the responses reached a new level of sophistication, he adds. "Roberts did a very excellent job of giving an answer which sounded like it was saying something and didn't. Alito did the same thing, if not as polished."

THE VANGUARD

To Republicans, there was a disingenuousness to the Democrats' strategy. In an attempt to replicate their crowning success, the defeat of Robert Bork in 1987, they reached into a similar bag of tricks to try to demonize Alito to the American public.

"They stir these things up and the nominee spends all this time trying to rebut them," explained Alabama Republican Sen. Jeff Sessions during a break in the hearings earlier this month. "The nominee hits the hearings a little bit under a cloud -- this is the Supreme Court and everybody's watching. [Sen. Edward] Kennedy is the point of this flying wedge; he's the guy who does the heavy lifting."

The Massachusetts mauler was true to form, repeatedly assailing Alito's credibility on something that, on its face, did not appear that grave -- namely, Alito's failure to put cases involving Vanguard, the mutual fund company in which he owned shares, on his recusal sheet.

True, during his 1990 confirmation hearings for a seat on the 3rd U.S. Circuit Court of Appeals, Alito explicitly promised the Senate that he would recuse himself from any Vanguard cases. But as he repeatedly pointed out, there was never the slightest possibility that any ruling he made could have affected the price of his mutual fund.

Then there was the Concerned Alumni of Princeton, the defunct group to which Alito once belonged. Democrats hit the issue hard, asking how Alito, an immigrant's son, could have associated himself with a group dedicated to keeping minorities out of Princeton.

But the CAP issue also failed to gather much traction, possibly because no proof could be found that Alito had anything more than a marginal connection to the group.

ABORTION WRONGS

Despite their superior numbers, the White House and its allies in the Senate weren't taking any chances on their man.

Might he fare badly in comparison with Roberts, whose stellar performance four months earlier became a benchmark for all future nominees?

No problem. Make sure early on that everyone believes Alito is not in the same league as Roberts -- whether he is or not.

"They played a great game of lowered expectations," adds the former committee counsel. "Roberts was a rock star; this guy was a high school bandleader."

Republicans also did a better job than Democrats of framing the nominee. "Alito was presented, both by himself and his sponsors, as a conventional person, a middle-of-the-road American," says political scientist Andrew Seligsohn, who teaches at Hartwick College in Oneonta, N.Y. "And we're being asked to believe that this conventional guy will act radically. That's hard to believe."

Democrats, he says, "never put together the case that while this guy may look conventional, the judicial philosophy to which he subscribes is radical."

Even Alito's answers on abortion, which justifiably raised fears among pro-abortion rights senators, failed to make much impact at the hearings. This despite the fact that Gallup Poll data for the past 30 years consistently show that a majority of Americans believe abortion should remain legal.

It's possible that a certain complacency about abortion has set in. Today virtually no woman of reproductive age in the United States has known a time when abortion was illegal. And a lot of the barriers to abortion don't sound threatening, anyway, adds Patton Boggs partner John Jonas. "You want parental notification; you don't want late-term abortions," he says.

For most people, overturning Roe v. Wade does not seem like a real possibility, notes Jonas, a former Hill staffer. "It's like the draft. 'Oh, they're going to bring back the draft. That's not a credible threat.'"

And while Beltway politicians may be aggrieved that Alito and other recent Supreme Court nominees are able to get away with saying nothing, many Americans don't seem to mind, notes another former Senate staffer.

"We've been through this enough, and to some extent people are getting a little savvier. People don't expect judges to be politicians," he says. "It's a distinction not being lost on the people, although politicians have not yet caught up with it."

There are exceptions, including former Sen. Alan Simpson, R-Wyo., who says he never paid attention to ideology. "I laid my blood on the line for Clarence Thomas, and if the issue is abortion, I must have missed something, because I'm pro-choice."

In fact, says Simpson, he'd prefer a Court with members who hold strongly opposing views. "It would be a wonderful thing to have a Bork and a Tribe on the Court," he says, referring to defeated Supreme Court nominee Robert Bork and liberal Harvard Law professor Laurence Tribe. "You throw guys of this brilliance in a room with their seven colleagues. I can't imagine the richness of the discussion."

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Kerry Says He Won't Vote For Alito (BOS)

The Boston Globe, January 23, 2006

WASHINGTON --Sen. John Kerry said Sunday he will vote against Supreme Court nominee Judge Samuel A. Alito Jr. because he fears Alito would take the country "backwards."

Kerry, the failed Democratic nominee for president in 2004, also voted against now-Supreme Court Chief Justice John Roberts. But Alito, Kerry said Sunday, goes even farther than Roberts in undermining established legal precedents.

A flash point during Alito's confirmation hearings was a 1985 memo he wrote saying that the "Constitution does not protect a right to an abortion" despite the Supreme Court's 1973 Row v. Wade decision.

"I think he will shut the door of court access to the average person in America ... ," Kerry said Sunday on ABC's "This Week with George Stephanopoulos." "I will vote against him because I think he will take the court backwards."

The Senate Judiciary Committee will vote on Alito's nomination to replace retiring Justice Sandra Day O'Connor on Tuesday, with the full Senate starting final debate the next day.

Most if not all of the Senate's 55 Republicans are expected to support him, which would give him enough votes for confirmation if the 44 Democrats and independent Sen. Jim Jeffords of Vermont don't attempt a filibuster.

On Sunday Kerry also criticized President Bush's wireless wiretaps, calling the program, "a violation of the law."

A voice recording with new threats from Osama bin Laden released last week underscored a major White House failure in the war on terror, Kerry also said.

"The fact is, when they had a chance to kill or capture Osama bin Laden they didn't do it," Kerry said. "Osama bin Laden is going to die of kidney failure before he's killed by Karl Rove and his crowd."

There have long been unconfirmed rumors that bin Laden is suffering from kidney failure and requires regular medical care.

Kerry also called the corruption surrounding convicted lobbyist Jack Abramoff a GOP scandal. The junior senator from Massachusetts pointed to the party that dominates Washington politics.

"They run the House of Representatives. They run the Senate. They have the White House. They're controlling who goes on the judiciary," Kerry, the Democrats' nominee for president in 2004, said on ABC's "This Week."

"They have not done the things necessary in order to press forward on this," Kerry said.

He also did not rule out a 2008 run for president, and rebuffed criticisms from Democratic strategics in an upcoming article in GQ magazine who charged that he was a lackluster candidate for the next presidential election.

Kerry said he doesn't listen to insider Washington chitchat and that another run for president is, "a decision for the future."

"I"m going to listen to my heart and my gut" Kerry said.

Two Justices Who 'get' Religion (USAT)

By Richard W. Garnett

USA Today, January 23, 2006

The conventional wisdom is that Judge Samuel Alito will be confirmed by the Senate to serve on the Supreme Court, despite the energetic opposition of left-leaning interest groups and some senators' aggressive, at times unseemly and misleading, interrogations. This is, of course, as it should be. Alito has a distinguished record of public service and a strikingly sharp legal mind.

Judge Samuel Alito is a fitting replacement for Justice Sandra Day O'Connor, given their shared commitment to religious freedom.

AP photos

It is interesting to note, though, that one of the most important players in Alito's recent Senate confirmation hearings wasn't even in the room: Justice Sandra Day O'Connor, a pioneering jurist who has lived "greatly in the law," to take a phrase from Justice Oliver Wendell Holmes in the early 1900s.

Unfortunately, though, her work and legacy were misused and distorted by some of Alito's critics, who appear to worry that his understanding of the Constitution's requirements might not coincide with their own policy preferences. And so, during the confirmation battle, we heard repeatedly that O'Connor has been a "moderate," "swing" justice and tirelessly resisted the efforts of conservatives and the "religious right" to "turn back the clock" or "push the court to the right."

This description is not entirely wrong, but it is incomplete. In fact, and notwithstanding her recent "liberal" votes in several hot-button cases, O'Connor was for two decades a consistent and crucial partner with Chief Justice William Rehnquist in moving the court's constitutional doctrines in a more conservative direction: She believed, among other things, that ours is a national government of limited powers, that the states are sovereign laboratories of democracy, that religious faith and expression are

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protected by our Constitution and welcomed in the public square, and that our criminal laws best serve human dignity by preventing and punishing crime.

ON RELIGION:

Faith. Religion. Spirituality. Meaning. A weekly column seeks to illuminate the national conversation. Read the series online at religion.usatoday.com.

Alito is an eminently worthy successor to O'Connor. What's more, he is all the more fitting a replacement, given their shared commitment to what has been quite rightly called our "first freedom": The freedom of religion protected by the First Amendment.

Like O'Connor, Alito understands that our Constitution does not regard religious faith with grudging suspicion, or as a bizarre quirk or quaint relic. They both appreciate that, in our traditions and laws, religious freedom is cherished as a basic human right and a non-negotiable aspect of human dignity. This is why both jurists have occasionally come under fire from activists who misunderstand the "separation of church and state."

Our Constitution separates church and state not to confine religious belief or silence religious expression, but to curb the ambitions and reach of governments. The point of the First Amendment is not to "put religion in its place," but instead to protect religion by keeping the government "in its place." The Amendment's Establishment Clause is not a sword, driving private religious expression from the marketplace of ideas; rather, it is a shield that constrains government precisely to protect religiously motivated speech and action.

In case after case, O'Connor has vindicated this understanding. For example, in the 1994 Kiryas Joel case, she insisted that "government impartiality, not animosity, toward religion" is the constitutional touchstone, and that the First Amendment neither requires nor permits "hostility to religion, religious ideas, religious people, or religious schools." Yes, as in the recent Ten Commandments cases, she has disapproved religious activities or expressions that, in her view, exclude some by endorsing the faith of others.

At the same time, though, she has vigorously defended accommodations for religious believers and their right to participate fully and speak openly in the public square. Accordingly, in Rosenberger v. University of Virginia, she agreed that the First Amendment does not permit a state university to exclude a student newspaper from a program designed to fund student activities and publications simply because the paper endorsed and proposed a Christian perspective.

Alito has been equally vigilant and clear in policing discrimination against religious believers, conduct and expression. In a 1999 case, he wrote that the First Amendment did not permit the police department of Newark, N.J., to exempt officers from its no-beards policy on medical grounds while refusing similar accommodations to Muslims.

He said the department had, in effect, made "a value judgment in favor of secular motivations, but not religious motivations." That same year, he upheld Jersey City's holiday display — which included, among other things, a crèche and a menorah — emphasizing that the display was a permissible recognition of citizens' faith and the city's diversity, not an unconstitutional establishment of religion.

More recently, he required the public school district in Stafford Township, N.J., to provide a religious youth group the same access to its literature-distribution program that other community groups enjoyed. Echoing the court's decision in Rosenberger, he insisted that the First Amendment does not permit such exclusion on the basis of the group's religious identity and viewpoint.

At the heart of O'Connor's legacy is an insistence that our Constitution does not mandate a public square scrubbed clean of religious symbols and speech, and that equality and neutrality — not hostility or marginalization — are the watchwords of our First Amendment. With Judge Alito, that legacy is in good hands.

Richard W. Garnett is a Lilly Endowment associate professor of law at the University of Notre Dame.

O'Connor's Rightful Heir? (NSWK)

By Evan Thomas And Stuart Taylor Jr.

Newsweek, January 23, 2006

When conservative Washington lawyers who argue before the Supreme Court talk about "the Greenhouse Effect," they don't mean global warming. The Greenhouse in question is Linda Greenhouse, the longtime and esteemed Supreme Court reporter for The New York Times. The "effect" is to subtly push Supreme Court justices to the left. Unless a jurist comes to the court with very strongly held, or even fixed, conservative views, there is a tendency to be seduced by the liberal legal establishment that dominates at elite law schools like Harvard and Yale. Those schools produce a disproportionate number of the law clerks who generally draft opinions for the justices, as well as the sort of professor routinely tapped as a source by Greenhouse, who is regarded as a legal scholar in her own right.

That, at least, is the view of conservatives like U.S. Court of Appeals Judge Laurence Silberman, who popularized the term some years ago. The chief "victim" of the Greenhouse Effect is usually said to be Justice Anthony Kennedy, who has drifted to

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the left since his appointment almost two decades ago. With the departure of Justice Sandra Day O'Connor from the Supreme Court, Kennedy is seen by liberals and status-quo devotees as the remaining swing vote, a check on the court's rightward tilt as more justices are appointed by Republican presidents.

Kennedy's linchpin role was on display last week, when he wrote the majority opinion in a closely watched case. By a 6-to-3 vote, the court rejected the Bush Justice Department's effort to block a controversial Oregon law that allows physicians to assist the suicide of terminally ill patients. About 30 people a year avail themselves of Oregon's "right to die" law, obtaining a prescription for a lethal dose of drugs. Former attorney general John Ashcroft intervened to stop the practice, but the Supreme Court ruled last week that Ashcroft had overstepped his authority.

Conservatives took some consolation in the vote of Chief Justice John Roberts. In his first significant decision since his confirmation, he joined in dissent with the court's right wing, Justices Clarence Thomas and Antonin Scalia. If, as expected, Judge Samuel Alito is confirmed, conservatives think they will have a reasonably reliable fourth vote. But Kennedy remains at best a wild card; in some important arenas, most notably abortion and gay rights, he has been a winning vote for the court's liberal camp.

Kennedy has "evolved," say the liberals—much like other GOP-appointed justices before him, such as the late Harry Blackmun. Conservative lawyers scoff (though rarely on the record, lest they have to argue before Kennedy) that the justice is squishy and vainglorious, too worried about what the headlines will say about him.

Other hard-liners regard him as a traitor. He was chosen by Ronald Reagan in 1987 after fiery conservative Robert Bork was rejected by the Democratic-controlled Senate and Reagan's next choice, Judge Douglas Ginsburg, dropped out after he admitted to having smoked marijuana as a Harvard law professor. At first Kennedy seemed to be a solid conservative, siding with the state in criminal-rights cases. Some even began calling him "Bork without the beard" and predicting that he'd be chief justice one day. But then in 1992, Kennedy joined the majority opinion upholding a woman's right to abortion. Just before he took the bench the day of the decision, Kennedy told a reporter, "Sometimes you don't know if you're Caesar about to cross the Rubicon or Captain Queeg cutting your own towline." Then he excused himself to "brood." No one was quite sure what he meant by that mixed metaphor, but it was seen as a bad sign for conservatives, who figured they could no longer count on him. Indeed, Ken-nedy went on to author a landmark 2003 decision that established, for the first time, constitutional protection for homosexual sodomy. "Gay people are entitled to respect for their private lives," wrote Kennedy. "The state cannot demean their existence or control their destiny."

Kennedy is by no means always or even often on the left. He has dissented, for instance, from decisions upholding affirmative action. But for the time being, he may be the one justice standing between conservatives and a predictable Supreme Court majority.

Judge Alito's Radical Views (NYT)

The New York Times, January 23, 2006

If Judge Samuel Alito Jr.'s confirmation hearings lacked drama, apart from his wife's bizarrely over-covered crying jag, it is because they confirmed the obvious. Judge Alito is exactly the kind of legal thinker President Bush wants on the Supreme Court. He has a radically broad view of the president's power, and a radically narrow view of Congress's power. He has long argued that the Constitution does not protect abortion rights. He wants to reduce the rights and liberties of ordinary Americans, and has a history of tilting the scales of justice against the little guy.

As senators prepare to vote on the nomination, they should ask themselves only one question: will replacing Sandra Day O'Connor with Judge Alito be a step forward for the nation, or a step backward? Instead of Justice O'Connor's pragmatic centrism, which has kept American law on a steady and well-respected path, Judge Alito is likely to bring a movement conservative's approach to his role and to the Constitution.

Judge Alito may be a fine man, but he is not the kind of justice the country needs right now. Senators from both parties should oppose his nomination.

It is likely that Judge Alito was chosen for his extreme views on presidential power. The Supreme Court, with Justice O'Connor's support, has played a key role in standing up to the Bush administration's radical view of its power, notably that it can hold, indefinitely and without trial, anyone the president declares an "unlawful enemy combatant."

Judge Alito would no doubt try to change the court's approach. He has supported the fringe "unitary executive" theory, which would give the president greater power to detain Americans and would throw off the checks and balances built into the Constitution. He has also put forth the outlandish idea that if the president makes a statement when he signs a bill into law, a court interpreting the law should give his intent the same weight it gives to Congress's intent in writing and approving the law.

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Judge Alito would also work to reduce Congress's power in other ways. In a troubling dissent, he argued that Congress exceeded its authority when it passed a law banning machine guns, and as a government lawyer he insisted Congress did not have the power to protect car buyers from falsified odometers.

There is every reason to believe, based on his long paper trail and the evasive answers he gave at his hearings, that Judge Alito would quickly vote to overturn Roe v. Wade. So it is hard to see how Senators Lincoln Chaffee, Olympia Snowe and Susan Collins, all Republicans, could square support for Judge Alito with their commitment to abortion rights.

Judge Alito has consistently shown a bias in favor of those in power over those who need the law to protect them. Women, racial minorities, the elderly and workers who come to court seeking justice should expect little sympathy. In the same flat bureaucratic tones he used at the hearings, he is likely to insist that the law can do nothing for them.

The White House has tried to create an air of inevitability around this nomination. But there is no reason to believe that Judge Alito is any more popular than the president who nominated him. Outside a small but vocal group of hard-core conservatives, America has greeted the nomination with a shrug - and counted on its senators to make the right decision.

The real risk for senators lies not in opposing Judge Alito, but in voting for him. If the far right takes over the Supreme Court, American law and life could change dramatically. If that happens, many senators who voted for Judge Alito will no doubt come to regret that they did not insist that Justice O'Connor's seat be filled with someone who shared her cautious, centrist approach to the law.

Health Plan To Revive Debate (LAT)

By Peter G. Gosselin

The Los Angeles Times, January 23, 2006

WASHINGTON — President Bush is preparing to unveil a series of proposals intended to make the nation's healthcare system more efficient, but he is likely to revive a bitter debate — begun last year over Social Security — about how much of life's biggest risks Americans should bear on their own.

Although many of the proposals, such as limits on medical malpractice lawsuits, are ones the president has failed to get through Congress, he plans to unveil new initiatives as part of his vision for reshaping U.S. healthcare policy, aides and advisors said.

Among the possible initiatives: offering additional tax breaks for the use of Health Savings Accounts, and making most out-of-pocket medical spending by individuals tax-deductible. Currently, individuals must spend 7.5% of their annual incomes on healthcare before they qualify for an income tax deduction.

Bush's supporters say that the changes would help tame rocketing medical costs by encouraging people to buy their own healthcare insurance and become smarter shoppers, rather than relying on employers or government programs such as Medicare and Medicaid to cover their health costs.

Critics argue that Bush's expected proposals would undermine the employer-provided health insurance system that covers most working Americans. And, they say, it would encourage them to switch to the Bush-authored Health Savings Accounts, established in 2003, under which they would bear more of the financial risks of illness and injury.

Just as with Bush's Social Security personal accounts proposal, the president would be seeking to persuade Americans to rely less on government-provided or employer-provided safety nets and more on themselves.

He would also exhibit the kind of combativeness that has become a trademark of his time in Washington. Despite the political drubbing that the administration sustained on Social Security and over the flawed rollout of its Medicare prescription drug benefit, Bush appears eager to return to the fray.

"We may be looking at the start of a fundamental shift in what we mean by health insurance, from a system where we share risks to one where it's up to individuals to make their own deals and bear their own risks," said Drew E. Altman, president of the nonpartisan California-based Kaiser Family Foundation.

"The danger," Altman said, "is that this new arrangement could work out very well for some people, especially the young, the healthy and the affluent, but be very bad for the health system as a whole."

The Health Savings Accounts, known as HSAs, are designed to encourage people to cover a substantial portion of their healthcare costs by opening tax-advantaged accounts from which they can pay routine medical expenses. The account must be paired with a high-deductible insurance policy to cover catastrophic medical costs.

The theory behind the accounts is that people who pay more of their own costs become better consumers and less likely to demand unnecessary care. Proponents say the accounts would encourage people who have no insurance to buy at least some coverage.

Detractors fear that the accounts will attract only the healthiest Americans, leaving traditional employer-provided plans with people who have the highest health costs.

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Bush signaled his readiness to act on healthcare in a campaign-style speech in Virginia last week, saying that government must ensure "healthcare is available and affordable." He explicitly linked the proposals he will make in this year's State of the Union address later this month and new budget plan to last year's Social Security fight by discussing healthcare in the same "ownership society" terms that he used in touting Social Security personal accounts.

"I think people ought to be allowed to own their own healthcare account and make decisions for what's best for them," Bush told his audience.

Last year, Bush made a considerable effort trying to convince Americans that younger workers should be allowed to divert a portion of their Social Security taxes into stock and bond accounts that they would own and control. In return, their traditional Social Security benefit would be reduced. But the plan failed to gain popularity with the public or in Congress amid a debate over whether it would undermine the finances of the overall program and would leave workers too exposed to stock market risk.

Much of the president's recent thinking about healthcare appears to be influenced by former Reagan administration economist John F. Cogan, now at Stanford University, and former Bush chief economic advisor R. Glenn Hubbard, now dean of Columbia University business school.

The two, together with Stanford economist Daniel P. Kessler, have just unveiled a plan for overhauling the nation's healthcare system.

The proposals include new tax breaks for individual health spending, an expanded system of "report cards" on doctors and hospitals, stricter enforcement of antimonopoly laws against health providers and insurers, and a limit on malpractice suits.

Hubbard briefed congressional leaders on the proposals last week, and according to congressional staff members, has been asked by the White House to begin a nationwide speaking tour aimed at drumming up public support for the measures.

In recent interviews and in a new book, "Healthy, Wealthy and Wise," the economists portrayed their ideas as modest first steps that would not drastically alter the current employer-based healthcare system in the next few years and would shave a comparatively small $60 billion from the nation's $1.9 trillion annual healthcare tab.

But the three also say that their proposals could eventually result in HSAs replacing the entire system, including Medicare and Medicaid. "There's no reason to have a separate Medicare and Medicaid arrangement if you had these souped-up HSAs," Hubbard said.

Many analysts believe that the two big government programs or something like them are needed because the elderly, poor and disabled who are covered by them have the most costly care — and, especially in the case of Medicaid, are the least able to afford it. Hubbard said such problems can be handled by government subsidies.

The measures are attracting criticism from a variety of political quarters even before Bush's formal embrace of them.

From the left, Sen. Edward M. Kennedy (D-Mass.) blasted administration calls for more tax breaks and additional deregulation, saying the president "continues to do the wrong thing on healthcare."

"On top of the Medicare mess, Bush's savings accounts are a tax giveaway to the wealthy and healthy that will drive costs up even further," Kennedy said.

From the moderate right, Douglas Holtz-Eakin, a former Bush economic advisor and Republican-appointed director of the Congressional Budget Office, described the idea of tax deductions for people's out-of-pocket medical expenditures as "really bad tax policy."

Holtz-Eakin, who is a fellow with the Council on Foreign Relations, warned that the deduction would tempt people to treat almost all of their spending as health-related and wreak havoc at the Internal Revenue Service.

"I could make an argument that my running shoes are a health expense," he said. "They're preventive medicine."

However, the problems that Bush would be likely to face in making the case for substantial healthcare change run far deeper than what kind of tax deductions people would claim.

Most conservatives — including those in the administration — believe that the root cause of most problems with the nation's healthcare system is that most Americans are over-insured.

They argue that insurance keeps people from feeling the sting of prices and therefore from being wise consumers. Hence, conservatives' interest in making individuals take more risk and bear more responsibility for healthcare, retirement savings and other social safety nets.

But a wide array of polls reveal that, if anything, people feel underinsured, and have little interest in adding to the financial risks they face.

"The average American isn't interested in having more of his or her skin in the game," said Robert D. Reischauer, president of the Urban Institute, a centrist Washington think tank. "They already think they are paying plenty for healthcare and bearing enough of the risk as it is."

The conservative critique of what's wrong with American healthcare may create a vexing problem for the president.

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In the past, Bush has scored crucial political points with swing voters for tackling the nation's tough problems, even if they did not agree with him. This was true in the case of the dividend tax cut and has been especially true of the Iraq war.

It seems unlikely, however, that the president would be able to pull off a similar political maneuver with healthcare.

That is because many conservatives believe that the reason most Americans have too much employer-provided health insurance is that Washington lavishes too many tax breaks on companies to provide it. But instead of cutting back on the breaks offered employers, Bush proposes giving new breaks to individuals. In effect, he is leveling the tax playing field by raising the latter up, rather than cutting the former down.

In an era of giant federal budget deficits, offering one set of tax breaks to counteract another might prove a hard sell.

Cogan and Hubbard acknowledged the problem but argued that proposals such as theirs were the only ones that could win congressional passage.

"There's no question that the right answer is to repeal the tax exclusion for employer-provided health insurance," Hubbard said. "But there's no chance politically that that will happen."

Bush's Third Term (USNEWS)

By Kenneth T. Walsh

U.S. News and World Report, January 23, 2006

When visitors ask President Bush how he deals with pressure, he often points to a portrait of Abraham Lincoln gazing beatifically from a wall near his desk in the Oval Office. The painting, by artist George Henry Story, depicts a confident, serene Lincoln circa 1861, when the Union was embroiled in its struggle with the Confederacy. In tough times, Bush imagines what it was like to be commander in chief when the country was tearing itself apart, with brother killing brother and the survival of the United States at stake. Compared with that, Bush likes to say, he has it easy. What Bush admires about Lincoln, and tries to emulate, is the Great Emancipator's resolve and commitment to a cause--the fact that, as Bush told one guest, "he had such a clear vision about keeping this country united, in spite of the incredibly divisive times in which he lived."

Now Bush is trying to apply the lessons of Lincoln more seriously than ever as he embarks on what he hopes will be a fresh start for his presidency. Bush tells friends that despite the many setbacks of the past year, the country still wants him to provide strong leadership, and that's what he aims to do. But that also means being more realistic, Bush has concluded, so he is ready to trim his sails a bit.

"Last year we played big-ball politics, going for home runs," says a key Republican strategist. "This year will probably be drag bunts and singles." Adds a senior White House official: "We are a nation at war, and it's in this president's DNA to lay out a bold, aggressive vision and agenda--but we'll be realistic in what we ask the Congress to do during midterm elections." Some Bush strategists see 2006 as the start of Bush's "third term."They regard his first four years as a period of solid achievement that culminated in his re-election victory. They see 2005 as a "term" of its own, 12 months marked by disappointment. They hope '06 will start an upswing.

First off, White House strategists expect the Senate to easily confirm Samuel Alito for the Supreme Court in the next few weeks--a victory for Bush just when he needs one. But the real kickoff of 2006 will be the State of the Union address January 31. "The State of the Union will provide a good opportunity to focus on the president and his agenda," Republican National Chairman Ken Mehlman told U.S. News .

Bush will continue to argue that progress is being made against the insurgents in Iraq and that the domestic economy is strong. But Republican insiders say he will also emphasize a series of smaller proposals that they predict will find ready acceptance among voters. This replicates an approach that was successful for President Clinton, who regularly announced small-bore but popular initiatives, such as endorsing the use of school uniforms to enhance discipline and encouraging curfews for teenagers. The tactic helped Clinton stay connected to everyday Americans, which boosted his job-approval ratings even when other things went wrong.

The Bush Battle Plan (NSWK)

By Richard Wolffe And Holly Bailey

Newsweek, January 23, 2006

For any White House aide, it should have been an easy crowd: a group of pro-Bush business lobbyists at the U.S. Chamber of Commerce, a short walk from the West Wing. But when chief of staff Andy Card delivered a preview of the president's 2006 agenda earlier this month, the audience grew visibly listless. One checked his BlackBerry for e-mails, while another furtively read her copy of The Washington Post. Several yawned. Instead of concentrating on the issues his business friends care about—like taxes or trade—Card spent most of his time on a single topic. "The war on terror must be won in order to be able to have this sound economy that you're part of," he declared. His allies were unimpressed. "No one is naive enough to

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say that we shouldn't care about Iraq," said one GOP lobbyist, who declined to be named so as not to annoy the White House. "But there are other priorities that also deserve some tending to."

President George W. Bush hasn't forgotten his friends at the Chamber of Commerce, or their wish list of tax cuts and immigration reform. But after the worst year of his presidency—after a slump in support for his Iraq policy, the ravages of Hurricane Katrina and a wave of worry about corrupt lobbyists—Bush knows he needs something smart to offer the anxious GOP majority on Capitol Hill as its members head home to face the voters this fall. So he's shelved the ambitious domestic agenda he launched a year ago, and gone back to the mantra that's worked so well in the last two election cycles: it's the war, stupid. Karl Rove fired the first shots at the GOP's annual winter meeting last week, and Team Bush will take the strategy to the streets this week in Kansas and at the National Security Agency. The latter site will remind the public of the controversy over Bush's decision to eavesdrop on Americans without a warrant as he keeps an ear out for terrorist activity. But Bush's aides believe they can rebrand the domestic snooping program as "enemy surveillance" vital to protecting the country.

The well-worn plan is premised on the notion that three elections after 9/11, the Democrats still don't have an answer to that line of attack. "There's a national debate on what we're doing to protect the country," said one senior Bush aide, who declined to be named while talking about political strategy in advance of the State of the Union speech, slated for Jan. 31. "It's something we're very comfortable with, while the Democrats are dancing around it pretty gingerly." He's got a point. While some Democrats (like former veep Al Gore) have accused the White House of breaking the law, the party's congressional leaders have thus far merely demanded a full investigation into the program.

But will such a dog-eared playbook be sufficient? After a series of "listening" sessions with Hill allies last month, White House aides told members they wanted to do something "achievable" after last year's failure to overhaul Social Security and the tax code. In his State of the Union speech, Bush will return to his old idea of tax-free health savings accounts, hoping that will appeal to younger voters who can carry their savings from one job to another. And he'll tout the new Medicare prescription-drug benefits, urging seniors to stay the course despite early bureaucratic snafus that have left some without coverage. Tom Cole, a deputy House whip from Oklahoma who attended one meeting, told NEWSWEEK: "The real challenge for the administration in 2006 is to show follow-through, to show the American people that this government is competent and can get things done."

The biggest obstacle on that path may be the GOP's lobbying scandals. Bush called for "high standards for conduct of public officials" last week, and he's likely to talk broadly about reforming the federal budget in his State of the Union—including an attempt to limit pork-barrel spending. But the debate is complicated, his aides say, by a House GOP leadership contest between candidates with close ties of their own to lobbyists.

That may be one reason Andy Card shunned most of the agenda pushed by business lobbyists at the Chamber of Commerce. Instead, before he left, he described a poster of Uncle Sam hanging in the office of Defense Secretary Donald Rumsfeld: "It says WE'RE AT WAR. WHAT ARE YOU DOING TO HELP?" Nobody expects the K Street crowd to swap their business suits for body armor. But Team Bush hopes they will re-enlist—and go once more unto the breach for their embattled commander in chief.

Hey, Big Spender ... (TIME)

By matthew cooper and mike allen

Time, January 23, 2006

The White House's RooseveltÂ Room is wired for PowerPoint presentations, and most officials also bring handouts when they brief George W. Bush and his inner circle. But Budget Director Josh Bolten, who has spent months walking the President through a problem that could dramatically affect his legacy, sticks to colorful charts on old-fashioned easels. The lights stay on, so nobody dozes off, and there's no paper to wander through. It's dense material, after all. "I keep everyone's attention focused on what I want them to focus on," Bolten said.

The President will need all the colorful charts he can muster. After five years of tax cuts and massive spending that brought back deficits and ensured that they will continue for years if not decades, Bush plans to use his State of the Union address on Jan. 31 to portray himself as, well, thrifty. He will talk about the need to rein in programs like Medicare, Medicaid and Social Security, and he'll tout the modest budget cuts that Congress passed at his request last year. His staff wants to make "restraining spending" a defining Bush characteristic, along with spreading democracy around the world and prosecuting the war on terrorism.

Why the change of heart? Bush has always shared the conservative aversion to big government programs, his aides insist. There are also short-term political points at stake. The Jack Abramoff lobbying scandal makes this an ideal time to go after what are known as earmarks--that is, spending placed in legislation, often without public review, for specific projects. That pork is a mainstay of the lobbying industry. And there is little money to spend anyway, so Bush might as well retool himself as a fearless

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budget cop. "Listen, we got a lot of people in Washington who preach fiscal discipline, and then they go on to vote against spending restraint," Bush told the Economic Club of Chicago just after New Year's.

But Bush himself has a huge credibility problem. The $236 billion Clinton surplus of 2000 has become a $400 billion annual deficit. Setting aside Social Security, about a quarter of what the government has spent since Bush became President has been borrowed. And estimates from the nonpartisan Congressional Budget Office (CBO) show that if his tax cuts are made permanent--as he is advocating--deficits will persist for at least 10 years.

Even Bush's supporters criticize his lack of fiscal restraint. They look with dismay at figures showing that the federal workforce of about 2.7 million is roughly the same size it was at the beginning of President Bill Clinton's second term. And they point out that Bush has not vetoed a single bill since taking office. "It's hard to veto something from a Congress dominated by your own party," says Murray Weidenbaum, who was chairman of the Council of Economic Advisers under President Ronald Reagan, "but Bush should have been tougher on the spending side. That's been a disappointment."

In Bush's defense, Bolten points to the economy the President inherited. "We ended up in our deficit situation because we had this burst bubble," he said during an interview in his office, which features a Norman Rockwell painting of a runaway train. "Revenues just disappeared, and this was well before the President's tax cuts." But when Bush came into office, the CBO was actually projecting surpluses for years to come, until the tax cuts hit and the deficit started growing. If the tax cuts don't expire, many economists say, the revenue gap will persist.

It's true that the President pushed through some tough budget cuts last year, notably the virtual elimination of popular programs like Clinton's community policing initiatives, which provided money to local government for nontraditional patrols. Bush's plans for 2007 will be slightly tougher still, and the prospect of those cuts has already led some Cabinet Secretaries to push back, hoping to preserve pet programs. A few Secretaries have tried to go behind Bolten's back to undo the potential damage. Instead of sticking to the White House's cumbersome appeals process, which involves meetings with officials of escalating rank, they pleaded for mercy when meeting with Bush on other issues. "The President consistently knocked back the end runs," Bolten recalled with relish. "He always outed them to me--usually, if possible, in their presence. He's willing to take some pretty tough political medicine to make the budget come out right, and he's spread that philosophy across the Cabinet, which is very helpful to me."

Administration officials said they expect the proposals for cuts and eliminations to be similar to those of last year, when Bush asked for $16 billion in savings in 154 programs and Congress wound up passing $6 billion in savings in 89 programs. Bolten said that he "started this conversation with the President toward the end of the summer" and that Bush began by calling for stable or increased funding for priorities like the military. "On the other things, every step along the way, he directed a tight budget," Bolten said. "Toward the middle of the process, I came to him with some areas where we were going to need to take some cuts in programs that are politically popular. In almost every instance, he said, 'Yes, go ahead and do it.' We had in the room the President's legislative, political and communications advisers, some of whom periodically disagreed. But in almost every case, he backed up my recommendation to take a hard line on some of the spending that was not at the top of the priority list."

In his State of the Union speech, Bush is expected to propose no expensive new initiatives and focus instead on midsize ideas like promoting more rigorous education in basic math and science. But he will suggest changes that won't necessarily save the government money--like expanding Health Savings Accounts, which allow individuals to save for health care in tax-free, 401(k)-style accounts. And when you hear about Katrina and the wars in Iraq and Afghanistan, don't assume their final cost figures will be spelled out in the budget Bush is sending to Congress six days after the address. Those will appear in so-called supplemental requests for money, adding further to the deficit.

Yet Bush hopes to earn his credentials as a fiscal disciplinarian when he talks about the long-term challenges posed by the exploding cost of entitlement programs, which together take up half the budget and are immune to White House or congressional tinkering. He wants to use his remaining years in office to persuade Congress to make transformational, money-saving changes in those programs, especially Medicare.

"We need to cut the rate of growth of those programs," Bolten said. No amount of tax increases or spending cuts in the regular budget would be enough to cover the looming costs of baby-boomer retirees, he said. "Medicare must be put on a path toward a more market-oriented system," Bolten said. "We're ultimately going to have to look at whether the system needs to be more means-tested," referring to differences in benefits depending on income.

Leon Panetta, a Democrat who was Budget Director under Clinton and is a former chairman of the House Budget Committee, chuckled when he heard about Bush's plan to project an image of restraint. "What the hell's he using for numbers to map that out?" Panetta asked over the phone from Seaside, Calif., where he runs the Panetta Institute, a nonpartisan center for the study of public policy. "He has put us in a deep hole that's going to be very tough to get out of."

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The federal debt has risen from $5.7 trillion when Bush took office to more than $8 trillion today. According to the U.S. Comptroller General, there is already some $40 trillion in unfunded liabilities--promised payments that current revenue streams won't be able to cover--in the Medicare and Social Security systems. Of that, $8 trillion comes from Bush's prescription-drug plan alone--a figure that is equal to all the national debt that has been accumulating since the time of George Washington.

But Bush never promised the U.S. another Ronald Reagan. That President went to Washington declaring that government was the problem and vowing to do away with whole agencies. Bush pointedly never called for eliminating traditional conservative targets like the Department of Education. "Those efforts typically aren't successful, and they weren't at the core of animating this President's view of conservatism," Bolten said. Instead, Bush's "compassionate conservative" philosophy called for more limited but still robust government, including creating an office for faith-based initiatives and backing the No Child Left Behind law.

When Reagan and President George H.W. Bush saw their deficits spinning out of control, they both raised taxes. But this President has adamantly refused to rescind any of his tax cuts. He wants to make permanent many cuts that are due to expire--such as the estate tax and the 15% rate on capital gains.

Democrats and many economists feel that that's a guarantee of more deficits. But Bush insists that failure to extend tax cuts--which he calls a tax increase--won't cure the deficit because it will slow down a fragile economy. "In my judgment," Bush told a crowd of business people at a moving-van lot in northern Virginia last week, "the best way to solve the deficit is to grow the economy--not run up your taxes." But the reality is that with the help of his tax cuts, Bush has already piled on more than a trillion dollars to the national debt.

Prodded by congressional Republicans, Clinton gave the nation diminishing deficits and even a surplus. That allowed Bush, then the Texas Governor, to call for deep tax cuts, with the signature campaign line that "it's the people's money." But he knew the danger. Announcing his tax-cutting plan to the Greater Des Moines Chamber of Commerce in 1999, he warned, "What is risky is when politicians are given charge of a surplus." With reporting by With reporting by Jeremy Caplan

When George Met Jack (TIME)

By adam zagorin

Time, January 23, 2006

As details poured out aboutÂ the illegal and unseemly activities of Republican lobbyist Jack Abramoff, White House officials sought to portray the scandal as a Capitol Hill affair with little relevance to them. Peppered for days with questions about Abramoff's visits to the White House, press secretary Scott McClellan said the now disgraced lobbyist had attended two huge holiday receptions and a few "staff-level meetings" that were not worth describing further. "The President does not know him, nor does the President recall ever meeting him," McClellan said.

The President's memory may soon be unhappily refreshed. TIME has seen five photographs of Abramoff and the President that suggest a level of contact between them that Bush's aides have downplayed. While TIME's source refused to provide the pictures for publication, they are likely to see the light of day eventually because celebrity tabloids are on the prowl for them. And that has been a fear of the Bush team's for the past several months: that a picture of the President with the admitted felon could become the iconic image of direct presidential involvement in a burgeoning corruption scandal like the shots of President Bill Clinton at White House coffees for campaign contributors in the mid-1990s.

In one shot that TIME saw, Bush appears with Abramoff, several unidentified people and Raul Garza Sr., a Texan Abramoff represented who was then chairman of the Kickapoo Indians, which owned a casino in southern Texas. Garza, who is wearing jeans and a bolo tie in the picture, told TIME that Bush greeted him as "Jefe," or "chief" in Spanish. Another photo shows Bush shaking hands with Abramoff in front of a window and a blue drape. The shot bears Bush's signature, perhaps made by a machine. Three other photos are of Bush, Abramoff and, in each view, one of the lobbyist's sons (three of his five children are boys). A sixth picture shows several Abramoff children with Bush and House Speaker Dennis Hastert, who is now pushing to tighten lobbying laws after declining to do so last year when the scandal was in its early stages.

Most of the pictures have the formal look of photos taken at presidential receptions. The images of Bush, Abramoff and one of his sons appear to be the rapid-fire shots--known in White House parlance as clicks-- that the President snaps with top supporters before taking the podium at fund-raising receptions. Over five years, Bush has posed for tens of thousands of such shots--many with people he does not know. Last month 9,500 people attended holiday receptions at the White House, and most went two by two through a line for a photo with the President and the First Lady. The White House is generous about providing copies--in some cases, signed by the President--that become centerpieces for "walls of fame" throughout status-conscious Washington.

Abramoff knew the game. In a 2001 e-mail to a lawyer for tribal leader Lovelin Poncho, he crows about an upcoming meeting at the White House that he had arranged for Poncho and says it should be a priceless asset in his client's upcoming re-election campaign as chief of Louisiana's Coushatta Indians. "By all means mention [in the tribal newsletter] that the Chief is

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being asked to confer with the President and is coming to Washington for this purpose in May," Abramoff writes. "We'll definitely have a photo from the opportunity, which he can use." The lawyer had asked about attire, and Abramoff advises, "As to dress, probably suit and tie would work best."

The e-mail, now part of a wide-ranging federal investigation into lobbying practices and lobbyists' relationships with members of Congress, offers a window into Abramoff's willingness to trade on ties to the White House and to invoke Bush's name to impress clients who were spending tens of millions of dollars on Abramoff's advice.

Abramoff was once in better graces at 1600 Pennsylvania Avenue, having raised at least $100,000 for the President's re-election campaign. During 2001 and 2002, his support for Republicans and connections to the White House won him invitations to Hanukkah receptions, each attended by 400 to 500 people. McClellan has said Abramoff may have been present at "other widely attended" events. He was also admitted to the White House complex for meetings with several staff members, including one with presidential senior adviser Karl Rove, one of the most coveted invitations in Washington.

Michael Scanlon, who is Abramoff's former partner and has pleaded guilty to conspiring to bribe a Congressman, in 2001 told the New Times of Fort Lauderdale, Fla., that Abramoff had "a relationship" with the President. "He doesn't have a bat phone or anything, but if he wanted an appointment, he would have one," Scanlon said. Nonsense, say others. A former White House official familiar with some Abramoff requests to the White House said Abramoff had some meetings with Administration officials in 2001 and 2002, but he was later frozen out because aides became suspicious of his funding sources and annoyed that the issues he raised did not mesh with their agenda. A top Republican official said it was clear to him that Abramoff couldn't pick up the phone and reach Bush aides because Abramoff had asked the official to serve as an intermediary.

The White House describes the number of Abramoff's meetings with staff members only as "a few," even though senior Bush aides have precise data about them. McClellan will not give details, saying he doesn't "get into discussing staff-level meetings." During a televised briefing, he added, "We're not going to engage in a fishing expedition." Pressed for particulars about Abramoff's White House contacts, McClellan said with brio, "People are insinuating things based on no evidence whatsoever." But he said he cannot "say with absolute certainty that [Abramoff] did not have any other visits" apart from those disclosed. Another White House official said, "The decision was made don't put out any additional information." That reticence has been eagerly seized upon by some Democrats. Senate minority leader Harry Reid of Nevada wrote to Bush last week to demand details, saying Abramoff "may have had undue and improper influence within your Administration."

Garza, the bolo-wearing former chairman of the Kickapoo Traditional Tribe of Texas, has fond memories of his session with Bush, which he said was held in 2001 in the Eisenhower Executive Office Building, next to the White House. According to e-mails in the hands of investigators, the meeting was arranged with the help of Abramoff and Grover Norquist, president of Americans for Tax Reform. In an April 18, 2001, e-mail to Abramoff, Norquist wrote that he would be "honored" if Abramoff "could come to the White House meeting."

Garza--known in his native Kickapoo language as Makateonenodua, or black buffalo--is under federal indictment for allegedly embezzling more than $300,000 from his tribe. Through his spokesman, Garza said that during the session, Bush talked about policy matters and thanked those present for supporting his agenda, then took questions from the audience of about two dozen people. Garza told TIME, "We were very happy that Jack Abramoff helped us to be with the President. Bush was in a very good mood--very upbeat and positive." No evidence has emerged that the Bush Administration has done anything for the Kickapoo at Abramoff's behest.

Three attendees who spoke to TIME recall that Abramoff was present, and three of them say that's where the picture of Bush, Abramoff and the former Kickapoo chairman was taken. The White House has a different description of the event Garza attended. "The President stopped by a meeting with 21 state legislators and two tribal leaders," spokeswoman Erin Healy said. "Available records show that Mr. Abramoff was not in attendance."

TIME Magazine Says Bush Photographed With Abramoff (REU-Y2)

Reuters, January 23, 2006

At least five photos show U.S. President George W. Bush with the lobbyist at the center of a corruption scandal, TIME magazine reported on Sunday.

The White House has tried to play down any contact with Jack Abramoff, who pleaded guilty to fraud charges this month and agreed to help prosecutors in a congressional corruption investigation.

TIME did not publish the photographs, saying its source refused to provide them for publication. Most look like those taken at presidential receptions, it said.

The White House has said Bush does not know Abramoff and does not recall meeting him, and that the lobbyist attended two Hannukah receptions and a few staff-level meetings at the White House.

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"Mr. Abramoff admitted being involved in outrageous wrongdoing," White House spokeswoman Dana Perino said on Sunday.

"The president does not recall meeting him. We have previously indicated, however, it would not be surprising if the president met him at some of the widely attended events we know they both attended," she said. "The president has taken tens upon thousands of pictures at such events."

TIME said in one photograph Bush appears with Abramoff and Raul Garza, then chairman of the Kickapoo Indians, which owned a casino in Texas and were represented by the lobbyist. It also included several other unidentified people.

TIME quotes White House spokeswoman Erin Healy as saying that available records show Abramoff was not at the event attended by Garza.

Another photo shows Bush shaking hands with Abramoff in front of a window and a blue drape, the magazine said. The photo carries Bush's signature, which may have been machine-made, it said.

Three other photos show Bush, Abramoff and one of the lobbyist's sons, the magazine said.

Prosecutors are investigating whether members of Congress gave the lobbyist and his clients favorable treatment in return for campaign contributions or gifts. The scandal broke as Republicans try to retain control of Congress in mid-term elections in November.

Republican Rep. Bob Ney (news, bio, voting record) of Ohio, who has denied wrongdoing, is under investigation in the scandal. Rep. Tom DeLay, a Texas Republican who stepped down as majority leader, has been under a cloud due to his association with Abramoff.

The Republican National Committee has said Bush's re-election campaign was giving to charity $6,000 in contributions linked to Abramoff.

Reports: Bush, Abramoff Together In Photos (AP)

AP, January 23, 2006

Although President Bush says he doesn't recall meeting convicted lobbyist Jack Abramoff, the two have reportedly turned up in photos together.

Both Washingtonian and Time magazines have reported the existence of about a half-dozen photos showing the two together.

Time reported on its Web site Sunday that its staff members have seen at least six photos featuring Bush and Abramoff, who has pleaded guilty to federal charges stemming from his lobbying practices and has pledged to cooperate with investigators. They appeared to have been taken at White House functions, according to the reports.

The White House has acknowledged that Abramoff attended some events at the Executive Mansion, and spokeswoman Dana Perino said Sunday it's not surprising that the two would have met.

"The president has taken tens upon thousands of pictures at such events," Perino said.

Abramoff met a few times with White House staff and attended Hanukkah receptions in 2001 and 2002, the White House has said, but officials there have refused to disclose how many times he's been into the complex or what business he had there.

The White House also has not released any photos featuring the president and Abramoff, who was declared a Bush "pioneer" for raising at least $100,000 for the Bush-Cheney '04 re-election campaign.

Contributions that came directly from Abramoff, his wife and one of the American Indian tribes he represented — a total of $6,000 — were donated to the American Heart Association by the campaign just days after Abramoff entered his guilty pleas.

The White House, after playing down the Bush-Abramoff photos and the lobbyist's ties to the president, criticized Abramoff for breaking the law. "Mr. Abramoff admitted being involved in outrageous wrongdoing," Perino said.

Bush, Lobbyist Abramoff Appear In 5 Photos, Time Says (Update1) (BLOOM)

By Bob Willis

Bloomberg, January 23, 2006

Jan. 22 (Bloomberg) -- President George W. Bush was photographed at least five times with Republican lobbyist Jack Abramoff, who is at the center of a federal corruption probe, Time magazine reported.

One photograph shows Bush, Abramoff and Raul Garza Sr., who was then chairman of the Kickapoo Indian tribe, an Abramoff client who is under indictment for allegedly embezzling more than $300,000 from his tribe, Time reported. Another photo bears Bush's signature and shows the president shaking hands with Abramoff. Three others are of Bush, Abramoff and one of the lobbyist's three sons.

None of the photographs were released for publication, Time said. The magazine said its reporters viewed them. Time did not say who provided the images, which the magazine reported appear to have been taken at presidential receptions.

White House spokeswoman Dana Perino didn't immediately respond to a request for comment. Administration spokesman Scott McClellan said last week that Abramoff attended White House Hanukkah receptions in 2001 and 2002 and ``a few staff-level meetings." McClellan refused to say who Abramoff met with or what the meetings were about.

``We're not going to engage in some sort of fishing expedition," McClellan said Jan. 19. He said previously that Bush doesn't recall meeting Abramoff.

Abramoff, 46, pleaded guilty Jan. 3 to conspiracy to corrupt public officials and has agreed to cooperate in a federal investigation into influence peddling in Washington.

Fund Raising

Abramoff raised at least $100,000 for Bush's 2004 campaign, qualifying him for the ``Pioneer" donor club. The Republican National Committee said after Abramoff's guilty plea that the campaign donated to charity $6,000 of funds directly linked to the lobbyist, representing three $2,000 contributions made by Abramoff, his wife and the Saginaw Chippewa Indian Tribe he represented.

According to Time, Garza's meeting with Bush took place in 2001 in the Eisenhower Executive Office Building, next to the White House. Garza said the session was arranged with the help of Abramoff and Grover Norquist, a Republican activist, the magazine reported.

Garza's tribe owned a casino in Bush's home state of Texas, and there is no indication the administration acted to benefit the Kickapoo tribe at Abramoff's behest, Time said.

Senate Democratic Leader Harry Reid last week called on the administration to give details about any meetings White House officials had with Abramoff. In Congress, the Abramoff investigation has ensnared former top aides to ex-House Majority Leader Tom DeLay, who is under indictment in Texas for alleged campaign-finance violations in a separate case. Representative Bob Ney, an Ohio Republican, said Jan. 16 he would step aside as chairman of the House Administration Committee because of allegations he received gifts from Abramoff.

Are We Capable Of Crafting A 'Pax Americana'? (WSJ)

The Wall Street Journal, January 23, 2006

In regard to George Melloan's Jan. 17 Global View "Getting Serious About Iran" and "Russia Must Be Strong" by Sergei Invanov, deputy prime minister and minister of defense of the Russian Federation (editorial page, Jan. 11):

I agree with Mr. Melloan's conclusion that we must be prepared, both politically and militarily, to deal with the serious threat to regional and global stability that an unchecked Iran poses. The threat will increase to "critical mass" within a few years if immediate and resolute action is not taken now and we may, again, have to go it alone.

Russia and China are the unknowns in the current response equation. Iran's threat to disrupt its oil production should any sanctions be implemented by the U.N. Security Council has its greatest impact on Russia and China by virtue of their technology and energy contracts, although it is significant for the rest of the world also. I don't believe we can count on either nation to support direct intervention, even if it is multilateral. An abstention from them on the issue before the Security Council would be the best result we could hope for.

Mr. Ivanov makes a very convincing statement that Russia will continue its own threat assessment and preparation for defense. Without specifically mentioning Russia's specific theater of concern (Chechnya), Mr. Ivanov confirms Russia's intent to hegemony in its own backyard. Can this be read as a warning to the West to keep our noses out? He mentions "pre-emption" of emerging threats. Do the Russians acknowledge the rapidly emerging threat Iran represents and are they willing to allow or to participate in pre-emption? Or do they perhaps have a "commitment" they must honor? Iran must not become a member of the nuclear club for the foreseeable future if we are to have any hope of realizing a more peaceful and prosperous Middle East. The fledgling democracy in Iraq and sputtering progress in Israel and Palestine depend on it.

Should Iran's production go off-line, would, or could, other regional oil producing states increase production to ameliorate the serious impact on oil prices that would follow? This will really show us who our friends are.

Are we capable of crafting a Pax Americana? The world is very close to the edge and I believe we are the only ones capable -- with that capability comes the duty to exercise it for the good.

Sean O'Hara

Ventura, Calif.

Our Tribe Was a Victim, Not a Client, of Abramoff

In a Jan. 5 editorial-page commentary -- "The Least Transparent Industry in America" -- Fergus Bordewich identified the Alabama-Coushatta Tribe of Texas as a client of Jack Abramoff. Our tribe was never a client of Mr. Abramoff; we've had absolutely no relationship with him, other than being a victim of his unethical actions.

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On behalf of one of his clients, Mr. Abramoff worked to prevent our tribe from securing the rights to seek economic opportunities afforded federally recognized tribes under the Indian Gaming Regulatory Act (IGRA). Moreover, he directed another of his tribal clients to request that our tribe make a $50,000 donation to the Capital Athletic Foundation. Members of that tribe have admitted that they misrepresented what the donation was for, telling us that it was to support a congressional fact-finding mission and never mentioning Mr. Abramoff. We now know that Mr. Abramoff used our donation to pay for his trip to Scotland with Rep. Bob Ney.

Mr. Bordewich also wrote that there must be more transparency and accountability in Indian gaming. We agree. In fact, we support Sen. John McCain's effort to amend the Indian Gaming Regulatory Act to require more transparency and accountability. Unfortunately, the Alabama-Coushatta, along with a handful of other federally recognized tribes, are not covered by IGRA. It was the very fact that we were not covered by IGRA that allowed Mr. Abramoff to victimize our tribe. To make Indian gaming more transparent and accountable, Congress must also require that all federally recognized tribes fall under the purview of IGRA.

Mr. Abramoff's manipulation created difficult circumstances for our tribe, but throughout we have adhered to our tribal values, our honesty and our integrity. We hope Congress will act to make sure that in the future all tribes are afforded the protections of IGRA.

Ronnie Thomas
Chairman
Alabama-Coushatta Tribe of Texas
Livingston, Texas

In Italy, We're Preparing for the Best Games Ever

Quentin Letts, in his Jan. 13 editorial-page piece "Never Say Neve Again," has some fun ridiculing the Torino 2006 Winter Olympics, and I certainly don't want to deprive him of his laughs. But I would like to point out that on a number of points the picture he paints is a far cry from reality.

Torino 2006 will involve 2,500 athletes from 85 countries performing before a world-wide audience of up to four billion people. Italy is excited about hosting an event of this kind -- witness the 40,000 Italians who have applied to volunteer at the games.

The games will be a showcase of sporting excellence, and although perhaps not sharing the limelight in England of soccer or cricket, winter sports such as slalom, ice hockey and ski jumping are of great significance to many nations, such as Canada, Austria and Japan, and are enjoyed by people of many nations.

The Olympic Games will also bring many social and economic benefits to Italy. Contrary to what Mr. Letts suggests, we are operating within our approved budget of $1.1 billion, which, together with public investments, is expected to generate added value of $17.4 billion to the Italian economy and boost our GDP by 0.2%.

We are also on track with our ticket sales, having reached 81% of budgeted sales. Many more tickets are expected to be sold over the coming six weeks -- Italians are famous for their spontaneity, and as event organizers we have always expected strong domestic sales close to games time.

In addition, all 14 Olympic competition venues have been tested -- some twice -- and we are looking forward to hosting the best Winter Games ever. If we accomplish this, perhaps even Mr. Letts will be persuaded to join the other four billion viewers (or even make an actual visit).

Giuseppe Gattino
Media Director
Torino, Italy

Quentin Letts's snide, condescending views on the Winter Olympics are, quite frankly, appalling. He only exposes his ignorance of true sportsmanship and proves that he is not a sportsman at all, just an irritant.

Jennifer Gustafson
Northville, Mich.

A Desperate Ploy

Mary Anastasia O'Grady's Jan. 20 Americas column "Ottawa's Ruling Liberals May Suffer Frostbite" was generally on the mark, but it may lead your readers to believe anti-Americanism is playing a much bigger role in the campaign than is actually the case. It's true the Liberal Party is attempting to raise doubts about the fitness of the Conservative candidate Stephen Harper to be prime minister by linking him to what they characterize as right-wing American think tanks. But many voters view this simply as a desperate ploy on the part of a governing party that feels its grip on power slipping away.

The most important issues at play in this election are domestic ones, such as the perennial challenge of ensuring that all regions in Canada are properly represented in national political life. Your readers would likely be surprised at just how little attention has been focused on foreign relations, including the issue of Canada's relations with the U.S.

Aidan Carter
Toronto, Ontario
Do the Right Thing

In many situations, it is difficult to determine what is right and what is wrong. In the case raised in your article "Retired Black Cops Pressure Georgia for Pension Equity" (page one, Jan. 16), there should be no such difficulty. The state of Georgia should immediately act to fund the claims of those black police officers wrongfully excluded from the retirement plan, even though the exclusions occurred years ago. To accept the usual "glacial pace" for righting this wrong would be deplorable. Some things are right. And they should be acted on promptly.

Dave Southern
Winnetka, Ill.

Cutting The Corruption (WP)

By Arthur Levitt Jr.
The Washington Post, January 23, 2006

Having served in Washington for eight years, I can't say that the current scandal surrounding lobbyist Jack Abramoff and various members of Congress comes as any great surprise.

During my tenure as chairman of the Securities and Exchange Commission, I worked with many decent, well-intentioned representatives and senators. Yet on issue after issue, it was clear that the interlocking systems of campaign finance, lobbying and policymaking were breaking down. Indeed, because many of the issues before the SEC were far from the front of the public's mind, the influence of high-priced lobbyists on the system was easy to detect and especially brazen.

From battles over auditing reforms to the expensing of stock options, the concerns of ordinary investors often were subsumed to the interests of industry lobbyists by Republicans and Democrats alike. Every day the SEC would receive letters from lawmakers opposing some proposed regulatory change -- letters that eerily mimicked the rhetoric of one industry trade group or another. In addition to making thousands of dollars in campaign donations, companies would concoct phony "grass-roots" coalitions -- usually made up of executives and compliant employees -- to rally for the cause and pressure lawmakers.

And when all else failed, lobbyists would cash in their chits with members of relevant House and Senate committees to threaten the SEC -- an independent regulatory agency -- with budget cuts to get what they wanted. Regrettably, I occasionally found myself succumbing to this immense pressure in order to save the commission. Many of the reforms that were thwarted in this way could have saved investors some of the pain from the scandals of the past five years.

Now removed from Washington and viewing its problems from the perspective of the private sector, I've come to think that our federal government is plagued by some of the same problems that have been hurting corporate America, primarily a lack of transparency, accountability and independence. As with many of the disgraced corporations of the past few years -- Adelphia, Tyco and WorldCom, for example -- so it is with Congress: Conflicts of interest abound, oversight has been myopic and those given the public's trust have used it to enrich themselves.

The debate about how to clean up Congress has just begun, and undoubtedly it will consume much of that body's time during this election year. But lawmakers need not look far for an example of how to reform themselves. Just as Congress passed the Sarbanes-Oxley Act in 2002 to clean up American industry, it should pass similar legislation to clean up American government.

One of the emphases of Sarbanes-Oxley was improving the disclosure regime in corporate America. New rules expanded what critical information was disclosed and how often, and they required the CEO and chief financial officer to attest to the accuracy of their company's financial reports. As a result, it is possible to know more about the performance of an executive of a company in which you own stock than about your member of Congress.

To remedy that, congressional lobbyists should be required to disclose weekly, online, which members of Congress they contributed to and met with, which staff members they lobbied, and what issues were discussed. Lobbyists also should have to affix their signature to these disclosures and, like CEOs who sign false financial statements, face serious criminal penalties if the disclosures are not accurate.

But disclosure is only part of the solution; independence is also critical. That's why auditing firms are now forbidden from providing non-audit services to auditing clients, why companies can no longer give personal loans to executives or directors, and why a majority of a board of directors must be independent of the company itself. In Washington, any number of conflicts of interest between members of Congress, their staffs, lobbyists and contributors must be untangled. To begin to do this, former members of Congress should be prohibited from visiting the floor of the House, the prohibition on lobbying by former members and their staffs should be extended from one year to four, and all gifts and travel for members and their employees should be banned.

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Finally, accountability must be restored. Currently, Congress's ethics committees resemble some of the worst corporate boards from the mid-1990s -- appointed by management and wholly dependent on it for career advancement. Just as corporate boards have been strengthened by rules establishing independent audit committees, Congress would be well-served by scrapping its current ethics committees and replacing them with an independent ethics commission made up of former judges, former members of Congress and other eminent citizens.

Moreover, as with good corporate governance, there needs to be more democracy in American governance. Partisan gerrymandering has created a Congress in which more than 95 percent of the members are assured of keeping their seats for life. Just as shareholders must have access to the proxy to hold corporate board members accountable, citizens must be confident that when they go into the voting booth their votes will be meaningful. It's time to explore ways to lower the barriers of entry for challengers -- through, for instance, free television airtime for all candidates. And to create more competitive congressional districts, we need to follow the leads of states such as Arizona and Iowa and put the responsibility of drawing district boundaries in the hands of nonpartisan boards.

But ultimately, no rule or regulation can transform an organization on its own. What's needed is a cultural change in which those who do the bidding of lobbyists, cash in their positions on Capitol Hill for huge paychecks and accept gifts are scorned, not praised. Accomplishing that requires real leadership, and that's something that only we -- as citizens and voters -- can give to ourselves.

The writer was chairman of the Securities and Exchange Commission from 1993 to 2001. He is now a senior adviser to the Carlyle Group, a global investment firm.

McCain: Reform Efforts Don't Address Core (AP-Y2)

AP2, January 23, 2006

Sen. John McCain (news, bio, voting record) said efforts by both Democrats and Republicans to reduce the influence of lobbyists are not addressing the core of the problem.

Appearing on "Fox News Sunday," the Arizona Republican renewed his criticism of "earmarks," late additions to bills that often provide millions of dollars for lawmakers' pet projects.

"If we don't fix the earmarking, then I can assure you the corruption will go on," McCain said.

He described an "earmark" as "a single provision in a line that nobody's ever seen or heard of, and most times we don't find out until days or weeks afterwards

"Then you've got a process that breeds corruption," he said. "And it makes good people do bad things."

McCain said lobbying reform promoted last week by both parties doesn't deal with earmarking because many politicians perceive it to be "their bread and butter and preserves their incumbency."

Corruption that stems from lobbying is a bipartisan problem, McCain said. "I think it's a bipartisan scandal because the lobbying is out of control," McCain said.

Sen. John Kerry called the corruption surrounding convicted lobbyist Jack Abramoff a GOP scandal. The Massachusetts Democrat pointed to the party that dominates Washington politics.

"They run the House of Representatives. They run the Senate. They have the White House. They're controlling who goes on the judiciary," Kerry, the Democrats' nominee for president in 2004, said on ABC's "This Week."

"They have not done the things necessary in order to press forward on this," Kerry said.

McCain Speaks Out Against 'earmarks' (USAT)

USA Today, January 23, 2006

Lobbying "is out of control," and efforts to curb it don't address the core problem of "earmarking," Sen. John McCain told Fox News Sunday. McCain, R-Ariz., described an earmark as a "pork barrel project" funded "in the middle of the night" by a single provision "that nobody's ever seen or heard of" inserted in a bill about to be passed. "Then you've got a process that breeds corruption. And it makes good people do bad things," McCain said. He said lobbying changes promoted last week don't deal with earmarking because many politicians perceive it to be "their bread and butter, and (it) preserves their incumbency."

McCain said it was a bipartisan problem, but Sen. John Kerry, D-Mass., said it is a Republican scandal because the GOP controls Congress and the White House. Republicans "have not done the things necessary in order to press forward on this," Kerry said on ABC's This Week.

'Time': Bush in photos with Abramoff

Although President Bush says he doesn't recall meeting convicted lobbyist Jack Abramoff, Time magazine reported that its staff members have seen five photos of the two apparently taken at White House functions.

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The White House has not released photos of the president and Abramoff but has said the lobbyist met a few times with White House staff and attended Hanukkah receptions in 2001 and 2002. Spokeswoman Dana Perino said it's not surprising that the two would have met.

"The president has taken tens upon thousands of pictures at such events," Perino said.

Abramoff was a Bush-Cheney 2004 campaign fundraiser at the "Pioneer" level of at least $100,000. He pleaded guilty Jan. 3 to federal charges stemming from his lobbying practices and has agreed to cooperate with investigators.

'72 Nixon challenger enters Calif. race

Former congressman Paul "Pete" McCloskey said he will challenge Rep. Richard Pombo for the Republican nomination in his Northern California district. McCloskey, 78, challenged President Nixon for renomination in 1972 on an anti-Vietnam War platform. McCloskey said he's getting back into politics because of his concern for the environment and what he sees as a shift away from traditional Republican values in Washington. "Winning isn't the issue. The issue is forcing a debate on which way the Republican Party goes," McCloskey said.

Wayne Johnson, a spokesman for Pombo, said McCloskey is "a stalking horse for the Democratic Party" and has no chance of winning.

McCain's Awesome Battle For Reform (CHIST)

By Robert Novak

Chicago Sun-Times, January 23, 2006

The Republican and Democratic versions of lobbyist reform trotted out last week had very different styles. The austere Republican presentation professed desire for bipartisanship. The gaudy Democratic show equated the GOP with original sin. But each fell short of what is called for by the reformer most widely respected by the public, Sen. John McCain.

"I'm very disappointed," McCain told me, "to see the Democrats trying to turn this issue into attacking Republicans." He was no less upset with open avowal by House Speaker J. Dennis Hastert and the House Republican establishment of earmarking funds that McCain considers the seedbed of lobbyist corruption. The Democrats, in their anti-Republican light show, ignored earmarks.

A reform of a system that has grown ever more rotten must have two salient characteristics, in McCain's view. It must be bipartisan, and it must eviscerate, if not eliminate, earmarks. McCain exerts extraordinary influence for a politician without a formal leadership role or a government office, but the magnitude of his task is awesome. He must persuade Democrats to cooperate with Republicans when they now see an opportunity to crush the GOP, and he must wean his own party from its addiction to government pork.

Rep. David Dreier, chairman of the House Rules Committee, discovered the difficulty of McCain's first task two weeks ago when Hastert assigned Dreier to come up with a lobbying reform package. Initially, he approached the ranking Democrat on the Rules Committee, Rep. Louise Slaughter, who, like many House Democrats, has grown acerbic as the party enters its 12th year in the minority. She responded to Dreier's appeal for bipartisanship with cold shoulder and hot tongue.

Dreier next went to House Minority Whip Steny Hoyer, who is viewed by Republicans as the ablest Democrat in the House but one with whom they can do business. Dreier first got the impression Hoyer might cooperate on lobbyist reform. But when that word leaked out, Dreier found Hoyer totally uninterested. "This is not a problem of rules," Hoyer told me he informed Dreier. "It's a problem of conduct, Republican conduct." If so, I suggested, the only solution is a return to Democratic control of Congress, and Hoyer said I got that right.

In Dreier's joint press conference with Hastert last Tuesday, he cited reform-minded Democratic Rep. Martin Meehan as his bipartisan partner. When I called Meehan, he conceded he was flying solo and did not seem too comfortable about it. But when I mentioned that Hastert and Dreier advocated reforming the so-called "527" loophole in campaign reform that permits mainly Democratic non-transparent funding, Meehan brightened. "That's a poison pill," he told me, meaning he could be off the bipartisan hook.

Hastert looked morose talking about lobbyist reform last Tuesday, but enthusiastic Democrats lined up at the Library of Congress the next day were reminiscent of the Newt Gingrich Republicans on the steps of the Capitol in 1994. Democrats finally see a route back to power.

Democrats did not mention earmarks, since even in their minority status they get 45 percent of the pork. Hastert was defiant in defending earmarks: "Quite frankly, we also have to observe the rights of [House] members to represent their districts and to be active in favor of things that they think will help."

Earmarking is the main issue separating three candidates for House majority leader in the Feb. 2 election by the Republican Conference. John Boehner and John Shadegg oppose them. Acting Majority Leader Roy Blunt, the front-runner,

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supports earmarks but says each should be identified with the sponsoring member of Congress. Actually, that's the way the system works now, with lawmakers, including Blunt, rushing out news releases to advertise what they have done for their district.

Annual earmarks, nonexistent two decades ago, now near 15,000. McCain sees this as the source of lobbyist corruption, the vehicle used to bribe Duke Cunningham and the focus for half of the capital's lobbyists. Both parties are united in silly changes like keeping former congressmen off the House floor and further curtailing how much a lobbyist can spend on a lawmaker's lunch. Will they unite to get rid of the scourge of earmarks?

Politics: No Longer Lying Low, 'Rove Is In The House!' (NSWK)

By Holly Bailey

Newsweek, January 23, 2006

The Republican National Committee organized a forum for conservative bloggers earlier this month, telling attendees they'd be briefed by RNC Chairman Ken Mehlman and other party operatives on the 2006 political outlook. But a surprise guest arrived. "Karl Rove is in the house!!!" wrote Matt Margolis, who was live-blogging the event for his site, Blogs for Bush. While Rove implored the group to keep the substance of his remarks off the record, some bloggers posted photos and snippets of their talk with the president's top political adviser, which included a discussion on the politics of the war and the upcoming midterm elections. Rove told the group that he regularly reads their blogs and spent more than a half hour answering questions. "I think we all found ourselves a little surprised to have received that kind of attention," Ed Morrissey, who wrote about Rove on his blog, Captain's Quarters, told NEWSWEEK. "I think he was taking our temperature a bit, which I found interesting."

After months of staying out of the limelight amid scrutiny in the CIA leak investigation, Rove is back and circulating, as Bush and the GOP prepare for battle on the eve of the 2006 midterm elections. He's traveling on domestic swings with Bush and taking high-profile trips of his own. On Jan. 12, Rove was roasted by the Austin Headliners Club, where he faced friendly jabs from a bipartisan panel. In his roast, Democrat Lowell Lebermann cited parallels between the Monica Lewinsky scandal and the Valerie Plame case: "They involved two pudgy people in the White House who couldn't keep their mouth shut." Rove, who sat center stage, blushed and laughed. Last Friday, Rove delivered a lunchtime address before several hundred RNC members, defending the president's eavesdropping program and blasting Dems critical of the war on terror. Yet Rove, who is still under scrutiny in the Plame leak, didn't stick around for the lengthy standing ovation he received. Within seconds of concluding the speech, Rove had dashed offstage and out a side entrance, avoiding a group of protesters dressed as plumbers to signify the ongoing leak investigation.

Lobbyists Help Fund Ripon Society Travel (WP)

By Thomas B. Edsall

The Washington Post, January 23, 2006

Since 1964, the Ripon Society has tried to create a more inclusive GOP through "moderate, progressive policy formation," according to its official mission statement.

In recent years, however, a leading public watchdog group suggests, the Ripon Society has added an unofficial mission: travel agency to lobbyists.

Under president Richard S. Kessler, himself a prominent Washington lobbyist, people who represent corporate interests before Congress have "spent millions taking lawmakers to European capitals and U.S. resorts" under the auspices of the Ripon Society and the affiliated Ripon Educational Fund, the group Public Citizen charged in a new report.

The lure for the lobbyists who fund them is that they also take the trips, and gain "unbridled access" to influential lawmakers, said Frank Clemente, director of Public Citizen's Congress Watch.

The practice is a way of "skirting congressional ethics rules that forbid lobbyists from paying for congressional travel," the report charges.

The activities the report detailed are not illegal, but ethics specialists say they do highlight the difficulty of proscribing certain common Washington practices, if lobbyists and lawmakers are determined to continue them.

Kessler declined to comment on the report but authorized former representative Bill Frenzel (R-Minn.), who has been active in the Ripon Society, to speak on his behalf. He said, "We did what everybody else did," including getting legal counsel to approve all spending decisions, and obtaining letters of approval from the ethics committees of the House and Senate approving the trips.

In addition to his Ripon Society role, Kessler is president of Kessler & Associates. Among its clients, according to the most recent disclosure forms, are Pfizer Inc. and three other major drug companies; Altria Group Inc., the corporate parent of cigarette maker Philip Morris USA; and railroad giant Burlington Northern Santa Fe Corp. Until the start of 2003, he served as finance

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chairman of the Ripon Education Fund. At the end of 2002, Frenzel said the society and the education fund became two organizations, and he and Kessler left the education fund board.

The Ripon Society has three levels of membership for corporate supporters: founder for $12,500, millennium club for $25,000 and chairman's club for $35,000.

According to Public Citizen, members of Congress have gone on trips costing the Ripon Society and Ripon Education Fund $742,000 since 2000. In addition, Kessler's clients have provided another $273,000 for congressional travel.

During 2003 and 2004, the 19 board members of the two Ripon organizations included 17 registered lobbyists. Ten of those were people who lobby for Kessler clients.

The Ripon Education Fund has provided members of Congress trips to conferences held in a number of European capitals, including London in 2003 and Budapest in 2004.

These trips have drawn notice before. On the August 2003 trip to London, the Education Fund picked up the tab for 20 members of Congress, including Rep. Thomas M. Reynolds (N.Y.), chairman of the National Republican Congressional Committee, and Rep. Michael G. Oxley (R-Ohio), chairman of the House Financial Services Committee. The elected officials were accompanied by more than 100 lobbyists, The Washington Post reported at the time. These included representatives of American Express, Bristol-Myers Squibb Co. and General Motors Corp.

The lobbyists paid their own way, as well as a $9,500 corporate sponsor fee.

Ripon Society Chief Administrative Officer George McNeill said the organization has held three domestic conferences this year and last, in Key Biscayne, Palm Beach and Dallas. He said he could not estimate the number of lobbyists who attended, paying their own way. The society pays the costs for elected officials and congressional staff, and for academics and other experts addressing the conferences, McNeill said.

McNeill adamantly defended the conferences. "We are not skirting any ethics rules," he said, adding that the society has a "hard and fast," if unwritten, rule that "we don't allow any lobbying."

Sometimes A Book Is Indeed Just A Book. But When? (NYT)

By Elisabeth Bumiller

The New York Times, January 23, 2006

WASHINGTON

When President Bush met with Chancellor Angela Merkel of Germany in the Oval Office this month, the talk turned to Ms. Merkel's childhood under Communism, then wandered to the subject of Mr. Bush's latest bedtime reading: "Mao: The Unknown Story," an 814-page biography that presents the Chinese dictator as another Hitler or Stalin.

Participants in the meeting say Mr. Bush spoke glowingly of the book, a 10-year project by Jung Chang, the author of the hugely successful memoir "Wild Swans," and her husband, Jon Halliday, a British historian. "Mao" has been at the top of best-seller lists in Britain and Germany, and was published to mixed reviews late last year in the United States.

The book might at first seem an odd choice for Mr. Bush, whose taste in biography, like that of other American presidents, runs to previous occupants of the Oval Office. But it is not so surprising given that "Mao: The Unknown Story" has been embraced by the right as a searing indictment of Communism.

Other reviewers have praised the book's brutal portrait of Mao as a corrective to sunnier biographies, even as they have questioned some of its prodigious research and accused the authors of a moralistic, good-and-evil version of history. Scott McClellan, the White House press secretary, said last week that Laura Bush gave the book to her husband as a gift, and that the president had just finished reading it.

Asked why Mr. Bush liked the book, Mr. McClellan said he would find out, then reported back on Friday that Mr. Bush had told him that "Mao" "really shows how brutal a tyrant he was" and that "he was much more brutal than people assumed."

Mr. Bush also said, Mr. McClellan recounted, that "millions upon millions were killed because of his policies." On that score, the book is both sweeping and specific, with a first chapter that begins with this sentence: "Mao Zedong, who for decades held absolute power over the lives of one-quarter of the world's population, was responsible for well over 70 million deaths in peacetime, more than any other 20th-century leader."

Ms. Chang and Mr. Halliday said in a telephone interview from Paris on Friday, during a long weekend away from their home in London, that they were "thrilled" that Mr. Bush had read the book. Ms. Chang, whose "Wild Swans," about her family's oppression under Mao, sold 10 million copies worldwide, said she surmised that Mr. Bush was drawn to the book because "it's a very dramatic story about a roller-coaster life." She also said that since Mr. Bush was dealing with the current Chinese leadership, "it's not surprising that he should want to know from what roots this regime has grown."

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American scholars say that Mr. Bush was no doubt drawn to the narrative but also to a book that is in effect an argument for the president's second-term agenda of spreading democracy around the world. One major revelation of the book, for example, is Stalin's powerful role in Mao's rise.

"The book certainly makes an effective case for the wickedness of dictatorship," said Andrew J. Nathan, a specialist in Chinese politics at Columbia University. "It doesn't talk about democracy, but for a person who believes in democracy, this is a valuable brief."

But Mr. Nathan, who last year in The London Review of Books criticized what he called the authors' vague and inaccessible sourcing, said that the biography presented Mao as a "comic-book monster," with little explanation of the psychological, sociological and historical forces that allowed him to rise. He also said he was skeptical that the book would help in understanding China's current leadership.

"Today's Communist Party is a highly developed bureaucracy, like IBM or General Motors," Mr. Nathan said. "It's not the Communist Party of Mao's time."

At least one historian said that perhaps people were reading too much into Mr. Bush's choice of reading, and that sometimes a book on Mao is just a book on Mao.

"To be honest, I'm not sure that it's so weird for him to be reading this," said Doris Kearns Goodwin, the author most recently of "Team of Rivals," a best-selling account of Abraham Lincoln's relationship with his cabinet which, Mr. McClellan said, Mr. Bush finished before starting the Mao book.

(Over the past year Mr. Bush's reading has also included, Mr. McClellan said, "Nine Parts of Desire: The Hidden World of Islamic Women," by Geraldine Brooks; "When Trumpets Call: Theodore Roosevelt After the White House," by Patricia O'Toole; and "1776," by David McCullough.)

Ms. Goodwin said that while presidents read about other presidents for guidance and solace, "partly why presidents read is the reason that we all read: to relax, to replenish our energy and to go into another era and another time."

When Lincoln was president, she added, he went to plays more than 100 times. Lincoln was of course assassinated at the theater, but throughout his presidency drama had served as a form of escape.

"He said that when the lights went down, he could imagine he was back in Shakespeare's time, watching kings and queens battle out dramas that were equally as great as the Civil War," Ms. Goodwin said. "And it just allowed him, I think, to remove himself from the pressures of the day."

Diversity Now A Foreign Concept (WP)

By Al Kamen

The Washington Post, January 23, 2006

Secretary of State Condoleezza Rice caused a bit of a stir in Foggy Bottom last week when she unveiled plans to redeploy diplomats from Europe to world hot spots.

And no promotions, she said, without service in dangerous posts and fluency in two foreign languages, especially those spoken by people who may fancy grenade launchers and scream "Death to America."

She also talked about the need for a more diverse Foreign Service, something that might improve diplomats' feel for foreign cultures. After all, just because you speak the language doesn't mean you can figure out when someone is lying through his teeth. (There's a reason Afghan-born American diplomat Zalmay Khalilzad gets generally rave reviews for his work in the Middle East.)

Diversity is one area where neither the State Department nor the National Security Council nor the Pentagon, despite decades of talking about it, have claimed much success. The NSC, for example, with about 230 employees, has a total -- by our quick count -- of perhaps nine Latinos, African Americans, Asian Americans and Middle Easterners in mid-level or top positions.

At the State Department, four of six undersecretaries working for Rice are women, but a check of the top 45 or so officials at the assistant secretary level and higher finds fewer than a half-dozen minorities.

And at the Pentagon, although the uniformed folks have made great strides over the years up and down the ladder, minorities in the mid-level or higher civilian policymaking positions are said to be quite scarce, despite oral and written admonitions and pounding on the table by Defense Secretary Donald H. Rumsfeld , a sponsor of the Voting Rights Act when he was in Congress in the '60s.

"It cannot be that the last three secretaries of state -- the daughter of European immigrants, the son of Jamaican immigrants and a daughter of the American segregated South -- would be more diverse than the Foreign Service with which they work," Rice said.

Alas.A Chief Disagreement

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There was something odd last week about the artwork on Amazon.com for Weekly Standard Executive Editor Fred Barnes 's new book on President Bush, titled "Rebel-in-Chief: Inside the Bold and Controversial Presidency of George W. Bush ." Amazon's blurb touts it as "How George W. Bush Is Redefining the Conservative Movement and Transforming America."

The book jacket has a lovely blue and white cover and a photograph of Bush, sleeves rolled up, looking off in a leaderly way.

But there's a second smaller image of a book that doesn't seem to have the same Barnes touch. There's a picture of an upset Bush being led off in handcuffs and titled: "Felon-in-Chief: How George W. Bush is Redefining Greed and Corruption and Destroying America."

Last week someone posted a picture of the latter "book" right below the real one. It's posted as a "Customer image from J. Wolf ." It was still up as of last night.Party Politics

Don't forget! Wednesday is the big birthday bash for Sen. Conrad Burns (R-Mont.), who's celebrating his 70th at powerhouse lobbying firm Cassidy & Associates. No need to bring a special gift -- no ties, shirts or such -- according to the invite.

Oh, but if you want to host the bash, that'll be $2,000 per political action committee and $1,000 per person. Simple attendance is $1,000 per PAC and only $500 per person.

Good to see venerable Washington-style birthday traditions continue even in these troubled times.Young May Return to His Old Country

As expected, de facto ambassador to Taiwan Douglas Paal resigned last week after three years on the job. An inspector general's report last summer sharply criticized Paal for his management style and the office's low staff morale, the Asian press reported.

The buzz in Taipei is that career diplomat Stephen M. Young , former number two in Taiwan and more recently ambassador to Kyrgyzstan, is heading back to the island to run the U.S. diplomatic operation.Moving On . . .

Susan Aheron Magill , longtime chief of staff to Sen. John W. Warner (R-Va.), is retiring after 28 years on the Hill, the past 24 working for Warner. Magill, who was executive director of the Joint Congressional Committee for President Bill Clinton's second inauguration, is going private sector, taking a senior executive position in government affairs with the Pew Charitable Trusts.

Nina Shokraii Rees , formerly special assistant for domestic policy in Vice President Cheney's office and more recently the Education Department's highly regarded assistant deputy secretary and head of the department's Office of Innovation and Improvement, has moved to the Knowledge Universe Learning Group.

Report Reveals Low Rates Of Foster Care Visitation, Reliable Record-Keeping (WP)

The Washington Post, January 23, 2006

Lacking proof from most of the states, federal officials are concerned that many foster children are not being visited regularly by caseworkers.

Only 19 states and the District were able to produce computer-based reports detailing how often such visits occurred in fiscal 2003, according to a new report by the inspector general for the Department of Health and Human Services.

Seventeen of those states required monthly visits. Yet, five reported that less than half of their foster care children were visited that frequently. Another five states reported a visitation rate of 75 percent or less.

Most states said they lacked the resources to produce such a report or they did not have a computer record-keeping system. The federal government and state governments have spent $2.8 billion developing such systems since 1994.

"We're not surprised at what the inspector general found," said Wade Horn, HHS assistant secretary for children and families. He said he shared concerns that states need to do a better job of tracking caseworker visits.

Child welfare experts say caseworker visits are among the most important tools states can use to protect foster children. "The more frequently a child is visited in foster care, the better the outcome for that child," Horn said.

Nationally, about 500,000 children are in foster care, a number that has been declining in recent years, Horn said.

All states must comply with federal regulations to get federal funding for their foster care programs, but each state determines how services are provided. Forty-three states call for monthly visitation. The others set visitation standards ranging from weekly to quarterly.

The government can financially penalize states that do not show improvement in key areas such as caseworker visits. So far, the Bush administration has resisted that approach. "The goal of the [reviews] has not been to penalize states, but to work with them to improve the effectiveness of their child welfare systems," Horn said.

He said he was prepared to enact sanctions for states that fail to improve. "Our hope is that every state will show progress," he said.

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Daniel R. Levinson, the HHS inspector general, recommended that the government promote the development of computer tracking systems, which would improve states' abilities to ensure caseworkers visit foster children.

The federal government provides 75 percent of the funding for such automated systems, Horn said. The IG's report noted that 45 states and the District are in various stages of developing their computer systems but six states, unnamed in the report, have no such systems planned.

For the 31 states that could not produce reports, the IG's office repeated some reasons they were given. "We don't have the manpower to generate reports," an unidentified official from New Mexico told the inspector general.

The IG's office found the following rates for monthly visitation in 2003: Wyoming, 27 percent; West Virginia, 42 percent; the District, 43 percent; Kentucky, 44 percent; New Hampshire, 49 percent; Massachusetts, 50 percent; Tennessee, 53 percent; Arizona, 59 percent; Arkansas, 71 percent; and Texas, 75 percent.

Tom DeLay, Right Or Wrong (PTR)

By Salena Zito

Pittsburgh Tribune-Review, January 23, 2006

Hold a rearview mirror up to U.S. Rep. Tom DeLay and ask how he views his past. He'll likely wave you off and say he has his eyes on the windshield, concentrating on what's in front of him.

It's DeLay's nature to move forward, whatever chaos swirls around him.

"My top priorities are my constituents ... homeland-border security, improving our regional transportation infrastructure and NASA," DeLay told me during a campaign rally here this month for Texas Gov. Rick Perry.

In 2005 DeLay helped pass two major border-security and immigration-enforcement bills, a six-year highway-funding bill and NASA's first reauthorization bill since President Bush laid out his vision for space exploration.

Democrats hate DeLay because he beat them, often and hard -- and he enjoyed it. Democrats may be miles apart on issues but they're united when it comes to taking down a wounded Republican, especially this former House majority leader.

Ask DeLay about that, and he flashes a smile: "Politics has to be about the issues ... . (W)hen you personalize political differences, you might occasionally hurt your opponent but you ultimately just destroy yourself. Politics should be about who's right and wrong, not who's good and bad."

DeLay, in his 11th House term and who turns 59 in April, says he'd rather concentrate on keeping Republicans what even many Republicans say they no longer are -- the party of fiscal responsibility and reform.

"It's not enough to keep the conservative majority strong; it needs to be stronger," he says. "And that means focusing on the issues ... five and 10 years down the road.

"For instance, I'm all for tax cuts, but we need to start seriously talking about tax reform ... . (R)egulation and litigation that now hamstring small businesses, competition and job creation do not just need tweaks -- they demand long-term, comprehensive reform."

DeLay wants to reform retirement security, the health-care system and Congress' appropriations process. "It's not enough for conservatives to enact our agenda for 2006. We need to always be moving toward our goals for 2016."

As he moves over to the House Appropriations Committee from his very public descent from the leadership, DeLay is thinking of what it will take to keep spending down.

"Two things -- discipline and reform. ... We need structural, internal reforms to level the playing field for those of us who want to limit government."

He appears to have learned his lesson after being roundly pummeled earlier in the year for saying there was no fat left to cut out of a heavily earmarked budget.

DeLay has planted many thorns in Democrats' sides over the years but none has been sharper than redistricting. The U.S. Supreme Court will examine the constitutionality of the Lone Star State's GOP-orchestrated 2003 redistricting, which gave Republicans a 2-to-1 advantage in congressional seats.

Although Democrats brilliantly branded "redistricting" as a dirty word, DeLay says the average voter doesn't get what it's all about.

"The redistricting process was put in place by our Founding Fathers and has existed essentially unchanged since 1789.

"For all the hand-wringing people do about partisan politics, the fact of the matter is that the redistricting process pretty accurately reflects the will of the people." It can be nasty and partisan, "but it works, just as the Founders imagined it would."

The bipartisan criticism of Tom DeLay is that his aggressive style was his undoing. Even those members of Congress whom he helped to elect and re-elect grew tired of it, distancing themselves for their own survival.

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Of course, DeLay's suspect indictment on trumped-up campaign-finance charges by Ronnie Earle, the partisan Texas prosecutor and media hound, hasn't helped. Neither has his nexus -- real or perceived, ancillary or intimate -- to shady lobbyist Jack Abramoff.

The real test for DeLay now rests with folks in the 22nd Congressional District who sent him to Washington 22 years ago. He faces a tough re-election, and recent polls show his troubles have taken their toll.

If he can weather that storm, Tom DeLay will return to Washington wounded but by no means dead. He may no longer be the leader, but as the consummate deal-maker and doer he is, DeLay will continue to exert extraordinary influence.

Obama Might Be Walking On Hot Water (CHIT)

By John Kass

Chicago Tribune, January 23, 2006

Everybody knows that when U.S. Sen. Barack Obama walks, lilacs bloom from his every footstep, even in parking lots.

He can cross the Potomac without bridge or boat. When his fellow Democrats became hungry, he feeds them by the thousands with two perch and a bag of Cheetos. And what about that nice Shiraz flowing from the Senate water cooler?

According to his glowing media, there is nothing he can't do. And when he saved Sen. Hillary Clinton from her own big mouth--she told a black audience that Congress was a "plantation, and you know what I'm talking about"--I became a believer too.

But now he's trying to pull off a real miracle.

Obama, the Chicago Democrat, is the lead public thwacker of Republicans on the corruption issue involving self-admitted crooked Republican lobbyist Jack Abramoff. Obama was scheduled for more public thwacking on NBC's "Meet the Press" on Sunday. But that's not the miracle.

The miracle is that he's trying to do this and push ethics legislation, while avoiding mention of the corruption among Democrats in Illinois. Federal investigations are crawling through the administrations of Chicago Mayor Richard Daley and Gov. Rod Blagojevich while Obama skips the mess back home.

I like Obama, and I've told you so. And I called to tell him, respectfully, that I thought he made a big mistake by being maneuvered into the role of designated hitter.

"This stuff is always hard and it's always messy because no party's got clean hands," Obama told me over the phone. "But you know, if you've got an opportunity to at least move the ball forward a little bit, then I figure you should take the opportunity. Everybody in Washington at least seems embarrassed enough now that it's possible to move the ball forward. And that's what I'm going to try to do."

But he can't discuss virtue in Washington without speaking to the sleaze in Chicago. If he does, he'll be just another suit mouthing hollow words. Barack Obama is better than that.

He didn't call a news conference condemning City Hall for corruption. For example, he didn't condemn the Duffs, the mayor's white friends who received $100 million in affirmative action contracts from the Daley administration that should have gone to minorities.

"As you know, it's not my habit to hold press conferences to chase headlines," Obama said. "If somebody's asking my opinion, I'll tell it."

The senator has been asked. In August of 2005, with the patronage scandal and Hired Truck scandal swamping Mayor Daley, Obama said corruption bothered him. He was asked if he'd support Daley if the mayor seeks re-election in 2007.

"I think that what has happened ... gives me huge pause," Obama said.

Later, a reporter asked him if it were true that Daley's scandals had given him pause in considering an endorsement. According to the Tribune article of Aug. 5, 2005, Obama snapped: "That's not what I said. ... Don't put words in my mouth."

But since he accepted the job of Sen. Thwackum in a Democratic Party news conference last week, he can't avoid the issue. (One of those Democrats was U.S. Rep. Jan Schakowsky (D-Ill.), whose husband, political activist Robert Creamer, will be sentenced soon after being convicted of a check-kiting scam.)

"I had to participate in the news conference," Obama told me on Friday. "But my main goal is going to be to see if I can get Democrats and Republicans to sit down and try to figure out if there's a solution to this thing."

That's not what Democratic Party leaders want. They want him to kick Republican political behinds on national TV. Yet the first time someone close to Obama screws up with a campaign check, he'll be called a hypocrite. That's the trap.

And while the temptation among his Washington media champions who share his politics will be to ignore the Chicago corruption, there's an unavoidable connection.

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U.S. Rep. Rahm Emmanuel (D-Ill.), who runs the national party's effort to elect more Democrats to the House, was himself elected to Congress with the help of corrupt city water department boss Don Tomczak, who ran a patronage army for Daley that is under federal investigation. Tomczak, who pleaded guilty, is cooperating with prosecutors.

Emmanuel has said he was unaware of Tomczak's political help. Obama didn't want to touch this one.

"Well, a lot of this stuff is going to play itself out," he said. "My goal is just to see if there's some low hanging fruit that we should go ahead and take care of, and that's what I want to do."

Former House Majority Leader Tom Delay of Texas, the most prominent Republican scorched so far, complains prosecutors are out to "criminalize politics." That's the same line used by the Daleys.

"No party has a monopoly on virtue," Obama said. "And I think there are some things that are clearly out of bounds. Are there gray areas? Sure. But my goal is just to get it to where the stuff that is clearly black and white is off the table."

Poll: Most Find Medicare Program Confusing (AP)

By Will Lester

The Associated Press, January 23, 2006

WASHINGTON -- Confusion by consumers may be one of the biggest problems at the startup of the new Medicare prescription drug program, an AP-Ipsos poll suggests.

Most people find the new Medicare prescription drug program hard to navigate, especially older people and those who have enrolled to get the drug benefit.

The program requires people to choose from among dozens of competing private insurance plans. Along with seniors and those who have enrolled, those most likely to acknowledge difficulties live in rural areas or are college graduates.

More than half, 52 percent, of respondents say they think the program that began enrolling people on Jan. 1 is tough to understand, the poll found.

Two-thirds of older people surveyed and two-thirds of those who have signed up say they are confused by the program, which is intended to help many save money on their prescription drugs.

"We're getting a pretty steady stream of questions," said insurance counselor Edith Goodin Thompson, of the Aging and Disability Resource Center for Broward County in south Florida.

"The typical call is 'I need a plan. I have gone on my computer and done the research and I don't understand."

The multiple plans and varied rules can confuse the well educated.

"I pretty much completed a master's degree in psychology and I can't understand it," said Raymond Lloyd, a Republican-leaning retiree from Silt, Colo. "For the elderly who don't have their full faculties and the poor people who are not well educated, God help 'em."

One-third said they had not decided what they think of the new program and 16 percent said they have little trouble figuring out the program.

One who finds it easy to understand is Kathy Herndon of Savannah, Ga., who has worked for three decades in a dentist's office.

"I'm sure it would be confusing unless you're used to dealing with it," she said.

The poorest people in the program have a specific plan chosen at first for them; those with higher incomes have to pick one. People who struggle with a selection often turn to their pharmacists.

Marlene Brantley, a pharmacist in Arnaudville, La., said that serving Hurricane Katrina evacuees seemed like "a walk in the park" when compared with helping Medicare beneficiaries in recent weeks.

She said there are too many plans and too many lists of available drugs, forcing pharmacists to spend a lot of time trying to determine if people are eligible for a particular plan.

"If we don't get help, I see us all throwing up our hands and quitting," Brantley said last week at a Democratic-sponsored forum on Capitol Hill.

Soon after enrollment opened, it became apparent there was widespread confusion, so the government increased from 150 to 4,000 the number of workers at a pharmacy help line.

Questions also can go through the Centers for Medicare and Medicaid Services -- 1-800-Medicare or http://www.cms.hhs.gov -- or local aging agencies.

The public's understanding of the program is one of several problems that have plagued the Bush administration initiative.

Tens of thousands of elderly poor people have had trouble getting their medicine after they were canceled from Medicaid prescription drug coverage but not properly listed as eligible for the new program.

"Most of these people are vulnerable and frail," said Jean Finberg of the National Senior Citizens Law Center. "Our government is not protecting these people, and the new plan is too complicated."

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Medicare spokesman Gary Karr said millions of people are getting their prescription drugs through the new program, despite the glitches.

"We certainly acknowledge there have been some problems," Karr said. "This is a $30-$40 billion program. It's a big transition for many people."

About 3.6 million people have enrolled, in addition to the 6.4 million elderly poor shifted from Medicaid, the government health care program for the poor that had provided their drug coverage.

But the public has doubts about the savings now.

Of those people who have enrolled in the program or have family members enrolled, six in 10 in the poll said they have noticed no significant savings.

Half of the Republicans surveyed say the drug program is hard to understand while six in 10 Democrats say they feel that way.

Take Two Aspirin And Read This Now (TIME)

By jyoti thottam

Time, January 23, 2006

A month ago, Tracy Patterson wasÂ simply a woman with more than her fair share of sickness. With multiple birth defects, chronic pain, asthma and bipolar disorder, Patterson, 35, struggled to get by on $832 a month in disability assistance. But at least one thing in her life was taken care of. California's Medicaid program paid for more than a dozen medications every month. "I always got my meds on time," she says. That changed on Jan. 1, when Medicare's prescription-drug benefit went into effect. Patterson was one of 6.2 million people automatically shifted into the program from Medicaid, and her story has become part of an urgent, nationwide call to fix what both Republicans and Democrats say was a botched transition to the controversial new plan.

Patterson says the abrupt switch has pushed her to the edge. She spent a week without medication, trying to figure out the new plan, called Medicare Part D, and then learned that under the terms of her policy, she would have to pay $308.68 for a month's supply of morphine, which she takes for her chronic pain. "I flipped out," she says. "First I was shocked, then I started crying. Now I'm just numb. I'm bipolar. I'm kind of getting depressed." Patterson sobs at the idea of borrowing money she can't pay back. "Whoever voted this into policy was a bunch of jerks, and they never knew what it was like to live on a fixed income and have to have medication."

Any policymakers who once might have glossed over her frustration as a side effect of sudden change are thinking twice. "Katrina showed government's failure to respond, and we can't afford those failures again," says Republican Senator Norm Coleman of Minnesota. A quarter of the 24 million people now enrolled in Medicare Part D are "dual eligibles," people who qualify for both Medicaid and Medicare. In other words, they are among the poorest and frailest people in the country. More than 70% of them make less than $10,000 a year; 372,000 of them have Alzheimer's. Republicans realize that after Katrina, they cannot risk another crisis in which the government appears to be abandoning its most vulnerable citizens. Some are already making that connection. Aniela Toscano, 56, a New Yorker living in a shelter, has run up $885 in credit-card debt thanks to a brand-new bill for drugs and is worried that she can no longer afford her seizure medication. "What happened in New Orleans?" she says. "They let those people die. Why not us?"

Thankfully, no one is waiting for another slow-motion catastrophe to unfold. Governors of more than 20 states have pledged emergency funds to help people, at least temporarily, pay for drugs they are having trouble getting. Insurers say they expect to have any remaining problems fixed in the next two weeks, although patient advocates are skeptical. And in response to the bipartisan outrage, House Republican leaders are considering a proposal, initially suggested by Democrats, to extend the deadline for signing up for the new benefit from May 15 to Dec. 31, a House G.O.P. aide tells TIME. The difficult transition, though, is more than just a product of bureaucratic fumbling. It is a significant step in the march of U.S. health care toward a free-market system governed by choice and risk. President George W. Bush is expected to make that movement a central element in his State of the Union address next week and to emphasize its promise. The patients, families and pharmacists caught up in Part D know its price, at least in the short term.

The fundamental goal of Medicare Part D is hard to argue with. Medicare has no drug benefit; Part D provides one. When Medicare was established in 1965 as a Great Society health-care program for seniors, prescription drugs were a minor planet in the universe of medical treatment. They now account for 11% of every health-care dollar spent. But more than a quarter of the 42 million people on Medicare had no drug coverage at all last year.

The law that was passed in 2003 is not really an expansion of Medicare, which is an entitlement with standardized care. Part D, although funded by Medicare, is actually private insurance, similar in design to high-deductible health policies that shift more of the costs to members in an effort to make them more conscious of what they're spending. "People are used to it being

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an entitlement, but [Part D] wasn't the same sort of generous benefit that Medicare is," says David Scrase, president of Presbyterian Health Plan, a Part D provider in Albuquerque, N.M.

The array of selections available under Part D--even Alaska, with only 53,000 eligible recipients, has almost 30 plans, all with different premiums, deductibles, co-pays and covered drugs--has bewildered seniors trying to choose. But that confusion is only part of what has gone wrong. The main reason for the problems of the past three weeks is that the vast majority of enrollees--20.4 million of 24 million--already had some kind of drug benefit, in many cases Medicaid, and were automatically switched to Part D. Their information had to make its way through several layers of private and public bureaucracy for the new system to work. Medicare allowed people to sign up for Part D until Dec. 31 for coverage on Jan. 1, but insurers couldn't process their enrollment cards fast enough to be ready by then. People eligible for both Medicaid and Medicare were assigned to plans randomly, in many cases to plans that did not cover the drugs they took. Insurers are supposed to cover 30-day emergency supplies of medicines that are not included in their plan, but many companies are stonewalling on fulfilling that guarantee. So many seniors have had to pay out of pocket for their drugs or go without. Medicare promised subsidies to poor people for their co-payments and deductibles, but insurers still do not have complete information on who is eligible for the extra help.

Some insurers blame pharmacists for lacking the right software or failing to carry out stated policies, while pharmacists say Part D has been a disaster for them too. Many of them have been handing out prescriptions but don't expect reimbursements from Medicare until early February. That cash-flow crunch is putting some pharmacies in danger. Art Whitney of Rockland, Calif., borrowed $500,000 to cover what he owes his wholesaler. "I've been in business since '87, and I've never borrowed a nickel," he says.

Why shift so many people, particularly those least equipped to handle a chaotic change, all at once into a system with so many moving parts? Health-care advocates have been asking that question for at least two years. In January 2004, the Kaiser Family Foundation, a nonpartisan health-care research group, published a report predicting that dual eligibles would be "overwhelmed" by a sudden change to Part D. The report of a Kaiser gathering of Medicaid directors from 11 states held last November to discuss concerns about the Part D transition reads like a screenplay for the horror stories that followed. "It wasn't that they didn't know," says Drew Altman, president of the foundation.

In an interview with TIME last week, Mark McClellan, administrator of the Centers for Medicare and Medicaid Services, said most people entered the new system without encountering trouble. He attributed much of the difficulty of those who did to the huge number of people who enrolled or switched plans at the end of December. Although assigned to plans, dual eligibles had the right to change by Dec. 31 to one that best suited their needs. The Medicare bureaucracy is still catching up with all that data, McClellan says. "Those are the issues that we're working through right now."

McClellan, along with the insurers, is closely watching whether the bad publicity from the start of Part D will affect enrollment. The pace of voluntary enrollment so far is picking up, with 2.6 million people signing up since Dec. 13. High enrollment is crucial to the program's success. Any insurance program relies on pooling the risk of a large group of people, and insurers that can't capture enough members will eventually have to shut down.

Any talk of turning Medicare into market share, of course, is catnip to Democrats, who are ready to use the Medicare mess against Republicans in the November midterm elections. Seniors tend to turn out for midterms in higher numbers than younger people, "so there's a real opportunity here," says Democratic pollster Mark Mellman. The Democratic Congressional Campaign Committee is advising candidates to visit senior centers and press the argument that the drug benefit was written by and for the health-care lobby. Those candidates hope to point out, for example, that drug manufacturers lobbied to avoid negotiating drug prices directly with Medicare. Instead, Medicare provides funds to insurers, which use intermediaries called pharmacy benefit managers, who then negotiate with the drugmakers. That system breaks Medicare into smaller purchasing pools, and drugmakers get higher prices. Insurers, meanwhile, successfully lobbied for a provision that limits potential losses in the first two years.

Republicans insist that January's rough transition will be all but forgotten by November. And they will remind voters that Democrats were unable to get any drug benefit, however flawed, passed while they were in power. "Seniors would have nothing if it weren't for Republicans passing this plan," says Amy Call, spokeswoman for Senate majority leader Bill Frist. G.O.P. leaders have so far rejected the major changes proposed by Democrats, including allowing direct negotiation with drugmakers and easing the rules on reimportation of drugs from Canada.

They are taking seriously the bipartisan calls from states to be reimbursed for the tens of millions of dollars in emergency funds states have set aside to cover the gaps in Part D coverage. Health and Human Services Secretary Michael Leavitt spent last week on damage-control patrol, trying to placate anxious seniors and state lawmakers angry about footing the bill for Medicare's mistakes. Maine Republican Senator Olympia Snowe said Leavitt reassured her on Friday that the Federal Government would use its authority to compel insurance plans to reimburse the states directly. Maine has spent $5 million.

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Ultimately, the future of Medicare Part D will depend not just on Republicans or Democrats, insurers or drugmakers, pharmacists or health-care experts. It will hinge on the willingness of the millions of people eligible for Medicare to submit to this experiment in free-market health care. Americans could decide that the health of the old, the sick and the needy deserves a system separate from the one that rules whether Internet companies and T shirt makers live or die. But if enough people agree to endure the smaller upheavals that are sure to come, Part D gives them a drug benefit based on the American ideal of unlimited choice. Some plans will change their rules or increase their prices; others won't survive, and their members will again have to navigate a new plan. For those without any drug coverage at all, that may be a risk worth taking.

The Eye Of A Medicare Hurricane (WP)

By Amy Goldstein

The Washington Post, January 23, 2006

If a health plan pays a pharmacy for medicine it dispensed to an elderly patient, before realizing that the person already had switched to a different health plan, how do the insurance companies settle up? If a pharmacy run by a federally funded health clinic wants to cover some costs that its Medicare patients are supposed to pay on their own, is that legal? And how much of a refund should patients get if they have chipped in to cover part of the price of their medicine before the government determined they are so poor that they should not have had to pay in the first place?

Such brainteasers would have been unimaginable through most of the four decades that Medicare has provided health insurance to the nation's elderly. But since Jan. 1, when the program's new drug benefit began, such questions surface routinely. Often as not, they land on Tracey McCutcheon's desk.

As acting deputy director of the Medicare Drug Policy Group at the Center for Medicare and Medicare Services (CMS), McCutcheon is deep in the weeds of the largest, most complex and -- judging from its first three weeks -- messiest expansion of the program in its history. From a first-floor office in an immense government building in a western suburb of Baltimore, she works 12-hour days, taking conference calls, combing through statutory language and rethinking the fine print of 60 pages of federal regulations she helped to write.

"Lots of moving parts," is the way she describes her job, with understatement.

McCutcheon, 52, is not a longtime federal bureaucrat. She had worked for several of the Washington area's major hospital systems and health plans, most recently for a disease management offshoot of Inova Health System. When she began thinking about what she wanted to do next, she realized, "I may have sort of a regulatory bent" -- drawn, as she was, to solving problems, making systems work and complying with government rules.

She began to commute from her home in Silver Spring to a job as "health insurance specialist" at CMS headquarters in February 2003. She remembers that, in the first days, her boss remarked that Congress was starting to look serious about prescription drug legislation it had been debating for years. The bill passed late that year.

Today, McCutcheon is a GS-15 with a staff of about 50, now that she has been promoted to acting deputy of a group within the agency that sets policy for health plans. Her speech and writing are sprinkled with obscure abbreviations: TrOOP (true out-of-pocket cost, or the sum Medicare patients must pay in deductibles and co-pays before the drug coverage begins) and LIS (low-income subsidy for poor older people).

Shortly before the benefit took effect, McCutcheon found herself debating what the word "person" means. The context was an aspect of the Medicare law that says out-of-pocket costs are to be paid by the beneficiary or other person on their behalf. The challenge was to find a way to allow charitable organizations to chip in.

Currently, she and her staff are rethinking a rule that allows health plans to "co-brand," when they place on the prescription drug card they give patients the name of a second company, such as a drug store. The worry is that patients might mistakenly believe they can fill prescriptions only at the store named on the card.

Such matters are arcane, but they also have broad implications for whether insurers remain in the program, whether pharmacists are willing to fill prescriptions and -- most of all -- whether the nation's older patients come to believe the federal insurance for medicine is worthwhile.

As complaints and confusion about the drug benefit have spread around the country this month, McCutcheon said, "some of the specific issues that come up have been surprising." Still, she said, "you never bring up a huge program and have everything perfect."

Celebrities Capitalize On Star Power In D.C. (LAT)

By Jube Shiver Jr., Times Staff Writer

The Los Angeles Times, January 22, 2006

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WASHINGTON — In four decades as a guitarist with such iconic rock bands as the Byrds and Crosby, Stills, Nash & Young, David Crosby played in front of millions of fans at such venues as Woodstock, the Fillmore East, the Hollywood Bowl and London's Wembley Stadium.

Lately, one of his regular gigs has been at one of the nation's most elite clubs: the U.S. Senate.

Last year, the shaggy-haired, 64-year-old musician donned a suit in lieu of his usual bluejeans to lobby the Senate Committee on Indian Affairs, seeking to thwart plans to expand Chumash casinos and commercial developments near his home in the tranquil Santa Ynez Valley in Santa Barbara County. On another occasion, Crosby opined to lawmakers on campaign finance reform.

"Being a celebrity cuts both ways in Washington," Crosby said. "In some ways it gets you access. But in other ways it makes people dismiss you. You have to be insanely careful about what you say."

Crosby is part of a growing parade of celebrities trekking up Capitol Hill to talk to the nation's lawmakers about issues that rarely have anything to do with their day jobs. Trying to get attention for pet causes easily lost in the clutter of public policy debates, stars hope their cachet can make the difference in opening doors, getting media attention and scoring face time on C-SPAN.

During the last year, Washington's show has starred actress Salma Hayek testifying before the Senate Judiciary Committee on domestic violence about how she became familiar with the issue researching a movie role. Jazz musician and New Orleans native Wynton Marsalis told the House Subcommittee on Economic Development, Public Buildings and Emergency Management how important it was to rebuild after Hurricane Katrina.

Actress and AIDS activist Ashley Judd spoke to the Senate Foreign Relations Committee on the need to develop an HIV vaccine for Africa. Actor Don Cheadle, who starred in the movie "Hotel Rwanda" set in that country's 1994 civil war, joined five members of Congress on a fact-finding mission to learn about refugees in Sudan.

When it comes to hobnobbing with lawmakers, U2 frontman Bono ranks as Washington's reigning celebrity lobbyist. House Minority Leader Nancy Pelosi (D-San Francisco) is a frequent guest at the band's concerts. In October, Bono lunched for 90 minutes with President Bush at the White House, where the two discussed debt relief, AIDS, malaria and world trade, White House Press Secretary Scott McClellan said.

"More and more celebrities are lobbying for particular causes," said Darrell West, a professor of political science at Brown University and author of the book "Celebrity Politics." "They attract the TV cameras, and celebrities are great fundraisers."

For celebrities, testifying and lobbying in the nation's capital offers the ego stroke of being taken seriously on important issues, and a chance to make headlines for something other than their latest loves or public mishaps.

In an e-mail to the Los Angeles Times, actress Mary Tyler Moore said her lobbying on behalf of the Diabetes Research Foundation stemmed from her own experiences as a diabetic. Having the disease "has fueled my desire to help … find a cure," Moore said.

After actor Michael J. Fox testified on Capitol Hill in 1999 about his battles with Parkinson's disease, lawmakers urged the National Institutes of Health to intensify the government's search for better treatments. Since then research grants for Parkinson's have jumped more than tenfold from $25 million to as much as $300 million this year, said Robin Elliott, executive director of the Parkinson's Disease Foundation.

"In a television culture, celebrity has become crucial to advancing all kinds of causes," Elliott said.

But it also can often backfire when it appears a celebrity is simply fronting for an issue in which he or she has no special expertise.

In 2002, Sen. George V. Voinovich (R-Ohio) walked out of a Senate subcommittee hearing on the environmental effect of mountain mining when Kevin Richardson, a Kentucky native and member of the Backstreet Boys singing group, was called as a witness. Voinovich told reporters the proceedings had turned into "a joke."

Lou Diamond Phillips, star of such films as "La Bamba" and "Young Guns," said it was unfair to assume celebrities were unqualified to testify. Phillips said he met resistance when he testified in 2002 about extending veterans benefits to Filipinos who had fought in World War II. Phillips is part Filipino and the son of a war veteran.

"It upsets me that people don't think we have the right to speak out," Phillips said in an interview. "We are citizens like everybody else. I made it certain to the senators that I was no carpetbagger."

When Crosby testified last summer on the tribal development plans, Connecticut blogger Edward Janusz questioned his qualifications.

"Mr. Crosby seems like an intelligent person," Janusz said in an interview. "But I'm more inclined to listen to people who are personally involved and have some expertise."

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Congressional hearings for decades were mostly dominated by nondescript government, industry and academic experts. Stars called to testify typically were asked about issues directly related to the entertainment industry, such as when the House Un-American Activities Committee in the 1940s investigated alleged Communist infiltration of Hollywood.

Credit former top Hollywood lobbyist Jack Valenti and Washington lawyer Michael Gardner with helping demonstrate during the 1980s the clout celebrities could have on Capitol Hill. They mobilized some of Hollywood's biggest names to counter government efforts to end financial syndication rules that forbade broadcasters from owning any of the TV programs they aired.

Valenti squired Warren Beatty, Stefanie Powers, Charlton Heston and Kirk Douglas to Washington to testify, lobby and pose for snapshots with star-struck lawmakers.

Gardner took Mary Tyler Moore, Alan Alda and Jean Stapleton to make the rounds of federal regulators who were siding with the TV networks in favor of the rule change.

In the end, the beleaguered television networks were outmatched by Hollywood's star power.

Financial syndication rules were preserved for nearly a decade before a judicial ruling ended them in the early 1990s.

Valenti, who retired in 2004 as head of the Motion Picture Assn. of America after 38 years, has a relatively simple explanation for why celebrity testimony can be so effective: Congressional hearings are dreadfully dull.

"Most people come in and duck their heads and read their testimony and leave no lasting impression," he said.

But by virtue of their star power and training, Valenti said, "actors can give Oscar-winning performances."

OTHER NEWS:

Oil Again Flirting With $70 A Barrel (WSJ)

By Leah Mcgrath Goodman

The Wall Street Journal, January 23, 2006

Crude oil has its sights set firmly on record territory again.

Crude-oil futures settled at a 20-week high of $68.35 a barrel Friday on the New York Mercantile Exchange, up $1.52, sparking talk that oil could soon challenge its nominal record just above $70.

That is a significant milestone and a telling indication of sentiment in the market: The only time oil prices have traded above $70 was Aug. 30, 2005, just after Hurricane Katrina slammed into the Gulf Coast, blazing a trail of destruction through the oil industry.

Months after Katrina and Hurricane Rita, which followed, three refineries remain offline, representing 5% of total U.S. capacity. But now, a host of other factors have conspired to push oil toward its hurricane peak, making it harder to attribute price increases to one extraordinary event and underscoring the fact that prices have staked out a persistently high place.

"Geopolitical fears and technical momentum continue to target the $70-a-barrel mark," said Michael Guido, director of commodity strategy for Société Générale in New York.

Fears of potential disruptions, never far beneath the surface, bubbled up last week as civil unrest in Nigeria, a major oil exporter, cut crude-oil exports by about 200,000 barrels a day, or 10%.

Tensions over Iran's nuclear ambitions flared, too, as the U.S. sought to rally international support for halting Tehran's work on nuclear-power projects, which could be converted into nuclear-weapon capabilities.

On top of that, heavy maintenance work at U.S. refineries and signs of strong demand for oil this year have helped cement the gains.

The leap in oil, which climbed steadily last week, has gained the attention of other markets. Though earnings jitters may have played a large role behind big declines in U.S. stock indexes last week, analysts cited the oil rally as hurting stocks, except those of energy companies.

Natural-gas futures saw substantial gains, too, Friday for the second session in a row, in tandem with a broad-based rally in the petroleum complex.

The rise in oil has come despite gains in U.S. petroleum inventories this year, as traders continue to worry about signs of rising global demand in 2006 with little improvement to supplies.

Growing supply worries were reflected in weekly data released Friday from the Commodity Futures Trading Commission, which reported oil speculators maintained only a thin net-short position of 1,676 contracts in crude futures as of Tuesday.

While that was slightly higher than the prior week's net-short position, speculators continued to load up on bets that oil prices would rise.

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The rally in oil also has prompted big banks to revise their oil forecasts higher. Goldman Sachs, which caused a splash last year with its super-spike oil call, raised its 2006 crude-oil price forecast last week, seeing prices above $70 a barrel by the fourth quarter but adding that significant supply disruptions could push prices above that level much sooner.

Oil Prices Climb To Katrina Levels (CSM)

By Ron Scherer

The Christian Science Monitor, January 23, 2006

NEW YORK - This may sound eerily familiar: oil prices are spiking, sending shivers from Wall Street to Main Street.

Since the new year began, crude oil has soared more than $7 a barrel to $68.35 - the highest level since late August when hurricane Katrina roiled energy markets. This time, the main impetus appears to be a bad case of international jitters, ranging from Iran to Nigeria to Osama bin Laden. If the tensions don't cool off, energy analysts warn, consumers should brace themselves to pay more at the gas pump in weeks ahead. "It's been one thing after another," says Phil Flynn of Alaron Trading in Chicago.

On Friday, rising oil prices and disappointing earnings sent the Dow Jones Industrial Average into a 213 point dive, one of the sharpest declines since spring 2003. One reason for Wall Street's concern: if the price of oil stays high, it will take money out of people's pockets in a year when consumers are expected to moderate spending anyway.

"Consumer spending may slow down a bit more than thought," says David Wyss, chief economist at Standard & Poor's in New York. "But, it won't drive us into a recession - that would probably take oil going well over $100 a barrel."

Rising oil prices could increase the prices Americans pay for everything from pizza delivery - yes, there is an extra $1 fuel surcharge - to how much money it will cost to get the kids back and forth to hockey practice.

So far, however, many companies have absorbed their higher energy costs. Last year, food and energy added just 1.2 percentage points to the inflation rate, which averaged 3.4 percent.

Still, energy costs are one of the factors the Federal Reserve monitors. The Fed will meet next Tuesday and is expected to raise rates for the fourteenth consecutive time by a quarter percentage point.

Beyond that, how the Fed acts will depend on inflation prospects and its own analysis of the economy.

Typically, oil prices start to retreat by this time in January since there are only about six weeks left to the worst part of the home heating oil season. Other than early December, this winter has been milder in the US than some meteorologists expected. Last Friday, the temperature reached 61 degrees in New York.

While winter in the US has been relatively mild, parts of Europe have faced bitter conditions. This has lead to much higher use of heating oil and natural gas. Last week, fierce winter conditions led Russia to curtail production of oil in its Arctic regions.

But geopolitical uncertainty has shaken up energy markets even more than cold weather in Europe.

Iran, faced with the prospect of economic sanctions for restarting its nuclear program, has warned that the price of oil might rise if the West intervenes. The country's leaders have been vague in explaining how that might happen. Iran exports 2.5 million barrels of oil per day, a significant amount going to Asia.

The other trouble spot is Nigeria which exports about 2.25 million barrels of crude per day, most of it suitable for producing gasoline. Tribal frictions have cut production by about 100,000 to 200,000 barrels of oil per day.

"It's not sizable but any amount has gotten people nervous," says John Felmy, chief economist at the American Petroleum Institute in Washington.

Sunday, the situation in Nigeria remained murky, at best. Four foreign oil workers have been kidnapped by guerrilla forces demanding the release of some tribal leaders. Nigerian newspapers are warning that there could be more attacks in the Niger Delta but the government says it is negotiating in order to calm the region.

Some analysts say the markets will retreat in the weeks ahead. "Once the market realizes there is no real threat of an immediate conflict, the market will calm down and we will see oil prices back in the $50s or $60s per barrel," says Eugenio Aleman, a senior economist at Wells Fargo Banks in Minneapolis. "This is highly political."

Before the jitters in the market, some analysts thought the price would head lower. OPEC oil ministers are still talking about reducing oil production this spring, to avoid a supply glut. The Energy Information Administration (EIA) is forecasting the average price for oil will be $63.30 this year.

"If there was no anxiety about Iran and Nigeria and other countries, we think prices would be much lower than they are now," says Mark Rodekohr, an EIA analyst.

Even though Mr. Rodekohr says that the price of oil should be going lower during the year, he says he would not be surprised to see the price rise to the $70 range, back where it was soon after hurricane Katrina struck. "The key is how long - will it be a day or two or is there enough anxiety to drive it for a little while longer?"

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If the price of oil stays high in the weeks ahead, it will likely be reflected in the price at the pump. So far, gasoline price gains have remained relatively modest given the rise in oil prices. Nationally, gasoline is about $2.30 a gallon, up from $2.09 a gallon only a few months ago.

"Oil prices at this level are not factored into the price of gasoline," says Rodekohr.

For 2006, EIA expects a price range of $2.25 to $2.50 a gallon. "We don't see any reason to think it will go below $2," he says. And, if oil moves above $70 a barrel for a sustained period, he says, prices at the pump will move quite a bit higher-even before the spring driving season begins.

There's Little Margin For Error (WSJ)

By E.s. Browning

The Wall Street Journal, January 23, 2006

For the past six months, Henry Herrmann's view of stocks has tracked the price of oil pretty closely. He isn't alone in that, so unless the oil outlook does a smart about-face, the stock market could be facing some rough going.

Mr. Herrmann oversees $41 billion in investments as chief executive at money-management group Waddell & Reed in Overland Park, Kan. With oil prices soaring last summer after hurricanes hobbled oil facilities in the Gulf, he worried about economic damage and had his fund managers pull back a bit from stocks. They kept some money in cash rather than invest it.

Then, as oil prices moderated in the fall and U.S. economic reports came in strong, he became more bullish, putting money into more speculative areas such as technology stocks.

Now, with oil back near $70 a barrel, Mr. Herrmann is beginning to hunker down again. So are a lot of other investors. That helps explain why the Dow Jones Industrial Average fell 213.32 points Friday for its biggest one-day percentage decline since 2003. With the current bull market now more than three years old, the question is whether the economy can improve enough to get people like Mr. Herrmann to feel good enough to start buying stocks again.

"We don't have much margin for error," Mr. Herrmann says. "We can't afford to lose two million barrels a day being exported out of Iran."

What worries him is that the problems weighing on the economy "won't go away real soon." It isn't just that expensive oil serves as a tax on consumers and businesses alike. Interest rates have been rising as well, and the two together are damping growth. "I don't think $70 oil translates into a huge economic problem," he says. "But who says it can't go to $80? Who says it can't go to $90?"

At the start of the year, such worries were far from investors' minds. Amid optimism that the Federal Reserve would soon stop raising short-term interest rates and that corporate profit and economic growth would remain robust, investors bid stocks up strongly.

But then, two bad things happened: Oil prices surged again amid concerns over rebel activity in oil-producing Nigeria and the West's showdown with Iran over its nuclear program. Then, prominent companies such as Intel, Citigroup and General Electric announced quarterly results that missed Wall Street expectations. That double whammy raised questions, in Mr. Herrmann's words, about whether investor expectations had gotten too high and stock prices had become "frothy." Seeing the market soaring at the start of January, he and some other investment pros began to worry that stocks were getting ahead of themselves. Just over a week ago, they began slowly to pull back from their more speculative investments. Their selling accelerated Friday, when the Dow Jones Industrial Average lost 1.96% to close at 10667.39. The Nasdaq Composite Index fell 54.11, or 2.35%, to 2247.7, and the Standard & Poor's Composite Index of 500 stocks declined 23.55, or 1.83%, to 1261.49.

That day's market downturn was due in part to the fear of the unknown concerning Iran.

If investors adjust this week to the Iran worries, some of that selling pressure could ease. But a more fundamental reason that investors are nervous is that they fear that some of the market's underpinnings have weakened, making it harder for stocks to hold up in the face of the oil and profit worries.

"The bulls have gotten ground up for burgers," says Ken Tower, chief market strategist at CyberTrader, an arm of brokerage firm Charles Schwab. Because this bull market is getting on in years, he says, there may not be a lot of people left who are interested in stocks and have much extra money still to invest. "It is probably too soon to declare that the bull market is dead, but I think this is just a risky period for bullish investors," Mr. Tower says.

Bull markets have varied enormously in length historically, but over the past 60 years, the typical one has lasted around three years.

Mr. Tower stresses that he isn't saying stocks have entered a bear market now.

While the Dow industrials are down 0.5% for 2006, after a decline of 0.6% last year, the S&P 500 and the Nasdaq Composite Index both were up last year and still are showing gains this year. But Mr. Tower does worry that a bear market could

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begin some time this year, as investors become disenchanted with corporate performance and some are enticed away by higher interest rates in money-market funds and bonds.

That still isn't the prevailing view, however.

"If we started to get a string of bad days for the market and a string of earnings that appeared to be low-quality or meaningful misses, I might get more worried," says John Waterman, chief investment officer at Rittenhouse Asset Management in Radnor, Pa., an arm of financial-services group Nuveen Investments.

But while the pace of profit gains may slow a bit this year, he says, he expects a resilient economy to keep profits growing. "I'm not sure Friday's selloff was as much the result of oil prices as it was the visibility of the Iran issue, the fear of a supply cutoff," as well as worry about some kind of military action, he says.

He hopes the Iran situation won't spin out of control and that investors once again will shift their attention to the economy's underlying strength.

Mr. Waterman does see a risk that profits may not match bullish Wall Street expectations calling for double-digit growth overall in profit at companies in the S&P 500. But he thinks profits will be able to rise 6% to 8%. That may not be good enough to support some of the highfliers, such as Google, which tumbled 14% last week. But while energy and technology companies may face headwinds, he says, other big stocks may still be able to rise.

So, is the bull market running on empty or is it about to speed up again? More fourth-quarter earnings results in the days ahead will provide clearer indications.

If big companies avoid too many disappointments along the lines of GE's and Citigroup's, if the world political situation calms down and if, after its meeting on Jan. 31, the Fed indicates again that it is getting near the end of its rate-increase cycle, stocks could find better support. If those things don't happen, investors will pay more attention to concerns such as those that bother Messrs. Herrmann and Tower.

Thrill Of Dow 11,000 Already Gone Market Started Off Year Strong But Is Fizzling Fast (USAT)

By Adam Shell And Matt Krantz

USA Today, January 23, 2006

When the Dow closed above 11,000 on Jan. 9 for the first time in 4½ years, Wall Street viewed it as a harbinger of better things to come. The euphoria was short-lived.

The Dow Jones industrial average's fast start is history. And the bright outlook for stocks in 2006 has suddenly turned cloudy.

A 213-point sell-off Friday, the Dow's biggest one-day point decline since March 24, 2003, not only erased the Dow's 3% year-to-date gain and left it 333 points below the key 11,000 level, it also chipped away at investors' confidence.

“We're seeing optimism fading,” says Janna Sampson, a portfolio manager at OakBrook Investments.

Heading into the year, investors were in a bullish frame of mind due to their belief that the Federal Reserve will stop raising interest rates soon. But a lethal mix of negative news last week, including disappointing earnings reports from blue-chip companies, new threats from Osama bin Laden, a spike in oil prices above $68 a barrel and angst over Iran's nuclear ambitions, put investors on the defensive.

The Dow's sharp reversal could offset the psychological boost that accompanied the Dow's topping of 11,000. Wall Street was hoping that the upbeat headlines would increase investors' comfort level and make them more willing to commit fresh money to stocks. Now there's concern they will remain on the sidelines.

“If we don't see individual investors come in, that could be a sign that it will be tough to break out of the trading range to the upside,” says Jeff Kleintop, chief investment strategist at PNC Advisors.

The Dow's relapse also raises the odds that the stock market will finish lower in January, despite a fast start. That's not good news. Historically, stocks have tended to finish the full year lower after declines in January.

The biggest drag on the Dow was disappointing earnings from key companies, says Todd Leone, head trader at SG Cowen. Earnings season was supposed to give investors a vote of confidence. But instead, they've been barraged by a flurry of disappointments from bellwethers, such as Yahoo, Intel and Citigroup. So far, 24% of the 95 companies in the Standard & Poor's 500 that have reported earnings have missed estimates, Thomson Financial says. That's up slightly from the historical average of 20%. But since another 141 S&P 500 members report next week, it's too early to make any judgments.

The disappointments haven't been severe enough to completely derail what's expected to be a positive earnings season. Companies in the S&P 500 are expected to post 13.1% growth, making it the 15th-consecutive quarter of double-digit growth, says John Butters, analyst at Thomson Financial.

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Greenspan's Exit From The Fed Will Be Low-key After 18 Years, He'll Leave The Limelight To His Successor, Bernanke (USAT)

By Barbara Hagenbaugh

USA Today, January 23, 2006

WASHINGTON — Alan Greenspan has little more than a week to go as chairman of the Federal Reserve, and he's going out just as quietly as he came in more than 18 years ago.

No speeches are planned for investors to parse his every word. No testimony is scheduled on Capitol Hill for lawmakers to hear the chairman's opinion on pet issues. And he's not accepting interview requests from the media. He will quietly walk out the door on the evening of Jan. 31 with very little fanfare.

"It's a natural part of the transition," says Tom Gallagher, political economist for ISI Group, an economic consulting firm. "Once his successor was named, it made sense that he kind of take a step back."

Says former Fed governor Lyle Gramley, "Greenspan quite understandably doesn't want to upstage the new chairman."

Former Fed governor and White House economic adviser Ben Bernanke was chosen by President Bush to replace the retiring Greenspan. He has been approved by a Senate panel and is expected to be confirmed soon by the Senate. Bernanke is staying at the Council of Economic Advisers until he takes over Feb. 1.

Greenspan's last day at the Fed will be marked by a luncheon with other policymakers, and a staff reception is scheduled. Small, private parties are also being held around Washington to mark his departure.

Greenspan's quiet departure follows similar exits by other Fed chairmen. Greenspan replaced Paul Volcker in 1987. Volcker, like Greenspan, had a larger-than-life reputation after receiving credit for arresting runaway inflation. He, too, left the Fed with little hoopla.

"There are observances of the occasion occurring at the Fed on a modest scale," former Fed research director Michael Prell says. "I'm not surprised that there isn't anything more."

But JP Morgan Chase senior economist James Glassman says Greenspan has missed an opportunity to stress his opinions on a variety of matters while still chairman. For example, he could have stressed his views of the positive impacts of globalization in an effort to ease some anti-trade opinions in Congress.

"He should have done a victory lap," Glassman says. But "he somehow just seems to be fading out."

Just because Greenspan is silent now doesn't mean he'll be quiet forever. He has many options, such as writing a book, going on the speaker's circuit or consulting. That would help Greenspan, who made millions as a consultant before joining the Fed, build up his bank account a bit.

"I can't conceive of this guy not continuing his avid interest in what's going on in the world, and if that happens, why shouldn't he sell it?" Gramley says "He deserves to be able to benefit from the fact that he's been in public service for 18 years and has been vastly underpaid during the whole period."

Greenspan's salary in 2005 was $180,100, less than a quarter what he earned in salary, speeches and company director fees the year before he joined the Fed, according to his financial filings at the time.

Iconic Fed Chief Prepares His Departure (AP)

By Nancy Benac

The Associated Press, January 23, 2006

WASHINGTON — America has embraced Alan Greenspan with irrational exuberance. The slight, aging economist with the supersize glasses and claymation facial expressions has inspired a symphonic overture, a country music paean and a red-hot gallery exhibition of "Alan as Art." Queen Elizabeth awarded him honorary knighthood.

"Our contemporary Greek oracle," says linguist Robin Lakoff from California.

"Larger than life," says lawyer Lanny Davis from Washington.

"This guy has become famous for being really, really brilliant and really, really smart about something, but most people have no idea what it is he does," says pop culture expert Robert Thompson from New York.

What he has done, it turns out, is manage the U.S. economy with great assurance for the past 18 years, presiding over an era of remarkable prosperity (interrupted by two mild recessions).

He has done this as chairman of the Federal Reserve Board, a powerful and somewhat mystical institution that guides U.S. monetary policy.

From that vantage, Greenspan has steered the economy through multiple international and domestic crises while keeping inflation and unemployment in check and helping the country adapt to the tectonic shifts of globalization and technology. His influence extends even into the lexicon.

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Irrational exuberance? Credit Greenspan for the captivating phrase.

He said it once — in 1996, hoping to temper the zeal of stock investors willing to pay any price. The phrase soon became part of American culture.

When Dickinson College music professor Robert Pound heard it, he decided the phrase would be the perfect title for an overture with an erratic, wild quality that he had been itching to write.

Now, as the 79-year-old Greenspan prepares to retire from the Fed at month's end, Pound has sent him a signed copy of the overture's score to honor Greenspan's work as Fed chairman.

Retrospectives, farewells and tributes to the "Greenspan era" have proliferated since the Fed chief made it known that he is retiring on Jan. 31. His successor will be Ben Bernanke, chairman of the White House Council of Economic Advisers.

Bernanke's first order of business after being nominated was to reassure the world that his priority as Fed head would be to continue the policies of the "Greenspan years." That sent the stock market soaring.

In a 93-page analysis of the "Greenspan Standard" that was released last summer, Princeton University economists Alan Blinder and Ricardo Reis concluded, "We think he has a legitimate claim to being the greatest central banker who ever lived."

Saying goodbye to Greenspan will not be easy.

Vice President Dick Cheney, trying to offer reassurance about the days ahead, spoke well of Bernanke in a Fox News interview, then added: "Besides, Chairman Greenspan is only a phone call away."

Sen. John McCain, R-Ariz., reflected the country's infatuation with the Fed chief when he was asked in 1999 whether Greenspan should be appointed to another term.

"I would not only reappoint Mr. Greenspan," McCain said, "if Mr. Greenspan should happen to die — God forbid — I would do like we did in the movie, 'Weekend at Bernie's.' I'd prop him up and put a pair of dark glasses on him and keep him as long as we could."

As Economy Thrived Under Greenspan, So Did Debt (WP)

By Nell Henderson

The Washington Post, January 23, 2006

Beverly Wilmore is bracing for the tuition bills about to start rolling in after her 19-year-old daughter starts at Towson University this week. But she's not too worried -- she figures she and her husband can borrow against their four-bedroom Gaithersburg home, which has appreciated from $250,000 when they bought it in 2000 to about $400,000 now.

And as the home's value rose, two years ago the Wilmores refinanced their mortgage, cutting their monthly home-loan payments by hundreds of dollars, she recalled.

Like many families who caught the housing boom, the Wilmores now have more debt than before they bought their home, but they also are wealthier. "I'm thankful for the low interest rate," said Wilmore, 42, a special-education teacher.

The Wilmores are among the millions of Americans who have prospered during Alan Greenspan's 18 years as chairman of the Federal Reserve. They lived through nearly two decades of generally stable economic growth with low inflation, low unemployment and modest interest rates. Under Greenspan's watch, the economy thrived despite stock market crashes, international financial crises, terrorist attacks, wars and other shocks. No wonder, as Greenspan prepares to retire next week, economists have lauded him as the greatest central banker ever.

Still, his legacy will be judged not just by his record at the Fed, but also by the economy he bequeaths. And when he leaves office Jan. 31, Greenspan leaves a nation awash in debt -- record household debt and a record trade gap.

Many analysts say his low interest rate policies contributed to these huge imbalances, which threaten the economy he nurtured.

"The jury is out on his legacy in large part because of the debt" and the trade deficit, said Stephen S. Roach, chief economist at Morgan Stanley. "You will not be able to truly judge his accomplishments until we see how this plays out in the post-Greenspan era."Creating Debt

Greenspan and his Fed colleagues agree that part of the growth in household debt and the trade gap is the side effect of policies that helped steady the U.S. economy after the stock bubble burst in 2000. The Fed's low interest rates encouraged consumers to borrow and spend on houses, autos and other goods, spurring economic growth for several years when businesses were cutting jobs and reluctant to invest. And it was no surprise that consumers spent much of their borrowed money on imports, causing the trade deficit to swell. But in the view of central bank policymakers, the alternative would have been worse -- a longer and more painful downturn.

Greenspan's Fed didn't do it alone, economists agree. Other factors helped fuel the borrowing binge, including global financial trends that have helped keep mortgage rates low and prompted lenders to extend more credit to more people.

The result is a prosperity built on borrowing, say many economists, pointing to a string of recent records and firsts:

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· U.S. household debt hit a record $11.4 trillion in last year's third quarter, which ended Sept. 30, after shooting up at the fastest rate since 1985, according to Fed data.

· U.S. households spent a record 13.75 percent of their after-tax, or disposable, income on servicing their debts in the third quarter, the Fed reported.

· The trade deficit for last year is estimated to have swollen to another record high, above $700 billion, increasing America's indebtedness to foreigners.

"The economy's increasing reliance on unprecedented levels of debt is clearly unsustainable and extremely troubling," said Charles W. McMillion, chief economist with MBG Information Services, a financial analysis firm. "The only serious questions are when and how will current imbalances be addressed and what will be the consequences."

The Fed chairman told Congress in June: "I think we've learned very early on in economic history that debt in modest quantities does enhance the rate of growth of an economy and does create higher standards of living, but in excess, creates very serious problems."

Greenspan didn't define "excess," but economists see troubling possibilities: A sudden reversal in housing prices could trigger a recession if consumers cut back on spending and households have trouble paying their mortgages. The trade gap could swell to a point that forces a sharp fall in the dollar and surge in interest rates, also causing a recession.

Even without a crisis, the debt load will weigh on the economy simply because of the interest to be paid on it, which leaves less money to spend on other things and prevents living standards from rising as fast as they would otherwise, some analysts believe.The Past Five Years

To understand how all this debt built up, recall how things looked in early 2001.

In January 2001, Beverly and Kevin Wilmore were excitedly overseeing construction of their home, looking forward to moving in with their two children the following year.

But from his office at the Fed's marble headquarters on Constitution Avenue NW, Greenspan saw that the economy was sputtering. Stock prices had been sliding for nearly a year after peaking in early 2000 at the height of the tech boom. Retail sales had soured. Businesses were throttling back on production and investment.

On Jan. 3, 2001, Greenspan convened a conference call meeting of the central bank's top policymakers. They agreed to cut the Fed's benchmark short-term interest rate for the first time in more than two years, to 6 percent from 6.5 percent.

That action marked the beginning of an aggressive campaign by Greenspan and his colleagues to prevent the bursting of the stock market bubble from devastating the U.S. economy.

Greenspan had studied the Great Depression of the 1930s and believed it resulted largely from the Fed's mistakes in tightening credit after the 1929 stock market crash. He also had seen Japan's central bank ease credit too cautiously after that country's property bubble burst in the early 1990s, triggering a decade-long economic slump. He would do the opposite, dramatically easing credit -- by cutting interest rates -- to cushion the economy's landing.

The Greenspan Fed lowered its benchmark rate another 12 times over the next 2 1/2 years as the economy struggled to regain its footing, cutting the rate to 1 percent by June 2003, the lowest level since 1959.

The benchmark federal funds rate, the overnight rate on loans between banks, influences many other longer-term rates in the economy, including those on mortgages, car loans and business loans. Low interest rates encourage consumers and businesses to borrow and spend, stimulating economic growth.

The Fed's rate cuts had little effect on corporate America, which had overinvested in equipment, software and factories during the late 1990s boom; businesses retrenched, slashing both payrolls and spending plans, tipping the economy into recession from March through November of 2001.

But low interest rates worked like an intoxicant on consumers, who snapped up new cars and trucks with no-interest loans and seized on low mortgage rates to buy new homes and refinance old home loans. Those sales and refinancings freed up more cash to spend. Households used much of that extra money to pay off credit cards, student loans and other, higher-interest rate debt -- "cleaning up their balance sheets," in economists' terms. They also kept shopping through the recession, the terrorist attacks and the rocky economic recovery that followed.

The tonic worked. Household spending rose in 2001, 2002, and 2004, even as the wealth and income of the typical household fell or remained flat in the same period, according to an analysis by Moody's Economy.com. The recession was one of the mildest on record. The economy has been growing since November 2001 and was strong enough by mid-2004 for the Fed to start raising the benchmark rate.

Fed officials expected then that longer-term rates, such as mortgages, would rise as well, causing consumers to borrow less and save more.

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But it didn't work out that way. For several reasons -- low inflation, economic stability and foreign investors pouring their savings into U.S. stocks, bonds and other assets -- long-term interest rates fell for a year after the Fed started raising the benchmark rate and have stayed relatively low.

Mortgage rates also fell, prompting homeowners to refinance repeatedly. Changes in the financial industry made it easier for homeowners to tap their home equity through refinancing. Lenders provided adjustable-rate mortgages that enabled home buyers to pay higher prices while temporarily making low monthly loan payments.

The housing market kept booming. Consumer debt and spending kept climbing.Living With the Debt

Many households are happy with the results. Homeownership climbed above 69 percent in late 2004, which means millions more people gained a store of wealth that can grow and be available in hard times.

And home values have skyrocketed, pumping up household wealth to a record $51 trillion in the third quarter, according to Fed data.

But household debt rose faster in recent years than wealth or disposable income, reaching an unprecedented 126.1 percent of after-tax income in the third quarter, double its 1980 level.

All this debt isn't straining households so far. Late payments on credit card loans and other forms of consumer debt declined in the third quarter, the American Bankers Association reports. Although delinquency rates probably rose in the last three months of the year because of the delayed effects of the hurricanes, those rates are likely to fall this year because of the strong economy, said ABA chief economist James Chessen. "I think it will be a pretty good year for consumer debt and the ability to pay your loans," he said

These national figures combine all U.S. households, but debt tends to weigh most heavily on low-income families, other analysts note.

Many households with incomes below $50,000 a year, the bottom half of the income distribution, have mortgages at higher interest rates, plus car loans, student loans and credit card debt, said Mark Zandi, chief economist at Economy.com. "Their balance sheets are a mess," and they will have a harder time as interest rates rise, he said.

Indeed, U.S. households collectively spent more than their combined income in the second and third quarters of last year. The only way to do that is by selling assets, dipping into savings or borrowing.

When questioned on Capitol Hill in June about criticism that the Fed's strategy had helped inflate a housing bubble, Greenspan suggested that such imbalances were an acceptable price for avoiding another depression or a Japan-like economic stagnation.

"We knew that in the process of what we were doing -- that is, addressing the consequence of a very severe deflation of a [stock] bubble -- carried with it potential side effects," Greenspan said. "As best we can judge, things have turned out reasonably as we had expected, both positively and negatively, but in our judgment, the positive effects of the policy far exceeded the negative ones."

If Greenspan's strategy of raising rates in small, steady steps works, rising interest rates will cause the housing market to simmer gradually, households will save more, and the trade gap will narrow without great damage to the overall economy.

If so, Greenspan will go down in history with his reputation untarnished.

As Beverly Wilmore put it, as she recounted her family's recent experience, "We've prospered."

Runway Reports Often Unreliable Braking Conditions Not Always What Pilots Told (USAT)

By Alan Levin

USA Today, January 23, 2006

An antiquated warning system for the nation's pilots has led dozens of them to receive unreliable information about slippery runways and to land in dangerous conditions, according to a USA TODAY review of accidents and pilot reports during the past decade.

In at least 42 cases since 1995, pilots of commercial and corporate aircraft reported skidding off runways after receiving reports that the runways were safe, according to NASA's Aviation Safety Reporting System.

The reports shed light on the weaknesses of a warning system in which pilots rely on other pilots who have landed recently on slick runways to report conditions on a scale that ranks braking from “good” to “nil.” The reports, relayed by air traffic controllers, are subjective, and the braking abilities of different types of planes vary.

Icy conditions came into play in last month's crash of a Southwest Airlines jet, which skidded off a snowy runway at Chicago's Midway Airport and onto a nearby road. The jet struck a passing car, killing a 6-year-old boy.

Among the issues being investigated are the condition of the runway and the information passed to pilots by controllers, says Keith Holloway, a spokesman for the National Transportation Safety Board.

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Pilots and investigators have long complained that pilots aren't given enough information about slippery runways, accident records show. It “can be a life-and-death matter,” says Bernard Loeb, ex-chief of the NTSB's aviation division.

Most of the cases reviewed by USA TODAY occurred during winter months. No one was injured.

The NTSB has issued recommendations for a better system since 1982, when two passengers died at Boston's Logan International Airport when a World Airways DC-10 skidded off the end of an icy runway and broke apart.

“We don't really have a good standardized method to determine if the runway is contaminated,” says Capt. Mitchell Serber, a pilot who specializes in runway safety for the Air Line Pilots Association.

The Federal Aviation Administration, which regulates airlines and airports, has sought better ways to inform pilots about slippery runways, spokeswoman Laura Brown says. She says there is no practical way with current technology to create a more standardized system.

Youths Support Abstinence As Sex Education (WT)

By Jennifer Harper, The Washington Times

The Washington Times, January 22, 2006

Critics of abstinence-only sex-education programs may be too hasty in judgment. There is support for the method among age groups that count -- the young.

According to a new Harris Poll, 56 percent of people ages 18 to 24, and 60 percent of those 25 to 29 think abstinence programs effectively reduce or prevent the occurrence of HIV/AIDS. Another 49 percent of people ages 18 to 24 and 52 percent of those ages 25 to 29 say the programs reduce or prevent unwanted pregnancies.

Among six age groups and three political groups, younger respondents showed the strongest support for abstinence over safe-sex programs.

"The most striking, and surely the most important differences among various demographic groups are the differences between younger and older adults," the poll states. "Adults under the age of 30 are more likely to believe that abstinence programs are effective, and it is of course these adults who are the main targets for the programs."

Indeed, the poll found that 43 percent of 30- to 39-year-olds felt abstinence programs were effective against HIV/AIDS; the number fell to 41 percent among those 40 to 49, 37 percent among those 50 to 64 and 31 percent for those older than 65.

Older people less often agreed that the programs were effective against pregnancy -- ranging between 30 percent to 33 percent among those from 40-plus to more than 65 years.

The findings also had a partisan divide.

Among Republicans, 50 percent felt abstinence programs were effective against HIV/AIDS and 46 percent felt they countered unwanted pregnancies. Among Democrats, the numbers were 39 percent and 28 percent, respectively. Among independents, the numbers were 34 and 32.

The poll of 1,961 adults was conducted Dec. 8-14..

The U.S. Department of Health and Human Services set aside $31 million two years ago to help 50 communities in 22 states and the District develop abstinence-only education programs. A first-year review by HHS revealed a cultural change: Majorities of the participants had experienced a change in attitude.

The agency found that students had become more supportive of abstinence and less supportive of teen sex, with a keener awareness of the consequences for risky behavior.

Researchers at Ohio's Case Western Reserve University School of Medicine had similar findings after they examined the effectiveness of For Keeps, an abstinence-until-marriage program for 25,000 students in Cleveland.

"Abstinence-only intervention can influence knowledge, beliefs and intentions, and among sexually experienced students may reduce the prevalence of casual sex," said epidemiologist Elaine Borawski.

"Kissing is Good," an investigation of youthful sexual behavior released last month by the University of Tennessee, found that teens who only kissed had "better relationships" with one another -- and in future romances.

Illinois Amputee Among 10 Post-9/11 Veterans Making Runs For Congress (USAT)

By Andrea Stone

USA Today, January 23, 2006

ELK GROVE VILLAGE, Ill. — The lunchtime crowd is thinning at Portillo's Hot Dogs near O'Hare Airport when the candidate arrives. Leaning on a cane, she moves slowly on her $120,000 bionic legs with a stooped and halting stride. “Hi! I'm Tammy Duckworth, the Iraq war veteran running for Congress. You might have heard of me?” she says, extending her mangled right arm to shake hands.

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Indeed, many here in Chicago's western suburbs have already heard of the Illinois National Guard helicopter pilot who lost both legs and full use of her right arm when a rocket-propelled grenade hit her Blackhawk in a 2004 attack in Iraq.

Maj. Ladda "Tammy" Duckworth, 37, spent nearly a year at Washington's Walter Reed Army Medical Center, and her rehabilitation has been chronicled in national media, including USA TODAY.

Duckworth is the only seriously wounded combat veteran running this year for Congress, whose ranks of members with military experience are at their lowest since World War II, according to Congressional Quarterly.

But at least nine other veterans who served in the post-Sept. 11 military have announced House bids. All but one — Republican Van Taylor in Texas — are Democrats who have criticized the Bush administration's conduct of the war. They join dozens of older veterans from both parties touting military credentials as U.S. troops head into a fourth year in Iraq.

Veterans have long returned from battle to continue their public service in politics, but the current field of candidates with military experience may be the largest since World War II.

The new candidates reflect their times. Support for the war, and the Republican administration behind it, is at its lowest: 61% disapprove of President Bush's handling of Iraq, according to a mid-December USA TODAY/CNN/Gallup Poll.

Duckworth says it was "a bad decision" to invade Iraq. So she is competing on another field of battle: politics. She hopes to succeed retiring Rep. Henry Hyde, a Republican who has held a House seat for more than 30 years. Duckworth must first beat two other Democrats in a primary and then take on Peter Roskam, a Republican state senator in the GOP-leaning district.

Duckworth says politics doesn't compare to what she's already overcome. She recalled the "nightmare" of Nov. 12, 2004, when crewmates struggled to carry her maimed body to safety, dropping her because her gushing blood made her too slippery.

"They gave me a second chance at life," she said, choking back tears, during an interview. "I've just got to do something — just to be more."

John Szeliga, 29, a salesman here, is the kind of voter Duckworth and her fellow veterans-turned-candidates hope to attract. "Her story is pretty cool," he said. "Being a veteran, crashing a helicopter, now running for Congress. Not too many people do that."

At least not lately. One in four House members and fewer than one in three senators have served in the military, Congressional Quarterly says. In the USA, 12% are veterans, the Census Bureau says.

After World War II, future presidents John Kennedy and Richard Nixon were among veterans who ran for Congress almost as soon as they got home. It took more than a decade for Vietnam veterans, many of whom were reviled for their role in the unpopular war, to get into national politics. Today, their ranks include Sens. John McCain, R-Ariz., and John Kerry, D-Mass.

Republicans tried in 1992 to recruit Persian Gulf War veterans to challenge Democrats who opposed ousting Saddam Hussein from Kuwait. Few answered the call.

Today, Democrats lead the recruiting drive, focusing on GOP-majority districts where being strong on defense plays well.

The numbers of veterans running as Democrats are all the more remarkable given a Military Times Poll late last year that found 56% of active-duty troops consider themselves Republicans and 13% are Democrats.

"Since Vietnam, the Democratic Party has been viewed as the weaker on national security issues," University of Virginia political scientist Larry Sabato says. "Who better to make the case than veterans of the war? It's hard to accuse them of a lack of patriotism."

Democrats thought they inoculated themselves when they nominated Kerry, a Vietnam combat veteran, for president in 2004, only to see his military record picked apart over his later anti-war activities.

Being a veteran isn't enough, says Stuart Rothenberg, editor of the independent Rothenberg Political Report. He says some Democrats have rallied around political novices with military experience after they couldn't attract more experienced candidates.

"A strategy based merely on recruiting veterans, even Iraq war veterans, overemphasizes a single credential," Rothenberg says.

Carl Forti, a spokesman for the National Republican Congressional Committee, agrees. "You also have to be a good candidate," he says.

Still, some Democrats took heart from a special House election in August, when Iraq combat veteran Paul Hackett lost by fewer than 4,000 votes in an Ohio district that went 64% for Bush in 2004.

The Republican who beat him, Jean Schmidt, helped rally Democrats in November during a heated House floor speech. She said a constituent asked her to tell Rep. Jack Murtha, D-Pa., a decorated veteran who has called for troop withdrawals in Iraq, that "cowards cut and run, Marines never do."

"When Schmidt called Jack Murtha a coward, she called each and every one of us a coward," says Eric Massa, a former military aide to Gen. Wesley Clark, who is challenging Rep. Randy Kuhl, R-N.Y.

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Massa and Duckworth are among the "Fighting Democrats" party leaders hope will help recapture the House after 12 years of GOP rule. Some have formed a political action committee (www.bandofbrothers2006.org) to support veteran-candidates and fight back against conservative campaigns like the ones that targeted Sen. Max Cleland. The Georgia Democrat, who lost three limbs in Vietnam, was defeated in 2002 by Republican Saxby Chambliss, who ran ads picturing Cleland with Osama bin Laden.

Cleland says there is "a disquiet in the gut" of returning veterans. "They want to come back and tell the truth about Iraq," he says.

The Democratic veterans differ on domestic issues but contend the Bush administration failed to provide enough troops, armor and planning in Iraq and has no strategy to get out. Some, such as Duckworth, say troops should be withdrawn gradually. Others, such as Patrick Murphy, a military lawyer who served in Baghdad and is challenging Rep. Michael Fitzpatrick, R-Pa., favor a timeline for withdrawal.

"They can't give us a snow job," says Murphy, 32. "We've seen with our own eyes."

The candidates insist they are not one-issue politicians. Chris Carney, a Naval reservist who served as a special adviser at the Pentagon two years ago, says he decided to run against Rep. Don Sherwood, R-Pa., last March at the height of the right-to-die controversy over Terri Schiavo.

"I didn't think it was Congress' business" to get involved with the brain-damaged woman's fate, he says. "That was the final straw of politics at the extreme."

It was no accident, either, that Duckworth's first campaign speech was on a subject of great interest in her upper-middle-class district: taxes targeting the affluent. "If I suck you in here because of my legs, that's great," she said. "Now let's talk about the really important stuff to people in my district."

Rothenberg calls Duckworth "one of the stronger" veterans running. Her story and charismatic personality first caught Democrats' attention soon after she arrived at the Army rehab hospital in Washington. It was there that Sen. Dick Durbin of Illinois, the Democrats' No. 2 leader, first met her and invited her to attend last year's State of the Union address.

"Seeing the pageantry of what I had just given up my legs for was very emotional," she recalls. Duckworth returned to Capitol Hill in March to testify about veterans' care and was struck by "the need to have more people serving in Congress who've been there."

When Durbin asked her to run last summer, she thought, "It's my generation's turn to step forward."

The national party's enthusiasm for Duckworth wasn't matched, at least initially, among local Democrats, who noted she lives 3 miles outside the district. The Constitution requires only that representatives live in the state, and Duckworth says she is "emotionally attached" to her house, which was modified for her wheelchair.

Before Duckworth got in the race, local Democrats had backed Christine Cegelis, a computer consultant who won 44% of the vote against Hyde in 2004. But Cegelis has raised little money and lacks Duckworth's "star power," University of Illinois-Springfield political scientist Kent Redfield says.

Wheaton College professor Lindy Scott is also running in the primary.

Roskam says that after "knocking on 3,500 doors," he believes Iraq isn't a "resonant theme" for voters.

But at a recent meeting in Schaumburg, Democratic activists sat raptly as Duckworth rattled off stories about Iraq, including how U.S. forces gave body armor to Iraqi troops just before missions so they wouldn't sell it to insurgents.

The next day, even Cegelis admitted Duckworth's war stories were "extremely compelling," noting they opened her eyes to what is happening in Iraq. Still, she says the move to field veterans instead of more liberal candidates who she believes would appeal to the party's base is "about symbols, and that's very disappointing."

Democratic committeeman Rocco Terranova says that although many "were a little disenchanted" when Duckworth was drafted into the race, they've adjusted.

"She's a war hero," he says, "and the war's on everybody's mind."

Fixing Children's Services (NYT)

The New York Times, January 23, 2006

In a city that has seen child abuse fatalities before, the death of Nixzmary Brown, just 7 years old, was a particularly horrifying one. She endured what may have been months of torture and starvation while in the care of her stepfather and mother, finally succumbing after a beating that police said was prompted by a missing container of yogurt. What raised the level of outrage was the disclosure that city workers inexplicably ignored or bungled opportunities to save her.

It's reassuring that Mayor Michael Bloomberg acknowledged the city's failures, and that child welfare workers and supervisors involved in the case have been suspended or reassigned. Some may lose their jobs. A larger investigation will take place and thousands of cases are being reviewed. The self-examination, though, cannot stop there.

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Within about two months of Nixzmary's death, three other children, also known to New York's department of child welfare, died in the care of their parents. All four lived in Brooklyn. Three - including Nixzmary - were handled by the Administration for Children's Services office in Bedford-Stuyvesant. One toddler drowned in a bathtub while his mother listened to music in the next room. Police say another child was fatally beaten by her father, and in another case a baby was reportedly squeezed until his ribs broke. It all recalls a time a decade ago when Elisa Izquierdo, a 6-year-old who had been repeatedly abused, was killed by her mother, and the city, in response to the outcry, created Children's Services.

The public is always rightfully enraged when one of these awful deaths occurs because the government was indifferent to the needs of its most fragile citizens. But perhaps it is even worse - certainly it is more frustrating - when the city seems to have been trying hard to meet its obligations. Since the death of Elisa Izquierdo, New York has devoted an increasing amount of attention and money to protecting children at risk. The Bloomberg administration - which has shielded Children's Services from budget cuts it demanded from other city agencies last fall - says that caseworkers are not overburdened. Each handles a load of fewer than 12 cases at a time, the city says, well below a national standard of about 15.

Some employees at Children's Services point to the city's very strong policy of trying to keep even very troubled families intact as a source of tension. The idea that even parents who are potential abusers may be allowed to keep their children is troubling, except to those who remember the many ruined lives that emerged from the foster care system back when city workers were urged to remove children from any doubtful home. Perhaps the balance needs to be readjusted, but there are no perfect solutions when it comes to this kind of choice.

However hard New York has tried, the very fact that City Hall has announced it will be hiring 525 additional child-protection workers suggests more can be done. And while Children's Services was progressing, the improvement seemed to bypass the office in Bedford-Stuyvesant. That is an old story: a troubled corner of an agency with a high-stress mission, a place where bad workers are dumped while most good employees flee as soon as possible. And the last chapter is almost always a terrible one.

Iran Warns Against UN Referral (FT)

By Roula Khalaf And Gareth Smyth In Tehran

Financial Times, January 23, 2006

Iran's top nuclear official on Sunday warned Tehran would resume efforts to enrich uranium on an industrial scale if its case was reported to the UN Security Council, further raising the stakes in the crisis over its nuclear programme.

Tehran earlier this month moved to resume nuclear research, including some small-scale enrichment. But Ali Larijani, secretary of the Supreme National Security Council, which handles the nuclear issue, said in an interview with the Financial Times that a referral to the United Nations would force Tehran to broaden significantly the scale of such work.

"If the case goes to the Security Council, we're obliged . . . to lift all voluntary measures," he said, specifying that this included industrial-scale uranium enrichment.

The European Union and US have been pushing to get Iran's case reported to the UN Security Council since Tehran announced it would restart its nuclear research two weeks ago. The US and European governments consider the move a breach of a 2004 agreement with Iran.

A referral could come as soon as next week at an extraordinary session of the International Atomic Energy Agency, the governing board of the UN's nuclear watchdog. Such a move could lead eventually to sanctions.

The US and EU argue that involving the Security Council would strengthen the IAEA's hand. But Mr Larijani's warning appears designed to show that greater diplomatic pressure would instead undermine both the IAEA's work and attempts to curtail Iran's programme.

Iran has always intended to develop industrial-scale uranium enrichment, which can be used for nuclear reactors or atomic weapons, but stopped all preparatory work during two-year talks with Europeans.

Nuclear experts say assembling enough centrifuges and preparing for industrial production could still take years.

Mr Larijani spoke at the start of a week of intense diplomacy. European officials will visit capitals represented on the 35-member IAEA governing board to lobby for an EU-backed resolution on referral.

Meanwhile, Mr Larijani is likely to be in Moscow to discuss a Russian proposal to find a compromise, an effort to forestall the Europeans or at least temper the tone of any IAEA resolution.

Moscow has proposed a joint venture to enrich uranium on Russian soil for use in Iranian reactors. In his interview Mr Larijani said the proposal "had to become complete. Gaps have to be filled.

"We have to see what potential this idea has for being productive," he said.

"There are two issues to be considered: one is Iran's right to enrichment, and the other is non-diversion [of nuclear material to weapons].

"Any solution should be consistent with these two considerations. The scale, extent and timing can all be discussed."

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Iran Mocks West Over 'N-weapon Design' Request (FT)

Financial Times, January 23, 2006

Iraq's top security official on Sunday ridiculed western governments' request for a document said to show a weapons design obtained from the illegal nuclear procurement network of Pakistani scientist A.Q. Khan, and suggested Tehran would not hand it over to UN inspectors.

"If you can find anyone in the world who can make a bomb with one and a half pages, we will cover their whole body with gold," Ali Larijani, secretary of the Supreme National Security Council, told the FT.

According to the International Atomic Energy Agency, the UN watchdog, in January 2005 Iran showed the agency a document it received in 1987 on casting enriched uranium into "hemispherical forms", a design consistent with weapons production.

Iran says the document was offered by the procurement network without Iran requesting it.

European diplomats argue the document, which Iran refused to give to UN inspectors, backs up suspicions Tehran has nuclear weapons ambitions – something it has always denied. The request for the document was included in letters sent by the five permanent members of the UN Security Council to Iran earlier this month. But Mr Larijani said the document was "not important" and those seeking it merely wanted to use it as "propaganda" against Tehran.

The spat over the document reflects the frustration of IAEA inspectors at the pace of Iranian co-operation.

Mr Larijani – who travelled to Vienna last week to meet Mohamed ElBaradei, the IAEA director – said Iran was determined to keep close relations with the agency. But he said "there should be a limit" to demands for access to military sites, particularly as Iran had already allowed inspectors into "more than 20" military installations.

Mr Larijani argued Iran was not to blame for the breakdown in talks with the so-called EU3 – France, Germany and the UK. He said the aim of the negotiations had been finding "objective guarantees" Iran could not divert material from its nuclear programme for weapons use, and that Tehran had therefore agreed to suspend all uranium enrichment activities while talks continued.

"After two and a half years, the Europeans came up with a proposal that covered everything apart from nuclear fuel production," he said. "At this point, we distrusted them."

European officials say the talks' failure and Iran's recent resumption of nuclear research have left them no choice but to report the case to the Security Council, where they want a more authoritative call on Tehran to co-operate with the IAEA and resume the suspension.

But Mr Larijani said there was "no international consensus" against Iran, despite European confidence of a majority at the 35-member IAEA board meeting due on February 2-3. He suggested Europe would lose as much as Iran from escalation. While playing down reports Iran was moving financial assets out of European banks – he said such transfers occured all the time – Mr Larijani said Europe could put at risk economic interests in Iran, including in the energy sector. "Isolation is not without problems [for us], but it also makes problems for others," he said. "This is a lose-lose game and we don't recommend it."

West Talks Tough With Iran, Treads Lightly (WSJ)

By Carla Anne Robbins, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, January 23, 2006

WASHINGTON -- As U.S. and European officials press to have Iran brought before the United Nations Security Council, they are also promising that Tehran won't face serious punishment there -- for quite a while.

Iran has few friends left after deciding to resume efforts to enrich uranium, a process that could advance it a big step closer to being able to build a nuclear weapon. But there are reasons the move toward international penalties might not be swift. As the Organization of Petroleum Exporting Countries' second-largest producer, Iran has considerable economic leverage. It also may benefit from the "Iraq effect." There is widespread anxiety that any U.N. action -- unless carefully constrained -- could open the door for another U.S.-led war.

Even as they press for a showdown with Tehran, American officials privately acknowledge that they aren't sure how to calibrate political or economic sanctions to bring maximum pressure on Iran's leadership without alienating the country's pro-reform and pro-American public. In recent weeks, officials in Washington and London have begun thinking about an aggressive public-relations campaign, beamed into Iran, to counteract Tehran's certain efforts to incite a strong nationalist backlash.

Explicit and perceived threats have been ping-ponging across the Mideast and Europe, with the Bush administration sounding comparatively more restrained.

Iran said Friday that it is pressing OPEC to cut oil production, and its officials have offered conflicting accounts of whether they have started pulling currency from overseas banks to avoid sanctions. In a speech on France's nuclear deterrent last week,

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President Jacques Chirac warned that any state considering using "terrorist means against us" might face a nuclear response -- a threat some saw as directed at Tehran. And Israel's defense minister warned that his country "will not be able to accept an Iranian nuclear capability."

U.S. and European officials say they expect to win a solid majority of votes for a referral to the U.N. when the 35-member board of the International Atomic Energy Agency meets in Vienna early next month. The Russians are still arguing for postponing action at least until March, and Western diplomats say they have yet to decide whether it would be better to wait for Moscow's vote with no guarantee that it will ever materialize.

Hoping to calm anxieties, British Foreign Secretary Jack Straw has repeatedly pledged that military action against Iran is "not an option" for either Britain or the U.S.

American officials have been less definitive, but they, too, have been emphasizing that pressure on Iran will be applied "gradually" and "incrementally," and that any real discussion of sanctions is likely still months down the road.

How Iran will react is hard to predict. For two years, it has managed to sidestep a referral with a series of last-minute concessions. And the Russians are still offering -- with U.S. and European support -- a compromise that would have Iran's uranium processed into low-enriched power-plant fuel on Russian soil.

Iran says its program is peaceful. But hard-line President Mahmoud Ahmadinejad has made clear his disdain for international opinion and shown little interest in Moscow's proposal. His government, which earned billions of dollars in oil revenue last year, is also getting richer, as each defiant statement drives up prices on the international oil market. If the crisis gets hotter, Iran runs the risk of driving away other business. In a possible sign of that, a spokesman for UBS AG said the Swiss bank would cease doing business with customers in Iran.

Abbas Milani, an expert on Iran's politics at Stanford University's Hoover Institution, says Iranian government officials believe "they've already bought the Chinese and Russians" with oil and other financial deals. And "they believe if the price of oil goes high enough, the Europeans will back down."

U.S. and European officials have begun preliminary discussions about strategy once Iran's case is referred to the Security Council. The pace of any action, they say, will likely be driven by Tehran's response: whether it signals an interest in compromise, or makes good on its threats to stop cooperating with U.N. arms inspectors or to begin large-scale enrichment.

In the current environment, the likely first step would be either a presidential statement (less formal but requires the consensus of all 15 Security Council members) or a resolution (which requires nine votes and no veto). Either would call on Iran to suspend uranium enrichment, return to negotiations with the Europeans, and provide fuller access and answers to IAEA inspectors.

Given the nervousness of veto-wielding members China and Russia, this first effort is unlikely to include any, even generic, threat of punishment. But U.S. and European diplomats say they are likely to press for the first resolution to be brought under the U.N. Charter's Chapter VII, which gives the Security Council power to compel action by member states to "restore international peace and security." With memories of the Iraq debate ever present, Russia, China or other council members may resist, fearful that Chapter VII could be the first step toward an "all-necessary-means" resolution, opening the door to military action.

If Iran fails to comply, officials say, there could still be one or more resolutions warning of possible punishments, without imposing any. One senior U.S. official notes that it took eight months and two resolutions for the Security Council to threaten Syria last fall with possible "further action," if it failed to cooperate with the investigation into the assassination of former Lebanese Prime Minister Rafik Hariri. The council has yet to impose any punishments in that case.

As for what sanctions the U.S. and Europe might press for, officials say they could start with a travel ban for key government leaders and a ban on sales to Iran's nuclear and missile programs and any front companies. A difficult question, however, would be whether to prohibit further Russian involvement in Iran's nearly completed civilian nuclear-power plant at Bushehr. Beyond Moscow's likely resistance, diplomats say, the move would play into Tehran's claim that the West is trying to deprive the country of peaceful nuclear power.

The U.S. and Europe might also argue for a freeze of financial assets for key government figures, and a ban on sales of military and dual-use items. Stiffer penalties might include bans on investments in Iran's oil industry or even sales of oil and gas equipment.

Whether Russia or China would go along is unknown. Three years after the IAEA referred North Korea to the Security Council, the council has yet to act because of Chinese opposition. U.S. and European officials also acknowledge they don't know which, if any, of these pressures is likely to get Tehran to blink.

Mr. Milani from the Hoover Institution is arguing for "smart sanctions": cracking down on the government's finances, and military- and nuclear-related trade, while encouraging significantly more contact and trade with Iran's civil society, in hopes of sparking a democratic movement. He acknowledges that such a policy would be politically difficult for the U.S. to put into practice, especially amid the standoff, and it could take years to produce results.

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He is skeptical that any outside pressure, short of a full ban on Iran's gasoline imports and oil and gas exports, would persuade Mr. Ahmadinejad and the clerical establishment to curtail their nuclear ambitions.

Iraq's Sadr Says His Militia Will Support Iran (REU)

Reuters, January 23, 2006

TEHRAN, Jan 22 (Reuters) - Firebrand Iraqi cleric Moqtada al-Sadr has assured Iran that his Shi'ite Muslim militiamen will support the Islamic Republic if it comes under attack, the official IRNA news agency reported on Sunday.

Although the United States and Israel have said they prefer diplomacy as a means to solve a dispute over Iran's atomic programme, they have not ruled out military options.

Washington accuses Iran of seeking nuclear weapons, a charge Tehran denies.

"If neighbouring Islamic countries, including Iran, should come under attack, then the Mehdi Army will support them," Sadr said on a visit to Tehran.

Sadr's Mehdi Army militia rose up against U.S. occupying forces in Iraq in 2004.

In Iran, Sadr has met Ali Larijani, secretary of Iran's Supreme National Security Council, and Foreign Minister Manouchehr Mottaki.

In Iran, Power Written In Stone (WP)

By Karl Vick

The Washington Post, January 23, 2006

PERSEPOLIS, Iran -- Wearing a stocking cap and an air of indignation, Mohammad Ahmadi pointed to the wall in front of him. It bore a splendid frieze dating from early in the millennia-long span of Iran's existence -- as a nation, an empire or simply a group of people who speak the same language.

"These are Armenians," Ahmadi said of three figures carved in vivid profile, one leading a horse. "They were bringing gifts to the king of Iran 2,500 years ago. And now they have a nuclear power plant.

"Do you want to see the Indians?" he said, indicating a lower column. "They didn't have shoes. Now they have nine nuclear plants.

"I am not a political person. I only finished high school, and I do not have much knowledge. But if I think like this, imagine how the others think."

If any doubt remains that Iranians support their government in its quest to harness the atom, the answer comes quickly and emphatically in Persepolis, the magnificent ruins that symbolize the ancient pride and fading glory bound up with the nuclear issue here.

Ordinary Iranians overwhelmingly favor their country's nuclear ambitions, interviews and surveys show. The support runs deep in the population of 68 million, cutting across differences of education, age and, most significantly, attitudes toward the fundamentalist government that the Bush administration says is intent on using an energy program as a cover for developing atomic weapons.

"Look at all this civilization!" said Mehrdad Khanban, 23, the sweep of his arm taking in the towering pillars and regal staircases of the stone city founded by Darius the Great in about 518 B.C. in the southern corner of Iran first known as Persia. "What has George Bush got? And he's telling Iranians what to do?"

Interviews with Iranians touring the ruins on a holiday weekend here suggest the breadth of the challenge facing Western powers determined to freeze Iran's recently reactivated nuclear program. The Tehran government this month ended a two-year moratorium on nuclear research by removing seals placed on uranium enrichment equipment by the International Atomic Energy Agency, the U.N. watchdog on nuclear power. In the diplomatic flurry that followed, European and U.S. officials began maneuvering toward referring Tehran to the U.N. Security Council, which could impose sanctions.

The threat has had no visible effect here.

"We will cope," Khanban said with a shrug. A soccer coach from the city of Karaj, near Tehran, he said he was no fan of Iran's ruling clerics or its hard-line president, Mahmoud Ahmadinejad, whose fiery rhetoric against Israel has alarmed many outside the country. But Khanban separated Iran's government from its aspiration to produce nuclear power -- bad news for Western diplomats who hope to cleave Iran's government from its people on the nuclear issue, perhaps through so-called smart sanctions such as restrictions on official travel abroad.

"There are so many people who don't like our government, who do not like it at all," Khanban said. "But they do not want this country to be ruled by foreigners. Like Iraq, for example."

"Everyone is united on this," said Rahimeh Goodarzi, 52, clutching her enveloping black chador to her chin at an exhibit of artifacts. "We love our country."

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Many Iranians also emphasized that their enthusiasm was for nuclear power, not weapons.

"We really want it. Every country should have it. But I don't think it should be used for military purposes," said Parisa, 28, who was visiting from nearby Shiraz. Enjoying the sun on a stone slab, she declined to provide her surname after criticizing the government. "Everybody I know says they want it, but they want it for peaceful purposes."

Iran's copious oil and gas reserves will eventually run out, Parisa said, and in any case petroleum has brought little good to the people. "It's black magic," she said. Per capita statistics show ordinary Iranians are less well off than they were 30 years ago, and many see investment in technology, including nuclear research, as a revival of development that had slowed in Iran in recent decades.

"If you look at this place, you realize that 2,500 years ago Iranians were very advanced, more than other people," said Abolghasem Fotoohi, 32, an engineer from the eastern city of Mashhad. "Any Iranian would like his country to improve, and then we would not need other countries. We could stand by ourselves."

Arta Menhadji, who studied metallurgy but works as a soccer coach, found an example in the museum tucked in the center of the ruins, guarded by huge sculptures of a beast with the body of a bull, the wings of a bird and the head of a bearded man. One exhibit showed a bowl used for melting metal in ancient times.

"At the moment, we haven't got much to talk about in metallurgy, especially compared to America. A nuclear industry would involve some things related to that," he said.

"Yes, it's obvious," Khanban said. "I mean, look at this place. At the time it was built, there was no America. See where we were then and where we are now. And see where they were then and where they are now."

Inside the museum, Aboozar Ghalenoi, 24, pointed out a framed declaration. Translated from cuneiform, it was attributed to Xerxes, the son of Darius who ushered Persepolis to a glory that survived only until the city was sacked by Alexander the Great in 330 B.C.

"I am not hot-tempered," the text declared. "What things develop my anger, I hold firmly under control by my thinking power. I am firmly ruling over my impulses."

"Did you read that and know that Iranians are not after nuclear weapons?" Ghalenoi asked. "All the great people of Iran have always spoken about peace. We need nuclear power for electricity and for medical uses.

"But countries like Israel, that's not what they want," he went on. "They want to use it against people. Unfortunately, the Americans support them."

The shift from civilian to military came easily, at least in conversation.

"You see, Israel has got so many of them," said Mohsen Seddighi, carrying his daughter on his shoulders. "And even Jacques Chirac is saying: If any country attacks us, we're going to use it. So why shouldn't we have it?"

At the company he works for, a domestic airline, "99 percent, even 100 percent of people are together on this," Seddighi said. "For civilian use."

Iran: Israel Engaged In 'Childish Game' (AP)

By Nasser Karimi, Associated Press Writer

AP, January 23, 2006

Iran said Sunday that Israel would be making a "fatal mistake" if it takes military action against Tehran's nuclear program and dismissed veiled threats from the Jewish state as a "childish game."

On Saturday, Israel repeated that it would not accept a nuclear Iran under any circumstances and was preparing for the possible failure of diplomatic efforts.

While Defense Minister Shaul Mofaz stopped short of an outright threat of military action, he said Israel "must have the capability to defend itself...and this we are preparing."

Iranian Foreign Ministry spokesman Hamid Reza Asefi said Israel was only trying to add to Western pressure on Iran to give up its nuclear program.

"We consider Mofaz's comments a form of psychological warfare. Israel knows just how much of a fatal mistake it would be (to attack Iran)," Asefi told reporters. "This is just a childish game by Israel."

Israel views Iran as its biggest threat and has joined Washington in accusing Tehran of trying to building nuclear weapons. Iran says its nuclear program is for electricity generation.

German Foreign Minister Frank-Walter Steinmeier cautioned Sunday against a "militarization of thinking" on how to keep Iran from developing nuclear weapons.

"Rather, we should see that we use and exhaust to the best of our powers the diplomatic solutions that remain available," Steinmeier said in an ARD television interview.

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Israel, whose warplanes destroyed an unfinished Iraqi reactor in 1981, maintains a nuclear monopoly in the Middle East. While it neither acknowledges nor denies nuclear arms, Israel is thought to have about 200 nuclear warheads deployed on ballistic missiles, aircraft and submarines, according to the Washington-based Carnegie Endowment for International Peace.

Asefi's threats were not limited to Israel, and he warned European powers to resume talks.

"We advise them (Europe) not to choose any path except dialogue. If there is a retribution to be paid, that will include Europe too," Asefi said, adding that Iran plans to continue cooperation with the UN nuclear watchdog, the International Atomic Energy Agency.

Last week, European powers drafted a resolution calling for Iran's referral to the U.N Security Council to resolve its nuclear issue. The resolution stopped short of calling for sanctions.

Several days later, French President Jacques Chirac said France could respond with nuclear weapons against any state-sponsored terror attack — comments seen by some as a reference to Iran.

Iran's nuclear dispute with the West intensified when it removed U.N. seals from its main uranium enrichment facility in Natanz, central Iran, on Jan. 10 and resumed research on nuclear fuel — including small-scale enrichment — after a 2 1/2-year freeze.

The removal of the seals alarmed Western capitals, where Iran is suspected of using its civilian nuclear program as a cover to develop an atomic bomb.

Iran has repeatedly said it is willing to offer guarantees that its nuclear program will not be used to manufacture weapons but it has so far refused to give up its right under the Nuclear Nonproliferation Treaty to enrich uranium and produce nuclear fuel — usable either in reactors or weapons.

Also Sunday, an estimated 1,000 athletes and staff from the government's physical education organization formed a human chain at a nuclear fuel research center in central city of Isfahan, declaring support for Iran's nuclear program.

For the second time in two days, Iran on Sunday denied that it was withdrawing foreign currency reserves from European banks.

"Iran's foreign currency reserves will be kept in all banks we trust in the world, including European and non-European banks," the Central Bank said.

On Friday, Iran's Students News Agency reported that Iran's Central Bank governor said Iran had begun moving its foreign currency reserves to an undisclosed location — a move seen as an attempt by Tehran to protect is resources against possible U.N. Security Council sanctions.

Estimates put Iranian funds in Europe at as much as $50 billion.

Mofaz Threatens To Halt Iran's Nuke Plans (WT)

By Abraham Rabinovich, The Washington Times

The Washington Times, January 23, 2006

JERUSALEM -- Israel's defense minister hinted strongly over the weekend that his country would act unilaterally if necessary to prevent Iran from acquiring nuclear weapons.

Shaul Mofaz, who hails from the same hometown as Iranian President Mahmoud Ahmadinejad, also warned the Iranian leader that his policies risked bringing destruction to his own people.

"I want to address President Ahmadinejad, who is from the city where I was born," said Mr. Mofaz at the opening session Saturday of the Herzliya Conference, an annual strategic seminar.

"I address you as someone who leads his country with an ideology of hate, terror and anti-Semitism. I suggest you look at history and see what happened to others who tried to wipe out the Jewish people. In the end, they brought destruction on their own people."

Mr. Mofaz said Israel was relying "at present" on international efforts to forestall Iran's nuclear efforts, but suggested that it would take the matter into its own hands if necessary.

"Israel is not prepared to accept the nuclear arming of Iran and it must prepare to defend itself, with all that that implies," he said.

The warning was the sharpest yet by an Israeli leader. Prime Minister Ariel Sharon, who remains in a coma after a stroke three weeks ago, had been circumspect on the subject, saying the issue was not one on which Israel was taking the lead.

Maj. Gen. Dan Halutz, head of the Israeli armed forces, was cautious when asked to respond to Mr. Mofaz' remarks.

"I am not going to deal with the solutions to the Iranian nuclear problem," he said. "Israel is not helpless -- that it is enough of an answer."

Iran's state-controlled news agency quoted Foreign Ministry spokesman Hamid Reza Asefi as dismissing the Israeli remarks as part of "a psychological war" and as "child's play."

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Both Mr. Mofaz and Mr. Ahmadinejad hail from the city of Garmsar, southeast of Tehran, which Mr. Mofaz left at age 9 with his family in 1957 to emigrate to Israel. Mr. Ahmadinejad was born there in 1956, so the pair apparently resided in proximity for a year.

Mr. Mofaz's mention of his Iranian roots might have been intended to counter Mr. Ahmadinejad's call for Israelis to be "sent back" to Europe. Half of Israeli Jews hail from the Muslim world, including Iran.

In addition to Mr. Mofaz, Israeli President Moshe Katsav was born in Iran, as was a former Air Force commander, Eitan Ben-Eliyahu. Gen. Halutz, the present chief of staff, has partial Iranian roots as well.

Mr. Mofaz's remarks were sharply criticized by some Israelis, including a former Likud Defense Minister Moshe Arens.

"This issue is too sensitive for public threats," he said.

The Likud chairman of the Knesset Foreign Affairs and Defense Committee, Yuval Steinitz, accused Mr. Mofaz of electioneering.

A Slow Iran Squeeze (TIME)

By elaine shannon

Time, January 23, 2006

As Iran shows noÂ signs of giving in to global calls to cease its nuclear-research activities, Western nations have been mapping out a careful, incremental plan to stop Tehran. The West's plan is informally known to diplomats as the frog strategy--with no disrespect to the French, who are among its key tacticians. The name refers to the old saw that if you want to boil a frog, you put the unsuspecting amphibian in a pot of cold water. "This time it will be an Iranian frog," says a European diplomat. "The strategy is to heat slowly but steadily and try to keep the frog inside."

The plan was crafted by U.S. Secretary of State Condoleezza Rice and her French, German and British counterparts. The E.U. trio requested a meeting of the International Atomic Energy Agency, now set for Feb. 2, to consider referring Iran to the U.N. Security Council. If the case goes there, the allies plan a three-step approach: first, a mild resolution exhorting Tehran to end its questionable atomic activity voluntarily. If after two or three months Iran remains intransigent, they would then propose a stronger Security Council order based on the U.N.'s authority to combat threats to international peace. Step three would call for targeted sanctions, such as a freeze on government bank accounts a possibility for which Tehran apparently began planning last week when it started to shift its foreign-currency reserves from E.U. banks.

The frog strategy may infuriate U.S. hard-liners who argue that it does little to hinder Iran's nuclear work right now. But proponents say that only the go-slow approach can win support from Russia and China. "The diplomacy with the Russians and the Chinese is very intense," says a key official. Rice, scheduled to travel to London next week for a conference on Afghanistan, may stop first in Moscow for talks with Russian officials. She needs Moscow's backing to win Beijing's--and ultimately to gain Iran's compliance. As for a step four to the strategy, there is no clear one yet: an uncooperative frog is something nobody wants to talk about.

UBS Halts Iran Business, Citing Risks Facing Nation (WSJ)

A Wall Street Journal News Roundup

The Wall Street Journal, January 23, 2006

UBS AG said yesterday that it will stop doing business with Iran because of the Swiss bank's economic and risk analysis of the situation in the country.

UBS will no longer deal with individuals, companies or state institutions such as Iran's central bank, said bank spokesman Serge Steiner. A similar policy is being implemented in Syria, he said.

Mr. Steiner said that political motives didn't drive the decision. "It's purely a business decision that is taking many factors into account," Mr. Steiner said. The move comes as a global conflict about Iran's nuclear policy heats up.

All existing business with customers in Iran will be canceled, but Iranians in exile aren't affected by the decision, Mr. Steiner said, confirming an article in Swiss weekly SonntagsZeitung.

"It is a carefully prepared measure that has been under consideration since last fall," Mr. Steiner said.

Mr. Steiner declined to specify the volume of business affected by the bank's decision. He said UBS's decision to pull out of Iran had been made after finding that high compliance costs weren't likely to be outweighed by benefits it expected from business with clients in the country.

He rejected the idea that the bank made the decision in order to protect ties with the U.S., one of Tehran's fiercest opponents in the global political arena. UBS does a large part of its business in the U.S.

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UBS is the world's largest asset manager, and its rivals will closely watch its decision. Credit Suisse Group, Switzerland's second-biggest bank after UBS, also indicated yesterday that it is considering terminating relationships with Iran. "We are closely looking at the developments and we're increasingly worried," a spokesman said.

Iran faces referral to the United Nations Security Council for possible sanctions, after failing to convince the world its atomic program is peaceful, and the country said on Friday it was moving foreign holdings out of Europe.

U.S. Funds Enter Fray In Palestinian Elections (WP)

By Scott Wilson And Glenn Kessler

The Washington Post, January 22, 2006

RAMALLAH, West Bank -- The Bush administration is spending foreign aid money to increase the popularity of the Palestinian Authority on the eve of crucial elections in which the governing party faces a serious challenge from the radical Islamic group Hamas.

The approximately $2 million program is being led by a division of the U.S. Agency for International Development. But no U.S. government logos appear with the projects or events being undertaken as part of the campaign, which bears no evidence of U.S. involvement and does not fall within the definitions of traditional development work.

U.S. officials say their low profile is meant to ensure that the Palestinian Authority receives public credit for a collection of small, popular projects and events to be unveiled before Palestinians select their first parliament in a decade. Internal documents outlining the program describe the effort as "a temporary paradigm shift" in the way the aid agency operates. The plan was designed with the help of a former U.S. Army Special Forces officer who worked in postwar Afghanistan on democracy-building projects.

U.S. and Palestinian officials say they fear the election, scheduled for Wednesday, will result in a large Hamas presence in the 132-seat legislature. Hamas, formally known as the Islamic Resistance Movement, is at war with Israel and is classified by the U.S. government as a terrorist organization. But its reputation for competence and accountability in providing social services has made it a stiff rival of the secular Fatah movement, which runs the Palestinian Authority and has long been the largest party in the Palestinian territories.

The plan's $2 million budget, although a tiny fraction of USAID's work here, is likely more than what any Palestinian party will have spent by election day. A media consultant for Hamas said the organization would likely spend less than $1 million on its campaign.

Elements of the U.S.-funded program include a street-cleaning campaign, distributing free food and water to Palestinians at border crossings, donating computers to community centers and sponsoring a national youth soccer tournament. U.S. officials are coordinating the program through Rafiq Husseini, chief of staff to Mahmoud Abbas, the president of the Palestinian Authority and leader of Fatah.

In recent days, Arabic-language papers have been filled with U.S.-funded advertisements announcing the events in the name of the Palestinian Authority, which the public closely identifies with Fatah. Some of the events, such as a U.S.-financed tree-planting ceremony here in Ramallah that Abbas attended last week, have resembled Fatah rallies, with participants wearing the trademark black-and-white kaffiyehs emblazoned with the party logo, walls plastered with Fatah candidates' posters, and banks of TV cameras invited to record the event.

"Public outreach is integrated into the design of each project to highlight the role of the P.A. in meeting citizens needs," said a progress report distributed this month to USAID and State Department officials. "The plan is to have events running every day of the coming week, beginning 13 January, such that there is a constant stream of announcements and public outreach about positive happenings all over Palestinian areas in the critical week before the elections.""Window of Opportunity'

The program highlights the central challenge facing the Bush administration as it promotes democracy in the Middle East. Free elections in the Arab world, where most countries have been run for years by unelected autocracies or unchallenged parties like Fatah, often result in strong showings by radical Islamic movements opposed to the policies of the United States and to its chief regional ally, Israel. But in attempting to manage the results, the administration risks undermining the democratic goals it is promoting.

U.S. officials and consultants involved in the program acknowledge that it generated debate inside the aid agency and the two firms hired to manage the project. But U.S. officials said the goal of limiting Hamas's influence in the next Palestinian government overshadowed concerns about the decision not to disclose the U.S. government's role in the campaign.

"We are not favoring any particular party," said James A. Bever, the USAID mission director for the West Bank and the Gaza Strip. "But we do not support parties that are on the terrorism list. We are here to support the democratic process."

Another U.S. official involved in the program said: "I'm not going to apologize for it. I'm proud of the work we've done."

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"We weren't trying to be some black-box SWAT operation," said the official, who declined to be named because he was not authorized to speak for the record. "But we want to be able to say we did everything we could to support peaceful coexistence here. There's no tomorrow if we end up with a worsening conflict" after the elections.

Hamas is reaping the benefits of years of grass-roots social work and political organizing in the West Bank and Gaza as it prepares for its first national election. It opposes Israel's right to exist and has vowed to maintain its armed wing, which has carried out attacks and suicide bombings inside Israel and the territories.

The Palestinian Authority, meanwhile, is suffering from a reputation for corruption, divisions within Fatah and a continuing Israeli occupation of the West Bank that has made Abbas's pursuit of a negotiated peace settlement unappealing to many Palestinians. Public opinion polls have shown the race tightening in recent weeks, with Hamas now running even with Fatah.

According to interviews with U.S. and Palestinian officials here and in Washington as well as project documents obtained by The Washington Post, the plan to help promote the Palestinian Authority, and by extension Fatah, began emerging as Israel ended its 38-year occupation of Gaza in August.

"In light of the Israeli disengagement from Gaza, a critical window of opportunity has emerged," stated an October document outlining the scope of the Gaza Action Plan Support Unit, as the program is known. The document, prepared by ARD, a consulting firm based in Burlington, Vt., that was hired to manage the project, said the goal was to "help lay the foundation for successful, moderate leadership in Gaza as well as the West Bank." It listed the Palestinian Authority as its "direct beneficiary."

Most U.S. development assistance here, which last year totaled roughly $400 million, consists of water pipelines, sewage treatment plants, public libraries and roads, which bear the USAID logo alongside the seal of the Palestinian Authority. But Bever said the agency, which previously wanted to showcase U.S. aid, recently decided to emphasize the Palestinian Authority's role to a greater degree after polls showed a majority of Palestinians are aware of the overall extent of U.S. assistance.Downplaying U.S. Credit

The project is supervised by USAID's Office of Transition Initiatives, which specializes in promoting U.S. interests during times of political change in foreign countries and has the ability to spend money faster than other departments, according to agency officials.

The office hired ARD, which in turn subcontracted the project to a Washington-based firm, Strategic Assessments Initiative, or SAI, known for its largely academic work on issues such as Palestinian security reform. SAI had no experience in development work and had never worked for USAID.

Amjad Atallah, the company's president, said he was not authorized to talk about the project, though he said it raised concerns within his organization. Atallah said he agreed to work on the contract only after USAID agreed to his requests that Palestinian teams work in the field and that the program be coordinated through the office of President Abbas, who is not a candidate in the election.

USAID also brought in an independent consultant, Larry Sampler, to "help us think about how to do this," the U.S. official involved in the program said. Sampler was described by people who know him as an earnest, intense man who served 15 years in the Army Special Forces and worked as a U.S. contractor in Afghanistan.

According to documents from a planning presentation Sampler gave to U.S. officials in Washington and Tel Aviv in October, he raised several questions about how closely the U.S. government should be identified with the project. The documents also suggest that U.S. officials expected the project to become involved in party politics.

"To whom should credit accrue?" Sampler asked in one slide of the presentation. "Issues of branding and how closely associated candidates and parties want to be or should be associated with the USG [U.S. government]. What should be the nature of that relationship?"

Plans called for roughly 40 small projects or events, ranging in cost from $5,000 to $50,000 each, that would benefit the Palestinian Authority. No USAID logos would be used.

Asked if the decision not to use the USAID brand was a way to hide its involvement, Bever said, "I could see it could look that way." He said some of the projects might bear the agency logo, although it was not apparent on those visited by reporters from The Post or in ads published this week.

"We wanted to give maximum credit to the Palestinian Authority and to the freely elected president, Mahmoud Abbas, for taking the initiative and for inviting us to help get the message out to the Palestinian people," Bever said.

The point man in Abbas's office was his chief of staff, Husseini, a member of a prominent Jerusalem family. In an interview last week, Husseini said U.S. officials told him they had about $2 million to spend on 30 or so projects before the elections. He said his office provided them with "names of people who could do this best."

"It was some small money to help us quickly affect the lives of people. It was to show that the Palestinian Authority cares," Husseini said. "They were very responsive and understood we needed to have a better impact."

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"Campaigning may come into this, but only marginally," Husseini said. "It is not political campaigning, but campaigning for the Palestinian national cause, as Mahmoud Abbas sees it."

In recent days, the newspapers Al-Ayam and Al-Quds have featured ads for projects described in the Action Plan Support Unit's most recent progress report. On some days, three such ads -- all bearing the seal of the Palestinian Authority but no USAID logo -- appeared on a single page.

"Why so many ads at the same time?" said Saad Abdul Hadi, whose Ramallah-based public relations company, Al-Nasher, is doing the advertising. "Because we are in a very sensitive time, in the elections. That's why now."

In Jericho last week, 10 teams gathered in the municipal stadium in the hopes of winning the first-ever Olive Cup, the U.S.-funded championship of Palestinian youth soccer. As boys darted across the patchy field in uniforms purchased with money from USAID, banners bearing the emblem of the Palestinian Authority and a new logo created for the U.S.-funded projects celebrated the event, which was attended by several hundred Palestinians.

Ibrahim Sabbah, 40, director of the sports division of the Ministry of Youth and Sports, said he had been asking Palestinian leaders for years to finance such a tournament. This month, Husseini's office told him $10,000 was available immediately.

"I was very surprised," Sabbah said. "And very happy. We were able to do this very quickly because we had been planning it for years. But we'd never had the money until now."

Sabbah said he knew only that the funds came from the Palestinian Authority president's office. It didn't matter who paid for the event, he said happily, as teams from Jenin and Nablus took the field. In a few hours, representatives from Husseini's office would arrive with the Olive Cup trophy and medals for the winners.

Kessler reported from Washington.

U.S. Spent $1.9 Million To Aid Fatah In Palestinian Elections (NYT)

By Steven Erlanger

The New York Times, January 23, 2006

JERUSALEM, Jan. 22 - The United States spent about $1.9 million of its yearly $400 million in aid to the Palestinians on dozens of quick projects before elections this week to bolster the governing Fatah faction's image with voters and strengthen its hand in competing with the militant faction Hamas, American and Palestinian officials said Sunday.

The spending was intended "to work with the Palestinian Authority to enhance democratic institutions and support democratic actors, not just Fatah," said Micaela Schweitzer-Bluhm, a spokeswoman for the American consulate in East Jerusalem. The program, run by the United States Agency for International Development, was described Sunday in The Washington Post.

American and Palestinian officials who spoke anonymously because they were not authorized to speak to reporters said that the program, which started in August, was intended to help defeat Hamas and that the government had done a detailed political analysis to try to focus on constituencies where Hamas was doing well. The international development agency's Office of Transition Initiatives was allowed as much as $30,000 in discretionary spending for each project instead of the $10,000 usually allotted.

The projects - including tree planting, schoolroom additions, a soccer tournament, street cleaning and computers at community centers - were coordinated with President Mahmoud Abbas and meant to be associated with him and the Palestinian Authority, which is run by Fatah. Although American aid was always acknowledged publicly, Ms. Schweitzer-Bluhm said, "our logo was not always on the banner."

A senior Palestinian official said many of the 45 projects aimed at Gaza were not carried out; the procurement bureaucracy proved difficult; and the projects had little or no impact on municipal voting, where Hamas did very well. Mr. Abbas was reluctant to show up to claim credit for the projects, the official said.

"Working with democracies and democratic parties is normal for the U.S. government all around the world," Ms. Schweiter-Bluhm said.

In Jerusalem on Sunday, the Israeli cabinet met to discuss policy toward the Palestinian Authority should Hamas do well or even win in elections on Wednesday for the Palestinian Legislative Council.

Israel says it will refuse to deal with Hamas, which it, the United States and the European Union consider a terrorist group that seeks the destruction of Israel. If Hamas wins, Israel might even stop paying the Palestinian Authority the taxes it collects on its behalf, the daily Yediot Aharonot reported.

Hamas, running for the first time in Palestinian Authority elections, says that it is prepared to consider a long-term truce with Israel within its 1967 boundaries. But it rejects the 1993 Oslo accords and a permanent two-state solution.

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Israel's chief of staff, Lt. Gen. Dan Halutz, warned Sunday that violence could follow the Palestinian vote, especially if Hamas won, suggesting that the ruling Fatah faction might resist the results. "We have to prepare for the possibility of an escalation with the Palestinians, for the next round of violence," he said in a speech to a security conference in Herzliya.

On Saturday night, Defense Minister Shaul Mofaz said Israel could act alone if the elections produced a Palestinian Authority that was not "a legitimate and effective partner" for peace talks. If so, Israel would continue to seek "to establish defensible borders, strengthen settlement blocs, keep Jerusalem undivided, including its surrounding area, and demilitarize the Palestinian territory," code for Israeli Army sweeps.

Mr. Mofaz also warned Iran that Israel would not tolerate an Iran with nuclear arms: "We are giving priority at this stage to diplomatic action. But in any case we cannot tolerate a nuclear option for Iran, and we must prepare ourselves."

Israel has nuclear weapons but does not say so. Mr. Mofaz, who was born in Iran, is a member of the Kadima Party, which is led by Ehud Olmert, the acting prime minister.

In the Palestinian election, Marwan Barghouti, the imprisoned leader of the Fatah list, was allowed by Israel to give interviews to the Arab satellite stations Al Jazeera and Al Arabiya, each popular with Palestinians. He called for a large turnout and repeated his prediction that Hamas and Fatah "are heading toward being partners in the field, and in Parliament." He called for "a broad national reform government with the participation of all."

But Nabil Shaath, a Fatah veteran, suggested that it would form a coalition with independents, leaving Hamas in opposition. "With Hamas, it will be very difficult to reach a joint program" that includes negotiations with Israel, he said.

In Gaza City, at least one person was killed and two were wounded when a car exploded Sunday. A militant group accused Israel of trying to kill its fighters, but the Israeli Army denied involvement in the blast. It said that it had carried out an airstrike on three gunmen it believed had been trying to enter Israel near Karni, and that at least one man had been killed.

Israeli Leaders Brace For Hamas Landslide (AP)

By Josef Federman, Associated Press Writer

AP, January 23, 2006

Acting Israeli Prime Minister Ehud Olmert met with top military and political officials Sunday to discuss the growing likelihood that the militant group Hamas could dominate this week's Palestinian elections.

The ascendance of Hamas has alarmed Israel, which appears to have been caught off guard by the group's surging popularity before Wednesday's vote. Hamas has killed hundreds of Israelis in suicide bombings and remains committed to Israel's destruction.

"What Israel has to do is the big question," Cabinet minister Tzachi Hanegbi said before Sunday's meeting. "We have to think hard and explore all the options."

The United States and European Union also have been scrambling to figure out how to deal with Hamas. U.S. officials confirmed Sunday they have been directing money to promote democratic parties in the election but denied the move was aimed against Hamas.

Hamas, best known for its suicide attacks, has won over the Palestinian public in its first run for the legislature by focusing on domestic concerns, halting corruption and restoring law and order to the chaotic West Bank and Gaza Strip.

In contrast, the ruling Fatah Party has been unable to shed its corrupt image or overcome infighting. Recent opinion polls show the two movements running even.

While some security officials privately support a dialogue with Hamas, top leaders, including military chief Lt. Gen. Dan Halutz and Defense Minister Shaul Mofaz, say the group must disarm and revoke its charter calling for Israel's elimination.

"Regarding the elections in the Palestinian authority, there are three options: that Fatah wins, that Hamas wins or anarchy wins. One of these results could put all progress back several years," Halutz told an academic conference Sunday, apparently referring to Hamas and warning that violence could follow the election.

Commentators said Olmert's meeting Sunday — which included the army chief, head of the Shin Bet security agency, and the justice and defense ministers — reflected a failure by Israel to detect Hamas' growing popularity, despite its strong performance in Palestinian municipal voting in recent months.

"Their assumption was Fatah will handily win any election," said Mouin Rabbani, an analyst with the International Crisis Group based in Jordan.

Palestinian leader Mahmoud Abbas has said he hopes Hamas would tame its positions once it formally joins the political system, but other Fatah officials sent mixed signals over whether they would work with the Islamic group. Palestinian Information Minister Nabil Shaath, a top Fatah official, said Hamas must accept the principle of peace with Israel if it wants to share power.

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However, Fatah's top candidate, the jailed Palestinian uprising leader Marwan Barghouti, said Sunday that "Hamas will be part and parcel of the Palestinian Authority" after the vote. Barghouti was interviewed in an Israeli prison by the Arab satellite TV station Al-Jazeera.

The United States and EU both consider Hamas a terrorist group, and both have said millions of dollars in aid to the Palestinians could be jeopardized.

"As a matter of policy, we don't deal with Hamas," said Stewart Tuttle, the U.S. Embassy spokesman in Tel Aviv. "If Hamas members win seats ... we are not going to deal with those individuals."

The U.S. Agency for International Development has used a special $1.9 million budget to promote democratic parties in the Palestinian election, said a U.S. Consulate spokeswoman in Jerusalem, Micaela Schweitzer-Bluhm.

She denied that the money, used in part to clean streets, distribute free food and water and to help fund a youth soccer tournament, was used to boost Fatah's prospects.

Behind the scenes, U.S. officials are considering the possibility of distinguishing between Hamas legislators tied to violence and those who are not — a position Israel rejects. European diplomats said they would decide what to do after election results are in.

The West Bank and Gaza Strip have been plagued by chaos and lawlessness in recent months, and some armed groups have threatened to disrupt the voting.

Visiting election commission offices on Sunday, Abbas was resolute. "Orders have been issued to security forces to strike with an iron fist against anyone who would try to sabotage this election," he said.

In other developments, an Israeli aircraft fired at three Palestinian gunmen trying to enter Israel from the Gaza Strip, killing one man and wounding two, according to the army and Palestinian officials. The Popular Resistance Committees, a tiny militant group not running in the election, vowed revenge.

Separately, Benjamin Netanyahu, the leader of the battered Likud Party, said Sunday that he would be willing to make "significant concessions" in a final peace deal with the Palestinians if his party wins elections March 28.

However, he spelled out a tough negotiating line, saying Israel's final borders would include east Jerusalem, the Jordan Valley and other parts of the West Bank — areas the Palestinians want for a future state — if a government run by Netanyahu signs a peace accord with the Palestinians.

In A Stronghold, Fatah Fights To Beat Back A Rising Hamas (NYT)

By Steven Erlanger

The New York Times, January 23, 2006

NABLUS, West Bank - Nasser Joumaa, pale and thin, was facing some tough questions from his own Fatah members.

"Our generation is being ignored," said a tall, bearded man in a small house, packed and cloudy with cigarette smoke, as more young men listened at the windows. "Where are the respected people to vote for on Fatah's list? Not you, Nasser, but there are corrupted people in this list."

Mr. Joumaa, 39 and respected here for his military and political prowess, looked pained. "I share your concerns," he said. "People are angry with Fatah and its performance, and so am I. I'm one of the angry members of Fatah. But we express our anger inside. We face a bigger challenge now from Hamas, and in a difficult situation we stand together."

Fatah, the mainstay of the Palestinian Authority and the Palestine Liberation Organization, is in trouble, even here in Nablus, one of the West Bank's toughest and largest cities, and a longtime stronghold for the group. Fatah is struggling to beat back the radical Islamic movement Hamas - which won an astonishing 13 of Nablus's 15 local council seats a month ago, and elected an efficient, worldly yet devout mayor, Adli Yaish.

Palestinians vote Wednesday in elections for a new legislature, the first such vote in a decade. The United States, which lists Hamas as a terrorist organization, has quietly spent almost $2 million on dozens of quick projects to strengthen Fatah's hand, American and Palestinian officials say. [Page 10]

The coming vote is the first time that Hamas has run in elections for roles within the Palestinian Authority - because the authority was set up in the 1993 Oslo accords with Israel, which Hamas is committed to destroy.

But Mr. Joumaa is convinced that Hamas means to destroy Fatah first, if not now then by stages, and he warns Fatah members not to lose sight of the longer battle.

"Hamas talks of partnership with Fatah, but it wants to replace Fatah," he said. "We have power and authority, and we can't just give it up. We don't know Hamas's real program or goals, or to whom they will be subject. We cannot leave ourselves in Hamas's control."

Nablus is a stunning city, set in a steep valley, founded by the Romans in A.D. 72 and proud of its ancient aqueducts. It is the second-largest city in the West Bank, with some 325,000 people. But it has also been severely affected by the Israeli-

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Palestinian conflict, especially in the last five years, with the highest number of casualties, most severe physical damage and most intensive restrictions on movement in the West Bank, according to a report issued by the United Nations Office for the Coordination of Humanitarian Affairs in December. Fatah and the Palestinian Authority are paying the price for the economy and the border closures, as well as for Fatah's reputation for corruption.

Palestinian opinion polls vary, but all show that Fatah still leads Hamas, but not by much, and Hamas seems to be gaining. Fatah has 42 percent to Hamas's 35 percent, according to pollster Khalil Shikaki of the Palestinian Center for Policy and Survey Research; it has 35 percent to Hamas's 30 percent, with a larger number of undecided voters, according to Nader Said, a poll director for Birzeit University in Ramallah. Both polls have margins of error of at least 2 percent, but both show Fatah holding onto a majority, especially in coalition with other secular candidate lists like the Popular Front for the Liberation of Palestine, that of the independent Mustafa Barghouti, and another independent list called the Third Way, headed by the former finance minister Salam Fayyad, the likely next prime minister.

Both independent lists are getting aid from European and American supporters. But Fatah and Mr. Joumaa are worried that those competing independents, especially in constituencies, where many are also using the Fatah symbol, could allow Hamas candidates to win with small pluralities. Each voter will cast two ballots. Half of the 132 seats will be determined by votes for party lists, and half by votes in 16 local districts, which are harder to predict through polling.

Abbas Under Radar As Elections Loom (WT)

By Joshua Mitnick

The Washington Times, January 23, 2006

RAMALLAH, West Bank -- A kaleidoscope of campaign banners floats above traffic-choked el-Manara Square: Images of the late Palestinian leader Yasser Arafat smile against the background of Jerusalem, while jailed militant Marwan Barghouti waves his shackled hands in defiance of Israel.

But nowhere to be seen is the likeness of Palestinian Authority President Mahmoud Abbas.

With his Fatah Party dangerously close to losing Wednesday's parliamentary elections to the Islamic militants of Hamas, the Palestinian moderate has taken a surprisingly low profile in a contest that many see as a referendum on his tenure.

Aides say election laws forbid campaigning by the president, who is not up for re-election. But others say Palestinians are so disappointed with Mr. Abbas that he would only hurt his party.

"He represents an image that can be harmful to the campaign," said Basem Ezbidi, a political science professor at Ramallah's Birzeit University.

"On a popular level, people do not see him really as someone whom they can trust to deliver because they've given him a full year to deliver, and he didn't. There's an ironic thing: Here the Palestinian public and the Israeli government meet."

Mr. Abbas was elected in January 2005 with 62 percent of the vote, buoying hopes that he would be able to rein in Palestinian gunmen and resume peace talks with Israel. But he has achieved neither.

With the political party bequeathed to him by Mr. Arafat disintegrating, Mr. Abbas' authority is being widely questioned. If Fatah performs poorly on Wednesday, he will be seen as a lame-duck president with no mandate to lead.

Mr. Abbas "will be in bad shape if Fatah gets less than what is expected or loses the majority," said Mohammed Yaghi, a columnist for the Al-Ayyam newspaper. "Hamas will haggle with him on everything."

The president backed these elections in hopes that, with Hamas as a part of the Palestinian parliament, he could exert more leverage over the Islamist militants. But Fatah members now are questioning the wisdom of that strategy.

"Many are skeptical that he is really for Fatah," Mr. Yaghi said. "Many are saying that he doesn't care, that he only has a [diplomatic] program and that is his main concern."

There are other signs of disarray. Gangs from Fatah's military wing, the Al Aqsa Martyrs Brigade, have threatened to disrupt voting because their patrons are not on the ballot. And Prime Minister Ahmed Qureia embarrassed the president this month by suggesting the vote be delayed.

The implosion of Fatah is one of the main reasons why Hamas is poised to do much better than anyone expected a few months ago. According to a Birzeit University survey last week, Fatah's popularity stands at 35 percent, while Hamas' has surged to 31 percent.

The pressure is starting to show on Mr. Abbas, who is seldom pictured smiling in Palestinian newspapers these days and has offered to step down if he cannot carry out his agenda.

There is still some sympathy for Mr. Abbas in the streets of Ramallah, where he is perceived as an honest politician. "You can tell he is a good person, and he gave it his best shot," said Nasser Ibrahim, a lifelong Fatah supporter who will not vote for the party this year.

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But Mr. Abbas' colleagues in Fatah aren't likely to be forgiving if the party performs poorly on Wednesday, enhancing his reputation as a weak leader, said Mr. Ezbidi, the professor at Birzeit University.

"Such an image will continue to exist for some time," he said. "I do not see Mahmoud Abbas part of the political scene eight months from now. I see him disappearing somehow and resigning."

In A Stronghold, Fatah Fights To Beat Back A Rising Hamas (NYT)

By Steven Erlanger

The New York Times, January 23, 2006

NABLUS, West Bank, Jan. 20 - Nasser Joumaa, pale and thin, was facing some tough questions from his own Fatah members.

"Our generation is being ignored," said a tall, bearded man in a small house, packed and cloudy with cigarette smoke, as more young men listened at the windows. "Where are the respected people to vote for on Fatah's list? Not you, Nasser, but there are corrupted people in this list."

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Nablus is a stunning city, set in a steep valley, founded by the Romans in A.D. 72 and proud of its ancient aqueducts. It is the second-largest city in the West Bank, with some 325,000 people. But it has also been severely affected by the Israeli-Palestinian conflict, especially in the last five years, with the highest number of casualties, most severe physical damage and most intensive restrictions on movement in the West Bank, according to a report issued by the United Nations Office for the Coordination of Humanitarian Affairs in December. Fatah and the Palestinian Authority are paying the price for the economy and the border closures, as well as for Fatah's reputation for corruption.

Palestinian opinion polls vary, but all show that Fatah still leads Hamas, but not by much, and Hamas seems to be gaining. Fatah has 42 percent to Hamas's 35 percent, according to pollster Khalil Shikaki of the Palestinian Center for Policy and Survey Research; it has 35 percent to Hamas's 30 percent, with a larger number of undecided voters, according to Nader Said, a poll director for Birzeit University in Ramallah. Both polls have margins of error of at least 2 percent, but both show Fatah holding onto a majority, especially in coalition with other secular candidate lists like the Popular Front for the Liberation of Palestine, that of the independent Mustafa Barghouti, and another independent list called the Third Way, headed by the former finance minister Salam Fayyad, the likely next prime minister.

Both independent lists are getting aid from European and American supporters. But Fatah and Mr. Joumaa are worried that those competing independents, especially in constituencies, where many are also using the Fatah symbol, could allow Hamas candidates to win with small pluralities. Each voter will cast two ballots. Half of the 132 seats will be determined by votes for party lists, and half by votes in 16 local districts, which are harder to predict through polling.

So Fatah is trying to overcome its internal hatreds and unite, at the end, to face down Hamas, including pressing Fatah members running independently to withdraw. It is not easy for some in Fatah, upset that Hamas is even being allowed to take part. Fatah activists in the Balata refugee camp in Nablus insist they will not allow the elections to proceed, and there are worries of election-day violence.

Mr. Joumaa has reasons to be angry with Fatah's leader, President Mahmoud Abbas, who mismanaged its party primaries, finally scrapping them. Mr. Joumaa was a top member of a rival slate of 40-somethings led by the jailed leader Marwan

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Barghouti and was unhappy when that slate was merged with the official Fatah one. He is No. 18 on the list, so will be elected to the new legislature (as will Marwan Barghouti, who is No. 1), and his posters show him with Mr. Barghouti and the slogan: "Only the shoulders of the fighters can raise the torches of freedom. Vote for Fatah."

It has been an extraordinary personal journey for Mr. Joumaa, who spent 14 months in a Palestinian prison beginning in 1996, when older Fatah figures accused him of disloyalty. He was tortured there, and watched his best friend die there from torture, but then became the commander of Al Aksa Martyrs Brigades in Nablus. He was wanted by the Israelis and kept hidden, even as his mother was dying, 15 months ago, from cancer. When her body was laid out in a crowded mosque, however, he slipped in to pay last respects.

With the cease-fire brokered by Mr. Abbas early in 2005, Mr. Joumaa is no longer being hunted. He has laid aside his arms - for good, he hopes - and turned to Fatah politics, one of the young men toughened by a life under Israeli occupation and by Palestinian misrule. Between Sept. 29, 2000, and Oct. 31, 2005, 522 Palestinians were killed in Nablus, including 80 children and 28 women - 27.8 percent of all West Bank Palestinians killed, according to the December United Nations report.

A center for Palestinian militancy, Nablus is surrounded by six Israeli checkpoints and 53 other physical obstacles to travel, and by 14 Israeli settlements and 26 settlement outposts. But with the cease-fire, the number of military incursions and curfews has dropped and some of the obstacles have been removed, and the number of deaths and injuries has dropped considerably from 2004.

So there is some new optimism here, but not much confidence, and many men still have difficulty getting permission to travel out of Nablus.

Mr. Yaish, the new Hamas mayor here, only three weeks in office, is an example of why the group is doing well. He is devout, but wealthy from auto parts and a Mercedes agency. He studied mechanical engineering in England from 1970 to 1975 and speaks English fluently; he speaks the modern language of efficiency and budget oversight; he keeps a picture of Yasir Arafat in his office and not Sheik Ahmed Yassin, the Hamas leader killed by Israel in March 2004.

"This is a government office," Mr. Yaish said. "President Abbas said to leave the photos of Arafat in offices, so we left it. Sheik Yassin was not elected, and this is not my house."

Mr. Yaish agrees that some people will vote differently on national and local issues, and he expects Hamas to get nowhere close to the 73 percent of the local vote it received a month ago. "We want partnership with Fatah," he said. "Democracy is competition and makes us stronger."

Hamas in the legislature will monitor government work, especially finances and accounts, to prevent corruption, he said, and to improve tax collection. "The same party as judge and jury is not good," he said. "If there is no oversight, even a good man can be tempted."

Hamas opposes negotiations with Israel, but Mr. Yaish thinks its presence in the legislature will stiffen the Palestinian Authority's back in dealings with Israel. "I don't like the Palestinian Authority to negotiate from a weak position," Mr. Yaish said, pragmatically. "We're occupied, and I want my government to talk harder to Israel."

Mouna Mansour is another Hamas candidate, 44 years old, a physics teacher and the widow of a famous local Hamas leader, Jamal Mansour, who was assassinated in 2001 by an Israeli missile strike on his office. His colleague and six others, including two children, also died in what the State Department then called "excessive" and "a new and dangerous escalation."

Today, Mrs. Mansour lives in a building named for her husband in an apartment filled with his "martyrdom" posters. She is practical and straightforward. "Hamas wants to be in the legislature to protect the resistance against occupation," she said. "It is our strategic choice. Our political role is to back the resistance."

But resistance is not just arms and bombs, she insists. "Resistance is also the farmer steadfast on his land, or the factory worker hiring as many as he can and making local products," she said.

"We will be partners with Fatah," she said. "The role of the legislature is accountability."

Should the cease-fire with Israel continue? "It's needed for a period of time, because our people are exhausted by the occupation," she said, and then added, smiling: "It's a time for the warriors to rest up."

That is exactly what Israel warns, that Hamas has not changed its goals.

Mr. Yaish says benignly: "I say to the world with open heart: 'Don't worry so much.' "

Mr. Joumaa thinks differently. "Hamas wants to infiltrate the institutions and take over," he said. "I think a Palestinian state now is farther away."

Wolfowitz Triggers Graft Storm At World Bank (FT)

By Andrew Balls And Edward Alden In Washington

Financial Times, January 23, 2006

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Paul Wolfowitz, president of the World Bank, has triggered a bitter conflict with the bank's senior career staff by empowering a group of close political advisers to pursue aggressively what he sees as widespread corruption surrounding bank projects.

The dispute has come to a head with the appointment last week of Suzanne Rich Folsom, a counsellor to Mr Wolfowitz with close ties to the Republican party, as the new director of the Department of Institutional Integrity, the internal bank watchdog that investigates suspected fraud and staff misconduct.

Her appointment has raised objections that a person close to Mr Wolfowitz, and with a political background, has been put into a senior position at a unit that was seen as independent of the president's office since it was set up in 2001.

Robert Hindle, previously the senior manager of the unit and a long-time World Bank employee, resigned in November largely as a result of what four current and former bank sources said was concern at the targeting of employees who had worked on projects that developed corruption problems, and pressure on two occasions from Ms Rich Folsom to bypass internal rules on investigating the e-mail records of a number of employees.

Ms Rich Folsom, who was brought into the bank by James Wolfensohn, Mr Wolfowitz's predecessor, denies strongly any breach of internal rules. She insisted that in every case she followed proper procedures that require the bank's general counsel and another senior manager to approve any investigation of staff e-mails. "I have never asked Robert Hindle to circumvent any procedures," she told the Financial Times.

Mr Wolfowitz said those alleging violations of e-mail procedure "are trying to get me not to be tough on these issues. I just would like to say I don't intend to be intimidated".

"We are in a transition, but I think it's extremely important that we be moving from talking about corruption to dealing with corruption," he said in an interview.

The World Bank Staff Association has raised concerns over the process that led to Ms Rich Folsom's appointment and has heard complaints about e-mail checks from a number of parties. Alison Cave, chair of the association, said: "To clear up any questions, it would be a good idea to have an independent investigation or audit of the department."

A number of senior bank staff and executive directors representing member countries, who asked not to be quoted, complain of a lack of consultation by Mr Wolfowitz's advisers, and an atmosphere of suspicion.

Roberto Dañino, the bank's general counsel and a former prime minister of Peru, this month also announced his resignation because, friends said, he was unhappy at the way the bank was being run by Mr Wolfowitz. Mr Hindle and Mr Dañino both declined comment.

Mr Wolfowitz's appointment last year was greeted with apprehension by some long-time staff. Many Republicans believe the bank is plagued by corruption. Ms Rich Folsom was hired by Mr Wolfensohn with the task of improving the bank's relations with Congressional Republicans.

China Will Strike An Energy Deal With The Saudis (WSJ)

By Shai Oster, Dow Jones Newswires

The Wall Street Journal, January 23, 2006

BEIJING -- China and Saudi Arabia are expected to sign a wide-ranging agreement today on energy cooperation amid Beijing's quest to secure more energy resources vital to fuel its fast-growing economy.

China, the world's second-biggest consumer of oil, has been seeking to tighten economic and political partnerships with its major oil suppliers across Central Asia, Africa and Latin America. Its quest has taken on added urgency since 2004, when the country's oil demand surged about 15%, helping underpin the biggest rise in international oil prices in a generation.

Although the pace of increase in China's oil demand slowed last year, the average price it paid per 11,000 tons of imported oil surged 38% from 2004 as global oil prices hit record highs. China needs vast supplies of energy to fuel its economy, which grew about 10% last year. A key supplier to the country's fuel needs is Saudi Arabia, which accounts for roughly 17% of China's oil imports.

The Sino-Saudi memorandum of understanding is set to be signed during Saudi King Abdullah's three-day visit to Beijing, a Saudi official said yesterday. It will call for increased cooperation and investment between the two countries in oil, natural gas and minerals, but it won't specify any projects or dollar amounts, another Saudi official said. Other details of the agreement weren't immediately available.

King Abdullah arrived in China yesterday in the first visit here by a Saudi ruler since the two countries re-established diplomatic ties in 1990. He is scheduled to meet today with Chinese President Hu Jintao and tomorrow with No. 2 Communist Party leader Wu Bangguo and Premier Wen Jiabao. Chinese Foreign Ministry spokesman Kong Quan said last week that the Chinese and Saudi leaders are expected to discuss energy cooperation, fighting terrorism and telecommunications, among other issues.

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King Abdullah's China visit is part of a four-nation Asian tour that will also include stops in India, Malaysia and Pakistan. Members of his delegation include Saudi Oil Minister Ali Naimi.

China's oil imports from Saudi Arabia have roughly doubled in recent years, from 12.5 million tons in 2002 to 22 million tons for the first 11 months of 2005.

Chinese and Saudi oil companies have already signed several deals. China Petroleum & Chemical Corp., or Sinopec, China's second-biggest oil producer by volume and its largest refiner, is drilling for natural gas in Saudi Arabia. The company also has signed a deal with Saudi Arabia's state oil company, Saudi Aramco, to build a huge refinery in the southern Chinese province of Fujian with Exxon Mobil Corp. as a partner. Aramco also has begun engineering work with Sinopec for a second refinery in China's northeastern port city of Qingdao.

The Saudi king's visit comes on the heels of a major diplomatic push by China in West Africa, including Nigeria, where Cnooc Ltd., China's largest offshore oil producer by volume, recently concluded a deal to acquire a large stake in an offshore oil field. Last week, Chinese Foreign Minister Li Zhaoxing traveled to Cape Verde, Senegal, Mali, Liberia and Nigeria.

China also has drawn closer recently to other large energy producers, such as Venezuela, where ties with the U.S. have frayed.

The agreement comes as renewed political instability in key oil-producing countries in the Middle East and Africa has pushed oil prices back up toward the record highs hit in the summer of 2005. On Friday, oil prices hit a four-month high of $68.35 a barrel, as traders worried that militants in Nigeria were targeting oil facilities.

Meanwhile, a political standoff between Iran and the West has oil traders nervous. The U.S. and several European nations have been calling for Iran to be referred to the United Nations Security Council over its moves to restart a uranium-enrichment program, a process that is used in producing nuclear weapons. Iran is the second-largest oil producer in the Organization of Petroleum Exporting Countries, after Saudi Arabia. Some analysts worry that it could respond to possible U.N.-imposed sanctions against it with an oil embargo.

OPEC is scheduled to meet Jan. 31 to decide on its oil-production policy for the spring. A person familiar with Saudi Arabia's oil policy said Saudi Arabia and other OPEC countries don't support Iran's call for the producer bloc to lower the group's daily oil-production quota by one million barrels. Iran says the cuts are needed to prevent overproduction from glutting the market and bringing oil prices sharply down.

--Tang Hanting in Shanghai contributed to this article.

Explosions In Southern Russia Sever Gas Lines To Georgia (NYT)

By C. J. Chivers

The New York Times, January 23, 2006

MOSCOW, Jan. 22 - Explosions in southern Russia on Sunday morning severed the country's natural gas pipelines to Georgia, swiftly plunging Russia's neighbor into heat and electricity shortages and causing a diplomatic flare-up between the nations.

Two more explosions hours later severed one of Russia's main electricity cables to Georgia, deepening the electricity shortage even as the gas supply in Georgia dwindled. Russia supplies Georgia with all of its natural gas.

By late afternoon, President Mikheil Saakashvili of Georgia said gas flow had ceased and energy rationing would be necessary. He ordered universities closed and said Georgia was seeking fuel from Iran and Azerbaijan. Hospitals were being provided emergency propane and oil, he said.

The shortage was expected to last at least two days, as Russian technicians rushed to repair the severed main and reserve lines. Georgia, usually balmy, was having a cold snap, with temperatures dropping below freezing at night and hovering just above by day.

The break in supply - which also led to shortages in Armenia, which receives gas from Russia after it passes through the Georgian pipeline network - raised fresh questions about Russia's reliability as an energy partner and exposed anew the tensions between Russia and Georgia, a nation formerly under Soviet rule that has spurned Moscow in recent years.

Russian officials initially said the explosions appeared accidental but later announced that a criminal investigation had begun and that the blasts were acts of sabotage, perhaps by insurgents in the region using makeshift bombs.

Mr. Saakashvili disputed that contention, saying that the break in supply seemed intended to put political and economic pressure on Georgia, which since 2003 has been pursuing a strongly pro-Western course. He offered no evidence for his position, but said the circumstances were suspicious.

"We don't think it is accidental in any way," Mr. Saakashvili said in a telephone interview from Tbilisi, Georgia's capital. "The places where it happened, the environment in which it happened, the history in which it happened - this all looks like a policy decision."

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No insurgent group claimed immediate responsibility for sabotage, and Mr. Saakashvili noted that none of the guerrilla or terrorist bands in the region had threatened Georgia. Those bands often act in coordination with Islamic separatists in nearby Chechnya.

Mr. Saakashvili said that the flow of gas had ceased as Russia had been trying to pressure Georgia into selling Russia the Georgian gas pipeline network, and that officials at several levels of the Russian government had been issuing veiled threats in recent weeks.

He also said that this was the first winter since the collapse of the Soviet Union that Georgia had not had electricity and gas shortages, and that Russia probably resented that success. Mr. Saakashvili compared the gas shortage with the recent pricing dispute between Russia and Ukraine, which led Russia to briefly cut the flow for Ukraine and brought widespread Western criticism of Russia's handling of the incident. "This is not civilized behavior," he said.

A spokesman from President Vladimir V. Putin dismissed Mr. Saakashvili's characterization, suggesting that the notion that either the Kremlin or Gazprom, Russia's gas monopoly, would destroy sections of Russia's pipelines was absurd.

"If he is postulating that Gazprom or Moscow was standing behind these explosions, I don't think that there is any need for comment on this," said the spokesman, Dmitri Peskov. "There is no need for any attempt for politicization. It has nothing to do with politics. It has nothing to do with pressure. It is a situation of an emergency."

The Russian Foreign Ministry reacted angrily, issuing a statement calling the Georgian government's remarks "hysteria and bacchanalia," a reference to Georgians' fondness for wine. The ministry suggested that Georgian officials "have decided to irrevocably ruin relations with Russia."

Four explosions on Russia's side of the border created the shortages, Georgian and Russian officials said. The first two occurred roughly at the same time, before sunrise, severing the main and reserve gas pipelines that flow into Georgia from the Russian supply network.

Later in the morning, two more explosions severed a power transmission cable in two places.

Aleko Khetaguri, the deputy energy minister in Georgia, said in a telephone interview that as a result of the explosions, Georgia had lost all gas flow and roughly a quarter of its electricity, including electricity that was generated from domestic turbines powered by Russian gas.

Gas provides heat and cooking fuel in many of Georgia's urban households, he said, but in the countryside many homes are warmed with wood or kerosene.

Mr. Khetaguri predicted that repairs to the main line would take three days, and to the reserve line one month. He said repairs to the electric transmission line, which provides roughly 5 percent of Georgia's electricity, would take about a week.

While Georgia depends in full on Russian gas, it has shifted its electricity supply to accept more energy from Turkey and Armenia. It also expects to import gas from Azerbaijan and Central Asia late this year when construction is complete on a network from the Caspian Sea, decreasing its reliance on its former rulers in Moscow, with whom it quarrels on several issues.

Officials in Armenia said the situation was not as dire, because the country had fuel reserves. Still, they called for conservation and said electricity would be cut to some nonessential customers, news agencies reported.

Mr. Saakashvili said that to meet demand in Georgia, electricity would be shut off temporarily in different districts on the grid, rotating the shortages until the crisis was resolved. Mr. Khetaguri said that as of Sunday night Georgia was still "supplying electricity to the entire country, but with interruptions."

Bolivia's Morales Rejects US Domination (FT)

By Hal Weitzman In La Paz

Financial Times, January 23, 2006

Evo Morales was sworn in on Sunday as Bolivia's first indigenous president in a historic and emotional ceremony that set the tone for his new government.

In a long speech, Mr Morales warned the US not to try to dominate the region, promised to slash parliamentary salaries and stamp out corruption, and reaffirmed his commitment to nationalising Bolivia's hydrocarbons sector.

He also pledged to change Bolivia's economic model. "We have to end neo-liberalism," he said. A central theme was the long struggle by the indigenous majority in Bolivia against discrimination: "We need to repair 500 years of history."

Mr Morales reiterated the need to nationalise the gas sector, the second largest in the region. "All our natural resources need to be returned to the Bolivian people, in order for us to end poverty," he said.

The president, who has rejected expropriating the assets of multinational energy companies operating in Bolivia's gas sector, said he wanted foreign investment but under the principle that the state would be treated as an equal partner.

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One of Mr Morales's senior economic advisers said on Friday that Repsol and Total, two of the biggest foreign investors in the gas sector, had indicated they were prepared to drop a threat to take Bolivia to international arbitration over a hydrocarbons law that raised taxes on foreign investors.

Rafael Ramírez, Venezuela's energy minister, said over the weekend that PDVSA, the Venezuelan state energy company, would help to develop the Bolivian gas reserves.

Mr Morales also addressed his campaign commitment to decriminalise cultivation of coca – raw material for cocaine – which had caused concern in the US, sponsor of eradication efforts in the Bolivian highlands. The new president vowed to clamp down on drug trafficking and cocaine production.

He said: "I want an agreement with the US to fight narcotrafficking, but the fight against drugs must not be an excuse for the US to dominate our people."

Earlier, one of his advisers said two of the biggest investors in the gas sector had indicated they were prepared to drop a threat to take the country to arbitration over a hydrocarbons law that raised taxes on foreign investors.

Carlos Villegas, tipped as a cabinet minister, said Repsol and Total had signalled they were willing to renegotiate their contracts to give a greater share of profits to Bolivia.

That could make it more difficult for British Gas to carry out its threat to go to international arbitration. Petrobras has said it is prepared to accept lower profits.

Mr Villegas said that although Mr Morales had threatened during the presidential campaign to nationalise the hydrocarbons sector, the new government would respect the property rights of foreign investors.

The inauguration came a day after the investiture of the former coca growers' leader in a ceremony at Tiwanaku, a pre-Inca ruin.

"Today begins a new era for the indigenous people of the world, a new life in which we seek equality and justice," Mr Morales told a crowd of 20,000.

He vowed to "fight neo-liberalism" and to "complete the struggle of Che Guevara".

Mr Morales's campaign pledge to decriminalise coca cultivation has caused concern in the US, which sponsors eradication efforts.

Washington had refused to talk to Mr Morales directly, but there were signs of a thaw at the weekend when Thomas Shannon, US assistant secretary of state for western hemisphere affairs, visited the incoming president at his home in La Paz.

"We wish the new democratically elected government success," Mr Shannon said afterwards. "We are ready to begin a process of dialogue to determine how our two governments can work together on a common agenda." The new president has an approval rating of 74 per cent, according to a poll.

Indians In Bolivia Celebrate Swearing In Of One Of Their Own (NYT)

By Juan Forero

The New York Times, January 23, 2006

LA PAZ, Bolivia, Jan. 22 - Evo Morales, a Socialist protest leader and steadfast critic of American policies in the region, was sworn in Sunday as president of Bolivia, the first Indian to hold the position in this landlocked country whose indigenous majority had long felt oppressed and cut off from political power.

With tears welling in his eyes, his left fist raised and his right hand over his heart, Mr. Morales, 46, an Aymara Indian, took the oath of office as the leaders of 11 countries, American diplomats and the crown prince of Spain watched from the gallery of the country's ornate 19th-century Congress.

The son of a shepherd who grew up in an adobe home in the frigid highlands, Mr. Morales was dressed true to his anti-establishment roots, in a wool jacket featuring white pre-Hispanic motifs on the lapels and an open-neck shirt, but no tie.

Outside, tens of thousands of people celebrated, many of them Aymara and Quechua Indians, tin and silver miners, coca farmers and leftists from around the world. They blew cow horns, danced to brass bands and waved the seven-colored wipala flag of the Andean Indian nation. By evening, Mr. Morales and his vice president, Álvaro García, a former guerrilla leader who spent five years in jail for rebellion, had joined them.

"This is a historic day," said Gregorio Mamani, 43, like Mr. Morales an Aymara. "I am so happy that after so many years, we have an indigenous president, one we can be proud of before the whole world."

In the Congress, Mr. Morales asked for a moment of silence for Inca martyrs, for the Argentine guerrilla Che Guevara, who died in a failed effort to start a revolution here in 1967, and "the millions of humans who have fallen in all of Latin America." In a rambling, passionate speech that mixed Spanish and Aymara, Mr. Morales did not veer from the populist themes that enthralled his followers and gave him a landslide win in the election on Dec. 18.

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He criticized "neoliberal reforms," the American-backed free-market prescriptions that are now being tested throughout the continent, for failing to pull Bolivians out of poverty. He lamented that there were no high-ranking Indians in the army, and he railed against the corruption of past governments.

Mr. Morales promised to "change our history" and give voice to the downtrodden.

"I want to say to you, my Indian brothers concentrated here in Bolivia, that the 500-year campaign of resistance has not been in vain," Mr. Morales said moments after being sworn in. "This democratic, cultural fight is part of the fight of our ancestors, it is the continuity of the fight of Tupac Katari, it is a continuity of the fight of Che Guevara."

But while Mr. Morales is clearly among the more anti-establishment in a crop of leftist leaders who have recently swept to power in Latin America, he has tempered his tone since his victory and has spoken of the need for Bolivia to trade and build ties with other countries. "I have learned that the president of a government has to do good business deals for his country," Mr. Morales said Sunday.

Unlike his predecessors, Mr. Morales enters the presidency with overwhelming good will from inside Bolivia and beyond. The economy is solid, having grown at 4 percent in 2005, the best measure in years. The International Monetary Fund in December wrote off the country's $231 million debt, while the deficit has shrunk significantly, thanks to higher tax revenues and spending constraints.

Political analysts say the sound economic picture, coupled with the mandate that propelled Mr. Morales to power, should give his government time to maneuver.

Still, he has to keep in mind supporters in the crowd like Gregorio Machicado Quispe, 48, who said, "We expect a complete change."

"The government needs to favor the poor, suffering classes," he said. "We have to control the wealth here in Bolivia."

Gustavo Torrico Landa, 46, a congressman from Mr. Morales's Movement Toward Socialism Party, said: "The government has to show that it has begun to function But it's not like Evo on the 22nd becomes president and this becomes Switzerland on the 24th."

Indeed, Bolivian officials close to Mr. Morales, including his top economic adviser, Carlos Villegas, said in interviews that the government was carefully considering what economic path to take.

That means determining everything from how to attend to poor farmers, a priority for Mr. Morales, to how much foreign aid to receive from the United States and other countries, which officials say cannot come with tough conditions.

Mr. Morales and other officials have also said trade is important, but have not decided what kind of agreements should be signed. In the meantime, Bolivia plans to ask Washington for an extension on a preferential trade deal that ends in December, Mr. Villegas said.

"The only path for Bolivia is to open itself to the world, but under better conditions than in the past," said Juan Ramón Quintana, another adviser to the president.

The policies that will be most closely watched, especially by multinational oil companies like Petrobras of Brazil and Repsol of Spain, will be in Bolivia's huge natural gas industry. Mr. Morales plans greater control, increasing taxes on the companies, but on Sunday he also said his government needed help from energy experts in formulating a policy.

Mr. Morales's history as leader of the country's coca farmers, and his campaign pledge to become a "nightmare" for the United States, has worried American officials concerned that his presidency could lead to instability and increased drug trafficking. On Sunday, he praised one of his closest allies, Fidel Castro of Cuba, and he warned that the United States could not use the fight against drugs "as an excuse" to "dominate and submit other peoples."

Yet, in his speech after the swearing in, he also welcomed Thomas Shannon, the assistant secretary of state for Western Hemisphere affairs, who was at the inauguration. Mr. Morales had a cordial meeting on Saturday night with Mr. Shannon and David Greenlee, the American ambassador, which will probably lead to more talks.

"We have international support," Mr. Morales said. "There is international solidarity."

For Bolivian Majority, A New Promise (WP)

By Monte Reel

The Washington Post, January 23, 2006

LA PAZ, Bolivia, Jan. 22 -- The streets of this colonial city erupted in song and fireworks Sunday to celebrate the inauguration of Evo Morales, Bolivia's first Indian president, who promised to begin reversing centuries of social injustice, shield the country from U.S. influence and reclaim natural resources that he says have been exploited by international capitalism.

Morales, 46, broke into tears before addressing Bolivia's Congress and the presidents of many neighboring South American countries, a gathering that illustrated the region's ongoing political shift toward socialism. The former coca grower

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likened his historic rise to power in Bolivia, where people of Indian descent make up more than 60 percent of the population, to the end of apartheid in South Africa.

"This morning I was very happy to see my brothers and sisters singing in the historical Plaza Murillo and Plaza San Francisco," Morales said, referring to the celebrations attended by thousands of indigenous citizens in the city's main squares. "Forty or 50 years ago, we didn't even have the right to enter the Plaza San Francisco or the Plaza Murillo."

Morales won the election riding a wave of discontent against the elites who have traditionally ruled the country. Massive protests have become a regular part of Bolivian life in recent years, helping to oust two presidents since 2003. But the atmosphere of celebration in the streets that lasted deep into the night was a reflection of the widespread support Morales enjoys upon entering office. An opinion poll released this weekend by the Bolivian firm Apoyo said that support for Morales stands at 74 percent, an unprecedented level in the country's recent history.

"All of the other governments we have had in this country have been corrupt and have stolen from the people," said Felix Flores, an unemployed 60-year-old Quechua Indian who traveled to La Paz from Cochabamba to celebrate in Plaza San Francisco with thousands of others. "With all of that money they robbed, they could have created sources for jobs. Now Evo will."

A big part of Morales's message has centered on the idea of self-determination, and he has frequently criticized the United States as an "imperial power" whose interests often run counter to those of Bolivia. The United States is Bolivia's leading provider of development aid, contributing about $655 million from 2000 to 2004. But Morales contends his country has been hurt by "neo-liberalism," a term commonly used in the region to describe Washington-backed economic policies that encourage free trade and a minimum of national commercial intervention. On Sunday, Morales labeled the policy a failure that had impoverished Bolivia while enriching wealthy foreign interests, and he vowed to protect the country from its effects.

Bolivia, with 9 million citizens, remains the poorest country in South America, but it has the second-largest reserves of natural gas on the continent. Morales has pledged to nationalize the country's fuel industry and woo investment from Latin America, Europe and Asia to industrialize the sector.

Expectations for change run high among his supporters, and Morales promised Sunday to convene a representative assembly to rewrite the country's constitution to more equitably distribute political power. He has tried to mollify concerns of international investors by promising not to seize private property when nationalizing the fuel sector. He has also said he wants to decriminalize the growing of coca plants and refocus the fight against drugs on those who turn the crop into cocaine.

"The fight against narco-trafficking, against drugs, against cocaine, cannot be an excuse for the government of the United States to dominate our communities," Morales told the crowd, a number of whom chewed coca leaves, reflecting a long Bolivian tradition.

Many analysts suggest that Morales's frequent jabs at the United States are rooted in his experience as a coca farmer and -- unlike those of Venezuela's Hugo Chavez and Cuba's Fidel Castro -- less in a specific political ideology. But many of his supporters already are linking Morales to those two leaders, whom Morales calls inspirations. In Plaza San Francisco, vendors enjoyed brisk business selling T-shirts with the names of a socialist icon and three presidents printed in simple block letters on the front: "Ché, Fidel, Chavez, Evo."

"Evo professes a deep and close friendship with Chavez and Castro, but he's more of a product of American policy than his relationship with those two," said Eduardo Gamarra, a Bolivia analyst at Florida International University. "He's a product of the coca wars, and he should be understood in that context."

Bolivia is the latest in a line of South American countries to elect presidential candidates from socialist or unionist backgrounds. Last week, Chile elected the Socialist Party's Michelle Bachelet to succeed Ricardo Lagos, another Socialist who embraced free trade as a way to fund increased social spending in his country. And in their most recent elections, Brazil, Argentina and Uruguay have also elected presidents with backgrounds in social activism.

In Peru, elections this year will replace outgoing President Alejandro Toledo, who became the first South American president of indigenous descent when he was elected in 2000. A front-runner is former colonel Ollanta Humala, a socialist.

Morales was born in a thatched-roof shack in Bolivia's western highlands, and he worked as a shepherd as a young boy. As a teenager, he was a brick worker, baker and trumpet player in a traveling band. After settling in the tropical Chapare region to grow coca, he became involved in politics as the head of the Federation of Coca Farmers, which often pitted him against U.S. officials who wanted to reduce cocaine traffic by reducing the harvests of coca leaves, which must be chemically processed to produce cocaine.

His criticisms of the United States are widely admired among his supporters, such as those who waved banners throughout the day in Plaza San Francisco. To them, such comments prove Morales has the courage to stand up for himself and his country.

"This is our day," said Pablo Mercado, 48, a city worker in La Paz who waited for the new president to parade through the streets of the city after his speech. "Finally we have something to celebrate."

Morales, Bolivia's 1st Indigenous President, Inaugurated (KRT)

By Jack Chang

Knight Ridder, January 23, 2006

LA PAZ, Bolivia - Evo Morales Aima - a peasant leader born into grueling poverty - assumed Bolivia's presidency Sunday with an emotional speech that laid out the most complete picture yet of his leftist agenda.

The 46-year-old Aymara Indian, his troubled country's first indigenous president, fleshed out controversial proposals he made throughout his historic campaign, including plans to nationalize Bolivia's vast natural gas resources and block U.S.-backed anti-drug efforts.

After tearfully accepting the country's red, green and gold presidential banner, Morales began his wide-ranging, 90-minute address with a minute of silence dedicated to leftist heroes such as revolutionary Ernesto "Che" Guevara, fellow activists and Bolivia's indigenous people, who make up more than 70 percent of the country.

"We are here to change our history," he said standing at the front of the Congressional chamber filled with newly elected representatives, loved ones and world leaders, including 11 heads of state. "This is the conscience of the people, our people, the fight of our people."

With regular promises to be a "nightmare" for the United States, Morales has been a rising star of Latin America's populist left and is closely allied to Venezuelan President Hugo Chavez and Cuban leader Fidel Castro, both ideological foes of the Bush administration. His election marked another significant challenge to U.S. policy in the region.

Morales went on to detail plans to "industrialize" Bolivia's natural gas, hinting the country could take over resource extraction now performed by foreign companies. Bolivia claims Latin America's second largest natural gas reserves.

He also demanded the world community cancel the impoverished Andean country's $6.43 billion in foreign debt, saying, "This money definitely never helped our indigenous people."

Acknowledging those roots, Morales spoke for about three minutes in Aymara and used the Inca language of Quechua to thank Brazilian President Luiz Inacio Lula da Silva and other presidents for coming. The day before, Morales took part in an indigenous purifying ceremony on the site of an ancient temple outside the capital.

After the inauguration ceremony, Venezuelan President Hugo Chavez appeared beside Morales on the balcony of the presidential palace to view Bolivian troops. They were joined by Prince Felipe of Spain, Slovenia President Janez Dronvsek and other international figures.

Morales regularly condemns U.S.-backed economic policies promoting open markets and privatized state industries. He has also opposed U.S. efforts to end Bolivian cultivation of coca leaf, the prime ingredient in cocaine. The country ranks as the world's third biggest coca grower and a major source of cocaine to Europe and the rest of South America, according to U.S. estimates.

Despite those tensions, U.S. Assistant Secretary of State Thomas Shannon Morales visited with Morales on Saturday night at his home in La Paz for a 45-minute meeting both men said would launch a series of encounters.

Shannon said they did not discuss the coca issue but talked generally about how to continue the dialogue.

"We want the Bolivian people to succeed and for the Bolivian people to succeed, this government needs to succeed," Shannon said. "This is a democratically elected government."

Sunday morning, Morales also tried to mend fences with President Ricardo Lagos of neighboring Chile, which sparked enduring Bolivian animosity during the 19th century by seizing the country's coastline.

Lagos attended Morales' inauguration Sunday, becoming the first Chilean president to pay an official visit to Bolivia in decades. Both leaders said the two countries were dedicated to resolving their historical conflict.

Morales will lead a country of 8.9 million that has been wracked with social conflict over the past three years, during which massive protests and blockades over natural resource management have ousted two presidents.

It is also divided along geographic lines, with the resource-rich eastern Bolivian province of Santa Cruz demanding more independence. Bolivians will decide later this year whether to grant more autonomy to provinces and will also rewrite its constitution.

Yet the peasant leader takes power with enormous political backing, having won the presidency last month with nearly 54 percent of the vote, the first majority won by a presidential candidate since the return of democracy in 1982. His Movement Toward Socialism party controls the Congress.

Nuclear Deal And Iran Complicate Efforts By U.S. And India To Improve Ties (New York Times)

By Somini Sengupta

New York Times, January 23, 2006

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NEW DELHI, Jan. 22 - Senator John Kerry was here recently, inquiring about nuclear bargains being struck between India and the United States. Senator Max Baucus, Democrat of Montana, was here, too, calling on India to open its retail sector to American business.

And Representative Dan Burton, an Indiana Republican, regarded here as more foe than friend, led a delegation of six last November and left praising India's advances.

New Delhi, the Indian capital, has had a flurry of visitors from Capitol Hill lately, with the American Embassy here recording 10 Congressional delegations in 2005 alone.

The reasons for the newfound interest in India are self-evident: its growing strategic importance for an American administration eager to check Chinese dominion over Asia, the lure of the Indian market for American companies, and the emergence of Indian-Americans as an increasingly engaged political bloc.

For India, too, the stakes are important. Rarely, if ever, has the United States Congress been as important for New Delhi. It alone can grant a boon that India desperately wants: approval of a deal signed last July by President Bush and Prime Minister Manmohan Singh to share nuclear materials, including fuel and reactors, to help this energy-starved country.

Before the White House proposes the legislation before Congress, it has required India, which has already developed nuclear weapons, to present a detailed plan to segregate reactors for either civilian or military use.

"We expect that India will propose a civil-military separation plan that is credible, transparent, and defensible from a nonproliferation standpoint," White House officials told Congress last week, in response to a list of 82 questions submitted by Senator Richard G. Lugar, Republican of Indiana.

Negotiations held here last week, between the main architects of the nuclear deal, did not appear to yield anything close to an agreement. Whether the White House will be able to present legislation, as it had hoped, before Mr. Bush's scheduled visit to India in early March remains unclear.

"A deal is certainly possible and within reach," R. Nicholas Burns, under secretary of state for political affairs, said in an interview on Friday. "It's not going to be easy to reach."

The Indian foreign secretary, Shyam Saran, put it this way at a news briefing on Friday: "We need to have more discussion on this particular subject."

The nuclear issue presents a delicate dance for both sides. After India detonated a nuclear weapon in 1998, the United States penalized New Delhi. For its part, India, which never signed the Nuclear Nonproliferation Treaty, had long maintained that America and others in the nuclear club had no right to say who could or could not possess the bomb.

In a nod to India's growing strategic importance, Mr. Bush is willing to support peaceful Indian nuclear ambitions, even as Washington has taken steps to try to prevent other countries, like Iran and North Korea, from advancing their nuclear programs. In particular, Washington would like India's help in isolating Iran, a traditional Indian ally, as Iran tries to jump-start its nuclear ambitions.

For India, which has long positioned itself as a leader of nonaligned developing countries, and which has competing interests of its own, the choice is not an easy one.

Iran is among India's most important energy suppliers, and talks are under way to build an ambitious $4 billion pipeline to transport Iranian natural gas to India, via Pakistan.

Commenting on the three-way tango, The Business Standard, an English-language daily, published an editorial last week that asked bluntly: "Is supporting the U.S. a good option? If not, what other option is there?"

This is where both the United States and India begin to feel the burden of democracy. In both countries, legislators are equally exercised by the Iran standoff.

The United States wants India's support to refer Iran to the United Nations Security Council when the issue goes before the International Atomic Energy Agency on Feb. 2. Last September, India voted along with the United States when Iran came up before the agency, a part of the United Nations, but India's leaders have since been noncommittal.

Congress is closely watching how India casts its vote this time, with members saying that it could influence whether they support the Indian nuclear deal.

"It is extremely important that we know India will stand united with us in that effort," Senator Kerry, a Democrat of Massachusetts, said in an e-mail message this week.

At the news briefing on Friday, Mr. Saran sidestepped a question on how United States lawmakers would view India's stance on Iran, saying he sensed strong bipartisan support for "a much stronger U.S.-India relationship" on Capitol Hill.

Questions are bubbling from within the Indian Parliament about the virtues of locking arms with the United States, at the expense of Iran. A coalition of leftist parties, led by the Communist Party of India (Marxist), has all but threatened to cripple his government should Mr. Singh side with Washington.

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In the United States-India nuclear negotiations there are several sticking points. For the United States, the red-flag issues include how many nuclear reactors will be operated under its desired safeguards, and whether they will be run that way forever.

The Indians point out that their civilian and military nuclear facilities have never been segregated. Any future segregation would have to be done in a manner that its government regards to be "necessary for our strategic program," according to a senior official who refused to be identified because of the delicate nature of diplomatic negotiations.

Should India not vote to report Iran to the Security Council next month, argued George Perkovich, vice president for studies at the Washington-based Carnegie Endowment for International Peace, it could imperil India's own credibility as a stalwart of nonproliferation.

On Friday, Mr. Saran once again cautioned that "confrontation should be avoided" with Iran. Sitting on his right, Mr. Burns, the under secretary of state, criticized Iran for having "crossed so many international red lines."

Canada's PM Candidates Make Final Rounds Martin Takes Aim At Conservative Party's Harper As Voters Head To Polls (USAT)

By Rebecca Cook Dube Special For

USA Today, January 23, 2006

TORONTO — Canadians go to the polls today in an election that could unseat the ruling Liberal Party and elect the first Conservative prime minister in 13 years.

The weekend before the election, Liberal Prime Minister Paul Martin accused Conservative Party leader Stephen Harper of being too much like U.S. Republicans. “We have a party (the Conservatives) that basically draws its influences from the farthest right of the U.S. conservative movement,” Martin said Saturday at a campaign rally. “Let me tell you, Stephen Harper, we have our own values in Canada.”

Harper dismissed Martin's criticism and struck a confident note as he campaigned.

“Only the Conservative Party can bring this country together,” Harper, 46, told supporters. He said Martin “has not provided a single compelling reason why his government should be re-elected.”

Harper has run as a moderate, promising to protect the social services that Canadians hold dear, especially health care. Canada has near-record-low unemployment and several years of federal budget surpluses. Harper and Martin have promised tax cuts.

Martin has quarreled with the Bush administration on such issues as Canada's refusing to take part in the missile defense scheme, condemning the Iraq war and criticizing the United States for rejecting the Kyoto Protocol on greenhouse gas emissions. Harper has distanced himself from Bush but is more in step with the U.S. president. For example, Harper says he would reconsider Martin's refusal to take part in the U.S. missile defense program.

The Liberals have struggled in the wake of two corruption investigations. Although Martin has been exonerated by an ongoing inquiry into a kickback scheme in the 1990s involving public funds, the investigation has implicated some other Liberals.

Harper hammered on that Sunday, saying, “When we are in office, we will do everything in our powerto make sure the kinds of scandal and corruptionwe see from this government is never allowed tooccur again in this country.”

In the last election, in June 2004, the Liberals eked out a victory after warning voters that Conservatives were too right-wing for Canada. “We won then, and we're going to win this election,” Martin, 67, said ata campaign rally.

The poll projections over the weekend predicted the Conservatives would win a minority government — meaning they'd have a plurality but not a majority of votes in Parliament and would have to ally with other parties to pass laws.

“The only issue is how many seats are the Liberals going to lose,” said Nik Nanos, president of SES Research in Ottawa, an independent polling firm.

The SES poll on Sunday showed the Conservatives maintaining a 6-percentage-point lead. Thirty-six percent of respondents said they planned to vote Conservative; 30% said they would vote Liberal; 17% for the New Democratic Party; 11% for the Bloc Québécois; and 6% for the Green Party. The poll, conducted for the CPAC public affairs cable channel, surveyed 1,200 Canadians Friday-Sunday and had a margin of error of +/-3 percentage points.

Canada's Surging Conservatives (CSM)

By Rebecca Cook Dube, Correspondent Of The Christian Science Monitor

The Christian Science Monitor, January 23, 2006

TORONTO - Canada's Conservatives have captured the momentum as the country nears its Jan. 23 election date, with polls showing a majority of Canadians would be happy to see the Liberal Party's 13-year winning streak come to an end.

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Perhaps the most dramatic campaign story has unfolded in Quebec, where Conservatives failed to win a single seat in the last election. According to a recent poll, the Conservatives' leader, Stephen Harper, is more popular in Quebec than he is in his home province of Alberta, the most conservative region in the country.

"That's like saying George Bush has higher positives [ratings] in Massachusetts than in the state of Texas," says Tim Woolstencroft, managing partner with Strategic Counsel, the Toronto firm that conducted the poll. "It's stunning." Nationwide, Mr. Harper's favorable rating is over 50 percent.

Though Liberals are warning of Harper's ties to the American right, and American conservatives are cheering Harper, the Canadian Conservative leader bears little resemblance to his US counterparts. This isn't your typical US conservative

Throughout the campaign, Harper has reassured Canadians he will uphold the nation's extensive social-service network, especially the healthcare system. He has also promised not to seek any changes in abortion law. And although he initially supported the US war in Iraq, Harper has more recently said he would not send Canadian troops there.

Some see parallels between Harper's campaign and the successful election bid of Australian Prime Minister John Howard, which ended the 13-year rule of the more liberal Australian Labour Party.

Like Mr. Howard's campaign, Harper's featured solid, easily understandable promises with price tags attached: a $100-per-month child-care subsidy for parents, for example, and pledge to cut the federal sales tax to 5 percent from 7 percent.

"Cash value for voters, cash for child care - they can understand what that means," says Stephen Clarkson, a professor of political economy at the University of Toronto.

Meanwhile, the Liberals "didn't say much in the first half of the campaign, and then they got a lot of bad news," he adds, referring to a corruption scandal miring the Liberals' campaign. Clean government

Harper's campaign focused on promises to clean up government in the wake of a Liberal corruption scandal. In November, Justice John Gomery released the results of his investigation into an advertising kickback scandal in Quebec in the 1990s.

While the report exonerated Mr. Martin, who was finance minister at the time, Justice Gomery said former Liberal Prime Minister Jean Chrétien and others with ties to the Liberals bear responsibility for the misspending of millions of dollars of public money meant for a national unity campaign in the French-speaking province.

The Conservatives' attempt to paint the Liberals as corrupt was bolstered at the end of December, when federal police confirmed they were investigating allegations that Liberal officials secretly tipped off certain investors before an important tax policy announcement.

Though that investigation is not expected to be completed for several months, it added to Martin's woes and hindered his efforts to spread his party's message.

"The Liberals have self-destructed," says Professor Clarkson, who wrote a recent book called "Big Red Machine: How the Liberal Party Dominates Canadian Politics."

Clarkson says he's now working on a sequel: "How the Big Red Machine Became the Little Red Machine."

While several Liberal officials garnered negative publicity during the campaign for ill-considered remarks, Conservative politicians ran a nearly error-free campaign. There were no repeats of the 2004 election, when outspoken Alberta premier Ralph Klein stirred up controversy with remarks about privatizing healthcare.

Asked about his restraint in this campaign, Mr. Klein quipped, "Duct tape works." Liberals' tactics and hopes foiled

In a similar election19 months ago, the Liberal campaign of Prime Minister Paul Martin persuaded Canadians that a Conservative government led by Harper would be too different, too extreme, and just too right-wing.

But similar tactics this time have fallen on deaf ears. And Harper has successfully campaigned on an anticorruption platform as a moderate who would bring positive but not drastic change to Canada.

A Strategic Counsel poll conducted for The Globe and Mail newspaper Jan. 18-21 gave the Conservatives a 10-point lead over the Liberals, with the two parties registering support of 37 percent and 27 percent respectively.

Four other independent polls confirm the Conservatives' momentum.

"Canadians haven't shifted to the right - Conservatives have moved to the center," says Mr. Woolstencroft of The Strategic Counsel.

When the campaign started in late November, most analysts bet the result would be another minority Liberal government.

Now the big debate is whether the Conservatives will win a minority or a majority in Parliament.

"It would take a miracle" for Liberals to win this election, Woolstencroft says. "The train has long left the station."

Conservative Win In Canada Could Help Repair Ties To U.S. (NYT)

By Clifford Krauss

The New York Times, January 23, 2006

DOJ_NMG_0010376

TORONTO, Jan. 22 - Unless every national poll here is amiss, what has been perhaps the world's winningest political party is heading toward a humiliating defeat on Monday.

Stephen Harper, 46, an economist and social conservative who is writing a history of ice hockey, appears poised to lead his Conservative Party to victory over the Liberal Party of Prime Minister Paul Martin, something that seemed highly improbable just a few weeks ago. The Liberals won the last four national elections, governing Canada for 13 years - as the party did for three-quarters of the past century.

But whether a Harper victory would represent a seismic shift, in a country that has long promoted itself as a beacon of social democracy and frequent critic of American foreign policy, remains an open question. If he cannot muster a majority in the House of Commons, Mr. Harper may lead a weak, unstable government opposed by three left-of-center parties represented in Parliament.

Mr. Harper - in a campaign largely free of ideology - promised to cut the national sales tax, grant families child care for preschoolers and introduce mandatory prison sentences. A longtime member of the House of Commons representing Alberta, he has a conservative record, but steered clear in recent months of promising major changes to the national health insurance program.

The absence of strong ideological overtones would appear to make a Thatcherite-style revolution unlikely, even in the face of a strong Conservative showing. Mr. Harper even noted that judges appointed by Liberal governments and an appointed Senate filled with Liberals would serve as checks on his power.

"I'm basically a cautious person," Mr. Harper said in a recent speech. "I believe it's better to light one candle than to promise a million light bulbs."

A change in Ottawa would almost certainly bring, at the least, a warming of relations with Washington, which have been strained since the American-led invasion of Iraq and have worsened over a series of recent trade disputes and Canadian moves to soften domestic drug laws.

Mr. Harper, while careful not to appear overly supportive of President Bush, has suggested he would reconsider Canada's refusal to join the American missile defense program. He has also promised to increase military spending and make a bigger contribution to NATO and peacekeeping operations in places like Haiti and Afghanistan. But he also said recently that he had no intention of sending troops to Iraq.

Mr. Martin, a former finance minister and shipping executive, has tried to emphasize the Liberal government's stewardship of the strong national economy, marked by low inflation and unemployment, a strengthening currency and a large budget surplus. He has promised to create a national child care program, expand aid grants to college students and ban handguns.

These are not unpopular stances, but the decline of Liberal fortunes is due less to any shift in Canadian public opinion than to two years of federal inquiries. Those investigations documented an embarrassing party money-laundering and campaign-finance scheme that had been devised to counter separatists after the close referendum on Quebec sovereignty in 1995.

Adding to the Liberal Party troubles, in the middle of the campaign, federal police investigators announced that they were looking into reports of possible Liberal government leaks of tax information to friendly investors that had spurred a flurry of insider trading.

And in Quebec, once a bastion of Liberal support, the party's free fall quickened with the publication of a book documenting allegations that the federal government had laundered millions of dollars of illegal aid to a group opposing separatists during the referendum campaign.

In recent weeks, the Liberals tried to recover votes with advertisements linking Mr. Harper to Mr. Bush, who is unpopular in Canada, and suggestions in speeches that Mr. Harper would attempt to reverse the legalization of same-sex marriage and abortion rights.

"A Harper victory will put a smile on George W. Bush's face," one Martin commercial said.

Various national polls in the final days of the campaign showed the Conservatives about 10 points ahead of the Liberals, but the Conservatives could still fail to win a majority in the House of Commons.

Mr. Harper leads a party that only three years ago merged a very conservative Canadian Alliance party with the much more moderate Progressive Conservative party.

"There are different factions and backgrounds and points of view in the Conservative coalition," noted Desmond Morton, a McGill University historian. It will not be easy to manage the factions, he said.

Mr. Harper's greatest success so far has been his surprising breakthrough in socially liberal Quebec, by taking votes away from both the Liberals and the separatist Bloc Québécois.

In From The Cold (NYT)

By Andrew Coyne

DOJ_NMG_0010377

The New York Times, January 23, 2006

Toronto

AN outsider watching the Canadian election today may be forgiven for wondering what the fuss is about. A centrist Liberal government is about to be replaced, if the polls are correct, by a centrist Conservative one. Like its predecessor, the new government will probably hold only a minority of the seats in Parliament, meaning it will have to work with the other parties to pass legislation. Small earthquake in Canada; not many hurt.

But beneath Canada's placid surface, the tectonic plates are shifting.

Slowly, by stages, rather than suddenly and violently, the Western world's most enduring political dynasty is cracking up. The Liberal Party of Canada, it is often noted, held power for more years in the 20th century than the Communist Party of the Soviet Union. It has governed Canada, with occasional Conservative interludes, more or less since the First World War. Not for nothing is the system sometimes called "one-and-a-half-party rule."

Since the election of 1993, especially, the Liberals have ruled all but unopposed, the opposition having fractured into several regionally based parties. But you know what they say about absolute power, and sure enough the Liberals were implicated in a series of scandals, including a huge kickback scheme in Quebec.

At the same time, the party was beset by internal divisions, culminating in the sitting prime minister, Jean Chrétien, being forced from office by his own party. His successor, Paul Martin, came to power with enormous expectations, owing to his success as finance minister in taming our national deficits.

Mr. Martin quickly fell short of the mark. In 2004, the once-invincible Liberals were reduced to a minority, thanks in part to the scandal in Quebec, in part to disappointment with Mr. Martin, and in part to the resurrection of a united Conservative opposition led by Stephen Harper.

A dour economist from Alberta, Mr. Harper is no one's idea of a natural politician. But he is blessed with both a first-rate mind for policy and a sure strategic sense. Though decidedly from the (libertarian) right of the party, Mr. Harper has learned to temper his ambitions to reshape Canada's federal system and rein in its sprawling government. It isn't that he has suddenly been transformed into a moderate, in the mold of the party's hapless past leaders, but he has been converted to incrementalism.

Mr. Harper bet the election on this strategy. The Conservatives had been so far from power for so long, he calculated, that they had become an unknown quantity to many voters. Fear of the unknown was the Liberals' last remaining political weapon, their sole defense against widespread public fatigue with their government. Deny the Liberals that, and they would collapse.

Whatever his ideological objectives, Mr. Harper has as his first goal to make his party into a permanent contender for power: to end one-and-a-half party rule, forever. That is a matter not only of building a lasting electoral coalition, but given Canada's peculiar political history, of reforming its institutions. Conservative predecessors had won smashing victories, only to be overwhelmed in office by the vested interests of Liberaldom.

To avoid the same fate, Mr. Harper will have to confront the entrenched apparatus of Liberal rule, including the vast network of dependent client groups the party has cultivated over the years: big businesses, small businesses, activist groups, ethnic organizations, all on the federal dole and close to the ruling party.

He will also have to make reforms to Canada's outmoded democratic institutions, notably the appointed Senate, in which the Liberals, quelle surprise, hold a majority of the seats.

Last, he will have to set aside some of his own privileges, placing limits on the powers of patronage with which prime ministers have consolidated their rule. The Conservatives must plan for when they are again out of power and remove the instruments by which they were kept out.

Previous Conservative prime ministers aspired only to run the Liberal machine for themselves, leaving the motor running for the Liberals when they returned. Mr. Harper wants to dismantle it, piece by piece.

The Hugo Factor (USNEWS)

By Eduardo Cue

U.S. News and World Report, January 23, 2006

CARACAS, VENEZUELA--The palm trees and 19th-century, British-made, forged-iron fountain that grace the courtyard of Venezuela's neoclassical Congress buildings offer a cool respite from the chronic noise and pollution of this capital's historic center. Today, the white-and-lime-colored structure, once the site of a convent, is home to a most unusual institution--a freely elected legislature whose 167 members are, each and every one, government loyalists.

Latin America: A slight lean left

More from Nation & World

This unprecedented situation in a nominally democratic country resulted from the December election boycott by Venezuela's opposition parties to protest what they feared would be a rigged vote, a charge some believe was a cover for their

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anticipated defeat. Whatever the case, their last-minute withdrawal prompted most voters to stay home and produced a rubber-stamp legislature for the country's fiery leftist president, Hugo Chavez.

Polarization. The election results further consolidated power for Chavez, who allies himself with Cuba's Fidel Castro and gleefully flaunts his bad-boy reputation with Washington. But even as he uses influence and money to push other Latin America nations leftward, political watchers say Chavez may face a serious domestic backlash. "The conditions now exist," says Luis Vicente Leon, head of the Datanalisis polling organization, "for the radicalization of the debate and the formation of extreme groups to get rid of Chavez."

This country of 25 million people--whose importance is magnified by being the world's fifth-largest oil exporter (and fourth-largest U.S. oil supplier)--has become increasingly polarized in the seven years since Chavez was first elected president. "There exists in Venezuelan society today what we have never seen before, the division and resentment between social classes," remarked a young woman who would give only her first name, Mariana.

Since Chavez took office, the country has gone through a cascade of political tumult: the adoption of a new Constitution that many consider antidemocratic, a failed coup attempt, an unsuccessful recall referendum that large segments of society say was fixed, and a costly two-month oil-workers strike. For disaffected Venezuelans, their president is simply illegitimate. "His only objective is to remain in power; he does not have a model for the country," says Miguel Henrique Otero, editor of El Nacional, one of Caracas's leading dailies. Rejecting any Chavez comparison with the early days of the Cuban Revolution, he adds: "It's just the opposite. There is no ideology--they just want to steal and get rich."

Chavez says his goal is to create a 21st-century socialism, a nebulous and ill-defined mix of Soviet collectivism, Chinese-style capitalism, and Cuban populism. To date, his socialist model has tried to sidestep private enterprise by setting up nearly 7,000 state-financed cooperatives employing some 200,000 persons, creating state enterprises, and increasing government controls on the banking sector and the oil industry, which accounts for 80 percent of export earnings. The Venezuelan president also pushed a restrictive press law through the National Assembly and packed the Supreme Court by increasing the number of its judges from 20 to 32. Four of the five members of the National Electoral Council are Chavez loyalists.

For the average Venezuelan, however, perhaps the most troublesome aspect of his "Bolivarian Revolution," named after Simon Bolivar, the 19th-century independence hero, are Chavez's harsh verbal attacks against private ownership--although, in fact, few acres have been collectivized and only a handful of abandoned factories expropriated. Chavez put a halt to the exercise and stopped talking about the issue after polls showed that the vast majority of Venezuelans favor private property. "This is not the Cuba of Batista. This is not an island," says Cesar Perez Vivas, the secretary general of the center-right Social Christian Party known as Copei, referring to Fulgencio Batista, the Cuban dictator overthrown by Castro. "A very strong base of democratic values exists here."

A Slight Lean Left (USNEWS)

By James M. Pethokoukis

U.S. News and World Report, January 23, 2006

Brazil," it has been quipped," is the country of the future and always will be." But back in the 1990s, Brazil and the rest of Latin America generated some real economic momentum. Growth boomed--the region's gross domestic product grew 79 percent--as governments dismantled trade barriers and sold state-owned companies. The change was more evidence of what political scientist Francis Fukuyama referred to as the "end of history," with democratic capitalism triumphant.

Catchy hypothesis. But the "domino theory" might better describe recent events in the region. In country after country, left-wing parties with more skeptical attitudes toward free markets have been on the march. Turns out that Venezuela's Hugo Chavez was just the prologue. On January 15, socialist doctor and former Defense Minister Michelle Bachelet won a runoff for the Chilean presidency, while the indigenous Bolivian politician Evo Morales--who once described capitalism as mankind's "worst enemy"--took office January 22. They join leftists of various flavors who, since 2002, have captured the presidencies of Brazil, Argentina, and Uruguay. And Mexico and Peru could be next.

Cronies. Why the leftward turn? Some blame rampant inequality. "The region went through a period of free-market reform in the '90s ... but there was too much crony capitalism,"says Alvaro Vargas Llosa, director of the Center on Global Prosperity. "Clearly there's been a backlash."Then, after the boom came a bust from 1998 through 2003, triggered by the Asian currency crisis. And even though regional economic growth has returned to a 4 percent annual pace, spurred on, in part, by the rising price of oil and other commodities, the turnover in governments continues. Hardly a paradox, says Morgan Stanley economist Gray Newman. "Those headline numbers mask a real unevenness in growth,"he explains. Chinese demand and rising prices may boost economic growth stats in these commodity-based economies, but not jobs or incomes. Yet fiery political rhetoric may not translate into radical economics, says analyst Carol Graham of the Brookings Institution. While Chavez and Morales favor more statist policies, most other leaders are modeling themselves on Tony Blair--not Fidel Castro. Bachelet has vowed to

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continue Chile's free-market approach, a set of policies begun back in the 1970s by the "Chicago Boys," a group of University of Chicago-trained Chilean economists working under the Augusto Pinochet administration. And Brazil's socialist president, Luiz Inacio Lula da Silva, is considered by investors to be a budget hawk. "Although there's been lots of talk about the return of the left, the way the economies are being managed suggests otherwise," Graham says.

Woman Of Iron And Silk (NSWK)

By Lally Weymouth

Newsweek, January 23, 2006

Tzipi Livni is a rising star in Israel. She was one of Ariel Sharon's favorite colleagues—the first person he asked to join his new party, Kadima. She's also very popular among Israeli voters, who consider her honest and tough. Now, with Sharon in a coma and new elections looming, Livni is working closely with Acting Prime Minister Ehud Olmert to secure a Kadima victory. NEWSWEEK's Lally Weymouth met with Livni last week in Israel. Excerpts:

WEYMOUTH: You grew up in a hard-line Likud household?

LIVNI: Today was the memorial for my father. I just came from the graveyard. On his gravestone is written here lies the head of operations of the irgun [an underground organization that fought for the establishment of the state of Israel]. On his tombstone is a map of Greater Israel, with both sides of the Jordan Valley as part of Israel. Many ask if territorial compromise is against my father's ideology. I say he taught me to believe in a democratic Israel as a homeland for the Jewish people where all enjoy equal rights. [But] I came to the conclusion that I... have to choose, and my choice is to [create] a homeland for the Jewish people but only in part of the land of Israel.

You decided you can't rule over another people?

It's against my values.

Has your position evolved over time?

No, I understood there was a need to divide the land, but I thought Labor did it the wrong way.

What was Sharon's most important political contribution?

The disengagement plan changed totally the terms of the conflict and the political map in Israel. It changed some of the right-wing understanding and should change the international community's attitude toward Israel. Until then, Israel was blamed as a country that wants to control the lives of the Palestinians and will not dismantle any settlements. What we did changed the relationship between Israel and the Palestinians and the status of Israel within the international community.

You and Sharon had a close relationship.

I feel that I gained his trust and confidence in the last two or three years. We could speak and he could feel he would not read it in tomorrow's newspapers.

How did you make up your mind to join Sharon's new party?

I entered Israel's political life and joined Likud because I thought it should lead Israel in terms of the Israeli-Palestinian conflict... Then I understood that there is no chance to get the Likud to be a united party because most Likud leaders couldn't make clear statements about the need for Israel to support a two-state solution. Until now, every Likud platform starts with the word "no" to a Palestinian state, "no" to the disengagement plan, "no" to this and "no" to that.

You need a party that puts forward [your] values?

It is important to understand the real meaning of a two-state solution. Israel was established as a homeland for the Jewish people. This should be also the true meaning of the future Palestinian state. It should be the answer for the Palestinians wherever they are: those who live in the territories and those who are being kept as political cards in refugee camps. In other words, the establishment of a Palestinian state takes [care of] what the Palestinians call "the right of return."

What do you do about the fact that after the Palestinian elections next week, Hamas may become a large part of the Palestinian government ?

Israel made clear in the last few months that the participation of Hamas in the Palestinian Authority elections is totally against any kind of democratic values.

Will you cut off any Hamas-Palestinian government?

Israel cannot communicate with terrorist organizations... Abu Mazen says he is weak. When a leader is weak and cannotconfront the terrorist organizations, this is the real importance of the international community—to say it will not accept terrorist organizations as part of any parliament, any government.

It seemed as if Sharon's strategy was to decide on Israel's borders without a Palestinian partner.

The message is that Israel is no longer the Palestinian excuse for not fighting terrorism. We took our forces out of the Gaza Strip; we dismantled the settlements, and now Israel is no longer the excuse. And now we are back on the track of the Roadmap; we are not talking now about more unilateral steps. Our expectation is that the Palestinians will implement their word.

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Sailor's Case Reflects Shift In U.S.-Japan Military Link (NYT)

By James Brooke

The New York Times, January 23, 2006

TOKYO, Jan. 22 - After a United States Navy sailor was confined on an American base near here, accused of the Jan. 3 beating death of a Japanese woman, 20 people held a protest at the base. One man held up a sign that read, in English, "Dear Sailors, Don't Kill Local Women."

A decade ago, when three American servicemen were detained on an American base in Okinawa for the rape of a 12-year-old girl, 85,000 people marched one weekend, many demanding the expulsion of American bases from the island.

The difference is only partly explained by the way the United States handled the two cases. In 1995, American officials were much slower to allow the Japanese to place an American in custody; this time the suspect was transferred as soon as a Japanese arrest warrant was issued. Another major factor is the change in Japanese attitudes toward the military alliance with the United States.

In 1995, the cold war had only recently ended, and many Japanese expressed the belief that Japan no longer needed American troops. But the most recent case occurred days after Taro Aso, the foreign minister, warned that China was becoming "a considerable threat."

Koji Murata, an international relations professor at Doshisha University, said: "Japanese people are more and more concerned about China's economic and military rise, and North Korea. Japanese people are getting more and more realistic and think we have to sustain the military relation with the U.S."

Indeed, after a few days, coverage of the murder case had vanished from the Japanese news media. Instead, two Tokyo newspapers ran front-page photographs of Japanese Self-Defense Force soldiers and United States Marine Corps instructors practicing amphibious landings near San Diego.

"Japanese media has changed its attitude," Tatsuya Yoshioka, director of Peace Boat, a private group devoted to reducing military tensions in the region. "There is a completely hostile nationalism against North Korea and China that is promoted in the Japanese media, and on television."

In the fall of 1995, popular anger stewed in Okinawa as the three Americans suspected of rape were kept in American military custody for almost two months until there was a Japanese indictment. In March 1996, a Japanese court convicted the three Americans and gave them sentences ranging from six and a half to seven years. The sentences were served in a Japanese prison.

Under the agreement regulating relations between Japan and the American military, the United States is not required to hand over American military personnel suspected of committing crimes off duty and off base without an indictment. But after the Okinawa rape case, the United States agreed to give "sympathetic consideration" to the early transfer of suspects of major crimes.

The suspect in the new case, William O. Reese, 21, was the fourth such transfer; he was transferred as soon as a Japanese arrest warrant was obtained, four days after the victim, Yoshie Sato, 56, died. She had a fractured skull and her purse was missing the equivalent of $131.

The Navy allowed the transfer to be filmed for Japanese television.

"Transfer of custody is absolutely the right thing to do in this case," Rear Adm. James D. Kelly, commander of American naval forces in Japan, said in a statement. The United States military made other gestures. Admiral Kelly expressed regret and apologized to the victim's family.

About 100 United States Navy officers and sailors attended a wake for Ms. Sato. Admiral Kelly and Capt. Ed McNamee, commander of the Kitty Hawk, the aircraft carrier where the sailor was billeted, burned incense in her memory.

In Tokyo, the American Embassy promised close cooperation with Japanese authorities. Ambassador J. Thomas Schieffer expressed his "personal sorrow and outrage about the uncivilized behavior that resulted in the death of Ms. Yoshie Sato."

Some analysts note the gap between attitudes in Yokosuka, the city where the sailor is based, and those in Okinawa. Yokosuka is 30 miles from downtown Tokyo and is the home district of the Japanese prime minister, Junichiro Koizumi, who is vigorously pro-American. In contrast, Okinawa has long resented the fact that about half the Americans based in Japan, currently about 50,000, are stationed there.

US Made Mistake On Japan Beef: Zoellick Quoted (REU-Y2)

Reuters, January 23, 2006

DOJ_NMG_0010381

U.S. Deputy Secretary of State Robert Zoellick told Japanese Agriculture Minister Shoichi Nakagawa on Sunday that a beef shipment to Japan that resulted in a renewed ban on U.S. imports was an unacceptable mistake, according to a U.S. Embassy official.

Japan, the biggest market for American beef, had just last month lifted a ban on imports imposed in 2003 after a U.S. case of the brain wasting mad cow disease.

The ban, which halted trade worth some $1.4 billion a year, had become an irritant in otherwise close bilateral ties, leading to strong pressure from Washington on the Japanes government.

The discovery on Friday of spinal material, believed to have a higher risk of causing a fatal human form of mad cow, in a shipment from the United States, prompted Japan to renew the ban.

Tokyo had lifted the ban under strict conditions, including a stipulation that materials such as spinal cord tissue be removed.

Experts believe humans can contract a type of mad cow, or bovine spongiform encephalopathy (BSE), by eating contaminated meat.

Zoellick, who met with Nakagawa for about an hour in Tokyo, also expressed sincere regret, the official at the U.S. embassy in Tokyo said.

"The U.S. has a commitment to Japan regarding beef exports and that is a commitment that we take seriously," the official quoted Zoellick as saying, adding that the U.S. Department of Agriculture has launched an investigation.

Nakagawa later told reporters he had called on Zoellick to take thorough measures so the agreement between the two nations on beef imports would not be violated again.

The announcement on Friday that the ban would be renewed raised questions about the initial decision to lift the ban as well as the overall trustworthiness of U.S. products, topics that will be high on the agenda when Zoellick meets Foreign Minister Taro Aso on Monday.

Aso said in a speech on Saturday that it was likely to take time before imports could once more be resumed and that the mistake inevitably raised questions about management on the U.S. side.

"We can only begin talk about imports after the management scheme is made certain," he was quoted by Kyodo news as saying.

"Unless this is solved quickly, trust in the United States will fall still further."

Such trust is falling among consumers, many of whom have expressed a reluctance to eat U.S. beef again even after imports resume.

"The United States does not understand the feelings of Japan" over the beef issue, Tsutomu Takebe, secretary general of the ruling Liberal Democratic Party, said in a Sunday speech shown on NHK national television.

Liberian Leader Wants Closer Relationship With U.S. (USAT)

By Rob Crilly Special For

USA Today, January 23, 2006

MONROVIA, Liberia — Liberia's new president says she wants to rebuild close ties with the United States in the wake of a 14-year civil war that undermined the relationship.

Ellen Johnson Sirleaf, sworn in Jan. 16 as Africa's first female head of state, said American help is essential to restoring vital services, such as running water and power. She warned that tens of thousands of former fighters could destabilize the country again if they don't get work or education.

Liberia is struggling to recover from a civil war that raged from 1989 to 2003. The fighting left 200,000 dead. Almost half the country's 3.5 million people were forced to flee their homes.

Relations with the United States suffered as President Charles Taylor, a former warlord, was accused of spreading violence to neighboring states and allowing al-Qaeda and other terror groups to profit from Liberia's diamond resources.

Taylor eventually gave up office in 2003, paving the way for elections last fall that saw Harvard-educated Sirleaf become president.

She faces an enormous challenge as she tries to rebuild a country founded by freed American slaves in 1847. Liberia is one of the poorest nations in the world, rated 206th out of 208 in a World Bank ranking of income per person. It owes $3.5 billion to creditors.

The civil war left the entire country without running water or regular electricity. As Sirleaf spoke with USA TODAY on Saturday, power outages cut off electricity to her fourth floor office in Liberia's executive mansion.

Outside, garbage from the inauguration ceremony was being burned, sending acrid smoke spiraling into the sky.

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The United States pledged to give Liberia almost $1 billion for reconstruction, spread over three years from 2004 to 2006. The funds include $75 million for work and education programs for the 100,000 militiamen — many just boys — who gave up their guns at the end of the war.

Sirleaf, 67, said she wants U.S. help rebuilding the country's shattered infrastructure and more money to keep the young fighters out of trouble.

"We cannot fail because then they will remain vulnerable to any kind of group intent on trouble that might try to recruit them," she said.

Sirleaf spent her first week in office meeting other West African leaders and discussing regional security problems. Street riots broke out in neighboring Ivory Coast last week and have the potential to shatter Liberia's fragile peace, she said.

One of the big questions she must address is the future of Taylor. It has been more than two years since he went into exile in Nigeria under a peace deal brokered as rebels closed in on him in Monrovia. He remains wanted by a United Nations-backed war crimes tribunal in Sierra Leone, where he is accused of fueling a decade-long civil war.

The United States has repeatedly pressed Nigeria to hand over Taylor, but Nigerian officials have refused, saying they would surrender him only to a democratically elected president in Liberia.

Sirleaf said she was consulting with regional leaders to find a way to bring the former warlord to justice without igniting a fresh conflict with his allies.

"We have to find a way not to leave him where he is, but to make sure that Liberia is safe," she said. "That's what makes it such a difficult thing. That's why it's not a done deal."

First lady Laura Bush and U.S. Secretary of State Condoleezza Rice traveled to the Liberian capital, Monrovia, to witness Sirleaf's inauguration.

Sirleaf said their presence signified improving relations.

"It helps to start … the restoration of confidence in the ability of the (Liberian) government to meet the needs of the population and to manage the resources of the country efficiently, effectively and honestly," she said.

Doctor-Birdwatcher Finds His 2 Callings United By Avian Flu (WSJ)

By Philip Shishkin

The Wall Street Journal, January 23, 2006

MALATYA, Turkey -- On a recent Sunday, Metehan Özen -- one of Turkey's foremost birdwatchers -- trained his $1,500 Leica telescope on an orange-chested Merlin falcon and watched it devour a smaller bird in a flurry of claws, flying feathers and blood.

A few days earlier, two boys played with a dead crow, developed a fever and were brought to Dr. Özen's pediatric hospital ward. There, the specialist in infectious diseases monitored them closely for signs of bird flu.

For years Dr. Özen's hospital job and his hobby existed in unconnected worlds. As Turkey grapples with the bird-flu outbreak here that has quickly infected at least 21 people and killed four, the doctor's two callings have put him in the middle of the quest to understand the virus and contain its spread.

Fellow doctors used to tease him about birdwatching. His wife, he says, was annoyed with his frequent Sunday absences. A week ago, after appearing on a television talk show about avian flu, Dr. Özen sipped a beer and said: "People used to make fun of me."

Not anymore. Over the past two weeks, as the virus rolled out across Turkey, the 37-year-old Dr. Özen briefed the country's top public-health officials about the epidemiology of avian flu and about the migratory routes of wild birds. They are suspected of introducing the virus to domestic poultry, which in turn can infect people. He took a long bus drive amid heavy snowfall and howling wolves to get to the scene of the first human cases near the Southeastern town of Van. There, he saw infected children and their chest X-rays, and visited the parents of three who had died. He helped draft the government's measures to combat the virus, including culling poultry and isolating domestic birds from humans and wild birds, and persuaded officials to ban the hunting of all wild fowl.

In September, Dr. Özen warned colleagues at a medical congress that wild birds could bring avian flu to Turkey during the winter migratory season, and that is now an accepted theory. Trade in infected poultry is another means for the virus to spread. "When you compare maps of migration patterns with maps showing bird-flu outbreaks, they often match each other," said Mehmet Ali Torunoglu, the head of the communicable diseases section at Turkey's ministry of health. "Metehan seems to be right."

Last week, the Food and Agriculture Organization of the United Nations urged countries along the flyways of migratory birds "to be highly vigilant and be prepared for a further spread of the disease in animals." Major flyways run North to South, connecting Siberia, the Middle East, parts of Asia, Africa and Southern Europe.

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In late 2004, Dr. Özen tracked a satellite-tagged goose as it flew from Northern Russia, down to Kazakhstan, Eastern Turkey and Iraq, and then back. The goose's stops along the route gave Dr. Özen ideas about how the virus could spread through migratory flyways.

After visiting Van, Dr. Özen spent some time working with a team of experts at the Turkish health ministry's crisis center in the capital of Ankara. When he returned home, bad news awaited him at his hospital. The two young boys who had found a dead crow in their backyard had a mild form of viral pneumonia, a possible symptom of bird flu. In its human form, the virus often attacks the lungs and causes them to fail. Dr. Özen put the boys in an isolated ward, and waited uneasily for the results of tests that can determine bird flu.

They came back negative. So after his tense week, Dr. Özen headed out into the countryside for his usual pastime, but with a difference: Avian flu was never off his mind. Now, "every bird you see is suspect," Dr. Özen says.

He awoke at 6 on Sunday morning and set off to explore the rich avian world of the Karakaya lake on the outskirts of Malatya, an Eastern Anatolian town known mostly for its apricot orchards. Accompanied by two buddies -- a plastic surgeon and a railroad worker -- Dr. Özen was soon announcing the sightings of particularly interesting birds by chanting "aha, aha, aha...ha-ha-ha!"

A stocky beige barn owl, drowsy and slow in the early morning sunshine, was being chased and harassed by two nimble magpies swerving around it like two fighter-jets. A group of gray herons, their long necks recoiled for a nap, stood motionless on the shore. Two pygmy cormorants, an endangered species, flew across the bright blue sky. Thousands of ducks and Armenian gulls, their numbers swelled by winter migration, crisscrossed the lake. Hearing a barely audible trill, Dr. Özen identified the source as a little bird called chiffchaff.

Hundreds of gray coots that cannot fly particularly well followed one another in lemming-like tumbles into the water. A cat from a local village snatched a coot and made off with it into the lakeside shrubbery. Dr. Özen pondered out loud the interactions among species. "If the coot is infected, and the cat eats it, he could catch the virus, too," he said.

In the village of Toygar, right on the shore of the Karakaya lake, several roosters crossed the road and headed toward the water to mingle with hundreds of wild ducks. "This is exactly what I fear," Dr. Özen said. For most people, close contact with wildfowl is extremely rare, but domestic poultry routinely mix both with wild birds and with people. Sure enough, two children hopped off a donkey cart next to a wooden shack and approached the roosters.

Hasan Basri Tetik, a village elder in a traditional Anatolian knit hat, complained that some local peasants were ignoring government appeals to keep their poultry isolated from wildfowl and from people. Mr. Tetik now throws feed to his chickens from what he considers a safe distance.

As he continued his birdwatching tour, Dr. Özen's mobile phone buzzed on his belt. Someone from the university hospital where he works was calling to say that a dead bird had been found on campus and to ask Dr. Özen for help. He suggested calling local authorities. "If they call me about every dead bird, I'm finished," the doctor said, laughing. "It's winter, you know, birds die in winter all the time."

The next day at the hospital, a colleague sought Dr. Özen's opinion about eight farmers who checked into the infectious diseases department. The farmers had handled dead chickens that later tested positive for bird flu. A village elder insisted the men go to the hospital right away.

Dr. Özen rushed upstairs and took their mouth-swab and blood samples for further testing. Since the men had no flu symptoms and were growing bored in the isolated ward, Dr. Özen decided to release them, but he told them to report back at the smallest sign of sickness. He got on the phone to the local public-health authorities and ordered a pre-emptive regimen of the drug Tamiflu for the farmers, just to be safe.

As a child, Dr. Özen wanted to follow in his father's footsteps and join the air force. But his mother convinced him to study medicine. Always an avid hiker, he got into birdwatching in 1999.

Since then, he has sighted around 370 species out of Turkey's estimated 456, and he is at work on a "Birds of Turkey" volume. He and his buddies are now preparing a trip to look for a bird called the Great Bustard because at 26 pounds it's the heaviest thing flying in these parts. "The coolest bird isn't the one you've seen, but the one you haven't seen," he says.

Wealthy Kingdom With Elite Backing, A Catholic Order Has Pull In Mexico (WSJ)

By José De Córdoba

The Wall Street Journal, January 23, 2006

MEXICO CITY -- Two years ago, a handful of Latin American billionaires and some of the world's top financiers gathered at New York's Plaza Hotel. They were honoring Mexican plutocrat Carlos Slim and raising money for schools for poor children run by the Legion of Christ, a fast-growing conservative Roman Catholic order.

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Among those giving speeches at the black-tie gala were the Rev. Marcial Maciel, the 85-year-old Mexican founder of the Legion, and Citigroup Inc. Chairman Sanford Weill. Within hours, the diverse group of 500 well-wishers raised $725,000.

The Legion was in its element. Founded in 1941, the order concentrates on ministering to the wealthy and powerful in the belief that by evangelizing society's leaders, the beneficial impact on society is multiplied. Like the Jesuits who centuries ago whispered in the ear of Europe's princes, the Legion's priests today are the confessors and chaplains to some of the most powerful businessmen in Latin America.

"The soul of a trash collector is as important as the soul of Carlos Slim, but if Slim is converted, think of the influence and power for good he would wield," says Luanne Zurlo, a former Goldman Sachs securities analyst who organized the benefit. Mr. Slim, Latin America's richest man with a fortune estimated at $24 billion, says he's not a highly devout Catholic but is helping the Legion create 50 low-cost universities in Latin America.

The Legion has become an important player in promoting the Vatican's social agenda and defending Catholicism's Latin American heartland from inroads made by evangelical Protestant groups. When the church was struggling to find priests in Germany, the Legion recruited German-speaking seminarians from Brazil to fill the gap. In Rome and Mexico City, Legion universities offer advanced degrees in bioethics that stress the limits morality should put on science.

The Legion's critics charge that its focus on the wealthy reinforces the sharp class divides that have long held Latin America back socially and economically. They say the Legion fosters intolerance and social climbing rather than devotion to Christ's gospel. Some in Mexico, instead of referring to the order's followers as Legionnaires of Christ, call them the "Millionaires of Christ."

More troubling for the Legion, Father Maciel, the order's founder, has been dogged for nearly a decade by widely publicized accusations that he sexually molested at least eight teenage seminarians from the 1940s through the early 1960s. Father Maciel denies the accusations. Many Catholic activists, angry with the church over cover-ups in priest sex-abuse cases, believe the Vatican has protected Father Maciel because of the Legion's reach and power.

The Legion operates in some 20 countries, including the U.S., Chile, Spain, Brazil and Ireland, but its influence is greatest in Mexico. Here it runs the country's fastest-growing network of Catholic schools for the well-to-do, and each spring mobilizes 20,000 volunteers to travel to remote towns and urge wavering Catholics to keep the faith.

Catholic orders such as the Legion, the Franciscans and the Jesuits are largely independent of the church's diocesan governing structure and answer to their own directors based in Rome. To be active in a given diocese, however, they must obtain permission from the local bishop and are subject to his authority.

Even as the church struggles to recruit priests, the Legion's nine seminaries have turned out 650 ordained priests, many of whom come from wealthy families. That is up from 210 priests in 1990. The Legion's ranks also include about 2,500 seminarians studying to be priests and 1,000 "consecrated women" -- lay nuns who pledge to remain chaste and poor -- as well as some 65,000 lay supporters, in a group known as Regnum Christi.

Charitable works make up about $50 million of the Legion's $650 million yearly budget. It operates a network of 21 Mano Amiga schools for some 13,000 poor children, whose parents pay about $20 a month in tuition. Regnum Christi members have started many of Mexico's leading charitable efforts, such as a program through which supermarket customers donate money for a national food bank. In El Salvador and Mexico, the order has built small towns for disaster victims complete with schools, churches and medical facilities.

"The Legion is the only Mexican multinational in the world of religion," says Dionisio Garza Medina, chairman of Alfa, a large conglomerate in Monterrey, Mexico, and brother of the Legion's vicar general, the Rev. Luis Garza Medina. A sister of the two men is a consecrated woman.

Controversy often follows the Legion as it expands into new countries. Two years ago, Legion priests were barred from working in the archdiocese of St. Paul and Minneapolis after St. Paul Archbishop Harry Flynn said he worried that the Legion was building a "parallel church" behind the backs of local priests.

In 2004, two Baton Rouge, La., Catholic schools warned parents about the Legion's "questionable methods." Members of Regnum Christi paid for Baton Rouge students to fly to Los Angeles for a screening of Mel Gibson's "The Passion of the Christ" without notifying the schools. A spokesman for the Legion says the incidents were "misunderstandings" caused by the Legion's relative youth and overzealous Regnum Christi members.

The Legion was a favorite of Pope John Paul II, who liked its mix of religious fervor and conservative doctrine. Over the years, the late pontiff often praised Father Maciel's work. "John Paul used to talk about the Legion all the time, holding them up as examples while reading us the riot act," says the Rev. Vincent O'Keefe, a former deputy director of the Jesuits, a prominent order which fell into papal disfavor due to the liberal beliefs of some of its members.

Soon after John Paul II ascended to the papal throne in 1978, he made it known he wanted to become the first pontiff to visit Mexico, the world's second-biggest Catholic country after Brazil but one whose government was stridently anticlerical.

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Father Maciel wrangled an invitation by appealing to the then-president's devout mother and sisters, according to papal biographer George Weigel. That trip eventually led Mexico to establish diplomatic relations with the Vatican. In recent years, Father Maciel arranged a private audience with John Paul for President Vicente Fox's first wife, who worked in Rome for the Legion for a year.

Mr. Maciel today writes warm letters to Marta Fox, the president's powerful second wife, according to two friends of Marta Fox. One friend says the letters address her as "Mi muy querida Martita," or "My very dear Martita." Marta Fox's office didn't respond to a request for comment.

Ties to the Elite

The Legion's close ties with the elite are most evident in Monterrey, a city of four million that has long been dominated by businessmen in the so-called Group of Ten. For decades, Jesuits played a major role educating the children of the wealthy there, but the order veered leftward and was expelled in 1968 by the local bishop, who accused Jesuits of backing a strike at a local university. Since then, the Legion has set the social and intellectual tone for Monterrey's wealthy through a web of schools, clubs and charitable organizations.

Many of Monterrey's entrepreneurs and executives send their children to single-sex Legion schools where they make connections that last a lifetime. "They are very good educators," says Mr. Slim. "My children studied with them."

Middle-class parents struggle to pay the high tuitions of nearly $900 a month, convinced that their children will benefit from school ties, says David Martinez, a former member of Regnum Christi who studied in Legion schools and is now managing director of the New York-based hedge fund Fintech.

At the Legion's after-school youth clubs, where the catechism is mixed with soccer and games, "vocation hunters" recruit candidates to become priests or consecrated women. As a first step, teenagers are encouraged to donate a year to the Catholic Church by volunteering for the Legion's world-wide operations. Around Monterrey, Legion priests dress in smart double-breasted black suits and sport cufflinks along with a clerical collar. Consecrated women wear ankle-length dresses.

In October, Monterrey's establishment turned out to see a newly ordained priest, the Rev. Benjamín Clariond -- whose father and uncle are former state governors -- celebrate his first mass in the city. The event was amply covered in the society pages of Monterrey's leading newspaper, which put 64 photographs of the event on its Web site.

Like the Clariionds or the Garza Medinas, almost every prominent clan in Monterrey has a son who is a Legion priest or a daughter who is a consecrated woman. Talk at dinner parties of the "movement" or the "kingdom," referring to Regnum Christi, is common. Mr. Martinez, the hedge fund manager, says Father Maciel is "worshipped" by Mexico's upper class because for 60 years he has made Mexico's rich feel as if "Christ loves them more than other people, and is using them as part of a divine plan."

The Legion's influence extends to the workplace, too, where many companies pay for Legion evangelists to lead weekly discussions on Catholic values. At Grupo Novem S.A. de C.V., a water-systems company owned by a family of Legion supporters, employees are urged to attend one-hour seminars on such subjects as marriage and human cloning. Message boards in the building extol the "Moral Value of the Month."

Oppressive Climate

The order's critics say the Legion creates an oppressive climate for those who don't follow orthodox Catholic teaching. José Zumaya, a psychiatrist who counsels couples in Monterrey, says some of his upper-class clients suffer from what he calls "Legionary syndrome," referring mainly to a dread of social ostracism if they get divorced. "They feel their children will have to leave school, they will lose all their friends, and there will be consequences for the husband at work as well," says Dr. Zumaya.

In December 2004, the University of Monterrey, a private Catholic institution that isn't affiliated with the Legion, fired five professors and a dean, most of whom taught women's studies. The fired dean blamed Mr. Garza Medina, a strong Legion supporter who in addition to his business interests serves as chairman of the university's board of trustees. Vice Rector Victor Zuñiga denies that the chairman played a role and says the dean was fired for poor performance. The Legion says it had nothing to do with the firings. A spokesman for Mr. Garza Medina says the university had no links to the Legion of Christ, and also cites poor performance as the reason for the dean's firing.

Mr. Zuñiga says a theology professor was fired around the same time because many parents disliked her questioning such topics as papal infallibility. He defends the decision, saying such questioning was akin to challenging President Bush's patriotism at a Texas university after the terrorist attacks of Sept. 11, 2001.

The Legion points out that it serves more than Latin America's wealthy bastions. One day last summer, in San Francisco, a sweltering thatched-roof hamlet of Maya Indians in the southern Mexican state of Quintana Roo, premedical students from the Legion's Anahuac University, under the direction of a young doctor, examined a long line of children and dispensed medicines. Other college volunteers played with dozens of barefoot children and taught catechism lessons.

"How many sacraments are there?" asked Pablo Orvananos, a bearded tourism major. "Seven," answered a little girl, getting a lollipop as a prize.

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When he started the Legion in 1941, Father Maciel was an ambitious 20-year old, the scion of provincial Catholic aristocracy. Three of his uncles were bishops and a fourth led an army of peasants against the Mexican government during the 1926 Cristero War, a struggle over state control of the Catholic Church that raged on and off until 1941 and cost some 250,000 lives. According to the Legion's official history, Pope Pius XII ordered Father Maciel in 1946 to recruit Latin American leaders and said the congregation should be like an evangelizing "army in battle formation."

Constantly traveling, Father Maciel proved to be adroit at raising money from rich Mexicans, in particular Flora Barragán de Garza, the Monterrey widow of one of the wealthiest men in Mexico at the time. One technique: Seminarians would write affectionate letters detailing their financial needs to Mrs. Garza, whom they addressed as their "mother." Mrs. Garza responded generously. She bought a Mercedes-Benz for Father Maciel and land in Mexico City that the Legion used to build its first school, Instituto Cumbres, or "The Heights," in 1952.

From 1956 to 1958, Vatican investigators relieved Father Maciel of his position while they looked into a range of charges about his conduct, although allegations of sexual abuse weren't raised at that time. Absolved by that inquiry, Father Maciel regained command of the Legion in 1959.

In 1997, eight men went public with complaints, made previously through informal church channels to the Vatican, that Father Maciel had abused them when they were seminarians in the 1940s and 1950s. The Vatican unit that investigates such charges -- then under the direction of Cardinal Joseph Ratzinger -- quickly tabled a formal complaint, filed with church authorities in 1998. In Mexico, leading media companies also ignored the allegations. When a small cable-television station ran a documentary about them, leading businessmen organized an advertiser boycott that almost drove the station into bankruptcy.

The investigation into Father Maciel seemed dead until last year, when it emerged that Cardinal Ratzinger had revived the probe in the waning days of Pope John Paul II's reign. In January 2005, soon after the probe began, Father Maciel resigned as head of the Legion, citing his advanced age. In April, a top Vatican investigator went to New York and Mexico to interview Father Maciel's accusers. The same month Cardinal Ratzinger became Pope Benedict XVI.

Today, the investigation remains open. The Legion is under the direction of the Rev. Alvaro Corcuera, a 47-year-old Mexican, who says he'll continue to govern "in the strictest fidelity" to the spirit of the founder.

The accusations against Father Maciel appear not to have damped the fervor of the Legion's well-to-do followers. In November, some 10,000 Regnum Christi members gathered under a huge tent in Guadalajara, Mexico, where they gave Father Corcuera a rock-star's welcome. As a guitar-strumming Legion priest sang a song honoring Father Maciel, Father Corcuera praised the founder's mother, Mamá Maurita, whom the Legion is lobbying to be made a saint.

Night Train To Guangzhou (WSJ)

By Melanie Kirkpatrick

The Wall Street Journal, January 23, 2006

North Korea's worst-kept secret was formally breached last week when Pyongyang confirmed, after the fact, that Kim Jong Il had paid an "unofficial" visit to China.

It's a tale worthy of Ian Fleming: A reclusive, nuke-armed dictator, afraid of flying, travels on a custom-fitted luxury train. The media scramble to confirm sightings after rumors surface in a dispatch from a South Korean news agency. A few days later a Japanese TV network airs hazy footage of a little fatso with a bouffant hair-do leaving a hotel in Guangzhou. Where's Waldo?

The North Korean leader is also apparently afraid of assassination -- with reason. The last time he went to China, a massive explosion rocked a railway station on the Korean side of the border a few hours after his train passed through -- causing many to believe that his subjects, who have no access to the ballot box, were expressing their political views. On this trip, the only reported damage caused was to the guests at the 850-room White Swan Hotel in the boomtown of Guangzhou, evicted en masse to make way for the Dear Leader and his entourage.

Kim's travels took him to the thriving south of China, prompting speculation that he's finally, really, truly going to introduce substantive economic reforms to his nation, one of the poorest on the planet. Scholars and journalists rushed to interpret the visit as a sign that Kim is gearing up to follow China's path to prosperity through free markets. (What's the Korean for "to get rich is glorious"?) Nowhere is that fantasy more indulged than in South Korea, where political leaders have been predicting since the '80s that the North's capitalist conversion is just around the corner. A senior official in Seoul noted that Kim's delegation included mostly technocrats -- no generals -- and predicted a surge in special economic zones in the North. Much was made of the fact that a banquet in Beijing Kim praised China's "shining achievements."

If all the hype engendered by Kim's trip sounds familiar, it should. A few years ago, Pyongyang's decision to end food rationing and sanction some private agricultural markets was heralded as the beginning of "Chinese-style" reform. So, too, was the creation of the Kaesong industrial zone, on the southern border; 15 South Korean companies now operate there using cheap Northern labor. In 2002, the North's leaders even went so far as to utter the previously taboo words, "economic reform."

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In any event, every indication that North Korea is liberalizing is countered by evidence of precisely the opposite. Last fall, the government banned the private farmers' markets that fed much of the urban population. Shortly before Kim's journey, Pyongyang announced the end of international food aid that had been feeding up to a third of the people. It evicted the World Food Program and told European aid groups to get out by spring. Now, Pyongyang will have to find other sources to avoid shortages.

Two million died in the famine of the late 1990s. And that's where China and, especially, South Korea come in. Pyongyang blithely takes their food aid, which has few or no conditions attached. The U.N., by contrast, requires in-country monitors to confirm that aid was delivered to the starving civilians for whom it was intended. In addition to food, the South's overall economic influence in the North is growing rapidly; two-way trade reached $1.05 billion last year compared with $697 million in 2004.

There's another aspect of North Korea's economy that has received attention recently: its black-market trade in weapons, drugs and counterfeit dollars. President Bush signed an executive order in June authorizing financial sanctions against WMD-proliferators as well as those providing support to them. It didn't take long for North Korea to feel the heat. In September the Treasury used a provision of the Patriot Act to ban U.S. companies from doing business with the Macau-based Banco Delta Asia, saying it helped North Korea launder money. In October, Treasury blacklisted eight North Korean companies, calling them fronts for proliferating WMD. In December, it warned U.S. banks that North Korea might be looking for new channels for laundering money and urged them to "take reasonable steps to guard against the abuse of their financial services by North Korea."

Finally, there is one other potential pressure on the North's economy: its people. It's getting harder for Pyongyang to keep news of the outside world from seeping in. One of the more subversive tools are South Korean soap operas, videotapes of which are finding their way to the North. After DVD players became commonplace in China, discarded video-players were sold on to North Korea. When measured against the South, the workers' paradise looks less celestial.

Kim's recent trip to China isn't likely to result in economic transformation, or prosperity for his people. His authority depends on his ability to control the economy, keeping his people shackled to the state for food, shelter and work. That's the ugly bottom-line.

Bush's Big Silence (WP)

By Fred Hiatt

The Washington Post, January 23, 2006

If promoting democracy is President Bush's largest ambition, then Russia is his largest failure.

Not that President Vladimir Putin is the world's most repressive ruler -- far from it. Dictatorships in Burma, North Korea and Zimbabwe are more stifling. So, for that matter, are tyrannies in Russia's neighborhood, such as Belarus, Uzbekistan and Turkmenistan.

But no other nation has regressed from openness to authoritarianism during Bush's time in office as dramatically and decisively as Russia -- and with less apparent objection from Bush.

Of course, no U.S. president is responsible for Russia's fate; Russians are. Yet Syrians and Egyptians will determine their own fates, too, and that doesn't stop Bush from wielding U.S. diplomacy and rhetoric to aid pro-democracy forces in their countries. His foreign policy is grounded in the belief that over time the United States can be a force for liberty throughout the world.

So his insouciance with respect to Russia is a mystery. Does it mask a calculation that what happens inside Russia just isn't as important as democratic development in the Middle East, given the U.S. war against radical Islamic terrorists? That it makes sense to keep Putin as a partner while fighting those more pertinent battles?

That would be a miscalculation, for at least three reasons. First, Russia is one front in the war. Its brutal tactics in the southern province of Chechnya are radicalizing Muslim residents there; growing Slavic nationalism risks alienating Muslim minorities in other parts of Russia; and Putin's succor of dictators in neighboring Islamic countries such as Uzbekistan helps create the kind of terror-incubators that Bush said after Sept. 11 could no longer be tolerated.

Second, while an authoritarian Russia may offer tactical cooperation from time to time according to its interests, it cannot be a strategic partner of the America that Bush described in his second inaugural address, because the two countries' values and goals will differ so sharply.

Third, and perhaps most damaging to Bush's strategy, is the negative example Russia provides. In the 1990s, democratization seemed inexorable. Countries were moving toward freedom at different speeds, and some hadn't moved at all -- but with the fall of communism, all eventually would. The ease and speed with which Putin has reversed course saps the sense of momentum and inevitability that could be Bush's biggest ally.

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Irina Yasina, director of a pro-democracy foundation in Moscow, said the mood in Russia today resembles what Russians recall as the "stagnation era" under General Secretary Leonid Brezhnev. Yasina, 42, remembers as a 10-year-old being told by her father -- the now well-known liberal economist Yevgeny Yasin -- that he felt buried alive by the communist system.

"But at least then we knew that we were at the end of something," Yasina, a former journalist, said during a visit to Washington last week. "What is most frightening now is that we don't know whether something is ending or is only just beginning."

This month Putin signed legislation that could shutter Yasina's foundation and many other civic organizations. The law creates a Soviet-style bureaucracy to register nongovernmental organizations, leaving the qualifications so vague that the bureaucrats, or the Kremlin, will be free to license or reject as they choose.

Yasina's foundation is a likely target because it was founded, and is still largely endowed, by billionaire oilman Mikhail Khodorkovsky, whom Putin has had confined to a labor camp near the Chinese border because the tycoon dared hint of a political challenge. The camp is a nine-hour plane ride followed by a 15-hour train ride from Moscow, but sometimes when his lawyers arrive they are told they cannot see their client because lawyer visiting hours coincide with forced-labor hours, Yasina said. Khodorkovsky's visit with his wife, promised for month's end, was canceled -- because, he was told, the visiting room is undergoing renovation.

This may seem petty, but pettiness and paranoia are hallmarks of a president who increasingly has isolated himself from anyone but former KGB agents like himself. The broadcast media are Kremlin-controlled, as are parliament, provincial governors, unjailed business tycoons and the judiciary. All of these sectors were free and independent when Putin -- and Bush -- took office.

Now, although they are weak and he is strong, Putin is going after civic organizations, because they are the final outposts of independent activity -- and because he is convinced that the CIA will use such groups to threaten his regime.

This is the man whom Bush will visit in July when Putin hosts a Group of Eight meeting in St. Petersburg. There will be fine photo opportunities in repainted czarist palaces, and the message Putin wants to send his subjects will be clear: I am a czar, and the leaders of the world's democracies do not care; they accept me. The question for Bush is whether he is happy to help Putin send that message.

Rice's Blind Spot (WP)

By Sebastian Mallaby

The Washington Post, January 23, 2006

Nobody doubts her star power. She speaks Russian and talks football, wears dominatrix boots and plays Dvorak, weaves her segregated Alabama childhood into speeches about geopolitics. But the strange thing about Condoleezza Rice is that, when it comes to the stuff that a professor-politician should be really good at, she can be oddly flat-footed. This was true when she emerged as George W. Bush's fitness buddy and foreign policy tutor seven years ago. It is still true now.

In January 2000, as the Bush campaign got underway, Rice published a manifesto in Foreign Affairs that laid out the classic "realist" position: American diplomacy should "focus on power relationships and great-power politics" rather than on other countries' internal affairs. "Some worry that this view of the world ignores the role of values, particularly human rights and the promotion of democracy," she acknowledged. But the priority for U.S. foreign policy was to deal with powerful governments, whose "fits of anger or acts of beneficence affect hundreds of millions of people."

Even six years ago, this was an outdated position. The Clinton administration was certainly preoccupied with powers such as Russia and China, but it was also tracking Islamic terrorists who had already attacked the World Trade Center. The importance of other non-state actors, from rebels to environmentalists to bond traders, had become a cliche of globalization commentary; AIDS had been recognized as a security threat. The era of great-power politics was widely thought to have ended with the collapse of the Soviet Union. Rice seemed like a Sovietologist who hadn't quite caught up.

Even more curiously, Rice was leaning against the tide in her own party. Ever since the 1970s, the heyday of the ultra-realist Henry Kissinger, his followers had been retreating. The realists favored accommodation with pro-American autocrats, but then Iran's shah fell, followed by dictators in the Philippines and South Korea -- and the realists found themselves on the wrong side of history. Likewise, the realists favored detente with the Soviets, but Reagan's denunciations of the evil empire proved more effective. Time and again, the idea that diplomacy consisted mainly of relations with powerful governments proved wrong. As a rising cadre of neoconservative Republicans argued, diplomacy was often about judging the currents within countries -- and backing democratic ones.

Fast-forward to 2006. Rice gave two speeches last week calling for "transformational diplomacy," meaning diplomacy that will transform undemocratic societies: The internal affairs of other countries turn out to be important after all. "The greatest threats now emerge more within states than between them," she said Wednesday. "The fundamental character of regimes now

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matters more than the international distribution of power. In this world it is impossible to draw neat, clear lines between our security interests, our development efforts and our democratic ideals."

Well, that's quite a turnaround. But it's not a completely satisfying one, because the debate has recently moved on. Rice has caught up with the 1990s consensus that powerful states may pose less of a problem than disintegrating weak ones and that the best hope for peace in the long term is a world of stable democracies. But she's only half-acknowledging the next question: Yes, weak and autocratic states are a problem, but can we do anything about them?

The best formulation of this new debate comes from Francis Fukuyama, who famously proclaimed the universality of the democratic urge in his 1989 essay on history's end. Fukuyama certainly believes in spreading U.S. values, but he has emerged as a critic of the Iraq war because he believes its ambitions were unrealizable. The United States lacks the instruments to transform other societies, Fukuyama argues; to build nations you must first build institutions, and nobody knows how to do that. Conservatives, who have long preached the limits to what government can achieve with domestic social policies, should wake up to government's limits in foreign policy as well.

Rice shows some signs of seeing this. She is not content with the instruments of foreign policy as they exist, and her speeches last week were about fostering new ones -- a strengthened office for post-conflict stabilization and a reconfigured foreign aid program. But this only begins to confront Fukuyama's worry, which is that no amount of tinkering with the apparatus of government will make nation-building possible. Creating a functional Iraq or Afghanistan requires creating norms of work and trust and honesty, and such norms can't be conjured by outsiders, no matter how well organized they are.

The big question today in foreign policy is not whether you are a realist or an idealist. It's whether you are an optimist or a pessimist: whether you think that Iraq has gone badly merely because the Bush administration mishandled it, or whether you believe that no amount of skillful management could have achieved stability after three years. I've watched Rice handle squadrons of aggressive journalists, and there's no doubting her intellect. But her forays into grand theory are disappointing. Last week's call for "transformational diplomacy" merely slides past today's big question. It doesn't offer an answer.

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Williams, Jan

From: Williams, Jan

Sent: Monday, January 23, 2006 12:48 PM

To: Nelson, Carrie; Spagnoli, Deborah A. (USPC); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bradbury, Steve; Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roberts, Crystal; Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Sanchez, William J (CRT); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford

Subject: IN CASE YOU MISSED IT: General Hayden On The NSA Terrorist Surveillance Program

Attachments: tmp.htm
Importance: Low

In Case You Missed It ...

General Hayden On The NSA Terrorist Surveillance Program

GENERAL HAYDEN: "Keith, thanks. Good morning. I'm happy to be here to talk a bit about what American intelligence has been doing and especially what NSA has been doing to defend the nation.

"Now, as Keith points out, I'm here today not only as Ambassador John Negroponte's deputy in the Office of the Director of National Intelligence, I'm also here as the former director of the National Security Agency, a post I took in March of 1999 and left only last spring.

"Serious issues have been raised in recent weeks, and discussion of serious issues should be based on facts. There's a lot of information out there right now.

"Some of it is, frankly, inaccurate. Much of it is just simply misunderstood. I'm here to tell the American people what NSA has been doing and why. And perhaps more importantly, what NSA has not been doing.

"Now, admittedly, this is a little hard to do while protecting our country's intelligence sources and methods. And, frankly, people in my line of work generally don't like to talk about what they've done until it becomes a subject on the History Channel. But let me make one thing very clear. As challenging as this morning might be, this is the speech I want to give. I much prefer being here with you today telling you about the things we have done when there hasn't been an attack on the homeland. This is a far easier presentation to make than the ones I had to give four years ago telling audiences like you what we hadn't done in the days and months leading up to the tragic events of September 11th.

"Today's story isn't an easy one to tell in this kind of unclassified environment, but it is by far the brief I prefer to present.

"Now, I know we all have searing memories of the morning of September 11th. I know I do. Making the decision to evacuate non- essential workers at NSA while the situation was unclear; seeing the NSA counterterrorism shop in tears while we were tacking up blackout curtains around their windows; like many of you, making that phone call, asking my wife to find our kids, and then hanging up the phone on her.

"Another memory for me comes two days later - that's the 13th of September - when I addressed the NSA workforce to lay out our mission in a new environment. It was a short video talk; we beamed it throughout our headquarters at Fort Meade and globally throughout our global enterprise. Now, most of what I said was what anyone would expect. I tried to inspire: our work was important, the nation was depending on us. I tried to comfort: Look on the bright side, I said to them, right now a quarter billion Americans wish they had your job, being able to go after the enemy.

"I ended the talk by trying to give a little perspective. I noted that all free peoples have had to balance the demands of liberty with the demands of security, and historically, historically we Americans have been able to plant our flag well down the spectrum toward liberty. Here was our challenge, I said, and I'm quoting from that presentation: 'We are going to keep America free by making Americans feel safe again.'

"But to start the story with that Thursday, December 13th, is a bit misleading. It's a little bit like coming in near the end of the first reel of a movie. To understand that moment and that statement, you would have to know a little bit about what had happened to the National Security Agency in the preceding years.

"Look, NSA intercepts communications, and it does so for only one purpose - to protect the lives, the liberties and the well-being of the citizens of the United States from those who would do us harm. By the late 1990s, that job was becoming increasingly more difficult. The explosion of modern communications in terms of volume, variety, velocity threatened to overwhelm us.

"The agency took a lot of criticism in those days, I know, criticism that it was going deaf, that it was ossified in its thinking, that it had not and could not keep up with the changes in modern communications.
And all of that was only reinforced when all of the computer systems at Fort Meade went dark for three days in January of 2000 and we couldn't quickly or easily explain why.

"Those were really interesting times. As we were being criticized for being incompetent and going deaf, at the same time others seemed to be claiming that we were omniscient and we were reading

your e- mails. The Washington Post and New Yorker Magazine during that time - I'm talking 1999 now of 2000 - they wrote, incorrectly, that - and I'm quoting - 'NSA has turned from eavesdropping on the communists to eavesdropping on businesses and private citizens.'

"And that - and I'm quoting again - 'NSA has the ability to extend its eavesdropping network without limits.' We are also referred to as a, quote, 'global spying network that can eavesdrop on every single phone call, fax or e-mail anywhere on the planet.'

"I used those quotes in a speech I gave at American University in February of 2000. The great urban legend out there then was something called 'Echelon' and the false accusation that NSA was using its capabilities to advance American corporate interests - signals intelligence for General Motors, or something like that. You know, with these kinds of charges, the turf back then feels a bit familiar now. How could we prove a negative - that we weren't doing certain things - without revealing the appropriate things we were doing that kept America safe? You see, NSA had, NSA has an existential problem. In order to protect American lives and liberties, it has to be two things: powerful in its capabilities, and secretive in its methods. And we exist in a political culture that distrusts two things most of all: power and secrecy.

"Modern communications didn't make this any easier. Gone were the days when signals of interest - that's what NSA calls the things they want to copy - gone were the days when signals of interest went along some dedicated microwave link between strategic rocket forces headquarters in Moscow and some ICBM in western Siberia. By the late '90s, what NSA calls targeted communications - things like al Qaeda communications - coexisted out there in a great global web with your phone calls and my e-mails. NSA needed the power to pick out the one, and the discipline to leave the others alone.

"So, this question of security and liberty wasn't a new one for us in September of 2001. We've always had this question: How do we balance the legitimate need for foreign intelligence with our responsibility to protect individual privacy rights?

"It's a question drilled into every employee of NSA from day one, and it shapes every decision about how NSA operates.

"September 11th didn't change that. But it did change some things.
This ability to intercept communication - we commonly refer to it as Signals Intelligence or SIGINT. SIGINT is a complex business, with operational and technological and legal imperatives often intersecting and overlapping. There's routinely some freedom of action - within the law - to adjust operations. After the attacks, I exercised some options I've always had that collectively better prepared us to defend the homeland.

"Look, let me talk for a minute about this, okay? Because a big gap in the current understanding, a big gap in the current debate is what's standard? What is it that NSA does routinely? Where we set the threshold, for example, for what constitutes inherent foreign intelligence value? That's what we're directed to collect. That's what we're required to limit ourselves to - inherent foreign intelligence value. Where we set that threshold, for example, in reports involving a U.S. person shapes how we do our job, shapes how we collect, shapes how we report. The American SIGINT system, in the normal course of foreign intelligence activities, inevitably captures this kind of information, information to, from or about what we call a U.S. person. And by the way, 'U.S. person' routinely includes anyone in the United States, citizen or not.

"So, for example, because they were in the United States - and we did not know anything more - Mohamed Atta and his fellow 18 hijackers would have been presumed to have been protected persons, U.S. persons, by NSA prior to 9/11.

"Inherent foreign intelligence value is one of the metrics we must use.
Let me repeat that: Inherent foreign intelligence value is one of the metrics we must use to ensure that we conform to the Fourth Amendment's reasonable standard when it comes to protecting the privacy of these kinds of people. If the U.S. person information isn't relevant, the data is suppressed. It's a technical term we use; we call it 'minimized.' The individual is not even mentioned. Or if he or she is, he or she is referred to as 'U.S. Person Number One' or 'U.S. Person Number Two.' Now, inherent intelligence value. If the U.S. person is actually the named terrorist, well, that could be a different matter.
The standard by which we decided that, the standard of what was relevant and valuable, and therefore, what was reasonable, would understandably change, I think, as smoke billowed from two American cities and a Pennsylvania farm field. And we acted accordingly.

"To somewhat oversimplify this, this question of inherent intelligence value, just by way of illustration, to just use an example, we all had a different view of Zacarias Moussaoui's computer hard drive after the attacks than we did before.

"Look, this is not unlike things that happened in other areas. Prior to September 11th, airline passengers were screened in one way. After September 11th, we changed how we screen passengers. In the same way, okay, although prior to September 11th certain communications weren't considered valuable intelligence, it became immediately clear after September 11th that intercepting and reporting these same communications were in fact critical to defending the homeland. Now let me make this point. These decisions were easily within my authorities as the director of NSA under and executive order, known as Executive Order 12333, that was signed in 1981, an executive order that has governed NSA for nearly a quarter century.

"Now, let me summarize. In the days after 9/11, NSA was using its authorities and its judgment to appropriately respond to the most catastrophic attack on the homeland in the history of the nation. That shouldn't be a headline, but as near as I can tell, these actions on my part have created some of the noise in recent press coverage. Let me be clear on this point - except that they involved NSA, these programs were not related - these programs were not related - to the authorization that the president has recently spoken about. Back then, September 2001, I asked to update the Congress on what NSA had been doing, and I briefed the entire House Intelligence Committee on the 1st of October on what we had done under our previously existing authorities.

"Now, as another part of our adjustment, we also turned on the spigot of NSA reporting to FBI in, frankly, an unprecedented way. We found that we were giving them too much data in too raw form. We recognized it almost immediately, a question of weeks, and we made all of the appropriate adjustments. Now, this flow of data to the FBI has also become part of the current background noise, and despite reports in the press of thousands of tips a month, our reporting has not even approached that kind of pace. You know, I actually find this a little odd. After all the findings of the 9/11 commission and other bodies about the failure to share intelligence, I'm up here feeling like I have to explain pushing data to those who might be able to use it. And of course, it's the nature of intelligence that many tips lead nowhere, but you have to go down some blind alleys to find the tips that pay off.

"Now, beyond the authorities that I exercised under the standing executive order, as the war on terror has moved forward, we have aggressively used FISA warrants. The act and the court have provided us with important tools, and we make full use of them. Published numbers show us using the court at record rates, and the results have been outstanding. But the revolution in telecommunications technology has extended the actual impact of the FISA regime far beyond what Congress could ever have anticipated in 1978. And I don't think that anyone can make the claim that the FISA statute is optimized to deal with or prevent a 9/11 or to deal with a lethal enemy who likely already had combatants inside the United States.

"I testified in open session to the House Intel Committee in April of the year 2000. At the time, I created some looks of disbelief when I said that if Osama bin Laden crossed the bridge from Niagara Falls, Ontario to Niagara Falls, New York, there were provisions of U.S. law that would kick in, offer him protections and affect how NSA could now cover him. At the time, I was just using this as some of sort of stark hypothetical; 17 months later, this is about life and death.

"So now, we come to one additional piece of NSA authorities. These are the activities whose existence the president confirmed several weeks ago. That authorization was based on an intelligence community assessment of a serious and continuing threat to the homeland. The lawfulness of the actual authorization was reviewed by lawyers at the Department of Justice and the White House and was approved by the attorney general.

"Now, you're looking at me up here, and I'm in a military uniform, and frankly, there's a certain sense of sufficiency here - authorized by the president, duly ordered, its lawfulness attested to by the attorney general and its content briefed to the congressional leadership.

"But we all have personal responsibility, and in the end, NSA would have to implement this, and every operational decision the agency makes is made with the full involvement of its legal office. NSA professional career lawyers - and the agency has a bunch of them - have a well-deserved reputation. They're good, they know the law, and they don't let the agency take many close pitches.

"And so even though I knew the program had been reviewed by the White House and by DOJ, by the Department of Justice, I asked the three most senior and experienced lawyers in NSA: Our enemy in the global war on terrorism doesn't divide the United States from the rest of the world, the global telecommunications system doesn't make that distinction either, our laws do and should; how did these activities square with these facts?

"They reported back to me. They supported the lawfulness of this program. Supported, not acquiesced. This was very important to me. A veteran NSA lawyer, one of the three I asked, told me that a correspondent had suggested to him recently that all of the lawyers connected with this program have been very careful from the outset because they knew there would be a day of reckoning. The NSA lawyer replied to him that that had not been the case. NSA had been so careful, he said - and I'm using his words now here - NSA had been so careful because in this very focused, limited program, NSA had to ensure that it dealt with privacy interests in an appropriate manner.

"In other words, our lawyers weren't careful out of fear; they were careful out of a heartfelt, principled view that NSA operations had to e consistent with bedrock legal protections.

"In early October, 2001, I gathered key members of the NSA workforce in our conference room and I introduced our new operational authority to them. With the historic culture of NSA being what it was and is, I had to do this personally. I told them what we were going to do and why. I also told them that we were going to carry out this program and not go one step further. NSA's legal and operational leadership then went into the details of this new task.

"You know, the 9/11 commission criticized our ability to link things happening in the United States with things that were happening elsewhere. In that light, there are no communications more important to the safety of this country than those affiliated with al Qaeda with one end in the United States. The president's authorization allows us to track this kind of call more comprehensively and more efficiently. The trigger is quicker and a bit softer than it is for a FISA warrant, but the intrusion into privacy is also limited: only international calls and only those we have a reasonable basis to believe involve al Qaeda

or one of its affiliates.

"The purpose of all this is not to collect reams of intelligence, but to detect and prevent attacks. The intelligence community has neither the time, the resources nor the legal authority to read communications that aren't likely to protect us, and NSA has no interest in doing so. These are communications that we have reason to believe are al Qaeda communications, a judgment made by American intelligence professionals, not folks like me or political appointees, a judgment made by the American intelligence professionals most trained to understand al Qaeda tactics, al Qaeda communications and al Qaeda aims.

"Their work is actively overseen by the most intense oversight regime in the history of the National Security Agency. The agency's conduct of this program is thoroughly reviewed by the NSA's general counsel and inspector general. The program has also been reviewed by the Department of Justice for compliance with the president's authorization. Oversight also includes an aggressive training program to ensure that all activities are consistent with the letter and the intent of the authorization and with the preservation of civil liberties.

"Let me talk for a few minutes also about what this program is not. It is not a driftnet over Dearborn or Lackawanna or Freemont grabbing conversations that we then sort out by these alleged keyword searches or data-mining tools or other devices that so-called experts keep talking about.

"This is targeted and focused. This is not about intercepting conversations between people in the United States. This is hot pursuit of communications entering or leaving America involving someone we believe is associated with al Qaeda. We bring to bear all the technology we can to ensure that this is so. And if there were ever an anomaly, and we discovered that there had been an inadvertent intercept of a domestic-to-domestic call, that intercept would be destroyed and not reported. But the incident, what we call inadvertent collection, would be recorded and reported. But that's a normal NSA procedure.
It's been our procedure for the last quarter century. And as always, as we always do when dealing with U.S. person information, as I said earlier, U.S. identities are expunged when they're not essential to understanding the intelligence value of any report. Again, that's a normal NSA procedure.

"So let me make this clear. When you're talking to your daughter at state college, this program cannot intercept your conversations. And when she takes a semester abroad to complete her Arabic studies, this program will not intercept your communications.

"Let me emphasize one more thing that this program is not - and, look, I know how hard it is to write a headline that's accurate and short and grabbing. But we really should shoot for all three - accurate, short and grabbing. I don't think domestic spying makes it. One end of any call targeted under this

program is always outside the United States.
I've flown a lot in this country, and I've taken literally hundreds of domestic flights. I have never boarded a domestic flight in the United States of America and landed in Waziristan. In the same way - and I'm speaking illustratively here now, this is just an example - if NSA had intercepted al Qaeda Ops Chief Khalid Shaikh Mohammed in Karachi talking to Mohamed Atta in Laurel, Maryland, in say, July of 2001 - if NSA had done that, and the results had been made public, I'm convinced that the crawler on all the 7 by 24 news networks would not have been 'NSA domestic spying.'

"Had this program been in effect prior to 9/11, it is my professional judgment that we would have detected some of the 9/11 al Qaeda operatives in the United States, and we would have identified them as such.

"I've said earlier that this program's been successful. Clearly not every lead pans out from this or any other source, but this program has given us information that we would not otherwise had been able to get.
It's impossible for me to talk about this any more in a public way without alerting our enemies to our tactics or what we have learned. I can't give details without increasing the danger to Americans. On one level, believe me, I wish that I could. But I can't.

"Our enemy has made his intentions clear. He's declared war on us.
Since September 11th, al Qaeda and its affiliates have continued to announce their intention, continued to act on their clearly stated goal of attacking America. They have succeeded against our friends in London, Madrid, Bali, Amman, Istanbul and elsewhere. They desperately want to succeed against us.

"The 9/11 commission told us - and I'm quoting them now - 'Bin Laden, and Islamist terrorists mean exactly what they say. To them, America is the fount of all evil, the head of the snake, and it must be converted or destroyed.' Bin Laden reminded us of this intention as recently as last Thursday.

"The people at NSA, and the rest of the intelligence community, are committed to defend us against this evil and to do it in a way consistent with our values. We know that we can only do our job if we have the trust of the American people, and we can only have your trust if we are careful about how we use our tools and our resources. That sense of care is part of the fabric of the community I represent. It helps define who we are.

"I recently went out to Fort Meade to talk to the workforce involved in this program. They know what they have contributed, and they know the care with which it has been done. Even in today's heated environment, the only concern they expressed to me was continuing their work in the defense of the

nation, and continuing to do so in a manner that honors the law and the Constitution. As I was talking with them - we were in the office spaces there, typical office spaces anywhere in the world - I looked out over their heads - and this is the workforce that deals with the program the president discussed several weeks ago - I looked out over their heads to see a large sign fixed to one of those pillars that go up through our operations building that breaks up the office space.
That sign is visible from almost anywhere in this large area. It's yellow with bold black letters on it. The title is readable from 50 feet: What constitutes a U.S. person? And that title was followed by a detailed explanation of the criteria. That has always been the fundamental tenet of privacy for NSA. And here it was in the center of a room guiding the actions of a workforce determined to prevent another attack on the United States. Security and liberty. The people at NSA know what their job is. I know what my job is too. I learned a lot from NSA and its culture during my six years there. But I come from a culture too. I've been a military officer for nearly 37 years, and from the start, I've taken an oath to protect and defend the Constitution of the United States. I would never violate that Constitution nor would I abuse the rights of the American people. As the director, I was the one responsible to ensure that this program was limited in its scope and disciplined in its application.

"American intelligence, and especially American SIGINT, signals intelligence, is the frontline of defense in dramatically changed circumstances, circumstances in which if we fail to do our job well and completely, more Americans will almost certainly die. The speed of operations, the ruthlessness of the enemy, the pace of modern communications have called on us to do things and to do them in ways never before required. We've worked hard to find innovative ways to protect the American people and the liberties we hold dear. And in doing so, we have not forgotten who we are either."

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In Case You Missed It ...

General Hayden On The NSA Terrorist Surveillance Program

GENERAL HAYDEN: "Keith, thanks. Good morning. I'm happy to be here to talk a bit about what American intelligence has been doing and especially what NSA has been doing to defend the nation.

"Now, as Keith points out, I'm here today not only as Ambassador John Negroponte's deputy in the Office of the Director of National Intelligence, I'm also here as the former director of the National Security Agency, a post I took in March of 1999 and left only last spring.

"Serious issues have been raised in recent weeks, and discussion of serious issues should be based on facts. There's a lot of information out there right now.

"Some of it is, frankly, inaccurate. Much of it is just simply misunderstood. I'm here to tell the American people what NSA has been doing and why. And perhaps more importantly, what NSA has not been doing.

"Now, admittedly, this is a little hard to do while protecting our country's intelligence sources and methods. And, frankly, people in my line of work generally don't like to talk about what they've done until it becomes a subject on the History Channel. But let me make one thing very clear. As challenging as this morning might be, this is the speech I want to give. I much prefer being here with you today telling you about the things we have done when there hasn't been an attack on the homeland. This is a far easier presentation to make than the ones I had to give four years ago telling audiences like you what we hadn't done in the days and months leading up to the tragic events of September 11th.

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"Now, I know we all have searing memories of the morning of September 11th. I know I do. Making the decision to evacuate non- essential workers at NSA while the situation was unclear; seeing the NSA counterterrorism shop in tears while we were tacking up blackout curtains around their windows; like many of you, making that phone call, asking my wife to find our kids, and then hanging up the phone on her.

"Another memory for me comes two days later – that's the 13th of September – when I addressed the NSA workforce to lay out our mission in a new environment. It was a short video talk; we beamed it throughout our headquarters at Fort Meade and globally throughout our global enterprise. Now, most of what I said was what anyone would expect. I tried to inspire: our work was important, the nation was depending on us. I tried to comfort: Look on the bright side, I said to them, right now a quarter billion Americans wish they had your job, being able to go after the enemy.

"I ended the talk by trying to give a little perspective. I noted that all free peoples have had to balance the demands of liberty with the demands of security, and historically, historically we Americans have been able to plant our flag well down the spectrum toward liberty. Here was our challenge, I said, and I'm quoting from that presentation: 'We are going to keep America free by making Americans feel safe again.'

"But to start the story with that Thursday, December 13th, is a bit misleading. It's a little bit like coming in near the

end of the first reel of a movie. To understand that moment and that statement, you would have to know a little bit about what had happened to the National Security Agency in the preceding years.

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"Those were really interesting times. As we were being criticized for being incompetent and going deaf, at the same time others seemed to be claiming that we were omniscient and we were reading your e- mails. The Washington Post and New Yorker Magazine during that time – I'm talking 1999 now of 2000 – they wrote, incorrectly, that – and I'm quoting – 'NSA has turned from eavesdropping on the communists to eavesdropping on businesses and private citizens.'

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"Now, you're looking at me up here, and I'm in a military uniform, and frankly, there's a certain sense of sufficiency here – authorized by the president, duly ordered, its lawfulness attested to by the attorney general and its content briefed to the congressional leadership.

"But we all have personal responsibility, and in the end, NSA would have to implement this, and every operational decision the agency makes is made with the full involvement of its legal office. NSA professional career lawyers – and the agency has a bunch of them – have a well-deserved reputation. They're good, they know the law, and they don't let the agency take many close pitches.

"And so even though I knew the program had been reviewed by the White House and by DOJ, by the Department of Justice, I asked the three most senior and experienced lawyers in NSA: Our enemy in the global war on terrorism doesn't divide the United States from the rest of the world, the global telecommunications system doesn't make that distinction either, our laws do and should; how did these activities square with these facts?

"They reported back to me. They supported the lawfulness of this program. Supported, not acquiesced. This was very important to me. A veteran NSA lawyer, one of the three I asked, told me that a correspondent had suggested to him recently that all of the lawyers connected with this program have been very careful from the outset because they knew there would be a day of reckoning. The NSA lawyer replied to him that that had not been the case. NSA had been so careful, he said – and I'm using his words now here – NSA had been so careful because in this very focused, limited program, NSA had to ensure that it dealt with privacy interests in an

appropriate manner.

"In other words, our lawyers weren't careful out of fear; they were careful out of a heartfelt, principled view that NSA operations had to e consistent with bedrock legal protections.

"In early October, 2001, I gathered key members of the NSA workforce in our conference room and I introduced our new operational authority to them. With the historic culture of NSA being what it was and is, I had to do this personally. I told them what we were going to do and why. I also told them that we were going to carry out this program and not go one step further. NSA's legal and operational leadership then went into the details of this new task.

"You know, the 9/11 commission criticized our ability to link things happening in the United States with things that were happening elsewhere. In that light, there are no communications more important to the safety of this country than those affiliated with al Qaeda with one end in the United States. The president's authorization allows us to track this kind of call more comprehensively and more efficiently. The trigger is quicker and a bit softer than it is for a FISA warrant, but the intrusion into privacy is also limited: only international calls and only those we have a reasonable basis to believe involve al Qaeda or one of its affiliates.

"The purpose of all this is not to collect reams of intelligence, but to detect and prevent attacks. The intelligence community has neither the time, the resources nor the legal authority to read communications that aren't likely to protect us, and NSA has no interest in doing so. These are communications that we have reason to believe are al Qaeda communications, a judgment made by American intelligence professionals, not folks like me or political appointees, a judgment made by the American intelligence professionals most trained to understand al Qaeda tactics, al Qaeda communications and al Qaeda aims.

"Their work is actively overseen by the most intense oversight regime in the history of the National Security Agency. The agency's conduct of this program is thoroughly reviewed by the NSA's general counsel and inspector general. The program has also been reviewed by the Department of Justice for compliance with the president's authorization. Oversight also includes an aggressive training program to ensure that all activities are consistent with the letter and the intent of the authorization and with the preservation of civil liberties.

"Let me talk for a few minutes also about what this program is not. It is not a driftnet over Dearborn or Lackawanna or Freemont grabbing conversations that we then sort out by these alleged keyword searches or data-mining tools or other devices that so-called experts keep talking about.

"This is targeted and focused. This is not about intercepting conversations between people in the United States. This is hot pursuit of communications entering or leaving America involving someone we believe is associated with al Qaeda. We bring to bear all the technology we can to ensure that this is so. And if there were ever an anomaly, and we discovered that there had been an inadvertent intercept of a domestic-to-domestic call, that intercept would be destroyed and not reported. But the incident, what we call inadvertent collection, would be recorded and reported. But that's a normal NSA procedure. It's been our procedure for the last quarter century. And as always, as we always do when dealing with U.S. person information, as I said earlier, U.S. identities are expunged when they're not essential to understanding the intelligence value of any report. Again, that's a normal NSA procedure.

"So let me make this clear. When you're talking to your daughter at state college, this program cannot intercept your conversations. And when she takes a semester abroad to complete her Arabic studies, this program will not intercept your communications.

"Let me emphasize one more thing that this program is not – and, look, I know how hard it is to write a headline that's accurate and short and grabbing. But we really should shoot for all three – accurate, short and grabbing. I don't think domestic spying makes it. One end of any call targeted under this program is always outside the United States. I've flown a lot in this country, and I've taken literally hundreds of domestic flights. I have never boarded a domestic flight in the United States of America and landed in Waziristan. In the same way – and I'm speaking illustratively here now, this is just an example – if NSA had intercepted al Qaeda Ops Chief Khalid Shaikh Mohammed in Karachi talking to Mohamed Atta in Laurel, Maryland, in say, July of 2001 – if NSA had done that, and the results had been made public, I'm convinced that the crawler on all the 7 by 24 news networks would not have been 'NSA domestic spying.'

"Had this program been in effect prior to 9/11, it is my professional judgment that we would have detected some of the 9/11 al Qaeda operatives in the United States, and we would have identified them as such.

"I've said earlier that this program's been successful. Clearly not every lead pans out from this or any other source, but this program has given us information that we would not otherwise had been able to get. It's impossible for me to talk about this any more in a public way without alerting our enemies to our tactics or what we have learned. I can't give details without increasing the danger to Americans. On one level, believe me, I wish that I could. But I can't.

"Our enemy has made his intentions clear. He's declared war on us. Since September 11th, al Qaeda and its affiliates have continued to announce their intention, continued to act on their clearly stated goal of attacking America. They have succeeded against our friends in London, Madrid, Bali, Amman, Istanbul and elsewhere. They desperately want to succeed against us.

"The 9/11 commission told us – and I'm quoting them now – 'Bin Laden, and Islamist terrorists mean exactly what they say. To them, America is the fount of all evil, the head of the snake, and it must be converted or destroyed.' Bin Laden reminded us of this intention as recently as last Thursday.

"The people at NSA, and the rest of the intelligence community, are committed to defend us against this evil and to do it in a way consistent with our values. We know that we can only do our job if we have the trust of the American people, and we can only have your trust if we are careful about how we use our tools and our resources. That sense of care is part of the fabric of the community I represent. It helps define who we are.

"I recently went out to Fort Meade to talk to the workforce involved in this program. They know what they have contributed, and they know the care with which it has been done. Even in today's heated environment, the only concern they expressed to me was continuing their work in the defense of the nation, and continuing to do so in a manner that honors the law and the Constitution. As I was talking with them – we were in the office spaces there, typical office spaces anywhere in the world – I looked out over their heads – and this is the workforce that deals with the program the president discussed several weeks ago – I looked out over their heads to see a large sign fixed to one of those pillars that go up through our operations building that breaks up the office space. That sign is visible from almost anywhere in this large area. It's yellow with bold black letters on it. The title is readable from 50 feet: What constitutes a U.S. person? And that title was followed by a detailed explanation of the criteria. That has always been the fundamental tenet of privacy for NSA. And here it was in the center of a room guiding the actions of a workforce determined to prevent another attack on the United States. Security and liberty. The people at NSA know what their job is. I know what my job is too. I learned a lot from NSA and its culture during my six years there. But I come from a culture too. I've been a military officer for nearly 37 years, and from the start, I've taken an oath to protect and defend the Constitution of the United States. I would never

violate that Constitution nor would I abuse the rights of the American people. As the director, I was the one responsible to ensure that this program was limited in its scope and disciplined in its application.

"American intelligence, and especially American SIGINT, signals intelligence, is the frontline of defense in dramatically changed circumstances, circumstances in which if we fail to do our job well and completely, more Americans will almost certainly die. The speed of operations, the ruthlessness of the enemy, the pace of modern communications have called on us to do things and to do them in ways never before required. We've worked hard to find innovative ways to protect the American people and the liberties we hold dear. And in doing so, we have not forgotten who we are either."

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Attached are additional reading materials to distribute to the attendees for the Term Member session on McCain Graham. Thanks for forwarding onward.

Regards,

Final Report of the Independent Panel To Review DoD Detention Operations

August 2004

Independent Panel to Review DoD Detention Operations

Chairman

The Honorable James R. Schlesinger

Panel Members

The Honorable Harold Brown

The Honorable Tillie K. Fowler

General Charles A. Horner (USAF-RET)

Executive Director

Dr. James A. Blackwell, Jr.

INDEPENDENT PANEL TO REVIEW DOD DETENTION OPERATIONS

CHAIRMAN
THE HONORABLE JAMES R. SCHLESINGER

PANEL MEMBERS
THE HONORABLE HAROLD BROWN
THE HONORABLE TILLIE K. FOWLER
GENERAL CHARLES A. HORNER (USAF-RET.)

EXECUTIVE DIRECTOR
DR. JAMES A. BLACKWELL, JR.

August 24, 2004

To U.S. Secretary of Defense Donald Rumsfeld

We, the appointed members of the Independent Panel to Review DoD Detention Operations, pursuant to our charter do hereby submit the results of our findings and offer our best recommendations.

Sincerely,

The Honorable James R. Schlesinger
Chairman

The Honorable Harold Brown
Panel Member

The Honorable Tillie K. Fowler
Panel Member

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The Independent Panel to Review Department of Defense Detention Operations

August 2004

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Executive Summary

OVERVIEW

The events of October through December 2003 on the night shift of Tier 1 at Abu Ghraib prison were acts of brutality and purposeless sadism. We now know these abuses occurred at the hands of both military police and military intelligence personnel. The pictured abuses, unacceptable even in wartime, were not part of authorized interrogations nor were they even directed at intelligence targets. They represent deviant behavior and a failure of military leadership and discipline. However, we do know that some of the egregious abuses at Abu Ghraib which were not photographed did occur during interrogation sessions and that abuses during interrogation sessions occurred elsewhere.

In light of what happened at Abu Ghraib, a series of comprehensive investigations has been conducted by various components of the Department of Defense. Since the beginning of hostilities in Afghanistan and Iraq, U.S. military and security operations have apprehended about 50,000 individuals. From this number, about 300 allegations of abuse in Afghanistan, Iraq or Guantanamo have arisen. As of mid-August 2004, 155 investigations into the allegations have been completed, resulting in 66 substantiated cases. Approximately one-third of these cases occurred at the point of capture or tactical collection point, frequently under uncertain, dangerous and violent circumstances.

Abuses of varying severity occurred at differing locations under differing circumstances and context. They were widespread and, though inflicted on only a small percentage of those detained, they were serious both in number and in effect. No approved procedures called for or allowed the kinds of abuse that in fact occurred. There is no evidence of a policy of abuse promulgated by senior officials or military authorities. Still, the abuses were not just the failure of some individuals to follow known standards, and they are more than the failure of a few leaders to enforce proper discipline. There is both institutional and personal responsibility at higher levels.

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Secretary of Defense Donald Rumsfeld appointed the members of the Independent Panel to provide independent professional advice on detainee abuses, what caused them and what actions should be taken to preclude their repetition. The Panel reviewed various criminal investigations and a number of command and other major investigations. The Panel also conducted interviews of relevant persons, including the Secretary and Deputy Secretary of Defense, other senior Department of Defense officials, the military chain-of-command and their staffs and other officials directly and indirectly involved with Abu Ghraib and other detention operations. However, the Panel did not have full access to information involving the role of the Central Intelligence Agency in detention operations; this is an area the Panel believes needs further investigation and review. It should be noted that information provided to the Panel was that available as of mid-August 2004. If additional information becomes available, the Panel's judgments might be revised.

POLICY

With the events of September 11, 2001, the President, the Congress and the American people recognized we were at war with a different kind of enemy. The terrorists who flew airliners into the World Trade Center and the Pentagon were unlike enemy combatants the U.S. has fought in previous conflicts. Their objectives, in fact, are to kill large numbers of civilians and to strike at the heart of America's political cohesion and its economic and military might. In the days and weeks after the attack, the President and his closest advisers developed policies and strategies in response. On September 18, 2001, by a virtually unanimous vote, Congress passed an Authorization for Use of Military Force. Shortly thereafter, the U.S. initiated hostilities in Afghanistan and the first detainees were held at Mazar-e-Sharrif in November 2001.

On February 7, 2002, the President issued a memorandum stating that he determined the Geneva Conventions did not apply to the conflict with al Qaeda, and although they did apply in the conflict with Afghanistan, the Taliban were unlawful combatants and

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therefore did not qualify for prisoner of war status (see Appendix C). Nonetheless, the Secretary of State, Secretary of Defense, and the Chairman of the Joint Chiefs of Staff were all in agreement that treatment of detainees should be consistent with the Geneva Conventions. The President ordered accordingly that detainees were to be treated ". . . humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva." Earlier, the Department of State had argued the Geneva Conventions in their traditional application provided a sufficiently robust legal construct under which the Global War on Terror could effectively be waged. The Legal Advisor to the Chairman, Joint Chiefs of Staff, and many of the military service attorneys agreed with this position.

In the summer of 2002, the Counsel to the President queried the Department of Justice Office of Legal Counsel (OLC) for an opinion on the standards of conduct for interrogation operations conducted by U.S. personnel outside of the U.S. and the applicability of the Convention Against Torture. The OLC responded in an August 1, 2002 opinion in which it held that in order to constitute torture, an act must be specifically intended to inflict severe physical or mental pain and suffering that is difficult to endure.

Army Field Manual 34-52 (FM 34-52), with its list of 17 authorized interrogation methods, has long been the standard source for interrogation doctrine within the Department of Defense (see Appendix D). In October 2002, authorities at Guantanamo requested approval of stronger interrogation techniques to counter tenacious resistance by some detainees. The Secretary of Defense responded with a December 2, 2002 decision authorizing the use of 16 additional techniques at Guantanamo (see Appendix E). As a result of concerns raised by the Navy General Counsel on January 15, 2003, Secretary Rumsfeld rescinded the majority of the approved measures in the December 2, 2002 authorization. Moreover, he directed the remaining more aggressive techniques could be used only with his approval (see Appendix D).

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At the same time, he directed the Department of Defense (DoD) General Counsel to establish a working group to study interrogation techniques. The Working Group was headed by Air Force General Counsel Mary Walker and included wide membership from across the military legal and intelligence communities. The Working Group also relied heavily on the OLC. The Working Group reviewed 35 techniques and after a very extensive debate ultimately recommended 24 to the Secretary of Defense. The study led to the Secretary of Defense's promulgation on April 16, 2003 of a list of approved techniques strictly limited for use at Guantanamo. This policy remains in force at Guantanamo (see Appendix E).

In the initial development of these Secretary of Defense policies, the legal resources of the Services' Judge Advocates General and General Counsels were not utilized to their full potential. Had the Secretary of Defense had a wider range of legal opinions and a more robust debate regarding detainee policies and operations, his policy of April 16, 2003 might well have been developed and issued in early December 2002. This would have avoided the policy changes which characterized the Dec 02, 2002 to April 16, 2003 period.

It is clear that pressures for additional intelligence and the more aggressive methods sanctioned by the Secretary of Defense memorandum, resulted in stronger interrogation techniques that were believed to be needed and appropriate in the treatment of detainees defined as "unlawful combatants." At Guantanamo, the interrogators used those additional techniques with only two detainees, gaining important and time-urgent information in the process.

In Afghanistan, from the war's inception through the end of 2002, all forces used FM 34-52 as a baseline for interrogation techniques. Nonetheless, more aggressive interrogation of detainees appears to have been on-going. On January 24, 2003, in response to a data call from the Joint Staff to facilitate the Working Group efforts, the Commander Joint Task Force-180 forwarded a list of techniques being used in

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Afghanistan, including some not explicitly set out in FM 34-52. These techniques were included in a Special Operation Forces (SOF) Standard Operating Procedures document published in February 2003. The 519th Military Intelligence Battalion, a company of which was later sent to Iraq, assisted in interrogations in support of SOF and was fully aware of their interrogation techniques.

Interrogators and lists of techniques circulated from Guantanamo and Afghanistan to Iraq. During July and August 2003, the 519th Military Intelligence Company was sent to the Abu Ghraib detention facility to conduct interrogation operations. Absent any explicit policy or guidance, other than FM 34-52, the officer in charge prepared draft interrogation guidelines that were a near copy of the Standard Operating Procedure created by SOF. It is important to note that techniques effective under carefully controlled conditions at Guantanamo became far more problematic when they migrated and were not adequately safeguarded.

Following a CJTF-7 request, Joint Staff tasked SOUTHCOM to send an assistance team to provide advice on facilities and operations, specifically related to screening, interrogations, HUMINT collection, and inter-agency integration in the short and long term. In August 2003, MG Geoffrey Miller arrived to conduct an assessment of DoD counter-terrorism interrogation and detention operations in Iraq. He was to discuss current theater ability to exploit internees rapidly for actionable intelligence. He brought the Secretary of Defense's April 16, 2003 policy guidelines for Guantanamo with him and gave this policy to CJTF-7 as a possible model for the command-wide policy that he recommended be established. MG Miller noted that it applied to unlawful combatants at Guantanamo and was not directly applicable to Iraq where the Geneva Conventions applied. In part as a result of MG Miller's call for strong, command-wide interrogation policies and in part as a result of a request for guidance coming up from the 519th at Abu Ghraib, on September 14, 2003 LTG Sanchez signed a memorandum authorizing a dozen interrogation techniques beyond Field Manual 34-52—five beyond those approved for Guantanamo (see Appendix D).

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MG Miller had indicated his model was approved only for Guantanamo. However, CJTF-7, using reasoning from the President's Memorandum of February 7, 2002 which addressed "unlawful combatants," believed additional, tougher measures were warranted because there were "unlawful combatants" mixed in with Enemy Prisoners of War and civilian and criminal detainees. The CJTF-7 Commander, on the advice of his Staff Judge Advocate, believed he had the inherent authority of the Commander in a Theater of War to promulgate such a policy and make determinations as to the categorization of detainees under the Geneva Conventions. CENTCOM viewed the CJTF-7 policy as unacceptably aggressive and on October 12, 2003 Commander CJTF-7 rescinded his September directive and disseminated methods only slightly stronger than those in Field Manual 34-52 (see Appendix D). The policy memos promulgated at the CJTF-7 level allowed for interpretation in several areas and did not adequately set forth the limits of interrogation techniques. The existence of confusing and inconsistent interrogation technique policies contributed to the belief that additional interrogation techniques were condoned.

DETENTION AND INTERROGATION OPERATIONS

From his experience in Guantanamo, MG Miller called for the military police and military intelligence soldiers to work cooperatively, with the military police "setting the conditions" for interrogations. This MP role included passive collection on detainees as well as supporting incentives recommended by the military interrogators. These collaborative procedures worked effectively in Guantanamo, particularly in light of the high ratio of approximately 1 to 1 of military police to mostly compliant detainees. However, in Iraq and particularly in Abu Ghraib the ratio of military police to repeatedly unruly detainees was significantly smaller, at one point 1 to about 75 at Abu Ghraib, making it difficult even to keep track of prisoners. Moreover, because Abu Ghraib was located in a combat zone, the military police were engaged in force protection of the complex as well as escorting convoys of supplies to and from the prison. Compounding

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these problems was the inadequacy of leadership, oversight and support needed in the face of such difficulties.

At various times, the U.S. conducted detention operations at approximately 17 sites in Iraq and 25 sites in Afghanistan, in addition to the strategic operation at Guantanamo. A cumulative total of 50,000 detainees have been in the custody of U.S. forces since November 2001, with a peak population of 11,000 in the month of March 2004.

In Iraq, there was not only a failure to plan for a major insurgency, but also to quickly and adequately adapt to the insurgency that followed after major combat operations. The October 2002 CENTCOM War Plan presupposed that relatively benign stability and security operations would precede a handover to Iraq's authorities. The contingencies contemplated in that plan included sabotage of oil production facilities and large numbers of refugees generated by communal strife.

Major combat operations were accomplished more swiftly than anticipated. Then began a period of occupation and an active and growing insurgency. Although the removal of Saddam Hussein was initially welcomed by the bulk of the population, the occupation became increasingly resented. Detention facilities soon held Iraqi and foreign terrorists as well as a mix of Enemy Prisoners of War, other security detainees, criminals and undoubtedly some accused as a result of factional rivalries. Of the 17 detention facilities in Iraq, the largest, Abu Ghraib, housed up to 7,000 detainees in October 2003, with a guard force of only about 90 personnel from the 800th Military Police Brigade. Abu Ghraib was seriously overcrowded, under-resourced, and under continual attack. Five U.S. soldiers died as a result of mortar attacks on Abu Ghraib. In July 2003, Abu Ghraib was mortared 25 times; on August 16, 2003, five detainees were killed and 67 wounded in a mortar attack. A mortar attack on April 20, 2004 killed 22 detainees.

Problems at Abu Ghraib are traceable in part to the nature and recent history of the military police and military intelligence units at Abu Ghraib. The 800th Military Police

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Brigade had one year of notice to plan for detention operations in Iraq. Original projections called for approximately 12 detention facilities in non-hostile, rear areas with a projection of 30,000 to 100,000 Enemy Prisoners of War. Though the 800th had planned a detention operations exercise for the summer of 2002, it was cancelled because of the disruption in soldier and unit availability resulting from the mobilization of Military Police Reserves following 9/11. Although its readiness was certified by U.S. Army Forces Command, actual deployment of the 800th Brigade to Iraq was chaotic. The "Time Phased Force Deployment List," which was the planned flow of forces to the theater of operations, was scrapped in favor of piecemeal unit deployment orders based on actual unit readiness and personnel strength. Equipment and troops regularly arrived out of planned sequence and rarely together. Improvisation was the order of the day. While some units overcame these difficulties, the 800th was among the lowest in priority and did not have the capability to overcome the shortfalls it confronted.

The 205th MI Brigade, deployed to support Combined Joint Task Force-7 (CJTF-7), normally provides the intelligence capability for a Corps Headquarters. However, it was insufficient to provide the kind of support needed by CJTF-7, especially with regard to interrogators and interpreters. Some additional units were mobilized to fill in the gaps, but while these MI units were more prepared than their military police counterparts, there were insufficient numbers of units available. Moreover, unit cohesion was lacking because elements of as many as six different units were assigned to the interrogation mission at Abu Ghraib. These problems were heightened by friction between military intelligence and military police personnel, including the brigade commanders themselves.

ABUSES

As of the date of this report, there were about 300 incidents of alleged detainee abuse across the Joint Operations Areas. Of the 155 completed investigations, 66 have resulted in a determination that detainees under the control of U.S. forces were abused. Dozens of

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non-judicial punishments have already been awarded. Others are in various stages of the military justice process.

Of the 66 already substantiated cases of abuse, eight occurred at Guantanamo, three in Afghanistan and 55 in Iraq. Only about one-third were related to interrogation, and two-thirds to other causes. There were five cases of detainee deaths as a result of abuse by U.S. personnel during interrogations. Many more died from natural causes and enemy mortar attacks. There are 23 cases of detainee deaths still under investigation; three in Afghanistan and 20 in Iraq. Twenty-eight of the abuse cases are alleged to include Special Operations Forces (SOF) and, of the 15 SOF cases that have been closed, ten were determined to be unsubstantiated and five resulted in disciplinary action. The Jacoby review of SOF detention operations found a range of abuses and causes similar in scope and magnitude to those found among conventional forces.

The aberrant behavior on the night shift in Cell Block 1 at Abu Ghraib would have been avoided with proper training, leadership and oversight. Though acts of abuse occurred at a number of locations, those in Cell Block 1 have a unique nature fostered by the predilections of the noncommissioned officers in charge. Had these noncommissioned officers behaved more like those on the day shift, these acts, which one participant described as "just for the fun of it," would not have taken place.

Concerning the abuses at Abu Ghraib, the impact was magnified by the fact the shocking photographs were aired throughout the world in April 2004. Although CENTCOM had publicly addressed the abuses in a press release in January 2004, the photographs remained within the official criminal investigative process. Consequently, the highest levels of command and leadership in the Department of Defense were not adequately informed nor prepared to respond to the Congress and the American public when copies were released by the press.

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POLICY AND COMMAND RESPONSIBILITIES

Interrogation policies with respect to Iraq, where the majority of the abuses occurred, were inadequate or deficient in some respects at three levels: Department of Defense, CENTCOM/CJTF-7, and Abu Ghraib Prison. Policies to guide the demands for actionable intelligence lagged behind battlefield needs. As already noted, the changes in DoD interrogation policies between December 2, 2002 and April 16, 2003 were an element contributing to uncertainties in the field as to which techniques were authorized. Although specifically limited by the Secretary of Defense to Guantanamo, and requiring his personal approval (given in only two cases), the augmented techniques for Guantanamo migrated to Afghanistan and Iraq where they were neither limited nor safeguarded.

At the operational level, in the absence of specific guidance from CENTCOM, interrogators in Iraq relied on Field Manual 34-52 and on unauthorized techniques that had migrated from Afghanistan. On September 14, 2003 CJTF-7 signed the theater's first policy on interrogation, which contained elements of the approved Guantanamo policy and elements of the SOF policy (see Appendix D). Policies approved for use on al Qaeda and Taliban detainees, who were not afforded the protection of the Geneva Conventions, now applied to detainees who did fall under the Geneva Convention protections.

CENTCOM disapproved the September 14, 2003 policy, resulting in another policy signed on October 12, 2003 which essentially mirrored the outdated 1987 version of the FM 34-52 (see Appendix D). The 1987 version, however, authorized interrogators to control all aspects of the interrogation, "to include lighting and heating, as well as food, clothing, and shelter given to detainees." This was specifically left out of the current 1992 version. This clearly led to confusion on what practices were acceptable. We cannot be sure how much the number and severity of abuses would have been curtailed

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had there been early and consistent guidance from higher levels. Nonetheless, such guidance was needed and likely would have had a limiting effect.

At the tactical level we concur with the Jones/Fay investigation's conclusion that military intelligence personnel share responsibility for the abuses at Abu Ghraib with the military police soldiers cited in the Taguba investigation. The Jones/Fay Investigation found 44 alleged instances of abuse, some which were also considered by the Taguba report. A number of these cases involved MI personnel directing the actions of MP personnel. Yet it should be noted that of the 66 closed cases of detainee abuse in Guantanamo, Afghanistan and Iraq cited by the Naval Inspector General, only one-third were interrogation related.

The Panel concurs with the findings of the Taguba and Jones investigations that serious leadership problems in the 800th MP Brigade and 205th MI Brigade, to include the 320th MP Battalion Commander and the Director of the Joint Debriefing and Interrogation Center (JDIC), allowed the abuses at Abu Ghraib. The Panel endorses the disciplinary actions taken as a result of the Taguba Investigation. The Panel anticipates that the Chain of Command will take additional disciplinary action as a result of the referrals of the Jones/Fay investigation.

We believe LTG Sanchez should have taken stronger action in November when he realized the extent of the leadership problems at Abu Ghraib. His attempt to mentor BG Karpinski, though well-intended, was insufficient in a combat zone in the midst of a serious and growing insurgency. Although LTG Sanchez had more urgent tasks than dealing personally with command and resource deficiencies at Abu Ghraib, MG Wojdakowski and the staff should have seen that urgent demands were placed to higher headquarters for additional assets. We concur with the Jones findings that LTG Sanchez and MG Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations.

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We note, however, in terms of its responsibilities, CJTF-7 was never fully resourced to meet the size and complexity of its mission. The Joint Staff, CJTF-7 and CENTCOM took too long to finalize the Joint Manning Document (JMD). It was not finally approved until December 2003, six months into the insurgency. At one point, CJTF-7 had only 495 of the 1,400 personnel authorized. The command was burdened with additional complexities associated with its mission to support the Coalition Provisional Authority.

Once it became clear in the summer of 2003 that there was a major insurgency growing in Iraq, with the potential for capturing a large number of enemy combatants, senior leaders should have moved to meet the need for additional military police forces. Certainly by October and November when the fighting reached a new peak, commanders and staff from CJTF-7 all the way to CENTCOM to the Joint Chiefs of Staff should have known about and reacted to the serious limitations of the battalion of the 800th Military Police Brigade at Abu Ghraib. CENTCOM and the JCS should have at least considered adding forces to the detention/interrogation operation mission. It is the judgment of this panel that in the future, considering the sensitivity of this kind of mission, the OSD should assure itself that serious limitations in detention/interrogation missions do not occur.

Several options were available to Commander CENTCOM and above, including reallocation of U.S. Army assets already in the theater, Operational Control (OPCON) of other Service Military Police units in theater, and mobilization and deployment of additional forces from the continental United States. There is no evidence that any of the responsible senior officers considered any of these options. What could and should have been done more promptly is evidenced by the fact that the detention/interrogation operation in Iraq is now directed by a Major General reporting directly to the Commander, Multi-National Forces Iraq (MNFI). Increased units of Military Police, fully manned and more appropriately equipped, are performing the mission once assigned to a single under-strength, poorly trained, inadequately equipped and weakly-led brigade.

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In addition to the already cited leadership problems in the 800th MP Brigade, there were a series of tangled command relationships. These ranged from an unclear military intelligence chain of command, to the Tactical Control (TACON) relationship of the 800th with CJTF-7 which the Brigade Commander apparently did not adequately understand, and the confusing and unusual assignment of MI and MP responsibilities at Abu Ghraib. The failure to react appropriately to the October 2003 ICRC report, following its two visits to Abu Ghraib, is indicative of the weakness of the leadership at Abu Ghraib. These unsatisfactory relationships were present neither at Guantanamo nor in Afghanistan.

RECOMMENDATIONS

Department of Defense reform efforts are underway and the Panel commends these efforts. They are discussed in more detail in the body of this report. The Office of the Secretary of Defense, the Joint Chiefs of Staff and the Military Services are conducting comprehensive reviews on how military operations have changed since the end of the Cold War. The Military Services now recognize the problems and are studying force compositions, training, doctrine, responsibilities and active duty/reserve and guard/contractor mixes which must be adjusted to ensure we are better prepared to succeed in the war on terrorism. As an example, the Army is currently planning and developing 27 additional MP companies.

The specific recommendations of the Independent Panel are contained in the Recommendations section, beginning on page 87.

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CONCLUSION

The vast majority of detainees in Guantanamo, Afghanistan and Iraq were treated appropriately, and the great bulk of detention operations were conducted in compliance with U.S. policy and directives. They yielded significant amounts of actionable intelligence for dealing with the insurgency in Iraq and strategic intelligence of value in the Global War on Terror. For example, much of the information in the recently released 9/11 Commission's report, on the planning and execution of the attacks on the World Trade Center and Pentagon, came from interrogation of detainees at Guantanamo and elsewhere.

Justice Sandra Day O'Connor, writing for the majority of the Supreme Court of the United States in *Hamdi v. Rumsfeld* on June 28, 2004, pointed out that "The purpose of detention is to prevent captured individuals from returning to the field of battle and taking up arms once again." But detention operations also serve the key purpose of intelligence gathering. These are not competing interests but appropriate objectives which the United States may lawfully pursue.

We should emphasize that tens of thousands of men and women in uniform strive every day under austere and dangerous conditions to secure our freedom and the freedom of others. By historical standards, they rate as some of the best trained, disciplined and professional service men and women in our nation's history.

While any abuse is too much, we see signs that the Department of Defense is now on the path to dealing with the personal and professional failures and remedying the underlying causes of these abuses. We expect any potential future incidents of abuse will similarly be discovered and reported out of the same sense of personal honor and duty that characterized many of those who went out of their way to do so in most of these cases. The damage these incidents have done to U.S. policy, to the image of the U.S. among

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populations whose support we need in the Global War on Terror and to the morale of our armed forces, must not be repeated.

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INTRODUCTION–CHARTER AND METHODOLOGY

The Secretary of Defense chartered the Independent Panel on May 12, 2004, to review Department of Defense (DoD) Detention Operations (see Appendix A). In his memorandum, the Secretary tasked the Independent Panel to review Department of Defense investigations on detention operations whether completed or ongoing, as well as other materials and information the Panel deemed relevant to its review. The Secretary asked for the Panel's independent advice in highlighting the issues considered most important for his attention. He asked for the Panel's views on the causes and contributing factors to problems in detainee operations and what corrective measures would be required.

Completed investigations reviewed by the Panel include the following:

- Joint Staff External Review of Intelligence Operations at Guantanamo Bay, Cuba, September 28, 2002 (Custer Report)

- Joint Task Force Guantanamo assistance visit to Iraq to assess intelligence operations, September 5, 2003 (Miller Report)

- Army Provost Marshal General assessment of detention and corrections operations in Iraq, November 6, 2003 (Ryder Report)

- Administrative investigation under Army Regulation 15-6 (AR 15-6) regarding Abu Ghraib, June 8, 2004 (Taguba Report)

- Army Inspector General assessment of doctrine and training for detention operations, July 23, 2004 (Mikolashek Report)

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- The Fay investigation of activities of military personnel at Abu Ghraib and related LTG Jones investigation under the direction of GEN Kern, August 16, 2004

- Naval Inspector General's review of detention procedures at Guantanamo Bay, Cuba and the Naval Consolidated Brig, Charleston, South Carolina (A briefing was presented to the Secretary of Defense on May 8, 2004.)

- Naval Inspector General's review of DoD worldwide interrogation operations, due for release on September 9, 2004

- Special Inspection of Detainee Operations and Facilities in the Combined Forces Command-Afghanistan AOR (CFC-A), June 26, 2004 (Jacoby Report).

- Administrative Investigation of Alleged Detainee Abuse by the Combined Joint Special Operations Task Force – Arabian Peninsula (Formica Report) Due for release in August, 2004. Assessment not yet completed and not reviewed by the Independent Panel

- Army Reserve Command Inspector General Assessment of Military Intelligence and Military Police Training (due for release in December 2004)

Panel interviews of selected individuals either in person or via video-teleconference:

June 14, 2004:

- MG Keith Dayton, Director, Iraq Survey Group (ISG), Baghdad, Iraq
- MG Geoffrey Miller, Director, Detainee Operations, CJTF-7, Baghdad, Iraq
- Hon Donald Rumsfeld, Secretary of Defense
- Hon Steve Cambone, Under Secretary of Defense for Intelligence
- MG Walter Wojdakowski, Deputy Commanding General, V Corps, USAREUR and 7th Army

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- MG Donald Ryder, Provost Marshal, U.S. Army/Commanding General, U.S. Army Criminal Investigation Command, Washington, D.C.
- COL Thomas Pappas, Commander, 205th Military Intelligence Brigade, V Corps, USAREUR and 7th Army

June 24,2004:

- LTG David McKiernan, Commanding General, Third U.S. Army, U.S. Army Forces Central Command, Coalition Forces Land Component Command
- MG Barbara Fast, CJTF-7 C-2, Director for Intelligence, Baghdad, Iraq
- MG Geoffrey Miller, Director, Detainee Operations, CJTF-7, Baghdad, Iraq
- LTG Ricardo Sanchez, Commanding General, CJTF-7, Commanding General, V Corps, USAREUR and 7th Army in Iraq
- Mr. Daniel Dell'Orto, Principal Deputy General Counsel, DoD
- LTG Keith Alexander, G-2, U.S. Army, Washington, D.C.
- LTG William Boykin, Deputy Undersecretary of Defense for Intelligence, Intelligence and Warfighting Support, Office of the Under Secretary of Defense for Intelligence
- Hon Douglas Feith, Under Secretary of Defense for Policy

July 8, 2004:

- COL Marc Warren, Senior Legal Advisor to LTG Sanchez, Iraq
- BG Janis Karpinski, Commander (TPU), 800th Military Police Brigade, Uniondale, NY
- Hon Paul Wolfowitz, Deputy Secretary of Defense
- Hon William Haynes, General Counsel DoD
- Mr. John Rizzo, CIA Senior Deputy General Counsel
- GEN John Abizaid, Commander, U.S. Central Command
- MG George Fay, Deputy to the Army G2, Washington, D.C.
- VADM Albert Church III, Naval Inspector General

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July 22, 2004:

- Hon Donald Rumsfeld, Secretary of Defense

The Panel did not conduct a case-by-case review of individual abuse cases. This task has been accomplished by those professionals conducting criminal and commander-directed investigations. Many of these investigations are still on-going. The Panel did review the various completed and on-going reports covering the causes for the abuse. Each of these inquiries or inspections defined abuse, categorized the abuses, and analyzed the abuses in conformity with the appointing authorities' guidance, but the methodologies do not parallel each other in all respects. The Panel concludes, based on our review of other reports to date and our own efforts that causes for abuse have been adequately examined.

The Panel met on July 22nd and again on August 16th to discuss progress of the report. Panel members also reviewed sections and versions of the report through July and mid-August.

An effective, timely response to our requests for other documents and support was invariably forthcoming, due largely to the efforts of the DoD Detainee Task Force. We conducted reviews of multiple classified and unclassified documents generated by DoD and other sources.

Our staff has met and communicated with representatives of the International Committee of the Red Cross and with the Human Rights Executive Directors' Coordinating Group.

It should be noted that information provided to the Panel was that available as of mid-August 2004. If additional information becomes available, the Panel's judgments might be revised.

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THE CHANGING THREAT

The date September 11, 2001, marked an historic juncture in America's collective sense of security. On that day our presumption of invulnerability was irretrievably shattered. Over the last decade, the military has been called upon to establish and maintain the peace in Bosnia and Kosovo, eject the Taliban from Afghanistan, defeat the Iraqi Army, and fight ongoing insurgencies in Iraq and Afghanistan. Elsewhere it has been called upon to confront geographically dispersed terrorists who would threaten America's right to political sovereignty and our right to live free of fear.

In waging the Global War on Terror, the military confronts a far wider range of threats. In Iraq and Afghanistan, U.S. forces are fighting diverse enemies with varying ideologies, goals and capabilities. American soldiers and their coalition partners have defeated the armored divisions of the Republican Guard, but are still under attack by forces using automatic rifles, rocket-propelled grenades, roadside bombs and surface-to-air missiles. We are not simply fighting the remnants of dying regimes or opponents of the local governments and coalition forces assisting those governments, but multiple enemies including indigenous and international terrorists. This complex operational environment requires soldiers capable of conducting traditional stability operations associated with peacekeeping tasks one moment and fighting force-on-force engagements normally associated with war-fighting the next moment.

Warfare under the conditions described inevitably generates detainees—enemy combatants, opportunists, trouble-makers, saboteurs, common criminals, former regime officials and some innocents as well. These people must be carefully but humanely processed to sort out those who remain dangerous or possess militarily-valuable intelligence. Such processing presents extraordinarily formidable logistical, administrative, security and legal problems completely apart from the technical obstacles posed by communicating with prisoners in another language and extracting actionable intelligence from them in timely fashion. These activities, called detention operations,

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are a vital part of an expeditionary army's responsibility, but they depend upon training, skills, and attributes not normally associated with soldiers in combat units.

Military interrogators and military police, assisted by front-line tactical units, found themselves engaged in detention operations with detention procedures still steeped in the methods of World War II and the Cold War, when those we expected to capture on the battlefield were generally a homogenous group of enemy soldiers. Yet this is a new form of war, not at all like Desert Storm nor even analogous to Vietnam or Korea.

General Abizaid himself best articulated the current nature of combat in testimony before the U.S. Senate Armed Services Committee on May 19, 2004:

> Our enemies are in a unique position, and they are a unique brand of ideological extremists whose vision of the world is best summed up by how the Taliban ran Afghanistan. If they can outlast us in Afghanistan and undermine the legitimate government there, they'll once again fill up the seats at the soccer stadium and force people to watch executions. If, in Iraq, the culture of intimidation practiced by our enemies is allowed to win, the mass graves will fill again. Our enemies kill without remorse, they challenge our will through the careful manipulation of propaganda and information, they seek safe havens in order to develop weapons of mass destruction that they will use against us when they are ready. Their targets are not Kabul and Baghdad, but places like Madrid and London and New York. While we can't be defeated militarily, we're not going to win this thing militarily alone.... As we fight this most unconventional war of this new century, we must be patient and courageous.

In Iraq the U.S. commanders were slow to recognize and adapt to the insurgency that erupted in the summer and fall of 2003. Military police and interrogators who had previous experience in the Balkans, Guantanamo and Afghanistan found themselves, along with increasing numbers of less-experienced troops, in the midst of detention operations in Iraq the likes of which the Department of Defense had not foreseen. As Combined Joint Task Force-7 (CJTF-7) began detaining thousands of Iraqis suspected of

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involvement in or having knowledge of the insurgency, the problem quickly surpassed the capacity of the staff to deal with and the wherewithal to contain it.

Line units conducting raids found themselves seizing specifically targeted persons, so designated by military intelligence; but, lacking interrogators and interpreters to make precise distinctions in an alien culture and hostile neighborhoods, they reverted to rounding up any and all suspicious-looking persons—all too often including women and children. The flood of incoming detainees contrasted sharply with the trickle of released individuals. Processing was overwhelmed. Some detainees at Abu Ghraib had been held 90 days before being interrogated for the first time.

Many interrogators, already in short supply from major reductions during the post-Cold War drawdown, by this time, were on their second or third combat tour. Unit cohesion and morale were largely absent as under-strength companies and battalions from across the United States and Germany were deployed piecemeal and stitched together in a losing race to keep up with the rapid influx of vast numbers of detainees.

As the insurgency reached an initial peak in the fall of 2003, many military policemen from the Reserves who had been activated shortly after September 11, 2001 had reached the mandatory two-year limit on their mobilization time. Consequently, the ranks of soldiers having custody of detainees in Iraq fell to about half strength as MPs were ordered home by higher headquarters.

Some individuals seized the opportunity provided by this environment to give vent to latent sadistic urges. Moreover, many well-intentioned professionals, attempting to resolve the inherent moral conflict between using harsh techniques to gain information to save lives and treating detainees humanely, found themselves in uncharted ethical ground, with frequently changing guidance from above. Some stepped over the line of humane treatment accidentally; some did so knowingly. Some of the abusers believed other governmental agencies were conducting interrogations using harsher techniques

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than allowed by the Army Field Manual 34-52, a perception leading to the belief that such methods were condoned. In nearly 10 percent of the cases of alleged abuse, the chain of command ignored reports of those allegations. More than once a commander was complicit.

The requirements for successful detainee operations following major combat operations were known by U.S. forces in Iraq. After Operations Enduring Freedom and earlier phases of Iraqi Freedom, several lessons learned were captured in official reviews and were available on-line to any authorized military user. These lessons included the need for doctrine tailored to enable police and interrogators to work together effectively; the need for keeping MP and MI units manned at levels sufficient to the task; and the need for MP and MI units to belong to the same tactical command. However, there is no evidence that those responsible for planning and executing detainee operations, in the phase of the Iraq campaign following the major combat operations, availed themselves of these "lessons learned" in a timely fashion.

Judged in a broader context, U.S. detention operations were both traditional and new. They were traditional in that detainee operations were a part of all past conflicts. They were new in that the Global War on Terror and the insurgency we are facing in Iraq present a much more complicated detainee population.

Many of America's enemies, including those in Iraq and Afghanistan, have the ability to conduct this new kind of warfare, often referred to as "asymmetric" warfare. Asymmetric warfare can be viewed as attempts to circumvent or undermine a superior, conventional strength, while exploiting its weaknesses using methods the superior force neither can defeat nor resort to itself. Small unconventional forces can violate a state's security without any state support or affiliation whatsoever. For this reason, many terms in the orthodox lexicon of war—e.g., state sovereignty, national borders, uniformed combatants, declarations of war, and even war itself, are not terms terrorists acknowledge.

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Today, the power to wage war can rest in the hands of a few dozen highly motivated people with cell phones and access to the Internet. Going beyond simply terrorizing individual civilians, certain insurgent and terrorist organizations represent a higher level of threat, characterized by an ability and willingness to violate the political sovereignty and territorial integrity of sovereign nations.

Essential to defeating terrorist and insurgent threats is the ability to locate cells, kill or detain key leaders, and interdict operational and financial networks. However, the smallness and wide dispersal of these enemy assets make it problematic to focus on signal and imagery intelligence as we did in the Cold War, Desert Storm, and the first phase of Operation Iraqi Freedom. The ability of terrorists and insurgents to blend into the civilian population further decreases their vulnerability to signal and imagery intelligence. Thus, information gained from human sources, whether by spying or interrogation, is essential in narrowing the field upon which other intelligence gathering resources may be applied. In sum, human intelligence is absolutely necessary, not just to fill these gaps in information derived from other sources, but also to provide clues and leads for the other sources to exploit.

Military police functions must also adapt to this new kind of warfare. In addition to organizing more units capable of handling theater-level detention operations, we must also organize those units, so they are able to deal with the heightened threat environment. In this new form of warfare, the distinction between front and rear becomes more fluid. All forces must continuously prepare for combat operations.

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THE POLICY PROMULGATION PROCESS

Although there were a number of contributing causes for detainee abuses, policy processes were inadequate or deficient in certain respects at various levels: Department of Defense (DoD), CENTCOM, Coalition Forces Land Component Command (CFLCC), CJTF-7, and the individual holding facility or prison. In pursuing the question of the extent to which policy processes at the DoD or national level contributed to abuses, it is important to begin with policy development as individuals in Afghanistan were first being detained in November 2001. The first detainees arrived at Guantanamo in January 2002.

In early 2002, a debate was ongoing in Washington on the application of treaties and laws to al Qaeda and Taliban. The Department of Justice, Office of Legal Counsel (OLC) advised DoD General Counsel and the Counsel to the President that, among other things:

- Neither the Federal War Crimes Act nor the Geneva Conventions would apply to the detention conditions of al Qaeda prisoners,
- The President had the authority to suspend the United States treaty obligations applying to Afghanistan for the duration of the conflict should he determine Afghanistan to be a failed state,
- The President could find that the Taliban did not qualify for Enemy Prisoner of War (EPW) status under Geneva Convention III.

The Attorney General and the Counsel to the President, in part relying on the opinions of OLC, advised the President to determine the Geneva Conventions did not apply to the conflict with al Qaeda and the Taliban. The Panel understands DoD General Counsel's position was consistent with the Attorney General's and the Counsel to the President's position. Earlier, the Department of State had argued that the Geneva Conventions in their traditional application provided a sufficiently robust legal construct under which the Global War on Terror could effectively be waged.

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The Legal Advisor to the Chairman, Joint Chiefs of Staff and many service lawyers agreed with the State Department's initial position. They were concerned that to conclude otherwise would be inconsistent with past practice and policy, jeopardize the United States armed forces personnel, and undermine the United States military culture which is based on a strict adherence to the law of war. At the February 4, 2002 National Security Council meeting to decide this issue, the Department of State, the Department of Defense, and the Chairman of the Joint Chiefs of Staff were in agreement that all detainees would get the treatment they are (or would be) entitled to under the Geneva Conventions.

On February 7, 2002, the President issued his decision memorandum (see Appendix B). The memorandum stated the Geneva Conventions did not apply to al Qaeda and therefore they were not entitled to prisoner of war status. It also stated the Geneva Conventions did apply to the Taliban but the Taliban combatants were not entitled to prisoner of war status as a result of their failure to conduct themselves in accordance with the provisions of the Geneva Conventions. The President's memorandum also stated: "As a matter of policy, United States Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva."

Regarding the applicability of the Convention Against Torture and Other Cruel Inhumane or Degrading Treatment, the OLC opined on August 1, 2002 that interrogation methods that comply with the relevant domestic law do not violate the Convention. It held that only the most extreme acts, that were specifically intended to inflict severe pain and torture, would be in violation; lesser acts might be "cruel, inhumane, or degrading" but would not violate the Convention Against Torture or domestic statutes. The OLC memorandum went on to say, as Commander in Chief exercising his wartime powers, the President could even authorize torture, if he so decided.

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Reacting to tenacious resistance by some detainees to existing interrogation methods, which were essentially limited to those in Army Field Manual 34-52 (see Appendix E), Guantanamo authorities in October 2002 requested approval of strengthened counter-interrogation techniques to increase the intelligence yield from interrogations. This request was accompanied by a recommended tiered list of techniques, with the proviso that the harsher Category III methods (see Appendix E) could be used only on "exceptionally resistant detainees" and with approval by higher headquarters.

This Guantanamo initiative resulted in a December 2, 2002 decision by the Secretary of Defense authorizing, "as a matter of policy," the use of Categories I and II and only one technique in Category III: mild, non-injurious physical contact (see Appendix E). As a result of concern by the Navy General Counsel, the Secretary of Defense rescinded his December approval of all Category II techniques plus the one from Category III on January 15, 2003. This essentially returned interrogation techniques to FM 34-52 guidance. He also stated if any of the methods from Categories II and III were deemed warranted, permission for their use should be requested from him (see Appendix E).

The Secretary of Defense directed the DoD General Counsel to establish a working group to study interrogation techniques. The working group was headed by Air Force General Counsel Mary Walker and included wide membership from across the military, legal and intelligence communities. The working group also relied heavily on the OLC. The working group reviewed 35 techniques, and after a very expansive debate, ultimately recommended 24 to the Secretary of Defense. The study led to the Secretary's promulgation on April 16, 2003 of the list of approved techniques. His memorandum emphasized appropriate safeguards should be in place and, further, "*Use of these techniques is limited to interrogations of unlawful combatants held at Guantanamo Bay, Cuba.*" He also stipulated that four of the techniques should be used only in case of military necessity and that he should be so notified in advance. If additional techniques were deemed essential, they should be requested in writing, with "recommended safeguards and rationale for applying with an identified detainee."

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In the initial development of these Secretary of Defense policies, the legal resources of the Services' Judge Advocates and General Counsels were not utilized to their fullest potential. Had the Secretary of Defense had the benefit of a wider range of legal opinions and a more robust debate regarding detainee policies and operations, his policy of April 16, 2003 might well have been developed and issued in early December 2002. This could have avoided the policy changes which characterized the December 2, 2002 to April 16, 2003 period.

It is clear that pressure for additional intelligence and the more aggressive methods sanctioned by the Secretary of Defense memorandum resulted in stronger interrogation techniques. They did contribute to a belief that stronger interrogation methods were needed and appropriate in their treatment of detainees. At Guantanamo, the interrogators used those additional techniques with only two detainees, gaining important and time-urgent information in the process.

In Afghanistan, from the war's inception through the end of 2002, all forces used FM 34-52 as a baseline for interrogation techniques. Nonetheless, more aggressive interrogation of detainees appears to have been ongoing. On January 24, 2003, in response to a data call from the Joint Staff to facilitate the Secretary of Defense-directed Working Group efforts, the Commander Joint Task Force-180 forwarded a list of techniques being used in Afghanistan, including some not explicitly set out in FM 34-52. These techniques were included in a Special Operations Forces (SOF) Standard Operating Procedures document published in February 2003. The 519th Military Intelligence Battalion, a Company of which was later sent to Iraq, assisted in interrogations in support of SOF and was fully aware of their interrogation techniques.

In Iraq, the operational order from CENTCOM provided the standard FM 34-52 interrogation procedures would be used. Given the greatly different situations in Afghanistan and Iraq, it is not surprising there were differing CENTCOM policies for the

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two countries. In light of ongoing hostilities that monopolized commanders' attention in Iraq, it is also not unexpected the detainee issues were not given a higher priority.

Interrogators and lists of techniques circulated from Guantanamo and Afghanistan to Iraq. During July and August 2003, a Company of the 519th MI Battalion was sent to the Abu Ghraib detention facility to conduct interrogation operations. Absent guidance other than FM 34-52, the officer in charge prepared draft interrogation guidelines that were a near copy of the Standard Operating Procedure created by SOF. It is important to note that techniques effective under carefully controlled conditions at Guantanamo became far more problematic when they migrated and were not adequately safeguarded.

In August 2003, MG Geoffrey Miller arrived to conduct an assessment of DoD counterterrorism interrogation and detention operations in Iraq. He was to discuss current theater ability to exploit internees rapidly for actionable intelligence. He brought to Iraq the Secretary of Defense's April 16, 2003 policy guidelines for Guantanamo—which he reportedly gave to CJTF-7 as a potential model—recommending a command-wide policy be established. He noted, however, the Geneva Conventions did apply to Iraq. In addition to these various printed sources, there was also a store of common lore and practice within the interrogator community circulating through Guantanamo, Afghanistan and elsewhere.

At the operational level, in the absence of more specific guidance from CENTCOM, interrogators in Iraq relied on FM 34-52 and on unauthorized techniques that had migrated from Afghanistan. On September 14, 2003, Commander CJTF-7 signed the theater's first policy on interrogation which contained elements of the approved Guantanamo policy and elements of the SOF policy. Policies approved for use on al Qaeda and Taliban detainees who were not afforded the protection of EPW status under the Geneva Conventions now applied to detainees who did fall under the Geneva Convention protections. CENTCOM disapproved the September 14, 2003 policy resulting in another policy signed on October 12, 2003 which essentially mirrored the

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outdated 1987 version of the FM 34-52. The 1987 version, however, authorized interrogators to control all aspects of the interrogation, "to include lighting and heating, as well as food, clothing, and shelter given to detainees." This was specifically left out of the 1992 version, which is currently in use. This clearly led to confusion on what practices were acceptable. We cannot be sure how much the number and severity of abuses would have been curtailed had there been early and consistent guidance from higher levels. Nonetheless, such guidance was needed and likely would have had a limiting effect.

At Abu Ghraib, the Jones/Fay investigation concluded that MI professionals at the prison level shared a "major part of the culpability" for the abuses. Some of the abuses occurred during interrogation. As these interrogation techniques exceeded parameters of FM 34-52, no training had been developed. Absent training, the interrogators used their own initiative to implement the new techniques. To what extent the same situation existed at other prisons is unclear, but the widespread nature of abuses warrants an assumption that at least the understanding of interrogations policies was inadequate. A host of other possible contributing factors, such as training, leadership, and the generally chaotic situation in the prisons, are addressed elsewhere in this report.

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PUBLIC RELEASE OF ABUSE PHOTOS

In any large bureaucracy, good news travels up the chain of command quickly; bad news generally does not. In the case of the abuse photos from Abu Ghraib, concerns about command influence on an ongoing investigation may have impeded notification to senior officials.

Chronology of Events

On January 13, 2004, SPC Darby gave Army criminal investigators a copy of a CD containing abuse photos he had taken from SPC Graner's computer. CJTF-7, CENTCOM, the Chairman of the Joint Chiefs of Staff and the Secretary of Defense were all informed of the issue. LTG Sanchez promptly asked for an outside investigation, and MG Taguba was appointed as the investigating officer. The officials who saw the photos on January 14, 2004, not realizing their likely significance, did not recommend the photos be shown to more senior officials. A CENTCOM press release in Baghdad on January 16, 2004 announced there was an ongoing investigation into reported incidents of detainee abuse at a Coalition Forces detention facility.

An interim report of the investigation was provided to CJTF-7 and CENTCOM commanders in mid-March 2004. It is unclear whether they saw the Abu Ghraib photos, but their impact was not appreciated by either of these officers or their staff officers who may have seen the photographs, as indicated by the failure to transmit them in a timely fashion to more senior officials. When LTG Sanchez received the Taguba report, he immediately requested an investigation into the possible involvement of military intelligence personnel. He told the panel that he did not request the photos be disseminated beyond the criminal investigative process because commanders are prohibited from interfering with, or influencing, active investigations. In mid-April, LTG McKiernan, the appointing official, reported the investigative results through his chain of

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command to the Department of the Army, the Army Judge Advocate General, and the U.S. Army Reserve Command. LTG McKiernan advised the panel that he did not send a copy of the report to the Secretary of Defense, but forwarded it through his chain of command. Again the reluctance to move bad news farther up the chain of command probably was a factor impeding notification of the Secretary of Defense.

Given this situation, GEN Richard Myers, the Chairman of the Joint Chiefs of Staff, was unprepared in April 2004 when he learned the photos of detainee abuse were to be aired in a CBS broadcast. The planned release coincided with particularly intense fighting by Coalition forces in Fallujah and Najaf. After a discussion with GEN Abizaid, GEN Myers asked CBS to delay the broadcast out of concern the lives of the Coalition soldiers and the hostages in Iraq would be further endangered. The story of the abuse itself was already public. Nonetheless, both GEN Abizaid and GEN Myers understood the pictures would have an especially explosive impact around the world.

Informing Senior Officials

Given the magnitude of this problem, the Secretary of Defense and other senior DoD officials need a more effective information pipeline to inform them of high-profile incidents which may have a significant adverse impact on DoD operations. Had such a pipeline existed, it could have provided an accessible and efficient tool for field commanders to apprise higher headquarters, the Joint Chiefs of Staff, and the Office of the Secretary of Defense, of actual or developing situations which might hinder, impede, or undermine U.S. operations and initiatives. Such a system could have equipped senior spokesmen with the known facts of the situation from all DoD elements involved. Finally, it would have allowed for senior official preparation and Congressional notification.

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Such a procedure would make it possible for a field-level command or staff agency to alert others of the situation and forward the information to senior officials. This would not have been an unprecedented occurrence. For example, in December 2002, concerned Naval Criminal Investigative Service agents drew attention to the potential for abuse at Guantanamo. Those individuals had direct access to the highest levels of leadership and were able to get that information to senior levels without encumbrance. While a corresponding flow of information might not have prevented the abuses from occurring, the Office of the Secretary of Defense would have been alerted to a festering issue, allowing for an early and appropriate response.

Another example is the Air Force Executive Issues Team. This office has fulfilled the special information pipeline function for the Air Force since February 1998. The team chief and team members are highly trained and experienced field grade officers drawn from a variety of duty assignments. The team members have access to information flow across all levels of command and staff and are continually engaging and building contacts to facilitate the information flow. The information flow to the team runs parallel and complementary to standard reporting channels in order to avoid bypassing the chain of command but yet ensures a rapid and direct flow of relevant information to Air Force Headquarters.

A proper, transparent posture in getting the facts and fixing the problem would have better enabled the DoD to deal with the damage to the mission of the U.S. in the region and to the reputation of the U.S. military.

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COMMAND RESPONSIBILITIES

Although the most egregious instances of detainee abuse were caused by the aberrant behavior of a limited number of soldiers and the predilections of the non-commissioned officers on the night shift of Tier 1 at Abu Ghraib, the Independent Panel finds that commanding officers and their staffs at various levels failed in their duties and that such failures contributed directly or indirectly to detainee abuse. Commanders are responsible for all their units do or fail to do, and should be held accountable for their action or inaction. Command failures were compounded by poor advice provided by staff officers with responsibility for overseeing battlefield functions related to detention and interrogation operations. Military and civilian leaders at the Department of Defense share this burden of responsibility.

Commanders

The Panel finds that the weak and ineffectual leadership of the Commanding General of the 800th MP Brigade and the Commanding Officer of the 205th MI Brigade allowed the abuses at Abu Ghraib. There were serious lapses of leadership in both units from junior non-commissioned officers to battalion and brigade levels. The commanders of both brigades either knew, or should have known, abuses were taking place and taken measures to prevent them. The Panel finds no evidence that organizations above the 800th MP Brigade- or the 205th MI Brigade-level were directly involved in the incidents at Abu Ghraib. Accordingly, the Panel concurs in the judgment and recommendations of MG Taguba, MG Fay, LTG Jones, LTG Sanchez, LTG McKiernan, General Abizaid and General Kern regarding the commanders of these two units. The Panel expects disciplinary action may be forthcoming.

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The Independent Panel concurs with the findings of MG Taguba regarding the Director of the Joint Interrogation and Debriefing Center (JIDC) at Abu Ghraib. Specifically, the Panel notes that MG Taguba concluded that the Director, JIDC made material misrepresentations to MG Taguba's investigating team. The panel finds that he failed to properly train and control his soldiers and failed to ensure prisoners were afforded the protections under the relevant Geneva Conventions. The Panel concurs with MG Taguba's recommendation that he be relieved for cause and given a letter of reprimand and notes that disciplinary action may be pending against this officer.

The Independent Panel concurs with the findings of MG Taguba regarding the Commander of the 320th MP Battalion at Abu Ghraib. Specifically, the Panel finds that he failed to ensure that his subordinates were properly trained and supervised and that he failed to establish and enforce basic soldier standards, proficiency and accountability. He was not able to organize tasks to accomplish his mission in an appropriate manner. By not communicating standards, policies and plans to soldiers, he conveyed a sense of tacit approval of abusive behavior towards prisoners and a lax and dysfunctional command climate took hold. The Panel concurs with MG Taguba's recommendation that he be relieved from command, be given a General Officer Memorandum of reprimand, and be removed from the Colonel/O-6 promotion list.

The Independent Panel finds that BG Karpinski's leadership failures helped set the conditions at the prison which led to the abuses, including her failure to establish appropriate standard operating procedures (SOPs) and to ensure the relevant Geneva Conventions protections were afforded prisoners, as well as her failure to take appropriate actions regarding ineffective commanders and staff officers. The Panel notes the conclusion of MG Taguba that she made material misrepresentations to his investigating team regarding the frequency of her visits to Abu Ghraib. The Panel concurs with MG Taguba's recommendation that BG Karpinski be relieved of command and given a General Officer Letter of Reprimand.

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Although LTG Sanchez had tasks more urgent than dealing personally with command and resource deficiencies and allegations of abuse at Abu Ghraib, he should have ensured his staff dealt with the command and resource problems. He should have assured that urgent demands were placed for appropriate support and resources through Coalition Forces Land Component Command (CFLCC) and CENTCOM to the Joint Chiefs of Staff. He was responsible for establishing the confused command relationship at the Abu Ghraib prison. There was no clear delineation of command responsibilities between the 320th MP Battalion and the 205th MI Brigade. The situation was exacerbated by CJTF-7 Fragmentary Order (FRAGO) 1108 issued on November 19, 2003 that appointed the commander of the 205th MI Brigade as the base commander for Abu Ghraib, including responsibility for the support of all MPs assigned to the prison. In addition to being contrary to existing doctrine, there is no evidence the details of this command relationship were effectively coordinated or implemented by the leaders at Abu Ghraib. The unclear chain of command established by CJTF-7, combined with the poor leadership and lack of supervision, contributed to the atmosphere at Abu Ghraib that allowed the abuses to take place.

The unclear command structure at Abu Ghraib was further exacerbated by the confused command relationship up the chain. The 800th MP Brigade was initially assigned to the Central Command's Combined Forces Land Component Commander (CFLCC) during the major combat phase of Operation Iraqi Freedom. When CFLCC left the theater and returned to Fort McPherson Georgia, CENTCOM established Combined Joint Task Force-Seven (CJTF-7). While the 800th MP Brigade remained assigned to CFLCC, it essentially worked for CJTF-7. LTG Sanchez delegated responsibility for detention operations to his Deputy, MG Wojdakowski. At the same time, intelligence personnel at Abu Ghraib reported through the CJTF-7 C-2, Director for Intelligence. These arrangements had the damaging result that no single individual was responsible for overseeing operations at the prison.

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The Panel endorses the disciplinary actions already taken, although we believe LTG Sanchez should have taken more forceful action in November when he fully comprehended the depth of the leadership problems at Abu Ghraib. His apparent attempt to mentor BG Karpinski, though well-intended, was insufficient in a combat zone in the midst of a serious and growing insurgency.

The creation of the Joint Interrogation and Debriefing Center (JIDC) at Abu Ghraib was not an unusual organizational approach. The problem is, as the Army Inspector General assessment revealed, joint doctrine for the conduct of interrogation operations contains inconsistent guidance, particularly with regard to addressing the issue of the appropriate command relationships governing the operation of such organizations as a JIDC. Based on the findings of the Fay, Jones and Church investigations, SOUTHCOM and CENTCOM were able to develop effective command relationships for such centers at Guantanamo and in Afghanistan, but CENTCOM and CJTF-7 failed to do so for the JIDC at Abu Ghraib.

Staff Officers

While staff officers have no command responsibilities, they are responsible for providing oversight, advice and counsel to their commanders. Staff oversight of detention and interrogation operations for CJTF-7 was dispersed among the principal and special staff. The lack of one person on the staff to oversee detention operations and facilities complicated effective and efficient coordination among the staff.

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The Panel finds the following:

- The CJTF-7 Deputy Commander failed to initiate action to request additional military police for detention operations after it became clear that there were insufficient assets in Iraq.
- The CJTF-7 C-2, Director for Intelligence failed to advise the commander properly on directives and policies needed for the operation of the JIDC, for interrogation techniques and for appropriately monitoring the activities of Other Government Agencies (OGAs) within the Joint Area of Operations.
- The CJTF-7 Staff Judge Advocate failed to initiate an appropriate response to the November 2003 ICRC report on the conditions at Abu Ghraib.

Failure of the Combatant Command to Adjust the Plan

Once it became clear in July 2003 there was a major insurgency growing in Iraq and the relatively benign environment projected for Iraq was not materializing, senior leaders should have adjusted the plan from what had been assumed to be a stability operation and a benign handoff of detention operations to the Iraqis. If commanders and staffs at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003, as difficulties with the basic plan were readily apparent by that time. Responsible leaders who could have set in motion the development of a more effective alternative course of action extend up the command chain (and staff), to include the Director for Operations, Combined Joint Task Force 7 (CJTF-7); Deputy Commanding General, CJTF-7; Commander CJTF-7; Deputy Commander for Support, CFLCC; Commander, CFLCC; Director for Operations, Central Command (CENTCOM); Commander, CENTCOM; Director for Operations, Joint Staff; the Chairman of the Joint Chiefs of Staff; and the Office of the Secretary of Defense. In most cases these were errors of omission, but they were errors that should not go unnoted.

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There was ample evidence in both Joint and Army lessons learned that planning for detention operations for Iraq required alternatives to standard doctrinal approaches. Reports from experiences in Operation Enduring Freedom and at Guantanamo had already recognized the inadequacy of current doctrine for the detention mission and the need for augmentation of both MP and MI units with experienced confinement officers and interrogators. Previous experience also supported the likelihood that detainee population numbers would grow beyond planning estimates. The relationship between MP and MI personnel in the conduct of interrogations also demanded close, continuous coordination rather than remaining compartmentalized. "Lessons learned" also reported the value of establishing a clear chain of command subordinating MP and MI to a Joint Task Force or Brigade Commander. This commander would be in charge of all aspects of both detention and interrogations just as tactical combat forces are subordinated to a single commander. The planners had only to search the lessons learned databases (available on-line in military networks) to find these planning insights. Nevertheless, CENTCOM's October 2002 planning annex for detention operations reflected a traditional doctrinal methodology.

The change in the character of the struggle signaled by the sudden spike in U.S. casualties in June, July and August 2003 should have prompted consideration of the need for additional MP assets. GEN Abizaid himself signaled a change in operations when he publicly declared in July that CENTCOM was now dealing with a growing "insurgency," a term government officials had previously avoided in characterizing the war. Certainly by October and November when the fighting reached a new peak, commanders and staffs from CJTF-7 all the way to CENTCOM and the Joint Chiefs of Staff knew by then the serious deficiencies of the 800th MP Brigade and should have at least considered reinforcing the troops for detention operations. Reservists, some of whom had been first mobilized shortly after September 11, 2001, began reaching a two-year mobilization commitment, which, by law, mandated their redeployment and deactivation.

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There was not much the 800th MP Brigade (an Army Reserve unit), could do to delay the loss of those soldiers, and there was no individual replacement system or a unit replacement plan. The MP Brigade was totally dependent on higher headquarters to initiate action to alleviate the personnel crisis. The brigade was duly reporting readiness shortfalls through appropriate channels. However, its commanding general was emphasizing these shortfalls in personal communications with CJTF-7 commanders and staff as opposed to CFLCC. Since the brigade was assigned to CFLCC, but under the Tactical Control (TACON) of CJTF-7, her communications should been with CFLCC. The response from CJTF-7's Commander and Deputy Commander was that the 800th MP Brigade had sufficient personnel to accomplish its mission and that it needed to reallocate its available soldiers among the dozen or more detention facilities it was operating in Iraq. However, the Panel found the further deterioration in the readiness condition of the brigade should have been recognized by CFLCC and CENTCOM by late summer 2003. This led the Panel to conclude that CJTF-7, CFLCC and CENTCOM failure to request additional forces was an avoidable error.

The Joint Staff recognized intelligence collection from detainees in Iraq needed improvement. This was their rationale for sending MG Miller from Guantanamo to assist CJTF-7 with interrogation operations. However, the Joint Staff was not paying sufficient attention to evidence of broader readiness issues associated with both MP and MI resources.

We note that CJTF-7 Headquarters was never fully resourced to meet the size and complexity of its mission. The Joint Staff, CJTF-7 and CENTCOM took too long to finalize the Joint Manning Document (JMD) which was not finally approved until December 2003—six months into the insurgency. At one point, CJTF-7 Headquarters had only 495 of the 1,400 personnel authorized. The command was burdened with additional complexities associated with its mission to support the Coalition Provisional Authority.

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Finally, the Joint Staff failed to recognize the implications of the deteriorating manning levels in the 800th MP Brigade; the absence of combat equipment among detention elements of MP units operating in a combat zone; and the indications of deteriorating mission performance among military intelligence interrogators owing to the stress of repeated combat deployments.

When CJTF-7 did realize the magnitude of the detention problem, it requested an assistance visit by the Provost Marshal General of the Army, MG Ryder. There seemed to be some misunderstanding of the CJTF-7 intent, however, since MG Ryder viewed his visit primarily as an assessment of how to transfer the detention program to the Iraqi prison system.

In retrospect, several options for addressing the detention operations challenge were available. CJTF-7 could have requested a change in command relationships to place the 800th MP Brigade under Operational Control of CJTF-7 rather than Tactical Control. This would have permitted the Commander of CJTF-7 to reallocate tactical assets under his control to the detention mission. While other Military Police units in Iraq were already fully committed to higher-priority combat and combat support missions, such as convoy escort, there were non-MP units that could have been reassigned to help in the conduct of detention operations. For example, an artillery brigade was tasked to operate the CJTF-7 Joint Visitors Center in Baghdad. A similar tasking could have provided additional troop strength to assist the 800th MP Brigade at Abu Ghraib. Such a shift would have supplied valuable experienced sergeants, captains and lieutenant colonels sorely lacking in both the MI and MP units at Abu Ghraib. A similar effect could have been achieved by CENTCOM assigning USMC, Navy and Air Force MP and security units to operational control of CJTF-7 for the detention operations mission.

Mobilization and deployment of additional forces from CONUS was also a feasible option. A system is in place for commands such as CJTF-7, CFLCC, and CENTCOM to submit a formal Request for Forces (RFF). Earlier, CJTF-7 had submitted a RFF for an

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additional Judge Advocate organization, but CENTCOM would not forward it to the Joint Chiefs of Staff. Perhaps this experience made CJTF-7 reluctant to submit a RFF for MP units, but there is no evidence that any of the responsible officers considered any option other than the response given to BG Karpinski to "wear her stars" and reallocate personnel among her already over-stretched units.

While it is the responsibility of the JCS and services to provide adequate numbers of appropriately trained personnel for missions such as the detention operations in Iraq, it is the responsibility of the combatant commander to organize those forces in a manner to achieve mission success. The U.S. experience in the conduct of post-conflict stability operations has been limited, but the impact of our failure to conduct proper detainee operations in this case has been significant. Combatant commanders and their subordinates must organize in a manner that affords unity of command, ensuring commanders work for commanders and not staff.

The fact that the detention operation mission for all of Iraq is now commanded by a 2-star general who reports directly to the operational commander, and that 1,900 MPs, more appropriately equipped for combat, now perform the mission once assigned to a single under-strength, poorly trained, inadequately equipped, and weakly-led brigade, indicate more robust options should have been considered sooner.

Finally, the panel notes the failure to report the abuses up the chain of command in a timely manner with adequate urgency. The abuses at Abu Ghraib were known and under investigation as early as January 2004. However, the gravity of the abuses was not conveyed up the chain of command to the Secretary of Defense. The Taguba report, including the photographs, was completed in March 2004. This report was transmitted to LTG Sanchez and GEN Abizaid; however, it is unclear whether they ever saw the Abu Ghraib photos. GEN Myers has stated he knew of the existence of the photos as early as January 2004. Although the knowledge of the investigation into Abu Ghraib was widely known, as we noted in the previous section, the impact of the photos was not appreciated

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by any of these officers as indicated by the failure to transmit them in a timely fashion to officials at the Department of Defense. (See Appendix A for the names of persons associated with the positions cited in this section.)

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MILITARY POLICE AND DETENTION OPERATIONS

In Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom, commanders should have paid greater attention to the relationship between detainees and military operations. The current doctrine and procedures for detaining personnel are inadequate to meet the requirements of these conflicts. Due to the vastly different circumstances in these conflicts, it should not be surprising there were deficiencies in the projected needs for military police forces. All the investigations the Panel reviewed highlight the urgency to augment the prior way of conducting detention operations. In particular, the military police were not trained, organized, or equipped to meet the new challenges.

The Army IG found morale was high and command climate was good throughout forces deployed in Iraq and Afghanistan with one noticeable exception. Soldiers conducting detainee operations in remote or dangerous locations complained of very poor morale and command climate due to the lack of higher command involvement and support and the perception that their leaders did not care. At Abu Ghraib, in particular, there were many serious problems, which could have been avoided, if proper guidance, oversight and leadership had been provided.

Mobilization and Training

Mobilization and training inadequacies for the MP units occurred during the various phases of employment, beginning with peacetime training, activation, arrival at the mobilization site, deployment, arrival in theater and follow-on operations.

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Mobilization and Deployment

Problems generally began for the MP units upon arrival at the mobilization sites. As one commander stated, "Anything that could go wrong went wrong." Preparation was not consistently applied to all deploying units, wasting time and duplicating efforts already accomplished. Troops were separated from their equipment for excessive periods of time. The flow of equipment and personnel was not coordinated. The Commanding General of the 800th MP Brigade indicated the biggest problem was getting MPs and their equipment deployed together. The unit could neither train at its stateside mobilization site without its equipment nor upon arrival overseas, as two or three weeks could go by before joining with its equipment. This resulted in assigning equipment and troops in an ad hoc manner with no regard to original unit. It also resulted in assigning certain companies that had not trained together in peacetime to battalion headquarters. The flow of forces into theater was originally planned and assigned on the basis of the Time Phased Force Deployment List (TPFDL). The TPFDL was soon scrapped, however, in favor of individual unit deployment orders assigned by U.S. Army Forces Command based on unit readiness and personnel strength. MP Brigade commanders did not know who would be deployed next. This method resulted in a condition wherein a recently arrived battalion headquarters would be assigned the next arriving MP companies, regardless of their capabilities or any other prior command and training relationships.

Original projections called for approximately 12 detention facilities with a projection of 30,000 to 100,000 enemy prisoners of war. These large projections did not materialize. In fact, the initial commanding general of the 800th MP brigade, BG Hill, stated he had more than enough MPs designated for the Internment/Resettlement (I/R—hereafter called detention) mission at the end of the combat phase in Iraq. This assessment radically changed following the major combat phase, when the 800th moved to Baghdad beginning in the summer of 2003 to assume the detention mission. The brigade was given additional tasks assisting the Coalition Provisional Authority (CPA) in reconstructing the Iraqi corrections system, a mission they had neither planned for nor anticipated.

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Inadequate Training for the Military Police Mission

Though some elements performed better than others, generally training was inadequate. The MP detention units did not receive detention-specific training during their mobilization period, which was a critical deficiency. Detention training was conducted for only two MP detention battalions, one in Afghanistan and elements of the other at Camp Arifjan, Kuwait. The 800th MP Brigade, prior to deployment, had planned for a major detention exercise during the summer of 2002; however, this was cancelled due to the activation of many individuals and units for Operation Noble Eagle following the September 11, 2001 attack. The Deputy Commander of one MP brigade stated "training at the mobilization site was wholly inadequate." In addition, there was no theater-specific training.

The Army Inspector General's investigators also found that training at the mobilization sites failed to prepare units for conducting detention operations. Leaders of inspected reserve units stated in interviews that they did not receive a clear mission statement prior to mobilization and were not notified of their mission until after deploying. Personnel interviewed described being placed immediately in stressful situations in a detention facility with thousands of non-compliant detainees and not being trained to handle them. Units arriving in theater were given just a few days to conduct a handover from the outgoing units. Once deployed, these newly arrived units had difficulty gaining access to the necessary documentation on tactics, techniques, and procedures to train their personnel on the MP essential tasks of their new mission. A prime example is that relevant Army manuals and publications were available only on-line, but personnel did not have access to computers or the Internet.

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Force Structure Organization

The current military police organizational structure does not address the detention mission on the nonlinear battlefield characteristic of the Global War on Terror.

Current Military Police Structure

The present U.S. Army Reserve and Army National Guard system worked well for the 1991 Gulf War for which large numbers of reserve forces were mobilized, were deployed, fought, and were quickly returned to the United States. These forces, however, were not designed to maintain large numbers of troops at a high operational tempo for a long period of deployment as has been the case in Afghanistan and Iraq.

Comments from commanders and the various inspection reports indicated the current force structure for the MPs is neither flexible enough to support the developing mission, nor can it provide for the sustained detainee operations envisioned for the future. The primary reason is that the present structure lacks sufficient numbers of detention specialists. Currently, the Army active component detention specialists are assigned in support of the Disciplinary Barracks and Regional Correctional Facilities in the United States, all of which are non-deployable.

New Force Structure Initiatives

Significant efforts are currently being made to shift more of the MP detention requirements into the active force structure. The Army's force design for the future will standardize detention forces between active and reserve components and provide the capability for the active component to immediately deploy detention companies.

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The Panel notes that the Mikolashek inspection found significant shortfalls in training and force structure for field sanitation, preventive medicine and medical treatment requirements for detainees.

Doctrine and Planning

Initial planning envisaged a conflict mirroring operation Desert Storm; approximately 100,000 enemy prisoners of war were forecast for the first five days of the conflict. This expectation did not materialize in the first phase of Operation Iraqi Freedom. As a result, there were too many MP detention companies. The reverse occurred in the second phase of Iraqi Freedom, where the plan envisaged a reduced number of detention MPs on the assumption the initial large numbers of enemy prisoners of war would already have been processed out of the detention facilities. The result was that combat MPs were ultimately reassigned to an unplanned detention mission.

The doctrine of yesterday's battlefield does not satisfy the requirements of today's conflicts. Current doctrine assumes a linear battlefield and is very clear for the handling of detainees from the point of capture to the holding areas and eventually to the detention facilities in the rear. However, Operations Enduring Freedom and Iraqi Freedom, both occurring where there is no distinction between front and rear areas, forced organizations to adapt tactics and procedures to address the resulting voids. Organizations initially used standard operating procedures for collection points and detention facilities. These procedures do not fit the new environment, generally because there are no safe areas behind "friendly lines" – there *are* no friendly lines. The inapplicability of current doctrine had a negative effect on accountability, security, safeguarding of detainees, and intelligence exploitation. Instead of capturing and rapidly moving detainees to secure collection points as prescribed by doctrine, units tended to retain the detainees and attempted to exploit their tactical intelligence value without the required training or infrastructure.

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Current doctrine specifies that line combat units hold detainees no longer than 12 – 24 hours to extract immediately useful intelligence. Nonetheless, the Army IG inspection found detainees were routinely held up to 72 hours. For corps collection points, doctrine specifies detainees be held no longer than three days; the Army IG found detainees were held from 30 to 45 days.

Equipment Shortfalls

The current force structure for MP detention organizations does not provide sufficient assets to meet the inherent force protection requirement on battlefields likely to be characteristic of the future. Detention facilities in the theater may have to be located in a hostile combat zone, instead of the benign secure environment current doctrine presumes.

MP detention units will need to be equipped for combat. Lack of crew-served weapons, e.g., machine guns and mortars, to counter external attacks resulted in casualties to the detainee population as well as to the friendly forces. Moreover, Army-issued radios were frequently inoperable and too few in number. In frustration, individual soldiers purchased commercial radios from civilian sources. This improvisation created an unsecured communications environment that could be monitored by any hostile force outside the detention facility.

Detention Operations and Accountability

Traditionally, military police support the Joint Task Force (JTF) by undertaking administrative processing of detention operations, thereby relieving the war-fighters of concern over prisoners and civilian detainees. The handling of detainees is a tactical and operational consideration the JTF addresses during planning to prevent combat forces from being diverted to handle large numbers of detainees. Military police are structured,

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therefore, to facilitate the tempo of combat operations by providing for the quick movement of prisoners from the battle area to temporary holding areas and thence to detention facilities.

However, the lack of relevant doctrine meant the design and operation of division, battalion, and company collection points were improvised on an ad hoc basis, depending on such immediate local factors as mission, troops available, weather, time, etc. At these collection points, the SOPs the units had prior to deployment were outdated or ill-suited for the operating environment of Afghanistan and Iraq. Tactical units found themselves taking on roles in detainee operations never anticipated in their prior training. Such lack of proper skills had a negative effect on the intelligence exploitation, security, and safeguarding of detainees.

The initial point of capture may be at any time or place in a military operation. This is the place where soldiers have the least control of the environment and where most contact with the detainees occurs. It is also the place where, in or immediately after battle, abuse may be most likely. And it is the place where the detainee, shocked by capture, may be most likely to give information. As noted earlier, instead of capturing and rapidly transporting detainees to collection points, battalions and companies were holding detainees for excessive periods, even though they lacked the training, materiel, or infrastructure for productive interrogation. The Naval IG found that approximately one-third of the alleged incidents of abuse occurred at the point of capture.

Detention

The decision to use Abu Ghraib as the primary operational level detention facility happened by default. Abu Ghraib was selected by Ambassador Bremer who envisioned it as a temporary facility to be used for criminal detainees until the new Iraqi government could be established and an Iraqi prison established at another site. However, CJTF-7 saw an opportunity to use it as an interim site for the detainees it expected to round up as

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part of Operation Victory Bounty in July 2003. CJTF-7 had considered Camp Bucca but rejected it, as it was 150 miles away from Baghdad where the operation was to take place.

Abu Ghraib was also a questionable facility from a standpoint of conducting interrogations. Its location, next to an urban area, and its large size in relation to the small MP unit tasked to provide a law enforcement presence, made it impossible to achieve the necessary degree of security. The detainee population of approximately 7,000 out-manned the 92 MPs by approximately a 75:1 ratio. The choice of Abu Ghraib as the facility for detention operations placed a strictly detention mission-driven unit—one designed to operate in a rear area—smack in the middle of a combat environment.

Detainee Accountability and Classification

Adequate procedures for accountability were lacking during the movement of detainees from the collection points to the detainee facilities. During the movement, it was not unusual for detainees to exchange their identification tags with those of other detainees. The diversity of the detainee population also made identification and classification difficult. Classification determined the detainee assignment to particular cells/blocks, but individuals brought to the facility were often a mix of criminals and security detainees. The security detainees were either held for their intelligence value or presented a continuing threat to Coalition Forces. Some innocents were also included in the detainee population. The issue of unregistered or "ghost" detainees presented a limited, though significant, problem of accountability at Abu Ghraib.

Detainee Reporting

Detainee reporting lacked accountability, reliability and standardization. There was no central agency to collect and manage detainee information. The combatant commanders

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and the JTF commanders have overall responsibility for the detainee programs to ensure compliance with the international law of armed conflict, domestic law and applicable national policy and directives. The reporting system is supposed to process all inquiries concerning detainees and provide accountability information to the International Committee of the Red Cross. The poor reporting system did not meet this obligation.

Release Procedures

Multiple reviews were required to make release recommendations prior to approval by the release authority. Nonconcurrence by area commanders, intelligence organizations, or law enforcement agencies resulted in retention of ever larger numbers of detainees. The Army Inspector General estimated that up to 80 percent of detainees being held for security and intelligence reasons might be eligible for release upon proper review of their cases with the other 20 percent either requiring continued detention on security grounds or uncompleted intelligence requirements. Interviews indicated area commanders were reluctant to concur with release decisions out of concern that potential combatants would be reintroduced into their areas of operation or that the detainees had continuing intelligence value.

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INTERROGATION OPERATIONS

Any discussion of interrogation techniques must begin with the simple reality that their purpose is to gain intelligence that will help protect the United States, its forces and interests abroad. The severity of the post-September 11, 2001 terrorist threat and the escalating insurgency in Iraq make information gleaned from interrogations especially important. When lives are at stake, all legal and moral means of eliciting information must be considered. Nonetheless, interrogations are inherently unpleasant, and many people find them objectionable by their very nature.

The relationship between interrogators and detainees is frequently adversarial. The interrogator's goal of extracting useful information likely is in direct opposition to the detainee's goal of resisting or dissembling. Although interrogators are trained to stay within the bounds of acceptable conduct, the imperative of eliciting timely and useful information can sometimes conflict with proscriptions against inhumane or degrading treatment. For interrogators in Iraq and Afghanistan, this tension is magnified by the highly stressful combat environment. The conditions of war and the dynamics of detainee operations carry inherent risks for human mistreatment and must be approached with caution and careful planning and training.

A number of interrelated factors both limited the intelligence derived from interrogations and contributed to detainee abuse in Operations Enduring Freedom and Iraqi Freedom. A shortfall of properly trained human intelligence personnel to do tactical interrogation of detainees existed at all levels. At the larger detention centers, qualified and experienced interrogators and interpreters were in short supply. No doctrine existed to cover segregation of detainees whose status differed or was unclear, nor was there guidance on timely release of detainees no longer deemed of intelligence interest. The failure to adapt rapidly to the new intelligence requirements of the Global War on Terror resulted in inadequate resourcing, inexperienced and untrained personnel, and a backlog of detainees

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destined for interrogation. These conditions created a climate not conducive to sound intelligence-gathering efforts.

The Threat Environment

The Global War on Terror requires a fundamental reexamination of how we approach collecting intelligence. Terrorists present new challenges because of the way they organize, communicate, and operate. Many of the terrorists and insurgents are geographically dispersed non-state actors who move across national boundaries and operate in small cells that are difficult to surveil and penetrate.

Human Intelligence from Interrogations

The need for human intelligence has dramatically increased in the new threat environment of asymmetric warfare. Massed forces and equipment characteristic of the Cold War era, Desert Storm and even Phase I of Operation Iraqi Freedom relied largely on signals and imagery intelligence. The intelligence problem then was primarily one of monitoring known military sites, troop locations and equipment concentrations. The problem today, however, is discovering new information on widely dispersed terrorist and insurgent networks. Human intelligence often provides the clues to understand these networks, enabling the collection of intelligence from other sources. Information derived from interrogations is an important component of this human intelligence, especially in the Global War on Terror.

The interrogation of al Qaeda members held at Guantanamo has yielded valuable information used to disrupt and preempt terrorist planning and activities. Much of the 9/11 Commission's report on the planning and execution of the attacks on the World Trade Center and Pentagon came from interrogation of detainees. In the case of

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al Qaeda, interrogations provided insights on organization, key personnel, target selection, planning cycles, cooperation among various groups, and logistical support. This information expanded our knowledge of the selection, motivation, and training of these groups. According to Congressional testimony by the Under Secretary of Defense for Intelligence, we have gleaned information on a wide range of al Qaeda activities, including efforts to obtain weapons of mass destruction, sources of finance, training in use of explosives and suicide bombings, and potential travel routes to the United States.

Interrogations provide commanders with information about enemy networks, leadership, and tactics. Such information is critical in planning operations. Tactically, detainee interrogation is a fundamental tool for gaining insight into enemy positions, strength, weapons, and intentions. Thus, it is fundamental to the protection of our forces in combat. Notably, Saddam Hussein's capture was facilitated by interrogation-derived information. Interrogations often provide fragmentary pieces of the broader intelligence picture. These pieces become useful when combined with other human intelligence or intelligence from other sources.

Pressure on Interrogators to Produce Actionable Intelligence

With the active insurgency in Iraq, pressure was placed on the interrogators to produce "actionable" intelligence. In the months before Saddam Hussein's capture, inability to determine his whereabouts created widespread frustration within the intelligence community. With lives at stake, senior leaders expressed, forcibly at times, their needs for better intelligence. A number of visits by high-level officials to Abu Ghraib undoubtedly contributed to this perceived pressure. Both the CJTF-7 commander and his intelligence officer, CJTF-7 C2, visited the prison on several occasions. MG Miller's visit in August/September, 2003 stressed the need to move from simply collecting tactical information to collecting information of operational and strategic value. In November

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2003, a senior member of the National Security Council Staff visited Abu Ghraib, leading some personnel at the facility to conclude, perhaps incorrectly, that even the White House was interested in the intelligence gleaned from their interrogation reports. Despite the number of visits and the intensity of interest in actionable intelligence, however, the Panel found no undue pressure exerted by senior officials. Nevertheless, their eagerness for intelligence may have been perceived by interrogators as pressure.

Interrogation Operations Issues

A number of factors contributed to the problems experienced in interrogation operations. They ranged from resource and leadership shortfalls to doctrinal deficiencies and poor training.

Inadequate Resources

As part of the peace dividend following the Cold War much of the human intelligence capability, particularly in the Army, was reduced. As hostilities began in Afghanistan and Iraq, Army human intelligence personnel, particularly interrogators and interpreters, were ill-equipped to deal with requirements at both the tactical level and at the larger detention centers. At the tactical level, questioning of detainees has been used in all major conflicts. Knowledge of the enemy's positions, strength, equipment and tactics is critical in order to achieve operational success while minimizing casualties. Such tactical questioning to gain immediate battlefield intelligence is generally done at or near the point of capture. In Iraq, although their numbers were insufficient, some of the more seasoned MIs from the MI units supporting Abu Ghraib were assigned to support the Army Tactical HUMINT teams in the field.

In both Afghanistan and Iraq, tactical commanders kept detainees longer than specified by doctrine in order to exploit their unique local knowledge such as religious and tribal affiliation and regional politics. Remaining with the tactical units, the detainees could be

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available for follow-up questioning and clarification of details. The field commanders were concerned that information from interrogations, obtained in the more permanent facilities, would not be returned to the capturing unit. Tactical units, however, were not properly resourced to implement this altered operating arrangement. The potential for abuse also increases when interrogations are conducted in an emotionally charged field environment by personnel unfamiliar with approved techniques.

At the fixed detention centers such as Abu Ghraib, lack of resources and shortage of more experienced senior interrogators impeded the production of actionable intelligence. Inexperienced and untrained personnel often yielded poor intelligence. Interpreters, particularly, were in short supply, contributing to the backlog of detainees to be interrogated. As noted previously, at Abu Ghraib for instance, there were detainees who had been in custody for as long as 90 days before being interrogated for the first time.

Leadership and Organization Shortfalls at Abu Ghraib

Neither the leadership nor the organization of Military Intelligence at Abu Ghraib was up to the mission. The 205th MI Brigade had no organic interrogation elements; they had been eliminated by the downsizing in the 1990s. Soldiers from Army Reserve units filled the ranks, with the consequence that the Brigade Commander had to rely on disparate elements of units and individuals, including civilians, which had never trained together. The creation of the Joint Interrogation and Debriefing Center (JIDC) introduced another layer of complexity into an already stressed interrogations environment. The JIDC was an ad hoc organization made up of six different units lacking the normal command and control structure, particularly at the senior noncommissioned officer level. Leadership was also lacking, from the Commander of the 800th MP Brigade in charge of Abu Ghraib, who failed to ensure that soldiers had appropriate SOPs for dealing with detainees, to the Commander of the 205th MI Brigade, who failed to ensure that soldiers under his command were properly trained and followed the interrogation rules of engagement. Moreover, the Director of the JIDC was a weak leader who did not have experience in

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interrogation operations and who ceded the core of his responsibilities to subordinates. He failed to provide appropriate training and supervision of personnel assigned to the Center. None of these leaders established the basic standards and accountability that might have served to prevent the abusive behaviors that occurred.

Interrogation Techniques

Interrogation techniques intended only for Guantanamo came to be used in Afghanistan and Iraq. Techniques employed at Guantanamo included the use of stress positions, isolation for up to 30 days and removal of clothing. In Afghanistan techniques included removal of clothing, isolating people for long periods of time, use of stress positions, exploiting fear of dogs, and sleep and light deprivation. Interrogators in Iraq, already familiar with some of these ideas, implemented them even prior to any policy guidance from CJTF-7. Moreover, interrogators at Abu Ghraib were relying on a 1987 version of FM 34-52, which authorized interrogators to control all aspects of the interrogation to include light, heating, food, clothing and shelter given to detainees.

A range of opinion among interrogators, staff judge advocates and commanders existed regarding what techniques were permissible. Some incidents of abuse were clearly cases of individual criminal misconduct. Other incidents resulted from misinterpretations of law or policy or confusion about what interrogation techniques were permitted by law or local SOPs. The incidents stemming from misinterpretation or confusion occurred for several reasons: the proliferation of guidance and information from other theaters of operation; the interrogators' experiences in other theaters; and the failure to distinguish between permitted interrogation techniques in other theater environments and Iraq. Some soldiers or contractors who committed abuse may honestly have believed the techniques were condoned.

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Use of Contractors as Interrogators

As a consequence of the shortage of interrogators and interpreters, contractors were used to augment the workforce. Contractors were a particular problem at Abu Ghraib. The Army Inspector General found that 35 percent of the contractors employed did not receive formal training in military interrogation techniques, policy, or doctrine. The Naval Inspector General, however, found some of the older contractors had backgrounds as former military interrogators and were generally considered more effective than some of the junior enlisted military personnel. Oversight of contractor personnel and activities was not sufficient to ensure intelligence operations fell within the law and the authorized chain of command. Continued use of contractors will be required, but contracts must clearly specify the technical requirements and personnel qualifications, experience, and training needed. They should also be developed and administered in such as way as to provide the necessary oversight and management.

Doctrinal Deficiencies

At the tactical level, detaining individuals primarily for intelligence collection or because they constitute a potential security threat, though necessary, presents units with situations not addressed by current doctrine. Many units adapted their operating procedures for conducting detainee operations to fit an environment not contemplated in the existing doctrinal manuals. The capturing units had no relevant procedures for information and evidence collection, which were critical for the proper disposition of detainees.

Additionally, there is inconsistent doctrine on interrogation facility operations for the fixed detention locations. Commanders had to improvise the organization and command relationships within these elements to meet the particular requirements of their operating environments in Afghanistan and Iraq. Doctrine is lacking to address the screening and interrogation of large numbers of detainees whose status (combatants, criminals, or innocents) is not easily ascertainable. Nor does policy specifically address administrative

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responsibilities related to the timely release of detainees captured and detained primarily for intelligence exploitation or for the security threat they may pose.

Role of CIA

CIA personnel conducted interrogations in DoD detention facilities. In some facilities these interrogations were conducted in conjunction with military personnel, but at Abu Ghraib the CIA was allowed to conduct its interrogations separately. No memorandum of understanding existed on interrogations operations between the CIA and CJTF-7, and the CIA was allowed to operate under different rules. According to the Fay investigation, the CIA's detention and interrogation practices contributed to a loss of accountability at Abu Ghraib. We are aware of the issue of unregistered detainees, but the Panel did not have sufficient access to CIA information to make any determinations in this regard.

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THE ROLE OF MILITARY POLICE AND MILITARY INTELLIGENCE IN DETENTION OPERATIONS

Existing doctrine does not clearly address the relationship between the Military Police (MP) operating detention facilities and Military Intelligence (MI) personnel conducting intelligence exploitation at those facilities. The Army Inspector General report states neither MP nor MI doctrine specifically defines the distinct, but interdependent, roles and responsibilities of the two elements in detainee operations.

In the Global War on Terror, we are dealing with new conditions and new threats. Doctrine must be adjusted accordingly. MP doctrine currently states intelligence personnel may collaborate with MPs at detention sites to conduct interrogations, with coordination between the two groups to establish operating procedures. MP doctrine does not; however, address the subject of approved and prohibited MI procedures in an MP-operated facility. Conversely, MI doctrine does not clearly explain MP detention procedures or the role of MI personnel within a detention setting.

GUANTANAMO

The first detainees arrived at Guantanamo in January 2002. The SOUTHCOM Commander established two joint task forces at Guantanamo to execute the detention operations (JTF-160) and the interrogation operations (JTF-170). In August of that year, based on difficulties with the command relationships, the two JTFs were organized into a single command designated as Joint Task Force Guantanamo. This reorganization was conceived to enhance unity of command and direct all activities in support of interrogation and detention operations.

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On November 4, 2002, MG Miller was appointed Commander of Joint Task Force Guantanamo. As the joint commander, he called upon the MP and MI soldiers to work together cooperatively. Military police were to collect passive intelligence on detainees. They became key players, serving as the eyes and ears of the cellblocks for military intelligence personnel. This collaboration helped set conditions for successful interrogation by providing the interrogator more information about the detainee—his mood, his communications with other detainees, his receptivity to particular incentives, etc. Under the single command, the relationship between MPs and MIs became an effective operating model.

AFGHANISTAN

The MP and MI commands at the Bagram Detention Facility maintained separate chains of command and remained focused on their independent missions. The Combined Joint Task Force-76 Provost Marshal was responsible for detainee operations. He designated a principal assistant to run the Bagram facility. In parallel fashion, the CJTF-76 Intelligence Officer was responsible for MI operations in the facility, working through an Officer-in-Charge to oversee interrogation operations. The two deputies worked together to coordinate execution of their respective missions. A dedicated judge advocate was assigned full time to the facility, while the CJTF-76 Inspector General provided independent oversight. Based on information from the Naval Inspector General investigation, this arrangement in Afghanistan worked reasonably well.

ABU GHRAIB, IRAQ

The Central Confinement Facility is located near the population center of Baghdad. Abu Ghraib was selected by Ambassador Bremer who envisioned it as a temporary facility to be used for criminal detainees until the new Iraqi government could be

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established and an Iraqi prison established at another site. Following operations during the summer of 2003, Abu Ghraib also was designated by CJTF-7 as the detention center for security detainees. It was selected because it was difficult to transport prisoners, due to improvised explosives devices (IEDs) and other insurgent tactics, to the more remote and secure Camp Bucca, some 150 miles away.

Request for Assistance

Commander CJTF-7 recognized serious deficiencies at the prison and requested assistance. In response to this request, MG Miller and a team from Guantanamo were sent to Iraq to provide advice on facilities and operations specific to screening, interrogations, HUMINT collection and interagency integration in the short- and long- term. The team arrived in Baghdad on August 31, 2003. MG Miller brought a number of recommendations derived from his experience at Guantanamo to include his model for MP and MI personnel to work together. These collaborative procedures had worked well at Guantanamo, in part because of the high ratio of approximately one-to-one of military police to mostly compliant detainees. However, the guard-to-detainee ratio at Abu Ghraib was approximately 1 to 75, and the Military Intelligence and the Military Police had separate chains of command.

MG Ryder, the Army Provost Marshal, also made an assistance visit in mid-October 2003. He conducted a review of detainee operations in Iraq. He found flawed operating procedures, a lack of training, an inadequate prisoner classification system, under-strength units and a ratio of guard to prisoners designed for "compliant" prisoners of war and not for criminals or high-risk security detainees. However, he failed to detect the warning signs of potential and actual abuse that was ongoing during his visit. The assessment team members did not identify any MP units purposely applying inappropriate confinement practices. The Ryder report continues that "Military Police, though adept at passive collection of intelligence within a facility, do not participate in

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Military Intelligence-supervised interrogation sessions. The 800th MP Brigade has not been asked to change its facility procedures to set the conditions for MI interviews, nor participate in those interviews."

Prevailing Conditions

Conditions at Abu Ghraib reflected an exception to those prevailing at other theater detainee facilities. U.S. forces were operating Tiers 1A and 1B, while Tiers 2 through 7 were under the complete control of Iraqi prison guards. Iraqis who had committed crimes against other Iraqis were intended to be housed in the tiers under Iraqi control. The facility was under frequent hostile fire from mortars and rocket-propelled grenades. Detainee escape attempts were numerous and there were several riots. Both MI and MP units were seriously under-resourced and lacked unit cohesion and mid-level leadership. The reserve MP units had lost senior noncommissioned officers and other personnel through rotations back to the U.S. as well as reassignments to other missions in the theater.

When Abu Ghraib opened, the first MP unit was the 72nd MP Company, based in Henderson, Nevada. Known as "the Nevada Company," it has been described by many involved in investigations concerning Abu Ghraib as a very strong unit that kept tight rein on operational procedures at the facility. This company called into question the interrogation practices of the MI brigade regarding nakedness of detainees. The 72nd MP Company voiced and then filed written objections to these practices.

The problems at Abu Ghraib intensified after October 15, 2003, when the 372nd Military Police Company took over the facility. The 372nd MP Company had been given the most sensitive mission: control of Tier 1A and Tier 1B, where civilian and military intelligence specialists held detainees identified for interrogations as well as "high-risk" detainees. An "MI hold" was anyone of intelligence interest and included foreign and

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Iraqi terrorists, as well as individuals possessing information regarding foreign fighters, infiltration methods, or pending attacks on Coalition forces. The "high-risk" troublemakers were held in Tier 1B. The prison cells of Tiers 1A and 1B were collectively known as "the hard site." The 372nd soldiers were not trained for prison guard duty and were thinly stretched in dealing with the large number of detainees. With little experience to fall back on, the company commander deferred to noncommissioned officers who had civilian correctional backgrounds to work the night shift. This deference was a significant error in judgment.

Leadership Shortfalls

At the leadership level, there was friction and a lack of communication between the 800th MP Brigade and the 205th MI Brigade through the summer and fall of 2003. There was no clear delineation of responsibility between commands and little coordination at the command level. Both the Director of the Joint Interrogation and Debriefing Center (JIDC) and the Commander of the 320th MP Battalion were weak and ineffective leaders. Both failed to ensure their subordinates were properly trained and supervised. They failed to establish and enforce basic soldier standards, proficiency, and accountability. Neither was able to organize tasks to accomplish their missions in an appropriate manner. By not communicating standards, policies, and plans to soldiers, these leaders conveyed a sense of tacit approval of abusive behaviors toward prisoners. This was particularly evident with respect to prisoner-handling procedures and techniques, including unfamiliarity with the Geneva Conventions. There was a lack of discipline and standards of behavior were not established nor enforced. A lax and dysfunctional command climate took hold.

In November 2003, the 205th MI Brigade Commander was assigned as the Forward Operation Base Commander, thus receiving responsibility for Abu Ghraib. This assignment was made as a result of CJTF-7 Commander's concern over force protection at the prison. The Fay investigation found this did not change the relationship of MP and

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MI units in day-to-day operations at the facility, although the Commander of the 800th MP Brigade says she was denied access to areas of Abu Ghraib for which she was doctrinally responsible. Key leaders did not seem to recognize or appreciate psychological stressors associated with the detention mission. MG Taguba concluded these factors included "differences in culture, soldiers' quality of life, and the real presence of mortal danger over an extended time period. The failure of commanders to recognize these pressures contributed to the pervasive atmosphere existing at Abu Ghraib Detention Facility."

Military Working Dogs at Abu Ghraib

The Military Police directives give guidance for the use of military working dogs. They are used to provide an effective psychological and physical deterrent in the detention facility, offering an alternative to using firearms. Dogs are also used for perimeter security, inspections and patrols. MG Miller had recommended dogs as beneficial for detainee custody and control during his visit in August/September 2003. However, he never recommended, nor were dogs used for interrogations at Guantanamo. The working dog teams were requested by the Commander 205th MI Brigade who never understood the intent as described by MG Miller. It is likely the confusion about using dogs partially stems from the initial request for dog teams by military intelligence and not military police.

The working dogs arrived at Abu Ghraib in mid-November 2003. The two Army teams were assigned primarily to security of the compound while the three Navy teams worked inside at the entry control point. The senior Army and Navy dog handlers indicated they had not previously worked in a prison environment and received only a one-day training session on scout and search for escaped Enemy Prisoners of War. The Navy handler stated that upon arrival at Abu Ghraib he had not received an orientation on what was expected from his canine unit nor what was authorized or not authorized. He further

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stated he had never received instruction on the use of force in the compound, but he acknowledged he knew a dog could not be used on a detainee if the detainee posed no threat.

Guidance provided by the CJTF-7 directive of September 14, 2003 allowed working dogs to be used as an interrogation technique with the CJTF-7 Commander's approval. This authorization was updated by the October 12, 2003 memorandum, which allowed the presence of dogs during interrogation as long as they were muzzled and under control of the handler at all times but still required approval. The Taguba and Jones/Fay investigations identified a number of abuses related to using muzzled and unmuzzled dogs during interrogations. They also identified some abuses involving dog-use unrelated to interrogations, apparently for the sadistic pleasure of the MPs involved in these incidents.

MP/MI Relationship

It is clear, with these serious shortfalls and lack of supervision, the model MG Miller presented for the effective working relationship between MI and MP was neither understood nor could it have been successfully implemented. Based on the Taguba and Jones/Fay investigations, "setting favorable conditions" had some basis in fact at Abu Ghraib, but it was also used as an excuse for abusive behavior toward detainees.

The events that took place at Abu Ghraib are an aberration when compared to the situations at other detention operations. Poor leadership and a lack of oversight set the stage for abuses to occur.

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LAWS OF WAR/GENEVA CONVENTIONS

American military culture, training, and operations are steeped in a long-held commitment to the tenets of military and international law as traditionally codified by the world community. Department of Defense Directive 5100.77, DoD Law of War Program, describes the law of war as:

> That part of international law that regulates the conduct of armed hostilities. It is often called the law of armed conflict. The law of war encompasses all international law for the conduct of hostilities binding on the United States or its individual citizens, including treaties and international agreements to which the United States is a party, and applicable customary international law.

The law of war includes, among other agreements, the Geneva Conventions of 1949. The Geneva Conventions set forth the rights and obligations which govern the treatment of civilians and combatants during periods of armed conflict. Specifically, Geneva Convention III addresses the treatment of prisoners of war; and Geneva Convention IV addresses the treatment of civilians.

Chairman of the Joint Chiefs of Staff Instruction 5810.01B, Implementation of the DoD Law of War Program, reiterates U.S. policy concerning the law of war: "The Armed Forces of the United States will comply with the law of war during all armed conflicts, however such conflicts are characterized…."

The United States became engaged in two distinct conflicts, Operation Enduring Freedom (OEF) in Afghanistan and Operation Iraqi Freedom (OIF) in Iraq. As a result of a Presidential determination, the Geneva Conventions did not apply to al Quaeda and Taliban combatants. Nevertheless, these traditional standards were put into effect for OIF and remain in effect at this writing. Some would argue this is a departure from the

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traditional view of the law of war as espoused by the ICRC and others in the international community.

Operation Enduring Freedom

On October 17, 2001, pursuant to the commencement of combat operations in OEF, the Commander, CENTCOM, issued an order instructing the Geneva Conventions were to be applied to all captured individuals in accordance with their traditional interpretation. Belligerents would be screened to determine whether or not they were entitled to prisoner of war status. If an individual was entitled to prisoner of war status, the protections of Geneva Convention III would apply. If armed forces personnel were in doubt as to a detained individual's status, Geneva Convention III rights would be accorded to the detainee until a Geneva Convention III Article 5 tribunal made a definitive status determination. If the individual was found not to be entitled to Geneva Convention III protections, he or she might be detained and processed under U.S. criminal code, a procedure consistent with Geneva Convention IV.

A policy debate concerning the application of treaties and laws to al Qaeda and Taliban detainees then began taking shape. The Department of Justice Office of Legal Counsel (OLC) provided opinions to Counsel to the President and Department of Defense General Counsel concluding the Geneva Conventions did not protect members of the al Qaeda organization, and the President could decide that Geneva Conventions did not protect Taliban militia. Counsel to the President and the Attorney General so advised the President.

On February 7, 2002 the President issued a memorandum stating, in part,

> ...the war against terrorism ushers in a new paradigm.... Our nation recognizes that this new paradigm – ushered in not by us, but by terrorists – requires new thinking in the law of war, but thinking that should nevertheless be consistent with the principles of Geneva.

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Upon this premise, the President determined the Geneva Conventions did not apply to the U.S. conflict with al Qaeda, and that Taliban detainees did not qualify for prisoner of war status. Removed from the protections of the Geneva Conventions, al Qaeda and Taliban detainees have been classified variously as "unlawful combatants," "enemy combatants," and "unprivileged belligerents."

The enemy in the Global War on Terror is one neither the United States nor the community of nations has ever before engaged on such an extensive scale. These far-reaching, well-resourced, organized, and trained terrorists are attempting to achieve their own ends. Such terrorists are not of a nation state such as those who are party to the agreements which comprise the law of war. Neither do they conform their actions to the letter or spirit of the law of war.

The Panel accepts the proposition that these terrorists are not combatants entitled to the protections of Geneva Convention III. Furthermore, the Panel accepts the conclusion the Geneva Convention IV and the provisions of domestic criminal law are not sufficiently robust and adequate to provide for the appropriate detention of captured terrorists.

The Panel notes the President qualified his determination, directing that United States policy would be "consistent with the principles of Geneva." Among other things, the Geneva Conventions adhere to a standard calling for a delineation of rights for all persons, and humane treatment for all persons. They suggest that no person is "outlaw," that is, outside the laws of some legal entity.

The Panel finds the details of the current policy vague and lacking. Justice Sandra Day O'Connnor, writing for the majority in *Hamdi v Rumsfeld*, June 28, 2004 points out "the Government has never provided any court with the full criteria that it uses in classifying individuals as [enemy combatants]." Justice O'Connor cites several authorities to support the proposition that detention "is a clearly established principle of the law of

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war," but also states there is no precept of law, domestic or international, which would permit the indefinite detention of any combatant.

As a matter of logic, there should be a category of persons who do not comply with the specified conditions and thus fall outside the category of persons entitled to EPW status. Although there is not a particular label for this category in law of war conventions, the concept of "unlawful combatant" or "unprivileged belligerent" is a part of the law of war.

Operation Iraqi Freedom

Operation Iraqi Freedom is wholly different from Operation Enduring Freedom. It is an operation that clearly falls within the boundaries of the Geneva Conventions and the traditional law of war. From the very beginning of the campaign, none of the senior leadership or command considered any possibility other than that the Geneva Conventions applied.

The message in the field, or the assumptions made in the field, at times lost sight of this underpinning. Personnel familiar with the law of war determinations for OEF in Afghanistan tended to factor those determinations into their decision-making for military actions in Iraq. Law of war policy and decisions germane to OEF migrated, often quite innocently, into decision matrices for OIF. We noted earlier the migration of interrogation techniques from Afghanistan to Iraq. Those interrogation techniques were authorized only for OEF. More important, their authorization in Afghanistan and Guantanamo was possible only because the President had determined that individuals subjected to these interrogation techniques fell outside the strict protections of the Geneva Conventions.

One of the more telling examples of this migration centers around CJTF-7's determination that some of the detainees held in Iraq were to be categorized as unlawful

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combatants. "Unlawful combatants" was a category set out in the President's February 7, 2002 memorandum. Despite lacking specific authorization to operate beyond the confines of the Geneva Conventions, CJTF-7 nonetheless determined it was within their command discretion to classify, as unlawful combatants, individuals captured during OIF. CJTF-7 concluded it had individuals in custody who met the criteria for unlawful combatants set out by the President and extended it in Iraq to those who were not protected as combatants under the Geneva Conventions, based on the OLC opinions. While CJTF-7's reasoning is understandable in respect to unlawful combatants, nonetheless, they understood there was no authorization to suspend application of the Geneva Conventions, in letter and spirit, to all military actions of Operation Iraqi Freedom. In addition, CJTF-7 had no means of discriminating detainees among the various categories of those protected under the Geneva Conventions and those unlawful combatants who were not.

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THE ROLE OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS

Since December 2001, the International Committee of the Red Cross (ICRC) has visited U.S. detention operations in Guantanamo, Iraq, and Afghanistan numerous times. Various ICRC inspection teams have delivered working papers and reports of findings to U.S. military leaders at different levels. While the ICRC has acknowledged U.S. attempts to improve the conditions of detainees, major differences over detainee status as well as application of specific provisions of Geneva Conventions III and IV remain. If we were to follow the ICRC's interpretations, interrogation operations would not be allowed. This would deprive the U.S. of an indispensable source of intelligence in the war on terrorism.

The ICRC is an independent agency whose activities include observing and reporting on conditions in wartime detention camps and facilities. During visits, it attempts to register all prisoners, inspect facilities, and conduct private interviews with detainees to discuss any problems concerning detainee treatment or conditions; it also provides a means for detainees to contact their families. While the ICRC has no enforcing authority and its reports are supposedly confidential, any public revelation regarding standards of detainee treatment can have a substantial effect on international opinion.

The ICRC seeks to handle problems at the lowest level possible. When a team conducts an inspection, it provides a briefing, and sometimes a report, to the local commander. Discrepancies and issues are presented to the detaining authorities, and follow-up visits are made to monitor compliance with recommendations. The commander may or may not implement the recommendations based on either resource constraint or his interpretation of applicable law. These constraints can make complete implementation of ICRC recommendations either difficult or inappropriate. If recommendations are not implemented, the ICRC may address the issue with higher authorities. The ICRC does

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not expect to receive, nor does the DoD have a policy of providing, a written response to ICRC reports. However, DoD elements do attempt to implement as many of the recommendations as practicable, given security and resource constraints.

One important difference in approach between the U.S. and the ICRC is the interpretation of the legal status of terrorists. According to a Panel interview with CJTF-7 legal counsel, the ICRC sent a report to the State Department and the Coalition Provisional Authority in February 2003 citing lack of compliance with Protocol 1. But the U.S. has specifically rejected Protocol 1 stating that certain elements in the protocol, that provide legal protection for terrorists, make it plainly unacceptable. Still the U.S. has worked to preserve the positive elements of Protocol 1. In 1985, the Secretary of Defense noted that "certain provisions of Protocol 1 reflect customary international law, and others appear to be positive new developments. We therefore intend to work with our allies and others to develop a common understanding or declaration of principles incorporating these positive aspects, with the intention they shall, in time, win recognition as customary international law." In 1986 the ICRC acknowledged that it and the U.S. government had "agreed to disagree" on the applicability of Protocol 1. Nevertheless, the ICRC continues to presume the United States should adhere to this standard under the guise of customary international law.

This would grant legal protections to terrorists equivalent to the protections accorded to prisoners of war as required by the Geneva Conventions of 1949 despite the fact terrorists do not wear uniforms and are otherwise indistinguishable from noncombatants. To do so would undermine the prohibition on terrorists blending in with the civilian population, a situation which makes it impossible to attack terrorists without placing noncombatants at risk. For this and other reasons, the U.S. has specifically rejected this additional protocol.

The ICRC also considers the U.S. policy of categorizing some detainees as "unlawful combatants" to be a violation of their interpretation of international humanitarian law. It contends that Geneva Conventions III and IV, which the U.S. has ratified, allow for only

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two categories of detainees: (1) civilian detainees who must be charged with a crime and tried and (2) enemy combatants who must be released at the cessation of hostilities. In the ICRC's view, the category of "unlawful combatant" deprives the detainees of certain human rights. It argues that lack of information regarding the reasons for detention and the conditions for release are major sources of stress for detainees.

However, the 1949 Geneva Conventions specify conditions to qualify for protected status. By logic, then, if detainees do not meet the specific requirements of privileged status, there clearly must be a category for those lacking in such privileges. The ICRC does not acknowledge such a category of "unprivileged belligerents," and argues that it is not consistent with its interpretation of the Geneva Conventions.

Regarding the application of current international humanitarian law, including Geneva Conventions III and IV, the ICRC has three concerns: (1) gaining access to and ascertaining the status of all detainees in U.S. custody; (2) its belief that linking detention with interrogations should not be allowed which follows from its refusal to recognize the category of unprivileged combatants and (3) they also worry about losing their effectiveness.

Although the ICRC found U.S. forces generally cooperative, it has cited occasions when the forces did not grant adequate access to detainees, both in Iraq and Afghanistan. Of particular concern to the ICRC, however, has been the existence of "ghost detainees," detainees who were kept from ICRC inspectors. While the Panel has not been able to ascertain the number of ghost detainees in the overall detainee population, several investigations cite their existence. Both the Taguba and Jones/Fay reports cite instances of ghost detainees at Abu Ghraib. Secretary Rumsfeld publicly declared he directed one detainee be held secretly at the request of the Director of Central Intelligence.

On balance, the Panel concludes there is value in the relationship the Department of Defense historically has had with the ICRC. The ICRC should serve as an early warning

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indicator of possible abuse. Commanders should be alert to ICRC observations in their reports and take corrective actions as appropriate. The Panel also believes the ICRC, no less than the Defense Department, needs to adapt itself to the new realities of conflict, which are far different from the Western European environment from which the ICRC's interpretation of Geneva Conventions was drawn. The Department of Defense has established an office of detainee affairs and should continue to reshape its operational relationship with the ICRC.

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RECOMMENDATIONS

Department of Defense reform efforts are underway and the Panel commends these efforts. The Office of the Secretary of Defense, the Joint Chiefs of Staff and the Military Services are conducting comprehensive reviews on how military operations have changed since the end of the Cold War. The military services now recognize the problems and are studying how to adjust force compositions, training, doctrine and responsibilities for active/reserve/guard and contractor mixes to ensure we are better prepared to succeed in the war on terrorism.

The Panel reviewed various inspections, investigations and assessments that produced over 300 recommendations for corrective actions to address the problems identified with DoD detention operations. For the most part the Panel endorses their recommendations. In some areas the recommendations do not go far enough and we augment them. We provide additional recommendations to address relevant areas not covered by previous analyses.

The Independent Panel provides the following additional recommendations:

1. The United States should further define its policy, applicable to both the Department of Defense and other government agencies, on the categorization and status of all detainees as it applies to various operations and theaters. It should define their status and treatment in a way consistent with U.S. jurisprudence and military doctrine and with U.S. interpretation of the Geneva Conventions. We recommend that additional operational, support and staff judge advocate personnel be assigned to appropriate commands for the purpose of expediting the detainee release review process.

2. The Department of Defense needs to address and develop joint doctrine to define the appropriate collaboration between military intelligence and military police in a detention facility. The meaning of guidance, such as MPs "setting the conditions" for

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interrogation, needs to be defined with precision. MG Taguba argued that all detainee operations be consolidated under the responsibility of a single commander reporting directly to Commander CJTF-7. This change has now been accomplished and seems to be working effectively. Other than lack of leadership, training deficiencies in both MP and MI units have been cited most often as the needed measures to prevent detainee abuse. We support the recommendations on training articulated by the reports published by the various other reviews.

3. The nation needs more specialists for detention/interrogation operations, including linguists, interrogators, human intelligence, counter-intelligence, corrections police and behavioral scientists. Accompanying professional development and career field management systems must be put in place concurrently. The Panel agrees that some use of contractors in detention operations must continue into the foreseeable future. This is especially the case with the need for qualified interpreters and interrogators and will require rigorous oversight.

4. Joint Forces Command should chair a Joint Service Integrated Process Team to develop a new Operational Concept for Detention Operations in the new era of warfare, covering the Global War on Terror. The team should place special and early emphasis on detention operations during Counter-Insurgency campaigns and Stability Operations in which familiar concepts of front and rear areas may not apply. Attention should also be given to preparing for conditions in which normal law enforcement has broken down in an occupied or failed state. The Panel recommends that the idea of a deployable detention facility should be studied and implemented as appropriate.

5. Clearly, force structure in both MP and MI is inadequate to support the armed forces in this new form of warfare. Every investigation we reviewed refers to force structure deficiencies in some measure. There should be an active and reserve component mix of units for both military intelligence and military police. Other forces besides the Army are also in need of force structure improvements. Those forces have not been addressed

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adequately in the reports reviewed by the Panel, and we recommend that the Secretaries of the Navy and Air Force undertake force structure reviews of their own to improve the performance of their Services in detention operations.

6. Well-documented policy and procedures on approved interrogation techniques are imperative to counteract the current chilling effect the reaction to the abuses have had on the collection of valuable intelligence through interrogations. Given the critical role of intelligence in the Global War on Terror, the aggressiveness of interrogation techniques employed must be measured against the value of intelligence sought, to include its importance, urgency and relevance. A policy for interrogation operations should be promulgated early on and acceptable interrogation techniques for each operation must be clearly understood by all interrogation personnel.

7. All personnel who may be engaged in detention operations, from point of capture to final disposition, should participate in a professional ethics program that would equip them with a sharp moral compass for guidance in situations often riven with conflicting moral obligations. The development of such a values-oriented ethics program should be the responsibility of the individual services with assistance provided by the Joint Chiefs of Staff.

8. Clearer guidelines for the interaction of CIA with the Department of Defense in detention and interrogation operations must be defined.

9. The United States needs to redefine its approach to customary and treaty international humanitarian law, which must be adapted to the realities of the nature of conflict in the 21st Century. In doing so, the United States should emphasize the standard of reciprocity, in spite of the low probability that such will be extended to United States Forces by some adversaries, and the preservation of United States societal values and international image that flows from an adherence to recognized humanitarian standards.

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10. The Department of Defense should continue to foster its operational relationship with the International Committee of the Red Cross. The Panel believes the International Committee of the Red Cross, no less than the Defense Department, needs to adapt itself to the new realities of conflict which are far different from the Western European environment from which the ICRC's interpretation of Geneva Conventions was drawn.

11. The assignment of a focal point within the office of the Under Secretary for Policy would be a useful organizational step. The new focal point for Detainee Affairs should be charged with all aspects of detention policy and also be responsible for oversight of DoD relations with the International Committee of the Red Cross.

12. The Secretary of Defense should ensure the effective functioning of rapid reporting channels for communicating bad news to senior Department of Defense leadership without prejudice to any criminal or disciplinary actions already underway. The Panel recommends consideration of a joint adaptation of procedures such as the Air Force special notification process.

13. The Panel notes that the Fay investigation cited some medical personnel for failure to report detainee abuse. As noted in that investigation, training should include the obligation to report any detainee abuse. The Panel also notes that the Army IG found significant shortfalls in training and force structure for field sanitation, preventive medicine and medical treatment requirements for detainees. As the DoD improves detention operations force structure and training, it should pay attention to the need for medical personnel to screen and monitor the health of detention personnel and detainees.

14. The integration of the recommendations in this report and all the other efforts underway on detention operations will require further study. Analysis of the dynamics of program and resource implications, with a view to assessing the trade-offs and opportunity costs involved, must be addressed.

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Appendices

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GLOSSARY

Army Regulation 15-6	AR 15-6	Army regulation which specifies procedures for command investigations. The common name for both formal and informal command investigations.
Active Component	AC	Active military component of the Army, Navy, Air Force or Marines.
Abuse Cases		An incident or allegation of abuse, including, but not limited to death, assault, sexual assault, and theft, that triggers a CID investigation, which may involve multiple individuals.
Behavioral Science Coordination Team	BSCT	Team comprised of medical and other specialized personnel that provides support to special operations forces.
Civilian Internees	CI	Designation of civilians encountered and detained in the theater of war.
Criminal Investigation Command	CID	Investigative agency of the U. S. Army responsible for conducting criminal investigations to which the Army is or may be a party.
Collection Points	CP	Forward locations where prisoners are collected, processed and prepared for movement to the detention center.
Coalition Provisional Authority	CPA	Interim government of Iraq, in place from May 2003 through June 2004.
Convention Against Torture and Other Cruel Inhumane or Degrading Treatment		An international treaty brought into force in 1987 which seeks to define torture and other cruel, inhuman or degrading treatment or punishment and provides a mechanism for punishing those who would inflict such treatment on others.
Enemy Prisoner of War	EPW	International Committee of the Red Cross term for prisoners of war; this status bestows certain rights to the individual in the Geneva Conventions.
Force Design Update	FDU	The Army process to review and restructure forces.

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GLOSSARY

Fragmentary Order	FRAGO	An abbreviated form of an operation order (verbal, written or digital) usually issued on a day-to-day basis that eliminates the need for restarting information contained in a basic operation order.
Army Field Manual 34-52 "Intelligence Interrogation"	FM 34-52	Current manual for operations and training in interrogation techniques. The edition dated 1987 was updated in 1992.
Geneva Conventions	GC	The international treaties brought into force in August 1949. These conventions extend protections to, among others, prisoners of war and civilians in time of war.
Global War on Terror	GWOT	Worldwide operation to eradicate individuals and groups that participate in and sponsor terrorism.
Internment/Resettlement	I/R	Internment/resettlement mission assigned to specific US Army Military Police units who are responsible for the detention of Enemy Prisoners of War during armed conflict.
International Committee of the Red Cross	ICRC	Nongovernmental organization that seeks to help victims of war and internal violence.
In Lieu Of	ILO	When used in reference to manning, indicates that forces were used in a manner other than originally specified.
Initial Point of Capture	IPOC	Location where an enemy prisoner or internee is captured.
Iraq Survey Group	ISG	Organization located in Iraq with the mission to find weapons of mass destruction.
Joint Manning Document	JMD	Master document covering personnel requirements for the joint theater.
Navy Criminal Investigative Service	NCIS	Investigative service for the US Navy and Marine Corps.

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National Detainee Reporting Center	NDRC	Agency charged with accounting for and reporting all EPW, retained personnel, civilian internees and other detainees during armed conflict.
Operation Enduring Freedom	OEF	Military operation in Afghanistan
Other Government Agencies	OGA	Refers to non-Department of Defense agencies operating in theaters of war.
Operation Iraqi Freedom	OIF	Military operation in Iraq.
Office of Legal Counsel	OLC	Refers to the Department of Justice Office of Legal Counsel.
Operation Noble Eagle	ONE	Operation to activate and deploy forces for homeland defense and civil support in response to the attacks of September 11, 2001.
Operation Victory Bounty	OVB	CJTF-7 operation to sweep Baghdad area for remaining elements of the Saddam Fedayeen in 2003.
Operational Control	OPCON	Command authority over all aspects of military operations.
Republican Guard	RG	Elite Iraqi military forces under the regime of Saddam Hussein.
Reserve Component	RC	Army, Navy, Air Force and Marine Reserves and Army and Air National Guard
Request for Forces	RFF	Commanders request for additional forces to support the mission.
Standing Operating Procedure	SOP	A set of instructions covering those features of operations which lend themselves to a definite or standardized procedures without loss of effectiveness. The procedure is applicable unless ordered otherwise.
Tactical Control	TACON	Command authority to control and task forces for maneuvers within an area of operations.

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GLOSSARY

Tactical Human Intelligence Team	THT	Forward deployed intelligence element providing human intelligence support to maneuver units.
Time Phased Force Deployment List	TPFDL	Identifies the units needed to support an operational plan and specifies their order and method of deployment.
Army Regulation 15-6	AR 15-6	Army regulation which specifies procedures for command investigations. The common name for both formal and informal command investigations.
Active Component	AC	Active military component of the Army, Navy, Air Force or Marines.
Abuse Cases		An incident or allegation of abuse, including, but not limited to death, assault, sexual assault, and theft, that triggers a CID investigation, which may involve multiple individuals.
Behavioral Science Coordination Team	BSCT	Team comprised of medical and other specialized personnel that provides support to special operations forces.
Civilian Internees	CI	Designation of civilians encountered and detained in the theater of war.
Criminal Investigation Command	CID	Investigative agency of the U. S. Army responsible for conducting criminal investigations to which the Army is or may be a party.
Collection Points	CP	Forward locations where prisoners are collected, processed and prepared for movement to the detention center.
Coalition Provisional Authority	CPA	Interim government of Iraq, in place from May 2003 through June 2004.
Convention Against Torture and Other Cruel Inhumane or Degrading Treatment		An international treaty brought into force in 1987 which seeks to define torture and other cruel, inhuman or degrading treatment or punishment and provides a mechanism for punishing those who would inflict such treatment on others.

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GLOSSARY

Enemy Prisoner of War	EPW	International Committee of the Red Cross term for prisoners of war; this status bestows certain rights to the individual in the Geneva Conventions.
Force Design Update	FDU	The Army process to review and restructure forces.
Fragmentary Order	FRAGO	An abbreviated form of an operation order (verbal, written ordigital) usually issued on a day-to-day basis that eliminates the need for restarting information contained in a basic operation order.
Army Field Manual 34-52 "Intelligence Interrogation"	FM 34-52	Current manual for operations and training in interrogation techniques. The edition dated 1987 was updated in 1992.
Geneva Conventions	GC	The international treaties brought into force in August 1949. These conventions extend protections to, among others, prisoners of war and civilians in time of war.
Global War on Terror	GWOT	Worldwide operation to eradicate individuals and groups that participate in and sponsor terrorism.
Internment/Resettlement	I/R	Internment/resettlement mission assigned to specific US Army Military Police units who are responsible for the detention of Enemy Prisoners of War during armed conflict.
International Committee of the Red Cross	ICRC	Nongovernmental organization that seeks to help victims of war and internal violence.
In Lieu Of	ILO	When used in reference to manning, indicates that forces were used in a manner other than originally specified.
Initial Point of Capture	IPOC	Location where an enemy prisoner or internee is captured.
Iraq Survey Group	ISG	Organization located in Iraq with the mission to find weapons of mass destruction.
Joint Manning Document	JMD	Master document covering personnel requirements for the joint theater.

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GLOSSARY

Navy Criminal Investigative Service	NCIS	Investigative service for the US Navy and Marine Corps.
National Detainee Reporting Center	NDRC	Agency charged with accounting for and reporting all EPW, retained personnel, civilian internees and other detainees during armed conflict.
Operation Enduring Freedom	OEF	Military operation in Afghanistan
Other Government Agencies	OGA	Refers to non-Department of Defense agencies operating in theaters of war.
Operation Iraqi Freedom	OIF	Military operation in Iraq.
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Operational Control	OPCON	Command authority over all aspects of military operations.
Republican Guard	RG	Elite Iraqi military forces under the regime of Saddam Hussein.
Reserve Component	RC	Army, Navy, Air Force and Marine Reserves and Army and Air National Guard
Request for Forces	RFF	Commanders request for additional forces to support the mission.
Standing Operating Procedure	SOP	A set of instructions covering those features of operations which lend themselves to a definite or standardized procedures without loss of effectiveness. The procedure is applicable unless ordered otherwise.
Tactical Control	TACON	Command authority to control and task forces for maneuvers within an area of operations.

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Tactical Human Intelligence Team	THT	Forward deployed intelligence element providing human intelligence support to maneuver units.
Time Phased Force Deployment List	TPFDL	Identifies the units needed to support an operational plan and specifies their order and method of deployment.

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GLOSSARY

			Commander
Guantanamo			
United States Southern Command	USSOUTHCOM	One of nine Unified Combatant Commands with operational control of U.S. military forces. Area of responsibility includes Guantanamo Bay, Cuba.	GEN James Hill
Joint Task Force 160	JTF-160	Initially responsible for detention operations at Guantanamo, merged in JTF-G 11/4/02.	
Joint Task Force 170	JTF-170	Initially responsible for interrogation operations at Guantanamo, merged in JTF-G 11/4/02.	
Joint Task Force Guantanamo	JTF-G	Joint task force for all operations at Guantanamo, formed 11/4/02.	
Afghanistan			
United States Central Command	USCENTCOM	One of nine Unified Commands with operational control of U.S. military forces. Area of responsibility includes Afghanistan and Iraq.	GEN John Abizaid
Coalition Forces Land Component Command	CFLCC	Senior headquarters element for multi-national land forces in both Iraq and Afghanistan.	LTG David McKiernan
Combined Joint Task Force 180	CJTF-180	Forward deployed headquarters for Afghanistan.	
Iraq			
United States Central Command	USCENTCOM	One of nine Unified Commands with operational control of U.S. military forces. Area of responsibility includes Afghanistan and Iraq.	GEN John Abizaid
Coalition Forces Land Component Command	CFLCC	Senior headquarters element for multi-national land forces in both Iraq and Afghanistan.	LTG David McKiernan
Combined Joint Task Force 7	CJTF-7	Forward deployed headquarters for Operation Iraqi Freedom. Replaced in May 04 by Multi National Force - Iraq and Multi National Corps - Iraq	LTG Ricardo Sanchez
Combined Joint Task Force 7 Intelligence Staff	CJTF-7 C2	Intelligence staff support to CJTF-7	MG Barbara Fast
800th Military Police Brigade	800th MP BDE	U.S. Army Reserve Military Police Brigade, responsible for all internment facilities in Iraq, and assistance to CPA Minister of Justice.	BG Janis Karpinski
Joint Interrogation and Detention Center	JDIC	Element of CJTF-7 for intrrogation mission at Abu Ghuraib.	LTC Steven Jordan

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320th Military Police Battalion	320th MP BN	Element of 800th Bde; assigned to Abu Ghuraib.	LTC Jerry Phillabaum
372nd Military Police Company	372nd MP CO	Element of 320th Bn; assigned to Abu Ghuraib in October 2003.	CPT Donald Reese
72nd Military Police Company	72nd MP CO	Nevada National Guard MP Company, assigned to Abu Ghuraib prior to 372nd MP Co.	
205th Military Intelligence Brigade	205th MI BDE	Military Intelligence Brigade responsible for multiple Army intelligence missions throughout Iraq.	COL Thomas Pappas
519th Military Intelligence Battalion	519th MI BN	Tactical exploitation element of 525 MI Bde; Company A was located at Abu Ghuraib.	MAJ Michnewicz

Other

United States Army Forces Command	FORSCOM	U.S. Army major command responsible for training, readiness and deployment.

DOJ_NMG_0010516

SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

MAY 12 2004

MEMORANDUM FOR THE HONORABLE JAMES R. SCHLESINGER,
CHAIRMAN
THE HONORABLE HAROLD BROWN
THE HONORABLE TILLIE K. FOWLER
GENERAL CHARLES A. HORNER, USAF (RET.)

SUBJECT: Independent Panel to Review DoD Detention Operations

Various organizations of the Department of Defense have investigated, or will investigate, various aspects of allegations of abuse at DoD Detention Facilities and other matters related to detention operations. Thus far these inquiries include the following:

--Criminal investigations into individual allegations
--Army Provost Marshal General assessment of detention and corrections operations in Iraq
--Joint Task Force Guantanamo assistance visit to Iraq to assess intelligence operations
--Administrative Investigation under AR 15-6 regarding Abu Ghraib operations
--Army Inspector General assessment of doctrine and training for detention operations
--Commander, Joint Task Force-7 review of activities of military intelligence personnel at Abu Ghraib
--Army Reserve Command Inspector General assessment of training of Reserve units regarding military intelligence and military police
--Naval Inspector General review of detention procedures at Guantanamo Bay, Cuba, and the Naval Consolidated Brig, Charleston, South Carolina

I have been or will be briefed on the results of these inquiries and the corrective actions taken by responsible officials within the Department.

It would be helpful to me to have your independent, professional advice on the issues that you consider most pertinent related to the various allegations, based on your review of completed and pending investigative reports and other materials and information. I am especially interested in your views on the cause of the problems and what should be done to fix them. Issues such as force structure, training of regular and reserve personnel, use of contractors, organization, detention policy and procedures, interrogation policy and procedures, the relationship between detention and interrogation, compliance with the Geneva Conventions, relationship with the International Committee

OSD 06804-04

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of the Red Cross, command relationships, and operational practices may be contributing factors you might wish to review. Issues of personal accountability will be resolved through established military justice and administrative procedures, although any information you may develop will be welcome.

I would like your independent advice orally and in writing, preferably within 45 days after you begin your review. DoD personnel will collect information for your review and assist you as you deem appropriate. You are to have access to all relevant DoD investigations and other DoD information unless prohibited by law. Reviewing all written materials relevant to these issues may be sufficient to allow you to provide your advice. Should you believe it necessary to travel or conduct interviews, the Director of Administration and Management will make appropriate arrangements.

I intend to provide your report to the Committees on Armed Services, the Secretaries of the Military Departments, the Chairman of the Joint Chiefs of Staff, the Commanders of the Combatant Commands, the Directors of the Defense Agencies, and others as appropriate. If your report contains classified information, please also provide an unclassified version suitable for public release.

By copy of this memorandum, I request the Director of Administration and Management to secure the necessary technical, administrative and legal support for your review from the Department of Defense Components. I appoint you as full-time employees of this Department without pay under 10 U.S.C. §1583. I request all Department of Defense personnel to cooperate fully with your review and to make available all relevant documents and information at your request.

cc: SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
ASSISTANTS TO THE SECRETARY OF DEFENSE

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DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, FORCE TRANSFORMATION
DIRECTOR, NET ASSESSMENT
DIRECTOR, PROGRAM ANALYSIS AND EVALUATION
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

DOJ_NMG_0010519

THE WHITE HOUSE

WASHINGTON

February 7, 2002

MEMORANDUM FOR THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
CHIEF OF STAFF TO THE PRESIDENT
DIRECTOR OF CENTRAL INTELLIGENCE
ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF

SUBJECT: Humane Treatment of al Qaeda and Taliban Detainees

1. Our recent extensive discussions regarding the status of al Qaeda and Taliban detainees confirm that the application of the Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (Geneva) to the conflict with al Qaeda and the Taliban involves complex legal questions. By its terms, Geneva applies to conflicts involving "High Contracting Parties," which can only be states. Moreover, it assumes the existence of "regular" armed forces fighting on behalf of states. However, the war against terrorism ushers in a new paradigm, one in which groups with broad, international reach commit horrific acts against innocent civilians, sometimes with the direct support of states. Our Nation recognizes that this new paradigm -- ushered in not by us, but by terrorists -- requires new thinking in the law of war, but thinking that should nevertheless be consistent with the principles of Geneva.

2. Pursuant to my authority as Commander in Chief and Chief Executive of the United States, and relying on the opinion of the Department of Justice dated January 22, 2002, and on the legal opinion rendered by the Attorney General in his letter of February 1, 2002, I hereby determine as follows:

   a. I accept the legal conclusion of the Department of Justice and determine that none of the provisions of Geneva apply to our conflict with al Qaeda in Afghanistan or elsewhere throughout the world because, among other reasons, al Qaeda is not a High Contracting Party to Geneva.

   b. I accept the legal conclusion of the Attorney General and the Department of Justice that I have the authority under the Constitution to suspend Geneva as between the United States and Afghanistan, but I decline to

Appendix C

exercise that authority at this time. Accordingly, I determine that the provisions of Geneva will apply to our present conflict with the Taliban. I reserve the right to exercise this authority in this or future conflicts.

c. I also accept the legal conclusion of the Department of Justice and determine that common Article 3 of Geneva does not apply to either al Qaeda or Taliban detainees, because, among other reasons, the relevant conflicts are international in scope and common Article 3 applies only to "armed conflict not of an international character."

d. Based on the facts supplied by the Department of Defense and the recommendation of the Department of Justice, I determine that the Taliban detainees are unlawful combatants and, therefore, do not qualify as prisoners of war under Article 4 of Geneva. I note that, because Geneva does not apply to our conflict with al Qaeda, al Qaeda detainees also do not qualify as prisoners of war.

3. Of course, our values as a Nation, values that we share with many nations in the world, call for us to treat detainees humanely, including those who are not legally entitled to such treatment. Our Nation has been and will continue to be a strong supporter of Geneva and its principles. As a matter of policy, the United States Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.

4. The United States will hold states, organizations, and individuals who gain control of United States personnel responsible for treating such personnel humanely and consistent with applicable law.

5. I hereby reaffirm the order previously issued by the Secretary of Defense to the United States Armed Forces requiring that the detainees be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.

6. I hereby direct the Secretary of State to communicate my determinations in an appropriate manner to our allies, and other countries and international organizations cooperating in the war against terrorism of global reach.

Interrogation Policies in Guantanamo, Afghanistan and Iraq

	Number of Authorized Techniques	Policy	Date	Notes
GTMO	17	FM 34-52 (1992)	Jan 02 - 01 Dec 02	
	33	Secretary of Defense Approved Tiered System	02 Dec 02 - 15 Jan 03	1
	20	FM 34-52 (1992) with 3 Cat I Techniques	16 Jan 03 - 15 Apr 03	
	24	Secretary of Defense Memo	16 Apr 03 - Present	1,2

	Number of Authorized Techniques	Policy	Date	Notes
Afghanistan[5]	17	FM 34-52 (1992)	27 Oct 01 - 24 Jan 03	
	33	CJTF 180 Response to Director, Joint Staff	24-Jan-03	1, 3, 6
	32	CJTF 180 Detainee SOP	27-Mar-04	1
	19	CJTF-A Rev 2 Guidance	Jun-04	4

	Number of Authorized Techniques	Policy	Date	Notes
Iraq[5]	17	FM 34-52 (1992)		
	29	CJTF-7 Signed Policy	14-Sep-03	1
	19	CJTF-7 Signed Policy	12-Oct-03	4
	19	CJTF-7 Signed Policy	13-May-04	4

1 Some techniques specifically delineated in this memo are inherent to techniques contained in FM 34-52, e.g. Yelling as a component of Fear Up
2 Five Approved Techniques require SOUTHCOM approval and SECDEF notification.
3 Figure includes techniques that were not in current use but requested for future use.
4 Figure includes one technique which requires CG approval.
5 Memorandum cited for Afghanistan and Iraq are classified.
6 Figure includes the 17 techniques of FM-34-52, alhtough they are not specified in the Memo.

Appendix D

Source: Naval IG Investigation

DOJ_NMG_0010522

Evolution of Interrogation Techniques - GTMO

Interrogation Techniques	FM 34-52 (1992) Jan 02 - 01 Dec 02	Secretary of Defense Approved Tiered System 02 Dec 02 - 15 Jan 03	FM 34-52 (1992) with some Cat I 16 Jan 03 - 15 Apr 03	Secretary of Defense Memo 16 Apr 03 - Present
Direct questioning	X	X	X	X
Incentive/removal of incentive	X	X	X	X
Emotional love	X	X	X	X
Emotional hate	X	X	X	X
Fear up harsh	X	X	X	X
Fear up mild	X	X	X	X
Reduced fear	X	X	X	X
Pride and ego up	X	X	X	X
Pride and ego down	X	X	X	X
Futility	X	X	X	X
We know all	X	X	X	X
Establish your identity	X	X	X	X
Repetition approach	X	X	X	X
File and dossier	X	X	X	X
Mutt and Jeff				X*
Rapid Fire	X	X	X	X
Silence	X	X	X	X
Change of Scene	X	X	X	X
Yelling		X (Cat I)	X	
Deception		X (Cat I)		
Multiple interrogators		X (Cat I)	X	
Interrogator identity		X (Cat I)	X	
Stress positions, like standing		X (Cat II)		
False documents/reports		X (Cat II)		
Isolation for up to 30 days		X (Cat II)		X*
Deprivation of light/auditory stimuli		X (Cat II)		
Hooding (transportation & questioning		X (Cat II)		
20-interrogations		X (Cat II)		
Removal of ALL comfort items, including religious items		X (Cat II)		
MRE-only diet		X (Cat II)		X*
Removal of clothing		X (Cat II)		
Forced grooming		X (Cat II)		
Exploiting individual phobias, e.g. dogs		X (Cat II)		
Mild, non-injurious physical contact, e.g. grabbing, poking or light pushing		X (Cat III)		
Environmental manipulation				X
Sleep adjustment				X
False flag				X

*Techniques require SOUTHCOM approval and SECDEF notification.

Source: Naval IG Investigation
Appendix E

DOJ_NMG_0010523

Major Detention Events

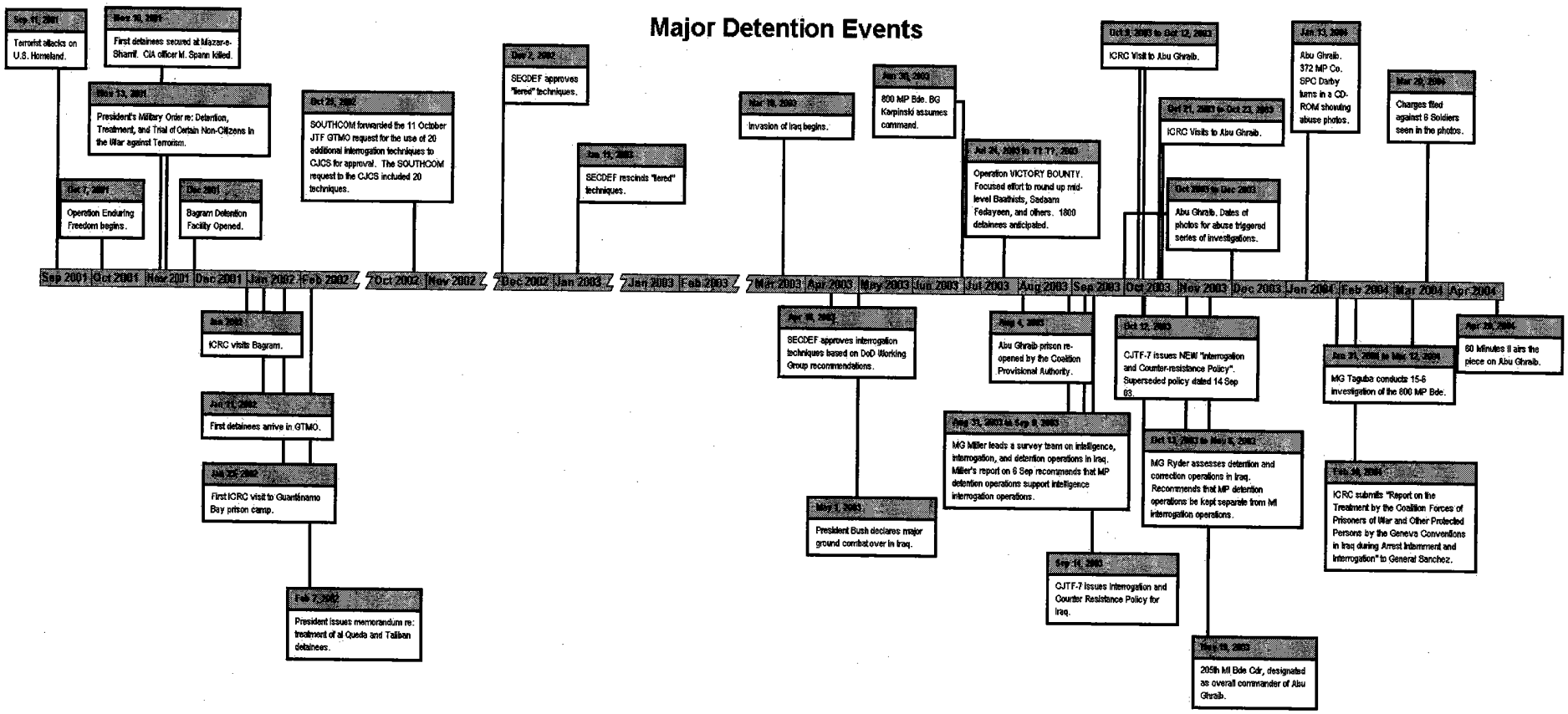

Appendix F

PSYCHOLOGICAL STRESSES

The potential for abusive treatment of detainees during the Global War on Terrorism was entirely predictable based on a fundamental understanding of the principle of social psychology principles coupled with an awareness of numerous known environmental risk factors. Most leaders were unacquainted with these known risk factors, and therefore failed to take steps to mitigate the likelihood that abuses of some type would occur during detainee operations. While certain conditions heightened the possibility of abusive treatment, such conditions neither excuse nor absolve the individuals who engaged in deliberate immoral or illegal behaviors.

The abuse the detainees endured at various places and times raises a number of questions about the likely psychological aspects of inflicting such abuses. Findings from the field of social psychology suggest that the conditions of war and the dynamics of detainee operations carry inherent risks for human mistreatment, and therefore must be approached with great caution and careful planning and training.

The Stanford Prison Experiment

In 1973, Haney, Banks and Zimbardo (1) published their landmark Stanford study, "Interpersonal Dynamics in a Simulated Prison." Their study provides a cautionary tale for all military detention operations. The Stanford Experiment used a set of tested, psychologically sound college students in a benign environment. In contrast, in military detention operations, soldiers work under stressful combat conditions that are far from benign.

The Stanford Prison Experiment (SPE) attempted to "create a prison-like situation" and then observe the behavior of those involved. The researchers randomly assigned 24 young men to either the "prisoner" or "guard" group. Psychological testing was used to eliminate participants with overt psychopathology, and extensive efforts were made to

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simulate actual prison conditions. The experiment, scheduled to last two weeks, was cancelled after only six days due to the ethical concerns raised by the behaviors of the participants. The study notes that while guards and prisoners were free to engage in any form of interpersonal interactions, the "characteristic nature of their encounters tended to be negative, hostile, affrontive and dehumanizing."

The researchers found that both prisoners and guards exhibited "pathological reactions" during the course of the experiment. Guards fell into three categories: (1) those who were "tough but fair," (2) those who were passive and reluctant to use coercive control and, of special interests, (3) those who "went far beyond their roles to engage in creative cruelty and harassment." With each passing day, guards "were observed to generally escalate their harassment of the prisoners." The researchers reported: "We witnessed a sample of normal, healthy American college students fractionate into a group of prison guards who seemed to derive pleasure from insulting, threatening, humiliating, and dehumanizing their peers."

Because of the random assignment of subjects, the study concluded the observed behaviors were the result of situational rather than personality factors:

> The negative, anti-social reactions observed were not the product of an environment created by combining a collection of deviant personalities, but rather, the result of an intrinsically pathological situation which could distort and rechannel the behaviour of essentially normal individuals. The abnormality here resided in the psychological nature of the situation and not in those who passed through it.

The authors discussed how prisoner-guard interactions shaped the evolution of power use by the guards:

> The use of power was self-aggrandizing and self-perpetuating. The guard power, derived initially from an arbitrary label, was intensified whenever there was any perceived threat by the prisoners and this new level subsequently became the baseline from which further hostility and harassment would begin. The most hostile guards on each shift moved spontaneously into the leadership roles of

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> giving orders and deciding on punishments. They became role models whose behaviour was emulated by other members of the shift. Despite minimal contact between the three separate guard shifts and nearly 16 hours a day spent away from the prison, the absolute level of aggression as well as the more subtle and "creative" forms of aggression manifested, increased in a spiraling function. Not to be tough and arrogant was to be seen as a sign of weakness by the guards and even those "good" guards who did not get as drawn into the power syndrome as the others respected the implicit norm of never contradicting or even interfering with an action of a more hostile guard on their shift.

In an article published 25 years after the Stanford Prison Experiment, Haney and Zimbardo noted their initial study "underscored the degree to which institutional settings can develop a life of their own, independent of the wishes, intentions, and purposes of those who run them." They highlighted the need for those outside the culture to offer external perspectives on process and procedures. (2)

Social Psychology: Causes of Aggression and Inhumane Treatment

The field of social psychology examines the nature of human interactions. Researchers in the field have long been searching to understand why humans sometimes mistreat fellow humans. The discussions below examine the factors behind human aggression and inhumane treatment, striving to impart a better understanding of why detainee abuses occur.

Human Aggression

Research has identified a number of factors that can assist in predicting human aggression. These factors include:

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- **Personality traits**. Certain traits among the totality of an individual's behavioral and emotional make-up predispose to be more aggressive than other individuals.
- **Beliefs**. Research reveals those who believe they can carry out aggressive acts, and that such acts will result in a desired outcome, are more likely to be aggressive than those who do not hold these beliefs.
- **Attitudes**. Those who hold more positive attitudes towards violence are more likely to commit violent acts.
- **Values.** The values individuals hold vary regarding the appropriateness of using violence to resolve interpersonal conduct.
- **Situational Factors**. Aggressive cues (the presence of weapons), provocation (threats, insults, aggressive behaviors), frustration, pain and discomfort (hot temperatures, loud noises, unpleasant odors), and incentives can all call forth aggressive behaviors.
- **Emotional factors**. Anger, fear, and emotional arousal can heighten the tendency to act out aggressively.

The personality traits, belief systems, attitudes, and values of those who perpetrated detainee abuses can only be speculated upon. However, it is reasonable to assume, in any given population, these characteristics will be distributed along a bell curve, which will predispose some more than others within a group to manifest aggressive behaviors. These existing traits can be affected by environmental conditions, which are discussed later.

Abusive Treatment

Psychologists have attempted to understand how and why individuals and groups who usually act humanely can sometimes act otherwise in certain circumstances. A number of psychological concepts explain why abusive behavior occurs. These concepts include:

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Deindividuation. Deindividuation is a process whereby the anonymity, suggestibility, and contagion provided in a crowd allows individuals to participate in behavior marked by the temporary suspension of customary rules and inhibitions. Individuals within a group may experience reduced self-awareness which can also result in disinhibited behavior.

Groupthink. Individuals often make very uncharacteristics decisions when part of a group. Symptoms of groupthink include: (1) Illusion of invulnerability—group members believe the group is special and morally superior; therefore its decisions are sound; (2) Illusion of unanimity in which members assume all are in concurrence, and (3) Pressure is brought to bear on those who might dissent.

Dehumanization. Dehumanization is the process whereby individuals or groups are viewed as somehow less than fully human. Existing cultural and moral standards are often not applied to those who have been dehumanized.

Enemy Image. Enemy image describes the phenomenon wherein both sides participating in a conflict tend to view themselves as good and peace-loving peoples, while the enemy is seen as evil and aggressive.

Moral Exclusion. Moral exclusion is a process whereby one group views another as fundamentally different, and therefore prevailing moral rules and practices apply to one group but not the other.

Abuse and Inhumane Treatment in War

Socialization to Evil and Doubling. Dr. Robert Jay Lifton has extensively examined the nature of inhumane treatment during war. Dr. Lifton suggested that ordinary people can experience "socialization to evil," especially in a war environment. Such people often experience a "doubling." They are socialized to evil in one environment and act accordingly within that environment, but they think and behave otherwise when removed from that environment. For example, doctors committed unspeakable acts while working in Auschwitz, but would go home on weekends and behave as "normal" husbands and fathers.

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Moral Disengagement. Moral disengagement occurs when normal self-regulatory mechanisms are altered in a way that allows for abusive treatment and similar immoral behaviors. Certain conditions, identified by Bandura and his colleagues (3), can lead to moral disengagement, such as:

- **Moral Justification.** Misconduct can be justified if it is believed to serve a social good.
- **Euphemistic Language.** Language affects attitudes and beliefs, and the use of euphemistic language such as "softening up" (and even "humane treatment") can lead to moral disengagement.
- **Advantageous Comparison.** "Injurious conduct can be rendered benign" when compared to more violent behaviors. This factor is likely to occur during war. Essentially, abusive behaviors may appear less significant and somehow justifiable when compared to death and destruction.
- **Displacement of Responsibility.** "People view their actions as springing from the social pressures or dictates of others rather than as something for which they are socially responsible." This is consistent with statements from those under investigation for abuses.
- **Diffusion of Responsibility.** Group decisions and behaviors can obscure responsibility: "When everyone is responsible, no one really feels responsible."
- **Disregarding or Distorting the Consequences of Actions.** Harmful acts can be minimized or ignored when the harm is inflicted for personal gain or because of social inducements.
- **Attribution of Blame.** "Victims get blamed for bringing suffering on themselves."

Detainee and interrogation operations consist of a special subset of human interactions, characterized by one group which has significant power and control over another group which must be managed, often against the will of its members. Without proper oversight

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and monitoring, such interactions carry a higher risk of moral disengagement on the part of those in power and, in turn, are likely to lead to abusive behaviors.

Environmental Factors

The risk of abusive behaviors is best understood by examining both psychological and environmental risk factors. A cursory examination of situational variables present at Abu Ghraib indicates the risk for abusive treatment was considerable. Many of the problematic conditions at Abu Ghraib are discussed elsewhere in this report, to include such factors as poor training, under nearly daily attack, insufficient staffing, inadequate oversight, confused lines of authority, evolving and unclear policy, and a generally poor quality of life. The stresses of these conditions were certainly exacerbated by delayed troop rotations and by basic issues of safety and security. Personnel needed to contend with both internal threats from volatile and potentially dangerous prisoners and external threats from frequent mortar fire and attacks on the prison facilities.

The widespread practice of stripping detainees, another environmental factor, deserves special mention. The removal of clothing interrogation technique evolved into something much broader, resulting in the practice of groups of detainees being kept naked for extended periods at Abu Ghraib. Interviews with personnel at Abu Ghraib indicated that naked detainees were a common sight within the prison, and this was understood to be a general part of interrogation operations.

While the removal of clothing may have been intended to make detainees feel more vulnerable and therefore more compliant with interrogations, this practice is likely to have had a psychological impact on guards and interrogators as well. The wearing of clothes is an inherently social practice, and therefore the stripping away of clothing may have had the unintended consequence of dehumanizing detainees in the eyes of those who interacted with them. As discussed earlier, the process of dehumanization lowers the moral and cultural barriers that usually preclude the abusive treatment of others.

DOJ_NMG_0010531

(1) Haney, C., Banks, C., and Zimbardo, P., Interpersonal Dynamics in a Simulated Prison, *International Journal of Criminology and Penology,* 1973, 1, 69-97.

(2) Haney, C. and Zimbardo, P., The Past and Future of U.S. Prison Policy, Twenty-Five Years after the Stanford Prison Experiment, *American Psychologist,* July 1998, 709-27.

(3) Bandura, A., Barbaranelli, C., Caprara, G., and Pastorelli, C., Mechanisms of Moral Disengagement in the Exercise of Moral Agency, *Journal of Personality and Social Psychology,* Vol. 71(2), August 1996, 364-74.

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ETHICAL ISSUES

Introduction

For the United States and other nations with similar value systems, detention and interrogation are themselves ethically challenging activities. Effective interrogators must deceive, seduce, incite, and coerce in ways not normally acceptable for members of the general public. As a result, the U. S. places restrictions on who may be detained and the methods interrogators may employ. Exigencies in the Global War on Terror have stressed the normal American boundaries associated with detention and interrogation. In the ensuing moral uncertainty, arguments of military necessity make the ethical foundation of our soldiers especially important.

Ethical Foundations of Detention and Interrogation

Within our values system, consent is a central moral criterion on evaluating our behavior toward others. Consent is the manifestation of the freedom and dignity of the person and, as such, plays a critical role in moral reasoning. Consent *restrains*, as well as *enables,* humans in their treatment of others. Criminals, by not respecting the rights of others, may be said to have consented – in principle – to arrest and possible imprisonment. In this construct – and due to the threat they represent – insurgents and terrorists "consent" to the possibility of being captured, detained, interrogated, or possibly killed.

Permissions and Limits on Detentions

This guideline of implied consent for the U.S. first limits who may be detained. Individuals suspected of insurgent or terrorist activity may be detained to prevent them from conducting further attacks and to gather intelligence to prevent other insurgents and terrorists from conducting attacks. This suggests two categories of persons who may be

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detained and interrogated: (1) persons who have engaged in or assisted those who engage in terrorist or insurgent activities; and (2) persons who have come by information regarding insurgent and terrorist activity.

By engaging in such activities, persons in the first category may be detained as criminals or enemy combatants, depending on the context. Persons in the second category may be detained and questioned for specific information, but if they do not represent a continuing threat, they may be detained only long enough to obtain the information.

Permissions and Limits on Interrogation Techniques

For the U.S., most cases for permitting harsh treatment of detainees on moral grounds begin with variants of the "ticking time bomb" scenario. The ingredients of such scenarios usually include an impending loss of life, a suspect who knows how to prevent it—and in most versions is responsible for it—and a third party who has no humane alternative to obtain the information in order to save lives. Such cases raise a perplexing moral problem: Is it permissible to employ inhumane treatment when it is believed to be the only way to prevent loss of lives? In periods of emergency, and especially in combat, there will always be a temptation to override legal and moral norms for morally good ends. Many in Operations Enduring Freedom and Iraqi Freedom were not well prepared by their experience, education, and training to resolve such ethical problems.

A morally consistent approach to the problem would be to recognize there are occasions when violating norms is understandable but not necessarily correct —that is, we can recognize that a good person might, in good faith, violate standards. In principle, someone who, facing such a dilemma, committed abuse should be required to offer his actions up for review and judgment by a competent authority. An excellent example is the case of a 4th Infantry Division battalion commander who permitted his men to beat a detainee whom he had good reason to believe had information about future attacks against his unit. When the beating failed to produce the desired results, the commander

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fired his weapon near the detainee's head. The technique was successful and the lives of U.S. servicemen were likely saved. However, his actions clearly violated the Geneva Conventions and he reported his actions knowing he would be prosecuted by the Army. He was punished in moderation and allowed to retire.

In such circumstances interrogators must apply a "minimum harm" rule by not inflicting more pressure than is necessary to get the desired information. Further, any treatment that causes permanent harm would not be permitted, as this surely constitutes torture. Moreover, any pain inflicted to teach a lesson or after the interrogator has determined he cannot extract information is morally wrong.

National security is an obligation of the state, and therefore the work of interrogators carries a moral justification. But the methods employed should reflect this nation's commitment to our own values. Of course the tension between military necessity and our values will remain. Because of this, military professionals must accept the reality that during crises they may find themselves in circumstances where lives will be at stake and the morally appropriate methods to preserve those lives may not be obvious. This should not preclude action, but these professionals must be prepared to accept the consequences.

Ethics Education

The instances of detainee abuse in Iraq and Afghanistan do indicate a review of military ethics education programs is needed. This is not to suggest that more adequate ethics education will necessarily prevent abuses. Major service programs such as the Army's "core values," however, fail to adequately prepare soldiers working in detention operations.

While there are numerous ethics education programs throughout the services, almost all refer to certain "core values" as their foundation. Core-values programs are grounded in

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organizational efficacy rather than the moral good. They do not address humane treatment of the enemy and noncombatants, leaving military leaders and educators an incomplete tool box with which to deal with "real-world" ethical problems. A professional ethics program addressing these situations would help equip them with a sharper moral compass for guidance in situations often riven with conflicting moral obligations.

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Independent Panel to Review DoD Detention Operations

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Cover design by Kari Baker

Attached are additional reading materials to distribute to the attendees for the Term Member session on McCain Graham. Thanks for forwarding onward.

Regards,

[redacted]@apprisemedia.com

From: [redacted]@appri[redacted].com
Sent: Monday, January 2[redacted]:54 PM
To: [redacted]@cfr.org; [redacted]cfr.org
Cc: Gorsuch, Neil M
Subject: FW: Readings for tomorrow night's meeting
Attachments: article1.pdf; articles2.pdf

[redacted]
Attached are the readings - two additional emails to follow.

Michael

-----Original Message-----
From: [redacted]@cfr.org [mailto[redacted]@cfr.org]
Sent: Monday, January 23, 2006 12:47 PM
To: Michael Behringer
Subject: Readings for tomorrow night's meeting

Hello Michael,

I hope all is well. I was wondering if you could email me the readings for the Torture Policy seminar tomorrow night, when you get a chance. As [redacted]s out of the office today, she has asked me to send them to those who will be attending tomorrow night. Of course, I cannot do that until I receive them from you.

Please call me if you have any questions or concerns. Otherwise I will await the readings.

Sincerely,

[redacted]
[redacted]
Program Assistant, Membership and Fellowship Affairs Council on Foreign Relations [redacted]@cfr.org
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McCain: Some Harsh Treatment Wouldn't Violate Standards

Sunday, December 18, 2005
Associated Press

WASHINGTON — Sen. John McCain, who pushed the White House to support a ban on torture, suggested Sunday that harsh treatment of a terrorism suspect who knew of an imminent attack would not violate international standards.

The Arizona Republican said legislation before Congress would establish in U.S. law the international standard banning any treatment of prisoners that "shocks the conscience."

That would include, McCain said, mock executions and the controversial technique known as "water boarding," in which a subject is made to think he is drowning.

Asked on ABC's "This Week" whether such treatment of a terrorism suspect who could reveal information that could stop a terrorist operation would shock the conscience, McCain said it would not.

"In that million-to-one situation, then the president of the **United States**

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would authorize it and take responsibility for it," McCain said.

"We've gone a long way from having that kind of scenario to having prisons around the world, to the renditions, to the things that have been done which are, in my view, not appropriate," he said.

McCain said he is confident Congress will set the interrogation procedures all U.S. agencies will follow.

(Story continues below)

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After months of rejecting a call for ant-itorture legislation, President Bush last week accepted McCain's proposal to ban cruel, inhuman and degrading treatment of terrorism suspects. Bush had threatened to veto any bill that contained the ban while maintaining that the U.S. did not condone torture.

"You can get into a debate about what shocks the conscience and what is cruel and inhuman, and to some extent, I suppose, that's in the eye of the beholder," Vice President **Dick Cheney** said Sunday in an interview to be broadcast Monday on ABC News "Nightline." "But I believe, and we think it's important to remember, that we are in a war against a group of individuals and terrorist organizations that did, in fact, slaughter 3,000 innocent Americans on 9/11, that it's important for us to be able to have effective interrogation of these people when we capture them."

Cheney said he supported the compromise Bush worked out with McCain.

Pressure for the ban had built from Republicans in Congress as well as from abroad. Abuses at Iraq's Abu Ghraib prison and the U.S. detention center at Guantanamo Bay in Cuba, as well as reports of U.S. renditions of prisoners to countries in Europe, called into question claims that torture was neither ordered nor allowed.

The legislation proposed by McCain is part of a massive defense bill before Congress.

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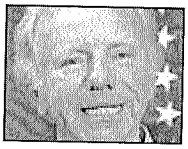

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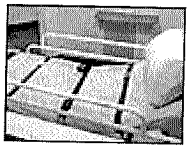

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Published on Saturday, December 10, 2005 by The Nation

The Torture Administration

by Anthony Lewis

When the Nazis came to power in Germany in 1933 and proceeded to carry out their savagery, many in the outside world asked how this could have happened in the land of Goethe and Beethoven. Would the people of other societies as readily accept tyranny? Sinclair Lewis, in 1935, imagined Americans turning to dictatorship under the pressures of economic distress in the Depression. He called his novel, ironically, *It Can't Happen Here*.

Hannah Arendt and many others have stripped us, since then, of confidence that people will resist evil in times of fear. When Serbs and Rwandan Hutus were told that they were threatened, they slaughtered their neighbors. Lately Philip Roth was plausible enough when he imagined anti-Semitism surging after an isolationist America elected Charles Lindbergh as President in 1940.

But it still comes as a shock to discover that American leaders will open the way for the torture of prisoners, that lawyers will invent justifications for it, that the President of the United States will strenuously resist legislation prohibiting cruel, inhuman or degrading treatment of prisoners--and that much of the American public will be indifferent to what is being done in its name.

The pictures from Abu Ghraib, first shown to the public on April 28, 2004, evoked a powerful reaction. Americans were outraged when they saw grinning US soldiers tormenting Iraqi prisoners. But it was seeing the mistreatment that produced the outrage, or so we must now conclude. Since then the Bush Administration and its lawyers have prevented the release of any more photographs or videotapes. And the public has not reacted similarly to the disclosure, without pictures, of worse actions, including murder.

The American Civil Liberties Union released documents on forty-four deaths of prisoners in US custody, twenty-one of them officially classified as homicides. For example, an Iraqi prisoner died while being interrogated in 2004. He had been deprived of sleep, exposed to extreme temperatures, doused with cold water and kept hooded. The official report said hypothermia may have contributed to his death.

Writing recently in *The New Yorker*, Jane Mayer described the killing of an Iraqi prisoner, Manadel al-Jamadi, in Abu Ghraib in 2003. His head was covered with a plastic bag, and he was shackled in a position that led to his asphyxiation. The death was classified as a homicide. But so far no charges have been brought by the Justice Department against the man who had custody of the prisoner, a CIA officer named Mark Swanner.

In addition to murder and torture, humiliation and indignity have been widely used as aids to interrogation. *Time* quoted at length earlier this year from the official log of how one prisoner in Guantánamo Bay, Cuba, was interrogated. Over a period of weeks he

was questioned for as long as twenty hours at a stretch, forbidden to urinate until finally he "went" on himself, made to bark like a dog. His treatment was an exercise in humiliation. Other reports have described prisoners chained hand and foot to the floor for twenty-four hours, until they urinated and defecated on themselves.

Several provisions of law forbid not only torture but humiliation of prisoners. The Geneva Conventions prohibit "outrages upon personal dignity, in particular humiliating or degrading treatment" of war captives. The UN Convention Against Torture condemns "cruel, inhuman or degrading treatment"--and Congress enforced the provisions of the convention in a criminal statute. The Uniform Code of Military Justice makes cruelty, oppression or "maltreatment" of prisoners by US forces a crime.

Then how can it be that hundreds of Americans, at a modest estimate, have been involved in the tormenting of prisoners, using the "waterboard" technique to bring them to the brink of drowning, beating them or worse? The answer is that the cue for these outrages came from the top of the American government.

Soon after the terrorist attacks of September 11, 2001, the Justice Department--then under Attorney General John Ashcroft--began producing memorandums that opened the way to torture and mistreatment of prisoners. The memos gave an extremely narrow definition of torture: producing pain equivalent to that from "serious physical injury, such as organ failure, impairment of bodily function, or even death." They argued that the President, in his constitutional role as Commander in Chief, had the power to order the use of torture no matter what treaties or US statutes said. And they said the Geneva Conventions did not apply to the prisoners at Guantánamo.

It is important to note that these legal opinions came almost entirely from political appointees, not longtime Justice Department lawyers. Similarly, Defense Secretary Rumsfeld and his aides overrode objections from most military lawyers and other officers. Secretary of State Colin Powell, former chair of the Joint Chiefs of Staff, was a notable opponent of the memos.

The very purpose of these radical legal opinions was to override objections to torture from those in the services and the law who wanted to carry on the American tradition of humane treatment of prisoners. And there was a further, crucial purpose: to immunize those who actually carried out torture or inhumane treatment from criminal prosecution. If charged, they could maintain that their actions were authorized from above.

One more legal interpretation by the Bush lawyers, especially clever, should be mentioned: It concluded that the Convention Against Torture (and its enforcement by criminal statute) did not apply to actions taken against non-Americans outside the United States--for example, the torture of Jamadi in Abu Ghraib under CIA auspices. A soldier who tortured would still be subject to the Uniform Code of Military Justice. But under this legal theory no criminal law would apply to a CIA torturer. It was to preserve this impunity that Vice President Cheney fought to exempt the CIA from the ban on cruel, inhuman or degrading treatment proposed by Senator John McCain and passed, 90 to 9, by the Senate.

When George W. Bush was asked about torture in early November, he said: "Any activity we conduct is within the law. We do not torture." How could he say that after the hundreds of convincing reports of torture and maltreatment? One possible answer is that he has not allowed himself to know the truth. Another is that his lawyers have so gutted the law governing these matters that not much, in their view, is unlawful.

But there is another explanation for Bush's words: confidence that words can overcome reality. Just as a large part of the American people could be led to believe in nonexistent links between Saddam Hussein and the 9/11 bombers, so it could be persuaded--in the teeth of the evidence--that "we do not torture." And there is reason for that confidence.

Congress has shown no great zeal for tracking down responsibility for the abuse of detainees in Iraq, Afghanistan and Guantánamo Bay. It has reacted with the equivalent of a yawn to the disclosure of "extraordinary rendition," the shipment of prisoners to Egypt, Syria and other places where torture is common practice. The Senate, moved by the power of John McCain's example, voted for his ban on prisoner abuse. But then it approved a devastating prohibition on the use of habeas corpus by Guantánamo prisoners to test the lawfulness of their imprisonment.

The truth is that most members of Congress are scared to do anything that could be portrayed, in a campaign, as being soft on terrorists. They worry that if there is another terrorist strike in this country, any vote to hold true to the law of war or even to investigate what has happened could be held against them.

Playing cat's-paw to the Administration, Congress has turned aside all demands for an independent investigation of Abu Ghraib and the other horrors--and of the policies that led to them. When Dana Priest of the *Washington Post* uncovered the chain of secret CIA prisons around the world, the reaction of Republican leaders of the House and Senate was not to look into the agency's doings but to demand an investigation of the leak.

The press has provided flickering light on the torture scandal, with some notable stories but not the sustained, relentless attention of Watergate. In the daily papers the outstanding performer has been Priest, who uncovered the Justice Department memos that took such a permissive view of torture. Seymour Hersh told us about Abu Ghraib and much else in *The New Yorker.*

The public, as I have indicated, seemed to lose its sense of outrage once the visual evidence from Abu Ghraib faded. As in every war through American history, it looked primarily to the President to ease its anxiety. The fear aroused by September 11 did not easily dissipate.

Not one of the major actors in the torture story has been effectively called to account: not Rumsfeld, who loosened the rules on interrogation of prisoners; not Alberto Gonzales, now Attorney General, who as White House Counsel approved the torture memorandums; and not the Justice Department lawyers who wrote them.

Among those officials there is no sign of repentance. One of them has indeed become a kind of preacher of the legitimacy of using pressure on suspected terrorists. He is John Yoo, who was a lawyer in the Justice Department's Office of Legal Counsel from 2001 to 2003 and is now a professor at the law school of the University of California, Berkeley, and a visiting scholar at the American Enterprise Institute in Washington. In frequent television appearances and public forums he argues a theme of those torture memos: that President Bush as Commander in Chief is empowered by the Constitution to order what treatment he wishes for detainees in the "war on terror." His constitutional argument, that the Framers of the Constitution intended to clothe the President with the war powers of a king, conflicts with the near universal understanding of the constitutional text, with its careful balancing of executive, legislative and judicial power.

A New York lawyer who has contributed greatly to exposure of the torture phenomenon, Scott Horton, has suggested that Yoo's views echo those of a German legal thinker of the period between the world wars, Carl Schmitt. Schmitt argued that when it came to degraded enemies like the Soviet Union, the idea of complying with international law was a romantic delusion. The enemy, rather, must be seen as absolute--stripped of all legal rights.

Those who want to relax the laws against torture often make the "ticking bomb" argument: that if a prisoner may know the location of a bomb set to go off shortly, torturing him is justified to save lives. If captors believe that, they may well resort to forceful interrogation. But to write such an exception into the rules invites the

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systematic use of torture. I had a lesson in the danger of the ticking-bomb argument years ago in Israel. I was interviewing Jacobo Timerman, the Argentine publisher who was imprisoned and tortured by the military regime that for a time took over Argentina. (Intervention by the Carter Administration saved Timerman's life; on release from prison he immigrated to Israel.) Timerman turned the interview around and asked me questions about torture, positing the ticking-bomb situation. I tried to avoid the question, but he pressed me to answer. Finally, I said that I might authorize torture in such a situation. "No!" he shouted. "You must never start down that road."

Americans are not immune from evil; no people are. We know now that American soldiers, improperly led, can beat to death prisoners they have in their minds dehumanized. What can we do to limit the evil?

Investigation is one idea, widely endorsed. An independent body like the one that carried out the 9/11 investigation could tell us much that we do not know: not just an authoritative account of the wrongs done but a timeline of the official opinions and actions that opened the way for them. But I think a more effective solution would be the appointment of a special prosecutor. He or she would have the power not just to find the facts but to prosecute the wrongdoers. For we must not forget that not only treaties but criminal laws forbid the torture, mistreatment and humiliation of those we take in conflict.

It is unimaginable that President Bush would agree to a special prosecutor for war crimes if ever the public and Congress grew exercised enough to demand one. But you never know about history. The other day, on the sixtieth anniversary of the Nuremberg prosecution of Nazi officials, Scott Horton recalled that Nuremberg established the principle of command responsibility for abuse--and punished those who wrote legal memorandums counseling German officials to ignore the conventions protecting prisoners.

The chief American prosecutor at Nuremberg, Justice Robert H. Jackson of the Supreme Court, warned that "the record on which we judge these defendants today is the record on which history will judge us tomorrow. To pass these defendants a poisoned chalice is to put it to our lips as well."

Horton said the moment of historical reckoning for American officials may come. "A number of key Bush officials," he wrote, "are more likely to be the Pinochets of the next generation--blocked from international travel and forever fending off extradition warrants and prosecutors' questions."

Born in New York City, Anthony Lewis graduated from Harvard in 1948 and began a career in journalism as a deskman for the Sunday New York Times (1948-52). In 1952 he worked for the Democratic National Committee and joined the staff of Washington Daily News. He returned to New York Times in 1955, reporting from Washington (1955-64), from Europe as the London bureau chief (1965-72), and as an editorial columnist (1969-2001). He's won two Pulitzer Prizes and had been a visiting lecturer at Columbia and universities of Arizona, California, Illinois, and Oregon. His books include Gideon's Trumpet (1964), Portrait of a Decade: The Second American Revolution (1964), and Make No Law: The Sullivan Case and the First Amendment (1992).

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White House agrees on torture ban

By Brian Knowlton International Herald Tribune

THURSDAY, DECEMBER 15, 2005

WASHINGTON After weeks of resistance, the White House agreed Thursday to Senator John McCain's call for a law specifically banning cruel or inhumane treatment of terror suspects anywhere in the world.

McCain met with President George W. Bush at the White House to announce the deal.

The president said that the agreement would "make it clear to the world that this government does not torture and that we adhere to the international convention of torture, whether it be here at home or abroad."

McCain said the measure sends "a message to the world that the United States is not like the terrorists," adding, "This will help us enormously in winning the war for the hearts and minds of people throughout the world in the war on terror."

Under the agreement, CIA interrogators accused of abuse would be granted the right to defend themselves by saying that a reasonable person would have believed that they were obeying a legal order. Interrogators will be provided with legal counsel.

The right is already extended to members of the military. Protection of CIA interrogators had been a key objective of Vice President Dick Cheney.

But the agreement remained controversial. Representative Duncan Hunter, Republican of California and chairman of the House Armed Services Committee, declared his opposition after earlier hailing an apparent agreement. He called for stronger protection of the rights of interrogators.

The Bush administration has encountered increasing resistance from Congress
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Bush, McCain Reach Deal on 'Cruel, Inhuman' Treatment Ban

Thursday, December 15, 2005
FOX NEWS

WASHINGTON — President Bush and Sen. John McCain, R-Ariz., agreed to language Thursday on a bill to ban U.S. interrogators from using "cruel, inhuman or degrading treatment or punishment" of detainees in the War on Terror.

"We reached this agreement and now we can move forward and the whole world can know as we know that the United States does not permit cruel and inhuman treatment," McCain said after an Oval Office meeting with the president and Sen. **John Warner**, R-Va., chairman of the Armed Services Committee.

"We've sent a message to the world that the United States is not like the terrorists," McCain said. "We have no grief for them, but what we are is a nation that upholds values and standards of behavior and treatment of all people, no matter how evil or bad they are. And I think this will help us enormously in winning the war for the hearts and minds of people throughout the world in the War on Terror."

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Bush made clear that the language is not about banning torture. That is something the United States already prohibits.

"This government does not torture," he said. "We adhere to the **International Convention of Torture**, whether it be here at home or abroad."

(Story continues below)

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Bush also thanked McCain, who spent more than five years in a POW camp in Vietnam where he was frequently tortured, for being a leader who upholds American values.

Outside the White House, McCain and Warner said they were confident the language agreed to by the president for the defense authorization bill is a done deal and that loose ends will be tied up in the next 24 hours.

"I'm absolutely confident, Senator, that this McCain legislation, which is landmark legislation very much needed for our nation, will become finalized by our president," Warner said.

The Senate included McCain's provisions in two defense bills, including a must-pass $453 billion spending bill that provides $50 billion for the Iraq war. But the House omitted them from their versions and the bills have stalled.

Still, the language proposed by McCain has received overwhelming support in Congress. Late Wednesday, the House voted 308-122 for a non-binding resolution in support of the Senate-passed ban.

For months the White House has stated concerns that the McCain language goes too far. Administration officials cited doomsday scenarios where a detainee may have information that is critical to the safety of the United States and interrogators may need greater latitude to get prisoners to speak.

The administration was seeking language in the bill that would offer some protection from prosecution for CIA interrogators accused of violating McCain's provision.

"The debate has never really been about torture. There's a domestic law on the books prohibiting torture and we have an international prohibition against torture and the president says as a matter of policy, we don't engage in torture," Attorney General Alberto Gonzales told FOX News.

"The debate has been about, what does it mean to deal in cruel, inhumane and degrading treatment? In some countries, there's stuff on the books to say you can't even insult somebody.
So, we want to simply insure that the American government has the tools necessary to question dangerous terrorists in order to gather information that may protect America from another attack," Gonzales said.

Supporters of the provisions say the extra language is needed to clarify current anti-torture laws in light of abuses at **Abu Ghraib** in Iraq and allegations of misconduct by U.S. troops at the detention center at **Guantanamo Bay, Cuba**. McCain said the deal addresses "legitimate concerns raised regarding the rights of interrogators."

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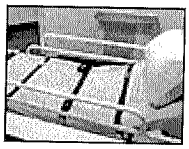

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The language mimics the military code by saying it will provide CIA and other interrogators with legal counsel and certain protections when they followed orders that a reasonable person would be expected to carry out. Those orders are not to contradict principles agreed to under the **Nuremberg Principles** developed in 1950, McCain said.

The language also includes a specific statement that those who violate the standards will not be afforded immunity from civil or criminal lawsuits.

"I think it's excellent, I think Sen. McCain was on the right track," Sen. Arlen Specter, R-Pa., told FOX News after he heard about the deal.

But others question whether the U.S. government will have enough leeway to get the information that they need. It is still uncertain if the deal would limit measures such as stress techniques even in interrogations of high-value terrorists who may know about coming attacks.

Some analysts add that limiting "degrading" treatment could mean almost anything. For instance, a female interrogator questioning a Muslim prisoner could be perceived as degrading to the prisoner.

"If you apply it literally, it prohibits detention as such because it is absolutely degrading to be sitting, instead of running around and applying your trade of killing Americans, it is degrading to be sitting in a cell," said David Rivkin, an international law attorney and former Justice Department official.

A deal between the White House and McCain does not mean a deal between the Senate and House.

Rep. Duncan Hunter, R-Calif., chairman of the House Armed Services Committee, is said to still oppose the ban, though he and Warner were working on "refinements," which deal with legal protections for both military and civilian interrogators.

The protections would guard interrogators from a private suit or prosecution as long as they were following orders and "a reasonable person would think it was a lawful order." That is a standard that already applies to members of the military and would now be extended to civilian interrogators, including the CIA and any contractors.

Hunter said he would hold up completion of one of the two bills that includes the ban unless he got White House assurances that the new rules would still allow "the same high level of effective intelligence gathering" as under current procedures.

But officials said the ban would remain intact in the other bill, the final defense spending measure. After hearing Hunter's remarks, Warner said Thursday that the deal is coming.

"I have full confidence in the president's endorsement of Senator McCain's legislation," Warner said.

At one point, Bush threatened a veto if the ban were included in legislation sent to the president's desk, and **Vice President Dick Cheney** made an unusual personal appeal to Republican senators to give an exemption to the CIA.

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But support in Congress has forced the White House to renegotiate, particularly as Congress tries to get the defense spending bills completed before lawmakers adjourn for the year.

FOX News' Jim Angle, Greg Kelly and Molly Hooper and The Associated Press contributed to this report.

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Congress moving towards final passage of torture ban

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Measure included in defense bill

Monday, December 19, 2005; Posted: 4:02 p.m. EST (21:02 GMT)

WASHINGTON (AP) -- Congress is acting swiftly to send President Bush a military bill that bans cruel, inhuman and degrading treatment of terrorism suspects in U.S. custody and sets uniform interrogation guidelines for American troops.

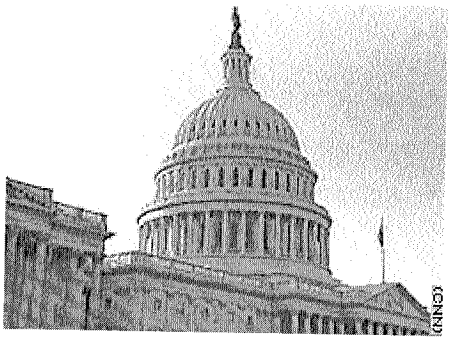

The sweeping measure setting Pentagon policies and funding levels also includes a military pay raise and allows an Iraq war veteran to adopt a bomb-sniffing dog named Rex.

Before dawn Monday, the House passed the bill 374-41, and Senate passage was expected this week. The detainee provisions also are included in a separate $453 billion military spending bill that is making its way through Congress and provides $50 billion for wars in Iraq and Afghanistan.

Bush is expected to sign both measures when they reach his desk.

McCain overcomes White House objections

The prisoner legislation sponsored by Sen. John McCain, R-Arizona, seeks to standardize interrogation techniques and repair a tarnished U.S. image abroad.

After months of resistance that included White House veto threats, Bush bowed to pressure from Congress and signed off on it -- a recognition that McCain had the votes in both the House and Senate to override any veto.

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Sen. John Warner, R-Virginia, and chairman of the Senate Armed Services Committee, said the detainee provisions put U.S. policy into law and will "further protect members of our military and their civilian counterparts as they perform vital intelligence operations."

The top Democrat on the panel, Sen. Carl Levin of Michigan, said the provisions "should help restore America's reputation around the world."

The legislation would prohibit "cruel, inhuman or degrading treatment or punishment" of anyone in U.S. government custody anywhere in the world. It also would require that service members follow procedures in the Army Field Manual during interrogations of prisoners in Defense Department facilities.

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Under an agreement with the president, McCain added that civilian interrogators accused of violating the standards would get the same legal protections as those afforded to military interrogators.

That addition was modeled after the Uniform Code of Military Justice, which says military personnel accused of violating interrogation rules can defend themselves if a reasonable person could have concluded they were following a lawful order. Those rights would be extended to CIA interrogators under the agreement.

Detainees granted access to courts

Other provisions are specific to terror-war prisoners at the U.S. naval base at Guantanamo Bay, Cuba. They would be permitted to appeal their detention status and punishments to a federal appeals court in Washington.

That avenue would replace the one tool the Supreme Court gave detainees in 2004 to fight the legality of their detentions -- the right to file habeas corpus lawsuits in any federal court. Detainees declared enemy combatants -- those currently at Guantanamo Bay and those who have been released -- also would be barred from filing any other kind of legal action against the United States or its officials.

Another provision would allow military panels determining whether to hold detainees indefinitely to consider information gained from coercive interrogation techniques. Human rights groups say that would undermine McCain's ban.

Sweeping in scope, the bill authorizes a 3.1 percent pay raise for military personnel and allows exceptions to the law that prohibits the adoption of military working dogs before the end of their useful life.

The latter provision was added after lawmakers learned of the case of Air Force Tech Sgt. Jamie Dana, severely injured when her Humvee was bombed in Iraq but rebuffed when she sought to adopt Rex the dog.

The Air Force initially said it spent thousands of dollars training Rex, and by law he needed to work the remaining five years of his useful life. But lawmakers say Dana would get to adopt Rex under the provision in the bill.

Also included are provisions:

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Critics Question Senate's Supposed 'Anti-torture' Stance

by Michelle Chen (bio)

While most media treatment of the McCain torture "ban" is repeating politicians' spin, civil libertarians see compromise legislation has rendered it largely toothless and possibly added to the problem.

Dec 22, 2005 - The controversy over torture is approaching an equally controversial milestone as Congress and the White House finalize legislation governing the treatment of captives held in US custody. While celebrating the so-called "torture ban" as a legislative victory, civil liberties groups are questioning caveats attached to the final version that could condone or even encourage abusive practices under government authority.

The anti-torture measure, introduced by Senator John McCain (R-Arizona) as an amendment to the defense spending bills, clarifies standards for the treatment of people imprisoned in the so-called "war on terror." The legislation responds to mounting public concerns about detainee abuse, but fears of political gridlock drove legislators to balance the torture restrictions with limits on the legal rights of detainees at the Guantánamo Bay detention center in Cuba.

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Though many support the spirit of the amendment, approved by the Senate in October and by the House last week, several civil liberties organizations contend that political jockeying has produced legislation that would likely abet abuse, rather than deter it.

Michael Ratner, president of the Center for Constitutional Rights, which has led litigation to defend the rights of hundreds of detainees, is among the most vocal critics. Ratner told *The NewStandard* that legislators have "left the people at Guantánamo possibly subject to the very thing they've tried to prohibit. They gave with one hand and took with the other."

Setting Rules

The McCain amendment forces the military and Central Intelligence Agency to abide by interrogation guidelines in the *US Army Field Manual*, which are consistent with the Geneva Conventions, an international treaty on civil rights during wartime. The *Manual* bars or restricts practices such as forcing prisoners into painful positions or intimidating them with dogs. In addition, the amendment also explicitly bans "cruel, inhuman, or degrading treatment or punishment" at Guantánamo Bay and other detention centers.

The strictures are based on constitutional mandates as well as United Nations agreements that the US has ratified. Critics of the "ban" say it simply reiterates existing law that should apply to counter-terrorism efforts.

For months, the White House threatened a veto if the amendment stayed on the must-pass defense appropriations bill, even though it has denied condoning any unlawful treatment of detainees. To quell that opposition, Senators Carl Levin (D-Michigan) and Lindsey Graham (R-North Carolina) negotiated an additional amendment to the final legislation. Their amendment is similar to one Graham attempted to pass through Congress last month by attaching it to an oversight bill.

The Graham-Levin amendment restricts detainees' access to the judicial system, potentially permits the use of evidence obtained through abusive tactics, and provides certain protections to CIA personnel who violate the ban.

Another controversial provision shields operatives from legal penalties if they show they inadvertently violated the ban while acting on "ordinary sense" or under advice from a lawyer.

The judicial restrictions prohibit detainees from directly challenging the legality of their detentions in US courts. This upends a landmark Supreme Court decision in 2004 that enabled Guantánamo detainees to file claims of wrongful imprisonment.

In place of regular courts, the Graham-Levin legislation affirms the authority of the Combatant Status Review Tribunals and the Military Commissions at Guantánamo, which the Bush administration created to judge whether individuals are legitimately detained and to try them for alleged crimes. The system has run up against numerous constitutional challenges as well as international criticism because it operates outside the legal system in relative secrecy.

The Graham-Levin amendment effectively limits court review to appeals of military rulings, barring other claims related to the mistreatment of prisoners. Granting the DC appeals

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court exclusive jurisdiction, the statute specifically allows a detainee to appeal sentences of death or imprisonment for ten years or longer, and to challenge his designation as a "combatant." Such claims would hinge only on whether the military violated procedural rules or legal obligations -- "to the extent [that] the Constitution and laws of the United States are applicable."

Civil libertarians fear that by not defining which rights are "applicable" to detainees, Congress leaves the statute open to further court battles. Mark Agrast, a senior fellow with the liberal think tank Center for American Progress, told *TNS* the wording "seems to suggest that the court might find that the Constitution doesn't apply here. And if the Constitution doesn't apply, then there is no basis for a constitutional challenge."

Although Levin stated publicly that the amendment is not retroactive, advocates are concerned that the provisions might nonetheless influence rulings on pending litigation. The scope of jurisdiction will soon be tested in the Supreme Court's upcoming review of the *Hamdan versus Rumsfield* case, which addresses the legality of the military commissions.

Another controversial provision in the final anti-torture amendment shields operatives from legal penalties if they show they inadvertently violated the ban while acting on "ordinary sense" or under advice from a lawyer.

Jen Daskal, advocacy director for US programs with Human Rights Watch, warned that many future detainees willlack any legal recourse while waiting indefinitely for a tribunal hearing. Not only might this condemn people who are not facing charges to "a legal no-man's land," she said, but it could also impede her group's monitoring work, which draws on information gathered through legal actions. By preventing detainees from raising complaints, she predicted, the legislation "will make it much harder to know when there's abusive practices going on and to expose them."

License to Torture?

The Graham-Levin amendment explicitly enables the Combatant Status Review Tribunal to admit evidence extracted from a detainee by force. Even if military authorities determined that a statement was "derived with coercion," they could decide to use it on the basis of its "value" to the case.

Civil liberties groups interpret that clause as an unprecedented congressional authorization of torture as an investigative tool.

Chris Anders, legislative counsel with the American Civil Liberties Union, said the authorization also applies to "intelligence" gathered from interrogations in other countries, including "places where torture has been acknowledged and documented."

According to reports by the human rights group Amnesty International, Guantánamo is for

many captives the last outpost on a brutal itinerary of arbitrary detention. One Ethiopian national, for instance, recalled undergoing torture in Pakistan, Morocco, and Afghanistan over a two-year period before landing at Guantánamo, where he recently went on a hunger strike to protest his detention.

Anders told *TNS* that on balance, while the legislation provides some official recognition of detainee rights through the McCain amendment, "the fact that the government is authorizing... behavior that is against everything the Constitution of the country stands for, is why it's such a significant step backwards."

Giving with One Hand...

Defending the amendment he co-authored, Sen. Graham argues that granting terror suspects access to civilian courts would disrupt crucial investigations. In a statement following the Senate's initial approval of his proposal in November, he said, "It is not fair to our troops fighting in the war on terror to be sued in every court in the land by our enemies based on every possible complaint."

But critics point out that of several hundred Guantánamo prisoners, it remains unclear how many are actual "enemies." Only a handful have actually faced formal criminal charges, and none has been convicted. Most legal activity surrounding the detentions has related to detainees' rights and the conditions of confinement – not alleged terrorism and not lawsuits aimed at soldiers or agents.

Noting that some "enemy combatants" have been held incommunicado for years, Agrast of the Center for American Progress said, "If these people ever had intelligence value, they certainly have none anymore."

Daskal of Human Rights Watch argued that while officials claim to be minimizing interference with anti-terrorism operations, "shutting down abusive practices should be interference that we as a nation are willing to accept."

Nonetheless, Paul Rieckhoff, founder of the Iraq and Afghanistan Veterans Association, an advocacy organization for soldiers, called the McCain amendment "a net gain" – at least as a political maneuver.

"We've finally got the country talking about whether or not torture's a good thing," he said, "and that's a major sea change from what we had after 9/11."

But to groups that have long advocated for the protection of detainees, the government's motion to ban torture remains largely confined to political symbolism.

Ratner commented: "This administration does not want any judicial oversight of anything it's doing in its so-called 'war on terror'... Congress so far, unfortunately, has willingly complied with letting them do that."

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Background Q&A

Torture, the United States, and Laws of War

Author: Lionel Beehner

November 11, 2005

Why is torture in the news?
What is the debate over the use of torture?
What is the torture amendment?
What are "black sites"?
Why did the Senate vote recently to limit detainees' access to U.S. courts?
What issues does the Supreme Court face in deciding to review military tribunals?
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Why is torture in the news?

A confluence of events has put torture and the treatment of detainees at center stage: the recent revelation of a network of so-called black sites, covert prisons for suspected terrorists run by the Central Intelligence Agency (CIA) in Eastern Europe; the White House is threatening to veto an anti-torture amendment passed by the Senate; the Supreme Court announced it would hear a case challenging the legality of war-crimes tribunals used in Guantanamo Bay, Cuba; the Senate voted to strip Guantanamo detainees of further legal rights; and a leaked classified report by the CIA's inspector general provided evidence that interrogation techniques approved by the White House may violate an international convention against torture.

What is the debate over the use of torture?

There are many issues at stake. Critics say the administration's handling of detainees violates international law, produces poor intelligence, and putsU.S.detainees abroad at risk. Human-rights groups further allege that instances of prisoner abuse at Abu Ghraib prison in Baghdad, Baghram Air Force base outside Kabul, Afghanistan, and Guantanamo Bay are part of a larger pattern of behavior and harsh interrogation techniques approved at the highest levels. Critics allege that the abuses stem from the White House's willingness to bend the accepted legal definition of what constitutes torture. Further, these groups charge the U.S. government, from before September 11, 2001, of engaging in renditions: the transferring of prisoners to countries that engage in torture. Instead of leaving these detainees in legal limbo, human-rights groups say they should be turned over to U.S. courts and afforded legal counsel.

Administration officials counter they neither advocate nor order the use of torture. However, White House officials argue that members of al-Qaeda, the Taliban, and other suspected terrorists do not qualify as lawful "enemy combatants" and therefore are not accorded rights under the Geneva Conventions, the internationally accepted rules on conduct during wartime that govern the treatment of detainees, among other things. Experts say terrorists do not enjoy legal protections because they do not follow any rules of war: They fight for no nation-state, they target innocents, they wear no insignia, and they disguise themselves as civilians.

What is the torture amendment?

Senator John McCain (R-AZ), who was tortured during his time as a prisoner of war in Vietnam, has proposed an amendment outlawing all forms of "cruel, inhuman, or degrading treatment or punishment" for U.S.-held detainees. The amendment, attached to a defense-spending bill, passed the Senate by ninety votes to nine, but faces a veto by the White House over objections the bill may hinder the CIA's ability to gather intelligence from detainees. When asked about the torture amendment during his recent visit to Latin America, President George Bush replied, "We do not torture," but added that "our government has the obligation to protect the American people." Supporters of the amendment say laws

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prohibiting torture mirror those already found in the U.S. Army's field manuals. Opponents, including Vice President Dick Cheney, say the amendment should not apply to detainees held by CIA agents who might have invaluable information about an imminent terrorist attack.

What are "black sites"?

Secret prisons established in the immediate aftermath of September 11, 2001, used to house "high-level" detainees. The existence of these CIA-run detention centers was first reported November 2 in the *Washington Post*. Although the exact locations of these camps are unknown, news reports suggest they are located in Romania and Poland. Similar camps in Afghanistan and Thailand have already been closed down. There are some thirty detainees in the camps considered to be major terrorist suspects, while seventy less-important detainees have been reportedly sent to Egypt, Morocco, and other Muslim nations. The camps were established under a sweeping law signed by President George Bush less than one week after September 11 that gave the CIA wide-ranging authority to disrupt terrorist operations, including the right to kill, capture, or imprison suspected members of al-Qaeda. Several U.S. senators have called for an investigation into the secret prisons. Others are calling for an inquiry into the source of the leak of information about the CIA camps.

Why did the Senate vote recently to limit detainees' access to U.S. courts?

On November 10, the Senate voted forty-nine to forty-two in favor of overturning a Supreme Court decision last year that allowed prisoners in Guantanamo Bay to challenge their detentions in U.S. courts. The purpose of the ruling was to stem the flow of lawsuits filed by detainees. More than 200 of some 700 detainees held, or once held, at Guantanamo Bay have filed writs of *habeas corpus*, motions that order unlawfully held prisoners be brought before a judge. The amendment would void any suits currently pending. Human-rights groups charge the Senate's decision will allow detainees to be held indefinitely without a trial and beyond the reach ofU.S.or international law.

What issues does the Supreme Court face in deciding to review military tribunals?

On November 8, the Supreme Court announced it would hear an upcoming case reexamining the constitutionality of President Bush's authority to establish military tribunals, the first courts of this kind since World War II. The defendant, Salim Ahmed Hamdan, a native of Yemen and former driver for Osama bin Laden, charges the tribunals are in violation of the Geneva Conventions, which uphold his rights as a detainee and prisoner of war. Hamdan, captured during the 2001 war in Afghanistan and held in Guantanamo Bay since 2002, has been charged with conspiracy, murder, and acts of terrorism. He says military tribunals fail to give defendants a free and fair trial, a universally recognized right that falls under customary international law (which is binding and carries nearly the same jurisdiction as codified, or treaty, law). The Bush administration argues Congress granted the president, as commander in chief, direct authorization for the use of military force, which allows for the creation of military courts. Further, the White House says such military courts are necessary to fight a shadowy enemy like al-Qaeda, and that affording detainees the same inalienable rights as in a U.S. criminal court, such as the presumption of innocence, is unnecessary.

How is torture defined by international law?

Torture, as defined by Article 1 of the 1984 Convention Against Torture, is the "cruel, inhumane, or degrading" infliction of severe pain or suffering, physical or mental, on a prisoner to obtain information or a confession, or to mete out a punishment for a suspected crime. The United States ratified the treaty in 1994 but took a reservation to the convention's addendum on the definition of torture, deferring to the U.S. Bill of Rights' Eighth Amendment, which outlaws cruel and unusual punishment. However, the 1980 court case *Filartiga v. Pena-Irala*, in which a Paraguayan citizen won a suit in the U.S. Court of Appeals' Second Circuit against a former Paraguayan police officer, established that torture falls under the realm of customary international law—thus, all countries, whether party to the Torture Convention or not, must abide. Further, the suit found that torturers become, "like the pirate and slave trader before him—*hostis humani generis*, an enemy of mankind." Other agreements that outline similar definitions of torture include the Geneva Conventions and the 1966 International Covenant on Civil and Political Rights.

Do U.S. interrogation techniques qualify as torture?

A leaked 2004 report by CIA inspector general John Helgerson found that several of the interrogation techniques approved by the agency may violate some of the provisions of the Convention on Torture. Human-rights groups charge the United States has tried to narrow the definition of torture to include only those interrogation techniques that result in severe harm to a bodily organ. Thus, they argue that the use of "waterboarding"—when a detainee is strapped down, forced underwater, and made to believe he is drowning—or the use of sleep deprivation would not legally fall under the definition of torture. What the Bush administration essentially did was "rip up the rulebook as far as military interrogators were concerned, telling them that the decades-old rules of the Army interrogation manual didn't apply," said Kenneth Roth, executive director of Human Rights Watch, in an April 14 Council event on the laws of war.

What are "extraordinary renditions"?

The policy of deporting terrorist suspects to countries, typically in the Middle East, with records of using torture. More than 100 detainees have reportedly been subject to renditions by the United States in recent years. The most widely known example was the case of Canadian citizen Maher Arar, apprehended by U.S. officials for having alleged connections to al-Qaeda and deported via Jordan to Syria, where he was imprisoned and tortured. He is currently suing the U.S attorney general's office. U.S. officials deny deliberately engaging in the practice of renditions and maintain they receive pledges from recipient governments the detainees will be treated justly.

Another aspect of this practice is what's known as "reverse renditions," when foreign officials apprehend terrorist suspects abroad in non-combat settings and hand them over to U.S. custody. The most famous case is that of the "ghost prisoner" Abdul Salam Ali al-Hila, a Yemeni businessman and alleged intelligence officer arrested in September 2002 in Egypt and then sent via Afghanistan to Guantanamo Bay, where he was held incommunicado for a year and a half.

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Background Q&A

IRAQ: Interrogation and Torture

May 17, 2004

Did the mistreatment of Iraqi prisoners at Abu Ghraib amount to torture?
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Were the same techniques approved for use in Iraq?
What do the Geneva Conventions say about what is permitted in interrogation?

Did the mistreatment of Iraqi prisoners at Abu Ghraib amount to torture?

Some of it likely did, experts say. The worst abuses--including beatings and forced sexual acts--depicted in the photographs and documented in an Army investigation of the abuses at Abu Ghraib prison outside Baghdad may qualify as torture under the term's internationally accepted definition. As such, the abuses could be considered war crimes. But experts also caution that the line between torture and other illegal but less grave breaches of the laws of war--such as cruel, humiliating, or degrading treatment--is not clear. "It's a question of degree, it's a continuum," says James Ross, the senior legal adviser at Human Rights Watch. In each case of abuse, lawyers must weigh the circumstances of the case and the physical and mental harm inflicted on the victim.

What is torture?

Unlike some forms of cruel or inhumane treatment, such as neglect in an overcrowded prison, torture has to be carried out with a specific purpose in mind. That is the definition of torture in the 1984 Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, an international agreement ratified by 136 nations, including the United States. According to the convention, "The term torture means any act by which severe pain or suffering--whether physical or mental--is intentionally inflicted on a person for such purposes as":

obtaining a confession from him or another person;

punishing him for an act he or another person has committed or is suspected of having committed; or

intimidating or coercing him or another person.

Who commits the abuse is also relevant. To count as torture, the act must be "inflicted by, at the instigation of, or with the consent or acquiescence of a public official or other person acting in an official capacity."

Have the reports of alleged torture at Abu Ghraib been documented?

Yes. The Red Cross, in a reportpresented to coalition authorities in February, said some incidents documented in Iraq between March and October 2003 "were tantamount to torture." The internal Army investigation completed in February by Major General Antonio M. Taguba stopped short of using the word torture. Instead, it said that "several U.S. Army soldiers

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have committed egregious acts and grave breaches of international law at Abu Ghraib [prison] and Camp Bucca, Iraq."

What did the Red Cross report find?

It said that ill-treatment during interrogation was systematic "in regard to persons arrested in connection with suspected security offences or deemed to have an 'intelligence' value." It continued: "In these cases, [detainees] under supervision of military intelligence were at a high risk of being subjected to a variety of harsh treatments ranging from insults, threats, and humiliations to both physical and psychological coercion, which in some cases was tantamount to torture." The Red Cross report did not specify which types of ill-treatment rose to the level of torture. But it recorded a series of abuses it found to be illegal under international law, including:

- placing hoods on prisoners to impede proper breathing, for sometimes up to four consecutive days, sometimes in conjunction with beatings;
- beating with hard objects, including pistols and rifles;
- threats of ill treatment and reprisal against family members;
- stripping detainees and leaving them naked for several days in solitary confinement in empty and lightless cells;
- parading naked detainees, sometimes with women's underwear over their heads, in front of other prisoners and guards; and
- regularly handcuffing prisoners, naked or in their underwear, to cell bars in positions intended to cause great discomfort.

What did the Taguba report show?

That report found that severe mismanagement by officers and a lack of training contributed to a pattern of misconduct at Abu Ghraib and other Iraqi prisons. It also faulted an "ambiguous command relationship" between military intelligence and military police at the prison, which led to a situation in which military police became involved in preparing conditions for interrogations. Among the abuses it recorded at Abu Ghraib:

- punching, slapping, and kicking detainees;
- using military working dogs without muzzles to intimidate detainees, and in at least one case allowing one to bite and severely injure a detainee; and
- forcing groups of male detainees to masturbate while being photographed and videotaped.

Seven soldiers are expected to face court-martials--three have already been scheduled--and seven supervisors have been reprimanded. Six additional investigations into the allegations of abuse are ongoing.

Is torture ever allowed?

No, under international and U.S. law. "It is absolutely prohibited and cannot be justified under any circumstances," according to a summary of existing law on the subject by the United Nations Office of the High Commissioner for Human Rights.

Torture is banned by many conventions and treaties. In international law they include:

- The Universal Declaration of Human Rights, adopted in 1948 by the U.N. General Assembly. It states, "No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment."
- The 1949 Geneva Conventions, which lay out the humanitarian laws of war and occupation. Torture is considered a "grave breach" of the convention and, therefore, a war crime.
- The 1984 Convention Against Torture, which states that "no exceptional circumstances, such as a state of war, threat of war, internal political instability, or any other public emergency may be invoked as a justification for torture." Further, it makes a torturer responsible for his actions even if he was ordered to commit the crime. In addition, this convention makes torture a crime of "universal jurisdiction"--any country can prosecute torture that took place anywhere in the world, regardless of whether its citizens were involved.
- A variety of international declarations governing the proper treatment of detainees including: the 1955 Standard Minimum Rules for the Treatment of Prisoners, the 1979 Code of Conduct for Law Enforcement Officials, and the 1990 Basic Principles for the Treatment of Prisoners.

How are these international laws enforced?

In general, each country is responsible for prosecuting violations of these laws by its own citizens. In practice, this has led to spotty enforcement and little accountability in countries unwilling to prosecute the crime.

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What documents ban torture in U.S. law?

They include:

The U.S. Constitution, which prohibits "cruel and unusual punishment."

The Uniform Military Code of Justice, which applies to U.S. military personnel and bans cruelty toward, or oppression or maltreatment of, any person subject to a soldier's orders.

U.S. federal law, particularly U.S. Code 18, section 2340, which states that torture carries a sentence of up to 20 years, or, if the victim dies, life in prison or the death penalty. This section incorporates the 1984 Torture Convention into U.S. law with some changes.

The 1996 War Crimes Act makes torture and other grave breaches of the Geneva Conventions war crimes punishable by life in prison or the death penalty. It also broadens the definition of a war crime beyond what is mandated in international law. Under this act, for example, lesser violations of the Geneva Convention--for example, "outrages upon personal dignity, in particular, humiliating and degrading treatment" banned in common Article 3--can be prosecuted as war crimes.

Do some sanctioned U.S. interrogation practices cross the line into torture?

This is a matter of heated debate. U.S. officials deny that any of its sanctioned interrogation practices qualify as torture. But some human rights groups, citing legal precedents in the United States and other countries, say that some do. At issue are interrogation techniques often referred to as "stress and duress" or "coercive" practices used in some interrogations in Guantanamo Bay and Iraq, as well as, some experts say, other U.S.-run detention centers in the war on terror. These techniques permit interrogators to use sensory and sleep deprivation and pain to encourage suspects to talk but are not intended to result in lasting harm. Human rights lawyers say that most of these techniques are illegal under international law. U.S. officials disagree, and say their use has been vetted and approved by Pentagon lawyers. Still, the Pentagon announced May 14 that the commanding general in Iraq, Lieutenant General Ricardo Sanchez, had issued an order the day before barring the use of most coercive interrogation techniques.

Were the alleged abuses at Abu Ghraib normal "stress and duress" techniques?

No, U.S. officials say. They go well beyond what has been sanctioned by Pentagon lawyers and have been described by officials as illegal, sadistic, and aberrant acts. On the other hand, some human rights advocates charge that the use of more moderate "stress and duress techniques" created an atmosphere that allowed the abuses to occur. U.S. officials strongly deny this claim.

How do we know "stress and duress" techniques were being used?

Until recently, reports of these techniques came from unnamed U.S. officials, complaints to human rights organizations, and press reports. Since the prisoner abuse scandal at Abu Ghraib prison erupted in late April, however, two government documents discussing such techniques have surfaced. One is an April 2003 Pentagon memo that approved some 20 interrogation techniques for war-on-terrorism detainees at Guantanamo Bay prison. This document remains classified, but some of its contents were leaked to *The Washington Post* and later confirmed by Pentagon officials. The other is a list of "Interrogation Rules of Engagement" that applied in Iraq. This was released by the Senate Armed Services Committee May 11 at a Senate hearing on the abuses at Abu Ghraib.

What techniques are approved for use in Guantanamo?

According to *The Washington Post*, they include:

reversing detainees' normal sleep patterns;

exposing detainees to heat, cold, and "sensory assault," including loud music and bright lights; and

forcing prisoners to stand for up to four hours at a time.

Interrogators must justify that harsh treatment is "militarily necessary," according to accounts of the document. Once approved, the treatment must be accompanied by "appropriate medical monitoring." U.S. officials have declared prisoners in Guantanamo Bay "illegal combatants" and therefore not covered by the Geneva Conventions.

Were the same techniques approved for use in Iraq?

U.S. officials say that because the protections of the Geneva Conventions apply to prisoners in Iraq, interrogation procedures approved for use there are more restrictive than those in use in Guantanamo. The list of coercive measures used in Guantanamo interrogations was given to commanders in Iraq, Lieutenant General Lance Smith, the deputy commander of the U.S. Central Command, said in congressional testimony May 11. But, he said, it had been made clear that "many" of those measures could not be used.

Before they were largely banned by Sanchez's order, approved measures in Iraq, according to the Senate list, included:

dietary manipulation, such as modifying meal times and food served;

sleep adjustment, including reversing detainees' normal sleep patterns;

sleep deprivation, including keeping detainees awake for up to 72 hours;

isolation for longer than 30 days;

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permitting the presence of muzzled military dogs during interrogations;

forcing detainees to stand or sit in an uncomfortable position for up to 45 minutes; and

sensory deprivation, such as complete darkness and isolation, for up to 72 hours.

Interrogators who wished to use these techniques needed Sanchez's approval on a case-by-case basis, according to the document. Under the new policy announced May 14, only isolation for more than 30 days will be allowed and only with Sanchez's approval, news accounts reported.

What do the Geneva Conventions say about what is permitted in interrogation?

They ban wartime interrogators from using all forms of coercion. The Third Geneva Convention, which deals with the treatment of prisoners of war, states that during interrogations, "No physical or mental torture, nor any other form of coercion, may be inflicted. Prisoners who refuse to answer questions may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind." The Fourth Convention, which lists protections for civilians, states that "Civilians in an occupied territory must not be subject to physical or moral coercion for the purposes of obtaining information from them or third parties."

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TORTURE

McCain Amendment in the final version of the FY 2006 Defense Appropriations Bill

SEC. __. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

- (a) IN GENERAL.--No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.
- (b) APPLICABILITY.--Subsection (a) shall not apply to with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.
- (c) CONSTRUCTION.--Nothing in this section shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

SEC. __. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

- (a) IN GENERAL.--No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.
- (b) CONSTRUCTION.--Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.
- (c) LIMITATION OF SUPERSEDER.--The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.
- (d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.--In this section, the term "cruel, inhuman, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

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Bush accedes to McCain in backing ban on torture

The Boston Globe

By Rick Klein and Charlie Savage, Globe Staff | December 16, 2005

WASHINGTON -- President Bush yesterday agreed to accept Senator John McCain's bill barring US officials from abusing terrorist suspects, with the White House reversing course after months of resistance when it became clear that its refusal to endorse a torture ban left the president politically isolated.

The agreement brings to an end an extended standoff between Bush and McCain, an Arizona Republican who was Bush's rival for the presidency in 2000. The White House relented under intense pressure from Congress and the international community.

"We've sent a message to the world that the United States is not like the terrorists," McCain said after a meeting with Bush in the Oval Office. "What we are is a nation that upholds values and standards of behavior and treatment of all people, no matter how evil or bad they are. And I think that this will help us enormously in winning the war for the hearts and minds of people throughout the world in the war on terror."

Bush agreed to sign a measure outlawing "cruel, inhuman, or degrading treatment or punishment" of detainees anywhere in the world. Military officials will also be required to follow interrogation guidelines codified in the Army's Field Manual, which is being revised to clear up any confusion over which techniques are acceptable.

A McCain aide has said the senator will monitor the revising of the field manual to make sure that the approved techniques are not "overly aggressive."

The bill closes a legal loophole that the Bush administration opened following the 2001 terrorist attacks. During his confirmation hearing last January, Attorney General Alberto Gonzales disclosed that the administration had decided the United Nations Convention Against Torture treaty, which bars cruel, inhuman, and degrading treatment, has force only on domestic soil.

The new legislation, Bush said, will now "make it clear to the world that this government does not torture and that we adhere to the international convention of torture, whether it be here at home or abroad."

Human rights activists praised the deal yesterday as a "victory for the rule of law," in the words of Elisa Massimino, Washington director of Human Rights First. Human rights organizations have decried the CIA's use of interrogation techniques including mock drowning, threatening with dogs, forced nudity, exposure to extreme cold, and shackling in painful positions for long periods.

The bill does not itemize specific practices that would be outlawed, but human rights groups believe it will prevent such tactics.

"For three years now, the administration has been sending the message that cruel and inhuman treatment is OK," Massimino said. "Now the McCain amendment is going to wipe all of that away. It reminds everybody who's on the front line that the rules are the rules, and if somebody tells you they don't apply, don't listen to them."

Democrats began pushing for legislation banning the harsh treatment of detainees in 2004, after reports of prisoner abuse at the American-run Abu Ghraib prison in Iraq and the US detention center at Guantanamo Bay, Cuba.

But the bill languished in Congress until the past few months, when McCain began waging a public battle with the White House.

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McCain, a former Navy fighter pilot who spent more than five years in a North Vietnamese prison camp and was tortured by his captors, has long maintained that inflicting pain and fear on prisoners doesn't help extract useful information. He pushed for a formal ban on the practice to improve the nation's image abroad.

Bush and his top aides have said that American officials do not torture prisoners, but also have maintained that CIA officers operating overseas need maximum flexibility to disrupt terrorist plots.

Vice President Dick Cheney made a personal appeal to Republican senators to vote against McCain's amendment. White House officials threatened to veto a bill funding vital Pentagon programs if the prisoner abuse ban were included in it.

But the Senate still voted 90 to 9 in October to tack the ban onto the main defense spending bill, and McCain resisted entreaties from the White House to exempt the CIA from the ban. On Wednesday, after another day of failed talks between McCain and the Bush administration, the House voted 308 to 122 in favor of the McCain amendment, demonstrating that a veto-proof majority for the measure existed in both chambers and that Bush could not stop it.

Still, the president's agreement to sign the bill was applauded by members of both political parties. Representative Jane Harman of California, the top Democrat on the House intelligence committee, said the establishment of clear rules for interrogations will send an important signal that the United States is complying with the Convention Against Torture.

"America's moral black eye is finally healing," Harman said. "Our troops and intelligence professionals are risking their lives for the ideals we cherish as a nation. Today's agreement upholds those ideals and sends the clear signal that America will never abandon the rule of law."

International pressure had intensified on the Bush administration to formalize its disavowals of torture, particularly following recent disclosures of secretly run CIA prisons in Eastern Europe.

Last week, during a visit to Europe, Secretary of State Condoleezza Rice was dogged by criticism of the US treatment of detainees.

The top House official on defense matters, Representative Duncan Hunter, a California Republican, said he wouldn't sign off on the torture ban unless he gets written assurance from the White House that it won't affect the nation's intelligence-gathering capabilities.

But even without that assurance, Senate leaders and McCain have other legislative vehicles with which to pass the torture ban, and they expressed confidence that it would become law. ■

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ARTICLE | *posted December 2, 2005 (web only)*

Ban Torture or Protect Torturers?

JEREMY BRECHER & BRENDAN SMITH

Editor's Note: Paragraphs nine and ten of this commentary were updated December 5, adding attribution to Newsweek magazine for quotes from spokesmen for the White House and Justice Department.

Thousands of well-meaning people are mobilizing to pressure Congress to pass legislation banning torture. But the Bush Administration is maneuvering to turn it into legislation that would instead protect the torturers by eliminating a basic legal right. To stop them, torture opponents will need to be not just as innocent as doves but also as cunning as foxes.

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When Congress returns to Washington on Monday, a campaign will unfold in support of Senator John McCain's legislation banning torture, which is attached to a defense bill. But McCain's amendment is accompanied by one from Senator Lindsey Graham that bans the appeals that prisoners at Guantánamo have used to take their cases to civilian courts.

In the 2004 case *Rasul v. Bush*, brought on behalf of Guantánamo captives, the Supreme Court established the right of foreigners held by the United States to habeas corpus, the 800-year-old legal procedure grounded in the Magna Carta and enshrined in the US Constitution, which requires government officials to explain to a court why they are holding someone in captivity. Graham's amendment strips courts of the power to hear such cases.

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Jeremy Brecher whose books inc *Globalization fro* most recently, *I Democracy: Am Crimes in Iraq a* published by Metropolitan/Ho received five re Awards for his d film work. He is of WarCrimesW

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Graham sprang his amendment on the Senate in the closing days of the session with no hearings and little debate. A firestorm of criticism forced Graham to accept a compromise--negotiated with Democratic Senator Carl Levin--that allows captives limited appeals to civilian courts. (*Newsweek* has reported that Attorney General Alberto Gonzales and White House Counsel Harriet Miers were also in on the negotiations.) But the Graham compromise still strips federal courts of jurisdiction to hear applications for habeas corpus brought by Guantánamo prisoners.

The Senate passed the compromise amendment 84 to 14. Republican Senator Arlen Specter, chair of the Senate Judiciary Committee, described it as "a sophisticated, blatant attempt at court-stripping."

Bill Goodman, legal director for the Center for Constitutional Rights, which brought the first habeas corpus cases for Guantánamo captives, says the Graham amendment "will formalize the lawless policies of the Bush Administration that allow the Department of Defense to hold prisoners indefinitely without any requirement that it show any reason for doing so." That has and will continue to result in "torture of US prisoners."

The Graham amendment bans habeas corpus appeals against conditions of confinement. The consequence, according to Michael Dorf, the Sovern Professor of Law at Columbia University, is that "a prisoner cannot get into federal court by claiming (or presenting evidence) that he is being subject to torture or otherwise degrading treatment."

Deviously, the Graham amendment has been packaged with McCain's anti-torture amendment. But the package will make things worse, not better, for Guantánamo captives unless Graham's amendment banning habeas corpus is removed. As Bill Goodman points out, while the pair of amendments "profess to ban torture," without the right to judicial oversight, they are "defanged." They are "a right without a remedy and, as such, meaningless."

The Bush Administration is now negotiating with Graham and others to make the legislation even more restrictive. A Justice Department spokesperson told *Newsweek,* "We definitely agree with the principle behind the current bill, though there are still some concerns that the language may need to be improved." White House spokesman Trent Duffy also told *Newsweek* that the White House is positive about the Graham bill and is "working with Senator Graham on technical aspects" of the legislation.

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Attorney General Alberto Gonzales has talked with Senator Graham about the bill at least twice. The Justice Department spokesperson told *Newsweek* Gonzales was "particularly focused on thwarting some of the 160 habeas lawsuits filed by Gitmo detainees." (Gonzales was the author of the notorious 2002 memo advising the President that the Geneva Conventions did not apply in order to provide "a solid defense to any future prosecution" of US officials under the War Crimes Act. Gonzales's personal role in laying the groundwork for torture is sufficient for professor Marjorie Cohn, now president-elect of the National Lawyers Guild, to have drafted an indictment of Gonzales for violating the War Crimes Act.)

The Bush Administration is apparently divided. Despite the role of the White House in preparing the Graham compromise amendment, Vice President Cheney opposed it. Indeed, Cheney has fought any legislation that would eliminate the government's right to torture, though he seems willing to compromise on language that leaves the CIA, but not the military, free to torture. In the past, President Bush has threatened to veto the entire defense bill if McCain's anti-torture amendment is included.

Both the Graham and McCain amendments are attached to a defense bill that now goes to a Senate-House conference. Graham and Levin plan to demand that the final legislation include both.

The conference committee will undoubtedly be the focus of pressure from those who want to preserve the right of habeas corpus. A statement by Habeas Counsel, the coalition of prestigious attorneys representing Guantánamo captives, says, "To legislate this way is disgraceful. It is also completely unnecessary. This is not an emergency situation. The Graham-Levin amendment should be stripped out in conference. The genuine deliberation required by the gravity of the issue can then begin."

Representative Edward Markey of Massachusetts, a member of the Progressive Caucus and an outspoken opponent of torture and "extraordinary rendition" (*a k a* government-run kidnapping), describes the task facing cunning progressive foxes:

"If the US wants to demonstrate that we are a nation committed to justice and the rule of law, we should adopt the McCain amendment barring torture and drop the Graham amendment suspending habeas corpus rights for those detained at Guantánamo Bay. If persons held by the US lack the right to challenge their detention or their treatment, the McCain amendment's protections against torture and other forms of cruel or humiliating treatment may turn out to be illusory."

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Only nine of the more than 500 Guantánamo captives have even been charged with crimes, and their trials are being prolonged year after year. This is exactly the situation habeas corpus is designed to remedy. And without it, the captives can rot in prison forever and possibly be subject to torture and inhumane treatment that the courts are unable even to learn about.

Graham and the Bush Administration oppose rights for Guantánamo detainees in part on the grounds that they are terrorists who deserve no better. They refuse to face the very real possibility of innocent people caught up in the system, acknowledged by the military's own commanders at Guantánamo. According to the *Wall Street Journal*:

"American commanders acknowledge that many prisoners shouldn't have been locked up here in the first place because they weren't dangerous and didn't know anything of value. 'Sometimes, we just didn't get the right folks,' says Brig. Gen. Jay Hood, Guantánamo's current commander."

Graham's original proposal to eliminate habeas corpus for foreign captives was met by extraordinary condemnation. Ten retired military leaders endorsed a letter from Rear Adm. John Hutson calling the restriction on habeas corpus a "momentous" change. "The practical effects of such a bill would be sweeping and negative." Signers included Army Lieut. Gen. Robert Gard, Marine Maj. Gen. Fred Haynes and other senior officers.

Eugene Fidell, president of the National Institute of Military Justice, the organization of military lawyers, said the Graham amendment would sanction "unreviewable executive detention that cannot be harmonized with the nation's longstanding adherence to the rule of law."

The American Bar Association has urged the Senate to reconsider and defeat the original Graham amendment. Michael Greco, president of the association, gave a stirring defense of habeas corpus, which "cannot and should not" be replaced by the "extremely limited review" provided by the Graham amendment, which "would undermine the very principles that distinguish us from our enemies."

Does Congress have the power to tell the Supreme Court what cases it can or cannot hear? In American law, courts have the power to review the constitutionality of legislation passed by Congress, but they tend to defer to the other branches of government, especially where national security issues are involved.

Both Graham's original amendment and his compromise amendment directly conflict with

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the Supreme Court's decision in *Rasul v. Bush* that Guantánamo captives have the right to habeas corpus. The Supreme Court recently agreed to hear *Hamdan v. Rumsfeld*, a challenge to the constitutionality of the Bush Administration's military tribunals for Guantánamo captives.

No one knows how the Court would respond to an instruction from Congress to reverse its interpretation of the Constitution. Indeed, the conflict over the power of courts to hear prisoners' appeals is plunging the country into an ongoing constitutional crisis in which all three branches of government are involved.

Since treatment of captives held by the United States has included well-documented cases of torture, brutality and even treatment leading to death, the Graham amendment would erect a screen behind which such crimes may be conducted with impunity. Opponents of torture need to make sure they are not inadvertently helping to pass an amendment that would protect torturers.

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ARTICLE | *posted December 21, 2005 (web only)*

Fixing the Torture Fix

JEREMY BRECHER & BRENDAN SMITH

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WRITE TO THE EDITORS

TAKE ACTION NOW

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Congress passed just before Christmas legislation allowing evidence obtained by torture to be used against Guantánamo captives and denying them the right to habeas corpus--the right to make the government justify their captivity before a court. Christopher Anders of the American Civil Liberties Union calls these provisions "horrific precedents" that are "counterproductive and against the rule of law." Michael Ratner, head of the Center for Constitutional Rights, calls it "a legal, political and moral outrage" and "the worst thing to happen legislatively in my history as a civil rights litigator."

This assault on the most venerable and universal of legal principles is attached to the same legislation as Senator John McCain's anti-torture measure. But it provides a legal incentive to torture and blocks the main vehicle that federal courts and human rights advocates have used to uncover and challenge prisoner abuse at Guantánamo.

This language fulfills one clear purpose: to prevent courts from hearing evidence of torture, abuse and unlawful activity. What it protects is not the security of Americans against terrorism but the security of high government officials against prosecution for violation of the Anti-Torture and War Crimes Acts.

CONTINUED

But in today's climate of growing resistance to the abuse of presidential power--evidenced

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by the blocking of Patriot Act renewal, the firestorm of outrage at NSA domestic spying and the McCain anti-torture amendment itself--the Bush Administration's torture cover-up may be short-lived. Human rights groups and members of Congress are already gearing up for the next round.

Human rights attorneys will take the Graham amendment on in the courts. CCR's Ratner says, "We are going to litigate the hell out of this. We have hundreds of high-powered attorneys who work with Guantánamo cases who are really angry." In the last few days lawyers have filed habeas corpus petitions covering virtually all of the detainees whose identities they have been able to discover; 105 petitions now cover several hundred detainees. Their lawyers will argue that under the Supreme Court's *Rasul v. Bush* decision, "we can still bring habeas corpus petitions." The result is likely to be "years of litigation."

A second arena will be Congress. On December 14, Senate Democrats and Republicans agreed to legislation requiring the national defense intelligence director to give Congress regular, detailed updates about secret US detention sites overseas. And on December 16, the House passed 228 to 187 a nonbinding resolution supporting the same requirement. Missouri Representative Ike Skelton, top Democrat on the House Armed Services Committee, says, "Meaningful oversight must include proper scrutiny of all US detention facilities, whether those facilities are located on US or foreign soil."

Back in June, Senator Arlen Specter, chair of the Senate Judiciary Committee, held the first hearings on Guantánamo. Noting that the Constitution confers upon Congress the power to "make Rules concerning Captures on Land and Water," he called the Supreme Court decisions on detainee rights a "crazy-quilt of decisions." In August he went to Guantánamo himself. He began drafting legislation to address the legal rights of Guantánamo captives. He planned to hold a hearing at Guantánamo and considered pushing for a 9/11-style commission to investigate the situation at the prison. Specter vehemently opposed the Graham amendment, and said that until there is a "comprehensive approach," the "Judiciary Committee will still be wrestling with these problems."

But Specter is expecting to raise the issue even sooner--at the upcoming Supreme Court confirmation hearings for Judge Samuel Alito. Specter intends to ask questions like those he had planned to ask Harriet Miers. Those include whether there should be any limitations as to how long foreign detainees may be held and whether someone held as an "enemy combatant" had such rights as confronting witnesses, right to counsel and access to classified information.

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And these issues will rise again in confirmation hearings for Paul McNulty to become Deputy Attorney General, expected in February or March. As US Attorney for the Eastern District of Virginia, McNulty was in change of bringing cases against CIA officials and other civilians for prisoner abuse. The issue: He hasn't brought any--even in the death in captivity of Manadel al-Jamadi, exposed by Jane Mayer in *The New Yorker*, where the CIA's own investigation found a likelihood of criminal wrongdoing. Before being confirmed, McNulty is likely to be asked why.

Senator McCain's anti-torture legislation, while a symbolic victory for legal limits on the government's right to torture, includes significant loopholes. Perhaps the biggest is the absence of an enforcement mechanism: It provides neither criminal nor civil penalties for violations.

Another McCain loophole was perhaps alluded to by President Bush when he said its purpose was "to make it clear to the world that this government does not torture." The kicker: The legislation leaves the US free to turn over captives to other governments and let them engage in torture on its behalf.

The House has twice passed amendments by Representative Edward Markey of Massachusetts that would prohibit what the Bush Administration calls "extraordinary rendition" and what Markey calls "the outsourcing of torture." When the House returns for the new year, it will be forced to vote on a Resolution of Inquiry introduced by Markey that would require government agencies to provide information on all prisoners subject to extraordinary rendition.

The uproar over rendition and torture is not restricted to the United States. United Nations High Commissioner for Human Rights Louise Arbour has warned that international human rights law has been a casualty of the so-called war on terrorism. And while European governments may share the hope of former German Interior Minister Otto Schily that "at some point this bone will be chewed bare," the issue continues to develop a momentum among civil society and EU human rights institutions that may make it harder to silence at home.

The issues of torture, abuse, rendition and denial of detainees' legal rights are becoming part of the larger issue of unlawful extension of presidential power. In the wake of the *New York Times*'s disclosure that Bush had authorized the National Security Agency to spy on Americans, Wisconsin Senator Russ Feingold said it was indicative of a "pattern of abuse" that also included torture and secret prisons, revealing that the President is "grabbing too much power."

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A new report called "The Constitution in Crisis: The Downing Street Minutes and Deception, Manipulation, Torture, Retribution and Coverups in the Iraq War," just released by Michigan Representative John Conyers and the House Judiciary Committee Democrats, identifies the White House position on the Geneva Conventions and international law as one of the many elements for which there is substantial evidence that top Bush Administration officials violated federal laws. It calls for a Resolution of Censure, a Justice Department criminal investigation and a Select Committee to investigate Bush Administration misconduct.

In backing the use of coerced testimony and the denial of habeas corpus, Congress is making itself a party to the Bush Administration's abuse of power. And it's not just Republicans. Even some Democrats with reputations as civil libertarians, notably Michigan Senator and Graham amendment co-sponsor Carl Levin, supported the changes included in the bill. Michael Ratner warned before final passage, "If the Democrats fail to filibuster this bill, they are complicit in selling out the Constitution on this."

Ratner adds, "We need to litigate every single issue in our courts, in European courts and every possible national and international venue. But unraveling this outlaw administration is going to take more than courts. It is going to take almost a popular rebellion. The way to do this is to go to every university, every public forum, hold mock trials, street demonstrations, for people to say: We do not believe in one-person rule in the US." As "The Constitution in Crisis" concludes, "It is incumbent on individual Members of Congress as well as the American public to act to protect our constitutional form of government."

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Army Officer Found Guilty in Iraqi's Death

Associated Press

By JON SARCHE, Associated Press Writer

2 hours, 17 minutes ago

An Army interrogator committed negligent homicide when he put a sleeping bag over an Iraqi general's head and sat on his chest as the man suffocated, a military jury found.

Attorneys for Chief Warrant Officer Lewis Welshofer Jr. said he believed the general had information that would "break the back of the whole insurgency" at a time when soldiers were being killed in an increasingly lethal and bold resistance.

But prosecutor Maj. Tiernan Dolan maintained that Welshofer tortured Iraqi Maj. Gen. Abed Hamed Mowhoush at a detention camp in 2003, treating him "worse than you would treat a dog."

After six hours of deliberations, the panel of six Army officers spared Welshofer on the more serious charge of murder — which carries a potential life sentence — instead convicting him late Saturday of negligent homicide and negligent dereliction of duty. He was acquitted of assault.

Welshofer stood silently and showed no reaction when the verdict was announced. He could be dishonorably discharged and sentenced to a maximum three years and three months in prison at a Monday hearing.

Defense attorney Frank Spinner said he would decide after sentencing whether to appeal.

"The verdict recognizes the context in which these events took place," he said. "It was a very difficult time in Iraq. There was confusion, and they were not getting clear guidance from headquarters."

Welshofer and prosecutors left without commenting.

During the trial, prosecutors described a rogue interrogator who became frustrated with Mowhoush's refusal to answer questions and escalated his techniques from simple interviews to beatings to simulating drowning, and finally, to death.

Welshofer used his sleeping bag technique in the presence of lower ranking soldiers, but never in the presence of officers with the authority to stop him, Dolan said.

The treatment of the Iraqi general "could fairly be described as torture," Dolan said.

In an e-mail to a commander, Dolan said, Welshofer wrote that restrictions on interrogation techniques were impeding the Army's ability to gather intelligence. Welshofer wrote that authorized techniques came from Cold War-era doctrine that did not apply in Iraq, Dolan said.

"Our enemy understands force, not psychological mind games," Dolan quoted from Welshofer's message. Dolan said an officer responded by telling Welshofer to "take a deep breath and remember who we are."

The defense had argued a heart condition caused Mowhoush's death, and that Welshofer's commanders had approved the interrogation technique.

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"What he was doing he was doing in the open, and he was doing it because he believed the information in fact would save lives," Spinner said.

He asked jurors to consider deadly conditions in Iraq at the time of the interrogation. Welshofer had to make some decisions on his own because guidance was lacking and other techniques weren't working, Spinner said.

Officials believed Mowhoush had information that would "break the back of the whole insurgency," said defense attorney Capt. Ryan Rosauer. They also thought Mowhoush helping to bring foreign fighters into Iraq from across the Syrian border, he said.

Several prosecution witnesses, including one whose identity is classified and who testified in a closed session, had been granted immunity in exchange for their cooperation, Spinner noted. Two soldiers who were initially charged with murder in the case also were given immunity.

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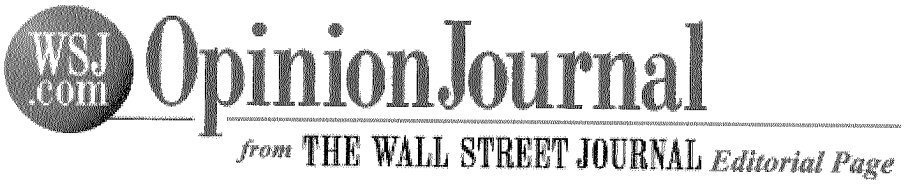

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AT WAR

The 'Torture Narrative' Unravels

Pfc. Lynndie England is convicted, and the military's critics are proved wrong.

BY ROBERT L. POLLOCK
Sunday, October 2, 2005 12:01 a.m.

It's hardly a secret that Pfc. Lynndie England was sentenced last week for her role as "leash girl" in the infamous abuses photographed at Iraq's Abu Ghraib prison in late 2003. But it was also noticeable that the denouement of this spectacular story was relegated to the innards of newspapers that had once given it weeks of front-page treatment. That's almost surely because the trial of the last of the Maryland Army Reservists to face justice--like those of the others that came before her--offered no evidence to support claims that the abuses were caused by a Bush administration that had "created the climate" or "set the tone" for "torture."

That was, of course, the widespread and explosive charge last (election) year. Almost immediately the leaked photos of Pfc. England and her compatriots generated calls for Defense Secretary Donald Rumsfeld's resignation. So-called torture memos were unearthed, in which administration lawyers had discussed the range of permissible interrogation techniques--for al Qaeda suspects in the wake of 9/11. And by one of the greatest leaps of logic ever seriously entertained in our national discourse, those memos were said to have caused the behavior of soldiers in Iraq who knew nothing beyond the limits outlined in the Army Field Manual. Ted Kennedy, for one, offered up a useful reminder of why Americans have never wanted him to be president by declaring that "Saddam's torture chambers reopened under new management, U.S. management."

The writer Heather Mac Donald dubbed this the "torture narrative." And it persists today despite the conclusion a year ago of the Independent Panel to Review DOD Detention Operations that the abuses "were not part of authorized interrogations *nor were they even directed at intelligence targets*" (emphasis added). Or in the words of the panel's chairman, former Defense Secretary James Schlesinger--whose bipartisan cabinet career included a stint in the Carter administration--what those pictures showed was sick behavior by the "night shift."

But don't just take his word for it. "You feel that by doing these things you were setting conditions for interrogations," a judge asked Private England in a hearing earlier this year. "No, sir," she responded. "So this was just a way to embarrass them?" he continued. "Yes, sir," was her reply.

Or consider the testimony of Spc. Jeremy C. Sivits: "Our command would have slammed us. They believe in doing the right thing. If they saw what was going on, there would be hell to pay."

In all, seven guards and two military intelligence personnel have now faced justice for the Abu Ghraib abuses, with even those pleading guilty undergoing detailed sentencing hearings. No evidence has emerged to support the theory that abuses had anything to do with interrogation.

It's worth remembering too that these prosecutions were based on investigations conducted with dispatch that did the Army nothing but credit: A criminal probe was begun within a day of the abuse reports traveling up the chain of command on Jan. 13, 2004; two days after that, Central Command issued a press release about the investigation; on March 20 it was announced that charges had been brought against six of those involved. Meanwhile, Maj. Gen. Antonio Taguba had completed an investigation whose conclusions have now stood the test of nine courts martial. And this all *more than a month before* the photos were leaked to the press.

Have detainee abuses occurred elsewhere in the war on terror? Of course. But they were "widespread" only if you define that term geographically instead of by frequency. The adjective "systematic" has been similarly misused. Overall, more than 70,000 detainees have passed through U.S. military custody since late 2001. About 500 criminal investigations have been conducted into allegations of related misconduct, many of which were found to be unsubstantiated. But more than 200 people have already been disciplined for actions ranging from failure to report to prisoner abuse itself.

There have also now been 12 major inquiries--including investigations led by Maj. Gen. George Fay and Vice Adm. Albert Church--into detainee treatment in Iraq, Afghanistan and Guantanamo Bay. More than 2,800 interviews have been conducted and 16,000 pages of documents produced. And there have been 31 congressional hearings and 45 staff briefings. Given that track record, we can be quite sure that the latest abuse allegations to surface (from an officer of the 82nd Airborne) will get the thorough hearing they deserve.

In short, all the evidence suggests a low rate of detainee mistreatment, one that compares favorably with U.S. civilian prisons, never mind that of other and earlier militaries. "The behavior of our troops is so much better than it was in World War II," Mr. Schlesinger told me last year. I called him this week to ask what we've learned since. "That the press exaggerated," he replied. The suggestion that Mr. Schlesinger and countless others--from decorated officers to military juries--have lent their good names to some kind of whitewash only reveals the remaining accusers for the crackpots they are.

Let me add some final words on how the Abu Ghraib scandal has affected America's image in Iraq. It hasn't been helpful, of course. But--having traveled there three times in the past 2 1/2 years, most recently in August--I can attest that the dominant image of the American soldier in the minds of most Iraqis is that of liberator, as depicted in the sculpture shown here by a craftsman from Saddam's hometown of Tikrit. Americans can be proud of the way their young men and women have performed in Iraq and elsewhere in the war on terror. And they can be proud of the way the military has meted out justice for those few abuses that have occurred.

Barbara Kelley

Mr. Pollock is a senior editorial page writer at The Wall Street Journal.

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REVIEW & OUTLOOK

'Torture' Showdown

By all means let's have a debate over interrogating terrorists.

Thursday, January 6, 2005 12:01 a.m.

The White House appears to be dreading today's confirmation hearings for Alberto Gonzales now that Democrats seem ready to blame the Attorney General nominee for Abu Ghraib and other detainee mistreatment. But this is actually a great chance for the Administration to do itself, and the cause of fighting terror, some good by forcefully repudiating all the glib and dangerous abuse of the word "torture."

For what's at stake in this controversy is nothing less than the ability of U.S. forces to interrogate enemies who want to murder innocent civilians. And the Democratic position, Mr. Gonzales shouldn't be afraid to say, amounts to a form of unilateral disarmament that is likely to do far more harm to civil liberties than anything even imagined so far.

The dispute here stems from the Bush Administration's decision, in early 2002, that Taliban and al Qaeda detainees didn't automatically qualify for prisoner of war status. This caused a fuss in some quarters. But it was in accord with the plain language of the original Geneva Conventions, which require POWs to have met certain criteria such as fighting in uniform and not attacking civilians. The Administration understood what critics don't want to admit--namely, that POWs may not be interrogated, period. The Geneva Conventions forbid even positive reinforcement such as better rations to coax them to talk.

This interpretation of the Geneva rules was hardly novel to the Bush Administration. It was a bipartisan consensus in 1987 when Ronald Reagan repudiated a radical document called Protocol 1--the so-called "international law" that the International Committee of the Red Cross now says requires POW status for al Qaeda. The New York Times praised the Gipper at the time for denying "a shield for terrorists," and the Washington Post also editorialized in support.

Viewed in light of that history, it was natural--and law-abiding--that in March 2002 the CIA asked the White House for guidance on permissible interrogation techniques, frustrated that the likes of al Qaeda operations chief Abu Zubaydah were refusing to give up information. Thus was born the misleadingly labeled "torture" memo, which did indeed discuss the outer limits of what the CIA might be able to do.

But to do otherwise--to not be "forward-leaning" as Mr. Gonzales is reported to have put it--would have been irresponsible of an executive branch whose primary duty is to defend the homeland. Remember, this was not long after the 9/11 and anthrax attacks, and there were (and still are) real fears of dirty bombs, smallpox and even actual nuclear weapons. Remember also that well-known liberals like Alan Dershowitz were going even further and suggesting judge-issued "torture warrants."

And so things rolled along, successfully and uncontroversially, as interrogations of Zubaydah and other al Qaeda detainees played an invaluable part in helping round up the group's leadership, including the likes of 9/11 mastermind Khalid Sheikh Mohammed and Ramzi bin al Shibh. Then the Abu Ghraib scandal broke early last election year, and documents like the "torture" memo were leaked and alleged to have somehow "set the tone" or "created the climate" for what happened.

The charge was absurd from the get-go. This was an internal discussion, not a policy directive; only a handful of people were even aware of it; and it was about al Qaeda, not Iraq. And, sure enough, former Defense Secretary Jim Schlesinger's later report found the Abu Ghraib abuses not only bore no resemblance to any interrogation method contemplated for Iraqi prisoners, they weren't related to interrogations at all. It was sick behavior by individuals on the "night shift." Mr. Schlesinger concluded that the overall rate of mistreatment in Afghanistan and Iraq appears to be far lower than in past conflicts.

As for al Qaeda, let us describe the most coercive interrogation technique that was ever actually authorized. It's called "water-boarding," and it involves strapping a detainee down, wrapping his face in a wet towel and dripping water on it to produce the sensation of drowning.

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[redacted]@apprisemedia.com

From: [redacted]@apprisemedia.com
Sent: Monday, January 23, 2006 2:00 PM
To: [redacted]@cfr.org; [redacted]@cfr.org
Cc: Gorsuch, Neil M
Subject: FW: Readings for tomorrow night's meeting
Attachments: articles3.pdf; HRWReportDetainee Abuses.pdf

Additional reading materials for tomorrow's session.

-Michael

-----Original Message-----
From: Michael Behringer
Sent: Monday, January 23, 2006 1:46 PM
To: [redacted]@cfr.org'
Cc: 'Neil.Gorsuch@usdoj.gov'; '[redacted]@cfr.org'
Subject: RE: Readings for tomorrow night's meeting

[redacted]
Attached are the readings - one additional email to follow.

Michael

-----Original Message-----
From [redacted]@cfr.org [mailto: [redacted]@cfr.org]
Sent: Monday, January 23, 2006 12:47 PM
To: Michael Behringer
Subject: Readings for tomorrow night's meeting

Hello Michael,

I hope all is well. I was wondering if you could email me the readings for the Torture Policy seminar tomorrow night, when you get a chance. As [redacted] is out of the office today, she has asked me to send them to those who will be attending tomorrow night. Of course, I cannot do that until I receive them from you.

Please call me if you have any questions or concerns. Otherwise I will await the readings.

Sincerely,

[redacted]

[redacted]
Program Assistant, Membership and Fellowship Affairs Council on Foreign Relations [redacted]@cfr.org
Tel:[redacted]Fax: (212) 434-9801 www.cfr.org

Is that "torture"? It is pushing the boundary of tolerable behavior, but we are told it is also used to train U.S. pilots in case they are shot down and captured. More to the critics' apparent point, is it immoral, or unjustified, in the cause of preventing another mass casualty attack on U.S. soil? By all means let's have a debate; Mr. Gonzales should challenge a few Democrats to categorically renounce it and tell us what techniques they would tolerate instead.

If the Gonzales critics are really worried about civil liberties, they might ponder the domestic political response to another 9/11. Do they really think Roosevelt's internment camps and Lincoln's suspension of habeas corpus were merely products of a less enlightened age, and that Americans wouldn't respond to a dirty bomb explosion in a major city with mass detentions of men with Islamic surnames, closed borders, or worse? This civil-liberties catastrophe is precisely what "water-boarding" is trying to prevent.

So far, the White House has done a perfectly awful job of explaining this. And it now seems to be making the mistake of trying to appease the Gonzales critics with a modest mea culpa for "over-broad" internal discussions. This retreat began last year with its attempt to distance itself from a legal memo written by some very fine lawyers who were doing nothing more than exploring America's options for defending itself. Predictably, this only emboldened the critics and opportunists, and it won't surprise us to see even Republicans of the McCain-Hagel stripe seize the chance to show their "independence" before this is all over.

The better alternative is for Mr. Gonzales to go on offense and defend his entirely defensible actions. What the other side is fundamentally asserting is that aggressive interrogations are impermissible under any circumstances and to even contemplate them is to "set the tone" for torture. This is dangerous both to American security and liberty.

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COUNCIL ON FOREIGN RELATIONS
A Nonpartisan Resource for Information and Analysis

Op-Ed

Hate torture? Consider boot camp

Author: Max Boot

December 14, 2005
Council on Foreign Relations

Hold the presses. I've discovered that the use of torture by the U.S. government is far more pervasive than previously believed. There are major facilities all over the country where thousands of men and women who have not committed any crime are held for prolonged periods while subjected to physical and psychological coercion that violates every tenet of the Geneva Convention.

They are routinely made to stand for long periods in uncomfortable positions. They are made to walk for hours while wearing heavy loads on their backs. They are bullied by martinets who get in their faces and yell insults at them. They are hit and often knocked down with clubs known as pugil sticks. They are denied sleep for more than a day at a time. They are forced to inhale tear gas. They are prevented from seeing friends or family. Some are traumatized by this treatment. Others are injured. A few even die.

Should Amnesty International or the International Committee of the Red Cross want to investigate these human-rights abuses, they could visit Parris Island, S.C., Camp Pendleton, Calif., Ft. Benning, Ga., Ft. Jackson, S.C., and other bases where the Army and Marines train recruits. It's worth keeping in mind how roughly the U.S. government treats its own defenders before we get too worked up over the treatment of captured terrorists.

With all the uproar over torture, you would think we handled prisoners the way Saddam Hussein did. The former dictator's trial has featured copious testimony on how his goons raped, mutilated, beat or murdered those who fell under suspicion of disloyalty. This type of treatment -- fingernails pulled, electric shocks applied, sharp objects put where they don't belong — is what the word "torture" commonly connotes. That's not what American operatives are up to.

Even the inexcusable (and unauthorized) behavior at Abu Ghraib was not as severe. Many of the abuses that critics cite seem downright trivial by comparison — a Koran splashed with urine, a prisoner smeared with red ink and told it was menstrual fluid. Homicide is suspected in the deaths of about two dozen inmates out of more than 83,000 held at some point in the war on terror. That's a wrongful death rate of 0.02%, not exactly comparable to the gulags.

By and large, prisoners are well-treated and subjected to only the mildest forms of interrogation. Questioning of detainees in Iraq is governed by Army Field Manual 34-52, which "expressly prohibit[s] acts of violence or intimidation." Interrogators must stick with "psychological ploys, verbal trickery or other nonviolent or noncoercive ruses."

A few "enhanced" techniques were authorized for Al Qaeda operatives held at Guantanamo who had been trained to resist the stratagems described in this publicly available manual. For a brief period in 2002, authorized techniques included hooding detainees, removing their clothes and subjecting them to "stress positions," such as prolonged standing. But, according to an independent commission headed by former Defense Secretary James R. Schlesinger, all of these methods have been outlawed since 2003, leaving only a handful of techniques not found in the Army manual, such as "sleep adjustment" (changing sleeping hours, not denying sleep altogether), "Mutt and Jeff" (the good cop/bad cop routine) and an "MRE-only diet" (feeding prisoners what our troops eat in the field — talk about cruel and unusual punishment!).

Beyond Gitmo, the CIA has apparently used rougher methods on a dozen top Al Qaeda captives, including 9/11 mastermind Khalid Sheikh Mohammed. According to ABC News, interrogators have been given authority to slap them, strip them, make them stand for prolonged periods and even "waterboard" them, which involves wrapping cellophane over a subject's face and pouring water on it to induce a feeling of drowning. None of these techniques is supposed to cause injury, but they induce so much mental trauma they probably qualify as torture — albeit a much milder and more justified form of torture than what the Baathists practiced.

Now Congress wants to outlaw these methods — said to have yielded valuable intelligence — by passing a prohibition on "cruel, inhumane or degrading" treatment. Even the "enhanced" techniques employed at Gitmo may not survive. The McCain amendment may make sense as a public relations move to counter a tidal wave of negative publicity. But it could lead to an anomalous result: a system that treats captured terrorists better than we treat our own soldiers.

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CITY JOURNAL

Winter 2005

How to Interrogate Terrorists

Heather Mac Donald

Don't believe the charges. American troops treat terrorists with Geneva-convention politeness—perhaps too much so.

It didn't take long for interrogators in the war on terror to realize that their part was not going according to script. Pentagon doctrine, honed over decades of cold-war planning, held that 95 percent of prisoners would break upon straightforward questioning. Interrogators in Afghanistan, and later in Cuba and Iraq, found just the opposite: virtually none of the terror detainees was giving up information—not in response to direct questioning, and not in response to army-approved psychological gambits for prisoners of war.

Debate erupted in detention centers across the globe about how to get detainees to talk. Were "stress techniques"—such as isolation or sleep deprivation to decrease a detainee's resistance to questioning—acceptable? Before the discussion concluded, however, the photos of prisoner abuse in Iraq's Abu Ghraib prison appeared. Though they showed the sadism of a prison out of control, they showed nothing about interrogation.

Nevertheless, Bush-administration critics seized on the scandal as proof that prisoner "torture" had become routine. A master narrative—call it the "torture narrative"—sprang up: the government's 2002 decision to deny Geneva-convention status to al-Qaida fighters, it held, "led directly to the abuse of detainees in Afghanistan and Iraq," to quote the *Washington Post*. In particular, torturous interrogation methods, developed at Guantánamo Bay and Afghanistan in illegal disregard of Geneva protections, migrated to Abu Ghraib and were manifest in the abuse photos.

This story's success depends on the reader's remaining ignorant of the actual interrogation techniques promulgated in the war on terror. Not only were they light years from real torture and hedged around with bureaucratic safeguards, but they had nothing to do with the Abu Ghraib anarchy. Moreover, the decision on the Geneva conventions was irrelevant to interrogation practices in Iraq.

No matter. The Pentagon's reaction to the scandal was swift and sweeping. It stripped interrogators not just of stress options but of traditional techniques long regarded as uncontroversial as well. Red tape now entangles the interrogation process, and detainees know that their adversaries' hands are tied.

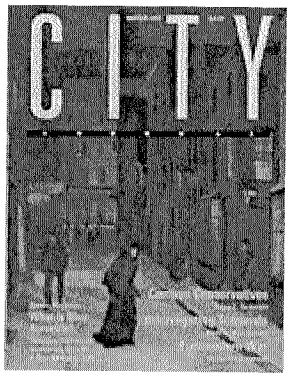

Are Cops Racist? How the War Against the Police Harms Black Americans.
by Heather Mac Donald

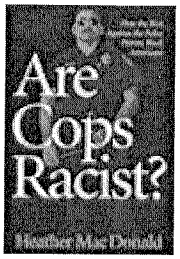

More CJ by Heather Mac Donald

The need for rethinking interrogation doctrine in the war on terror will not go away, however. The Islamist enemy is unlike any the military has encountered in the past. If current wisdom on the rules of war prohibits making any distinction between a terrorist and a lawful combatant, then that orthodoxy needs to change.

The interrogation debate first broke out on the frigid plains of Afghanistan. Marines and other special forces would dump planeloads of al-Qaida and Taliban prisoners into a ramshackle detention facility outside the Kandahar airport; waiting interrogators were then supposed to extract information to be fed immediately back into the battlefield—whether a particular mountain pass was booby-trapped, say, or where an arms cache lay. That "tactical" debriefing accomplished, the Kandahar interrogation crew would determine which prisoners were significant enough to be shipped on to the Guantánamo naval base in Cuba for high-level interrogation.

Army doctrine gives interrogators 16 "approaches" to induce prisoners of war to divulge critical information. Sporting names like "Pride and Ego Down" and "Fear Up Harsh," these approaches aim to exploit a detainee's self-love, allegiance to or resentment of comrades, or sense of futility. Applied in the right combination, they will work on nearly everyone, the intelligence soldiers had learned in their training.

But the Kandahar prisoners were not playing by the army rule book. They divulged nothing. "Prisoners overcame the [traditional] model almost effortlessly," writes Chris Mackey in *The Interrogators*, his gripping account of his interrogation service in Afghanistan. The prisoners confounded their captors "not with clever cover stories but with simple refusal to cooperate. They offered lame stories, pretended not to remember even the most basic of details, and then waited for consequences that never really came."

Some of the al-Qaida fighters had received resistance training, which taught that Americans were strictly limited in how they could question prisoners. Failure to cooperate, the al-Qaida manuals revealed, carried no penalties and certainly no risk of torture—a sign, gloated the manuals, of American weakness.

Even if a prisoner had not previously studied American detention policies before arriving at Kandahar, he soon figured them out. "It became very clear very early on to the detainees that the Americans were just going to have them sit there," recalls interrogator Joe Martin (a pseudonym). "They realized: 'The Americans will give us our Holy Book, they'll draw lines on the floor showing us where to pray, we'll get three meals a day with fresh fruit, do Jazzercise with the guards, . . . we can wait them out.' "

Even more challenging was that these detainees bore little resemblance to traditional prisoners of war. The army's interrogation manual presumed adversaries who were essentially the mirror image of their captors, motivated by emotions that all soldiers share. A senior intelligence official who debriefed prisoners in the 1989 U.S. operation in Panama contrasts the battlefield then and now: "There were no martyrs down there, believe me," he chuckles. "The Panamanian forces were more understandable people for us. Interrogation was pretty straightforward: 'Love of Family' [an army-manual approach, promising, say, contact with wife or children in exchange for cooperation] or,

About Heather Mac Donald

THE DEBATE ON TORTURE

Heather Mac Donald responds to former DoJ attorney Marty Lederman's criticism of How to Interrogate Terrorists; and responds to blogger Andrew Sullivan's comments ("Mac Donald, Torture, the CIA and Bush") with a few pointed questions.
13 January 2005

"Mac Donald Responds"
andrewsullivan.com
14 January 2005

A further response to Sullivan
14 January 2005

Mickey Kaus comments on the debate ("P.S.")
kausfiles 17 January 2005

Lederman replies: "Heather Mac Donald's 'Few Bad Apples' Theory of Abuse"
Balkinization 23 January 2005

Heather Mac Donald debates John D. Hutson: "Should Gonzales be Attorney General?"
LegalAffairs.org 25 January 2005

"Sullivan's Tortured Logic"
LittleGreenFootballs.com 26 January 2005

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'Here's how you get out of here as fast as you can.' "

"Love of family" often had little purchase among the terrorists, however—as did love of life. "The jihadists would tell you, 'I've divorced this life, I don't care about my family,' " recalls an interrogator at Guantánamo. "You couldn't shame them." The fierce hatred that the captives bore their captors heightened their resistance. The U.S. ambassador to Pakistan reported in January 2002 that prisoners in Kandahar would "shout epithets at their captors, including threats against the female relatives of the soldiers guarding them, knee marines in the groin, and say that they will escape and kill 'more Americans and Jews.' " Such animosity continued in Guantánamo.

Battlefield commanders in Afghanistan and intelligence officials in Washington kept pressing for information, however. The frustrated interrogators constantly discussed how to get it. The best hope, they agreed, was to re-create the "shock of capture"—that vulnerable mental state when a prisoner is most frightened, most uncertain, and most likely to respond to questioning. Uncertainty is an interrogator's most powerful ally; exploited wisely, it can lead the detainee to believe that the interrogator is in total control and holds the key to his future. The Kandahar detainees, however, learned almost immediately what their future held, no matter how egregious their behavior: nothing untoward.

Many of the interrogators argued for a calibrated use of "stress techniques"—long interrogations that would cut into the detainees' sleep schedules, for example, or making a prisoner kneel or stand, or aggressive questioning that would put a detainee on edge.

Joe Martin—a crack interrogator who discovered that a top al-Qaida leader, whom Pakistan claimed to have in custody, was still at large and directing the Afghani resistance—explains the psychological effect of stress: "Let's say a detainee comes into the interrogation booth and he's had resistance training. He knows that I'm completely handcuffed and that I can't do anything to him. If I throw a temper tantrum, lift him onto his knees, and walk out, you can feel his uncertainty level rise dramatically. He's been told: 'They won't physically touch you,' and now you have. The point is not to beat him up but to introduce the reality into his mind that he doesn't know where your limit is." Grabbing someone by the top of the collar has had a more profound effect on the outcome of questioning than any actual torture could have, Martin maintains. "The guy knows: You just broke your own rules, and that's scary. He might demand to talk to my supervisor. I'll respond: 'There are no supervisors here,' and give him a maniacal smile."

The question was: Was such treatment consistent with the Geneva conventions?

President Bush had declared in February 2002 that al-Qaida members fell wholly outside the conventions and that Taliban prisoners would not receive prisoner-of-war status—without which they, too, would not be covered by the Geneva rules. Bush ordered, however, that detainees be treated humanely and in accordance with Geneva principles, to the extent consistent with military necessity. This second pronouncement sank in: all of the war on terror's detention facilities chose to operate under Geneva rules. Contrary to the fulminations of rights advocates and the press, writes Chris Mackey, "Every signal we interrogators got from above from the colonels at [the Combined Forces Land

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Component Command] in Kuwait to the officers at Central Command back in Tampa—had been . . . to observe the Conventions, respect prisoners' rights, and never cut corners."

What emerged was a hybrid and fluid set of detention practices. As interrogators tried to overcome the prisoners' resistance, their reference point remained Geneva and other humanitarian treaties. But the interrogators pushed into the outer limits of what they thought the law allowed, undoubtedly recognizing that the prisoners in their control violated everything the pacts stood for.

The Geneva conventions embody the idea that even in as brutal an activity as war, civilized nations could obey humanitarian rules: no attacking civilians and no retaliation against enemy soldiers once they fall into your hands. Destruction would be limited as much as possible to professional soldiers on the battlefield. That rule required, unconditionally, that soldiers distinguish themselves from civilians by wearing uniforms and carrying arms openly.

Obedience to Geneva rules rests on another bedrock moral principle: reciprocity. Nations will treat an enemy's soldiers humanely because they want and expect their adversaries to do the same. Terrorists flout every civilized norm animating the conventions. Their whole purpose is to kill noncombatants, to blend into civilian populations, and to conceal their weapons. They pay no heed whatever to the golden rule; anyone who falls into their hands will most certainly not enjoy commissary privileges and wages, per the Geneva mandates. He—or she—may even lose his head.

Even so, terror interrogators tried to follow the spirit of the Geneva code for conventional, uniformed prisoners of war. That meant, as the code puts it, that the detainees could not be tortured or subjected to "any form of coercion" in order to secure information. They were to be "humanely" treated, protected against "unpleasant or disadvantageous treatment of any kind," and were entitled to "respect for their persons and their honour."

The Kandahar interrogators reached the following rule of thumb, reports Mackey: if a type of behavior toward a prisoner was no worse than the way the army treated its own members, it could not be considered torture or a violation of the conventions. Thus, questioning a detainee past his bedtime was lawful as long as his interrogator stayed up with him. If the interrogator was missing exactly the same amount of sleep as the detainee—and no tag-teaming of interrogators would be allowed, the soldiers decided—then sleep deprivation could not be deemed torture. In fact, interrogators were routinely sleep-deprived, catnapping maybe one or two hours a night, even as the detainees were getting long beauty sleeps. Likewise, if a boot-camp drill sergeant can make a recruit kneel with his arms stretched out in front without violating the Convention Against Torture, an interrogator can use that tool against a recalcitrant terror suspect.

Did the stress techniques work? Yes. "The harsher methods we used . . . the better information we got and the sooner we got it," writes Mackey, who emphasizes that the methods never contravened the conventions or crossed over into torture.

Stress broke a young bomb maker, for instance. Six months into the

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war, special forces brought a young Afghan to the Kandahar facility, the likely accomplice of a Taliban explosives expert who had been blowing up aid workers. Joe Martin got the assignment.

"Who's your friend the Americans are looking for?" the interrogation began.

"I don't know."

"You think this is a joke? What do you think I'll do?"

"Torture me."

So now I understand his fear, Martin recollects.

The interrogation continued: "You'll stand here until you tell me your friend."

"No, sir, he's not my friend."

Martin picked up a book and started reading. Several hours later, the young Taliban was losing his balance and was clearly terrified. Moreover, he's got two "big hillbilly guards staring at him who want to kill him," the interrogator recalls.

"You think THIS is bad?!" the questioning starts up again.

"No, sir."

The prisoner starts to fall; the guards stand him back up. If he falls again, and can't get back up, Martin can do nothing further. "I have no rack," he says matter-of-factly. The interrogator's power is an illusion; if a detainee refuses to obey a stress order, an American interrogator has no recourse.

Martin risks a final display of his imaginary authority. "I get in his face, 'What do you think I will do next?' " he barks. In the captive's mind, days have passed, and he has no idea what awaits him. He discloses where he planted bombs on a road and where to find his associate. "The price?" Martin asks. "I made a man stand up. Is this unlawful coercion?"

Under a strict reading of the Geneva protections for prisoners of war, probably: the army forbids interrogators from even touching lawful combatants. But there is a huge gray area between the gold standard of POW treatment reserved for honorable opponents and torture, which consists of the intentional infliction of severe physical and mental pain. None of the stress techniques that the military has used in the war on terror comes remotely close to torture, despite the hysterical charges of administration critics. (The CIA's behavior remains a black box.) To declare non-torturous stress off-limits for an enemy who plays by no rules and accords no respect to Western prisoners is folly.

The soldiers used stress techniques to reinforce the traditional psychological approaches. Jeff (a pseudonym), an interrogator in Afghanistan, had been assigned a cocky English Muslim, who justified the 9/11 attacks because women had been working in the World Trade

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Center. The British citizen deflected all further questioning. Jeff questioned him for a day and a half, without letting him sleep and playing on his religious loyalties. "I broke him on his belief in Islam," Jeff recounts. "He realized he had messed up, because his Muslim brothers and sisters were also in the building." The Brit broke down and cried, then disclosed the mission that al-Qaida had put him on before capture. But once the prisoner was allowed to sleep for six hours, he again "clammed up."

Halfway across the globe, an identical debate had broken out, among interrogators who were encountering the same obstacles as the Afghanistan intelligence team. The U.S. base at Guantánamo was supposed to be getting the Afghanistan war's worst of the worst: the al-Qaida Arabs and their high Taliban allies.

Usama bin Ladin's driver and bodyguard were there, along with explosives experts, al-Qaida financiers and recruiters, would-be suicide recruits, and the architects of numerous attacks on civilian targets. They knew about al-Qaida's leadership structure, its communication methods, and its plans to attack the U.S. And they weren't talking. "They'd laugh at you; 'You've asked me this before,' they'd say contemptuously," reports Major General Michael Dunlavey, a former Guantánamo commanding officer. "Their resistance was tenacious. They'd already had 90 days in Afghanistan to get their cover stories together and to plan with their compatriots."

Even more than Afghanistan, Guantánamo dissipated any uncertainty the detainees might have had about the consequences of noncooperation. Consistent with the president's call for humane treatment, prisoners received expert medical care, three culturally appropriate meals each day, and daily opportunities for prayer, showers, and exercise. They had mail privileges and reading materials. Their biggest annoyance was boredom, recalls one interrogator. Many prisoners disliked the move from Camp X-Ray, the first facility used at the base, to the more commodious Camp Delta, because it curtailed their opportunities for homosexual sex, says an intelligence analyst. The captives protested every perceived infringement of their rights but, as in Afghanistan, ignored any reciprocal obligation. They hurled excrement and urine at guards, used their blankets as garrotes, and created additional weapons out of anything they could get their hands on—including a sink wrenched off a wall. Guards who responded to the attacks—with pepper spray or a water hose, say—got punished and, in one case, court-martialed.

Gitmo personnel disagreed sharply over what tools interrogators could legally use. The FBI took the most conservative position. When a bureau agent questioning Mohamedou Ould Slahi—a Mauritanian al-Qaida operative who had recruited two of the 9/11 pilots—was getting nothing of value, an army interrogator suggested, "Why don't you mention to him that conspiracy is a capital offense?" "That would be a violation of the Convention Against Torture," shot back the agent—on the theory that any covert threat inflicts "severe mental pain." Never mind that district attorneys and police detectives routinely invoke the possibility of harsh criminal penalties to get criminals to confess. Federal prosecutors in New York have even been known to remind suspects that they are more likely to keep their teeth and not end up as sex slaves by pleading to a federal offense, thus avoiding New York City's Rikers Island jail. Using such a method against an al-Qaida jihadist, by contrast, would be branded a serious humanitarian breach.

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Top military commanders often matched the FBI's restraint, however. "It was ridiculous the things we couldn't do," recalls an army interrogator. "One guy said he would talk if he could see the ocean. It wasn't approved, because it would be a change of scenery"—a privilege that discriminated in favor of a cooperating detainee, as opposed to being available to all, regardless of their behavior.

Frustration with prisoner stonewalling reached a head with Mohamed al-Kahtani, a Saudi who had been fighting with Usama bin Ladin's bodyguards in Afghanistan in December 2001. By July 2002, analysts had figured out that Kahtani was the missing 20th hijacker. He had flown into Orlando International Airport from Dubai on August 4, 2001, but a sharp-eyed customs agent had denied him entry. Waiting for him at the other side of the gate was Mohamed Atta.

Kahtani's resistance strategies were flawless. Around the first anniversary of 9/11, urgency to get information on al-Qaida grew. Finally, army officials at Guantánamo prepared a legal analysis of their interrogation options and requested permission from Defense Secretary Donald Rumsfeld to use various stress techniques on Kahtani. Their memo, sent up the bureaucratic chain on October 11, 2002, triggered a fierce six-month struggle in Washington among military lawyers, administration officials, and Pentagon chiefs about interrogation in the war on terror.

To read the techniques requested is to understand how restrained the military has been in its approach to terror detainees—and how utterly false the torture narrative has been. Here's what the interrogators assumed they could not do without clearance from the secretary of defense: yell at detainees (though never in their ears), use deception (such as posing as Saudi intelligence agents), and put detainees on MREs (meals ready to eat—vacuum-sealed food pouches eaten by millions of soldiers, as well as vacationing backpackers) instead of hot rations. The interrogators promised that this dangerous dietary measure would be used only *in extremis*, pending local approval and special training.

The most controversial technique approved was "mild, non-injurious physical contact such as grabbing, poking in the chest with the finger, and light pushing," to be reserved only for a "very small percentage of the most uncooperative detainees" believed to possess critical intelligence. A detainee could be poked only after review by Gitmo's commanding general of intelligence and the commander of the U.S. Southern Command in Miami, and only pursuant to "careful coordination" and monitoring.

None of this remotely approaches torture or cruel or degrading treatment. Nevertheless, fanatically cautious Pentagon lawyers revolted, claiming that the methods approved for Kahtani violated international law. Uncharacteristically irresolute, Rumsfeld rescinded the Guantánamo techniques in January 2003.

Kahtani's interrogation hung fire for three months, while a Washington committee, with representatives from the undersecretary of defense, the Defense Intelligence Agency, the air force, army, navy, and marine corps, and attorneys from every branch of the military, considered how to approach the 20th hijacker.

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The outcome of this massive deliberation was more restrictive than the Geneva conventions themselves, even though they were to apply only to unlawful combatants, not conventional prisoners of war, and only to those held at Guantánamo Bay. It is worth scrutinizing the final 24 techniques Rumsfeld approved for terrorists at Gitmo in April 2003, since these are the techniques that the media presents as the source of "torture" at Abu Ghraib. The torture narrative holds that illegal methods used at Guantánamo migrated to Iraq and resulted in the abuse of prisoners there.

So what were these cruel and degrading practices? For one, providing a detainee an incentive for cooperation—such as a cigarette or, especially favored in Cuba, a McDonald's Filet-O-Fish sandwich or a Twinkie unless specifically approved by the secretary of defense. In other words, if an interrogator had learned that Usama bin Ladin's accountant loved Cadbury chocolate, and intended to enter the interrogation booth armed with a Dairy Milk Wafer to extract the name of a Saudi financier, he needed to "specifically determine that military necessity requires" the use of the Dairy Milk Wafer and send an alert to Secretary Rumsfeld that chocolate was to be deployed against an al-Qaida operative.

Similar restrictions—a specific finding of military necessity and notice to Rumsfeld—applied to other tried-and-true army psychological techniques. These included "Pride and Ego Down"—attacking a detainee's pride to goad him into revealing critical information—as well as "Mutt and Jeff," the classic good cop–bad cop routine of countless police shows. Isolating a detainee from other prisoners to prevent collaboration and to increase his need to talk required not just notice and a finding of military necessity but "detailed implementation instructions [and] medical and psychological review."

The only non-conventional "stress" techniques on the final Guantánamo list are such innocuous interventions as adjusting the temperature or introducing an unpleasant smell into the interrogation room, but only if the interrogator is present at all times; reversing a detainee's sleep cycles from night to day (call this the "Flying to Hong Kong" approach); and convincing a detainee that his interrogator is not from the U.S.

Note that none of the treatments shown in the Abu Ghraib photos, such as nudity or the use of dogs, was included in the techniques certified for the unlawful combatants held in Cuba. And those mild techniques that were certified could only be used with extensive bureaucratic oversight and medical monitoring to ensure "humane," "safe," and "lawful" application.

After Rumsfeld cleared the 24 methods, interrogators approached Kahtani once again. They relied almost exclusively on isolation and lengthy interrogations. They also used some "psy-ops" (psychological operations). Ten or so interrogators would gather and sing the Rolling Stones' "Time Is on My Side" outside Kahtani's cell. Sometimes they would play a recording of "Enter Sandman" by the heavy-metal group Metallica, which brought Kahtani to tears, because he thought (not implausibly) he was hearing the sound of Satan.

Finally, at 4 AM—after an 18-hour, occasionally loud, interrogation, during which Kahtani head-butted his interrogators—he started giving up information, convinced that he was being sold out by his buddies. The entire process had been conducted under the watchful eyes of a

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medic, a psychiatrist, and lawyers, to make sure that no harm was done. Kahtani provided detailed information on his meetings with Usama bin Ladin, on Jose Padilla and Richard Reid, and on Adnan El Shukrijumah, one of the FBI's most wanted terrorists, believed to be wandering between South and North America.

Since then, according to Pentagon officials, none of the non-traditional techniques approved for Kahtani has been used on anyone else at Guantánamo Bay.

The final strand in the "torture narrative" is the least grounded in actual practice, but it has had the most distorting effect on the public debate. In the summer of 2002, the CIA sought legal advice about permissible interrogation techniques for the recently apprehended Abu Zubaydah, Usama bin Ladin's chief recruiter in the 1990s. The Palestinian Zubaydah had already been sentenced to death in absentia in Jordan for an abortive plot to bomb hotels there during the millennium celebration; he had arranged to obliterate the Los Angeles airport on the same night. The CIA wanted to use techniques on Zubaydah that the military uses on marines and other elite fighters in Survive, Evade, Resist, Escape (SERE) school, which teaches how to withstand torture and other pressures to collaborate. The techniques are classified, but none allegedly involves physical contact. (Later, the CIA is said to have used "water-boarding"—temporarily submerging a detainee in water to induce the sensation of drowning—on Khalid Sheik Mohammad, the mastermind of the 9/11 attacks. Water-boarding is the most extreme method the CIA has applied, according to a former Justice Department attorney, and arguably it crosses the line into torture.)

In response to the CIA's request, Assistant Attorney General Jay S. Bybee produced a hair-raising memo that understandably caused widespread alarm. Bybee argued that a U.S. law ratifying the 1984 Convention Against Torture—covering all persons, whether lawful combatants or not—forbade only physical pain equivalent to that "accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death," or mental pain that resulted in "significant psychological harm of significant duration, e.g., lasting for months or even years." More troubling still, Bybee concluded that the torture statute and international humanitarian treaties did not bind the executive branch in wartime.

This infamous August "torture memo" represents the high (or low) point of the Bush administration's theory of untrammeled presidential war-making power. But note: it had nothing to do with the interrogation debates and experiments unfolding among Pentagon interrogators in Afghanistan and Cuba. These soldiers struggling with al-Qaida resistance were perfectly ignorant about executive-branch deliberations on the outer boundaries of pain and executive power (which, in any case, were prepared for and seen only by the CIA). "We had no idea what went on in Washington," said Chris Mackey in an interview. A Guantánamo lawyer involved in the Kahtani interrogation echoes Mackey: "We were not aware of the [Justice Department and White House] debates." Interrogators in Iraq were equally unaware of the Bybee memo.

Nevertheless, when the Bybee analysis was released in June 2004, it became the capstone on the torture narrative, the most damning link between the president's decision that the Geneva conventions didn't apply to terrorists and the sadistic behavior of the military guards at Abu

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Ghraib. Seymour Hersh, the left-wing journalist who broke the Abu Ghraib story, claims that the Bybee torture memo was the "most suggestive document, in terms of what was really going on inside military prisons and detention centers."

But not only is the Bybee memo irrelevant to what happened in Abu Ghraib; so, too, are the previous interrogation debates in Afghanistan and Cuba. The abuse at Abu Ghraib resulted from the Pentagon's failure to plan for any outcome of the Iraq invasion except the most rosy scenario, its failure to respond to the insurgency once it broke out, and its failure to keep military discipline from collapsing in the understaffed Abu Ghraib facility. Interrogation rules were beside the point.

As the avalanche of prisoners taken in the street fighting overwhelmed the inadequate contingent of guards and officers at Abu Ghraib, order within the ranks broke down as thoroughly as order in the operation of the prison itself. Soldiers talked back to their superiors, refused to wear uniforms, operated prostitution and bootlegging rings, engaged in rampant and public sexual misbehavior, covered the facilities with graffiti, and indulged in drinking binges while on duty. No one knew who was in command. The guards' sadistic and sexualized treatment of prisoners was just an extension of the chaos they were already wallowing in with no restraint from above. Meanwhile, prisoners regularly rioted; insurgents shelled the compound almost daily; the army sent only rotten, bug-infested rations; and the Iraqi guards sold favors to the highest bidders among the insurgents.

The idea that the abuse of the Iraqi detainees resulted from the president's decision on the applicability of the Geneva conventions to al-Qaida and Taliban detainees is absurd on several grounds. Everyone in the military chain of command emphasized repeatedly that the Iraq conflict would be governed by the conventions in their entirety. The interrogation rules that local officers developed for Iraq explicitly stated that they were promulgated under Geneva authority, and that the conventions applied. Moreover, almost all the behavior shown in the photographs occurred in the dead of night among military police, wholly separate from interrogations. Most abuse victims were not even scheduled to be interrogated, because they were of no intelligence value. Finally, except for the presence of dogs, none of the behavior shown in the photos was included in the interrogation rules promulgated in Iraq. Mandated masturbation, dog leashes, assault, and stacking naked prisoners in pyramids—none of these depredations was an approved (or even contemplated) interrogation practice, and no interrogator ordered the military guards to engage in them.

It is the case that intelligence officers in Iraq and Afghanistan were making use of nudity and phobias about dogs at the time. Nudity was not officially sanctioned, and the official rule about dogs only allowed their "presence" in the interrogation booth, not their being sicced on naked detainees. The argument that such techniques contributed to a dehumanization of the detainees, which in turn led to their abuse, is not wholly implausible. Whether or not those two particular stressors are worth defending (and many interrogators say they are not), their abuse should not discredit the validity of other stress techniques that the military was cautiously experimenting with in the months before Abu Ghraib.

That experiment is over. Reeling under the PR disaster of Abu Ghraib,

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the Pentagon shut down every stress technique but one—isolation—and that can be used only after extensive review. An interrogator who so much as requests permission to question a detainee into the night could be putting his career in jeopardy. Even the traditional army psychological approaches have fallen under a deep cloud of suspicion: deflating a detainee's ego, aggressive but non-physical histrionics, and good cop–bad cop have been banished along with sleep deprivation.

Timidity among officers prevents the energetic application of those techniques that remain. Interrogation plans have to be triple-checked all the way up through the Pentagon by officers who have never conducted an interrogation in their lives.

In losing these techniques, interrogators have lost the ability to create the uncertainty vital to getting terrorist information. Since the Abu Ghraib scandal broke, the military has made public nearly every record of its internal interrogation debates, providing al-Qaida analysts with an encyclopedia of U.S. methods and constraints. Those constraints make perfectly clear that the interrogator is not in control. "In reassuring the world about our limits, we have destroyed our biggest asset: detainee doubt," a senior Pentagon intelligence official laments.

Soldiers on the ground are noticing the consequences. "The Iraqis already know the game. They know how to play us," a marine chief warrant officer told the *Wall Street Journal* in August. "Unless you catch the Iraqis in the act, it is very hard to pin anything on anyone . . . . We can't even use basic police interrogation tactics."

And now the rights advocates, energized by the Abu Ghraib debacle, are making one final push to halt interrogation altogether. In the *New York Times*'s words, the International Committee of the Red Cross (ICRC) is now condemning the thoroughly emasculated interrogation process at Guantánamo Bay as a "system devised to break the will of the prisoners [and] make them wholly dependent on their interrogators." In other words, the ICRC opposes traditional interrogation itself, since *all* interrogation is designed to "break the will of prisoners" and make them feel "dependent on their interrogators." But according to an ICRC report leaked to the *Times*, "the construction of such a system, whose stated purpose is the production of intelligence, cannot be considered other than an intentional system of cruel, unusual and degrading treatment and a form of torture."

But contrary to the fantasies of the international-law and human rights lobbies, a world in which all interrogation is illegal and rights are indiscriminately doled out is not a safer or more just world. Were the United States to announce that terrorists would be protected under the Geneva conventions, it would destroy any incentive our ruthless enemies have to comply with the laws of war. The *Washington Post* and the *New York Times* understood that truth in 1987, when they supported President Ronald Reagan's rejection of an amendment to the Geneva conventions that would have granted lawful-combatant status to terrorists. Today, however, those same opinion makers have done an about-face, though the most striking feature of their denunciations of the Bush administration's Geneva decisions is their failure to offer any explanation for how al-Qaida could possibly be covered under the plain meaning of the text.

The Pentagon is revising the rules for interrogation. If we hope to

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succeed in the war on terror, the final product *must* allow interrogators to use stress techniques against unlawful combatants. Chris Mackey testifies to how "ineffective schoolhouse methods were in getting prisoners to talk." He warns that his team "failed to break prisoners who I have no doubt knew of terrorist plots or at least terrorist cells that may one day do us harm. Perhaps they would have talked if faced with harsher methods."

The stress techniques that the military has used to date are not torture; the advocates can only be posturing in calling them such. On its website, Human Rights Watch lists the effects of real torture: "from pain and swelling to broken bones, irreparable neurological damage, and chronic painful musculoskeletal problems . . . [to] long-term depression, post-traumatic stress disorder, marked sleep disturbances and alterations in self-perceptions, not to mention feelings of powerlessness, of fear, guilt and shame." Though none of the techniques that Pentagon interrogators have employed against al-Qaida comes anywhere close to risking such effects, Human Rights Watch nevertheless follows up its list with an accusation of torture against the Bush administration.

The pressure on the Pentagon to outlaw stress techniques won't abate, as the American Civil Liberties Union continues to release formerly classified government documents obtained in a Freedom of Information Act lawsuit concerning detention and interrogation. As of late December, the memos have merely confirmed that the FBI opposes stress methods, though the press breathlessly portrays them as confirming "torture."

Human Rights Watch, the ICRC, Amnesty International, and the other self-professed guardians of humanitarianism need to come back to earth—to the real world in which torture means what the Nazis and the Japanese did in their concentration and POW camps in World War II; the world in which evil regimes, like those we fought in Afghanistan and Iraq, don't follow the Miranda rules or the Convention Against Torture but instead gas children, bury people alive, set wild animals on soccer players who lose, and hang adulterous women by truckloads before stadiums full of spectators; the world in which barbarous death cults behead female aid workers, bomb crowded railway stations, and fly planes filled with hundreds of innocent passengers into buildings filled with thousands of innocent and unsuspecting civilians. By definition, our terrorist enemies and their state supporters have declared themselves enemies of the civilized order and its humanitarian rules. In fighting them, we must of course hold ourselves to our own high moral standards without, however, succumbing to the utopian illusion that we can prevail while immaculately observing every precept of the Sermon on the Mount. It is the necessity of this fallen world that we must oppose evil with force; and we must use all the lawful means necessary to ensure that good, rather than evil, triumphs.

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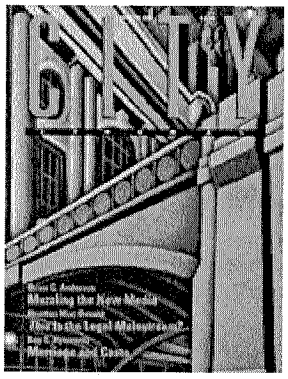

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Heather Mac Donald

Tortured Logic on Torture

Andrew Sullivan misinterprets Abu Ghraib | 25 January 2005

In 1987, the United States rejected an amendment to the Geneva conventions that would have conferred prisoner of war status on terrorists. The *Washington Post* and the *New York Times* applauded the decision. "We must not, and need not, give recognition and protection to terrorist groups as a price for progress in humanitarian law," editorialized the *Post*. Granting terrorists such recognition, the papers explained, would eviscerate a central purpose of the Geneva conventions: to safeguard noncombatants. By making the protections accorded to lawful combatants conditional on obedience to the rules of war—which forbid targeting civilians and hiding in the civilian population—the conventions create an incentive for soldiers to behave lawfully.

Journalist and blogger Andrew Sullivan has a different idea. For Sullivan, who accuses the Bush administration of torture in the January 23 *New York Times Book Review*, prisoner of war status is an absolute entitlement, not a privilege earned by responsible behavior. Every combatant, no matter how vicious his actions toward noncombatants, has a right to be treated as a lawful soldier, in Sullivan's view. And thus, the Bush administration's refusal to grant POW status to suspects taken in the war on terror represents not a judgment based on the law but a failure of moral vision: "The message sent," writes Sullivan, "was: these prisoners are beneath decent treatment."

In Sullivan's account, the administration's POW ruling led directly to the "torture" of prisoners. It was the "critical enabling decision" that made the "abuse of innocents almost inevitable." This "torture narrative" ignores some inconvenient facts, however. First, the government ruled unequivocally that the Geneva conventions applied in Iraq, where the overwhelming majority of prisoner abuse occurred. In fact, that abuse had one cause and one cause only: the wholesale and inexcusable breakdown of military order in Iraq that allowed soldiers to violate their rules of engagement. Stomping on detainees, forcing them to masturbate, hitting them—these behaviors were obvious,

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gross infractions in every war zone. That breakdown of military order had nothing to do with any Geneva decisions pro or con, but resulted from Pentagon planners' incompetent response to the insurgency. (The Schlesinger report, which supports the administration's Geneva convention rulings and the resultant interrogation policies, reaches the same conclusion.) Moreover, nearly all the abuse had nothing to do with official interrogation, contrary to Sullivan's claims. It was perpetrated by fighting soldiers at the point of capture and by military guards intent on punishing prisoners or simply abusing them for "fun."

Second, if, in Sullivan's view, the point of Geneva convention decisions is to demonstrate the detaining power's moral sensitivity, as opposed to establishing a legal framework for the conduct of war, the administration's ruling clearly did exactly that. President Bush declared that terror detainees were to be treated "humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva." Amazingly, Sullivan mocks this order, even though it articulates the moral understanding that he claims the administration lacked. Sullivan consistently fails to distinguish between behavior that violated interrogation policy and the policy itself. This is a crucial distinction. The fact that rules can be broken does not mean that the rules are invalid. It is a sad fact that abuse occurs in American domestic prisons; I presume Sullivan would not on that ground abolish prisons. The proper response to rule violations is to punish the wrongdoers, which is occurring, and to reform management.

Sullivan throws around the terms "torture" and "abuse" so often and indiscriminately that it is impossible to know whether he is referring to authorized interrogations or to illegal behavior. He writes, for example, that "at Guantánamo, newly released documents show that some of the torturers felt that they were acting on the basis of memos sent from Washington." Which "torturers" is he referring to? If he means interrogators conducting routine interrogations, of course they felt that were acting on the basis of Washington guidance. They were! That guidance allowed interrogators to question a detainee past his bedtime, put him on cold Army rations, moderately adjust his environment, or isolate him.

It would appear that Sullivan regards such methods as "torture." It is hard to say, however, since he never addresses the actual interrogation approaches authorized for Guantánamo. Those approaches were moderate, lawful, and

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closely hemmed in with oversight to ensure humane treatment, as the Schlesinger report found.

Or perhaps he believes that while the authorized methods are not per se torture, any deviation from the traditional Army interrogation approaches for lawful prisoners of war will inevitably lead down a slippery slope to actual torture. But if he is making a covert slippery slope argument, he needs to explain why the traditional 16 approaches are not equally susceptible to a slippery slope: Harsh Fear Up, or Good Cop–Bad Cop, for example, could degenerate into psychological, if not physical, abuse. The reason they usually don't is the management and training of the interrogators—something that was completely lacking in Iraq.

Many of Sullivan's factual claims are tenuous at best. He asserts, for example, that "we now know that in Guantánamo, burning cigarettes were placed in the ears of detainees." I have not read the two document collections that he is reviewing, though I have read the key documents that they contain. If this damning allegation is presented therein, however, we would have heard about it in the press. Instead, Sullivan is likely basing his assertion on an FBI memo that the ACLU released last month. That memo, written from the bureau's Sacramento, California, office, reported that an unknown, unnamed civilian had walked in to the office to charge that burning cigarettes had been placed in prisoners' ears in *Iraq*. The memo did not assess the civilian's credibility or give any basis for allowing a reader to do so. No other evidence has come out to corroborate the claim, but even if it were true, Iraq is not Guantánamo.

Indeed, Sullivan treats every uncorroborated and uninvestigated allegation made by prisoners about their treatment as gospel. The fact that prisoners were abused at Abu Ghraib, however, does not mean that prisoners don't lie about their experience. An interrogator from Afghanistan calls the claims of prisoner-celebrities such as Moazzam Begg "astonishing" in their mendacity. "Begg is complaining about handling under my watch," the interrogator told me. "Begg was treated as a guest, even though he was caught red-handed in the most sinister situation. Yet the press treats him with utter credulity."

Sullivan's picture of systematic, widespread torture and abuse is equally misleading. Abu Ghraib was not "common." If prisoners were roughed up or humiliated upon capture in Iraq, blame the chaos of the insurgency and the inability of the commanders to keep control, not the al-Qaida

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Geneva Convention decision or any interrogation policies. Any abusive prisoner treatment is unacceptable, but the amount will undoubtedly prove slight compared with the number of prisoners taken—50,000 by summer 2004.

But the biggest flaw of Sullivan's torture indictment is his casual disregard for the Geneva framework. He can't be bothered to assess whether a combatant has met the conditions for prisoner of war status. Sullivan calls the "distinction between 'prisoners of war' and 'unlawful combatants' " "so vague" as to make abuse inevitable. In fact, Article 4 of Geneva Convention III could not be clearer or more straightforward: under Article 4, terrorists could not possibly be covered. Sullivan accuses President Bush of not wanting to "stay . . . within the letter of the law"; in fact, it was the president who was following the literal language of the conventions, and Sullivan who ignores that language.

If the Geneva drafters had meant to include every combatant in the Third Convention, they would not so carefully have circumscribed the conditions for coverage. Sullivan's anything-goes approach makes the process of reaching international humanitarian accords meaningless by throwing out the resulting handiwork. It was an achievement of high civilization to have agreed with other developed nations to treat each other's soldiers humanely when we catch them in war.

To allow barbarous fanatics like al-Qaida to destroy as well the legal framework of reciprocity and responsible behavior that those accords established would not be an advance of "freedom" as Sullivan puts it, but its demise.

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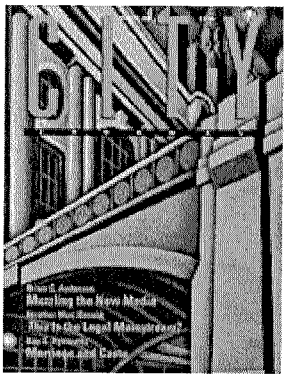

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Heather Mac Donald

A further response to Sullivan

14 January 2005

Throwing around the word "torture" may make for a warm glow of self-righteousness, but it doesn't mean that one has grappled with the facts. Mr. Sullivan continues to insist that the Abu Ghraib prisoner abuse was the result of administration interrogation policies. Specifically, he claims that "torture techniques from Gitmo . . . migrated to Iraq." It would be illuminating to learn which "torture techniques from Gitmo" Mr. Sullivan is referring to.

HAS HE READ THE INTERROGATION RULES? Here are the non-conventional interrogation techniques that were approved for Gitmo:

--Change of Scenery Up: Removing the detainee from the standard interrogation setting (generally to a location more pleasant, but no worse).

--Change of Scenery Down: Removing the detainee from the standard interrogation setting and placing him in a setting that may be less comfortable; would not constitute a substantial change in environmental quality.

--Dietary Manipulation: Changing the Diet of a detainee; no intended deprivation of food or water; no adverse medical or cultural effect and without intent to deprive subject of food or water, e.g., hot rations to MREs [meals ready to eat].

--Environmental Manipulation: Altering the environment to create moderate discomfort (e.g., adjusting temperature or introducing an unpleasant smell). Conditions would not be such that they would injure the detainee. Detainee would be accompanied by interrogator at all times.

--Sleep Adjustment: Adjusting the sleeping times of the detainee (e.g., reversing sleep cycles from night to day.) This technique is NOT sleep deprivation.

--False Flag: Convincing the detainee that individuals from a country other than the United States are interrogating him.

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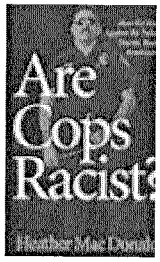

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--Isolation: Isolating the detainee from other detainees while still complying with basic standards of treatment. [Caution: The use of isolation as an interrogation technique requires detailed implementation instructions, including specific guidelines regarding the length of isolation, medical and psychological review, and approval for extension of the length of isolation by the appropriate chain of command. This technique is not known to have been generally used for interrogation purposes for longer than 30 days. Those nations that believe detainees are subject to POW protections may view use of this technique as inconsistent with the requirements of Geneva III.]

All those techniques required a specific interrogation plan, the presence or availability of qualified medical personnel, appropriate supervision, and senior approval. They were developed because Al Qaida's financiers and explosives experts, among other operatives, had been trained to resist conventional interrogation methods and were giving up no information vital to protect against the next terrorist attack.

I presume Mr. Sullivan regards putting someone on vacuum-sealed food rather than hot meals "torture," even though millions of soldiers and backpackers suffer such alleged severe abuse all the time. Ditto having to sleep during one's usual waking time and stay awake during one's usual sleep time, even though thousands of intercontinental travelers voluntarily subject themselves to such abuse. Being fooled into believing that one is being interrogated by a Saudi also might qualify for "torture" in Mr. Sullivan's world view, even though police detectives routinely use deception against common criminals without violating the Convention Against Torture.

THE TRUTH: Mr. Sullivan keeps himself safely distant from the law as well as from the facts. The following definitions of torture were provided by the Senate and Justice Department officials in codifying the Convention Against Torture: "Torture is understood to be that barbaric cruelty which lies at the top of the pyramid of human rights misconduct." "The term 'torture,' in U.S. and international usage, is usually reserved for extreme, deliberate and unusually cruel practices, for example, sustained systematic beating, application of electric currents to sensitive parts of the body, and tying up or hanging in positions that cause extreme pain." Presumably, Mr. Sullivan regards removing someone from the standard interrogation booth to a "less comfortable setting that would not constitute a substantial change in environmental quality" "barbaric cruelty" tantamount to "systematic beating."

Mr. Sullivan also refuses to disclose which of the sadistic behaviors engaged in by Charles Graner and his pathetic colleagues he finds authorized by the Gitmo interrogation rules. Try as I may, I find no license in the Gitmo interrogation policy for punching detainees, jumping on them, beating them with batons, compelling masturbation, and forcing prisoners into naked dog piles. Had the Abu Ghraib guards followed the Guantánamo rules, the abuse would never have happened.

The Fay and Schlesinger reports chronicle the "confusing and inconsistent interrogation technique policies" that circulated in the chaos of the Iraqi war zone. That churning "confused Army and civilian Interrogators at Abu Ghraib." But the interrogation policy that was finally developed gave no sanction to the abuse of prisoners. The Abu Ghraib rules read as follows:

Safeguards: The approaches must always be humane and lawful, detainees will NEVER be touched in a malicious or unwanted manner. The Geneva Conventions apply within CJTF-7 [the U.S. counterinsurgency forces operating in post-Saddam Iraq].

The following techniques require the commanding general's approval; all requests must be submitted in writing:

> *Change of scenery down*
> *Dietary manipulation (monitored by med [medical team])*
> *Environmental manipulation*
> *Sleep adjustment (reverse schedule)*
> *Isolation for more than 30 days*
> *Presence of mil [military] working dogs*
> *Sleep management (72 hrs max)*
> *Sensory deprivation (72 hrs max)*
> *Stress position (no longer than 45 minutes)*
>
> *Everyone is responsible for ensuring compliance to the IROE* [Interrogation Rules of Engagement] *Violations must be reported immediately to the officer in charge.*

Nothing in those rules permits assaults on prisoners or sadistic humiliation.

Far from "pretending" that the abuse at Abu Ghraib never happened, a remarkable accusation, I explicitly condemn it in my article. The assaults resulted from the shameful breakdown of military order in the prison, and the

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Pentagon's refusal to send enough troops to respond to the insurgency. As the avalanche of prisoners taken in the street fighting overwhelmed the inadequate contingent of guards and officers at Abu Ghraib, order within the ranks broke down as thoroughly as order in the operation of the prison itself. Soldiers talked back to their superiors, refused to wear uniforms, operated prostitution and bootlegging rings, engaged in rampant and public sexual misbehavior, covered the facilities with graffiti, and indulged in drinking binges while on duty. No one knew who was in command. The guards' sadistic and sexualized treatment of prisoners was just an extension of the chaos they were already wallowing in with no restraint from above. Had the guards followed the rules for detainee treatment, the abuse would never have happened.

THE BOTTOM LINE: What is ultimately at stake in this debate is the validity of the administration's decision not to confer Geneva Convention prisoner of war status on terrorists. Mr. Sullivan refuses to explain why he thinks that terrorists who aim to massacre as many civilians as possible, hide in the civilian population, and fail to carry arms openly or wear uniforms, should be granted status as lawful combatants. Nor does he explain how such a decision would lead to a safer, more law-abiding world. To the contrary, by destroying any incentive to comply with the laws of war, a decision to confer POW status on terrorists would lead to world anarchy, as the *New York Times* and the *Washington Post* recognized in 1987 when they applauded the Reagan administration's refusal to confer law combatant status on terrorists. Mr. Sullivan, apparently, disagrees. It would be interesting to learn why.

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AT WAR

The 'Torture Narrative' Unravels

Pfc. Lynndie England is convicted, and the military's critics are proved wrong.

BY ROBERT L. POLLOCK
Sunday, October 2, 2005
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VIEWPOINT

The Federalist Patriot
Acton Institute Senior Fellow Marvin Olasky says, "Liberals say and do so many nutty things. The Patriot puts them all in a nutshell."

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It's hardly a secret that Pfc. Lynndie England was sentenced last week for her role as "leash girl" in the infamous abuses photographed at Iraq's Abu Ghraib prison in late 2003. But it was also noticeable that the denouement of this spectacular story was relegated to the innards of newspapers that had once given it weeks of front-page treatment. That's almost surely because the trial of the last of the Maryland Army Reservists to face justice--like those of the others that came before her--offered no evidence to support claims that the abuses were caused by a Bush administration that had "created the climate" or "set the tone" for "torture."

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That was, of course, the widespread and explosive charge last (election) year. Almost immediately the leaked photos of Pfc. England and her compatriots generated calls for Defense Secretary Donald Rumsfeld's resignation. So-called torture memos were unearthed, in which administration lawyers had discussed the range of permissible interrogation techniques--for al Qaeda suspects in the wake of 9/11. And by one of the greatest leaps of logic ever seriously entertained in our national discourse, those memos were said to have caused the behavior of soldiers in Iraq who knew nothing beyond the limits outlined in the Army Field Manual. Ted Kennedy, for one, offered up a useful reminder of why Americans have never wanted him to be president by declaring that "Saddam's torture chambers reopened under new management, U.S. management."

The writer Heather Mac Donald dubbed this the "torture narrative." And it persists today despite the conclusion a year ago of the Independent Panel to Review DOD Detention Operations that the abuses "were not part of authorized interrogations *nor were they even directed at intelligence targets*" (emphasis added). Or in the words of the panel's chairman, former Defense Secretary James Schlesinger--whose bipartisan cabinet career included a stint in the Carter administration--what those pictures showed was sick behavior by the "night shift."

But don't just take his word for it. "You feel that by doing these things you were setting conditions for interrogations," a judge asked Private England in a hearing earlier this year. "No, sir," she responded. "So this was just a way to embarrass them?" he continued. "Yes, sir," was her reply.

Or consider the testimony of Spc. Jeremy C. Sivits: "Our command would have slammed us. They believe in doing the right thing. If they saw what was going on, there would be hell to pay."

In all, seven guards and two military intelligence personnel have now faced justice for the Abu Ghraib abuses, with even those pleading guilty undergoing detailed sentencing hearings. No evidence has emerged to support the theory that abuses had anything to do with interrogation.

It's worth remembering too that these prosecutions were based on investigations conducted with dispatch that did the Army nothing but credit: A criminal probe was begun within a day of the abuse reports traveling up the chain of command on Jan. 13, 2004; two days after that, Central Command issued a press release about the investigation; on March 20 it was announced that charges had been brought against six of those involved. Meanwhile, Maj. Gen. Antonio Taguba had completed an investigation whose conclusions have now stood the test of nine courts martial. And this all *more than a month before* the photos were leaked to the press.

Have detainee abuses occurred elsewhere in the war on terror? Of course. But they were "widespread" only if you define that term geographically instead of by frequency. The adjective "systematic" has been similarly misused. Overall, more than 70,000 detainees have

passed through U.S. military custody since late 2001. About 500 criminal investigations have been conducted into allegations of related misconduct, many of which were found to be unsubstantiated. But more than 200 people have already been disciplined for actions ranging from failure to report to prisoner abuse itself.

There have also now been 12 major inquiries--including investigations led by Maj. Gen. George Fay and Vice Adm. Albert Church--into detainee treatment in Iraq, Afghanistan and Guantanamo Bay. More than 2,800 interviews have been conducted and 16,000 pages of documents produced. And there have been 31 congressional hearings and 45 staff briefings. Given that track record, we can be quite sure that the latest abuse allegations to surface (from an officer of the 82nd Airborne) will get the thorough hearing they deserve.

In short, all the evidence suggests a low rate of detainee mistreatment, one that compares favorably with U.S. civilian prisons, never mind that of other and earlier militaries. "The behavior of our troops is so much better than it was in World War II," Mr. Schlesinger told me last year. I called him this week to ask what we've learned since. "That the press exaggerated," he replied. The suggestion that Mr. Schlesinger and countless others--from decorated officers to military juries--have lent their good names to some kind of whitewash only reveals the remaining accusers for the crackpots they are.

Let me add some final words on how the Abu Ghraib scandal has affected America's image in Iraq. It hasn't been helpful, of course. But--having traveled there three times in the past 2 1/2 years, most recently in August--I can attest that the dominant image of the American soldier in the minds of most Iraqis is that of liberator, as depicted in the sculpture shown here by a craftsman from Saddam's hometown of Tikrit. Americans can be proud of the way their young men and women have performed in Iraq and elsewhere in the war on terror. And they can be proud of the way the military has meted out justice for those few abuses that have occurred.

Barbara Kelley

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'A Vietnam Moment'

The McCain Amendment would hamstring U.S. interrogators.

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Bad things happen when a U.S. President has to fight a war while he's down in the polls--just ask the "South" Vietnamese who recall Watergate. And take a look at the current Washington debate over prisoner interrogation, where President Bush has been threatening to veto a spending bill because of a Senate-passed amendment that would hamstring the military and CIA.

Sponsored by John McCain, the measure sounds innocuous. It would designate the Army Field Manual as the last word on Pentagon interrogations and reaffirm existing safeguards against "cruel, inhuman and degrading" treatment. But the amendment is based on a false premise that prisoner abuse at Abu Ghraib had something to do with "confusion" about permitted interrogation techniques. Or as Mr. McCain melodramatically put it on the

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Senate floor: "We threw out the rules that our soldiers had trained on. . . . And then when things went wrong, we blamed them."

The proposition that the Pentagon threw out any rules is simply false. Regarding Abu Ghraib, no fewer than nine courts-martial were confident enough of the rules to hand out sentences of up to 10 years to soldiers who violated those rules. The same courts martial proved that the abuses had *nothing* to do with interrogations. As former Defense Secretary James Schlesinger, who headed last year's independent panel on detention operations put it, Abu Ghraib was the result of sick and sadistic behavior on the "night shift."

If Mr. McCain has any point here, it's that before 9/11 the U.S. had developed little guidance for interrogating prisoners whom the Geneva Conventions designate as "unlawful combatants"--i.e., terrorists, and guerrillas who fight out of uniform. But since 9/11 the Bush Administration has developed such guidance, and the allowable techniques are both specific and legally vetted. Abuses have occurred, and dozens have been punished. Overall, rates of reported detainee abuse by U.S. soldiers today are historically low compared with other conflicts, such as World War II.

The danger is that the McCain Amendment would only solidify what's already been a military overreaction to the Abu Ghraib scandal. In Iraq, that overreaction has meant that terror suspects cannot be aggressively interrogated at all. They cannot be held for more than several weeks after capture without charge. The insurgents know this, and thus know that they have little to fear if they fall into U.S. hands.

Much has been made of the support of Colin Powell and some other retired officers for the McCain Amendment. We've read Mr. Powell's open letter on the subject, and it is substance-free. It contains only an exhortation that Mr. McCain's gesture will somehow "help deal with the terrible public diplomacy crisis created by Abu Ghraib." In short, it's PR.

Far more impressive is the near-unanimous opposition to the McCain effort from commanders currently fighting the war on terror. They understand that the amendment will be interpreted as an unnecessary rebuke, and as a huge disincentive to push detainees hard when seeking information on "ticking bombs."

Or as Senator Pat Roberts explained his opposition in the Washington Post: "I know as chairman of the Senate Intelligence Committee that the information we get from interrogating terrorists is some of the most valuable information we get. It saves lives. . . . Passing a law that effectively telegraphs to the entire terrorist world what they can expect if they are caught is not only counterproductive, but could be downright dangerous."

One old Washington hand--who served in the Nixon Cabinet--tells us that

the Senate vote on the McCain Amendment was "a Vietnam moment." He fears that the lopsided 90-9 tally will be read by our enemies as a sign of flagging American willingness to act firmly in our own self-defense.

Unfortunately, the White House has contributed to this signal by blinking on its veto threat. Vice President Dick Cheney's office has proposed a compromise that would exempt the CIA from the McCain Amendment. We understand the impulse to preserve at least some flexibility for the Agency interrogators who question the worst of al Qaeda--such as Khalid Sheikh Mohammed, who planned 9/11.

But this Bush compromise isn't tenable. If U.S. interrogation practices are morally defensible, then they should be justified for all departments under executive branch supervision. And if the White House truly believes the McCain Amendment will damage American ability to obtain actionable intelligence from the enemy, then it ought to say so loudly and clearly and force Congress to take responsibility for its wartime micromanagement. Mr. McCain will then be accountable for the inevitable loss of intelligence-gathering capacity.

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Leadership Failure

Firsthand Accounts of Torture of Iraqi Detainees by the U.S. Army's 82nd Airborne Division

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On their day off people would show up all the time. Everyone in camp knew if you wanted to work out your frustration you show up at the PUC tent.[1] *In a way it was sport. The cooks were all U.S. soldiers. One day [a sergeant] shows up and tells a PUC to grab a pole. He told him to bend over and broke the guy's leg with a mini Louisville Slugger, a metal bat. He was the fucking cook. He shouldn't be in with no PUCs.*

— 82nd Airborne sergeant, describing events at FOB Mercury, Iraq

If I as an officer think we're not even following the Geneva Conventions, there's something wrong. If officers witness all these things happening, and don't take action, there's something wrong. If another West Pointer tells me he thinks, "Well, hitting somebody might be okay," there's something wrong.

— 82nd Airborne officer, describing confusion in Iraq concerning allowable interrogation techniques

I. Summary

Residents of Fallujah called them "the Murderous Maniacs" because of how they treated Iraqis in detention. They were soldiers of the U.S. Army's 82nd Airborne Division, 1st Battalion, 504th Parachute Infantry Regiment, stationed at Forward Operating Base Mercury (FOB Mercury) in Iraq. The soldiers considered this name a badge of honor.[2]

One officer and two non-commissioned officers (NCOs) of the 82nd Airborne who witnessed abuse, speaking on condition of anonymity, described in multiple interviews with Human Rights Watch how their battalion in 2003-2004 routinely used physical and mental torture as a means of intelligence gathering and for stress relief. One soldier raised his concerns within the army chain of command for 17 months before the Army agreed to undertake an investigation, but only after he had contacted members of Congress and considered going public with the story.

According to their accounts, the torture and other mistreatment of Iraqis in detention was systematic and was known at varying levels of command. Military Intelligence

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[1] "Person Under Control" or PUC (pronounced "puck") is the term used by U.S. military forces to refer to Iraqi detainees.

[2] FOB Mercury is located approximately 10 miles east of Fallujah, a center of the insurgency at the time. U.S. forces came under intense attacks in and around Fallujah, placing them under constant pressure and at high risk in daily combat. As soon as the 82nd pulled out of FOB Mercury in April 2004, the U.S. Marines that replaced the 82nd undertook a major offensive against insurgents in Fallujah.

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personnel, they said, directed and encouraged army personnel to subject prisoners to forced, repetitive exercise, sometimes to the point of unconsciousness, sleep deprivation for days on end, and exposure to extremes of heat and cold as part of the interrogation process. At least one interrogator beat detainees in front of other soldiers. Soldiers also incorporated daily beatings of detainees in preparation for interrogations. Civilians believed to be from the Central Intelligence Agency (CIA) conducted interrogations out of sight, but not earshot, of soldiers, who heard what they believed were abusive interrogations.

All three soldiers expressed confusion on the proper application of the Geneva Conventions on the laws of armed conflict in the treatment of prisoners. All had served in Afghanistan prior to Iraq and said that contradictory statements by U.S. officials regarding the applicability of the Geneva Conventions in Afghanistan and Iraq (see Conclusion) contributed to their confusion, and ultimately to how they treated prisoners. Although none were still in Iraq when we interviewed them, the NCOs said they believed the practices continue.

The soldiers came forward because of what they described as deep frustration with the military chain of command's failure to view the abuses as symptomatic of broader failures of leadership and respond accordingly. All three are active duty soldiers who wish to continue their military careers. A fax letter, e-mail, and repeated phone calls to the 82nd Airborne Division regarding the major allegations in the report received no response.

When the Abu Ghraib scandal broke in April 2004, senior officials in the Bush administration claimed that severe prisoner abuse was committed only by a few, rogue, poorly trained reserve personnel at a single facility in Iraq. But since then, hundreds of other cases of abuse from Iraq and Afghanistan have come to light, described in U.S. government documents, reports of the International Committee of the Red Cross, media reports, legal documents filed by detainees, and from detainee accounts provided to human rights organizations, including Human Rights Watch.[3] And while the military has

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[3] See Human Rights Watch, "Getting Away with Torture?: Command Responsibility for the U.S. Abuse of Detainees," *A Human Rights Watch Report,* April 2005, Section II (A World of Abuse), available at: hrw.org/reports/2005/us0405/4.htm#_Toc101408092. See also, International Committee of the Red Cross, "Report on the Treatment by the Coalition Forces of Prisoners of War and Other Protected Persons, February 2004, available at: http://www.health-now.org/mediafiles/mediafile50.pdf (describing detainee abuse in locations across Iraq, including sites in Baghdad, Al-Khaim, Tikrit, Ramadi, and at Abu Ghraib, at p 7); Douglas Jehl and Eric Schmitt, "The Conflict in Iraq: Detainees; U.S. Military Says 26 Inmate Deaths May Be Homicide," *The New York Times*, March 16, 2005 (describing cases of detainee homicide occurring in areas across Afghanistan and Iraq). On Afghanistan-related abuses, see Human Rights Watch, "Enduring Freedom: Abuses by U.S. Forces in Afghanistan," *A Human Rights Watch Report*, March 2004, available at

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launched investigations and prosecutions of lower-ranking personnel for detainee abuse, in most cases the military has used closed administrative hearings to hand down light administrative punishments like pay reductions and reprimands, instead of criminal prosecutions before courts-martial. The military has made no effort to conduct a broader criminal investigation focusing on how military command might have been involved in reported abuse, and the administration continues to insist that reported abuse had nothing to do with the administration's decisions on the applicability of the Geneva Conventions or with any approved interrogation techniques.

These soldiers' firsthand accounts provide further evidence contradicting claims that abuse of detainees by U.S. forces was isolated or spontaneous. The accounts here suggest that the mistreatment of prisoners by the U.S. military is even more widespread than has been acknowledged to date, including among troops belonging to some of the best trained, most decorated, and highly respected units in the U.S. Army. They describe in vivid terms abusive interrogation techniques ordered by Military Intelligence personnel and known to superior officers.

Most important, they demonstrate that U.S. troops on the battlefield were given no clear guidance on how to treat detainees. When the administration sent these soldiers to war in Afghanistan, it threw out the rules they were trained to uphold (embodied in the Geneva Conventions and the U.S. Army Field Manual on Intelligence Interrogation). Instead, President Bush said only that detainees be treated "humanely," not as a requirement of the law but as policy. And no steps were taken to define what humane was supposed to mean in practice.[4] Once in Iraq, their commanders demanded that they extract intelligence from detainees without telling them what was allowed and what was

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hrw.org/reports/2004/afghanistan0304/; Human Rights Watch to Secretary of Defense Donald Rumsfeld, open letter, December 13, 2004, available at: www.hrw.org/english/docs/2004/12/10/afghan9838.htm. On Iraq-related abuses, see Major General Antonio M. Taguba, "Article 15-6 Investigation of the 800th Military Police Brigade," March 2004 (describing "numerous incidents of sadistic, blatant, and wanton criminal abuses" at Abu Ghraib prison, constituting "systematic and illegal abuse of detainees," at p. 16); Major George R. Fay, "Article 15-6 Investigation of the Abu Ghraib Detention Facility and 205th Military Intelligence Brigade," (Documenting 44 allegations of war crimes at Abu Ghraib). On Guantánamo-related abuses, see also Human Rights Watch, "Guantánamo: Detainee Accounts," *A Human Rights Watch Backgrounder*, October 2004, http://www.hrw.org/backgrounder/usa/gitmo1004/. See also, Paisley Dodds, "Guantánamo Tapes Show Teams Punching, Stripping Prisoners," *Associated Press*, February 1, 2005; Neil A. Lewis, "Red Cross Finds Detainee Abuse in Guantánamo," *The New York Times*, November 30, 2004.

[4] See Timothy Flanigan, written responses to questions submitted by U.S. Senator Richard Durbin, following Flanigan's confirmation hearing to be Deputy Attorney General of the United States on July 26, 2005. Flanigan, who was Deputy White House Counsel when President Bush issued his order requiring "humane treatment" of detainees, stated: "I do not believe the term 'inhumane' treatment is susceptible to succinct definition." In a further exchange with Senator Durbin, Flanigan stated that: "I am not aware of any guidance provided by the White House specifically related to the meaning of 'inhumane treatment.'"

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forbidden. Yet when abuses inevitably followed, the administration blamed only low-ranking soldiers instead of taking responsibility.

These soldiers' accounts show how the administration's refusal to insist on adherence to a lawful, long-recognized, and well-defined standard of treatment contributed to the torture of prisoners. It also shows how that policy betrayed the soldiers in the field—sowing confusion in the ranks, exposing them to legal sanction when abuses occurred, and placing in an impossible position all those who wished to behave honorably.

* * *

The officer and NCOs interviewed by Human Rights Watch say that torture of detainees took place almost daily at FOB Mercury during their entire deployment there, from September 2003 to April 2004. While two of the soldiers also reported abuses at FOB Tiger, near the Syrian border, the most egregious incidents allegedly took place at FOB Mercury. The acts of torture and other cruel or inhuman treatment they described include severe beatings (in one incident, a soldier reportedly broke a detainee's leg with a baseball bat), blows and kicks to the face, chest, abdomen, and extremities, and repeated kicks to various parts of the detainees' body; the application of chemical substances to exposed skin and eyes; forced stress positions, such as holding heavy water jugs with arms outstretched, sometimes to the point of unconsciousness; sleep deprivation; subjecting detainees to extremes of hot and cold; the stacking of detainees into human pyramids; and, the withholding of food (beyond crackers) and water.

According to Army Field Manual 19-4 covering enemy prisoner of war operations, Military Police have responsibility for safeguarding, accounting for, and maintaining captives. The soldiers interviewed by Human Rights Watch said that established procedure was violated by having frontline soldiers guard and prepare detainees for interrogation, instead of speeding detainees to a rear area where they would be looked after by trained Military Police.

Detainees in Iraq were consistently referred to as PUCs. This term was devised in Afghanistan to take the place of the traditional designation of Prisoner of War (POW), after President Bush decided that the Geneva Conventions did not apply there. It carried over to Iraq, even though the U.S. military command and the Bush administration have continually stated that the Geneva Conventions are in effect. Although not all persons captured on a battlefield are entitled to Prisoner of War (POW) status, U.S. military doctrine interprets the Geneva Conventions as requiring that all

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captured persons be treated as POWs unless and until a "competent tribunal" determines otherwise.[5]

Detainees at FOB Mercury were held in so-called "PUC tents, which were separated from the rest of the base by concertina wire. Detainees typically spent three days at the base before being released or sent to Abu Ghraib. Officers in the Military Intelligence unit and officers in charge of the guards directed the treatment of detainees. Soldiers told us that detainees who did not cooperate with interrogators were sometimes denied water and given only crackers to eat, and were often beaten. There was little done to hide the mistreatment of detainees: one of the soldiers we interviewed observed torture when he brought newly captured Iraqis to the PUC tents.

The torture of detainees reportedly was so widespread and accepted that it became a means of stress relief for soldiers. Soldiers said they felt welcome to come to the PUC tent on their off-hours to "Fuck a PUC" or "Smoke a PUC." "Fucking a PUC" referred to beating a detainee, while "Smoking a PUC" referred to forced physical exertion sometimes to the point of unconsciousness. The soldiers said that when a detainee had a visible injury such as a broken limb due to "fucking" or "smoking," an army physician's assistant would be called to administer an analgesic and fill out the proper paperwork. They said those responsible would state that the detainee was injured during the process of capture and the physician's assistant would sign off on this. Broken bones occurred "every other week" at FOB Mercury.

"Smoking" was not limited to stress relief but was central to the interrogation system employed by the 82nd Airborne Division at FOB Mercury. Officers and NCOs from the Military Intelligence unit would direct guards to "smoke" the detainees prior to an interrogation, and would direct that certain detainees were not to receive sleep, water, or food beyond crackers. Directed "smoking" would last for the 12-24 hours prior to an interrogation. As one soldier put it: "[the military intelligence officer] said he wanted the PUCs so fatigued, so smoked, so demoralized that they want to cooperate."

The soldiers believed that about half of the detainees at Camp Mercury were released because they were not involved in the insurgency, but they left with the physical and mental scars of torture. "If he's a good guy, you know, now he's a bad guy because of the way we treated him," one sergeant told Human Rights Watch.

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[5] Maj. J. Berger, Maj Derek Grims, Maj Eric Jensen (Eds.) *Operational Law Handbook*, International and Operational Law Department, Judge Advocate General's Legal Center and School, Charlottesville Virginia, 2004, p. 26.

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The soldiers with whom Human Rights Watch spoke had served as guards in Afghanistan and had observed interrogations at FOB Tiger in Iraq, and said that civilian interrogators at those locations had also used coercive methods against prisoners. These interrogators were always referred to by the U.S. military abbreviation OGA, which stands for "Other Government Agencies." It was assumed that such persons were with the CIA, but because OGA also includes other civilian agencies, the soldiers with whom Human Rights Watch spoke said they could not be sure.

Soldiers generally had less direct access to OGA interrogations, in part because OGA personnel often took detainees to an isolated building and were generally more careful about being seen. But the soldiers who had watched OGA interrogations in Afghanistan said that soldiers applied in Iraq some of the techniques they learned from the OGA, including forced stress positions, sleep deprivation, and exposure. At FOB Tiger, the officer said, he heard the sounds of physical violence coming from rooms where OGA interrogations were being held, but without being present in the room could not know whether the sounds were real or simulated. The soldiers said that civilian interrogators sometimes removed prisoners from detention facilities and took the paperwork that indicated a detainee was being held, apparently "disappearing" that detainee.[6]

The officer who spoke to Human Rights Watch made persistent efforts to raise concerns he had with superior officers up the chain of command and to obtain clearer rules on the proper treatment of prisoners. When he raised the issue with superiors, he was consistently told to keep his mouth shut, turn a blind eye, or consider his career. When he sought clearer procedures from general officers, he was told merely to use his judgment.

Altogether this officer said he spent 17 months trying to clarify rules for prisoner treatment while seeking a meaningful investigation. He explained at length how he openly had brought his complaint directly up the chain-of-command, from his direct commanding officer, to the division commander, to the Judge Advocate General's (JAG) office, and finally to members of the U.S. Congress. In many cases, he was encouraged to keep his concerns quiet; his brigade commander, for example, rebuffed him when he asked for an investigation into these allegations of abuse. He believes he was not taken

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[6] According to the U.N. Declaration on the Protection of All Persons from Enforced Disappearance (1992), enforced disappearances occur when:

> persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, … followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law.

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seriously until he began to approach members of Congress, and, indeed, just days before the publication of this report he was told that he would not be granted a pass to meet on his day off with staff members of U.S. Senators John McCain and John Warner. He said he was told that he was being naïve and that he was risking his career.

Human Rights Watch welcomes reports that the Army has agreed to investigate the abuses discussed in this report. We are concerned however those investigations will only focus on low-level soldiers and officers, instead of looking as far as necessary up the chain of command. We are also concerned that military personnel who come forward to report abuses will find their careers suffer, as their commanding officers implied they would, rather than be commended for doing their duty.

If FOB Mercury is not to become one more in an expanding series of U.S. detention facilities associated with brutality and degrading treatment, further tarnishing the reputation of the U.S. armed forces, the policy failures must be faced head-on and the most senior responsible officials held accountable.

Accordingly, Human Rights Watch urges the following:

- The U.S. Attorney General should appoint a special counsel to investigate any U.S. officials—no matter their rank or position—who have participated in, ordered, or had command responsibility for war crimes or torture, or other prohibited ill-treatment against detainees in U.S. custody.[7]

- The U.S. Congress should create a special commission, along the lines of the 9/11 commission, to investigate the issue of detainee abuse by U.S. military and civilians personnel abroad, including the incidents described here, as proposed in legislation sponsored by Senator Carl Levin.

- Congress should enact legislation along the lines proposed by Senators John McCain, Lindsay Graham, and John Warner, which would prohibit any forms of detainee treatment and interrogation not specifically authorized by the U.S. Army Field Manual on Intelligence Interrogation, and not consistent with the

[7] To allow the special prosecutor to have full authority to investigate and prosecute both federal law and Uniform Code of Military Justice violations, the Secretary of Defense should appoint a consolidated convening authority for all armed services, to cooperate with the appointed civilian special prosecutor.

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Convention Against Torture. Such legislation must cover not only military units but also civilian agencies involved in interrogations, such as the CIA.

- The U.S. Department of Defense should conduct a thorough investigation of the allegations made in this report at all levels of the chain of command. Such an investigation must not be limited to lower-ranking enlisted personnel and officers, but must include higher-ranking officers and civilian officials linked to policies that directed, encouraged or tolerated such abuse. Measures should be taken to ensure that soldiers who bring forward credible allegations of detainee abuse are not in any way punished for their actions.

- The 82nd Airborne Division should implement measures to ensure the immediate investigation of credible allegations of detainee abuse.

Note on Presentation of the Soldiers' Accounts

All three accounts below consist of direct quotes from the soldiers. Each of the soldiers was interviewed more than once. For the sake of clarity and to avoid repetition, Human Rights Watch has edited and rearranged specific passages in the accounts.

II. Account of Sergeant A, 82nd Airborne Division

Sergeant A served in Afghanistan from September 2002 to March 2003 and in Iraq from August 2003 to April 2004. Human Rights Watch spoke with him on four separate occasions in July and August 2005.

> In retrospect what we did was wrong, but at the time we did what we had to do. Everything we did was accepted, everyone turned their heads.
>
> We got to the camp in August [2003] and set up. We started to go out on missions right away. We didn't start taking PUCs until September. Shit started to go bad right away. On my very first guard shift for my first interrogation that I observed was the first time I saw a PUC pushed to the brink of a stroke or heart attack. At first I was surprised, like, this is what we are allowed to do? This is what we are allowed to get away with? I think the officers knew about it but didn't want to hear about it. They didn't want to know it even existed. But they had to.

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On a normal day I was on shift in a PUC tent. When we got these guys we had them sandbagged and zip tied, meaning we had a sandbag on their heads and zip ties [plastic cuffs] on their hands. We took their belongings and tossed them in the PUC tent. We were told why they were there. If I was told they were there sitting on IEDs [Improvised Explosive Devices, homemade bombs] we would fuck them up, put them in stress positions or put them in a tent and withhold water.

The "Murderous Maniacs" was what they called us at our camp because they knew if they got caught by us and got detained by us before they went to Abu Ghraib then it would be hell to pay. They would be just, you know, you couldn't even imagine. It was sort of like I told you when they came in it was like a game. You know, how far could you make this guy goes before he passes out or just collapses on you. From stress positions to keeping them up fucking two days straight, whatever. Deprive them of food water, whatever.

To "Fuck a PUC" means to beat him up. We would give them blows to the head, chest, legs, and stomach, pull them down, kick dirt on them. This happened every day.

To "smoke" someone is to put them in stress positions until they get muscle fatigue and pass out. That happened every day. Some days we would just get bored so we would have everyone sit in a corner and then make them get in a pyramid. This was before Abu Ghraib but just like it. We did that for amusement.

Guard shifts were four hours. We would stress them at least in excess of twelve hours. When I go off shift and the next guy comes we are already stressing the PUC and we let the new guy know what he did and to keep fucking him. We put five-gallon water cans and made them hold them out to where they got muscle fatigue then made them do pushups and jumping jacks until they passed out. We would withhold water for whole guard shifts. And the next guy would too. Then you gotta take them to the john if you give them water and that was a pain. And we withheld food, giving them the bare minimum like crackers from MREs [Meals Ready to Eat, the military's prepackaged food]. And sleep deprivation was a really big thing.

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Someone from [Military Intelligence] told us these guys don't get no sleep. They were directed to get intel [intelligence] from them so we had to set the conditions by banging on their cages, crashing them into the cages, kicking them, kicking dirt, yelling. All that shit. We never stripped them down because this is an all-guy base and that is fucked up shit. We poured cold water on them all the time to where they were soaking wet and we would cover them in dirt and sand. We did the jugs of water where they held them out to collapse all the time. The water and other shit… start[ed] [m]aybe late September, early October, 2003. This was all at Camp Mercury, close to the MEK base[8] like 10 minutes from Fallujah. We would transport the PUCs from Mercury to Abu Ghraib.

None of this happened in Afghanistan. We had MPs [military police] attached to us in Afghanistan so we didn't deal with prisoners. We had no MPs in Iraq. We had to secure prisoners. [Military intelligence] wants to interrogate them and they had to provide guards so we would be the guards. I did missions every day and always came back with 10-15 prisoners. We were told by intel that these guys were bad, but they could be wrong, sometimes they were wrong. I would be told, "These guys were IED trigger men last week." So we would fuck them up. Fuck them up bad. If I was told the guy was caught with a 9mm [handgun] in his car we wouldn't fuck them up too bad – just a little. If we were on patrol and catch a guy that killed my captain or my buddy last week – man, it is human nature. So we fucked them up bad. At the same time we should be held to a higher standard. I know that now. It was wrong. There are a set of standards. But you gotta understand, this was the norm. Everyone would just sweep it under the rug.

What you allowed to happen happened. Trends were accepted. Leadership failed to provide clear guidance so we just developed it. They wanted intel. As long as no PUCs came up dead it happened. We heard rumors of PUCs dying so we were careful. We kept it to broken arms and legs and shit. If a leg was broken you call the PA – the physician's assistant – and told him the PUC got hurt when he was taken. He would get Motrin [a pain reliever] and maybe a sling, but no cast or medical treatment.

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[8] Iranian opposition group Mojahedin-e-Khalq, which has a base in Iraq.

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In Afghanistan we were attached to Special Forces[9] and saw OGA. We never interacted with them but they would stress guys. We learned how to do it. We saw it when we would guard an interrogation.

I was an Infantry Fire Team Leader. The majority of the time I was out on mission. When not on mission I was riding the PUCs. We should have had MPs. We should have taken them to Abu Ghraib [which] was only 15 fucking minutes drive. But there was no one to talk to in the chain – it just got killed. We would talk among ourselves, say, "This is bad." But no one listened. We should never have been allowed to watch guys we had fought.

FOB Mercury was about as big as a football field. We had a battalion there with three or four companies and attachments. We lived in the buildings of an old Iraqi military compound that we built up with barriers, ACs [air conditioners], and stuff. We had civilian interpreters on post and contractors came every day to fix shit. The contractors were local Iraqis.

The PUCs lived in the PUC area about 200 meters away. It had a triple-strength circle concertina barrier with tents in the middle with another triple-strength concertina perimeter. Inside each was a Hesco basket that is wire that normally has cloth in it. We filled them with dirt to make barriers and some we emptied and buried to use as access points for the Iraqis. This was all inside the confines of the FOB. There was a guard tower behind the PUC tent with two guards. One was always looking at the PUC tent. We never took direct fire but did take regular rocket and mortar attacks. We did not lose anyone but had shrapnel injuries.

On their day off people would show up all the time. Everyone in camp knew if you wanted to work out your frustration you show up at the PUC tent. In a way it was sport. The cooks were all US soldiers. One day a sergeant shows up and tells a PUC to grab a pole. He told him to bend over and broke the guy's leg with a mini Louisville Slugger that was a metal bat. He was the fucking cook. He shouldn't be in with no

[9] The 82nd Airborne Division provided support to Special Operations Forces during operations in Afghanistan in 2002 and 2003.

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PUCs. The PA came and said to keep him off the leg. Three days later they transported the PUC to Abu Ghraib. The Louisville Slugger [incident] happened around November 2003, certainly before Christmas.

People would just volunteer just to get their frustrations out. We had guys from all over the base just come to guard PUCs so they could fuck them up. Broken bones didn't happen too often, maybe every other week. The PA would overlook it. I am sure they knew.

The interrogator [a sergeant] worked in the [intelligence] office. He was former Special Forces. He would come into the PUC tent and request a guy by number. Everyone was tagged. He would say, "Give me #22." And we would bring him out. He would smoke the guy and fuck him. He would always say to us, "You didn't see anything, right?" And we would always say, "No, Sergeant."

One day a soldier came to the PUC tent to get his aggravation out and filled his hands with dirt and hit a PUC in the face. He fucked him. That was the communications guy.

One night a guy came and broke chem lights[10] open and beat the PUCs with it. That made them glow in the dark which was real funny but it burned their eyes and their skin was irritated real bad.

If a PUC cooperated Intel would tell us that he was allowed to sleep or got extra food. If he felt the PUC was lying he told us he doesn't get any fucking sleep and gets no food except maybe crackers. And he tells us to smoke him. [Intel] would tell the Lieutenant that he had to smoke the prisoners and that is what we were told to do. No sleep, water, and just crackers. That's it. The point of doing all this was to get them ready for interrogation. [The intelligence officer] said he wanted the PUCs so fatigued, so smoked, so demoralized that they want to cooperate. But half of these guys got released because they didn't do nothing. We sent them back to Fallujah. But if he's a good guy, you know, now he's a bad guy because of the way we treated him.

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[10] Chem lights refer to chemical light sticks. While we do not know the exact composition of the ones allegedly used in Iraq, these lights are typically made of a hydrogen peroxide solution mixed with a phenyl oxalate ester and dye for color. Information available at http://science.howstuffworks.com/light-stick2.htm

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After Abu Ghraib things toned down. We still did it but we were careful. It is still going on now the same way, I am sure. Maybe not as blatant but it is how we do things.

Each company goes out on a mission and you kick the door down and catch them red handed. We caught them with RPGs [rocket propelled grenades]. So we are going to give you special attention. We yank them off the truck and they hit the ground hard, maybe 5-6 feet down. We took everything and searched them. Then we toss him in the PUC tent with a sandbag on his head and he is zip tied. And he is like that all day and it is 100 degrees in that tent. Once paperwork was done we started to stress them. The five-gallon water can was full of water. We would have people hold out their arms on each side parallel to the ground. After a minute your arms get tired and shake. Then we would take some water out and douse them to get them cold. And the tent is full of dust and they get dirty and caked with it. Then we make them do pushups and jumping jacks. At the end of a guard shift they look like zombies.

We had these new high-speed trailer showers. One guy was the cleaner. He was an Iraqi contractor working on base. We were taking pretty accurate mortar fire and rockets and we were getting nervous. Well one day we found him with a GPS[11] receiver and he is like calling in strikes on us! What the fuck!? We took him but we are pissed because he stabbed us in the back. So we gave him the treatment. We got on him with the jugs and doused him and smoked and fucked him.

III. Account of Sergeant B, 82nd Airborne Division

Sergeant B served in Afghanistan from September 2002 to March 2003 and in Iraq from August 2003 to April 2004. Human Rights Watch spoke with him on two separate occasions in August 2005.

I was an infantry squad leader doing mounted patrols and conducting raids in Iraq. I would catch the bad guys. You heard a lot of stuff as a

[11] A GPS, or Global Positioning System receiver, provides the user with location data derived from satellites. This data may be used to target weapons, as the soldier alleges.

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squad leader in charge of guys watching PUCs about guys mistreating PUCs.

We got to Mercury on the 6th of September. We came from working in al-Qaim. In late September we started to take on PUCs as part of our mission. Since we were capturing them we would detain them for no more than three days, three days max, to interrogate them for intel. We had a mechanized company attached to us which took us up to about battalion strength, maybe 750 people when you include the HHC [headquarters].

PUCs were placed in a GP [general purpose] medium or small tent, about 20x15, and that is being generous. We had 2-3 tents with no more than 10-15 PUCs per tent with a couple guards to a tent. You added guards if you had more PUCs. We would immediately put these guys in stress positions. PUCs would be holding hands behind their backs and be cuff tied and we would lean their forehead against a wall to support them.

As far as abuse goes I saw hard hitting. I heard a lot of stories, but if it ain't me I wouldn't care. I was busy leading my men. I did hear about [a sergeant] breaking PUC bones. Stories came out on mission. Guys were always talking about what they did to the PUCs. Guys mentioned stuff but I couldn't care less what happened at the PUC tent a week ago. Putting guys with frustration in charge of prisoners was the worst thing to do.

I also saw smoking. They would get the PUCs to physically exert themselves to the limit. Feeding was a huge issue and it was brought up. The PUCs wouldn't eat what we were feeding them as they were against Americans and MREs, so all I saw them eat were crackers. [Sergeant A told Human Rights Watch that PUCs were often only fed crackers. It is unclear why Sergeant B believes the detainees had a choice.]

Rest was also an issue. We were told they could be interrogated 45 minutes on, 15 minutes off for sleep and whatever, but I was not regularly in the PUC tents. I brought the PUCs in for interrogation. That is when I saw whatever I saw. Intel had some bad guys and we all know sleep deprivation is a powerful tool.

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> In Iraq, from the beginning, we messed up on the treatment soldiers had to endure while guarding prisoners. There are five "S's" [Search, Silence, Segregate, Speed (to the rear), Safeguard] and we blew Speed and Security. Speed was the biggest problem. Speed means you get them to the rear to process them. You need to get them away from the troops they are trying to kill.
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> The Geneva Conventions is questionable and we didn't know we were supposed to be following it. In Afghanistan you were taught to keep your head down and shoot…. You never thought about the Geneva Conventions. There was an ROE [Rules of Engagement] and it was followed, same in Iraq. But we were never briefed on the Geneva Conventions. These guys are not soldiers. If we were to follow the Geneva Conventions we couldn't shoot at anyone because they all look like civilians.

IV. Account of Officer C, 82nd Airborne Division

C is an officer with the 82nd Airborne Division and West Point graduate who served in Afghanistan from August 2002 to February 2003 and in Iraq from September 2003 to March 2004. HRW spoke with him more than two dozen times in July, August, and September 2005. Below are excerpts from those interviews grouped by subject matter (the subject headings were supplied by Human Rights Watch).

At FOB Mercury, he was not in charge of interrogations but saw several interrogations in progress and received regular reports from NCOs on ill-treatment of detainees. He felt strongly that abuses there reflected larger policy confusion about what was permitted, and that the officer corps in particular has a duty to come forward and take responsibility.

On Conditions at FOB Mercury

> When we were at FOB Mercury, we had prisoners that were stacked in pyramids, not naked but they were stacked in pyramids. We had prisoners that were forced to do extremely stressful exercises for at least two hours at a time which personally I am in good shape and I would not be able to do that type of exercises for two hours.… There was a case where a prisoner had cold water dumped on him and then he was

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left outside in the night. Again, exposure to elements. There was a case where a soldier took a baseball bat and struck a detainee on the leg hard. This is all stuff that I'm getting from my NCOs.

In the PUC holding facility you could have had people that could have been in the wrong house at the wrong time brought in an all of a sudden they are subjected to this. So that's a big problem, obviously a huge human rights issue.

It's army doctrine that when you take a prisoner, one of the things you do is secure that prisoner and then you speed him to the rear. You get him out of the hands of the unit that took him. Well, we didn't do that. We'd keep them at out holding facility for I think it was up to seventy-two hours. Then we would place him under the guard of soldiers he had just been trying to kill. The incident with the detainee hit with baseball bat; he was suspected of having killed one of our officers.

[At FOB Mercury] they said that they had pictures that were similar to what happened at Abu Ghraib, and because they were so similar to what happened at Abu Ghraib, the soldiers destroyed the pictures. They burned them. The exact quote was, "They [the soldiers at Abu Ghraib] were getting in trouble for the same things we were told to do, so we destroyed the pictures."

On Frustration Obtaining a Meaningful Response within the Military Chain of Command

I witnessed violations of the Geneva Conventions that I knew were violations of the Geneva Conventions when they happened but I was under the impression that that was U.S. policy at the time. And as soon as Abu Ghraib broke and they had hearings in front of Congress, the Secretary of Defense testified that we followed the spirit of the Geneva Conventions in Afghanistan, and the letter of the Geneva Conventions in Iraq and as soon as he said that I knew something was wrong. So I called some of my classmates [from West Point], confirmed what I was concerned about and then on that Monday morning I approached my chain of command.

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I talked to an officer in the Ranger regiment[12] and his response was, he wouldn't tell me exactly what he witnessed but he said "I witnessed things that were more intense than what you witnessed," but it wasn't anything that exceeded what I had heard about at SERE school.[13]

After that I called the chaplain at West Point who I respected a lot and I talked to him about some things and we were on the same page. Then I had said well, "I'm going to talk to my company commander and then my battalion commander on Monday."

My company commander said, "I see how you can take it that way, but…" he said something like, "remember the honor of the unit is at stake" or something to that effect and "Don't expect me to go to bat for you on this issue if you take this up," something to that effect.

I went and talked to my battalion commander. Again, he clearly thinks he has done the right things and that what I am bringing attention to is within the standards and that he is okay. He didn't dismiss me. He just said "Go talk to JAG. We'll work this out." It wasn't alarming to him in any way, shape or form that these things had happened.

So I went to JAG and … he says, "Well the Geneva Conventions are a gray area." So I mentioned some things that I had heard about and said, "Is it a violation to chain prisoners to the ground naked for the purpose of interrogations?" and he said, "That's within the Geneva Conventions." So I said, "Okay. That is within the Geneva Conventions." And then there is the prisoner on the box with the wires attached to him, and to me, as long as electricity didn't go through the wires, that was in accordance with what I would have expected US policy to be and that he wasn't under the threat of death. And he said,

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[12] The Rangers are "rapidly deployable airborne light infantry organized and trained to conduct highly complex joint direct action operations in coordination with or in support of other special operations units of all Services. Rangers also can execute direct action operations in support of conventional nonspecial operations missions conducted by a combatant commander and can operate as conventional light infantry when properly augmented with other elements of combined arms." Department of Defense Dictionary of Military Terms, available at http://www.dtic.mil/doctrine/jel/doddict/

[13] SERE stands for "Survival, Evasion, Resistance, Escape," and is a military course of training "encompassing those basic skills necessary for world-wide survival; expedite search and rescue efforts; evade capture by hostile forces; resistance to interrogation, exploitation and indoctrination; and escape from detention by enemy forces." Available at http://www.fasolant.navy.mil/brunssere.htm

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> "Well, that is a clear violation of the Geneva Conventions." And I said, "Okay, but I'm looking for some kind of standard here to be able to tell what I should stop and what I should allow to happen." And he says, "Well, we've had questions about that at times."
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> Then he said, "There was a device that another battalion in the 82nd had come up with that you would put a prisoner in. It was uncomfortable to sit in." And he went to test it out by sitting in it and he decided that it wasn't torture. I hear this and I am flabbergasted that this is the standard the Army is using to determine whether or not we follow the Geneva Conventions. If I go to JAG and JAG cannot give me clear guidance about what I should stop and what I should allow to happen, how is an NCO or a private expected to act appropriately?
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> When I talked to [an official in the Inspector General's office about the policy confusion on what was permitted] he says, "You obviously feel very upset about this, but—I don't think you're going to accomplish anything because things don't stick to people inside the Beltway [Washington, D.C.]." He says, "I worked at the Pentagon and things don't stick to people inside the Beltway."
>
> When the Secretary of the Army came [to my training], I addressed him on numerous issues, which I don't want to go into. One of those issues was treatment of prisoners. I mentioned that I didn't have clear guidance, and the Secretary of the Army said, "Well, we realized that that was a problem but you are a little bit behind the times. We've solved that matter. And I didn't get a chance to respond to that. I should have, I should have pressed that issue a lot harder. That's one of my regrets. Just bringing up the issue at all was stressful, but it hasn't been resolved because there is no clear guidance. And through discussions with other officers the problem is not taken care of. It really is multiple problems. It's two problems. One is the Army handling interrogations and the other is the relationship between OGA and prisoners and what they can and can't do.

The officer also spoke with multiple experts on the U.S. military Law of Land Warfare, his peers, and his soldiers, all of whom, he said, expressed concern that the Geneva Conventions were not being applied in Iraq. He decided to bring his concerns to the Congress since he felt they were not being adequately addressed by his chain of

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command. Days before this report was published his brigade commander told him to stop his inquiries; his commanding officer told him that he could not leave the base to visit with staff members of Senators McCain and Warner without approval and that approval was being denied because his commanding officer felt the officer was being naïve and would do irreparable harm to his career.

On Policy Confusion within the Ranks on Coercive Interrogation

> [In Afghanistan,] I thought that the chain on command all the way up to the National Command Authority[14] had made it a policy that we were going to interrogate these guys harshly.
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> [The actual standard was] "we're not going to follow the Geneva Conventions but we are going to treat you humanely." Well, what does humane mean? To me humane means I can kind of play with your mind, but I cannot hit you or do anything that is going to cost you permanent physical damage. To [another officer I spoke with] humane means it's okay to rough someone up and to do physical harm. Not to break bones or anything like that but to do physical harm as long as you're not humiliating him, which was the way he put it. We've got people with different views of what humane means and there's no Army statement that says this is the standard for humane treatment for prisoners to Army officers. Army officers are left to come up with their own definition of humane treatment.
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> I don't know for sure [how high up the hierarchy responsibility for the abusive treatment lies]. What I know is that it's widespread enough that it's an officer problem. It's at least an officer problem. You make the standard, and that is what goes up to the executive branch. You communicate the standard, that's when it's somewhat the executive branch, but then it comes more into the officer branch, and enforcing the standard is the officer branch… And in the Schlesinger report[15] it even says that when the President made the decision that al-Qaeda wasn't going to be covered by the Geneva Conventions, there was a

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[14] The President of the United States and the Secretary of Defense.

[15] The Schlesinger Report, issued in August 2004, was one of seven U.S. military inquiries into detainee abuse by U.S. forces. The panel that produced the Schlesinger report was chosen by Secretary of Defense Rumsfeld and determined that leadership failures led to detainee abuse in Iraq.

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clear danger that it was going to undermine the culture in the United States Army that enforces strict adherence to the law of land warfare. That's in the Schlesinger report.

But anyway, the President makes that decision, and decides that we're not going to cover them by the Geneva Conventions, which according to the letter of the law, I think there's a strong argument for that…. [But] then that lack of standard migrates throughout the Army. It filters throughout the Army, so that now the standard, this convoluted, "You'll know what's right when you see it," filters through the whole Army.

If you draw a hard line and you say "Don't do anything bad to prisoners," like you bring them in, you give them food, you give them water, and then you leave them alone. If that happens then, yeah, that is an easy line to draw, but when you start drawing shades of gray and you start stripping prisoners, or you start making prisoners do humiliating things and then you tell a soldier to draw the line somewhere, then no. A soldier is not going to be able to draw that line because as soon as you cross that line and as soon as you start stripping prisoners or you start making people do vigorous exercise, or you start basically putting yourself in a position of authority where you are subjecting someone else to harsh treatment, things are going to get out of hand because everyone is going to draw the line at a different place. Just like the discussion between me and the other officer, where's the line? What is acceptable and what is not acceptable? People don't know. The West Point officers knew the line coming out of West Point. We knew where the Geneva Conventions drew the line, but then you get that confusion when the Sec Def [Secretary of Defense] and the President make that statement. And we were confused.

[In Iraq, my understanding of how we should treat prisoners] didn't change. There are a couple of reasons for that. Pre-deployment training was minimal going to Iraq because we deployed on short notice from West Point through Fort Bragg to Iraq. So there might be some disconnect there, but also none of the unit policies changed. Iraq was cast as part of the War on Terror, not a separate entity in and of itself but a part of a larger war.

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[I didn't discuss abuse of detainees with my superiors in Iraq because] to me, it was obviously part of the system and the reasons had been laid out about why we're not following the Geneva Conventions in respect to the detainees. We did follow them in other aspects and once that was laid out I thought it was pretty clear cut.… That was just the way I thought we were running things.

Another officer approached me and was like "I'm not sure this is the way you should be treating someone." It was almost like an off-hand, kind of like…just a conversation like making a comment. He said something like "I don't know if this is right" and my response was "Hey, it's out in the open and we've said that we are doing this. It's not like we're doing it on the sly."

If I as an officer think we're not even following the Geneva Conventions, there's something wrong. If officers witness all these things happening, and don't take action, there's something wrong. If another West Pointer tells me he thinks, "Well, hitting somebody might be okay," there's something wrong.

What I'm saying is had I thought we were following the Geneva Conventions as an officer I would have investigated what was clearly a very suspicious situation.

On the Implications of the Abu Ghraib Abuse Revelations in April 2004

Someone mentioned to me in passing that there was a really bad prisoner abuse scandal and I took note of it and I thought, "that is horrible. That is going to be bad PR [public relations] for the Army" and I thought, "Okay, rogues did something." And then as the week progressed I watched on the news and they showed some of the pictures -- not all of them -- a large portion of the pictures were in accordance with what I perceived as U.S. policy. Now all the stuff with sodomy with the chem light and all that was clearly beyond what I would have allowed to happen on a personal moral level and what I thought policy was. But the other stuff, guys handcuffed naked to cells in uncomfortable positions, guys placed in stress positions on boxes,

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people stripped naked. All that was…if I would have seen it, I would have thought it was in accordance with interrogation procedures.

I listened to the congressional hearings and when the Secretary of Defense testified that we followed the spirit of the Geneva Conventions in Afghanistan and the letter of the Geneva Conventions in Iraq… that went against everything that I [understood about US policy]. That's when I had a problem.

The first concern when this originally happened was loyalty to the Constitution and separation of powers, and combined with that is the honor code: "I will not lie, cheat or steal or tolerate those who do." The fact that it was systematic, and that the chain of command knew about it was so obvious to me that [until that point] I didn't even consider the fact that other factors might be at play, so that's why I approached my chain of command about it right off the bat and said, "Hey, we're lying right now. We need to be completely honest."

Congress should have oversight of treatment of prisoners. That is the way; the Army should not take it upon itself to determine what is acceptable for America to do in regards to treatment of prisoners. That's a value… that's more than just a military decision, that's a values decision, and therefore Congress needs to know about it, and therefore the American people need to have an honest representation of what's going on presented to them so that they can have a say in that.

On Failure of the Officer Corps

It's unjust to hold only lower-ranking soldiers accountable for something that is so clearly, at a minimum, an officer corps problem, and probably a combination with the executive branch of government.

It's almost infuriating to me. It is infuriating to me that officers are not lined up to accept responsibility for what happened. It blows my mind that officers are not. It should've started with the chain of command at Abu Ghraib and anybody else that witnessed anything that violated the Geneva Conventions or anything that could be questionable should've been standing up saying, "This is what happened. This is why I allowed

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it to happen. This is my responsibility," for the reasons I mentioned before. That's basic officership, that's what you learn at West Point, that's what you should learn at any commissioning source.

That's basic Army leadership. If you fail to enforce something, that's the new standard. So I guess what I'm getting at is the Army officers have overarching responsibility for this. Not privates, not the Sergeant Jones, not Sergeant Smith. The Army officer corps has responsibility for this. And it boggles my mind that there aren't officers standing up saying, "That's my fault and here's why." That's basic army leadership.

Look, the guys who did this aren't dishonorable men. It's not like they are a bunch of vagabonds. They shown more courage and done more things in the time that I've spent with them than I could cover in probably a week of talking to you. They are just amazing men, but they're human. If you put them in a situation, which is the officer's responsibility, where they are put in charge of somebody who tried to kill them or maybe killed their friend, bad things are going to happen. It's the officer's job to make sure bad things don't happen.

[Another important] thing is making sure this doesn't happen again…. [We need] to address the fact that it was an officer issue and by trying to claim that it was "rogue elements" we seriously hinder our ability to ensure this doesn't happen again. And, that has not only moral consequences, but it has practical consequences in our ability to wage the War on Terror. We're mounting a counter-insurgency campaign, and if we have widespread violations of the Geneva Conventions, that seriously undermines our ability to win the hearts and minds of the Muslim world.

[I]f America holds something as the moral standard, it should be unacceptable for us as a people to change that moral standard based on fear. The measure of a person or a people's character is not what they do when everything is comfortable. It's what they do in an extremely trying and difficult situation, and if we want to claim that these are our ideals and our values then we need to hold to them no matter how dark the situation.

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On the Role of "OGA"

In Afghanistan we were attached to Special Forces and saw OGA. We never interacted with them but they would stress guys. We learned how to do it. We saw it when we would guard an interrogation.

They [OGA interrogators in Afghanistan] had a horn. In this case they would involve U.S. soldiers. There was a really loud horn and any time the detainee would fall asleep they would blare the horn in his ear so that he had to wake up and they would do that until he stood up again and stayed awake.

[A]t FOB Tiger [near the Syrian border] there were a lot of high value targets and …there was a Special Forces [SF] team nearby and I was going to talk to them just about career stuff and as I was going out I saw someone who I thought was OGA… go into the prisoner detainee holding facility and take one of the detainees out. And then they took infantry guards and they went into an unoccupied building that they could seal off, closed the door, and they gave orders to the infantry guards not to let anyone in. The reason I know this is because I was trying to talk to the SF guys and I asked them "Hey, do you know where the SF guys are?" and they were like "Well, maybe some of them are in here but you can't go in there right now. They are with a prisoner." And there were noises coming out of there. There could have been physical violence but [they were at least] threatening the prisoner,… doing things that weren't actually causing bodily harm but threatening to do that.

I talked to an MP who said that he was in charge of holding detainees and that the CIA would just come and take the detainees away. They would be like, "How many detainees do you have?" and he knew he has seventeen detainees but the OGA would be like, "No, you have sixteen," so he'd be like "Alright. I have sixteen." And who knows where that detainee went.

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V. Conclusion

The abuses alleged in this report can be traced to the Bush administration's decision to disregard the Geneva Conventions in the armed conflict in Afghanistan.

On February 7, 2002, President George W. Bush announced that the Geneva Conventions concerning the treatment of prisoners did not apply at all to al-Qaeda members or to Taliban soldiers because they did not qualify as members of the armed forces. He insisted that detainees would nonetheless be treated "humanely." Defense Secretary Donald Rumsfeld told journalists that day: "The reality is the set of facts that exist today with the al-Qaeda and the Taliban were not necessarily the set of facts that were considered when the Geneva Conventions was fashioned."

The accounts presented in this report are further evidence that this decision by the Bush administration was to have a profound influence on the treatment of detained persons in military operations in Iraq as well as in the "global war on terror." In short, the refusal to apply the Geneva Conventions to Guantánamo Bay and Afghanistan was to undermine long-standing adherence by the U.S. armed forces to federal law and the laws of armed conflict concerning the proper treatment of prisoners.

Public statements by the Bush administration prior to the February 2002 decision set the tone for effectively rejecting the Geneva Conventions. After the first detainees arrived at Guantánamo in January 2002, Defense Secretary Rumsfeld declared them all to be unlawful combatants who "do not have any rights" under the Geneva Conventions. He said that the United States would "for the most part, treat them in a manner that is reasonably consistent with the Geneva Conventions, to the extent they are appropriate." Later that month, then White House counsel Alberto Gonzales wrote President Bush that the Geneva Conventions provisions on questioning enemy prisoners were "obsolete" and argued, among other things, that rejecting the applicability of the Geneva Conventions "[s]ubstantially reduces the threat of domestic criminal prosecution" of U.S. officials for war crimes.

Then Secretary of State Colin Powell and senior military leaders privately objected to the administration's position. Secretary Powell argued that declaring the conventions inapplicable would "reverse over a century of U.S. policy and practice in supporting the Geneva Conventions and undermine the protections of the law of war for our troops, both in this specific conflict and in general."

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The administration's policy opened the door for the since-discredited legal theories put forward by the Justice Department in the infamous "torture memo" of August 2002. This memo provided contorted rationalizations for the use of clearly unlawful interrogation methods. The conclusions of these memos were opposed, without success, by senior members of the Judge Advocate General's office in all four services. Air Force Major General Jack Reves wrote in a recently released memo from 2003: "[T]he use of the more extreme interrogation techniques simply is not how the U.S. armed forces have operated in recent history. We have taken the legal and moral 'high-road' in the conduct of our military operations regardless of how others may operate. Our forces are trained in this legal and moral mindset beginning the day they enter active duty."

And Army Major General Thomas Romig wrote that the Justice Department's view on the laws of war "runs contrary to the historic position taken by the United States Government concerning such laws and, in our opinion, could adversely impact [Pentagon] interests worldwide [including by] putting our service personnel at far greater risk and vitiating many of the POW/detainee safeguards the U.S. has worked hard to establish over the past five decades."

According to the 2004 Schlesinger Commission report, coercive interrogation methods approved by Defense Secretary Rumsfeld for use on prisoners at Guantánamo — including the use of guard dogs to induce fear in prisoners, stress techniques such as forced standing and shackling in painful positions, and removing their clothes for long periods — "migrated to Afghanistan and Iraq, where they were neither limited nor safeguarded," and contributed to the widespread and systematic torture and abuse at U.S. detention centers there.

Even after the abuses at Abu Ghraib prison in Iraq became public, Secretary Rumsfeld continued to dismiss the applicability of the Geneva Conventions. On May 5, 2004, he told a journalist the Geneva Conventions "did not apply precisely" in Iraq but were "basic rules" for handling prisoners. Visiting Abu Ghraib on May 14, Rumsfeld remarked, "Geneva doesn't say what you do when you get up in the morning." In fact, the U.S. armed forces have devoted considerable energy over the years to making the Geneva Conventions fully operational by military personnel in the field. Various U.S. military operational handbooks and manuals, such as Field Manual 27-10 on the Law of Land Warfare and Field Manual 34-52 on Intelligence Interrogation, provide the means for implementing Geneva Conventions provisions, even where those provisions are vague.

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Effectively throwing out military manuals based on the laws of armed conflict was a prescription for the abuse that followed. Field Manual 34-52 for instance, does not merely restate the requirements of the Geneva Conventions, but it provides useful advice for soldiers to apply the standards in practice. For instance, the manual states: "Experience indicates that the use of force is not necessary to gain the cooperation of sources for interrogation. Therefore, the use of force is a poor technique, as it yields unreliable results, may damage subsequent collection efforts, and can induce the source to say whatever he thinks the interrogator wants to hear."

Torture and other cruel and inhumane treatment alleged in this report do not fall into the "gray areas" in the law. Common article 3 to the four Geneva Conventions of 1949, which is accepted as the minimal standard of treatment for persons in custody during any armed conflict, prohibits "at any time and in any place whatsoever, … violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture, [and] outrages upon personal dignity, in particular, humiliating and degrading treatment." Further protections can be found in the fundamental guarantees under article 75 of the Protocol I of 1977 to the Geneva Conventions, which is accepted as reflecting customary laws of armed conflict.

Even if the Geneva Conventions were not applicable, various provisions of the U.S. Uniform Code of Military Justice subjects soldiers to court-martial or disciplinary measures for mistreating prisoners. Applicable UCMJ criminal provisions include article 93 (cruelty and maltreatment), article 128 (assault), and articles 118 and 119 (murder and manslaughter), as well as article 120 (rape and carnal knowledge), article 124 (maiming), and, for officers, article 133 (conduct unbecoming an officer). Superior officers who order the mistreatment of prisoners or who knew or should have known that such mistreatment was occurring and did not take appropriate measures can be prosecuted as a matter of command responsibility.

The treatment of prisoners alleged here also violates U.S. obligations under international human rights law. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides that "[n]o exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture." The International Covenant on Civil and Political Rights, which also bans torture and other mistreatment, ensures that the right to be free from torture and other cruel, inhuman or degrading treatment can never be suspended by a state, including during periods of public emergency.

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These standards have largely been incorporated into U.S. law that is applicable to members of the armed services. The War Crimes Act of 1996 (18 U.S.C. § 2441) makes it a criminal offense for U.S. military personnel and U.S. nationals to commit war crimes as specified in the Geneva Conventions. The federal anti-torture statute (18 U.S.C. § 2340A), enacted in 1994, provides for the prosecution of a U.S. national or anyone present in the United States who, while outside the United States, commits or attempts to commit torture.

Human Rights Watch calls for investigations into all allegations of mistreatment of prisoners in U.S. custody. Appropriate disciplinary or criminal action should be undertaken against all those implicated in torture and other abuse, whatever their rank. As we have reported elsewhere, there is increasing evidence that high-ranking U.S. civilian and military leaders made decisions and issued policies that facilitated serious and widespread violations of the law. The circumstances strongly suggest that they either knew or should have known that such violations took place as a result of their actions. There is also mounting information that, when presented with evidence that abuse was in fact occurring, they failed to act to stop it.

Human Rights Watch reiterates its call for the appointment of a special counsel to investigate any U.S. officials — no matter their rank or position — who participated in, ordered, or had command responsibility for war crimes or torture, or other prohibited ill-treatment against detainees in U.S. custody.

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        (2.0)
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    >>
  ]
>> setdistillerparams
<<
  /HWResolution [2400 2400]
  /PageSize [612.000 792.000]
>> setpagedevice
```

Scolinos, Tasia

From: Scolinos, Tasia
Sent: Monday, January 23, 2006 3:46 PM
To: Gorsuch, Neil M
Cc: Elwood, Courtney
Subject: FW: 2/10/06 Trafficking Press Event - Long Island, NY

Neil -

Please see the email exchange with Lu on this. The document that he had sent me on the trafficking package references some OJP money which is what I was referring to in the meeting earlier. I would like to make this part of the rollout package if possible. Let me know if you want me to dig into this further - thanks!

From: Reyes, Luis (SMO)
Sent: Thursday, January 12, 2006 2:23 PM
To: Scolinos, Tasia; Gorsuch, Neil M; Swenson, Lily F
Subject: RE: 2/10/06 Trafficking Press Event - Long Island, NY

That is exactly along the lines of what we and OAG (Sampson, Elwood) were thinking. The report will likely be published before the end of the month. (Final draft has been circulated. Just need to finalize and send to printer). Our thought would be to announce the sentencing, release the report, and reference the OJP money all in one, thereby demonstrating the continued day to day commitment to this issue. The one caveat here: these sentencing dates are in many instances pushed back, sometimes for several months. CRT reports that there is a possibility of this happening here. Accordingly, we have asked CRT to work with OIPL to put together proposed alternative venues for such an announcement in early February (i.e. a speech to an NGO or another group (a MALDEF perhaps) that has a stake this issue). CRT will have a proposed alternative roll out plan for us shortly.

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Subject: FW: 2/10/06 Trafficking Press Event - Long Island, NY

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From: Beach, Andrew
Sent: Thursday, January 12, 2006 12:40 PM
To: Scolinos, Tasia; Roehrkasse, Brian
Subject: 2/10/06 Trafficking Press Event - Long Island, NY

What is your recommendation on this?

From: Comisac, Rena (CRT)
Sent: Thursday, January 12, 2006 10:58 AM
To: Beach, Andrew
Cc: Kim, Wan (CRT); Gorsuch, Neil M; Reyes, Luis (SMO); Swenson, Lily F; Schlozman, Brad (CRT); Longwitz, Tobi (CRT); Vargas, Omar (CRT)
Subject: Scheduling request form

Andy -- over the holidays you were kind enough to put a placeholder on the AG's calendar for a press conference that may be held on February 10 in New York. I've attached the scheduling request form that essentially codifes that informal placeholder. Pls. let me or Tobi know if you have any questions. Thanks.

<< File: AG Scheduling Form 2.wpd >>

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From: Gorsuch, Neil M
Sent: Monday, January 23, 2006 4:07 PM
To: Comisac, Rena (CRT)
Subject: FW: 2/10/06 Trafficking Press Event - Long Island, NY

FYI - re money

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<< File: AG Scheduling Form 2.wpd >>

[redacted]@cfr.org

From: [redacted]@cfr.org
Sent: Monday, January 23, 2006 5:06 PM
To: [redacted]@cfr.org
Subject: Readings for Session Tomorrow Part 2 of 3
Attachments: DOD Report-Detention Operations.pdf

Attached below please find the DOD report for tomorrow night's session.

Sincerely,
[redacted]

[redacted]
Program Assistant, Membership and Fellowship Affairs Council on Foreign Relations [redacted]@cfr.org
Tel: [redacted]
Fax: (212) 434-9801
www.cfr.org

(See attached file: DOD Report-Detention Operations.pdf)

Final Report of the Independent Panel To Review DoD Detention Operations

August 2004

Independent Panel to Review DoD Detention Operations

Chairman

The Honorable James R. Schlesinger

Panel Members

The Honorable Harold Brown

The Honorable Tillie K. Fowler

General Charles A. Horner (USAF-RET)

Executive Director

Dr. James A. Blackwell, Jr.

INDEPENDENT PANEL TO REVIEW DOD DETENTION OPERATIONS

CHAIRMAN
THE HONORABLE JAMES R. SCHLESINGER

PANEL MEMBERS
THE HONORABLE HAROLD BROWN
THE HONORABLE TILLIE K. FOWLER
GENERAL CHARLES A. HORNER (USAF-RET.)

EXECUTIVE DIRECTOR
DR. JAMES A. BLACKWELL, JR.

August 24, 2004

To U.S. Secretary of Defense Donald Rumsfeld

We, the appointed members of the Independent Panel to Review DoD Detention Operations, pursuant to our charter do hereby submit the results of our findings and offer our best recommendations.

Sincerely,

The Honorable James R. Schlesinger
Chairman

The Honorable Harold Brown
Panel Member

The Honorable Tillie K. Fowler
Panel Member

General Charles A. Horner
(USAF –Ret.)
Panel Member

223 23rd Street, Crystal Plaza 5, Suite 884, Arlington, VA 22202-3712
Office Main Phone: (703) 602-3200 Unsecured Fax: (703) 602-2712

The Independent Panel to Review Department of Defense Detention Operations

August 2004

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Executive Summary

OVERVIEW

The events of October through December 2003 on the night shift of Tier 1 at Abu Ghraib prison were acts of brutality and purposeless sadism. We now know these abuses occurred at the hands of both military police and military intelligence personnel. The pictured abuses, unacceptable even in wartime, were not part of authorized interrogations nor were they even directed at intelligence targets. They represent deviant behavior and a failure of military leadership and discipline. However, we do know that some of the egregious abuses at Abu Ghraib which were not photographed did occur during interrogation sessions and that abuses during interrogation sessions occurred elsewhere.

In light of what happened at Abu Ghraib, a series of comprehensive investigations has been conducted by various components of the Department of Defense. Since the beginning of hostilities in Afghanistan and Iraq, U.S. military and security operations have apprehended about 50,000 individuals. From this number, about 300 allegations of abuse in Afghanistan, Iraq or Guantanamo have arisen. As of mid-August 2004, 155 investigations into the allegations have been completed, resulting in 66 substantiated cases. Approximately one-third of these cases occurred at the point of capture or tactical collection point, frequently under uncertain, dangerous and violent circumstances.

Abuses of varying severity occurred at differing locations under differing circumstances and context. They were widespread and, though inflicted on only a small percentage of those detained, they were serious both in number and in effect. No approved procedures called for or allowed the kinds of abuse that in fact occurred. There is no evidence of a policy of abuse promulgated by senior officials or military authorities. Still, the abuses were not just the failure of some individuals to follow known standards, and they are more than the failure of a few leaders to enforce proper discipline. There is both institutional and personal responsibility at higher levels.

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Secretary of Defense Donald Rumsfeld appointed the members of the Independent Panel to provide independent professional advice on detainee abuses, what caused them and what actions should be taken to preclude their repetition. The Panel reviewed various criminal investigations and a number of command and other major investigations. The Panel also conducted interviews of relevant persons, including the Secretary and Deputy Secretary of Defense, other senior Department of Defense officials, the military chain-of-command and their staffs and other officials directly and indirectly involved with Abu Ghraib and other detention operations. However, the Panel did not have full access to information involving the role of the Central Intelligence Agency in detention operations; this is an area the Panel believes needs further investigation and review. It should be noted that information provided to the Panel was that available as of mid-August 2004. If additional information becomes available, the Panel's judgments might be revised.

POLICY

With the events of September 11, 2001, the President, the Congress and the American people recognized we were at war with a different kind of enemy. The terrorists who flew airliners into the World Trade Center and the Pentagon were unlike enemy combatants the U.S. has fought in previous conflicts. Their objectives, in fact, are to kill large numbers of civilians and to strike at the heart of America's political cohesion and its economic and military might. In the days and weeks after the attack, the President and his closest advisers developed policies and strategies in response. On September 18, 2001, by a virtually unanimous vote, Congress passed an Authorization for Use of Military Force. Shortly thereafter, the U.S. initiated hostilities in Afghanistan and the first detainees were held at Mazar-e-Sharrif in November 2001.

On February 7, 2002, the President issued a memorandum stating that he determined the Geneva Conventions did not apply to the conflict with al Qaeda, and although they did apply in the conflict with Afghanistan, the Taliban were unlawful combatants and

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therefore did not qualify for prisoner of war status (see Appendix C). Nonetheless, the Secretary of State, Secretary of Defense, and the Chairman of the Joint Chiefs of Staff were all in agreement that treatment of detainees should be consistent with the Geneva Conventions. The President ordered accordingly that detainees were to be treated ". . . humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva." Earlier, the Department of State had argued the Geneva Conventions in their traditional application provided a sufficiently robust legal construct under which the Global War on Terror could effectively be waged. The Legal Advisor to the Chairman, Joint Chiefs of Staff, and many of the military service attorneys agreed with this position.

In the summer of 2002, the Counsel to the President queried the Department of Justice Office of Legal Counsel (OLC) for an opinion on the standards of conduct for interrogation operations conducted by U.S. personnel outside of the U.S. and the applicability of the Convention Against Torture. The OLC responded in an August 1, 2002 opinion in which it held that in order to constitute torture, an act must be specifically intended to inflict severe physical or mental pain and suffering that is difficult to endure.

Army Field Manual 34-52 (FM 34-52), with its list of 17 authorized interrogation methods, has long been the standard source for interrogation doctrine within the Department of Defense (see Appendix D). In October 2002, authorities at Guantanamo requested approval of stronger interrogation techniques to counter tenacious resistance by some detainees. The Secretary of Defense responded with a December 2, 2002 decision authorizing the use of 16 additional techniques at Guantanamo (see Appendix E). As a result of concerns raised by the Navy General Counsel on January 15, 2003, Secretary Rumsfeld rescinded the majority of the approved measures in the December 2, 2002 authorization. Moreover, he directed the remaining more aggressive techniques could be used only with his approval (see Appendix D).

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At the same time, he directed the Department of Defense (DoD) General Counsel to establish a working group to study interrogation techniques. The Working Group was headed by Air Force General Counsel Mary Walker and included wide membership from across the military legal and intelligence communities. The Working Group also relied heavily on the OLC. The Working Group reviewed 35 techniques and after a very extensive debate ultimately recommended 24 to the Secretary of Defense. The study led to the Secretary of Defense's promulgation on April 16, 2003 of a list of approved techniques strictly limited for use at Guantanamo. This policy remains in force at Guantanamo (see Appendix E).

In the initial development of these Secretary of Defense policies, the legal resources of the Services' Judge Advocates General and General Counsels were not utilized to their full potential. Had the Secretary of Defense had a wider range of legal opinions and a more robust debate regarding detainee policies and operations, his policy of April 16, 2003 might well have been developed and issued in early December 2002. This would have avoided the policy changes which characterized the Dec 02, 2002 to April 16, 2003 period.

It is clear that pressures for additional intelligence and the more aggressive methods sanctioned by the Secretary of Defense memorandum, resulted in stronger interrogation techniques that were believed to be needed and appropriate in the treatment of detainees defined as "unlawful combatants." At Guantanamo, the interrogators used those additional techniques with only two detainees, gaining important and time-urgent information in the process.

In Afghanistan, from the war's inception through the end of 2002, all forces used FM 34-52 as a baseline for interrogation techniques. Nonetheless, more aggressive interrogation of detainees appears to have been on-going. On January 24, 2003, in response to a data call from the Joint Staff to facilitate the Working Group efforts, the Commander Joint Task Force-180 forwarded a list of techniques being used in

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Afghanistan, including some not explicitly set out in FM 34-52. These techniques were included in a Special Operation Forces (SOF) Standard Operating Procedures document published in February 2003. The 519th Military Intelligence Battalion, a company of which was later sent to Iraq, assisted in interrogations in support of SOF and was fully aware of their interrogation techniques.

Interrogators and lists of techniques circulated from Guantanamo and Afghanistan to Iraq. During July and August 2003, the 519th Military Intelligence Company was sent to the Abu Ghraib detention facility to conduct interrogation operations. Absent any explicit policy or guidance, other than FM 34-52, the officer in charge prepared draft interrogation guidelines that were a near copy of the Standard Operating Procedure created by SOF. It is important to note that techniques effective under carefully controlled conditions at Guantanamo became far more problematic when they migrated and were not adequately safeguarded.

Following a CJTF-7 request, Joint Staff tasked SOUTHCOM to send an assistance team to provide advice on facilities and operations, specifically related to screening, interrogations, HUMINT collection, and inter-agency integration in the short and long term. In August 2003, MG Geoffrey Miller arrived to conduct an assessment of DoD counter-terrorism interrogation and detention operations in Iraq. He was to discuss current theater ability to exploit internees rapidly for actionable intelligence. He brought the Secretary of Defense's April 16, 2003 policy guidelines for Guantanamo with him and gave this policy to CJTF-7 as a possible model for the command-wide policy that he recommended be established. MG Miller noted that it applied to unlawful combatants at Guantanamo and was not directly applicable to Iraq where the Geneva Conventions applied. In part as a result of MG Miller's call for strong, command-wide interrogation policies and in part as a result of a request for guidance coming up from the 519th at Abu Ghraib, on September 14, 2003 LTG Sanchez signed a memorandum authorizing a dozen interrogation techniques beyond Field Manual 34-52—five beyond those approved for Guantanamo (see Appendix D).

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MG Miller had indicated his model was approved only for Guantanamo. However, CJTF-7, using reasoning from the President's Memorandum of February 7, 2002 which addressed "unlawful combatants," believed additional, tougher measures were warranted because there were "unlawful combatants" mixed in with Enemy Prisoners of War and civilian and criminal detainees. The CJTF-7 Commander, on the advice of his Staff Judge Advocate, believed he had the inherent authority of the Commander in a Theater of War to promulgate such a policy and make determinations as to the categorization of detainees under the Geneva Conventions. CENTCOM viewed the CJTF-7 policy as unacceptably aggressive and on October 12, 2003 Commander CJTF-7 rescinded his September directive and disseminated methods only slightly stronger than those in Field Manual 34-52 (see Appendix D). The policy memos promulgated at the CJTF-7 level allowed for interpretation in several areas and did not adequately set forth the limits of interrogation techniques. The existence of confusing and inconsistent interrogation technique policies contributed to the belief that additional interrogation techniques were condoned.

DETENTION AND INTERROGATION OPERATIONS

From his experience in Guantanamo, MG Miller called for the military police and military intelligence soldiers to work cooperatively, with the military police "setting the conditions" for interrogations. This MP role included passive collection on detainees as well as supporting incentives recommended by the military interrogators. These collaborative procedures worked effectively in Guantanamo, particularly in light of the high ratio of approximately 1 to 1 of military police to mostly compliant detainees. However, in Iraq and particularly in Abu Ghraib the ratio of military police to repeatedly unruly detainees was significantly smaller, at one point 1 to about 75 at Abu Ghraib, making it difficult even to keep track of prisoners. Moreover, because Abu Ghraib was located in a combat zone, the military police were engaged in force protection of the complex as well as escorting convoys of supplies to and from the prison. Compounding

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these problems was the inadequacy of leadership, oversight and support needed in the face of such difficulties.

At various times, the U.S. conducted detention operations at approximately 17 sites in Iraq and 25 sites in Afghanistan, in addition to the strategic operation at Guantanamo. A cumulative total of 50,000 detainees have been in the custody of U.S. forces since November 2001, with a peak population of 11,000 in the month of March 2004.

In Iraq, there was not only a failure to plan for a major insurgency, but also to quickly and adequately adapt to the insurgency that followed after major combat operations. The October 2002 CENTCOM War Plan presupposed that relatively benign stability and security operations would precede a handover to Iraq's authorities. The contingencies contemplated in that plan included sabotage of oil production facilities and large numbers of refugees generated by communal strife.

Major combat operations were accomplished more swiftly than anticipated. Then began a period of occupation and an active and growing insurgency. Although the removal of Saddam Hussein was initially welcomed by the bulk of the population, the occupation became increasingly resented. Detention facilities soon held Iraqi and foreign terrorists as well as a mix of Enemy Prisoners of War, other security detainees, criminals and undoubtedly some accused as a result of factional rivalries. Of the 17 detention facilities in Iraq, the largest, Abu Ghraib, housed up to 7,000 detainees in October 2003, with a guard force of only about 90 personnel from the 800th Military Police Brigade. Abu Ghraib was seriously overcrowded, under-resourced, and under continual attack. Five U.S. soldiers died as a result of mortar attacks on Abu Ghraib. In July 2003, Abu Ghraib was mortared 25 times; on August 16, 2003, five detainees were killed and 67 wounded in a mortar attack. A mortar attack on April 20, 2004 killed 22 detainees.

Problems at Abu Ghraib are traceable in part to the nature and recent history of the military police and military intelligence units at Abu Ghraib. The 800th Military Police

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Brigade had one year of notice to plan for detention operations in Iraq. Original projections called for approximately 12 detention facilities in non-hostile, rear areas with a projection of 30,000 to 100,000 Enemy Prisoners of War. Though the 800th had planned a detention operations exercise for the summer of 2002, it was cancelled because of the disruption in soldier and unit availability resulting from the mobilization of Military Police Reserves following 9/11. Although its readiness was certified by U.S. Army Forces Command, actual deployment of the 800th Brigade to Iraq was chaotic. The "Time Phased Force Deployment List," which was the planned flow of forces to the theater of operations, was scrapped in favor of piecemeal unit deployment orders based on actual unit readiness and personnel strength. Equipment and troops regularly arrived out of planned sequence and rarely together. Improvisation was the order of the day. While some units overcame these difficulties, the 800th was among the lowest in priority and did not have the capability to overcome the shortfalls it confronted.

The 205th MI Brigade, deployed to support Combined Joint Task Force-7 (CJTF-7), normally provides the intelligence capability for a Corps Headquarters. However, it was insufficient to provide the kind of support needed by CJTF-7, especially with regard to interrogators and interpreters. Some additional units were mobilized to fill in the gaps, but while these MI units were more prepared than their military police counterparts, there were insufficient numbers of units available. Moreover, unit cohesion was lacking because elements of as many as six different units were assigned to the interrogation mission at Abu Ghraib. These problems were heightened by friction between military intelligence and military police personnel, including the brigade commanders themselves.

ABUSES

As of the date of this report, there were about 300 incidents of alleged detainee abuse across the Joint Operations Areas. Of the 155 completed investigations, 66 have resulted in a determination that detainees under the control of U.S. forces were abused. Dozens of

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non-judicial punishments have already been awarded. Others are in various stages of the military justice process.

Of the 66 already substantiated cases of abuse, eight occurred at Guantanamo, three in Afghanistan and 55 in Iraq. Only about one-third were related to interrogation, and two-thirds to other causes. There were five cases of detainee deaths as a result of abuse by U.S. personnel during interrogations. Many more died from natural causes and enemy mortar attacks. There are 23 cases of detainee deaths still under investigation; three in Afghanistan and 20 in Iraq. Twenty-eight of the abuse cases are alleged to include Special Operations Forces (SOF) and, of the 15 SOF cases that have been closed, ten were determined to be unsubstantiated and five resulted in disciplinary action. The Jacoby review of SOF detention operations found a range of abuses and causes similar in scope and magnitude to those found among conventional forces.

The aberrant behavior on the night shift in Cell Block 1 at Abu Ghraib would have been avoided with proper training, leadership and oversight. Though acts of abuse occurred at a number of locations, those in Cell Block 1 have a unique nature fostered by the predilections of the noncommissioned officers in charge. Had these noncommissioned officers behaved more like those on the day shift, these acts, which one participant described as "just for the fun of it," would not have taken place.

Concerning the abuses at Abu Ghraib, the impact was magnified by the fact the shocking photographs were aired throughout the world in April 2004. Although CENTCOM had publicly addressed the abuses in a press release in January 2004, the photographs remained within the official criminal investigative process. Consequently, the highest levels of command and leadership in the Department of Defense were not adequately informed nor prepared to respond to the Congress and the American public when copies were released by the press.

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POLICY AND COMMAND RESPONSIBILITIES

Interrogation policies with respect to Iraq, where the majority of the abuses occurred, were inadequate or deficient in some respects at three levels: Department of Defense, CENTCOM/CJTF-7, and Abu Ghraib Prison. Policies to guide the demands for actionable intelligence lagged behind battlefield needs. As already noted, the changes in DoD interrogation policies between December 2, 2002 and April 16, 2003 were an element contributing to uncertainties in the field as to which techniques were authorized. Although specifically limited by the Secretary of Defense to Guantanamo, and requiring his personal approval (given in only two cases), the augmented techniques for Guantanamo migrated to Afghanistan and Iraq where they were neither limited nor safeguarded.

At the operational level, in the absence of specific guidance from CENTCOM, interrogators in Iraq relied on Field Manual 34-52 and on unauthorized techniques that had migrated from Afghanistan. On September 14, 2003 CJTF-7 signed the theater's first policy on interrogation, which contained elements of the approved Guantanamo policy and elements of the SOF policy (see Appendix D). Policies approved for use on al Qaeda and Taliban detainees, who were not afforded the protection of the Geneva Conventions, now applied to detainees who did fall under the Geneva Convention protections.

CENTCOM disapproved the September 14, 2003 policy, resulting in another policy signed on October 12, 2003 which essentially mirrored the outdated 1987 version of the FM 34-52 (see Appendix D). The 1987 version, however, authorized interrogators to control all aspects of the interrogation, "to include lighting and heating, as well as food, clothing, and shelter given to detainees." This was specifically left out of the current 1992 version. This clearly led to confusion on what practices were acceptable. We cannot be sure how much the number and severity of abuses would have been curtailed

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had there been early and consistent guidance from higher levels. Nonetheless, such guidance was needed and likely would have had a limiting effect.

At the tactical level we concur with the Jones/Fay investigation's conclusion that military intelligence personnel share responsibility for the abuses at Abu Ghraib with the military police soldiers cited in the Taguba investigation. The Jones/Fay Investigation found 44 alleged instances of abuse, some which were also considered by the Taguba report. A number of these cases involved MI personnel directing the actions of MP personnel. Yet it should be noted that of the 66 closed cases of detainee abuse in Guantanamo, Afghanistan and Iraq cited by the Naval Inspector General, only one-third were interrogation related.

The Panel concurs with the findings of the Taguba and Jones investigations that serious leadership problems in the 800th MP Brigade and 205th MI Brigade, to include the 320th MP Battalion Commander and the Director of the Joint Debriefing and Interrogation Center (JDIC), allowed the abuses at Abu Ghraib. The Panel endorses the disciplinary actions taken as a result of the Taguba Investigation. The Panel anticipates that the Chain of Command will take additional disciplinary action as a result of the referrals of the Jones/Fay investigation.

We believe LTG Sanchez should have taken stronger action in November when he realized the extent of the leadership problems at Abu Ghraib. His attempt to mentor BG Karpinski, though well-intended, was insufficient in a combat zone in the midst of a serious and growing insurgency. Although LTG Sanchez had more urgent tasks than dealing personally with command and resource deficiencies at Abu Ghraib, MG Wojdakowski and the staff should have seen that urgent demands were placed to higher headquarters for additional assets. We concur with the Jones findings that LTG Sanchez and MG Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations.

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We note, however, in terms of its responsibilities, CJTF-7 was never fully resourced to meet the size and complexity of its mission. The Joint Staff, CJTF-7 and CENTCOM took too long to finalize the Joint Manning Document (JMD). It was not finally approved until December 2003, six months into the insurgency. At one point, CJTF-7 had only 495 of the 1,400 personnel authorized. The command was burdened with additional complexities associated with its mission to support the Coalition Provisional Authority.

Once it became clear in the summer of 2003 that there was a major insurgency growing in Iraq, with the potential for capturing a large number of enemy combatants, senior leaders should have moved to meet the need for additional military police forces. Certainly by October and November when the fighting reached a new peak, commanders and staff from CJTF-7 all the way to CENTCOM to the Joint Chiefs of Staff should have known about and reacted to the serious limitations of the battalion of the 800th Military Police Brigade at Abu Ghraib. CENTCOM and the JCS should have at least considered adding forces to the detention/interrogation operation mission. It is the judgment of this panel that in the future, considering the sensitivity of this kind of mission, the OSD should assure itself that serious limitations in detention/interrogation missions do not occur.

Several options were available to Commander CENTCOM and above, including reallocation of U.S. Army assets already in the theater, Operational Control (OPCON) of other Service Military Police units in theater, and mobilization and deployment of additional forces from the continental United States. There is no evidence that any of the responsible senior officers considered any of these options. What could and should have been done more promptly is evidenced by the fact that the detention/interrogation operation in Iraq is now directed by a Major General reporting directly to the Commander, Multi-National Forces Iraq (MNFI). Increased units of Military Police, fully manned and more appropriately equipped, are performing the mission once assigned to a single under-strength, poorly trained, inadequately equipped and weakly-led brigade.

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In addition to the already cited leadership problems in the 800th MP Brigade, there were a series of tangled command relationships. These ranged from an unclear military intelligence chain of command, to the Tactical Control (TACON) relationship of the 800th with CJTF-7 which the Brigade Commander apparently did not adequately understand, and the confusing and unusual assignment of MI and MP responsibilities at Abu Ghraib. The failure to react appropriately to the October 2003 ICRC report, following its two visits to Abu Ghraib, is indicative of the weakness of the leadership at Abu Ghraib. These unsatisfactory relationships were present neither at Guantanamo nor in Afghanistan.

RECOMMENDATIONS

Department of Defense reform efforts are underway and the Panel commends these efforts. They are discussed in more detail in the body of this report. The Office of the Secretary of Defense, the Joint Chiefs of Staff and the Military Services are conducting comprehensive reviews on how military operations have changed since the end of the Cold War. The Military Services now recognize the problems and are studying force compositions, training, doctrine, responsibilities and active duty/reserve and guard/contractor mixes which must be adjusted to ensure we are better prepared to succeed in the war on terrorism. As an example, the Army is currently planning and developing 27 additional MP companies.

The specific recommendations of the Independent Panel are contained in the Recommendations section, beginning on page 87.

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CONCLUSION

The vast majority of detainees in Guantanamo, Afghanistan and Iraq were treated appropriately, and the great bulk of detention operations were conducted in compliance with U.S. policy and directives. They yielded significant amounts of actionable intelligence for dealing with the insurgency in Iraq and strategic intelligence of value in the Global War on Terror. For example, much of the information in the recently released 9/11 Commission's report, on the planning and execution of the attacks on the World Trade Center and Pentagon, came from interrogation of detainees at Guantanamo and elsewhere.

Justice Sandra Day O'Connor, writing for the majority of the Supreme Court of the United States in *Hamdi v. Rumsfeld* on June 28, 2004, pointed out that "The purpose of detention is to prevent captured individuals from returning to the field of battle and taking up arms once again." But detention operations also serve the key purpose of intelligence gathering. These are not competing interests but appropriate objectives which the United States may lawfully pursue.

We should emphasize that tens of thousands of men and women in uniform strive every day under austere and dangerous conditions to secure our freedom and the freedom of others. By historical standards, they rate as some of the best trained, disciplined and professional service men and women in our nation's history.

While any abuse is too much, we see signs that the Department of Defense is now on the path to dealing with the personal and professional failures and remedying the underlying causes of these abuses. We expect any potential future incidents of abuse will similarly be discovered and reported out of the same sense of personal honor and duty that characterized many of those who went out of their way to do so in most of these cases. The damage these incidents have done to U.S. policy, to the image of the U.S. among

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populations whose support we need in the Global War on Terror and to the morale of our armed forces, must not be repeated.

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INTRODUCTION–CHARTER AND METHODOLOGY

The Secretary of Defense chartered the Independent Panel on May 12, 2004, to review Department of Defense (DoD) Detention Operations (see Appendix A). In his memorandum, the Secretary tasked the Independent Panel to review Department of Defense investigations on detention operations whether completed or ongoing, as well as other materials and information the Panel deemed relevant to its review. The Secretary asked for the Panel's independent advice in highlighting the issues considered most important for his attention. He asked for the Panel's views on the causes and contributing factors to problems in detainee operations and what corrective measures would be required.

Completed investigations reviewed by the Panel include the following:

- Joint Staff External Review of Intelligence Operations at Guantanamo Bay, Cuba, September 28, 2002 (Custer Report)

- Joint Task Force Guantanamo assistance visit to Iraq to assess intelligence operations, September 5, 2003 (Miller Report)

- Army Provost Marshal General assessment of detention and corrections operations in Iraq, November 6, 2003 (Ryder Report)

- Administrative investigation under Army Regulation 15-6 (AR 15-6) regarding Abu Ghraib, June 8, 2004 (Taguba Report)

- Army Inspector General assessment of doctrine and training for detention operations, July 23, 2004 (Mikolashek Report)

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- The Fay investigation of activities of military personnel at Abu Ghraib and related LTG Jones investigation under the direction of GEN Kern, August 16, 2004

- Naval Inspector General's review of detention procedures at Guantanamo Bay, Cuba and the Naval Consolidated Brig, Charleston, South Carolina (A briefing was presented to the Secretary of Defense on May 8, 2004.)

- Naval Inspector General's review of DoD worldwide interrogation operations, due for release on September 9, 2004

- Special Inspection of Detainee Operations and Facilities in the Combined Forces Command-Afghanistan AOR (CFC-A), June 26, 2004 (Jacoby Report).

- Administrative Investigation of Alleged Detainee Abuse by the Combined Joint Special Operations Task Force – Arabian Peninsula (Formica Report) Due for release in August, 2004. Assessment not yet completed and not reviewed by the Independent Panel

- Army Reserve Command Inspector General Assessment of Military Intelligence and Military Police Training (due for release in December 2004)

Panel interviews of selected individuals either in person or via video-teleconference:

June 14, 2004:

- MG Keith Dayton, Director, Iraq Survey Group (ISG), Baghdad, Iraq
- MG Geoffrey Miller, Director, Detainee Operations, CJTF-7, Baghdad, Iraq
- Hon Donald Rumsfeld, Secretary of Defense
- Hon Steve Cambone, Under Secretary of Defense for Intelligence
- MG Walter Wojdakowski, Deputy Commanding General, V Corps, USAREUR and 7th Army

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- MG Donald Ryder, Provost Marshal, U.S. Army/Commanding General, U.S. Army Criminal Investigation Command, Washington, D.C.
- COL Thomas Pappas, Commander, 205th Military Intelligence Brigade, V Corps, USAREUR and 7th Army

June 24,2004:

- LTG David McKiernan, Commanding General, Third U.S. Army, U.S. Army Forces Central Command, Coalition Forces Land Component Command
- MG Barbara Fast, CJTF-7 C-2, Director for Intelligence, Baghdad, Iraq
- MG Geoffrey Miller, Director, Detainee Operations, CJTF-7, Baghdad, Iraq
- LTG Ricardo Sanchez, Commanding General, CJTF-7, Commanding General, V Corps, USAREUR and 7th Army in Iraq
- Mr. Daniel Dell'Orto, Principal Deputy General Counsel, DoD
- LTG Keith Alexander, G-2, U.S. Army, Washington, D.C.
- LTG William Boykin, Deputy Undersecretary of Defense for Intelligence, Intelligence and Warfighting Support, Office of the Under Secretary of Defense for Intelligence
- Hon Douglas Feith, Under Secretary of Defense for Policy

July 8, 2004:

- COL Marc Warren, Senior Legal Advisor to LTG Sanchez, Iraq
- BG Janis Karpinski, Commander (TPU), 800th Military Police Brigade, Uniondale, NY
- Hon Paul Wolfowitz, Deputy Secretary of Defense
- Hon William Haynes, General Counsel DoD
- Mr. John Rizzo, CIA Senior Deputy General Counsel
- GEN John Abizaid, Commander, U.S. Central Command
- MG George Fay, Deputy to the Army G2, Washington, D.C.
- VADM Albert Church III, Naval Inspector General

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July 22, 2004:

- Hon Donald Rumsfeld, Secretary of Defense

The Panel did not conduct a case-by-case review of individual abuse cases. This task has been accomplished by those professionals conducting criminal and commander-directed investigations. Many of these investigations are still on-going. The Panel did review the various completed and on-going reports covering the causes for the abuse. Each of these inquiries or inspections defined abuse, categorized the abuses, and analyzed the abuses in conformity with the appointing authorities' guidance, but the methodologies do not parallel each other in all respects. The Panel concludes, based on our review of other reports to date and our own efforts that causes for abuse have been adequately examined.

The Panel met on July 22nd and again on August 16th to discuss progress of the report. Panel members also reviewed sections and versions of the report through July and mid-August.

An effective, timely response to our requests for other documents and support was invariably forthcoming, due largely to the efforts of the DoD Detainee Task Force. We conducted reviews of multiple classified and unclassified documents generated by DoD and other sources.

Our staff has met and communicated with representatives of the International Committee of the Red Cross and with the Human Rights Executive Directors' Coordinating Group.

It should be noted that information provided to the Panel was that available as of mid-August 2004. If additional information becomes available, the Panel's judgments might be revised.

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THE CHANGING THREAT

The date September 11, 2001, marked an historic juncture in America's collective sense of security. On that day our presumption of invulnerability was irretrievably shattered. Over the last decade, the military has been called upon to establish and maintain the peace in Bosnia and Kosovo, eject the Taliban from Afghanistan, defeat the Iraqi Army, and fight ongoing insurgencies in Iraq and Afghanistan. Elsewhere it has been called upon to confront geographically dispersed terrorists who would threaten America's right to political sovereignty and our right to live free of fear.

In waging the Global War on Terror, the military confronts a far wider range of threats. In Iraq and Afghanistan, U.S. forces are fighting diverse enemies with varying ideologies, goals and capabilities. American soldiers and their coalition partners have defeated the armored divisions of the Republican Guard, but are still under attack by forces using automatic rifles, rocket-propelled grenades, roadside bombs and surface-to-air missiles. We are not simply fighting the remnants of dying regimes or opponents of the local governments and coalition forces assisting those governments, but multiple enemies including indigenous and international terrorists. This complex operational environment requires soldiers capable of conducting traditional stability operations associated with peacekeeping tasks one moment and fighting force-on-force engagements normally associated with war-fighting the next moment.

Warfare under the conditions described inevitably generates detainees—enemy combatants, opportunists, trouble-makers, saboteurs, common criminals, former regime officials and some innocents as well. These people must be carefully but humanely processed to sort out those who remain dangerous or possess militarily-valuable intelligence. Such processing presents extraordinarily formidable logistical, administrative, security and legal problems completely apart from the technical obstacles posed by communicating with prisoners in another language and extracting actionable intelligence from them in timely fashion. These activities, called detention operations,

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are a vital part of an expeditionary army's responsibility, but they depend upon training, skills, and attributes not normally associated with soldiers in combat units.

Military interrogators and military police, assisted by front-line tactical units, found themselves engaged in detention operations with detention procedures still steeped in the methods of World War II and the Cold War, when those we expected to capture on the battlefield were generally a homogenous group of enemy soldiers. Yet this is a new form of war, not at all like Desert Storm nor even analogous to Vietnam or Korea.

General Abizaid himself best articulated the current nature of combat in testimony before the U.S. Senate Armed Services Committee on May 19, 2004:

> Our enemies are in a unique position, and they are a unique brand of ideological extremists whose vision of the world is best summed up by how the Taliban ran Afghanistan. If they can outlast us in Afghanistan and undermine the legitimate government there, they'll once again fill up the seats at the soccer stadium and force people to watch executions. If, in Iraq, the culture of intimidation practiced by our enemies is allowed to win, the mass graves will fill again. Our enemies kill without remorse, they challenge our will through the careful manipulation of propaganda and information, they seek safe havens in order to develop weapons of mass destruction that they will use against us when they are ready. Their targets are not Kabul and Baghdad, but places like Madrid and London and New York. While we can't be defeated militarily, we're not going to win this thing militarily alone.... As we fight this most unconventional war of this new century, we must be patient and courageous.

In Iraq the U.S. commanders were slow to recognize and adapt to the insurgency that erupted in the summer and fall of 2003. Military police and interrogators who had previous experience in the Balkans, Guantanamo and Afghanistan found themselves, along with increasing numbers of less-experienced troops, in the midst of detention operations in Iraq the likes of which the Department of Defense had not foreseen. As Combined Joint Task Force-7 (CJTF-7) began detaining thousands of Iraqis suspected of

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involvement in or having knowledge of the insurgency, the problem quickly surpassed the capacity of the staff to deal with and the wherewithal to contain it.

Line units conducting raids found themselves seizing specifically targeted persons, so designated by military intelligence; but, lacking interrogators and interpreters to make precise distinctions in an alien culture and hostile neighborhoods, they reverted to rounding up any and all suspicious-looking persons—all too often including women and children. The flood of incoming detainees contrasted sharply with the trickle of released individuals. Processing was overwhelmed. Some detainees at Abu Ghraib had been held 90 days before being interrogated for the first time.

Many interrogators, already in short supply from major reductions during the post-Cold War drawdown, by this time, were on their second or third combat tour. Unit cohesion and morale were largely absent as under-strength companies and battalions from across the United States and Germany were deployed piecemeal and stitched together in a losing race to keep up with the rapid influx of vast numbers of detainees.

As the insurgency reached an initial peak in the fall of 2003, many military policemen from the Reserves who had been activated shortly after September 11, 2001 had reached the mandatory two-year limit on their mobilization time. Consequently, the ranks of soldiers having custody of detainees in Iraq fell to about half strength as MPs were ordered home by higher headquarters.

Some individuals seized the opportunity provided by this environment to give vent to latent sadistic urges. Moreover, many well-intentioned professionals, attempting to resolve the inherent moral conflict between using harsh techniques to gain information to save lives and treating detainees humanely, found themselves in uncharted ethical ground, with frequently changing guidance from above. Some stepped over the line of humane treatment accidentally; some did so knowingly. Some of the abusers believed other governmental agencies were conducting interrogations using harsher techniques

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than allowed by the Army Field Manual 34-52, a perception leading to the belief that such methods were condoned. In nearly 10 percent of the cases of alleged abuse, the chain of command ignored reports of those allegations. More than once a commander was complicit.

The requirements for successful detainee operations following major combat operations were known by U.S. forces in Iraq. After Operations Enduring Freedom and earlier phases of Iraqi Freedom, several lessons learned were captured in official reviews and were available on-line to any authorized military user. These lessons included the need for doctrine tailored to enable police and interrogators to work together effectively; the need for keeping MP and MI units manned at levels sufficient to the task; and the need for MP and MI units to belong to the same tactical command. However, there is no evidence that those responsible for planning and executing detainee operations, in the phase of the Iraq campaign following the major combat operations, availed themselves of these "lessons learned" in a timely fashion.

Judged in a broader context, U.S. detention operations were both traditional and new. They were traditional in that detainee operations were a part of all past conflicts. They were new in that the Global War on Terror and the insurgency we are facing in Iraq present a much more complicated detainee population.

Many of America's enemies, including those in Iraq and Afghanistan, have the ability to conduct this new kind of warfare, often referred to as "asymmetric" warfare. Asymmetric warfare can be viewed as attempts to circumvent or undermine a superior, conventional strength, while exploiting its weaknesses using methods the superior force neither can defeat nor resort to itself. Small unconventional forces can violate a state's security without any state support or affiliation whatsoever. For this reason, many terms in the orthodox lexicon of war—e.g., state sovereignty, national borders, uniformed combatants, declarations of war, and even war itself, are not terms terrorists acknowledge.

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Today, the power to wage war can rest in the hands of a few dozen highly motivated people with cell phones and access to the Internet. Going beyond simply terrorizing individual civilians, certain insurgent and terrorist organizations represent a higher level of threat, characterized by an ability and willingness to violate the political sovereignty and territorial integrity of sovereign nations.

Essential to defeating terrorist and insurgent threats is the ability to locate cells, kill or detain key leaders, and interdict operational and financial networks. However, the smallness and wide dispersal of these enemy assets make it problematic to focus on signal and imagery intelligence as we did in the Cold War, Desert Storm, and the first phase of Operation Iraqi Freedom. The ability of terrorists and insurgents to blend into the civilian population further decreases their vulnerability to signal and imagery intelligence. Thus, information gained from human sources, whether by spying or interrogation, is essential in narrowing the field upon which other intelligence gathering resources may be applied. In sum, human intelligence is absolutely necessary, not just to fill these gaps in information derived from other sources, but also to provide clues and leads for the other sources to exploit.

Military police functions must also adapt to this new kind of warfare. In addition to organizing more units capable of handling theater-level detention operations, we must also organize those units, so they are able to deal with the heightened threat environment. In this new form of warfare, the distinction between front and rear becomes more fluid. All forces must continuously prepare for combat operations.

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THE POLICY PROMULGATION PROCESS

Although there were a number of contributing causes for detainee abuses, policy processes were inadequate or deficient in certain respects at various levels: Department of Defense (DoD), CENTCOM, Coalition Forces Land Component Command (CFLCC), CJTF-7, and the individual holding facility or prison. In pursuing the question of the extent to which policy processes at the DoD or national level contributed to abuses, it is important to begin with policy development as individuals in Afghanistan were first being detained in November 2001. The first detainees arrived at Guantanamo in January 2002.

In early 2002, a debate was ongoing in Washington on the application of treaties and laws to al Qaeda and Taliban. The Department of Justice, Office of Legal Counsel (OLC) advised DoD General Counsel and the Counsel to the President that, among other things:

- Neither the Federal War Crimes Act nor the Geneva Conventions would apply to the detention conditions of al Qaeda prisoners,
- The President had the authority to suspend the United States treaty obligations applying to Afghanistan for the duration of the conflict should he determine Afghanistan to be a failed state,
- The President could find that the Taliban did not qualify for Enemy Prisoner of War (EPW) status under Geneva Convention III.

The Attorney General and the Counsel to the President, in part relying on the opinions of OLC, advised the President to determine the Geneva Conventions did not apply to the conflict with al Qaeda and the Taliban. The Panel understands DoD General Counsel's position was consistent with the Attorney General's and the Counsel to the President's position. Earlier, the Department of State had argued that the Geneva Conventions in their traditional application provided a sufficiently robust legal construct under which the Global War on Terror could effectively be waged.

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The Legal Advisor to the Chairman, Joint Chiefs of Staff and many service lawyers agreed with the State Department's initial position. They were concerned that to conclude otherwise would be inconsistent with past practice and policy, jeopardize the United States armed forces personnel, and undermine the United States military culture which is based on a strict adherence to the law of war. At the February 4, 2002 National Security Council meeting to decide this issue, the Department of State, the Department of Defense, and the Chairman of the Joint Chiefs of Staff were in agreement that all detainees would get the treatment they are (or would be) entitled to under the Geneva Conventions.

On February 7, 2002, the President issued his decision memorandum (see Appendix B). The memorandum stated the Geneva Conventions did not apply to al Qaeda and therefore they were not entitled to prisoner of war status. It also stated the Geneva Conventions did apply to the Taliban but the Taliban combatants were not entitled to prisoner of war status as a result of their failure to conduct themselves in accordance with the provisions of the Geneva Conventions. The President's memorandum also stated: "As a matter of policy, United States Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva."

Regarding the applicability of the Convention Against Torture and Other Cruel Inhumane or Degrading Treatment, the OLC opined on August 1, 2002 that interrogation methods that comply with the relevant domestic law do not violate the Convention. It held that only the most extreme acts, that were specifically intended to inflict severe pain and torture, would be in violation; lesser acts might be "cruel, inhumane, or degrading" but would not violate the Convention Against Torture or domestic statutes. The OLC memorandum went on to say, as Commander in Chief exercising his wartime powers, the President could even authorize torture, if he so decided.

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Reacting to tenacious resistance by some detainees to existing interrogation methods, which were essentially limited to those in Army Field Manual 34-52 (see Appendix E), Guantanamo authorities in October 2002 requested approval of strengthened counter-interrogation techniques to increase the intelligence yield from interrogations. This request was accompanied by a recommended tiered list of techniques, with the proviso that the harsher Category III methods (see Appendix E) could be used only on "exceptionally resistant detainees" and with approval by higher headquarters.

This Guantanamo initiative resulted in a December 2, 2002 decision by the Secretary of Defense authorizing, "as a matter of policy," the use of Categories I and II and only one technique in Category III: mild, non-injurious physical contact (see Appendix E). As a result of concern by the Navy General Counsel, the Secretary of Defense rescinded his December approval of all Category II techniques plus the one from Category III on January 15, 2003. This essentially returned interrogation techniques to FM 34-52 guidance. He also stated if any of the methods from Categories II and III were deemed warranted, permission for their use should be requested from him (see Appendix E).

The Secretary of Defense directed the DoD General Counsel to establish a working group to study interrogation techniques. The working group was headed by Air Force General Counsel Mary Walker and included wide membership from across the military, legal and intelligence communities. The working group also relied heavily on the OLC. The working group reviewed 35 techniques, and after a very expansive debate, ultimately recommended 24 to the Secretary of Defense. The study led to the Secretary's promulgation on April 16, 2003 of the list of approved techniques. His memorandum emphasized appropriate safeguards should be in place and, further, "*Use of these techniques is limited to interrogations of unlawful combatants held at Guantanamo Bay, Cuba.*" He also stipulated that four of the techniques should be used only in case of military necessity and that he should be so notified in advance. If additional techniques were deemed essential, they should be requested in writing, with "recommended safeguards and rationale for applying with an identified detainee."

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In the initial development of these Secretary of Defense policies, the legal resources of the Services' Judge Advocates and General Counsels were not utilized to their fullest potential. Had the Secretary of Defense had the benefit of a wider range of legal opinions and a more robust debate regarding detainee policies and operations, his policy of April 16, 2003 might well have been developed and issued in early December 2002. This could have avoided the policy changes which characterized the December 2, 2002 to April 16, 2003 period.

It is clear that pressure for additional intelligence and the more aggressive methods sanctioned by the Secretary of Defense memorandum resulted in stronger interrogation techniques. They did contribute to a belief that stronger interrogation methods were needed and appropriate in their treatment of detainees. At Guantanamo, the interrogators used those additional techniques with only two detainees, gaining important and time-urgent information in the process.

In Afghanistan, from the war's inception through the end of 2002, all forces used FM 34-52 as a baseline for interrogation techniques. Nonetheless, more aggressive interrogation of detainees appears to have been ongoing. On January 24, 2003, in response to a data call from the Joint Staff to facilitate the Secretary of Defense-directed Working Group efforts, the Commander Joint Task Force-180 forwarded a list of techniques being used in Afghanistan, including some not explicitly set out in FM 34-52. These techniques were included in a Special Operations Forces (SOF) Standard Operating Procedures document published in February 2003. The 519th Military Intelligence Battalion, a Company of which was later sent to Iraq, assisted in interrogations in support of SOF and was fully aware of their interrogation techniques.

In Iraq, the operational order from CENTCOM provided the standard FM 34-52 interrogation procedures would be used. Given the greatly different situations in Afghanistan and Iraq, it is not surprising there were differing CENTCOM policies for the

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two countries. In light of ongoing hostilities that monopolized commanders' attention in Iraq, it is also not unexpected the detainee issues were not given a higher priority.

Interrogators and lists of techniques circulated from Guantanamo and Afghanistan to Iraq. During July and August 2003, a Company of the 519th MI Battalion was sent to the Abu Ghraib detention facility to conduct interrogation operations. Absent guidance other than FM 34-52, the officer in charge prepared draft interrogation guidelines that were a near copy of the Standard Operating Procedure created by SOF. It is important to note that techniques effective under carefully controlled conditions at Guantanamo became far more problematic when they migrated and were not adequately safeguarded.

In August 2003, MG Geoffrey Miller arrived to conduct an assessment of DoD counterterrorism interrogation and detention operations in Iraq. He was to discuss current theater ability to exploit internees rapidly for actionable intelligence. He brought to Iraq the Secretary of Defense's April 16, 2003 policy guidelines for Guantanamo—which he reportedly gave to CJTF-7 as a potential model—recommending a command-wide policy be established. He noted, however, the Geneva Conventions did apply to Iraq. In addition to these various printed sources, there was also a store of common lore and practice within the interrogator community circulating through Guantanamo, Afghanistan and elsewhere.

At the operational level, in the absence of more specific guidance from CENTCOM, interrogators in Iraq relied on FM 34-52 and on unauthorized techniques that had migrated from Afghanistan. On September 14, 2003, Commander CJTF-7 signed the theater's first policy on interrogation which contained elements of the approved Guantanamo policy and elements of the SOF policy. Policies approved for use on al Qaeda and Taliban detainees who were not afforded the protection of EPW status under the Geneva Conventions now applied to detainees who did fall under the Geneva Convention protections. CENTCOM disapproved the September 14, 2003 policy resulting in another policy signed on October 12, 2003 which essentially mirrored the

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outdated 1987 version of the FM 34-52. The 1987 version, however, authorized interrogators to control all aspects of the interrogation, "to include lighting and heating, as well as food, clothing, and shelter given to detainees." This was specifically left out of the 1992 version, which is currently in use. This clearly led to confusion on what practices were acceptable. We cannot be sure how much the number and severity of abuses would have been curtailed had there been early and consistent guidance from higher levels. Nonetheless, such guidance was needed and likely would have had a limiting effect.

At Abu Ghraib, the Jones/Fay investigation concluded that MI professionals at the prison level shared a "major part of the culpability" for the abuses. Some of the abuses occurred during interrogation. As these interrogation techniques exceeded parameters of FM 34-52, no training had been developed. Absent training, the interrogators used their own initiative to implement the new techniques. To what extent the same situation existed at other prisons is unclear, but the widespread nature of abuses warrants an assumption that at least the understanding of interrogations policies was inadequate. A host of other possible contributing factors, such as training, leadership, and the generally chaotic situation in the prisons, are addressed elsewhere in this report.

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PUBLIC RELEASE OF ABUSE PHOTOS

In any large bureaucracy, good news travels up the chain of command quickly; bad news generally does not. In the case of the abuse photos from Abu Ghraib, concerns about command influence on an ongoing investigation may have impeded notification to senior officials.

Chronology of Events

On January 13, 2004, SPC Darby gave Army criminal investigators a copy of a CD containing abuse photos he had taken from SPC Graner's computer. CJTF-7, CENTCOM, the Chairman of the Joint Chiefs of Staff and the Secretary of Defense were all informed of the issue. LTG Sanchez promptly asked for an outside investigation, and MG Taguba was appointed as the investigating officer. The officials who saw the photos on January 14, 2004, not realizing their likely significance, did not recommend the photos be shown to more senior officials. A CENTCOM press release in Baghdad on January 16, 2004 announced there was an ongoing investigation into reported incidents of detainee abuse at a Coalition Forces detention facility.

An interim report of the investigation was provided to CJTF-7 and CENTCOM commanders in mid-March 2004. It is unclear whether they saw the Abu Ghraib photos, but their impact was not appreciated by either of these officers or their staff officers who may have seen the photographs, as indicated by the failure to transmit them in a timely fashion to more senior officials. When LTG Sanchez received the Taguba report, he immediately requested an investigation into the possible involvement of military intelligence personnel. He told the panel that he did not request the photos be disseminated beyond the criminal investigative process because commanders are prohibited from interfering with, or influencing, active investigations. In mid-April, LTG McKiernan, the appointing official, reported the investigative results through his chain of

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command to the Department of the Army, the Army Judge Advocate General, and the U.S. Army Reserve Command. LTG McKiernan advised the panel that he did not send a copy of the report to the Secretary of Defense, but forwarded it through his chain of command. Again the reluctance to move bad news farther up the chain of command probably was a factor impeding notification of the Secretary of Defense.

Given this situation, GEN Richard Myers, the Chairman of the Joint Chiefs of Staff, was unprepared in April 2004 when he learned the photos of detainee abuse were to be aired in a CBS broadcast. The planned release coincided with particularly intense fighting by Coalition forces in Fallujah and Najaf. After a discussion with GEN Abizaid, GEN Myers asked CBS to delay the broadcast out of concern the lives of the Coalition soldiers and the hostages in Iraq would be further endangered. The story of the abuse itself was already public. Nonetheless, both GEN Abizaid and GEN Myers understood the pictures would have an especially explosive impact around the world.

Informing Senior Officials

Given the magnitude of this problem, the Secretary of Defense and other senior DoD officials need a more effective information pipeline to inform them of high-profile incidents which may have a significant adverse impact on DoD operations. Had such a pipeline existed, it could have provided an accessible and efficient tool for field commanders to apprise higher headquarters, the Joint Chiefs of Staff, and the Office of the Secretary of Defense, of actual or developing situations which might hinder, impede, or undermine U.S. operations and initiatives. Such a system could have equipped senior spokesmen with the known facts of the situation from all DoD elements involved. Finally, it would have allowed for senior official preparation and Congressional notification.

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Such a procedure would make it possible for a field-level command or staff agency to alert others of the situation and forward the information to senior officials. This would not have been an unprecedented occurrence. For example, in December 2002, concerned Naval Criminal Investigative Service agents drew attention to the potential for abuse at Guantanamo. Those individuals had direct access to the highest levels of leadership and were able to get that information to senior levels without encumbrance. While a corresponding flow of information might not have prevented the abuses from occurring, the Office of the Secretary of Defense would have been alerted to a festering issue, allowing for an early and appropriate response.

Another example is the Air Force Executive Issues Team. This office has fulfilled the special information pipeline function for the Air Force since February 1998. The team chief and team members are highly trained and experienced field grade officers drawn from a variety of duty assignments. The team members have access to information flow across all levels of command and staff and are continually engaging and building contacts to facilitate the information flow. The information flow to the team runs parallel and complementary to standard reporting channels in order to avoid bypassing the chain of command but yet ensures a rapid and direct flow of relevant information to Air Force Headquarters.

A proper, transparent posture in getting the facts and fixing the problem would have better enabled the DoD to deal with the damage to the mission of the U.S. in the region and to the reputation of the U.S. military.

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COMMAND RESPONSIBILITIES

Although the most egregious instances of detainee abuse were caused by the aberrant behavior of a limited number of soldiers and the predilections of the non-commissioned officers on the night shift of Tier 1 at Abu Ghraib, the Independent Panel finds that commanding officers and their staffs at various levels failed in their duties and that such failures contributed directly or indirectly to detainee abuse. Commanders are responsible for all their units do or fail to do, and should be held accountable for their action or inaction. Command failures were compounded by poor advice provided by staff officers with responsibility for overseeing battlefield functions related to detention and interrogation operations. Military and civilian leaders at the Department of Defense share this burden of responsibility.

Commanders

The Panel finds that the weak and ineffectual leadership of the Commanding General of the 800th MP Brigade and the Commanding Officer of the 205th MI Brigade allowed the abuses at Abu Ghraib. There were serious lapses of leadership in both units from junior non-commissioned officers to battalion and brigade levels. The commanders of both brigades either knew, or should have known, abuses were taking place and taken measures to prevent them. The Panel finds no evidence that organizations above the 800th MP Brigade- or the 205th MI Brigade-level were directly involved in the incidents at Abu Ghraib. Accordingly, the Panel concurs in the judgment and recommendations of MG Taguba, MG Fay, LTG Jones, LTG Sanchez, LTG McKiernan, General Abizaid and General Kern regarding the commanders of these two units. The Panel expects disciplinary action may be forthcoming.

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The Independent Panel concurs with the findings of MG Taguba regarding the Director of the Joint Interrogation and Debriefing Center (JIDC) at Abu Ghraib. Specifically, the Panel notes that MG Taguba concluded that the Director, JIDC made material misrepresentations to MG Taguba's investigating team. The panel finds that he failed to properly train and control his soldiers and failed to ensure prisoners were afforded the protections under the relevant Geneva Conventions. The Panel concurs with MG Taguba's recommendation that he be relieved for cause and given a letter of reprimand and notes that disciplinary action may be pending against this officer.

The Independent Panel concurs with the findings of MG Taguba regarding the Commander of the 320th MP Battalion at Abu Ghraib. Specifically, the Panel finds that he failed to ensure that his subordinates were properly trained and supervised and that he failed to establish and enforce basic soldier standards, proficiency and accountability. He was not able to organize tasks to accomplish his mission in an appropriate manner. By not communicating standards, policies and plans to soldiers, he conveyed a sense of tacit approval of abusive behavior towards prisoners and a lax and dysfunctional command climate took hold. The Panel concurs with MG Taguba's recommendation that he be relieved from command, be given a General Officer Memorandum of reprimand, and be removed from the Colonel/O-6 promotion list.

The Independent Panel finds that BG Karpinski's leadership failures helped set the conditions at the prison which led to the abuses, including her failure to establish appropriate standard operating procedures (SOPs) and to ensure the relevant Geneva Conventions protections were afforded prisoners, as well as her failure to take appropriate actions regarding ineffective commanders and staff officers. The Panel notes the conclusion of MG Taguba that she made material misrepresentations to his investigating team regarding the frequency of her visits to Abu Ghraib. The Panel concurs with MG Taguba's recommendation that BG Karpinski be relieved of command and given a General Officer Letter of Reprimand.

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Although LTG Sanchez had tasks more urgent than dealing personally with command and resource deficiencies and allegations of abuse at Abu Ghraib, he should have ensured his staff dealt with the command and resource problems. He should have assured that urgent demands were placed for appropriate support and resources through Coalition Forces Land Component Command (CFLCC) and CENTCOM to the Joint Chiefs of Staff. He was responsible for establishing the confused command relationship at the Abu Ghraib prison. There was no clear delineation of command responsibilities between the 320th MP Battalion and the 205th MI Brigade. The situation was exacerbated by CJTF-7 Fragmentary Order (FRAGO) 1108 issued on November 19, 2003 that appointed the commander of the 205th MI Brigade as the base commander for Abu Ghraib, including responsibility for the support of all MPs assigned to the prison. In addition to being contrary to existing doctrine, there is no evidence the details of this command relationship were effectively coordinated or implemented by the leaders at Abu Ghraib. The unclear chain of command established by CJTF-7, combined with the poor leadership and lack of supervision, contributed to the atmosphere at Abu Ghraib that allowed the abuses to take place.

The unclear command structure at Abu Ghraib was further exacerbated by the confused command relationship up the chain. The 800th MP Brigade was initially assigned to the Central Command's Combined Forces Land Component Commander (CFLCC) during the major combat phase of Operation Iraqi Freedom. When CFLCC left the theater and returned to Fort McPherson Georgia, CENTCOM established Combined Joint Task Force-Seven (CJTF-7). While the 800th MP Brigade remained assigned to CFLCC, it essentially worked for CJTF-7. LTG Sanchez delegated responsibility for detention operations to his Deputy, MG Wojdakowski. At the same time, intelligence personnel at Abu Ghraib reported through the CJTF-7 C-2, Director for Intelligence. These arrangements had the damaging result that no single individual was responsible for overseeing operations at the prison.

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The Panel endorses the disciplinary actions already taken, although we believe LTG Sanchez should have taken more forceful action in November when he fully comprehended the depth of the leadership problems at Abu Ghraib. His apparent attempt to mentor BG Karpinski, though well-intended, was insufficient in a combat zone in the midst of a serious and growing insurgency.

The creation of the Joint Interrogation and Debriefing Center (JIDC) at Abu Ghraib was not an unusual organizational approach. The problem is, as the Army Inspector General assessment revealed, joint doctrine for the conduct of interrogation operations contains inconsistent guidance, particularly with regard to addressing the issue of the appropriate command relationships governing the operation of such organizations as a JIDC. Based on the findings of the Fay, Jones and Church investigations, SOUTHCOM and CENTCOM were able to develop effective command relationships for such centers at Guantanamo and in Afghanistan, but CENTCOM and CJTF-7 failed to do so for the JIDC at Abu Ghraib.

Staff Officers

While staff officers have no command responsibilities, they are responsible for providing oversight, advice and counsel to their commanders. Staff oversight of detention and interrogation operations for CJTF-7 was dispersed among the principal and special staff. The lack of one person on the staff to oversee detention operations and facilities complicated effective and efficient coordination among the staff.

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The Panel finds the following:

- The CJTF-7 Deputy Commander failed to initiate action to request additional military police for detention operations after it became clear that there were insufficient assets in Iraq.
- The CJTF-7 C-2, Director for Intelligence failed to advise the commander properly on directives and policies needed for the operation of the JIDC, for interrogation techniques and for appropriately monitoring the activities of Other Government Agencies (OGAs) within the Joint Area of Operations.
- The CJTF-7 Staff Judge Advocate failed to initiate an appropriate response to the November 2003 ICRC report on the conditions at Abu Ghraib.

Failure of the Combatant Command to Adjust the Plan

Once it became clear in July 2003 there was a major insurgency growing in Iraq and the relatively benign environment projected for Iraq was not materializing, senior leaders should have adjusted the plan from what had been assumed to be a stability operation and a benign handoff of detention operations to the Iraqis. If commanders and staffs at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003, as difficulties with the basic plan were readily apparent by that time. Responsible leaders who could have set in motion the development of a more effective alternative course of action extend up the command chain (and staff), to include the Director for Operations, Combined Joint Task Force 7 (CJTF-7); Deputy Commanding General, CJTF-7; Commander CJTF-7; Deputy Commander for Support, CFLCC; Commander, CFLCC; Director for Operations, Central Command (CENTCOM); Commander, CENTCOM; Director for Operations, Joint Staff; the Chairman of the Joint Chiefs of Staff; and the Office of the Secretary of Defense. In most cases these were errors of omission, but they were errors that should not go unnoted.

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There was ample evidence in both Joint and Army lessons learned that planning for detention operations for Iraq required alternatives to standard doctrinal approaches. Reports from experiences in Operation Enduring Freedom and at Guantanamo had already recognized the inadequacy of current doctrine for the detention mission and the need for augmentation of both MP and MI units with experienced confinement officers and interrogators. Previous experience also supported the likelihood that detainee population numbers would grow beyond planning estimates. The relationship between MP and MI personnel in the conduct of interrogations also demanded close, continuous coordination rather than remaining compartmentalized. "Lessons learned" also reported the value of establishing a clear chain of command subordinating MP and MI to a Joint Task Force or Brigade Commander. This commander would be in charge of all aspects of both detention and interrogations just as tactical combat forces are subordinated to a single commander. The planners had only to search the lessons learned databases (available on-line in military networks) to find these planning insights. Nevertheless, CENTCOM's October 2002 planning annex for detention operations reflected a traditional doctrinal methodology.

The change in the character of the struggle signaled by the sudden spike in U.S. casualties in June, July and August 2003 should have prompted consideration of the need for additional MP assets. GEN Abizaid himself signaled a change in operations when he publicly declared in July that CENTCOM was now dealing with a growing "insurgency," a term government officials had previously avoided in characterizing the war. Certainly by October and November when the fighting reached a new peak, commanders and staffs from CJTF-7 all the way to CENTCOM and the Joint Chiefs of Staff knew by then the serious deficiencies of the 800th MP Brigade and should have at least considered reinforcing the troops for detention operations. Reservists, some of whom had been first mobilized shortly after September 11, 2001, began reaching a two-year mobilization commitment, which, by law, mandated their redeployment and deactivation.

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There was not much the 800th MP Brigade (an Army Reserve unit), could do to delay the loss of those soldiers, and there was no individual replacement system or a unit replacement plan. The MP Brigade was totally dependent on higher headquarters to initiate action to alleviate the personnel crisis. The brigade was duly reporting readiness shortfalls through appropriate channels. However, its commanding general was emphasizing these shortfalls in personal communications with CJTF-7 commanders and staff as opposed to CFLCC. Since the brigade was assigned to CFLCC, but under the Tactical Control (TACON) of CJTF-7, her communications should been with CFLCC. The response from CJTF-7's Commander and Deputy Commander was that the 800th MP Brigade had sufficient personnel to accomplish its mission and that it needed to reallocate its available soldiers among the dozen or more detention facilities it was operating in Iraq. However, the Panel found the further deterioration in the readiness condition of the brigade should have been recognized by CFLCC and CENTCOM by late summer 2003. This led the Panel to conclude that CJTF-7, CFLCC and CENTCOM failure to request additional forces was an avoidable error.

The Joint Staff recognized intelligence collection from detainees in Iraq needed improvement. This was their rationale for sending MG Miller from Guantanamo to assist CJTF-7 with interrogation operations. However, the Joint Staff was not paying sufficient attention to evidence of broader readiness issues associated with both MP and MI resources.

We note that CJTF-7 Headquarters was never fully resourced to meet the size and complexity of its mission. The Joint Staff, CJTF-7 and CENTCOM took too long to finalize the Joint Manning Document (JMD) which was not finally approved until December 2003—six months into the insurgency. At one point, CJTF-7 Headquarters had only 495 of the 1,400 personnel authorized. The command was burdened with additional complexities associated with its mission to support the Coalition Provisional Authority.

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Finally, the Joint Staff failed to recognize the implications of the deteriorating manning levels in the 800th MP Brigade; the absence of combat equipment among detention elements of MP units operating in a combat zone; and the indications of deteriorating mission performance among military intelligence interrogators owing to the stress of repeated combat deployments.

When CJTF-7 did realize the magnitude of the detention problem, it requested an assistance visit by the Provost Marshal General of the Army, MG Ryder. There seemed to be some misunderstanding of the CJTF-7 intent, however, since MG Ryder viewed his visit primarily as an assessment of how to transfer the detention program to the Iraqi prison system.

In retrospect, several options for addressing the detention operations challenge were available. CJTF-7 could have requested a change in command relationships to place the 800th MP Brigade under Operational Control of CJTF-7 rather than Tactical Control. This would have permitted the Commander of CJTF-7 to reallocate tactical assets under his control to the detention mission. While other Military Police units in Iraq were already fully committed to higher-priority combat and combat support missions, such as convoy escort, there were non-MP units that could have been reassigned to help in the conduct of detention operations. For example, an artillery brigade was tasked to operate the CJTF-7 Joint Visitors Center in Baghdad. A similar tasking could have provided additional troop strength to assist the 800th MP Brigade at Abu Ghraib. Such a shift would have supplied valuable experienced sergeants, captains and lieutenant colonels sorely lacking in both the MI and MP units at Abu Ghraib. A similar effect could have been achieved by CENTCOM assigning USMC, Navy and Air Force MP and security units to operational control of CJTF-7 for the detention operations mission.

Mobilization and deployment of additional forces from CONUS was also a feasible option. A system is in place for commands such as CJTF-7, CFLCC, and CENTCOM to submit a formal Request for Forces (RFF). Earlier, CJTF-7 had submitted a RFF for an

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additional Judge Advocate organization, but CENTCOM would not forward it to the Joint Chiefs of Staff. Perhaps this experience made CJTF-7 reluctant to submit a RFF for MP units, but there is no evidence that any of the responsible officers considered any option other than the response given to BG Karpinski to "wear her stars" and reallocate personnel among her already over-stretched units.

While it is the responsibility of the JCS and services to provide adequate numbers of appropriately trained personnel for missions such as the detention operations in Iraq, it is the responsibility of the combatant commander to organize those forces in a manner to achieve mission success. The U.S. experience in the conduct of post-conflict stability operations has been limited, but the impact of our failure to conduct proper detainee operations in this case has been significant. Combatant commanders and their subordinates must organize in a manner that affords unity of command, ensuring commanders work for commanders and not staff.

The fact that the detention operation mission for all of Iraq is now commanded by a 2-star general who reports directly to the operational commander, and that 1,900 MPs, more appropriately equipped for combat, now perform the mission once assigned to a single under-strength, poorly trained, inadequately equipped, and weakly-led brigade, indicate more robust options should have been considered sooner.

Finally, the panel notes the failure to report the abuses up the chain of command in a timely manner with adequate urgency. The abuses at Abu Ghraib were known and under investigation as early as January 2004. However, the gravity of the abuses was not conveyed up the chain of command to the Secretary of Defense. The Taguba report, including the photographs, was completed in March 2004. This report was transmitted to LTG Sanchez and GEN Abizaid; however, it is unclear whether they ever saw the Abu Ghraib photos. GEN Myers has stated he knew of the existence of the photos as early as January 2004. Although the knowledge of the investigation into Abu Ghraib was widely known, as we noted in the previous section, the impact of the photos was not appreciated

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by any of these officers as indicated by the failure to transmit them in a timely fashion to officials at the Department of Defense. (See Appendix A for the names of persons associated with the positions cited in this section.)

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MILITARY POLICE AND DETENTION OPERATIONS

In Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom, commanders should have paid greater attention to the relationship between detainees and military operations. The current doctrine and procedures for detaining personnel are inadequate to meet the requirements of these conflicts. Due to the vastly different circumstances in these conflicts, it should not be surprising there were deficiencies in the projected needs for military police forces. All the investigations the Panel reviewed highlight the urgency to augment the prior way of conducting detention operations. In particular, the military police were not trained, organized, or equipped to meet the new challenges.

The Army IG found morale was high and command climate was good throughout forces deployed in Iraq and Afghanistan with one noticeable exception. Soldiers conducting detainee operations in remote or dangerous locations complained of very poor morale and command climate due to the lack of higher command involvement and support and the perception that their leaders did not care. At Abu Ghraib, in particular, there were many serious problems, which could have been avoided, if proper guidance, oversight and leadership had been provided.

Mobilization and Training

Mobilization and training inadequacies for the MP units occurred during the various phases of employment, beginning with peacetime training, activation, arrival at the mobilization site, deployment, arrival in theater and follow-on operations.

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Mobilization and Deployment

Problems generally began for the MP units upon arrival at the mobilization sites. As one commander stated, "Anything that could go wrong went wrong." Preparation was not consistently applied to all deploying units, wasting time and duplicating efforts already accomplished. Troops were separated from their equipment for excessive periods of time. The flow of equipment and personnel was not coordinated. The Commanding General of the 800th MP Brigade indicated the biggest problem was getting MPs and their equipment deployed together. The unit could neither train at its stateside mobilization site without its equipment nor upon arrival overseas, as two or three weeks could go by before joining with its equipment. This resulted in assigning equipment and troops in an ad hoc manner with no regard to original unit. It also resulted in assigning certain companies that had not trained together in peacetime to battalion headquarters. The flow of forces into theater was originally planned and assigned on the basis of the Time Phased Force Deployment List (TPFDL). The TPFDL was soon scrapped, however, in favor of individual unit deployment orders assigned by U.S. Army Forces Command based on unit readiness and personnel strength. MP Brigade commanders did not know who would be deployed next. This method resulted in a condition wherein a recently arrived battalion headquarters would be assigned the next arriving MP companies, regardless of their capabilities or any other prior command and training relationships.

Original projections called for approximately 12 detention facilities with a projection of 30,000 to 100,000 enemy prisoners of war. These large projections did not materialize. In fact, the initial commanding general of the 800th MP brigade, BG Hill, stated he had more than enough MPs designated for the Internment/Resettlement (I/R—hereafter called detention) mission at the end of the combat phase in Iraq. This assessment radically changed following the major combat phase, when the 800th moved to Baghdad beginning in the summer of 2003 to assume the detention mission. The brigade was given additional tasks assisting the Coalition Provisional Authority (CPA) in reconstructing the Iraqi corrections system, a mission they had neither planned for nor anticipated.

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Inadequate Training for the Military Police Mission

Though some elements performed better than others, generally training was inadequate. The MP detention units did not receive detention-specific training during their mobilization period, which was a critical deficiency. Detention training was conducted for only two MP detention battalions, one in Afghanistan and elements of the other at Camp Arifjan, Kuwait. The 800th MP Brigade, prior to deployment, had planned for a major detention exercise during the summer of 2002; however, this was cancelled due to the activation of many individuals and units for Operation Noble Eagle following the September 11, 2001 attack. The Deputy Commander of one MP brigade stated "training at the mobilization site was wholly inadequate." In addition, there was no theater-specific training.

The Army Inspector General's investigators also found that training at the mobilization sites failed to prepare units for conducting detention operations. Leaders of inspected reserve units stated in interviews that they did not receive a clear mission statement prior to mobilization and were not notified of their mission until after deploying. Personnel interviewed described being placed immediately in stressful situations in a detention facility with thousands of non-compliant detainees and not being trained to handle them. Units arriving in theater were given just a few days to conduct a handover from the outgoing units. Once deployed, these newly arrived units had difficulty gaining access to the necessary documentation on tactics, techniques, and procedures to train their personnel on the MP essential tasks of their new mission. A prime example is that relevant Army manuals and publications were available only on-line, but personnel did not have access to computers or the Internet.

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Force Structure Organization

The current military police organizational structure does not address the detention mission on the nonlinear battlefield characteristic of the Global War on Terror.

Current Military Police Structure

The present U.S. Army Reserve and Army National Guard system worked well for the 1991 Gulf War for which large numbers of reserve forces were mobilized, were deployed, fought, and were quickly returned to the United States. These forces, however, were not designed to maintain large numbers of troops at a high operational tempo for a long period of deployment as has been the case in Afghanistan and Iraq.

Comments from commanders and the various inspection reports indicated the current force structure for the MPs is neither flexible enough to support the developing mission, nor can it provide for the sustained detainee operations envisioned for the future. The primary reason is that the present structure lacks sufficient numbers of detention specialists. Currently, the Army active component detention specialists are assigned in support of the Disciplinary Barracks and Regional Correctional Facilities in the United States, all of which are non-deployable.

New Force Structure Initiatives

Significant efforts are currently being made to shift more of the MP detention requirements into the active force structure. The Army's force design for the future will standardize detention forces between active and reserve components and provide the capability for the active component to immediately deploy detention companies.

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The Panel notes that the Mikolashek inspection found significant shortfalls in training and force structure for field sanitation, preventive medicine and medical treatment requirements for detainees.

Doctrine and Planning

Initial planning envisaged a conflict mirroring operation Desert Storm; approximately 100,000 enemy prisoners of war were forecast for the first five days of the conflict. This expectation did not materialize in the first phase of Operation Iraqi Freedom. As a result, there were too many MP detention companies. The reverse occurred in the second phase of Iraqi Freedom, where the plan envisaged a reduced number of detention MPs on the assumption the initial large numbers of enemy prisoners of war would already have been processed out of the detention facilities. The result was that combat MPs were ultimately reassigned to an unplanned detention mission.

The doctrine of yesterday's battlefield does not satisfy the requirements of today's conflicts. Current doctrine assumes a linear battlefield and is very clear for the handling of detainees from the point of capture to the holding areas and eventually to the detention facilities in the rear. However, Operations Enduring Freedom and Iraqi Freedom, both occurring where there is no distinction between front and rear areas, forced organizations to adapt tactics and procedures to address the resulting voids. Organizations initially used standard operating procedures for collection points and detention facilities. These procedures do not fit the new environment, generally because there are no safe areas behind "friendly lines" – there *are* no friendly lines. The inapplicability of current doctrine had a negative effect on accountability, security, safeguarding of detainees, and intelligence exploitation. Instead of capturing and rapidly moving detainees to secure collection points as prescribed by doctrine, units tended to retain the detainees and attempted to exploit their tactical intelligence value without the required training or infrastructure.

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Current doctrine specifies that line combat units hold detainees no longer than 12 – 24 hours to extract immediately useful intelligence. Nonetheless, the Army IG inspection found detainees were routinely held up to 72 hours. For corps collection points, doctrine specifies detainees be held no longer than three days; the Army IG found detainees were held from 30 to 45 days.

Equipment Shortfalls

The current force structure for MP detention organizations does not provide sufficient assets to meet the inherent force protection requirement on battlefields likely to be characteristic of the future. Detention facilities in the theater may have to be located in a hostile combat zone, instead of the benign secure environment current doctrine presumes.

MP detention units will need to be equipped for combat. Lack of crew-served weapons, e.g., machine guns and mortars, to counter external attacks resulted in casualties to the detainee population as well as to the friendly forces. Moreover, Army-issued radios were frequently inoperable and too few in number. In frustration, individual soldiers purchased commercial radios from civilian sources. This improvisation created an unsecured communications environment that could be monitored by any hostile force outside the detention facility.

Detention Operations and Accountability

Traditionally, military police support the Joint Task Force (JTF) by undertaking administrative processing of detention operations, thereby relieving the war-fighters of concern over prisoners and civilian detainees. The handling of detainees is a tactical and operational consideration the JTF addresses during planning to prevent combat forces from being diverted to handle large numbers of detainees. Military police are structured,

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therefore, to facilitate the tempo of combat operations by providing for the quick movement of prisoners from the battle area to temporary holding areas and thence to detention facilities.

However, the lack of relevant doctrine meant the design and operation of division, battalion, and company collection points were improvised on an ad hoc basis, depending on such immediate local factors as mission, troops available, weather, time, etc. At these collection points, the SOPs the units had prior to deployment were outdated or ill-suited for the operating environment of Afghanistan and Iraq. Tactical units found themselves taking on roles in detainee operations never anticipated in their prior training. Such lack of proper skills had a negative effect on the intelligence exploitation, security, and safeguarding of detainees.

The initial point of capture may be at any time or place in a military operation. This is the place where soldiers have the least control of the environment and where most contact with the detainees occurs. It is also the place where, in or immediately after battle, abuse may be most likely. And it is the place where the detainee, shocked by capture, may be most likely to give information. As noted earlier, instead of capturing and rapidly transporting detainees to collection points, battalions and companies were holding detainees for excessive periods, even though they lacked the training, materiel, or infrastructure for productive interrogation. The Naval IG found that approximately one-third of the alleged incidents of abuse occurred at the point of capture.

Detention

The decision to use Abu Ghraib as the primary operational level detention facility happened by default. Abu Ghraib was selected by Ambassador Bremer who envisioned it as a temporary facility to be used for criminal detainees until the new Iraqi government could be established and an Iraqi prison established at another site. However, CJTF-7 saw an opportunity to use it as an interim site for the detainees it expected to round up as

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part of Operation Victory Bounty in July 2003. CJTF-7 had considered Camp Bucca but rejected it, as it was 150 miles away from Baghdad where the operation was to take place.

Abu Ghraib was also a questionable facility from a standpoint of conducting interrogations. Its location, next to an urban area, and its large size in relation to the small MP unit tasked to provide a law enforcement presence, made it impossible to achieve the necessary degree of security. The detainee population of approximately 7,000 out-manned the 92 MPs by approximately a 75:1 ratio. The choice of Abu Ghraib as the facility for detention operations placed a strictly detention mission-driven unit—one designed to operate in a rear area—smack in the middle of a combat environment.

Detainee Accountability and Classification

Adequate procedures for accountability were lacking during the movement of detainees from the collection points to the detainee facilities. During the movement, it was not unusual for detainees to exchange their identification tags with those of other detainees. The diversity of the detainee population also made identification and classification difficult. Classification determined the detainee assignment to particular cells/blocks, but individuals brought to the facility were often a mix of criminals and security detainees. The security detainees were either held for their intelligence value or presented a continuing threat to Coalition Forces. Some innocents were also included in the detainee population. The issue of unregistered or "ghost" detainees presented a limited, though significant, problem of accountability at Abu Ghraib.

Detainee Reporting

Detainee reporting lacked accountability, reliability and standardization. There was no central agency to collect and manage detainee information. The combatant commanders

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and the JTF commanders have overall responsibility for the detainee programs to ensure compliance with the international law of armed conflict, domestic law and applicable national policy and directives. The reporting system is supposed to process all inquiries concerning detainees and provide accountability information to the International Committee of the Red Cross. The poor reporting system did not meet this obligation.

Release Procedures

Multiple reviews were required to make release recommendations prior to approval by the release authority. Nonconcurrence by area commanders, intelligence organizations, or law enforcement agencies resulted in retention of ever larger numbers of detainees. The Army Inspector General estimated that up to 80 percent of detainees being held for security and intelligence reasons might be eligible for release upon proper review of their cases with the other 20 percent either requiring continued detention on security grounds or uncompleted intelligence requirements. Interviews indicated area commanders were reluctant to concur with release decisions out of concern that potential combatants would be reintroduced into their areas of operation or that the detainees had continuing intelligence value.

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INTERROGATION OPERATIONS

Any discussion of interrogation techniques must begin with the simple reality that their purpose is to gain intelligence that will help protect the United States, its forces and interests abroad. The severity of the post-September 11, 2001 terrorist threat and the escalating insurgency in Iraq make information gleaned from interrogations especially important. When lives are at stake, all legal and moral means of eliciting information must be considered. Nonetheless, interrogations are inherently unpleasant, and many people find them objectionable by their very nature.

The relationship between interrogators and detainees is frequently adversarial. The interrogator's goal of extracting useful information likely is in direct opposition to the detainee's goal of resisting or dissembling. Although interrogators are trained to stay within the bounds of acceptable conduct, the imperative of eliciting timely and useful information can sometimes conflict with proscriptions against inhumane or degrading treatment. For interrogators in Iraq and Afghanistan, this tension is magnified by the highly stressful combat environment. The conditions of war and the dynamics of detainee operations carry inherent risks for human mistreatment and must be approached with caution and careful planning and training.

A number of interrelated factors both limited the intelligence derived from interrogations and contributed to detainee abuse in Operations Enduring Freedom and Iraqi Freedom. A shortfall of properly trained human intelligence personnel to do tactical interrogation of detainees existed at all levels. At the larger detention centers, qualified and experienced interrogators and interpreters were in short supply. No doctrine existed to cover segregation of detainees whose status differed or was unclear, nor was there guidance on timely release of detainees no longer deemed of intelligence interest. The failure to adapt rapidly to the new intelligence requirements of the Global War on Terror resulted in inadequate resourcing, inexperienced and untrained personnel, and a backlog of detainees

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destined for interrogation. These conditions created a climate not conducive to sound intelligence-gathering efforts.

The Threat Environment

The Global War on Terror requires a fundamental reexamination of how we approach collecting intelligence. Terrorists present new challenges because of the way they organize, communicate, and operate. Many of the terrorists and insurgents are geographically dispersed non-state actors who move across national boundaries and operate in small cells that are difficult to surveil and penetrate.

Human Intelligence from Interrogations

The need for human intelligence has dramatically increased in the new threat environment of asymmetric warfare. Massed forces and equipment characteristic of the Cold War era, Desert Storm and even Phase I of Operation Iraqi Freedom relied largely on signals and imagery intelligence. The intelligence problem then was primarily one of monitoring known military sites, troop locations and equipment concentrations. The problem today, however, is discovering new information on widely dispersed terrorist and insurgent networks. Human intelligence often provides the clues to understand these networks, enabling the collection of intelligence from other sources. Information derived from interrogations is an important component of this human intelligence, especially in the Global War on Terror.

The interrogation of al Qaeda members held at Guantanamo has yielded valuable information used to disrupt and preempt terrorist planning and activities. Much of the 9/11 Commission's report on the planning and execution of the attacks on the World Trade Center and Pentagon came from interrogation of detainees. In the case of

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al Qaeda, interrogations provided insights on organization, key personnel, target selection, planning cycles, cooperation among various groups, and logistical support. This information expanded our knowledge of the selection, motivation, and training of these groups. According to Congressional testimony by the Under Secretary of Defense for Intelligence, we have gleaned information on a wide range of al Qaeda activities, including efforts to obtain weapons of mass destruction, sources of finance, training in use of explosives and suicide bombings, and potential travel routes to the United States.

Interrogations provide commanders with information about enemy networks, leadership, and tactics. Such information is critical in planning operations. Tactically, detainee interrogation is a fundamental tool for gaining insight into enemy positions, strength, weapons, and intentions. Thus, it is fundamental to the protection of our forces in combat. Notably, Saddam Hussein's capture was facilitated by interrogation-derived information. Interrogations often provide fragmentary pieces of the broader intelligence picture. These pieces become useful when combined with other human intelligence or intelligence from other sources.

Pressure on Interrogators to Produce Actionable Intelligence

With the active insurgency in Iraq, pressure was placed on the interrogators to produce "actionable" intelligence. In the months before Saddam Hussein's capture, inability to determine his whereabouts created widespread frustration within the intelligence community. With lives at stake, senior leaders expressed, forcibly at times, their needs for better intelligence. A number of visits by high-level officials to Abu Ghraib undoubtedly contributed to this perceived pressure. Both the CJTF-7 commander and his intelligence officer, CJTF-7 C2, visited the prison on several occasions. MG Miller's visit in August/September, 2003 stressed the need to move from simply collecting tactical information to collecting information of operational and strategic value. In November

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2003, a senior member of the National Security Council Staff visited Abu Ghraib, leading some personnel at the facility to conclude, perhaps incorrectly, that even the White House was interested in the intelligence gleaned from their interrogation reports. Despite the number of visits and the intensity of interest in actionable intelligence, however, the Panel found no undue pressure exerted by senior officials. Nevertheless, their eagerness for intelligence may have been perceived by interrogators as pressure.

Interrogation Operations Issues

A number of factors contributed to the problems experienced in interrogation operations. They ranged from resource and leadership shortfalls to doctrinal deficiencies and poor training.

Inadequate Resources

As part of the peace dividend following the Cold War much of the human intelligence capability, particularly in the Army, was reduced. As hostilities began in Afghanistan and Iraq, Army human intelligence personnel, particularly interrogators and interpreters, were ill-equipped to deal with requirements at both the tactical level and at the larger detention centers. At the tactical level, questioning of detainees has been used in all major conflicts. Knowledge of the enemy's positions, strength, equipment and tactics is critical in order to achieve operational success while minimizing casualties. Such tactical questioning to gain immediate battlefield intelligence is generally done at or near the point of capture. In Iraq, although their numbers were insufficient, some of the more seasoned MIs from the MI units supporting Abu Ghraib were assigned to support the Army Tactical HUMINT teams in the field.

In both Afghanistan and Iraq, tactical commanders kept detainees longer than specified by doctrine in order to exploit their unique local knowledge such as religious and tribal affiliation and regional politics. Remaining with the tactical units, the detainees could be

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available for follow-up questioning and clarification of details. The field commanders were concerned that information from interrogations, obtained in the more permanent facilities, would not be returned to the capturing unit. Tactical units, however, were not properly resourced to implement this altered operating arrangement. The potential for abuse also increases when interrogations are conducted in an emotionally charged field environment by personnel unfamiliar with approved techniques.

At the fixed detention centers such as Abu Ghraib, lack of resources and shortage of more experienced senior interrogators impeded the production of actionable intelligence. Inexperienced and untrained personnel often yielded poor intelligence. Interpreters, particularly, were in short supply, contributing to the backlog of detainees to be interrogated. As noted previously, at Abu Ghraib for instance, there were detainees who had been in custody for as long as 90 days before being interrogated for the first time.

Leadership and Organization Shortfalls at Abu Ghraib

Neither the leadership nor the organization of Military Intelligence at Abu Ghraib was up to the mission. The 205th MI Brigade had no organic interrogation elements; they had been eliminated by the downsizing in the 1990s. Soldiers from Army Reserve units filled the ranks, with the consequence that the Brigade Commander had to rely on disparate elements of units and individuals, including civilians, which had never trained together. The creation of the Joint Interrogation and Debriefing Center (JIDC) introduced another layer of complexity into an already stressed interrogations environment. The JIDC was an ad hoc organization made up of six different units lacking the normal command and control structure, particularly at the senior noncommissioned officer level. Leadership was also lacking, from the Commander of the 800th MP Brigade in charge of Abu Ghraib, who failed to ensure that soldiers had appropriate SOPs for dealing with detainees, to the Commander of the 205th MI Brigade, who failed to ensure that soldiers under his command were properly trained and followed the interrogation rules of engagement. Moreover, the Director of the JIDC was a weak leader who did not have experience in

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interrogation operations and who ceded the core of his responsibilities to subordinates. He failed to provide appropriate training and supervision of personnel assigned to the Center. None of these leaders established the basic standards and accountability that might have served to prevent the abusive behaviors that occurred.

Interrogation Techniques

Interrogation techniques intended only for Guantanamo came to be used in Afghanistan and Iraq. Techniques employed at Guantanamo included the use of stress positions, isolation for up to 30 days and removal of clothing. In Afghanistan techniques included removal of clothing, isolating people for long periods of time, use of stress positions, exploiting fear of dogs, and sleep and light deprivation. Interrogators in Iraq, already familiar with some of these ideas, implemented them even prior to any policy guidance from CJTF-7. Moreover, interrogators at Abu Ghraib were relying on a 1987 version of FM 34-52, which authorized interrogators to control all aspects of the interrogation to include light, heating, food, clothing and shelter given to detainees.

A range of opinion among interrogators, staff judge advocates and commanders existed regarding what techniques were permissible. Some incidents of abuse were clearly cases of individual criminal misconduct. Other incidents resulted from misinterpretations of law or policy or confusion about what interrogation techniques were permitted by law or local SOPs. The incidents stemming from misinterpretation or confusion occurred for several reasons: the proliferation of guidance and information from other theaters of operation; the interrogators' experiences in other theaters; and the failure to distinguish between permitted interrogation techniques in other theater environments and Iraq. Some soldiers or contractors who committed abuse may honestly have believed the techniques were condoned.

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Use of Contractors as Interrogators

As a consequence of the shortage of interrogators and interpreters, contractors were used to augment the workforce. Contractors were a particular problem at Abu Ghraib. The Army Inspector General found that 35 percent of the contractors employed did not receive formal training in military interrogation techniques, policy, or doctrine. The Naval Inspector General, however, found some of the older contractors had backgrounds as former military interrogators and were generally considered more effective than some of the junior enlisted military personnel. Oversight of contractor personnel and activities was not sufficient to ensure intelligence operations fell within the law and the authorized chain of command. Continued use of contractors will be required, but contracts must clearly specify the technical requirements and personnel qualifications, experience, and training needed. They should also be developed and administered in such as way as to provide the necessary oversight and management.

Doctrinal Deficiencies

At the tactical level, detaining individuals primarily for intelligence collection or because they constitute a potential security threat, though necessary, presents units with situations not addressed by current doctrine. Many units adapted their operating procedures for conducting detainee operations to fit an environment not contemplated in the existing doctrinal manuals. The capturing units had no relevant procedures for information and evidence collection, which were critical for the proper disposition of detainees.

Additionally, there is inconsistent doctrine on interrogation facility operations for the fixed detention locations. Commanders had to improvise the organization and command relationships within these elements to meet the particular requirements of their operating environments in Afghanistan and Iraq. Doctrine is lacking to address the screening and interrogation of large numbers of detainees whose status (combatants, criminals, or innocents) is not easily ascertainable. Nor does policy specifically address administrative

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responsibilities related to the timely release of detainees captured and detained primarily for intelligence exploitation or for the security threat they may pose.

Role of CIA

CIA personnel conducted interrogations in DoD detention facilities. In some facilities these interrogations were conducted in conjunction with military personnel, but at Abu Ghraib the CIA was allowed to conduct its interrogations separately. No memorandum of understanding existed on interrogations operations between the CIA and CJTF-7, and the CIA was allowed to operate under different rules. According to the Fay investigation, the CIA's detention and interrogation practices contributed to a loss of accountability at Abu Ghraib. We are aware of the issue of unregistered detainees, but the Panel did not have sufficient access to CIA information to make any determinations in this regard.

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THE ROLE OF MILITARY POLICE AND MILITARY INTELLIGENCE IN DETENTION OPERATIONS

Existing doctrine does not clearly address the relationship between the Military Police (MP) operating detention facilities and Military Intelligence (MI) personnel conducting intelligence exploitation at those facilities. The Army Inspector General report states neither MP nor MI doctrine specifically defines the distinct, but interdependent, roles and responsibilities of the two elements in detainee operations.

In the Global War on Terror, we are dealing with new conditions and new threats. Doctrine must be adjusted accordingly. MP doctrine currently states intelligence personnel may collaborate with MPs at detention sites to conduct interrogations, with coordination between the two groups to establish operating procedures. MP doctrine does not; however, address the subject of approved and prohibited MI procedures in an MP-operated facility. Conversely, MI doctrine does not clearly explain MP detention procedures or the role of MI personnel within a detention setting.

GUANTANAMO

The first detainees arrived at Guantanamo in January 2002. The SOUTHCOM Commander established two joint task forces at Guantanamo to execute the detention operations (JTF-160) and the interrogation operations (JTF-170). In August of that year, based on difficulties with the command relationships, the two JTFs were organized into a single command designated as Joint Task Force Guantanamo. This reorganization was conceived to enhance unity of command and direct all activities in support of interrogation and detention operations.

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On November 4, 2002, MG Miller was appointed Commander of Joint Task Force Guantanamo. As the joint commander, he called upon the MP and MI soldiers to work together cooperatively. Military police were to collect passive intelligence on detainees. They became key players, serving as the eyes and ears of the cellblocks for military intelligence personnel. This collaboration helped set conditions for successful interrogation by providing the interrogator more information about the detainee—his mood, his communications with other detainees, his receptivity to particular incentives, etc. Under the single command, the relationship between MPs and MIs became an effective operating model.

AFGHANISTAN

The MP and MI commands at the Bagram Detention Facility maintained separate chains of command and remained focused on their independent missions. The Combined Joint Task Force-76 Provost Marshal was responsible for detainee operations. He designated a principal assistant to run the Bagram facility. In parallel fashion, the CJTF-76 Intelligence Officer was responsible for MI operations in the facility, working through an Officer-in-Charge to oversee interrogation operations. The two deputies worked together to coordinate execution of their respective missions. A dedicated judge advocate was assigned full time to the facility, while the CJTF-76 Inspector General provided independent oversight. Based on information from the Naval Inspector General investigation, this arrangement in Afghanistan worked reasonably well.

ABU GHRAIB, IRAQ

The Central Confinement Facility is located near the population center of Baghdad. Abu Ghraib was selected by Ambassador Bremer who envisioned it as a temporary facility to be used for criminal detainees until the new Iraqi government could be

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established and an Iraqi prison established at another site. Following operations during the summer of 2003, Abu Ghraib also was designated by CJTF-7 as the detention center for security detainees. It was selected because it was difficult to transport prisoners, due to improvised explosives devices (IEDs) and other insurgent tactics, to the more remote and secure Camp Bucca, some 150 miles away.

Request for Assistance

Commander CJTF-7 recognized serious deficiencies at the prison and requested assistance. In response to this request, MG Miller and a team from Guantanamo were sent to Iraq to provide advice on facilities and operations specific to screening, interrogations, HUMINT collection and interagency integration in the short- and long- term. The team arrived in Baghdad on August 31, 2003. MG Miller brought a number of recommendations derived from his experience at Guantanamo to include his model for MP and MI personnel to work together. These collaborative procedures had worked well at Guantanamo, in part because of the high ratio of approximately one-to-one of military police to mostly compliant detainees. However, the guard-to-detainee ratio at Abu Ghraib was approximately 1 to 75, and the Military Intelligence and the Military Police had separate chains of command.

MG Ryder, the Army Provost Marshal, also made an assistance visit in mid-October 2003. He conducted a review of detainee operations in Iraq. He found flawed operating procedures, a lack of training, an inadequate prisoner classification system, under-strength units and a ratio of guard to prisoners designed for "compliant" prisoners of war and not for criminals or high-risk security detainees. However, he failed to detect the warning signs of potential and actual abuse that was ongoing during his visit. The assessment team members did not identify any MP units purposely applying inappropriate confinement practices. The Ryder report continues that "Military Police, though adept at passive collection of intelligence within a facility, do not participate in

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Military Intelligence-supervised interrogation sessions. The 800th MP Brigade has not been asked to change its facility procedures to set the conditions for MI interviews, nor participate in those interviews."

Prevailing Conditions

Conditions at Abu Ghraib reflected an exception to those prevailing at other theater detainee facilities. U.S. forces were operating Tiers 1A and 1B, while Tiers 2 through 7 were under the complete control of Iraqi prison guards. Iraqis who had committed crimes against other Iraqis were intended to be housed in the tiers under Iraqi control. The facility was under frequent hostile fire from mortars and rocket-propelled grenades. Detainee escape attempts were numerous and there were several riots. Both MI and MP units were seriously under-resourced and lacked unit cohesion and mid-level leadership. The reserve MP units had lost senior noncommissioned officers and other personnel through rotations back to the U.S. as well as reassignments to other missions in the theater.

When Abu Ghraib opened, the first MP unit was the 72nd MP Company, based in Henderson, Nevada. Known as "the Nevada Company," it has been described by many involved in investigations concerning Abu Ghraib as a very strong unit that kept tight rein on operational procedures at the facility. This company called into question the interrogation practices of the MI brigade regarding nakedness of detainees. The 72nd MP Company voiced and then filed written objections to these practices.

The problems at Abu Ghraib intensified after October 15, 2003, when the 372nd Military Police Company took over the facility. The 372nd MP Company had been given the most sensitive mission: control of Tier 1A and Tier 1B, where civilian and military intelligence specialists held detainees identified for interrogations as well as "high-risk" detainees. An "MI hold" was anyone of intelligence interest and included foreign and

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Iraqi terrorists, as well as individuals possessing information regarding foreign fighters, infiltration methods, or pending attacks on Coalition forces. The "high-risk" troublemakers were held in Tier 1B. The prison cells of Tiers 1A and 1B were collectively known as "the hard site." The 372nd soldiers were not trained for prison guard duty and were thinly stretched in dealing with the large number of detainees. With little experience to fall back on, the company commander deferred to noncommissioned officers who had civilian correctional backgrounds to work the night shift. This deference was a significant error in judgment.

Leadership Shortfalls

At the leadership level, there was friction and a lack of communication between the 800th MP Brigade and the 205th MI Brigade through the summer and fall of 2003. There was no clear delineation of responsibility between commands and little coordination at the command level. Both the Director of the Joint Interrogation and Debriefing Center (JIDC) and the Commander of the 320th MP Battalion were weak and ineffective leaders. Both failed to ensure their subordinates were properly trained and supervised. They failed to establish and enforce basic soldier standards, proficiency, and accountability. Neither was able to organize tasks to accomplish their missions in an appropriate manner. By not communicating standards, policies, and plans to soldiers, these leaders conveyed a sense of tacit approval of abusive behaviors toward prisoners. This was particularly evident with respect to prisoner-handling procedures and techniques, including unfamiliarity with the Geneva Conventions. There was a lack of discipline and standards of behavior were not established nor enforced. A lax and dysfunctional command climate took hold.

In November 2003, the 205th MI Brigade Commander was assigned as the Forward Operation Base Commander, thus receiving responsibility for Abu Ghraib. This assignment was made as a result of CJTF-7 Commander's concern over force protection at the prison. The Fay investigation found this did not change the relationship of MP and

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MI units in day-to-day operations at the facility, although the Commander of the 800th MP Brigade says she was denied access to areas of Abu Ghraib for which she was doctrinally responsible. Key leaders did not seem to recognize or appreciate psychological stressors associated with the detention mission. MG Taguba concluded these factors included "differences in culture, soldiers' quality of life, and the real presence of mortal danger over an extended time period. The failure of commanders to recognize these pressures contributed to the pervasive atmosphere existing at Abu Ghraib Detention Facility."

Military Working Dogs at Abu Ghraib

The Military Police directives give guidance for the use of military working dogs. They are used to provide an effective psychological and physical deterrent in the detention facility, offering an alternative to using firearms. Dogs are also used for perimeter security, inspections and patrols. MG Miller had recommended dogs as beneficial for detainee custody and control during his visit in August/September 2003. However, he never recommended, nor were dogs used for interrogations at Guantanamo. The working dog teams were requested by the Commander 205th MI Brigade who never understood the intent as described by MG Miller. It is likely the confusion about using dogs partially stems from the initial request for dog teams by military intelligence and not military police.

The working dogs arrived at Abu Ghraib in mid-November 2003. The two Army teams were assigned primarily to security of the compound while the three Navy teams worked inside at the entry control point. The senior Army and Navy dog handlers indicated they had not previously worked in a prison environment and received only a one-day training session on scout and search for escaped Enemy Prisoners of War. The Navy handler stated that upon arrival at Abu Ghraib he had not received an orientation on what was expected from his canine unit nor what was authorized or not authorized. He further

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stated he had never received instruction on the use of force in the compound, but he acknowledged he knew a dog could not be used on a detainee if the detainee posed no threat.

Guidance provided by the CJTF-7 directive of September 14, 2003 allowed working dogs to be used as an interrogation technique with the CJTF-7 Commander's approval. This authorization was updated by the October 12, 2003 memorandum, which allowed the presence of dogs during interrogation as long as they were muzzled and under control of the handler at all times but still required approval. The Taguba and Jones/Fay investigations identified a number of abuses related to using muzzled and unmuzzled dogs during interrogations. They also identified some abuses involving dog-use unrelated to interrogations, apparently for the sadistic pleasure of the MPs involved in these incidents.

MP/MI Relationship

It is clear, with these serious shortfalls and lack of supervision, the model MG Miller presented for the effective working relationship between MI and MP was neither understood nor could it have been successfully implemented. Based on the Taguba and Jones/Fay investigations, "setting favorable conditions" had some basis in fact at Abu Ghraib, but it was also used as an excuse for abusive behavior toward detainees.

The events that took place at Abu Ghraib are an aberration when compared to the situations at other detention operations. Poor leadership and a lack of oversight set the stage for abuses to occur.

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LAWS OF WAR/GENEVA CONVENTIONS

American military culture, training, and operations are steeped in a long-held commitment to the tenets of military and international law as traditionally codified by the world community. Department of Defense Directive 5100.77, DoD Law of War Program, describes the law of war as:

> That part of international law that regulates the conduct of armed hostilities. It is often called the law of armed conflict. The law of war encompasses all international law for the conduct of hostilities binding on the United States or its individual citizens, including treaties and international agreements to which the United States is a party, and applicable customary international law.

The law of war includes, among other agreements, the Geneva Conventions of 1949. The Geneva Conventions set forth the rights and obligations which govern the treatment of civilians and combatants during periods of armed conflict. Specifically, Geneva Convention III addresses the treatment of prisoners of war; and Geneva Convention IV addresses the treatment of civilians.

Chairman of the Joint Chiefs of Staff Instruction 5810.01B, Implementation of the DoD Law of War Program, reiterates U.S. policy concerning the law of war: "The Armed Forces of the United States will comply with the law of war during all armed conflicts, however such conflicts are characterized…."

The United States became engaged in two distinct conflicts, Operation Enduring Freedom (OEF) in Afghanistan and Operation Iraqi Freedom (OIF) in Iraq. As a result of a Presidential determination, the Geneva Conventions did not apply to al Quaeda and Taliban combatants. Nevertheless, these traditional standards were put into effect for OIF and remain in effect at this writing. Some would argue this is a departure from the

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traditional view of the law of war as espoused by the ICRC and others in the international community.

Operation Enduring Freedom

On October 17, 2001, pursuant to the commencement of combat operations in OEF, the Commander, CENTCOM, issued an order instructing the Geneva Conventions were to be applied to all captured individuals in accordance with their traditional interpretation. Belligerents would be screened to determine whether or not they were entitled to prisoner of war status. If an individual was entitled to prisoner of war status, the protections of Geneva Convention III would apply. If armed forces personnel were in doubt as to a detained individual's status, Geneva Convention III rights would be accorded to the detainee until a Geneva Convention III Article 5 tribunal made a definitive status determination. If the individual was found not to be entitled to Geneva Convention III protections, he or she might be detained and processed under U.S. criminal code, a procedure consistent with Geneva Convention IV.

A policy debate concerning the application of treaties and laws to al Qaeda and Taliban detainees then began taking shape. The Department of Justice Office of Legal Counsel (OLC) provided opinions to Counsel to the President and Department of Defense General Counsel concluding the Geneva Conventions did not protect members of the al Qaeda organization, and the President could decide that Geneva Conventions did not protect Taliban militia. Counsel to the President and the Attorney General so advised the President.

On February 7, 2002 the President issued a memorandum stating, in part,

> ...the war against terrorism ushers in a new paradigm.... Our nation recognizes that this new paradigm – ushered in not by us, but by terrorists – requires new thinking in the law of war, but thinking that should nevertheless be consistent with the principles of Geneva.

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Upon this premise, the President determined the Geneva Conventions did not apply to the U.S. conflict with al Qaeda, and that Taliban detainees did not qualify for prisoner of war status. Removed from the protections of the Geneva Conventions, al Qaeda and Taliban detainees have been classified variously as "unlawful combatants," "enemy combatants," and "unprivileged belligerents."

The enemy in the Global War on Terror is one neither the United States nor the community of nations has ever before engaged on such an extensive scale. These far-reaching, well-resourced, organized, and trained terrorists are attempting to achieve their own ends. Such terrorists are not of a nation state such as those who are party to the agreements which comprise the law of war. Neither do they conform their actions to the letter or spirit of the law of war.

The Panel accepts the proposition that these terrorists are not combatants entitled to the protections of Geneva Convention III. Furthermore, the Panel accepts the conclusion the Geneva Convention IV and the provisions of domestic criminal law are not sufficiently robust and adequate to provide for the appropriate detention of captured terrorists.

The Panel notes the President qualified his determination, directing that United States policy would be "consistent with the principles of Geneva." Among other things, the Geneva Conventions adhere to a standard calling for a delineation of rights for all persons, and humane treatment for all persons. They suggest that no person is "outlaw," that is, outside the laws of some legal entity.

The Panel finds the details of the current policy vague and lacking. Justice Sandra Day O'Connnor, writing for the majority in *Hamdi v Rumsfeld*, June 28, 2004 points out "the Government has never provided any court with the full criteria that it uses in classifying individuals as [enemy combatants]." Justice O'Connor cites several authorities to support the proposition that detention "is a clearly established principle of the law of

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war," but also states there is no precept of law, domestic or international, which would permit the indefinite detention of any combatant.

As a matter of logic, there should be a category of persons who do not comply with the specified conditions and thus fall outside the category of persons entitled to EPW status. Although there is not a particular label for this category in law of war conventions, the concept of "unlawful combatant" or "unprivileged belligerent" is a part of the law of war.

Operation Iraqi Freedom

Operation Iraqi Freedom is wholly different from Operation Enduring Freedom. It is an operation that clearly falls within the boundaries of the Geneva Conventions and the traditional law of war. From the very beginning of the campaign, none of the senior leadership or command considered any possibility other than that the Geneva Conventions applied.

The message in the field, or the assumptions made in the field, at times lost sight of this underpinning. Personnel familiar with the law of war determinations for OEF in Afghanistan tended to factor those determinations into their decision-making for military actions in Iraq. Law of war policy and decisions germane to OEF migrated, often quite innocently, into decision matrices for OIF. We noted earlier the migration of interrogation techniques from Afghanistan to Iraq. Those interrogation techniques were authorized only for OEF. More important, their authorization in Afghanistan and Guantanamo was possible only because the President had determined that individuals subjected to these interrogation techniques fell outside the strict protections of the Geneva Conventions.

One of the more telling examples of this migration centers around CJTF-7's determination that some of the detainees held in Iraq were to be categorized as unlawful

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combatants. "Unlawful combatants" was a category set out in the President's February 7, 2002 memorandum. Despite lacking specific authorization to operate beyond the confines of the Geneva Conventions, CJTF-7 nonetheless determined it was within their command discretion to classify, as unlawful combatants, individuals captured during OIF. CJTF-7 concluded it had individuals in custody who met the criteria for unlawful combatants set out by the President and extended it in Iraq to those who were not protected as combatants under the Geneva Conventions, based on the OLC opinions. While CJTF-7's reasoning is understandable in respect to unlawful combatants, nonetheless, they understood there was no authorization to suspend application of the Geneva Conventions, in letter and spirit, to all military actions of Operation Iraqi Freedom. In addition, CJTF-7 had no means of discriminating detainees among the various categories of those protected under the Geneva Conventions and those unlawful combatants who were not.

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THE ROLE OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS

Since December 2001, the International Committee of the Red Cross (ICRC) has visited U.S. detention operations in Guantanamo, Iraq, and Afghanistan numerous times. Various ICRC inspection teams have delivered working papers and reports of findings to U.S. military leaders at different levels. While the ICRC has acknowledged U.S. attempts to improve the conditions of detainees, major differences over detainee status as well as application of specific provisions of Geneva Conventions III and IV remain. If we were to follow the ICRC's interpretations, interrogation operations would not be allowed. This would deprive the U.S. of an indispensable source of intelligence in the war on terrorism.

The ICRC is an independent agency whose activities include observing and reporting on conditions in wartime detention camps and facilities. During visits, it attempts to register all prisoners, inspect facilities, and conduct private interviews with detainees to discuss any problems concerning detainee treatment or conditions; it also provides a means for detainees to contact their families. While the ICRC has no enforcing authority and its reports are supposedly confidential, any public revelation regarding standards of detainee treatment can have a substantial effect on international opinion.

The ICRC seeks to handle problems at the lowest level possible. When a team conducts an inspection, it provides a briefing, and sometimes a report, to the local commander. Discrepancies and issues are presented to the detaining authorities, and follow-up visits are made to monitor compliance with recommendations. The commander may or may not implement the recommendations based on either resource constraint or his interpretation of applicable law. These constraints can make complete implementation of ICRC recommendations either difficult or inappropriate. If recommendations are not implemented, the ICRC may address the issue with higher authorities. The ICRC does

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not expect to receive, nor does the DoD have a policy of providing, a written response to ICRC reports. However, DoD elements do attempt to implement as many of the recommendations as practicable, given security and resource constraints.

One important difference in approach between the U.S. and the ICRC is the interpretation of the legal status of terrorists. According to a Panel interview with CJTF-7 legal counsel, the ICRC sent a report to the State Department and the Coalition Provisional Authority in February 2003 citing lack of compliance with Protocol 1. But the U.S. has specifically rejected Protocol 1 stating that certain elements in the protocol, that provide legal protection for terrorists, make it plainly unacceptable. Still the U.S. has worked to preserve the positive elements of Protocol 1. In 1985, the Secretary of Defense noted that "certain provisions of Protocol 1 reflect customary international law, and others appear to be positive new developments. We therefore intend to work with our allies and others to develop a common understanding or declaration of principles incorporating these positive aspects, with the intention they shall, in time, win recognition as customary international law." In 1986 the ICRC acknowledged that it and the U.S. government had "agreed to disagree" on the applicability of Protocol 1. Nevertheless, the ICRC continues to presume the United States should adhere to this standard under the guise of customary international law.

This would grant legal protections to terrorists equivalent to the protections accorded to prisoners of war as required by the Geneva Conventions of 1949 despite the fact terrorists do not wear uniforms and are otherwise indistinguishable from noncombatants. To do so would undermine the prohibition on terrorists blending in with the civilian population, a situation which makes it impossible to attack terrorists without placing noncombatants at risk. For this and other reasons, the U.S. has specifically rejected this additional protocol.

The ICRC also considers the U.S. policy of categorizing some detainees as "unlawful combatants" to be a violation of their interpretation of international humanitarian law. It contends that Geneva Conventions III and IV, which the U.S. has ratified, allow for only

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two categories of detainees: (1) civilian detainees who must be charged with a crime and tried and (2) enemy combatants who must be released at the cessation of hostilities. In the ICRC's view, the category of "unlawful combatant" deprives the detainees of certain human rights. It argues that lack of information regarding the reasons for detention and the conditions for release are major sources of stress for detainees.

However, the 1949 Geneva Conventions specify conditions to qualify for protected status. By logic, then, if detainees do not meet the specific requirements of privileged status, there clearly must be a category for those lacking in such privileges. The ICRC does not acknowledge such a category of "unprivileged belligerents," and argues that it is not consistent with its interpretation of the Geneva Conventions.

Regarding the application of current international humanitarian law, including Geneva Conventions III and IV, the ICRC has three concerns: (1) gaining access to and ascertaining the status of all detainees in U.S. custody; (2) its belief that linking detention with interrogations should not be allowed which follows from its refusal to recognize the category of unprivileged combatants and (3) they also worry about losing their effectiveness.

Although the ICRC found U.S. forces generally cooperative, it has cited occasions when the forces did not grant adequate access to detainees, both in Iraq and Afghanistan. Of particular concern to the ICRC, however, has been the existence of "ghost detainees," detainees who were kept from ICRC inspectors. While the Panel has not been able to ascertain the number of ghost detainees in the overall detainee population, several investigations cite their existence. Both the Taguba and Jones/Fay reports cite instances of ghost detainees at Abu Ghraib. Secretary Rumsfeld publicly declared he directed one detainee be held secretly at the request of the Director of Central Intelligence.

On balance, the Panel concludes there is value in the relationship the Department of Defense historically has had with the ICRC. The ICRC should serve as an early warning

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indicator of possible abuse. Commanders should be alert to ICRC observations in their reports and take corrective actions as appropriate. The Panel also believes the ICRC, no less than the Defense Department, needs to adapt itself to the new realities of conflict, which are far different from the Western European environment from which the ICRC's interpretation of Geneva Conventions was drawn. The Department of Defense has established an office of detainee affairs and should continue to reshape its operational relationship with the ICRC.

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RECOMMENDATIONS

Department of Defense reform efforts are underway and the Panel commends these efforts. The Office of the Secretary of Defense, the Joint Chiefs of Staff and the Military Services are conducting comprehensive reviews on how military operations have changed since the end of the Cold War. The military services now recognize the problems and are studying how to adjust force compositions, training, doctrine and responsibilities for active/reserve/guard and contractor mixes to ensure we are better prepared to succeed in the war on terrorism.

The Panel reviewed various inspections, investigations and assessments that produced over 300 recommendations for corrective actions to address the problems identified with DoD detention operations. For the most part the Panel endorses their recommendations. In some areas the recommendations do not go far enough and we augment them. We provide additional recommendations to address relevant areas not covered by previous analyses.

The Independent Panel provides the following additional recommendations:

1. The United States should further define its policy, applicable to both the Department of Defense and other government agencies, on the categorization and status of all detainees as it applies to various operations and theaters. It should define their status and treatment in a way consistent with U.S. jurisprudence and military doctrine and with U.S. interpretation of the Geneva Conventions. We recommend that additional operational, support and staff judge advocate personnel be assigned to appropriate commands for the purpose of expediting the detainee release review process.

2. The Department of Defense needs to address and develop joint doctrine to define the appropriate collaboration between military intelligence and military police in a detention facility. The meaning of guidance, such as MPs "setting the conditions" for

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interrogation, needs to be defined with precision. MG Taguba argued that all detainee operations be consolidated under the responsibility of a single commander reporting directly to Commander CJTF-7. This change has now been accomplished and seems to be working effectively. Other than lack of leadership, training deficiencies in both MP and MI units have been cited most often as the needed measures to prevent detainee abuse. We support the recommendations on training articulated by the reports published by the various other reviews.

3. The nation needs more specialists for detention/interrogation operations, including linguists, interrogators, human intelligence, counter-intelligence, corrections police and behavioral scientists. Accompanying professional development and career field management systems must be put in place concurrently. The Panel agrees that some use of contractors in detention operations must continue into the foreseeable future. This is especially the case with the need for qualified interpreters and interrogators and will require rigorous oversight.

4. Joint Forces Command should chair a Joint Service Integrated Process Team to develop a new Operational Concept for Detention Operations in the new era of warfare, covering the Global War on Terror. The team should place special and early emphasis on detention operations during Counter-Insurgency campaigns and Stability Operations in which familiar concepts of front and rear areas may not apply. Attention should also be given to preparing for conditions in which normal law enforcement has broken down in an occupied or failed state. The Panel recommends that the idea of a deployable detention facility should be studied and implemented as appropriate.

5. Clearly, force structure in both MP and MI is inadequate to support the armed forces in this new form of warfare. Every investigation we reviewed refers to force structure deficiencies in some measure. There should be an active and reserve component mix of units for both military intelligence and military police. Other forces besides the Army are also in need of force structure improvements. Those forces have not been addressed

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adequately in the reports reviewed by the Panel, and we recommend that the Secretaries of the Navy and Air Force undertake force structure reviews of their own to improve the performance of their Services in detention operations.

6. Well-documented policy and procedures on approved interrogation techniques are imperative to counteract the current chilling effect the reaction to the abuses have had on the collection of valuable intelligence through interrogations. Given the critical role of intelligence in the Global War on Terror, the aggressiveness of interrogation techniques employed must be measured against the value of intelligence sought, to include its importance, urgency and relevance. A policy for interrogation operations should be promulgated early on and acceptable interrogation techniques for each operation must be clearly understood by all interrogation personnel.

7. All personnel who may be engaged in detention operations, from point of capture to final disposition, should participate in a professional ethics program that would equip them with a sharp moral compass for guidance in situations often riven with conflicting moral obligations. The development of such a values-oriented ethics program should be the responsibility of the individual services with assistance provided by the Joint Chiefs of Staff.

8. Clearer guidelines for the interaction of CIA with the Department of Defense in detention and interrogation operations must be defined.

9. The United States needs to redefine its approach to customary and treaty international humanitarian law, which must be adapted to the realities of the nature of conflict in the 21st Century. In doing so, the United States should emphasize the standard of reciprocity, in spite of the low probability that such will be extended to United States Forces by some adversaries, and the preservation of United States societal values and international image that flows from an adherence to recognized humanitarian standards.

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10. The Department of Defense should continue to foster its operational relationship with the International Committee of the Red Cross. The Panel believes the International Committee of the Red Cross, no less than the Defense Department, needs to adapt itself to the new realities of conflict which are far different from the Western European environment from which the ICRC's interpretation of Geneva Conventions was drawn.

11. The assignment of a focal point within the office of the Under Secretary for Policy would be a useful organizational step. The new focal point for Detainee Affairs should be charged with all aspects of detention policy and also be responsible for oversight of DoD relations with the International Committee of the Red Cross.

12. The Secretary of Defense should ensure the effective functioning of rapid reporting channels for communicating bad news to senior Department of Defense leadership without prejudice to any criminal or disciplinary actions already underway. The Panel recommends consideration of a joint adaptation of procedures such as the Air Force special notification process.

13. The Panel notes that the Fay investigation cited some medical personnel for failure to report detainee abuse. As noted in that investigation, training should include the obligation to report any detainee abuse. The Panel also notes that the Army IG found significant shortfalls in training and force structure for field sanitation, preventive medicine and medical treatment requirements for detainees. As the DoD improves detention operations force structure and training, it should pay attention to the need for medical personnel to screen and monitor the health of detention personnel and detainees.

14. The integration of the recommendations in this report and all the other efforts underway on detention operations will require further study. Analysis of the dynamics of program and resource implications, with a view to assessing the trade-offs and opportunity costs involved, must be addressed.

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Appendices

DOJ_NMG_0010747

GLOSSARY

Army Regulation 15-6	AR 15-6	Army regulation which specifies procedures for command investigations. The common name for both formal and informal command investigations.
Active Component	AC	Active military component of the Army, Navy, Air Force or Marines.
Abuse Cases		An incident or allegation of abuse, including, but not limited to death, assault, sexual assault, and theft, that triggers a CID investigation, which may involve multiple individuals.
Behavioral Science Coordination Team	BSCT	Team comprised of medical and other specialized personnel that provides support to special operations forces.
Civilian Internees	CI	Designation of civilians encountered and detained in the theater of war.
Criminal Investigation Command	CID	Investigative agency of the U. S. Army responsible for conducting criminal investigations to which the Army is or may be a party.
Collection Points	CP	Forward locations where prisoners are collected, processed and prepared for movement to the detention center.
Coalition Provisional Authority	CPA	Interim government of Iraq, in place from May 2003 through June 2004.
Convention Against Torture and Other Cruel Inhumane or Degrading Treatment		An international treaty brought into force in 1987 which seeks to define torture and other cruel, inhuman or degrading treatment or punishment and provides a mechanism for punishing those who would inflict such treatment on others.
Enemy Prisoner of War	EPW	International Committee of the Red Cross term for prisoners of war; this status bestows certain rights to the individual in the Geneva Conventions.
Force Design Update	FDU	The Army process to review and restructure forces.

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GLOSSARY

Fragmentary Order	FRAGO	An abbreviated form of an operation order (verbal, written or digital) usually issued on a day-to-day basis that eliminates the need for restarting information contained in a basic operation order.
Army Field Manual 34-52 "Intelligence Interrogation"	FM 34-52	Current manual for operations and training in interrogation techniques. The edition dated 1987 was updated in 1992.
Geneva Conventions	GC	The international treaties brought into force in August 1949. These conventions extend protections to, among others, prisoners of war and civilians in time of war.
Global War on Terror	GWOT	Worldwide operation to eradicate individuals and groups that participate in and sponsor terrorism.
Internment/Resettlement	I/R	Internment/resettlement mission assigned to specific US Army Military Police units who are responsible for the detention of Enemy Prisoners of War during armed conflict.
International Committee of the Red Cross	ICRC	Nongovernmental organization that seeks to help victims of war and internal violence.
In Lieu Of	ILO	When used in reference to manning, indicates that forces were used in a manner other than originally specified.
Initial Point of Capture	IPOC	Location where an enemy prisoner or internee is captured.
Iraq Survey Group	ISG	Organization located in Iraq with the mission to find weapons of mass destruction.
Joint Manning Document	JMD	Master document covering personnel requirements for the joint theater.
Navy Criminal Investigative Service	NCIS	Investigative service for the US Navy and Marine Corps.

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National Detainee Reporting Center	NDRC	Agency charged with accounting for and reporting all EPW, retained personnel, civilian internees and other detainees during armed conflict.
Operation Enduring Freedom	OEF	Military operation in Afghanistan
Other Government Agencies	OGA	Refers to non-Department of Defense agencies operating in theaters of war.
Operation Iraqi Freedom	OIF	Military operation in Iraq.
Office of Legal Counsel	OLC	Refers to the Department of Justice Office of Legal Counsel.
Operation Noble Eagle	ONE	Operation to activate and deploy forces for homeland defense and civil support in response to the attacks of September 11, 2001.
Operation Victory Bounty	OVB	CJTF-7 operation to sweep Baghdad area for remaining elements of the Saddam Fedayeen in 2003.
Operational Control	OPCON	Command authority over all aspects of military operations.
Republican Guard	RG	Elite Iraqi military forces under the regime of Saddam Hussein.
Reserve Component	RC	Army, Navy, Air Force and Marine Reserves and Army and Air National Guard
Request for Forces	RFF	Commanders request for additional forces to support the mission.
Standing Operating Procedure	SOP	A set of instructions covering those features of operations which lend themselves to a definite or standardized procedures without loss of effectiveness. The procedure is applicable unless ordered otherwise.
Tactical Control	TACON	Command authority to control and task forces for maneuvers within an area of operations.

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GLOSSARY

Tactical Human Intelligence Team	THT	Forward deployed intelligence element providing human intelligence support to maneuver units.
Time Phased Force Deployment List	TPFDL	Identifies the units needed to support an operational plan and specifies their order and method of deployment.
Army Regulation 15-6	AR 15-6	Army regulation which specifies procedures for command investigations. The common name for both formal and informal command investigations.
Active Component	AC	Active military component of the Army, Navy, Air Force or Marines.
Abuse Cases		An incident or allegation of abuse, including, but not limited to death, assault, sexual assault, and theft, that triggers a CID investigation, which may involve multiple individuals.
Behavioral Science Coordination Team	BSCT	Team comprised of medical and other specialized personnel that provides support to special operations forces.
Civilian Internees	CI	Designation of civilians encountered and detained in the theater of war.
Criminal Investigation Command	CID	Investigative agency of the U. S. Army responsible for conducting criminal investigations to which the Army is or may be a party.
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Convention Against Torture and Other Cruel Inhumane or Degrading Treatment		An international treaty brought into force in 1987 which seeks to define torture and other cruel, inhuman or degrading treatment or punishment and provides a mechanism for punishing those who would inflict such treatment on others.

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GLOSSARY

Enemy Prisoner of War	EPW	International Committee of the Red Cross term for prisoners of war; this status bestows certain rights to the individual in the Geneva Conventions.
Force Design Update	FDU	The Army process to review and restructure forces.
Fragmentary Order	FRAGO	An abbreviated form of an operation order (verbal, written ordigital) usually issued on a day-to-day basis that eliminates the need for restarting information contained in a basic operation order.
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In Lieu Of	ILO	When used in reference to manning, indicates that forces were used in a manner other than originally specified.
Initial Point of Capture	IPOC	Location where an enemy prisoner or internee is captured.
Iraq Survey Group	ISG	Organization located in Iraq with the mission to find weapons of mass destruction.
Joint Manning Document	JMD	Master document covering personnel requirements for the joint theater.

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GLOSSARY

Navy Criminal Investigative Service	NCIS	Investigative service for the US Navy and Marine Corps.
National Detainee Reporting Center	NDRC	Agency charged with accounting for and reporting all EPW, retained personnel, civilian internees and other detainees during armed conflict.
Operation Enduring Freedom	OEF	Military operation in Afghanistan
Other Government Agencies	OGA	Refers to non-Department of Defense agencies operating in theaters of war.
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Republican Guard	RG	Elite Iraqi military forces under the regime of Saddam Hussein.
Reserve Component	RC	Army, Navy, Air Force and Marine Reserves and Army and Air National Guard
Request for Forces	RFF	Commanders request for additional forces to support the mission.
Standing Operating Procedure	SOP	A set of instructions covering those features of operations which lend themselves to a definite or standardized procedures without loss of effectiveness. The procedure is applicable unless ordered otherwise.
Tactical Control	TACON	Command authority to control and task forces for maneuvers within an area of operations.

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Tactical Human Intelligence Team	THT	Forward deployed intelligence element providing human intelligence support to maneuver units.
Time Phased Force Deployment List	TPFDL	Identifies the units needed to support an operational plan and specifies their order and method of deployment.

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GLOSSARY

			Commander
Guantanamo			
United States Southern Command	USSOUTHCOM	One of nine Unified Combatant Commands with operational control of U.S. military forces. Area of responsibility includes Guantanamo Bay, Cuba.	GEN James Hill
Joint Task Force 160	JTF-160	Initially responsible for detention operations at Guantanamo, merged in JTF-G 11/4/02.	
Joint Task Force 170	JTF-170	Initially responsible for interrogation operations at Guantanamo, merged in JTF-G 11/4/02.	
Joint Task Force Guantanamo	JTF-G	Joint task force for all operations at Guantanamo, formed 11/4/02.	
Afghanistan			
United States Central Command	USCENTCOM	One of nine Unified Commands with operational control of U.S. military forces. Area of responsibility includes Afghanistan and Iraq.	GEN John Abizaid
Coalition Forces Land Component Command	CFLCC	Senior headquarters element for multi-national land forces in both Iraq and Afghanistan.	LTG David McKiernan
Combined Joint Task Force 180	CJTF-180	Forward deployed headquarters for Afghanistan.	
Iraq			
United States Central Command	USCENTCOM	One of nine Unified Commands with operational control of U.S. military forces. Area of responsibility includes Afghanistan and Iraq.	GEN John Abizaid
Coalition Forces Land Component Command	CFLCC	Senior headquarters element for multi-national land forces in both Iraq and Afghanistan.	LTG David McKiernan
Combined Joint Task Force 7	CJTF-7	Forward deployed headquarters for Operation Iraqi Freedom. Replaced in May 04 by Multi National Force - Iraq and Multi National Corps - Iraq	LTG Ricardo Sanchez
Combined Joint Task Force 7 Intelligence Staff	CJTF-7 C2	Intelligence staff support to CJTF-7	MG Barbara Fast
800th Military Police Brigade	800th MP BDE	U.S. Army Reserve Military Police Brigade, responsible for all internment facilities in Iraq, and assistance to CPA Minister of Justice.	BG Janis Karpinski
Joint Interrogation and Detention Center	JDIC	Element of CJTF-7 for intrrogation mission at Abu Ghuraib.	LTC Steven Jordan

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320th Military Police Battalion	320th MP BN	Element of 800th Bde; assigned to Abu Ghuraib.	LTC Jerry Phillabaum
372nd Military Police Company	372nd MP CO	Element of 320th Bn; assigned to Abu Ghuraib in October 2003.	CPT Donald Reese
72nd Military Police Company	72nd MP CO	Nevada National Guard MP Company, assigned to Abu Ghuraib prior to 372nd MP Co.	
205th Military Intelligence Brigade	205th MI BDE	Military Intelligence Brigade responsible for multiple Army intelligence missions throughout Iraq.	COL Thomas Pappas
519th Military Intelligence Battalion	519th MI BN	Tactical exploitation element of 525 MI Bde; Company A was located at Abu Ghuraib.	MAJ Michnewicz

Other

United States Army Forces Command	FORSCOM	U.S. Army major command responsible for training, readiness and deployment.

DOJ_NMG_0010756

SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

MAY 12 2004

MEMORANDUM FOR THE HONORABLE JAMES R. SCHLESINGER,
CHAIRMAN
THE HONORABLE HAROLD BROWN
THE HONORABLE TILLIE K. FOWLER
GENERAL CHARLES A. HORNER, USAF (RET.)

SUBJECT: Independent Panel to Review DoD Detention Operations

Various organizations of the Department of Defense have investigated, or will investigate, various aspects of allegations of abuse at DoD Detention Facilities and other matters related to detention operations. Thus far these inquiries include the following:

--Criminal investigations into individual allegations
--Army Provost Marshal General assessment of detention and corrections operations in Iraq
--Joint Task Force Guantanamo assistance visit to Iraq to assess intelligence operations
--Administrative Investigation under AR 15-6 regarding Abu Ghraib operations
--Army Inspector General assessment of doctrine and training for detention operations
--Commander, Joint Task Force-7 review of activities of military intelligence personnel at Abu Ghraib
--Army Reserve Command Inspector General assessment of training of Reserve units regarding military intelligence and military police
--Naval Inspector General review of detention procedures at Guantanamo Bay, Cuba, and the Naval Consolidated Brig, Charleston, South Carolina

I have been or will be briefed on the results of these inquiries and the corrective actions taken by responsible officials within the Department.

It would be helpful to me to have your independent, professional advice on the issues that you consider most pertinent related to the various allegations, based on your review of completed and pending investigative reports and other materials and information. I am especially interested in your views on the cause of the problems and what should be done to fix them. Issues such as force structure, training of regular and reserve personnel, use of contractors, organization, detention policy and procedures, interrogation policy and procedures, the relationship between detention and interrogation, compliance with the Geneva Conventions, relationship with the International Committee

OSD 06804-04

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of the Red Cross, command relationships, and operational practices may be contributing factors you might wish to review. Issues of personal accountability will be resolved through established military justice and administrative procedures, although any information you may develop will be welcome.

I would like your independent advice orally and in writing, preferably within 45 days after you begin your review. DoD personnel will collect information for your review and assist you as you deem appropriate. You are to have access to all relevant DoD investigations and other DoD information unless prohibited by law. Reviewing all written materials relevant to these issues may be sufficient to allow you to provide your advice. Should you believe it necessary to travel or conduct interviews, the Director of Administration and Management will make appropriate arrangements.

I intend to provide your report to the Committees on Armed Services, the Secretaries of the Military Departments, the Chairman of the Joint Chiefs of Staff, the Commanders of the Combatant Commands, the Directors of the Defense Agencies, and others as appropriate. If your report contains classified information, please also provide an unclassified version suitable for public release.

By copy of this memorandum, I request the Director of Administration and Management to secure the necessary technical, administrative and legal support for your review from the Department of Defense Components. I appoint you as full-time employees of this Department without pay under 10 U.S.C. §1583. I request all Department of Defense personnel to cooperate fully with your review and to make available all relevant documents and information at your request.

cc: SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
ASSISTANTS TO THE SECRETARY OF DEFENSE

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DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, FORCE TRANSFORMATION
DIRECTOR, NET ASSESSMENT
DIRECTOR, PROGRAM ANALYSIS AND EVALUATION
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

DOJ_NMG_0010759

THE WHITE HOUSE

WASHINGTON

February 7, 2002

MEMORANDUM FOR THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
CHIEF OF STAFF TO THE PRESIDENT
DIRECTOR OF CENTRAL INTELLIGENCE
ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF

SUBJECT: Humane Treatment of al Qaeda and Taliban Detainees

1. Our recent extensive discussions regarding the status of al Qaeda and Taliban detainees confirm that the application of the Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (Geneva) to the conflict with al Qaeda and the Taliban involves complex legal questions. By its terms, Geneva applies to conflicts involving "High Contracting Parties," which can only be states. Moreover, it assumes the existence of "regular" armed forces fighting on behalf of states. However, the war against terrorism ushers in a new paradigm, one in which groups with broad, international reach commit horrific acts against innocent civilians, sometimes with the direct support of states. Our Nation recognizes that this new paradigm -- ushered in not by us, but by terrorists -- requires new thinking in the law of war, but thinking that should nevertheless be consistent with the principles of Geneva.

2. Pursuant to my authority as Commander in Chief and Chief Executive of the United States, and relying on the opinion of the Department of Justice dated January 22, 2002, and on the legal opinion rendered by the Attorney General in his letter of February 1, 2002, I hereby determine as follows:

   a. I accept the legal conclusion of the Department of Justice and determine that none of the provisions of Geneva apply to our conflict with al Qaeda in Afghanistan or elsewhere throughout the world because, among other reasons, al Qaeda is not a High Contracting Party to Geneva.

   b. I accept the legal conclusion of the Attorney General and the Department of Justice that I have the authority under the Constitution to suspend Geneva as between the United States and Afghanistan, but I decline to

Appendix C

exercise that authority at this time. Accordingly, I determine that the provisions of Geneva will apply to our present conflict with the Taliban. I reserve the right to exercise this authority in this or future conflicts.

c. I also accept the legal conclusion of the Department of Justice and determine that common Article 3 of Geneva does not apply to either al Qaeda or Taliban detainees, because, among other reasons, the relevant conflicts are international in scope and common Article 3 applies only to "armed conflict not of an international character."

d. Based on the facts supplied by the Department of Defense and the recommendation of the Department of Justice, I determine that the Taliban detainees are unlawful combatants and, therefore, do not qualify as prisoners of war under Article 4 of Geneva. I note that, because Geneva does not apply to our conflict with al Qaeda, al Qaeda detainees also do not qualify as prisoners of war.

3. Of course, our values as a Nation, values that we share with many nations in the world, call for us to treat detainees humanely, including those who are not legally entitled to such treatment. Our Nation has been and will continue to be a strong supporter of Geneva and its principles. As a matter of policy, the United States Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.

4. The United States will hold states, organizations, and individuals who gain control of United States personnel responsible for treating such personnel humanely and consistent with applicable law.

5. I hereby reaffirm the order previously issued by the Secretary of Defense to the United States Armed Forces requiring that the detainees be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.

6. I hereby direct the Secretary of State to communicate my determinations in an appropriate manner to our allies, and other countries and international organizations cooperating in the war against terrorism of global reach.

Interrogation Policies in Guantanamo, Afghanistan and Iraq

	Number of Authorized Techniques	Policy	Date	Notes
GTMO	17	FM 34-52 (1992)	Jan 02 - 01 Dec 02	
	33	Secretary of Defense Approved Tiered System	02 Dec 02 - 15 Jan 03	1
	20	FM 34-52 (1992) with 3 Cat I Techniques	16 Jan 03 - 15 Apr 03	
	24	Secretary of Defense Memo	16 Apr 03 - Present	1,2

	Number of Authorized Techniques	Policy	Date	Notes
Afghanistan[5]	17	FM 34-52 (1992)	27 Oct 01 - 24 Jan 03	
	33	CJTF 180 Response to Director, Joint Staff	24-Jan-03	1, 3, 6
	32	CJTF 180 Detainee SOP	27-Mar-04	1
	19	CJTF-A Rev 2 Guidance	Jun-04	4

	Number of Authorized Techniques	Policy	Date	Notes
Iraq[5]	17	FM 34-52 (1992)		
	29	CJTF-7 Signed Policy	14-Sep-03	1
	19	CJTF-7 Signed Policy	12-Oct-03	4
	19	CJTF-7 Signed Policy	13-May-04	4

1 Some techniques specifically delineated in this memo are inherent to techniques contained in FM 34-52, e.g. Yelling as a component of Fear Up
2 Five Approved Techniques require SOUTHCOM approval and SECDEF notification.
3 Figure includes techniques that were not in current use but requested for future use.
4 Figure includes one technique which requires CG approval.
5 Memorandum cited for Afghanistan and Iraq are classified.
6 Figure includes the 17 techniques of FM-34-52, alhtough they are not specified in the Memo.

Appendix D

Source: Naval IG Investigation

DOJ_NMG_0010762

Evolution of Interrogation Techniques - GTMO

Interrogation Techniques	FM 34-52 (1992) Jan 02 - 01 Dec 02	Secretary of Defense Approved Tiered System 02 Dec 02 - 15 Jan 03	FM 34-52 (1992) with some Cat I 16 Jan 03 - 15 Apr 03	Secretary of Defense Memo 16 Apr 03 - Present
Direct questioning	X	X	X	X
Incentive/removal of incentive	X	X	X	X
Emotional love	X	X	X	X
Emotional hate	X	X	X	X
Fear up harsh	X	X	X	X
Fear up mild	X	X	X	X
Reduced fear	X	X	X	X
Pride and ego up	X	X	X	X
Pride and ego down	X	X	X	X
Futility	X	X	X	X
We know all	X	X	X	X
Establish your identity	X	X	X	X
Repetition approach	X	X	X	X
File and dossier	X	X	X	X
Mutt and Jeff				X*
Rapid Fire	X	X	X	X
Silence	X	X	X	X
Change of Scene	X	X	X	X
Yelling		X (Cat I)	X	
Deception		X (Cat I)		
Multiple interrogators		X (Cat I)	X	
Interrogator identity		X (Cat I)	X	
Stress positions, like standing		X (Cat II)		
False documents/reports		X (Cat II)		
Isolation for up to 30 days		X (Cat II)		X*
Deprivation of light/auditory stimuli		X (Cat II)		
Hooding (transportation & questioning		X (Cat II)		
20-interrogations		X (Cat II)		
Removal of ALL comfort items, including religious items		X (Cat II)		
MRE-only diet		X (Cat II)		X*
Removal of clothing		X (Cat II)		
Forced grooming		X (Cat II)		
Exploiting individual phobias, e.g. dogs		X (Cat II)		
Mild, non-injurious physical contact, e.g. grabbing, poking or light pushing		X (Cat III)		
Environmental manipulation				X
Sleep adjustment				X
False flag				X

*Techniques require SOUTHCOM approval and SECDEF notification.

Source: Naval IG Investigation
Appendix E

DOJ_NMG_0010763

Major Detention Events

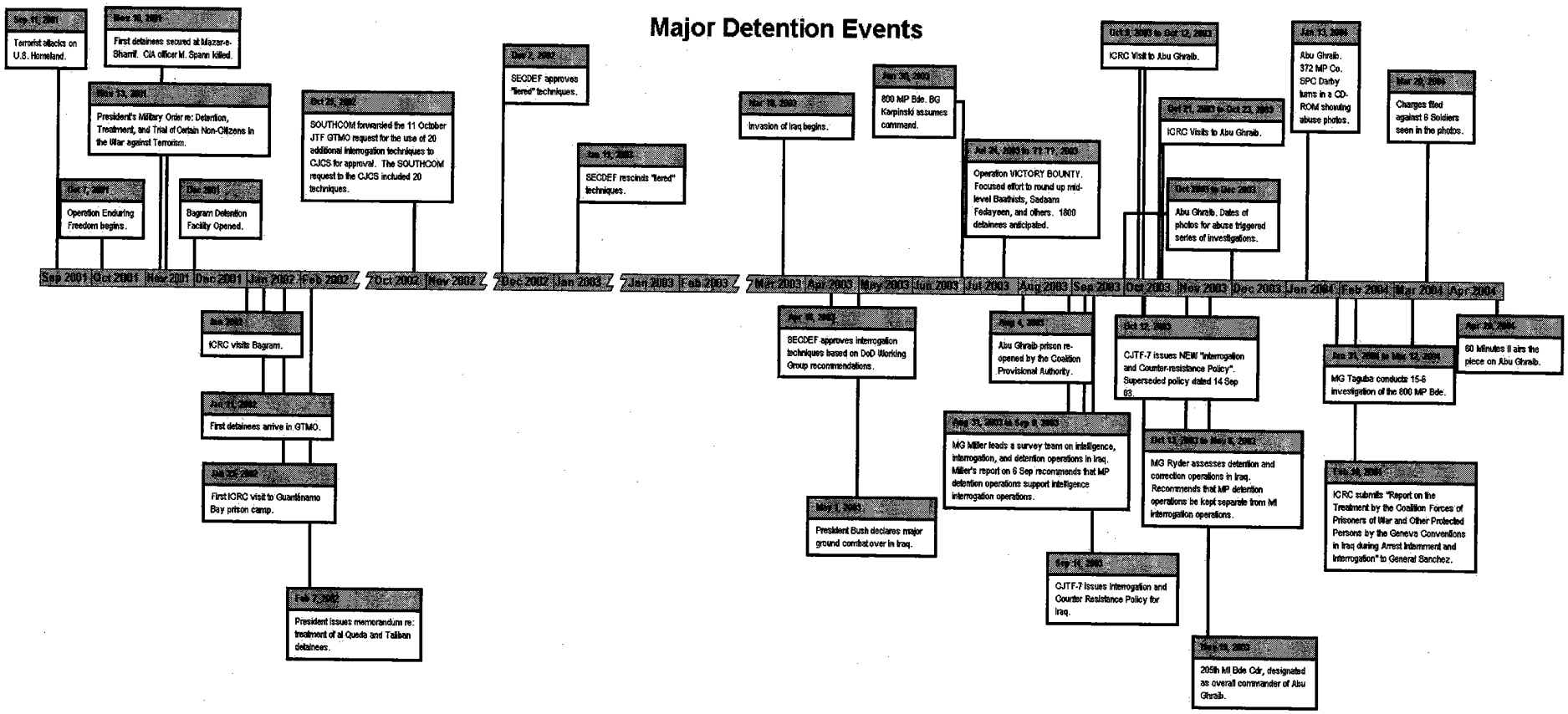

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PSYCHOLOGICAL STRESSES

The potential for abusive treatment of detainees during the Global War on Terrorism was entirely predictable based on a fundamental understanding of the principle of social psychology principles coupled with an awareness of numerous known environmental risk factors. Most leaders were unacquainted with these known risk factors, and therefore failed to take steps to mitigate the likelihood that abuses of some type would occur during detainee operations. While certain conditions heightened the possibility of abusive treatment, such conditions neither excuse nor absolve the individuals who engaged in deliberate immoral or illegal behaviors.

The abuse the detainees endured at various places and times raises a number of questions about the likely psychological aspects of inflicting such abuses. Findings from the field of social psychology suggest that the conditions of war and the dynamics of detainee operations carry inherent risks for human mistreatment, and therefore must be approached with great caution and careful planning and training.

The Stanford Prison Experiment

In 1973, Haney, Banks and Zimbardo (1) published their landmark Stanford study, "Interpersonal Dynamics in a Simulated Prison." Their study provides a cautionary tale for all military detention operations. The Stanford Experiment used a set of tested, psychologically sound college students in a benign environment. In contrast, in military detention operations, soldiers work under stressful combat conditions that are far from benign.

The Stanford Prison Experiment (SPE) attempted to "create a prison-like situation" and then observe the behavior of those involved. The researchers randomly assigned 24 young men to either the "prisoner" or "guard" group. Psychological testing was used to eliminate participants with overt psychopathology, and extensive efforts were made to

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simulate actual prison conditions. The experiment, scheduled to last two weeks, was cancelled after only six days due to the ethical concerns raised by the behaviors of the participants. The study notes that while guards and prisoners were free to engage in any form of interpersonal interactions, the "characteristic nature of their encounters tended to be negative, hostile, affrontive and dehumanizing."

The researchers found that both prisoners and guards exhibited "pathological reactions" during the course of the experiment. Guards fell into three categories: (1) those who were "tough but fair," (2) those who were passive and reluctant to use coercive control and, of special interests, (3) those who "went far beyond their roles to engage in creative cruelty and harassment." With each passing day, guards "were observed to generally escalate their harassment of the prisoners." The researchers reported: "We witnessed a sample of normal, healthy American college students fractionate into a group of prison guards who seemed to derive pleasure from insulting, threatening, humiliating, and dehumanizing their peers."

Because of the random assignment of subjects, the study concluded the observed behaviors were the result of situational rather than personality factors:

> The negative, anti-social reactions observed were not the product of an environment created by combining a collection of deviant personalities, but rather, the result of an intrinsically pathological situation which could distort and rechannel the behaviour of essentially normal individuals. The abnormality here resided in the psychological nature of the situation and not in those who passed through it.

The authors discussed how prisoner-guard interactions shaped the evolution of power use by the guards:

> The use of power was self-aggrandizing and self-perpetuating. The guard power, derived initially from an arbitrary label, was intensified whenever there was any perceived threat by the prisoners and this new level subsequently became the baseline from which further hostility and harassment would begin. The most hostile guards on each shift moved spontaneously into the leadership roles of

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> giving orders and deciding on punishments. They became role models whose behaviour was emulated by other members of the shift. Despite minimal contact between the three separate guard shifts and nearly 16 hours a day spent away from the prison, the absolute level of aggression as well as the more subtle and "creative" forms of aggression manifested, increased in a spiraling function. Not to be tough and arrogant was to be seen as a sign of weakness by the guards and even those "good" guards who did not get as drawn into the power syndrome as the others respected the implicit norm of never contradicting or even interfering with an action of a more hostile guard on their shift.

In an article published 25 years after the Stanford Prison Experiment, Haney and Zimbardo noted their initial study "underscored the degree to which institutional settings can develop a life of their own, independent of the wishes, intentions, and purposes of those who run them." They highlighted the need for those outside the culture to offer external perspectives on process and procedures. (2)

Social Psychology: Causes of Aggression and Inhumane Treatment

The field of social psychology examines the nature of human interactions. Researchers in the field have long been searching to understand why humans sometimes mistreat fellow humans. The discussions below examine the factors behind human aggression and inhumane treatment, striving to impart a better understanding of why detainee abuses occur.

Human Aggression

Research has identified a number of factors that can assist in predicting human aggression. These factors include:

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- **Personality traits**. Certain traits among the totality of an individual's behavioral and emotional make-up predispose to be more aggressive than other individuals.
- **Beliefs**. Research reveals those who believe they can carry out aggressive acts, and that such acts will result in a desired outcome, are more likely to be aggressive than those who do not hold these beliefs.
- **Attitudes**. Those who hold more positive attitudes towards violence are more likely to commit violent acts.
- **Values.** The values individuals hold vary regarding the appropriateness of using violence to resolve interpersonal conduct.
- **Situational Factors**. Aggressive cues (the presence of weapons), provocation (threats, insults, aggressive behaviors), frustration, pain and discomfort (hot temperatures, loud noises, unpleasant odors), and incentives can all call forth aggressive behaviors.
- **Emotional factors**. Anger, fear, and emotional arousal can heighten the tendency to act out aggressively.

The personality traits, belief systems, attitudes, and values of those who perpetrated detainee abuses can only be speculated upon. However, it is reasonable to assume, in any given population, these characteristics will be distributed along a bell curve, which will predispose some more than others within a group to manifest aggressive behaviors. These existing traits can be affected by environmental conditions, which are discussed later.

Abusive Treatment

Psychologists have attempted to understand how and why individuals and groups who usually act humanely can sometimes act otherwise in certain circumstances. A number of psychological concepts explain why abusive behavior occurs. These concepts include:

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Deindividuation. Deindividuation is a process whereby the anonymity, suggestibility, and contagion provided in a crowd allows individuals to participate in behavior marked by the temporary suspension of customary rules and inhibitions. Individuals within a group may experience reduced self-awareness which can also result in disinhibited behavior.

Groupthink. Individuals often make very uncharacteristics decisions when part of a group. Symptoms of groupthink include: (1) Illusion of invulnerability—group members believe the group is special and morally superior; therefore its decisions are sound; (2) Illusion of unanimity in which members assume all are in concurrence, and (3) Pressure is brought to bear on those who might dissent.

Dehumanization. Dehumanization is the process whereby individuals or groups are viewed as somehow less than fully human. Existing cultural and moral standards are often not applied to those who have been dehumanized.

Enemy Image. Enemy image describes the phenomenon wherein both sides participating in a conflict tend to view themselves as good and peace-loving peoples, while the enemy is seen as evil and aggressive.

Moral Exclusion. Moral exclusion is a process whereby one group views another as fundamentally different, and therefore prevailing moral rules and practices apply to one group but not the other.

Abuse and Inhumane Treatment in War

Socialization to Evil and Doubling. Dr. Robert Jay Lifton has extensively examined the nature of inhumane treatment during war. Dr. Lifton suggested that ordinary people can experience "socialization to evil," especially in a war environment. Such people often experience a "doubling." They are socialized to evil in one environment and act accordingly within that environment, but they think and behave otherwise when removed from that environment. For example, doctors committed unspeakable acts while working in Auschwitz, but would go home on weekends and behave as "normal" husbands and fathers.

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Moral Disengagement. Moral disengagement occurs when normal self-regulatory mechanisms are altered in a way that allows for abusive treatment and similar immoral behaviors. Certain conditions, identified by Bandura and his colleagues (3), can lead to moral disengagement, such as:

- **Moral Justification.** Misconduct can be justified if it is believed to serve a social good.
- **Euphemistic Language.** Language affects attitudes and beliefs, and the use of euphemistic language such as "softening up" (and even "humane treatment") can lead to moral disengagement.
- **Advantageous Comparison.** "Injurious conduct can be rendered benign" when compared to more violent behaviors. This factor is likely to occur during war. Essentially, abusive behaviors may appear less significant and somehow justifiable when compared to death and destruction.
- **Displacement of Responsibility.** "People view their actions as springing from the social pressures or dictates of others rather than as something for which they are socially responsible." This is consistent with statements from those under investigation for abuses.
- **Diffusion of Responsibility.** Group decisions and behaviors can obscure responsibility: "When everyone is responsible, no one really feels responsible."
- **Disregarding or Distorting the Consequences of Actions.** Harmful acts can be minimized or ignored when the harm is inflicted for personal gain or because of social inducements.
- **Attribution of Blame.** "Victims get blamed for bringing suffering on themselves."

Detainee and interrogation operations consist of a special subset of human interactions, characterized by one group which has significant power and control over another group which must be managed, often against the will of its members. Without proper oversight

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and monitoring, such interactions carry a higher risk of moral disengagement on the part of those in power and, in turn, are likely to lead to abusive behaviors.

Environmental Factors

The risk of abusive behaviors is best understood by examining both psychological and environmental risk factors. A cursory examination of situational variables present at Abu Ghraib indicates the risk for abusive treatment was considerable. Many of the problematic conditions at Abu Ghraib are discussed elsewhere in this report, to include such factors as poor training, under nearly daily attack, insufficient staffing, inadequate oversight, confused lines of authority, evolving and unclear policy, and a generally poor quality of life. The stresses of these conditions were certainly exacerbated by delayed troop rotations and by basic issues of safety and security. Personnel needed to contend with both internal threats from volatile and potentially dangerous prisoners and external threats from frequent mortar fire and attacks on the prison facilities.

The widespread practice of stripping detainees, another environmental factor, deserves special mention. The removal of clothing interrogation technique evolved into something much broader, resulting in the practice of groups of detainees being kept naked for extended periods at Abu Ghraib. Interviews with personnel at Abu Ghraib indicated that naked detainees were a common sight within the prison, and this was understood to be a general part of interrogation operations.

While the removal of clothing may have been intended to make detainees feel more vulnerable and therefore more compliant with interrogations, this practice is likely to have had a psychological impact on guards and interrogators as well. The wearing of clothes is an inherently social practice, and therefore the stripping away of clothing may have had the unintended consequence of dehumanizing detainees in the eyes of those who interacted with them. As discussed earlier, the process of dehumanization lowers the moral and cultural barriers that usually preclude the abusive treatment of others.

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(1) Haney, C., Banks, C., and Zimbardo, P., Interpersonal Dynamics in a Simulated Prison, *International Journal of Criminology and Penology,* 1973, 1, 69-97.

(2) Haney, C. and Zimbardo, P., The Past and Future of U.S. Prison Policy, Twenty-Five Years after the Stanford Prison Experiment, *American Psychologist,* July 1998, 709-27.

(3) Bandura, A., Barbaranelli, C., Caprara, G., and Pastorelli, C., Mechanisms of Moral Disengagement in the Exercise of Moral Agency, *Journal of Personality and Social Psychology,* Vol. 71(2), August 1996, 364-74.

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ETHICAL ISSUES

Introduction

For the United States and other nations with similar value systems, detention and interrogation are themselves ethically challenging activities. Effective interrogators must deceive, seduce, incite, and coerce in ways not normally acceptable for members of the general public. As a result, the U. S. places restrictions on who may be detained and the methods interrogators may employ. Exigencies in the Global War on Terror have stressed the normal American boundaries associated with detention and interrogation. In the ensuing moral uncertainty, arguments of military necessity make the ethical foundation of our soldiers especially important.

Ethical Foundations of Detention and Interrogation

Within our values system, consent is a central moral criterion on evaluating our behavior toward others. Consent is the manifestation of the freedom and dignity of the person and, as such, plays a critical role in moral reasoning. Consent *restrains*, as well as *enables,* humans in their treatment of others. Criminals, by not respecting the rights of others, may be said to have consented – in principle – to arrest and possible imprisonment. In this construct – and due to the threat they represent – insurgents and terrorists "consent" to the possibility of being captured, detained, interrogated, or possibly killed.

Permissions and Limits on Detentions

This guideline of implied consent for the U.S. first limits who may be detained. Individuals suspected of insurgent or terrorist activity may be detained to prevent them from conducting further attacks and to gather intelligence to prevent other insurgents and terrorists from conducting attacks. This suggests two categories of persons who may be

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detained and interrogated: (1) persons who have engaged in or assisted those who engage in terrorist or insurgent activities; and (2) persons who have come by information regarding insurgent and terrorist activity.

By engaging in such activities, persons in the first category may be detained as criminals or enemy combatants, depending on the context. Persons in the second category may be detained and questioned for specific information, but if they do not represent a continuing threat, they may be detained only long enough to obtain the information.

Permissions and Limits on Interrogation Techniques

For the U.S., most cases for permitting harsh treatment of detainees on moral grounds begin with variants of the "ticking time bomb" scenario. The ingredients of such scenarios usually include an impending loss of life, a suspect who knows how to prevent it—and in most versions is responsible for it—and a third party who has no humane alternative to obtain the information in order to save lives. Such cases raise a perplexing moral problem: Is it permissible to employ inhumane treatment when it is believed to be the only way to prevent loss of lives? In periods of emergency, and especially in combat, there will always be a temptation to override legal and moral norms for morally good ends. Many in Operations Enduring Freedom and Iraqi Freedom were not well prepared by their experience, education, and training to resolve such ethical problems.

A morally consistent approach to the problem would be to recognize there are occasions when violating norms is understandable but not necessarily correct —that is, we can recognize that a good person might, in good faith, violate standards. In principle, someone who, facing such a dilemma, committed abuse should be required to offer his actions up for review and judgment by a competent authority. An excellent example is the case of a 4th Infantry Division battalion commander who permitted his men to beat a detainee whom he had good reason to believe had information about future attacks against his unit. When the beating failed to produce the desired results, the commander

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fired his weapon near the detainee's head. The technique was successful and the lives of U.S. servicemen were likely saved. However, his actions clearly violated the Geneva Conventions and he reported his actions knowing he would be prosecuted by the Army. He was punished in moderation and allowed to retire.

In such circumstances interrogators must apply a "minimum harm" rule by not inflicting more pressure than is necessary to get the desired information. Further, any treatment that causes permanent harm would not be permitted, as this surely constitutes torture. Moreover, any pain inflicted to teach a lesson or after the interrogator has determined he cannot extract information is morally wrong.

National security is an obligation of the state, and therefore the work of interrogators carries a moral justification. But the methods employed should reflect this nation's commitment to our own values. Of course the tension between military necessity and our values will remain. Because of this, military professionals must accept the reality that during crises they may find themselves in circumstances where lives will be at stake and the morally appropriate methods to preserve those lives may not be obvious. This should not preclude action, but these professionals must be prepared to accept the consequences.

Ethics Education

The instances of detainee abuse in Iraq and Afghanistan do indicate a review of military ethics education programs is needed. This is not to suggest that more adequate ethics education will necessarily prevent abuses. Major service programs such as the Army's "core values," however, fail to adequately prepare soldiers working in detention operations.

While there are numerous ethics education programs throughout the services, almost all refer to certain "core values" as their foundation. Core-values programs are grounded in

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organizational efficacy rather than the moral good. They do not address humane treatment of the enemy and noncombatants, leaving military leaders and educators an incomplete tool box with which to deal with "real-world" ethical problems. A professional ethics program addressing these situations would help equip them with a sharper moral compass for guidance in situations often riven with conflicting moral obligations.

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Subject: Readings for Session Tomorrow Part 3 of 3
Attachments: HRW Report-Detainee Abuses.pdf

Please find below the last reading for tomorrow's session on Torture Policy. My apologies once again for any duplicate messages. I just wanted to make sure you all received them.

Sincerely,

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(See attached file: HRW Report-Detainee Abuses.pdf)

Human Rights Watch September 2005 Volume 17, No. 3(G)

Leadership Failure

Firsthand Accounts of Torture of Iraqi Detainees by the U.S. Army's 82nd Airborne Division

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On their day off people would show up all the time. Everyone in camp knew if you wanted to work out your frustration you show up at the PUC tent.[1] *In a way it was sport. The cooks were all U.S. soldiers. One day [a sergeant] shows up and tells a PUC to grab a pole. He told him to bend over and broke the guy's leg with a mini Louisville Slugger, a metal bat. He was the fucking cook. He shouldn't be in with no PUCs.*

— 82nd Airborne sergeant, describing events at FOB Mercury, Iraq

If I as an officer think we're not even following the Geneva Conventions, there's something wrong. If officers witness all these things happening, and don't take action, there's something wrong. If another West Pointer tells me he thinks, "Well, hitting somebody might be okay," there's something wrong.

— 82nd Airborne officer, describing confusion in Iraq concerning allowable interrogation techniques

I. Summary

Residents of Fallujah called them "the Murderous Maniacs" because of how they treated Iraqis in detention. They were soldiers of the U.S. Army's 82nd Airborne Division, 1st Battalion, 504th Parachute Infantry Regiment, stationed at Forward Operating Base Mercury (FOB Mercury) in Iraq. The soldiers considered this name a badge of honor.[2]

One officer and two non-commissioned officers (NCOs) of the 82nd Airborne who witnessed abuse, speaking on condition of anonymity, described in multiple interviews with Human Rights Watch how their battalion in 2003-2004 routinely used physical and mental torture as a means of intelligence gathering and for stress relief. One soldier raised his concerns within the army chain of command for 17 months before the Army agreed to undertake an investigation, but only after he had contacted members of Congress and considered going public with the story.

According to their accounts, the torture and other mistreatment of Iraqis in detention was systematic and was known at varying levels of command. Military Intelligence

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[1] "Person Under Control" or PUC (pronounced "puck") is the term used by U.S. military forces to refer to Iraqi detainees.

[2] FOB Mercury is located approximately 10 miles east of Fallujah, a center of the insurgency at the time. U.S. forces came under intense attacks in and around Fallujah, placing them under constant pressure and at high risk in daily combat. As soon as the 82nd pulled out of FOB Mercury in April 2004, the U.S. Marines that replaced the 82nd undertook a major offensive against insurgents in Fallujah.

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personnel, they said, directed and encouraged army personnel to subject prisoners to forced, repetitive exercise, sometimes to the point of unconsciousness, sleep deprivation for days on end, and exposure to extremes of heat and cold as part of the interrogation process. At least one interrogator beat detainees in front of other soldiers. Soldiers also incorporated daily beatings of detainees in preparation for interrogations. Civilians believed to be from the Central Intelligence Agency (CIA) conducted interrogations out of sight, but not earshot, of soldiers, who heard what they believed were abusive interrogations.

All three soldiers expressed confusion on the proper application of the Geneva Conventions on the laws of armed conflict in the treatment of prisoners. All had served in Afghanistan prior to Iraq and said that contradictory statements by U.S. officials regarding the applicability of the Geneva Conventions in Afghanistan and Iraq (see Conclusion) contributed to their confusion, and ultimately to how they treated prisoners. Although none were still in Iraq when we interviewed them, the NCOs said they believed the practices continue.

The soldiers came forward because of what they described as deep frustration with the military chain of command's failure to view the abuses as symptomatic of broader failures of leadership and respond accordingly. All three are active duty soldiers who wish to continue their military careers. A fax letter, e-mail, and repeated phone calls to the 82nd Airborne Division regarding the major allegations in the report received no response.

When the Abu Ghraib scandal broke in April 2004, senior officials in the Bush administration claimed that severe prisoner abuse was committed only by a few, rogue, poorly trained reserve personnel at a single facility in Iraq. But since then, hundreds of other cases of abuse from Iraq and Afghanistan have come to light, described in U.S. government documents, reports of the International Committee of the Red Cross, media reports, legal documents filed by detainees, and from detainee accounts provided to human rights organizations, including Human Rights Watch. [3] And while the military has

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[3] See Human Rights Watch, "Getting Away with Torture?: Command Responsibility for the U.S. Abuse of Detainees," *A Human Rights Watch Report,* April 2005, Section II (A World of Abuse), available at: hrw.org/reports/2005/us0405/4.htm#_Toc101408092. See also, International Committee of the Red Cross, "Report on the Treatment by the Coalition Forces of Prisoners of War and Other Protected Persons, February 2004, available at: http://www.health-now.org/mediafiles/mediafile50.pdf (describing detainee abuse in locations across Iraq, including sites in Baghdad, Al-Khaim, Tikrit, Ramadi, and at Abu Ghraib, at p 7); Douglas Jehl and Eric Schmitt, "The Conflict in Iraq: Detainees; U.S. Military Says 26 Inmate Deaths May Be Homicide," *The New York Times*, March 16, 2005 (describing cases of detainee homicide occurring in areas across Afghanistan and Iraq). On Afghanistan-related abuses, see Human Rights Watch, "Enduring Freedom: Abuses by U.S. Forces in Afghanistan," *A Human Rights Watch Report*, March 2004, available at

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launched investigations and prosecutions of lower-ranking personnel for detainee abuse, in most cases the military has used closed administrative hearings to hand down light administrative punishments like pay reductions and reprimands, instead of criminal prosecutions before courts-martial. The military has made no effort to conduct a broader criminal investigation focusing on how military command might have been involved in reported abuse, and the administration continues to insist that reported abuse had nothing to do with the administration's decisions on the applicability of the Geneva Conventions or with any approved interrogation techniques.

These soldiers' firsthand accounts provide further evidence contradicting claims that abuse of detainees by U.S. forces was isolated or spontaneous. The accounts here suggest that the mistreatment of prisoners by the U.S. military is even more widespread than has been acknowledged to date, including among troops belonging to some of the best trained, most decorated, and highly respected units in the U.S. Army. They describe in vivid terms abusive interrogation techniques ordered by Military Intelligence personnel and known to superior officers.

Most important, they demonstrate that U.S. troops on the battlefield were given no clear guidance on how to treat detainees. When the administration sent these soldiers to war in Afghanistan, it threw out the rules they were trained to uphold (embodied in the Geneva Conventions and the U.S. Army Field Manual on Intelligence Interrogation). Instead, President Bush said only that detainees be treated "humanely," not as a requirement of the law but as policy. And no steps were taken to define what humane was supposed to mean in practice.[4] Once in Iraq, their commanders demanded that they extract intelligence from detainees without telling them what was allowed and what was

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hrw.org/reports/2004/afghanistan0304/; Human Rights Watch to Secretary of Defense Donald Rumsfeld, open letter, December 13, 2004, available at: www.hrw.org/english/docs/2004/12/10/afghan9838.htm. On Iraq-related abuses, see Major General Antonio M. Taguba, "Article 15-6 Investigation of the 800th Military Police Brigade," March 2004 (describing "numerous incidents of sadistic, blatant, and wanton criminal abuses" at Abu Ghraib prison, constituting "systematic and illegal abuse of detainees," at p. 16); Major George R. Fay, "Article 15-6 Investigation of the Abu Ghraib Detention Facility and 205th Military Intelligence Brigade," (Documenting 44 allegations of war crimes at Abu Ghraib). On Guantánamo-related abuses, see also Human Rights Watch, "Guantánamo: Detainee Accounts," *A Human Rights Watch Backgrounder*, October 2004, http://www.hrw.org/backgrounder/usa/gitmo1004/. See also, Paisley Dodds, "Guantánamo Tapes Show Teams Punching, Stripping Prisoners," *Associated Press*, February 1, 2005; Neil A. Lewis, "Red Cross Finds Detainee Abuse in Guantánamo," *The New York Times*, November 30, 2004.

[4] See Timothy Flanigan, written responses to questions submitted by U.S. Senator Richard Durbin, following Flanigan's confirmation hearing to be Deputy Attorney General of the United States on July 26, 2005. Flanigan, who was Deputy White House Counsel when President Bush issued his order requiring "humane treatment" of detainees, stated: "I do not believe the term 'inhumane' treatment is susceptible to succinct definition." In a further exchange with Senator Durbin, Flanigan stated that: "I am not aware of any guidance provided by the White House specifically related to the meaning of 'inhumane treatment.'"

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forbidden. Yet when abuses inevitably followed, the administration blamed only low-ranking soldiers instead of taking responsibility.

These soldiers' accounts show how the administration's refusal to insist on adherence to a lawful, long-recognized, and well-defined standard of treatment contributed to the torture of prisoners. It also shows how that policy betrayed the soldiers in the field—sowing confusion in the ranks, exposing them to legal sanction when abuses occurred, and placing in an impossible position all those who wished to behave honorably.

* * *

The officer and NCOs interviewed by Human Rights Watch say that torture of detainees took place almost daily at FOB Mercury during their entire deployment there, from September 2003 to April 2004. While two of the soldiers also reported abuses at FOB Tiger, near the Syrian border, the most egregious incidents allegedly took place at FOB Mercury. The acts of torture and other cruel or inhuman treatment they described include severe beatings (in one incident, a soldier reportedly broke a detainee's leg with a baseball bat), blows and kicks to the face, chest, abdomen, and extremities, and repeated kicks to various parts of the detainees' body; the application of chemical substances to exposed skin and eyes; forced stress positions, such as holding heavy water jugs with arms outstretched, sometimes to the point of unconsciousness; sleep deprivation; subjecting detainees to extremes of hot and cold; the stacking of detainees into human pyramids; and, the withholding of food (beyond crackers) and water.

According to Army Field Manual 19-4 covering enemy prisoner of war operations, Military Police have responsibility for safeguarding, accounting for, and maintaining captives. The soldiers interviewed by Human Rights Watch said that established procedure was violated by having frontline soldiers guard and prepare detainees for interrogation, instead of speeding detainees to a rear area where they would be looked after by trained Military Police.

Detainees in Iraq were consistently referred to as PUCs. This term was devised in Afghanistan to take the place of the traditional designation of Prisoner of War (POW), after President Bush decided that the Geneva Conventions did not apply there. It carried over to Iraq, even though the U.S. military command and the Bush administration have continually stated that the Geneva Conventions are in effect. Although not all persons captured on a battlefield are entitled to Prisoner of War (POW) status, U.S. military doctrine interprets the Geneva Conventions as requiring that all

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captured persons be treated as POWs unless and until a "competent tribunal" determines otherwise.[5]

Detainees at FOB Mercury were held in so-called "PUC tents, which were separated from the rest of the base by concertina wire. Detainees typically spent three days at the base before being released or sent to Abu Ghraib. Officers in the Military Intelligence unit and officers in charge of the guards directed the treatment of detainees. Soldiers told us that detainees who did not cooperate with interrogators were sometimes denied water and given only crackers to eat, and were often beaten. There was little done to hide the mistreatment of detainees: one of the soldiers we interviewed observed torture when he brought newly captured Iraqis to the PUC tents.

The torture of detainees reportedly was so widespread and accepted that it became a means of stress relief for soldiers. Soldiers said they felt welcome to come to the PUC tent on their off-hours to "Fuck a PUC" or "Smoke a PUC." "Fucking a PUC" referred to beating a detainee, while "Smoking a PUC" referred to forced physical exertion sometimes to the point of unconsciousness. The soldiers said that when a detainee had a visible injury such as a broken limb due to "fucking" or "smoking," an army physician's assistant would be called to administer an analgesic and fill out the proper paperwork. They said those responsible would state that the detainee was injured during the process of capture and the physician's assistant would sign off on this. Broken bones occurred "every other week" at FOB Mercury.

"Smoking" was not limited to stress relief but was central to the interrogation system employed by the 82nd Airborne Division at FOB Mercury. Officers and NCOs from the Military Intelligence unit would direct guards to "smoke" the detainees prior to an interrogation, and would direct that certain detainees were not to receive sleep, water, or food beyond crackers. Directed "smoking" would last for the 12-24 hours prior to an interrogation. As one soldier put it: "[the military intelligence officer] said he wanted the PUCs so fatigued, so smoked, so demoralized that they want to cooperate."

The soldiers believed that about half of the detainees at Camp Mercury were released because they were not involved in the insurgency, but they left with the physical and mental scars of torture. "If he's a good guy, you know, now he's a bad guy because of the way we treated him," one sergeant told Human Rights Watch.

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[5] Maj. J. Berger, Maj Derek Grims, Maj Eric Jensen (Eds.) *Operational Law Handbook*, International and Operational Law Department, Judge Advocate General's Legal Center and School, Charlottesville Virginia, 2004, p. 26.

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The soldiers with whom Human Rights Watch spoke had served as guards in Afghanistan and had observed interrogations at FOB Tiger in Iraq, and said that civilian interrogators at those locations had also used coercive methods against prisoners. These interrogators were always referred to by the U.S. military abbreviation OGA, which stands for "Other Government Agencies." It was assumed that such persons were with the CIA, but because OGA also includes other civilian agencies, the soldiers with whom Human Rights Watch spoke said they could not be sure.

Soldiers generally had less direct access to OGA interrogations, in part because OGA personnel often took detainees to an isolated building and were generally more careful about being seen. But the soldiers who had watched OGA interrogations in Afghanistan said that soldiers applied in Iraq some of the techniques they learned from the OGA, including forced stress positions, sleep deprivation, and exposure. At FOB Tiger, the officer said, he heard the sounds of physical violence coming from rooms where OGA interrogations were being held, but without being present in the room could not know whether the sounds were real or simulated. The soldiers said that civilian interrogators sometimes removed prisoners from detention facilities and took the paperwork that indicated a detainee was being held, apparently "disappearing" that detainee.[6]

The officer who spoke to Human Rights Watch made persistent efforts to raise concerns he had with superior officers up the chain of command and to obtain clearer rules on the proper treatment of prisoners. When he raised the issue with superiors, he was consistently told to keep his mouth shut, turn a blind eye, or consider his career. When he sought clearer procedures from general officers, he was told merely to use his judgment.

Altogether this officer said he spent 17 months trying to clarify rules for prisoner treatment while seeking a meaningful investigation. He explained at length how he openly had brought his complaint directly up the chain-of-command, from his direct commanding officer, to the division commander, to the Judge Advocate General's (JAG) office, and finally to members of the U.S. Congress. In many cases, he was encouraged to keep his concerns quiet; his brigade commander, for example, rebuffed him when he asked for an investigation into these allegations of abuse. He believes he was not taken

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[6] According to the U.N. Declaration on the Protection of All Persons from Enforced Disappearance (1992), enforced disappearances occur when:

> persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, … followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law.

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seriously until he began to approach members of Congress, and, indeed, just days before the publication of this report he was told that he would not be granted a pass to meet on his day off with staff members of U.S. Senators John McCain and John Warner. He said he was told that he was being naïve and that he was risking his career.

Human Rights Watch welcomes reports that the Army has agreed to investigate the abuses discussed in this report. We are concerned however those investigations will only focus on low-level soldiers and officers, instead of looking as far as necessary up the chain of command. We are also concerned that military personnel who come forward to report abuses will find their careers suffer, as their commanding officers implied they would, rather than be commended for doing their duty.

If FOB Mercury is not to become one more in an expanding series of U.S. detention facilities associated with brutality and degrading treatment, further tarnishing the reputation of the U.S. armed forces, the policy failures must be faced head-on and the most senior responsible officials held accountable.

Accordingly, Human Rights Watch urges the following:

- The U.S. Attorney General should appoint a special counsel to investigate any U.S. officials—no matter their rank or position—who have participated in, ordered, or had command responsibility for war crimes or torture, or other prohibited ill-treatment against detainees in U.S. custody.[7]

- The U.S. Congress should create a special commission, along the lines of the 9/11 commission, to investigate the issue of detainee abuse by U.S. military and civilians personnel abroad, including the incidents described here, as proposed in legislation sponsored by Senator Carl Levin.

- Congress should enact legislation along the lines proposed by Senators John McCain, Lindsay Graham, and John Warner, which would prohibit any forms of detainee treatment and interrogation not specifically authorized by the U.S. Army Field Manual on Intelligence Interrogation, and not consistent with the

[7] To allow the special prosecutor to have full authority to investigate and prosecute both federal law and Uniform Code of Military Justice violations, the Secretary of Defense should appoint a consolidated convening authority for all armed services, to cooperate with the appointed civilian special prosecutor.

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Convention Against Torture. Such legislation must cover not only military units but also civilian agencies involved in interrogations, such as the CIA.

- The U.S. Department of Defense should conduct a thorough investigation of the allegations made in this report at all levels of the chain of command. Such an investigation must not be limited to lower-ranking enlisted personnel and officers, but must include higher-ranking officers and civilian officials linked to policies that directed, encouraged or tolerated such abuse. Measures should be taken to ensure that soldiers who bring forward credible allegations of detainee abuse are not in any way punished for their actions.

- The 82nd Airborne Division should implement measures to ensure the immediate investigation of credible allegations of detainee abuse.

Note on Presentation of the Soldiers' Accounts

All three accounts below consist of direct quotes from the soldiers. Each of the soldiers was interviewed more than once. For the sake of clarity and to avoid repetition, Human Rights Watch has edited and rearranged specific passages in the accounts.

II. Account of Sergeant A, 82nd Airborne Division

Sergeant A served in Afghanistan from September 2002 to March 2003 and in Iraq from August 2003 to April 2004. Human Rights Watch spoke with him on four separate occasions in July and August 2005.

> In retrospect what we did was wrong, but at the time we did what we had to do. Everything we did was accepted, everyone turned their heads.
>
> We got to the camp in August [2003] and set up. We started to go out on missions right away. We didn't start taking PUCs until September. Shit started to go bad right away. On my very first guard shift for my first interrogation that I observed was the first time I saw a PUC pushed to the brink of a stroke or heart attack. At first I was surprised, like, this is what we are allowed to do? This is what we are allowed to get away with? I think the officers knew about it but didn't want to hear about it. They didn't want to know it even existed. But they had to.

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On a normal day I was on shift in a PUC tent. When we got these guys we had them sandbagged and zip tied, meaning we had a sandbag on their heads and zip ties [plastic cuffs] on their hands. We took their belongings and tossed them in the PUC tent. We were told why they were there. If I was told they were there sitting on IEDs [Improvised Explosive Devices, homemade bombs] we would fuck them up, put them in stress positions or put them in a tent and withhold water.

The "Murderous Maniacs" was what they called us at our camp because they knew if they got caught by us and got detained by us before they went to Abu Ghraib then it would be hell to pay. They would be just, you know, you couldn't even imagine. It was sort of like I told you when they came in it was like a game. You know, how far could you make this guy goes before he passes out or just collapses on you. From stress positions to keeping them up fucking two days straight, whatever. Deprive them of food water, whatever.

To "Fuck a PUC" means to beat him up. We would give them blows to the head, chest, legs, and stomach, pull them down, kick dirt on them. This happened every day.

To "smoke" someone is to put them in stress positions until they get muscle fatigue and pass out. That happened every day. Some days we would just get bored so we would have everyone sit in a corner and then make them get in a pyramid. This was before Abu Ghraib but just like it. We did that for amusement.

Guard shifts were four hours. We would stress them at least in excess of twelve hours. When I go off shift and the next guy comes we are already stressing the PUC and we let the new guy know what he did and to keep fucking him. We put five-gallon water cans and made them hold them out to where they got muscle fatigue then made them do pushups and jumping jacks until they passed out. We would withhold water for whole guard shifts. And the next guy would too. Then you gotta take them to the john if you give them water and that was a pain. And we withheld food, giving them the bare minimum like crackers from MREs [Meals Ready to Eat, the military's prepackaged food]. And sleep deprivation was a really big thing.

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Someone from [Military Intelligence] told us these guys don't get no sleep. They were directed to get intel [intelligence] from them so we had to set the conditions by banging on their cages, crashing them into the cages, kicking them, kicking dirt, yelling. All that shit. We never stripped them down because this is an all-guy base and that is fucked up shit. We poured cold water on them all the time to where they were soaking wet and we would cover them in dirt and sand. We did the jugs of water where they held them out to collapse all the time. The water and other shit… start[ed] [m]aybe late September, early October, 2003. This was all at Camp Mercury, close to the MEK base[8] like 10 minutes from Fallujah. We would transport the PUCs from Mercury to Abu Ghraib.

None of this happened in Afghanistan. We had MPs [military police] attached to us in Afghanistan so we didn't deal with prisoners. We had no MPs in Iraq. We had to secure prisoners. [Military intelligence] wants to interrogate them and they had to provide guards so we would be the guards. I did missions every day and always came back with 10-15 prisoners. We were told by intel that these guys were bad, but they could be wrong, sometimes they were wrong. I would be told, "These guys were IED trigger men last week." So we would fuck them up. Fuck them up bad. If I was told the guy was caught with a 9mm [handgun] in his car we wouldn't fuck them up too bad – just a little. If we were on patrol and catch a guy that killed my captain or my buddy last week – man, it is human nature. So we fucked them up bad. At the same time we should be held to a higher standard. I know that now. It was wrong. There are a set of standards. But you gotta understand, this was the norm. Everyone would just sweep it under the rug.

What you allowed to happen happened. Trends were accepted. Leadership failed to provide clear guidance so we just developed it. They wanted intel. As long as no PUCs came up dead it happened. We heard rumors of PUCs dying so we were careful. We kept it to broken arms and legs and shit. If a leg was broken you call the PA – the physician's assistant – and told him the PUC got hurt when he was taken. He would get Motrin [a pain reliever] and maybe a sling, but no cast or medical treatment.

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[8] Iranian opposition group Mojahedin-e-Khalq, which has a base in Iraq.

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In Afghanistan we were attached to Special Forces[9] and saw OGA. We never interacted with them but they would stress guys. We learned how to do it. We saw it when we would guard an interrogation.

I was an Infantry Fire Team Leader. The majority of the time I was out on mission. When not on mission I was riding the PUCs. We should have had MPs. We should have taken them to Abu Ghraib [which] was only 15 fucking minutes drive. But there was no one to talk to in the chain – it just got killed. We would talk among ourselves, say, "This is bad." But no one listened. We should never have been allowed to watch guys we had fought.

FOB Mercury was about as big as a football field. We had a battalion there with three or four companies and attachments. We lived in the buildings of an old Iraqi military compound that we built up with barriers, ACs [air conditioners], and stuff. We had civilian interpreters on post and contractors came every day to fix shit. The contractors were local Iraqis.

The PUCs lived in the PUC area about 200 meters away. It had a triple-strength circle concertina barrier with tents in the middle with another triple-strength concertina perimeter. Inside each was a Hesco basket that is wire that normally has cloth in it. We filled them with dirt to make barriers and some we emptied and buried to use as access points for the Iraqis. This was all inside the confines of the FOB. There was a guard tower behind the PUC tent with two guards. One was always looking at the PUC tent. We never took direct fire but did take regular rocket and mortar attacks. We did not lose anyone but had shrapnel injuries.

On their day off people would show up all the time. Everyone in camp knew if you wanted to work out your frustration you show up at the PUC tent. In a way it was sport. The cooks were all US soldiers. One day a sergeant shows up and tells a PUC to grab a pole. He told him to bend over and broke the guy's leg with a mini Louisville Slugger that was a metal bat. He was the fucking cook. He shouldn't be in with no

[9] The 82nd Airborne Division provided support to Special Operations Forces during operations in Afghanistan in 2002 and 2003.

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PUCs. The PA came and said to keep him off the leg. Three days later they transported the PUC to Abu Ghraib. The Louisville Slugger [incident] happened around November 2003, certainly before Christmas.

People would just volunteer just to get their frustrations out. We had guys from all over the base just come to guard PUCs so they could fuck them up. Broken bones didn't happen too often, maybe every other week. The PA would overlook it. I am sure they knew.

The interrogator [a sergeant] worked in the [intelligence] office. He was former Special Forces. He would come into the PUC tent and request a guy by number. Everyone was tagged. He would say, "Give me #22." And we would bring him out. He would smoke the guy and fuck him. He would always say to us, "You didn't see anything, right?" And we would always say, "No, Sergeant."

One day a soldier came to the PUC tent to get his aggravation out and filled his hands with dirt and hit a PUC in the face. He fucked him. That was the communications guy.

One night a guy came and broke chem lights[10] open and beat the PUCs with it. That made them glow in the dark which was real funny but it burned their eyes and their skin was irritated real bad.

If a PUC cooperated Intel would tell us that he was allowed to sleep or got extra food. If he felt the PUC was lying he told us he doesn't get any fucking sleep and gets no food except maybe crackers. And he tells us to smoke him. [Intel] would tell the Lieutenant that he had to smoke the prisoners and that is what we were told to do. No sleep, water, and just crackers. That's it. The point of doing all this was to get them ready for interrogation. [The intelligence officer] said he wanted the PUCs so fatigued, so smoked, so demoralized that they want to cooperate. But half of these guys got released because they didn't do nothing. We sent them back to Fallujah. But if he's a good guy, you know, now he's a bad guy because of the way we treated him.

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[10] Chem lights refer to chemical light sticks. While we do not know the exact composition of the ones allegedly used in Iraq, these lights are typically made of a hydrogen peroxide solution mixed with a phenyl oxalate ester and dye for color. Information available at http://science.howstuffworks.com/light-stick2.htm

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After Abu Ghraib things toned down. We still did it but we were careful. It is still going on now the same way, I am sure. Maybe not as blatant but it is how we do things.

Each company goes out on a mission and you kick the door down and catch them red handed. We caught them with RPGs [rocket propelled grenades]. So we are going to give you special attention. We yank them off the truck and they hit the ground hard, maybe 5-6 feet down. We took everything and searched them. Then we toss him in the PUC tent with a sandbag on his head and he is zip tied. And he is like that all day and it is 100 degrees in that tent. Once paperwork was done we started to stress them. The five-gallon water can was full of water. We would have people hold out their arms on each side parallel to the ground. After a minute your arms get tired and shake. Then we would take some water out and douse them to get them cold. And the tent is full of dust and they get dirty and caked with it. Then we make them do pushups and jumping jacks. At the end of a guard shift they look like zombies.

We had these new high-speed trailer showers. One guy was the cleaner. He was an Iraqi contractor working on base. We were taking pretty accurate mortar fire and rockets and we were getting nervous. Well one day we found him with a GPS[11] receiver and he is like calling in strikes on us! What the fuck!? We took him but we are pissed because he stabbed us in the back. So we gave him the treatment. We got on him with the jugs and doused him and smoked and fucked him.

III. Account of Sergeant B, 82nd Airborne Division

Sergeant B served in Afghanistan from September 2002 to March 2003 and in Iraq from August 2003 to April 2004. Human Rights Watch spoke with him on two separate occasions in August 2005.

I was an infantry squad leader doing mounted patrols and conducting raids in Iraq. I would catch the bad guys. You heard a lot of stuff as a

[11] A GPS, or Global Positioning System receiver, provides the user with location data derived from satellites. This data may be used to target weapons, as the soldier alleges.

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squad leader in charge of guys watching PUCs about guys mistreating PUCs.

We got to Mercury on the 6th of September. We came from working in al-Qaim. In late September we started to take on PUCs as part of our mission. Since we were capturing them we would detain them for no more than three days, three days max, to interrogate them for intel. We had a mechanized company attached to us which took us up to about battalion strength, maybe 750 people when you include the HHC [headquarters].

PUCs were placed in a GP [general purpose] medium or small tent, about 20x15, and that is being generous. We had 2-3 tents with no more than 10-15 PUCs per tent with a couple guards to a tent. You added guards if you had more PUCs. We would immediately put these guys in stress positions. PUCs would be holding hands behind their backs and be cuff tied and we would lean their forehead against a wall to support them.

As far as abuse goes I saw hard hitting. I heard a lot of stories, but if it ain't me I wouldn't care. I was busy leading my men. I did hear about [a sergeant] breaking PUC bones. Stories came out on mission. Guys were always talking about what they did to the PUCs. Guys mentioned stuff but I couldn't care less what happened at the PUC tent a week ago. Putting guys with frustration in charge of prisoners was the worst thing to do.

I also saw smoking. They would get the PUCs to physically exert themselves to the limit. Feeding was a huge issue and it was brought up. The PUCs wouldn't eat what we were feeding them as they were against Americans and MREs, so all I saw them eat were crackers. [Sergeant A told Human Rights Watch that PUCs were often only fed crackers. It is unclear why Sergeant B believes the detainees had a choice.]

Rest was also an issue. We were told they could be interrogated 45 minutes on, 15 minutes off for sleep and whatever, but I was not regularly in the PUC tents. I brought the PUCs in for interrogation. That is when I saw whatever I saw. Intel had some bad guys and we all know sleep deprivation is a powerful tool.

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> In Iraq, from the beginning, we messed up on the treatment soldiers had to endure while guarding prisoners. There are five "S's" [Search, Silence, Segregate, Speed (to the rear), Safeguard] and we blew Speed and Security. Speed was the biggest problem. Speed means you get them to the rear to process them. You need to get them away from the troops they are trying to kill.
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> The Geneva Conventions is questionable and we didn't know we were supposed to be following it. In Afghanistan you were taught to keep your head down and shoot…. You never thought about the Geneva Conventions. There was an ROE [Rules of Engagement] and it was followed, same in Iraq. But we were never briefed on the Geneva Conventions. These guys are not soldiers. If we were to follow the Geneva Conventions we couldn't shoot at anyone because they all look like civilians.

IV. Account of Officer C, 82nd Airborne Division

C is an officer with the 82nd Airborne Division and West Point graduate who served in Afghanistan from August 2002 to February 2003 and in Iraq from September 2003 to March 2004. HRW spoke with him more than two dozen times in July, August, and September 2005. Below are excerpts from those interviews grouped by subject matter (the subject headings were supplied by Human Rights Watch).

At FOB Mercury, he was not in charge of interrogations but saw several interrogations in progress and received regular reports from NCOs on ill-treatment of detainees. He felt strongly that abuses there reflected larger policy confusion about what was permitted, and that the officer corps in particular has a duty to come forward and take responsibility.

On Conditions at FOB Mercury

> When we were at FOB Mercury, we had prisoners that were stacked in pyramids, not naked but they were stacked in pyramids. We had prisoners that were forced to do extremely stressful exercises for at least two hours at a time which personally I am in good shape and I would not be able to do that type of exercises for two hours.… There was a case where a prisoner had cold water dumped on him and then he was

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left outside in the night. Again, exposure to elements. There was a case where a soldier took a baseball bat and struck a detainee on the leg hard. This is all stuff that I'm getting from my NCOs.

In the PUC holding facility you could have had people that could have been in the wrong house at the wrong time brought in an all of a sudden they are subjected to this. So that's a big problem, obviously a huge human rights issue.

It's army doctrine that when you take a prisoner, one of the things you do is secure that prisoner and then you speed him to the rear. You get him out of the hands of the unit that took him. Well, we didn't do that. We'd keep them at out holding facility for I think it was up to seventy-two hours. Then we would place him under the guard of soldiers he had just been trying to kill. The incident with the detainee hit with baseball bat; he was suspected of having killed one of our officers.

[At FOB Mercury] they said that they had pictures that were similar to what happened at Abu Ghraib, and because they were so similar to what happened at Abu Ghraib, the soldiers destroyed the pictures. They burned them. The exact quote was, "They [the soldiers at Abu Ghraib] were getting in trouble for the same things we were told to do, so we destroyed the pictures."

On Frustration Obtaining a Meaningful Response within the Military Chain of Command

I witnessed violations of the Geneva Conventions that I knew were violations of the Geneva Conventions when they happened but I was under the impression that that was U.S. policy at the time. And as soon as Abu Ghraib broke and they had hearings in front of Congress, the Secretary of Defense testified that we followed the spirit of the Geneva Conventions in Afghanistan, and the letter of the Geneva Conventions in Iraq and as soon as he said that I knew something was wrong. So I called some of my classmates [from West Point], confirmed what I was concerned about and then on that Monday morning I approached my chain of command.

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I talked to an officer in the Ranger regiment[12] and his response was, he wouldn't tell me exactly what he witnessed but he said "I witnessed things that were more intense than what you witnessed," but it wasn't anything that exceeded what I had heard about at SERE school.[13]

After that I called the chaplain at West Point who I respected a lot and I talked to him about some things and we were on the same page. Then I had said well, "I'm going to talk to my company commander and then my battalion commander on Monday."

My company commander said, "I see how you can take it that way, but…" he said something like, "remember the honor of the unit is at stake" or something to that effect and "Don't expect me to go to bat for you on this issue if you take this up," something to that effect.

I went and talked to my battalion commander. Again, he clearly thinks he has done the right things and that what I am bringing attention to is within the standards and that he is okay. He didn't dismiss me. He just said "Go talk to JAG. We'll work this out." It wasn't alarming to him in any way, shape or form that these things had happened.

So I went to JAG and … he says, "Well the Geneva Conventions are a gray area." So I mentioned some things that I had heard about and said, "Is it a violation to chain prisoners to the ground naked for the purpose of interrogations?" and he said, "That's within the Geneva Conventions." So I said, "Okay. That is within the Geneva Conventions." And then there is the prisoner on the box with the wires attached to him, and to me, as long as electricity didn't go through the wires, that was in accordance with what I would have expected US policy to be and that he wasn't under the threat of death. And he said,

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[12] The Rangers are "rapidly deployable airborne light infantry organized and trained to conduct highly complex joint direct action operations in coordination with or in support of other special operations units of all Services. Rangers also can execute direct action operations in support of conventional nonspecial operations missions conducted by a combatant commander and can operate as conventional light infantry when properly augmented with other elements of combined arms." Department of Defense Dictionary of Military Terms, available at http://www.dtic.mil/doctrine/jel/doddict/

[13] SERE stands for "Survival, Evasion, Resistance, Escape," and is a military course of training "encompassing those basic skills necessary for world-wide survival; expedite search and rescue efforts; evade capture by hostile forces; resistance to interrogation, exploitation and indoctrination; and escape from detention by enemy forces." Available at http://www.fasolant.navy.mil/brunssere.htm

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> "Well, that is a clear violation of the Geneva Conventions." And I said, "Okay, but I'm looking for some kind of standard here to be able to tell what I should stop and what I should allow to happen." And he says, "Well, we've had questions about that at times."
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> Then he said, "There was a device that another battalion in the 82nd had come up with that you would put a prisoner in. It was uncomfortable to sit in." And he went to test it out by sitting in it and he decided that it wasn't torture. I hear this and I am flabbergasted that this is the standard the Army is using to determine whether or not we follow the Geneva Conventions. If I go to JAG and JAG cannot give me clear guidance about what I should stop and what I should allow to happen, how is an NCO or a private expected to act appropriately?
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> When I talked to [an official in the Inspector General's office about the policy confusion on what was permitted] he says, "You obviously feel very upset about this, but—I don't think you're going to accomplish anything because things don't stick to people inside the Beltway [Washington, D.C.]." He says, "I worked at the Pentagon and things don't stick to people inside the Beltway."
>
> When the Secretary of the Army came [to my training], I addressed him on numerous issues, which I don't want to go into. One of those issues was treatment of prisoners. I mentioned that I didn't have clear guidance, and the Secretary of the Army said, "Well, we realized that that was a problem but you are a little bit behind the times. We've solved that matter. And I didn't get a chance to respond to that. I should have, I should have pressed that issue a lot harder. That's one of my regrets. Just bringing up the issue at all was stressful, but it hasn't been resolved because there is no clear guidance. And through discussions with other officers the problem is not taken care of. It really is multiple problems. It's two problems. One is the Army handling interrogations and the other is the relationship between OGA and prisoners and what they can and can't do.

The officer also spoke with multiple experts on the U.S. military Law of Land Warfare, his peers, and his soldiers, all of whom, he said, expressed concern that the Geneva Conventions were not being applied in Iraq. He decided to bring his concerns to the Congress since he felt they were not being adequately addressed by his chain of

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command. Days before this report was published his brigade commander told him to stop his inquiries; his commanding officer told him that he could not leave the base to visit with staff members of Senators McCain and Warner without approval and that approval was being denied because his commanding officer felt the officer was being naïve and would do irreparable harm to his career.

On Policy Confusion within the Ranks on Coercive Interrogation

> [In Afghanistan,] I thought that the chain on command all the way up to the National Command Authority[14] had made it a policy that we were going to interrogate these guys harshly.
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> [The actual standard was] "we're not going to follow the Geneva Conventions but we are going to treat you humanely." Well, what does humane mean? To me humane means I can kind of play with your mind, but I cannot hit you or do anything that is going to cost you permanent physical damage. To [another officer I spoke with] humane means it's okay to rough someone up and to do physical harm. Not to break bones or anything like that but to do physical harm as long as you're not humiliating him, which was the way he put it. We've got people with different views of what humane means and there's no Army statement that says this is the standard for humane treatment for prisoners to Army officers. Army officers are left to come up with their own definition of humane treatment.
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> I don't know for sure [how high up the hierarchy responsibility for the abusive treatment lies]. What I know is that it's widespread enough that it's an officer problem. It's at least an officer problem. You make the standard, and that is what goes up to the executive branch. You communicate the standard, that's when it's somewhat the executive branch, but then it comes more into the officer branch, and enforcing the standard is the officer branch… And in the Schlesinger report[15] it even says that when the President made the decision that al-Qaeda wasn't going to be covered by the Geneva Conventions, there was a

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[14] The President of the United States and the Secretary of Defense.

[15] The Schlesinger Report, issued in August 2004, was one of seven U.S. military inquiries into detainee abuse by U.S. forces. The panel that produced the Schlesinger report was chosen by Secretary of Defense Rumsfeld and determined that leadership failures led to detainee abuse in Iraq.

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clear danger that it was going to undermine the culture in the United States Army that enforces strict adherence to the law of land warfare. That's in the Schlesinger report.

But anyway, the President makes that decision, and decides that we're not going to cover them by the Geneva Conventions, which according to the letter of the law, I think there's a strong argument for that…. [But] then that lack of standard migrates throughout the Army. It filters throughout the Army, so that now the standard, this convoluted, "You'll know what's right when you see it," filters through the whole Army.

If you draw a hard line and you say "Don't do anything bad to prisoners," like you bring them in, you give them food, you give them water, and then you leave them alone. If that happens then, yeah, that is an easy line to draw, but when you start drawing shades of gray and you start stripping prisoners, or you start making prisoners do humiliating things and then you tell a soldier to draw the line somewhere, then no. A soldier is not going to be able to draw that line because as soon as you cross that line and as soon as you start stripping prisoners or you start making people do vigorous exercise, or you start basically putting yourself in a position of authority where you are subjecting someone else to harsh treatment, things are going to get out of hand because everyone is going to draw the line at a different place. Just like the discussion between me and the other officer, where's the line? What is acceptable and what is not acceptable? People don't know. The West Point officers knew the line coming out of West Point. We knew where the Geneva Conventions drew the line, but then you get that confusion when the Sec Def [Secretary of Defense] and the President make that statement. And we were confused.

[In Iraq, my understanding of how we should treat prisoners] didn't change. There are a couple of reasons for that. Pre-deployment training was minimal going to Iraq because we deployed on short notice from West Point through Fort Bragg to Iraq. So there might be some disconnect there, but also none of the unit policies changed. Iraq was cast as part of the War on Terror, not a separate entity in and of itself but a part of a larger war.

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[I didn't discuss abuse of detainees with my superiors in Iraq because] to me, it was obviously part of the system and the reasons had been laid out about why we're not following the Geneva Conventions in respect to the detainees. We did follow them in other aspects and once that was laid out I thought it was pretty clear cut.… That was just the way I thought we were running things.

Another officer approached me and was like "I'm not sure this is the way you should be treating someone." It was almost like an off-hand, kind of like…just a conversation like making a comment. He said something like "I don't know if this is right" and my response was "Hey, it's out in the open and we've said that we are doing this. It's not like we're doing it on the sly."

If I as an officer think we're not even following the Geneva Conventions, there's something wrong. If officers witness all these things happening, and don't take action, there's something wrong. If another West Pointer tells me he thinks, "Well, hitting somebody might be okay," there's something wrong.

What I'm saying is had I thought we were following the Geneva Conventions as an officer I would have investigated what was clearly a very suspicious situation.

On the Implications of the Abu Ghraib Abuse Revelations in April 2004

Someone mentioned to me in passing that there was a really bad prisoner abuse scandal and I took note of it and I thought, "that is horrible. That is going to be bad PR [public relations] for the Army" and I thought, "Okay, rogues did something." And then as the week progressed I watched on the news and they showed some of the pictures -- not all of them -- a large portion of the pictures were in accordance with what I perceived as U.S. policy. Now all the stuff with sodomy with the chem light and all that was clearly beyond what I would have allowed to happen on a personal moral level and what I thought policy was. But the other stuff, guys handcuffed naked to cells in uncomfortable positions, guys placed in stress positions on boxes,

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people stripped naked. All that was…if I would have seen it, I would have thought it was in accordance with interrogation procedures.

I listened to the congressional hearings and when the Secretary of Defense testified that we followed the spirit of the Geneva Conventions in Afghanistan and the letter of the Geneva Conventions in Iraq… that went against everything that I [understood about US policy]. That's when I had a problem.

The first concern when this originally happened was loyalty to the Constitution and separation of powers, and combined with that is the honor code: "I will not lie, cheat or steal or tolerate those who do." The fact that it was systematic, and that the chain of command knew about it was so obvious to me that [until that point] I didn't even consider the fact that other factors might be at play, so that's why I approached my chain of command about it right off the bat and said, "Hey, we're lying right now. We need to be completely honest."

Congress should have oversight of treatment of prisoners. That is the way; the Army should not take it upon itself to determine what is acceptable for America to do in regards to treatment of prisoners. That's a value… that's more than just a military decision, that's a values decision, and therefore Congress needs to know about it, and therefore the American people need to have an honest representation of what's going on presented to them so that they can have a say in that.

On Failure of the Officer Corps

It's unjust to hold only lower-ranking soldiers accountable for something that is so clearly, at a minimum, an officer corps problem, and probably a combination with the executive branch of government.

It's almost infuriating to me. It is infuriating to me that officers are not lined up to accept responsibility for what happened. It blows my mind that officers are not. It should've started with the chain of command at Abu Ghraib and anybody else that witnessed anything that violated the Geneva Conventions or anything that could be questionable should've been standing up saying, "This is what happened. This is why I allowed

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it to happen. This is my responsibility," for the reasons I mentioned before. That's basic officership, that's what you learn at West Point, that's what you should learn at any commissioning source.

That's basic Army leadership. If you fail to enforce something, that's the new standard. So I guess what I'm getting at is the Army officers have overarching responsibility for this. Not privates, not the Sergeant Jones, not Sergeant Smith. The Army officer corps has responsibility for this. And it boggles my mind that there aren't officers standing up saying, "That's my fault and here's why." That's basic army leadership.

Look, the guys who did this aren't dishonorable men. It's not like they are a bunch of vagabonds. They shown more courage and done more things in the time that I've spent with them than I could cover in probably a week of talking to you. They are just amazing men, but they're human. If you put them in a situation, which is the officer's responsibility, where they are put in charge of somebody who tried to kill them or maybe killed their friend, bad things are going to happen. It's the officer's job to make sure bad things don't happen.

[Another important] thing is making sure this doesn't happen again…. [We need] to address the fact that it was an officer issue and by trying to claim that it was "rogue elements" we seriously hinder our ability to ensure this doesn't happen again. And, that has not only moral consequences, but it has practical consequences in our ability to wage the War on Terror. We're mounting a counter-insurgency campaign, and if we have widespread violations of the Geneva Conventions, that seriously undermines our ability to win the hearts and minds of the Muslim world.

[I]f America holds something as the moral standard, it should be unacceptable for us as a people to change that moral standard based on fear. The measure of a person or a people's character is not what they do when everything is comfortable. It's what they do in an extremely trying and difficult situation, and if we want to claim that these are our ideals and our values then we need to hold to them no matter how dark the situation.

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On the Role of "OGA"

In Afghanistan we were attached to Special Forces and saw OGA. We never interacted with them but they would stress guys. We learned how to do it. We saw it when we would guard an interrogation.

They [OGA interrogators in Afghanistan] had a horn. In this case they would involve U.S. soldiers. There was a really loud horn and any time the detainee would fall asleep they would blare the horn in his ear so that he had to wake up and they would do that until he stood up again and stayed awake.

[A]t FOB Tiger [near the Syrian border] there were a lot of high value targets and …there was a Special Forces [SF] team nearby and I was going to talk to them just about career stuff and as I was going out I saw someone who I thought was OGA… go into the prisoner detainee holding facility and take one of the detainees out. And then they took infantry guards and they went into an unoccupied building that they could seal off, closed the door, and they gave orders to the infantry guards not to let anyone in. The reason I know this is because I was trying to talk to the SF guys and I asked them "Hey, do you know where the SF guys are?" and they were like "Well, maybe some of them are in here but you can't go in there right now. They are with a prisoner." And there were noises coming out of there. There could have been physical violence but [they were at least] threatening the prisoner,… doing things that weren't actually causing bodily harm but threatening to do that.

I talked to an MP who said that he was in charge of holding detainees and that the CIA would just come and take the detainees away. They would be like, "How many detainees do you have?" and he knew he has seventeen detainees but the OGA would be like, "No, you have sixteen," so he'd be like "Alright. I have sixteen." And who knows where that detainee went.

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V. Conclusion

The abuses alleged in this report can be traced to the Bush administration's decision to disregard the Geneva Conventions in the armed conflict in Afghanistan.

On February 7, 2002, President George W. Bush announced that the Geneva Conventions concerning the treatment of prisoners did not apply at all to al-Qaeda members or to Taliban soldiers because they did not qualify as members of the armed forces. He insisted that detainees would nonetheless be treated "humanely." Defense Secretary Donald Rumsfeld told journalists that day: "The reality is the set of facts that exist today with the al-Qaeda and the Taliban were not necessarily the set of facts that were considered when the Geneva Conventions was fashioned."

The accounts presented in this report are further evidence that this decision by the Bush administration was to have a profound influence on the treatment of detained persons in military operations in Iraq as well as in the "global war on terror." In short, the refusal to apply the Geneva Conventions to Guantánamo Bay and Afghanistan was to undermine long-standing adherence by the U.S. armed forces to federal law and the laws of armed conflict concerning the proper treatment of prisoners.

Public statements by the Bush administration prior to the February 2002 decision set the tone for effectively rejecting the Geneva Conventions. After the first detainees arrived at Guantánamo in January 2002, Defense Secretary Rumsfeld declared them all to be unlawful combatants who "do not have any rights" under the Geneva Conventions. He said that the United States would "for the most part, treat them in a manner that is reasonably consistent with the Geneva Conventions, to the extent they are appropriate." Later that month, then White House counsel Alberto Gonzales wrote President Bush that the Geneva Conventions provisions on questioning enemy prisoners were "obsolete" and argued, among other things, that rejecting the applicability of the Geneva Conventions "[s]ubstantially reduces the threat of domestic criminal prosecution" of U.S. officials for war crimes.

Then Secretary of State Colin Powell and senior military leaders privately objected to the administration's position. Secretary Powell argued that declaring the conventions inapplicable would "reverse over a century of U.S. policy and practice in supporting the Geneva Conventions and undermine the protections of the law of war for our troops, both in this specific conflict and in general."

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The administration's policy opened the door for the since-discredited legal theories put forward by the Justice Department in the infamous "torture memo" of August 2002. This memo provided contorted rationalizations for the use of clearly unlawful interrogation methods. The conclusions of these memos were opposed, without success, by senior members of the Judge Advocate General's office in all four services. Air Force Major General Jack Reves wrote in a recently released memo from 2003: "[T]he use of the more extreme interrogation techniques simply is not how the U.S. armed forces have operated in recent history. We have taken the legal and moral 'high-road' in the conduct of our military operations regardless of how others may operate. Our forces are trained in this legal and moral mindset beginning the day they enter active duty."

And Army Major General Thomas Romig wrote that the Justice Department's view on the laws of war "runs contrary to the historic position taken by the United States Government concerning such laws and, in our opinion, could adversely impact [Pentagon] interests worldwide [including by] putting our service personnel at far greater risk and vitiating many of the POW/detainee safeguards the U.S. has worked hard to establish over the past five decades."

According to the 2004 Schlesinger Commission report, coercive interrogation methods approved by Defense Secretary Rumsfeld for use on prisoners at Guantánamo — including the use of guard dogs to induce fear in prisoners, stress techniques such as forced standing and shackling in painful positions, and removing their clothes for long periods — "migrated to Afghanistan and Iraq, where they were neither limited nor safeguarded," and contributed to the widespread and systematic torture and abuse at U.S. detention centers there.

Even after the abuses at Abu Ghraib prison in Iraq became public, Secretary Rumsfeld continued to dismiss the applicability of the Geneva Conventions. On May 5, 2004, he told a journalist the Geneva Conventions "did not apply precisely" in Iraq but were "basic rules" for handling prisoners. Visiting Abu Ghraib on May 14, Rumsfeld remarked, "Geneva doesn't say what you do when you get up in the morning." In fact, the U.S. armed forces have devoted considerable energy over the years to making the Geneva Conventions fully operational by military personnel in the field. Various U.S. military operational handbooks and manuals, such as Field Manual 27-10 on the Law of Land Warfare and Field Manual 34-52 on Intelligence Interrogation, provide the means for implementing Geneva Conventions provisions, even where those provisions are vague.

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Effectively throwing out military manuals based on the laws of armed conflict was a prescription for the abuse that followed. Field Manual 34-52 for instance, does not merely restate the requirements of the Geneva Conventions, but it provides useful advice for soldiers to apply the standards in practice. For instance, the manual states: "Experience indicates that the use of force is not necessary to gain the cooperation of sources for interrogation. Therefore, the use of force is a poor technique, as it yields unreliable results, may damage subsequent collection efforts, and can induce the source to say whatever he thinks the interrogator wants to hear."

Torture and other cruel and inhumane treatment alleged in this report do not fall into the "gray areas" in the law. Common article 3 to the four Geneva Conventions of 1949, which is accepted as the minimal standard of treatment for persons in custody during any armed conflict, prohibits "at any time and in any place whatsoever, … violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture, [and] outrages upon personal dignity, in particular, humiliating and degrading treatment." Further protections can be found in the fundamental guarantees under article 75 of the Protocol I of 1977 to the Geneva Conventions, which is accepted as reflecting customary laws of armed conflict.

Even if the Geneva Conventions were not applicable, various provisions of the U.S. Uniform Code of Military Justice subjects soldiers to court-martial or disciplinary measures for mistreating prisoners. Applicable UCMJ criminal provisions include article 93 (cruelty and maltreatment), article 128 (assault), and articles 118 and 119 (murder and manslaughter), as well as article 120 (rape and carnal knowledge), article 124 (maiming), and, for officers, article 133 (conduct unbecoming an officer). Superior officers who order the mistreatment of prisoners or who knew or should have known that such mistreatment was occurring and did not take appropriate measures can be prosecuted as a matter of command responsibility.

The treatment of prisoners alleged here also violates U.S. obligations under international human rights law. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides that "[n]o exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture." The International Covenant on Civil and Political Rights, which also bans torture and other mistreatment, ensures that the right to be free from torture and other cruel, inhuman or degrading treatment can never be suspended by a state, including during periods of public emergency.

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These standards have largely been incorporated into U.S. law that is applicable to members of the armed services. The War Crimes Act of 1996 (18 U.S.C. § 2441) makes it a criminal offense for U.S. military personnel and U.S. nationals to commit war crimes as specified in the Geneva Conventions. The federal anti-torture statute (18 U.S.C. § 2340A), enacted in 1994, provides for the prosecution of a U.S. national or anyone present in the United States who, while outside the United States, commits or attempts to commit torture.

Human Rights Watch calls for investigations into all allegations of mistreatment of prisoners in U.S. custody. Appropriate disciplinary or criminal action should be undertaken against all those implicated in torture and other abuse, whatever their rank. As we have reported elsewhere, there is increasing evidence that high-ranking U.S. civilian and military leaders made decisions and issued policies that facilitated serious and widespread violations of the law. The circumstances strongly suggest that they either knew or should have known that such violations took place as a result of their actions. There is also mounting information that, when presented with evidence that abuse was in fact occurring, they failed to act to stop it.

Human Rights Watch reiterates its call for the appointment of a special counsel to investigate any U.S. officials — no matter their rank or position — who participated in, ordered, or had command responsibility for war crimes or torture, or other prohibited ill-treatment against detainees in U.S. custody.

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Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, January 23, 2006 5:23 PM
To:	Shaw, Aloma A
Subject:	Fw: Readings for Session Tomorrow Part 2 of 3
Attachments:	DOD Report-Detention Operations.pdf

More for printer please

-----Original Message-----
From: [redacted]@cfr.org <[redacted]@cfr.org>
To: [redacted]@cfr.org [redacted]@cfr.org>
Sent: Mon Jan 23 17:06:09 2006
Subject: Readings for Session Tomorrow Part 2 of 3

Attached below please find the DOD report for tomorrow night's session.

Sincerely,
[redacted]

[redacted]
Program Assistant, Membership and Fellowship Affairs Council on Foreign Relations [redacted]@cfr.org
Tel: [redacted]
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(See attached file: DOD Report-Detention Operations.pdf)

Final Report of the Independent Panel To Review DoD Detention Operations

August 2004

Independent Panel to Review DoD Detention Operations

Chairman

The Honorable James R. Schlesinger

Panel Members

The Honorable Harold Brown

The Honorable Tillie K. Fowler

General Charles A. Horner (USAF-RET)

Executive Director

Dr. James A. Blackwell, Jr.

INDEPENDENT PANEL TO REVIEW DOD DETENTION OPERATIONS

CHAIRMAN
THE HONORABLE JAMES R. SCHLESINGER

PANEL MEMBERS
THE HONORABLE HAROLD BROWN
THE HONORABLE TILLIE K. FOWLER
GENERAL CHARLES A. HORNER (USAF-RET.)

EXECUTIVE DIRECTOR
DR. JAMES A. BLACKWELL, JR.

August 24, 2004

To U.S. Secretary of Defense Donald Rumsfeld

We, the appointed members of the Independent Panel to Review DoD Detention Operations, pursuant to our charter do hereby submit the results of our findings and offer our best recommendations.

Sincerely,

The Honorable James R. Schlesinger
Chairman

The Honorable Harold Brown
Panel Member

The Honorable Tillie K. Fowler
Panel Member

General Charles A. Horner
(USAF –Ret.)
Panel Member

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The Independent Panel to Review Department of Defense Detention Operations

August 2004

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Executive Summary

OVERVIEW

The events of October through December 2003 on the night shift of Tier 1 at Abu Ghraib prison were acts of brutality and purposeless sadism. We now know these abuses occurred at the hands of both military police and military intelligence personnel. The pictured abuses, unacceptable even in wartime, were not part of authorized interrogations nor were they even directed at intelligence targets. They represent deviant behavior and a failure of military leadership and discipline. However, we do know that some of the egregious abuses at Abu Ghraib which were not photographed did occur during interrogation sessions and that abuses during interrogation sessions occurred elsewhere.

In light of what happened at Abu Ghraib, a series of comprehensive investigations has been conducted by various components of the Department of Defense. Since the beginning of hostilities in Afghanistan and Iraq, U.S. military and security operations have apprehended about 50,000 individuals. From this number, about 300 allegations of abuse in Afghanistan, Iraq or Guantanamo have arisen. As of mid-August 2004, 155 investigations into the allegations have been completed, resulting in 66 substantiated cases. Approximately one-third of these cases occurred at the point of capture or tactical collection point, frequently under uncertain, dangerous and violent circumstances.

Abuses of varying severity occurred at differing locations under differing circumstances and context. They were widespread and, though inflicted on only a small percentage of those detained, they were serious both in number and in effect. No approved procedures called for or allowed the kinds of abuse that in fact occurred. There is no evidence of a policy of abuse promulgated by senior officials or military authorities. Still, the abuses were not just the failure of some individuals to follow known standards, and they are more than the failure of a few leaders to enforce proper discipline. There is both institutional and personal responsibility at higher levels.

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Secretary of Defense Donald Rumsfeld appointed the members of the Independent Panel to provide independent professional advice on detainee abuses, what caused them and what actions should be taken to preclude their repetition. The Panel reviewed various criminal investigations and a number of command and other major investigations. The Panel also conducted interviews of relevant persons, including the Secretary and Deputy Secretary of Defense, other senior Department of Defense officials, the military chain-of-command and their staffs and other officials directly and indirectly involved with Abu Ghraib and other detention operations. However, the Panel did not have full access to information involving the role of the Central Intelligence Agency in detention operations; this is an area the Panel believes needs further investigation and review. It should be noted that information provided to the Panel was that available as of mid-August 2004. If additional information becomes available, the Panel's judgments might be revised.

POLICY

With the events of September 11, 2001, the President, the Congress and the American people recognized we were at war with a different kind of enemy. The terrorists who flew airliners into the World Trade Center and the Pentagon were unlike enemy combatants the U.S. has fought in previous conflicts. Their objectives, in fact, are to kill large numbers of civilians and to strike at the heart of America's political cohesion and its economic and military might. In the days and weeks after the attack, the President and his closest advisers developed policies and strategies in response. On September 18, 2001, by a virtually unanimous vote, Congress passed an Authorization for Use of Military Force. Shortly thereafter, the U.S. initiated hostilities in Afghanistan and the first detainees were held at Mazar-e-Sharrif in November 2001.

On February 7, 2002, the President issued a memorandum stating that he determined the Geneva Conventions did not apply to the conflict with al Qaeda, and although they did apply in the conflict with Afghanistan, the Taliban were unlawful combatants and

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therefore did not qualify for prisoner of war status (see Appendix C). Nonetheless, the Secretary of State, Secretary of Defense, and the Chairman of the Joint Chiefs of Staff were all in agreement that treatment of detainees should be consistent with the Geneva Conventions. The President ordered accordingly that detainees were to be treated ". . . humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva." Earlier, the Department of State had argued the Geneva Conventions in their traditional application provided a sufficiently robust legal construct under which the Global War on Terror could effectively be waged. The Legal Advisor to the Chairman, Joint Chiefs of Staff, and many of the military service attorneys agreed with this position.

In the summer of 2002, the Counsel to the President queried the Department of Justice Office of Legal Counsel (OLC) for an opinion on the standards of conduct for interrogation operations conducted by U.S. personnel outside of the U.S. and the applicability of the Convention Against Torture. The OLC responded in an August 1, 2002 opinion in which it held that in order to constitute torture, an act must be specifically intended to inflict severe physical or mental pain and suffering that is difficult to endure.

Army Field Manual 34-52 (FM 34-52), with its list of 17 authorized interrogation methods, has long been the standard source for interrogation doctrine within the Department of Defense (see Appendix D). In October 2002, authorities at Guantanamo requested approval of stronger interrogation techniques to counter tenacious resistance by some detainees. The Secretary of Defense responded with a December 2, 2002 decision authorizing the use of 16 additional techniques at Guantanamo (see Appendix E). As a result of concerns raised by the Navy General Counsel on January 15, 2003, Secretary Rumsfeld rescinded the majority of the approved measures in the December 2, 2002 authorization. Moreover, he directed the remaining more aggressive techniques could be used only with his approval (see Appendix D).

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At the same time, he directed the Department of Defense (DoD) General Counsel to establish a working group to study interrogation techniques. The Working Group was headed by Air Force General Counsel Mary Walker and included wide membership from across the military legal and intelligence communities. The Working Group also relied heavily on the OLC. The Working Group reviewed 35 techniques and after a very extensive debate ultimately recommended 24 to the Secretary of Defense. The study led to the Secretary of Defense's promulgation on April 16, 2003 of a list of approved techniques strictly limited for use at Guantanamo. This policy remains in force at Guantanamo (see Appendix E).

In the initial development of these Secretary of Defense policies, the legal resources of the Services' Judge Advocates General and General Counsels were not utilized to their full potential. Had the Secretary of Defense had a wider range of legal opinions and a more robust debate regarding detainee policies and operations, his policy of April 16, 2003 might well have been developed and issued in early December 2002. This would have avoided the policy changes which characterized the Dec 02, 2002 to April 16, 2003 period.

It is clear that pressures for additional intelligence and the more aggressive methods sanctioned by the Secretary of Defense memorandum, resulted in stronger interrogation techniques that were believed to be needed and appropriate in the treatment of detainees defined as "unlawful combatants." At Guantanamo, the interrogators used those additional techniques with only two detainees, gaining important and time-urgent information in the process.

In Afghanistan, from the war's inception through the end of 2002, all forces used FM 34-52 as a baseline for interrogation techniques. Nonetheless, more aggressive interrogation of detainees appears to have been on-going. On January 24, 2003, in response to a data call from the Joint Staff to facilitate the Working Group efforts, the Commander Joint Task Force-180 forwarded a list of techniques being used in

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Afghanistan, including some not explicitly set out in FM 34-52. These techniques were included in a Special Operation Forces (SOF) Standard Operating Procedures document published in February 2003. The 519th Military Intelligence Battalion, a company of which was later sent to Iraq, assisted in interrogations in support of SOF and was fully aware of their interrogation techniques.

Interrogators and lists of techniques circulated from Guantanamo and Afghanistan to Iraq. During July and August 2003, the 519th Military Intelligence Company was sent to the Abu Ghraib detention facility to conduct interrogation operations. Absent any explicit policy or guidance, other than FM 34-52, the officer in charge prepared draft interrogation guidelines that were a near copy of the Standard Operating Procedure created by SOF. It is important to note that techniques effective under carefully controlled conditions at Guantanamo became far more problematic when they migrated and were not adequately safeguarded.

Following a CJTF-7 request, Joint Staff tasked SOUTHCOM to send an assistance team to provide advice on facilities and operations, specifically related to screening, interrogations, HUMINT collection, and inter-agency integration in the short and long term. In August 2003, MG Geoffrey Miller arrived to conduct an assessment of DoD counter-terrorism interrogation and detention operations in Iraq. He was to discuss current theater ability to exploit internees rapidly for actionable intelligence. He brought the Secretary of Defense's April 16, 2003 policy guidelines for Guantanamo with him and gave this policy to CJTF-7 as a possible model for the command-wide policy that he recommended be established. MG Miller noted that it applied to unlawful combatants at Guantanamo and was not directly applicable to Iraq where the Geneva Conventions applied. In part as a result of MG Miller's call for strong, command-wide interrogation policies and in part as a result of a request for guidance coming up from the 519th at Abu Ghraib, on September 14, 2003 LTG Sanchez signed a memorandum authorizing a dozen interrogation techniques beyond Field Manual 34-52—five beyond those approved for Guantanamo (see Appendix D).

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MG Miller had indicated his model was approved only for Guantanamo. However, CJTF-7, using reasoning from the President's Memorandum of February 7, 2002 which addressed "unlawful combatants," believed additional, tougher measures were warranted because there were "unlawful combatants" mixed in with Enemy Prisoners of War and civilian and criminal detainees. The CJTF-7 Commander, on the advice of his Staff Judge Advocate, believed he had the inherent authority of the Commander in a Theater of War to promulgate such a policy and make determinations as to the categorization of detainees under the Geneva Conventions. CENTCOM viewed the CJTF-7 policy as unacceptably aggressive and on October 12, 2003 Commander CJTF-7 rescinded his September directive and disseminated methods only slightly stronger than those in Field Manual 34-52 (see Appendix D). The policy memos promulgated at the CJTF-7 level allowed for interpretation in several areas and did not adequately set forth the limits of interrogation techniques. The existence of confusing and inconsistent interrogation technique policies contributed to the belief that additional interrogation techniques were condoned.

DETENTION AND INTERROGATION OPERATIONS

From his experience in Guantanamo, MG Miller called for the military police and military intelligence soldiers to work cooperatively, with the military police "setting the conditions" for interrogations. This MP role included passive collection on detainees as well as supporting incentives recommended by the military interrogators. These collaborative procedures worked effectively in Guantanamo, particularly in light of the high ratio of approximately 1 to 1 of military police to mostly compliant detainees. However, in Iraq and particularly in Abu Ghraib the ratio of military police to repeatedly unruly detainees was significantly smaller, at one point 1 to about 75 at Abu Ghraib, making it difficult even to keep track of prisoners. Moreover, because Abu Ghraib was located in a combat zone, the military police were engaged in force protection of the complex as well as escorting convoys of supplies to and from the prison. Compounding

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these problems was the inadequacy of leadership, oversight and support needed in the face of such difficulties.

At various times, the U.S. conducted detention operations at approximately 17 sites in Iraq and 25 sites in Afghanistan, in addition to the strategic operation at Guantanamo. A cumulative total of 50,000 detainees have been in the custody of U.S. forces since November 2001, with a peak population of 11,000 in the month of March 2004.

In Iraq, there was not only a failure to plan for a major insurgency, but also to quickly and adequately adapt to the insurgency that followed after major combat operations. The October 2002 CENTCOM War Plan presupposed that relatively benign stability and security operations would precede a handover to Iraq's authorities. The contingencies contemplated in that plan included sabotage of oil production facilities and large numbers of refugees generated by communal strife.

Major combat operations were accomplished more swiftly than anticipated. Then began a period of occupation and an active and growing insurgency. Although the removal of Saddam Hussein was initially welcomed by the bulk of the population, the occupation became increasingly resented. Detention facilities soon held Iraqi and foreign terrorists as well as a mix of Enemy Prisoners of War, other security detainees, criminals and undoubtedly some accused as a result of factional rivalries. Of the 17 detention facilities in Iraq, the largest, Abu Ghraib, housed up to 7,000 detainees in October 2003, with a guard force of only about 90 personnel from the 800th Military Police Brigade. Abu Ghraib was seriously overcrowded, under-resourced, and under continual attack. Five U.S. soldiers died as a result of mortar attacks on Abu Ghraib. In July 2003, Abu Ghraib was mortared 25 times; on August 16, 2003, five detainees were killed and 67 wounded in a mortar attack. A mortar attack on April 20, 2004 killed 22 detainees.

Problems at Abu Ghraib are traceable in part to the nature and recent history of the military police and military intelligence units at Abu Ghraib. The 800th Military Police

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Brigade had one year of notice to plan for detention operations in Iraq. Original projections called for approximately 12 detention facilities in non-hostile, rear areas with a projection of 30,000 to 100,000 Enemy Prisoners of War. Though the 800th had planned a detention operations exercise for the summer of 2002, it was cancelled because of the disruption in soldier and unit availability resulting from the mobilization of Military Police Reserves following 9/11. Although its readiness was certified by U.S. Army Forces Command, actual deployment of the 800th Brigade to Iraq was chaotic. The "Time Phased Force Deployment List," which was the planned flow of forces to the theater of operations, was scrapped in favor of piecemeal unit deployment orders based on actual unit readiness and personnel strength. Equipment and troops regularly arrived out of planned sequence and rarely together. Improvisation was the order of the day. While some units overcame these difficulties, the 800th was among the lowest in priority and did not have the capability to overcome the shortfalls it confronted.

The 205th MI Brigade, deployed to support Combined Joint Task Force-7 (CJTF-7), normally provides the intelligence capability for a Corps Headquarters. However, it was insufficient to provide the kind of support needed by CJTF-7, especially with regard to interrogators and interpreters. Some additional units were mobilized to fill in the gaps, but while these MI units were more prepared than their military police counterparts, there were insufficient numbers of units available. Moreover, unit cohesion was lacking because elements of as many as six different units were assigned to the interrogation mission at Abu Ghraib. These problems were heightened by friction between military intelligence and military police personnel, including the brigade commanders themselves.

ABUSES

As of the date of this report, there were about 300 incidents of alleged detainee abuse across the Joint Operations Areas. Of the 155 completed investigations, 66 have resulted in a determination that detainees under the control of U.S. forces were abused. Dozens of

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non-judicial punishments have already been awarded. Others are in various stages of the military justice process.

Of the 66 already substantiated cases of abuse, eight occurred at Guantanamo, three in Afghanistan and 55 in Iraq. Only about one-third were related to interrogation, and two-thirds to other causes. There were five cases of detainee deaths as a result of abuse by U.S. personnel during interrogations. Many more died from natural causes and enemy mortar attacks. There are 23 cases of detainee deaths still under investigation; three in Afghanistan and 20 in Iraq. Twenty-eight of the abuse cases are alleged to include Special Operations Forces (SOF) and, of the 15 SOF cases that have been closed, ten were determined to be unsubstantiated and five resulted in disciplinary action. The Jacoby review of SOF detention operations found a range of abuses and causes similar in scope and magnitude to those found among conventional forces.

The aberrant behavior on the night shift in Cell Block 1 at Abu Ghraib would have been avoided with proper training, leadership and oversight. Though acts of abuse occurred at a number of locations, those in Cell Block 1 have a unique nature fostered by the predilections of the noncommissioned officers in charge. Had these noncommissioned officers behaved more like those on the day shift, these acts, which one participant described as "just for the fun of it," would not have taken place.

Concerning the abuses at Abu Ghraib, the impact was magnified by the fact the shocking photographs were aired throughout the world in April 2004. Although CENTCOM had publicly addressed the abuses in a press release in January 2004, the photographs remained within the official criminal investigative process. Consequently, the highest levels of command and leadership in the Department of Defense were not adequately informed nor prepared to respond to the Congress and the American public when copies were released by the press.

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POLICY AND COMMAND RESPONSIBILITIES

Interrogation policies with respect to Iraq, where the majority of the abuses occurred, were inadequate or deficient in some respects at three levels: Department of Defense, CENTCOM/CJTF-7, and Abu Ghraib Prison. Policies to guide the demands for actionable intelligence lagged behind battlefield needs. As already noted, the changes in DoD interrogation policies between December 2, 2002 and April 16, 2003 were an element contributing to uncertainties in the field as to which techniques were authorized. Although specifically limited by the Secretary of Defense to Guantanamo, and requiring his personal approval (given in only two cases), the augmented techniques for Guantanamo migrated to Afghanistan and Iraq where they were neither limited nor safeguarded.

At the operational level, in the absence of specific guidance from CENTCOM, interrogators in Iraq relied on Field Manual 34-52 and on unauthorized techniques that had migrated from Afghanistan. On September 14, 2003 CJTF-7 signed the theater's first policy on interrogation, which contained elements of the approved Guantanamo policy and elements of the SOF policy (see Appendix D). Policies approved for use on al Qaeda and Taliban detainees, who were not afforded the protection of the Geneva Conventions, now applied to detainees who did fall under the Geneva Convention protections.

CENTCOM disapproved the September 14, 2003 policy, resulting in another policy signed on October 12, 2003 which essentially mirrored the outdated 1987 version of the FM 34-52 (see Appendix D). The 1987 version, however, authorized interrogators to control all aspects of the interrogation, "to include lighting and heating, as well as food, clothing, and shelter given to detainees." This was specifically left out of the current 1992 version. This clearly led to confusion on what practices were acceptable. We cannot be sure how much the number and severity of abuses would have been curtailed

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had there been early and consistent guidance from higher levels. Nonetheless, such guidance was needed and likely would have had a limiting effect.

At the tactical level we concur with the Jones/Fay investigation's conclusion that military intelligence personnel share responsibility for the abuses at Abu Ghraib with the military police soldiers cited in the Taguba investigation. The Jones/Fay Investigation found 44 alleged instances of abuse, some which were also considered by the Taguba report. A number of these cases involved MI personnel directing the actions of MP personnel. Yet it should be noted that of the 66 closed cases of detainee abuse in Guantanamo, Afghanistan and Iraq cited by the Naval Inspector General, only one-third were interrogation related.

The Panel concurs with the findings of the Taguba and Jones investigations that serious leadership problems in the 800th MP Brigade and 205th MI Brigade, to include the 320th MP Battalion Commander and the Director of the Joint Debriefing and Interrogation Center (JDIC), allowed the abuses at Abu Ghraib. The Panel endorses the disciplinary actions taken as a result of the Taguba Investigation. The Panel anticipates that the Chain of Command will take additional disciplinary action as a result of the referrals of the Jones/Fay investigation.

We believe LTG Sanchez should have taken stronger action in November when he realized the extent of the leadership problems at Abu Ghraib. His attempt to mentor BG Karpinski, though well-intended, was insufficient in a combat zone in the midst of a serious and growing insurgency. Although LTG Sanchez had more urgent tasks than dealing personally with command and resource deficiencies at Abu Ghraib, MG Wojdakowski and the staff should have seen that urgent demands were placed to higher headquarters for additional assets. We concur with the Jones findings that LTG Sanchez and MG Wojdakowski failed to ensure proper staff oversight of detention and interrogation operations.

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We note, however, in terms of its responsibilities, CJTF-7 was never fully resourced to meet the size and complexity of its mission. The Joint Staff, CJTF-7 and CENTCOM took too long to finalize the Joint Manning Document (JMD). It was not finally approved until December 2003, six months into the insurgency. At one point, CJTF-7 had only 495 of the 1,400 personnel authorized. The command was burdened with additional complexities associated with its mission to support the Coalition Provisional Authority.

Once it became clear in the summer of 2003 that there was a major insurgency growing in Iraq, with the potential for capturing a large number of enemy combatants, senior leaders should have moved to meet the need for additional military police forces. Certainly by October and November when the fighting reached a new peak, commanders and staff from CJTF-7 all the way to CENTCOM to the Joint Chiefs of Staff should have known about and reacted to the serious limitations of the battalion of the 800th Military Police Brigade at Abu Ghraib. CENTCOM and the JCS should have at least considered adding forces to the detention/interrogation operation mission. It is the judgment of this panel that in the future, considering the sensitivity of this kind of mission, the OSD should assure itself that serious limitations in detention/interrogation missions do not occur.

Several options were available to Commander CENTCOM and above, including reallocation of U.S. Army assets already in the theater, Operational Control (OPCON) of other Service Military Police units in theater, and mobilization and deployment of additional forces from the continental United States. There is no evidence that any of the responsible senior officers considered any of these options. What could and should have been done more promptly is evidenced by the fact that the detention/interrogation operation in Iraq is now directed by a Major General reporting directly to the Commander, Multi-National Forces Iraq (MNFI). Increased units of Military Police, fully manned and more appropriately equipped, are performing the mission once assigned to a single under-strength, poorly trained, inadequately equipped and weakly-led brigade.

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In addition to the already cited leadership problems in the 800th MP Brigade, there were a series of tangled command relationships. These ranged from an unclear military intelligence chain of command, to the Tactical Control (TACON) relationship of the 800th with CJTF-7 which the Brigade Commander apparently did not adequately understand, and the confusing and unusual assignment of MI and MP responsibilities at Abu Ghraib. The failure to react appropriately to the October 2003 ICRC report, following its two visits to Abu Ghraib, is indicative of the weakness of the leadership at Abu Ghraib. These unsatisfactory relationships were present neither at Guantanamo nor in Afghanistan.

RECOMMENDATIONS

Department of Defense reform efforts are underway and the Panel commends these efforts. They are discussed in more detail in the body of this report. The Office of the Secretary of Defense, the Joint Chiefs of Staff and the Military Services are conducting comprehensive reviews on how military operations have changed since the end of the Cold War. The Military Services now recognize the problems and are studying force compositions, training, doctrine, responsibilities and active duty/reserve and guard/contractor mixes which must be adjusted to ensure we are better prepared to succeed in the war on terrorism. As an example, the Army is currently planning and developing 27 additional MP companies.

The specific recommendations of the Independent Panel are contained in the Recommendations section, beginning on page 87.

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CONCLUSION

The vast majority of detainees in Guantanamo, Afghanistan and Iraq were treated appropriately, and the great bulk of detention operations were conducted in compliance with U.S. policy and directives. They yielded significant amounts of actionable intelligence for dealing with the insurgency in Iraq and strategic intelligence of value in the Global War on Terror. For example, much of the information in the recently released 9/11 Commission's report, on the planning and execution of the attacks on the World Trade Center and Pentagon, came from interrogation of detainees at Guantanamo and elsewhere.

Justice Sandra Day O'Connor, writing for the majority of the Supreme Court of the United States in *Hamdi v. Rumsfeld* on June 28, 2004, pointed out that "The purpose of detention is to prevent captured individuals from returning to the field of battle and taking up arms once again." But detention operations also serve the key purpose of intelligence gathering. These are not competing interests but appropriate objectives which the United States may lawfully pursue.

We should emphasize that tens of thousands of men and women in uniform strive every day under austere and dangerous conditions to secure our freedom and the freedom of others. By historical standards, they rate as some of the best trained, disciplined and professional service men and women in our nation's history.

While any abuse is too much, we see signs that the Department of Defense is now on the path to dealing with the personal and professional failures and remedying the underlying causes of these abuses. We expect any potential future incidents of abuse will similarly be discovered and reported out of the same sense of personal honor and duty that characterized many of those who went out of their way to do so in most of these cases. The damage these incidents have done to U.S. policy, to the image of the U.S. among

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populations whose support we need in the Global War on Terror and to the morale of our armed forces, must not be repeated.

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INTRODUCTION–CHARTER AND METHODOLOGY

The Secretary of Defense chartered the Independent Panel on May 12, 2004, to review Department of Defense (DoD) Detention Operations (see Appendix A). In his memorandum, the Secretary tasked the Independent Panel to review Department of Defense investigations on detention operations whether completed or ongoing, as well as other materials and information the Panel deemed relevant to its review. The Secretary asked for the Panel's independent advice in highlighting the issues considered most important for his attention. He asked for the Panel's views on the causes and contributing factors to problems in detainee operations and what corrective measures would be required.

Completed investigations reviewed by the Panel include the following:

- Joint Staff External Review of Intelligence Operations at Guantanamo Bay, Cuba, September 28, 2002 (Custer Report)

- Joint Task Force Guantanamo assistance visit to Iraq to assess intelligence operations, September 5, 2003 (Miller Report)

- Army Provost Marshal General assessment of detention and corrections operations in Iraq, November 6, 2003 (Ryder Report)

- Administrative investigation under Army Regulation 15-6 (AR 15-6) regarding Abu Ghraib, June 8, 2004 (Taguba Report)

- Army Inspector General assessment of doctrine and training for detention operations, July 23, 2004 (Mikolashek Report)

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- The Fay investigation of activities of military personnel at Abu Ghraib and related LTG Jones investigation under the direction of GEN Kern, August 16, 2004

- Naval Inspector General's review of detention procedures at Guantanamo Bay, Cuba and the Naval Consolidated Brig, Charleston, South Carolina (A briefing was presented to the Secretary of Defense on May 8, 2004.)

- Naval Inspector General's review of DoD worldwide interrogation operations, due for release on September 9, 2004

- Special Inspection of Detainee Operations and Facilities in the Combined Forces Command-Afghanistan AOR (CFC-A), June 26, 2004 (Jacoby Report).

- Administrative Investigation of Alleged Detainee Abuse by the Combined Joint Special Operations Task Force – Arabian Peninsula (Formica Report) Due for release in August, 2004. Assessment not yet completed and not reviewed by the Independent Panel

- Army Reserve Command Inspector General Assessment of Military Intelligence and Military Police Training (due for release in December 2004)

Panel interviews of selected individuals either in person or via video-teleconference:

June 14, 2004:

- MG Keith Dayton, Director, Iraq Survey Group (ISG), Baghdad, Iraq
- MG Geoffrey Miller, Director, Detainee Operations, CJTF-7, Baghdad, Iraq
- Hon Donald Rumsfeld, Secretary of Defense
- Hon Steve Cambone, Under Secretary of Defense for Intelligence
- MG Walter Wojdakowski, Deputy Commanding General, V Corps, USAREUR and 7th Army

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- MG Donald Ryder, Provost Marshal, U.S. Army/Commanding General, U.S. Army Criminal Investigation Command, Washington, D.C.
- COL Thomas Pappas, Commander, 205th Military Intelligence Brigade, V Corps, USAREUR and 7th Army

June 24,2004:

- LTG David McKiernan, Commanding General, Third U.S. Army, U.S. Army Forces Central Command, Coalition Forces Land Component Command
- MG Barbara Fast, CJTF-7 C-2, Director for Intelligence, Baghdad, Iraq
- MG Geoffrey Miller, Director, Detainee Operations, CJTF-7, Baghdad, Iraq
- LTG Ricardo Sanchez, Commanding General, CJTF-7, Commanding General, V Corps, USAREUR and 7th Army in Iraq
- Mr. Daniel Dell'Orto, Principal Deputy General Counsel, DoD
- LTG Keith Alexander, G-2, U.S. Army, Washington, D.C.
- LTG William Boykin, Deputy Undersecretary of Defense for Intelligence, Intelligence and Warfighting Support, Office of the Under Secretary of Defense for Intelligence
- Hon Douglas Feith, Under Secretary of Defense for Policy

July 8, 2004:

- COL Marc Warren, Senior Legal Advisor to LTG Sanchez, Iraq
- BG Janis Karpinski, Commander (TPU), 800th Military Police Brigade, Uniondale, NY
- Hon Paul Wolfowitz, Deputy Secretary of Defense
- Hon William Haynes, General Counsel DoD
- Mr. John Rizzo, CIA Senior Deputy General Counsel
- GEN John Abizaid, Commander, U.S. Central Command
- MG George Fay, Deputy to the Army G2, Washington, D.C.
- VADM Albert Church III, Naval Inspector General

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July 22, 2004:

- Hon Donald Rumsfeld, Secretary of Defense

The Panel did not conduct a case-by-case review of individual abuse cases. This task has been accomplished by those professionals conducting criminal and commander-directed investigations. Many of these investigations are still on-going. The Panel did review the various completed and on-going reports covering the causes for the abuse. Each of these inquiries or inspections defined abuse, categorized the abuses, and analyzed the abuses in conformity with the appointing authorities' guidance, but the methodologies do not parallel each other in all respects. The Panel concludes, based on our review of other reports to date and our own efforts that causes for abuse have been adequately examined.

The Panel met on July 22nd and again on August 16th to discuss progress of the report. Panel members also reviewed sections and versions of the report through July and mid-August.

An effective, timely response to our requests for other documents and support was invariably forthcoming, due largely to the efforts of the DoD Detainee Task Force. We conducted reviews of multiple classified and unclassified documents generated by DoD and other sources.

Our staff has met and communicated with representatives of the International Committee of the Red Cross and with the Human Rights Executive Directors' Coordinating Group.

It should be noted that information provided to the Panel was that available as of mid-August 2004. If additional information becomes available, the Panel's judgments might be revised.

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THE CHANGING THREAT

The date September 11, 2001, marked an historic juncture in America's collective sense of security. On that day our presumption of invulnerability was irretrievably shattered. Over the last decade, the military has been called upon to establish and maintain the peace in Bosnia and Kosovo, eject the Taliban from Afghanistan, defeat the Iraqi Army, and fight ongoing insurgencies in Iraq and Afghanistan. Elsewhere it has been called upon to confront geographically dispersed terrorists who would threaten America's right to political sovereignty and our right to live free of fear.

In waging the Global War on Terror, the military confronts a far wider range of threats. In Iraq and Afghanistan, U.S. forces are fighting diverse enemies with varying ideologies, goals and capabilities. American soldiers and their coalition partners have defeated the armored divisions of the Republican Guard, but are still under attack by forces using automatic rifles, rocket-propelled grenades, roadside bombs and surface-to-air missiles. We are not simply fighting the remnants of dying regimes or opponents of the local governments and coalition forces assisting those governments, but multiple enemies including indigenous and international terrorists. This complex operational environment requires soldiers capable of conducting traditional stability operations associated with peacekeeping tasks one moment and fighting force-on-force engagements normally associated with war-fighting the next moment.

Warfare under the conditions described inevitably generates detainees—enemy combatants, opportunists, trouble-makers, saboteurs, common criminals, former regime officials and some innocents as well. These people must be carefully but humanely processed to sort out those who remain dangerous or possess militarily-valuable intelligence. Such processing presents extraordinarily formidable logistical, administrative, security and legal problems completely apart from the technical obstacles posed by communicating with prisoners in another language and extracting actionable intelligence from them in timely fashion. These activities, called detention operations,

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are a vital part of an expeditionary army's responsibility, but they depend upon training, skills, and attributes not normally associated with soldiers in combat units.

Military interrogators and military police, assisted by front-line tactical units, found themselves engaged in detention operations with detention procedures still steeped in the methods of World War II and the Cold War, when those we expected to capture on the battlefield were generally a homogenous group of enemy soldiers. Yet this is a new form of war, not at all like Desert Storm nor even analogous to Vietnam or Korea.

General Abizaid himself best articulated the current nature of combat in testimony before the U.S. Senate Armed Services Committee on May 19, 2004:

> Our enemies are in a unique position, and they are a unique brand of ideological extremists whose vision of the world is best summed up by how the Taliban ran Afghanistan. If they can outlast us in Afghanistan and undermine the legitimate government there, they'll once again fill up the seats at the soccer stadium and force people to watch executions. If, in Iraq, the culture of intimidation practiced by our enemies is allowed to win, the mass graves will fill again. Our enemies kill without remorse, they challenge our will through the careful manipulation of propaganda and information, they seek safe havens in order to develop weapons of mass destruction that they will use against us when they are ready. Their targets are not Kabul and Baghdad, but places like Madrid and London and New York. While we can't be defeated militarily, we're not going to win this thing militarily alone.... As we fight this most unconventional war of this new century, we must be patient and courageous.

In Iraq the U.S. commanders were slow to recognize and adapt to the insurgency that erupted in the summer and fall of 2003. Military police and interrogators who had previous experience in the Balkans, Guantanamo and Afghanistan found themselves, along with increasing numbers of less-experienced troops, in the midst of detention operations in Iraq the likes of which the Department of Defense had not foreseen. As Combined Joint Task Force-7 (CJTF-7) began detaining thousands of Iraqis suspected of

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involvement in or having knowledge of the insurgency, the problem quickly surpassed the capacity of the staff to deal with and the wherewithal to contain it.

Line units conducting raids found themselves seizing specifically targeted persons, so designated by military intelligence; but, lacking interrogators and interpreters to make precise distinctions in an alien culture and hostile neighborhoods, they reverted to rounding up any and all suspicious-looking persons—all too often including women and children. The flood of incoming detainees contrasted sharply with the trickle of released individuals. Processing was overwhelmed. Some detainees at Abu Ghraib had been held 90 days before being interrogated for the first time.

Many interrogators, already in short supply from major reductions during the post-Cold War drawdown, by this time, were on their second or third combat tour. Unit cohesion and morale were largely absent as under-strength companies and battalions from across the United States and Germany were deployed piecemeal and stitched together in a losing race to keep up with the rapid influx of vast numbers of detainees.

As the insurgency reached an initial peak in the fall of 2003, many military policemen from the Reserves who had been activated shortly after September 11, 2001 had reached the mandatory two-year limit on their mobilization time. Consequently, the ranks of soldiers having custody of detainees in Iraq fell to about half strength as MPs were ordered home by higher headquarters.

Some individuals seized the opportunity provided by this environment to give vent to latent sadistic urges. Moreover, many well-intentioned professionals, attempting to resolve the inherent moral conflict between using harsh techniques to gain information to save lives and treating detainees humanely, found themselves in uncharted ethical ground, with frequently changing guidance from above. Some stepped over the line of humane treatment accidentally; some did so knowingly. Some of the abusers believed other governmental agencies were conducting interrogations using harsher techniques

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than allowed by the Army Field Manual 34-52, a perception leading to the belief that such methods were condoned. In nearly 10 percent of the cases of alleged abuse, the chain of command ignored reports of those allegations. More than once a commander was complicit.

The requirements for successful detainee operations following major combat operations were known by U.S. forces in Iraq. After Operations Enduring Freedom and earlier phases of Iraqi Freedom, several lessons learned were captured in official reviews and were available on-line to any authorized military user. These lessons included the need for doctrine tailored to enable police and interrogators to work together effectively; the need for keeping MP and MI units manned at levels sufficient to the task; and the need for MP and MI units to belong to the same tactical command. However, there is no evidence that those responsible for planning and executing detainee operations, in the phase of the Iraq campaign following the major combat operations, availed themselves of these "lessons learned" in a timely fashion.

Judged in a broader context, U.S. detention operations were both traditional and new. They were traditional in that detainee operations were a part of all past conflicts. They were new in that the Global War on Terror and the insurgency we are facing in Iraq present a much more complicated detainee population.

Many of America's enemies, including those in Iraq and Afghanistan, have the ability to conduct this new kind of warfare, often referred to as "asymmetric" warfare. Asymmetric warfare can be viewed as attempts to circumvent or undermine a superior, conventional strength, while exploiting its weaknesses using methods the superior force neither can defeat nor resort to itself. Small unconventional forces can violate a state's security without any state support or affiliation whatsoever. For this reason, many terms in the orthodox lexicon of war—e.g., state sovereignty, national borders, uniformed combatants, declarations of war, and even war itself, are not terms terrorists acknowledge.

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Today, the power to wage war can rest in the hands of a few dozen highly motivated people with cell phones and access to the Internet. Going beyond simply terrorizing individual civilians, certain insurgent and terrorist organizations represent a higher level of threat, characterized by an ability and willingness to violate the political sovereignty and territorial integrity of sovereign nations.

Essential to defeating terrorist and insurgent threats is the ability to locate cells, kill or detain key leaders, and interdict operational and financial networks. However, the smallness and wide dispersal of these enemy assets make it problematic to focus on signal and imagery intelligence as we did in the Cold War, Desert Storm, and the first phase of Operation Iraqi Freedom. The ability of terrorists and insurgents to blend into the civilian population further decreases their vulnerability to signal and imagery intelligence. Thus, information gained from human sources, whether by spying or interrogation, is essential in narrowing the field upon which other intelligence gathering resources may be applied. In sum, human intelligence is absolutely necessary, not just to fill these gaps in information derived from other sources, but also to provide clues and leads for the other sources to exploit.

Military police functions must also adapt to this new kind of warfare. In addition to organizing more units capable of handling theater-level detention operations, we must also organize those units, so they are able to deal with the heightened threat environment. In this new form of warfare, the distinction between front and rear becomes more fluid. All forces must continuously prepare for combat operations.

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THE POLICY PROMULGATION PROCESS

Although there were a number of contributing causes for detainee abuses, policy processes were inadequate or deficient in certain respects at various levels: Department of Defense (DoD), CENTCOM, Coalition Forces Land Component Command (CFLCC), CJTF-7, and the individual holding facility or prison. In pursuing the question of the extent to which policy processes at the DoD or national level contributed to abuses, it is important to begin with policy development as individuals in Afghanistan were first being detained in November 2001. The first detainees arrived at Guantanamo in January 2002.

In early 2002, a debate was ongoing in Washington on the application of treaties and laws to al Qaeda and Taliban. The Department of Justice, Office of Legal Counsel (OLC) advised DoD General Counsel and the Counsel to the President that, among other things:

- Neither the Federal War Crimes Act nor the Geneva Conventions would apply to the detention conditions of al Qaeda prisoners,
- The President had the authority to suspend the United States treaty obligations applying to Afghanistan for the duration of the conflict should he determine Afghanistan to be a failed state,
- The President could find that the Taliban did not qualify for Enemy Prisoner of War (EPW) status under Geneva Convention III.

The Attorney General and the Counsel to the President, in part relying on the opinions of OLC, advised the President to determine the Geneva Conventions did not apply to the conflict with al Qaeda and the Taliban. The Panel understands DoD General Counsel's position was consistent with the Attorney General's and the Counsel to the President's position. Earlier, the Department of State had argued that the Geneva Conventions in their traditional application provided a sufficiently robust legal construct under which the Global War on Terror could effectively be waged.

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The Legal Advisor to the Chairman, Joint Chiefs of Staff and many service lawyers agreed with the State Department's initial position. They were concerned that to conclude otherwise would be inconsistent with past practice and policy, jeopardize the United States armed forces personnel, and undermine the United States military culture which is based on a strict adherence to the law of war. At the February 4, 2002 National Security Council meeting to decide this issue, the Department of State, the Department of Defense, and the Chairman of the Joint Chiefs of Staff were in agreement that all detainees would get the treatment they are (or would be) entitled to under the Geneva Conventions.

On February 7, 2002, the President issued his decision memorandum (see Appendix B). The memorandum stated the Geneva Conventions did not apply to al Qaeda and therefore they were not entitled to prisoner of war status. It also stated the Geneva Conventions did apply to the Taliban but the Taliban combatants were not entitled to prisoner of war status as a result of their failure to conduct themselves in accordance with the provisions of the Geneva Conventions. The President's memorandum also stated: "As a matter of policy, United States Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva."

Regarding the applicability of the Convention Against Torture and Other Cruel Inhumane or Degrading Treatment, the OLC opined on August 1, 2002 that interrogation methods that comply with the relevant domestic law do not violate the Convention. It held that only the most extreme acts, that were specifically intended to inflict severe pain and torture, would be in violation; lesser acts might be "cruel, inhumane, or degrading" but would not violate the Convention Against Torture or domestic statutes. The OLC memorandum went on to say, as Commander in Chief exercising his wartime powers, the President could even authorize torture, if he so decided.

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Reacting to tenacious resistance by some detainees to existing interrogation methods, which were essentially limited to those in Army Field Manual 34-52 (see Appendix E), Guantanamo authorities in October 2002 requested approval of strengthened counter-interrogation techniques to increase the intelligence yield from interrogations. This request was accompanied by a recommended tiered list of techniques, with the proviso that the harsher Category III methods (see Appendix E) could be used only on "exceptionally resistant detainees" and with approval by higher headquarters.

This Guantanamo initiative resulted in a December 2, 2002 decision by the Secretary of Defense authorizing, "as a matter of policy," the use of Categories I and II and only one technique in Category III: mild, non-injurious physical contact (see Appendix E). As a result of concern by the Navy General Counsel, the Secretary of Defense rescinded his December approval of all Category II techniques plus the one from Category III on January 15, 2003. This essentially returned interrogation techniques to FM 34-52 guidance. He also stated if any of the methods from Categories II and III were deemed warranted, permission for their use should be requested from him (see Appendix E).

The Secretary of Defense directed the DoD General Counsel to establish a working group to study interrogation techniques. The working group was headed by Air Force General Counsel Mary Walker and included wide membership from across the military, legal and intelligence communities. The working group also relied heavily on the OLC. The working group reviewed 35 techniques, and after a very expansive debate, ultimately recommended 24 to the Secretary of Defense. The study led to the Secretary's promulgation on April 16, 2003 of the list of approved techniques. His memorandum emphasized appropriate safeguards should be in place and, further, "*Use of these techniques is limited to interrogations of unlawful combatants held at Guantanamo Bay, Cuba.*" He also stipulated that four of the techniques should be used only in case of military necessity and that he should be so notified in advance. If additional techniques were deemed essential, they should be requested in writing, with "recommended safeguards and rationale for applying with an identified detainee."

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In the initial development of these Secretary of Defense policies, the legal resources of the Services' Judge Advocates and General Counsels were not utilized to their fullest potential. Had the Secretary of Defense had the benefit of a wider range of legal opinions and a more robust debate regarding detainee policies and operations, his policy of April 16, 2003 might well have been developed and issued in early December 2002. This could have avoided the policy changes which characterized the December 2, 2002 to April 16, 2003 period.

It is clear that pressure for additional intelligence and the more aggressive methods sanctioned by the Secretary of Defense memorandum resulted in stronger interrogation techniques. They did contribute to a belief that stronger interrogation methods were needed and appropriate in their treatment of detainees. At Guantanamo, the interrogators used those additional techniques with only two detainees, gaining important and time-urgent information in the process.

In Afghanistan, from the war's inception through the end of 2002, all forces used FM 34-52 as a baseline for interrogation techniques. Nonetheless, more aggressive interrogation of detainees appears to have been ongoing. On January 24, 2003, in response to a data call from the Joint Staff to facilitate the Secretary of Defense-directed Working Group efforts, the Commander Joint Task Force-180 forwarded a list of techniques being used in Afghanistan, including some not explicitly set out in FM 34-52. These techniques were included in a Special Operations Forces (SOF) Standard Operating Procedures document published in February 2003. The 519th Military Intelligence Battalion, a Company of which was later sent to Iraq, assisted in interrogations in support of SOF and was fully aware of their interrogation techniques.

In Iraq, the operational order from CENTCOM provided the standard FM 34-52 interrogation procedures would be used. Given the greatly different situations in Afghanistan and Iraq, it is not surprising there were differing CENTCOM policies for the

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two countries. In light of ongoing hostilities that monopolized commanders' attention in Iraq, it is also not unexpected the detainee issues were not given a higher priority.

Interrogators and lists of techniques circulated from Guantanamo and Afghanistan to Iraq. During July and August 2003, a Company of the 519th MI Battalion was sent to the Abu Ghraib detention facility to conduct interrogation operations. Absent guidance other than FM 34-52, the officer in charge prepared draft interrogation guidelines that were a near copy of the Standard Operating Procedure created by SOF. It is important to note that techniques effective under carefully controlled conditions at Guantanamo became far more problematic when they migrated and were not adequately safeguarded.

In August 2003, MG Geoffrey Miller arrived to conduct an assessment of DoD counterterrorism interrogation and detention operations in Iraq. He was to discuss current theater ability to exploit internees rapidly for actionable intelligence. He brought to Iraq the Secretary of Defense's April 16, 2003 policy guidelines for Guantanamo—which he reportedly gave to CJTF-7 as a potential model—recommending a command-wide policy be established. He noted, however, the Geneva Conventions did apply to Iraq. In addition to these various printed sources, there was also a store of common lore and practice within the interrogator community circulating through Guantanamo, Afghanistan and elsewhere.

At the operational level, in the absence of more specific guidance from CENTCOM, interrogators in Iraq relied on FM 34-52 and on unauthorized techniques that had migrated from Afghanistan. On September 14, 2003, Commander CJTF-7 signed the theater's first policy on interrogation which contained elements of the approved Guantanamo policy and elements of the SOF policy. Policies approved for use on al Qaeda and Taliban detainees who were not afforded the protection of EPW status under the Geneva Conventions now applied to detainees who did fall under the Geneva Convention protections. CENTCOM disapproved the September 14, 2003 policy resulting in another policy signed on October 12, 2003 which essentially mirrored the

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outdated 1987 version of the FM 34-52. The 1987 version, however, authorized interrogators to control all aspects of the interrogation, "to include lighting and heating, as well as food, clothing, and shelter given to detainees." This was specifically left out of the 1992 version, which is currently in use. This clearly led to confusion on what practices were acceptable. We cannot be sure how much the number and severity of abuses would have been curtailed had there been early and consistent guidance from higher levels. Nonetheless, such guidance was needed and likely would have had a limiting effect.

At Abu Ghraib, the Jones/Fay investigation concluded that MI professionals at the prison level shared a "major part of the culpability" for the abuses. Some of the abuses occurred during interrogation. As these interrogation techniques exceeded parameters of FM 34-52, no training had been developed. Absent training, the interrogators used their own initiative to implement the new techniques. To what extent the same situation existed at other prisons is unclear, but the widespread nature of abuses warrants an assumption that at least the understanding of interrogations policies was inadequate. A host of other possible contributing factors, such as training, leadership, and the generally chaotic situation in the prisons, are addressed elsewhere in this report.

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PUBLIC RELEASE OF ABUSE PHOTOS

In any large bureaucracy, good news travels up the chain of command quickly; bad news generally does not. In the case of the abuse photos from Abu Ghraib, concerns about command influence on an ongoing investigation may have impeded notification to senior officials.

Chronology of Events

On January 13, 2004, SPC Darby gave Army criminal investigators a copy of a CD containing abuse photos he had taken from SPC Graner's computer. CJTF-7, CENTCOM, the Chairman of the Joint Chiefs of Staff and the Secretary of Defense were all informed of the issue. LTG Sanchez promptly asked for an outside investigation, and MG Taguba was appointed as the investigating officer. The officials who saw the photos on January 14, 2004, not realizing their likely significance, did not recommend the photos be shown to more senior officials. A CENTCOM press release in Baghdad on January 16, 2004 announced there was an ongoing investigation into reported incidents of detainee abuse at a Coalition Forces detention facility.

An interim report of the investigation was provided to CJTF-7 and CENTCOM commanders in mid-March 2004. It is unclear whether they saw the Abu Ghraib photos, but their impact was not appreciated by either of these officers or their staff officers who may have seen the photographs, as indicated by the failure to transmit them in a timely fashion to more senior officials. When LTG Sanchez received the Taguba report, he immediately requested an investigation into the possible involvement of military intelligence personnel. He told the panel that he did not request the photos be disseminated beyond the criminal investigative process because commanders are prohibited from interfering with, or influencing, active investigations. In mid-April, LTG McKiernan, the appointing official, reported the investigative results through his chain of

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command to the Department of the Army, the Army Judge Advocate General, and the U.S. Army Reserve Command. LTG McKiernan advised the panel that he did not send a copy of the report to the Secretary of Defense, but forwarded it through his chain of command. Again the reluctance to move bad news farther up the chain of command probably was a factor impeding notification of the Secretary of Defense.

Given this situation, GEN Richard Myers, the Chairman of the Joint Chiefs of Staff, was unprepared in April 2004 when he learned the photos of detainee abuse were to be aired in a CBS broadcast. The planned release coincided with particularly intense fighting by Coalition forces in Fallujah and Najaf. After a discussion with GEN Abizaid, GEN Myers asked CBS to delay the broadcast out of concern the lives of the Coalition soldiers and the hostages in Iraq would be further endangered. The story of the abuse itself was already public. Nonetheless, both GEN Abizaid and GEN Myers understood the pictures would have an especially explosive impact around the world.

Informing Senior Officials

Given the magnitude of this problem, the Secretary of Defense and other senior DoD officials need a more effective information pipeline to inform them of high-profile incidents which may have a significant adverse impact on DoD operations. Had such a pipeline existed, it could have provided an accessible and efficient tool for field commanders to apprise higher headquarters, the Joint Chiefs of Staff, and the Office of the Secretary of Defense, of actual or developing situations which might hinder, impede, or undermine U.S. operations and initiatives. Such a system could have equipped senior spokesmen with the known facts of the situation from all DoD elements involved. Finally, it would have allowed for senior official preparation and Congressional notification.

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Such a procedure would make it possible for a field-level command or staff agency to alert others of the situation and forward the information to senior officials. This would not have been an unprecedented occurrence. For example, in December 2002, concerned Naval Criminal Investigative Service agents drew attention to the potential for abuse at Guantanamo. Those individuals had direct access to the highest levels of leadership and were able to get that information to senior levels without encumbrance. While a corresponding flow of information might not have prevented the abuses from occurring, the Office of the Secretary of Defense would have been alerted to a festering issue, allowing for an early and appropriate response.

Another example is the Air Force Executive Issues Team. This office has fulfilled the special information pipeline function for the Air Force since February 1998. The team chief and team members are highly trained and experienced field grade officers drawn from a variety of duty assignments. The team members have access to information flow across all levels of command and staff and are continually engaging and building contacts to facilitate the information flow. The information flow to the team runs parallel and complementary to standard reporting channels in order to avoid bypassing the chain of command but yet ensures a rapid and direct flow of relevant information to Air Force Headquarters.

A proper, transparent posture in getting the facts and fixing the problem would have better enabled the DoD to deal with the damage to the mission of the U.S. in the region and to the reputation of the U.S. military.

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COMMAND RESPONSIBILITIES

Although the most egregious instances of detainee abuse were caused by the aberrant behavior of a limited number of soldiers and the predilections of the non-commissioned officers on the night shift of Tier 1 at Abu Ghraib, the Independent Panel finds that commanding officers and their staffs at various levels failed in their duties and that such failures contributed directly or indirectly to detainee abuse. Commanders are responsible for all their units do or fail to do, and should be held accountable for their action or inaction. Command failures were compounded by poor advice provided by staff officers with responsibility for overseeing battlefield functions related to detention and interrogation operations. Military and civilian leaders at the Department of Defense share this burden of responsibility.

Commanders

The Panel finds that the weak and ineffectual leadership of the Commanding General of the 800th MP Brigade and the Commanding Officer of the 205th MI Brigade allowed the abuses at Abu Ghraib. There were serious lapses of leadership in both units from junior non-commissioned officers to battalion and brigade levels. The commanders of both brigades either knew, or should have known, abuses were taking place and taken measures to prevent them. The Panel finds no evidence that organizations above the 800th MP Brigade- or the 205th MI Brigade-level were directly involved in the incidents at Abu Ghraib. Accordingly, the Panel concurs in the judgment and recommendations of MG Taguba, MG Fay, LTG Jones, LTG Sanchez, LTG McKiernan, General Abizaid and General Kern regarding the commanders of these two units. The Panel expects disciplinary action may be forthcoming.

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The Independent Panel concurs with the findings of MG Taguba regarding the Director of the Joint Interrogation and Debriefing Center (JIDC) at Abu Ghraib. Specifically, the Panel notes that MG Taguba concluded that the Director, JIDC made material misrepresentations to MG Taguba's investigating team. The panel finds that he failed to properly train and control his soldiers and failed to ensure prisoners were afforded the protections under the relevant Geneva Conventions. The Panel concurs with MG Taguba's recommendation that he be relieved for cause and given a letter of reprimand and notes that disciplinary action may be pending against this officer.

The Independent Panel concurs with the findings of MG Taguba regarding the Commander of the 320th MP Battalion at Abu Ghraib. Specifically, the Panel finds that he failed to ensure that his subordinates were properly trained and supervised and that he failed to establish and enforce basic soldier standards, proficiency and accountability. He was not able to organize tasks to accomplish his mission in an appropriate manner. By not communicating standards, policies and plans to soldiers, he conveyed a sense of tacit approval of abusive behavior towards prisoners and a lax and dysfunctional command climate took hold. The Panel concurs with MG Taguba's recommendation that he be relieved from command, be given a General Officer Memorandum of reprimand, and be removed from the Colonel/O-6 promotion list.

The Independent Panel finds that BG Karpinski's leadership failures helped set the conditions at the prison which led to the abuses, including her failure to establish appropriate standard operating procedures (SOPs) and to ensure the relevant Geneva Conventions protections were afforded prisoners, as well as her failure to take appropriate actions regarding ineffective commanders and staff officers. The Panel notes the conclusion of MG Taguba that she made material misrepresentations to his investigating team regarding the frequency of her visits to Abu Ghraib. The Panel concurs with MG Taguba's recommendation that BG Karpinski be relieved of command and given a General Officer Letter of Reprimand.

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Although LTG Sanchez had tasks more urgent than dealing personally with command and resource deficiencies and allegations of abuse at Abu Ghraib, he should have ensured his staff dealt with the command and resource problems. He should have assured that urgent demands were placed for appropriate support and resources through Coalition Forces Land Component Command (CFLCC) and CENTCOM to the Joint Chiefs of Staff. He was responsible for establishing the confused command relationship at the Abu Ghraib prison. There was no clear delineation of command responsibilities between the 320th MP Battalion and the 205th MI Brigade. The situation was exacerbated by CJTF-7 Fragmentary Order (FRAGO) 1108 issued on November 19, 2003 that appointed the commander of the 205th MI Brigade as the base commander for Abu Ghraib, including responsibility for the support of all MPs assigned to the prison. In addition to being contrary to existing doctrine, there is no evidence the details of this command relationship were effectively coordinated or implemented by the leaders at Abu Ghraib. The unclear chain of command established by CJTF-7, combined with the poor leadership and lack of supervision, contributed to the atmosphere at Abu Ghraib that allowed the abuses to take place.

The unclear command structure at Abu Ghraib was further exacerbated by the confused command relationship up the chain. The 800th MP Brigade was initially assigned to the Central Command's Combined Forces Land Component Commander (CFLCC) during the major combat phase of Operation Iraqi Freedom. When CFLCC left the theater and returned to Fort McPherson Georgia, CENTCOM established Combined Joint Task Force-Seven (CJTF-7). While the 800th MP Brigade remained assigned to CFLCC, it essentially worked for CJTF-7. LTG Sanchez delegated responsibility for detention operations to his Deputy, MG Wojdakowski. At the same time, intelligence personnel at Abu Ghraib reported through the CJTF-7 C-2, Director for Intelligence. These arrangements had the damaging result that no single individual was responsible for overseeing operations at the prison.

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The Panel endorses the disciplinary actions already taken, although we believe LTG Sanchez should have taken more forceful action in November when he fully comprehended the depth of the leadership problems at Abu Ghraib. His apparent attempt to mentor BG Karpinski, though well-intended, was insufficient in a combat zone in the midst of a serious and growing insurgency.

The creation of the Joint Interrogation and Debriefing Center (JIDC) at Abu Ghraib was not an unusual organizational approach. The problem is, as the Army Inspector General assessment revealed, joint doctrine for the conduct of interrogation operations contains inconsistent guidance, particularly with regard to addressing the issue of the appropriate command relationships governing the operation of such organizations as a JIDC. Based on the findings of the Fay, Jones and Church investigations, SOUTHCOM and CENTCOM were able to develop effective command relationships for such centers at Guantanamo and in Afghanistan, but CENTCOM and CJTF-7 failed to do so for the JIDC at Abu Ghraib.

Staff Officers

While staff officers have no command responsibilities, they are responsible for providing oversight, advice and counsel to their commanders. Staff oversight of detention and interrogation operations for CJTF-7 was dispersed among the principal and special staff. The lack of one person on the staff to oversee detention operations and facilities complicated effective and efficient coordination among the staff.

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The Panel finds the following:

- The CJTF-7 Deputy Commander failed to initiate action to request additional military police for detention operations after it became clear that there were insufficient assets in Iraq.
- The CJTF-7 C-2, Director for Intelligence failed to advise the commander properly on directives and policies needed for the operation of the JIDC, for interrogation techniques and for appropriately monitoring the activities of Other Government Agencies (OGAs) within the Joint Area of Operations.
- The CJTF-7 Staff Judge Advocate failed to initiate an appropriate response to the November 2003 ICRC report on the conditions at Abu Ghraib.

Failure of the Combatant Command to Adjust the Plan

Once it became clear in July 2003 there was a major insurgency growing in Iraq and the relatively benign environment projected for Iraq was not materializing, senior leaders should have adjusted the plan from what had been assumed to be a stability operation and a benign handoff of detention operations to the Iraqis. If commanders and staffs at the operational level had been more adaptive in the face of changing conditions, a different approach to detention operations could have been developed by October 2003, as difficulties with the basic plan were readily apparent by that time. Responsible leaders who could have set in motion the development of a more effective alternative course of action extend up the command chain (and staff), to include the Director for Operations, Combined Joint Task Force 7 (CJTF-7); Deputy Commanding General, CJTF-7; Commander CJTF-7; Deputy Commander for Support, CFLCC; Commander, CFLCC; Director for Operations, Central Command (CENTCOM); Commander, CENTCOM; Director for Operations, Joint Staff; the Chairman of the Joint Chiefs of Staff; and the Office of the Secretary of Defense. In most cases these were errors of omission, but they were errors that should not go unnoted.

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There was ample evidence in both Joint and Army lessons learned that planning for detention operations for Iraq required alternatives to standard doctrinal approaches. Reports from experiences in Operation Enduring Freedom and at Guantanamo had already recognized the inadequacy of current doctrine for the detention mission and the need for augmentation of both MP and MI units with experienced confinement officers and interrogators. Previous experience also supported the likelihood that detainee population numbers would grow beyond planning estimates. The relationship between MP and MI personnel in the conduct of interrogations also demanded close, continuous coordination rather than remaining compartmentalized. "Lessons learned" also reported the value of establishing a clear chain of command subordinating MP and MI to a Joint Task Force or Brigade Commander. This commander would be in charge of all aspects of both detention and interrogations just as tactical combat forces are subordinated to a single commander. The planners had only to search the lessons learned databases (available on-line in military networks) to find these planning insights. Nevertheless, CENTCOM's October 2002 planning annex for detention operations reflected a traditional doctrinal methodology.

The change in the character of the struggle signaled by the sudden spike in U.S. casualties in June, July and August 2003 should have prompted consideration of the need for additional MP assets. GEN Abizaid himself signaled a change in operations when he publicly declared in July that CENTCOM was now dealing with a growing "insurgency," a term government officials had previously avoided in characterizing the war. Certainly by October and November when the fighting reached a new peak, commanders and staffs from CJTF-7 all the way to CENTCOM and the Joint Chiefs of Staff knew by then the serious deficiencies of the 800th MP Brigade and should have at least considered reinforcing the troops for detention operations. Reservists, some of whom had been first mobilized shortly after September 11, 2001, began reaching a two-year mobilization commitment, which, by law, mandated their redeployment and deactivation.

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There was not much the 800th MP Brigade (an Army Reserve unit), could do to delay the loss of those soldiers, and there was no individual replacement system or a unit replacement plan. The MP Brigade was totally dependent on higher headquarters to initiate action to alleviate the personnel crisis. The brigade was duly reporting readiness shortfalls through appropriate channels. However, its commanding general was emphasizing these shortfalls in personal communications with CJTF-7 commanders and staff as opposed to CFLCC. Since the brigade was assigned to CFLCC, but under the Tactical Control (TACON) of CJTF-7, her communications should been with CFLCC. The response from CJTF-7's Commander and Deputy Commander was that the 800th MP Brigade had sufficient personnel to accomplish its mission and that it needed to reallocate its available soldiers among the dozen or more detention facilities it was operating in Iraq. However, the Panel found the further deterioration in the readiness condition of the brigade should have been recognized by CFLCC and CENTCOM by late summer 2003. This led the Panel to conclude that CJTF-7, CFLCC and CENTCOM failure to request additional forces was an avoidable error.

The Joint Staff recognized intelligence collection from detainees in Iraq needed improvement. This was their rationale for sending MG Miller from Guantanamo to assist CJTF-7 with interrogation operations. However, the Joint Staff was not paying sufficient attention to evidence of broader readiness issues associated with both MP and MI resources.

We note that CJTF-7 Headquarters was never fully resourced to meet the size and complexity of its mission. The Joint Staff, CJTF-7 and CENTCOM took too long to finalize the Joint Manning Document (JMD) which was not finally approved until December 2003—six months into the insurgency. At one point, CJTF-7 Headquarters had only 495 of the 1,400 personnel authorized. The command was burdened with additional complexities associated with its mission to support the Coalition Provisional Authority.

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Finally, the Joint Staff failed to recognize the implications of the deteriorating manning levels in the 800th MP Brigade; the absence of combat equipment among detention elements of MP units operating in a combat zone; and the indications of deteriorating mission performance among military intelligence interrogators owing to the stress of repeated combat deployments.

When CJTF-7 did realize the magnitude of the detention problem, it requested an assistance visit by the Provost Marshal General of the Army, MG Ryder. There seemed to be some misunderstanding of the CJTF-7 intent, however, since MG Ryder viewed his visit primarily as an assessment of how to transfer the detention program to the Iraqi prison system.

In retrospect, several options for addressing the detention operations challenge were available. CJTF-7 could have requested a change in command relationships to place the 800th MP Brigade under Operational Control of CJTF-7 rather than Tactical Control. This would have permitted the Commander of CJTF-7 to reallocate tactical assets under his control to the detention mission. While other Military Police units in Iraq were already fully committed to higher-priority combat and combat support missions, such as convoy escort, there were non-MP units that could have been reassigned to help in the conduct of detention operations. For example, an artillery brigade was tasked to operate the CJTF-7 Joint Visitors Center in Baghdad. A similar tasking could have provided additional troop strength to assist the 800th MP Brigade at Abu Ghraib. Such a shift would have supplied valuable experienced sergeants, captains and lieutenant colonels sorely lacking in both the MI and MP units at Abu Ghraib. A similar effect could have been achieved by CENTCOM assigning USMC, Navy and Air Force MP and security units to operational control of CJTF-7 for the detention operations mission.

Mobilization and deployment of additional forces from CONUS was also a feasible option. A system is in place for commands such as CJTF-7, CFLCC, and CENTCOM to submit a formal Request for Forces (RFF). Earlier, CJTF-7 had submitted a RFF for an

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additional Judge Advocate organization, but CENTCOM would not forward it to the Joint Chiefs of Staff. Perhaps this experience made CJTF-7 reluctant to submit a RFF for MP units, but there is no evidence that any of the responsible officers considered any option other than the response given to BG Karpinski to "wear her stars" and reallocate personnel among her already over-stretched units.

While it is the responsibility of the JCS and services to provide adequate numbers of appropriately trained personnel for missions such as the detention operations in Iraq, it is the responsibility of the combatant commander to organize those forces in a manner to achieve mission success. The U.S. experience in the conduct of post-conflict stability operations has been limited, but the impact of our failure to conduct proper detainee operations in this case has been significant. Combatant commanders and their subordinates must organize in a manner that affords unity of command, ensuring commanders work for commanders and not staff.

The fact that the detention operation mission for all of Iraq is now commanded by a 2-star general who reports directly to the operational commander, and that 1,900 MPs, more appropriately equipped for combat, now perform the mission once assigned to a single under-strength, poorly trained, inadequately equipped, and weakly-led brigade, indicate more robust options should have been considered sooner.

Finally, the panel notes the failure to report the abuses up the chain of command in a timely manner with adequate urgency. The abuses at Abu Ghraib were known and under investigation as early as January 2004. However, the gravity of the abuses was not conveyed up the chain of command to the Secretary of Defense. The Taguba report, including the photographs, was completed in March 2004. This report was transmitted to LTG Sanchez and GEN Abizaid; however, it is unclear whether they ever saw the Abu Ghraib photos. GEN Myers has stated he knew of the existence of the photos as early as January 2004. Although the knowledge of the investigation into Abu Ghraib was widely known, as we noted in the previous section, the impact of the photos was not appreciated

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by any of these officers as indicated by the failure to transmit them in a timely fashion to officials at the Department of Defense. (See Appendix A for the names of persons associated with the positions cited in this section.)

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MILITARY POLICE AND DETENTION OPERATIONS

In Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom, commanders should have paid greater attention to the relationship between detainees and military operations. The current doctrine and procedures for detaining personnel are inadequate to meet the requirements of these conflicts. Due to the vastly different circumstances in these conflicts, it should not be surprising there were deficiencies in the projected needs for military police forces. All the investigations the Panel reviewed highlight the urgency to augment the prior way of conducting detention operations. In particular, the military police were not trained, organized, or equipped to meet the new challenges.

The Army IG found morale was high and command climate was good throughout forces deployed in Iraq and Afghanistan with one noticeable exception. Soldiers conducting detainee operations in remote or dangerous locations complained of very poor morale and command climate due to the lack of higher command involvement and support and the perception that their leaders did not care. At Abu Ghraib, in particular, there were many serious problems, which could have been avoided, if proper guidance, oversight and leadership had been provided.

Mobilization and Training

Mobilization and training inadequacies for the MP units occurred during the various phases of employment, beginning with peacetime training, activation, arrival at the mobilization site, deployment, arrival in theater and follow-on operations.

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Mobilization and Deployment

Problems generally began for the MP units upon arrival at the mobilization sites. As one commander stated, "Anything that could go wrong went wrong." Preparation was not consistently applied to all deploying units, wasting time and duplicating efforts already accomplished. Troops were separated from their equipment for excessive periods of time. The flow of equipment and personnel was not coordinated. The Commanding General of the 800th MP Brigade indicated the biggest problem was getting MPs and their equipment deployed together. The unit could neither train at its stateside mobilization site without its equipment nor upon arrival overseas, as two or three weeks could go by before joining with its equipment. This resulted in assigning equipment and troops in an ad hoc manner with no regard to original unit. It also resulted in assigning certain companies that had not trained together in peacetime to battalion headquarters. The flow of forces into theater was originally planned and assigned on the basis of the Time Phased Force Deployment List (TPFDL). The TPFDL was soon scrapped, however, in favor of individual unit deployment orders assigned by U.S. Army Forces Command based on unit readiness and personnel strength. MP Brigade commanders did not know who would be deployed next. This method resulted in a condition wherein a recently arrived battalion headquarters would be assigned the next arriving MP companies, regardless of their capabilities or any other prior command and training relationships.

Original projections called for approximately 12 detention facilities with a projection of 30,000 to 100,000 enemy prisoners of war. These large projections did not materialize. In fact, the initial commanding general of the 800th MP brigade, BG Hill, stated he had more than enough MPs designated for the Internment/Resettlement (I/R—hereafter called detention) mission at the end of the combat phase in Iraq. This assessment radically changed following the major combat phase, when the 800th moved to Baghdad beginning in the summer of 2003 to assume the detention mission. The brigade was given additional tasks assisting the Coalition Provisional Authority (CPA) in reconstructing the Iraqi corrections system, a mission they had neither planned for nor anticipated.

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Inadequate Training for the Military Police Mission

Though some elements performed better than others, generally training was inadequate. The MP detention units did not receive detention-specific training during their mobilization period, which was a critical deficiency. Detention training was conducted for only two MP detention battalions, one in Afghanistan and elements of the other at Camp Arifjan, Kuwait. The 800th MP Brigade, prior to deployment, had planned for a major detention exercise during the summer of 2002; however, this was cancelled due to the activation of many individuals and units for Operation Noble Eagle following the September 11, 2001 attack. The Deputy Commander of one MP brigade stated "training at the mobilization site was wholly inadequate." In addition, there was no theater-specific training.

The Army Inspector General's investigators also found that training at the mobilization sites failed to prepare units for conducting detention operations. Leaders of inspected reserve units stated in interviews that they did not receive a clear mission statement prior to mobilization and were not notified of their mission until after deploying. Personnel interviewed described being placed immediately in stressful situations in a detention facility with thousands of non-compliant detainees and not being trained to handle them. Units arriving in theater were given just a few days to conduct a handover from the outgoing units. Once deployed, these newly arrived units had difficulty gaining access to the necessary documentation on tactics, techniques, and procedures to train their personnel on the MP essential tasks of their new mission. A prime example is that relevant Army manuals and publications were available only on-line, but personnel did not have access to computers or the Internet.

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Force Structure Organization

The current military police organizational structure does not address the detention mission on the nonlinear battlefield characteristic of the Global War on Terror.

Current Military Police Structure

The present U.S. Army Reserve and Army National Guard system worked well for the 1991 Gulf War for which large numbers of reserve forces were mobilized, were deployed, fought, and were quickly returned to the United States. These forces, however, were not designed to maintain large numbers of troops at a high operational tempo for a long period of deployment as has been the case in Afghanistan and Iraq.

Comments from commanders and the various inspection reports indicated the current force structure for the MPs is neither flexible enough to support the developing mission, nor can it provide for the sustained detainee operations envisioned for the future. The primary reason is that the present structure lacks sufficient numbers of detention specialists. Currently, the Army active component detention specialists are assigned in support of the Disciplinary Barracks and Regional Correctional Facilities in the United States, all of which are non-deployable.

New Force Structure Initiatives

Significant efforts are currently being made to shift more of the MP detention requirements into the active force structure. The Army's force design for the future will standardize detention forces between active and reserve components and provide the capability for the active component to immediately deploy detention companies.

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The Panel notes that the Mikolashek inspection found significant shortfalls in training and force structure for field sanitation, preventive medicine and medical treatment requirements for detainees.

Doctrine and Planning

Initial planning envisaged a conflict mirroring operation Desert Storm; approximately 100,000 enemy prisoners of war were forecast for the first five days of the conflict. This expectation did not materialize in the first phase of Operation Iraqi Freedom. As a result, there were too many MP detention companies. The reverse occurred in the second phase of Iraqi Freedom, where the plan envisaged a reduced number of detention MPs on the assumption the initial large numbers of enemy prisoners of war would already have been processed out of the detention facilities. The result was that combat MPs were ultimately reassigned to an unplanned detention mission.

The doctrine of yesterday's battlefield does not satisfy the requirements of today's conflicts. Current doctrine assumes a linear battlefield and is very clear for the handling of detainees from the point of capture to the holding areas and eventually to the detention facilities in the rear. However, Operations Enduring Freedom and Iraqi Freedom, both occurring where there is no distinction between front and rear areas, forced organizations to adapt tactics and procedures to address the resulting voids. Organizations initially used standard operating procedures for collection points and detention facilities. These procedures do not fit the new environment, generally because there are no safe areas behind "friendly lines" – there *are* no friendly lines. The inapplicability of current doctrine had a negative effect on accountability, security, safeguarding of detainees, and intelligence exploitation. Instead of capturing and rapidly moving detainees to secure collection points as prescribed by doctrine, units tended to retain the detainees and attempted to exploit their tactical intelligence value without the required training or infrastructure.

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Current doctrine specifies that line combat units hold detainees no longer than 12 – 24 hours to extract immediately useful intelligence. Nonetheless, the Army IG inspection found detainees were routinely held up to 72 hours. For corps collection points, doctrine specifies detainees be held no longer than three days; the Army IG found detainees were held from 30 to 45 days.

Equipment Shortfalls

The current force structure for MP detention organizations does not provide sufficient assets to meet the inherent force protection requirement on battlefields likely to be characteristic of the future. Detention facilities in the theater may have to be located in a hostile combat zone, instead of the benign secure environment current doctrine presumes.

MP detention units will need to be equipped for combat. Lack of crew-served weapons, e.g., machine guns and mortars, to counter external attacks resulted in casualties to the detainee population as well as to the friendly forces. Moreover, Army-issued radios were frequently inoperable and too few in number. In frustration, individual soldiers purchased commercial radios from civilian sources. This improvisation created an unsecured communications environment that could be monitored by any hostile force outside the detention facility.

Detention Operations and Accountability

Traditionally, military police support the Joint Task Force (JTF) by undertaking administrative processing of detention operations, thereby relieving the war-fighters of concern over prisoners and civilian detainees. The handling of detainees is a tactical and operational consideration the JTF addresses during planning to prevent combat forces from being diverted to handle large numbers of detainees. Military police are structured,

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therefore, to facilitate the tempo of combat operations by providing for the quick movement of prisoners from the battle area to temporary holding areas and thence to detention facilities.

However, the lack of relevant doctrine meant the design and operation of division, battalion, and company collection points were improvised on an ad hoc basis, depending on such immediate local factors as mission, troops available, weather, time, etc. At these collection points, the SOPs the units had prior to deployment were outdated or ill-suited for the operating environment of Afghanistan and Iraq. Tactical units found themselves taking on roles in detainee operations never anticipated in their prior training. Such lack of proper skills had a negative effect on the intelligence exploitation, security, and safeguarding of detainees.

The initial point of capture may be at any time or place in a military operation. This is the place where soldiers have the least control of the environment and where most contact with the detainees occurs. It is also the place where, in or immediately after battle, abuse may be most likely. And it is the place where the detainee, shocked by capture, may be most likely to give information. As noted earlier, instead of capturing and rapidly transporting detainees to collection points, battalions and companies were holding detainees for excessive periods, even though they lacked the training, materiel, or infrastructure for productive interrogation. The Naval IG found that approximately one-third of the alleged incidents of abuse occurred at the point of capture.

Detention

The decision to use Abu Ghraib as the primary operational level detention facility happened by default. Abu Ghraib was selected by Ambassador Bremer who envisioned it as a temporary facility to be used for criminal detainees until the new Iraqi government could be established and an Iraqi prison established at another site. However, CJTF-7 saw an opportunity to use it as an interim site for the detainees it expected to round up as

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part of Operation Victory Bounty in July 2003. CJTF-7 had considered Camp Bucca but rejected it, as it was 150 miles away from Baghdad where the operation was to take place.

Abu Ghraib was also a questionable facility from a standpoint of conducting interrogations. Its location, next to an urban area, and its large size in relation to the small MP unit tasked to provide a law enforcement presence, made it impossible to achieve the necessary degree of security. The detainee population of approximately 7,000 out-manned the 92 MPs by approximately a 75:1 ratio. The choice of Abu Ghraib as the facility for detention operations placed a strictly detention mission-driven unit—one designed to operate in a rear area—smack in the middle of a combat environment.

Detainee Accountability and Classification

Adequate procedures for accountability were lacking during the movement of detainees from the collection points to the detainee facilities. During the movement, it was not unusual for detainees to exchange their identification tags with those of other detainees. The diversity of the detainee population also made identification and classification difficult. Classification determined the detainee assignment to particular cells/blocks, but individuals brought to the facility were often a mix of criminals and security detainees. The security detainees were either held for their intelligence value or presented a continuing threat to Coalition Forces. Some innocents were also included in the detainee population. The issue of unregistered or "ghost" detainees presented a limited, though significant, problem of accountability at Abu Ghraib.

Detainee Reporting

Detainee reporting lacked accountability, reliability and standardization. There was no central agency to collect and manage detainee information. The combatant commanders

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and the JTF commanders have overall responsibility for the detainee programs to ensure compliance with the international law of armed conflict, domestic law and applicable national policy and directives. The reporting system is supposed to process all inquiries concerning detainees and provide accountability information to the International Committee of the Red Cross. The poor reporting system did not meet this obligation.

Release Procedures

Multiple reviews were required to make release recommendations prior to approval by the release authority. Nonconcurrence by area commanders, intelligence organizations, or law enforcement agencies resulted in retention of ever larger numbers of detainees. The Army Inspector General estimated that up to 80 percent of detainees being held for security and intelligence reasons might be eligible for release upon proper review of their cases with the other 20 percent either requiring continued detention on security grounds or uncompleted intelligence requirements. Interviews indicated area commanders were reluctant to concur with release decisions out of concern that potential combatants would be reintroduced into their areas of operation or that the detainees had continuing intelligence value.

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INTERROGATION OPERATIONS

Any discussion of interrogation techniques must begin with the simple reality that their purpose is to gain intelligence that will help protect the United States, its forces and interests abroad. The severity of the post-September 11, 2001 terrorist threat and the escalating insurgency in Iraq make information gleaned from interrogations especially important. When lives are at stake, all legal and moral means of eliciting information must be considered. Nonetheless, interrogations are inherently unpleasant, and many people find them objectionable by their very nature.

The relationship between interrogators and detainees is frequently adversarial. The interrogator's goal of extracting useful information likely is in direct opposition to the detainee's goal of resisting or dissembling. Although interrogators are trained to stay within the bounds of acceptable conduct, the imperative of eliciting timely and useful information can sometimes conflict with proscriptions against inhumane or degrading treatment. For interrogators in Iraq and Afghanistan, this tension is magnified by the highly stressful combat environment. The conditions of war and the dynamics of detainee operations carry inherent risks for human mistreatment and must be approached with caution and careful planning and training.

A number of interrelated factors both limited the intelligence derived from interrogations and contributed to detainee abuse in Operations Enduring Freedom and Iraqi Freedom. A shortfall of properly trained human intelligence personnel to do tactical interrogation of detainees existed at all levels. At the larger detention centers, qualified and experienced interrogators and interpreters were in short supply. No doctrine existed to cover segregation of detainees whose status differed or was unclear, nor was there guidance on timely release of detainees no longer deemed of intelligence interest. The failure to adapt rapidly to the new intelligence requirements of the Global War on Terror resulted in inadequate resourcing, inexperienced and untrained personnel, and a backlog of detainees

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destined for interrogation. These conditions created a climate not conducive to sound intelligence-gathering efforts.

The Threat Environment

The Global War on Terror requires a fundamental reexamination of how we approach collecting intelligence. Terrorists present new challenges because of the way they organize, communicate, and operate. Many of the terrorists and insurgents are geographically dispersed non-state actors who move across national boundaries and operate in small cells that are difficult to surveil and penetrate.

Human Intelligence from Interrogations

The need for human intelligence has dramatically increased in the new threat environment of asymmetric warfare. Massed forces and equipment characteristic of the Cold War era, Desert Storm and even Phase I of Operation Iraqi Freedom relied largely on signals and imagery intelligence. The intelligence problem then was primarily one of monitoring known military sites, troop locations and equipment concentrations. The problem today, however, is discovering new information on widely dispersed terrorist and insurgent networks. Human intelligence often provides the clues to understand these networks, enabling the collection of intelligence from other sources. Information derived from interrogations is an important component of this human intelligence, especially in the Global War on Terror.

The interrogation of al Qaeda members held at Guantanamo has yielded valuable information used to disrupt and preempt terrorist planning and activities. Much of the 9/11 Commission's report on the planning and execution of the attacks on the World Trade Center and Pentagon came from interrogation of detainees. In the case of

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al Qaeda, interrogations provided insights on organization, key personnel, target selection, planning cycles, cooperation among various groups, and logistical support. This information expanded our knowledge of the selection, motivation, and training of these groups. According to Congressional testimony by the Under Secretary of Defense for Intelligence, we have gleaned information on a wide range of al Qaeda activities, including efforts to obtain weapons of mass destruction, sources of finance, training in use of explosives and suicide bombings, and potential travel routes to the United States.

Interrogations provide commanders with information about enemy networks, leadership, and tactics. Such information is critical in planning operations. Tactically, detainee interrogation is a fundamental tool for gaining insight into enemy positions, strength, weapons, and intentions. Thus, it is fundamental to the protection of our forces in combat. Notably, Saddam Hussein's capture was facilitated by interrogation-derived information. Interrogations often provide fragmentary pieces of the broader intelligence picture. These pieces become useful when combined with other human intelligence or intelligence from other sources.

Pressure on Interrogators to Produce Actionable Intelligence

With the active insurgency in Iraq, pressure was placed on the interrogators to produce "actionable" intelligence. In the months before Saddam Hussein's capture, inability to determine his whereabouts created widespread frustration within the intelligence community. With lives at stake, senior leaders expressed, forcibly at times, their needs for better intelligence. A number of visits by high-level officials to Abu Ghraib undoubtedly contributed to this perceived pressure. Both the CJTF-7 commander and his intelligence officer, CJTF-7 C2, visited the prison on several occasions. MG Miller's visit in August/September, 2003 stressed the need to move from simply collecting tactical information to collecting information of operational and strategic value. In November

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2003, a senior member of the National Security Council Staff visited Abu Ghraib, leading some personnel at the facility to conclude, perhaps incorrectly, that even the White House was interested in the intelligence gleaned from their interrogation reports. Despite the number of visits and the intensity of interest in actionable intelligence, however, the Panel found no undue pressure exerted by senior officials. Nevertheless, their eagerness for intelligence may have been perceived by interrogators as pressure.

Interrogation Operations Issues

A number of factors contributed to the problems experienced in interrogation operations. They ranged from resource and leadership shortfalls to doctrinal deficiencies and poor training.

Inadequate Resources

As part of the peace dividend following the Cold War much of the human intelligence capability, particularly in the Army, was reduced. As hostilities began in Afghanistan and Iraq, Army human intelligence personnel, particularly interrogators and interpreters, were ill-equipped to deal with requirements at both the tactical level and at the larger detention centers. At the tactical level, questioning of detainees has been used in all major conflicts. Knowledge of the enemy's positions, strength, equipment and tactics is critical in order to achieve operational success while minimizing casualties. Such tactical questioning to gain immediate battlefield intelligence is generally done at or near the point of capture. In Iraq, although their numbers were insufficient, some of the more seasoned MIs from the MI units supporting Abu Ghraib were assigned to support the Army Tactical HUMINT teams in the field.

In both Afghanistan and Iraq, tactical commanders kept detainees longer than specified by doctrine in order to exploit their unique local knowledge such as religious and tribal affiliation and regional politics. Remaining with the tactical units, the detainees could be

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available for follow-up questioning and clarification of details. The field commanders were concerned that information from interrogations, obtained in the more permanent facilities, would not be returned to the capturing unit. Tactical units, however, were not properly resourced to implement this altered operating arrangement. The potential for abuse also increases when interrogations are conducted in an emotionally charged field environment by personnel unfamiliar with approved techniques.

At the fixed detention centers such as Abu Ghraib, lack of resources and shortage of more experienced senior interrogators impeded the production of actionable intelligence. Inexperienced and untrained personnel often yielded poor intelligence. Interpreters, particularly, were in short supply, contributing to the backlog of detainees to be interrogated. As noted previously, at Abu Ghraib for instance, there were detainees who had been in custody for as long as 90 days before being interrogated for the first time.

Leadership and Organization Shortfalls at Abu Ghraib

Neither the leadership nor the organization of Military Intelligence at Abu Ghraib was up to the mission. The 205th MI Brigade had no organic interrogation elements; they had been eliminated by the downsizing in the 1990s. Soldiers from Army Reserve units filled the ranks, with the consequence that the Brigade Commander had to rely on disparate elements of units and individuals, including civilians, which had never trained together. The creation of the Joint Interrogation and Debriefing Center (JIDC) introduced another layer of complexity into an already stressed interrogations environment. The JIDC was an ad hoc organization made up of six different units lacking the normal command and control structure, particularly at the senior noncommissioned officer level. Leadership was also lacking, from the Commander of the 800th MP Brigade in charge of Abu Ghraib, who failed to ensure that soldiers had appropriate SOPs for dealing with detainees, to the Commander of the 205th MI Brigade, who failed to ensure that soldiers under his command were properly trained and followed the interrogation rules of engagement. Moreover, the Director of the JIDC was a weak leader who did not have experience in

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interrogation operations and who ceded the core of his responsibilities to subordinates. He failed to provide appropriate training and supervision of personnel assigned to the Center. None of these leaders established the basic standards and accountability that might have served to prevent the abusive behaviors that occurred.

Interrogation Techniques

Interrogation techniques intended only for Guantanamo came to be used in Afghanistan and Iraq. Techniques employed at Guantanamo included the use of stress positions, isolation for up to 30 days and removal of clothing. In Afghanistan techniques included removal of clothing, isolating people for long periods of time, use of stress positions, exploiting fear of dogs, and sleep and light deprivation. Interrogators in Iraq, already familiar with some of these ideas, implemented them even prior to any policy guidance from CJTF-7. Moreover, interrogators at Abu Ghraib were relying on a 1987 version of FM 34-52, which authorized interrogators to control all aspects of the interrogation to include light, heating, food, clothing and shelter given to detainees.

A range of opinion among interrogators, staff judge advocates and commanders existed regarding what techniques were permissible. Some incidents of abuse were clearly cases of individual criminal misconduct. Other incidents resulted from misinterpretations of law or policy or confusion about what interrogation techniques were permitted by law or local SOPs. The incidents stemming from misinterpretation or confusion occurred for several reasons: the proliferation of guidance and information from other theaters of operation; the interrogators' experiences in other theaters; and the failure to distinguish between permitted interrogation techniques in other theater environments and Iraq. Some soldiers or contractors who committed abuse may honestly have believed the techniques were condoned.

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Use of Contractors as Interrogators

As a consequence of the shortage of interrogators and interpreters, contractors were used to augment the workforce. Contractors were a particular problem at Abu Ghraib. The Army Inspector General found that 35 percent of the contractors employed did not receive formal training in military interrogation techniques, policy, or doctrine. The Naval Inspector General, however, found some of the older contractors had backgrounds as former military interrogators and were generally considered more effective than some of the junior enlisted military personnel. Oversight of contractor personnel and activities was not sufficient to ensure intelligence operations fell within the law and the authorized chain of command. Continued use of contractors will be required, but contracts must clearly specify the technical requirements and personnel qualifications, experience, and training needed. They should also be developed and administered in such as way as to provide the necessary oversight and management.

Doctrinal Deficiencies

At the tactical level, detaining individuals primarily for intelligence collection or because they constitute a potential security threat, though necessary, presents units with situations not addressed by current doctrine. Many units adapted their operating procedures for conducting detainee operations to fit an environment not contemplated in the existing doctrinal manuals. The capturing units had no relevant procedures for information and evidence collection, which were critical for the proper disposition of detainees.

Additionally, there is inconsistent doctrine on interrogation facility operations for the fixed detention locations. Commanders had to improvise the organization and command relationships within these elements to meet the particular requirements of their operating environments in Afghanistan and Iraq. Doctrine is lacking to address the screening and interrogation of large numbers of detainees whose status (combatants, criminals, or innocents) is not easily ascertainable. Nor does policy specifically address administrative

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responsibilities related to the timely release of detainees captured and detained primarily for intelligence exploitation or for the security threat they may pose.

Role of CIA

CIA personnel conducted interrogations in DoD detention facilities. In some facilities these interrogations were conducted in conjunction with military personnel, but at Abu Ghraib the CIA was allowed to conduct its interrogations separately. No memorandum of understanding existed on interrogations operations between the CIA and CJTF-7, and the CIA was allowed to operate under different rules. According to the Fay investigation, the CIA's detention and interrogation practices contributed to a loss of accountability at Abu Ghraib. We are aware of the issue of unregistered detainees, but the Panel did not have sufficient access to CIA information to make any determinations in this regard.

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THE ROLE OF MILITARY POLICE AND MILITARY INTELLIGENCE IN DETENTION OPERATIONS

Existing doctrine does not clearly address the relationship between the Military Police (MP) operating detention facilities and Military Intelligence (MI) personnel conducting intelligence exploitation at those facilities. The Army Inspector General report states neither MP nor MI doctrine specifically defines the distinct, but interdependent, roles and responsibilities of the two elements in detainee operations.

In the Global War on Terror, we are dealing with new conditions and new threats. Doctrine must be adjusted accordingly. MP doctrine currently states intelligence personnel may collaborate with MPs at detention sites to conduct interrogations, with coordination between the two groups to establish operating procedures. MP doctrine does not; however, address the subject of approved and prohibited MI procedures in an MP-operated facility. Conversely, MI doctrine does not clearly explain MP detention procedures or the role of MI personnel within a detention setting.

GUANTANAMO

The first detainees arrived at Guantanamo in January 2002. The SOUTHCOM Commander established two joint task forces at Guantanamo to execute the detention operations (JTF-160) and the interrogation operations (JTF-170). In August of that year, based on difficulties with the command relationships, the two JTFs were organized into a single command designated as Joint Task Force Guantanamo. This reorganization was conceived to enhance unity of command and direct all activities in support of interrogation and detention operations.

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On November 4, 2002, MG Miller was appointed Commander of Joint Task Force Guantanamo. As the joint commander, he called upon the MP and MI soldiers to work together cooperatively. Military police were to collect passive intelligence on detainees. They became key players, serving as the eyes and ears of the cellblocks for military intelligence personnel. This collaboration helped set conditions for successful interrogation by providing the interrogator more information about the detainee—his mood, his communications with other detainees, his receptivity to particular incentives, etc. Under the single command, the relationship between MPs and MIs became an effective operating model.

AFGHANISTAN

The MP and MI commands at the Bagram Detention Facility maintained separate chains of command and remained focused on their independent missions. The Combined Joint Task Force-76 Provost Marshal was responsible for detainee operations. He designated a principal assistant to run the Bagram facility. In parallel fashion, the CJTF-76 Intelligence Officer was responsible for MI operations in the facility, working through an Officer-in-Charge to oversee interrogation operations. The two deputies worked together to coordinate execution of their respective missions. A dedicated judge advocate was assigned full time to the facility, while the CJTF-76 Inspector General provided independent oversight. Based on information from the Naval Inspector General investigation, this arrangement in Afghanistan worked reasonably well.

ABU GHRAIB, IRAQ

The Central Confinement Facility is located near the population center of Baghdad. Abu Ghraib was selected by Ambassador Bremer who envisioned it as a temporary facility to be used for criminal detainees until the new Iraqi government could be

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established and an Iraqi prison established at another site. Following operations during the summer of 2003, Abu Ghraib also was designated by CJTF-7 as the detention center for security detainees. It was selected because it was difficult to transport prisoners, due to improvised explosives devices (IEDs) and other insurgent tactics, to the more remote and secure Camp Bucca, some 150 miles away.

Request for Assistance

Commander CJTF-7 recognized serious deficiencies at the prison and requested assistance. In response to this request, MG Miller and a team from Guantanamo were sent to Iraq to provide advice on facilities and operations specific to screening, interrogations, HUMINT collection and interagency integration in the short- and long- term. The team arrived in Baghdad on August 31, 2003. MG Miller brought a number of recommendations derived from his experience at Guantanamo to include his model for MP and MI personnel to work together. These collaborative procedures had worked well at Guantanamo, in part because of the high ratio of approximately one-to-one of military police to mostly compliant detainees. However, the guard-to-detainee ratio at Abu Ghraib was approximately 1 to 75, and the Military Intelligence and the Military Police had separate chains of command.

MG Ryder, the Army Provost Marshal, also made an assistance visit in mid-October 2003. He conducted a review of detainee operations in Iraq. He found flawed operating procedures, a lack of training, an inadequate prisoner classification system, under-strength units and a ratio of guard to prisoners designed for "compliant" prisoners of war and not for criminals or high-risk security detainees. However, he failed to detect the warning signs of potential and actual abuse that was ongoing during his visit. The assessment team members did not identify any MP units purposely applying inappropriate confinement practices. The Ryder report continues that "Military Police, though adept at passive collection of intelligence within a facility, do not participate in

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Military Intelligence-supervised interrogation sessions. The 800th MP Brigade has not been asked to change its facility procedures to set the conditions for MI interviews, nor participate in those interviews."

Prevailing Conditions

Conditions at Abu Ghraib reflected an exception to those prevailing at other theater detainee facilities. U.S. forces were operating Tiers 1A and 1B, while Tiers 2 through 7 were under the complete control of Iraqi prison guards. Iraqis who had committed crimes against other Iraqis were intended to be housed in the tiers under Iraqi control. The facility was under frequent hostile fire from mortars and rocket-propelled grenades. Detainee escape attempts were numerous and there were several riots. Both MI and MP units were seriously under-resourced and lacked unit cohesion and mid-level leadership. The reserve MP units had lost senior noncommissioned officers and other personnel through rotations back to the U.S. as well as reassignments to other missions in the theater.

When Abu Ghraib opened, the first MP unit was the 72nd MP Company, based in Henderson, Nevada. Known as "the Nevada Company," it has been described by many involved in investigations concerning Abu Ghraib as a very strong unit that kept tight rein on operational procedures at the facility. This company called into question the interrogation practices of the MI brigade regarding nakedness of detainees. The 72nd MP Company voiced and then filed written objections to these practices.

The problems at Abu Ghraib intensified after October 15, 2003, when the 372nd Military Police Company took over the facility. The 372nd MP Company had been given the most sensitive mission: control of Tier 1A and Tier 1B, where civilian and military intelligence specialists held detainees identified for interrogations as well as "high-risk" detainees. An "MI hold" was anyone of intelligence interest and included foreign and

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Iraqi terrorists, as well as individuals possessing information regarding foreign fighters, infiltration methods, or pending attacks on Coalition forces. The "high-risk" troublemakers were held in Tier 1B. The prison cells of Tiers 1A and 1B were collectively known as "the hard site." The 372nd soldiers were not trained for prison guard duty and were thinly stretched in dealing with the large number of detainees. With little experience to fall back on, the company commander deferred to noncommissioned officers who had civilian correctional backgrounds to work the night shift. This deference was a significant error in judgment.

Leadership Shortfalls

At the leadership level, there was friction and a lack of communication between the 800th MP Brigade and the 205th MI Brigade through the summer and fall of 2003. There was no clear delineation of responsibility between commands and little coordination at the command level. Both the Director of the Joint Interrogation and Debriefing Center (JIDC) and the Commander of the 320th MP Battalion were weak and ineffective leaders. Both failed to ensure their subordinates were properly trained and supervised. They failed to establish and enforce basic soldier standards, proficiency, and accountability. Neither was able to organize tasks to accomplish their missions in an appropriate manner. By not communicating standards, policies, and plans to soldiers, these leaders conveyed a sense of tacit approval of abusive behaviors toward prisoners. This was particularly evident with respect to prisoner-handling procedures and techniques, including unfamiliarity with the Geneva Conventions. There was a lack of discipline and standards of behavior were not established nor enforced. A lax and dysfunctional command climate took hold.

In November 2003, the 205th MI Brigade Commander was assigned as the Forward Operation Base Commander, thus receiving responsibility for Abu Ghraib. This assignment was made as a result of CJTF-7 Commander's concern over force protection at the prison. The Fay investigation found this did not change the relationship of MP and

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MI units in day-to-day operations at the facility, although the Commander of the 800th MP Brigade says she was denied access to areas of Abu Ghraib for which she was doctrinally responsible. Key leaders did not seem to recognize or appreciate psychological stressors associated with the detention mission. MG Taguba concluded these factors included "differences in culture, soldiers' quality of life, and the real presence of mortal danger over an extended time period. The failure of commanders to recognize these pressures contributed to the pervasive atmosphere existing at Abu Ghraib Detention Facility."

Military Working Dogs at Abu Ghraib

The Military Police directives give guidance for the use of military working dogs. They are used to provide an effective psychological and physical deterrent in the detention facility, offering an alternative to using firearms. Dogs are also used for perimeter security, inspections and patrols. MG Miller had recommended dogs as beneficial for detainee custody and control during his visit in August/September 2003. However, he never recommended, nor were dogs used for interrogations at Guantanamo. The working dog teams were requested by the Commander 205th MI Brigade who never understood the intent as described by MG Miller. It is likely the confusion about using dogs partially stems from the initial request for dog teams by military intelligence and not military police.

The working dogs arrived at Abu Ghraib in mid-November 2003. The two Army teams were assigned primarily to security of the compound while the three Navy teams worked inside at the entry control point. The senior Army and Navy dog handlers indicated they had not previously worked in a prison environment and received only a one-day training session on scout and search for escaped Enemy Prisoners of War. The Navy handler stated that upon arrival at Abu Ghraib he had not received an orientation on what was expected from his canine unit nor what was authorized or not authorized. He further

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stated he had never received instruction on the use of force in the compound, but he acknowledged he knew a dog could not be used on a detainee if the detainee posed no threat.

Guidance provided by the CJTF-7 directive of September 14, 2003 allowed working dogs to be used as an interrogation technique with the CJTF-7 Commander's approval. This authorization was updated by the October 12, 2003 memorandum, which allowed the presence of dogs during interrogation as long as they were muzzled and under control of the handler at all times but still required approval. The Taguba and Jones/Fay investigations identified a number of abuses related to using muzzled and unmuzzled dogs during interrogations. They also identified some abuses involving dog-use unrelated to interrogations, apparently for the sadistic pleasure of the MPs involved in these incidents.

MP/MI Relationship

It is clear, with these serious shortfalls and lack of supervision, the model MG Miller presented for the effective working relationship between MI and MP was neither understood nor could it have been successfully implemented. Based on the Taguba and Jones/Fay investigations, "setting favorable conditions" had some basis in fact at Abu Ghraib, but it was also used as an excuse for abusive behavior toward detainees.

The events that took place at Abu Ghraib are an aberration when compared to the situations at other detention operations. Poor leadership and a lack of oversight set the stage for abuses to occur.

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LAWS OF WAR/GENEVA CONVENTIONS

American military culture, training, and operations are steeped in a long-held commitment to the tenets of military and international law as traditionally codified by the world community. Department of Defense Directive 5100.77, DoD Law of War Program, describes the law of war as:

> That part of international law that regulates the conduct of armed hostilities. It is often called the law of armed conflict. The law of war encompasses all international law for the conduct of hostilities binding on the United States or its individual citizens, including treaties and international agreements to which the United States is a party, and applicable customary international law.

The law of war includes, among other agreements, the Geneva Conventions of 1949. The Geneva Conventions set forth the rights and obligations which govern the treatment of civilians and combatants during periods of armed conflict. Specifically, Geneva Convention III addresses the treatment of prisoners of war; and Geneva Convention IV addresses the treatment of civilians.

Chairman of the Joint Chiefs of Staff Instruction 5810.01B, Implementation of the DoD Law of War Program, reiterates U.S. policy concerning the law of war: "The Armed Forces of the United States will comply with the law of war during all armed conflicts, however such conflicts are characterized…."

The United States became engaged in two distinct conflicts, Operation Enduring Freedom (OEF) in Afghanistan and Operation Iraqi Freedom (OIF) in Iraq. As a result of a Presidential determination, the Geneva Conventions did not apply to al Quaeda and Taliban combatants. Nevertheless, these traditional standards were put into effect for OIF and remain in effect at this writing. Some would argue this is a departure from the

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traditional view of the law of war as espoused by the ICRC and others in the international community.

Operation Enduring Freedom

On October 17, 2001, pursuant to the commencement of combat operations in OEF, the Commander, CENTCOM, issued an order instructing the Geneva Conventions were to be applied to all captured individuals in accordance with their traditional interpretation. Belligerents would be screened to determine whether or not they were entitled to prisoner of war status. If an individual was entitled to prisoner of war status, the protections of Geneva Convention III would apply. If armed forces personnel were in doubt as to a detained individual's status, Geneva Convention III rights would be accorded to the detainee until a Geneva Convention III Article 5 tribunal made a definitive status determination. If the individual was found not to be entitled to Geneva Convention III protections, he or she might be detained and processed under U.S. criminal code, a procedure consistent with Geneva Convention IV.

A policy debate concerning the application of treaties and laws to al Qaeda and Taliban detainees then began taking shape. The Department of Justice Office of Legal Counsel (OLC) provided opinions to Counsel to the President and Department of Defense General Counsel concluding the Geneva Conventions did not protect members of the al Qaeda organization, and the President could decide that Geneva Conventions did not protect Taliban militia. Counsel to the President and the Attorney General so advised the President.

On February 7, 2002 the President issued a memorandum stating, in part,

> ...the war against terrorism ushers in a new paradigm.... Our nation recognizes that this new paradigm – ushered in not by us, but by terrorists – requires new thinking in the law of war, but thinking that should nevertheless be consistent with the principles of Geneva.

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Upon this premise, the President determined the Geneva Conventions did not apply to the U.S. conflict with al Qaeda, and that Taliban detainees did not qualify for prisoner of war status. Removed from the protections of the Geneva Conventions, al Qaeda and Taliban detainees have been classified variously as "unlawful combatants," "enemy combatants," and "unprivileged belligerents."

The enemy in the Global War on Terror is one neither the United States nor the community of nations has ever before engaged on such an extensive scale. These far-reaching, well-resourced, organized, and trained terrorists are attempting to achieve their own ends. Such terrorists are not of a nation state such as those who are party to the agreements which comprise the law of war. Neither do they conform their actions to the letter or spirit of the law of war.

The Panel accepts the proposition that these terrorists are not combatants entitled to the protections of Geneva Convention III. Furthermore, the Panel accepts the conclusion the Geneva Convention IV and the provisions of domestic criminal law are not sufficiently robust and adequate to provide for the appropriate detention of captured terrorists.

The Panel notes the President qualified his determination, directing that United States policy would be "consistent with the principles of Geneva." Among other things, the Geneva Conventions adhere to a standard calling for a delineation of rights for all persons, and humane treatment for all persons. They suggest that no person is "outlaw," that is, outside the laws of some legal entity.

The Panel finds the details of the current policy vague and lacking. Justice Sandra Day O'Connnor, writing for the majority in *Hamdi v Rumsfeld*, June 28, 2004 points out "the Government has never provided any court with the full criteria that it uses in classifying individuals as [enemy combatants]." Justice O'Connor cites several authorities to support the proposition that detention "is a clearly established principle of the law of

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war," but also states there is no precept of law, domestic or international, which would permit the indefinite detention of any combatant.

As a matter of logic, there should be a category of persons who do not comply with the specified conditions and thus fall outside the category of persons entitled to EPW status. Although there is not a particular label for this category in law of war conventions, the concept of "unlawful combatant" or "unprivileged belligerent" is a part of the law of war.

Operation Iraqi Freedom

Operation Iraqi Freedom is wholly different from Operation Enduring Freedom. It is an operation that clearly falls within the boundaries of the Geneva Conventions and the traditional law of war. From the very beginning of the campaign, none of the senior leadership or command considered any possibility other than that the Geneva Conventions applied.

The message in the field, or the assumptions made in the field, at times lost sight of this underpinning. Personnel familiar with the law of war determinations for OEF in Afghanistan tended to factor those determinations into their decision-making for military actions in Iraq. Law of war policy and decisions germane to OEF migrated, often quite innocently, into decision matrices for OIF. We noted earlier the migration of interrogation techniques from Afghanistan to Iraq. Those interrogation techniques were authorized only for OEF. More important, their authorization in Afghanistan and Guantanamo was possible only because the President had determined that individuals subjected to these interrogation techniques fell outside the strict protections of the Geneva Conventions.

One of the more telling examples of this migration centers around CJTF-7's determination that some of the detainees held in Iraq were to be categorized as unlawful

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combatants. "Unlawful combatants" was a category set out in the President's February 7, 2002 memorandum. Despite lacking specific authorization to operate beyond the confines of the Geneva Conventions, CJTF-7 nonetheless determined it was within their command discretion to classify, as unlawful combatants, individuals captured during OIF. CJTF-7 concluded it had individuals in custody who met the criteria for unlawful combatants set out by the President and extended it in Iraq to those who were not protected as combatants under the Geneva Conventions, based on the OLC opinions. While CJTF-7's reasoning is understandable in respect to unlawful combatants, nonetheless, they understood there was no authorization to suspend application of the Geneva Conventions, in letter and spirit, to all military actions of Operation Iraqi Freedom. In addition, CJTF-7 had no means of discriminating detainees among the various categories of those protected under the Geneva Conventions and those unlawful combatants who were not.

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THE ROLE OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS

Since December 2001, the International Committee of the Red Cross (ICRC) has visited U.S. detention operations in Guantanamo, Iraq, and Afghanistan numerous times. Various ICRC inspection teams have delivered working papers and reports of findings to U.S. military leaders at different levels. While the ICRC has acknowledged U.S. attempts to improve the conditions of detainees, major differences over detainee status as well as application of specific provisions of Geneva Conventions III and IV remain. If we were to follow the ICRC's interpretations, interrogation operations would not be allowed. This would deprive the U.S. of an indispensable source of intelligence in the war on terrorism.

The ICRC is an independent agency whose activities include observing and reporting on conditions in wartime detention camps and facilities. During visits, it attempts to register all prisoners, inspect facilities, and conduct private interviews with detainees to discuss any problems concerning detainee treatment or conditions; it also provides a means for detainees to contact their families. While the ICRC has no enforcing authority and its reports are supposedly confidential, any public revelation regarding standards of detainee treatment can have a substantial effect on international opinion.

The ICRC seeks to handle problems at the lowest level possible. When a team conducts an inspection, it provides a briefing, and sometimes a report, to the local commander. Discrepancies and issues are presented to the detaining authorities, and follow-up visits are made to monitor compliance with recommendations. The commander may or may not implement the recommendations based on either resource constraint or his interpretation of applicable law. These constraints can make complete implementation of ICRC recommendations either difficult or inappropriate. If recommendations are not implemented, the ICRC may address the issue with higher authorities. The ICRC does

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not expect to receive, nor does the DoD have a policy of providing, a written response to ICRC reports. However, DoD elements do attempt to implement as many of the recommendations as practicable, given security and resource constraints.

One important difference in approach between the U.S. and the ICRC is the interpretation of the legal status of terrorists. According to a Panel interview with CJTF-7 legal counsel, the ICRC sent a report to the State Department and the Coalition Provisional Authority in February 2003 citing lack of compliance with Protocol 1. But the U.S. has specifically rejected Protocol 1 stating that certain elements in the protocol, that provide legal protection for terrorists, make it plainly unacceptable. Still the U.S. has worked to preserve the positive elements of Protocol 1. In 1985, the Secretary of Defense noted that "certain provisions of Protocol 1 reflect customary international law, and others appear to be positive new developments. We therefore intend to work with our allies and others to develop a common understanding or declaration of principles incorporating these positive aspects, with the intention they shall, in time, win recognition as customary international law." In 1986 the ICRC acknowledged that it and the U.S. government had "agreed to disagree" on the applicability of Protocol 1. Nevertheless, the ICRC continues to presume the United States should adhere to this standard under the guise of customary international law.

This would grant legal protections to terrorists equivalent to the protections accorded to prisoners of war as required by the Geneva Conventions of 1949 despite the fact terrorists do not wear uniforms and are otherwise indistinguishable from noncombatants. To do so would undermine the prohibition on terrorists blending in with the civilian population, a situation which makes it impossible to attack terrorists without placing noncombatants at risk. For this and other reasons, the U.S. has specifically rejected this additional protocol.

The ICRC also considers the U.S. policy of categorizing some detainees as "unlawful combatants" to be a violation of their interpretation of international humanitarian law. It contends that Geneva Conventions III and IV, which the U.S. has ratified, allow for only

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two categories of detainees: (1) civilian detainees who must be charged with a crime and tried and (2) enemy combatants who must be released at the cessation of hostilities. In the ICRC's view, the category of "unlawful combatant" deprives the detainees of certain human rights. It argues that lack of information regarding the reasons for detention and the conditions for release are major sources of stress for detainees.

However, the 1949 Geneva Conventions specify conditions to qualify for protected status. By logic, then, if detainees do not meet the specific requirements of privileged status, there clearly must be a category for those lacking in such privileges. The ICRC does not acknowledge such a category of "unprivileged belligerents," and argues that it is not consistent with its interpretation of the Geneva Conventions.

Regarding the application of current international humanitarian law, including Geneva Conventions III and IV, the ICRC has three concerns: (1) gaining access to and ascertaining the status of all detainees in U.S. custody; (2) its belief that linking detention with interrogations should not be allowed which follows from its refusal to recognize the category of unprivileged combatants and (3) they also worry about losing their effectiveness.

Although the ICRC found U.S. forces generally cooperative, it has cited occasions when the forces did not grant adequate access to detainees, both in Iraq and Afghanistan. Of particular concern to the ICRC, however, has been the existence of "ghost detainees," detainees who were kept from ICRC inspectors. While the Panel has not been able to ascertain the number of ghost detainees in the overall detainee population, several investigations cite their existence. Both the Taguba and Jones/Fay reports cite instances of ghost detainees at Abu Ghraib. Secretary Rumsfeld publicly declared he directed one detainee be held secretly at the request of the Director of Central Intelligence.

On balance, the Panel concludes there is value in the relationship the Department of Defense historically has had with the ICRC. The ICRC should serve as an early warning

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indicator of possible abuse. Commanders should be alert to ICRC observations in their reports and take corrective actions as appropriate. The Panel also believes the ICRC, no less than the Defense Department, needs to adapt itself to the new realities of conflict, which are far different from the Western European environment from which the ICRC's interpretation of Geneva Conventions was drawn. The Department of Defense has established an office of detainee affairs and should continue to reshape its operational relationship with the ICRC.

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RECOMMENDATIONS

Department of Defense reform efforts are underway and the Panel commends these efforts. The Office of the Secretary of Defense, the Joint Chiefs of Staff and the Military Services are conducting comprehensive reviews on how military operations have changed since the end of the Cold War. The military services now recognize the problems and are studying how to adjust force compositions, training, doctrine and responsibilities for active/reserve/guard and contractor mixes to ensure we are better prepared to succeed in the war on terrorism.

The Panel reviewed various inspections, investigations and assessments that produced over 300 recommendations for corrective actions to address the problems identified with DoD detention operations. For the most part the Panel endorses their recommendations. In some areas the recommendations do not go far enough and we augment them. We provide additional recommendations to address relevant areas not covered by previous analyses.

The Independent Panel provides the following additional recommendations:

1. The United States should further define its policy, applicable to both the Department of Defense and other government agencies, on the categorization and status of all detainees as it applies to various operations and theaters. It should define their status and treatment in a way consistent with U.S. jurisprudence and military doctrine and with U.S. interpretation of the Geneva Conventions. We recommend that additional operational, support and staff judge advocate personnel be assigned to appropriate commands for the purpose of expediting the detainee release review process.

2. The Department of Defense needs to address and develop joint doctrine to define the appropriate collaboration between military intelligence and military police in a detention facility. The meaning of guidance, such as MPs "setting the conditions" for

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interrogation, needs to be defined with precision. MG Taguba argued that all detainee operations be consolidated under the responsibility of a single commander reporting directly to Commander CJTF-7. This change has now been accomplished and seems to be working effectively. Other than lack of leadership, training deficiencies in both MP and MI units have been cited most often as the needed measures to prevent detainee abuse. We support the recommendations on training articulated by the reports published by the various other reviews.

3. The nation needs more specialists for detention/interrogation operations, including linguists, interrogators, human intelligence, counter-intelligence, corrections police and behavioral scientists. Accompanying professional development and career field management systems must be put in place concurrently. The Panel agrees that some use of contractors in detention operations must continue into the foreseeable future. This is especially the case with the need for qualified interpreters and interrogators and will require rigorous oversight.

4. Joint Forces Command should chair a Joint Service Integrated Process Team to develop a new Operational Concept for Detention Operations in the new era of warfare, covering the Global War on Terror. The team should place special and early emphasis on detention operations during Counter-Insurgency campaigns and Stability Operations in which familiar concepts of front and rear areas may not apply. Attention should also be given to preparing for conditions in which normal law enforcement has broken down in an occupied or failed state. The Panel recommends that the idea of a deployable detention facility should be studied and implemented as appropriate.

5. Clearly, force structure in both MP and MI is inadequate to support the armed forces in this new form of warfare. Every investigation we reviewed refers to force structure deficiencies in some measure. There should be an active and reserve component mix of units for both military intelligence and military police. Other forces besides the Army are also in need of force structure improvements. Those forces have not been addressed

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adequately in the reports reviewed by the Panel, and we recommend that the Secretaries of the Navy and Air Force undertake force structure reviews of their own to improve the performance of their Services in detention operations.

6. Well-documented policy and procedures on approved interrogation techniques are imperative to counteract the current chilling effect the reaction to the abuses have had on the collection of valuable intelligence through interrogations. Given the critical role of intelligence in the Global War on Terror, the aggressiveness of interrogation techniques employed must be measured against the value of intelligence sought, to include its importance, urgency and relevance. A policy for interrogation operations should be promulgated early on and acceptable interrogation techniques for each operation must be clearly understood by all interrogation personnel.

7. All personnel who may be engaged in detention operations, from point of capture to final disposition, should participate in a professional ethics program that would equip them with a sharp moral compass for guidance in situations often riven with conflicting moral obligations. The development of such a values-oriented ethics program should be the responsibility of the individual services with assistance provided by the Joint Chiefs of Staff.

8. Clearer guidelines for the interaction of CIA with the Department of Defense in detention and interrogation operations must be defined.

9. The United States needs to redefine its approach to customary and treaty international humanitarian law, which must be adapted to the realities of the nature of conflict in the 21st Century. In doing so, the United States should emphasize the standard of reciprocity, in spite of the low probability that such will be extended to United States Forces by some adversaries, and the preservation of United States societal values and international image that flows from an adherence to recognized humanitarian standards.

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10. The Department of Defense should continue to foster its operational relationship with the International Committee of the Red Cross. The Panel believes the International Committee of the Red Cross, no less than the Defense Department, needs to adapt itself to the new realities of conflict which are far different from the Western European environment from which the ICRC's interpretation of Geneva Conventions was drawn.

11. The assignment of a focal point within the office of the Under Secretary for Policy would be a useful organizational step. The new focal point for Detainee Affairs should be charged with all aspects of detention policy and also be responsible for oversight of DoD relations with the International Committee of the Red Cross.

12. The Secretary of Defense should ensure the effective functioning of rapid reporting channels for communicating bad news to senior Department of Defense leadership without prejudice to any criminal or disciplinary actions already underway. The Panel recommends consideration of a joint adaptation of procedures such as the Air Force special notification process.

13. The Panel notes that the Fay investigation cited some medical personnel for failure to report detainee abuse. As noted in that investigation, training should include the obligation to report any detainee abuse. The Panel also notes that the Army IG found significant shortfalls in training and force structure for field sanitation, preventive medicine and medical treatment requirements for detainees. As the DoD improves detention operations force structure and training, it should pay attention to the need for medical personnel to screen and monitor the health of detention personnel and detainees.

14. The integration of the recommendations in this report and all the other efforts underway on detention operations will require further study. Analysis of the dynamics of program and resource implications, with a view to assessing the trade-offs and opportunity costs involved, must be addressed.

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Appendices

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GLOSSARY

Army Regulation 15-6	AR 15-6	Army regulation which specifies procedures for command investigations. The common name for both formal and informal command investigations.
Active Component	AC	Active military component of the Army, Navy, Air Force or Marines.
Abuse Cases		An incident or allegation of abuse, including, but not limited to death, assault, sexual assault, and theft, that triggers a CID investigation, which may involve multiple individuals.
Behavioral Science Coordination Team	BSCT	Team comprised of medical and other specialized personnel that provides support to special operations forces.
Civilian Internees	CI	Designation of civilians encountered and detained in the theater of war.
Criminal Investigation Command	CID	Investigative agency of the U. S. Army responsible for conducting criminal investigations to which the Army is or may be a party.
Collection Points	CP	Forward locations where prisoners are collected, processed and prepared for movement to the detention center.
Coalition Provisional Authority	CPA	Interim government of Iraq, in place from May 2003 through June 2004.
Convention Against Torture and Other Cruel Inhumane or Degrading Treatment		An international treaty brought into force in 1987 which seeks to define torture and other cruel, inhuman or degrading treatment or punishment and provides a mechanism for punishing those who would inflict such treatment on others.
Enemy Prisoner of War	EPW	International Committee of the Red Cross term for prisoners of war; this status bestows certain rights to the individual in the Geneva Conventions.
Force Design Update	FDU	The Army process to review and restructure forces.

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GLOSSARY

Fragmentary Order	FRAGO	An abbreviated form of an operation order (verbal, written or digital) usually issued on a day-to-day basis that eliminates the need for restarting information contained in a basic operation order.
Army Field Manual 34-52 "Intelligence Interrogation"	FM 34-52	Current manual for operations and training in interrogation techniques. The edition dated 1987 was updated in 1992.
Geneva Conventions	GC	The international treaties brought into force in August 1949. These conventions extend protections to, among others, prisoners of war and civilians in time of war.
Global War on Terror	GWOT	Worldwide operation to eradicate individuals and groups that participate in and sponsor terrorism.
Internment/Resettlement	I/R	Internment/resettlement mission assigned to specific US Army Military Police units who are responsible for the detention of Enemy Prisoners of War during armed conflict.
International Committee of the Red Cross	ICRC	Nongovernmental organization that seeks to help victims of war and internal violence.
In Lieu Of	ILO	When used in reference to manning, indicates that forces were used in a manner other than originally specified.
Initial Point of Capture	IPOC	Location where an enemy prisoner or internee is captured.
Iraq Survey Group	ISG	Organization located in Iraq with the mission to find weapons of mass destruction.
Joint Manning Document	JMD	Master document covering personnel requirements for the joint theater.
Navy Criminal Investigative Service	NCIS	Investigative service for the US Navy and Marine Corps.

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National Detainee Reporting Center	NDRC	Agency charged with accounting for and reporting all EPW, retained personnel, civilian internees and other detainees during armed conflict.
Operation Enduring Freedom	OEF	Military operation in Afghanistan
Other Government Agencies	OGA	Refers to non-Department of Defense agencies operating in theaters of war.
Operation Iraqi Freedom	OIF	Military operation in Iraq.
Office of Legal Counsel	OLC	Refers to the Department of Justice Office of Legal Counsel.
Operation Noble Eagle	ONE	Operation to activate and deploy forces for homeland defense and civil support in response to the attacks of September 11, 2001.
Operation Victory Bounty	OVB	CJTF-7 operation to sweep Baghdad area for remaining elements of the Saddam Fedayeen in 2003.
Operational Control	OPCON	Command authority over all aspects of military operations.
Republican Guard	RG	Elite Iraqi military forces under the regime of Saddam Hussein.
Reserve Component	RC	Army, Navy, Air Force and Marine Reserves and Army and Air National Guard
Request for Forces	RFF	Commanders request for additional forces to support the mission.
Standing Operating Procedure	SOP	A set of instructions covering those features of operations which lend themselves to a definite or standardized procedures without loss of effectiveness. The procedure is applicable unless ordered otherwise.
Tactical Control	TACON	Command authority to control and task forces for maneuvers within an area of operations.

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GLOSSARY

Tactical Human Intelligence Team	THT	Forward deployed intelligence element providing human intelligence support to maneuver units.
Time Phased Force Deployment List	TPFDL	Identifies the units needed to support an operational plan and specifies their order and method of deployment.
Army Regulation 15-6	AR 15-6	Army regulation which specifies procedures for command investigations. The common name for both formal and informal command investigations.
Active Component	AC	Active military component of the Army, Navy, Air Force or Marines.
Abuse Cases		An incident or allegation of abuse, including, but not limited to death, assault, sexual assault, and theft, that triggers a CID investigation, which may involve multiple individuals.
Behavioral Science Coordination Team	BSCT	Team comprised of medical and other specialized personnel that provides support to special operations forces.
Civilian Internees	CI	Designation of civilians encountered and detained in the theater of war.
Criminal Investigation Command	CID	Investigative agency of the U. S. Army responsible for conducting criminal investigations to which the Army is or may be a party.
Collection Points	CP	Forward locations where prisoners are collected, processed and prepared for movement to the detention center.
Coalition Provisional Authority	CPA	Interim government of Iraq, in place from May 2003 through June 2004.
Convention Against Torture and Other Cruel Inhumane or Degrading Treatment		An international treaty brought into force in 1987 which seeks to define torture and other cruel, inhuman or degrading treatment or punishment and provides a mechanism for punishing those who would inflict such treatment on others.

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GLOSSARY

Enemy Prisoner of War	EPW	International Committee of the Red Cross term for prisoners of war; this status bestows certain rights to the individual in the Geneva Conventions.
Force Design Update	FDU	The Army process to review and restructure forces.
Fragmentary Order	FRAGO	An abbreviated form of an operation order (verbal, written ordigital) usually issued on a day-to-day basis that eliminates the need for restarting information contained in a basic operation order.
Army Field Manual 34-52 "Intelligence Interrogation"	FM 34-52	Current manual for operations and training in interrogation techniques. The edition dated 1987 was updated in 1992.
Geneva Conventions	GC	The international treaties brought into force in August 1949. These conventions extend protections to, among others, prisoners of war and civilians in time of war.
Global War on Terror	GWOT	Worldwide operation to eradicate individuals and groups that participate in and sponsor terrorism.
Internment/Resettlement	I/R	Internment/resettlement mission assigned to specific US Army Military Police units who are responsible for the detention of Enemy Prisoners of War during armed conflict.
International Committee of the Red Cross	ICRC	Nongovernmental organization that seeks to help victims of war and internal violence.
In Lieu Of	ILO	When used in reference to manning, indicates that forces were used in a manner other than originally specified.
Initial Point of Capture	IPOC	Location where an enemy prisoner or internee is captured.
Iraq Survey Group	ISG	Organization located in Iraq with the mission to find weapons of mass destruction.
Joint Manning Document	JMD	Master document covering personnel requirements for the joint theater.

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GLOSSARY

Navy Criminal Investigative Service	NCIS	Investigative service for the US Navy and Marine Corps.
National Detainee Reporting Center	NDRC	Agency charged with accounting for and reporting all EPW, retained personnel, civilian internees and other detainees during armed conflict.
Operation Enduring Freedom	OEF	Military operation in Afghanistan
Other Government Agencies	OGA	Refers to non-Department of Defense agencies operating in theaters of war.
Operation Iraqi Freedom	OIF	Military operation in Iraq.
Office of Legal Counsel	OLC	Refers to the Department of Justice Office of Legal Counsel.
Operation Noble Eagle	ONE	Operation to activate and deploy forces for homeland defense and civil support in response to the attacks of September 11, 2001.
Operation Victory Bounty	OVB	CJTF-7 operation to sweep Baghdad area for remaining elements of the Saddam Fedayeen in 2003.
Operational Control	OPCON	Command authority over all aspects of military operations.
Republican Guard	RG	Elite Iraqi military forces under the regime of Saddam Hussein.
Reserve Component	RC	Army, Navy, Air Force and Marine Reserves and Army and Air National Guard
Request for Forces	RFF	Commanders request for additional forces to support the mission.
Standing Operating Procedure	SOP	A set of instructions covering those features of operations which lend themselves to a definite or standardized procedures without loss of effectiveness. The procedure is applicable unless ordered otherwise.
Tactical Control	TACON	Command authority to control and task forces for maneuvers within an area of operations.

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Tactical Human Intelligence Team	THT	Forward deployed intelligence element providing human intelligence support to maneuver units.
Time Phased Force Deployment List	TPFDL	Identifies the units needed to support an operational plan and specifies their order and method of deployment.

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GLOSSARY

			Commander
Guantanamo			
United States Southern Command	USSOUTHCOM	One of nine Unified Combatant Commands with operational control of U.S. military forces. Area of responsibility includes Guantanamo Bay, Cuba.	GEN James Hill
Joint Task Force 160	JTF-160	Initially responsible for detention operations at Guantanamo, merged in JTF-G 11/4/02.	
Joint Task Force 170	JTF-170	Initially responsible for interrogation operations at Guantanamo, merged in JTF-G 11/4/02.	
Joint Task Force Guantanamo	JTF-G	Joint task force for all operations at Guantanamo, formed 11/4/02.	
Afghanistan			
United States Central Command	USCENTCOM	One of nine Unified Commands with operational control of U.S. military forces. Area of responsibility includes Afghanistan and Iraq.	GEN John Abizaid
Coalition Forces Land Component Command	CFLCC	Senior headquarters element for multi-national land forces in both Iraq and Afghanistan.	LTG David McKiernan
Combined Joint Task Force 180	CJTF-180	Forward deployed headquarters for Afghanistan.	
Iraq			
United States Central Command	USCENTCOM	One of nine Unified Commands with operational control of U.S. military forces. Area of responsibility includes Afghanistan and Iraq.	GEN John Abizaid
Coalition Forces Land Component Command	CFLCC	Senior headquarters element for multi-national land forces in both Iraq and Afghanistan.	LTG David McKiernan
Combined Joint Task Force 7	CJTF-7	Forward deployed headquarters for Operation Iraqi Freedom. Replaced in May 04 by Multi National Force - Iraq and Multi National Corps - Iraq	LTG Ricardo Sanchez
Combined Joint Task Force 7 Intelligence Staff	CJTF-7 C2	Intelligence staff support to CJTF-7	MG Barbara Fast
800th Military Police Brigade	800th MP BDE	U.S. Army Reserve Military Police Brigade, responsible for all internment facilities in Iraq, and assistance to CPA Minister of Justice.	BG Janis Karpinski
Joint Interrogation and Detention Center	JDIC	Element of CJTF-7 for intrrogation mission at Abu Ghuraib.	LTC Steven Jordan

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320th Military Police Battalion	320th MP BN	Element of 800th Bde; assigned to Abu Ghuraib.	LTC Jerry Phillabaum
372nd Military Police Company	372nd MP CO	Element of 320th Bn; assigned to Abu Ghuraib in October 2003.	CPT Donald Reese
72nd Military Police Company	72nd MP CO	Nevada National Guard MP Company, assigned to Abu Ghuraib prior to 372nd MP Co.	
205th Military Intelligence Brigade	205th MI BDE	Military Intelligence Brigade responsible for multiple Army intelligence missions throughout Iraq.	COL Thomas Pappas
519th Military Intelligence Battalion	519th MI BN	Tactical exploitation element of 525 MI Bde; Company A was located at Abu Ghuraib.	MAJ Michnewicz

Other

United States Army Forces Command	FORSCOM	U.S. Army major command responsible for training, readiness and deployment.

DOJ_NMG_0010921

SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

MAY 12 2004

MEMORANDUM FOR THE HONORABLE JAMES R. SCHLESINGER,
CHAIRMAN
THE HONORABLE HAROLD BROWN
THE HONORABLE TILLIE K. FOWLER
GENERAL CHARLES A. HORNER, USAF (RET.)

SUBJECT: Independent Panel to Review DoD Detention Operations

Various organizations of the Department of Defense have investigated, or will investigate, various aspects of allegations of abuse at DoD Detention Facilities and other matters related to detention operations. Thus far these inquiries include the following:

--Criminal investigations into individual allegations
--Army Provost Marshal General assessment of detention and corrections operations in Iraq
--Joint Task Force Guantanamo assistance visit to Iraq to assess intelligence operations
--Administrative Investigation under AR 15-6 regarding Abu Ghraib operations
--Army Inspector General assessment of doctrine and training for detention operations
--Commander, Joint Task Force-7 review of activities of military intelligence personnel at Abu Ghraib
--Army Reserve Command Inspector General assessment of training of Reserve units regarding military intelligence and military police
--Naval Inspector General review of detention procedures at Guantanamo Bay, Cuba, and the Naval Consolidated Brig, Charleston, South Carolina

I have been or will be briefed on the results of these inquiries and the corrective actions taken by responsible officials within the Department.

It would be helpful to me to have your independent, professional advice on the issues that you consider most pertinent related to the various allegations, based on your review of completed and pending investigative reports and other materials and information. I am especially interested in your views on the cause of the problems and what should be done to fix them. Issues such as force structure, training of regular and reserve personnel, use of contractors, organization, detention policy and procedures, interrogation policy and procedures, the relationship between detention and interrogation, compliance with the Geneva Conventions, relationship with the International Committee

OSD 06804-04

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of the Red Cross, command relationships, and operational practices may be contributing factors you might wish to review. Issues of personal accountability will be resolved through established military justice and administrative procedures, although any information you may develop will be welcome.

I would like your independent advice orally and in writing, preferably within 45 days after you begin your review. DoD personnel will collect information for your review and assist you as you deem appropriate. You are to have access to all relevant DoD investigations and other DoD information unless prohibited by law. Reviewing all written materials relevant to these issues may be sufficient to allow you to provide your advice. Should you believe it necessary to travel or conduct interviews, the Director of Administration and Management will make appropriate arrangements.

I intend to provide your report to the Committees on Armed Services, the Secretaries of the Military Departments, the Chairman of the Joint Chiefs of Staff, the Commanders of the Combatant Commands, the Directors of the Defense Agencies, and others as appropriate. If your report contains classified information, please also provide an unclassified version suitable for public release.

By copy of this memorandum, I request the Director of Administration and Management to secure the necessary technical, administrative and legal support for your review from the Department of Defense Components. I appoint you as full-time employees of this Department without pay under 10 U.S.C. §1583. I request all Department of Defense personnel to cooperate fully with your review and to make available all relevant documents and information at your request.

cc: SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR, OPERATIONAL TEST AND EVALUATION
ASSISTANTS TO THE SECRETARY OF DEFENSE

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DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, FORCE TRANSFORMATION
DIRECTOR, NET ASSESSMENT
DIRECTOR, PROGRAM ANALYSIS AND EVALUATION
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

DOJ_NMG_0010924

THE WHITE HOUSE

WASHINGTON

February 7, 2002

MEMORANDUM FOR THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
CHIEF OF STAFF TO THE PRESIDENT
DIRECTOR OF CENTRAL INTELLIGENCE
ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF

SUBJECT: Humane Treatment of al Qaeda and Taliban Detainees

1. Our recent extensive discussions regarding the status of al Qaeda and Taliban detainees confirm that the application of the Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949 (Geneva) to the conflict with al Qaeda and the Taliban involves complex legal questions. By its terms, Geneva applies to conflicts involving "High Contracting Parties," which can only be states. Moreover, it assumes the existence of "regular" armed forces fighting on behalf of states. However, the war against terrorism ushers in a new paradigm, one in which groups with broad, international reach commit horrific acts against innocent civilians, sometimes with the direct support of states. Our Nation recognizes that this new paradigm -- ushered in not by us, but by terrorists -- requires new thinking in the law of war, but thinking that should nevertheless be consistent with the principles of Geneva.

2. Pursuant to my authority as Commander in Chief and Chief Executive of the United States, and relying on the opinion of the Department of Justice dated January 22, 2002, and on the legal opinion rendered by the Attorney General in his letter of February 1, 2002, I hereby determine as follows:

   a. I accept the legal conclusion of the Department of Justice and determine that none of the provisions of Geneva apply to our conflict with al Qaeda in Afghanistan or elsewhere throughout the world because, among other reasons, al Qaeda is not a High Contracting Party to Geneva.

   b. I accept the legal conclusion of the Attorney General and the Department of Justice that I have the authority under the Constitution to suspend Geneva as between the United States and Afghanistan, but I decline to

Appendix C

exercise that authority at this time. Accordingly, I determine that the provisions of Geneva will apply to our present conflict with the Taliban. I reserve the right to exercise this authority in this or future conflicts.

c. I also accept the legal conclusion of the Department of Justice and determine that common Article 3 of Geneva does not apply to either al Qaeda or Taliban detainees, because, among other reasons, the relevant conflicts are international in scope and common Article 3 applies only to "armed conflict not of an international character."

d. Based on the facts supplied by the Department of Defense and the recommendation of the Department of Justice, I determine that the Taliban detainees are unlawful combatants and, therefore, do not qualify as prisoners of war under Article 4 of Geneva. I note that, because Geneva does not apply to our conflict with al Qaeda, al Qaeda detainees also do not qualify as prisoners of war.

3. Of course, our values as a Nation, values that we share with many nations in the world, call for us to treat detainees humanely, including those who are not legally entitled to such treatment. Our Nation has been and will continue to be a strong supporter of Geneva and its principles. As a matter of policy, the United States Armed Forces shall continue to treat detainees humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.

4. The United States will hold states, organizations, and individuals who gain control of United States personnel responsible for treating such personnel humanely and consistent with applicable law.

5. I hereby reaffirm the order previously issued by the Secretary of Defense to the United States Armed Forces requiring that the detainees be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of Geneva.

6. I hereby direct the Secretary of State to communicate my determinations in an appropriate manner to our allies, and other countries and international organizations cooperating in the war against terrorism of global reach.

Interrogation Policies in Guantanamo, Afghanistan and Iraq

	Number of Authorized Techniques	Policy	Date	Notes
GTMO	17	FM 34-52 (1992)	Jan 02 - 01 Dec 02	
	33	Secretary of Defense Approved Tiered System	02 Dec 02 - 15 Jan 03	1
	20	FM 34-52 (1992) with 3 Cat I Techniques	16 Jan 03 - 15 Apr 03	
	24	Secretary of Defense Memo	16 Apr 03 - Present	1,2

	Number of Authorized Techniques	Policy	Date	Notes
Afghanistan[5]	17	FM 34-52 (1992)	27 Oct 01 - 24 Jan 03	
	33	CJTF 180 Response to Director, Joint Staff	24-Jan-03	1, 3, 6
	32	CJTF 180 Detainee SOP	27-Mar-04	1
	19	CJTF-A Rev 2 Guidance	Jun-04	4

	Number of Authorized Techniques	Policy	Date	Notes
Iraq[5]	17	FM 34-52 (1992)		
	29	CJTF-7 Signed Policy	14-Sep-03	1
	19	CJTF-7 Signed Policy	12-Oct-03	4
	19	CJTF-7 Signed Policy	13-May-04	4

1 Some techniques specifically delineated in this memo are inherent to techniques contained in FM 34-52, e.g. Yelling as a component of Fear Up
2 Five Approved Techniques require SOUTHCOM approval and SECDEF notification.
3 Figure includes techniques that were not in current use but requested for future use.
4 Figure includes one technique which requires CG approval.
5 Memorandum cited for Afghanistan and Iraq are classified.
6 Figure includes the 17 techniques of FM-34-52, alhtough they are not specified in the Memo.

Appendix D

Source: Naval IG Investigation

DOJ_NMG_0010927

Evolution of Interrogation Techniques - GTMO

Interrogation Techniques	FM 34-52 (1992) Jan 02 - 01 Dec 02	Secretary of Defense Approved Tiered System 02 Dec 02 - 15 Jan 03	FM 34-52 (1992) with some Cat I 16 Jan 03 - 15 Apr 03	Secretary of Defense Memo 16 Apr 03 - Present
Direct questioning	X	X	X	X
Incentive/removal of incentive	X	X	X	X
Emotional love	X	X	X	X
Emotional hate	X	X	X	X
Fear up harsh	X	X	X	X
Fear up mild	X	X	X	X
Reduced fear	X	X	X	X
Pride and ego up	X	X	X	X
Pride and ego down	X	X	X	X
Futility	X	X	X	X
We know all	X	X	X	X
Establish your identity	X	X	X	X
Repetition approach	X	X	X	X
File and dossier	X	X	X	X
Mutt and Jeff				X*
Rapid Fire	X	X	X	X
Silence	X	X	X	X
Change of Scene	X	X	X	X
Yelling		X (Cat I)	X	
Deception		X (Cat I)		
Multiple interrogators		X (Cat I)	X	
Interrogator identity		X (Cat I)	X	
Stress positions, like standing		X (Cat II)		
False documents/reports		X (Cat II)		
Isolation for up to 30 days		X (Cat II)		X*
Deprivation of light/auditory stimuli		X (Cat II)		
Hooding (transportation & questioning		X (Cat II)		
20-interrogations		X (Cat II)		
Removal of ALL comfort items, including religious items		X (Cat II)		
MRE-only diet		X (Cat II)		X*
Removal of clothing		X (Cat II)		
Forced grooming		X (Cat II)		
Exploiting individual phobias, e.g. dogs		X (Cat II)		
Mild, non-injurious physical contact, e.g. grabbing, poking or light pushing		X (Cat III)		
Environmental manipulation				X
Sleep adjustment				X
False flag				X

*Techniques require SOUTHCOM approval and SECDEF notification.

Source: Naval IG Investigation
Appendix E

DOJ_NMG_0010928

Major Detention Events

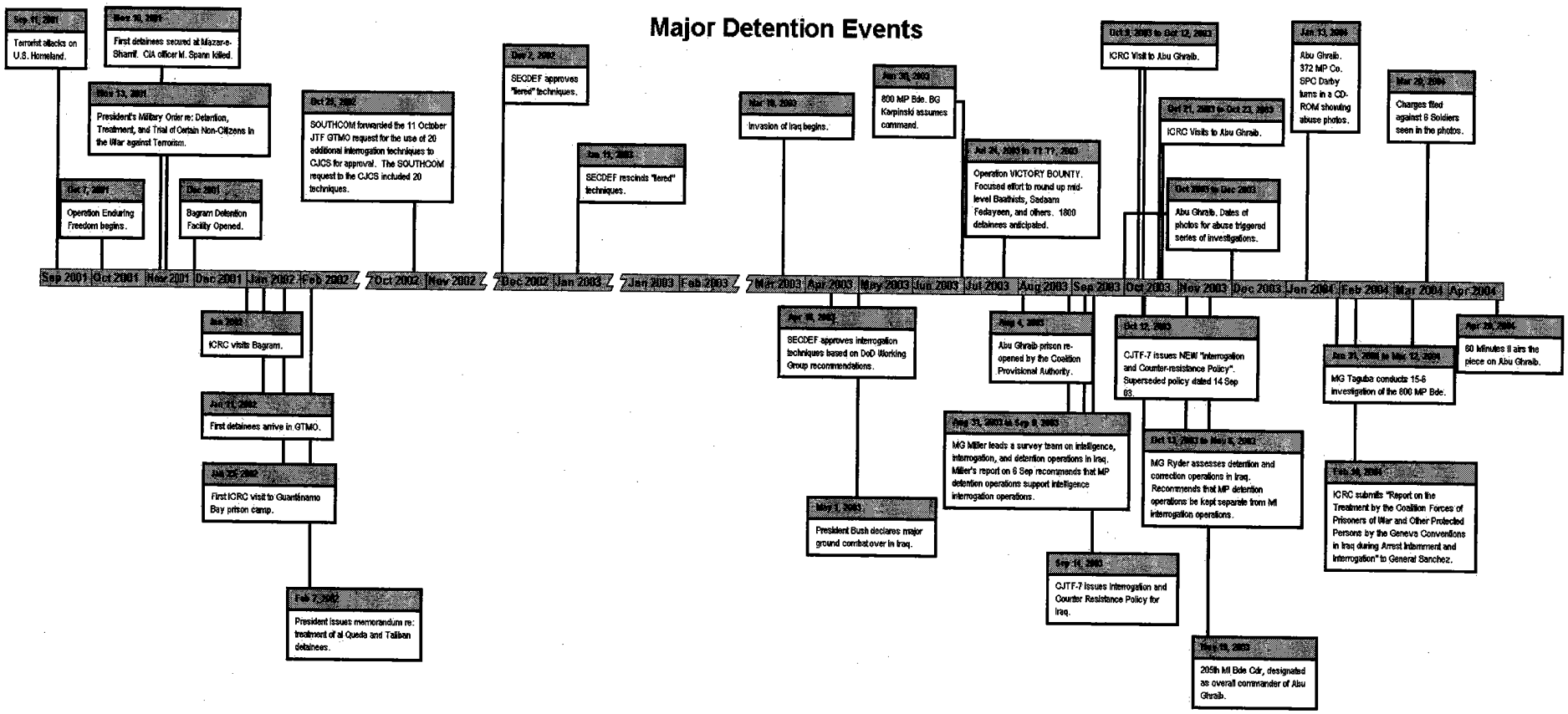

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PSYCHOLOGICAL STRESSES

The potential for abusive treatment of detainees during the Global War on Terrorism was entirely predictable based on a fundamental understanding of the principle of social psychology principles coupled with an awareness of numerous known environmental risk factors. Most leaders were unacquainted with these known risk factors, and therefore failed to take steps to mitigate the likelihood that abuses of some type would occur during detainee operations. While certain conditions heightened the possibility of abusive treatment, such conditions neither excuse nor absolve the individuals who engaged in deliberate immoral or illegal behaviors.

The abuse the detainees endured at various places and times raises a number of questions about the likely psychological aspects of inflicting such abuses. Findings from the field of social psychology suggest that the conditions of war and the dynamics of detainee operations carry inherent risks for human mistreatment, and therefore must be approached with great caution and careful planning and training.

The Stanford Prison Experiment

In 1973, Haney, Banks and Zimbardo (1) published their landmark Stanford study, "Interpersonal Dynamics in a Simulated Prison." Their study provides a cautionary tale for all military detention operations. The Stanford Experiment used a set of tested, psychologically sound college students in a benign environment. In contrast, in military detention operations, soldiers work under stressful combat conditions that are far from benign.

The Stanford Prison Experiment (SPE) attempted to "create a prison-like situation" and then observe the behavior of those involved. The researchers randomly assigned 24 young men to either the "prisoner" or "guard" group. Psychological testing was used to eliminate participants with overt psychopathology, and extensive efforts were made to

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simulate actual prison conditions. The experiment, scheduled to last two weeks, was cancelled after only six days due to the ethical concerns raised by the behaviors of the participants. The study notes that while guards and prisoners were free to engage in any form of interpersonal interactions, the "characteristic nature of their encounters tended to be negative, hostile, affrontive and dehumanizing."

The researchers found that both prisoners and guards exhibited "pathological reactions" during the course of the experiment. Guards fell into three categories: (1) those who were "tough but fair," (2) those who were passive and reluctant to use coercive control and, of special interests, (3) those who "went far beyond their roles to engage in creative cruelty and harassment." With each passing day, guards "were observed to generally escalate their harassment of the prisoners." The researchers reported: "We witnessed a sample of normal, healthy American college students fractionate into a group of prison guards who seemed to derive pleasure from insulting, threatening, humiliating, and dehumanizing their peers."

Because of the random assignment of subjects, the study concluded the observed behaviors were the result of situational rather than personality factors:

> The negative, anti-social reactions observed were not the product of an environment created by combining a collection of deviant personalities, but rather, the result of an intrinsically pathological situation which could distort and rechannel the behaviour of essentially normal individuals. The abnormality here resided in the psychological nature of the situation and not in those who passed through it.

The authors discussed how prisoner-guard interactions shaped the evolution of power use by the guards:

> The use of power was self-aggrandizing and self-perpetuating. The guard power, derived initially from an arbitrary label, was intensified whenever there was any perceived threat by the prisoners and this new level subsequently became the baseline from which further hostility and harassment would begin. The most hostile guards on each shift moved spontaneously into the leadership roles of

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> giving orders and deciding on punishments. They became role models whose behaviour was emulated by other members of the shift. Despite minimal contact between the three separate guard shifts and nearly 16 hours a day spent away from the prison, the absolute level of aggression as well as the more subtle and "creative" forms of aggression manifested, increased in a spiraling function. Not to be tough and arrogant was to be seen as a sign of weakness by the guards and even those "good" guards who did not get as drawn into the power syndrome as the others respected the implicit norm of never contradicting or even interfering with an action of a more hostile guard on their shift.

In an article published 25 years after the Stanford Prison Experiment, Haney and Zimbardo noted their initial study "underscored the degree to which institutional settings can develop a life of their own, independent of the wishes, intentions, and purposes of those who run them." They highlighted the need for those outside the culture to offer external perspectives on process and procedures. (2)

Social Psychology: Causes of Aggression and Inhumane Treatment

The field of social psychology examines the nature of human interactions. Researchers in the field have long been searching to understand why humans sometimes mistreat fellow humans. The discussions below examine the factors behind human aggression and inhumane treatment, striving to impart a better understanding of why detainee abuses occur.

Human Aggression

Research has identified a number of factors that can assist in predicting human aggression. These factors include:

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- **Personality traits**. Certain traits among the totality of an individual's behavioral and emotional make-up predispose to be more aggressive than other individuals.
- **Beliefs**. Research reveals those who believe they can carry out aggressive acts, and that such acts will result in a desired outcome, are more likely to be aggressive than those who do not hold these beliefs.
- **Attitudes**. Those who hold more positive attitudes towards violence are more likely to commit violent acts.
- **Values.** The values individuals hold vary regarding the appropriateness of using violence to resolve interpersonal conduct.
- **Situational Factors**. Aggressive cues (the presence of weapons), provocation (threats, insults, aggressive behaviors), frustration, pain and discomfort (hot temperatures, loud noises, unpleasant odors), and incentives can all call forth aggressive behaviors.
- **Emotional factors**. Anger, fear, and emotional arousal can heighten the tendency to act out aggressively.

The personality traits, belief systems, attitudes, and values of those who perpetrated detainee abuses can only be speculated upon. However, it is reasonable to assume, in any given population, these characteristics will be distributed along a bell curve, which will predispose some more than others within a group to manifest aggressive behaviors. These existing traits can be affected by environmental conditions, which are discussed later.

Abusive Treatment

Psychologists have attempted to understand how and why individuals and groups who usually act humanely can sometimes act otherwise in certain circumstances. A number of psychological concepts explain why abusive behavior occurs. These concepts include:

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Deindividuation. Deindividuation is a process whereby the anonymity, suggestibility, and contagion provided in a crowd allows individuals to participate in behavior marked by the temporary suspension of customary rules and inhibitions. Individuals within a group may experience reduced self-awareness which can also result in disinhibited behavior.

Groupthink. Individuals often make very uncharacteristics decisions when part of a group. Symptoms of groupthink include: (1) Illusion of invulnerability—group members believe the group is special and morally superior; therefore its decisions are sound; (2) Illusion of unanimity in which members assume all are in concurrence, and (3) Pressure is brought to bear on those who might dissent.

Dehumanization. Dehumanization is the process whereby individuals or groups are viewed as somehow less than fully human. Existing cultural and moral standards are often not applied to those who have been dehumanized.

Enemy Image. Enemy image describes the phenomenon wherein both sides participating in a conflict tend to view themselves as good and peace-loving peoples, while the enemy is seen as evil and aggressive.

Moral Exclusion. Moral exclusion is a process whereby one group views another as fundamentally different, and therefore prevailing moral rules and practices apply to one group but not the other.

Abuse and Inhumane Treatment in War

Socialization to Evil and Doubling. Dr. Robert Jay Lifton has extensively examined the nature of inhumane treatment during war. Dr. Lifton suggested that ordinary people can experience "socialization to evil," especially in a war environment. Such people often experience a "doubling." They are socialized to evil in one environment and act accordingly within that environment, but they think and behave otherwise when removed from that environment. For example, doctors committed unspeakable acts while working in Auschwitz, but would go home on weekends and behave as "normal" husbands and fathers.

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Moral Disengagement. Moral disengagement occurs when normal self-regulatory mechanisms are altered in a way that allows for abusive treatment and similar immoral behaviors. Certain conditions, identified by Bandura and his colleagues (3), can lead to moral disengagement, such as:

- **Moral Justification.** Misconduct can be justified if it is believed to serve a social good.
- **Euphemistic Language.** Language affects attitudes and beliefs, and the use of euphemistic language such as "softening up" (and even "humane treatment") can lead to moral disengagement.
- **Advantageous Comparison.** "Injurious conduct can be rendered benign" when compared to more violent behaviors. This factor is likely to occur during war. Essentially, abusive behaviors may appear less significant and somehow justifiable when compared to death and destruction.
- **Displacement of Responsibility.** "People view their actions as springing from the social pressures or dictates of others rather than as something for which they are socially responsible." This is consistent with statements from those under investigation for abuses.
- **Diffusion of Responsibility.** Group decisions and behaviors can obscure responsibility: "When everyone is responsible, no one really feels responsible."
- **Disregarding or Distorting the Consequences of Actions.** Harmful acts can be minimized or ignored when the harm is inflicted for personal gain or because of social inducements.
- **Attribution of Blame.** "Victims get blamed for bringing suffering on themselves."

Detainee and interrogation operations consist of a special subset of human interactions, characterized by one group which has significant power and control over another group which must be managed, often against the will of its members. Without proper oversight

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and monitoring, such interactions carry a higher risk of moral disengagement on the part of those in power and, in turn, are likely to lead to abusive behaviors.

Environmental Factors

The risk of abusive behaviors is best understood by examining both psychological and environmental risk factors. A cursory examination of situational variables present at Abu Ghraib indicates the risk for abusive treatment was considerable. Many of the problematic conditions at Abu Ghraib are discussed elsewhere in this report, to include such factors as poor training, under nearly daily attack, insufficient staffing, inadequate oversight, confused lines of authority, evolving and unclear policy, and a generally poor quality of life. The stresses of these conditions were certainly exacerbated by delayed troop rotations and by basic issues of safety and security. Personnel needed to contend with both internal threats from volatile and potentially dangerous prisoners and external threats from frequent mortar fire and attacks on the prison facilities.

The widespread practice of stripping detainees, another environmental factor, deserves special mention. The removal of clothing interrogation technique evolved into something much broader, resulting in the practice of groups of detainees being kept naked for extended periods at Abu Ghraib. Interviews with personnel at Abu Ghraib indicated that naked detainees were a common sight within the prison, and this was understood to be a general part of interrogation operations.

While the removal of clothing may have been intended to make detainees feel more vulnerable and therefore more compliant with interrogations, this practice is likely to have had a psychological impact on guards and interrogators as well. The wearing of clothes is an inherently social practice, and therefore the stripping away of clothing may have had the unintended consequence of dehumanizing detainees in the eyes of those who interacted with them. As discussed earlier, the process of dehumanization lowers the moral and cultural barriers that usually preclude the abusive treatment of others.

DOJ_NMG_0010936

(1) Haney, C., Banks, C., and Zimbardo, P., Interpersonal Dynamics in a Simulated Prison, *International Journal of Criminology and Penology,* 1973, 1, 69-97.

(2) Haney, C. and Zimbardo, P., The Past and Future of U.S. Prison Policy, Twenty-Five Years after the Stanford Prison Experiment, *American Psychologist,* July 1998, 709-27.

(3) Bandura, A., Barbaranelli, C., Caprara, G., and Pastorelli, C., Mechanisms of Moral Disengagement in the Exercise of Moral Agency, *Journal of Personality and Social Psychology,* Vol. 71(2), August 1996, 364-74.

DOJ_NMG_0010937

ETHICAL ISSUES

Introduction

For the United States and other nations with similar value systems, detention and interrogation are themselves ethically challenging activities. Effective interrogators must deceive, seduce, incite, and coerce in ways not normally acceptable for members of the general public. As a result, the U. S. places restrictions on who may be detained and the methods interrogators may employ. Exigencies in the Global War on Terror have stressed the normal American boundaries associated with detention and interrogation. In the ensuing moral uncertainty, arguments of military necessity make the ethical foundation of our soldiers especially important.

Ethical Foundations of Detention and Interrogation

Within our values system, consent is a central moral criterion on evaluating our behavior toward others. Consent is the manifestation of the freedom and dignity of the person and, as such, plays a critical role in moral reasoning. Consent *restrains*, as well as *enables,* humans in their treatment of others. Criminals, by not respecting the rights of others, may be said to have consented – in principle – to arrest and possible imprisonment. In this construct – and due to the threat they represent – insurgents and terrorists "consent" to the possibility of being captured, detained, interrogated, or possibly killed.

Permissions and Limits on Detentions

This guideline of implied consent for the U.S. first limits who may be detained. Individuals suspected of insurgent or terrorist activity may be detained to prevent them from conducting further attacks and to gather intelligence to prevent other insurgents and terrorists from conducting attacks. This suggests two categories of persons who may be

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detained and interrogated: (1) persons who have engaged in or assisted those who engage in terrorist or insurgent activities; and (2) persons who have come by information regarding insurgent and terrorist activity.

By engaging in such activities, persons in the first category may be detained as criminals or enemy combatants, depending on the context. Persons in the second category may be detained and questioned for specific information, but if they do not represent a continuing threat, they may be detained only long enough to obtain the information.

Permissions and Limits on Interrogation Techniques

For the U.S., most cases for permitting harsh treatment of detainees on moral grounds begin with variants of the "ticking time bomb" scenario. The ingredients of such scenarios usually include an impending loss of life, a suspect who knows how to prevent it—and in most versions is responsible for it—and a third party who has no humane alternative to obtain the information in order to save lives. Such cases raise a perplexing moral problem: Is it permissible to employ inhumane treatment when it is believed to be the only way to prevent loss of lives? In periods of emergency, and especially in combat, there will always be a temptation to override legal and moral norms for morally good ends. Many in Operations Enduring Freedom and Iraqi Freedom were not well prepared by their experience, education, and training to resolve such ethical problems.

A morally consistent approach to the problem would be to recognize there are occasions when violating norms is understandable but not necessarily correct —that is, we can recognize that a good person might, in good faith, violate standards. In principle, someone who, facing such a dilemma, committed abuse should be required to offer his actions up for review and judgment by a competent authority. An excellent example is the case of a 4th Infantry Division battalion commander who permitted his men to beat a detainee whom he had good reason to believe had information about future attacks against his unit. When the beating failed to produce the desired results, the commander

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fired his weapon near the detainee's head. The technique was successful and the lives of U.S. servicemen were likely saved. However, his actions clearly violated the Geneva Conventions and he reported his actions knowing he would be prosecuted by the Army. He was punished in moderation and allowed to retire.

In such circumstances interrogators must apply a "minimum harm" rule by not inflicting more pressure than is necessary to get the desired information. Further, any treatment that causes permanent harm would not be permitted, as this surely constitutes torture. Moreover, any pain inflicted to teach a lesson or after the interrogator has determined he cannot extract information is morally wrong.

National security is an obligation of the state, and therefore the work of interrogators carries a moral justification. But the methods employed should reflect this nation's commitment to our own values. Of course the tension between military necessity and our values will remain. Because of this, military professionals must accept the reality that during crises they may find themselves in circumstances where lives will be at stake and the morally appropriate methods to preserve those lives may not be obvious. This should not preclude action, but these professionals must be prepared to accept the consequences.

Ethics Education

The instances of detainee abuse in Iraq and Afghanistan do indicate a review of military ethics education programs is needed. This is not to suggest that more adequate ethics education will necessarily prevent abuses. Major service programs such as the Army's "core values," however, fail to adequately prepare soldiers working in detention operations.

While there are numerous ethics education programs throughout the services, almost all refer to certain "core values" as their foundation. Core-values programs are grounded in

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organizational efficacy rather than the moral good. They do not address humane treatment of the enemy and noncombatants, leaving military leaders and educators an incomplete tool box with which to deal with "real-world" ethical problems. A professional ethics program addressing these situations would help equip them with a sharper moral compass for guidance in situations often riven with conflicting moral obligations.

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From: Gorsuch, Neil M
Sent: Monday, January 23, 2006 5:25 PM
To: Shaw, Aloma A
Subject: Fw: Readings for Session Tomorrow Part 3 of 3
Attachments: HRW Report-Detainee Abuses.pdf

One more for printer please

-----Original Message-----
From: [redacted]@cfr.org [redacted]@cfr.org>
To: [redacted]@cfr.org [redacted]@cfr.org>
CC: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; [redacted]
Sent: Mon Jan 23 17:12:08 2006
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Please find below the last reading for tomorrow's session on Torture Policy. My apologies once again for any duplicate messages. I just wanted to make sure you all received them.

Sincerely,

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(See attached file: HRW Report-Detainee Abuses.pdf)

Human Rights Watch September 2005 Volume 17, No. 3(G)

Leadership Failure

Firsthand Accounts of Torture of Iraqi Detainees by the U.S. Army's 82nd Airborne Division

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On their day off people would show up all the time. Everyone in camp knew if you wanted to work out your frustration you show up at the PUC tent.[1] *In a way it was sport. The cooks were all U.S. soldiers. One day [a sergeant] shows up and tells a PUC to grab a pole. He told him to bend over and broke the guy's leg with a mini Louisville Slugger, a metal bat. He was the fucking cook. He shouldn't be in with no PUCs.*

— 82nd Airborne sergeant, describing events at FOB Mercury, Iraq

If I as an officer think we're not even following the Geneva Conventions, there's something wrong. If officers witness all these things happening, and don't take action, there's something wrong. If another West Pointer tells me he thinks, "Well, hitting somebody might be okay," there's something wrong.

— 82nd Airborne officer, describing confusion in Iraq concerning allowable interrogation techniques

I. Summary

Residents of Fallujah called them "the Murderous Maniacs" because of how they treated Iraqis in detention. They were soldiers of the U.S. Army's 82nd Airborne Division, 1st Battalion, 504th Parachute Infantry Regiment, stationed at Forward Operating Base Mercury (FOB Mercury) in Iraq. The soldiers considered this name a badge of honor.[2]

One officer and two non-commissioned officers (NCOs) of the 82nd Airborne who witnessed abuse, speaking on condition of anonymity, described in multiple interviews with Human Rights Watch how their battalion in 2003-2004 routinely used physical and mental torture as a means of intelligence gathering and for stress relief. One soldier raised his concerns within the army chain of command for 17 months before the Army agreed to undertake an investigation, but only after he had contacted members of Congress and considered going public with the story.

According to their accounts, the torture and other mistreatment of Iraqis in detention was systematic and was known at varying levels of command. Military Intelligence

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[1] "Person Under Control" or PUC (pronounced "puck") is the term used by U.S. military forces to refer to Iraqi detainees.

[2] FOB Mercury is located approximately 10 miles east of Fallujah, a center of the insurgency at the time. U.S. forces came under intense attacks in and around Fallujah, placing them under constant pressure and at high risk in daily combat. As soon as the 82nd pulled out of FOB Mercury in April 2004, the U.S. Marines that replaced the 82nd undertook a major offensive against insurgents in Fallujah.

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personnel, they said, directed and encouraged army personnel to subject prisoners to forced, repetitive exercise, sometimes to the point of unconsciousness, sleep deprivation for days on end, and exposure to extremes of heat and cold as part of the interrogation process. At least one interrogator beat detainees in front of other soldiers. Soldiers also incorporated daily beatings of detainees in preparation for interrogations. Civilians believed to be from the Central Intelligence Agency (CIA) conducted interrogations out of sight, but not earshot, of soldiers, who heard what they believed were abusive interrogations.

All three soldiers expressed confusion on the proper application of the Geneva Conventions on the laws of armed conflict in the treatment of prisoners. All had served in Afghanistan prior to Iraq and said that contradictory statements by U.S. officials regarding the applicability of the Geneva Conventions in Afghanistan and Iraq (see Conclusion) contributed to their confusion, and ultimately to how they treated prisoners. Although none were still in Iraq when we interviewed them, the NCOs said they believed the practices continue.

The soldiers came forward because of what they described as deep frustration with the military chain of command's failure to view the abuses as symptomatic of broader failures of leadership and respond accordingly. All three are active duty soldiers who wish to continue their military careers. A fax letter, e-mail, and repeated phone calls to the 82nd Airborne Division regarding the major allegations in the report received no response.

When the Abu Ghraib scandal broke in April 2004, senior officials in the Bush administration claimed that severe prisoner abuse was committed only by a few, rogue, poorly trained reserve personnel at a single facility in Iraq. But since then, hundreds of other cases of abuse from Iraq and Afghanistan have come to light, described in U.S. government documents, reports of the International Committee of the Red Cross, media reports, legal documents filed by detainees, and from detainee accounts provided to human rights organizations, including Human Rights Watch.[3] And while the military has

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[3] See Human Rights Watch, "Getting Away with Torture?: Command Responsibility for the U.S. Abuse of Detainees," *A Human Rights Watch Report,* April 2005, Section II (A World of Abuse), available at: hrw.org/reports/2005/us0405/4.htm#_Toc101408092. See also, International Committee of the Red Cross, "Report on the Treatment by the Coalition Forces of Prisoners of War and Other Protected Persons, February 2004, available at: http://www.health-now.org/mediafiles/mediafile50.pdf (describing detainee abuse in locations across Iraq, including sites in Baghdad, Al-Khaim, Tikrit, Ramadi, and at Abu Ghraib, at p 7); Douglas Jehl and Eric Schmitt, "The Conflict in Iraq: Detainees; U.S. Military Says 26 Inmate Deaths May Be Homicide," *The New York Times*, March 16, 2005 (describing cases of detainee homicide occurring in areas across Afghanistan and Iraq). On Afghanistan-related abuses, see Human Rights Watch, "Enduring Freedom: Abuses by U.S. Forces in Afghanistan," *A Human Rights Watch Report*, March 2004, available at

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launched investigations and prosecutions of lower-ranking personnel for detainee abuse, in most cases the military has used closed administrative hearings to hand down light administrative punishments like pay reductions and reprimands, instead of criminal prosecutions before courts-martial. The military has made no effort to conduct a broader criminal investigation focusing on how military command might have been involved in reported abuse, and the administration continues to insist that reported abuse had nothing to do with the administration's decisions on the applicability of the Geneva Conventions or with any approved interrogation techniques.

These soldiers' firsthand accounts provide further evidence contradicting claims that abuse of detainees by U.S. forces was isolated or spontaneous. The accounts here suggest that the mistreatment of prisoners by the U.S. military is even more widespread than has been acknowledged to date, including among troops belonging to some of the best trained, most decorated, and highly respected units in the U.S. Army. They describe in vivid terms abusive interrogation techniques ordered by Military Intelligence personnel and known to superior officers.

Most important, they demonstrate that U.S. troops on the battlefield were given no clear guidance on how to treat detainees. When the administration sent these soldiers to war in Afghanistan, it threw out the rules they were trained to uphold (embodied in the Geneva Conventions and the U.S. Army Field Manual on Intelligence Interrogation). Instead, President Bush said only that detainees be treated "humanely," not as a requirement of the law but as policy. And no steps were taken to define what humane was supposed to mean in practice.[4] Once in Iraq, their commanders demanded that they extract intelligence from detainees without telling them what was allowed and what was

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hrw.org/reports/2004/afghanistan0304/; Human Rights Watch to Secretary of Defense Donald Rumsfeld, open letter, December 13, 2004, available at: www.hrw.org/english/docs/2004/12/10/afghan9838.htm. On Iraq-related abuses, see Major General Antonio M. Taguba, "Article 15-6 Investigation of the 800th Military Police Brigade," March 2004 (describing "numerous incidents of sadistic, blatant, and wanton criminal abuses" at Abu Ghraib prison, constituting "systematic and illegal abuse of detainees," at p. 16); Major George R. Fay, "Article 15-6 Investigation of the Abu Ghraib Detention Facility and 205th Military Intelligence Brigade," (Documenting 44 allegations of war crimes at Abu Ghraib). On Guantánamo-related abuses, see also Human Rights Watch, "Guantánamo: Detainee Accounts," *A Human Rights Watch Backgrounder*, October 2004, http://www.hrw.org/backgrounder/usa/gitmo1004/. See also, Paisley Dodds, "Guantánamo Tapes Show Teams Punching, Stripping Prisoners," *Associated Press*, February 1, 2005; Neil A. Lewis, "Red Cross Finds Detainee Abuse in Guantánamo," *The New York Times*, November 30, 2004.

[4] See Timothy Flanigan, written responses to questions submitted by U.S. Senator Richard Durbin, following Flanigan's confirmation hearing to be Deputy Attorney General of the United States on July 26, 2005. Flanigan, who was Deputy White House Counsel when President Bush issued his order requiring "humane treatment" of detainees, stated: "I do not believe the term 'inhumane' treatment is susceptible to succinct definition." In a further exchange with Senator Durbin, Flanigan stated that: "I am not aware of any guidance provided by the White House specifically related to the meaning of 'inhumane treatment.'"

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forbidden. Yet when abuses inevitably followed, the administration blamed only low-ranking soldiers instead of taking responsibility.

These soldiers' accounts show how the administration's refusal to insist on adherence to a lawful, long-recognized, and well-defined standard of treatment contributed to the torture of prisoners. It also shows how that policy betrayed the soldiers in the field—sowing confusion in the ranks, exposing them to legal sanction when abuses occurred, and placing in an impossible position all those who wished to behave honorably.

* * *

The officer and NCOs interviewed by Human Rights Watch say that torture of detainees took place almost daily at FOB Mercury during their entire deployment there, from September 2003 to April 2004. While two of the soldiers also reported abuses at FOB Tiger, near the Syrian border, the most egregious incidents allegedly took place at FOB Mercury. The acts of torture and other cruel or inhuman treatment they described include severe beatings (in one incident, a soldier reportedly broke a detainee's leg with a baseball bat), blows and kicks to the face, chest, abdomen, and extremities, and repeated kicks to various parts of the detainees' body; the application of chemical substances to exposed skin and eyes; forced stress positions, such as holding heavy water jugs with arms outstretched, sometimes to the point of unconsciousness; sleep deprivation; subjecting detainees to extremes of hot and cold; the stacking of detainees into human pyramids; and, the withholding of food (beyond crackers) and water.

According to Army Field Manual 19-4 covering enemy prisoner of war operations, Military Police have responsibility for safeguarding, accounting for, and maintaining captives. The soldiers interviewed by Human Rights Watch said that established procedure was violated by having frontline soldiers guard and prepare detainees for interrogation, instead of speeding detainees to a rear area where they would be looked after by trained Military Police.

Detainees in Iraq were consistently referred to as PUCs. This term was devised in Afghanistan to take the place of the traditional designation of Prisoner of War (POW), after President Bush decided that the Geneva Conventions did not apply there. It carried over to Iraq, even though the U.S. military command and the Bush administration have continually stated that the Geneva Conventions are in effect. Although not all persons captured on a battlefield are entitled to Prisoner of War (POW) status, U.S. military doctrine interprets the Geneva Conventions as requiring that all

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captured persons be treated as POWs unless and until a "competent tribunal" determines otherwise.[5]

Detainees at FOB Mercury were held in so-called "PUC tents, which were separated from the rest of the base by concertina wire. Detainees typically spent three days at the base before being released or sent to Abu Ghraib. Officers in the Military Intelligence unit and officers in charge of the guards directed the treatment of detainees. Soldiers told us that detainees who did not cooperate with interrogators were sometimes denied water and given only crackers to eat, and were often beaten. There was little done to hide the mistreatment of detainees: one of the soldiers we interviewed observed torture when he brought newly captured Iraqis to the PUC tents.

The torture of detainees reportedly was so widespread and accepted that it became a means of stress relief for soldiers. Soldiers said they felt welcome to come to the PUC tent on their off-hours to "Fuck a PUC" or "Smoke a PUC." "Fucking a PUC" referred to beating a detainee, while "Smoking a PUC" referred to forced physical exertion sometimes to the point of unconsciousness. The soldiers said that when a detainee had a visible injury such as a broken limb due to "fucking" or "smoking," an army physician's assistant would be called to administer an analgesic and fill out the proper paperwork. They said those responsible would state that the detainee was injured during the process of capture and the physician's assistant would sign off on this. Broken bones occurred "every other week" at FOB Mercury.

"Smoking" was not limited to stress relief but was central to the interrogation system employed by the 82nd Airborne Division at FOB Mercury. Officers and NCOs from the Military Intelligence unit would direct guards to "smoke" the detainees prior to an interrogation, and would direct that certain detainees were not to receive sleep, water, or food beyond crackers. Directed "smoking" would last for the 12-24 hours prior to an interrogation. As one soldier put it: "[the military intelligence officer] said he wanted the PUCs so fatigued, so smoked, so demoralized that they want to cooperate."

The soldiers believed that about half of the detainees at Camp Mercury were released because they were not involved in the insurgency, but they left with the physical and mental scars of torture. "If he's a good guy, you know, now he's a bad guy because of the way we treated him," one sergeant told Human Rights Watch.

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[5] Maj. J. Berger, Maj Derek Grims, Maj Eric Jensen (Eds.) *Operational Law Handbook*, International and Operational Law Department, Judge Advocate General's Legal Center and School, Charlottesville Virginia, 2004, p. 26.

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The soldiers with whom Human Rights Watch spoke had served as guards in Afghanistan and had observed interrogations at FOB Tiger in Iraq, and said that civilian interrogators at those locations had also used coercive methods against prisoners. These interrogators were always referred to by the U.S. military abbreviation OGA, which stands for "Other Government Agencies." It was assumed that such persons were with the CIA, but because OGA also includes other civilian agencies, the soldiers with whom Human Rights Watch spoke said they could not be sure.

Soldiers generally had less direct access to OGA interrogations, in part because OGA personnel often took detainees to an isolated building and were generally more careful about being seen. But the soldiers who had watched OGA interrogations in Afghanistan said that soldiers applied in Iraq some of the techniques they learned from the OGA, including forced stress positions, sleep deprivation, and exposure. At FOB Tiger, the officer said, he heard the sounds of physical violence coming from rooms where OGA interrogations were being held, but without being present in the room could not know whether the sounds were real or simulated. The soldiers said that civilian interrogators sometimes removed prisoners from detention facilities and took the paperwork that indicated a detainee was being held, apparently "disappearing" that detainee.[6]

The officer who spoke to Human Rights Watch made persistent efforts to raise concerns he had with superior officers up the chain of command and to obtain clearer rules on the proper treatment of prisoners. When he raised the issue with superiors, he was consistently told to keep his mouth shut, turn a blind eye, or consider his career. When he sought clearer procedures from general officers, he was told merely to use his judgment.

Altogether this officer said he spent 17 months trying to clarify rules for prisoner treatment while seeking a meaningful investigation. He explained at length how he openly had brought his complaint directly up the chain-of-command, from his direct commanding officer, to the division commander, to the Judge Advocate General's (JAG) office, and finally to members of the U.S. Congress. In many cases, he was encouraged to keep his concerns quiet; his brigade commander, for example, rebuffed him when he asked for an investigation into these allegations of abuse. He believes he was not taken

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[6] According to the U.N. Declaration on the Protection of All Persons from Enforced Disappearance (1992), enforced disappearances occur when:

> persons are arrested, detained or abducted against their will or otherwise deprived of their liberty by officials of different branches or levels of Government, … followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law.

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seriously until he began to approach members of Congress, and, indeed, just days before the publication of this report he was told that he would not be granted a pass to meet on his day off with staff members of U.S. Senators John McCain and John Warner. He said he was told that he was being naïve and that he was risking his career.

Human Rights Watch welcomes reports that the Army has agreed to investigate the abuses discussed in this report. We are concerned however those investigations will only focus on low-level soldiers and officers, instead of looking as far as necessary up the chain of command. We are also concerned that military personnel who come forward to report abuses will find their careers suffer, as their commanding officers implied they would, rather than be commended for doing their duty.

If FOB Mercury is not to become one more in an expanding series of U.S. detention facilities associated with brutality and degrading treatment, further tarnishing the reputation of the U.S. armed forces, the policy failures must be faced head-on and the most senior responsible officials held accountable.

Accordingly, Human Rights Watch urges the following:

- The U.S. Attorney General should appoint a special counsel to investigate any U.S. officials—no matter their rank or position—who have participated in, ordered, or had command responsibility for war crimes or torture, or other prohibited ill-treatment against detainees in U.S. custody.[7]

- The U.S. Congress should create a special commission, along the lines of the 9/11 commission, to investigate the issue of detainee abuse by U.S. military and civilians personnel abroad, including the incidents described here, as proposed in legislation sponsored by Senator Carl Levin.

- Congress should enact legislation along the lines proposed by Senators John McCain, Lindsay Graham, and John Warner, which would prohibit any forms of detainee treatment and interrogation not specifically authorized by the U.S. Army Field Manual on Intelligence Interrogation, and not consistent with the

[7] To allow the special prosecutor to have full authority to investigate and prosecute both federal law and Uniform Code of Military Justice violations, the Secretary of Defense should appoint a consolidated convening authority for all armed services, to cooperate with the appointed civilian special prosecutor.

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Convention Against Torture. Such legislation must cover not only military units but also civilian agencies involved in interrogations, such as the CIA.

- The U.S. Department of Defense should conduct a thorough investigation of the allegations made in this report at all levels of the chain of command. Such an investigation must not be limited to lower-ranking enlisted personnel and officers, but must include higher-ranking officers and civilian officials linked to policies that directed, encouraged or tolerated such abuse. Measures should be taken to ensure that soldiers who bring forward credible allegations of detainee abuse are not in any way punished for their actions.

- The 82nd Airborne Division should implement measures to ensure the immediate investigation of credible allegations of detainee abuse.

Note on Presentation of the Soldiers' Accounts

All three accounts below consist of direct quotes from the soldiers. Each of the soldiers was interviewed more than once. For the sake of clarity and to avoid repetition, Human Rights Watch has edited and rearranged specific passages in the accounts.

II. Account of Sergeant A, 82nd Airborne Division

Sergeant A served in Afghanistan from September 2002 to March 2003 and in Iraq from August 2003 to April 2004. Human Rights Watch spoke with him on four separate occasions in July and August 2005.

> In retrospect what we did was wrong, but at the time we did what we had to do. Everything we did was accepted, everyone turned their heads.
>
> We got to the camp in August [2003] and set up. We started to go out on missions right away. We didn't start taking PUCs until September. Shit started to go bad right away. On my very first guard shift for my first interrogation that I observed was the first time I saw a PUC pushed to the brink of a stroke or heart attack. At first I was surprised, like, this is what we are allowed to do? This is what we are allowed to get away with? I think the officers knew about it but didn't want to hear about it. They didn't want to know it even existed. But they had to.

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On a normal day I was on shift in a PUC tent. When we got these guys we had them sandbagged and zip tied, meaning we had a sandbag on their heads and zip ties [plastic cuffs] on their hands. We took their belongings and tossed them in the PUC tent. We were told why they were there. If I was told they were there sitting on IEDs [Improvised Explosive Devices, homemade bombs] we would fuck them up, put them in stress positions or put them in a tent and withhold water.

The "Murderous Maniacs" was what they called us at our camp because they knew if they got caught by us and got detained by us before they went to Abu Ghraib then it would be hell to pay. They would be just, you know, you couldn't even imagine. It was sort of like I told you when they came in it was like a game. You know, how far could you make this guy goes before he passes out or just collapses on you. From stress positions to keeping them up fucking two days straight, whatever. Deprive them of food water, whatever.

To "Fuck a PUC" means to beat him up. We would give them blows to the head, chest, legs, and stomach, pull them down, kick dirt on them. This happened every day.

To "smoke" someone is to put them in stress positions until they get muscle fatigue and pass out. That happened every day. Some days we would just get bored so we would have everyone sit in a corner and then make them get in a pyramid. This was before Abu Ghraib but just like it. We did that for amusement.

Guard shifts were four hours. We would stress them at least in excess of twelve hours. When I go off shift and the next guy comes we are already stressing the PUC and we let the new guy know what he did and to keep fucking him. We put five-gallon water cans and made them hold them out to where they got muscle fatigue then made them do pushups and jumping jacks until they passed out. We would withhold water for whole guard shifts. And the next guy would too. Then you gotta take them to the john if you give them water and that was a pain. And we withheld food, giving them the bare minimum like crackers from MREs [Meals Ready to Eat, the military's prepackaged food]. And sleep deprivation was a really big thing.

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Someone from [Military Intelligence] told us these guys don't get no sleep. They were directed to get intel [intelligence] from them so we had to set the conditions by banging on their cages, crashing them into the cages, kicking them, kicking dirt, yelling. All that shit. We never stripped them down because this is an all-guy base and that is fucked up shit. We poured cold water on them all the time to where they were soaking wet and we would cover them in dirt and sand. We did the jugs of water where they held them out to collapse all the time. The water and other shit… start[ed] [m]aybe late September, early October, 2003. This was all at Camp Mercury, close to the MEK base[8] like 10 minutes from Fallujah. We would transport the PUCs from Mercury to Abu Ghraib.

None of this happened in Afghanistan. We had MPs [military police] attached to us in Afghanistan so we didn't deal with prisoners. We had no MPs in Iraq. We had to secure prisoners. [Military intelligence] wants to interrogate them and they had to provide guards so we would be the guards. I did missions every day and always came back with 10-15 prisoners. We were told by intel that these guys were bad, but they could be wrong, sometimes they were wrong. I would be told, "These guys were IED trigger men last week." So we would fuck them up. Fuck them up bad. If I was told the guy was caught with a 9mm [handgun] in his car we wouldn't fuck them up too bad – just a little. If we were on patrol and catch a guy that killed my captain or my buddy last week – man, it is human nature. So we fucked them up bad. At the same time we should be held to a higher standard. I know that now. It was wrong. There are a set of standards. But you gotta understand, this was the norm. Everyone would just sweep it under the rug.

What you allowed to happen happened. Trends were accepted. Leadership failed to provide clear guidance so we just developed it. They wanted intel. As long as no PUCs came up dead it happened. We heard rumors of PUCs dying so we were careful. We kept it to broken arms and legs and shit. If a leg was broken you call the PA – the physician's assistant – and told him the PUC got hurt when he was taken. He would get Motrin [a pain reliever] and maybe a sling, but no cast or medical treatment.

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[8] Iranian opposition group Mojahedin-e-Khalq, which has a base in Iraq.

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In Afghanistan we were attached to Special Forces[9] and saw OGA. We never interacted with them but they would stress guys. We learned how to do it. We saw it when we would guard an interrogation.

I was an Infantry Fire Team Leader. The majority of the time I was out on mission. When not on mission I was riding the PUCs. We should have had MPs. We should have taken them to Abu Ghraib [which] was only 15 fucking minutes drive. But there was no one to talk to in the chain – it just got killed. We would talk among ourselves, say, "This is bad." But no one listened. We should never have been allowed to watch guys we had fought.

FOB Mercury was about as big as a football field. We had a battalion there with three or four companies and attachments. We lived in the buildings of an old Iraqi military compound that we built up with barriers, ACs [air conditioners], and stuff. We had civilian interpreters on post and contractors came every day to fix shit. The contractors were local Iraqis.

The PUCs lived in the PUC area about 200 meters away. It had a triple-strength circle concertina barrier with tents in the middle with another triple-strength concertina perimeter. Inside each was a Hesco basket that is wire that normally has cloth in it. We filled them with dirt to make barriers and some we emptied and buried to use as access points for the Iraqis. This was all inside the confines of the FOB. There was a guard tower behind the PUC tent with two guards. One was always looking at the PUC tent. We never took direct fire but did take regular rocket and mortar attacks. We did not lose anyone but had shrapnel injuries.

On their day off people would show up all the time. Everyone in camp knew if you wanted to work out your frustration you show up at the PUC tent. In a way it was sport. The cooks were all US soldiers. One day a sergeant shows up and tells a PUC to grab a pole. He told him to bend over and broke the guy's leg with a mini Louisville Slugger that was a metal bat. He was the fucking cook. He shouldn't be in with no

[9] The 82nd Airborne Division provided support to Special Operations Forces during operations in Afghanistan in 2002 and 2003.

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PUCs. The PA came and said to keep him off the leg. Three days later they transported the PUC to Abu Ghraib. The Louisville Slugger [incident] happened around November 2003, certainly before Christmas.

People would just volunteer just to get their frustrations out. We had guys from all over the base just come to guard PUCs so they could fuck them up. Broken bones didn't happen too often, maybe every other week. The PA would overlook it. I am sure they knew.

The interrogator [a sergeant] worked in the [intelligence] office. He was former Special Forces. He would come into the PUC tent and request a guy by number. Everyone was tagged. He would say, "Give me #22." And we would bring him out. He would smoke the guy and fuck him. He would always say to us, "You didn't see anything, right?" And we would always say, "No, Sergeant."

One day a soldier came to the PUC tent to get his aggravation out and filled his hands with dirt and hit a PUC in the face. He fucked him. That was the communications guy.

One night a guy came and broke chem lights[10] open and beat the PUCs with it. That made them glow in the dark which was real funny but it burned their eyes and their skin was irritated real bad.

If a PUC cooperated Intel would tell us that he was allowed to sleep or got extra food. If he felt the PUC was lying he told us he doesn't get any fucking sleep and gets no food except maybe crackers. And he tells us to smoke him. [Intel] would tell the Lieutenant that he had to smoke the prisoners and that is what we were told to do. No sleep, water, and just crackers. That's it. The point of doing all this was to get them ready for interrogation. [The intelligence officer] said he wanted the PUCs so fatigued, so smoked, so demoralized that they want to cooperate. But half of these guys got released because they didn't do nothing. We sent them back to Fallujah. But if he's a good guy, you know, now he's a bad guy because of the way we treated him.

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[10] Chem lights refer to chemical light sticks. While we do not know the exact composition of the ones allegedly used in Iraq, these lights are typically made of a hydrogen peroxide solution mixed with a phenyl oxalate ester and dye for color. Information available at http://science.howstuffworks.com/light-stick2.htm

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After Abu Ghraib things toned down. We still did it but we were careful. It is still going on now the same way, I am sure. Maybe not as blatant but it is how we do things.

Each company goes out on a mission and you kick the door down and catch them red handed. We caught them with RPGs [rocket propelled grenades]. So we are going to give you special attention. We yank them off the truck and they hit the ground hard, maybe 5-6 feet down. We took everything and searched them. Then we toss him in the PUC tent with a sandbag on his head and he is zip tied. And he is like that all day and it is 100 degrees in that tent. Once paperwork was done we started to stress them. The five-gallon water can was full of water. We would have people hold out their arms on each side parallel to the ground. After a minute your arms get tired and shake. Then we would take some water out and douse them to get them cold. And the tent is full of dust and they get dirty and caked with it. Then we make them do pushups and jumping jacks. At the end of a guard shift they look like zombies.

We had these new high-speed trailer showers. One guy was the cleaner. He was an Iraqi contractor working on base. We were taking pretty accurate mortar fire and rockets and we were getting nervous. Well one day we found him with a GPS[11] receiver and he is like calling in strikes on us! What the fuck!? We took him but we are pissed because he stabbed us in the back. So we gave him the treatment. We got on him with the jugs and doused him and smoked and fucked him.

III. Account of Sergeant B, 82nd Airborne Division

Sergeant B served in Afghanistan from September 2002 to March 2003 and in Iraq from August 2003 to April 2004. Human Rights Watch spoke with him on two separate occasions in August 2005.

I was an infantry squad leader doing mounted patrols and conducting raids in Iraq. I would catch the bad guys. You heard a lot of stuff as a

[11] A GPS, or Global Positioning System receiver, provides the user with location data derived from satellites. This data may be used to target weapons, as the soldier alleges.

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squad leader in charge of guys watching PUCs about guys mistreating PUCs.

We got to Mercury on the 6th of September. We came from working in al-Qaim. In late September we started to take on PUCs as part of our mission. Since we were capturing them we would detain them for no more than three days, three days max, to interrogate them for intel. We had a mechanized company attached to us which took us up to about battalion strength, maybe 750 people when you include the HHC [headquarters].

PUCs were placed in a GP [general purpose] medium or small tent, about 20x15, and that is being generous. We had 2-3 tents with no more than 10-15 PUCs per tent with a couple guards to a tent. You added guards if you had more PUCs. We would immediately put these guys in stress positions. PUCs would be holding hands behind their backs and be cuff tied and we would lean their forehead against a wall to support them.

As far as abuse goes I saw hard hitting. I heard a lot of stories, but if it ain't me I wouldn't care. I was busy leading my men. I did hear about [a sergeant] breaking PUC bones. Stories came out on mission. Guys were always talking about what they did to the PUCs. Guys mentioned stuff but I couldn't care less what happened at the PUC tent a week ago. Putting guys with frustration in charge of prisoners was the worst thing to do.

I also saw smoking. They would get the PUCs to physically exert themselves to the limit. Feeding was a huge issue and it was brought up. The PUCs wouldn't eat what we were feeding them as they were against Americans and MREs, so all I saw them eat were crackers. [Sergeant A told Human Rights Watch that PUCs were often only fed crackers. It is unclear why Sergeant B believes the detainees had a choice.]

Rest was also an issue. We were told they could be interrogated 45 minutes on, 15 minutes off for sleep and whatever, but I was not regularly in the PUC tents. I brought the PUCs in for interrogation. That is when I saw whatever I saw. Intel had some bad guys and we all know sleep deprivation is a powerful tool.

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> In Iraq, from the beginning, we messed up on the treatment soldiers had to endure while guarding prisoners. There are five "S's" [Search, Silence, Segregate, Speed (to the rear), Safeguard] and we blew Speed and Security. Speed was the biggest problem. Speed means you get them to the rear to process them. You need to get them away from the troops they are trying to kill.
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> The Geneva Conventions is questionable and we didn't know we were supposed to be following it. In Afghanistan you were taught to keep your head down and shoot…. You never thought about the Geneva Conventions. There was an ROE [Rules of Engagement] and it was followed, same in Iraq. But we were never briefed on the Geneva Conventions. These guys are not soldiers. If we were to follow the Geneva Conventions we couldn't shoot at anyone because they all look like civilians.

IV. Account of Officer C, 82nd Airborne Division

C is an officer with the 82nd Airborne Division and West Point graduate who served in Afghanistan from August 2002 to February 2003 and in Iraq from September 2003 to March 2004. HRW spoke with him more than two dozen times in July, August, and September 2005. Below are excerpts from those interviews grouped by subject matter (the subject headings were supplied by Human Rights Watch).

At FOB Mercury, he was not in charge of interrogations but saw several interrogations in progress and received regular reports from NCOs on ill-treatment of detainees. He felt strongly that abuses there reflected larger policy confusion about what was permitted, and that the officer corps in particular has a duty to come forward and take responsibility.

On Conditions at FOB Mercury

> When we were at FOB Mercury, we had prisoners that were stacked in pyramids, not naked but they were stacked in pyramids. We had prisoners that were forced to do extremely stressful exercises for at least two hours at a time which personally I am in good shape and I would not be able to do that type of exercises for two hours.… There was a case where a prisoner had cold water dumped on him and then he was

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left outside in the night. Again, exposure to elements. There was a case where a soldier took a baseball bat and struck a detainee on the leg hard. This is all stuff that I'm getting from my NCOs.

In the PUC holding facility you could have had people that could have been in the wrong house at the wrong time brought in an all of a sudden they are subjected to this. So that's a big problem, obviously a huge human rights issue.

It's army doctrine that when you take a prisoner, one of the things you do is secure that prisoner and then you speed him to the rear. You get him out of the hands of the unit that took him. Well, we didn't do that. We'd keep them at out holding facility for I think it was up to seventy-two hours. Then we would place him under the guard of soldiers he had just been trying to kill. The incident with the detainee hit with baseball bat; he was suspected of having killed one of our officers.

[At FOB Mercury] they said that they had pictures that were similar to what happened at Abu Ghraib, and because they were so similar to what happened at Abu Ghraib, the soldiers destroyed the pictures. They burned them. The exact quote was, "They [the soldiers at Abu Ghraib] were getting in trouble for the same things we were told to do, so we destroyed the pictures."

On Frustration Obtaining a Meaningful Response within the Military Chain of Command

I witnessed violations of the Geneva Conventions that I knew were violations of the Geneva Conventions when they happened but I was under the impression that that was U.S. policy at the time. And as soon as Abu Ghraib broke and they had hearings in front of Congress, the Secretary of Defense testified that we followed the spirit of the Geneva Conventions in Afghanistan, and the letter of the Geneva Conventions in Iraq and as soon as he said that I knew something was wrong. So I called some of my classmates [from West Point], confirmed what I was concerned about and then on that Monday morning I approached my chain of command.

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I talked to an officer in the Ranger regiment[12] and his response was, he wouldn't tell me exactly what he witnessed but he said "I witnessed things that were more intense than what you witnessed," but it wasn't anything that exceeded what I had heard about at SERE school.[13]

After that I called the chaplain at West Point who I respected a lot and I talked to him about some things and we were on the same page. Then I had said well, "I'm going to talk to my company commander and then my battalion commander on Monday."

My company commander said, "I see how you can take it that way, but…" he said something like, "remember the honor of the unit is at stake" or something to that effect and "Don't expect me to go to bat for you on this issue if you take this up," something to that effect.

I went and talked to my battalion commander. Again, he clearly thinks he has done the right things and that what I am bringing attention to is within the standards and that he is okay. He didn't dismiss me. He just said "Go talk to JAG. We'll work this out." It wasn't alarming to him in any way, shape or form that these things had happened.

So I went to JAG and … he says, "Well the Geneva Conventions are a gray area." So I mentioned some things that I had heard about and said, "Is it a violation to chain prisoners to the ground naked for the purpose of interrogations?" and he said, "That's within the Geneva Conventions." So I said, "Okay. That is within the Geneva Conventions." And then there is the prisoner on the box with the wires attached to him, and to me, as long as electricity didn't go through the wires, that was in accordance with what I would have expected US policy to be and that he wasn't under the threat of death. And he said,

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[12] The Rangers are "rapidly deployable airborne light infantry organized and trained to conduct highly complex joint direct action operations in coordination with or in support of other special operations units of all Services. Rangers also can execute direct action operations in support of conventional nonspecial operations missions conducted by a combatant commander and can operate as conventional light infantry when properly augmented with other elements of combined arms." Department of Defense Dictionary of Military Terms, available at http://www.dtic.mil/doctrine/jel/doddict/

[13] SERE stands for "Survival, Evasion, Resistance, Escape," and is a military course of training "encompassing those basic skills necessary for world-wide survival; expedite search and rescue efforts; evade capture by hostile forces; resistance to interrogation, exploitation and indoctrination; and escape from detention by enemy forces." Available at http://www.fasolant.navy.mil/brunssere.htm

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> "Well, that is a clear violation of the Geneva Conventions." And I said, "Okay, but I'm looking for some kind of standard here to be able to tell what I should stop and what I should allow to happen." And he says, "Well, we've had questions about that at times."
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> Then he said, "There was a device that another battalion in the 82nd had come up with that you would put a prisoner in. It was uncomfortable to sit in." And he went to test it out by sitting in it and he decided that it wasn't torture. I hear this and I am flabbergasted that this is the standard the Army is using to determine whether or not we follow the Geneva Conventions. If I go to JAG and JAG cannot give me clear guidance about what I should stop and what I should allow to happen, how is an NCO or a private expected to act appropriately?
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> When I talked to [an official in the Inspector General's office about the policy confusion on what was permitted] he says, "You obviously feel very upset about this, but—I don't think you're going to accomplish anything because things don't stick to people inside the Beltway [Washington, D.C.]." He says, "I worked at the Pentagon and things don't stick to people inside the Beltway."
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> When the Secretary of the Army came [to my training], I addressed him on numerous issues, which I don't want to go into. One of those issues was treatment of prisoners. I mentioned that I didn't have clear guidance, and the Secretary of the Army said, "Well, we realized that that was a problem but you are a little bit behind the times. We've solved that matter. And I didn't get a chance to respond to that. I should have, I should have pressed that issue a lot harder. That's one of my regrets. Just bringing up the issue at all was stressful, but it hasn't been resolved because there is no clear guidance. And through discussions with other officers the problem is not taken care of. It really is multiple problems. It's two problems. One is the Army handling interrogations and the other is the relationship between OGA and prisoners and what they can and can't do.

The officer also spoke with multiple experts on the U.S. military Law of Land Warfare, his peers, and his soldiers, all of whom, he said, expressed concern that the Geneva Conventions were not being applied in Iraq. He decided to bring his concerns to the Congress since he felt they were not being adequately addressed by his chain of

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command. Days before this report was published his brigade commander told him to stop his inquiries; his commanding officer told him that he could not leave the base to visit with staff members of Senators McCain and Warner without approval and that approval was being denied because his commanding officer felt the officer was being naïve and would do irreparable harm to his career.

On Policy Confusion within the Ranks on Coercive Interrogation

> [In Afghanistan,] I thought that the chain on command all the way up to the National Command Authority[14] had made it a policy that we were going to interrogate these guys harshly.
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> [The actual standard was] "we're not going to follow the Geneva Conventions but we are going to treat you humanely." Well, what does humane mean? To me humane means I can kind of play with your mind, but I cannot hit you or do anything that is going to cost you permanent physical damage. To [another officer I spoke with] humane means it's okay to rough someone up and to do physical harm. Not to break bones or anything like that but to do physical harm as long as you're not humiliating him, which was the way he put it. We've got people with different views of what humane means and there's no Army statement that says this is the standard for humane treatment for prisoners to Army officers. Army officers are left to come up with their own definition of humane treatment.
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> I don't know for sure [how high up the hierarchy responsibility for the abusive treatment lies]. What I know is that it's widespread enough that it's an officer problem. It's at least an officer problem. You make the standard, and that is what goes up to the executive branch. You communicate the standard, that's when it's somewhat the executive branch, but then it comes more into the officer branch, and enforcing the standard is the officer branch… And in the Schlesinger report[15] it even says that when the President made the decision that al-Qaeda wasn't going to be covered by the Geneva Conventions, there was a

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[14] The President of the United States and the Secretary of Defense.

[15] The Schlesinger Report, issued in August 2004, was one of seven U.S. military inquiries into detainee abuse by U.S. forces. The panel that produced the Schlesinger report was chosen by Secretary of Defense Rumsfeld and determined that leadership failures led to detainee abuse in Iraq.

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clear danger that it was going to undermine the culture in the United States Army that enforces strict adherence to the law of land warfare. That's in the Schlesinger report.

But anyway, the President makes that decision, and decides that we're not going to cover them by the Geneva Conventions, which according to the letter of the law, I think there's a strong argument for that…. [But] then that lack of standard migrates throughout the Army. It filters throughout the Army, so that now the standard, this convoluted, "You'll know what's right when you see it," filters through the whole Army.

If you draw a hard line and you say "Don't do anything bad to prisoners," like you bring them in, you give them food, you give them water, and then you leave them alone. If that happens then, yeah, that is an easy line to draw, but when you start drawing shades of gray and you start stripping prisoners, or you start making prisoners do humiliating things and then you tell a soldier to draw the line somewhere, then no. A soldier is not going to be able to draw that line because as soon as you cross that line and as soon as you start stripping prisoners or you start making people do vigorous exercise, or you start basically putting yourself in a position of authority where you are subjecting someone else to harsh treatment, things are going to get out of hand because everyone is going to draw the line at a different place. Just like the discussion between me and the other officer, where's the line? What is acceptable and what is not acceptable? People don't know. The West Point officers knew the line coming out of West Point. We knew where the Geneva Conventions drew the line, but then you get that confusion when the Sec Def [Secretary of Defense] and the President make that statement. And we were confused.

[In Iraq, my understanding of how we should treat prisoners] didn't change. There are a couple of reasons for that. Pre-deployment training was minimal going to Iraq because we deployed on short notice from West Point through Fort Bragg to Iraq. So there might be some disconnect there, but also none of the unit policies changed. Iraq was cast as part of the War on Terror, not a separate entity in and of itself but a part of a larger war.

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[I didn't discuss abuse of detainees with my superiors in Iraq because] to me, it was obviously part of the system and the reasons had been laid out about why we're not following the Geneva Conventions in respect to the detainees. We did follow them in other aspects and once that was laid out I thought it was pretty clear cut.… That was just the way I thought we were running things.

Another officer approached me and was like "I'm not sure this is the way you should be treating someone." It was almost like an off-hand, kind of like…just a conversation like making a comment. He said something like "I don't know if this is right" and my response was "Hey, it's out in the open and we've said that we are doing this. It's not like we're doing it on the sly."

If I as an officer think we're not even following the Geneva Conventions, there's something wrong. If officers witness all these things happening, and don't take action, there's something wrong. If another West Pointer tells me he thinks, "Well, hitting somebody might be okay," there's something wrong.

What I'm saying is had I thought we were following the Geneva Conventions as an officer I would have investigated what was clearly a very suspicious situation.

On the Implications of the Abu Ghraib Abuse Revelations in April 2004

Someone mentioned to me in passing that there was a really bad prisoner abuse scandal and I took note of it and I thought, "that is horrible. That is going to be bad PR [public relations] for the Army" and I thought, "Okay, rogues did something." And then as the week progressed I watched on the news and they showed some of the pictures -- not all of them -- a large portion of the pictures were in accordance with what I perceived as U.S. policy. Now all the stuff with sodomy with the chem light and all that was clearly beyond what I would have allowed to happen on a personal moral level and what I thought policy was. But the other stuff, guys handcuffed naked to cells in uncomfortable positions, guys placed in stress positions on boxes,

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people stripped naked. All that was…if I would have seen it, I would have thought it was in accordance with interrogation procedures.

I listened to the congressional hearings and when the Secretary of Defense testified that we followed the spirit of the Geneva Conventions in Afghanistan and the letter of the Geneva Conventions in Iraq… that went against everything that I [understood about US policy]. That's when I had a problem.

The first concern when this originally happened was loyalty to the Constitution and separation of powers, and combined with that is the honor code: "I will not lie, cheat or steal or tolerate those who do." The fact that it was systematic, and that the chain of command knew about it was so obvious to me that [until that point] I didn't even consider the fact that other factors might be at play, so that's why I approached my chain of command about it right off the bat and said, "Hey, we're lying right now. We need to be completely honest."

Congress should have oversight of treatment of prisoners. That is the way; the Army should not take it upon itself to determine what is acceptable for America to do in regards to treatment of prisoners. That's a value… that's more than just a military decision, that's a values decision, and therefore Congress needs to know about it, and therefore the American people need to have an honest representation of what's going on presented to them so that they can have a say in that.

On Failure of the Officer Corps

It's unjust to hold only lower-ranking soldiers accountable for something that is so clearly, at a minimum, an officer corps problem, and probably a combination with the executive branch of government.

It's almost infuriating to me. It is infuriating to me that officers are not lined up to accept responsibility for what happened. It blows my mind that officers are not. It should've started with the chain of command at Abu Ghraib and anybody else that witnessed anything that violated the Geneva Conventions or anything that could be questionable should've been standing up saying, "This is what happened. This is why I allowed

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it to happen. This is my responsibility," for the reasons I mentioned before. That's basic officership, that's what you learn at West Point, that's what you should learn at any commissioning source.

That's basic Army leadership. If you fail to enforce something, that's the new standard. So I guess what I'm getting at is the Army officers have overarching responsibility for this. Not privates, not the Sergeant Jones, not Sergeant Smith. The Army officer corps has responsibility for this. And it boggles my mind that there aren't officers standing up saying, "That's my fault and here's why." That's basic army leadership.

Look, the guys who did this aren't dishonorable men. It's not like they are a bunch of vagabonds. They shown more courage and done more things in the time that I've spent with them than I could cover in probably a week of talking to you. They are just amazing men, but they're human. If you put them in a situation, which is the officer's responsibility, where they are put in charge of somebody who tried to kill them or maybe killed their friend, bad things are going to happen. It's the officer's job to make sure bad things don't happen.

[Another important] thing is making sure this doesn't happen again…. [We need] to address the fact that it was an officer issue and by trying to claim that it was "rogue elements" we seriously hinder our ability to ensure this doesn't happen again. And, that has not only moral consequences, but it has practical consequences in our ability to wage the War on Terror. We're mounting a counter-insurgency campaign, and if we have widespread violations of the Geneva Conventions, that seriously undermines our ability to win the hearts and minds of the Muslim world.

[I]f America holds something as the moral standard, it should be unacceptable for us as a people to change that moral standard based on fear. The measure of a person or a people's character is not what they do when everything is comfortable. It's what they do in an extremely trying and difficult situation, and if we want to claim that these are our ideals and our values then we need to hold to them no matter how dark the situation.

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On the Role of "OGA"

In Afghanistan we were attached to Special Forces and saw OGA. We never interacted with them but they would stress guys. We learned how to do it. We saw it when we would guard an interrogation.

They [OGA interrogators in Afghanistan] had a horn. In this case they would involve U.S. soldiers. There was a really loud horn and any time the detainee would fall asleep they would blare the horn in his ear so that he had to wake up and they would do that until he stood up again and stayed awake.

[A]t FOB Tiger [near the Syrian border] there were a lot of high value targets and …there was a Special Forces [SF] team nearby and I was going to talk to them just about career stuff and as I was going out I saw someone who I thought was OGA… go into the prisoner detainee holding facility and take one of the detainees out. And then they took infantry guards and they went into an unoccupied building that they could seal off, closed the door, and they gave orders to the infantry guards not to let anyone in. The reason I know this is because I was trying to talk to the SF guys and I asked them "Hey, do you know where the SF guys are?" and they were like "Well, maybe some of them are in here but you can't go in there right now. They are with a prisoner." And there were noises coming out of there. There could have been physical violence but [they were at least] threatening the prisoner,… doing things that weren't actually causing bodily harm but threatening to do that.

I talked to an MP who said that he was in charge of holding detainees and that the CIA would just come and take the detainees away. They would be like, "How many detainees do you have?" and he knew he has seventeen detainees but the OGA would be like, "No, you have sixteen," so he'd be like "Alright. I have sixteen." And who knows where that detainee went.

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V. Conclusion

The abuses alleged in this report can be traced to the Bush administration's decision to disregard the Geneva Conventions in the armed conflict in Afghanistan.

On February 7, 2002, President George W. Bush announced that the Geneva Conventions concerning the treatment of prisoners did not apply at all to al-Qaeda members or to Taliban soldiers because they did not qualify as members of the armed forces. He insisted that detainees would nonetheless be treated "humanely." Defense Secretary Donald Rumsfeld told journalists that day: "The reality is the set of facts that exist today with the al-Qaeda and the Taliban were not necessarily the set of facts that were considered when the Geneva Conventions was fashioned."

The accounts presented in this report are further evidence that this decision by the Bush administration was to have a profound influence on the treatment of detained persons in military operations in Iraq as well as in the "global war on terror." In short, the refusal to apply the Geneva Conventions to Guantánamo Bay and Afghanistan was to undermine long-standing adherence by the U.S. armed forces to federal law and the laws of armed conflict concerning the proper treatment of prisoners.

Public statements by the Bush administration prior to the February 2002 decision set the tone for effectively rejecting the Geneva Conventions. After the first detainees arrived at Guantánamo in January 2002, Defense Secretary Rumsfeld declared them all to be unlawful combatants who "do not have any rights" under the Geneva Conventions. He said that the United States would "for the most part, treat them in a manner that is reasonably consistent with the Geneva Conventions, to the extent they are appropriate." Later that month, then White House counsel Alberto Gonzales wrote President Bush that the Geneva Conventions provisions on questioning enemy prisoners were "obsolete" and argued, among other things, that rejecting the applicability of the Geneva Conventions "[s]ubstantially reduces the threat of domestic criminal prosecution" of U.S. officials for war crimes.

Then Secretary of State Colin Powell and senior military leaders privately objected to the administration's position. Secretary Powell argued that declaring the conventions inapplicable would "reverse over a century of U.S. policy and practice in supporting the Geneva Conventions and undermine the protections of the law of war for our troops, both in this specific conflict and in general."

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The administration's policy opened the door for the since-discredited legal theories put forward by the Justice Department in the infamous "torture memo" of August 2002. This memo provided contorted rationalizations for the use of clearly unlawful interrogation methods. The conclusions of these memos were opposed, without success, by senior members of the Judge Advocate General's office in all four services. Air Force Major General Jack Reves wrote in a recently released memo from 2003: "[T]he use of the more extreme interrogation techniques simply is not how the U.S. armed forces have operated in recent history. We have taken the legal and moral 'high-road' in the conduct of our military operations regardless of how others may operate. Our forces are trained in this legal and moral mindset beginning the day they enter active duty."

And Army Major General Thomas Romig wrote that the Justice Department's view on the laws of war "runs contrary to the historic position taken by the United States Government concerning such laws and, in our opinion, could adversely impact [Pentagon] interests worldwide [including by] putting our service personnel at far greater risk and vitiating many of the POW/detainee safeguards the U.S. has worked hard to establish over the past five decades."

According to the 2004 Schlesinger Commission report, coercive interrogation methods approved by Defense Secretary Rumsfeld for use on prisoners at Guantánamo — including the use of guard dogs to induce fear in prisoners, stress techniques such as forced standing and shackling in painful positions, and removing their clothes for long periods — "migrated to Afghanistan and Iraq, where they were neither limited nor safeguarded," and contributed to the widespread and systematic torture and abuse at U.S. detention centers there.

Even after the abuses at Abu Ghraib prison in Iraq became public, Secretary Rumsfeld continued to dismiss the applicability of the Geneva Conventions. On May 5, 2004, he told a journalist the Geneva Conventions "did not apply precisely" in Iraq but were "basic rules" for handling prisoners. Visiting Abu Ghraib on May 14, Rumsfeld remarked, "Geneva doesn't say what you do when you get up in the morning." In fact, the U.S. armed forces have devoted considerable energy over the years to making the Geneva Conventions fully operational by military personnel in the field. Various U.S. military operational handbooks and manuals, such as Field Manual 27-10 on the Law of Land Warfare and Field Manual 34-52 on Intelligence Interrogation, provide the means for implementing Geneva Conventions provisions, even where those provisions are vague.

DOJ_NMG_0010972

Effectively throwing out military manuals based on the laws of armed conflict was a prescription for the abuse that followed. Field Manual 34-52 for instance, does not merely restate the requirements of the Geneva Conventions, but it provides useful advice for soldiers to apply the standards in practice. For instance, the manual states: "Experience indicates that the use of force is not necessary to gain the cooperation of sources for interrogation. Therefore, the use of force is a poor technique, as it yields unreliable results, may damage subsequent collection efforts, and can induce the source to say whatever he thinks the interrogator wants to hear."

Torture and other cruel and inhumane treatment alleged in this report do not fall into the "gray areas" in the law. Common article 3 to the four Geneva Conventions of 1949, which is accepted as the minimal standard of treatment for persons in custody during any armed conflict, prohibits "at any time and in any place whatsoever, … violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture, [and] outrages upon personal dignity, in particular, humiliating and degrading treatment." Further protections can be found in the fundamental guarantees under article 75 of the Protocol I of 1977 to the Geneva Conventions, which is accepted as reflecting customary laws of armed conflict.

Even if the Geneva Conventions were not applicable, various provisions of the U.S. Uniform Code of Military Justice subjects soldiers to court-martial or disciplinary measures for mistreating prisoners. Applicable UCMJ criminal provisions include article 93 (cruelty and maltreatment), article 128 (assault), and articles 118 and 119 (murder and manslaughter), as well as article 120 (rape and carnal knowledge), article 124 (maiming), and, for officers, article 133 (conduct unbecoming an officer). Superior officers who order the mistreatment of prisoners or who knew or should have known that such mistreatment was occurring and did not take appropriate measures can be prosecuted as a matter of command responsibility.

The treatment of prisoners alleged here also violates U.S. obligations under international human rights law. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides that "[n]o exceptional circumstances whatsoever, whether a state of war or a threat or war, internal political instability or any other public emergency, may be invoked as a justification of torture." The International Covenant on Civil and Political Rights, which also bans torture and other mistreatment, ensures that the right to be free from torture and other cruel, inhuman or degrading treatment can never be suspended by a state, including during periods of public emergency.

DOJ_NMG_0010973

These standards have largely been incorporated into U.S. law that is applicable to members of the armed services. The War Crimes Act of 1996 (18 U.S.C. § 2441) makes it a criminal offense for U.S. military personnel and U.S. nationals to commit war crimes as specified in the Geneva Conventions. The federal anti-torture statute (18 U.S.C. § 2340A), enacted in 1994, provides for the prosecution of a U.S. national or anyone present in the United States who, while outside the United States, commits or attempts to commit torture.

Human Rights Watch calls for investigations into all allegations of mistreatment of prisoners in U.S. custody. Appropriate disciplinary or criminal action should be undertaken against all those implicated in torture and other abuse, whatever their rank. As we have reported elsewhere, there is increasing evidence that high-ranking U.S. civilian and military leaders made decisions and issued policies that facilitated serious and widespread violations of the law. The circumstances strongly suggest that they either knew or should have known that such violations took place as a result of their actions. There is also mounting information that, when presented with evidence that abuse was in fact occurring, they failed to act to stop it.

Human Rights Watch reiterates its call for the appointment of a special counsel to investigate any U.S. officials — no matter their rank or position — who participated in, ordered, or had command responsibility for war crimes or torture, or other prohibited ill-treatment against detainees in U.S. custody.

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Gorsuch, Neil M

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Sent: Tuesday, January 24, 2006 2:15 PM
To: Eisenberg, John
Subject: A favor

I'm out of the office but was hoping to forward a copy of the public olc memo on the nsa program. Might I impose on you to forward a link or pdf version of it? Very many thanks and apologies for the imposition.

Eisenberg, John

From:	Eisenberg, John
Sent:	Tuesday, January 24, 2006 2:20 PM
To:	Gorsuch, Neil M
Subject:	RE: A favor
Attachments:	dojnsa11906wp.pdf

I got this version on Findlaw.

Here's the link too.

http://news.findlaw.com/hdocs/docs/nsa/dojnsa11906wp.pdf

-----Original Message-----
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U.S. Department of Justice

Washington, D.C. 20530

January 19, 2006

LEGAL AUTHORITIES SUPPORTING THE ACTIVITIES OF THE NATIONAL SECURITY AGENCY DESCRIBED BY THE PRESIDENT

As the President has explained, since shortly after the attacks of September 11, 2001, he has authorized the National Security Agency ("NSA") to intercept international communications into and out of the United States of persons linked to al Qaeda or related terrorist organizations. The purpose of these intercepts is to establish an early warning system to detect and prevent another catastrophic terrorist attack on the United States. This paper addresses, in an unclassified form, the legal basis for the NSA activities described by the President ("NSA activities").

SUMMARY

On September 11, 2001, the al Qaeda terrorist network launched the deadliest foreign attack on American soil in history. Al Qaeda's leadership repeatedly has pledged to attack the United States again at a time of its choosing, and these terrorist organizations continue to pose a grave threat to the United States. In response to the September 11th attacks and the continuing threat, the President, with broad congressional approval, has acted to protect the Nation from another terrorist attack. In the immediate aftermath of September 11th, the President promised that "[w]e will direct every resource at our command—every means of diplomacy, every tool of intelligence, every tool of law enforcement, every financial influence, and every weapon of war—to the destruction of and to the defeat of the global terrorist network." President Bush Address to a Joint Session of Congress (Sept. 20, 2001). The NSA activities are an indispensable aspect of this defense of the Nation. By targeting the international communications into and out of the United States of persons reasonably believed to be linked to al Qaeda, these activities provide the United States with an early warning system to help avert the next attack. For the following reasons, the NSA activities are lawful and consistent with civil liberties.

The NSA activities are supported by the President's well-recognized inherent constitutional authority as Commander in Chief and sole organ for the Nation in foreign affairs to conduct warrantless surveillance of enemy forces for intelligence purposes to detect and disrupt armed attacks on the United States. The President has the chief responsibility under the Constitution to protect America from attack, and the Constitution gives the President the authority necessary to fulfill that solemn responsibility. The President has made clear that he will exercise all authority available to him, consistent with the Constitution, to protect the people of the United States.

In the specific context of the current armed conflict with al Qaeda and related terrorist organizations, Congress by statute has confirmed and supplemented the President's recognized authority under Article II of the Constitution to conduct such warrantless surveillance to prevent further catastrophic attacks on the homeland. In its first legislative response to the terrorist attacks of September 11th, Congress authorized the President to "use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks" of September 11th in order to prevent "any future acts of international terrorism against the United States." Authorization for Use of Military Force, Pub. L. No. 107-40, § 2(a), 115 Stat. 224, 224 (Sept. 18, 2001) (reported as a note to 50 U.S.C.A. § 1541) ("AUMF"). History conclusively demonstrates that warrantless communications intelligence targeted at the enemy in time of armed conflict is a traditional and fundamental incident of the use of military force authorized by the AUMF. The Supreme Court's interpretation of the AUMF in *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004), confirms that Congress in the AUMF gave its express approval to the military conflict against al Qaeda and its allies and thereby to the President's use of all traditional and accepted incidents of force in this current military conflict—including warrantless electronic surveillance to intercept enemy communications both at home and abroad. This understanding of the AUMF demonstrates Congress's support for the President's authority to protect the Nation and, at the same time, adheres to Justice O'Connor's admonition that "a state of war is not a blank check for the President," *Hamdi*, 542 U.S. at 536 (plurality opinion), particularly in view of the narrow scope of the NSA activities.

The AUMF places the President at the zenith of his powers in authorizing the NSA activities. Under the tripartite framework set forth by Justice Jackson in *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 635-38 (1952) (Jackson, J., concurring), Presidential authority is analyzed to determine whether the President is acting in accordance with congressional authorization (category I), whether he acts in the absence of a grant or denial of authority by Congress (category II), or whether he uses his own authority under the Constitution to take actions incompatible with congressional measures (category III). Because of the broad authorization provided in the AUMF, the President's action here falls within category I of Justice Jackson's framework. Accordingly, the President's power in authorizing the NSA activities is at its height because he acted "pursuant to an express or implied authorization of Congress," and his power "includes all that he possesses in his own right plus all that Congress can delegate." *Id*. at 635.

The NSA activities are consistent with the preexisting statutory framework generally applicable to the interception of communications in the United States—the Foreign Intelligence Surveillance Act ("FISA"), as amended, 50 U.S.C. §§ 1801-1862 (2000 & Supp. II 2002), and relevant related provisions in chapter 119 of title 18.[1] Although FISA generally requires judicial approval of electronic surveillance, FISA also contemplates that Congress may authorize such surveillance by a statute other than FISA. *See* 50 U.S.C. § 1809(a) (prohibiting any person from intentionally "engag[ing] . . . in electronic surveillance under color of law except as authorized

[1] Chapter 119 of title 18, which was enacted by Title III of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 18 U.S.C. §§ 2510-2521 (2000 & West Supp. 2005), is often referred to as "Title III."

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by statute"). The AUMF, as construed by the Supreme Court in *Hamdi* and as confirmed by the history and tradition of armed conflict, is just such a statute. Accordingly, electronic surveillance conducted by the President pursuant to the AUMF, including the NSA activities, is fully consistent with FISA and falls within category I of Justice Jackson's framework.

Even if there were ambiguity about whether FISA, read together with the AUMF, permits the President to authorize the NSA activities, the canon of constitutional avoidance requires reading these statutes in harmony to overcome any restrictions in FISA and Title III, at least as they might otherwise apply to the congressionally authorized armed conflict with al Qaeda. Indeed, were FISA and Title III interpreted to impede the President's ability to use the traditional tool of electronic surveillance to detect and prevent future attacks by a declared enemy that has already struck at the homeland and is engaged in ongoing operations against the United States, the constitutionality of FISA, as applied to that situation, would be called into very serious doubt. In fact, if this difficult constitutional question had to be addressed, FISA would be unconstitutional as applied to this narrow context. Importantly, the FISA Court of Review itself recognized just three years ago that the President retains constitutional authority to conduct foreign surveillance apart from the FISA framework, and the President is certainly entitled, at a minimum, to rely on that judicial interpretation of the Constitution and FISA.

Finally, the NSA activities fully comply with the requirements of the Fourth Amendment. The interception of communications described by the President falls within a well-established exception to the warrant requirement and satisfies the Fourth Amendment's fundamental requirement of reasonableness. The NSA activities are thus constitutionally permissible and fully protective of civil liberties.

BACKGROUND

A. THE ATTACKS OF SEPTEMBER 11, 2001

On September 11, 2001, the al Qaeda terrorist network launched a set of coordinated attacks along the East Coast of the United States. Four commercial jetliners, each carefully selected to be fully loaded with fuel for a transcontinental flight, were hijacked by al Qaeda operatives. Two of the jetliners were targeted at the Nation's financial center in New York and were deliberately flown into the Twin Towers of the World Trade Center. The third was targeted at the headquarters of the Nation's Armed Forces, the Pentagon. The fourth was apparently headed toward Washington, D.C., when passengers struggled with the hijackers and the plane crashed in Shanksville, Pennsylvania. The intended target of this fourth jetliner was evidently the White House or the Capitol, strongly suggesting that its intended mission was to strike a decapitation blow on the Government of the United States—to kill the President, the Vice President, or Members of Congress. The attacks of September 11th resulted in approximately 3,000 deaths—the highest single-day death toll from hostile foreign attacks in the Nation's history. These attacks shut down air travel in the United States, disrupted the Nation's financial markets and government operations, and caused billions of dollars in damage to the economy.

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On September 14, 2001, the President declared a national emergency "by reason of the terrorist attacks at the World Trade Center, New York, New York, and the Pentagon, and the continuing and immediate threat of further attacks on the United States." Proclamation No. 7463, 66 Fed. Reg. 48,199 (Sept. 14, 2001). The same day, Congress passed a joint resolution authorizing the President "to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks" of September 11th, which the President signed on September 18th. AUMF § 2(a). Congress also expressly acknowledged that the attacks rendered it "necessary and appropriate" for the United States to exercise its right "to protect United States citizens both at home and abroad," and in particular recognized that "the President has authority under the Constitution to take action to deter and prevent acts of international terrorism against the United States." *Id.* pmbl. Congress emphasized that the attacks "continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States." *Id.* The United States also launched a large-scale military response, both at home and abroad. In the United States, combat air patrols were immediately established over major metropolitan areas and were maintained 24 hours a day until April 2002. The United States also immediately began plans for a military response directed at al Qaeda's base of operations in Afghanistan. Acting under his constitutional authority as Commander in Chief, and with the support of Congress, the President dispatched forces to Afghanistan and, with the assistance of the Northern Alliance, toppled the Taliban regime.

As the President made explicit in his Military Order of November 13, 2001, authorizing the use of military commissions to try terrorists, the attacks of September 11th "created a state of armed conflict." Military Order § l(a), 66 Fed. Reg. 57,833 (Nov. 13, 2001). Indeed, shortly after the attacks, NATO—for the first time in its 46-year history—invoked article 5 of the North Atlantic Treaty, which provides that an "armed attack against one or more of [the parties] shall be considered an attack against them all." North Atlantic Treaty, Apr. 4, 1949, art. 5, 63 Stat. 2241, 2244, 34 U.N.T.S. 243, 246; *see also* Statement by NATO Secretary General Lord Robertson (Oct. 2, 2001), *available at* http://www.nato.int/docu/speech/2001/s011002a.htm ("[I]t has now been determined that the attack against the United States on 11 September was directed from abroad and shall therefore be regarded as an action covered by Article 5 of the Washington Treaty . . . ."). The President also determined in his Military Order that al Qaeda and related terrorists organizations "possess both the capability and the intention to undertake further terrorist attacks against the United States that, if not detected and prevented, will cause mass deaths, mass injuries, and massive destruction of property, and may place at risk the continuity of the operations of the United States Government," and concluded that "an extraordinary emergency exists for national defense purposes." Military Order, § l(c), (g), 66 Fed. Reg. at 57,833-34.

B. THE NSA ACTIVITIES

Against this unfolding background of events in the fall of 2001, there was substantial concern that al Qaeda and its allies were preparing to carry out another attack within the United States. Al Qaeda had demonstrated its ability to introduce agents into the United States undetected and to perpetrate devastating attacks, and it was suspected that additional agents were

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likely already in position within the Nation's borders. As the President has explained, unlike a conventional enemy, al Qaeda has infiltrated "our cities and communities and communicated from here in America to plot and plan with bin Laden's lieutenants in Afghanistan, Pakistan and elsewhere." Press Conference of President Bush (Dec. 19, 2005), *available at* http://www.white-house.gov/news/releases/2005/12/20051219-2.html ("President's Press Conference"). To this day, finding al Qaeda sleeper agents in the United States remains one of the paramount concerns in the War on Terror. As the President has explained, "[t]he terrorists want to strike America again, and they hope to inflict even more damage than they did on September the 11th." *Id.*

The President has acknowledged that, to counter this threat, he has authorized the NSA to intercept international communications into and out of the United States of persons linked to al Qaeda or related terrorist organizations. The same day, the Attorney General elaborated and explained that in order to intercept a communication, there must be "a reasonable basis to conclude that one party to the communication is a member of al Qaeda, affiliated with al Qaeda, or a member of an organization affiliated with al Qaeda." Press Briefing by Attorney General Alberto Gonzales and General Michael Hayden, Principal Deputy Director for National Intelligence, *available at* http://www.whitehouse.gov/news/releases/2005/12/20051219-1.html (Dec. 19, 2005) (statement of Attorney General Gonzales). The purpose of these intercepts is to establish an early warning system to detect and prevent another catastrophic terrorist attack on the United States. The President has stated that the NSA activities "ha[ve] been effective in disrupting the enemy, while safeguarding our civil liberties." President's Press Conference.

The President has explained that the NSA activities are "critical" to the national security of the United States. *Id.* Confronting al Qaeda "is not simply a matter of [domestic] law enforcement"—we must defend the country against an enemy that declared war against the United States. *Id.* To "effectively detect enemies hiding in our midst and prevent them from striking us again . . . we must be able to act fast and to detect conversations [made by individuals linked to al Qaeda] so we can prevent new attacks." *Id.* The President pointed out that "a two-minute phone conversation between somebody linked to al Qaeda here and an operative overseas could lead directly to the loss of thousands of lives." *Id.* The NSA activities are intended to help "connect the dots" between potential terrorists. *Id.* In addition, the Nation is facing "a different era, a different war . . . people are changing phone numbers . . . and they're moving quick[ly]." *Id.* As the President explained, the NSA activities "enable[] us to move faster and quicker. And that's important. We've got to be fast on our feet, quick to detect and prevent." *Id.* "This is an enemy that is quick and it's lethal. And sometimes we have to move very, very quickly." *Id.* FISA, by contrast, is better suited "for long-term monitoring." *Id.*

As the President has explained, the NSA activities are "carefully reviewed approximately every 45 days to ensure that [they are] being used properly." *Id.* These activities are reviewed for legality by the Department of Justice and are monitored by the General Counsel and Inspector General of the NSA to ensure that civil liberties are being protected. *Id.* Leaders in Congress from both parties have been briefed more than a dozen times on the NSA activities.

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C. THE CONTINUING THREAT POSED BY AL QAEDA

Before the September 11th attacks, al Qaeda had promised to attack the United States. In 1998, Osama bin Laden declared a "religious" war against the United States and urged that it was the moral obligation of all Muslims to kill U.S. civilians and military personnel. *See* Statement of Osama bin Laden, Ayman al-Zawahiri, et al., *Fatwah Urging Jihad Against Americans*, published in Al-Quds al-'Arabi (Feb. 23, 1998) ("To kill the Americans and their allies—civilians and military—is an individual duty for every Muslim who can do it in any country in which it is possible to do it, in order to liberate the al-Aqsa Mosque and the holy mosque from their grip, and in order for their armies to move out of all the lands of Islam, defeated and unable to threaten any Muslim."). Al Qaeda carried out those threats with a vengeance; they attacked the U.S.S. Cole in Yemen, the United States Embassy in Nairobi, and finally the United States itself in the September 11th attacks.

It is clear that al Qaeda is not content with the damage it wrought on September 11th. As recently as December 7, 2005, Ayman al-Zawahiri professed that al Qaeda "is spreading, growing, and becoming stronger," and that al Qaeda is "waging a great historic battle in Iraq, Afghanistan, Palestine, and even in the Crusaders' own homes." Ayman al-Zawahiri, videotape released on Al-Jazeera television network (Dec. 7, 2005). Indeed, since September 11th, al Qaeda leaders have repeatedly promised to deliver another, even more devastating attack on America. *See, e.g.*, Osama bin Laden, videotape released on Al-Jazeera television network (Oct. 24, 2004) (warning United States citizens of further attacks and asserting that "your security is in your own hands"); Osama bin Laden, videotape released on Al-Jazeera television network (Oct. 18, 2003) ("We, God willing, will continue to fight you and will continue martyrdom operations inside and outside the United States . . . ."); Ayman Al-Zawahiri, videotape released on the Al-Jazeera television network (Oct. 9, 2002) ("I promise you [addressing the 'citizens of the United States'] that the Islamic youth are preparing for you what will fill your hearts with horror"). Given that al Qaeda's leaders have repeatedly made good on their threats and that al Qaeda has demonstrated its ability to insert foreign agents into the United States to execute attacks, it is clear that the threat continues. Indeed, since September 11th, al Qaeda has staged several large-scale attacks around the world, including in Indonesia, Madrid, and London, killing hundreds of innocent people.

ANALYSIS

I. THE PRESIDENT HAS INHERENT CONSTITUTIONAL AUTHORITY TO ORDER WARRANTLESS FOREIGN INTELLIGENCE SURVEILLANCE

As Congress expressly recognized in the AUMF, "the President has authority under the Constitution to take action to deter and prevent acts of international terrorism against the United States," AUMF pmbl., especially in the context of the current conflict. Article II of the Constitution vests in the President all executive power of the United States, including the power to act as Commander in Chief of the Armed Forces, *see* U.S. Const. art. II, § 2, and authority over the conduct of the Nation's foreign affairs. As the Supreme Court has explained, "[t]he President is the sole organ of the nation in its external relations, and its sole representative with

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foreign nations." *United States v. Curtiss-Wright Export Corp.,* 299 U.S. 304, 319 (1936) (internal quotation marks and citations omitted). In this way, the Constitution grants the President inherent power to protect the Nation from foreign attack, *see, e.g.*, *The Prize Cases,* 67 U.S. (2 Black) 635, 668 (1863), and to protect national security information, *see, e.g.*, *Department of the Navy v. Egan,* 484 U.S. 518, 527 (1988).

To carry out these responsibilities, the President must have authority to gather information necessary for the execution of his office. The Founders, after all, intended the federal Government to be clothed with all authority necessary to protect the Nation. *See, e.g., The Federalist* No. 23, at 147 (Alexander Hamilton) (Jacob E. Cooke ed. 1961) (explaining that the federal Government will be "cloathed with all the powers requisite to the complete execution of its trust"); *id.* No. 41, at 269 (James Madison) ("Security against foreign danger is one of the primitive objects of civil society . . . . The powers requisite for attaining it must be effectually confided to the federal councils."). Because of the structural advantages of the Executive Branch, the Founders also intended that the President would have the primary responsibility and necessary authority as Commander in Chief and Chief Executive to protect the Nation and to conduct the Nation's foreign affairs. *See, e.g.*, *The Federalist* No. 70, at 471-72 (Alexander Hamilton); *see also Johnson v. Eisentrager,* 339 U.S. 763, 788 (1950) ("this [constitutional] grant of war power includes all that is necessary and proper for carrying these powers into execution") (citation omitted). Thus, it has been long recognized that the President has the authority to use secretive means to collect intelligence necessary for the conduct of foreign affairs and military campaigns. *See, e.g.*, *Chicago & S. Air Lines v. Waterman S.S. Corp.,* 333 U.S. 103, 111 (1948) ("The President, both as Commander-in-Chief and as the Nation's organ for foreign affairs, has available intelligence services whose reports are not and ought not to be published to the world."); *Curtiss-Wright,* 299 U.S. at 320 ("He has his confidential sources of information. He has his agents in the form of diplomatic, consular and other officials."); *Totten v. United States,* 92 U.S. 105, 106 (1876) (President "was undoubtedly authorized during the war, as commander-in-chief . . . to employ secret agents to enter the rebel lines and obtain information respecting the strength, resources, and movements of the enemy").

In reliance on these principles, a consistent understanding has developed that the President has inherent constitutional authority to conduct warrantless searches and surveillance within the United States for foreign intelligence purposes. Wiretaps for such purposes thus have been authorized by Presidents at least since the administration of Franklin Roosevelt in 1940. *See, e.g., United States v. United States District Court,* 444 F.2d 651, 669-71 (6th Cir. 1971) (reproducing as an appendix memoranda from Presidents Roosevelt, Truman, and Johnson). In a Memorandum to Attorney General Jackson, President Roosevelt wrote on May 21, 1940:

> You are, therefore, authorized and directed in such cases as you may approve, after investigation of the need in each case, to authorize the necessary investigation agents that they are at liberty to secure information by listening devices directed to the conversation or other communications of persons suspected of subversive activities against the Government of the United States, including suspected spies. You are requested furthermore to limit these investigations so conducted to a minimum and limit them insofar as

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possible to aliens.

Id. at 670 (appendix A). President Truman approved a memorandum drafted by Attorney General Tom Clark in which the Attorney General advised that "it is as necessary as it was in 1940 to take the investigative measures" authorized by President Roosevelt to conduct electronic surveillance "in cases vitally affecting the domestic security." *Id.* Indeed, while FISA was being debated during the Carter Administration, Attorney General Griffin Bell testified that "the current bill recognizes no inherent power of the President to conduct electronic surveillance, and I want to interpolate here to say that *this does not take away the power [of] the President under the Constitution*." Foreign Intelligence Electronic Surveillance Act of 1978: Hearings on H.R. 5764, H.R. 9745, H.R. 7308, and H.R. 5632 Before the Subcomm. on Legislation of the House Comm. on Intelligence, 95th Cong., 2d Sess. 15 (1978) (emphasis added); *see also Katz v. United States*, 389 U.S. 347, 363 (1967) (White, J., concurring) ("Wiretapping to protect the security of the Nation has been authorized by successive Presidents."); *cf*. Amending the Foreign Intelligence Surveillance Act: Hearings Before the House Permanent Select Comm. on Intelligence,103d Cong. 2d Sess. 61 (1994) (statement of Deputy Attorney General Jamie S. Gorelick) ("[T]he Department of Justice believes, and the case law supports, that the President has inherent authority to conduct warrantless physical searches for foreign intelligence purposes . . . .").

The courts uniformly have approved this longstanding Executive Branch practice. Indeed, every federal appellate court to rule on the question has concluded that, even in peacetime, the President has inherent constitutional authority, consistent with the Fourth Amendment, to conduct searches for foreign intelligence purposes without securing a judicial warrant. *See In re Sealed Case,* 310 F.3d 717, 742 (Foreign Intel. Surv. Ct. of Rev. 2002) ("[A]ll the other courts to have decided the issue [have] held that the President did have inherent authority to conduct warrantless searches to obtain foreign intelligence information . . . . *We take for granted that the President does have that authority and, assuming that is so, FISA could not encroach on the President's constitutional power*.") (emphasis added); *accord, e.g., United States v. Truong Dinh Hung,* 629 F.2d 908 (4th Cir. 1980); *United States v. Butenko,* 494 F.2d 593 (3d Cir. 1974) (en banc); *United States v. Brown,* 484 F.2d 418 (5th Cir. 1973). *But cf. Zweibon v. Mitchell,* 516 F.2d 594 (D.C. Cir. 1975) (en banc) (dictum in plurality opinion suggesting that a warrant would be required even in a foreign intelligence investigation).

In *United States v. United States District Court,* 407 U.S. 297 (1972) (the "*Keith*" case), the Supreme Court concluded that the Fourth Amendment's warrant requirement applies to investigations of wholly *domestic* threats to security—such as domestic political violence and other crimes. But the Court in the *Keith* case made clear that it was not addressing the President's authority to conduct *foreign* intelligence surveillance without a warrant and that it was expressly reserving that question: "[T]he instant case requires no judgment on the scope of the President's surveillance power with respect to the activities of foreign powers, within or without this country." *Id.* at 308; *see also id.* at 321-22 & n.20 ("We have not addressed, and express no opinion as to, the issues which may be involved with respect to activities of foreign powers or their agents."). That *Keith* does not apply in the context of protecting against a foreign attack has been confirmed by the lower courts. After *Keith*, each of the three courts of appeals

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that have squarely considered the question have concluded—expressly taking the Supreme Court's decision into account—that the President has inherent authority to conduct warrantless surveillance in the foreign intelligence context. *See, e.g.*, *Truong Dinh Hung,* 629 F.2d at 913-14; *Butenko*, 494 F.2d at 603; *Brown*, 484 F.2d 425-26.

From a constitutional standpoint, foreign intelligence surveillance such as the NSA activities differs fundamentally from the domestic security surveillance at issue in *Keith*. As the Fourth Circuit observed, the President has uniquely strong constitutional powers in matters pertaining to foreign affairs and national security. "Perhaps most crucially, the executive branch not only has superior expertise in the area of foreign intelligence, it is also constitutionally designated as the pre-eminent authority in foreign affairs." *Truong,* 629 F.2d at 914; *see id*. at 913 (noting that "the needs of the executive are so compelling in the area of foreign intelligence, unlike the area of domestic security, that a uniform warrant requirement would . . . unduly frustrate the President in carrying out his foreign affairs responsibilities"); *cf. Haig v. Agee,* 453 U.S. 280, 292 (1981) ("Matters intimately related to foreign policy and national security are rarely proper subjects for judicial intervention.").[2]

The present circumstances that support recognition of the President's inherent constitutional authority to conduct the NSA activities are considerably stronger than were the circumstances at issue in the earlier courts of appeals cases that recognized this power. All of the cases described above addressed inherent executive authority under the foreign affairs power to conduct surveillance in a peacetime context. The courts in these cases therefore had no occasion even to consider the fundamental authority of the President, as Commander in Chief, to gather intelligence in the context of an ongoing armed conflict in which the United States already had suffered massive civilian casualties and in which the intelligence gathering efforts at issue were specifically designed to thwart further armed attacks. Indeed, intelligence gathering is particularly important in the current conflict, in which the enemy attacks largely through clandestine activities and which, as Congress recognized, "pose[s] an unusual and extraordinary threat," AUMF pmbl.

Among the President's most basic constitutional duties is the duty to protect the Nation from armed attack. The Constitution gives him all necessary authority to fulfill that responsibility. The courts thus have long acknowledged the President's inherent authority to take action to protect Americans abroad, *see, e.g., Durand v. Hollins,* 8 F. Cas. 111, 112 (C.C.S.D.N.Y. 1860) (No. 4186), and to protect the Nation from attack, *see, e.g., The Prize Cases,* 67 U.S. at 668. *See generally Ex parte Quirin,* 317 U.S. 1, 28 (1942) (recognizing that

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[2] *Keith* made clear that one of the significant concerns driving the Court's conclusion in the domestic security context was the inevitable connection between perceived threats to domestic security and political dissent. As the Court explained: "Fourth Amendment protections become the more necessary when the targets of official surveillance may be those suspected of unorthodoxy in their political beliefs. The danger to political dissent is acute where the Government attempts to act under so vague a concept as the power to protect 'domestic security.'" *Keith,* 407 U.S. at 314; *see also id.* at 320 ("Security surveillances are especially sensitive because of the inherent vagueness of the domestic security concept, the necessarily broad and continuing nature of intelligence gathering, and the temptation to utilize such surveillances to oversee political dissent."). Surveillance of domestic groups raises a First Amendment concern that generally is not present when the subjects of the surveillance are foreign powers or their agents.

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the President has authority under the Constitution "to direct the performance of those functions which may constitutionally be performed by the military arm of the nation in time of war," including "important incident[s] to the conduct of war," such as "the adoption of measures by the military command . . . to repel and defeat the enemy"). As the Supreme Court emphasized in the *Prize Cases*, if the Nation is invaded, the President is "bound to resist force by force"; "[h]e must determine what degree of force the crisis demands" and need not await congressional sanction to do so. *The Prize Cases,* 67 U.S. at 670; *see also Campbell v. Clinton,* 203 F.3d 19, 27 (D.C. Cir. 2000) (Silberman, J., concurring) ("[T]he *Prize Cases* . . . stand for the proposition that the President has independent authority to repel aggressive acts by third parties even without specific congressional authorization, and courts may not review the level of force selected."); *id.* at 40 (Tatel, J., concurring) ("[T]he President, as commander in chief, possesses emergency authority to use military force to defend the nation from attack without obtaining prior congressional approval."). Indeed, "in virtue of his rank as head of the forces, [the President] has certain powers and duties with which Congress cannot interfere." *Training of British Flying Students in the United States,* 40 Op. Att'y Gen. 58, 61 (1941) (Attorney General Robert H. Jackson) (internal quotation marks omitted). In exercising his constitutional powers, the President has wide discretion, consistent with the Constitution, over the methods of gathering intelligence about the Nation's enemies in a time of armed conflict.

II. THE AUMF CONFIRMS AND SUPPLEMENTS THE PRESIDENT'S INHERENT POWER TO USE WARRANTLESS SURVEILLANCE AGAINST THE ENEMY IN THE CURRENT ARMED CONFLICT

In the Authorization for Use of Military Force enacted in the wake of September 11th, Congress confirms and supplements the President's constitutional authority to protect the Nation, including through electronic surveillance, in the context of the current post-September 11th armed conflict with al Qaeda and its allies. The broad language of the AUMF affords the President, at a minimum, discretion to employ the traditional incidents of the use of military force. The history of the President's use of warrantless surveillance during armed conflicts demonstrates that the NSA surveillance described by the President is a fundamental incident of the use of military force that is necessarily included in the AUMF.

A. THE TEXT AND PURPOSE OF THE AUMF AUTHORIZE THE NSA ACTIVITIES

On September 14, 2001, in its first legislative response to the attacks of September 11th, Congress gave its express approval to the President's military campaign against al Qaeda and, in the process, confirmed the well-accepted understanding of the President's Article II powers. *See* AUMF § 2(a).[3] In the preamble to the AUMF, Congress stated that "the President has authority under the Constitution to take action to deter and prevent acts of international terrorism against the United States," AUMF pmbl., and thereby acknowledged the President's inherent constitutional authority to defend the United States. This clause "constitutes an extraordinarily

[3] America's military response began before the attacks of September 11th had been completed. *See The 9/11 Commission Report* 20 (2004). Combat air patrols were established and authorized "to engage inbound aircraft if they could verify that the aircraft was hijacked." *Id.* at 42.

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sweeping recognition of independent presidential *constitutional* power to employ the war power to combat terrorism." Michael Stokes Paulsen, Youngstown *Goes to War,* 19 Const. Comment. 215, 252 (2002). This striking recognition of presidential authority cannot be discounted as the product of excitement in the immediate aftermath of September 11th, for the same terms were repeated by Congress more than a year later in the Authorization for Use of Military Force Against Iraq Resolution of 2002. Pub. L. No. 107-243, pmbl., 116 Stat. 1498, 1500 (Oct. 16, 2002) ("[T]he President has authority under the Constitution to take action in order to deter and prevent acts of international terrorism against the United States . . . ."). In the context of the conflict with al Qaeda and related terrorist organizations, therefore, Congress has acknowledged a broad executive authority to "deter and prevent" further attacks against the United States.

The AUMF passed by Congress on September 14, 2001, does not lend itself to a narrow reading. Its expansive language authorizes the President "to use *all necessary and appropriate force* against those nations, organizations, or persons *he determines* planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001." AUMF § 2(a) (emphases added). In the field of foreign affairs, and particularly that of war powers and national security, congressional enactments are to be broadly construed where they indicate support for authority long asserted and exercised by the Executive Branch. *See, e.g., Haig v. Agee*, 453 U.S. 280, 293-303 (1981); *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 543-45 (1950); *cf. Loving v. United States,* 517 U.S. 748, 772 (1996) (noting that the usual "limitations on delegation [of congressional powers] do not apply" to authorizations linked to the Commander in Chief power); *Dames & Moore v. Regan*, 453 U.S. 654, 678-82 (1981) (even where there is no express statutory authorization for executive action, legislation in related field may be construed to indicate congressional acquiescence in that action). Although Congress's war powers under Article I, Section 8 of the Constitution empower Congress to legislate regarding the raising, regulation, and material support of the Armed Forces and related matters, rather than the prosecution of military campaigns, the AUMF indicates Congress's endorsement of the President's use of his constitutional war powers. This authorization transforms the struggle against al Qaeda and related terrorist organizations from what Justice Jackson called "a zone of twilight," in which the President and the Congress may have concurrent powers whose "distribution is uncertain," *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 637 (1952) (Jackson, J., concurring), into a situation in which the President's authority is at is maximum because "it includes all that he possesses in his own right plus all that Congress can delegate," *id.* at 635. With regard to these fundamental tools of warfare—and, as demonstrated below, warrantless electronic surveillance against the declared enemy is one such tool—the AUMF places the President's authority at its zenith under *Youngstown*.

It is also clear that the AUMF confirms and supports the President's use of those traditional incidents of military force against the enemy, wherever they may be—on United States soil or abroad. The nature of the September 11th attacks—launched on United States soil by foreign agents secreted in the United States—necessitates such authority, and the text of the AUMF confirms it. The operative terms of the AUMF state that the President is authorized to use force "in order to prevent any future acts of international terrorism against the United States," *id.*, an objective which, given the recent attacks within the Nation's borders and the continuing use of air defense throughout the country at the time Congress acted, undoubtedly

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contemplated the possibility of military action within the United States. The preamble, moreover, recites that the United States should exercise its rights "to protect United States citizens both *at home* and abroad." *Id*. pmbl. (emphasis added). To take action against those linked to the September 11th attacks involves taking action against individuals within the United States. The United States had been attacked on its own soil—not by aircraft launched from carriers several hundred miles away, but by enemy agents who had resided in the United States for months. A crucial responsibility of the President—charged by the AUMF and the Constitution—was and is to identify and attack those enemies, especially if they were in the United States, ready to strike against the Nation.

The text of the AUMF demonstrates in an additional way that Congress authorized the President to conduct warrantless electronic surveillance against the enemy. The terms of the AUMF not only authorized the President to "use all necessary and appropriate force" against those responsible for the September 11th attacks; it also authorized the President to "determine[]" the persons or groups responsible for those attacks and to take all actions necessary to prevent further attacks. AUMF § 2(a) ("the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons *he determines* planned, authorized, committed, or aided the terrorist attacks that occurred on September 11th, 2001, or harbored such organizations or persons") (emphasis added). Of vital importance to the use of force against the enemy is locating the enemy and identifying its plans of attack. And of vital importance to identifying the enemy and detecting possible future plots was the authority to intercept communications to or from the United States of persons with links to al Qaeda or related terrorist organizations. Given that the agents who carried out the initial attacks resided in the United States and had successfully blended into American society and disguised their identities and intentions until they were ready to strike, the necessity of using the most effective intelligence gathering tools against such an enemy, including electronic surveillance, was patent. Indeed, Congress recognized that the enemy in this conflict poses an "unusual and extraordinary threat." AUMF pmbl.

The Supreme Court's interpretation of the scope of the AUMF in *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004), strongly supports this reading of the AUMF. In *Hamdi*, five members of the Court found that the AUMF authorized the detention of an American within the United States, notwithstanding a statute that prohibits the detention of U.S. citizens "except pursuant to an Act of Congress," 18 U.S.C. § 4001(a). *See Hamdi*, 542 U.S. at 519 (plurality opinion); *id*. at 587 (Thomas, J., dissenting). Drawing on historical materials and "longstanding law-of-war principles," *id*. at 518-21, a plurality of the Court concluded that detention of combatants who fought against the United States as part of an organization "known to have supported" al Qaeda "is so fundamental and accepted an incident to war as to be an exercise of the 'necessary and appropriate force' Congress has authorized the President to use." *Id*. at 518; *see also id*. at 587 (Thomas, J., dissenting) (agreeing with the plurality that the joint resolution authorized the President to "detain those arrayed against our troops"); *accord Quirin*, 317 U.S. at 26-29, 38 (recognizing the President's authority to capture and try agents of the enemy in the United States even if they had never "entered the theatre or zone of active military operations"). Thus, even though the AUMF does not say anything expressly about detention, the Court nevertheless found that it satisfied section 4001(a)'s requirement that detention be congressionally authorized.

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The conclusion of five Justices in *Hamdi* that the AUMF incorporates fundamental "incidents" of the use of military force makes clear that the absence of any specific reference to signals intelligence activities in the resolution is immaterial. *See Hamdi,* 542 U.S. at 519 ("[I]t is of no moment that the AUMF does not use specific language of detention.") (plurality opinion). Indeed, given the circumstances in which the AUMF was adopted, it is hardly surprising that Congress chose to speak about the President's authority in general terms. The purpose of the AUMF was for Congress to sanction and support the military response to the devastating terrorist attacks that had occurred just three days earlier. Congress evidently thought it neither necessary nor appropriate to attempt to catalog every specific aspect of the use of the forces it was authorizing and every potential preexisting statutory limitation on the Executive Branch. Rather than engage in that difficult and impractical exercise, Congress authorized the President, in general but intentionally broad terms, to use the traditional and fundamental incidents of war and to determine how best to identify and engage the enemy in the current armed conflict. Congress's judgment to proceed in this manner was unassailable, for, as the Supreme Court has recognized, even in normal times involving no major national security crisis, "Congress cannot anticipate and legislate with regard to every possible action the President may find it necessary to take." *Dames & Moore*, 453 U.S. at 678. Indeed, Congress often has enacted authorizations to use military force using general authorizing language that does not purport to catalogue in detail the specific powers the President may employ. The need for Congress to speak broadly in recognizing and augmenting the President's core constitutional powers over foreign affairs and military campaigns is of course significantly heightened in times of national emergency. *See Zemel v. Rusk,* 381 U.S. 1, 17 (1965) ("[B]ecause of the changeable and explosive nature of contemporary international relations . . . Congress—in giving the Executive authority over matters of foreign affairs—must of necessity paint with a brush broader than that it customarily wields in domestic areas.").

Hamdi thus establishes the proposition that the AUMF "clearly and unmistakably" authorizes the President to take actions against al Qaeda and related organizations that amount to "fundamental incident[s] of waging war." *Hamdi*, 542 U.S. at 519 (plurality opinion); *see also id*. at 587 (Thomas, J., dissenting). In other words, "*[t]he clear inference is that the AUMF authorizes what the laws of war permit*." Curtis A. Bradley & Jack L. Goldsmith, *Congressional Authorization and the War on Terrorism*, 118 Harv. L. Rev. 2048, 2092 (2005) (emphasis added). Congress is presumed to be aware of the Supreme Court's precedents. Indeed, Congress recently enacted legislation in response to the Court's decision in *Rasul v. Bush*, 542 U.S. 466 (2004)—which was issued the same day as the *Hamdi* decision—removing habeas corpus jurisdiction over claims filed on behalf of confined enemy combatants held at Guantanamo Bay. Congress, however, has not expressed any disapproval of the Supreme Court's commonsense and plain-meaning interpretation of the AUMF in *Hamdi*.[4]

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[4] This understanding of the AUMF is consistent with Justice O'Connor's admonition that "a state of war is not a blank check for the President," *Hamdi*, 542 U.S. at 536 (plurality opinion). In addition to constituting a fundamental and accepted incident of the use of military force, the NSA activities are consistent with the law of armed conflict principle that the use of force be necessary and proportional. *See* Dieter Fleck, *The Handbook of Humanitarian Law in Armed Conflicts* 115 (1995). The NSA activities are proportional because they are minimally invasive and narrow in scope, targeting only the international communications of persons reasonably believed to be linked to al Qaeda, and are designed to protect the Nation from a devastating attack.

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B. WARRANTLESS ELECTRONIC SURVEILLANCE AIMED AT INTERCEPTING ENEMY COMMUNICATIONS HAS LONG BEEN RECOGNIZED AS A FUNDAMENTAL INCIDENT OF THE USE OF MILITARY FORCE

The history of warfare—including the consistent practice of Presidents since the earliest days of the Republic—demonstrates that warrantless intelligence surveillance against the enemy is a fundamental incident of the use of military force, and this history confirms the statutory authority provided by the AUMF. Electronic surveillance is a fundamental tool of war that must be included in any natural reading of the AUMF's authorization to use "all necessary and appropriate force."

As one author has explained:

> It is *essential* in warfare for a belligerent to be as fully informed as possible about the enemy—his strength, his weaknesses, measures taken by him and measures contemplated by him. This applies not only to military matters, but . . . anything which bears on and is material to his ability to wage the war in which he is engaged. *The laws of war recognize and sanction this aspect of warfare.*

Morris Greenspan, *The Modern Law of Land Warfare* 325 (1959) (emphases added); *see also* Memorandum for Members of the House Permanent Select Comm. on Intel., from Jeffrey H. Smith, *Re: Legal Authorities Regarding Warrantless Surveillance of U.S. Persons* 6 (Jan. 3, 2006) ("Certainly, the collection of intelligence is understood to be necessary to the execution of the war."). Similarly, article 24 of the Hague Regulations of 1907 expressly states that "the employment of measures necessary for obtaining information about the enemy and the country [is] considered permissible." *See also* L. Oppenheim, *International Law* vol. II § 159 (7th ed. 1952) ("War cannot be waged without all kinds of information, about the forces and the intentions of the enemy . . . . To obtain the necessary information, it has always been considered lawful to employ spies . . . ."); Joseph R. Baker & Henry G. Crocker, *The Laws of Land Warfare* 197 (1919) ("Every belligerent has a right . . . to discover the signals of the enemy and . . . to seek to procure information regarding the enemy through the aid of secret agents."); *cf.* J.M. Spaight, *War Rights on Land* 205 (1911) ("[E]very nation employs spies; were a nation so quixotic as to refrain from doing so, it might as well sheathe its sword for ever. . . . Spies . . . are indispensably necessary to a general; and, other things being equal, that commander will be victorious who has the best secret service.") (internal quotation marks omitted).

In accordance with these well-established principles, the Supreme Court has consistently recognized the President's authority to conduct intelligence activities. *See, e.g., Totten v. United States,* 92 U.S. 105, 106 (1876) (recognizing President's authority to hire spies); *Tenet v. Doe*, 544 U.S. 1 (2005) (reaffirming *Totten* and counseling against judicial interference with such matters); *see also Chicago & S. Air Lines v. Waterman S.S. Corp.,* 333 U.S. 103, 111 (1948) ("The President, both as Commander-in-Chief and as the Nation's organ for foreign affairs, has available intelligence services whose reports neither are not and ought not to be published to the world."); *United States v. Curtiss-Wright Export Corp.,* 299 U.S. 304, 320 (1936) (The President "has his confidential sources of information. He has his agents in the form of diplomatic,

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consular, and other officials."). Chief Justice John Marshall even described the gathering of intelligence as a military duty. *See Tatum v. Laird,* 444 F.2d 947, 952-53 (D.C. Cir. 1971) ("As Chief Justice John Marshall said of Washington, 'A general must be governed by his intelligence and must regulate his measures by his information. It is his duty to obtain correct information . . . . '") (quoting Foreword, U.S. Army Basic Field Manual, Vol. X, circa 1938), *rev'd on other grounds*, 408 U.S. 1 (1972).

The United States, furthermore, has a long history of wartime surveillance—a history that can be traced to George Washington, who "was a master of military espionage" and "made frequent and effective use of secret intelligence in the second half of the eighteenth century." Rhodri Jeffreys-Jones, *Cloak and Dollar: A History of American Secret Intelligence* 11 (2002); *see generally id.* at 11-23 (recounting Washington's use of intelligence); *see also Haig v. Agee*, 471 U.S. 159, 172 n.16 (1981) (quoting General Washington's letter to an agent embarking upon an intelligence mission in 1777: "The necessity of procuring good intelligence, is apparent and need not be further urged."). As President in 1790, Washington obtained from Congress a "secret fund" to deal with foreign dangers and to be spent at his discretion. Jeffreys-Jones, *supra*, at 22. The fund, which remained in use until the creation of the Central Intelligence Agency in the mid-twentieth century and gained "longstanding acceptance within our constitutional structure," *Halperin v. CIA,* 629 F.2d 144, 158-59 (D.C. Cir. 1980), was used "for all purposes to which a secret service fund should or could be applied for the public benefit," including "for persons sent publicly and secretly to search for important information, political or commercial," *id.* at 159 (quoting Statement of Senator John Forsyth, Cong. Debates 295 (Feb. 25, 1831)). *See also Totten,* 92 U.S. at 107 (refusing to examine payments from this fund lest the publicity make a "secret service" "impossible").

The interception of communications, in particular, has long been accepted as a fundamental method for conducting wartime surveillance. *See, e.g.*, Greenspan, *supra*, at 326 (accepted and customary means for gathering intelligence "include air reconnaissance and photography; ground reconnaissance; observation of enemy positions; *interception of enemy messages, wireless and other*; examination of captured documents; . . . and interrogation of prisoners and civilian inhabitants") (emphasis added). Indeed, since its independence, the United States has intercepted communications for wartime intelligence purposes and, if necessary, has done so within its own borders. During the Revolutionary War, for example, George Washington received and used to his advantage reports from American intelligence agents on British military strength, British strategic intentions, and British estimates of American strength. *See* Jeffreys-Jones, *supra*, at 13. One source of Washington's intelligence was intercepted British mail. *See* Central Intelligence Agency, *Intelligence in the War of Independence* 31, 32 (1997). In fact, Washington himself proposed that one of his Generals "contrive a means of opening [British letters] without breaking the seals, take copies of the contents, and then let them go on." *Id.* at 32 ("From that point on, Washington was privy to British intelligence pouches between New York and Canada."); *see generally* Final Report of the Select Committee to Study Governmental Operations with respect to Intelligence Activities (the "Church Committee"), S. Rep. No. 94-755, at Book VI, 9-17 (Apr. 23, 1976) (describing Washington's intelligence activities).

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More specifically, warrantless electronic surveillance of wartime communications has been conducted in the United States since electronic communications have existed, *i.e.,* since at least the Civil War, when "[t]elegraph wiretapping was common, and an important intelligence source for both sides." G.J.A. O'Toole, *The Encyclopedia of American Intelligence and Espionage* 498 (1988). Confederate General J.E.B. Stuart even "had his own personal wiretapper travel along with him in the field" to intercept military telegraphic communications. Samuel Dash, et al., *The Eavesdroppers* 23 (1971); *see also* O'Toole, *supra*, at 121, 385-88, 496-98 (discussing Civil War surveillance methods such as wiretaps, reconnaissance balloons, semaphore interception, and cryptanalysis). Similarly, there was extensive use of electronic surveillance during the Spanish-American War. *See* Bruce W. Bidwell, *History of the Military Intelligence Division, Department of the Army General Staff:* 1775-1941, at 62 (1986). When an American expeditionary force crossed into northern Mexico to confront the forces of Pancho Villa in 1916, the Army "frequently intercepted messages of the regime in Mexico City or the forces contesting its rule." David Alvarez, *Secret Messages* 6-7 (2000). Shortly after Congress declared war on Germany in World War I, President Wilson (citing only his constitutional powers and the joint resolution declaring war) ordered the censorship of messages sent outside the United States via submarine cables, telegraph, and telephone lines. *See* Exec. Order No. 2604 (Apr. 28, 1917). During that war, wireless telegraphy "enabled each belligerent to tap the messages of the enemy." Bidwell, *supra*, at 165 (quoting statement of Col. W. Nicolai, former head of the Secret Service of the High Command of the German Army, *in* W. Nicolai, *The German Secret Service* 21 (1924)).

As noted in Part I, on May 21, 1940, President Roosevelt authorized warrantless electronic surveillance of persons suspected of subversive activities, including spying, against the United States. In addition, on December 8, 1941, the day after the attack on Pearl Harbor, President Roosevelt gave the Director of the FBI "temporary powers to direct all news censorship and to *control all other telecommunications traffic* in and out of the United States." Jack A. Gottschalk, *"Consistent with Security". . . . A History of American Military Press Censorship,* 5 Comm. & L. 35, 39 (1983) (emphasis added). *See* Memorandum for the Secretaries of War, Navy, State, and Treasury, the Postmaster General, and the Federal Communications Commission from Franklin D. Roosevelt (Dec. 8, 1941). President Roosevelt soon supplanted that temporary regime by establishing an office for conducting such electronic surveillance in accordance with the War Powers Act of 1941. *See* Pub. L. No. 77-354, § 303, 55 Stat. 838, 840-41 (Dec. 18, 1941); Gottschalk, 5 Comm. & L. at 40. The President's order gave the Government of the United States access to "communications by mail, cable, radio, or other means of transmission passing between the United States and any foreign country." *Id. See also* Exec. Order No. 8985, § 1, 6 Fed. Reg. 6625, 6625 (Dec. 19, 1941). In addition, the United States systematically listened surreptitiously to electronic communications as part of the war effort. *See* Dash, *Eavesdroppers* at 30. During World War II, signals intelligence assisted in, among other things, the destruction of the German U-boat fleet by the Allied naval forces, *see id.* at 27, and the war against Japan, *see* O'Toole, *supra*, at 32, 323-24. In general, signals intelligence "helped to shorten the war by perhaps two years, reduce the loss of life, and make inevitable an eventual Allied victory." Carl Boyd, *American Command of the Sea Through Carriers, Codes, and the Silent Service: World War II and Beyond* 27 (1995); *see also* Alvarez, *supra*, at 1 ("There can be little doubt that signals intelligence contributed significantly to the

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military defeat of the Axis."). Significantly, not only was wiretapping in World War II used "extensively by military intelligence and secret service personnel in combat areas abroad," but also "by the FBI and secret service in this country." Dash, *supra*, at 30.

In light of the long history of prior wartime practice, the NSA activities fit squarely within the sweeping terms of the AUMF. The use of signals intelligence to identify and pinpoint the enemy is a traditional component of wartime military operations—or, to use the terminology of *Hamdi,* a "fundamental and accepted . . . incident to war," 542 U.S. at 518 (plurality opinion)—employed to defeat the enemy and to prevent enemy attacks in the United States. Here, as in other conflicts, the enemy may use public communications networks, and some of the enemy may already be in the United States. Although those factors may be present in this conflict to a greater degree than in the past, neither is novel. Certainly, both factors were well known at the time Congress enacted the AUMF. Wartime interception of international communications made by the enemy thus should be understood, no less than the wartime detention at issue in *Hamdi,* as one of the basic methods of engaging and defeating the enemy that Congress authorized in approving "*all* necessary and appropriate force" that the President would need to defend the Nation. AUMF § 2(a) (emphasis added).

* * *

Accordingly, the President has the authority to conduct warrantless electronic surveillance against the declared enemy of the United States in a time of armed conflict. That authority derives from the Constitution, and is reinforced by the text and purpose of the AUMF, the nature of the threat posed by al Qaeda that Congress authorized the President to repel, and the long-established understanding that electronic surveillance is a fundamental incident of the use of military force. The President's power in authorizing the NSA activities is at its zenith because he has acted "pursuant to an express or implied authorization of Congress." *Youngstown*, 343 U.S. at 635 (Jackson, J., concurring).

III. THE NSA ACTIVITIES ARE CONSISTENT WITH THE FOREIGN INTELLIGENCE SURVEILLANCE ACT

The President's exercise of his constitutional authority to conduct warrantless wartime electronic surveillance of the enemy, as confirmed and supplemented by statute in the AUMF, is fully consistent with the requirements of the Foreign Intelligence Surveillance Act ("FISA").[5] FISA is a critically important tool in the War on Terror. The United States makes full use of the authorities available under FISA to gather foreign intelligence information, including authorities to intercept communications, conduct physical searches, and install and use pen registers and trap and trace devices. While FISA establishes certain procedures that must be followed for these authorities to be used (procedures that usually involve applying for and obtaining an order from a special court), FISA also expressly contemplates that a later legislative enactment could

[5] To avoid revealing details about the operation of the program, it is assumed for purposes of this paper that the activities described by the President constitute "electronic surveillance," as defined by FISA, 50 U.S.C. § 1801(f).

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authorize electronic surveillance outside the procedures set forth in FISA itself. The AUMF constitutes precisely such an enactment. To the extent there is any ambiguity on this point, the canon of constitutional avoidance requires that such ambiguity be resolved in favor of the President's authority to conduct the communications intelligence activities he has described. Finally, if FISA could not be read to allow the President to authorize the NSA activities during the current congressionally authorized armed conflict with al Qaeda, FISA would be unconstitutional as applied in this narrow context.

A. THE REQUIREMENTS OF FISA

FISA was enacted in 1978 to regulate "electronic surveillance," particularly when conducted to obtain "foreign intelligence information," as those terms are defined in section 101 of FISA, 50 U.S.C. § 1801. As a general matter, the statute requires that the Attorney General approve an application for an order from a special court composed of Article III judges and created by FISA—the Foreign Intelligence Surveillance Court ("FISC"). *See* 50 U.S.C. §§ 1803-1804. The application must demonstrate, among other things, that there is probable cause to believe that the target is a foreign power or an agent of a foreign power. *See id.* § 1805(a)(3)(A). It must also contain a certification from the Assistant to the President for National Security Affairs or an officer of the United States appointed by the President with the advice and consent of the Senate and having responsibilities in the area of national security or defense that the information sought is foreign intelligence information and cannot reasonably be obtained by normal investigative means. *See id.* § 1804(a)(7). FISA further requires the Government to state the means that it proposes to use to obtain the information and the basis for its belief that the facilities at which the surveillance will be directed are being used or are about to be used by a foreign power or an agent of a foreign power. *See id.* § 1804(a)(4), (a)(8).

FISA was the first congressional measure that sought to impose restrictions on the Executive Branch's authority to engage in electronic surveillance for foreign intelligence purposes, an authority that, as noted above, had been repeatedly recognized by the federal courts. *See* Americo R. Cinquegrana, *The Walls (and Wires) Have Ears: The Background and First Ten Years of the Foreign Intelligence Surveillance Act of 1978*, 137 U. Penn. L. Rev. 793, 810 (1989) (stating that the "status of the President's inherent authority" to conduct surveillance "formed the core of subsequent legislative deliberations" leading to the enactment of FISA). To that end, FISA modified a provision in Title III that previously had disclaimed any intent to have laws governing wiretapping interfere with the President's constitutional authority to gather foreign intelligence. Prior to the passage of FISA, section 2511(3) of title 18 had stated that "[n]othing contained in this chapter or in section 605 of the Communications Act of 1934 . . . shall limit the constitutional power of the President to take such measures as he deems necessary to protect the Nation against actual or potential attack or other hostile acts of a foreign power, to obtain foreign intelligence information deemed essential to the security of the United States, or to protect national security information against foreign intelligence activities." 18 U.S.C. § 2511(3) (1970). FISA replaced that provision with an important, though more limited, preservation of authority for the President. *See* Pub. L. No. 95-511, § 201(b), (c), 92 Stat. 1783, 1797 (1978), codified at 18 U.S.C. § 2511(2)(f) (West Supp. 2005) (carving out from statutory regulation only the acquisition of intelligence information from "international or foreign communications" and

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"foreign intelligence activities . . . involving a foreign electronic communications system" as long as they are accomplished "utilizing a means other than electronic surveillance as defined in section 101" of FISA). Congress also defined "electronic surveillance," 50 U.S.C. § 1801(f), carefully and somewhat narrowly.[6]

In addition, Congress addressed, to some degree, the manner in which FISA might apply after a formal declaration of war by expressly allowing warrantless surveillance for a period of fifteen days following such a declaration. Section 111 of FISA allows the President to "authorize electronic surveillance without a court order under this subchapter to acquire foreign intelligence information for a period not to exceed fifteen calendar days following a declaration of war by the Congress." 50 U.S.C. § 1811.

The legislative history of FISA shows that Congress understood it was legislating on fragile constitutional ground and was pressing or even exceeding constitutional limits in regulating the President's authority in the field of foreign intelligence. The final House Conference Report, for example, recognized that the statute's restrictions might well impermissibly infringe on the President's constitutional powers. That report includes the extraordinary acknowledgment that "[t]he conferees agree that the establishment by this act of exclusive means by which the President may conduct electronic surveillance does not foreclose a different decision by the Supreme Court." H.R. Conf. Rep. No. 95-1720, at 35, *reprinted in* 1978 U.S.C.C.A.N. 4048, 4064. But, invoking Justice Jackson's concurrence in the *Steel Seizure* case, the Conference Report explained that Congress intended in FISA to exert whatever power Congress constitutionally had over the subject matter to restrict foreign intelligence surveillance and to leave the President solely with whatever inherent constitutional authority he might be able to invoke against Congress's express wishes. *Id.* The Report thus explains that "[t]he intent of the conferees is to apply the standard set forth in Justice Jackson's concurring opinion in the Steel Seizure Case: 'When a President takes measures incompatible with the express or implied

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[6] FISA's legislative history reveals that these provisions were intended to exclude certain intelligence activities conducted by the National Security Agency from the coverage of FISA. According to the report of the Senate Judiciary Committee on FISA, "this provision [referencing what became the first part of section 2511(2)(f)] is designed to make clear that the legislation does not deal with international signals intelligence activities as currently engaged in by the National Security Agency and electronic surveillance conducted outside the United States." S. Rep. No. 95-604, at 64 (1978), *reprinted in* 1978 U.S.C.C.A.N. 3904, 3965. The legislative history also makes clear that the definition of "electronic surveillance" was crafted for the same reason. *See id.* at 33-34, 1978 U.S.C.C.A.N. at 3934-36. FISA thereby "adopts the view expressed by the Attorney General during the hearings that enacting statutory controls to regulate the National Security Agency and the surveillance of Americans abroad raises problems best left to separate legislation." *Id.* at 64, 1978 U.S.C.C.A.N. at 3965. Such legislation placing limitations on traditional NSA activities was drafted, but never passed. *See* National Intelligence Reorganization and Reform Act of 1978: Hearings Before the Senate Select Committee on Intelligence, 95th Cong., 2d Sess. 999-1007 (1978) (text of unenacted legislation). And Congress understood that the NSA surveillance that it intended categorically to exclude from FISA could include the monitoring of international communications into or out of the United States of U.S. citizens. The report specifically referred to the Church Committee report for its description of the NSA's activities, S. Rep. No. 95-604, at 64 n.63, 1978 U.S.C.C.A.N. at 3965-66 n.63, which stated that "the NSA intercepts messages passing over international lines of communication, some of which have one terminal within the United States. Traveling over these lines of communication, especially those with one terminal in the United States, are messages of Americans . . . ." S. Rep. 94-755, at Book II, 308 (1976). Congress's understanding in the legislative history of FISA that such communications could be intercepted outside FISA procedures is notable.

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will of Congress, his power is at the lowest ebb, for then he can rely only upon his own constitutional power minus any constitutional power of Congress over the matter.'" *Id.* (quoting *Youngstown Sheet & Tube Co*. v. *Sawyer,* 343 U.S. 579, 637 (1952) (Jackson, J., concurring)); *see also* S. Rep. No. 95-604, at 64, *reprinted in* 1978 U.S.C.C.A.N. at 3966 (same); *see generally* Elizabeth B. Bazen et al., Congressional Research Service, *Re: Presidential Authority to Conduct Warrantless Electronic Surveillance to Gather Foreign Intelligence Information* 28-29 (Jan. 5, 2006). It is significant, however, that Congress did not decide conclusively to continue to push the boundaries of its constitutional authority in wartime. Instead, Congress reserved the question of the appropriate procedures to regulate electronic surveillance in time of war, and established a fifteen-day period during which the President would be permitted to engage in electronic surveillance without complying with FISA's express procedures and during which Congress would have the opportunity to revisit the issue. *See* 50 U.S.C. § 1811; H.R. Conf. Rep. No. 95-1720, at 34, *reprinted in* 1978 U.S.C.C.A.N. at 4063 (noting that the purpose of the fifteen-day period following a declaration of war in section 111 of FISA was to "allow time for consideration of any amendment to this act that may be appropriate during a wartime emergency").

B. FISA CONTEMPLATES AND ALLOWS SURVEILLANCE AUTHORIZED "BY STATUTE"

Congress did not attempt through FISA to prohibit the Executive Branch from using electronic surveillance. Instead, Congress acted to bring the exercise of that power under more stringent congressional control. *See, e.g.*, H. Conf. Rep. No. 95-1720, at 32, *reprinted in* 1978 U.S.C.C.A.N. 4048, 4064. Congress therefore enacted a regime intended to supplant the President's reliance on his own constitutional authority. Consistent with this overriding purpose of bringing the use of electronic surveillance under *congressional* control and with the commonsense notion that the Congress that enacted FISA could not bind future Congresses, FISA expressly contemplates that the Executive Branch may conduct electronic surveillance outside FISA's express procedures if and when a subsequent statute authorizes such surveillance.

Thus, section 109 of FISA prohibits any person from intentionally "engag[ing] . . . in electronic surveillance under color of law *except as authorized by statute*." 50 U.S.C. § 1809(a)(1) (emphasis added). Because FISA's prohibitory provision broadly exempts surveillance "authorized by statute," the provision demonstrates that Congress did not attempt to regulate through FISA electronic surveillance authorized by Congress through a subsequent enactment. The use of the term "statute" here is significant because it strongly suggests that *any* subsequent authorizing statute, not merely one that amends FISA itself, could legitimately authorize surveillance outside FISA's standard procedural requirements. *Compare* 18 U.S.C. § 2511(1) ("Except as otherwise specifically provided *in this chapter* any person who—(a) intentionally intercepts . . . any wire, oral, or electronic communication[] . . . shall be punished . . . .") (emphasis added); *id*. § 2511(2)(e) (providing a defense to liability to individuals "conduct[ing] electronic surveillance, . . . as authorized by *that Act [FISA]*") (emphasis added). In enacting FISA, therefore, Congress contemplated the possibility that the President might be permitted to conduct electronic surveillance pursuant to a later-enacted statute that did not

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incorporate all of the procedural requirements set forth in FISA or that did not expressly amend FISA itself.

To be sure, the scope of this exception is rendered less clear by the conforming amendments that FISA made to chapter 119 of title 18—the portion of the criminal code that provides the mechanism for obtaining wiretaps for law enforcement purposes. Before FISA was enacted, chapter 119 made it a criminal offense for any person to intercept a communication except as specifically provided in that chapter. *See* 18 U.S.C. § 2511(1)(a), (4)(a). Section 201(b) of FISA amended that chapter to provide an exception from criminal liability for activities conducted pursuant to FISA. Specifically, FISA added 18 U.S.C. § 2511(2)(e), which provides that it is not unlawful for "an officer, employee, or agent of the United States . . . to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, as authorized by that Act." *Id.* § 2511(2)(e). Similarly, section 201(b) of FISA amended chapter 119 to provide that "procedures in this chapter [or chapter 121 (addressing access to stored wire and electronic communications and customer records)] and the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in section 101 of such Act, and the interception of domestic wire, oral, and electronic communications may be conducted." *Id.* § 2511(2)(f) (West Supp. 2005).[7]

The amendments that section 201(b) of FISA made to title 18 are fully consistent, however, with the conclusion that FISA contemplates that a subsequent statute could authorize electronic surveillance outside FISA's express procedural requirements. Section 2511(2)(e) of title 18, which provides that it is "not unlawful" for an officer of the United States to conduct electronic surveillance "as authorized by" FISA, is best understood as a safe-harbor provision. Because of section 109, the protection offered by section 2511(2)(e) for surveillance "authorized by" FISA extends to surveillance that is authorized by any other statute and therefore excepted from the prohibition of section 109. In any event, the purpose of section 2511(2)(e) is merely to make explicit what would already have been implicit—that those authorized by statute to engage in particular surveillance do not act unlawfully when they conduct such surveillance. Thus, even if that provision had not been enacted, an officer conducting surveillance authorized by statute (whether FISA or some other law) could not reasonably have been thought to be violating Title III. Similarly, section 2511(2)(e) cannot be read to require a result that would be manifestly unreasonable—exposing a federal officer to criminal liability for engaging in surveillance authorized by statute, merely because the authorizing statute happens not to be FISA itself.

Nor could 18 U.S.C. § 2511(2)(f), which provides that the "procedures in this chapter . . . and the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance . . . may be conducted," have been intended to trump the commonsense approach of section 109 and preclude a subsequent Congress from authorizing the President to engage in electronic surveillance through a statute other than FISA, using procedures other than those outlined in FISA or chapter 119 of title 18. The legislative history of section 2511(2)(f) clearly indicates an intent to prevent the President from engaging in surveillance except as

[7] The bracketed portion was added in 1986 amendments to section 2511(2)(f). *See* Pub. L. No. 99-508 § 101(b)(3), 100 Stat. 1848, 1850.

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authorized by Congress, *see* H.R. Conf. Rep. No. 95-1720, at 32, *reprinted in* 1978 U.S.C.C.A.N. 4048, 4064, which explains why section 2511(2)(f) set forth all then-existing statutory restrictions on electronic surveillance. Section 2511(2)(f)'s reference to "exclusive means" reflected the state of statutory authority for electronic surveillance in 1978 and cautioned the President not to engage in electronic surveillance outside congressionally sanctioned parameters. It is implausible to think that, in attempting to limit the *President's* authority, Congress also limited its own future authority by barring subsequent Congresses from authorizing the Executive to engage in surveillance in ways not specifically enumerated in FISA or chapter 119, or by requiring a subsequent Congress specifically to amend FISA and section 2511(2)(f). There would be a serious question as to whether the Ninety-Fifth Congress could have so tied the hands of its successors. *See, e.g.*, *Fletcher v. Peck*, 10 U.S. (6 Cranch) 87, 135 (1810) (noting that "one legislature cannot abridge the powers of a succeeding legislature"); *Reichelderfer v. Quinn*, 287 U.S. 315, 318 (1932) ("[T]he will of a particular Congress . . . does not impose itself upon those to follow in succeeding years"); *Lockhart v. United States*, 126 S. Ct. 699, 703 (2005) (Scalia, J., concurring) (collecting precedent); 1 W. Blackstone, Commentaries on the Laws of England 90 (1765) ("Acts of parliament derogatory from the power of subsequent parliaments bind not"). In the absence of a clear statement to the contrary, it cannot be presumed that Congress attempted to abnegate its own authority in such a way.

Far from a clear statement of congressional intent to bind itself, there are indications that section 2511(2)(f) cannot be interpreted as requiring that *all* electronic surveillance and domestic interception be conducted under FISA's enumerated procedures or those of chapter 119 of title 18 until and unless those provisions are repealed or amended. Even when section 2511(2)(f) was enacted (and no subsequent authorizing statute existed), it could not reasonably be read to preclude all electronic surveillance conducted outside the procedures of FISA or chapter 119 of title 18. In 1978, use of a pen register or trap and trace device constituted electronic surveillance as defined by FISA. *See* 50 U.S.C. §§ 1801(f), (n). Title I of FISA provided procedures for obtaining court authorization for the use of pen registers to obtain foreign intelligence information. But the Supreme Court had, just prior to the enactment of FISA, held that chapter 119 of title 18 did not govern the use of pen registers. *See United States v. New York Tel. Co.*, 434 U.S. 159, 165-68 (1977). Thus, if section 2511(2)(f) were to be read to permit of no exceptions, the use of pen registers for purposes other than to collect foreign intelligence information would have been unlawful because such use would not have been authorized by the "exclusive" procedures of section 2511(2)(f), *i.e.*, FISA and chapter 119. But no court has held that pen registers could not be authorized outside the foreign intelligence context. Indeed, FISA appears to have recognized this issue by providing a defense to liability for any official who engages in electronic surveillance under a search warrant or court order. *See* 50 U.S.C. § 1809(b). (The practice when FISA was enacted was for law enforcement officers to obtain search warrants under the Federal Rules of Criminal Procedure authorizing the installation and use of pen registers. *See S. 1667, A Bill to Amend Title 18, United States Code, with Respect to the Interception of Certain Communications, Other Forms of Surveillance, and for Other Purposes: Hearing Before the Subcomm. On Patents, Copyrights and Trademarks of the Senate*

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Comm. on the Judiciary, 99th Cong. 57 (1985) (prepared statement of James Knapp, Deputy Assistant Attorney General, Criminal Division)).[8]

In addition, section 2511(2)(a)(ii) authorizes telecommunications providers to assist officers of the Government engaged in electronic surveillance when the Attorney General certifies that "no warrant or court order is required by law [and] that all statutory requirements have been met." 18 U.S.C. § 2511(2)(a)(ii).[9] If the Attorney General can certify, in good faith, that the requirements of a subsequent statute authorizing electronic surveillance are met, service providers are affirmatively and expressly authorized to assist the Government. Although FISA does allow the Government to proceed without a court order in several situations, *see* 50 U.S.C. § 1805(f) (emergencies); *id.* § 1802 (certain communications between foreign governments), this provision specifically lists only Title III's emergency provision but speaks generally to Attorney General certification. That reference to Attorney General certification is consistent with the historical practice in which Presidents have delegated to the Attorney General authority to approve warrantless surveillance for foreign intelligence purposes. *See, e.g.*, *United States v. United States District Court,* 444 F.2d 651, 669-71 (6th Cir. 1971) (reproducing as an appendix memoranda from Presidents Roosevelt, Truman, and Johnson). Section 2511(2)(a)(ii) thus suggests that telecommunications providers can be authorized to assist with warrantless electronic surveillance when such surveillance is authorized by law outside FISA.

In sum, by expressly and broadly excepting from its prohibition electronic surveillance undertaken "as authorized by statute," section 109 of FISA permits an exception to the "procedures" of FISA referred to in 18 U.S.C. § 2511(2)(f) where authorized by another statute, even if the other authorizing statute does not specifically amend section 2511(2)(f).

C. THE AUMF IS A "STATUTE" AUTHORIZING SURVEILLANCE OUTSIDE THE CONFINES OF FISA

The AUMF qualifies as a "statute" authorizing electronic surveillance within the meaning of section 109 of FISA.

First, because the term "statute" historically has been given broad meaning, the phrase "authorized by statute" in section 109 of FISA must be read to include joint resolutions such as

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[8] Alternatively, section 109(b) may be read to constitute a "procedure" in FISA or to incorporate procedures from sources other than FISA (such as the Federal Rules of Criminal Procedure or state court procedures), and in that way to satisfy section 2511(2)(f). But if section 109(b)'s defense can be so read, section 109(a) should also be read to constitute a procedure or incorporate procedures not expressly enumerated in FISA.

[9] Section 2511(2)(a)(ii) states:

> Notwithstanding any other law, providers of wire or electronic communication service, . . . are authorized by law to provide information, facilities, or technical assistance to persons authorized by law to intercept . . . communications or to conduct electronic surveillance, as defined [by FISA], if such provider . . . has been provided with . . . a certification in writing by [specified persons proceeding under Title III's emergency provision] or the Attorney General of the United States that no warrant or court order is required by law, that all statutory requirements have been met, and that the specific assistance is required.

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the AUMF. *See American Fed'n of Labor v. Watson*, 327 U. S. 582, 592-93 (1946) (finding the term "statute" as used in 28 U.S.C. § 380 to mean "a compendious summary of various enactments, by whatever method they may be adopted, to which a State gives her sanction"); Black's Law Dictionary 1410 (6th ed. 1990) (defining "statute" broadly to include any "formal written enactment of a legislative body," and stating that the term is used "to designate the legislatively created laws in contradistinction to court decided or unwritten laws"). It is thus of no significance to this analysis that the AUMF was enacted as a joint resolution rather than a bill. *See, e.g., Ann Arbor R.R. Co. v. United States*, 281 U.S. 658, 666 (1930) (joint resolutions are to be construed by applying "the rules applicable to legislation in general"); *United States ex rel. Levey v. Stockslager*, 129 U.S. 470, 475 (1889) (joint resolution had "all the characteristics and effects" of statute that it suspended); *Padilla ex rel. Newman v. Bush,* 233 F. Supp. 2d 564, 598 (S.D.N.Y 2002) (in analyzing the AUMF, finding that there is "no relevant constitutional difference between a bill and a joint resolution"), *rev'd sub nom. on other grounds, Rumsfeld v. Padilla*, 352 F.3d 695 (2d Cir. 2003), *rev'd*, 542 U.S. 426 (2004); *see also* Letter for the Hon. John Conyers, Jr., U.S. House of Representatives, from Prof. Laurence H. Tribe at 3 (Jan. 6, 2006) (term "statute" in section 109 of FISA "of course encompasses a joint resolution presented to and signed by the President").

Second, the longstanding history of communications intelligence as a fundamental incident of the use of force and the Supreme Court's decision in *Hamdi v. Rumsfeld* strongly suggest that the AUMF satisfies the requirement of section 109 of FISA for statutory authorization of electronic surveillance. As explained above, it is not necessary to demarcate the outer limits of the AUMF to conclude that it encompasses electronic surveillance targeted at the enemy. Just as a majority of the Court concluded in *Hamdi* that the AUMF authorizes detention of U.S. citizens who are enemy combatants without expressly mentioning the President's long-recognized power to detain, so too does it authorize the use of electronic surveillance without specifically mentioning the President's equally long-recognized power to engage in communications intelligence targeted at the enemy. And just as the AUMF satisfies the requirement in 18 U.S.C. § 4001(a) that no U.S. citizen be detained "except pursuant to an Act of Congress," so too does it satisfy section 109's requirement for statutory authorization of electronic surveillance.[10] In authorizing the President's use of force in response to the September 11th attacks, Congress did not need to comb through the United States Code looking for those restrictions that it had placed on national security operations during times of peace and designate with specificity each traditional tool of military force that it sought to authorize the President to use. There is no historical precedent for such a requirement: authorizations to use

[10] It might be argued that Congress dealt more comprehensively with electronic surveillance in FISA than it did with detention in 18 U.S.C. § 4001(a). Thus, although Congress prohibited detention "except pursuant to an Act of Congress," it combined the analogous prohibition in FISA (section 109(a)) with section 2511(2)(f)'s exclusivity provision. *See* Letter to the Hon. Bill Frist, Majority Leader, U.S. Senate, from Professor Curtis A. Bradley *et al.* at 5 n.6 (Jan. 9, 2006) (noting that section 4001(a) does not "attempt[] to create an exclusive mechanism for detention"). On closer examination, however, it is evident that Congress has regulated detention far more meticulously than these arguments suggest. Detention is the topic of much of the Criminal Code, as well as a variety of other statutes, including those providing for civil commitment of the mentally ill and confinement of alien terrorists. The existence of these statutes and accompanying extensive procedural safeguards, combined with the substantial constitutional issues inherent in detention, *see, e.g.*, *Hamdi*, 542 U.S. at 574-75 (Scalia, J., dissenting), refute any such argument.

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military force traditionally have been couched in general language. Indeed, prior administrations have interpreted joint resolutions declaring war and authorizing the use of military force to authorize expansive collection of communications into and out of the United States.[11]

Moreover, crucial to the Framers' decision to vest the President with primary constitutional authority to defend the Nation from foreign attack is the fact that the Executive can act quickly, decisively, and flexibly as needed. For Congress to have a role in that process, it must be able to act with similar speed, either to lend its support to, or to signal its disagreement with, proposed military action. Yet the need for prompt decisionmaking in the wake of a devastating attack on the United States is fundamentally inconsistent with the notion that to do so Congress must legislate at a level of detail more in keeping with a peacetime budget reconciliation bill. In emergency situations, Congress must be able to use broad language that effectively sanctions the President's use of the core incidents of military force. That is precisely what Congress did when it passed the AUMF on September 14, 2001—just three days after the deadly attacks on America. The Capitol had been evacuated on September 11th, and Congress was meeting in scattered locations. As an account emerged of who might be responsible for these attacks, Congress acted quickly to authorize the President to use "all necessary and appropriate force" against the enemy that he determines was involved in the September 11th attacks. Under these circumstances, it would be unreasonable and wholly impractical to demand that Congress specifically amend FISA in order to assist the President in defending the Nation. Such specificity would also have been self-defeating because it would have apprised our adversaries of some of our most sensitive methods of intelligence gathering.[12]

Section 111 of FISA, 50 U.S.C. § 1811, which authorizes the President, "[n]otwithstanding any other law," to conduct "electronic surveillance without a court order under this subchapter to acquire foreign intelligence information for a period not to exceed fifteen calendar days following a declaration of war by Congress," does not require a different reading of the AUMF. *See also id.* § 1844 (same provision for pen registers); *id.* § 1829 (same provision for physical searches). Section 111 cannot reasonably be read as Congress's final word on electronic surveillance during wartime, thus permanently limiting the President in all

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[11] As noted above, in intercepting communications, President Wilson relied on his constitutional authority and the joint resolution declaring war and authorizing the use of military force, which, as relevant here, provided "that the President [is] authorized and directed to employ the entire naval and military forces of the United States and the resources of the Government to carry on war against the Imperial German Government; and to bring the conflict to a successful termination all of the resources of the country are hereby pledged by the Congress of the United States." Joint Resolution of Apr. 6, 1917, ch. 1, 40 Stat. 1. The authorization did not explicitly mention interception of communications.

[12] Some have suggested that the Administration declined to seek a specific amendment to FISA allowing the NSA activities "because it was advised that Congress would reject such an amendment," Letter to the Hon. Bill Frist, Majority Leader, U.S. Senate, from Professor Curtis A. Bradley *et al.* 4 & n.4 (Jan. 9, 2005), and they have quoted in support of that assertion the Attorney General's statement that certain Members of Congress advised the Administration that legislative relief "would be difficult, if not impossible." *Id.* at 4 n.4. As the Attorney General subsequently indicated, however, the difficulty with such specific legislation was that it could not be enacted "without compromising the program." *See* Remarks by Homeland Security Secretary Chertoff and Attorney General Gonzales on the USA PATRIOT Act (Dec. 21, 2005), *available at* http://www.dhs.gov/dhspublic/display?content=5285.

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circumstances to a mere fifteen days of warrantless military intelligence gathering targeted at the enemy following a declaration of war. Rather, section 111 represents Congress's recognition that it would likely have to return to the subject and provide additional authorization to conduct warrantless electronic surveillance outside FISA during time of war. The Conference Report explicitly stated the conferees' "inten[t] that this [fifteen-day] period will allow time for consideration of any amendment to this act that may be appropriate during a wartime emergency." H.R. Conf. Rep. No. 95-1720, at 34, *reprinted in* 1978 U.S.C.C.A.N. at 4063. Congress enacted section 111 so that the President could conduct warrantless surveillance while Congress considered supplemental wartime legislation.

Nothing in the terms of section 111 disables Congress from authorizing such electronic surveillance as a traditional incident of war through a broad, conflict-specific authorization for the use of military force, such as the AUMF. Although the legislative history of section 111 indicates that in 1978 some Members of Congress believed that any such authorization would come in the form of a particularized amendment to FISA itself, section 111 does not require that result. Nor could the Ninety-Fifth Congress tie the hands of a subsequent Congress in this way, at least in the absence of far clearer statutory language expressly requiring that result. *See supra*, pp. 21-22; *compare, e.g.*, War Powers Resolution, § 8, 50 U.S.C. § 1547(a) ("Authority to introduce United States Armed Forces into hostilities . . . shall not be inferred . . . from any provision of law . . . unless such provision specifically authorizes [such] introduction . . . and states that it is intended to constitute specific statutory authorization within the meaning of this chapter."); 10 U.S.C. § 401 (stating that any other provision of law providing assistance to foreign countries to detect and clear landmines shall be subject to specific limitations and may be construed as superseding such limitations "only if, and to the extent that, such provision specifically refers to this section and specifically identifies the provision of this section that is to be considered superseded or otherwise inapplicable"). An interpretation of section 111 that would disable Congress from authorizing broader electronic surveillance in that form can be reconciled neither with the purposes of section 111 nor with the well-established proposition that "one legislature cannot abridge the powers of a succeeding legislature." *Fletcher v. Peck*, 10 U.S. (6 Cranch) at 135; *see supra* Part II.B. For these reasons, the better interpretation is that section 111 was not intended to, and did not, foreclose Congress from using the AUMF as the legal vehicle for supplementing the President's existing authority under FISA in the battle against al Qaeda.

The contrary interpretation of section 111 also ignores the important differences between a formal declaration of war and a resolution such as the AUMF. As a historical matter, a formal declaration of war was no longer than a sentence, and thus Congress would not expect a declaration of war to outline the extent to which Congress authorized the President to engage in various incidents of waging war. Authorizations for the use of military force, by contrast, are typically more detailed and are made for the *specific purpose* of reciting the manner in which Congress has authorized the President to act. Thus, Congress could reasonably expect that an authorization for the use of military force would address the issue of wartime surveillance, while a declaration of war would not. Here, the AUMF declares that the Nation faces "an unusual and extraordinary threat," acknowledges that "the President has authority under the Constitution to take action to deter and prevent acts of international terrorism against the United States," and

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provides that the President is authorized "to use all necessary and appropriate force" against those "he determines" are linked to the September 11th attacks. AUMF pmbl., § 2. This sweeping language goes far beyond the bare terms of a declaration of war. *Compare*, *e.g.*, Act of Apr. 25, 1898, ch. 189, 30 Stat. 364 ("First. That war be, and the same is hereby declared to exist . . . between the United States of America and the Kingdom of Spain.").

Although legislation that has included a declaration of war has often also included an authorization of the President to use force, these provisions are separate and need not be combined in a single statute. *See*, *e.g.*, *id*. ("Second. That the President of the United States be, and he hereby is, directed and empowered to use the entire land and naval forces of the United States, and to call into the actual service of the United States the militia of the several states, *to such extent as may be necessary to carry this Act into effect*.") (emphasis added). Moreover, declarations of war have legal significance independent of any additional authorization of force that might follow. *See*, *e.g.*, Louis Henkin, *Foreign Affairs and the U.S. Constitution* 75 (2d ed. 1996) (explaining that a formal state of war has various legal effects, such as terminating diplomatic relations, and abrogating or suspending treaty obligations and international law rights and duties); *see also id.* at 370 n.65 (speculating that one reason to fight an undeclared war would be to "avoid the traditional consequences of declared war on relations with third nations or even . . . belligerents").

In addition, section 111 does not cover the vast majority of modern military conflicts. The last declared war was World War II. Indeed, the most recent conflict prior to the passage of FISA, Vietnam, was fought without a formal declaration of war. In addition, the War Powers Resolution, enacted less than five years before FISA, clearly recognizes the distinctions between formal declarations of war and authorizations of force and demonstrates that, if Congress had wanted to include such authorizations in section 111, it knew how to do so. *See, e.g.*, 50 U.S.C. § 1544(b) (attempting to impose certain consequences 60 days after reporting the initiation of hostilities to Congress "unless the Congress . . . has declared war *or has enacted a specific authorization for such use*" of military force) (emphasis added). It is possible that, in enacting section 111, Congress intended to make no provision for even the temporary use of electronic surveillance without a court order for what had become the legal regime for most military conflicts. A better reading, however, is that Congress assumed that such a default provision would be unnecessary because, if it had acted through an authorization for the use of military force, the more detailed provisions of that authorization would resolve the extent to which Congress would attempt to authorize, or withhold authorization for, the use of electronic surveillance.[13]

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[13] Some have pointed to the specific amendments to FISA that Congress made shortly after September 11th in the USA PATRIOT Act, Pub. L. No. 107-56, §§ 204, 218, 115 Stat. 272, 281, 291 (2001), to argue that Congress did not contemplate electronic surveillance outside the parameters of FISA. *See* Memorandum for Members of the House Permanent Select Comm. on Intel. from Jeffrey H. Smith, *Re: Legal Authorities Regarding Warrantless Surveillance of U.S. Persons* 6-7 (Jan. 3, 2006). The USA PATRIOT Act amendments, however, do not justify giving the AUMF an unnaturally narrow reading. The USA PATRIOT Act amendments made important corrections in the general application of FISA; they were not intended to define the precise incidents of military force that would be available to the President in prosecuting the current armed conflict against al Qaeda and its allies. Many removed long-standing impediments to the effectiveness of FISA that had contributed to the

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The broad text of the AUMF, the authoritative interpretation that the Supreme Court gave it in *Hamdi*, and the circumstances in which it was passed demonstrate that the AUMF is a statute authorizing electronic surveillance under section 109 of FISA. When the President authorizes electronic surveillance against the enemy pursuant to the AUMF, he is therefore acting at the height of his authority under *Youngstown*, 343 U.S. at 637 (Jackson, J., concurring).

D. THE CANON OF CONSTITUTIONAL AVOIDANCE REQUIRES RESOLVING IN FAVOR OF THE PRESIDENT'S AUTHORITY ANY AMBIGUITY ABOUT WHETHER FISA FORBIDS THE NSA ACTIVITIES

As explained above, the AUMF fully authorizes the NSA activities. Because FISA contemplates the possibility that subsequent statutes could authorize electronic surveillance without requiring FISA's standard procedures, the NSA activities are also consistent with FISA and related provisions in title 18. Nevertheless, some might argue that sections 109 and 111 of FISA, along with section 2511(2)(f)'s "exclusivity" provision and section 2511(2)(e)'s liability exception for officers engaged in FISA-authorized surveillance, are best read to suggest that FISA requires that subsequent authorizing legislation specifically amend FISA in order to free the Executive from FISA's enumerated procedures. As detailed above, this is not the better reading of FISA. But even if these provisions were ambiguous, any doubt as to whether the AUMF and FISA should be understood to allow the President to make tactical military decisions to authorize surveillance outside the parameters of FISA must be resolved to avoid the serious constitutional questions that a contrary interpretation would raise.

It is well established that the first task of any interpreter faced with a statute that may present an unconstitutional infringement on the powers of the President is to determine whether the statute may be construed to avoid the constitutional difficulty. "[I]f an otherwise acceptable

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maintenance of an unnecessary "wall" between foreign intelligence gathering and criminal law enforcement; others were technical clarifications. *See In re Sealed Case,* 310 F.3d 717, 725-30 (Foreign Int. Surv. Ct. Rev. 2002). The "wall" had been identified as a significant problem hampering the Government's efficient use of foreign intelligence information well before the September 11th attacks and in contexts unrelated to terrorism. *See, e.g., Final Report of the Attorney General's Review Team on the Handling of the Los Alamos National Laboratory Investigation* 710, 729, 732 (May 2000); General Accounting Office, *FBI Intelligence Investigations: Coordination Within Justice on Counterintelligence Criminal Matters Is Limited* (GAO-01-780) 3, 31 (July 2001). Finally, it is worth noting that Justice Souter made a similar argument in *Hamdi* that the USA PATRIOT Act all but compelled a narrow reading of the AUMF. *See* 542 U.S. at 551 ("It is very difficult to believe that the same Congress that carefully circumscribed Executive power over alien terrorists on home soil [in the USA PATRIOT Act] would not have meant to require the Government to justify clearly its detention of an American citizen held on home soil incommunicado."). Only Justice Ginsburg joined this opinion, and the position was rejected by a majority of Justices.

Nor do later amendments to FISA undermine the conclusion that the AUMF authorizes electronic surveillance outside the procedures of FISA. Three months after the enactment of the AUMF, Congress enacted certain "technical amendments" to FISA which, *inter alia*, extended the time during which the Attorney General may issue an emergency authorization of electronic surveillance from 24 to 72 hours. *See* Intelligence Authorization Act for Fiscal Year 2002, Pub. L. No. 107-108, § 314, 115 Stat. 1394, 1402 (2001). These modifications to FISA do not in any way undermine Congress's previous authorization in the AUMF for the President to engage in electronic surveillance outside the parameters of FISA in the specific context of the armed conflict with al Qaeda.

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construction of a statute would raise serious constitutional problems, and where an alternative interpretation of the statute is 'fairly possible,' we are obligated to construe the statute to avoid such problems." *INS v. St. Cyr,* 533 U.S. 289, 299-300 (2001) (citations omitted); *Ashwander v. TVA,* 297 U.S. 288, 345-48 (1936) (Brandeis, J., concurring). Moreover, the canon of constitutional avoidance has particular importance in the realm of national security, where the President's constitutional authority is at its highest. *See Department of the Navy v. Egan*, 484 U.S. 518, 527, 530 (1988); William N. Eskridge, Jr., *Dynamic Statutory Interpretation* 325 (1994) (describing "[s]uper-strong rule against congressional interference with the President's authority over foreign affairs and national security"). Thus, courts and the Executive Branch typically construe a general statute, even one that is written in unqualified terms, to be implicitly limited so as not to infringe on the President's Commander in Chief powers.

Reading FISA to prohibit the NSA activities would raise two serious constitutional questions, both of which must be avoided if possible: (1) whether the signals intelligence collection the President determined was necessary to undertake is such a core exercise of Commander in Chief control over the Armed Forces during armed conflict that Congress cannot interfere with it at all and (2) whether the particular restrictions imposed by FISA are such that their application would impermissibly impede the President's exercise of his constitutionally assigned duties as Commander in Chief. Constitutional avoidance principles require interpreting FISA, at least in the context of the military conflict authorized by the AUMF, to avoid these questions, if "fairly possible." Even if Congress intended FISA to use the full extent of its constitutional authority to "occupy the field" of "electronic surveillance," as FISA used that term, during peacetime, the legislative history indicates that Congress had not reached a definitive conclusion about its regulation during wartime. *See* H.R. Conf. Rep. No. 95-1720, at 34, *reprinted in* 1978 U.S.C.C.A.N. at 4063 (noting that the purpose of the fifteen-day period following a declaration of war in section 111 of FISA was to "allow time for consideration of any amendment to this act that may be appropriate during a wartime emergency"). Therefore, it is not clear that Congress, in fact, intended to test the limits of its constitutional authority in the context of wartime electronic surveillance.

Whether Congress may interfere with the President's constitutional authority to collect foreign intelligence information through interception of communications reasonably believed to be linked to the enemy poses a difficult constitutional question. As explained in Part I, it had long been accepted at the time of FISA's enactment that the President has inherent constitutional authority to conduct warrantless electronic surveillance for foreign intelligence purposes. Congress recognized at the time that the enactment of a statute purporting to eliminate the President's ability, even during peacetime, to conduct warrantless electronic surveillance to collect foreign intelligence was near or perhaps beyond the limit of Congress's Article I powers. The NSA activities, however, involve signals intelligence performed in the midst of a congressionally authorized armed conflict undertaken to prevent further hostile attacks on the United States. The NSA activities lie at the very core of the Commander in Chief power, especially in light of the AUMF's explicit authorization for the President to take *all* necessary and appropriate military action to stop al Qaeda from striking again. The constitutional principles at stake here thus involve not merely the President's well-established inherent

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authority to conduct warrantless surveillance for foreign intelligence purposes during peacetime, but also the powers and duties expressly conferred on him as Commander in Chief by Article II.

Even outside the context of wartime surveillance of the enemy, the source and scope of Congress's power to restrict the President's inherent authority to conduct foreign intelligence surveillance is unclear. As explained above, the President's role as sole organ for the Nation in foreign affairs has long been recognized as carrying with it preeminent authority in the field of national security and foreign intelligence. The source of this authority traces to the Vesting Clause of Article II, which states that "[t]he executive Power shall be vested in a President of the United States of America." U.S. Const. art. II, § 1. The Vesting Clause "has long been held to confer on the President plenary authority to represent the United States and to pursue its interests outside the borders of the country, subject only to limits specifically set forth in the Constitution itself and to such statutory limitations as the Constitution permits Congress to impose by exercising one of its enumerated powers." *The President's Compliance with the "Timely Notification" Requirement of Section 501(b) of the National Security Act,* 10 Op. O.L.C. 159, 160-61 (1986) ("*Timely Notification Requirement Op.*").

Moreover, it is clear that some presidential authorities in this context are beyond Congress's ability to regulate. For example, as the Supreme Court explained in *Curtiss-Wright,* the President "*makes* treaties with the advice and consent of the Senate; but he alone negotiates. Into the field of negotiation the Senate cannot intrude; and Congress itself is powerless to invade it." 299 U.S. at 319. Similarly, President Washington established early in the history of the Republic the Executive's absolute authority to maintain the secrecy of negotiations with foreign powers, even against congressional efforts to secure information. *See id.* at 320-21. Recognizing presidential authority in this field, the Executive Branch has taken the position that "congressional legislation authorizing extraterritorial diplomatic and intelligence activities is superfluous, and . . . statutes infringing the President's inherent Article II authority would be unconstitutional." *Timely Notification Requirement Op.*, 10 Op. O.L.C. at 164.

There are certainly constitutional limits on Congress's ability to interfere with the President's power to conduct foreign intelligence searches, consistent with the Constitution, within the United States. As explained above, intelligence gathering is at the heart of executive functions. Since the time of the Founding it has been recognized that matters requiring secrecy—and intelligence in particular—are quintessentially executive functions. *See, e.g., The Federalist No. 64*, at 435 (John Jay) (Jacob E. Cooke ed. 1961) ("The convention have done well therefore in so disposing of the power of making treaties, that although the president must in forming them act by the advice and consent of the senate, yet he will be able to manage the business of intelligence in such manner as prudence may suggest."); *see also Timely Notification Requirement Op.*, 10 Op. O.L.C. at 165; *cf. New York Times Co. v. United States,* 403 U.S. 713, 729-30 (1971) (Stewart, J., concurring) ("[I]t is the constitutional duty of the Executive—as a matter of sovereign prerogative and not as a matter of law as the courts know law—through the promulgation and enforcement of executive regulations, to protect the confidentiality necessary to carry out its responsibilities in the field of international relations and national defense.").

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Because Congress has rarely attempted to intrude in this area and because many of these questions are not susceptible to judicial review, there are few guideposts for determining exactly where the line defining the President's sphere of exclusive authority lies. Typically, if a statute is in danger of encroaching upon exclusive powers of the President, the courts apply the constitutional avoidance canon, if a construction avoiding the constitutional issue is "fairly possible." *See, e.g., Egan,* 484 U.S. at 527, 530. The only court that squarely has addressed the relative powers of Congress and the President in this field suggested that the balance tips decidedly in the President's favor. The Foreign Intelligence Surveillance Court of Review recently noted that all courts to have addressed the issue of the President's inherent authority have "held that the President did have inherent authority to conduct warrantless searches to obtain foreign intelligence information." *In re Sealed Case,* 310 F.3d 717, 742 (Foreign Intel. Surv. Ct. of Rev. 2002). On the basis of that unbroken line of precedent, the court "[took] for granted that the President does have that authority," and concluded that, "assuming that is so, FISA could not encroach on the President's constitutional power." *Id.*[14] Although the court did not provide extensive analysis, it is the only judicial statement on point, and it comes from the specialized appellate court created expressly to deal with foreign intelligence issues under FISA.

But the NSA activities are not simply exercises of the President's general foreign affairs powers. Rather, they are primarily an exercise of the President's authority as Commander in Chief during an armed conflict that Congress expressly has authorized the President to pursue. The NSA activities, moreover, have been undertaken specifically to prevent a renewed attack at the hands of an enemy that has already inflicted the single deadliest foreign attack in the Nation's history. The core of the Commander in Chief power is the authority to direct the Armed Forces in conducting a military campaign. Thus, the Supreme Court has made clear that the "President alone" is "constitutionally invested with the entire charge of hostile operations." *Hamilton v. Dillin,* 88 U.S. (21 Wall.) 73, 87 (1874); *The Federalist* No. 74, at 500 (Alexander Hamilton). "As commander-in-chief, [the President] is authorized to direct the movements of the naval and military forces placed by law at his command, and to employ them in the manner he may deem most effectual to harass and conquer and subdue the enemy." *Fleming v. Page,* 50 U.S. (9 How.) 603, 615 (1850). As Chief Justice Chase explained in 1866, although Congress has authority to legislate to support the prosecution of a war, Congress may not "*interfere[] with the command of the forces and the conduct of campaigns.* That power and duty belong to the President as commander-in-chief." *Ex parte Milligan,* 71 U.S. (4 Wall.) 2, 139 (1866) (Chase, C.J., concurring in judgment) (emphasis added).

The Executive Branch uniformly has construed the Commander in Chief and foreign affairs powers to grant the President authority that is beyond the ability of Congress to regulate. In 1860, Attorney General Black concluded that an act of Congress, if intended to constrain the President's discretion in assigning duties to an officer in the army, would be unconstitutional:

As commander-in-chief of the army it is your right to decide according to your

[14] In the past, other courts have declined to express a view on that issue one way or the other. *See, e.g., Butenko,* 494 F.2d at 601 ("We do not intimate, at this time, any view whatsoever as the proper resolution of the possible clash of the constitutional powers of the President and Congress.").

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> own judgment what officer shall perform any particular duty, and as the supreme executive magistrate you have the power of appointment. Congress could not, if it would, take away from the President, or in anywise diminish the authority conferred upon him by the Constitution.

Memorial of Captain Meigs, 9 Op. Att'y Gen. 462, 468 (1860). Attorney General Black went on to explain that, in his view, the statute involved there could probably be read as simply providing "a recommendation" that the President could decline to follow at his discretion. *Id.* at 469-70.[15]

Supreme Court precedent does not support claims of congressional authority over core military decisions during armed conflicts. In particular, the two decisions of the Supreme Court that address a conflict between asserted wartime powers of the Commander in Chief and congressional legislation and that resolve the conflict in favor of Congress—*Little v. Barreme,* 6 U.S. (2 Cranch) 170 (1804), and *Youngstown Sheet & Tube Co. v. Sawyer,* 343 U.S. 579 (1952)—are both distinguishable from the situation presented by the NSA activities in the conflict with al Qaeda. Neither supports the constitutionality of the restrictions in FISA as applied here.

Barreme involved a suit brought to recover a ship seized by an officer of the U.S. Navy on the high seas during the so-called "Quasi War" with France in 1799. The seizure had been based upon the officer's orders implementing an act of Congress suspending commerce between the United States and France and authorizing the seizure of American ships bound *to* a French port. The ship in question was suspected of sailing *from* a French port. The Supreme Court held that the orders given by the President could not authorize a seizure beyond the terms of the

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[15] Executive practice recognizes, consistent with the Constitution, some congressional control over the Executive's decisions concerning the Armed Forces. *See, e.g.*, U.S. Const. art. I, § 8, cl. 12 (granting Congress power "to raise and support Armies"). But such examples have not involved congressional attempts to regulate the actual conduct of a military campaign, and there is no comparable textual support for such interference. For example, just before World War II, Attorney General Robert Jackson concluded that the Neutrality Act prohibited President Roosevelt from selling certain armed naval vessels and sending them to Great Britain. *See Acquisition of Naval and Air Bases in Exchange for Over-Age Destroyers,* 39 Op. Att'y Gen. 484, 496 (1940). Jackson's apparent conclusion that Congress could control the President's ability to transfer war material does not imply acceptance of direct congressional regulation of the Commander in Chief's control of the means and methods of engaging the enemy in conflict. Similarly, in *Youngstown Sheet & Tube Co. v. Sawyer,* the Truman Administration readily conceded that, if Congress had prohibited the seizure of steel mills by statute, Congress's action would have been controlling. *See* Brief for Petitioner at 150, *Youngstown*, 343 U.S. 579 (1952) (Nos. 744 and 745). This concession implies nothing concerning congressional control over the methods of engaging the enemy.

Likewise, the fact that the Executive Branch has, at times, sought congressional ratification after taking unilateral action in a wartime emergency does not reflect a concession that the Executive lacks authority in this area. A decision to seek congressional support can be prompted by many motivations, including a desire for political support. In modern times, several administrations have sought congressional authorization for the use of military force while preserving the ability to assert the unconstitutionality of the War Powers Resolution. *See, e.g., Statement on Signing the Resolution Authorizing the Use of Military Force Against Iraq,* 1 Pub. Papers of George Bush 40 (1991) ("[M]y request for congressional support did not . . . constitute any change in the long-standing positions of the executive branch on either the President's constitutional authority to use the Armed Forces to defend vital U.S. interests or the constitutionality of the War Powers Resolution."). Moreover, many actions for which congressional support has been sought—such as President Lincoln's action in raising an Army in 1861—quite likely fall primarily under Congress's core Article I powers.

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statute and therefore that the seizure of the ship not in fact bound *to* a French port was unlawful. *See* 6 U.S. at 177-78. Although some commentators have broadly characterized *Barreme* as standing for the proposition that Congress may restrict by statute the means by which the President can direct the Nation's Armed Forces to carry on a war, the Court's holding was limited in at least two significant ways. First, the operative section of the statute in question applied only to *American* merchant ships. *See id*. at 170 (quoting Act of February 9, 1799). Thus, the Court simply had no occasion to rule on whether, even in the limited and peculiar circumstances of the Quasi War, Congress could have placed some restriction on the orders the Commander in Chief could issue concerning direct engagements with enemy forces. Second, it is significant that the statute in *Barreme* was cast expressly, not as a limitation on the conduct of warfare by the President, but rather as regulation of a subject within the core of Congress's enumerated powers under Article I—the regulation of foreign commerce. *See* U.S. Const., art. I, § 8, cl. 3. The basis of Congress's authority to act was therefore clearer in *Barreme* than it is here.

Youngstown involved an effort by the President—in the face of a threatened work stoppage—to seize and to run steel mills. Congress had expressly considered the possibility of giving the President power to effect such a seizure during national emergencies. It rejected that option, however, instead providing different mechanisms for resolving labor disputes and mechanisms for seizing industries to ensure production vital to national defense.

For the Court, the connection between the seizure and the core Commander in Chief function of commanding the Armed Forces was too attenuated. The Court pointed out that the case did not involve authority over "day-to-day fighting in a theater of war." *Id.* at 587. Instead, it involved a dramatic extension of the President's authority over military operations to exercise control over an industry that was vital for producing equipment needed overseas. Justice Jackson's concurring opinion also reveals a concern for what might be termed foreign-to-domestic presidential bootstrapping. The United States became involved in the Korean conflict through President Truman's unilateral decision to commit troops to the defense of South Korea. The President then claimed authority, based upon this foreign conflict, to extend presidential control into vast sectors of the domestic economy. Justice Jackson expressed "alarm[]" at a theory under which "a President whose conduct of foreign affairs is so largely uncontrolled, and often even is unknown, can vastly enlarge his mastery over the internal affairs of the country by his own commitment of the Nation's armed forces to some foreign venture." *Id.* at 642.

Moreover, President Truman's action extended the President's authority into a field that the Constitution predominantly assigns to Congress. *See id*. at 588 (discussing Congress's commerce power and noting that "[t]he Constitution does not subject this lawmaking power of Congress to presidential or military supervision or control"); *see also id*. at 643 (Jackson, J., concurring) (explaining that Congress is given express authority to "'raise and *support* Armies'" and "'to *provide* and *maintain* a Navy'") (quoting U.S. Const. art. I, § 8, cls. 12, 13). Thus, *Youngstown* involved an assertion of executive power that not only stretched far beyond the

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President's core Commander in Chief functions, but that did so by intruding into areas where Congress had been given an express, and apparently dominant, role by the Constitution.[16]

The present situation differs dramatically. The exercise of executive authority involved in the NSA activities is not several steps removed from the actual conduct of a military campaign. As explained above, it is an essential part of the military campaign. Unlike the activities at issue in *Youngstown*, the NSA activities are directed at the enemy, and not at domestic activity that might incidentally aid the war effort. And assertion of executive authority here does not involve extending presidential power into areas reserved for Congress. Moreover, the theme that appeared most strongly in Justice Jackson's concurrence in *Youngstown*—the fear of presidential bootstrapping—does not apply in this context. Whereas President Truman had used his inherent constitutional authority to commit U.S. troops, here Congress expressly provided the President sweeping authority to use "all necessary and appropriate force" to protect the Nation from further attack. AUMF § 2(a). There is thus no bootstrapping concern.

Finally, *Youngstown* cannot be read to suggest that the President's authority for engaging the enemy is less extensive inside the United States than abroad. To the contrary, the extent of the President's Commander in Chief authority necessarily depends on where the enemy is found and where the battle is waged. In World War II, for example, the Supreme Court recognized that the President's authority as Commander in Chief, as supplemented by Congress, included the power to capture and try agents of the enemy in the United States, even if they never had "entered the theatre or zone of active military operations." *Quirin,* 317 U.S. at 38.[17] In the present conflict, unlike in the Korean War, the battlefield was brought to the United States in the most literal way, and the United States continues to face a threat of further attacks on its soil. In short, therefore, *Youngstown* does not support the view that Congress may constitutionally prohibit the President from authorizing the NSA activities.

The second serious constitutional question is whether the particular restrictions imposed by FISA would impermissibly hamper the President's exercise of his constitutionally assigned duties as Commander in Chief. The President has determined that the speed and agility required to carry out the NSA activities successfully could not have been achieved under FISA.[18] Because the President also has determined that the NSA activities are necessary to the defense of

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[16] *Youngstown* does demonstrate that the mere fact that Executive action might be placed in Justice Jackson's category III does not obviate the need for further analysis. Justice Jackson's framework therefore recognizes that Congress might impermissibly interfere with the President's authority as Commander in Chief or to conduct the Nation's foreign affairs.

[17] It had been recognized long before *Youngstown* that, in a large-scale conflict, the area of operations could readily extend to the continental United States, even when there are no major engagements of armed forces here. Thus, in the context of the trial of a German officer for spying in World War I, it was recognized that "[w]ith the progress made in obtaining ways and means for devastation and destruction, the territory of the United States was certainly within the field of active operations" during the war, particularly in the port of New York, and that a spy in the United States might easily have aided the "hostile operation" of U-boats off the coast. *United States ex rel. Wessels v. McDonald,* 265 F. 754, 764 (E.D.N.Y. 1920).

[18] In order to avoid further compromising vital national security activities, a full explanation of the basis for the President's determination cannot be given in an unclassified document.

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the United States from a subsequent terrorist attack in the armed conflict with al Qaeda, FISA would impermissibly interfere with the President's most solemn constitutional obligation—to defend the United States against foreign attack.

Indeed, if an interpretation of FISA that allows the President to conduct the NSA activities were not "fairly possible," FISA would be unconstitutional as applied in the context of this congressionally authorized armed conflict. In that event, FISA would purport to *prohibit* the President from undertaking actions necessary to fulfill his constitutional obligation to protect the Nation from foreign attack in the context of a congressionally authorized armed conflict with an enemy that has already staged the most deadly foreign attack in our Nation's history. A statute may not "*impede* the President's ability to perform his constitutional duty," *Morrison v. Olson*, 487 U.S. 654, 691 (1988) (emphasis added); *see also id.* at 696-97, particularly not the President's most solemn constitutional obligation—the defense of the Nation. *See also In re Sealed Case*, 310 F.3d at 742 (explaining that "FISA could not encroach on the President's constitutional power").

Application of the avoidance canon would be especially appropriate here for several reasons beyond the acute constitutional crises that would otherwise result. First, as noted, Congress did not intend FISA to be the final word on electronic surveillance conducted during armed conflicts. Instead, Congress expected that it would revisit the subject in subsequent legislation. Whatever intent can be gleaned from FISA's text and legislative history to set forth a comprehensive scheme for regulating electronic surveillance during peacetime, that same intent simply does not extend to armed conflicts and declared wars.[19] Second, FISA was enacted during the Cold War, not during active hostilities with an adversary whose mode of operation is to blend in with the civilian population until it is ready to strike. These changed circumstances have seriously altered the constitutional calculus, one that FISA's enactors had already recognized might suggest that the statute was unconstitutional. Third, certain technological changes have rendered FISA still more problematic. As discussed above, when FISA was enacted in 1978, Congress expressly declined to regulate through FISA certain signals intelligence activities conducted by the NSA. *See supra*, at pp. 18-19 & n.6.[20] These same factors weigh heavily in favor of concluding that FISA would be unconstitutional as applied to the current conflict if the canon of constitutional avoidance could not be used to head off a collision between the Branches.

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[19] FISA exempts the President from its procedures for fifteen days following a congressional declaration of war. *See* 50 U.S.C. § 1811. If an adversary succeeded in a decapitation strike, preventing Congress from declaring war or passing subsequent authorizing legislation, it seems clear that FISA could not constitutionally continue to apply in such circumstances.

[20] Since FISA's enactment in 1978, the means of transmitting communications has undergone extensive transformation. In particular, many communications that would have been carried by wire are now transmitted through the air, and many communications that would have been carried by radio signals (including by satellite transmissions) are now transmitted by fiber optic cables. It is such technological advancements that have broadened FISA's reach, not any particularized congressional judgment that the NSA's traditional activities in intercepting such international communications should be subject to FISA's procedures. A full explanation of these technological changes would require a discussion of classified information.

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As explained above, FISA is best interpreted to allow a statute such as the AUMF to authorize electronic surveillance outside FISA's enumerated procedures. The strongest counterarguments to this conclusion are that various provisions in FISA and title 18, including section 111 of FISA and section 2511(2)(f) of title 18, together require that subsequent legislation must reference or amend FISA in order to authorize electronic surveillance outside FISA's procedures and that interpreting the AUMF as a statute authorizing electronic surveillance outside FISA procedures amounts to a disfavored repeal by implication. At the very least, however, interpreting FISA to allow a subsequent statute such as the AUMF to authorize electronic surveillance without following FISA's express procedures is "fairly possible," and that is all that is required for purposes of invoking constitutional avoidance. In the competition of competing canons, particularly in the context of an ongoing armed conflict, the constitutional avoidance canon carries much greater interpretative force.[21]

IV. THE NSA ACTIVITIES ARE CONSISTENT WITH THE FOURTH AMENDMENT

The Fourth Amendment prohibits "unreasonable searches and seizures" and directs that "no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and

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[21] If the text of FISA were clear that nothing other than an amendment to FISA could authorize additional electronic surveillance, the AUMF would impliedly repeal as much of FISA as would prevent the President from using "all necessary and appropriate force" in order to prevent al Qaeda and its allies from launching another terrorist attack against the United States. To be sure, repeals by implication are disfavored and are generally not found whenever two statutes are "capable of co-existence." *Ruckelshaus v. Monsanto Co.,* 467 U.S. 986, 1018 (1984). Under this standard, an implied repeal may be found where one statute would "unduly interfere with" the operation of another. *Radzanower v. Touche Ross & Co.,* 426 U.S. 148, 156 (1976). The President's determination that electronic surveillance of al Qaeda outside the confines of FISA was "necessary and appropriate" would create a clear conflict between the AUMF and FISA. FISA's restrictions on the use of electronic surveillance would preclude the President from doing what the AUMF specifically authorized him to do: use all "necessary and appropriate force" to prevent al Qaeda from carrying out future attacks against the United States. The ordinary restrictions in FISA cannot continue to apply if the AUMF is to have its full effect; those constraints would "unduly interfere" with the operation of the AUMF.

Contrary to the recent suggestion made by several law professors and former government officials, the ordinary presumption against implied repeals is overcome here. *Cf.* Letter to the Hon. Bill Frist, Majority Leader, U.S. Senate, from Professor Curtis A. Bradley et al. at 4 (Jan. 9, 2006). First, like other canons of statutory construction, the canon against implied repeals is simply a presumption that may be rebutted by other factors, including conflicting canons. *Connecticut National Bank v. Germain,* 503 U.S. 249, 253 (1992); *see also Chickasaw Nation v. United States,* 534 U.S. 84, 94 (2001); *Circuit City Stores, Inc. v. Adams*, 532 U.S. 105, 115 (2001). Indeed, the Supreme Court has declined to apply the ordinary presumption against implied repeals where other canons apply and suggest the opposite result. *See Montana v. Blackfeet Tribe of Indians,* 471 U.S. 759, 765-66 (1985). Moreover, *Blackfeet* suggests that where the presumption against implied repeals would conflict with other, more compelling interpretive imperatives, it simply does not apply at all. *See* 471 U.S. at 766. Here, in light of the constitutional avoidance canon, which imposes the overriding imperative to use the tools of statutory interpretation to avoid constitutional conflicts, the implied repeal canon either would not apply at all or would apply with significantly reduced force. Second, the AUMF was enacted during an acute national emergency, where the type of deliberation and detail normally required for application of the canon against implied repeals was neither practical nor warranted. As discussed above, in these circumstances, Congress cannot be expected to work through every potential implication of the U.S. Code and to define with particularity each of the traditional incidents of the use of force available to the President.

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particularly describing the place to be searched, and the persons or things to be seized." U.S. Const. amend. IV. The touchstone for review of government action under the Fourth Amendment is whether the search is "reasonable." *See, e.g., Vernonia Sch. Dist. v. Acton,* 515 U.S. 646, 653 (1995).

As noted above, *see* Part I, all of the federal courts of appeals to have addressed the issue have affirmed the President's inherent constitutional authority to collect foreign intelligence without a warrant. *See In re Sealed Case,* 310 F.3d at 742. Properly understood, foreign intelligence collection in general, and the NSA activities in particular, fit within the "special needs" exception to the warrant requirement of the Fourth Amendment. Accordingly, the mere fact that no warrant is secured prior to the surveillance at issue in the NSA activities does not suffice to render the activities unreasonable. Instead, reasonableness in this context must be assessed under a general balancing approach, "'by assessing, on the one hand, the degree to which it intrudes upon an individual's privacy and, on the other, the degree to which it is needed for the promotion of legitimate governmental interests.'" *United States v. Knights*, 534 U.S. 112, 118-19 (2001) (quoting *Wyoming v. Houghton*, 526 U.S. 295, 300 (1999)). The NSA activities are reasonable because the Government's interest, defending the Nation from another foreign attack in time of armed conflict, outweighs the individual privacy interests at stake, and because they seek to intercept only international communications where one party is linked to al Qaeda or an affiliated terrorist organization.

A. THE WARRANT REQUIREMENT OF THE FOURTH AMENDMENT DOES NOT APPLY TO THE NSA ACTIVITIES

In "the criminal context," the Fourth Amendment reasonableness requirement "usually requires a showing of probable cause" and a warrant. *Board of Educ. v. Earls,* 536 U.S. 822, 828 (2002). The requirement of a warrant supported by probable cause, however, is not universal. Rather, the Fourth Amendment's "central requirement is one of reasonableness," and the rules the Court has developed to implement that requirement "[s]ometimes . . . require warrants." *Illinois v. McArthur*, 531 U.S. 326, 330 (2001); *see also, e.g.*, *Earls*, 536 U.S. at 828 (noting that the probable cause standard "is peculiarly related to criminal investigations and may be unsuited to determining the reasonableness of administrative searches where the Government seeks to prevent the development of hazardous conditions") (internal quotation marks omitted).

In particular, the Supreme Court repeatedly has made clear that in situations involving "special needs" that go beyond a routine interest in law enforcement, the warrant requirement is inapplicable. *See Vernonia,* 515 U.S. at 653 (there are circumstances "'when special needs, beyond the normal need for law enforcement, make the warrant and probable-cause requirement impracticable'") (quoting *Griffin* v. *Wisconsin,* 483 U.S. 868, 873 (1987)); *see also McArthur,* 531 U.S. at 330 ("When faced with special law enforcement needs, diminished expectations of privacy, minimal intrusions, or the like, the Court has found that certain general, or individual, circumstances may render a warrantless search or seizure reasonable."). It is difficult to encapsulate in a nutshell all of the different circumstances the Court has found to qualify as "special needs" justifying warrantless searches. But one application in which the Court has found the warrant requirement inapplicable is in circumstances in which the Government faces

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an increased need to be able to react swiftly and flexibly, or when there are at stake interests in public safety beyond the interests in ordinary law enforcement. One important factor in establishing "special needs" is whether the Government is responding to an emergency that goes beyond the need for general crime control. *See In re Sealed Case*, 310 F.3d at 745-46.

Thus, the Court has permitted warrantless searches of property of students in public schools, *see New Jersey v. T.L.O.*, 469 U.S. 325, 340 (1985) (noting that warrant requirement would "unduly interfere with the maintenance of the swift and informal disciplinary procedures needed in the schools"), to screen athletes and students involved in extracurricular activities at public schools for drug use, *see Vernonia*, 515 U.S. at 654-55; *Earls*, 536 U.S. at 829-38, to conduct drug testing of railroad personnel involved in train accidents, *see Skinner v. Railway Labor Executives' Ass'n,* 489 U.S. 602, 634 (1989), and to search probationers' homes, *see Griffin*, 483 U.S. 868. Many special needs doctrine and related cases have upheld *suspicionless* searches or seizures. *See, e.g., Illinois v. Lidster*, 540 U.S. 419, 427 (2004) (implicitly relying on special needs doctrine to uphold use of automobile checkpoint to obtain information about recent hit-and-run accident); *Earls*, 536 U.S. at 829-38 (suspicionless drug testing of public school students involved in extracurricular activities); *Michigan Dep't of State Police v. Sitz*, 496 U.S. 444, 449-55 (1990) (road block to check all motorists for signs of drunken driving); *United States* v. *Martinez-Fuerte*, 428 U.S. 543 (1976) (road block near the border to check vehicles for illegal immigrants); *cf. In re Sealed Case*, 310 F.3d at 745-46 (noting that suspicionless searches and seizures in one sense are a greater encroachment on privacy than electronic surveillance under FISA because they are not based on any particular suspicion, but "[o]n the other hand, wiretapping is a good deal more intrusive than an automobile stop accompanied by questioning"). To fall within the "special needs" exception to the warrant requirement, the purpose of the search must be distinguishable from ordinary general crime control. *See, e.g.*, *Ferguson v. Charleston*, 532 U.S. 67 (2001); *City of Indianapolis v. Edmond,* 531 U.S. 32, 41 (2000).

Foreign intelligence collection, especially in the midst of an armed conflict in which the adversary has already launched catastrophic attacks within the United States, fits squarely within the area of "special needs, beyond the normal need for law enforcement" where the Fourth Amendment's touchstone of reasonableness can be satisfied without resort to a warrant. *Vernonia*, 515 U.S. at 653. The Executive Branch has long maintained that collecting foreign intelligence is far removed from the ordinary criminal law enforcement action to which the warrant requirement is particularly suited. *See, e.g.*, Amending the Foreign Intelligence Surveillance Act: Hearings Before the House Permanent Select Comm. on Intelligence,103d Cong. 2d Sess. 62, 63 (1994) (statement of Deputy Attorney General Jamie S. Gorelick) ("[I]t is important to understand that the rules and methodology for criminal searches are inconsistent with the collection of foreign intelligence and would unduly frustrate the President in carrying out his foreign intelligence responsibilities. . . . [W]e believe that the warrant clause of the Fourth Amendment is inapplicable to such [foreign intelligence] searches."); *see also In re Sealed Case*, 310 F.3d 745. The object of foreign intelligence collection is securing information necessary to protect the national security from the hostile designs of foreign powers like al Qaeda and affiliated terrorist organizations, including the possibility of another foreign attack on the United States. In foreign intelligence investigations, moreover, the targets of surveillance

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often are agents of foreign powers, including international terrorist groups, who may be specially trained in concealing their activities and whose activities may be particularly difficult to detect. The Executive requires a greater degree of flexibility in this field to respond with speed and absolute secrecy to the ever-changing array of foreign threats faced by the Nation.[22]

In particular, the NSA activities are undertaken to prevent further devastating attacks on our Nation, and they serve the highest government purpose through means other than traditional law enforcement.[23] The NSA activities are designed to enable the Government to act quickly and flexibly (and with secrecy) to find agents of al Qaeda and its affiliates—an international terrorist group which has already demonstrated a capability to infiltrate American communities without being detected—in time to disrupt future terrorist attacks against the United States. As explained by the Foreign Intelligence Surveillance Court of Review, the nature of the "emergency" posed by al Qaeda "takes the matter out of the realm of ordinary crime control." *In re Sealed Case*, 310 F.3d at 746. Thus, under the "special needs" doctrine, no warrant is required by the Fourth Amendment for the NSA activities.

B. THE NSA ACTIVITIES ARE REASONABLE

As the Supreme Court has emphasized repeatedly, "[t]he touchstone of the Fourth Amendment is reasonableness, and the reasonableness of a search is determined by assessing, on the one hand, the degree to which it intrudes upon an individual's privacy and, on the other, the degree to which it is needed for the promotion of legitimate governmental interests." *Knights*, 534 U.S. at 118-19 (quotation marks omitted); *see also Earls,* 536 U.S. at 829. The Supreme Court has found a search reasonable when, under the totality of the circumstances, the importance of the governmental interests outweighs the nature and quality of the intrusion on the individual's Fourth Amendment interests. *See Knights*, 534 U.S. at 118-22. Under the standard

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[22] Even in the domestic context, the Supreme Court has recognized that there may be significant distinctions between wiretapping for ordinary law enforcement purposes and domestic national security surveillance. *See United States v. United States District Court,* 407 U.S. 297, 322 (1972) ("*Keith*") (explaining that "the focus of domestic [security] surveillance may be less precise than that directed against more conventional types of crime" because often "the emphasis of domestic intelligence gathering is on the prevention of unlawful activity or the enhancement of the Government's preparedness for some possible future crisis or emergency"); *see also United States v. Duggan*, 743 F.2d 59, 72 (2d Cir. 1984) (reading *Keith* to recognize that "the governmental interests presented in national security investigations differ substantially from those presented in traditional criminal investigations"). Although the Court in *Keith* held that the Fourth Amendment's warrant requirement does apply to investigations of purely *domestic* threats to national security—such as domestic terrorism, it suggested that Congress consider establishing a lower standard for such warrants than that set forth in Title III. *See id.* at 322-23 (advising that "different standards" from those applied to traditional law enforcement "may be compatible with the Fourth Amendment if they are reasonable both in relation to the legitimate need of the Government for intelligence information and the protected rights of our citizens"). *Keith*'s emphasis on the need for flexibility applies with even greater force to surveillance directed at *foreign* threats to national security. *See* S. Rep. No. 95-701, at 16 ("Far more than in domestic security matters, foreign counterintelligence investigations are 'long range' and involve 'the interrelation of various sources and types of information.'") (quoting *Keith*, 407 U.S. at 322). And flexibility is particularly essential here, where the purpose of the NSA activities is to prevent another armed attack against the United States.

[23] This is not to say that traditional law enforcement has no role in protecting the Nation from attack. The NSA activities, however, are not directed at bringing criminals to justice but at detecting and preventing plots by a declared enemy of the United States to attack it again.

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balancing of interests analysis used for gauging reasonableness, the NSA activities are consistent with the Fourth Amendment.

With respect to the individual privacy interests at stake, there can be no doubt that, as a general matter, interception of telephone communications implicates a significant privacy interest of the individual whose conversation is intercepted. The Supreme Court has made clear at least since *Katz v. United States,* 389 U.S. 347 (1967), that individuals have a substantial and constitutionally protected reasonable expectation of privacy that their telephone conversations will not be subject to governmental eavesdropping. Although the individual privacy interests at stake may be substantial, it is well recognized that a variety of governmental interests—including routine law enforcement and foreign-intelligence gathering—can overcome those interests.

On the other side of the scale here, the Government's interest in engaging in the NSA activities is the most compelling interest possible—securing the Nation from foreign attack in the midst of an armed conflict. One attack already has taken thousands of lives and placed the Nation in state of armed conflict. Defending the Nation from attack is perhaps the most important function of the federal Government—and one of the few express obligations of the federal Government enshrined in the Constitution. *See* U.S. Const. art. IV, § 4 ("The United States shall guarantee to every State in this Union a Republican Form of Government, *and shall protect each of them against Invasion . . . .*") (emphasis added); *The Prize Cases*, 67 U.S. (2 Black) 635, 668 (1863) ("If war be made by invasion of a foreign nation, the President is not only authorized but bound to resist force by force."). As the Supreme Court has declared, "[i]t is 'obvious and unarguable' that no governmental interest is more compelling than the security of the Nation." *Haig v. Agee,* 453 U.S. 280, 307 (1981).

The Government's overwhelming interest in detecting and thwarting further al Qaeda attacks is easily sufficient to make reasonable the intrusion into privacy involved in intercepting one-end foreign communications where there is "a reasonable basis to conclude that one party to the communication is a member of al Qaeda, affiliated with al Qaeda, or a member of an organization affiliated with al Qaeda." Press Briefing by Attorney General Alberto Gonzales and General Michael Hayden, Principal Deputy Director for National Intelligence, *available at* http://www.whitehouse.gov/news/releases/2005/12/20051219-1.html (Dec. 19, 2005) (statement of Attorney General Gonzales); *cf. Edmond*, 531 U.S. at 44 (noting that "the Fourth Amendment would almost certainly permit an appropriately tailored roadblock set up to thwart an imminent terrorist attack" because "[t]he exigencies created by th[at] scenario[] are far removed" from ordinary law enforcement). The United States has already suffered one attack that killed thousands, disrupted the Nation's financial center for days, and successfully struck at the command and control center for the Nation's military. And the President has stated that the NSA activities are "critical" to our national security. Press Conference of President Bush (Dec. 19, 2005). To this day, finding al Qaeda sleeper agents in the United States remains one of the preeminent concerns of the war on terrorism. As the President has explained, "[t]he terrorists want to strike America again, and they hope to inflict even more damage than they did on September 11th." *Id.*

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Of course, because the magnitude of the Government's interest here depends in part upon the threat posed by al Qaeda, it might be possible for the weight that interest carries in the balance to change over time. It is thus significant for the reasonableness of the NSA activities that the President has established a system under which he authorizes the surveillance only for a limited period, typically for 45 days. This process of reauthorization ensures a periodic review to evaluate whether the threat from al Qaeda remains sufficiently strong that the Government's interest in protecting the Nation and its citizens from foreign attack continues to outweigh the individual privacy interests at stake.

Finally, as part of the balancing of interests to evaluate Fourth Amendment reasonableness, it is significant that the NSA activities are limited to intercepting international communications where there is a reasonable basis to conclude that one party to the communication is a member or agent of al Qaeda or an affiliated terrorist organization. This factor is relevant because the Supreme Court has indicated that in evaluating reasonableness, one should consider the "efficacy of [the] means for addressing the problem." *Vernonia*, 515 U.S. at 663; *see also Earls,* 536 U.S. at 834 ("Finally, this Court must consider the nature and immediacy of the government's concerns and the efficacy of the Policy in meeting them."). That consideration does not mean that reasonableness requires the "least intrusive" or most "narrowly tailored" means for obtaining information. To the contrary, the Supreme Court has repeatedly rejected such suggestions. *See, e.g., Earls,* 536 U.S. at 837 ("[T]his Court has repeatedly stated that reasonableness under the Fourth Amendment does not require employing the least intrusive means, because the logic of such elaborate less-restrictive-alternative arguments could raise insuperable barriers to the exercise of virtually all search-and-seizure powers.") (internal quotation marks omitted); *Vernonia,* 515 U.S. at 663 ("We have repeatedly refused to declare that only the 'least intrusive' search practicable can be reasonable under the Fourth Amendment."). Nevertheless, the Court has indicated that some consideration of the efficacy of the search being implemented—that is, some measure of fit between the search and the desired objective—is relevant to the reasonableness analysis. The NSA activities are targeted to intercept international communications of persons reasonably believed to be members or agents of al Qaeda or an affiliated terrorist organization, a limitation which further strongly supports the reasonableness of the searches.

In sum, the NSA activities are consistent with the Fourth Amendment because the warrant requirement does not apply in these circumstances, which involve both "special needs" beyond the need for ordinary law enforcement and the inherent authority of the President to conduct warrantless electronic surveillance to obtain foreign intelligence to protect our Nation from foreign armed attack. The touchstone of the Fourth Amendment is reasonableness, and the NSA activities are certainly reasonable, particularly taking into account the nature of the threat the Nation faces.

CONCLUSION

For the foregoing reasons, the President—in light of the broad authority to use military force in response to the attacks of September 11th and to prevent further catastrophic attack expressly conferred on the President by the Constitution and confirmed and supplemented by

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Congress in the AUMF—has legal authority to authorize the NSA to conduct the signals intelligence activities he has described. Those activities are authorized by the Constitution and by statute, and they violate neither FISA nor the Fourth Amendment.

DOJ_NMG_0011025

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, January 24, 2006 2:43 PM
To: Eisenberg, John
Subject: Re: A favor

Many thanks!

-----Original Message-----
From: Eisenberg, John <John.Eisenberg@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
Sent: Tue Jan 24 14:20:02 2006
Subject: RE: A favor

I got this version on Findlaw.

Here's the link too.

http://news.findlaw.com/hdocs/docs/nsa/dojnsa11906wp.pdf

-----Original Message-----
From: Gorsuch, Neil M
Sent: Tuesday, January 24, 2006 2:15 PM
To: Eisenberg, John
Subject: A favor

I'm out of the office but was hoping to forward a copy of the public olc memo on the nsa program. Might I impose on you to forward a link or pdf version of it? Very many thanks and apologies for the imposition.

From: USDOJ- Office of Public Affairs
Sent: Tuesday, January 24, 2006 4:05 PM
To: USDOJ- Office of Public Affairs
Subject: FORMER CAMPAIGN MANAGER PLEADS GUILTY TO DEFRAUDING CONGRESSIONAL CAMPAIGN

Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, JANUARY 24, 2006
WWW.USDOJ.GOV

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TDD (202) 514-1888

FORMER CAMPAIGN MANAGER PLEADS GUILTY TO DEFRAUDING CONGRESSIONAL CAMPAIGN

WASHINGTON, DC – Jack Thomas, former campaign manager for the Robert Lamutt for Congress Committee (RLCC), pleaded guilty to one count of mail fraud before U.S. District Judge Ricardo M. Urbina in the District of Columbia today, announced Alice Fisher, Assistant Attorney General for the Criminal Division of the Department of Justice.

The RLCC was a federally-registered fundraising campaign committee, which raised money to support the candidacy of Georgia State Senator Robert Lamutt for the U.S. House of Representatives in the 6th District of Georgia during the 2004 election. In his capacity as campaign manager, Thomas supervised the day-to-day operations of the RLCC, as well as its employees. Furthermore, Thomas was responsible for the RLCC's finances, including collecting and recording political contributions; depositing the funds in the appropriate bank accounts; and accounting for funds received. Additionally, Thomas was responsible for tracking all disbursements from the RLCC and reporting this information to the Federal Election Commission (FEC), in accordance with its rules and regulations.

In his guilty plea, Thomas admitted that he wrote unauthorized campaign checks to himself, his wife, his brother and others, between September 2003 and February 2004. Thomas admitted to signing all of the unauthorized checks in his capacity as campaign manager. Also, in order to ensure that the bank would honor these checks, he forged the candidate's signature on most of them. Furthermore, Thomas admitted to secretly obtaining a bank debit card issued in the committee's name that withdrew funds from the RLCC bank account when he charged personal expenses on the card.

In total, Thomas admittedly stole $40,000 from the committee. These check payments and credit charges were not authorized by the candidate, members of the campaign, or the RLCC. They were concealed and not reported to the FEC on the pertinent forms, which Thomas prepared and mailed from the RLCC office in Atlanta to the FEC in the District of Columbia.

The maximum penalty for mail fraud is 20 years in prison and a fine of $250,000. The defendant's sentencing is set for Aug. 8, 2006.

DOJ_NMG_0011027

This case is being prosecuted by Trial Attorney James A. Crowell IV of the Public Integrity Section of the Criminal Division, headed by Section Chief Noel Hillman, and was investigated by the Federal Bureau of Investigation, Atlanta Division.

# # #

06-036

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Williams, Jan

From: Williams, Jan

Sent: Tuesday, January 24, 2006 5:56 PM

To: Nelson, Carrie; /o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford

Subject: SETTING THE RECORD STRAIGHT: Charges Of "Domestic Spying"

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Setting The Record Straight:

Charges Of "Domestic Spying"

Setting The Record Straight On The Scope Of The NSA Terrorist Surveillance Program.

Senator Harry Reid (D-NV) Calls The NSA Program A "Domestic Spying Program." "That is why Americans of all backgrounds and political parties are concerned about the NSA's domestic spying program." (Sen.
Harry Reid, Press Release, 1/23/06)

But The President's Authorization Only Covers International Communications In Which One Party Is Suspected Of Links To Al Qaeda Or Related Terrorist Organizations.

* Deputy Director Of National Intelligence General Michael Hayden:
"One End Of Any Call Targeted Under This Program Is Always Outside The United States." GEN. HAYDEN: "I don't think domestic spying makes it.
One end of any call targeted under this program is always outside the United States. I've flown a lot in this country, and I've taken literally hundreds of domestic flights. I have never boarded a domestic flight in the United States of America and landed in Waziristan. In the same way - and I'm speaking illustratively here now, this is just an example - if NSA had intercepted al Qaeda Ops Chief Khalid Shaikh Mohammed in Karachi talking to Mohamed Atta in Laurel, Maryland, in say, July of 2001 - if NSA had done that, and the results had been made public, I'm convinced that the crawler on all the 7 by 24 news networks would not have been 'NSA domestic spying.'" (General Michael Hayden, Remarks, Washington, DC, 1/23/06)

DEFINITION: Domestic Vs. International.

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International Calls are calls either to or from the United States.

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International Flights are flights to or from the United States.

* Domestic Mail consists of letters and packages sent within the United States. International Mail consists of letters and packages sent to or from the United States.

* Domestic Commerce involves business within the United States.
International Commerce involves business between the United States and other countries.

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Setting The Record Straight:

Charges Of "Domestic Spying"

Setting The Record Straight On The Scope Of The NSA Terrorist Surveillance Program.

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- **Domestic Commerce** involves business within the United States. **International Commerce** involves business between the United States and other countries.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, JANUARY 25, 2006 7:45 AM EST

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TERRORISM NEWS:

Gonzales Lays Out Legal Justification For Domestic Surveillance Program. In a speech at Georgetown University Law School on Tuesday, Attorney General Alberto Gonzales offered a legal defense of the Administration's anti-terror efforts, specifically the National Security Agency's domestic surveillance program.

The Washington Post (1/25, A7, Eggen) reports that Gonzales argued "that the requirements of a secret intelligence court are too cumbersome for rapid pursuit of suspected terrorists, repeating the administration's position that warrantless wiretapping authorized by President Bush does not violate the Constitution or federal law." The Post continues, "Gonzales's speech at Georgetown University's law school was part of the Bush administration's effort to defend a program that allows the National Security Agency to intercept calls to and from the United States without warrants. He used the appearance to echo statements made Monday by Bush, who referred to the effort as a 'terrorist surveillance program' and characterized it as a crucial tool against violent militants. … 'It is an early-warning system with only one purpose: to detect and prevent the next attack on the United States,' Gonzales said. 'It is imperative for national security reasons that we can detect reliably, immediately and without delay whenever communications associated with al Qaeda enter or leave the United States.'" The Post notes, "Gonzales's appearance, which was part of a three-day White House campaign to defend the NSA program, was punctuated by a silent protest from more than a dozen students who turned their backs to Gonzales, who continued to speak without acknowledging them and did not take questions afterward."

The New York Times (1/25, Lichtblau) reports that Gonzales "invoked the lessons of George Washington and Franklin D. Roosevelt in justifying President Bush's broad power to wage war against terrorism. … Mr. Gonzales, an architect of the surveillance program, said that the operation was 'both necessary and lawful' and that he believed any president would have taken the steps Mr. Bush did. … 'I think it would be irresponsible to do otherwise,' he said in a speech at Georgetown University Law Center." The Times notes, "Mr. Gonzales's address, along with seven television appearances Monday night and Tuesday morning, was part of an orchestrated effort by the Bush administration to recast the debate on the National Security Agency program as one of national security rather than civil liberties. Gen. Michael V. Hayden, the nation's second-ranking intelligence official, made an unusual public speech about the program on Monday, while Mr. Bush discussed it on a trip to Kansas. … The president is also scheduled to visit the security agency in Fort Meade, Md., on Wednesday to reassure employees whose normally secret activities have come under scrutiny."

Reuters (1/25, Charles) reports, "Acknowledging that not everyone agreed with the National Security Agency spying program, Gonzales denied that Bush was violating laws by authorizing the NSA to monitor international phone calls and e-mails by Americans suspected of links to terrorism without

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the approval of a special, secret court. … 'From the outset, the Justice Department thoroughly examined this program against al Qaeda and concluded that the president is acting within his power in authorizing it,' said Gonzales, who did not stop speaking while about 20 protesters stood with their backs to him."

The AP (1/25, Yost) reports, "Before his appearance at Georgetown, Gonzales said in a television interview that some congressional leaders told the administration in 2004 that it would not be possible to write legislation regarding the warrantless surveillance effort without compromising its effectiveness. … 'We did go to certain members of the congressional leadership a year and a half ago,' Gonzales said on CBS's 'The Early Show.'" The A notes, "During his remarks in a packed law school lecture room at Georgetown, the attorney general also said the legal standard the administration uses in deciding whether to carry out surveillance on people with suspected al-Qaida ties is equivalent to the standard required for complying with the Fourth Amendment, which bans unreasonable searches and seizures. … The reasonable basis standard, said Gonzales, 'is essentially the same as the traditional Fourth Amendment probable cause standard.'"

The Washington Times (1/25, Curl) reports, "Mr. Gonzales is expected to be among the first witnesses to testify when the Senate opens hearings on the matter Feb. 6. … 'Presidents have uniformly relied on their inherent power to gather foreign intelligence for reasons both diplomatic and military, and the federal courts have consistently upheld this long-standing practice,' he said." The Times adds, "Mr. Gonzales discussed the 1978 Foreign Intelligence Surveillance Act, which created a special court to authorize secret surveillance or searches of foreigners and U.S. citizens suspected of terrorism or espionage. The court is 'the exclusive means by which electronic surveillance ... and the interception of wire and oral communications may be conducted,' says one section of the law. … Mr. Gonzales, however, said the court could not have been used in this instance because the law 'requires the attorney general to determine in advance that a FISA application for that particular intercept will be fully supported and will be approved by the court before an emergency authorization may be granted. … That review process can take precious time.'"

The AP (1/24, Yost) reports, "Georgetown University law professor David Cole said the reasonable basis standard is not equivalent to probable cause. … Moreover, said Cole, Gonzales' comments seem to conflict with those on Monday by Air Force Gen. Michael Hayden, principal deputy director of national intelligence. … Hayden said that when weighing whether to proceed with surveillance under the president's program, 'the trigger is quicker and a bit softer than it is' with FISA." The AP notes, "Justice Department spokeswoman Tasia Scolinos said there is no conflict between the statements of Gonzales and Hayden and that 'it is really just a matter of speed; as the AG said, the standards are essentially the same.'"

Bloomberg (1/25, Schmidt) reports, "Last week, the Justice Department sent members of Congress a 42-page analysis saying Bush has the legal authority to conduct the wiretapping under his constitutional role as commander-in-chief and under the resolution passed by Congress authorizing military force after the Sept. 11 attacks. … Today, Gonzales said that press reports on the still- classified program are 'in almost every case, in one way or another, misinformed, confusing or wrong.' He said the media has caused concern about the breadth of the spying. … The program, Gonzales said, is 'narrowly focused' and is only used to monitor communications of members or suspected members of al-Qaeda and other terrorist groups."

Voice of America (1/24, Malone) also reports on Gonzales' speech.

CNN.com (1/25) features a discussion between CNN senior legal analyst Jeffrey Toobin and national security correspondent David Ensor of the legal and political aspects of the surveillance program.

Gonzales' speech was briefly noted by ABC and CBS, with both describing it as a domestic spying program and noting students' protest during his speech. ABC's World News Tonight (1/24, story 3, 0:32, Vargas) reported, "The White House continued its vigorous defense of its domestic spying program today. At Georgetown University, Attorney General Alberto Gonzales said President Bush had the authority, of both Congress and the constitution, and that it would have been irresponsible not to order the spying. Two dozen law students turned the their backs on the Attorney General and held a banner quoting Benjamin Franklin. 'Those who would sacrifice liberty for security get neither.'"

The CBS Evening News (1/24, story 2, :45, Schieffer) reported, "Protesters interrupted Attorney General Alberto Gonzales today as he was defending government eavesdropping without a warrant on US citizens. Speaking at Georgetown Law School, Gonzalez called the domestic

spying, quote, 'imperative for national security', but about a dozen students stood, turned their backs on him and unfurled a protest banner."

CNN's The Situation Room (1/24, Blitzer) reported, "The Bush administration has been bringing out its big guns, trying to make the case for the domestic surveillance program being carried out without warrants by the National Security Agency. Today it was the turn of the attorney general, Alberto Gonzales." CN (Arena) added, "The Attorney General defended the legal rationale for the program, basically reiterating points made in a Justice Department white paper last week. … Gonzales says there is precedent, dating back to American Revolution for conducting surveillance without warrants during wartime. He reiterated the administration's main argument that as commander in chief, President Bush can fight the war on terror as he sees fit. An argument that is not sitting well with Democrats." Gonzales "argues Congress gave the program the green light by passing a resolution just after the September 11 attacks authorizing military force against terrorists. The administration says it allows the president to bypass the secret court housed at the Justice Department that oversees domestic surveillance."

Fox News' Special Report (1/24, Angle) reported, "Gonzales argued that the program to intercept terrorist communications is necessary and lawful. … The attorney general pointed to the recent warnings from Osama bin Laden that plans are under way for the next terrorist attack on the US, as he noted that every wartime president from Franklin Roosevelt to Wilson to George Washington has intercepted enemy communications."

ACLU Seeks Information On Alleged Ohio Surveilance. The AP (1/25, Kropko) reports, "The American Civil Liberties Union of Ohio requested information Tuesday from the government about whether it spied on two anti-war groups and an attorney for a man suspected of terrorism connections." The AP continues, "ACLU officials said at news conference that members of the anti-war groups want to know whether two meetings were attended by government agents. One meeting was last year in Akron by the Northeast Ohio American Friends Service Committee, a Quaker organization, and the another was in 2004 in Cleveland by the Northeast Ohio Anti-War Coalition." The AP adds, "The ACLU filed Freedom of Information Act requests with the Department of Defense, Justice Department, the FBI and police seeking records that document any collection of information about the groups. … Gary Daniels, the ACLU's litigation coordinator, said the ACLU became involved because the groups were included on a Defense Department classified database of information about suspicious people and activity inside the United States as reported by NBC News." The AP notes, "The ACLU also requested information about several people, including Akron lawyer Farhad Sethna, based on his association with the American Friends Service Committee. Sethna said he hopes the request will shed light on whether the government spied on his conversations with a client, Ashraf Al-Jailani, who recently was sent back to his native Yemen after being jailed three years on suspicions that he associated with suspected terrorists. … Justice Department spokesman Brian Roehrkasse declined comment."

Speed Seen As Reason To Bypass FISA Court. ABC News (1/25, RYAN) reports, "Domestic wiretaps have traditionally been approved by the secretive Foreign Intelligence Surveillance Court located on the sixth floor of the Justice Department. Known as the FISA Court, it has handled the most sensitive domestic wiretaps in national security investigations since it was set up under the 1978 Foreign Intelligence Surveillance Act. … In the wake of the Sept. 11 attacks, President Bush, White House attorneys and lawyers from the Justice Department and National Security Agency authorized a program that allowed wiretaps to be approved without the FISA Court knowing. The FISA Court had approved domestic wiretaps with warrants authorized by a federal judge after reviewing information presented by the FBI and the Justice Department's Office of Intelligence Policy and Review." ABC News adds, "Internal Justice Department audits by the inspector general show that FISA warrants take anywhere from hours to weeks to get approved. After the 9/11 attacks, senior intelligence officials pushed for greater speed to intercept terrorist communications. … Bush approved the controversial eavesdropping program, referred to in recent days as the terrorist surveillance program, months after the 9/11 attacks and allowed the National Security Agency to perform warrantless electronic surveillance of suspected al Qaeda subjects in the United States. One reason the program was so important, government lawyers claimed, was the urgent need to intercept al Qaeda communications in the interest of preventing further terrorist attacks. … This intercepted information could come from cell phones or e-mails used by suspected terrorists. Intelligence officials know what channels to listen in on from cell phones and laptop computers that had been recovered from al Qaeda

detainees, such as 9/11 mastermind Khalid Shaikh Mohammed."

CRS Report On NSA Eavesdropping Was Written By Democrat. The Washington Times (1/25, Pierce) reports in its "Inside Politics" column, "Hill Democrats and the so-called mainstream media have made much of a recent Congressional Research Service report that asserted President Bush had violated the law by allowing the National Security Agency to eavesdrop on phone calls to the United States from suspected terrorists overseas. In fact, Democrats such as New York Sens. Charles E. Schumer and Hillary Rodham Clinton, as well as most media outlets, have practically grafted the word 'nonpartisan' to the front end of that agency's name. … What you probably haven't heard is that the author of the report, Alfred Cumming, is a registered Democrat who served as staff director for the Senate's Select Committee on Intelligence under since-retired Sen. Bob Graham, Florida Democrat. And you probably haven't heard that in December the 'nonpartisan' Mr. Cumming also authored a 15-page memo for the Congressional Research Service that shored up Democrats' claims that President Bush lied about pre-Iraq war intelligence. … The 'nonpartisan' Mr. Cumming contributed $1,250 to Sen. John Kerry's 2004 presidential campaign, according to the Web site www.tray.com."

NSA Said To Have Long History Of Controversies. The Christian Science Monitor (1/25, Grier) reports, "If nothing else, the uproar is adding another chapter to the history of an arm of the government that has been derided and lauded by turns ever since the US government first publicly acknowledged its existence. In the 1970s, for instance, the NSA drew intense criticism for its role in spying on critics of the Vietnam War and other political opponents of the Nixon administration."

Bush Speech At NSA Today Portrayed As Largely Political. Knight Ridder (1/25, Thomma) reports President Bush will speak today at the National Security Agency "to defend his order to the super-secret spy center to conduct warrantless eavesdropping on Americans. But the speech will be much more than a defense. It also will be the photo-op spearhead of a campaign to turn the controversy into a plus for Republicans by transforming the 2006 congressional elections into a referendum on the war on terrorism. Eager to reclaim the turf where he's strongest politically, Bush and his allies are hammering away at Democrats as weak on security." Knight Ridder notes, "Polls show that the American people are split evenly over warrantless eavesdropping, hardly the solid outrage that many Democrats had hoped for. And Americans still give their highest marks to the president for his work against terrorism."

Analyst Dick Polman writes in the Philadelphia Inquirer (1/25), "In January 2002, presidential strategist Karl Rove said the GOP would use the war on terror against Democrats in that year's congressional elections. … And in January 2006, Rove says the GOP will use the war on terror against Democrats in this year's congressional elections. … Painting the Democrats as national security wimps worked well in 2002. … The question this year is whether the old Rove playbook will pack the same punch. The Bush administration hopes so. Given the toxic political climate, Republicans can ill afford to lose either chamber in November." Polman adds, "Clearly, the White House believes that the flap over warrantless eavesdropping is giving Bush fresh ammunition to invoke the security issue." Many Americans "appear skeptical; in the latest Gallup poll, 51 percent of the adults surveyed say Bush was wrong to tap without warrants, and 58 percent want a special prosecutor to probe what Bush has done. And Republicans aren't fully united behind Bush's program, either; at least nine GOP senators; five top conservative activists; and Bob Barr, the Republican former congressman who launched the Clinton impeachment probe, all question whether Bush has skirted or flouted federal law. Despite all this public restiveness, most Democrats don't seem eager to confront Bush and Rove directly on this issue."

Democrats Worried Civil Liberties Defense Will Be Seen As Evidence Of Weakness. The Los Angeles Times' Ronald Brownstein (1/25) writes, "Leading Democrats are challenging President Bush's record on civil liberties across a wide front, inspiring a Republican counterattack that even some Democratic strategists worry could threaten the party in this year's elections. … Bush and his allies have fired back by escalating charges that Democrats would weaken America's security by imposing unreasonable restraints on the president. These exchanges establish contrasts familiar from debates over law enforcement and national security throughout the 1970s and '80s, with most Republicans arguing for tough measures and many Democrats focusing on the defense of constitutional protections. That emerging alignment worries some Democratic strategists, who believe it may allow Bush to portray Republicans as stronger than

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Democrats in fighting terrorism, as he did in the 2002 and 2004 campaigns."

Administration Said To Be Bracing For Impeachment Hearings. Insight Magazine (1/23-29) reports, "The Bush administration is bracing for impeachment hearings in Congress. 'A coalition in Congress is being formed to support impeachment,' an administration source said. Sources said a prelude to the impeachment process could begin with hearings by the Senate Judiciary Committee in February. They said the hearings would focus on the secret electronic surveillance program and whether Mr. Bush violated the 1978 Foreign Intelligence Surveillance Act. Administration sources said the charges are expected to include false reports to Congress as well as Mr. Bush's authorization of the National Security Agency to engage in electronic surveillance inside the United States without a court warrant. This included the monitoring of overseas telephone calls and e-mail traffic to and from people living in the United States without requisite permission from a secret court. Sources said the probe to determine whether the president violated the law will include Republicans, but that they may not be aware they could be helping to lay the groundwork for a Democratic impeachment campaign against Mr. Bush."

Moussaoui Defense To Seek Testimony Supporting Mental Illness Claim. The AP (1/25, Sniffen) reports, "Lawyers for admitted terrorist conspirator Zacarias Moussaoui want to call a doctor who will testify he has a major mental disorder, likely schizophrenia, in their bid to save him from the death penalty, according to court filings. … Prosecutors already have results of a court-ordered psychiatric exam by a government-appointed doctor in 2002 that ruled out mental illness, finding only personality disorder, a conclusion that is extremely helpful to the prosecution. … Even though Moussaoui has not let defense doctors examine his mental state, defense lawyers told the court they would call Dr. Nancy C. Andreasen to testify at proceedings that begin next month to determine if he should receive the death penalty or life in prison." Additionally, "a pilot and former FBI agent, Erik Rigler, will be called to testify about aviation security and about sealed factual reports including one on two Sept. 11 hijackers, Khalid al-Mihdahar and Nawaf al-Hazmi, whose presence in the United States was known before the attacks, the court filing said."

DOD, CIA Refer Detainee-Abuse Cases To DOJ. Reuters (1/24, Morgan) reports, "Twenty cases of detainee abuse allegations against CIA and Defense Department employees have been referred to the Justice Department for possible prosecution since the beginning of the war in Afghanistan, a senior U.S. official said in a letter released on Tuesday." Reuters continues, "Assistant Attorney General William Moschella said in a January 17 letter to Sen. Richard Durbin, an Illinois Democrat, that the cases span both the Afghanistan and Iraq wars and contain not only allegations of physical abuse but also possible violations of federal law and U.S. treaties." Reuters adds, "Civil liberties advocates said the cases involve civilian interrogators and showed a double-standard in light of recent convictions of lower-ranking soldiers accused of abuse. … Only one CIA case has resulted in a criminal indictment. In that case, former CIA contractor David Passaro has been charged in North Carolina in a federal case involving the 2003 death of an Afghan detainee." Reuters notes, "Moschella said the other 19 cases referred to the Justice Department have been reviewed by a federal prosecution task force in Virginia. Two have been closed for lack of sufficient evidence, and all others remain under investigation."

European Inquiry Fails To Substantiate "Secret Prisons" Allegations. ABC's World News Tonight (1/24, story 6, 0:20, Woodruff) reported, "There are new allegations today that the U.S. used secret prisons in Europe for quote 'outsourcing the torture of suspected terrorists.'" In an interim report the head of a European investigation said quote 'There is a great deal of…evidence pointing to the existence of a system of "relocation" or "outsourcing" of torture.'"

The New York Times (1/25, Smith) reports, "An inquiry by the Council of Europe into allegations that the C.I.A. has operated secret detention centers in Eastern Europe has turned up no evidence that such centers ever existed, though the leader of the inquiry," Dick Marty, a Swiss senator and chairman of Council's Committee on Legal Affairs and Human Rights, "said there are enough 'indications' to justify continuing the investigation. The report added, however, that it was 'highly unlikely' that European governments were unaware of the American program of renditions, in which terrorism suspects were either seized in or transferred through Europe to third countries where they may have been tortured. … The findings, delivered to the Council on

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Tuesday, drew scornful reactions from some representatives of the Council's 46 member states, particularly from the British, who called the interim report 'as full of holes as Swiss cheese' and 'clouded in myth and motivated by a desire to kick America.'"

The Washington Post (1/25, A16, Whitlock) reports Marty wrote, "We can say that there is a great deal of coherent, convergent evidence pointing to the existence of a system of 'relocation' or 'outsourcing' of torture. … Europe must clearly and unambiguously declare that it refuses outright to tolerate such doings in its territory, or anywhere else."

The Los Angeles Times (1/25, Rotella) reports, "Although Marty's inquiry has no judicial powers, it has become a conduit and catalyst of increasing backlash against a shadowy U.S. counter-terrorism campaign. Many Europeans see accounts of renditions and torture…as signs of a war run amok. In more than a dozen countries around Europe, law enforcement authorities and legislatures have opened investigations into suspected CIA abductions, detention facilities and flight stopovers."

PATRIOT ACT:

Privacy Concerns Stall Patriot Act Talks. The Washington Post (1/25, A3, Babington) reports, "Efforts to resolve House and Senate differences over a revised USA Patriot Act have reached a stalemate, a key committee chairman said yesterday. That means the current version of the law is likely to remain in place through next month or longer unless Senate Democrats and a handful of Republicans drop their demands for greater privacy safeguards in a proposed renewal, the chairman said. … But another senator said that the Bush administration continues to discuss possible changes, and that a resolution of the impasse is still possible." The Post continues, "The law, passed in the wake of the Sept. 11, 2001, terrorist attacks, makes it easier for federal agents to secretly tap phones, obtain library and bank records, and search the homes of suspected terrorists. Many major provisions were scheduled to expire Dec. 31, but lawmakers extended them to Feb. 3 in hopes of resolving a House-Senate impasse on how to renew the act, with some changes, for four years. … Senate Democrats objected to the revision that emerged from a conference committee last year. When four Republicans joined them, they had a filibuster-proof contingent, preventing the proposal from winning Senate passage." The Post adds, "The chief House negotiator -- Judiciary Committee Chairman F. James Sensenbrenner Jr. (R-Wis.) -- has said his chamber is finished with talks, dimming hopes for a breakthrough. Senate Judiciary Committee Chairman Arlen Specter (R-Pa.) had accepted the House-Senate compromise as a less-than-perfect option. Yesterday, he told colleagues that it probably is the best deal they can get. … 'I can tell you, after talking to Chairman Sensenbrenner, that the House feels that they've gone as far as they can go on compromises on the act,' Specter told colleagues. 'And I think the reality may be that we're looking at either the current act extended [beyond Feb. 3], or the conference report,' which continues to draw opposition from most Senate Democrats and four Republicans."

The Wall Street Journal (1/24) reported in its "Washington Wire" column on its web site, "With the Feb. 3 deadline on renewing Patriot Act provisions looming, Senate Democrats predict a deal can be reached soon. … 'The time is fast approaching when we have to extend it or change it,' said Senate Democratic Leader Harry Reid of Nevada, who hinted that House Judiciary Committee Chairman James Sensenbrenner (R., Wis.) will find it harder to block an extension next week. 'Sensenbrenner doesn't run the House. There will be 434 other people over there,' Reid said. 'I think everyone agrees that with a little bit of time alone, Leahy and [Senate Judiciary Chairman Arlen] Specter can work out the problems.' Majority Leader Bill Frist predicts that 'ultimately if we do an extension for six to eight weeks, I think we'll be able to work it out.' But any Senate deal must also be sold to the House, where Republican turmoil over leadership races could be an obstacle. "

Legal Experts Say Gonzales NSA Memo Raises Questions On Need For Patriot Act. The Boston Globe (1/25, Savage) reports, "A footnote in Attorney General Alberto R. Gonzales's 42-page legal memo defending President Bush's domestic spying program appears to argue that the administration does not need Congress to extend the USA Patriot Act in order to keep using the law's investigative powers against terror suspects." The Globe continues, "The memo states that Congress gave Bush the power to investigate terror suspects using whatever tactics he deemed necessary when it authorized him to use force against Al Qaeda. When Congress later passed the Patriot Act, Bush already had the power to use enhanced surveillance techniques against Al Qaeda, according to the footnote. …

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Thus, legal specialists say, the administration is asserting that Bush would be able to keep using the powers outlined in the Patriot Act for Al Qaeda investigations, regardless of whether Congress reauthorizes the law." The Globe notes, "Justice Department spokesman Brian Roehrkasse disputed (this) interpretation. 'This is an inaccurate and misinformed interpretation of the administration's legal analysis,' Roehrkasse said in an e-mail. … Roehrkasse attached a Justice Department statement arguing that Congress gave Bush broad wartime powers to fight the war on terror as he saw fit when it authorized him to use force against Al Qaeda. The footnote, it said, seeks to explain why those wartime powers include surveillance authority even though Congress separately addressed the subject in the Patriot Act."

Corporate Lawyers Advised On Handling Patriot Act Requests. The Corporate Counselor (1/25, Sklarsky, Pinciak) reports, "There has been much recent press about the USA Patriot Act…and in particular the seemingly unlimited power of the Federal Bureau of Investigation to issue National Security Letters as part of its efforts to combat terrorism (under 18 U.S.C. §2709). … To date, §2709 has received little judicial scrutiny, with reported controversies focusing on NSLs issued to Internet Service Providers and libraries. Now, NSLs are being issued to private corporations, with the FBI demanding the production of records regarding employees. This article provides guidance to in-house and outside counsel who learn that a corporate client has received an NSL pursuant to §2709. §2709 contains a number of traps for the unwary, which is in large part due to its broad language and the absence of judicial scrutiny. Although Congress is currently in the process of considering various amendments to §2709, the statute, as presently enacted, raises a host of issues that counsel should be aware of after receiving and when responding to an NSL."

HOMELAND RESPONSE:

FBI, TSA Agree To $200,000 Settlement With ACLU In No-Fly List Suit. In a widely-distributed story, the AP (1/25, Kravets) reports the FBI and TSA "agreed Tuesday to pay the American Civil Liberties Union $200,000 to settle a lawsuit brought to uncover information about the government's no-fly list, which bars suspected terrorists from airliners. The government will compensate the ACLU for attorneys' fees, settling a lawsuit initiated by two San Francisco peace activists who were detained while checking in for a flight three years ago. In October 2004, documents that the FBI and Transportation Security Administration provided in the lawsuit revealed the government has 'two primary principles' but no 'hard and fast' rules for deciding who gets put on the secret list." The AP notes, "The agencies at first balked at supplying any information to the ACLU. But U.S. District Judge Charles Breyer, after privately reviewing secret government data, said the government was making 'frivolous claims' about why it could not. … The documents disclosed that people are regularly removed from lists if the FBI is convinced they are not a threat."

ACLU To Release Documents On Government Surveillance Of Georgia Activists. The AP (1/25, Dell'Orto) reports the ACLU "said it will release surveillance photos and reports that it says were obtained from government agencies showing the Pentagon, FBI and others spied on Georgia residents involved in legal protests ranging from anti-war vigils to a vegan demonstration. 'It's very much an intimidation process,' said the ACLU's Gerry Weber, who said he would release documents Wednesday that show surveillance by federal, state and local agencies." The AP adds, "While declining to comment on the documents before their release by the ACLU, FBI spokesman Bill Carter said all FBI investigations are conducted in response to information that the people being investigated were involved in or might have information about crimes. 'It's not derogatory by any means' to be named in an FBI file, Carter said."

Ohio ACLU Requests Records On Possible Surveillance Of Anti-War Groups. The AP (1/25) reports the Ohio ACLU "requested information Tuesday from the government about whether it spied on two anti-war groups and an attorney for a man suspected of terrorism connections. … One meeting was last year in Akron by the Northeast Ohio American Friends Service Committee, a Quaker organization, and the other was in 2004 in Cleveland by the Northeast Ohio Anti-War Coalition. The ACLU filed Freedom of Information Act requests with the Department of Defense, Justice Department, the FBI and police seeking records that document any collection of information about the groups." The AP adds that Akron lawyer Farhad Sethna "said he hopes the request will shed light on whether the government spied on his conversations with a client, Ashraf Al-Jailani, who recently was sent back to his native Yemen after being jailed three years on suspicions that he associated with suspected terrorists." FBI spokesman Bill Carter said, "The only way we would be involved in gathering specific or

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credible information was if a group was involved in criminal activity."

California Man Charged Over Hoax Anthrax Letters Mailed To FBI Office. In a widely-distributed story, Knight Ridder (1/25, Webby, Ackerman) reports Paul Charles Steeves of Santa Cruz, Calif., "who allegedly became obsessed with Drew Barrymore almost two decades ago," was charged Monday "in federal court with sending threatening letters laced with fake anthrax because the actress would not respond to his letters." Steeves "allegedly sent white powder-filled letters to an FBI office in Watsonville, Calif., and a probation office and drug rehabilitation center in the East Bay earlier this month. … 'It was taken very seriously,' FBI spokeswoman LaRae Quy said. 'There was no way of knowing it was a hoax. It had to be treated as if it were anthrax or some other poison.'" KRT notes, "Steeves was convicted in 1997 of threatening to kill an FBI agent in Watsonville. His three years of probation were reportedly managed through the two East Bay offices. In addition to the baking soda, the letters also contained photographs of Barrymore and a plane flying into the World Trade Center."

Iowa Man Committed To Mental Institution For Threat To Bomb FBI Office. The AP (1/25) reports Anana Gundo Nariboli of Marshalltown, Iowa, "accused of mailing rat poison and threatening to blow up an FBI office," on Jan. 11 was "ruled innocent by reason of insanity." Nariboli "was charged last year with threatening to use an explosive, mailing threatening communications and obstructing the use of mail." US District Judge Robert Pratt "ordered that Nariboli be committed to a mental institution." The AP notes, "A federal complaint alleges that…Nariboli mailed a letter to Dow Chemical Company in Milwaukee, Wis., threatening to blow up an FBI office. It also says Nariboli mailed an envelope containing a powdered substance to the Iowa State University admissions building."

Alleged NYC Subway Bomb Plotter Contradicts Earlier Admission. The New York Times (1/25, Rashbaum) reports Shahawar Matin Siraj, a Queens man "charged in 2004 with conspiring to blow up the Herald Square subway station testified yesterday in federal court in Brooklyn that while he first claimed the plot was not his idea, he later told federal prosecutors that it was." Siraj "acknowledged making the admissions to federal and local authorities in the hours after his arrest in the plot." Siraj's lawyers "sought the hearing and had their client testify to try to prevent the government from using the admissions at trial, arguing that they were improperly obtained."

Northern Virginia Utilizing Sirens As Terrorism Alerts. The Washington Post (1/25, A1, Rein) reports, "The Washington region's emergency managers have concluded that the high-tech devices put in place since the Sept. 11, 2001, terrorist attacks are not enough to warn masses of people. So they are looking at the system that alerted the World War II and Cold War generations: the piercing wail of a siren. Arlington County and neighboring Alexandria will become the first communities in the country to experiment with sirens as alerts to terrorist attacks."

White House Rejects Proposal For Louisiana Buyout Agency. USA Today (1/25, Dorell) reports, "A top economic adviser to President Bush said Tuesday that the White House has rejected the Louisiana congressional delegation's request for a new agency to buy homes in New Orleans and other areas ruined by Hurricane Katrina." Allan Hubbard, director of the National Economic Council, "said the White House wants any buyouts to be paid for through the traditional congressional spending process. The proposal, by Rep. Richard Baker, R-La., would create an agency called the Louisiana Recovery Corp. that could raise up to $30 billion in government money through the issuance of Treasury bonds." In response, Baker said he's "'not giving into this.' Sen. Mary Landrieu, D-La., said the decision 'is just another indication of the administration's lack of understanding of the magnitude of the task at hand.'"

The Wall Street Journal (1/25, Cooper) reports, "Spokesman Trent Duffy said officials worried that the bill, sponsored by Rep. Richard Baker (R., La.), would add another layer of bureaucracy to a federal-aid effort criticized as lumbering." Baker's "bill drew support from the lending industry as well as local officials, who say redevelopment is more likely if individual lots can be bundled and resold to developers."

Lawmakers Criticize White House Refusal To Provide Katrina Documents. Meanwhile, the New York Times (1/25, Lipton) reports, "The Bush administration, citing the confidentiality of executive branch communications, said Tuesday that it did not plan to turn over certain documents

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about Hurricane Katrina or make senior White House officials available for sworn testimony before two Congressional committees investigating the storm response. … The White House's stance on storm-related documents, along with slow or incomplete responses by other agencies, threatens to undermine efforts to identify what went wrong, Democrats on the committees said Tuesday. 'There has been a near total lack of cooperation that has made it impossible, in my opinion, for us to do the thorough investigation that we have a responsibility to do,' Senator Joseph I. Lieberman, Democrat of Connecticut, said at Tuesday's hearing of the Senate committee investigating the response." Meanwhile, "Sen. Susan M. Collins and Representative Thomas M. Davis III, a Virginia Republican who is leading the House inquiry, said that despite some frustration with the administration's response, they remained confident that the investigations would produce meaningful results."

The AP (1/24, Jordan) reported Collins "said she respects the White House's reluctance to reveal advice to President Bush from his top aides, which is generally covered by executive privilege. Still, she criticized the dearth of information from agency officials about their contacts with the White House."

White House Faces Bipartisan Backlash Over Katrina Warning. CBS and NBC ran stories on the bipartisan criticism of the Administration's response to Hurricane Katrina after newly released documents indicated the White House had been warned by the DHS of how badly New Orleans would be impacted. Both CBS and NBC contrasted the report with President Bush's response a few days later.

The CBS Evening News (1/24, story 3, 2:00, Schieffer) reported, "Both Republicans and Democrats in the Senate accused the White House of stonewalling an investigation into the Administration's handling of Hurricane Katrina. It turns out the Administration had a lot more information about what was about to happen than we knew. The question is: why didn't they act on it?" CBS (Roberts) added a DHS report "was delivered to the White House crisis management center, the situation room, early on the morning Katrina hit. Just three days later President Bush seemed to know nothing of it." And "today not even the Republican Chair of the committee looking into the government's response to Katrina was willing to cut the White House much of a break." Sen. Susan Collins: "If our response to an event that was predicted, known and trackable was so bad, think what it would be to an unexpected terrorist attack." And Sen. Joe Lieberman "says it couldn't be worse if the White House had dropped a ball on a pending attack." Sen. Liebermann: "It's as if two days before 9/11 an intelligence unit of the Department of Homeland Security said, America is about to be attacked by terrorists flying airplanes." Roberts: "Now a public battle has erupted over access to White House communications about Katrina. Lieberman accused the White House of impeding the committee's investigation. Senator Collins has concerns too, so we're bound to hear a lot more about this."

NBC Nightly News (1/24, story 2, 2:00, Williams) reported, "The government's defense has been that no one knew the levees would give way. But is that really the case? Newly-released communications now show the truth may differ." NBC (Reid) added that "despite that warning, this was President Bush just three days later." President Bush: "I don't think anyone could have anticipated the breach of the levees." Reid: "A White House spokesman said today the President was only referring to the fact that the worst-case scenario did not happen. But critics, mostly Democrats" said the report "is more evidence that the Bush Administration's response to Katrina was unacceptably slow and confused." Sen. Joe Liebermann, Connecticut: "Why was the president of the United States left so uninformed?"

The AP (1/24) reported, "Senators lashed out at the Bush administration Tuesday for failing to heed devastating predictions from a hurricane preparedness test that began a year before Hurricane Katrina slammed into the Gulf Coast." Lieberman said Hurricane Pam, a preparedness exercise that began in July 2004, "gave the Federal Emergency Management Agency and the Homeland Security Department 'explicit notice' that a catastrophic storm in New Orleans would require urgent aid from Washington to state and local response officials. 'But despite these warnings from Pam, preparations for Hurricane Katrina were shockingly poor,' said Sen. Lieberman. White House spokesman Scott McClellan said the administration is conducting a lessons-learned review, and 'I'm not going to do a play-by-play analysis.'"

CNN's The Situation Room (1/24, Henry) reported, "The President is getting heat today from members of both parties at the latest Senate hearing on the response on Hurricane Katrina. The main focus today, the results of a hurricane preparedness exercise delivered to the Bush administration the day before Katrina hit. It warned a Category 3 storm would flood New Orleans and kill up to

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60,000 people. Senator Joe Lieberman says in light of that report, the administration was shockingly unprepared to deal with Katrina and the frequent Democratic ally of the president is now accusing the White House of blocking the investigation into what went wrong."

New Orleans Recovery Lagging. NBC Nightly News (1/24, story 8, 2:00, Williams) reported the Upper Ninth Ward section of New Orleans "has the highest percentage of African-American home ownership. It is a sad and desolate place these days." Homeowner named AJ Perkins: "There's so much red tape that they're sending you to and it's a back and forth situation." Williams: "Is there a deep lesson you learned in Katrina?" Perkins: "We are right here in New Orleans in the United States and we had to go through stuff like this. A great deal of people wouldn't have lost their lives if people would have thought of everybody as one. I'm just as important as you are." Williams: "And we should probably say something else here. It's now been almost five months since Katrina blew in and those levees gave way and the things you hear over and over is it's as if it happened yesterday."

Blanco Sets April 22 For New Orleans Elections. The AP (1/24) reported, "Under pressure from a federal judge, Gov. Kathleen Babineaux Blanco set an April 22 date for New Orleans's elections, which were postponed after Hurricane Katrina scattered the city's residents and destroyed hundreds of voting precincts. Elections for mayor, City Council, sheriff and tax assessors will be held on that date. … The elections were originally scheduled for Feb. 4."

Applebaum Says New Orleans Struggles Between Optimism, Hard Logic. Anne Applebaum, in her column for the Washington Post (1/25, A19,) writes that in New Orleans, "deep emotions and hard, tragic logic are at constant war with one another, where the understandable impulse to tell everyone he or she can go home is in direct conflict with the immense scale of the damage. Every version of every plan so far presented to the city's residents imagines a smaller, more easily protected New Orleans, a New Orleans with reconstructed historic neighborhoods on higher ground -- and a New Orleans without the hundreds of thousands of newer, often cheaply built, currently uninhabitable houses on lower, wetter land. Yet, when anyone speaks about his own neighborhood, logic falls away: Yes, a smaller New Orleans -- but one in which my house still stands and my neighbors come back." The city's "confusion" is "personified" by Mayor Ray Nagin, who "sometimes sounds rational about what can be achieved in a smaller city, and sometimes promises everyone everything, and sometimes makes no sense at all."

WAR NEWS:

Bush, Pakistani Prime Minister Discuss War On Terror. The CBS Evening News (1/24, story 5, :30, Schieffer) reported, "President Bush spent about two hours today discussing the war on terror with Pakistan's visiting Prime Minister, and the White House said Mr. Bush will visit Pakistan and India in March."

USA Today (1/25) reports, "Pakistani Prime Minister Shaukat Aziz said he expressed concerns about a purported U.S. missile attack that has increased tensions between the two countries during his visit Tuesday with President Bush." Aziz "said representatives of the United States, Afghanistan and Pakistan will meet soon to discuss the matter. He spent nearly two hours with Bush at the White House." Bush "said the United States and Pakistan are working closely to defeat terrorism." He "did not comment on the airstrike near the Pakistani-Afghan border."

The Washington Times (1/25, Sammon) also reports Bush "yesterday pledged to work closely with Pakistan to defeat terrorism, although he ignored questions about a U.S. air strike that killed 13 Pakistani civilians and five suspected al Qaeda members this month." The President announced that "he would visit Pakistan and India in March. 'The relationship with Pakistan is a vital relationship for the United States,' Mr. Bush said during an Oval Office meeting with Pakistani Prime Minister Shaukat Aziz. 'We're working closely to defeat the terrorists who would like to harm America and harm Pakistan.'" The Times adds, "The sentiments were echoed by Mr. Aziz, who made no public reference to the air strike that has strained relations between Washington and Islamabad. 'Our coalition with the United States in fighting terrorism is very important to all of the world and all of civil society,' Mr. Aziz said.'

Reuters (1/25, Zakaria) adds Bush and Aziz "showed no signs of acrimony and affirmed the two countries' close relationship in trying to combat terrorism," and the New York Times (1/25, Bumiller) says the leaders "took no questions." Afterward, "the White House spokesman, Scott McClellan, sidestepped queries about whether Mr. Bush had spoken in private to Mr. Aziz about the airstrikes."

The Washington Post (1/25, A2) reports that Aziz, "who kicked off his US visit by condemning the attacks, struck a

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decidedly more diplomatic tone before and after meeting with Bush yesterday, highlighting the economic and military ties between the two nations."

The CBS Evening News (1/24, story 6, 2:00, Schieffer) said that also yesterday, "Pakistan's President told an audience at the Nobel Institute in Norway that his military has now captured 700 al Qaeda terrorists, but there are many more out there and they want the world to know it." CBS (Stewart) added, "Somehow, however, the ones being chased continue to find time to make home movies." Recently "al Qaeda and Taliban linked web sites have been flooded with such videotapes that purport to show terrorists setting up shop once again in the region but some appear well over a year old. It's impossible to date others, and US counterterrorism officials warn not to read too much into them. Still, they're impressive."

Video Claims Al Qaeda Resurgent In Pakistan. President Bush's remarks touting the cooperation of the US and Pakistan in the war against terrorism were briefly noted on both ABC and CBS, which contrasted his statements with detailed stories on recently released al Qaeda videotapes claiming al Qaeda was experiencing a resurgence in Pakistan. ABC World News Tonight (1/24, lead story, 3:22, Vargas) reported on "an alarming development in the war on terror. The resurgence of al Qeada and the Taliban. It has been more than four years since 9/11 and the invasion of Afghanistan. President Bush has said the terrorists are on the run. But in the rugged tribal lands of northwest Pakistan, al Qeada and the Taliban are growing stronger and exerting more control. They are recruiting fighters and plotting attacks. In many cases, operating openly and with impunity." It "is a disturbing development." ABC (Ross): "A much rosier picture was being described at the White House today, as President Bush met with the Pakistani prime minister." President Bush: "We're working closely to defeat the terrorists who would like to harm America and harm Pakistan." Ross: "But there's no sense of defeat seen in a second tape obtained by ABC News, this one produced by al Qeada."

Bin Laden Tape Was Delivered To UN Office In Pakistan. The Washington Times (1/25, Flamini) reports, "A copy of Osama bin Laden's latest audiotape was delivered to a U.N. office in Quetta, Pakistan, and is being studied by the world organization's officials, a well-placed source said. He said the office of the U.N. High Commissioner for Refugees in Baluchistan province, which borders Afghanistan, received the tape last week and sent it on to the U.N. headquarters in New York. U.N. officials familiar with the contents of the tape say the message appears to be identical to the one broadcast by Al Jazeera television Thursday, according to the source, who asked not to be identified."

Friedman Contends Bin Laden Is "Hurting." The New York Times' Thomas Friedman (1/25) writes, "I am certain that bin Laden is hurting right now. What made bin Laden such a unique threat were three things: the fact that he had taken over a whole country…the fact that he controlled a political movement, the Taliban; and, most important, the fact that many Arabs and Muslims looked up to him and Al Qaeda as forces who were standing up to America. But today bin Laden does not have Afghanistan, he does not have the Taliban, and while he still has some following, I don't think so many Arabs and Muslims are naming their sons 'Osama' anymore."

Bin Laden Said To Be Seeking Establishment Of Caliphate. In an op-ed for the Washington Times (1/25) Walid Phares of the Foundation for the Defense of Democracies writes, "what the public ignores about the 'hudna' (cease-fire) offered by bin Laden is that the international community, and the United States, will have to recognize al Qaeda as the representative of the Muslim world. In short, that all Muslim governments would elevate bin Laden as the world caliph -- hence he will be able to 'resume' the jihad after the hudna is over, since it is only a truce after all."

In an op-ed for the New York Times (1/25) Daniel Benjamin and Steven Simon, authors of "The Next Attack: The Failure of the War on Terror and a Strategy for Getting It Right," write, "while Osama bin Laden has seldom used the word 'truce,' the vision outlined in the rest of the message is not new: a withdrawal of the United States from Muslim lands and a rebalancing between the Muslim and non-Muslim worlds. … In other words, this "truce" must be preceded by total capitulation."

Pakistan's Strategy For Subduing Tribal Regions Criticized. The Christian Science Monitor (1/25, Montero) reports, "With CIA missiles firing on Pakistani homes, and reports surfacing that the Taliban have taken over large tracts of the country's tribal zone, analysts of the war on terror here say Pakistan's military strategy is in need of a paradigm shift. Intelligence remains too weak, and even

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pitched battles flexing the military's muscle have shown little effect against an enemy that remains largely unknown, they say." According to the Monitor, "The question of whether Islamabad is effectively eradicating Al Qaeda elements in the semiautonomous border region…was expected to be discussed in Tuesday's meeting in Washington between President Bush and Pakistan's prime minister." The Monitor adds, "Those familiar with the tribal areas say recent events underscore the need to rethink the strategies for combating terrorism there. … Unleashing the full fury of Pakistan's military - helicopter gunships, ground troops, and artillery - was supposed to prevent this."

Musharraf Said To Have "Gotten Away With" Avoiding Taliban Hunt. The Washington Post (1/25, A18) editorializes that although President Bush "famously declared that other countries must choose between supporting the United States and supporting terrorism," he "has refrained from applying that tough principle in practice -- which is lucky for Pakistan's president, Gen. Pervez Musharraf. Ever since the war on terrorism began, this meretricious military ruler has tried to be counted as a U.S. ally while avoiding an all-out campaign against the Islamic extremists in his country, who almost surely include Osama bin Laden and his top deputies. Despite mounting costs in American lives and resources, he has gotten away with it." Musharraf "has never directed his forces against the Pashtun Taliban militants who use Pakistan as a base to wage war against American and Afghan forces across the border."

Jury Begins Deliberations In Shaaban Trial. In a widely-distributed story, the AP (1/25) reports, "A jury began deliberating Tuesday in the case of an Indiana truck driver accused of conspiring to sell U.S. intelligence secrets to Saddam Hussein's government." Shaaban Hafiz Ahmad Ali Shaaban "is accused of meeting with an Iraqi intelligence officer at a Baghdad hotel in late 2002 and agreeing to sell the names of U.S. operatives for $3 million. The jury deliberated for eight hours and planned to reconvene Wednesday morning."

Bureaucratic Infighting Blamed For Iraq Reconstruction Delays. NBC Nightly News (1/24, story 3, 2:00, Williams) reported that the New York Times "published a discouraging draft report on how" the rebuilding of Iraq "has been handled so far." NBC (Mitchell) added, "Billons of dollars squandered and many Iraqis still lacking basic services: water, sewage, electricity." In December "the President ordered the US to focus more on smaller, more manageable projects. Officials said they have completed more than half." Scott McClellan, White House Press Secretary: "The President has pointed out that we have learned some lessons and we have had to adjust reconstruction efforts." Mitchell: "The report confirms that a big part of the problem was rivalry between the State Department and the Pentagon over who would run the program. One official said at times, it was like the shootout at the OK Corral. Tonight, US officials are still blaming each other and many Iraqis are still waiting for basic services."

Report Finds Indications Of Fraud. The New York Times (1/25, Glanz) reports, "A new audit of American financial practices in Iraq has uncovered irregularities including millions of reconstruction dollars stuffed casually into footlockers and filing cabinets, an American soldier in the Philippines who gambled away cash belonging to Iraq, and three Iraqis who plunged to their deaths in a rebuilt hospital elevator that had been improperly certified as safe. The audit, released yesterday by the office of the Special Inspector General for Iraq Reconstruction, expands on its previous findings of fraud, incompetence and confusion as the American occupation poured money into training and rebuilding programs in 2003 and 2004. … The report says that in some cases the agents found clear indications of potential fraud and that investigations into those cases are continuing."

Dayton Seeks Hearings On Contaminated Water Supplied By Halliburton. The Hill (1/25, Tiron) reports Sen. Mark Dayton "is calling for Armed Services Committee hearings into allegations that Halliburton supplied contaminated water to the U.S. military in Iraq. … 'It should be criminal, and it is certainly immoral,' Dayton said about the charges against Halliburton."

Iraqi Oil Output Failing To Meet Expectations. The Los Angeles Times (1/25, Kraul) reports, "Iraqi oil production fell by 8 percent last year, with a sharp decline near year's end that left average daily production at half the 3 million barrels envisioned by U.S. officials at the outset of the war in 2003. Prospects for improvement this year are slim, according to many experts, calling into question Iraq's ability to support itself and fund reconstruction efforts as U.S. assistance is scaled back.

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Reasons for the shortfall include the poor state of the nation's oil fields, a creaky infrastructure, poor management and ongoing insurgent attacks, particularly to pipelines in the north-central region meant to export oil through Turkey." The Times notes, "In helping sell the war, Bush administration officials had predicted that a strong Iraqi oil industry could help pay for the nation's postwar recovery. … Oil revenues contribute 94 percent of the fledgling government's budget and a drop in oil global prices from current high levels could wreak havoc if output remains depressed. Financial stress was evident last week when Turkey suspended shipments of gasoline and other fuels to Iraq saying its refiners were owed $1 billion."

Huckabee, Perry Among Governors On Surprise Iraq Visit. The AP (1/25, Demillo) reports Arkansas Gov. Mike Huckabee, Wisconsin Gov. Jim Doyle, Texas Gov. Rick Perry and Wyoming Gov. Dave Freudenthal "are in Iraq on a surprise visit to their states' troops. … They all left for Iraq on Sunday after receiving classified briefings at the Pentagon."

The Houston Chronicle (1/24, Hughes) reports Perry "urged Americans to remain patient despite fresh reports of a rebuilding effort mired in problems. 'Obviously, you're not going to rebuild a country overnight, but I think this is going along very well,' Perry told Fox News. … Perry's trip to the Iraqi war zone, along with three other governors invited by the U.S. Department of Defense, was announced at the Texas Capitol by Lt. Gov. David Dewhurst."

Four US Soldiers Killed In Iraqi Attacks. The CBS Evening News (1/24, story 7, :45, Schieffer) briefly reported, "In Iraq today the US military reports four more Americans killed, two soldiers in a bombing in Baghdad and two Marines in a road accident west of the capital. There's still no word on kidnapped American journalist Jill Carroll, even as two German engineers have now been abducted north of Baghdad."

Sunnis Urged To Defend Themselves From Death Squads "By All Suitable Means." The Washington Post (1/25, A16, Knickmeyer) reports the Iraqi Islamic Party, "one of Iraq's leading Sunni Arab political parties…called on members of the Sunni minority to defend themselves 'by all suitable means' against death squads allegedly linked to the Shiite-led government after another in a months-long series of mysterious, deadly roundups targeting Sunni men. … The warnings…were issued a day after gunmen -- some dressed in Interior Ministry uniforms, witnesses said -- sought out and killed three Sunni men and took away more than 50 others in a mixed Sunni and Shiite neighborhood of Baghdad." The Post goes on to report, "Bodies of scores of Sunni men, many of them handcuffed and shot in the back or the back of the head, have been found across Iraq since Shiite religious parties took power in April. Witnesses, including at least one U.S. military unit who officers say witnessed a roundup of men later found dead, say the victims were detained by men in uniform."

Hussein Trial Delayed. The CBS Evening News (1/24, story 7, :45, Schieffer) reported, "Saddam Hussein's trial was supposed to resume today, but it was postponed until Sunday at the earliest. Sources in Baghdad tell CBS News there is a behind the scenes dispute now over which judge will preside." ABC's World News Tonight (1/24, story 5, 0:20, Woodruff) noted, "Saddam's lawyer says the court is under too much pressure to provide a fair trial."

Knight Ridder (1/25, Hannah) reports court spokesman Raed Juhi said "about four hours after" the trial was to have resumed, "Since some of the complainants and witnesses are currently outside Iraq for pilgrimage, the court has decided to delay the hearing until Sunday."

Lead defense attorney Khalil al-Dulaimi told Reuters (1/24, Georgy, MacDonald), "It's not true the witnesses did not show up ... There were three witnesses ready to deliver their testimony. … This is just an excuse to cover up the state of turmoil and chaos in the court." The Washington Post (1/25, A14, Knickmeyer) reports former US attorney general Ramsey Clark, "the most vocal of Hussein's lawyers," told CNN, "There's too much violence in the country, there's too much division and too much pressure on the court. … The project ought to be abandoned. It was a creature of the United States in the first place."

The Los Angeles Times (1/25, Boudreaux) reports, "One of the trial judges, Hussein Moussawi, said the official explanation was 'just an excuse' to give the judges time for 'long discussions' needed to resolve issues surrounding a shakeup of their panel, which lost two members during the monthlong recess that was to end Tuesday." Moussawi "would not elaborate, but other court officials, who spoke on condition of anonymity, said the trial panel was sharply divided over whether to accept the designation Monday of Raouf Rasheed Abdel Rahman as its temporary leader." The

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Financial Times (1/25, Negus) says the development "leaves the trial struggling to maintain an appearance of independence as it comes under criticism from senior Shia leaders and defence lawyers." The New York Times (1/25, Worth) runs a similar report under the headline "Hussein's Trial Is Abruptly Postponed."

Iraqi General's Son Outraged By Reprimand Of US Interrogator Responsible For Death. The Washington Post (1/25, A8, White) reports Mohammed Mowhoush, the son of an Iraqi general who died in US custody "assailed the US military yesterday for imposing a reprimand instead of prison time for an Army interrogator convicted in connection with his father's death, saying the United States has not properly administered justice. Speaking by telephone from Iraq, Mowhoush, 18, decried the military jury's sentencing this week of Chief Warrant Officer Lewis E. Welshofer Jr. … A military jury convicted Welshofer of negligent homicide late Saturday, after hearing evidence that he was using an aggressive interrogation technique on Maj. Gen. Abed Hamed Mowhoush when the general stopped breathing." Mohammed Mowhoush "recalled his own arrest on Oct. 27, 2003, when he and his three brothers were taken from their Qaim home as U.S. forces searched for his father. … 'They said if my father did not come and give up, they will send us to Guantanamo,' Mowhoush said." The Post notes, "Arresting someone to entice relatives to turn themselves in is considered by human rights organizations to be a form of hostage-taking. It is considered illegal in wartime but military investigative documents reveal it has occurred in Iraq."

Soldiers Involved In Detainees' Deaths Regularly Receive Lenient Sentences. The Los Angeles Times (1/25, Riccardi) reports, "Soldiers prosecuted in the abuse or even deaths of detainees rarely have paid a heavy price, an indication of the difficulties the U.S. military has had sorting out right from wrong during the war on terrorism, human rights groups and military lawyers say. A report to be released next week by Human Rights First has found that service members were disciplined in 12 of the 33 cases in which detainees' deaths were ruled homicides. Often that punishment was relatively mild, as was the case for" Welshofer. … It was the latest in a growing list of setbacks for military prosecutors."

UK Detention Of Iraqi Police In Basra Spurs Protests. USA Today/AP (1/25, 6A) reports, "In Basra, [a] Shiite crowd massed after British and Iraqi forces detained 14 men Tuesday. The detainees, including at least five policemen, are suspected of involvement in multiple killings and kidnappings of local residents and other police forces. The British military said it received Iraqi Interior Ministry authority to arrest the men, nine of whom were later released."

Two German Engineers Kidnapped In Northern Iraq. USA Today/AP (1/25, 6A) reports, "Gunmen wearing military fatigues seized two German engineers in northern Iraq on Tuesday in the latest kidnapping that pushed a foreign government into a desperate race to free its nationals. The German government confirmed that two men from Leipzig were kidnapped and said a special crisis team was sent to Iraq to deal with the matter."

Paralyzed Iraqi Officer Recovers At US Base. The Washington Times (1/25, Alleruzzo) reports on the recovery of "Capt. Furat" an Iraqi army officer ambushed "by gunmen disguised as Iraqi soldiers while he was visiting his family. … He somehow survived the destruction of 12 bullets, but one of them cut through his spinal cord, leaving him paralyzed from the waist down." The Times continues, "His family fears the killers will finish the job when he leaves this heavily guarded American base for a local hospital protected only by a few Iraqi policemen. Col. Elisha Powell, commander of the 332nd Expeditionary Medical Group that runs the hospital, said Capt. Furat will stay there until he recovers."

Kerry Inspected NATO Reconstruction Effort In Hilla. In his column for the New York Times/International Herald Tribune (1/25) Roger Cohen writes, "Senator John Kerry of Massachusetts is being ferried by the U.S. military to Hilla, a provincial town about 110 kilometers, or 70 miles, south of Baghdad. … In Hilla, the United States recently established a Provincial Reconstruction Team, or PRT, a group of military and civilian officials working to jump-start the economy by instilling in Iraqis the conviction that they now have control of their own lives and can make decisions at local level without awaiting a despot's word from Baghdad. It is to assess this experiment,

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tried with some success by NATO in Afghanistan, that Kerry has headed into the provinces."

Iraqi Coalition Government Seen As Precondition Of US Support. The Washington Post's David Ignatius (1/25) reports, "America's agile envoy in Baghdad, Zalmay Khalilzad, is working these days to cajole Iraqi political leaders to put aside narrow interests in favor of a government of national unity. But behind the political dickering lies a stark message: If the Iraqis can't agree on a broad-based government of reconciliation, the United States may have to reduce its military and economic support. America won't bankroll one side in a civil war."

Critics Said 1998 Air Strikes Did Not Degrade Saddam's Capabilities. In its "History Lessons" column, the Washington Times (1/25) excerpts a December 20, 1998 USA Today story, which reported, "One day after President Clinton halted a four-night U.S. and British air assault on Iraq, his national security team blanketed the Sunday talk shows to get out the message: 'Mission accomplished.' But some critics say it's unclear what the mission was and what it accomplished. 'This was a largely punitive operation,' said Anthony Cordesman, a defense analyst at the Center for Strategic and International Studies. 'It did not cripple any of Saddam's capabilities.' In Operation Desert Fox, the stated mission was to 'degrade' Saddam's ability to develop, manufacture and deliver [WMD]. After four days, the Pentagon said his weapon-making capacity was diminished but that it was too early to say how much. And critics said the vague word 'degrade' had been used deliberately to allow leaders to claim success no matter what."

CORPORATE SCANDALS:

Judges Cite Joint DOJ-SEC Actions As Improper. The Wall Street Journal (1/25, Lattman, Scannell) reports, "The Justice Department and the Securities and Exchange Commission long have worked in concert in fighting corporate wrongdoing, securing convictions and settlements in recent years against former executives at WorldCom Inc., Enron and elsewhere. … The SEC can bring civil charges and seek to impose financial penalties and to ban transgressors from top jobs at publicly traded corporations or from the securities industry. The Justice Department can bring criminal charges and seek prison sentences for the most serious white-collar violators." The Journal continues, "In two recent cases, however, federal judges have taken the agencies to task for using what the judges deemed an unfair one-two-punch approach in criminal cases. … In Oregon this month, a judge dismissed criminal charges against three corporate executives, saying the Justice Department unconstitutionally pursued a stealth criminal investigation under the cloak of a less-threatening civil proceeding by the SEC. And in Alabama last year, a judge dismissed charges that former HealthSouth Corp. Chief Executive Richard Scrushy lied to the SEC, ruling that he should have been warned that the Justice Department already had opened a criminal investigation when the SEC questioned him. … In both cases, the judges found the line between the agencies' roles had become improperly blurred."

Judge Rejects Skilling Request To Move Trial. The AP (1/25, Hays) reports, "Enron Corp. founder Kenneth Lay and former CEO Jeffrey Skilling will go to trial in the scandal-ridden company's hometown of Houston, a judge has ruled." The AP continues, "U.S. District Judge Sim Lake issued an order late Monday denying the former executives' last-minute request to move the trial from Houston based on potential jurors' vitriolic statements about Lay and Skilling on questionnaires. … The judge said he wasn't persuaded by defense arguments that a fair jury can't be found in Houston because the questionnaire answers reveal inherent prejudice against Lay and Skilling." The AP adds, 'Lake said questionnaires with unbiased answers and his intention to question the pool during jury selection next Monday 'provide adequate safeguards to defendants and will result in the selection of a fair and impartial jury in this case.' … He also denied defense requests that attorneys be allowed to question potential jurors individually and postpone the trial to send out a new round of questionnaires in light of a guilty plea by former chief accounting officer Richard Causey. Causey was supposed to have been tried alongside his former bosses. … Lake has rejected all those requests before. He has yet to rule on a separate, more recent defense request to postpone the trial."

Former Enron Workers Have Had To Start Their Careers Over Again. The New York Times (1/25, Romero) reports on the experiences of most "former Enron employees who had nothing to do with the fraud at the

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company, in contrast to the success enjoyed by those at the top who cashed out early and a comparative handful of high-ranking professionals who were able to parlay their status and skills into lucrative jobs at other energy companies." Few "have been able to restore the glitter of their jobs at Enron. … Some of the Enron diaspora have had to start their careers all over again."

CRIMINAL LAW:

La Tourette, Young Intervened With GSA On Abramoff's Behalf. Roll Call (1/25, Bresnahan) reports, "Reps. Steven LaTourette (R-Ohio) and Don Young (R-Alaska) sought to intervene with a federal agency in September 2002 on behalf of American Indian clients of lobbyist Jack Abramoff as part of Abramoff's effort to gain control of the Old Post Office Pavilion in downtown Washington, D.C. LaTourette and Young both wrote to the General Services Administration in September 2002 urging Stephen Perry, then head of the GSA, to give preferential treatment to organizations such as Indian tribes when the GSA evaluated proposals to develop the Old Post Office site." Young "received $7,000 from two of Abramoff's tribal clients just weeks after the letters went to the GSA. LaTourette, for his part, said he agreed to send the letters after being lobbied on the issue by a former top aide to Rep. Bob Ney (R-Ohio). Ney is under investigation by the Justice Department over his ties to Abramoff."

Abramoff Hosted Baby Shower For Rohrabacher. The Hill (1/25, Crabtree) reports that in December 2003, Abramoff "helped host a baby shower for Rep. Dana Rohrabacher (R-Calif.) and his wife." The Rohrabachers "were expecting triplets and feeling the pinch of the prevailing congressional salary of $154,700 at the time while maintaining homes in D.C. and the lawmaker's pricey Southern California coastal district. … The lobbyist, who had been friends with Rohrabacher since the early 1980s when the future lawmaker was a White House speechwriter and Abramoff was chairman of the College Republicans, allowed the couple to use his restaurant, Signatures, between lunch and dinner for the shower. Only hors d'oeuvres were served, Rohrabacher disclosed in a Los Angeles Times article two weeks ago. … The article did not mention that guests at the shower contributed to a fund for nanny service provided by After the Stork, a 24-hour child-care service based in the district." Rohrabacher "did nothing wrong under current rules, but ethics experts say that in the new atmosphere of reform Congress may want to rethink whether the rules governing gifts at personal events such as weddings and showers are strict enough. Rohrabacher spokeswoman Rebecca Rudman estimates that fewer than 25 people attended the shower and that gifts to the fund amounted to roughly $3,000. She noted that After the Stork charges $250 a day for 24-hour nanny care for triplets. "

Abramoff Links Bring Unwanted Attention To Dallas Lobbying Firm. The Dallas Morning News (1/25, Benton) reports, "Lobbyists are hired for their connections. But as Washington sorts through a growing lobbying scandal, the past connections of two lobbyists hired last fall by Locke Liddell & Sapp are bringing unwanted attention to the powerful Dallas law firm." The News continues, "The two men, Roy Coffee and David DiStefano, have been connected to a foreign company's attempt to work around U.S. sanctions against Iran and sell airplane parts to that nation – an attempt that centered on U.S. Rep. Bob Ney, an Ohio Republican accused in lobbyist Jack Abramoff's recent plea agreement of accepting bribes. … The two lobbyists were hired in 2003 by a pair of businessmen with résumés out of a James Bond movie. One, a Syrian gambler nicknamed 'The Fat Man,' made his fortune in Middle East arms deals. The other, a felon, was banned from East Coast racetracks in the 1980s for his connections to organized crime and has a Tennessee rap sheet for trying to defraud Elvis Presley." The News notes, "Mr. Coffee and Mr. DiStefano have not been charged with any crimes, and there is no public evidence to indicate either is a direct target of the ongoing investigation. Their activities generating scrutiny predate their joining the Dallas firm. … Locke Liddell spokeswoman Julie Gilbert said the firm still has confidence in the two lobbyists."

IRS Agent Testifies About Campaign Funds Ryan Failed To Claim As Income. The AP (1/25, Robinson) reports, "On trips to St. Louis, Toronto and New York to watch the Blackhawks, the White Sox and the Bulls, George Ryan used Citizens for Ryan plastic to pay for dinners and failed to declare the campaign money as income, an Internal Revenue Service tax expert testified Tuesday. The total Ryan should have declared but didn't came to just over $80,000 in four years, IRS forensic accountant Shari Schindler testified during the former governor's racketeering and fraud trial." However, "Ryan defense attorney Dan K. Webb immediately began building a defense based on the

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notion that Ryan had no way of understanding the complexities of the tax code and meant no harm. He chose a dramatic way of making his point, challenging Schindler to show him anywhere in eight heavy volumes of tax laws and IRS regulations that it said Ryan owed the money." The AP notes, "The cross-examination consumed considerably more time than expected by prosecutors, who had been planning to rest their case Wednesday. Lead prosecutor Patrick M. Collins said searching through 'all these big books' was a waste of time."

Outside Court, Parents Of Children Killed In Crash Say Corruption "Has To Stop." The Chicago Tribune (1/25, O'Connor, 643K) reports, "While jurors at former Gov. George Ryan's trial got a dry lesson Tuesday in the complexities of tax law, the parents of six children killed in a horrific crash that came to symbolize the tragic consequences of Illinois' licenses-for-bribes scandal spoke outside the courtroom in more personal terms. Public corruption 'has to stop,' Rev. Duane 'Scott' Willis told reporters as he and his wife, Janet, made their first appearance at the marathon trial since October." The Tribune adds that "Willis said he and his wife don't intend to make a special trip back here to attend possible testimony by Ryan himself," but "he made it clear the couple care deeply about the outcome of the trial. 'It is related to the loss of our children,' he said. … 'So there's a very personal aspect to it.'"

Prosecution Witness Fails To Connect Campbell To Illegal Contributions. The Atlanta Journal-Constitution (Warren, Scott, 430K) reports that at the corruption trial of former Atlanta Mayor Bill Campbell, "when federal prosecutors had their first witness on the stand Tuesday, they appeared to stumble." Kevin Ross, "an attorney who chaired Campbell's political campaigns, seemed to actually help the defense more than prosecutors…with testimony that at times was more confusing than convincing. … Ross, questioned by Assistant U.S. Attorney Russell Vineyard, said there were several questionable donations totaling more than $100,000. … There were also five cashier's checks totaling $5,000 with the names of five of Campbell's family members, Ross said. … Under cross examination by defense attorney Fred Orr, Ross said he didn't believe Campbell would have been the one to misuse his relatives' names to make illegal contributions. … So while the prosecution will set out to show…that there were illegal contributions to the mayor's campaign, Ross did not connect the contributions to Campbell."

Former Tennessee Court Clerk Sentenced To Probation For Embezzlement. The AP (1/25) reports former Unicoi County, Tenn., Court Clerk Gregg Masters will serve three years probation for stealing more than $10,000 from his office." Masters "will serve six months of his probation in home confinement. He will also have to pay restitution for the money he stole. … In 2003, Masters resigned the office he had held for 27 years five days after the FBI raided the clerk's office. … In September, he pleaded guilty in federal court. He admitted stealing payments of traffic violation fines and using the stamp for the Unicoi County general sessions judge to dismiss those cases."

Connecticut Mob Boss Sentenced To 6½ Years In Prison For Racketeering. The AP (1/21, Apuzzo) reports, "Prosecutors said he should have spent his old age planting gardens or visiting his grandchildren, but instead 72-year-old Victor Riccitelli was running gambling operations for the mob. Friday, a federal judge sentenced him to 6½ years in prison for racketeering, flatly rejecting his argument that prosecutors sought to embarrass him by releasing transcripts of his conversations with an FBI informant. … He allegedly moved bulk cocaine — a fact prosecutors said he hid from his mob superiors — and was caught on tape negotiating deals while receiving treatment for colon cancer." The AP notes, "While all of Riccitelli's co-defendants, including reputed Mafia underboss Anthony Megale, struck plea deals with prosecutors, Riccitelli became a thorn in the side of the Justice Department. He rejected plea deals, accused the FBI of selectively recording him and claimed no knowledge of the Gambino family." The Connecticut Post (1/21, Mayko) notes US District Judge Janet Bond Arterton declared the sentence would run concurrent with the sentence Riccitelli is already serving. "The judge explained that to do anything else would be 'piling on.' She did note that should Riccitelli, formerly of Capitol Avenue, overturn his cocaine conviction on appeal, her sentence would keep him behind bars."

Miami Stockbroker Arrested For Allegedly Defrauding Investors. The Miami Herald (1/24, 323K) reports in "Florida Business Briefs" that Miami stockbroker Lazaro J. Rodriguez "was arrested on mail fraud

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charges, the U.S. Attorney's Office said Monday. Rodriguez was president of The Firm Investments," and he "allegedly misappropriated about $1.5 million of investor money from more than 400 investors. Using Spanish language newspaper and Creole radio advertisements to lure investors, the company's website and written materials offered a number of investment options, Justice officials said."

Google Launches Chinese Services. The San Jose Mercury News (1/25, Bazeley) reports, "Google on Tuesday launched operations in China, a decision executives have agonized over because it will require the Internet firm to subject itself to self-censorship to comply with Chinese law." The News continues, "The Mountain View search giant is one of the last large U.S. Internet companies to set up shop inside China. The delay reflects months of internal wrangling at Google over how to balance business interests against the company's distaste at having to comply with China's restrictive speech policies." The News adds, "For now, the Google is making what one executive described as a 'targeted entry,'' offering Internet search but not e-mail, blogging, video or messaging services. As if Tuesday some Chinese Internet users were able to access the www.google.cn Web site. … They were not, however, able to search for information on the 'three T's': Taiwan independence, Tibet independence and Tiananmen Square, which are all forbidden topics in China. And Google is not yet offering its e-mail service, called GMail. … Ironically, Google's agreement to censor itself and comply with Chinese government rules comes at the same time it's being lauded in the United States for refusing a Justice Department subpoena to turn over data about seaches conducted on its site."

DOJ Grant Funds New Jersey School System's Eye-Scanning Technology. The AP (1/25) reports that the Freehold, NJ school district "has become the second in the Garden State to start using iris recognition technology to screen visitors, according to computer maker Hewlett-Packard Co." The AP continues, "Freehold launched the system Monday in its three schools, one of which includes the district's offices. The system is being employed as part of a study funded by a $369,000 grant from the U.S. Justice Department's National Institute of Justice. … Plumsted Township in Ocean County started using the eye-scanning technology in 2003 under a similar federal grant." The AP adds, "Iris recognition systems use a video camera to record the colored ring around the eye's pupil. Markings in the iris are unique to each person. … Deployment of the technology in Freehold was the result of a collaboration between Palo-Alto, Calif.-based HP; Renton, Wash.-based Newton Security Inc.; and two New Jersey companies -- Eyemetric Identity Systems and LG Electronics USA."

Panel Suspends Tennessee Judge Facing Federal Extortion Charges. The Knoxville News Sentinel (TN) (1/24 Satterfield) reports, "A Roane County (TN) judge arrested Monday on federal extortion charges was suspended today from his post." The Sentinel continues, "The Tennessee Court of the Judiciary, which handles disciplinary actions involving judges, announced today that Roane County General Sessions Court Judge Thomas A. Austin has been suspended from his judgeship. … Austin, 57, was arraigned Monday in U.S. District Court on an eight-count indictment accusing him of extortion and money laundering. … 'This court has determined an interim suspension is appropriate,' the Court of the Judiciary order stated." The Sentinel adds, "Presiding Judge Steven Stafford, who heads up of the disciplinary panel and also serves as a chancellor for the 29th Judicial District, said the court felt quick action was needed. … State law dictates that Austin will continue to draw his salary, estimated to be more than $100,000, while suspended. … Roane County will not be without a Sessions Court judge. There are two who handle the docket. But it will burden a court system already overloaded with a backlog of cases, according to Roane County Public Defender Joe Walker." The Sentinel notes, "Austin is accused of forcing kickbacks from the operators of two driving schools where the judge sent traffic offenders for remedial instruction and from the chief of a private firm that handles offenders placed on county probation. … Assistant U.S. Attorney Charles Atchley also alleged during Monday's court hearing that Austin regularly used 'illegal drugs.'"

Federal Judge Sentences Kansas Group Home Operator To 30 Years. The AP (1/25, Hegeman) reports from Wichita, KS, "A former social worker was sentenced to 30 years in prison after being convicted of abusing mentally ill residents of a group home he operated with his wife." The AP continues, "Arlan Kaufman was found guilty in November of 31 federal charges and his wife, Linda, was convicted of 30 counts. The charges include health care

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fraud, Medicare fraud, forced labor and holding clients in involuntary servitude at the Kaufman House Residential Treatment Center. … Linda Kaufman was sentenced to seven years in prison." The AP adds, "Federal prosecutors had argued that the couple controlled the lives of mentally ill residents, including deciding who could wear clothes. They were found guilty of forcing residents to masturbate, fondle each other and shave each other's genitals - activities that Arlan Kaufman videotaped. … 'You are an arrogant individual, you don't recognize what you have done is wrong,' District Judge Monti Belot told Arlan Kaufman during the sentencing hearing on Monday. 'You see yourself as a victim of some massive conspiracy.' … But Belot showed some leniency for Linda Kaufman, agreeing with Wichita psychiatrist Ted Moeller that she had a dependent personality and was manipulated by her husband."

New York Body-Part Probe Expected To Spawn Lawsuits. The AP (1/25, Hays) reports, "The Brooklyn district attorney's office has opened a criminal case focusing on scores of funeral homes in the New York City area and hundreds of looted bodies, including that of 'Masterpiece Theatre' host Alistair Cooke. No arrests have been made." The AP continues, "Authorities believe two men paid off funeral homes so they could take bone and skin from the dead without their families' knowledge. Worse, some body parts came from elderly people and perhaps victims of infectious diseases, and the paperwork was doctored to say they had been younger and healthier, investigators say. … The U.S. Food and Drug Administration is trying to trace the tissue, which was sold to medical facilities across the country and in Canada." The AP adds, "Both the FDA and hospital officials, while suggesting certain patients should get tested for viruses as a precaution, insisted the risk of becoming ill from tainted tissue is minuscule. … A lawsuit filed in Brooklyn accuses a now-defunct New Jersey tissue bank, Biomedical Tissue Services, of stealing parts from a 43-year-old woman who died of ovarian cancer in 2003. The business allegedly forged a signature on a consent form, and listed the cause of death as head trauma. … Authorities also found paperwork indicating Cooke's bones had been removed by the tissue bank before he was cremated. Cooke died of cancer last year at 95, but authorities say documents listed the cause of death as heart attack and lowered his age to 85. … The operators of the tissue bank have denied any wrongdoing."

SCOTUS Delays Florida Inmate's Execution. The AP (1/25, Word) reports, "A death row inmate won a stay from the Supreme Court Tuesday night about an hour after he was scheduled to be executed for killing a police officer." The AP continues, "Clarence Hill claimed he is mentally retarded and also challenged the state's use of execution drugs as cruel. … It was not clear if the court's intervention would only briefly delay Hill's execution, which had been scheduled for 6 p.m., to give justices additional time to review stay requests." The AP adds, "Witnesses had gathered at the Florida State Prison for the execution, which was put off for more than an hour before word came from the court. … The witnesses were sent home after Justice Anthony M. Kennedy filed paperwork that said Hill's death sentence would 'be stayed pending further order' of the justices. … 'The court will not rule until tomorrow,' said Robby Cunningham, spokesman for the Florida Department of Corrections."

Florida Man Exonerated By DNA Evidence After 24 Years In Prison. The AP (1/25, Stacy) reports, "Alan Crotzer stepped into the warm sunlight outside the courthouse Monday and raised his arms to the sky, celebrating his freedom after more than 24 years behind bars for crimes he didn't commit." The AP continues, "A judge freed the 45-year-old Crotzer after DNA testing and other evidence convinced prosecutors he was not involved in the 1981 armed robbery and rapes that led to his 130-year prison sentence." The AP adds, "Crotzer walked free more than three years after he wrote to the Innocence Project in New York, a legal clinic that seeks to exonerate inmates through DNA testing. … Members of Crotzer's family and other courtroom spectators clapped and cheered as a bailiff removed the shackles from his wrists and ankles. … Prosecutor Mike Sinacore congratulated him. 'Trying to fix an error in the system is just as important as trying to convict someone who is guilty,' he said." The AP notes, "DNA has been used to clear at least 172 people wrongly convicted of crimes in 31 states since 1989, according to the Innocence Project."

Boy Shoots Girl At Day Care Center; Father Faces Gun Charges. The Washington Post (1/25, A1, Londoño) reports that an 8-year-old boy and his father have both been charged after the 8-year-old sneaked his father's gun into a daycare center and shot a 7-year-old girl in the arm. The Post reports, "It was unclear what the boy had planned to do with his father's gun," according to law-enforcement sources. The Post further says, "The sources

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said the boy threatened to rob the girl and then fired the gun once, striking her in the upper right arm." The Post reports, "The boy's father, John Linwood Hall, 56, was arrested and charged with leaving a firearm within reach of an unsupervised minor, contributing to the delinquency of a minor and possession of a firearm by a felon. His son was charged as a juvenile with numerous counts that police declined to outline yesterday. The boy was placed in the custody of the Maryland Department of Juvenile Services, which provides counseling and treatment to delinquent juveniles."

The Washington Times (1/25, Wagner, Cella) reports, "Officer Derek Baliles, a county police spokesman, said the shooting occurred just before 7 a.m. at the For Kids We Care child care center at 12648 Grey Eagle Court in Germantown. … Officer Baliles said the gun fired 'accidentally' at the day care center when the boy played with it inside the backpack. The girl was struck in the arm, authorities said." The Times also reports, "The girl's father, who was not identified, said in a statement issued through the hospital and obtained by the Associated Press: 'Everyone has a responsibility to ensure that guns are kept unloaded, locked and out of children's reach to prevent incidents like this.'"

WPost Says Gun-Safety Laws Could Prevent Tragedies. The Washington Post (1/25, A18) editorializes, "At a day-care center in Germantown, an 8-year-old boy shot a 7-year-old girl with a handgun yesterday, hitting her in the arm but not killing her. … [W]hy is it that after years of similar incidents and anguish and debate, the country has yet to enact laws to prevent such tragedies?" The Post notes that in the 1990s, Maryland Gov. Parris Glendening appointed a task force that pushed for a number of laws. Some were passed, "But other regulations -- potentially more effective ones in preventing accidents such as yesterday's -- went nowhere," The Post says. The editorial concludes, "More gun safety laws will prevent many incidents, but they won't protect everyone from lawbreakers such as the father of the Germantown boy. Without stricter federal laws on access to handguns, more of these tragedies will occur."

CIVIL LAW:

Judge Hears Arguments On Defense Department Workplace Rules. The Washington Post (1/25, B2, Barr) reports in its "Federal Diary" column that Federal Judge Emmet G. Sullivan yesterday "gave ample time to Justice Department and union lawyers to argue over new workplace rules at the Defense Department. The rules will change the way in which 650,000 Defense civil service employees are assigned work, paid and disciplined. A coalition of unions filed suit to stop certain changes, and Sullivan's decision in the case could affect other Bush administration efforts to revamp civil service rules across government. The rules, as Sullivan put it yesterday, are 'extremely important, extremely complicated.' To limit confusion, union and Justice Department lawyers used slide shows to make their points to Sullivan. Sullivan asked the lawyers to shed light on what Congress intended in creating the National Security Personnel System, whether Pentagon officials had honored a mandate to collaborate with unions on the development of the rules, and whether the Pentagon could waive civil service law on union rights and take numerous issues off the bargaining table."

The Washington Post (1/25, A17) reports, "The Defense Department agreed yesterday to delay implementation of its new personnel system until at least March 1 to give a federal judge time to decide whether the new rules pass legal muster." The National Security Personnel System "would replace the familiar 15-grade General Schedule pay system with one in which raises are linked to annual performance evaluations," and, "in the name of making the Defense Department more nimble in the struggle against terrorism," limit "the power of labor unions and make it easier to hire, promote and discipline employees." However, "the unions contend that the new rules would gut collective bargaining in violation of federal law," and "a similar lawsuit against the Homeland Security Department has delayed the implementation of a new pay system there by as much as a year."

Government Executive (1/25, Rutzick) reports, "Sullivan said he needed until March to decide the case on its merits. The department had already agreed to stall the system until Feb. 1 because of the lawsuit. Lawyers for the Pentagon agreed to the second delay, with a few exceptions. … Most notably, the government said it would move forward with setting up the National Security Labor Relations Board as planned. The NSLRB would replace the governmentwide Federal Labor Relations Authority in hearing labor disputes. Its members would be appointed by the Defense secretary with some consultation from unions. … Justice Department lawyer Joseph Lobue, who argued on behalf of the Defense Department and also represented the Homeland Security

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Department last summer in a similar case, said the government would appoint a chairman, hire staff and complete regulations on the structure of the NSLRB."

GSA Postpones Awarding Off "Networx" Telecommunications Contract. The Washington Post (1/25, D1, Mohammed) reports, "The General Services Administration yesterday told bidders on its estimated $20 billion, 10-year 'Networx' telecommunications contract that it had postponed the award dates until 2007 but gave no specific reason for the delay. The telecom contract, the largest ever to be awarded by the GSA, is the grand prize in federal communications work and attracted bids from groups led by AT&T Inc., Qwest Communications International Inc., Sprint Nextel Corp. and Verizon Communications Inc. … Winners of Networx Universal, whose award date has been delayed until March 2007 from July of this year, will share $525 million in guaranteed revenue. Beyond that they will bid for individual agency projects. … Spokesmen for AT&T, Qwest, Sprint Nextel and Verizon, which all bid on Networx Universal, said their companies were informed of the delay yesterday but were given no detailed reason."

NYTimes Says Supreme Court Decision May Undermine Campaign Finance Reform. The New York Times (1/25) editorializes, "The Supreme Court has opened the door for a move" away from regulating campaign money when, ruling on t he McCain-Feingold reform law, it said "courts could hear 'as applied' challenges…and consider which ads were really no more than grass-roots lobbying." With such a ruling, "it is important that the courts develop a narrow and honest test for when advertisements are grass-roots lobbying. In this case, Wisconsin Right to Life was actively opposing Senator Feingold's re-election," and "the claim that those ads were unrelated to opposing Senator Feingold's re-election is simply not credible." In creating "a big 'grass-roots lobbying' loophole," the Court "will free corporations and special interests to run phony 'issue ads' that are actually a form of unregulated campaign contribution."

CIVIL RIGHTS:

Georgia Senate Approves Voter ID Requirement. The AP (1/25, Gross) reports, "Georgia voters would need photo identification to vote, under a bill that got approval from the state Senate on Tuesday." The AP continues, "The bill, which spurred several hours of emotional and sometimes racially charged debate on the Senate floor, now must return to the House for a vote on minor Senate changes. Gov. Sonny Perdue, who must sign it into law, has said he supports the bill." The AP adds, "The bill passed 32-22, largely along party lines. Sen. Jack Hill, R-Reidsville, a former Democrat who switched parties in 2003, was the only Republican voting against it. … The legislation would require a driver's license, military ID or a state-issued identification card, with a photo, to vote. It removes several forms of identification currently accepted, including Social Security cards, birth certificates and utility bills." The AP notes, "The plan was voted into law by the Legislature last year. But a federal judge blocked it, saying it amounted to an unconstitutional poll tax. Most voters who didn't already have approved identification would have paid $35 for a state ID. … This year's changes waive that fee and give equipment to each of Georgia's 159 counties to issue the cards. … Critics argued Tuesday, as they have since last year, that the plan unfairly impacts the poor, the elderly and minorities, who are less likely to have driver's licenses. … Supporters say the bill is an effort to crack down on voter fraud."

DOJ In Settlement Talks With Southern Illinois University On Minority Scholarships. The AP (1/24, Suhr) reports, "Southern Illinois University administrators are weighing a Justice Department proposal that would head off the government's threatened lawsuit over three allegedly discriminatory graduate fellowships, the university system's general counsel said Tuesday." The AP continues, "Jerry Blakemore refused to publicly discuss the Justice Department's recommendations but cast them as a breakthrough, marking the first time in months of negotiations that he's had a proposal of adequate clarity to take to SIU President Glenn Poshard and other administrators. … 'We certainly believe we have sufficient understanding of the legal issues for me to be making a legal recommendation to the president, the board and the university,' Blakemore said." The AP adds, "Though the Justice Department has not categorized the proposal as its final offering, Blakemore said the university was treating it as such "because we've had lots of discussions for some time" with the government. … Poshard and Walter Wendler, chancellor of the Carbondale campus, on Tuesday and Wednesday were to meet with SIU administrators and key 'constituency groups' for feedback

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about the government's suggested solution to the dispute. After those private talks, SIU would respond, said Blakemore, not offering a time frame. … Justice Department spokesman Eric Holland said the agency was 'currently in settlement negotiations with the university' and 'hoped to resolve our differences without resorting to contested litigation.' … The Justice Department demanded in writing in November that SIU halt the fellowships or be sued, arguing that the programs violate the federal Civil Rights Act of 1964 and result in 'intentional discrimination against whites, non-preferred minorities and males.'"

Montgomery County Repeals Lawn Sign Limits. The Washington Post (1/25, Craig) reports, "The Montgomery County Council voted yesterday to repeal a provision that requires property owners to remove lawn signs after 30 days or pay $30 to apply for a permit to keep them up longer." The Post continues, "The American Civil Liberties Union had argued that the time limit -- a provision in a larger sign ordinance that had been in place since 1998 -- violates the First Amendment right to free speech, and the organization was threatening to sue the county. … Although county attorneys said yesterday that they were willing to defend the law, the council appeared reluctant to pick a fight with the ACLU." The Post adds, "The repeal, which goes into effect Feb. 3, will apply only to private properties. Signs posted in public rights of way will still have to be removed after 30 days. … The ACLU represents a group of residents who erected signs to protest the planned construction of what they considered an oversize house in their Chevy Chase area neighborhood of Brookdale. A limited liability corporation headed by Thomas R. Eldridge, a developer and Somerset Town Council member, bought a 2 1/2 -story house in Brookdale in March and tore it down. The corporation has since broken ground on a house that residents contend will be four stories."

Religious Groups Seek Influence Over History Books. The Wall Street Journal (1/25, Golden) reports, "Religious pressure on textbooks is growing well beyond Christian fundamentalists' attack on evolution. History books are the biggest battleground, as groups vie for changes in texts for elementary and secondary schools that cast their faiths in a better light." Organizations are "seeking to extract concessions as California holds its periodic approval process for history textbooks," which "typically are the ones that schools in the rest of the country end up using for several years." Islamic groups have done so since 1990, and "Hindu groups, in particular, have swamped California authorities with proposed revisions." This raises "the question of whether lobbying by religious groups yields a more sensitive and accurate version of history or a sugar-coated one -- and also whether students are served better or less well." Meanwhile, textbook publishers that "ignore religious groups…risk exclusion from markets."

Public Schools Considering Bible Literacy Classes. USA Today (1/25, Linn) reports, "High schools across the nation are considering an elective course in Bible literacy. That's pitting advocates of church-state separation against proponents of the class who say their mission is purely scholarly. Lawmakers in Alabama and Georgia in the past few weeks have introduced legislation clearing the way for their high schools to offer the course, which is based on the textbook The Bible and Its Influence." While "the textbook does have critics, including Americans United for the Separation of Church and State," both Sheila Weber, a spokeswoman for the Bible Literacy Project, and Jeremy Gunn, director of the American Civil Liberties Union's Program on Freedom of Religion and Beliefs, say "the textbook has generated no lawsuits."

NYTimes Says Georgia Should Make Right Results Of Jim Crow Pensions. The New York Times (1/25) editorializes, "Black police officers in Georgia…were denied membership in a supplementary retirement fund," and "because of Jim Crow policies that barred them from the fund as shamefully late as the mid-1970's, many of these officers are facing troubled and underfunded retirements, with benefits substantially lower than those of their white colleagues. The Georgia Legislature inexplicably failed to help these officers when a bill came before it two years ago, but it has received a new bill and a fresh opportunity to show its commitment to simple justice," where "the state would assume half of what it would cost hundreds of working black officers to buy retirement coverage for the years they were barred from the fund." However, "it will take care of only those police officers who are still on the job," as "a provision of the State Constitution…prevents the Legislature from helping them." Still, "Georgia should do whatever it takes to give justice to all of the people affected by this shameful episode," and "other

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Southern states with Jim Crow legacies should begin to prepare themselves to encounter similar issues."

ANTITRUST:

US, EU Complain About Microsoft Noncompliance. Reuters (1/24, Lawsky) reports, "For the first time in 12 years, Microsoft is in trouble on both sides of the Atlantic for the same reason at the same time -- failing to share information needed to remedy its antitrust violations." Reuters continues, "The European Commission has reacted to Microsoft's foot-dragging with a threatened fine of up to 2 million euros ($2.46 million) daily. Now that the Justice Department this week for the first time expressed similar frustration, it will be up to a judge to decide if new action is necessary. … Microsoft's general counsel, Brad Smith, plans to hold a news conference in Brussels on Wednesday to discuss the case." Reuters adds, "The United States and the European Commission take very different approaches to the software giant, but their recent statements have begun to resemble one another. One lawyer said that is because of the company's behavior pattern. … 'There's a striking similarity between Microsoft's efforts to evade compliance with the European decision and its failure to properly comply with the U.S. settlement,' said Thomas Vinje, a Brussels lawyer who represents Microsoft critics. … Microsoft has said it does not want to provide so much information that it would unfairly surrender its intellectual property to other companies. … 'The current issue with the U.S. program is not comparable to the concerns raised in Europe. We have a program here that is successfully operating with 26 licensees and a dozen products shipping,' Microsoft spokesman Jack Evans said by telephone from the company's headquarters in Redmond, Washington. … The governments say the remedies are aimed at restoring competition that Microsoft destroyed through illegal actions."

CNET News (1/24, Broache) reports, "Microsoft is falling behind in meeting certain obligations under its antitrust agreement with the U.S. government, the Bush administration said." CNET continues, "The criticism, leveled by federal and state prosecutors in a document filed Monday with U.S. District Judge Colleen Kollar-Kotelly, largely surrounded the company's progress in developing technical documentation for developers who license the Microsoft Communications Protocol Program. … Microsoft started the program as part of its efforts to comply with a 2002 consent decree reached with the government. … Since its last court appearance in mid-November, Microsoft has 'fallen significantly behind' in responding to concerns raised by a technical committee charged with overseeing the program's documentation project, according to the Washington, D.C., court document." CNET adds, "The project, known as Troika, is intended to be an automated system that can validate the accuracy of the technical documentation by comparing it to actual network traffic, Microsoft has said. The software giant originally expected to complete the project by February 2006. … Microsoft must 'dramatically increase the resources devoted to responding to technical documentation issues,' the number of which continues to grow, the prosecutors said. … Microsoft said in a statement that it is 'working hard to resolve the concerns' raised by regulators."

Disney To Acquire Pixar for $7.4 billion. The Los Angeles Times (1/25, Sanchez) reports, "Walt Disney Co. today agreed to buy Pixar Animation Studios … in a $7.4-billion deal that will make Pixar CEO Steve Jobs the entertainment company's single-largest shareholder. … Under the terms of the deal, each share of Pixar will be exchanged for 2.3 shares of Disney common stock. Jobs, who owns 50.6% of the Pixar stock, will vote his shares in favor of the deal and will join the board of directors of Burbank-based Disney." The article notes that the boards of both companies must still approve the acquisition. IN the new company, "Pixar President Ed Catmull will serve in the same position as head of Pixar and Disney animation studios. Meanwhile, John Lasseter, Pixar's highly regarded creative leader, will be chief creative officer of both animation studios and will advise Walt Disney Imagineering on the design of new attractions for Disney theme parks." The Los Angeles Times notes that buying Pixar will allow Disney to "once again regain its role as a leader in the animation industry."

The Financial Times (1/25, Chaffin, Politi) adds, ""The deal was greeted with enthusiasm by Wall Street although some complained about the price. … Nonetheless, Disney's shares continued a recent rally, closing Tuesday's trading day in New York up 47 cents, or 1.8 per cent at $25.99. Pixar was down 70 cents at $57.57, giving it a market capitalisation just shy of $6.9bn."

The New York Times (1/25, Holson, Sorkin) reports, "Shareholders of Pixar will have to approve the acquisition, which will also be subject to antitrust review by federal regulators. … The deal comes two years ago Disney and

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Pixar began renegotiating a distribution agreement that would have given Disney the right to distribute Pixar's films after the release of the forthcoming 'Cars.'"

Reviving Disney's Animation Unit. All articles emphasized that acquiring Pixar is an effort to revive Disney's ailing animation unit. All noted that Disney's animation unit has foundered in recent years, while Pixar has produced a string of hit animated movies. USA Today (1/25, Lieberman, Petrecca) reports, "The agreement represents a startling change of direction for Disney's animation unit — arguably its most important business. The operation that produced classics such as 'Snow White' and 'The Lion King' failed to keep up with computer animation and released a series of disappointments."

The Wall Street Journal (1/25, Marr, Wingfield) offers in-depth coverage of this issue, reporting that the acquisition "represents a quick fix for Disney's lagging animation business, which relies on movie characters that can be spun across its theme park, merchandise and television empires. Pixar has in the last decade become the gold standard in animated filmmaking … while Disney's own efforts have tailed off in popularity, and its pipeline is uncertain. Disney has benefited from Pixar's success by co-financing and distributing Pixar films, but that arrangement was set to expire this year." The Journal also notes the "cultural challenge" of keeping Pixar's "esprit de corps." The Journal quotes Pixar CEO Steve Jobs, who says, "'Most of the time that Bob and I have spent talking about this hasn't been about economics, it's been about preserving the Pixar culture because we all know that's the thing that's going to determine the success here in the long run.'"

Under the headline "Pixar's Magic Touch," the Washington Post (1/25, D1, Noguchi) writes, "Over the past two decades, the 730-person Pixar has garnered a reputation as a place where creative genius thrives, and in recent years the studio has far outpaced the bigger and more institutionalized Disney. … Pixar's hands-off management style and its artisan cultivation of the creative process have helped it become the benchmark against which the rest of the industry measures itself. The article quotes analysts who call Pixar the "high-water mark" for animation. However, the Post analysis also notes that Pixar may have difficulty transforming the institutionalized Disney culture.

Meanwhile, The Wall Street Journal (1/25, Marr, Wingfield) also highlights a risk in the deal. The Journal writes, "Disney is acquiring Pixar in the midst of a profitable winning streak -- all six of its movies have been blockbusters -- in a business where failure is considered an inevitability." However, the Journal reports, "In evaluating the price, Disney said it was confident Pixar's box-office success would continue but recognized that not all its future films would be sure-fire hits. The company also took into account the current trends at the box office and in DVD sales."

Merger Features Key Players. Coverage of the acquisition focused on two key personalities: Pixar CEO and Apple head Steve Jobs, who will become Disney's largest individual shareholder, and John Lasseter, who will helm Disney's animation unit under the deal.

In addition to summarizing the influence Jobs will have as a member of Disney's board, all of the articles note Jobs' connection to Apple Computer. In particular, the Washington Post (1/25, A1, Levingston, Musgrove) assays "the possibility of a wider partnership between Disney and Jobs." The Post notes Jobs is instrumental in "the cultural phenomenon of portable digital music and video with Apple's iPod." According to the Post, "Mac watchers" are already speculating on possible permutations of the deal. The Post says, "Some figure that becoming part of Disney will help Jobs score more content … for Apple's online music-and-video store, iTunes. Others argue that Jobs's alliance with Disney would sacrifice Apple's image as a neutral dealer among TV producers looking to put their shows online. And some Mac fans worry that the company is paying less attention to its computer products as it ventures further into music and entertainment."

The Wall Street Journal (1/25, Wingfield, Marr) also profiles Lasseter, "Pixar's top creative executive," who will become "chief creative officer of Disney's animation studios and principal creative adviser of Walt Disney Imagineering." The Journal says that Lasseter, a former Disney employee, "never lost his love for all things Disney, or his desire to reunite with the company that played such a large role in his life," and indirectly quotes Jobs, who says Lasseter's support, and that of Catmull, "was key to making the deal work." The Journal also notes that Lasseter "is widely recognized as one of Pixar's most valuable assets, credited with helping to turn the company into a powerhouse in computer-animated films through his emphasis on compelling storytelling rather than bland technical wizardry.'

Patent Litigation Has BlackBerry Users Wondering How To Work Around Possible

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Service Shutdown. The Wall Street Journal (1/25, Spencer, Vascellaro) reports, "While the possibility of a disruption in BlackBerry" wireless e-mail "service is still extremely remote, the Supreme Court's decision" BlackBerry manufacturer Research In Motion Ltd. Patent appeal "has triggered new concerns that BlackBerrys … could go dark." The Journal reports on trends in using the handheld e-mail device, including dependency on the device at large companies, law firms, and government agencies. The article also notes that among businesses that use them, "interest in BlackBerry alternatives is taking off." However, the Journal reports, "Even if an injunction is issued, RIM officials say it won't disrupt service. They say that have backup technology that will keep BlackBerry emails running without infringing NTP's patents." The Journal also notes that analysts "say any court-ordered injunction would likely carve out an exception for government users."

Attorneys Scramble For "Prior Art" In High-Stakes Patent Disputes. The Wall Street Journal (1/25, Squeo) reports on one aspect of patent disputes: Locating prior ideas. The article starts with patents recovered in the ongoing Blackberry litigation. The Journal writes, "At a university in Trondheim, [Norway]," Blackberry maker RIM "found eight Norwegian Telecommunications Administration reports going back to 1986 and 1989. The reports described a wireless-email messaging system similar to that used by BlackBerry." In turn, these documents "helped RIM fire back at" NTP Inc., which says the Blackberry wireless email device infringes on its patents. The article continues, "Patent battles across the country are sending lawyers scrambling for finds like the Norway memos: published evidence that a patent is invalid because the idea was already in the air." This "prior art" can be called "killer art" when "it's used successfully to fend off a patent-infringement claim," the article says. The article cites, among other things "a cartoon strip by Rube Goldberg and a 1978 issue of Mad magazine" that "have both successfully been cited as prior art in patent cases." New technology makes it easier to find such references, the article says.

Arcelor Announces Purchase Of Dofasco. The Wall Street Journal (1/25, Von Reppert-bismarck) reports, "Arcelor SA yesterday said it agreed to an all-cash deal to buy Canadian steelmaker Dofasco Inc. for about €3.95 billion ($4.86 billion), after rival bidder ThyssenKrupp AG of Germany pulled out of the running late Monday. Arcelor, the world's second-largest steel producer behind London-based Mittal Steel Co., rose 4.5% to €21.63 ($26.62) in late trading yesterday on the Belgian stock exchange. While the deal ends Arcelor's recent streak of losing expensive bidding wars, some analysts said the bid looks expensive. ThyssenKrupp and Arcelor had been fighting for control of Dofasco since November, and both had raised their bids several times. … Arcelor said it will pay C$71, or about US$62, a share for Dofasco."

UPN, the WB To Form New "CW" Network. The Washington Times/AP (1/25, Sutel) reports, "Two small, long-struggling television networks -- UPN and the WB, which air on Channels 20 and 50, respectively, in the Washington area -- will shut down this fall, and programming from both will be used to start a new network aimed mainly at young and minority viewers. The new network will be called the CW – 'C' for CBS Corp. and 'W' for Warner Bros. -- each of which will own half of the new entity and contribute programs, assets and executives to the venture." Under the deal, Chicago-based Tribune Co. "will relinquish its 22.5 percent stake in exchange for a 10-year affiliation deal to carry the new network on 16 of its stations," the article said. According to the report, "The CW will air 30 hours of programming each week, like the WB. Shows will air Monday through Friday 3-5 p.m. and 8-10 p.m., and Sundays 5-10 p.m. … The CW also will be carried on the 12 stations owned by UPN, a unit of CBS Corp., guaranteeing the network carriage in 48 percent of the country and 20 of the top 25 TV markets."

ENVIRONMENT:

Hearing In Ivory-Billed Woodpecker Case Slated For February. The AP (1/24) reports, "Attorneys for environmental groups came to court with an audiovisual presentation showing an image of the black, white and red ivory-billed woodpecker. … But they didn't have a chance to explain Monday why they believe the Grand Prairie Irrigation project in eastern Arkansas should be stopped in order to avoid harming the rare bird. … Instead, U.S. District Judge G. Thomas Eisele recused himself before the hearing began. The case was bumped to another court before landing in the court of U.S. District Judge William R. Wilson, who set a hearing on it for Feb. 6 in Jonesboro." The AP continues, "Work on the $320 million project to siphon water from the White River for use on farms that have been

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depleting the underground water supply will continue for now. … The National Wildlife Federation and the Arkansas Wildlife Federation filed the lawsuit in September, claiming that the project would violate the Endangered Species Act. The suit claims that diverting water from the White River could damage the ivory-billed's habitat. … The bird was once thought to be extinct and was only recently rediscovered in Arkansas. … Other lawsuits, both federal and state, have ended unfavorably for the environmentalists."

Administration To Provide $119 Million For Hydrogen Fuel Cell Research. The AP (1/25) reports, "The Bush administration said Tuesday it would provide $119 million in funding for research into hydrogen fuel cells, touting the automotive technology as a way to reduce the nation's dependence on foreign oil." Secretary Samuel Bodman, "touring the Washington Auto Show, said the money would fund projects to help overcome some of the barriers 'in getting technology out of the laboratory and out onto the test track.'" The funding "is part of President Bush's $1.7 billion hydrogen research program, first detailed in 2003. The government and automakers have been working to develop vehicles powered by pollution-free hydrogen fuel cells, which could reduce demand for imported oil while cutting greenhouse gas emissions."

Coalition Kicks Off Campaign For "Plug-In Hybrids." The Wall Street Journal (1/25, Fialka) reports, "A US coalition led by electric utilities, sensing a way to gain market share through vehicles that derive 90% of their power from electricity and can recharge at night when power is plentiful and cheap, kicked off a national campaign in Washington yesterday to push auto makers to make plug-in hybrids. Some cities, environmental groups and state pollution regulators have joined this 'Plug-in Partners' effort." They ":see plug-ins as a means to meet tightening air-pollution standards and to use controls over utilities as a way to clean up urban air. … The plug-in campaign is intensifying just as car buyers and policy makers are grasping for ways to ease the nation's energy problems. When President Bush delivers his State of the Union address next week, he is expected to tout alternative auto fuels, like ethanol, as well as nuclear energy."

NASA Says 2005 Warmest Year In A Century. NBC Nightly News (1/24, story 5, 1:00, Williams) reported, "There is proof tonight, speaking of which if you felt a little warm last year, it wasn't your imagination. NASA scientists said today the year 2005 was the warmest year in a century, beating out 1998. That's significant because 1998 was the year of El Nino which pushed temperatures up. The lead scientist in this study says the buildup of heat trap and greenhouse gases in the atmosphere, global warming is to blame, he says."

Flu Shots For Elderly Found To Be Ineffective. The CBS Evening News (1/24, story 8, 2:00, Schieffer) reported, "The CDC is taking a closer look at how best to protect seniors from the flu" because of "a series of studies that question the effectiveness of flu shots given to older people." CBS (Attkisson) added, "CBS News has learned that behind the scenes, public health officials have come to a new and disturbing conclusion: Most vaccinations of the elderly haven't done the job. Doctor Walter Orenstein was among the first to notice the problem when he headed up the Center for Disease Control's national immunization program. He says it's become a consensus among public health experts." Dr. Orenstein: "What is absolutely clear is that there is still a substantial burden of deaths and hospitalizations out there that have not been prevented through the present strategy."

Record Number Of Flu Vaccines To Be Produced. The New York Times/AP (1/25) reports, "Pharmaceutical companies say they are preparing to produce as many as 120 million doses of flu vaccine for the next flu season, by far the most ever. The increased production could mean an end to the shortages of the past several years." The companies cited several reasons for the large production run, including "better government reimbursement for shots, indications that federal health officials may one day recommend flu shots for nearly everyone, and public fears of avian flu."

Collaborative Process Becoming More Common In Western Land Battles. The Christian Science Monitor (1/25, Oliver) reports, "More than 95 percent" of Custer County, Idaho, "lies in public hands." Environmentalists, ranchers, weekend warriors, and local government officials, "exhausted after three decades of lawsuits, failed legislation, and ill will,…are backing a compromise bill that would designate some 300,000 acres as wilderness, privatize another 6,000, and keep the rest open for multiple uses" in "an example of 'collaborative process,' an evolving concept that could define the future of

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conservation." It's "a coming together of stakeholders intimately connected to a particular problem" that "is particularly evident…in the West." Experts have attributed "the movement's increased momentum to the rise of the Republican Party" or "a rising dissatisfaction with the strict gospel of conservation and the resulting stalemates." However, they also agree that "there remains little hard evidence that collaboration works in the long term.

Transportation Plan Pits Vacation Communities Against Bedroom Suburbs. The New York Times (1/25, Johnson) reports that Colorado "state officials are considering a major and contentious widening project for Interstate 70 that is dividing people over the question of who the highway is for and how it transformed these mountains." The "destinations for shopping or homebuilding…tend to favor an expansion of the highway," while "towns closer to Denver…which have not seen the influx of vacation homes or tourists and which also have many more commuters to Denver, say mass transit must be on the table." It is agreed on by "transportation experts, politicians and residents…that the stakes and implications…are enormous, touching on tenets of the West that are scriptural: unbridled growth, local identity, civic autonomy and an uneasy dependence on government."

FBI/DEA/ATF/USMS:

In Letter To Mueller, Grassley Criticizes FBI Disciplinary "Double Standard." The Washington Post (1/25, A17, Lee) reports that when retired FBI Special Agent Cecilia Woods was based in Panama and "suspected her boss of having extramarital affairs including one with a paid informant in 2000, she reported her concerns to bureau officials," but "for her trouble, the bureau suspended her for 10 days, then later transferred her to a less prestigious post in Washington, Woods said." Woods, "who in 2001 filed an equal employment opportunity complaint alleging a hostile work environment," now "has attracted a powerful ally -- Sen. Charles E. Grassley," who, "in a six-page letter sent Monday to FBI Director Robert S. Mueller III…cited Woods's case as an example of what he believes is a chronic 'double standard' of discipline at the agency, in which misconduct by supervisors is punished more lightly than that by underlings. The FBI also has a habit of dealing more harshly with misconduct by agents who are seen as disloyal than by those seen as loyal, wrote Grassley, who asked Mueller for more information about discipline at the agency." The Post adds, "An FBI spokesman said the agency planned to review Grassley's letter before responding 'in an expeditious manner' to the senator."

Medical Marijuana Supporters Challenge San Diego County Lawsuit. The AP (1/24) reports, "Medicinal marijuana advocates on Tuesday challenged a San Diego County lawsuit that seeks to overturn a state law permitting the use of pot for medical purposes. The county sued the state of California and its director of health services on Friday in federal court, saying federal law that prohibits marijuana use trumps state law that allows it. California approved the use of marijuana for medicinal purposes with the passage of Proposition 215, which won 55 percent votes cast in 1996. … The American Civil Liberties Union, Americans for Safe Access and the Drug Policy Alliance filed a motion to intervene in the lawsuit on behalf of patients." The AP story was published in newspapers and/or posted on the Web sites of several California news outlets, including the San Diego Union Tribune, San Jose Mercury News, Monterey County Herald, and San Luis Obispo Tribune.

The Los Angeles Times (1/25) writes, "Despite pleas from the ACLU and several individuals suffering chronic pain, the San Diego County Board of Supervisors on Tuesday declined to withdraw a lawsuit seeking to overturn a state law requiring the county to issue medical marijuana cards. Meanwhile, San Bernardino County officials announced they supported the San Diego board's decision to challenge the state law on grounds that federal prohibition of marijuana use takes precedence. By day's end, the county counsel of San Bernardino had contacted his counterpart in San Diego to discuss legal strategy. … Three years ago, state legislation mandated ID cards for patients and their caregivers. But the U.S. Supreme Court in June ruled that federal officials could seize and destroy pot plants and arrest growers and consumers, even in the 11 states where the drug has been legalized for medical use. Last month, federal Drug Enforcement Administration agents raided 13 San Diego-area marijuana dispensaries."

Texas Law Enforcement Faces Suspected Drug Smugglers Near US-Mexico Border. The AP (1/25) reports, "Texas law enforcement officers faced off with men dressed as Mexican Army soldiers and apparent drug suspects near the U.S.-Mexican border Tuesday, after three SUVs attempted to flee state authorities, officials said.

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Andrea Simmons, an agency spokeswoman in El Paso, told The Associated Press that Texas Department of Public Safety troopers chased three SUVs, believing they were carrying drugs, to the banks of the Rio Grande during Monday's incident. Men dressed in Mexican military uniforms or camouflage were on the U.S. side of the border in Texas, she said. … The Inland Valley Daily Bulletin of Ontario, Calif., reported Tuesday that the incident included an armed standoff involving the Mexican military and suspected drug smugglers. The incident follows a story in the Bulletin on Jan. 15 that said the Mexican military had crossed into the United States more than 200 times since 1996."

Knight Ridder (1/25, McLemore) reports in a widely distributed article that the incident "comes less than a week after Homeland Security Secretary Michael Chertoff called a California newspaper's account of such border incursions 'overblown.'" Meanwhile, "A spokesman for Mexico's Foreign Ministry said Mexican military personnel had nothing to do with the incident and suggested the trespassers may have been drug traffickers wearing military-style gear." US Customs and Border Protection official Kristi Clemens said Tuesday that the agency has "'launched an inquiry into the Monday incident and asked Mexican authorities for a thorough investigation and full answer on what happened.' … Gov. Rick Perry also has ordered an investigation, spokeswoman Kathy Walt said." The Washington Times (1/25, Seper, 90K) notes, "No shots were fired and no injuries were reported during what amounted to an armed standoff at the border. T.J. Bonner, a veteran Border Patrol agent and president of the National Border Patrol Council, yesterday called the incident 'just another example of what we have been saying all along: This is a serious problem and it's not going to go away.'" Sen. Jon Kyl "has asked Secretary of State Condoleezza Rice to 'initiate an official investigation' and 'open a dialogue with Mexico to prevent any future incursions.'"

US Officials Frustrated By Mexican Smuggling Rings Teaming With American Drivers. The Los Angeles Times (1/25, Marosi, 958K) reports on the phenomenon of Mexican smuggling rings teaming up with American drivers, something that occurs "daily at the two main vehicle gateways into California," and "frustrates US authorities." The number of Americans drivers caught on suspicion of smuggling migrants through the San Ysidro and Otay Mesa ports "has hovered around 4,000 since the number of car smuggling cases spiked about six years go. … Even if drivers are caught, they are usually released. Only 279 drivers in 2005 faced alien smuggling charges. Federal authorities say they are overwhelmed." The Times profiles Trent, an American smuggler who "dreams of an early retirement and spends his earnings on a 'weakness for Latina babes,'" and Felix, a Mexican smuggling boss who "says he employs so many American drivers like Trent that he rents them to other smuggling organizations."

Maps To Show Illegal Aliens Best Routes Into Arizona. The Los Angeles Times (1/25, Enriquez, 958K) reports, "Mexico's National Human Rights Commission will print and distribute at least 70,000 maps showing immigrants the safest routes to cross the border into Arizona, officials said Tuesday. The project, which immediately drew fire from groups organized against illegal immigration, is aimed at reducing the number of people who die trying to cross 50 miles of Sonoran Desert to reach highways in southern Arizona, according to Humane Borders, the Tucson-based humanitarian group that created the maps. … The Mexican government said 441 of its citizens died last year on the border, most in Arizona. The new maps will show spots where people have died — presumably discouraging some prospective migrants — as well as main roads, rescue beacons and the locations of water stations maintained by Humane Borders."

Virginia Navy Recruiter Charged With Murder-For-Hire Bomb Plot. The Bristol (VA) Herald Courier (1/25, Lakin) reports, "Evidence against a Navy recruiter accused of a murder-for-hire plot will stay secret a little longer. … Chief Petty Officer Keith Patrick Conner, 38, appeared briefly in federal court Tuesday - just long enough to waive his rights to bond and to a preliminary hearing on charges of trying to buy a bomb to kill someone. … 'This will save us a lot of time,' said his lawyer, Nikki Pierce, an assistant federal public defender." The Courier continues, "U.S. Magistrate Judge Dennis Inman sent the case to the grand jury and sent Conner back to jail. … Conner, a Gulf War veteran and the senior recruiter for the Navy's office in Bristol Virginia, met an undercover agent for the federal Bureau of Alcohol, Tobacco, Firearms and Explosives in the parking lot of the Bristol Mall last week and paid $1,000 as a down payment for what he thought was a homemade bomb, authorities said. … He showed up two days later at the Days Inn on West State Street to pick it up, according to court records. Conner put the 'bomb' - a fake - in his truck,

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authorities said, and federal agents put him in handcuffs. … 'Our bombs don't work,' said Jim Cavanaugh, special agent in charge of the bureau's Nashville office and chief of ATF operations in Tennessee. 'But without these agents' hard work, we could very easily have ended up working a bombing fatality.'"

The Kingsport (TN) Times-News (1/25) reports, "Cavanaugh said incidents such as this do happen from time to time. … 'They're rare for any city, but they're not rare across the country,' Cavanaugh said. 'When a person comes up and acquires an explosive device and plans to murder somebody, it becomes very dicey. … If we didn't get involved and intercept this, the potential is Conner could go to someone else to make the bomb, it could blow up, the victim could be killed. There's a whole lot of associated dangers. We're just glad we're not working a fatal bombing'"

ATF Probing Texas Dynamite Theft. The Fort Worth Star-Telegram (1/25, Branch, Bradford) reports, "A thief who used a torch to cut a lock on a shed where explosives are kept stole about 100 sticks of dynamite from a stone business in southern Parker County, law-enforcement officials said." The Star-Telegram continues, "The theft from Fort Worth Crushed Stone, in the 4300 block of Bethel Road, was reported about 6:30 a.m. Monday, Parker County Sheriff Larry Fowler said. … County Judge Mark Riley immediately notified state and federal authorities, Fowler said." The Star-Telegram adds, "Investigators and company officials took inventory Monday to determine whether anything else was missing, said Tom Crowley, spokesman for the Bureau of Alcohol, Tobacco, Firearms and Explosives in Dallas. … 'We're already doing interviews and chasing down leads,' Crowley said. 'Obviously, it's a big concern anytime you're talking about explosives potentially falling into the wrong hands.'"

IMMIGRATION:

Demjanjuk Appeals Deportation Order. The AP (1/25) reports, "An 85-year-old retired autoworker who lost his U.S. citizenship based on evidence he was a Nazi death camp guard asked an immigration board to reverse a judge's order that he be deported." The AP continues, "Chief Immigration Judge Michael Creppy ruled Dec. 28 that there was no evidence to document John Demjanjuk's claim that he would be tortured if deported to his home country of Ukraine. The judge ruled that Demjanjuk should be deported to Germany or Poland if Ukraine does not accept him." The AP adds, "Demjanjuk's appeal filed Monday sticks to the argument that he faces torture in Ukraine and that the case should have been handed to a judge responsible for Cleveland. … Creppy is based in Falls Church, Virginia, as is the Board of Immigration Appeals."

Sensenbrenner Says Guest Worker "Amnesty" Is Unacceptable. Rep. James Sensenbrenner said yesterday that he cannot accept a guest worker program like the one proposed by President Bush in a final immigration bill because such a program is amnesty. In an interview with the Washington Times (1/25, Dinan), Sensenbrenner said, "A guest-worker program that applies to illegal aliens already here is an amnesty." He said voters "will not accept a plan that amounts to amnesty, and said Mr. Bush's proposal would simply push the problem down the road. 'It seems to me that if you give these people the temporary cards, and the president talked a little bit about that yesterday out in Kansas, whether they are three-year cards or six-year cards or any other term, how do you get them to go back home when they expire?' he said. 'We end up simply postponing the decision on what to do about illegal aliens until the end of the validity of these cards.'"

TAX:

IRS To Review Tax Fraud Detection Program. The Wall Street Journal/AP (1/25) reports, "IRS Commissioner Mark Everson ordered a review of a tax-fraud detection program criticized for freezing thousands of refunds without notifying taxpayers. Mr. Everson said the tax agency will soon announce new procedures to advise taxpayers when a refund has been frozen. The agency will also revise its fraud screening procedures so that it withholds fewer refunds owed to innocent taxpayers."

The Washington Post (1/25, D1, Crenshaw) adds, "Nina E. Olson, the taxpayer advocate, highlighted the issue in her annual report to Congress this month. She noted that many of the blocked refunds involved the earned income tax credit, which is available to low-income working families. The report elicited concern from many on Capitol Hill, including Chairman Charles E. Grassley (R-Iowa) and senior Democrat Max Baucus (Mont.) of the Senate Finance Committee. Internal Revenue Commissioner Mark W. Everson said

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yesterday that he had ordered a review of the program. 'We will announce plans in the very near future to institute notification procedures as well as significant processing improvements to minimize the number of taxpayers whose refunds are frozen unnecessarily,' Everson said in a written statement. Everson provided no details, but an IRS spokesman said the agency expects more information to be available next week."

USA Today (1/25, Block) reports, "Asked about Everson's announcement Tuesday, Olson said the IRS should focus immediately on four priorities: providing prompt notification to taxpayers whose refunds have been frozen; allowing taxpayers whose refunds have been frozen to present evidence supporting their refund claims; reducing the number of refunds frozen in error; and processing frozen-refund cases more quickly."

Investigation Into Tax Shelters Widening. The New York Times (1/25, Browning) reports, "Federal prosecutors are investigating three lawyers at a prominent Dallas law firm, Jenkens & Gilchrist, in a widening of an investigation into questionable shelters that shielded billions of dollars from taxes, according to people briefed on the inquiry." The criminal probe "is a clear sign that the government is extending the investigation of tax shelters that it considers abusive beyond the case involving the accounting firm KPMG. There is no indication that Jenkens & Gilchrist itself is a target of the investigation. … Instead, the investigation is focused on three current and former tax lawyers based in the firm's Chicago office, the heart of its tax practice. They are Paul M. Daugerdas (pronounced DOG-er-dus), Erwin Mayer and Donna M. Guerin, according to the people who have been briefed on the investigation. The three lawyers wrote hundreds of legal opinion letters in recent years blessing aggressive tax shelters sold by accounting firms and, in some cases, by the law firm itself, that did not pass muster with the Internal Revenue Service, according to separate civil litigation against the firm."

IRS Steps Up Scrutiny Of Family Limited Partnerships. The Wall Street Journal (1/25, Silverman, Herman) reports in its "Tax Report" column, "The IRS is intensifying its scrutiny of family limited partnerships, a popular technique for reducing estate and gift taxes. The heightened scrutiny comes as the Internal Revenue Service has stepped up enforcement more broadly, increasing the number of audits it performs. … As part of its deepening probe into family limited partnerships, the IRS is questioning more of these transactions and taking a harder line during audits, seeking evidence of whether they really were set up for legitimate business purposes -- or merely as an elaborate tax dodge, officials say. In an increasing number of cases, auditors are interviewing taxpayers' adult children and others involved in a partnership for details on how it was set up and run. Officials are sometimes even scrutinizing partners' medical records, or interviewing doctors, to determine if a partnership was improperly created mainly to save taxes by someone on the verge of dying."

CONGRESS-ADMINISTRATION:

Senate Panel Approves Alito Nomination. The Senate Judiciary Committee yesterday approved the nomination of Judge Samuel Alito to the Supreme Court. Media coverage stresses that while he is expected to be confirmed by the full Senate, the final vote is likely to mirror the party-line vote he received in the Judiciary Committee.

The vote was the lead story on both CBS and NBC and the second story on ABC. ABC's World News Tonight (1/24, story 2, 1:05, Vargas) reported, "Democrats hoping to derail Alito, this is basically pie in the sky at this point." George Stephanopoulos aid, "It is not going to happen. They don't have the votes to pull it off. Alito is likely to be confirmed, by midweek, Tuesday or Wednesday. The debate is about framing arguments for the November election." The CBS Evening News (1/24, lead story, 4:00, Borger) also said, "The Democrats aren't coming out and saying that publicly but privately they're telling me, no way we can filibuster. We just don't have the votes."

The CBS Evening News (1/24, lead story, 4:00, Schieffer) reported, "While it's all but certain now that the full Senate will confirm him, the vote there is also expected to be very close to party line."

NBC Nightly News (1/24, lead story, 3:00, P. Williams) said, "Overwhelming, it won't be. Alito's supporters predict he'll likely get at most 60 votes, picking up a handful of Democrats. It's close enough that the full Senate vote could be held off until next week. A few Republican Senators will be out of the country until then, Alito's supporters are nervous about a vote before they're back."

Fox News' Special Report (1/24, Hume) said Alito" can now see the finish line," while CNN's The Situation Room (1/24, Blitzer) added the panel's vote "drives home the

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Democrats' dilemma. They oppose Alito but they don't think they can keep him off the court."

The AP (1/25, Holland, Writer) reports, "Alito won commitments from a majority of senators Tuesday, assuring his eventual confirmation and a likely tilt of the court to the right. … Fifty Senate Republicans, plus one Democrat, Ben Nelson of Nebraska, have publicly committed to vote for Alito through their representatives, interviews with The Associated Press or news releases. No Republicans have opposed him and five have yet to declare how they will vote: Sens. Lamar Alexander of Tennessee, Lincoln Chafee of Rhode Island, Susan Collins and Olympia Snowe of Maine and Ted Stevens of Alaska."

The Wall Street Journal (1/25, Cummings) reports Democrats "won't try to filibuster, despite pressure from some party activists. Still, Judge Alito's confirmation vote is expected to be a narrow one that could draw opposition from one or two Republicans and scant support from Democrats, half of whom backed Chief Justice John Roberts's nomination to the high court last year. And the debate will likely continue to play out into the fall elections." Sens. Lincoln Chafee and Olympia Snowe "both have expressed concern about Judge Alito's history of opposing abortion rights, and spokesmen said neither has decided yet which way to vote. Thus far, Nebraska Sen. Ben Nelson is the only Democrat committed to support the nomination when it comes to a vote sometime in the next week."

Reuters (1/25, Ferraro) quotes White House spokesman Scott McClellan saying, "We urge the Senate to move forward with a swift up-or-down vote so that he can begin serving on our nation's highest court."

The New York Times (1/25, Kirkpatrick) says the Senate debate will be "contentious if predictable," and adds "Democrats have indicated Judge Alito appeared too well qualified and unthreatening in his confirmation hearings to justify a filibuster." Democratic "leaders are nonetheless pushing for a lengthy debate over the nomination to make their case against Judge Alito. And Democratic aides say privately that they also hope to hold off the final vote until Tuesday, when the president's State of the Union speech will overshadow the news."

The Los Angeles Times (1/25, Reynolds) reports that asked whether he would mount a filibuster Alito, Senate Minority Leader Harry Reid "answered, 'No,' although he refused to rule out the possibility." The Washington Times (1/25, Hurt) adds "observers on both sides of the aisle…say they doubt Democrats really have the stomach for a high-profile filibuster." A similar USA Today (1/25, Kiely) says Alito "is headed for almost-certain confirmation,"

The Hill (1/25, Allen) reports, "At the final committee hearing, Republicans focused on Alito's qualifications, including his 15 years on the 3rd U.S. Circuit Court of Appeals, and characteristics such as integrity and honor that they said he demonstrated both on the bench and in committee hearings." Democrats "again voiced concerns about the possibility that Alito would vote to overturn abortion rights and that he would support the expansion of presidential powers." Sen. Dianne Feinstein said, "If one is pro-choice in this day and age…one cannot vote for Judge Alito."

The Washington Post (1/25, C1, Davis) says, "Sometimes it's not the words that tell the story. Sometimes it's a cigar. … It was fat and brown, and when it wasn't clutched between the fingers of Bill Reynolds, Republican Sen. Arlen Specter's chief of staff, it was tucked -- unlit -- squarely in the left side of his mouth, or being delicately finger-twirled between his lips. Despite all the speeches in that ornate, wood-paneled room, it was his cigar that was sending the true message of the day." The Post adds, "This legislative 'minuet,' as Reynolds's boss, the Judiciary Committee chairman, described the confirmation process at the start of the Alito hearings -- was just about over. The dance was done but for a few formal steps. It was time to pass the cigars and pop the corks -- and -- oh, yeah -- somebody should count the votes."

The AP (1/25, Kallestad) reports Sen. Bill Nelson "said Tuesday he plans to vote against Judge Samuel Alito's confirmation to the Supreme Court. … 'His many legal writings, judicial opinions and evasive answers both at his hearing and in our private meeting, convinced me he would tilt the scales of justice in favor of big government,' Nelson said." The Miami Herald (1/25, Clark) also reports on Nelson's statement.

The Legal Times (1/25, Goldman) reports, "The full Senate will take up the Alito nomination this morning; it could vote on his confirmation as early as Friday or as late as next Tuesday, the day President George W. Bush is slated to give his annual State of the Union address." The Times continues, "Democrats were unapologetic in their opposition to Alito, who has served on the 3rd U.S. Circuit Court of Appeals for the past 15 years. Republicans, by contrast, were effusive in their praise. And they insisted that Democratic problems with Alito boiled down to one issue: abortion."

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Dick Morris writes in The Hill (1/25), "The reason Democrats and liberals did not get more popular traction in their opposition to the appointment of Judge Samuel Alito to the Supreme Court is that their worldview of what constitutes a good nominee is sharply at variance with that of the American public at large. To the likes of Sens. Edward Kennedy (D-Mass.), Charles Schumer (D-N.Y.), Hillary Clinton (D-N.Y.) et al., the Supreme Court is a kind of super-Congress — nine special Senate seats — and the criterion for confirmation is agreement with the nominee on the key issues likely to come before the court." But "to the American voters, the Supreme Court is above politics and ideology and confirmation should be awarded based on personal attributes such as integrity, intelligence, judgment, compassion, wisdom, maturity, fairness and temperament." Morris adds, "Realizing this difference in perspective between the Democratic base and the public at large, President Bush has done very well with both the John Roberts and the Alito appointments. When his people forgot about the dichotomy -- and nominated Harriet Miers who was seen as a poorly qualified if conservative candidate -- they got their heads handed to them."

White House Trying To Get 60 Votes. The Wall Street Journal (1/24) reported in its "Washington Wire" column on its web site, "With an eye toward the oldest members of the Supreme Court, the White House is trying to scratch out a filibuster-proof 60 votes for Judge Samuel Alito to set a conservative standard that gives Bush some maneuvering room in the event of another opening. Insiders say the odds of achieving that goal aren't good. But Bush allies take heart that the Democrats' vigorous opposition to Judge Alito irritated enough of the Republican members of the Gang of 14 -- the bipartisan group of senators who neutralized Democrats' threat to block Bush judicial nominees and Republicans' threat to change Senate rules to ban filibusters -- to edge them closer to voting for a judicial filibuster ban down the road.'

Confirmation Expected To Represent "Historic Shift To Right." The CBS Evening News (1/24, lead story, 4:00, Schieffer) noted, "I'll tell you one thing and I want to see what you think about this, the President promised during the election to move this court to the right. From what we heard in these hearings, what we've already seen with Judge Roberts on the bench, it is moving to the right, isn't it?" Chicago Tribune legal analyst Jan Crawford Greenberg: "That's right. The White House is confident that new Chief Justice John Roberts and Sam Alito will be solid, principled conservatives and they won't drift to the left once they've been up here a while as many believe Sandra Day O'Connor did. That means this court is poised for an historic shift to right on those key social issues like abortion, affirmative action, gay rights, the death penalty, and perhaps even questions of presidential power."

The Chicago Tribune (1/25, Zuckman) says Alito "would likely be sworn in almost immediately, taking the place of O'Connor, who would step down. Cases that the justices have heard in recent months that have not yet been decided might have to be reargued, since Alito could not vote on a case if he was not sitting at the time of the argument."

Knight Ridder (1/25, Henderson, Kuhnhenn) says Alito "could immediately shift the court's stance on high-profile issues such as abortion, the death penalty, religion and executive power." Yet "it is Alito's vision of judicial restraint and a limited role for courts -- a vision he shares with new Chief Justice John G. Roberts -- that could produce an even more fundamental change in the high court. Together, the two are likely to bring a narrow and lawyerly approach to deciding cases that, if persuasive, could help remove the justices from some of the high-profile political squabbles that now define them."

Dispute Over Executive Authority Key Topic Of Debate Over Alito. The Washington Post (1/25, A3, Babington) reports Democrats "all but conceded the Supreme Court confirmation of Samuel A. Alito Jr. yesterday" but "signaled they will use the Senate debate that begins today to focus on President Bush's domestic spying program and their predictions that Alito will be too pliant in supporting it."

The Christian Science Monitor (1/25, Chaddock) says the Democratic "push for a party-line vote on Alito signals another prize in this week's confirmation debate: a possible takeover of the Senate in next fall's elections." Democrats "are eager to mount an aggressive rhetorical case heading into this week's final vote - and coming midterm elections." As Bush "takes his case for domestic eavesdropping without a warrant to the American people in a series of events this week, Democrats are using the Alito debate to raise objections. Before voting Tuesday, Democrats on the Senate Judiciary panel zeroed in on Alito's statements in support of executive powers, especially in a time of war."

Both CBS and NBC also highlighted the dispute over the NSA monitoring program. The CBS Evening News (1/24,

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lead story, 4:00, Schieffer) reported, "What was not expected today was that the committee fight turned out to be as much about the current controversy over government eavesdropping as it did about abortion." CBS (Borger) added, "Democrats may have no way to stop Judge Alito from heading to the Supreme Court, but in the committee room today, they continued to link his nomination to the President's controversial decision to secretly wire tap Americans." Chicago Tribune legal analyst Jan Crawford Greenberg was asked about the Democrats' emphasis on the terrorist monitoring dispute. Greenberg replied: "Because the Democrats think they have a political issue that they can run on. If they can make it about big brother and privacy, then perhaps they do. The Republicans, however, are betting that if they can turn this issue into a national security issue, they'll win."

NBC Nightly News (1/24, lead story, 3:00, P. Williams) reported Democrats "focused on President Bush's order that the NSA monitor phone calls into and out of the US without a court order." Sen. Edward Kennedy, Massachusetts: "The record demonstrates that we cannot count on Judge Alito to blow the whistle when the President is out of bounds." P. Williams: "But Republicans said today's vote was not about the judge himself and was more about politics." Sen. Lindsay Graham, South Carolina: "Senate Democratic leaders urged their members Tuesday to vote against him in an effort to lay the groundwork for making a campaign issue of the decisions on the court. I'll tell you right now, we welcome that debate on our side. We'll clean your clock." Sen. Orrin Hatch, Utah: "Under any reasonable or objective or traditional standard, the Senate would overwhelmingly confirm this exceptional nominee."

Biden, Cornyn Criticize Confirmation Process. Fox News (1/25, Roh) reports, "Samuel Alito's elevation to the U.S. Supreme Court is nearly a foregone conclusion despite serious misgivings about him by Democrats and, reportedly, a few moderate Republicans. But that hasn't stopped a partisan fight from casting an unflattering light on the judiciary confirmation process as a whole." Fox News continues, "After the confirmation hearing for Alito wrapped up on Jan. 13, Delaware Democratic Sen. Joseph Biden, who voted by proxy against Alito because he is abroad monitoring Wednesday's Palestinian election, called the system 'broken.' At least one Republican who backs Alito's confirmation agreed with Biden's assessment. … 'I find myself tending to agree a little bit with Senator Biden, who questioned whether such a process really has a meaningful purpose,' Texas Republican Sen. John Cornyn said just before announcing his vote for Alito on Tuesday. 'I don't think the hearings should be a place to dump one's political or ideological outbox.'" Fox News adds, "That description largely fit the Alito hearing, and to a lesser degree, the one for Chief Justice John Roberts in September, observers say. During the Alito hearing, many Democratic senators spent more time discussing how they would have voted in legal disputes and their thoughts about Princeton University, Alito's alma mater, than actually asking Alito questions — ostensibly the reason for the hearing. … Republican senators weren't particularly inquisitive either, opting instead to extol Alito as a serious-minded, intellectually gifted jurist who is 'not a racist.' … As a result, critics say, the public did not learn anything more about the 3rd Circuit Court of Appeals judge than they would have by reading the numerous opinions he authored in 15 years on the bench. Not learning more, they say, may be all but built into the process."

Santorum Challenger Says He'd Vote To Confirm Alito. The AP (1/25, Heffling) reports, "Sen. Rick Santorum's leading Democratic challenger, Pennsylvania Treasurer Bob Casey, announced Tuesday that he endorses Judge Samuel Alito's confirmation to the Supreme Court." For weeks, "Republicans have called Casey 'Silent Bob' and pressed him to say whether he supports Alito's confirmation." Casey said yesterday in a statement, "I do not agree with everything that Judge Samuel Alito has done or said -- particularly many of his rulings which too often result in corporate power prevailing over the interests of consumers and workers. However, I agree with The Philadelphia Inquirer and Washington Post editorial boards that the arguments against Judge Alito do not rise to the level that would require a vote denying him a seat on the US Supreme Court."

The Hill (1/25, Mikhail, Barr), however, says this morning "none of the Democrats challenging incumbent Republican senators in competitive midterm races has said they would vote to confirm Judge Samuel Alito to the Supreme Court. … All Democratic candidates surveyed by The Hill who answered definitively said they would vote against Alito,."

Hatch "Distressed" By Judiciary Committee Vote. Sen. Orin Hatch said on CNN's Lou Dobbs Tonight (1/24) that he is "distressed" by the Judiciary Committee vote because it is "the first vote in history where it's been a straight party line vote with regard to a Supreme Court nominee. And I

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really believe it all comes down to abortion. Now, they'll use other issues, but, you know, this man has participated in over 5,000 cases. He's written over 350 opinions. You can cherry-pick whatever you want to from the left to the right in his opinions, but virtually everybody who knows him, including seven of his colleagues on the Third Circuit Court of Appeals, including those who are liberal, those who are Democrat, those who are conservative, say he is one of the best judges in the country. And the American Bar Association gives him its highest rating and yet Democrats voted against him and it was all over Roe versus Wade."

Brownback "Uncomfortable" With Judiciary Committee Vote. Sen. Sam Brownback said on MSNBC's Hardball (1/24) that the Judiciary Committee vote did not surprise him, adding, "It did make me uncomfortable, because I don't think these things should be on a party line vote. It wasn't a party line vote on John Roberts and yet very similar answers to questions from Judge Roberts as there has been from Judge Alito. So it appears as if Judge Alito is being put through a different set of standards than what John Roberts was given two or three months ago and I think that's unfortunate. I think it's a political set of standards."

Salazar Says Alito Is "Very Far To The Right." Sen. Ken Salazar said on MSNBC's Hardball (1/24), "I think the problem with Judge Alito is that there is a strong body of records that really show that he is very far to the right. And from my point of view, I don't want a judicial activist on the bench. I want somebody that's going to check their political and personal ideology at the door and come in and be a fair and impartial judge. In the case of Judge Roberts, I think that's the case. In the case of Judge Alito, it isn't the case."

ABA Role In Confirmation Process Examined. John R. Lott Jr., a resident scholar at the American Enterprise Institute, writes in the New York Times (1/25) that GOP senators "have found a new friend during judicial confirmations: the American Bar Association. During the confirmation hearings of John G. Roberts Jr. and Samuel A. Alito Jr., the senators invoked A.B.A. evaluations to ward off Democratic attacks -- including in yesterday's vote by the Senate Judiciary Committee sending Judge Alito's nomination to the full Senate." But "this tactic is shortsighted: what works now may make it difficult for Republicans to credibly reject A.B.A. ratings when they really matter." The bar association "has liberal views on issues from abortion rights to gun control, but it has always claimed that a high wall separates its evaluations from its policy positions. Yet the bar association's liberal bias on its evaluations is there for all to see. … Moreover, the A.B.A. rating system was a poor guide to how judges will do once they are on the bench. According to The Almanac of the Federal Judiciary's lawyer survey, judges who had 'good' judicial temperament got lower A.B.A. ratings than judges whom lawyers rated as only 'fair.' The A.B.A. didn't give all Republicans low ratings. They saved the lowest ratings for when there was a Republican president and a Democratic Senate, when the nominations were most likely to be contested."

Bush Considering New Tax Cuts For Health Care Costs. USA Today (1/25, Jackson) reports, "President Bush is weighing proposals for new tax breaks for health care costs, which will be a major topic of next week's State of the Union address, a top economic adviser to the president said Tuesday." Allan Hubbard, director of the National Economic Council, said yesterday, "People are very, very frustrated about the cost of health care." Hubbard "told reporters at USA TODAY and Gannett News Service that the tax code offers advantages when a company buys health coverage for its employees but doesn't do the same for employees who have to buy coverage on their own." Bush "has discussed some other health care ideas, including expansion of health savings accounts, which are tax-free savings accounts that can be used for medical expenses." The President, "Bush has also talked about providing consumers with more information about medical costs, to enable them to be better shoppers. 'Do you realize the medical field is one where you don't do any comparative shopping?' the president asked the crowd last week during an event in Virginia." Hubbard "said Bush will discuss that topic, but he declined to say whether Bush would propose that the government require doctors to post their fees, or simply encourage patients to ask. 'I'm going to let the president talk about exactly how this should happen,' he said."

The Washington Post (1/25, A1, Goldstein) also reports on Bush's plans, and says the tax initiative is "part of an initiative the White House believes will rein in soaring health costs by shifting responsibility toward individuals, according to congressional and other sources familiar with the administration's thinking." The new tax breaks for personal health spending, "to be included in the 2007 budget Bush will release in less than two weeks, are designed to help the uninsured and to allow people with insurance to write off a

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greater portion of the money they spend on co-payments, deductibles and care that is not covered." The President also "plans to call for an expansion of health savings accounts," and for "changes to allow people to keep their insurance, without extra cost, if they change jobs or decide to start a business, building on a decade-old law that was designed to make health coverage more 'portable.'" In an interview yesterday, Hubbard "said the current system is flawed because it gives employers tax deductions for the health insurance they buy for workers, but no similar tax preferences for people who buy coverage because their company does not provide it."

The Hill (1/25, Young) adds "big business interests are prepared to back up…Bush's expected call to make healthcare legislation a priority in the coming legislative year. Facing escalating costs and aging populations of workers and retirees, large employers are seeking policies that would enable them to limit their future healthcare spending while allowing them to avoid dropping expensive health benefits altogether." The Hill also reports, "The small-business community also favors legislation that would make it less pricey to provide employees health coverage."

Meanwhile, Michael F. Cannon, director of health policy studies at the Cato Institute, writes in the Washington Times (1/25), "The White House has been dropping hints that the president will make health-care reform the centerpiece of his State of the Union address. The Bush administration's health care record is, to put it delicately, inconsistent." It "has supported efforts to remove government influence over the health care sector, such as health savings accounts (HSAs). On the other hand, the president signed into law the largest expansion of federal power over health care in generations the ill-fated Medicare drug program. So in an attempt to help the administration straighten up and fly right, here's my health policy wish list for the State of the Union." Cannon adds, "1. Propose 'large HSAs.' … 2. Push hard for interstate commerce in health insurance. … 3. Avoid further expansions of federal power. … 4. Clean up the Medicare mess. Finally, it would be nice for the president to acknowledge that the Medicare drug program that took effect this month was a huge mistake."

Reid Blasts Bush In Advance Of State Of The Union Speech. In a speech to the Center for American Progress, Senate Minority Leader Harry Reid gave what Reuters (1/24, Smith) called a "scathing assessment of the state of the nation" under President Bush and the Republican Congress. Reid urged Bush "to 'swagger' less and show more honesty and humility in his annual State of the Union speech to the nation next week." Reid "took aim at the president's national security record, saying Bush 'must unite the nation behind our most important goal -- keeping our people and way of life safe. We need to hear honesty and humility from the commander in chief, not swagger from the campaigner-in-chief.' … Reid accused Bush of making promises in past State of the Union speeches and doing the opposite." Reuters added, "Reid's speech was part of an effort to lay the groundwork for the November congressional election in which Democrats hope to win control of Congress or at least shrink the Republican majority."

The AP (1/24) added that Reid "urged President Bush Tuesday to 'come clean' in next week's State of the Union speech and acknowledge 'the costs of Republican corruption.'" Reid said, "In his 2000 campaign, George Bush promised to bring 'dignity' to the White House, but we've since found that he brought Jack Abramoff instead," adding, "President Bush needs to quit stonewalling about his White House's connection to corruption, and finally tell us how he's going to reform Washington."

The Washington Times (1/25, Dinan) adds that Reid "set a series of hurdles for Mr. Bush to clear in next week's State of the Union address, particularly on political-process reforms. 'In his 2000 campaign, George Bush promised to bring "dignity" to the White House -- but we've since found that he brought Jack Abramoff instead,' Mr. Reid said. 'President Bush needs to quit stonewalling about his White House's connection to corruption and finally tell us how he's going to reform Washington.'" The Times adds, "At the White House, press secretary Scott McClellan said the remarks were 'more of the kind of partisan attacks that we see in this city.'"

Frist's New Message Shop Launches Pre-Emptive Attack On Reid. Roll Call (1/25, Stanton) reports, "Senate Majority Leader Bill Frist (R-Tenn.) rejected an expected demand by Senate Democrats late Tuesday that the GOP leader postpone consideration of asbestos legislation in favor of their lobbying reform bill, arguing in a letter to Senate Minority Leader Harry Reid (D-Nev.) that 'to postpone debate on this issue is to blatantly ignore a very real problem' and accusing Reid of wanting to 'kill this bipartisan legislation that ensures victims are better compensated.' Subsequently, Democratic aides said that Reid no longer expects to make a formal request." The Hill adds that a GOP aide said the pre-

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emptive attack by Frist "is the first offensive maneuver orchestrated by Frist's message operation, which is winkingly called the 'peace room' as a contrast to Reid's 'war room.' The aide said Frist hopes that such message tactics will allow Republicans 'to be more flexible and adaptive as we move on ahead, both on offense and refuting spurious and scurrilous Democratic claims.'"

States Will Be Reimbursed For Medicare Drug Benefit Costs. Reuters (1/25, Heavey) reports, "The federal government will help reimburse states that have been paying for prescription drugs after glitches with Medicare's new benefit left many patients stranded, U.S. health officials said on Tuesday." Mark McClellan, head of the Centers for Medicare & Medicaid Services (CMS), "said states should first seek reimbursement from health insurers and other companies offering the plans. But if states paid out more than they can get back, Medicare will pay the difference, he said."

The Financial Times (1/25, Yeager) calls the development "an embarrassing setback for President George W. Bush, who has listed the programme among the primary accomplishments of his first term. But it reflects growing pressure from Republican and Democratic governors, as well as members of Congress, following reports that trouble enrolling in the programme has left hundreds of thousands of people without coverage since it took effect on January 1."

The New York Times (1/25, Pear) reports Michael Leavitt, Secretary of Health and Human Services, "announced the plan in response to a political furor swirling around the new Medicare drug benefit. At least two dozen states have taken emergency action to help low-income people who could not get their medications under the program, which began Jan. 1. States are spending millions of dollars a day in such assistance." Leavitt said, "In cases where states have continued to pay for drugs at rates higher than what the plans would reimburse, as a function of our transition, we're going to help them cover that."

The Washington Post/AP (1/25, A4, Press) reports, "Previously, officials said reimbursement to the states would come from the private plans themselves."

The Los Angeles Times (1/25, Alonso-Zaldivar) reports, "Leavitt's announcement marked the first time that a senior official publicly acknowledged the need to fix the broad range of problems. It came a week before President Bush's scheduled State of the Union message, in which the president, despite the glitches, is expected to praise the benefit as a significant accomplishment and a foundation for market-oriented healthcare reforms. … California has spent more than $9 million for about 110,000 emergency prescriptions since Gov. Arnold Schwarzenegger intervened about two weeks ago."

Poorer Seniors Slow To Sign-Up For Drug Benefit. USA Today (1/25, Wolf) reports, "Low-income seniors without Medicaid or prescription coverage are signing up for a new Medicare drug benefit at a far slower rate than others, a sign the program isn't reaching many of those who need it most. Fewer than 300,000 of the 3.6 million people who have voluntarily enrolled in the drug program were approved for a low-income subsidy. … By contrast, more than 3.3 million people have signed up for coverage without qualifying for the subsidy."

Program Triggers "Competitive Scramble" Among Insurers For Seniors' Business. The Wall Street Journal (1/25, A1, Lueck, Fuhrmans) reports, "The government's new Medicare benefit that gives private drug coverage to millions of Americans has sparked a competitive scramble in the health-insurance industry. … AARP, the powerful seniors' organization, is in the awkward position of providing impartial advice to seniors while at the same time selling them products. For UnitedHealth, the nation's No. 2 health-insurance provider, the AARP relationship is a powerful tool in what is becoming an all-out land grab." The Journal adds, "Defying early predictions that private insurers wouldn't offer prescription-drug policies, dozens of companies are offering regional plans and 10 are selling them nationwide. The government is heavily subsidizing the policies, for which 42 million people are eligible. It's a big and unexpected growth opportunity at a time when the industry's traditional business -- administering employer health benefits -- is stagnant or shrinking." The Journal adds that "the lower the insurer's bid, the lower the premium for the customer. The government hopes this formula will keep its costs low."

Clinton Seeks To Restore Medicare Cuts Resisted By Insurers. The Washington Post (1/25, A4, Weisman) reports Sen. Hillary Rodham Clinton and Rep. John D. Dingell "will introduce legislation to restore Senate-passed language that would cut payments to private insurers in Medicare by $26 billion over the next decade, the lawmakers said yesterday. As part of a broad budget-cutting bill, the Senate approved legislation that targeted private HMOs participating in Medicare by changing the formula that governs their

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reimbursement, lowering payments $26 billion over the next decade. But after lobbying by the health insurance industry, House and Senate Republican negotiators last month made a critical change that had the effect of eliminating all but $4 billion of the projected savings, according to the Congressional Budget Office." Clinton "described the behind-the-scenes action, detailed yesterday in a Washington Post report, as 'the latest example of Republicans taking care of their special interests at the expense of the American people.'"

Ehrlich Urged To Fill Coverage Gaps. The Washington Post (1/25, Levine, Marimow) reports, "In Maryland, advocates called on the state to immediately pick up the cost of medications and co-payments that the federal government otherwise would be handling under the Medicare Part D plan. … Legislators in the Democratic-controlled General Assembly echoed his concern, although they urged Gov. Robert L. Ehrlich Jr. (R) to instead make state money available so additional caseworkers could be hired to help beneficiaries navigate the complex drug program."

Academics Seek Clear Demarcation Lines Between Doctors, Drug Companies. The Wall Street Journal (1/25, Mathews) reports, "A group of academics called for stringent limits on the ties between drug companies and doctors, saying in an article published in the Journal of the American Medical Association that the current relationships lead to conflicts of interest." The medical profession's standing "is 'jeopardized by allowing obvious conflicts to continue,' and academic medical centers should take the lead in reforming them, the JAMA article said." The writers, from Harvard University, Columbia University, the University of California at Berkeley and other institutions, "echoed concerns expressed with increasing frequency by medical-journal editors, professors and some doctors." The Washington Post (1/25, A8, Connolly) adds the group "said that voluntary efforts to limit corporate inducements have failed, resulting in the overprescribing of some medications and the withholding of negative discoveries about others. Highly publicized cases involving the anti-inflammatory drug Vioxx, antidepressants for children and spinal implants made by Medtronic -- all occurring while voluntary guidelines were in place -- highlight the need for stricter measures, they said."

The New York Times (1/25, Harris) reports the article says "the gifts, drugs and classes that makers of pharmaceuticals and medical devices routinely give doctors undermine medical care, hurt patients and should be banned." Moreover, the authors urge "medical school faculty" to "set an example for their profession by distancing themselves from drug companies' marketing efforts," says USA Today (1/25, Rubin).

Bush Seeks To Revive Food Aid Reform Plan. Bloomberg (1/25, Drajem) reports, "The Bush administration is reviving a plan to buy some of the food it uses for overseas aid from foreign rather than domestic farmers, and is courting the support of charities that helped sink the idea last year." The proposal, which seeks to "funnel one-quarter of the $1.2 billion spent by the government on foreign aid to local suppliers, still faces opposition from US agricultural producers, who currently supply all the food aid." To push the plan, USAID officials "met recently with groups such as Care…and Save the Children, to try to win their support for reviving the idea of buying emergency food supplies in or near countries hit by famine."

Senators To Propose New Spending On Science, Technology. The Hill (1/25, Schor) reports, "A bipartisan group of senators will introduce an ambitious trifecta of bills today aiming billions of dollars in new spending at the nation's sliding science and technology sector." The bills, collectively called Protecting America's Competitive Edge (PACE), "sprang from a request made by Sens. Lamar Alexander (R-Tenn.) and Jeff Bingaman (D-N.M.) to the independently funded National Academies: What specific actions could Congress take to ensure continued U.S. competitiveness? When the National Academies came back with 20 recommendations and a report on how to implement them, the senators took notice, as did President Bush, who is reportedly considering making science and technology innovation a major theme of his State of the Union address."

White House Acknowledges There Are At Least Six Photos Of Bush With Abramoff. MSNBC's Hardball (1/24, Shuster) reported, "Nearly three weeks after White House officials denied President Bush knew or remembered meeting Jack Abramoff, the White House now acknowledges there are at least half a dozen photographs of the two men together. And Washingtonian magazine reports that on one occasion President Bush knew enough about Abramoff to ask about the lobbyist's children. So why did Press Secretary Scott McClellan make this statement earlier this month?" McClellan "The President

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doesn't recall meeting him and he certainly doesn't know him." MSNBC added, "McClellan is not the only White House official whose credibility on the Abramoff story has been hit. Yesterday, Presidential Counselor Dan Bartlett told the Today Show that Bush and Abramoff only interacted at holiday parties. … But Time magazine reported on Sunday that one of the photos is from a May 2001 meeting, when Abramoff posed with President Bush and some of Abramoff's tribal chief clients. One of the tribal chiefs has told MSNBC the White House meeting with Abramoff and President Bush was set up by anti-tax crusader and White House adviser Grover Norquist, and the tribe says it wrote Norquist this $25,000 check for the visit."

Democrats Eager To Obtain Photos. Knight Ridder (1/25, Douglas, Recio) adds that Bush's "foes are anxious to get their hands on photos of him posing with disgraced lobbyist Jack Abramoff." The photos "aren't proof of any wrongdoing on Bush's part. But they do put him in the uncomfortable position of standing next to an admitted felon who's become the symbol for all that's wrong with Washington. Bush's opponents would like the ammo as mid-term elections approach."

WPost Says Administration Should Make Abramoff Dealings With White House Public. An editorial in the Washington Post (1/25, A18) says, "Here is what we don't know about Jack Abramoff and the White House: whom he met with and what was discussed. Nor, if the White House sticks to its current position, will we learn that anytime soon. … This is not a tenable position. It's undisputed that Mr. Abramoff tried to use his influence, and his restaurant and his skyboxes and his chartered jets, to sway lawmakers and their staffs. Information uncovered by Mr. Bush's own Justice Department shows that Mr. Abramoff tried to do the same inside the executive branch. Under these circumstances, asking about Mr. Abramoff's White House meetings is no mere exercise in reportorial curiosity but a legitimate inquiry about what an admitted felon might have been seeking at the highest levels of government. Whatever White House officials did or didn't do, there is every reason to believe that Mr. Abramoff was up to no good and therefore every reason the public ought to know with whom he was meeting." The Post calls on the Bush Administration "to get all of Mr. Abramoff's dealings with the Bush White House and the Bush administration out in the open -- now."

Lobbyists Prepare To Fight Tightening Of Lobbying Regulations. The Hill (1/25, Bolton) reports, "Big trade associations — lobbyists — are getting ready to fight the sharp tightening of lobbying regulations. The board of directors of the American League of Lobbyists (ALL), a trade association representing lobbyists, met Monday to discuss the various reform proposals and to lay plans for a coalition of lobbying heavyweights to work with lawmakers to review them." ALL President Paul Miller "said a coordination effort is under way among several of the biggest business lobbying groups, including the U.S. Chamber of Commerce, the National Association of Manufacturers (NAM), the National Federation of Independent Business (NFIB), the American Society of Association Executives (ASAE) and others. A similar coalition was formed in 1995 when Congress last seriously scrutinized lobbying regulations, Miller said. Some of the groups Miller cites seem leery about joining the effort to influence reform proposals when criticism of lobbyists is so intense both on and off Capitol Hill."

Baird Wants To End "Political Intelligence" Work By Lobbyists. A separate report in The Hill (1/25, Snyder) says Rep. Brian Baird "wants to end an inside-the-Beltway version of insider trading as part of his party's larger lobbying-reform effort. … The conversations in question are secret tips lobbyists get from their contacts on Capitol Hill and pass along to hedge-fund clients, who in turn may use the information to buy or sell a stock. The tips could include, for example, nonpublic information about when a bill is going to be introduced or a key member's opinion on a particular policy." The Hill adds, "Several K Street firms supplement their lobbying incomes through this type of 'political intelligence' work, serving as pipelines to hedge funds in particular because they often trade stocks more frequently than other businesses, such as mutual funds. The problem, Baird says, is the trading on information that is not yet public and therefore not readily available to other investors who can't afford to hire lobbyists." Baird "says he's determined to shine some light on the practice, which has increased along with the growth of hedge funds in the past decade, because the potential to make big money from the release of the information could have a corrupting influence on the process."

Professionals Question When Gift Becomes A Bribe. The Christian Science Monitor (1/25, MacDonald) reports, "As members of Congress scramble to take cover amid a storm of corruption scandals, professionals of all

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stripes have fresh reasons to question whether the business-related gifts they give and receive are truly innocent. Norms vary as to what constitutes a bribe, say ethicists and other experts on the subtle, sometimes manipulative, power of gifts. As a result, individuals in positions of responsibility and trust are likely to get entangled - perhaps tragically - in the absence of explicit policies for what is acceptable." The Monitor adds, "Amid this climate, some professionals are taking steps to ensure that even traditional gifts don't create conflicts of interest.

Democrats Will Delay Filing Ethics Complaints Against Republicans. A top Democratic lawmaker said House Democrats have no immediate plans for file complaints against Republicans when the ethics committee begins working again. The Hill (1/25, Kaplan) reports, "As Republicans have hinted they may file formal ethics complaints, Democrats are content to sit on the sidelines for now. 'The Justice Department is moving, and there's no reason to interfere and give the Republicans a tool to say the investigation is being politicized,' the Democratic lawmaker said. 'That's not in their rhetoric, and right now they have to answer the Justice Department's charges. Once it looks like it's political, they don't have to answer that.'"

Indicted Congressman Are "Almost Certain To Lose Their Seats." The Hill (1/25, Savodnik) reports, "History shows that members of Congress with an indictment hanging over their heads are almost certain to lose their seats — a cautionary tale not only for House Republicans tied to lobbyist Jack Abramoff but the entire GOP conference as a whole. Republicans with Abramoff ties who could be indicted in the coming weeks include Rep. Bob Ney of Ohio, a target of a Justice Department probe. But a handful of other members have or are suspected of having ties to Abramoff and are watching intently as the events unfold." The Hill adds, "While the Congressional Research Service does not keep a tally of all members of Congress ever indicted, anecdotal evidence suggests that the vast majority of indicted members either step down or lose at the polls, a CRS official said."

Congressional Public Records Offices Set To Become Hotbeds Of Activity. The Hill (1/25, Schor) reports that the "Senate's Office of Public Records and the House's Legislative Resource Center are poised to become hotbeds of activity this year, with Congress weighing big changes to lobbying disclosure rules that could flood the offices with paper and newfound responsibility. Public Records Superintendent Pam Gavin said the office would be hard-pressed to determine what it might need to administer a new disclosure regime that the Senate has not yet passed or even debated." The Office of Public Records (OPR) "collects thousands of lobbying disclosure forms, which are double-checked and provided for public viewing. In private, Gavin's three full-time lobbying staffers send correction letters to the unknown number of lobbyists and firms who have erred in their filings. Lobbyists who fail to file at all, or who cover their tracks with a technically accurate but misleading disclosure, can easily escape any notice." The Hill adds, "Neither the OPR nor the LRC would disclose how many noncompliant lobbying cases they refer to the U.S. attorney for the District of Columbia, who plays the role of lobby police. But of the 200 referrals made by Congress since 2003, prosecutors have pursued only 13, according to U.S. attorney spokesman Channing Phillips."

NYTimes Says Reforms Should Open Conference Committees To Public. An editorial in the New York Times (1/25) says, "One of the rawest displays of lobbyists' power in the Capitol occurred beyond the sight of the public last month, when Republican Congressional negotiators tweaked a budget-cutting bill in order to provide the health insurance industry with a $22 billion windfall. The circumstance of this victory by insurance lobbyists is particularly relevant now that the same Congressional leaders are feverishly vowing to enact lobbying reform. The bill change, dearly sought by the H.M.O. industry, was written by House and Senate lawmakers and staff members in closed-door, Republican-only bargaining sessions - one of the 'conference committees' for settling differences in final legislation that are themselves becoming part of the Capitol's influence-peddling scandal. … If the tables were reversed, Democrats might indulge the same hegemony. But right now, some are proposing that the forthcoming attempt at lobbying reform include a rules change to at least open the conference committees to the public and allow minority party lawmakers votes in committee on the final wording of legislation. It remains to be seen whether such an advance in participatory democracy can survive the inevitable assault by dissatisfied lobbyists and their allied incumbents."

Boehner, Shadegg Try To Force Second Ballot In Majority Leader Vote. In the battle for House Majority Leader, Reps. John Boehner and John

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Shadegg are locked in a battle to force a second ballot. The Hill (1/25, O'Connor) reports, "The prospect of a second ballot generates significant uncertainty for each team heading into the Feb. 2 election, but it creates a particularly difficult dynamic between Boehner and Shadegg because the two lawmakers must work together in forcing the second vote while trying to beat each other on the first." The Hill adds, "At press time, [Rep. Roy] Blunt had 91 public supporters, Boehner had 41 and Shadegg had 10. Unlike Blunt and Boehner, Shadegg is not whipping his vote count or releasing the names of public backers."

Bass, Flake Back Shadegg. The Washington Times (1/25, Fagan) reports that Rep. Charles Bass, chairman of the Tuesday Group of more liberal house Republicans, and Rep. Jeff Flake, a "vocal House conservative" have backed Shadegg for Majority Leader saying he "is the best choice to bring true reform." The Times adds, "Mr. Bass and Mr. Flake worked closely together last year to try to reform the budget process, enforce fiscal discipline, reduce the number of earmarks and create a more open, honest budget structure. Their efforts were largely unsuccessful, but both said yesterday Mr. Shadegg is the one to work with them to make those changes."

The New York Times (1/25, Hulse) adds, "There was no surprise in the pledge by Mr. Flake, like Mr. Shadegg an Arizona conservative. But Mr. Bass, of New Hampshire, is a moderate leader in the House, and he acknowledged that it would be hard for some to accept his support of Mr. Shadegg, arguably the most conservative of the contenders. Mr. Bass said that he did not see significant ideological differences among the three and that Mr. Shadegg had made a stronger commitment to 'bring transparency, accountability and necessary disclosure back to the legislative scene here in Washington.'"

Blunt's PAC Received $10,000 From Phone Sex Mogul And His Wife. Roll Call (1/25, Akers) reports in its "Heard on the Hill" column, "Seeing as he's an outspoken social conservative, some folks were surprised to find out that one of the largest contributors to Rep. Roy Blunt's (R-Mo.) political action committee last year was a businessman who made his fortune in the 1990s off the phone-sex business. Jeffrey Prosser, dubbed by the Columbia Journalism Review in a 1998 story 'a world-class phone-sex operator,' gave $5,000 to Blunt's Rely On Your Beliefs fund in 2005 and his wife, Dawn Prosser, gave another $5,000, making them the largest donor couple to Blunt's PAC. … The donations have given giddy Democrats an opening to attack Blunt, in tacky and personal ways. … Blunt's ROYB Fund executive director, Keri Ann Hayes, said the Congressman had no clue that Prosser was a 1-900 kind of a guy. 'Mr. Blunt was not aware of the colorful history of this individual contributor when his PAC accepted the donation,' she said."

McDowell Would Create GOP Majority On FCC. The Washington Post (1/25, A17, Kamen) reports in its "In the Loop" column, "The Federal Communications Commission may be a step closer to filling its long-vacant third Republican seat. The name of Robert M. McDowell , senior vice president and assistant general counsel at the Comptel telecom trade association, is being floated for the seat, Reuters reported, which would give FCC Chairman Kevin J. Martin a working majority. There hasn't been a GOP majority on the commission since Michael K. Powell left as chairman in March 2005. Senate Commerce Committee Chairman Ted Stevens (R-Alaska), whose support is key…said yesterday he would support McDowell."

Meyerson Says Incompetence Is Bush's "Defining Attribute." Harold Meyerson writes in his column in the Washington Post (1/25, A19), "Incompetence is" George W. Bush's "defining attribute." He has "cosmically botch[ed] so many big things…when most of them were the president's own initiatives." Medicare Part D "is his most mind-boggling failure," as "apparently," people "trying to get their medications covered under the program" is "a contingency for which the administration was not prepared." The creation of Medicare didn't have "such problems." However, "financially beholden to both the drug and insurance industries, the Bush administration and the Republican Congress mandated that millions of Americans have their coverage shifted to these most byzantine of bureaucracies." The explanation is "greed, in understanding why Bush entrusted his new drug entitlement to a financial mainstay of modern Republicanism," and "sloth, in understanding why Incurious George has repeatedly ignored the work of experts whose advice runs counter to his desires." Medicare Part D "is, remember, the president's signature domestic initiative, just as the Iraq war is his signature foreign initiative."

WSJournal Urges Congress To Address Ecoterrorism. The Wall Street Journal (1/25)

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editorializes that news of Osama bin Laden's tape "swamped some other major terror news: that the Bush Administration has rounded up some of America's most dangerous domestic terrorists," the "11 members of an animal-rights and ecoterrorism outfit." The credit "goes to the FBI, which in recent years has listed green extremists as a top domestic terror threat" which, "in recent years…have been expanding their scope, targeting bodies that are only marginally linked to practices they resent." However, "current statutes don't cover many ecoterrorist activities, such as threats or coercion against third-party targets. The sooner Congress takes this up the better, and more news coverage of their widespread threats and violence wouldn't hurt either."

OTHER NEWS:

Oil Prices Fall Following Saudi Pledge To Increase Output. The Financial Times (1/25, Dennis) reports that crude oil prices fell yesterday "after Saudi Arabia pledged to pump more oil to cover supply problems in Nigeria. … By midday in New York, Nymex WTI for March delivery was down 25 cents to $67.85 a barrel, while March Brent eased 25 cents to $65.92."

Stocks Post Moderate Gains. Stocks posted moderate gains Tuesday, the Wall Street Journal (1/25, Patterson) reports. The Dow industrials gained 23.45 points to 10712.22. The Standard & Poor's 500-stock index added 3.04 to 1266.86. The Nasdaq Composite Index gained 16.78 points to 2265.25.

DaimlerChrysler To Cut 6,000 White Collar Jobs. The New York Times (1/25, Tribune) reports, "DaimlerChrysler said Tuesday that it would eliminate 6,000 white-collar jobs, 20 percent of its administrative work force around the world, taking its cost-cutting drive beyond the factory floor. The company said it would save $1.8 billion a year after this and other streamlining efforts were completed by the end of 2008. Of the white-collar cuts, 30 percent would come from the management level. … Shares of Daimler rallied in response to the news, increasing $2.60, to $54.84."

ABC's World News Tonight (1/24, story 8, 0:20, Vargas) reported, "A day after the ax fell at Ford, Daimler Chrysler was downsizing. The carmaker says it will trim its staff by 20% worldwide over the next six years. That will mean 6,000 fewer jobs. Chrysler says most of the job cuts would be in Germany."

The Washington Post (1/25, D1, Joyce) reports, "While U.S. automakers are eliminating unionized workers by the tens of thousands, they are also paring their ranks of engineers, executives and other white-collar workers. Oftentimes, white-collar, nonunion workers in the manufacturing industries are on the front line of staff reductions. Companies do not have to go through negotiations to eliminate nonunion jobs. The workers often cost less to fire because they do not have the same protections that organized workers have. For example, the Big Three automakers pay into a job bank, which pays hourly workers even if they have been laid off."

UAW Urged To Give "Economic First Aid" To Auto Industry. John B. Schnapp, who led the auto industry practice at Mercer Management Consulting, writes in the Wall Street Journal (1/25), "General Motors and Ford, bleeding cash and market share, have vowed to cut 60,000 jobs over the next half-dozen years. So far, though, they have been unable to request, much less obtain, more than token economic first-aid from the United Automobile Workers. … The collective bargaining negotiations upcoming in 2007 loom as a likely auto industry Armageddon, in stark contrast to a rising trend among similarly threatened industries in Germany, where unions are quietly customizing deals to protect jobs and preserve employers. The evident unwillingness of the UAW rank-and-file to participate in that sort of salvation effort is a legacy of the union's justly admired founder, Walter Reuther, an inheritance likely to prove now progressively more obsolete and self-defeating." Reuther "was an undoubted great man. However, the persistence in the contemporary UAW of his intractability, understandable though it may have been in his own time, ensures a continuation of the worst of all outcomes -- a shrinkage of employers and the disappearance of jobs."

Foreign Auto Makers Gain Ground In US. NBC Nightly News (1/24, story 6, 3:00, Williams) reported, "The US auto industry at a crossroads." And "many are wondering how the US auto industry lost its way. The numbers tell the story. Just 10 years ago, the so-called big three US automakers had 75% of the American market to themselves. Last year, that dropped to 60%, as foreign automakers continue to gain ground with US consumers." NBC (Thompson) added, "Some believe no matter how many plants and jobs Detroit cuts, what the big three really need is a new deal with the United Autoworkers Union that reduces retirement and health care costs." Professor Peter Morici, University of Maryland:

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"Until the Ford Motor Company gets major concessions from the UAW, they will not be able to build cars as inexpensively as Toyota." Thompson: "Foreign manufacturers now have 29 plants in this country, known as transplants, most non-union with younger, cheaper workers." Morici: "There will always be a US auto industry. We continue to make about 12 million cars a year because as Ford and General Motors scale down, the transplants scale up." Thompson: "Giving a stalwart of the American economy an increasingly global flavor."

Churches To Argue For, Against Maryland Stem Cell Bill. The Baltimore Sun (1/25, Skalka) reports, "Despite the pleas of many doctors and researchers to keep arguments rooted in science, the debate over embryonic stem cell research won't be confined to laboratories." When Maryland "legislative committees convene Wednesday to hear testimony about bills that would commit $125 million over five years for embryonic stem cell research, members of various religious communities will weigh in." However, "there are members of other denominations who stand firmly in favor of the bills."

Virginia Woman Sues Ford Over Air Bag Accident. The Washington Post (1/25, Jackman) reports, "Attorneys for an Arlington woman who contends that she was blinded in one eye when an air bag deployed told a Fairfax County jury yesterday that Ford Motor Co. knew its 1995 Escort was dangerous but did nothing to fix it or warn motorists." The Post continues, "Berta Benitez, 44, was on her way to work more than six years ago as the front-seat passenger in an Escort station wagon when the car and a Plymouth Voyager minivan collided on Lee Highway in Arlington. She filed suit in 2001 against Ford and the Koons Ford dealership where the car was bought." The Post adds, "Ford's attorneys, who dispute that the air bag caused Benitez's injuries, said in their opening statement yesterday that the 1995 Escort was safe and that its passenger air bag was no different than the air bags in other cars made in the mid-1990s. Benitez's attorneys said the air bags were too big and deployed much faster than called for in safety guidelines. … Benitez's attorney David Bernhard enlisted the help of Taras S. Rudnitsky, a former air bag engineer for General Motors Corp. who became disenchanted with what he says was the lack of safety concern in the auto industry. Rudnitsky quit to go to law school. After graduating, Rudnitsky served as an expert witness in lawsuits against carmakers, but he had eased away from auto litigation -- until Benitez's case came along. … Her case and e-mails from Bernhard lured him back, Rudnitsky said before trial. And so yesterday, in Fairfax Circuit Court, Rudnitsky began his first trial as a lawyer."

Fatah Maintains Lead Over Hamas; Coalition Expected To Rule Palestinians. The Financial Times (1/25, Morris) reports, "A multi-party coalition government led by Fatah, with the possible inclusion of ministers from Hamas, appeared the most likely outcome of Wednesday's Palestinian parliamentary elections as last-minute polls showed the ruling party maintaining its lead." A Palestinian Centre for Public opinion poll "indicated Fatah would win just under 40 percent support among 1.35m registered voters in the West Bank and Gaza, 10 per cent ahead of Hamas." Fatah's "most likely coalition partners are small, formerly Marxist left-wing parties, the centre-left National Initiative List and the Third Way, headed by Salam Fayyad, former finance minister."

USA Today (1/25, Gutman) notes that before the election "Fatah and Hamas say they might consider forming a national unity government. Such a coalition would dim prospects for future Palestinian-Israeli negotiations. Hamid, the editor, said Hamas wants to join a broad coalition and would press the Palestinian Authority to adopt a harder line toward Israel. Once in government, 'Hamas would not make the same mistake as Fatah and engage in 12 years of fruitless negotiation,' he said."

The Washington Times (1/25, Pisik) reports that despite concerns over Hamas' political strength, "Many voters, such as a Palestinian border agent at the Erez Crossing into the Gaza Strip, say they will vote for Fatah despite its shortcomings, because they fear that Hamas would exacerbate already inflamed relations with Israel."

The New York Times (1/25, Erlanger) reports that Palestinian president Mahmoud Abbas's "accomplishment with the election on Wednesday is also an extraordinary risk." Since "Many in Fatah, let alone in Israel and the United States, say they believe that Mr. Abbas is inviting the snake into the garden." His "great gamble is a successful outcome in which Hamas is an engaged player but not dominant."

The Washington Post (1/25, A14, Wilson) reports, "Hamas is projected to win roughly a third of the new parliament's 132 seats and bring the Islamic movement inside the Palestinian government" but Hamas may now "be

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taking new risks by joining a weak and nearly bankrupt Palestinian government it has scolded from the outside for years." Their "leaders are facing questions about how they will manage future peace negotiations with Israel, win the freedom of thousands of Palestinian prisoners from Israeli jails, and ease the occupation in the West Bank given their vow not to recognize Israel or talk to its leaders."

Hamas Candidates Continue To Support Military Action Against Israel. Both ABC and NBC interviewed Hamas candidates who suggested peace negotiations would become more difficult. ABC's World News Tonight (1/24, story 4, 3:10, Woodruff) reported, "And the peace process? One of Hamas' top candidates told us in Gaza, today, he would not deal directly with Israel. Would you negotiate with Israel through a third party?" Unidentified Hamas candidate: "If they are going to release our people from the Israeli jail? Yes. And if they are going to withdraw from the West Bank, yes." Woodruff: "What will you give them in return?" Unidentified Hamas candidate: "We are not in the market. Our land was stolen. And we are restoring part of our rights." Woodruff: "But despite all its political success, there is no indication Hamas is giving up its guns."

NBC Nightly News (1/24, story 4, 1:30, Williams) reported that one of Hamas' leading women candidates, Mariam Farhat, son was a terrorist and two of her other sons were Hamas fighters. In an interview, Farhat was asked, "Standing for parliament means that's an end to the military struggle. Is that right? Democracy means no more terrorism." Farhat replied, "No. Our strategy is to continue with military action. It is parallel, the political plan and the jihad plan."

Meanwhile, some believe Hamas is increasingly pragmatic. The Christian Science Monitor (1/25, Prusher) says "when Palestinians vote in Wednesday's legislative elections, analysts say, it's Hamas's more moderate tone, as well as disillusionment with the ruling Fatah Party, that will yield the group significant gains." Meanwhile, "its mix of moderate and hard-line messages may complicate Israeli and US stands against dealing with Hamas." Yet "it is unclear how Hamas's popularity will translate into policy." USA Today notes, "Some Palestinians say that Hamas is hoping it doesn't get a majority, preparing instead to be an opposition or second-largest power. In recent interviews, leaders have said that they will not change their charter calling for Israel's destruction. But Tuesday, Hamas leader and candidate Mahmoud Zahar said in Gaza that 'negotiation is not a taboo,' adding at the same time that 'we do not consider the Israeli enemy as a partner or a neighbor.'"

And the Washington Times (1/25, Mitnick) reports, "Hamas is working to soften its image both abroad and domestically on the eve of today's Palestinian elections, recognizing that its reputation for violence is hurting its cause, at least in the West." One "professional media consultant hired by the campaign acknowledged that after years of suicide bombings and other attacks on Israelis, the Palestinians in general and Hamas in particular are thought of abroad as bloodthirsty."

Hamas Success Could Hamper US Policy. ABC and NBC highlighted the expected success of Hamas in the Palestinian elections on Wednesday with detailed stories describing how Hamas' election could have a strong negative impact on efforts to reach peace in the region. CBS did not cover the election. ABC's World News Tonight (1/24, story 4, 3:10, Woodruff) reported, "Palestinian President Mahmoud Abbas told us today he's nervous." Abbas: "I am worried. I cannot say that I am relaxed." Hamas' "charter calls for the destruction of Israel" and "if Hamas wins tomorrow, it would be a major blow to US policy. Because it's a terrorist group, the US and Europe would likely suspend hundreds of millions of dollars in Palestinian aid."

Meanwhile, USA Today (1/25, Slavin) in an analysis says that a strong Hamas showing "could jeopardize U.S. aid to the Palestinians and Arab-Israeli peace efforts." And it is only "one of several Islamic political parties gaining strength throughout the Middle East, most prominently in Egypt, Iraq and Lebanon. They all share opposition to U.S. policies, particularly American support for Israel." USA Today notes, "Religious parties are gaining because they are 'the most organized, best-funded, most dedicated and most attractive' alternatives to corrupt authoritarian regimes, says Daniel Pipes, director of the Middle East Forum. … Their views contradict the U.S. goal of creating 'liberal, stable, open societies,' he says."

Daniel Pipes, director of the Middle East Forum, in an op-ed in USA Today (1/25) writes, "Hamas might have hired a spin doctor to improve its image in the West, but its leadership candidly maintains it has no intention of changing. Responding to a question on whether Bush is correct that U.S. engagement with Hamas would moderate the terror group, Mahmoud Zahar, a Hamas founder, laughed and declared that this tactic 'will not succeed.' In recent days, Zahar has publicly reiterated that Hamas still intends to

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destroy Israel." Pipes adds, "Fortunately, U.S. policy remains steadfast: 'We haven't dealt with Hamas, and we won't deal with Hamas members who are elected,' says U.S. embassy spokesman Stewart Tuttle in Israel. That is a good start; ideally, there should be no dealings at all with a Palestinian Authority that includes Hamas in its leadership."

USA Today Urges US To Work To Moderate Hamas. USA Today (1/25) editorializes that "the smartest strategy for U.S., Israeli and international policymakers is to find ways to prod Hamas to make its new image more than cosmetic. Hamas needs to be pushed onto the path taken by the Irish Republican Army (IRA), which over time split into a military and political wing, the former slowly overwhelmed by the latter."

Olmert Says Israel Will Have To Cede West Bank Land To Keep Jewish Majority. ABC's World News Tonight (1/24, story 4, 3:10, Woodruff) at the end of its story on the problems the US may face if Hamas fares well in the Palestinian elections reported that in his first major address Israel's acting prime minister Ehud Olmert "said Israel will have to give part of the West Bank back to the Palestinians in order to maintain a Jewish majority in the rest of the country. But he said Israel will keep its main settlements and keep control of Jerusalem."

The New York Times (1/25, Myre) reports Olmert "said he was following the path set down by Prime Minister Ariel Sharon." He "did not offer new proposals, but said this was an opportune moment to revive peacemaking efforts, with the Palestinians holding parliamentary elections on Wednesday and with Israel holding its legislative elections on March 28." In response "to the speech, Saeb Erekat, the chief Palestinian negotiator, said: 'I want Mr. Olmert to know he has a partner on the Palestinian side. I hope he will abandon unilateral Israeli actions and come back to the negotiating table so both sides can begin to implement their obligations under the road map.'"

Kadima Remains Strong Despite Sharon Illness. Israeli newspaper Ha'aretz columnist Ari Shavitt in an interview on the legacy of Ariel Sharon in The New Yorker (1/23) was asked whether there was "a vacuum" in the Israeli leadership and how Sharon's absence would impact acting Prime Minister Olmert's ability to lead. Shavitt said, "Right now, we are in limbo. … What you do have right now are the political facts on the ground, and the most dominant fact is Kadima, Sharon's new party, which, in an astonishing way, is doing remarkably well, even without him. Which proves that the need for a centrist party in Israel was so great that once Sharon created it — and there was a need for Sharon to be the creator — it had a life of its own, even without him leading it. Things might change, but right now it seems that there is enough political energy to have, so to speak, the 'Sharon way,' even when Sharon is politically gone. Having said that, it's going to be much more difficult, because Olmert does not have Sharon's gravitas or authority, especially when it comes to dealing with the settlers. … We are going to try, as a people, to deal with the difficulty of the settlements in the West Bank, but without Sharon it's going to be more difficult and more violent and, I'm afraid, it might even become bloody."

Rise Of Fundamentalists Raises Questions About Bush Democratization Policy. USA Today (1/25, A1, Slavin) in a front page analysis reports, "Islamic fundamentalists who oppose U.S. interests in the Middle East have benefited from the U.S. policy of promoting democracy, making significant gains in recent elections." Congressional Research Service Mideast expert Kenneth Katzman said, "The pro-democracy effort has had the actual effect of strengthening fundamentalist movements." But "State Department spokesman Sean McCormack declined to comment on the trend and said the administration would wait for Palestinian election results." USA Today notes, "Promoting democracy should 'obviously' be part of U.S. policy, says Richard Haass, a senior State Department official in President Bush's first term. But there's debate about whether it is outweighing other foreign policy goals, he says."

The Washington Post (1/25, A1, Baker) in a front page story reports, "In the year since Bush redefined U.S. foreign policy in his second inaugural address to make the spread of democracy the nation's primary mission, the clarion-call language has resonated in the dungeons and desolate corners of the world. But soaring rhetoric has often clashed with geopolitical reality and competing U.S. priorities." Although "the administration has enjoyed notable success in promoting liberty in some places, it has applied the speech's principles inconsistently in others, according to analysts, activists, diplomats and officials. Beyond its focus on Iraq, Washington has stepped up pressure on repressive regimes in countries such as Belarus, Burma and Zimbabwe -- where the costs of a confrontation are minimal -- while still gingerly dealing with China, Pakistan, Russia and other countries with strategic and trade significance."

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Rice Says US Has Votes To Refer Iran To Security Council. Fox News' Special Report (1/24, Rosen) reported that Secretary of State Condoleezza Rice is expected to continue lobbying for referral of Iran to the UN Security council. Rice says "the US has the votes it needs regardless of how Russia and China come down. If true, that would send the issue to John Bolten, America's Ambassador to the United Nations who told a conference in Israel yesterday, quote, 'a nuclear Iran is not acceptable.'"

Top Foreign Ministers To Craft Response To Iran. The New York Times (1/25, Sciolino) reports, "The foreign ministers of Britain, France, Germany, Russia and China and Secretary of State Condoleezza Rice will meet in London on Monday in an effort to resolve their differences on how best to punish Iran for its nuclear activities, three diplomats said Tuesday." It "will give the five permanent members of the Security Council, as well as Germany, a last opportunity to forge a common position before a crucial meeting in Vienna on Feb. 2 of the 35 country board of the International Atomic Energy Agency." At the least, "the ministers could be expected to issue a statement of concern calling on Iran to immediately close down its uranium enrichment plant at Natanz."

Administration Seeks Russian Help With Iran. The AP (1/25, Schweid) reports, "The Bush administration is looking to Russia for diplomatic help in harnessing Iran's nuclear program despite growing U.S. criticism of Russian domestic policies." Recent signs of a crackdown by Russia on non-governmental organizations "was criticized again Tuesday by State Department spokesman Sean McCormack." But "this displeasure was overshadowed by the urgency of trying to line up Russia to challenge Iran's nuclear programs." According to Nixon Center president Dimitri Simes, "President Bush's 'special relationship' with Putin in which the two leaders spoke frequently to each other, stopped two years ago."

Iran Dismisses Criticism Of Plans To Examine Evidence Of Holocaust. The AP (1/25, Dareini) reports, "Iran on Tuesday defended its plan to organize a conference to examine what it terms the scientific evidence for the Holocaust." The conference "is yet another step in hard-line President Mahmoud Ahmadinejad's public campaign against Israel."

Bombs Kill Eight In Iran. The New York Times (1/25, Fathi) reports, "Two separate bombs exploded Tuesday morning in the southern city of Ahwaz at a bank and a government building, leaving 8 people dead and 46 wounded, state-run news agencies reported." Iranian "President Mahmoud Ahmadinejad had been expected to meet his cabinet in the city, but the trip was canceled Monday evening. His office said the four-day trip was canceled because of bad weather, the IRNA news agency reported Monday. The explosions occurred at the time he had been expected to make a speech in Ahwaz."

Training Of Indian Troops Show Improving US Relations. The Washington Post (1/25, A1, Lancaster) in a front page story reports, "In the latest of a series of such exercises, 120 U.S. combat troops have come here to train with their Indian counterparts in areas such as counterinsurgency and peacekeeping." It "is an example of the striking improvement in relations between the United States and India following decades of Cold War estrangement and more recent tensions stemming from India's nuclear tests in 1998." And "President Bush is scheduled to visit India for the first time in early March at the invitation of Prime Minister Manmohan Singh. … In New Delhi on Friday, Indian Foreign Secretary Shyam Saran said the planned visit is 'really reflective of the very significant transformation that has taken place, and is taking place, in India-U.S. relations.'" Experts "say the White House drive to court India was also influenced by frustration with traditional allies such as France and Germany and concerns over the rising power of China."

US Support For Indonesia "Vital" In 1975 Attack On East Timor. The Washington Post (1/25, A15, Lynch) reports, "U.S. political and military support for Indonesia was vital to its ability to invade East Timor in December 1975 and to sustain a brutal 24-year occupation that cost the lives of at least 100,000 people, parts of a Timorese inquiry made public Tuesday show." The inquiry "contended that the Ford administration 'turned a blind eye' to the Indonesian invasion even though it knew that U.S.-supplied arms would be used to carry it out. The report called on the United States, France, Britain and other military backers of Indonesia to pay reparations to victims of Indonesian oppression."

Pentagon Unveils Control System For Missile Defense. The Washington Times (1/25, Gertz) reports, "The Pentagon showed off its new command-and-control system for U.S. missile defenses yesterday during a war-game missile attack on the United States, Japan and

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South Korea." It "did not identify the missiles as coming from North Korea, but it was clear to observers and participants that the fictional island nation of Midland in the Sea of Japan/East Sea represented the communist state referred to by President Bush as part of an 'axis of evil.'"

UN Report Cites Mismanagement By Contract Caterer. The Financial Times (1/25 Davoudi, Fidler) reports, "A United Nations report into procurement operations at its peacekeeping missions has uncovered evidence of suspected mismanagement, favouritism and financial irregularities in relation to its dealings with several companies including a subsidiary of Compass, the troubled contract caterer." The Office of Internal Oversight Services investigation "examined 27 contracts worth $1bn, or 31 per cent of the cumulative value of all commercial contracts over $5m. As reported, it found that the world body could have lost as much as $298m in contract irregularities." A "report describes seemingly irregular payments made to" Compass subsidiary ESS, "suspicions over why contracts were awarded to ESS and the absence of proper financing on one contract."

Kojo Annan To Pay For Duties On Car. The New York Times (1/25, Hoge) reports, "Kojo Annan, the son of Secretary General Kofi Annan, will repay the government of Ghana import duties he avoided by falsely claiming that a Mercedes he bought was for his father, his lawyer disclosed Tuesday."

67% Of US Citizens Have Favorable Opinion Of Blair. USA Today (1/25, Soriano) reports, "At home, British Prime Minister Tony Blair is frequently caricatured as a poodle following President Bush's lead. His ratings are in the loo (toilet). Not so in the USA, where a USA TODAY/CNN/Gallup Poll shows 67% of Americans view Blair favorably." And "Sixty-six percent say Blair would be a good secretary-general of the United Nations when he no longer is leading Great Britain. Last week, former president Bill Clinton recommended Blair for that job." His popularity in the US coincides "with a ringing endorsement of Blair from Bush on Monday at Kansas State University. Bush branded as unfair suggestions that Blair is a yes man for Bush's policies, particularly the Iraq war."

Questions Raised About Delay In Appointing US Ambassador To Australia. The Christian Science Monitor (1/25, Kremmer) reports, "More than a year after the former US ambassador said his goodbyes to Australia, the top diplomatic post remains vacant in Canberra, reflecting a casualness that has the typically laid-back Aussies getting a little anxious." The "relaxed attitude by both governments -- which are in agreement on almost all matters of foreign policy -- has allowed months to pass before doubts finally began to be raised here that perhaps the Americans were being a tad callous toward their close ally." After "an ambassador is finally picked, it could take Congress several months to clear the nominee, meaning that it may be nearly two years before the post is filled."

Hu To Discuss Trade In US Visit. The Wall Street Journal (1/25, Dean) reports, "Chinese President Hu Jintao will visit the U.S. in April as the two nations try to hash out persistent disagreements over trade and other issues." U.S. Deputy Secretary of State Robert Zoellick "struck a broadly positive tone in his comments about China, underscoring a relative improvement in relations in recent months despite a host of nagging disputes over trade and other issues." He "said he raised those sticking points during meetings yesterday with senior Chinese officials, including Premier Wen Jiabao. The U.S. official said he reiterated comments by President Bush on Monday urging China to show further flexibility in the exchange rate of the yuan. That issue is certain to come up during Mr. Hu's April visit."

Domestic Investment, Exports Fuel Strong Growth In Chinese Economy. The Financial Times (1/25, Yu) reports, "China's economy grew a powerful 9.9 per cent in the fourth quarter of last year, fueled by strong domestic investment and export growth." The Times adds, "The National Bureau of Statistics said on Wednesday China's gross domestic product was Rmb18,232bn (US$2,251bn) for all of 2005, also up 9.9 per cent -- a growth rate slightly slower than the 10.1 per cent recorded for 2004. Per capita GDP reached US$1,700."

The Wall Street Journal (1/25, Browne) notes despite the strong growth "some economists believe even that figure underestimates the powerful momentum behind what may now be the world's fourth largest economy." The figures "indicate that not only has China escaped a 'hard landing' that some feared as Beijing cooled overheated investment in sectors like real estate and steel starting in 2004, but it has maintained rapid growth for the third straight year with low inflation, currently running at around 1%."

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China Cracks Down On Popular Weekly Newspaper. The New York Times (1/25, Kahn) reports, "China's Propaganda Department on Tuesday ordered the closing of Bing Dian, an influential weekly newspaper that often tackled touchy political and social subjects, as the authorities stepped up efforts to curb the spread of information and views the Communist Party considers unfavorable." It "came the same day that Google announced that it would begin steering its Chinese users to www.google.cn, which will restrict access to content that China's media monitors consider problematic."

The Washington Post (1/25, A15, Pan) reports, "Because any move to punish it would almost certainly require his approval, the decision to close Freezing Point was seen as further evidence of" Chinese President Hu Jintao's "personal support for a tightening of controls on the media that began two years ago, about a year after Hu took office."

Industrial Production Boosts Japanese Economy. The Wall Street Journal (1/25, White) reports, "Japanese economic activity continued to pick up in November, fueled by strong industrial production, the government said." The figures "suggest Japan's economic recovery remains on solid footing. Growth in services was moderate, but economists say they remain optimistic given signs of improvement in other areas."

Sheehan Expresses Admiration For Chavez. AFP (1/25) reports, "Anti-war protester Cindy Sheehan…joined more than 10,000 anti-globalization activists in Caracas, where she hailed Venezuela's leftist President Hugo Chavez." Sheehan said, "I admire him for his resolve against my government and its meddling." The US "should not meddle anywhere, the 'peace mom' told AFP during the march, which was marked by anti-Bush slogans."

Conservative Government Elected In Canada. The only network news program to report on the election of a more Bush-friendly leader in Canada, NBC Nightly News (1/24, story 5, 1:00, Williams) briefly reported, "Tonight there's been a changing of the guard in Canada. Stephen Harper, a 46-year-old economist, was elected the next Prime Minister after his Conservative Party won the most seats in Parliament, ending 13 years of Liberal Party rule. Harper is seen as more closely aligned with President Bush on such issues as defense, the war in Iraq, and the environment."

The Wall Street Journal (1/25, Chipello) reports that while the Conservative Party won the election, voters "put the new Conservative government on a short leash by leaving the victors well short of a parliamentary majority." The preliminary results showed the Conservatives "winning 124 seats and 36% of the popular vote, compared with 103 seats and 30% of the popular vote for the Liberals." Experts "said Mr. Harper will have to steer a careful centrist course, as the Conservatives will need help from other parties to pass legislation and remain in office. Minority governments in Canada typically cooperate with opposition parties on an issue-by-issue basis, rather than through formal coalitions. Such governments have lasted around 18 months on average."

And the Washington Times (1/25, Sevunts) notes, "With just 124 seats in the 308-seat House of Commons," Harper "will have to find allies on an issue-by-issue basis from among three left-of-center parties." Harper's predecessor Prime Minister Paul Martin "was able to turn for support to the Conservatives, the far-left New Democratic Party or the separatist Bloc Quebecois depending on the issue; Mr. Harper will be alone on the right wing of Canadian politics."

The New York Times (1/25, Krauss) says, "By electing this free-market economist from Alberta, a conservative oil-producing province frequently likened to Texas, it may seem that the Canadian people were trying to debunk the prevailing political wisdom of recent years that their progressive-minded nation was drawing further and further away from the United States." Yet, "many analysts and political observers here caution that it is too soon to draw too stark a conclusion from the election on Monday, in which Mr. Harper's party won a mere 36.3 percent of the popular vote. The shift in Canadian politics is likely to be far from seismic." For example, "when the victorious Mr. Harper stepped to the platform early Tuesday morning before his adoring campaign supporters, he was careful not to suggest that he planned anything more than careful change."

Harper Seen As Needing To Develop New Leadership Style. The Washington Post (1/25, A15, Struck) reports, "Canadians awoke uncertain whether Harper's customary role would change, and whether his history of opposition was well-suited for building the alliances he needs to support the new minority government." And "many Canadians feel they do not know him well. The political strategist has never been a warm, approachable public figure. He had to overcome a reputation for stiffness that left

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him at a disadvantage compared with his garrulous opponent, Prime Minister Paul Martin." The Post notes, "Policy and conservatism have been Harper's obsession. When he and Weissenberger were graduate students at the University of Calgary, they debated free-market theory and plotted political strategy over Chinese food at the mall outside campus."

NYTimes Credits Harper With Historic Breakthrough. The New York Times (1/25) editorializes, "Mr. Harper's victory is nevertheless a historic breakthrough for his party, which was formed in 2003 by a merger of the old Progressive Conservatives, based in eastern Canada, and the American-style free-market social conservatives from the West. In contrast with the new party's initial unsuccessful run, in 2004, this election resulted in the party's doing well in every region of the country. That notably includes Quebec, long a stronghold of Liberals and separatists." Harper was helped by scandal allegations against the Liberal Party, but the victory belongs chiefly to Mr. Harper. We hope he puts it to good use."

WSJournal Urges US To Lift Tariffs On Canadian Lumber. The Wall Street Journal (1/25) editorializes, "Harper took some political risk by campaigning for an end to the Liberal practice of bad-mouthing the neighbors and promising to renew this traditional friendship." The Journal concludes, "By far the biggest dispute between the two countries -- each of which is the other's largest trading partner -- concerns the anti-dumping duties on Canadian lumber entering the U.S. Four panels have ruled that the U.S. tariffs violate the North American Free Trade Agreement. The Bush Administration could welcome Mr. Harper's victory -- and turn a new page in U.S.-Canada relations -- by lifting the illegal duties."

US Investigating Smuggling Incident At Mexican Border. A report from the Inland Valley Daily Bulletin that the Mexican military makes frequent unauthorized trips across the US border has prompted widespread media coverage. Following a report in the Daily Bulletin Tuesday that an incident involving drug smugglers and people dressed in military-style uniforms had occurred near the border in Texas, the Dallas Morning News/KRT (1/25, McLemore) reports in a widely distributed article that the incident "comes less than a week after Homeland Security Secretary Michael Chertoff called a California newspaper's account of such border incursions 'overblown.'" Meanwhile, "A spokesman for Mexico's Foreign Ministry said Mexican military personnel had nothing to do with the incident and suggested the trespassers may have been drug traffickers wearing military-style gear." US Customs and Border Protection official Kristi Clemens said Tuesday that the agency has "'launched an inquiry into the Monday incident and asked Mexican authorities for a thorough investigation and full answer on what happened.' … Gov. Rick Perry also has ordered an investigation, spokeswoman Kathy Walt said."

The Washington Times (1/25, Seper) reports, "No shots were fired and no injuries were reported during what amounted to an armed standoff at the border. T.J. Bonner, a veteran Border Patrol agent and president of the National Border Patrol Council, yesterday called the incident 'just another example of what we have been saying all along: This is a serious problem and it's not going to go away.'" The Times notes, "Sen. Jon Kyl, Arizona Republican and chairman of the Senate Judiciary Subcommittee on Terrorism, Technology and Homeland Security…has asked Secretary of State Condoleezza Rice to 'initiate an official investigation' and 'open a dialogue with Mexico to prevent any future incursions.'"

US Officials Frustrated By Mexican Smuggling Rings Teaming With American Drivers. The Los Angeles Times (1/25, Marosi) reports on the phenomenon of Mexican smuggling rings teaming up with American drivers, something that occurs "daily at the two main vehicle gateways into California," and "frustrates US authorities." The number of Americans drivers caught on suspicion of smuggling migrants through the San Ysidro and Otay Mesa ports "has hovered around 4,000 since the number of car smuggling cases spiked about six years go. … Even if drivers are caught, they are usually released. Only 279 drivers in 2005 faced alien smuggling charges. Federal authorities say they are overwhelmed." The Times profiles Trent, an American smuggler who "dreams of an early retirement and spends his earnings on a 'weakness for Latina babes,'" and Felix, a Mexican smuggling boss who "says he employs so many American drivers like Trent that he rents them to other smuggling organizations."

Maps To Show Illegal Aliens Best Routes Into Arizona. The Los Angeles Times (1/25, Enriquez) reports, "Mexico's National Human Rights Commission will print and distribute at least 70,000 maps showing immigrants the safest routes to cross the border into Arizona, officials said Tuesday.

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The project, which immediately drew fire from groups organized against illegal immigration, is aimed at reducing the number of people who die trying to cross 50 miles of Sonoran Desert to reach highways in southern Arizona, according to Humane Borders, the Tucson-based humanitarian group that created the maps. … The Mexican government said 441 of its citizens died last year on the border, most in Arizona. The new maps will show spots where people have died — presumably discouraging some prospective migrants — as well as main roads, rescue beacons and the locations of water stations maintained by Humane Borders."

Mexican Presidential Candidate Ends Speech Amid Heckling. The New York Times/REU (1/25, Reuters) reports, "Thousands of Mexican students heckled a presidential candidate, Roberto Madrazo, at a rally on Tuesday, forcing him to cut short a speech and handing him a major embarrassment only days after campaigning began. … He walked off after students whistled and shouted slogans in favor of Andrés Manuel López Obrador, the left-wing front-runner, and booed Mr. Madrazo, from the Institutional Revolutionary Party, or PRI."

Bolivian President's Policies May Test Relations, US Aid. The Washington Times (1/25, Sands) reports, "A showcase U.S. aid package for Bolivia worth nearly $600 million could be in jeopardy if new leftist President Evo Morales follows through on some of his campaign promises, a senior U.S. aid official announced this week." The Times says Morales "has vowed to boost state control of Bolivia's sizable oil and gas reserves and denounced the hard-line U.S. approach to curbing Bolivia's cocaine trade" and has "has denounced what he called U.S.-style 'neoliberalism' and his country's heavy dependence on foreign aid." The Times says, "Bush administration officials have taken a wait-and-see approach to the new Bolivian leader, but the Millennium Challenge aid package may be a critical first test of bilateral relations."

Castro Directs "Vast Protest" Over Posada. The AP (1/24, Arrington) reported from Havana, "Fidel Castro directed a vast protest march past the US mission here Tuesday, accusing the United States of preparing to free one of the hemisphere's worst terrorists as thousands of Cubans carried signs equating President Bush with Hitler. The government-sponsored march coincides with a U.S. court deadline for evidence to be filed in the case of Luis Posada Carriles, a former CIA operative and anti-Castro militant held on immigration charges at a detention center in El Paso, Texas." Posada's "Miami lawyer, Eduardo Soto, filed documents with US Immigration and Customs Enforcement officials on Monday seeking his release from custody. The ICE said today that while a judge had forbidden Posada's deportation to Venezuela or Cuba, for fear that he would be tortured there, the agency was still seeking to expel him to a third country."

Congolese President Takes Reins At African Union. The New York Times (1/25, Lacey) reports, "African leaders bypassed" the "controversial" President Omar Hassan al-Bashir of Sudanone and instead chose for African Union president "a leader who has managed to reinvent himself, Denis Sassou Nguesso of the Congo Republic, a onetime coup leader now regarded as a stabilizing force in the region." The Times notes that leaders were "troubled by the Sudanese government's involvement in the war in the western Darfur region of the country." However, the Times says, the leaders indicated to Bashir that "that the job would be his in 2007" with "the clear expectation that Mr. Bashir would work to end the Darfur crisis before then."

European Leaders Diverge On Energy Policy. The Wall Street Journal (1/25, Von Reppert-Bismarck, Echikson) reports, "Unsettled by high oil prices and Russia's recent rupture of gas contracts, European leaders pushed for the creation of a common continentwide energy policy, only to end up demonstrating their differences on such key areas as nuclear power." The Journal notes that at a recent meeting "France presented a paper calling for increasing research and development into … nuclear power." Italy's foreign minister supported this proposal. However, "divergences seem great. While a European Commission poll published yesterday showed 47% of European citizens favor a European energy policy, it illustrated little enthusiasm for an increase in nuclear power, with only 12% seeing it as the best solution to reduce Europe's dependency on current energy sources."

Annan Calls For Security Council To Approve Force For Darfur. In an op-ed in the Washington Post (1/25, A19) UN Secretary-General Kofi Annan calls for a "major new international effort" to resolve

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tensions in Darfur, Sudan. He writes, "People in many parts of Darfur continue to be killed, raped and driven from their homes by the thousands. The number displaced has reached 2 million, while 3 million (half the total population of Darfur) are dependent on international relief for food and other basics." After noting that the African Union, which currently a small force in Darfur, has expressed "support, in principle, for a transition to a U.N. operation this year," Annan says "A firm decision by the Security Council is needed, and soon, for an effective transition to take place." He calls for a mission with a "strong and clear mandate" with a force that is "larger, more mobile and much better equipped than the current African Union mission." Concluding his op-ed, Annan notes that in addition to a peacekeeping force, "all parties" in Darfur must be pressured to "observe the cease-fire and commit themselves to the Abuja peace talks with a sense of urgency."

Yushchenko Points To "Pragmatism" In Gas Deal With Russia. In a Wall Street Journal (1/25) op-ed, Ukraine President Viktor Yushchenko defends the deal that resolved Ukraine's gas dispute with Russia. Yushchenko writes, "The dispute that recently erupted between Moscow and Kiev over Russian natural gas prices was a trying test of our political maturity. Corporate players threatened our sovereignty, economic independence and freedom. We could have contributed to the rising tensions by pursuing court action to assert our contractual rights. ... Instead of escalating the conflict we therefore sought to settle the differences with Moscow and allay the fears of both Ukrainian and European citizens." Yushchenko writes of the deal's advantages for Ukraine, then says, "The compromise … attests to the pragmatic relations developing between our two countries. Through actions rather than mere slogans Ukraine demonstrated its commitment to regional stability and ability to forge mutually beneficial economic relations. My country's course toward European integration and adherence to market principles has once again been affirmed."

Growing Relationship Between Saudi Arabia, China Noted. In a Wall Street Journal (1/25) op-ed, Richard Russell writes that China and Saudi Arabia "are laying the foundations for a strategic relationship that challenges U.S. interests." He notes that "the Saudi royal family has long been seeking to forge closer ties with Beijing in the hope of reducing their dependence on the U.S.," while China "is importing ever increasing amounts of oil from the Gulf to fuel its rapidly expanding economy" and Chinese strategists worry that China "is potentially vulnerable to a U.S. blockade of oil shipments from the Gulf to China." Russell says the growing relationship is further highlighted by Saudi King Abdullah's visit this week to China. Russell sees the potential for greater strategic cooperation, including weapons sales, between China and Saudi Arabia and warns, "The danger is that these developments will pass largely unnoticed in Washington, as they fall between bureaucratic cracks in the national-security apparatus."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"Feel The Rush Of A Smuggler."
"Disney Pins Its Digital Future On Pixar Deal."
"Decline In Oil Output Dims Iraq's Recovery."
"A Wealth Of $1-Million Homes."
"CBS, Warner To Shut Down 2 Networks And Form Hybrid."
"Democrats May Argue Liberties To Their Peril."
"Fabled Film Company May Get A Reanimator."

USA Today:

"First Year In College Is The Riskiest."
"Rx Plan Failing To Help Neediest."
"Mideast Democracy Boosts Islamists."
"NTSB: Pilots' Conduct, Fatigue Elements Of Mo. Crash."

New York Times:

"On Party Lines, Panel Approves Alito For Court."
"Palestinians Set For Vote And Big Shift."
"White House Declines To Provide Storm Papers."
"Audit Describes Misuse Of Funds In Iraq Projects."
"With Focus On Youth, 2 Small TV Networks Collide."
"After Subpoenas, Internet Searches Give Some Pause."

Washington Post:

"Disney To Buy Pixar Studios In Its Move To A Digital Era."
"New Tax Breaks For Medical Expenses."
"The Realities of Exporting Democracy."
"Girl, 7, Shot By Boy, 8, At Day Care In Montgomery."
"All Ears For A Blast From The Past."
"US Troops On Front Line Of Expanding India Ties."

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Washington Times:
"Judiciary Panel OKs Alito."
"Hamas Narrows Gap With Fatah."
"Injured Soldier A 'Beacon Of Hope.'"
"Mexican Drug Run Thwarted At Border."
"1st Class Passes Anti-Truancy Program In D.C."
"Terp Ineligible Despite UMd. Support System."
"Brazen Looting Still Mars Big Easy."

Detroit Free Press:
"Expert: Wixom Hit May Be It."
"Pricey New Cass Tech Already Needs Fixes."
"Clash Of Cultures."

Atlanta Journal-Constitution:
"Help On Way For Medicare Drug Plan."
"Marines' Somber Duty."
"New This Fall: No. 5 Network."
"US Audit Finds Misuse Of Funds, Fatal Oversight In Iraq."

Dallas Morning News:
"Militants' Participation Spurs Israeli Skepticism."
"Fork In Road On Toll Plans?"
"Lobbyists Bring Unwanted Attention To Law Firm."
"Border Incident Sparks Outrage."
"Audit Faults Lax US Use Of Iraq Cash."

Houston Chronicle:
"Bizarre Scene Fuels Unease On Border."
"Ken Lay Eager To Reclaim His Reputation."
"Concerns Roll IN After Oil-Laden Fog."
"What's In A Number? A Team Name."

Story Lineup From Last Night's Network News:
ABC: Al Qaeda Resurgence; Alito Committee Approval; Gonzales Defends NSA Program; Palestinian Election; Hussein Trial Delay; US Detainee Rendition Allegations; Disney Purchases Pixar; Daimler/Chrysler Job Cuts; MD School Shooting; Surviving Cancer.
CBS: Alito Passes Committee; Protestors Interrupt Gonzales; Katrina Committee; Disney Buys Pixar; Bush-Pakistan; Terrorist Videos; Iraqi Violence; Hussein Trial Judge; Hormone Replacement Therapy; Elderly Flu Shots Ineffective
NBC: Alito Passes Committee; Katrina Warning; Rebuilding Iraq Report; Palestinian Elections; Canadian Elections; 2005 Warmest Year; US Auto Industry; SD Plane Crash; Fish Oil Study; Supporting Parents, Children; NO Citizen: Recovery.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Palestinian election; Senate-Alito; Administration-domestic spying; CA-Santa Ana winds; Penn obit.
CBS: Palestinian election; Senate-Alito; Senate-lobbying reform; Moussaoui trial; Google-China deal.
NPR: Senate-Alito; Administration-Hurricane Katrina response; US-Canada border shootout; Palestinian election; UN-procurement fraud investigation; Daimler-Chrysler-staff cuts.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH – Departs The White House via Marine One. South Lawn. Makes remarks to National Security Agency employees. National Security Agency, Fort Meade, Md. Closed press. Visits the National Security Agency. National Security Agency, Fort Meade, Md. Arrives The White House via Marine One. South Lawn. Makes a statement with former clerks of Judge Samuel A. Alito. Rose Garden, The White House. Makes statement with former clerks of Judge Samuel Alito. Rose Garden.

THE FIRST LADY'S SCHEDULE -- Speaks at the Coming up Taller Awards Ceremony. East Room.

VICE PRESIDENT CHENEY -- No schedule available.

US Senate: -- 9:30 a.m. FLOOR SCHEDULE _ The Senate convenes and is expected to begin floor debate on the nomination of Samuel Alito to the Supreme Court.

COMMITTEE MEETINGS

9:30 a.m. FOREIGN RELATIONS _ Full Committee. Hearing on pending nominations. Location: Room 419, Dirksen.

9:30 a.m. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ Full Committee. Hearing on possible changes in current laws and regulations covering lobbying. With Sens John McCain, Russell Feingold, Rick Santorum, Norm Coleman, Barak Obama; Dick Clark, Aspen Institute, National Association of Manufacturers President John Engler; Bill Samuel, AFL-CIO; Paul Miller, President, American League of Lobbyists; Fred Wertheimer, President, Democracy 21. Location: Room 342, Dirksen.

10 a.m. APPROPRIATIONS _ Homeland Security Subcommittee. Hearing on the U.S. Visitor and Immigrant

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Status Indicator technology program. U.S. VISIT Director Jim Williams; Randolph Hite, GAO. Location: Room 138, Dirksen.

10 a.m. BANKING, HOUSING AND URBAN AFFAIRS _ Full Committee. Hearing on revisions in the national floor insurance program. David Maurstad, FEMA; GAO Comptroller General David Walker; and CBO Acting Director Donald Marron. Location: Room 538, Dirksen.

2:30 p.m. FOREIGN RELATIONS _ Subcommittee on Western Hemisphere, Peace Corps and Narcotics Affairs. Hearing on pending nomination of Janet Ann Sanderson to be ambassador to Haiti. Location: Room 419, Dirksen.

3:30 p.m. ARMED SERVICES _ Meets to receive a briefing on Iraq and Afghanistan operations. CLOSED. Location: Room 222, Russell. Notes: Stakeout okay in 2nd floor Russell Rotunda betweencolumns. Set up 2:30 p.m.

4:30 p.m. FOREIGN RELATIONS _ Subcommittee on African Affairs. Hearing on pending nominations. Bernadette Mary Allen to be ambassador to Niger; Patricia Newton Molle to be ambassador to Burundi; Steven Alan Browning to be ambassador to Uganda; and Robert Weisberg to be ambassador to Congo. Location: Room 419, Dirksen Bldg.

US House: -- No events scheduled.

Other. Jan. 22 - 26. TRANSPORTATION MEETING _ The Transportation Research Board holds its 85th annual meeting. Five days of workshops and presentations by and for transportation professionals. Highlights: 12 p.m. - 2 p.m. Chairman's luncheon with keynote by Dr. Ralph Cicerone, president, National Academy of Sciences, former chancellor, UC Irvine. With Executive Committee chair John Njord. Shoreham. Location: Omni Shoreham Hotel, 2500 Calvert St. NW, Washington Hilton & Towers, 1919 Connecticut Ave. NW, Washington Marriott Wardman Park, 2660 Woodley Road NW. Contacts: Russell Houston, 202-334-3252 Notes: Newsroom facilities at all three venues.

Jan. 23 - 25. HEALTH-HUMAN MANAGEMENT _ The World Congress Health and Human Management Congress meets. Agenda focuses on health and human capital management and improving corporate performance and costs. Highlights: 8:15 a.m. Session with Nobel Prize winner Gary Becker, discussing incentives, productivity and the investment in human capital. Location: Ritz-Carlton Hotel, 1150 22nd St. NW. Contacts: Elizabeth, 703-447-7161 Notes: Media must register, but it is free. Email name, publication, emaill address and phone number to: infobuzzmediapr.com

Jan. 24 - 26. AGRICULTURAL EMPLOYERS _ The National Council of Agriculture Employers holds its annual meeting. Highlights: 8 a.m. Breakfast, with Agriculture Secretary Johanns. Location: Hamilton Crowne Plaza Hotel, 14th and K Sts. NW. Contacts: n/a, 202-728-0300

Jan. 24 - 26. HEALTH AND HUMAN SERVICES _ The Medicaid Commission holds three days of meetings to discuss longer term recommendations on the future of Medicaid. Highlights: 3:45 p.m. Vincent A. Keane, Chief Executive Officer of Unity Health Care, Inc., in Washington, D.C., will testify. Location: Holiday Inn-Chevy Chase, 5520 Wisconsin Ave., Chevy Chase, MD. Contacts: Margaret Reiser, 202-205-8255

Jan. 24 - 29. WASHINGTON AUTO SHOW _ The Washington Area New Automobile Dealers Association holds the 2006 Washington Auto Show, featuring new vehicles and 37 manufacturers. Car hands-on contests, giveaways, live music, celebrity appearances, educational displays and 'flip my whip' customization contest. Highlights: 8:30 a.m. Nissan Press briefing breakfast. With Bob Yakushi, director of product safety and regulation, Nissan. 8:30 a.m. - 3 p.m. International media day with new model introductons and industry announcements. RSVP for press events to Dianne Johnson, 800-697-7574. 9:30 a.m. General Motors environmental and technology press conference. 10 a.m. Ford media event to debut a first of its kind advanced technology vehicle aimed at addressing some of this countrys most pressing energy-related concerns, including the need to lessen U.S. dependence on foreign oil and reduce carbon dioxide emissions linked to global warming. Contact: Mike Moran, 202-962-5416. 10:30 a.m. Volvo event, launching the VOR XC90 and VOR XC70. With Hans Krondahl, exec. VP of marketing, Volvo 11:30 a.m. Press briefing by Mayor Anthony Williams with an unveiling of his 'flipped whip' customized Cadillac. 12 p.m. Reception and luncheon by Washington Auto Press Association/WANADA. Keynote by Tom Purves, CEO, BMW U.S. Presentation of John Lynker Award for Excellence in Responsible Design. 2:15 p.m. Energy symposium on ``sustaining mobility in an energy challenged world." 6 p.m. - 9 p.m. Washington Auto Show Congressional Gala. Location: Washington Convention Center, Mt. Vernon Square. Contacts: Barbara Pomerance, 800-697-7575 On the Net: http://www.washingtonautoshow.com

Jan. 25 - 27. MAYORS _ The U.S. Conference of Mayors holds its 75th Winner Meeting. Highlights: 8:30 a.m. Session focusing on a rewrite of telecommunications

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legislation, with Rep. John Dingell, others; Also dealing with Amtrak restructuring, with Amtrak board chairman David Laney. 8:30 a.m. Session on urban economic policy, with Sen. Lamar Alexander and Ken Hoagland of Americans for Fair Taxation, both dealing with telecommunications tax legislation. 10 a.m. Plenary session, with D.C. Mayor Anthony Williams, New Orleans Mayor Ray Nagin, Biloxi Mayor A. J. Holloway, Miami Mayor Manuel Diaz, Sen. Mary Landrieu, and Los Angeles Mayor Antonio Villaraigosa. 12 p.m. Opening news conference, discussing the hurricane response. 12:30 p.m. Arts luncheon with Iowa Gov. Tom Vilsack, Sen. Hillary Rodham Clinton, others. 2:30 p.m. Session on youth gun violence, with Boston Mayor Thomas memino, others. 4 p.m. Session on metro area competition for global business and workers, with Federal Reserve Governor Mark Olson, others. 4 p.m. Release of 414-City Water Survey and Water Conservation Awards. 4 p.m. Session on poverty focusing on the issues at the center of the post-Katrina debate. Location: Capital Hilton, 16th and K Sts. NW. Contacts: Elena Temple, 202-861-6719

8 a.m. - 1 p.m. GPS-BUSINESS PRODUCTIVITY _ The United States Chamber of Commerce Space Enterprise Council hosts a public forum, ``Next-Generation Global Positioning Systems (GPS) for Enhanced Business Productivity: Because Time is Money and Location is everything." Industry leaders will partcipate in panel discussions on the commercial benefits of GPS. Highlights: 8:40 a.m. Keynote remarks by Commerce Deputy Secretary David Sampson. Location: U.S. Chamber headquarters, 1615 H St. NW. Notes: Credentialed media invited. For more information or to register, call 202-463-5682 or email at pressuschamber.com

MORNING

8:30 a.m. ENERGY POLICY _ The Policy Council and National Journal hold a discussion on the state of energy policy, with keynoter Sen. Peter Domenici, and panelists Kevin Curtis of the National Environmental Trust, Steve Ellis of Taxpahyers for Common Sense, James Lucier of Prudential Equity group, others. Location: Room G-50, Dirksen. Contacts: Katherine Birrow, 202-266-7356

8:30 a.m. TEMPORARY WORKERS _ The Migration Policy Institute holds a briefing on the current employment-based admissions system, including temporary worker programs, and its strengths and weaknesses. Location: MPI, Suite 300, 1400 16th St. NW. Contacts: Colleen Coffey, 202-266-1910 Notes: RSVP to Lisa Dixon, 202-266-1929.

9 a.m. MEDICARE RX _ The Senate Finance Committee will hold a members' meeting to discuss the implementation of the new Medicare drug benefit under Part D with Secretary Leavitt and Mark McClellan. Location: Room 215, Dirksen Senate Office Building.

9 a.m. - 10:30 a.m. GIRLS-HEALTH _ The Girl Scout Research Institute holds a briefing on its new report, ``The New Normal? What Girls are Saying about Healthy Living." Report suggests anit-obesity efforts that focus only on nutrition or physical activity can miss the mark. With Kathy Clonginer, CEO, Girls Scouts; Dominique Dawes, Olympic gold medal gymnast; and others. Location: National Press Club, 14th and F Sts. NW Contacts: Amy Smith, 301-294-2424

9:30 a.m. NTSB-EMERGENCY MEDICAL _ The NTSB Office of Aviation Safety will present a public Special Investigation Report on Emergency Medical Services Operations. The Special Report examines seven EMS accidents that highlight systemic safety issues within the industry. The seven accident briefs are: FTW03FA082 - 1/10/2003 Salt Lake City, Utah; LAX04FA076 - 12/23/2003 Redwood Valley, California; CHI04FA066 - 2/17/2004 Dodge City, Kansas; FTW04FA097 - 3/21/2004 Pyote, Texas; CHI04MA182 - 7/13/2004 Newberry, South Carolina; SEA04MA167 - 8/21/2004 Battle Mountain, Nevada; DEN05FA051 - 1/11/2005 Rawlins, Wyoming Location: NTSB Board Room, 429 L'Enfant Plaza SW. Front door on lower 10th St., escalator near CVS store. Contacts: Lauren Peduzzi, 202-314-6610 On the Net: http://www.ntsb.gov. Notes: Webcast available.

9:30 a.m. - 11:30 a.m. U.S. NUCLEAR WEAPONS _ The Carnegie Endowment for International Peace hosts a panel discussion on the future of the U.S. nuclear weapons stockpile. With Ambassador Linton Brooks, Administrator, Department of Energy's National Nuclear Security Administration; Raymond Jeanloz, chairman, National Academy of Sciences Committee on International Security and Arms Control; David Mosher, senior policy analyst, RAND Corporation; and Daryl Kimball, executive director, Arms Control Association. Location: 1779 Massachusetts Ave, NW. Notes: RSVP required, contact www.armscontrol.org. Address on non-proliferation by Dr. Hans Blix at same location, 12 pm.

10 a.m. DEMOCRATS-MILITARY _ Senator Jack Reed joins former Secretary of State Madeleine Albright and former Secretary of Defense William J. Perry in a press conference for the release of the report ``The US Military: Under Strain

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and at Risk. Location: Room S-207, Capitol. Contacts: Jim Manley (2022242939)

10 a.m. ISSUES BRIEFING _ Issues briefing and release of a poll by Mark Mellman. Location: Capitol Room A, lobby level, Hyatt Regency on Capitol Hill, 400 New Jersey Ave. NW. Contacts: Brad Woodhouse, 202-589-1566

10 a.m. PATRIOT ACT _ The Heritage Foundation sponsors a news conference on the legal issues surrounding the Patriot Act, with former Attorneys General Edwin Meese and Richard Thornburgh, and Frank Gaffney of the Center for Security Policy. Location: National Press Club. Contacts: Khristine Bershers, 202-608-6168

10 a.m. SOCIAL SECURITY _ Americans United to Protect Social Security, which opposes President Bushs effort to privatize Social Security, holds a news briefing to re-launch itself as ``Americans United with a shorter name and a broader scope. The group says it will unveil a major paid media campaign on public corruption and lobbying and government reform. Location: Capitol Room A, Hyatt Regency Washington on Capitol Hill, 400 New Jersey Ave. NW. Contacts: Brad Woodhouse, 202-251-5669

10 a.m. U.S.-KOREA _ Rep. Dennis Kucinich holds a briefing on the future of U.s. policy toward Korea and the reunification movement. Location: Room 1116, Longworth. Contacts: Doug Gordon, 202-225-5871

10:15 a.m. AMERICAN TECHNOLOGY _ Sens. Pete Domenici, R-N.M.; Jeff Bingaman, D-N.M.; Lamar Alexander, R-Tenn.; and Barbara Mikulski, D-Md., discuss the introduction of a three-bill package aimed at helping America maintain its competitive leadership in science and technology. The bills are collectively called the PACE Act, which stands for Protecting Americas Competitive Edge. Location: Room 366, Dirksen Senate Office Building. Contacts: Bill Wicker, 202-224-5243

10:30 a.m. BUSH-AMNESTY INTERNATIONAL _ Amnesty International holds an event to launch a mobile billboard, urging President Bush to be honest about the government's use of turture in the war on terrorism. Location: In front of Amnesty International offices, 600 Pennsylvania Ave. SE. Contacts: n/a, 202-544-0200 ext 302

11 a.m. MEDICAID/STUDENT LOANS _ There will be a conference call to discuss what sponsors say are budget cuts coming up for a vote Feb. 1 that will hurt those who depend on Medicaid and student loans. Participants are Deborah Weinstein, Coalition on Human Needs; David Garter, Global AIDS Alliance; and Jasmine Harris, United States Student Association. Notes: Note: Media only. To sign up, contact David Bryden at 202-296-0260 ext. 211 or email drydenglobalaidsalliance.org. To call directly, please call at 11 a.m. Telephone is 866-250-4375 and ask for the Medicaid call.

11:30 a.m. LEBANON _ The Wilson Center for Scholars holds a forum with Saad Hariri of the Lebanese Parliament, and son of slain Prime Minister Rafic Hariri, on the future of democracy in Lebanon. Location: 6th floor auditorium, Wilson Center, in the Reagan Trade Center. Contacts: Sharon McCarter, 202-691-4016 Notes: Media RSVP required. All media should have cameras in place no later than 10:15 a.m.

12 p.m. MEDICARE _ Senators Lautenberg, Schumer, and Coleman hold a news conference on emergency Medicare legislation. Location: Senate Gallery Studio.

12 p.m. SYRIA _ Joshua Landis of the University of Oklahoma discusses the domestic political situation in Syria, sponsored by the Middle East Institute. Location: 1761 N St. NW. Contacts: n/a, 202-785-5336 Notes: RSVP required.

12 p.m. - 1 p.m. BLIX-NONPROLIFERATION _ The Carnegie Endowment for International Peace hosts an address on reducing threats posed by biological, chemical, nuclear and radiological weapons by Dr. Hans Blix, former head of the International Atomic Energy Agency and current chair of the WMD Commission. Location: 1779 Massachusetts Ave., NW. Contacts: Wade Boese (wadearmscontrol.org) Notes: RSVP required, contact www.armscontrol.org. Follows panel discussion on the U.S. nuclear weapons stockpile at same location: 9:30 am.

12:30 p.m. BAUCUS-ECONOMICS _ Sen. Max Baucus discusss ways to advance American competitiveness, maintain economic leadership, and preserve high-wage American jobs at a National Press Club luncheon. Location: National Press Club, 14th and F Sts. NW Contacts: Melinda Cooke, 202-662-7516

12:30 p.m. CONGRESS-CONFIDENCE _ Sens. Norm Coleman, R-Minn., and Ben Nelson, D-Neb., hold a press conference to unveil their bipartisan legislation to form the Commission to Strengthen Confidence in Congress, an independent bipartisan commission designed to bring greater transparency and long-term reform to Washington. Location: Senate Radio/TV Gallery. Contacts: Andrea Wuebker, 202-224-5641

12:30 p.m. DEMOCRATS _ The Democratic Policy Committee holds a closed meeting. Location: Room S-211,

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Capitol. Notes: Stakeout note: Gallery escort for policy luncheons leaves between 12:15-12:30 p.m. from the Ohio Clock Corridor.

12:30 p.m. REPUBLICANS _ The Republican Policy Committee holds a closed meeting. Location: Room S-207, Capitol. Notes: Stakeout note: Gallery escort for policy luncheons leaves between 12:15-12:30 p.m. from the Ohio Clock Corridor.

1 p.m. - 5:30 p.m. HOMELAND SECURITY CONFERENCE _ Equity International hosts a half-day Homeland Security Outlook Conference with briefings on funding, priorities for emergency preparedness and response, technology needs, border and transportation security, and bio-defense issues. With Andrew Maner, CFO, Department of Homeland Security; Bill Hoagland, director of Budget and Appropriations for Sen. Bill Frist; Dr. Omid Omidvar, National Institute of Standards and Technology; Kerry Thomas, Director of National Preparedness Programs, State and Local Government Coordination, Homeland Security; and others. Location: George Washington University Media & Public Affairs Building, Jack Morton Auditorium, 805 21st. St. NW. Contacts: Erica Orange, 202-494-9671

2 p.m. GREGG-BUDGET _ Senate Budget Committee Chairman Judd Gregg holds a pen and pad briefing. Location: Senate Press Gallery. Contacts: Betsy Holahan, 202-224-6011 Notes: No broadcast cameras.

2 p.m. GULF COAST REBUILDING _ Housing and Urban Development Secretary Alphonso Jackson and Donald E. Powell, Federal Coordinator for Gulf Coast Rebuilding, will announce how HUD will allocate $11.5 billion in Community Development Block Grant (CDBG) disaster funding to Louisiana, Mississippi, Florida, Alabama and Texas during a telephone conference call. Contacts: ., 202-708-0685 Notes: Reporters should call 866-332-8501 no later than 1:55 p.m.

2:30 p.m. ALITO-REED _ Sen. Jack Reed holds a telephone briefing to announce his decision on the Alito nomination. Contacts: Regan Lachapelle, 202-224-4642 Notes: Call in number: 202-228-2663; passcode: 0275434

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, JANUARY 25, 2006 7:45 AM EST

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TERRORISM NEWS:

Gonzales Lays Out Legal Justification For Domestic Surveillance Program. In a speech at Georgetown University Law School on Tuesday, Attorney General Alberto Gonzales offered a legal defense of the Administration's anti-terror efforts, specifically the National Security Agency's domestic surveillance program.

The Washington Post (1/25, A7, Eggen) reports that Gonzales argued "that the requirements of a secret intelligence court are too cumbersome for rapid pursuit of suspected terrorists, repeating the administration's position that warrantless wiretapping authorized by President Bush does not violate the Constitution or federal law." The Post continues, "Gonzales's speech at Georgetown University's law school was part of the Bush administration's effort to defend a program that allows the National Security Agency to intercept calls to and from the United States without warrants. He used the appearance to echo statements made Monday by Bush, who referred to the effort as a 'terrorist surveillance program' and characterized it as a crucial tool against violent militants. … 'It is an early-warning system with only one purpose: to detect and prevent the next attack on the United States,' Gonzales said. 'It is imperative for national security reasons that we can detect reliably, immediately and without delay whenever communications associated with al Qaeda enter or leave the United States.'" The Post notes, "Gonzales's appearance, which was part of a three-day White House campaign to defend the NSA program, was punctuated by a silent protest from more than a dozen students who turned their backs to Gonzales, who continued to speak without acknowledging them and did not take questions afterward."

The New York Times (1/25, Lichtblau) reports that Gonzales "invoked the lessons of George Washington and Franklin D. Roosevelt in justifying President Bush's broad power to wage war against terrorism. … Mr. Gonzales, an architect of the surveillance program, said that the operation was 'both necessary and lawful' and that he believed any president would have taken the steps Mr. Bush did. … 'I think it would be irresponsible to do otherwise,' he said in a speech at Georgetown University Law Center." The Times notes, "Mr. Gonzales's address, along with seven television appearances Monday night and Tuesday morning, was part of an orchestrated effort by the Bush administration to recast the debate on the National Security Agency program as one of national security rather than civil liberties. Gen. Michael V. Hayden, the nation's second-ranking intelligence official, made an unusual public speech about the program on Monday, while Mr. Bush discussed it on a trip to Kansas. … The president is also scheduled to visit the security agency in Fort Meade, Md., on Wednesday to reassure employees whose normally secret activities have come under scrutiny."

Reuters (1/25, Charles) reports, "Acknowledging that not everyone agreed with the National Security Agency spying program, Gonzales denied that Bush was violating laws by authorizing the NSA to monitor international phone calls and e-mails by Americans suspected of links to terrorism without the approval of a special, secret court. … 'From the outset, the Justice Department thoroughly examined this program against al Qaeda and concluded that the president is acting within his power in authorizing it,' said Gonzales, who did not stop speaking while about 20 protesters stood with their backs to him."

The AP (1/25, Yost) reports, "Before his appearance at Georgetown, Gonzales said in a television interview that some congressional leaders told the administration in 2004 that it would not be possible to write legislation regarding the warrantless surveillance effort without compromising its effectiveness. … 'We did go to certain members of the congressional leadership a year and a half ago,' Gonzales said on CBS's 'The Early Show.'" The A notes, "During his remarks in a packed law school lecture room at Georgetown, the attorney general also said the legal standard the administration uses in deciding whether to carry out surveillance on people with suspected al-Qaida ties is equivalent to the standard required for complying with the Fourth Amendment, which bans unreasonable searches and seizures. … The reasonable basis standard, said Gonzales, 'is essentially the same as the traditional Fourth Amendment probable cause standard.'"

The Washington Times (1/25, Curl) reports, "Mr. Gonzales is expected to be among the first witnesses to testify when the Senate opens hearings on the matter Feb. 6. … 'Presidents have uniformly relied on their inherent power to gather foreign intelligence for reasons both diplomatic and military, and the federal courts have consistently upheld this long-standing practice,' he said." The Times adds, "Mr. Gonzales discussed the 1978 Foreign Intelligence Surveillance Act, which created a special court to authorize secret surveillance or searches of foreigners and U.S. citizens suspected of terrorism or espionage. The court is 'the exclusive means by which electronic surveillance ... and the interception of wire and oral communications may be conducted,' says one section of the law. … Mr. Gonzales, however, said the court could not have been used in this instance because the law 'requires the attorney general to determine in advance that a FISA application for that particular intercept will be fully supported and will be approved by the court before an emergency authorization may be granted. … That review process can take precious time.'"

The AP (1/24, Yost) reports, "Georgetown University law professor David Cole said the reasonable basis standard

is not equivalent to probable cause. … Moreover, said Cole, Gonzales' comments seem to conflict with those on Monday by Air Force Gen. Michael Hayden, principal deputy director of national intelligence. … Hayden said that when weighing whether to proceed with surveillance under the president's program, 'the trigger is quicker and a bit softer than it is' with FISA." The AP notes, "Justice Department spokeswoman Tasia Scolinos said there is no conflict between the statements of Gonzales and Hayden and that 'it is really just a matter of speed; as the AG said, the standards are essentially the same.'"

Bloomberg (1/25, Schmidt) reports, "Last week, the Justice Department sent members of Congress a 42-page analysis saying Bush has the legal authority to conduct the wiretapping under his constitutional role as commander-in-chief and under the resolution passed by Congress authorizing military force after the Sept. 11 attacks. … Today, Gonzales said that press reports on the still- classified program are 'in almost every case, in one way or another, misinformed, confusing or wrong.' He said the media has caused concern about the breadth of the spying. … The program, Gonzales said, is 'narrowly focused' and is only used to monitor communications of members or suspected members of al-Qaeda and other terrorist groups."

Voice of America (1/24, Malone) also reports on Gonzales' speech.

CNN.com (1/25) features a discussion between CNN senior legal analyst Jeffrey Toobin and national security correspondent David Ensor of the legal and political aspects of the surveillance program.

Gonzales' speech was briefly noted by ABC and CBS, with both describing it as a domestic spying program and noting students' protest during his speech. ABC's World News Tonight (1/24, story 3, 0:32, Vargas) reported, "The White House continued its vigorous defense of its domestic spying program today. At Georgetown University, Attorney General Alberto Gonzales said President Bush had the authority, of both Congress and the constitution, and that it would have been irresponsible not to order the spying. Two dozen law students turned the their backs on the Attorney General and held a banner quoting Benjamin Franklin. 'Those who would sacrifice liberty for security get neither.'"

The CBS Evening News (1/24, story 2, :45, Schieffer) reported, "Protesters interrupted Attorney General Alberto Gonzales today as he was defending government eavesdropping without a warrant on US citizens. Speaking at Georgetown Law School, Gonzalez called the domestic spying, quote, 'imperative for national security', but about a dozen students stood, turned their backs on him and unfurled a protest banner."

CNN's The Situation Room (1/24, Blitzer) reported, "The Bush administration has been bringing out its big guns, trying to make the case for the domestic surveillance program being carried out without warrants by the National Security Agency. Today it was the turn of the attorney general, Alberto Gonzales." CN (Arena) added, "The Attorney General defended the legal rationale for the program, basically reiterating points made in a Justice Department white paper last week. … Gonzales says there is precedent, dating back to American Revolution for conducting surveillance without warrants during wartime. He reiterated the administration's main argument that as commander in chief, President Bush can fight the war on terror as he sees fit. An argument that is not sitting well with Democrats." Gonzales "argues Congress gave the program the green light by passing a resolution just after the September 11 attacks authorizing military force against terrorists. The administration says it allows the president to bypass the secret court housed at the Justice Department that oversees domestic surveillance."

Fox News' Special Report (1/24, Angle) reported, "Gonzales argued that the program to intercept terrorist communications is necessary and lawful. … The attorney general pointed to the recent warnings from Osama bin Laden that plans are under way for the next terrorist attack on the US, as he noted that every wartime president from Franklin Roosevelt to Wilson to George Washington has intercepted enemy communications."

ACLU Seeks Information On Alleged Ohio Surveilance. The AP (1/25, Kropko) reports, "The American Civil Liberties Union of Ohio requested information Tuesday from the government about whether it spied on two anti-war groups and an attorney for a man suspected of terrorism connections." The AP continues, "ACLU officials said at news conference that members of the anti-war groups want to know whether two meetings were attended by government agents. One meeting was last year in Akron by the Northeast Ohio American Friends Service Committee, a Quaker organization, and the another was in 2004 in Cleveland by the Northeast Ohio Anti-War Coalition." The AP adds, "The ACLU filed Freedom of Information Act requests with the Department of Defense, Justice Department, the FBI and police seeking records that document any collection of information about the groups. … Gary Daniels, the ACLU's litigation coordinator, said the ACLU became involved because the groups were included on a Defense Department classified database of information about suspicious people and activity inside the United States as reported by NBC News." The AP notes, "The ACLU also requested information about several people, including Akron lawyer Farhad Sethna, based on his association with the American Friends Service Committee. Sethna said he hopes the request will shed light on whether the government spied on his conversations with a client, Ashraf Al-Jailani, who recently was sent back to his native Yemen after being jailed three years on suspicions that he associated with suspected terrorists. … Justice

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Department spokesman Brian Roehrkasse declined comment."

Speed Seen As Reason To Bypass FISA Court. ABC News (1/25, RYAN) reports, "Domestic wiretaps have traditionally been approved by the secretive Foreign Intelligence Surveillance Court located on the sixth floor of the Justice Department. Known as the FISA Court, it has handled the most sensitive domestic wiretaps in national security investigations since it was set up under the 1978 Foreign Intelligence Surveillance Act. … In the wake of the Sept. 11 attacks, President Bush, White House attorneys and lawyers from the Justice Department and National Security Agency authorized a program that allowed wiretaps to be approved without the FISA Court knowing. The FISA Court had approved domestic wiretaps with warrants authorized by a federal judge after reviewing information presented by the FBI and the Justice Department's Office of Intelligence Policy and Review." ABC News adds, "Internal Justice Department audits by the inspector general show that FISA warrants take anywhere from hours to weeks to get approved. After the 9/11 attacks, senior intelligence officials pushed for greater speed to intercept terrorist communications. … Bush approved the controversial eavesdropping program, referred to in recent days as the terrorist surveillance program, months after the 9/11 attacks and allowed the National Security Agency to perform warrantless electronic surveillance of suspected al Qaeda subjects in the United States. One reason the program was so important, government lawyers claimed, was the urgent need to intercept al Qaeda communications in the interest of preventing further terrorist attacks. … This intercepted information could come from cell phones or e-mails used by suspected terrorists. Intelligence officials know what channels to listen in on from cell phones and laptop computers that had been recovered from al Qaeda detainees, such as 9/11 mastermind Khalid Shaikh Mohammed."

CRS Report On NSA Eavesdropping Was Written By Democrat. The Washington Times (1/25, Pierce) reports in its "Inside Politics" column, "Hill Democrats and the so-called mainstream media have made much of a recent Congressional Research Service report that asserted President Bush had violated the law by allowing the National Security Agency to eavesdrop on phone calls to the United States from suspected terrorists overseas. In fact, Democrats such as New York Sens. Charles E. Schumer and Hillary Rodham Clinton, as well as most media outlets, have practically grafted the word 'nonpartisan' to the front end of that agency's name. … What you probably haven't heard is that the author of the report, Alfred Cumming, is a registered Democrat who served as staff director for the Senate's Select Committee on Intelligence under since-retired Sen. Bob Graham, Florida Democrat. And you probably haven't heard that in December the 'nonpartisan' Mr. Cumming also authored a 15-page memo for the Congressional Research Service that shored up Democrats' claims that President Bush lied about pre-Iraq war intelligence. … The 'nonpartisan' Mr. Cumming contributed $1,250 to Sen. John Kerry's 2004 presidential campaign, according to the Web site www.tray.com."

NSA Said To Have Long History Of Controversies. The Christian Science Monitor (1/25, Grier) reports, "If nothing else, the uproar is adding another chapter to the history of an arm of the government that has been derided and lauded by turns ever since the US government first publicly acknowledged its existence. In the 1970s, for instance, the NSA drew intense criticism for its role in spying on critics of the Vietnam War and other political opponents of the Nixon administration."

Bush Speech At NSA Today Portrayed As Largely Political. Knight Ridder (1/25, Thomma) reports President Bush will speak today at the National Security Agency "to defend his order to the super-secret spy center to conduct warrantless eavesdropping on Americans. But the speech will be much more than a defense. It also will be the photo-op spearhead of a campaign to turn the controversy into a plus for Republicans by transforming the 2006 congressional elections into a referendum on the war on terrorism. Eager to reclaim the turf where he's strongest politically, Bush and his allies are hammering away at Democrats as weak on security." Knight Ridder notes, "Polls show that the American people are split evenly over warrantless eavesdropping, hardly the solid outrage that many Democrats had hoped for. And Americans still give their highest marks to the president for his work against terrorism."

Analyst Dick Polman writes in the Philadelphia Inquirer (1/25), "In January 2002, presidential strategist Karl Rove said the GOP would use the war on terror against Democrats in that year's congressional elections. … And in January 2006, Rove says the GOP will use the war on terror against Democrats in this year's congressional elections. … Painting the Democrats as national security wimps worked well in 2002. … The question this year is whether the old Rove playbook will pack the same punch. The Bush administration hopes so. Given the toxic political climate, Republicans can ill afford to lose either chamber in November." Polman adds, "Clearly, the White House believes that the flap over warrantless eavesdropping is giving Bush fresh ammunition to invoke the security issue." Many Americans "appear skeptical; in the latest Gallup poll, 51 percent of the adults surveyed say Bush was wrong to tap without warrants, and 58 percent want a special prosecutor to probe what Bush has done. And Republicans aren't fully united behind Bush's program, either; at least nine GOP senators; five top

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conservative activists; and Bob Barr, the Republican former congressman who launched the Clinton impeachment probe, all question whether Bush has skirted or flouted federal law. Despite all this public restiveness, most Democrats don't seem eager to confront Bush and Rove directly on this issue."

Democrats Worried Civil Liberties Defense Will Be Seen As Evidence Of Weakness. The Los Angeles Times' Ronald Brownstein (1/25) writes, "Leading Democrats are challenging President Bush's record on civil liberties across a wide front, inspiring a Republican counterattack that even some Democratic strategists worry could threaten the party in this year's elections. … Bush and his allies have fired back by escalating charges that Democrats would weaken America's security by imposing unreasonable restraints on the president. These exchanges establish contrasts familiar from debates over law enforcement and national security throughout the 1970s and '80s, with most Republicans arguing for tough measures and many Democrats focusing on the defense of constitutional protections. That emerging alignment worries some Democratic strategists, who believe it may allow Bush to portray Republicans as stronger than Democrats in fighting terrorism, as he did in the 2002 and 2004 campaigns."

Administration Said To Be Bracing For Impeachment Hearings. Insight Magazine (1/23-29) reports, "The Bush administration is bracing for impeachment hearings in Congress. 'A coalition in Congress is being formed to support impeachment,' an administration source said. Sources said a prelude to the impeachment process could begin with hearings by the Senate Judiciary Committee in February. They said the hearings would focus on the secret electronic surveillance program and whether Mr. Bush violated the 1978 Foreign Intelligence Surveillance Act. Administration sources said the charges are expected to include false reports to Congress as well as Mr. Bush's authorization of the National Security Agency to engage in electronic surveillance inside the United States without a court warrant. This included the monitoring of overseas telephone calls and e-mail traffic to and from people living in the United States without requisite permission from a secret court. Sources said the probe to determine whether the president violated the law will include Republicans, but that they may not be aware they could be helping to lay the groundwork for a Democratic impeachment campaign against Mr. Bush."

Moussaoui Defense To Seek Testimony Supporting Mental Illness Claim. The AP (1/25, Sniffen) reports, "Lawyers for admitted terrorist conspirator Zacarias Moussaoui want to call a doctor who will testify he has a major mental disorder, likely schizophrenia, in their bid to save him from the death penalty, according to court filings. … Prosecutors already have results of a court-ordered psychiatric exam by a government-appointed doctor in 2002 that ruled out mental illness, finding only personality disorder, a conclusion that is extremely helpful to the prosecution. … Even though Moussaoui has not let defense doctors examine his mental state, defense lawyers told the court they would call Dr. Nancy C. Andreasen to testify at proceedings that begin next month to determine if he should receive the death penalty or life in prison." Additionally, "a pilot and former FBI agent, Erik Rigler, will be called to testify about aviation security and about sealed factual reports including one on two Sept. 11 hijackers, Khalid al-Mihdahar and Nawaf al-Hazmi, whose presence in the United States was known before the attacks, the court filing said."

DOD, CIA Refer Detainee-Abuse Cases To DOJ. Reuters (1/24, Morgan) reports, "Twenty cases of detainee abuse allegations against CIA and Defense Department employees have been referred to the Justice Department for possible prosecution since the beginning of the war in Afghanistan, a senior U.S. official said in a letter released on Tuesday." Reuters continues, "Assistant Attorney General William Moschella said in a January 17 letter to Sen. Richard Durbin, an Illinois Democrat, that the cases span both the Afghanistan and Iraq wars and contain not only allegations of physical abuse but also possible violations of federal law and U.S. treaties." Reuters adds, "Civil liberties advocates said the cases involve civilian interrogators and showed a double-standard in light of recent convictions of lower-ranking soldiers accused of abuse. … Only one CIA case has resulted in a criminal indictment. In that case, former CIA contractor David Passaro has been charged in North Carolina in a federal case involving the 2003 death of an Afghan detainee." Reuters notes, "Moschella said the other 19 cases referred to the Justice Department have been reviewed by a federal prosecution task force in Virginia. Two have been closed for lack of sufficient evidence, and all others remain under investigation."

European Inquiry Fails To Substantiate "Secret Prisons" Allegations. ABC's World News Tonight (1/24, story 6, 0:20, Woodruff) reported, "There are new allegations today that the U.S. used secret prisons in Europe for quote 'outsourcing the torture of suspected terrorists.'" In an interim report the head of a European investigation said quote 'There is a great deal of…evidence pointing to the existence of a system of "relocation" or "outsourcing" of torture.'"

The New York Times (1/25, Smith) reports, "An inquiry by the Council of Europe into allegations that the C.I.A. has operated secret detention centers in Eastern Europe has turned up no evidence that such centers ever existed, though the leader of the inquiry," Dick Marty, a Swiss senator and chairman of Council's Committee on Legal Affairs and Human

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Rights, "said there are enough 'indications' to justify continuing the investigation. The report added, however, that it was 'highly unlikely' that European governments were unaware of the American program of renditions, in which terrorism suspects were either seized in or transferred through Europe to third countries where they may have been tortured. … The findings, delivered to the Council on Tuesday, drew scornful reactions from some representatives of the Council's 46 member states, particularly from the British, who called the interim report 'as full of holes as Swiss cheese' and 'clouded in myth and motivated by a desire to kick America.'"

The Washington Post (1/25, A16, Whitlock) reports Marty wrote, "We can say that there is a great deal of coherent, convergent evidence pointing to the existence of a system of 'relocation' or 'outsourcing' of torture. … Europe must clearly and unambiguously declare that it refuses outright to tolerate such doings in its territory, or anywhere else."

The Los Angeles Times (1/25, Rotella) reports, "Although Marty's inquiry has no judicial powers, it has become a conduit and catalyst of increasing backlash against a shadowy U.S. counter-terrorism campaign. Many Europeans see accounts of renditions and torture…as signs of a war run amok. In more than a dozen countries around Europe, law enforcement authorities and legislatures have opened investigations into suspected CIA abductions, detention facilities and flight stopovers."

PATRIOT ACT:

Privacy Concerns Stall Patriot Act Talks. The Washington Post (1/25, A3, Babington) reports, "Efforts to resolve House and Senate differences over a revised USA Patriot Act have reached a stalemate, a key committee chairman said yesterday. That means the current version of the law is likely to remain in place through next month or longer unless Senate Democrats and a handful of Republicans drop their demands for greater privacy safeguards in a proposed renewal, the chairman said. … But another senator said that the Bush administration continues to discuss possible changes, and that a resolution of the impasse is still possible." The Post continues, "The law, passed in the wake of the Sept. 11, 2001, terrorist attacks, makes it easier for federal agents to secretly tap phones, obtain library and bank records, and search the homes of suspected terrorists. Many major provisions were scheduled to expire Dec. 31, but lawmakers extended them to Feb. 3 in hopes of resolving a House-Senate impasse on how to renew the act, with some changes, for four years. … Senate Democrats objected to the revision that emerged from a conference committee last year. When four Republicans joined them, they had a filibuster-proof contingent, preventing the proposal from winning Senate passage." The Post adds, "The chief House negotiator -- Judiciary Committee Chairman F. James Sensenbrenner Jr. (R-Wis.) -- has said his chamber is finished with talks, dimming hopes for a breakthrough. Senate Judiciary Committee Chairman Arlen Specter (R-Pa.) had accepted the House-Senate compromise as a less-than-perfect option. Yesterday, he told colleagues that it probably is the best deal they can get. … 'I can tell you, after talking to Chairman Sensenbrenner, that the House feels that they've gone as far as they can go on compromises on the act,' Specter told colleagues. 'And I think the reality may be that we're looking at either the current act extended [beyond Feb. 3], or the conference report,' which continues to draw opposition from most Senate Democrats and four Republicans."

The Wall Street Journal (1/24) reported in its "Washington Wire" column on its web site, "With the Feb. 3 deadline on renewing Patriot Act provisions looming, Senate Democrats predict a deal can be reached soon. … 'The time is fast approaching when we have to extend it or change it,' said Senate Democratic Leader Harry Reid of Nevada, who hinted that House Judiciary Committee Chairman James Sensenbrenner (R., Wis.) will find it harder to block an extension next week. 'Sensenbrenner doesn't run the House. There will be 434 other people over there,' Reid said. 'I think everyone agrees that with a little bit of time alone, Leahy and [Senate Judiciary Chairman Arlen] Specter can work out the problems.' Majority Leader Bill Frist predicts that 'ultimately if we do an extension for six to eight weeks, I think we'll be able to work it out.' But any Senate deal must also be sold to the House, where Republican turmoil over leadership races could be an obstacle. "

Legal Experts Say Gonzales NSA Memo Raises Questions On Need For Patriot Act. The Boston Globe (1/25, Savage) reports, "A footnote in Attorney General Alberto R. Gonzales's 42-page legal memo defending President Bush's domestic spying program appears to argue that the administration does not need Congress to extend the USA Patriot Act in order to keep using the law's investigative powers against terror suspects." The Globe continues, "The memo states that Congress gave Bush the power to investigate terror suspects using whatever tactics he deemed necessary when it authorized him to use force against Al Qaeda. When Congress later passed the Patriot Act, Bush already had the power to use enhanced surveillance techniques against Al Qaeda, according to the footnote. … Thus, legal specialists say, the administration is asserting that Bush would be able to keep using the powers outlined in the Patriot Act for Al Qaeda investigations, regardless of whether Congress reauthorizes the law." The Globe notes, "Justice Department spokesman Brian Roehrkasse disputed (this) interpretation. 'This is an inaccurate and misinformed

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interpretation of the administration's legal analysis,' Roehrkasse said in an e-mail. … Roehrkasse attached a Justice Department statement arguing that Congress gave Bush broad wartime powers to fight the war on terror as he saw fit when it authorized him to use force against Al Qaeda. The footnote, it said, seeks to explain why those wartime powers include surveillance authority even though Congress separately addressed the subject in the Patriot Act."

Corporate Lawyers Advised On Handling Patriot Act Requests. The Corporate Counselor (1/25, Sklarsky, Pinciak) reports, "There has been much recent press about the USA Patriot Act…and in particular the seemingly unlimited power of the Federal Bureau of Investigation to issue National Security Letters as part of its efforts to combat terrorism (under 18 U.S.C. §2709). … To date, §2709 has received little judicial scrutiny, with reported controversies focusing on NSLs issued to Internet Service Providers and libraries. Now, NSLs are being issued to private corporations, with the FBI demanding the production of records regarding employees. This article provides guidance to in-house and outside counsel who learn that a corporate client has received an NSL pursuant to §2709. §2709 contains a number of traps for the unwary, which is in large part due to its broad language and the absence of judicial scrutiny. Although Congress is currently in the process of considering various amendments to §2709, the statute, as presently enacted, raises a host of issues that counsel should be aware of after receiving and when responding to an NSL."

HOMELAND RESPONSE:

FBI, TSA Agree To $200,000 Settlement With ACLU In No-Fly List Suit. In a widely-distributed story, the AP (1/25, Kravets) reports the FBI and TSA "agreed Tuesday to pay the American Civil Liberties Union $200,000 to settle a lawsuit brought to uncover information about the government's no-fly list, which bars suspected terrorists from airliners. The government will compensate the ACLU for attorneys' fees, settling a lawsuit initiated by two San Francisco peace activists who were detained while checking in for a flight three years ago. In October 2004, documents that the FBI and Transportation Security Administration provided in the lawsuit revealed the government has 'two primary principles' but no 'hard and fast' rules for deciding who gets put on the secret list." The AP notes, "The agencies at first balked at supplying any information to the ACLU. But U.S. District Judge Charles Breyer, after privately reviewing secret government data, said the government was making 'frivolous claims' about why it could not. … The documents disclosed that people are regularly removed from lists if the FBI is convinced they are not a threat."

ACLU To Release Documents On Government Surveillance Of Georgia Activists. The AP (1/25, Dell'Orto) reports the ACLU "said it will release surveillance photos and reports that it says were obtained from government agencies showing the Pentagon, FBI and others spied on Georgia residents involved in legal protests ranging from anti-war vigils to a vegan demonstration. 'It's very much an intimidation process,' said the ACLU's Gerry Weber, who said he would release documents Wednesday that show surveillance by federal, state and local agencies." The AP adds, "While declining to comment on the documents before their release by the ACLU, FBI spokesman Bill Carter said all FBI investigations are conducted in response to information that the people being investigated were involved in or might have information about crimes. 'It's not derogatory by any means' to be named in an FBI file, Carter said."

Ohio ACLU Requests Records On Possible Surveillance Of Anti-War Groups. The AP (1/25) reports the Ohio ACLU "requested information Tuesday from the government about whether it spied on two anti-war groups and an attorney for a man suspected of terrorism connections. … One meeting was last year in Akron by the Northeast Ohio American Friends Service Committee, a Quaker organization, and the other was in 2004 in Cleveland by the Northeast Ohio Anti-War Coalition. The ACLU filed Freedom of Information Act requests with the Department of Defense, Justice Department, the FBI and police seeking records that document any collection of information about the groups." The AP adds that Akron lawyer Farhad Sethna "said he hopes the request will shed light on whether the government spied on his conversations with a client, Ashraf Al-Jailani, who recently was sent back to his native Yemen after being jailed three years on suspicions that he associated with suspected terrorists." FBI spokesman Bill Carter said, "The only way we would be involved in gathering specific or credible information was if a group was involved in criminal activity."

California Man Charged Over Hoax Anthrax Letters Mailed To FBI Office. In a widely-distributed story, Knight Ridder (1/25, Webby, Ackerman) reports Paul Charles Steeves of Santa Cruz, Calif., "who allegedly became obsessed with Drew Barrymore almost two decades ago," was charged Monday "in federal court with sending threatening letters laced with fake anthrax because the actress would not respond to his letters." Steeves "allegedly sent white powder-filled letters to an FBI office in Watsonville, Calif., and a probation office and drug rehabilitation center in the East Bay earlier this month. … 'It was taken very seriously,' FBI spokeswoman LaRae Quy said. 'There was no way of knowing it was a hoax. It had to be treated as if it were anthrax or some other poison.'" KRT notes, "Steeves was convicted in 1997 of threatening to kill an FBI agent in

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Watsonville. His three years of probation were reportedly managed through the two East Bay offices. In addition to the baking soda, the letters also contained photographs of Barrymore and a plane flying into the World Trade Center."

Iowa Man Committed To Mental Institution For Threat To Bomb FBI Office. The AP (1/25) reports Anana Gundo Nariboli of Marshalltown, Iowa, "accused of mailing rat poison and threatening to blow up an FBI office," on Jan. 11 was "ruled innocent by reason of insanity." Nariboli "was charged last year with threatening to use an explosive, mailing threatening communications and obstructing the use of mail." US District Judge Robert Pratt "ordered that Nariboli be committed to a mental institution." The AP notes, "A federal complaint alleges that…Nariboli mailed a letter to Dow Chemical Company in Milwaukee, Wis., threatening to blow up an FBI office. It also says Nariboli mailed an envelope containing a powdered substance to the Iowa State University admissions building."

Alleged NYC Subway Bomb Plotter Contradicts Earlier Admission. The New York Times (1/25, Rashbaum) reports Shahawar Matin Siraj, a Queens man "charged in 2004 with conspiring to blow up the Herald Square subway station testified yesterday in federal court in Brooklyn that while he first claimed the plot was not his idea, he later told federal prosecutors that it was." Siraj "acknowledged making the admissions to federal and local authorities in the hours after his arrest in the plot." Siraj's lawyers "sought the hearing and had their client testify to try to prevent the government from using the admissions at trial, arguing that they were improperly obtained."

Northern Virginia Utilizing Sirens As Terrorism Alerts. The Washington Post (1/25, A1, Rein) reports, "The Washington region's emergency managers have concluded that the high-tech devices put in place since the Sept. 11, 2001, terrorist attacks are not enough to warn masses of people. So they are looking at the system that alerted the World War II and Cold War generations: the piercing wail of a siren. Arlington County and neighboring Alexandria will become the first communities in the country to experiment with sirens as alerts to terrorist attacks."

White House Rejects Proposal For Louisiana Buyout Agency. USA Today (1/25, Dorell) reports, "A top economic adviser to President Bush said Tuesday that the White House has rejected the Louisiana congressional delegation's request for a new agency to buy homes in New Orleans and other areas ruined by Hurricane Katrina." Allan Hubbard, director of the National Economic Council, "said the White House wants any buyouts to be paid for through the traditional congressional spending process. The proposal, by Rep. Richard Baker, R-La., would create an agency called the Louisiana Recovery Corp. that could raise up to $30 billion in government money through the issuance of Treasury bonds." In response, Baker said he's "'not giving into this.' Sen. Mary Landrieu, D-La., said the decision 'is just another indication of the administration's lack of understanding of the magnitude of the task at hand.'"

The Wall Street Journal (1/25, Cooper) reports, "Spokesman Trent Duffy said officials worried that the bill, sponsored by Rep. Richard Baker (R., La.), would add another layer of bureaucracy to a federal-aid effort criticized as lumbering." Baker's "bill drew support from the lending industry as well as local officials, who say redevelopment is more likely if individual lots can be bundled and resold to developers."

Lawmakers Criticize White House Refusal To Provide Katrina Documents. Meanwhile, the New York Times (1/25, Lipton) reports, "The Bush administration, citing the confidentiality of executive branch communications, said Tuesday that it did not plan to turn over certain documents about Hurricane Katrina or make senior White House officials available for sworn testimony before two Congressional committees investigating the storm response. … The White House's stance on storm-related documents, along with slow or incomplete responses by other agencies, threatens to undermine efforts to identify what went wrong, Democrats on the committees said Tuesday. 'There has been a near total lack of cooperation that has made it impossible, in my opinion, for us to do the thorough investigation that we have a responsibility to do,' Senator Joseph I. Lieberman, Democrat of Connecticut, said at Tuesday's hearing of the Senate committee investigating the response." Meanwhile, "Sen. Susan M. Collins and Representative Thomas M. Davis III, a Virginia Republican who is leading the House inquiry, said that despite some frustration with the administration's response, they remained confident that the investigations would produce meaningful results."

The AP (1/24, Jordan) reported Collins "said she respects the White House's reluctance to reveal advice to President Bush from his top aides, which is generally covered by executive privilege. Still, she criticized the dearth of information from agency officials about their contacts with the White House."

White House Faces Bipartisan Backlash Over Katrina Warning. CBS and NBC ran stories on the bipartisan criticism of the Administration's response to Hurricane Katrina after newly released documents indicated the White House had been warned by the DHS of how badly New Orleans would be impacted. Both CBS and NBC contrasted the report with President Bush's response a few days later.

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The CBS Evening News (1/24, story 3, 2:00, Schieffer) reported, "Both Republicans and Democrats in the Senate accused the White House of stonewalling an investigation into the Administration's handling of Hurricane Katrina. It turns out the Administration had a lot more information about what was about to happen than we knew. The question is: why didn't they act on it?" CBS (Roberts) added a DHS report "was delivered to the White House crisis management center, the situation room, early on the morning Katrina hit. Just three days later President Bush seemed to know nothing of it." And "today not even the Republican Chair of the committee looking into the government's response to Katrina was willing to cut the White House much of a break." Sen. Susan Collins: "If our response to an event that was predicted, known and trackable was so bad, think what it would be to an unexpected terrorist attack." And Sen. Joe Lieberman "says it couldn't be worse if the White House had dropped a ball on a pending attack." Sen. Liebermann: "It's as if two days before 9/11 an intelligence unit of the Department of Homeland Security said, America is about to be attacked by terrorists flying airplanes." Roberts: "Now a public battle has erupted over access to White House communications about Katrina. Lieberman accused the White House of impeding the committee's investigation. Senator Collins has concerns too, so we're bound to hear a lot more about this."

NBC Nightly News (1/24, story 2, 2:00, Williams) reported, "The government's defense has been that no one knew the levees would give way. But is that really the case? Newly-released communications now show the truth may differ." NBC (Reid) added that "despite that warning, this was President Bush just three days later." President Bush: "I don't think anyone could have anticipated the breach of the levees." Reid: "A White House spokesman said today the President was only referring to the fact that the worst-case scenario did not happen. But critics, mostly Democrats" said the report "is more evidence that the Bush Administration's response to Katrina was unacceptably slow and confused." Sen. Joe Liebermann, Connecticut: "Why was the president of the United States left so uninformed?"

The AP (1/24) reported, "Senators lashed out at the Bush administration Tuesday for failing to heed devastating predictions from a hurricane preparedness test that began a year before Hurricane Katrina slammed into the Gulf Coast." Lieberman said Hurricane Pam, a preparedness exercise that began in July 2004, "gave the Federal Emergency Management Agency and the Homeland Security Department 'explicit notice' that a catastrophic storm in New Orleans would require urgent aid from Washington to state and local response officials. 'But despite these warnings from Pam, preparations for Hurricane Katrina were shockingly poor,' said Sen. Lieberman. White House spokesman Scott McClellan said the administration is conducting a lessons-learned review, and 'I'm not going to do a play-by-play analysis.'"

CNN's The Situation Room (1/24, Henry) reported, "The President is getting heat today from members of both parties at the latest Senate hearing on the response on Hurricane Katrina. The main focus today, the results of a hurricane preparedness exercise delivered to the Bush administration the day before Katrina hit. It warned a Category 3 storm would flood New Orleans and kill up to 60,000 people. Senator Joe Lieberman says in light of that report, the administration was shockingly unprepared to deal with Katrina and the frequent Democratic ally of the president is now accusing the White House of blocking the investigation into what went wrong."

New Orleans Recovery Lagging. NBC Nightly News (1/24, story 8, 2:00, Williams) reported the Upper Ninth Ward section of New Orleans "has the highest percentage of African-American home ownership. It is a sad and desolate place these days." Homeowner named AJ Perkins: "There's so much red tape that they're sending you to and it's a back and forth situation." Williams: "Is there a deep lesson you learned in Katrina?" Perkins: "We are right here in New Orleans in the United States and we had to go through stuff like this. A great deal of people wouldn't have lost their lives if people would have thought of everybody as one. I'm just as important as you are." Williams: "And we should probably say something else here. It's now been almost five months since Katrina blew in and those levees gave way and the things you hear over and over is it's as if it happened yesterday."

Blanco Sets April 22 For New Orleans Elections. The AP (1/24) reported, "Under pressure from a federal judge, Gov. Kathleen Babineaux Blanco set an April 22 date for New Orleans's elections, which were postponed after Hurricane Katrina scattered the city's residents and destroyed hundreds of voting precincts. Elections for mayor, City Council, sheriff and tax assessors will be held on that date. … The elections were originally scheduled for Feb. 4."

Applebaum Says New Orleans Struggles Between Optimism, Hard Logic. Anne Applebaum, in her column for the Washington Post (1/25, A19,) writes that in New Orleans, "deep emotions and hard, tragic logic are at constant war with one another, where the understandable impulse to tell everyone he or she can go home is in direct conflict with the immense scale of the damage. Every version of every plan so far presented to the city's residents imagines a smaller, more easily protected New Orleans, a New Orleans with reconstructed historic neighborhoods on higher ground -- and a New Orleans without the hundreds of thousands of newer, often cheaply built, currently uninhabitable houses on lower, wetter land. Yet, when anyone speaks about his own neighborhood, logic falls away: Yes, a smaller New Orleans -- but one in which my house still stands and my neighbors

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come back." The city's "confusion" is "personified" by Mayor Ray Nagin, who "sometimes sounds rational about what can be achieved in a smaller city, and sometimes promises everyone everything, and sometimes makes no sense at all."

WAR NEWS:

Bush, Pakistani Prime Minister Discuss War On Terror. The CBS Evening News (1/24, story 5, :30, Schieffer) reported, "President Bush spent about two hours today discussing the war on terror with Pakistan's visiting Prime Minister, and the White House said Mr. Bush will visit Pakistan and India in March."

USA Today (1/25) reports, "Pakistani Prime Minister Shaukat Aziz said he expressed concerns about a purported U.S. missile attack that has increased tensions between the two countries during his visit Tuesday with President Bush." Aziz "said representatives of the United States, Afghanistan and Pakistan will meet soon to discuss the matter. He spent nearly two hours with Bush at the White House." Bush "said the United States and Pakistan are working closely to defeat terrorism." He "did not comment on the airstrike near the Pakistani-Afghan border."

The Washington Times (1/25, Sammon) also reports Bush "yesterday pledged to work closely with Pakistan to defeat terrorism, although he ignored questions about a U.S. air strike that killed 13 Pakistani civilians and five suspected al Qaeda members this month." The President announced that "he would visit Pakistan and India in March. 'The relationship with Pakistan is a vital relationship for the United States,' Mr. Bush said during an Oval Office meeting with Pakistani Prime Minister Shaukat Aziz. 'We're working closely to defeat the terrorists who would like to harm America and harm Pakistan.'" The Times adds, "The sentiments were echoed by Mr. Aziz, who made no public reference to the air strike that has strained relations between Washington and Islamabad. 'Our coalition with the United States in fighting terrorism is very important to all of the world and all of civil society,' Mr. Aziz said.'

Reuters (1/25, Zakaria) adds Bush and Aziz "showed no signs of acrimony and affirmed the two countries' close relationship in trying to combat terrorism," and the New York Times (1/25, Bumiller) says the leaders "took no questions." Afterward, "the White House spokesman, Scott McClellan, sidestepped queries about whether Mr. Bush had spoken in private to Mr. Aziz about the airstrikes."

The Washington Post (1/25, A2) reports that Aziz, "who kicked off his US visit by condemning the attacks, struck a decidedly more diplomatic tone before and after meeting with Bush yesterday, highlighting the economic and military ties between the two nations."

The CBS Evening News (1/24, story 6, 2:00, Schieffer) said that also yesterday, "Pakistan's President told an audience at the Nobel Institute in Norway that his military has now captured 700 al Qaeda terrorists, but there are many more out there and they want the world to know it." CBS (Stewart) added, "Somehow, however, the ones being chased continue to find time to make home movies." Recently "al Qaeda and Taliban linked web sites have been flooded with such videotapes that purport to show terrorists setting up shop once again in the region but some appear well over a year old. It's impossible to date others, and US counterterrorism officials warn not to read too much into them. Still, they're impressive."

Video Claims Al Qaeda Resurgent In Pakistan. President Bush's remarks touting the cooperation of the US and Pakistan in the war against terrorism were briefly noted on both ABC and CBS, which contrasted his statements with detailed stories on recently released al Qaeda videotapes claiming al Qaeda was experiencing a resurgence in Pakistan. ABC World News Tonight (1/24, lead story, 3:22, Vargas) reported on "an alarming development in the war on terror. The resurgence of al Qeada and the Taliban. It has been more than four years since 9/11 and the invasion of Afghanistan. President Bush has said the terrorists are on the run. But in the rugged tribal lands of northwest Pakistan, al Qeada and the Taliban are growing stronger and exerting more control. They are recruiting fighters and plotting attacks. In many cases, operating openly and with impunity." It "is a disturbing development." ABC (Ross): "A much rosier picture was being described at the White House today, as President Bush met with the Pakistani prime minister." President Bush: "We're working closely to defeat the terrorists who would like to harm America and harm Pakistan." Ross: "But there's no sense of defeat seen in a second tape obtained by ABC News, this one produced by al Qeada."

Bin Laden Tape Was Delivered To UN Office In Pakistan. The Washington Times (1/25, Flamini) reports, "A copy of Osama bin Laden's latest audiotape was delivered to a U.N. office in Quetta, Pakistan, and is being studied by the world organization's officials, a well-placed source said. He said the office of the U.N. High Commissioner for Refugees in Baluchistan province, which borders Afghanistan, received the tape last week and sent it on to the U.N. headquarters in New York. U.N. officials familiar with the contents of the tape say the message appears to be identical to the one broadcast by Al Jazeera television Thursday, according to the source, who asked not to be identified."

Friedman Contends Bin Laden Is "Hurting." The New York Times' Thomas Friedman (1/25) writes, "I am

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certain that bin Laden is hurting right now. What made bin Laden such a unique threat were three things: the fact that he had taken over a whole country…the fact that he controlled a political movement, the Taliban; and, most important, the fact that many Arabs and Muslims looked up to him and Al Qaeda as forces who were standing up to America. But today bin Laden does not have Afghanistan, he does not have the Taliban, and while he still has some following, I don't think so many Arabs and Muslims are naming their sons 'Osama' anymore."

Bin Laden Said To Be Seeking Establishment Of Caliphate. In an op-ed for the Washington Times (1/25) Walid Phares of the Foundation for the Defense of Democracies writes, "what the public ignores about the 'hudna' (cease-fire) offered by bin Laden is that the international community, and the United States, will have to recognize al Qaeda as the representative of the Muslim world. In short, that all Muslim governments would elevate bin Laden as the world caliph -- hence he will be able to 'resume' the jihad after the hudna is over, since it is only a truce after all."

In an op-ed for the New York Times (1/25) Daniel Benjamin and Steven Simon, authors of "The Next Attack: The Failure of the War on Terror and a Strategy for Getting It Right," write, "while Osama bin Laden has seldom used the word 'truce,' the vision outlined in the rest of the message is not new: a withdrawal of the United States from Muslim lands and a rebalancing between the Muslim and non-Muslim worlds. … In other words, this "truce" must be preceded by total capitulation."

Pakistan's Strategy For Subduing Tribal Regions Criticized. The Christian Science Monitor (1/25, Montero) reports, "With CIA missiles firing on Pakistani homes, and reports surfacing that the Taliban have taken over large tracts of the country's tribal zone, analysts of the war on terror here say Pakistan's military strategy is in need of a paradigm shift. Intelligence remains too weak, and even pitched battles flexing the military's muscle have shown little effect against an enemy that remains largely unknown, they say." According to the Monitor, "The question of whether Islamabad is effectively eradicating Al Qaeda elements in the semiautonomous border region…was expected to be discussed in Tuesday's meeting in Washington between President Bush and Pakistan's prime minister." The Monitor adds, "Those familiar with the tribal areas say recent events underscore the need to rethink the strategies for combating terrorism there. … Unleashing the full fury of Pakistan's military - helicopter gunships, ground troops, and artillery - was supposed to prevent this."

Musharraf Said To Have "Gotten Away With" Avoiding Taliban Hunt. The Washington Post (1/25, A18) editorializes that although President Bush "famously declared that other countries must choose between supporting the United States and supporting terrorism," he "has refrained from applying that tough principle in practice -- which is lucky for Pakistan's president, Gen. Pervez Musharraf. Ever since the war on terrorism began, this meretricious military ruler has tried to be counted as a U.S. ally while avoiding an all-out campaign against the Islamic extremists in his country, who almost surely include Osama bin Laden and his top deputies. Despite mounting costs in American lives and resources, he has gotten away with it." Musharraf "has never directed his forces against the Pashtun Taliban militants who use Pakistan as a base to wage war against American and Afghan forces across the border."

Jury Begins Deliberations In Shaaban Trial. In a widely-distributed story, the AP (1/25) reports, "A jury began deliberating Tuesday in the case of an Indiana truck driver accused of conspiring to sell U.S. intelligence secrets to Saddam Hussein's government." Shaaban Hafiz Ahmad Ali Shaaban "is accused of meeting with an Iraqi intelligence officer at a Baghdad hotel in late 2002 and agreeing to sell the names of U.S. operatives for $3 million. The jury deliberated for eight hours and planned to reconvene Wednesday morning."

Bureaucratic Infighting Blamed For Iraq Reconstruction Delays. NBC Nightly News (1/24, story 3, 2:00, Williams) reported that the New York Times "published a discouraging draft report on how" the rebuilding of Iraq "has been handled so far." NBC (Mitchell) added, "Billons of dollars squandered and many Iraqis still lacking basic services: water, sewage, electricity." In December "the President ordered the US to focus more on smaller, more manageable projects. Officials said they have completed more than half." Scott McClellan, White House Press Secretary: "The President has pointed out that we have learned some lessons and we have had to adjust reconstruction efforts." Mitchell: "The report confirms that a big part of the problem was rivalry between the State Department and the Pentagon over who would run the program. One official said at times, it was like the shootout at the OK Corral. Tonight, US officials are still blaming each other and many Iraqis are still waiting for basic services."

Report Finds Indications Of Fraud. The New York Times (1/25, Glanz) reports, "A new audit of American financial practices in Iraq has uncovered irregularities including millions of reconstruction dollars stuffed casually into footlockers and filing cabinets, an American soldier in the Philippines who gambled away cash belonging to Iraq, and three Iraqis who plunged to their deaths in a rebuilt hospital elevator that had been improperly certified as safe. The audit, released yesterday by the office of the Special Inspector General for Iraq Reconstruction, expands on its

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previous findings of fraud, incompetence and confusion as the American occupation poured money into training and rebuilding programs in 2003 and 2004. … The report says that in some cases the agents found clear indications of potential fraud and that investigations into those cases are continuing."

Dayton Seeks Hearings On Contaminated Water Supplied By Halliburton. The Hill (1/25, Tiron) reports Sen. Mark Dayton "is calling for Armed Services Committee hearings into allegations that Halliburton supplied contaminated water to the U.S. military in Iraq. … 'It should be criminal, and it is certainly immoral,' Dayton said about the charges against Halliburton."

Iraqi Oil Output Failing To Meet Expectations. The Los Angeles Times (1/25, Kraul) reports, "Iraqi oil production fell by 8 percent last year, with a sharp decline near year's end that left average daily production at half the 3 million barrels envisioned by U.S. officials at the outset of the war in 2003. Prospects for improvement this year are slim, according to many experts, calling into question Iraq's ability to support itself and fund reconstruction efforts as U.S. assistance is scaled back. Reasons for the shortfall include the poor state of the nation's oil fields, a creaky infrastructure, poor management and ongoing insurgent attacks, particularly to pipelines in the north-central region meant to export oil through Turkey." The Times notes, "In helping sell the war, Bush administration officials had predicted that a strong Iraqi oil industry could help pay for the nation's postwar recovery. … Oil revenues contribute 94 percent of the fledgling government's budget and a drop in oil global prices from current high levels could wreak havoc if output remains depressed. Financial stress was evident last week when Turkey suspended shipments of gasoline and other fuels to Iraq saying its refiners were owed $1 billion."

Huckabee, Perry Among Governors On Surprise Iraq Visit. The AP (1/25, Demillo) reports Arkansas Gov. Mike Huckabee, Wisconsin Gov. Jim Doyle, Texas Gov. Rick Perry and Wyoming Gov. Dave Freudenthal "are in Iraq on a surprise visit to their states' troops. … They all left for Iraq on Sunday after receiving classified briefings at the Pentagon."

The Houston Chronicle (1/24, Hughes) reports Perry "urged Americans to remain patient despite fresh reports of a rebuilding effort mired in problems. 'Obviously, you're not going to rebuild a country overnight, but I think this is going along very well,' Perry told Fox News. … Perry's trip to the Iraqi war zone, along with three other governors invited by the U.S. Department of Defense, was announced at the Texas Capitol by Lt. Gov. David Dewhurst."

Four US Soldiers Killed In Iraqi Attacks. The CBS Evening News (1/24, story 7, :45, Schieffer) briefly reported, "In Iraq today the US military reports four more Americans killed, two soldiers in a bombing in Baghdad and two Marines in a road accident west of the capital. There's still no word on kidnapped American journalist Jill Carroll, even as two German engineers have now been abducted north of Baghdad."

Sunnis Urged To Defend Themselves From Death Squads "By All Suitable Means." The Washington Post (1/25, A16, Knickmeyer) reports the Iraqi Islamic Party, "one of Iraq's leading Sunni Arab political parties…called on members of the Sunni minority to defend themselves 'by all suitable means' against death squads allegedly linked to the Shiite-led government after another in a months-long series of mysterious, deadly roundups targeting Sunni men. … The warnings…were issued a day after gunmen -- some dressed in Interior Ministry uniforms, witnesses said -- sought out and killed three Sunni men and took away more than 50 others in a mixed Sunni and Shiite neighborhood of Baghdad." The Post goes on to report, "Bodies of scores of Sunni men, many of them handcuffed and shot in the back or the back of the head, have been found across Iraq since Shiite religious parties took power in April. Witnesses, including at least one U.S. military unit who officers say witnessed a roundup of men later found dead, say the victims were detained by men in uniform."

Hussein Trial Delayed. The CBS Evening News (1/24, story 7, :45, Schieffer) reported, "Saddam Hussein's trial was supposed to resume today, but it was postponed until Sunday at the earliest. Sources in Baghdad tell CBS News there is a behind the scenes dispute now over which judge will preside." ABC's World News Tonight (1/24, story 5, 0:20, Woodruff) noted, "Saddam's lawyer says the court is under too much pressure to provide a fair trial."

Knight Ridder (1/25, Hannah) reports court spokesman Raed Juhi said "about four hours after" the trial was to have resumed, "Since some of the complainants and witnesses are currently outside Iraq for pilgrimage, the court has decided to delay the hearing until Sunday."

Lead defense attorney Khalil al-Dulaimi told Reuters (1/24, Georgy, MacDonald), "It's not true the witnesses did not show up ... There were three witnesses ready to deliver their testimony. … This is just an excuse to cover up the state of turmoil and chaos in the court." The Washington Post (1/25, A14, Knickmeyer) reports former US attorney general Ramsey Clark, "the most vocal of Hussein's lawyers," told CNN, "There's too much violence in the country, there's too much division and too much pressure on the court. …

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The project ought to be abandoned. It was a creature of the United States in the first place."

The Los Angeles Times (1/25, Boudreaux) reports, "One of the trial judges, Hussein Moussawi, said the official explanation was 'just an excuse' to give the judges time for 'long discussions' needed to resolve issues surrounding a shakeup of their panel, which lost two members during the monthlong recess that was to end Tuesday." Moussawi "would not elaborate, but other court officials, who spoke on condition of anonymity, said the trial panel was sharply divided over whether to accept the designation Monday of Raouf Rasheed Abdel Rahman as its temporary leader." The Financial Times (1/25, Negus) says the development "leaves the trial struggling to maintain an appearance of independence as it comes under criticism from senior Shia leaders and defence lawyers." The New York Times (1/25, Worth) runs a similar report under the headline "Hussein's Trial Is Abruptly Postponed."

Iraqi General's Son Outraged By Reprimand Of US Interrogator Responsible For Death. The Washington Post (1/25, A8, White) reports Mohammed Mowhoush, the son of an Iraqi general who died in US custody "assailed the US military yesterday for imposing a reprimand instead of prison time for an Army interrogator convicted in connection with his father's death, saying the United States has not properly administered justice. Speaking by telephone from Iraq, Mowhoush, 18, decried the military jury's sentencing this week of Chief Warrant Officer Lewis E. Welshofer Jr. … A military jury convicted Welshofer of negligent homicide late Saturday, after hearing evidence that he was using an aggressive interrogation technique on Maj. Gen. Abed Hamed Mowhoush when the general stopped breathing." Mohammed Mowhoush "recalled his own arrest on Oct. 27, 2003, when he and his three brothers were taken from their Qaim home as U.S. forces searched for his father. … 'They said if my father did not come and give up, they will send us to Guantanamo,' Mowhoush said." The Post notes, "Arresting someone to entice relatives to turn themselves in is considered by human rights organizations to be a form of hostage-taking. It is considered illegal in wartime but military investigative documents reveal it has occurred in Iraq."

Soldiers Involved In Detainees' Deaths Regularly Receive Lenient Sentences. The Los Angeles Times (1/25, Riccardi) reports, "Soldiers prosecuted in the abuse or even deaths of detainees rarely have paid a heavy price, an indication of the difficulties the U.S. military has had sorting out right from wrong during the war on terrorism, human rights groups and military lawyers say. A report to be released next week by Human Rights First has found that service members were disciplined in 12 of the 33 cases in which detainees' deaths were ruled homicides. Often that punishment was relatively mild, as was the case for" Welshofer. … It was the latest in a growing list of setbacks for military prosecutors."

UK Detention Of Iraqi Police In Basra Spurs Protests. USA Today/AP (1/25, 6A) reports, "In Basra, [a] Shiite crowd massed after British and Iraqi forces detained 14 men Tuesday. The detainees, including at least five policemen, are suspected of involvement in multiple killings and kidnappings of local residents and other police forces. The British military said it received Iraqi Interior Ministry authority to arrest the men, nine of whom were later released."

Two German Engineers Kidnapped In Northern Iraq. USA Today/AP (1/25, 6A) reports, "Gunmen wearing military fatigues seized two German engineers in northern Iraq on Tuesday in the latest kidnapping that pushed a foreign government into a desperate race to free its nationals. The German government confirmed that two men from Leipzig were kidnapped and said a special crisis team was sent to Iraq to deal with the matter."

Paralyzed Iraqi Officer Recovers At US Base. The Washington Times (1/25, Alleruzzo) reports on the recovery of "Capt. Furat" an Iraqi army officer ambushed "by gunmen disguised as Iraqi soldiers while he was visiting his family. … He somehow survived the destruction of 12 bullets, but one of them cut through his spinal cord, leaving him paralyzed from the waist down." The Times continues, "His family fears the killers will finish the job when he leaves this heavily guarded American base for a local hospital protected only by a few Iraqi policemen. Col. Elisha Powell, commander of the 332nd Expeditionary Medical Group that runs the hospital, said Capt. Furat will stay there until he recovers."

Kerry Inspected NATO Reconstruction Effort In Hilla. In his column for the New York Times/International Herald Tribune (1/25) Roger Cohen writes, "Senator John Kerry of Massachusetts is being ferried by the U.S. military to Hilla, a provincial town about 110 kilometers, or 70 miles, south of Baghdad. … In Hilla, the United States recently established a Provincial Reconstruction Team, or PRT, a group of military and civilian officials working to jump-start the economy by instilling in Iraqis the conviction that they now have control of their own lives and can make decisions at local level without awaiting a despot's word from Baghdad. It is to assess this experiment, tried with some success by NATO in Afghanistan, that Kerry has headed into the provinces."

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Iraqi Coalition Government Seen As Precondition Of US Support. The Washington Post's David Ignatius (1/25) reports, "America's agile envoy in Baghdad, Zalmay Khalilzad, is working these days to cajole Iraqi political leaders to put aside narrow interests in favor of a government of national unity. But behind the political dickering lies a stark message: If the Iraqis can't agree on a broad-based government of reconciliation, the United States may have to reduce its military and economic support. America won't bankroll one side in a civil war."

Critics Said 1998 Air Strikes Did Not Degrade Saddam's Capabilities. In its "History Lessons" column, the Washington Times (1/25) excerpts a December 20, 1998 USA Today story, which reported, "One day after President Clinton halted a four-night U.S. and British air assault on Iraq, his national security team blanketed the Sunday talk shows to get out the message: 'Mission accomplished.' But some critics say it's unclear what the mission was and what it accomplished. 'This was a largely punitive operation,' said Anthony Cordesman, a defense analyst at the Center for Strategic and International Studies. 'It did not cripple any of Saddam's capabilities.' In Operation Desert Fox, the stated mission was to 'degrade' Saddam's ability to develop, manufacture and deliver [WMD]. After four days, the Pentagon said his weapon-making capacity was diminished but that it was too early to say how much. And critics said the vague word 'degrade' had been used deliberately to allow leaders to claim success no matter what."

CORPORATE SCANDALS:

Judges Cite Joint DOJ-SEC Actions As Improper. The Wall Street Journal (1/25, Lattman, Scannell) reports, "The Justice Department and the Securities and Exchange Commission long have worked in concert in fighting corporate wrongdoing, securing convictions and settlements in recent years against former executives at WorldCom Inc., Enron and elsewhere. … The SEC can bring civil charges and seek to impose financial penalties and to ban transgressors from top jobs at publicly traded corporations or from the securities industry. The Justice Department can bring criminal charges and seek prison sentences for the most serious white-collar violators." The Journal continues, "In two recent cases, however, federal judges have taken the agencies to task for using what the judges deemed an unfair one-two-punch approach in criminal cases. … In Oregon this month, a judge dismissed criminal charges against three corporate executives, saying the Justice Department unconstitutionally pursued a stealth criminal investigation under the cloak of a less-threatening civil proceeding by the SEC. And in Alabama last year, a judge dismissed charges that former HealthSouth Corp. Chief Executive Richard Scrushy lied to the SEC, ruling that he should have been warned that the Justice Department already had opened a criminal investigation when the SEC questioned him. … In both cases, the judges found the line between the agencies' roles had become improperly blurred."

Judge Rejects Skilling Request To Move Trial. The AP (1/25, Hays) reports, "Enron Corp. founder Kenneth Lay and former CEO Jeffrey Skilling will go to trial in the scandal-ridden company's hometown of Houston, a judge has ruled." The AP continues, "U.S. District Judge Sim Lake issued an order late Monday denying the former executives' last-minute request to move the trial from Houston based on potential jurors' vitriolic statements about Lay and Skilling on questionnaires. … The judge said he wasn't persuaded by defense arguments that a fair jury can't be found in Houston because the questionnaire answers reveal inherent prejudice against Lay and Skilling." The AP adds, 'Lake said questionnaires with unbiased answers and his intention to question the pool during jury selection next Monday 'provide adequate safeguards to defendants and will result in the selection of a fair and impartial jury in this case.' … He also denied defense requests that attorneys be allowed to question potential jurors individually and postpone the trial to send out a new round of questionnaires in light of a guilty plea by former chief accounting officer Richard Causey. Causey was supposed to have been tried alongside his former bosses. … Lake has rejected all those requests before. He has yet to rule on a separate, more recent defense request to postpone the trial."

Former Enron Workers Have Had To Start Their Careers Over Again. The New York Times (1/25, Romero) reports on the experiences of most "former Enron employees who had nothing to do with the fraud at the company, in contrast to the success enjoyed by those at the top who cashed out early and a comparative handful of high-ranking professionals who were able to parlay their status and skills into lucrative jobs at other energy companies." Few "have been able to restore the glitter of their jobs at Enron. … Some of the Enron diaspora have had to start their careers all over again."

CRIMINAL LAW:

La Tourette, Young Intervened With GSA On Abramoff's Behalf. Roll Call (1/25, Bresnahan) reports, "Reps. Steven LaTourette (R-Ohio) and Don Young (R-Alaska) sought to intervene with a federal agency in

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September 2002 on behalf of American Indian clients of lobbyist Jack Abramoff as part of Abramoff's effort to gain control of the Old Post Office Pavilion in downtown Washington, D.C. LaTourette and Young both wrote to the General Services Administration in September 2002 urging Stephen Perry, then head of the GSA, to give preferential treatment to organizations such as Indian tribes when the GSA evaluated proposals to develop the Old Post Office site." Young "received $7,000 from two of Abramoff's tribal clients just weeks after the letters went to the GSA. LaTourette, for his part, said he agreed to send the letters after being lobbied on the issue by a former top aide to Rep. Bob Ney (R-Ohio). Ney is under investigation by the Justice Department over his ties to Abramoff."

Abramoff Hosted Baby Shower For Rohrabacher. The Hill (1/25, Crabtree) reports that in December 2003, Abramoff "helped host a baby shower for Rep. Dana Rohrabacher (R-Calif.) and his wife." The Rohrabachers "were expecting triplets and feeling the pinch of the prevailing congressional salary of $154,700 at the time while maintaining homes in D.C. and the lawmaker's pricey Southern California coastal district. … The lobbyist, who had been friends with Rohrabacher since the early 1980s when the future lawmaker was a White House speechwriter and Abramoff was chairman of the College Republicans, allowed the couple to use his restaurant, Signatures, between lunch and dinner for the shower. Only hors d'oeuvres were served, Rohrabacher disclosed in a Los Angeles Times article two weeks ago. … The article did not mention that guests at the shower contributed to a fund for nanny service provided by After the Stork, a 24-hour child-care service based in the district." Rohrabacher "did nothing wrong under current rules, but ethics experts say that in the new atmosphere of reform Congress may want to rethink whether the rules governing gifts at personal events such as weddings and showers are strict enough. Rohrabacher spokeswoman Rebecca Rudman estimates that fewer than 25 people attended the shower and that gifts to the fund amounted to roughly $3,000. She noted that After the Stork charges $250 a day for 24-hour nanny care for triplets. "

Abramoff Links Bring Unwanted Attention To Dallas Lobbying Firm. The Dallas Morning News (1/25, Benton) reports, "Lobbyists are hired for their connections. But as Washington sorts through a growing lobbying scandal, the past connections of two lobbyists hired last fall by Locke Liddell & Sapp are bringing unwanted attention to the powerful Dallas law firm." The News continues, "The two men, Roy Coffee and David DiStefano, have been connected to a foreign company's attempt to work around U.S. sanctions against Iran and sell airplane parts to that nation – an attempt that centered on U.S. Rep. Bob Ney, an Ohio Republican accused in lobbyist Jack Abramoff's recent plea agreement of accepting bribes. … The two lobbyists were hired in 2003 by a pair of businessmen with résumés out of a James Bond movie. One, a Syrian gambler nicknamed 'The Fat Man,' made his fortune in Middle East arms deals. The other, a felon, was banned from East Coast racetracks in the 1980s for his connections to organized crime and has a Tennessee rap sheet for trying to defraud Elvis Presley." The News notes, "Mr. Coffee and Mr. DiStefano have not been charged with any crimes, and there is no public evidence to indicate either is a direct target of the ongoing investigation. Their activities generating scrutiny predate their joining the Dallas firm. … Locke Liddell spokeswoman Julie Gilbert said the firm still has confidence in the two lobbyists."

IRS Agent Testifies About Campaign Funds Ryan Failed To Claim As Income. The AP (1/25, Robinson) reports, "On trips to St. Louis, Toronto and New York to watch the Blackhawks, the White Sox and the Bulls, George Ryan used Citizens for Ryan plastic to pay for dinners and failed to declare the campaign money as income, an Internal Revenue Service tax expert testified Tuesday. The total Ryan should have declared but didn't came to just over $80,000 in four years, IRS forensic accountant Shari Schindler testified during the former governor's racketeering and fraud trial." However, "Ryan defense attorney Dan K. Webb immediately began building a defense based on the notion that Ryan had no way of understanding the complexities of the tax code and meant no harm. He chose a dramatic way of making his point, challenging Schindler to show him anywhere in eight heavy volumes of tax laws and IRS regulations that it said Ryan owed the money." The AP notes, "The cross-examination consumed considerably more time than expected by prosecutors, who had been planning to rest their case Wednesday. Lead prosecutor Patrick M. Collins said searching through 'all these big books' was a waste of time."

Outside Court, Parents Of Children Killed In Crash Say Corruption "Has To Stop." The Chicago Tribune (1/25, O'Connor, 643K) reports, "While jurors at former Gov. George Ryan's trial got a dry lesson Tuesday in the complexities of tax law, the parents of six children killed in a horrific crash that came to symbolize the tragic consequences of Illinois' licenses-for-bribes scandal spoke outside the courtroom in more personal terms. Public corruption 'has to stop,' Rev. Duane 'Scott' Willis told reporters as he and his wife, Janet, made their first appearance at the marathon trial since October." The Tribune adds that "Willis said he and his wife don't intend to make a special trip back here to attend possible testimony by Ryan himself," but "he made it clear the couple care deeply about the outcome of the trial. 'It is related to the loss of our children,' he said. … 'So there's a very personal aspect to it.'"

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Prosecution Witness Fails To Connect Campbell To Illegal Contributions. The Atlanta Journal-Constitution (Warren, Scott, 430K) reports that at the corruption trial of former Atlanta Mayor Bill Campbell, "when federal prosecutors had their first witness on the stand Tuesday, they appeared to stumble." Kevin Ross, "an attorney who chaired Campbell's political campaigns, seemed to actually help the defense more than prosecutors…with testimony that at times was more confusing than convincing. … Ross, questioned by Assistant U.S. Attorney Russell Vineyard, said there were several questionable donations totaling more than $100,000. … There were also five cashier's checks totaling $5,000 with the names of five of Campbell's family members, Ross said. … Under cross examination by defense attorney Fred Orr, Ross said he didn't believe Campbell would have been the one to misuse his relatives' names to make illegal contributions. … So while the prosecution will set out to show…that there were illegal contributions to the mayor's campaign, Ross did not connect the contributions to Campbell."

Former Tennessee Court Clerk Sentenced To Probation For Embezzlement. The AP (1/25) reports former Unicoi County, Tenn., Court Clerk Gregg Masters will serve three years probation for stealing more than $10,000 from his office." Masters "will serve six months of his probation in home confinement. He will also have to pay restitution for the money he stole. … In 2003, Masters resigned the office he had held for 27 years five days after the FBI raided the clerk's office. … In September, he pleaded guilty in federal court. He admitted stealing payments of traffic violation fines and using the stamp for the Unicoi County general sessions judge to dismiss those cases."

Connecticut Mob Boss Sentenced To 6½ Years In Prison For Racketeering. The AP (1/21, Apuzzo) reports, "Prosecutors said he should have spent his old age planting gardens or visiting his grandchildren, but instead 72-year-old Victor Riccitelli was running gambling operations for the mob. Friday, a federal judge sentenced him to 6½ years in prison for racketeering, flatly rejecting his argument that prosecutors sought to embarrass him by releasing transcripts of his conversations with an FBI informant. … He allegedly moved bulk cocaine — a fact prosecutors said he hid from his mob superiors — and was caught on tape negotiating deals while receiving treatment for colon cancer." The AP notes, "While all of Riccitelli's co-defendants, including reputed Mafia underboss Anthony Megale, struck plea deals with prosecutors, Riccitelli became a thorn in the side of the Justice Department. He rejected plea deals, accused the FBI of selectively recording him and claimed no knowledge of the Gambino family." The Connecticut Post (1/21, Mayko) notes US District Judge Janet Bond Arterton declared the sentence would run concurrent with the sentence Riccitelli is already serving. "The judge explained that to do anything else would be 'piling on.' She did note that should Riccitelli, formerly of Capitol Avenue, overturn his cocaine conviction on appeal, her sentence would keep him behind bars."

Miami Stockbroker Arrested For Allegedly Defrauding Investors. The Miami Herald (1/24, 323K) reports in "Florida Business Briefs" that Miami stockbroker Lazaro J. Rodriguez "was arrested on mail fraud charges, the U.S. Attorney's Office said Monday. Rodriguez was president of The Firm Investments," and he "allegedly misappropriated about $1.5 million of investor money from more than 400 investors. Using Spanish language newspaper and Creole radio advertisements to lure investors, the company's website and written materials offered a number of investment options, Justice officials said."

Google Launches Chinese Services. The San Jose Mercury News (1/25, Bazeley) reports, "Google on Tuesday launched operations in China, a decision executives have agonized over because it will require the Internet firm to subject itself to self-censorship to comply with Chinese law." The News continues, "The Mountain View search giant is one of the last large U.S. Internet companies to set up shop inside China. The delay reflects months of internal wrangling at Google over how to balance business interests against the company's distaste at having to comply with China's restrictive speech policies." The News adds, "For now, the Google is making what one executive described as a 'targeted entry," offering Internet search but not e-mail, blogging, video or messaging services. As if Tuesday some Chinese Internet users were able to access the www.google.cn Web site. … They were not, however, able to search for information on the 'three T's': Taiwan independence, Tibet independence and Tiananmen Square, which are all forbidden topics in China. And Google is not yet offering its e-mail service, called GMail. … Ironically, Google's agreement to censor itself and comply with Chinese government rules comes at the same time it's being lauded in the United States for refusing a Justice Department subpoena to turn over data about seaches conducted on its site."

DOJ Grant Funds New Jersey School System's Eye-Scanning Technology. The AP (1/25) reports that the Freehold, NJ school district "has become the second in the Garden State to start using iris recognition technology to screen visitors, according to computer maker Hewlett-Packard Co." The AP continues, "Freehold launched the system Monday in its three schools, one of which includes the district's offices. The system is being employed as part of

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a study funded by a $369,000 grant from the U.S. Justice Department's National Institute of Justice. … Plumsted Township in Ocean County started using the eye-scanning technology in 2003 under a similar federal grant." The AP adds, "Iris recognition systems use a video camera to record the colored ring around the eye's pupil. Markings in the iris are unique to each person. … Deployment of the technology in Freehold was the result of a collaboration between Palo-Alto, Calif.-based HP; Renton, Wash.-based Newton Security Inc.; and two New Jersey companies -- Eyemetric Identity Systems and LG Electronics USA."

Panel Suspends Tennessee Judge Facing Federal Extortion Charges. The Knoxville News Sentinel (TN) (1/24 Satterfield) reports, "A Roane County (TN) judge arrested Monday on federal extortion charges was suspended today from his post." The Sentinel continues, "The Tennessee Court of the Judiciary, which handles disciplinary actions involving judges, announced today that Roane County General Sessions Court Judge Thomas A. Austin has been suspended from his judgeship. … Austin, 57, was arraigned Monday in U.S. District Court on an eight-count indictment accusing him of extortion and money laundering. … 'This court has determined an interim suspension is appropriate,' the Court of the Judiciary order stated." The Sentinel adds, "Presiding Judge Steven Stafford, who heads up of the disciplinary panel and also serves as a chancellor for the 29th Judicial District, said the court felt quick action was needed. … State law dictates that Austin will continue to draw his salary, estimated to be more than $100,000, while suspended. … Roane County will not be without a Sessions Court judge. There are two who handle the docket. But it will burden a court system already overloaded with a backlog of cases, according to Roane County Public Defender Joe Walker." The Sentinel notes, "Austin is accused of forcing kickbacks from the operators of two driving schools where the judge sent traffic offenders for remedial instruction and from the chief of a private firm that handles offenders placed on county probation. … Assistant U.S. Attorney Charles Atchley also alleged during Monday's court hearing that Austin regularly used 'illegal drugs.'"

Federal Judge Sentences Kansas Group Home Operator To 30 Years. The AP (1/25, Hegeman) reports from Wichita, KS, "A former social worker was sentenced to 30 years in prison after being convicted of abusing mentally ill residents of a group home he operated with his wife." The AP continues, "Arlan Kaufman was found guilty in November of 31 federal charges and his wife, Linda, was convicted of 30 counts. The charges include health care fraud, Medicare fraud, forced labor and holding clients in involuntary servitude at the Kaufman House Residential Treatment Center. … Linda Kaufman was sentenced to seven years in prison." The AP adds, "Federal prosecutors had argued that the couple controlled the lives of mentally ill residents, including deciding who could wear clothes. They were found guilty of forcing residents to masturbate, fondle each other and shave each other's genitals - activities that Arlan Kaufman videotaped. … 'You are an arrogant individual, you don't recognize what you have done is wrong,' District Judge Monti Belot told Arlan Kaufman during the sentencing hearing on Monday. 'You see yourself as a victim of some massive conspiracy.' … But Belot showed some leniency for Linda Kaufman, agreeing with Wichita psychiatrist Ted Moeller that she had a dependent personality and was manipulated by her husband."

New York Body-Part Probe Expected To Spawn Lawsuits. The AP (1/25, Hays) reports, "The Brooklyn district attorney's office has opened a criminal case focusing on scores of funeral homes in the New York City area and hundreds of looted bodies, including that of 'Masterpiece Theatre' host Alistair Cooke. No arrests have been made." The AP continues, "Authorities believe two men paid off funeral homes so they could take bone and skin from the dead without their families' knowledge. Worse, some body parts came from elderly people and perhaps victims of infectious diseases, and the paperwork was doctored to say they had been younger and healthier, investigators say. … The U.S. Food and Drug Administration is trying to trace the tissue, which was sold to medical facilities across the country and in Canada." The AP adds, "Both the FDA and hospital officials, while suggesting certain patients should get tested for viruses as a precaution, insisted the risk of becoming ill from tainted tissue is minuscule. … A lawsuit filed in Brooklyn accuses a now-defunct New Jersey tissue bank, Biomedical Tissue Services, of stealing parts from a 43-year-old woman who died of ovarian cancer in 2003. The business allegedly forged a signature on a consent form, and listed the cause of death as head trauma. … Authorities also found paperwork indicating Cooke's bones had been removed by the tissue bank before he was cremated. Cooke died of cancer last year at 95, but authorities say documents listed the cause of death as heart attack and lowered his age to 85. … The operators of the tissue bank have denied any wrongdoing."

SCOTUS Delays Florida Inmate's Execution. The AP (1/25, Word) reports, "A death row inmate won a stay from the Supreme Court Tuesday night about an hour after he was scheduled to be executed for killing a police officer." The AP continues, "Clarence Hill claimed he is mentally retarded and also challenged the state's use of execution drugs as cruel. … It was not clear if the court's intervention would only briefly delay Hill's execution, which had been scheduled for 6 p.m., to give justices additional time to review

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stay requests." The AP adds, "Witnesses had gathered at the Florida State Prison for the execution, which was put off for more than an hour before word came from the court. … The witnesses were sent home after Justice Anthony M. Kennedy filed paperwork that said Hill's death sentence would 'be stayed pending further order' of the justices. … 'The court will not rule until tomorrow,' said Robby Cunningham, spokesman for the Florida Department of Corrections."

Florida Man Exonerated By DNA Evidence After 24 Years In Prison. The AP (1/25, Stacy) reports, "Alan Crotzer stepped into the warm sunlight outside the courthouse Monday and raised his arms to the sky, celebrating his freedom after more than 24 years behind bars for crimes he didn't commit." The AP continues, "A judge freed the 45-year-old Crotzer after DNA testing and other evidence convinced prosecutors he was not involved in the 1981 armed robbery and rapes that led to his 130-year prison sentence." The AP adds, "Crotzer walked free more than three years after he wrote to the Innocence Project in New York, a legal clinic that seeks to exonerate inmates through DNA testing. … Members of Crotzer's family and other courtroom spectators clapped and cheered as a bailiff removed the shackles from his wrists and ankles. … Prosecutor Mike Sinacore congratulated him. 'Trying to fix an error in the system is just as important as trying to convict someone who is guilty,' he said." The AP notes, "DNA has been used to clear at least 172 people wrongly convicted of crimes in 31 states since 1989, according to the Innocence Project."

Boy Shoots Girl At Day Care Center; Father Faces Gun Charges. The Washington Post (1/25, A1, Londoño) reports that an 8-year-old boy and his father have both been charged after the 8-year-old sneaked his father's gun into a daycare center and shot a 7-year-old girl in the arm. The Post reports, "It was unclear what the boy had planned to do with his father's gun," according to law-enforcement sources. The Post further says, "The sources said the boy threatened to rob the girl and then fired the gun once, striking her in the upper right arm." The Post reports, "The boy's father, John Linwood Hall, 56, was arrested and charged with leaving a firearm within reach of an unsupervised minor, contributing to the delinquency of a minor and possession of a firearm by a felon. His son was charged as a juvenile with numerous counts that police declined to outline yesterday. The boy was placed in the custody of the Maryland Department of Juvenile Services, which provides counseling and treatment to delinquent juveniles."

The Washington Times (1/25, Wagner, Cella) reports, "Officer Derek Baliles, a county police spokesman, said the shooting occurred just before 7 a.m. at the For Kids We Care child care center at 12648 Grey Eagle Court in Germantown. … Officer Baliles said the gun fired 'accidentally' at the day care center when the boy played with it inside the backpack. The girl was struck in the arm, authorities said." The Times also reports, "The girl's father, who was not identified, said in a statement issued through the hospital and obtained by the Associated Press: 'Everyone has a responsibility to ensure that guns are kept unloaded, locked and out of children's reach to prevent incidents like this.'"

WPost Says Gun-Safety Laws Could Prevent Tragedies. The Washington Post (1/25, A18) editorializes, "At a day-care center in Germantown, an 8-year-old boy shot a 7-year-old girl with a handgun yesterday, hitting her in the arm but not killing her. … [W]hy is it that after years of similar incidents and anguish and debate, the country has yet to enact laws to prevent such tragedies?" The Post notes that in the 1990s, Maryland Gov. Parris Glendening appointed a task force that pushed for a number of laws. Some were passed, "But other regulations -- potentially more effective ones in preventing accidents such as yesterday's -- went nowhere," The Post says. The editorial concludes, "More gun safety laws will prevent many incidents, but they won't protect everyone from lawbreakers such as the father of the Germantown boy. Without stricter federal laws on access to handguns, more of these tragedies will occur."

CIVIL LAW:

Judge Hears Arguments On Defense Department Workplace Rules. The Washington Post (1/25, B2, Barr) reports in its "Federal Diary" column that Federal Judge Emmet G. Sullivan yesterday "gave ample time to Justice Department and union lawyers to argue over new workplace rules at the Defense Department. The rules will change the way in which 650,000 Defense civil service employees are assigned work, paid and disciplined. A coalition of unions filed suit to stop certain changes, and Sullivan's decision in the case could affect other Bush administration efforts to revamp civil service rules across government. The rules, as Sullivan put it yesterday, are 'extremely important, extremely complicated.' To limit confusion, union and Justice Department lawyers used slide shows to make their points to Sullivan. Sullivan asked the lawyers to shed light on what Congress intended in creating the National Security Personnel System, whether Pentagon officials had honored a mandate to collaborate with unions on the development of the rules, and whether the Pentagon could waive civil service law on union rights and take numerous issues off the bargaining table."

The Washington Post (1/25, A17) reports, "The Defense Department agreed yesterday to delay implementation of its new personnel system until at least March 1 to give a federal judge time to decide whether the

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new rules pass legal muster." The National Security Personnel System "would replace the familiar 15-grade General Schedule pay system with one in which raises are linked to annual performance evaluations," and, "in the name of making the Defense Department more nimble in the struggle against terrorism," limit "the power of labor unions and make it easier to hire, promote and discipline employees." However, "the unions contend that the new rules would gut collective bargaining in violation of federal law," and "a similar lawsuit against the Homeland Security Department has delayed the implementation of a new pay system there by as much as a year."

Government Executive (1/25, Rutzick) reports, "Sullivan said he needed until March to decide the case on its merits. The department had already agreed to stall the system until Feb. 1 because of the lawsuit. Lawyers for the Pentagon agreed to the second delay, with a few exceptions. … Most notably, the government said it would move forward with setting up the National Security Labor Relations Board as planned. The NSLRB would replace the governmentwide Federal Labor Relations Authority in hearing labor disputes. Its members would be appointed by the Defense secretary with some consultation from unions. … Justice Department lawyer Joseph Lobue, who argued on behalf of the Defense Department and also represented the Homeland Security Department last summer in a similar case, said the government would appoint a chairman, hire staff and complete regulations on the structure of the NSLRB."

GSA Postpones Awarding Off "Networx" Telecommunications Contract. The Washington Post (1/25, D1, Mohammed) reports, "The General Services Administration yesterday told bidders on its estimated $20 billion, 10-year 'Networx' telecommunications contract that it had postponed the award dates until 2007 but gave no specific reason for the delay. The telecom contract, the largest ever to be awarded by the GSA, is the grand prize in federal communications work and attracted bids from groups led by AT&T Inc., Qwest Communications International Inc., Sprint Nextel Corp. and Verizon Communications Inc. … Winners of Networx Universal, whose award date has been delayed until March 2007 from July of this year, will share $525 million in guaranteed revenue. Beyond that they will bid for individual agency projects. … Spokesmen for AT&T, Qwest, Sprint Nextel and Verizon, which all bid on Networx Universal, said their companies were informed of the delay yesterday but were given no detailed reason."

NYTimes Says Supreme Court Decision May Undermine Campaign Finance Reform. The New York Times (1/25) editorializes, "The Supreme Court has opened the door for a move" away from regulating campaign money when, ruling on t he McCain-Feingold reform law, it said "courts could hear 'as applied' challenges…and consider which ads were really no more than grass-roots lobbying." With such a ruling, "it is important that the courts develop a narrow and honest test for when advertisements are grass-roots lobbying. In this case, Wisconsin Right to Life was actively opposing Senator Feingold's re-election," and "the claim that those ads were unrelated to opposing Senator Feingold's re-election is simply not credible." In creating "a big 'grass-roots lobbying' loophole," the Court "will free corporations and special interests to run phony 'issue ads' that are actually a form of unregulated campaign contribution."

CIVIL RIGHTS:

Georgia Senate Approves Voter ID Requirement. The AP (1/25, Gross) reports, "Georgia voters would need photo identification to vote, under a bill that got approval from the state Senate on Tuesday." The AP continues, "The bill, which spurred several hours of emotional and sometimes racially charged debate on the Senate floor, now must return to the House for a vote on minor Senate changes. Gov. Sonny Perdue, who must sign it into law, has said he supports the bill." The AP adds, "The bill passed 32-22, largely along party lines. Sen. Jack Hill, R-Reidsville, a former Democrat who switched parties in 2003, was the only Republican voting against it. … The legislation would require a driver's license, military ID or a state-issued identification card, with a photo, to vote. It removes several forms of identification currently accepted, including Social Security cards, birth certificates and utility bills." The AP notes, "The plan was voted into law by the Legislature last year. But a federal judge blocked it, saying it amounted to an unconstitutional poll tax. Most voters who didn't already have approved identification would have paid $35 for a state ID. … This year's changes waive that fee and give equipment to each of Georgia's 159 counties to issue the cards. … Critics argued Tuesday, as they have since last year, that the plan unfairly impacts the poor, the elderly and minorities, who are less likely to have driver's licenses. … Supporters say the bill is an effort to crack down on voter fraud."

DOJ In Settlement Talks With Southern Illinois University On Minority Scholarships. The AP (1/24, Suhr) reports, "Southern Illinois University administrators are weighing a Justice Department proposal that would head off the government's threatened lawsuit over three allegedly discriminatory graduate fellowships, the university system's general counsel said Tuesday." The AP continues, "Jerry Blakemore refused to publicly discuss the Justice Department's recommendations but cast them as a

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breakthrough, marking the first time in months of negotiations that he's had a proposal of adequate clarity to take to SIU President Glenn Poshard and other administrators. … 'We certainly believe we have sufficient understanding of the legal issues for me to be making a legal recommendation to the president, the board and the university,' Blakemore said." The AP adds, "Though the Justice Department has not categorized the proposal as its final offering, Blakemore said the university was treating it as such "because we've had lots of discussions for some time" with the government. … Poshard and Walter Wendler, chancellor of the Carbondale campus, on Tuesday and Wednesday were to meet with SIU administrators and key 'constituency groups' for feedback about the government's suggested solution to the dispute. After those private talks, SIU would respond, said Blakemore, not offering a time frame. … Justice Department spokesman Eric Holland said the agency was 'currently in settlement negotiations with the university' and 'hoped to resolve our differences without resorting to contested litigation.' … The Justice Department demanded in writing in November that SIU halt the fellowships or be sued, arguing that the programs violate the federal Civil Rights Act of 1964 and result in 'intentional discrimination against whites, non-preferred minorities and males.'"

Montgomery County Repeals Lawn Sign Limits. The Washington Post (1/25, Craig) reports, "The Montgomery County Council voted yesterday to repeal a provision that requires property owners to remove lawn signs after 30 days or pay $30 to apply for a permit to keep them up longer." The Post continues, "The American Civil Liberties Union had argued that the time limit -- a provision in a larger sign ordinance that had been in place since 1998 -- violates the First Amendment right to free speech, and the organization was threatening to sue the county. … Although county attorneys said yesterday that they were willing to defend the law, the council appeared reluctant to pick a fight with the ACLU." The Post adds, "The repeal, which goes into effect Feb. 3, will apply only to private properties. Signs posted in public rights of way will still have to be removed after 30 days. … The ACLU represents a group of residents who erected signs to protest the planned construction of what they considered an oversize house in their Chevy Chase area neighborhood of Brookdale. A limited liability corporation headed by Thomas R. Eldridge, a developer and Somerset Town Council member, bought a 2 1/2 -story house in Brookdale in March and tore it down. The corporation has since broken ground on a house that residents contend will be four stories."

Religious Groups Seek Influence Over History Books. The Wall Street Journal (1/25, Golden) reports, "Religious pressure on textbooks is growing well beyond Christian fundamentalists' attack on evolution. History books are the biggest battleground, as groups vie for changes in texts for elementary and secondary schools that cast their faiths in a better light." Organizations are "seeking to extract concessions as California holds its periodic approval process for history textbooks," which "typically are the ones that schools in the rest of the country end up using for several years." Islamic groups have done so since 1990, and "Hindu groups, in particular, have swamped California authorities with proposed revisions." This raises "the question of whether lobbying by religious groups yields a more sensitive and accurate version of history or a sugar-coated one -- and also whether students are served better or less well." Meanwhile, textbook publishers that "ignore religious groups…risk exclusion from markets."

Public Schools Considering Bible Literacy Classes. USA Today (1/25, Linn) reports, "High schools across the nation are considering an elective course in Bible literacy. That's pitting advocates of church-state separation against proponents of the class who say their mission is purely scholarly. Lawmakers in Alabama and Georgia in the past few weeks have introduced legislation clearing the way for their high schools to offer the course, which is based on the textbook The Bible and Its Influence." While "the textbook does have critics, including Americans United for the Separation of Church and State," both Sheila Weber, a spokeswoman for the Bible Literacy Project, and Jeremy Gunn, director of the American Civil Liberties Union's Program on Freedom of Religion and Beliefs, say "the textbook has generated no lawsuits."

NYTimes Says Georgia Should Make Right Results Of Jim Crow Pensions. The New York Times (1/25) editorializes, "Black police officers in Georgia…were denied membership in a supplementary retirement fund," and "because of Jim Crow policies that barred them from the fund as shamefully late as the mid-1970's, many of these officers are facing troubled and underfunded retirements, with benefits substantially lower than those of their white colleagues. The Georgia Legislature inexplicably failed to help these officers when a bill came before it two years ago, but it has received a new bill and a fresh opportunity to show its commitment to simple justice," where "the state would assume half of what it would cost hundreds of working black officers to buy retirement coverage for the years they were barred from the fund." However, "it will take care of only those police officers who are still on the job," as "a provision of the State Constitution…prevents the Legislature from helping them." Still, "Georgia should do whatever it takes to give justice to all of the people affected by this shameful episode," and "other Southern states with

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Jim Crow legacies should begin to prepare themselves to encounter similar issues."

ANTITRUST:

US, EU Complain About Microsoft Noncompliance. Reuters (1/24, Lawsky) reports, "For the first time in 12 years, Microsoft is in trouble on both sides of the Atlantic for the same reason at the same time -- failing to share information needed to remedy its antitrust violations." Reuters continues, "The European Commission has reacted to Microsoft's foot-dragging with a threatened fine of up to 2 million euros ($2.46 million) daily. Now that the Justice Department this week for the first time expressed similar frustration, it will be up to a judge to decide if new action is necessary. … Microsoft's general counsel, Brad Smith, plans to hold a news conference in Brussels on Wednesday to discuss the case." Reuters adds, "The United States and the European Commission take very different approaches to the software giant, but their recent statements have begun to resemble one another. One lawyer said that is because of the company's behavior pattern. … 'There's a striking similarity between Microsoft's efforts to evade compliance with the European decision and its failure to properly comply with the U.S. settlement,' said Thomas Vinje, a Brussels lawyer who represents Microsoft critics. … Microsoft has said it does not want to provide so much information that it would unfairly surrender its intellectual property to other companies. … 'The current issue with the U.S. program is not comparable to the concerns raised in Europe. We have a program here that is successfully operating with 26 licensees and a dozen products shipping,' Microsoft spokesman Jack Evans said by telephone from the company's headquarters in Redmond, Washington. … The governments say the remedies are aimed at restoring competition that Microsoft destroyed through illegal actions."

CNET News (1/24, Broache) reports, "Microsoft is falling behind in meeting certain obligations under its antitrust agreement with the U.S. government, the Bush administration said." CNET continues, "The criticism, leveled by federal and state prosecutors in a document filed Monday with U.S. District Judge Colleen Kollar-Kotelly, largely surrounded the company's progress in developing technical documentation for developers who license the Microsoft Communications Protocol Program. … Microsoft started the program as part of its efforts to comply with a 2002 consent decree reached with the government. … Since its last court appearance in mid-November, Microsoft has 'fallen significantly behind' in responding to concerns raised by a technical committee charged with overseeing the program's documentation project, according to the Washington, D.C., court document." CNET adds, "The project, known as Troika, is intended to be an automated system that can validate the accuracy of the technical documentation by comparing it to actual network traffic, Microsoft has said. The software giant originally expected to complete the project by February 2006. … Microsoft must 'dramatically increase the resources devoted to responding to technical documentation issues,' the number of which continues to grow, the prosecutors said. … Microsoft said in a statement that it is 'working hard to resolve the concerns' raised by regulators."

Disney To Acquire Pixar for $7.4 billion. The Los Angeles Times (1/25, Sanchez) reports, "Walt Disney Co. today agreed to buy Pixar Animation Studios … in a $7.4-billion deal that will make Pixar CEO Steve Jobs the entertainment company's single-largest shareholder. … Under the terms of the deal, each share of Pixar will be exchanged for 2.3 shares of Disney common stock. Jobs, who owns 50.6% of the Pixar stock, will vote his shares in favor of the deal and will join the board of directors of Burbank-based Disney." The article notes that the boards of both companies must still approve the acquisition. IN the new company, "Pixar President Ed Catmull will serve in the same position as head of Pixar and Disney animation studios. Meanwhile, John Lasseter, Pixar's highly regarded creative leader, will be chief creative officer of both animation studios and will advise Walt Disney Imagineering on the design of new attractions for Disney theme parks." The Los Angeles Times notes that buying Pixar will allow Disney to "once again regain its role as a leader in the animation industry."

The Financial Times (1/25, Chaffin, Politi) adds, ""The deal was greeted with enthusiasm by Wall Street although some complained about the price. … Nonetheless, Disney's shares continued a recent rally, closing Tuesday's trading day in New York up 47 cents, or 1.8 per cent at $25.99. Pixar was down 70 cents at $57.57, giving it a market capitalisation just shy of $6.9bn."

The New York Times (1/25, Holson, Sorkin) reports, "Shareholders of Pixar will have to approve the acquisition, which will also be subject to antitrust review by federal regulators. … The deal comes two years ago Disney and Pixar began renegotiating a distribution agreement that would have given Disney the right to distribute Pixar's films after the release of the forthcoming 'Cars.'"

Reviving Disney's Animation Unit. All articles emphasized that acquiring Pixar is an effort to revive Disney's ailing animation unit. All noted that Disney's animation unit has foundered in recent years, while Pixar has produced a string of hit animated movies. USA Today (1/25, Lieberman, Petrecca) reports, "The agreement represents a startling change of direction for Disney's animation unit — arguably its most important business. The operation that produced classics such as 'Snow White' and 'The Lion King' failed to

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keep up with computer animation and released a series of disappointments."

The Wall Street Journal (1/25, Marr, Wingfield) offers in-depth coverage of this issue, reporting that the acquisition "represents a quick fix for Disney's lagging animation business, which relies on movie characters that can be spun across its theme park, merchandise and television empires. Pixar has in the last decade become the gold standard in animated filmmaking … while Disney's own efforts have tailed off in popularity, and its pipeline is uncertain. Disney has benefited from Pixar's success by co-financing and distributing Pixar films, but that arrangement was set to expire this year." The Journal also notes the "cultural challenge" of keeping Pixar's "esprit de corps." The Journal quotes Pixar CEO Steve Jobs, who says, "'Most of the time that Bob and I have spent talking about this hasn't been about economics, it's been about preserving the Pixar culture because we all know that's the thing that's going to determine the success here in the long run.'"

Under the headline "Pixar's Magic Touch," the Washington Post (1/25, D1, Noguchi) writes, "Over the past two decades, the 730-person Pixar has garnered a reputation as a place where creative genius thrives, and in recent years the studio has far outpaced the bigger and more institutionalized Disney. … Pixar's hands-off management style and its artisan cultivation of the creative process have helped it become the benchmark against which the rest of the industry measures itself. The article quotes analysts who call Pixar the "high-water mark" for animation. However, the Post analysis also notes that Pixar may have difficulty transforming the institutionalized Disney culture.

Meanwhile, The Wall Street Journal (1/25, Marr, Wingfield) also highlights a risk in the deal. The Journal writes, "Disney is acquiring Pixar in the midst of a profitable winning streak -- all six of its movies have been blockbusters -- in a business where failure is considered an inevitability." However, the Journal reports, "In evaluating the price, Disney said it was confident Pixar's box-office success would continue but recognized that not all its future films would be sure-fire hits. The company also took into account the current trends at the box office and in DVD sales."

Merger Features Key Players. Coverage of the acquisition focused on two key personalities: Pixar CEO and Apple head Steve Jobs, who will become Disney's largest individual shareholder, and John Lasseter, who will helm Disney's animation unit under the deal.

In addition to summarizing the influence Jobs will have as a member of Disney's board, all of the articles note Jobs' connection to Apple Computer. In particular, the Washington Post (1/25, A1, Levingston, Musgrove) assays "the possibility of a wider partnership between Disney and Jobs." The Post notes Jobs is instrumental in "the cultural phenomenon of portable digital music and video with Apple's iPod." According to the Post, "Mac watchers" are already speculating on possible permutations of the deal. The Post says, "Some figure that becoming part of Disney will help Jobs score more content … for Apple's online music-and-video store, iTunes. Others argue that Jobs's alliance with Disney would sacrifice Apple's image as a neutral dealer among TV producers looking to put their shows online. And some Mac fans worry that the company is paying less attention to its computer products as it ventures further into music and entertainment."

The Wall Street Journal (1/25, Wingfield, Marr) also profiles Lasseter, "Pixar's top creative executive," who will become "chief creative officer of Disney's animation studios and principal creative adviser of Walt Disney Imagineering." The Journal says that Lasseter, a former Disney employee, "never lost his love for all things Disney, or his desire to reunite with the company that played such a large role in his life," and indirectly quotes Jobs, who says Lasseter's support, and that of Catmull, "was key to making the deal work." The Journal also notes that Lasseter "is widely recognized as one of Pixar's most valuable assets, credited with helping to turn the company into a powerhouse in computer-animated films through his emphasis on compelling storytelling rather than bland technical wizardry.'

Patent Litigation Has BlackBerry Users Wondering How To Work Around Possible Service Shutdown. The Wall Street Journal (1/25, Spencer, Vascellaro) reports, "While the possibility of a disruption in BlackBerry" wireless e-mail "service is still extremely remote, the Supreme Court's decision" BlackBerry manufacturer Research In Motion Ltd. Patent appeal "has triggered new concerns that BlackBerrys … could go dark." The Journal reports on trends in using the handheld e-mail device, including dependency on the device at large companies, law firms, and government agencies. The article also notes that among businesses that use them, "interest in BlackBerry alternatives is taking off." However, the Journal reports, "Even if an injunction is issued, RIM officials say it won't disrupt service. They say that have backup technology that will keep BlackBerry emails running without infringing NTP's patents." The Journal also notes that analysts "say any court-ordered injunction would likely carve out an exception for government users."

Attorneys Scramble For "Prior Art" In High-Stakes Patent Disputes. The Wall Street Journal (1/25, Squeo) reports on one aspect of patent disputes: Locating prior ideas. The article starts with patents recovered in the ongoing Blackberry litigation. The Journal writes, "At a university in Trondheim, [Norway]," Blackberry maker RIM "found eight Norwegian Telecommunications Administration reports going back to 1986 and 1989. The reports described

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a wireless-email messaging system similar to that used by BlackBerry." In turn, these documents "helped RIM fire back at" NTP Inc., which says the Blackberry wireless email device infringes on its patents. The article continues, "Patent battles across the country are sending lawyers scrambling for finds like the Norway memos: published evidence that a patent is invalid because the idea was already in the air." This "prior art" can be called "killer art" when "it's used successfully to fend off a patent-infringement claim," the article says. The article cites, among other things "a cartoon strip by Rube Goldberg and a 1978 issue of Mad magazine" that "have both successfully been cited as prior art in patent cases." New technology makes it easier to find such references, the article says.

Arcelor Announces Purchase Of Dofasco. The Wall Street Journal (1/25, Von Reppert-bismarck) reports, "Arcelor SA yesterday said it agreed to an all-cash deal to buy Canadian steelmaker Dofasco Inc. for about €3.95 billion ($4.86 billion), after rival bidder ThyssenKrupp AG of Germany pulled out of the running late Monday. Arcelor, the world's second-largest steel producer behind London-based Mittal Steel Co., rose 4.5% to €21.63 ($26.62) in late trading yesterday on the Belgian stock exchange. While the deal ends Arcelor's recent streak of losing expensive bidding wars, some analysts said the bid looks expensive. ThyssenKrupp and Arcelor had been fighting for control of Dofasco since November, and both had raised their bids several times. … Arcelor said it will pay C$71, or about US$62, a share for Dofasco."

UPN, the WB To Form New "CW" Network. The Washington Times/AP (1/25, Sutel) reports, "Two small, long-struggling television networks -- UPN and the WB, which air on Channels 20 and 50, respectively, in the Washington area -- will shut down this fall, and programming from both will be used to start a new network aimed mainly at young and minority viewers. The new network will be called the CW – 'C' for CBS Corp. and 'W' for Warner Bros. -- each of which will own half of the new entity and contribute programs, assets and executives to the venture." Under the deal, Chicago-based Tribune Co. "will relinquish its 22.5 percent stake in exchange for a 10-year affiliation deal to carry the new network on 16 of its stations," the article said. According to the report, "The CW will air 30 hours of programming each week, like the WB. Shows will air Monday through Friday 3-5 p.m. and 8-10 p.m., and Sundays 5-10 p.m. … The CW also will be carried on the 12 stations owned by UPN, a unit of CBS Corp., guaranteeing the network carriage in 48 percent of the country and 20 of the top 25 TV markets."

ENVIRONMENT:

Hearing In Ivory-Billed Woodpecker Case Slated For February. The AP (1/24) reports, "Attorneys for environmental groups came to court with an audiovisual presentation showing an image of the black, white and red ivory-billed woodpecker. … But they didn't have a chance to explain Monday why they believe the Grand Prairie Irrigation project in eastern Arkansas should be stopped in order to avoid harming the rare bird. … Instead, U.S. District Judge G. Thomas Eisele recused himself before the hearing began. The case was bumped to another court before landing in the court of U.S. District Judge William R. Wilson, who set a hearing on it for Feb. 6 in Jonesboro." The AP continues, "Work on the $320 million project to siphon water from the White River for use on farms that have been depleting the underground water supply will continue for now. … The National Wildlife Federation and the Arkansas Wildlife Federation filed the lawsuit in September, claiming that the project would violate the Endangered Species Act. The suit claims that diverting water from the White River could damage the ivory-billed's habitat. … The bird was once thought to be extinct and was only recently rediscovered in Arkansas. … Other lawsuits, both federal and state, have ended unfavorably for the environmentalists."

Administration To Provide $119 Million For Hydrogen Fuel Cell Research. The AP (1/25) reports, "The Bush administration said Tuesday it would provide $119 million in funding for research into hydrogen fuel cells, touting the automotive technology as a way to reduce the nation's dependence on foreign oil." Secretary Samuel Bodman, "touring the Washington Auto Show, said the money would fund projects to help overcome some of the barriers 'in getting technology out of the laboratory and out onto the test track.'" The funding "is part of President Bush's $1.7 billion hydrogen research program, first detailed in 2003. The government and automakers have been working to develop vehicles powered by pollution-free hydrogen fuel cells, which could reduce demand for imported oil while cutting greenhouse gas emissions."

Coalition Kicks Off Campaign For "Plug-In Hybrids." The Wall Street Journal (1/25, Fialka) reports, "A US coalition led by electric utilities, sensing a way to gain market share through vehicles that derive 90% of their power from electricity and can recharge at night when power is plentiful and cheap, kicked off a national campaign in Washington yesterday to push auto makers to make plug-in hybrids. Some cities, environmental groups and state pollution regulators have joined this 'Plug-in Partners' effort." They ":see plug-ins as a means to meet tightening air-

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pollution standards and to use controls over utilities as a way to clean up urban air. … The plug-in campaign is intensifying just as car buyers and policy makers are grasping for ways to ease the nation's energy problems. When President Bush delivers his State of the Union address next week, he is expected to tout alternative auto fuels, like ethanol, as well as nuclear energy."

NASA Says 2005 Warmest Year In A Century. NBC Nightly News (1/24, story 5, 1:00, Williams) reported, "There is proof tonight, speaking of which if you felt a little warm last year, it wasn't your imagination. NASA scientists said today the year 2005 was the warmest year in a century, beating out 1998. That's significant because 1998 was the year of El Nino which pushed temperatures up. The lead scientist in this study says the buildup of heat trap and greenhouse gases in the atmosphere, global warming is to blame, he says."

Flu Shots For Elderly Found To Be Ineffective. The CBS Evening News (1/24, story 8, 2:00, Schieffer) reported, "The CDC is taking a closer look at how best to protect seniors from the flu" because of "a series of studies that question the effectiveness of flu shots given to older people." CBS (Attkisson) added, "CBS News has learned that behind the scenes, public health officials have come to a new and disturbing conclusion: Most vaccinations of the elderly haven't done the job. Doctor Walter Orenstein was among the first to notice the problem when he headed up the Center for Disease Control's national immunization program. He says it's become a consensus among public health experts." Dr. Orenstein: "What is absolutely clear is that there is still a substantial burden of deaths and hospitalizations out there that have not been prevented through the present strategy."

Record Number Of Flu Vaccines To Be Produced. The New York Times/AP (1/25) reports, "Pharmaceutical companies say they are preparing to produce as many as 120 million doses of flu vaccine for the next flu season, by far the most ever. The increased production could mean an end to the shortages of the past several years." The companies cited several reasons for the large production run, including "better government reimbursement for shots, indications that federal health officials may one day recommend flu shots for nearly everyone, and public fears of avian flu."

Collaborative Process Becoming More Common In Western Land Battles. The Christian Science Monitor (1/25, Oliver) reports, "More than 95 percent" of Custer County, Idaho, "lies in public hands." Environmentalists, ranchers, weekend warriors, and local government officials, "exhausted after three decades of lawsuits, failed legislation, and ill will,…are backing a compromise bill that would designate some 300,000 acres as wilderness, privatize another 6,000, and keep the rest open for multiple uses" in "an example of 'collaborative process,' an evolving concept that could define the future of conservation." It's "a coming together of stakeholders intimately connected to a particular problem" that "is particularly evident…in the West." Experts have attributed "the movement's increased momentum to the rise of the Republican Party" or "a rising dissatisfaction with the strict gospel of conservation and the resulting stalemates." However, they also agree that "there remains little hard evidence that collaboration works in the long term.

Transportation Plan Pits Vacation Communities Against Bedroom Suburbs. The New York Times (1/25, Johnson) reports that Colorado "state officials are considering a major and contentious widening project for Interstate 70 that is dividing people over the question of who the highway is for and how it transformed these mountains." The "destinations for shopping or homebuilding…tend to favor an expansion of the highway," while "towns closer to Denver…which have not seen the influx of vacation homes or tourists and which also have many more commuters to Denver, say mass transit must be on the table." It is agreed on by "transportation experts, politicians and residents…that the stakes and implications…are enormous, touching on tenets of the West that are scriptural: unbridled growth, local identity, civic autonomy and an uneasy dependence on government."

FBI/DEA/ATF/USMS:

In Letter To Mueller, Grassley Criticizes FBI Disciplinary "Double Standard." The Washington Post (1/25, A17, Lee) reports that when retired FBI Special Agent Cecilia Woods was based in Panama and "suspected her boss of having extramarital affairs including one with a paid informant in 2000, she reported her concerns to bureau officials," but "for her trouble, the bureau suspended her for 10 days, then later transferred her to a less prestigious post in Washington, Woods said." Woods, "who in 2001 filed an equal employment opportunity complaint alleging a hostile work environment," now "has attracted a powerful ally -- Sen. Charles E. Grassley," who, "in a six-page letter sent Monday to FBI Director Robert S. Mueller III…cited Woods's case as an example of what he believes is a chronic 'double standard' of discipline at the agency, in which misconduct by supervisors is punished more lightly than that by underlings. The FBI also has a habit of dealing more harshly with misconduct by agents who are seen as disloyal than by those seen as loyal, wrote Grassley, who asked Mueller for more information about discipline at the agency." The Post adds, "An FBI spokesman said the agency planned to review

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Grassley's letter before responding 'in an expeditious manner' to the senator."

Medical Marijuana Supporters Challenge San Diego County Lawsuit. The AP (1/24) reports, "Medicinal marijuana advocates on Tuesday challenged a San Diego County lawsuit that seeks to overturn a state law permitting the use of pot for medical purposes. The county sued the state of California and its director of health services on Friday in federal court, saying federal law that prohibits marijuana use trumps state law that allows it. California approved the use of marijuana for medicinal purposes with the passage of Proposition 215, which won 55 percent votes cast in 1996. … The American Civil Liberties Union, Americans for Safe Access and the Drug Policy Alliance filed a motion to intervene in the lawsuit on behalf of patients." The AP story was published in newspapers and/or posted on the Web sites of several California news outlets, including the San Diego Union Tribune, San Jose Mercury News, Monterey County Herald, and San Luis Obispo Tribune.

The Los Angeles Times (1/25) writes, "Despite pleas from the ACLU and several individuals suffering chronic pain, the San Diego County Board of Supervisors on Tuesday declined to withdraw a lawsuit seeking to overturn a state law requiring the county to issue medical marijuana cards. Meanwhile, San Bernardino County officials announced they supported the San Diego board's decision to challenge the state law on grounds that federal prohibition of marijuana use takes precedence. By day's end, the county counsel of San Bernardino had contacted his counterpart in San Diego to discuss legal strategy. … Three years ago, state legislation mandated ID cards for patients and their caregivers. But the U.S. Supreme Court in June ruled that federal officials could seize and destroy pot plants and arrest growers and consumers, even in the 11 states where the drug has been legalized for medical use. Last month, federal Drug Enforcement Administration agents raided 13 San Diego-area marijuana dispensaries."

Texas Law Enforcement Faces Suspected Drug Smugglers Near US-Mexico Border. The AP (1/25) reports, "Texas law enforcement officers faced off with men dressed as Mexican Army soldiers and apparent drug suspects near the U.S.-Mexican border Tuesday, after three SUVs attempted to flee state authorities, officials said. Andrea Simmons, an agency spokeswoman in El Paso, told The Associated Press that Texas Department of Public Safety troopers chased three SUVs, believing they were carrying drugs, to the banks of the Rio Grande during Monday's incident. Men dressed in Mexican military uniforms or camouflage were on the U.S. side of the border in Texas, she said. … The Inland Valley Daily Bulletin of Ontario, Calif., reported Tuesday that the incident included an armed standoff involving the Mexican military and suspected drug smugglers. The incident follows a story in the Bulletin on Jan. 15 that said the Mexican military had crossed into the United States more than 200 times since 1996."

Knight Ridder (1/25, McLemore) reports in a widely distributed article that the incident "comes less than a week after Homeland Security Secretary Michael Chertoff called a California newspaper's account of such border incursions 'overblown.'" Meanwhile, "A spokesman for Mexico's Foreign Ministry said Mexican military personnel had nothing to do with the incident and suggested the trespassers may have been drug traffickers wearing military-style gear." US Customs and Border Protection official Kristi Clemens said Tuesday that the agency has "'launched an inquiry into the Monday incident and asked Mexican authorities for a thorough investigation and full answer on what happened.' … Gov. Rick Perry also has ordered an investigation, spokeswoman Kathy Walt said." The Washington Times (1/25, Seper, 90K) notes, "No shots were fired and no injuries were reported during what amounted to an armed standoff at the border. T.J. Bonner, a veteran Border Patrol agent and president of the National Border Patrol Council, yesterday called the incident 'just another example of what we have been saying all along: This is a serious problem and it's not going to go away.'" Sen. Jon Kyl "has asked Secretary of State Condoleezza Rice to 'initiate an official investigation' and 'open a dialogue with Mexico to prevent any future incursions.'"

US Officials Frustrated By Mexican Smuggling Rings Teaming With American Drivers. The Los Angeles Times (1/25, Marosi, 958K) reports on the phenomenon of Mexican smuggling rings teaming up with American drivers, something that occurs "daily at the two main vehicle gateways into California," and "frustrates US authorities." The number of Americans drivers caught on suspicion of smuggling migrants through the San Ysidro and Otay Mesa ports "has hovered around 4,000 since the number of car smuggling cases spiked about six years go. … Even if drivers are caught, they are usually released. Only 279 drivers in 2005 faced alien smuggling charges. Federal authorities say they are overwhelmed." The Times profiles Trent, an American smuggler who "dreams of an early retirement and spends his earnings on a 'weakness for Latina babes,'" and Felix, a Mexican smuggling boss who "says he employs so many American drivers like Trent that he rents them to other smuggling organizations."

Maps To Show Illegal Aliens Best Routes Into Arizona. The Los Angeles Times (1/25, Enriquez, 958K) reports, "Mexico's National Human Rights Commission will print and distribute at least 70,000 maps showing immigrants the safest routes to cross the border into Arizona, officials said Tuesday. The project, which immediately drew fire from

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groups organized against illegal immigration, is aimed at reducing the number of people who die trying to cross 50 miles of Sonoran Desert to reach highways in southern Arizona, according to Humane Borders, the Tucson-based humanitarian group that created the maps. … The Mexican government said 441 of its citizens died last year on the border, most in Arizona. The new maps will show spots where people have died — presumably discouraging some prospective migrants — as well as main roads, rescue beacons and the locations of water stations maintained by Humane Borders."

Virginia Navy Recruiter Charged With Murder-For-Hire Bomb Plot. The Bristol (VA) Herald Courier (1/25, Lakin) reports, "Evidence against a Navy recruiter accused of a murder-for-hire plot will stay secret a little longer. … Chief Petty Officer Keith Patrick Conner, 38, appeared briefly in federal court Tuesday - just long enough to waive his rights to bond and to a preliminary hearing on charges of trying to buy a bomb to kill someone. … 'This will save us a lot of time,' said his lawyer, Nikki Pierce, an assistant federal public defender." The Courier continues, "U.S. Magistrate Judge Dennis Inman sent the case to the grand jury and sent Conner back to jail. … Conner, a Gulf War veteran and the senior recruiter for the Navy's office in Bristol Virginia, met an undercover agent for the federal Bureau of Alcohol, Tobacco, Firearms and Explosives in the parking lot of the Bristol Mall last week and paid $1,000 as a down payment for what he thought was a homemade bomb, authorities said. … He showed up two days later at the Days Inn on West State Street to pick it up, according to court records. Conner put the 'bomb' - a fake - in his truck, authorities said, and federal agents put him in handcuffs. … 'Our bombs don't work,' said Jim Cavanaugh, special agent in charge of the bureau's Nashville office and chief of ATF operations in Tennessee. 'But without these agents' hard work, we could very easily have ended up working a bombing fatality.'"

The Kingsport (TN) Times-News (1/25) reports, "Cavanaugh said incidents such as this do happen from time to time. … 'They're rare for any city, but they're not rare across the country,' Cavanaugh said. 'When a person comes up and acquires an explosive device and plans to murder somebody, it becomes very dicey. … If we didn't get involved and intercept this, the potential is Conner could go to someone else to make the bomb, it could blow up, the victim could be killed. There's a whole lot of associated dangers. We're just glad we're not working a fatal bombing'"

ATF Probing Texas Dynamite Theft. The Fort Worth Star-Telegram (1/25, Branch, Bradford) reports, "A thief who used a torch to cut a lock on a shed where explosives are kept stole about 100 sticks of dynamite from a stone business in southern Parker County, law-enforcement officials said." The Star-Telegram continues, "The theft from Fort Worth Crushed Stone, in the 4300 block of Bethel Road, was reported about 6:30 a.m. Monday, Parker County Sheriff Larry Fowler said. … County Judge Mark Riley immediately notified state and federal authorities, Fowler said." The Star-Telegram adds, "Investigators and company officials took inventory Monday to determine whether anything else was missing, said Tom Crowley, spokesman for the Bureau of Alcohol, Tobacco, Firearms and Explosives in Dallas. … 'We're already doing interviews and chasing down leads,' Crowley said. 'Obviously, it's a big concern anytime you're talking about explosives potentially falling into the wrong hands.'"

IMMIGRATION:

Demjanjuk Appeals Deportation Order. The AP (1/25) reports, "An 85-year-old retired autoworker who lost his U.S. citizenship based on evidence he was a Nazi death camp guard asked an immigration board to reverse a judge's order that he be deported." The AP continues, "Chief Immigration Judge Michael Creppy ruled Dec. 28 that there was no evidence to document John Demjanjuk's claim that he would be tortured if deported to his home country of Ukraine. The judge ruled that Demjanjuk should be deported to Germany or Poland if Ukraine does not accept him." The AP adds, "Demjanjuk's appeal filed Monday sticks to the argument that he faces torture in Ukraine and that the case should have been handed to a judge responsible for Cleveland. … Creppy is based in Falls Church, Virginia, as is the Board of Immigration Appeals."

Sensenbrenner Says Guest Worker "Amnesty" Is Unacceptable. Rep. James Sensenbrenner said yesterday that he cannot accept a guest worker program like the one proposed by President Bush in a final immigration bill because such a program is amnesty. In an interview with the Washington Times (1/25, Dinan), Sensenbrenner said, "A guest-worker program that applies to illegal aliens already here is an amnesty." He said voters "will not accept a plan that amounts to amnesty, and said Mr. Bush's proposal would simply push the problem down the road. 'It seems to me that if you give these people the temporary cards, and the president talked a little bit about that yesterday out in Kansas, whether they are three-year cards or six-year cards or any other term, how do you get them to go back home when they expire?' he said. 'We end up simply postponing the decision on what to do about illegal aliens until the end of the validity of these cards.'"

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TAX:

IRS To Review Tax Fraud Detection Program. The Wall Street Journal/AP (1/25) reports, "IRS Commissioner Mark Everson ordered a review of a tax-fraud detection program criticized for freezing thousands of refunds without notifying taxpayers. Mr. Everson said the tax agency will soon announce new procedures to advise taxpayers when a refund has been frozen. The agency will also revise its fraud screening procedures so that it withholds fewer refunds owed to innocent taxpayers."

The Washington Post (1/25, D1, Crenshaw) adds, "Nina E. Olson, the taxpayer advocate, highlighted the issue in her annual report to Congress this month. She noted that many of the blocked refunds involved the earned income tax credit, which is available to low-income working families. The report elicited concern from many on Capitol Hill, including Chairman Charles E. Grassley (R-Iowa) and senior Democrat Max Baucus (Mont.) of the Senate Finance Committee. Internal Revenue Commissioner Mark W. Everson said yesterday that he had ordered a review of the program. 'We will announce plans in the very near future to institute notification procedures as well as significant processing improvements to minimize the number of taxpayers whose refunds are frozen unnecessarily,' Everson said in a written statement. Everson provided no details, but an IRS spokesman said the agency expects more information to be available next week."

USA Today (1/25, Block) reports, "Asked about Everson's announcement Tuesday, Olson said the IRS should focus immediately on four priorities: providing prompt notification to taxpayers whose refunds have been frozen; allowing taxpayers whose refunds have been frozen to present evidence supporting their refund claims; reducing the number of refunds frozen in error; and processing frozen-refund cases more quickly."

Investigation Into Tax Shelters Widening. The New York Times (1/25, Browning) reports, "Federal prosecutors are investigating three lawyers at a prominent Dallas law firm, Jenkens & Gilchrist, in a widening of an investigation into questionable shelters that shielded billions of dollars from taxes, according to people briefed on the inquiry." The criminal probe "is a clear sign that the government is extending the investigation of tax shelters that it considers abusive beyond the case involving the accounting firm KPMG. There is no indication that Jenkens & Gilchrist itself is a target of the investigation. … Instead, the investigation is focused on three current and former tax lawyers based in the firm's Chicago office, the heart of its tax practice. They are Paul M. Daugerdas (pronounced DOG-er-dus), Erwin Mayer and Donna M. Guerin, according to the people who have been briefed on the investigation. The three lawyers wrote hundreds of legal opinion letters in recent years blessing aggressive tax shelters sold by accounting firms and, in some cases, by the law firm itself, that did not pass muster with the Internal Revenue Service, according to separate civil litigation against the firm."

IRS Steps Up Scrutiny Of Family Limited Partnerships. The Wall Street Journal (1/25, Silverman, Herman) reports in its "Tax Report" column, "The IRS is intensifying its scrutiny of family limited partnerships, a popular technique for reducing estate and gift taxes. The heightened scrutiny comes as the Internal Revenue Service has stepped up enforcement more broadly, increasing the number of audits it performs. … As part of its deepening probe into family limited partnerships, the IRS is questioning more of these transactions and taking a harder line during audits, seeking evidence of whether they really were set up for legitimate business purposes -- or merely as an elaborate tax dodge, officials say. In an increasing number of cases, auditors are interviewing taxpayers' adult children and others involved in a partnership for details on how it was set up and run. Officials are sometimes even scrutinizing partners' medical records, or interviewing doctors, to determine if a partnership was improperly created mainly to save taxes by someone on the verge of dying."

CONGRESS-ADMINISTRATION:

Senate Panel Approves Alito Nomination. The Senate Judiciary Committee yesterday approved the nomination of Judge Samuel Alito to the Supreme Court. Media coverage stresses that while he is expected to be confirmed by the full Senate, the final vote is likely to mirror the party-line vote he received in the Judiciary Committee.

The vote was the lead story on both CBS and NBC and the second story on ABC. ABC's World News Tonight (1/24, story 2, 1:05, Vargas) reported, "Democrats hoping to derail Alito, this is basically pie in the sky at this point." George Stephanopoulos aid, "It is not going to happen. They don't have the votes to pull it off. Alito is likely to be confirmed, by midweek, Tuesday or Wednesday. The debate is about framing arguments for the November election." The CBS Evening News (1/24, lead story, 4:00, Borger) also said, "The Democrats aren't coming out and saying that publicly but privately they're telling me, no way we can filibuster. We just don't have the votes."

The CBS Evening News (1/24, lead story, 4:00, Schieffer) reported, "While it's all but certain now that the full Senate will confirm him, the vote there is also expected to be very close to party line."

NBC Nightly News (1/24, lead story, 3:00, P. Williams) said, "Overwhelming, it won't be. Alito's supporters predict

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he'll likely get at most 60 votes, picking up a handful of Democrats. It's close enough that the full Senate vote could be held off until next week. A few Republican Senators will be out of the country until then, Alito's supporters are nervous about a vote before they're back."

Fox News' Special Report (1/24, Hume) said Alito" can now see the finish line," while CNN's The Situation Room (1/24, Blitzer) added the panel's vote "drives home the Democrats' dilemma. They oppose Alito but they don't think they can keep him off the court."

The AP (1/25, Holland, Writer) reports, "Alito won commitments from a majority of senators Tuesday, assuring his eventual confirmation and a likely tilt of the court to the right. … Fifty Senate Republicans, plus one Democrat, Ben Nelson of Nebraska, have publicly committed to vote for Alito through their representatives, interviews with The Associated Press or news releases. No Republicans have opposed him and five have yet to declare how they will vote: Sens. Lamar Alexander of Tennessee, Lincoln Chafee of Rhode Island, Susan Collins and Olympia Snowe of Maine and Ted Stevens of Alaska."

The Wall Street Journal (1/25, Cummings) reports Democrats "won't try to filibuster, despite pressure from some party activists. Still, Judge Alito's confirmation vote is expected to be a narrow one that could draw opposition from one or two Republicans and scant support from Democrats, half of whom backed Chief Justice John Roberts's nomination to the high court last year. And the debate will likely continue to play out into the fall elections." Sens. Lincoln Chafee and Olympia Snowe "both have expressed concern about Judge Alito's history of opposing abortion rights, and spokesmen said neither has decided yet which way to vote. Thus far, Nebraska Sen. Ben Nelson is the only Democrat committed to support the nomination when it comes to a vote sometime in the next week."

Reuters (1/25, Ferraro) quotes White House spokesman Scott McClellan saying, "We urge the Senate to move forward with a swift up-or-down vote so that he can begin serving on our nation's highest court."

The New York Times (1/25, Kirkpatrick) says the Senate debate will be "contentious if predictable," and adds "Democrats have indicated Judge Alito appeared too well qualified and unthreatening in his confirmation hearings to justify a filibuster." Democratic "leaders are nonetheless pushing for a lengthy debate over the nomination to make their case against Judge Alito. And Democratic aides say privately that they also hope to hold off the final vote until Tuesday, when the president's State of the Union speech will overshadow the news."

The Los Angeles Times (1/25, Reynolds) reports that asked whether he would mount a filibuster Alito, Senate Minority Leader Harry Reid "answered, 'No,' although he refused to rule out the possibility." The Washington Times (1/25, Hurt) adds "observers on both sides of the aisle…say they doubt Democrats really have the stomach for a high-profile filibuster." A similar USA Today (1/25, Kiely) says Alito "is headed for almost-certain confirmation,"

The Hill (1/25, Allen) reports, "At the final committee hearing, Republicans focused on Alito's qualifications, including his 15 years on the 3rd U.S. Circuit Court of Appeals, and characteristics such as integrity and honor that they said he demonstrated both on the bench and in committee hearings." Democrats "again voiced concerns about the possibility that Alito would vote to overturn abortion rights and that he would support the expansion of presidential powers." Sen. Dianne Feinstein said, "If one is pro-choice in this day and age…one cannot vote for Judge Alito."

The Washington Post (1/25, C1, Davis) says, "Sometimes it's not the words that tell the story. Sometimes it's a cigar. … It was fat and brown, and when it wasn't clutched between the fingers of Bill Reynolds, Republican Sen. Arlen Specter's chief of staff, it was tucked -- unlit -- squarely in the left side of his mouth, or being delicately finger-twirled between his lips. Despite all the speeches in that ornate, wood-paneled room, it was his cigar that was sending the true message of the day." The Post adds, "This legislative 'minuet,' as Reynolds's boss, the Judiciary Committee chairman, described the confirmation process at the start of the Alito hearings -- was just about over. The dance was done but for a few formal steps. It was time to pass the cigars and pop the corks -- and -- oh, yeah -- somebody should count the votes."

The AP (1/25, Kallestad) reports Sen. Bill Nelson "said Tuesday he plans to vote against Judge Samuel Alito's confirmation to the Supreme Court. … 'His many legal writings, judicial opinions and evasive answers both at his hearing and in our private meeting, convinced me he would tilt the scales of justice in favor of big government,' Nelson said." The Miami Herald (1/25, Clark) also reports on Nelson's statement.

The Legal Times (1/25, Goldman) reports, "The full Senate will take up the Alito nomination this morning; it could vote on his confirmation as early as Friday or as late as next Tuesday, the day President George W. Bush is slated to give his annual State of the Union address." The Times continues, "Democrats were unapologetic in their opposition to Alito, who has served on the 3rd U.S. Circuit Court of Appeals for the past 15 years. Republicans, by contrast, were effusive in their praise. And they insisted that Democratic problems with Alito boiled down to one issue: abortion."

Dick Morris writes in The Hill (1/25), "The reason Democrats and liberals did not get more popular traction in their opposition to the appointment of Judge Samuel Alito to the Supreme Court is that their worldview of what constitutes a good nominee is sharply at variance with that of the American public at large. To the likes of Sens. Edward

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Kennedy (D-Mass.), Charles Schumer (D-N.Y.), Hillary Clinton (D-N.Y.) et al., the Supreme Court is a kind of super-Congress — nine special Senate seats — and the criterion for confirmation is agreement with the nominee on the key issues likely to come before the court." But "to the American voters, the Supreme Court is above politics and ideology and confirmation should be awarded based on personal attributes such as integrity, intelligence, judgment, compassion, wisdom, maturity, fairness and temperament." Morris adds, "Realizing this difference in perspective between the Democratic base and the public at large, President Bush has done very well with both the John Roberts and the Alito appointments. When his people forgot about the dichotomy -- and nominated Harriet Miers who was seen as a poorly qualified if conservative candidate -- they got their heads handed to them."

White House Trying To Get 60 Votes. The Wall Street Journal (1/24) reported in its "Washington Wire" column on its web site, "With an eye toward the oldest members of the Supreme Court, the White House is trying to scratch out a filibuster-proof 60 votes for Judge Samuel Alito to set a conservative standard that gives Bush some maneuvering room in the event of another opening. Insiders say the odds of achieving that goal aren't good. But Bush allies take heart that the Democrats' vigorous opposition to Judge Alito irritated enough of the Republican members of the Gang of 14 -- the bipartisan group of senators who neutralized Democrats' threat to block Bush judicial nominees and Republicans' threat to change Senate rules to ban filibusters -- to edge them closer to voting for a judicial filibuster ban down the road.'

Confirmation Expected To Represent "Historic Shift To Right." The CBS Evening News (1/24, lead story, 4:00, Schieffer) noted, "I'll tell you one thing and I want to see what you think about this, the President promised during the election to move this court to the right. From what we heard in these hearings, what we've already seen with Judge Roberts on the bench, it is moving to the right, isn't it?" Chicago Tribune legal analyst Jan Crawford Greenberg: "That's right. The White House is confident that new Chief Justice John Roberts and Sam Alito will be solid, principled conservatives and they won't drift to the left once they've been up here a while as many believe Sandra Day O'Connor did. That means this court is poised for an historic shift to right on those key social issues like abortion, affirmative action, gay rights, the death penalty, and perhaps even questions of presidential power."

The Chicago Tribune (1/25, Zuckman) says Alito "would likely be sworn in almost immediately, taking the place of O'Connor, who would step down. Cases that the justices have heard in recent months that have not yet been decided might have to be reargued, since Alito could not vote on a case if he was not sitting at the time of the argument."

Knight Ridder (1/25, Henderson, Kuhnhenn) says Alito "could immediately shift the court's stance on high-profile issues such as abortion, the death penalty, religion and executive power." Yet "it is Alito's vision of judicial restraint and a limited role for courts -- a vision he shares with new Chief Justice John G. Roberts -- that could produce an even more fundamental change in the high court. Together, the two are likely to bring a narrow and lawyerly approach to deciding cases that, if persuasive, could help remove the justices from some of the high-profile political squabbles that now define them."

Dispute Over Executive Authority Key Topic Of Debate Over Alito. The Washington Post (1/25, A3, Babington) reports Democrats "all but conceded the Supreme Court confirmation of Samuel A. Alito Jr. yesterday" but "signaled they will use the Senate debate that begins today to focus on President Bush's domestic spying program and their predictions that Alito will be too pliant in supporting it."

The Christian Science Monitor (1/25, Chaddock) says the Democratic "push for a party-line vote on Alito signals another prize in this week's confirmation debate: a possible takeover of the Senate in next fall's elections." Democrats "are eager to mount an aggressive rhetorical case heading into this week's final vote - and coming midterm elections." As Bush "takes his case for domestic eavesdropping without a warrant to the American people in a series of events this week, Democrats are using the Alito debate to raise objections. Before voting Tuesday, Democrats on the Senate Judiciary panel zeroed in on Alito's statements in support of executive powers, especially in a time of war."

Both CBS and NBC also highlighted the dispute over the NSA monitoring program. The CBS Evening News (1/24, lead story, 4:00, Schieffer) reported, "What was not expected today was that the committee fight turned out to be as much about the current controversy over government eavesdropping as it did about abortion." CBS (Borger) added, "Democrats may have no way to stop Judge Alito from heading to the Supreme Court, but in the committee room today, they continued to link his nomination to the President's controversial decision to secretly wire tap Americans." Chicago Tribune legal analyst Jan Crawford Greenberg was asked about the Democrats' emphasis on the terrorist monitoring dispute. Greenberg replied: "Because the Democrats think they have a political issue that they can run on. If they can make it about big brother and privacy, then perhaps they do. The Republicans, however, are betting that if they can turn this issue into a national security issue, they'll win."

NBC Nightly News (1/24, lead story, 3:00, P. Williams) reported Democrats "focused on President Bush's order that the NSA monitor phone calls into and out of the US without a court order." Sen. Edward Kennedy, Massachusetts: "The record demonstrates that we cannot count on Judge Alito to

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blow the whistle when the President is out of bounds." P. Williams: "But Republicans said today's vote was not about the judge himself and was more about politics." Sen. Lindsay Graham, South Carolina: "Senate Democratic leaders urged their members Tuesday to vote against him in an effort to lay the groundwork for making a campaign issue of the decisions on the court. I'll tell you right now, we welcome that debate on our side. We'll clean your clock." Sen. Orrin Hatch, Utah: "Under any reasonable or objective or traditional standard, the Senate would overwhelmingly confirm this exceptional nominee."

Biden, Cornyn Criticize Confirmation Process. Fox News (1/25, Roh) reports, "Samuel Alito's elevation to the U.S. Supreme Court is nearly a foregone conclusion despite serious misgivings about him by Democrats and, reportedly, a few moderate Republicans. But that hasn't stopped a partisan fight from casting an unflattering light on the judiciary confirmation process as a whole." Fox News continues, "After the confirmation hearing for Alito wrapped up on Jan. 13, Delaware Democratic Sen. Joseph Biden, who voted by proxy against Alito because he is abroad monitoring Wednesday's Palestinian election, called the system 'broken.' At least one Republican who backs Alito's confirmation agreed with Biden's assessment. … 'I find myself tending to agree a little bit with Senator Biden, who questioned whether such a process really has a meaningful purpose,' Texas Republican Sen. John Cornyn said just before announcing his vote for Alito on Tuesday. 'I don't think the hearings should be a place to dump one's political or ideological outbox.'" Fox News adds, "That description largely fit the Alito hearing, and to a lesser degree, the one for Chief Justice John Roberts in September, observers say. During the Alito hearing, many Democratic senators spent more time discussing how they would have voted in legal disputes and their thoughts about Princeton University, Alito's alma mater, than actually asking Alito questions — ostensibly the reason for the hearing. … Republican senators weren't particularly inquisitive either, opting instead to extol Alito as a serious-minded, intellectually gifted jurist who is 'not a racist.' … As a result, critics say, the public did not learn anything more about the 3rd Circuit Court of Appeals judge than they would have by reading the numerous opinions he authored in 15 years on the bench. Not learning more, they say, may be all but built into the process."

Santorum Challenger Says He'd Vote To Confirm Alito. The AP (1/25, Heffling) reports, "Sen. Rick Santorum's leading Democratic challenger, Pennsylvania Treasurer Bob Casey, announced Tuesday that he endorses Judge Samuel Alito's confirmation to the Supreme Court." For weeks, "Republicans have called Casey 'Silent Bob' and pressed him to say whether he supports Alito's confirmation." Casey said yesterday in a statement, "I do not agree with everything that Judge Samuel Alito has done or said -- particularly many of his rulings which too often result in corporate power prevailing over the interests of consumers and workers. However, I agree with The Philadelphia Inquirer and Washington Post editorial boards that the arguments against Judge Alito do not rise to the level that would require a vote denying him a seat on the US Supreme Court."

The Hill (1/25, Mikhail, Barr), however, says this morning "none of the Democrats challenging incumbent Republican senators in competitive midterm races has said they would vote to confirm Judge Samuel Alito to the Supreme Court. … All Democratic candidates surveyed by The Hill who answered definitively said they would vote against Alito,."

Hatch "Distressed" By Judiciary Committee Vote. Sen. Orin Hatch said on CNN's Lou Dobbs Tonight (1/24) that he is "distressed" by the Judiciary Committee vote because it is "the first vote in history where it's been a straight party line vote with regard to a Supreme Court nominee. And I really believe it all comes down to abortion. Now, they'll use other issues, but, you know, this man has participated in over 5,000 cases. He's written over 350 opinions. You can cherry-pick whatever you want to from the left to the right in his opinions, but virtually everybody who knows him, including seven of his colleagues on the Third Circuit Court of Appeals, including those who are liberal, those who are Democrat, those who are conservative, say he is one of the best judges in the country. And the American Bar Association gives him its highest rating and yet Democrats voted against him and it was all over Roe versus Wade."

Brownback "Uncomfortable" With Judiciary Committee Vote. Sen. Sam Brownback said on MSNBC's Hardball (1/24) that the Judiciary Committee vote did not surprise him, adding, "It did make me uncomfortable, because I don't think these things should be on a party line vote. It wasn't a party line vote on John Roberts and yet very similar answers to questions from Judge Roberts as there has been from Judge Alito. So it appears as if Judge Alito is being put through a different set of standards than what John Roberts was given two or three months ago and I think that's unfortunate. I think it's a political set of standards."

Salazar Says Alito Is "Very Far To The Right." Sen. Ken Salazar said on MSNBC's Hardball (1/24), "I think the problem with Judge Alito is that there is a strong body of records that really show that he is very far to the right. And from my point of view, I don't want a judicial activist on the bench. I want somebody that's going to check their political and personal ideology at the door and come in and be a fair and impartial judge. In the case of Judge Roberts, I think that's the case. In the case of Judge Alito, it isn't the case."

ABA Role In Confirmation Process Examined. John R. Lott Jr., a resident scholar at the American Enterprise Institute, writes in the New York Times (1/25) that GOP senators "have found a new friend during judicial

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confirmations: the American Bar Association. During the confirmation hearings of John G. Roberts Jr. and Samuel A. Alito Jr., the senators invoked A.B.A. evaluations to ward off Democratic attacks -- including in yesterday's vote by the Senate Judiciary Committee sending Judge Alito's nomination to the full Senate." But "this tactic is shortsighted: what works now may make it difficult for Republicans to credibly reject A.B.A. ratings when they really matter." The bar association "has liberal views on issues from abortion rights to gun control, but it has always claimed that a high wall separates its evaluations from its policy positions. Yet the bar association's liberal bias on its evaluations is there for all to see. … Moreover, the A.B.A. rating system was a poor guide to how judges will do once they are on the bench. According to The Almanac of the Federal Judiciary's lawyer survey, judges who had 'good' judicial temperament got lower A.B.A. ratings than judges whom lawyers rated as only 'fair.' The A.B.A. didn't give all Republicans low ratings. They saved the lowest ratings for when there was a Republican president and a Democratic Senate, when the nominations were most likely to be contested."

Bush Considering New Tax Cuts For Health Care Costs. USA Today (1/25, Jackson) reports, "President Bush is weighing proposals for new tax breaks for health care costs, which will be a major topic of next week's State of the Union address, a top economic adviser to the president said Tuesday." Allan Hubbard, director of the National Economic Council, said yesterday, "People are very, very frustrated about the cost of health care." Hubbard "told reporters at USA TODAY and Gannett News Service that the tax code offers advantages when a company buys health coverage for its employees but doesn't do the same for employees who have to buy coverage on their own." Bush "has discussed some other health care ideas, including expansion of health savings accounts, which are tax-free savings accounts that can be used for medical expenses." The President, "Bush has also talked about providing consumers with more information about medical costs, to enable them to be better shoppers. 'Do you realize the medical field is one where you don't do any comparative shopping?' the president asked the crowd last week during an event in Virginia." Hubbard "said Bush will discuss that topic, but he declined to say whether Bush would propose that the government require doctors to post their fees, or simply encourage patients to ask. 'I'm going to let the president talk about exactly how this should happen,' he said."

The Washington Post (1/25, A1, Goldstein) also reports on Bush's plans, and says the tax initiative is "part of an initiative the White House believes will rein in soaring health costs by shifting responsibility toward individuals, according to congressional and other sources familiar with the administration's thinking." The new tax breaks for personal health spending, "to be included in the 2007 budget Bush will release in less than two weeks, are designed to help the uninsured and to allow people with insurance to write off a greater portion of the money they spend on co-payments, deductibles and care that is not covered." The President also "plans to call for an expansion of health savings accounts," and for "changes to allow people to keep their insurance, without extra cost, if they change jobs or decide to start a business, building on a decade-old law that was designed to make health coverage more 'portable.'" In an interview yesterday, Hubbard "said the current system is flawed because it gives employers tax deductions for the health insurance they buy for workers, but no similar tax preferences for people who buy coverage because their company does not provide it."

The Hill (1/25, Young) adds "big business interests are prepared to back up…Bush's expected call to make healthcare legislation a priority in the coming legislative year. Facing escalating costs and aging populations of workers and retirees, large employers are seeking policies that would enable them to limit their future healthcare spending while allowing them to avoid dropping expensive health benefits altogether." The Hill also reports, "The small-business community also favors legislation that would make it less pricey to provide employees health coverage."

Meanwhile, Michael F. Cannon, director of health policy studies at the Cato Institute, writes in the Washington Times (1/25), "The White House has been dropping hints that the president will make health-care reform the centerpiece of his State of the Union address. The Bush administration's health care record is, to put it delicately, inconsistent." It "has supported efforts to remove government influence over the health care sector, such as health savings accounts (HSAs). On the other hand, the president signed into law the largest expansion of federal power over health care in generations the ill-fated Medicare drug program. So in an attempt to help the administration straighten up and fly right, here's my health policy wish list for the State of the Union." Cannon adds, "1. Propose 'large HSAs.' … 2. Push hard for interstate commerce in health insurance. … 3. Avoid further expansions of federal power. … 4. Clean up the Medicare mess. Finally, it would be nice for the president to acknowledge that the Medicare drug program that took effect this month was a huge mistake."

Reid Blasts Bush In Advance Of State Of The Union Speech. In a speech to the Center for American Progress, Senate Minority Leader Harry Reid gave what Reuters (1/24, Smith) called a "scathing assessment of the state of the nation" under President Bush and the Republican

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Congress. Reid urged Bush "to 'swagger' less and show more honesty and humility in his annual State of the Union speech to the nation next week." Reid "took aim at the president's national security record, saying Bush 'must unite the nation behind our most important goal -- keeping our people and way of life safe. We need to hear honesty and humility from the commander in chief, not swagger from the campaigner-in-chief.' … Reid accused Bush of making promises in past State of the Union speeches and doing the opposite." Reuters added, "Reid's speech was part of an effort to lay the groundwork for the November congressional election in which Democrats hope to win control of Congress or at least shrink the Republican majority."

The AP (1/24) added that Reid "urged President Bush Tuesday to 'come clean' in next week's State of the Union speech and acknowledge 'the costs of Republican corruption.'" Reid said, "In his 2000 campaign, George Bush promised to bring 'dignity' to the White House, but we've since found that he brought Jack Abramoff instead," adding, "President Bush needs to quit stonewalling about his White House's connection to corruption, and finally tell us how he's going to reform Washington."

The Washington Times (1/25, Dinan) adds that Reid "set a series of hurdles for Mr. Bush to clear in next week's State of the Union address, particularly on political-process reforms. 'In his 2000 campaign, George Bush promised to bring "dignity" to the White House -- but we've since found that he brought Jack Abramoff instead,' Mr. Reid said. 'President Bush needs to quit stonewalling about his White House's connection to corruption and finally tell us how he's going to reform Washington.'" The Times adds, "At the White House, press secretary Scott McClellan said the remarks were 'more of the kind of partisan attacks that we see in this city.'"

Frist's New Message Shop Launches Pre-Emptive Attack On Reid. Roll Call (1/25, Stanton) reports, "Senate Majority Leader Bill Frist (R-Tenn.) rejected an expected demand by Senate Democrats late Tuesday that the GOP leader postpone consideration of asbestos legislation in favor of their lobbying reform bill, arguing in a letter to Senate Minority Leader Harry Reid (D-Nev.) that 'to postpone debate on this issue is to blatantly ignore a very real problem' and accusing Reid of wanting to 'kill this bipartisan legislation that ensures victims are better compensated.' Subsequently, Democratic aides said that Reid no longer expects to make a formal request." The Hill adds that a GOP aide said the pre-emptive attack by Frist "is the first offensive maneuver orchestrated by Frist's message operation, which is winkingly called the 'peace room' as a contrast to Reid's 'war room.' The aide said Frist hopes that such message tactics will allow Republicans 'to be more flexible and adaptive as we move on ahead, both on offense and refuting spurious and scurrilous Democratic claims.'"

States Will Be Reimbursed For Medicare Drug Benefit Costs. Reuters (1/25, Heavey) reports, "The federal government will help reimburse states that have been paying for prescription drugs after glitches with Medicare's new benefit left many patients stranded, U.S. health officials said on Tuesday." Mark McClellan, head of the Centers for Medicare & Medicaid Services (CMS), "said states should first seek reimbursement from health insurers and other companies offering the plans. But if states paid out more than they can get back, Medicare will pay the difference, he said."

The Financial Times (1/25, Yeager) calls the development "an embarrassing setback for President George W. Bush, who has listed the programme among the primary accomplishments of his first term. But it reflects growing pressure from Republican and Democratic governors, as well as members of Congress, following reports that trouble enrolling in the programme has left hundreds of thousands of people without coverage since it took effect on January 1."

The New York Times (1/25, Pear) reports Michael Leavitt, Secretary of Health and Human Services, "announced the plan in response to a political furor swirling around the new Medicare drug benefit. At least two dozen states have taken emergency action to help low-income people who could not get their medications under the program, which began Jan. 1. States are spending millions of dollars a day in such assistance." Leavitt said, "In cases where states have continued to pay for drugs at rates higher than what the plans would reimburse, as a function of our transition, we're going to help them cover that."

The Washington Post/AP (1/25, A4, Press) reports, "Previously, officials said reimbursement to the states would come from the private plans themselves."

The Los Angeles Times (1/25, Alonso-Zaldivar) reports, "Leavitt's announcement marked the first time that a senior official publicly acknowledged the need to fix the broad range of problems. It came a week before President Bush's scheduled State of the Union message, in which the president, despite the glitches, is expected to praise the benefit as a significant accomplishment and a foundation for market-oriented healthcare reforms. … California has spent more than $9 million for about 110,000 emergency prescriptions since Gov. Arnold Schwarzenegger intervened about two weeks ago."

Poorer Seniors Slow To Sign-Up For Drug Benefit. USA Today (1/25, Wolf) reports, "Low-income seniors without Medicaid or prescription coverage are signing up for a new Medicare drug benefit at a far slower rate than others, a sign the program isn't reaching many of those who need it most. Fewer than 300,000 of the 3.6 million people who have voluntarily enrolled in the drug program were approved for a low-income subsidy. … By contrast, more than 3.3 million

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people have signed up for coverage without qualifying for the subsidy."

Program Triggers "Competitive Scramble" Among Insurers For Seniors' Business. The Wall Street Journal (1/25, A1, Lueck, Fuhrmans) reports, "The government's new Medicare benefit that gives private drug coverage to millions of Americans has sparked a competitive scramble in the health-insurance industry. … AARP, the powerful seniors' organization, is in the awkward position of providing impartial advice to seniors while at the same time selling them products. For UnitedHealth, the nation's No. 2 health-insurance provider, the AARP relationship is a powerful tool in what is becoming an all-out land grab." The Journal adds, "Defying early predictions that private insurers wouldn't offer prescription-drug policies, dozens of companies are offering regional plans and 10 are selling them nationwide. The government is heavily subsidizing the policies, for which 42 million people are eligible. It's a big and unexpected growth opportunity at a time when the industry's traditional business -- administering employer health benefits -- is stagnant or shrinking." The Journal adds that "the lower the insurer's bid, the lower the premium for the customer. The government hopes this formula will keep its costs low."

Clinton Seeks To Restore Medicare Cuts Resisted By Insurers. The Washington Post (1/25, A4, Weisman) reports Sen. Hillary Rodham Clinton and Rep. John D. Dingell "will introduce legislation to restore Senate-passed language that would cut payments to private insurers in Medicare by $26 billion over the next decade, the lawmakers said yesterday. As part of a broad budget-cutting bill, the Senate approved legislation that targeted private HMOs participating in Medicare by changing the formula that governs their reimbursement, lowering payments $26 billion over the next decade. But after lobbying by the health insurance industry, House and Senate Republican negotiators last month made a critical change that had the effect of eliminating all but $4 billion of the projected savings, according to the Congressional Budget Office." Clinton "described the behind-the-scenes action, detailed yesterday in a Washington Post report, as 'the latest example of Republicans taking care of their special interests at the expense of the American people.'"

Ehrlich Urged To Fill Coverage Gaps. The Washington Post (1/25, Levine, Marimow) reports, "In Maryland, advocates called on the state to immediately pick up the cost of medications and co-payments that the federal government otherwise would be handling under the Medicare Part D plan. … Legislators in the Democratic-controlled General Assembly echoed his concern, although they urged Gov. Robert L. Ehrlich Jr. (R) to instead make state money available so additional caseworkers could be hired to help beneficiaries navigate the complex drug program."

Academics Seek Clear Demarcation Lines Between Doctors, Drug Companies. The Wall Street Journal (1/25, Mathews) reports, "A group of academics called for stringent limits on the ties between drug companies and doctors, saying in an article published in the Journal of the American Medical Association that the current relationships lead to conflicts of interest." The medical profession's standing "is 'jeopardized by allowing obvious conflicts to continue,' and academic medical centers should take the lead in reforming them, the JAMA article said." The writers, from Harvard University, Columbia University, the University of California at Berkeley and other institutions, "echoed concerns expressed with increasing frequency by medical-journal editors, professors and some doctors." The Washington Post (1/25, A8, Connolly) adds the group "said that voluntary efforts to limit corporate inducements have failed, resulting in the overprescribing of some medications and the withholding of negative discoveries about others. Highly publicized cases involving the anti-inflammatory drug Vioxx, antidepressants for children and spinal implants made by Medtronic -- all occurring while voluntary guidelines were in place -- highlight the need for stricter measures, they said."

The New York Times (1/25, Harris) reports the article says "the gifts, drugs and classes that makers of pharmaceuticals and medical devices routinely give doctors undermine medical care, hurt patients and should be banned." Moreover, the authors urge "medical school faculty" to "set an example for their profession by distancing themselves from drug companies' marketing efforts," says USA Today (1/25, Rubin).

Bush Seeks To Revive Food Aid Reform Plan. Bloomberg (1/25, Drajem) reports, "The Bush administration is reviving a plan to buy some of the food it uses for overseas aid from foreign rather than domestic farmers, and is courting the support of charities that helped sink the idea last year." The proposal, which seeks to "funnel one-quarter of the $1.2 billion spent by the government on foreign aid to local suppliers, still faces opposition from US agricultural producers, who currently supply all the food aid." To push the plan, USAID officials "met recently with groups such as Care…and Save the Children, to try to win their support for reviving the idea of buying emergency food supplies in or near countries hit by famine."

Senators To Propose New Spending On Science, Technology. The Hill (1/25, Schor) reports, "A bipartisan group of senators will introduce an ambitious trifecta of bills today aiming billions of dollars in new spending at the nation's sliding science and technology sector." The bills, collectively called Protecting America's Competitive Edge (PACE), "sprang from a request made by Sens. Lamar Alexander (R-Tenn.) and Jeff Bingaman (D-N.M.) to the

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independently funded National Academies: What specific actions could Congress take to ensure continued U.S. competitiveness? When the National Academies came back with 20 recommendations and a report on how to implement them, the senators took notice, as did President Bush, who is reportedly considering making science and technology innovation a major theme of his State of the Union address."

White House Acknowledges There Are At Least Six Photos Of Bush With Abramoff. MSNBC's Hardball (1/24, Shuster) reported, "Nearly three weeks after White House officials denied President Bush knew or remembered meeting Jack Abramoff, the White House now acknowledges there are at least half a dozen photographs of the two men together. And Washingtonian magazine reports that on one occasion President Bush knew enough about Abramoff to ask about the lobbyist's children. So why did Press Secretary Scott McClellan make this statement earlier this month?" McClellan "The President doesn't recall meeting him and he certainly doesn't know him." MSNBC added, "McClellan is not the only White House official whose credibility on the Abramoff story has been hit. Yesterday, Presidential Counselor Dan Bartlett told the Today Show that Bush and Abramoff only interacted at holiday parties. … But Time magazine reported on Sunday that one of the photos is from a May 2001 meeting, when Abramoff posed with President Bush and some of Abramoff`s tribal chief clients. One of the tribal chiefs has told MSNBC the White House meeting with Abramoff and President Bush was set up by anti-tax crusader and White House adviser Grover Norquist, and the tribe says it wrote Norquist this $25,000 check for the visit."

Democrats Eager To Obtain Photos. Knight Ridder (1/25, Douglas, Recio) adds that Bush's "foes are anxious to get their hands on photos of him posing with disgraced lobbyist Jack Abramoff." The photos "aren't proof of any wrongdoing on Bush's part. But they do put him in the uncomfortable position of standing next to an admitted felon who's become the symbol for all that's wrong with Washington. Bush's opponents would like the ammo as mid-term elections approach."

WPost Says Administration Should Make Abramoff Dealings With White House Public. An editorial in the Washington Post (1/25, A18) says, "Here is what we don't know about Jack Abramoff and the White House: whom he met with and what was discussed. Nor, if the White House sticks to its current position, will we learn that anytime soon. … This is not a tenable position. It's undisputed that Mr. Abramoff tried to use his influence, and his restaurant and his skyboxes and his chartered jets, to sway lawmakers and their staffs. Information uncovered by Mr. Bush's own Justice Department shows that Mr. Abramoff tried to do the same inside the executive branch. Under these circumstances, asking about Mr. Abramoff's White House meetings is no mere exercise in reportorial curiosity but a legitimate inquiry about what an admitted felon might have been seeking at the highest levels of government. Whatever White House officials did or didn't do, there is every reason to believe that Mr. Abramoff was up to no good and therefore every reason the public ought to know with whom he was meeting." The Post calls on the Bush Administration "to get all of Mr. Abramoff's dealings with the Bush White House and the Bush administration out in the open -- now."

Lobbyists Prepare To Fight Tightening Of Lobbying Regulations. The Hill (1/25, Bolton) reports, "Big trade associations — lobbyists — are getting ready to fight the sharp tightening of lobbying regulations. The board of directors of the American League of Lobbyists (ALL), a trade association representing lobbyists, met Monday to discuss the various reform proposals and to lay plans for a coalition of lobbying heavyweights to work with lawmakers to review them." ALL President Paul Miller "said a coordination effort is under way among several of the biggest business lobbying groups, including the U.S. Chamber of Commerce, the National Association of Manufacturers (NAM), the National Federation of Independent Business (NFIB), the American Society of Association Executives (ASAE) and others. A similar coalition was formed in 1995 when Congress last seriously scrutinized lobbying regulations, Miller said. Some of the groups Miller cites seem leery about joining the effort to influence reform proposals when criticism of lobbyists is so intense both on and off Capitol Hill."

Baird Wants To End "Political Intelligence" Work By Lobbyists. A separate report in The Hill (1/25, Snyder) says Rep. Brian Baird "wants to end an inside-the-Beltway version of insider trading as part of his party's larger lobbying-reform effort. … The conversations in question are secret tips lobbyists get from their contacts on Capitol Hill and pass along to hedge-fund clients, who in turn may use the information to buy or sell a stock. The tips could include, for example, nonpublic information about when a bill is going to be introduced or a key member's opinion on a particular policy." The Hill adds, "Several K Street firms supplement their lobbying incomes through this type of 'political intelligence' work, serving as pipelines to hedge funds in particular because they often trade stocks more frequently than other businesses, such as mutual funds. The problem, Baird says, is the trading on information that is not yet public and therefore not readily available to other investors who can't afford to hire lobbyists." Baird "says he's determined to shine some light on the practice, which has increased along with the growth of hedge funds in the past decade, because

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the potential to make big money from the release of the information could have a corrupting influence on the process."

Professionals Question When Gift Becomes A Bribe. The Christian Science Monitor (1/25, MacDonald) reports, "As members of Congress scramble to take cover amid a storm of corruption scandals, professionals of all stripes have fresh reasons to question whether the business-related gifts they give and receive are truly innocent. Norms vary as to what constitutes a bribe, say ethicists and other experts on the subtle, sometimes manipulative, power of gifts. As a result, individuals in positions of responsibility and trust are likely to get entangled - perhaps tragically - in the absence of explicit policies for what is acceptable." The Monitor adds, "Amid this climate, some professionals are taking steps to ensure that even traditional gifts don't create conflicts of interest.

Democrats Will Delay Filing Ethics Complaints Against Republicans. A top Democratic lawmaker said House Democrats have no immediate plans for file complaints against Republicans when the ethics committee begins working again. The Hill (1/25, Kaplan) reports, "As Republicans have hinted they may file formal ethics complaints, Democrats are content to sit on the sidelines for now. 'The Justice Department is moving, and there's no reason to interfere and give the Republicans a tool to say the investigation is being politicized,' the Democratic lawmaker said. 'That's not in their rhetoric, and right now they have to answer the Justice Department's charges. Once it looks like it's political, they don't have to answer that.'"

Indicted Congressman Are "Almost Certain To Lose Their Seats." The Hill (1/25, Savodnik) reports, "History shows that members of Congress with an indictment hanging over their heads are almost certain to lose their seats — a cautionary tale not only for House Republicans tied to lobbyist Jack Abramoff but the entire GOP conference as a whole. Republicans with Abramoff ties who could be indicted in the coming weeks include Rep. Bob Ney of Ohio, a target of a Justice Department probe. But a handful of other members have or are suspected of having ties to Abramoff and are watching intently as the events unfold." The Hill adds, "While the Congressional Research Service does not keep a tally of all members of Congress ever indicted, anecdotal evidence suggests that the vast majority of indicted members either step down or lose at the polls, a CRS official said."

Congressional Public Records Offices Set To Become Hotbeds Of Activity. The Hill (1/25, Schor) reports that the "Senate's Office of Public Records and the House's Legislative Resource Center are poised to become hotbeds of activity this year, with Congress weighing big changes to lobbying disclosure rules that could flood the offices with paper and newfound responsibility. Public Records Superintendent Pam Gavin said the office would be hard-pressed to determine what it might need to administer a new disclosure regime that the Senate has not yet passed or even debated." The Office of Public Records (OPR) "collects thousands of lobbying disclosure forms, which are double-checked and provided for public viewing. In private, Gavin's three full-time lobbying staffers send correction letters to the unknown number of lobbyists and firms who have erred in their filings. Lobbyists who fail to file at all, or who cover their tracks with a technically accurate but misleading disclosure, can easily escape any notice." The Hill adds, "Neither the OPR nor the LRC would disclose how many noncompliant lobbying cases they refer to the U.S. attorney for the District of Columbia, who plays the role of lobby police. But of the 200 referrals made by Congress since 2003, prosecutors have pursued only 13, according to U.S. attorney spokesman Channing Phillips."

NYTimes Says Reforms Should Open Conference Committees To Public. An editorial in the New York Times (1/25) says, "One of the rawest displays of lobbyists' power in the Capitol occurred beyond the sight of the public last month, when Republican Congressional negotiators tweaked a budget-cutting bill in order to provide the health insurance industry with a $22 billion windfall. The circumstance of this victory by insurance lobbyists is particularly relevant now that the same Congressional leaders are feverishly vowing to enact lobbying reform. The bill change, dearly sought by the H.M.O. industry, was written by House and Senate lawmakers and staff members in closed-door, Republican-only bargaining sessions - one of the 'conference committees' for settling differences in final legislation that are themselves becoming part of the Capitol's influence-peddling scandal. … If the tables were reversed, Democrats might indulge the same hegemony. But right now, some are proposing that the forthcoming attempt at lobbying reform include a rules change to at least open the conference committees to the public and allow minority party lawmakers votes in committee on the final wording of legislation. It remains to be seen whether such an advance in participatory democracy can survive the inevitable assault by dissatisfied lobbyists and their allied incumbents."

Boehner, Shadegg Try To Force Second Ballot In Majority Leader Vote. In the battle for House Majority Leader, Reps. John Boehner and John Shadegg are locked in a battle to force a second ballot. The Hill (1/25, O'Connor) reports, "The prospect of a second ballot generates significant uncertainty for each team heading into the Feb. 2 election, but it creates a particularly difficult dynamic between Boehner and Shadegg because the two lawmakers must work together in forcing the second vote while trying to beat each other on the first." The Hill adds, "At press time, [Rep. Roy] Blunt had 91 public supporters,

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Boehner had 41 and Shadegg had 10. Unlike Blunt and Boehner, Shadegg is not whipping his vote count or releasing the names of public backers."

Bass, Flake Back Shadegg. The Washington Times (1/25, Fagan) reports that Rep. Charles Bass, chairman of the Tuesday Group of more liberal house Republicans, and Rep. Jeff Flake, a "vocal House conservative" have backed Shadegg for Majority Leader saying he "is the best choice to bring true reform." The Times adds, "Mr. Bass and Mr. Flake worked closely together last year to try to reform the budget process, enforce fiscal discipline, reduce the number of earmarks and create a more open, honest budget structure. Their efforts were largely unsuccessful, but both said yesterday Mr. Shadegg is the one to work with them to make those changes."

The New York Times (1/25, Hulse) adds, "There was no surprise in the pledge by Mr. Flake, like Mr. Shadegg an Arizona conservative. But Mr. Bass, of New Hampshire, is a moderate leader in the House, and he acknowledged that it would be hard for some to accept his support of Mr. Shadegg, arguably the most conservative of the contenders. Mr. Bass said that he did not see significant ideological differences among the three and that Mr. Shadegg had made a stronger commitment to 'bring transparency, accountability and necessary disclosure back to the legislative scene here in Washington.'"

Blunt's PAC Received $10,000 From Phone Sex Mogul And His Wife. Roll Call (1/25, Akers) reports in its "Heard on the Hill" column, "Seeing as he's an outspoken social conservative, some folks were surprised to find out that one of the largest contributors to Rep. Roy Blunt's (R-Mo.) political action committee last year was a businessman who made his fortune in the 1990s off the phone-sex business. Jeffrey Prosser, dubbed by the Columbia Journalism Review in a 1998 story 'a world-class phone-sex operator,' gave $5,000 to Blunt's Rely On Your Beliefs fund in 2005 and his wife, Dawn Prosser, gave another $5,000, making them the largest donor couple to Blunt's PAC. … The donations have given giddy Democrats an opening to attack Blunt, in tacky and personal ways. … Blunt's ROYB Fund executive director, Keri Ann Hayes, said the Congressman had no clue that Prosser was a 1-900 kind of a guy. 'Mr. Blunt was not aware of the colorful history of this individual contributor when his PAC accepted the donation,' she said."

McDowell Would Create GOP Majority On FCC. The Washington Post (1/25, A17, Kamen) reports in its "In the Loop" column, "The Federal Communications Commission may be a step closer to filling its long-vacant third Republican seat. The name of Robert M. McDowell , senior vice president and assistant general counsel at the Comptel telecom trade association, is being floated for the seat, Reuters reported, which would give FCC Chairman Kevin J. Martin a working majority. There hasn't been a GOP majority on the commission since Michael K. Powell left as chairman in March 2005. Senate Commerce Committee Chairman Ted Stevens (R-Alaska), whose support is key…said yesterday he would support McDowell."

Meyerson Says Incompetence Is Bush's "Defining Attribute." Harold Meyerson writes in his column in the Washington Post (1/25, A19), "Incompetence is" George W. Bush's "defining attribute." He has "cosmically botch[ed] so many big things…when most of them were the president's own initiatives." Medicare Part D "is his most mind-boggling failure," as "apparently," people "trying to get their medications covered under the program" is "a contingency for which the administration was not prepared." The creation of Medicare didn't have "such problems." However, "financially beholden to both the drug and insurance industries, the Bush administration and the Republican Congress mandated that millions of Americans have their coverage shifted to these most byzantine of bureaucracies." The explanation is "greed, in understanding why Bush entrusted his new drug entitlement to a financial mainstay of modern Republicanism," and "sloth, in understanding why Incurious George has repeatedly ignored the work of experts whose advice runs counter to his desires." Medicare Part D "is, remember, the president's signature domestic initiative, just as the Iraq war is his signature foreign initiative."

WSJournal Urges Congress To Address Ecoterrorism. The Wall Street Journal (1/25) editorializes that news of Osama bin Laden's tape "swamped some other major terror news: that the Bush Administration has rounded up some of America's most dangerous domestic terrorists," the "11 members of an animal-rights and ecoterrorism outfit." The credit "goes to the FBI, which in recent years has listed green extremists as a top domestic terror threat" which, "in recent years…have been expanding their scope, targeting bodies that are only marginally linked to practices they resent." However, "current statutes don't cover many ecoterrorist activities, such as threats or coercion against third-party targets. The sooner Congress takes this up the better, and more news coverage of their widespread threats and violence wouldn't hurt either."

OTHER NEWS:

Oil Prices Fall Following Saudi Pledge To Increase Output. The Financial Times (1/25, Dennis) reports that crude oil prices fell yesterday "after Saudi Arabia pledged to pump more oil to cover supply problems in

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Nigeria. … By midday in New York, Nymex WTI for March delivery was down 25 cents to $67.85 a barrel, while March Brent eased 25 cents to $65.92."

Stocks Post Moderate Gains. Stocks posted moderate gains Tuesday, the Wall Street Journal (1/25, Patterson) reports. The Dow industrials gained 23.45 points to 10712.22. The Standard & Poor's 500-stock index added 3.04 to 1266.86. The Nasdaq Composite Index gained 16.78 points to 2265.25.

DaimlerChrysler To Cut 6,000 White Collar Jobs. The New York Times (1/25, Tribune) reports, "DaimlerChrysler said Tuesday that it would eliminate 6,000 white-collar jobs, 20 percent of its administrative work force around the world, taking its cost-cutting drive beyond the factory floor. The company said it would save $1.8 billion a year after this and other streamlining efforts were completed by the end of 2008. Of the white-collar cuts, 30 percent would come from the management level. … Shares of Daimler rallied in response to the news, increasing $2.60, to $54.84."

ABC's World News Tonight (1/24, story 8, 0:20, Vargas) reported, "A day after the ax fell at Ford, Daimler Chrysler was downsizing. The carmaker says it will trim its staff by 20% worldwide over the next six years. That will mean 6,000 fewer jobs. Chrysler says most of the job cuts would be in Germany."

The Washington Post (1/25, D1, Joyce) reports, "While U.S. automakers are eliminating unionized workers by the tens of thousands, they are also paring their ranks of engineers, executives and other white-collar workers. Oftentimes, white-collar, nonunion workers in the manufacturing industries are on the front line of staff reductions. Companies do not have to go through negotiations to eliminate nonunion jobs. The workers often cost less to fire because they do not have the same protections that organized workers have. For example, the Big Three automakers pay into a job bank, which pays hourly workers even if they have been laid off."

UAW Urged To Give "Economic First Aid" To Auto Industry. John B. Schnapp, who led the auto industry practice at Mercer Management Consulting, writes in the Wall Street Journal (1/25), "General Motors and Ford, bleeding cash and market share, have vowed to cut 60,000 jobs over the next half-dozen years. So far, though, they have been unable to request, much less obtain, more than token economic first-aid from the United Automobile Workers. … The collective bargaining negotiations upcoming in 2007 loom as a likely auto industry Armageddon, in stark contrast to a rising trend among similarly threatened industries in Germany, where unions are quietly customizing deals to protect jobs and preserve employers. The evident unwillingness of the UAW rank-and-file to participate in that sort of salvation effort is a legacy of the union's justly admired founder, Walter Reuther, an inheritance likely to prove now progressively more obsolete and self-defeating." Reuther "was an undoubted great man. However, the persistence in the contemporary UAW of his intractability, understandable though it may have been in his own time, ensures a continuation of the worst of all outcomes -- a shrinkage of employers and the disappearance of jobs."

Foreign Auto Makers Gain Ground In US. NBC Nightly News (1/24, story 6, 3:00, Williams) reported, "The US auto industry at a crossroads." And "many are wondering how the US auto industry lost its way. The numbers tell the story. Just 10 years ago, the so-called big three US automakers had 75% of the American market to themselves. Last year, that dropped to 60%, as foreign automakers continue to gain ground with US consumers." NBC (Thompson) added, "Some believe no matter how many plants and jobs Detroit cuts, what the big three really need is a new deal with the United Autoworkers Union that reduces retirement and health care costs." Professor Peter Morici, University of Maryland: "Until the Ford Motor Company gets major concessions from the UAW, they will not be able to build cars as inexpensively as Toyota." Thompson: "Foreign manufacturers now have 29 plants in this country, known as transplants, most non-union with younger, cheaper workers." Morici: "There will always be a US auto industry. We continue to make about 12 million cars a year because as Ford and General Motors scale down, the transplants scale up." Thompson: "Giving a stalwart of the American economy an increasingly global flavor."

Churches To Argue For, Against Maryland Stem Cell Bill. The Baltimore Sun (1/25, Skalka) reports, "Despite the pleas of many doctors and researchers to keep arguments rooted in science, the debate over embryonic stem cell research won't be confined to laboratories." When Maryland "legislative committees convene Wednesday to hear testimony about bills that would commit $125 million over five years for embryonic stem cell research, members of various religious communities will weigh in." However, "there are members of other denominations who stand firmly in favor of the bills."

Virginia Woman Sues Ford Over Air Bag Accident. The Washington Post (1/25, Jackman) reports, "Attorneys for an Arlington woman who contends that she was blinded in one eye when an air bag deployed told a Fairfax County jury yesterday that Ford Motor Co. knew its 1995 Escort was dangerous but did nothing to fix it or warn motorists." The Post continues, "Berta Benitez, 44, was on her way to work more than six years ago as the front-seat passenger in an Escort station wagon when the car and a

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Plymouth Voyager minivan collided on Lee Highway in Arlington. She filed suit in 2001 against Ford and the Koons Ford dealership where the car was bought." The Post adds, "Ford's attorneys, who dispute that the air bag caused Benitez's injuries, said in their opening statement yesterday that the 1995 Escort was safe and that its passenger air bag was no different than the air bags in other cars made in the mid-1990s. Benitez's attorneys said the air bags were too big and deployed much faster than called for in safety guidelines. … Benitez's attorney David Bernhard enlisted the help of Taras S. Rudnitsky, a former air bag engineer for General Motors Corp. who became disenchanted with what he says was the lack of safety concern in the auto industry. Rudnitsky quit to go to law school. After graduating, Rudnitsky served as an expert witness in lawsuits against carmakers, but he had eased away from auto litigation -- until Benitez's case came along. … Her case and e-mails from Bernhard lured him back, Rudnitsky said before trial. And so yesterday, in Fairfax Circuit Court, Rudnitsky began his first trial as a lawyer."

Fatah Maintains Lead Over Hamas; Coalition Expected To Rule Palestinians. The Financial Times (1/25, Morris) reports, "A multi-party coalition government led by Fatah, with the possible inclusion of ministers from Hamas, appeared the most likely outcome of Wednesday's Palestinian parliamentary elections as last-minute polls showed the ruling party maintaining its lead." A Palestinian Centre for Public opinion poll "indicated Fatah would win just under 40 percent support among 1.35m registered voters in the West Bank and Gaza, 10 per cent ahead of Hamas." Fatah's "most likely coalition partners are small, formerly Marxist left-wing parties, the centre-left National Initiative List and the Third Way, headed by Salam Fayyad, former finance minister."

USA Today (1/25, Gutman) notes that before the election "Fatah and Hamas say they might consider forming a national unity government. Such a coalition would dim prospects for future Palestinian-Israeli negotiations. Hamid, the editor, said Hamas wants to join a broad coalition and would press the Palestinian Authority to adopt a harder line toward Israel. Once in government, 'Hamas would not make the same mistake as Fatah and engage in 12 years of fruitless negotiation,' he said."

The Washington Times (1/25, Pisik) reports that despite concerns over Hamas' political strength, "Many voters, such as a Palestinian border agent at the Erez Crossing into the Gaza Strip, say they will vote for Fatah despite its shortcomings, because they fear that Hamas would exacerbate already inflamed relations with Israel."

The New York Times (1/25, Erlanger) reports that Palestinian president Mahmoud Abbas's "accomplishment with the election on Wednesday is also an extraordinary risk." Since "Many in Fatah, let alone in Israel and the United States, say they believe that Mr. Abbas is inviting the snake into the garden." His "great gamble is a successful outcome in which Hamas is an engaged player but not dominant."

The Washington Post (1/25, A14, Wilson) reports, "Hamas is projected to win roughly a third of the new parliament's 132 seats and bring the Islamic movement inside the Palestinian government" but Hamas may now "be taking new risks by joining a weak and nearly bankrupt Palestinian government it has scolded from the outside for years." Their "leaders are facing questions about how they will manage future peace negotiations with Israel, win the freedom of thousands of Palestinian prisoners from Israeli jails, and ease the occupation in the West Bank given their vow not to recognize Israel or talk to its leaders."

Hamas Candidates Continue To Support Military Action Against Israel. Both ABC and NBC interviewed Hamas candidates who suggested peace negotiations would become more difficult. ABC's World News Tonight (1/24, story 4, 3:10, Woodruff) reported, "And the peace process? One of Hamas' top candidates told us in Gaza, today, he would not deal directly with Israel. Would you negotiate with Israel through a third party?" Unidentified Hamas candidate: "If they are going to release our people from the Israeli jail? Yes. And if they are going to withdraw from the West Bank, yes." Woodruff: "What will you give them in return?" Unidentified Hamas candidate: "We are not in the market. Our land was stolen. And we are restoring part of our rights." Woodruff: "But despite all its political success, there is no indication Hamas is giving up its guns."

NBC Nightly News (1/24, story 4, 1:30, Williams) reported that one of Hamas' leading women candidates, Mariam Farhat, son was a terrorist and two of her other sons were Hamas fighters. In an interview, Farhat was asked, "Standing for parliament means that's an end to the military struggle. Is that right? Democracy means no more terrorism." Farhat replied, "No. Our strategy is to continue with military action. It is parallel, the political plan and the jihad plan."

Meanwhile, some believe Hamas is increasingly pragmatic. The Christian Science Monitor (1/25, Prusher) says "when Palestinians vote in Wednesday's legislative elections, analysts say, it's Hamas's more moderate tone, as well as disillusionment with the ruling Fatah Party, that will yield the group significant gains." Meanwhile, "its mix of moderate and hard-line messages may complicate Israeli and US stands against dealing with Hamas." Yet "it is unclear how Hamas's popularity will translate into policy." USA Today notes, "Some Palestinians say that Hamas is hoping it doesn't get a majority, preparing instead to be an opposition or second-largest power. In recent interviews, leaders have said that they will not change their charter calling for Israel's

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destruction. But Tuesday, Hamas leader and candidate Mahmoud Zahar said in Gaza that 'negotiation is not a taboo,' adding at the same time that 'we do not consider the Israeli enemy as a partner or a neighbor.'"

And the Washington Times (1/25, Mitnick) reports, "Hamas is working to soften its image both abroad and domestically on the eve of today's Palestinian elections, recognizing that its reputation for violence is hurting its cause, at least in the West." One "professional media consultant hired by the campaign acknowledged that after years of suicide bombings and other attacks on Israelis, the Palestinians in general and Hamas in particular are thought of abroad as bloodthirsty."

Hamas Success Could Hamper US Policy. ABC and NBC highlighted the expected success of Hamas in the Palestinian elections on Wednesday with detailed stories describing how Hamas' election could have a strong negative impact on efforts to reach peace in the region. CBS did not cover the election. ABC's World News Tonight (1/24, story 4, 3:10, Woodruff) reported, "Palestinian President Mahmoud Abbas told us today he's nervous." Abbas: "I am worried. I cannot say that I am relaxed." Hamas' "charter calls for the destruction of Israel" and "if Hamas wins tomorrow, it would be a major blow to US policy. Because it's a terrorist group, the US and Europe would likely suspend hundreds of millions of dollars in Palestinian aid."

Meanwhile, USA Today (1/25, Slavin) in an analysis says that a strong Hamas showing "could jeopardize U.S. aid to the Palestinians and Arab-Israeli peace efforts." And it is only "one of several Islamic political parties gaining strength throughout the Middle East, most prominently in Egypt, Iraq and Lebanon. They all share opposition to U.S. policies, particularly American support for Israel." USA Today notes, "Religious parties are gaining because they are 'the most organized, best-funded, most dedicated and most attractive' alternatives to corrupt authoritarian regimes, says Daniel Pipes, director of the Middle East Forum. … Their views contradict the U.S. goal of creating 'liberal, stable, open societies,' he says."

Daniel Pipes, director of the Middle East Forum, in an op-ed in USA Today (1/25) writes, "Hamas might have hired a spin doctor to improve its image in the West, but its leadership candidly maintains it has no intention of changing. Responding to a question on whether Bush is correct that U.S. engagement with Hamas would moderate the terror group, Mahmoud Zahar, a Hamas founder, laughed and declared that this tactic 'will not succeed.' In recent days, Zahar has publicly reiterated that Hamas still intends to destroy Israel." Pipes adds, "Fortunately, U.S. policy remains steadfast: 'We haven't dealt with Hamas, and we won't deal with Hamas members who are elected,' says U.S. embassy spokesman Stewart Tuttle in Israel. That is a good start; ideally, there should be no dealings at all with a Palestinian Authority that includes Hamas in its leadership."

USA Today Urges US To Work To Moderate Hamas. USA Today (1/25) editorializes that "the smartest strategy for U.S., Israeli and international policymakers is to find ways to prod Hamas to make its new image more than cosmetic. Hamas needs to be pushed onto the path taken by the Irish Republican Army (IRA), which over time split into a military and political wing, the former slowly overwhelmed by the latter."

Olmert Says Israel Will Have To Cede West Bank Land To Keep Jewish Majority. ABC's World News Tonight (1/24, story 4, 3:10, Woodruff) at the end of its story on the problems the US may face if Hamas fares well in the Palestinian elections reported that in his first major address Israel's acting prime minister Ehud Olmert "said Israel will have to give part of the West Bank back to the Palestinians in order to maintain a Jewish majority in the rest of the country. But he said Israel will keep its main settlements and keep control of Jerusalem."

The New York Times (1/25, Myre) reports Olmert "said he was following the path set down by Prime Minister Ariel Sharon." He "did not offer new proposals, but said this was an opportune moment to revive peacemaking efforts, with the Palestinians holding parliamentary elections on Wednesday and with Israel holding its legislative elections on March 28." In response "to the speech, Saeb Erekat, the chief Palestinian negotiator, said: 'I want Mr. Olmert to know he has a partner on the Palestinian side. I hope he will abandon unilateral Israeli actions and come back to the negotiating table so both sides can begin to implement their obligations under the road map.'"

Kadima Remains Strong Despite Sharon Illness. Israeli newspaper Ha'aretz columnist Ari Shavitt in an interview on the legacy of Ariel Sharon in The New Yorker (1/23) was asked whether there was "a vacuum" in the Israeli leadership and how Sharon's absence would impact acting Prime Minister Olmert's ability to lead. Shavitt said, "Right now, we are in limbo. … What you do have right now are the political facts on the ground, and the most dominant fact is Kadima, Sharon's new party, which, in an astonishing way, is doing remarkably well, even without him. Which proves that the need for a centrist party in Israel was so great that once Sharon created it — and there was a need for Sharon to be the creator — it had a life of its own, even without him leading it. Things might change, but right now it seems that there is enough political energy to have, so to speak, the 'Sharon way,' even when Sharon is politically gone. Having said that, it's going to be much more difficult, because Olmert does not have Sharon's gravitas or authority, especially when it comes to dealing with the settlers. … We are going to try, as a people, to deal with the difficulty of the settlements in the

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West Bank, but without Sharon it's going to be more difficult and more violent and, I'm afraid, it might even become bloody."

Rise Of Fundamentalists Raises Questions About Bush Democratization Policy. USA Today (1/25, A1, Slavin) in a front page analysis reports, "Islamic fundamentalists who oppose U.S. interests in the Middle East have benefited from the U.S. policy of promoting democracy, making significant gains in recent elections." Congressional Research Service Mideast expert Kenneth Katzman said, "The pro-democracy effort has had the actual effect of strengthening fundamentalist movements." But "State Department spokesman Sean McCormack declined to comment on the trend and said the administration would wait for Palestinian election results." USA Today notes, "Promoting democracy should 'obviously' be part of U.S. policy, says Richard Haass, a senior State Department official in President Bush's first term. But there's debate about whether it is outweighing other foreign policy goals, he says."

The Washington Post (1/25, A1, Baker) in a front page story reports, "In the year since Bush redefined U.S. foreign policy in his second inaugural address to make the spread of democracy the nation's primary mission, the clarion-call language has resonated in the dungeons and desolate corners of the world. But soaring rhetoric has often clashed with geopolitical reality and competing U.S. priorities." Although "the administration has enjoyed notable success in promoting liberty in some places, it has applied the speech's principles inconsistently in others, according to analysts, activists, diplomats and officials. Beyond its focus on Iraq, Washington has stepped up pressure on repressive regimes in countries such as Belarus, Burma and Zimbabwe -- where the costs of a confrontation are minimal -- while still gingerly dealing with China, Pakistan, Russia and other countries with strategic and trade significance."

Rice Says US Has Votes To Refer Iran To Security Council. Fox News' Special Report (1/24, Rosen) reported that Secretary of State Condoleezza Rice is expected to continue lobbying for referral of Iran to the UN Security council. Rice says "the US has the votes it needs regardless of how Russia and China come down. If true, that would send the issue to John Bolten, America's Ambassador to the United Nations who told a conference in Israel yesterday, quote, 'a nuclear Iran is not acceptable.'"

Top Foreign Ministers To Craft Response To Iran. The New York Times (1/25, Sciolino) reports, "The foreign ministers of Britain, France, Germany, Russia and China and Secretary of State Condoleezza Rice will meet in London on Monday in an effort to resolve their differences on how best to punish Iran for its nuclear activities, three diplomats said Tuesday." It "will give the five permanent members of the Security Council, as well as Germany, a last opportunity to forge a common position before a crucial meeting in Vienna on Feb. 2 of the 35 country board of the International Atomic Energy Agency." At the least, "the ministers could be expected to issue a statement of concern calling on Iran to immediately close down its uranium enrichment plant at Natanz."

Administration Seeks Russian Help With Iran. The AP (1/25, Schweid) reports, "The Bush administration is looking to Russia for diplomatic help in harnessing Iran's nuclear program despite growing U.S. criticism of Russian domestic policies." Recent signs of a crackdown by Russia on non-governmental organizations "was criticized again Tuesday by State Department spokesman Sean McCormack." But "this displeasure was overshadowed by the urgency of trying to line up Russia to challenge Iran's nuclear programs." According to Nixon Center president Dimitri Simes, "President Bush's 'special relationship' with Putin in which the two leaders spoke frequently to each other, stopped two years ago."

Iran Dismisses Criticism Of Plans To Examine Evidence Of Holocaust. The AP (1/25, Dareini) reports, "Iran on Tuesday defended its plan to organize a conference to examine what it terms the scientific evidence for the Holocaust." The conference "is yet another step in hard-line President Mahmoud Ahmadinejad's public campaign against Israel."

Bombs Kill Eight In Iran. The New York Times (1/25, Fathi) reports, "Two separate bombs exploded Tuesday morning in the southern city of Ahwaz at a bank and a government building, leaving 8 people dead and 46 wounded, state-run news agencies reported." Iranian "President Mahmoud Ahmadinejad had been expected to meet his cabinet in the city, but the trip was canceled Monday evening. His office said the four-day trip was canceled because of bad weather, the IRNA news agency reported Monday. The explosions occurred at the time he had been expected to make a speech in Ahwaz."

Training Of Indian Troops Show Improving US Relations. The Washington Post (1/25, A1, Lancaster) in a front page story reports, "In the latest of a series of such exercises, 120 U.S. combat troops have come here to train with their Indian counterparts in areas such as counterinsurgency and peacekeeping." It "is an example of the striking improvement in relations between the United States and India following decades of Cold War estrangement and more recent tensions stemming from India's nuclear tests in 1998." And "President Bush is scheduled to visit India for the first time in early March at the invitation of Prime Minister Manmohan Singh. … In New

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Delhi on Friday, Indian Foreign Secretary Shyam Saran said the planned visit is 'really reflective of the very significant transformation that has taken place, and is taking place, in India-U.S. relations.'" Experts "say the White House drive to court India was also influenced by frustration with traditional allies such as France and Germany and concerns over the rising power of China."

US Support For Indonesia "Vital" In 1975 Attack On East Timor. The Washington Post (1/25, A15, Lynch) reports, "U.S. political and military support for Indonesia was vital to its ability to invade East Timor in December 1975 and to sustain a brutal 24-year occupation that cost the lives of at least 100,000 people, parts of a Timorese inquiry made public Tuesday show." The inquiry "contended that the Ford administration 'turned a blind eye' to the Indonesian invasion even though it knew that U.S.-supplied arms would be used to carry it out. The report called on the United States, France, Britain and other military backers of Indonesia to pay reparations to victims of Indonesian oppression."

Pentagon Unveils Control System For Missile Defense. The Washington Times (1/25, Gertz) reports, "The Pentagon showed off its new command-and-control system for U.S. missile defenses yesterday during a war-game missile attack on the United States, Japan and South Korea." It "did not identify the missiles as coming from North Korea, but it was clear to observers and participants that the fictional island nation of Midland in the Sea of Japan/East Sea represented the communist state referred to by President Bush as part of an 'axis of evil.'"

UN Report Cites Mismanagement By Contract Caterer. The Financial Times (1/25 Davoudi, Fidler) reports, "A United Nations report into procurement operations at its peacekeeping missions has uncovered evidence of suspected mismanagement, favouritism and financial irregularities in relation to its dealings with several companies including a subsidiary of Compass, the troubled contract caterer." The Office of Internal Oversight Services investigation "examined 27 contracts worth $1bn, or 31 per cent of the cumulative value of all commercial contracts over $5m. As reported, it found that the world body could have lost as much as $298m in contract irregularities." A "report describes seemingly irregular payments made to" Compass subsidiary ESS, "suspicions over why contracts were awarded to ESS and the absence of proper financing on one contract."

Kojo Annan To Pay For Duties On Car. The New York Times (1/25, Hoge) reports, "Kojo Annan, the son of Secretary General Kofi Annan, will repay the government of Ghana import duties he avoided by falsely claiming that a Mercedes he bought was for his father, his lawyer disclosed Tuesday."

67% Of US Citizens Have Favorable Opinion Of Blair. USA Today (1/25, Soriano) reports, "At home, British Prime Minister Tony Blair is frequently caricatured as a poodle following President Bush's lead. His ratings are in the loo (toilet). Not so in the USA, where a USA TODAY/CNN/Gallup Poll shows 67% of Americans view Blair favorably." And "Sixty-six percent say Blair would be a good secretary-general of the United Nations when he no longer is leading Great Britain. Last week, former president Bill Clinton recommended Blair for that job." His popularity in the US coincides "with a ringing endorsement of Blair from Bush on Monday at Kansas State University. Bush branded as unfair suggestions that Blair is a yes man for Bush's policies, particularly the Iraq war."

Questions Raised About Delay In Appointing US Ambassador To Australia. The Christian Science Monitor (1/25, Kremmer) reports, "More than a year after the former US ambassador said his goodbyes to Australia, the top diplomatic post remains vacant in Canberra, reflecting a casualness that has the typically laid-back Aussies getting a little anxious." The "relaxed attitude by both governments -- which are in agreement on almost all matters of foreign policy -- has allowed months to pass before doubts finally began to be raised here that perhaps the Americans were being a tad callous toward their close ally." After "an ambassador is finally picked, it could take Congress several months to clear the nominee, meaning that it may be nearly two years before the post is filled."

Hu To Discuss Trade In US Visit. The Wall Street Journal (1/25, Dean) reports, "Chinese President Hu Jintao will visit the U.S. in April as the two nations try to hash out persistent disagreements over trade and other issues." U.S. Deputy Secretary of State Robert Zoellick "struck a broadly positive tone in his comments about China, underscoring a relative improvement in relations in recent months despite a host of nagging disputes over trade and other issues." He "said he raised those sticking points during meetings yesterday with senior Chinese officials, including Premier Wen Jiabao. The U.S. official said he reiterated comments by President Bush on Monday urging China to show further flexibility in the exchange rate of the yuan. That issue is certain to come up during Mr. Hu's April visit."

Domestic Investment, Exports Fuel Strong Growth In Chinese Economy. The Financial Times (1/25, Yu) reports, "China's economy grew a powerful 9.9 per cent in the fourth quarter of last year, fueled by strong domestic investment and export growth." The Times adds, "The National Bureau of Statistics said on Wednesday China's

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gross domestic product was Rmb18,232bn (US$2,251bn) for all of 2005, also up 9.9 per cent -- a growth rate slightly slower than the 10.1 per cent recorded for 2004. Per capita GDP reached US$1,700."

The Wall Street Journal (1/25, Browne) notes despite the strong growth "some economists believe even that figure underestimates the powerful momentum behind what may now be the world's fourth largest economy." The figures "indicate that not only has China escaped a 'hard landing' that some feared as Beijing cooled overheated investment in sectors like real estate and steel starting in 2004, but it has maintained rapid growth for the third straight year with low inflation, currently running at around 1%."

China Cracks Down On Popular Weekly Newspaper. The New York Times (1/25, Kahn) reports, "China's Propaganda Department on Tuesday ordered the closing of Bing Dian, an influential weekly newspaper that often tackled touchy political and social subjects, as the authorities stepped up efforts to curb the spread of information and views the Communist Party considers unfavorable." It "came the same day that Google announced that it would begin steering its Chinese users to www.google.cn, which will restrict access to content that China's media monitors consider problematic."

The Washington Post (1/25, A15, Pan) reports, "Because any move to punish it would almost certainly require his approval, the decision to close Freezing Point was seen as further evidence of" Chinese President Hu Jintao's "personal support for a tightening of controls on the media that began two years ago, about a year after Hu took office."

Industrial Production Boosts Japanese Economy. The Wall Street Journal (1/25, White) reports, "Japanese economic activity continued to pick up in November, fueled by strong industrial production, the government said." The figures "suggest Japan's economic recovery remains on solid footing. Growth in services was moderate, but economists say they remain optimistic given signs of improvement in other areas."

Sheehan Expresses Admiration For Chavez. AFP (1/25) reports, "Anti-war protester Cindy Sheehan…joined more than 10,000 anti-globalization activists in Caracas, where she hailed Venezuela's leftist President Hugo Chavez." Sheehan said, "I admire him for his resolve against my government and its meddling." The US "should not meddle anywhere, the 'peace mom' told AFP during the march, which was marked by anti-Bush slogans."

Conservative Government Elected In Canada. The only network news program to report on the election of a more Bush-friendly leader in Canada, NBC Nightly News (1/24, story 5, 1:00, Williams) briefly reported, "Tonight there's been a changing of the guard in Canada. Stephen Harper, a 46-year-old economist, was elected the next Prime Minister after his Conservative Party won the most seats in Parliament, ending 13 years of Liberal Party rule. Harper is seen as more closely aligned with President Bush on such issues as defense, the war in Iraq, and the environment."

The Wall Street Journal (1/25, Chipello) reports that while the Conservative Party won the election, voters "put the new Conservative government on a short leash by leaving the victors well short of a parliamentary majority." The preliminary results showed the Conservatives "winning 124 seats and 36% of the popular vote, compared with 103 seats and 30% of the popular vote for the Liberals." Experts "said Mr. Harper will have to steer a careful centrist course, as the Conservatives will need help from other parties to pass legislation and remain in office. Minority governments in Canada typically cooperate with opposition parties on an issue-by-issue basis, rather than through formal coalitions. Such governments have lasted around 18 months on average."

And the Washington Times (1/25, Sevunts) notes, "With just 124 seats in the 308-seat House of Commons," Harper "will have to find allies on an issue-by-issue basis from among three left-of-center parties." Harper's predecessor Prime Minister Paul Martin "was able to turn for support to the Conservatives, the far-left New Democratic Party or the separatist Bloc Quebecois depending on the issue; Mr. Harper will be alone on the right wing of Canadian politics."

The New York Times (1/25, Krauss) says, "By electing this free-market economist from Alberta, a conservative oil-producing province frequently likened to Texas, it may seem that the Canadian people were trying to debunk the prevailing political wisdom of recent years that their progressive-minded nation was drawing further and further away from the United States." Yet, "many analysts and political observers here caution that it is too soon to draw too stark a conclusion from the election on Monday, in which Mr. Harper's party won a mere 36.3 percent of the popular vote. The shift in Canadian politics is likely to be far from seismic." For example, "when the victorious Mr. Harper stepped to the platform early Tuesday morning before his adoring campaign supporters, he was careful not to suggest that he planned anything more than careful change."

Harper Seen As Needing To Develop New Leadership Style. The Washington Post (1/25, A15, Struck) reports, "Canadians awoke uncertain whether Harper's customary role would change, and whether his history of opposition was well-suited for building the alliances he needs to support the new minority government." And "many Canadians feel they do not know him well. The political strategist has never been a warm, approachable public figure. He had to overcome a reputation for stiffness that left him at a disadvantage compared with his garrulous opponent, Prime Minister Paul Martin." The Post notes, "Policy and

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conservatism have been Harper's obsession. When he and Weissenberger were graduate students at the University of Calgary, they debated free-market theory and plotted political strategy over Chinese food at the mall outside campus."

NYTimes Credits Harper With Historic Breakthrough. The New York Times (1/25) editorializes, "Mr. Harper's victory is nevertheless a historic breakthrough for his party, which was formed in 2003 by a merger of the old Progressive Conservatives, based in eastern Canada, and the American-style free-market social conservatives from the West. In contrast with the new party's initial unsuccessful run, in 2004, this election resulted in the party's doing well in every region of the country. That notably includes Quebec, long a stronghold of Liberals and separatists." Harper was helped by scandal allegations against the Liberal Party, but the victory belongs chiefly to Mr. Harper. We hope he puts it to good use."

WSJournal Urges US To Lift Tariffs On Canadian Lumber. The Wall Street Journal (1/25) editorializes, "Harper took some political risk by campaigning for an end to the Liberal practice of bad-mouthing the neighbors and promising to renew this traditional friendship." The Journal concludes, "By far the biggest dispute between the two countries -- each of which is the other's largest trading partner -- concerns the anti-dumping duties on Canadian lumber entering the U.S. Four panels have ruled that the U.S. tariffs violate the North American Free Trade Agreement. The Bush Administration could welcome Mr. Harper's victory -- and turn a new page in U.S.-Canada relations -- by lifting the illegal duties."

US Investigating Smuggling Incident At Mexican Border. A report from the Inland Valley Daily Bulletin that the Mexican military makes frequent unauthorized trips across the US border has prompted widespread media coverage. Following a report in the Daily Bulletin Tuesday that an incident involving drug smugglers and people dressed in military-style uniforms had occurred near the border in Texas, the Dallas Morning News/KRT (1/25, McLemore) reports in a widely distributed article that the incident "comes less than a week after Homeland Security Secretary Michael Chertoff called a California newspaper's account of such border incursions 'overblown.'" Meanwhile, "A spokesman for Mexico's Foreign Ministry said Mexican military personnel had nothing to do with the incident and suggested the trespassers may have been drug traffickers wearing military-style gear." US Customs and Border Protection official Kristi Clemens said Tuesday that the agency has "'launched an inquiry into the Monday incident and asked Mexican authorities for a thorough investigation and full answer on what happened.' … Gov. Rick Perry also has ordered an investigation, spokeswoman Kathy Walt said."

The Washington Times (1/25, Seper) reports, "No shots were fired and no injuries were reported during what amounted to an armed standoff at the border. T.J. Bonner, a veteran Border Patrol agent and president of the National Border Patrol Council, yesterday called the incident 'just another example of what we have been saying all along: This is a serious problem and it's not going to go away.'" The Times notes, "Sen. Jon Kyl, Arizona Republican and chairman of the Senate Judiciary Subcommittee on Terrorism, Technology and Homeland Security…has asked Secretary of State Condoleezza Rice to 'initiate an official investigation' and 'open a dialogue with Mexico to prevent any future incursions.'"

US Officials Frustrated By Mexican Smuggling Rings Teaming With American Drivers. The Los Angeles Times (1/25, Marosi) reports on the phenomenon of Mexican smuggling rings teaming up with American drivers, something that occurs "daily at the two main vehicle gateways into California," and "frustrates US authorities." The number of Americans drivers caught on suspicion of smuggling migrants through the San Ysidro and Otay Mesa ports "has hovered around 4,000 since the number of car smuggling cases spiked about six years go. … Even if drivers are caught, they are usually released. Only 279 drivers in 2005 faced alien smuggling charges. Federal authorities say they are overwhelmed." The Times profiles Trent, an American smuggler who "dreams of an early retirement and spends his earnings on a 'weakness for Latina babes,'" and Felix, a Mexican smuggling boss who "says he employs so many American drivers like Trent that he rents them to other smuggling organizations."

Maps To Show Illegal Aliens Best Routes Into Arizona. The Los Angeles Times (1/25, Enriquez) reports, "Mexico's National Human Rights Commission will print and distribute at least 70,000 maps showing immigrants the safest routes to cross the border into Arizona, officials said Tuesday. The project, which immediately drew fire from groups organized against illegal immigration, is aimed at reducing the number of people who die trying to cross 50 miles of Sonoran Desert to reach highways in southern Arizona, according to Humane Borders, the Tucson-based humanitarian group that created the maps. … The Mexican government said 441 of its citizens died last year on the border, most in Arizona. The new maps will show spots where people have died — presumably discouraging some prospective migrants — as well as main roads, rescue beacons and the locations of water stations maintained by Humane Borders."

Mexican Presidential Candidate Ends Speech Amid Heckling. The New York Times/REU (1/25, Reuters) reports, "Thousands of Mexican students heckled a presidential candidate, Roberto Madrazo, at a rally on Tuesday, forcing him to cut short a speech and handing him

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a major embarrassment only days after campaigning began. … He walked off after students whistled and shouted slogans in favor of Andrés Manuel López Obrador, the left-wing front-runner, and booed Mr. Madrazo, from the Institutional Revolutionary Party, or PRI."

Bolivian President's Policies May Test Relations, US Aid. The Washington Times (1/25, Sands) reports, "A showcase U.S. aid package for Bolivia worth nearly $600 million could be in jeopardy if new leftist President Evo Morales follows through on some of his campaign promises, a senior U.S. aid official announced this week." The Times says Morales "has vowed to boost state control of Bolivia's sizable oil and gas reserves and denounced the hard-line U.S. approach to curbing Bolivia's cocaine trade" and has "has denounced what he called U.S.-style 'neoliberalism' and his country's heavy dependence on foreign aid." The Times says, "Bush administration officials have taken a wait-and-see approach to the new Bolivian leader, but the Millennium Challenge aid package may be a critical first test of bilateral relations."

Castro Directs "Vast Protest" Over Posada. The AP (1/24, Arrington) reported from Havana, "Fidel Castro directed a vast protest march past the US mission here Tuesday, accusing the United States of preparing to free one of the hemisphere's worst terrorists as thousands of Cubans carried signs equating President Bush with Hitler. The government-sponsored march coincides with a U.S. court deadline for evidence to be filed in the case of Luis Posada Carriles, a former CIA operative and anti-Castro militant held on immigration charges at a detention center in El Paso, Texas." Posada's "Miami lawyer, Eduardo Soto, filed documents with US Immigration and Customs Enforcement officials on Monday seeking his release from custody. The ICE said today that while a judge had forbidden Posada's deportation to Venezuela or Cuba, for fear that he would be tortured there, the agency was still seeking to expel him to a third country."

Congolese President Takes Reins At African Union. The New York Times (1/25, Lacey) reports, "African leaders bypassed" the "controversial" President Omar Hassan al-Bashir of Sudanone and instead chose for African Union president "a leader who has managed to reinvent himself, Denis Sassou Nguesso of the Congo Republic, a onetime coup leader now regarded as a stabilizing force in the region." The Times notes that leaders were "troubled by the Sudanese government's involvement in the war in the western Darfur region of the country." However, the Times says, the leaders indicated to Bashir that "that the job would be his in 2007" with "the clear expectation that Mr. Bashir would work to end the Darfur crisis before then."

European Leaders Diverge On Energy Policy. The Wall Street Journal (1/25, Von Reppert-Bismarck, Echikson) reports, "Unsettled by high oil prices and Russia's recent rupture of gas contracts, European leaders pushed for the creation of a common continentwide energy policy, only to end up demonstrating their differences on such key areas as nuclear power." The Journal notes that at a recent meeting "France presented a paper calling for increasing research and development into … nuclear power." Italy's foreign minister supported this proposal. However, "divergences seem great. While a European Commission poll published yesterday showed 47% of European citizens favor a European energy policy, it illustrated little enthusiasm for an increase in nuclear power, with only 12% seeing it as the best solution to reduce Europe's dependency on current energy sources."

Annan Calls For Security Council To Approve Force For Darfur. In an op-ed in the Washington Post (1/25, A19) UN Secretary-General Kofi Annan calls for a "major new international effort" to resolve tensions in Darfur, Sudan. He writes, "People in many parts of Darfur continue to be killed, raped and driven from their homes by the thousands. The number displaced has reached 2 million, while 3 million (half the total population of Darfur) are dependent on international relief for food and other basics." After noting that the African Union, which currently a small force in Darfur, has expressed "support, in principle, for a transition to a U.N. operation this year," Annan says "A firm decision by the Security Council is needed, and soon, for an effective transition to take place." He calls for a mission with a "strong and clear mandate" with a force that is "larger, more mobile and much better equipped than the current African Union mission." Concluding his op-ed, Annan notes that in addition to a peacekeeping force, "all parties" in Darfur must be pressured to "observe the cease-fire and commit themselves to the Abuja peace talks with a sense of urgency."

Yushchenko Points To "Pragmatism" In Gas Deal With Russia. In a Wall Street Journal (1/25) op-ed, Ukraine President Viktor Yushchenko defends the deal that resolved Ukraine's gas dispute with Russia. Yushchenko writes, "The dispute that recently erupted between Moscow and Kiev over Russian natural gas prices was a trying test of our political maturity. Corporate players threatened our sovereignty, economic independence and freedom. We could have contributed to the rising tensions by pursuing court action to assert our contractual rights. ... Instead of escalating the conflict we therefore sought to settle the differences with Moscow and allay the fears of both Ukrainian and European citizens." Yushchenko writes of the deal's

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advantages for Ukraine, then says, "The compromise … attests to the pragmatic relations developing between our two countries. Through actions rather than mere slogans Ukraine demonstrated its commitment to regional stability and ability to forge mutually beneficial economic relations. My country's course toward European integration and adherence to market principles has once again been affirmed."

Growing Relationship Between Saudi Arabia, China Noted. In a Wall Street Journal (1/25) op-ed, Richard Russell writes that China and Saudi Arabia "are laying the foundations for a strategic relationship that challenges U.S. interests." He notes that "the Saudi royal family has long been seeking to forge closer ties with Beijing in the hope of reducing their dependence on the U.S.," while China "is importing ever increasing amounts of oil from the Gulf to fuel its rapidly expanding economy" and Chinese strategists worry that China "is potentially vulnerable to a U.S. blockade of oil shipments from the Gulf to China." Russell says the growing relationship is further highlighted by Saudi King Abdullah's visit this week to China. Russell sees the potential for greater strategic cooperation, including weapons sales, between China and Saudi Arabia and warns, "The danger is that these developments will pass largely unnoticed in Washington, as they fall between bureaucratic cracks in the national-security apparatus."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Feel The Rush Of A Smuggler."
"Disney Pins Its Digital Future On Pixar Deal."
"Decline In Oil Output Dims Iraq's Recovery."
"A Wealth Of $1-Million Homes."
"CBS, Warner To Shut Down 2 Networks And Form Hybrid."
"Democrats May Argue Liberties To Their Peril."
"Fabled Film Company May Get A Reanimator."

USA Today:
"First Year In College Is The Riskiest."
"Rx Plan Failing To Help Neediest."
"Mideast Democracy Boosts Islamists."
"NTSB: Pilots' Conduct, Fatigue Elements Of Mo. Crash."

New York Times:
"On Party Lines, Panel Approves Alito For Court."
"Palestinians Set For Vote And Big Shift."
"White House Declines To Provide Storm Papers."
"Audit Describes Misuse Of Funds In Iraq Projects."
"With Focus On Youth, 2 Small TV Networks Collide."
"After Subpoenas, Internet Searches Give Some Pause."

Washington Post:
"Disney To Buy Pixar Studios In Its Move To A Digital Era."
"New Tax Breaks For Medical Expenses."
"The Realities of Exporting Democracy."
"Girl, 7, Shot By Boy, 8, At Day Care In Montgomery."
"All Ears For A Blast From The Past."
"US Troops On Front Line Of Expanding India Ties."

Washington Times:
"Judiciary Panel OKs Alito."
"Hamas Narrows Gap With Fatah."
"Injured Soldier A 'Beacon Of Hope.'"
"Mexican Drug Run Thwarted At Border."
"1st Class Passes Anti-Truancy Program In D.C."
"Terp Ineligible Despite UMd. Support System."
"Brazen Looting Still Mars Big Easy."

Detroit Free Press:
"Expert: Wixom Hit May Be It."
"Pricey New Cass Tech Already Needs Fixes."
"Clash Of Cultures."

Atlanta Journal-Constitution:
"Help On Way For Medicare Drug Plan."
"Marines' Somber Duty."
"New This Fall: No. 5 Network."
"US Audit Finds Misuse Of Funds, Fatal Oversight In Iraq."

Dallas Morning News:
"Militants' Participation Spurs Israeli Skepticism."
"Fork In Road On Toll Plans?"
"Lobbyists Bring Unwanted Attention To Law Firm."
"Border Incident Sparks Outrage."
"Audit Faults Lax US Use Of Iraq Cash."

Houston Chronicle:
"Bizarre Scene Fuels Unease On Border."
"Ken Lay Eager To Reclaim His Reputation."
"Concerns Roll IN After Oil-Laden Fog."
"What's In A Number? A Team Name."

Story Lineup From Last Night's Network News:
ABC: Al Qaeda Resurgence; Alito Committee Approval; Gonzales Defends NSA Program; Palestinian Election; Hussein Trial Delay; US Detainee Rendition Allegations; Disney Purchases Pixar; Daimler/Chrysler Job Cuts; MD School Shooting; Surviving Cancer.
CBS: Alito Passes Committee; Protestors Interrupt Gonzales; Katrina Committee; Disney Buys Pixar; Bush-Pakistan; Terrorist Videos; Iraqi Violence; Hussein Trial Judge; Hormone Replacement Therapy; Elderly Flu Shots Ineffective
NBC: Alito Passes Committee; Katrina Warning; Rebuilding Iraq Report; Palestinian Elections; Canadian Elections; 2005 Warmest Year; US Auto Industry; SD Plane Crash; Fish Oil Study; Supporting Parents, Children; NO Citizen: Recovery.

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Story Lineup From This Morning's Radio News Broadcasts:

ABC: Palestinian election; Senate-Alito; Administration-domestic spying; CA-Santa Ana winds; Penn obit.

CBS: Palestinian election; Senate-Alito; Senate-lobbying reform; Moussaoui trial; Google-China deal.

NPR: Senate-Alito; Administration-Hurricane Katrina response; US-Canada border shootout; Palestinian election; UN-procurement fraud investigation; Daimler-Chrysler-staff cuts.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH – Departs The White House via Marine One. South Lawn. Makes remarks to National Security Agency employees. National Security Agency, Fort Meade, Md. Closed press. Visits the National Security Agency. National Security Agency, Fort Meade, Md. Arrives The White House via Marine One. South Lawn. Makes a statement with former clerks of Judge Samuel A. Alito. Rose Garden, The White House. Makes statement with former clerks of Judge Samuel Alito. Rose Garden.

THE FIRST LADY'S SCHEDULE -- Speaks at the Coming up Taller Awards Ceremony. East Room.

VICE PRESIDENT CHENEY -- No schedule available.

US Senate: -- 9:30 a.m. FLOOR SCHEDULE _ The Senate convenes and is expected to begin floor debate on the nomination of Samuel Alito to the Supreme Court.

COMMITTEE MEETINGS

9:30 a.m. FOREIGN RELATIONS _ Full Committee. Hearing on pending nominations. Location: Room 419, Dirksen.

9:30 a.m. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ Full Committee. Hearing on possible changes in current laws and regulations covering lobbying. With Sens John McCain, Russell Feingold, Rick Santorum, Norm Coleman, Barak Obama; Dick Clark, Aspen Institute, National Association of Manufacturers President John Engler; Bill Samuel, AFL-CIO; Paul Miller, President, American League of Lobbyists; Fred Wertheimer, President, Democracy 21. Location: Room 342, Dirksen.

10 a.m. APPROPRIATIONS _ Homeland Security Subcommittee. Hearing on the U.S. Visitor and Immigrant Status Indicator technology program. U.S. VISIT Director Jim Williams; Randolph Hite, GAO. Location: Room 138, Dirksen.

10 a.m. BANKING, HOUSING AND URBAN AFFAIRS _ Full Committee. Hearing on revisions in the national floor insurance program. David Maurstad, FEMA; GAO Comptroller General David Walker; and CBO Acting Director Donald Marron. Location: Room 538, Dirksen.

2:30 p.m. FOREIGN RELATIONS _ Subcommittee on Western Hemisphere, Peace Corps and Narcotics Affairs. Hearing on pending nomination of Janet Ann Sanderson to be ambassador to Haiti. Location: Room 419, Dirksen.

3:30 p.m. ARMED SERVICES _ Meets to receive a briefing on Iraq and Afghanistan operations. CLOSED. Location: Room 222, Russell. Notes: Stakeout okay in 2nd floor Russell Rotunda betweencolumns. Set up 2:30 p.m.

4:30 p.m. FOREIGN RELATIONS _ Subcommittee on African Affairs. Hearing on pending nominations. Bernadette Mary Allen to be ambassador to Niger; Patricia Newton Molle to be ambassador to Burundi; Steven Alan Browning to be ambassador to Uganda; and Robert Weisberg to be ambassador to Congo. Location: Room 419, Dirksen Bldg.

US House: -- No events scheduled.

Other. Jan. 22 - 26. TRANSPORTATION MEETING _ The Transportation Research Board holds its 85th annual meeting. Five days of workshops and presentations by and for transportation professionals. Highlights: 12 p.m. - 2 p.m. Chairman's luncheon with keynote by Dr. Ralph Cicerone, president, National Academy of Sciences, former chancellor, UC Irvine. With Executive Committee chair John Njord. Shoreham. Location: Omni Shoreham Hotel, 2500 Calvert St. NW, Washington Hilton & Towers, 1919 Connecticut Ave. NW, Washington Marriott Wardman Park, 2660 Woodley Road NW. Contacts: Russell Houston, 202-334-3252 Notes: Newsroom facilities at all three venues.

Jan. 23 - 25. HEALTH-HUMAN MANAGEMENT _ The World Congress Health and Human Management Congress meets. Agenda focuses on health and human capital management and improving corporate performance and costs. Highlights: 8:15 a.m. Session with Nobel Prize winner Gary Becker, discussing incentives, productivity and the investment in human capital. Location: Ritz-Carlton Hotel, 1150 22nd St. NW. Contacts: Elizabeth, 703-447-7161 Notes: Media must register, but it is free. Email name, publication, emaill address and phone number to: infobuzzmediapr.com

Jan. 24 - 26. AGRICULTURAL EMPLOYERS _ The National Council of Agriculture Employers holds its annual meeting. Highlights: 8 a.m. Breakfast, with Agriculture Secretary Johanns. Location: Hamilton Crowne Plaza Hotel, 14th and K Sts. NW. Contacts: n/a, 202-728-0300

Jan. 24 - 26. HEALTH AND HUMAN SERVICES _ The Medicaid Commission holds three days of meetings to discuss longer term recommendations on the future of Medicaid. Highlights: 3:45 p.m. Vincent A. Keane, Chief Executive Officer of Unity Health Care, Inc., in Washington, D.C., will testify. Location: Holiday Inn-Chevy Chase, 5520

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Wisconsin Ave., Chevy Chase, MD. Contacts: Margaret Reiser, 202-205-8255

Jan. 24 - 29. WASHINGTON AUTO SHOW _ The Washington Area New Automobile Dealers Association holds the 2006 Washington Auto Show, featuring new vehicles and 37 manufacturers. Car hands-on contests, giveaways, live music, celebrity appearances, educational displays and 'flip my whip' customization contest. Highlights: 8:30 a.m. Nissan Press briefing breakfast. With Bob Yakushi, director of product safety and regulation, Nissan. 8:30 a.m. - 3 p.m. International media day with new model introductons and industry announcements. RSVP for press events to Dianne Johnson, 800-697-7574. 9:30 a.m. General Motors environmental and technology press conference. 10 a.m. Ford media event to debut a first of its kind advanced technology vehicle aimed at addressing some of this countrys most pressing energy-related concerns, including the need to lessen U.S. dependence on foreign oil and reduce carbon dioxide emissions linked to global warming. Contact: Mike Moran, 202-962-5416. 10:30 a.m. Volvo event, launching the VOR XC90 and VOR XC70. With Hans Krondahl, exec. VP of marketing, Volvo 11:30 a.m. Press briefing by Mayor Anthony Williams with an unveiling of his 'flipped whip' customized Cadillac. 12 p.m. Reception and luncheon by Washington Auto Press Association/WANADA. Keynote by Tom Purves, CEO, BMW U.S. Presentation of John Lynker Award for Excellence in Responsible Design. 2:15 p.m. Energy symposium on ``sustaining mobility in an energy challenged world." 6 p.m. - 9 p.m. Washington Auto Show Congressional Gala. Location: Washington Convention Center, Mt. Vernon Square. Contacts: Barbara Pomerance, 800-697-7575 On the Net: http://www.washingtonautoshow.com

Jan. 25 - 27. MAYORS _ The U.S. Conference of Mayors holds its 75th Winner Meeting. Highlights: 8:30 a.m. Session focusing on a rewrite of telecommunications legislation, with Rep. John Dingell, others; Also dealing with Amtrak restructuring, with Amtrak board chairman David Laney. 8:30 a.m. Session on urban economic policy, with Sen. Lamar Alexander and Ken Hoagland of Americans for Fair Taxation, both dealing with telecommunications tax legislation. 10 a.m. Plenary session, with D.C. Mayor Anthony Williams, New Orleans Mayor Ray Nagin, Biloxi Mayor A. J. Holloway, Miami Mayor Manuel Diaz, Sen. Mary Landrieu, and Los Angeles Mayor Antonio Villaraigosa. 12 p.m. Opening news conference, discussing the hurricane response. 12:30 p.m. Arts luncheon with Iowa Gov. Tom Vilsack, Sen. Hillary Rodham Clinton, others. 2:30 p.m. Session on youth gun violence, with Boston Mayor Thomas memino, others. 4 p.m. Session on metro area competition for global business and workers, with Federal Reserve Governor Mark Olson, others. 4 p.m. Release of 414-City Water Survey and Water Conservation Awards. 4 p.m. Session on poverty focusing on the issues at the center of the post-Katrina debate. Location: Capital Hilton, 16th and K Sts. NW. Contacts: Elena Temple, 202-861-6719

8 a.m. - 1 p.m. GPS-BUSINESS PRODUCTIVITY _ The United States Chamber of Commerce Space Enterprise Council hosts a public forum, ``Next-Generation Global Positioning Systems (GPS) for Enhanced Business Productivity: Because Time is Money and Location is everything." Industry leaders will partcipate in panel discussions on the commercial benefits of GPS. Highlights: 8:40 a.m. Keynote remarks by Commerce Deputy Secretary David Sampson. Location: U.S. Chamber headquarters, 1615 H St. NW. Notes: Credentialed media invited. For more information or to register, call 202-463-5682 or email at pressuschamber.com

MORNING

8:30 a.m. ENERGY POLICY _ The Policy Council and National Journal hold a discussion on the state of energy policy, with keynoter Sen. Peter Domenici, and panelists Kevin Curtis of the National Environmental Trust, Steve Ellis of Taxpahyers for Common Sense, James Lucier of Prudential Equity group, others. Location: Room G-50, Dirksen. Contacts: Katherine Birrow, 202-266-7356

8:30 a.m. TEMPORARY WORKERS _ The Migration Policy Institute holds a briefing on the current employment-based admissions system, including temporary worker programs, and its strengths and weaknesses. Location: MPI, Suite 300, 1400 16th St. NW. Contacts: Colleen Coffey, 202-266-1910 Notes: RSVP to Lisa Dixon, 202-266-1929.

9 a.m. MEDICARE RX _ The Senate Finance Committee will hold a members' meeting to discuss the implementation of the new Medicare drug benefit under Part D with Secretary Leavitt and Mark McClellan. Location: Room 215, Dirksen Senate Office Building.

9 a.m. - 10:30 a.m. GIRLS-HEALTH _ The Girl Scout Research Institute holds a briefing on its new report, ``The New Normal? What Girls are Saying about Healthy Living." Report suggests anit-obesity efforts that focus only on nutrition or physical activity can miss the mark. With Kathy Clonginer, CEO, Girls Scouts; Dominique Dawes, Olympic gold medal gymnast; and others. Location: National Press Club, 14th and F Sts. NW Contacts: Amy Smith, 301-294-2424

9:30 a.m. NTSB-EMERGENCY MEDICAL _ The NTSB Office of Aviation Safety will present a public Special Investigation Report on Emergency Medical Services Operations. The Special Report examines seven EMS accidents that highlight systemic safety issues within the industry. The seven accident briefs are: FTW03FA082 - 1/10/2003 Salt Lake City, Utah; LAX04FA076 - 12/23/2003 Redwood Valley, California; CHI04FA066 - 2/17/2004 Dodge City, Kansas; FTW04FA097 - 3/21/2004 Pyote, Texas; CHI04MA182 - 7/13/2004 Newberry, South Carolina;

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SEA04MA167 - 8/21/2004 Battle Mountain, Nevada; DEN05FA051 - 1/11/2005 Rawlins, Wyoming Location: NTSB Board Room, 429 L'Enfant Plaza SW. Front door on lower 10th St., escalator near CVS store. Contacts: Lauren Peduzzi, 202-314-6610 On the Net: http://www.ntsb.gov. Notes: Webcast available.

9:30 a.m. - 11:30 a.m. U.S. NUCLEAR WEAPONS _ The Carnegie Endowment for International Peace hosts a panel discussion on the future of the U.S. nuclear weapons stockpile. With Ambassador Linton Brooks, Administrator, Department of Energy's National Nuclear Security Administration; Raymond Jeanloz, chairman, National Academy of Sciences Committee on International Security and Arms Control; David Mosher, senior policy analyst, RAND Corporation; and Daryl Kimball, executive director, Arms Control Association. Location: 1779 Massachusetts Ave, NW. Notes: RSVP required, contact www.armscontrol.org. Address on non-proliferation by Dr. Hans Blix at same location, 12 pm.

10 a.m. DEMOCRATS-MILITARY _ Senator Jack Reed joins former Secretary of State Madeleine Albright and former Secretary of Defense William J. Perry in a press conference for the release of the report ``The US Military: Under Strain and at Risk. Location: Room S-207, Capitol. Contacts: Jim Manley (2022242939)

10 a.m. ISSUES BRIEFING _ Issues briefing and release of a poll by Mark Mellman. Location: Capitol Room A, lobby level, Hyatt Regency on Capitol Hill, 400 New Jersey Ave. NW. Contacts: Brad Woodhouse, 202-589-1566

10 a.m. PATRIOT ACT _ The Heritage Foundation sponsors a news conference on the legal issues surrounding the Patriot Act, with former Attorneys General Edwin Meese and Richard Thornburgh, and Frank Gaffney of the Center for Security Policy. Location: National Press Club. Contacts: Khristine Bershers, 202-608-6168

10 a.m. SOCIAL SECURITY _ Americans United to Protect Social Security, which opposes President Bushs effort to privatize Social Security, holds a news briefing to re-launch itself as ``Americans United with a shorter name and a broader scope. The group says it will unveil a major paid media campaign on public corruption and lobbying and government reform. Location: Capitol Room A, Hyatt Regency Washington on Capitol Hill, 400 New Jersey Ave. NW. Contacts: Brad Woodhouse, 202-251-5669

10 a.m. U.S.-KOREA _ Rep. Dennis Kucinich holds a briefing on the future of U.s. policy toward Korea and the reunification movement. Location: Room 1116, Longworth. Contacts: Doug Gordon, 202-225-5871

10:15 a.m. AMERICAN TECHNOLOGY _ Sens. Pete Domenici, R-N.M.; Jeff Bingaman, D-N.M.; Lamar Alexander, R-Tenn.; and Barbara Mikulski, D-Md., discuss the introduction of a three-bill package aimed at helping America maintain its competitive leadership in science and technology. The bills are collectively called the PACE Act, which stands for Protecting Americas Competitive Edge. Location: Room 366, Dirksen Senate Office Building. Contacts: Bill Wicker, 202-224-5243

10:30 a.m. BUSH-AMNESTY INTERNATIONAL _ Amnesty International holds an event to launch a mobile billboard, urging President Bush to be honest about the government's use of turture in the war on terrorism. Location: In front of Amnesty International offices, 600 Pennsylvania Ave. SE. Contacts: n/a, 202-544-0200 ext 302

11 a.m. MEDICAID/STUDENT LOANS _ There will be a conference call to discuss what sponsors say are budget cuts coming up for a vote Feb. 1 that will hurt those who depend on Medicaid and student loans. Participants are Deborah Weinstein, Coalition on Human Needs; David Garter, Global AIDS Alliance; and Jasmine Harris, United States Student Association. Notes: Note: Media only. To sign up, contact David Bryden at 202-296-0260 ext. 211 or email drydenglobalaidsalliance.org. To call directly, please call at 11 a.m. Telephone is 866-250-4375 and ask for the Medicaid call.

11:30 a.m. LEBANON _ The Wilson Center for Scholars holds a forum with Saad Hariri of the Lebanese Parliament, and son of slain Prime Minister Rafic Hariri, on the future of democracy in Lebanon. Location: 6th floor auditorium, Wilson Center, in the Reagan Trade Center. Contacts: Sharon McCarter, 202-691-4016 Notes: Media RSVP required. All media should have cameras in place no later than 10:15 a.m.

12 p.m. MEDICARE _ Senators Lautenberg, Schumer, and Coleman hold a news conference on emergency Medicare legislation. Location: Senate Gallery Studio.

12 p.m. SYRIA _ Joshua Landis of the University of Oklahoma discusses the domestic political situation in Syria, sponsored by the Middle East Institute. Location: 1761 N St. NW. Contacts: n/a, 202-785-5336 Notes: RSVP required.

12 p.m. - 1 p.m. BLIX-NONPROLIFERATION _ The Carnegie Endowment for International Peace hosts an address on reducing threats posed by biological, chemical, nuclear and radiological weapons by Dr. Hans Blix, former head of the International Atomic Energy Agency and current chair of the WMD Commission. Location: 1779 Massachusetts Ave., NW. Contacts: Wade Boese (wadearmscontrol.org) Notes: RSVP required, contact www.armscontrol.org. Follows panel discussion on the U.S. nuclear weapons stockpile at same location: 9:30 am.

12:30 p.m. BAUCUS-ECONOMICS _ Sen. Max Baucus discusss ways to advance American competitiveness, maintain economic leadership, and preserve high-wage American jobs at a National Press Club luncheon. Location: National Press Club, 14th and F Sts. NW Contacts: Melinda Cooke, 202-662-7516

DOJ_NMG_0011144

12:30 p.m. CONGRESS-CONFIDENCE _ Sens. Norm Coleman, R-Minn., and Ben Nelson, D-Neb., hold a press conference to unveil their bipartisan legislation to form the Commission to Strengthen Confidence in Congress, an independent bipartisan commission designed to bring greater transparency and long-term reform to Washington. Location: Senate Radio/TV Gallery. Contacts: Andrea Wuebker, 202-224-5641

12:30 p.m. DEMOCRATS _ The Democratic Policy Committee holds a closed meeting. Location: Room S-211, Capitol. Notes: Stakeout note: Gallery escort for policy luncheons leaves between 12:15-12:30 p.m. from the Ohio Clock Corridor.

12:30 p.m. REPUBLICANS _ The Republican Policy Committee holds a closed meeting. Location: Room S-207, Capitol. Notes: Stakeout note: Gallery escort for policy luncheons leaves between 12:15-12:30 p.m. from the Ohio Clock Corridor.

1 p.m. - 5:30 p.m. HOMELAND SECURITY CONFERENCE _ Equity International hosts a half-day Homeland Security Outlook Conference with briefings on funding, priorities for emergency preparedness and response, technology needs, border and transportation security, and bio-defense issues. With Andrew Maner, CFO, Department of Homeland Security; Bill Hoagland, director of Budget and Appropriations for Sen. Bill Frist; Dr. Omid Omidvar, National Institute of Standards and Technology; Kerry Thomas, Director of National Preparedness Programs, State and Local Government Coordination, Homeland Security; and others. Location: George Washington University Media & Public Affairs Building, Jack Morton Auditorium, 805 21st. St. NW. Contacts: Erica Orange, 202-494-9671

2 p.m. GREGG-BUDGET _ Senate Budget Committee Chairman Judd Gregg holds a pen and pad briefing. Location: Senate Press Gallery. Contacts: Betsy Holahan, 202-224-6011 Notes: No broadcast cameras.

2 p.m. GULF COAST REBUILDING _ Housing and Urban Development Secretary Alphonso Jackson and Donald E. Powell, Federal Coordinator for Gulf Coast Rebuilding, will announce how HUD will allocate $11.5 billion in Community Development Block Grant (CDBG) disaster funding to Louisiana, Mississippi, Florida, Alabama and Texas during a telephone conference call. Contacts: ., 202-708-0685 Notes: Reporters should call 866-332-8501 no later than 1:55 p.m.

2:30 p.m. ALITO-REED _ Sen. Jack Reed holds a telephone briefing to announce his decision on the Alito nomination. Contacts: Regan Lachapelle, 202-224-4642 Notes: Call in number: 202-228-2663; passcode: 0275434

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

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TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, JANUARY 25, 2006 7:45 AM EST

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TERRORISM NEWS:

Gonzales Echoes Defense Of Wiretaps (WP)

By Dan Eggen

The Washington Post, January 25, 2006

Attorney General Alberto R. Gonzales argued yesterday that the requirements of a secret intelligence court are too cumbersome for rapid pursuit of suspected terrorists, repeating the administration's position that warrantless wiretapping authorized by President Bush does not violate the Constitution or federal law.

Gonzales's speech at Georgetown University's law school was part of the Bush administration's effort to defend a program that allows the National Security Agency to intercept calls to and from the United States without warrants. He used the appearance to echo statements made Monday by Bush, who referred to the effort as a "terrorist surveillance program" and characterized it as a crucial tool against violent militants.

"It is an early-warning system with only one purpose: to detect and prevent the next attack on the United States," Gonzales said. "It is imperative for national security reasons that we can detect reliably, immediately and without delay whenever communications associated with al Qaeda enter or leave the United States."

Gonzales's appearance, which was part of a three-day White House campaign to defend the NSA program, was punctuated by a silent protest from more than a dozen students who turned their backs to Gonzales, who continued to speak without acknowledging them and did not take questions afterward.

Five of the students wore black pillowcases over their heads -- an apparent reference to the mistreatment of U.S. detainees overseas -- and held a banner roughly paraphrasing Benjamin Franklin: "Those who would sacrifice liberty for security deserve neither."

Many experts on intelligence and national security law from both parties have said that the president overstepped his authority in ordering the eavesdropping shortly after the Sept. 11, 2001, attacks, and that the Foreign Intelligence Surveillance Act of 1978 specifically prohibits such domestic monitoring without a warrant. Congressional Research Service analyses also have raised questions about the justifications for the spying and limited notification of Congress. The Senate Judiciary Committee is planning to hold hearings on the issue next month.

Senate Minority Leader Harry M. Reid (D-Nev.) said yesterday that Gonzales and other administration officials are engaging in "revisionist history" by portraying a congressional resolution authorizing military force against al Qaeda as justification for the NSA program. A group of relatives of victims of the 2001 attacks, the September 11th Advocates, also issued a news release alleging that the "Bush administration has continually used 9/11 as an excuse to break the laws of our great nation."

But Gonzales, drawing on a 42-page Justice Department "white paper" issued last week, said the eavesdropping follows a long tradition of wartime surveillance and is conducted under the president's authority. Although FISA includes emergency provisions allowing short-term wiretapping without a warrant, Gonzales said the law would overly burden the government when it needs to respond quickly.

David D. Cole, a Georgetown law professor and frequent administration critic who appeared on a panel after the speech, said Bush clearly violated FISA by authorizing warrantless domestic spying. Another panelist also criticized the administration, while two defended its position.

"He is free to go and ask Congress to change the law," Cole said. "He is not free, as he did here, to order executive branch officials to violate that law."

Gonzales Invokes Actions Of Other Presidents In Defense Of U.S. Spying (NYT)

By Eric Lichtblau

DOJ_NMG_0011152

The New York Times, January 25, 2006

WASHINGTON, Jan. 24 - Ramping up the administration's defense of its domestic eavesdropping program, Attorney General Alberto R. Gonzales on Tuesday invoked the lessons of George Washington and Franklin D. Roosevelt in justifying President Bush's broad power to wage war against terrorism.

Mr. Gonzales, an architect of the surveillance program, said that the operation was "both necessary and lawful" and that he believed any president would have taken the steps Mr. Bush did.

"I think it would be irresponsible to do otherwise," he said in a speech at Georgetown University Law Center.

Mr. Gonzales's address, along with seven television appearances Monday night and Tuesday morning, was part of an orchestrated effort by the Bush administration to recast the debate on the National Security Agency program as one of national security rather than civil liberties. Gen. Michael V. Hayden, the nation's second-ranking intelligence official, made an unusual public speech about the program on Monday, while Mr. Bush discussed it on a trip to Kansas.

The president is also scheduled to visit the security agency in Fort Meade, Md., on Wednesday to reassure employees whose normally secret activities have come under scrutiny.

With polls showing the public evenly split about the eavesdropping program, Mr. Gonzales - like Mr. Bush and Vice President Dick Cheney before him - said in his speech that he welcomed a "worthy debate" over the limits of presidential power.

More than two dozen students in the audience responded by turning their backs on Mr. Gonzales and standing stone-faced before live television cameras for the duration of his half-hour speech. Five protesters in the group donned black hoods and unfurled a banner, quoting Benjamin Franklin, that read, "Those who would sacrifice liberty for security deserve neither."

Mr. Gonzales, who had been White House counsel when the eavesdropping program was approved after the Sept. 11 attacks, appeared unbothered by the protest. Aides said he planned more public events before his testimony at a Senate Judiciary Committee hearing on the program, scheduled for Feb. 6.

"You'll see him being very public out there in the next few weeks leading up to the hearing because he believes this is an important program in protecting American lives and, amid all the static of criticism out there, he wants to make sure people understand that," said a senior Justice Department aide, speaking on condition of anonymity because the matter involved internal discussions.

But critics of the N.S.A. program, who accused Mr. Bush of violating the Constitution and the 1978 Foreign Intelligence Surveillance Act by authorizing wiretaps without warrants on international communications linked to Al Qaeda, said they were unimpressed by the administration's public push.

David Cole, a Georgetown University law professor who took part in a panel discussion by liberal critics and conservative supporters after Mr. Gonzales's speech, said the program was "clearly" illegal, and he attacked what he saw as a "blatantly political" effort by the White House to establish a legal footing for it.

Administration officials "can say over and over and over again that it's lawful - as if the American people will believe it if you say it often enough," Mr. Cole said.

The question of the N.S.A. operation's legality will probably be settled not in the court of public opinion, but in a court of law.

Several challenges have been lodged in civil and criminal cases over the eavesdropping program. In one case, an appeal of the criminal conviction of Ali al-Timimi on terrorism charges in Northern Virginia, the United States Court of Appeals for the Fourth Circuit agreed on Tuesday to halt appellate proceedings because of "outstanding issues" raised earlier this month by Dr. Timimi's lawyers, including the possibility that the surveillance program was used to monitor the conversations of Dr. Timimi, a fiery scholar.

"This is an important step," said Jonathan Turley, a critic of the program who is representing Dr. Timimi.

If the appellate court agrees to send the case back to the trial court to explore the surveillance program issue, Mr. Turley said, "the government would have to establish whether Dr. Al-Timimi was intercepted under this or any other undisclosed operation, and the court could have to look at the legality of the whole operation."

But Mr. Gonzales, in his speech, cited the arc of history in justifying an expansive view of presidential power. He said the country's "long tradition of wartime enemy surveillance," often without warrants, was seen in numerous historical precedents, including George Washington's interception of mail between the British and Americans, telegraph wiretapping in the Civil War,

Woodrow Wilson's order in World War I to intercept cable communications between Europe and the United States and Franklin Roosevelt's order after the bombing of Pearl Harbor to intercept all communications traffic into and out of the United States.

Mr. Gonzales said that government lawyers had carefully reviewed the N.S.A. program numerous times. It was found to be legal, he said, under both the president's inherent constitutional authority as commander in chief and under a resolution passed by Congress in the days after the Sept. 11 attacks that authorized Mr. Bush to use "all necessary and appropriate force" against those responsible.

A report by the nonpartisan Congressional Research Service earlier this month, however, called that particular claim into question, suggesting that Congress never intended to give the president power to order wiretaps without a warrant.

The attorney general also offered a more detailed explanation of why the administration felt the need to bypass the Foreign Intelligence Surveillance Court, created in the aftermath of Watergate with the "exclusive" charge to administer wiretaps in foreign intelligence investigations.

Mr. Gonzales said that even under an emergency wiretap application, which allows the government to go to the court retroactively 72 hours after beginning a wiretap, the system might not work quickly enough in all cases.

Intelligence officers "would have to get the sign-off of lawyers at the N.S.A. that all provisions of F.I.S.A. have been satisfied, then lawyers in the Department of Justice would have to be similarly satisfied, and finally as attorney general I would have to be satisfied that the search meets the requirements of F.I.S.A.," he said. "And then we would have to be prepared to follow up with a full F.I.S.A. application within the 72 hours."

The surveillance program, he said, "requires the maximum in speed and agility."

"Even a very short delay may make the difference between success and failure in preventing the next attack," he said.

Gonzales Defends Domestic Spying (REU-Y2)

By Deborah Charles

Reuters, January 25, 2006

Attorney General Alberto Gonzales defended President George W. Bush's domestic eavesdropping program as lawful on Tuesday, in the latest attempt by the administration to counter criticism of the surveillance adopted after the September 11 attacks.

Gonzales faced critics head-on during his speech at the Georgetown University Law Center, when a group of students donned black hoods and held a sign in protest while others stood silently with their backs to Gonzales as he spoke.

Acknowledging that not everyone agreed with the National Security Agency spying program, Gonzales denied that Bush was violating laws by authorizing the NSA to monitor international phone calls and e-mails by Americans suspected of links to terrorism without the approval of a special, secret court.

"From the outset, the Justice Department thoroughly examined this program against al Qaeda and concluded that the president is acting within his power in authorizing it," said Gonzales, who did not stop speaking while about 20 protesters stood with their backs to him. "These activities are lawful."

Critics say the program violates the U.S. Constitution and a 1978 law, the Foreign Intelligence Surveillance Act or FISA, which makes it illegal to spy on U.S. citizens in the United States without the approval of the special court.

News of the covert spying program sparked an outcry by Democrats and Republicans, with many lawmakers and rights groups questioning its legality. Gonzales is due to testify on the matter at a Senate hearing on February 6.

Gonzales said Bush has inherent constitutional powers to conduct warrantless surveillance to detect or prevent an attack. He also said a resolution passed by the U.S. Congress after September 11 authorizing the use of military force gave Bush the right to approve the eavesdropping.

"The NSA's focused terrorist surveillance program falls squarely within the broad authorization of the (congressional) resolution even though, as some have argued, the resolution does not expressly mention surveillance," he said.

Senate Democratic Leader Harry Reid disagreed and accused the administration of playing politics with national security.

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"If the president wanted to expand the authority he already has to wiretap anyone who might be communicating with terrorists then he should have come to the Congress to get that authority," Reid said in a statement. "The president needs to explain why his current authority was not good enough."

Gonzales said the NSA program was necessary because it was more agile than FISA and allowed for quick action.

"We have to remember that we're talking about a wartime foreign intelligence program," Gonzales said. "It is imperative for national security reasons that we can detect reliably, immediately and without delay whenever communications associated with al Qaeda enter or leave the United States.

"We all agree that there should be appropriate checks and balances on our branches of government," he said. "But ... the terrorist surveillance program operated by the NSA requires the maximum in speed and agility, since even a very short delay may make the difference between success and failure in preventing the next attack."

Gonzales Seeks To Reframe NSA Surveillance (AP-Y2)

By Pete Yost

AP2, January 25, 2006

Attorney General Alberto Gonzales offered additional defenses of President Bush's domestic spying program on Tuesday, as the administration tried to redefine the warrantless surveillance in a way that undermines critics.

Speaking to students at Georgetown University law school, Gonzales said a 15-day grace period allowing warrantless eavesdropping under the Foreign Intelligence Surveillance Act demonstrates that Congress knew such surveillance "would be essential in wartime."

Gonzales was supplying legal arguments to the president's comments Monday that the effort should be called a "terrorist surveillance program."

Confronting Gonzales during his nearly half-hour speech were more than a dozen young people in the audience who turned their backs to him and held up for a banner for television cameras. The banner, loosely based on a Benjamin Franklin quote, read: "Those who would sacrifice liberty for security deserve neither."

Before his appearance at Georgetown, Gonzales said in a television interview that some congressional leaders told the administration in 2004 that it would not be possible to write legislation regarding the warrantless surveillance effort without compromising its effectiveness.

"We did go to certain members of the congressional leadership a year and a half ago," Gonzales said on CBS's "The Early Show."

During his remarks in a packed law school lecture room at Georgetown, the attorney general also said the legal standard the administration uses in deciding whether to carry out surveillance on people with suspected al-Qaida ties is equivalent to the standard required for complying with the Fourth Amendment, which bans unreasonable searches and seizures.

The reasonable basis standard, said Gonzales, "is essentially the same as the traditional Fourth Amendment probable cause standard."

Stephen Saltzburg, a law professor at George Washington University, said that Gonzales' comments do not explain why the administration doesn't go to the Foreign Intelligence Surveillance Court to obtain warrants.

"If they are using a probable cause standard, they would have no problem going to the FISA court," said Saltzburg. "The executive might think there's a reasonable basis. Courts might not agree."

Georgetown University law professor David Cole said the reasonable basis standard is not equivalent to probable cause.

Moreover, said Cole, Gonzales' comments seem to conflict with those on Monday by Air Force Gen. Michael Hayden, principal deputy director of national intelligence.

Hayden said that when weighing whether to proceed with surveillance under the president's program, "the trigger is quicker and a bit softer than it is" with FISA.

Justice Department spokeswoman Tasia Scolinos said there is no conflict between the statements of Gonzales and Hayden and that "it is really just a matter of speed; as the AG said, the standards are essentially the same."

In his address, Gonzales said, "I keep hearing, 'Why not FISA?' Why didn't the president get orders from the FISA court?

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"It is imperative for national security that we can detect reliably, immediately and without delay whenever communications associated with al-Qaida enter or leave the United States."

Gonzales told his audience: "You may have heard about the provision of FISA that allows the president to conduct warrantless surveillance for 15 days following a declaration of war. That provision shows that Congress knew that warrantless surveillance would be essential in wartime."

Sharply disagreeing, George Washington University law professor Jonathan Turley said FISA's purpose "was never to grant warrantless surveillance for the war."

"While Congress saw some need to loosen the standard in the initial days of a war, it wanted the president to comply with FISA in carrying out surveillance in the United States," Turley said.

The attorney general said the program is limited in scope, and he blamed the news media for suggesting otherwise.

"These press accounts are in almost every case, in one way or another, misinformed, confusing or wrong," said Gonzales. "And unfortunately, they have caused concern over the potential breadth of what the president has actually authorized."

Gonzales Defends Secret Surveillance (WT)

By Joseph Curl

The Washington Times, January 25, 2006

Attorney General Alberto R. Gonzales yesterday defended President Bush's secret electronic surveillance program, saying presidential powers inherent in the Constitution override a 1978 law requiring the government to obtain warrants for wiretaps.

In a detailed case supporting the covert National Security Agency program, the attorney general also said a special court set up to hand down secret warrants could not be used -- even with a provision for so-called "emergency authorizations."

"The American people are, however, asking two important questions: Is this program necessary? And is it lawful? The answer to each is yes," Mr. Gonzales said in a speech at a Georgetown University Law Center forum.

Some Democrats contend the president overstepped his authority. On Monday, Howard Dean, chairman of the Democratic National Committee, went further, saying, "The question remains: why did President Bush deliberately choose to break the law? "

Mr. Gonzales is expected to be among the first witnesses to testify when the Senate opens hearings on the matter Feb. 6.

"Presidents have uniformly relied on their inherent power to gather foreign intelligence for reasons both diplomatic and military, and the federal courts have consistently upheld this long-standing practice," he said.

Mr. Gonzales discussed the 1978 Foreign Intelligence Surveillance Act, which created a special court to authorize secret surveillance or searches of foreigners and U.S. citizens suspected of terrorism or espionage. The court is "the exclusive means by which electronic surveillance ... and the interception of wire and oral communications may be conducted," says one section of the law.

Mr. Gonzales, however, said the court could not have been used in this instance because the law "requires the attorney general to determine in advance that a FISA application for that particular intercept will be fully supported and will be approved by the court before an emergency authorization may be granted.

"That review process can take precious time."

Mr. Gonzales said the court stated in 2002 that "[w]e take for granted that the president does have that [inherent] authority" and, "assuming that is so -- could not encroach on the president's constitutional power."

FISA also says "that the government cannot engage in electronic surveillance 'except as authorized by statute,' " Mr. Gonzales said. "And, in this case, that other statute is the force resolution" passed by Congress three days after the September 11 attacks.

The resolution gave Mr. Bush power "to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks," Mr. Gonzales said.

Mr. Bush said the resolution meant that "Congress gave me additional powers to use force, but it didn't prescribe the tactics."

Gonzales: Domestic Spying Standard 'essentially The Same' As Probable Cause (AP)

By Pete Yost, ASSOCIATED PRESS

DOJ_NMG_0011156

AP, January 24, 2006

WASHINGTON – Attorney General Alberto Gonzales offered additional defenses of President Bush's domestic spying program on Tuesday, as the administration tried to redefine the warrantless surveillance in a way that undermines critics.

Speaking to students at Georgetown University law school, Gonzales said a 15-day grace period allowing warrantless eavesdropping under the Foreign Intelligence Surveillance Act demonstrates that Congress knew such surveillance "would be essential in wartime."

Gonzales was supplying legal arguments to the president's comments Monday that the effort should be called a "terrorist surveillance program."

Confronting Gonzales during his nearly half-hour speech were more than a dozen young people in the audience who turned their backs to him and held up for a banner for television cameras. The banner, loosely based on a Benjamin Franklin quote, read: "Those who would sacrifice liberty for security deserve neither."

Before his appearance at Georgetown, Gonzales said in a television interview that some congressional leaders told the administration in 2004 that it would not be possible to write legislation regarding the warrantless surveillance effort without compromising its effectiveness.

"We did go to certain members of the congressional leadership a year and a half ago," Gonzales said on CBS's "The Early Show."

During his remarks in a packed law school lecture room at Georgetown, the attorney general also said the legal standard the administration uses in deciding whether to carry out surveillance on people with suspected al-Qaeda ties is equivalent to the standard required for complying with the Fourth Amendment, which bans unreasonable searches and seizures.

The reasonable basis standard, said Gonzales, "is essentially the same as the traditional Fourth Amendment probable cause standard."

Stephen Saltzburg, a law professor at George Washington University, said that Gonzales' comments do not explain why the administration doesn't go to the Foreign Intelligence Surveillance Court to obtain warrants.

"If they are using a probable cause standard, they would have no problem going to the FISA court," said Saltzburg. "The executive might think there's a reasonable basis. Courts might not agree."

Georgetown University law professor David Cole said the reasonable basis standard is not equivalent to probable cause.

Moreover, said Cole, Gonzales' comments seem to conflict with those on Monday by Air Force Gen. Michael Hayden, principal deputy director of national intelligence.

Hayden said that when weighing whether to proceed with surveillance under the president's program, "the trigger is quicker and a bit softer than it is" with FISA.

Justice Department spokeswoman Tasia Scolinos said there is no conflict between the statements of Gonzales and Hayden and that "it is really just a matter of speed; as the AG said, the standards are essentially the same."

In his address, Gonzales said, "I keep hearing, 'Why not FISA?' Why didn't the president get orders from the FISA court?

"It is imperative for national security that we can detect reliably, immediately and without delay whenever communications associated with al-Qaeda enter or leave the United States."

Gonzales told his audience: "You may have heard about the provision of FISA that allows the president to conduct warrantless surveillance for 15 days following a declaration of war. That provision shows that Congress knew that warrantless surveillance would be essential in wartime."

Sharply disagreeing, George Washington University law professor Jonathan Turley said FISA's purpose "was never to grant warrantless surveillance for the war."

"While Congress saw some need to loosen the standard in the initial days of a war, it wanted the president to comply with FISA in carrying out surveillance in the United States," Turley said.

The attorney general said the program is limited in scope, and he blamed the news media for suggesting otherwise.

"These press accounts are in almost every case, in one way or another, misinformed, confusing or wrong," said Gonzales. "And unfortunately, they have caused concern over the potential breadth of what the president has actually authorized."

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Gonzales Says Spying Program Is Necessary And Lawful (Update1) (BLOOM)

By Robert Schmidt

Bloomberg, January 25, 2006

Jan. 24 (Bloomberg) -- The Bush administration's domestic spying effort is needed to prevent terrorist attacks in the U.S., Attorney General Alberto Gonzales said in seeking to counter criticism of the program.

Gonzales, speaking at Georgetown University's law school in Washington, argued that President George W. Bush had authority from Congress and the Constitution to set up the program. About 25 law students silently protested during the half-hour speech, turning their backs on Gonzales and holding up a sign saying: ``Those Who Would Sacrifice Liberty for Security Deserve Neither."

Gonzales didn't acknowledge the students, several of whom put black pillowcases over their heads. The attorney general cited new threats by al-Qaeda leader Osama Bin Laden and said Bush would continue to authorize the eavesdropping to protect U.S. citizens.

``This administration has chosen to act now to prevent the next attack, rather than wait until it is too late," Gonzales said. ``It is hard to imagine a president who wouldn't elect to use these tools in defense of the American people. In fact, I think it would be irresponsible to do otherwise."

Gonzales's speech continued a Bush administration offensive this week to defend and bolster support for the classified program, which allows the monitoring of international phone calls and e-mails originating in the U.S. without the approval of a federal court. Bush said yesterday the eavesdropping is needed to look into the ``dark corners" of the world where terrorists hide.

Hearings Planned

The Senate Judiciary Committee has scheduled hearings for next month on the spying and whether it violates a 1978 federal law that set up a special court to authorize domestic surveillance for foreign intelligence purposes. Gonzales is slated to testify before the committee on the legal authority for the program.

Last week, the Justice Department sent members of Congress a 42-page analysis saying Bush has the legal authority to conduct the wiretapping under his constitutional role as commander-in- chief and under the resolution passed by Congress authorizing military force after the Sept. 11 attacks.

Today, Gonzales said that press reports on the still- classified program are ``in almost every case, in one way or another, misinformed, confusing or wrong." He said the media has caused concern about the breadth of the spying.

The program, Gonzales said, is ``narrowly focused" and is only used to monitor communications of members or suspected members of al-Qaeda and other terrorist groups.

US Attorney General Defends Domestic Spying (VOA)

By Jim Malone

Voice of America, January 24, 2006

The Bush administration is making an aggressive effort this week to defend a domestic spying program being carried out by the National Security Agency. But critics of the program are not backing down, insisting that the president broke the law by authorizing domestic eavesdropping without first obtaining a court warrant.

Alberto Gonzales On Tuesday, Attorney General Alberto Gonzales said the surveillance program targets communications with suspected terrorists and is critical to preventing a repeat of the 2001 terrorist attacks on the United States.

"This administration has chosen to utilize every necessary and lawful tool at its disposal," he said. "It is hard, quite frankly, to imagine a president, any president, who would not elect to use these tools in defense of the American people. In fact, I think it would be irresponsible to do otherwise."

President Bush authorized the National Security Agency to monitor suspected terrorist communications shortly after the 2001 terrorist attacks.

"If they are making phone calls into the United States, we need to know why, to protect you," he said.

But in doing so, the president bypassed a 1978 domestic surveillance law that requires the government to obtain a court warrant before it can begin eavesdropping on American citizens or resident aliens.

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Critics contend the president broke the law by using the National Security Agency to eavesdrop without a court warrant.

"What the White House did, what the president did, is just go ahead and make up his own law here without the authority of the United States government," said Senator Russ Feingold, a Democrat from Wisconsin.

Some Republicans have also expressed concerns that the domestic spying program may be a threat to civil liberties.

"Let us have the administration come to Congress," said John McCain, a Republican Senator from Arizona. "I think they will get that authority, whatever is reasonable and needed, and increased abilities to monitor communications are clearly in order."

Several recent polls suggest the public is about evenly split over the question of whether domestic eavesdropping without court permission is justified as part of the war on terror.

But the president's chief political strategist, Karl Rove, recently told a Republican audience that he believes the domestic spying program will help Republicans in this year's congressional midterm elections.

"Republicans have a post 9/11 view of the world and Democrats have a pre 9/11 view of the world," he said. "That does not make them unpatriotic, not at all. But it does make them wrong, wrong deeply and profoundly and consistently."

Political experts agree that the public is divided on the spying program and they predict it could be an election issue in November.

"A majority of Americans living today, a surprisingly small majority because of the large youthful population, still remembers Watergate," said Larry Sabato, who directs the Center for Politics at the University of Virginia. "And when we hear the word eavesdropping, those of us who lived during Watergate, we think of the nefarious activities of the Nixon administration."

The Senate will hold hearings on the domestic spying program in early February.

Toobin, Ensor: Look For Political Solution On Wiretaps (CNN)

CNN.com, January 25, 2006

(CNN) -- The White House has begun a new push to justify a controversial domestic spying program that allows the National Security Agency to eavesdrop on conversations to or from the United States without obtaining a court warrant.

Attorney General Alberto Gonzales defended the procedure in a speech Tuesday, and President Bush will visit the secretive agency later this week. But many Democrats and some Republicans, including Sen. Arlen Specter, the Senate Judiciary Committee's chairman, question whether the White House could order domestic spying legally.

CNN senior legal analyst Jeffrey Toobin and national security correspondent David Ensor discussed the legal and political arguments Tuesday with CNN anchor Miles O'Brien on "American Morning."

O'BRIEN: First, let's listen to the attorney general just a little while ago. (Video of Alberto Gonzales: "I would challenge anyone who is saying that to look at the analysis of the Supreme Court in the Hamdi decision regarding their interpretation of the authorization to use military force. And what they say that authorization allows the president to do, which is to engage in all activities that are fundamentally incidental to waging war. And engaging in electronic surveillance of the enemy is a fundamental incident of waging war.")

O'BRIEN: [He says] a fundamental incident of waging war. Now, it doesn't spell it out, but it doesn't say you can't do it. [It] seems a little vague to me.

TOOBIN: It is a little vague. And the administration's problem is though they have vague authorization for waging war either in the Hamdi decision or in the authorization granted to the administration by Congress after 9/11 to attack Afghanistan.

The problem is there's this law called FISA, the Foreign Intelligence Surveillance Act, which specifically addresses exactly the activity that is at issue here -- wiretapping phone calls from the United States to a foreign country or vice versa from the foreign country to the United States.

And that specifically calls for going to this court and getting a warrant. That's what they seem to be trying to get around, and I think the consensus view is, although it's not 100 percent, is that the administration's position here is pretty weak.

O'BRIEN: It is clear it is a get-around FISA. We're going to talk a little bit more about that, but I want to bring David in here because yesterday I was fascinated by Gen. Mike Hayden, who at one time headed NSA [and] still remains one of the nation's top spies. He had a long and rather contentious Q&A where he was defending this program as best he could without violating, you know, security clearances and so forth. But listen to this one point he made here. (Video of Hayden: "Had this program been in

effect prior to 9/11, it is my professional judgment that we would have detected some of the 9/11 al Qaeda operatives in the United States, and we would have identified them as such."

O'BRIEN: All right, let me ask you this, David. I read the 9/11 commission report. I thought we had identified some of the 9/11 conspirators. We just weren't able to connect the dots and paint the picture. When the general says that -- should we just take that at face value? What do you think?

ENSOR: Well, he says it's the case, and he's an expert on signals intelligence, so it certainly has some weight to it. But, you know, if the administration wants to make that argument, they're probably going to have to come up with a little more evidence, and the problem is all of this is so secret that it's very difficult for them to do that.

O'BRIEN: It's a bit of a conundrum, isn't it?

ENSOR: Yes.

O'BRIEN: But when they say that ... we could have stopped 9/11, I mean, it's difficult to -- how do you respond if you don't have those clearances, you know?

ENSOR: Well that's the problem. All of this is so top secret that they've had to very carefully frame their arguments to be able to say something publicly in favor of them. And it's a problem for Hayden, it's a problem for anyone who wants to talk about this, including us.

O'BRIEN: All right, listening to -- go ahead, you want to pick up?

TOOBIN: I just think the fundamental issue here is this is much more political than it is legal or even national security at this point, because there is not going to be a definitive resolution.

You know, Arlen Specter says it's not authorized. The president says it is authorized. There is no case before the Supreme Court, and there's unlikely ever to be a case before the Supreme Court because there is no individual who knows he was tapped who can file a lawsuit. So the question is really, does Congress get upset about this? Does the president successfully defend it? But in terms of a definitive judgment, we're just not going to get one.

O'BRIEN: Here's the thing on the FISA courts, Jeff. In Listening to Gen. Hayden yesterday, it has a provision where you can tap somebody right away and then within 72 hours, go see a judge and get it signed, sealed and delivered.

The concern is that some of these taps don't meet the level of probable cause, in other words, wouldn't rise to the bar of getting in court in the first place. They're reasonable, and that is where there's a lot of judgment made by people, shift supervisors at the National Security Agency. Is that [an] admission that they're circumventing the law?

TOOBIN: Well, it seems to be. And Congress passed the law in 1978 because they didn't want wiretapping unless there was the level of suspicion specified in the law. Congress could have -- I mean, the administration could have gone to Congress and said, "You know, we think it's important, we need to change the law." ... They could have asked for this then. They didn't, which ... I think damages their position.

O'BRIEN: All right, final thought, David Ensor. One of the other things the general said yesterday, essentially he said, "Look, these are people like you and me who work at the NSA. They're good Americans, they hold very dear the Constitution, particularly the Fourth Amendment, which is applicable in all of this. You got to trust us." You know these people. Should we trust them?

ENSOR: You know, on balance, they're good people. I've met a lot of the people who work at the NSA and who do this kind of work, and they're admirable Americans.

The problem is though our system of government says that there are supposed to be checks and balances. And the question will be whether or not a judge or a court shouldn't at least have some kind of oversight of this program.

Even those, the lawyers that I've talked to privately in the government who worked on the government's arguments for this will privately tell you they expect the FISA law to be amended, and they expect this kind of surveillance to probably be brought under it when all the smoke and fire dies down.

ACLU Seeks Government Information On Alleged Spying In Ohio (AP)

By M.r. Kropko

AP, January 25, 2006

CLEVELAND - The American Civil Liberties Union of Ohio requested information Tuesday from the government about whether it spied on two anti-war groups and an attorney for a man suspected of terrorism connections.

ACLU officials said at news conference that members of the anti-war groups want to know whether two meetings were attended by government agents. One meeting was last year in Akron by the Northeast Ohio American Friends Service Committee, a Quaker organization, and the another was in 2004 in Cleveland by the Northeast Ohio Anti-War Coalition.

The ACLU filed Freedom of Information Act requests with the Department of Defense, Justice Department, the FBI and police seeking records that document any collection of information about the groups.

Gary Daniels, the ACLU's litigation coordinator, said the ACLU became involved because the groups were included on a Defense Department classified database of information about suspicious people and activity inside the United States as reported by NBC News.

The ACLU also requested information about several people, including Akron lawyer Farhad Sethna, based on his association with the American Friends Service Committee. Sethna said he hopes the request will shed light on whether the government spied on his conversations with a client, Ashraf Al-Jailani, who recently was sent back to his native Yemen after being jailed three years on suspicions that he associated with suspected terrorists.

"The only way we would be involved in gathering specific or credible information was if a group was involved in criminal activity," FBI spokesman Bill Carter said.

A message was left for Department of Defense spokesman Greg Hicks. Justice Department spokesman Brian Roehrkasse declined comment.

"I want to ensure that the government has respected my attorney-client privilege, and if proof is found that the government has violated this privilege, then I will take every step permitted under the law," Sethna said in an e-mail message.

Jeffrey Gamso, Ohio AFL-CIO legal director, said he wants to find out whether the Defense Department's Counterintelligence Field Activity database has records of other Ohio groups or individuals and if ACLU meeting rooms were bugged.

"Of course I suspect that they are going after Farhad (Sethna) in part because of his representation of Al-Jailani. That's not the basis in which we are pursuing these things today. We are just acting on what we have gleaned so far," Gamso said.

Two federal lawsuits filed Jan. 17 allege that President Bush's electronic eavesdropping program exceeds his constitutional powers. The lawsuits - one filed in New York by the Center for Constitutional Rights and the other in Detroit by the American Civil Liberties Union and other groups - say the program bypasses safeguards in a 1978 law requiring court approval of electronic monitoring.

Attorney General Alberto Gonzales, speaking Tuesday at Georgetown Law School, defended the Bush administration's domestic spying program. He said surveillance without warrants falls within Bush's constitutional authority that Congress granted following the Sept. 11, 2001 terrorist attacks and is critical to preventing more domestic attacks.

Going Around The FISA Court (ABC)

By JASON RYAN

ABC News, January 25, 2006

Jan. 24, 2006 — Behind a red sign that reads "Court Chambers" and through a series of electronically sealed doors lies a secret court that has approved wiretaps that target terrorists and foreign agents since 1979.

Domestic wiretaps have traditionally been approved by the secretive Foreign Intelligence Surveillance Court located on the sixth floor of the Justice Department. Known as the FISA Court, it has handled the most sensitive domestic wiretaps in national security investigations since it was set up under the 1978 Foreign Intelligence Surveillance Act.

In the wake of the Sept. 11 attacks, President Bush, White House attorneys and lawyers from the Justice Department and National Security Agency authorized a program that allowed wiretaps to be approved without the FISA Court knowing. The FISA Court had approved domestic wiretaps with warrants authorized by a federal judge after reviewing information presented by the FBI and the Justice Department's Office of Intelligence Policy and Review.

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Internal Justice Department audits by the inspector general show that FISA warrants take anywhere from hours to weeks to get approved. After the 9/11 attacks, senior intelligence officials pushed for greater speed to intercept terrorist communications.

Need For Speed

Bush approved the controversial eavesdropping program, referred to in recent days as the terrorist surveillance program, months after the 9/11 attacks and allowed the National Security Agency to perform warrantless electronic surveillance of suspected al Qaeda subjects in the United States. One reason the program was so important, government lawyers claimed, was the urgent need to intercept al Qaeda communications in the interest of preventing further terrorist attacks.

This intercepted information could come from cell phones or e-mails used by suspected terrorists. Intelligence officials know what channels to listen in on from cell phones and laptop computers that had been recovered from al Qaeda detainees, such as 9/11 mastermind Khalid Shaikh Mohammed.

"The optimal way to achieve the necessary speed and agility is to leave the decisions about particular intercepts to the judgment of professional intelligence officers, based on the best available intelligence information." Attorney General Alberto Gonzales said Tuesday before a forum at the Georgetown Law School.

"You may have heard about the provision of FISA that allows the president to conduct warrantless surveillance for 15 days following a declaration of war," he said. "That provision shows that Congress knew that warrantless surveillance would be essential in wartime."

FISA Process: Probable Cause

To get a FISA wiretap the FBI must show probable cause to believe the target of the surveillance is a foreign agent or suspected terrorist. Once the FBI believes it can show probable cause, it has completed the first step of the application to a FISA Court judge.

The application includes three documents, including the request for the wiretap, a certification by the FBI director or executive branch official that states that the information cannot be obtained through normal investigative tactics, and an affidavit from an FBI supervisory special agent that contains a statement of fact on the target of the surveillance.

Once these documents are in order, they are brought to the Justice Department for review by Justice Department attorneys before the application is taken to the FISA Court, where it is presented to a federal judge. Currently 10 federal judges, who serve in judicial districts across the nation, sit on the FISA Court on a rotating basis. One judge, James Robertson, resigned shortly after the NSA program was first reported in the media.

According to government lawyers, some intelligence officials believed they needed greater speed and flexibility than the FISA process allowed. The NSA program was designed to quickly intercept critical al Qaeda communications that warned of an impending attack.

"If those same intelligence officers had to navigate through the FISA process for each of these intercepts," Gonzales said, "that would necessarily introduce a significant factor of delay, and there would be critical holes in our early warning system."

Deputy Director of National Intelligence Michael Hayden said earlier in the week: "The trigger is quicker and a bit softer than it is for a FISA warrant, but the intrusion into privacy is also limited: [It includes] only international calls and only those we have a reasonable basis to believe involve al Qaeda or one of its affiliates."

According to Justice Department officials, a bulk of the intercepts obtained under the Terrorist Surveillance Project would not fall under the FISA law. Georgetown University law professor David Cole said that's because the Justice Department "wants to do [the program] on less than probable cause."

Despite the establishment of this eavesdropping program, counterterrorism officials continue to aggressively seek wiretaps under the FISA process, increasing the number of FISA applications before the court by 85 percent since 2001. In 2004, the Justice Department applied for 1,758 FISA warrants compared with 934 warrant requests in 2001.

According to sources familiar with the FISA process, judges on the court often request more information or more details about the targeted communication (i.e.: phone or e-mail). In 2004, the court recommended 94 "substantive modifications" to applications presented by the government.

The FBI works closely with the CIA and NSA on designating terrorist suspects it believes should be monitored under the FISA process. Although the FISA procedure has been heavily criticized because of the secrecy of the FISA Court, the recent

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disclosures of the NSA program have outraged some civil libertarians and privacy advocates. Under the FISA procedure, a judge ultimately makes the decision to approve a wiretap, not an official at the NSA.

The judges currently serving the FISA Court were briefed by NSA and Justice Department officials on the program earlier in the month in a three-hour meeting at the Justice Department.

Inside Politics (WT)

By Greg Pierce

The Washington Times, January 25, 2006

Stop the presses

ABC News reporter Brian Ross reports that Justice Antonin Scalia missed the September swearing-in of John G. Roberts Jr. as the new chief justice of the United States because Justice Scalia had a prior commitment to attend a legal seminar sponsored by the Federalist Society at a resort in Bachelor Gulch, Colo.

Mr. Ross, the network's chief investigative reporter, apparently was eager to pin something scandalous on the justice in his story at www.abcnews.go.com. He came up with this:

"One night at the resort, Scalia attended a cocktail reception, sponsored in part by the same lobbying and law firm where convicted lobbyist Jack Abramoff once worked."

Mr. 'Nonpartisan'

Hill Democrats and the so-called mainstream media have made much of a recent Congressional Research Service report that asserted President Bush had violated the law by allowing the National Security Agency to eavesdrop on phone calls to the United States from suspected terrorists overseas.

In fact, Democrats such as New York Sens. Charles E. Schumer and Hillary Rodham Clinton, as well as most media outlets, have practically grafted the word "nonpartisan" to the front end of that agency's name.

However, this is Washington, and nothing is quite that simple. What you probably haven't heard is that the author of the report, Alfred Cumming, is a registered Democrat who served as staff director for the Senate's Select Committee on Intelligence under since-retired Sen. Bob Graham, Florida Democrat.

And you probably haven't heard that in December the "nonpartisan" Mr. Cumming also authored a 15-page memo for the Congressional Research Service that shored up Democrats' claims that President Bush lied about pre-Iraq war intelligence.

That earlier report said the president and his most senior advisers have access to "a far greater overall volume of intelligence and to more sensitive intelligence Information" than Congress.

The "nonpartisan" Mr. Cumming contributed $1,250 to Sen. John Kerry's 2004 presidential campaign, according to the Web site www.tray.com.

Rendell's rebuke

Pennsylvania Gov. Ed Rendell, a former chairman of the Democratic National Committee, expressed disappointment yesterday in how some Democratic senators treated Judge Samuel A. Alito Jr. during recent confirmation hearings for the nominee to the Supreme Court.

"I wasn't pleased. Certainly, some [Democratic senators] did well and some didn't. I wasn't pleased at the nitpicking," Mr. Rendell told the Fox News Channel's Bill Hemmer.

"I believe he's a qualified judge. He sits on the 3rd Circuit Court of Appeals in Philadelphia. I don't know if you know this, Bill: My wife is a 3rd Circuit Court judge," Mr. Rendell said.

He added: "She has a high opinion of his integrity and his academic standards. She doesn't agree with him on a number of cases and agrees with him on some. ... As long as the Supreme Court justice is appointed who has high academic qualifications, significant integrity -- and Judge Alito certainly does -- we should confirm him, regardless of our disagreement on the way he may interpret one aspect of the law. I think we've fallen into just such partisanship in D.C.; not just in this, but in so many things, it's in some way ways tearing the country apart."

Knocking the troops

"I don't support our troops," Los Angeles Times columnist Joel Stein writes.

"If you think invading Iraq was a good idea, then by all means, support away. Load up on those patriotic magnets and bracelets and other trinkets the Chinese are making money off of," Mr. Stein said.

"But I'm not for the war. And being against the war and saying you support the troops is one of the wussiest positions the pacifists have ever taken -- and they're wussy by definition. It's as if the one lesson they took away from Vietnam wasn't to avoid foreign conflicts with no pressing national interest, but to remember to throw a parade afterward."

Mr. Stein said U.S. troops are engaged in an immoral struggle, "signing up to be a fighting tool of American imperialism."

"The truth is that people who pull triggers are ultimately responsible, whether they're following orders or not. An army of people making individual moral choices may be inefficient, but an army of people ignoring their morality is horrifying. An army of people ignoring their morality, by the way, is also Jack Abramoff's pet name for the House of Representatives."

'Whistleblowers'

"A former Defense Department analyst was sentenced to a harsh 12½ years in prison Friday for disclosing classified information. That ought to get the attention of the person or persons who leaked the existence of the National Security Agency's highly classified wiretapping program to the New York Times," the Wall Street Journal says.

"Especially so since in sentencing Lawrence Franklin, the judge explicitly rejected a good-intentions defense. At Friday's hearing, federal Judge T.S. Ellis III agreed with Mr. Franklin's statement that he did not intend to damage the U.S. by revealing government secrets to two employees of a pro-Israel lobbying group and an Israeli Embassy official," the newspaper said in an editorial.

"Mr. Franklin, who pleaded guilty in October, thought U.S. policy ought to be tougher on Iran, which he followed for the Pentagon. He said that he disclosed the classified information because he was 'frustrated' with the direction of government policy and thought he could influence it through 'back channels.' Supporters of the NSA-wiretap leakers likewise argue that it's OK to reveal classified data as long as you believe you are in the moral right and that the public would benefit from disclosure. The word for this supposedly virtuous action is 'whistleblower.'"

Pundits vs. critics

First, it was movie stars like Barbra Streisand and Sean Penn pretending to be political pundits.

Perhaps inspired by this example, political pundits decided to become movie critics. The movie critics apparently didn't appreciate the competition, and so now famous critic Roger Ebert's Web site (www.rogerebert.com) is taking to task two conservative commentators for their taste in films.

In a column by Mr. Ebert's editor, Jim Emerson, visitors to the site are asked to "try to guess which of two venomous, blonde-tressed scribes wrote blurbs about contemporary movies that may or may not have been used in the ad campaigns. Is it Ann Coulter? Or Debbie Schlussel? Or does it matter?" This is followed by excerpts of comments about such movies as "Brokeback Mountain," "Munich," and "Good Night and Good Luck," by Miss Coulter and Miss Schlussel.

Distrust Of NSA Has Roots In '70s (CSM)

By Peter Grier

The Christian Science Monitor, January 25, 2006

WASHINGTON - Hours after the attacks of Sept. 11, top National Security Agency officials paid a calming visit to the NSA's counterterrorism office. Workers there were emotionally wrought, due to both the stress of the day and the counterterror division's location - the vulnerable top of a high-rise at NSA's suburban Maryland location.

By the afternoon, they had recovered and were defiantly tacking up blackout curtains to mask their location, according to Lt. Gen. Michael Hayden, then the NSA's director.

Now the NSA is being roiled by political controversy over charges that it is illegally eavesdropping on Americans. President Bush is scheduled to visit the agency Wednesday as part of a week-long effort to defend a program the administration claims is both legal and crucial in the fight against terror.

If nothing else, the uproar is adding another chapter to the history of an arm of the government that has been derided and lauded by turns ever since the US government first publicly acknowledged its existence.

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In the 1970s, for instance, the NSA drew intense criticism for its role in spying on critics of the Vietnam War and other political opponents of the Nixon administration.

But that sort of subversive behavior isn't what is at issue today, notes one administration critic. "No one is suggesting the NSA is monitoring Hillary Clinton," says Steven Aftergood, director of the Project on Government Secrecy at the Federation of American Scientists.

Founded by order of President Truman in 1952, the NSA is today headquartered at Fort Meade, an Army reservation that sits near the midpoint of the Baltimore-Washington Parkway.

In the NSA's early years, the US government did not publicly acknowledge it. NSA stood for "no such agency," joked its employees.

That changed with the 1973-76 investigations of US intelligence abuses by Sen. Frank Church (D) of Idaho. The NSA had kept a "watch list" of US citizens and organizations whose foreign communications it intercepted, it turned out. The NSA had also kept copies of most telegrams sent from the United States to foreign countries.

The response to these revelations was the 1978 Foreign Intelligence Surveillance Act, or FISA - a law that set judicial procedures for requesting electronic surveillance of persons thought to be engaged in espionage or terrorism against the US.

Today the NSA is in the curious position of being both secretive and famous. Its work remains so closely held that its director seldom appears in public. Yet it has starred (as the villain) in at least one recent feature-length movie, "Enemy of the State." The NSA itself, perhaps to bolster its image, has created a website for children, which features the Cryptokids, an assortment of cartoon animal characters who, in games, carry out code-breaking assignments and other espionage activities.

Following the fall of the Berlin Wall, and the loss of the agency's cold-war mission of eavesdropping on everything from Soviet missile telemetry to the car-phone calls of Kremlin leaders, the NSA lost about one-third of its budget, and one-third of its manpower.

At the same time, in the decade of the 1990s the world saw an explosion in what NSA experts call "packetized communications" (what the rest of the world calls e-mail and other computer missives). Also, cellphone use increased 50 times over in the '90s, noted General Hayden, now principal deputy director of national intelligence, in a 2002 congressional hearing. US international phone calls went from 38 billion minutes to over 100 billion minutes annually.

Faced with a new enemy - Al Qaeda - that communicated as little as possible, and in constantly changing ways, the NSA was forced to become "hunters rather than gatherers," in a phrase used by its former director of signals intelligence, Maureen Baginski.

Today, Ms. Baginski has moved on. In 2003, she was named the FBI's first-ever executive assistant director of intelligence. And the NSA is under fire for what critics deem is hunting for intelligence a bit too much.

Under the domestic eavesdropping program - administration officials prefer to call it a "terrorist surveillance program" - the NSA since 2002 has been listening in on international communications of some people in the US, when those communications are thought to be connected to possible terror activity.

But officials have not been requesting warrants from the special court established by the FISA law to handle just such situations.

The president does not need to do so, according to the White House, because of the inherent powers of his office and because of authority conveyed by post-9/11 congressional resolution.

Critics say it may be because the eavesdropping in question may not reach the legal thresholds required by the FISA law.

"Why wouldn't they stay within the legal framework if that was an option?" says Mr. Aftergood of the Federation of American Scientists.

Defending the NSA's efforts in an extremely rare question-and-answer session before the National Press Club on Monday, Hayden said that the FISA statute "does not give us the operational effect" needed.

In other words, even the emergency aspects of the law, which allow wiretaps for a short period of time before applying for a warrant, don't move fast enough for NSA purposes.

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The 9/11 commission criticized the NSA's inability to link things happening in the US with things happening elsewhere, pointed out Hayden. The presidential authorization program allows the agency to more quickly track calls judged to be connected to Al Qaeda in some manner.

"The trigger is quicker and a bit softer than it is for a FISA warrant, but the intrusion into privacy is also limited: only international calls, and only those we have a reasonable basis to believe involve Al Qaeda or one of its affiliates," said Hayden.

The program isn't a "drift net" that will capture the phone calls home of a US student on international study who uses the word "jihad," claimed Hayden.

And the former director of the NSA said he was disappointed that the default response for critics was to assume the worst about the eavesdropping agency.

"I'm trying to communicate to you that the people who are doing this go shopping in Glen Burnie, [Md.] ... and they know the law," said Hayden.

It's possible that Hayden and the Bush administration are describing a program that is focused on early warning and is processing too many international calls for the FISA court process to handle, noted critics.

Bush Remarks On Eavesdropping Aim To Put Democrats On Defensive (CO)

By Steven Thomma

The Charlotte Observer, January 25, 2006

WASHINGTON - President Bush will speak Wednesday at the National Security Agency to defend his order to the super-secret spy center to conduct warrantless eavesdropping on Americans.

But the speech will be much more than a defense. It also will be the photo-op spearhead of a campaign to turn the controversy into a plus for Republicans by transforming the 2006 congressional elections into a referendum on the war on terrorism.

Eager to reclaim the turf where he's strongest politically, Bush and his allies are hammering away at Democrats as weak on security. That tactic worked for Republicans in 2002, when they accused Democrats of risking national security by questioning work rules in the new Homeland Security Department. It worked in 2004 as well, when Republicans ripped Democratic presidential candidate John Kerry, a senator from Massachusetts, as indecisive on defense.

It could work again in 2006. Polls show that the American people are split evenly over warrantless eavesdropping, hardly the solid outrage that many Democrats had hoped for. And Americans still give their highest marks to the president for his work against terrorism. A new poll this week shows that it's the only issue on which Bush has the approval of even a slender majority, and another new survey shows that fighting terrorism remains the public's top priority.

"If they fight the campaign on the war on terror, that is the one issue where they beat Democrats consistently," pollster John Zogby said.

There are two important caveats, however.

One, Bush isn't as politically strong as he was in 2004, and nowhere near as powerful as in 2002.

"The climate has changed since the `02 and `04 elections," said Phil Singer, a spokesman for the Democratic Senatorial Campaign Committee. "The president isn't infallible anymore. They don't enjoy the same position of strength."

Two, Democrats aren't the only ones questioning whether the government can eavesdrop on international calls to or from someone in the United States without warrants.

Those questioning the legality include Sens. John McCain, R-Ariz., and Arlen Specter, R-Pa., and conservative activists who formed a group called Patriots to Restore Checks and Balances, including Paul Weyrich, the chairman of the Free Congress Foundation, Grover Norquist, the president of Americans for Tax Reform, and David Keene, the chairman of the American Conservative Union.

Keene said recently: "No one would deny the government the power it needs to protect us all, but when that power poses a threat to the basic rights that make our nation unique, its exercise must be carefully monitored by Congress and the courts."

He added: "This is not a partisan issue."

The White House prefers to make it a partisan issue.

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Last week, White House Deputy Chief of Staff Karl Rove signaled before the Republican National Committee how to frame the debate as being about spying on terrorists rather than about obeying the law or constitutional checks and balances.

"If al-Qaida is calling somebody in America, it is in our national security interest to know who they're calling and why. Some important Democrats clearly disagree," Rove said.

Most prominent Democratic critics have said they want to spy on suspected terrorists - but with court-approved warrants. "We're prepared to eavesdrop wherever and whenever necessary in order to make America safer," Kerry said, "but we put a procedure in place to protect the constitutional rights of Americans."

The president's legal argument in defense of NSA eavesdropping may be shaky, according to the nonpartisan Congressional Research Service. Recognizing that, some critics say Bush broke the law and should be the object of an impeachment inquiry. Led by Specter, its chairman, the Senate Judiciary Committee will open hearings on the eavesdropping Feb. 6.

Rather than letting the question be framed purely in legal terms, however, Bush and his loyalists depict eavesdropping as a necessary tool in the war on terrorism, and thus are trying to build a political firewall to help insulate themselves before pressure builds in Congress to challenge the White House.

In addition, the more that critics challenge the eavesdropping, the more the fight against terrorism claims the limelight, at a time when Democrats would rather be talking about corruption in Washington.

"Democrats need to be careful about how they proceed," said Brian Jones, a spokesman for the Republican National Committee. "If they come across as weak on national defense, an issue where the president is strong ... they will pay a price."

How Will Terror Issue Play In '06? (PHI)

By Dick Polman

The Philadelphia Inquirer, January 25, 2006

As Yogi Berra once said, it's déjÀ vu all over again.

In January 2002, presidential strategist Karl Rove said the GOP would use the war on terror against Democrats in that year's congressional elections. In his words, "We can go to the country confidently on this issue because Americans trust the Republican Party to do a better job of keeping our communities and families safe."

And in January 2006, Rove says the GOP will use the war on terror against Democrats in this year's congressional elections. In his words last week: "Republicans have a post-9/11 worldview, and many Democrats have a pre-9/11 worldview. That doesn't make them unpatriotic. Not at all. But it does make them wrong, deeply and profoundly and consistently wrong."

Painting the Democrats as national security wimps worked well in 2002; even Max Cleland, the triple-amputee war hero from Georgia, was depicted as a threat to the homeland and voted out of his Senate seat. The Republicans regained control of the Senate, expanded their majority in the House, and have ruled Capitol Hill ever since.

The question this year is whether the old Rove playbook will pack the same punch.

The Bush administration hopes so. Given the toxic political climate, Republicans can ill afford to lose either chamber in November; it's a cinch bet that majority Democrats, armed with subpoena power, would launch numerous congressional probes on every facet of the Iraq war, just for starters. Hence Rove's desire to reprise 2002 - this time, by seeking to paint Democrats as weaklings because of their concerns about the President's warrantless-surveillance program.

On paper, at least, this strategy has great potential because it plays to long-standing voter preconceptions. For a quarter-century, the GOP has been perceived as generally stronger on national security, and that view persists despite all the woes in Iraq. Even Kenneth Baer, a Democratic strategist and former Al Gore speechwriter, said yesterday that "many Democrats don't have an interest in national security issues, they're not comfortable talking about those issues, and they're not comfortable with force."

In 2002, the Democrats tried to focus on health care - and paid the price on Election Day. No wonder Republicans seem so eager to trumpet the surveillance program, billed by the National Security Agency as a way to pursue al-Qaeda in the homeland. Republican Party chairman Ken Mehlman said the other day, "One of the big choices before the American people in 2006 is: Where do your leaders stand on this important tool?"

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Other benefits

The tougher-on-terrorists theme has other potential benefits. It's a way for Rove to unify restive conservative voters who are angry about Bush's lavish federal spending and budget deficits, and to shift public attention away from the corruption scandals that have tied Republican leaders to confessed felon Jack Abramoff, the high-rolling Republican lobbyist who raised money for Bush. (The White House has declined to release photos - reportedly, at least five exist - showing Bush and Abramoff together.)

Yet, in many ways, the current political climate bears scant resemblance to 2002. Four years ago, when Bush was stumping for GOP candidates and charging that the Democratic-run Senate was "not interested in the security of the American people," the Iraq war hadn't happened yet. Twenty-two hundred U.S. troops hadn't been killed yet, $250 billion hadn't been spent yet, and Saddam Hussein's dearth of mass weaponry hadn't been exposed yet.

Polls and ammunition

When Rove played the toughness card in 2002, Bush's job-approval rating, as measured by Gallup, was averaging about 67 percent. In 2006, that Gallup rating is 43 percent. And 58 percent give him a thumbs-down on Iraq. This time, in other words, Bush might not have the requisite credibility to argue the security issue at Democratic expense.

Clearly, the White House believes that the flap over warrantless eavesdropping is giving Bush fresh ammunition to invoke the security issue; witness his language Monday calling it "a terrorist surveillance program." And Attorney General Alberto R. Gonzales, also invoking the new description, said yesterday that warrants were impediments in wartime: "The terrorist surveillance program... requires the maximum in speed and agility, since even a very short delay may make the difference between success and failure in preventing the next attack."

Many Americans appear skeptical; in the latest Gallup poll, 51 percent of the adults surveyed say Bush was wrong to tap without warrants, and 58 percent want a special prosecutor to probe what Bush has done. And Republicans aren't fully united behind Bush's program, either; at least nine GOP senators; five top conservative activists; and Bob Barr, the Republican former congressman who launched the Clinton impeachment probe, all question whether Bush has skirted or flouted federal law.

Despite all this public restiveness, most Democrats don't seem eager to confront Bush and Rove directly on this issue. No Democrat in Congress has demanded that the NSA program be suspended until hearings (slated to start Feb. 6) are completed. The minority party still seems worried that Bush's visceral argument about protecting lives has more punch with the average person than the more abstract argument about legal niceties.

When asked yesterday about the GOP argument, Democratic strategist Baer said: "I don't know how to combat it... . I find the 'Bush isn't following the Constitution' argument to be very elitist. When I go to briefings, that's what I hear from the wonky lawyers. But it's like, 'Who cares?' "

Harry Reid, the Senate Democratic leader, took a stab at the problem yesterday. He sought in a speech to demonstrate that Democrats need to out-macho Bush, to contend that they will be even tougher on terrorists - that they, unlike Bush, would secure our ports, give troops enough body armor, and track al-Qaeda operatives without threatening to "trample" the Constitution.

But Reid is merely one voice among many in a party that still hasn't crafted a national security message. And President Bush, notwithstanding his woes, still owns the biggest megaphone.

Democrats May Argue Liberties To Their Peril (LAT)

By Ronald Brownstein

The Los Angeles Times, January 25, 2006

WASHINGTON — Leading Democrats are challenging President Bush's record on civil liberties across a wide front, inspiring a Republican counterattack that even some Democratic strategists worry could threaten the party in this year's elections.

From Bush's authorization of warrantless surveillance by the National Security Agency to renewal of the Patriot Act, the president and his critics are battling more intently than at any time since the Sept. 11 terrorist attacks over the proper balance between national security and personal liberty.

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In each of these disputes, prominent Democrats — joined by a few Republicans — accuse Bush of improperly expanding presidential power and dangerously constricting the rights of Americans. Bush and his allies have fired back by escalating charges that Democrats would weaken America's security by imposing unreasonable restraints on the president.

These exchanges establish contrasts familiar from debates over law enforcement and national security throughout the 1970s and '80s, with most Republicans arguing for tough measures and many Democrats focusing on the defense of constitutional protections.

That emerging alignment worries some Democratic strategists, who believe it may allow Bush to portray Republicans as stronger than Democrats in fighting terrorism, as he did in the 2002 and 2004 campaigns.

"If Democrats want to be the party of people who think [the government] is too tough and the Republicans are the party of people who are tough, I don't see how that helps us," said one senior Democratic strategist who asked not to be identified while discussing party strategy.

Other Democrats say that because it is often unpopular to defend civil liberties during wartime, doing so would allow the party to demonstrate strength and conviction.

"There's a Washington consensus that this is politically bad news," said Eli Pariser, executive director of the political action committee associated with MoveOn.org, the online liberal advocacy group. "My read is that more than any given position, people want to see that their leaders are principled and that they stand up for what they believe in, and it seems to me [these fights] signal precisely that."

The differences between the two parties will be on display today, when the Senate begins debate over the Supreme Court nomination of Samuel A. Alito Jr. In unanimously opposing Alito on Tuesday, several Democrats on the Senate Judiciary Committee echoed comments by Sen. Russell D. Feingold (D-Wis.), who said the federal appellate judge's "record and testimony strongly suggest that he would … defer to the executive branch in case after case at the expense of individual rights."

Similarly, Senate Democrats charged Bush last month with eroding civil liberties as they helped block reauthorization of the Patriot Act. And Bush's two Democratic opponents in his presidential races — Al Gore in 2000 and Sen. John F. Kerry of Massachusetts in 2004 — recently have called for a special counsel to investigate whether Bush broke the law in authorizing the NSA to monitor domestic phone calls and e-mails from those suspected of having links to Al Qaeda.

Jeffrey Rosen, a law professor at George Washington University, said the Democratic emphasis on civil liberties marked a shift not only from party attitudes after the Sept. 11 attacks, but also from efforts by President Clinton to expand government's law enforcement power after the 1995 Oklahoma City bombing.

Rosen said that in the last several weeks, Bush has invited greater Democratic opposition by defending the surveillance program so unapologetically, even after independent analysts such as the nonpartisan Congressional Research Service had questioned its legality.

"The boldness of the administration's response has escalated the fight and made it more difficult for fair-minded Democrats to step back from the brink," said Rosen, author of "The Naked Crowd," a book on security and civil liberties.

The White House has signaled that it was comfortable with, and even eager for, this debate.

In an aggressive series of speeches this week, Bush and other administration officials have portrayed the controversial surveillance program as not only legal but essential to national security.

Also, Democratic Senate aides say the White House has taken a hard line against negotiating changes in the reauthorization of the Patriot Act. A short-term extension of the law expires next week, and if no agreement is reached, that deadline could provoke another confrontation between Bush and congressional Democrats.

In a speech to the Republican National Committee last week, Karl Rove, Bush's chief political advisor, made it clear that he would encourage Republican candidates to use these disputes — along with Democratic criticism of the Iraq war — in the election to portray Democrats as weak on national security.

"At the core, we are dealing with two parties that have fundamentally different views on national security," Rove said. "Republicans have a post-9/11 worldview, and many Democrats have a pre-9/11 worldview."

Political analysts interpreted the speech as evidence that the White House wanted to replicate its 2002 strategy, when Bush used a dispute over union rules for the Department of Homeland Security to picture Democrats as soft on security concerns.

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But some Democrats see key differences from 2002. Bush's current approval rating is about 20 percentage points lower than it was then. That means he enters the argument with fewer voters leaning in his direction.

Public attitudes about the balance between civil liberties and security also have shifted since 2002, according to nationwide polls. More Americans now express concern that the government will restrict civil liberties too much in the fight against terrorism, and fewer say the average American needs to relinquish civil liberties to protect the country.

Although results vary depending on the wording of poll questions, most Americans generally say they place a higher priority on pursuing terrorists than protecting civil liberties.

On the NSA surveillance program, opinion seems closely divided and fluid. Three national surveys in early to mid-January found that slightly more Americans supported than opposed the program; a CNN/USA Today/Gallup survey conducted Friday through Sunday found that a slight majority opposed it.

The White House faces another difficulty in forging its arguments into a partisan weapon for 2006: Some Republican lawmakers, and many prominent conservative activists, have joined Democrats in opposing Bush in the recent disputes.

For instance, four Republican senators backed the filibuster that blocked renewal of the Patriot Act. Other leading Republicans, including Sens. Arlen Specter of Pennsylvania and John McCain of Arizona, have questioned Bush's claim of legal authority to launch the NSA program.

Some key Democrats also insist that public anxiety about the continuing violence in Iraq will make it tougher for Republicans to use security arguments this year.

"When we talk about national security, we are going to go right to what happened to the men and women in uniform," said Rep. Rahm Emanuel (D-Ill.), chairman of the Democratic Congressional Campaign Committee.

Yet even with these new factors, most Republicans remain confident that disputes over national security and civil liberty issues will strengthen their hand this fall, just as they did in 2002 and 2004.

"I think the Democrats are picking a fight that really plays to Republican strengths, and I think that's why the president is fighting back so strongly," said Sen. John Cornyn (R-Texas).

Impeachment Hearings: The White House Prepares For The Worst (IM)

Insight Magazine, January 25, 2006

The Bush administration is bracing for impeachment hearings in Congress.

"A coalition in Congress is being formed to support impeachment," an administration source said.

Sources said a prelude to the impeachment process could begin with hearings by the Senate Judiciary Committee in February. They said the hearings would focus on the secret electronic surveillance program and whether Mr. Bush violated the 1978 Foreign Intelligence Surveillance Act.

Administration sources said the charges are expected to include false reports to Congress as well as Mr. Bush's authorization of the National Security Agency to engage in electronic surveillance inside the United States without a court warrant. This included the monitoring of overseas telephone calls and e-mail traffic to and from people living in the United States without requisite permission from a secret court.

Sources said the probe to determine whether the president violated the law will include Republicans, but that they may not be aware they could be helping to lay the groundwork for a Democratic impeachment campaign against Mr. Bush.

"Our arithmetic shows that a majority of the committee could vote against the president," the source said. "If we work hard, there could be a tie."

The law limits the government surveillance to no more than 72 hours without a court warrant. The president, citing his constitutional war powers, has pledged to continue wiretaps without a warrant.

The hearings would be accompanied by several lawsuits against the administration connected to the surveillance program. At the same time, the Electronic Privacy Information Center has filed a Freedom of Information Act lawsuit that demands information about the NSA spying.

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Sen. Arlen Specter, Senate Judiciary Committee chairman and Pennsylvania Republican, has acknowledged that the hearings could conclude with a vote of whether Mr. Bush violated the law. Mr. Specter, a critic of the administration's surveillance program, stressed that, although he would not seek it, impeachment is a possible outcome.

"Impeachment is a remedy," Mr. Specter said on Jan. 15. "After impeachment, you could have a criminal prosecution. But the principal remedy under our society is to pay a political price."

Mr. Specter and other senior members of the committee have been told by legal constitutional experts that Mr. Bush did not have the authority to authorize unlimited secret electronic surveillance. Another leading Republican who has rejected the administration's argument is Sen. Sam Brownback of Kansas.

On Jan. 16, former Vice President Al Gore set the tone for impeachment hearings against Mr. Bush by accusing the president of lying to the American people. Mr. Gore, who lost the 2000 election to Mr. Bush, accused the president of "indifference" to the Constitution and urged a serious congressional investigation. He said the administration decided to break the law after Congress refused to change the Foreign Intelligence Surveillance Act.

"A president who breaks the law is a threat to the very structure of our government," Mr. Gore said.

"I call upon members of Congress in both parties to uphold your oath of office and defend the Constitution," he said. "Stop going along to get along. Start acting like the independent and co-equal branch of American government that you are supposed to be under the constitution of our country."

Impeachment proponents in Congress have been bolstered by a memorandum by the Congressional Research Service on Jan. 6. CRS, which is the research arm of Congress, asserted in a report by national security specialist Alfred Cumming that the amended 1947 law requires the president to keep all members of the House and Senate intelligence committees "fully and currently informed" of a domestic surveillance effort. It was the second CRS report in less than a month that questioned the administration's domestic surveillance program.

The latest CRS report said Mr. Bush should have briefed the intelligence committees in the House and Senate. The report said covert programs must be reported to House and Senate leaders as well as the chairs of the intelligence panels, termed the "Gang of Eight."

Administration sources said Mr. Bush would wage a vigorous defense of electronic surveillance and other controversial measures enacted after 9/11. They said the president would begin with pressure on Republican members of the Senate Judiciary Committee. Mr. Bush would then point to security measures taken by the former administration of President Bill Clinton.

"The argument is that the American people will never forgive any public official who knowingly hurts national security," an administration source said. "We will tell the American people that while we have done everything we can to protect them, our policies are being endangered by a hypocritical Congress."

Defense Seeks Mental Disorder Testimony (AP)

By Michael J. Sniffen, Associated Press Writer

AP, January 24, 2006

(01-24) 16:24 PST WASHINGTON, (AP) -- Lawyers for admitted terrorist conspirator Zacarias Moussaoui want to call a doctor who will testify he has a major mental disorder, likely schizophrenia, in their bid to save him from the death penalty, according to court filings.

Defense lawyers have long indicated they would like to introduce psychological testimony on his behalf — despite his insistence that he's perfectly sane — but their court filings Tuesday contained the most specific claim of illness and the first mention of schizophrenia in the record.

A 37-year-old Frenchman of Moroccan descent, Moussaoui is the only person who has been charged in the United States as part of the Sept. 11, 2001 al-Qaida attacks on the World Trade Center and the Pentagon.

Last April, he pleaded guilty to six conspiracy charges, but insisted he was not part of the Sept. 11 plot. However, he said he was taking flight lessons to prepare to hijack a 747 jet later and fly it into the White House if the U.S. government refused to release a radical Egyptian cleric serving a life term for the 1993 World Trade Center bombing and 1995 plots against New York landmarks.

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Prosecutors already have results of a court-ordered psychiatric exam by a government-appointed doctor in 2002 that ruled out mental illness, finding only personality disorder, a conclusion that is extremely helpful to the prosecution. Just before Moussaoui pleaded guilty, Judge Leonie Brinkema ruled that he was competent.

Even though Moussaoui has not let defense doctors examine his mental state, defense lawyers told the court they would call Dr. Nancy C. Andreasen to testify at proceedings that begin next month to determine if he should receive the death penalty or life in prison.

She "will testify that Mr. Moussaoui suffers from a major thought disorder, mostly likely schizophrenia," their filing said.

They said she would rely on her analysis of Moussaoui's writings and court appearances, which have often been vituperative and disjointed, and on reports previously filed by Dr. Xavier F. Amador, a defense psychologist. Amador disagreed with the government-appointed doctor's 2002 conclusion and argued that further examination was needed. They acknowledged that defense experts have not been able to interview Moussaoui.

Prosecutors have said that if Moussaoui's legal team intends to introduce evidence of psychological problems, the government is entitled to have medical experts of its own choosing conduct a psychological evaluation of the defendant. The government is seeking a court order to that effect.

The defense also said it would call clinical social worker Jan Vogelsang to discuss Moussaoui's fragmented family life, lack of supervision and of formal Islamic training. She will argue that these conditions left him susceptible to radical Islamic training as he confronted racism, cultural change and emotional losses after moving from France to England, the defense said.

The defense also wants to call two Parisian academics to testify that Moussaoui's life story fits into a pattern of how alienated second-generation immigrants of North African heritage in France and London are recruited by radical Islamist movements.

A pilot and former FBI agent, Erik Rigler, will be called to testify about aviation security and about sealed factual reports including one on two Sept. 11 hijackers, Khalid al-Mihdahar and Nawaf al-Hazmi, whose presence in the United States was known before the attacks, the court filing said.

Brinkema has divided the sentencing trial into two parts. First, prosecutors will try to convince jurors that the FBI would have prevented the Sept. 11 attacks if Moussaoui had told federal agents what he knew about al-Qaida's desire to fly planes into U.S. buildings. If the jury disagrees with prosecutors, Moussaoui will receive life in prison. If jurors agree with prosecutors, they will decide whether he should be executed.

Moussaoui was in custody on immigration violations in Minnesota when the hijacked jets crashed on Sept. 11.

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On the Net:

District Court:

www.vaed.uscourts.gov

Pentagon, CIA Refer 20 Detainee-abuse Cases To DOJ (REU)

By David Morgan

Reuters, January 24, 2006

WASHINGTON (Reuters) - Twenty cases of detainee abuse allegations against CIA and Defense Department employees have been referred to the Justice Department for possible prosecution since the beginning of the war in Afghanistan, a senior U.S. official said in a letter released on Tuesday.

Assistant Attorney General William Moschella said in a January 17 letter to Sen. Richard Durbin, an Illinois Democrat, that the cases span both the Afghanistan and Iraq wars and contain not only allegations of physical abuse but also possible violations of federal law and U.S. treaties.

Civil liberties advocates said the cases involve civilian interrogators and showed a double-standard in light of recent convictions of lower-ranking soldiers accused of abuse.

Only one CIA case has resulted in a criminal indictment. In that case, former CIA contractor David Passaro has been charged in North Carolina in a federal case involving the 2003 death of an Afghan detainee.

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Moschella said the other 19 cases referred to the Justice Department have been reviewed by a federal prosecution task force in Virginia. Two have been closed for lack of sufficient evidence, and all others remain under investigation.

"It is now clear that enlisted men and women in a soldier's uniform are being convicted while CIA agents and civilian contractors who allegedly participated in the same crimes remain free," Christopher Anders, legislative counsel for the American Civil Liberties Union, said in a statement.

WAR ZONES

Administration officials said the investigation of detainee abuse cases by civilian investigators required extended periods of time because alleged acts often occur in war zones where the alleged victims can be difficult to track down.

"The president has directed that detainees be treated humanely," said Justice Department spokeswoman Cynthia Magnuson. "The U.S. continues to aggressively investigate credible allegations of abuse and to hold individuals responsible for wrongdoing."

She declined to comment about the cases disclosed in the Justice Department letter because of ongoing investigations.

Moschella was writing in response to a letter Durbin sent to Attorney General Alberto Gonzales in November seeking details of abuse case referrals to the Justice Department from the Defense Department and the CIA.

"Since the beginning of the conflict in Afghanistan, the Defense Department has referred 11 allegations of detainee abuse to the (Justice) Department, and another agency has referred nine allegations of detainee abuse," the assistant attorney general wrote.

A copy of the letter was obtained by Reuters.

Defense Department spokeswoman Cynthia Smith had no immediate comment on the letter, which she had not seen. "It is our policy that all detainees are treated humanely and to report any suspected detainee mistreatment and investigate that thoroughly," Smith said.

CIA spokesman Paul Gimigliano said: "The letter from the Department of Justice speaks for itself. I have nothing to add to it."

Europe's C.I.A. Inquiry Finds No Evidence Of Secret Prisons (NYT)

By Craig S. Smith

The New York Times, January 25, 2006

STRASBOURG, France, Jan. 24 - An inquiry by the Council of Europe into allegations that the C.I.A. has operated secret detention centers in Eastern Europe has turned up no evidence that such centers ever existed, though the leader of the inquiry, Dick Marty, said there are enough "indications" to justify continuing the investigation.

The report added, however, that it was "highly unlikely" that European governments were unaware of the American program of renditions, in which terrorism suspects were either seized in or transferred through Europe to third countries where they may have been tortured. Drawing from news reports, Mr. Marty contended that "more than a hundred" detainees have been moved anonymously and illegally through Europe under the program.

The findings, delivered to the Council on Tuesday, drew scornful reactions from some representatives of the Council's 46 member states, particularly from the British, who called the interim report "as full of holes as Swiss cheese" and "clouded in myth and motivated by a desire to kick America."

Mr. Marty, a Swiss senator and chairman of Council's Committee on Legal Affairs and Human Rights, was charged with the inquiry after an article in The Washington Post in November cited unidentified intelligence officials as saying that the C.I.A. had maintained detention centers in eight countries, including some in Eastern European democracies.

A subsequent report by Human Rights Watch cited Poland and Romania as two of those countries. Both countries, as well as others in Europe, have denied the allegations.

Mr. Marty's findings to date amount to little more than a compendium of press clippings.

"It would seem from confidential contacts that the information revealed by The Washington Post, Human Rights Watch and ABC came from different sources, probably all well-informed official sources," a passage in the report reads. "This is clearly a

factor that adds to the credibility of the allegations, since the media concerned have not simply taken information from one another."

Part of the reason Mr. Marty finds the allegations credible are other well-documented cases of America's rendition of terrorism suspects on European soil, including the 2003 C.I.A. abduction of an Egyptian cleric, Hassan Mustafa Osama Nasr, who was sent to Egypt.

Mr. Marty said he was equally wary of Romanian and Polish denials of the detention center allegations, noting that both countries are part of the American-led coalition fighting in Iraq and "escaped long dictatorships thanks largely to the American intelligence services."

He has requested data on aircraft movements from the Eurocontrol, the European air traffic control agency, and satellite images from the European Union's Satellite Center. It is not clear what he hopes to find in the data or photographs. His assertion that more than a hundred detainees have been moved through Europe - a number he took from an article in the German newspaper Die Zeit - is not of a scale that would show in satellite images.

The debate over renditions and secret prisons reflects the deep mistrust that has developed in Europe toward the Bush administration and its Eastern European coalition partners since the invasion of Iraq.

Both Mr. Marty and the Council of Europe's secretary general, Terry Davies, are convinced that the American press knows more about the alleged detention centers, but are under government pressure to keep the information secret.

"I know of a television company that has information that they are not willing to broadcast out of concern for their employees," Mr. Davies said. He declined to identify the broadcaster or the source of the allegation.

Mr. Davies is scheduled to issue a report in February on what the Council's member states have done to ensure that such breaches of the Council's European Convention on Human Rights do not occur. Mr. Marty is expected to issue a final report on his inquiry in March or April.

"This is no easy task," said John Swift, terrorism researcher for Human Rights Watch. "The information doesn't fall out of the sky."

For now, though, there is nothing concrete to the allegations of secret prisons beneath the chatter.

"At this stage of the investigations, there is no formal, irrefutable evidence of the existence of secret C.I.A. detention centers in Romania, Poland or any other country," Mr. Marty's report said.

European Inquiry Fails To Confirm Secret CIA Prisons (WP)

By Craig Whitlock

The Washington Post, January 25, 2006

BERLIN, Jan. 24 -- A European human rights investigator on Tuesday accused the United States of "unacceptable and appalling" tactics in the fight against terrorism but said he was unable to independently confirm reports of secret prisons run by the CIA in Eastern Europe.

In an interim report presented to the Council of Europe, the continent's official human rights watchdog group, Dick Marty, a Swiss parliamentarian, also accused European governments of either collaborating or looking the other way as U.S. intelligence officers abducted or secretly detained terrorism suspects on European soil.

"We can say that there is a great deal of coherent, convergent evidence pointing to the existence of a system of 'relocation' or 'outsourcing' of torture," he wrote in his report, the product of a two-month investigation. "Europe must clearly and unambiguously declare that it refuses outright to tolerate such doings in its territory, or anywhere else."

Marty has only limited powers to compel individuals and governments to cooperate. His report offered no fresh evidence to support his allegations, and he relied primarily on media reports and previously documented cases to draw his conclusions. In Washington, State Department spokesman Sean McCormack dismissed the findings as the "same old reports wrapped up in some new rhetoric."

The Council of Europe commissioned the investigation after The Washington Post reported in November that the CIA had operated secret prisons for high-level al Qaeda figures in Eastern Europe since the Sept. 11, 2001, attacks. The Post has not

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published the names of the East European countries involved in the covert program at the request of senior U.S. officials, who argued that it could disrupt counterterrorism efforts and make those nations a target for terrorists.

Marty said he could not find any "formal, irrefutable evidence" of CIA detention centers in Eastern Europe. He said he had recently obtained satellite data and flight logs from European agencies that could offer clues, however, and cited other "reliable" sources that justified his ongoing investigation.

"I know it will be a long and difficult path," he said in a telephone interview from Council of Europe headquarters in Strasbourg, France, when asked if he expected to find concrete answers. "But as far as the truth is concerned, I am fundamentally optimistic."

Marty criticized European governments as being less than candid about their role in or knowledge of U.S. counterterrorism operations on the continent. U.S. officials have said they routinely notify or partner with allied intelligence agencies when conducting such missions.

In London, British officials have fended off accusations that they allowed the CIA to use British airspace and military bases to carry out operations known as "extraordinary renditions," the abduction of terrorist suspects who are then handed over to other countries for interrogation.

On Monday, Prime Minister Tony Blair said the British government had been "extremely open" about renditions and had received no recent requests from the United States for the use of British airspace. The government has previously said it had received U.S. requests dating before Sept. 11, 2001, but none since then.

But a Foreign Office memo written in early December and published by the New Statesman magazine in the issue dated Jan. 23 suggested that the government was not being entirely forthcoming. It advised British officials to "try to avoid getting drawn on detail" about the debate. Citing two renditions that occurred in 1998, the memo said, "The papers we have unearthed so far suggest there could be more such cases."

Covert Activity By U.S. Called No Big Secret (LAT)

By Sebastian Rotella, Times Staff Writer

The Los Angeles Times, January 25, 2006

PARIS — A European senator leading a probe into alleged CIA abductions of suspected terrorists asserted Tuesday that European governments were most likely aware of clandestine U.S. activity on their soil, but he said he had not found proof of secret detention centers in Poland and Romania.

In a report to the Council of Europe, a legislative assembly based in Strasbourg, France, Swiss Sen. Dick Marty presented interim findings of a 2-month-old inquiry that is worsening transatlantic tensions over tough U.S. tactics against terrorism.

"Rendition affecting Europe seems to have concerned more than a hundred persons in recent years," Marty said. "Hundreds of CIA-chartered flights have passed through numerous European countries. It is highly unlikely that European governments, or at least their intelligence services, were unaware."

European anti-terrorism agencies are suspected of assisting or permitting some surreptitious U.S. "extraordinary renditions" of suspects who were later allegedly tortured in Arab countries, Marty and others say. Moreover, critics say the European indignation rings hollow because law enforcement and intelligence agencies in Europe have received information gained during interrogation of Al Qaeda figures held in U.S. custody at secret sites.

Although Marty's inquiry has no judicial powers, it has become a conduit and catalyst of increasing backlash against a shadowy U.S. counter-terrorism campaign. Many Europeans see accounts of renditions and torture, and the legal limbo of the U.S. detention facility at Guantanamo Bay, Cuba, as signs of a war run amok. In more than a dozen countries around Europe, law enforcement authorities and legislatures have opened investigations into suspected CIA abductions, detention facilities and flight stopovers.

"These abductions are criminal acts that are against the laws of all civilized countries," Marty said during a news conference.

In response, U.S. leaders have said they respect the laws and sovereignty of foreign nations, language interpreted by some observers as an indication that European intelligence agencies had given the CIA tacit approval.

In an interview during a visit to Paris on Tuesday, Homeland Security Secretary Michael Chertoff said he had not seen Marty's report. He said he hoped the debate and the focus of some European law enforcement on alleged U.S. misconduct would not damage cooperation against a shared threat.

"Obviously, the authorities are free to investigate whatever they want to investigate," Chertoff said. "But we should not allow ourselves to be distracted from the need to identify, prevent and protect against terrorist acts of violence which could cause a lot of innocent people to lose their lives."

Marty's interim report drew partly on two well-documented judicial investigations. In Italy, prosecutors have charged 22 people identified by authorities there as CIA operatives with snatching a militant imam and flying him to Egypt to be tortured. In Germany, authorities are investigating the case of a Lebanese-born German citizen who accuses American agents of spiriting him from Macedonia to an Afghan interrogation facility, then releasing him after five months when they realized they had the wrong man.

The report also cites a case in which Swiss spies intercepted a fax from Egyptian diplomats in Cairo to the Egyptian Embassy in London making apparent reference to U.S.-run detention facilities in Eastern Europe. The group Human Rights Watch has alleged that secret CIA sites operated in Romania and Poland. Those governments have opened investigations. The issue of CIA sites in Eastern Europe first surfaced in a report in the Washington Post in November.

But Marty said he had not turned up any "formal, irrefutable evidence of the existence of secret CIA detention centers." His search will now turn to analysis of satellite images of Romanian and Polish military bases, pictures that were provided to him by European Union agencies only Monday, he said.

During debate in Strasbourg on Tuesday, some legislators faulted Marty for relying heavily on media reports. And critics said the European Parliament had limited political powers, checkered credibility and a reputation for anti-Americanism.

British legislator Dennis McShane said the report had "more holes than Swiss cheese."

PATRIOT ACT:

Patriot Act Talks Hit Roadblock On Privacy Issue (WP)

By Charles Babington

The Washington Post, January 25, 2006

Efforts to resolve House and Senate differences over a revised USA Patriot Act have reached a stalemate, a key committee chairman said yesterday. That means the current version of the law is likely to remain in place through next month or longer unless Senate Democrats and a handful of Republicans drop their demands for greater privacy safeguards in a proposed renewal, the chairman said.

But another senator said that the Bush administration continues to discuss possible changes, and that a resolution of the impasse is still possible.

The law, passed in the wake of the Sept. 11, 2001, terrorist attacks, makes it easier for federal agents to secretly tap phones, obtain library and bank records, and search the homes of suspected terrorists. Many major provisions were scheduled to expire Dec. 31, but lawmakers extended them to Feb. 3 in hopes of resolving a House-Senate impasse on how to renew the act, with some changes, for four years.

Senate Democrats objected to the revision that emerged from a conference committee last year. When four Republicans joined them, they had a filibuster-proof contingent, preventing the proposal from winning Senate passage.

The chief House negotiator -- Judiciary Committee Chairman F. James Sensenbrenner Jr. (R-Wis.) -- has said his chamber is finished with talks, dimming hopes for a breakthrough. Senate Judiciary Committee Chairman Arlen Specter (R-Pa.) had accepted the House-Senate compromise as a less-than-perfect option. Yesterday, he told colleagues that it probably is the best deal they can get.

"I can tell you, after talking to Chairman Sensenbrenner, that the House feels that they've gone as far as they can go on compromises on the act," Specter told colleagues. "And I think the reality may be that we're looking at either the current act

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extended [beyond Feb. 3], or the conference report," which continues to draw opposition from most Senate Democrats and four Republicans.

One of the four -- Sen. John E. Sununu (R-N.H.) -- said in an interview yesterday that in recent days he has held discussions with administration officials focused on "the few specific areas where we think the conference report can be improved." If a compromise cannot be reached by Feb. 3, he said, another short-term extension may provide the needed time.

The main disagreements center on provisions that allow FBI agents to obtain records on terrorism suspects, who have very limited options for challenging such searches. Specter has said the law allows adequate "judicial review" of proposed searches. But Sununu and his allies say the law makes it virtually impossible for targeted people to prevail, even if they have no ties to terrorism.

Washington Wire (WSJ)

The Wall Street Journal, January 25, 2006

The Washington Wire, which is among the most venerated products of the Journal's Washington bureau, also is one of the oldest standing features in American journalism. Since the Wire was launched on Sept. 20, 194010, the Journal's Washington bureau every week has offered readers an informal behind-the-scenes look at the capital's comings and goings in a series of newsy, and sometimes even gossipy, items. The now daily version11 of the Wire is a succession of glimpses at what's happening behind the hot stories of the day and early warnings of what readers will want to watch for in days ahead. The Wire is the collective product of the Washington bureau, some 40 journalists strong. The Wire's principal author is John Harwood, the Journal's national political editor; Mary Lu Carnevale, the Journal's Washington news editor, oversees its updating online. Write to Washington Wire at washwire@wsj.com12.

With the Feb. 3 deadline on renewing Patriot Act provisions looming, Senate Democrats predict a deal can be reached soon. To speed it along, Sen. Patrick Leahy of Vermont is trying to tap First Lady Laura Bush's sympathies as a former school librarian.

"The time is fast approaching when we have to extend it or change it," said Senate Democratic Leader Harry Reid of Nevada, who hinted that House Judiciary Committee Chairman James Sensenbrenner (R., Wis.) will find it harder to block an extension next week. "Sensenbrenner doesn't run the House. There will be 434 other people over there," Reid said. "I think everyone agrees that with a little bit of time alone, Leahy and [Senate Judiciary Chairman Arlen] Specter can work out the problems."

Majority Leader Bill Frist predicts that "ultimately if we do an extension for six to eight weeks, I think we'll be able to work it out." But any Senate deal must also be sold to the House, where Republican turmoil over leadership races could be an obstacle. "We have to work through it here," Frist said. "Then I've got to shop that over there, which -- until they get through and things settle down -- will be hard. So we need just another six weeks."

Leahy, the Judiciary Committee's ranking Democrat, recalled a Jan. 6 conversation with top players and President Bush, who had gathered at the White House for a signing ceremony for an unrelated bill. "I raised the fact that we could easily do that, work out the few remaining differences," said Leahy, who played to the first lady on the issue of searches involving libraries. "I said, `Why don't we work out that problem with the librarians?' I mentioned librarians twice and Mrs. Bush caught my drift." --David Rogers * * *

Information, Please: The U.S. dialogue with China is intensifying on the important issue of enforcing intellectual-property rights.

The two camps have sparred in recent weeks over the legal basis of a U.S. move, launched through the Geneva-based World Trade Organization last October, to compel China to provide detailed descriptions of intellectual-property rights cases it has pursued as well as the penalties imposed on infringers. But a senior U.S. trade official said Tuesday that Beijing and Washington have set aside the dispute over whether the U.S. has the right to the information and, for now, are focusing on ways to allow an exchange of the disputed information.

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"They have expressed an openness to work with us," the official said. "They've agreed to talk with us." The U.S. official said filing a piracy complaint against China at the WTO "remains a possibility," but stressed the U.S. is working through a number of channels, including bilateral talks, to encourage China to step up its enforcement. --Greg Hitt * * *

Lost Millions: Another Pentagon audit of Iraq reconstruction work found that a variety of jobs were never done and millions of dollars are missing. The report of the Special Inspector General for Iraq Reconstruction1 examined 907 contracts and "micro-purchases" totaling about $88 million that were awarded by U.S. officials using Iraqi funds in 2003 and 2004.

The audit found that 17% of the work, totaling $16.3 million, was not competitively bid, that $87,000 in cash was somehow lost, and that $6.3 million was transferred to "unauthorized persons" without any trace of work being done in return. The report said that $471,000 was paid to install Internet service in the city of Ramadi, but quotes an internal memo saying, "There is no way to verify this project was ever completed, because we don't even know where exactly in Ramadi it was supposed to take place." Another 11 contracts were overpaid to the tune of $571,000.

The Justice Department has charged some U.S. officials and contractors with fraud in connection with similar work in southern Iraq, and more prosecutions are expected. --Neil King Jr. * * *

With an eye toward the oldest members of the Supreme Court, the White House is trying to scratch out a filibuster-proof 60 votes for Judge Samuel Alito to set a conservative standard that gives Bush some maneuvering room in the event of another opening.

Insiders say the odds of achieving that goal aren't good. But Bush allies take heart that the Democrats' vigorous opposition to Judge Alito irritated enough of the Republican members of the Gang of 14 -- the bipartisan group of senators who neutralized Democrats' threat to block Bush judicial nominees and Republicans' threat to change Senate rules to ban filibusters -- to edge them closer to voting for a judicial filibuster ban down the road.

After announcing the Judiciary Committee's 10-8 party-line vote for Judge Alito, Vermont Sen. Patrick Leahy, the panel's ranking Democrat, and Republican Committee Chairman Arlen Specter wrap it up: "OK, Arlen," said Sen. Leahy as he grabbed his papers. "OK, Patrick," the chairman replied. --Jeanne Cummings

• Read excerpts2 from the Senate Judiciary Committee's meeting to vote on Alito, and see a chart of the nominees3 to the Supreme Court since the start of the Nixon administration.

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Frist

Asbestos Warning: With the Senate beginning hearings on lobbying overhaul Wednesday, Frist warned Democrats against trying to use the issue to delay action on the asbestos bill.

In a letter Tuesday to Reid, Frist predicted passage of the lobbying bill early this year -- "done right and well, not fast and foolish." But the Tennessean said asbestos action has waited long enough. "This problem is devastating and it requires leadership and action," he wrote to Reid. "To postpone debate on this issue is to blatantly ignore a very real problem." --David Rogers * * *

Frustration, continued: White House officials have been frustrated for months that President Bush gets so little credit from the public for an economy that's moving along reasonably well. They will have to continue to be frustrated, it appears. A new poll4 from the Pew Research Center for the People and the Press shows that only about a third of Americans (34%) rate economic conditions as excellent or good. Almost twice as many -- 64% -- call conditions only fair or poor. Overall, attitudes are darker than they were a year ago.

The poll's authors note that on this front, as on so many, views have grown more divided along partisan lines. More than half of Republicans see an economy that's excellent or good. Just 28% of independents and 23% of Democrats agree the economy is doing well. One of the goals of Bush's State of the Union speech next week is to improve public perceptions of the economy overall. The telephone survey of 1,503 adults nationwide has a three percentage point margin of error. --Jerry Seib * * *

Bernanke

Speech Pattern: Kevin Hassett, economist at the American Enterprise Institute offers a bit of advice to Ben Bernanke, Bush's choice to head the Federal Reserve: In the early days on the job, sound as much like Chairman Alan Greenspan as possible.

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"Take an Alan Greenspan speech, run it through Google into Spanish then translate it back. It's still basically a Greenspan speech." --Greg Ip * * *

Flood Watch: Overhauling the National Flood Insurance Program is a prominent item on the Senate's agenda. The program has been thrust deeply in the red by Hurricanes Katrina and Rita, with damage from the two storms expected to reach $23 billion -- almost all on the taxpayers' tab.

The Senate Banking Committee will kick off the debate Wednesday at a hearing on how to fix the system, "which is clearly broken," said a committee spokesman. Some lawmakers, including Committee Chairman Richard Shelby of Alabama, suggest that the insurance program should be restructured to operate more like a private insurance company.

A first step may be for Congress to direct the program to deny coverage to properties that are repeatedly flooded, they say. Also to be considered is an idea being pushed by Republican Rep. Richard Baker of Louisiana to form a new government agency to oversee redevelopment of storm-battered Louisiana. The House Financial Services Committee passed a flood insurance bill late last year, but it hasn't come up for a floor vote. --Michael Schroeder

Monday, Jan. 23

Republicans doubt they can muster more than a handful of Democratic votes on the Senate floor for Supreme Court nominee Judge Samuel Alito.

After Chief Justice John Roberts split the Democratic caucus by drawing 22 votes from the minority party, Alito so far has won support from only one Democrat, Ben Nelson of Nebraska. Neither White House strategists nor Senate Republicans expect many more.

"There's going to be leadership pressure" from senior Democrats to keep Alito's final floor vote under 60, says Republican Sen. Jeff Sessions of Alabama. That way, Sessions says, Democratic leaders will argue that they retain the clout to mount future filibusters, even though they haven't chosen to do so in Alito's case. Sessions says "the administration should work to get" more Democratic support before next week's expected floor vote, but "I don't think it's a big deal" if it doesn't materialize. Potential targets include Bill Nelson of Florida, Blanche Lincoln of Arkansas, and Kent Conrad of North Dakota.

So far, no Republicans have announced their opposition to Alito; abortion rights supporters Lincoln Chafee of Rhode Island, and both Susan Collins and Olympia Snowe of Maine are considered the most likely potential defectors, though administration allies have assiduously lobbied both Maine senators to fall in line. One White House strategist predicts the president's nominee will draw no more than 57 votes, far below the 78 that Roberts drew last year. --John Harwood * * *

Snow

Identifying a Problem: Treasury Secretary John Snow has a new DVD coming out -- on identity theft. While legislative efforts to combat identity theft have faltered on Capitol Hill, Treasury and the Federal Trade Commission have been stepping up programs to educate consumers and businesses about a financial crime that costs more than $50 billion annually. On Thursday, Snow will roll out "Identity Theft: Outsmarting the Crooks," featuring interviews with experts about the latest trends - like skimmers placed over ATM machines that steal card and PIN data - as well as tips, forms and helpful tools for victims. Earlier this month, the Federal Trade Commission updated its educational site -- see onguardonline.gov/quiz/index.html5 -- with new interactive quizzes, set to swing music, designed to keep consumers from falling prey to common info-gathering scams like phishing and spyware. On Wednesday, the FTC will release its 2005 figures on identity theft and other fraud complaints. Copies of the Treasury's DVD can be obtained for $2 at www.pueblo.gsa.gov6 -- but not until Thursday. -- Christopher Conkey * * *

Bush

I Spy With My Little Ear: The White House kicks off a series of speeches and events defending its secretive domestic surveillance program, and is seeking to turn a political controversy into a political advantage.

President Bush and Gen. Michael V. Hayden, Washington's No. 2 spymaster, in speeches Monday described efforts by the National Security Agency to more closely monitor telephone calls coming into the U.S. as the action that might have prevented the 9/11 terrorist attacks. They also said that the NSA's activities are even more crucial following threats last week by al Qaeda leader Osama bin Laden to attack the U.S. again.

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"Had this program been in effect prior to 9/11, it is my professional judgment that we would have detected some of the 9/11 operatives in the U.S., and we would have identified them as such," said Gen. Hayden, who's the deputy director of National Intelligence.

Rounding out the week, Attorney General Alberto Gonzales will give a legal defense of the NSA program on Tuesday, and President Bush will visit the NSA's Fort Meade, Md., headquarters on Wednesday. --Jay Solomon * * *

Saluting Greenspan: Defense Secretary Donald Rumsfeld Monday presented his old pal from the Ford administration, outgoing Federal Reserve Board Chairman Alan Greenspan, with the Defense Department Distinguished Public Service Award. The citation says in part that Greenspan "contributed enormously to a strong national defense by helping to promote the continued strength and steady growth of the economy of the United States" and that his "success in establishing a stable monetary policy helped to create an expanding investor class in the United States, including men and women in uniform who are better able to secure financial security for themselves and their families as a result." * * *

Belt Tightening: Cutbacks in the auto industry can take a bite in Washington, too. The General Motors Corp. Washington office has lost about a third of its staff through attrition over the last several years. The office has about 25 people now, including support staff, which is "admittedly a small office" compared with like-sized companies, said GM spokesman Christopher Preuss. He says the company still is able to press its agenda partly with help from the Alliance of Auto Manufacturers, the industry trade group. No word yet from Ford Motor Co. as to how job cuts announced Monday will affect Washington operations. --Laura Meckler

• Read more about Ford's restructuring plan7 and see how GM's cuts compare with Ford's.8

* * *

Are we there yet? The Federal Reserve is almost, but not quite, finished raising rates, 142 economists surveyed by the National Association for Business Economics9 predict. Nearly 40% of the NABE members surveyed expect the Federal Open Market Committee to stop raising its target for the federal funds rates at 4.75%, half a percentage point above the current 4.25% level. Roughly equal numbers of respondents said the FOMC would stop at 4.50% (27% of replies) or 5.00% (23% of replies). More than half of the NABE members working in the finance sector participants in the survey picked 4.75% as the stopping point vs. only 20% of those in manufacturing or other goods-producing businesses.

The Fed is widely expected to boost rates to 4.5% from 4.25% at its Jan. 31 meeting, Alan Greenspan's last as chairman. Chairman-designate Ben Bernanke, still awaiting Senate confirmation, is set to preside over his first meeting of the Fed's interest-rate policy committee on March 28. -- David Wessel * * *

PoliSci Department: UCLA, in a highly regarded annual survey of college freshmen, says only a third of the current group think the U.S. should increase military spending, compared with 45% of those who entered college at the time of the Sept. 11, 2001, terrorist attacks. About two thirds said "only volunteers" should serve in the military. Just over a third said it was important to "keep up to date with political affairs," which the study's authors say is the highest display of student interest in politics in a decade.

Four in 10 freshmen said they drank beer in high school, the lowest percentage ever and a drop since 1982, when a record three in four said they drank in high school. --June Kronholz

AG's Memo Raises Questions On Patriot Act (BOS)

By Charlie Savage

The Boston Globe, January 25, 2006

WASHINGTON -- A footnote in Attorney General Alberto R. Gonzales's 42-page legal memo defending President Bush's domestic spying program appears to argue that the administration does not need Congress to extend the USA Patriot Act in order to keep using the law's investigative powers against terror suspects.

The memo states that Congress gave Bush the power to investigate terror suspects using whatever tactics he deemed necessary when it authorized him to use force against Al Qaeda. When Congress later passed the Patriot Act, Bush already had the power to use enhanced surveillance techniques against Al Qaeda, according to the footnote.

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Thus, legal specialists say, the administration is asserting that Bush would be able to keep using the powers outlined in the Patriot Act for Al Qaeda investigations, regardless of whether Congress reauthorizes the law.

"It turns out they didn't need the Patriot Act for dealing with Al Qaeda after all," said Martin Lederman, a former Justice Department lawyer in the Clinton administration who now teaches law at Georgetown University.

Dennis Hutchinson, a University of Chicago law professor, and Bruce Fein, a former Justice Department lawyer in the Reagan administration, also said the administration's footnote indicates that Bush would not need Congress to renew the Patriot Act to keep using its investigative powers in the war on terrorism.

But Justice Department spokesman Brian Roehrkasse disputed their interpretation.

"This is an inaccurate and misinformed interpretation of the administration's legal analysis," Roehrkasse said in an e-mail.

Roehrkasse attached a Justice Department statement arguing that Congress gave Bush broad wartime powers to fight the war on terror as he saw fit when it authorized him to use force against Al Qaeda. The footnote, it said, seeks to explain why those wartime powers include surveillance authority even though Congress separately addressed the subject in the Patriot Act.

The Patriot Act, the Justice Department said, affected far more than Al Qaeda. The act made changes to surveillance laws for use against foreign spies and terrorists who are not affiliated with Al Qaeda. The act also made it easier to use surveillance information as evidence if the administration prosecuted an Al Qaeda suspect in court, the department said.

But Fein, the former Reagan administration lawyer, said the footnote in the Gonzales memo can only mean that the Patriot Act is irrelevant to the tactics used to investigate Al Qaeda. According to the memo, he said, Bush could continue to use Patriot Act techniques in investigating possible Al Qaeda plots even if Congress lets the Patriot Act expire.

"Under the position they are staking out in the footnote and throughout the memo, the debate over the Patriot Act is superfluous," Fein said. "The president is flailing Congress for refusing to act on a matter that he says is irrelevant to the war anyway, because he can do all of these things under the authorization to use military force."

The Patriot Act has been the subject of intense debate in Congress. It is set to expire Feb. 3 under a new deadline set last month after Congress deadlocked over whether some of its provisions violate civil liberties. Bush has demanded that Congress extend the act, warning that allowing the powers to expire could cost American lives.

"The Patriot Act may be set to expire, but the threats to the United States haven't expired," Bush said in a speech Monday. "Congress extended this Patriot Act to Feb. 3. That's not good enough for the American people, it seems like to me. . . . they need to make sure they extend all aspects of the Patriot Act to protect the American people."

But the footnote in the memo suggests the government does not need the Patriot Act to aggressively investigate Al Qaeda suspects, the scholars said. The footnote says Congress gave Bush the power to set his own rules for counterterrorism investigations when it authorized the president to use "all necessary and appropriate force" against Al Qaeda a week after the Sept. 11, 2001 attacks.

Instead, the memo said, the Patriot Act simply gave the government new investigative powers to use against non-Al Qaeda terrorists and "in contexts unrelated to terrorism."

"The USA Patriot Act amendments made important corrections in the general application of" existing laws governing searches and wiretaps, the footnote said, adding that the act was "not intended to define the precise incidents of military force that would be available to the president in prosecuting the current armed conflict against Al Qaeda and its allies."

Hutchinson, the University of Chicago law professor, said that in trying to show that Congress gave Bush unlimited powers to investigate possible Al Qaeda plots, the administration has contradicted its arguments that it is necessary for Congress to reauthorize the Patriot Act in order to protect the nation from terror threats.

"It muddies the waters," Hutchinson said.

Pressed by the Globe during a briefing last week, White House spokesman Scott McClellan refused to answer directly when asked whether Bush had the power to authorize the FBI to keep using Patriot Act-style techniques when hunting for Al Qaeda suspects even if Congress lets the law expire.

The White House press secretary said Bush would "continue to use every lawful tool at his disposal to prevent attacks and to defeat the terrorists" -- without defining what tools Bush believed were lawfully at his disposal.

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"We always look at what authorities we have in order to move forward and to prevent attacks from happening," McClellan said. "The Constitution spells out very clearly that the role of the president is to protect Americans from all enemies, foreign and domestic. And the terrorist threat is the number one threat that we face."

Compelling Employee Information Under The USA Patriot Act (CORPCOUN)

By Charles B. Sklarsky and Monica R. Pinciak, The Corporate Counselor

Corporate Counselor, January 25, 2006

There has been much recent press about the USA Patriot Act, Pub. L. No. 107-56, 115 Stat. 272 (Oct. 26, 2001), and in particular the seemingly unlimited power of the Federal Bureau of Investigation to issue National Security Letters as part of its efforts to combat terrorism (under 18 U.S.C. §2709). NSLs are a form of administrative subpoena issued by the FBI upon self-certification and are shrouded in a cloak of secrecy. Specifically, §2709 permits the FBI to demand the production of certain records where the FBI certifies that the materials are sought to "protect against international terrorism or clandestine intelligence activities."

On a more controversial note, §2709 also contains a gag provision, which prohibits the recipient of an NSL from ever disclosing that the FBI has sought or obtained information pursuant to an NSL. To date, §2709 has received little judicial scrutiny, with reported controversies focusing on NSLs issued to Internet Service Providers and libraries. Now, NSLs are being issued to private corporations, with the FBI demanding the production of records regarding employees.

This article provides guidance to in-house and outside counsel who learn that a corporate client has received an NSL pursuant to §2709. §2709 contains a number of traps for the unwary, which is in large part due to its broad language and the absence of judicial scrutiny. Although Congress is currently in the process of considering various amendments to §2709, the statute, as presently enacted, raises a host of issues that counsel should be aware of after receiving and when responding to an NSL. To that end, the article first begins with a general overview of §2709, and then discusses recent constitutional challenges. The article next addresses whether a private corporation, which is not in the communications business, is the proper target of an NSL. Lastly, the article discusses §2709's gag provision, as well as other issues relevant to the receipt of an NSL.

SECTION 2709

Section 2709 is titled "Counterintelligence access to telephone toll and transactional records," and was originally enacted as part of the 1986 Electronic Communications Privacy Act. Generally speaking, §2709 permits the FBI to demand the production of telephone and electronic communications records from wire or electronic communication service providers.

Under the current version of §2709, which was revised in connection with the Patriot Act, subsections (a) and (b) permit the FBI to compel the production of "subscriber information," "toll billing records" and "electronic communication transactional records" from a "wire or electronic communication service provider." Subsection (a) directs that a wire or electronic communication provider "shall comply" with an NSL. Subsection (b) further provides that in order to issue an NSL, the Director of the FBI or "his designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office" must certify that the records sought are "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities." 18 U.S.C. §2709(b)(1)-(2). Subsection (c) contains a broad prohibition on the disclosure of the receipt of an NSL. That subsection, which is referred to as a gag provision, provides: "No wire or electronic communication service provider, or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section." 18 U.S.C. §2709(c).

When originally enacted, §2709 imposed far more exacting requirements on the issuance of an NSL. The original version permitted the FBI to issue an NSL only if it could certify that the information sought was relevant to an authorized foreign counterintelligence investigation, and there were specific and articulable facts giving reason to believe that the subject of the NSL was a foreign power or agent. 18 U.S.C. §2709(b) (1988).

When §2709 was amended in 1993, Congress broadened its reach. The 1993 amended version permitted the FBI to obtain records where the information sought was relevant to an authorized foreign counterintelligence investigation, and there were specific and articulable facts giving reason to believe either that: 1) the subject of the NSL was a foreign power or agent; or 2) the subject had communicated with a person who was engaging or has engaged in international terrorism or with a foreign

power or agent "under circumstances giving reason to believe that the communication concerned international terrorism." 18 U.S.C. §2709(b) (1994). Section 2709 was revised again in connection with the Patriot Act of 2001. Notably, the revised statute eliminated the "specific and articulable facts" requirement, as well as the required connection to a foreign agent or power, and replaced it with an amorphous standard of "relevance" -- the information sought must be "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities." 18 U.S.C. §2709.

Although §2709, as originally enacted, included a gag provision, that provision received little attention prior to the 2001 Patriot Act. This is most likely because the 2001 revision to §2709 markedly expanded the FBI's power to issue NSLs, which in turn has brought the gag provision to the forefront of recent public debate over NSLs.

RECENT CONSTITUTIONAL CHALLENGES TO SECTION 2709

Counsel should be aware that §2709 has been the subject of recent attack. Such challenges, however, are rare -- there are only two reported cases, which is not surprising given that the gag provision of §2709(c), at least theoretically, prohibits the recipient of an NSL from seeking judicial review. In both cases, the plaintiffs filed complaints for declaratory and injunctive relief on the grounds that §2709 violates the First, Fourth and Fifth Amendments. The complaints allege that: 1) §2709 violates the First Amendment because it categorically prohibits the recipient of an NSL from disclosing to any other person that the FBI has sought or obtained information by an NSL; 2) §2709 violates the First Amendment because it authorizes the FBI to order the disclosure of constitutionally protected information without tailoring its demand to a demonstrably compelling need; 3) §2709 violates the First and Fourth Amendments because it fails to provide for any mechanism through which the recipient of an NSL can challenge the propriety of an NSL; 4) §2709 violates the First, Fourth and Fifth Amendments because it authorizes the FBI to demand disclosure of constitutionally protected information without prior notice to individuals whose information is disclosed and without requiring the FBI to justify that denial of notice on an individualized basis; and 5) §2709 violates the Fifth Amendment because it is unconstitutionally vague. See, Complaint filed in Doe v. Ashcroft, No. 04 Civ. 2614.

The first case to consider the constitutionality of §2709 is Doe v. Ashcroft, 334 F. Supp. 2d 471 (S.D.N.Y. 2004). The lead plaintiff in that case is an internet service provider that received an NSL directing it to produce certain electronic communication transactional records. In September 2004, the court ruled on the constitutionality of §2709. The court concluded that §2709 violates the Fourth Amendment because it "effectively bars or substantially deters any judicial challenge to the propriety of an NSL request." On separate grounds, the court concluded that the permanent ban on disclosure contained in §2709(c), which the court determined could not be severed from the remainder of §2709, "operate[d] as an unconstitutional prior restraint on speech in violation of the First Amendment." The court stayed its judgment pending the filing of an appeal by the government. The government subsequently appealed to the 2nd Circuit.

The other challenge to §2709 was filed on Aug. 9, 2005, in the United States District Court for the District of Connecticut. The lead plaintiff in that case is a member of the American Library Association and received an NSL requiring the production of library records, including records related to Internet usage. On Aug. 16, 2005, the plaintiffs sought preliminary relief in the form of an order precluding the government from enforcing the gag provision so that the lead plaintiff could contribute to the debate surrounding §2709 by identifying itself as the recipient of an NSL.

On Sept. 9, 2005, the district court issued an order granting the plaintiffs' motion to enjoin the enforcement of §2709(c) with regard to the identity of "John Doe." Doe v. Gonzales, 386 F. Supp. 2d 66 (D. Conn. 2005). The court held that the gag provision, as applied, violated the First Amendment with respect to the subject of Doe's identity. In so holding, the court recognized that the John Doe organization has a First Amendment right to engage in the "current and lively debate in this country over the renewal of the Patriot Act." The court further observed that §2709 "has the practical effect of silencing those who have the most intimate knowledge of the statute's effect and a strong interest in advocating against the federal government's broad investigative powers." The government appealed, and the 2nd Circuit stayed the district court's judgment. The plaintiffs then sought emergency relief from the stay in the United States Supreme Court, and on Oct. 7, 2005, Justice Ginsburg entered an order denying that request. See Doe v. Gonzales, 546 U.S. (Oct. 7, 2005) (Ginsburg, J., in chambers). The 2nd Circuit consolidated the Gonzales appeal with the Ashcroft appeal for purposes of argument and disposition, and on November 2, 2005, the 2nd Circuit heard oral argument in both cases.

MEANING OF 'ELECTRONIC COMMUNICATION SERVICE PROVIDER'

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Section 2709 permits the FBI to seek the production of certain information from a "wire or electronic communications service provider." Thus, one of the initial questions posed when a private corporation receives an NSL is whether the corporation is an "electronic communication service provider."

Section 2709 itself does not define the phrase "wire or electronic communication service provider." Rather, pursuant to 18 U.S.C. §2711, the phrase "wire or electronic communication service" is defined by 18 U.S.C. §2510. Section 2510, in turn, broadly defines a "wire or electronic communication service" as "any service which provides to users thereof the ability to send or receive wire or electronic communications." 18 U.S.C. §2510(15).

The federal government interprets this definition broadly and has taken the position that the definition is not limited to traditional "providers," such as ISPs and common carriers. Notably, and as discussed above, the federal government has issued NSLs to libraries, apparently on the theory that by providing internet access to patrons, libraries are providers of electronic communication services. See Complaint, para. 35, filed in Doe v. Gonzales, No. 3:05-cv-1256 ("Section 2709 authorizes the FBI to use NSLs to demand information from a variety of for-profit and not-for-profit entities that qualify as 'electronic communication service providers' because they facilitate access to the Internet and other online services for subscribers, clients, or members. Such entities include not only what are commonly known as 'Internet service providers,' but also universities, businesses, public interest organizations, and public libraries.").

Given this broad reading, it is not surprising that the government has now taken the position that private corporations that provide e-mail addresses and e-mail accounts to employees are providers of electronic communication services. See generally, Doe v. Ashcroft, 334 F. Supp. 2d at 494 n.118 ("[S]ince the definition of 'wire or electronic communication service provider,' 18 U.S.C. §2709(a), is so vague, the statute could (and may currently) be used to seek subscriber lists or other information from an association that also provides electronic communication services (e.g., e-mail addresses) to its members, or to seek records from libraries that many, including the amici appearing in this proceeding, fear will chill speech and use of these invaluable public institutions."). Applying the plain language of the statute, a private corporation that provides its employees with the means to send or receive electronic communications is an "electronic communication service provider." Cases applying this definition support this broad reading. See, e.g., Bohach v. City of Reno, 932 F. Supp. 1232 (D. Nev. 1996); Fraser v. Nationwide Mut. Ins. Co., 352 F.3d 107 (3d Cir. 2004).

GAG PROVISION

One of the more controversial elements of §2709 is the gag provision, 18 U.S.C. §2709(c). Section 2709(c) provides that "No wire or electronic communication service provider, or officer, employee, or agent thereof, shall disclose to any person that the [FBI] has sought or obtained access to information or records under this section."

Counsel who learns that a client has received an NSL should be sensitive to three issues. First and foremost, the gag provision has been the subject of attack because it is so broadly worded that there is a serious question whether it prohibits consultation with outside counsel. Counsel should further be aware, however, that the despite the literal language of the gag provision, the federal government has publicly stated that it does not view section 2709(c) as prohibiting consultations with counsel. See Government's Brief filed in Ashcroft v. Doe, No. 05-0570, at p. 27 (filed May 24, 2005) ("[N]othing in Section 2709(c) prohibits the recipient of an NSL from disclosing the existence of the request to the recipient's own counsel."). Second, the gag imposed by §2709(c) is perpetual -- disclosure is never permitted and the statute provides for no exceptions. Third, as currently drafted, the gag provision effectively shields NSLs from judicial scrutiny. Section 2709 does not expressly provide for judicial review, and indeed seems to preclude judicial review because the filing of such a challenge would disclose the receipt of an NSL.

PERSONAL DELIVERY AND PROHIBITION ON THE USE OF WIRES OR MAIL

Counsel should be aware that an NSL prohibits the sending of the requested records through the mail. Instead, the recipient of an NSL is required to provide responsive records personally to a designated representative of the FBI at a location specified by the FBI.

Moreover, discussions concerning an NSL should not be conducted on the phone or through electronic communication, such as e-mail. NSLs prohibit a recipient from disclosing the substance of the request in a telephone conversation or electronic communication.

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VIOLATIONS OF §2709

Counsel should be aware that §2709 is silent as to whether any penalties may be imposed for a violation of its provisions, such as a failure to comply with an NSL or the disclosure of the receipt of an NSL. See, Doe, 334 F. Supp. 2d at 492. The statute is also silent as to the means for seeking enforcement of an NSL.

Charles B. Sklarsky and Monica R. Pinciak are attorneys in Jenner & Block's Chicago office. Sklarsky is co-chair of the firm's white collar criminal defense and counseling practice, and is also a partner in the firm's Conflicts Resolution Committee, and a member of the rirm's Pro Bono Committee. Pinciak is an associate in the firm's litigation & dispute resolution and white collar criminal defense and counseling practices.

HOMELAND RESPONSE:

Feds Agree To Pay ACLU Over No-Fly List (WP)

By David Kravets

The Washington Post, January 25, 2006

SAN FRANCISCO -- Two federal agencies agreed Tuesday to pay the American Civil Liberties Union $200,000 to settle a lawsuit brought to uncover information about the government's no-fly list, which bars suspected terrorists from airliners.

The government will compensate the ACLU for attorneys' fees, settling a lawsuit initiated by two San Francisco peace activists who were detained while checking in for a flight three years ago.

In October 2004, documents that the FBI and Transportation Security Administration provided in the lawsuit revealed the government has "two primary principles" but no "hard and fast" rules for deciding who gets put on the secret list.

The 301 pages of redacted documents, lodged in federal court in San Francisco in 2004, also said the secret list grew from 16 names the day of the Sept. 11 terror attacks to 594 by mid-December 2001. The list now is believed to carry thousands of names.

The documents were released as part of a lawsuit brought on behalf of Rebecca Gordon and Janet Adams, who co-publish a newsletter critical of the Bush administration. They were stopped while checking in for a San Francisco flight to Boston three years ago and detained until cleared for travel.

They and the ACLU invoked the Freedom of Information Act to demand that the government explain how people get on and off watchlists.

The FBI did not immediately comment on the settlement, and the TSA did not immediately return messages.

The agencies at first balked at supplying any information to the ACLU. But U.S. District Judge Charles Breyer, after privately reviewing secret government data, said the government was making "frivolous claims" about why it could not.

The ACLU decided to seek compensation, allowed under the FOIA, after it obtained all the information it believed it could get from the government.

One heavily redacted document says getting on a list is guided by two "primary" principles: Whether various intelligence agencies view an individual as a "potential threat to U.S. civil aviation," and whether the agency requesting a listing has provided enough information to identify the person to be flagged at check-in.

The documents disclosed that people are regularly removed from lists if the FBI is convinced they are not a threat.

ACLU: Documents Show Government Spied On Lawful Georgia Citizens (MACT)

By Giovanna Dell'orto

The Macon Telegraph, January 25, 2006

ATLANTA - The American Civil Liberties Union said it will release surveillance photos and reports that it says were obtained from government agencies showing the Pentagon, FBI and others spied on Georgia residents involved in legal protests ranging from anti-war vigils to a vegan demonstration.

"It's very much an intimidation process," said the ACLU's Gerry Weber, who said he would release documents Wednesday that show surveillance by federal, state and local agencies.

The ACLU's effort to get the documents started with complaints by individuals, including a woman in Atlanta who sued a homeland security agent she said photographed her during a 2003 vegan protest outside a ham store, and then made her give up the piece of paper on which she had written his license plate.

It also includes groups like the Georgia Peace and Justice Coalition, a pacifist organization started before the war in Iraq that was also one of the organizers of the protests during the 2004 G-8 summit on Sea Island.

Government surveillance of two of the group's meetings are documented in a classified Department of Defense database of suspicious people and activities that was first made public by NBC News in December. Both meetings were in the Atlanta area last spring, and in both cases the organizers were listed as a "credible threat."

"To have these events monitored is a ridiculous misuse of funds," coalition leader Ann Mauney said. "This kind of surveillance has a chilling effect."

While declining to comment on the documents before their release by the ACLU, FBI spokesman Bill Carter said all FBI investigations are conducted in response to information that the people being investigated were involved in or might have information about crimes.

"It's not derogatory by any means" to be named in an FBI file, Carter said.

A Department of Defense spokesman didn't immediately return a phone call seeking comment Tuesday, but Pentagon officials had said last month that they would conduct a full review of the system for handling such information to ensure its compliance with federal law, which mandates the military's intelligence-gathering efforts must pertain directly to protection of Department of Defense property or personnel.

The ACLU's Weber said some of the documents to be released Wednesday involve the National Security Agency, whose surveillance program has come under fire since it was disclosed in December. That program, approved by President Bush, allowed the agency to eavesdrop, without warrants, on communications within the United States.

Weber said there's no evidence that some of the individuals who were monitored were suspected of unlawful activities.

"I think they're being spied upon because they are critics," he said.

ACLU Seeks Gov. Info On Alleged Spying In Ohio (AP)

AP, January 25, 2006

CLEVELAND (AP) -- The American Civil Liberties Union of Ohio requested information Tuesday from the government about whether it spied on two anti-war groups and an attorney for a man suspected of terrorism connections.

ACLU officials said at news conference that members of the anti-war groups want to know whether two meetings were attended by government agents.

One meeting was last year in Akron by the Northeast Ohio American Friends Service Committee, a Quaker organization, and the another was in 2004 in Cleveland by the Northeast Ohio Anti-War Coalition.

The ACLU filed Freedom of Information Act requests with the Department of Defense, Justice Department, the FBI and police seeking records that document any collection of information about the groups.

Gary Daniels, the ACLU's litigation coordinator, said the ACLU became involved because the groups were included on a Defense Department classified database of information about suspicious people and activity inside the United States as reported by NBC News.

The ACLU also requested information about several people, including Akron lawyer Farhad Sethna, based on his association with the American Friends Service Committee.

Sethna said he hopes the request will shed light on whether the government spied on his conversations with a client, Ashraf Al-Jailani, who recently was sent back to his native Yemen after being jailed three years on suspicions that he associated with suspected terrorists.

"The only way we would be involved in gathering specific or credible information was if a group was involved in criminal activity," FBI spokesman Bill Carter said.

A message was left for Department of Defense spokesman Greg Hicks. Justice Department spokesman Brian Roehrkasse declined comment.

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"I want to ensure that the government has respected my attorney-client privilege, and if proof is found that the government has violated this privilege, then I will take every step permitted under the law," Sethna said in an e-mail message.

Jeffrey Gamso, Ohio AFL-CIO legal director, said he wants to find out whether the Defense Department's Counterintelligence Field Activity database has records of other Ohio groups or individuals and if ACLU meeting rooms were bugged.

"Of course I suspect that they are going after Farhad (Sethna) in part because of his representation of Al-Jailani. That's not the basis in which we are pursuing these things today. We are just acting on what we have gleaned so far," Gamso said.

Two federal lawsuits filed Jan. 17 allege that President Bush's electronic eavesdropping program exceeds his constitutional powers.

The lawsuits -- one filed in New York by the Center for Constitutional Rights and the other in Detroit by the American Civil Liberties Union and other groups -- say the program bypasses safeguards in a 1978 law requiring court approval of electronic monitoring.

U.S. Attorney General Alberto Gonzales, speaking Tuesday at Georgetown Law School, defended the Bush administration's domestic spying program.

He said surveillance without warrants falls within Bush's constitutional authority that Congress granted following the Sept. 11, 2001 terrorist attacks and is critical to preventing more domestic attacks.

Man Charged With Sending Fake Anthrax (KCS)

By Sean Webby And Elise Ackerman

The Kansas City Star, January 25, 2006

SAN JOSE, Calif. - A 43-year-old Santa Cruz, Calif., man who allegedly became obsessed with Drew Barrymore almost two decades ago has been charged in federal court with sending threatening letters laced with fake anthrax because the actress would not respond to his letters.

Paul Charles Steeves allegedly sent white powder-filled letters to an FBI office in Watsonville, Calif., and a probation office and drug rehabilitation center in the East Bay earlier this month. The white powder was apparently intended to spark fear that the letters carried the deadly anthrax disease.

Steeves signed the letters with his real name, according to an FBI affidavit.

Local law enforcement, fire officials and the FBI's hazardous materials investigations team responded when the powder was discovered in the letters. Tests later showed that the letters were filled Arm & Hammer baking soda.

"It was taken very seriously," FBI spokeswoman LaRae Quy said. "There was no way of knowing it was a hoax. It had to be treated as if it were anthrax or some other poison."

Steeves, who was charged Monday, faces up to five years in prison if convicted of sending threatening communications over the Internet and sending the fake anthrax.

The letters were postmarked Jan. 16 and arrived days later at the New Bridge Foundation, a rehabilitation center in Berkeley, Calif.; a U.S probation office in Oakland, Calif., and a small FBI office in Watsonville.

Steeves was convicted in 1997 of threatening to kill an FBI agent in Watsonville. His three years of probation were reportedly managed through the two East Bay offices.

In addition to the baking soda, the letters also contained photographs of Barrymore and a plane flying into the World Trade Center.

That same day, Steeves also allegedly posted a message on a Barrymore fan Web site:

"For 25 years I have wrongfully suffered a (sic) real chemical poison attacks from the secret government - now it is payback time. For the next 25 years I starting yesterday I did launch the greatest terrorist attack on the OS since Sept 2001! Tell Drew Barrymore that I, Paul Steeves in Santa Cruz had expected her to peacefully contact me. Now its war."

When law enforcement interviewed him Jan. 20, Steeves admitted he sent the letters, the affidavit says. Surrounded by magazine clippings of Barrymore on his wall and pasted in homemade albums, Steeves told investigators he had been interested in Barrymore for about 17 years "because they shared common goals."

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Authorities also found 12 more sealed envelopes to the FBI.

Steeves told investigators: "I'm glad you guys came because I was going to keep mailing those letters for the next 15 or 20 years."

Man Committed For Threatening To Blow Up FBI Office (AP)

AP, January 25, 2006

A Marshalltown man accused of mailing rat poison and threatening to blow up an FBI office has been ruled innocent by reason of insanity.

Anana Gundo Nariboli, 47, was charged last year with threatening to use an explosive, mailing threatening communications and obstructing the use of mail.

On Jan. 11, U.S. District Judge Robert Pratt ordered that Nariboli be committed to a mental institution.

Nariboli had been in custody since June 1 when the FBI arrested him at his Marshalltown home. A federal complaint alleges that on Feb. 11 Nariboli mailed a letter to Dow Chemical Company in Milwaukee, Wis., threatening to blow up an FBI office. It also says Nariboli mailed an envelope containing a powdered substance to the Iowa State University admissions building.

A letter sent to the Des Moines Post Office in May broke open inside the building, prompting a temporary closure and requiring HAZMAT teams to respond. The complaint also stated that Nariboli made five anonymous telephone calls to Iowa State Radio making reference to bombs and serial killers.

According to court records, Nariboli admitted sending the letters and showed agents what he put in them — a household cleaner, Comet, and the rat poison D-CON.

His mother, Usha Nariboli, said after his arrest that her son had been on several medications through the years but his behavior suddenly changed and he began making threats.

‘‘He’s not a terrorist,’’ she said. ‘‘He’s a mental patient.’’

Defendant In 2004 Subway Bomb Plot Changes His Story Of Plan's Origin (NYT)

By William K. Rashbaum

The New York Times, January 25, 2006

A Queens man charged in 2004 with conspiring to blow up the Herald Square subway station testified yesterday in federal court in Brooklyn that while he first claimed the plot was not his idea, he later told federal prosecutors that it was.

The man, Shahawar Matin Siraj, 23, testifying during a hearing in his case before Judge Nina Gershon of United States District Court, acknowledged making the admissions to federal and local authorities in the hours after his arrest in the plot.

Mr. Siraj's lawyers, Martin R. Stolar and Khurrum Wahid, sought the hearing and had their client testify to try to prevent the government from using the admissions at trial, arguing that they were improperly obtained. The hearing will continue today, and Judge Gershon will then rule on whether prosecutors can use the statements as evidence.

In more than three hours on the witness stand, Mr. Siraj, who is from Pakistan, was frequently disjointed and sometimes emotional. He testified that when he was interviewed by two federal prosecutors, an F.B.I. agent and two New York police detectives, he talked to the prosecutors because he thought one of them was his own lawyer. He also said that he did not understand his Miranda rights - even though he signed a form waiving them - and that he was not allowed to make a telephone call until the questioning was completed.

Mr. Siraj and a co-defendant, James Elshafay, had diagrams of the subway station and two maps of police precincts and bridges on Staten Island when they were arrested on Aug. 27, 2004, three days before the Republican National Convention, which was held at Madison Square Garden, just blocks away from the subway station. Mr. Stolar said he believes that Mr. Elshafay has been cooperating with prosecutors.

Mr. Stolar, who has said that he will seek to prove that the government entrapped his client by using a confidential informer, later acknowledged that his client's statement that he thought the prosecutor was his lawyer sounded like "nonsense." "But that's really what he thought," he said.

After the hearing, Mr. Stolar said that the admissions would not have any impact on his ability to present an entrapment defense. Speaking of his client, he said he would argue that "the whole idea was put into his head" by the government's informer. He said Mr. Siraj would testify at trial.

The assistant United States attorney prosecuting the case, Todd Harrison, was one of the prosecutors who had interviewed Mr. Siraj. Yesterday, Mr. Harrison pressed Mr. Siraj about why he had not cited his belief that the prosecutor was his lawyer, his confusion about his Miranda rights and his inability to make a phone call in a three-page sworn statement he signed about the events on the day he was arrested. The statement was filed as part of Mr. Stolar's efforts to have Mr. Siraj's admissions suppressed.

Mr. Siraj acknowledged that there were errors in the sworn statement, but seemed unable to explain the omissions. He said he had signed it only after closely reading the first paragraph. He blamed his haste to get back to his lawyer for the errors.

All Ears For A Blast From The Past (WP)

By Lisa Rein

The Washington Post, January 25, 2006

The Washington region's emergency managers have concluded that the high-tech devices put in place since the Sept. 11, 2001, terrorist attacks are not enough to warn masses of people. So they are looking at the system that alerted the World War II and Cold War generations: the piercing wail of a siren.

Arlington County and neighboring Alexandria will become the first communities in the country to experiment with sirens as alerts to terrorist attacks. They are preparing to buy as many as 15 modern sirens to mount on telephone poles, buildings and even traffic lights in a few neighborhoods in a federally funded pilot program that is being closely watched by other area governments.

With their mix of urban canyons, suburban subdivisions, tourists, malls and parks -- and dense populations of daytime workers that make them vulnerable to attack -- Arlington and Alexandria stand out as ideal locations to see whether sirens can reach people that BlackBerrys, cell phones and radio stations cannot.

"People outdoors are most at risk in an attack because they are least able to find out what is going on quickly," said John Fuoto, an engineer and siren expert for the Department of Homeland Security and a consultant to Arlington, which is overseeing the pilot project.

Fuoto said sirens could also be ideal warning systems on the Mall, in downtown Silver Spring and at Tysons Corner -- any place people congregate outside the reach of mass broadcasts over television, radio, telephone or pager.

Terrorism fears have been the driving force behind the free emergency alerts many of the region's local governments are offering to deliver on such portable hand-held devices as cell phones as well as via radio stations, electronic highway signs and reverse-911 telephone service.

But even in a region of techies, many people aren't equipped for the warnings, and relatively few of those who are have signed up for such systems. For example, Fairfax County has just 5,000 subscribers to its text-messaging alert system, officials said.

A new generation of sirens used in San Francisco (for earthquake alerts), on Mount Rainier (for volcano warnings) and now in tsunami-stricken Southeast Asia caught the attention of local officials.

"Everyone's looking at this to see if it will really reach significant numbers of people who are otherwise not reachable," said David Snyder of Falls Church, a member of the Washington region's emergency preparedness council.

Emergency managers stress that sirens, too, are limited because they are designed to reach people outdoors. They are not ideal for suburban counties where people tend to spend more time indoors than out.

"We may say, 'This was a good attempt to fill a void in our public alerting system that may not work,' " said Robert P. Griffin Jr., Arlington's director of emergency management. "Or we may say, 'We've answered a problem for ourselves and the rest of the region.' "

The program will test sirens in several as-yet-unidentified neighborhoods, simulating the response to an explosion or weather catastrophe with a wail followed by a broadcast, Griffin said. There will be ample advance warning of the drill. During the

drill, people will be told the nature of the emergency and will be directed to go indoors or prepare to evacuate. Or they'll be told to turn on a radio to find out what to do.

"We don't want to disturb people," Griffin said, "but we want to make sure we get the best information we can." He estimated the project's cost at $350,000.

Most local governments dismantled their civil defense sirens in the 1990s after the federal government withdrew funding for them when the Cold War ended. They had alerted the public to emergencies for a century, starting with fire alarms. After World War II, they were named civil defense sirens throughout the United States after Joseph Stalin tested the Soviet Union's first atomic bomb in 1949.

With the threat of nuclear war over, some of the yellow, electrically powered mechanical devices stayed as warning systems in some parts of the country for tornados and other natural disasters. Around Washington today, they are used near the Calvert Cliffs nuclear power plant to warn of any accidents and by eight tiny firehouses in western Loudoun County to summon volunteers to duty.

The new generation of sirens, according to a study conducted by George Washington University for the Metropolitan Washington Council of Governments, can be used to send live or recorded messages in multiple languages. They're more reliable than the older generation, and they can operate on batteries. They can be tested silently. And they can be activated individually -- after a chemical spill in one neighborhood, for example -- or as a group.

Some officials fear that with so many features, the technology could confuse people in an emergency, even if there was a thorough campaign to educate the public. "It used to be that a siren meant a tornado, and everybody knew that," said Fairfax County spokeswoman Merni Fitzgerald, who also heads the county's emergency communications efforts. "In this day and age, it's not going to just be, 'We'll notify you if it's a tornado.' It could be a bomb. People might say, 'That's a loud noise -- what does it mean?' "

Officials of other local governments say they are watching the experiment carefully. The District dismantled its 100 civil defense sirens in the early 1990s, but a few remain in the city, including at George Washington University and Bolling Air Force Base.

Just 13,500 residents have signed up for an electronic alert system since its rollout 18 months ago. The city is "open to anything . . . that might help alert our residents of an emergency incident," said Jo'Ellen Countee, spokeswoman for the emergency management department.

"We're really looking forward to seeing the results," said Scott Reilly, assistant chief administrative officer in Montgomery County, which with its large agricultural reserve spans 500 square miles. He said he has concerns, though: "I'm not sure how a siren reaches into buildings or a shopping mall."

White House Rejects La. Buyout Proposal Agency Would Pay Homeowners (USAT)

By Oren Dorell

USA Today, January 25, 2006

WASHINGTON — A top economic adviser to President Bush said Tuesday that the White House has rejected the Louisiana congressional delegation's request for a new agency to buy homes in New Orleans and other areas ruined by Hurricane Katrina.

“We're very concerned” with the Louisiana proposal, said Allan Hubbard, director of the National Economic Council. Hubbard said the White House wants any buyouts to be paid for through the traditional congressional spending process.

The proposal, by Rep. Richard Baker, R-La., would create an agency called the Louisiana Recovery Corp. that could raise up to $30 billion in government money through the issuance of Treasury bonds. It would pay homeowners at least 60% of their equity and pay mortgage companies up to 60% of what they are owed.

The corporation would repair streets, power lines and other infrastructure in damaged neighborhoods and then sell the homes to developers. The proposal gained the support of Louisiana's nine-member congressional delegation, Louisiana Gov. Kathleen Blanco and New Orleans Mayor Ray Nagin.

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Baker pushed for support from the White House in a letter in which he quoted Treasury Secretary John Snow as saying the measure "has some real merit." Hubbard and Donald Powell, the president's coordinator for Gulf Coast rebuilding, expressed reservations. Hubbard informed Baker Monday that the White House would say no.

"We think [Baker's proposal] would not have the same accountability and transparency for the American taxpayer that the normal appropriations process would," Hubbard told reporters from USA TODAY and the Gannett News Service.

Powell said "there is enough money" in Louisiana's share of congressionally approved Community Development Block Grants — up to $6.4 billion — to cover eligible uninsured homeowners. About 20,000 homes fit that category, according to his office.

Baker said that leaves out at least 140,000 ruined homes, and he predicts mass foreclosures and trouble for the banks and lending companies that hold the mortgages. "That is an unacceptable outcome," Baker said. "I'm not giving up on this."

Sen. Mary Landrieu, D-La., said the decision "is just another indication of the administration's lack of understanding of the magnitude of the task at hand."

Scott Cowen, president of Tulane University and a member of the Bring Back New Orleans Commission, said "a lot of us were counting on" Baker's plan.

"This means recovery will take longer and be a little more difficult," Cowen said.

White House Pulls Backing For A Storm Buyout Bill (WSJ)

By Christopher Cooper

The Wall Street Journal, January 25, 2006

WASHINGTON -- The White House is backing away from a proposal to create a federal authority that would buy and liquidate storm-ruined property in Louisiana, dealing a blow to a plan with wide congressional support.

A bill to offer partial compensation to thousands of homeowners in the state who had little or no flood insurance and bundle the properties for redevelopment, passed the House Financial Services Committee by a 50-9 vote last month. But action on it stalled, despite approval of other hurricane-relief measures, after the White House expressed concerns.

The Bush administration initially signaled willingness to back a modified proposal, but philosophical misgivings about setting up a new federal agency ultimately prevailed. Spokesman Trent Duffy said officials worried that the bill, sponsored by Rep. Richard Baker (R., La.), would add another layer of bureaucracy to a federal-aid effort criticized as lumbering. Instead, the White House wants to use existing housing programs and "the traditional appropriations process" to tackle the problem, Mr. Duffy said.

Mr. Baker says current programs do little to solve the overarching problems caused by Hurricane Katrina. Some 250,000 buildings are believed to have been damaged, many from flooding after levees collapsed. State officials estimated that up to 40% of property owners who suffered damage didn't have flood insurance or didn't have enough.

The Baker bill would create the Louisiana Recovery Corp., to buy out owners of ruined property at some minimum rate, then resell the land to developers. Though the cost of the program wasn't known, Mr. Baker's bill would cap the amount of buyout money at $30 billion. Buyouts also would have been extended to victims of Hurricane Rita, which hit western Louisiana a few weeks after Katrina.

Because entire neighborhoods in the New Orleans area are ruined, officials are bracing for defaults as uninsured homeowners walk away from their mortgages. The Baker bill drew support from the lending industry as well as local officials, who say redevelopment is more likely if individual lots can be bundled and resold to developers.

Mr. Baker appeared to have the votes after the Senate agreed to back the measure, provided the White House went along. Michael DiResto, a spokesman for Mr. Baker, said the administration initially seemed keen enough but abruptly withdrew its support Monday evening.

White House Declines To Provide Storm Papers (NYT)

By Eric Lipton

The New York Times, January 25, 2006

DOJ_NMG_0011191

WASHINGTON, Jan. 24 - The Bush administration, citing the confidentiality of executive branch communications, said Tuesday that it did not plan to turn over certain documents about Hurricane Katrina or make senior White House officials available for sworn testimony before two Congressional committees investigating the storm response.

The White House this week also formally notified Representative Richard H. Baker, Republican of Louisiana, that it would not support his legislation creating a federally financed reconstruction program for the state that would bail out homeowners and mortgage lenders. Many Louisiana officials consider the bill crucial to recovery, but administration officials said the state would have to use community development money appropriated by Congress.

The White House's stance on storm-related documents, along with slow or incomplete responses by other agencies, threatens to undermine efforts to identify what went wrong, Democrats on the committees said Tuesday.

"There has been a near total lack of cooperation that has made it impossible, in my opinion, for us to do the thorough investigation that we have a responsibility to do," Senator Joseph I. Lieberman, Democrat of Connecticut, said at Tuesday's hearing of the Senate committee investigating the response. His spokeswoman said he would ask for a subpoena for documents and testimony if the White House did not comply.

In response to questions later from a reporter, the deputy White House spokesman, Trent Duffy, said the administration had declined requests to provide testimony by Andrew H. Card Jr., the White House chief of staff; Mr. Card's deputy, Joe Hagin; Frances Fragos Townsend, the domestic security adviser; and her deputy, Ken Rapuano.

Mr. Duffy said the administration had also declined to provide storm-related e-mail correspondence and other communications involving White House staff members. Mr. Rapuano has given briefings to the committees, but the sessions were closed to the public and were not considered formal testimony.

"The White House and the administration are cooperating with both the House and Senate," Mr. Duffy said. "But we have also maintained the president's ability to get advice and have conversations with his top advisers that remain confidential."

Yet even Senator Susan Collins, Republican of Maine, objected when administration officials who were not part of the president's staff said they could not testify about communications with the White House.

"I completely disagree with that practice," Ms. Collins, chairwoman of the Senate Homeland Security and Governmental Affairs Committee, said in an interview Tuesday.

According to Mr. Lieberman, Michael D. Brown, the former director of the Federal Emergency Management Agency, cited such a restriction on Monday, as agency lawyers had advised him not to say whether he had spoken to President Bush or Vice President Dick Cheney or to comment on the substance of any conversations with any other high-level White House officials.

Nevertheless, both Ms. Collins and Representative Thomas M. Davis III, a Virginia Republican who is leading the House inquiry, said that despite some frustration with the administration's response, they remained confident that the investigations would produce meaningful results.

Other members of the committees said the executive branch communications were essential because it had become apparent that one of the most significant failures was the apparent lack of complete engagement by the White House and the federal government in the days immediately before and after the storm.

"When you have a natural disaster, the president needs to be hands-on, and if anyone in his staff gets in the way, he needs to push them away," said Representative Christopher Shays, a Connecticut Republican and member of the House investigating committee. "The response was pathetic."

Even before the House and Senate investigations began, Democrats called for the appointment of an independent commission, like the one set up after the attacks of Sept. 11, 2001, to investigate the response to the most costly natural disaster in United States history. The 9/11 Commission, after extensive negotiations, questioned Mr. Bush and Mr. Cheney and received sworn testimony from Condoleezza Rice, then the national security adviser.

"Our fears are turning out to be accurate," Representative Henry A. Waxman, Democrat of California, said Tuesday. "The Bush administration is stonewalling the Congress."

Mr. Duffy, along with officials from the Departments of Defense and Homeland Security, said that although not every request had been met, the administration had provided an enormous amount of detailed information about nearly every aspect of the federal response to Hurricane Katrina.

The Department of Defense, for example, has provided 18 officials for testimony, and 57 others have been interviewed by Congressional staff members, said Maj. Paul Swiergosz, a Pentagon spokesman. It has also turned over an estimated 240,000 pages of documents.

Russ Knocke, a spokesman for the Homeland Security Department, said his agency, which oversees FEMA, had been similarly responsive, providing 60 officials as witnesses and producing 300,000 pages of documents.

But the White House and other federal agencies have been less helpful, members of the investigating committees said, particularly the Pentagon and Secretary of Defense Donald H. Rumsfeld, who is the subject of the sole subpoena issued so far.

"We have been trying - without success - to obtain Secretary Rumsfeld's cooperation for months," Representative Charlie Melancon, Democrat of Louisiana, said in a letter to Representative Davis on Monday. "The situation is not acceptable."

Mr. Davis, in a written response to Mr. Melancon on Tuesday, said he felt that the Pentagon, after the subpoena, had largely honored the committee's requests.

The Congressional investigations began in September, shortly after Hurricane Katrina struck the Gulf Coast, flooding New Orleans, devastating much of the rest of the region and causing more than $100 billion in damage.

Both of the committees are rushing to try to complete their investigations - the House by Feb. 15, and the Senate by the middle of March - in part because of the approaching Atlantic hurricane season, which starts on June 1.

The separate action this week by the Bush administration to oppose an effort to create what would have been called the Louisiana Recovery Corporation evoked great disappointment among state officials.

Mr. Baker's bill would have bought out owners of ruined homes, offering them at least 60 percent of their pre-storm equity, while also giving mortgage companies 60 percent of their loans on damaged properties. The bonds needed for the project would have been paid off by selling developers federally acquired land.

"The Baker bill as a tool was very efficient in terms of helping people sell out, or clear title to the land," said Sean Reilly, a member of the Louisiana Recovery Authority. "We're going to have to go back to the drawing board and do the best with the tools we have."

Donald E. Powell, the Bush administration's Gulf Coast recovery coordinator, said in a statement that the government was prepared to help victims in other ways.

"We share the common vision, the common objective of Congressman Baker, to assist uninsured homeowners outside the flood plain," Mr. Powell said.

Mr. Powell's spokeswoman, D. J. Nordquist, said the administration was open to discussion if the community development money turned out to be insufficient.

Senators: White House Stalls Katrina Probe (LEXHL)

By lara jakes jordan

Lexington Herald-Leader (KY), January 25, 2006

WASHINGTON - The White House is crippling a Senate inquiry into the government's sluggish response to Hurricane Katrina by barring administration officials from answering questions and failing to hand over documents, senators leading the investigation said Tuesday.

In some cases, staff at the White House and other federal agencies have refused to be interviewed by congressional investigators, said the top Republican and Democrat on the Senate Homeland Security and Governmental Affairs Committee. In addition, agency officials won't answer seemingly innocuous questions about times and dates of meetings and telephone calls with the White House, the senators said.

A White House spokesman said the administration is committed to working with separate Senate and House investigations of the Katrina response but wants to protect the confidentiality of presidential advisers.

"No one believes that the government responded adequately," said Sen. Joe Lieberman, D-Conn. "And we can't put that story together if people feel they're under a gag order from the White House."

Sen. Susan Collins of Maine, the committee's Republican chair, said she respects the White House's reluctance to reveal advice to President Bush from his top aides, which is generally covered by executive privilege.

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Still, she criticized the dearth of information from agency officials about their contacts with the White House.

"We are entitled to know if someone from the Department of Homeland Security calls someone at the White House during this whole crisis period," Collins said. "So I think the White House has gone too far in restricting basic information about who called whom on what day."

She added, "It is completely inappropriate" for the White House to bar agency officials from talking to the Senate committee.

White House spokesman Trent Duffy said the administration's deputy homeland security adviser, Ken Rapuano, has briefed House and Senate lawmakers on the federal response. A "lessons learned" report from Homeland Security Adviser Frances Fragos Townsend also is expected in coming weeks, Duffy said.

But he defended the administration's decision to prohibit White House staffers or other presidential advisers from testifying before Congress.

"There is a deliberate process, and the White House has always said it wants to cooperate with the committee but preserve any president's ability to get advice from advisers on a confidential basis," Duffy said. "And that's a critical need for any U.S. president and that is continuing to influence how we cooperate with the committees."

Collins and Lieberman sidestepped questions about whether they plan to subpoena the White House to get the information they seek, though Collins said she does not believe subpoenaing the Homeland Security Department is necessary.

The Senate inquiry is scheduled to conclude in March with a report detailing steps the federal government took - and didn't take - to prepare for the Aug. 29 storm.

Investigators have interviewed about 260 witnesses from federal, state and local governments and the private sector. Additionally, the committee has received an estimated 500,000 documents - including e-mails, memos, supply orders and emergency operation plans - outlining Katrina-related communications among all levels of government.

But Lieberman said the Justice and Health and Human Services departments "have essentially ignored our document requests for months" while HHS has refused to allow interviews of its staff. He described the Homeland Security response as "too little, too late."

Christina Pearson, spokeswoman for Health and Human Services, disputed Liberman's characterization of the agency's response. "We've produced an extensive range of documents in response to the committee's request, well over 40,000 pages," she said. As for witnesses, Pearson was vague. "We're working with them," she said.

Collins offered a rosier view of Homeland Security's cooperation, noting that Deputy Secretary Michael Jackson and department chief of staff John Wood were scheduled to talk to investigators later this week.

A special House committee created to review the government's readiness for Katrina is to release its findings by Feb. 15. Although Rep. Tom Davis, R-Va., the panel's chairman, earlier considered subpoenaing the White House, the panel backed away after the Rapuano briefing.

The panel ultimately did subpoena the Pentagon for Katrina documents, but one lawmaker, Rep. Charlie Melancon, D-La., said he believes Defense Secretary Donald H. Rumsfeld has not handed over enough to fully comply with the legal order.

But in a letter to Melancon on Tuesday, Davis said he is satisfied the Pentagon has complied with the subpoena, which yielded "massive mounds of documents," including classified materials from Rumsfeld.

Senators Blast Bush For Lack Of Response To Katrina Warnings (WSJ/AP)

The Wall Street Journal, January 25, 2006

WASHINGTON -- Senators lashed out at the Bush administration Tuesday for failing to heed devastating predictions from a hurricane preparedness test that began a year before Hurricane Katrina slammed into the Gulf Coast.

The top Democrat on the Senate Homeland Security and Governmental Affairs Committee also accused the White House of trying to block or delay the panel's inquiry into the government's sluggish response to Katrina.

1 ADDITIONAL DOCUMENTS

Review the prepared testimony2 of Madhu Beriwal, president and CEO of Innovative Emergency Management Inc., the company that conducted the disaster-planning exercise known as "Hurricane Pam." Includes comparisons between Pam and Katrina.

The preparedness exercise that began in July 2004, dubbed Hurricane Pam, warned that a Category 3 storm would overwhelm the New Orleans area with flood waters, killing up to 60,000 people and destroying buildings and roads. State and federal officials were concluding Pam's findings when Katrina, an actual Category 4 storm, roared ashore on Aug. 29.

"As a dry run for the real thing, Pam should have been a wake-up call that could not be ignored," said Sen. Susan Collins (R., Maine), chair of the Senate committee's examination of Pam's findings at a Tuesday hearing. "Instead, it is apparent that a more appropriate name for Pam should have been "Cassandra" -- the mythical prophet who warned of disasters but whom no one believed."

Sen. Joe Lieberman (D., Conn.) said Pam gave the Federal Emergency Management Agency and the Homeland Security Department "explicit notice" that a catastrophic storm in New Orleans would require urgent aid from Washington to state and local response officials. "But despite these warnings from Pam, preparations for Hurricane Katrina were shockingly poor," said Sen. Lieberman.

White House spokesman Scott McClellan said the administration is conducting a lessons-learned review, and "I'm not going to do a play-by-play analysis."

"And we've also been taking steps to make sure we prevent some of those problems that occurred from recurring in future response efforts," Mr. McClellan said. "And that's what we'll continue to do."

A month before Katrina hit, state and federal officials working on the Pam exercise estimated that government plans to evacuate people from New Orleans were only 10% complete.

"If you think soup lines in the Depression were long, wait till you see lines" at collection points in New Orleans, Transportation Department regional emergency officer Don Day said at a July 29 briefing with federal and state authorities. Notes of the briefing, as recorded by Baton Rouge-based contractors Innovative Emergency Management Inc., were examined at the hearing. "We're at less than 10% done with this … planning when you consider the buses and the people," Mr. Day said at the briefing.

Sen. Lieberman also accused the White House of trying to stall a Senate investigation into the government's response to Katrina by failing to produce requested documents and prohibiting federal officials from answering questions. The inquiry is scheduled to be completed in March.

"This assertion of a kind of virtual immunity of the White House from this inquiry has obviously frustrated our committee's ability to learn and tell the full story of Katrina," Sen. Lieberman said. "In my opinion, it is unacceptable."

However, Sen. Lieberman noted, the committee did receive an email sent to the White House Situation Room hours before Katrina hit, warning that the storm's surge could breach levees and leave New Orleans flooded for weeks or months. The email included an Aug. 28 report by the Homeland Security Department's National Infrastructure Simulation and Analysis Center, which concluded that a Category 4 or 5 hurricane would cause severe damage in the city, including power outages and a direct economic hit of up to $10 billion for the first week.

"Overall, the impacts described herein are conservative," stated the report, which was sent to Homeland Security's office for infrastructure protection. "Any storm rated Category 4 or greater … will likely lead to severe flooding and/or levee breaching, leaving the New Orleans metro area submerged for weeks or months," the report said.

The documents are the latest indication that the federal government knew beforehand of the catastrophic damage that a storm of Katrina's magnitude could cause. The Bush administration has been lambasted for its lackluster response to Katrina and its aftermath, including criticism that the government should have known a hurricane of that strength posed a danger to the area's levees and was unprepared to cope with it.

Homeland Security spokesman Russ Knocke said he wasn't familiar with the documents but that the levees situation was one likely reason the government urged an evacuation of New Orleans before the storm hit. "We're in the process of participating in a large after-action report," Mr. Knocke said. "We're deeply committed to finding out what worked and didn't work, and apply those lessons learned going forward."

April 22 Vote Set For New Orleans (NYT/AP)

By The Associated Press

The New York Times, January 25, 2006

BATON ROUGE, La., Jan. 24 (AP) - Under pressure from a federal judge, Gov. Kathleen Babineaux Blanco set an April 22 date for New Orleans's elections, which were postponed after Hurricane Katrina scattered the city's residents and destroyed hundreds of voting precincts.

Elections for mayor, City Council, sheriff and tax assessors will be held on that date.

The Legislature and the Justice Department must still sign off on the plan, which includes beefed-up absentee balloting and the creation of larger "mega-polling" sites to replace those damaged by the hurricane. The storm damaged about 300 of Orleans Parish's 442 election precincts.

The elections were originally scheduled for Feb. 4.

If the plan is approved, the sign-up period for candidates will be March 1-3. If a runoff is needed, it will be May 20.

'It's Like The Twilight Zone' (WP)

By Anne Applebaum

The Washington Post, January 25, 2006

NEW ORLEANS -- A city council meeting is in session. On a high dais at the back of a dim, dilapidated committee room -- a room as far from the spirit of an old New Orleans townhouse as it is possible to imagine -- sit the council members. Below them sits a group of young black men, part of the "Lower Ninth Ward Economic Development Council." The name of the council is optimistic: Much of their neighborhood is still a jumble of houses that have been smashed into wooden matchsticks by floodwater, houses that floated on top of one another, houses that sit sideways in the middle of what used to be the street.

But the young men are optimists, too. They testify about the good work they used to do in the Lower Ninth Ward -- the teenagers helped, the advice dispensed -- and the good work they want to do. Afterward, the council members thank them and heartily promise that the city's neighborhoods will be rebuilt. Then one member grabs the microphone and announces that a word has been forgotten.

" Simultaneously !" he roars. "Our neighborhoods will be rebuilt simultaneously !" Everyone applauds, while knowing full well that the simultaneous reconstruction of every wrecked neighborhood in greater New Orleans is not just unlikely, it is impossible.

It's the kind of scene that gets repeated daily in New Orleans, a city where deep emotions and hard, tragic logic are at constant war with one another, where the understandable impulse to tell everyone he or she can go home is in direct conflict with the immense scale of the damage. Every version of every plan so far presented to the city's residents imagines a smaller, more easily protected New Orleans, a New Orleans with reconstructed historic neighborhoods on higher ground -- and a New Orleans without the hundreds of thousands of newer, often cheaply built, currently uninhabitable houses on lower, wetter land. Yet, when anyone speaks about his own neighborhood, logic falls away: Yes, a smaller New Orleans -- but one in which my house still stands and my neighbors come back.

Sometimes irrational optimism wins. Across the city, even in the most damaged neighborhoods, people are stripping and gutting their houses, just in case their neighborhood turns out to be one of the lucky ones. "It's like the twilight zone, isn't it," one man shouted to me from his rooftop, and indeed it was: He was the only person on an otherwise deserted block.

Sometimes irrational fear wins. A recent attempt to clear storm debris from the Lower Ninth Ward prompted spontaneous protests, "No Bulldozer" signs, and a temporary suspension of trash collection in the neighborhood. However much they wanted the debris gone, people were even more afraid that the bulldozers meant eviction.

Most of the time, though, there is confusion -- a confusion personified by Ray Nagin, the city's mayor. Nagin sometimes sounds rational about what can be achieved in a smaller city, and sometimes promises everyone everything, and sometimes makes no sense at all. "He was just having a 'Katrina moment,' " one New Orleanian told me last week, trying to explain Nagin's recent comments about God and chocolate. A "Katrina moment": It's when the conflict between reason and emotion becomes too much, or when the post-hurricane highs ("We're going to build a better, cleaner, smarter, more integrated New Orleans!")

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crash into post-hurricane lows (gloom, doom and talk of moving to Atlanta). One of the odder things about New Orleans at the moment is that you can sometimes hear this crash take place in the course of a single conversation.

The rest of the country can help the city move on. Rebuilding the levees, at least to the standards they were meant to meet, would help convince people that it's worth rebuilding houses -- and that is beginning to happen. Passing a version of the legislation proposed by Louisiana Rep. Richard Baker would help, too: Baker's bill would allow people to sell their wrecked homes to a state-run development corporation, and possibly buy new homes in higher, drier parts of the city.

But no one can help the city's residents make the psychological adjustment. No one can help them accept the fact that New Orleans will never be the way it was on the Sunday before Katrina. No one can console them for the loss of the extraordinary historical continuity that was the city's best and worst feature. Above all, no one can help them navigate what a New Orleanian called the city's "bipolar landscape": the amazing vitality of the French Quarter, the youthful teams of volunteer historic preservationists, the crowded restaurants that cheerfully operate with half the staff they had before -- and the flood-damaged neighborhoods, which are much vaster than most outsiders can imagine. Five months after the hurricane, New Orleans remains stuck in a strange holding pattern. And until the city accepts the idea that its future will be different from its past, there it will remain.

WAR NEWS:

Pakistani PM Talks To Bush About Airstrike (USAT)

USA Today, January 25, 2006

Pakistani Prime Minister Shaukat Aziz said he expressed concerns about a purported U.S. missile attack that has increased tensions between the two countries during his visit Tuesday with President Bush. Aziz said representatives of the United States, Afghanistan and Pakistan will meet soon to discuss the matter. He spent nearly two hours with Bush at the White House.

Bush said the United States and Pakistan are working closely to defeat terrorism. He did not comment on the airstrike near the Pakistani-Afghan border.

The Jan. 13 attack was allegedly aimed at Osama bin Laden's second-in-command, Ayman al-Zawahri. Gen. Pervez Musharraf, Pakistan's president, said Tuesday that there were indications that al-Qaeda members were among those killed, but several civilians were as well. Bush announced that he would visit Pakistan and India in March.

White House accused of hindering inquiry

Members of Congress investigating government response to Hurricane Katrina say the White House is not fully cooperating.

Sen. Joe Lieberman, D-Conn., a member of the Senate Committee on Homeland Security and Governmental Affairs, said, “No one believes that the government responded adequately. And we can't put that story together if people feel they're under a gag order from the White House.”

White House spokesman Trent Duffy said the administration has briefed members of the House and Senate on the federal response. A “lessons learned” report is also forthcoming, he said. However, he said, presidential advisers cannot testify about conversations with the president. “The White House has always said it wants to cooperate with the committee but preserve any president's ability to get advice from advisers on a confidential basis,” Duffy said.

Bush Assures Pakistan Of Backing (WT)

By Bill Sammon

The Washington Times, January 25, 2006

President Bush yesterday pledged to work closely with Pakistan to defeat terrorism, although he ignored questions about a U.S. air strike that killed 13 Pakistani civilians and five suspected al Qaeda members this month.

Mr. Bush also announced that he would visit Pakistan and India in March.

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"The relationship with Pakistan is a vital relationship for the United States," Mr. Bush said during an Oval Office meeting with Pakistani Prime Minister Shaukat Aziz. "We're working closely to defeat the terrorists who would like to harm America and harm Pakistan."

The sentiments were echoed by Mr. Aziz, who made no public reference to the air strike that has strained relations between Washington and Islamabad.

"Our coalition with the United States in fighting terrorism is very important to all of the world and all of civil society," Mr. Aziz said.

But on Sunday, Mr. Aziz condemned the U.S. air strike that he said killed 13 civilians in a remote region near the Afghanistan border. U.S. forces were trying to target al Qaeda operatives who reportedly had gathered for dinner.

"That's a bizarre thought because these people don't get together for dinner in a terrain or environment like that," Mr. Aziz told CNN. "We had no idea that this would take place."

Mr. Aziz was miffed that the United States did not notify Pakistani authorities before the air strike. Thousands of Pakistanis have been staging anti-American demonstrations since the attack.

But the nation's antipathy toward the United States has been tempered by American generosity in the wake of an October earthquake in Pakistan that killed 87,000 people and left 4 million homeless.

"The assistance the United States has given to Pakistan -- the Chinooks, the MASH hospitals, the engineers and the financial assistance after the earthquake -- has touched the hearts and minds of all Pakistanis," Mr. Aziz said. "We really appreciate what has been done ... "

Mr. Bush, who last month sent Vice President Dick Cheney to the earthquake zone to review relief efforts, expressed pride that the United States has taken the lead in helping victims.

"It's hard to imagine the devastation," the president said. "I was very pleased that the United States, our taxpayers, our military could contribute to helping the people of Pakistan recover. They are our friends, and we consider this friendship to be a vital friendship for keeping the peace."

White House Press Secretary Scott McClellan said the president and Mr. Aziz spent most of their time yesterday focusing on common ground, not the dispute over the air strike.

"The discussion that I sat in on, both in the Oval Office and the residence, focused on our ongoing efforts to defeat al Qaeda and to prevent attacks from happening, both against Pakistan and against the United States," he said.

"Now, they also had some private time together in between the two meetings," he said. "But there was really nothing else to add."

Bush Says Pakistan Strong Ally, Will Visit In March (REU)

By Tabassum Zakaria

Reuters, January 25, 2006

President George W. Bush praised Pakistan as a close ally in fighting terrorism and said on Tuesday that he would visit the country and its neighbor India in March.

Bush and Pakistani Prime Minister Shaukat Aziz, who met at the White House, said they were united in fighting terrorism, but they did not directly comment on a recent U.S. airstrike in Pakistan that caused an uproar.

"I think the relationship with Pakistan is a vital relationship for the United States," Bush said. "We're working closely to defeat the terrorists who would like to harm America and harm Pakistan."

The U.S. airstrike on January 13 targeted Ayman al-Zawahri, deputy to al Qaeda leader Osama bin Laden, in the remote Bajaur tribal region along the border with Afghanistan, according to American officials.

Pakistani intelligence officials say Zawahri was not there at the time of the strike, but that at least four al Qaeda figures, including a bomb expert, were killed.

The attack prompted Pakistan to lodge a formal protest with Washington and sparked anti-U.S. demonstrations in several Pakistan cities and towns.

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Bush has not publicly commented on the air attack, but Pakistani President Pervez Musharraf has said Washington assured Islamabad it would not act against Pakistan's interests.

Bush and Aziz showed no signs of acrimony and affirmed the two countries' close relationship in trying to combat terrorism.

"Terrorism knows no borders," Aziz said. "So our coalition with the United States in fighting terrorism is very important to all of the world and all of civil society.

"We discussed the war against terror and the need for closer communication and coordination to take this effort forward," he told reporters after meeting Bush.

"We are looking forward to President Bush's visit to Pakistan to carry this dialogue forward."

U.S. officials believe bin Laden and Zawahri are hiding along the rugged border region of Afghanistan and Pakistan.

An audiotape purported to be of bin Laden that aired last week warned that al Qaeda was preparing attacks in the United States but was open to a conditional truce with Americans.

Bush and Aziz said they discussed trade, nuclear energy, defense cooperation and the response to the October 8 earthquake in Pakistan that killed about 74,000 people and left about 3 million homeless.

"A sense of caring and sharing always builds a better relationship between countries and that's what we are seeing between Pakistan and the United States," said Aziz.

Bush Meets With Premier Of Pakistan (NYT)

By Elisabeth Bumiller

The New York Times, January 25, 2006

WASHINGTON, Jan. 24 - President Bush said Tuesday that he would travel to India and Pakistan in March, but made no public comment about the American airstrikes that killed 18 civilians, including women and children, in one of Pakistan's remote tribal areas earlier this month.

With Pakistan's prime minister, Shaukat Aziz, at his side, Mr. Bush spoke about areas of agreement, like trade and fighting terrorism, in four minutes of public remarks in the Oval Office. The president called the countries' relationship "vital" while Mr. Aziz called it "multifaceted."

The two leaders took no questions, and afterward the White House spokesman, Scott McClellan, sidestepped queries about whether Mr. Bush had spoken in private to Mr. Aziz about the airstrikes.

The airstrikes have infuriated Pakistanis, even as Pakistan's president, Gen. Pervez Musharraf, said Tuesday in Oslo that there were indications that some of those killed were members of Al Qaeda. Last week Pakistani officials said two senior Qaeda members and the son-in-law of its No. 2 leader, Ayman al-Zawahiri, were among those killed.

American officials have said Mr. Zawahiri was the target of the raid, but they have acknowledged that he was not killed in the attack. The Pakistani and American officials were granted anonymity because they were not authorized to speak to the news media or for attribution.

Mr. Bush is expected to spend several days in India, including a visit to the capital, New Delhi, as well as to a city in the south of the country. White House officials did not say how long he would visit Pakistan.

The Bush administration and the Indian government hope to use Mr. Bush's trip to New Delhi to announce the approval of a deal signed in July by Mr. Bush and the Indian prime minister, Manmohan Singh, for the United States to supply nuclear technology and materials to India.

But the deal has been held up while the United States has pressed India to take steps to separate its civilian and military nuclear programs, paving the way for inspections and monitoring of its civilian programs. India has already developed nuclear weapons.

It is unclear if Congress and an international consortium will approve the deal before Mr. Bush's trip.

Bush To Visit India, Pakistan On March Trip (WP)

By Jim VandeHei

The Washington Post, January 25, 2006

DOJ_NMG_0011199

President Bush announced yesterday that he will travel to India and Pakistan in March in a visit likely to be dominated by discussions of terrorism, democratic governance and the recent U.S. airstrikes in Pakistani territory.

Bush met with Pakistani Prime Minister Shaukat Aziz at the White House yesterday to discuss the U.S.-Pakistan alliance and the strikes that killed at least 13 people, including women and children.

The strikes, which U.S. officials said were aimed at suspected al Qaeda terrorists, provoked anti-American protests in Pakistan, a key U.S. ally enlisted by the Bush administration after Sept. 11, 2001, to hunt down terrorists, especially along the border with Afghanistan. Aziz, who kicked off his U.S. visit by condemning the attacks, struck a decidedly more diplomatic tone before and after meeting with Bush yesterday, highlighting the economic and military ties between the two nations.

It is unclear whether the strikes killed any al Qaeda members in a region where Osama bin Laden and his deputy, Ayman Zawahiri, are believed to be hiding.

Pakistani President Pervez Musharraf, speaking in Oslo, said yesterday there is "an indication" al Qaeda terrorists may have been killed. "These foreigners are there, and we need to eliminate these foreigners," Musharraf said after a speech at the Nobel Institute.

In brief comments to reporters, Bush did not address the airstrikes. "I want to thank the prime minister and thank the president for working closely with us on a variety of issues," the president said. "We're working closely to defeat the terrorists who would like to harm America and harm Pakistan."

U.N. Gets Tape Of Bin Laden (WT)

By Roland Flamini

The Washington Times, January 25, 2006

A copy of Osama bin Laden's latest audiotape was delivered to a U.N. office in Quetta, Pakistan, and is being studied by the world organization's officials, a well-placed source said.

He said the office of the U.N. High Commissioner for Refugees in Baluchistan province, which borders Afghanistan, received the tape last week and sent it on to the U.N. headquarters in New York.

U.N. officials familiar with the contents of the tape say the message appears to be identical to the one broadcast by Al Jazeera television Thursday, according to the source, who asked not to be identified.

Stephan Dujarric, the secretary-general's spokesman, denied the United Nations had received a tape. But a second U.N. source told UPI, "Actually, there are a couple more copies of the tape going around besides the ones sent to the U.N. and Al Jazeera."

The second source, who also declined to be identified, did not have details.

Following receipt of the tape in Quetta, another U.N. office in the area received a telephone threat purportedly from al Qaeda, and all U.N. staffers were immediately withdrawn from Baluchistan province.

A source in Washington told UPI yesterday that the tape received by the United Nations has since been handed over to U.S. intelligence officials.

This is believed to be the first time that a tape from bin Laden or any other al Qaeda figure has been sent directly to the United Nations. The speculation is the terrorist leader is trying to draw the world organization into a discussion on his vague carrot-and-stick offer of a truce to the American people.

According to the Al Jazeera version of the tape, bin Laden's message -- his first public utterance in just over a year -- proposes "a long-term truce based on fair conditions, which we will abide by" if U.S. troops are withdrawn from Iraq and Afghanistan.

The conditions are not specified. He also threatens more attacks on the United States, which he says are "under preparation."

U.S. intelligence analysts have pronounced the tape authentic and said Al Jazeera's estimate that it was made some time in December is probably right.

The Bush administration promptly rejected the truce offer. "We don't negotiate with terrorists. We put them out of business," White House spokesman Scott McClellan said last week.

Bin Laden may be counting on his offer being viewed differently in the United Nations, where the U.S. presence in Iraq is widely unpopular.

Moreover, if bin Laden is trying to appear statesmanlike, it makes sense to establish contact with the United Nations.

Osama At The Kit Kat Club (NYT)

By Thomas L. Friedman

The New York Times, January 25, 2006

Reading about the latest tapes by Osama bin Laden and his sidekick Ayman al-Zawahiri, my gut reaction is that they sound like a couple of burned-out rock stars who keep recycling their greatest hits in hopes of catching on one last time as the lounge duo in some Las Vegas hotel. "Now Appearing at Caesars Palace, It's the Monkees! And at the Aladdin, Ayman and Osama!"

I will confess, though, that the fact that bin Laden could recommend a book in his latest video and then watch that book break into the top 10 on Amazon.com within just a few days suggests that while he may not have much of a future as a terrorist, he could do a book club gig. When I checked Amazon, two of the top 10 books were recommended by Oprah, and one was recommended by Osama. Now that's juice. I started to imagine bin Laden sitting in his cave in Pakistan and suddenly receiving all these books from publishers and agents.

If I seem to be taking all this a tad lightly, it is because I am certain that bin Laden is hurting right now. What made bin Laden such a unique threat were three things: the fact that he had taken over a whole country, Afghanistan, where he could freely recruit and train forces and move around money; the fact that he controlled a political movement, the Taliban; and, most important, the fact that many Arabs and Muslims looked up to him and Al Qaeda as forces who were standing up to America.

But today bin Laden does not have Afghanistan, he does not have the Taliban, and while he still has some following, I don't think so many Arabs and Muslims are naming their sons "Osama" anymore.

Because anyone who has paid attention to recent events in Iraq, Indonesia, Sharm el Sheik, Afghanistan and Jordan knows that Al Qaeda has killed many more innocent Muslims than innocent Americans - and not just Shiite Muslims. And it has killed them at marketplaces, mosques, weddings and funerals. Qaeda murders have also exacted a huge toll on tourism in places like Egypt and Indonesia, killing jobs as well.

The best indications of how much this has hurt bin Laden in the Arab-Muslim world are the recent attacks on Al Qaeda by important Islamist voices, including some leaders of the powerful Muslim Brotherhood in Egypt. On Jan. 7, after Zawahiri lambasted Muslim Brothers as U.S. stooges for taking part in Egypt's parliamentary elections, A.F.P. reported the following from Cairo:

"Egypt's Muslim Brotherhood responded Saturday to Al Qaeda's accusations of complicity with Washington by charging that the Islamist violence advocated by Osama bin Laden's network was counterproductive." A Brotherhood spokesman, Issam al-Aryan, asked, "What results have his resort to violence yielded?"

Such open criticism "coming from the Muslim Brotherhood, which has a significant presence in Egypt and beyond, is quite telling," said Ibrahim Karawan, director of the Middle East Center at the University of Utah. "It shows that Al Qaeda's actions have cost them. They have created enemies in the West and in the Arab world." Indeed, Iraqi Sunni nationalists in Ramadi recently declared war on local Qaeda militants after bin Laden forces killed 80 people in Ramadi in an attack on police recruits on Jan. 5.

But while I am certain bin Laden is losing, I still don't feel that we are "winning," that we are really making progress in democratizing political life in the Arab-Muslim world. States and politics there are still dominated by military and intelligence services.

There is still no viable, free space for a vibrant civil society to emerge. Few independent political parties, newspapers or nongovernmental organizations have sprouted. Look at Egypt: President Hosni Mubarak holds elections, the Muslim Brotherhood wins a record number of seats, and the most liberal politician who dared to run against Mr. Mubarak gets thrown in jail. It's hard to call that progress.

The other reason it is hard to feel that we are winning is that America, and particularly President Bush, are still radioactive - widely disliked. Therefore, there are not a lot of Arab progressives who want to be seen publicly embracing Americans or their agenda.

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Iraq and Afghanistan, I still hope, may turn out to be exceptions, but even if they are, it is hard to believe their example will spread at a time when oil is $67 a barrel. The military-intelligence systems that dominate political life in the Arab East are only growing richer, bigger and stronger - thanks to petrodollars.

No, not much grows in a garden watered by oil.

Osama's Unmistakable Message (WT)

By Walid Phares

The Washington Times, January 25, 2006

In his last audiotape, aired at the discretion of al Jazeera a few days ago, the lord of al Qaeda seemed to be trying to score many points, using new editorial tactics and addressing more than one audience. His prepared speech seemed more a state of jihad address than a specific threat to America, although sounding very menacing. So what was the message really about?

As of September, the jihadi chat rooms have asked if "we are we winning the war on the infidels?" The mentors of the rooms have tried to reassure the participants that all was going fine, referring to the letters between Ayman al Zawahiri and Abu Musab al Zarqawi. But 2005 left a lot of explaining for the jihadists in the region: elections in Afghanistan with millions of women voting and being elected; two elections and one referendum in Iraq: A Cedar Revolution in Beirut and debates about democracy raging on the Internet.

Despite car bombs, assassinations, massacres, kidnapping and videotapes on al Jazeera and beyond, the jihadists weren't going anyway. Young people in the Arab and Middle East region are turning increasingly to freedom, contradicting the ideological speeches of al Qaeda and its sisters in the region. Blood alone was not bringing victory to the jihadists.

Hence the master had to strike from his cave. The bottom line of the audio is simple: We, as jihadists, are winning the war; they, American and other infidels, are losing it. Reverberated by al Jazeera in a thoroughly prepared script: The news of the tape's existence gradually leaked to other news agencies that aired fragments first, followed instantly by a panel of well-prepared "experts" to "explain the document" and educate the masses about it. In a few hours, Web sites made it available with all the analyses and simplifications.

"We are devastating your forces in Iraq" declared bin Laden, but "your president is hiding the facts." A first salvo in a psychological war aimed at minimizing the trust inside the "enemy homeland," thought the speechwriters of bin Laden. Indeed, the Arabic language and the concepts used in this audio indicate that jihadi eyes and ears, very attentive to the Western and American political process, seemed to be feeding the construction of the text.

"The morale of the U.S. troops is fading, and your government is attempting to suppress your media, including al Jazeera," said bin Laden. It was the first time al Qaeda's leader mentioned the channel directly. Penetrating America's political culture, bin Laden railed over the presidential "victorious" landing on the aircraft carrier, and used U.S. polls as evidence that the United States was on the verge of a world policy collapse.

Then he threatened with upcoming operations inside the United States. Referring to the London model, he hinted at a second-generation al Qaeda, citizens potentially awaiting his instructions and moving at will when preparedness allowed. He wanted to show his troops that the "final weapons are being readied," as Hitler used to promise his military. But even if bin Laden is shooting in the dark, jihadist ears, indoctrinated by Wahhabi money and ideology, are indeed listening: They are preparing a future jihad.

Then he offered a truce. Speaking as a caliph, al Qaeda's boss said he will suspend operations if the United States apologizes and withdraws from all Muslim lands. Some sympathizers ran on media airwaves to "assure the Western public" of the good intentions of bin Laden. "He will deliver" said one of them on BBC. "See how Spain saved itself from strikes after the withdrawal from Iraq."

But what the public ignores about the "hudna" (cease-fire) offered by bin Laden is that the international community, and the United States, will have to recognize al Qaeda as the representative of the Muslim world. In short, that all Muslim governments would elevate bin Laden as the world caliph -- hence he will be able to "resume" the jihad after the hudna is over, since it is only a truce after all. The world, thus, would be divided in two spheres, with Osama as emperor from Morocco to China, with his full sovereign control of the resources, that is oil, and the nuclear toys of Pakistan.

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Walid Phares is the author of "Future Jihad: Terrorist Strategies against America," and a senior fellow with the Foundation for the Defense of Democracies.

Al Qaeda's Big Boast (NYT)

By Daniel Benjamin And Steven Simon

The New York Times, January 25, 2006

IF Osama bin Laden's aim in releasing an audiotape was to gauge his enemies' reaction, he must have been gratified to find that America's leaders and opinion-makers understand him little better than they did on 9/11. The proof is in how his offer of a "long-term truce" was treated. The White House spokesman, Scott McClellan, declared: "We do not negotiate with terrorists." Vice President Dick Cheney saw Mr. bin Laden's offer as "some kind of ploy." Newsweek described it as "something new: an offer of an olive branch." Most saw it as a sign of weakness.

Yet, while Osama bin Laden has seldom used the word "truce," the vision outlined in the rest of the message is not new: a withdrawal of the United States from Muslim lands and a rebalancing between the Muslim and non-Muslim worlds. (One Qaeda spokesman has insisted that only when America has lost four million people would the field be even.) In other words, this "truce" must be preceded by total capitulation.

The author of the 9/11 attacks did not, of course, think that his musings would jump-start a negotiation. Had Americans instead listened with the ears of those for whom the message was intended - Muslims around the world - they would have heard something very different. Instead of a weak Osama bin Laden, they would have heard a magnanimous one who could offer a truce because "the war in Iraq is raging, and the operations in Afghanistan are on the rise in our favor." Mr. bin Laden staked his claim to leadership of the Muslim world on 9/11, striking us as others only dreamed of doing. On the tape, he shows strength by taking credit for America's humiliation in Iraq and continues to do what we are not: fighting for the hearts and minds of the Muslim world.

It is too early to say how this tape will affect Muslim opinion, but there is no doubt that Mr. bin Laden's strategy has been paying off. According to a poll released last month by Shibley Telhami of the University of Maryland and Zogby International, when Muslims in several countries were asked what aspect of Al Qaeda they "sympathize" with most, 39 percent said it was because the group confronted the United States. Nearly 20 percent more sympathized because it "stands up for Muslim causes," which is really just a polite way of saying the same thing.

Two other phenomena also show the movement to be strengthening. The first is the emerging breed of self-starter terrorists with few or no ties to Osama bin Laden, like the Madrid and London bombers, and others who have been arrested before they were able to carry out attacks in Pakistan, Australia and elsewhere. The second is the emergence of an indigenous jihad in Iraq. Much is said about the foreign fighters in Iraq, but the truly dramatic development is the radicalization of Iraqis who will continue the insurgency or travel abroad to kill, like those who bombed three Western hotels in Jordan in November.

Despite so much evidence that the jihadists are winning sympathy, America has provided no counter-story to their narrative. Rather, the president has repeatedly objected to the notion that the Iraq war is having a radicalizing effect by arguing that America was attacked before we ever stepped foot in Iraq.

This, of course, is a non sequitur - douse a guttering fire in gasoline and you will get a bigger fire. A movement that was staggering after the Taliban was toppled has come back with a vengeance. Realistically, we cannot deploy a counter-narrative - one that emphasizes that we are a benign superpower - so long as our troops are in Iraq. That will make it difficult to separate moderates from extremists, as an ideological struggle requires. We must focus more on developing that story and getting out of Iraq with the least damage to our interests and less on the phony truce offers of a guileful enemy.

Pakistan's Tribal Strategy (CSM)

By David Montero, Correspondent Of The Christian Science Monitor

The Christian Science Monitor, January 25, 2006

PESHAWAR, PAKISTAN - With CIA missiles firing on Pakistani homes, and reports surfacing that the Taliban have taken over large tracts of the country's tribal zone, analysts of the war on terror here say Pakistan's military strategy is in need of a

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paradigm shift. Intelligence remains too weak, and even pitched battles flexing the military's muscle have shown little effect against an enemy that remains largely unknown, they say.

The question of whether Islamabad is effectively eradicating Al Qaeda elements in the semiautonomous border region has become a constant - and touchy - refrain in relations with the United States, and was expected to be discussed in Tuesday's meeting in Washington between President Bush and Pakistan's prime minister.

The CIA's recent missile strike in Bajaur Agency has emboldened criticism at home, both among street protesters angry at the US intrusion and among opposition figures and other observers who say that the attacks signal waning US confidence in Pakistan's approach and resolve.

"The American missile strikes show that they are not satisfied with what Pakistan is doing," says Afrasiab Khattak, an opposition party leader. "The results [the Army has] yielded in the last two years have been negligible."

The Pakistani military, however, has repeatedly denied such claims, insisting that 70,000 troops and paramilitary forces continue to strike at the heart of militant enclaves. "The Pakistan Army has never let off. We are still continuing with the same vigor and effort," says Brigadier Shahjehan Ali Khan, acting spokesperson of the Pakistan military.

But that same vigor and effort may be the problem. Those familiar with the tribal areas say recent events underscore the need to rethink the strategies for combating terrorism there. "The strategy is not working and you can see the results. The Taliban is more organized than they were," cautions retired Lt. Gen. Talat Masood.

Unleashing the full fury of Pakistan's military - helicopter gunships, ground troops, and artillery - was supposed to prevent this. "It was like a war between two countries, not a fight with militants," describes Shaukat Khattak, who has covered the operations for Pakistan's GEO TV.

That fighting has proven costly to the Army, which has lost as many as 200 soldiers in battles with militants throughout Waziristan. Some analysts marvel that with such a large force the results have been so paltry. "So far, not a single important man has been captured," points out Behroz Khan, the Peshawar bureau chief of The News, a Pakistani newspaper.

The death of innocent civilians during operations - numbering more than 50 by some accounts - has damaged trust and fueled resentment, pushing some into the arms of terrorists, according to observers. "Today we have lost the confidence of the tribal people," argues Sameen Mehmood Jan, an opposition party member of the Provincial Assembly from the North West Frontier Province.

There is a growing perception that the Army, having seen its strategies fail, has largely retreated to its barracks. "It has become more of a reactive force, mostly hitting when fired upon," says General Masood. The region remains closed to foreign journalists. But local journalists describe Army personnel as captives in their own barracks, unable to leave for fear of being shot at or kidnapped. It is an accusation that ruling party officials and the Army strongly deny.

"They are not confined to their barracks, they are actively patrolling the area," says Muazzam Butt, central media coordinator of the Pakistan Muslim League-Q, the ruling party.

Outside the tribal belt, news of the CIA strike touched off protests in a number of cities. However, except in Karachi where 10,000 people reportedly gathered, the size of the protests remained confined to several thousand.

Despite their relatively small size, such protests do serve as a reminder to Washington that they can nudge President Pervez Musharraf only so far without undermining his position. Bush praised Pakistan as a close ally in fighting terrorism Tuesday and announced he would visit in March.

Masood and other observers here emphasize the need for better intelligence gathering in the tribal zone, particularly since many of the troops deployed to fight are not familiar with the area. Their local contacts are weak, their knowledge of the terrain inadequate - precisely the opposite of the enemy they are fighting, many of whom are part of the society or deeply integrated into it. "If their intelligence improves, then the best thing would be to do rapid deployments in specific areas," says Masood, meaning more precise strikes, less collateral damage.

Boosting intelligence requires mending political relationships with tribal and religious leaders who can provide information and build support. "The strategy is not working because locals are not cooperating," says Behroz Khan.

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But intelligence assets are merely a short-term fix, many analysts also emphasize. Combating terrorism requires engagement with the broader conditions fanning the fires of militancy: stark poverty and political vacuums - conditions that cannot be uprooted by narrow strikes.

"People don't see a bright future for themselves. The poverty, the underdevelopment, are a potential threat," says Mohammed Amin, who has worked on development projects there for years.

Tribal elders say they are neglected by the state, robbed of opportunities for education and employment. "[Tribal people] have native attachments but they feel compelled to move," explains Muzaffar Sayat, a leader from Mohmand Agency near Bajaur, who now lives in Peshawar. "Personally I also moved because there is no school for my children."

Lawlessness is also rampant, says Amin, noting that the judiciary and police, are virtually absent. Add to this vacuum a mix of religious fervor and a large deposit of arms and it is not surprising the area is volatile, Amin explains.

The War In Pakistan (WP)

The Washington Post, January 25, 2006

SHORTLY AFTER Sept. 11, 2001, President Bush famously declared that other countries must choose between supporting the United States and supporting terrorism, and that those that harbored al Qaeda would be treated as the enemy. In the years since, he has refrained from applying that tough principle in practice -- which is lucky for Pakistan's president, Gen. Pervez Musharraf. Ever since the war on terrorism began, this meretricious military ruler has tried to be counted as a U.S. ally while avoiding an all-out campaign against the Islamic extremists in his country, who almost surely include Osama bin Laden and his top deputies. Despite mounting costs in American lives and resources, he has gotten away with it.

Gen. Musharraf and his aides, such as Prime Minister Shaukat Aziz, boast that Pakistan has arrested hundreds of al Qaeda militants and deployed tens of thousands of troops in the border region near Afghanistan. Yet Gen. Musharraf has never directed his forces against the Pashtun Taliban militants who use Pakistan as a base to wage war against American and Afghan forces across the border. He has never dismantled the Islamic extremist groups that carry out terrorist attacks against India. He has never cleaned up the Islamic madrassas that serve as a breeding ground for suicide bombers. He has pardoned and protected the greatest criminal proliferator of nuclear weapons technology in history, A.Q. Khan, who aided Libya, North Korea and Iran. And he has broken promises to give up his military office or return Pakistan to democracy.

The consequences of this record are that al Qaeda has continued to operate from Pakistan, while U.S. and allied troops have been unable to pacify southern Afghanistan. More than 125 American soldiers have been killed there in the past year, many of them by militants crossing the border. Osama bin Laden is apparently secure enough to have released an audiotape last week threatening more attacks inside the United States.

The Bush administration is still providing Gen. Musharraf $600 million in annual military and economic aid and treating him as a major ally. But in the absence of effective Pakistani action, it has also stepped up its own clandestine operations in the border areas where al Qaeda and its allies are based. At least three times in the past year, drone aircraft armed with missiles have attacked terrorist targets; most recently, a strike on a Pakistani village this month killed at least 13 people, several important al Qaeda operatives possibly among them.

In keeping with his double game, Gen. Musharraf's government publicly criticized the latest attack even though his intelligence service reportedly cooperated with it. Now he and Mr. Aziz, who met with Mr. Bush yesterday, are saying U.S. forces should carry out no more such attacks without Pakistani agreement. We'll assume that's more of their bluster. Even if it is not, Mr. Bush should ignore it. Gen. Musharraf perhaps cannot be forced to side decisively with the United States against the terrorists, as the administration once hoped -- though much more could be done to raise the price of his feckless cooperation. But Mr. Bush must take every available measure to eliminate the al Qaeda and Taliban operations in Pakistan. If targets can be located, they should be attacked -- with or without Gen. Musharraf's cooperation.

Jury Deliberates Accused Iraqi Agent Case (ABJ)

Akron Beacon Journal, January 25, 2006

INDIANAPOLIS - A jury began deliberating Tuesday in the case of an Indiana truck driver accused of conspiring to sell U.S. intelligence secrets to Saddam Hussein's government.

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Shaaban Hafiz Ahmad Ali Shaaban, 53, is accused of meeting with an Iraqi intelligence officer at a Baghdad hotel in late 2002 and agreeing to sell the names of U.S. operatives for $3 million.

The jury deliberated for eight hours and planned to reconvene Wednesday morning.

Shaaban was indicted in March on counts including conspiracy, acting as a foreign agent and violating sanctions.

If convicted, he faces as many as 65 years in prison and more than $1.5 million in fines.

Shaaban, who represented himself during his trial with the help of two standby public defenders, repeated during his closing arguments his contention that the government has mistaken him for a now-dead identical twin.

But Assistant U.S. Attorney reminded jurors that witnesses testified no such twin exists.

Shaaban was working as a truck driver and living near Indianapolis when he was arrested in March.

Audit Describes Misuse Of Funds In Iraq Projects (NYT)

By James Glanz

The New York Times, January 25, 2006

A new audit of American financial practices in Iraq has uncovered irregularities including millions of reconstruction dollars stuffed casually into footlockers and filing cabinets, an American soldier in the Philippines who gambled away cash belonging to Iraq, and three Iraqis who plunged to their deaths in a rebuilt hospital elevator that had been improperly certified as safe.

The audit, released yesterday by the office of the Special Inspector General for Iraq Reconstruction, expands on its previous findings of fraud, incompetence and confusion as the American occupation poured money into training and rebuilding programs in 2003 and 2004. The audit uncovers problems in an area that includes half the land mass in Iraq, with new findings in the southern and central provinces of Anbar, Karbala, Najaf, Wasit, Babil, and Qadisiya. The special inspector reports to the secretary of defense and the secretary of state.

Agents from the inspector general's office found that the living and working quarters of American occupation officials were awash in shrink-wrapped stacks of $100 bills, colloquially known as bricks.

One official kept $2 million in a bathroom safe, another more than half a million dollars in an unlocked footlocker. One contractor received more than $100,000 to completely refurbish an Olympic pool but only polished the pumps; even so, local American officials certified the work as completed. More than 2,000 contracts ranging in value from a few thousand dollars to more than half a million, some $88 million in all, were examined by agents from the inspector general's office. The report says that in some cases the agents found clear indications of potential fraud and that investigations into those cases are continuing.

Some of those cases are expected to intersect with the investigations of four Americans who have been arrested on bribery, theft, weapons and conspiracy charges for what federal prosecutors say was a scheme to steer reconstruction projects to an American contractor working out of the southern city of Hilla, which served as a kind of provincial capital for a vast swath of Iraq under the Coalition Provisional Authority.

But much of the material in the latest audit is new, and the portrait it paints of abandoned rebuilding projects, nonexistent paperwork and cash routinely taken from the main vault in Hilla without even a log to keep track of the transactions is likely to raise major new questions about how the provisional authority did its business and accounted for huge expenditures of Iraqi and American money.

"What's sad about it is that, considering the destruction in the country, with looting and so on, we needed every dollar for reconstruction," said Wayne White, a former State Department official whose responsibilities included Iraq from 2003 to 2005, and who is now at the Middle East Institute, a research organization.

Instead, Mr. White said, large amounts of that money may have been wasted or stolen, with strong indications that the chaos in Hilla might have been repeated at other provisional authority outposts.

Others had a similar reaction. "It does not surprise me at all," said a Defense Department official who worked in Hilla and other parts of the country, who spoke anonymously because he said he feared retribution from the Bush administration. He predicted that similar problems would turn up in the major southern city of Basra and elsewhere in the dangerous desert wasteland of Anbar province. "It's a disaster," the official said of problems with contracting in Anbar.

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No records were kept as money came and went from the main vault at the Hilla compound, and inside it was often stashed haphazardly in a filing cabinet.

That casual arrangement led to a dispute when one official for the provisional authority, while clearing his accounts on his way out of Iraq, grabbed $100,000 from another official's stack of cash, according to the report. Whether unintentional or not, the move might never have been discovered except that the second official "had to make a disbursement that day and realized that he was short cash," the report says.

Outside the vault, money seemed to be stuffed into every nook and cranny in the compound. "One contracting officer kept approximately $2 million in cash in a safe in his office bathroom, while a paying agent kept approximately $678,000 in cash in an unlocked footlocker in his office," the report says.

The money, most from Iraqi oil proceeds and cash seized from Saddam Hussein's government, also easily found its way out of the compound and the country. In one case, an American soldier assigned as an assistant to the Iraqi Olympic boxing team was given huge amounts of cash for a trip to the Philippines, where the soldier gambled away somewhere between $20,000 and $60,000 of the money. Exactly how much has not been determined, the report says, because no one kept track of how much money he received in the first place.

In another connection to Iraq's Olympic effort, a $108,140 contract to completely refurbish the Hilla Olympic swimming pool, including the replacement of pumps and pipes, came to nothing when the contractor simply polished some of the hardware to make it appear as if new equipment had been installed. Local officials for the provisional authority signed paperwork stating that all the work had been completed properly and paid the contractor in full, the report says.

The pool never reopened, and when agents from the inspector general's office arrived to try out the equipment, "the water came out a murky brown due to the accumulated dirt and grime in the old pumps," the report says.

Sometimes the consequences of such loose controls were deadly. A contract for $662,800 in civil, electrical, and mechanical work to rehabilitate the Hilla General Hospital was paid in full by an American official in June 2004 even though the work was not finished, the report says. But instead of replacing a central elevator bank, as called for in the scope of work, the contractor tinkered with an unsuccessful rehabilitation.

The report continues, narrating the observation of the inspector general's agents who visited the hospital on Sept. 18, 2004: "The hospital administrator immediately escorted us to the site of the elevators. The administrator said that just a couple days prior to our arrival the elevator crashed and killed three people."

Dayton Wants Panel Hearing Into Claims About Tainted Water (HILL)

By Roxana Tiron

The Hill, January 25, 2006

Sen. Mark Dayton (D-Minn.) is calling for Armed Services Committee hearings into allegations that Halliburton supplied contaminated water to the U.S. military in Iraq.

Dayton, after participating in a hearing of the Democratic Policy Committee chaired by Sen. Byron Dorgan (D-N.D.), said that he is planning to send a letter in the next few days to Armed Services Chairman John Warner (R-Va.) and Sen. Norm Coleman (R-Minn.), chairman of the Government Affairs Committee's Permanent Subcommittee on Investigations.

In the letter, Dayton will ask Warner and Coleman to schedule hearings investigating the allegations.

"It should be criminal, and it is certainly immoral," Dayton said about the charges against Halliburton in a brief interview.

A spokesman for Warner said that the Armed Services Committee is working to schedule a hearing on Iraq reconstruction contracting in the coming weeks. The hearing will cover all aspects of the reconstruction efforts, he said.

Although, he has not yet seen the letter from Dayton, Coleman has directed staffers for his committee to conduct a preliminary inquiry into the allegations that Halliburton failed to notify military authorities of contaminated water at a U.S. military base in Iraq, said his spokeswoman Andrea Wuebker.

The Democratic Policy Council has been holding a series of hearings related to contracting abuses in Iraq.

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Dayton was the only other member besides Dorgan at the Policy Committee hearing Monday. The hearing was devoted to allegations by former Halliburton employees that the company delivered untreated water to a base near Ramadi, Iraq, from the polluted Euphrates River at Camp Junction City.

Former Halliburton employees Ben Carter and Ken May testified about the practice yesterday. Their evidence was corroborated by internal Halliburton e-mails.

"The level of contamination was roughly two times the normal contamination of untreated water from the Euphrates River," William Granger, an employee of Halliburton subsidiary KBR, said in an e-mail July 15. Granger also said that untreated water had been supplied to the camp in Ramadi for about a year.

Carter, a former water specialist with the company, said that when he first started working on the Iraq base he was told that the water was being treated. However, he said that after larvae were discovered in a Ramadi base toilet bowl in March 2005 he tested the water and realized it was untreated.

Water out of the Euphrates was pumped for both potable and non-potable purposes. Potable water is used for cooking and drinking and requires a high level of purification. Non-potable water at the Ar Ramadi base was used for bathing, showering, shaving, laundry, cleaning and other purposes.

"Even non-potable water must meet certain minimum safety standards widely accepted in the water purification industry and adopted by the Army in their operations manual," Carter said in his testimony. Otherwise, people risk being exposed to contaminants in the water. According to Carter, KBR never chlorinated the non-potable water tanks.

He recalled Granger telling him that waste water from the water purification process that should have been dumped in the river was used as the non-potable water supply.

Halliburton, a company formerly run by Vice President Cheney, has denied its former workers' claims, according to the Associated Press. Also, the Marine Corps said that the water records for last year showed no problems.

Dorgan said that the Democratic Policy Committee has requested additional information from the Department of Defense and that he would turn over any information arising from the hearing to the Pentagon.

Several of the committee's previous hearings have involved whistle-blowers from Halliburton.

"That is not because we are seeking to cast Halliburton in a bad light," Dorgan said. "Rather, it is because Halliburton has obtained the lion's share of contracts in Iraq and a number of whistle-blowers have come forward to report problems."

The committee previously has heard testimony about a company called Custer Battles, which the Bush administration awarded more than $100 million in contracts to provide security in Iraq. Custer Battles allegedly went on to defraud the Pentagon, overbilling it through sham companies in the Cayman Islands.

Dip In Iraqi Oil Production Holds Ominous Harbinger (LAT)

By Chris Kraul

The Los Angeles Times, January 25, 2006

BAGHDAD, Iraq -- Iraqi oil production fell by 8 percent last year, with a sharp decline near year's end that left average daily production at half the 3 million barrels envisioned by U.S. officials at the outset of the war in 2003.

Prospects for improvement this year are slim, according to many experts, calling into question Iraq's ability to support itself and fund reconstruction efforts as U.S. assistance is scaled back. Reasons for the shortfall include the poor state of the nation's oil fields, a creaky infrastructure, poor management and ongoing insurgent attacks, particularly to pipelines in the north-central region meant to export oil through Turkey.

"There is no instant turnaround," said Paul Horsnell, energy analyst with Barclay Capital in London. "It could take five years, six years or seven years." As of last month, Iraq was pumping a million barrels a day less than just before Saddam Hussein was toppled from power in the U.S.-led invasion of Iraq.

In helping sell the war, Bush administration officials had predicted that a strong Iraqi oil industry could help pay for the nation's postwar recovery. To prime the effort, the U.S. Congress voted on a three-year, $20.9 billion reconstruction package, of which about $2 billion was dedicated to restoring Iraqi oil production.

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Instead of steadily increasing production, the annual output fell in 2005 to 1.83 million barrels a day, including a sharp decline over the final quarter capped by a December dip to 1.57 million barrels daily.

The latest production figures from the International Energy Agency compare with the 2.5 million barrels per day the Iraqi industry was pumping just before to the war, a level it nearly equaled in March and April of 2004. Officials said December's figures were influenced by bad weather and a scarcity of tug boats at Persian Gulf marine terminals, in addition to the continuing violence, and poor facilities and management.

Oil revenues contribute 94 percent of the fledgling government's budget and a drop in oil global prices from current high levels could wreak havoc if output remains depressed. Financial stress was evident last week when Turkey suspended shipments of gasoline and other fuels to Iraq saying its refiners were owed $1 billion. Although Iraqi officials said the non-payment was due to a short-term budget shortfall, it serves as an example of how stretched this country's finances are.

The most serious and pressing problem is the lack of adequate security, according to Gal Luft , executive director of the Institute for the Analysis of Global Security in Washington.

Insurgent attacks on pipelines -- more than 300 since the March 2003 invasion -- have not only cost the country billions of dollars in lost export sales but also diverted U.S. funds and manpower to repair the damage that instead would have gone to oil field recovery and expansion.

As a result of pipeline attacks, exports to the Turkey port Ceyhan via the country's northern pipeline averaged only 40,000 barrels a day in 2005, compared to an 800,000 barrels a day average that the nation hit during some months before the war.

In July , Iraq officials said attacks had cost it $11 billion in lost revenues. Kidnappings and killings of oil officials -- the country's oil minister barely escaped an assassination attempt in October -- and of oil field company workers has cooled the pace of repairs. Two German engineers were reported kidnapped Tuesday from the Beiji refining complex 155 miles north of Baghdad.

"We don't see any foreseeable improvement in security this year," said Neil Partrick, senior analyst at Economist Intelligence Unit in London.

At the same time, authorities acknowledge, the security situation has been calm around Iraq's southern oil fields around Basra, which generally accounts for more than two-thirds of Iraq's oil output.

"Even though the southern oil fields are benign, the overall security affects the perception of the government and institutions," said a U.S. official. "If the capitol is under siege, as this one appears to be, then it's difficult because you have to come here and talk to people to make those investments."

Compounding the problems, experts say, is years of neglect and damage to Iraq's oil infrastructure, some dating back more than two decades.The weaknesses range from a lack of crude oil storage facilities that were destroyed in the Iran-Iraq war in the 1980s and never rebuilt to refineries that decayed during a decade-long period of economic sanctions against Iraq. The former forces Iraq to pump oil back into the ground when pipelines are blown up or tankers are delayed, damaging the long-term viability of the reservoir. The latter means Iraq must import nearly half its gasoline and kerosene from Turkey, Iran and Kuwait.

Efforts to get the crucial Qarmat Ali water injection system in Iraq's southern oil fields back on line have lagged, after more than $225 million of U.S. funds have been spent. Injecting water into wells to fill the void created by the extraction of gas and oil is critical to maintaining an oil reservoir's life. Improvements in performance of Iraq's three oil refineries have been outstripped by continued attacks on oil pipelines that feed them, as well as on the pipelines and truck convoys that deliver their refined fuels to the consumer, said a U.S. official who asked not to be identified.

By the end of this year, the United States will have spent $2 billion in its 3-year effort to get the Iraqi oil industry back on its feet. Navy Captain Michael Sherbak, who is attached to the Iraq Project and Contracting Office, the agency leading the oil sector reconstruction effort, said the 3 million barrel a day goal was to leave Iraq at "a self-sustaining level that is adequate to help them invest in equipment and help them make their oil production more efficient." But reaching that level will require much more money and several more years, experts agree. The World Bank estimated it would take $8 billion in public and/or private to restore Iraq to 3 million barrels a day of oil production, which Iraq last exceeded in 1979, and as much as $35 billion to reach 5 million barrels of output.

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Those goals seem out of reach now not just because of security issues but because of an unsettled political and legal landscape.

Four U.S. Governors Visit Troops In Iraq (AP)

By Andrew Demillo, Associated Press Writer

AP, January 25, 2006

Arkansas Gov. Mike Huckabee and three other governors are in Iraq on a surprise visit to their states' troops, his spokeswoman said Tuesday morning.

Huckabee was joined on the trip by Wisconsin Gov. Jim Doyle, Texas Gov. Rick Perry and Wyoming Gov. Dave Freudenthal, said Huckabee spokeswoman Alice Stewart.

They all left for Iraq on Sunday after receiving classified briefings at the Pentagon, she said.

"The Department of Defense set this trip up for the purpose of making these governors aware of the global war on terror," Stewart said. "It's important for the governors to be on the ground and visit with the troops."

Huckabee's first stop was at Camp Arifjan in Kuwait, where he had dinner with soldiers from Arkansas and gave an Arkansas Razorbacks team cheer.

"They called the Hogs," Stewart said. "They shared stories about their time there."

Huckabee's itinerary also included stops in various parts of Iraq and briefings by Gen. George Casey, the top U.S. commander in Iraq. He also met with U.S. Ambassador Zalmay Khalizad.

Stewart said the governor's office could not release details of Huckabee's visit earlier because of security reasons and would not say when he is expected to return.

"This has been in the works for quite some time," Stewart said. "It's been going on for several days, but we've been restricted for security reasons."

Huckabee, a Southern Baptist minister, had been scheduled to appear at the annual March for Life anti-abortion rally Sunday but did not appear because of the Iraq trip.

Perry Visits Troops In Iraq, Urges Patience Back Home (HOU)

By Polly Ross Hughes

Houston Chronicle, January 24, 2006

AUSTIN — Gov. Rick Perry, during a surprise visit with Texas troops in Iraq today, urged Americans to remain patient despite fresh reports of a rebuilding effort mired in problems.

"Obviously, you're not going to rebuild a country overnight, but I think this is going along very well," Perry told Fox News Channel in a televised interview at 10:10 p.m. Baghdad time.

"I think it's going along about as well as it can be considering the lack of infrastructure that was here even before the war started," he added.

The Texas governor was responding to published reports that an upcoming government study will show America's $25 billion reconstruction efforts in Iraq have been complicated by understaffing, infighting, a lack of technical expertise and other problems.

Perry's trip to the Iraqi war zone, along with three other governors invited by the U.S. Department of Defense, was announced at the Texas Capitol by Lt. Gov. David Dewhurst.

Perry landed in Kuwait on Monday with Republican Gov. Mike Huckabee of Arkansas and Democratic Govs. Dave Freudenthal of Wyoming and Jim Doyle of Wisconsin, he said.

Huckabee recently tested presidential waters in a trip to Iowa while the Democratic governors, like Perry, are facing re-election this year.

Perry left Sunday after classified briefings at the Pentagon and a meeting with Defense Secretary Donald Rumsfeld, the governor's office said. He shared dinner with active and reserve troops in Kuwait before flying to northern Iraq Tuesday.

In Tikrit, Perry met with members of the Texas Army National Guard 136th Signal Battalion based in Temple, said Texas National Guard Col. Bill Meehan.

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"We think that this certainly demonstrates the governor's concern to want to know what Texas soldiers are going through," Meehan said.

He noted that 3,000 Texas National Guard troops returned home in early December but another 1,000 are set to leave next summer for a year-long tour of duty.

Perry also visited the 4th Infantry Division based in Fort Hood, which has 12,000 troops serving in Iraq.

After leaving Tikrit, Perry met with military officials in Baghdad. He received briefings from the top U.S. Commander in Iraq , Gen. George Casey, and U.S. Ambassador to Iraq Zalmay Khalilzad.

"Gov. Perry is abroad this week visiting our Texas troops who are on the front lines of the war on terror," Dewhurst said, adding that Perry's itinerary will not be announced in advance for security reasons.

"In addition to raising the spirits of the men and women who are fighting abroad, this mission is intended to give the state governors who are the commanders-in-chief of the guard units a first-hand perspective on the war on terror," Dewhurst added.

The Department of Defense is picking up the cost of the governors' travels, Dewhurst said.

Air Force Major Todd Vician said the trip was coordinated by the Pentagon's office of legislative affairs. He declined to place a price tag on the trip but said the governors are flying on military airlifts and will be dining in military mess halls as part of the experience.

This is the first in what Dewhurst said will be a series of trip to Iraq by state governors. It is not yet clear how many of the 50 governors eventually will choose to go.

Michael Hedges from the Chronicle's Washington Bureau contributed to this story.

Iraq's Sunnis Urged To Defend Themselves (WP)

By Ellen Knickmeyer

The Washington Post, January 25, 2006

BAGHDAD, Jan. 24 -- One of Iraq's leading Sunni Arab political parties Tuesday called on members of the Sunni minority to defend themselves "by all suitable means" against death squads allegedly linked to the Shiite-led government after another in a months-long series of mysterious, deadly roundups targeting Sunni men.

Also Tuesday, armed men in military uniforms seized two German engineers from a car in the northern town of Baiji, news services reported. The German government confirmed that two young men from Leipzig had been kidnapped and said a special crisis team had been sent to Iraq to deal with the matter, according to the Associated Press.

The warnings by the Iraqi Islamic Party were issued a day after gunmen -- some dressed in Interior Ministry uniforms, witnesses said -- sought out and killed three Sunni men and took away more than 50 others in a mixed Sunni and Shiite neighborhood of Baghdad.

Some Sunni men on Tuesday spoke of leaving the Tobchi neighborhood to escape more roundups. Others said they would barricade themselves inside their homes with guns.

"We are all brothers. We never had any fears before," Ibrahim Taha, a resident of what was one of Baghdad's more peaceful areas. "But now, the neighborhood looks like it's empty. We're all staying inside our houses quietly.

"God saves us," Taha said. "We have no power to save ourselves."

Bodies of scores of Sunni men, many of them handcuffed and shot in the back or the back of the head, have been found across Iraq since Shiite religious parties took power in April. Witnesses, including at least one U.S. military unit who officers say witnessed a roundup of men later found dead, say the victims were detained by men in uniform.

Interior Ministry police and commando units are dominated by former members of the Shiite parties' militias.

Shiite religious party leaders and Interior Minister Bayan Jabr have repeatedly denied that Shiite police are operating death squads, maintaining that the uniformed men are criminals who obtained police uniforms.

On Tuesday, the Iraqi Islamic Party said in a statement that men in police uniforms had attacked the Tobchi neighborhood "as wolves." Uniforms of the Interior Ministry are now known as "the dress for killing and crimes," the party's statement said.

"We urge the people to be aware and cautious of these criminal gangs, which the government has denied any connection to, and stop them and defend one's self, goods and honor by any suitable means," the party statement said.

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In the southern, heavily Shiite city of Basra, hundreds of British and Danish troops raided the homes of Iraqi policemen Tuesday, arresting several "influential members" of the police force, a British military spokesman, Maj. Peter Cripps, told the Reuters news agency.

Testimony In Saddam Trial Delayed (KRT)

By Dogen Hannah

Knight Ridder, January 25, 2006

BAGHDAD, Iraq - Saddam Hussein's problematic murder trial hit another hole in the road Tuesday when the court, citing missing witnesses, postponed resuming the historic proceeding until Sunday.

Court officials said the missing witnesses were still on their religious pilgrimage to Mecca in Saudi Arabia or had just returned and couldn't reach Baghdad in time. They denied reports that the delay was the result of a dispute among judges over who should preside at the trial.

"Since some of the complainants and witnesses are currently outside Iraq for pilgrimage, the court has decided to delay the hearing until Sunday," court spokesman Raed Juhi said Tuesday about four hours after the trial was to have resumed.

The delay raised more questions about the competency and credibility of the Iraqi High Tribunal to try the deposed dictator and his seven co-defendants. Several delays and controversies have beset the trial since its opening session Oct. 19.

Since then, the trial has convened for only six sessions. Tuesday would have been the seventh, and the first presided over by Raouf Rasheed Abdel-Rahman, who was tapped at the last minute to replace Judge Rizgar Mohammed Amin, who quit amid criticism that he'd failed to stop Saddam and other defendants from controlling the proceedings.

Reports circulating here laid Tuesday's delay to judges fighting Abdel-Rahman's appointment, but Juhi, in an interview with Knight Ridder late Tuesday, said there was no dispute over the appointment. "On the contrary, Judge Raouf is running the court, and he is the one who decided to delay the session."

Chief prosecutor Jaafar al-Musawi also said the delay resulted from missing witnesses.

Defense attorneys said the delay underscored the tribunal's inability to provide Saddam with a fair trial.

Tuesday isn't the first time the proceeding has sparked controversy. Two defense attorneys have been killed, and Abdel-Rahman got the presiding judge post only after the court passed over Amin's deputy, Judge Sayeed al-Hammash, when he was accused of being a former member of Saddam's Baath party, which he denied.

Saddam, a Sunni Muslim, and his co-defendants are accused of killing almost 150 people after the 1982 attempted assassination of the former dictator in Dujail, a predominantly Shiite Muslim city. If convicted, the defendants could be sentenced to death.

Troubled Saddam Trial Postponed Again (REU)

By Michael Georgy and Alastair Macdonald

Reuters, January 24, 2006

BAGHDAD (Reuters) - The trial of Iraq's Saddam Hussein was delayed again on Tuesday after a series of twists that prompted his lawyers to challenge the proceedings, arguing that politicians are manipulating the U.S.-sponsored court.

A court spokesman said the postponement to Sunday was due to witnesses failing to appear, but Saddam's lawyer called that an excuse to cover up chaos following the resignation of the chief judge, who complained of government meddling, and allegations that the judge's deputy had ties to the ousted Baath party.

"It's not true the witnesses did not show up ... There were three witnesses ready to deliver their testimony," lead defense attorney Khalil al-Dulaimi told Reuters. "This is just an excuse to cover up the state of turmoil and chaos in the court.

"The court is in disarray ... after the resignations of the judges and enormous political interference."

Another defense lawyer told Reuters the new chief judge, Raouf Abdul Rahman, who was appointed only on Monday, had chosen to scrap the hearing, the first in a month, when Dulaimi refused to defer procedural motions to the end of the session.

"The bench felt things would get out of hand if the session went ahead so they postponed it," Khamees al-Obeidi said.

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After reporters had waited for four hours without word for the hearing to begin, High Tribunal spokesman Raed Jouhi emerged to announce: "Some witnesses are abroad, so the 1st Trial Chamber decided to delay the session until Sunday, January 29."

Some of the witnesses, he said, were on the haj pilgrimage, which ended in Mecca about 10 days ago. Jouhi would not say when the court had learned they would be unable to attend. Officials had confirmed late on Monday the hearing would go ahead.

QUESTIONS

Some human rights groups have criticized the former U.S. occupation authority's decision to try Saddam and his aides in Iraq rather than in an international court. They say subsequent events have reinforced their view that sectarian and ethnic conflict make a fair trial in Baghdad hard to achieve.

Former U.S. attorney general Ramsey Clark, in Baghdad again on Tuesday as part of the defense team, said on Sunday he would press for proceedings to be halted, calling them illegal.

When the trial opened on October 19, presiding judge Rizgar Amin said witnesses were too afraid to appear. The next day, a defense attorney who had been seen on television was killed by men claiming to be from the Interior Ministry. A second defense lawyer was also later killed. Another was wounded and fled Iraq.

After numerous delays, the case made some progress last month. Witnesses, many testifying behind a screen with their voices disguised, recounted horrors that befell the people of the Shi'ite town of Dujail after gunmen tried to kill Saddam there in 1982 -- 148 were killed, others tortured and jailed.

The hearings also gave Saddam and some of the seven other defendants a platform to rail against the court's legitimacy, prompting criticism of Amin, a Kurd from the autonomous north.

He then cast the proceedings into turmoil two weeks ago by resigning and complaining of pressure from the Shi'ite-led government to crack down on Saddam and speed up the process.

More problems followed after Amin's deputy on the five-man bench was named to succeed him. The independent Debaathification Committee accused Sayeed al-Hamashi, a Shi'ite, and 19 other court officials of belonging to Saddam's Baath party.

He denied it but on Monday the court named another Kurd, Abdul Rahman, to take over. The new chief judge hails from Halabja, where 5,000 people died in a gas attack in 1988, a case that will be the focus of a likely future trial for genocide.

U.S. officials involved in the trial have defended the court this week, saying it was making progress and could finish the first trial by late May. Half a dozen or more other cases could take years to complete, however, they added.

Many Shi'ites and Kurds, oppressed under Saddam for decades, are keen to see the 68-year-old former leader hanged quickly.

Dozens of students from religious colleges demonstrated in the Shi'ite holy city of Najaf on Tuesday urging his execution.

(Additional reporting by Suleiman al-Khalidi and Ahmed Rasheed)

Hussein Trial Halts Again, Setting Off Wave Of Criticism (WP)

By Ellen Knickmeyer

The Washington Post, January 25, 2006

BAGHDAD, Jan. 24 -- After months in which three different men have been named head judge, two defense attorneys killed and one court session held without the vituperative lead defendant -- all played out under intense political pressure -- the trial of Saddam Hussein ground to a halt again Tuesday amid growing accusations that the U.S.-dominated tribunal was failing.

Repeated delays, including defense boycotts over the killings of the attorneys, have limited the Iraqi High Tribunal to eight days of hearings in the trial of Hussein and seven co-defendants, which began Oct. 19. The limited proceedings have been dominated by the defendants' courtroom outbursts.

Tuesday's hearing was to have been the first session in roughly a month, but chief investigating judge Raeed Juhi announced four hours after the scheduled start of the hearing that the court had canceled the week's sessions after learning that some witnesses were out of the country on pilgrimage to Mecca. The annual Islamic pilgrimage ended more than a week ago.

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The tribunal set another hearing for Sunday to try to summon the witnesses, and chief prosecutor Jaafar Mousawi said the court was still viable. "A three- or four-day delay wouldn't affect the trial or its legitimacy," Mousawi said by telephone.

Reaction from Hussein's attorneys and specialists in war crimes tribunals were scathing.

"There is a legal crisis inside the tribunal, and the trial is not going in a normal course," Khamis Obeidi, a member of Hussein's defense team, told the Associated Press.

"There's too much violence in the country, there's too much division and too much pressure on the court," former U.S. attorney general Ramsey Clark, the most vocal of Hussein's lawyers, told CNN. "The project ought to be abandoned. It was a creature of the United States in the first place."

"I don't know what's going on over there, but I certainly smell a rat," said David Crane, an American who was chief prosecutor for a U.S.-backed war crimes court in Sierra Leone.

"This is a setback," Crane said by telephone from the United States. "One of the monsters of the 20th century is going to be tried by a faltering extrajudicial tribunal.

"I fear this is going to be a bad example -- you have to show the rule of law is the cornerstone of any democracy. If there's a lack of respect for the law, we're off to a shaky start."

"An embarrassment," Leila Sadat, a Washington University law professor who helped train Hussein's judges, said in a telephone interview. "The American government, I think, has been extraordinarily naive to try to push for an Iraqi trial in an Iraqi court in the middle of civil war using international or American law."

The only clear hope for calm, secure proceedings is for Iraq to move the trial somewhere else in the Middle East, with or without U.S. approval, Sadat said. If Iraq and the United States keep the trial in place, she said, they should look at the option proposed by Iraqi President Jalal Talabani.

"They reopen the trial really quickly, and they execute him really quickly," she said. "It sounds terribly cruel, but they can't go on like this indefinitely. It's becoming nothing but a shambles."

Talabani, an ethnic Kurd and former rebel leader, drew criticism late last year for saying the evidence already presented against Hussein warranted his hanging.

In the Shiite holy city of Najaf, scores of men and women -- most of them religious students -- rallied Tuesday to demand a better trial and a speedy execution.

"The court has been an auditorium for the political speeches of Hussein and his political henchmen," said Ali Abdul Hussein, 29, a student at Najaf's Islamic University.

"We want this court to be an Iraqi one," added Hussein Ahmed, 26, another student at the university. "Iraqis still feel the pain caused by Saddam. The court shouldn't be American."

"We want to see him and his men hanged in the streets," said Amina Hasan, a 66-year-old woman who said her 22-year-old son was executed by Hussein's government.

The United States has made the prosecution of Hussein -- accused of presiding over the killings of hundreds of thousands of Shiites and Kurds -- one of its priorities since U.S. troops invaded Iraq in 2003. The Bush administration spent hundreds of millions of dollars of a $18.4 billion reconstruction package for Iraq to exhume mass graves and gather forensic evidence. It refurbished courthouses, trained Iraqi judges and provided most of the security for the courts. Americans drafted many of the statutes under which Hussein and his associates are being tried.

Though the United States is a strong opponent of the International Criminal Court, the administration's critics say it should have ensured adequate credibility and help for the Iraqi tribunal by making it international or, at a minimum, moving the trial out of Baghdad.

International qualms about the legality of the proceeding, and about the death sentence that Hussein could face if convicted, have left the United States virtually alone in shepherding his prosecution by the Iraqi government. A U.S. official in Baghdad confirmed last weekend that only the United States and Britain had contributed experts to advise the court on how to prosecute governments for war crimes and other such matters.

The official did not say how many British advisers were taking part; Britain, like other countries, has expressed reluctance to help in the case because it is a capital one.

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The U.S. Embassy and the U.S. Regime Crimes Liaison Office run much of the day-to-day arrangements for the trial. Plainclothes security workers, many of them Americans, and Iraqi soldiers guard the turreted, fortress-like former Baath Party headquarters in the American-held Green Zone where the trial is playing out.

The five-member panel hearing the case was thrown into confusion after the trial's last session, on Dec. 22. Chief judge Rizgar Mohammed Amin resigned, complaining of criticism from politicians in Iraq's Shiite-dominated government that he was not reining in Hussein.

The government objected that the judge named to replace Amin had ties to Hussein's Baath Party. He was abruptly removed, and a Kurdish judge from a northern town where Hussein's military is alleged to have killed thousands with poison gas was named on Monday.

Two judges in the tribunal told the Associated Press that the collapse of Tuesday's hearing was due to more wrangling about the head judge's spot, not because of the pilgrimage to Mecca.

Asked what the problem was, one of the judges told the Associated Press, "Matters are not in our hands." He did not elaborate. The news service did not identify the judges.

A U.S. Embassy spokesman did not immediately respond to a request for comment Tuesday.

This past weekend, the U.S. official knowledgeable about the trial maintained that the Iraqi High Tribunal "is an independent organization" and not run by Americans.

Outbursts by Hussein and his co-defendants actually were providing more evidence against them, the official said. And despite the delays, he said, the court had heard testimony from 14 witnesses on atrocities in the eight days of hearings.

Michael Scharf, another U.S. law professor who helped train the judges and a defender of the proceedings here, called that "a very efficient pace even by American judicial standards." Scharf posted his comment on a Web log set up by Case Western Reserve University School of Law.

Special correspondent Saad Sarhan in Najaf contributed to this report.

Trial Judge Dispute Delays Saddam Trial (LAT)

By Richard Boudreaux, Times Staff Writer

The Los Angeles Times, January 25, 2006

BAGHDAD — Embroiled in a leadership crisis, the Iraqi high tribunal abruptly postponed a scheduled resumption of Saddam Hussein's trial today amid bickering among its judges over the surprise appointment of a new chief of their trial panel.

After a morning of divisive, closed-door exchanges among the five trial judges, the tribunal's spokesman issued a terse announcement of the five-day delay, citing the absence of witnesses who were to testify this week but supposedly had not yet returned from the hajj pilgrimage to Saudi Arabia.

One of the trial judges, Hussein Moussawi, said the official explanation was "just an excuse" to give the judges time for "long discussions" needed to resolve issues surrounding a shakeup of their panel, which lost two members during the monthlong recess that was to end Tuesday.

Moussawi would not elaborate, but other court officials, who spoke on condition of anonymity, said the trial panel was sharply divided over whether to accept the designation Monday of Raouf Rasheed Abdel Rahman as its temporary leader.

Hussein's lawyers seized on the turmoil, calling it a symptom of political pressures on the U.S.-created court to speed up the trial and convict the deposed dictator and seven co-defendants.

"I don't know if they'll ever get their act together. I don't think they can," former U.S. Atty. Gen. Ramsey Clark, who is here as part of the defense team, told CNN. "There's too much violence in the country, too much division, too much pressure on the court.… The project ought to be abandoned."

Saddam Trial Delay Angers Defence Lawyers (FT)

By Steve Negus, Iraq Correspondent, And Agencies

Financial Times, January 25, 2006

The trial of Saddam Hussein was delayed again yesterday reportedly because members of the tribunal hearing the case against the deposed president objected to the appointment of a new chief judge.

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The cancellation suggests that what was already a troubled process might be breaking down even further amid differences over whether it is to be a showcase for justice in post-Hussein Iraq or simply to bring swift retribution.

The development leaves the trial struggling to maintain an appearance of independence as it comes under criticism from senior Shia leaders and defence lawyers.

After waiting for hours for hearings to begin, reporters were informed by Raed al-Juhi, chief prosecutor, that the trial had been postponed until Sunday as some of the witnesses were still outside Iraq following the hajj pilgrimage.

However, the Associated Press reported that two members of the five-member tribunal had in fact said that the judges were arguing over the replacement of Rizgar Amin, former chief justice .

Mr Amin, until recently the public face of the trial, tendered his resignation on January 15 after being criticised for moving the trial too slowly and for being too lenient on Mr Hussein and his seven co-defendants, who have interrupted proceedings numerous times with political outbursts.

Mr Amin was initially scheduled to be replaced by his deputy justice, Saeed al-Hammash, but the latter was withdrawn from the panel after a government commission charged with purging Ba'athists said that he should not serve because he was once a member of Mr Hussein's former ruling party.

Less than 24 hours before the trial was scheduled to begin, Iraqi officials announced that a third judge who came from outside the tribunal, Raouf Rasheed Abd al-Rahman, was taking over.

The tussle over the chief justice led to calls yesterday from some in Mr Hussein's defence team for the trial to be moved to international jurisdiction.

"This is just an excuse to cover up the state of turmoil and chaos in the court," Khalil al-Dulaimi, lead defence attorney, told Reuters, speaking about the delay.

Hussein's Trial Is Abruptly Postponed (NYT)

By Robert F. Worth

The New York Times, January 25, 2006

BAGHDAD, Iraq, Jan. 24 - The court trying Saddam Hussein abruptly postponed the trial's resumption today, an announcement that appeared related to behind-the-scenes conflict among the judges.

The postponement, coming a day after a new chief judge was appointed in a last-minute shake-up, is the latest troubling sign in a trial that has been marred by delays, assassinations and accusations of political interference since it began more than three months ago.

Raid Juhi, a judge and spokesman for the tribunal, said today that the hearing was being delayed until Sunday because some witnesses and complainants were out of the country, making a pilgrimage to Mecca.

But the announcement came at midday, after reporters and observers had been waiting more than four hours for the trial to start, and it was not clear why the absence of some witnesses would not have been apparent to the authorities much earlier. The trial adjourned on Dec. 22, in part to allow for the pilgrimage.

A judge on the tribunal said he believed today's delay was related to disagreements among the judges over the replacement of Rizgar Muhammad Amin, the Kurdish judge who has presided over the trial until now.

Judge Amin resigned earlier this month, and had been scheduled to be replaced by his deputy on the five-judge panel that is trying Mr. Hussein, Said Hammash. But Judge Hammash was passed over after the commission charged with removing former high-level members of Mr. Hussein's Baath Party accused the judge of having been a Baathist.

That decision - an apparent concession to outside pressure -- caused some dissension that lingered on the panel today, said the judge, who belongs to a different panel on the tribunal. The judge asked not to be named, saying he was not authorized to speak publicly about the court.

The dispute suggested that the tribunal, for all its nominal independence, is vulnerable to the same divisions over Iraq's Baathist past that have plagued the rest of Iraqi society.

Judge Hammash has said he was never a member of the Baath Party, and the office of Prime Minster Ibrahim Jaafari has said the tribunal is not subject to the rulings of the de-Baathification commission. The law creating the Iraqi High Tribunal,

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passed last year, bars any former Baathist from serving as one of its judges. But that provision has been interpreted to refer only to high-level Baathists, since most members of the legal profession were obliged to join the party, said an American official close to the tribunal.

The postponement came as American military officials said two American soldiers were killed on Monday when a roadside bomb struck their convoy in southeastern Baghdad. West of the capital, two marines were killed in an accident, officials said.

Insurgents launched a number of attacks across Iraq today. North of Baghdad, gunmen shot and killed Zamil Mula Chiad, a sheik of the Janabeen tribe, and injured his son as they drove to Beiji, said a spokesman for the governor of Salahuddin Province.

In the northern city of Mosul, a suicide bomber detonated his car near an American military patrol, but without causing any injuries, the police said. In Basra, far to the south, a roadside bomb exploded near a British patrol, injuring four civilians, police officials said.

Near Kirkuk, a major pipeline that carries crude oil north to Turkey was shut off today after a major fire broke out, officials of the Northern Oil Company. Insurgents have often attacked the pipeline, which runs to Turkey's Jehan harbor, cutting down on Iraq's oil exports. But Col. Muhsin Abdullah, the commander of the Iraqi Army division responsible for protecting oil lines in the area, said it was not yet clear whether the fire was caused by an accident or deliberate sabotage.

Sentence In Death Of Iraqi Angers Son (WP)

By Josh White

The Washington Post, January 25, 2006

Mohammed Mowhoush, the son of an Iraqi general who died in U.S. custody in late 2003, assailed the U.S. military yesterday for imposing a reprimand instead of prison time for an Army interrogator convicted in connection with his father's death, saying the United States has not properly administered justice.

Speaking by telephone from Iraq, Mowhoush, 18, decried the military jury's sentencing this week of Chief Warrant Officer Lewis E. Welshofer Jr. He emotionally recounted his own arrest and seeing his father shortly before he died in an interrogation room in northern Iraq.

A military jury convicted Welshofer of negligent homicide late Saturday, after hearing evidence that he was using an aggressive interrogation technique on Maj. Gen. Abed Hamed Mowhoush when the general stopped breathing.

"His punishment is not justice," Mohammed Mowhoush said in English, speaking to reporters on a conference call. "He must be punished more harder. At least 40 years."

Welshofer apologized at a sentencing hearing Monday, saying he hoped his actions had not tarnished the soldiers in Iraq. His attorney argued that Welshofer was using an approved interrogation tactic and worked with only murky guidance and policies from officials in Baghdad. His sentence was much lighter than those given to some soldiers convicted of abusing detainees at the Abu Ghraib prison.

Abed Mowhoush was taken into custody in November 2003 and was subjected to harsh interrogations that included beatings and unusual techniques. He died while stuffed into a sleeping bag, wrapped in a cord, and with Welshofer straddling his chest. U.S. officials believed he was a major figure in the insurgency around Qaim, Iraq, but had a hard time getting him to talk.

Mohammed Mowhoush yesterday recalled his own arrest on Oct. 27, 2003, when he and his three brothers were taken from their Qaim home as U.S. forces searched for his father. Mohammed, then 15, said U.S. troops arrived in the early morning darkness with helicopters and armored vehicles, and demanded to see his father.

"They said if my father did not come and give up, they will send us to Guantanamo," Mowhoush said, adding that he and his family had been observing Ramadan, but that his father was not home at the time. "That celebration turned into a real tragedy for us. They said if my father does not come, you will never see your family back."

Arresting someone to entice relatives to turn themselves in is considered by human rights organizations to be a form of hostage-taking. It is considered illegal in wartime but military investigative documents reveal it has occurred in Iraq.

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Mowhoush said he and his brothers were taken into custody and interrogated for days, with U.S. officials accusing them of carrying out roles in the insurgency. He said he was told they believed he was a sniper, though he said he knew nothing about the war. He and his brothers were not charged with crimes.

Mowhoush said U.S. troops took his clothes off, poured cold water on him, beat him, and made him get into uncomfortable and painful "stress positions," as they are known in the military.

His father later surrendered in an attempt to free his sons, according to classified documents. The military began to use the sons against the general, Mohammed Mowhoush said. After about 28 days in prison, the younger Mowhoush said, the Army brought the general to an old train depot outside of Qaim -- a temporary detention facility nicknamed "Blacksmith Hotel" -- to pressure him to talk.

"He was tired and I saw wounds on his body, and he was tired because they hit him so much, they made a lot of pain on him and he couldn't even talk to me," Mowhoush said, describing how he was briefly reunited with his father.

It was about that time that Abed Mowhoush had been beaten by Iraqi paramilitaries code-named "Scorpions," who were working with the CIA, according to classified documents. Mohammed Mowhoush said he saw some masked Iraqis at the prison, and said at one point they escorted him into a room near where his father was being interrogated. He said they yelled at his father and told him that if he did not tell the truth, they would execute his son.

"We expected that my father would die because of the treatment," Mowhoush said. "We were young boys -- we can handle anything. But my father was an old man -- he can't handle the treatment."

Human Rights First, an advocacy organization based in New York, organized the conference call with several reporters. David Danzig, director of the group's "End Torture Now" campaign, said he is concerned about Welshofer's sentence and about the treatment of Mowhoush's sons. "It is yet another disturbing set of evidence that suggests all kinds of illegal activity was taking place," Danzig said.

Mohammed Mowhoush said he and his brothers want to sue Welshofer for his role in their father's death. Mowhoush said he has nothing against the American people but harbors ill feelings for the U.S. Army. "We want justice to be done," he said.

Mild Penalties In Military Abuse Cases (LAT)

By Nicholas Riccardi

The Los Angeles Times, January 25, 2006

DENVER — Soldiers prosecuted in the abuse or even deaths of detainees rarely have paid a heavy price, an indication of the difficulties the U.S. military has had sorting out right from wrong during the war on terrorism, human rights groups and military lawyers say.

A report to be released next week by Human Rights First has found that service members were disciplined in 12 of the 33 cases in which detainees' deaths were ruled homicides. Often that punishment was relatively mild, as was the case for Chief Warrant Officer Lewis E. Welshofer Jr.

Charged with murder in an Iraqi general's death during an interrogation session, Welshofer was convicted last week of lesser offenses. On Monday, a jury of six Army officers at Ft. Carson, Colo., ruled that instead of serving jail time and being forced from the military, Welshofer would receive a formal reprimand, forfeit $6,000 of his salary and spend 60 days restricted to his home, office and church.

It was the latest in a growing list of setbacks for military prosecutors.

Last year, a jury acquitted a Navy SEAL in the beating of an Iraqi detainee who later died in CIA custody. And of 15 soldiers serving in Afghanistan whom the Army has disciplined for abuse at a jail where two detainees died, three were acquitted and none has received more than five months' jail time.

There is no complete independent tracking of military abuse prosecutions. But observers say the stiffest sentence appears to have gone to Spc. Charles A. Graner Jr., convicted of torturing but not killing detainees at Abu Ghraib prison in Iraq. He is serving 10 years in a military prison.

"It's telling that the person who got the most time was the one all over television," said Jumana Musa, an official with Amnesty International. "The less in the news, the lighter the sentence seems to be."

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Frank Spinner, Welshofer's lawyer, said the lighter sentences were a reaction to overzealous prosecution of service members who were trying to protect the U.S.

"When you're going to send our men and women over there to fight and put their lives on the line," Spinner said, "you've got to back it up. You've got to give them clear rules and you've got to give them the room to make mistakes and not treat them like a criminal."

Experts in military law and other monitors note that every case is different, but say there are a variety of reasons for the difficulty in punishing service members for detainee abuse.

Because the Bush administration repeatedly has shifted regulations on detainee treatment, it is difficult to hold soldiers accountable for violating standards, experts say. And with combat raging in Iraq, many accused soldiers have made the argument that they are trying to save lives and are not criminals.

The presence of intelligence agents during some of the alleged brutality also makes juries less likely to place all the blame on soldiers. And in some cases, key pieces of evidence have been lost, hindering prosecution.

Finally, soldiers make sympathetic defendants during wartime, said Eugene R. Fidell, a longtime military lawyer and president of the National Institute of Military Justice in Washington, which tracks legal issues in the armed services.

"Is there a question as to whether it's a hard sell for a military jury to hammer somebody?" he asked rhetorically.

Besides, Fidell said, "we're not alone in this." He cited the case of five Danish soldiers convicted of abusing detainees in Iraq. Last week, a Danish court refused to sentence them to prison because they'd been given unclear interrogation orders — almost the identical defense Welshofer used to avoid jail time.

During a Tuesday conference call arranged by Human Rights First, the dead Iraqi general's son, Mohammed Mowhoush, said Welshofer's sentence was too light.

"This judgment is not fair," he said. "This man, Lewis Welshofer, killed someone and he must be punished more harder than that."

In Washington, presidential spokesman Scott McClellan said Welshofer's sentence did not indicate that the U.S. was lax about punishing its own. "When there is wrongdoing or abuse, people are held to account, and we have seen that time and time again," McClellan told reporters. "This country holds people to account if they don't follow the law — if they don't follow the rules that are in place."

Welshofer and his lawyer argued in court that there were no clear rules on interrogation in Iraq during much of 2003, and that the interrogator believed that binding captives in a sleeping bag to induce claustrophobia was allowable under a set of techniques that the U.S. commander in Iraq had approved.

On Nov. 26, 2003, Maj. Gen. Abed Hamed Mowhoush, the suspected leader of the insurgency near the western Iraqi town of Qaim, died in a sleeping bag while Welshofer straddled his chest and occasionally covered his mouth to silence him.

Three members of the six-officer jury had served in Iraq, and arguments that Welshofer, a 19-year veteran, was trying to save lives by getting information out of the general appeared to sway the panel.

That's to be expected, said Walter Huffman, dean of Texas Tech's law school and the Army's former top lawyer, given that military juries these days are drawn from officers who likely served on battlefields in the war on terrorism.

"Persons who are charged with committing an act during that time, in front of a jury that's been there, are more likely to be given the benefit of the doubt … than if they committed the same offense at Ft. Hood, Texas," he said.

Huffman pointed out that military juries tended to consist of educated officers who were experts in procedure. But he joined other observers in saying that the administration's findings that the Geneva Convention did not apply to some combatants during the war on terrorism could have made juries sympathetic to soldiers who argued that they were trying to sort out the right behavior amid unclear standards.

"Juries are being presented a real mixed bag of evidence, where on one hand the person before them bears some direct responsibility for the crime that is committed, but on the other hand they're hearing evidence that this person was operating under either unlawful orders or mixed messages about what sort of job they were supposed to be doing," said Deborah Pearlstein, director of the U.S. law and security program at Human Rights First in New York.

Another roadblock for prosecutors, Pearlstein said, is that the military sometimes has been careless in handling evidence. For example, a military autopsy found that an Iraqi detainee had been strangled to death at a Marine holding camp in south-central Iraq in June 2003, but the corpse was left at the Baghdad airport and irreparably damaged. According to excerpts from the Human Rights First report, most Marines charged in the death had their cases dismissed because of the destroyed evidence.

The CIA's role in some of the abuse also has complicated prosecutions. Last year, a jury of naval officers acquitted Lt. Andrew K. Ledford of charges that he'd led a brutal beating of an Abu Ghraib detainee who later died in CIA custody. Ledford and other SEALs were photographed with the detainee, but his lawyer, Spinner, argued at trial that the CIA had to be called to account for the death.

Spinner faced a similar dynamic at Welshofer's trial. Evidence showed that two days before he died, Welshofer's prisoner was beaten by reported CIA contract workers in the presence of a possible CIA agent.

"Something occurred in that courtroom that indicated to the jury that this guy was not doing this all by himself," said Scott L. Silliman, a Duke University law professor and former Air Force lawyer. "In future trials, I think you're going to see this CIA presence raised."

Two German Engineers Kidnapped In Northern Iraq (USAT)

USA Today, January 25, 2006

BAGHDAD — Gunmen wearing military fatigues seized two German engineers in northern Iraq on Tuesday in the latest kidnapping that pushed a foreign government into a desperate race to free its nationals.

The German government confirmed that two men from Leipzig were kidnapped and said a special crisis team was sent to Iraq to deal with the matter.

Foreign Minister Frank-Walter Steinmeier said Berlin is doing “everything in our power so that … the hostages will be returned to us safely.”

More than 250 foreigners have been kidnapped in Iraq since the 2003 U.S.-led invasion that toppled Saddam Hussein, and at least 39 have been killed.

The hostages worked at an Iraqi state-owned detergent plant, near the oil refinery in Beiji, 155 miles north of Baghdad. German media said they were employed by a manufacturing and engineering company involved in Iraq since before the war began in 2003.

Police Capt. Falah al-Janabi said gunmen using two vehicles and wearing military uniforms grabbed the Germans as they arrived for work by car.

Sectarian tensions, meanwhile, flared in separate regions of the country. Hundreds of Shiite Muslims in the southern city of Basra demanded British troops free Iraqi policemen arrested Tuesday in connection with multiple militia-linked assassinations.

In the northern city of Samarra, about 1,000 Sunni Arabs marched to condemn the execution-style killings of 31 Sunnis abducted last week on their way home by bus after being rejected for admission to a Baghdad police academy. Protesters demanded government action to find those who killed the men, whose bodies were dumped in remote farmland.

In Basra, the Shiite crowd massed after British and Iraqi forces detained 14 men Tuesday. The detainees, including at least five policemen, are suspected of involvement in multiple killings and kidnappings of local residents and other police forces. The British military said it received Iraqi Interior Ministry authority to arrest the men, nine of whom were later released.

Also Tuesday:

•Car bombs and mortar fire rumbled in Baghdad ahead of the planned resumption of Saddam Hussein's trial in the 1982 killing of more than 140 Shiite Muslims. After nearly a five-hour wait for the start of the court session, the trial was postponed until Sunday.

•The U.S. military said four American military personnel were killed in separate incidents Monday: two soldiers in a Baghdad roadside bombing and two Marines in a vehicle accident west of the capital.

Injured Soldier 'A Beacon Of Hope' (WT)

By Maya Alleruzzo

The Washington Times, January 25, 2006

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BALAD AIR BASE, Iraq -- The powerful legs that carried him through battle lay stretched before him, motionless underneath a blanket. The broad shoulders and bulging forearms that once easily carried an 80-pound machine gun lay limp at his sides. Somewhere in Iraq, those who tried to kill him wait to finish the job.

Capt. Furat, 28, struggles to sort out a life that was shattered Christmas Day in an ambush by gunmen disguised as Iraqi soldiers while he was visiting his family.

His wounds are slowly beginning to heal. The surgical staples holding his abdomen together are gone.

He somehow survived the destruction of 12 bullets, but one of them cut through his spinal cord, leaving him paralyzed from the waist down.

"I am a dream. My future is very dark. These are the legs of Captain Furat," he said.

Other wounds include a bullet-shattered arm. They will heal but the paralysis is permanent. His family and doctors are searching for a solution to the next hurdle.

Normally, once an Iraqi patient is stable, he is transferred to a local hospital for follow-up care. But the news of Capt. Furat's survival traveled quickly through Muqdadiyah.

His family fears the killers will finish the job when he leaves this heavily guarded American base for a local hospital protected only by a few Iraqi policemen.

Col. Elisha Powell, commander of the 332nd Expeditionary Medical Group that runs the hospital, said Capt. Furat will stay there until he recovers.

The Air Force Theater Hospital in Balad is the busiest field hospital in Iraq. It consists of a sea of tents that house everything from state-of-the art operating rooms to patient wards with up to 10 beds per tent.

96 percent survive

"If you come here alive, you have a 96 percent chance of leaving here alive," said Col. Powell.

Americans typically are stabilized and flown to Landstuhl Regional Medical Facility in Germany for follow-up treatment, then on to the United States.

Though 70 percent of patients here are Americans, the hospital also treats Iraqi security forces and civilians.

Iraqis like Capt. Furat are usually transferred to Iraqi hospitals or sent home when they are well enough.

Now that he is stable, he will need to learn to use his arms and upper body to lift himself and use a wheelchair. But before that can happen, his right arm must heal, and that could take up to eight months.

"He doesn't fit the typical patient that we usually see," said Lt. Col. Jim Keeney, one of the hospital's orthopedic surgeons.

He fought the enemy

A decorated officer with the 2nd Battalion of the 2nd Brigade of the 5th Iraqi Army Division -- also known as the Tiger Battalion -- based at Camp Falloc, 54 miles northeast of Baghdad, Capt. Furat loves Iraq and fought its enemies with a passion that won praise from American and Iraqi troops.

U.S. soldiers of Task Force 1-30 who worked with Capt. Furat often called him "Rambo"; he could wield an 80-pound machine gun and belts of ammunition as if carrying an Uzi.

"To me he is a superhero," said 1st Lt. John Newton of Hague, Va., from the 1st Battalion of the 30th Infantry Regiment of the 3rd Infantry Division, who wept at Capt. Furat's bedside hours after the attack.

"He was fearless under fire," said Lt. Col. Roger Cloutier, commander of Task Force 1-30, from Fort Benning, Ga.

Few visits home

Capt. Furat, who uses only his given name because of continued threats to his family, rarely visited home for the same reason. When not on patrol or other missions, he stayed on base while other soldiers saw their families for brief periods.

His commander, Col. Theya Abd Ismael Al-Tamimmi, warned him not to go home. But his family wanted to see him, and on the weekend of Dec. 23, he went.

"He was out on vacation with no security and they got him," said Col. Cloutier, whose men share a home base with the Tiger Battalion. "He was a wanted man."

Capt. Furat brought along Sgt. Hussein, 21, a fellow soldier in the Dali Abbas Company of the Tiger Battalion. As they drove back to base, a red Opel station wagon blocked their path. Three masked gunmen in Iraqi Army uniforms opened fire.

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One attacker killed

At first, Capt. Furat did not shoot back because of the uniforms. He killed one of his attackers. Three civilians caught in the crossfire also died and Capt. Furat and Sgt. Hussein were severely wounded -- Sgt. Hussein with nine bullets to his leg and arm. Capt. Furat took 12 shots.

They were taken to the American field hospital at nearby Base Normandy and then by helicopter to the Air Force Hospital for surgery. As doctors worked to save their lives, they managed to give enough information for Iraqi soldiers to raid the ambush site and arrest two men involved in the attack.

On the operating table, a damaged kidney was removed from Capt. Furat and a metal plate was used to repair his right forearm, hit by a bullet. A computer-assisted-tomography scan revealed how much more damage one of the bullets did.

"We knew at the time it had crossed through his spinal cord," said Maj. Alan Murdock. "Once they're cut, nerves don't usually regenerate."

For two days, Capt. Furat would be under heavy sedation and connected to a ventilator.

Soon, the doctors would have to tell him the news.

Devastating word

"I was very straightforward with him about what to expect: That he'd be in a wheelchair," said Maj. Jeffrey McNeil, a cardiothoracic surgeon.

"It's kind of like a professional athlete having a career-ending injury," said Lt. Col. Jim Keeney, an orthopedic surgeon at Balad. "He is going to be much more functional but it's going to be a setback."

For Capt. Furat, the news was devastating. On some days, he just wept. On other days, he burned with rage.

"I love Iraq," he said in fluent English, which he learned in college during the presidency of Saddam Hussein. "I worked all over Iraq and liked all the soldiers I worked with. I loved my body. I loved all the civilians I helped, but I don't think all the civilians loved me. I was a brave soldier. I helped anybody -- men, women, children.

Nobody helped

"But when Ali Baba shot me, and when I lay there in the street and couldn't move, nobody helped me. Why? Capt. Furat is dead because Capt. Furat is weak. Nobody on the street helped him."

Capt. Furat enlisted in the Iraqi Army when he was 18, and was stationed in Baghdad and Mosul. He rose through the ranks, attended Army College and was part of an elite special forces unit.

When American soldiers entered Baghdad in April 2003, Capt. Furat was in the capital with the Al Qanata Brigade.

"I told my platoon, 'hey, don't move,' ' he recalled. "I saw the U.S. Army coming toward us. My platoon shot at them with their AK-47s. They were very noble.

"I couldn't kill anyone. [The Americans] had big weapons, but all I had was a pistol and an AK-47."

Stranger took him in

He took a bullet in the leg during the battle and somehow managed to escape amid the confusion, taking shelter in a stranger's house.

"He cut off my uniform and gave me pajamas," Capt. Furat recalled. "He took my weapon and pistol and ID and went to the garden and buried them in the earth.

"I was afraid the U.S. Army would come in the house. I saw through the window the Army in the street."

He stayed there five days, then his host drove him to his family's home in Diyala province, not far from base.

"My father thought I was dead because a soldier came to the house and said he saw me get shot by the Americans.

U.S. sought officers

"When I knocked on the door, my father saw me and he couldn't believe it was me. I hugged him to my chest and wept."

Capt. Furat stayed with his family in Muqdadiyah for about a year.

"I had no work, no dreams. I just sat in the house."

Then he heard through a friend that American troops at nearby Base Falloc, the former site of an Iraqi Army division, were looking for former Iraqi officers to begin building the new army. He joined, and has since worked with six or seven different groups of American soldiers.

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"I was with the last group for three or four months before Ali Baba shot me," he says. "I'd go with them anywhere. I trust them, and they trust me. Now I am sad. This life was very good. I worked with kings, not soldiers. But I can't move with them."

Inspiration to others

"My dream is just to stand up with my legs," he said. "When I can stand up with my legs, just tell me and I'll go anywhere -- Iraq, Afghanistan, Iran -- just tell me."

As Capt. Furat works through the physical and emotional trauma of his tragedy, those on the hospital staff see an opportunity for the disabled soldier.

"He could be a beacon of hope for all the handicapped people in Iraq," said Col. Powell.

"He could be a champion, a great one. There are going to be thousands of disabled people here, maybe more. There's nothing keeping him from doing anything. We just want him to reach his full potential."

In Iraqi Provinces, NATO Could Help (NYT)

By Roger Cohen International Herald Tribune

The New York Times, January 25, 2006

The Black Hawk helicopters skim out over the rooftops of Baghdad, leaving the palm-lined boulevards of the Green Zone, the walled city within a city that Western officials seldom leave, and heading into the Red Zone, the land of uncertainty that is the rest of Iraq.

It might better be described as the Dust Zone. The dun-colored, garbage-ridden sprawl of the city yields to an expanse of dirt, somewhere between desert and wasteland, as the two low-flying choppers swing south. Only beside the Euphrates is the land fertile. Children in farmyards wave and jump, little bundles of enthusiasm in a country of fear.

Senator John Kerry of Massachusetts is being ferried by the U.S. military to Hilla, a provincial town about 110 kilometers, or 70 miles, south of Baghdad. Hilla is adjacent to Babylon, the ancient city that Saddam Hussein, his megalomania in overdrive, chose to rebuild, describing himself as the son of King Nebuchadnezzar.

But his legacy is not splendor; it is ruin. The wreckage is apparent in the shattered infrastructure of Iraq, but is less immediately evident in the places where it is most damaging: the conspiracy-filled, terror-haunted, initiative-stripped minds of Iraqis.

In Hilla, the United States recently established a Provincial Reconstruction Team, or PRT, a group of military and civilian officials working to jump-start the economy by instilling in Iraqis the conviction that they now have control of their own lives and can make decisions at local level without awaiting a despot's word from Baghdad.

It is to assess this experiment, tried with some success by NATO in Afghanistan, that Kerry has headed into the provinces. The blue shirt and Hermès tie, familiar on the U.S. campaign trail, are offset here, with a certain chic, by a camouflage flak jacket, removed as he strides into the regional embassy. Officials headed by Fred Fonteneau, a diplomat with wide experience in the Middle East, gather around a table. The atmosphere is businesslike: no coffee, no drinks. Kerry wastes little time: "What kinds of problems do you face?"

The list is long, but begins with security, or rather its absence. Although the immediate area is largely Shiite, and the insurgency has been led by Sunnis, attacks are not infrequent. A favored method is roadside bombs. Two people from the regional office were killed by one last year.

"As soon as we've got used to one kind of method, they shift to another," says Major Lloyd Navarro, a U.S. officer attached to the PRT. Of late, explosive devices, believed to be manufactured in Iran, that direct armor-penetrating projectiles have proved particularly devastating.

Kerry is puzzled. Why is a largely Shiite area so treacherous? "This suggests a greater depth to the insurgency than has been described," he says. Babil Province, where Hilla is situated, has a population of 1.6 million, of whom 75 percent are Shia and 25 percent Sunnis living mainly in the northern part.

Fonteneau and other officials try to explain. There are opportunists who don't want stable government. There are followers of the radical Shiite cleric Moktada al-Sadr. There are tribal rivalries and fights between militias. In short, there's a fog out there beyond the compound's walls in which no one faction has a monopoly on violence.

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The bottom line is this: every time anyone heads out, a four-vehicle convoy is required, protected by more than a dozen guards from the Blackwater USA security firm of North Carolina. This protection gets hugely expensive, absorbing resources needed for reconstruction.

The senator ponders this. Even in a stable environment, the challenges would be daunting. Kerry has before him a 14-page paper setting out the "institutional challenges" in Hilla.

"Legislature branch is weak with limited power and no procedural rules or regulations," it says. "Executive branch answers to the federal, not provincial government. It is inefficient and riddled with corruption."

The judicial branch is weak. The police have strong leadership, "but are under siege to become a political arm of SCIRI," the Supreme Council for the Islamic Revolution in Iraq, a major Shiite political party.

In short, the Hilla PRT, currently 44 personnel and growing, is confronted by the challenge of reinventing an entire political culture as it pursues its mission statement: "Developing a transparent, functional, responsive and representative government."

This will take time, but funds are running out and skepticism in Washington is growing. Kerry is told to deliver the message to Congress that Iraq needs and merits more money. In an impassioned outburst, Martin Hanratty of the U.S. Agency for International Development says:

"The demand is unbelievable from Iraqis. They are excited about what we are doing. If we can't get it together to support that, there is something wrong with us. Not with them, but with us."

There is something else wrong in Hilla, and elsewhere in Iraq. In Afghanistan, the work of the PRTs has not been that of America alone, but of America and its allies in NATO. What is the alliance for if not to fight the most critical battle of this generation: the forging, against the odds, of a decent and democratic Iraq that could change the closed, repressive culture of the Middle East?

The disagreements over the start of the war, and the Bush administration's misrepresentation of its justification, no longer matter. The United States is deep in Iraq, and real NATO assistance could make a decisive difference, as it has in Afghanistan.

A 90-day action plan in Hilla includes development of telecommunications services, aerial spraying of palm groves to stop a disease that has devastated date production, and installation of 14 drinking-water supply networks. Is there any reason France and Germany couldn't get behind that?

There is a reason, of course: overwhelming opposition in those countries to the war. That opposition is short-sighted but will not go away. As for Kerry, the darling of the French and Germans, his verdict is sober: "There are a lot of difficulties, but this is not impossible. We are doing many things better than we were."

America's Message To Iraq (WP)

By David Ignatius

The Washington Post, January 25, 2006

America's agile envoy in Baghdad, Zalmay Khalilzad, is working these days to cajole Iraqi political leaders to put aside narrow interests in favor of a government of national unity. But behind the political dickering lies a stark message: If the Iraqis can't agree on a broad-based government of reconciliation, the United States may have to reduce its military and economic support. America won't bankroll one side in a civil war.

I spoke with Khalilzad by telephone this week about his efforts to coax a compromise from the Iraqis. By most accounts, the Afghan-born diplomat has been a brilliant ringmaster of the Baghdad political circus. But even he can't soften the dilemma facing the Iraqis: They must find a way to work together or the fragile Iraqi state will unravel.

The American envoy is deploying a weapon the United States hasn't used much in Iraq -- the word "no." He said he is arguing that the new government must give the two security ministries -- Interior and Defense -- to people who have broad national support and aren't linked to sectarian militias. Otherwise, America may have to adjust its massive effort to train and equip the Iraqi security forces.

"The security ministries have to be run by people who are not associated with militias and who are not regarded as sectarian," Khalilzad told me. "The issue is how forces that we're investing a huge amount of money in are perceived by the Iraqis. If they are perceived as sectarian, their effectiveness will not be there. We have insisted on this, stated it clearly. These two

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ministries need people who are acceptable to all parties of a national unity government. . . . We are saying: If you choose the wrong candidates, that will affect U.S. aid."

Khalilzad's message is aimed largely at Abdul Aziz Hakim, the leader of the Shiite religious coalition that won the largest number of votes in December's election. The current interior minister is a close ally of Hakim's and a former leader of the Shiite militia known as the Badr Brigade. U.S. officials believe that under his control, the Interior Ministry has condoned torture of Sunni prisoners and increasingly used the police to settle sectarian scores. That must stop, the Americans argue.

U.S. officials see Iraq at a decisive turning point following December's election to choose a permanent government. They had hoped the balloting would open the way for a secular coalition that might bridge the bitter divisions among Shiites, Sunnis and Kurds. Instead, the balloting reinforced those sectarian tendencies. Iraqis voted their fears and the us-or-them logic of sectarian conflict. Religious and ethnic parties that maintain strong militias did well; secular parties that support national institutions did poorly.

"We've reached a point of no return now," argues Raad Alkadiri, an Anglo-Iraqi who advised the British government in Baghdad during the first year of occupation and who is now a consultant with PFC Energy in Washington. "Are Iraqis willing to put aside their narrow interests? Is there a real Iraqi state? You can't fudge this. This is the edge of the precipice."

Khalilzad is telling Shiite and Kurdish leaders that they have a golden opportunity to stabilize the country because of a sharp split that is emerging within the Sunni insurgency. Sunni tribal and political leaders who had been backing the insurgency are increasingly angry at the terrorist tactics of al Qaeda's leader in Iraq, Abu Musab Zarqawi. That opens the way for a deal -- if the Shiites and Kurds want one. "The tectonics are shifting in the Sunni heartland," Khalilzad told me. "A fault line is developing that is going to expand, between Zarqawi and his allies and elements of the insurgency."

If the Iraqis can reach across the sectarian chasm, it could mark the beginning of a virtuous cycle in Iraq that could finally bring a measure of stability and prosperity. Khalilzad has been talking with Iraqi leaders about a "First 100 Days" program that would get the new government off to a fast start. He has discussed creating a National Security Council that would hammer out consensus within a small leadership group. He is talking with Iraqi leaders about a national Bill of Assurances that would address the anxieties of each sect. But all these good steps require the basic willingness to compromise, bury the hatchets and bring in the Sunnis.

Khalilzad's message is that America's money and patience aren't unlimited. If the Iraqis can come together to build a framework for cooperation, America stands with them. If they can't pull together, they will eventually have to face the nightmare of a shattered Iraq on their own. Ironically, that's America's hidden leverage in Iraq -- the power to walk away.

History Lessons (WT)

The Washington Times, January 25, 2006

Dec. 20, 1998 (USA Today) -- One day after President Clinton halted a four-night U.S. and British air assault on Iraq, his national security team blanketed the Sunday talk shows to get out the message: "Mission accomplished."

But some critics say it's unclear what the mission was and what it accomplished.

"This was a largely punitive operation," said Anthony Cordesman, a defense analyst at the Center for Strategic and International Studies. "It did not cripple any of Saddam's capabilities."...

In Operation Desert Fox, the stated mission was to "degrade" Saddam's ability to develop, manufacture and deliver [WMD]. After four days, the Pentagon said his weapon-making capacity was diminished but that it was too early to say how much. And critics said the vague word "degrade" had been used deliberately to allow leaders to claim success no matter what...

CORPORATE SCANDALS:

Slapping Down A Dynamic Duo (WSJ)

By Peter Lattman And Kara Scannell

The Wall Street Journal, January 25, 2006

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The Justice Department and the Securities and Exchange Commission long have worked in concert in fighting corporate wrongdoing, securing convictions and settlements in recent years against former executives at WorldCom Inc., Enron and elsewhere.

The SEC can bring civil charges and seek to impose financial penalties and to ban transgressors from top jobs at publicly traded corporations or from the securities industry. The Justice Department can bring criminal charges and seek prison sentences for the most serious white-collar violators.

In two recent cases, however, federal judges have taken the agencies to task for using what the judges deemed an unfair one-two-punch approach in criminal cases.

In Oregon this month, a judge dismissed criminal charges against three corporate executives, saying the Justice Department unconstitutionally pursued a stealth criminal investigation under the cloak of a less-threatening civil proceeding by the SEC. And in Alabama last year, a judge dismissed charges that former HealthSouth Corp. Chief Executive Richard Scrushy lied to the SEC, ruling that he should have been warned that the Justice Department already had opened a criminal investigation when the SEC questioned him.

In both cases, the judges found the line between the agencies' roles had become improperly blurred.

"It is entirely appropriate and necessary for courts to make sure that line is clear," says defense lawyer Jacob Frenkel, a former SEC lawyer and federal prosecutor.

The SEC and the Justice Department long have run parallel investigations. Business scandals prompted President Bush in July 2002 to create the Corporate Fraud Task Force, which stepped up coordination between federal agencies.

"It's important that those of us with expertise in the securities field can lend that expertise to criminal prosecutors and work together," says Linda Chatman Thomsen, the SEC's director of enforcement. "All of us do have to worry about making sure we do it right while protecting fairness and due process."

The SEC refers matters to the Justice Department if the agency decides violations merit criminal investigation. But defense lawyers say the system becomes unfair if prosecutors use a civil SEC probe to secretly advance a criminal case.

Without an explicit threat of jail time, executives have a greater incentive to cooperate in SEC investigations. Subjects of SEC probes can assert their Fifth Amendment rights against self-incrimination and stay silent, but judges and juries are allowed to draw "adverse inferences" from such assertions in civil trials. In criminal trials, such inferences aren't allowed. It puts corporate defendants in a Catch-22: If they talk to the SEC, they might help criminal prosecutors. If they don't, they will be disadvantaged in the civil case.

Though no statute articulates how parallel civil and criminal proceedings work, courts for years have allowed the U.S. agencies leeway: They can communicate regularly, exchange information and discuss strategy, though prosecutors can't share anything they learn via grand-jury proceedings, which are by law secret.

In a 1970 case involving the Food and Drug Administration and criminal prosecutors, the Supreme Court confirmed that parallel proceedings are constitutional. But it said that case didn't involve the government's using a civil action "solely to obtain evidence for its criminal prosecution" or failing to advise a defendant that he faced criminal charges -- suggesting that such tactics might be unconstitutional.

"Up until now, the courts have mostly taken a hands-off approach to parallel proceedings," says Peter Henning, law professor at Wayne State University Law School in Detroit and a former federal prosecutor and SEC lawyer.

He adds: "Judges are trying to find a line to accommodate the cooperation between civil and criminal investigations without allowing the civil investigation to be a facade for the Justice Department."

In the Oregon case, U.S. v. Stringer, U.S. District Judge Ancer Hagerty dismissed criminal indictments against three former executives at Flir Systems Inc., a technology company.

The judge pointed to a Federal Bureau of Investigation memo about a 2000 meeting with the SEC and federal prosecutors. The memo said that because one of the defendants had agreed to an SEC interview, the FBI -- an arm of the Justice Department -- wouldn't conduct any interviews that would flag a criminal investigation "so as not to jeopardize the opportunity to obtain statements from these individuals."

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Another memo cited by the judge indicated that prosecutors opted against opening a grand-jury investigation so they could "passively observe the results of the SEC's work" -- a strategy that "provided good investigative results, at little cost." The judge also cited an SEC lawyer's handwritten note to herself to "make sure court reporters won't tell" a defense lawyer about Justice Department involvement.

Judge Hagerty's Jan. 9 ruling was blistering in its criticism, accusing prosecutors of spending "years hiding behind the civil investigation to obtain evidence, avoid criminal-discovery rules and avoid constitutional protections." The judge accused prosecutors of using "deceit and trickery" to conduct a criminal probe "behind the guise of a civil prosecution."

The U.S. attorney for Oregon, Karin Immergut, says the Justice Department is reviewing appeal options and "we disagree with the court's decision based on the facts and the law." The SEC declined to comment on the case, which was the subject of an Oregonian newspaper article Jan. 15.

The judge's opinion "clearly shows judicial aversion" to the close working relationship between the two agencies, says Mary Jo White, a former U.S. attorney for the Southern District of New York. While the conduct "sounded scuzzy," she adds, "I don't think it's going to have broad repercussions."

In dismissing the perjury counts against HealthSouth's Mr. Scrushy, U.S. District Judge Karon Bowdre criticized the government for "failing to advise Mr. Scrushy or his attorneys about the criminal investigation."

The judge based her decision in part on a 2003 ruling by U.S. District Judge Inge Johnson in the SEC's civil case against Mr. Scrushy. Reversing a court-approved freeze of Mr. Scrushy's assets by the SEC, Judge Johnson also criticized the two agencies.

"The government had undoubtedly manipulated simultaneous criminal and civil proceedings," she wrote.

Thomas Sjoblom, a former SEC lawyer and Mr. Scrushy's lawyer in the asset-freeze hearing, says parallel probes were more carefully conducted in his days at the agency. Defense lawyer Ralph Ferrara, a former SEC general counsel, agrees. "These folks are moving in shadows with one another," he says.

Judges don't always act on defendants' complaints. Lawyers for Jeffrey Skilling, the former Enron chief executive, sought to bar Mr. Skilling's SEC deposition testimony from being introduced at his coming criminal trial, citing the Oregon case. Monday, the judge denied the request.

Enron Judge Nixes Bid To Move Trial From Houston (AP)

By Kristen Hays, The Associated Press

AP, January 25, 2006

Enron Corp. founder Kenneth Lay and former CEO Jeffrey Skilling will go to trial in the scandal-ridden company's hometown of Houston, a judge has ruled.

U.S. District Judge Sim Lake issued an order late Monday denying the former executives' last-minute request to move the trial from Houston based on potential jurors' vitriolic statements about Lay and Skilling on questionnaires.

The judge said he wasn't persuaded by defense arguments that a fair jury can't be found in Houston because the questionnaire answers reveal inherent prejudice against Lay and Skilling.

Lake said questionnaires with unbiased answers and his intention to question the pool during jury selection next Monday "provide adequate safeguards to defendants and will result in the selection of a fair and impartial jury in this case."

He also denied defense requests that attorneys be allowed to question potential jurors individually and postpone the trial to send out a new round of questionnaires in light of a guilty plea by former chief accounting officer Richard Causey. Causey was supposed to have been tried alongside his former bosses.

Lake has rejected all those requests before. He has yet to rule on a separate, more recent defense request to postpone the trial.

A year ago he nixed the defense's first request to move the trial to Denver, Atlanta or Phoenix, noting that extensive pretrial publicity wasn't so inflammatory or pervasive that it would prevent a fair trial.

The renewed venue change request emerged from what the defense teams called a "rage of publicity" stemming from Causey's decision to cut a deal with prosecutors. The government opposed any move.

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Skilling attorney Daniel Petrocelli and Lay attorney Michael Ramsey also were concerned about potential jurors' comments about their clients on questionnaires sent out last November in the first step of jury selection.

Some prospective jurors called Skilling "a high-class crook" and "cheater" who "would lie to his mother if it would further his cause." Comments about Lay included "the biggest lying crook of all" who "did a lot of injustice to a lot of good people."

The jury pool has been whittled to 164 from the original 400 who filled out questionnaires. Defense attorneys wanted to question potential jurors individually to ferret out hidden bias, but Lake has repeatedly said he will conduct overall questioning. If answers indicate a need to speak to individuals in the pool, attorneys can question them privately at the judge's bench, he has said.

Lake also has repeatedly said he expects a jury to be chosen in a day. If so, defense attorneys and prosecutors would present the panel with opening statements on Tuesday and Wednesday next week. Prosecutors have been alloted two hours for opening statements, while the combined defense teams have four hours.

Skilling faces 35 counts of fraud, conspiracy, insider trading and lying to auditors for allegedly conspiring to fool investors into believing a fragile Enron was healthy before the company went bankrupt in December 2001. Prosecutors intend to tell Lake at a hearing Thursday that the government will drop four wire fraud counts against Skilling that are related to Causey counts, so the former CEO will face 31 criminal counts.

Lay faces seven counts of fraud and conspiracy for allegedly perpetuating the public lies about Enron's health after Skilling resigned in August 2001.

Both have pleaded not guilty.

Hard Times Haunt Enron's Ex-Workers (NYT)

By Simon Romero

The New York Times, January 25, 2006

HOUSTON, Jan. 24 - For Angelique Chappell, a former administrative assistant at Enron, it all now seems like a mirage.

There were the trips organized just for assistants, including one to California to visit a new chain of hotels where they would be booking reservations for their bosses. There was the time she won a company drawing for seats behind the dugout at a Houston Astros baseball game in a stadium then known as Enron Field. And, she recalls, there were the American Express gift cards that were handed out frequently to those who answered a trivia question.

"We may have been a little overcompensated, but we worked our tails off every single day," said Ms. Chappell, 33, an Army veteran who goes by Angie. "There was so much fun, so much camaraderie among us. At that time in my life I felt like I could do almost anything." But life took a jarring turn for Ms. Chappell, as it did for thousands of others among Enron's rank and file after the company's chaotic collapse into bankruptcy at the end of 2001. Four years of bouncing from job to job followed. Today, Ms. Chappell has finally found a secretarial job that might, sometime soon, even provide health and retirement benefits.

Her experience resembles that of most former Enron employees who had nothing to do with the fraud at the company, in contrast to the success enjoyed by those at the top who cashed out early and a comparative handful of high-ranking professionals who were able to parlay their status and skills into lucrative jobs at other energy companies. Few like Ms. Chappell have been able to restore the glitter of their jobs at Enron, a factor that still overlays the mood in Houston as the trial of Kenneth L. Lay and Jeffrey K. Skilling, the company's former chief executives, is set to get under way next week.

Some of the Enron diaspora have had to start their careers all over again. Karl Klicker, who lost a comfortable employee-training position at Enron with a six-figure salary, recently rejoined the Marine Corps at age 50, and is studying Arabic in hopes of going to Iraq.

Like Ms. Chappell, Mr. Klicker had been in the military, a not uncommon background for many of the people Enron hired. A self-described "base brat," he followed his father and grandfather into the Marines shortly after high school, eventually earning a doctorate in adult education while also serving as a Marine intelligence officer.

"I went from the top to the bottom to the top again," Mr. Klicker said.

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In the months after Enron's collapse, Mr. Klicker said, he sent out about 400 job applications and had offers for only two interviews. A marathon runner, he said he had plenty of time - perhaps too much time - to think about Enron during the 100 to 200 miles he ran each month.

Of course, other companies have laid off large numbers of workers - Ford just announced on Monday that it would be eliminating 30,000 jobs over the next six years. But Enron's collapse not only unfolded swiftly, it also destroyed the livelihood and retirement savings of many employees who had believed the company symbolized the future course of the global economy.

"Enron was such an aggressive, complex entity at the avant-garde of many developments," said Richard I. Evans, director of the social psychology program at the University of Houston. "It was not just losing a job. It was losing an identity associated with power and innovation, producing trauma and sometimes grief."

For Ms. Chappell, the former Enron secretary, there have been plenty of tears. It took five months for her to find a job after Enron collapsed. By that time, she had adjusted her salary expectations downward after earning nearly $50,000 a year. About the time her unemployment benefits were about to run out in 2002, she found a part-time position in the Houston office of CMS Energy.

A contact at CMS suggested to Ms. Chappell that she should avoid discussing her time at Enron, given the general unease associated with the company's demise, particularly in Houston's energy circles. But Ms. Chappell, a talkative native of Southern California, did exactly the opposite.

"What was I going to do, ignore that time in my life?" Ms. Chappell said. She joked in her job interview, she said, about how fast she had gone from working for a respected company to one that had turned into a pauper - kind of a Cinderella tale in reverse.

But soon after she landed the job at CMS, company executives were implicated in a scandal involving trades, similar to some of the manipulations at Enron and other energy and telecommunications companies that exaggerated their revenue. Ms. Chappell helped downsize CMS's office in Houston, moving with a skeleton crew of two other employees to a less expensive location in suburban Sugarland, Tex., before eventually losing the job at the end of 2003.

Meanwhile, Ms. Chappell's husband, a native of Houston she had met while they were both in the Army in their 20's, found a new job as a firefighter earning less than $30,000 a year. That helped keep food on the table.

They have managed to keep the modest tract home they bought in Katy, Tex., a fast-growing distant suburb of Houston, where they live with their two sons, ages 12 and 9. Finances, though, remain extremely tight.

"I still have creditors calling me to pay certain bills," said Ms. Chappell. "I was mad at God for a while, but I got over it."

Ms. Chappell found temporary administrative work again in the spring of 2004 with a company that charters vessels for the oil and gas industry, but left that job for another temporary position at a mortgage company last October, cutting her commute to an hour from an hour and a half. It is a solid job, she says, with a salary approaching what she made at Enron - she declined to give the exact amount - and the possibility of benefits sometime soon.

As for Mr. Klicker, with no job in sight, he began painting murals, babysitting and writing about his thoughts on leadership strategies. He said he ate Ramen noodles regularly to cut down on expenses. He founded his own company to advise clients on management training and organizational psychology, but had trouble getting it off the ground.

Finally, last August, he decided to rejoin the Marines in a recall aimed at retired officers. The motivation, Mr. Klicker said, had less to do with his financial situation and more to do with a yearning to combat terror threats. He said he lost a friend in the 9/11 attack on the Pentagon, and still keeps his business card as a bookmark.

"A lot of Enron went through my mind when I was unemployed," said Mr. Klicker, now a captain in the Marine Corps. "But I find now, back in uniform, there are many things I learned at Enron about leadership - like how not to lead."

"Take away the corporate setting and the $2,000 wool blend suit and you see the real Ken Lay," Mr. Klicker said in a telephone interview from Virginia Beach, where he is now stationed.

These days, Mr. Klicker said he was happy training soldiers in leadership procedures and living in an oceanfront rental home during the winter months - "unaffordable in the summer," he said - where his 9-year-old daughter can visit him during school breaks. And despite being almost twice the age of some other Marine captains, Mr. Klicker hopes he has the chance for a tour of duty in Iraq.

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"I keep my ear to the tracks for an opportunity," Mr. Klicker said. "Of course, I want to go. You never have to explain why as a marine."

Meanwhile, Ms. Chappell has little set aside for the future. She lost her $12,000 in retirement savings at Enron and has no 401(k). She had to scrimp recently to buy winter jackets for her sons and to take them to a movie.

But rather than relishing the opportunity to see Mr. Lay and Mr. Skilling put on trial, Ms. Chappell said, she was hoping to avoid thinking about the past.

"I don't want to turn on the TV and see their faces," she said, her voice quivering with anger, as it sometimes does when she is reliving Enron's demise. "I mean, when is it going to be over? We live paycheck to paycheck and they're spending millions of dollars on their lawyers.

"Ken Lay should have known every nook and cranny of that company. I just cringe when I see his image."

In the weeks leading up to the company's bankruptcy filing, she was training for a different assignment, feeling somewhat in limbo in redeployment, as that status was called within Enron. So she did not hesitate to accept the suggestion of an Enron human resources employee that she accept a "temporary" layoff with a severance package.

Within days of leaving Enron in late November 2001, however, the company was essentially out of business, ending her hope of getting any severance pay. The whole experience, she says, will shape her outlook on life forever.

"I learned not to be loyal to anyone but my family," Ms. Chappell said. She said she still dreamed of advancing as she did at Enron, but that her aspirations were now more modest. She would like to finish her undergraduate degree, though she was not sure what her major would be; entering a new career path in her 30's, she said, would not be easy.

Ms. Chappell said she had thought of leaving Houston, moving to the Pacific Northwest, where she was stationed in the Army, or going to Iraq, where she hears contractors pay overtime-laden salaries into six figures. But the risks are great and doing so would take her away from her children. She has shelved that option.

Now she looks forward to a better life for her sons, hoping they will be able to attend a nearby university like Texas A&M, where she believes they will have the opportunity for an education that may allow them to view something like the Enron story from a higher perch than hers.

"I just don't want my sons to have to experience what I went through."

CRIMINAL LAW:

Members Aided Abramoff Bid (RC)

By John Bresnahan

Roll Call, January 25, 2006

Reps. Steven LaTourette (R-Ohio) and Don Young (R-Alaska) sought to intervene with a federal agency in September 2002 on behalf of American Indian clients of lobbyist Jack Abramoff as part of Abramoff's effort to gain control of the Old Post Office Pavilion in downtown Washington, D.C.

LaTourette and Young both wrote to the General Services Administration in September 2002 urging Stephen Perry, then head of the GSA, to give preferential treatment to organizations such as Indian tribes when the GSA evaluated proposals to develop the Old Post Office site.

Young, chairman of the House Transportation and Infrastructure Committee, received $7,000 from two of Abramoff's tribal clients just weeks after the letters went to the GSA.

LaTourette, for his part, said he agreed to send the letters after being lobbied on the issue by a former top aide to Rep. Bob Ney (R-Ohio). Ney is under investigation by the Justice Department over his ties to Abramoff. Ten days ago, Speaker Dennis Hastert (R-Ill.) pressured Ney into giving up his gavel at the House Administration Committee because of his alleged involvement in the Abramoff scandal.

Abramoff's interest in leasing and developing the Old Post Office building is one of the key pieces of the federal government's case against David Safavian, the former GSA chief of staff who was indicted Sept. 19 on charges of making false statements to Senate and federal investigators and obstruction of justice.

Abramoff himself pleaded guilty on Jan. 3 to fraud, tax evasion and conspiracy to bribe public officers. The one-time lobbying superstar is cooperating with the Justice Department in its ongoing corruption probe.

In its complaint against Safavian, federal prosecutors allege that Abramoff repeatedly sought guidance from Safavian on how best to proceed in winning control of the Old Post Office.

An affidavit filed by an FBI agent in support of the Safavian complaint states that Abramoff sought "changes in the regulations governing the development of the [Old Post Office], including the granting of HUBZone contracting preferences that could have given some of Lobbyist A's tribal clients a competitive advantage in efforts to lease and develop the building." Lobbyist A, while not named, is Abramoff.

The affidavit also adds further details on Abramoff and Safavian's interactions with regard to the Old Post Office, Washington's second tallest building and a downtown tourist magnet for more than 100 years.

"Lobbyist A solicited SAFAVIAN's assistance and guidance regarding leasing the [Old Post Office] from GSA," the affidavit states. "For example, on July 22, 2002, Lobbyist A sent an e-mail to SAFAVIAN's home e-mail address containing a draft letter purportedly to be sent by at least two Members of Congress to the Administrator of GSA and requesting special consideration for HUBZone businesses. Lobbyist A asked SAFAVIAN, 'Does this work, or do you want it to be longer?'"

The affidavit adds: "SAFAVIAN responded to Lobbyist A's requests for assistance and guidance regarding leasing the OPO from GSA. For example, on July 25, 2002, SAFAVIAN forwarded an e-mail describing resistance by an Office of Management and Budget ("OMB") employee to leasing the OPO from GSA. SAFAVIAN advised Lobbyist A, "I suspect we'll end up having to bring some Hill pressure to bear on OMB.'" It is unclear who at OMB objected or why.

HUBZone is the acronym for "historically underutilized business zone," and small businesses located in those areas are given preferences on government contracts. HUBZone businesses include American Indian tribes.

In an interview Tuesday, LaTourette said Neil Volz, a former top aide to Ney, approached his office in late July 2003 and asked him to write to the GSA regarding the Old Post Office facility. At the time, LaTourette was the chairman of the Transportation and Infrastructure subcommittee on economic development, public buildings and emergency management, which has jurisdiction over federal facilities like the Old Post Office building.

LaTourette said he agreed to the request because Volz was "an old friend," and that after checking with staffers at the Transportation and Infrastructure Committee, he saw no problems with contacting Perry on the issue.

LaTourette added that he never personally met with Volz regarding the two letters he sent to the GSA in September 2002.

Volz left Ney's staff and went to work for Abramoff at the firm Greenberg Traurig in February 2002. Ney's subsequent involvement that year with Abramoff, including taking part in a Scotland golf junket in August 2002, was part of the plea deal that Abramoff struck with the Justice Department. Both Ney and Volz are referenced in the plea document, although neither is singled out by name.

Volz contacted LaTourette's office on July 23, 2002, seeking a meeting with the Ohio Republican or his staffers regarding the Old Post Office building. Volz's request is spelled out in an e-mail to one of the Ohio Republican's aides. The e-mail was given to Roll Call by LaTourette for this story.

In the e-mail, Volz said he had tried to contact LaTourette's personal office chief of staff but found that she was not available. Volz then e-mailed another aide "seeking advice" when his first message went unreturned.

"With her being out though, I wasn't sure who to contact since we have a time sensitive issue I was hoping Congressman LaTourette could take a look at," Volz wrote. "Do you have a few minutes sometime soon so that I could you a call to chat about a building/gsa issue? Or could you give me some advice on who I should contact to talk through."

Volz was directed by LaTourette's aide to speak to staffers on the subcommittee on economic development, public buildings and emergency management.

In August 2002, Safavian was part of a golf junket to Scotland that included Abramoff, Volz, Ney and others. The trip cost more than $150,000, according to The Washington Post.

In the Sept. 5, 2002, letter, LaTourette asked Perry to give preferential treatment for HUBZone business as the GSA evaluated proposals to develop the Old Post Office.

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"As GSA proceeds with this important historic reuse project, I urge you to give consideration to providing additional opportunities for Hubzone businesses in the redevelopment process," LaTourette wrote. "Specifically, I ask that you consider giving Hubzone businesses an advance opportunity to provide redevelopment proposals that could be given priority if they otherwise meet" federal requirements.

LaTourette and Young then sent the exact same letter to Perry again one week later.

The letters were provided to Roll Call as part of a Freedom of Information Act request to the GSA.

Perry responded to the two lawmakers' letters on Nov. 19, 2002. Perry said the GSA expected that redevelopment of the Old Post Office "will require significant diversity in skills and experience" for those taking on the project, including expertise in such fields as "historic preservation, architecture/design, real estate finance, construction management, estimation, commercial development, residential development and property management." The GSA's view was that only "development teams," not individual organizations, would be able to meet federal standards for the project.

Perry, however, added that there would be "many opportunities for small business concerns which will include HUBZone small business, minority and women-owned business. We anticipate opportunities for small businesses to participate either as development team members or subcontractors to team members."

A former Abramoff associate said Abramoff wanted to build a hotel on the Old Post Office site, although it is unclear if it would have been entirely paid for by tribal funds. The project, however, never got beyond the planning stage.

LaTourette said on Tuesday that "there were two things that concerned us" when his staff drafted the letters to the GSA — "preference and an advanced look."

According to LaTourette, the GSA was already giving special preferences and briefings to HUBZone businesses on similar federal projects, so there was no conflict there.

LaTourette said he "assumed" that Volz was acting on behalf of one of his tribal clients at Greenberg Traurig in making the request for a letter to the GSA. "I mean, why else would he come in?" LaTourette asked.

LaTourette later co-sponsored legislation to create a national women's museum at the Old Post Office site.

Mike Anderson, chief of staff in Young's personal office, called the Alaska Republican's letter to the GSA "a coincidence." Anderson said Young has "no recollection" of how that letter to the GSA came about, although he was adamant that Young cannot recall ever meeting with Abramoff personally.

Anderson said he could not provide records of any meetings between Transportation Committee staff and any Greenberg Traurig lobbyists or tribal representatives.

Anderson denied that Young ever sought to help Abramoff. "There is no relationship between Young and Abramoff," Anderson said.

Young, however, has an extensive history of acting on behalf of Abramoff's lobbying clients.

His leadership political action committee, the Midnight Sun PAC, received $7,000 from two of Abramoff's tribal clients, the Aqua Caliente of California and Mississippi Choctaws, on Oct. 17, 2002, just five weeks after he wrote to Perry.

All together, the Midnight Sun PAC received $12,000 from Abramoff's tribal clients during the 2001-02 election cycle.

In addition, one of the Alaska Republican's former aides, Duane Gibson, went to work for Abramoff at Greenberg Traurig several months before Young intervened with the GSA on the Old Post Office site.

Going back to 1997, Young, then chairman of the House Resources Committee, authored legislation to hold a plebiscite in Puerto Rico over the island's political future. At the time, Abramoff was also lobbying in favor of a Puerto Rican plebiscite.

Young also repeatedly acted to aid the government of the Commonwealth of the Northern Mariana Islands, a group of Pacific Ocean islands controlled by the United States. The CNMI government paid Abramoff $8 million to lobby on its behalf.

Young refused to hold hearings on the conditions for CNMI garment-industry workers despite complaints over their treatment, and he also blocked a proposal by House Democrats to boost the minimum wage on the islands. Young visited the CNMI in 1999 along with a number of Resource Committee members.

While Young received considerable financial backing from Abramoff clients, the former lobbyist never donated directly to Young's re-election campaigns or his leadership PAC. All together, Abramoff's tribal clients gave $20,000 to Young.

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In 2000, the firm Preston Gates Ellis Rouvelas & Meeds, then Abramoff's employer, held a tribute to Young during the Republican convention in Philadelphia.

Young also used Abramoff's skybox at the MCI Center in D.C. for two fundraisers, events he did not report to the Federal Election Commission until after the Abramoff scandal broke.

Anderson dismissed the overlap between Young and Abramoff as "mere circumstance."

"If Abramoff is lobbying for Resources-related issues, which he did, what is the likelihood that Mr. Young and [Abramoff's] clients are going to be in a nexus sometime?" Anderson asked.

LaTourette, a former member of the House ethics committee, received no campaign contributions from Abramoff or his clients during the 2001-02 cycle, and neither the lawmaker nor his staff ever took any trips paid for by an organization tied to Abramoff.

Abramoff, The Triplets And The Nanny Fund (HILL)

By Susan Crabtree

The Hill, January 25, 2006

Before the lobbying scandal hit Washington and GOP lobbyist Jack Abramoff was still one of the town's most influential powerbrokers, it may have seemed like a normal, even run-of-the mill personal Washington event.

Abramoff, who recently pleaded guilty to fraud, bribery and tax evasion, helped host a baby shower for Rep. Dana Rohrabacher (R-Calif.) and his wife in December 2003. The Rohrabachers were expecting triplets and feeling the pinch of the prevailing congressional salary of $154,700 at the time while maintaining homes in D.C. and the lawmaker's pricey Southern California coastal district.

Abramoff's and his wife's names appeared on the invitation, with Reps. George Radanovich (R-Calif.) and Ed Whitfield (R-Ky.) and their wives. The names of former Rep. David McIntosh (R-Ind.), who left Congress in 2001 and became a lobbyist at Mayer, Brown, Rowe & Maw, also were listed as hosts.

The lobbyist, who had been friends with Rohrabacher since the early 1980s when the future lawmaker was a White House speechwriter and Abramoff was chairman of the College Republicans, allowed the couple to use his restaurant, Signatures, between lunch and dinner for the shower. Only hors d'oeuvres were served, Rohrabacher disclosed in a Los Angeles Times article two weeks ago.

In the same article, Rohrabacher called Abramoff a close friend of 20 years and a "good person who's done bad things and has to be punished for doing bad things."

The article did not mention that guests at the shower contributed to a fund for nanny service provided by After the Stork, a 24-hour child-care service based in the district.

Since Abramoff's plea agreement went public, House Republicans have been scrambling to reform rules governing congressional ethics, lobbying and gifts to lawmakers.

Rohrabacher did nothing wrong under current rules, but ethics experts say that in the new atmosphere of reform Congress may want to rethink whether the rules governing gifts at personal events such as weddings and showers are strict enough.

Rohrabacher spokeswoman Rebecca Rudman estimates that fewer than 25 people attended the shower and that gifts to the fund amounted to roughly $3,000. She noted that After the Stork charges $250 a day for 24-hour nanny care for triplets.

The guests, Rudman said, were members of Congress, staffers and former staffers who were close friends of the Rohrabachers. She said she did not know whether any guests, other than Abramoff and McIntosh, were registered lobbyists or who contributed to the nanny fund.

At the time, Abramoff was representing several Indian tribes, whom he allegedly bilked out of more than $65 million. He, his wife and several tribal clients have donated $12,500 in political contributions to Rohrabacher since 1999, according to the Center for Responsive Politics.

In 2003, McIntosh's lobbying clients included the U.S. Chamber of Commerce, Pfizer, Verizon and the Coalition for Tax Fairness, among others.

When Rudman asked Rohrabacher whether Abramoff had contributed to the event, she said he couldn't remember.

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"He didn't give any more than anyone else did," she said.

She also said Abramoff did not play a role in collecting checks for the fund or organizing the event. When asked what they would like as shower gifts, Rohrabacher and his wife came up with the idea of setting up a nanny-service fund. The invitation makes no mention of the fund, saying only: "For RSVP and for gift suggestions, contact [Rohrabacher staffer] Phaedra Dugan."

"Dana and Rhonda knew they were going to need help when the triplets came," Rudman said. "He invited friends [to the shower], but he didn't record their professions when they walked in the door. It was a small event with close friends."

Radanovich spokesman Mike Lukens said his boss remembers giving $200 to the nanny fund. When asked if the shower organizers could put his name on the invitation, Radanovich readily agreed but Lukens said Radanovich didn't know that Abramoff would also be listed as a host.

The $3,000 gift does not appear on Rohrabacher's annual personal financial disclosure documents because the congressman asked the House ethics committee to waive that disclosure requirement after it had granted him a waiver to accept shower gifts.

The committee, known officially as the Committee on Standards of Official Conduct, does not make public initial requests for waivers from the gift rule and does not discuss any waivers it grants, according to a panel staffer, so there is no way to tell if Rohrabacher told the committee he was setting up a nanny-service fund in lieu of self-selected shower gifts.

The committee, however, does make public its response to requests to waive the disclosure of gifts received in connection with a shower or gift. Rohrabacher's office filed the request, and the committee granted it in a letter dated Dec. 3, 2003.

The letters are supposed to be kept on file at the House Legislative Resource Center, where the public can look them up. In this case, the letter is missing, but Rohrabacher's office provided a copy to The Hill.

The gift rule bars lawmakers from receiving gifts of more than $50 in value and more than $100 from any one person during a single year. But waivers are routinely granted for wedding and baby gifts, according to GOP ethics lawyer Jan Baran.

The rules on wedding and baby gifts warn recipients "to exercise caution in accepting any gift that likely would not have been offered but for the individual's official position.

"As to any such gift, the individual should consider its source, nature and value, and any possible conflict with official duties."

In this case, Baran said, Rohrabacher satisfied the ethics rules requirements.

"Waivers are granted on a fairly regular basis because there are baby showers and weddings," he said. "There's nothing to prevent the value of the gift from being several hundred dollars. There's nothing to prevent it from being several thousand dollars."

Whether the rules makes sense is another question, he said.

"Maybe there ought to be fewer exceptions granted," he said. "Perhaps it should be reexamined in the course of Congress reexamining all the ethics rules."

Larry Noble, who heads the watchdog group the Center for Responsive Politics, argued that whether a waiver should be granted in this case should depend on who attended the event and gave the gifts and whether they had any business before Congress. But accepting gifts, especially cash, should be avoided.

"I think you have to accept that, when you're a public official, certain relationships that in other contexts may be just close personal friends may require more caution," he said. "When you have lobbyists giving you cash, regardless of the reason, it doesn't look good."

Lobbyists Bring Unwanted Attention To Law Firm (DMN)

By Joshua Benton, The Dallas Morning News

The Dallas Morning News, January 25, 2006

Lobbyists are hired for their connections. But as Washington sorts through a growing lobbying scandal, the past connections of two lobbyists hired last fall by Locke Liddell & Sapp are bringing unwanted attention to the powerful Dallas law firm.

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The two men, Roy Coffee and David DiStefano, have been connected to a foreign company's attempt to work around U.S. sanctions against Iran and sell airplane parts to that nation – an attempt that centered on U.S. Rep. Bob Ney, an Ohio Republican accused in lobbyist Jack Abramoff's recent plea agreement of accepting bribes.

The two lobbyists were hired in 2003 by a pair of businessmen with résumés out of a James Bond movie. One, a Syrian gambler nicknamed "The Fat Man," made his fortune in Middle East arms deals. The other, a felon, was banned from East Coast racetracks in the 1980s for his connections to organized crime and has a Tennessee rap sheet for trying to defraud Elvis Presley.

Mr. Coffee and Mr. DiStefano have not been charged with any crimes, and there is no public evidence to indicate either is a direct target of the ongoing investigation. Their activities generating scrutiny predate their joining the Dallas firm.

Locke Liddell spokeswoman Julie Gilbert said the firm still has confidence in the two lobbyists. "Our firm feels very comfortable about their reputation, credibility and ethical standing," she said.

Mr. Coffee and Mr. DiStefano started work in Locke Liddell's new Washington office in October, at a time when the firm – one of the biggest in Texas – wanted to expand its national footprint. One of its former partners, Harriet Miers, had just been nominated to the U.S. Supreme Court by President Bush.

On its Web site, the firm promotes its lobbyists' connections in the federal government, promising "a unique team with a vast number of political contacts at every level of government and the inside knowledge on how public processes operate. This adds up to success for our clients."

According to news reports, documents about the attempted Iran sale have been subpoenaed as part of a spin-off from the Justice Department's Abramoff investigation. Mr. DiStefano was Mr. Ney's chief of staff from 1994 to 1998.

Mr. Coffee – son and grandson of the former University Park mayors of the same name and a longtime associate of President Bush – said he and Mr. DiStefano have done nothing wrong, despite questions from reporters.

"They love the salaciousness of a Syrian-born person and a guy with a criminal record," he said. "It's almost a guilt-by-association story."

That story begins in early 2003, when Mr. Coffee and Mr. DiStefano were hired as lobbyists by a little-known company named FN Aviation.

FN Aviation was registered to an address in Larnaca, a city on the island nation of Cyprus. It was led by Nigel Winfield, a 68-year-old British man who has had a series of problems with the law.

Prison time

He served a federal prison term in the 1980s for conspiring to evade $7.4 million in taxes while living the high life selling jets and owning racehorses. In 1982, he was sentenced to six months for his role in trying to defraud Elvis Presley out of $330,000 through a complicated leasing scheme on a private jet.

In the late 1960s, he pleaded guilty on eight occasions to larceny, fraud and forgery charges in Massachusetts. And in 1981, he was banned from running his horses at a series of racetracks in part because of his connections to organized-crime figures in New Jersey and Rhode Island.

Mr. Coffee said he and Mr. DiStefano had no idea about Mr. Winfield's past when FN hired them. "It's not my normal mode of operation to ask whether someone is a felon," he said. "I never thought that someone who was very presentable, who had an ongoing company you could look up on the Internet, that I should be worried about somebody's background."

'The Fat Man'

Mr. Winfield's business partner in the venture was Fouad al-Zayat, a Syrian-born man who made millions in the 1980s working on Middle Eastern defense deals.

In 2002, a London court froze Mr. al-Zayat's assets – including a Boeing 727 and a Rolls Royce – after the Ritz Casino charged that he had tried to buy about $3 million worth of gambling chips with seven checks that bounced.

That came after he lost about $17 million over more than 150 visits to the casino between 1999 and 2001.

Mr. al-Zayat is nicknamed "The Fat Man" in British gambling circles, according to news reports at the time of the court action, which called him "Britain's biggest gambler." The court also seized his bank accounts in Switzerland, the Isle of Man and Cyprus.

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FN Aviation hired Mr. Coffee and Mr. DiStefano as lobbyists to "monitor trade legislation," according to mandatory lobbying disclosure filings. Mr. Coffee was paid about $220,000 by FN in 2003, according to those filings. Mr. DiStefano was paid about $20,000.

Mr. Coffee said the two men arranged for FN officials to meet with Mr. Ney. In February 2003, Mr. Ney flew to London on a three-day trip paid for by the company. He reported on House disclosure forms that the trip was valued at $2,707 and concerned "trade and international business matters."

There, he met with Mr. Winfield and Mr. al-Zayat, who said they wanted to sell airplane parts to Iran but were prevented by U.S. sanctions against the country. They were seeking a special government permit that could allow them to get around the sanctions.

Special permits

Mr. Coffee said he would not discuss the details of his work for FN Aviation. But the Jan. 23 issue of Newsweek reports that, after Mr. Ney's trip, the congressman personally lobbied then-Secretary of State Colin Powell to allow the exception to sanctions.

The special permits were in the end not approved, Newsweek reports, because FN Aviation's proposed deal with Iran fell through. Mr. Coffee said the company dissolved a few months later. Mr. Ney's spokesman, Brian Walsh, did not return a call from The News, but he told the Los Angeles Times that Mr. Ney "did not lobby" for FN Aviation.

According to his personal finance disclosure filing, Mr. Ney returned to London sometime later in 2003 and gambled at the Ambassador's Club, a private casino at which Mr. Al-Zayat was a member. He reported winning $34,000. Mr. Walsh, his spokesman, has said that Mr. Ney won that sum by playing two hands of a three-card game of chance, with an initial bet of $100.

Mr. Ney is one of the key figures in the widening Abramoff scandal. Under pressure from GOP leadership, he agreed last week to temporarily resign his chairmanship of the House administration committee while he is investigated on corruption charges. He has denied any wrongdoing.

In Mr. Abramoff's plea agreement, Mr. Ney is referred to as "Representative No. 1." As part of his guilty plea, Mr. Abramoff admitted bribing Mr. Ney and members of his staff with a series of gifts, including expense-paid trips to Scotland and the Northern Marianas, in exchange for various favors.

Ties to Texas

Mr. Coffee was deputy campaign manager for George W. Bush's first run for governor in 1994. After the election, he was Texas' director of state-federal relations until 1998. He then joined the Washington lobbying firm O'Connor & Hannan.

He was known for close connections to the Bush family. In 2000, the Capitol Hill newspaper Roll Call said some lobbyists called him "Bush's 'eyes and ears' on K Street."

It's not unusual for powerful law firms to offer lobbying services. Locke Liddell's lobbying business represents a wide range of clients, including a number of firms in the telecommunications, energy and health care industries.

Ms. Gilbert, the firm's director of strategic communications, said Locke Liddell's October announcement of a new Washington office was not timed to coincide with Ms. Miers' nomination to the Supreme Court.

Mr. Coffee and Mr. DiStefano joined the firm in October after a lengthy search process, Ms. Gilbert said.

"We had been doing a search and they came highly recommended," she said. "We felt they each had strong backgrounds and exceptional credentials and matched what we wanted. They have capabilities in all branches of the government."

But Alex Knott, a lobbying analyst for the government watchdog group Center for Public Integrity, said that lobbying firms hire former Capitol Hill staffers like Mr. DiStefano to gain access to their connections.

"Why else would you hire somebody with a revolving-door connection to Bob Ney unless you planned on using that pre-existing relationship?" he said. "The people with revolving-door connections deliver. That's why they're hired in the first place."

Mr. Coffee said he is confident Mr. Ney's difficulties will not taint him or Mr. DiStefano.

"Everything was filed ethically and legally, and there was no problem," he said. "I know we have done nothing wrong."

Feds Claim Ryan Failed To Report $80,000 In Income (AP)

By Mike Robinson

AP, January 25, 2006

CHICAGO - There was $45 for a snack on the Mexican Riviera. And $540 for an overnight stay at Caesar's Palace on a trip to Palm Springs and Las Vegas.

On trips to St. Louis, Toronto and New York to watch the Blackhawks, the White Sox and the Bulls, George Ryan used Citizens for Ryan plastic to pay for dinners and failed to declare the campaign money as income, an Internal Revenue Service tax expert testified Tuesday.

The total Ryan should have declared but didn't came to just over $80,000 in four years, IRS forensic accountant Shari Schindler testified during the former governor's racketeering and fraud trial.

Schindler testified that the biggest single item was a series of payments totaling $55,000 to help troubled son-in-law Michael Fairman dig out from his gambling debts.

But other items ranged from $6,000 for his elderly mother-in-law's caregiver to $455 in golf lessons for former state senator and lobbyist Arthur "Ron" Swanson, one of Ryan's closest friends.

Ryan, 71, and longtime friend Larry Warner, 67, are charged in a 22-count federal indictment with racketeering and fraud. Prosecutors say Ryan dipped into his campaign fund for years to pay for personal expenses and hand out gifts to his friends and relatives.

No one says Ryan did anything illegal in using campaign funds for personal expenses. But the government maintains he should have paid taxes on the money and that not declaring it was fraud.

Ryan defense attorney Dan K. Webb immediately began building a defense based on the notion that Ryan had no way of understanding the complexities of the tax code and meant no harm.

He chose a dramatic way of making his point, challenging Schindler to show him anywhere in eight heavy volumes of tax laws and IRS regulations that it said Ryan owed the money.

"It's very complicated, isn't it?" Webb asked as books piled up on the witness stand and the hours ticked away.

"Yes, it is," Schindler said.

The cross-examination consumed considerably more time than expected by prosecutors, who had been planning to rest their case Wednesday. Lead prosecutor Patrick M. Collins said searching through "all these big books" was a waste of time.

He urged Judge Rebecca R. Pallmeyer to speed things up.

At one point, Webb and Schindler went searching through several volumes for the IRS definition of the word "gift" without finding it. But Pallmeyer gave no sign that she plans to hurry the process along, and prospects for the prosecution resting Wednesday faded.

Webb showed jurors a letter from Ryan to the IRS explaining that "it was my understanding that the persons who actually received the money were the persons who should pay the taxes."

"While I have served in public office for 30 years, my professional training is as a pharmacist, not a lawyer or an accountant," Ryan said in his letter.

Webb noted that Fairman and other relatives who received money through Ryan did pay taxes on it - even though he was the one who owed the government and they did not.

Ryan amended his tax returns twice, once in 1998 and again in 2002.

He is not charged with fraud in connection with back taxes that he paid along with the 1998 amended return. But Schindler said he is charged with tax fraud related to the back taxes he acknowledged owing on the 2002 amended return because "by then the investigation had started."

Parents Of Crash Victims Speak After Ryan Trial (CHIT)

By Matt O'connor, Tribune Staff Reporter

Chicago Tribune, January 25, 2006

While jurors at former Gov. George Ryan's trial got a dry lesson Tuesday in the complexities of tax law, the parents of six children killed in a horrific crash that came to symbolize the tragic consequences of Illinois' licenses-for-bribes scandal spoke outside the courtroom in more personal terms.

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Public corruption "has to stop," Rev. Duane "Scott" Willis told reporters as he and his wife, Janet, made their first appearance at the marathon trial since October. "You know if it was just money, we may not be as vigilant, but ... deaths are involved."

The couple, who now live in Tennessee, said they were in Chicago to celebrate that 8½-year-old grandson Danny had been "declared cured" after a three-year battle with leukemia. Janet Willis recently completed a children's book based on her husband's discussion of forgiveness with son Hank, one of the children killed in the wreck, after he had broken a window at the family home while playing baseball.

With the prosecution case nearing its end, Willis said he and his wife don't intend to make a special trip back here to attend possible testimony by Ryan himself. "I don't want to make a circus out of it," he said.

However, he made it clear the couple care deeply about the outcome of the trial. "It is related to the loss of our children," he said. "There's a connection there ... so there's a very personal aspect to it."

Jurors have heard limited details about the crash because U.S. District Judge Rebecca Pallmeyer considered the issue too prejudicial for Ryan and co-defendant Lawrence Warner.

Among the wide-ranging charges against Ryan, prosecutors have alleged he gutted the investigative arm of his office in 1995 to stop its agents from looking into the sale of driver's licenses for bribes by employees under pressure to sell Ryan fundraising tickets.

One investigator testified that Dean Bauer, Ryan's inspector general, refused to let him investigate the fatal 1994 Willis crash outside Milwaukee.

The fiery accident occurred when a heavy piece of metal fell from a truck and punctured the gas tank of the Willis van. The truck driver, Ricardo Guzman, had paid a bribe for his commercial driver's license in Illinois and could not understand warnings from other truckers, in English, that the piece was dangling dangerously from his rig.

Willis said he wasn't bothered that details of the crash have been kept from jurors. "From a personal standpoint, I really don't seek the limelight," he said. "The way it worked out was OK."

In the courtroom Tuesday, Ryan's lead lawyer, Dan Webb, showed a bit of a theatrical flair, lugging eight volumes of tax laws and regulations to the witness stand to wonder aloud how Ryan was supposed to figure out the seemingly arcane world of the Internal Revenue Service.

The witness, IRS agent Shari Schindler, pointed out several times that Ryan had accountants to help him navigate the maze.

Under questioning by the prosecution, Schindler testified that Ryan had intentionally omitted from tax returns for 1995 through 1998 a combined $80,000 in campaign funds that had been spent on personal expenses and should have been declared as income.

The tax charges against Ryan allege he failed to report expenditures by his campaign that went for personal travel, gifts and other expenses. Among the largest expenditures were payments of $55,000 to a son-in-law in financial trouble because of gambling addiction and $6,225 to a Ryan family caretaker.

The government has also charged that Ryan concealed $9,675 in payments from former U.S. Sen. Phil Gramm's failed 1996 presidential campaign. Ryan passed the money on to four of his daughters, who did little or no work for the Gramm campaign, according to testimony.

In late 2002, Ryan amended his 1995, 1996 and 1997 tax returns to pay the taxes owed on the payments from Gramm and to his son-in-law, but Schindler was quick to note that came after Ryan was aware of the federal investigation into his dealings.

In a statement to the IRS at the time, Ryan contended he didn't realize he had to pay taxes on the Gramm payments since he had passed the money on to his daughters and they had paid taxes on the income.

On cross-examination, Webb asked where Ryan was expected to find out about that concept and then handed up to Schindler two thick volumes of the IRS Code, the nation's tax laws, and six more volumes of tax regulations.

Asked to find a definition for gifts in the volumes, Schindler said she believed the answer rather would be found in court cases.

"George Ryan should have to know case law?" Webb asked.

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Webb tried to show that the omissions on Ryan's tax returns weren't intentional but simply mistakes or oversights on the part of secretary of state staffers assigned to track what campaign expenditures should be reported as personal expenses.

Schindler conceded that Ryan paid taxes in his 1996 return for a $350 trip that the campaign had paid for on behalf of Nancy Smith, then a caretaker for Ryan's mother-in-law.

But Ryan is charged with intentionally omitting a $226 trip taken by Smith in 1997.

Asked if that could be a mistake, Schindler said no.

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Witness Doesn't Connect Illegal Contributions To Bill Campbell (AJC)

By Beth Warren , Jeffry Scott, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, January 25, 2006

Seven years of investigating. Sixteen months of preparing their corruption case against former Atlanta Mayor Bill Campbell.

Yet when federal prosecutors had their first witness on the stand Tuesday, they appeared to stumble.

Witness Kevin Ross, an attorney who chaired Campbell's political campaigns, seemed to actually help the defense more than prosecutors as the federal corruption trial entered its second day with testimony that at times was more confusing than convincing.

Part of the federal indictment against Campbell claims he knowingly accepted illegal campaign contributions while he was mayor.

Ross spent six hours on the witness stand Monday and Tuesday detailing Campbell's inner circle and the key players involved in raising more than $3 million to help the former mayor win re-election in 1997 despite serious opposition.

Ross, questioned by Assistant U.S. Attorney Russell Vineyard, said there were several questionable donations totaling more than $100,000. The donations, in the form of cashier's checks and money orders, used various donors' names but all appeared to be in the handwriting of Campbell's golfing buddy, Steve Labovitz, an attorney who served as the mayor's campaign treasurer.

There were also five cashier's checks totaling $5,000 with the names of five of Campbell's family members, Ross said. Defense attorneys agreed that the mayor's family members' names were used but they weren't the true contributors.

Under cross examination by defense attorney Fred Orr, Ross said he didn't believe Campbell would have been the one to misuse his relatives' names to make illegal contributions.

"I can't conceive he would put his family at risk in that way," Ross said. "He's always been somewhat protective of his family."

So while the prosecution will set out to show the seven-man, five-woman jury that there were illegal contributions to the mayor's campaign, Ross did not connect the contributions to Campbell.

Campbell is charged with racketeering, including taking more than $160,000 in payoffs and $137,000 in illegal campaign contributions. His defense attorneys, led by Billy Martin, told jurors during opening statements Monday that there were excessive contributions that exceeded the legal limits but that Campbell didn't know about them.

Ross also said he stood by his October 2000 comments to The Atlanta Journal-Constitution that "Bill Campbell has been the most accomplished mayor in recent Atlanta history."

Earlier in the day, Ross described how Campbell was desperately trying to hold on to his reign as mayor after failing to garner half the votes needed to win re-election on Nov. 4, 1997. Ross said the campaign relied on questionable contributions.

Ross said thousands of dollars poured in, with much of it coming from the cashier's checks and money orders in Labovitz's handwriting. Labovitz, who hasn't been charged with a crime, is expected to testify during the trial.

Campbell won the runoff, beating out Marvin Arrington, who is now a Fulton County judge, on Nov. 25, 1997. Yet Campbell still needed more money, Ross testified.

The mayor's campaign had raised $3 million but was left with an $80,000 debt. Ross said he wanted to take a closer look at expenditures, but Campbell told him not to.

Prosecutors showed jurors a memo Labovitz sent to staffers suggesting it would be a good time to ask for donations from people who had failed to support the mayor or who didn't give "to the best of their abilities."

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Campbell's defense team acknowledges that there were illegal campaign contributions and bribes from city contractors to officials under Campbell, but they insist the mayor didn't know anything about the crimes.

Orr asked Ross: "Would you agree there's no way the mayor, the candidate, the governor, the candidate, or the president of the United States, the candidate ... can always know what people are doing in their names?"

Ross responded: "I agree that is true."

Also Tuesday, U.S. District Judge Richard Story suspended the proceedings while attorneys on both sides determined how evidence is to be introduced. On Monday and Tuesday, the defense lodged several objections about the relevance of certain questions prosecutors asked Ross and Byron Marshall, a former chief operating officer under Campbell who was also called to testify.

"We have tried to prevent certain evidence, not because it is harmful, but because it is not admissible," said Martin, Campbell's lead attorney.

"I am concerned that we don't have clear lines of what is admissible and what is not," said Story, who ordered both sides to be prepared to resolve the issue today.

Staff writer Ernie Suggs contributed to this report.

Knoxville Fire Chief Under Fire For Too Much Overtime (AP)

AP, January 25, 2006

GREENEVILLE, Tenn. (AP) -- A former Unicoi County court clerk will serve three years probation for stealing more than $10,000 from his office.

Fifty-seven-year-old Gregg Masters will serve six months of his probation in home confinement. He will also have to pay restitution for the money he stole.

He faced a maximum sentence of ten years in prison.

In 2003, Masters resigned the office he had held for 27 years five days after the FBI raided the clerk's office.

At the time he said health problems were the reason he was leaving.

In September, he pleaded guilty in federal court. He admitted stealing payments of traffic violation fines and using the stamp for the Unicoi County general sessions judge to dismiss those cases.

'Embarrassed' Mobster Sentenced To 6½ Years In Prison (AP)

By Matt Apuzzo, Associated Press

AP, January 25, 2006

NEW HAVEN — Prosecutors said he should have spent his old age planting gardens or visiting his grandchildren, but instead 72-year-old Victor Riccitelli was running gambling operations for the mob.

Friday, a federal judge sentenced him to 6½ years in prison for racketeering, flatly rejecting his argument that prosecutors sought to embarrass him by releasing transcripts of his conversations with an FBI informant.

U.S. District Judge Janet Bond Arterton also found "somewhat preposterous" the argument that, when the convicted mobster was recorded discussing his Mafia induction ceremony and the hierarchy of the Gambino crime family, he claimed to have been repeating things he read in a book or saw on the HBO drama "The Sopranos."

Riccitelli, who has 29 convictions dating to the 1950s, became one of the most colorful characters in the landmark Mafia case federal prosecutors brought in 2004.

He allegedly moved bulk cocaine — a fact prosecutors said he hid from his mob superiors — and was caught on tape negotiating deals while receiving treatment for colon cancer.

"He started chemo in January of '04 and sold a kilo (of cocaine) in February of '04," Arterton said, later adding, "Mr. Riccitelli is a man of great stamina, it would seem."

He was also caught on tape trying to arrange a kidnapping, surprising prosecutors who said most criminals slow down in their old age.

"Spend time with the grandkids, plant a garden — something other than plan a kidnapping," prosecutor Mike Gustafson said.

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Riccitelli, who is already serving 13 years in prison on federal drug charges, told Arterton he was in the "wrong place at the wrong time."

"All I know how to do is gamble. I had no education," Riccitelli said. "I leave my faith up to you."

While all of Riccitelli's co-defendants, including reputed Mafia underboss Anthony Megale, struck plea deals with prosecutors, Riccitelli became a thorn in the side of the Justice Department.

He rejected plea deals, accused the FBI of selectively recording him and claimed no knowledge of the Gambino family.

Only on the eve of trial, as prosecutors prepared to make public hours of taped conversations between Riccitelli and the informant, did Riccitelli admit his Mafia membership and plead guilty.

Soon after, prosecutors shocked Riccitelli when they released transcripts of his conversations anyway, revealing that he talked freely about the secretive world of the Gambino family. Riccitelli accused the Justice Department of overstepping its bounds and intentionally embarrassing him.

"It's turning into something personal against Mr. Riccitelli or using him as a scapegoat to put on a dog-and-pony show against, as your honor calls it, the Mafia," attorney John Einhorn said.

Arterton agreed that he could serve the new prison sentence at the same time as his drug sentence but said she did not accept his argument of prosecutorial misconduct or his renewed efforts to distance himself from the crime family.

Gambino Figure Will Be 82 Before Release Date (CTPOST)

By MICHAEL P. MAYKO

Connecticut Post, January 25, 2006

NEW HAVEN — In the end, none of the infamous mob hierarchy tapes were played.

Nor was Victor Riccitelli's 13-year, four-month federal prison term for cocaine trafficking increased Friday, as a result of his guilty pleas to racketeering and gambling.

Instead the 72-year-old reputed Gambino crime family soldier left the courtroom $8,000 poorer.

U.S. District Judge Janet Bond Arterton imposed a 78-month sentence concurrent to the time the Bridgeport mob figure is already serving.

The judge explained that to do anything else would be "piling on." She did note that should Riccitelli, formerly of Capitol Avenue, overturn his cocaine conviction on appeal, her sentence would keep him behind bars.

The judge fined him $7,500 and ordered him to pay another $500 in special assessments — all coming from his prison earnings.

"It was a very fair sentence," said Jonathan Einhorn, Riccitelli's court-appointed lawyer.

Einhorn said if the drug conviction is not overturned, Riccitelli will be 82 at the least before he gets out.

"For him to embark in criminal activity again at that age would be amazing," Einhorn said. "There's no future for Mr. Riccitelli in crime. I hope there's a future for him at all."

Riccitelli, who operated a Bridgeport nightclub for years, has racked up 29 state and federal convictions since his 18th birthday. Most of the convictions

Advertisement

involve bookmaking, Einhorn explained.

When he was 71 years old in 2004, just months after surgery for colon cancer and heart disease, Riccitelli was recorded by the FBI plotting a kidnapping, Assistant U.S. Attorney Michael Gustafson said.

It involved snatching Alfred Lenoci's youngest son and holding him for $2 million ransom. The elder Lenoci is the multi-millionaire founder of United Properties, a Fairfield-based real estate development company.

The plot never went forward.

Still, Gustafson said, at that stage of life, Riccitelli should have been "visiting his grandchildren, planting a garden — anything but plotting a kidnapping."

Gustafson said that if Riccitelli gets out of jail, "he'll go back to criminal activity he has the support of a criminal organization around him."

The prosecutor said Riccitelli's induction into the mob was "handed out as a lifetime achievement award. He was recognized by other criminals for his accomplishments."

Michael P. Mayko, who covers legal issues, can be reached at 330-6286.

Florida Business Briefs (MH)

The Miami Herald, January 25, 2006

AGRICULTURE

Tomato shortage ends; prices should go down

A tomato shortage, created by eight hurricanes the past two storm seasons, appears to be ending.

With Florida's winter harvest now in full swing, Agriculture Commissioner Charles Bronson said Monday that grocery shelves should soon be full of the state's top quality tomatoes and prices should decrease.

Hurricane Wilma that struck Florida in October delayed the current harvest, sending tomato prices to the $4 a pound range, up about $1.50. Some restaurants, including fast-food giant Wendy's, removed tomatoes unless specifically requested.

Hurricanes made 2005 one of the worst years in recent memory for Florida agriculture. Four storms that struck the state not only caused an estimated $2.2 billion in damage to the state's crops and farming infrastructure, but the storms are believed to have spread citrus canker as well.

CELLPHONES

BILL TO CRIMINALIZE SALE OF RECORDS

Legislators introduced a new bill in Congress that would criminalize the sale of cellphone records over the Internet, following reports that data brokers posing as customers obtained confidential information from phone carriers.

Some 40 companies around the country, including a Tamarac-based firm, have websites that advertise the sale of phone records made from any cell number for a $100 fee. Consumer groups have decried the practice as a violation of privacy rights.

The bipartisan bill, co-sponsored by U.S. Sen. Bill Nelson (D-Fla.), would close loopholes in the current law, which makes it a felony to pose as someone else to obtain and then sell customers' call records.

INSURANCE

HEARINGS TO DISCUSS PROPOSED RATE HIKE

State insurance regulators will hold hearings in Miami next week to give consumers a chance to discuss the average 38-percent rate hike requested by QBE Insurance Corp.

The company, a unit of a major Australian insurer, covers condo buildings including many waterfront properties.

The hearings will be held Jan. 31 at the Manuel Artime Theater, 900 SW First St. in Little Havana at 10 a.m. and again at 6 p.m.

INVESTMENTS

MIAMI STOCKBROKER ARRESTED FOR FRAUD

Lazaro J. Rodriguez, a Miami stockbroker, was arrested on mail fraud charges, the U.S. Attorney's Office said Monday.

Rodriguez was president of The Firm Investments, headquartered at 5201 Blue Lagoon Dr., Suite 872, in Miami.

Rodriguez allegedly misappropriated about $1.5 million of investor money from more than 400 investors.

Using Spanish language newspaper and Creole radio advertisements to lure investors, the company's website and written materials offered a number of investment options, Justice officials said.

MANUFACTURING

RECRUITMENT FAIR SET FOR THURSDAY

The South Florida Manufacturers Association and Workforce One are holding a recruitment fair on Thursday to recruit participants for a free "boot camp" that will provide training on a variety of skills.

The fair is from 9 a.m. to 3 p.m. at Florida Atlantic University, 1515 W. Commercial Blvd., Fort Lauderdale.

The boot camp is scheduled for Feb. 6. Participants will be taught how to read a tape measure, safety training, blue-print reading and interviewing skills. The camp will culminate with a job fair. Attendance at the fair is required to participate in the boot camp. For more information, go to www.sfma.org.

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AIRLINES

AMERICAN TO BOOST NEW ORLEANS SERVICE

American Airlines said Monday that it will add another flight between Miami and New Orleans on April 3.

The new flight will be the third daily between the two cities.

American said it is nearing its pre-Katrina flight schedule in New Orleans, with service from New York's LaGuardia, Dallas/Fort Worth, St. Louis, Chicago's O'Hare and Miami, bringing New Orleans to 15 daily jet departures versus 16 daily departures pre-Katrina.

OUTSOURCING

ADP TOTALSOURCE OPENS CALIF. OFFICES

Miami-based ADP TotalSource, part of Automatic Data Processing (ADP)'s Employer Services division, said Monday that it has opened seven offices in California -- in Los Angeles, Orange and San Bernardino counties.

The offices offer human resources outsourcing services to small and medium-size businesses in southern California.

The company currently operates 43 offices in 18 states that serve more than 5,400 client companies and 126,000 site employees.

ONLINE

PETMED EXPRESS POSTS HIGHER PROFIT

Shares of Pompano Beach-based PetMed Express (PETS) surged Monday after the online veterinarian drug distributor posted strong results for the latest quarter, due to a wave of new customers.

Shares of PetMed climbed $2.67, or 18 percent, to $17.15 on the Nasdaq Stock Market. Volume was heavy.

Monday's strongest level of $17.25 was a 52-week high, surpassing the previous high of $15.82 set Dec. 27. There was a 52-week low of $6.44 on May 12.

PetMed reported income of $2.7 million, or 11 cents a share, for the fiscal third quarter ended Dec. 31. That's a 37 percent rise from $2 million, or 8 cents a share, in the prior third quarter. Analysts surveyed by Thomson Financial had forecast, on average, earnings of about 9 cents a share.

Sales rose to $25.9 million from $20.8 million, beating the average Wall Street expectation of $24.9 million.

PetMed said it acquired about 105,000 new customers during the third quarter.

FUEL

BROWARD FIRM SETS UP NEW ORLEANS BASE

Fort Lauderdale's Streicher Mobile Fueling (FUEL) has established a permanent operation in the New Orleans area where it will supply commercial bulk and mobile fueling.

The company said it set up an emergency response following Hurricane Katrina to support the area's energy and distribution infrastructure. The company said it decided to create a permanent operation in the area because it has developed a solid customer base.

Google Launches Services In China (MERCN)

By Michael Bazeley

The San Jose Mercury News, January 25, 2006

Google on Tuesday launched operations in China, a decision executives have agonized over because it will require the Internet firm to subject itself to self-censorship to comply with Chinese law.

The Mountain View search giant is one of the last large U.S. Internet companies to set up shop inside China. The delay reflects months of internal wrangling at Google over how to balance business interests against the company's distaste at having to comply with China's restrictive speech policies.

For now, the Google is making what one executive described as a ``targeted entry," offering Internet search but not e-mail, blogging, video or messaging services. As if Tuesday some Chinese Internet users were able to access the www.google.cn Web site.

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They were not, however, able to search for information on the ``three T's": Taiwan independence, Tibet independence and Tiananmen Square, which are all forbidden topics in China. And Google is not yet offering its e-mail service, called GMail.

Ironically, Google's agreement to censor itself and comply with Chinese government rules comes at the same time it's being lauded in the United States for refusing a Justice Department subpoena to turn over data about seaches conducted on its site.

Google needs to compete in the quickly emerging and potentially vast Internet search market in China. That market is becoming increasingly competitive between U.S. and Chinese companies.

But until now, the only way that the Chinese could access the company's services was through its U.S.-based Web sites. But those sites often were sluggish when viewed from China, Google executives said, and what Chinese users see on those sites was subject to filtering and censorship by government officials.

Locating Web servers in China should improve the availability of Google's services, according to company executives.

``Google is mindful that governments around the world impose restrictions on access to information," said Andrew McLaughlin, Google's Senior Policy Counsel, in a statement. ``In order to operate from China, we have removed some content from the search results available on Google.cn, in response to local law, regulation or policy.

``While removing search results is inconsistent with Google's mission," added McLaughlin, ``providing no information (or a heavily degraded user experience that amounts to no information) is more inconsistent with our mission."

To offer its services from within China, Google had to register with the Chinese Ministry of Information Industry and agree to comply with information security rules.

Owing to the delicate nature of the move, Google only briefed reporters about its decision on background, and then released a carefully worded statement. Google executives Larry Page and Sergey Brin were at the World Economic Forum's annual meeting in Davos, Switzerland, and were not expected to comment on the announcement.

Other U.S. Internet companies -- including Microsoft, eBay and Yahoo -- are already established in China. But Google's entrance has been highly anticipated because of the company's global influence and its stated ``Don't Be Evil" motto.

``Google's dilemma with China is a near-textbook case study on the deep question of how much assistance, if any, companies chartered in free societies should render to regimes that censor political and cultural expression," said Jon Zittrain, an assistant professor of entrepreneurial legal studies at Harvard Law School who has studied Chinese censorship.

The human rights group Reporters Without Borders immediately condemned the move. The group's longstanding position has been that U.S. companies should not do business in China as long as it's ruled by a repressive regime.

``Google is following along the lines of other Internet giants and bending to the rules of Communist regimes and going against the original, democratic guidelines under which they were founded,' said Tala Dowlatshahi, the New York representative for the group. ``At some point, they should draw the line and say no."

Google's announcement surprised no one. The company has been telegraphing this move since last year, when it announced the planned opening of a research and development center, hired a top China expert from Microsoft and opened a sales office.

Unknown until now, though, was how Google would make its move.

For now, Google is limiting its China services to Web and image searching, local searching and news.

Google will voluntarily censor its own search results. The company has compiled information on the types of Web sites and phrases China finds offensive, based on information from third parties and by observing the behavior of China's Internet filtering mechanisms.

``We intend to disclose to users when information has been removed from our search results in response to local laws and regulations," McLaughlin said in the statement.

Google makes similar concessions in other countries. In Germany, for example, a Google search for a specific Web site that allegedly contains Nazi content returns a page that says that, for legal reasons, the Web site is not available.

Google's decision not to place any e-mail servers in China is a calculated move intended to shield it from the type of trouble that befell Yahoo last year. Human rights activists blamed Yahoo for the jailing of a Chinese journalist after the company identified him as the owner of a Yahoo Mail account allegedly used to relay the contents of a secret government order.

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Yahoo said at the time that it was required to operate under local laws and had no choice but to cooperate with police.

Google also intends to store some records of its Web server activity outside of China so that authorities cannot access them.

``They're trying to straddle, and it always seems like a good compromise," said Michael Lord, an international business professor at Wake Forest Universitys. ``But it can sometimes not work very well in practice. By limiting what services they offer and what they have on the ground in China, it's difficult to see how they won't be limited by that."

Google's late entrance into the Chinese market has allowed competitors such as Baidu and Yahoo China -- now owned by e-commerce company Alibaba -- to secure strong footholds while Google's market share has dropped.

Baidu, in which Google owns a small stake, is the Internet search leader in China with as much as 30 percent of the market, said Dick Wei, an analyst for JPMorgan Technology Research in Hong Kong.

Google and Yahoo each have about 20 percent, he said.

Wei said Baidu benefits by being perceived as a local company, while Google is seen as foreign company. Baidu is more popular with teenagers, while Google is favored by university students and higher-income users, he said.

Freehold School District Using Eye-scanning Technology (AP)

AP, January 25, 2006

FREEHOLD, N.J. -- The school district in this Monmouth County borough has become the second in the Garden State to start using iris recognition technology to screen visitors, according to computer maker Hewlett-Packard Co.

Freehold launched the system Monday in its three schools, one of which includes the district's offices. The system is being employed as part of a study funded by a $369,000 grant from the U.S. Justice Department's National Institute of Justice.

Plumsted Township in Ocean County started using the eye-scanning technology in 2003 under a similar federal grant.

Iris recognition systems use a video camera to record the colored ring around the eye's pupil. Markings in the iris are unique to each person.

Deployment of the technology in Freehold was the result of a collaboration between Palo-Alto, Calif.-based HP; Renton, Wash.-based Newton Security Inc.; and two New Jersey companies _ Eyemetric Identity Systems and LG Electronics USA.

HP said the Freehold system has enhancements from lessons learned at Plumsted:

_A visitor management computer system that keeps a digital record of everybody that enters the school.

_A system that sounds an alarm when a person holds a door open for someone else.

_A timesaving application scanning driver's license information and retrieving information for records.

Panel Suspends Roane County Judge (KNOXNS)

By JAMIE SATTERFIELD

Knoxville News Sentinel (TN), January 24, 2006

A Roane County judge arrested Monday on federal extortion charges was suspended today from his post.

The Tennessee Court of the Judiciary, which handles disciplinary actions involving judges, announced today that Roane County General Sessions Court Judge Thomas A. Austin has been suspended from his judgeship.

Austin, 57, was arraigned Monday in U.S. District Court on an eight-count indictment accusing him of extortion and money laundering.

"This court has determined an interim suspension is appropriate," the Court of the Judiciary order stated.

Presiding Judge Steven Stafford, who heads up of the disciplinary panel and also serves as a chancellor for the 29th Judicial District, said the court felt quick action was needed.

"Under the circumstances, the members of the Court of the Judiciary agreed that it was necessary to act as quickly as possible to suspend Judge Austin," Stafford said.

State law dictates that Austin will continue to draw his salary, estimated to be more than $100,000, while suspended.

Roane County will not be without a Sessions Court judge. There are two who handle the docket. But it will burden a court system already overloaded with a backlog of cases, according to Roane County Public Defender Joe Walker.

In addition to Sessions Court, Austin also served as Juvenile Court judge.

Austin is accused of forcing kickbacks from the operators of two driving schools where the judge sent traffic offenders for remedial instruction and from the chief of a private firm that handles offenders placed on county probation.

Assistant U.S. Attorney Charles Atchley also alleged during Monday's court hearing that Austin regularly used "illegal drugs."

A complaint filed against Austin in 2004 by Roane County attorney Tom McFarland contained allegations of sexual harassment by the judge. That complaint has not yet been made public.

Austin's arrest came after McFarland's complaint sparked a Tennessee Bureau of Investigation probe that eventually led to an investigation by the FBI, officials have said.

Federal Magistrate Judge Bruce Guyton freed Austin Monday on a conditional bond after ordering him to undergo drug testing, turn over his guns to his brother and stay away from alleged victims and witnesses in the case.

Jamie Satterfield may be reached at 865-342-6308.

Judge Orders 30-year Sentence For Kansas Group Home Operator (FINDLAW/AP)

By Roxana Hegeman, Associated Press Writer

AP, January 25, 2006

(AP) - WICHITA, Kansas-A former social worker was sentenced to 30 years in prison after being convicted of abusing mentally ill residents of a group home he operated with his wife.

Arlan Kaufman was found guilty in November of 31 federal charges and his wife, Linda, was convicted of 30 counts. The charges include health care fraud, Medicare fraud, forced labor and holding clients in involuntary servitude at the Kaufman House Residential Treatment Center.

Linda Kaufman was sentenced to seven years in prison.

Federal prosecutors had argued that the couple controlled the lives of mentally ill residents, including deciding who could wear clothes. They were found guilty of forcing residents to masturbate, fondle each other and shave each other's genitals - activities that Arlan Kaufman videotaped.

"You are an arrogant individual, you don't recognize what you have done is wrong," District Judge Monti Belot told Arlan Kaufman during the sentencing hearing on Monday. "You see yourself as a victim of some massive conspiracy."

But Belot showed some leniency for Linda Kaufman, agreeing with Wichita psychiatrist Ted Moeller that she had a dependent personality and was manipulated by her husband.

Arlan Kaufman, in a three-hour speech before his sentencing, said he didn't believe he and his wife should have to spend the rest of their lives in prison for trying to help mentally ill patients.

"It was never my intent to exploit any of my patients," he said.

Linda Kaufman, speaking in court for the first time, told the judge she never intentionally hurt anybody and asked for forgiveness.

"I stand before you today humble and broken," she said softly.

Arlan Kaufman, whose social work license was suspended in 2001, had disputed the reports of forcing residents to commit sex acts, saying their behavior was voluntary. He testified that he videotaped the residents so they could see themselves more objectively when their judgment was not so clouded or emotionally charged.

The Kaufmans incorporated their unlicensed treatment center in 1980 and ran it until their arrests in October 2004. Their crimes dated to 1984.

Body Part Scandal In New York Is Expected To Spawn Lots Of Lawsuits (FINDLAW/AP)

By Tom Hays, Associated Press Writer

AP, January 25, 2006

(AP) - NEW YORK-Patricia Battisti had thought her back surgery in early 2005 was routine. A letter from her hospital nearly a year later made it clear she was wrong.

Battisti was informed that the cadaver bone that was implanted in her back may have been infected with various viruses - the result of what investigators say was a large-scale scheme in which corpses were cut up and body parts illegally sold.

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The Brooklyn district attorney's office has opened a criminal case focusing on scores of funeral homes in the New York City area and hundreds of looted bodies, including that of "Masterpiece Theatre" host Alistair Cooke. No arrests have been made.

Battisti's case may be an early warning that the gruesome body parts scandal is going to lead to a lot of lawsuits.

The Long Island woman now claims she contracted syphilis from the bone implant and plans to sue. The hospital adamantly denies the allegation.

"I just want answers," said Battisti, 41, a single mother of four, in a recent interview. "I had the operation to feel better, not get sick."

Battisti joins a burgeoning list of potential victims.

Authorities believe two men paid off funeral homes so they could take bone and skin from the dead without their families' knowledge. Worse, some body parts came from elderly people and perhaps victims of infectious diseases, and the paperwork was doctored to say they had been younger and healthier, investigators say.

The U.S. Food and Drug Administration is trying to trace the tissue, which was sold to medical facilities across the country and in Canada.

Both the FDA and hospital officials, while suggesting certain patients should get tested for viruses as a precaution, insisted the risk of becoming ill from tainted tissue is minuscule.

But some of those patients are not comforted, said Battisti's attorney, Jeffrey S. Lisabeth.

"It really freaks them out," he said.

Also disturbed are families who recently learned of evidence that their dead relatives were secretly carved up before being buried or cremated.

A lawsuit filed in Brooklyn accuses a now-defunct New Jersey tissue bank, Biomedical Tissue Services, of stealing parts from a 43-year-old woman who died of ovarian cancer in 2003. The business allegedly forged a signature on a consent form, and listed the cause of death as head trauma.

Authorities also found paperwork indicating Cooke's bones had been removed by the tissue bank before he was cremated. Cooke died of cancer last year at 95, but authorities say documents listed the cause of death as heart attack and lowered his age to 85.

The operators of the tissue bank have denied any wrongdoing.

Battisti's ordeal began in December, when North Shore-Long Island Jewish Health System warned her and 41 other patients that they were at risk for HIV, hepatitis B and C and syphilis. The letters explained that tissue products used for surgical repairs came from body parts that were removed without permission or medical safeguards.

Doctors implanted bone in Battisti's back to relieve pain from a car accident injury. Her lawyer said a recent blood test indicated she had been exposed to syphilis; she is awaiting the results of further tests.

The hospital's attorney, Anthony Sola, argued the tissue banks were responsible for screening and sterilizing their products, which arrive at hospitals ready for use in sealed containers. He also claimed anyone getting syphilis from a bone graft would be "a medical first."

Unfounded allegations, he warned, could "create undue fear in patients who need treatment."

Both Lisabeth and the attorney who filed the lawsuit in Brooklyn said they have been contacted by other lawyers and possible victims nationwide.

"The number of potential plaintiffs is virtually limitless," Lisabeth said.

High Court Delays Fla. Inmate Execution (AP)

By RON WORD

AP, January 25, 2006

STARKE, Fla. - A death row inmate won a stay from the Supreme Court Tuesday night about an hour after he was scheduled to be executed for killing a police officer.

Clarence Hill claimed he is mentally retarded and also challenged the state's use of execution drugs as cruel.

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It was not clear if the court's intervention would only briefly delay Hill's execution, which had been scheduled for 6 p.m., to give justices additional time to review stay requests.

Witnesses had gathered at the Florida State Prison for the execution, which was put off for more than an hour before word came from the court.

The witnesses were sent home after Justice Anthony M. Kennedy filed paperwork that said Hill's death sentence would "be stayed pending further order" of the justices.

"The court will not rule until tomorrow," said Robby Cunningham, spokesman for the Florida Department of Corrections.

D. Todd Doss, Hill's attorney, expressed relief. "The important thing is he's still alive tonight," he said.

Earlier, Hill lost appeals at the 11th U.S. Circuit Court of Appeals in Atlanta. He was scheduled to die for the October 1982 slaying of a Pensacola police officer and the wounding of his partner.

Hill was to be the 61st inmate executed in Florida since 1976, when executions resumed after a 12-year moratorium.

In one of his appeals, Hill, 48, asked for a delay to give him time to contest the chemicals that will be used. Kennedy cited that case in granting the stay.

Hill's lawyers argue that the three chemicals used in Florida's lethal injection method cause pain, making his execution cruel and unusual punishment.

Associated Press Writer Gina Holland in Washington contributed to this report.

DNA Exonerates Fla. Man After 24 Years (FINDLAW/AP)

By Mitch Stacy, Associated Press Writer

AP, January 25, 2006

(AP) - TAMPA, Fla.-Alan Crotzer stepped into the warm sunlight outside the courthouse Monday and raised his arms to the sky, celebrating his freedom after more than 24 years behind bars for crimes he didn't commit.

A judge freed the 45-year-old Crotzer after DNA testing and other evidence convinced prosecutors he was not involved in the 1981 armed robbery and rapes that led to his 130-year prison sentence.

"It's been a long time coming," said Crotzer, his black hair graying at the temples. "Thank God for this day."

Crotzer walked free more than three years after he wrote to the Innocence Project in New York, a legal clinic that seeks to exonerate inmates through DNA testing.

"Are you ready for what you waited so long to hear?" Circuit Judge J. Rogers Padgett said to Crotzer during the brief hearing. "Motion granted - you're a free man."

Members of Crotzer's family and other courtroom spectators clapped and cheered as a bailiff removed the shackles from his wrists and ankles.

Prosecutor Mike Sinacore congratulated him. "Trying to fix an error in the system is just as important as trying to convict someone who is guilty," he said.

DNA has been used to clear at least 172 people wrongly convicted of crimes in 31 states since 1989, according to the Innocence Project.

Crotzer and brothers Douglas James and Corlenzo James were convicted of robbing a Tampa family in 1981. Douglas James and Crotzer were also found guilty of kidnapping and raping a 38-year-old woman and her 12-year-old girl at gunpoint.

A victim picked Crotzer out of a photo lineup. But Douglas James says Crotzer is innocent. He said he and his brother were the rapists and a childhood friend was their accomplice.

Crotzer, who has never held a paying job, said he will go live with a sister in St. Petersburg and try to find work. His attorneys said they will seek compensation from the state for him.

In December, Gov. Jeb Bush signed a bill allowing Wilton Dedge to receive $2 million for the 22 years he spent in prison for a rape he did not commit. Dedge, 44, also was exonerated by DNA evidence.

"There ain't no compensation for what they done to me," said Crotzer, whose mother died while he was in prison. "But I'm not bitter."

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Crotzer said he was looking forward to a barbecue with his family, who promised him his favorites - pork chops and banana pudding. Then, he said, he wanted to take a bath in a real bathtub.

"I want to soak," he said. "I want to get some of this off me."

On the Net:

The Innocence Project: http://www.innocenceproject.org

Florida Innocence Project: http://www.floridainnocence.org

Girl, 7, Shot By Boy, 8, At Day Care In Montgomery (WP)

By Ernesto Londoño

The Washington Post, January 25, 2006

An 8-year-old boy who shot a 7-year-old girl in the arm yesterday with a handgun he sneaked into a Germantown day-care center in his backpack told classmates last Friday after a fight that he had easy access to guns, two law enforcement officials said.

The boy, a third-grader at Cedar Grove Elementary, had been suspended in the past for bringing a toy weapon to school, said the sources, who declined to be identified because the case is open.

He was armed yesterday with a .38-caliber Taurus revolver that belonged to his father, a felon with a lengthy record, police said.

The law enforcement sources said they do not believe that the shooting victim, a second-grader at S. Christa McAuliffe Elementary, was involved in Friday's fight. It was unclear what the boy had planned to do with his father's gun, they said. But whatever his plans, they were cut short around sunrise as six children supervised by a female teacher were huddled around a television set watching Peter Pan at the day-care center.

The sources said the boy threatened to rob the girl and then fired the gun once, striking her in the upper right arm.

The boy's father, John Linwood Hall, 56, was arrested and charged with leaving a firearm within reach of an unsupervised minor, contributing to the delinquency of a minor and possession of a firearm by a felon. His son was charged as a juvenile with numerous counts that police declined to outline yesterday. The boy was placed in the custody of the Maryland Department of Juvenile Services, which provides counseling and treatment to delinquent juveniles.

In charging the boy, authorities weighed the nature of the offense and the child's disciplinary history against his age, officials said.

"An innocent 7-year-old girl was shot in the arm inches away from her heart," Montgomery County State's Attorney Douglas F. Gansler said. "In the final analysis, given this particular child's personal history, both at home and school, the decision was made that it would be in the best interest of this juvenile to be charged."

Minutes before 7 a.m., police received the call about the shooting at For Kids We Care Inc., which rents a unit at the Northlake apartments in the 12600 block of Grey Eagle Court. For Kids We Care cares for children before the regular school day begins.

Paramedics rushed the girl to the sports field of her school, near the apartments, and about 7:35 a.m. a state police helicopter took her from the field to Children's Hospital in the District. She was reported in stable condition last night. Her family could not be reached for comment yesterday.

The sound of the helicopter was the first indication McAuliffe Principal Loretta Favret had that something was amiss.

"I turned on the TV and saw it was happening here," Favret said. Within minutes, she learned from school system supervisors who the shooting victim was.

"Our first concern was for her and her family," Favret said. "She's kind of a favorite around here -- very gregarious, always has a crowd around her."

Miles away, in a McLean office, parent Jackie Tazwell, 29, an administrative assistant, got a frantic call from her sister, who had recognized the name of the day-care center's street from news reports. Tazwell's heart pounded as she called the center,

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where she had left her 4-year-old son at 6:30 a.m. He was not hurt, she was told during a brief conversation with a day-care worker. Still, she yearned to hold her son.

"I dropped everything and ran straight from work to find out what was going on," Tazwell said.

At McAuliffe, administrators went to Code Blue -- a state of heightened awareness used in emergency situations. School officials told parents concerned about the shooting that their children would be safe in school.

"Not a lot of kids knew about this incident," said Favret, the principal. "It was scary for parents to hear that a kid had a gun inside a backpack. The reality is, it's scary that we're in a large community where people have guns and kids have access to them."

When asked by police where he got the gun, the 8-year-old boy said "he brought the handgun from home and that it was his father's," according to a police document. The boy also "stated that there were numerous additional firearms in that residence which he had access to," the document said.

Hall's criminal history dates to at least 1968 in Baltimore, according to a list of 17 offenses outlined in the police document prepared yesterday. The list says he has been charged with assault with the intent to commit murder, battery, intimidating a witness, assault with the intent to maim and a handgun violation, among other offenses. It did not say how many charges had led to convictions.

Hall was being held on $750,000 bond.

Parents of McAuliffe students expressed shock and anger yesterday.

"It's very scary," said Rana Kuri, 41, whose 10-year-old son is a fifth-grader. "This is an elementary school. Are they going to put in a metal detector?" She paused, seemingly outraged by the thought. "They might as well consider it."

Jason Musser, 25, whose 7-year-old daughter attends McAuliffe, said he was concerned by what he perceived to be a recent surge in crime in Germantown.

"This is a shocker, especially happening just across the street" from the school, he said. "I was a kid here. I would never feel unsafe walking alone at night. I don't do that anymore."

The center is one of two operated by For Kids We Care. The second is at the Canterbury apartments in the 19900 block of Sweetgum Circle in Germantown. Property managers at both locations asked reporters to leave the premises yesterday. A woman who answered the phone at the Canterbury center declined to comment.

Tazwell said she thought the day-care staff handled the situation well. She said she plans to continue taking her son to the center. Her son seems unfazed by what he witnessed, she said.

"He hasn't talked about it unless he's been asked," she said.

The shooting came days after 4-year old Fahad Islam was hit in the head Friday night by what appeared to be a stray bullet while playing in his Columbia home. He was taken to the hospital in serious condition but is expected to be released in two to three weeks, according to Renu Shrestha, a family friend.

Howard County police said they are trying to determine who was responsible for the shooting.

Boy, 8, 'Accidentally' Shoots Girl (WT)

By Arlo Wagner And Matthew Cella

The Washington Times, January 25, 2006

Montgomery County police yesterday charged a Germantown man and his 8-year-old son after the boy took his father's handgun and shot a 7-year-old girl in the arm while playing with it at a child care center before school.

John Linwood Hall, 56, was charged with leaving a firearm in a location accessible to a minor, contributing to the delinquency of a minor and possession of a firearm by a felon. He was held last night in the Seven Locks Detention Center.

Police also said they "initiated charges" against Mr. Hall's son, whose name was not released because he is a juvenile. They referred calls for comment to the county's Department of Juvenile Services.

Montgomery County State's Attorney Douglas F. Gansler confirmed that the boy was charged in the case, but he would not identify the charges. Mr. Gansler said that authorities considered the seriousness of the incident and the age of the boy in deciding to file charges.

"In the final analysis, given the history of this boy, both at school and at home, the decision was made to charge him and get him into the system and get him the help he needs," Mr. Gansler said.

Officer Derek Baliles, a county police spokesman, said the shooting occurred just before 7 a.m. at the For Kids We Care child care center at 12648 Grey Eagle Court in Germantown.

Police said the boy took a .38-caliber Taurus revolver from an unlocked container in his father's closet and put it into his school backpack.

Officer Baliles said the gun fired "accidentally" at the day care center when the boy played with it inside the backpack. The girl was struck in the arm, authorities said.

The girl, whose name was not released, was flown to Children's Hospital and was in stable condition last night. She is a second-grader at S. Christa McAuliffe Elementary School in Germantown.

The girl's father, who was not identified, said in a statement issued through the hospital and obtained by the Associated Press: "Everyone has a responsibility to ensure that guns are kept unloaded, locked and out of children's reach to prevent incidents like this."

The AP reported that Mr. Hall has an arrest record that goes back nearly 40 years. The record includes six arrests in Baltimore between 1968 and 1970. There are also eight arrests in Montgomery and Frederick counties from 1971 to 1989. The charges include contributing to the delinquency of a minor, assault with intent to murder and intimidating a witness. The outcome of those cases isn't clear, according to the AP.

Police said Mr. Hall had the .38 caliber Taurus for several years and that he and his son live in the Northlake apartment complex where For Kids We Care center is located.

The center, which caters to infants and toddlers and offers before- and after-school programs, is located in a specially outfitted ground-floor apartment that's connected to a fenced-in outdoor playground.

When police arrived, Mr. Hall's son, the wounded girl and four other children were calm, police said. "The child care providers did a marvelous job," said Lucille Baur, a county police spokeswoman.

Providers voluntarily closed the center where the incident occurred and another one they operate about two miles away.

"It scared me," said Rashida Means, 25, who lives in the apartment complex.

William Reinhard, a spokesman for the Maryland State Department of Education, said the child care facility has been licensed since August 2003.

The license is in the name of Touye Simmons. More recent documents identify the owner and president of For Kids We Care as Touye Harris.

Mr. Reinhard said the department would conduct its own investigation. He could not say whether the center would reopen today.

Messages left yesterday at the center's two locations were not returned.

Boy Shoots Girl (WP)

The Washington Post, January 25, 2006

AT A DAY-CARE center in Germantown, an 8-year-old boy shot a 7-year-old girl with a handgun yesterday, hitting her in the arm but not killing her. The boy, whose father is a convicted felon with a long rap sheet, had bragged that he had access to guns. But why is it that after years of similar incidents and anguish and debate, the country has yet to enact laws to prevent such tragedies?

In the late 1990s, then-Gov. Parris N. Glendening's task force on gun violence in Maryland pushed for tougher rules mandating safety devices on handguns. In the following years, the state adopted a number of laws -- stronger than most in the nation -- including a requirement that handguns sold in Maryland be equipped with a childproof locking device, and another forbidding people from leaving loaded firearms within reach of unsupervised children. But other regulations -- potentially more effective ones in preventing accidents such as yesterday's -- went nowhere. Most notable was a proposal that guns be "personalized" by incorporating technology restricting a gun's use to its owner, for instance by using fingerprint recognition. In a study published in 2003, researchers led by Jon S. Vernick of the Johns Hopkins School of Public Health examined 117

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unintentional homicide deaths in Maryland from 1991 to 1998, four-fifths of them involving handguns. The conclusion: 37 percent of the deaths could have been prevented by a "personalized" gun.

A third or more U.S. households keep a gun at home, often a loaded one, in the belief that it will protect them from intruders who would do them harm. These guns may furnish some people with a sense of personal security, and at times they do safeguard the lives of innocent homeowners. But the pervasive presence of guns in homes comes with a cost; a substantial body of research suggests that households with guns are more likely to be the scenes of suicides and homicides than those without.

More gun safety laws will prevent many incidents, but they won't protect everyone from lawbreakers such as the father of the Germantown boy. Without stricter federal laws on access to handguns, more of these tragedies will occur.

CIVIL LAW:

Lawyers For Defense, Unions Detail Their Differences For Federal Judge (WP)

By Stephen Barr

The Washington Post, January 25, 2006

Judge Emmet G. Sullivan presides over his federal courtroom with an easy manner, a sleek laptop computer on his desk and the ancient scales of justice behind his chair. He does not always require the audience to stand when he enters and leaves the courtroom, and yesterday he gave ample time to Justice Department and union lawyers to argue over new workplace rules at the Defense Department.

The rules will change the way in which 650,000 Defense civil service employees are assigned work, paid and disciplined. A coalition of unions filed suit to stop certain changes, and Sullivan's decision in the case could affect other Bush administration efforts to revamp civil service rules across government.

The rules, as Sullivan put it yesterday, are "extremely important, extremely complicated." To limit confusion, union and Justice Department lawyers used slide shows to make their points to Sullivan.

Sullivan asked the lawyers to shed light on what Congress intended in creating the National Security Personnel System, whether Pentagon officials had honored a mandate to collaborate with unions on the development of the rules, and whether the Pentagon could waive civil service law on union rights and take numerous issues off the bargaining table.

Daniel M. Schember , representing the union coalition, and Joseph W. LoBue , a Justice lawyer representing the Pentagon and the Office of Personnel Management, jousted over whether rules on labor-management negotiations must be read as a whole. One part calls for ensuring that Defense employees retain their bargaining rights, but a second part gives the department broad powers to limit labor rights and to override union contracts.

Schember pointed to statements by senators, such as Susan Collins (R-Maine) and Carl M. Levin (D-Mich.), that a compromise reached between the House and Senate did not allow the Pentagon to waive the basic requirements of civil service labor law.

LoBue said Congress knew it would be allowing Defense to set up a different system and that the judge should treat part two of the rules as an exception to the first part.

When the judge asked about the process used to shape the new rules, Joseph Goldberg , representing the American Federation of Government Employees, said the Pentagon had not followed the law, which calls for "meaningful discussions" and the participation of unions in revising workplace rules. Goldberg said the Pentagon "went dark" on the unions and drafted a regulation without their involvement.

Sullivan asked why the Pentagon had waited 60 days to start talks with unions on the new rules and whether they had a seat on the design team. LoBue said the Pentagon had provided the unions with ideas and draft proposals and had given them time to comment when a proposed rule was published. The "meet and confer" period was not a sham, LoBue said, contending that unions had the opportunity to be heard.

Hovering over the case is a ruling by one of Sullivan's colleagues on the U.S. District Court concerning workplace changes planned at the Department of Homeland Security. Judge Rosemary M. Collyer blocked the department's new labor rules because they fell short of guaranteeing bargaining rights.

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Like Defense, Homeland Security would permit department officials to override any provision in a union contract by issuing a policy directive. Homeland Security has appealed Collyer's decision.

LoBue told Sullivan it is inappropriate to compare the cases, because Congress wrote a different law for Defense that included a provision saying that the new rules "shall supersede" collective bargaining agreements. Homeland Security was not given such congressional instruction, LoBue said.

In addition, he said, the Pentagon regulation allows only a relatively few senior officials to issue NSPS directives, eliminating the possibility that a lower-level manager could curb bargaining.

The case could turn on how the judge views the new rules in relation to national security. LoBue argued that Defense needs maximum flexibility to respond to terrorist threats and reassign civil service employees quickly to support the military. Schember pointed out that the government has not identified any national security problems that would require the jettisoning of union rights.

Sullivan listened, but noted, "This is a different world since 9/11."

He promised to reach a decision by March 1.

New DOD Personnel System Delayed (WP)

By Christopher Lee

The Washington Post, January 25, 2006

The Defense Department agreed yesterday to delay implementation of its new personnel system until at least March 1 to give a federal judge time to decide whether the new rules pass legal muster.

Judge Emmet G. Sullivan of the U.S. District Court for the District of Columbia told lawyers for the department and for a coalition of federal employee labor unions that it would take him at least that long to sort through the issues at the heart of the unions' lawsuit against the new system.

"It's an extremely important case and it is extremely complex," Sullivan said yesterday during a three-hour hearing.

The National Security Personnel System, which would cover 650,000 civilian employees, would replace the familiar 15-grade General Schedule pay system with one in which raises are linked to annual performance evaluations. The new work rules also would curtail the power of labor unions and make it easier to hire, promote and discipline employees -- all in the name of making the Defense Department more nimble in the struggle against terrorism.

The unions contend that the new rules would gut collective bargaining in violation of federal law. And they maintain that department officials did not live up to their obligation, spelled out in the 2003 law that paved the way for the changes, to consult with employees' representatives in developing a new labor management system.

"They simply ignored the explicit requirement of the law and did what they wanted to do," said Joe Goldberg, a lawyer for the American Federation of Government Employees, the lead union.

A similar lawsuit against the Homeland Security Department has delayed the implementation of a new pay system there by as much as a year. In August, U.S. District Judge Rosemary M. Collyer faulted the new DHS system for undermining employees' rights to collective bargaining, and blocked implementation of new rules governing labor relations and employee appeals. DHS has appealed.

Joseph Lobue, a lawyer for the Justice Department, told Sullivan that the DOD personnel system was "very different from Judge Collyer's case." He added: "She was faced with a very different statue. . . . These agencies have explicit authority to do just what they did."

Agreeing to the delay was a small concession. The DOD already had pushed back the start date of the new system to April 30. It will continue to develop a new internal labor relations board, however.

Pentagon Again Delays New Labor Rules Upon Judge's Request (GOVEXEC)

By Karen Rutzick

Government Executive, January 25, 2006

The Defense Department has delayed the rollout of its new labor relations system until March 1 in response to a judge's request that he be given more time to consider a lawsuit challenging the system.

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Judge Emmet Sullivan of the U.S. District Court for the District of Columbia heard arguments Tuesday in a lawsuit filed by a coalition of federal employee unions against the National Security Personnel System.

NSPS would supplant the decades-old General Schedule pay system with broad paybands that would allow supervisors to use greater discretion in hiring and employee compensation. It also would tie annual raises to a system of rigorous performance reviews. At issue in the lawsuit, however, are other portions of the NSPS regulations that curtail collective bargaining rights for Defense employees.

Sullivan said he needed until March to decide the case on its merits. The department had already agreed to stall the system until Feb. 1 because of the lawsuit. Lawyers for the Pentagon agreed to the second delay, with a few exceptions.

Most notably, the government said it would move forward with setting up the National Security Labor Relations Board as planned. The NSLRB would replace the governmentwide Federal Labor Relations Authority in hearing labor disputes. Its members would be appointed by the Defense secretary with some consultation from unions.

Justice Department lawyer Joseph Lobue, who argued on behalf of the Defense Department and also represented the Homeland Security Department last summer in a similar case, said the government would appoint a chairman, hire staff and complete regulations on the structure of the NSLRB.

The NSLRB would not hear any labor disputes until March 1, Lobue added. Union lawyers agreed to the deal, although they said they will continue to contest the legality of the new board in their lawsuit.

The department said it will retain the right to continue training employees on the workings of NSPS and developing further details of the system. Recently, Defense announced a significant delay and scaling back of the first installment of the human resources portion of the system to allow more time to work on it.

Sullivan heard more than three hours of arguments on NSPS collective bargaining procedures, and called the Pentagon's ability to waive previously negotiated collective bargaining agreements "the principle question concerning the validity of the labor relations system."

In August, D.C. Circuit Judge Rosemary Collyer ruled that DHS' similar labor relations system was illegal, in large part because of this very ability.

Sullivan said he had read Collyer's decision closely. But both sides pointed out that Congress passed different laws to authorize the Defense and Homeland Security systems, and the departments have developed different regulations to implement them.

"It's a very separate case," Lobue said. "It's also a different regulation. The [DHS] regulation authorized the agencies to impose limitations on bargaining by any manager in the agency. Here the issuances that we're talking about can only be promulgated by a discrete group of people. You don't have a situation where the danger is a lower level agency official can impose a limitation on bargaining."

Also at issue in the case is the process by which the department developed the NSPS regulations. Government lawyers said the agency met its legal obligation to meet and confer with unions by holding a number of meetings and by receiving input to the regulations when they were published in the Federal Register.

But the unions argued that the meetings served no purpose because the agency ignored their comments.

Sullivan could rule that because the process was illegal, the regulations are voided in their entirety.

Big U.S. Telecom Contracts Delayed (WP)

By Arshad Mohammed

The Washington Post, January 25, 2006

The General Services Administration yesterday told bidders on its estimated $20 billion, 10-year "Networx" telecommunications contract that it had postponed the award dates until 2007 but gave no specific reason for the delay.

The telecom contract, the largest ever to be awarded by the GSA, is the grand prize in federal communications work and attracted bids from groups led by AT&T Inc., Qwest Communications International Inc., Sprint Nextel Corp. and Verizon Communications Inc.

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The contract is split into two parts. Networx Universal, the larger and more lucrative piece, requires bidders to serve more than 15,000 locations in the United States and overseas, providing noncombat communications for the military and U.S. missions in roughly 190 countries.

Winners of Networx Universal, whose award date has been delayed until March 2007 from July of this year, will share $525 million in guaranteed revenue. Beyond that they will bid for individual agency projects.

Networx Enterprise, whose contract award has been postponed to May 2007 from September of this year, is a more tailored piece of the project designed to give smaller companies without global reach a chance to bid for part of the work.

Spokesmen for AT&T, Qwest, Sprint Nextel and Verizon, which all bid on Networx Universal, said their companies were informed of the delay yesterday but were given no detailed reason.

The delay offers something of a silver lining for Sprint Nextel and Verizon because both provide the federal government with telecommunications services under the FTS 2001 contract, which will have to be extended because of the Networx delay.

Verizon has a piece of FTS 2001 because of its $8.5 billion purchase of MCI Inc., which was one of the winning bidders on that contract.

Sprint Nextel spokeswoman Stephanie C. Taliaferro said her company is negotiating a two-year extension of its FTS 2001 contract, which is due to expire in December, to take into account the Networx delay.

A GSA spokesman did not immediately return telephone calls seeking comment.

GSA spokesman Blake Williams earlier told Washington Technology he could not comment on the reason for the Networx delay.

A Threat To The Campaign Law (NYT)

The New York Times, January 25, 2006

Just when the American public - outraged by the growing lobbying scandals - is calling for more regulation of money in politics, the Supreme Court has opened the door for a move in the other direction. Its brief 9-to-0 ruling this week is technical in nature, but carries the potential to undermine campaign finance reform.

The decision involves the McCain-Feingold reform law, which the court upheld in a landmark 2003 ruling. During the 2004 elections, Wisconsin Right to Life, an anti-abortion group, wanted to run television ads that put Senator Russell Feingold, a Democrat who was in a tough re-election fight, in a bad light.

The ads expressed concern about the use of filibusters to block judicial nominees, and urged viewers to tell Senator Feingold, and Wisconsin's other senator, to oppose filibusters. McCain-Feingold bans the use of corporate and special-interest group money for "electioneering communications," which it defines in part as ads that run within 60 days of a general election and mention a candidate by name. But Wisconsin Right to Life argued that its ads were grass-roots lobbying - an attempt to change the process of judicial confirmation - not an electioneering effort to defeat Senator Feingold. Therefore, the group said, the ads did not come under the law's limitations.

The lower court interpreted the Supreme Court's 2003 ruling to mean that all ads of this kind were restricted within the 60-day window, and that lower courts should not get involved in trying to separate acceptable ads from unacceptable ones. But the Supreme Court disagreed this week, saying that courts could hear "as applied" challenges like Wisconsin Right to Life's, and consider which ads were really no more than grass-roots lobbying.

There is nothing wrong with that in principle. But it is important that the courts develop a narrow and honest test for when advertisements are grass-roots lobbying. In this case, Wisconsin Right to Life was actively opposing Senator Feingold's re-election. It had supported candidates against him, and the ads it wanted to run right before his election were clearly intended to encourage people to vote against him. The claim that those ads were unrelated to opposing Senator Feingold's re-election is simply not credible.

If the courts create a big "grass-roots lobbying" loophole, it will free corporations and special interests to run phony "issue ads" that are actually a form of unregulated campaign contribution. That is not what Congress wanted when it passed McCain-Feingold, and it is not what the public wants today.

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If this case comes back to the Supreme Court, as seems likely, it will be an important test of the new Roberts court. At his confirmation hearings, Chief Justice John Roberts Jr. expressed his commitment to "judicial modesty" and his respect for precedent. It would not be judicially modest to tear a gaping hole in Congress's landmark campaign-finance statute, and it would not show respect for precedent to undo a key part of the landmark 2003 case that upheld the law's reasonable restrictions on money in politics.

CIVIL RIGHTS:

Senate Approves Voter ID Requirement (AP)

By Doug Gross

AP, January 25, 2006

ATLANTA - Georgia voters would need photo identification to vote, under a bill that got approval from the state Senate on Tuesday.

The bill, which spurred several hours of emotional and sometimes racially charged debate on the Senate floor, now must return to the House for a vote on minor Senate changes. Gov. Sonny Perdue, who must sign it into law, has said he supports the bill.

The bill passed 32-22, largely along party lines. Sen. Jack Hill, R-Reidsville, a former Democrat who switched parties in 2003, was the only Republican voting against it.

The legislation would require a driver's license, military ID or a state-issued identification card, with a photo, to vote. It removes several forms of identification currently accepted, including Social Security cards, birth certificates and utility bills.

The plan was voted into law by the Legislature last year. But a federal judge blocked it, saying it amounted to an unconstitutional poll tax. Most voters who didn't already have approved identification would have paid $35 for a state ID.

This year's changes waive that fee and give equipment to each of Georgia's 159 counties to issue the cards.

Critics argued Tuesday, as they have since last year, that the plan unfairly impacts the poor, the elderly and minorities, who are less likely to have driver's licenses.

Supporters say the bill is an effort to crack down on voter fraud.

Sen. Cecil Staton, R-Macon, called critics' comparisons to the poll taxes of the segregation-era South unfair, saying his effort was about protecting the Constitutional right to vote.

"There is also another side to the civil rights argument," Staton said. "Our civil rights also dictate that we have a right to have our vote count, not disqualified by someone else who votes illegally."

Critics argued the plan is little more than an effort by majority Republicans to make voting more difficult for voting blocs that don't tend to support them.

"This is not about voter identification, but rather a voter constriction bill," said Sen. Ed Harbison, D-Columbus. "This ultimately will have a chilling effect."

Tuesday's debate, which took up virtually all of a seven-hour Senate session, failed to reach the highly emotional level of last year's - when one senator brandished shackles, saying the effort reminded him of slavery, and black Democrats led a walkout after the vote.

Still, Sen. Sam Zamarripa, D-Atlanta, derided the effort as "mean to old people" and Sen. Steen Miles, D-Decatur, referred to the "white sheet of power politics" after a speech that mentioned the Ku Klux Klan.

Sen. Preston Smith, R-Rome, argued that race had nothing to do with plan.

"Why should we intellectually accept that a system designed to verify identity through the use of a photo ID has a disparate impact on the minority community?" he said.

Hill, who did not speak against the bill, said that as a Democrat he helped author the state's previous voting laws and that he felt the 17 forms of identification formerly accepted to vote were sufficient.

Because the Senate made minor changes to the bill, it must now go back to the House for final approval.

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If signed by Perdue, the bill then would have to be approved by the U.S. Justice Department before it goes into effect. Georgia, like other states with a segregationist past, must get federal approval to any change in its voting laws.

SIU Receives Justice Department Proposal On Minority Fellowships (AP)

By JIM SUHR, Associated Press

AP, January 24, 2006

Southern Illinois University administrators are weighing a Justice Department proposal that would head off the government's threatened lawsuit over three allegedly discriminatory graduate fellowships, the university system's general counsel said Tuesday.

Jerry Blakemore refused to publicly discuss the Justice Department's recommendations but cast them as a breakthrough, marking the first time in months of negotiations that he's had a proposal of adequate clarity to take to SIU President Glenn Poshard and other administrators.

"We certainly believe we have sufficient understanding of the legal issues for me to be making a legal recommendation to the president, the board and the university," Blakemore said.

Though the Justice Department has not categorized the proposal as its final offering, Blakemore said the university was treating it as such "because we've had lots of discussions for some time" with the government.

Poshard and Walter Wendler, chancellor of the Carbondale campus, on Tuesday and Wednesday were to meet with SIU administrators and key "constituency groups" for feedback about the government's suggested solution to the dispute. After those private talks, SIU would respond, said Blakemore, not offering a time frame.

Justice Department spokesman Eric Holland said the agency was "currently in settlement negotiations with the university" and "hoped to resolve our differences without resorting to contested litigation."

The Justice Department demanded in writing in November that SIU halt the fellowships or be sued, arguing that the programs violate the federal Civil Rights Act of 1964 and result in "intentional discrimination against whites, non-preferred minorities and males."

SIU officials have denied that the fellowships discriminate, saying the financial aid incentives promote the university's tradition of diversity.

Two of the fellowship programs are aimed at increasing minority enrollment in graduate programs in which minorities are underrepresented. The third fellowship is offered to women — including whites — and minorities who have overcome social, cultural or economic obstacles.

Nearly 130 students have been aided through the fellowships, the university has said. Just under 8 percent of SIU's 5,500 graduate students are black or Hispanic, according to SIU.

The university has been in negotiations with the Justice Department for weeks but has refused to discuss the dialogue, which Blakemore on Tuesday called "good and fruitful."

Rob Benford, a sociology professor serving as president of the school's Faculty Senate, said Tuesday he looked forward to Poshard detailing the Justice Department's proposal during their meeting Wednesday — but that he would likely question any retreat by the university from the fellowships.

Last month, the Faculty Senate unanimously passed a symbolic resolution urging the school's administration to maintain the programs.

"These programs bring enormous benefit to the university," Benford said. "My concern is, where are the people who supposedly have been harmed by the current policy? All I can point to is people who have been helped."

Montgomery Repeals Lawn Sign Limit (WP)

By Tim Craig

The Washington Post, January 25, 2006

The Montgomery County Council voted yesterday to repeal a provision that requires property owners to remove lawn signs after 30 days or pay $30 to apply for a permit to keep them up longer.

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The American Civil Liberties Union had argued that the time limit -- a provision in a larger sign ordinance that had been in place since 1998 -- violates the First Amendment right to free speech, and the organization was threatening to sue the county.

Although county attorneys said yesterday that they were willing to defend the law, the council appeared reluctant to pick a fight with the ACLU.

"There is a disconnect between the U.S. Constitution and our sign ordinance, and that is why we must pass this bill," said council member Howard A. Denis (R-Potomac-Bethesda), a sponsor of an amendment to repeal the time-limit provision.

The repeal, which goes into effect Feb. 3, will apply only to private properties. Signs posted in public rights of way will still have to be removed after 30 days.

The two council members who voted against changing the law, Nancy Floreen (D-At Large) and Marilyn Praisner (D-Eastern County), warned that unsightly signs may soon proliferate in neighborhoods.

"The real issue is what it means for neighborhoods," Floreen said.

The ACLU represents a group of residents who erected signs to protest the planned construction of what they considered an oversize house in their Chevy Chase area neighborhood of Brookdale. A limited liability corporation headed by Thomas R. Eldridge, a developer and Somerset Town Council member, bought a 2 1/2 -story house in Brookdale in March and tore it down. The corporation has since broken ground on a house that residents contend will be four stories.

In August, several dozen residents posted signs in their yards that read, "Council Member Eldridge, We Don't Want Your McMansion for Profit in Our Neighborhood!"

In September, the county Department of Permitting Services, which in July approved Eldridge's plans for building the house, said the signs had to go.

When six residents refused, they were issued violation notices, the first step toward fines that could have approached $500.

After the ACLU got involved, County Executive Douglas M. Duncan (D) announced that he supported scrapping the 30-day limit. But the county Planning Board, concerned that lawn signs could stay up forever, urged the council not to act on the proposal.

Several community groups also opposed repealing the time limit.

"It opens the door to visual clutter," said Dennis Holden, co-chairman of the Fairland Coalition, a community group in the Burtonsville area.

But council member Phil Andrews (D-Gaithersburg-Rockville) argued yesterday that "eliminating clutter is not an argument for limiting free speech."

Defending The Faith New Battleground In Textbook Wars: Religion In History (WSJ)

By Daniel Golden, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, January 25, 2006

The victors write the history books, the saying goes. But increasingly, religious advocates try to edit them.

Religious pressure on textbooks is growing well beyond Christian fundamentalists' attack on evolution. History books are the biggest battleground, as groups vie for changes in texts for elementary and secondary schools that cast their faiths in a better light.

Two Hindu groups and a Jewish group have been set up in the past three years as textbook watchdogs, adding to Islamic advocates who have monitored history textbooks since 1990. In addition, some Sikhs have started to complain about being short-changed in history textbooks.

QUESTION OF THE DAY

1 • Cast Your Vote: Do you think the history books used in your local schools are accurate?2

All are seeking to extract concessions as California holds its periodic approval process for history textbooks. The process drives school-district purchases in the most populous state, and books adopted for California typically are the ones that schools in the rest of the country end up using for several years.

Hindu groups, in particular, have swamped California authorities with proposed revisions, which would delete or soften references to polytheism, the caste system and the inferior status of women in ancient India. For example, the Hindu Education

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Foundation, a group linked to a Hindu nationalist organization in India, proposed replacing a textbook's statement that "men had many more rights than women" in ancient India with: "Men had different duties ... as well as rights than women. Many women were among the sages to whom the Vedas [sacred texts] were revealed."

California's Curriculum Commission endorsed this and most other changes pushed by Hindu groups, moving the matter along to the state board of education, which usually follows its advice. But then a strong objection to such changes arrived from a group of U.S. scholars, led by a Harvard professor, Michael Witzel. The scholars' protest, in turn, led to a lawsuit threat, a call for Harvard to disband the professor's department, and finally an unusual state-sponsored head-to-head debate between two scholars of ancient India.

Underlying such free-for-alls is the question of whether lobbying by religious groups yields a more sensitive and accurate version of history or a sugar-coated one -- and also whether students are served better or less well. "It tends to be scholar pitted against believer," says Kenneth Noonan, a member of the state education board.

For textbook publishers, meanwhile, to ignore religious groups is to risk exclusion from markets. One of the nation's largest school districts, Fairfax County, Va., dropped a McGraw-Hill Cos. 10th-grade text from its recommended list last year after complaints from Hindu parents, keeping it out of classrooms there.

Religious protests nearly crippled Oxford University Press's effort to enter the U.S. world-history textbook market. The prestigious university press sought to impress California authorities with cutting-edge scholarship and narrative verve, but the Curriculum Commission initially recommended against adopting Oxford's sixth-grade book last fall after Jewish and Hindu groups objected to it.

The Institute for Curriculum Services, a Jewish group set up in 2004 to scrutinize textbooks, was upset by the book's statement that archaeology and ancient Egyptian records don't support the Biblical account of the Exodus of the Israelite slaves from Egypt. While conceding this was true, the group said the book didn't apply the same skepticism to Islamic or Christian events, such as when it said that "ancient writings" and the Gospel according to Matthew relate that "wise men (probably philosophers or astrologers) followed a brightly shining star" when Jesus was born. Similarly, the book said that "according to Muslim tradition," the prophet Muhammad flew into heaven from the site of the Dome of the Rock mosque.

The Hindu groups, meanwhile, called the book's tone insensitive, such as its heading over a column about vegetarianism in India: "Where's the Beef?" The state board finally put the book on its approved list after Oxford cut the passages found objectionable and added a paragraph saying that for Jews, the Exodus is a "central event in their history" and "powerful symbol of the importance of freedom."

Casper Grathwohl, an official of Oxford University Press, says it preserved its integrity, and the give-and-take improved the text. But he complains that "the process is skewed toward giving the loudest voices what they want."

Every six years, California adopts a list of history books for kindergarten through eighth grade, and districts can spend designated state money only for books on this list. Publishers typically roll out new textbooks for the state, whose districts are expected to buy nearly $200 million of history books over the next two years. California alone represents 10% to 12% of the national textbook market.

In the 1970s and 1980s, history texts shied away from religion. "They didn't use the 'capital G' word," says Roger Rogalin, a publishing consultant. "They said the pilgrims gave thanks on Thanksgiving, but they didn't say to whom."

Difficult Goals

Prodded by religious groups, states began requiring more coverage of the topic. But they imposed goals that can be hard to reconcile: both maintaining historical accuracy and enhancing the pride and self-esteem of believers. California's guidelines, for instance, say students "should understand the intense religious passions that have produced fanaticism and war." But also, texts should avoid "reflecting adversely" on anyone's creed or instilling "prejudice against...those who believe in other religions."

Such cautions provide an opportunity for religious activists such as the Council on Islamic Education in Fountain Valley, Calif. In California's most recent review, the council called for extensive changes, most of which the state appears likely to accept.

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One target: A Prentice Hall text said the medieval spread of Islam was partly due to military conquest. "Actual conversion to Islam did NOT occur...at the point of a sword," the council told the state. A specialist appointed by the state board to review Islamic coverage recommended dropping the reference, and Prentice Hall says it will do so.

Publishers often hire the Council on Islamic Education to prescreen manuscripts. In California, the council is a "content consultant" for Houghton Mifflin Co. and Ballard & Tighe Co., an educational publisher in Brea, Calif. The council has sometimes advised Prentice Hall and other publishers as well.

Publishers have allowed the Islamic group to "dictate" content, charges Gilbert Sewall, director of the American Textbook Council, a New York nonprofit group that reviews history texts and has said they often lack depth and factual fidelity. "Islamic pressure groups have been working energetically for 15 years to scrub the past in instructional materials," he wrote to California officials. He added that "textbooks submitted either gloss over jihad, sharia [Islamic law], Muslim slavery, the status of women and Islamic terrorism -- or omit the subject altogether."

Houghton Mifflin says it hasn't ceded any control to the Council on Islamic Education, and seeks Hindu, Jewish, Protestant, Catholic and Buddhist perspectives too. "We listen to their input and weigh it against what our scholarly authors believe is true," a spokesman says. Ballard & Tighe says its text was examined by Jewish and Hindu experts as well as the Islamic council. "We're mostly looking not to insult people," says an executive of the publisher. A spokeswoman for Prentice Hall says it has found the Council on Islamic Education to be a "solid resource for reviewing content."

The council's founder, Shabbir Mansuri, says that texts are treating Islam better not because of his efforts but because of state guidelines that stress sensitivity toward religious beliefs.

Disputes over textbook portrayal of Hinduism are a staple of politics in India, and the concerns have arrived in America along with many Indian immigrants. The conventional view of ancient India in U.S. history texts is that men enjoyed more rights than women and that, then as now, Hindus worshipped many gods and were divided into castes.

But the Hindu Education Foundation and the Vedic Foundation, the educational arm of a Hindu temple in Austin, Texas, say Hinduism is monotheistic because all of its deities are aspects of one god, Brahman. So when one textbook referred to Hindus visiting temples to "express their love of the gods," this should be changed to "express their love for God," said the Vedic group.

The groups repeatedly proposed deleting references to the caste system and making other changes that burnished the image of Indian history and culture. For instance, McGraw-Hill's book said of an early monarch called Asoka that his "tolerance was unusual for the time." The Hindu Education Foundation suggested changing "unusual" to "usual."

'Source of Misunderstanding'

At the Vedic Foundation, "Our motto is to re-establish the greatness of Hinduism, and part of that is to correct the textbooks," says Janeshwari Devi, director of programs. "Those are a source of misunderstanding, prejudice and derogatory information."

Some Hindu students say they're humiliated in school because texts dwell on customs such as ostracism of untouchables and an old tradition, rarely observed today, of "sati" -- widows immolating themselves on their husbands' funeral pyres. Trisha Pasricha, a high-school junior in a Houston suburb, says she used to deny being Hindu to classmates because she was tired of refuting stereotypes perpetuated by textbooks and teachers. "The textbooks bring up all these obscure practices, like bride burning, and act like they happen every day," she says. "The biggest mistake is that Hinduism is portrayed as polytheistic. And the caste system has nothing to do with Hinduism. But no one believes you, because it's in the textbook."

But some prominent scholars, both non-Hindu and Hindu, say the books were right. According to Madhav Deshpande, a Sanskrit professor at the University of Michigan who is Hindu, Hinduism is polytheistic and linked to the caste system, and women did have inferior status in ancient India.

He says the Hindu groups hold a mistaken position that dates to when India was ruled by Britain in the 19th century and under pressure from Christian missionaries. The missionaries told prospective converts Christianity was superior because it had one god, treated women fairly, and didn't have castes, Mr. Deshpande says, adding that to counter, Hindu intellectuals made up an argument that their religion had once been the same way. The foundations' contention that the caste system developed separately from Hinduism is incorrect, he maintains, because "in ancient texts, there is no distinction between the religious and nonreligious domains of life."

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Jackson Spielvogel, a retired Penn State professor and author of McGraw-Hill's "Ancient Civilizations" textbook, says, "You can't allow Hindu nationalists to rewrite the history of India.... It becomes an issue of censorship."

To review changes proposed by the Hindu groups, California hired an expert recommended by one of the groups: Shiva Bajpai, a retired California State University history professor. He endorsed most of their changes. "I want to recognize the negatives but project the positives," says Mr. Bajpai, who is Hindu.

With his blessing, the changes were rolling toward ratification by the state board when Harvard's Prof. Witzel unexpectedly intervened. Alerted by an Indian-American graduate student whom the Vedic Foundation had approached to support its changes, Mr. Witzel wrote to the board the day before a Nov. 9 meeting at which approval of the Hindu-backed changes was expected. "They are unscholarly [and] politically and religiously motivated," wrote Mr. Witzel, a Sanskrit professor. His letter was co-signed by nearly 50 scholars, including Mr. Deshpande of Michigan.

Mr. Witzel calls the Hindu Education Foundation a front for a prominent nationalist group in India, the Rashtriya Swayamsevak Sangh, whose leader caused a stir in November by urging Hindu women to have more children to keep up with the Muslim growth rate. A spokesman for the Hindu Education Foundation acknowledges a connection -- it was established by the U.S. counterpart of the Indian group -- but says it acts independently.

State officials did an about-face after they got Mr. Witzel's letter, inviting him and two like-minded scholars to scrutinize Mr. Bajpai's recommendations. When the three advised restoring much of the textbooks' original wording, angry letters began pouring in from Hindu groups. One, the Hindu American Foundation, threatened to sue the state. A petition from Hindu advocates called on Harvard to end its association with "Aryan Supremacist Creationist hate mongering." Harvard responded by defending Mr. Witzel's academic freedom.

The groups persuaded two members of California's congressional delegation to weigh in. Rep. Pete Stark, a Unitarian, and Rep. Linda Sanchez, a Catholic, asked the state superintendent of public instruction to investigate Mr. Witzel. The superintendent replied that the state had already held three public hearings on the history texts, received more than 1,000 pages of testimony, and considered more than 800 textual changes.

The pendulum swung back on Dec. 2, when the Curriculum Commission voted to support most of the changes sought by the Hindu foundations. "We have to err on the side of sensitivity toward religion," a commission member, Stan Metzenberg, said at the time.

The game wasn't over. Other Hindu groups -- including members of the "untouchables" caste -- entered the fray on Mr. Witzel's behalf. The Dalit Freedom Network, an advocacy group for untouchables, wrote to the education board that the proposed Vedic and Hindu Education Foundation changes reflect "a view of Indian history that softens...the violent truth of caste-based discrimination in India.... Do not allow politically-minded revisionists to change Indian history."

Caught in the cross-fire, the board of education summoned Mr. Witzel and Mr. Bajpai to an unusual private session Jan. 6. Before board and commission members, staffers and the board's lawyer, the scholars debated each edit.

"It was a gladiator combat," Mr. Bajpai recalls, "the most acrimonious thing I have ever done in my entire life. It deteriorated into me telling him he didn't understand anything." Mr. Witzel says Mr. Bajpai "mixed his religion with scholarship."

The duo did reach consensus on some changes. They agreed to narrow the McGraw-Hill text's statement that men in ancient India had "more rights" than women to "more property rights" -- but not to the Hindu groups' preferred wording of "different" rights.

Still, it isn't certain the compromises reached by the two scholars will stand. At a meeting Jan. 12, the state board of education created a subcommittee to reconsider the matter -- and to prepare for still more religious pressure when books are expected to be added to the list in two years.

Write to Daniel Golden at dan.golden@wsj.com3

Public Schools Looking At Bible Literacy Class Backers Say Course Is Academic; Others See Religious Motive (USAT)

By Mike Linn

USA Today, January 25, 2006

DOJ_NMG_0011261

High schools across the nation are considering an elective course in Bible literacy. That's pitting advocates of church-state separation against proponents of the class who say their mission is purely scholarly.

Lawmakers in Alabama and Georgia in the past few weeks have introduced legislation clearing the way for their high schools to offer the course, which is based on the textbook The Bible and Its Influence.

The book's publisher, the Fairfax, Va.-based Bible Literacy Project, says about 300 school districts are considering the course, which covers the Old Testament, followed by both Jews and Christians, and the New Testament, the story of Jesus and his disciples.

In the past week, the school board in New Braunfels, Texas, voted to offer the course next year. Some high schools in California, Oregon and Washington, where the text was tested in a pilot program last year, already are offering it.

Charles Haynes, senior scholar at the Freedom Forum First Amendment Center, says the textbook, which is promoted as an examination of the Bible's influence on literature, art, history and culture, successfully keeps religion out of public schools. The center is a non-profit institute that promotes constitutional freedoms covered by the First Amendment.

"If you're considering a Bible elective, look at this textbook," says Haynes, who helped review a draft of the book with 41 other scholars, including Christians, Jews and agnostics. "They've done a Herculean effort to make it as constitutional as they could."

The textbook does have critics, including Americans United for the Separation of Church and State.

"There has been an effort underway for many years to try to do an end run around the Supreme Court's rulings on religion in the schools, and we see this as the latest move," says Joseph Conn, a spokesman for the group.

The textbook has generated no lawsuits, says Sheila Weber, a spokeswoman for the Bible Literacy Project. Jeremy Gunn, director of the American Civil Liberties Union's Program on Freedom of Religion and Beliefs, also says he hasn't heard of any litigation.

"If people were to actually implement this in a fair and neutral way, there wouldn't be any lawsuits," Gunn says. "If people are going to use this as a backdoor way to proselytizing in public schools, I would imagine there would be lawsuits."

Conn says the textbook paints the Bible's influence mostly in a positive light. However, Chuck Stetson, founder of the Bible Literacy Project, says the textbook does examine the Bible's negative impact. As an example, he cites a boxed feature in the book that he says shows the Bible was used "to justify and even encourage anti-Semitism."

Stetson describes the course as being academic and says it helps connect the dots for students who would not be able, for example, to understand the works of Shakespeare without understanding their biblical references.

The 'Whites Only' Retirement Fund (NYT)

The New York Times, January 25, 2006

Americans tend to think that the worst forms of institutional racism simply went away after Congress passed the landmark civil rights laws of the 1960's. But black police officers in Georgia who were denied membership in a supplementary retirement fund decades ago for reasons of race know better. Because of Jim Crow policies that barred them from the fund as shamefully late as the mid-1970's, many of these officers are facing troubled and underfunded retirements, with benefits substantially lower than those of their white colleagues.

The Georgia Legislature inexplicably failed to help these officers when a bill came before it two years ago, but it has received a new bill and a fresh opportunity to show its commitment to simple justice. Under the current bill, being shepherded by State Representative Tyrone Brooks, the state would assume half of what it would cost hundreds of working black officers to buy retirement coverage for the years they were barred from the fund.

If the measure is passed, which seems likely, it will take care of only those police officers who are still on the job. Retired officers are left out in the cold by a provision of the State Constitution that prevents the Legislature from helping them. To help this group, the voters would have to ratify an amendment to the State Constitution, which would first have to clear a State Legislature that has not been exemplary when it comes to issues of racial fairness.

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But Georgia should do whatever it takes to give justice to all of the people affected by this shameful episode. Beyond that, other Southern states with Jim Crow legacies should begin to prepare themselves to encounter similar issues. If this happened in Georgia, it almost certainly happened elsewhere.

ANTITRUST:

Microsoft Foot-dragging Irks EU And US (REU)

By David Lawsky

Reuters, January 24, 2006

BRUSSELS (Reuters) - For the first time in 12 years, Microsoft is in trouble on both sides of the Atlantic for the same reason at the same time -- failing to share information needed to remedy its antitrust violations.

The European Commission has reacted to Microsoft's foot-dragging with a threatened fine of up to 2 million euros ($2.46 million) daily. Now that the Justice Department this week for the first time expressed similar frustration, it will be up to a judge to decide if new action is necessary.

Microsoft's general counsel, Brad Smith, plans to hold a news conference in Brussels on Wednesday to discuss the case.

The United States and the European Commission take very different approaches to the software giant, but their recent statements have begun to resemble one another. One lawyer said that is because of the company's behavior pattern.

"There's a striking similarity between Microsoft's efforts to evade compliance with the European decision and its failure to properly comply with the U.S. settlement," said Thomas Vinje, a Brussels lawyer who represents Microsoft critics.

Microsoft has said it does not want to provide so much information that it would unfairly surrender its intellectual property to other companies.

"The current issue with the U.S. program is not comparable to the concerns raised in Europe. We have a program here that is successfully operating with 26 licensees and a dozen products shipping," Microsoft spokesman Jack Evans said by telephone from the company's headquarters in Redmond, Washington.

The governments say the remedies are aimed at restoring competition that Microsoft destroyed through illegal actions.

That competition, Brussels and Washington contend, will give consumers a broader choice and promote innovation.

Six years after a U.S. judge found Microsoft violated the Sherman Act against monopoly abuse, the Justice Department complained to a judge this week that the software giant had provided inaccurate information and failed to meet deadlines.

Two years after the European Commission found Microsoft had violated the 25-member bloc's antitrust laws, the EU regulator told Microsoft late last year that documentation it had provided was "fundamentally flawed."

"The Justice Department and the Commission's competition department have regular contact on this case," said Commission spokesman Jonathan Todd.

SIMILAR REMEDIES

In the United States, Microsoft is supposed to license its software to help rivals' servers work smoothly with its Windows operating system, because it competed unfairly in the 1990s.

In Europe, the Commission has ordered Microsoft to license its protocols -- rules of the road -- to help rivals' server software work with other servers and with its Windows operating system, because it competed unfairly in the late 1990s.

In each case, competitors need instruction to use the software.

But in a filing to the U.S. District Court in Washington, the Justice Department and 10 states said Microsoft was dragging its feet and its last filing had "not detailed the seriousness of the current situation."

The company had fallen significantly behind and needed to "dramatically increase the resources devoted to responding to technical documentation issues."

The U.S. filing said Microsoft had acknowledged it provided inaccurate information and on some occasions had been unable to provide accurate information.

The European Commission quoted a trustee nominated by Microsoft as calling the company's approach to documentation "fundamentally flawed in its conception and ... explanation and detail."

Throughout the fight, critics and governments have said that delaying the remedies perpetuates Microsoft's advantage while changes in technology and competition erode their relevance.

Wednesday was meant to be the deadline for the company to respond to the Commission's threatened fine, but once again Microsoft has gained time with a delay to February 15.

The last time the United States and Europe worked together on the case was in 1994, when they reached a joint agreement with Microsoft over licensing policies.

At one time, Microsoft also faced lawsuits from companies that complained its unfair practices had damaged their business, some following on cases brought by governments.

Microsoft settled those cases with AOL-Time Warner, Sun Microsystems, InterTrust Technologies, Novell, the Computer & Communications Industry Association and RealNetworks between 2003 and 2005 for about $4.5 billion.

The main legal actions left involve 30 governments -- the 25-nation EU and three other states linked to it in the European Economic Area, the United States and South Korea.

Microsoft Lags In Antitrust Compliance, U.S. Says (CNET)

By Anne Broache, Staff Writer, CNET News.com

CNET News, January 24, 2006

Microsoft is falling behind in meeting certain obligations under its antitrust agreement with the U.S. government, the Bush administration said.

The criticism, leveled by federal and state prosecutors in a document filed Monday with U.S. District Judge Colleen Kollar-Kotelly, largely surrounded the company's progress in developing technical documentation for developers who license the Microsoft Communications Protocol Program.

Microsoft started the program as part of its efforts to comply with a 2002 consent decree reached with the government.

Since its last court appearance in mid-November, Microsoft has "fallen significantly behind" in responding to concerns raised by a technical committee charged with overseeing the program's documentation project, according to the Washington, D.C., court document.

The project, known as Troika, is intended to be an automated system that can validate the accuracy of the technical documentation by comparing it to actual network traffic, Microsoft has said. The software giant originally expected to complete the project by February 2006.

Microsoft must "dramatically increase the resources devoted to responding to technical documentation issues," the number of which continues to grow, the prosecutors said.

Microsoft said in a statement that it is "working hard to resolve the concerns" raised by regulators.

"In our filing Jan. 17, we detailed the efforts we've made to increase the speed of our responses to technical documentation issues found by the Technical Committee," Microsoft said. "We also underscored our commitment to expend whatever resources are necessary to address these issues, including hiring as many qualified people as we can find to accomplish these highly specialized tasks."

The software maker also noted that 26 companies have taken licenses for its communications protocols and a dozen products have been shipped that use Microsoft technology.

The Justice Department and Microsoft are expected to file their quarterly status report on Feb. 8, and both parties are due in court on Valentine's Day for a status conference before Judge Kollar-Kotelly.

CNET News.com's Ina Fried contributed to this report.

Disney Announces Deal To Buy Pixar For $7.4 Billion (LAT)

By Jesus Sanchez

The Los Angeles Times, January 25, 2006

Walt Disney Co. today agreed to buy Pixar Animation Studios — which has produced the hits "Toy Story" and "The Incredibles" — in a $7.4-billion deal that will make Pixar CEO Steve Jobs the entertainment company's single-largest shareholder.

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The long-awaited buyout was announced after months of talks between the two companies to extend and expand a long-term distribution pact that was due to expire in June with the release of Pixar's most recent feature, "Cars."

The deal to acquire Emeryville, Calif.-based Pixar became a major goal for Disney Chief Executive Robert Iger, who began to work on repairing the company's frayed relationship with the animation studio as soon as he took control of Disney in October.

"The addition of Pixar significantly enhances Disney animation, which is a critical creative engine for driving growth across our businesses," Iger said in a statement.

Under the terms of the deal, each share of Pixar will be exchanged for 2.3 shares of Disney common stock. Jobs, who owns 50.6% of the Pixar stock, will vote his shares in favor of the deal and will join the board of directors of Burbank-based Disney.

The acquisition has been approved by the directors of both companies but must still be approved by the remainder of Pixar's shareholders.

"Disney and Pixar can now collaborate without the barriers that come from two different companies with two different sets of shareholders," Jobs said in a statement. "Now, everyone can focus on what is most important, creating innovative stories, characters and films that delight millions of people around the world."

The companies had broken off negotiations in 2004 when Jobs, who is also chief executive officer of Apple Computer Inc., clashed with Iger's predecessor, Michael Eisner.

Pixar President Ed Catmull will serve in the same position as head of Pixar and Disney animation studios. Meanwhile, John Lasseter, Pixar's highly regarded creative leader, will be chief creative officer of both animation studios and will advise Walt Disney Imagineering on the design of new attractions for Disney theme parks.

By acquiring industry leader Pixar, Disney would once again regain its role as a leader in the animation industry, which it pioneered with "Snow White and the Seven Dwarfs" in 1937 and dominated in the 1990s with such hits as "The Lion King" and "Beauty and the Beast."

But Disney's animation division produced several costly failures recently, including "Treasure Planet" and "Atlantis: The Lost Empire." In contrast, Pixar has generated such box office hits as "Monsters, Inc." and "Finding Nemo."

Disney In $7.4bn Pixar Deal (FT)

By Joshua Chaffin and James Politi

Financial Times, January 25, 2006

Walt Disney on Tuesday agreed to acquire Pixar, the animated film studio, in a $7.4bn deal it hopes will revive its animation department and better position the company to compete in a media industry being remade by digital technology.

As part of the agreement, which is expected to be finalised this summer, Steve Jobs, Pixar's founder, will take a seat on Disney's board and become the company's biggest shareholder.

Another key Pixar executive, Ed Catmull, will become president of the combined studios, while its creative guru, John Lasseter, will assume the title of principal creative advisor. In that role, Mr Lasseter will also help to develop new Disney theme park attractions.

After months of negotiation, Disney agreed to offer 2.3 of its shares for each Pixar share. Disney is betting that the acquisition will at a stroke restore it as the pre-eminent Hollywood animation studio, satisfying a goal set out by Robert Iger when he took over as chief executive nearly four months ago.

Animation is vital to Disney because the cartoon characters created by its artists and storytellers lie at the centre of its global businesses, from films to theme parks and consumer products.

"The addition of Pixar significantly enhances Disney animation, which is a critical creative engine for driving growth across our business," Mr Iger said.

Some analysts believe that the agreement could be even more valuable by bringing Mr Jobs, who is also chief executive of Apple Computer, and Mr Lasseter, into the Disney fold. Their technical wizardry would bolster Disney at a time when it and other media companies are attempting to sell their content on a variety of emerging digital platforms, including iPods, mobile phones and other devices.

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Mr Jobs said: “Disney and Pixar can now collaborate without the barriers that come from two different companies with two different sets of shareholders.”

Animators to suffer as success draws imitators

Click here

The deal confirms a remarkable reversal of fortunes for Disney and Pixar. Disney’s Magic Kingdom was built on animation, and was once synonymous with the art form. But it has faltered in recent years as its artists struggled to make the transition from hand-drawn cartoons to the computer-generated techniques Pixar made famous with the 1995 release of Toy Story. Since then, the studio, based near San Francisco, has produced string of hits, including Finding Nemo and The Incredibles.

The deal was greeted with enthusiasm by Wall Street although some complained about the price. “The price tag is a little more than people were expecting,” said analyst Dennis McAlpine, of McAlpine Associates. Some analysts, such as JP Morgan’s Spencer Wang, have questioned an outright acquisition, arguing that it would dilute Disney’s earnings. There are also concerns that Mr Jobs could face conflicts of interest between his job at Apple and a new role at Disney.

Nonetheless, Disney’s shares continued a recent rally, closing Tuesday’s trading day in New York up 47 cents, or 1.8 per cent at $25.99. Pixar was down 70 cents at $57.57, giving it a market capitalisation just shy of $6.9bn.

The two sides have held long-running talks about renegotiating an agreement under which Disney distributes Pixar’s works. That deal was set to expire in June with the release of Cars. It appears to have escalated to include the possibility of a strategic partnership or sale after Mr Iger took over from Michael Eisner, the long-time Disney chief executive who had clashed with Mr Jobs.

A final deal would raise the question of whether Pixar could maintain its creative force as part of a much larger Disney empire. It has also focused attention on John Lasseter, the Pixar creative director, who some analysts believe may be more important to Disney’s ultimate success than Mr Jobs. Mr Lasseter was a Disney animator before he bolted for Pixar years ago.

Disney Reaches Deal To Buy Pixar For $7.4 Billion In Stock (NYT)

By Laura M. Holson And Andrew Ross Sorkin

The New York Times, January 25, 2006

LOS ANGELES, Jan. 24 - The Walt Disney Company said this afternoon that it would buy Pixar Animation Studios in a stock transaction valued at about $7.4 billion, in a deal that comes almost 15 years after the companies began their lucrative partnership.

Disney said it would exchange 2.3 of its shares for each Pixar share, valuing Pixar at $59.77 a share, an almost 4 percent premium based on closing share prices today. The deal would also place senior executives from Pixar in key roles overseeing both the Pixar and Disney animation studios.

John Lasseter, Pixar's chief creative officer and a former animator at Disney, will have the same title covering both animation units and will also become the principal creative adviser to the Disney unit that designs new attractions for the company's theme parks, and in that capacity will report directly to Robert A. Iger, Disney's chief executive. Pixar's president, Ed Catmull, will be the president of the combined studios and will report to Mr. Iger and Dick Cook, chairman of the Walt Disney Studios.

Stephen P. Jobs, Pixar's chairman and chief executive, will get a seat on Disney's board. Mr. Jobs owns 50.6 percent of the outstanding shares of Pixar and has agreed to vote at least 40 percent of the company's oustanding shares in favor of the transaction.

Shareholders of Pixar will have to approve the acquisition, which will also be subject to antitrust review by federal regulators.

The deal comes two years ago Disney and Pixar began renegotiating a distribution agreement that would have given Disney the right to distribute Pixar's films after the release of the forthcoming "Cars." (The two jointly produce Pixar movies although Disney owns the rights. The agreement ends after "Cars.")

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At that time, as with these talks, price was an issue. In 2004, Mr. Jobs was demanding that Disney share rights to the movies that Pixar had yet to make, including "The Incredibles," which was released in 2005, as well as "Cars." But Disney, which owned all of the rights to these movies, did not want to give them up.

Mr. Jobs appeared to cast the deal as a way to resolve those discussions and move on to the important business of movie making.

"Disney and Pixar can now collaborate without the barriers that come from two different companies with two different sets of shareholders," Mr. Jobs said in a statement. "Now, everyone can focus on what is most important, creating innovative stories, characters and films that delight millions of people around the world."

In the same statement, Mr. Iger said: "The addition of Pixar significantly enhances Disney animation, which is a critical creative engine for driving growth across our businesses."

Pixar, based in Emeryville, Calif., has grown to hundreds of employees from about 44 in 1986, two years after Mr. Jobs acquired the company from the director George Lucas for $10 million. Pixar and DreamWorks Animation have led the way in computer animation for films.

Last year, talks about renewing the distribution deal with Pixar arose again after Mr. Iger was named chief executive of Disney. Mr. Iger began thinking about the acquisition last fall when it became clear to him that distribution alone would not add much value to Disney overall, said a person who discussed the matter with the Disney chief.

Disney's own animation unit lagged behind its peers, and Mr. Iger made it a priority to improve its operation. Animation is essential to Disney's success because it provides the characters that drive the company's theme parks, consumer products and cable television programs. In recent years, Pixar has become a steady supplier of such characters.

In after-hours trading today, shares of Pixar were up $1.95, or 3.4 percent, to $59.52; shares of Disney were up 10 cents, to $26.09.

Disney, Pixar Merge In $7.5B Deal Once-hostile Relationship Evolves Into Marriage (USAT)

By David Lieberman And Laura Petrecca

USA Today, January 25, 2006

NEW YORK — Disney and Pixar made it official Tuesday: The entertainment giant agreed to buy the computer-animation studio for stock valued at nearly $7.5 billion based on Disney's closing price Tuesday of $25.99.

They chose to merge instead of renewing their production and distribution deal that expires in June because “no matter what kind of partnership we had, we're still two separate, publicly traded companies,” Pixar CEO Steve Jobs says. “Sometimes that stuff just gets in the way of making the best films we could,” as well as using Pixar's characters in Disney's theme parks.

They expect the deal to close this summer. It will make Jobs, who owns about half of Pixar, Disney's No. 1 shareholder, with 6.6%. He will join the Disney board.

Disney is offering 2.3 shares of its stock for each Pixar share. That's a 3.8% premium on Pixar's closing price of $57.57, which already is up 8% since Jan. 3 on investor anticipation of a deal.

There's no collar on the agreement, which means the value will rise or fall with Disney's stock price. Disney is issuing new stock but says it will buy back shares to return to the current float in 2007.

The agreement represents a startling change of direction for Disney's animation unit — arguably its most important business.

The operation that produced classics such as Snow White and The Lion King failed to keep up with computer animation and released a series of disappointments, including Treasure Planet and The Emperor's New Groove.

Disney CEO Robert Iger will put Pixar President Ed Catmull in charge of Disney and Pixar's animation operations, which will remain in their respective quarters in Burbank and Emeryville, Calif. Catmull will report to Iger and Disney studio chief Dick Cook.

In addition, Pixar's John Lasseter — who wrote and directed Toy Story, A Bug's Life, Toy Story 2, and the upcoming Cars — will report to Iger as chief creative officer for the animation studios and principal creative adviser for Walt Disney Imagineering, which develops theme park attractions.

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Iger's willingness to give Pixar so much control is a sharp break from the management style of his predecessor, Michael Eisner. Clashes between Eisner and Jobs caused earlier deal talks to break down.

The company says the Pixar executives will decide whether to streamline operations or lay off people in their units. And Iger leaves open the possibility that Catmull and Lasseter might tinker with Disney films in production.

Lassiter will remain under contract until 2011. Catmull does not have a contract.

Disney Sets $7.4 Billion Pixar Deal (WSJ)

By Merissa Marr And Nick Wingfield

The Wall Street Journal, January 25, 2006

With Walt Disney Co.'s $7.4 billion deal to acquire Pixar Animation Studios, the combined animation powerhouses face a tricky task: how to revive Disney's animation efforts without disrupting the formula that has made Pixar one of the most successful moviemakers in Hollywood history.

The stock deal announced yesterday represents a quick fix for Disney's lagging animation business, which relies on movie characters that can be spun across its theme park, merchandise and television empires. Pixar has in the last decade become the gold standard in animated filmmaking with computer-generated hits like "Finding Nemo," while Disney's own efforts have tailed off in popularity, and its pipeline is uncertain. Disney has benefited from Pixar's success by co-financing and distributing Pixar films, but that arrangement was set to expire this year.

The proposed deal comes with risks. Disney is acquiring Pixar in the midst of a profitable winning streak -- all six of its movies have been blockbusters -- in a business where failure is considered an inevitability. It also comes when revenue from DVD sales, a key movie-industry driver, may have passed its peak. And the companies face a cultural challenge in trying to maintain Pixar's esprit de corps.

As part of the deal, Pixar Chairman and Chief Executive Steve Jobs will become Disney's largest individual shareholder and a key adviser at a time when the entertainment industry is scrambling for ways to reinvent itself in a digital era. Mr. Jobs, who also heads Apple Computer Inc. will join Disney's board and take a stake of around 6.5%. He ruled out becoming Disney's chairman in future, however, saying: "that's not on my radar. Being chairman of a public company is an awful lot of work."

Regardless, even Mr. Jobs' Pixar colleagues expect him to become a potent force on the Disney board. "They're going to have to install seat belts in that board room because when Steve gets in there, he'll be a ball of fire," said John Lasseter, the Pixar creative guru who will play a pivotal role in the combined company. (See related article1.)

In an interview, Mr. Jobs said an important consideration in the decision to unite with Disney was Pixar's desire to make new movies based on existing Pixar characters. Under their distribution deal, Disney retained rights to create sequels to Pixar movies. "The opportunity to reunite the family was certainly a factor in our decision," Mr. Jobs said. He added that Disney was the only company with animation in its DNA and an "incredible collection of unique assets like theme parks."

Mr. Jobs, who owns 50.6% of Pixar's stock, is making his move as Pixar's stock hovers around an all-time high. Pixar's stock has rallied 33% since the start of 2005. In 4 p.m. composite trading on the Nasdaq, Pixar shares were down 1.2% at $57.57. Disney shares were up 1.8% at $25.99. As part of the agreement, Disney will issue 2.3 of its own shares for each Pixar share. The total price includes $1 billion of Pixar cash.

For Disney, CEO Robert Iger said the consideration was about "getting a business that is vital to the future of Disney right." In evaluating the price, Disney said it was confident Pixar's box-office success would continue but recognized that not all its future films would be sure-fire hits. The company also took into account the current trends at the box office and in DVD sales.

Messrs. Iger and Jobs acknowledged that the key was to maintain Pixar's unique culture. "Most of the time that Bob and I have spent talking about this hasn't been about economics, it's been about preserving the Pixar culture because we all know that's the thing that's going to determine the success here in the long run," said Mr. Jobs. At the same time, Pixar President Ed Catmull and Mr. Lasseter will "help provide a slightly different culture at Disney feature animation that will maximize some of the talent there to make even better films," said Mr. Jobs.

Mr. Catmull, who co-founded the studio, will become president of the combined Pixar/Disney animation business. Mr. Lasseter will take a role as chief creative officer of the combined company as well as a creative role advising Disney's

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Imagineering division, helping design attractions for the theme parks. Pixar will remain based in Emeryville, Calif., far from Disney's Burbank, California, home.

Another vital piece of the puzzle is securing Pixar's core creative team beyond Mr. Lasseter, including the likes of Pete Docter, Andrew Stanton and Brad Bird. Mr. Iger said Disney would continue with Pixar's practice of not making its creative team sign contracts. However, he said they would be enticed with Disney stock options.

Mr. Iger said he first considered an acquisition while watching a parade of characters at the opening of Hong Kong Disneyland last September. In buying Pixar, Disney leapfrogs back to the top of an increasingly crowded competitive landscape in animated films. That field includes not only DreamWorks Animation SKG, home of the "Shrek" movies, but also other players that have emerged in the last couple of years.

A big question is how good Pixar's pipeline is going forward. From its first movie, "Toy Story," through 2004's "The Incredibles," every Pixar film has been a substantial hit. Pixar's next movie is "Cars." But Pixar hasn't announced its slate beyond that.

Disney said the plan was for Pixar and Disney to each make one animated movie a year, although there may be years when they make more movies.

The deal won praise from Roy Disney, the company's former vice chairman and a major shareholder who led a shareholder revolt against the company in 2004. "This clearly solidifies the Walt Disney Company's position as the dominant leader in motion picture animation and we applaud and support Bob Iger's vision."

Disney was advised by Goldman Sachs Group Inc. and Bear Stearns Cos. and law firms Dewey Ballantine and Skadden, Arps, Slate, Meagher & Flom. Pixar was advised by Credit Suisse and law firm Wilson Sonsini Goodrich & Rosati.

Pixar's Magic Touch (WP)

By Yuki Noguchi

The Washington Post, January 25, 2006

When Apple Computer Inc. founder Steve Jobs bought what became Pixar Animation Studios for $10 million in 1986, it was a small animation-systems firm with a few alumni from Walt Disney Co., not the least of whom included creative director John A. Lasseter.

Yesterday, Disney secured the return of Lasseter and his talented team as part of a $7.4 billion deal for Pixar aimed at jump-starting the media giant's animation empire.

Over the past two decades, the 730-person Pixar has garnered a reputation as a place where creative genius thrives, and in recent years the studio has far outpaced the bigger and more institutionalized Disney with hits such as "The Incredibles" and "Finding Nemo." Beyond its money-making ability, Pixar won critical acclaim for bringing adult emotional appeal to a traditional kids' medium.

Pixar started as a computer graphics company, and it is still known for its technical prowess and its ability to digitally replicate the look and texture of rusting cars, peeling paint and fur blowing in the wind. But Pixar's hands-off management style and its artisan cultivation of the creative process have helped it become the benchmark against which the rest of the industry measures itself.

"For us now, the high-water mark is Pixar," said Dug Ward, manager of the Animation Workshop at the University of California in Los Angeles film school. "I remember just a few years ago when students wanted to go to work for Disney. Now they want to go to Pixar."

Under the deal, Pixar President Edwin E. Catmull, 60, would head Disney and Pixar's animation studios, and Lasseter, 49, would head the creative operations of both companies' animation divisions.

News of the merger prompted some animators to worry whether Pixar would be able to maintain its free-wheeling culture. Disney executives pledged to protect Pixar's independence but did not say whether the two companies' animation units might merge.

"A fear a lot of us have is . . . if Disney takes over Pixar and micromanages every detail, they will strangle the golden goose," Ward said.

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Even if Disney leaves Pixar alone, there is no guarantee that the relationship will lift the parent's fortunes on Wall Street. Ford Motor Co., for example, never really capitalized on its purchase of Jaguar, nor did America Online Inc. make much of its acquisition of Netscape Inc.

Lasseter, though, is among a handful of Pixar's longtime executives credited with shepherding the company from its early days as a spinoff of "Star Wars" director George Lucas's Lucasfilm operation to a powerhouse in animation. Lasseter graduated from a school founded by Walt Disney and his brother, the California Institute of the Arts, and started his career as an old-fashioned pen-and-paper animator at Disney, where making early film classic films like "Snow White and the Seven Dwarves" required millions of drawings. After moving to Pixar in 1984, Lasseter gravitated to computer animation, producing early short films like "Nick Nack" and "Luxo Jr."

Lasseter's hallmark is his ability to foster originality and create strong story lines, taking advantage of innovative technology to deliver the results, Ward said.

At an animated film screening in the late 1980s, Lasseter talked about his goals for computer animation, Ward recalled. "He was saying that his goal was to do an animated feature film, all in 3-D computer animation," and that high ambition set the crowd abuzz, he said.

When the company's movies first hit the screens, critics marveled at the attention to detail.

"One thing Pixar is good at doing is the eyes. You can tell so much about what someone's thinking with the eyes," Ward offered as an example.

By comparison, Disney's recent film, "Chicken Little," showed little in the way of originality, using old songs instead of an original score and employing gags already used in other animated films, he said. While both "Chicken Little" and "Nemo" both featured father-son dramas, "Nemo" made the audience care more, he said. Watching the Disney film "just felt like watching the 1970s cartoon," Ward said. "I can see why Disney would want to buy them back."

Starting with its 1995 Academy Award-winning hit "Toy Story," Pixar has six major feature films to its name, all of which were hits at the box office.

"Pixar is known for a cost-effective way of creating life-like animation," said Ivan Feinseth, an analyst with Matrix USA LLC, an institutional research and brokerage firm.

By comparison, Disney still garners $7.6 billion in studio-entertainment revenue -- far more than Pixar -- but it has become "the serial re-releaser" of old films, he said.

Still, the culture Lasseter has built at Pixar "is in some ways very close to the historical Disney culture," with its focus on story and the back and forth between the artist and the producer, said Steven D. Lavine, president of the California Institute of the Arts. "There is a real sense of cultivating the individual talents of employees."

In its release, Pixar credited Disney with helping to develop talent through a seven-year co-production partnership that ended in 2004, after Jobs's falling out with former Disney chief Michael D. Eisner.

"I'm very sensitive to what can happen when a company gets bought," Disney's president and chief executive Robert A. Iger said of the deal in a news conference yesterday. "I'm really deeply committed to seeing to it that Pixar is allowed to exist in the form it existed."

Disney To Buy Pixar Studios In Its Move To A Digital Era (WP)

By Steven Levingston And Mike Musgrove

The Washington Post, January 25, 2006

Walt Disney Co. announced yesterday that it will acquire Steve Jobs's Pixar Animation Studios in a deal aimed at restoring the Disney magic in the age of computer-generated animation.

As audiences have cooled to hand-drawn films, Disney has been slow to embrace the newer technologies behind such Pixar-produced hits as "Toy Story" and "Finding Nemo." The media giant hopes buying one of Hollywood's hottest studios for $7.4 billion in stock will help it in the intensifying competition for the hearts of young moviegoers.

"The goal here, above all else, is to make great animated films -- the rest kind of takes care of itself," Disney's new chief executive, Robert A. Iger, said in a conference call with investors yesterday.

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The deal opens the possibility of a wider partnership between Disney and Jobs, Pixar's chief executive and the head of Apple Computer Inc. Jobs, who would become a Disney director after the merger, has helped foster the cultural phenomenon of portable digital music and video with Apple's iPod. Iger and Jobs spoke enthusiastically yesterday about finding other avenues of cooperation as the new media era evolves.

Under Iger, Disney has been pushing hard to shake off an apparent weakness lingering from its days under former chief executive Michael D. Eisner, when the company had to fight off an unsolicited takeover bid by cable giant Comcast Corp. ABC, which is owned by Disney, has climbed in the ratings with hit shows such as "Desperate Housewives" and "Lost." Disney's ESPN network is a hot property on cable. But Disney's stock price has languished in recent years as the company has struggled to reassert its preeminence in animation.

The need to bolster Disney's animation division grew urgent as other studios moved aggressively into computer-generated production. The number of these types of films is growing yearly. Sony Pictures plans to release its first computer-animated movie this year, with another to follow in 2007. With Pixar's releases, Disney will likely catapult into the forefront of the field. It has its own computer-generated movies in the pipeline, including "Meet the Robinsons," scheduled for release this year, and "An American Dog" next year. But Disney's earlier computer-animated feature, "Chicken Little," did not garner the mega-sales typical of a Pixar release.

"Disney built the company on animation, and its hand went cold just as Pixar's went hot. This is big, big stuff for Disney," said Tom Adams, president of Adams Media Research, an entertainment-industry research and consulting firm.

As a result of the deal, Jobs would become one of Disney's largest shareholders. Pixar President Edwin E. Catmull would serve as president of the new Pixar and Disney animation studios. Pixar's executive vice president and powerful creative force John A. Lasseter, who once worked in animation at Disney, would become chief creative officer of the animation studios.

The deal came together only after Eisner left Disney, allowing Iger to smooth over the company's soured relations with Jobs. Eisner and Jobs had a contentious relationship, and analysts expected Pixar would look for a new distributor for its films after its arrangement with Disney expires this year.

"After a lot of soul searching and thinking and, of course, getting to know Bob, this looked to be the most exciting path for Pixar's future," Jobs said during the investor conference call with Iger.

By gobbling up a creative, intensely independent boutique studio, Disney has the challenge of encouraging new, high-quality work without stifling talent under its bureaucratic wing. It also hopes Jobs and his team will infuse other animation efforts at the company with their cutting-edge vision.

Anant Sundaram, professor at the Tuck School of Business at Dartmouth College, is skeptical that Pixar will have much influence over its huge parent. "One is hard-pressed to find where a much smaller entity comes in and changes a larger entity," he said. "What happens is the smaller entity and its modes of operating often get squelched."

Jobs discounted those concerns, saying he has grown to trust Iger. Much of the discussion leading up to the deal, Jobs said, "hasn't been about economics, it's been about preserving the Pixar culture because, as you know, that's what's going to determine the success in the long run."

Disney is buying Pixar after the small studio's remarkable run of blockbusters has translated into a lofty stock price. Under the deal, 2.3 Disney shares will be issued for each Pixar share, and Disney will pay about $59.78 a share for Pixar. That's about a 4 percent premium over Pixar's closing price yesterday of $57.57. The deal is slated to be completed by the summer.

The purchase price assumes that Pixar's successes will continue -- and will bring in a steady stream of revenue.

"Obviously, in the movie business, there's always a lot of risk," said Joseph Bonner, a media analyst at Argus Research Corp. "Pixar has an unbroken string of hits. The perceived wisdom is you do produce a flop sometime."

Iger said he recognized the risks implicit in investing in a film company. "Anytime you're putting money behind the creative process, there are risks associated with it," he said. But, he added, "Pixar has a track record that is unrivaled."

Although the deal would not officially affect Apple, speculating on possible byproducts of the agreement has become a popular pastime among Mac watchers. Some figure that becoming part of Disney will help Jobs score more content, including possibly feature-length films, for Apple's online music-and-video store, iTunes.

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Others argue that Jobs's alliance with Disney would sacrifice Apple's image as a neutral dealer among TV producers looking to put their shows online. And some Mac fans worry that the company is paying less attention to its computer products as it ventures further into music and entertainment.

For Disney and fans of animation, the deal could wind up bringing more people into the theaters. Pixar's influence could help improve the story lines and characters in Disney's future films, said John Canemaker, a professor at New York University's Tisch School of the Arts, where he is director of the animation program.

"The main problem with Disney recently was not technology but that its stories and characters just haven't caught on with the public as they did in the past," he said. "Pixar has had a winner every time and has become what Disney used to be in terms of well-crafted stories, vibrant personalities, warmth and heart."

Pixar Executive Played Key Role In Disney Deal (WSJ)

By Nick Wingfield And Merissa Marr

The Wall Street Journal, January 25, 2006

During their decade-plus partnership, relations between Pixar Animation Studios Chief Executive Officer Steven P. Jobs and Walt Disney Co.'s former chief, Michael Eisner, were as topsy-turvy as a roller-coaster ride at Disneyland. But even as animosity between the two men came close to destroying one of the most lucrative relationships in the film industry, a key Pixar executive -- John Lasseter -- held an emotional connection to Disney.

In the $7.4 billion agreement by Disney to acquire Pixar announced yesterday, Mr. Lasseter -- Pixar's top creative executive -- played an important role and now stands to assume an even more influential position: chief creative officer of Disney's animation studios and principal creative adviser of Walt Disney Imagineering, where he will work on designing new theme-park attractions.

While Mr. Jobs, with just over 50% of Pixar's stock, ultimately made the decision to sell the company, Mr. Lasseter's blessing of the deal was crucial to making it happen, according to people familiar with the matter.

How this will play with the Disney people is anybody's guess at this early stage. This much is certain: A former Disney employee himself -- both as a young artist and as a theme-park employee -- Mr. Lasseter never lost his love for all things Disney, or his desire to reunite with the company that played such a large role in his life.

"This deal would not happen if John didn't want it to happen," says former Disney studio chief Peter Schneider, part of the team that negotiated Disney's original deal with Pixar to distribute and co-finance its films.

Mr. Jobs said the support of Mr. Lasseter and Pixar's president and co-founder, Edwin Catmull, was key to making the deal work. "This wasn't my decision alone -- this was really Ed and John and me," Mr. Jobs said in an interview. "If any of the three of us hadn't wanted to do this, we wouldn't have done it."

Mr. Lasseter, 49 years old, is widely recognized as one of Pixar's most valuable assets, credited with helping to turn the company into a powerhouse in computer-animated films through his emphasis on compelling storytelling rather than bland technical wizardry. A traditional animator by training, Mr. Lasseter directed and helped write the script for 1995's "Toy Story," the first Pixar feature film, and its next movie, "Cars."

Mr. Lasseter is also deeply involved in overseeing the production of films by Pixar's stable of in-house directors. Going forward, he faces a tougher assignment: keeping Pixar on its long box-office winning streak while helping Disney return to its past glory in the medium it helped to pioneer. He will likely face insecurities all around, both from Disney animators who may feel usurped by the transaction, and from Pixar employees who fear their small-company style will disappear.

Mr. Lasseter's advantage lies in the fact that he has remained a familiar face at Disney even while Pixar was on the rise. His affinity for the company began during his childhood in Whittier, Calif., a half-hour from the Disneyland theme park in Anaheim, where he worked as a youngster operating the Jungle Cruise.

"It's really Disney blood throughout my veins," Mr. Lasseter said in an interview yesterday.

Inspired by the cartoons he loved as a child, Mr. Lasseter, just out of high school, enrolled in a new character-animation program at the California Institute for the Arts in Valencia, along with classmates that included the director Tim Burton. He went to work for Disney in the early 1980s, helping to animate movies like "Mickey's Christmas Carol."

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A turning point for Mr. Lasseter came during early screenings of the dailies from the Disney science-fiction movie "Tron," released in 1982. He was dazzled by the groundbreaking computer-animated special effects in the movie, and he helped to persuade Disney to do a short test film that combined hand-drawn animation with computer generated backgrounds.

While he was thrilled by the artistic possibilities that computer animation seemed to open up, Mr. Lasseter was put off by Disney's belief that computers could primarily be used to save money during the creation of animated films.

"There just wasn't an interest in pushing the technology of animation," Mr. Lasseter says.

That attitude and what he saw as the declining quality of Disney's animated films prompted him to leave the company in 1983 for a job at Lucasfilm Ltd., the Northern California movie-production company run by George Lucas. There Mr. Lasseter did groundbreaking work with other members of the computer-animation team at Lucasfilm, including Mr. Catmull.

Mr. Catmull will become president of the new Pixar and Disney animation studios as a result of the deal.

After Mr. Jobs acquired the Lucasfilm computer-animation group in 1986 for $10 million, renaming the new company Pixar, Mr. Lasseter helped to establish a relationship with Disney in 1991, from which came some of the most memorable and successful films of the past decade, including "Finding Nemo" and "The Incredibles."

Mr. Lasseter pitched "Toy Story" to Disney, and the two companies ended up making the movie together, according to people familiar with the situation.

Along the way, Mr. Lasseter has reaped the rewards of Pixar's success. He is, by far, Pixar's highest salaried employee, earning $2.9 million in salary during 2004, more than five times as much as Mr. Catmull earned, according to Pixar regulatory filings. Mr. Lasseter held Pixar shares, as of last July, valued at $26 million. He lives with his wife and children far from the bustle of Hollywood in the Sonoma County wine country north of San Francisco, where he owns a winery.

While at Pixar, Mr. Lasseter has stayed close to Disney, helping to design rides for theme parks based on Pixar characters such as Buzz Lightyear. At the 50th anniversary of Disneyland last year, Mr. Lasseter turned up at a small dinner for Disney executives, mingling alongside Mr. Eisner and Disney's current CEO Robert Iger, even as the relationship between Messrs. Eisner and Jobs remained deeply acrimonious. Mr. Lasseter often said to staff at Disney that he wished such tensions between the two men could be resolved.

Some people who know Mr. Lasseter, though, speculate that any support he has given for the Disney acquisition is likely driven more by a desire to help shape future films and other uses of Pixar's characters than by a love for Disney.

Under the two companies' distribution deal, which expires with the release of "Cars" this June, sequel rights to Pixar movies are owned by Disney, which had already begun development on its own script for "Toy Story 3" before Disney agreed to acquire Pixar, a prospect that horrified Pixar executives.

"That is the kind of thing that would break John's heart," says Pam Kerwin, a former Pixar vice president who left the company in 1999. "They're his children."

"There's no question that a big part of keeping the negotiations going, even when it was difficult, was because Disney had control of our characters that we had created," Mr. Lasseter said.

In his new role at Disney, Mr. Lasseter says he doesn't intend to force Disney's animation to copy everything Pixar does. "We're not going to come into Disney feature animation and insist everything becomes like Pixar." He adds: "The goal is simply to be there to help those artists make the best movies possible."

Imagining A Day Without BlackBerrys (WSJ)

By Jane Spencer And Jessica E. Vascellaro

The Wall Street Journal, January 25, 2006

The latest development in the legal battle involving BlackBerry hand-helds is forcing millions of people to confront an unsettling question: What would life be like without a BlackBerry?

While the possibility of a disruption in BlackBerry service is still extremely remote, the Supreme Court's decision not to hear an appeal by BlackBerry maker Research In Motion Ltd. on Monday has triggered new concerns that BlackBerrys -- the wireless email gadgets often dubbed crackberries because their users are so devoted -- could go dark.

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The BlackBerry started out seven years ago as a device for high-ranking corporate types, but it has quickly become a verb, a source of marital discord, a safety hazard for those who cross busy streets while responding to email, a status symbol (Will your company give you one?) and even a pick-up tool. (Michael L. Romero, a 27-year-old systems administrator in Phoenix, says his friends email him on his BlackBerry to point out "cute girls" at nightclubs.) The BlackBerry has been responsible for many an interrupted vacation and dinner hour, but it's also integral for keeping the wheels of commerce, government and even law enforcement moving. So even the inkling of a possibility that it could shut down has sent people scrambling to arrange backups.

Information-technology professionals at dozens of big companies -- including Citigroup Inc. and Boeing Co. -- are drafting contingency plans. Law firms such as White & Case LLP, a New York-based firm, are stockpiling alternative wireless email devices like the Palm Treo 700w. And dozens of government agencies -- including the Los Angeles Police Department -- are contemplating how they would operate without BlackBerrys, which are currently used to alert police captains in the field about homicides.

Roughly four million Americans have a BlackBerry device, and RIM controls about 50% of the market for wireless email devices, according to Gartner. "A stoppage of BlackBerry would cause major havoc," says Bob Egan, director of emerging technology at the research firm Tower Group. "CEOs use them, doctors use them, Wall Street guys use them."

But for the many BlackBerry victims, the prospect of a blackout is liberating. Patrick Blanchfield, who works for a New York-based nongovernmental organization, says it would prevent his boss from sending him emails at all hours of the night.

And Debra Lucas, an office manager in Ashburn, Va., says her husband is constantly checking the device, and she has banned it from the bedroom and restaurants. Still, she says she sometimes finds him hiding in the foyer, huddled up with the device. "It's like there's another woman -- but it's really just the BlackBerry," she says.

Some companies have put off purchasing BlackBerry upgrades. Law firm Hogan & Hartson has delayed an upgrade for the company's 1,000 lawyers until RIM's legal issues are resolved. In addition, the company is considering teaching lawyers how to use text messaging on their cellphones and looking at text-to-speech companies, including iHello and jConnect, that would allow lawyers to call in and have their email read to them over the phone by a computer.

Individual users are also trying to wean themselves off the devices in anticipation of a possible shutdown. Elana Centor, a 54-year-old free-lance writer, rarely lets her BlackBerry 7250 out of her sight -- that is, until earlier this week, when she decided to try to kick her habit in light of the lawsuit. "I'm preparing myself," says Ms. Centor of Minneapolis, describing how she suspended her routine of checking her email every 15 minutes and even went to the gym without the BlackBerry.

Meanwhile, interest in BlackBerry alternatives is taking off. Good Technology Inc., which makes wireless email software applications for devices such as Treo, Motorola Q and Nokia E-series devices, launched a "Try Good" campaign in December that allows corporate clients to test the services for 45 days free of charge. The company says it has fielded close to 600 calls in the past month from companies and government agencies.

Intellisync Corp. of San Jose, Calif., another RIM competitor, has launched pilot programs for more than 40 financial-services firms and government customers looking to test BlackBerry alternatives.

The high court's decision bounced the long-running patent-infringement battle between RIM and NTP Inc. back to a district court in Virginia, where it will likely be heard in February. Some worry the judge could rule in favor of NTP and issue an injunction that would shut down BlackBerry service to U.S. users, at least temporarily, though analysts say a settlement between RIM and NTP is more likely.

Even if an injunction is issued, RIM officials say it won't disrupt service. They say that have backup technology that will keep BlackBerry emails running without infringing NTP's patents. But some analysts have questioned the feasibility of implementing a so-called workaround, and some customers are worried it could compromise BlackBerry's functioning. And NTP has said it would challenge the workaround in court.

Analysts also say any court-ordered injunction would likely carve out an exception for government users. BlackBerrys are currently used by many federal agencies including members of the House of Representatives and Department of Justice lawyers. Senate Majority Leader Bill Frist is known for sending late-night messages to Senate colleagues via his BlackBerry.

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Since BlackBerry handsets run only the BlackBerry operating system, users wouldn't have access to other corporate email programs in the event of a service shutdown. But the device wouldn't be totally useless. The phone part, along with text messaging, may still work, analysts say.

Still, some remain worried. Larry Engel, a partner at White & Case in San Francisco, says his BlackBerry actually alleviates marital tension by allowing him to secretly check his email and get work done during vacations with his wife. "BlackBerrys are very easy to conceal in your palm," he says. A shutdown would blow his cover, since he'd have to break out a laptop at the beach.

In Patent Disputes, A Scramble To Prove Ideas Are Old Hat (WSJ)

By Anne Marie Squeo

The Wall Street Journal, January 25, 2006

Research in Motion Ltd., facing the threat that its popular BlackBerry service would be shut down in the U.S. over a patent dispute, got a tip early last year from a high-tech industry official: Check out a library in Norway.

At a university in Trondheim, a city about 310 miles from the Arctic Circle, the company found eight Norwegian Telecommunications Administration reports going back to 1986 and 1989. The reports described a wireless-email messaging system similar to that used by BlackBerry.

The reports, it turned out, helped RIM fire back at a company waging a patent war against it. The company, NTP Inc., says RIM infringed on patents it holds. RIM argued the Norway reports show NTP's patents weren't entirely original. Although RIM is making progress at the U.S. Patent and Trademark Office, the fight is still mired in court. (See related article1).

Patent battles across the country are sending lawyers scrambling for finds like the Norway memos: published evidence that a patent is invalid because the idea was already in the air. The legal term for such documents is "prior art." When it's used successfully to fend off a patent-infringement claim, lawyers sometimes call it "killer art."

A cartoon strip by Rube Goldberg and a 1978 issue of Mad magazine have both successfully been cited as prior art in patent cases. The Patent Office late last year cited the Norwegian reports in preliminary decisions rejecting NTP's patents. "All you need is one reference that was publicly available, and that's sufficient to invalidate a patent," says Dennis Crouch, a Chicago patent attorney.

It used to be a lot harder than it is now to find such offbeat references. Up until the mid-1990s, the U.S. Patent and Trademark Office still did much of its patent-examination work manually. Patent examiners would sift through boxes called "shoes" (because they looked like shoe boxes) for old patents and articles from the likes of Popular Science and trade magazines that might undermine the supposed novelty of a patent claim. (Patent claims are the statements that bolster a patent application spelling out how the invention is unique.)

Don Kelly, a Virginia consultant who worked for the patent office for 37 years, remembers spending days looking through those shoes, investigating a single patent claim. On one application, he decided that a drawing by Mr. Goldberg, famous for his cartoons depicting complicated ways to perform simple tasks, represented prior art. The patent being sought was for a dog-food dispenser that attached to a dog's collar and dumped food when the dog jerked the chain. In searching for prior art, Mr. Kelly found a cartoon by Mr. Goldberg dubbed "Teeing Up a Golf Ball" that worked on the same premise; it even featured an animal with a collar attached to a chain that helped move the ball toward the tee. The company, whose name Mr. Kelly can't remember, narrowed its patent claims to avoid a rejection, he says.

These days, computerized databases and the Internet have made the task a lot easier. There are Web sites devoted solely to finding prior art. Archived materials at university libraries, out-of-print textbooks and international patent filings all are now easily accessible, opening up a world of possibility to those trying to fend off patent-infringement suits.

The Norway find isn't the first time David Long, RIM's patent attorney at Washington-based Howrey LLP, has hit upon potential killer art. In 2000, Mr. Long was representing the National Retail Federation and International Mass Retail Association in a case involving infringement claims by the estate of an inventor named Jerome Lemelson. The estate alleged that companies selling and using bar-code technology were infringing on patents Mr. Lemelson had obtained and updated between the mid-1950s and 1990s. Mr. Long's client countered by seeking to prove "that the bar code has been part of Americana for years," he says. In other words, the technology has been widely available for so long it's too late now to cite a problem with it.

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Mr. Long recalled from his childhood an issue of Mad magazine with a big black bar code on the cover denouncing the technology. "But I didn't preserve it, because I didn't know I'd need it for litigation someday," jokes Mr. Long.

Thanks to eBay, the online-auction site, Mr. Long found a copy of the April 1978 issue and included the reference in an appeals-court filing for his client. A federal judge last year threw out the estate's claims and an appeals court upheld that decision, citing the bar code's widespread acceptance and years of delay by Mr. Lemelson in seeking redress for any patent infringement.

Those seeking patents are required to search for prior art and bring it to the attention of government examiners when filing applications. Likewise, the patent office also looks for prior art in deciding whether to grant a patent. But because of a heavy backlog, examiners usually don't spend more than 20 hours per filing, so it isn't likely that they will turn up truly obscure examples.

Thorough searches like the one in Research in Motion's case tend to be done only in high-stakes court cases where major money is on the line. The hunt for art in those situations helped spawn a Web-based service in 2000 called BountyQuest. Subscribers to the service would post a patent on the site and offer a $10,000 reward for anyone who found published materials debunking it. The site, now defunct, was partially funded by Amazon.com founder Jeff Bezos, who at the time was trying to keep Barnes & Noble's Web site from using one-click technology that Mr. Bezos argued violated Amazon's patent.

Though that case was settled out of court for undisclosed terms, Charles Cella, a Boston patent attorney and the former chief executive of BountyQuest, says they did turn up some prior art that could have proved useful in that case. For example, one submission was a 1980s software program mailed to customers by the Bank of Montreal that allowed people to re-order personal checks with a single click. "As far as we know, that's the first evidence of one-click shopping," says Mr. Cella.

In the end, though, the company couldn't make enough money and shut down its service in late 2002.

Companies fighting patent suits often get help from others in the industry, sometimes anonymously. In RIM's case, they know who their tipster is, but have declined to name the person beyond saying it's an industry official. But the suggestion that RIM search through the Norwegian library has turned out to be a potential lifesaver for the company. The Norwegian reports were issued at least two years before NTP's earliest patent was filed, and the patent office already has cited the documents in preliminary decisions invalidating at least four of the five NTP patents involved in the case. It could take another year for the patent office to finalize its decision.

Still, the lawsuit is moving ahead much more quickly, with a federal judge in Virginia already ruling against RIM and threatening to shut down BlackBerry service in the U.S. as early as next month. While it might be too late for the judge to consider the Norwegian reports in his decision, they almost certainly will play a role in any appeals by RIM.

Arcelor Clinches Deal For Dofasco As Thyssen Quits (WSJ)

By Juliane Von Reppert-bismarck

The Wall Street Journal, January 25, 2006

BRUSSELS -- Arcelor SA yesterday said it agreed to an all-cash deal to buy Canadian steelmaker Dofasco Inc. for about €3.95 billion ($4.86 billion), after rival bidder ThyssenKrupp AG of Germany pulled out of the running late Monday.

Arcelor, the world's second-largest steel producer behind London-based Mittal Steel Co., rose 4.5% to €21.63 ($26.62) in late trading yesterday on the Belgian stock exchange. While the deal ends Arcelor's recent streak of losing expensive bidding wars, some analysts said the bid looks expensive. ThyssenKrupp and Arcelor had been fighting for control of Dofasco since November, and both had raised their bids several times.

"Arcelor may have been too eager to close an important acquisition," said Delta Lloyd Securities analyst Gert Biesmans.

The deal needs to generate some €100 million in synergies to create value and be justified "not only from a strategic rationale," said Dexia analyst Mickael Van den Hauwe.

Arcelor said it will pay C$71, or about US$62, a share for Dofasco. The Luxembourg-based company didn't say what synergies it expected to achieve through the acquisition. While Dofasco's board has recommended Arcelor's bid, shareholders must still approve the deal.

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ThyssenKrupp said it decided to pull out of the battle for Dofasco because a higher offer "would go beyond the point of creating economic value." The company had until midnight Monday New York time to respond to Arcelor's latest bid, made Jan. 17. ThyssenKrupp's last bid was C$68 a share.

Credit Suisse praised ThyssenKrupp's move, upgrading the stock to "outperform" from "neutral" and raising its target price to €23 from €17.50. In afternoon Frankfurt trading, the stock rose 2.6% to €19.20.

ThyssenKrupp said it still plans to expand its North American steel operations, and while it didn't rule out U.S. acquisitions, it said it preferred to build new plants.

WB, UPN To Merge Into Single New Network (WT/AP)

By Seth Sutel

The Washington Times, January 25, 2006

NEW YORK -- Two small, long-struggling television networks -- UPN and the WB, which air on Channels 20 and 50, respectively, in the Washington area -- will shut down this fall, and programming from both will be used to start a new network aimed mainly at young and minority viewers.

The new network will be called the CW -- "C" for CBS Corp. and "W" for Warner Bros. -- each of which will own half of the new entity and contribute programs, assets and executives to the venture.

The WB was owned by Time Warner Inc., parent of Warner Bros., and the Tribune Co., a Chicago-based media company, which will relinquish its 22.5 percent stake in exchange for a 10-year affiliation deal to carry the new network on 16 of its stations, including Washington's WBDC-TV (Channel 50).

"We're going to have the WB programs [through August], and then we'll become the CW network," said Eric Meyrowitz, vice president and general manager of WBDC. "We're ecstatic about the change. To get the best of the WB and UPN is just incredible."

The CW will air 30 hours of programming each week, like the WB. Shows will air Monday through Friday 3-5 p.m. and 8-10 p.m., and Sundays 5-10 p.m. There also will be five hours of children's programs on Saturday mornings, Mr. Meyrowitz said.

The CW also will be carried on the 12 stations owned by UPN, a unit of CBS Corp., guaranteeing the network carriage in 48 percent of the country and 20 of the top 25 TV markets. Network executives said they hoped to have agreements in place to cover most of the rest of the country by the time the network starts in the fall.

Fox Entertainment Group owns WDCA-TV (Channel 20), Washington's UPN station. Local Fox executives did not return repeated calls for comment yesterday about the future of the station, which has been on the air since April 1966.

Chris Ender, a CBS spokesman, said UPN programming will air through the end of August on WDCA, but CW programs will be available exclusively on WBDC.

UPN and the WB had struggled to compete against larger rivals in the broadcast-TV business, including Walt Disney Co.'s ABC, General Electric Co.'s NBC, CBS Corp.'s CBS and News Corp.'s Fox. Both consistently place behind their larger rivals in the Nielsen ratings race and have financially burdened their parent companies.

"Looking down the road, this was much better than keeping UPN alive," said Leslie Moonves, chief executive of CBS, which became a separate company from Viacom Inc., the owner of MTV and VH1, at the beginning of the year.

But it's not clear that the combination of two struggling networks will result in a strong one or in a moneymaker.

"Chances are, in five years they may not exist at all, or it may be something else, but right now it's better than going alone," said Hal Vogel, a longtime media analyst and author of a book on the economics of the entertainment industry.

"This makes sense -- it's not a slam-dunk proposition, but it makes sense. Six networks was too many," he said.

The new network will draw on programming from both UPN -- whose shows include "Everybody Hates Chris" and "Veronica Mars" -- and from the WB -- whose shows include "Supernatural," "Smallville" and "Everwood."

The new network will based in a new, undetermined location, network executives said. The WB and UPN both are based in Southern California.

Dawn Ostroff, currently UPN's president, will become the president of entertainment at the CW, overseeing programming. John Maatta, the WB's current chief operating officer, will oversee business operations at the CW as COO.

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CBS shares rose $1.08, or 4 percent, to $26.90 in trading on the New York Stock Exchange, while Tribune's fell 25 cents to $29.65.

Time Warner's shares rose 18 cents, or 1.1 percent, to $17.27.

ENVIRONMENT:

Hearing Set For Early February In Ivory-billed Woodpecker Case (AP)

AP, January 24, 2006

LITTLE ROCK (AP) - Attorneys for environmental groups came to court with an audiovisual presentation showing an image of the black, white and red ivory-billed woodpecker.

But they didn't have a chance to explain Monday why they believe the Grand Prairie Irrigation project in eastern Arkansas should be stopped in order to avoid harming the rare bird.

Instead, U.S. District Judge G. Thomas Eisele recused himself before the hearing began. The case was bumped to another court before landing in the court of U.S. District Judge William R. Wilson, who set a hearing on it for Feb. 6 in Jonesboro.

Work on the $320 million project to siphon water from the White River for use on farms that have been depleting the underground water supply will continue for now.

The National Wildlife Federation and the Arkansas Wildlife Federation filed the lawsuit in September, claiming that the project would violate the Endangered Species Act. The suit claims that diverting water from the White River could damage the ivory-billed's habitat.

The bird was once thought to be extinct and was only recently rediscovered in Arkansas.

Other lawsuits, both federal and state, have ended unfavorably for the environmentalists.

In a note to lawyers, Eisele wrote that while reviewing the case at his home Sunday, he found an affidavit by Kenneth Lee Smith, whom he identified as director of the Arkansas Audubon Society, a conservation group. Eisele wrote that while the group was not a party to the case, he had recused in a recent case involving the society because in February 2003 he made a $200 contribution in honor of a friend, Bob Shults, one of the group's founders.

District Court Clerk James McCormack said that one of the parties to the case declined to go forward after Eisele mentioned the conflict. McCormack said federal rules wouldn't allow him to say which of the parties had caused the judge to recuse himself.

The case was reassigned to Judge George Howard Jr., but his docket was full so the case was then assigned to Wilson.

Work on the project began in June with construction on a $34.5 million pumping station on the White River. In all, project is to include pipelines and canals and on-farm water-holding structures. The construction site, on 241 acres of mostly treeless fields, is more than 20 miles south of where the woodpecker was spotted.

The Grand Prairie covers a half-million acres. And if all goes as planned, water will be flowing to farms across the White River Irrigation District by 2012.

But environmental groups say the corps has refused to perform an in-depth investigation into whether the project will harm the woodpecker's habitat.

"It would cause major changes to the area," said Lisa Madry, regional representative with the National Wildlife Federation. Madry said drawing large amounts of water from the river could affect vegetation in the area. She said that so little is known about the ivory-billed woodpecker that it's unclear how the bird could be harmed.

Justice Department attorneys Devon McCune and Bridget McNeil declined to comment Monday. But farmers who traveled to Little Rock for the hearing said the project could be completed without hurting the woodpecker.

"Our position is what we're doing presently is not disruptive of any habitat of the woodpecker in the past years, knowingly or unknowingly," said Tommy Hillman, a farmer from near Carlisle.

Tom Fortner, director of the White River Irrigation District, which would oversee the irrigation system, said only about half of the water for the project would come from the river. The rest would come from measures to capture rainwater and irrigation runoff on farms, he said.

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Bush Administration Outlines More Funding For Hydrogen Fuel Cells (BOS)

By Ken Thomas

The Boston Globe, January 25, 2006

WASHINGTON --The Bush administration said Tuesday it would provide $119 million in funding for research into hydrogen fuel cells, touting the automotive technology as a way to reduce the nation's dependence on foreign oil.

Energy Secretary Samuel Bodman, touring the Washington Auto Show, said the money would fund projects to help overcome some of the barriers "in getting technology out of the laboratory and out onto the test track."

"We are well past the point where we see that it can be done, and now we're at the point of figuring out how it can be done -- affordably and safely," Bodman said.

The funding is part of President Bush's $1.7 billion hydrogen research program, first detailed in 2003. The government and automakers have been working to develop vehicles powered by pollution-free hydrogen fuel cells, which could reduce demand for imported oil while cutting greenhouse gas emissions.

Many obstacles remain -- fuel cell vehicles are extremely expensive to produce and lack an infrastructure of fueling stations to make them viable. The government has said it hopes hydrogen fuel cell vehicles will be available in car showrooms by 2020.

The Energy Department would provide up to $100 million during the next four years for research projects to improve various components of fuel cell systems, with the goal of improving performance and lowering cost by 2010.

Another $19 million will be devoted toward a dozen research projects looking at the components involved in using hydrogen to create electricity. The projects will be conducted in Arizona, Colorado, Connecticut, Florida, Massachusetts, New York, Ohio, Pennsylvania, South Carolina, Tennessee and Virginia.

Bodman also released guidelines for identifying and overcoming some of the technical challenges facing the industry. Some of the challenges include the reducing the cost of hydrogen production and fuel cell systems, improving the durability of the systems and increasing the capacity of onboard hydrogen storage.

Coalition Turns On To 'Plug-In Hybrids' (WSJ)

By John J. Fialka

The Wall Street Journal, January 25, 2006

DAVIS, Calif. -- In the 1950s, an aspiring Pasadena hot-rodder named Andrew Frank shocked the competition by powering his 1936 Ford with a Cadillac V-12 engine. "It had gobs of torque," he recalls.

In the 1990s, as a mechanical-engineering professor at the University of California here, Dr. Frank produced another shocker. He yanked big engines out of American cars and replaced them with electric motors that worked in tandem with much smaller gasoline engines. He called his new configuration the "plug-in hybrid" because it allowed homeowners to recharge the car's batteries by plugging into an electrical outlet.

Hybrid automobiles work with two engines. Auto makers have tinkered with them since the early 1900s, but the cars didn't gain much attention in the U.S. until Japanese companies began selling them in 1999. The current top seller is Toyota Motor Corp.'s Prius; Americans bought 205,790 of them last year. What Dr. Frank was proposing more than 10 years ago, however, was a variation on the hybrid theme.

But Detroit auto makers ignored him. Japanese car makers, about to market their own hybrids that didn't plug in, paid scant attention. This year, however, as hybrids have gained in popularity amid high gasoline prices, Dr. Frank, now 72 years old, is getting some traction:

A U.S. coalition led by electric utilities, sensing a way to gain market share through vehicles that derive 90% of their power from electricity and can recharge at night when power is plentiful and cheap, kicked off a national campaign in Washington yesterday to push auto makers to make plug-in hybrids.

Some cities, environmental groups and state pollution regulators have joined this "Plug-in Partners" effort. They see plug-ins as a means to meet tightening air-pollution standards and to use controls over utilities as a way to clean up urban air.

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DaimlerChrysler AG has turned a European delivery van, called the Sprinter, into a prototype diesel-electric plug-in. Forty of the vehicles will be tested over the next two years by a variety of U.S. agencies and companies.

The plug-in campaign is intensifying just as car buyers and policy makers are grasping for ways to ease the nation's energy problems. When President Bush delivers his State of the Union address next week, he is expected to tout alternative auto fuels, like ethanol, as well as nuclear energy.

A key difference between plug-in hybrids and conventional hybrids is that plug-ins have a bigger battery pack and can be designed to run a passenger car on electricity for the first 60 miles -- about the length of an average daily commute.

Dr. Frank estimates that if drivers regularly recharge their batteries at home, plug-ins may get well over 100 miles per gallon. By comparison, conventional hybrids must rely on gasoline-powered engines to recharge their batteries and get between 40 and 60 mpg.

While running on electricity, the plug-in's fuel cost drops to 70 cents a gallon, or lower, Dr. Frank estimates.

Only a handful of experimental plug-ins are on the road. Some auto makers say the vehicles are more vulnerable to wear and tear than other hybrids. The biggest government spenders on auto research, the federal government and the state of California, remain focused not on hybrids but on fuel-cell-powered cars that use hydrogen.

"You should take a look and see at least what the federal government is thinking," Dr. Frank told students in one of his graduate classes recently, adding with a smile and a wink, "I don't agree with most of what they have to say." In the basement of his school's engineering building, Dr. Frank and his students tinker with sport-utility vehicles.

Their first move with a Ford Motor Co. Explorer was to rip up its floor panels. "Most cars have plenty of underutilized space," Dr. Frank explains, showing how he and the students filled that space with batteries.

Then the students replaced the Explorer's big gasoline engine with a fuel-sipper taken from a General Motors Corp. Saturn and a 200-horsepower electric motor. Power from the two engines, which operate on the same drive shaft, is controlled by a continuously variable transmission, a gearless, computer-controlled device. Dr. Frank estimates that the car's weight remains about the same. The batteries he puts in make it heavier, but his engines and transmissions are lighter than the ones he removes.

Dr. Frank's hybrids have enough electric power to run for the first 60 miles; then, computers turn on the gasoline engine to help run the car and keep the batteries charged. Dr. Frank's students have discovered that even with six of them riding in the Explorer, it could still "burn rubber."

That was the Explorer's downfall last year in an annual contest held by the Department of Energy to see which American university could build the most efficient-running car. Dr. Frank's students were showing off the car's acceleration in the parking lot before the contest, when it died. "We broke the motor," he explains.

In June, U.C. Davis will try again with a Chevrolet Equinox, powered by a relatively tiny Toyota Prius gasoline engine and electric equipment similar to that in the Explorer. To demonstrate that cars can be weaned almost entirely from fossil fuel, Dr. Frank's students plan to run the gasoline engine mainly on ethanol made from corn. They are designing a tent with solar panels that can be used to recharge the batteries.

Utilities are drawn to the idea of a car that plugs in at home. The Electric Power Research Institute, which is financed by utilities, is sponsoring DaimlerChrysler's experiment with plug-in delivery vans. The project is being shepherded one of Dr. Frank's former students, Mark Duvall, who remembers working long nights modifying cars in the professor's lab. "He was a complete master of giving you enough rope to hang yourself," Mr. Duvall says.

Critics say the plug-in's weak point may be its batteries, which could burn out if power is drawn up and down frequently. Dr. Frank says recent experiments with electric cars by Toyota and GM have developed batteries that can stand the strain.

Dan Benjamin, a transportation analyst for ABI Research, an Oyster Bay, N.Y., market-research firm, says the battery problem means plug-ins will appear first as commercial vehicles: "Stop-and-go city driving really takes advantage of this technology."

Bill Kwong, a spokesman for Toyota, says the company doesn't encourage buyers of its hybrids to use kits, made by some companies, that convert them into plug-ins, since "it cycles the batteries down way too deeply and shortens the life of the batteries." For that reason, he says Toyota isn't working on a plug-in hybrid.

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Others think the car will be too expensive. It costs Dr. Frank about $100,000 to customize a car. But he estimates that made in volume, his adjustments would raise the cost of a car by a more affordable 25%. He says most plug-in parts could be made by a well-equipped machine shop.

The plug-in feature will add from $4,000 to $6,000 to the cost of a car, he calculates, noting "that's what some people pay for a sunroof, leather seats and a fancy navigation system."

Drug Makers Plan Big Increase In Flu Vaccine For Next Fall (NYT/AP)

By The Associated Press

The New York Times, January 25, 2006

ATLANTA, Jan. 24 (AP) - Pharmaceutical companies say they are preparing to produce as many as 120 million doses of flu vaccine for the next flu season, by far the most ever.

The increased production could mean an end to the shortages of the past several years, especially in the 2004-5 flu season, when bacterial contamination led to the shutdown of a British factory that was to produce nearly half the United States' supply.

Speaking Tuesday at a flu vaccine conference here sponsored by the American Medical Association and the Centers for Disease Control and Prevention, vaccine makers said the increase was warranted for several reasons: better government reimbursement for shots, indications that federal health officials may one day recommend flu shots for nearly everyone, and public fears of avian flu (although the vaccine would protect only against conventional flu).

GlaxoSmithKline, which produced 7.5 million doses of flu vaccine for the current flu season, said it expected to distribute 20 million to 30 million for next season. The company recently acquired plants in Canada and Pennsylvania and is expanding its plants in Dresden, Germany.

Sanofi Pasteur, the main vaccine producer for the current season, broke ground last July on a vaccine plant in Swiftwater, Pa., to double the capacity of that company, a joint venture of Sanofi-Aventis and Merck.

Five percent to 20 percent of the population gets the flu each year, with the disease leading to 36,000 deaths and 200,000 hospitalizations.

Flu vaccinations are currently recommended by the disease control centers for groups most at risk of complications, including the elderly and people with weakened immune systems. But officials at the centers say they may expand the recommendation to include most children.

About 86 million doses of vaccine were produced for the current season in the United States, up from about 61 million for last season. The record is 95 million, for 2002-3.

A New Tack In West's Land Battles (CSM)

By Jeff Oliver

The Christian Science Monitor, January 25, 2006

CHALLIS, IDAHO - The federal government owns so much of Custer County, Idaho, that one could call it common ground. More than 95 percent lies in public hands. But for years, Idaho has failed to find much, if any, common ground on what to do with the region's pristine backwoods.

Environmentalists wanted to protect the roadless forestland as federal wilderness, ranchers hoped to maintain the land for their cattle, and weekend warriors pushed for access for their dirt bikes and off-road vehicles. Local government officials, starved for revenue, looked to privatize some government land to generate more property taxes.

Exhausted after three decades of lawsuits, failed legislation, and ill will, these groups are backing a compromise bill that would designate some 300,000 acres as wilderness, privatize another 6,000, and keep the rest open for multiple uses. Some observers call the legislation, submitted last year by US Rep. Mike Simpson (R) of Idaho, an example of "collaborative process," an evolving concept that could define the future of conservation.

"The environmental movement has gotten very good at fighting and we've lost touch with a lot of people," says Rick Johnson, executive director of The Idaho Conservation League and a key figure in the Custer County compromise.

"Collaboration, in the big sense, means getting things done instead of simply fighting. People are hungry for that."

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While definitions of the process vary, the basic idea has existed for decades. Most often it's used to describe a coming together of stakeholders intimately connected to a particular problem. The use of such cooperative approaches has surged in recent years. Now, the movement seems to be presenting itself as a viable alternative to mainstream environmentalism.

The trend is particularly evident here in the West, where public landholdings are vast and debate has sharpened over what to do with them. For example:

• In southern Oregon, a group of environmentalists, government agents, logging representatives, and concerned citizens came to an amicable agreement this past fall regarding a long-disputed timber sale. According to the agreement, loggers will bypass the forest's largest and oldest trees while a local committee will help to mediate any future conflicts.

• Last year in south-central Utah, a collaborative collection of state agencies, university professors, residents, and ranchers got a $350,000 federal grant to aid their effort to boost sage grouse populations. In return for help in keeping the sage grouse off the endangered species list, conservationists got help restoring the bird's habitat.

• After witnessing what happened to timber towns when the spotted owl made the endangered species list, farmers in Washington state joined environmentalists in a similar effort to protect sage grouse.

• In southwestern Idaho, ranchers, environmentalists, government officials, native Americans, and local residents are working together to protect the long- disputed Owyhee Canyonlands. The group is crafting a compromise similar to Custer County's, which will then be introduced as legislation by US Sen. Michael Crapo (R) of Idaho.

Some experts attribute the movement's increased momentum to the rise of the Republican Party. Indeed, collaboration has quietly become a priority for the Bush White House. In August, the administration sponsored the first White House Conference on Cooperative Conservation, dedicated to promoting the "appropriate inclusion of local participation in Federal decision making."

Collaboration has found another champion in Senator Crapo. In December, he proposed amending the Endangered Species Act to encourage broad-based local groups to find collaborative solutions to wildlife decline.

Other experts attribute the impetus to a rising dissatisfaction with the strict gospel of conservation and the resulting stalemates. In its place, a more temperate approach, the so-called "wise-use" ideology, is gaining ground, says Kirk Emerson, director of the US Institute for Environmental Conflict Resolution in Tucson, Ariz. That ideology, in turn, has given birth to a number of well-funded organizations dedicated to advancing collaborative process. These include The Quivira Coalition in New Mexico, the Sonoran Institute in Arizona, and the Montana-based Red Lodge Clearinghouse.

Not everyone is thrilled by this expansion. The collaborative movement has mostly produced "a lot of talk and little follow-through," says environmentalist Michael McCloskey, who in 1995 wrote a now-famous memo. It warned environmentalists: "A new dogma is emerging as a challenge to us. It embodies the proposition that the best way for the public to determine how to manage its interest in the environment is through collaboration among stakeholders."

Ten years later, he remains unimpressed. He argues that the main reason conservationists increasingly turn to compromise is that the federal government is failing to do its job protecting the environment. Also, many collaborative groups set the bar so low that they declare success if they can get all the stakeholders to the table, he says.

Indeed, there remains little hard evidence that collaboration works in the long term, experts agree. This is partly because few researchers follow the trend, partly because the collaborations frequently span so many years that they're hard for researchers to track.

For proponents, however, anecdotes have long filled in for proof. "In almost every case you find people who have fought those old wars over and over again," says Daniel Kemmis, senior fellow at the Center for the Rocky Mountain West in Missoula, Mont. "These old warriors have agreed to lay down their arms and see if there is an alternative answer."

Clogged Rockies Highway Divides Coloradans (NYT)

By Kirk Johnson

The New York Times, January 25, 2006

SILVERTHORNE, Colo., Jan. 22 - When Interstate 70 was built through here in the 1960's and 70's, the Colorado Rockies were largely rural and remote, and the old roads that the highway replaced were a widely recognized danger.

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Over the years, as the population grew, delays and frustrations on the highway began to mount. Traffic jams at nosebleed altitude became common. In 8,800-foot-high Silverthorne, which was little more than a gas station pit stop a generation ago, with a grocery that got fresh produce only on Thursdays, alpine meadows gave way to factory outlet stores.

Now state officials are considering a major and contentious widening project for Interstate 70 that is dividing people over the question of who the highway is for and how it transformed these mountains.

The project is a variation of a drama that is playing out across much of the West as once-rural outposts are transformed into brimming settlements with newfound political and economic clout in transportation decisions.

As the Federal Highway Act of 1956 established the Interstate System and helped open vast expanses of the West, highways like Interstate 70 changed just about everything by putting on the map distant places that had been mostly untouched.

Now, the very places that were changed, like Silverthorne - 65 miles west of Denver - are wading in as aggressive and muscular participants in discussions about what comes next.

In Nevada, the expansion U.S. 95 connecting Las Vegas and its sprawling western suburbs has resumed after environmentalists settled a lawsuit last year over the effect of increased vehicle emissions on nearby residents.

The proposed Legacy Highway in Utah, extending south of Salt Lake City, was blocked for years before receiving final approval this month.

Elsewhere in Colorado, a plan for a toll road across the once-empty plains east of Denver was put on hold last year after opposition from residents.

Transportation experts, politicians and residents agree that the stakes and implications of these fights are enormous, touching on tenets of the West that are scriptural: unbridled growth, local identity, civic autonomy and an uneasy dependence on government.

Here in Colorado, where Interstate 70 is crucial to the tourism economy and the state's image as the mountain playground of the West, businesses, residents and interest groups do not remotely agree on what to do.

"The question is, How much do we really want to improve I-70 - and do we want to improve it so much that it changes the character of our communities?" said Gary Severson, the executive director of the Northwest Colorado Council of Governments. "That's the tightrope."

The idea that transportation systems can reshape the regions through which they pass is well established. As far back as the Erie Canal and the transcontinental railroad, geographers and historians say that getting from Point A to Point B has always been at least partly about property values, boosterism and the restless American impulse to move on and create anew.

But that pattern is being given a decidedly new twist here on a road that was hailed and agonized over as one of the most daunting stretches of the Interstate System.

Places like Silverthorne - incorporated in 1967, when it was populated mainly by highway construction workers - have become destinations for shopping or homebuilding and tend to favor an expansion of the highway that would deliver more of the bounty that Interstate 70 has already bestowed. Towns closer to Denver, like Idaho Springs, which have not seen the influx of vacation homes or tourists and which also have many more commuters to Denver, say mass transit must be on the table.

Some politicians and residents say that doing nothing may be the wisest course. Colorado's population in and out of the mountains is expected to increase by 50 percent in the next 20 years, pushing people toward mass transit as traffic congestion worsens.

Not everything that has happened here is a result of transportation, of course. The explosion of population and the economy since the completion of Interstate 70's last leg in 1979 - the second tube of the Eisenhower/Johnson Tunnel at 11,000 feet across the Continental Divide - also coincided with a demographic transformation as members of the post-World War II generation reached their peak earning years, stock and real estate markets boomed and changes in tax law made buying vacation real estate more attractive.

Resorts that opened or grew during the highway's early years - like Vail, in 1962, Keystone in 1970 and Beaver Creek in 1980 - have moved toward year-round operations and real-estate development that bring more visitors and residents.

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The results have all fed back into the equation of traffic, which is increasingly bumper-to-bumper on weekends in winter and summer. Another record was set last year for the number of cars trying to squeeze through the four lanes of the Eisenhower/Johnson Tunnel in one month - just over 37,000 a day, last July.

Issues of class and clout have further clouded the picture.

Summit County, where Silverthorne is located, was one of the fastest-growing counties in the nation in the 1990's, with the population up 83 percent. Equally important, many residents and politicians say, is that the nine counties along the Interstate 70 corridor - led by Summit and Eagle, where the big resorts and the biggest waves of homebuilding are concentrated - are becoming more and more important to the state's economy.

In 2000, a private study commissioned by the state found that the corridor produced about $2 billion in recreation revenue, out of $9.3 billion statewide, and generated $136 million in state and local tax revenues.

"Do we accommodate growth, or do we stifle it? That is the question," said Lou DelPiccolo, Silverthorne's mayor, who favors a highway widening plan.

Thirty miles east, in Clear Creek County, where the growth has been slower and the big payoff from the highway never quite materialized, political leaders like the Idaho Springs mayor, Dennis Lunbery, are asking the opposite question: Could they survive the widening of the highway?

Idaho Springs, confined in a narrow canyon - the back door of City Hall is less than 100 feet from the Interstate's westbound guardrail - would be destroyed, Mr. Lunbery said, by the miasma of asphalt, noise and dust that a bigger highway, and the years of construction, would bring.

Mr. Lunbery said he thought that the state, in its environmental assessment of the corridor, had "stacked the deck" toward a highway-widening option by excluding any plan that costs more than $4 billion. Most mass transit proposals would add at least another $2 billion to $4 billion.

Coincidentally or not, widening is what the destination communities farther west mostly want. Many people farther west also worry that a mass transit rail line, however good it may be for closer-in communities like Idaho Springs, could turn resort communities into bedroom communities, full of commuters catching the train to their offices in Denver.

The executive director of the State Department of Transportation, Thomas E. Norton, who is expected to make a decision on the corridor later this year, said he was open to all options.

"I don't think there is a bias in my perspective," Mr. Norton said. "There is a bias toward best use of the public dollar, and until you can get really high transit kinds of usage, the economics are not there. Rail that can move 10,000 people an hour looks great, but if only 12 days of the year it would be used by that many people, it's not an efficient use of dollars."

Many people, including Mr. Lunbery, who expects the state's study to be challenged in court almost no matter what happens, think that nothing will happen for years on the corridor - partly because of the difficulty in finding the money - and that worsening traffic is, for now, the only certainty.

Gary Lindstrom thinks that is a good thing. He is a legislator in the Colorado House whose district includes much of the corridor. He is also a Democratic candidate for governor this year and favors the mass transit idea, but he agrees with Mr. Norton that for now it does not appear feasible. Time will change that equation, Mr. Lindstrom said.

"The worst thing we can do is widen the highway," he said. "We need to keep the congestion so people will be interested in the transit."

No matter what unfolds, Linda Wellington and her husband, Bill, who have lived all their lives here, will probably not see it. Ms. Wellington has watched it all - the good and the bad - and often talked it over with her father, a career highway worker, before he died, who regularly plowed the highest passes of the old road before Interstate 70 was built.

"At one time I was bitter. I'd say, 'Dad, don't you hate all the people and the traffic?' and he'd say, 'We need to move forward,' " said Ms. Wellington, who is in her 50's. "So that's where I am now. You can't stop it. It's here, we've built it, and you can't close the door."

The Wellingtons are planning to move. Mr. Wellington, who is 56, said he had been looking at a place in northeastern Colorado, out on the plains toward Kansas, where it is not as crowded as the mountains have become and where their son now lives. He will hate to leave, he said, but things have changed too much to stay.

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FBI/DEA/ATF/USMS:

Grassley Backs Ex-FBI Agent (WP)

By Christopher Lee

The Washington Post, January 25, 2006

When Cecilia Woods, an FBI special agent based in Panama, suspected her boss of having extramarital affairs including one with a paid informant in 2000, she reported her concerns to bureau officials -- and started investigating on her own.

For her trouble, the bureau suspended her for 10 days, then later transferred her to a less prestigious post in Washington, Woods said. The 23-year veteran retired in 2005 after enduring a second, unrelated suspension of 14 days and concluding that she would never get back in the agency's good graces.

"All I wanted is for the FBI to look into his actions," Woods said in an interview. "And because I raised the issue with the bureau, the bureau came after me instead. The bureau made me the target."

Woods, who in 2001 filed an equal employment opportunity complaint alleging a hostile work environment, is hardly the first federal employee to allege that she was the victim of unfair treatment by the brass. But she has attracted a powerful ally -- Sen. Charles E. Grassley (R-Iowa), chairman of the Senate Finance Committee and a longtime critic of the FBI.

Woods's supervisor eventually admitted to the affairs, and to giving the informant lingerie and other gifts, said Grassley, whose staff investigated the case. For that and for misusing government vehicles, he received a 14-day suspension, a demotion and a transfer to the office of his choice, Grassley said.

In a six-page letter sent Monday to FBI Director Robert S. Mueller III, Grassley cited Woods's case as an example of what he believes is a chronic "double standard" of discipline at the agency, in which misconduct by supervisors is punished more lightly than that by underlings. The FBI also has a habit of dealing more harshly with misconduct by agents who are seen as disloyal than by those seen as loyal, wrote Grassley, who asked Mueller for more information about discipline at the agency.

"The lesson is this: If you are loyal to the FBI and you are a supervisor, it is possible to engage in conduct that dishonors the Bureau and undermines its mission while keeping your job," Grassley wrote. "However, if you show any sign of disloyalty to the FBI or your supervisors, they will try to fire you -- even if your 'disloyalty' consists of reporting misconduct or concerns about national security."

An FBI spokesman said the agency planned to review Grassley's letter before responding "in an expeditious manner" to the senator. "The director is currently traveling overseas, and therefore the FBI has no additional response at this time," Special Agent Richard Kolko said.

The thrust of Grassley's criticism is not new. A 2002 report by the Justice Department's inspector general said there was a perception among FBI employees that a double standard of discipline exists within the agency. That view arose, in part, because there was a separate disciplinary system for managers until 2000. Inspector General Glenn A. Fine cited several "troubling cases" in which discipline for managers appeared "unduly lenient."

In 2003, Fine reported on inappropriate sexual behavior and racial comments by senior FBI managers, saying the incidents reinforced earlier findings that the agency had repeatedly let senior managers get away with egregious conduct while handing out stronger punishment to lower-level employees who behaved similarly.

Woods drew her first suspension after she asked a hotel bar worker to let her know when her supervisor left the hotel. Woods and the supervisor had met with the informant in a hotel room before he told Woods to depart, leaving the two of them alone -- and Woods suspicious. She was suspended in February 2001 for acting unprofessionally and providing information to an non-bureau individual (the hotel worker).

Woods received her second suspension in November 2003 for providing her attorney in her EEO case with unredacted documents that may have contained sensitive or classified materials. Woods acknowledged the lapse but said that "there was nothing classified. If anything, there were some names that were sensitive."

In his letter, Grassley wrote: "I am aware of no evidence that her alleged disclosures, either to the acquaintance in the hotel bar or to her attorney, had any actual negative impact on the security of FBI operations."

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Woods said the experience in Panama taught her that FBI discipline runs on the "good old boy" system. "I wanted the bureau to be responsible," she said. "They shoved everything under the carpet. They just didn't want to look at it."

Medical Marijuana Advocates File Challenge To San Diego County (AP)

By Elliot Spagat

The Associated Press, January 24, 2006

SAN DIEGO – Medicinal marijuana advocates on Tuesday challenged a San Diego County lawsuit that seeks to overturn a state law permitting the use of pot for medical purposes.

The county sued the state of California and its director of health services on Friday in federal court, saying federal law that prohibits marijuana use trumps state law that allows it. California approved the use of marijuana for medicinal purposes with the passage of Proposition 215, which won 55 percent votes cast in 1996.

San Diego is the only California county that has refused to provide identification cards to registered medical marijuana users.

The American Civil Liberties Union, Americans for Safe Access and the Drug Policy Alliance filed a motion to intervene in the lawsuit on behalf of patients including Pamela Sakuda, 58, who uses marijuana to treat side effects of chemotherapy for rectal cancer. The San Diego woman said the drug has quelled nausea and stimulated her appetite.

"The supervisors have turned a deaf ear to the pleas of sick and dying people, and now they have shown that they are equally willing to ignore the law," said Joe Elford, chief counsel for Americans for Safe Access.

According to the ACLU, 11 states have approved marijuana for medical purposes. California was first, followed by Montana, Arizona, Alaska, Colorado, Hawaii, Maine, Nevada, Oregon, Washington and, most recently, Rhode Island.

The county's five Republican supervisors were mostly silent as several marijuana users urged them Tuesday to drop the lawsuit filed last week in San Diego. One supervisor, Ron Roberts, garnered applause when he said he opposed the lawsuit.

"Your actions are unjust, unlawful and un-American," said Wendy Christakes of La Mesa, who has used marijuana since 2003 to treat a back injury. She used a cane to step up to the microphone.

Rudy Reyes, 28, said marijuana has allowed him to sleep after massive wildfires in 2003 burned 75 percent of his body and put him in the hospital for eight months. He said doctors at UC San Diego Medical Center recommended the drug after his body rejected morphine.

"I don't have flashbacks, I don't have those middle-of-the-night terrors," he said in an interview after urging the supervisors to drop their fight.

Last year, a 3-2 board majority voted to ignore a state requirement that counties issue identification cards for medical marijuana users and maintain a registry of people who apply for the cards. The move came despite a warning from the county counsel that the move would likely result in costly litigation.

Challenge To Pot ID Law To Continue (LAT)

By Tony Perry And Ashley Powers, Times Staff Writers

The Los Angeles Times, January 25, 2006

SAN DIEGO — Despite pleas from the ACLU and several individuals suffering chronic pain, the San Diego County Board of Supervisors on Tuesday declined to withdraw a lawsuit seeking to overturn a state law requiring the county to issue medical marijuana cards.

Meanwhile, San Bernardino County officials announced they supported the San Diego board's decision to challenge the state law on grounds that federal prohibition of marijuana use takes precedence. By day's end, the county counsel of San Bernardino had contacted his counterpart in San Diego to discuss legal strategy.

Kevin Keenan, executive director of the American Civil Liberties Union's office for San Diego and Imperial counties, said he was disappointed but not surprised by the San Diego supervisors' decision to "forge ahead with this misguided lawsuit." The ACLU and two groups that support medical marijuana on Tuesday petitioned the federal court to allow them to oppose the lawsuit.

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San Bernardino County Supervisors Dennis Hansberger and Josie Gonzales said their county's action was intended to force the state to clarify its policies on how local agencies should enforce drug laws. They said they believe San Bernardino County Sheriff Gary Penrod will join as a plaintiff, although Penrod could not be reached for comment.

"I don't want law enforcement trapped between a rock and a hard place," Gonzales said.

In 1996, 56% of California voters approved Proposition 215, which allowed doctors to prescribe cannabis for therapeutic use. Three years ago, state legislation mandated ID cards for patients and their caregivers.

But the U.S. Supreme Court in June ruled that federal officials could seize and destroy pot plants and arrest growers and consumers, even in the 11 states where the drug has been legalized for medical use.

Last month, federal Drug Enforcement Administration agents raided 13 San Diego-area marijuana dispensaries.

The San Diego lawsuit, filed last week in federal court, asserts that the requirement to issue medicinal marijuana ID cards is preempted by the federal Controlled Substances Act, which criminalizes pot, and an international treaty called the Single Convention on Narcotic Drugs. The ACLU asserts the county lacks legal standing to bring such a lawsuit.

San Bernardino County had tentative plans to begin issuing ID cards in February, but had not begun printing cards or designating staff for the project, which is now on hold, said county spokesman David Wert.

The state had calculated that up to 7,000 San Bernardino County residents might be eligible for cards, Wert said.

In December, Riverside County became the first Southern California county to begin issuing the ID cards, which include the marijuana user's photo and a computer-generated identification number.

Cardholders must submit a state form, proof of residency and their doctor's recommendation, and provide government-issued identification. The annual cost to get and renew the card is $100.

The San Diego supervisors last year voted 3 to 2 not to issue the identification card. On Tuesday, the supervisors listened to lawsuit opponents but declined to schedule a new vote on the issue.

Perry reported from San Diego and Powers from Riverside.

Official Details Texas - Mexico Standoff (NYT/AP)

By The Associated Press

The New York Times, January 24, 2006

SIERRA BLANCA, Texas (AP) -- Texas law enforcement officers faced off with men dressed as Mexican Army soldiers and apparent drug suspects near the U.S.-Mexican border Tuesday, after three SUVs attempted to flee state authorities, officials said.

Andrea Simmons, an agency spokeswoman in El Paso, told The Associated Press that Texas Department of Public Safety troopers chased three SUVs, believing they were carrying drugs, to the banks of the Rio Grande during Monday's incident.

Men dressed in Mexican military uniforms or camouflage were on the U.S. side of the border in Texas, she said.

Simmons said the FBI was not involved and referred requests for further details to U.S. Immigration and Customs Enforcement.

The Inland Valley Daily Bulletin of Ontario, Calif., reported Tuesday that the incident included an armed standoff involving the Mexican military and suspected drug smugglers. The incident follows a story in the Bulletin on Jan. 15 that said the Mexican military had crossed into the United States more than 200 times since 1996.

In a news conference, Rick Glancey of the Texas Border Sheriff's Coalition, said three Hudspeth County deputies and at least two Texas Department of Public Safety troopers squared off against at least 10 heavily armed men from the Mexican side of the Rio Grande.

U.S. officials who pursued three fleeing SUVs to the Mexican border saw what appeared to be a Mexican military Humvee help one of the SUVs when it got stuck in the river, he said.

When that didn't work, a group of men dressed in civilian clothes started unloading what appeared to be bundles of marijuana from the SUV, and the stuck vehicle was then torched, he said. A second SUV had a flat tire and was left behind in the United States and its occupant ran across the border, he said.

Glancey said he could not confirm whether the armed men seen at the site were Mexican Army, police officers, or drug dealers, and would not detail what markings deputies may have seen on the men's uniforms or the Humvee.

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Chief Deputy Mike Doyal of the Hudspeth County Sheriff's Department said that Mexican army personnel had several mounted machine guns on the ground more than 200 yards inside the U.S. border, the Daily Bulletin newspaper reported earlier.

"It's been so bred into everyone not to start an international incident with Mexico that it's been going on for years," Doyal said. "When you're up against mounted machine guns, what can you do? Who wants to pull the trigger first? Certainly not us.''

Hudspeth County Sheriff Arvin West, whose officers were involved in a similar incident last year, said he is certain that Mexican authorities know who was involved.

After the newspaper reported on Mexican military crossings earlier this month, Homeland Security Secretary Michael Chertoff said the report was overblown and most of the incursions were just mistakes.

In eastern California, Arizona and New Mexico, the U.S.-Mexico border is largely unmarked. But in Texas, the Rio Grande separates the two countries and even when dry, is a riverbed about 200 feet wide.

In November, Doyal said Border Patrol agents in the border town of Fort Hancock called for help after confronting more than six men dressed in Mexican military uniforms. The men allegedly were trying to bring more than three tons of marijuana across the Rio Grande, Doyal told the newspaper.

Border Incident Sparks Outrage (DMN)

By David Mclemore

The Dallas Morning News, January 25, 2006

A West Texas standoff along the Rio Grande between U.S. law enforcement officers and heavily armed Mexican drug smugglers in military-style clothing prompted congressional demands Tuesday for an international investigation and a call for deployment of U.S. troops to the border.

The incident, which occurred Monday on U.S. soil at an isolated river crossing about 50 miles east of El Paso, is the latest involving armed incursions along the U.S. border with Mexico.

And it comes less than a week after Homeland Security Secretary Michael Chertoff called a California newspaper's account of such border incursions "overblown."

The incident Monday involved an encounter between two Hudspeth County Sheriff's Department deputies and three Department of Public Safety troopers and 10 heavily armed drug smugglers at an area about 50 miles down the river from El Paso.

A spokesman for Mexico's Foreign Ministry said Mexican military personnel had nothing to do with the incident and suggested the trespassers may have been drug traffickers wearing military-style gear.

The incident began on Interstate 10 near the Sierra Blanca checkpoint when DPS troopers began chasing three westbound SUVs believed to be carrying marijuana.

When the SUV drivers saw that they were being followed, they made a U-turn and headed south toward the river to an area known as Neely's Crossing, said Rick Glancey, executive director of the Texas Border Sheriffs Coalition.

At the crossing, one of the SUVs drove across the shallow river into Mexico. A second one got stuck in the muddy banks. And as the Texas deputies watched, a military-style Humvee attempted to pull it from the mud, while several armed men in green uniforms fanned out around it, Mr. Glancey said.

When the Humvee failed to extricate the truck, a group of men in civilian clothes walked into the ankle-deep river, removed what appeared to be bales of marijuana and hauled them to the Mexican side. They then set the truck, a Ford Expedition, ablaze.

The third vehicle, a Cadillac Escalade, was abandoned on the U.S. side with a flat tire as the driver escaped on foot. Deputies found 1,447 pounds of marijuana inside.

"What this latest incidence underscores is the necessity of increased support for local law enforcement to aid improving our border security," said Mr. Glancey. "If this doesn't open D.C.'s eyes, I don't know what will."

Inquiry launched

Monday's incident was not the first face-to-face confrontation for Hudspeth County deputies. In November, deputies responded to assist Border Patrol agents at the border town of Fort Hancock where they encountered six men in military uniforms attempting to carry a load of marijuana over the river.

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U.S. Customs and Border Protection officials said Tuesday they have launched an inquiry into the Monday incident and asked Mexican authorities for a thorough investigation and full answer on what happened.

Customs "is coordinating closely with the appropriate federal, state and local authorities," said Kristi Clemens, Customs' assistant commissioner for public affairs. "The U.S. government is also discussing the matter with the government of Mexico and is asking for a thorough investigation and response. We take very seriously and investigate fully any alleged incident of criminal activity, threats against our agents or possible incursions."

Gov. Rick Perry also has ordered an investigation, spokeswoman Kathy Walt said.

U.S. Rep. Tom Tancredo, R-Colo., a frequent critic of the administration's border security efforts, called Tuesday for the federal government and the governments of southern border states to immediately deploy troops to the U.S.-Mexico border in light of what he termed "recent armed assistance Mexico's military has given to drug smugglers."

"Our border has literally turned into a war zone with foreign military personnel challenging our laws and our sovereignty," Mr. Tancredo said.

"The only way to deal with this dangerous situation is to tap the resources of our own military," Mr. Tancredo said. "I call on President Bush and the governors of border states to immediately deploy military personnel to defend our borders against the Mexican military."

U.S. Sen. Jon Kyl, chairman of the Senate Judiciary Subcommittee on Terrorism and Homeland Security, called on Secretary of State Condoleeza Rice to initiate a formal investigation on the reported border crossings and to begin a dialogue with Mexican officials to prevent further occurrences.

"These illegal incursions are a violation of our sovereignty and pose a significant danger to U.S. law enforcement officials and citizens near the border – especially if all parties involved are armed. The potential for violence is significant.

Mr. Kyl noted that the Department of Homeland Security released figures that indicate that there have been 231 documented incursions along the 2,000-mile border with Mexico since 1996.

Of those, 63 in that nine-year period occurred in Arizona and 28 occurred along the Texas border, according to Homeland Security.

In each instance, U.S. agents at the local level asked Mexican federal police and army officials to clarify what happened.

Border forays

Many included accidental forays by legitimate Mexican authorities across a poorly defined border in rough and isolated country while in pursuit of drug dealers. The Texas-Mexico border, however, is delineated by the Rio Grande River.

Investigators have long documented that Mexican drug gangs often wear camouflage clothing and carry military-style automatic weapons.

But Tuesday's request for a Mexican government response significantly ups the ante, federal officials said.

In Mexico, officials said the National Defense Ministry has begun an investigation of the incident and launched a search for the vehicles identified by photographs taken by Hudspeth County deputies.

Hudspeth County Chief Deputy Mike Doyal said that men dressed as Mexican soldiers manned what looked like .50-caliber machine guns mounted on vehicles about 200 yards inside the U.S. border during the incident.

In Mexico, a ministry spokesman said that the Army's Ciudad Juarez garrison does not maintain Humvees with mounted .50-caliber machine guns.

"It cannot be ruled out that said actions are designed as much to harm the image of our armed forces as the bilateral cooperation between Mexico and the United States in the fight against organized crime and, in particular, narcotrafficking," a foreign ministry spokesman said.

Mexican Drug Run Thwarted At Border (WT)

By Jerry Seper, The Washington Times

The Washington Times, January 25, 2006

DOJ_NMG_0011289

U.S. law-enforcement authorities confronted several men in Mexican military uniforms and a camouflaged Humvee with .50-caliber machine guns who had crossed into Texas with suspected drug smugglers 50 miles southeast of El Paso, forcing an armed standoff along the Rio Grande, says a Texas sheriff.

Hudspeth County, Texas, Sheriff Arvin West said the incident began at 2:19 p.m. Monday when his deputies -- working as part of an anti-drug smuggling enforcement initiative known as "Operation Linebacker" -- pursued three SUVs spotted driving north from a border area along the Rio Grande near Interstate 10.

Sheriff West said the pursuit, which began near Sierra Blanca, Texas, ended for one of the vehicles when it blew out a tire and the driver fled. He said deputies seized 1,400 pounds of marijuana from that vehicle.

As the southbound chase continued for the other two SUVs, he said the deputies and at least two Texas Department of Public Safety troopers who had joined in the pursuit encountered several men on the U.S. side of the border dressed in what he described as battle dress uniforms (BDUs). He said they "appeared to be soldiers, in a Humvee vehicle with what appeared to the officers as being .50-caliber machine guns."

Sheriff West said one of the vehicles made it into Mexico, but the other got stuck in the river, where a group of men in civilian clothes offloaded what appeared to be bundles of marijuana. He said the truck was then set ablaze by the "soldiers."

No shots were fired and no injuries were reported during what amounted to an armed standoff at the border.

T.J. Bonner, a veteran Border Patrol agent and president of the National Border Patrol Council, yesterday called the incident "just another example of what we have been saying all along: This is a serious problem and it's not going to go away.

"The U.S. government has got to put its foot down and take decisive action," said Mr. Bonner, whose union represents all 10,000 of the agency's non-supervisory personnel. "It would be nice if the Mexican government would address the problem, but it won't even admit there is one."

In November, the U.S. Border Patrol chased a dump truck full of marijuana in the same area when it also got stuck in the river seeking to return to Mexico. While Border Patrol agents sought to unload 3 tons of marijuana, the driver -- who had fled -- returned with a heavily armed group of men wearing Mexican military uniforms and carrying military-style weapons. The soldiers backed the agents away and bulldozed the truck back into Mexico.

Last week, Homeland Security Secretary Michael Chertoff dismissed reports of possible Mexican military incursions into the United States as "overblown" and "scare tactics." He said those involved in the crossings may have been dressed in military uniforms, "but they are just criminals, they are not military but they are wearing camouflage so someone may assume they are military."

Mr. Chertoff also said a significant number of 216 confirmed incursions since 1996 were "innocent," noting that police and military units in Mexico pursuing criminals "may step across the border because they do not know exactly where the line is."

Law-enforcement officials yesterday noted that the Texas-Mexico border is clearly marked by the Rio Grande.

Yesterday, U.S. Customs and Border Protection (CBP) spokeswoman Kristi M. Clemens said the Border Patrol was notified of possible narcotics smuggling by the sheriff's office involving suspects dressed in military-style uniforms and using military-style equipment. She said the incident is under investigation.

Ms. Clemens also said the Bush administration is discussing the matter with the government of Mexico and is asking for a thorough investigation and response.

Rafael Laveaga, spokesman for the Mexican Embassy in Washington, yesterday said that country's Ministry of Defense has ordered an investigation of the incident, but "already has informed us they do not have the type of vehicles and heavy weapons described by the sheriff" in the area.

"We strongly deny that members of the Mexican military were involved," Mr. Laveaga said, adding that criminal organizations involved in drug trafficking "wear look-alike military uniforms and use look-alike military equipment to affect an image of the Mexican military."

Republican Reps. David Dreier, chairman of the House Rules Committee, and Duncan Hunter, chairman of the House Armed Services Committee, have asked the House Judiciary Committee, the Department of Homeland Security, the House Homeland Security Committee and the House International Relations Committee to investigate suspected incursions by the Mexican military.

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The two California congressmen, citing what they called the "critical importance of border and national security," also asked Mr. Chertoff to explain how these incidents occurred, to outline the department's current policies to address illegal crossings, and to explain its strategy for preventing similar acts in the future.

Sen. Jon Kyl, Arizona Republican and chairman of the Senate Judiciary Subcommittee on Terrorism, Technology and Homeland Security, also has asked Secretary of State Condoleezza Rice to "initiate an official investigation" and "open a dialogue with Mexico to prevent any future incursions.

"These incidents pose a significant threat to our national security, as I'm sure you agree," Mr. Kyl said.

A Mexican government commission yesterday said it will distribute at least 70,000 maps showing highways, rescue beacons and water tanks in the Arizona desert to curb the death toll among illegal border crossers.

Feel The Rush Of A Smuggler (LAT)

By Richard Marosi

The Los Angeles Times, January 25, 2006

TIJUANA — The Mexican gang of human smugglers, hiding behind the wobbly fence of a drab town house, prepare the car for the latest run across the border.

Two young men wipe down the dusty windshield and check the brake lights while three migrants wait silently inside the house.

Finally, the driver arrives, an American who puffs nervously on a cheap cigarette and calls himself Trent. Accompanying Trent is Felix, the heavyset smuggling boss.

"Venganse!" — "Let's get going!" — a gang member yells. One by one, the migrants get in the trunk, twisting to fit inside. The one woman hesitates. She crosses herself. She steps in.

Curled beside one another, the migrants look up at the gang member.

"It won't be long, 20 minutes," he promises. "Don't move," he adds, slamming the lid shut. Within minutes, Trent drives the car into a sea of traffic inching toward the row of U.S. inspection booths at the border.

Smuggling operations like this one — Mexican rings teaming up with American drivers — occur daily at the two main vehicle gateways into California, a phenomenon that frustrates U.S. authorities.

In the last fiscal year, Americans drivers were caught 4,078 times on suspicion of smuggling migrants through the San Ysidro and Otay Mesa ports of entry into San Diego. The figure has hovered around 4,000 since the number of car smuggling cases spiked about six years go. U.S. agents can only inspect a fraction of the estimated 64,000 vehicles that cross daily. Even if drivers are caught, they are usually released. Only 279 drivers in 2005 faced alien smuggling charges.

Federal authorities say they are overwhelmed.

Secretary of Homeland Security Michael Chertoff, in a recent visit to San Ysidro, said he sympathized with federal prosecutors.

"There's a lot of crime out there," he said. "There just aren't enough prosecutors and judges to prosecute everything." Chertoff promised more alien-smuggling prosecutions in the future. Port authorities announced last week that drivers caught smuggling will be fined $5,000 for the first offense and $10,000 for the second.

The smugglers come from all walks of life — homeless veterans, single mothers, senior citizens and college students. Some drivers are drug addicts or gamblers who are down on their luck.

Felix says he employs so many American drivers like Trent that he rents them to other smuggling organizations. Dispensing orders on three constantly ringing cellphones, Felix has a code word for U.S. drivers: monos — monkeys.

"Siempre llegan los monos," — the monkeys always come to me, Felix says with a glint in his eye.

Felix, like many smugglers, provides drivers with free stays at motels in Tijuana, meals and drugs included. A driver doing three weekly runs can earn more than $100,000 per year, Trent said.

There's nothing like the euphoric feeling that rushes over him, Trent says, when he clears customs, a sense of relief mixed with satisfaction. After he helps migrants from the car, some shake his hand and thank him.

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In between runs, Trent dreams of an early retirement and spends his earnings on a "weakness for Latina babes," typically prostitutes. "What it boils down to: It's such an easy life, that it lures you in," he says.

I met Felix while reporting another story involving a low-budget Mexican movie producer. The producer said he knew a human smuggler — Felix, his financier and a part-time actor — and asked Felix to join us for dinner at a downtown Tijuana restaurant.

During the interview, Felix invited me to accompany him on a smuggling operation, but on several occasions over a five-month period he failed to show up for scheduled meetings.

One day last fall, Felix invited me to his home. A taxi driver, guided by Felix on the phone, drove me up the winding, potholed streets to his hillside house.

Felix shook my hand at the steel gate entrance to his walled property and introduced me to Trent. Both men agreed to be interviewed on the condition that their identities not be disclosed.

Felix didn't say why he agreed to bring me along. He said that he trusted me and that he didn't believe an article would harm his interests.

During the eight-hour visit, I realized that I would probably witness criminal activity and that the agreement would limit my ability to disclose details.

But the trade-off was gaining access into the world of human smuggling that remains a serious problem for the United States.

The frontier here — a 14-mile stretch blocked by double-fencing, stadium lighting, and hundreds of Border Patrol agents — is among the country's most heavily fortified.

With crossings between the ports of entry becoming so difficult, Tijuana has become the major staging ground for car-smuggling trips on the Southwest border.

The number of illegal migrants caught inside vehicles at the San Ysidro gateway has quadrupled since 2000, from 10,600 to 40,033 in 2005.

The bosses, like Felix, are typically Mexican and charge migrants as much as $2,500. They prefer teaming up with Americans to get their clients across the border.

Migrants are hidden in hollowed-out dashboards, radiators, and "coffin compartments" welded to the undercarriages of vehicles. Inspectors have found migrants in piñatas, rolled-up carpets and gasoline tanks. Some don't even hide, hoping to slip by as passengers.

Federal authorities focus on prosecuting cases in which drivers endanger the migrants' lives. According to court records, for example, Norma Martinez-Warnett was convicted in 2004 after trying to smuggle three children in a Honda Acura in 120-degree heat. A boy was hidden inside a special compartment in the back seat and agents discovered the boy after hearing his screams.

On the day of my visit to Felix's hillside home, Trent arrives grizzled and sleepy-eyed after a late night in the red light district. Felix works the phones while watching a Mexican soccer match on TV.

Hovering around the grounds are Felix's underlings: three heavily tattooed convicted felons. The men were deported from the U.S. and now work for Felix recruiting and shuttling drivers.

During a lunch of carnitas cooked by Felix's mother, Trent and Felix discuss the tricks of the trade, the morality of human smuggling and their partnership.

Felix and Trent say they met a few years ago, shortly after Trent showed up in Tijuana with 12 cents in his pocket. Trent says he lived in a nice home in a Southern California suburb when his marriage hit the rocks. His wife divorced him, took his four children and Trent said he was financially ruined.

In Tijuana's red light district, one of Felix's recruiters made an irresistible offer: $500 per migrant.

Trent quickly proved to be a reliable driver, Felix says, unlike many of the hundreds he has employed over the years. Would-be drivers are often drug addicts who must be "cured," Felix says, before being given jobs.

Felix's remedy? He gives them a present of one last fix before putting them through terapia intensiva — "intensive therapy": A cold-turkey detoxification regimen consisting of a shave, haircut and lots of cold showers, Felix said.

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Trent, Felix says, is not a drug addict and thanks to his dignified bearing and gutsy attitude has become one of his best drivers.

Trent, who speaks little Spanish, considers migrant smuggling "illegal, but not immoral." He says he doesn't smuggle drugs, and called the migrants he brings into the country hard-working people who contribute to American society and support families back home in Mexico.

Trent says the smuggling work provides ample support for himself too, thanks to Felix, who Trent said is more generous than other human smugglers he's worked for.

"What impressed me about him is, when you do get done with a piece of work, he asks you, 'Do you need anything … food, drugs, girls? He'll take care of you," says Trent.

Trent says he makes a good living, despite all his spending on women. "Unfortunately they consume a significant portion of my income," he says. "I've been robbed, cheated, drugged and fallen for a few."

One reason for Felix's largesse with drivers: The long wait between runs as the smugglers organize loads. Trent goes days between jobs, he says. When he is finally summoned, the wait to launch the run can take hours, just like this day.

After the meal, Felix waters his plants, plays with his young daughters and confers with his cronies.

They watch a low-budget Mexican movie about warring drug cartels. Felix partly financed the film and played a bit part as a gunman. When Felix's character is peppered with bullets, he staggers to his death with a dramatic flourish, cracking up everyone in the room, including Felix.

"You should have been an actor," Felix's sister tells him.

The film and human smuggling worlds share some similarities, Felix says. He plans to "recast" one newly arrived American, who looked like a tough guy in baggy jeans, into a mellow surfer dude with knee-length shorts and colored T-shirt. A beach vibe is better than an urban thug look for driving migrants across the border. "It's just like the movies," Felix said. "You have to cast them properly."

A short while later, Felix gets another phone call, hangs up and tells Trent: "Hey, do me a favor. Go shower and shave. Dress perfectly. We're working in one hour."

The mens' relaxed demeanors turn serious. Trent hurries upstairs, and Felix tries to keep up with the constant phone calls.

Trent emerges wearing slacks and a beige, pullover shirt, his chin bloodied from shaving. They get into a car, and Felix begins driving us on the half-hour trip across the traffic-choked city to the town house where the migrants are waiting. Blue rosary beads dangle from the rear-view mirror. No one speaks.

When they stop and Trent runs into a mini-mart for cigarettes, Felix says Trent is unusually nervous. A jumpy driver facing off with U.S. inspectors — What were you doing in Tijuana? What did you buy? — is definitely not a good thing, he says.

A sweaty brow, darting eyes, fidgety shoulders can give away a smuggler.

Earlier, Trent had boasted about being able to fool any inspector. "It's all about presentability," he said. "I'm a professional."

But just before getting into the car Trent had confessed fear. Trent has been caught before — he won't say how many times — and if authorities pursue charges, he could face three years in prison.

"The stress is killing me. You can mask it, hide it, appear to be relaxed. But the reality is, there's always that little nagging sensation that grows louder the closer you get to the gate," he said.

When they arrive at the town house, the mood is tense. The gang works quickly knowing that if police arrive, it would be easy to prove smuggling charges. In Mexico, that would mean a possible six-year prison term or, according to Felix, a $15,000 bribe to get the case dismissed.

Trent gets his instructions: After clearing customs, he is to drive to a parking lot in a San Diego suburb where the migrants will be turned over to another driver.

After the migrants squeeze into the trunk, the gang members peer beneath the car to make sure the modified suspension has kept the rear end from dipping low enough to catch inspectors' attention.

Behind the wheel, Trent studies the dashboard and turns on the defroster so the migrants' breaths won't fog the rear window.

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He is angry at Felix because he has offered less money than the usual, $500 per migrant. "I'm not a happy camper," he says, "but we'll deal with that later."

As Trent pulls out, Felix leans into the window. "Everything is going to be OK.... Don't forget your seat belt." Trent buckles up.

The drive to the border takes a few minutes.

Felix, taking me in his vehicle, follows to make sure police are not tailing Trent. When Trent drives into the lanes leading to the border checkpoint, Felix pulls over in front of a small house and honks the horn.

It's a waiting game now. Felix gets calls every few minutes from a lookout near the border. The line of cars is longer than expected, at least a 40-minute wait. Felix knows that some migrants, overwhelmed by the darkness and heat in the trunk, start crying. The operation could be foiled if a roving U.S. inspector walks by with a dog trained to sniff out drugs and humans.

As Felix told me in an earlier meeting, "Those dogs smell fear."

A middle-aged woman emerges from the house and gets in Felix's car. She houses migrants for him and Felix owes her money. They chat about some of Felix's successful drivers. One father-son team from Texas, they say, used smuggling profits to pay for the boy's cancer treatments.

Then the lookout calls Felix with news: Trent got busted.

Felix hangs up the phone. "Somehow he got tripped up answering the questions," he says.

The authorities will free him shortly, Felix predicts. "They don't do anything to drivers."

As federal arrest records later show, Trent will indeed be released — along with 36 other American drivers caught trying to smuggle 61 migrants during a four-day stretch.

"Tomorrow, he'll come back," Felix says, "and we'll try again."

Maps Show Illegal Migrants Best Routes (LAT)

By Sam Enriquez, Times Staff Writer

The Los Angeles Times, January 25, 2006

MEXICO CITY — Mexico's National Human Rights Commission will print and distribute at least 70,000 maps showing immigrants the safest routes to cross the border into Arizona, officials said Tuesday.

The project, which immediately drew fire from groups organized against illegal immigration, is aimed at reducing the number of people who die trying to cross 50 miles of Sonoran Desert to reach highways in southern Arizona, according to Humane Borders, the Tucson-based humanitarian group that created the maps.

Steel barriers and stepped-up border patrols in California over the last decade have pushed immigrant smuggling routes east to more sparsely populated stretches of the Arizona border. Summer temperatures there routinely surpass 100 degrees.

"We can close the border with enough money and political will, which I don't think we have, but we don't have to kill people by forcing them out into the desert," said the Rev. Robin Hoover, president of Humane Borders.

The Mexican government said 441 of its citizens died last year on the border, most in Arizona.

The new maps will show spots where people have died — presumably discouraging some prospective migrants — as well as main roads, rescue beacons and the locations of water stations maintained by Humane Borders.

The Pima County Board of Supervisors this fall approved spending $25,000 to support the group's water stations after administrators argued that it was cheaper than the $300,000 the county spends recovering and storing the bodies of immigrants who died in failed desert crossings.

Hoover said work on the desert maps began in May using government data and donated mapping software. The maps also show how far an average adult can walk in one, two or three days.

"The idea is to put the fear of God into some of these migrants so they'll stay in the main corridors and don't go where there's no water," said Hoover, pastor of the First Christian Church in Tucson.

Jose Luis Soberanes, president of Mexico's human rights commission, thanked Hoover and his group Tuesday, saying they have been saving the lives of migrants.

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The group last year compiled safety tips for desert crossings that covered proper clothing and how much water to bring for each day's journey. Mexico was criticized for printing a million of the 32-page booklets for migrants headed to the United States.

Jack Martin, special projects director for the Federation for American Immigration Reform, said the maps and other efforts only encourage illegal immigration.

"The fact that there's an American group doing this," he said, "sends the message that there are Americans who think that it's perfectly acceptable to enter the U.S. illegally, and probably will be down on the border aiding and abetting the illegals when they get in the U.S."

The U.S. House of Representatives approved a bill in December that would add 700 miles of border fencing and make illegal immigration a felony. The bill is expected to reach the Senate next month.

Mexico opposes increased border enforcement without creating a broad temporary worker program and provisions for the millions of Mexicans living illegally in the United States.

Times staff writer Richard Marosi in San Diego and Cecilia Sanchez in The Times' Mexico City Bureau contributed to this report.

Case Sent To Grand Jury, Conner Sent Back To Jail (BRITSHC)

By Matthew Lakin, Bristol Herald Courier

Bristol (VA) Herald Courier, January 25, 2006

GREENEVILLE - Evidence against a Navy recruiter accused of a murder-for-hire plot will stay secret a little longer.

Chief Petty Officer Keith Patrick Conner, 38, appeared briefly in federal court Tuesday - just long enough to waive his rights to bond and to a preliminary hearing on charges of trying to buy a bomb to kill someone.

"This will save us a lot of time," said his lawyer, Nikki Pierce, an assistant federal public defender.

U.S. Magistrate Judge Dennis Inman sent the case to the grand jury and sent Conner back to jail.

Conner, a Gulf War veteran and the senior recruiter for the Navy's office in Bristol Virginia, met an undercover agent for the federal Bureau of Alcohol, Tobacco, Firearms and Explosives in the parking lot of the Bristol Mall last week and paid $1,000 as a down payment for what he thought was a homemade bomb, authorities said.

He showed up two days later at the Days Inn on West State Street to pick it up, according to court records. Conner put the "bomb" - a fake - in his truck, authorities said, and federal agents put him in handcuffs.

"Our bombs don't work," said Jim Cavanaugh, special agent in charge of the bureau's Nashville office and chief of ATF operations in Tennessee. "But without these agents' hard work, we could very easily have ended up working a bombing fatality."

Skipping the preliminary hearing saved prosecutors from making the evidence against Conner public, including the details of a confession federal agents said he signed and the name of the bomb's intended target.

Federal agents have refused to say who they think Conner wanted to blow up.

"It really doesn't matter who he intended to kill, as long as there's evidence that he tried to buy a bomb," Cavanaugh said.

At the recruiting office in Bristol, Conner's fellow sailors still couldn't believe the news.

"It was a shock to everybody," said Cmdr. Dan Cunningham, his commanding officer. "We've never experienced anything like this. It's like a bad TV show."

Cunningham said he spent the past few days telling Conner's recruits what happened.

"You're dealing mainly with teenagers and 20-year-olds," he said. "They get to know these people. They look up to them."

Conner, a native of the Jacksonville, Fla., area, joined the Navy in 1985. He spent most of his time on ships as a hull technician, doing welding and various repair jobs, before going to work as a recruiter.

He arrived at the Bristol office in April 2003 and recruited 29 sailors during his time there. He last reported for work on Thursday, just a few hours before his arrest.

"He's still in the Navy," Cunningham said. "Right now all I can do is wait and see what route they take with his case."

Kingsport Man Accused Of Trying To Buy Bomb For Use In Murder (KINGSTN)

Kingsport (TN) Times-News, January 25, 2006

DOJ_NMG_0011295

KINGSPORT - A U.S. Navy recruiter is accused of trying to buy a homemade bomb with plans to use it to murder another person. But authorities say the person he attempted to buy the bomb from was an undercover ATF agent.

Chief Petty Officer Keith Patrick Conner, 38, of Kingsport, was arrested last week on the charge of using an interstate commerce facility (telephone) in the commission of murder for hire.

Officials with the Bureau of Alcohol, Tobacco, Firearms and Explosives said Conner attempted to buy an explosive device from an undercover ATF agent last week and was subsequently arrested.

Conner, the senior recruiter for the U.S. Navy's Bristol office, appeared in U.S. District Court in Greeneville on Monday, where he waived a detention and preliminary hearing.

U.S. Magistrate Judge Dennis Inman ruled Conner be held without bond until trial. U.S. Attorney Rob Reeves said no trial date has been set. The case will now go before a grand jury for possible indictment.

Conner faces a maximum sentence of 10 years in prison and a $250,000 fine.

Jim Cavanaugh, special agent in charge of the Nashville Field Division of the ATF, said the ATF was called into the case after the Naval Criminal Investigative Service (NCIS) received a tip about Conner's plot.

According to court records, on Jan. 15 Conner spoke to an undercover ATF agent over the phone about hiring him to build a bomb.

"Conner was buying the bomb from the agent, and either he or others were going to plant the bomb," Cavanaugh said.

Cavanaugh said Conner has told authorities who he intended to target with the bomb, but federal agents are not releasing that person's identity.

Federal agents say they are not certain when Conner was going to commit the murder.

Court records state Conner agreed to pay $1,000 up front for the bomb and pay an additional $1,000 plus an unspecified bonus once the murder was completed.

Officials say Conner met the ATF agent at the Bristol Mall on Jan. 17 and paid him the first $1,000. Two days later, Conner allegedly met the agent in the parking lot of the Days Inn in Bristol, Tenn., in order to pick up the explosive device.

Court records state when the device was placed in Conner's truck, federal agents arrested him.

Cavanaugh said incidents such as this do happen from time to time.

"They're rare for any city, but they're not rare across the country," Cavanaugh said. "When a person comes up and acquires an explosive device and plans to murder somebody, it becomes very dicey.

"If we didn't get involved and intercept this, the potential is Conner could go to someone else to make the bomb, it could blow up, the victim could be killed. There's a whole lot of associated dangers. We're just glad we're not working a fatal bombing."

Dozens Of Sticks Of Dynamite Are Stolen (FWST)

By Alex Branch And Gale Bradford

The Fort Worth Star-Telegram, January 25, 2006

PARKER COUNTY - A thief who used a torch to cut a lock on a shed where explosives are kept stole about 100 sticks of dynamite from a stone business in southern Parker County, law-enforcement officials said.

The theft from Fort Worth Crushed Stone, in the 4300 block of Bethel Road, was reported about 6:30 a.m. Monday, Parker County Sheriff Larry Fowler said.

County Judge Mark Riley immediately notified state and federal authorities, Fowler said.

Investigators and company officials took inventory Monday to determine whether anything else was missing, said Tom Crowley, spokesman for the Bureau of Alcohol, Tobacco, Firearms and Explosives in Dallas.

"We're already doing interviews and chasing down leads," Crowley said. "Obviously, it's a big concern anytime you're talking about explosives potentially falling into the wrong hands."

The Texas Department of Public Safety is also assisting in the investigation, he said.

To provide information about the theft, call the Parker County Sheriff's Department at (817) 594-8845 or the ATF at (469) 227-4300.

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IMMIGRATION:

Accused Nazi Guard Appeals U.S. Deportation Order (FINDLAW/AP)

AP, January 25, 2006

(AP) - CLEVELAND-An 85-year-old retired autoworker who lost his U.S. citizenship based on evidence he was a Nazi death camp guard asked an immigration board to reverse a judge's order that he be deported.

Chief Immigration Judge Michael Creppy ruled Dec. 28 that there was no evidence to document John Demjanjuk's claim that he would be tortured if deported to his home country of Ukraine. The judge ruled that Demjanjuk should be deported to Germany or Poland if Ukraine does not accept him.

Demjanjuk's appeal filed Monday sticks to the argument that he faces torture in Ukraine and that the case should have been handed to a judge responsible for Cleveland. Creppy is based in Falls Church, Virginia, as is the Board of Immigration Appeals.

Demjanjuk, who came to the United States in 1952, was cleared in 1993 in Israel of being Ivan the Terrible, a sadistic guard at the Treblinka concentration camp. He had faced a death sentence in Israel until new evidence emerged that someone else was the notorious Ivan.

He lost his U.S. citizenship for a second time after a judge ruled in 2002 that documents from World War II prove he was a Nazi guard at various death or forced labor camps.

House Republican Cites Guest-worker 'Amnesty' (WT)

By Stephen Dinan

The Washington Times, January 25, 2006

Rep. F. James Sensenbrenner Jr., the House point man on immigration, yesterday said that a guest-worker program like the one proposed by President Bush is amnesty and that he cannot accept it in a final immigration bill.

"A guest-worker program that applies to illegal aliens already here is an amnesty," the chairman of the House Judiciary Committee said in an interview with The Washington Times.

As the chief House negotiator in any House-Senate conference committee on immigration, he said voters will not accept a plan that amounts to amnesty, and said Mr. Bush's proposal would simply push the problem down the road.

"It seems to me that if you give these people the temporary cards, and the president talked a little bit about that yesterday out in Kansas, whether they are three-year cards or six-year cards or any other term, how do you get them to go back home when they expire?" he said. "We end up simply postponing the decision on what to do about illegal aliens until the end of the validity of these cards."

He also said when Congress and the White House agreed in December 2004 to increase the U.S. Border Patrol by 2,000 agents a year, then two months later the president only funded 210 positions, it "was embarrassing both to the administration and those of us who fought for increased assets for border protection in the intelligence bill and then were let down."

The Wisconsin Republican was a driving force behind last year's House immigration-enforcement bill, which calls for nearly 700 miles of border fence, requires employers to verify employees' Social Security numbers and allows border county sheriffs to enforce immigration laws.

He said he would prefer that Congress make sure border and interior enforcement is in place before a guest-worker program begins to operate.

"The guest-worker provision won't work without interior enforcement and verification of Social Security numbers. It's as simple as that," he said.

He also said the U.S. Chamber of Commerce "should be ashamed of themselves" for sponsoring meetings with Luis Ernesto Derbez, Mexico's secretary of foreign affairs, in Chicago in December, after which the minister criticized the House bill.

"What they are doing is saying that it's OK to use fake Social Security numbers. I don't think that anybody who is in business ought to be condoning the use of false documentation," Mr. Sensenbrenner said. "If they continue promoting speeches by Mexican government officials then maybe they ought to register as an agent of a foreign government under the law."

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Randy Johnson, the chamber's vice president for labor and immigration issues, said the chamber "does not condone, and never has condoned, the use of fake Social Security numbers, and we recognize that improved worksite verification is necessary as part of any reform package."

But he said verification has to be phased in and "shown to work." He said the bill sponsored by Sen. John McCain, Arizona Republican, also has verification.

He also said the chamber did not invite Mr. Derbez to attack Mr. Sensenbrenner, and said the chamber works with Mr. Sensenbrenner on many issues.

Mr. Sensenbrenner also:

•Said he supports expanding the local law-enforcement provisions in last month's bill so that authorities nationwide could enforce immigration laws.

•Called on the president to include funds to pay for the pending House enforcement bill in his upcoming budget.

•Said employers should pay for the applications process for a guest-worker program and employers should also determine the period for their temporary workers, because then they will have an incentive to make sure the worker remains employed.

Full text of interview with Rep. James Sensenbrenner Jr.

TAX:

IRS To Revise Tax-Fraud Screening (WSJ/AP)

The Wall Street Journal, January 25, 2006

WASHINGTON -- IRS Commissioner Mark Everson ordered a review of a tax-fraud detection program criticized for freezing thousands of refunds without notifying taxpayers.

Mr. Everson said the tax agency will soon announce new procedures to advise taxpayers when a refund has been frozen. The agency will also revise its fraud screening procedures so that it withholds fewer refunds owed to innocent taxpayers. "Honest taxpayers expecting a refund deserve to be treated fairly," Mr. Everson said.

National Taxpayer Advocate Nina Olson criticized the program in her annual list of the worst problems facing taxpayers. Her office, which helps taxpayers resolve disputes with the IRS, handles more frozen refunds than any other issue. A study of those cases found no evidence of fraud in two out of three instances.

Lawmakers said the IRS needed to take more care to prevent innocent taxpayers from enduring long delays in receiving a refund, and Mr. Everson said critics raised legitimate complaints.

IRS criminal investigators use the Questionable Refund Program to screen tax returns for indications of fraud. It temporarily freezes refunds when it detects evidence of potential fraud.

The IRS tries to validate the taxpayers' right to a refund and lifts the freeze if no fraud is discovered. If the refund can't be validated, the tax collectors permanently freeze the refund for further investigation. In most cases, the tax agency doesn't inform taxpayers that they are suspected of fraud. A taxpayer wouldn't be told anything until six months after trying to find out what happened to an expected refund.

Refunds claimed on tax returns determined to be fraudulent remain frozen for a number of years until the IRS sees the taxpayer file a number of legitimate returns.

The tax agency said it is fighting a rising tide of refund fraud, which it now estimates to be more than $500 million a year. A significant portion involves false earned-income-tax-credit claims, which can amount to $4,400 on a tax return, the IRS said. Nearly 75% of the pool of frozen refunds studied by the taxpayer advocate were low-income families claiming the earned-income-tax credit, designed to reduce poverty among the working poor.

The IRS issues more than 100 million refunds each year, and the Questionable Refund Program withholds less than 1% for further scrutiny. The IRS said about 200,000 refunds are held longer than a week, but many of those can be held for months or years.

Senate Finance Committee Chairman Charles Grassley (R., Iowa), who asked the IRS to revise the program before this year's tax-filing deadline, called the announcement "a good step."

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"Taxpayers deserve notification of their refund status and a chance to tell their side of the story," Sen. Grassley said in a statement.

IRS To Tell Taxpayers Of Frozen Refunds (WP)

By Albert B. Crenshaw

The Washington Post, January 25, 2006

The Internal Revenue Service, under pressure from Congress and its taxpayer advocate, said yesterday that it will notify taxpayers when their refunds are withheld because of suspicion of fraud.

Last year, according to a study by the office of the IRS's national taxpayer advocate, the IRS "froze" more than 120,000 refunds that were identified as likely to be fraudulent. Over the past five years, more than 1.6 million such refunds were withheld.

Taxpayers were not notified that their refunds had been frozen, nor were they given a chance to respond. Eventually some of the refunds were released, but many were delayed months or years. Others remained frozen indefinitely.

Nina E. Olson, the taxpayer advocate, highlighted the issue in her annual report to Congress this month. She noted that many of the blocked refunds involved the earned income tax credit, which is available to low-income working families.

The report elicited concern from many on Capitol Hill, including Chairman Charles E. Grassley (R-Iowa) and senior Democrat Max Baucus (Mont.) of the Senate Finance Committee.

Internal Revenue Commissioner Mark W. Everson said yesterday that he had ordered a review of the program.

"We will announce plans in the very near future to institute notification procedures as well as significant processing improvements to minimize the number of taxpayers whose refunds are frozen unnecessarily," Everson said in a written statement. Everson provided no details, but an IRS spokesman said the agency expects more information to be available next week.

"Claiming fraudulent refunds ultimately undermines the integrity of the tax system, but I believe that appropriate notification should be given when refunds have been frozen. Honest taxpayers expecting a refund deserve to be treated fairly," he said.

The IRS estimates refund fraud at $500 million a year and noted that Congress has pressed the agency to narrow the gap between what taxpayers owe and what they pay. That gap is estimated at $300 billion to $350 billion.

Agency officials noted after the release of Olson's report that the 120,000 frozen refunds were claimed on a tiny fraction of the 130 million returns filed annually and that refund fraud had increased 322 percent in the past six years.

Olson expressed doubts in her report about the unannounced seizure of refunds by the IRS's criminal investigation division.

"At a minimum, this procedure constitutes an extraordinary violation of fundamental taxpayer rights and fairness. In our view, it may also constitute a violation of due process of law," she said in the report.

Yesterday, Olson commended Everson for initiating the review, acknowledging that the program "serves an important tax administration purpose." She urged that in addition to notification, the agency allow affected taxpayers to present their side of the cases "before making any 'determination' that someone has committed tax fraud." She also recommended that it "refine fraud-screening methods to reduce the number of honest taxpayers whose refunds are frozen in error" and speed up processing of frozen-refund cases.

IRS Chief Wants Policy Freezing Tax Refunds Reviewed (USAT)

By Sandra Block

USA Today, January 25, 2006

IRS Commissioner Mark Everson said Tuesday that he's ordered the IRS to review a controversial anti-fraud program that freezes refunds for hundreds of thousands of mostly low-income taxpayers without their knowledge.

In a statement, Everson said the IRS will soon announce procedures to notify taxpayers when their refunds are frozen. The IRS also plans to change its screening process to minimize the number of taxpayers whose refunds are frozen unnecessarily, he said.

Earlier this month, the IRS' taxpayer advocate, Nina Olson, said the Questionable Refund Program might violate taxpayers' rights to due process of law.

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The program freezes refunds that are potentially fraudulent. But the IRS doesn't notify taxpayers that their returns are being investigated. If taxpayers call to inquire, IRS employees are usually barred from providing any information for six months after a taxpayer's inquiry.

Olson said complaints to her office about unpaid tax refunds have risen more than 400% since 2002. More than two-thirds of those who complained were entitled to a full refund, an investigation by her office found.

Olson said low-income families who claimed the earned income tax credit were disproportionately affected by the program. Delayed refunds cause a significant hardship for these families, she said.

While fraudulent refunds undermine the integrity of the tax system, "Appropriate notification should be given when refunds have been frozen," Everson said. "Honest taxpayers expecting a refund deserve to be treated fairly."

Asked about Everson's announcement Tuesday, Olson said the IRS should focus immediately on four priorities: providing prompt notification to taxpayers whose refunds have been frozen; allowing taxpayers whose refunds have been frozen to present evidence supporting their refund claims; reducing the number of refunds frozen in error; and processing frozen-refund cases more quickly.

Senate Finance Committee Chairman Charles Grassley, R-Iowa, sent a letter to Treasury Secretary John Snow last week, urging the IRS to fix the problem before the spring tax-filing season.

In a statement Tuesday, Grassley called the IRS announcement a "good step."

"Taxpayers deserve notification of their refund status and a chance to tell their side of the story," Grassley said. "They deserve not to get caught in a criminal dragnet unnecessarily."

Tax Shelter Inquiry Expands (NYT)

By Lynnley Browning

The New York Times, January 25, 2006

Federal prosecutors are investigating three lawyers at a prominent Dallas law firm, Jenkens & Gilchrist, in a widening of an investigation into questionable shelters that shielded billions of dollars from taxes, according to people briefed on the inquiry.

The criminal investigation of the lawyers, now being heard by a grand jury in Manhattan, is a clear sign that the government is extending the investigation of tax shelters that it considers abusive beyond the case involving the accounting firm KPMG.

There is no indication that Jenkens & Gilchrist itself is a target of the investigation. Petri Darby, a spokesman for Jenkens & Gilchrist, said yesterday, "We are cooperating fully with the investigation."

Instead, the investigation is focused on three current and former tax lawyers based in the firm's Chicago office, the heart of its tax practice. They are Paul M. Daugerdas (pronounced DOG-er-dus), Erwin Mayer and Donna M. Guerin, according to the people who have been briefed on the investigation.

The three lawyers wrote hundreds of legal opinion letters in recent years blessing aggressive tax shelters sold by accounting firms and, in some cases, by the law firm itself, that did not pass muster with the Internal Revenue Service, according to separate civil litigation against the firm. Investors used those legal opinion letters, often costing $75,000 or more each, as a form of protection that they thought guaranteed their tax shelters were legitimate.

Mr. Daugerdas in particular became among the richest of those who participated in the tax shelter business, according to court papers in the separate civil proceedings.

In the civil litigation, Jenkens & Gilchrist has argued that what it did was proper at the time, and the firm has generally sought to settle cases or have them dismissed.

Lawyers for Mr. Daugerdas, Mr. Mayer and Ms. Guerin declined to comment yesterday.

The criminal investigation of the lawyers indicates that the government's focus on questionable tax shelters has broadened beyond KPMG.

In the KPMG case, the firm agreed to pay a $456 million penalty, accept an independent monitor of its operations and acknowledge wrongdoing to avoid an indictment. Seventeen former KPMG tax professionals, an outside lawyer and an investment adviser have been indicted on charges of defrauding the I.R.S. through the creation and sale of four shelters. All 19 are fighting the charges.

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At the time of the original indictment, prosecutors indicated that the investigation was continuing and that they would be looking at the law firms, advisory firms and banks that the government contends helped accounting firms create and sell aggressive tax shelters in recent years. Such shelters, which in the eyes of the I.R.S. are illegitimate tax dodges, have deprived federal coffers of tens of billions of dollars in revenue. A Senate subcommittee that conducted hearings on abusive tax shelters in 2003 identified several banks, including Deutsche Bank, law firms and others that worked together to create and sell questionable tax shelters.

According to civil lawsuits against it, Jenkens & Gilchrist sold legal opinions attesting to the acceptability of tax shelters with names like Cobra, Homer and Bart. The firm also helped design certain questionable tax shelters, according to the lawsuits.

Jenkens & Gilchrist, with about 270 lawyers, has been struggling in recent years as it defends itself in more than a dozen lawsuits over its work on tax shelters.

Partners and clients have left the firm. An $82 million settlement between Jenkens & Gilchrist and about 1,100 wealthy investors who bought invalid tax shelters using its opinion letters is still awaiting court approval.

In December, Jenkens & Gilchrist did not renew the contracts of Mr. Daugerdas and Mr. Mayer; it had previously stripped both men of their stakes in the firm. Ms. Guerin is still employed by the firm, but she is no longer an equity partner sharing in profits.

Lawyers for the three Jenkens & Gilchrist lawyers are expected to argue that the amount of money that Mr. Daugerdas was earning for himself and the firm through his tax shelter work was well known to the firm's top leadership.

The opinion letters written by all three lawyers typically bore the co-signatures of tax partners in the Dallas office of Jenkens & Gilchrist, according to a person who has seen the letters.

Mr. Daugerdas earned $93 million in fees from 1999 through 2003 by selling opinion letters for questionable shelters and by designing and selling certain shelters, according to persons who have seen sealed documents filed in connection with a previous class-action civil settlement between Jenkens & Gilchrist and investors.

That figure would make Mr. Daugerdas one of the wealthiest single participants in the tax shelter business. The Chicago tax practice that Mr. Daugerdas led in the late 1990's generated $267 million in fees from its work on tax shelters, according to the people who have seen the settlement documents.

Of that amount, about a third went to the general coffers of Jenkens & Gilchrist, while the rest went to other partners, including Mr. Mayer and Ms. Guerin, and accounting and financial firms with which the law firm worked on tax shelters. Mr. Mayer's work on questionable shelters earned him about $28 million from 1999 through 2003, while Ms. Guerin made around $4 million, according to the people who have seen the sealed settlement papers.

Jenkens & Gilchrist has been in the sights of the I.R.S. and Justice Department since at least 2003. That year, in the first case of its kind involving a law firm, the Justice Department petitioned a federal court in Illinois to enforce several I.R.S. summonses and petitions that sought to force the law firm to turn over the names of 600 investors who bought aggressive shelters. Jenkens & Gilchrist eventually complied.

The grand jury investigating the three Jenkens lawyers was impaneled by the United States attorney's office in Manhattan sometime last summer, according to the people briefed on the investigation. It is the second to examine the illicit tax shelter industry.

The first grand jury on tax shelters was impaneled in early 2004 to investigate KPMG. Its findings led federal prosecutors to recommend to the Justice Department that KPMG be indicted. KPMG and Justice reached a deferred-prosecution agreement in late August.

IRS Steps Up Scrutiny Of Family Partnerships (WSJ)

By Rachel Emma Silverman And Tom Herman

The Wall Street Journal, January 25, 2006

The IRS is intensifying its scrutiny of family limited partnerships, a popular technique for reducing estate and gift taxes.

The heightened scrutiny comes as the Internal Revenue Service has stepped up enforcement more broadly, increasing the number of audits it performs. The agency has said it plans to focus more resources investigating taxpayers with incomes of

$100,000 and above. Officials also are focusing especially on what they call abusive shelters, or transactions with no real economic purpose other than evading taxes.

As part of its deepening probe into family limited partnerships, the IRS is questioning more of these transactions and taking a harder line during audits, seeking evidence of whether they really were set up for legitimate business purposes -- or merely as an elaborate tax dodge, officials say. In an increasing number of cases, auditors are interviewing taxpayers' adult children and others involved in a partnership for details on how it was set up and run. Officials are sometimes even scrutinizing partners' medical records, or interviewing doctors, to determine if a partnership was improperly created mainly to save taxes by someone on the verge of dying.

"We think it's a significant area of abuse," says Aileen Condon, chief of the estate and gift-tax program in the IRS's small business/self-employed division. She says a string of court victories by the IRS involving family limited partnerships in recent years has helped make the agency "more effective in identifying and challenging noncompliance and abuse."

Tax lawyers say the IRS's more aggressive stance has cast a chill over the partnerships and led them to be more careful about which clients they recommend the transactions to. David Handler, a partner at Kirkland & Ellis LLP in Chicago, says he has begun routinely telling clients considering setting up these partnerships "to plan on their gift-tax or estate-tax returns being audited." He says he has seen the IRS step up its scrutiny in recent months and has reduced the number of partnerships he has set up.

In a typical family limited partnership, a parent transfers assets, such as stock, real estate or a business, into a partnership formed with the children. Most of the shares in the partnership are eventually given to the children. Parents retain a small ownership stake and sometimes are the general partner, which means they can make management decisions about the assets. Because the children often receive limited partnership interests with less control, the value of their limited shares often can be discounted at least 20%, thereby lowering the gift-tax bite. Partnership interests given to the children also may be considered out of the parents' estate.

Martin E. Basson, an IRS lawyer based in southern Florida, and James L. Gulley, an IRS lawyer in Houston, said at a recent tax conference that the agency has gotten more aggressive in its scrutiny of family limited partnerships. One area of interest: Is the discount applied in valuing partnership interests a reasonable amount?

What's more, auditors increasingly might interview adult children of a deceased person who had set up a family limited partnership. "The IRS may be checking that those children who are limited and general partners have the business knowledge, expertise and involvement that establish a valid business purpose" for the partnership, according to Bruce Friedland, an IRS spokesman.

While nobody knows exactly how many family limited partnerships exist, lawyers and IRS officials say billions of dollars have flowed into these vehicles. The cost of setting up a partnership varies depending on its complexity. The partnerships can cost $15,000 or more in lawyer and appraisal fees. There are also annual accounting and administration fees that can cost several thousand dollars a year.

A major IRS courtroom victory occurred over the summer, when the U.S. Court of Appeals for the Fifth Circuit ruled in favor of the government in a case involving the partnership of a deceased Texas businessman named Albert Strangi. The court found that the assets transferred into the partnership should be included in Mr. Strangi's estate, and thus subject to estate taxes. In essence, the court found that Mr. Strangi didn't really give up possession of his assets even after transferring them into the partnership. What's more, the partnership didn't have a "substantial" purpose besides saving taxes, according to the ruling.

While the IRS has won numerous court cases involving family limited partnerships, it has also lost a few. Tax lawyers say the cases have provided them with helpful hints on how to structure transactions. For example, in light of heightened IRS scrutiny, advisers emphasize that partnerships should have a valid nontax reason to exist -- such as managing a family business or to pool together investment assets, such as real estate. Also, the parent shouldn't regularly dip into partnership assets, such as cash or a house, for personal use. If a parent donates to a partnership but still continues to hang onto the assets, the property may revert back to the parent's estate.

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Some advisers also recommend that parents name an independent third party as a general partner, so parents don't retain too much control over the partnership. And parents should set up a partnership while in good health, rather than on their deathbed to avoid the appearance the partnership is intended mainly to avoid estate tax. * * *

Speculation grows over whether Congress will extend lower rates on capital gains and dividends.

The top 15% rate on long-term capital gains and most types of corporate dividends is scheduled to expire after 2008. There is "probably about a one-in-three chance" that Congress won't act this year to extend these rates through 2010, says Andy Laperriere of ISI Group, an investment research and brokerage firm.

If legislation doesn't pass early this year to extend the dividend tax break, "investors will rightly question whether this will expire, considering Republicans are likely to have smaller majorities in Congress next year," the ISI report says.

Also, if this doesn't pass, "it is a negative for the overall market, but particularly high dividend-paying stocks, such as utilities." * * *

New laws affecting hurricane victims are summarized in an IRS publication.

The IRS said yesterday that Publication 4492 is available on its Web site (www.irs.gov1). It explains changes to the tax law and relief provisions available for those affected by Hurricanes Katrina, Rita and Wilma.

The publication applies to both individuals and businesses. * * *

BRIEFS: Kimberly S. Blanchard of Weil, Gotshal & Manges LLP takes over as head of the New York State Bar Association tax section, succeeding David P. Hariton of Sullivan & Cromwell LLP… The IRS deadline expired Monday for thousands of taxpayers to file papers to accept the government's offer to settle high-stakes battles over 21 shelters. The IRS hasn't yet said how many taxpayers filed.

CONGRESS-ADMINISTRATION:

Alito Confirmation Supporters Look Strong (AP)

By Jesse J. Holland, Associated Press Writer

The Associated Press, January 25, 2006

(01-24) 18:54 PST WASHINGTON, (AP) --

Supreme Court nominee Samuel Alito won commitments from a majority of senators Tuesday, assuring his eventual confirmation and a likely tilt of the court to the right.

On the same day Alito won a 10-8 party-line approval from the Senate Judiciary Committee, five Republicans announced that they would vote for his confirmation in the full Senate, pushing him over 50 votes in the 100-member chamber.

Fifty Senate Republicans, plus one Democrat, Ben Nelson of Nebraska, have publicly committed to vote for Alito through their representatives, interviews with The Associated Press or news releases.

No Republicans have opposed him and five have yet to declare how they will vote: Sens. Lamar Alexander of Tennessee, Lincoln Chafee of Rhode Island, Susan Collins and Olympia Snowe of Maine and Ted Stevens of Alaska.

One of Alito's supporters, Sen. Craig Thomas of Wyoming, announced after meeting with Alito in his Senate office. "He represents the kind of justice who will interpret the law with respect to the Constitution and not legislate from the bench. His judicial experience is second to none and I'm confident he will do an excellent job handling his constitutional responsibility," Thomas said.

Twenty Democrats are publicly opposing President Bush's pick to replace retiring Justice Sandra Day O'Connor, while the other 23 and independent Sen. Jim Jeffords of Vermont are still publicly undecided or refuse to say how they will vote on Alito's nomination.

The only way Democrats can stop the conservative judge now is through a filibuster, a maneuver they show little interest in.

The final debate on the 55-year-old New Jersey jurist begins Wednesday.

"We urge the Senate to move forward with a swift up-or-down vote so he can begin serving on our nation's highest court," White House spokesman Scott McClellan said.

Democrats are working to get a large opposition vote to make their points against President Bush.

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"I think it sends a message to the American people that this guy is not King George, he's President George," said Senate Democratic leader Harry Reid of Nevada.

Bush should have picked a woman, said Reid, who urged the president last year to pick White House counsel Harriet Miers. "They couldn't go for her because she was an independent woman," Reid said of Miers, whose nomination was withdrawn under conservative criticism.

Bush then picked Alito, a 15-year federal appeals judge, former federal prosecutor and lawyer for the Reagan administration.

Republicans say he is a perfect choice for the high court. They praise his parrying of Democratic attacks on his judicial record and personal credibility during his confirmation hearings this month.

"If anybody has demonstrated judicial temperament and poise and patience, it is Judge Alito, And he ought to be confirmed on that basis alone," said committee chairman Arlen Specter, R-Pa.

Democrats worry that Alito, along with new Chief Justice John Roberts, will push the court to the right and could even help overturn major decisions such as Roe v. Wade, the abortion rights case.

"Roberts, who promised us humility, who promised us that he would be looking to chart a middle course, we see time and again that he's falling in league with Justice Scalia and Justice Thomas," said Sen. Dick Durbin of Illinois, referring to Antonin Scalia and Clarence Thomas, the court's most conservative members. "My fear is that we are adding a fourth vote to that coalition with Sam Alito's nomination. And that's why I'm going to vote no."

Roberts won the votes of 22 Democrats last year — including three on the Judiciary Committee — ranking Democrat Patrick Leahy of Vermont as well as Wisconsin Sens. Russ Feingold and Herb Kohl. Those three senators voted against Alito Tuesday.

Several other Democrats who voted for Roberts have announced they will vote against Alito, sending the judge toward the sharpest partisan split for a Supreme Court nominee in years. The closest margin for victory for a justice in modern history is Thomas' 52-48 in 1991. In that vote, 11 Democrats broke with their party and supported President George H.W. Bush's nominee.

Both Republicans and Democrats are preparing to use Alito as a campaign issue. Republicans say the Democratic filibuster of lower-court judges helped them knock off former Democratic Senate leader Tom Daschle of South Dakota two years ago.

If Democrats want to make judges a campaign issue, "we welcome that debate on our side. We'll clean your clock," said Sen. Lindsey Graham, R-S.C.

More than half, 54 percent in a CNN-USA Today-Gallup poll out this week, said they thought the Senate should vote to confirm Alito. That is up slightly from early January before his confirmation hearings.

Sen. Jon Kyl, R-Ariz., also warned that Republicans would remember a party-line Alito vote in future Supreme Court nominations, noting that many Republicans voted for Justices Stephen Breyer and Ruth Bader Ginsburg, who were nominated by President Clinton.

Sen. Dianne Feinstein, D-Calif., said things are different from when the Senate considered Breyer and Ginsburg, who were confirmed 87-9 and 96-3 respectively. "There was not the polarization within America that is there today, and not the defined move to take this court in a singular direction," she said.

Alito Clears Senate Judiciary Panel (WSJ)

By Jeanne Cummings

The Wall Street Journal, January 25, 2006

WASHINGTON -- A divided Senate begins debate today on confirming U.S. Circuit Judge Samuel Alito for a pivotal seat on the Supreme Court, following a 10-8 party-line vote by the Judiciary Committee for the nomination.

Democrats won't try to filibuster, despite pressure from some party activists. Still, Judge Alito's confirmation vote is expected to be a narrow one that could draw opposition from one or two Republicans and scant support from Democrats, half of whom backed Chief Justice John Roberts's nomination to the high court last year. And the debate will likely continue to play out into the fall elections.

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Sens. Lincoln Chafee (R., R.I.) and Olympia Snowe (R., Maine) both have expressed concern about Judge Alito's history of opposing abortion rights, and spokesmen said neither has decided yet which way to vote. Thus far, Nebraska Sen. Ben Nelson is the only Democrat committed to support the nomination when it comes to a vote sometime in the next week.

Judiciary Committee Chairman Arlen Specter (R., Pa.) said he was "personally sorry" to see his panel so divided, and predicted that Judge Alito, who serves on the Third U.S. Circuit Court of Appeals in Philadelphia, may face "close to a party-line vote" in the full Senate too.

The partisan split over President Bush's high-court nominee sets the stage for a contentious session of Congress leading up to the midterm elections. Republicans, eager to bolster their majorities in the House and Senate, vowed to focus attention on the votes of Democrats representing states President Bush carried in 2004. Two Bush supporters have pledged a combined $5 million for the campaign, a Republican activist said.

A $100,000 television ad buy ran in the Dakotas over the weekend to pressure Democratic Sens. Tim Johnson and Kent Conrad to support Judge Alito. Sen. Conrad, from North Dakota, is up for re-election. The senators, who both voted for the Roberts appointment, will also be under heavy pressure from Democratic activists to oppose this nomination.

Judge Alito's public statements deferring to presidential power and against abortion rights are the driving forces behind the opposition this time around. The issue of executive power gained new importance with the news of government surveillance of some domestic communication without court warrants, in an effort to identify potential terrorists. The Judiciary Committee will hold hearings soon on whether the counterterrorism campaign is legal or not.

"The Supreme Court needs to act as a check" on the presidency "to provide balance," said Sen. Patrick Leahy (D., Vt.). The Judiciary Committee's senior Democrat supported the president's selection of Judge Roberts to serve as chief justice, but yesterday opposed Judge Alito, saying he had no confidence the judge "will provide that check and balance."

Republicans defended the nominee, citing his 15 years on the appellate court and a top rating from the American Bar Association. "Some on the left cannot abide a judge who thinks that the Constitution is the supreme law of the land," said Sen. Orrin Hatch (R., Utah).

Recalling that most Republicans put politics aside to support President Clinton's appointments of Justices Ruth Bader Ginsburg and Stephen Breyer, Sen. Jon Kyl (R., Ariz.) warned that the Democrats were setting a "very bad precedent. Think carefully about what is being done today."

But Sen. Richard Durbin (D., Ill.) argued that Republicans already had applied a partisan litmus test to the nomination when they forced the withdrawal of White House Counsel Harriet Miers, the president's first choice for the seat, as insufficiently conservative.

Sen. Dianne Feinstein (D., Calif.) said Judge Alito's nomination was distinct because it is part of a Republican strategy to move the federal courts to the right, and because he would succeed Justice Sandra Day O'Connor, who is retiring. During her 24 years on the court she has often been the swing vote on issues such as abortion, affirmative action and the death penalty.

Panel Sends Alito Nomination To Full Senate (REU)

By Thomas Ferraro

Reuters, January 25, 2006

WASHINGTON (Reuters) - The Senate Judiciary Committee voted along party lines on Tuesday to approve President George W. Bush's nomination of Samuel Alito to the Supreme Court, moving the 55-year-old conservative a step closer toward confirmation by the full Republican-led Senate.

With 10 Republicans voting yes and eight Democrats voting no, the committee sent the nomination to the 100-member Senate. The full chamber is to begin debate on Wednesday, with a confirmation vote as early as the end of this week.

If confirmed, Alito, a federal appeals judge since 1990, would replace moderate conservative Justice Sandra Day O'Connor and could help move the high court to the right on abortion, civil rights and other hot-button issues.

White House spokesman Scott McClellan said, "We urge the Senate to move forward with a swift up-or-down vote so that he can begin serving on our nation's highest court."

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Sen. Jon Kyl, an Arizona Republican, denounced the partisan rancor over Alito, saying, "Today was the first time in the history of the United States Senate that the Judiciary Committee passed out a Supreme Court nominee on a purely partisan vote."

The Senate historian's office could not immediately confirm Kyl's assertion but noted that traditionally the Senate has approved successful nominees to the high court with bipartisan support.

So far, just one of the Senate's 44 Democrats -- moderate Ben Nelson of Nebraska -- has announced he will vote for Alito. All but a handful of others are expected to oppose him.

Senate Democratic leader Harry Reid of Nevada said he would oppose the nomination. "It is unfortunate the president made such a divisive nomination."

"At a time when the president is abusing his power at every turn, I cannot vote to confirm a judge who won't be an independent check on the executive branch," Reid said.

BAR ASSOCIATION'S TOP RATING

Before the committee vote, Republicans hailed Alito as a fair-minded, mainstream conservative who had received the American Bar Association's top rating.

But Democrats charged Alito had staked out some extreme positions on such matters as abortion rights, civil rights and presidential powers.

Judiciary Chairman Arlen Specter, a moderate Pennsylvania Republican, said he believed Alito was qualified.

"His personal background is exemplary. His professional qualifications are outstanding. His educational achievements are of the highest order," Specter said.

Specter also said he believes Alito's colleagues on the 3rd U.S. Circuit Court of Appeals answered many critics when they testified at his confirmation hearing that "he is not an ideologue and that he does have an open mind."

The Senate vote on Alito is expected to be far closer than the 78-22 one that John Roberts, Bush's first nomination to the high court, received in September in being confirmed as U.S. chief justice.

But no Democrat has threatened a filibuster, since they do not appear to have the votes to sustain such a procedural roadblock.

Sen. John Cornyn, a Texas Republican, said, "If qualifications, integrity, fairness and judicial philosophy were all that mattered in this process, Judge Alito would have been voted out of this committee unanimously."

"But the new rule is that any nominee who refuses to promise to impose a liberal agenda from the bench is subjected to ... tactics of distortion and smear," Cornyn said.

Sen. Dianne Feinstein, a California Democrat, said the committee was sharply divided because "this president has clearly indicated that he wants to take the court even further to the right than it has been in the last 10 years."

On Party Lines, Panel Approves Alito For Court (NYT)

By David D. Kirkpatrick

The New York Times, January 25, 2006

WASHINGTON, Jan. 24 - The Senate Judiciary Committee voted along party lines Tuesday to approve the Supreme Court nomination of Judge Samuel A. Alito Jr. as senators turned the occasion into a broader and sometimes heated debate over the rancorous and partisan nature of the confirmation process.

Republicans threatened retaliation against future Democratic nominees, saying Democrats had rallied party members to vote against Judge Alito's confirmation for political reasons unrelated to his qualifications. Democrats said a close vote would warn President Bush not to name such conservative judges.

Judge Alito's confirmation to the court is now all but assured, by a vote of the full Senate roughly along party lines.

In contrast, the president's previous nominee, Chief Justice John G. Roberts Jr., was confirmed just a few months ago with the support of three of the eight Democrats on the committee and half of the 44 Democrats in the Senate.

Recalling the overwhelming and bipartisan majorities that approved President Bill Clinton's Supreme Court nominees, Justices Ruth Bader Ginsburg and Stephen G. Breyer, several Republican senators said their party had evaluated the

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qualifications of nominees on less ideological terms. They said the Democratic opposition to Judge Alito could alter the judicial confirmation process for years to come.

Senator Jon Kyl, Republican of Arizona, warned that Republicans might apply the same political tactics to future Democratic nominees in return: "So I say to my Democratic friends, think carefully about what is being done today. Its impact will be felt well beyond this particular nominee."

Democrats countered that the Bush administration had politicized the confirmation process by nominating a roster of staunch conservatives to the federal courts.

"It's a very different day and time" than during the Clinton administration's nominations, Senator Dianne Feinstein, Democrat of California, said. "There was not the polarization within America that is there today and not the defined move to take this court in a singular direction."

The committee vote, with all 10 Republicans voting to confirm and all 8 Democrats voting to reject the nomination, sets the stage for equally contentious if predictable debate beginning Wednesday on the Senate floor. Many Democrats have indicated Judge Alito appeared too well qualified and unthreatening in his confirmation hearings to justify a filibuster, and without one his confirmation by a majority vote is virtually guaranteed.

Democratic leaders are nonetheless pushing for a lengthy debate over the nomination to make their case against Judge Alito. And Democratic aides say privately that they also hope to hold off the final vote until Tuesday, when the president's State of the Union speech will overshadow the news.

Republicans had talked about holding the vote this weekend, but some senators plan to be in Davos, Switzerland, mingling with international business and political leaders at the World Economic Forum.

Behind the public arguments about the importance of the courts and the confirmation process, strategists for both parties say they are planning to use the Senate vote as a political weapon in the midterm elections. Such elections are typically decided by the turnout of party loyalists, and such voters would most likely have passionate views on the Alito nomination.

Republicans are laying the groundwork to attack Democrats who vote against Judge Alito as beholden to liberal interest groups. Democrats plan to make an issue of his votes on subjects like abortion rights or environmental regulations.

Speaking to reporters after the committee vote, Senator Harry Reid of Nevada, the Democratic leader, said that even if Judge Alito was confirmed, the strong Democratic opposition should send a message.

"I would hope it sends a message to the president that he should be more careful," Mr. Reid said. "I think it sends a message to the American people that this guy is not King George, he's President George."

Still, if Judge Alito joins Chief Justice Roberts on the bench, Mr. Bush will have put a substantial mark on the court. On many social issues, the court has been the biggest obstacle to the goals of conservatives now in control of the other branches of government, and Judge Alito would replace retiring Justice Sandra Day O'Connor, who often had been a pivotal vote.

After his statement to reporters, Mr. Reid met privately with representatives of a coalition of liberal groups opposing Judge Alito, a group that included People for the American Way, the Alliance for Justice, and labor, abortion rights and environmental groups.

Democratic aides briefed on the meeting said officials of the groups made a last-ditch plea for a filibuster. People present said Mr. Reid agreed only that the Democrats would discuss their plans at a party meeting on Wednesday.

Democrats also began making an issue of Chief Justice Roberts's decisions on the court in explaining their opposition to Judge Alito.

Mrs. Feinstein said that in the recent Gonzales v. Oregon decision, involving an Oregon law allowing doctor-assisted suicide, Chief Justice Roberts sided with conservative justices Antonin Scalia and Clarence Thomas in finding that the Bush administration could block the practice.

Chief Justice Roberts's vote ran counter to some of the statements he made during his confirmation hearing, suggesting that the court should stay out of "end-of-life" decisions, Mrs. Feinstein said. She quoted from his testimony: "The basic understanding is that it's a free country, and the right to be left alone is one of our basic rights."

She said that Judge Alito's record suggested he was also likely to join the same conservative faction of the court, especially on abortion rights.

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"If one is pro-choice in this day and age, in this structure," Mrs. Feinstein said, "one can't vote for Judge Alito. It is simply that simple."

Republicans said that making an issue of Judge Alito's rulings would redound to their benefit, asserting that his legal views were more in line with the American electorate than those of his liberal critics.

"I'll just tell you right now we welcome that debate on our side," Senator Lindsey Graham, Republican of South Carolina, told the Democrats. "We'll clean your clock."

Senate Panel Backs Alito On Party-Line Vote (LAT)

By Maura Reynolds

The Los Angeles Times, January 25, 2006

WASHINGTON — The Senate Judiciary Committee on Tuesday endorsed the Supreme Court nomination of Samuel A. Alito Jr. in a vote that split along party lines and highlighted disputes over his conservative judicial record.

The full Senate will begin its debate on Alito today and a vote on his selection by President Bush to replace Justice Sandra Day O'Connor could come by the end of the week. Alito is expected to narrowly win confirmation and, as a justice, tilt the court to the right.

O'Connor, 75, frequently sided with the court's more liberal members on an array of social issues, providing the swing vote on some decisions. Alito, 55, probably would take more conservative positions in many cases, including those involving abortion rights and the death penalty.

In Tuesday's committee vote, all of the panel's 10 Republicans supported Alito, praising him as an accomplished federal appellate judge who, on the high court, would follow the law, not try to rewrite it.

"If anybody has demonstrated judicial temperament and poise and patience, it is Judge Alito," said Sen. Arlen Specter (R-Pa.), the committee's chairman. "He ought to be confirmed on that basis alone."

All the committee's eight Democrats voted against Alito, with several saying they were especially concerned that his record and his testimony to the panel this month suggested he would not move to curb Bush's efforts to expand his wartime powers.

Senate Minority Leader Harry Reid (D-Nev.), who does not serve on the committee, echoed the complaints about Alito in announcing that he would oppose his nomination.

"Judge Alito has failed to demonstrate a commitment to the system of checks and balances enshrined in our Constitution," Reid said. "At a time when the president is abusing his power at every turn, I cannot vote to confirm a judge who won't be an independent check on the executive branch."

But Democrats stopped short of calling for a filibuster — the only apparent way the minority party could derail Alito's nomination in the GOP-controlled Senate.

Asked whether he would mount such a parliamentary tactic against Alito, Reid answered, "No," although he refused to rule out the possibility.

Specter said he was glad that Alito received the formal nod from the panel, but expressed regret at the partisan outcome of the vote.

"I am personally sorry to see a party-line vote out of this committee, and perhaps very close to a party-line vote out of the full Senate," Specter said. "But we all have our points of view."

According to congressional researchers, the last Supreme Court nominee to be approved by the committee on a party-line vote was Louis D. Brandeis in 1916. Brandeis was picked for the court by Democratic President Wilson.

Reid and other leading Senate Democrats sent a clear signal that party members would vote nearly as a bloc against Alito's confirmation. But Reid also said the matter was a "vote of conscience," meaning the leaders would not insist upon opposition to him.

Only one Democrat, Sen. Ben Nelson of Nebraska, has said he plans to vote for Alito.

Nelson is among a handful of Democrats facing reelection this fall in states that lean Republican, and party leaders don't want to pressure them to take a position that could jeopardize their seats.

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Almost all of the Senate's 55 Republicans have expressed support for Alito, with just a few from Democratic-leaning states remaining officially undecided. One believed likely to oppose Alito is Sen. Lincoln Chafee of Rhode Island, a supporter of abortion rights who is up for reelection in November.

A close vote on Alito would contrast with the 78-22 tally by which John G. Roberts Jr. was confirmed in September as Bush's choice for chief justice. In that vote, half the Senate's 22 Democrats supported him. He also had won the backing of three of the Judiciary Committee's Democrats.

Alito, who before becoming a federal appellate judge in 1990 worked in the Reagan administration's Justice Department, has sparked more opposition partly because of Democrats' concerns that he would change the court's political balance. Roberts was replacing the late Chief Justice William H. Rehnquist, who consistently issued conservative rulings.

Before the Judiciary Committee vote, senators from both parties made the case for and against Alito. For Democrats, the question of the limits on executive power took front and center.

"The president is in the midst of a radical realignment of the powers of the government and its intrusiveness into the private lives of Americans," said Sen. Patrick J. Leahy of Vermont, the committee's top Democrat. "And I believe this nomination is part of that plan. I am concerned that if we confirm this nominee, we will further erode the checks and balances that have protected our constitutional rights for more than 200 years."

The controversy over the president's decision to bypass special courts and order warrantless wiretaps on American citizens and others inside the country was a consistent strain in Democrats' critique of Alito.

"We have a president who claims that he has the authority to spy on persons on American soil without a court order required by law," said Sen. Edward M. Kennedy (D-Mass.). "The record demonstrates that we cannot count on Judge Alito to blow the whistle when the president is out of bounds. He is a long-standing advocate for expanding executive power, even at the expense of core individual liberties."

Sen. Dianne Feinstein (D-Calif.), the only woman on the committee, said she was troubled by Alito's statement during his committee testimony that legal "precedent is not an inexorable command" in decisions by the Supreme Court.

She said that suggested to her that Alito would not be committed to uphold the 1973 Roe vs. Wade decision that legalized abortion nationwide. "That's exactly the language Justice Rehnquist used arguing to overturn Roe," Feinstein said. "That spoke volumes to me."

Republicans accused Democrats of politicizing what they said should be a nonpartisan confirmation process.

"Why is this committee divided over Judge Alito?" asked Sen. Jon Kyl (R-Ariz.). "It cannot be because of his qualifications or temperament, but only because our Democratic colleagues don't think he will vote the right way, the way that they think he should, on some cases."

He added: "I fear a very bad precedent is being set today, a precedent that a unanimous minority will oppose a nominee on political grounds, not because the nominee is in any way unqualified."

Sen. Lindsey Graham (R-S.C.) accused Democrats of trying to turn Alito's nomination into a campaign issue in fall congressional elections.

"We're no longer advising and consenting. We're jockeying for the next election," Graham said. "And over time we'll erode the quality of the judiciary."

But Graham acknowledged that politics, at least the presidential kind, are part of the equation when it comes to the Supreme Court.

"What did you expect President Bush to do" in making court nominations? he asked Democrats rhetorically.

Throughout his two winning presidential campaigns, Bush stressed he would nominate conservatives to the court.

Judiciary Panel OKs Alito (WT)

By Charles Hurt

The Washington Times, January 25, 2006

The Senate Judiciary Committee approved the Supreme Court nomination of Judge Samuel A. Alito Jr. yesterday in a party-line vote, but Democrats refused to rule out a filibuster to block the jurist's confirmation.

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After the committee's 10-8 vote, Senate Minority Leader Harry Reid declined to reveal whether he will lead a filibuster against Judge Alito as liberal lobbyists are demanding, only saying that he opposes President Bush's nominee to replace retiring Justice Sandra Day O'Connor.

With commitments of support from 51 senators, Judge Alito has the majority needed for confirmation but remains below the 60-vote threshold needed to guarantee a full-floor vote and prevent a filibuster. Recent Democratic filibusters of nominees to the federal bench all began with a party-line vote by the Senate committee.

"There is a storm cloud on the horizon," said Sen. Jon Kyl, Arizona Republican.

Observers on both sides of the aisle, however, say they doubt Democrats really have the stomach for a high-profile filibuster. For instance, Sen. Dianne Feinstein, California Democrat and member of the Senate Judiciary Committee, said last week that she would not support a filibuster.

Sen. Lindsey Graham, South Carolina Republican, said it would be bad for the country to turn the judicial-nominations process into a litmus test on raw political issues such as abortion. And, he said, if Democrats insist, they'll regret it.

"I'll just tell you right now we welcome that debate on our side," Mr. Graham said. "We'll clean your clock. I mean, Judge Alito is closer to the mainstream of America than [liberal lobbyists People] for the American Way. We'll win that debate, but the judiciary will lose if we continue to do this."

Sen. John Cornyn, Texas Republican, warned Democrats that Americans overwhelmingly side with Republicans on many of the hot-button political issues before the court, such as so-called "partial-birth abortion," homosexual "marriage" and keeping the words "under God" in the Pledge of Allegiance.

Yesterday's committee meeting, however, provided no real drama. The only member whose vote remained in question beforehand was that of Sen. Herb Kohl, the Wisconsin Democrat who voted in favor of confirming Chief Justice John G. Roberts Jr.

"I fear that a Justice Alito will narrow our rights, limit our freedoms and overturn decades of progress," Mr. Kohl said. "To confirm Judge Alito to the Supreme Court would be to gamble with our liberties, a bet I fear the Constitution and the American people would lose."

Mr. Kohl was among other committee Democrats who echoed warnings by Massachusetts Sen. Edward M. Kennedy, who said Judge Alito "refuses to enforce core constitutional standards protecting individuals against low-level government officials in routine situations."

One issue that dominated the hearings earlier this month -- accusations of ethical lapses by Judge Alito -- have all but evaporated as the full Senate plans to begin debating the Alito nomination first thing this morning. Debate is expected to last until Friday.

During the hearings, Judge Alito was asked 113 questions about ethics and his membership in Concerned Alumni of Princeton, which had formed in opposition to the admission of women to the university. That number was surpassed only by the 120 questions asked about presidential authority, according to a Republican tally.

Yesterday, Judge Alito's membership in Concerned Alumni of Princeton never was mentioned, and his belated recusal from the case involving Vanguard Group Inc. was referenced only once.

Senators spent more time talking about abortion rights.

"If one is pro-choice in this day and age, in this structure, one can't vote for Judge Alito," Mrs. Feinstein said. "It is simply that simple."

She said Judge Alito refused to say that federal abortion rights are settled. He did not, Mrs. Feinstein said, go as far as Justice Roberts, whom she also voted against, citing fears that he would undo the federal abortion-rights guarantee.

Democrats also said Judge Alito too often sides with big corporate or government interests against the "little guy."

But Sen. Tom Coburn, Oklahoma Republican, said their concern is hollow as long as they support abortion rights.

"I think about the most vulnerable little guy in this world, which is the unborn child, which we attain no liberty for in this country any longer," he said. "And how can we claim to be for the little guy and ignore that little guy?"

Mr. Graham said he did not recognize the caricature of Judge Alito that Democrats described during yesterday's meeting.

"It's amazing he would even be considered for nomination," he joked. "He should be under house arrest."

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Mr. Cornyn, at one point, held aloft a magazine with Judge Alito's wife, in tears, on the cover and said they had overplayed their hand in attacking the nominee.

Fifty of 55 Republicans and Democratic Sen. Ben Nelson of Nebraska have committed publicly to vote for Judge Alito, giving him the 51 votes needed for confirmation, according to interviews with The Washington Times or the Associated Press or from press releases.

Twenty Democrats publicly are opposing Judge Alito, and 23 others still are undecided publicly.

Republican Sens. Lamar Alexander of Tennessee; Lincoln Chafee of Rhode Island; Susan Collins and Olympia J. Snowe of Maine; and Ted Stevens of Alaska have not publicly committed to vote for Judge Alito.

Alito Debate Begins Today In Full Senate Discussions Likely To Spotlight Partisan Rift Over Court Nominee (USAT)

By Kathy Kiely

USA Today, January 25, 2006

WASHINGTON — President Bush's third pick for the Supreme Court, Samuel Alito, is headed for almost-certain confirmation by next week. The Senate vote, however, could emphasize deep partisan divisions over the swing seat he will occupy on the nation's highest court.

The Senate Judiciary Committee approved Alito on Tuesday, 10-8, without a single Democratic vote. Sen. Ben Nelson of Nebraska is the only Democrat who has said he will back him. Senate Minority Leader Harry Reid of Nevada called Alito "divisive."

Senate Judiciary Committee Chairman Arlen Specter, R-Pa., praised Alito, 55, as an even-handed jurist. "He does have an open mind," Specter said.

The Senate begins debate on Alito's nomination today. A final vote is likely before Bush's State of the Union address Tuesday.

Specter said he is "disappointed" by the near-unanimous opposition of Democrats, who hold 44 of the Senate's 100 seats. It contrasts with the reception for Chief Justice John Roberts, Bush's first court pick, who was confirmed in September with 22 Democratic votes.

"Democrats' relentless politicization of a process that has traditionally been above partisan politics is disappointing," White House spokesman Steve Schmidt said.

The Alito nomination is different, Democrats contend, because he will succeed retiring Justice Sandra Day O'Connor, a deciding vote on abortion and other controversial issues.

"This is not just another nomination to the Supreme Court," said Sen. Dick Durbin, D-Ill. "It is truly going to tip the scales of justice."

Republicans noted that Alito, a judge on the 3rd U.S. Circuit Court of Appeals, received bipartisan support from colleagues on the bench and the American Bar Association's highest rating. Democrats' opposition to Alito is "about politics," said Sen. Lindsey Graham, R-S.C. "We're jockeying for the next election."

Democrats portrayed Alito as a jurist who allows legal technicalities to override compassion and favors corporate and government power over ordinary citizens.

"He has shown a hostility to … average Americans," said Sen. Edward Kennedy, D-Mass.

Republican Sens. Lincoln Chafee of Rhode Island and Olympia Snowe and Susan Collins of Maine have yet to say whether they will support Alito. All are abortion rights supporters. Alito opposed abortion as a lawyer in the Reagan administration but said during his confirmation hearings that he won't allow his personal views to affect his rulings.

A handful of Democratic centrists, including Blanche Lincoln of Arkansas, Daniel Inouye of Hawaii and Joe Lieberman of Connecticut, also have not said how they will vote. Sen. Bill Nelson, D-Fla., said Tuesday that he will oppose Alito. "He is not the centrist voice I believe this nation needs," he said.

Given the Republican majority in the Senate, the only way for Alito's opponents to halt his nomination would be through a filibuster, which allows 40 senators to block a vote by refusing to end debate. Reid has not publicly ruled out the parliamentary

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technique. Key centrists such as Snowe and Sen. Mark Pryor, D-Ark., whose support would be needed, have said a filibuster isn't justified.

Alito Clears On Party-line Vote (HILL)

By Jonathan Allen

The Hill, January 25, 2006

The Judiciary Committee approved Supreme Court nominee Samuel Alito on a straight party-line vote yesterday, likely foreshadowing a relatively close confirmation on the Senate floor.

Alito won the support of the 10 committee Republicans and was opposed by all eight panel Democrats.

"I guess there's 18 ways of saying the same thing, broken into two categories," said Sen. Lindsey Graham (R-S.C.), providing a moment of levity during an otherwise laborious three-hour hearing in which most senators ignored an oversized digital speech timer.

Senate Minority Leader Harry Reid (D-Nev.) refused to rule out a Democratic filibuster against the nomination, though such a move would surprise many congressional observers.

The party-line vote contrasted sharply with the 14-4 approval the committee gave to President Bush's first pick for the high court, Chief Justice John Roberts Jr., late last year. Accordingly, congressional observers expect Alito will win confirmation with a far smaller margin than the 78-22 vote for Roberts.

Already, some Democrats who voted for Roberts have announced their opposition to Alito.

"There is a fear that this one will turn the balance, will tip the balance of the court, and that probably raises the stakes of this nomination," Nebraska Sen. Ben Nelson said on C-SPAN yesterday. Nelson is the only Democrat in the upper chamber to announce support for Alito.

At the final committee hearing, Republicans focused on Alito's qualifications, including his 15 years on the 3rd U.S. Circuit Court of Appeals, and characteristics such as integrity and honor that they said he demonstrated both on the bench and in committee hearings. Democrats again voiced concerns about the possibility that Alito would vote to overturn abortion rights and that he would support the expansion of presidential powers.

"If one is pro-choice in this day and age … one cannot vote for Judge Alito," said Sen. Dianne Feinstein (D-Calif.).

Even as they celebrated Alito's advancement yesterday, Republicans and conservative interest groups denounced Democratic opposition.

"While it's heartening to see Judge Alito favorably recommended by the Senate Judiciary Committee, it's disappointing to hear the continued partisan attacks that accompanied a party-line vote," said Republican National Committee Chairman Ken Mehlman.

"Their goal is to impose radical policy ideas on America through control of the court," Family Research Council President Tony Perkins said in a statement released before the hearing concluded. "It demonstrates the allegiance Democrats have sworn to the extreme factions of their party."

But as Alito's nomination moved from the Judiciary Committee to the floor, President Bush and his Republican allies in the Senate inched closer to fulfilling campaign promises to fill the high court with unambiguously conservative jurists.

The Senate is expected to begin debate on the nomination today, but it was not clear as of press time when a confirmation vote would occur. "A justice delayed will not be a justice denied," said Eric Ueland, chief of staff to Senate Majority Leader Bill Frist (R-Tenn.).

Senate Republicans and Democrats are engaged in a two-step over the timing of the confirmation vote, which could be held just before or just after the president's annual State of the Union address Tuesday. The speech appears to be a factor in the tussle over timing.

"Not sure if we can get it done this week," Reid spokesman Jim Manley said.

Interest groups on the left are still encouraging their allies in the Senate to put up a fight.

Meanwhile, Senate Republican leaders could file a cloture motion and force a vote on whether to cut off debate.

"Nothing is ruled in, or ruled out," a GOP aide said.

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"The calculus on when Alito is finito comes from how long Senate Democrats want to continue to fight to suppress the final vote total against an outstanding nominee," the aide said.

The Unsmoked Signal Of Victory On Alito (WP)

By Marcia Davis

The Washington Post, January 25, 2006

Sometimes it's not the words that tell the story. Sometimes it's a cigar.

During yesterday's Senate Judiciary Committee vote on Supreme Court nominee Samuel A. Alito Jr., there were words aplenty, thousands of them, spoken for nearly three hours. There were words of praise and condemnation, expressions of great confidence and deep doubts, incriminations and recriminations, all delivered with rock-hard partisan sincerity. There were moments of passion and humor, and, at times, even moments of eloquence.

And then there was the cigar.

It was fat and brown, and when it wasn't clutched between the fingers of Bill Reynolds, Republican Sen. Arlen Specter's chief of staff, it was tucked -- unlit -- squarely in the left side of his mouth, or being delicately finger-twirled between his lips. Despite all the speeches in that ornate, wood-paneled room, it was his cigar that was sending the true message of the day.

This legislative "minuet," as Reynolds's boss, the Judiciary Committee chairman, described the confirmation process at the start of the Alito hearings -- was just about over. The dance was done but for a few formal steps. It was time to pass the cigars and pop the corks -- and -- oh, yeah -- somebody should count the votes.

Yesterday, those votes fell strictly along partisan lines, and that meant 10 to 8 in Alito's favor. Now the nomination will go before the full Senate, where the balance of power is tilted in the GOP's favor, 55 to 44 (with one independent). Yesterday's committee outcome was no surprise, and the vote before the full Senate won't be, either.

Specter started yesterday's meeting acknowledging such.

"I don't believe . . . that there is a great deal of suspense as to what's going to happen," he said as he pleaded with his colleagues for brevity, saying he was limiting himself to five minutes and that he hoped others would follow his lead.

Sen. Patrick Leahy of Vermont, the ranking Democrat on the committee, heard Specter's call for brevity but said he didn't know if he could heed it. He had much to say at "this critical time in the nation's history."

Calling Bush a divider and not a uniter, he criticized the president for not sending a nominee to the Senate who might have been "someone who would have the support of all Americans." Leahy was one of three Democrats on the committee who voted for Chief Justice John Roberts in September, and one of 22 Democrats who voted to confirm the chief justice on the Senate floor.

But yesterday was different. "This is a time in our history when the protections of Americans' liberties are at risk," Leahy said, focusing his remarks on the issue of executive power and his belief that the Bush administration is illegally grabbing power under the cover of the war on terrorism.

"This is a critical nomination, one that can tip the balance on the Supreme Court radically away from constitutional checks and balances and the protection of Americans' fundamental rights."

Utah's Orrin Hatch set the tone for his Republican colleagues. The GOP strategy had not changed from the hearings themselves: praise Alito's "outstanding record" as a jurist and shake a finger of shame in the face of his critics. Democrats, Hatch and his colleagues said repeatedly, were destroying the bipartisan tradition on confirmations with their partisan politics.

"Observers of what the judicial confirmation process has become in the last several years might have a hard time remembering that fair process," Hatch said. "Where were the filibusters? Where were the litmus paper and the scorecards? Did people tally up Justice [Ruth Bader] Ginsburg's past appeals court rulings and, on that basis, warn that she would not give certain groups a fair shake in the future?"

And so it went. One by one, the Democrats repeated concerns about a Bush power grab and a judge they say is too deferential to big government and big business in his rulings.

Sen. Joseph Biden (D-Del.) was uncharacteristically restrained in the length of his remarks. He voiced his concern that Alito was insensitive to the subtleties of today's problems of discrimination. Alito "is not someone who looks into the shadows" when it comes to ferreting out such forms of bias, he said.

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Sen. Jon Kyl of Arizona, like his Republican colleagues, pointed to the outstanding recommendations that Alito has gotten from the American Bar Association and the number of people who had come to testify on his behalf. He wanted to know how someone so respected could come under such attacks.

Sen. Dianne Feinstein (D-Calif.) had an answer.

It's not just qualifications that matter, she said, because "legal philosophy and personal views do play a role on the Supreme Court." And, she said, these are polarized times.

Last, Feinstein addressed the issue on which so many thought this nomination would rise or fall: abortion rights.

"If one is pro-choice in this day and age, one cannot vote for Judge Alito."

But it was Lindsey Graham, the Republican senator from South Carolina who always seems ready with a quip, who let it all hang out.

"I guess there are 18 ways of saying the same thing," he said, eliciting one of the few moments of bipartisan chuckling, "broken into two different categories."

Look, he said: "What did you expect President Bush to do when he won?" These are the spoils of victory. Clinton, after all, got his picks.

And if the Democrats think they're going to use the issue in the election, he taunted, "go ahead, we'll clean your clock."

But Richard Durbin of Illinois, the last Democrat to speak, had a few jabs of his own.

"We were supposed to be meeting on the nomination of Harriet Miers," he said.

Supporters and opponents of Alito stood in the back of the room watching. They had their red stickers pasted to their lapels, for Alito and against, standing side by side. They stood for three hours straight, watching as if the outcome were an unanswered question. Later, Alito supporters condemned Democrats for their dissent. And the judge's opponents praised the Democrats for their strong speeches and their unity.

It isn't over until it's over, they said. The battle moves to the offices of the moderates on both sides who might be swayed, whether they are Democrats in red states or Republicans who support abortion rights.

But the numbers are the numbers. And after the vote, our cigar man was down the hall listening to his boss give a news conference.

So what was up with that cigar, he was asked. After all, sometimes a cigar is just a cigar.

"It's clearly a bad habit," he said. "Something I need to quit."

Florida Senator To Vote Against Alito Supreme Court Confirmation (HTRIB)

By brent kallestad

The Herald Tribune (Southwest Florida), January 25, 2006

TALLAHASSEE, Fla. -- U.S. Sen. Bill Nelson said Tuesday he plans to vote against Judge Samuel Alito's confirmation to the Supreme Court.

Nelson announced his decision in a statement from his Washington office shortly after the Senate Judiciary Committee favorably recommended Alito's Supreme Court nomination to the full Senate on a 10-8 party-line vote.

"His many legal writings, judicial opinions and evasive answers both at his hearing and in our private meeting, convinced me he would tilt the scales of justice in favor of big government," Nelson said.

"Judge Alito is an extremist judge with proven views far outside those of mainstream Floridians," said Stephanie Grutman, executive director of the Florida Association of Planned Parenthood Affiliates, who applauded Nelson's decision.

Alito, who was chosen by Bush to succeed retiring Justice Sandra Day O'Connor, spent nearly an hour with Nelson last week in the senator's office.

The full Senate is expected to vote later this week or early next week and confirmation is considered likely.

Alito picked up the support last week of Florida's other U.S. senator, Republican Mel Martinez. Many of the state's largest newspapers also endorsed Alito's nomination.

A Democrat seeking re-election in November, Nelson is likely to find himself forced to defend his decision in this year's campaign.

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Nelson's office noted in the same statement opposing Alito that the senator had voted for 215 of President George W. Bush's 225 judicial picks, including Chief Justice John Roberts.

"Sen. Nelson has proved himself to have a moderate record in support of the president's judicial nominees the vast majority of the time," Nelson spokesman Bryan Gulley said Tuesday. "I think it goes to show he calls them as he sees them."

The Republican Party of Florida disagreed.

"Sen. Nelson's opposition confirms that he has lost sight of the profound credentials of Judge Alito, the sentiments of Florida voters and the integrity of the Supreme Court," state GOP chairman Carole Jean Jordan said.

U.S. Rep. Katherine Harris of Sarasota is seeking the Republican nomination to oppose Nelson in November. Her office issued a statement that Nelson chose to play politics with the decision and ignore Alito's credentials.

Sen. Bill Nelson Says He'll Vote Against Alito's Nomination (MH)

By Lesley Clark

The Miami Herald, January 25, 2006

U.S. Sen. Bill Nelson said Tuesday he'll vote against Judge Samuel Alito Jr.'s nomination to the U.S. Supreme Court, saying he believes the jurist would ``tilt the scales of justice in favor of big government over the average person."

The Democrat's decision came as Alito, President Bush's nominee to succeed retiring Justice Sandra Day O'Connor, was favorably recommended by the Senate Judiciary Committee along a party-line vote, 10 to 8.

The full Senate is expected to vote later this week. That vote, too, is expected to fall along party lines, with Nebraska's Ben Nelson the only Democrat so far to pledge support for the jurist.

Nelson, who likely will come under Republican attack for his "no" vote, underscored in a statement that he has voted "for almost all" of Bush's judicial nominees.

But, Nelson, who met privately with Alito last week, said Alito's ``many legal writings, judicial opinions and evasive answers both at his hearing and in our private meeting, convinced me he would tilt the scales of justice in favor of big government over the average person.

"Because he is not the centrist voice I believe this nation needs to replace the retiring Justice Sandra Day O'Connor, who fiercely defended the rights and liberties of all Americans, I'm going to vote no on his confirmation," Nelson said in the statement.

Nelson, who faces a re-election challenge in November, likely from Republican U.S. Rep. Katherine Harris, noted in his statement that since arriving to the Senate in 2001, he has voted for 215 -- or 96 percent -- of the president's 225 judicial picks, including Miguel Estrada and Chief Justice John Roberts.

Nelson, who has sought to fashion himself as a moderate in a state nearly evenly divided between Democrats and Republicans, had been pressured on both sides.

Republican groups as late as Tuesday morning sent out a package of material -- including newspaper editorials that backed Alito -- to ``respectfully encourage Sen. Nelson to review the facts and join fellow Florida Sen. Mel Martinez in supporting the Alito confirmation."

Civil rights groups and others rallied Tuesday morning in Miami against Alito, saying they had petitions from nearly 50,000 Floridians opposing Alito. The petitions were delivered to the two senators' offices, the groups said.

Now It's The Full Senate's Turn To Look At Alito (LAW)

By T.r. Goldman, Legal Times

Legal Times, January 25, 2006

Supreme Court nominee Judge Samuel Alito Jr. was voted out of the Senate Judiciary Committee early Tuesday afternoon on straight party lines, with all 10 Republicans endorsing the 55-year-old federal appeals court judge and all eight Democrats opposing him. The strictly partisan committee vote had been widely anticipated after Alito's weeklong hearings earlier this month.

"I do not believe, notwithstanding all the cameras here today, that there's a great deal of suspense," said committee Chairman Arlen Specter, R-Pa. "I am personally very sorry to see a party-line vote out of this committee and almost a party-line vote out of the full Senate," Specter added, shortly after he gaveled the committee to order at 9:30 a.m., some three hours before the panel's actual roll-call vote.

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The full Senate will take up the Alito nomination this morning; it could vote on his confirmation as early as Friday or as late as next Tuesday, the day President George W. Bush is slated to give his annual State of the Union address.

Specter permitted each member of the committee five minutes to talk about the nomination, although several went far beyond that limit.

Democrats were unapologetic in their opposition to Alito, who has served on the 3rd U.S. Circuit Court of Appeals for the past 15 years. Republicans, by contrast, were effusive in their praise. And they insisted that Democratic problems with Alito boiled down to one issue: abortion.

"Seeing one of the finest judges in the country have a straight party-line vote, that's amazing to me," said Utah Republican Sen. Orrin Hatch, during an impromptu news conference with seven other Republican committee members a half-hour after the vote.

In a 1985 application for a senior position at the Department of Justice, Alito wrote that he did not believe that the Constitution protected a woman's right to an abortion. During his three days of questioning, Alito confirmed the accuracy of the 1985 memo, but he never explicitly said whether he continued to hold that view.

California Democrat Sen. Dianne Feinstein, the committee's only female member and a strong proponent of abortion rights, was unsettled by Alito's response to her question about the precedential strength of the Supreme Court's 1973 opinion Roe v. Wade.

"Precedent is not an inexorable command," she noted Alito had said during his confirmation hearings. "That spoke volumes to me," she said, adding that was the same language the late Chief Justice William Rehnquist used when he tried to overturn well-established precedents. "That said, Judge Alito probably would not uphold Roe if given the chance."

Democrats also complained that, more generally speaking, Alito's answers on a range of subjects, from executive power to civil rights, may have appeared to be substantive responses, but, in fact, were not.

"On too many issues we were treated to artful evasions and pleasant banalities," New York Democrat Sen. Charles Schumer told his fellow committee members as well as the national television audience watching the committee meeting. Alito, said Schumer, "intoned no fewer than six times that 'No one is above the law.' But has any nominee ever said anyone is above the law?" Reading from a prewritten speech, Schumer said, the American people, like most members of the committee, deserve "honest answers, not practiced platitudes." Alito, he added, "has stood alone, at the edge of the judicial mainstream, in too many important cases and on too many important issues."

Other Democrats complained that Alito's hundreds of decisions over the years demonstrated undue deference to executive power. "We cannot count on Judge Alito to blow the whistle when the president is out of bounds," noted Massachusetts Democrat Sen. Edward Kennedy.

Democrats also faulted Alito for taking a narrow and technical view of large and complex legal issues. "He repeatedly, and in some cases gratuitously, raised questions of justiciability," said Wisconsin Democrat Sen. Russ Feingold, who went on to criticize Alito's views on privacy and deference to the executive branch.

That led South Carolina Republican Sen. Lindsey Graham to respond: "After listening to Senator Feingold, it's amazing that [Alito] should even be considered for the nomination -- he should be under house arrest."

Republicans, including Graham, had strong praise for the nominee, sometimes even soaring praise.

"This is a towering legal figure," said Alabama Sen. Jeff Sessions. "He was a magnificent witness, he was unflappable. It was exciting to see him perform that way. He represents the very best in judges."

Other Republicans felt it was the content of Alito's answers, rather than his style, that bothered Senate Democrats.

Said Texas Republican Sen. John Cornyn: "I think some of my colleagues are voting against Judge Alito not because he didn't answer the questions adequately, but they didn't like the answers he gave."

Why Dems Can't Sink Alito (HILL)

The Hill, January 25, 2006

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The reason Democrats and liberals did not get more popular traction in their opposition to the appointment of Judge Samuel Alito to the Supreme Court is that their worldview of what constitutes a good nominee is sharply at variance with that of the American public at large.

To the likes of Sens. Edward Kennedy (D-Mass.), Charles Schumer (D-N.Y.), Hillary Clinton (D-N.Y.) et al., the Supreme Court is a kind of super-Congress — nine special Senate seats — and the criterion for confirmation is agreement with the nominee on the key issues likely to come before the court. But to the American voters, the Supreme Court is above politics and ideology and confirmation should be awarded based on personal attributes such as integrity, intelligence, judgment, compassion, wisdom, maturity, fairness and temperament.

Realizing this difference in perspective between the Democratic base and the public at large, President Bush has done very well with both the John Roberts and the Alito appointments. When his people forgot about the dichotomy — and nominated Harriet Miers who was seen as a poorly qualified if conservative candidate — they got their heads handed to them.

Of course, ideology is as important (if not more so) to conservatives as it is to liberals. But with the White House comes the ability to get men or women who share your ideology approved as long as they are objectively well-qualified. Bill Clinton learned that lesson when the Senate easily approved his nominations of moderate liberal Stephen Breyer and ultraliberal Ruth Bader Ginsburg. Republicans then, as with Democrats now, could not rally public opposition to a judge simply based on his or her ideology.

The Robert Bork nomination failed, ultimately, not so much because he was a conservative but because his opponents managed to cast doubts on his temperament by engaging him in harsh rhetorical exchanges during his hearings. Clarence Thomas was not seriously opposed because of his conservatism but as a result of the allegations of Anita Hill that he sexually harassed her.

The failure of voters to understand the role of ideology in court decisions seems to fly in the face of the knee-jerk conservatism of Antonin Scalia, Thomas and, during his tenure, Rehnquist and the automatic liberalism of John Paul Stevens and Ginsburg. But voters are not deluded; they simply do not see Roe v. Wade in quite the apocalyptic terms that both the left and the right do. To the vast middle of the American political spectrum, it is more important that a Supreme Court nominee be a good person with sterling credentials than be predictably for or against Roe v. Wade.

But, in an even broader sense, voters are increasingly appalled at the growth of partisanship on Capitol Hill. Clinton's impeachment and the GOP government closures of the 1990s have left their legacy in the growing public impatience with shrill, blind partisan advocacy in their elected Congress. Their insistence on credentials and personal qualifications in Supreme Court nominees reflects their desire not to see this unappealing trait spread to the Supreme Court.

Public OKs wiretapping

The Fox News poll of Jan. 11 confirms that the public stands solidly behind Bush's policy of authorizing warrantless wiretaps by the National Security Agency of conversations between American citizens and people outside the United States.

By 58-32, voters supported the policy, and 60 percent of the public said that they would be willing, personally, to sacrifice some of their privacy to help national security.

The poll also found that Americans disagree with Osama bin Laden that we have avoided terrorist attacks simply because al Qaeda has not planned any raids. Forty-six percent say that it was because of our efforts at homeland security that we have not been hit in four and a half years. Only 22 percent said it was because no attacks were attempted. Twenty percent said both were responsible. And 60 percent want the Patriot Act to be renewed.

These survey findings underscore that Democrats attack Bush on his efforts to prevent domestic terror attacks at their own peril. The public dislikes Republicans because of their corruption scandals but appreciates their positions on homeland security. It differs with the Democrats over domestic anti-terror efforts but exempts them from its condemnation of congressional dishonesty. Each party should stay on its own turf and clean up the rest of its act.

Morris, a former political adviser to Sen. Trent Lott (R-Miss.) and President Bill Clinton, is the author of Condi vs. Hillary: The Next Great Presidential Race.

Alito Nomination Sent To Full Senate (CHIT)

DOJ_NMG_0011317

By Jill Zuckman

Chicago Tribune, January 25, 2006

WASHINGTON -- The Supreme Court nomination of Judge Samuel Alito moved to the full Senate Tuesday on a strictly party-line vote in the Judiciary Committee, foreshadowing a rocky election year in which Democrats and Republicans are likely to angrily part ways on judicial nominations and a range of other issues.

Democrats objected to elevating Alito to the Supreme Court, saying they had little faith that he would serve as a check on a power-hungry executive branch. They said they worried that he would not protect Americans' civil liberties and would fail to uphold a woman's right to an abortion.

"I'm concerned that if we confirm this nominee, we'll further erode the checks and balances that have protected our constitutional rights for more than 200 years," said Sen. Patrick Leahy (D-Vt.), the committee's top Democrat.

Republicans, on the other hand, called Alito a superb judge whose 15 years as a federal appeals court judge made him more experienced than most Supreme Court nominees.

"He's a good, decent, honest man," said Sen. Mike DeWine (R-Ohio). "He has an extraordinary legal talent and he approaches each case with an open mind and understanding heart. Throughout this process, Judge Alito has conducted himself with dignity, patience and poise."

Alito had the misfortune of being nominated to replace Justice Sandra Day O'Connor, a swing vote on some of the most controversial matters to come before the court, from abortion to affirmative action. That raised the stakes for the Democrats, since Alito's confirmation as the 110th justice in U.S. history, which seems all but assured, would likely determine the future direction of the high court.

Alito's nomination comes at a time of deep unhappiness among Democrats toward the White House over domestic eavesdropping and the treatment of suspected terrorists in American military custody. That and Bush's relatively low poll numbers helped contribute to the party-line vote.

The full Senate is expected to vote on Alito's confirmation Monday, with only a handful of Democrats supporting him. He would likely be sworn in almost immediately, taking the place of O'Connor, who would step down. Cases that the justices have heard in recent months that have not yet been decided might have to be reargued, since Alito could not vote on a case if he was not sitting at the time of the argument.

Alito Would Likely Change Supreme Court In Unexpected Ways (KRT)

By Stephen Henderson And James Kuhnhenn

Knight Ridder, January 25, 2006

WASHINGTON - The Senate Judiciary Committee moved Samuel Alito one step closer to a lifetime seat on the Supreme Court on Tuesday, where he could immediately shift the court's stance on high-profile issues such as abortion, the death penalty, religion and executive power.

Yet it is Alito's vision of judicial restraint and a limited role for courts - a vision he shares with new Chief Justice John G. Roberts - that could produce an even more fundamental change in the high court.

Together, the two are likely to bring a narrow and lawyerly approach to deciding cases that, if persuasive, could help remove the justices from some of the high-profile political squabbles that now define them.

"Overall, I think the court could appear a lot less political with these two new justices, and that's a good thing," said Jonathan Adler, a law professor at Case Western Reserve University in Cleveland and a constitutional scholar. "Both Roberts and Alito seem to feel that courts are most effective and respected when they operate within a limited role, rather than seeking to intrude into a lot of other contexts."

Cambridge University professor and court expert David Garrow agreed.

"Neither has much of an appetite for grand declarations," he said of Roberts and Alito. "Once you get away from the left-right spectrum that everyone views the court in, I think you see them having a very different kind of effect on things."

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Alito's confirmation hearings were hard fought in the Senate Judiciary Committee earlier this month and inspired bitterly partisan campaigns on both sides, but his confirmation seems all but assured after the committee voted Tuesday to move debate to the Senate floor.

The 10-8 party vote portends an equally partisan outcome in the full Senate and one of the slimmest confirmation margins since Clarence Thomas got 52 votes in 1991.

Judiciary Committee Republicans applauded Alito's experience and intellect and complained that Democrats were judging Alito only on ideological grounds. Democrats said Alito didn't deserve their votes because as a conservative jurist he would alter the balance of the court.

Sen. Lindsey Graham, R-S.C., said the political split on Alito's nomination illustrated a dramatic shift since liberal-leaning jurists such as Ruth Bader Ginsburg and Stephen G. Breyer won confirmation to the court with overwhelming bipartisan votes.

"What's going on in the Judge Alito nomination, I think, is not advising and consenting. It's more about politics," Graham said. "We're jockeying for the next election. And over time we'll erode the quality of the judiciary."

Without question, Alito's presence could have an immediate impact on many attention-grabbing issues as the high court. And because his outlook is markedly different from retiring Supreme Court Justice Sandra Day O'Connor's, his vote could be crucial.

Alito won't likely see the partial-birth abortion ban the same way O'Connor did in 2000, when she cast the deciding vote to strike it down because it lacked a health exception.

Alito's strong First Amendment leanings could also lead him to see campaign regulations differently from O'Connor. This spring, the court will decide whether Vermont can limit not only campaign contributions, but also expenditures by candidates in statewide races.

Alito has also been particularly loath to overturn death sentences as an appellate judge, while O'Connor has been key to the court's ongoing review of capital punishment standards. This term alone, the court is considering several death penalty cases, and experts expect that Alito's arrival might slow the pace of reform dictated by the court.

As the court begins to consider challenges to the Bush administration's bold assertions of executive authority, Alito's record suggests strongly that he'll be more deferential than O'Connor was.

"I don't think there's any question that Alito, like Roberts, will be voting an awful lot with Justices Antonin Scalia and Clarence Thomas," said Garrow, referring to the court's most conservative jurists.

But more than these controversial single issues, Alito's allegiance to a minimalist court could magnify his influence.

In his appellate court decisions, Alito tended toward scholarly, reserved opinions that were long on technical analysis and short on sweeping pronouncements. While his decisions almost uniformly tacked to the right, his approach was humble and often persuasive to other judges on his court.

Already, there are signs that Roberts, in the chief justice's job since October, may be pushing that approach at the high court with some success. The justices have decided several seemingly high-profile cases already this term - on assisted suicide, abortion regulations, the scope of disability law and campaign finance regulations.

But in each case, the court avoided addressing the central, polarizing issues in the cases and decided them on narrow legal terms. None turned out to be a headline-grabbing decision.

`They're not ducking the issues in those cases," said Adler. "They're just saying they have no need to answer things they don't have to answer."

Doug Kendall, an environmental lawyer and executive director of a public-interest law firm in Washington, said that while the idea of judicial restraint is hard to oppose, it may be difficult to define in practical terms.

Judges frequently must decide between competing interpretations of law, and the most restrained decision from a judicial perspective yields the most activist result in terms of the law's intent and impact.

"Is it restrained to accept a dramatically restrictive interpretation of, say, clean water regulations to avoid addressing broader constitutional issues about the law?" Kendall asked. "I suppose it is in one way, but that's also pretty activist in another way because it limits the reach that Congress intended for that law."

Still, Kendall said he can be optimistic in theory about how Roberts and Alito will approach their jobs on the high court.

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"I think what we're seeing so far with Roberts may be encouraging," he said. "But Alito's conservative record suggests he may not be quite the same. We'll see."

Alito Seems Assured Of A Seat On High Court (WP)

By Charles Babington

The Washington Post, January 25, 2006

Democrats all but conceded the Supreme Court confirmation of Samuel A. Alito Jr. yesterday but signaled they will use the Senate debate that begins today to focus on President Bush's domestic spying program and their predictions that Alito will be too pliant in supporting it.

The Senate Judiciary Committee voted 10 to 8 along party lines to recommend Alito's confirmation, depriving him of the bipartisan support enjoyed by most current justices and setting the stage for a sharply partisan Senate debate this week. The vote, which was anticipated, occurred after stinging criticisms by Democrats, including the three who supported Chief Justice John G. Roberts Jr. last fall.

Democratic leaders indicated they will attack Alito's record as an appellate judge in the floor debate expected to extend to Friday or later. But they strongly hinted there will be no filibuster, a parliamentary tactic that conceivably could enable Democrats to block the confirmation in a 100-member chamber in which Republicans hold 55 seats.

Minority Leader Harry M. Reid (D-Nev.) and Sen. Edward M. Kennedy (D-Mass.) told reporters that each senator's decision on Alito is "a vote of conscience," a term used when the leadership does not press for party solidarity. Reid would not rule a filibuster in or out, but top Democratic staff aides said they saw little chance of one.

It is unclear whether Democrats would have tried a filibuster under any circumstances. An accord reached last year between seven Democratic and seven Republican senators, which averted a showdown over judicial filibusters in general, rendered an Alito filibuster virtually impossible. Several of the "Gang of 14" members, as they are called, said they would oppose a filibuster, and their pact gave them the clout to prevail.

Republicans predicted the Senate will confirm Alito by a much narrower margin than the 78 to 22 vote Roberts received on Sept. 29, and they berated Democrats for making a Supreme Court nomination a largely partisan matter. As of yesterday, the only Democratic senator to publicly announce support of Alito was Ben Nelson (Neb.).

Senators agreed that one reason Alito's nomination is more divisive than Roberts's is that Alito, 55, is slated to replace the swing-voting Justice Sandra Day O'Connor, a move that could move the court notably to the right. Roberts succeeded a fellow conservative, Chief Justice William H. Rehnquist.

At yesterday's committee meeting, Democrats repeatedly criticized Bush's use of the National Security Agency to conduct warrantless eavesdropping on U.S. citizens, the subject of committee hearings scheduled for next month. As an appellate judge for 15 years, Democrats said, Alito backed broad executive powers, making him a poor Supreme Court choice when the White House needs to be reined in.

"This is a nomination that I fear threatens the fundamental rights and liberties of all Americans," said Sen. Patrick J. Leahy (D-Vt.), who voted for Roberts. Saying Bush "is in the midst of a radical realignment of the powers of the government and its intrusiveness into the private lives of Americans," Leahy concluded: "I will not lend my support to an effort by this president to move the Supreme Court and the law radically to the right and to remove the final check within our democracy."

The other two committee Democrats who had backed Roberts -- Sens. Russell Feingold and Herb Kohl of Wisconsin -- also said Alito appears far more likely than Roberts to vote to expand presidential powers, limit civil rights and possibly allow states to outlaw abortion.

"I fear that a Justice Alito will narrow our rights, limit our freedoms and overturn decades of progress," Kohl said. Feingold said Bush "thinks his executive power permits him to violate explicit criminal statutes by spying on Americans without a court order."

The Supreme Court may ultimately decide such matters, Feingold said, adding that he and others "repeatedly asked Judge Alito whether the president can violate a clear statutory prohibition such as the Foreign Intelligence Surveillance Act and the ban on torture" and that "he never answered the question."

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Reid, who opposed Roberts and is not on the Judiciary Committee, told reporters: "I have no confidence he will serve as real check on the abuse of presidential power that we see so prevalent today. . . . President Bush continues to believe that he is above the law and above the Constitution."

Judiciary Committee Republicans defended Alito, even as some reserved judgment on Bush's surveillance practices. Sen. Lindsey O. Graham (R-S.C.) told colleagues, "I am very concerned that the war resolution is being interpreted overly broad," a reference to a congressional vote that Bush cites as justification for his NSA policies.

Graham called Alito an outstanding nominee and chastised Democrats for failing to give him bipartisan backing similar to that enjoyed by Justices Ruth Bader Ginsburg and Stephen G. Breyer, who were nominated by President Bill Clinton.

"What's changed?" Graham said. "It's not the quality of the nominees, it's the quality of the process." He said Democrats want to make "a campaign issue of the decisions on the court." In that contest, he warned Democrats, "we'll clean your clock."

Why Democrats Are United Against Alito (CSM)

By Gail Russell Chaddock

The Christian Science Monitor, January 25, 2006

WASHINGTON - With Senate math against them, Democrats see scant prospect of blocking Judge Samuel Alito's rise to the Supreme Court - a final call to be made in a caucus meeting Wednesday.

But their push for a party-line vote on Alito signals another prize in this week's confirmation debate: a possible takeover of the Senate in next fall's elections.

While liberal groups critical to the the Democratic base are disappointed with the probable confirmation of Judge Alito, Democrats are eager to mount an aggressive rhetorical case heading into this week's final vote - and coming midterm elections.

"This is a nomination that threatens the rights and liberties of Americans now and for generations to come," said Sen. Patrick Leahy (D) of Vermont, the ranking Democrat on the Senate Judiciary Committee in his opening salvo against the nominee Tuesday. On a 10-8 party-line vote, the panel voted to send the Alito nomination to the full Senate.

Senator Leahy was one of 22 Democrats who voted to confirm John Roberts as chief justice in September. In a far more contentious confirmation, 11 Democrats voted with Republicans to confirm Clarence Thomas to the Supreme Court in 1991. The vote to confirm Mr. Alito is expected to draw even fewer Democratic votes.

So far, the only Democrat to publicly back Alito is Sen. Ben Nelson of Nebraska. Six Democrats who voted for Justice Roberts have already announced their opposition to Alito.

In a week billed as a "prebuttal" of the president's State of the Union Address Jan. 31, Democrats are rallying around a few key themes: privacy rights, civil rights, and the dangers of unchecked presidential power.

"We'll use the debate to set the bar for the president's [speech] and set some themes for the 2006 elections," says Senate Democratic spokesman Jim Manley.

As President Bush takes his case for domestic eavesdropping without a warrant to the American people in a series of events this week, Democrats are using the Alito debate to raise objections. Before voting Tuesday, Democrats on the Senate Judiciary panel zeroed in on Alito's statements in support of executive powers, especially in a time of war.

"In times of constitutional crisis, the Supreme Court can tell the executive it has gone too far, and require it to obey the law," said Sen. Russ Feingold of Wisconsin, another Democrat who voted for Roberts but who opposes Alito. "Yet Judge Alito's record and testimony strongly suggest that he would do what he has done for much of his 15 years on the bench: defer to the executive branch in case after case at the expense of individual rights."

For the small army of interest groups opposing the nomination, the Democrats' war of words falls short of the all-out battle they had expected. Some say they still hope Democrats will mount a filibuster against the nomination, which requires 60 votes to break. Republicans have 55 votes in the 100-member Senate.

"Many of these Democrats ran on the promise to fight with any means possible to bar someone like Samuel Alito," says Jonathan Turley, a law professor at George Washington University. "Yet, the Democrats could not even field their members to a filibuster. That will leave a view with many Democratic voters that the current Democratic leadership is ineffectual."

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In a preemptive move to break a possible filibuster, Senate Republicans have threatened a change in Senate rules that would ban that option in the case of judicial nominations. Last May, a bipartisan group of 14 senators agreed to vote against either a filibuster or a rule change in a bid to defuse the crisis.

Republicans say Alito is one of the most highly qualified judges ever to come before the Senate and should be confirmed. "Many of Judge Alito's detractors oppose his nomination simply because he will not promise to impose a liberal agenda from the bench," said Sen. John Cornyn (R) of Texas, before Tuesday's vote.

Fixes Considered For 'Broken' Supreme Court Confirmation Process (FOX)

By Jane Roh

Fox News, January 25, 2006

Samuel Alito's elevation to the U.S. Supreme Court is nearly a foregone conclusion despite serious misgivings about him by Democrats and, reportedly, a few moderate Republicans. But that hasn't stopped a partisan fight from casting an unflattering light on the judiciary confirmation process as a whole.

The Senate Judiciary Committee confirmed Alito Tuesday on a 10-8 party-line vote. Most notably lacking in the panel tally was any suspense surrounding where its members would come down. Even a one-week delay in the committee vote failed to whip up any further mystery surrounding the outcome.

Few additional surprises are expected during the full Senate debate, which was beginning Wednesday. A final vote on the nominee could come as early as Friday and again is expected to split down party lines.

After the confirmation hearing for Alito wrapped up on Jan. 13, Delaware Democratic Sen. Joseph Biden, who voted by proxy against Alito because he is abroad monitoring Wednesday's Palestinian election, called the system "broken." At least one Republican who backs Alito's confirmation agreed with Biden's assessment.

"I find myself tending to agree a little bit with Senator Biden, who questioned whether such a process really has a meaningful purpose," Texas Republican Sen. John Cornyn said just before announcing his vote for Alito on Tuesday. "I don't think the hearings should be a place to dump one's political or ideological outbox."

That description largely fit the Alito hearing, and to a lesser degree, the one for Chief Justice John Roberts in September, observers say. During the Alito hearing, many Democratic senators spent more time discussing how they would have voted in legal disputes and their thoughts about Princeton University, Alito's alma mater, than actually asking Alito questions — ostensibly the reason for the hearing.

Republican senators weren't particularly inquisitive either, opting instead to extol Alito as a serious-minded, intellectually gifted jurist who is "not a racist."

As a result, critics say, the public did not learn anything more about the 3rd Circuit Court of Appeals judge than they would have by reading the numerous opinions he authored in 15 years on the bench. Not learning more, they say, may be all but built into the process.

"What this has done is set a new standard of evasiveness," said Richard Davis, author of "Electing Justice: Fixing the Supreme Court Nomination Process." "That will obviously give heart to White Houses in the future: It is possible to get by the Senate."

Davis, who teaches political science at Brigham Young University, said the most fundamental arguments against holding hearings is that it is almost universally agreed upon that judges' personal views should not affect their jurisprudence and judges should not forecast how they would vote on specific issues.

In fact, the late William H. Rehnquist initially refused to sit through the hearing process when he was nominated to be elevated from associate justice to chief justice of the United States.

"He said, 'Look, I have this record, I've been on the court for 14 years,'" Davis said. "One could make the same argument for federal judges like Samuel Alito."

Observers add that once questions regarding a nominee's personal views or hypothetical cases that may one day reach the court are taken off the table, not much is left to discuss.

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"The nominees have learned not to say very much. They've simply learned in the wake of Bork — and now they go through murder boards that have them rehearse every possible question — they've learned to say relatively bland or banal things that don't give away very much," said Perry Dane, professor at Rutgers School of Law and one-time clerk for the late Justice William Brennan.

The highly political nature of the confirmation process has caused administrations to be extra cautious about their nominees because fumbles and surprises do occur, as evidenced by Justice Clarence Thomas, withdrawn Bush nominee Harriet Miers and rejected candidate Robert Bork, whose failed nomination is viewed as a playbook of "don'ts" for subsequent nominees.

"No nominee to the Supreme Court can answer the questions the senators most want answered," said Dennis J. Hutchinson of the University of Chicago School of Law.

That prudence translates into snoozes for both the hearings and the nominees. Lacking the congenital twinkle of Roberts, who many say charmed the senators as much as demonstrated his intellect, Alito was left to rely on his encyclopedic memory and scholarly dexterity.

"What goes on at the hearings is not particularly well-correlated with a judge's actual job description. Judges spend most of their time writing and thinking, and to the extent they play a public role, they are asking questions rather than answering them," Dane said.

"This is the same dilemma we get into with political candidates: the best leaders are not necessarily the best debaters and the best judges are not necessarily the ones who will perform the best in a hearing," he added.

Dane said based on the current debate over nominees and executive branch efforts to find irreproachable candidates, voters should not expect to see many more personalities like the humorously grouchy Antonin Scalia or the feisty John Paul Stevens in the court's future.

"There is this tendency to pick people who are going to do themselves the least damage at the hearings and to avoid people who might be more interesting," Dane said.

A Constitutional Solution?

"Any nominee coming up here is so coached the process can't work very well," Biden told Newsweek after Alito's confirmation hearing. He suggested doing away with hearings entirely and just holding a full Senate floor debate.

But defenders of committee hearings say they can be useful, even if only in a just-in-case kind of way.

"We have to wait and see what sort of justices the recent appointees turn out to be and where they take the Supreme Court and the country before we can say the process is broken," said Michael Comiskey, author of "Seeking Justices: The Judging of Supreme Court Nominees."

"It is useful to confirm what you thought you already knew. We sometimes do learn new things about their constitutional philosophies, although we didn't in this case," he said.

While Democratic committee members Edward Kennedy and Charles Schumer were assailed by the right for questioning Alito's integrity, strict scrutiny is called for when the stakes are so high, Comiskey told FOXNews.com. Such pointed questions would likely get lost in the cacophony of a floor debate.

"We are seeing a turning point in the court. You had to believe certain things in order to rise up in the political ranks in the Reagan Justice Department," he said, referring to both Roberts' and Alito's allegiance during their time in that administration. "With [Justice Sandra Day] O'Connor's seat now going to Alito, we're going to see a big change."

O'Connor, who was nominated by the late President Reagan, has been a crucial swing vote on culture war issues like access to abortion, affirmative action and separation of church and state. The retiring justice has also shown skepticism toward the Bush administration's use of the War on Terror to defend its executive power claims.

While whittling down the process to just floor debates may seem a more attractive option, senators need to get over their curiosity about nominees' personal views, Hutchinson said. Instead, scrutinize the nominee's record and debate it.

"When the Senate tries to use job applications and club memberships as proxies for the nominee's views, they almost by definition trivialize the stakes of the inquiry," he said, referring to Alito's membership in a controversial Princeton alumni group and a job application he submitted to the Reagan Justice Department.

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And as much as this may fall on deaf ears on Capitol Hill, committee members need to ignore interest groups, many observers agree.

"What [the abortion issue has] done is galvanize interest groups on the both the left and the right, who view Roe v. Wade and abortion as an accessible and profound symbol of the role of government and of the definition of their party," Hutchinson said. "Senators who rely on interest groups as part of their base are beholden in various ways to those groups, and that just automatically creates a polarized process, about which the nominee can say nothing substantial and shouldn't."

"I think abortion fatigue has set in," Comiskey added.

It seems unlikely that the founders, who could not have imagined the advent of television, would have foreseen the judicial confirmation process they envisioned become so partisan or political. But supporters of the current nominee, who reject the use of the filibuster now permitted by Senate rules, may think differently if Democrats take back the White House and Congress.

"For the long-term health of our constitutional system, wouldn't it help to have something that is somewhat more attuned to really trying to get judges who are simply excellent with less care about their ideology?" Dane asked.

Dane proposed that lawmakers look at states that rely on special nominating committees comprising prominent lawyers and legal scholars. In 23 states and the District of Columbia, nominating committees work with the governor in appointing judges to courts of last resort, according to the American Judicature Society. Only eight states rely on partisan elections for their highest courts.

Dane also suggested depriving presidents of their winner-takes-all approach to reshaping the court. Acknowledging the nation's reluctance to tinker with the Constitution, he said he would rather see a system of justice-designates that automatically fill seats as they open up. The emphasis on qualifications would trump ideological bent because presidents and senators would have no idea in advance who was going to be replaced.

Any changes to the system have little chance of occurring as long as the American public remains uninterested in the process, as they seem to have been with Alito, critics add.

"You could say they tuned it out because of what was being offered them," said Ruben Navarrette, syndicated columnist with The Washington Post Writers Group. "So much of this is about feeding the egos of these men and one woman on the panel, who are bright and want to show us all how bright they are."

But, he added, "it is our responsibility and it begins on Election Day."

Casey Announces Endorsement Of Alito (AP)

By KIMBERLY HEFLING, The Associated Press

AP, January 24, 2006

WASHINGTON (AP) — Sen. Rick Santorum's leading Democratic challenger, Pennsylvania Treasurer Bob Casey, announced Tuesday that he endorses Judge Samuel Alito's confirmation to the Supreme Court.

For weeks, Republicans have called Casey "Silent Bob" and pressed him to say whether he supports Alito's confirmation. Casey and Alito have a family connection because Alito, who serves on the 3rd U.S. Circuit Court of Appeals based in Philadelphia, sided with Casey's father, the late Gov. Bob Casey, in Planned Parenthood v. Casey. The case challenged a state law requiring women seeking abortions to notify their spouses.

"I do not agree with everything that Judge Samuel Alito has done or said — particularly many of his rulings which too often result in corporate power prevailing over the interests of consumers and workers," Casey said in a statement. "However, I agree with The Philadelphia Inquirer and Washington Post editorial boards that the arguments against Judge Alito do not rise to the level that would require a vote denying him a seat on the U.S. Supreme Court."

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Santorum's campaign manager responded with a statement accusing Casey of ducking the issue and then following the lead of Santorum, the No. 3 Senate Republican. Both candidates are generally against abortion. Santorum came out strong in support of Alito at a conservative rally Jan. 8.

Alito on Tuesday won narrow approval along strict party lines from the Senate Judiciary Committee, with all Republicans supporting him and the Democrats opposed. He still must be confirmed by the full Senate.

Larry Smar, a Casey spokesman, said the treasurer wanted time to examine Alito's background. The focus on Alito was an attempt by the Santorum campaign to distract from other issues, Smar said.

Casey's endorsement came shortly after Gov. Ed Rendell said Tuesday during a news conference in Washington that he reluctantly supports Alito's confirmation. Smar said the timing was a coincidence.

The Planned Parenthood v. Casey decision was overturned in 1992 by the Supreme Court, but justices did give states new powers to make it more difficult for women to end their pregnancies. Alito defended the ruling at his Senate confirmation hearing.

Dem Senate Challengers Would Reject Samuel Alito (HILL)

By David Mikhail And Andrew Barr

The Hill, January 25, 2006

None of the Democrats challenging incumbent Republican senators in competitive midterm races has said they would vote to confirm Judge Samuel Alito to the Supreme Court.

While Chief Justice John Roberts Jr. received support from a majority of such challengers, the Democrats offer a striking contrast on Alito. Even though these Senate hopefuls will not have a say in the upcoming floor vote, political observers are closely tracking their public comments on the controversial nominee.

The question of whether to confirm Alito is politically difficult for Democrats running in red states. If they reject Alito, the candidates open themselves to obstruction criticisms. If they support Alito, they could alienate political donors.

All Democratic candidates surveyed by The Hill who answered definitively said they would vote against Alito, who would replace centrist Justice Sandra Day O'Connor. The remaining candidates either provided no comment or did not respond.

Sen. Ben Nelson (Neb.) is the only Senate Democrat to speak out in favor of Alito.

Todd Gaziano, director for the Center for Legal and Judiciary Studies at the Heritage Foundation, said the lack of Democratic support for Alito is a function of candidates' securing campaign contributions from liberal donors as "Howard Dean candidates."

Sean Rushton, executive director with the Committee for Justice, said that Democratic challengers are following the lead of many Senate Democrats who decided to support Roberts and reject Alito in an effort to appear fair-minded. Rushton added that the judicial philosophies of Roberts and Alito were "almost indistinguishable."

Jonathan Turley, professor of law at George Washington University Law School and an outspoken opponent of Alito, said Alito's hard-right stance — specifically on abortion and presidential power — would remind voters in November of his confirmation, making him "the political gift that keeps on giving" for Democrats.

A spokesperson for Claire McCaskill, who is challenging Sen. James Talent (R-Mo.), said McCaskill is opposed to the Alito confirmation.

In a press release, McCaskill said, "Missourians want their senator to be an independent voice for their concerns, not a rubber stamp for the administration."

McCaskill said, however, that she would oppose a Senate filibuster. Last year she said she would have voted for Roberts had she been in the upper chamber.

A spokesperson for Pennsylvania Treasurer Bob Casey Jr., who is looking to unseat Sen. Rick Santorum (R-Pa.), said that Casey has not yet announced his position. Casey, an opponent of abortion rights, spoke out in favor of the Roberts nomination.

The Democrats seeking to challenge Sen. Mike DeWine (R-Ohio) are rejecting Alito.

Carl Frisch, a spokesman for Democratic candidate Paul Hackett, said that Alito is out of the mainstream and that his views on equality and corporate governance are unfit for the court.

A spokesperson for Rep. Sherrod Brown (D-Ohio), who is vying with Hackett to face DeWine, said Brown would vote against Alito if given the opportunity.

Two candidates looking to unseat Sen. Lincoln Chafee (R-R.I.), Rhode Island Secretary of State Matt Brown and former state Attorney General Sheldon Whitehouse, have released statements on their opposition to Alito's confirmation.

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Brown described Alito as a "right-wing ideologue" and spoke of the importance of standing up against the confirmation. Whitehouse called on Chafee "to stand by a promise he made in 2000 to oppose any Supreme Court nominee who would put a women's right to choose at risk and to filibuster."

Chafee, whose reelection this year has been endorsed by NARAL Pro-Choice America, has not announced how he will vote on Alito.

Jon Tester and John Morrison, both challenging Conrad Burns (R-Mont.), have said they oppose the confirmation of Alito. Specifically addressing Alito's failure to recuse himself in cases involving Vanguard Properties, through which Alito owned mutual funds, Tester said, "Alito is not a man of his word."

Rep. Bernie Sanders (I-Vt.), who is vying for the seat of retiring Sen. Jim Jeffords (I-Vt.), said that Alito would move the court "in a direction that this country should not be going."

Turley predicted that the confirmation vote will be extremely close, much closer than the 78-22 vote confirming Roberts. But others said that the vote will not be a nail-biter and that Alito is heading to passage by a comfortable margin.

Rep. Harold Ford Jr. (D-Tenn.), who is running for the Senate seat held by Majority Leader Bill Frist (R-Tenn.) and supported Roberts's confirmation, did not respond to a request for comment.

Others not responding included Rep. Ed Case (D-Hawaii), who is challenging Sen. Daniel Akaka (D-Hawaii) in a primary, and Jim Pederson, who is running against Sen. Jon Kyl (R-Ariz.).

Pulling Rank (NYT)

By John R. Lott Jr.

The New York Times, January 25, 2006

Washington

REPUBLICAN senators have found a new friend during judicial confirmations: the American Bar Association. During the confirmation hearings of John G. Roberts Jr. and Samuel A. Alito Jr., the senators invoked A.B.A. evaluations to ward off Democratic attacks - including in yesterday's vote by the Senate Judiciary Committee sending Judge Alito's nomination to the full Senate. But this tactic is shortsighted: what works now may make it difficult for Republicans to credibly reject A.B.A. ratings when they really matter.

The bar association has liberal views on issues from abortion rights to gun control, but it has always claimed that a high wall separates its evaluations from its policy positions.

Yet the bar association's liberal bias on its evaluations is there for all to see. Academics rank the influence of judges by how frequently other federal judges cite their opinions. Among serving United States Court of Appeals jurists, the three outstanding judges are Richard A. Posner, Frank H. Easterbrook and J. Harvie Wilkinson III. By the citations yardstick, these three judges, especially Judge Posner and Judge Easterbrook, wield unrivaled influence. But all three were Reagan appointees, and when they were nominated, the A.B.A. gave them the lowest possible ratings, "qualified/not qualified." From Jimmy Carter through George W. Bush's first term, it rated 89 percent of Court of Appeals nominees more highly.

These cases, while extreme, were not unique. I recently completed a study of A.B.A. ratings, analyzing the 342 circuit court and 1,215 district court nominees from 1977 through 2004 to see whether A.B.A. ratings were politically biased after taking into account factors like nominees' schools; whether they served on law review; clerked for different courts; had already been judges; their race, gender and age; publications; and how many years and in what types of positions they served as lawyers. Surveys of lawyers who argued before the judges by The Almanac of the Federal Judiciary also allowed me to examine the relationship between A.B.A. ratings and professional competence, judicial temperament and political bias.

While Democratic Court of Appeals nominees who were clerks on the Supreme Court had an average rating of slightly below "well qualified," similar Republican nominees were rated on average as only "qualified/well qualified." Likewise, of nominees who attended Top 10 law schools and served on their law reviews, Democrats had an average rating as "well qualified/qualified," but Republican nominees were only "qualified/well qualified." Overall, Republican nominees had lower ratings than the nominees of either President Carter or President Clinton.

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Moreover, the A.B.A. rating system was a poor guide to how judges will do once they are on the bench. According to The Almanac of the Federal Judiciary's lawyer survey, judges who had "good" judicial temperament got lower A.B.A. ratings than judges whom lawyers rated as only "fair."

The A.B.A. didn't give all Republicans low ratings. They saved the lowest ratings for when there was a Republican president and a Democratic Senate, when the nominations were most likely to be contested.

For the Supreme Court, a similar pattern exits. So in the cases of Judge Alito and Justice Roberts, the A.B.A. is staying true to form. There's no reason to give a low rating to a nominee when a Republican majority will pretty much assure his confirmation.

But what will Senate Republicans say when Democrats use A.B.A. ratings against them?

Bush Considering Tax Breaks For Health Care Workers Who Must Buy Coverage May Be Aided, Economic Adviser Says (USAT)

By David Jackson

USA Today, January 25, 2006

WASHINGTON — President Bush is weighing proposals for new tax breaks for health care costs, which will be a major topic of next week's State of the Union address, a top economic adviser to the president said Tuesday.

"People are very, very frustrated about the cost of health care," said Allan Hubbard, director of the National Economic Council.

Hubbard told reporters at USA TODAY and Gannett News Service that the tax code offers advantages when a company buys health coverage for its employees but doesn't do the same for employees who have to buy coverage on their own.

"The president's very concerned about the unfairness of the tax code," Hubbard said.

Bush himself has discussed some other health care ideas, including expansion of health savings accounts, which are tax-free savings accounts that can be used for medical expenses.

Bush has also talked about providing consumers with more information about medical costs, to enable them to be better shoppers. "Do you realize the medical field is one where you don't do any comparative shopping?" the president asked the crowd last week during an event in Virginia.

Hubbard said Bush will discuss that topic, but he declined to say whether Bush would propose that the government require doctors to post their fees, or simply encourage patients to ask.

"I'm going to let the president talk about exactly how this should happen," he said.

Hubbard said Bush will also devote part of Tuesday's speech to higher energy prices and the rising costs of entitlement programs such as Medicare and Social Security.

Sen. Edward Kennedy, D-Mass., said the administration's health care approach does not address the increasing numbers of uninsured Americans, or problems with Medicare's new prescription-drug plan.

"Its health proposals will fatten the bank accounts of HMOs and the drug industry, and lavish more tax giveaways on the wealthy," Kennedy said.

In recent appearances, Bush has indicated he will revive past health care proposals. They include allowing businesses to pool their health insurance costs across state boundaries and restricting what Bush calls "junk lawsuits" that drive up medical costs.

The president and aides will also promote health insurance "portability" in an increasingly mobile society. "People should be able to leave their jobs and keep their insurance," Hubbard said.

Bush has cited portability as a reason for expanding health savings accounts. One idea, according to Hubbard, is to increase the amount of money that can be deposited in a tax-free health account.

A presidential commission on tax law changes suggested last year that the administration consider taxing employer-provided health benefits.

That idea has been rejected, Hubbard said, and Bush is not expected to spend much time on ways to overhaul the tax code.

"Tax reform is not off the table," Hubbard said. "At the same time, it doesn't have the priority that health care does right now."

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New Tax Breaks For Medical Expenses (WP)

By Amy Goldstein

The Washington Post, January 25, 2006

President Bush will propose that Americans be allowed to take tax deductions on more of their out-of pocket medical expenses, as part of an initiative the White House believes will rein in soaring health costs by shifting responsibility toward individuals, according to congressional and other sources familiar with the administration's thinking.

The new tax breaks for personal health spending, to be included in the 2007 budget Bush will release in less than two weeks, are designed to help the uninsured and to allow people with insurance to write off a greater portion of the money they spend on co-payments, deductibles and care that is not covered. Under current tax rules, people can deduct medical expenses only if they exceed 7.5 percent of their adjusted gross income.

The president also plans to call for an expansion of health savings accounts, an idea long favored by conservatives and approved by Congress slightly more than two years ago, in which people who buy bare-bones insurance policies are allowed to put money into tax-free accounts for their medical expenses.

In addition, Bush intends to propose changes to allow people to keep their insurance, without extra cost, if they change jobs or decide to start a business, building on a decade-old law that was designed to make health coverage more "portable."

The three proposals -- and possibly others -- are part of a renewed effort by the White House to tackle medical costs, a theme that administration officials said yesterday Bush intends to emphasize in his State of the Union address next week. The health initiative also represents one of the few areas in which the president will try to create new domestic policies through what he and aides have said will be an austere budget.

Part of the initiative recycles proposals that the White House could not push through Congress, including tighter limits on medical malpractice lawsuits and changes that would allow small businesses to band together to buy insurance in ways that bypass state insurance rules.

But the new components would propel the nation's health care system in a direction that many Republicans and business groups embrace: lightening the burden of insurance cost on employers to some degree, while creating financial incentives for individual patients to restrict how much care and medicine they use.

Even before most people on Capitol Hill learn of the proposals, several senior congressional aides and health policy experts predicted yesterday that Bush may have a difficult time winning support. They said that fiscal conservatives may balk at the expense, and that many Democrats will argue the changes are inadequate for poor people, who are most likely to be uninsured.

White House officials would not confirm the decision to allow tax breaks on consumer health spending, and it remains unclear how large a deduction the president envisions.

In an interview yesterday, however, Allan B. Hubbard, director of the White House's National Economic Council, said the current system is flawed because it gives employers tax deductions for the health insurance they buy for workers, but no similar tax preferences for people who buy coverage because their company does not provide it.

"That's not fair. It's really almost backwards," Hubbard said. He said that inconsistency concerns Bush, adding: "Normally, when he's got concerns, he tries to find solutions."

Hubbard said Americans are not as careful consumers of health care as they are in shopping for other services, because insurance masks from them much of the cost. He said the price and quality of health care would improve if consumers were given greater financial incentives and had to decide for themselves how much care they really need.

The idea of tax breaks for out-of-pocket medical expenses is borrowed from a recent book by three academics, including two with whom Hubbard has close ties: R. Glenn Hubbard, a former chairman under Bush of the White House Council of Economic Advisers, and John F. Cogan, a White House economic adviser when Ronald Reagan was president. Their book, "Healthy, Wealthy & Wise," calls for all such spending to become tax-deductible. The authors estimate that the revision in tax law would cost $28 billion a year when phased in completely, although they predict much of that lost revenue would be regained through ripple effects the change would create in the health care system.

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Several outside health policy experts, both Democrat and Republican, speculated yesterday that the president is unlikely to make such a large financial commitment at a time when the administration has pledged to halve a $400 billion budget deficit during the next several years. Joseph R. Antos, a scholar at the conservative American Enterprise Institute, predicted that Bush will "open this particular door. But how far does it open? We'll see."

An administration official, speaking anonymously because he was not authorized to discuss the budget in advance, said Bush is focused on both the deficit and medical costs. "He feels . . . there may need to be some additional investment to deal with the cost" of health care, the official said. "The overall gain, not only to the federal budget but the family budget, is worth that."

Allan Hubbard said Bush also thinks the government has not done enough to help people keep insurance when they change jobs. Under a law passed in 1996, an insurer may not penalize people who change jobs -- by charging them more because of preexisting medical problems -- as long as they began a new job within about two months. Hubbard said the protection should be extended to include people who take longer before they begin a new job or who go to work for themselves.

Hubbard also said "it would not surprise me" if Bush proposes to expand health savings accounts, although Hubbard would not describe the changes the White House would like.

Business Likes Bush's Healthcare Hints (HILL)

By Jeffrey Young

The Hill, January 25, 2006

Big business interests are prepared to back up President Bush's expected call to make healthcare legislation a priority in the coming legislative year.

Facing escalating costs and aging populations of workers and retirees, large employers are seeking policies that would enable them to limit their future healthcare spending while allowing them to avoid dropping expensive health benefits altogether. The small-business community also favors legislation that would make it less pricey to provide employees health coverage.

Bush has made healthcare a central topic in recent public remarks and highlighted the issue in his weekly radio address Saturday. Observers in lobbying and elsewhere have interpreted the president's emphasis on healthcare as a preview of his State of the Union address scheduled for Tuesday.

The healthcare priorities of the U.S. Chamber of Commerce, for example, "align almost completely with the recent speeches the president has given," said Bruce Josten, the Chamber's executive vice president for government affairs.

The Business Roundtable's legislative agenda for the year also resonates with the signals coming out of the White House. CEOs representing the Roundtable are planning one of their quarterly visits to Washington Feb. 8, spokeswoman Tita Freeman said, adding that the cost of health benefits will be a major topic of discussion this year.

"We've been extremely vocal," said Maria Ghazal, the Roundtable's director of public policy. "We've had numerous visits with the House and Senate and the White House" already, she added. Other business-sector interest groups, such as the National Federation of Independent Business, have similar aims, she said.

Particularly appealing to business interests are proposals to increase the allure of health savings accounts (HSAs), tax-free vehicles created to encourage people to set aside money for their medical expenses. In a recent radio address, Bush said, "This year, I will ask Congress to take steps to make these accounts more available, more affordable and more portable."

The proposals that might emerge this year likely will focus on providing additional tax incentives, such as exemptions for the cost of the high-deductible health-insurance plans people must buy in conjunction with the accounts. Some lobbyists also are eyeing increases in the limit on how much an employer or employee can put in the account each year.

HSAs, described by advocates as "consumer directed" healthcare, would work to address the concerns of the business community about their open-ended commitments to health benefits in the future, according to Neil Trautwein, assistant vice president of the National Association of Manufacturers.

A central component of consumer-directed healthcare is to make employees more aware of, and more responsible for, rising costs, thereby "making individuals better healthcare consumers," Ghazal said.

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Critics, including most congressional Democrats, decry this approach as a simple attempt to pass along high healthcare costs to workers. HSAs and other health benefits make employees more vulnerable to high medical expenses without expanding coverage to many of the approximately 39 million people without health insurance, opponents contend.

Josten said that employers are moving in this direction regardless. "It's ultimately inevitable," he said, because companies will not continue devoting more of their resources to health benefits.

The desire for more access to HSAs represents a sea change much like that which continues to replace traditional pensions with 401(k) plans, Josten said. The interest in consumer-directed healthcare is part of the same "movement by companies away from defined-benefit offerings" and toward those for which employers can reliably predict their future spending.

These market-based healthcare reforms also could appeal to the segment of the Republican Party most dissatisfied with the Bush administration's last major foray into healthcare legislation, the Medicare prescription-drug benefit.

"It's pretty hard to deny that there's a bad taste left in a lot of lawmakers' mouths" about the Medicare bill, remarked Pete Sepp, vice president of communications for the National Taxpayers Union. "The HSAs were about the only valuable thing in the rotten Medicare drug bill."

Language in the Medicare bill created HSAs in their present form. At the time, a number of congressional Republicans indicated that the HSA provisions provided them with consolation while voting for a large expansion of a federal entitlement program.

Fiscal conservatives may still be dissatisfied with the Medicare expansion, but "HSAs certainly fit with their philosophy," said Mary Grealy, president of a coalition of healthcare CEOs called the Healthcare Leadership Council. "I think the environment for doing something on HSAs … is probably a little more favorable than a lot of people think," she said.

Proposals foreshadowed by Bush closely resemble legislation sponsored last year by prominent conservative Republicans such as Reps. Eric Cantor (Va.) and John Shadegg (Ariz.).

In the Senate, Health, Education, Labor and Pensions Committee Chairman Mike Enzi (R-Wyo.) is preparing to move ahead on some of the White House's agenda, a spokesman said. "I wouldn't expect him to echo everything the president says, … [but] we do expect to be supportive in a number of areas," the spokesman added.

For example, Enzi has been seeking Democratic support for legislation that would enable small employers to form large groups to buy health insurance. Legislation to create the so-called association, or small-business, health plans has stalled in the Senate because it would circumvent state laws that guarantee the availability of certain health benefits and limit how much insurers can raise premiums.

A Blueprint For Health-care Freedom (WT)

By Michael F. Cannon

The Washington Times, January 25, 2006

The White House has been dropping hints that the president will make health-care reform the centerpiece of his State of the Union address. The Bush administration's health care record is, to put it delicately, inconsistent. It has supported efforts to remove government influence over the health care sector, such as health savings accounts (HSAs). On the other hand, the president signed into law the largest expansion of federal power over health care in generations the ill-fated Medicare drug program.

So in an attempt to help the administration straighten up and fly right, here's my health policy wish list for the State of the Union.

1. Propose "large HSAs." Federal tax laws encourage workers to surrender control over their health care to their employer. Among other things, that means that most people lose their health insurance when they leave a job.

HSAs give some of that control back to workers. Workers and their employer make tax-free contributions into an HSA, which covers out-of-pocket medical expenses. But workers are required to purchase catastrophic coverage, with deductibles in the neighborhood of $1,000 to $5,000. For many, that makes HSAs downright unappealing.

The president should propose using HSAs to give workers control over all their health-care dollars. First, nearly all workers and employers should be allowed to deposit the entire amount they are now spending on health benefits into a "large HSA."

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Then, workers should be allowed (but not required) to use their HSA funds to purchase a health plan of their choosing, from their employer or any other source. Large HSAs would allow a worker to purchase the coverage she wants rather than what politicians or employers think she should have and that stays with her when she leaves her job. Large HSAs would also increase competition among insurers, and make health care more affordable for workers who cannot obtain coverage, either because they are too sick or too poor.

2. Push hard for interstate commerce in health insurance. A big reason that health insurance is so expensive is over-regulation by the states and the fact that each state forbids you to buy insurance from carriers in another state. The Congressional Budget Office estimates some state regulations increase insurance premiums by as much as 15 percent.

The Constitution allows Congress to remove such interstate trade barriers. The president already supports legislation (sponsored by Rep. John Shadegg and Sen. Jim DeMint) that would allow individuals and employers to purchase insurance from states where regulatory costs are lower. He should push Congress hard to give purchasers that freedom now.

3. Avoid further expansions of federal power. There is no shortage of people who argue that health-care markets would work better if only we gave the federal government more power. They want taxpayer dollars to create electronic medical records. Or they want to require health-care providers to furnish price and quality information. Or they want Washington to make decisions that belong to the states, including health insurance regulation (read: "association health plans") and medical malpractice reform.

The president should explain that markets will deliver conveniences like electronic medical records and price and quality information just as soon as government stops monkeying with market incentives. And he should explain that expanding federal power at the expense of states is improper, because it limits individual freedom and the states' ability to experiment.

4. Clean up the Medicare mess. Finally, it would be nice for the president to acknowledge that the Medicare drug program that took effect this month was a huge mistake. Though the intent was to expand coverage, so far the program has caused many to lose the coverage they had, including some of the poorest and sickest seniors.

But the worst is yet to come. The Medicare drug plans will soon begin dropping drugs and pharmacies from their plans to keep the sickest seniors away. And the cost of the program, which already looks to be twice the sticker price, will continue to outstrip projections. At a minimum, the president should commit to reforming Medicare. The program's fiscal outlook is six times worse than Social Security's, and the president himself is responsible for a large part of Medicare's troubles. Absent reform, Medicare will require a tax increase equal to one-quarter of wages. It's time for the president to start thinking about his legacy, and whether he wants that type of tax increase to be a part of it.

Michael F. Cannon is director of health policy studies at the Cato Institute and author of "Healthy Competition: What's Holding Back Health Care and How to Free It."

Democrat Blasts Bush Before State Of The Union (REU)

By Donna Smith

Reuters, January 25, 2006

Senate Democratic Leader Harry Reid on Tuesday urged President George W. Bush to "swagger" less and show more honesty and humility in his annual State of the Union speech to the nation next week.

In a speech at a liberal think tank, Reid gave a scathing assessment of the state of the nation under Bush and the Republican-controlled Congress.

"Republicans run good campaigns, but when it comes to actually governing and protecting Americans, they have a record of incompetence," Reid told an audience at the Center for American Progress.

Reid's speech was part of an effort to lay the groundwork for the November congressional election in which Democrats hope to win control of Congress or at least shrink the Republican majority.

Reid took aim at the president's national security record, saying Bush "must unite the nation behind our most important goal -- keeping our people and way of life safe. We need to hear honesty and humility from the commander in chief, not swagger from the campaigner-in-chief."

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Bush is to deliver his State of the Union address before Congress on January 31 and lay out his priorities for the year. He is expected to talk about national security and suggest expansion of tax-free "Health Savings Accounts" to help people pay medical expenses.

Reid accused Bush of making promises in past State of the Union speeches and doing the opposite. In 2003, Reid said, Bush promised not to pass the nation's current bills on to the next generation.

Noting that the government will breach the $8.184 trillion debt limit next month, Reid accused Bush of "bankrupting our country and placing an enormous tax on our children and grandchildren, simply so he can hand out tax breaks to special interests and the wealthy."

The White House has asked Congress to raise the credit limit by mid-February, saying the Treasury would have to take extraordinary measures to keep paying bills for everything from Social Security and national defense. Since 2002, Congress has raised the debt ceiling by $2.2 trillion.

Reid also urged Bush to offer a plan to fix the new Medicare prescription drug program for the elderly. Since the plan was launched on January 1, many poor and elderly people have been snagged by problems that have made it difficult for them to get their prescription costs covered.

About half of the states have stepped in to pay the costs of people who have run into problems. The drug plan relies on private insurers, pharmacies and healthcare companies to provide coverage to Medicare's 42 million beneficiaries.

Sen. Reid: Bush Should 'Come Clean' (AP)

AP, January 25, 2006

Senate Minority Leader Harry Reid urged President Bush Tuesday to "come clean" in next week's State of the Union speech and acknowledge "the costs of Republican corruption."

"In his 2000 campaign, George Bush promised to bring 'dignity' to the White House, but we've since found that he brought Jack Abramoff instead," said Reid, D-Nev. He spoke at the Center for American Progress, a liberal think tank, in remarks previewing Democratic criticism of the presidential speech on Jan. 31.

"President Bush needs to quit stonewalling about his White House's connection to corruption, and finally tell us how he's going to reform Washington," Reid said.

Asked about the criticism, White House press secretary Scott McClellan said, "This is more of the kind of partisan attacks that we see in this city that only lower the discourse in this town."

McClellan repeated refusals to disclose details of administration contacts with Abramoff, the disgraced ex-lobbyist who has pleaded guilty to corruption charges.

"There's a difference between responding to questions like that and engaging in a fishing expedition that has nothing to do with the investigation," he said.

Reid ticked off a list of what he termed Bush failures, contending Bush policies have made the country less safe, driven up debt and increased dependence on foreign oil.

He noted problems with the newly implemented Medicare prescription drug plan. "The state of our union today is that we have seniors begging in the streets for the medicine they need," Reid said.

Reid also said Bush was "deeply dishonest" when he promised in his 2003 State of the Union not to pass along problems to future generations. Instead, younger generations will pay "so he can hand out tax breaks to special interests and the wealthy," Reid said.

The 15-minute speech was prefaced by a video showing Bush clips from past speeches followed by quotes meant to show a failure to deliver. Reid said the video showed the president "has been giving us doublespeak for years."

Reid Says Bush, GOP Corruption Hurts U.S. (WT)

By Stephen Dinan

The Washington Times, January 25, 2006

Senate Minority Leader Harry Reid said yesterday that President Bush and other Republicans are so corrupt they have weakened the United States.

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"The Republican abuse of power comes at great cost to our country, and we can see it in the present state of our union," the Nevada Democrat said in a speech yesterday to the Center for American Progress, a liberal think tank. "Special interests and the well-connected have grown stronger, while our national security, our economy, our health care and our government have grown weaker."

Mr. Reid set a series of hurdles for Mr. Bush to clear in next week's State of the Union address, particularly on political-process reforms.

"In his 2000 campaign, George Bush promised to bring 'dignity' to the White House -- but we've since found that he brought Jack Abramoff instead," Mr. Reid said. "President Bush needs to quit stonewalling about his White House's connection to corruption and finally tell us how he's going to reform Washington."

While most of the charges about Abramoff seem to center on Congress, Mr. Reid said the president has his own problems -- including charges against Vice President Dick Cheney's former chief of staff and the arrest of David Safavian, who ran the Office of Federal Procurement Policy.

At the White House, press secretary Scott McClellan said the remarks were "more of the kind of partisan attacks that we see in this city."

He said that Abramoff, the lobbyist who has pleaded guilty to corruption charges, "has contributed to both Democrats and Republicans alike, whether it was directly or indirectly."

And Tracey Schmitt, the Republican National Committee's press secretary, said Mr. Reid mischaracterized the president's record "in an effort to score cheap political points."

Mr. Reid directly challenged Republicans' national-security credentials -- the one issue where Republicans believe they run the strongest.

"Republicans run good campaigns, but when it comes to actually governing and protecting Americans, they have a record of incompetence," he said.

Mr. Reid said he was trying to lay out a framework for what Mr. Bush must do next week in his State of the Union address, including explaining a path to success in Iraq, acknowledging the nation's poor fiscal state and finding a plan "to fix his bait-and-switch Medicare [prescription] drug program."

"We need to hear honesty and humility from the commander in chief, not swagger from the campaigner in chief," Mr. Reid said.

Frist Nixes Reid On Agenda Plan (RC)

By John Stanton

Roll Call, January 25, 2006

Senate Majority Leader Bill Frist (R-Tenn.) rejected an expected demand by Senate Democrats late Tuesday that the GOP leader postpone consideration of asbestos legislation in favor of their lobbying reform bill, arguing in a letter to Senate Minority Leader Harry Reid (D-Nev.) that “to postpone debate on this issue is to blatantly ignore a very real problem” and accusing Reid of wanting to “kill this bipartisan legislation that ensures victims are better compensated.”

Subsequently, Democratic aides said that Reid no longer expects to make a formal request.

The pre-emptive attack, a senior GOP aide said Tuesday, is the first offensive maneuver orchestrated by Frist’s message operation, which is winkingly called the “peace room” as a contrast to Reid’s “war room.”

The aide said Frist hopes that such message tactics will allow Republicans “to be more flexible and adaptive as we move on ahead, both on offense and refuting spurious and scurrilous Democratic claims.”

According to the letter, Frist said he decided to move forward with the pre-emptive rejection following a Tuesday story in Roll Call that outlines Reid’s plan to release a Democratic Caucus letter today demanding that the asbestos bill be set aside in favor of ethics reform.

“I have read with interest press reports that tomorrow you will ask me to put aside early Senate action on bipartisan asbestos reform in order to immediately begin action on lobbying reform,” Frist wrote in the letter.

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In the letter, Frist also chides Reid for seeking a quick resolution to the ethics issue, arguing that while "I acted before anyone else in Congress to commit us to pass bipartisan lobbying reform ... I expect the Senate to pass a thorough and comprehensive lobby reform bill early this year that is done right and well, not fast and foolish."

A Reid spokeswoman denounced Frist's decision to stick with his previous schedule as bad policy and said Reid continues to oppose the bill. "Having asbestos as the first bill up shows Bill Frist's misplaced priorities. Sen. Reid is strongly opposed to the bill," the spokeswoman said.

The decision to formally begin operations of the peace room also stems from Frist's desire to demonstrate that the GOP leadership is responding the desire of many Republican Senators "for a crisper and firmer caucus, prepared to act to stand up on behalf of what it believes in," a Senate Republican said.

The GOP aide acknowledged that Frist's letter represents a departure from Frist's normally calculated and carefully thought-out responses to Democrats' message salvos. Although Republicans will continue to push their agenda in a positive light, the aide said, "the novelty is that we are pre-acting to Reid's misbehavior."

Republicans said that Frist will continue to take a notably more aggressive approach to the perennial message war with Democrats — a stance that is clear in the language used in the asbestos letter.

For instance, Frist closes the letter with a direct attack on Reid's motives in seeking a delay of the asbestos bill, saying "Don't put the future at risk with partisan, obstructionist tactics."

While Frist is expected to pick his shots as the message operation develops, Republicans hope that the new muscular approach to fighting Reid will put Democrats back on the defensive and open the minority Party to more traditional GOP charges of obstructionism and a lack of a positive Democratic agenda.

"Not everything deserves a response," the aide said. "The uniform negativity of the Democrats will end up punching them in the jaw, with no solutions, no ideas, nothing but whining and complaining to offer as their agenda."

US To Help Reimburse States For Medicare Drugs (REU-Y2)

By Susan Heavey

Reuters, January 25, 2006

The federal government will help reimburse states that have been paying for prescription drugs after glitches with Medicare's new benefit left many patients stranded, U.S. health officials said on Tuesday.

Since the program began three weeks ago, enrollment problems have left hundreds of thousands of Medicare's elderly and disabled caught without coverage for their medications. More than half of the states stepped in to pay for them, but not without calling for reimbursement.

Mark McClellan, head of the Centers for Medicare & Medicaid Services (CMS), said states should first seek reimbursement from health insurers and other companies offering the plans. But if states paid out more than they can get back, Medicare will pay the difference, he said.

"We'll reimburse states for the drug costs and the administrative costs they have incurred in their systems during this transition period for certain people," McClellan told reporters in a conference call. He added the agency would make sure companies repay states.

McClellan called on states to stop paying for the drugs by February 15 and allow Medicare to take over, although some states could get an extension.

"States that work with us ... will be reimbursed," he said.

Patients most affected are the 6 million who are also enrolled in Medicaid, which covers the poor. Many were either not enrolled properly or were automatically signed up with a plan that did not cover their particular medication.

It's not clear how many millions of dollars the roughly 25 states and Washington, D.C. have spent so far.

Several governors and state organizations welcomed the announcement.

"I'm pleased that the federal government has agreed to reimburse us for the total cost of providing a safety net while the new program's issues are worked out," said Illinois Gov. Rod Blagojevich, a Democrat.

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Martha Roherty, director National Association of State Medicaid Directors, said Medicare's plan seemed positive, but added, "It's going to come down to how it's all implemented."

Previously, McClellan had said Medicare could not pay the states under law. He did not say what had changed, but on Tuesday ruled out any need for congressional action. "We don't need legislation," he said.

Medicare's offer did not satisfy some members of Congress, mostly Democrats and a few moderate Republicans, who have been pushing legislation to force the agency to pay the states.

Medicare officials, consumer groups and other have all said they expect another spike in reported problems in May, the last month for beneficiaries to sign up without extra fees.

Health and Human Services Secretary Mike Leavitt told reporters the agency was trying to anticipate future problems.

Some critics have called on Congress to extend the enrollment period until the glitches are worked out.

Sen. Charles Grassley (news, bio, voting record), head of the Senate Committee on Finance that oversees Medicare, said postponing the deadline would not help and could lead to higher costs.

"CMS can fix these problems using its authority under the law and can do it faster than if Congress comes in and changes the law," the Iowa Republican said, adding that the committee would meet with McClellan and Leavitt on Wednesday.

Bush Troubled By Medicare Delays (FT)

By Holly Yeager In Washington

Financial Times, January 25, 2006

The Bush administration was forced to step in to mend problems with the new Medicare prescription drug programme on Tuesday, promising to reimburse states for money they have spent to provide medicine to people whose benefits were delayed.

The decision to intervene is an embarrassing setback for President George W. Bush, who has listed the programme among the primary accomplishments of his first term. But it reflects growing pressure from Republican and Democratic governors, as well as members of Congress, following reports that trouble enrolling in the programme has left hundreds of thousands of people without coverage since it took effect on January 1.

Chuck Grassley, chairman of the Senate finance committee, has called a private meeting of the panel for this morning, at which senators will be able to question Mike Leavitt, secretary of health and human services, and Mark McClellan, administrator of the federal agency that runs Medicare, the health programme for the elderly.

The prescription drug programme was enacted in 2003 and its supporters said it would help patients deal with rising healthcare costs by limiting what they pay for medicine. About 24m people have signed up for the benefit so far. Most of those who have experienced trouble with it are among the 6m people who had been covered by Medicaid, the health programme for the poor.

About two dozen states have stepped in to pay for emergency drugs this month, prompting many governors to call for reimbursement from Washington. Mr McClellan said states should go first for payment to the insurance companies administering the plans but that Medicare would cover the rest of their costs.

Conservatives in Mr Bush's party have long criticised the plan as too expensive, while Democrats see it as too friendly to insurance companies.

Harry Reid, Democratic leader in the Senate, said on Tuesday: "We need to fix Medicare – and do it now." But Mr Grassley said the implementation problems were "mainly logistical and administrative" and could be fixed without changing the law.

States' Costs To Be Repaid In Drug Plan (NYT)

By Robert Pear

The New York Times, January 25, 2006

WASHINGTON, Jan. 24 - The Bush administration said Tuesday that states would be fully reimbursed for any costs they incurred in paying claims for prescription drugs that should have been covered by the new federal Medicare program.

Michael O. Leavitt, the secretary of health and human services, announced the plan in response to a political furor swirling around the new Medicare drug benefit.

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At least two dozen states have taken emergency action to help low-income people who could not get their medications under the program, which began Jan. 1. States are spending millions of dollars a day in such assistance.

Dr. Mark B. McClellan, administrator of the Centers for Medicare and Medicaid Services, said the Bush administration would use its influence to ensure that prescription drug plans - private insurers under contract to Medicare - reimbursed states for the cost of claims that the insurers should have paid.

Many states have paid more for particular drugs than private plans would have paid. Dr. McClellan said the federal government would reimburse states for the difference and would also cover any administrative costs that states had incurred in operating stopgap programs.

Mr. Leavitt said, "In cases where states have continued to pay for drugs at rates higher than what the plans would reimburse, as a function of our transition, we're going to help them cover that."

The federal government said it would reimburse states for prescription drugs dispensed to low-income Medicare beneficiaries through Feb. 15. Federal officials assume that problems in the new program will be worked out by then.

Gov. Arnold Schwarzenegger of California, a Republican, welcomed the promise of full reimbursement. "This is great news," he said. "The federal government is living up to its responsibility."

But the steps were not enough to satisfy some Democrats, who said the federal government should reimburse all state costs, without requiring states to dun insurers.

Gov. John Lynch of New Hampshire, a Democrat, expressed concern about the Feb. 15 deadline. "New Hampshire citizens are still having problems getting their medications through Medicare," Mr. Lynch said. "The federal government should not set a deadline until it can prove that everyone who is eligible can actually get their prescriptions."

Senator Hillary Rodham Clinton, Democrat of New York, said the announcement showed that Bush administration officials "are feeling the heat, are finally recognizing the crisis they created in the design and implementation of the new drug benefit."

In an interview, Ms. Clinton said the action was intended to head off legislation that would require the federal government to reimburse the states directly. "I am very skeptical that all the kinks in the new program will be worked out by Feb. 15," she added.

The chief sponsor of the legislation, Senator Frank R. Lautenberg, Democrat of New Jersey, said: "Today's announcement only makes the problem worse. First, states had to step in and spend millions to prevent the Medicare system from collapsing at the beginning of this year. Now the federal government wants the states to act as its bill collectors."

A co-author of the bill, Senator Olympia J. Snowe, Republican of Maine, said she was pleased that the administration would compensate states for the costs of their emergency assistance programs, which she said had "averted great harm to those with limited resources."

For weeks, federal officials said they did not have authority to reimburse states. On Tuesday, they said they had discovered that they could reimburse the states by conducting a demonstration project under Section 402 of the Social Security Amendments of 1967.

Bush administration officials said they did not know how much their commitment to the states would cost. Dr. McClellan said "the bulk of costs" would be paid by insurers, not the government. But, he said, federal officials would help the states collect through a "reconciliation process," the details of which were still being worked out.

While acknowledging some problems, Dr. McClellan said Tuesday, "The prescription drug program is working for the vast majority of seniors and people with disabilities."

But William P. Scheer, president of the Pharmacists Society of the State of New York, who owns a drugstore in the Bronx, said: "Federal officials must be taking happy juice if they believe that everything is running so well. Some of the prescription drug plans are running roughshod over us and our patients."

States To Be Reimbursed For Drugs (WP/AP)

The Washington Post, January 25, 2006

Federal officials said yesterday that they will reimburse states that bought medicine for senior citizens and disabled people who could not get help through the new Medicare drug benefit.

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Under the program, which began Jan. 1, beneficiaries enroll in private plans selected by the government to provide prescription drug coverage.

But the program got off to such a difficult start that more than 20 states opted to provide emergency coverage for low-income residents who ran into difficulty. Some people did not show up in pharmacists' computers as being enrolled in a plan, and others were charged far more than they were supposed to pay.

Previously, officials said reimbursement to the states would come from the private plans themselves. But in cases in which states incurred expense above and beyond what the plans are required to pay, the federal government will step in, officials said.

States To Be Reimbursed For Emergency Drugs (LAT)

By Ricardo Alonso-zaldivar

The Los Angeles Times, January 25, 2006

WASHINGTON — California and more than 20 other states will be "fully reimbursed" for hundreds of thousands of emergency prescriptions for seniors who ran into trouble with the new Medicare drug benefit, top federal officials said Tuesday.

The promise was part of a seven-point plan by Health and Human Services Secretary Mike Leavitt to try to resolve the continuing frustration faced by many patients and pharmacists since the benefit took effect three weeks ago.

Leavitt's announcement marked the first time that a senior official publicly acknowledged the need to fix the broad range of problems. It came a week before President Bush's scheduled State of the Union message, in which the president, despite the glitches, is expected to praise the benefit as a significant accomplishment and a foundation for market-oriented healthcare reforms.

Started Jan. 1, the program offers 43 million Medicare beneficiaries the opportunity to enroll in private insurance plans providing government-subsidized coverage for their outpatient prescriptions. But its complicated design appears to have dampened enthusiasm among seniors, and many low-income beneficiaries who were automatically enrolled in the program have encountered a host of unintended coverage problems, leading some to leave the pharmacy without medicines they needed.

Quoting an e-mail sent to him by an Alabama pharmacist, Leavitt said, " 'There are still plenty of bumps, but it's much better.'

"To every single [patient] who went to the drug counter and wasn't able to get a prescription filled, it was a big problem — and we are taking it seriously," he said.

Federal and state officials estimate that 80% to 90% of seniors have not encountered such problems. But error rates of 10% to 20% in a program that is supposed to provide crucial medications for millions of people are considered unacceptable.

Leavitt also threatened to unleash federal investigators on private drug plans that failed to deliver services required by their contracts with the government, such as providing transitional supplies of medications they did not normally cover.

Critics said Leavitt's response was overdue.

"The secretary is confronting reality finally, and that is a good thing," said Robert M. Hayes, president of the Medicare Rights Center, a New York-based advocacy group. "We all know consumers were confused, but we had no sense the leadership in the federal government was so confused."

California has spent more than $9 million for about 110,000 emergency prescriptions since Gov. Arnold Schwarzenegger intervened about two weeks ago.

The state was concerned that many low-income and disabled beneficiaries who had gotten drugs under Medi-Cal were having problems renewing prescriptions under Medicare. In some cases, beneficiaries were dropped from computerized eligibility lists. In others, the drug plans wanted hefty co-payments that low-income patients were not supposed to be charged. Some plans did not cover the same drugs that Medi-Cal did.

As part of the reimbursement plan, the federal government will help states collect from drug plans that were supposed to be taking care of low-income beneficiaries. Washington will also cover the states' administrative costs plus any difference between what pharmacies charged the states and rates the drug plans pay to pharmacies.

"Almost all of it is paid for by the plans," Leavitt said.

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Medicare Administrator Mark B. McClellan said no congressional action was needed to authorize the program. He said he expected most states to shut down their emergency assistance efforts by Feb. 15.

"We will ensure the plans reimburse the states … and pay for any difference," he said. Federal officials did not yet have a cost estimate.

Such an arrangement would be acceptable to California, Stan Rosenstein, the state's deputy director of medical services, said in a recent interview.

"We are willing to work with the federal government on that," he said. "It can work as long as the federal government insists that the plans reimburse us."

Leavitt's repair plan for the Medicare drug benefit closely tracks the flaws that critics have pointed to in recent weeks. It calls on Medicare to purge computerized errors that have caused delays and on drug companies to beef up call centers.

It also urges seniors who want to enroll in or switch plans to do so early in the month so their paperwork is in order on the first day of the following month, when coverage takes effect. But that might be difficult, said advocates for the elderly, because some changes are prompted by unforeseen medical needs.

Rx Plan Failing To Help Neediest Low-income Seniors Are Slow To Sign Up (USAT)

By Richard Wolf

USA Today, January 25, 2006

WASHINGTON — Low-income seniors without Medicaid or prescription coverage are signing up for a new Medicare drug benefit at a far slower rate than others, a sign the program isn't reaching many of those who need it most.

Fewer than 300,000 of the 3.6 million people who have voluntarily enrolled in the drug program were approved for a low-income subsidy. That's just 4% of the 8.2 million people the Bush administration has estimated could qualify for the subsidy.

By contrast, more than 3.3 million people have signed up for coverage without qualifying for the subsidy. That's nearly 25% of an estimated 14 million people without full prescription drug coverage who are not low-income.

The six-month signup period ends May 15; the program's benefits began Jan. 1.

The inability to sign up more low-income seniors and disabled Americans is caused by two factors. Historically, only one-third to two-thirds of people eligible for low-income programs take advantage of them. And in this case, the two-step process of qualifying for the subsidy and enrolling in a plan is complex, experts say.

“This is a problem,” says former senator John Breaux, chairman of the Medicare Rx Education Network. “This is a very difficult population to get to.”

Gary Karr, spokesman for the Centers for Medicare and Medicaid Services, says the program likely is reaching more low-income people. “There are going to be people who are in the program who haven't applied for the low-income subsidy,” he says.

Another 6.2 million low-income Americans were automatically enrolled because they had received prescription drugs through Medicaid. Thousands were denied drugs or were overcharged at pharmacies this month because of glitches in the process, leading more than 20 states to offer emergency coverage. Health and Human Services Secretary Mike Leavitt said Tuesday that the states will be reimbursed.

After those problems and months of widespread confusion among seniors over the program's scores of insurance options, most Americans say the program is struggling. By a 2-to-1 ratio, they say the program isn't working, according to a USA TODAY/CNN/Gallup Poll released Tuesday.

The low-income subsidy is available to individuals with annual incomes below about $15,000 and assets below about $11,500, not including their homes. Many will pay no premiums or deductibles, and no more than $2 monthly for each generic drug and $5 for each brand-name drug.

Last year, the Social Security Administration sent letters to about 19 million people advising them of the subsidy, then followed up with 65,000 public events. To date, 1.2 million people have qualified for the subsidy: Those who don't sign up with an insurance plan will be automatically enrolled in May.

Golden Oldies New Medicare Drug Benefit Sparks An Industry Land Grab (WSJ)

By Sarah Lueck And Vanessa Fuhrmans

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The Wall Street Journal, January 25, 2006

The government's new Medicare benefit that gives private drug coverage to millions of Americans has sparked a competitive scramble in the health-insurance industry. One of the battlegrounds is UnitedHealth Group Inc.'s cavernous call center in Roanoke, Va., which houses more than 500 customer-service representatives.

Fliers pinned on the wall list the "5 things every caller should know about our prescription-drug plan." The top one: "We are the only...plan endorsed by AARP, the most respected organization serving older Americans."

AARP, the powerful seniors' organization, is in the awkward position of providing impartial advice to seniors while at the same time selling them products. For UnitedHealth, the nation's No. 2 health-insurance provider, the AARP relationship is a powerful tool in what is becoming an all-out land grab.

Defying early predictions that private insurers wouldn't offer prescription-drug policies, dozens of companies are offering regional plans and 10 are selling them nationwide. The government is heavily subsidizing the policies, for which 42 million people are eligible. It's a big and unexpected growth opportunity at a time when the industry's traditional business -- administering employer health benefits -- is stagnant or shrinking.

UnitedHealth, based in Minnetonka, Minn., is one of the most aggressive players and one of the most successful so far. It has signed up about 2.8 million Medicare beneficiaries, either to stand-alone drug plans or within its more comprehensive Medicare plans. It picked up 1.5 million more sign-ups from its acquisition in December of PacifiCare Health Systems.

One of UnitedHealth's biggest rivals is Humana Inc., a midsize player in the market of offering insurance to corporate employees. Seeking quick growth, the Louisville, Ky., company is relying heavily on low prices, selling policies with monthly premiums as low as $2, alongside other more expensive plans. UnitedHealth's AARP premiums range between $23 and $31. Humana, in part through a marketing alliance with Wal-Mart Stores Inc., has signed up 1.7 million people for the drug benefit, either alone or through one of its comprehensive Medicare plans. It hopes to eventually switch many of these new customers to more lucrative policies.

"Basically 42 million people have been put in the marketplace, and that won't happen again," says Steve Brueckner, Humana's vice president of senior products. "If you don't get your fair share, you're going to be in trouble later on."

Every major insurer has carved out a slightly different strategy. WellPoint Inc., the nation's biggest health insurer, is counting on its long track record selling individual insurance products through the Blue Cross and Blue Shield plans in 14 states. WellPoint is marketing many of them at Walgreen Co. stores. Like a handful of other plans, it has eliminated deductibles in some offerings.

Aetna Inc. and Cigna Inc. are touting options with higher premiums but covering more drugs. Aetna, the third biggest insurer, is taking a relatively conservative approach to pricing and how many people it expects to sign up. It might stand to benefit if the new program proves a commercial bust.

Before the new Medicare legislation passed in 2003, insurers didn't sell stand-alone drug coverage, which they thought would be unprofitable. The likely consumers were people with high drug bills. Insurers covered medications only as part of broader packages that included doctor and hospital insurance.

But the Bush administration's prescription-drug program suddenly changed the calculus. Not only did the Medicare benefit provide a new way to drum up business from seniors, the government agreed to protect insurance companies from much of the risk.

Each year under the new drug program, insurers submit bids based on their estimated costs to the federal government, which then calculates a national average. The government pays insurers about 74.5% of that average. It requires companies to charge customers the balance between the government subsidy and insurers' initial estimates.

Thus, the lower the insurer's bid, the lower the premium for the customer. The government hopes this formula will keep its costs low.

Insurers also get additional federal payments for enrolling high-risk beneficiaries and those with low incomes. If an insurance company spends more than the estimate, the government will help pay the excess. If an insurer spends less, the government gets part of the savings.

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Insurers say there's about 3% to 4% profit margin in drug-only insurance. The extra government payments mean there's little downside risk.

Bumpy Start

Medicare drug coverage, which began Jan. 1, has gotten off to a bumpy start. Many pharmacists have had problems confirming customers' new insurance. Some beneficiaries haven't received cards or letters proving they have coverage. Many states are stepping in to buy drugs temporarily for low-income seniors who ran into problems after being switched by the government to the new Medicare program from Medicaid.

Health and Human Services Secretary Michael Leavitt says that problems are being worked out and that "the vast majority" of people signed up for the benefit are using it successfully. "When you move large amounts of people and data...there's always an imperfect match," he says.

For some companies, the new benefit is a welcome boost. Humana, for example, with seven million members, is only half the size of Cigna, its next largest competitor, in the employee-based health-insurance market. Humana is betting that its experience in the Medicare market and its super-low premiums will let it take advantage of this "one-shot opportunity," says Mr. Brueckner, the vice president.

After grabbing market share, Humana hopes to entice many seniors to switch to more comprehensive Medicare plans, which are known as Medicare Advantage. The company calls this strategy "enroll and migrate." These more-lucrative plans cover doctors' visits, hospital stays and other services.

The premiums on Humana's least-expensive plan make the insurer such an outlier in the market that, "either they've figured out something the others haven't or they're pursuing a reckless strategy," says Matthew Borsch, a health-insurance analyst at Goldman Sachs.

Under the cheapest Humana plan, consumers pay a $250 deductible, then 25% of the next $2,000, all of the next $2,850, and 5% of everything else for the rest of the year. Other Humana plans don't have an initial deductible, charging only co-pays, and the most-expensive option provides coverage without a gap.

On a recent morning, Humana sales representatives manned tables in front of Wal-Mart's largest outlet in Tucson, Ariz. One Humana representative offered free, canvas tote bags to coax people into talking to a sales agent.

Jim Winger, 70 years old, a retired truck driver, said he wanted to avoid the higher premiums that kick in after a May 15 deadline. "I just want to avoid that penalty and get a plan that doesn't cost that much," said Mr. Winger, who at the moment doesn't take any medications. He bought a midpriced policy for $11.58 a month and no deductible, among the cheapest available in Arizona.

This marketing push is designed to shore up Humana's battle against traditional heavyweights such as UnitedHealth. "We had to do eight different things to compete with that one," says Humana's Mr. Brueckner.

The UnitedHealth/AARP combination is emerging as one of the major players in this new market with the AARP Medicare Rx plan. The plan doesn't have any deductibles.

AARP, which counts more than 36 million members, has a long-running relationship with UnitedHealth. The insurer beat rivals to win a 10-year contract with the seniors group that started in 1998. The two co-market, under AARP's name, supplemental Medicare insurance policies, sometimes called Medigap, which cover some services and items not paid by Medicare.

It was a lucrative relationship even before the start of the new drug benefit. In 2004, UnitedHealth collected $4.5 billion in premiums from AARP-related products. Currently, nearly three million people buy the AARP/UnitedHealth Medigap plans, making the duo the biggest Medigap vendor. The AARP-based drug plan has generated at least 95% of UnitedHealth's overall Medicare drug enrollment so far.

Lois Quam, head of Ovations, the UnitedHealth unit that oversees products for older people, calls the company's tie with AARP "a partnership that we treasure."

The partnership has been lucrative for AARP, too. In 2004, AARP earned $197 million in insurance-related royalties and an additional $23 million from investing insurance premiums, in both cases mostly from Medigap. In total, 40% of the organizations $878 million in 2004 revenue came from various royalties and service provider fees. That compares to $224 million, or 26%, from membership dues.

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AARP and UnitedHealth are testing an AARP-branded Medicare Advantage plan in Rhode Island, which they could expand if successful.

AARP's Dual Role

The seniors' group often draws fire for its dual role as a seniors' advocate and a sales organization. Wearing a policy hat, AARP played a pivotal role in the 2003 passage of the drug-benefit legislation. That angered some of the bill's Democratic opponents who disliked the level of private-sector involvement in the new program. Some 60,000 people revoked or declined to renew their AARP memberships.

The two sides of AARP operate separately but communicate frequently. Information gleaned from the policy side's field offices is often shared with the business side, says Mark Carter of AARP Services Inc., the organization's business arm. When the AARP is considering a new product, the policy side gives it advice about local markets, for example.

Mr. Carter says "goal No. 1" on the business side is to make sure anyone who contacts AARP is educated about the Medicare drug benefit. But a "close second," he says, is selling the AARP product. "We try to be objective and at the same time not turn away business."

AARP publications in the past two months, such as AARP The Magazine and AARP Bulletin, have explained the overall federal program without mentioning AARP's plan. They've also mentioned some of Humana's plans -- without using the company's name.

But AARP's Web site showcases the organization's own insurance products, including those from UnitedHealth. Ads for AARP's products, which the business side has to buy at standard rates, also dominate the magazines.

AARP officials realize there are "perception issues," says Cheryl Matheis, director of health strategy in AARP's Office of Social Impact, part of the group's policy operation. Ms. Matheis says AARP staff won't help people fill out applications for a specific drug plan or advise people about which one to choose.

Ms. Matheis notes that AARP ploughs most of its revenue back into the association. "Clearly there will be more revenue to the association if more people sign up," she says. "It's a good thing because I can do more social impact work."

On a recent day, Bernard Bernstein, an 82-year-old retiree in Boca Raton, Fla., spoke with a sales agent at the Roanoke call center. Mr. Bernstein already had AARP/UnitedHealth Medicare supplemental insurance. After getting an expensive prescription from his doctor, he decided to enroll in a drug plan and called the number on the back of his AARP insurance card.

"I'd like to get a prescription-drug plan," he told UnitedHealth sales agent Heather Reynolds. "I'm an AARP member.... What information do I have to have?" She signed him up after he found his Medicare card.

Mr. Bernstein, a former sales manager for a Japanese electronics company, said in a later interview he didn't consider other companies' plans because he was happy with his AARP Medigap coverage. "I've never had any problems," he said. "Why not go back to them?"

At the call center, UnitedHealth invites local residents for lunchtime information sessions. On a recent day, Ronnie Reed, 69, and his wife Emma, 68, of Salem, Va., sat in a conference room to hear a pitch on the AARP drug plan. A white board on the wall carried the message: "Information is Power."

"We've pretty well made up our minds," said Mrs. Reed afterward. "We're going to go with the AARP program."

"I hope we can pretty well trust them," Mr. Reed said.

"We can," his wife said.

Democrats Move To Revive Medicare Law (WP)

By Jonathan Weisman

The Washington Post, January 25, 2006

Sen. Hillary Rodham Clinton (D-N.Y.) and Rep. John D. Dingell (D-Mich.) will introduce legislation to restore Senate-passed language that would cut payments to private insurers in Medicare by $26 billion over the next decade, the lawmakers said yesterday.

As part of a broad budget-cutting bill, the Senate approved legislation that targeted private HMOs participating in Medicare by changing the formula that governs their reimbursement, lowering payments $26 billion over the next decade. But after lobbying

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by the health insurance industry, House and Senate Republican negotiators last month made a critical change that had the effect of eliminating all but $4 billion of the projected savings, according to the Congressional Budget Office.

Language inserted into the budget compromise stipulated that a key part of the formula change could be applied only in 2008, 2009 and 2010. The result, CBO analysts say, was a $22 billion swing in the insurance industry's favor.

Clinton described the behind-the-scenes action, detailed yesterday in a Washington Post report, as "the latest example of Republicans taking care of their special interests at the expense of the American people."

The Senate approved the compromise budget plan last month, but one vote remains in the House early next month. If the plan is signed into law, Clinton and Dingell said they will introduce legislation to restore the original Senate language.

They would also try to revive a Senate-approved cut to a fund established to lure managed-care companies into Medicare. If both Clinton-Dingell proposals are approved, it would save the government more than $32 billion over a decade, according to CBO estimates.

Republicans have been adamant that the changes made in conference will not have the impact that CBO analysts project. In a statement this week, Senate Finance Committee Chairman Charles E. Grassley (R-Iowa) said CBO is assuming that Medicare administrators would let private health plans "game the system so badly that they not only would reverse the payment cut, but they'd also gain even more money from Medicare. This is a ridiculous assumption."

Grassley said yesterday he would be "happy to work with my colleagues on legislation to cut other overpayments made by Medicare and Medicaid."

Md. Urged To Cover Funding Gaps In Medicare Drug Plan (WP)

By Susan Levine And Ann E. Marimow

The Washington Post, January 25, 2006

The new Medicare drug program, repeatedly slammed as a disaster during hearings yesterday in Maryland and the District, is putting elderly and disabled people at ever greater peril because of continuing difficulties getting their prescriptions, lawmakers were told.

In Maryland, advocates called on the state to immediately pick up the cost of medications and co-payments that the federal government otherwise would be handling under the Medicare Part D plan.

"A lot of very vulnerable people aren't getting their meds," said Herbert S. Cromwell, executive director of Community Behavioral Health of Maryland, which serves children and adults with mental health problems. "This is nothing short of a fiasco."

Legislators in the Democratic-controlled General Assembly echoed his concern, although they urged Gov. Robert L. Ehrlich Jr. (R) to instead make state money available so additional caseworkers could be hired to help beneficiaries navigate the complex drug program. Its escalating troubles have emerged as a local campaign issue, with both Democratic candidates for governor criticizing Ehrlich's response.

In the District, Health Committee Chairman David A. Catania (I-At Large) warned that the $3 million that Mayor Anthony A. Williams (D) recently ordered to be set aside to pay for medicines for the city's most needy may not be nearly enough.

"The burn rate of that $3 million is going to be fast," he said.

Every day brings another avalanche of queries from worried, even desperate, D.C. residents. The Health Insurance Counseling Project, part of George Washington University's National Law Center, has helped resolve about 400 cases and has 250 more in process, yet its small paid and volunteer staff remains overwhelmed 24 days into the new federal coverage.

"We have 350 people . . . we've not been able to call back yet," director Suzanne Jackson testified yesterday, a thick stack of client reports on the table in front of her.

Those people, like others at risk in every state, are very low-income Americans who are elderly or disabled or both. They are simultaneously eligible for Medicare and Medicaid. An estimated 16,000 District residents fall into that category. In Maryland, they number 55,000.

In the past, they received their pills virtually free of charge through Medicaid, but the new Part D program requires that their prescription coverage be switched to Medicare. That enrollment was to happen automatically Jan. 1. In many cases it did not, or people were not notified about the plan they were assigned or were put in plans that do not cover their drugs.

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With people walking away empty-handed from pharmacies or erroneously being charged steep deductibles for critical medications, the District and more than two dozen states have stepped forward in recent weeks, expending hundreds of millions of dollars from their own budgets. In late 2005, some allowed beneficiaries to refill their prescriptions early.

"We're all extremely concerned, which is why we moved as we did," said Kate Jesberg of the D.C. Income Maintenance Administration. "Because we're afraid people will die."

Catania suggested that he might use the committee's subpoena powers to compel federal officials to discuss the situation -- and the costs to the city and states that Medicare administrators had repeatedly maintained they could not reimburse. Yesterday, after much pressure, they reversed course and agreed to help compensate the emergency medicine purchases.

"For once," Catania said, "it's not the District government making a mess of things."

In Annapolis, Dennis Carroll of the Centers for Medicare and Medicaid Services told lawmakers that the federal government would work with states to assist them in recouping money from the private drug plans participating. "We're very sympathetic to the people trying to deal with the problems on the front lines," said Carroll, an associate regional administrator.

The Ehrlich administration defended itself in the half-day hearing before the House Health and Government Operations Committee. Paul A. Gurny, a deputy secretary of Maryland's Department of Health and Mental Hygiene, noted that state officials allocated $2.2 million in December so "dual eligibles" could get advance refills.

"We preempted that problem," said Gurny, who disputed advocates' characterization of a public health crisis. "It may be in other states, but it certainly isn't in Maryland. I think people in Maryland are getting their medication, for the most part."

Gurny said he would forward legislators' request that Ehrlich provide emergency funding to provide more caseworkers. But he asked local health officials and community advocates for empirical evidence on the number of people in need.

To which Del. Adrienne A. Mandel (D-Montgomery) responded, "You've asked for evidence, but how long can we wait?"

Limits Are Sought For Doctors' Ties To Drug Makers (WSJ)

By Anna Wilde Mathews

The Wall Street Journal, January 25, 2006

A group of academics called for stringent limits on the ties between drug companies and doctors, saying in an article published in the Journal of the American Medical Association that the current relationships lead to conflicts of interest.

The medical profession's standing is "jeopardized by allowing obvious conflicts to continue," and academic medical centers should take the lead in reforming them, the JAMA article said. The writers, from Harvard University, Columbia University, the University of California at Berkeley and other institutions, echoed concerns expressed with increasing frequency by medical-journal editors, professors and some doctors.

The authors want to end all free drug samples and gifts to doctors from pharmaceutical and medical-device makers, including payments for travel to meetings, meals and attending medical-education sessions. The article calls for companies to stop directly funding medical-education sessions because they could lead to a mingling of promotional and educational goals. The authors also called on medical-school faculty to stop serving as speakers for companies and using industry-paid ghostwriters.

The writers want new limits on industry consulting and research contracts, including a prohibition on "so-called 'no strings attached' grants or gifts to individual researchers." Such agreements should be disclosed on a public Web site, they said, because company-funded research is likely to lead to more positive results and "on occasion companies have restricted the dissemination of research results unfavorable to their products."

The Pharmaceutical Research and Manufacturers of America, an industry trade group, said in a prepared statement that it already has adopted voluntary guidelines limiting gifts to doctors, and other government and standards-setting groups have rules on medical education. "The current rules...really ought to address the concerns that they've got," said Scott Lassman, an assistant general counsel for the group. The group believes its guidelines "have been extremely effective," he said, even though they are voluntary.

The American Medical Association said that it has ethics guidance for doctors that suggests limits on gifts. It also said it has been "examining and updating" the policy.

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But members of the group that wrote the JAMA article dismissed the current guidelines from medical and other groups as inadequate, particularly concerning disclosure of relationships. "They are weak, they lack enforcement, they lack monitoring," said David Rothman, a professor at Columbia University and president of the nonprofit Institute on Medicine as a Profession. "Transparency goes way beyond disclosure."

Jordan Cohen, an author of the article and president of the Association of American Medical Colleges, said he planned to bring up the article with the organization's executive council; his work on it wasn't on behalf of the association. "The public has become quite appropriately concerned," said Dr. Cohen. But, he said, he expects "resistance" from universities and doctors wary of losing a substantial income stream.

Distance Sought Between Doctors And Drug Industry (WP)

By Ceci Connolly

The Washington Post, January 25, 2006

Declaring that the pervasive influence of drug industry money is distorting doctors' treatment decisions and scientific findings, a prestigious panel of medical experts called on their colleagues yesterday to adopt far-reaching new conflict-of-interest policies.

In an article in the Journal of the American Medical Association, the group said that voluntary efforts to limit corporate inducements have failed, resulting in the overprescribing of some medications and the withholding of negative discoveries about others. Highly publicized cases involving the anti-inflammatory drug Vioxx, antidepressants for children and spinal implants made by Medtronic -- all occurring while voluntary guidelines were in place -- highlight the need for stricter measures, they said.

"My mother told me never to accept gifts from strangers. If a stranger wants to give you a gift, it's very likely they want something in return," said Jordan J. Cohen, president of the Association of American Medical Colleges and a co-author of the new proposal. "We've become overly dependent on these kinds of blandishments to support our core activities, and that is jeopardizing public trust and scientific integrity."

The panel -- which includes Cohen, officials from several medical schools and members of the Institute on Medicine as a Profession -- urged the nation's 400 teaching hospitals to impose stringent measures, including a ban on accepting gifts, meals and drug samples and tight restrictions on outside income. A series of articles published today in the journal Academic Medicine reach similar conclusions, noting that strict, standardized policies are needed to ensure patients receive unbiased, evidence-based treatments.

Spokesmen for the pharmaceutical industry said the extra steps are unnecessary and could deprive physicians of valuable information.

From their first rounds as residents, doctors travel in a world increasingly dominated by drug company salespeople proffering meals, office supplies, entertainment and even cash to speak at conferences or sit on advisory boards.

Some physicians have been paid lucrative consulting retainers for no specific work; others are paid to put their names on articles ghostwritten by industry employees. One congressional inquiry cited in the report found that pharmaceutical executives steer research grants to doctors and schools that promote their firms' drugs.

"The problem has gotten worse and worse and worse," Cohen said. The relationships can prompt doctors to order unnecessary tests, prescribe more expensive medicines or advocate adding certain medications to a hospital's list of preferred drugs, he said.

Although most doctors say their relationships with drugmakers do not affect medical decisions, numerous studies suggest otherwise.

"There is solid evidence it isn't the size of the gift, it's the gifting itself that creates a sense of loyalty and indebtedness," said Sharon Levine, associate executive director of Kaiser Permanente's Northern California group practice. The 6,000-doctor practice and the Yale University School of Medicine are among the only institutions in the nation to implement policies similar to those outlined in JAMA.

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"The industry is spending $13 billion per year on direct-to-physician promotion," she continued. "That wouldn't be happening if it weren't resulting in changing patterns of utilization. It doesn't necessarily mean patients are getting bad care, but it does mean their influence is out there."

Judging from the "grumbling" he has heard from physicians, Scott Lassman, assistant general counsel at the Pharmaceutical Research and Manufacturers of America, the industry's lobbying group, said voluntary guidelines issued by industry, government and the profession in recent years seem to be working. Modest gifts such as lunch or pens may persuade a doctor "to listen to the presentation of information, not necessarily to prescribe that product." And having those discussions over a "working meal" is merely a timesaver for busy doctors, he said.

But the JAMA authors said it is a costly mistake to confuse marketing with scientific data.

"Drug companies spend $13,000 per physician annually," said co-author David J. Rothman, a professor of social medicine at Columbia University Medical Center. "Those marketing tactics are very, very effective at getting physicians to do what each drug company wants -- to prescribe their product."

The team conducted focus groups with doctors who "came right out and said if one drug rep is nicer than another, I'm going to prescribe that person's drug, all else being equal," said co-author David Blumenthal, director of the Institute for Health Policy at Massachusetts General Hospital. In a second article, Blumenthal found that conflicts of interest have contributed to growing secrecy in research, with some scientists intentionally omitting negative findings about a drug or device.

Rather than severing all ties to the pharmaceutical industry, the panel suggested creating financial firewalls. Instead of paying a physician directly for continuing medical education, it would be more appropriate for drug companies to contribute to a central account that supported educational programs, they wrote. In addition, payments for outside work such as speeches or consulting should be explicitly defined and posted on the Internet.

Finally, the group urged the nation's 125 medical schools and affiliated hospitals to refuse drug samples and instead create a voucher system or central distribution bank for poor patients.

"The availability of free samples is a powerful inducement for physicians and patients to rely on medications that are expensive but not more effective," the JAMA article said. In most cases, once patients begin the expensive drug regimen, they are inclined to stick with it.

Some industry experts said the recommendations underestimated the ability of physicians and patients to think on their own.

"I subscribe to the crazy view that more information is better," said Daniel Troy, former chief counsel of the Food and Drug Administration. "This very sweeping proposed ban would really choke off an important flow of information to physicians."

A drug sample handed out in a doctor's office is a good way to begin treatment immediately, he said, rather than waiting to have a prescription filled.

Cohen predicted the industry and many medical institutions would blanch at the recommendations. But both could stand to improve their reputations, he said. He added: "We need a strong, ethical, effective partnership with industry."

In Article, Doctors Back Ban On Gifts From Drug Makers (NYT)

By Gardiner Harris

The New York Times, January 25, 2006

The gifts, drugs and classes that makers of pharmaceuticals and medical devices routinely give doctors undermine medical care, hurt patients and should be banned, a group of influential doctors say in today's issue of The Journal of the American Medical Association.

Medical schools and teaching hospitals should be the first to establish a comprehensive ban, the group writes. But the authors argue that all doctors should eventually follow suit.

Broadly adopted, the recommendations would transform doctors' day-to-day lives and shut off the focus of drug makers' biggest expenditures. But Dr. David Blumenthal, an author of the article, said it was "not very likely" that many in medicine would listen to the group.

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"I'm not very optimistic," said Dr. Blumenthal, a professor at Harvard Medical School who, like many of the article's 10 other authors, has studied conflicts of interest in medicine for years.

Federal law forbids companies from paying doctors to prescribe drugs or devices, but gifts and consulting arrangements are almost entirely unregulated. Voluntary professional guidelines suggest that doctors refuse gifts of greater than "modest" value. Sanctions against doctors who accept gifts of great value are extremely rare.

The drug industry spends tens of billions of dollars a year to woo doctors, far more than it spends on research or consumer advertising. Some doctors receive a significant part of their income from consulting arrangements with drug and device makers. Others take regular vacations and golfing trips that are paid for by companies.

A recent lawsuit involving the device maker Medtronic revealed that one prominent Wisconsin surgeon received $400,000 for a consulting contract that required him to work just eight days. While such rich arrangements are often restricted to specialists, most physicians routinely accept small gifts from drug salespeople, including pens, mugs, pads and food.

Surveys show that most doctors do not believe that these gifts influence their medical decisions, although most believe that they do affect their colleagues' medical judgment.

But even small gifts can lead to profound changes in doctors' prescribing behavior, with "negative results on clinical care," the article states. As a result, all gifts should be banned, the authors conclude.

Ken Johnson, a spokesman for the Pharmaceutical Research and Manufacturers of America, said the drug industry had a voluntary code of marketing conduct.

"Only practices that do not compromise independent judgments of health providers - such as modest working meals, gifts of minimal value that support the medical practice, and distribution of free samples - are permitted," Mr. Johnson said in a statement.

Dr. Duane M. Cady, board chairman of the American Medical Association, said in a statement that "drug and medical device makers can play a role in educating physicians about new products." He said the organization was "in the process of examining and updating its policy on gifts to physicians from industry."

The article is part of a spate of reports in medical journals that have taken a skeptical view of drug makers' influence on medical practice and research. The New England Journal of Medicine recently published an article accusing Merck of withholding crucial safety information about the withdrawn painkiller Vioxx, a charge that Merck denies. Other articles have criticized drug makers' tendency to keep the results of human research secret.

Dr. Catherine DeAngelis, editor in chief of The Journal of the American Medical Association, said drug makers were a vital part of the nation's health care system because of their research efforts.

"But there has been a substantial change in the way pharmaceutical companies function over the last decade," Dr. DeAngelis said. Drug makers are far more aggressive in their marketing efforts, she said, and these efforts are having a deleterious effect on the practice of medicine.

Dr. Steven Shea, vice dean of the faculty of medicine at Columbia University Medical Center, predicted that the journal article would "prompt changes in policy and guidelines at many academic health centers, including ours."

Kaiser Permanente, the California-based managed-care group, is one of the few medical organizations in the United States that have enacted nearly all of the recommendations suggested by the journal article. Kaiser physicians prescribe heavily marketed medicines far less frequently than doctors nationally.

"We thought it was critical for us that our patients never had a doubt that the decision made about a drug or a device was based on the best interests of the patient and not the financial interest of the physician," said Dr. Sharon Levine, associate executive director of Kaiser Permanente Northern California.

The article also argues that "no strings attached" consulting arrangements should be banned, and that all other consulting agreements should be posted on Web sites. Doctors should refuse free drug samples, the article states, because they are "a powerful inducement for physicians and patients to rely on medications that are expensive but not more effective."

Such a refusal would also eliminate one of the principal reasons for which drug salespeople are routinely allowed to enter doctors' offices, the article states. While the article does not suggest that salespeople be refused entry into offices, it states that such visits have few useful functions.

"Would we be delighted if drug reps never saw the inside of doctors' offices? Absolutely," said Dr. David J. Rothman, president of the Institute of Medicine and one of the article's two principal authors. "But you can't mandate that. It's a free country."

Two years ago, Dr. Rothman received a $7.5 million grant from the financier George Soros to set up an organization that would study medical professionalism. Today's article is in part an outgrowth of that grant, he said.

Dr. Troy A. Brennan, former chairman of the American Board of Internal Medicine and the other principal author of the article, said he was looking forward to reading responses to it.

"I don't think there are a lot of good answers as to why it's O.K. to accept these gifts and contracts," Dr. Brennan said.

Med Schools Urged To Keep Drugmakers At Arm's Length (USAT)

By Rita Rubin

USA Today, January 25, 2006

Medical school faculty must set an example for their profession by distancing themselves from drug companies' marketing efforts, a group of academic medicine leaders urges in a paper today.

The relationship between academic medical centers and drugmakers represents a “serious threat” to trust in doctors, according to the paper, published in the Journal of the American Medical Association. “This paper represents a call to action,” says co-author David Rothman, a Columbia University medical historian and president of the Institute on Medicine as a Profession.

Despite a dramatic increase in direct-to-consumer advertising, about 90% of the pharmaceutical industry's $21 billion marketing budget is directed at doctors, according to the authors. The authors include Jordan J. Cohen, president of the American Association of Medical Colleges.

“Marketing … should not be allowed to undermine physicians' commitment to their patient's best interest or to scientific integrity,” they write. The authors say voluntary guidelines don't go far enough, and they recommend that medical schools:

•Ban all gifts, including free meals. Research shows that even inexpensive gifts, such as pens, can distort doctors' behavior.

•Prohibit doctors from accepting free samples, a “powerful inducement … to rely on medications that are expensive but not more effective.”

•Exclude doctors with financial ties to drug firms from serving on panels that decide what drugs should be prescribed.

•Prohibit drugmakers from directly financing continuing medical education.

•Ban faculty from belonging to manufacturers' speakers bureaus or publishing articles ghostwritten by industry staff.

•Require faculty members with drug company consulting agreements or unconditional grants to post them on a publicly available Internet site.

Some medical schools may find these guidelines difficult to implement because of how much they depend on drug company money, says co-author Jerome Kassirer, a former editor of The New England Journal of Medicine. “A lot of our funds for education and for lunches now come from pharmaceutical companies,” he notes.

Coincidentally, Yale's medical school today published its new conflict-of-interest guidelines, similar to those in JAMA, in the journal Academic Medicine.

“We believe it's the most restrictive set of guidelines … established by a medical school,” says lead author David Coleman, Yale's interim chair of internal medicine.

The Case Western Reserve medical school hopes to implement its new policy by July 1. Says Dean Ralph Horwitz: “Medical schools need to be the conscience of American medicine.”

Bush Courts Charities In Bid To Change Foreign Food-Aid Program (BLOOM)

By Mark Drajem

Bloomberg, January 25, 2006

Jan. 25 (Bloomberg) -- The Bush administration is reviving a plan to buy some of the food it uses for overseas aid from foreign rather than domestic farmers, and is courting the support of charities that helped sink the idea last year.

The proposal, a version of last year's plan to funnel one- quarter of the $1.2 billion spent by the government on foreign aid to local suppliers, still faces opposition from U.S. agricultural producers, who currently supply all the food aid.

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U.S. Agency for International Development officials met recently with groups such as Care, which runs poverty programs in more than 70 countries, and Save the Children, to try to win their support for reviving the idea of buying emergency food supplies in or near countries hit by famine, according to Alina Labrada of Care and Ina Schonberg of Save the Children.

``What the U.S. seeks is a flexible box of tools to deal with crises,'' Jonathan Dworken, the acting director of USAID's Food for Peace office, said in an interview. ``Purchasing locally is often cheaper and might allow us to react more quickly.'' He declined to provide details of what Bush will propose in the budget he sends Congress on Feb. 6.

The five-decade-old food aid and famine-relief program has maintained its political support in Washington because Congress mandates that all food and grain be bought from U.S. farmers, packaged by U.S. exporters such as Cargill Inc. of Wayzata, Minnesota, the largest U.S. agricultural company, and shipped on U.S.-flagged vessels. Bush is renewing his plan as the European Union pushes the U.S. to accept limits on its use of food aid as part of World Trade Organization talks.

Farmers `Strongly Opposed'

``We're strongly opposed'' to changing the system, said Dawn Forsythe, director of public affairs at U.S. Wheat Associates in Washington, the crop producers' export-marketing arm. ``We don't see the value of purchasing our competitors' wheat with U.S. funds.''

Charities also have something to lose under the Bush plan. Groups such as Monrovia, California-based World Vision, Baltimore-based Catholic Relief Services and Care, with a U.S. headquarters in Atlanta, currently can sell some of the U.S. food donations they handle to finance other development projects, such as education or health care. The Bush plan would reduce the amount of food aid available for that purpose.

Government food aid programs accounted for about 30 percent of the revenue of the eight largest private groups that distribute U.S. government food aid, according to Cornell University economist Chris Barrett.

``They are desperately scared of losing'' that money, said Barrett, author of the 2005 book ``Food Aid After Fifty Years.'' ``With a few influential people who have something at stake and these images that come out of food aid, politically this is a tough ball to move.''

Political Risk

The U.S. bought from U.S. farms and distributed to foreign nations $1.6 billion of food in 2004, mostly through programs run by USAID and private charities, according to the Agriculture Department. That includes purchases of 200,000 metric tons of rice, 300,500 tons of corn and 1.63 million tons of wheat.

While some foreign purchases may be acceptable, if they remove too much of the financial benefits for U.S. producers and organizations, support in Washington will be lost, said Michael Wiest, the chief operating officer of Catholic Relief Services.

``There is the great risk that there is no longer the political support to protect these programs from cuts,'' said Wiest, whose group distributed $154 million in food aid in 2004.

Critics say the current program spends too much money shipping U.S. food overseas while undercutting the ability of local farmers to make a profit. Cornell's Barrett says maintaining the current practices can also mean delays in times of emergency.

`Structural Problem'

``There is a structural problem in bringing food from a long way off in every situation,'' Andrew Natsios, who stepped down as head of the USAID this month, said in an interview. ``If I had more funds, I would not invest it in more food aid, but in agriculture development'' overseas.

Bush's proposal last year would have let USAID spend $300 million of the $1.2 billion food aid budget buying products in or near the countries in need.

Natsios said he had expected opposition from farm groups and shippers, and was surprised by the resistance from the charities. They said Natsios was creating a slush fund without any details on how the program would work.

Objections

House Agriculture Committee Chairman Bob Goodlatte, a Republican from Virginia, criticized Bush's proposal last year because it would have transferred U.S. taxpayer funds to foreign competitors.

``Under the current system we're able to help those in need, and also help U.S. farmers and ranchers,'' Alise Kowalski, a spokeswoman for Goodlatte, said this week.

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Congress not only declined to pursue Bush's plan last year, it admonished Bush not to propose it again. The 20 members of Congress who negotiated a final farm spending bill said in their October report that Bush should ``refrain from proposals which place at risk a carefully balanced coalition of interests which have served the interests of international food assistance programs well for more than 50 years."

``The reaction last year surprised a lot of people," said Patrick Webb, the former chief of nutrition at the United Nations' World Food Programme who is now a dean at Tufts University near Boston. If Bush had courted the charities last year, ``maybe the reaction would have been different," he said.

Ready to Listen

Some of the charity groups who have met recently with Dworken or his aides say they are ready to listen now, partly because outside pressures, such as the WTO talks and funding cuts, are already pushing changes to the system. They say they never opposed the overall idea, just the lack of detail.

The charities already face cuts in U.S. aid for long-term donation programs, especially those that allow them to sell food in poor countries and use the proceeds to fund their other programs. About $600 million of food aid in 2004 was used in this way, according to the U.S. Agriculture Department.

``We all want to find a way to test this out and make it work," said Schonberg, the director of food security programs at Save the Children in Westport, Connecticut, which provides food, AIDS treatment and education in 110 countries. ``But there are a lot of questions. One is: Are the agriculture producers going to block this?"

Bush, Congress Focus On Science (HILL)

By Elana Schor

The Hill, January 25, 2006

A bipartisan group of senators will introduce an ambitious trifecta of bills today aiming billions of dollars in new spending at the nation's sliding science and technology sector.

The bills, collectively called Protecting America's Competitive Edge (PACE), sprang from a request made by Sens. Lamar Alexander (R-Tenn.) and Jeff Bingaman (D-N.M.) to the independently funded National Academies: What specific actions could Congress take to ensure continued U.S. competitiveness?

When the National Academies came back with 20 recommendations and a report on how to implement them, the senators took notice, as did President Bush, who is reportedly considering making science and technology innovation a major theme of his State of the Union address.

Alongside Energy and Natural Resources Committee Chairman Pete Domenici (R-N.M.) and Sen. Barbara Mikulski (D-Md.), Alexander and Bingaman are sponsoring three versions of PACE: one for energy, one for education and one for tax policy. The bills would set up a new transformational-energy agency within the Energy Department, create science and math scholarships for 25,000 students and boost research spending at seven federal agencies.

The bills are estimated to cost upwards of $9 billion, a price tag that could prove anathema to a congressional leadership already wary of the bloated federal deficit. But the PACE bills have the solid support of the GOP-leaning business community.

Fifteen manufacturing and high-tech lobbying groups, including the U.S. Chamber of Commerce, the Business Roundtable and the National Association of Manufacturers, issued a report last July imploring the Bush administration to refocus its efforts on improving the quality of science and math education and research.

"We are running out of scientists and engineers," Roundtable President John Castellani said late last week. "It will hurt our ability to be competitive in the future."

The Roundtable plans to recommend a major increase in the federal research budget in letters to Capitol Hill and the White House that will be sent before the State of the Union.

Bush's Foes Eager To Get Photos Of President With Abramoff (KRT)

By William Douglas And Maria Recio

Knight Ridder, January 25, 2006

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WASHINGTON - A picture is worth a thousand words, the old adage goes, which is why President Bush's foes are anxious to get their hands on photos of him posing with disgraced lobbyist Jack Abramoff.

Until now, the only tangible link between Bush and Abramoff was the $6,000 that Abramoff donated to the president's re-election campaign. The White House ended up giving that money to the American Heart Association. But Time magazine reported this week that it's seen five photos of Bush with Abramoff, the lobbyist's sons and Raul Garza Sr., then-chairman of the Texas Kickapoo Indian tribe, which owns a casino in southwestern Texas.

The photos aren't proof of any wrongdoing on Bush's part. But they do put him in the uncomfortable position of standing next to an admitted felon who's become the symbol for all that's wrong with Washington. Bush's opponents would like the ammo as mid-term elections approach.

"I would love to have those pictures. I would use the pictures (in advertisements) and write `Why is this man smiling?' in the cutlines under the pictures," said Paul Begala, a veteran of Democratic political campaigns and a former counselor to President Clinton during the Monica Lewinsky scandal. "This is a visual age. The story becomes bigger when there are pictures. It puts the scandal in the White House."

White House press secretary Scott McClellan, while not commenting on the specific pictures reported by Time, said there probably are photos of Bush with Abramoff because the president has been photographed with thousands of people at political and social events since he took office in 2001.

Garza, who knew Bush when he was governor of Texas, said he remembers spending about 45 seconds talking with the president while his picture was being snapped in a White House meeting room in 2001. Garza recalls Bush fondly greeting him as "jefe," the Spanish word for "chief."

"I told him the tribe is with you," Garza told Knight Ridder Monday. Garza said Abramoff arranged his brief meeting with Bush. Garza was ousted in 2002 after 29 years as a tribal chairman. He's now under indictment for allegedly looting more than $500,000 from the tribe's casino, the Lucky Eagle.

White House officials have refused requests to release any photos of Bush and Abramoff together.

"I know that there's some Democrats that want to try to engage in partisan attacks," McClellan said Monday. "Trying to say there's more to it than the president taking a picture in a photo line is just absurd."

Indeed, the Democratic National Committee sent a release to reporters on Sunday, alerting them to the Time magazine piece. McClellan acknowledged that Abramoff visited the White House at least twice for Hanukkah receptions in 2001 and 2002. Published reports indicate that Abramoff and his associates had nearly 200 contacts with the White House during Bush's first 10 months in office.

While Begala believes the pictures would politically cripple Bush and the Republican Party, Scott Reed, who managed former Senate Majority Leader Bob Dole's presidential campaign, thinks they'd cause minimal damage.

"It's short-term heartache because the pictures would be blasted around the world," Reed said. "It will be an embarrassment because of what Abramoff has come to symbolize, but it will be short term because the Democrats still don't have an agenda or the leaders."

Mike McCurry, Clinton's former press secretary, also questioned the picture's long-term impact.

"They will cause a mild titter and will show up in some campaign commercials," he said. "Other than that, I don't know what their value is."

Embarrassing pictures and videos have haunted presidents in the past, including Bush. While the White House was trying to distance itself from the Enron scandal, a video from 1997 showed Bush, then Texas governor, wishing a departing Enron executive well.

On the video, Bush's father, former President George H.W. Bush, hinted at close family ties with the Enron official: "I don't think anybody did more than you did to support George," the elder Bush said.

Clinton endured repeated showings of pictures of him with Lewinsky, including one shown regularly on television of him encountering a starry-eyed Lewinsky in a greeting line.

Mr. Abramoff's Meetings (WP)

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The Washington Post, January 25, 2006

HERE ARE SOME things we know about Jack Abramoff and the White House: The disgraced lobbyist raised at least $100,000 for President Bush's reelection campaign. He had long-standing ties to Karl Rove, a key presidential adviser. He had extensive dealings with executive branch officials and departments -- one of whom, former procurement chief David H. Safavian, has been charged by federal prosecutors with lying to investigators about his involvement with Mr. Abramoff.

We also know that Mr. Abramoff is an admitted crook who was willing to bribe members of Congress and their staffs to get what he (or his clients) wanted. In addition to attending a few White House Hanukkah parties and other events at which he had his picture snapped with the president, Mr. Abramoff had, according to the White House, "a few staff-level meetings" with White House aides.

Here is what we don't know about Jack Abramoff and the White House: whom he met with and what was discussed. Nor, if the White House sticks to its current position, will we learn that anytime soon. Press secretary Scott McClellan told the White House press corps: "If you've got some specific issue that you need to bring to my attention, fine. But what we're not going to do is engage in a fishing expedition that has nothing to do with the investigation."

This is not a tenable position. It's undisputed that Mr. Abramoff tried to use his influence, and his restaurant and his skyboxes and his chartered jets, to sway lawmakers and their staffs. Information uncovered by Mr. Bush's own Justice Department shows that Mr. Abramoff tried to do the same inside the executive branch.

Under these circumstances, asking about Mr. Abramoff's White House meetings is no mere exercise in reportorial curiosity but a legitimate inquiry about what an admitted felon might have been seeking at the highest levels of government. Whatever White House officials did or didn't do, there is every reason to believe that Mr. Abramoff was up to no good and therefore every reason the public ought to know with whom he was meeting.

Mr. McClellan dismisses requests for the information as an effort to play "partisan politics," and no doubt there is more than an element of partisanship in Democrats' efforts to extract this information. But Republicans wouldn't stand for this kind of stonewalling if the situation were reversed. We can say that with confidence because history proves it. During the 1996 scandal over foreign fundraising in the Clinton White House, Republicans demanded -- and obtained, though not without a fight -- extensive information about White House coffees and other meetings, including photos and videotapes.

"Any suggestion by critics or anybody else to suggest that the president was doing something nefarious with Jack Abramoff is absolutely wrong, and it's absurd," presidential adviser Dan Bartlett said on NBC's "Today" show. The best way to refute such "absurd" suggestions is to get all of Mr. Abramoff's dealings with the Bush White House and the Bush administration out in the open -- now.

K St. Counteroffensive (HILL)

By Alexander Bolton

The Hill, January 25, 2006

Big trade associations — lobbyists — are getting ready to fight the sharp tightening of lobbying regulations.

The board of directors of the American League of Lobbyists (ALL), a trade association representing lobbyists, met Monday to discuss the various reform proposals and to lay plans for a coalition of lobbying heavyweights to work with lawmakers to review them.

“Our big issue right now is that we’re not sure you can say the system is broken,” Paul Miller, ALL’s president, said in an interview. “We’ve got to start with enforcement, and that’s our message to Congress. We want to make sure they find a way to enforce the current rules before they make up any new rules.”

Momentum for reform is building. The Senate Homeland Security and Governmental Affairs Committee is scheduled today to consider how to respond to concerns raised by the scandal surrounding lobbyist Jack Abramoff, who has pleaded guilty to federal charges of fraud, conspiracy to bribe and tax evasion.

Miller said a coordination effort is under way among several of the biggest business lobbying groups, including the U.S. Chamber of Commerce, the National Association of Manufacturers (NAM), the National Federation of Independent Business

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(NFIB), the American Society of Association Executives (ASAE) and others. A similar coalition was formed in 1995 when Congress last seriously scrutinized lobbying regulations, Miller said.

Some of the groups Miller cites seem leery about joining the effort to influence reform proposals when criticism of lobbyists is so intense both on and off Capitol Hill.

"The hope is we can all do this together," said Miller. "I'd like to see a coalition formed so we can hold a meeting in the next few weeks."

Former Michigan Gov. John Engler, president of NAM, plans to testify today against some of the most far-reaching reform proposals before the Senate Homeland Security panel. Miller will also testify, as will Bill Samuel, director of the AFL-CIO's legislative department.

Darren McKinney, a spokesman for NAM, said Engler will stress the same message as Miller, that existing laws and rules impose serious penalties on those who violate the public trust and that additional rules are not necessary.

Engler will argue four other points, McKinney said:

• Congress should not treat all lobbyists the same, for trade associations with thousands of members are different from so-called hired guns who represent smaller interests.

• Gifts and meals given to lawmakers should not be weighed down with onerous reporting requirements.

• Lawmakers should be allowed to accept invitations to tour plants and factories in their districts.

• Each lawmaker's personal integrity determines whether unethical lobbyists are able to corrupt government.

A source familiar with NAM's leadership said the group would likely be willing to participate in a larger coalition or working group to help members of Congress fashion what lobbyists could accept as sensible reforms.

Jim Clarke, senior vice president of public policy at ASAE, said his group opposes the ban on congressional travel paid for by outside groups proposed last week by Speaker Dennis Hastert (Ill.) and House Rules Committee Chairman David Dreier (R-Calif.).

"Our efforts has been focused on [the effort aimed at] banning paid travel," he said. "We want to have everyone take a look at what travel really means and the difference between an exotic trip and taking the train to Philadelphia and talking to folks around the country."

Clarke said trips to vacation destinations may be curbed but not legitimate trips around the country to discuss the potential impact of policy proposals. ASAE plans to circulate a letter to lawmakers expressing its concerns today and to hold a press conference tomorrow.

Clarke declined to say whether ASAE would join a coordinated effort by trade associations and lobbyists to moderate reform proposals in Congress.

Other major trade groups are lying low on the contentious issue of lobbying reform

Mike Hardiman, a spokesman for the NFIB, said his organization would not join a coalition organized by the league of lobbyists on the issue of reform. The NFIB was not active on the issue, he added.

"Our membership hasn't been polled on this," Hardiman said. "We're driven by the membership. … The issues we work on come from the membership."

Other issues are a much higher priority for the NFIB, he said.

Trade associations and lobbyists seeking to stanch a flood of new rules may have an ally in at least one candidate for House majority leader.

"The solution to the problems we face is to stop abuses of power by Congress or individual members, not more bureaucratic rules," said Rep. John Shadegg (R-Ariz.). "I applaud the Speaker and Chairman Dreier's efforts. However, many trips are truly educational, and I believe a complete ban on all private travel would be an overreaction that doesn't get to the root of the problem."

Jessica Boulanger, a spokesman for interim House Majority Leader Roy Blunt (R-Mo.), who is vying against Shadegg and Rep. John Boehner (R-Ohio) to remain majority leader, said reform proposals should be fully debated in the House.

"I would reiterate Congressman Blunt's support for the Speaker's and Chairman Dreier's efforts," she said. "Mr. Blunt said it is important to look at all the proposals, go through regular order and have ample debate."

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Congressman Seeks To End K Street-Wall Street Linkage (HILL)

By Jim Snyder

The Hill, January 25, 2006

Rep. Brian Baird, a Washington state Democrat, wants to end an inside-the-Beltway version of insider trading as part of his party's larger lobbying-reform effort.

But to do so, he may have to craft a legislative remedy to this town's tendency to talk, an effort Baird admits will be difficult and lobbyists say is an overreach.

The conversations in question are secret tips lobbyists get from their contacts on Capitol Hill and pass along to hedge-fund clients, who in turn may use the information to buy or sell a stock. The tips could include, for example, nonpublic information about when a bill is going to be introduced or a key member's opinion on a particular policy.

Several K Street firms supplement their lobbying incomes through this type of "political intelligence" work, serving as pipelines to hedge funds in particular because they often trade stocks more frequently than other businesses, such as mutual funds.

The problem, Baird says, is the trading on information that is not yet public and therefore not readily available to other investors who can't afford to hire lobbyists.

"Clearly, the selling or buying of stock based on this type of 'political intelligence' has the potential to profit some private parties at the expense of others who may not have access to the same information," Baird wrote to the House ethics committee in November after learning of the activity in a report published in The Hill.

Staffers and lawmakers are prevented from releasing classified information. Congressional rules prohibit members or staff from using confidential information available to them as a consequence of their positions to make money. Beyond those, though, there are few formal institutional limitations on what Capitol Hill employees can discuss with outsiders.

It's tricky to deal with political intelligence, Baird acknowledged, because lawmakers and their staffs need to talk with lobbyists about prospective bills to ensure any measure doesn't have unintended consequences.

Defining what is and isn't public information is another complication, Baird said.

"It turns out that it's not easy," Baird says of his efforts to draft a bill.

But Baird says he's determined to shine some light on the practice, which has increased along with the growth of hedge funds in the past decade, because the potential to make big money from the release of the information could have a corrupting influence on the process.

One possible solution Baird suggested was that lobbyists would promise not to pass along information gleaned from Capitol Hill contacts to their hedge funds for investment purposes.

"I think there are ways you can do this," he said.

At a minimum, Baird said, he would press for "clear-cut, full disclosure" of lobbyists' relationships with hedge funds. Lobbyists currently can keep their relationships with hedge funds private. Disclosure rules don't apply because the firms aren't attempting to influence Congress.

Baird said he expected his bill to be part of the broader reform package Democrats offer this year.

But even supporters of broad lobbying reforms said it might be difficult to try to stem the flow of information from Capitol Hill.

"The Hill is so gossip-driven. Information flows all over the place," said Joan Claybrook, president of Public Citizen, a watchdog group. "It would be hard to define what is unique information."

That said, Claybrook supports an effort to require lobbyists and other political-intelligence practitioners to disclose their clients.

Lobbyists who do political-intelligence work but asked not to be identified because they didn't want to challenge a reform effort publicly in light of the scandals, said their business is not dependent on the hot tips Baird seems to be after.

Some firms do only political-intelligence work; others use it to supplement their lobbying practices.

Because companies don't have to disclose these revenues, it's unclear how big the business is.

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One source said that while his firm provides the occasional heads-up about a bill to be introduced or an amendment offered during floor debate, the bulk of its work is more macroeconomic, such as providing advice on which companies may benefit from an energy bill or a particular version of asbestos-litigation reform.

The source equated his practice with a “high-cost media subscription service” because the tips the firm does pass on could be the same type of not-yet-public information that press outlets provide readers. It would be unfair to prevent his firm from profiting from its contacts on Capitol Hill while also allowing reporters to mine their contacts, the source said.

Another lobbyist who advises Wall Street also said his investor clients are rarely looking for a hot tip. More often, clients look for an analysis of a bill or just basic information about how Washington works.

“You can’t believe the dumb questions that I get paid to answer,” the source said.

When Does A Gift Become A Bribe? (CSM)

By G. Jeffrey Macdonald

The Christian Science Monitor, January 25, 2006

As members of Congress scramble to take cover amid a storm of corruption scandals, professionals of all stripes have fresh reasons to question whether the business-related gifts they give and receive are truly innocent.

Norms vary as to what constitutes a bribe, say ethicists and other experts on the subtle, sometimes manipulative, power of gifts. As a result, individuals in positions of responsibility and trust are likely to get entangled - perhaps tragically - in the absence of explicit policies for what is acceptable.

"If you don't know where the lines are, you may not be able to make the best decision," says Judy Nadler, senior fellow in government ethics at the Markkula Center for Applied Ethics at Santa Clara University in California. Having clear rules in place, she says, "makes it easier when you are tempted."

On Capitol Hill, a plea bargain from Republican lobbyist Jack Abramoff has attracted the glare of an unwelcome spotlight. Wary that Mr. Abramoff's legendary largesse might constitute bribery in a Department of Justice probe, dozens in Congress have rushed to donate or return hundreds of thousands of dollars linked to him. Such steps, however, won't undo the times when members allegedly unwound in Abramoff's skybox seats at sporting events or flew to such destinations as the Northern Mariana Islands on his dime.

Congressional rules cap noncampaign-related gifts at $50 per item and $100 per year from any individual, including lunches or other meals.

Abramoff's case threatens to build upon the confessed shame of US Rep. Randy "Duke" Cunningham (R) of California, who pled guilty in November to charges of accepting a luxury yacht and other gifts from private firms seeking government contracts. And outside Congress, charges of bribery in the past year have taken down a city councilor in San Jose, Calif., a mayor in Chicopee, Mass., and Chicago's city clerk.

Amid this climate, some professionals are taking steps to ensure that even traditional gifts don't create conflicts of interest.

In medicine, the prescription-drug industry now bans its representatives from doling out gifts worth more than $100 each to physicians, and doctors' spouses are no longer welcome at industry-sponsored "educational" dinners in restaurants.

About 400 physicians and the 60,000-member American Medical Students Association are urging colleagues to go further and take no gifts whatsoever from drugmakers, lest their independence of judgment come into question.

In 2004, New York City joined other school districts that have begun restricting gifts to teachers. The policy of capping gift values at $5 in New York resulted after parents complained that students were getting special treatment in exchange for high-priced gifts.

Hard and fast rules, however, tend to get blurry in international business settings. Even Fortune 500 companies with laudably firm policies have trouble in this area, says Peter Madsen, executive director of the Center for the Advancement of Applied Ethics and Political Philosophy at Carnegie Mellon University in Pittsburgh.

In Asian countries, for instance, refusing a gift is often considered unthinkably rude. And in some less-developed nations, foreigners are sometimes expected to "pay to play."

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"Relativism is rampant ... and when you're talking business, cultural relativism becomes a really big problem," Mr. Madsen says.

Multinational corporations, he says, "engage in what we would call a bribe, although perhaps elsewhere it's not [called that], but they do it nonetheless to get the business. So there's all of this, what we would call, 'corruption in government'.... But if you impose your values elsewhere, you're told you're practicing cultural imperialism. So you can't win."

Even in the US, where bribery is said to be less brazen than in some other countries, not all agree at what point a gift becomes a bribe.

For Nadler, any gift given with "an expectation of compensation" has crossed the line into bribery.

Another view holds that a gift becomes a bribe only when the expected compensation is "specific," says Mark Osteen, editor of an essay collection titled, "The Question of the Gift." Decisionmakers need to start declining gifts long before they reach that level, he says.

"When you're in power and someone is giving you a gift, it's pretty difficult for it not to be tainted with some kind of expectation," says Mr. Osteen, professor of literature at Loyola College in Baltimore.

"I would think that a truly ethical person in power - whether it's a politician, a person above you in a job, a religious figure, or a police officer - would want to steer away from that kind of thing because ... the person who gave it is going to expect something back, whether it's specified or not."

Having a no-gifts policy works best, Nadler says. But in situations where a gift cannot be refused, such as one from a foreign host, she suggests accepting it and then publicly donating it to a charity.

Concerning the power of gifts, no ground is so holy as to be immune. At Sinai Temple in Los Angeles, Senior Rabbi David Wolpe notes that the oral and written Judaic traditions emphasize the moral duties of the not-yet-corrupted person who might be tempted to take a bribe.

He points to Exodus 23:8, which warns that "a bribe blinds those who see and twists the words of the righteous."

Consequently, he says he accepts neither monetary gifts nor anything more "extravagant" than, say, a briefcase or a necktie.

"I'm in a much better position than the politician is, because what I dispense is not monetarily valuable," Rabbi Wolpe says.

Yet when making judgment calls, such as evaluating whether bar mitzvah applicants have met minimal study requirements, he appreciates feeling indebted to no one.

"I don't want anyone to be able to say to me, 'How could you say no? I gave you this,' " Wolpe says.

"I don't want it to be about what was given to me. I want it to be about the issue.... Even if they give a large gift to the synagogue, I get that, you know, 'We gave such a big gift to the synagogue, how could you do this?' But at least that gives me one level of removal because I can say ... 'The synagogue promotes exactly the values that I'm trying to enforce here.' "

To reduce corruption in Congress, the activist group Common Cause is proposing a ban on privately sponsored travel for Congress members and their staffs, as well as a ban on taking personal gifts.

Currently, "no one follows [gift rules] because no one has been checking" to see if rules are being followed, says Michael Surrusco, ethics campaign director at Common Cause.

Yet at this point, he says, Congress still has a long way to go. Among the 535 members of Congress, Mr. Surrusco says he's not aware of one who insists that staffers pay their own way when dining with lobbyists.

House Democrats Hold Off On Ethics Complaints, For Now (HILL)

By Jonathan E. Kaplan

The Hill, January 25, 2006

House Democrats have no immediate plans to file complaints against Republicans when the ethics committee is up and running again, according to a top Democratic lawmaker.

As Republicans have hinted they may file formal ethics complaints, Democrats are content to sit on the sidelines for now.

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"The Justice Department is moving, and there's no reason to interfere and give the Republicans a tool to say the investigation is being politicized," the Democratic lawmaker said. "That's not in their rhetoric, and right now they have to answer the Justice Department's charges. Once it looks like it's political, they don't have to answer that."

Democrats also said that they would not move forward because the panel remains shuttered after a months-long partisan disagreement over how to staff the committee and that the committee would not pursue an investigation in tandem with the Justice Department.

Still, a handful of House Republicans could be ensnared in the department's wide-ranging influence-peddling probe involving Jack Abramoff, including Rep. Bob Ney (Ohio), identified as the "Representative #1" of a Justice Department inquiry in Abramoff's Jan. 3 plea agreement.

Ney was recently persuaded to step down temporarily as chairman of the House Administration Committee.

With the focus on the Abramoff controversy so far highlighting Republican lawmakers and their possible indictments, GOP lawmakers could have more to gain than Democrats by filing ethics complaints.

Meanwhile, GOP sources say that the new staff director of the ethics committee, William Reilly, is nearly finished hiring an investigative staff.

A Republican aide attributed the Democratic reticence to concern by House Minority Leader Nancy Pelosi (D-Calif.) about possible pressure on the ethics panel's ranking Democrat, Rep. Alan Mollohan (D-W.Va.), to pursue the cases.

"Pelosi won't permit complaints to be filed because she knows that doing so would put pressure on Mollohan to move forward," the aide said. "Pelosi has the best of both worlds because she can criticize the failure to investigate when the only reason they can't investigate is because she won't let them."

The ethics panel has investigations pending into Reps. Jim McDermott (D-Wash.) and Tom DeLay (R-Texas) on hold from the 108th Congress.

Despite the uncertainty, Democrats have their eyes on a House rule that requires complaints to be filed no fewer than 60 days before an election. The deadline for filing a complaint against Ney, given Ohio's May 2 primary, is March 2.

Ney has offered to meet with the ethics panel several times but has not received a response, said his spokesman, Brian Walsh.

"Ney would welcome the opportunity to clear his name. … He is confident that has done nothing wrong and that he will ultimately cleared," Walsh added.

Reps. DeLay, John Doolittle (R-Calif.) and Richard Pombo (R-Calif.) also have ties to the Abramoff probe. In Texas, the primary is set for March 7, so Democrats have missed the 60-day window. But the California primary will take place Aug. 1, so Democrats have until June 1 to file a complaint against Pombo or Doolittle.

Republicans and Democrats have lobbed threats of an ethics war against one other. Speaker Dennis Hastert (R-Ill.) told reporters last week that it was unfortunate the ethics committee is shut down because "there are people on the other side that should be before the ethics committee and were cued up to go before the ethics committee."

"Minority Leader Nancy Pelosi has never been a party to an ethics truce and has always said that individual members have the right to file a complaint," said Jennifer Crider, Pelosi's spokeswoman.

Rep. Louise Slaughter (D-N.Y.), who favors taking an aggressive approach in an ethics war against Republicans, is preparing a report titled, "America for Sale: The Cost of Corruption," which she expects to release within the next few weeks, said Eric Burns, Slaughter's spokesman. The report will tie ethics charges against the GOP to what the Democrats consider "horrific" legislative outcomes.

Historically, Indictments Tough To Overcome (HILL)

By Peter Savodnik

The Hill, January 25, 2006

History shows that members of Congress with an indictment hanging over their heads are almost certain to lose their seats — a cautionary tale not only for House Republicans tied to lobbyist Jack Abramoff but the entire GOP conference as a whole.

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Republicans with Abramoff ties who could be indicted in the coming weeks include Rep. Bob Ney of Ohio, a target of a Justice Department probe. But a handful of other members have or are suspected of having ties to Abramoff and are watching intently as the events unfold.

Former House Majority Leader Tom DeLay (R-Texas) has been indicted in a state court on money-laundering charges related to a political committee suspected of channeling corporate money into Texas elections illegally, but so far DeLay has not been indicted for his ties to Abramoff.

While the Congressional Research Service does not keep a tally of all members of Congress ever indicted, anecdotal evidence suggests that the vast majority of indicted members either step down or lose at the polls, a CRS official said.

"It's usually a killer for your political career to be indicted," said the official, who declined to speak openly because of the ongoing, Abramoff-related investigations. "If a member's under indictment and stands for reelection … it really casts such a pall over them.

"The party — they're worried about losing the seat. They really want someone else to run for that seat. And [members] often feel tremendous pressure to resign."

Don Ritchie, a historian with the Senate's Historical Office, estimated that only 10 senators in the nation's history have been indicted, beginning with Ohio's John Smith in 1808.

More recently, Ritchie noted, Sen. David Durenberger (R-Minn.) was indicted in 1993 and 1994 for filing fraudulent reimbursement claims. The senator did not seek reelection in 1994.

Most of the indictments, Ritchie said, dealt with "financial mismanagement."

Smith was accused of conspiracy for what modern-day lawyers might consider treason: he was trying to form a new nation in the western part of the country.

Several House members' careers have been short-circuited by lengthy investigations, guilty pleas or convictions, including Reps. Randy "Duke" Cunningham, who resigned last year after he admitted to taking millions of dollars in bribes, and Jay Kim, who lost a primary in 1998, some six years after taking $250,000 in illegal campaign contributions. Both are California Republicans.

Rep. James Traficant, an Ohio Democrat, was expelled from Congress in 2002 after a conviction for bribery, tax evasion and racketeering. Later that year, he launched a failed effort from prison to win back his seat as a write-in candidate.

But an indictment alone has also proved damaging — most famously, perhaps, when veteran Rep. Dan Rostenkowski (D-Ill.) was thrown out of his strongly Democratic Chicago seat amid the 1994 investigations of the House post office.

Moreover, the 1994 election shows, the indictment of just a few members can precipitate an avalanche of incumbent losses, which is what Democrats who continue to lambaste Republicans for creating a "culture of corruption" hope will happen in 2006.

The post office and concurrent check-kiting scandals, for instance, led to the indictments of just seven lawmakers, none of whom is still in Congress. But Democrats lost 54 House seats in the subsequent Republican takeover.

This year, Democrats say that if their strategy works they may pick up seats that extend far beyond Ney's or DeLay's districts. One Democratic official in Washington said Colo.-7, Ohio-15, Fla.-22 and N.M.-1 top the party's list of possible pickups.

Ney spokesman Brian Walsh declined to speculate on his boss's plans if he is indicted.

"I'm not going to go down that path," Walsh said.

Walsh said that at a recent rally in Zanesville, Ohio, GOP officials had pledged their support to Ney. Later this week, he added, the congressman will announce his reelection bid for a seventh term.

Criminal misconduct has not always meant premature retirement.

In 1789, Rep. Matthew Lyon of Vermont won reelection after being imprisoned for a conviction on sedition. In 1956, Rep. Thomas Lane won reelection despite having spent four months in prison for tax evasion; he served until 1963.

Rep. Joseph McDade (R-Pa.) was indicted in 1992 on charges that he accepted gifts from defense companies in exchange for contracts. But he managed to stay in office for the better part of the decade; McDade was exonerated in 1996.

Still, Democrats are confident that the growing pool of indictments or possible indictments bodes well for them.

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Price Tag For Enforcing Lobby Reform Unclear (HILL)

By Elana Schor

The Hill, January 25, 2006

The offices are nondescript and rarely crowded. No cameras are permitted inside. Visitors strolling the halls of Hart or Cannon would have little reason to know the rooms exist.

But the Senate's Office of Public Records and the House's Legislative Resource Center are poised to become hotbeds of activity this year, with Congress weighing big changes to lobbying disclosure rules that could flood the offices with paper and newfound responsibility.

Public Records Superintendent Pam Gavin said the office would be hard-pressed to determine what it might need to administer a new disclosure regime that the Senate has not yet passed or even debated.

"Whatever we do, I suspect we're going to have to look at our work processes and see if there is any space to make more efficiencies," Gavin said. "Do I think I'm suddenly going to get a lot more money? No."

The Office of Public Records (OPR) collects thousands of lobbying disclosure forms, which are double-checked and provided for public viewing. In private, Gavin's three full-time lobbying staffers send correction letters to the unknown number of lobbyists and firms who have erred in their filings.

Lobbyists who fail to file at all, or who cover their tracks with a technically accurate but misleading disclosure, can easily escape any notice.

"We're not asking anyone in the correction letters if they are telling the truth," Gavin said. "There are people who see competitors in the halls who they believe should be registered. They tell the office, the office sends inquiries."

Yet Gavin acknowledged that this kind of K Street whistle-blowing, which she jokingly called "the lobby wars," is rare. And the OPR does not keep track of how many initial correction letters it sends to lobbyists, making follow-up difficult.

"We don't think it's a statistic that has any relevance," Gavin said. "It's sort of like, the ethics committee sends correction letters on public financial disclosures, and they don't keep statistics on that either."

The OPR has an Internet presence, unlike its counterparts in the Clerk of the House's Office. A new lobbying law passed this session is likely to require the House to post its lobby filings online, although the House Administration Committee, now under Chairman Vernon Ehlers (R-Mich.), has yet to assess the practical costs of changes.

"It's a little premature to know that," committee spokesman Jon Brandt said. As for posting lobbyist filings on the Web, "the law doesn't require it to be disclosed. If the law is changed to require it to be disclosed [online], then it will be."

In addition to filings from more than 20,000 lobbyists, the Legislative Resource Center (LRC) also allows visitors to view House members' annual financial disclosures, but not before asking for the name, address and affiliation of those making a search. Curious parties can then check up on who is spying on whom, from eager reporters to staffers peeping at forms filed by their bosses' rivals.

Neither the OPR nor the LRC would disclose how many noncompliant lobbying cases they refer to the U.S. attorney for the District of Columbia, who plays the role of lobby police. But of the 200 referrals made by Congress since 2003, prosecutors have pursued only 13, according to U.S. attorney spokesman Channing Phillips.

One senior attorney pores over the list of lobbyists who failed to respond within four months to several letters from the House and Senate asking for corrected disclosures, Phillips said, and "we go on which have merit." Seven of the 13 cases deemed worthy remain unsettled with the lawbreaking lobbyists in question, and three of the remaining six cases exited the system unpunished.

Most proposed lobbying and ethics reforms would double the frequency of lobby filings. Lawmakers have rarely discussed the cost of cracking down, and congressional ethics watchers are beginning to raise questions.

"You can beef up the rules, but if you don't enforce them, and people know that what they're going to do will be ignored, it will get to a point where it's out of control again," Norm Ornstein, a resident scholar at the American Enterprise Institute, told reporters Monday.

Dennis Thompson, a professor of political ethics at Harvard University's Kennedy School of Government, pointed out that even well-enforced disclosure rules might not repair public disapproval of Congress.

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"Disclosure by itself is not only not adequate but can make the problem worse," Thompson said. When annual financial disclosures are released, "instead of looking at patterns of influence, we look at a top 10 list of wealth. We need some serious effort to do something with what's disclosed."

Senate Democratic plans to chill relations between Congress and K Street involve creating an Office of Public Integrity, which would conduct audits and investigations to ensure lobbyists are following the stronger disclosure rules. Rep. Mike Rogers (R-Mich.), a candidate for House majority whip, has released details of a bill that would create an independent lobbying enforcement commission.

Still, conservatives in both chambers will probably rebel against any reform bill that contains the bureaucratic burden of a new lobbying agency or office.

"We don't want to create a whole new entity if it's not necessary," Sen. Rick Santorum (R-Pa.) told reporters last week at a joint appearance on lobbying reform with Sen. John McCain (R-Ariz.). Santorum stressed that Senate Republicans are "open to ideas."

Republicans have started discussing those ideas through a small lobbying-reform working group convened by Senate Majority Leader Bill Frist (R-Tenn.), according to Rules Committee spokeswoman Susan Irby. The group is composed of Rules Chairman Trent Lott (R-Miss.), Santorum, McCain and Sen. Susan Collins (R-Maine), chairwoman of the Homeland Security and Governmental Affairs Committee.

Despite Collins's committee's taking the majority of jurisdiction over the lobbying and ethics overhaul, Irby said the OPR, overseen by the secretary of the Senate, will likely ask Rules for a bigger budget this year.

Absent from the Frist working-group roster is Senate Ethics Committee Chairman George Voinovich (R-Ohio). Both the House and Senate ethics panels have a long-standing policy of declining to investigate members who already face an inquiry from the Justice Department.

Secrecy As A Spoil Of Victory (NYT)

The New York Times, January 25, 2006

Never mind the golf junkets and poolside seminars. One of the rawest displays of lobbyists' power in the Capitol occurred beyond the sight of the public last month, when Republican Congressional negotiators tweaked a budget-cutting bill in order to provide the health insurance industry with a $22 billion windfall. The circumstance of this victory by insurance lobbyists is particularly relevant now that the same Congressional leaders are feverishly vowing to enact lobbying reform. The bill change, dearly sought by the H.M.O. industry, was written by House and Senate lawmakers and staff members in closed-door, Republican-only bargaining sessions - one of the "conference committees" for settling differences in final legislation that are themselves becoming part of the Capitol's influence-peddling scandal.

The current version of this deal-setting routine entirely excludes Democratic lawmakers, who are in the minority but still represent significant numbers of Americans. Rather, the lobbyists who successfully worked for a whopping fix in the Medicare reimbursement formula were far more clued in by cooperative Republicans. This is business as usual in Congress; no one is promising hearings about secretive behavior, skulking about in a black hat or hiring defense lawyers.

The bill change might have gone unnoticed but for the fact that the nonpartisan Congressional Budget Office was doing its job in parsing out the last-minute gutting of a formula that was originally intended to produce a $26 billion savings for taxpayers across 10 years. Instead, the final bargainers reduced the projected savings to $4 billion and handed the H.M.O.'s a $22 billion gift by protecting the inflated reimbursements they currently reap through Medicare.

Republican lawmakers insist that nothing nefarious was transacted, and that a minor formula change was grossly miscalculated in the budget office report. It's nice to see the lawmakers coming out of the shadows, if only to make excuses. But their credibility problem lies in the deep secrecy and partisanship that shroud the conference committees.

If the tables were reversed, Democrats might indulge the same hegemony. But right now, some are proposing that the forthcoming attempt at lobbying reform include a rules change to at least open the conference committees to the public and allow minority party lawmakers votes in committee on the final wording of legislation. It remains to be seen whether such an advance in participatory democracy can survive the inevitable assault by dissatisfied lobbyists and their allied incumbents.

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Candidates Try To Force Second Ballot (HILL)

By Patrick O'connor

The Hill, January 25, 2006

With Rep. Roy Blunt (R-Mo.) the front-runner in the race to become the next majority leader, Reps. John Boehner (R-Ohio) and John Shadegg (R-Ariz.) are locked in a precarious duel to force a second ballot.

The prospect of a second ballot generates significant uncertainty for each team heading into the Feb. 2 election, but it creates a particularly difficult dynamic between Boehner and Shadegg because the two lawmakers must work together in forcing the second vote while trying to beat each other on the first.

With most members already committed to one of the three candidates, the race is stuck in a momentary lull. This question about a second ballot is just one of the many uncertainties lawmakers must confront when they return next week for the president's State of the Union speech and an as-yet-undetermined number of leadership races.

Members, aides and lobbyists have started to debate this second-ballot question in anticipation of next week's race.

At press time, Blunt had 91 public supporters, Boehner had 41 and Shadegg had 10. Unlike Blunt and Boehner, Shadegg is not whipping his vote count or releasing the names of public backers.

Some in the House had noted that Blunt's public supporters had not moved much recently — until he added five new endorsements Monday.

The unspoken alliance between Blunt's two challengers appears to benefit Boehner because the Ohio lawmaker claims more public support than Shadegg — but not enough to win the first ballot on his own. That would allow him to face Blunt in a runoff if the acting majority leader is unable to win outright on the first ballot and Shadegg does not eclipse him by Feb. 2 — both of which are distinct possibilities.

Shadegg has begun to distance himself from Boehner in the past week, casting himself as the one true conservative with "the real and consistent record of reform," but he is also working with the Ohio lawmaker to criticize Blunt.

Shadegg called Boehner last week after hearing that Blunt had declined separate requests to debate his two opponents on NBC's "Meet the Press" and "Fox News Sunday," Shadegg spokesman Michael Steel said yesterday. After that conversation, the two issued a joint statement criticizing Blunt for declining the invitations for a public debate.

In addition, the two camps have repeatedly questioned Blunt's decision not to resign his position as majority whip after declaring his candidacy for the leader's role.

While Shadegg is attempting to accentuate his difference with Boehner, members and staff have questioned the effect their apparent cooperation would have on Shadegg's campaign.

"Shadegg is running a general-election strategy in the primary," one GOP aide said. "He doesn't seem to be focused on beating Boehner."

Boehner continues to praise Shadegg's candidacy, even as the Arizona conservative wins the support of conservative media outlets and conservative, reform-minded Republicans such as Reps. Jeff Flake (Ariz.) and Mike Pence (Ind.). Boehner officials even issued releases touting their boss's reform credentials after the endorsements by Flake and Pence.

In response to a question about whether Boehner was deliberately running with Shadegg to force a second ballot, Boehner spokesman Kevin Smith wrote, "Mr. Boehner and Mr. Shadegg are the two candidates in this race talking about the need to change the status quo, and to the extent that Mr. Shadegg's candidacy has helped to make reform and change the dominant topic of conversation in the race, John has embraced his candidacy."

Blunt is running a quiet campaign as the established member of the leadership, while Boehner and Shadegg are fighting for the role of reform candidate.

Even though the race to replace DeLay has not attracted headlines in most congressional districts, a handful of regional newspapers have seized on the race — and Shadegg's candidacy, in particular — to encourage their representatives to make wholesale changes in the current leadership.

Shadegg has been the toast of conservative editorial boards since entering the contest almost two weeks ago. The Dallas Morning News, the Mobile Register in Alabama and the Rocky Mountain News in Denver all endorsed the former Republican Study Committee chairman in the past week, and The Palm Beach Post and The Arizona Republic took their push for change a

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step further by separately challenging two potentially vulnerable Republicans, Reps. Clay Shaw (Fla.) and Rick Renzi (Ariz.), for supporting Blunt.

Shaw is facing a tough reelection while simultaneously waging a campaign to become chairman of the powerful Ways and Means Committee. The Post wrote that, by supporting Blunt, "Shaw is also supporting corruption as usual in Congress." That day, his Democratic opponent, state Sen. Ron Klein, issued a statement condemning Shaw for backing Blunt.

However, grassroots pressure has not yet become significant enough for a bloc of members publicly to shift their support from one candidate to another.

Because the vote will be determined by 232 members of the Republican Conference, media endorsements hold much less sway, but grassroots criticism could be detrimental for the party as members prepare for the midterm election in November.

Blunt has already claimed enough support to win the election on the first ballot. Yet this race is unlike tough votes he has whipped over the years because the secret ballot will not allow him to see who, if anyone, has betrayed him. Blunt's claim has solidified his position as front-runner, but it could damage him politically if the votes don't back him up Feb. 2.

"Congressman Blunt remains confident he has the support of his colleagues needed to win this race," spokeswoman Jessica Boulanger said. "He looks forward to wrapping up this campaign and getting to the important work on behalf of the American people that House Republicans do so well."

Blunt has attracted the most support of the three contenders from the revolutionary class of 1994, of which Shadegg is a member. Rep. Charles Bass (R-N.H.), who came in with Shadegg, formally backed his classmate yesterday.

Boehner, meanwhile, has the most House committee chairmen publicly behind him, attracting the support of six of them (excluding Boehner himself). Ways and Means Committee Chairman Bill Thomas (R-Calif.) has not publicly announced his support, but he worked closely with Boehner on pension reform last year and supported him in his 1998 race for Policy Committee chairman against then-Rep. J.C. Watts (R-Okla.) in 1998. Likewise, International Relations Committee Chairman Henry Hyde (R-Ill.), who has not endorsed any candidate for majority leader, publicly backed Boehner in 1998.

Members of the conference have already been notified that a second ballot would occur immediately after the first, conference spokesman Sean Spicer said yesterday. In addition to the race for majority leader, the conference will also vote for a new chairman of the Republican Policy Committee and any openings that result from the races. That could include a race for majority whip if Blunt wins the race for majority leader.

The other details are still being worked out, Spicer said, and it is still unclear whether there will be any other elections. Rep. Marsha Blackburn (R-Tenn.) could challenge Conference Chairwoman Deborah Pryce (R-Ohio), and Rep. Jack Kingston (R-Ga.) could also join that race.

Unlikely GOP Allies Back Shadegg (WT)

By Amy Fagan

The Washington Times, January 25, 2006

A vocal House conservative and the leader of a liberal wing of House Republicans united yesterday to back Rep. John Shadegg to be majority leader, saying he is the best choice to bring true reform.

"We're most likely to see bold initiatives if John Shadegg is elected majority leader," said Rep. Charles Bass of New Hampshire, chairman of the Tuesday Group, a gathering of more liberal House Republicans.

Mr. Bass announced the endorsement yesterday with Rep. Jeff Flake, Arizona Republican, weeks after the two first spurred the leadership race by circulating a petition calling for such elections.

The Republican Party has been shaken by the indictment of lobbyist Jack Abramoff, and many are now discussing lobbying reform, budget reform and other changes.

Mr. Shadegg, Arizona Republican, made a late entrance into the majority leader's race, joining Rep. John A. Boehner of Ohio and front-runner Rep. Roy Blunt of Missouri, who has been acting majority leader since Rep. Tom DeLay, Texas Republican, stepped down from the post in September.

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Mr. Bass and Mr. Flake worked closely together last year to try to reform the budget process, enforce fiscal discipline, reduce the number of earmarks and create a more open, honest budget structure. Their efforts were largely unsuccessful, but both said yesterday Mr. Shadegg is the one to work with them to make those changes.

"John has been a reformer from the beginning," Mr. Flake said.

"I want moderate Republicans to understand that if you care about reform and you want a fresh face, this is the man to support," Mr. Bass added.

"This shows again that this race is not about moderate versus conservative -- it is a choice between real reform and the status quo," Mr. Shadegg said in a statement.

Mr. Boehner, meanwhile, praised Mr. Bass and Mr. Flake "for helping bring greater attention to the need for reducing pork and wasteful earmarks."

He noted that he has never asked for a single pork-barrel project for his congressional district.

"I look forward to working with them as majority leader on earmark and budget reforms so we can change the way Congress does business," Mr. Boehner said.

A senior House Republican aide said Mr. Boehner is likely wooing the Shadegg camp so they'll vote for him in the likelihood that none of the three candidates win a majority of Republicans and members must vote a second time in a runoff between the top two candidates, likely Mr. Boehner and Mr. Blunt.

Mr. Flake agreed that Mr. Boehner is solid on the earmark issue, but said Mr. Shadegg is still his first choice. Mr. Bass said all three candidates are philosophically in the same conservative camp, but Mr. Shadegg "will restore America's faith" in Congress.

Mr. Blunt's office made no public statement on the pair's endorsement, but continued to say Mr. Blunt has enough public and private commitments to win the race.

A secret-ballot vote is set for Feb. 2.

Arizonan Running For House Majority Leader Wins Backing Of 2 Who Helped Ease Out DeLay (NYT)

By Carl Hulse

The New York Times, January 25, 2006

WASHINGTON, Jan. 24 - Two House Republicans who pushed to keep Representative Tom DeLay from regaining his post as majority leader threw their support for the job behind Representative John Shadegg of Arizona on Tuesday, portraying him as the candidate who represents a true change in party direction.

"If you care about reform and you want a fresh face, this is the man to support," said Representative Charles Bass, who was joined by Representative Jeff Flake in endorsing Mr. Shadegg over the two other candidates: Roy Blunt of Missouri, the acting majority leader, and John A. Boehner of Ohio.

There was no surprise in the pledge by Mr. Flake, like Mr. Shadegg an Arizona conservative. But Mr. Bass, of New Hampshire, is a moderate leader in the House, and he acknowledged that it would be hard for some to accept his support of Mr. Shadegg, arguably the most conservative of the contenders.

Mr. Bass said that he did not see significant ideological differences among the three and that Mr. Shadegg had made a stronger commitment to "bring transparency, accountability and necessary disclosure back to the legislative scene here in Washington."

Still, with little more than a week to go before the vote for a permanent successor to Mr. DeLay, Mr. Blunt remains in the lead with a public list of 90 backers. Mr. Boehner counts 46 public backers, and Mr. Shadegg, who entered the race late, about a dozen. Mr. Blunt has said he has public or private commitments from more than the 117 lawmakers needed to win, while Mr. Boehner claims about 90.

Mr. Blunt, who in 2002 was elected party whip, the No. 3 House leadership position, and Mr. Boehner, a former member of the leadership who is chairman of the Committee on Education and the Workforce, have come under criticism from some

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lawmakers of both parties, as well as Republican operatives outside Congress, who say both men symbolize the status quo in a year when Congress has been rocked by scandal.

That was a point driven home Tuesday by Mr. Flake and Mr. Bass, who earlier this month were the architects of a petition drive that helped persuade Mr. DeLay, under indictment on campaign finance charges in Texas, to abandon the idea of reclaiming his leadership post.

"What we're saying is that you want someone who doesn't have to have an epiphany on reform," Mr. Flake said, "somebody who's been there from the beginning, pushing reform, and doesn't have to have an election-year conversion on the topic."

In a statement responding to the endorsements for a rival, Mr. Boehner simply commended the two lawmakers for their push to make it harder for members of Congress to get money for pet projects. A spokeswoman for Mr. Blunt said that he remained confident he would win and that his backers represented diverse ideological viewpoints among House Republicans.

Welcoming the new backing, Mr. Shadegg said: "These men - a moderate leader and a conservative leader - recognize that our party faces a crisis. They were out in front when it was a difficult thing to do."

Both Mr. Boehner and Mr. Blunt have their own prominent centrist backers. Representatives Christopher Shays of Connecticut and Mark Steven Kirk of Illinois are among moderates supporting Mr. Blunt, while Representatives Michael N. Castle of Delaware and Ray LaHood of Illinois are behind Mr. Boehner.

Republican moderates have wielded greater influence in the House in recent months, with the leadership relying heavily on their support to win close budget and spending votes in the face of unified Democratic opposition. And, amid the corruption scandal revolving around the lobbyist Jack Abramoff, they have joined with conservatives in pushing for significant changes in lobbying rules and more open consideration of legislation.

All three candidates for majority leader have embraced some changes in the rules governing the relationships between lawmakers and lobbyists, though they disagree on the details.

Those three, as well as candidates for other leadership posts, will spend the next week trying to solidify support ahead of the Feb. 2 vote. Representatives Bass and Flake said they still considered the outcome of the election uncertain despite Mr. Blunt's claim to have sufficient votes to win.

"A lot can happen in nine days," Mr. Bass said. "It is ultimately a secret ballot."

Kinky Money (RC)

By Mary Ann Akers

Roll Call, January 25, 2006

Seeing as he's an outspoken social conservative, some folks were surprised to find out that one of the largest contributors to Rep. Roy Blunt's (R-Mo.) political action committee last year was a businessman who made his fortune in the 1990s off the phone-sex business.

Jeffrey Prosser, dubbed by the Columbia Journalism Review in a 1998 story "a world-class phone-sex operator," gave $5,000 to Blunt's Rely On Your Beliefs fund in 2005 and his wife, Dawn Prosser, gave another $5,000, making them the largest donor couple to Blunt's PAC.

Prosser, who owns the Virgin Islands Telephone Co., its cable television company and the territory's largest newspaper, was scheduled to "shed" the phone-sex side of his business in a complicated split with his partner, CJR reported. But it's hard to ignore his recent past raking in the bucks off porn chat lines.

The donations have given giddy Democrats an opening to attack Blunt, in tacky and personal ways. "If I received special interest money from phone-sex magnates, my eyebrows would be in surprise mode all the time, too," one Democratic aide told HOH. "Though, in truth, the phone sex donors probably gave to Blunt's PAC because up until Tom DeLay stepped aside — post-indictment — Roy Blunt was known as 'whip.'"

Blunt's ROYB Fund executive director, Keri Ann Hayes, said the Congressman had no clue that Prosser was a 1-900 kind of a guy. "Mr. Blunt was not aware of the colorful history of this individual contributor when his PAC accepted the donation," she said.

Hayes said Blunt will not return the money because "the funds were given in a 100 percent legal and ethical fashion."

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Calling Miss Manners. Rep. Brian Baird (D-Wash.) must have been channeling Emily Post when he wrote a letter lecturing a college student — who had just been awarded a scholarship in Baird's name — on how to write a proper thank-you note. And the student must have been channeling Karl Rove when he retaliated with a full-on political attack on Baird.

The letter exchanges have become "the" topic of Washington state political gossip. Compiled in a tidy little file (by state GOP operatives, perhaps?) the letters were sent en masse to Washington delegation members, Senators and their staff ... and to HOH.

The student, Kevin Nelson, who attends Centralia College in Centralia, Wash., won the Congressman Brian Baird and Rachel Nugent Scholarship award this past fall to help send him to business or law school. His thank-you note to the Congressman and his wife wasn't so swift: a bland, typed, one-paragraph note, addressed impersonally to the "Brian Baird Scholarship."

Baird, again channeling Ms. Post, wrote to the student with what he said he hoped would be received as "a friendly and helpful suggestion."

"Your note, a copy of which is attached, was, quite frankly, not very impressive to say the least," Baird wrote. "Perhaps you have not been given instruction in how to write formal letters, but let us suggest that you learn. If you truly wish to advance in business and law, you will need to know how to write a proper letter."

Baird went on to tell the young man that he should learn how to write "a truly thoughtful and expressive letter of gratitude," one that should be handwritten, preferably. "If your handwriting is as poor as mine, I certainly understand a typed alternative, but at the very least what you write should be in a format that shows you spent more than two minutes preparing it."

It was the distinct tone of condescension that struck a raw nerve in Nelson, as well as the fact that Baird had CCed his letter on proper etiquette to the Centralia College Scholarship Office. Nelson, who is no stranger to politics — he's a precinct committee officer in Lewis County, Wash. — whipped off letters to the state Republican Party and to both Senators in the Washington delegation, telling them how offended he was by Baird's letter.

"In his letter he accused me of ignorance and a lack of courtesy — telling me that a proper thank you note should have been longer and on a more appropriate letterhead," Nelson wrote in a letter to his state GOP. "Because of his attack on my character, I felt compelled to respond."

Baird said he wasn't attacking the young man's character, just giving the lad a little guidance from a former professor. Spokeswoman Meghan O'Shaughnessy said Baird "did not intend this to be blown out of proportion like this." He was only providing a "friendly and helpful suggestion."

Bummed at Begala. Former presidential campaign aides are fit to be tied over the way they and Sen. John Kerry (D-Mass.) are portrayed in the new book "Take It Back" by Democratic strategists Paul Begala and James Carville. They were seething when they watched "Meet the Press" on Sunday morning, when host Tim Russert, quoting a passage written by Begala, read aloud:

"Our friends who ran the Kerry campaign continue to insist they did have a message. Here's what they called a message: J-HOS. That's right, J-HOS. It stands for jobs, healthcare, oil, security. They talked and they talk[ed] but voters weren't listening or more accurately, couldn't hear any message in the laundry list of issues. Without a message, Democrats were, if you'll pardon the expression, J-HOSED."

"Ouch," Russert said. Ouch is certainly what the former Kerry presidential campaign aides are saying, too.

One former Kerry speechwriter said he and others were "taken aback" because Begala was advising the campaign and, according to him, helped write the stump speech that was based on J-HOS issues. "We won't be J-Spun because we were J-there," quipped the speechwriter. "Mr. Begala was there at the scene of the crime writing that speech, and we haven't J-forgotten. The pander of candor doesn't work if you cover up the truth."

But Begala said the Kerry aides are suffering from revisionist history syndrome. He categorically denies having helped write the J-HOS issues platform that he trashed in his book. "Nice try," he told HOH. "They're gonna have to wash the stench of their own failure off themselves."

Ouch again.

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Begala said he tried his hardest to get Kerry to “have a message.” He suggested: “You can’t trust George W. Bush.” But the Kerry camp, he said, “didn’t have a message, and they didn’t want one.”

The Money Maw (WP)

By Al Kamen

The Washington Post, January 25, 2006

Washington so far has managed to take the much-hyped "Abramoff Effect" in stride. There was a little hiccup, to be sure, when the birthday bash-fundraiser tonight for Sen. Conrad Burns (R-Mont.) moved from powerhouse lobbyist Cassidy & Associates offices to the National Republican Senatorial Committee.

Tonight also turns out to be all-Montana night, as Sen. Max Baucus (D-Mont.), who's not even running this year, has invited lobbyists to a dinner at a tony restaurant at 9th and K Streets NW. That's also $2,000 for political action committees and $1 ,000 for individuals. (So first hors d'oeuvres for Burns, a little song and then down the hill to Baucus's for dinner.)

Can't make it to dinner? No problem. Baucus will be in the Cassidy skybox at the MCI Center raising money at a Bon Jovi concert next week.

Out of town tonight? No problem. You are cordially invited to attend a reception in support of Sen. Arlen Specter (R-Pa.), who's also not running this year. It's a cheap-o, just $500 a person and $1,000 a PAC, at his apartment in Georgetown on Feb. 6.

That is scheduled to be the first day of debate in the Senate on the very complicated asbestos trust fund legislation. Specter is leading the debate on his bill that aims to take care of people exposed to asbestos fibers.

The invite, we were told, was sent to many of the lobbyists involved on the many, many sides of the issue. Specter, chatting with our colleague Jeffrey H. Birnbaum , said this is an annual event that he does during his birthday week and no particular lobbying interests were singled out.

If you can't go, send a card. It's his 76th on Feb. 12.Farewell, Graham Farewell

Did you mark your calendars next week for a "farewell reception" Tuesday "honoring John Graham ," the administrator of the Office of Information and Regulatory Affairs at the Office of Management and Budget?

That's the super-powerful office that oversees many business regulations. The lobbying firm Valis Associates, which lists manufacturing, telecommunications and energy groups among its 2005 clients, had booked the Committee on Small Business room in the Rayburn House Office Building for the event.

Graham has often been blasted for being pro-business, and some hypersensitive eyebrows arched yesterday about this gathering. But he is leaving his job March 1, and people throw farewell receptions all the time to thank oversight officials for jobs well done.

Even so, OMB spokesman Alex Conant , asked yesterday about the reception, said: "After it was first cleared by the ethics office, our understanding of the basic event changed and no longer fits within our ethical guidelines, so it was canceled." We're told the cancellation came around 5:30 p.m.Tiebreaker Looms on FCC Horizon

The Federal Communications Commission may be a step closer to filling its long-vacant third Republican seat. The name of Robert M. McDowell , senior vice president and assistant general counsel at the Comptel telecom trade association, is being floated for the seat, Reuters reported, which would give FCC Chairman Kevin J. Martin a working majority. There hasn't been a GOP majority on the commission since Michael K. Powell left as chairman in March 2005.

Senate Commerce Committee Chairman Ted Stevens (R-Alaska), whose support is key -- and there has been to-ing and fro-ing between him and the White House for months over the slot -- said yesterday he would support McDowell.For Lawmakers, a One-Night Sand

Neither rain nor storm nor gloom of night nor even a "debilitating sandstorm" will deter congressional delegations from their appointed rounds. In fact, a codel headed by Rep. Ileana Ros-Lehtinen (R-Fla.) used a weekend sandstorm in Iraq to tout that it had "established a landmark as being the first such group to stay overnight with American troops in Fallujah."

Of course the group, which included Reps. Jim Gerlach (R-Pa.), Todd R. Platts (R-Pa.) and Stephen Lynch (D-Mass.), didn't have much choice, because they arrived by air at the base in Fallujah and were marooned by the storm.

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Why, there wasn't even a chance to stroll the back streets of Fallujah and ask folks how things are going. Even so, the hardy band, which had earlier stopped in Kuwait to meet with Kuwaiti officials, media and women activists, took off the next day for Afghanistan.What's Left of the Score

Speaking of the MCI Center, a Loop Fan checking out the scoreboard at a Wizards game the other night noticed the fine banner ad for MZM Inc. That was the defense contracting firm founded by Mitchell J. Wade , who's under investigation for certain dealings with former representative Randy "Duke" Cunningham (R-Calif.). Cunningham pleaded guilty to conspiring to take millions in bribes from contractors.

MZM was sold over the summer and is now known as Athena Innovative Solutions Inc., but its MCI account still must be paid. The ad says "MZM Inc. Providing Solutions Through Innovation."

Innovation? Sounds like pretty traditional stuff.

Bush The Incompetent (WP)

By Harold Meyerson

The Washington Post, January 25, 2006

Incompetence is not one of the seven deadly sins, and it's hardly the worst attribute that can be ascribed to George W. Bush. But it is this president's defining attribute. Historians, looking back at the hash that his administration has made of his war in Iraq, his response to Hurricane Katrina and his Medicare drug plan, will have to grapple with how one president could so cosmically botch so many big things -- particularly when most of them were the president's own initiatives.

In numbing profusion, the newspapers are filled with litanies of screw-ups. Yesterday's New York Times brought news of the first official assessment of our reconstruction efforts in Iraq, in which the government's special inspector general depicted a policy beset, as Times reporter James Glanz put it, "by gross understaffing, a lack of technical expertise, bureaucratic infighting [and] secrecy." At one point, rebuilding efforts were divided, bewilderingly and counterproductively, between the Army Corps of Engineers and, for projects involving water, the Navy. That's when you'd think a president would make clear in no uncertain terms that bureaucratic turf battles would not be allowed to impede Iraq's reconstruction. But then, the president had no guiding vision for how to rebuild Iraq -- indeed, he went to war believing that such an undertaking really wouldn't require much in the way of American treasure and American lives.

It's the president's prescription drug plan (Medicare Part D), though, that is his most mind-boggling failure. As was not the case in Iraq or with Katrina, it hasn't had to overcome the opposition of man or nature. Pharmacists are not resisting the program; seniors are not planting car bombs to impede it (not yet, anyway). But in what must be an unforeseen development, people are trying to get their medications covered under the program. Apparently, this is a contingency for which the administration was not prepared, as it has been singularly unable to get its own program up and running.

Initially, Part D's biggest glitch seemed to be the difficulty that seniors encountered in selecting a plan. But since Part D took effect on Jan. 1, the most acute problem has been the plan's failure to cover the 6.2 million low-income seniors whose medications had been covered by Medicaid. On New Year's Day, the new law shifted these people's coverage to private insurers. And all hell broke loose.

Pharmacists found that the insurers didn't have the seniors' names in their systems, or charged them far in excess of what the new law stipulated -- and what the seniors could afford. In California fully 20 percent of the state's 1.1 million elderly Medicaid recipients had their coverage denied. The state had to step in to pick up the tab for their medications. California has appropriated $150 million for the medications, and estimates that it will be out of pocket more than $900 million by 2008-09. Before Jan. 1 the Bush administration had told California that it would save roughly $120 million a year once Part D was in effect.

California's experience is hardly unique. To date at least 25 states and the District have had to defray the costs to seniors that Part D was supposed to cover. What's truly stunning about this tale is that, while officials may not have known how many non-indigent seniors would sign up of their own accord, they always knew that these 6.2 million seniors would be shifted into the plan on the first day of the year. There were absolutely no surprises, and yet administration officials weren't even remotely prepared.

No such problems attended the creation of Medicare itself in the mid-1960s. Then, a governmental agency simply assumed responsibility for seniors' doctor and hospital visits. But, financially beholden to both the drug and insurance industries,

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the Bush administration and the Repsublican Congress mandated that millions of Americans have their coverage shifted to these most byzantine of bureaucracies.

This is, remember, the president's signature domestic initiative, just as the Iraq war is his signature foreign initiative.

How could a president get these things so wrong? Incompetence may describe this presidency, but it doesn't explain it. For that, historians may need to turn to the seven deadly sins: to greed, in understanding why Bush entrusted his new drug entitlement to a financial mainstay of modern Republicanism. To sloth, in understanding why Incurious George has repeatedly ignored the work of experts whose advice runs counter to his desires.

More and more, the key question for this administration is that of the great American sage, Casey Stengel: Can't anybody here play this game?

Terrorists, By Any Name (WSJ)

The Wall Street Journal, January 25, 2006

Osama bin Laden's latest tape was such big news last week that its coverage swamped some other major terror news: that the Bush Administration has rounded up some of America's most dangerous domestic terrorists.

The Justice Department on Friday released a 65-count indictment against 11 members of an animal-rights and ecoterrorism outfit that for more than four years had spread violence and destruction across five Western states. Using fire and explosives, the individuals stand accused of targeting ranger stations, animal-holding facilities, lumber companies, timber farms, a ski resort and even a police department. Eight have been detained; another three are believed to be hiding outside the country.

Credit here goes to the FBI, which in recent years has listed green extremists as a top domestic terror threat -- responsible for more than 1,200 criminal acts and millions of dollars in damage. In recent years these outfits have been expanding their scope, targeting bodies that are only marginally linked to practices they resent. The New York Stock Exchange's recent decision to postpone the listing of Huntingdon Life Sciences -- a U.K. animal-research company that has been a top terrorist target for years -- was put down to the Exchange's worry that it would be next on the hit list.

Law enforcement agencies have made some important arrests in recent years, yet they still face difficulties tracking down these thugs -- who operate in underground cells linked to organizations such as the Earth Liberation Front or Animal Liberation Front. Oklahoma Senator Jim Inhofe last year introduced legislation to give authorities more tools to prosecute ecoterrorists; current statutes don't cover many ecoterrorist activities, such as threats or coercion against third-party targets. The sooner Congress takes this up the better, and more news coverage of their widespread threats and violence wouldn't hurt either.

OTHER NEWS:

Oil Drops On Saudi Pledge To Keep Market Supplied (FT)

By Neil Dennis

Financial Times, January 25, 2006

Zinc hit a record on Tuesday as inventory declines and the threat of strikes in Peru added to concerns that supply was already likely to be outstripped by demand.

The metal, used as an anti-corrosive coating for steel, hit $2,230 a tonne, in spite of news that workers at three of Volcan's mines in Peru were to return to work tomorrow. The company fears however, that more walkouts will take place next month. Peru is the world's third biggest producer of zinc.

Daily zinc output from Volcan was down by 40 per cent after six days of the strike. Meanwhile, inventories in warehouses monitored by the London Metal Exchange yesterday fell to their lowest levels since September 2001.

"We see the back end of the forward price curve staying well supported, due to severe medium-term supply constraints, with far forward prices currently catching up with strong performance in other base metals," said Ingrid Sternby at Barclays Capital. Three-month zinc on the LME closed up $44 to $2,229 a tonne.

Lead also hit a record price, in spite of inventories rising in LME warehouses, as it too began catching up with the other base metals.

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The threat of strikes in Mexico has helped underpin lead prices this year, while speculators expect a repeat of last year's deficit, which was in excess of 100,000 tonnes. Three-month lead gained $33 to $1,339 a tonne, just $1 off its record earlier in the day.

Crude prices fell after Saudi Arabia pledged to pump more oil to cover supply problems in Nigeria.

While the problems with militant activity in Nigeria and the nuclear debate with Iran persisted on Tuesday, Saudi Arabia's pledge to ensure supply levels from the Organisation of the Petroleum Exporting Countries did not drop took the heat out of prices.

Analysts at Société Générale believed the market was now starting to price in the Iran effect. "Although the dispute with Iran could have a devastating impact on the supply-demand balance, the market seems still cautious in pricing this possible outcome," said analyst Frédéric Lasserre. He added: "One could argue that this simply reflects its expectations that everything will be done to avoid an oil embargo."

But Merrill Lynch said these geopolitical factors had led it to upgrade its average forecasts for 2006 and 2007 on both Nymex West Texas Intermediate and Brent by $5 a barrel. This would take its average price on WTI to $57 a barrel and Brent to $56 in 2006, and to $47 and $46 respectively in 2007. By midday in New York, Nymex WTI for March delivery was down 25 cents to $67.85 a barrel, while March Brent eased 25 cents to $65.92.

Market Makes Another Push (WSJ)

By Scott Patterson

The Wall Street Journal, January 25, 2006

Investors, still woozy after Friday's mauling, managed to stay on their feet for a second day in a row Tuesday. While the gains were moderate, they at least helped investors regain a semblance of confidence in the market.

"It's like when you've had a little too much to drink, it takes you a few days to get your legs back," said Barry Ritholtz, chief market strategist of Ritholtz Capital Partners.

The Dow industrials gained 23.45 points to 10712.22. The Standard & Poor's 500-stock index added 3.04 to 1266.86 and the Nasdaq Composite Index, heavy with tech stocks, gained 16.78 points to 2265.25.

Small stocks rallied. The Russell 2000, a barometer of small companies, surged 10.20 points, or 1.44%, to 718.02. The Dow Transports gained 99.27 points, or 2.38%, to 4275.02, amid a decline in oil prices.

Light, sweet crude-oil prices fell $1.04 to $67.06 on the New York Mercantile Exchange ahead of a weekly inventory report Wednesday expected to show a solid build in oil stock piles as warm weather persists in the Northeast.

Now, as earnings season cranks into high gear and with five Dow components reporting Tuesday, investors are getting a better look at how companies performed at the end of 2005. Despite a wave of high-profile misses last week from bellwethers such as Citigroup and Intel, results so far are coming in slightly better than forecast, according to data from earnings tracker Thomson Financial.

About 25% of the companies in the Standard & Poor's 500-stock index have reported results as of Tuesday afternoon. Somewhat surprisingly, given all the slipups, those companies have topped expectations by 4%, compared with an average of 3% historically, according to David Dropsy, an earnings analyst at Thomson.

The best performing sector so far: consumer-discretionary stocks, which have topped estimates by 16%, though just 23% of companies in the sector have reported earnings.

The mood on Wall Street, though, is more downbeat after the high-profile misses last week. A number of professional investors, though, say they expect companies to continue to post solid earnings for their latest quarter.

Tuesday, strong results from United Technologies, which gained nearly 4%, provided investors a welcome respite from misses by other headline grabbers such as General Electric and Citigroup, which helped trigger Friday's selloff. But the day wasn't without a downside, as DuPont, Johnson & Johnson, 3M and Texas Instruments each served up results that disappointed Wall Street forecasts.

Analyst upgrades of Coca-Cola and Wal-Mart Stores, and a solid earnings report from McDonald's also helped the market, though stocks finished well off their highs for the day.

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DuPont's fourth-quarter net income fell 45%7 due to hurricane disruptions and other production outages. The chemical behemoth also warned that the weakness in earnings would continue into the first few months of 2006. Its shares fell 0.7%.

Johnson & Johnson slid 3% after it hit earnings targets for a gain of 73 cents a share, but sales of $12.75 billion fell below targets for $13.18 billion. And 3M, which topped fourth-quarter forecasts by a penny, slid 1.4% after the company said it expects to post first-quarter earnings in the range of $1.10 to $1.14 a share, below expectations for a gain of $1.15.

On the plus side, United Technologies reported fourth-quarter earnings8 excluding extraordinary items of 71 cents a share on revenue of $11.26 billion, topping earnings expectations by a penny. Analysts had expected the maker of Pratt & Whitney engines and Sikorsky aircraft to post sales of $11.1 billion.

Shares of McDonald's gained 0.4% after the company posted net income of 31 cents a share for the fourth quarter, in line with estimates. Sales of $5.23 billion were above targets for $5.18 billion.

In major market action:

Stocks rose9. On the Big Board, where 1.9 billion shares traded, 2,266 stocks rose and 1,077 fell. On the Nasdaq Stock Market, where 2.1 billion shares traded, 2,002 rose and 1,017 declined.

Bonds fell10. The benchmark 10-year Treasury note lost 9/32, or $2.81 for every $1,000 invested, to yield 4.394%. The 30-year bond fell 18/32 to yield 4.572%. Yields move inversely to prices.

The dollar rose.11 It traded at 114.59 yen, up from 114.46 yen late Monday, while the euro fell to $1.2282 from $1.2306.

Cost-Cutting At Daimler To Eliminate 6,000 Jobs (NYT)

By Carter Dougherty International Herald Tribune

The New York Times, January 25, 2006

FRANKFURT, Jan. 24 - DaimlerChrysler said Tuesday that it would eliminate 6,000 white-collar jobs, 20 percent of its administrative work force around the world, taking its cost-cutting drive beyond the factory floor.

The company said it would save $1.8 billion a year after this and other streamlining efforts were completed by the end of 2008. Of the white-collar cuts, 30 percent would come from the management level.

"Over the last several years, we focused on our automotive business and started to streamline the core processes in our divisions," Dieter Zetsche, the chief executive, said in a statement on Tuesday. "But to safeguard our future in this competitive global industry, we need to apply that same equation across all general and administrative functions."

While declining to speculate where the cuts would occur, Mr. Zetsche said that the pool of employees affected was overwhelmingly in Germany, where the company is based. About 57 percent of the company's white-collar employees are in Germany, with 25 percent in the United States and Canada, and the rest spread throughout the world, he said.

The move follows Ford Motor's announcement Monday that it would eliminate as many as 30,000 jobs over the next six years, and it further hardened Mr. Zetsche's reputation as a cost-cutter.

In his previous post as chief of the Chrysler division, he eliminated 26,000 jobs, turning it around in a manner that its American competitors, Ford and General Motors, are trying to emulate. In September, Mr. Zetsche pushed through 8,500 job cuts at the Mercedes car group, which he directs personally alongside his job as chief executive.

Mr. Zetsche succeeded Jürgen E. Schrempp as chief on Jan. 1, and hinted at the time that management jobs would need to go. Tuesday's announcement was his first major move as chief.

Shares of Daimler rallied in response to the news, increasing $2.60, to $54.84.

Mr. Zetsche also announced that he and other members of the management board based at headquarters in Stuttgart would move from an office tower in the Möhringen district to offices near a Mercedes-Benz production line in Untertürkheim, another section of the city.

In a nod to the engineering traditions that made Mercedes a global synonym for high performance, Mr. Zetsche called Untertürkheim "the cradle of the Daimler organization." The move underscored Mr. Zetsche's determination to get executives and engineers working more closely and solve the chronic quality problems at the luxury brand, analysts said.

Michael Raab, an analyst with Sal Oppenheim in Frankfurt, said, "Everything began where they are now going." He added, "This is clearly intended as a signal that Zetsche wants to get back to the roots."

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Mr. Zetsche said that the job-cutting plan - affecting areas like finance, human resources and strategic planning - would take three years and cost Daimler 2 billion euros ($2.5 billion), although he emphasized that reductions among senior executives would be in place by March 1.

"You have low-hanging fruit that you will be able to benefit from in the first 12 months," Mr. Zetsche said. "Then you have things that require significant changes in the way you do your business."

With Mr. Zetsche already serving as both chief executive and head of Mercedes, further consolidation of responsibilities will reduce the number of management board members to 9, from 12.

White-Collar Blues In The Auto Industry (WP)

By Amy Joyce

The Washington Post, January 25, 2006

DaimlerChrysler AG said yesterday that it is cutting 6,000 administrative and management jobs, including about 1,500 in the United States, becoming the latest automaker to shed thousands of white-collar workers.

The announcement came a day after that of a Ford Motor Co. restructuring, which includes a reduction of about 4,000 salaried positions, some of them contract workers, by the end of March.

General Motors Corp. eliminated 6 to 7 percent of its 36,000 salaried employees each of the past three years "through normal attrition and special programs," according to spokesman Stefan Weinmann. GM expects a similar reduction this year.

While U.S. automakers are eliminating unionized workers by the tens of thousands, they are also paring their ranks of engineers, executives and other white-collar workers.

Oftentimes, white-collar, nonunion workers in the manufacturing industries are on the front line of staff reductions. Companies do not have to go through negotiations to eliminate nonunion jobs.

The workers often cost less to fire because they do not have the same protections that organized workers have. For example, the Big Three automakers pay into a job bank, which pays hourly workers even if they have been laid off.

"White-collar workers in an economic crunch usually get it in the neck first," said Robert Bruno, professor of labor and industrial relations at the University of Illinois. "They are not the largest number, but they were the easiest to let go."

Both blue-collar and white-collar jobs have fallen victim to increased productivity from new technology.

"We see it in engineering, where they moved from a physical to a virtual world," said David E. Cole, chairman of the Center for Automotive Research. The work is now "heavily computer-based, which has enabled a huge increase in productivity, and fewer people are required."

Ford's white-collar cuts, first announced in November, will reduce North American salary costs by 10 percent, the company said. Ford cut an additional 2,750 white-collar jobs earlier last year.

The company would not release details of severance packages available to white-collar workers. The amount a worker receives in a separation or severance agreement depends on years of service, said Marcey Evans, a spokeswoman.

The company employs 35,000 salaried workers in North American automotive operations.

Ford also started reducing its corporate officer ranks -- executives appointed by the board and at the level of vice president or above -- yesterday, hoping to cut the number by six by the end of the quarter.

Stephen G. Lyons will retire from his position as group vice president for North American marketing, sales and service. He will be replaced by Cisco Codina, vice president in charge of the customer service division. Darryl B. Hazel, vice president of marketing, will replace Codina.

Ford cut one corporate officer position in product development and one in marketing, sales and service. Barbara L. Gasper, the company's vice president of investor relations, will leave, and the position will no longer be at the officer level. Tim O'Brien, Ford's vice president of corporate relations, will become the deputy chief of staff, and his position will also not be officer-level.

Ford's salaried workers, however, may have an easier time finding work than the 30,000 union workers. White-collar auto-industry workers, Cole said, typically have marketable skills that can help land them jobs at other automotive companies or at firms outside the industry.

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Hyundai Motor Co. will be adding engineers and other workers to its laboratory in Ann Arbor, Mich., and Toyota Motor Corp. is tripling the size of its Ann Arbor facility, according to Cole. With a large number of white-collar workers retiring from skilled auto-industry jobs, he said, openings for salaried workers will increase. "Even though it will be a . . . hardship on individuals now, we're going to run into a stone wall very quickly on [finding] people with skills."

Auto Workers Of The World Unite . . . (WSJ)

By John B. Schnapp

The Wall Street Journal, January 25, 2006

General Motors and Ford, bleeding cash and market share, have vowed to cut 60,000 jobs over the next half-dozen years. So far, though, they have been unable to request, much less obtain, more than token economic first-aid from the United Automobile Workers. A recent modest health-care "give-up" proposal at Ford provoked angry union militants to accuse their president, Ron Gettlefinger, of rank appeasement and was endorsed by a vote of only 51% to 49%. Ford's announcement of its "Way Forward" downsizing has led UAW leaders to grouse that both auto makers should be mobilizing to increase sales rather than engaging in brutal cutbacks.

The collective bargaining negotiations upcoming in 2007 loom as a likely auto industry Armageddon, in stark contrast to a rising trend among similarly threatened industries in Germany, where unions are quietly customizing deals to protect jobs and preserve employers. The evident unwillingness of the UAW rank-and-file to participate in that sort of salvation effort is a legacy of the union's justly admired founder, Walter Reuther, an inheritance likely to prove now progressively more obsolete and self-defeating. * * *

Reuther (1907-1970) was an old-fashioned American lefty, a breed now long extinct. Growing up in the household of an ardently Socialist immigrant father, he and his dad in 1917 visited party leader Eugene Debs during his controversial incarceration for opposition to American involvement in World War I. It made a lasting impression.

Reuther became a tool-and-die maker at Ford, the pinnacle of auto worker technical achievements. In the midst of the Great Depression, Walter and his brother Victor worked for two years at the Gorky automobile factory in the USSR, designed by Ford for the Stalin regime. The experience left Reuther with a firm antipathy toward communism and communist labor factions in the U.S. He believed that they cynically subordinated worker interest to political ambition.

On his return, he became active in the infant UAW and on May 26, 1937, became engraved into the national conscience. He and other UAW leaders, engaged in a leafleting effort at the Miller Road gate of Ford's River Rouge complex, were confronted by club-wielding thugs led by Henry Ford's confidante, ex-boxer Harry Bennett. The resulting "Battle of the Overpass" and its one-sided bloodletting, photographed by Scotty Kilpatrick of the Detroit News and widely circulated in Life, Time and other outlets, shocked the country.

Inevitably, the persistent worker "sitdown" occupations of their plants, combined with pressure from the Roosevelt administration's National Labor Relations Board, led to the unionization of all American auto makers. In 1946, Reuther was elected president of the UAW after a longstanding struggle against a faction led by Homer Martin, George Addes and Richard Frankensteen, which was considered -- probably accurately -- as Communist. It was almost surely an outgrowth of this intramural conflict that prompted a 1948 shotgun blast through Reuther's kitchen window, which left his right arm permanently damaged.

As leader of his union, Reuther was a stubborn and tactically brilliant negotiator. He repeatedly challenged the auto makers to prove that they were economically unable to meet his demands, and invented the concept of a "target company." For each collective bargaining cycle, the UAW selected one auto maker for negotiation: It might be the weakest and most vulnerable to a strike threat, or the strongest and most able to provide a generous settlement. The contract hammered out with the target company became the "pattern" applied to everyone else. In 1948, Reuther also invented the linking of worker compensation to inflation through an automatic cost-of-living (COLA) escalator.

Walter Reuther created the foundation of the entire panoply of worker benefits that now contribute to the overall cost sclerosis at GM and Ford. But the aspect of his legacy that currently weighs most heavily on the future of these auto makers was philosophic.

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First was the cultivation among UAW members of a primary attachment to the union rather than to their employers. The employer was an adversary to be confronted rather than an ally to which workers owed loyalty and support.

Second was Reuther's belief that the UAW should never allow itself to influence competition among auto makers by differentiating contract terms. Wages, hours, benefits and work rules were to be identical. Even as the weakest companies -- Studebaker, Hudson, Packard -- foundered in the '40s and '50s, Reuther's UAW made little effort to throw them a life preserver. Indeed, there was little reason to do so since overall industry growth in that period readily absorbed displaced UAW members.

Reuther died in 1970, and it was only a decade later, with Chrysler teetering on the edge of insolvency, did then-UAW President Douglas Fraser allow that company some relief from the established-pattern terms. This gesture and his accession to Chrysler's board of directors, together with a modest federal loan guarantee and Lee Iacocca's inspired managerial improvisation, saved the company. But Mr. Fraser's actions came late in the Chrysler crisis and it was all a close-run thing.

Walter Reuther could not have foreseen the competitive world that Doug Fraser faced, much less today's. In the year of his death, American companies still held 87% of the U.S. market. Only Volkswagen, among offshore auto makers, sold as many as half a million vehicles here. Toyota and Datsun jointly accounted for about a quarter million and the coming of Honda was still five years in the future. Indeed the big story in 1970 was a three-month UAW strike at GM, which cost that company more than a million units of production.

The habit of confrontation established by Reuther, though, deeply impedes the willingness of his union to seek creative quid pro quos that might help GM and Ford avoid bankruptcies -- bankruptcies that would undermine their credibility among potential customers and lead to likely voiding of collective bargaining agreements. Throughout Germany, in contrast, unions affiliated with the IG Metall confederation -- many of them in the auto-parts sector -- have quietly been making the company-specific deals with employers that Reuther abhorred, in order to prevent the shifting of production to lower-wage venues and to guarantee job security. The German unions' most frequent concessions have given employers greater control over work hours, extended the work day without additional compensation, applied lower wages to new employees and reduced year-end bonuses.

The UAW, instead, seems to be falling into a policy of angry negativism. GM and Ford, despite the intensity of their problems, are viewed as still-rich enterprises afflicted with managerial ineptness who will just have to figure things out for themselves. It remains an "us versus them" kind of world at Solidarity House, the UAW's Detroit headquarters. By refusing to become involved in solutions to the auto makers' problems, as Doug Fraser found it desirable to do 25 years ago, the UAW makes itself into an increasingly prominent part of those problems. * * *

In the late '70s, I figured in a singular reflection of the consequences to the UAW, both then and now, of the Reuther philosophy. My consulting firm was engaged by Nissan to advise it on key issues related to the establishment of what became the second Japanese-owned auto assembly plant in the U.S. One of them was labor relations.

Nissan was predisposed toward replicating its situation in Japan, where it has a company union which, in turn, maintains ties to a relatively weak national federation. Despite traditional theatrics around annual wage negotiations, Nissan's Japanese workers are deeply loyal to the company and proud of their affiliation with it.

We told Nissan that autonomous company-specific unions were a rarity in the U.S. and tended to be absorbed by strong national federations. Its real choice, then, was between the UAW and no union at all. We wrote a briefing book on the history of the UAW, striving to make it unbiased. We stressed the union's social progressiveness and its lack of corruption. But we also stressed its commitment, stemming from Reuther, to identical treatment of all auto makers.

The Nissan management struggled with this, weighing its traditional attachment to dealing with a workers' organization against the likelihood that the UAW would force it into work practices identical to those of GM or Ford or Chrysler. This was not at all what it had in mind. It prompted a painful decision, one that went deeply against the grain, but Nissan chose to reject UAW overtures to unionize its new Smyrna, Tenn., plant. It sent nearly 400 of its initial work force for training in Japan, most of them at a twin plant in Kyushu to learn its ways alongside Japanese counterparts on Kyushu's production line. Many of these Tennesseans had never been farther from home than Nashville.

Nissan adopted also a number of important symbolic gestures. All employees, including top executives, wore identical work uniforms. Production workers were empowered to stop the assembly line if they perceived any problem affecting quality.

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There were no reserved parking spaces nor was there an executive dining room. Smyrna quickly became the most productive auto plant in the U.S., with the highest level of objectively measured product quality, an eminence it continues to enjoy.

Three separate UAW organizing efforts have all foundered at Smyrna. No later Asian auto maker plant unaffiliated with the Big Three has ever been organized either.

Walter Reuther was an undoubted great man. However, the persistence in the contemporary UAW of his intractability, understandable though it may have been in his own time, ensures a continuation of the worst of all outcomes -- a shrinkage of employers and the disappearance of jobs.

Churches To Weigh In On Stem Cell Research (BSUN)

By Jennifer Skalka

The Baltimore Sun, January 25, 2006

Despite the pleas of many doctors and researchers to keep arguments rooted in science, the debate over embryonic stem cell research won't be confined to laboratories.

When three legislative committees convene Wednesday to hear testimony about bills that would commit $125 million over five years for embryonic stem cell research, members of various religious communities will weigh in. And while the official position of the Roman Catholic Church against embryonic stem cell research might be widely known, there are members of other denominations who stand firmly in favor of the bills.

"What troubles me is that the current Catholic understanding regarding the beginning of life seems to somehow have become the gold standard by which everything is judged," said the Rev. Peter K. Nord, executive presbyter of the Presbytery of Baltimore, who plans to testify in Annapolis Wednesday. "That is one perspective, but there are others. Most of us support the use of embryos that would otherwise be discarded."

The Episcopal Diocese of Maryland also will submit written testimony in support of the legislation, as will Bishop John R. Schol of the Baltimore-Washington Conference of the United Methodist Church.

"The United Methodist Church is supportive of stem cell research because of the healing opportunities that it potentially gives us, and we as a denomination are very much interested in health in life," Schol said.

Public discourse over when life begins has predominated conservative arguments against federal and state funding for embryonic stem cell research, a science that experts believe could help develop treatments for debilitating illnesses such as Parkinson's and Alzheimer's. Catholic leaders have argued that an embryo is a living being entitled to protection.

"There's a real misunderstanding of the value of the human person and human dignity and how every person is created in God's eyes," said Nancy Fortier, associate director for the Respect for Life Department of the Maryland Catholic Conference. Fortier plans to speak against the bills but acknowledged that she could not name another religious group that shares her opposition to embryonic research.

With an election looming in November, Gov. Robert L. Ehrlich Jr. has entered the debate, proposing $13.5 million for a new research center in Baltimore and $20 million in state funding for stem cell research. The has proposed that the Maryland Technology Development Corp. decide which kind of projects to fund.

That opening has given hope to people like Fortier, who said she could support research using adult stem cells. But it concerns others, including the sponsors of the House and Senate funding bills, who like many scientists believe embryonic research holds the greatest promise.

"There's tenfold the amount of evidence that embryonic stem cells hold special things that adult-derived stem cells don't," said John McDonald, director of the International Center for Spinal Cord Injury at the Kennedy Krieger Institute in Baltimore.

Lawmakers sponsoring the legislation say the measures the bills contain for making sure money goes to the most potentially fruitful projects are essential. But they don't stand alone in their view.

Don Schroeder, bishop's deputy for public policy for the Episcopal Diocese of Maryland, said the diocese's support for the bills, which comes with a caveat against human cloning, is unwavering.

"It's a shame that a year was wasted," Schroeder said, noting that the diocese supported similar bills last year that stalled in the Senate.

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Schol said the United Methodist Church is supportive as well, with a few qualifiers, notably that embryos created for fertility treatments have been donated with prior informed consent and that they were not deliberately created for research purposes or obtained by sale or purchase.

John Deckenback, conference minister for the Central Atlantic Conference of the United Church of Christ, said his national church adopted a statement in 2001 in support of embryonic stem cell research.

"Clearly we have theological differences with our Roman Catholic friends and colleagues," Decken back said. "We have to agree to disagree on this one."

N.Va. Trial Over Air Bags Begins (WP)

By Tom Jackman

The Washington Post, January 25, 2006

Attorneys for an Arlington woman who contends that she was blinded in one eye when an air bag deployed told a Fairfax County jury yesterday that Ford Motor Co. knew its 1995 Escort was dangerous but did nothing to fix it or warn motorists.

Berta Benitez, 44, was on her way to work more than six years ago as the front-seat passenger in an Escort station wagon when the car and a Plymouth Voyager minivan collided on Lee Highway in Arlington. She filed suit in 2001 against Ford and the Koons Ford dealership where the car was bought.

Ford's attorneys, who dispute that the air bag caused Benitez's injuries, said in their opening statement yesterday that the 1995 Escort was safe and that its passenger air bag was no different than the air bags in other cars made in the mid-1990s. Benitez's attorneys said the air bags were too big and deployed much faster than called for in safety guidelines.

Benitez's attorney David Bernhard enlisted the help of Taras S. Rudnitsky, a former air bag engineer for General Motors Corp. who became disenchanted with what he says was the lack of safety concern in the auto industry. Rudnitsky quit to go to law school. After graduating, Rudnitsky served as an expert witness in lawsuits against carmakers, but he had eased away from auto litigation -- until Benitez's case came along.

Her case and e-mails from Bernhard lured him back, Rudnitsky said before trial. And so yesterday, in Fairfax Circuit Court, Rudnitsky began his first trial as a lawyer.

"Ford knew since the late 1960s and early 1970s that air bags can kill people or seriously injure them," Rudnitsky told the jury. He cited a renowned 1975 research study from Japan that concluded that air bags should not be traveling faster than about 92 mph when they make contact with a passenger.

Rudnitsky said that Ford's main expert will acknowledge the accuracy of the Japanese study and that the expert used it in his own published papers on air bags with Ford's approval. But when Ford made a last-minute decision to install front passenger air bags in the Escort and its sister car, the Mercury Tracer, Rudnitsky said, Ford designed a "unique air bag" for the 1995 and 1996 model years.

Bernhard said that nearly 700,000 of the cars were manufactured. He said he did not know how many are still on the road.

Ford's engineers said in pretrial depositions that they were unaware of the velocity of the Escort's air bags, Rudnitsky said, and were unaware of the Japanese study's standards.

Rudnitsky said his experts conducted three tests on the Escort's air bag and found that it deployed at more than 200 mph and was still moving far in excess of 92 mph when it reached the passenger's face and body milliseconds later. Rudnitsky said that "Ford lied to the government" when it claimed that the air bag inflated to 18 inches. Rudnitsky said it actually was 29 to 30 inches.

Sandra G. Ezell, an attorney for Ford, responded that in 1995, "nobody else had a less-powerful inflator" or a tether to limit the air bag's deployment. "Ford believes in selling safe products," Ezell said. "They believe in the 1995 Escort."

She said that the decision to install a passenger air bag was not "last-minute" and that the air bag was "well-designed, thoroughly tested."

Ezell noted that the Sept. 14, 1999, collision was a violent one, injuring Benitez, a housekeeper, and three others in the Escort. She said no one would testify at the trial that the air bag -- as opposed to Benitez's arms or other items flying in the car --

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caused the blindness in Benitez's left eye and cataracts in her right eye. "No act or omission on the part of Ford Motor Company is responsible for these injuries," Ezell said.

Rudnitsky said before the trial that he had helped persuade Nissan to recall some of its Altima models after a similar lawsuit, and that he hoped this case would have the same effect on Ford. The trial is expected to last two weeks.

Palestinians Head For Coalition Government (FT)

By Harvey Morris In Gaza City

Financial Times, January 25, 2006

A multi-party coalition government led by Fatah, with the possible inclusion of ministers from Hamas, appeared the most likely outcome of Wednesday's Palestinian parliamentary elections as last-minute polls showed the ruling party maintaining its lead.

A poll by the Palestinian Centre for Public opinion indicated Fatah would win just under 40 percent support among 1.35m registered voters in the West Bank and Gaza, 10 per cent ahead of Hamas, the Islamic movement that is contesting its first national election.

Some analysts believe Hamas's inclusion in the democratic process, a prospect that initially alarmed Israel and the US, might improve the chances of a renewal of negotiations with the next Israeli government.

With the election likely to deny Fatah the overall majority it won in the first Palestinian Authority parliamentary elections in 1996, its most likely coalition partners are small, formerly Marxist left-wing parties, the centre-left National Initiative List and the Third Way, headed by Salam Fayyad, former finance minister.

Mr Fayyad, a widely respected former IMF official who helped restore the PA's chaotic finances but quit after the leadership expanded the public payroll to pacify the restless security forces, is spoken of as a possible prime minister in a coalition government.

Hamas's inclusion will depend largely on the post-election stance of the party itself.

The Islamists might press for portfolios linked to welfare and social issues or alternatively choose to remain in opposition, at least in the short term.

Hamas has softened its traditionally militant tone, indicating that even if it gained power it would leave any dealings with Israel to Mahmoud Abbas, the PA's Fatah president.

Mahmoud Zahar, a Hamas leader in Gaza did not rule out negotiations with Israel as long as these related to ending its occupation and releasing prisoners.

"Negotiation is not a taboo," he said. "But the political crime is when we sit with the Israelis and then come out with a wide smile to tell the Palestinian people that there is progress, when in fact, there is not."

"Hamas is completely devoted to the electoral process," said Qaid Abdul-Karim, who heads the left-wing Badil list. "Not one bullet is coming from their rifles."

He said Hamas might not yet be ready for a negotiated settlement. "Hamas has some time to prepare its internal climate. But I'm sure it will do it in the end."

Fatah has restored some of its credibility in recent weeks, after a near-disastrous split at the end of last year, in part due to a vigorous anti-Hamas campaign spearheaded in Gaza by Mohamed Dahlan, a former security chief and the local strongman.

In a highly personalised televised debate at the weekend between Mr Dahlan and Mr Zahar, the Fatah candidate accused the Islamic party of being incapable of looking after the future of the Palestinians.

Mr Zahar, who alleges he was tortured in a PA prison, reminded Mr Dahlan he had been responsible in the past for the repression of Hamas militants. "As far as you're concerned, a good Hamas member is a dead Hamas member," he said.

Despite the political invective, all groups - including the frequently troublesome Fatah-linked Aqsa Martyrs' Brigades - have pledged to ensure an orderly election.

Politicians had expressed fears that armed groups might stage attacks on polling stations or kidnap foreigners if they believed the vote was not going their way.

If election day passes peacefully, officials anticipate publishing results within 24 hours.

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Voters will choose from 11 party lists to fill 66 seats in the new parliament by proportional representation. With a threshold of 2 percent, only six parties are likely to win seats. The remaining winners will be chosen from candidates standing in 19 multi-seat electoral districts, including east Jerusalem.

Palestinian Vote Could Redraw Political Scene First Parliamentary Elections Since 1996 Likely To Dilute Fatah's Power (USAT)

By Matthew Gutman

USA Today, January 25, 2006

RAMALLAH, West Bank — Palestinians in the West Bank and Gaza are voting today in parliamentary elections that could change the course of politics in the Palestinian territories and the region.

About 1.3 million Palestinian voters were eligible to choose candidates from 11 parties in the first elections for the 132-member Palestinian Legislative Council since 1996. Concerns about violence, however, had cast a shadow over the election. On Tuesday, Yousef Hassouna, 35, a local politician from a branch of the ruling Fatah Party, was killed in Nablus, a West Bank city. Hassouna was shot when he ordered opposing Fatah gunmen not to tear down a campaign poster, said Abdel Rahim Omar, a Nablus-based journalist.

Such election-related violence could deter people from voting, said Les Campbell, executive director of the Washington-based National Democratic Institute, a non-governmental organization that facilitates elections worldwide.

In response to the Nablus attack, seven militant organizations, including Hamas, signed a declaration disavowing violence on election day, said Ghazi Hamid, editor of the Hamas-affiliated weekly Al-Risala.

Palestinian President Mahmoud Abbas called on Palestinians to vote despite the threat of unrest. “The election is a right and duty,” Abbas told reporters in Ramallah, the West Bank city where his Palestinian Authority is based.

Acting Israeli Prime Minister Ehud Olmert on Tuesday said his government “will know how to operate and act under any eventuality” after the elections. In his first major televised address since taking over from Prime Minister Ariel Sharon, who suffered a massive stroke three weeks ago, Olmert reaffirmed his commitment to the U.S.-backed “road map” to peace and said he supported the idea of a Palestinian state.

He also said Israel will have to give up small portions of territory in the West Bank to keep its Jewish majority but would keep larger settlements there and never renounce its claim to Jerusalem.

Referring to Hamas, which appeared set to capture nearly a third of the parliamentary seats, Olmert said he hoped Palestinians would not “choose again the extremists who have led them from tragedy to tragedy and to sorrowful lives.”

A poll released Jan. 20 by the Jerusalem Media & Communication Center, a Palestinian research group, indicated Hamas would win 30.2% of the vote, and Abbas' Fatah would win a slim plurality with 32.3%.

Israel has said it would not deal with Hamas politicians. The United States and Europe have warned they would withhold aid to the Palestinian Authority if Hamas, which opposes Israel's existence and is on the U.S. State Department's list of terrorist groups, becomes part of the government.

Fatah and Hamas say they might consider forming a national unity government. Such a coalition would dim prospects for future Palestinian-Israeli negotiations. Hamid, the editor, said Hamas wants to join a broad coalition and would press the Palestinian Authority to adopt a harder line toward Israel. Once in government, “Hamas would not make the same mistake as Fatah and engage in 12 years of fruitless negotiation,” he said.

Sunday, Fatah's leading candidate, Marwan Barghouti, also called for a national unity government that would include Hamas. Serving five life terms in an Israeli prison for killing Israelis, Barghouti told the Al-Jazeera satellite channel, “There is no peace process.”

In Ramallah, jeweler Khamis Ali, 38, said, “We need quiet and peace for the economy.” Ali said Palestinians “need to vote for a party that can talk to Israel and America. We need a party with diplomatic experience.”

Firas Jasser Arar, 35, an electrician who was on his way to a Hamas meeting in Ramallah, referred to recent fighting among Fatah factions as a reason to doubt the ruling party's effectiveness:

“If Fatah can't even control itself, how is it supposed to achieve a state?” he asked.

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Hamas Narrows Gap With Fatah (WT)

By Betsy Pisik

The Washington Times, January 25, 2006

NABLUS, West Bank -- The final campaign rally of Palestinian Authority President Mahmoud Abbas' Fatah party was a noisy, overheated affair, with supporters up on their feet, chanting and waving banners over their heads.

But buildings, bridges and lampposts along the road to this central West Bank city were plastered with bright green posters representing Hamas -- the militant Islamist movement that is looking for an upset in parliamentary elections today.

Hamas always had been expected to perform well in the Gaza Strip, its traditional power base. But its highly visible presence in the Fatah-dominated West Bank has worried even dedicated supporters of the party created by Yasser Arafat.

"I don't think Fatah will win," said Nadia abu Ziaher, a soft-spoken student at Birzeit University who volunteers in the office of Fatah candidate Dalal Salameh.

Miss Ziaher said she likes her candidate more than his party, saying life has become harder since Fatah began ruling the West Bank a decade ago. There are more roadblocks, fewer services and persistent corruption.

Hamas did well in recent municipal elections, she said, and "they deserve it. They'll work harder."

Both parties have coordinated extensive get-out-the-vote efforts in Gaza and the West Bank, employing canvassers, rallies, media coverage and smear campaigns.

Recent polls show Hamas gaining rapidly on Fatah, though the presence of several minor parties means neither will achieve an outright majority.

Each voter will cast two ballots -- one for a party and one for a candidate running in his local district, with half the seats in the legislative council to be filled by each system. A number of seats have been set aside for women and Christian candidates.

Hamas is expected to win just under half of the votes cast for the political parties, while Fatah candidates are expected to do better than their Hamas rivals in the district-by-district voting.

But if Hamas does well enough to secure seats in the next Palestinian Cabinet, it will create a crisis in relations with Israel, which has refused to negotiate with what it considers a terrorist organization.

The top two names on Fatah's party slate are those of Mr. Abbas and jailed resistance fighter Marwan Barghouti. But pictures of the late Fatah leader, Yasser Arafat, are everywhere.

"If Fatah wins it will be because of a dead man and a jailed man," sighed one Ramallah taxi driver.

Many voters, such as a Palestinian border agent at the Erez Crossing into the Gaza Strip, say they will vote for Fatah despite its shortcomings, because they fear that Hamas would exacerbate already inflamed relations with Israel.

Hamas -- which is so deeply religious that its female followers sometimes attend separate rallies rather than mix with men -- has won many followers with an extensive network of social services and a reputation for honesty.

Hamas also has played on resentment of Israeli occupation, criticizing Mr. Arafat and his successors for negotiating with Israel and catering to its demands.

The United States and the European Union have indicated they could greatly reduce assistance to the Palestinians if Hamas plays a substantial role in the next government.

Hamas has tried to turn the threat to its advantage. "Israel and the U.S. say no to Hamas," says one flapping banner in Nablus. "What do you say?"

Waheeb Attabeh says yes.

"I am not a religious man, but I am in favor of Hamas," said Mr. Attabeh, who has sold olive oil in the historic Nablus market for 30 years. "I look to Lebanon and I see [Sheik Hassan] Nasrallah spreading the strength of Hezbollah. I want to see that here."

Mr. Attabeh, 50, sees parallels between Hezbollah and Hamas, both of which have been declared terrorist organizations by the U.S. government.

Both have stood against corruption, provided significant health care, education and welfare to the poor, and have sponsored separate political and military wings.

By comparison, Mr. Attabeh and many others dismiss Fatah as a clubby organization that looks after its members first and the people later.

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Amin Makboul, Fatah's campaign manager in Nablus, doesn't deny corruption, but claims Fatah is best positioned to end it.

"Fatah was the first to open the file on corruption," he declared. "We're telling people we've arrested and judged [the perpetrators]."

Palestinians Set For Vote And Big Shift (NYT)

By Steven Erlanger

The New York Times, January 25, 2006

RAMALLAH, West Bank, Jan. 24 - For better or worse, Mahmoud Abbas, the Palestinian president, has gotten what he wanted: Palestinian legislative elections, the first such vote in a decade.

But Mr. Abbas's accomplishment with the election on Wednesday is also an extraordinary risk. He has decided to end the monopoly of his Fatah faction over all the instruments of power in the Palestinian territories, bringing the radical Islamic group Hamas into national politics.

Many in Fatah, let alone in Israel and the United States, say they believe that Mr. Abbas is inviting the snake into the garden. They think that by trying to co-opt Hamas, rather than confronting it, he risks handing the nascent state of Palestine over to an armed group, sworn to the destruction of Israel. And they say he is digging his own political grave.

But Mr. Abbas, a pale, scholarly man of 70, has overridden the objections with his trademark distance from the fray, and his refusal to try to exercise power in the personal, tribal style of his late predecessor, Yasir Arafat.

Long Mr. Arafat's No. 2, Mr. Abbas was an obvious successor, but not a natural one. He is a man of logic, not passion; a negotiator, not a politician; a man who wears a business suit, not a military uniform; a man who condemns violence, not incites it; a man who despises personality cults and refuses to put his face up in every office; a touchy man of dark moods, who often threatens to quit, as he quit as prime minister after four months in 2003 when Mr. Arafat did not allow him enough power.

If the elections fail or if Hamas wins, making it difficult or impossible for him to carry out his intended policies of internal reform and peace negotiations with Israel, Mr. Abbas says he will quit this job as well.

Abdul Fatah Ayyseh, a Palestinian vendor, voted for Mr. Abbas and likes him. "Abu Mazen is a smart man who doesn't deserve to be the president of the Palestinian people," he said, using the name by which Mr. Abbas is known here. "He deserves to be the president of a Scandinavian country. He's smart, calm and unmilitary. He rejected the armed intifada, but he wasn't helped by the Palestinian factions, or by Fatah, or by Israel."

But Nariman Sharif regrets the moment she voted for Mr. Abbas. "You can't compare him to Abu Ammar," she said, referring to Mr. Arafat. "Abu Mazen has a weak character. I was expecting the situation on the ground would improve the minute he took over. But he's failed. He has nothing to say except, 'O.K.' Abu Ammar was respected, and the president should enjoy respect and fear. He lacks these things."

A pragmatist, Mr. Abbas is a refugee, born in what is now the Israeli town of Safed, which he fled with his family at the age of 13, in 1948. But he is considered by Israelis to be a man of principle who believes that the armed intifada is counterproductive, negotiates fairly and wants two states to live side by side.

On Tuesday, on the eve of the vote, Mr. Abbas stepped out here to urge all Palestinians to vote. "The election is a right and duty at the same time," he said. "And I hope that the results of this election will reflect honestly the choice of every Palestinian."

Palestinians seem eager to vote, with turnout expected to be above 80 percent and opinion polls suggesting a narrow win for Fatah and its secular allies. But whether Fatah then tries to govern in coalition with Hamas or tries to leave them outside as a large opposition is unclear, and Mr. Abbas, who will appoint the next prime minister, has remained silent about his intentions.

"It is Abu Mazen's achievement that these elections will take place on time," said Salah Abdel Shafi, a Gazan economist. "He was under great pressure to postpone or cancel them. It proves his genuine commitment to the process of democracy and the results of these elections."

The stakes are immense, Mr. Shafi said: "The future of Palestine in the near and medium future will be decided in the next week."

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Mr. Abbas's great gamble is a successful outcome in which Hamas is an engaged player but not dominant. "Either we emerge with a strong parliament and government, or we have the collapse of the Palestinian Authority," Mr. Shafi said. "I don't think there's any third option."

Mahdi Abdul Hadi, the director of Passia, a Palestinian research institute in Jerusalem, says the entire region is trying to come to terms with Islamic parties like Hamas, citing Egypt, Lebanon, Jordan and Syria. "You can't ignore them any more or deny them or contain them, so you have to bring them in," he said.

Hamas, with an army of 5,000 men, is too powerful to fight, and could take over Gaza within hours if it wanted, many experts say. Mr. Abbas has always said he would not start a civil war, but he has also promised Washington that he would disarm Hamas after the elections. Yet few expect anything more than a cosmetic effort to incorporate the Hamas militia into the Palestinian security forces, the way Fatah's Aksa Martyrs Brigades have been at least partly incorporated.

Mr. Abbas was elected little more than a year ago to fill the vacancy left by the death of Mr. Arafat, the complicated, charismatic leader of the Palestine Liberation Organization, of the Fatah faction and of the Palestinian Authority. "The Arafat era was three things: to pay, to appoint and to kill," said Mr. Hadi, the economist. "But Abu Mazen doesn't have this character. We don't need this kind of leader, and he is trying to deliver rule of law in stages."

Mr. Abbas has long argued that democracy will tame the radicals, and he has stuck to his plan to make that work. But in the process, he has made many mistakes. While his personal standing among Palestinians remains high, with an approval rating of more than 60 percent, he is largely without effective allies, either in Fatah or the Palestinian Authority itself, and Israel has not helped him to convince Palestinians that its withdrawal from Gaza was Mr. Abbas's accomplishment and not due to Hamas's rockets and suicide bombings.

"The general view is that he's weak," said Mr. Shafi. "People expected more leadership from him."

Mr. Abbas never set up an efficient presidential office, despite American efforts to help him do so. He never appointed a permanent press secretary to help him appeal to the population. He remained reactive and indecisive. "I don't think he really understood what it is to be president, the challenge before him and the gross mismanagement and corruption of Fatah," said a former Palestinian official who watched the process at close hand.

"There is no decision-making process, no clear chain of command," the official said. "It's like throwing cooked spaghetti against the wall. People like democracy, but they wanted institutional change. He inherited a mess, but he promised to end corruption and restore law and order and create 'one law, one authority and one gun,' but he failed miserably to do any of that."

The former official, who admires Mr. Abbas, said he had also failed to move against the Arafat holdovers in his office, who retain power to block decisions. In particular, he kept on Ahmed Qurei as his prime minister despite Mr. Qurei's opposition to nearly all of Mr. Abbas's policies.

Hanan Ashrawi, a Fatah legislator now running on the independent Third Way slate with former Finance Minister Salam Fayyad, was explicit in her criticism. "Our people have despaired of the corruption in the government institutions, the internal squabbles between the president and prime minister, over the fact that Abu Mazen goes around and does nothing," she told the Israeli daily Yediot Aharonot.

Legislators brought Mr. Qurei a plan of action for reform, but he did nothing, she said. So they brought it to Mr. Abbas, who was enthusiastic. "But instead of taking action," she said, "he cooked up a deal: freeze everything, don't throw out the corrupt officials, sit and do nothing, grasp onto the excuse of the elections."

But the elections, originally scheduled for last July, are instrumental to Mr. Abbas's effort to clean out the older members of Fatah, like Mr. Qurei, who decided not even to run.

Mr. Abbas's theory is that his mandate comes from voters - unlike Mr. Arafat's, which came from his past. With Fatah split into three parts or more, the Palestinian Authority was scarcely representative, so it needed a new, democratic legitimacy. And Hamas had become too powerful to fight on any battlefield except the democratic one, where he believed it might be contained.

So in Mr. Hadi's view, "he left things loose - he didn't embrace anyone or commit himself to any one path; he let things develop on their own." Whether that's good or bad, he said, remains to be seen.

Mr. Shafi said, "He understood his role to have new elections and put a legitimately elected government in place, but he didn't understand that he also had to restructure and reform the Palestinian Authority."

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Prime Minister Ariel Sharon of Israel "wanted no Palestinian partner," Mr. Hadi said. "He had no interest in recognizing the Palestinians or dealing with them."

Israeli promises to Mr. Abbas to release a large number of Palestinian prisoners, hand back large cities to Palestinian control, loosen travel restrictions in the West Bank and ease access of people and goods to Gaza all fell afoul of Palestinian terrorist attacks and Israeli internal politics, making his arguments against terrorism seem hollow.

"The fact that Israel and the international community did not deliver hurts Abu Mazen," Mr. Ahmed said. "It's a miscalculation that will be reflected in the results of the elections."

Still, Mr. Abbas is the author of many of his own problems, Mr. Hadi said. "Abbas is no hypocrite," he said. "Everyone wants him to be different. But he cannot be."

Hamas Poised To Become Insiders (WP)

By Scott Wilson

The Washington Post, January 25, 2006

GAZA CITY -- Mahmoud Zahar is a relatively well-off thyroid surgeon who wears his thinning gray hair in a comb-over that shakes loose when he is angry, which is often. On his forehead is the dime-size bruise of a devout Muslim, the result of many hours spent praying in the mosque across the dirt street from his house here.

He is also among the most obdurate leaders of the Islamic Resistance Movement, or Hamas, and will almost certainly be among those who emerge victorious as Palestinians vote Wednesday for parliament for the first time in a decade. Often described by those who know him as severe and short-tempered, Zahar is ebullient as the movement makes its first bid for power in the Palestinian Legislative Council.

"We are feeling victory," Zahar, 60, said during an interview earlier this week in the sunny courtyard of his home. "The people are going to vote for the project of the resistance. Israel should know that a new political and moral atmosphere is going to appear."

Hamas is projected to win roughly a third of the new parliament's 132 seats and bring the Islamic movement inside the Palestinian government. Hamas, a party at war with Israel, refused to participate in earlier elections and rejected the 1993 Oslo peace accords that led to the creation of the Palestinian Authority. Now, Hamas may be taking new risks by joining a weak and nearly bankrupt Palestinian government it has scolded from the outside for years.

Already Hamas leaders are facing questions about how they will manage future peace negotiations with Israel, win the freedom of thousands of Palestinian prisoners from Israeli jails, and ease the occupation in the West Bank given their vow not to recognize Israel or talk to its leaders.

At the same time, many Hamas followers who favored the group's past attacks on Israeli soldiers and civilians over the Palestinian Authority's cooperation with Israel are wondering why the movement is going mainstream while the occupation endures in the West Bank.

Each week in the courtyard of the Red Cross here, a group of women gather to demand the release of the estimated 7,000 Palestinians in Israeli jails. Most of the women are poor, desperate residents of the Jabalya refugee camp. They are veiled, clutching framed photos of their sons. They are the natural constituency of Hamas. Yet none said they intend to support Hamas now. "If they wanted to help, they would be here protesting with us," said Ghaliah Barood, 70, who leads the weekly demonstration. "But you can see that none of them are."

Although Hamas officials vow not to meet with Israeli officials, Zahar said he favors mediation through Egypt, Jordan or the European Union to win the prisoners' release, perhaps the most emotional issue in Palestinian politics. Barood, whose son Ibrahim has been in an Israeli jail for two decades, said only kidnapping Israeli soldiers would win the prisoners' release. "We've never seen anyone pay attention to us, and now they only come for our vote," said Aziza Abu Dabah, 55, whose son has been in jail for 11 years.

Though designated a terrorist organization by the United States, Europe and Israel, Hamas has positioned itself among Palestinians as the clean counterweight to the corrupt, ineffective rule of Fatah, the movement that governs the Palestinian

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Authority. Hamas has a military wing that has carried out deadly attacks on Israelis, but its popularity stems largely from the grass-roots charity work and political organizing that is the hallmark of Islamic movements throughout the Arab world.

Here in the Gaza Strip banners festoon the streets bearing the "Change and Reform" label alongside a green crescent moon, the Hamas trademark. In some places, the signs bear the faces of Sheik Ahmed Yassin and Abdel Aziz Rantisi, Hamas leaders in Gaza whom Israel assassinated in 2004.

In the final week of the campaign, Hamas has been broadcasting television ads featuring the party's top national candidate, Ismail Haniyeh, explaining why it is joining the government. Haniyeh, who favored participating in the first parliamentary elections a decade ago, says Hamas will be better able to confront corruption, free Palestinian prisoners and fight the Israeli occupation from inside the system.

Zahar, who lost a son in a 2003 Israeli airstrike that also broke his back and badly injured his wife, said Hamas will not abandon its goal of establishing a Palestinian state across a territory that includes what is now Israel. He argued that Hamas is not joining the existing Palestinian Authority so much as creating a new government through its presence.

"This is to assure people they have not shifted," said Nashat Aqtash, a professor of media studies at Bir Zeit University in the West Bank who is designing the Hamas advertising strategy, though he is not a party member. "They are moving in one direction -- fighting corruption and the occupation -- and that has not changed."

He added with a laugh, "I'm just afraid they'll win more than 50 percent of the vote, and then they'll be in real trouble."

Hamas showed well in a number of municipal races last year, especially in urban areas where its message of war with Israel and its charity networks have broad appeal in the refugee camps. But Hamas may find criticizing the Palestinian government far easier than governing an increasingly frustrated electorate. Leaders of Fatah, a secular movement, say a coalition government with Hamas will likely be impossible given their vastly different views on relations with Israel, the role of Islam in political life, and the future of party-affiliated militias now roaming the Palestinian territories.

"The issue is not who will win in the elections, but the power-sharing and political partnership that must follow," said Ziad Abu Amr, a longtime broker between the Palestinian factions, who is running as an independent candidate from the Gaza City district with the public support of Hamas.

Abu Amr said a "national accord" will have to be reached in parliament outlining a political consensus on the most pressing issues -- peace talks with Israel, continuation of the temporary cease-fire, disarmament of the militias, and reforms in a bureaucracy staffed almost entirely by Fatah members. He said Israel's elections in March and the aftermath will give the new Palestinian parliament time to focus first on internal matters.

"We'll have a breathing space of about six months, and we'll need that time to organize ourselves," he said. "The fact is there is no alternative to real partnership, and the two parties will be Fatah and Hamas."

Polls show that roughly 30 percent of the Palestinian electorate remains undecided, and in the final week, Fatah and Hamas leaders have been casting their rivals as the more dangerous option.

Abdullah Frangi, head of Fatah's campaign here, said of Hamas: "They are pragmatic and they say they will not try to destroy Israel. But it is not working. It would be very hard on the Palestinians if Hamas became the government, and this is the message we are telling people now."

Zahar, dressed in a khaki suit and stylish silk tie, is among the sternest personalities in a movement whose members celebrate the grim culture of suicide attacks and hope to establish Islamic law in the Palestinian territories.

Zahar said Hamas would not give up its military wing after joining the government, which Palestinian Authority President Mahmoud Abbas has said would be required. Zahar also warned that the cease-fire with Israel that Abbas brokered with armed Palestinian factions last year was no longer operative, saying, "We are outside the calm, but it is in our hands."

"The Palestinian Authority has failed to achieve even the most basic demand: a Palestinian state with Jerusalem as its capital," Zahar said. "The people know it is time for the party with clean hands to take over."

But Hamas has already dealt with Israeli officials in its capacity running municipal councils. In the West Bank town of Qalqilyah, Hashem Masri, the Hamas mayor, acknowledged recently that he has sought permission from the Israeli military to build an industrial park he hopes will create hundreds of jobs. Whether that contact will continue at the national level is uncertain, but some former Israeli security officials see the elections as an opportunity.

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"Israel must take a chance with Hamas inside the system," said Shalom Harari, a retired senior Israeli military intelligence officer now with the International Policy Institute for Counter-Terrorism in Herzliya. "We're already faced with a failing peace process that had them on the outside. Israel has nothing to lose. They are already here. Let's try to tame them."

Why Hamas Is Gaining In Palestinian Polls (CSM)

By Ilene R. Prusher, Staff Writer Of The Christian Science Monitor

The Christian Science Monitor, January 25, 2006

NABLUS, WEST BANK - Speaking easy English and shaking the hand of male and female visitors alike, Adli Yaish is hardly the typical face of Hamas, the Islamic Resistance Movement.

Rather, the new mayor of Nablus embodies a cadre of Hamas "spinoffs." Gone are the full beards and fiery religious rhetoric. Absent are assertions that all Israel is a "Zionist entity" that Muslims must destroy.

Saying they are inspired by - though not in lock step with - Hamas's militant core, politicians like Mr. Yaish have come to the fore in the group's first campaign for national representation. And when Palestinians vote in Wednesday's legislative elections, analysts say, it's Hamas's more moderate tone, as well as disillusionment with the ruling Fatah Party, that will yield the group significant gains.

At the same time, its mix of moderate and hard-line messages may complicate Israeli and US stands against dealing with Hamas, which both countries consider a terrorist organization.

Campaigning was barred Tuesday, while thousands of Palestinian security officers took up positions in the West Bank and Gaza to protect polling stations. Armed groups pledged to maintain calm during the election, but gunmen linked to Fatah killed a party leader, spurring about 1,000 supporters and activists to march in Nablus in protest of the lawlessness.

According to the latest figures from the Palestinian Center for Policy and Survey Research, based in Ramallah, 42 percent of Palestinians will vote for Fatah, while 35 percent will vote for the Hamas-backed Change and Reform Party.

But it is unclear how Hamas's popularity will translate into policy. The group, which is responsible for the greatest number of suicide bombings targeting Israeli civilians, only recently became involved in municipal, let alone national, governance.

Some Palestinians say that Hamas is hoping it doesn't get a majority, preparing instead to be an opposition or second-largest power. In recent interviews, leaders have said that they will not change their charter calling for Israel's destruction. But Tuesday, Hamas leader and candidate Mahmoud Zahar said in Gaza that "negotiation is not a taboo," adding at the same time that "we do not consider the Israeli enemy as a partner or a neighbor." Hamas takes a pragmatic turn

To some observers, appearance of figures like Yaish suggest that Hamas may be placing itself in a more pragmatic spot on the Palestinian spectrum. Others say that Hamas has widened its umbrella by appealing to people who abide by Muslim values but are not extreme. And amid disarray within the Palestinian Authority (PA), run since 1994 by the secular Fatah faction, Hamas is gleaning much of what might be called a protest vote.

At the Arafat Sweets Shop - no relation to the late Palestinian leader - there is a popular sentiment: Throw the Bums Out, Middle Eastern-style.

"We want change. We want our leaders to be people who fear God," says Abdullah Kassem. "We were Fatah supporters," he says of his friends, "but we are demanding new faces. The PA is full of criminals and there is unbelievable lawlessness."

As the men chat, Amal Khreishe, a candidate for one of the most liberal of the 11 lists running for office, approaches to ask for support.

"If we only have Fatah and Hamas, and if there is conflict because of that, the people will pay the price," she says. She is a member of the list headed by Mustafa Barghouti, a physician with a small following among academics and moderates.

The men are friendly but appear unswayed in their intent to vote for Hamas. A nearby wall is carpeted with posters, almost all of them for Hamas. On the street, there is malaise and a desire for quick solutions. Anger at Israel mixes with feelings that the Palestinian leadership is corrupt and weak. Violence within Fatah, particularly in Gaza, seems to bolster the image of a Hamas that is tightly run.

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"Fatah has had 10 years to negotiate, and just look at this," says Suleiman Kawarik, a driver, as he points to long lines at the checkpoint south of the city. "It's like trying to leave the country, just trying to leave your city. The PA can't help anybody - they just give out small services...." Hamas provides social services

Hamas was founded in the Gaza Strip in late 1987, at the start of the first intifada, as the Palestinian branch of the Muslim Brotherhood. Its secretive military wing, as Hamas describes it, carried out attacks on Israelis. But while its political wing rejected the Oslo Accords, it opened a dialogue with the Palestinian authors of the peace process in Fatah.

Meanwhile, Hamas runs preschools, youth clubs, and health clinics. It provides needy people with assistance, and even holds free weddings. It is that face of Hamas that many Palestinians see first.

"People think of Hamas as only killing people, but no, this is only one side of the picture. We are also doing a lot of social work," says Yaish, who studied at Liverpool University in England and is a father of six. He believes that Hamas will come to be accepted internationally as an interlocutor. "I think the Americans and the Israelis have to deal with anyone the people choose," he says.

The city's deputy mayor, also from the Reform and Change Party, says the world should see their party as one might view Christian Democrats in Europe.

"Religious people here are the elite," says Nihad Masri, an obstetrician. "You can't find an unemployed man among us. I condemn suicide bombings, but are they justified or not? We don't have anything else to defend ourselves with," he says, pointing to Israel's controversial barrier and military incursions.

But some Palestinians say the only way out of conflict is to return to talks with Israel, and support Fatah as the best route. "[O]nly Fatah can negotiate with Israel," says Hussam Bakeer, who runs an appliance store here. "Fatah is internationally accepted at the negotiating table."

Indeed, while Hamas says a temporary truce - even a long-term one - could be on the table, it continues to strike a combative tone. In one campaign ad, rebroadcast by CNN, the group shows footage of militants as it states: "We will not rest as long as one inch of our holy land is in the hands of the Jews. Our flags will fly over the minarets of Jerusalem."

• Wire material was used in this report.

Hamas Plays Different Tune (WT)

By Joshua Mitnick

The Washington Times, January 25, 2006

BIDDU, West Bank -- Hamas is working to soften its image both abroad and domestically on the eve of today's Palestinian elections, recognizing that its reputation for violence is hurting its cause, at least in the West.

At a campaign rally in this village of 8,000 in the final days before the elections, one banner featured a slogan in English that said, "We don't sing the song of death, but recite the hymns of life."

A professional media consultant hired by the campaign acknowledged that after years of suicide bombings and other attacks on Israelis, the Palestinians in general and Hamas in particular are thought of abroad as bloodthirsty.

"We are just screaming and shouting, and nobody knows the story. People think we are occupying Israel," said Nashat Aqtash, a communications professor at Birzeit University. "We need to address Westerners differently. We need to talk their language."

Mr. Aqtash, who said he is not a member of Hamas, said the group is spending about $40,000 to improve its image in the foreign press.

Hamas could end up with one-third to half the seats in the Palestinian parliament, giving the militant group a powerful role both domestically and in relations with Israel. That has made it more imperative for the group to repackage itself.

The new tone also offers a test for the Bush administration's theory that as militant organizations buy into a growing Middle East democracy movement, they will become more responsible.

"As people start getting elected and have to start worrying about constituencies, social issues and living standards -- and not about whether their fire-breathing rhetoric against Israel is being heard -- then things start to change," Secretary of State Condoleezza Rice said in an interview at The Washington Times in March.

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But Israelis will not be easily convinced. Acting Israeli Prime Minister Ehud Olmert said yesterday that he hoped Palestinians would not "choose again the extremists who have led them from tragedy to tragedy and to sorrowful lives."

Nevertheless, the Hamas campaign rally in Biddu was missing the incendiary rhetoric of the recent intifada, with its threats to target Israeli buses and restaurants.

The Hamas charter calling for the destruction of Israel also has been submerged by a campaign platform that is much more vague about the issue.

A rising star in the party is the relatively moderate Sheik Mohammed Abu Tir, a candidate from East Jerusalem who has spent 25 years in Israeli jails and is instantly recognizable by his fiery red beard.

In the past week, Sheik Abu Tir has been quoted on Israeli television and in newspapers boasting that Hamas would do a better job of negotiating peace than the Palestinian Authority has done.

At the Biddu rally, he sent out mixed messages. He wagged his finger as he declared the 1993 Oslo peace accords a dead letter, done in by the "blessed intifada." Then he hinted at the possibility of talks.

"We are the owners of a mature political process," he said of Hamas' diplomatic strategy for ending violence with Israel. "We want to engage politically and socially."

Eyad Saraj, an independent candidate for parliament and a Palestinian human rights activist, said Hamas is undergoing a real change, even if it has not gone far enough to satisfy Israel. He pointed to the group's honoring of a yearlong moratorium on attacks on Israel.

The Islamists have not dropped support for an armed uprising against Israel, but now advocate negotiating a settlement indirectly with Israel based on the ill-fated U.N. partition plan of 1947.

"They have become more sophisticated, and more mature, and more professional in their work," Mr. Saraj said. "They are playing it cool."

Yossi Alpher, editor of the online Israeli-Palestinian opinion forum Bitterlemons.org, said it's too early to say what direction the organization is headed.

He noted that Hezbollah in Lebanon refused to disarm even after winning a bloc of seats in that country's parliament. "Frankly," he said, "I'll be very surprised if after the election [Hamas] will become more moderate, but there is a possibility."

With Hamas On Palestinian Ballot, The Stakes Are Immense (USAT)

By Barbara Slavin

USA Today, January 25, 2006

A strong showing in today's Palestinian elections by Hamas, which the United States has designated a terrorist group, could jeopardize U.S. aid to the Palestinians and Arab-Israeli peace efforts.

In December, the House of Representatives approved, 397-17, a resolution saying U.S. relations and $350 million in aid pledged to the Palestinians this year would be at risk if Hamas becomes part of the government. The European Union also has warned that it might cut off its $312 million contribution.

In a letter to President Bush on Dec. 21, 70 U.S. senators said the president must “make clear to Palestinian leaders that terrorist groups must either disarm or be banned from the political process.” If Hamas gains a foothold in the Palestinian legislature, the United States “will have little choice but to re-evaluate all aspects of our relations with the Palestinian Authority,” the letter said.

The Bush administration says it expects those who come to political office to renounce violence.

“There should be no place in the political process for groups and individuals who refuse to renounce terror and violence or refuse to recognize Israel's right to exist or refuse to disarm,” Assistant Secretary of State David Welch said this month.

That may be too optimistic, says a new report on Hamas by the International Crisis Group, a Brussels-based organization that tries to avert and end conflicts.

“It is a safe assumption that for most Islamists, integration (into electoral politics) is meant to complement armed struggle rather than replace it,” the report says.

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Israel originally tolerated Hamas in the 1980s to blunt the power of the Palestine Liberation Organization, which was leading the fight against Israeli occupation of the West Bank and Gaza.

Israel reached a peace deal with the PLO and its leader, Yasser Arafat, in 1993. Arafat then became leader of the Palestinian Authority, while Hamas continued to reject Israel's right to exist.

Now Hamas could win 30% or more of the seats in the legislature, according to recent surveys.

Khalil Shikaki, a Palestinian pollster, said the weakness of the government led by Prime Minister Mahmoud Abbas, Arafat's successor, and his Fatah Party could clear the way for a Hamas takeover.

"We are at a point where this could be the end of the era of the nationalists and the beginning of the era of the Islamicists," he says.

Hamas is one of several Islamic political parties gaining strength throughout the Middle East, most prominently in Egypt, Iraq and Lebanon. They all share opposition to U.S. policies, particularly American support for Israel.

Religious parties are gaining because they are "the most organized, best-funded, most dedicated and most attractive" alternatives to corrupt authoritarian regimes, says Daniel Pipes, director of the Middle East Forum, a Philadelphia-based think tank. Their views contradict the U.S. goal of creating "liberal, stable, open societies," he says.

Don't Deal With Terrorists (USAT)

By Daniel Pipes

USA Today, January 25, 2006

As Hamas, the Islamist terror group, surges in the polls with a prospect of joining the Palestinian Authority or even running it, governments worldwide must decide on their responses.

Masked Hamas gunmen join a press conference in Gaza. Hamas is intent on destroying Israel, one founder recently reiterated.

An increasing number of voices are calling for Hamas to be recognized, arguing that the imperatives of governance would tame it, ending its arch-murderous vocation (it has killed about 600 Israelis) and turning it into a responsible citizen.

Even President Bush made this argument in early 2005: "There's a positive effect when you run for office. Maybe some will run for office and say, 'Vote for me, I look forward to blowing up America.' ... I don't think so. I think people who generally run for office say, 'Vote for me, I'm looking forward to fixing your potholes, or making sure you got bread on the table.' "

The historical record, however, refutes this "pothole theory of democracy." Mussolini made the trains run, Hitler built autobahns, Stalin cleared the snow and Castro reduced infant mortality — without any of these totalitarians giving up their ideological zeal nor their grandiose ambitions. Likewise, Islamists in Afghanistan, Iran and Sudan have governed without becoming tamed. If proof is needed, note the Iranian efforts to build nuclear weapons amid an apocalyptic fervor.

Hamas might have hired a spin doctor to improve its image in the West, but its leadership candidly maintains it has no intention of changing. Responding to a question on whether Bush is correct that U.S. engagement with Hamas would moderate the terror group, Mahmoud Zahar, a Hamas founder, laughed and declared that this tactic "will not succeed." In recent days, Zahar has publicly reiterated that Hamas still intends to destroy Israel.

Fortunately, U.S. policy remains steadfast: "We haven't dealt with Hamas, and we won't deal with Hamas members who are elected," says U.S. embassy spokesman Stewart Tuttle in Israel. That is a good start; ideally, there should be no dealings at all with a Palestinian Authority that includes Hamas in its leadership.

It was a mistake to permit Hamas to compete in elections. Like al-Qaeda, Hamas should be destroyed, not legitimated, much less courted.

Ballot Box Gains For Hamas Pose Dilemma For U.S., Allies (USAT)

USA Today, January 25, 2006

The Middle East, one saying goes, is a place where anything can happen — and often does. How else to describe the transformation of now-ailing Israeli Prime Minister Ariel Sharon?

After dedicating his life to settling disputed land, Sharon recently gave some settlements up — forcing Israeli families out at army gunpoint — in the name of long-term Israeli security.

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An equally stunning transformation, at least on the surface, has been taking place in the run-up to today's first legislative Palestinian elections in a decade. Hamas, an Islamic terror organization dedicated to the destruction of Israel, has given itself a campaign makeover.

Curtailed are the black masks, glorification of suicide bombers, Kalashnikovs and much of the wipe-Israel-off-the-map rhetoric. Hamas has been campaigning as the "Change and Reformation Party," specializing in getting out the vote, ending corruption and bringing prosperity.

A strong showing by Hamas would underscore one of the biggest risks in promoting democracy in the Middle East: Radical Muslims can win elections. Though many Palestinians are wary of its Islamic fundamentalism, polls indicate Hamas could get as much or more of the vote in its first big foray into politics as the ruling Fatah Party could.

Hamas' makeover is being orchestrated by a savvy PR expert, raising the obvious question: How much of it is for real, and how much of it is a cynical ploy to grab power, then revert to big-time terrorism? Given Hamas' history, extreme skepticism is in order.

Even so, the smartest strategy for U.S., Israeli and international policymakers is to find ways to prod Hamas to make its new image more than cosmetic. Hamas needs to be pushed onto the path taken by the Irish Republican Army (IRA), which over time split into a military and political wing, the former slowly overwhelmed by the latter.

That's far easier said than done. First, the United States and others correctly insist, Hamas has to affirm Israel's right to exist and commit itself to disarm. That has to be the non-negotiable baseline. But beyond that there needs to be a concerted campaign to coerce Hamas into taking political responsibility and building constructively on its long-standing social services to Palestinians. Unlike al-Qaeda, which condemns democracy and elections, Hamas shows some willingness to change.

Fatah, the party whose dominance is set to be weakened — or even end — in the elections, has similar origins to Hamas: It originated in the former Palestine Liberation Organization, a terror group led by the iconic Yasser Arafat. Israel, with U.S. and international backing, ultimately negotiated with Arafat. But Mahmoud Abbas, who became president after Arafat's death in 2004, has been weak and unable to control infighting.

One reason the IRA evolved was because followers in Northern Ireland, much as the Palestinians now, grew tired of violence. Many Palestinians who vote for Hamas today want their own version of the "Sharon precedent," according to Israeli newspaper columnist Sever Plocker.

That might take years, if at all. But Sharon's late-in-life conversion shows nothing is impossible, even Israeli talks some day with a Hamas offshoot. As Yitzhak Rabin, the late Israeli prime minister, once said, "You don't make peace with friends. You make it with very unsavory enemies."

Acting Israeli Leader Backs A Palestinian State (NYT)

By Greg Myre

The New York Times, January 25, 2006

JERUSALEM, Jan. 24 - In his first major policy address since becoming Israel's acting prime minister, Ehud Olmert said Tuesday that he backed the creation of a Palestinian state, and that Israel would have to relinquish parts of the West Bank to maintain its Jewish majority.

"We support the establishment of a modern, democratic Palestinian state," Mr. Olmert said at the annual Herzliya Conference near Tel Aviv, which has become a forum for important speeches by Israeli leaders. "The existence of two nations, one Jewish and one Palestinian, is the full solution to the national aspirations and problems of each of the peoples."

He said he was following the path set down by Prime Minister Ariel Sharon, who suffered a severe stroke on Jan. 4 and remains in a coma.

In his remarks, Mr. Olmert said the biggest challenge facing Israel was defining the country's permanent borders in ways that assured a continued Jewish majority. While maintaining that the West Bank is part of "our historic homeland," he said demographic realities required handing back parts of the territories, which Israel captured during the 1967 Arab-Israeli war.

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"The choice between allowing Jews to live in all parts of the land of Israel and living in a state with a Jewish majority mandates giving up parts of the land of Israel," he said. "We will not be able to continue ruling over the territories in which the majority of the Palestinian population lives."

Mr. Olmert did not offer new proposals, but said this was an opportune moment to revive peacemaking efforts, with the Palestinians holding parliamentary elections on Wednesday and with Israel holding its legislative elections on March 28.

"The elections tomorrow in the Palestinian Authority are a historic opportunity for the Palestinians to take a giant step toward realizing their goal to achieve national independence," he said. But he added, "The key to moving the political process forward is for the Palestinians to abandon the path of terror."

The elections could complicate peace efforts, however. The radical Islamic faction Hamas, which has waged a suicide bombing campaign against Israel, is poised to make a strong showing, and Israel and Hamas have always refused to deal with each other.

Like Mr. Sharon, Mr. Olmert said he would be guided by the road map, the international peace plan that was introduced in the summer of 2003 but immediately stalled.

Neither side has met its requirements in the first stage of the plan, which has three stages and ultimately calls for a comprehensive peace agreement and a Palestinian state. Still, Mr. Olmert cited the rarely mentioned second stage, which would allow for a Palestinian state with temporary borders.

The Palestinians could have a state "even before all the complicated issues connected to a final agreement are resolved," he noted.

The Palestinians have generally opposed interim measures, and prefer to focus on final-status issues. The Palestinian leadership seeks a state in all of the Gaza Strip and the West Bank, with a capital in East Jerusalem. Mr. Olmert stressed that, in any final settlement, Jerusalem would remain a unified city under Israeli control.

Responding to the speech, Saeb Erekat, the chief Palestinian negotiator, said: "I want Mr. Olmert to know he has a partner on the Palestinian side. I hope he will abandon unilateral Israeli actions and come back to the negotiating table so both sides can begin to implement their obligations under the road map."

Mr. Sharon has not shown any significant signs of recovery in recent days, and there is now an almost universal assumption that he will not return to political life. In his absence, Mr. Olmert has become the acting head of the centrist Kadima party, which is heavily favored in the Israeli elections, according to opinion surveys.

As the acting prime minister, Mr. Olmert initially avoided major decisions, but lately has begun to assert himself. He said Israel should limit construction in Jewish settlements, work to improve the daily lives of Palestinians and take down West Bank settlement outposts that were erected without government permission.

But the Palestinians want all Jewish settlements in the West Bank removed, something Mr. Olmert said he was not prepared to do.

He said Israel would "maintain control over the security zones, the Jewish settlement blocs and those places which have supreme national importance to the Jewish people, first and foremost a united Jerusalem under Israeli sovereignty."

About 250,000 Jewish settlers now live in the West Bank, a figure that is increasing by more than 10,000 annually. The figures do not include Israelis living in East Jerusalem, which was captured by Israel in the 1967 war and then annexed.

Mr. Olmert was a strong advocate of Israel's unilateral withdrawal from the Gaza Strip last summer, though he has not said whether he would be prepared to take a similar action in the West Bank.

"We would prefer an agreement," he said. "To realize this opportunity, the Palestinians will have to give up part of their national dreams, just as we have given up some of our national dreams."

The Samurai Of Zionism (NY)

New Yorker, January 25, 2006

This week in the magazine, Ari Shavit writes about the life and career of Israel's Prime Minister, Ariel Sharon, who has been incapacitated since suffering a stroke, earlier this month. Here, with Amy Davidson, Shavit, a columnist for the Israeli newspaper Ha'aretz, discusses Sharon's legacy.

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AMY DAVIDSON: In your piece this week, you write that there have been many Sharons: Arik of Sinai, Arik the Settler, Arik the Leper. Was one of them the real Sharon?

ARI SHAVIT: If you look at Sharon's life, the bottom line is that he is the "samurai of Zionism," as I refer to him in the article. Basically, he is a warrior. He is the product of the Israeli-Palestinian tragedy, and he became a major player—actor—in it. His life was about the aggressive and combative elements of the Zionist directive. This man has affected the lives of all Israelis and Palestinians, in many episodes over several decades, but I think that, at the end of the day, what was most important was the settlements. In this sense, Arik the Settler is the one who, unfortunately, had more influence than all the others. He changed the reality on the ground in a fundamental way. Ironically, toward the end of his life, he began undoing some of what he did during most of the previous quarter of a century, while still trying to save other parts. The drama of creating the settlements—which I think was a pitiful project and absurd in many ways—and the drama of the undoing are what will remain with us in the years following the Sharon era. This is not history; it is still history in the making, and it will shape our future here in the next decade.

AD: What do you think drove him to undo some of what he did? For a lot of Israelis, the dilemma is remaining both a Jewish state and a democratic state, given the demographic reality. Was that his concern?

AS: Later on, it did become his concern. But I'm not sure that his initial conversion was because of democracy. I think that it came about for strategic reasons. He failed to suppress terror; he failed to create a suitable Palestinian partner for the political process he had in mind; and he failed to get enough international support for his war against Yasir Arafat. So he was faced with a real political threat in 2003. One has to understand that, to begin with, the Sharon strategy for this decade was, basically, to suppress terror in the first phase, not to negotiate until there was calm, and then to try to negotiate an interim long-term agreement with the Palestinians. He had some success with both, but, ultimately, he failed. He did not beat terror, and he could not bring Arafat—and not even Abu Mazen—to go along with his sort of political process. So he found himself facing a political dead end, in which he saw that the outcome would be increasing international pressure on Israel and, possibly, the loss of the support of the American Administration, which was so essential to him. And the Israeli left, which was beginning to have war fatigue after giving Sharon a chance for two years, was emerging again as a potential opposition. All of that together brought him to understand that he must take the initiative in order to stop the stagnation and create some sort of new momentum, which he hoped he would be able to master. The demographic factor has dominated the discourse of the Israeli left and center for a long time. Sharon was a late bloomer, or discoverer, of the demographic reality.

AD: Sharon went from being the champion of the most radical settlers to being someone they viewed as having betrayed them by withdrawing from Gaza. How do you think the settlers view him now, as he nears the end of his life?

AS: This is a fascinating story, which not only is political, with historical repercussions, but has a very strong emotional and human element. There was, I would say, an unholy alliance between Sharon and the settlers. He needed their messianic energy to fulfill his strategic settlement plan, which was to take part of the West Bank and Gaza and to basically annex them to Israel, but he did this without having any religious and messianic thinking. He was using them because he did not have the support of the Israeli left, the Israeli Labor movement, or even the Likud people, who are not settler types. The settlers, for their part, saw him as a sort of contractor, who carried out their divine plan although he didn't believe in it. They thought, He doesn't know what he's doing. These were two different schools of thought, two different persuasions, and they made a kind of alliance that was strategic but had a contradiction at its core. They chose each other without anyone knowing who would laugh last. The crisis between Sharon and the settlers was waiting to happen. It was not a total surprise. Throughout the years, the settlers respected him very much, they admired him; he was not only helping them with their project but was an embodiment of the warrior, the man of the land. They worshipped these elements in his character, but they were suspicious of him, and many of them feared that one day Sharon would dismantle the settlements. Sharon swore to them, literally swore, that he never would. And then, as in a Greek tragedy—and to the delight of the liberals in Israel and throughout the world—he betrayed them, in a very aggressive, brutal way. They also knew that he was the only person, the only politician, who had the political ability to carry out this project; if anyone would do this to them, it would be Sharon. And their nightmare was fulfilled. On the one hand, they felt betrayed, and, on the other hand, they were somehow paralyzed, bewitched by his nationalistic charisma, by the Zionist mythology he carried with him, and they couldn't quite get their act together in fighting him. And this is why he really left them completely shattered. He not only dismantled twenty-five settlements; he left their leadership in deep crisis, their entire political force in complete disarray. We who

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saw the settlers as a great enemy of benign Zionism, of Israel as a democratic state, we have to thank Sharon for this. Yet, if you look at it from a storyteller's point of view, this was a very cruel drama that had all the elements of trust and betrayal.

AD: That ambivalence you talk about, on the part of liberals in Israel—do you think that's shared by Palestinians? Do you think that Arabs will eventually view Sharon as a strangely positive figure, or always as a negative figure?

AS: I think you saw growing respect for Sharon among Palestinians and throughout the Arab world in the past two years. When he first made his disengagement plan public, there was total mistrust. People did not believe that he would fulfill it. And there were very good reasons for this mistrust, because Sharon's record was very troublesome, both because of his past brutality and because of his cunning ways. But once Sharon proved that he was serious, and that he was willing to put all his political capital on the line and risk everything in order to implement the pullout from Gaza, I think that brought him a lot of respect among Palestinians. I don't think they can, or should, forget his history. They'll always remember the brutal Sharon, the Sharon who fought viciously and aggressively against them in the fifties and sixties, in 1971 in Gaza, and, most of all, in Lebanon in the early eighties. But look at the turnaround of this person, who was so hated, and yet left them with two amazing achievements. He left 1.4 million Palestinians free, for the first time in Palestinian history. Gaza is a mess, it's surrounded, the situation there is very troubling, and Sharon bears a lot of responsibility for that. But one cannot ignore the fact that he created this precedent. The other contribution is bringing the entire Israeli public to accept the idea of a Palestinian state and a two-state solution. Ehud Barak, the Israeli Prime Minister in 2000, broke the taboo, but he didn't have political backing. In many ways, Sharon became, whether he liked it or not, the father of the Palestinian state-to-be. This is an enormous historical contribution, and I think that sober Palestinians realize that.

AD: In your interviews with him and elsewhere, Sharon has been very blunt about his disdain for Arabs—his disdain for them not just as political adversaries or enemies but as a people. One likes to think that peace and reconciliation go together, that increased understanding between Jews and Arabs is a part of the peace process, and yet it seems not to have been for him.

AS: Sharon was a deeply incorrect—politically incorrect—person, and not only regarding Arabs. He had prejudices regarding Jews as well, and regarding Europeans; he was not p.c. in any way, from the day he first knew his own mind to the day he collapsed. It was not part of his world. He was not a humanist in any way, he was not a universalist; he cared about the Jews and only about the Jews, and whatever he did he did because he thought it would serve him and his people. Now, when it comes to his attitude toward Arabs—first of all, I must say these are some of the most fascinating and troubling lines I've heard from him, and I was surprised how direct and frank he was in saying it, not realizing how immoral it was, when he talked about not trusting Arabs in general. I think that this was something that was very true of him, this deep mistrust of our Arab and Palestinian neighbors. And I think that, to the end, he really was not a man of peace. Because you're absolutely right: if you want peace, you need real respect of the other, real understanding of the other's rights, and real understanding that not all justice is on your side and that compromise is needed, not only for political reasons but for moral reasons. Sharon had none of this; I do not think he had a moral element of this sort. But, perhaps, this makes his process even more interesting. Because, although he did not believe in peace, he wanted to have some sort of quiet. He did—and here I do believe him—want to have less bloodshed and more stability. And, in fact, he thought that the people who speak highly of peace, of the perfect peace, of an ideal peace, were actually going to bring much more bloodshed. He thought—and he was not the only one—that the record of recent years proved that when you try to impose an ideal notion of peace on a very troublesome, rough neighborhood, such as the Middle East, the outcome is actually more violence, more bloodshed, and even war. What he was trying to do was reduce occupation, reduce friction, reduce the level of violence, although he didn't have any of what he would call "illusions" about a European kind of peace and coöperation. He did believe in a kind of coöperation on the ground—economics, commerce, water, agriculture. But he didn't believe it was time for a real, historical reconciliation, because he thought the Palestinians were not ripe for that. One might say he was not ripe for that, either.

Having said all that, it is worth mentioning that he did have respect for our Arab neighbors in terms of what he believed was their concept of nationalism, their attachment to the land, the role that honor played in their political life. He even expressed envy of that. He felt that, in these aspects, the Arabs were more impressive than the Jews, and in this sense, ironically, he wanted the Jews to be more like Arabs. Here I'll close the circle of the argument: perhaps it's not that surprising that he found a common language with people like President Hosni Mubarak, of Egypt, and some of the other Arab leaders, who felt that they could have,

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with Sharon, the kind of dialogue they understood, which they could not have with European-type statesmen like Shimon Peres, for instance. Peres is much more generous, elegant, humanist, universalist, but less understood. Sharon, with all his prejudices, somehow found a way of living in a kind of dialogue with the region. And, at the end of the day, some in the region were actually willing to accept him.

AD: Sharon talked about his own attachment to the land in your interviews with him. You said earlier that the settlers saw him as too secular. It's a strange thing—he speaks about the land in Biblical terms, evoking Biblical figures, without ever being religious.

AS: Sharon was a godless person, in a very profound way. He had no religion, no faith. When you look at the brutal chapters of his biography, you can say that there was something of the brutal secularist about him; this was the modus operandi of a person who's really not God-fearing in any way. This is fact No. 1. Fact No. 2 is that he had a very strong sense of history, with a special attachment to the land, and a very strong Biblical memory—the Bible and the land came together in a potent fusion process within him. He was truly a nationalist romantic, in an almost scary way. The two sides seem to be contradictory, but, if you look at the history of Zionism, you see that there is not that much of a contradiction. For the early Zionists, the Labor-movement Zionists, history replaced God, and the Bible replaced both the Talmud and the Orthodox way of living as a Jew. History was the God of the Zionists. The idea was to bring the Jews—who, in the old Zionist terminology, had lived outside of history—back to the family of nations, the theatre of nations, where there is peace and war. This was the great thrill of the founding fathers of Zionism. And, in the same way, the Bible, being taken and read as the book about Jews living in this land, with a real, physical life as a nation, cultivating the land, defending the land—this was very powerful for the young Zionists and the young Sabras of Sharon's generation. He took it perhaps to a bit of an extreme, because he was a person of extremes, but this intimate relationship with the land and with Biblical legacy and tradition actually goes well together with the godless dimension of his personality, and, in many ways, makes him the last of this early line of Zionists; we are not going to see any more of this type in the future.

AD: Let's talk about the immediate future. Is there a vacuum with Sharon still in a coma? Can Ehud Olmert, the acting Prime Minister, operate freely, or is the question still "What would Sharon want?"

AS: Right now, we are in limbo. Sharon is in the hospital and there is less and less hope among his supporters of him coming back as a political figure of any sort; yet, because he is still there, hovering between life and death, things have not been settled yet—what his legacy is, who follows it, how Israel will deal with what he has left behind. What you do have right now are the political facts on the ground, and the most dominant fact is Kadima, Sharon's new party, which, in an astonishing way, is doing remarkably well, even without him. Which proves that the need for a centrist party in Israel was so great that once Sharon created it—and there was a need for Sharon to be the creator—it had a life of its own, even without him leading it. Things might change, but right now it seems that there is enough political energy to have, so to speak, the "Sharon way," even when Sharon is politically gone. Having said that, it's going to be much more difficult, because Olmert does not have Sharon's gravitas or authority, especially when it comes to dealing with the settlers. Although Olmert is more dovish than Sharon was, and he will try to go beyond what Sharon had in mind—he will probably try to dismantle more settlements than Sharon would have—he will run into more difficulty, because he lacks Sharon's historical range and his unique place within the collective Israeli psyche. When it comes to implementation on the ground, I feel that it will be much harder; anyone hoping for something as elegant, efficient, and quick as the disengagement in Gaza to repeat itself in the West Bank will be proved wrong. We are going to try, as a people, to deal with the difficulty of the settlements in the West Bank, but without Sharon it's going to be more difficult and more violent and, I'm afraid, it might even become bloody.

AD: You've interviewed Sharon several times over the years, and you write that he always confounded you in some ways. Do you think that, in the end, you understood him? Did you like him? Did you appreciate him?

AS: First of all, I learned before interviewing Sharon that it's very easy for politicians to be nice to journalists. They may be polite, even generous, sometimes charming with you, as a journalist interviewing them, but it's not relevant at all to the way they conduct politics, and it's not how you should judge them. Yes, I had a good time with Sharon; he gave people a good time—in a deep sense—but that is totally irrelevant to the way I see him as a political and historical figure. I did know him, and perhaps I did figure him out, in a way; I think I knew what to expect and I was able to predict, generally, what his next step would be. But there

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was, and still is, an enigma. I think that the Sharon enigma, which I tried to decipher in this piece, is still there. Therefore there will be something to linger over in the coming years, when all of this really becomes history.

Mideast Democracy Boosts Islamists U.S. Pushes Elections; Fundamentalists Gain (USAT)

By Barbara Slavin

USA Today, January 25, 2006

Islamic fundamentalists who oppose U.S. interests in the Middle East have benefited from the U.S. policy of promoting democracy, making significant gains in recent elections.

Hamas is the latest to rise. Its likely strong showing in Palestinian parliamentary elections today poses a dilemma for the United States and Israel, which refuse to deal with a group responsible for numerous suicide bombings.

Kenneth Katzman, a Middle East expert at the non-partisan Congressional Research Service, says the United States has pressured Egypt, Iraq and the Palestinian territories to hold free elections. “The pro-democracy effort has had the actual effect of strengthening fundamentalist movements,” Katzman says.

In Egypt, he says, the Muslim Brotherhood was the most organized opposition to longtime President Hosni Mubarak, so it was ideally positioned to do well in the elections.

Hamas, the Muslim Brotherhood, Hezbollah in Lebanon and several Iraqi religious groups oppose U.S. support for Israel and back policies that could restrict social freedoms.

State Department spokesman Sean McCormack declined to comment on the trend and said the administration would wait for Palestinian election results.

Promoting democracy should “obviously” be part of U.S. policy, says Richard Haass, a senior State Department official in President Bush's first term. But there's debate about whether it is outweighing other foreign policy goals, he says.

The Realities Of Exporting Democracy (WP)

By Peter Baker

The Washington Post, January 25, 2006

Sitting in a prison cell halfway around the planet, an Egyptian opposition leader forced President Bush this month to confront the question of how serious he was when he vowed to devote his second term to "ending tyranny in our world."

Ayman Nour, who dared challenge Egypt's authoritarian leader in manipulated elections, was sentenced on Christmas Eve to five years on what U.S. officials consider bogus charges. Inside the administration, a debate ensued over whether to shelve a new trade agreement with Egypt in protest. In the end, the trade talks were suspended and an Egyptian negotiating team invited to Washington last week was told it was no longer welcome.

In the year since Bush redefined U.S. foreign policy in his second inaugural address to make the spread of democracy the nation's primary mission, the clarion-call language has resonated in the dungeons and desolate corners of the world. But soaring rhetoric has often clashed with geopolitical reality and competing U.S. priorities.

While the administration has enjoyed notable success in promoting liberty in some places, it has applied the speech's principles inconsistently in others, according to analysts, activists, diplomats and officials. Beyond its focus on Iraq, Washington has stepped up pressure on repressive regimes in countries such as Belarus, Burma and Zimbabwe -- where the costs of a confrontation are minimal -- while still gingerly dealing with China, Pakistan, Russia and other countries with strategic and trade significance.

In the Middle East, where the administration has centered its attention, it has promoted elections in the Palestinian territories such as today's balloting for parliament, even as it directed money aimed at clandestinely preventing the radical Islamic group Hamas from winning. And although it has now suspended trade negotiations with Egypt, it did not publicly announce the move, nor has it cut the traditionally generous U.S. aid to Cairo.

"The glass is a quarter full, but we need more of it," said Jennifer Windsor, executive director of Freedom House, a group that promotes democracy. "The administration deserves credit, but it's just a start."

In its annual survey ranking nations as free, partly free or not free, the group upgraded nine nations or territories in 2005 and downgraded four. Among those deemed freer were Ukraine and Kyrgyzstan, where peaceful revolutions overthrew entrenched

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governments; Lebanon, where Syrian occupation troops were pressured to withdraw; and Afghanistan and the Palestinian territories, where trailblazing elections were held. Overall, Freedom House concluded, "the past year was one of the most successful for freedom" since the survey began in 1972.

At the same time, Human Rights Watch released its annual report, upbraiding the Bush administration for undermining its credibility in promoting freedom abroad through its embrace of abusive interrogation tactics in the battle with terrorists. "There's no question that the issue of torture in particular has compromised the U.S. voice, and not only torture but a manifold list of other human rights issues," said the group's associate director, Carroll Bogert.

The broader question is the degree to which Bush's speech marked genuine change in policy rather than so much talk. In many parts of the government, democracy promotion seems still to take a back seat to other goals.

After the government in Uzbekistan massacred hundreds of protesters in Andijan, for instance, the Pentagon resisted any tough response to protect its military base there. Ultimately, even the restrained statements by the U.S. government alienated the autocratic Uzbek president, Islam Karimov, who threw out the U.S. military.

"They come into conflict every day," a senior official said of rival priorities inside the administration. "The question becomes the weight given to the intangible interest in freedom versus the tangible interest in having a base in Uzbekistan, for instance."

The official, who spoke on the condition of anonymity citing administration rules, called Bush's speech "a weapon in the hands of everyone in the administration who is pushing for a stronger and stronger democracy agenda."

"Anytime there's a question, should we say this or say that . . . someone can pull out a copy of the president's speech and say, 'Wait a second, may I quote from what the president said?' " the official added.

Outside the United States, the speech inspired many fighting for freedom but also raised expectations that are hard to fulfill. "All they do is talk right now," said Gulam Umarov. His father, Sanjar Umarov, head of the opposition Sunshine Coalition in Uzbekistan, has been in prison since October. "I don't know what actual moves they take. But they are talking, which is really good."

In other places, the United States has done more than talk. In Kyrgyzstan, the U.S. government funded pro-democracy groups and provided generators to print an opposition newspaper before its revolution. Edil Baisalov, director of the Coalition for Democracy and Civil Society, can quote extensively from the Bush inaugural speech. "The Kyrgyz people are much, much better off today than they were a year ago, and I think the U.S. government should take pride in taking credit for that," he said. "And [it] should never apologize that it wants the people to be free."

In Belarus, another former Soviet republic ruled by an iron-fisted leader, Bush's words also stir hope. "We draw strength from these statements," said Vladimir Kolas, chairman of the Council of the Belarusian Intelligentsia opposing President Alexander Lukashenko. "We understand there are limits to what the U.S. can do. But we do need strong and decisive statements . . . that they will not recognize falsified election results."

The Bush administration has been willing to stay tough on Belarus and others it labeled "outposts of tyranny," such as Burma and Zimbabwe. Bush lobbied Asian leaders at a November summit in South Korea to bring Burma before the U.N. Security Council, and as a result the council had an unprecedented discussion last month. The United States also renewed economic sanctions adopted in 2003.

Opposition activists in Burma said they were grateful for U.S. efforts to highlight repression in their country. But despite these measures, little has changed, and some diplomats believe the situation has deteriorated. More than 1,100 political prisoners are behind bars, according to Amnesty International, and all regional offices of Aung San Suu Kyi's National League for Democracy remain shuttered.

In Zimbabwe, U.S. Ambassador Christopher W. Dell has been so outspoken about President Robert Mugabe's government that he has been threatened with expulsion. David Coltart, an opposition member of parliament, said Zimbabwe has been on the Bush administration's radar screen, even if not the president's. "George Bush is too preoccupied by Iraq to be personally engaged in the Zimbabwe crisis," he said. "But Colin Powell certainly was a friend of those struggling to bring democracy. It's too early to say whether Condoleezza Rice is focused on Zimbabwe."

Elsewhere, the U.S. hand is not seen as readily. In East Africa, newspapers are filled with columns asking why the Bush administration ignores their undemocratic leaders. After violence spilled into the streets of Uganda's capital when President

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Yoweri Museveni changed the constitution to run for a third term, Washington was silent. Museveni also jailed his opponent on what critics call trumped-up charges of treason and rape.

In Ethiopia, where 40 people were killed by government forces firing into crowds protesting fraudulent elections, Ethiopians complained that it took months for U.S. officials to speak out. "Does the Bush administration care about fighting terrorism for its citizens or does it care about the political situation in a Third World country like Ethiopia?" asked Tamrat G. Giorgis, managing editor of Fortune, one of Ethiopia's few independent newspapers. "I think Africans are asking that question, and we know the war on terror is more important."

When it comes to places such as China and Russia, the Bush administration prefers private friendly advice to ringing public denunciations. Sometimes it passes on both. Although U.S. officials have said they would like Gen. Pervez Musharraf, who took over Pakistan in a military coup, to give up his army post and govern as a civilian, Musharraf said last year that Bush has never raised the issue with him.

"I know presidents and diplomats are not dissidents and when they say they can achieve more in private talks, they may be sincere," said Lyudmila Alexeyeva of the Moscow Helsinki Group, a human rights organization under pressure from the Kremlin. "But I would still like to hear more. And maybe it will have an effect on our president."

Then there are Iran and North Korea, the two top enemies on Bush's list. The president appointed a special envoy on human rights in North Korea, but Abdollah Momeni of the Office for Fostering Unity, an Iranian student group, wants more constructive help. "If they only make noises about this, or if they think that through military action democracy can be achieved, they are moving on the wrong path," said Momeni, who is appealing a five-year prison sentence. "Military action against a country would dry up the democratic blossoms." But, he added, "more action and less talking is needed."

And there is Egypt, one of the most problematic places for the Bush democracy push. When President Hosni Mubarak agreed to let challengers run against him for the first time, a visiting Laura Bush praised the "wise and bold" move. But shortly after she left, Mubarak supporters orchestrated attacks on democracy demonstrators. The presidential election was manipulated, and a subsequent parliamentary election degenerated into violence and mass arrests.

The arrest of Nour, who won an unprecedented 7 percent against Mubarak, presented a singular challenge to Bush, who promised in his inaugural address to stand with "democratic reformers facing repression, prison or exile." The White House pronounced itself "deeply troubled" and demanded Mubarak "release Mr. Nour from detention."

Nour remains behind bars.

Correspondents Peter Finn in Moscow, Ellen Nakashima and Alan Sipress in Jakarta, Craig Timberg in Johannesburg, Karl Vick in Tehran, Emily Wax in Nairobi, and Daniel Williams in Istanbul contributed to this report.

6 Powers To Meet In London To Seek A Common Policy On Iran (NYT)

By Elaine Sciolino

The New York Times, January 25, 2006

VIENNA, Jan. 24 - The foreign ministers of Britain, France, Germany, Russia and China and Secretary of State Condoleezza Rice will meet in London on Monday in an effort to resolve their differences on how best to punish Iran for its nuclear activities, three diplomats said Tuesday.

The United States and the Europeans say they believe that the United Nations Security Council must begin to pass judgment now on Iran for its nuclear behavior. The meeting was prompted by Iran's decision earlier this month to reopen its uranium enrichment plant despite a voluntary agreement freezing such activity, although the behavior being criticized also includes violations of Iran's treaty obligations over the years.

But Russia and China are resisting entreaties to move immediately, arguing that Iran should be pressed to close the plant but should be given more time to comply with the demands being made before the Security Council acts.

The meeting in London will give the five permanent members of the Security Council, as well as Germany, a last opportunity to forge a common position before a crucial meeting in Vienna on Feb. 2 of the 35country board of the International Atomic Energy Agency, the diplomats said, speaking on condition of anonymity under customary diplomatic rules.

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At a minimum, the ministers could be expected to issue a statement of concern calling on Iran to immediately close down its uranium enrichment plant at Natanz, which Iran says it wants to operate for research purposes.

The site is still under strict monitoring by the atomic energy agency, based in Vienna. While Iran has begun to move equipment around and clear the site, international inspectors have seen no evidence that it has begun to operate any of the machinery there, diplomats said.

The United States and the Europeans are still hoping that the agency's board will vote at its meeting next week to refer the situation to the Security Council.

The Iran dispute has set in motion intense global diplomatic efforts by the Americans and Europeans as well as the Iranians, who have threatened to put into effect a law of theirs that would require them to move ahead with a full-scale uranium enrichment program and limit cooperation with the international atomic agency if the Iran dossier went before the Security Council.

Enriched uranium can be used for peaceful energy purposes or for making atomic bombs, and the process of enrichment for peaceful purposes is allowed under the Nuclear Nonproliferation Treaty.

In Moscow on Tuesday, Ali Larijani, the chief Iranian nuclear negotiator, met with Russian officials to discuss their proposal to enrich Iran's uranium on Russian soil under Russian supervision.

After the talks, the office of Igor S. Ivanov, the secretary of Russia's Security Council, issued a statement saying only that "both sides expressed their desire to solve the issue in a diplomatic way within the framework of the International Atomic Energy Agency."

In Nicosia, Cyprus, on Tuesday, Foreign Secretary Jack Straw of Britain urged Iran to "look much more seriously" at the Russian proposal, The Associated Press reported. When the Russians made their proposal late last year, Iran at first denied that the proposal existed, then rejected it, and now says it is under consideration.

In another diplomatic development, officials from the atomic agency flew on Tuesday to Tehran, where they will give Iran a last chance to cooperate fully with the agency's demands concerning Iran's past nuclear activities, agency officials said.

Olli Heinonen, the deputy director general for safeguards, and a team of inspectors will press longstanding demands, including access to a former military site in Tehran, information about Iran's dealings with an international nuclear black market that supplied it with atomic technology, and information about possible work related to nuclear weapons.

Critical White House Seeks Russia's Aid (AP)

By Barry Schweid, AP Diplomatic Writer

AP, January 25, 2006

WASHINGTON — The Bush administration is looking to Russia for diplomatic help in harnessing Iran's nuclear program despite growing U.S. criticism of Russian domestic policies.

A recent law requiring all non-governmental organizations to register with a state commission was criticized again Tuesday by State Department spokesman Sean McCormack.

The law is viewed by its defenders as a measure to crack down on extremism. Critics find in it evidence that President Vladimir Putin, in an authoritarian move, is tightening controls on democratic and humanitarian activities.

"We have previously expressed our concern about the recent law," McCormack said in tersely registering U.S. opposition again.

However, this displeasure was overshadowed by the urgency of trying to line up Russia to challenge Iran's nuclear programs — first in the International Atomic Energy Agency at a special meeting Feb. 2-3 and then at the United Nations if the agency sends the dispute there.

Russia has signaled it favors a go-slow approach. At the same time, it is offering to defuse some of the concern about Iran's activities by offering to shift enrichment activities to Russia so they could be monitored as designed for civilian and not weapons purposes.

The European Union's senior diplomat, Javier Solana, said while holding talks last week in Washington that it remains a live idea.

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McCormack said the Russian proposal, if accepted by Iran, "would provide the international community some comfort that Iran couldn't use that mechanism (enrichment) to try to obtain nuclear weapons."

However, McCormack described the Russians as frustrated in their efforts to intercede with Iran.

In Moscow, after a meeting with Iran's top nuclear negotiator, the office of Russia's security council secretary, Igor Ivanov, issued a brief statement saying the Iranian nuclear dispute must be solved by diplomatic efforts within the U.N. nuclear agency.

Meanwhile, at a conference at the Nixon Center, Dimitri Simes, president of the private group, said "the state of Russian democracy today is bleak and getting bleaker."

Simes said the judicial system is corrupt and totally controlled by the government and that the Duma, the Russian legislature, is a rubber-stamp body.

"You are allowed to express any opinion you like," he said, "as long as you are ineffective."

And President Bush's "special relationship" with Putin in which the two leaders spoke frequently to each other, stopped two years ago, he said.

Simes, who visited Russia last week, said Putin and his associates "have destroyed the checks and balances" common to democracies.

Simes said the law requiring registration of non-governmental groups was not so bad as the original draft. But Simes said in an interview that "the trouble is the law will be implemented by a Russian bureaucracy with no role for the courts."

The other principal speaker, Lorne Cramer, president of the International Republican Institute, which is partly U.S.-financed, said the Bush administration was silent about repression in Russia during its first term.

But now, he said, "we are seeing the first manifestation of breaking our silence."

Iran Defends Planned Holocaust Conference (AP)

By Ali Akbar Dareini, Associated Press Writer

AP, January 25, 2006

TEHRAN, Iran — Iran on Tuesday defended its plan to organize a conference to examine what it terms the scientific evidence for the Holocaust.

At the United Nations, the Israeli ambassador said the conference plans were proof that Iran was run by an "extreme, fundamentalist, lunatic regime."

The planned conference, which has drawn condemnation from Western leaders, is yet another step in hard-line President Mahmoud Ahmadinejad's public campaign against Israel.

"For over half a century, those who seek to prove the Holocaust have used every podium to defend their position. Now they should listen to others," Iran's Foreign Ministry spokesman, Hamid Reza Asefi, was quoted as saying Tuesday by the official Islamic Republic News Agency.

Ahmadinejad already had called the Nazis' World War II slaughter of 6 million European Jews a "myth" and said the Jewish state should be "wiped off the map."

Dan Gillerman, Israel's ambassador to the United Nations, said the planned conference was "proof of what a global threat Iran really is."

"I fear that the only reason Iran is showing so much interest in the Holocaust is because they may be preparing another Holocaust and it is up to the world and the United Nations to prevent that from happening," Gillerman told The Associated Press on the sidelines of the opening of the "No Child's Play" exhibit at the U.N. commemorating Holocaust remembrance week.

IRNA quoted Asefi as saying: that "blind prejudice together with political interests and aims have closed the eyes of the Holocaust defenders to the realities of the world, and they reject without any logic a scientific conference."

Iran's Foreign Ministry, which was expected to sponsor the conference, has yet to fix a date or place. It was not clear who might attend.

"Iran is proving yet again what an extreme, fundamentalist, lunatic regime it is," Gillerman said.

Ahmadinejad has been issuing the highly inflammatory comments about Israel and the Holocaust in conjunction with the country's deepening confrontation with the West over its nuclear activities. The United States and its allies accuse Iran of seeking

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nuclear weapons. Tehran says the program is its right under the Nonproliferation Treaty and is designed for electricity generation.

Russia's national security chief and Iran's top nuclear negotiator said Tuesday that the nuclear standoff must be resolved by diplomatic efforts in the U.N. atomic watchdog agency.

The Kremlin statement reflected Russia's efforts to delay Iran's referral to the U.N. Security Council and Moscow's opposition to international sanctions against Tehran.

8 Are Killed By Bombings In Restive City In South Iran (NYT)

By Nazila Fathi

The New York Times, January 25, 2006

TEHRAN, Jan. 24 - Two separate bombs exploded Tuesday morning in the southern city of Ahwaz at a bank and a government building, leaving 8 people dead and 46 wounded, state-run news agencies reported.

The first bomb went off at 9:30 a.m. at Saman Bank and the second 30 minutes later at the government office for natural resources.

President Mahmoud Ahmadinejad had been expected to meet his cabinet in the city, but the trip was canceled Monday evening. His office said the four-day trip was canceled because of bad weather, the IRNA news agency reported Monday. The explosions occurred at the time he had been expected to make a speech in Ahwaz.

A series of deadly bombs went off in Ahwaz last year, and the government accused Britain of provoking the attacks. Foreign Minister Manouchehr Mottaki said in October that Iran had proof of British involvement.

Britain has repeatedly denied the accusations.

Mostafa Pourmohammadi, the interior minister, said the bombings on Tuesday were motivated by foreigners. Mr. Ahmadinejad ordered the Intelligence and Foreign Ministries to investigate "the role of foreign hands" in the bombings, the ISNA student news agency reported.

"The president has ordered a prompt and firm probe into today's blast and the terrorists who executed it," a government spokesman, Gholam Hossein Elham, was quoted as saying.

"Iran has always been victimized by terrorism, and these blind blasts show the continuity of brutal acts against Iran by international terrorists," he added.

Samad Tavakoli, the manager of Saman Bank, said there were nearly 60 people at the bank when the bomb exploded Tuesday.

"I was speaking to one of the customers when the power suddenly went off," ISNA quoted him as saying. "Then I saw something explode in the middle of the bank in front of me and I saw all my colleagues and many customers getting injured."

Ahwaz is the capital of Khuzestan Province and home to a Sunni Arab minority. The province borders Iraq and was battered during the Iran-Iraq war. It has remained one of the least developed regions in the country since then.

Unrest broke out in the city in April, and several people were killed after rumors spread that the government planned to relocate Arabs.

U.S. Troops On Front Line Of Expanding India Ties (WP)

By John Lancaster

The Washington Post, January 25, 2006

CHAUBATIA, India -- More than half a century after independence, foreign soldiers have returned to this onetime colonial garrison of tin-roofed bungalows, stone churches and panoramic Himalayan views. But this time, the soldiers' accents are American, not British, and their purpose is not to subdue India but to cultivate it as an ally.

In the latest of a series of such exercises, 120 U.S. combat troops have come here to train with their Indian counterparts in areas such as counterinsurgency and peacekeeping. Besides taking classroom instruction, they are firing Indian weapons, bonding with Indian soldiers over games of soccer and volleyball, and even developing a taste for vegetarian cuisine, albeit with spices toned down for sensitive American palates.

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"When you get the armies together, it's like saying, 'Hey, we can work together, we can accomplish this together,' " said U.S. Army Capt. Robert Atienza, 31, of San Diego, who commands the Hawaii-based infantry company that is participating in the 2 1/2 -week exercise that began last week. "It's very broad."

The exercise is an example of the striking improvement in relations between the United States and India following decades of Cold War estrangement and more recent tensions stemming from India's nuclear tests in 1998.

Spurred by the United States, the two governments have signed commercial, scientific and military agreements in the last two years and are negotiating a controversial deal that could permit the sale of civilian nuclear technology to India. The Bush administration is eager to cultivate India as a partner in counterterrorism and, some analysts say, as a strategic counterweight to China.

The warming trend is also reflected in the surge of interest in India among U.S. business leaders such as Bill Gates, the chairman of Microsoft Corp., who recently announced a $1.7 billion investment in the country, the latest in a string of such commitments by U.S. technology firms eager to cash in on India's booming economy and surplus of inexpensive brainpower.

Other indicators include the parade of U.S. lawmakers through New Delhi in recent months and steadily expanding commercial air links. In addition, a record number of Indian students -- more than 80,000 -- are studying at U.S. universities, according to the U.S. Embassy in New Delhi.

President Bush is scheduled to visit India for the first time in early March at the invitation of Prime Minister Manmohan Singh, a self-effacing economist who met with Bush at the White House last July. In New Delhi on Friday, Indian Foreign Secretary Shyam Saran said the planned visit is "really reflective of the very significant transformation that has taken place, and is taking place, in India-U.S. relations."

Saran was speaking at a news conference after meetings with Undersecretary of State R. Nicholas Burns, who was making his third visit to the Indian capital in the last six months. "India is one of the few countries in the world that has the capability to act globally and has the same basic interests as the United States," Burns said in a telephone interview from New Delhi.

The two countries still have important differences. In particular, India has a long history of warm relations with Iran and is pursuing plans to build a natural gas pipeline from Iran across Pakistan, a move that the Bush administration has warned could trigger sanctions against Indian companies under a U.S. law aimed at isolating Iran's Islamic regime. Indian officials say the project is essential to their country's energy security.

Partly for that reason, India has walked a tightrope in its handling of the standoff between Iran and the United States over allegations that Iran is secretly developing nuclear weapons.

India's reluctance to dance entirely to Washington's tune stems in part from the influence of political parties opposed to the Bush administration's policies on Iraq and free trade.

One of the most important tests of the new relationship centers on the agreement signed by Bush and Singh in Washington last July that would give India access to nuclear fuel and reactors to produce electricity. Under the deal, the United States would lift a ban on the sale of such technology to India, provided that India opens up its civilian nuclear facilities to international inspections and other safeguards.

That cannot happen, however, until the administration and India agree on a plan to separate the country's civilian and military nuclear facilities. The U.S. Congress would then have to vote on the deal, which critics say would weaken efforts to curb the spread of nuclear weapons and create perceptions of a double standard in U.S. dealings with such countries as Iran and North Korea.

"The nonproliferation system is built on rules," said Michael Krepon, a specialist on the issue at the Henry L. Stimson Center in Washington. "They're not always honored, but having them makes it easier to gang up on people who break the rules. The approach the administration is taking is very poisonous to all that."

U.S. officials say the deal would strengthen nonproliferation efforts by opening up India's civilian nuclear facilities to outside inspection for the first time. India, they say, is entitled to special treatment in light of its democratic values and exemplary record of preventing nuclear secrets from falling into the wrong hands.

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Burns said in the interview that his discussions last week with Indian officials had not yielded a breakthrough on the separation plan, and he made no prediction about whether a deal would be secured in time for Bush's visit. "It's a possibility but not a certainty," he said.

If the deal does fall apart, "a lot of people would be quite happy to say, 'We told you the United States cannot be trusted,' " said C. Raja Mohan, an analyst and commentator in New Delhi.

Other analysts say the relationship would survive such a setback, citing many common interests. Already, they note, India and the United States are working closely to coordinate policy on regional concerns such as instability in Nepal and Bangladesh. "The relationship is going to stand on its own," Burns said.

The goodwill marks a sharp change from the Cold War, when India was a champion of the Non-Aligned Movement and had close ties to the Soviet Union. Relations began to improve in the early 1990s following the Soviet collapse and India's initial moves to liberalize its economy. But they nosedived when the United States imposed sanctions in response to India's 1998 nuclear tests.

The Bush administration lifted the sanctions after the Sept. 11, 2001, attacks and has promoted India as a new global partner, citing its vast economic potential and status as the world's largest democracy.

Analysts say the White House drive to court India was also influenced by frustration with traditional allies such as France and Germany and concerns over the rising power of China.

The administration has paid special attention to strengthening India's military capabilities.

Since 2002, India and the United States have held a number of naval, air and ground exercises. The latest is being conducted in Chaubatia, an army base that was established by the British Indian Army in the late 19th century in the forested Himalayan foothills about 90 miles northeast of New Delhi. It is now occupied by the Indian army's Kumaon Regiment and, at least through the end of January, by the men of Charlie Company, 2nd Battalion, 27th Infantry Regiment, which is part of the 25th Infantry Division out of Scofield Barracks, Hawaii.

Chaubatia is an exotic setting for the exercise, with its striking views of snow-capped peaks, immaculate grounds and road sign alerting drivers that "leopards have right of way."

One morning last week, Atienza, the company commander, lectured Indian soldiers on lessons learned during the battalion's year-long tour of Afghanistan, which ended in March 2004, as an interpreter translated his words into Hindi. In other classes, Indian officers shared their experiences fighting Islamic guerrillas in Kashmir. Later in the day, Indian and American troops converged on a firing range, where they took turns shooting each other's assault rifles at pop-up targets.

In part, the exercise is aimed at bridging cultural gaps between the two militaries. Several American officers, for example, said they had been struck by the relative lack of autonomy vested in Indian soldiers at the platoon level. And an Indian officer, who under Indian army ground rules could not be identified by name, said the U.S. soldiers were "quite relaxed," adding philosophically, "That is their way."

Report: U.S. Arms Helped Indonesia Attack East Timor (WP)

By Colum Lynch

The Washington Post, January 25, 2006

UNITED NATIONS, Jan. 24 -- U.S. political and military support for Indonesia was vital to its ability to invade East Timor in December 1975 and to sustain a brutal 24-year occupation that cost the lives of at least 100,000 people, parts of a Timorese inquiry made public Tuesday show.

East Timor's Commission for Reception, Truth and Reconciliation contended that the Ford administration "turned a blind eye" to the Indonesian invasion even though it knew that U.S.-supplied arms would be used to carry it out. The report called on the United States, France, Britain and other military backers of Indonesia to pay reparations to victims of Indonesian oppression.

The commission relied on more than 4,500 pages of recently declassified documents collected by the Washington-based National Security Archive, a nonprofit research group, which posted a 119-page portion of the commission's 2,500-page report on its Web site Tuesday. The rest is expected to be made public in the coming weeks.

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The commission was created in 2001 by the United Nations and East Timor to provide a comprehensive account of abuses during Indonesia's occupation, which ended in 1999. East Timor's President Xanana Gusmao delivered it last week to Secretary General Kofi Annan.

"The Commission finds that the United States of America failed to support the right of the East Timorese people to self-determination, and that its political and military support were fundamental to the Indonesian invasion and occupation," the report said. "The support of the United States was given out of a strategically-motivated desire to maintain a good relationship with Indonesia, whose anti-communist regime was seen as an essential bastion against the spread of communism."

The national archive gave the commission National Security Council documents showing that U.S. officials were aware of Indonesian plans to invade East Timor a year before the invasion and did not discourage it. Other documents showed that U.S. officials had evidence that Indonesia had used U.S. naval vessels in support of air bombardment during its invasion of East Timor, but decided to remain silent about it.

The commission's report cites a Dec. 6, 1975, meeting in Jakarta -- the day before the invasion -- in which Indonesia's former ruler, President Suharto, asked then-President Gerald R. Ford and then-Secretary of State Henry A. Kissinger for their "understanding" if his government took "rapid or drastic action" against East Timor, according to a declassified account of the conversation first made public in 2001.

Ford assured Suharto that "we will understand and will not press you on the issue," the documents say. Kissinger pressed Suharto to delay an invasion until the president had returned to the United States. "It is important that whatever you do succeeds quickly," Kissinger is reported to have said.

Kissinger did not respond to a request for comment Tuesday evening. A spokeswoman, Jesse LePorin, said he is recuperating from shoulder surgery.

In 1998, Kissinger was asked at Arizona State University about the invasion and, according to the Arizona Republic, replied: "You may not believe this, but Indonesia is a country of 180 million people, and they didn't ask our permission. Also, we were negotiating an end to the Vietnam War at that time, and we were not looking to make another enemy in Southeast Asia."

Simulated Attack Showcases Defense (WT)

By Bill Gertz

The Washington Times, January 25, 2006

The Pentagon showed off its new command-and-control system for U.S. missile defenses yesterday during a war-game missile attack on the United States, Japan and South Korea.

The simulation did not identify the missiles as coming from North Korea, but it was clear to observers and participants that the fictional island nation of Midland in the Sea of Japan/East Sea represented the communist state referred to by President Bush as part of an "axis of evil."

Several minutes into the hourlong simulation, one of the seven long-range missile warheads landed on the Aleutian Islands, in western Alaska, while six others aimed at Honolulu, Los Angeles, Colorado Springs and Fort Greely, Alaska, were intercepted and destroyed in midflight.

Brig. Gen. Robert Dehnert, program director for command and control at the Pentagon's Missile Defense Agency (MDA), said hitting a flying missile with another missile is not easy.

"As you've seen in the war game, this is easy to say, but difficult to accomplish," he told congressional lawmakers, congressional staff members and 12 journalists, who played the roles of key decision-makers, from the president to Patriot anti-missile battery operators.

"The purpose today is ... to provide some level of insight into the command-and-control battle-management system," Gen. Dehnert said.

The command-and-control system connects sensors that detect and track enemy missiles with military units charged with firing interceptors at the incoming missiles, including long-range missiles traveling at speeds of up to 15,000 miles per hour.

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The control system distributes data from satellites and surface radar on missile launches. It also allows commanders in Washington, Nebraska, Colorado, Alaska and Hawaii and on ships in Asia to communicate and order launches using different missile interceptors.

The war game used missile-defense systems such as Patriot PAC-3 batteries in South Korea, Navy SM-3 interceptors on a ship near Japan, and 10 ground-based strategic-missile interceptors -- eight in Alaska and two in Southern California.

Sen. Wayne Allard, Colorado Republican, who sponsored the three days of war games, said the exercise "reminds us all of the vulnerability of our country" to missile attack.

Mr. Allard said the main missile threats today are from Iran, which is building nuclear arms and has medium-range missiles, and North Korea, which has short-range, medium-range and long-range missiles.

On the overall threat from missile attack, Mr. Allard said, "This is a threat that is emerging more and more every year because our adversaries are getting more and more competent every year."

Compass Name In UN Fraud Report (FT)

By Salamander Davoudi and Stephen Fidler

Financial Times, January 25, 2006

A United Nations report into procurement operations at its peacekeeping missions has uncovered evidence of suspected mismanagement, favouritism and financial irregularities in relation to its dealings with several companies including a subsidiary of Compass, the troubled contract caterer.

The investigation by the Office of Internal Oversight Services, the UN's internal investigative arm, examined 27 contracts worth $1bn, or 31 per cent of the cumulative value of all commercial contracts over $5m. As reported, it found that the world body could have lost as much as $298m in contract irregularities.

"A lack of enforcement of accountability and a reluctance to investigate mismanagement of resources, fraud and abuse of delegated authority has led to a pattern of corrupt practices," the report, distributed to UN members this week, said.

However, an earlier draft report, not for public distribution but seen by the FT, provides detail on that part of the investigation in which the OIOS looked into the UN's relationship with ESS, a subsidiary of Compass. The UN suspended ESS last October as a registered vendor pending the completion of an investigation into allegations about the way ESS won a Liberia contract in 2004.

The report describes seemingly irregular payments made to ESS, suspicions over why contracts were awarded to ESS and the absence of proper financing on one contract.

A spokesman for Compass said the company was aware of the report. "We are in constant contact with the head of the UN investigation, Paul L. Roberts. We have not seen the report but have been assured that there is nothing significant in it relating to ESS that we are not already aware of. We continue to co-operate very closely with all relevant authorities."

The draft report cites four separate areas in which UN dealings with ESS were called into question.

Firstly, the UN mission in Liberia complained that ESS's performance in providing food rations was "dismal" and hired a private investigations company, SGS, to ascertain why it had been awarded the contract. UN head office also sent its own investigator.

Secondly, ESS allegedly billed the $7.3m for transportation costs in excess of the value of a contract in East Timor. Some $7.6m was allegedly paid in violation of the UN's regulations.

The third instance in which UN dealings with ESS were called into question was a meeting in December 2004 to decide on several contract awards, including a $201m proposal to award ESS with a contract to provide the food rations for the UN mission in Sudan, took place without the usual chairman and other members. The contract was awarded to ESS without the requirement that it provide a guarantee, even though this represented, according to the report, "a crucial business risk" for the UN.

Finally, the report says ESS was among the companies that allegedly benefited from a failure to enforce UN rules relating to the provision of performance bonds, which are issued by banks to guarantee satisfactory performance by a contractor. UN rules state that the bonds should represent 10-30 per cent of the contract value. But investigators found on one $61.4m contract

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that ESS did not provide bonds up to the required value, and that its performance bond was returned eight months before the contract ended.

The UN is still investigating.

Annan's Son Will Repay Ghana For Fees On Car (NYT)

By Warren Hoge

The New York Times, January 25, 2006

UNITED NATIONS, Jan. 24 - Kojo Annan, the son of Secretary General Kofi Annan, will repay the government of Ghana import duties he avoided by falsely claiming that a Mercedes he bought was for his father, his lawyer disclosed Tuesday.

"The automobile was not for the secretary general's own personal use and therefore the exemption was not justified," William W. Taylor III, the lawyer, said in a Jan. 19 letter from his Washington office to the customs services in Accra, the Ghanaian capital.

"I write to inform you that Mr. Kojo Annan wishes to make full payment of the amount due to the government of Ghana as a result of this transaction," the letter read.

The transaction first became public in a September report by the committee led by Paul A. Volcker investigating corruption and mismanagement in the oil-for-food program.

The report said that Kojo Annan had admired the luxury station wagon at a Geneva car show in March 1998 and arranged to purchase it and have it shipped to Ghana in November.

By using his father's name, he obtained a $6,541 discount from Mercedes and avoided paying $14,103 in import duties.

The Volcker committee was interested in the case because it was trying to establish whether there was any connection between Kofi Annan and the award of an oil-for-food contract to Cotecna Inspection Services, the Swiss company that had employed his son.

In the report, investigators said they first suspected that the car might be a payoff. They concluded, however, that the senior Mr. Annan had not known about the purchase and his son's use of his name.

Kojo Annan told investigators that he had misrepresented the ownership of the car to Abdoulie Janneh, a family friend who was a representative of the United Nations Development Program in Ghana, to get him to sign the necessary waiver request.

Adam L. Rosman, a partner of Mr. Taylor, the lawyer, said in an e-mail message on Tuesday that the automobile had been damaged beyond repair as a result of an accident in November 2005.

He also said that although Kojo Annan was willing to compensate Ghana, he did not intend to pay back the discount that Mercedes gave him for the faked ownership claim.

Blair Is More Popular In USA Than In UK (USAT)

By César G. Soriano

USA Today, January 25, 2006

LONDON — At home, British Prime Minister Tony Blair is frequently caricatured as a poodle following President Bush's lead. His ratings are in the loo (toilet). Not so in the USA, where a USA TODAY/CNN/Gallup Poll shows 67% of Americans view Blair favorably.

Sixty-six percent say Blair would be a good secretary-general of the United Nations when he no longer is leading Great Britain. Last week, former president Bill Clinton recommended Blair for that job, now held by Kofi Annan.

Blair's spokesman Ian Gleeson would not comment on why Americans think highly of the prime minister. Nor would he speculate about what Blair will do after his term ends, tentatively in 2009.

The latest poll numbers coincide with a ringing endorsement of Blair from Bush on Monday at Kansas State University. Bush branded as unfair suggestions that Blair is a yes man for Bush's policies, particularly the Iraq war.

In Britain, Blair's approval rating has averaged 34% since January 2003, according to Market & Opinion Research International (MORI), Britain's largest independent polling organization.

A number of factors, including the unpopular war in Iraq, have led to Blair's eroding popularity here. In November, his anti-terrorism bill, which included a plan to jail terror suspects for 90 days without charges, was rejected by Parliament, including by

members of his own Labor Party. Scandals haven't helped, including this month's revelation that the Education Department allowed sex offenders to work in schools.

"I don't think it's unusual for the British to have lower opinions of their leaders than the rest of the world," says Andrew Russell, a political analyst at the University of Manchester. He says former prime minister Margaret Thatcher was "hated" by many Britons while she was revered in the USA.

Blair's "foreign policy has been pro-American, so naturally Americans would approve of that," says Roger Mortimore, political analyst at the MORI polling group. He says Blair also has charisma. "Blair has come across as a reliable ally and a decisive and successful leader. He does successfully come across as an honest and likable guy, and that improves his ratings" in the USA.

Most Britons feel the prime minister "is more presentation than politics," Russell says. Blair's gifts as an orator in the international arena have helped him in this area. "Blair is at his best when he's … involved in international summits and representing Britain on the big stage," which would prove useful at the United Nations, Russell says.

Steve Bettison, general manager of the Adam Smith Institute, a libertarian think tank that often is critical of Blair's domestic policies, attributes Blair's popularity in the USA to his unwavering support since the Sept. 11 terrorist attacks. "If the American media reported what he did over here, then maybe they'd view him differently," Bettison says.

As for the U.N. job, Bettison says, "He's very good on the world stage." However, Bettison says the job probably would go to an emissary from the Third World.

Please, Sir, May We Have An Ambassador? (CSM)

By Janaki Kremmer, Correspondent Of The Christian Science Monitor

The Christian Science Monitor, January 25, 2006

SYDNEY, AUSTRALIA - More than a year after the former US ambassador said his goodbyes to Australia, the top diplomatic post remains vacant in Canberra, reflecting a casualness that has the typically laid-back Aussies getting a little anxious.

Sure, even good mates don't always keep in touch - to a point.

And with trouble in the Middle East, spy scandals at home, and plans to move hundreds of diplomats to hot spots around the world, filling an ambassadorial post in the South Pacific may not be high on the White House's priority list.

A relaxed attitude by both governments - which are in agreement on almost all matters of foreign policy - has allowed months to pass before doubts finally began to be raised here that perhaps the Americans were being a tad callous toward their close ally.

"The US definitely takes us for granted - and they know that it's not a difficult relationship to manage and that we don't need any sort of mollycoddling or day-to-day attention," says Elizabeth Thurbon, professor of politics and international relations at the University of New South Wales in Sydney.

No reason has been given for the delay in dispatching an ambassador to Canberra's vast US Embassy grounds. Foreign Minister Alexander Downer has stated that he would like the position to be filled as quickly as possible.

After Secretary of State Condoleezza Rice canceled two trips to this country in as many months for more pressing matters overseas, an editorial in The Australian asked, "Is it something we've done?"

Among America's closest allies in the war on terror, only the United Kingdom has suffered for so long recently without the attentions of an American ambassador. But even in London's case, the post was filled within 12 months.

US watchers here say that the person appointed must be someone loyal to President Bush, and preferably a major donor to the Republican Party. In addition, he or she has to be able to operate easily at high levels between the countries' two leaders. They also point out that sun-drenched Australia could hardly be considered a hardship posting.

The job of any ambassador, besides dealing with political and economic differences, is to enhance the image of his or her country overseas.

"But when we've signed the Free Trade Agreement, agreed to send troops to Iraq and Afghanistan, there are no real grievances between the US and Australia," says James Jupp, professor of political science at the Australian National University. "And as far as spreading the American image abroad, nothing does it better than TV."

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The US could not have a bigger supporter in Australia than Prime Minister John Howard - a sort of de facto US ambassador, some say, who in case of a crisis can just pick up the phone and call the White House. The leader of the opposition here is also strongly pro-American.

"If you look at the recent Free Trade Agreement, you see that we were compliant on most issues, and when Australian negotiators were ready to walk away from the agreement at one point because they said it was unfair to the sugar farmers, the Australian prime minister basically told them to go back and sign on the dotted line," says Ms. Thurbon, adding that it made a mockery of the negotiating process.

When an ambassador is finally picked, it could take Congress several months to clear the nominee, meaning that it may be nearly two years before the post is filled.

China's Hu Will Visit U.S. In April To Talk Trade (WSJ)

By Jason Dean

The Wall Street Journal, January 25, 2006

BEIJING -- Chinese President Hu Jintao will visit the U.S. in April as the two nations try to hash out persistent disagreements over trade and other issues.

U.S. Deputy Secretary of State Robert Zoellick disclosed the timing of the planned trip while in Beijing yesterday. Mr. Hu had been scheduled to visit Washington while in the U.S. last September, but the White House visit was postponed because of Hurricane Katrina.

Mr. Zoellick didn't provide further details of the coming trip. Chinese Foreign Ministry spokesman Kong Quan said it "will be a big event for the two countries and will be very significant for furthering a constructive, cooperative Sino-U.S. relationship in the new century."

Talking to reporters, Mr. Zoellick struck a broadly positive tone in his comments about China, underscoring a relative improvement in relations in recent months despite a host of nagging disputes over trade and other issues.

Mr. Zoellick said he raised those sticking points during meetings yesterday with senior Chinese officials, including Premier Wen Jiabao. The U.S. official said he reiterated comments by President Bush on Monday urging China to show further flexibility in the exchange rate of the yuan. That issue is certain to come up during Mr. Hu's April visit.

China allowed the yuan to appreciate 2.1% against the dollar in the summer, but critics in the U.S. argue that the currency still is undervalued. They say that makes Chinese exports unfairly cheap, further aggravating the U.S.'s huge trade deficit with China, which Washington estimates topped $200 billion in 2005. China, which calculates its trade figures differently, has said that its trade surplus with the U.S. is likely to have exceeded $110 billion last year.

"I tried to explain the domestic context in the U.S., where you have a very large bilateral deficit with China," and "the importance for those of us who want to stress open markets ... in the U.S., to make sure that there are fair and open opportunities in China as well," Mr. Zoellick said.

In meeting with Mr. Zoellick, Mr. Wen said China hopes to improve bilateral strategic discussions and "further improve mutual understanding and mutual trust, so that we can put the China-U.S. relationship on a track of steady and sound growth."

Mr. Zoellick emphasized areas of potential cooperation with China, even on subjects that have sometimes been sources of disagreement, such as Beijing's expanding pursuit of overseas energy deals.

He said he was "pleased to see" a visit this week to China by Saudi Arabia's leader, King Abdullah, during which the two countries signed a bilateral deal calling for greater cooperation and investment in oil, natural gas and minerals. "It's natural that China is going to encourage energy investment around the world," Mr. Zoellick said.

He also stressed what he said are a "common set of interests and concerns" between Beijing and Washington over the issue of Iran's nuclear program. The U.S. is trying to bring Iran before the United Nations Security Council, but faces possible resistance to any serious action there by Russia and China, both of which wield veto power in the body. Mr. Zoellick said he didn't discuss the possibility of a veto with Chinese officials yesterday.

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Even on China's ties with Sudan -- a relationship that has been criticized because of the Sudanese government's alleged human-rights abuses -- Mr. Zoellick stressed that Beijing could play a positive role. "I believe that as China develops its relationship with Sudan, it also gives it an opportunity to help us deal with some of the problems" there, he said.

Mr. Zoellick, who also stopped in Tokyo during his current tour, is scheduled to spend today in the city of Chengdu in China's relatively impoverished hinterland. He said he hopes his visit to the city will give him a deeper sense of the domestic economic challenges facing China. He then travels to Davos, Switzerland, for the World Economic Forum.

China's Economy Grows 9.9% In 2005 (FT)

By Sun Yu In Beijing

Financial Times, January 25, 2006

China's economy grew a powerful 9.9 per cent in the fourth quarter of last year, fueled by strong domestic investment and export growth.

The National Bureau of Statistics said on Wednesday China's gross domestic product was Rmb18,232bn (US$2,251bn) for all of 2005, also up 9.9 per cent - a growth rate slightly slower than the 10.1 per cent recorded for 2004. Per capita GDP reached US$1,700.

Li Deshui, head of the statistics bureau, warned of overheating in sectors such as aluminum and automobile manufacturing, despite a series of a government efforts over the last two years aimed at cooling investor enthusiasm.

Fixed asset investment remained high in 2005, climbing 25.7 per cent in the whole of 2005, only 0.9 percentage points slower than the year before. Industrial production rose 11.4 per cent last year.

"A conspicuous problem in China currently is that capacity in some sectors is expanding too fast and over-supply problems are relatively serious," Mr Li said. "This issue deserves close attention."

Over-capacity was one of a number of deflationary influences acting on the economy, he said.

However, Mr Li warned that inflationary pressures were also present, citing possible price deregulation for public services and energy as a potential catalysts for broader price increases.

Consumer price inflation was a moderate 1.8 per cent in 2005, down from 3.9 per cent in 2004.

Growth in foreign direct investment in China slowed to 0.5 per cent, reaching US$60.3bn last year, the first such decline in the last few years.

But Mr. Li said FDI remained "stable" and the decline was not a matter for concern, adding that in 2004 some foreign investors had rushed into China's property market - a target of state efforts to cool the economy.

"Foreign businesses came into the real estate market and some engaged in malicious speculation. Less of this is not a problem - it's good for us," he said.

Retail sales rose 12 per cent last year, including a 17.7 per cent registered by restaurants. Consumption's role in the economy grew, accounting for 33.3 per cent in the GDP of 2005.

However, the income gap between urban and rural areas continued to widen, as growth of disposable income last year of rural residents declined 0.6 percentage points compared with 2004, while growth in urban residents' incomes rose 1.9 percentage points.

China's net oil imports declined 5.3 per cent in 2005, amid government efforts to reduce the economy's dependence on energy inputs.

China's GDP Jumps 9.9% (WSJ)

By Andrew Browne

The Wall Street Journal, January 25, 2006

HONG KONG -- China's economy surged 9.9% last year from a year earlier as exports boomed, although some economists believe even that figure underestimates the powerful momentum behind what may now be the world's fourth largest economy.

The figure came in slightly below revised 10.1% growth for 2004 and 10% for 2003. It matches growth of 9.9% in the fourth quarter of 2005, according to numbers released Wednesday by the National Bureau of Statistics.

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The numbers indicate that not only has China escaped a "hard landing" that some feared as Beijing cooled overheated investment in sectors like real estate and steel starting in 2004, but it has maintained rapid growth for the third straight year with low inflation, currently running at around 1%.

Economists are also encouraged by what appears to more balanced growth, somewhat less reliant on high levels of fixed asset investment that threaten industrial overcapacity and falling corporate profits. Domestic consumption is strong, although one of the biggest challenges for Chinese authorities this year will be to unleash more of the country's vast savings pool. The success of Beijing's efforts to encourage Chinese to spend more, thus putting the economy on a more self-sustaining track, could have an extra importance for the global economy if U.S. consumption falters this year.

Although the Chinese economy relied heavily on exports for growth last year (its trade surplus more than tripled to $102 billion), many economists believe the surplus will moderate this year as domestic demand picks up and China offloads less of its production of steel, chemicals and heavy machinery on the rest of the world. Already, there are signs that the real estate market is recovering, particularly in poorer inland cities where Beijing is targeting higher growth and investment.

Yet doubts persist about the accuracy of China's GDP data, even though authorities announced this month they had found an additional $278 billion in the 2004 economy -- almost the size of the entire Indonesian economy -- after revising higher nominal GDP for that year by 16.8%. That revision was based on a census that showed China's statistics had underestimated the size of the services sector -- everything from restaurants to moving companies and beauty parlors. After the revision, China's 2004 growth was revised to 10.1% from 9.5%.

More importantly, because the overall economy was bigger, it meant that fixed investment as a proportion of GDP came down from an alarming 45% or so to a still strong, but more reasonable, 38%. The better ratio gives comfort to foreign investors worried that out-of-control investment could lead to a crash.

At the same time, the revision vaulted China over Italy and France in economic global league tables, and most likely over Britain, too, which has yet to announce its 2005 GDP data, according to Rob Subbaraman, chief Asia economist for Lehman Brothers.

The strong data mean there is unlikely to be any easing of pressure on China to let the yuan appreciate.

The yuan didn't move after the data were issued. The dollar was last quoted at 8.0621 yuan from yesterday's close of 8.0614 yuan. Beijing announced a 2.1% appreciation of the yuan against the dollar last year, but since then it has added only another 0.5% or so. Growth last quarter was up slightly from a revised 9.8% rise in GDP in the third quarter from a year earlier and beat economists' forecasts, which had centered on a rise of 9.5%.

The statistics agency said that fixed-asset investment growth slowed slightly to 24.2% in December from a year earlier. It grew 29% in November.

The country's top statistician, Li Deshui, said conditions exist for both inflation and deflation, but his remarks at a briefing were focused more on the possibility of deflation.

"It is not correct to say China is now facing deflation," he said. But, in general, "overcapacity is dangerous. Enterprises will suffer and go bankrupt."

Still, ING's chief economist in Asia, Tim Condon, said the small drop in fixed-asset investment growth "is a welcome development," and deflation is unlikely given that strong global growth will prop up demand in China.

China said that the consumer price index rose 1.6% in December from a year earlier, slightly faster than market expectations, which had centered on a 1.5% gain. The producer price index increased by 3.2% in December and retail sales rose 12.5% last month from a year earlier. Industrial output grew 16.5% from a year earlier in December, slightly below expectations for a 16.6% gain.

China Shuts Down Influential Weekly Newspaper In Crackdown On Media (NYT)

By Joseph Kahn

The New York Times, January 25, 2006

DOJ_NMG_0011405

BEIJING, Jan. 24 - China's Propaganda Department on Tuesday ordered the closing of Bing Dian, an influential weekly newspaper that often tackled touchy political and social subjects, as the authorities stepped up efforts to curb the spread of information and views the Communist Party considers unfavorable.

The shutdown came the same day that Google announced that it would begin steering its Chinese users to www.google.cn, which will restrict access to content that China's media monitors consider problematic.

President Hu Jintao has been tightening controls on expression as his leadership grapples with mounting internal challenges, including social unrest over corruption, pollution, unpaid wages and land seizures.

Though the Chinese news media have never been permitted to criticize top leaders, television, newspapers and Web-based news sites, now mostly commercially driven, have often competed to break explosive news stories and discuss sensitive topics.

But authorities under Mr. Hu have slowly but systematically purged editors who defy propaganda controls and have closed or reorganized publications that they believe have become too bold, making the news media more timid today than they were regarded as being in recent years.

Bing Dian, or Freezing Point, published as a supplement to the influential newspaper China Youth Daily, was one of the few major news outlets that routinely printed in-depth investigative stories and broached delicate topics.

The order to cease publication is effective immediately, the paper's longtime editor, Li Datong, said in a telephone interview.

"This is an intolerable step that has absolutely no basis in law and is in fact completely illegal," he said. It cannot be appealed, he said.

The authorities cited the publication of a lengthy study of Chinese middle-school textbooks as a reason for the order, Mr. Li said. The Jan. 11 article discussed what the author, Yuan Weishi, a Zhongshan University professor, referred to as official distortions of history to emphasize the humiliations China suffered at the hands of imperial powers.

He criticized the textbooks' treatment of events like the Boxer Rebellion and the burning of the Summer Palace by British and French troops in 1860, which he said were partly the result of mistakes by then-flailing Qing Dynasty leaders.

"We are at a critical moment in our modernization and the key to the success of our development is understanding our system and mental model," he wrote. "I was shocked to see that few things had changed since the Cultural Revolution."

Mr. Li said the article, though provocative, was just an excuse for closing the paper. In August, a letter by Mr. Li led to a revolt at the China Youth Daily group after the paper's new party-appointed editor, Li Erliang, sought to impose a review system that graded the staff on factors including the reaction their work elicited from party leaders.

The letter, which was posted on the Web, and the backlash resulted in the modification of the review system.

Leading Publication Shut Down In China (WP)

By Philip P. Pan

The Washington Post, January 25, 2006

BEIJING, Jan. 24 -- China's ruling Communist Party on Tuesday suspended one of the premier publications in Chinese journalism, escalating a campaign to rein in the state media, part of the government's toughest crackdown on freedom of expression here in more than a decade.

The decision to shut down Freezing Point, a four-page weekly feature section of the state-run China Youth Daily that often tested the censors and challenged the party line, came less than a month after the authorities replaced the top editors of another daring newspaper, the Beijing News.

The China Youth Daily is the official newspaper of the Communist Youth League, a power base for President Hu Jintao. Because any move to punish it would almost certainly require his approval, the decision to close Freezing Point was seen as further evidence of Hu's personal support for a tightening of controls on the media that began two years ago, about a year after Hu took office.

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Party officials summoned the senior editors of the China Youth Daily and ordered Freezing Point closed a day after distributing a five-page document that accused the section of "viciously attacking the socialist system" and condemned a recent article in it that criticized the history textbooks used in Chinese middle schools.

Propaganda authorities issued an order barring all media from reporting the suspension, all reporters from participating in any news conference about it and all Web sites from carrying any discussion about it, journalists said.

The chief editor of Freezing Point, Li Datong, confirmed the suspension in a message on his blog before censors deleted the page. "My colleagues and I just finished the full-page proof of tomorrow's Freezing Point, but it looks like it can't come out," he wrote. "Freezing Point tenaciously survived for 11 years, and it has finally died."

Reached by telephone, Li said that it was inconvenient to discuss what happened in detail but that he planned to write an essay to fight the decision. He said propaganda officials issued a notice criticizing him and the newspaper's editor in chief by name and ordering the section closed until it is "rectified and fully recognizes and corrects its mistakes."

Li, a party member and veteran journalist, stunned the propaganda authorities last summer with a lengthy letter attacking a plan to award bonuses to reporters at the newspaper who had won praise from government officials while deducting pay from reporters whose articles were criticized by officials. After the letter was leaked, the newspaper scrapped the bonus plan.

Though some publications ordered to undergo "rectification" by the party resume operations within weeks, others never publish again. Li said he planned to meet with his colleagues before deciding how to proceed, but he indicated that he did not believe Freezing Point had erred in publishing the article about the history textbooks.

The piece, written by Yuan Weishi, a reform-minded scholar at Zhongshan University in the southern Chinese city of Guangzhou, criticized Chinese textbooks for teaching an incomplete history of China's last imperial dynasty, the Qing, that fosters blind nationalism and closed-minded anti-foreign sentiment.

For example, he challenged the textbooks for portraying the 1900 Boxer Rebellion as a "magnificent feat of patriotism" without describing the violence committed by the rebels or their extreme anti-foreign views. He also criticized the books for blaming the Opium Wars of the mid-1800s entirely on foreign nations, without mentioning the Qing government's record of violating treaties by refusing foreign merchants access to Chinese cities.

The piece was the latest in a long series of articles in Freezing Point that carefully pushed the limits of permissible journalism in China. In November, the section published an essay describing the "White Terror" of authoritarian rule in Taiwan during the 1950s and democratic Taiwan's efforts to cope with that history of political repression. The contrast with events in mainland China was obvious but unstated.

Researcher Jin Ling contributed to this report.

Japan's Economy Extends Growth On Back Of Factory-output Gains (WSJ)

By Stanley White

The Wall Street Journal, January 25, 2006

TOKYO -- Japanese economic activity continued to pick up in November, fueled by strong industrial production, the government said.

The data suggest Japan's economic recovery remains on solid footing. Growth in services was moderate, but economists say they remain optimistic given signs of improvement in other areas.

"Production has accelerated even after the index surpassed its post-economic bubble peak in October," said Goldman Sachs economist Daisuke Yamazaki. "With exports now expanding, we can say Japan's post-bubble era is truly over and we'll probably see very positive gross domestic product in the October-December quarter."

The Ministry of Economy, Trade and Industry's all-industries index stood at 105.2 in November, up 0.3% from the previous month. The increase marked the highest level for the index since the ministry began compiling data with a base year of 2000. Economists surveyed by Dow Jones Newswires had forecast the all-industries index would rise 0.4% from the previous month. In October the index rose 0.9%.

Strength in industrial output contributed to the rise in the all-industries index, according to the ministry. In November, industrial output rose an upwardly revised 1.5% from a month earlier.

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US Anti-war Protester Cindy Sheehan Hails Venezuela's Chavez (AFP-Y2)

AFP, January 25, 2006

Anti-war protester Cindy Sheehan, mother of a US soldier killed in Iraq, joined more than 10,000 anti-globalization activists in Caracas, where she hailed Venezuela's leftist President Hugo Chavez.

"I admire him for his resolve against my government and its meddling," said Sheehan, who gained notoriety when she camped outside US President George W. Bush's ranch last year to protest the Iraq war. She said she hoped to meet Chavez later in the week.

Sheehan was among more than 10,000 people from across the Americas who took to the streets of the Venezuelan capital Tuesday in an anti-war protest that launched the six-day Caracas World Social Forum (WSF).

My government should not meddle anywhere, the "peace mom" told AFP during the march, which was marked by anti-Bush slogans.

We must stop the Iraq war, we must not let it happen again, said Sheehan, who has been arrested at least twice while demonstrating outside the White House.

Tuesday's march ended outside the armed forces headquarters, on an avenue usually reserved for military parades. "It's a peace route now," Sheehan said.

Sheehan, whose son Casey was killed in Iraq on April 4, 2004, said she would remain in Caracas until the WSF concludes on Sunday, and would address participants on several occasions.

She said Venezuela's foreign ministry sponsored her visit.

Canadians Give Conservatives Tenuous Victory (WSJ)

By Christopher J. Chipello

The Wall Street Journal, January 25, 2006

MONTREAL -- Canadians ended 12 years of Liberal Party rule but put the new Conservative government on a short leash by leaving the victors well short of a parliamentary majority.

Preliminary results of Monday's balloting showed the Conservatives, led by Stephen Harper, winning 124 seats and 36% of the popular vote, compared with 103 seats and 30% of the popular vote for the Liberals.

Mr. Harper, a 46-year-old economist from the Western province of Alberta, said he will work with the three opposition parties to make the fragmented Parliament function. Meanwhile, Prime Minister Paul Martin said he will step down as leader of the Liberals, who were hurt by a series of scandals.

Analysts said Mr. Harper will have to steer a careful centrist course, as the Conservatives will need help from other parties to pass legislation and remain in office. Minority governments in Canada typically cooperate with opposition parties on an issue-by-issue basis, rather than through formal coalitions. Such governments have lasted around 18 months on average.

The Conservatives expanded on their Western Canadian electoral base, but they fell short of the 155 seats required to command a majority in the 308-seat House of Commons, the elected part of Ottawa's Parliament.

Preliminary results showed the separatist Bloc Québécois winning 51 of Quebec's 75 seats, down from 54 in the previous election in 2005. The Conservatives picked up 10 seats in the mainly French-speaking province. The left-of-center New Democratic Party won 29 seats nationally, leaving it just short of the number needed to sway the balance in parliamentary votes.

The Conservatives' tenuous grip on power will give them little leeway to pursue foreign-policy initiatives. Still, the change in Ottawa is likely to result in warmer relations with the Bush administration.

White House spokesman Scott McClellan said yesterday that "we have had a strong and broad relationship with Canada, and we look forward to working with the new government to strengthen our relations even more."

Mr. Harper has vowed to cut taxes and keep Ottawa's budget in the black. But he also pledged to boost spending on Canada's armed forces -- something Washington has long advocated.

Financial-market reaction to the results was muted, possibly reflecting disappointment with the weak mandate handed to the Conservatives. The Toronto Stock Exchange's S&P/TSX Composite Index slipped 41.02 points to 11,692.35. The Canadian

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dollar, which had strengthened to 87 U.S. cents before the vote, eased to 86.8 cents yesterday following an apparent hint by the Bank of Canada that its interest-rate increases may be nearing an end.

Conservative Winner's Agenda Faces Tough Haul (WT)

By Levon Sevunts

The Washington Times, January 25, 2006

MONTREAL -- Canada's Conservative Party leader, still elated from his election victory Monday, flew yesterday to the capital, Ottawa, where he must begin figuring out how to push his political agenda through a reluctant Parliament.

With just 124 seats in the 308-seat House of Commons, the presumptive prime minister, Stephen Harper, will have to find allies on an issue-by-issue basis from among three left-of-center parties.

Mr. Harper, a 48-year-old economist from Calgary, gave little indication of his plans yesterday, postponing a scheduled press conference until tomorrow and offering only a short greeting to supporters at the Ottawa airport.

"We had a good sleep, we're all excited and we're all feeling pretty upbeat, as you can imagine ... to start rebuilding this great country of ours," he said with his wife and two children at his side.

Mr. Harper, whose election ended 12 years of Liberal Party rule, campaigned o promises to clean up the government after a searing corruption scandal, cut taxes and increase defense spending.

He also promised to improve relations with the United States after a period of tension over Canada's refusal to join the war in Iraq and a continental missile defense program, as well as trade disputes over softwood lumber and mad cow disease.

But he will have a much tougher time passing his agenda than his predecessor, outgoing Prime Minister Paul Martin, whose Liberal Party had a minority in Parliament since 2004.

Mr. Martin was able to turn for support to the Conservatives, the far-left New Democratic Party or the separatist Bloc Quebecois depending on the issue; Mr. Harper will be alone on the right wing of Canadian politics.

Analysts said he may find support for his plans to clean up government, cut the federal sales tax or allow the French-speaking province of Quebec to have its own seat at the United Nations' cultural agency. But his conservative social policies will be much tougher to push through.

Still, with Liberals facing a leadership race after Mr. Martin said he will step down, and the Bloc Quebecois smarting from a surprise loss of seats, Mr. Harper can count on a few months of relative stability.

During his acceptance speech Monday night, Mr. Harper sounded a conciliatory tone.

"Tonight, although Canadians have voted for change, they have not given any one party in the House of Commons a majority," he said. "They have asked us to cooperate, to work together and to get on with tackling the real concerns of ordinary working people and their families."

Mr. Harper also pledged to follow the economic course set by Mr. Martin, who eliminated chronic budget deficits as finance minister in mid-1990s before taking over as prime minister in 2003.

"To those around the world who have watched this campaign our message is the same: The result tonight signals a change of government, not a change of country," he said.

Canada's Shift: To The Right, Gently (NYT)

By Clifford Krauss

The New York Times, January 25, 2006

TORONTO, Jan. 24 - Has Canada turned upside down in electing Stephen Harper as the next prime minister? Are conservative winds suddenly blowing through cities where gays and lesbians legally marry and the government pays everyone's health bills?

The next leader of Canada expresses skepticism about the Kyoto climate change protocol, opposes same-sex marriage and wants to make the Canadian military muscular again. He openly supported the American-led invasion of Iraq. All are positions that put Mr. Harper, 46, well to the right on the Canadian political spectrum.

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By electing this free-market economist from Alberta, a conservative oil-producing province frequently likened to Texas, it may seem that the Canadian people were trying to debunk the prevailing political wisdom of recent years that their progressive-minded nation was drawing further and further away from the United States.

But many analysts and political observers here caution that it is too soon to draw too stark a conclusion from the election on Monday, in which Mr. Harper's party won a mere 36.3 percent of the popular vote. The shift in Canadian politics is likely to be far from seismic.

Mr. Harper ran a tightly orchestrated campaign focused pragmatically on the pocketbook, shirking ideology and hot-button social issues. He promised allowances to families with young children to help them pay for child care. He pledged modest cuts to the unpopular national sales tax and promised tax breaks for people using public transit. He did not make bold proposals for reforming the national health insurance system, and he made it clear that despite his support for the war in Iraq, he would not send troops there.

The election outcome, in fact, can be read as more of a rejection of Prime Minister Paul Martin's scandal-racked Liberal Party than an embrace of Mr. Harper's own modest agenda.

"It's a very slim mandate, and the party that is holding power is holding it by a thread," said Pierre Martin, a political scientist at the University of Montreal. "If you have a party system divided into four, one party can take power with a proportion of the vote in the 30's percent range. That doesn't mean the country is moving right."

Indeed, when the victorious Mr. Harper stepped to the platform early Tuesday morning before his adoring campaign supporters, he was careful not to suggest that he planned anything more than careful change.

Implicitly acknowledging that his backing was less than overwhelming, he noted that voters had "asked us to cooperate, to work together and to get on with tackling the real issues that matter to ordinary working people and their families."

Arriving in Ottawa in the afternoon, he made the briefest, and vaguest, of statements at the airport. "I know a lot of you are going to be with us now in the next few months and years ahead," he said, "as we start rebuilding this great country of ours."

Mr. Harper's modest words in part reflect a man who is shy to the point of being aloof, someone who has always been careful not to show all of his cards. He is known to have a fiery temper, and he barely disguises his distrust for reporters. His sense of humor on the campaign trail was most revealing in its self-deprecating jokes about his lack of charisma.

But the statements on Tuesday were also intended to balance two goals that will probably not always fit comfortably together.

To enact legislation and even for his government to survive, Mr. Harper must build bridges to work with three left-leaning parties that together will hold the balance of power in the lower house of Parliament, where his Conservative Party won 124 seats of 308 on Monday.

At the same time, he must offer hope to his western base that its patience during years in the political wilderness will eventually take it to a more conservative promised land.

"The westerners will have to understand they will have to make compromises and move to the center," said Michel C. Auger, a political columnist at Le Journal de Montréal. "But Harper can use the time to build a stronger power base in the Maritimes, Quebec and Ontario so next time he can build a majority government and put forward their agenda."

His own background already straddles that geographic and political divide. Born and raised in Toronto, he moved to Alberta to work in the oil and gas industry in his early 20's and began his conservative tilt as he studied economics at the University of Calgary. He met his wife, Laureen, at a Reform Party convention in 1991.

In the 1990's he directed the National Citizens Coalition, a conservative advocacy group that favored free-market economics, privatizations and tax cuts, an agenda that does not necessarily resonate with most Canadians even today.

The one area where Mr. Harper may be able to make a difference is foreign affairs, even though he admits to having little expertise there. He will surely improve the tone of relations with the Bush administration, which has been downright acrimonious since the Iraq invasion, which Ottawa opposed.

Mr. Harper could serve as a bridge between the United States and countries that have signed and ratified the Kyoto protocol to find ways to cooperate on controlling climate change. He could reopen the debate on whether Canada should join

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the Bush administration's missile defense system, which Mr. Martin rejected with little diplomatic finesse. But even those modest goals may not be easy.

"It's a delicate balancing act," said James Blanchard, a former United States ambassador to Ottawa. "I am sure that Stephen Harper wants good relations with President Bush and the United States, but any Canadian prime minister has to keep a noticeable independence from the United States, or he loses credibility in Canada."

Canada's Harper Seen As Shrewd, Serious, Bland (WP)

By Doug Struck

The Washington Post, January 25, 2006

TORONTO, Jan. 24 -- On March 20, 2003, as the United States launched its invasion of Iraq, Stephen Harper rose in the Canadian House of Commons and bitterly condemned his country's refusal to join the fight.

The government "has betrayed Canada's history and values," he thundered. "The government has for the first time in our history left us outside our British and American allies in their time of need."

It was a vintage performance for the Conservative leader: self-assured, serious, claiming the moral high ground, and caustically critical of the liberals then in power. Now Harper, 46, has reached the pinnacle of a political career. Following his party's victory over the ruling Liberal Party in parliamentary elections Monday, he will become the 22nd prime minister when Parliament reconvenes in the coming weeks.

On Tuesday, Canadians awoke uncertain whether Harper's customary role would change, and whether his history of opposition was well-suited for building the alliances he needs to support the new minority government.

Those who know Harper insist he will not change.

"I expect him to be straightforward," said Diane Ablonczy, a Conservative lawmaker who has known Harper for 19 years and is likely to join his cabinet. "We won't get a dizzying round of rhetoric. He will say what he means and mean what he says."

Despite Harper's years in public life and a long record of speeches, however, many Canadians feel they do not know him well. The political strategist has never been a warm, approachable public figure. He had to overcome a reputation for stiffness that left him at a disadvantage compared with his garrulous opponent, Prime Minister Paul Martin.

"He's not an extrovert. Clearly," said a longtime friend, geologist John Weissenberger, in an interview Tuesday. "He approaches his work in a very serious, professional way. I think he viewed some of the showmanship of politics as being beside the point."

In personality, though not politics, Harper is similar to America's 2000 Democratic presidential nominee, Al Gore. Both are smart, studious policy mavens who come across in public as somewhat wooden. Like Gore, Harper incorporated self-deprecating jokes about his blandness into his standard campaign speech.

"One lesson I have learned in politics is that dull works," he would say, usually the only laugh line in an otherwise policy-filled speech.

Policy and conservatism have been Harper's obsession. When he and Weissenberger were graduate students at the University of Calgary, they debated free-market theory and plotted political strategy over Chinese food at the mall outside campus.

"It sounds kind of incredible to have two guys in their twenties sitting down to say how should we change the way the government works," Weissenberger said. "But that's what we did. We were both kind of political junkies and policy junkies."

Harper's father was an accountant in Toronto, where Harper was born and raised in a white, middle-class neighborhood. Completing the Canadian portrait, Stephen and his two younger brothers were absorbed in ice hockey, and Harper still is a master of hockey trivia.

Childhood friends remember him as polite, studious and quiet. After high school, Harper set out to work in western Canada. He soon enrolled in the University of Calgary, where his political interests blossomed and he began a march through the conservative political ranks, according to the biography "Stephen Harper and the Future of Canada," by William Johnson.

On campus, he became immersed in the Canadian equivalent of the U.S. Young Republicans. Harper and Weissenberger were avid fans of intellectual conservative William F. Buckley's weekly television debate show, "Firing Line."

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The students traded political tomes, debated political theory and hungrily followed the growing popularity of Margaret Thatcher in Britain and Ronald Reagan in the United States, according to Johnson. They wondered why the strident conservatism those leaders represented had largely bypassed Canada.

"We called ourselves the 'Tiny Tories,' " said Goldy Hyder, another college mate, who went on to be chief of staff to a Progressive Conservative leader, Joe Clark.

"I would describe Stephen then pretty much as I would describe him now," Hyder said. "He is a very serious person. He obviously enjoys his policy and his public policy musing. He's reserved, fairly quiet. There is no question of his smarts. He was often in a room full of persons and he was the smartest of them all."

Harper ran unsuccessfully for Parliament in 1988 and won in 1993, but left four years later to take a job as head of the National Citizens Coalition, a conservative advocacy group. There, he forcefully argued that Ottawa and the eastern power structure treated western Canada unfairly. In 2001, he signed a letter urging the Alberta premier to "build firewalls around Alberta" against a "hostile federal government."

It became a controversial letter. And it was not the only position that later caused Harper trouble after he returned to Parliament in 2002 as leader of the opposition party. In their first matchup, in the 2004 national election, the shrewd Martin used Harper's support for the Iraq war and other pro-American statements to portray the Conservative as too closely aligned with right-wing U.S. Republicans.

"It's a very difficult balancing act," said James Blanchard, a former U.S. ambassador to Canada who is now a lawyer and consultant in Washington. Canadian prime ministers do not want to be seen as too close to Washington, he said.

Harper learned the lesson. He avoided foreign policy and politically explosive social policy issues in this campaign, focusing instead on government reform, tax cuts, health care, crime and transferring more power to provinces.

Even detractors give Harper credit for rescuing his party. He engineered the merger of feuding conservative wings into a single party in 2003, applied lessons from their defeat in 2004, and then commanded a tightly disciplined campaign with no major mistakes leading to this election.

His supporters point to that accomplishment as evidence that Harper is a keen political strategist, not just an ideologue.

"Those are marks of leadership," said the last Conservative premier, Brian Mulroney, in an election-night television interview from West Palm Beach, Fla. "Reaching out to unify the party, then to move the party to the center, then to devise a campaign strategy and finally to execute it flawlessly."

Harper's campaign staff declined a request for an interview before the election, citing the load of campaign obligations.

His first step after the election seemed as careful as his campaign. In his late-night victory speech in Calgary, he graciously thanked Martin for his service to the country. He also sought to soften his stern image by appearing with his two children, Rachel, 7, and Benjamin, 9.

His wife, Laureen Teskey, a graphic designer, remained a constant figure by his side in the campaign. Both disdain the media, according to reporters who covered the campaign, though they made an effort in this election run-up to be more civil to the press.

But those who know Harper credit Teskey with helping to soften his hard edges.

"He also has changed a lot. He became more well-rounded after he became married and had children," said Monte Solberg, a Parliament member from Alberta. "He has learned how to compromise. A lot of people have called him an ideologue, but I think he has put that to rest."

Canada Tilts, Cautiously, Rightward (NYT)

The New York Times, January 25, 2006

Canadian voters have done the un-Canadian thing by electing a hard-edged Conservative, Stephen Harper, as their new prime minister. In the past, they have typically chosen leaders from the soft center-left or, less often, from the soft center-right. Mr. Harper's victory puts an end to more than 12 years of economically successful but scandal-marred Liberal Party governments.

But with the Conservatives winning only a little more than 36 percent of the vote and obliged to govern in a coalition with more left-leaning partners, Mr. Harper will need to steer clear of radical policy changes, at least on domestic matters. His

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electoral platform pragmatically recognizes that by emphasizing cleaner government, lower taxes and increased child care subsidies for families with young children.

On foreign policy, where Canadian prime ministers have freer rein, Mr. Harper is likely to move quickly to cozy up to the Bush administration - Canada's relationship with the United States has been distinctly chilly since the start of the Iraq war. But even here Mr. Harper will need to tread carefully because neither the war nor President Bush are very popular in Canada, and the Conservatives will be angling for a chance to win an outright majority by calling a new election sometime in the next few years.

Mr. Harper's victory is nevertheless a historic breakthrough for his party, which was formed in 2003 by a merger of the old Progressive Conservatives, based in eastern Canada, and the American-style free-market social conservatives from the West. In contrast with the new party's initial unsuccessful run, in 2004, this election resulted in the party's doing well in every region of the country. That notably includes Quebec, long a stronghold of Liberals and separatists.

The Conservatives' success was helped by voters' exhaustion with the divided and squabbling Liberals, with the unending series of slush-fund and inside-dealing scandals that have swirled around their rule for the past few years, and with the distinctly lackluster campaign skills of the outgoing prime minister, Paul Martin, who managed to be uncharismatic even by Canada's undemanding standards.

But the victory belongs chiefly to Mr. Harper. We hope he puts it to good use.

Canadian Warm Front (WSJ)

The Wall Street Journal, January 25, 2006

It's January, so naturally much of Canada has fled to Florida, but enough voters were at home Monday to cast their ballots in an election that was as heated as Miami Beach on Canada Day (July 1).

The Conservative Party won a plurality in Parliament on a campaign of national renewal, and not only because party leader Stephen Harper has pledged to root out the corruption in Ottawa brought on by 13 consecutive years of Liberal Party rule. With the growth in labor productivity dropping sharply since 1998 and Canada's geopolitical importance trending in the same direction, Mr. Harper is promising to steer the country in a more prosperous direction, both at home and abroad.

His message resonated well beyond his small-government conservative base in the West and into traditionally Liberal strongholds in Ontario and in parts of Quebec, where the separatist Bloc Québécois party has ruled unchallenged. With just 124 seats in the next Parliament, the Conservatives only managed a minority government. But their success in some Eastern liberal bastions is a testament to a popular hunger to reclaim lost Canadian prestige. This is good news for the U.S., which has more than a passing interest in a strong and prosperous Canada.

While the Liberal Party was trying to paint Mr. Harper as a right-wing extremist (and blood brother to that cowboy in the White House), he was out on the stump vowing to shift power away from Ottawa back to the provinces and return part of the federal budget surplus to taxpayers in the form of tax cuts. His campaign estimated that a two-percentage-point cut in the 7% national goods-and-services tax could save Canadian families an average of $400 a year.

That undoubtedly got the attention of voters, who are feeling the pinch of Canada's declining labor productivity growth. As a tax study just out from the Vancouver-based Fraser Institute notes, in 2004 Canada's per-capita disposable income had fallen to 66.9% of that in the U.S. from 80.4% in 1985. The Harper campaign's proposal for a capital-gains tax exemption -- as long as the money is reinvested within six months -- is one small step toward rebuilding Canadian productivity by attracting capital and rewarding risk.

Mr. Harper also wants to end the Liberal retreat on national defense and reassert some Canadian influence in the world. While other NATO countries are running away from their defense responsibilities, leaving the world's superpower holding the bag, Mr. Harper said he wants Canada both to revive what had been an important international role and to ensure that it can defend its own Northern territory. He promises to spend more on the armed forces and revisit the issue of Canada's participation in a missile-defense shield for North America, which was rejected by Liberal Prime Minister Paul Martin.

Which brings us to Canada's most important bilateral relationship -- with the U.S. Mr. Harper took some political risk by campaigning for an end to the Liberal practice of bad-mouthing the neighbors and promising to renew this traditional friendship.

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By far the biggest dispute between the two countries -- each of which is the other's largest trading partner -- concerns the anti-dumping duties on Canadian lumber entering the U.S. Four panels have ruled that the U.S. tariffs violate the North American Free Trade Agreement. The Bush Administration could welcome Mr. Harper's victory -- and turn a new page in U.S.-Canada relations -- by lifting the illegal duties.

Candidate Is Booed By Mexican Students (NYT/REU)

By Reuters

The New York Times, January 25, 2006

MEXICO CITY, Jan. 24 (Reuters) - Thousands of Mexican students heckled a presidential candidate, Roberto Madrazo, at a rally on Tuesday, forcing him to cut short a speech and handing him a major embarrassment only days after campaigning began.

Mr. Madrazo, in third place in opinion polls, ended his speech after only two minutes and abandoned the rodeo ring where the rally was taking place in the central city of Pachuca, witnesses said.

He walked off after students whistled and shouted slogans in favor of Andrés Manuel López Obrador, the left-wing front-runner, and booed Mr. Madrazo, from the Institutional Revolutionary Party, or PRI.

Mr. Madrazo is linked to the old guard of the PRI, which ruled Mexico for 71 years and earned a reputation for corruption and authoritarianism. "Long live the Peje!" students shouted, using Mr. López Obrador's nickname, after the pejelagarto fish typical of his home state of Tabasco.

Mr. López Obrador heads opinion polls for the July 2 elections by up to 10 points. Felipe Calderón, of the governing conservative National Action Party, is in second place in the polls.

Morales' Policies Could Jeopardize U.S. Foreign Aid (WT)

By David R. Sands

The Washington Times, January 25, 2006

A showcase U.S. aid package for Bolivia worth nearly $600 million could be in jeopardy if new leftist President Evo Morales follows through on some of his campaign promises, a senior U.S. aid official announced this week.

"We will consider the situation in Bolivia very, very carefully," said John Danilovich, chairman of the quasi-independent Millennium Challenge Corp. (MCC), President Bush's signature new program to target U.S. foreign aid to countries with strong records of social, economic and political reforms.

"The evolution of policy in Bolivia under President Morales remains to be seen," Mr. Danilovich told a forum sponsored by the American Enterprise Institute on Monday.

Mr. Morales, a former coca grower and close ally of populist Venezuelan leader Hugo Chavez, has said his election would be a "nightmare" for the Bush administration.

He has vowed to boost state control of Bolivia's sizable oil and gas reserves and denounced the hard-line U.S. approach to curbing Bolivia's cocaine trade. Despite U.S. economic and military aid that has averaged $145 million annually since 1998, Mr. Morales has denounced what he called U.S.-style "neoliberalism" and his country's heavy dependence on foreign aid.

While moderating some of his anti-U.S. and anti-market rhetoric in his Sunday inaugural remarks, Mr. Morales named a Cabinet this week heavy with radical leftist figures, including a new energy minister who has been fiercely critical of foreign investors.

Bush administration officials have taken a wait-and-see approach to the new Bolivian leader, but the Millennium Challenge aid package may be a critical first test of bilateral relations.

Conceived by Mr. Bush as a way to use foreign aid to promote lasting pro-market and political reforms in low-income countries, the MCC uses 16 indicators ranging from corruption and civil rights to the percentage of girls completing primary education in evaluating which countries qualify for assistance.

Just six weeks before Mr. Morales' Dec. 18 election, the agency announced that Bolivia had qualified to apply for MCC funds. The $598 million Bolivian proposal -- for a major road-improvement program and new financial instruments to boost local exporters -- would be the largest single grant in the MCC's two-year history.

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Mr. Danilovich, who took over the top job at the MCC in November, said the agency was prepared to suspend or kill grant programs if the recipient country fails to meet its goals or backslides on reforms, and had already done so with applications from Yemen and Armenia.

With Mr. Morales trying to balance the demands of his radical supporters, a parliament in which conservative forces are still strong, and foreign-aid and business groups, even some conservative analysts say the Bush administration should not be too quick to write off La Paz.

According to Heritage Foundation researcher Stephen Johnson, Mr. Morales "shows every sign of becoming a Castro puppet and plunging Bolivia into civil conflict. But no one should say the United States pushed him in that direction."

Castro Directs Anti-U.S. March In Havana (FWJD)

By Vanessa Arrington

The Fort Wayne Journal Gazette, January 25, 2006

HAVANA - Fidel Castro directed a vast protest march past the U.S. mission here Tuesday, accusing the United States of preparing to free one of the hemisphere's worst terrorists as thousands of Cubans carried signs equating President Bush with Hitler.

The government-sponsored march coincides with a U.S. court deadline for evidence to be filed in the case of Luis Posada Carriles, a former CIA operative and anti-Castro militant held on immigration charges at a detention center in El Paso, Texas. His lawyers are seeking his freedom as U.S. immigration authorities seek his deportation.

The Cuban president called Posada a "repugnant character" as well as a terrorist as he spoke to a sea of cheering Cubans along the coastal Malecon highway.

Cuba and Venezuela accuse the Cuban-born Posada of masterminding the 1976 bombing of a Cuban airliner and staging bombings in Havana in 1997 and 1998. Together the attacks killed 74 people. Castro also has accused Posada and his colleagues of plotting to assassinate him at a summit in Panama in November 2000.

"We don't want revenge, we just want justice," said Lucia Roja, a retired educator. Although she is 67 and diabetic, Roja said, "It's important to be here - I've never missed a march."

State-run television estimated 1.4 million people at the march. Those who attend government-sponsored marches are given the day off from work.

Organized by school, work and military groups, marchers waved little red, white and blue Cuban flags and chanted "Bush: fascist! Condemn the terrorist!" The 79-year-old Cuban leader watched the nearly seven-hour event, then marched himself at the end.

Another focus of Castro's ire is a new electronic sign installed outside the U.S. Interests Section in Havana, which handles consular affairs in the absence of full diplomatic relations. The sign was activated as Castro began speaking Tuesday, relaying global news and quotes including Abraham Lincoln's: "No man is good enough to govern another man without that other's consent."

"They already turned on the little sign - the cockroaches are brave," Castro said before starting his speech.

The mission launched the sign a week ago with streaming text of sayings from Martin Luther King Jr. and excerpts from the Universal Declaration of Human Rights, to which Cuba is a signatory.

"It's nonsense!" said Carla Smith, a 61-year-old lawyer among the marchers. "Within a few days, we'll have forgotten all about them."

In Washington, State Department spokesman Sean McCormack said he did not see why messages containing quotes about freedom "should be such a source of concern for the Cuban government."

Posada was arrested in Miami in May on charges he entered the United States illegally. His Miami lawyer, Eduardo Soto, filed documents with U.S. Immigration and Customs Enforcement officials on Monday seeking his release from custody.

The ICE said today that while a judge had forbidden Posada's deportation to Venezuela or Cuba, for fear that he would be tortured there, the agency was still seeking to expel him to a third country.

Africans Pick Congo Republic Leader, Not Sudanese, For Union Post (NYT)

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By Marc Lacey

The New York Times, January 25, 2006

KHARTOUM, Sudan, Jan. 24 - African leaders bypassed one of the continent's most controversial presidents as the choice to head the African Union on Tuesday and opted instead for a leader who has managed to reinvent himself, Denis Sassou Nguesso of the Congo Republic, a onetime coup leader now regarded as a stabilizing force in the region.

President Omar Hassan al-Bashir of Sudan had wanted the job as Africa's chief peacemaker and emissary, but his colleagues, who are holding a summit meeting in his capital, thought otherwise, troubled by the Sudanese government's involvement in the war in the western Darfur region of the country.

Mr. Bashir did not lose out completely, though, since his colleagues indicated that the job would be his in 2007. The offer came with the clear expectation that Mr. Bashir would work to end the Darfur crisis before then.

Mr. Sassou, who succeeds Olusegun Obasanjo of Nigeria as chairman of the 53-member bloc, is a smartly dressed former paratrooper who has long used his perch in the tiny Congo Republic, on the continent's Atlantic coast, to speak out on behalf of Africa. He is one of the longest-serving leaders in the African Union and previously filled the rotating chairmanship in the group's predecessor, the Organization of African States.

In some respects, Mr. Sassou is not so different from the man who failed to get the job. Both Mr. Sassou and Mr. Bashir took power in military coups, in 1979 and 1989, respectively. The two soldiers also preside over countries that have spent much of their postcolonial history torn by civil war.

But one major difference is that the Congo Republic has managed to quell its civil war, while Sudan has reached a peace deal in one big conflict, its 20-year-long north-south dispute, only to find itself enmeshed in another one, the crisis in Darfur.

Also, while Sudan is in the early stages of allowing political dissent, Mr. Sassou opened up his country to multiparty elections in 1992. They did not go as he planned, and he found himself voted out of office. But he resurfaced five years later, backed by Angolan troops, and grabbed back the presidency in a brief but bloody civil war.

He fared better in his second attempt at electoral politics, winning by a landslide in March 2002.

Human rights organizations praised African leaders for rebuffing Mr. Bashir's bid for the chairmanship and offered lukewarm praise for Mr. Sassou.

"Sassou's human rights record is nothing to celebrate, but there are not atrocities on the level of Sudan," said Reed Brody of Human Rights Watch.

Mr. Sassou's colleagues described him as serious, eloquent and committed to the betterment of Africa.

Jendayi Frazier, the American assistant secretary of state for African affairs, said Mr. Sassou was a leader the Bush administration could work with to help resolve the crisis in Darfur, indicating that the United States would continue to back the African Union's peacekeeping mission there.

Financing for that operation will dry up in March, and some African leaders have suggested that the United Nations should take over the peacekeeping duties. That will be only one of the issues Mr. Sassou will face.

"We shall do everything we can to ensure peace will come," he said. "It's a big challenge for us."

European Leaders Appear Far Apart On Energy Policy (WSJ)

By Juliane Von Reppert-bismarck And William Echikson

The Wall Street Journal, January 25, 2006

BRUSSELS -- Unsettled by high oil prices and Russia's recent rupture of gas contracts, European leaders pushed for the creation of a common continentwide energy policy, only to end up demonstrating their differences on such key areas as nuclear power.

At a finance ministers' meeting here, France presented a paper calling for increasing research and development into its favored source of "clean" energy -- nuclear power. French officials warned of an energy shortage if Europe continues to dismantle its present reactors and fails to build new ones. Italian Economy Minister Giulio Tremonti joined ranks, saying Europe has "no alternative" to nuclear power.

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Energy will be a key topic at the next summit of leaders in March. At that time, the European Commission will unveil policy proposals.

But so far, divergences seem great. While a European Commission poll published yesterday showed 47% of European citizens favor a European energy policy, it illustrated little enthusiasm for an increase in nuclear power, with only 12% seeing it as the best solution to reduce Europe's dependency on current energy sources.

The idea of a common European Union energy chest has been bandied about since the beginning of the postwar pan-European project. The EU's precursor was designed to create a common coal and steel policy. But countries still have their own national oil stocks. They negotiate different rates with Russia on gas supplies. In 2003, studies reported that only about 8% of electricity flowed across national borders.

As the EU has expanded and its own domestic-energy sources such as German coal and Dutch gas have dwindled, however, the argument for a common policy is re-emerging.

Environmental groups are calling instead for Europe to focus on sustainable energy. They want renewable sources such as wind and biomass energy to make up a quarter of Europe's primary energy supply by 2020.

Darfur Descending (WP)

By Kofi A. Annan

The Washington Post, January 25, 2006

When I visited Darfur last May, I felt hopeful. Today I am pessimistic, unless a major new international effort is mustered in the coming weeks.

I visited a village whose people had returned after fleeing from violence and were living in relative safety, thanks to the presence of troops from the African Union (A.U.). True, this was only a beginning. Much of the vast region was prey to sporadic violence, with more than a million people living in camps. But thanks to a massive relief operation led by the United Nations, the number dying from hunger or disease was falling dramatically. A cease-fire, admittedly flawed, was in place. Peace talks between the Sudanese government and the rebel movements, ably mediated by A.U. representatives, were proceeding in Abuja, Nigeria. It was hoped that agreement could be reached by the end of the year.

There were other positive signs. The U.N. Security Council had referred the situation to the International Criminal Court and had decided in principle to apply targeted sanctions to individuals who could be identified as responsible for the atrocities of the past two years.

I wish I could report that all these efforts had borne fruit -- that Darfur was at peace and on the road to recovery. Alas, the opposite is true. People in many parts of Darfur continue to be killed, raped and driven from their homes by the thousands. The number displaced has reached 2 million, while 3 million (half the total population of Darfur) are dependent on international relief for food and other basics. Many parts of Darfur are becoming too dangerous for relief workers to reach. The peace talks are far from reaching a conclusion. And fighting now threatens to spread into neighboring Chad, which has accused Sudan of arming rebels on its territory.

Despite a chronic funding crisis, A.U. troops in Darfur are doing a valiant job. People feel safer when the troops are present. But there are too few of them -- a protection force of only 5,000, with an additional 2,000 police and military observers, to cover a territory the size of Texas. They have neither the equipment nor the broad mandate they would need to protect the people under threat or to enforce a cease-fire routinely broken by the rebels, as well as by the Janjaweed militia and Sudanese government forces.

On Jan. 12, the African Union decided to renew the mission's mandate until March 31, while expressing support, in principle, for a transition to a U.N. operation this year. The timing of this transition is still being discussed, including at this week's A.U. summit in Khartoum. This puts the Security Council on the spot. The U.N. Charter gives the council primary responsibility for international peace and security. And in September, in a historic first, U.N. members unanimously accepted the responsibility to protect populations from genocide, ethnic cleansing, war crimes and crimes against humanity, pledging to take action through the Security Council when national authorities fail.

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The transition from the A.U. force to a U.N. peace operation in Darfur is now inevitable. A firm decision by the Security Council is needed, and soon, for an effective transition to take place.

But let no one imagine that this crisis can be solved simply by giving the present A.U. mission a "U.N. hat." Any new mission will need a strong and clear mandate, allowing it to protect those under threat, by force if necessary, as well as the means to do so. That means it will need to be larger, more mobile and much better equipped than the current African Union mission. Those countries that have the required military assets must be ready to deploy them.

Such a force would take the United Nations months to deploy. In the meantime, the A.U. mission must be maintained and strengthened. We cannot afford any gaps or any weakening of the force in place. Last May the African Union and the United Nations organized a donor conference in Addis Ababa, Ethiopia, to raise money and logistical support for the A.U. force. A follow-up conference is planned for Feb. 20. At the same time, the massive relief operation must continue, and be fully funded, so that Darfur's people continue to receive clean water, food and other vital supplies.

Finally, and above all, much stronger pressure must be brought on all parties -- the rebels as well as the government -- to observe the cease-fire and commit themselves to the Abuja peace talks with a sense of urgency. The current delays are inexcusable; they cost lives every day. Those negotiating must be reminded of their personal responsibility.

One thing is clear: Whatever external force is sent to Darfur can provide at best only temporary security to the people there. Only a political agreement among their leaders can secure their future and the return of 2 million of them to their homes.

The writer is secretary general of the United Nations.

A Deal To End All Barter (WSJ)

By Viktor Yushchenko

The Wall Street Journal, January 25, 2006

When Ukrainian voters elected me President last year, I promised that our future relations with Russia would be based on national interests alone. The time when our policy to Moscow would be dictated by the special interests of financial-industrial groups and oligarchs was over.

The dispute that recently erupted between Moscow and Kiev over Russian natural gas prices was a trying test of our political maturity. Corporate players threatened our sovereignty, economic independence and freedom.

We could have contributed to the rising tensions by pursuing court action to assert our contractual rights. Under the terms of an existing agreement signed in 2004 between our national gas companies, prices had been fixed until 2009.

However, we were troubled by the fact that Gazprom's unilateral decision to reduce gas deliveries to Ukraine also led to a loss of gas pressure in our pipelines to the rest of Europe. Instead of escalating the conflict we therefore sought to settle the differences with Moscow and allay the fears of both Ukrainian and European citizens.

Fortunately, pragmatic heads on both sides prevailed. The importance of this settlement became all too evident for Ukrainians who for the past week had to endure double-digit sub-zero temperatures.

Together with Russia's President Vladimir Putin, we were able to find a workable formula for the transport of Russian natural gas to European consumers. As was our strategic goal from the outset, the deal was based on mutual respect for national interests and market pricing.

For Ukraine, the compromise has several advantages. First, unlike in our neighboring countries -- where Gazprom has taken control of the national gas pipelines -- our strategic gas pipelines remain Ukrainian property.

Second, and maybe most importantly, the compromise finally introduces cash payments to our international gas trade, ending the murky Russian-Ukrainian barter operations for energy supplies.

Previously, Ukraine contractually withdrew up to 25 billion cubic meters of Russian gas pumped towards Europe through its pipelines in exchange of industrial assets and the right to use our pipeline to deliver gas to the Continent. Now, Ukraine pays cash for the Russian gas it consumes just as Russia pays cash for the transport of its gas through Ukraine's pipeline. Everything is transparent and fixed in contracts.

For fourteen years, though, international barter settlements had cost Ukraine hundreds of strategic assets such as factories, shipping vessels and other enterprises, which had been used as payment for Russian (and Turkmen) gas supplies. The practice

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of forfeiting strategic assets had fueled cronyism and corruption, enriching a few oligarchs at the expense of the rest of the nation. This intolerable practice has finally ended.

It is true that Ukraine now pays a higher price for Russian natural gas. However, we still pay less per cubic meter than what Moscow charges our closest neighbors, with the exception of Belarus. That's because we now receive more cheap Turkmen and Kazakh gas.

Moving closer to market pricing mechanisms will force our domestic industry to improve energy efficiency and conservation. At the same time, developing domestic gas drilling has become a policy priority and will help Ukraine become more energy independent.

During the discussions with President Putin we also agreed to soon create a joint venture for a more transparent international gas transporter to fulfill the terms reached between our national gas companies. The opaque shareholder structure of the gas transporter currently in charge has caused concern domestically and abroad.

European businesses and consumers will also benefit. Russian gas deliveries to Ukraine have now been contractually separated from gas designated to the rest of Europe. Honoring these now separate agreements and their five-year terms offer consumers in both Europe and Ukraine predictability and stability. Meanwhile, we intend to work with all gas producing countries to our east on developing and diversifying natural gas supplies to Europe in order to provide consumers with options for the future. The idea is to transport natural gas from Turkmenistan, Kazakhstan and other central Asian countries through new pipelines which could eventually be connected to the existing network supplying Europe.

The gas compromise, though, caught many in Ukraine off-guard. Oligarchs oppose it because it ends one of the largest and most corrupt international barter schemes in Europe. Proceeds from it benefited numerous fifth column groups at the expense of Ukraine's national security. The influence of these oligarchs reaches as far as to Ukraine's parliament. Last month lawmakers broke constitutional procedures and sacked the cabinet of Prime Minister Yuriy Yekhanurov -- only weeks before Ukrainians are set to elect a new legislature.

Ukraine experienced a similar episode only five years ago. In 2000, as Prime Minister, I set the goal of ending domestic barter payments for energy supplies. Achieving that objective cost me my political job when once more the oligarchs used their political influence to rally lawmakers against the government.

Nonetheless, it ended corrupt barter schemes between national enterprises and introduced competitive pricing within the economy, unleashing six years of consecutive economic growth in Ukraine. By removing murky business intermediaries who facilitated the flow of natural gas to Ukraine, our gas debts to Russia became more transparent and manageable. This benefited both Ukrainian and European consumers as it allowed a stable gas transportation system to operate for more than half a decade. Only Ukraine's oligarchs were unhappy then because a grey market loophole of hyper-profits and barter schemes was closed.

The compromise reached earlier this month over Russian gas supplies to Ukraine and their transit to Europe attests to the pragmatic relations developing between our two countries. Through actions rather than mere slogans Ukraine demonstrated its commitment to regional stability and ability to forge mutually beneficial economic relations. My country's course toward European integration and adherence to market principles has once again been affirmed.

In the long-term, domestic market prices for energy will only enhance Ukraine's global economic competitiveness. I am convinced that Ukrainian entrepreneurs will meet this challenge. Together we will develop our energy diversity, strengthen domestic gas reserves and launch a long overdue national energy conservation program. To help facilitate these goals and develop key sectors of our national economy, Ukraine is ready and open for strategic foreign investment.

Mr. Yushchenko is president of Ukraine.

Oil-for-Missiles (WSJ)

By Richard L. Russell

The Wall Street Journal, January 25, 2006

It was no coincidence that Saudi Arabia's King Abdullah this week chose China for his first official trip outside the Middle East since acceding to the throne in August. With five agreements signed during the visit, including a pact for closer cooperation

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in oil, natural gas and minerals, the two countries are laying the foundations for a strategic relationship that challenges U.S. interests.

Humiliated by their dependence on Washington for survival in the wake of Iraq's invasion of Kuwait, the Saudi royal family has long been seeking to forge closer ties with Beijing in the hope of reducing their dependence on the U.S. The Saudis began moving in this direction even before the first Gulf War, secretly negotiating a deal with China in the mid-'80s to purchase CSS-2 ballistic missiles. That was an affront to the Reagan administration and its policy of preventing the proliferation of ballistic missiles. But the Saudis risked American ire because they saw Iran, Iraq and Israel all armed with ballistic missiles and did not want to be left out. In return, China won hard currency for the missile sale, as well as diplomatic relations with Riyadh in a snub to Taiwan.

Since 9/11, and the American public's backlash over the fact that the majority of the hijackers were Saudi nationals, Riyadh's search for a new strategic partner has assumed fresh impetus. China, for its part, is importing ever increasing amounts of oil from the Gulf to fuel its rapidly expanding economy. That has prompted a degree of paranoia over "energy insecurity." Beijing military strategists worry that, because they lack America's "blue-water" navy, the country is potentially vulnerable to a U.S. blockade of oil shipments from the Gulf to China.

Hence the mutual interest in a closer relationship demonstrated during King Abdullah's three-day visit, which ended yesterday. For all the headlines about the agreements he signed with President Hu Jintao on issues such as energy cooperation and double taxation, it's a safe assumption that strategic issues were also on the agenda away from the bright lights of the media. Saudi Arabia's CSS-2 missiles are now obsolescent and Riyadh would welcome modern Chinese models as replacements. For Beijing, that offers a useful tit-for-tat should Washington agree to further large arms sales to Taiwan. But it would come at the price of violating China's commitment to adhere to the Missile Technology Control Regime, which seeks to control international transfers of ballistic missile technology.

The danger is that these developments will pass largely unnoticed in Washington, as they fall between bureaucratic cracks in the national-security apparatus. In the National Security Council, as well as at the Departments of State and Defense, separate sections still focus on the Middle East and Asia (despite Condoleezza Rice's recent reforms). No one seems to be looking at the bigger picture in terms of the emerging strategic relationship between two regions so important to American national interests.

In the old days of the Cold War, the U.S. viewed the security relationships in the Middle East through the prism of its rivalry with the Soviet Union. Today, Russian power in the Middle East has withdrawn as Moscow grapples with getting its domestic house in order. But China's power in the Middle East, especially in the Persian Gulf, is increasing, a dimension of world politics that American policy makers need to begin focusing attention on.

Mr. Russell teaches at the National Defense University's Near East and South Asia Center for Strategic Studies and is the author of "Weapons Proliferation and War in the Greater Middle East" (Routledge, 2005).

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TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

Gonzales Echoes Defense Of Wiretaps (WP)

By Dan Eggen

The Washington Post, January 25, 2006

Attorney General Alberto R. Gonzales argued yesterday that the requirements of a secret intelligence court are too cumbersome for rapid pursuit of suspected terrorists, repeating the administration's position that warrantless wiretapping authorized by President Bush does not violate the Constitution or federal law.

Gonzales's speech at Georgetown University's law school was part of the Bush administration's effort to defend a program that allows the National Security Agency to intercept calls to and from the United States without warrants. He used the appearance to echo statements made Monday by Bush, who referred to the effort as a "terrorist surveillance program" and characterized it as a crucial tool against violent militants.

"It is an early-warning system with only one purpose: to detect and prevent the next attack on the United States," Gonzales said. "It is imperative for national security reasons that we can detect reliably, immediately and without delay whenever communications associated with al Qaeda enter or leave the United States."

Gonzales's appearance, which was part of a three-day White House campaign to defend the NSA program, was punctuated by a silent protest from more than a dozen students who turned their backs to Gonzales, who continued to speak without acknowledging them and did not take questions afterward.

Five of the students wore black pillowcases over their heads -- an apparent reference to the mistreatment of U.S. detainees overseas -- and held a banner roughly paraphrasing Benjamin Franklin: "Those who would sacrifice liberty for security deserve neither."

Many experts on intelligence and national security law from both parties have said that the president overstepped his authority in ordering the eavesdropping shortly after the Sept. 11, 2001, attacks, and that the Foreign Intelligence Surveillance Act of 1978 specifically prohibits such domestic monitoring without a warrant. Congressional Research Service analyses also have raised questions about the justifications for the spying and limited notification of Congress. The Senate Judiciary Committee is planning to hold hearings on the issue next month.

Senate Minority Leader Harry M. Reid (D-Nev.) said yesterday that Gonzales and other administration officials are engaging in "revisionist history" by portraying a congressional resolution authorizing military force against al Qaeda as justification for the NSA program. A group of relatives of victims of the 2001 attacks, the September 11th Advocates, also issued a news release alleging that the "Bush administration has continually used 9/11 as an excuse to break the laws of our great nation."

But Gonzales, drawing on a 42-page Justice Department "white paper" issued last week, said the eavesdropping follows a long tradition of wartime surveillance and is conducted under the president's authority. Although FISA includes emergency provisions allowing short-term wiretapping without a warrant, Gonzales said the law would overly burden the government when it needs to respond quickly.

David D. Cole, a Georgetown law professor and frequent administration critic who appeared on a panel after the speech, said Bush clearly violated FISA by authorizing warrantless domestic spying. Another panelist also criticized the administration, while two defended its position.

"He is free to go and ask Congress to change the law," Cole said. "He is not free, as he did here, to order executive branch officials to violate that law."

Gonzales Invokes Actions Of Other Presidents In Defense Of U.S. Spying (NYT)

By Eric Lichtblau

The New York Times, January 25, 2006

WASHINGTON, Jan. 24 - Ramping up the administration's defense of its domestic eavesdropping program, Attorney General Alberto R. Gonzales on Tuesday invoked the lessons of George Washington and Franklin D. Roosevelt in justifying President Bush's broad power to wage war against terrorism.

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Mr. Gonzales, an architect of the surveillance program, said that the operation was "both necessary and lawful" and that he believed any president would have taken the steps Mr. Bush did.

"I think it would be irresponsible to do otherwise," he said in a speech at Georgetown University Law Center.

Mr. Gonzales's address, along with seven television appearances Monday night and Tuesday morning, was part of an orchestrated effort by the Bush administration to recast the debate on the National Security Agency program as one of national security rather than civil liberties. Gen. Michael V. Hayden, the nation's second-ranking intelligence official, made an unusual public speech about the program on Monday, while Mr. Bush discussed it on a trip to Kansas.

The president is also scheduled to visit the security agency in Fort Meade, Md., on Wednesday to reassure employees whose normally secret activities have come under scrutiny.

With polls showing the public evenly split about the eavesdropping program, Mr. Gonzales - like Mr. Bush and Vice President Dick Cheney before him - said in his speech that he welcomed a "worthy debate" over the limits of presidential power.

More than two dozen students in the audience responded by turning their backs on Mr. Gonzales and standing stone-faced before live television cameras for the duration of his half-hour speech. Five protesters in the group donned black hoods and unfurled a banner, quoting Benjamin Franklin, that read, "Those who would sacrifice liberty for security deserve neither."

Mr. Gonzales, who had been White House counsel when the eavesdropping program was approved after the Sept. 11 attacks, appeared unbothered by the protest. Aides said he planned more public events before his testimony at a Senate Judiciary Committee hearing on the program, scheduled for Feb. 6.

"You'll see him being very public out there in the next few weeks leading up to the hearing because he believes this is an important program in protecting American lives and, amid all the static of criticism out there, he wants to make sure people understand that," said a senior Justice Department aide, speaking on condition of anonymity because the matter involved internal discussions.

But critics of the N.S.A. program, who accused Mr. Bush of violating the Constitution and the 1978 Foreign Intelligence Surveillance Act by authorizing wiretaps without warrants on international communications linked to Al Qaeda, said they were unimpressed by the administration's public push.

David Cole, a Georgetown University law professor who took part in a panel discussion by liberal critics and conservative supporters after Mr. Gonzales's speech, said the program was "clearly" illegal, and he attacked what he saw as a "blatantly political" effort by the White House to establish a legal footing for it.

Administration officials "can say over and over and over again that it's lawful - as if the American people will believe it if you say it often enough," Mr. Cole said.

The question of the N.S.A. operation's legality will probably be settled not in the court of public opinion, but in a court of law.

Several challenges have been lodged in civil and criminal cases over the eavesdropping program. In one case, an appeal of the criminal conviction of Ali al-Timimi on terrorism charges in Northern Virginia, the United States Court of Appeals for the Fourth Circuit agreed on Tuesday to halt appellate proceedings because of "outstanding issues" raised earlier this month by Dr. Timimi's lawyers, including the possibility that the surveillance program was used to monitor the conversations of Dr. Timimi, a fiery scholar.

"This is an important step," said Jonathan Turley, a critic of the program who is representing Dr. Timimi.

If the appellate court agrees to send the case back to the trial court to explore the surveillance program issue, Mr. Turley said, "the government would have to establish whether Dr. Al-Timimi was intercepted under this or any other undisclosed operation, and the court could have to look at the legality of the whole operation."

But Mr. Gonzales, in his speech, cited the arc of history in justifying an expansive view of presidential power. He said the country's "long tradition of wartime enemy surveillance," often without warrants, was seen in numerous historical precedents, including George Washington's interception of mail between the British and Americans, telegraph wiretapping in the Civil War, Woodrow Wilson's order in World War I to intercept cable communications between Europe and the United States and Franklin Roosevelt's order after the bombing of Pearl Harbor to intercept all communications traffic into and out of the United States.

Mr. Gonzales said that government lawyers had carefully reviewed the N.S.A. program numerous times. It was found to be legal, he said, under both the president's inherent constitutional authority as commander in chief and under a resolution passed by Congress in the days after the Sept. 11 attacks that authorized Mr. Bush to use "all necessary and appropriate force" against those responsible.

A report by the nonpartisan Congressional Research Service earlier this month, however, called that particular claim into question, suggesting that Congress never intended to give the president power to order wiretaps without a warrant.

The attorney general also offered a more detailed explanation of why the administration felt the need to bypass the Foreign Intelligence Surveillance Court, created in the aftermath of Watergate with the "exclusive" charge to administer wiretaps in foreign intelligence investigations.

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Mr. Gonzales said that even under an emergency wiretap application, which allows the government to go to the court retroactively 72 hours after beginning a wiretap, the system might not work quickly enough in all cases.

Intelligence officers "would have to get the sign-off of lawyers at the N.S.A. that all provisions of F.I.S.A. have been satisfied, then lawyers in the Department of Justice would have to be similarly satisfied, and finally as attorney general I would have to be satisfied that the search meets the requirements of F.I.S.A.," he said. "And then we would have to be prepared to follow up with a full F.I.S.A. application within the 72 hours."

The surveillance program, he said, "requires the maximum in speed and agility."

"Even a very short delay may make the difference between success and failure in preventing the next attack," he said.

Gonzales Defends Domestic Spying (REU-Y2)

By Deborah Charles

Reuters, January 25, 2006

Attorney General Alberto Gonzales defended President George W. Bush's domestic eavesdropping program as lawful on Tuesday, in the latest attempt by the administration to counter criticism of the surveillance adopted after the September 11 attacks.

Gonzales faced critics head-on during his speech at the Georgetown University Law Center, when a group of students donned black hoods and held a sign in protest while others stood silently with their backs to Gonzales as he spoke.

Acknowledging that not everyone agreed with the National Security Agency spying program, Gonzales denied that Bush was violating laws by authorizing the NSA to monitor international phone calls and e-mails by Americans suspected of links to terrorism without the approval of a special, secret court.

"From the outset, the Justice Department thoroughly examined this program against al Qaeda and concluded that the president is acting within his power in authorizing it," said Gonzales, who did not stop speaking while about 20 protesters stood with their backs to him. "These activities are lawful."

Critics say the program violates the U.S. Constitution and a 1978 law, the Foreign Intelligence Surveillance Act or FISA, which makes it illegal to spy on U.S. citizens in the United States without the approval of the special court.

News of the covert spying program sparked an outcry by Democrats and Republicans, with many lawmakers and rights groups questioning its legality. Gonzales is due to testify on the matter at a Senate hearing on February 6.

Gonzales said Bush has inherent constitutional powers to conduct warrantless surveillance to detect or prevent an attack. He also said a resolution passed by the U.S. Congress after September 11 authorizing the use of military force gave Bush the right to approve the eavesdropping.

"The NSA's focused terrorist surveillance program falls squarely within the broad authorization of the (congressional) resolution even though, as some have argued, the resolution does not expressly mention surveillance," he said.

Senate Democratic Leader Harry Reid disagreed and accused the administration of playing politics with national security.

"If the president wanted to expand the authority he already has to wiretap anyone who might be communicating with terrorists then he should have come to the Congress to get that authority," Reid said in a statement. "The president needs to explain why his current authority was not good enough."

Gonzales said the NSA program was necessary because it was more agile than FISA and allowed for quick action.

"We have to remember that we're talking about a wartime foreign intelligence program," Gonzales said. "It is imperative for national security reasons that we can detect reliably, immediately and without delay whenever communications associated with al Qaeda enter or leave the United States.

"We all agree that there should be appropriate checks and balances on our branches of government," he said. "But ... the terrorist surveillance program operated by the NSA requires the maximum in speed and agility, since even a very short delay may make the difference between success and failure in preventing the next attack."

Gonzales Seeks To Reframe NSA Surveillance (AP-Y2)

By Pete Yost

AP2, January 25, 2006

Attorney General Alberto Gonzales offered additional defenses of President Bush's domestic spying program on Tuesday, as the administration tried to redefine the warrantless surveillance in a way that undermines critics.

Speaking to students at Georgetown University law school, Gonzales said a 15-day grace period allowing warrantless eavesdropping under the Foreign Intelligence Surveillance Act demonstrates that Congress knew such surveillance "would be essential in wartime."

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Gonzales was supplying legal arguments to the president's comments Monday that the effort should be called a "terrorist surveillance program."

Confronting Gonzales during his nearly half-hour speech were more than a dozen young people in the audience who turned their backs to him and held up for a banner for television cameras. The banner, loosely based on a Benjamin Franklin quote, read: "Those who would sacrifice liberty for security deserve neither."

Before his appearance at Georgetown, Gonzales said in a television interview that some congressional leaders told the administration in 2004 that it would not be possible to write legislation regarding the warrantless surveillance effort without compromising its effectiveness.

"We did go to certain members of the congressional leadership a year and a half ago," Gonzales said on CBS's "The Early Show."

During his remarks in a packed law school lecture room at Georgetown, the attorney general also said the legal standard the administration uses in deciding whether to carry out surveillance on people with suspected al-Qaida ties is equivalent to the standard required for complying with the Fourth Amendment, which bans unreasonable searches and seizures.

The reasonable basis standard, said Gonzales, "is essentially the same as the traditional Fourth Amendment probable cause standard."

Stephen Saltzburg, a law professor at George Washington University, said that Gonzales' comments do not explain why the administration doesn't go to the Foreign Intelligence Surveillance Court to obtain warrants.

"If they are using a probable cause standard, they would have no problem going to the FISA court," said Saltzburg. "The executive might think there's a reasonable basis. Courts might not agree."

Georgetown University law professor David Cole said the reasonable basis standard is not equivalent to probable cause.

Moreover, said Cole, Gonzales' comments seem to conflict with those on Monday by Air Force Gen. Michael Hayden, principal deputy director of national intelligence.

Hayden said that when weighing whether to proceed with surveillance under the president's program, "the trigger is quicker and a bit softer than it is" with FISA.

Justice Department spokeswoman Tasia Scolinos said there is no conflict between the statements of Gonzales and Hayden and that "it is really just a matter of speed; as the AG said, the standards are essentially the same."

In his address, Gonzales said, "I keep hearing, 'Why not FISA?' Why didn't the president get orders from the FISA court?

"It is imperative for national security that we can detect reliably, immediately and without delay whenever communications associated with al-Qaida enter or leave the United States."

Gonzales told his audience: "You may have heard about the provision of FISA that allows the president to conduct warrantless surveillance for 15 days following a declaration of war. That provision shows that Congress knew that warrantless surveillance would be essential in wartime."

Sharply disagreeing, George Washington University law professor Jonathan Turley said FISA's purpose "was never to grant warrantless surveillance for the war."

"While Congress saw some need to loosen the standard in the initial days of a war, it wanted the president to comply with FISA in carrying out surveillance in the United States," Turley said.

The attorney general said the program is limited in scope, and he blamed the news media for suggesting otherwise.

"These press accounts are in almost every case, in one way or another, misinformed, confusing or wrong," said Gonzales. "And unfortunately, they have caused concern over the potential breadth of what the president has actually authorized."

Gonzales Defends Secret Surveillance (WT)

By Joseph Curl

The Washington Times, January 25, 2006

Attorney General Alberto R. Gonzales yesterday defended President Bush's secret electronic surveillance program, saying presidential powers inherent in the Constitution override a 1978 law requiring the government to obtain warrants for wiretaps.

In a detailed case supporting the covert National Security Agency program, the attorney general also said a special court set up to hand down secret warrants could not be used -- even with a provision for so-called "emergency authorizations."

"The American people are, however, asking two important questions: Is this program necessary? And is it lawful? The answer to each is yes," Mr. Gonzales said in a speech at a Georgetown University Law Center forum.

Some Democrats contend the president overstepped his authority. On Monday, Howard Dean, chairman of the Democratic National Committee, went further, saying, "The question remains: why did President Bush deliberately choose to break the law?"

Mr. Gonzales is expected to be among the first witnesses to testify when the Senate opens hearings on the matter Feb. 6.

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"Presidents have uniformly relied on their inherent power to gather foreign intelligence for reasons both diplomatic and military, and the federal courts have consistently upheld this long-standing practice," he said.

Mr. Gonzales discussed the 1978 Foreign Intelligence Surveillance Act, which created a special court to authorize secret surveillance or searches of foreigners and U.S. citizens suspected of terrorism or espionage. The court is "the exclusive means by which electronic surveillance ... and the interception of wire and oral communications may be conducted," says one section of the law.

Mr. Gonzales, however, said the court could not have been used in this instance because the law "requires the attorney general to determine in advance that a FISA application for that particular intercept will be fully supported and will be approved by the court before an emergency authorization may be granted.

"That review process can take precious time."

Mr. Gonzales said the court stated in 2002 that "[w]e take for granted that the president does have that [inherent] authority" and, "assuming that is so -- could not encroach on the president's constitutional power."

FISA also says "that the government cannot engage in electronic surveillance 'except as authorized by statute,' " Mr. Gonzales said. "And, in this case, that other statute is the force resolution" passed by Congress three days after the September 11 attacks.

The resolution gave Mr. Bush power "to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks," Mr. Gonzales said.

Mr. Bush said the resolution meant that "Congress gave me additional powers to use force, but it didn't prescribe the tactics."

Gonzales: Domestic Spying Standard 'essentially The Same' As Probable Cause (AP)

By Pete Yost, ASSOCIATED PRESS

AP, January 24, 2006

WASHINGTON – Attorney General Alberto Gonzales offered additional defenses of President Bush's domestic spying program on Tuesday, as the administration tried to redefine the warrantless surveillance in a way that undermines critics.

Speaking to students at Georgetown University law school, Gonzales said a 15-day grace period allowing warrantless eavesdropping under the Foreign Intelligence Surveillance Act demonstrates that Congress knew such surveillance "would be essential in wartime."

Gonzales was supplying legal arguments to the president's comments Monday that the effort should be called a "terrorist surveillance program."

Confronting Gonzales during his nearly half-hour speech were more than a dozen young people in the audience who turned their backs to him and held up for a banner for television cameras. The banner, loosely based on a Benjamin Franklin quote, read: "Those who would sacrifice liberty for security deserve neither."

Before his appearance at Georgetown, Gonzales said in a television interview that some congressional leaders told the administration in 2004 that it would not be possible to write legislation regarding the warrantless surveillance effort without compromising its effectiveness.

"We did go to certain members of the congressional leadership a year and a half ago," Gonzales said on CBS's "The Early Show."

During his remarks in a packed law school lecture room at Georgetown, the attorney general also said the legal standard the administration uses in deciding whether to carry out surveillance on people with suspected al-Qaeda ties is equivalent to the standard required for complying with the Fourth Amendment, which bans unreasonable searches and seizures.

The reasonable basis standard, said Gonzales, "is essentially the same as the traditional Fourth Amendment probable cause standard."

Stephen Saltzburg, a law professor at George Washington University, said that Gonzales' comments do not explain why the administration doesn't go to the Foreign Intelligence Surveillance Court to obtain warrants.

"If they are using a probable cause standard, they would have no problem going to the FISA court," said Saltzburg. "The executive might think there's a reasonable basis. Courts might not agree."

Georgetown University law professor David Cole said the reasonable basis standard is not equivalent to probable cause.

Moreover, said Cole, Gonzales' comments seem to conflict with those on Monday by Air Force Gen. Michael Hayden, principal deputy director of national intelligence.

Hayden said that when weighing whether to proceed with surveillance under the president's program, "the trigger is quicker and a bit softer than it is" with FISA.

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Justice Department spokeswoman Tasia Scolinos said there is no conflict between the statements of Gonzales and Hayden and that "it is really just a matter of speed; as the AG said, the standards are essentially the same."

In his address, Gonzales said, "I keep hearing, 'Why not FISA?' Why didn't the president get orders from the FISA court?

"It is imperative for national security that we can detect reliably, immediately and without delay whenever communications associated with al-Qaeda enter or leave the United States."

Gonzales told his audience: "You may have heard about the provision of FISA that allows the president to conduct warrantless surveillance for 15 days following a declaration of war. That provision shows that Congress knew that warrantless surveillance would be essential in wartime."

Sharply disagreeing, George Washington University law professor Jonathan Turley said FISA's purpose "was never to grant warrantless surveillance for the war."

"While Congress saw some need to loosen the standard in the initial days of a war, it wanted the president to comply with FISA in carrying out surveillance in the United States," Turley said.

The attorney general said the program is limited in scope, and he blamed the news media for suggesting otherwise.

"These press accounts are in almost every case, in one way or another, misinformed, confusing or wrong," said Gonzales. "And unfortunately, they have caused concern over the potential breadth of what the president has actually authorized."

Gonzales Says Spying Program Is Necessary And Lawful (Update1) (BLOOM)

By Robert Schmidt

Bloomberg, January 25, 2006

Jan. 24 (Bloomberg) -- The Bush administration's domestic spying effort is needed to prevent terrorist attacks in the U.S., Attorney General Alberto Gonzales said in seeking to counter criticism of the program.

Gonzales, speaking at Georgetown University's law school in Washington, argued that President George W. Bush had authority from Congress and the Constitution to set up the program. About 25 law students silently protested during the half-hour speech, turning their backs on Gonzales and holding up a sign saying: ``Those Who Would Sacrifice Liberty for Security Deserve Neither."

Gonzales didn't acknowledge the students, several of whom put black pillowcases over their heads. The attorney general cited new threats by al-Qaeda leader Osama Bin Laden and said Bush would continue to authorize the eavesdropping to protect U.S. citizens.

``This administration has chosen to act now to prevent the next attack, rather than wait until it is too late," Gonzales said. ``It is hard to imagine a president who wouldn't elect to use these tools in defense of the American people. In fact, I think it would be irresponsible to do otherwise."

Gonzales's speech continued a Bush administration offensive this week to defend and bolster support for the classified program, which allows the monitoring of international phone calls and e-mails originating in the U.S. without the approval of a federal court. Bush said yesterday the eavesdropping is needed to look into the ``dark corners" of the world where terrorists hide.

Hearings Planned

The Senate Judiciary Committee has scheduled hearings for next month on the spying and whether it violates a 1978 federal law that set up a special court to authorize domestic surveillance for foreign intelligence purposes. Gonzales is slated to testify before the committee on the legal authority for the program.

Last week, the Justice Department sent members of Congress a 42-page analysis saying Bush has the legal authority to conduct the wiretapping under his constitutional role as commander-in- chief and under the resolution passed by Congress authorizing military force after the Sept. 11 attacks.

Today, Gonzales said that press reports on the still- classified program are ``in almost every case, in one way or another, misinformed, confusing or wrong." He said the media has caused concern about the breadth of the spying.

The program, Gonzales said, is ``narrowly focused" and is only used to monitor communications of members or suspected members of al-Qaeda and other terrorist groups.

US Attorney General Defends Domestic Spying (VOA)

By Jim Malone

Voice of America, January 24, 2006

The Bush administration is making an aggressive effort this week to defend a domestic spying program being carried out by the National Security Agency. But critics of the program are not backing down, insisting that the president broke the law by authorizing domestic eavesdropping without first obtaining a court warrant.

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Alberto Gonzales On Tuesday, Attorney General Alberto Gonzales said the surveillance program targets communications with suspected terrorists and is critical to preventing a repeat of the 2001 terrorist attacks on the United States.

"This administration has chosen to utilize every necessary and lawful tool at its disposal," he said. "It is hard, quite frankly, to imagine a president, any president, who would not elect to use these tools in defense of the American people. In fact, I think it would be irresponsible to do otherwise."

President Bush authorized the National Security Agency to monitor suspected terrorist communications shortly after the 2001 terrorist attacks.

"If they are making phone calls into the United States, we need to know why, to protect you," he said.

But in doing so, the president bypassed a 1978 domestic surveillance law that requires the government to obtain a court warrant before it can begin eavesdropping on American citizens or resident aliens.

Critics contend the president broke the law by using the National Security Agency to eavesdrop without a court warrant.

"What the White House did, what the president did, is just go ahead and make up his own law here without the authority of the United States government," said Senator Russ Feingold, a Democrat from Wisconsin.

Some Republicans have also expressed concerns that the domestic spying program may be a threat to civil liberties.

"Let us have the administration come to Congress," said John McCain, a Republican Senator from Arizona. "I think they will get that authority, whatever is reasonable and needed, and increased abilities to monitor communications are clearly in order."

Several recent polls suggest the public is about evenly split over the question of whether domestic eavesdropping without court permission is justified as part of the war on terror.

But the president's chief political strategist, Karl Rove, recently told a Republican audience that he believes the domestic spying program will help Republicans in this year's congressional midterm elections.

"Republicans have a post 9/11 view of the world and Democrats have a pre 9/11 view of the world," he said. "That does not make them unpatriotic, not at all. But it does make them wrong, wrong deeply and profoundly and consistently."

Political experts agree that the public is divided on the spying program and they predict it could be an election issue in November.

"A majority of Americans living today, a surprisingly small majority because of the large youthful population, still remembers Watergate," said Larry Sabato, who directs the Center for Politics at the University of Virginia. "And when we hear the word eavesdropping, those of us who lived during Watergate, we think of the nefarious activities of the Nixon administration."

The Senate will hold hearings on the domestic spying program in early February.

Toobin, Ensor: Look For Political Solution On Wiretaps (CNN)

CNN.com, January 25, 2006

(CNN) -- The White House has begun a new push to justify a controversial domestic spying program that allows the National Security Agency to eavesdrop on conversations to or from the United States without obtaining a court warrant.

Attorney General Alberto Gonzales defended the procedure in a speech Tuesday, and President Bush will visit the secretive agency later this week. But many Democrats and some Republicans, including Sen. Arlen Specter, the Senate Judiciary Committee's chairman, question whether the White House could order domestic spying legally.

CNN senior legal analyst Jeffrey Toobin and national security correspondent David Ensor discussed the legal and political arguments Tuesday with CNN anchor Miles O'Brien on "American Morning."

O'BRIEN: First, let's listen to the attorney general just a little while ago. (Video of Alberto Gonzales: "I would challenge anyone who is saying that to look at the analysis of the Supreme Court in the Hamdi decision regarding their interpretation of the authorization to use military force. And what they say that authorization allows the president to do, which is to engage in all activities that are fundamentally incidental to waging war. And engaging in electronic surveillance of the enemy is a fundamental incident of waging war.")

O'BRIEN: [He says] a fundamental incident of waging war. Now, it doesn't spell it out, but it doesn't say you can't do it. [It] seems a little vague to me.

TOOBIN: It is a little vague. And the administration's problem is though they have vague authorization for waging war either in the Hamdi decision or in the authorization granted to the administration by Congress after 9/11 to attack Afghanistan.

The problem is there's this law called FISA, the Foreign Intelligence Surveillance Act, which specifically addresses exactly the activity that is at issue here -- wiretapping phone calls from the United States to a foreign country or vice versa from the foreign country to the United States.

And that specifically calls for going to this court and getting a warrant. That's what they seem to be trying to get around, and I think the consensus view is, although it's not 100 percent, is that the administration's position here is pretty weak.

O'BRIEN: It is clear it is a get-around FISA. We're going to talk a little bit more about that, but I want to bring David in here because yesterday I was fascinated by Gen. Mike Hayden, who at one time headed NSA [and] still remains one of the nation's top spies. He had a long and rather contentious Q&A where he was defending this program as best he could without violating, you know, security clearances and so forth. But listen to this one point he made here. (Video of Hayden: "Had this program been in effect prior to 9/11, it is my professional judgment that we would have detected some of the 9/11 al Qaeda operatives in the United States, and we would have identified them as such."

O'BRIEN: All right, let me ask you this, David. I read the 9/11 commission report. I thought we had identified some of the 9/11 conspirators. We just weren't able to connect the dots and paint the picture. When the general says that -- should we just take that at face value? What do you think?

ENSOR: Well, he says it's the case, and he's an expert on signals intelligence, so it certainly has some weight to it. But, you know, if the administration wants to make that argument, they're probably going to have to come up with a little more evidence, and the problem is all of this is so secret that it's very difficult for them to do that.

O'BRIEN: It's a bit of a conundrum, isn't it?

ENSOR: Yes.

O'BRIEN: But when they say that ... we could have stopped 9/11, I mean, it's difficult to -- how do you respond if you don't have those clearances, you know?

ENSOR: Well that's the problem. All of this is so top secret that they've had to very carefully frame their arguments to be able to say something publicly in favor of them. And it's a problem for Hayden, it's a problem for anyone who wants to talk about this, including us.

O'BRIEN: All right, listening to -- go ahead, you want to pick up?

TOOBIN: I just think the fundamental issue here is this is much more political than it is legal or even national security at this point, because there is not going to be a definitive resolution.

You know, Arlen Specter says it's not authorized. The president says it is authorized. There is no case before the Supreme Court, and there's unlikely ever to be a case before the Supreme Court because there is no individual who knows he was tapped who can file a lawsuit. So the question is really, does Congress get upset about this? Does the president successfully defend it? But in terms of a definitive judgment, we're just not going to get one.

O'BRIEN: Here's the thing on the FISA courts, Jeff. In Listening to Gen. Hayden yesterday, it has a provision where you can tap somebody right away and then within 72 hours, go see a judge and get it signed, sealed and delivered.

The concern is that some of these taps don't meet the level of probable cause, in other words, wouldn't rise to the bar of getting in court in the first place. They're reasonable, and that is where there's a lot of judgment made by people, shift supervisors at the National Security Agency. Is that [an] admission that they're circumventing the law?

TOOBIN: Well, it seems to be. And Congress passed the law in 1978 because they didn't want wiretapping unless there was the level of suspicion specified in the law. Congress could have -- I mean, the administration could have gone to Congress and said, "You know, we think it's important, we need to change the law." ... They could have asked for this then. They didn't, which ... I think damages their position.

O'BRIEN: All right, final thought, David Ensor. One of the other things the general said yesterday, essentially he said, "Look, these are people like you and me who work at the NSA. They're good Americans, they hold very dear the Constitution, particularly the Fourth Amendment, which is applicable in all of this. You got to trust us." You know these people. Should we trust them?

ENSOR: You know, on balance, they're good people. I've met a lot of the people who work at the NSA and who do this kind of work, and they're admirable Americans.

The problem is though our system of government says that there are supposed to be checks and balances. And the question will be whether or not a judge or a court shouldn't at least have some kind of oversight of this program.

Even those, the lawyers that I've talked to privately in the government who worked on the government's arguments for this will privately tell you they expect the FISA law to be amended, and they expect this kind of surveillance to probably be brought under it when all the smoke and fire dies down.

ACLU Seeks Government Information On Alleged Spying In Ohio (AP)

By M.r. Kropko

AP, January 25, 2006

CLEVELAND - The American Civil Liberties Union of Ohio requested information Tuesday from the government about whether it spied on two anti-war groups and an attorney for a man suspected of terrorism connections.

ACLU officials said at news conference that members of the anti-war groups want to know whether two meetings were attended by government agents. One meeting was last year in Akron by the Northeast Ohio American Friends Service Committee, a Quaker organization, and the another was in 2004 in Cleveland by the Northeast Ohio Anti-War Coalition.

The ACLU filed Freedom of Information Act requests with the Department of Defense, Justice Department, the FBI and police seeking records that document any collection of information about the groups.

Gary Daniels, the ACLU's litigation coordinator, said the ACLU became involved because the groups were included on a Defense Department classified database of information about suspicious people and activity inside the United States as reported by NBC News.

The ACLU also requested information about several people, including Akron lawyer Farhad Sethna, based on his association with the American Friends Service Committee. Sethna said he hopes the request will shed light on whether the government spied on his conversations with a client, Ashraf Al-Jailani, who recently was sent back to his native Yemen after being jailed three years on suspicions that he associated with suspected terrorists.

"The only way we would be involved in gathering specific or credible information was if a group was involved in criminal activity," FBI spokesman Bill Carter said.

A message was left for Department of Defense spokesman Greg Hicks. Justice Department spokesman Brian Roehrkasse declined comment.

"I want to ensure that the government has respected my attorney-client privilege, and if proof is found that the government has violated this privilege, then I will take every step permitted under the law," Sethna said in an e-mail message.

Jeffrey Gamso, Ohio AFL-CIO legal director, said he wants to find out whether the Defense Department's Counterintelligence Field Activity database has records of other Ohio groups or individuals and if ACLU meeting rooms were bugged.

"Of course I suspect that they are going after Farhad (Sethna) in part because of his representation of Al-Jailani. That's not the basis in which we are pursuing these things today. We are just acting on what we have gleaned so far," Gamso said.

Two federal lawsuits filed Jan. 17 allege that President Bush's electronic eavesdropping program exceeds his constitutional powers. The lawsuits - one filed in New York by the Center for Constitutional Rights and the other in Detroit by the American Civil Liberties Union and other groups - say the program bypasses safeguards in a 1978 law requiring court approval of electronic monitoring.

Attorney General Alberto Gonzales, speaking Tuesday at Georgetown Law School, defended the Bush administration's domestic spying program. He said surveillance without warrants falls within Bush's constitutional authority that Congress granted following the Sept. 11, 2001 terrorist attacks and is critical to preventing more domestic attacks.

Going Around The FISA Court (ABC)

By JASON RYAN

ABC News, January 25, 2006

Jan. 24, 2006 — Behind a red sign that reads "Court Chambers" and through a series of electronically sealed doors lies a secret court that has approved wiretaps that target terrorists and foreign agents since 1979.

Domestic wiretaps have traditionally been approved by the secretive Foreign Intelligence Surveillance Court located on the sixth floor of the Justice Department. Known as the FISA Court, it has handled the most sensitive domestic wiretaps in national security investigations since it was set up under the 1978 Foreign Intelligence Surveillance Act.

In the wake of the Sept. 11 attacks, President Bush, White House attorneys and lawyers from the Justice Department and National Security Agency authorized a program that allowed wiretaps to be approved without the FISA Court knowing. The FISA Court had approved domestic wiretaps with warrants authorized by a federal judge after reviewing information presented by the FBI and the Justice Department's Office of Intelligence Policy and Review.

Internal Justice Department audits by the inspector general show that FISA warrants take anywhere from hours to weeks to get approved. After the 9/11 attacks, senior intelligence officials pushed for greater speed to intercept terrorist communications.

Need For Speed

Bush approved the controversial eavesdropping program, referred to in recent days as the terrorist surveillance program, months after the 9/11 attacks and allowed the National Security Agency to perform warrantless electronic surveillance of suspected al Qaeda subjects in the United States. One reason the program was so important, government lawyers claimed, was the urgent need to intercept al Qaeda communications in the interest of preventing further terrorist attacks.

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This intercepted information could come from cell phones or e-mails used by suspected terrorists. Intelligence officials know what channels to listen in on from cell phones and laptop computers that had been recovered from al Qaeda detainees, such as 9/11 mastermind Khalid Shaikh Mohammed.

"The optimal way to achieve the necessary speed and agility is to leave the decisions about particular intercepts to the judgment of professional intelligence officers, based on the best available intelligence information." Attorney General Alberto Gonzales said Tuesday before a forum at the Georgetown Law School.

"You may have heard about the provision of FISA that allows the president to conduct warrantless surveillance for 15 days following a declaration of war," he said. "That provision shows that Congress knew that warrantless surveillance would be essential in wartime."

FISA Process: Probable Cause

To get a FISA wiretap the FBI must show probable cause to believe the target of the surveillance is a foreign agent or suspected terrorist. Once the FBI believes it can show probable cause, it has completed the first step of the application to a FISA Court judge.

The application includes three documents, including the request for the wiretap, a certification by the FBI director or executive branch official that states that the information cannot be obtained through normal investigative tactics, and an affidavit from an FBI supervisory special agent that contains a statement of fact on the target of the surveillance.

Once these documents are in order, they are brought to the Justice Department for review by Justice Department attorneys before the application is taken to the FISA Court, where it is presented to a federal judge. Currently 10 federal judges, who serve in judicial districts across the nation, sit on the FISA Court on a rotating basis. One judge, James Robertson, resigned shortly after the NSA program was first reported in the media.

According to government lawyers, some intelligence officials believed they needed greater speed and flexibility than the FISA process allowed. The NSA program was designed to quickly intercept critical al Qaeda communications that warned of an impending attack.

"If those same intelligence officers had to navigate through the FISA process for each of these intercepts," Gonzales said, "that would necessarily introduce a significant factor of delay, and there would be critical holes in our early warning system."

Deputy Director of National Intelligence Michael Hayden said earlier in the week: "The trigger is quicker and a bit softer than it is for a FISA warrant, but the intrusion into privacy is also limited: [It includes] only international calls and only those we have a reasonable basis to believe involve al Qaeda or one of its affiliates."

According to Justice Department officials, a bulk of the intercepts obtained under the Terrorist Surveillance Project would not fall under the FISA law. Georgetown University law professor David Cole said that's because the Justice Department "wants to do [the program] on less than probable cause."

Despite the establishment of this eavesdropping program, counterterrorism officials continue to aggressively seek wiretaps under the FISA process, increasing the number of FISA applications before the court by 85 percent since 2001. In 2004, the Justice Department applied for 1,758 FISA warrants compared with 934 warrant requests in 2001.

According to sources familiar with the FISA process, judges on the court often request more information or more details about the targeted communication (i.e.: phone or e-mail). In 2004, the court recommended 94 "substantive modifications" to applications presented by the government.

The FBI works closely with the CIA and NSA on designating terrorist suspects it believes should be monitored under the FISA process. Although the FISA procedure has been heavily criticized because of the secrecy of the FISA Court, the recent disclosures of the NSA program have outraged some civil libertarians and privacy advocates. Under the FISA procedure, a judge ultimately makes the decision to approve a wiretap, not an official at the NSA.

The judges currently serving the FISA Court were briefed by NSA and Justice Department officials on the program earlier in the month in a three-hour meeting at the Justice Department.

Inside Politics (WT)

By Greg Pierce

The Washington Times, January 25, 2006

Stop the presses

ABC News reporter Brian Ross reports that Justice Antonin Scalia missed the September swearing-in of John G. Roberts Jr. as the new chief justice of the United States because Justice Scalia had a prior commitment to attend a legal seminar sponsored by the Federalist Society at a resort in Bachelor Gulch, Colo.

Mr. Ross, the network's chief investigative reporter, apparently was eager to pin something scandalous on the justice in his story at www.abcnews.go.com. He came up with this:

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"One night at the resort, Scalia attended a cocktail reception, sponsored in part by the same lobbying and law firm where convicted lobbyist Jack Abramoff once worked."

Mr. 'Nonpartisan'

Hill Democrats and the so-called mainstream media have made much of a recent Congressional Research Service report that asserted President Bush had violated the law by allowing the National Security Agency to eavesdrop on phone calls to the United States from suspected terrorists overseas.

In fact, Democrats such as New York Sens. Charles E. Schumer and Hillary Rodham Clinton, as well as most media outlets, have practically grafted the word "nonpartisan" to the front end of that agency's name.

However, this is Washington, and nothing is quite that simple. What you probably haven't heard is that the author of the report, Alfred Cumming, is a registered Democrat who served as staff director for the Senate's Select Committee on Intelligence under since-retired Sen. Bob Graham, Florida Democrat.

And you probably haven't heard that in December the "nonpartisan" Mr. Cumming also authored a 15-page memo for the Congressional Research Service that shored up Democrats' claims that President Bush lied about pre-Iraq war intelligence.

That earlier report said the president and his most senior advisers have access to "a far greater overall volume of intelligence and to more sensitive intelligence Information" than Congress.

The "nonpartisan" Mr. Cumming contributed $1,250 to Sen. John Kerry's 2004 presidential campaign, according to the Web site www.tray.com.

Rendell's rebuke

Pennsylvania Gov. Ed Rendell, a former chairman of the Democratic National Committee, expressed disappointment yesterday in how some Democratic senators treated Judge Samuel A. Alito Jr. during recent confirmation hearings for the nominee to the Supreme Court.

"I wasn't pleased. Certainly, some [Democratic senators] did well and some didn't. I wasn't pleased at the nitpicking," Mr. Rendell told the Fox News Channel's Bill Hemmer.

"I believe he's a qualified judge. He sits on the 3rd Circuit Court of Appeals in Philadelphia. I don't know if you know this, Bill: My wife is a 3rd Circuit Court judge," Mr. Rendell said.

He added: "She has a high opinion of his integrity and his academic standards. She doesn't agree with him on a number of cases and agrees with him on some. ... As long as the Supreme Court justice is appointed who has high academic qualifications, significant integrity -- and Judge Alito certainly does -- we should confirm him, regardless of our disagreement on the way he may interpret one aspect of the law. I think we've fallen into just such partisanship in D.C.; not just in this, but in so many things, it's in some way ways tearing the country apart."

Knocking the troops

"I don't support our troops," Los Angeles Times columnist Joel Stein writes.

"If you think invading Iraq was a good idea, then by all means, support away. Load up on those patriotic magnets and bracelets and other trinkets the Chinese are making money off of," Mr. Stein said.

"But I'm not for the war. And being against the war and saying you support the troops is one of the wussiest positions the pacifists have ever taken -- and they're wussy by definition. It's as if the one lesson they took away from Vietnam wasn't to avoid foreign conflicts with no pressing national interest, but to remember to throw a parade afterward."

Mr. Stein said U.S. troops are engaged in an immoral struggle, "signing up to be a fighting tool of American imperialism."

"The truth is that people who pull triggers are ultimately responsible, whether they're following orders or not. An army of people making individual moral choices may be inefficient, but an army of people ignoring their morality is horrifying. An army of people ignoring their morality, by the way, is also Jack Abramoff's pet name for the House of Representatives."

'Whistleblowers'

"A former Defense Department analyst was sentenced to a harsh 12½ years in prison Friday for disclosing classified information. That ought to get the attention of the person or persons who leaked the existence of the National Security Agency's highly classified wiretapping program to the New York Times," the Wall Street Journal says.

"Especially so since in sentencing Lawrence Franklin, the judge explicitly rejected a good-intentions defense. At Friday's hearing, federal Judge T.S. Ellis III agreed with Mr. Franklin's statement that he did not intend to damage the U.S. by revealing government secrets to two employees of a pro-Israel lobbying group and an Israeli Embassy official," the newspaper said in an editorial.

"Mr. Franklin, who pleaded guilty in October, thought U.S. policy ought to be tougher on Iran, which he followed for the Pentagon. He said that he disclosed the classified information because he was 'frustrated' with the direction of government policy and thought he could influence it through 'back channels.' Supporters of the NSA-wiretap leakers likewise argue that it's OK to

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reveal classified data as long as you believe you are in the moral right and that the public would benefit from disclosure. The word for this supposedly virtuous action is 'whistleblower.'"

Pundits vs. critics

First, it was movie stars like Barbra Streisand and Sean Penn pretending to be political pundits.

Perhaps inspired by this example, political pundits decided to become movie critics. The movie critics apparently didn't appreciate the competition, and so now famous critic Roger Ebert's Web site (www.rogerebert.com) is taking to task two conservative commentators for their taste in films.

In a column by Mr. Ebert's editor, Jim Emerson, visitors to the site are asked to "try to guess which of two venomous, blonde-tressed scribes wrote blurbs about contemporary movies that may or may not have been used in the ad campaigns. Is it Ann Coulter? Or Debbie Schlussel? Or does it matter?" This is followed by excerpts of comments about such movies as "Brokeback Mountain," "Munich," and "Good Night and Good Luck," by Miss Coulter and Miss Schlussel.

Distrust Of NSA Has Roots In '70s (CSM)

By Peter Grier

The Christian Science Monitor, January 25, 2006

WASHINGTON - Hours after the attacks of Sept. 11, top National Security Agency officials paid a calming visit to the NSA's counterterrorism office. Workers there were emotionally wrought, due to both the stress of the day and the counterterror division's location - the vulnerable top of a high-rise at NSA's suburban Maryland location.

By the afternoon, they had recovered and were defiantly tacking up blackout curtains to mask their location, according to Lt. Gen. Michael Hayden, then the NSA's director.

Now the NSA is being roiled by political controversy over charges that it is illegally eavesdropping on Americans. President Bush is scheduled to visit the agency Wednesday as part of a week-long effort to defend a program the administration claims is both legal and crucial in the fight against terror.

If nothing else, the uproar is adding another chapter to the history of an arm of the government that has been derided and lauded by turns ever since the US government first publicly acknowledged its existence.

In the 1970s, for instance, the NSA drew intense criticism for its role in spying on critics of the Vietnam War and other political opponents of the Nixon administration.

But that sort of subversive behavior isn't what is at issue today, notes one administration critic. "No one is suggesting the NSA is monitoring Hillary Clinton," says Steven Aftergood, director of the Project on Government Secrecy at the Federation of American Scientists.

Founded by order of President Truman in 1952, the NSA is today headquartered at Fort Meade, an Army reservation that sits near the midpoint of the Baltimore-Washington Parkway.

In the NSA's early years, the US government did not publicly acknowledge it. NSA stood for "no such agency," joked its employees.

That changed with the 1973-76 investigations of US intelligence abuses by Sen. Frank Church (D) of Idaho. The NSA had kept a "watch list" of US citizens and organizations whose foreign communications it intercepted, it turned out. The NSA had also kept copies of most telegrams sent from the United States to foreign countries.

The response to these revelations was the 1978 Foreign Intelligence Surveillance Act, or FISA - a law that set judicial procedures for requesting electronic surveillance of persons thought to be engaged in espionage or terrorism against the US.

Today the NSA is in the curious position of being both secretive and famous. Its work remains so closely held that its director seldom appears in public. Yet it has starred (as the villain) in at least one recent feature-length movie, "Enemy of the State." The NSA itself, perhaps to bolster its image, has created a website for children, which features the Cryptokids, an assortment of cartoon animal characters who, in games, carry out code-breaking assignments and other espionage activities.

Following the fall of the Berlin Wall, and the loss of the agency's cold-war mission of eavesdropping on everything from Soviet missile telemetry to the car-phone calls of Kremlin leaders, the NSA lost about one-third of its budget, and one-third of its manpower.

At the same time, in the decade of the 1990s the world saw an explosion in what NSA experts call "packetized communications" (what the rest of the world calls e-mail and other computer missives). Also, cellphone use increased 50 times over in the '90s, noted General Hayden, now principal deputy director of national intelligence, in a 2002 congressional hearing. US international phone calls went from 38 billion minutes to over 100 billion minutes annually.

Faced with a new enemy - Al Qaeda - that communicated as little as possible, and in constantly changing ways, the NSA was forced to become "hunters rather than gatherers," in a phrase used by its former director of signals intelligence, Maureen Baginski.

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Today, Ms. Baginski has moved on. In 2003, she was named the FBI's first-ever executive assistant director of intelligence. And the NSA is under fire for what critics deem is hunting for intelligence a bit too much.

Under the domestic eavesdropping program - administration officials prefer to call it a "terrorist surveillance program" - the NSA since 2002 has been listening in on international communications of some people in the US, when those communications are thought to be connected to possible terror activity.

But officials have not been requesting warrants from the special court established by the FISA law to handle just such situations.

The president does not need to do so, according to the White House, because of the inherent powers of his office and because of authority conveyed by post-9/11 congressional resolution.

Critics say it may be because the eavesdropping in question may not reach the legal thresholds required by the FISA law.

"Why wouldn't they stay within the legal framework if that was an option?" says Mr. Aftergood of the Federation of American Scientists.

Defending the NSA's efforts in an extremely rare question-and-answer session before the National Press Club on Monday, Hayden said that the FISA statute "does not give us the operational effect" needed.

In other words, even the emergency aspects of the law, which allow wiretaps for a short period of time before applying for a warrant, don't move fast enough for NSA purposes.

The 9/11 commission criticized the NSA's inability to link things happening in the US with things happening elsewhere, pointed out Hayden. The presidential authorization program allows the agency to more quickly track calls judged to be connected to Al Qaeda in some manner.

"The trigger is quicker and a bit softer than it is for a FISA warrant, but the intrusion into privacy is also limited: only international calls, and only those we have a reasonable basis to believe involve Al Qaeda or one of its affiliates," said Hayden.

The program isn't a "drift net" that will capture the phone calls home of a US student on international study who uses the word "jihad," claimed Hayden.

And the former director of the NSA said he was disappointed that the default response for critics was to assume the worst about the eavesdropping agency.

"I'm trying to communicate to you that the people who are doing this go shopping in Glen Burnie, [Md.] ... and they know the law," said Hayden.

It's possible that Hayden and the Bush administration are describing a program that is focused on early warning and is processing too many international calls for the FISA court process to handle, noted critics.

Bush Remarks On Eavesdropping Aim To Put Democrats On Defensive (CO)

By Steven Thomma

The Charlotte Observer, January 25, 2006

WASHINGTON - President Bush will speak Wednesday at the National Security Agency to defend his order to the super-secret spy center to conduct warrantless eavesdropping on Americans.

But the speech will be much more than a defense. It also will be the photo-op spearhead of a campaign to turn the controversy into a plus for Republicans by transforming the 2006 congressional elections into a referendum on the war on terrorism.

Eager to reclaim the turf where he's strongest politically, Bush and his allies are hammering away at Democrats as weak on security. That tactic worked for Republicans in 2002, when they accused Democrats of risking national security by questioning work rules in the new Homeland Security Department. It worked in 2004 as well, when Republicans ripped Democratic presidential candidate John Kerry, a senator from Massachusetts, as indecisive on defense.

It could work again in 2006. Polls show that the American people are split evenly over warrantless eavesdropping, hardly the solid outrage that many Democrats had hoped for. And Americans still give their highest marks to the president for his work against terrorism. A new poll this week shows that it's the only issue on which Bush has the approval of even a slender majority, and another new survey shows that fighting terrorism remains the public's top priority.

"If they fight the campaign on the war on terror, that is the one issue where they beat Democrats consistently," pollster John Zogby said.

There are two important caveats, however.

One, Bush isn't as politically strong as he was in 2004, and nowhere near as powerful as in 2002.

"The climate has changed since the `02 and `04 elections," said Phil Singer, a spokesman for the Democratic Senatorial Campaign Committee. "The president isn't infallible anymore. They don't enjoy the same position of strength."

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Two, Democrats aren't the only ones questioning whether the government can eavesdrop on international calls to or from someone in the United States without warrants.

Those questioning the legality include Sens. John McCain, R-Ariz., and Arlen Specter, R-Pa., and conservative activists who formed a group called Patriots to Restore Checks and Balances, including Paul Weyrich, the chairman of the Free Congress Foundation, Grover Norquist, the president of Americans for Tax Reform, and David Keene, the chairman of the American Conservative Union.

Keene said recently: "No one would deny the government the power it needs to protect us all, but when that power poses a threat to the basic rights that make our nation unique, its exercise must be carefully monitored by Congress and the courts."

He added: "This is not a partisan issue."

The White House prefers to make it a partisan issue.

Last week, White House Deputy Chief of Staff Karl Rove signaled before the Republican National Committee how to frame the debate as being about spying on terrorists rather than about obeying the law or constitutional checks and balances.

"If al-Qaida is calling somebody in America, it is in our national security interest to know who they're calling and why. Some important Democrats clearly disagree," Rove said.

Most prominent Democratic critics have said they want to spy on suspected terrorists - but with court-approved warrants. "We're prepared to eavesdrop wherever and whenever necessary in order to make America safer," Kerry said, "but we put a procedure in place to protect the constitutional rights of Americans."

The president's legal argument in defense of NSA eavesdropping may be shaky, according to the nonpartisan Congressional Research Service. Recognizing that, some critics say Bush broke the law and should be the object of an impeachment inquiry. Led by Specter, its chairman, the Senate Judiciary Committee will open hearings on the eavesdropping Feb. 6.

Rather than letting the question be framed purely in legal terms, however, Bush and his loyalists depict eavesdropping as a necessary tool in the war on terrorism, and thus are trying to build a political firewall to help insulate themselves before pressure builds in Congress to challenge the White House.

In addition, the more that critics challenge the eavesdropping, the more the fight against terrorism claims the limelight, at a time when Democrats would rather be talking about corruption in Washington.

"Democrats need to be careful about how they proceed," said Brian Jones, a spokesman for the Republican National Committee. "If they come across as weak on national defense, an issue where the president is strong ... they will pay a price."

How Will Terror Issue Play In '06? (PHI)

By Dick Polman

The Philadelphia Inquirer, January 25, 2006

As Yogi Berra once said, it's déjÀ vu all over again.

In January 2002, presidential strategist Karl Rove said the GOP would use the war on terror against Democrats in that year's congressional elections. In his words, "We can go to the country confidently on this issue because Americans trust the Republican Party to do a better job of keeping our communities and families safe."

And in January 2006, Rove says the GOP will use the war on terror against Democrats in this year's congressional elections. In his words last week: "Republicans have a post-9/11 worldview, and many Democrats have a pre-9/11 worldview. That doesn't make them unpatriotic. Not at all. But it does make them wrong, deeply and profoundly and consistently wrong."

Painting the Democrats as national security wimps worked well in 2002; even Max Cleland, the triple-amputee war hero from Georgia, was depicted as a threat to the homeland and voted out of his Senate seat. The Republicans regained control of the Senate, expanded their majority in the House, and have ruled Capitol Hill ever since.

The question this year is whether the old Rove playbook will pack the same punch.

The Bush administration hopes so. Given the toxic political climate, Republicans can ill afford to lose either chamber in November; it's a cinch bet that majority Democrats, armed with subpoena power, would launch numerous congressional probes on every facet of the Iraq war, just for starters. Hence Rove's desire to reprise 2002 - this time, by seeking to paint Democrats as weaklings because of their concerns about the President's warrantless-surveillance program.

On paper, at least, this strategy has great potential because it plays to long-standing voter preconceptions. For a quarter-century, the GOP has been perceived as generally stronger on national security, and that view persists despite all the woes in Iraq. Even Kenneth Baer, a Democratic strategist and former Al Gore speechwriter, said yesterday that "many Democrats don't have an interest in national security issues, they're not comfortable talking about those issues, and they're not comfortable with force."

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In 2002, the Democrats tried to focus on health care - and paid the price on Election Day. No wonder Republicans seem so eager to trumpet the surveillance program, billed by the National Security Agency as a way to pursue al-Qaeda in the homeland. Republican Party chairman Ken Mehlman said the other day, "One of the big choices before the American people in 2006 is: Where do your leaders stand on this important tool?"

Other benefits

The tougher-on-terrorists theme has other potential benefits. It's a way for Rove to unify restive conservative voters who are angry about Bush's lavish federal spending and budget deficits, and to shift public attention away from the corruption scandals that have tied Republican leaders to confessed felon Jack Abramoff, the high-rolling Republican lobbyist who raised money for Bush. (The White House has declined to release photos - reportedly, at least five exist - showing Bush and Abramoff together.)

Yet, in many ways, the current political climate bears scant resemblance to 2002. Four years ago, when Bush was stumping for GOP candidates and charging that the Democratic-run Senate was "not interested in the security of the American people," the Iraq war hadn't happened yet. Twenty-two hundred U.S. troops hadn't been killed yet, $250 billion hadn't been spent yet, and Saddam Hussein's dearth of mass weaponry hadn't been exposed yet.

Polls and ammunition

When Rove played the toughness card in 2002, Bush's job-approval rating, as measured by Gallup, was averaging about 67 percent. In 2006, that Gallup rating is 43 percent. And 58 percent give him a thumbs-down on Iraq. This time, in other words, Bush might not have the requisite credibility to argue the security issue at Democratic expense.

Clearly, the White House believes that the flap over warrantless eavesdropping is giving Bush fresh ammunition to invoke the security issue; witness his language Monday calling it "a terrorist surveillance program." And Attorney General Alberto R. Gonzales, also invoking the new description, said yesterday that warrants were impediments in wartime: "The terrorist surveillance program... requires the maximum in speed and agility, since even a very short delay may make the difference between success and failure in preventing the next attack."

Many Americans appear skeptical; in the latest Gallup poll, 51 percent of the adults surveyed say Bush was wrong to tap without warrants, and 58 percent want a special prosecutor to probe what Bush has done. And Republicans aren't fully united behind Bush's program, either; at least nine GOP senators; five top conservative activists; and Bob Barr, the Republican former congressman who launched the Clinton impeachment probe, all question whether Bush has skirted or flouted federal law.

Despite all this public restiveness, most Democrats don't seem eager to confront Bush and Rove directly on this issue. No Democrat in Congress has demanded that the NSA program be suspended until hearings (slated to start Feb. 6) are completed. The minority party still seems worried that Bush's visceral argument about protecting lives has more punch with the average person than the more abstract argument about legal niceties.

When asked yesterday about the GOP argument, Democratic strategist Baer said: "I don't know how to combat it... . I find the 'Bush isn't following the Constitution' argument to be very elitist. When I go to briefings, that's what I hear from the wonky lawyers. But it's like, 'Who cares?' "

Harry Reid, the Senate Democratic leader, took a stab at the problem yesterday. He sought in a speech to demonstrate that Democrats need to out-macho Bush, to contend that they will be even tougher on terrorists - that they, unlike Bush, would secure our ports, give troops enough body armor, and track al-Qaeda operatives without threatening to "trample" the Constitution.

But Reid is merely one voice among many in a party that still hasn't crafted a national security message. And President Bush, notwithstanding his woes, still owns the biggest megaphone.

Democrats May Argue Liberties To Their Peril (LAT)

By Ronald Brownstein

The Los Angeles Times, January 25, 2006

WASHINGTON — Leading Democrats are challenging President Bush's record on civil liberties across a wide front, inspiring a Republican counterattack that even some Democratic strategists worry could threaten the party in this year's elections.

From Bush's authorization of warrantless surveillance by the National Security Agency to renewal of the Patriot Act, the president and his critics are battling more intently than at any time since the Sept. 11 terrorist attacks over the proper balance between national security and personal liberty.

In each of these disputes, prominent Democrats — joined by a few Republicans — accuse Bush of improperly expanding presidential power and dangerously constricting the rights of Americans. Bush and his allies have fired back by escalating charges that Democrats would weaken America's security by imposing unreasonable restraints on the president.

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These exchanges establish contrasts familiar from debates over law enforcement and national security throughout the 1970s and '80s, with most Republicans arguing for tough measures and many Democrats focusing on the defense of constitutional protections.

That emerging alignment worries some Democratic strategists, who believe it may allow Bush to portray Republicans as stronger than Democrats in fighting terrorism, as he did in the 2002 and 2004 campaigns.

"If Democrats want to be the party of people who think [the government] is too tough and the Republicans are the party of people who are tough, I don't see how that helps us," said one senior Democratic strategist who asked not to be identified while discussing party strategy.

Other Democrats say that because it is often unpopular to defend civil liberties during wartime, doing so would allow the party to demonstrate strength and conviction.

"There's a Washington consensus that this is politically bad news," said Eli Pariser, executive director of the political action committee associated with MoveOn.org, the online liberal advocacy group. "My read is that more than any given position, people want to see that their leaders are principled and that they stand up for what they believe in, and it seems to me [these fights] signal precisely that."

The differences between the two parties will be on display today, when the Senate begins debate over the Supreme Court nomination of Samuel A. Alito Jr. In unanimously opposing Alito on Tuesday, several Democrats on the Senate Judiciary Committee echoed comments by Sen. Russell D. Feingold (D-Wis.), who said the federal appellate judge's "record and testimony strongly suggest that he would … defer to the executive branch in case after case at the expense of individual rights."

Similarly, Senate Democrats charged Bush last month with eroding civil liberties as they helped block reauthorization of the Patriot Act. And Bush's two Democratic opponents in his presidential races — Al Gore in 2000 and Sen. John F. Kerry of Massachusetts in 2004 — recently have called for a special counsel to investigate whether Bush broke the law in authorizing the NSA to monitor domestic phone calls and e-mails from those suspected of having links to Al Qaeda.

Jeffrey Rosen, a law professor at George Washington University, said the Democratic emphasis on civil liberties marked a shift not only from party attitudes after the Sept. 11 attacks, but also from efforts by President Clinton to expand government's law enforcement power after the 1995 Oklahoma City bombing.

Rosen said that in the last several weeks, Bush has invited greater Democratic opposition by defending the surveillance program so unapologetically, even after independent analysts such as the nonpartisan Congressional Research Service had questioned its legality.

"The boldness of the administration's response has escalated the fight and made it more difficult for fair-minded Democrats to step back from the brink," said Rosen, author of "The Naked Crowd," a book on security and civil liberties.

The White House has signaled that it was comfortable with, and even eager for, this debate.

In an aggressive series of speeches this week, Bush and other administration officials have portrayed the controversial surveillance program as not only legal but essential to national security.

Also, Democratic Senate aides say the White House has taken a hard line against negotiating changes in the reauthorization of the Patriot Act. A short-term extension of the law expires next week, and if no agreement is reached, that deadline could provoke another confrontation between Bush and congressional Democrats.

In a speech to the Republican National Committee last week, Karl Rove, Bush's chief political advisor, made it clear that he would encourage Republican candidates to use these disputes — along with Democratic criticism of the Iraq war — in the election to portray Democrats as weak on national security.

"At the core, we are dealing with two parties that have fundamentally different views on national security," Rove said. "Republicans have a post-9/11 worldview, and many Democrats have a pre-9/11 worldview."

Political analysts interpreted the speech as evidence that the White House wanted to replicate its 2002 strategy, when Bush used a dispute over union rules for the Department of Homeland Security to picture Democrats as soft on security concerns.

But some Democrats see key differences from 2002. Bush's current approval rating is about 20 percentage points lower than it was then. That means he enters the argument with fewer voters leaning in his direction.

Public attitudes about the balance between civil liberties and security also have shifted since 2002, according to nationwide polls. More Americans now express concern that the government will restrict civil liberties too much in the fight against terrorism, and fewer say the average American needs to relinquish civil liberties to protect the country.

Although results vary depending on the wording of poll questions, most Americans generally say they place a higher priority on pursuing terrorists than protecting civil liberties.

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On the NSA surveillance program, opinion seems closely divided and fluid. Three national surveys in early to mid-January found that slightly more Americans supported than opposed the program; a CNN/USA Today/Gallup survey conducted Friday through Sunday found that a slight majority opposed it.

The White House faces another difficulty in forging its arguments into a partisan weapon for 2006: Some Republican lawmakers, and many prominent conservative activists, have joined Democrats in opposing Bush in the recent disputes.

For instance, four Republican senators backed the filibuster that blocked renewal of the Patriot Act. Other leading Republicans, including Sens. Arlen Specter of Pennsylvania and John McCain of Arizona, have questioned Bush's claim of legal authority to launch the NSA program.

Some key Democrats also insist that public anxiety about the continuing violence in Iraq will make it tougher for Republicans to use security arguments this year.

"When we talk about national security, we are going to go right to what happened to the men and women in uniform," said Rep. Rahm Emanuel (D-Ill.), chairman of the Democratic Congressional Campaign Committee.

Yet even with these new factors, most Republicans remain confident that disputes over national security and civil liberty issues will strengthen their hand this fall, just as they did in 2002 and 2004.

"I think the Democrats are picking a fight that really plays to Republican strengths, and I think that's why the president is fighting back so strongly," said Sen. John Cornyn (R-Texas).

Impeachment Hearings: The White House Prepares For The Worst (IM)

Insight Magazine, January 25, 2006

The Bush administration is bracing for impeachment hearings in Congress.

"A coalition in Congress is being formed to support impeachment," an administration source said.

Sources said a prelude to the impeachment process could begin with hearings by the Senate Judiciary Committee in February. They said the hearings would focus on the secret electronic surveillance program and whether Mr. Bush violated the 1978 Foreign Intelligence Surveillance Act.

Administration sources said the charges are expected to include false reports to Congress as well as Mr. Bush's authorization of the National Security Agency to engage in electronic surveillance inside the United States without a court warrant. This included the monitoring of overseas telephone calls and e-mail traffic to and from people living in the United States without requisite permission from a secret court.

Sources said the probe to determine whether the president violated the law will include Republicans, but that they may not be aware they could be helping to lay the groundwork for a Democratic impeachment campaign against Mr. Bush.

"Our arithmetic shows that a majority of the committee could vote against the president," the source said. "If we work hard, there could be a tie."

The law limits the government surveillance to no more than 72 hours without a court warrant. The president, citing his constitutional war powers, has pledged to continue wiretaps without a warrant.

The hearings would be accompanied by several lawsuits against the administration connected to the surveillance program. At the same time, the Electronic Privacy Information Center has filed a Freedom of Information Act lawsuit that demands information about the NSA spying.

Sen. Arlen Specter, Senate Judiciary Committee chairman and Pennsylvania Republican, has acknowledged that the hearings could conclude with a vote of whether Mr. Bush violated the law. Mr. Specter, a critic of the administration's surveillance program, stressed that, although he would not seek it, impeachment is a possible outcome.

"Impeachment is a remedy," Mr. Specter said on Jan. 15. "After impeachment, you could have a criminal prosecution. But the principal remedy under our society is to pay a political price."

Mr. Specter and other senior members of the committee have been told by legal constitutional experts that Mr. Bush did not have the authority to authorize unlimited secret electronic surveillance. Another leading Republican who has rejected the administration's argument is Sen. Sam Brownback of Kansas.

On Jan. 16, former Vice President Al Gore set the tone for impeachment hearings against Mr. Bush by accusing the president of lying to the American people. Mr. Gore, who lost the 2000 election to Mr. Bush, accused the president of "indifference" to the Constitution and urged a serious congressional investigation. He said the administration decided to break the law after Congress refused to change the Foreign Intelligence Surveillance Act.

"A president who breaks the law is a threat to the very structure of our government," Mr. Gore said.

"I call upon members of Congress in both parties to uphold your oath of office and defend the Constitution," he said. "Stop going along to get along. Start acting like the independent and co-equal branch of American government that you are supposed to be under the constitution of our country."

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Impeachment proponents in Congress have been bolstered by a memorandum by the Congressional Research Service on Jan. 6. CRS, which is the research arm of Congress, asserted in a report by national security specialist Alfred Cumming that the amended 1947 law requires the president to keep all members of the House and Senate intelligence committees "fully and currently informed" of a domestic surveillance effort. It was the second CRS report in less than a month that questioned the administration's domestic surveillance program.

The latest CRS report said Mr. Bush should have briefed the intelligence committees in the House and Senate. The report said covert programs must be reported to House and Senate leaders as well as the chairs of the intelligence panels, termed the "Gang of Eight."

Administration sources said Mr. Bush would wage a vigorous defense of electronic surveillance and other controversial measures enacted after 9/11. They said the president would begin with pressure on Republican members of the Senate Judiciary Committee. Mr. Bush would then point to security measures taken by the former administration of President Bill Clinton.

"The argument is that the American people will never forgive any public official who knowingly hurts national security," an administration source said. "We will tell the American people that while we have done everything we can to protect them, our policies are being endangered by a hypocritical Congress."

Defense Seeks Mental Disorder Testimony (AP)

By Michael J. Sniffen, Associated Press Writer

AP, January 24, 2006

(01-24) 16:24 PST WASHINGTON, (AP) -- Lawyers for admitted terrorist conspirator Zacarias Moussaoui want to call a doctor who will testify he has a major mental disorder, likely schizophrenia, in their bid to save him from the death penalty, according to court filings.

Defense lawyers have long indicated they would like to introduce psychological testimony on his behalf — despite his insistence that he's perfectly sane — but their court filings Tuesday contained the most specific claim of illness and the first mention of schizophrenia in the record.

A 37-year-old Frenchman of Moroccan descent, Moussaoui is the only person who has been charged in the United States as part of the Sept. 11, 2001 al-Qaida attacks on the World Trade Center and the Pentagon.

Last April, he pleaded guilty to six conspiracy charges, but insisted he was not part of the Sept. 11 plot. However, he said he was taking flight lessons to prepare to hijack a 747 jet later and fly it into the White House if the U.S. government refused to release a radical Egyptian cleric serving a life term for the 1993 World Trade Center bombing and 1995 plots against New York landmarks.

Prosecutors already have results of a court-ordered psychiatric exam by a government-appointed doctor in 2002 that ruled out mental illness, finding only personality disorder, a conclusion that is extremely helpful to the prosecution. Just before Moussaoui pleaded guilty, Judge Leonie Brinkema ruled that he was competent.

Even though Moussaoui has not let defense doctors examine his mental state, defense lawyers told the court they would call Dr. Nancy C. Andreasen to testify at proceedings that begin next month to determine if he should receive the death penalty or life in prison.

She "will testify that Mr. Moussaoui suffers from a major thought disorder, mostly likely schizophrenia," their filing said.

They said she would rely on her analysis of Moussaoui's writings and court appearances, which have often been vituperative and disjointed, and on reports previously filed by Dr. Xavier F. Amador, a defense psychologist. Amador disagreed with the government-appointed doctor's 2002 conclusion and argued that further examination was needed. They acknowledged that defense experts have not been able to interview Moussaoui.

Prosecutors have said that if Moussaoui's legal team intends to introduce evidence of psychological problems, the government is entitled to have medical experts of its own choosing conduct a psychological evaluation of the defendant. The government is seeking a court order to that effect.

The defense also said it would call clinical social worker Jan Vogelsang to discuss Moussaoui's fragmented family life, lack of supervision and of formal Islamic training. She will argue that these conditions left him susceptible to radical Islamic training as he confronted racism, cultural change and emotional losses after moving from France to England, the defense said.

The defense also wants to call two Parisian academics to testify that Moussaoui's life story fits into a pattern of how alienated second-generation immigrants of North African heritage in France and London are recruited by radical Islamist movements.

A pilot and former FBI agent, Erik Rigler, will be called to testify about aviation security and about sealed factual reports including one on two Sept. 11 hijackers, Khalid al-Mihdahar and Nawaf al-Hazmi, whose presence in the United States was known before the attacks, the court filing said.

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Brinkema has divided the sentencing trial into two parts. First, prosecutors will try to convince jurors that the FBI would have prevented the Sept. 11 attacks if Moussaoui had told federal agents what he knew about al-Qaida's desire to fly planes into U.S. buildings. If the jury disagrees with prosecutors, Moussaoui will receive life in prison. If jurors agree with prosecutors, they will decide whether he should be executed.

Moussaoui was in custody on immigration violations in Minnesota when the hijacked jets crashed on Sept. 11.

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On the Net:
District Court:
www.vaed.uscourts.gov

Pentagon, CIA Refer 20 Detainee-abuse Cases To DOJ (REU)

By David Morgan
Reuters, January 24, 2006

WASHINGTON (Reuters) - Twenty cases of detainee abuse allegations against CIA and Defense Department employees have been referred to the Justice Department for possible prosecution since the beginning of the war in Afghanistan, a senior U.S. official said in a letter released on Tuesday.

Assistant Attorney General William Moschella said in a January 17 letter to Sen. Richard Durbin, an Illinois Democrat, that the cases span both the Afghanistan and Iraq wars and contain not only allegations of physical abuse but also possible violations of federal law and U.S. treaties.

Civil liberties advocates said the cases involve civilian interrogators and showed a double-standard in light of recent convictions of lower-ranking soldiers accused of abuse.

Only one CIA case has resulted in a criminal indictment. In that case, former CIA contractor David Passaro has been charged in North Carolina in a federal case involving the 2003 death of an Afghan detainee.

Moschella said the other 19 cases referred to the Justice Department have been reviewed by a federal prosecution task force in Virginia. Two have been closed for lack of sufficient evidence, and all others remain under investigation.

"It is now clear that enlisted men and women in a soldier's uniform are being convicted while CIA agents and civilian contractors who allegedly participated in the same crimes remain free," Christopher Anders, legislative counsel for the American Civil Liberties Union, said in a statement.

WAR ZONES

Administration officials said the investigation of detainee abuse cases by civilian investigators required extended periods of time because alleged acts often occur in war zones where the alleged victims can be difficult to track down.

"The president has directed that detainees be treated humanely," said Justice Department spokeswoman Cynthia Magnuson. "The U.S. continues to aggressively investigate credible allegations of abuse and to hold individuals responsible for wrongdoing."

She declined to comment about the cases disclosed in the Justice Department letter because of ongoing investigations.

Moschella was writing in response to a letter Durbin sent to Attorney General Alberto Gonzales in November seeking details of abuse case referrals to the Justice Department from the Defense Department and the CIA.

"Since the beginning of the conflict in Afghanistan, the Defense Department has referred 11 allegations of detainee abuse to the (Justice) Department, and another agency has referred nine allegations of detainee abuse," the assistant attorney general wrote.

A copy of the letter was obtained by Reuters.

Defense Department spokeswoman Cynthia Smith had no immediate comment on the letter, which she had not seen. "It is our policy that all detainees are treated humanely and to report any suspected detainee mistreatment and investigate that thoroughly," Smith said.

CIA spokesman Paul Gimigliano said: "The letter from the Department of Justice speaks for itself. I have nothing to add to it."

Europe's C.I.A. Inquiry Finds No Evidence Of Secret Prisons (NYT)

By Craig S. Smith
The New York Times, January 25, 2006

STRASBOURG, France, Jan. 24 - An inquiry by the Council of Europe into allegations that the C.I.A. has operated secret detention centers in Eastern Europe has turned up no evidence that such centers ever existed, though the leader of the inquiry, Dick Marty, said there are enough "indications" to justify continuing the investigation.

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The report added, however, that it was "highly unlikely" that European governments were unaware of the American program of renditions, in which terrorism suspects were either seized in or transferred through Europe to third countries where they may have been tortured. Drawing from news reports, Mr. Marty contended that "more than a hundred" detainees have been moved anonymously and illegally through Europe under the program.

The findings, delivered to the Council on Tuesday, drew scornful reactions from some representatives of the Council's 46 member states, particularly from the British, who called the interim report "as full of holes as Swiss cheese" and "clouded in myth and motivated by a desire to kick America."

Mr. Marty, a Swiss senator and chairman of Council's Committee on Legal Affairs and Human Rights, was charged with the inquiry after an article in The Washington Post in November cited unidentified intelligence officials as saying that the C.I.A. had maintained detention centers in eight countries, including some in Eastern European democracies.

A subsequent report by Human Rights Watch cited Poland and Romania as two of those countries. Both countries, as well as others in Europe, have denied the allegations.

Mr. Marty's findings to date amount to little more than a compendium of press clippings.

"It would seem from confidential contacts that the information revealed by The Washington Post, Human Rights Watch and ABC came from different sources, probably all well-informed official sources," a passage in the report reads. "This is clearly a factor that adds to the credibility of the allegations, since the media concerned have not simply taken information from one another."

Part of the reason Mr. Marty finds the allegations credible are other well-documented cases of America's rendition of terrorism suspects on European soil, including the 2003 C.I.A. abduction of an Egyptian cleric, Hassan Mustafa Osama Nasr, who was sent to Egypt.

Mr. Marty said he was equally wary of Romanian and Polish denials of the detention center allegations, noting that both countries are part of the American-led coalition fighting in Iraq and "escaped long dictatorships thanks largely to the American intelligence services."

He has requested data on aircraft movements from the Eurocontrol, the European air traffic control agency, and satellite images from the European Union's Satellite Center. It is not clear what he hopes to find in the data or photographs. His assertion that more than a hundred detainees have been moved through Europe - a number he took from an article in the German newspaper Die Zeit - is not of a scale that would show in satellite images.

The debate over renditions and secret prisons reflects the deep mistrust that has developed in Europe toward the Bush administration and its Eastern European coalition partners since the invasion of Iraq.

Both Mr. Marty and the Council of Europe's secretary general, Terry Davies, are convinced that the American press knows more about the alleged detention centers, but are under government pressure to keep the information secret.

"I know of a television company that has information that they are not willing to broadcast out of concern for their employees," Mr. Davies said. He declined to identify the broadcaster or the source of the allegation.

Mr. Davies is scheduled to issue a report in February on what the Council's member states have done to ensure that such breaches of the Council's European Convention on Human Rights do not occur. Mr. Marty is expected to issue a final report on his inquiry in March or April.

"This is no easy task," said John Swift, terrorism researcher for Human Rights Watch. "The information doesn't fall out of the sky."

For now, though, there is nothing concrete to the allegations of secret prisons beneath the chatter.

"At this stage of the investigations, there is no formal, irrefutable evidence of the existence of secret C.I.A. detention centers in Romania, Poland or any other country," Mr. Marty's report said.

European Inquiry Fails To Confirm Secret CIA Prisons (WP)

By Craig Whitlock

The Washington Post, January 25, 2006

BERLIN, Jan. 24 -- A European human rights investigator on Tuesday accused the United States of "unacceptable and appalling" tactics in the fight against terrorism but said he was unable to independently confirm reports of secret prisons run by the CIA in Eastern Europe.

In an interim report presented to the Council of Europe, the continent's official human rights watchdog group, Dick Marty, a Swiss parliamentarian, also accused European governments of either collaborating or looking the other way as U.S. intelligence officers abducted or secretly detained terrorism suspects on European soil.

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"We can say that there is a great deal of coherent, convergent evidence pointing to the existence of a system of 'relocation' or 'outsourcing' of torture," he wrote in his report, the product of a two-month investigation. "Europe must clearly and unambiguously declare that it refuses outright to tolerate such doings in its territory, or anywhere else."

Marty has only limited powers to compel individuals and governments to cooperate. His report offered no fresh evidence to support his allegations, and he relied primarily on media reports and previously documented cases to draw his conclusions. In Washington, State Department spokesman Sean McCormack dismissed the findings as the "same old reports wrapped up in some new rhetoric."

The Council of Europe commissioned the investigation after The Washington Post reported in November that the CIA had operated secret prisons for high-level al Qaeda figures in Eastern Europe since the Sept. 11, 2001, attacks. The Post has not published the names of the East European countries involved in the covert program at the request of senior U.S. officials, who argued that it could disrupt counterterrorism efforts and make those nations a target for terrorists.

Marty said he could not find any "formal, irrefutable evidence" of CIA detention centers in Eastern Europe. He said he had recently obtained satellite data and flight logs from European agencies that could offer clues, however, and cited other "reliable" sources that justified his ongoing investigation.

"I know it will be a long and difficult path," he said in a telephone interview from Council of Europe headquarters in Strasbourg, France, when asked if he expected to find concrete answers. "But as far as the truth is concerned, I am fundamentally optimistic."

Marty criticized European governments as being less than candid about their role in or knowledge of U.S. counterterrorism operations on the continent. U.S. officials have said they routinely notify or partner with allied intelligence agencies when conducting such missions.

In London, British officials have fended off accusations that they allowed the CIA to use British airspace and military bases to carry out operations known as "extraordinary renditions," the abduction of terrorist suspects who are then handed over to other countries for interrogation.

On Monday, Prime Minister Tony Blair said the British government had been "extremely open" about renditions and had received no recent requests from the United States for the use of British airspace. The government has previously said it had received U.S. requests dating before Sept. 11, 2001, but none since then.

But a Foreign Office memo written in early December and published by the New Statesman magazine in the issue dated Jan. 23 suggested that the government was not being entirely forthcoming. It advised British officials to "try to avoid getting drawn on detail" about the debate. Citing two renditions that occurred in 1998, the memo said, "The papers we have unearthed so far suggest there could be more such cases."

Covert Activity By U.S. Called No Big Secret (LAT)

By Sebastian Rotella, Times Staff Writer

The Los Angeles Times, January 25, 2006

PARIS — A European senator leading a probe into alleged CIA abductions of suspected terrorists asserted Tuesday that European governments were most likely aware of clandestine U.S. activity on their soil, but he said he had not found proof of secret detention centers in Poland and Romania.

In a report to the Council of Europe, a legislative assembly based in Strasbourg, France, Swiss Sen. Dick Marty presented interim findings of a 2-month-old inquiry that is worsening transatlantic tensions over tough U.S. tactics against terrorism.

"Rendition affecting Europe seems to have concerned more than a hundred persons in recent years," Marty said. "Hundreds of CIA-chartered flights have passed through numerous European countries. It is highly unlikely that European governments, or at least their intelligence services, were unaware."

European anti-terrorism agencies are suspected of assisting or permitting some surreptitious U.S. "extraordinary renditions" of suspects who were later allegedly tortured in Arab countries, Marty and others say. Moreover, critics say the European indignation rings hollow because law enforcement and intelligence agencies in Europe have received information gained during interrogation of Al Qaeda figures held in U.S. custody at secret sites.

Although Marty's inquiry has no judicial powers, it has become a conduit and catalyst of increasing backlash against a shadowy U.S. counter-terrorism campaign. Many Europeans see accounts of renditions and torture, and the legal limbo of the U.S. detention facility at Guantanamo Bay, Cuba, as signs of a war run amok. In more than a dozen countries around Europe, law enforcement authorities and legislatures have opened investigations into suspected CIA abductions, detention facilities and flight stopovers.

"These abductions are criminal acts that are against the laws of all civilized countries," Marty said during a news conference.

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In response, U.S. leaders have said they respect the laws and sovereignty of foreign nations, language interpreted by some observers as an indication that European intelligence agencies had given the CIA tacit approval.

In an interview during a visit to Paris on Tuesday, Homeland Security Secretary Michael Chertoff said he had not seen Marty's report. He said he hoped the debate and the focus of some European law enforcement on alleged U.S. misconduct would not damage cooperation against a shared threat.

"Obviously, the authorities are free to investigate whatever they want to investigate," Chertoff said. "But we should not allow ourselves to be distracted from the need to identify, prevent and protect against terrorist acts of violence which could cause a lot of innocent people to lose their lives."

Marty's interim report drew partly on two well-documented judicial investigations. In Italy, prosecutors have charged 22 people identified by authorities there as CIA operatives with snatching a militant imam and flying him to Egypt to be tortured. In Germany, authorities are investigating the case of a Lebanese-born German citizen who accuses American agents of spiriting him from Macedonia to an Afghan interrogation facility, then releasing him after five months when they realized they had the wrong man.

The report also cites a case in which Swiss spies intercepted a fax from Egyptian diplomats in Cairo to the Egyptian Embassy in London making apparent reference to U.S.-run detention facilities in Eastern Europe. The group Human Rights Watch has alleged that secret CIA sites operated in Romania and Poland. Those governments have opened investigations. The issue of CIA sites in Eastern Europe first surfaced in a report in the Washington Post in November.

But Marty said he had not turned up any "formal, irrefutable evidence of the existence of secret CIA detention centers." His search will now turn to analysis of satellite images of Romanian and Polish military bases, pictures that were provided to him by European Union agencies only Monday, he said.

During debate in Strasbourg on Tuesday, some legislators faulted Marty for relying heavily on media reports. And critics said the European Parliament had limited political powers, checkered credibility and a reputation for anti-Americanism.

British legislator Dennis McShane said the report had "more holes than Swiss cheese."

PATRIOT ACT:

Patriot Act Talks Hit Roadblock On Privacy Issue (WP)

By Charles Babington

The Washington Post, January 25, 2006

Efforts to resolve House and Senate differences over a revised USA Patriot Act have reached a stalemate, a key committee chairman said yesterday. That means the current version of the law is likely to remain in place through next month or longer unless Senate Democrats and a handful of Republicans drop their demands for greater privacy safeguards in a proposed renewal, the chairman said.

But another senator said that the Bush administration continues to discuss possible changes, and that a resolution of the impasse is still possible.

The law, passed in the wake of the Sept. 11, 2001, terrorist attacks, makes it easier for federal agents to secretly tap phones, obtain library and bank records, and search the homes of suspected terrorists. Many major provisions were scheduled to expire Dec. 31, but lawmakers extended them to Feb. 3 in hopes of resolving a House-Senate impasse on how to renew the act, with some changes, for four years.

Senate Democrats objected to the revision that emerged from a conference committee last year. When four Republicans joined them, they had a filibuster-proof contingent, preventing the proposal from winning Senate passage.

The chief House negotiator -- Judiciary Committee Chairman F. James Sensenbrenner Jr. (R-Wis.) -- has said his chamber is finished with talks, dimming hopes for a breakthrough. Senate Judiciary Committee Chairman Arlen Specter (R-Pa.) had accepted the House-Senate compromise as a less-than-perfect option. Yesterday, he told colleagues that it probably is the best deal they can get.

"I can tell you, after talking to Chairman Sensenbrenner, that the House feels that they've gone as far as they can go on compromises on the act," Specter told colleagues. "And I think the reality may be that we're looking at either the current act extended [beyond Feb. 3], or the conference report," which continues to draw opposition from most Senate Democrats and four Republicans.

One of the four -- Sen. John E. Sununu (R-N.H.) -- said in an interview yesterday that in recent days he has held discussions with administration officials focused on "the few specific areas where we think the conference report can be improved." If a compromise cannot be reached by Feb. 3, he said, another short-term extension may provide the needed time.

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The main disagreements center on provisions that allow FBI agents to obtain records on terrorism suspects, who have very limited options for challenging such searches. Specter has said the law allows adequate "judicial review" of proposed searches. But Sununu and his allies say the law makes it virtually impossible for targeted people to prevail, even if they have no ties to terrorism.

Washington Wire (WSJ)

The Wall Street Journal, January 25, 2006

The Washington Wire, which is among the most venerated products of the Journal's Washington bureau, also is one of the oldest standing features in American journalism. Since the Wire was launched on Sept. 20, 194010, the Journal's Washington bureau every week has offered readers an informal behind-the-scenes look at the capital's comings and goings in a series of newsy, and sometimes even gossipy, items. The now daily version11 of the Wire is a succession of glimpses at what's happening behind the hot stories of the day and early warnings of what readers will want to watch for in days ahead. The Wire is the collective product of the Washington bureau, some 40 journalists strong. The Wire's principal author is John Harwood, the Journal's national political editor; Mary Lu Carnevale, the Journal's Washington news editor, oversees its updating online. Write to Washington Wire at washwire@wsj.com12.

With the Feb. 3 deadline on renewing Patriot Act provisions looming, Senate Democrats predict a deal can be reached soon. To speed it along, Sen. Patrick Leahy of Vermont is trying to tap First Lady Laura Bush's sympathies as a former school librarian.

"The time is fast approaching when we have to extend it or change it," said Senate Democratic Leader Harry Reid of Nevada, who hinted that House Judiciary Committee Chairman James Sensenbrenner (R., Wis.) will find it harder to block an extension next week. "Sensenbrenner doesn't run the House. There will be 434 other people over there," Reid said. "I think everyone agrees that with a little bit of time alone, Leahy and [Senate Judiciary Chairman Arlen] Specter can work out the problems."

Majority Leader Bill Frist predicts that "ultimately if we do an extension for six to eight weeks, I think we'll be able to work it out." But any Senate deal must also be sold to the House, where Republican turmoil over leadership races could be an obstacle. "We have to work through it here," Frist said. "Then I've got to shop that over there, which -- until they get through and things settle down -- will be hard. So we need just another six weeks."

Leahy, the Judiciary Committee's ranking Democrat, recalled a Jan. 6 conversation with top players and President Bush, who had gathered at the White House for a signing ceremony for an unrelated bill. "I raised the fact that we could easily do that, work out the few remaining differences," said Leahy, who played to the first lady on the issue of searches involving libraries. "I said, `Why don't we work out that problem with the librarians?' I mentioned librarians twice and Mrs. Bush caught my drift." --David Rogers * * *

Information, Please: The U.S. dialogue with China is intensifying on the important issue of enforcing intellectual-property rights.

The two camps have sparred in recent weeks over the legal basis of a U.S. move, launched through the Geneva-based World Trade Organization last October, to compel China to provide detailed descriptions of intellectual-property rights cases it has pursued as well as the penalties imposed on infringers. But a senior U.S. trade official said Tuesday that Beijing and Washington have set aside the dispute over whether the U.S. has the right to the information and, for now, are focusing on ways to allow an exchange of the disputed information.

"They have expressed an openness to work with us," the official said. "They've agreed to talk with us." The U.S. official said filing a piracy complaint against China at the WTO "remains a possibility," but stressed the U.S. is working through a number of channels, including bilateral talks, to encourage China to step up its enforcement. --Greg Hitt * * *

Lost Millions: Another Pentagon audit of Iraq reconstruction work found that a variety of jobs were never done and millions of dollars are missing. The report of the Special Inspector General for Iraq Reconstruction1 examined 907 contracts and "micro-purchases" totaling about $88 million that were awarded by U.S. officials using Iraqi funds in 2003 and 2004.

The audit found that 17% of the work, totaling $16.3 million, was not competitively bid, that $87,000 in cash was somehow lost, and that $6.3 million was transferred to "unauthorized persons" without any trace of work being done in return. The report said that $471,000 was paid to install Internet service in the city of Ramadi, but quotes an internal memo saying, "There is no way to verify this project was ever completed, because we don't even know where exactly in Ramadi it was supposed to take place." Another 11 contracts were overpaid to the tune of $571,000.

The Justice Department has charged some U.S. officials and contractors with fraud in connection with similar work in southern Iraq, and more prosecutions are expected. --Neil King Jr. * * *

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With an eye toward the oldest members of the Supreme Court, the White House is trying to scratch out a filibuster-proof 60 votes for Judge Samuel Alito to set a conservative standard that gives Bush some maneuvering room in the event of another opening.

Insiders say the odds of achieving that goal aren't good. But Bush allies take heart that the Democrats' vigorous opposition to Judge Alito irritated enough of the Republican members of the Gang of 14 -- the bipartisan group of senators who neutralized Democrats' threat to block Bush judicial nominees and Republicans' threat to change Senate rules to ban filibusters -- to edge them closer to voting for a judicial filibuster ban down the road.

After announcing the Judiciary Committee's 10-8 party-line vote for Judge Alito, Vermont Sen. Patrick Leahy, the panel's ranking Democrat, and Republican Committee Chairman Arlen Specter wrap it up: "OK, Arlen," said Sen. Leahy as he grabbed his papers. "OK, Patrick," the chairman replied. --Jeanne Cummings

· Read excerpts2 from the Senate Judiciary Committee's meeting to vote on Alito, and see a chart of the nominees3 to the Supreme Court since the start of the Nixon administration.

* * *

Frist

Asbestos Warning: With the Senate beginning hearings on lobbying overhaul Wednesday, Frist warned Democrats against trying to use the issue to delay action on the asbestos bill.

In a letter Tuesday to Reid, Frist predicted passage of the lobbying bill early this year -- "done right and well, not fast and foolish." But the Tennessean said asbestos action has waited long enough. "This problem is devastating and it requires leadership and action," he wrote to Reid. "To postpone debate on this issue is to blatantly ignore a very real problem." --David Rogers * * *

Frustration, continued: White House officials have been frustrated for months that President Bush gets so little credit from the public for an economy that's moving along reasonably well. They will have to continue to be frustrated, it appears. A new poll4 from the Pew Research Center for the People and the Press shows that only about a third of Americans (34%) rate economic conditions as excellent or good. Almost twice as many -- 64% -- call conditions only fair or poor. Overall, attitudes are darker than they were a year ago.

The poll's authors note that on this front, as on so many, views have grown more divided along partisan lines. More than half of Republicans see an economy that's excellent or good. Just 28% of independents and 23% of Democrats agree the economy is doing well. One of the goals of Bush's State of the Union speech next week is to improve public perceptions of the economy overall. The telephone survey of 1,503 adults nationwide has a three percentage point margin of error. --Jerry Seib * * *

Bernanke

Speech Pattern: Kevin Hassett, economist at the American Enterprise Institute offers a bit of advice to Ben Bernanke, Bush's choice to head the Federal Reserve: In the early days on the job, sound as much like Chairman Alan Greenspan as possible. "Take an Alan Greenspan speech, run it through Google into Spanish then translate it back. It's still basically a Greenspan speech." --Greg Ip * * *

Flood Watch: Overhauling the National Flood Insurance Program is a prominent item on the Senate's agenda. The program has been thrust deeply in the red by Hurricanes Katrina and Rita, with damage from the two storms expected to reach $23 billion -- almost all on the taxpayers' tab.

The Senate Banking Committee will kick off the debate Wednesday at a hearing on how to fix the system, "which is clearly broken," said a committee spokesman. Some lawmakers, including Committee Chairman Richard Shelby of Alabama, suggest that the insurance program should be restructured to operate more like a private insurance company.

A first step may be for Congress to direct the program to deny coverage to properties that are repeatedly flooded, they say. Also to be considered is an idea being pushed by Republican Rep. Richard Baker of Louisiana to form a new government agency to oversee redevelopment of storm-battered Louisiana. The House Financial Services Committee passed a flood insurance bill late last year, but it hasn't come up for a floor vote. --Michael Schroeder

Monday, Jan. 23

Republicans doubt they can muster more than a handful of Democratic votes on the Senate floor for Supreme Court nominee Judge Samuel Alito.

After Chief Justice John Roberts split the Democratic caucus by drawing 22 votes from the minority party, Alito so far has won support from only one Democrat, Ben Nelson of Nebraska. Neither White House strategists nor Senate Republicans expect many more.

"There's going to be leadership pressure" from senior Democrats to keep Alito's final floor vote under 60, says Republican Sen. Jeff Sessions of Alabama. That way, Sessions says, Democratic leaders will argue that they retain the clout to mount future filibusters, even though they haven't chosen to do so in Alito's case. Sessions says "the administration should work to get" more

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Democratic support before next week's expected floor vote, but "I don't think it's a big deal" if it doesn't materialize. Potential targets include Bill Nelson of Florida, Blanche Lincoln of Arkansas, and Kent Conrad of North Dakota.

So far, no Republicans have announced their opposition to Alito; abortion rights supporters Lincoln Chafee of Rhode Island, and both Susan Collins and Olympia Snowe of Maine are considered the most likely potential defectors, though administration allies have assiduously lobbied both Maine senators to fall in line. One White House strategist predicts the president's nominee will draw no more than 57 votes, far below the 78 that Roberts drew last year. --John Harwood * * *

Snow

Identifying a Problem: Treasury Secretary John Snow has a new DVD coming out -- on identity theft. While legislative efforts to combat identity theft have faltered on Capitol Hill, Treasury and the Federal Trade Commission have been stepping up programs to educate consumers and businesses about a financial crime that costs more than $50 billion annually. On Thursday, Snow will roll out "Identity Theft: Outsmarting the Crooks," featuring interviews with experts about the latest trends - like skimmers placed over ATM machines that steal card and PIN data - as well as tips, forms and helpful tools for victims. Earlier this month, the Federal Trade Commission updated its educational site -- see onguardonline.gov/quiz/index.html5 -- with new interactive quizzes, set to swing music, designed to keep consumers from falling prey to common info-gathering scams like phishing and spyware. On Wednesday, the FTC will release its 2005 figures on identity theft and other fraud complaints. Copies of the Treasury's DVD can be obtained for $2 at www.pueblo.gsa.gov6 -- but not until Thursday. -- Christopher Conkey * * *

Bush

I Spy With My Little Ear: The White House kicks off a series of speeches and events defending its secretive domestic surveillance program, and is seeking to turn a political controversy into a political advantage.

President Bush and Gen. Michael V. Hayden, Washington's No. 2 spymaster, in speeches Monday described efforts by the National Security Agency to more closely monitor telephone calls coming into the U.S. as the action that might have prevented the 9/11 terrorist attacks. They also said that the NSA's activities are even more crucial following threats last week by al Qaeda leader Osama bin Laden to attack the U.S. again.

"Had this program been in effect prior to 9/11, it is my professional judgment that we would have detected some of the 9/11 operatives in the U.S., and we would have identified them as such," said Gen. Hayden, who's the deputy director of National Intelligence.

Rounding out the week, Attorney General Alberto Gonzales will give a legal defense of the NSA program on Tuesday, and President Bush will visit the NSA's Fort Meade, Md., headquarters on Wednesday. --Jay Solomon * * *

Saluting Greenspan: Defense Secretary Donald Rumsfeld Monday presented his old pal from the Ford administration, outgoing Federal Reserve Board Chairman Alan Greenspan, with the Defense Department Distinguished Public Service Award. The citation says in part that Greenspan "contributed enormously to a strong national defense by helping to promote the continued strength and steady growth of the economy of the United States" and that his "success in establishing a stable monetary policy helped to create an expanding investor class in the United States, including men and women in uniform who are better able to secure financial security for themselves and their families as a result." * * *

Belt Tightening: Cutbacks in the auto industry can take a bite in Washington, too. The General Motors Corp. Washington office has lost about a third of its staff through attrition over the last several years. The office has about 25 people now, including support staff, which is "admittedly a small office" compared with like-sized companies, said GM spokesman Christopher Preuss. He says the company still is able to press its agenda partly with help from the Alliance of Auto Manufacturers, the industry trade group. No word yet from Ford Motor Co. as to how job cuts announced Monday will affect Washington operations. --Laura Meckler

· Read more about Ford's restructuring plan7 and see how GM's cuts compare with Ford's.8

* * *

Are we there yet? The Federal Reserve is almost, but not quite, finished raising rates, 142 economists surveyed by the National Association for Business Economics9 predict. Nearly 40% of the NABE members surveyed expect the Federal Open Market Committee to stop raising its target for the federal funds rates at 4.75%, half a percentage point above the current 4.25% level. Roughly equal numbers of respondents said the FOMC would stop at 4.50% (27% of replies) or 5.00% (23% of replies). More than half of the NABE members working in the finance sector participants in the survey picked 4.75% as the stopping point vs. only 20% of those in manufacturing or other goods-producing businesses.

The Fed is widely expected to boost rates to 4.5% from 4.25% at its Jan. 31 meeting, Alan Greenspan's last as chairman. Chairman-designate Ben Bernanke, still awaiting Senate confirmation, is set to preside over his first meeting of the Fed's interest-rate policy committee on March 28. -- David Wessel * * *

PoliSci Department: UCLA, in a highly regarded annual survey of college freshmen, says only a third of the current group think the U.S. should increase military spending, compared with 45% of those who entered college at the time of the Sept. 11,

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2001, terrorist attacks. About two thirds said "only volunteers" should serve in the military. Just over a third said it was important to "keep up to date with political affairs," which the study's authors say is the highest display of student interest in politics in a decade.

Four in 10 freshmen said they drank beer in high school, the lowest percentage ever and a drop since 1982, when a record three in four said they drank in high school. --June Kronholz

AG's Memo Raises Questions On Patriot Act (BOS)

By Charlie Savage

The Boston Globe, January 25, 2006

WASHINGTON -- A footnote in Attorney General Alberto R. Gonzales's 42-page legal memo defending President Bush's domestic spying program appears to argue that the administration does not need Congress to extend the USA Patriot Act in order to keep using the law's investigative powers against terror suspects.

The memo states that Congress gave Bush the power to investigate terror suspects using whatever tactics he deemed necessary when it authorized him to use force against Al Qaeda. When Congress later passed the Patriot Act, Bush already had the power to use enhanced surveillance techniques against Al Qaeda, according to the footnote.

Thus, legal specialists say, the administration is asserting that Bush would be able to keep using the powers outlined in the Patriot Act for Al Qaeda investigations, regardless of whether Congress reauthorizes the law.

"It turns out they didn't need the Patriot Act for dealing with Al Qaeda after all," said Martin Lederman, a former Justice Department lawyer in the Clinton administration who now teaches law at Georgetown University.

Dennis Hutchinson, a University of Chicago law professor, and Bruce Fein, a former Justice Department lawyer in the Reagan administration, also said the administration's footnote indicates that Bush would not need Congress to renew the Patriot Act to keep using its investigative powers in the war on terrorism.

But Justice Department spokesman Brian Roehrkasse disputed their interpretation.

"This is an inaccurate and misinformed interpretation of the administration's legal analysis," Roehrkasse said in an e-mail.

Roehrkasse attached a Justice Department statement arguing that Congress gave Bush broad wartime powers to fight the war on terror as he saw fit when it authorized him to use force against Al Qaeda. The footnote, it said, seeks to explain why those wartime powers include surveillance authority even though Congress separately addressed the subject in the Patriot Act.

The Patriot Act, the Justice Department said, affected far more than Al Qaeda. The act made changes to surveillance laws for use against foreign spies and terrorists who are not affiliated with Al Qaeda. The act also made it easier to use surveillance information as evidence if the administration prosecuted an Al Qaeda suspect in court, the department said.

But Fein, the former Reagan administration lawyer, said the footnote in the Gonzales memo can only mean that the Patriot Act is irrelevant to the tactics used to investigate Al Qaeda. According to the memo, he said, Bush could continue to use Patriot Act techniques in investigating possible Al Qaeda plots even if Congress lets the Patriot Act expire.

"Under the position they are staking out in the footnote and throughout the memo, the debate over the Patriot Act is superfluous," Fein said. "The president is flailing Congress for refusing to act on a matter that he says is irrelevant to the war anyway, because he can do all of these things under the authorization to use military force."

The Patriot Act has been the subject of intense debate in Congress. It is set to expire Feb. 3 under a new deadline set last month after Congress deadlocked over whether some of its provisions violate civil liberties. Bush has demanded that Congress extend the act, warning that allowing the powers to expire could cost American lives.

"The Patriot Act may be set to expire, but the threats to the United States haven't expired," Bush said in a speech Monday. "Congress extended this Patriot Act to Feb. 3. That's not good enough for the American people, it seems like to me. . . . they need to make sure they extend all aspects of the Patriot Act to protect the American people."

But the footnote in the memo suggests the government does not need the Patriot Act to aggressively investigate Al Qaeda suspects, the scholars said. The footnote says Congress gave Bush the power to set his own rules for counterterrorism investigations when it authorized the president to use "all necessary and appropriate force" against Al Qaeda a week after the Sept. 11, 2001 attacks.

Instead, the memo said, the Patriot Act simply gave the government new investigative powers to use against non-Al Qaeda terrorists and "in contexts unrelated to terrorism."

"The USA Patriot Act amendments made important corrections in the general application of" existing laws governing searches and wiretaps, the footnote said, adding that the act was "not intended to define the precise incidents of military force that would be available to the president in prosecuting the current armed conflict against Al Qaeda and its allies."

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Hutchinson, the University of Chicago law professor, said that in trying to show that Congress gave Bush unlimited powers to investigate possible Al Qaeda plots, the administration has contradicted its arguments that it is necessary for Congress to reauthorize the Patriot Act in order to protect the nation from terror threats.

"It muddies the waters," Hutchinson said.

Pressed by the Globe during a briefing last week, White House spokesman Scott McClellan refused to answer directly when asked whether Bush had the power to authorize the FBI to keep using Patriot Act-style techniques when hunting for Al Qaeda suspects even if Congress lets the law expire.

The White House press secretary said Bush would "continue to use every lawful tool at his disposal to prevent attacks and to defeat the terrorists" -- without defining what tools Bush believed were lawfully at his disposal.

"We always look at what authorities we have in order to move forward and to prevent attacks from happening," McClellan said. "The Constitution spells out very clearly that the role of the president is to protect Americans from all enemies, foreign and domestic. And the terrorist threat is the number one threat that we face."

Compelling Employee Information Under The USA Patriot Act (CORPCOUN)

By Charles B. Sklarsky and Monica R. Pinciak, The Corporate Counselor

Corporate Counselor, January 25, 2006

There has been much recent press about the USA Patriot Act, Pub. L. No. 107-56, 115 Stat. 272 (Oct. 26, 2001), and in particular the seemingly unlimited power of the Federal Bureau of Investigation to issue National Security Letters as part of its efforts to combat terrorism (under 18 U.S.C. §2709). NSLs are a form of administrative subpoena issued by the FBI upon self-certification and are shrouded in a cloak of secrecy. Specifically, §2709 permits the FBI to demand the production of certain records where the FBI certifies that the materials are sought to "protect against international terrorism or clandestine intelligence activities."

On a more controversial note, §2709 also contains a gag provision, which prohibits the recipient of an NSL from ever disclosing that the FBI has sought or obtained information pursuant to an NSL. To date, §2709 has received little judicial scrutiny, with reported controversies focusing on NSLs issued to Internet Service Providers and libraries. Now, NSLs are being issued to private corporations, with the FBI demanding the production of records regarding employees.

This article provides guidance to in-house and outside counsel who learn that a corporate client has received an NSL pursuant to §2709. §2709 contains a number of traps for the unwary, which is in large part due to its broad language and the absence of judicial scrutiny. Although Congress is currently in the process of considering various amendments to §2709, the statute, as presently enacted, raises a host of issues that counsel should be aware of after receiving and when responding to an NSL. To that end, the article first begins with a general overview of §2709, and then discusses recent constitutional challenges. The article next addresses whether a private corporation, which is not in the communications business, is the proper target of an NSL. Lastly, the article discusses §2709's gag provision, as well as other issues relevant to the receipt of an NSL.

SECTION 2709

Section 2709 is titled "Counterintelligence access to telephone toll and transactional records," and was originally enacted as part of the 1986 Electronic Communications Privacy Act. Generally speaking, §2709 permits the FBI to demand the production of telephone and electronic communications records from wire or electronic communication service providers.

Under the current version of §2709, which was revised in connection with the Patriot Act, subsections (a) and (b) permit the FBI to compel the production of "subscriber information," "toll billing records" and "electronic communication transactional records" from a "wire or electronic communication service provider." Subsection (a) directs that a wire or electronic communication provider "shall comply" with an NSL. Subsection (b) further provides that in order to issue an NSL, the Director of the FBI or "his designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office" must certify that the records sought are "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities." 18 U.S.C. §2709(b)(1)-(2). Subsection (c) contains a broad prohibition on the disclosure of the receipt of an NSL. That subsection, which is referred to as a gag provision, provides: "No wire or electronic communication service provider, or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section." 18 U.S.C. §2709(c).

When originally enacted, §2709 imposed far more exacting requirements on the issuance of an NSL. The original version permitted the FBI to issue an NSL only if it could certify that the information sought was relevant to an authorized foreign counterintelligence investigation, and there were specific and articulable facts giving reason to believe that the subject of the NSL was a foreign power or agent. 18 U.S.C. §2709(b) (1988).

When §2709 was amended in 1993, Congress broadened its reach. The 1993 amended version permitted the FBI to obtain records where the information sought was relevant to an authorized foreign counterintelligence investigation, and there

were specific and articulable facts giving reason to believe either that: 1) the subject of the NSL was a foreign power or agent; or 2) the subject had communicated with a person who was engaging or has engaged in international terrorism or with a foreign power or agent "under circumstances giving reason to believe that the communication concerned international terrorism." 18 U.S.C. §2709(b) (1994). Section 2709 was revised again in connection with the Patriot Act of 2001. Notably, the revised statute eliminated the "specific and articulable facts" requirement, as well as the required connection to a foreign agent or power, and replaced it with an amorphous standard of "relevance" -- the information sought must be "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities." 18 U.S.C. §2709.

Although §2709, as originally enacted, included a gag provision, that provision received little attention prior to the 2001 Patriot Act. This is most likely because the 2001 revision to §2709 markedly expanded the FBI's power to issue NSLs, which in turn has brought the gag provision to the forefront of recent public debate over NSLs.

RECENT CONSTITUTIONAL CHALLENGES TO SECTION 2709

Counsel should be aware that §2709 has been the subject of recent attack. Such challenges, however, are rare -- there are only two reported cases, which is not surprising given that the gag provision of §2709(c), at least theoretically, prohibits the recipient of an NSL from seeking judicial review. In both cases, the plaintiffs filed complaints for declaratory and injunctive relief on the grounds that §2709 violates the First, Fourth and Fifth Amendments. The complaints allege that: 1) §2709 violates the First Amendment because it categorically prohibits the recipient of an NSL from disclosing to any other person that the FBI has sought or obtained information by an NSL; 2) §2709 violates the First Amendment because it authorizes the FBI to order the disclosure of constitutionally protected information without tailoring its demand to a demonstrably compelling need; 3) §2709 violates the First and Fourth Amendments because it fails to provide for any mechanism through which the recipient of an NSL can challenge the propriety of an NSL; 4) §2709 violates the First, Fourth and Fifth Amendments because it authorizes the FBI to demand disclosure of constitutionally protected information without prior notice to individuals whose information is disclosed and without requiring the FBI to justify that denial of notice on an individualized basis; and 5) §2709 violates the Fifth Amendment because it is unconstitutionally vague. See, Complaint filed in Doe v. Ashcroft, No. 04 Civ. 2614.

The first case to consider the constitutionality of §2709 is Doe v. Ashcroft, 334 F. Supp. 2d 471 (S.D.N.Y. 2004). The lead plaintiff in that case is an internet service provider that received an NSL directing it to produce certain electronic communication transactional records. In September 2004, the court ruled on the constitutionality of §2709. The court concluded that §2709 violates the Fourth Amendment because it "effectively bars or substantially deters any judicial challenge to the propriety of an NSL request." On separate grounds, the court concluded that the permanent ban on disclosure contained in §2709(c), which the court determined could not be severed from the remainder of §2709, "operate[d] as an unconstitutional prior restraint on speech in violation of the First Amendment." The court stayed its judgment pending the filing of an appeal by the government. The government subsequently appealed to the 2nd Circuit.

The other challenge to §2709 was filed on Aug. 9, 2005, in the United States District Court for the District of Connecticut. The lead plaintiff in that case is a member of the American Library Association and received an NSL requiring the production of library records, including records related to Internet usage. On Aug. 16, 2005, the plaintiffs sought preliminary relief in the form of an order precluding the government from enforcing the gag provision so that the lead plaintiff could contribute to the debate surrounding §2709 by identifying itself as the recipient of an NSL.

On Sept. 9, 2005, the district court issued an order granting the plaintiffs' motion to enjoin the enforcement of §2709(c) with regard to the identity of "John Doe." Doe v. Gonzales, 386 F. Supp. 2d 66 (D. Conn. 2005). The court held that the gag provision, as applied, violated the First Amendment with respect to the subject of Doe's identity. In so holding, the court recognized that the John Doe organization has a First Amendment right to engage in the "current and lively debate in this country over the renewal of the Patriot Act." The court further observed that §2709 "has the practical effect of silencing those who have the most intimate knowledge of the statute's effect and a strong interest in advocating against the federal government's broad investigative powers." The government appealed, and the 2nd Circuit stayed the district court's judgment. The plaintiffs then sought emergency relief from the stay in the United States Supreme Court, and on Oct. 7, 2005, Justice Ginsburg entered an order denying that request. See Doe v. Gonzales, 546 U.S. (Oct. 7, 2005) (Ginsburg, J., in chambers). The 2nd Circuit consolidated the Gonzales appeal with the Ashcroft appeal for purposes of argument and disposition, and on November 2, 2005, the 2nd Circuit heard oral argument in both cases.

MEANING OF 'ELECTRONIC COMMUNICATION SERVICE PROVIDER'

Section 2709 permits the FBI to seek the production of certain information from a "wire or electronic communications service provider." Thus, one of the initial questions posed when a private corporation receives an NSL is whether the corporation is an "electronic communication service provider."

Section 2709 itself does not define the phrase "wire or electronic communication service provider." Rather, pursuant to 18 U.S.C. §2711, the phrase "wire or electronic communication service" is defined by 18 U.S.C. §2510. Section 2510, in turn,

broadly defines a "wire or electronic communication service" as "any service which provides to users thereof the ability to send or receive wire or electronic communications." 18 U.S.C. §2510(15).

The federal government interprets this definition broadly and has taken the position that the definition is not limited to traditional "providers," such as ISPs and common carriers. Notably, and as discussed above, the federal government has issued NSLs to libraries, apparently on the theory that by providing internet access to patrons, libraries are providers of electronic communication services. See Complaint, para. 35, filed in Doe v. Gonzales, No. 3:05-cv-1256 ("Section 2709 authorizes the FBI to use NSLs to demand information from a variety of for-profit and not-for-profit entities that qualify as 'electronic communication service providers' because they facilitate access to the Internet and other online services for subscribers, clients, or members. Such entities include not only what are commonly known as 'Internet service providers,' but also universities, businesses, public interest organizations, and public libraries.").

Given this broad reading, it is not surprising that the government has now taken the position that private corporations that provide e-mail addresses and e-mail accounts to employees are providers of electronic communication services. See generally, Doe v. Ashcroft, 334 F. Supp. 2d at 494 n.118 ("[S]ince the definition of 'wire or electronic communication service provider,' 18 U.S.C. §2709(a), is so vague, the statute could (and may currently) be used to seek subscriber lists or other information from an association that also provides electronic communication services (e.g., e-mail addresses) to its members, or to seek records from libraries that many, including the amici appearing in this proceeding, fear will chill speech and use of these invaluable public institutions."). Applying the plain language of the statute, a private corporation that provides its employees with the means to send or receive electronic communications is an "electronic communication service provider." Cases applying this definition support this broad reading. See, e.g., Bohach v. City of Reno, 932 F. Supp. 1232 (D. Nev. 1996); Fraser v. Nationwide Mut. Ins. Co., 352 F.3d 107 (3d Cir. 2004).

GAG PROVISION

One of the more controversial elements of §2709 is the gag provision, 18 U.S.C. §2709(c). Section 2709(c) provides that "No wire or electronic communication service provider, or officer, employee, or agent thereof, shall disclose to any person that the [FBI] has sought or obtained access to information or records under this section."

Counsel who learns that a client has received an NSL should be sensitive to three issues. First and foremost, the gag provision has been the subject of attack because it is so broadly worded that there is a serious question whether it prohibits consultation with outside counsel. Counsel should further be aware, however, that the despite the literal language of the gag provision, the federal government has publicly stated that it does not view section 2709(c) as prohibiting consultations with counsel. See Government's Brief filed in Ashcroft v. Doe, No. 05-0570, at p. 27 (filed May 24, 2005) ("[N]othing in Section 2709(c) prohibits the recipient of an NSL from disclosing the existence of the request to the recipient's own counsel."). Second, the gag imposed by §2709(c) is perpetual -- disclosure is never permitted and the statute provides for no exceptions. Third, as currently drafted, the gag provision effectively shields NSLs from judicial scrutiny. Section 2709 does not expressly provide for judicial review, and indeed seems to preclude judicial review because the filing of such a challenge would disclose the receipt of an NSL.

PERSONAL DELIVERY AND PROHIBITION ON THE USE OF WIRES OR MAIL

Counsel should be aware that an NSL prohibits the sending of the requested records through the mail. Instead, the recipient of an NSL is required to provide responsive records personally to a designated representative of the FBI at a location specified by the FBI.

Moreover, discussions concerning an NSL should not be conducted on the phone or through electronic communication, such as e-mail. NSLs prohibit a recipient from disclosing the substance of the request in a telephone conversation or electronic communication.

VIOLATIONS OF §2709

Counsel should be aware that §2709 is silent as to whether any penalties may be imposed for a violation of its provisions, such as a failure to comply with an NSL or the disclosure of the receipt of an NSL. See, Doe, 334 F. Supp. 2d at 492. The statute is also silent as to the means for seeking enforcement of an NSL.

Charles B. Sklarsky and Monica R. Pinciak are attorneys in Jenner & Block's Chicago office. Sklarsky is co-chair of the firm's white collar criminal defense and counseling practice, and is also a partner in the firm's Conflicts Resolution Committee, and a member of the rirm's Pro Bono Committee. Pinciak is an associate in the firm's litigation & dispute resolution and white collar criminal defense and counseling practices.

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HOMELAND RESPONSE:

Feds Agree To Pay ACLU Over No-Fly List (WP)

By David Kravets

The Washington Post, January 25, 2006

SAN FRANCISCO -- Two federal agencies agreed Tuesday to pay the American Civil Liberties Union $200,000 to settle a lawsuit brought to uncover information about the government's no-fly list, which bars suspected terrorists from airliners.

The government will compensate the ACLU for attorneys' fees, settling a lawsuit initiated by two San Francisco peace activists who were detained while checking in for a flight three years ago.

In October 2004, documents that the FBI and Transportation Security Administration provided in the lawsuit revealed the government has "two primary principles" but no "hard and fast" rules for deciding who gets put on the secret list.

The 301 pages of redacted documents, lodged in federal court in San Francisco in 2004, also said the secret list grew from 16 names the day of the Sept. 11 terror attacks to 594 by mid-December 2001. The list now is believed to carry thousands of names.

The documents were released as part of a lawsuit brought on behalf of Rebecca Gordon and Janet Adams, who co-publish a newsletter critical of the Bush administration. They were stopped while checking in for a San Francisco flight to Boston three years ago and detained until cleared for travel.

They and the ACLU invoked the Freedom of Information Act to demand that the government explain how people get on and off watchlists.

The FBI did not immediately comment on the settlement, and the TSA did not immediately return messages.

The agencies at first balked at supplying any information to the ACLU. But U.S. District Judge Charles Breyer, after privately reviewing secret government data, said the government was making "frivolous claims" about why it could not.

The ACLU decided to seek compensation, allowed under the FOIA, after it obtained all the information it believed it could get from the government.

One heavily redacted document says getting on a list is guided by two "primary" principles: Whether various intelligence agencies view an individual as a "potential threat to U.S. civil aviation," and whether the agency requesting a listing has provided enough information to identify the person to be flagged at check-in.

The documents disclosed that people are regularly removed from lists if the FBI is convinced they are not a threat.

ACLU: Documents Show Government Spied On Lawful Georgia Citizens (MACT)

By Giovanna Dell'orto

The Macon Telegraph, January 25, 2006

ATLANTA - The American Civil Liberties Union said it will release surveillance photos and reports that it says were obtained from government agencies showing the Pentagon, FBI and others spied on Georgia residents involved in legal protests ranging from anti-war vigils to a vegan demonstration.

"It's very much an intimidation process," said the ACLU's Gerry Weber, who said he would release documents Wednesday that show surveillance by federal, state and local agencies.

The ACLU's effort to get the documents started with complaints by individuals, including a woman in Atlanta who sued a homeland security agent she said photographed her during a 2003 vegan protest outside a ham store, and then made her give up the piece of paper on which she had written his license plate.

It also includes groups like the Georgia Peace and Justice Coalition, a pacifist organization started before the war in Iraq that was also one of the organizers of the protests during the 2004 G-8 summit on Sea Island.

Government surveillance of two of the group's meetings are documented in a classified Department of Defense database of suspicious people and activities that was first made public by NBC News in December. Both meetings were in the Atlanta area last spring, and in both cases the organizers were listed as a "credible threat."

"To have these events monitored is a ridiculous misuse of funds," coalition leader Ann Mauney said. "This kind of surveillance has a chilling effect."

While declining to comment on the documents before their release by the ACLU, FBI spokesman Bill Carter said all FBI investigations are conducted in response to information that the people being investigated were involved in or might have information about crimes.

"It's not derogatory by any means" to be named in an FBI file, Carter said.

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A Department of Defense spokesman didn't immediately return a phone call seeking comment Tuesday, but Pentagon officials had said last month that they would conduct a full review of the system for handling such information to ensure its compliance with federal law, which mandates the military's intelligence-gathering efforts must pertain directly to protection of Department of Defense property or personnel.

The ACLU's Weber said some of the documents to be released Wednesday involve the National Security Agency, whose surveillance program has come under fire since it was disclosed in December. That program, approved by President Bush, allowed the agency to eavesdrop, without warrants, on communications within the United States.

Weber said there's no evidence that some of the individuals who were monitored were suspected of unlawful activities.

"I think they're being spied upon because they are critics," he said.

ACLU Seeks Gov. Info On Alleged Spying In Ohio (AP)

AP, January 25, 2006

CLEVELAND (AP) -- The American Civil Liberties Union of Ohio requested information Tuesday from the government about whether it spied on two anti-war groups and an attorney for a man suspected of terrorism connections.

ACLU officials said at news conference that members of the anti-war groups want to know whether two meetings were attended by government agents.

One meeting was last year in Akron by the Northeast Ohio American Friends Service Committee, a Quaker organization, and the another was in 2004 in Cleveland by the Northeast Ohio Anti-War Coalition.

The ACLU filed Freedom of Information Act requests with the Department of Defense, Justice Department, the FBI and police seeking records that document any collection of information about the groups.

Gary Daniels, the ACLU's litigation coordinator, said the ACLU became involved because the groups were included on a Defense Department classified database of information about suspicious people and activity inside the United States as reported by NBC News.

The ACLU also requested information about several people, including Akron lawyer Farhad Sethna, based on his association with the American Friends Service Committee.

Sethna said he hopes the request will shed light on whether the government spied on his conversations with a client, Ashraf Al-Jailani, who recently was sent back to his native Yemen after being jailed three years on suspicions that he associated with suspected terrorists.

"The only way we would be involved in gathering specific or credible information was if a group was involved in criminal activity," FBI spokesman Bill Carter said.

A message was left for Department of Defense spokesman Greg Hicks. Justice Department spokesman Brian Roehrkasse declined comment.

"I want to ensure that the government has respected my attorney-client privilege, and if proof is found that the government has violated this privilege, then I will take every step permitted under the law," Sethna said in an e-mail message.

Jeffrey Gamso, Ohio AFL-CIO legal director, said he wants to find out whether the Defense Department's Counterintelligence Field Activity database has records of other Ohio groups or individuals and if ACLU meeting rooms were bugged.

"Of course I suspect that they are going after Farhad (Sethna) in part because of his representation of Al-Jailani. That's not the basis in which we are pursuing these things today. We are just acting on what we have gleaned so far," Gamso said.

Two federal lawsuits filed Jan. 17 allege that President Bush's electronic eavesdropping program exceeds his constitutional powers.

The lawsuits -- one filed in New York by the Center for Constitutional Rights and the other in Detroit by the American Civil Liberties Union and other groups -- say the program bypasses safeguards in a 1978 law requiring court approval of electronic monitoring.

U.S. Attorney General Alberto Gonzales, speaking Tuesday at Georgetown Law School, defended the Bush administration's domestic spying program.

He said surveillance without warrants falls within Bush's constitutional authority that Congress granted following the Sept. 11, 2001 terrorist attacks and is critical to preventing more domestic attacks.

Man Charged With Sending Fake Anthrax (KCS)

By Sean Webby And Elise Ackerman

The Kansas City Star, January 25, 2006

DOJ_NMG_0011455

SAN JOSE, Calif. - A 43-year-old Santa Cruz, Calif., man who allegedly became obsessed with Drew Barrymore almost two decades ago has been charged in federal court with sending threatening letters laced with fake anthrax because the actress would not respond to his letters.

Paul Charles Steeves allegedly sent white powder-filled letters to an FBI office in Watsonville, Calif., and a probation office and drug rehabilitation center in the East Bay earlier this month. The white powder was apparently intended to spark fear that the letters carried the deadly anthrax disease.

Steeves signed the letters with his real name, according to an FBI affidavit.

Local law enforcement, fire officials and the FBI's hazardous materials investigations team responded when the powder was discovered in the letters. Tests later showed that the letters were filled Arm & Hammer baking soda.

"It was taken very seriously," FBI spokeswoman LaRae Quy said. "There was no way of knowing it was a hoax. It had to be treated as if it were anthrax or some other poison."

Steeves, who was charged Monday, faces up to five years in prison if convicted of sending threatening communications over the Internet and sending the fake anthrax.

The letters were postmarked Jan. 16 and arrived days later at the New Bridge Foundation, a rehabilitation center in Berkeley, Calif.; a U.S probation office in Oakland, Calif., and a small FBI office in Watsonville.

Steeves was convicted in 1997 of threatening to kill an FBI agent in Watsonville. His three years of probation were reportedly managed through the two East Bay offices.

In addition to the baking soda, the letters also contained photographs of Barrymore and a plane flying into the World Trade Center.

That same day, Steeves also allegedly posted a message on a Barrymore fan Web site:

"For 25 years I have wrongfully suffered a (sic) real chemical poison attacks from the secret government - now it is payback time. For the next 25 years I starting yesterday I did launch the greatest terrorist attack on the OS since Sept 2001! Tell Drew Barrymore that I, Paul Steeves in Santa Cruz had expected her to peacefully contact me. Now its war."

When law enforcement interviewed him Jan. 20, Steeves admitted he sent the letters, the affidavit says. Surrounded by magazine clippings of Barrymore on his wall and pasted in homemade albums, Steeves told investigators he had been interested in Barrymore for about 17 years "because they shared common goals."

Authorities also found 12 more sealed envelopes to the FBI.

Steeves told investigators: "I'm glad you guys came because I was going to keep mailing those letters for the next 15 or 20 years."

Man Committed For Threatening To Blow Up FBI Office (AP)

AP, January 25, 2006

A Marshalltown man accused of mailing rat poison and threatening to blow up an FBI office has been ruled innocent by reason of insanity.

Anana Gundo Nariboli, 47, was charged last year with threatening to use an explosive, mailing threatening communications and obstructing the use of mail.

On Jan. 11, U.S. District Judge Robert Pratt ordered that Nariboli be committed to a mental institution.

Nariboli had been in custody since June 1 when the FBI arrested him at his Marshalltown home. A federal complaint alleges that on Feb. 11 Nariboli mailed a letter to Dow Chemical Company in Milwaukee, Wis., threatening to blow up an FBI office. It also says Nariboli mailed an envelope containing a powdered substance to the Iowa State University admissions building.

A letter sent to the Des Moines Post Office in May broke open inside the building, prompting a temporary closure and requiring HAZMAT teams to respond. The complaint also stated that Nariboli made five anonymous telephone calls to Iowa State Radio making reference to bombs and serial killers.

According to court records, Nariboli admitted sending the letters and showed agents what he put in them — a household cleaner, Comet, and the rat poison D-CON.

His mother, Usha Nariboli, said after his arrest that her son had been on several medications through the years but his behavior suddenly changed and he began making threats.

‘‘He’s not a terrorist,’’ she said. ‘‘He’s a mental patient.’’

Defendant In 2004 Subway Bomb Plot Changes His Story Of Plan's Origin (NYT)

By William K. Rashbaum

The New York Times, January 25, 2006

DOJ_NMG_0011456

A Queens man charged in 2004 with conspiring to blow up the Herald Square subway station testified yesterday in federal court in Brooklyn that while he first claimed the plot was not his idea, he later told federal prosecutors that it was.

The man, Shahawar Matin Siraj, 23, testifying during a hearing in his case before Judge Nina Gershon of United States District Court, acknowledged making the admissions to federal and local authorities in the hours after his arrest in the plot.

Mr. Siraj's lawyers, Martin R. Stolar and Khurrum Wahid, sought the hearing and had their client testify to try to prevent the government from using the admissions at trial, arguing that they were improperly obtained. The hearing will continue today, and Judge Gershon will then rule on whether prosecutors can use the statements as evidence.

In more than three hours on the witness stand, Mr. Siraj, who is from Pakistan, was frequently disjointed and sometimes emotional. He testified that when he was interviewed by two federal prosecutors, an F.B.I. agent and two New York police detectives, he talked to the prosecutors because he thought one of them was his own lawyer. He also said that he did not understand his Miranda rights - even though he signed a form waiving them - and that he was not allowed to make a telephone call until the questioning was completed.

Mr. Siraj and a co-defendant, James Elshafay, had diagrams of the subway station and two maps of police precincts and bridges on Staten Island when they were arrested on Aug. 27, 2004, three days before the Republican National Convention, which was held at Madison Square Garden, just blocks away from the subway station. Mr. Stolar said he believes that Mr. Elshafay has been cooperating with prosecutors.

Mr. Stolar, who has said that he will seek to prove that the government entrapped his client by using a confidential informer, later acknowledged that his client's statement that he thought the prosecutor was his lawyer sounded like "nonsense." "But that's really what he thought," he said.

After the hearing, Mr. Stolar said that the admissions would not have any impact on his ability to present an entrapment defense. Speaking of his client, he said he would argue that "the whole idea was put into his head" by the government's informer. He said Mr. Siraj would testify at trial.

The assistant United States attorney prosecuting the case, Todd Harrison, was one of the prosecutors who had interviewed Mr. Siraj. Yesterday, Mr. Harrison pressed Mr. Siraj about why he had not cited his belief that the prosecutor was his lawyer, his confusion about his Miranda rights and his inability to make a phone call in a three-page sworn statement he signed about the events on the day he was arrested. The statement was filed as part of Mr. Stolar's efforts to have Mr. Siraj's admissions suppressed.

Mr. Siraj acknowledged that there were errors in the sworn statement, but seemed unable to explain the omissions. He said he had signed it only after closely reading the first paragraph. He blamed his haste to get back to his lawyer for the errors.

All Ears For A Blast From The Past (WP)

By Lisa Rein

The Washington Post, January 25, 2006

The Washington region's emergency managers have concluded that the high-tech devices put in place since the Sept. 11, 2001, terrorist attacks are not enough to warn masses of people. So they are looking at the system that alerted the World War II and Cold War generations: the piercing wail of a siren.

Arlington County and neighboring Alexandria will become the first communities in the country to experiment with sirens as alerts to terrorist attacks. They are preparing to buy as many as 15 modern sirens to mount on telephone poles, buildings and even traffic lights in a few neighborhoods in a federally funded pilot program that is being closely watched by other area governments.

With their mix of urban canyons, suburban subdivisions, tourists, malls and parks -- and dense populations of daytime workers that make them vulnerable to attack -- Arlington and Alexandria stand out as ideal locations to see whether sirens can reach people that BlackBerrys, cell phones and radio stations cannot.

"People outdoors are most at risk in an attack because they are least able to find out what is going on quickly," said John Fuoto, an engineer and siren expert for the Department of Homeland Security and a consultant to Arlington, which is overseeing the pilot project.

Fuoto said sirens could also be ideal warning systems on the Mall, in downtown Silver Spring and at Tysons Corner -- any place people congregate outside the reach of mass broadcasts over television, radio, telephone or pager.

Terrorism fears have been the driving force behind the free emergency alerts many of the region's local governments are offering to deliver on such portable hand-held devices as cell phones as well as via radio stations, electronic highway signs and reverse-911 telephone service.

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But even in a region of techies, many people aren't equipped for the warnings, and relatively few of those who are have signed up for such systems. For example, Fairfax County has just 5,000 subscribers to its text-messaging alert system, officials said.

A new generation of sirens used in San Francisco (for earthquake alerts), on Mount Rainier (for volcano warnings) and now in tsunami-stricken Southeast Asia caught the attention of local officials.

"Everyone's looking at this to see if it will really reach significant numbers of people who are otherwise not reachable," said David Snyder of Falls Church, a member of the Washington region's emergency preparedness council.

Emergency managers stress that sirens, too, are limited because they are designed to reach people outdoors. They are not ideal for suburban counties where people tend to spend more time indoors than out.

"We may say, 'This was a good attempt to fill a void in our public alerting system that may not work,' " said Robert P. Griffin Jr., Arlington's director of emergency management. "Or we may say, 'We've answered a problem for ourselves and the rest of the region.' "

The program will test sirens in several as-yet-unidentified neighborhoods, simulating the response to an explosion or weather catastrophe with a wail followed by a broadcast, Griffin said. There will be ample advance warning of the drill. During the drill, people will be told the nature of the emergency and will be directed to go indoors or prepare to evacuate. Or they'll be told to turn on a radio to find out what to do.

"We don't want to disturb people," Griffin said, "but we want to make sure we get the best information we can." He estimated the project's cost at $350,000.

Most local governments dismantled their civil defense sirens in the 1990s after the federal government withdrew funding for them when the Cold War ended. They had alerted the public to emergencies for a century, starting with fire alarms. After World War II, they were named civil defense sirens throughout the United States after Joseph Stalin tested the Soviet Union's first atomic bomb in 1949.

With the threat of nuclear war over, some of the yellow, electrically powered mechanical devices stayed as warning systems in some parts of the country for tornados and other natural disasters. Around Washington today, they are used near the Calvert Cliffs nuclear power plant to warn of any accidents and by eight tiny firehouses in western Loudoun County to summon volunteers to duty.

The new generation of sirens, according to a study conducted by George Washington University for the Metropolitan Washington Council of Governments, can be used to send live or recorded messages in multiple languages. They're more reliable than the older generation, and they can operate on batteries. They can be tested silently. And they can be activated individually -- after a chemical spill in one neighborhood, for example -- or as a group.

Some officials fear that with so many features, the technology could confuse people in an emergency, even if there was a thorough campaign to educate the public. "It used to be that a siren meant a tornado, and everybody knew that," said Fairfax County spokeswoman Merni Fitzgerald, who also heads the county's emergency communications efforts. "In this day and age, it's not going to just be, 'We'll notify you if it's a tornado.' It could be a bomb. People might say, 'That's a loud noise -- what does it mean?' "

Officials of other local governments say they are watching the experiment carefully. The District dismantled its 100 civil defense sirens in the early 1990s, but a few remain in the city, including at George Washington University and Bolling Air Force Base.

Just 13,500 residents have signed up for an electronic alert system since its rollout 18 months ago. The city is "open to anything . . . that might help alert our residents of an emergency incident," said Jo'Ellen Countee, spokeswoman for the emergency management department.

"We're really looking forward to seeing the results," said Scott Reilly, assistant chief administrative officer in Montgomery County, which with its large agricultural reserve spans 500 square miles. He said he has concerns, though: "I'm not sure how a siren reaches into buildings or a shopping mall."

White House Rejects La. Buyout Proposal Agency Would Pay Homeowners (USAT)

By Oren Dorell

USA Today, January 25, 2006

WASHINGTON — A top economic adviser to President Bush said Tuesday that the White House has rejected the Louisiana congressional delegation's request for a new agency to buy homes in New Orleans and other areas ruined by Hurricane Katrina.

“We're very concerned” with the Louisiana proposal, said Allan Hubbard, director of the National Economic Council. Hubbard said the White House wants any buyouts to be paid for through the traditional congressional spending process.

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The proposal, by Rep. Richard Baker, R-La., would create an agency called the Louisiana Recovery Corp. that could raise up to $30 billion in government money through the issuance of Treasury bonds. It would pay homeowners at least 60% of their equity and pay mortgage companies up to 60% of what they are owed.

The corporation would repair streets, power lines and other infrastructure in damaged neighborhoods and then sell the homes to developers. The proposal gained the support of Louisiana's nine-member congressional delegation, Louisiana Gov. Kathleen Blanco and New Orleans Mayor Ray Nagin.

Baker pushed for support from the White House in a letter in which he quoted Treasury Secretary John Snow as saying the measure "has some real merit." Hubbard and Donald Powell, the president's coordinator for Gulf Coast rebuilding, expressed reservations. Hubbard informed Baker Monday that the White House would say no.

"We think [Baker's proposal] would not have the same accountability and transparency for the American taxpayer that the normal appropriations process would," Hubbard told reporters from USA TODAY and the Gannett News Service.

Powell said "there is enough money" in Louisiana's share of congressionally approved Community Development Block Grants — up to $6.4 billion — to cover eligible uninsured homeowners. About 20,000 homes fit that category, according to his office.

Baker said that leaves out at least 140,000 ruined homes, and he predicts mass foreclosures and trouble for the banks and lending companies that hold the mortgages. "That is an unacceptable outcome," Baker said. "I'm not giving up on this."

Sen. Mary Landrieu, D-La., said the decision "is just another indication of the administration's lack of understanding of the magnitude of the task at hand."

Scott Cowen, president of Tulane University and a member of the Bring Back New Orleans Commission, said "a lot of us were counting on" Baker's plan.

"This means recovery will take longer and be a little more difficult," Cowen said.

White House Pulls Backing For A Storm Buyout Bill (WSJ)

By Christopher Cooper

The Wall Street Journal, January 25, 2006

WASHINGTON -- The White House is backing away from a proposal to create a federal authority that would buy and liquidate storm-ruined property in Louisiana, dealing a blow to a plan with wide congressional support.

A bill to offer partial compensation to thousands of homeowners in the state who had little or no flood insurance and bundle the properties for redevelopment, passed the House Financial Services Committee by a 50-9 vote last month. But action on it stalled, despite approval of other hurricane-relief measures, after the White House expressed concerns.

The Bush administration initially signaled willingness to back a modified proposal, but philosophical misgivings about setting up a new federal agency ultimately prevailed. Spokesman Trent Duffy said officials worried that the bill, sponsored by Rep. Richard Baker (R., La.), would add another layer of bureaucracy to a federal-aid effort criticized as lumbering. Instead, the White House wants to use existing housing programs and "the traditional appropriations process" to tackle the problem, Mr. Duffy said.

Mr. Baker says current programs do little to solve the overarching problems caused by Hurricane Katrina. Some 250,000 buildings are believed to have been damaged, many from flooding after levees collapsed. State officials estimated that up to 40% of property owners who suffered damage didn't have flood insurance or didn't have enough.

The Baker bill would create the Louisiana Recovery Corp., to buy out owners of ruined property at some minimum rate, then resell the land to developers. Though the cost of the program wasn't known, Mr. Baker's bill would cap the amount of buyout money at $30 billion. Buyouts also would have been extended to victims of Hurricane Rita, which hit western Louisiana a few weeks after Katrina.

Because entire neighborhoods in the New Orleans area are ruined, officials are bracing for defaults as uninsured homeowners walk away from their mortgages. The Baker bill drew support from the lending industry as well as local officials, who say redevelopment is more likely if individual lots can be bundled and resold to developers.

Mr. Baker appeared to have the votes after the Senate agreed to back the measure, provided the White House went along. Michael DiResto, a spokesman for Mr. Baker, said the administration initially seemed keen enough but abruptly withdrew its support Monday evening.

White House Declines To Provide Storm Papers (NYT)

By Eric Lipton

The New York Times, January 25, 2006

DOJ_NMG_0011459

WASHINGTON, Jan. 24 - The Bush administration, citing the confidentiality of executive branch communications, said Tuesday that it did not plan to turn over certain documents about Hurricane Katrina or make senior White House officials available for sworn testimony before two Congressional committees investigating the storm response.

The White House this week also formally notified Representative Richard H. Baker, Republican of Louisiana, that it would not support his legislation creating a federally financed reconstruction program for the state that would bail out homeowners and mortgage lenders. Many Louisiana officials consider the bill crucial to recovery, but administration officials said the state would have to use community development money appropriated by Congress.

The White House's stance on storm-related documents, along with slow or incomplete responses by other agencies, threatens to undermine efforts to identify what went wrong, Democrats on the committees said Tuesday.

"There has been a near total lack of cooperation that has made it impossible, in my opinion, for us to do the thorough investigation that we have a responsibility to do," Senator Joseph I. Lieberman, Democrat of Connecticut, said at Tuesday's hearing of the Senate committee investigating the response. His spokeswoman said he would ask for a subpoena for documents and testimony if the White House did not comply.

In response to questions later from a reporter, the deputy White House spokesman, Trent Duffy, said the administration had declined requests to provide testimony by Andrew H. Card Jr., the White House chief of staff; Mr. Card's deputy, Joe Hagin; Frances Fragos Townsend, the domestic security adviser; and her deputy, Ken Rapuano.

Mr. Duffy said the administration had also declined to provide storm-related e-mail correspondence and other communications involving White House staff members. Mr. Rapuano has given briefings to the committees, but the sessions were closed to the public and were not considered formal testimony.

"The White House and the administration are cooperating with both the House and Senate," Mr. Duffy said. "But we have also maintained the president's ability to get advice and have conversations with his top advisers that remain confidential."

Yet even Senator Susan Collins, Republican of Maine, objected when administration officials who were not part of the president's staff said they could not testify about communications with the White House.

"I completely disagree with that practice," Ms. Collins, chairwoman of the Senate Homeland Security and Governmental Affairs Committee, said in an interview Tuesday.

According to Mr. Lieberman, Michael D. Brown, the former director of the Federal Emergency Management Agency, cited such a restriction on Monday, as agency lawyers had advised him not to say whether he had spoken to President Bush or Vice President Dick Cheney or to comment on the substance of any conversations with any other high-level White House officials.

Nevertheless, both Ms. Collins and Representative Thomas M. Davis III, a Virginia Republican who is leading the House inquiry, said that despite some frustration with the administration's response, they remained confident that the investigations would produce meaningful results.

Other members of the committees said the executive branch communications were essential because it had become apparent that one of the most significant failures was the apparent lack of complete engagement by the White House and the federal government in the days immediately before and after the storm.

"When you have a natural disaster, the president needs to be hands-on, and if anyone in his staff gets in the way, he needs to push them away," said Representative Christopher Shays, a Connecticut Republican and member of the House investigating committee. "The response was pathetic."

Even before the House and Senate investigations began, Democrats called for the appointment of an independent commission, like the one set up after the attacks of Sept. 11, 2001, to investigate the response to the most costly natural disaster in United States history. The 9/11 Commission, after extensive negotiations, questioned Mr. Bush and Mr. Cheney and received sworn testimony from Condoleezza Rice, then the national security adviser.

"Our fears are turning out to be accurate," Representative Henry A. Waxman, Democrat of California, said Tuesday. "The Bush administration is stonewalling the Congress."

Mr. Duffy, along with officials from the Departments of Defense and Homeland Security, said that although not every request had been met, the administration had provided an enormous amount of detailed information about nearly every aspect of the federal response to Hurricane Katrina.

The Department of Defense, for example, has provided 18 officials for testimony, and 57 others have been interviewed by Congressional staff members, said Maj. Paul Swiergosz, a Pentagon spokesman. It has also turned over an estimated 240,000 pages of documents.

Russ Knocke, a spokesman for the Homeland Security Department, said his agency, which oversees FEMA, had been similarly responsive, providing 60 officials as witnesses and producing 300,000 pages of documents.

But the White House and other federal agencies have been less helpful, members of the investigating committees said, particularly the Pentagon and Secretary of Defense Donald H. Rumsfeld, who is the subject of the sole subpoena issued so far.

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"We have been trying - without success - to obtain Secretary Rumsfeld's cooperation for months," Representative Charlie Melancon, Democrat of Louisiana, said in a letter to Representative Davis on Monday. "The situation is not acceptable."

Mr. Davis, in a written response to Mr. Melancon on Tuesday, said he felt that the Pentagon, after the subpoena, had largely honored the committee's requests.

The Congressional investigations began in September, shortly after Hurricane Katrina struck the Gulf Coast, flooding New Orleans, devastating much of the rest of the region and causing more than $100 billion in damage.

Both of the committees are rushing to try to complete their investigations - the House by Feb. 15, and the Senate by the middle of March - in part because of the approaching Atlantic hurricane season, which starts on June 1.

The separate action this week by the Bush administration to oppose an effort to create what would have been called the Louisiana Recovery Corporation evoked great disappointment among state officials.

Mr. Baker's bill would have bought out owners of ruined homes, offering them at least 60 percent of their pre-storm equity, while also giving mortgage companies 60 percent of their loans on damaged properties. The bonds needed for the project would have been paid off by selling developers federally acquired land.

"The Baker bill as a tool was very efficient in terms of helping people sell out, or clear title to the land," said Sean Reilly, a member of the Louisiana Recovery Authority. "We're going to have to go back to the drawing board and do the best with the tools we have."

Donald E. Powell, the Bush administration's Gulf Coast recovery coordinator, said in a statement that the government was prepared to help victims in other ways.

"We share the common vision, the common objective of Congressman Baker, to assist uninsured homeowners outside the flood plain," Mr. Powell said.

Mr. Powell's spokeswoman, D. J. Nordquist, said the administration was open to discussion if the community development money turned out to be insufficient.

Senators: White House Stalls Katrina Probe (LEXHL)

By lara jakes jordan

Lexington Herald-Leader (KY), January 25, 2006

WASHINGTON - The White House is crippling a Senate inquiry into the government's sluggish response to Hurricane Katrina by barring administration officials from answering questions and failing to hand over documents, senators leading the investigation said Tuesday.

In some cases, staff at the White House and other federal agencies have refused to be interviewed by congressional investigators, said the top Republican and Democrat on the Senate Homeland Security and Governmental Affairs Committee. In addition, agency officials won't answer seemingly innocuous questions about times and dates of meetings and telephone calls with the White House, the senators said.

A White House spokesman said the administration is committed to working with separate Senate and House investigations of the Katrina response but wants to protect the confidentiality of presidential advisers.

"No one believes that the government responded adequately," said Sen. Joe Lieberman, D-Conn. "And we can't put that story together if people feel they're under a gag order from the White House."

Sen. Susan Collins of Maine, the committee's Republican chair, said she respects the White House's reluctance to reveal advice to President Bush from his top aides, which is generally covered by executive privilege.

Still, she criticized the dearth of information from agency officials about their contacts with the White House.

"We are entitled to know if someone from the Department of Homeland Security calls someone at the White House during this whole crisis period," Collins said. "So I think the White House has gone too far in restricting basic information about who called whom on what day."

She added, "It is completely inappropriate" for the White House to bar agency officials from talking to the Senate committee.

White House spokesman Trent Duffy said the administration's deputy homeland security adviser, Ken Rapuano, has briefed House and Senate lawmakers on the federal response. A "lessons learned" report from Homeland Security Adviser Frances Fragos Townsend also is expected in coming weeks, Duffy said.

But he defended the administration's decision to prohibit White House staffers or other presidential advisers from testifying before Congress.

"There is a deliberate process, and the White House has always said it wants to cooperate with the committee but preserve any president's ability to get advice from advisers on a confidential basis," Duffy said. "And that's a critical need for any U.S. president and that is continuing to influence how we cooperate with the committees."

Collins and Lieberman sidestepped questions about whether they plan to subpoena the White House to get the information they seek, though Collins said she does not believe subpoenaing the Homeland Security Department is necessary.

The Senate inquiry is scheduled to conclude in March with a report detailing steps the federal government took - and didn't take - to prepare for the Aug. 29 storm.

Investigators have interviewed about 260 witnesses from federal, state and local governments and the private sector. Additionally, the committee has received an estimated 500,000 documents - including e-mails, memos, supply orders and emergency operation plans - outlining Katrina-related communications among all levels of government.

But Lieberman said the Justice and Health and Human Services departments "have essentially ignored our document requests for months" while HHS has refused to allow interviews of its staff. He described the Homeland Security response as "too little, too late."

Christina Pearson, spokeswoman for Health and Human Services, disputed Liberman's characterization of the agency's response. "We've produced an extensive range of documents in response to the committee's request, well over 40,000 pages," she said. As for witnesses, Pearson was vague. "We're working with them," she said.

Collins offered a rosier view of Homeland Security's cooperation, noting that Deputy Secretary Michael Jackson and department chief of staff John Wood were scheduled to talk to investigators later this week.

A special House committee created to review the government's readiness for Katrina is to release its findings by Feb. 15. Although Rep. Tom Davis, R-Va., the panel's chairman, earlier considered subpoenaing the White House, the panel backed away after the Rapuano briefing.

The panel ultimately did subpoena the Pentagon for Katrina documents, but one lawmaker, Rep. Charlie Melancon, D-La., said he believes Defense Secretary Donald H. Rumsfeld has not handed over enough to fully comply with the legal order.

But in a letter to Melancon on Tuesday, Davis said he is satisfied the Pentagon has complied with the subpoena, which yielded "massive mounds of documents," including classified materials from Rumsfeld.

Senators Blast Bush For Lack Of Response To Katrina Warnings (WSJ/AP)

The Wall Street Journal, January 25, 2006

WASHINGTON -- Senators lashed out at the Bush administration Tuesday for failing to heed devastating predictions from a hurricane preparedness test that began a year before Hurricane Katrina slammed into the Gulf Coast.

The top Democrat on the Senate Homeland Security and Governmental Affairs Committee also accused the White House of trying to block or delay the panel's inquiry into the government's sluggish response to Katrina.

1 ADDITIONAL DOCUMENTS

Review the prepared testimony2 of Madhu Beriwal, president and CEO of Innovative Emergency Management Inc., the company that conducted the disaster-planning exercise known as "Hurricane Pam." Includes comparisons between Pam and Katrina.

The preparedness exercise that began in July 2004, dubbed Hurricane Pam, warned that a Category 3 storm would overwhelm the New Orleans area with flood waters, killing up to 60,000 people and destroying buildings and roads. State and federal officials were concluding Pam's findings when Katrina, an actual Category 4 storm, roared ashore on Aug. 29.

"As a dry run for the real thing, Pam should have been a wake-up call that could not be ignored," said Sen. Susan Collins (R., Maine), chair of the Senate committee's examination of Pam's findings at a Tuesday hearing. "Instead, it is apparent that a more appropriate name for Pam should have been "Cassandra" -- the mythical prophet who warned of disasters but whom no one believed."

Sen. Joe Lieberman (D., Conn.) said Pam gave the Federal Emergency Management Agency and the Homeland Security Department "explicit notice" that a catastrophic storm in New Orleans would require urgent aid from Washington to state and local response officials. "But despite these warnings from Pam, preparations for Hurricane Katrina were shockingly poor," said Sen. Lieberman.

White House spokesman Scott McClellan said the administration is conducting a lessons-learned review, and "I'm not going to do a play-by-play analysis."

"And we've also been taking steps to make sure we prevent some of those problems that occurred from recurring in future response efforts," Mr. McClellan said. "And that's what we'll continue to do."

A month before Katrina hit, state and federal officials working on the Pam exercise estimated that government plans to evacuate people from New Orleans were only 10% complete.

"If you think soup lines in the Depression were long, wait till you see lines" at collection points in New Orleans, Transportation Department regional emergency officer Don Day said at a July 29 briefing with federal and state authorities. Notes of the briefing, as recorded by Baton Rouge-based contractors Innovative Emergency Management Inc., were examined

at the hearing. "We're at less than 10% done with this … planning when you consider the buses and the people," Mr. Day said at the briefing.

Sen. Lieberman also accused the White House of trying to stall a Senate investigation into the government's response to Katrina by failing to produce requested documents and prohibiting federal officials from answering questions. The inquiry is scheduled to be completed in March.

"This assertion of a kind of virtual immunity of the White House from this inquiry has obviously frustrated our committee's ability to learn and tell the full story of Katrina," Sen. Lieberman said. "In my opinion, it is unacceptable."

However, Sen. Lieberman noted, the committee did receive an email sent to the White House Situation Room hours before Katrina hit, warning that the storm's surge could breach levees and leave New Orleans flooded for weeks or months. The email included an Aug. 28 report by the Homeland Security Department's National Infrastructure Simulation and Analysis Center, which concluded that a Category 4 or 5 hurricane would cause severe damage in the city, including power outages and a direct economic hit of up to $10 billion for the first week.

"Overall, the impacts described herein are conservative," stated the report, which was sent to Homeland Security's office for infrastructure protection. "Any storm rated Category 4 or greater … will likely lead to severe flooding and/or levee breaching, leaving the New Orleans metro area submerged for weeks or months," the report said.

The documents are the latest indication that the federal government knew beforehand of the catastrophic damage that a storm of Katrina's magnitude could cause. The Bush administration has been lambasted for its lackluster response to Katrina and its aftermath, including criticism that the government should have known a hurricane of that strength posed a danger to the area's levees and was unprepared to cope with it.

Homeland Security spokesman Russ Knocke said he wasn't familiar with the documents but that the levees situation was one likely reason the government urged an evacuation of New Orleans before the storm hit. "We're in the process of participating in a large after-action report," Mr. Knocke said. "We're deeply committed to finding out what worked and didn't work, and apply those lessons learned going forward."

April 22 Vote Set For New Orleans (NYT/AP)

By The Associated Press

The New York Times, January 25, 2006

BATON ROUGE, La., Jan. 24 (AP) - Under pressure from a federal judge, Gov. Kathleen Babineaux Blanco set an April 22 date for New Orleans's elections, which were postponed after Hurricane Katrina scattered the city's residents and destroyed hundreds of voting precincts.

Elections for mayor, City Council, sheriff and tax assessors will be held on that date.

The Legislature and the Justice Department must still sign off on the plan, which includes beefed-up absentee balloting and the creation of larger "mega-polling" sites to replace those damaged by the hurricane. The storm damaged about 300 of Orleans Parish's 442 election precincts.

The elections were originally scheduled for Feb. 4.

If the plan is approved, the sign-up period for candidates will be March 1-3. If a runoff is needed, it will be May 20.

'It's Like The Twilight Zone' (WP)

By Anne Applebaum

The Washington Post, January 25, 2006

NEW ORLEANS -- A city council meeting is in session. On a high dais at the back of a dim, dilapidated committee room -- a room as far from the spirit of an old New Orleans townhouse as it is possible to imagine -- sit the council members. Below them sits a group of young black men, part of the "Lower Ninth Ward Economic Development Council." The name of the council is optimistic: Much of their neighborhood is still a jumble of houses that have been smashed into wooden matchsticks by floodwater, houses that floated on top of one another, houses that sit sideways in the middle of what used to be the street.

But the young men are optimists, too. They testify about the good work they used to do in the Lower Ninth Ward -- the teenagers helped, the advice dispensed -- and the good work they want to do. Afterward, the council members thank them and heartily promise that the city's neighborhoods will be rebuilt. Then one member grabs the microphone and announces that a word has been forgotten.

" Simultaneously !" he roars. "Our neighborhoods will be rebuilt simultaneously !" Everyone applauds, while knowing full well that the simultaneous reconstruction of every wrecked neighborhood in greater New Orleans is not just unlikely, it is impossible.

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It's the kind of scene that gets repeated daily in New Orleans, a city where deep emotions and hard, tragic logic are at constant war with one another, where the understandable impulse to tell everyone he or she can go home is in direct conflict with the immense scale of the damage. Every version of every plan so far presented to the city's residents imagines a smaller, more easily protected New Orleans, a New Orleans with reconstructed historic neighborhoods on higher ground -- and a New Orleans without the hundreds of thousands of newer, often cheaply built, currently uninhabitable houses on lower, wetter land. Yet, when anyone speaks about his own neighborhood, logic falls away: Yes, a smaller New Orleans -- but one in which my house still stands and my neighbors come back.

Sometimes irrational optimism wins. Across the city, even in the most damaged neighborhoods, people are stripping and gutting their houses, just in case their neighborhood turns out to be one of the lucky ones. "It's like the twilight zone, isn't it," one man shouted to me from his rooftop, and indeed it was: He was the only person on an otherwise deserted block.

Sometimes irrational fear wins. A recent attempt to clear storm debris from the Lower Ninth Ward prompted spontaneous protests, "No Bulldozer" signs, and a temporary suspension of trash collection in the neighborhood. However much they wanted the debris gone, people were even more afraid that the bulldozers meant eviction.

Most of the time, though, there is confusion -- a confusion personified by Ray Nagin, the city's mayor. Nagin sometimes sounds rational about what can be achieved in a smaller city, and sometimes promises everyone everything, and sometimes makes no sense at all. "He was just having a 'Katrina moment,' " one New Orleanian told me last week, trying to explain Nagin's recent comments about God and chocolate. A "Katrina moment": It's when the conflict between reason and emotion becomes too much, or when the post-hurricane highs ("We're going to build a better, cleaner, smarter, more integrated New Orleans!") crash into post-hurricane lows (gloom, doom and talk of moving to Atlanta). One of the odder things about New Orleans at the moment is that you can sometimes hear this crash take place in the course of a single conversation.

The rest of the country can help the city move on. Rebuilding the levees, at least to the standards they were meant to meet, would help convince people that it's worth rebuilding houses -- and that is beginning to happen. Passing a version of the legislation proposed by Louisiana Rep. Richard Baker would help, too: Baker's bill would allow people to sell their wrecked homes to a state-run development corporation, and possibly buy new homes in higher, drier parts of the city.

But no one can help the city's residents make the psychological adjustment. No one can help them accept the fact that New Orleans will never be the way it was on the Sunday before Katrina. No one can console them for the loss of the extraordinary historical continuity that was the city's best and worst feature. Above all, no one can help them navigate what a New Orleanian called the city's "bipolar landscape": the amazing vitality of the French Quarter, the youthful teams of volunteer historic preservationists, the crowded restaurants that cheerfully operate with half the staff they had before -- and the flood-damaged neighborhoods, which are much vaster than most outsiders can imagine. Five months after the hurricane, New Orleans remains stuck in a strange holding pattern. And until the city accepts the idea that its future will be different from its past, there it will remain.

WAR NEWS:

Pakistani PM Talks To Bush About Airstrike (USAT)

USA Today, January 25, 2006

Pakistani Prime Minister Shaukat Aziz said he expressed concerns about a purported U.S. missile attack that has increased tensions between the two countries during his visit Tuesday with President Bush. Aziz said representatives of the United States, Afghanistan and Pakistan will meet soon to discuss the matter. He spent nearly two hours with Bush at the White House.

Bush said the United States and Pakistan are working closely to defeat terrorism. He did not comment on the airstrike near the Pakistani-Afghan border.

The Jan. 13 attack was allegedly aimed at Osama bin Laden's second-in-command, Ayman al-Zawahri. Gen. Pervez Musharraf, Pakistan's president, said Tuesday that there were indications that al-Qaeda members were among those killed, but several civilians were as well. Bush announced that he would visit Pakistan and India in March.

White House accused of hindering inquiry

Members of Congress investigating government response to Hurricane Katrina say the White House is not fully cooperating.

Sen. Joe Lieberman, D-Conn., a member of the Senate Committee on Homeland Security and Governmental Affairs, said, “No one believes that the government responded adequately. And we can't put that story together if people feel they're under a gag order from the White House.”

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White House spokesman Trent Duffy said the administration has briefed members of the House and Senate on the federal response. A “lessons learned” report is also forthcoming, he said. However, he said, presidential advisers cannot testify about conversations with the president. “The White House has always said it wants to cooperate with the committee but preserve any president's ability to get advice from advisers on a confidential basis,” Duffy said.

Bush Assures Pakistan Of Backing (WT)

By Bill Sammon

The Washington Times, January 25, 2006

President Bush yesterday pledged to work closely with Pakistan to defeat terrorism, although he ignored questions about a U.S. air strike that killed 13 Pakistani civilians and five suspected al Qaeda members this month.

Mr. Bush also announced that he would visit Pakistan and India in March.

"The relationship with Pakistan is a vital relationship for the United States," Mr. Bush said during an Oval Office meeting with Pakistani Prime Minister Shaukat Aziz. "We're working closely to defeat the terrorists who would like to harm America and harm Pakistan."

The sentiments were echoed by Mr. Aziz, who made no public reference to the air strike that has strained relations between Washington and Islamabad.

"Our coalition with the United States in fighting terrorism is very important to all of the world and all of civil society," Mr. Aziz said.

But on Sunday, Mr. Aziz condemned the U.S. air strike that he said killed 13 civilians in a remote region near the Afghanistan border. U.S. forces were trying to target al Qaeda operatives who reportedly had gathered for dinner.

"That's a bizarre thought because these people don't get together for dinner in a terrain or environment like that," Mr. Aziz told CNN. "We had no idea that this would take place."

Mr. Aziz was miffed that the United States did not notify Pakistani authorities before the air strike. Thousands of Pakistanis have been staging anti-American demonstrations since the attack.

But the nation's antipathy toward the United States has been tempered by American generosity in the wake of an October earthquake in Pakistan that killed 87,000 people and left 4 million homeless.

"The assistance the United States has given to Pakistan -- the Chinooks, the MASH hospitals, the engineers and the financial assistance after the earthquake -- has touched the hearts and minds of all Pakistanis," Mr. Aziz said. "We really appreciate what has been done ... "

Mr. Bush, who last month sent Vice President Dick Cheney to the earthquake zone to review relief efforts, expressed pride that the United States has taken the lead in helping victims.

"It's hard to imagine the devastation," the president said. "I was very pleased that the United States, our taxpayers, our military could contribute to helping the people of Pakistan recover. They are our friends, and we consider this friendship to be a vital friendship for keeping the peace."

White House Press Secretary Scott McClellan said the president and Mr. Aziz spent most of their time yesterday focusing on common ground, not the dispute over the air strike.

"The discussion that I sat in on, both in the Oval Office and the residence, focused on our ongoing efforts to defeat al Qaeda and to prevent attacks from happening, both against Pakistan and against the United States," he said.

"Now, they also had some private time together in between the two meetings," he said. "But there was really nothing else to add."

Bush Says Pakistan Strong Ally, Will Visit In March (REU)

By Tabassum Zakaria

Reuters, January 25, 2006

President George W. Bush praised Pakistan as a close ally in fighting terrorism and said on Tuesday that he would visit the country and its neighbor India in March.

Bush and Pakistani Prime Minister Shaukat Aziz, who met at the White House, said they were united in fighting terrorism, but they did not directly comment on a recent U.S. airstrike in Pakistan that caused an uproar.

"I think the relationship with Pakistan is a vital relationship for the United States," Bush said. "We're working closely to defeat the terrorists who would like to harm America and harm Pakistan."

The U.S. airstrike on January 13 targeted Ayman al-Zawahri, deputy to al Qaeda leader Osama bin Laden, in the remote Bajaur tribal region along the border with Afghanistan, according to American officials.

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Pakistani intelligence officials say Zawahri was not there at the time of the strike, but that at least four al Qaeda figures, including a bomb expert, were killed.

The attack prompted Pakistan to lodge a formal protest with Washington and sparked anti-U.S. demonstrations in several Pakistan cities and towns.

Bush has not publicly commented on the air attack, but Pakistani President Pervez Musharraf has said Washington assured Islamabad it would not act against Pakistan's interests.

Bush and Aziz showed no signs of acrimony and affirmed the two countries' close relationship in trying to combat terrorism.

"Terrorism knows no borders," Aziz said. "So our coalition with the United States in fighting terrorism is very important to all of the world and all of civil society.

"We discussed the war against terror and the need for closer communication and coordination to take this effort forward," he told reporters after meeting Bush.

"We are looking forward to President Bush's visit to Pakistan to carry this dialogue forward."

U.S. officials believe bin Laden and Zawahri are hiding along the rugged border region of Afghanistan and Pakistan.

An audiotape purported to be of bin Laden that aired last week warned that al Qaeda was preparing attacks in the United States but was open to a conditional truce with Americans.

Bush and Aziz said they discussed trade, nuclear energy, defense cooperation and the response to the October 8 earthquake in Pakistan that killed about 74,000 people and left about 3 million homeless.

"A sense of caring and sharing always builds a better relationship between countries and that's what we are seeing between Pakistan and the United States," said Aziz.

Bush Meets With Premier Of Pakistan (NYT)

By Elisabeth Bumiller

The New York Times, January 25, 2006

WASHINGTON, Jan. 24 - President Bush said Tuesday that he would travel to India and Pakistan in March, but made no public comment about the American airstrikes that killed 18 civilians, including women and children, in one of Pakistan's remote tribal areas earlier this month.

With Pakistan's prime minister, Shaukat Aziz, at his side, Mr. Bush spoke about areas of agreement, like trade and fighting terrorism, in four minutes of public remarks in the Oval Office. The president called the countries' relationship "vital" while Mr. Aziz called it "multifaceted."

The two leaders took no questions, and afterward the White House spokesman, Scott McClellan, sidestepped queries about whether Mr. Bush had spoken in private to Mr. Aziz about the airstrikes.

The airstrikes have infuriated Pakistanis, even as Pakistan's president, Gen. Pervez Musharraf, said Tuesday in Oslo that there were indications that some of those killed were members of Al Qaeda. Last week Pakistani officials said two senior Qaeda members and the son-in-law of its No. 2 leader, Ayman al-Zawahiri, were among those killed.

American officials have said Mr. Zawahiri was the target of the raid, but they have acknowledged that he was not killed in the attack. The Pakistani and American officials were granted anonymity because they were not authorized to speak to the news media or for attribution.

Mr. Bush is expected to spend several days in India, including a visit to the capital, New Delhi, as well as to a city in the south of the country. White House officials did not say how long he would visit Pakistan.

The Bush administration and the Indian government hope to use Mr. Bush's trip to New Delhi to announce the approval of a deal signed in July by Mr. Bush and the Indian prime minister, Manmohan Singh, for the United States to supply nuclear technology and materials to India.

But the deal has been held up while the United States has pressed India to take steps to separate its civilian and military nuclear programs, paving the way for inspections and monitoring of its civilian programs. India has already developed nuclear weapons.

It is unclear if Congress and an international consortium will approve the deal before Mr. Bush's trip.

Bush To Visit India, Pakistan On March Trip (WP)

By Jim VandeHei

The Washington Post, January 25, 2006

President Bush announced yesterday that he will travel to India and Pakistan in March in a visit likely to be dominated by discussions of terrorism, democratic governance and the recent U.S. airstrikes in Pakistani territory.

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Bush met with Pakistani Prime Minister Shaukat Aziz at the White House yesterday to discuss the U.S.-Pakistan alliance and the strikes that killed at least 13 people, including women and children.

The strikes, which U.S. officials said were aimed at suspected al Qaeda terrorists, provoked anti-American protests in Pakistan, a key U.S. ally enlisted by the Bush administration after Sept. 11, 2001, to hunt down terrorists, especially along the border with Afghanistan. Aziz, who kicked off his U.S. visit by condemning the attacks, struck a decidedly more diplomatic tone before and after meeting with Bush yesterday, highlighting the economic and military ties between the two nations.

It is unclear whether the strikes killed any al Qaeda members in a region where Osama bin Laden and his deputy, Ayman Zawahiri, are believed to be hiding.

Pakistani President Pervez Musharraf, speaking in Oslo, said yesterday there is "an indication" al Qaeda terrorists may have been killed. "These foreigners are there, and we need to eliminate these foreigners," Musharraf said after a speech at the Nobel Institute.

In brief comments to reporters, Bush did not address the airstrikes. "I want to thank the prime minister and thank the president for working closely with us on a variety of issues," the president said. "We're working closely to defeat the terrorists who would like to harm America and harm Pakistan."

U.N. Gets Tape Of Bin Laden (WT)

By Roland Flamini

The Washington Times, January 25, 2006

A copy of Osama bin Laden's latest audiotape was delivered to a U.N. office in Quetta, Pakistan, and is being studied by the world organization's officials, a well-placed source said.

He said the office of the U.N. High Commissioner for Refugees in Baluchistan province, which borders Afghanistan, received the tape last week and sent it on to the U.N. headquarters in New York.

U.N. officials familiar with the contents of the tape say the message appears to be identical to the one broadcast by Al Jazeera television Thursday, according to the source, who asked not to be identified.

Stephan Dujarric, the secretary-general's spokesman, denied the United Nations had received a tape. But a second U.N. source told UPI, "Actually, there are a couple more copies of the tape going around besides the ones sent to the U.N. and Al Jazeera."

The second source, who also declined to be identified, did not have details.

Following receipt of the tape in Quetta, another U.N. office in the area received a telephone threat purportedly from al Qaeda, and all U.N. staffers were immediately withdrawn from Baluchistan province.

A source in Washington told UPI yesterday that the tape received by the United Nations has since been handed over to U.S. intelligence officials.

This is believed to be the first time that a tape from bin Laden or any other al Qaeda figure has been sent directly to the United Nations. The speculation is the terrorist leader is trying to draw the world organization into a discussion on his vague carrot-and-stick offer of a truce to the American people.

According to the Al Jazeera version of the tape, bin Laden's message -- his first public utterance in just over a year -- proposes "a long-term truce based on fair conditions, which we will abide by" if U.S. troops are withdrawn from Iraq and Afghanistan.

The conditions are not specified. He also threatens more attacks on the United States, which he says are "under preparation."

U.S. intelligence analysts have pronounced the tape authentic and said Al Jazeera's estimate that it was made some time in December is probably right.

The Bush administration promptly rejected the truce offer. "We don't negotiate with terrorists. We put them out of business," White House spokesman Scott McClellan said last week.

Bin Laden may be counting on his offer being viewed differently in the United Nations, where the U.S. presence in Iraq is widely unpopular.

Moreover, if bin Laden is trying to appear statesmanlike, it makes sense to establish contact with the United Nations.

Osama At The Kit Kat Club (NYT)

By Thomas L. Friedman

The New York Times, January 25, 2006

Reading about the latest tapes by Osama bin Laden and his sidekick Ayman al-Zawahiri, my gut reaction is that they sound like a couple of burned-out rock stars who keep recycling their greatest hits in hopes of catching on one last time as the

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lounge duo in some Las Vegas hotel. "Now Appearing at Caesars Palace, It's the Monkees! And at the Aladdin, Ayman and Osama!"

I will confess, though, that the fact that bin Laden could recommend a book in his latest video and then watch that book break into the top 10 on Amazon.com within just a few days suggests that while he may not have much of a future as a terrorist, he could do a book club gig. When I checked Amazon, two of the top 10 books were recommended by Oprah, and one was recommended by Osama. Now that's juice. I started to imagine bin Laden sitting in his cave in Pakistan and suddenly receiving all these books from publishers and agents.

If I seem to be taking all this a tad lightly, it is because I am certain that bin Laden is hurting right now. What made bin Laden such a unique threat were three things: the fact that he had taken over a whole country, Afghanistan, where he could freely recruit and train forces and move around money; the fact that he controlled a political movement, the Taliban; and, most important, the fact that many Arabs and Muslims looked up to him and Al Qaeda as forces who were standing up to America.

But today bin Laden does not have Afghanistan, he does not have the Taliban, and while he still has some following, I don't think so many Arabs and Muslims are naming their sons "Osama" anymore.

Because anyone who has paid attention to recent events in Iraq, Indonesia, Sharm el Sheik, Afghanistan and Jordan knows that Al Qaeda has killed many more innocent Muslims than innocent Americans - and not just Shiite Muslims. And it has killed them at marketplaces, mosques, weddings and funerals. Qaeda murders have also exacted a huge toll on tourism in places like Egypt and Indonesia, killing jobs as well.

The best indications of how much this has hurt bin Laden in the Arab-Muslim world are the recent attacks on Al Qaeda by important Islamist voices, including some leaders of the powerful Muslim Brotherhood in Egypt. On Jan. 7, after Zawahiri lambasted Muslim Brothers as U.S. stooges for taking part in Egypt's parliamentary elections, A.F.P. reported the following from Cairo:

"Egypt's Muslim Brotherhood responded Saturday to Al Qaeda's accusations of complicity with Washington by charging that the Islamist violence advocated by Osama bin Laden's network was counterproductive." A Brotherhood spokesman, Issam al-Aryan, asked, "What results have his resort to violence yielded?"

Such open criticism "coming from the Muslim Brotherhood, which has a significant presence in Egypt and beyond, is quite telling," said Ibrahim Karawan, director of the Middle East Center at the University of Utah. "It shows that Al Qaeda's actions have cost them. They have created enemies in the West and in the Arab world." Indeed, Iraqi Sunni nationalists in Ramadi recently declared war on local Qaeda militants after bin Laden forces killed 80 people in Ramadi in an attack on police recruits on Jan. 5.

But while I am certain bin Laden is losing, I still don't feel that we are "winning," that we are really making progress in democratizing political life in the Arab-Muslim world. States and politics there are still dominated by military and intelligence services.

There is still no viable, free space for a vibrant civil society to emerge. Few independent political parties, newspapers or nongovernmental organizations have sprouted. Look at Egypt: President Hosni Mubarak holds elections, the Muslim Brotherhood wins a record number of seats, and the most liberal politician who dared to run against Mr. Mubarak gets thrown in jail. It's hard to call that progress.

The other reason it is hard to feel that we are winning is that America, and particularly President Bush, are still radioactive - widely disliked. Therefore, there are not a lot of Arab progressives who want to be seen publicly embracing Americans or their agenda.

Iraq and Afghanistan, I still hope, may turn out to be exceptions, but even if they are, it is hard to believe their example will spread at a time when oil is $67 a barrel. The military-intelligence systems that dominate political life in the Arab East are only growing richer, bigger and stronger - thanks to petrodollars.

No, not much grows in a garden watered by oil.

Osama's Unmistakable Message (WT)

By Walid Phares

The Washington Times, January 25, 2006

In his last audiotape, aired at the discretion of al Jazeera a few days ago, the lord of al Qaeda seemed to be trying to score many points, using new editorial tactics and addressing more than one audience. His prepared speech seemed more a state of jihad address than a specific threat to America, although sounding very menacing. So what was the message really about?

As of September, the jihadi chat rooms have asked if "we are we winning the war on the infidels?" The mentors of the rooms have tried to reassure the participants that all was going fine, referring to the letters between Ayman al Zawahiri and Abu Musab al Zarqawi. But 2005 left a lot of explaining for the jihadists in the region: elections in Afghanistan with millions of women

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voting and being elected; two elections and one referendum in Iraq: A Cedar Revolution in Beirut and debates about democracy raging on the Internet.

Despite car bombs, assassinations, massacres, kidnapping and videotapes on al Jazeera and beyond, the jihadists weren't going anyway. Young people in the Arab and Middle East region are turning increasingly to freedom, contradicting the ideological speeches of al Qaeda and its sisters in the region. Blood alone was not bringing victory to the jihadists.

Hence the master had to strike from his cave. The bottom line of the audio is simple: We, as jihadists, are winning the war; they, American and other infidels, are losing it. Reverberated by al Jazeera in a thoroughly prepared script: The news of the tape's existence gradually leaked to other news agencies that aired fragments first, followed instantly by a panel of well-prepared "experts" to "explain the document" and educate the masses about it. In a few hours, Web sites made it available with all the analyses and simplifications.

"We are devastating your forces in Iraq" declared bin Laden, but "your president is hiding the facts." A first salvo in a psychological war aimed at minimizing the trust inside the "enemy homeland," thought the speechwriters of bin Laden. Indeed, the Arabic language and the concepts used in this audio indicate that jihadi eyes and ears, very attentive to the Western and American political process, seemed to be feeding the construction of the text.

"The morale of the U.S. troops is fading, and your government is attempting to suppress your media, including al Jazeera," said bin Laden. It was the first time al Qaeda's leader mentioned the channel directly. Penetrating America's political culture, bin Laden railed over the presidential "victorious" landing on the aircraft carrier, and used U.S. polls as evidence that the United States was on the verge of a world policy collapse.

Then he threatened with upcoming operations inside the United States. Referring to the London model, he hinted at a second-generation al Qaeda, citizens potentially awaiting his instructions and moving at will when preparedness allowed. He wanted to show his troops that the "final weapons are being readied," as Hitler used to promise his military. But even if bin Laden is shooting in the dark, jihadist ears, indoctrinated by Wahhabi money and ideology, are indeed listening: They are preparing a future jihad.

Then he offered a truce. Speaking as a caliph, al Qaeda's boss said he will suspend operations if the United States apologizes and withdraws from all Muslim lands. Some sympathizers ran on media airwaves to "assure the Western public" of the good intentions of bin Laden. "He will deliver" said one of them on BBC. "See how Spain saved itself from strikes after the withdrawal from Iraq."

But what the public ignores about the "hudna" (cease-fire) offered by bin Laden is that the international community, and the United States, will have to recognize al Qaeda as the representative of the Muslim world. In short, that all Muslim governments would elevate bin Laden as the world caliph -- hence he will be able to "resume" the jihad after the hudna is over, since it is only a truce after all. The world, thus, would be divided in two spheres, with Osama as emperor from Morocco to China, with his full sovereign control of the resources, that is oil, and the nuclear toys of Pakistan.

Walid Phares is the author of "Future Jihad: Terrorist Strategies against America," and a senior fellow with the Foundation for the Defense of Democracies.

Al Qaeda's Big Boast (NYT)

By Daniel Benjamin And Steven Simon

The New York Times, January 25, 2006

IF Osama bin Laden's aim in releasing an audiotape was to gauge his enemies' reaction, he must have been gratified to find that America's leaders and opinion-makers understand him little better than they did on 9/11. The proof is in how his offer of a "long-term truce" was treated. The White House spokesman, Scott McClellan, declared: "We do not negotiate with terrorists." Vice President Dick Cheney saw Mr. bin Laden's offer as "some kind of ploy." Newsweek described it as "something new: an offer of an olive branch." Most saw it as a sign of weakness.

Yet, while Osama bin Laden has seldom used the word "truce," the vision outlined in the rest of the message is not new: a withdrawal of the United States from Muslim lands and a rebalancing between the Muslim and non-Muslim worlds. (One Qaeda spokesman has insisted that only when America has lost four million people would the field be even.) In other words, this "truce" must be preceded by total capitulation.

The author of the 9/11 attacks did not, of course, think that his musings would jump-start a negotiation. Had Americans instead listened with the ears of those for whom the message was intended - Muslims around the world - they would have heard something very different. Instead of a weak Osama bin Laden, they would have heard a magnanimous one who could offer a truce because "the war in Iraq is raging, and the operations in Afghanistan are on the rise in our favor." Mr. bin Laden staked his claim to leadership of the Muslim world on 9/11, striking us as others only dreamed of doing. On the tape, he shows strength by

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taking credit for America's humiliation in Iraq and continues to do what we are not: fighting for the hearts and minds of the Muslim world.

It is too early to say how this tape will affect Muslim opinion, but there is no doubt that Mr. bin Laden's strategy has been paying off. According to a poll released last month by Shibley Telhami of the University of Maryland and Zogby International, when Muslims in several countries were asked what aspect of Al Qaeda they "sympathize" with most, 39 percent said it was because the group confronted the United States. Nearly 20 percent more sympathized because it "stands up for Muslim causes," which is really just a polite way of saying the same thing.

Two other phenomena also show the movement to be strengthening. The first is the emerging breed of self-starter terrorists with few or no ties to Osama bin Laden, like the Madrid and London bombers, and others who have been arrested before they were able to carry out attacks in Pakistan, Australia and elsewhere. The second is the emergence of an indigenous jihad in Iraq. Much is said about the foreign fighters in Iraq, but the truly dramatic development is the radicalization of Iraqis who will continue the insurgency or travel abroad to kill, like those who bombed three Western hotels in Jordan in November.

Despite so much evidence that the jihadists are winning sympathy, America has provided no counter-story to their narrative. Rather, the president has repeatedly objected to the notion that the Iraq war is having a radicalizing effect by arguing that America was attacked before we ever stepped foot in Iraq.

This, of course, is a non sequitur - douse a guttering fire in gasoline and you will get a bigger fire. A movement that was staggering after the Taliban was toppled has come back with a vengeance. Realistically, we cannot deploy a counter-narrative - one that emphasizes that we are a benign superpower - so long as our troops are in Iraq. That will make it difficult to separate moderates from extremists, as an ideological struggle requires. We must focus more on developing that story and getting out of Iraq with the least damage to our interests and less on the phony truce offers of a guileful enemy.

Pakistan's Tribal Strategy (CSM)

By David Montero, Correspondent Of The Christian Science Monitor

The Christian Science Monitor, January 25, 2006

PESHAWAR, PAKISTAN - With CIA missiles firing on Pakistani homes, and reports surfacing that the Taliban have taken over large tracts of the country's tribal zone, analysts of the war on terror here say Pakistan's military strategy is in need of a paradigm shift. Intelligence remains too weak, and even pitched battles flexing the military's muscle have shown little effect against an enemy that remains largely unknown, they say.

The question of whether Islamabad is effectively eradicating Al Qaeda elements in the semiautonomous border region has become a constant - and touchy - refrain in relations with the United States, and was expected to be discussed in Tuesday's meeting in Washington between President Bush and Pakistan's prime minister.

The CIA's recent missile strike in Bajaur Agency has emboldened criticism at home, both among street protesters angry at the US intrusion and among opposition figures and other observers who say that the attacks signal waning US confidence in Pakistan's approach and resolve.

"The American missile strikes show that they are not satisfied with what Pakistan is doing," says Afrasiab Khattak, an opposition party leader. "The results [the Army has] yielded in the last two years have been negligible."

The Pakistani military, however, has repeatedly denied such claims, insisting that 70,000 troops and paramilitary forces continue to strike at the heart of militant enclaves. "The Pakistan Army has never let off. We are still continuing with the same vigor and effort," says Brigadier Shahjehan Ali Khan, acting spokesperson of the Pakistan military.

But that same vigor and effort may be the problem. Those familiar with the tribal areas say recent events underscore the need to rethink the strategies for combating terrorism there. "The strategy is not working and you can see the results. The Taliban is more organized than they were," cautions retired Lt. Gen. Talat Masood.

Unleashing the full fury of Pakistan's military - helicopter gunships, ground troops, and artillery - was supposed to prevent this. "It was like a war between two countries, not a fight with militants," describes Shaukat Khattak, who has covered the operations for Pakistan's GEO TV.

That fighting has proven costly to the Army, which has lost as many as 200 soldiers in battles with militants throughout Waziristan. Some analysts marvel that with such a large force the results have been so paltry. "So far, not a single important man has been captured," points out Behroz Khan, the Peshawar bureau chief of The News, a Pakistani newspaper.

The death of innocent civilians during operations - numbering more than 50 by some accounts - has damaged trust and fueled resentment, pushing some into the arms of terrorists, according to observers. "Today we have lost the confidence of the tribal people," argues Sameen Mehmood Jan, an opposition party member of the Provincial Assembly from the North West Frontier Province.

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There is a growing perception that the Army, having seen its strategies fail, has largely retreated to its barracks. "It has become more of a reactive force, mostly hitting when fired upon," says General Masood. The region remains closed to foreign journalists. But local journalists describe Army personnel as captives in their own barracks, unable to leave for fear of being shot at or kidnapped. It is an accusation that ruling party officials and the Army strongly deny.

"They are not confined to their barracks, they are actively patrolling the area," says Muazzam Butt, central media coordinator of the Pakistan Muslim League-Q, the ruling party.

Outside the tribal belt, news of the CIA strike touched off protests in a number of cities. However, except in Karachi where 10,000 people reportedly gathered, the size of the protests remained confined to several thousand.

Despite their relatively small size, such protests do serve as a reminder to Washington that they can nudge President Pervez Musharraf only so far without undermining his position. Bush praised Pakistan as a close ally in fighting terrorism Tuesday and announced he would visit in March.

Masood and other observers here emphasize the need for better intelligence gathering in the tribal zone, particularly since many of the troops deployed to fight are not familiar with the area. Their local contacts are weak, their knowledge of the terrain inadequate - precisely the opposite of the enemy they are fighting, many of whom are part of the society or deeply integrated into it. "If their intelligence improves, then the best thing would be to do rapid deployments in specific areas," says Masood, meaning more precise strikes, less collateral damage.

Boosting intelligence requires mending political relationships with tribal and religious leaders who can provide information and build support. "The strategy is not working because locals are not cooperating," says Behroz Khan.

But intelligence assets are merely a short-term fix, many analysts also emphasize. Combating terrorism requires engagement with the broader conditions fanning the fires of militancy: stark poverty and political vacuums - conditions that cannot be uprooted by narrow strikes.

"People don't see a bright future for themselves. The poverty, the underdevelopment, are a potential threat," says Mohammed Amin, who has worked on development projects there for years.

Tribal elders say they are neglected by the state, robbed of opportunities for education and employment. "[Tribal people] have native attachments but they feel compelled to move," explains Muzaffar Sayat, a leader from Mohmand Agency near Bajaur, who now lives in Peshawar. "Personally I also moved because there is no school for my children."

Lawlessness is also rampant, says Amin, noting that the judiciary and police, are virtually absent. Add to this vacuum a mix of religious fervor and a large deposit of arms and it is not surprising the area is volatile, Amin explains.

The War In Pakistan (WP)

The Washington Post, January 25, 2006

SHORTLY AFTER Sept. 11, 2001, President Bush famously declared that other countries must choose between supporting the United States and supporting terrorism, and that those that harbored al Qaeda would be treated as the enemy. In the years since, he has refrained from applying that tough principle in practice -- which is lucky for Pakistan's president, Gen. Pervez Musharraf. Ever since the war on terrorism began, this meretricious military ruler has tried to be counted as a U.S. ally while avoiding an all-out campaign against the Islamic extremists in his country, who almost surely include Osama bin Laden and his top deputies. Despite mounting costs in American lives and resources, he has gotten away with it.

Gen. Musharraf and his aides, such as Prime Minister Shaukat Aziz, boast that Pakistan has arrested hundreds of al Qaeda militants and deployed tens of thousands of troops in the border region near Afghanistan. Yet Gen. Musharraf has never directed his forces against the Pashtun Taliban militants who use Pakistan as a base to wage war against American and Afghan forces across the border. He has never dismantled the Islamic extremist groups that carry out terrorist attacks against India. He has never cleaned up the Islamic madrassas that serve as a breeding ground for suicide bombers. He has pardoned and protected the greatest criminal proliferator of nuclear weapons technology in history, A.Q. Khan, who aided Libya, North Korea and Iran. And he has broken promises to give up his military office or return Pakistan to democracy.

The consequences of this record are that al Qaeda has continued to operate from Pakistan, while U.S. and allied troops have been unable to pacify southern Afghanistan. More than 125 American soldiers have been killed there in the past year, many of them by militants crossing the border. Osama bin Laden is apparently secure enough to have released an audiotape last week threatening more attacks inside the United States.

The Bush administration is still providing Gen. Musharraf $600 million in annual military and economic aid and treating him as a major ally. But in the absence of effective Pakistani action, it has also stepped up its own clandestine operations in the border areas where al Qaeda and its allies are based. At least three times in the past year, drone aircraft armed with missiles have attacked terrorist targets; most recently, a strike on a Pakistani village this month killed at least 13 people, several important al Qaeda operatives possibly among them.

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In keeping with his double game, Gen. Musharraf's government publicly criticized the latest attack even though his intelligence service reportedly cooperated with it. Now he and Mr. Aziz, who met with Mr. Bush yesterday, are saying U.S. forces should carry out no more such attacks without Pakistani agreement. We'll assume that's more of their bluster. Even if it is not, Mr. Bush should ignore it. Gen. Musharraf perhaps cannot be forced to side decisively with the United States against the terrorists, as the administration once hoped -- though much more could be done to raise the price of his feckless cooperation. But Mr. Bush must take every available measure to eliminate the al Qaeda and Taliban operations in Pakistan. If targets can be located, they should be attacked -- with or without Gen. Musharraf's cooperation.

Jury Deliberates Accused Iraqi Agent Case (ABJ)

Akron Beacon Journal, January 25, 2006

INDIANAPOLIS - A jury began deliberating Tuesday in the case of an Indiana truck driver accused of conspiring to sell U.S. intelligence secrets to Saddam Hussein's government.

Shaaban Hafiz Ahmad Ali Shaaban, 53, is accused of meeting with an Iraqi intelligence officer at a Baghdad hotel in late 2002 and agreeing to sell the names of U.S. operatives for $3 million.

The jury deliberated for eight hours and planned to reconvene Wednesday morning.

Shaaban was indicted in March on counts including conspiracy, acting as a foreign agent and violating sanctions.

If convicted, he faces as many as 65 years in prison and more than $1.5 million in fines.

Shaaban, who represented himself during his trial with the help of two standby public defenders, repeated during his closing arguments his contention that the government has mistaken him for a now-dead identical twin.

But Assistant U.S. Attorney reminded jurors that witnesses testified no such twin exists.

Shaaban was working as a truck driver and living near Indianapolis when he was arrested in March.

Audit Describes Misuse Of Funds In Iraq Projects (NYT)

By James Glanz

The New York Times, January 25, 2006

A new audit of American financial practices in Iraq has uncovered irregularities including millions of reconstruction dollars stuffed casually into footlockers and filing cabinets, an American soldier in the Philippines who gambled away cash belonging to Iraq, and three Iraqis who plunged to their deaths in a rebuilt hospital elevator that had been improperly certified as safe.

The audit, released yesterday by the office of the Special Inspector General for Iraq Reconstruction, expands on its previous findings of fraud, incompetence and confusion as the American occupation poured money into training and rebuilding programs in 2003 and 2004. The audit uncovers problems in an area that includes half the land mass in Iraq, with new findings in the southern and central provinces of Anbar, Karbala, Najaf, Wasit, Babil, and Qadisiya. The special inspector reports to the secretary of defense and the secretary of state.

Agents from the inspector general's office found that the living and working quarters of American occupation officials were awash in shrink-wrapped stacks of $100 bills, colloquially known as bricks.

One official kept $2 million in a bathroom safe, another more than half a million dollars in an unlocked footlocker. One contractor received more than $100,000 to completely refurbish an Olympic pool but only polished the pumps; even so, local American officials certified the work as completed. More than 2,000 contracts ranging in value from a few thousand dollars to more than half a million, some $88 million in all, were examined by agents from the inspector general's office. The report says that in some cases the agents found clear indications of potential fraud and that investigations into those cases are continuing.

Some of those cases are expected to intersect with the investigations of four Americans who have been arrested on bribery, theft, weapons and conspiracy charges for what federal prosecutors say was a scheme to steer reconstruction projects to an American contractor working out of the southern city of Hilla, which served as a kind of provincial capital for a vast swath of Iraq under the Coalition Provisional Authority.

But much of the material in the latest audit is new, and the portrait it paints of abandoned rebuilding projects, nonexistent paperwork and cash routinely taken from the main vault in Hilla without even a log to keep track of the transactions is likely to raise major new questions about how the provisional authority did its business and accounted for huge expenditures of Iraqi and American money.

"What's sad about it is that, considering the destruction in the country, with looting and so on, we needed every dollar for reconstruction," said Wayne White, a former State Department official whose responsibilities included Iraq from 2003 to 2005, and who is now at the Middle East Institute, a research organization.

Instead, Mr. White said, large amounts of that money may have been wasted or stolen, with strong indications that the chaos in Hilla might have been repeated at other provisional authority outposts.

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Others had a similar reaction. "It does not surprise me at all," said a Defense Department official who worked in Hilla and other parts of the country, who spoke anonymously because he said he feared retribution from the Bush administration. He predicted that similar problems would turn up in the major southern city of Basra and elsewhere in the dangerous desert wasteland of Anbar province. "It's a disaster," the official said of problems with contracting in Anbar.

No records were kept as money came and went from the main vault at the Hilla compound, and inside it was often stashed haphazardly in a filing cabinet.

That casual arrangement led to a dispute when one official for the provisional authority, while clearing his accounts on his way out of Iraq, grabbed $100,000 from another official's stack of cash, according to the report. Whether unintentional or not, the move might never have been discovered except that the second official "had to make a disbursement that day and realized that he was short cash," the report says.

Outside the vault, money seemed to be stuffed into every nook and cranny in the compound. "One contracting officer kept approximately $2 million in cash in a safe in his office bathroom, while a paying agent kept approximately $678,000 in cash in an unlocked footlocker in his office," the report says.

The money, most from Iraqi oil proceeds and cash seized from Saddam Hussein's government, also easily found its way out of the compound and the country. In one case, an American soldier assigned as an assistant to the Iraqi Olympic boxing team was given huge amounts of cash for a trip to the Philippines, where the soldier gambled away somewhere between $20,000 and $60,000 of the money. Exactly how much has not been determined, the report says, because no one kept track of how much money he received in the first place.

In another connection to Iraq's Olympic effort, a $108,140 contract to completely refurbish the Hilla Olympic swimming pool, including the replacement of pumps and pipes, came to nothing when the contractor simply polished some of the hardware to make it appear as if new equipment had been installed. Local officials for the provisional authority signed paperwork stating that all the work had been completed properly and paid the contractor in full, the report says.

The pool never reopened, and when agents from the inspector general's office arrived to try out the equipment, "the water came out a murky brown due to the accumulated dirt and grime in the old pumps," the report says.

Sometimes the consequences of such loose controls were deadly. A contract for $662,800 in civil, electrical, and mechanical work to rehabilitate the Hilla General Hospital was paid in full by an American official in June 2004 even though the work was not finished, the report says. But instead of replacing a central elevator bank, as called for in the scope of work, the contractor tinkered with an unsuccessful rehabilitation.

The report continues, narrating the observation of the inspector general's agents who visited the hospital on Sept. 18, 2004: "The hospital administrator immediately escorted us to the site of the elevators. The administrator said that just a couple days prior to our arrival the elevator crashed and killed three people."

Dayton Wants Panel Hearing Into Claims About Tainted Water (HILL)

By Roxana Tiron

The Hill, January 25, 2006

Sen. Mark Dayton (D-Minn.) is calling for Armed Services Committee hearings into allegations that Halliburton supplied contaminated water to the U.S. military in Iraq.

Dayton, after participating in a hearing of the Democratic Policy Committee chaired by Sen. Byron Dorgan (D-N.D.), said that he is planning to send a letter in the next few days to Armed Services Chairman John Warner (R-Va.) and Sen. Norm Coleman (R-Minn.), chairman of the Government Affairs Committee's Permanent Subcommittee on Investigations.

In the letter, Dayton will ask Warner and Coleman to schedule hearings investigating the allegations.

"It should be criminal, and it is certainly immoral," Dayton said about the charges against Halliburton in a brief interview.

A spokesman for Warner said that the Armed Services Committee is working to schedule a hearing on Iraq reconstruction contracting in the coming weeks. The hearing will cover all aspects of the reconstruction efforts, he said.

Although, he has not yet seen the letter from Dayton, Coleman has directed staffers for his committee to conduct a preliminary inquiry into the allegations that Halliburton failed to notify military authorities of contaminated water at a U.S. military base in Iraq, said his spokeswoman Andrea Wuebker.

The Democratic Policy Council has been holding a series of hearings related to contracting abuses in Iraq.

Dayton was the only other member besides Dorgan at the Policy Committee hearing Monday. The hearing was devoted to allegations by former Halliburton employees that the company delivered untreated water to a base near Ramadi, Iraq, from the polluted Euphrates River at Camp Junction City.

Former Halliburton employees Ben Carter and Ken May testified about the practice yesterday. Their evidence was corroborated by internal Halliburton e-mails.

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"The level of contamination was roughly two times the normal contamination of untreated water from the Euphrates River," William Granger, an employee of Halliburton subsidiary KBR, said in an e-mail July 15. Granger also said that untreated water had been supplied to the camp in Ramadi for about a year.

Carter, a former water specialist with the company, said that when he first started working on the Iraq base he was told that the water was being treated. However, he said that after larvae were discovered in a Ramadi base toilet bowl in March 2005 he tested the water and realized it was untreated.

Water out of the Euphrates was pumped for both potable and non-potable purposes. Potable water is used for cooking and drinking and requires a high level of purification. Non-potable water at the Ar Ramadi base was used for bathing, showering, shaving, laundry, cleaning and other purposes.

"Even non-potable water must meet certain minimum safety standards widely accepted in the water purification industry and adopted by the Army in their operations manual," Carter said in his testimony. Otherwise, people risk being exposed to contaminants in the water. According to Carter, KBR never chlorinated the non-potable water tanks.

He recalled Granger telling him that waste water from the water purification process that should have been dumped in the river was used as the non-potable water supply.

Halliburton, a company formerly run by Vice President Cheney, has denied its former workers' claims, according to the Associated Press. Also, the Marine Corps said that the water records for last year showed no problems.

Dorgan said that the Democratic Policy Committee has requested additional information from the Department of Defense and that he would turn over any information arising from the hearing to the Pentagon.

Several of the committee's previous hearings have involved whistle-blowers from Halliburton.

"That is not because we are seeking to cast Halliburton in a bad light," Dorgan said. "Rather, it is because Halliburton has obtained the lion's share of contracts in Iraq and a number of whistle-blowers have come forward to report problems."

The committee previously has heard testimony about a company called Custer Battles, which the Bush administration awarded more than $100 million in contracts to provide security in Iraq. Custer Battles allegedly went on to defraud the Pentagon, overbilling it through sham companies in the Cayman Islands.

Dip In Iraqi Oil Production Holds Ominous Harbinger (LAT)

By Chris Kraul

The Los Angeles Times, January 25, 2006

BAGHDAD, Iraq -- Iraqi oil production fell by 8 percent last year, with a sharp decline near year's end that left average daily production at half the 3 million barrels envisioned by U.S. officials at the outset of the war in 2003.

Prospects for improvement this year are slim, according to many experts, calling into question Iraq's ability to support itself and fund reconstruction efforts as U.S. assistance is scaled back. Reasons for the shortfall include the poor state of the nation's oil fields, a creaky infrastructure, poor management and ongoing insurgent attacks, particularly to pipelines in the north-central region meant to export oil through Turkey.

"There is no instant turnaround," said Paul Horsnell, energy analyst with Barclay Capital in London. "It could take five years, six years or seven years." As of last month, Iraq was pumping a million barrels a day less than just before Saddam Hussein was toppled from power in the U.S.-led invasion of Iraq.

In helping sell the war, Bush administration officials had predicted that a strong Iraqi oil industry could help pay for the nation's postwar recovery. To prime the effort, the U.S. Congress voted on a three-year, $20.9 billion reconstruction package, of which about $2 billion was dedicated to restoring Iraqi oil production.

Instead of steadily increasing production, the annual output fell in 2005 to 1.83 million barrels a day, including a sharp decline over the final quarter capped by a December dip to 1.57 million barrels daily.

The latest production figures from the International Energy Agency compare with the 2.5 million barrels per day the Iraqi industry was pumping just before to the war, a level it nearly equaled in March and April of 2004. Officials said December's figures were influenced by bad weather and a scarcity of tug boats at Persian Gulf marine terminals, in addition to the continuing violence, and poor facilities and management.

Oil revenues contribute 94 percent of the fledgling government's budget and a drop in oil global prices from current high levels could wreak havoc if output remains depressed. Financial stress was evident last week when Turkey suspended shipments of gasoline and other fuels to Iraq saying its refiners were owed $1 billion. Although Iraqi officials said the non-payment was due to a short-term budget shortfall, it serves as an example of how stretched this country's finances are.

The most serious and pressing problem is the lack of adequate security, according to Gal Luft , executive director of the Institute for the Analysis of Global Security in Washington.

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Insurgent attacks on pipelines -- more than 300 since the March 2003 invasion -- have not only cost the country billions of dollars in lost export sales but also diverted U.S. funds and manpower to repair the damage that instead would have gone to oil field recovery and expansion.

As a result of pipeline attacks, exports to the Turkey port Ceyhan via the country's northern pipeline averaged only 40,000 barrels a day in 2005, compared to an 800,000 barrels a day average that the nation hit during some months before the war.

In July , Iraq officials said attacks had cost it $11 billion in lost revenues. Kidnappings and killings of oil officials -- the country's oil minister barely escaped an assassination attempt in October -- and of oil field company workers has cooled the pace of repairs. Two German engineers were reported kidnapped Tuesday from the Beiji refining complex 155 miles north of Baghdad.

"We don't see any foreseeable improvement in security this year," said Neil Partrick, senior analyst at Economist Intelligence Unit in London.

At the same time, authorities acknowledge, the security situation has been calm around Iraq's southern oil fields around Basra, which generally accounts for more than two-thirds of Iraq's oil output.

"Even though the southern oil fields are benign, the overall security affects the perception of the government and institutions," said a U.S. official. "If the capitol is under siege, as this one appears to be, then it's difficult because you have to come here and talk to people to make those investments."

Compounding the problems, experts say, is years of neglect and damage to Iraq's oil infrastructure, some dating back more than two decades.The weaknesses range from a lack of crude oil storage facilities that were destroyed in the Iran-Iraq war in the 1980s and never rebuilt to refineries that decayed during a decade-long period of economic sanctions against Iraq. The former forces Iraq to pump oil back into the ground when pipelines are blown up or tankers are delayed, damaging the long-term viability of the reservoir. The latter means Iraq must import nearly half its gasoline and kerosene from Turkey, Iran and Kuwait.

Efforts to get the crucial Qarmat Ali water injection system in Iraq's southern oil fields back on line have lagged, after more than $225 million of U.S. funds have been spent. Injecting water into wells to fill the void created by the extraction of gas and oil is critical to maintaining an oil reservoir's life. Improvements in performance of Iraq's three oil refineries have been outstripped by continued attacks on oil pipelines that feed them, as well as on the pipelines and truck convoys that deliver their refined fuels to the consumer, said a U.S. official who asked not to be identified.

By the end of this year, the United States will have spent $2 billion in its 3-year effort to get the Iraqi oil industry back on its feet. Navy Captain Michael Sherbak, who is attached to the Iraq Project and Contracting Office, the agency leading the oil sector reconstruction effort, said the 3 million barrel a day goal was to leave Iraq at "a self-sustaining level that is adequate to help them invest in equipment and help them make their oil production more efficient." But reaching that level will require much more money and several more years, experts agree. The World Bank estimated it would take $8 billion in public and/or private to restore Iraq to 3 million barrels a day of oil production, which Iraq last exceeded in 1979, and as much as $35 billion to reach 5 million barrels of output.

Those goals seem out of reach now not just because of security issues but because of an unsettled political and legal landscape.

Four U.S. Governors Visit Troops In Iraq (AP)

By Andrew Demillo, Associated Press Writer

AP, January 25, 2006

Arkansas Gov. Mike Huckabee and three other governors are in Iraq on a surprise visit to their states' troops, his spokeswoman said Tuesday morning.

Huckabee was joined on the trip by Wisconsin Gov. Jim Doyle, Texas Gov. Rick Perry and Wyoming Gov. Dave Freudenthal, said Huckabee spokeswoman Alice Stewart.

They all left for Iraq on Sunday after receiving classified briefings at the Pentagon, she said.

"The Department of Defense set this trip up for the purpose of making these governors aware of the global war on terror," Stewart said. "It's important for the governors to be on the ground and visit with the troops."

Huckabee's first stop was at Camp Arifjan in Kuwait, where he had dinner with soldiers from Arkansas and gave an Arkansas Razorbacks team cheer.

"They called the Hogs," Stewart said. "They shared stories about their time there."

Huckabee's itinerary also included stops in various parts of Iraq and briefings by Gen. George Casey, the top U.S. commander in Iraq. He also met with U.S. Ambassador Zalmay Khalizad.

Stewart said the governor's office could not release details of Huckabee's visit earlier because of security reasons and would not say when he is expected to return.

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"This has been in the works for quite some time," Stewart said. "It's been going on for several days, but we've been restricted for security reasons."

Huckabee, a Southern Baptist minister, had been scheduled to appear at the annual March for Life anti-abortion rally Sunday but did not appear because of the Iraq trip.

Perry Visits Troops In Iraq, Urges Patience Back Home (HOU)

By Polly Ross Hughes

Houston Chronicle, January 24, 2006

AUSTIN — Gov. Rick Perry, during a surprise visit with Texas troops in Iraq today, urged Americans to remain patient despite fresh reports of a rebuilding effort mired in problems.

"Obviously, you're not going to rebuild a country overnight, but I think this is going along very well," Perry told Fox News Channel in a televised interview at 10:10 p.m. Baghdad time.

"I think it's going along about as well as it can be considering the lack of infrastructure that was here even before the war started," he added.

The Texas governor was responding to published reports that an upcoming government study will show America's $25 billion reconstruction efforts in Iraq have been complicated by understaffing, infighting, a lack of technical expertise and other problems.

Perry's trip to the Iraqi war zone, along with three other governors invited by the U.S. Department of Defense, was announced at the Texas Capitol by Lt. Gov. David Dewhurst.

Perry landed in Kuwait on Monday with Republican Gov. Mike Huckabee of Arkansas and Democratic Govs. Dave Freudenthal of Wyoming and Jim Doyle of Wisconsin, he said.

Huckabee recently tested presidential waters in a trip to Iowa while the Democratic governors, like Perry, are facing re-election this year.

Perry left Sunday after classified briefings at the Pentagon and a meeting with Defense Secretary Donald Rumsfeld, the governor's office said. He shared dinner with active and reserve troops in Kuwait before flying to northern Iraq Tuesday.

In Tikrit, Perry met with members of the Texas Army National Guard 136th Signal Battalion based in Temple, said Texas National Guard Col. Bill Meehan.

"We think that this certainly demonstrates the governor's concern to want to know what Texas soldiers are going through," Meehan said.

He noted that 3,000 Texas National Guard troops returned home in early December but another 1,000 are set to leave next summer for a year-long tour of duty.

Perry also visited the 4th Infantry Division based in Fort Hood, which has 12,000 troops serving in Iraq.

After leaving Tikrit, Perry met with military officials in Baghdad. He received briefings from the top U.S. Commander in Iraq, Gen. George Casey, and U.S. Ambassador to Iraq Zalmay Khalilzad.

"Gov. Perry is abroad this week visiting our Texas troops who are on the front lines of the war on terror," Dewhurst said, adding that Perry's itinerary will not be announced in advance for security reasons.

"In addition to raising the spirits of the men and women who are fighting abroad, this mission is intended to give the state governors who are the commanders-in-chief of the guard units a first-hand perspective on the war on terror," Dewhurst added.

The Department of Defense is picking up the cost of the governors' travels, Dewhurst said.

Air Force Major Todd Vician said the trip was coordinated by the Pentagon's office of legislative affairs. He declined to place a price tag on the trip but said the governors are flying on military airlifts and will be dining in military mess halls as part of the experience.

This is the first in what Dewhurst said will be a series of trip to Iraq by state governors. It is not yet clear how many of the 50 governors eventually will choose to go.

Michael Hedges from the Chronicle's Washington Bureau contributed to this story.

Iraq's Sunnis Urged To Defend Themselves (WP)

By Ellen Knickmeyer

The Washington Post, January 25, 2006

BAGHDAD, Jan. 24 -- One of Iraq's leading Sunni Arab political parties Tuesday called on members of the Sunni minority to defend themselves "by all suitable means" against death squads allegedly linked to the Shiite-led government after another in a months-long series of mysterious, deadly roundups targeting Sunni men.

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Also Tuesday, armed men in military uniforms seized two German engineers from a car in the northern town of Baiji, news services reported. The German government confirmed that two young men from Leipzig had been kidnapped and said a special crisis team had been sent to Iraq to deal with the matter, according to the Associated Press.

The warnings by the Iraqi Islamic Party were issued a day after gunmen -- some dressed in Interior Ministry uniforms, witnesses said -- sought out and killed three Sunni men and took away more than 50 others in a mixed Sunni and Shiite neighborhood of Baghdad.

Some Sunni men on Tuesday spoke of leaving the Tobchi neighborhood to escape more roundups. Others said they would barricade themselves inside their homes with guns.

"We are all brothers. We never had any fears before," Ibrahim Taha, a resident of what was one of Baghdad's more peaceful areas. "But now, the neighborhood looks like it's empty. We're all staying inside our houses quietly.

"God saves us," Taha said. "We have no power to save ourselves."

Bodies of scores of Sunni men, many of them handcuffed and shot in the back or the back of the head, have been found across Iraq since Shiite religious parties took power in April. Witnesses, including at least one U.S. military unit who officers say witnessed a roundup of men later found dead, say the victims were detained by men in uniform.

Interior Ministry police and commando units are dominated by former members of the Shiite parties' militias.

Shiite religious party leaders and Interior Minister Bayan Jabr have repeatedly denied that Shiite police are operating death squads, maintaining that the uniformed men are criminals who obtained police uniforms.

On Tuesday, the Iraqi Islamic Party said in a statement that men in police uniforms had attacked the Tobchi neighborhood "as wolves." Uniforms of the Interior Ministry are now known as "the dress for killing and crimes," the party's statement said.

"We urge the people to be aware and cautious of these criminal gangs, which the government has denied any connection to, and stop them and defend one's self, goods and honor by any suitable means," the party statement said.

In the southern, heavily Shiite city of Basra, hundreds of British and Danish troops raided the homes of Iraqi policemen Tuesday, arresting several "influential members" of the police force, a British military spokesman, Maj. Peter Cripps, told the Reuters news agency.

Testimony In Saddam Trial Delayed (KRT)

By Dogen Hannah

Knight Ridder, January 25, 2006

BAGHDAD, Iraq - Saddam Hussein's problematic murder trial hit another hole in the road Tuesday when the court, citing missing witnesses, postponed resuming the historic proceeding until Sunday.

Court officials said the missing witnesses were still on their religious pilgrimage to Mecca in Saudi Arabia or had just returned and couldn't reach Baghdad in time. They denied reports that the delay was the result of a dispute among judges over who should preside at the trial.

"Since some of the complainants and witnesses are currently outside Iraq for pilgrimage, the court has decided to delay the hearing until Sunday," court spokesman Raed Juhi said Tuesday about four hours after the trial was to have resumed.

The delay raised more questions about the competency and credibility of the Iraqi High Tribunal to try the deposed dictator and his seven co-defendants. Several delays and controversies have beset the trial since its opening session Oct. 19.

Since then, the trial has convened for only six sessions. Tuesday would have been the seventh, and the first presided over by Raouf Rasheed Abdel-Rahman, who was tapped at the last minute to replace Judge Rizgar Mohammed Amin, who quit amid criticism that he'd failed to stop Saddam and other defendants from controlling the proceedings.

Reports circulating here laid Tuesday's delay to judges fighting Abdel-Rahman's appointment, but Juhi, in an interview with Knight Ridder late Tuesday, said there was no dispute over the appointment. "On the contrary, Judge Raouf is running the court, and he is the one who decided to delay the session."

Chief prosecutor Jaafar al-Musawi also said the delay resulted from missing witnesses.

Defense attorneys said the delay underscored the tribunal's inability to provide Saddam with a fair trial.

Tuesday isn't the first time the proceeding has sparked controversy. Two defense attorneys have been killed, and Abdel-Rahman got the presiding judge post only after the court passed over Amin's deputy, Judge Sayeed al-Hammash, when he was accused of being a former member of Saddam's Baath party, which he denied.

Saddam, a Sunni Muslim, and his co-defendants are accused of killing almost 150 people after the 1982 attempted assassination of the former dictator in Dujail, a predominantly Shiite Muslim city. If convicted, the defendants could be sentenced to death.

Troubled Saddam Trial Postponed Again (REU)

DOJ_NMG_0011477

By Michael Georgy and Alastair Macdonald

Reuters, January 24, 2006

BAGHDAD (Reuters) - The trial of Iraq's Saddam Hussein was delayed again on Tuesday after a series of twists that prompted his lawyers to challenge the proceedings, arguing that politicians are manipulating the U.S.-sponsored court.

A court spokesman said the postponement to Sunday was due to witnesses failing to appear, but Saddam's lawyer called that an excuse to cover up chaos following the resignation of the chief judge, who complained of government meddling, and allegations that the judge's deputy had ties to the ousted Baath party.

"It's not true the witnesses did not show up ... There were three witnesses ready to deliver their testimony," lead defense attorney Khalil al-Dulaimi told Reuters. "This is just an excuse to cover up the state of turmoil and chaos in the court.

"The court is in disarray ... after the resignations of the judges and enormous political interference."

Another defense lawyer told Reuters the new chief judge, Raouf Abdul Rahman, who was appointed only on Monday, had chosen to scrap the hearing, the first in a month, when Dulaimi refused to defer procedural motions to the end of the session.

"The bench felt things would get out of hand if the session went ahead so they postponed it," Khamees al-Obeidi said.

After reporters had waited for four hours without word for the hearing to begin, High Tribunal spokesman Raed Jouhi emerged to announce: "Some witnesses are abroad, so the 1st Trial Chamber decided to delay the session until Sunday, January 29."

Some of the witnesses, he said, were on the haj pilgrimage, which ended in Mecca about 10 days ago. Jouhi would not say when the court had learned they would be unable to attend. Officials had confirmed late on Monday the hearing would go ahead.

QUESTIONS

Some human rights groups have criticized the former U.S. occupation authority's decision to try Saddam and his aides in Iraq rather than in an international court. They say subsequent events have reinforced their view that sectarian and ethnic conflict make a fair trial in Baghdad hard to achieve.

Former U.S. attorney general Ramsey Clark, in Baghdad again on Tuesday as part of the defense team, said on Sunday he would press for proceedings to be halted, calling them illegal.

When the trial opened on October 19, presiding judge Rizgar Amin said witnesses were too afraid to appear. The next day, a defense attorney who had been seen on television was killed by men claiming to be from the Interior Ministry. A second defense lawyer was also later killed. Another was wounded and fled Iraq.

After numerous delays, the case made some progress last month. Witnesses, many testifying behind a screen with their voices disguised, recounted horrors that befell the people of the Shi'ite town of Dujail after gunmen tried to kill Saddam there in 1982 -- 148 were killed, others tortured and jailed.

The hearings also gave Saddam and some of the seven other defendants a platform to rail against the court's legitimacy, prompting criticism of Amin, a Kurd from the autonomous north.

He then cast the proceedings into turmoil two weeks ago by resigning and complaining of pressure from the Shi'ite-led government to crack down on Saddam and speed up the process.

More problems followed after Amin's deputy on the five-man bench was named to succeed him. The independent Debaathification Committee accused Sayeed al-Hamashi, a Shi'ite, and 19 other court officials of belonging to Saddam's Baath party.

He denied it but on Monday the court named another Kurd, Abdul Rahman, to take over. The new chief judge hails from Halabja, where 5,000 people died in a gas attack in 1988, a case that will be the focus of a likely future trial for genocide.

U.S. officials involved in the trial have defended the court this week, saying it was making progress and could finish the first trial by late May. Half a dozen or more other cases could take years to complete, however, they added.

Many Shi'ites and Kurds, oppressed under Saddam for decades, are keen to see the 68-year-old former leader hanged quickly.

Dozens of students from religious colleges demonstrated in the Shi'ite holy city of Najaf on Tuesday urging his execution.

(Additional reporting by Suleiman al-Khalidi and Ahmed Rasheed)

Hussein Trial Halts Again, Setting Off Wave Of Criticism (WP)

By Ellen Knickmeyer

The Washington Post, January 25, 2006

BAGHDAD, Jan. 24 -- After months in which three different men have been named head judge, two defense attorneys killed and one court session held without the vituperative lead defendant -- all played out under intense political pressure -- the trial of Saddam Hussein ground to a halt again Tuesday amid growing accusations that the U.S.-dominated tribunal was failing.

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Repeated delays, including defense boycotts over the killings of the attorneys, have limited the Iraqi High Tribunal to eight days of hearings in the trial of Hussein and seven co-defendants, which began Oct. 19. The limited proceedings have been dominated by the defendants' courtroom outbursts.

Tuesday's hearing was to have been the first session in roughly a month, but chief investigating judge Raeed Juhi announced four hours after the scheduled start of the hearing that the court had canceled the week's sessions after learning that some witnesses were out of the country on pilgrimage to Mecca. The annual Islamic pilgrimage ended more than a week ago.

The tribunal set another hearing for Sunday to try to summon the witnesses, and chief prosecutor Jaafar Mousawi said the court was still viable. "A three- or four-day delay wouldn't affect the trial or its legitimacy," Mousawi said by telephone.

Reaction from Hussein's attorneys and specialists in war crimes tribunals were scathing.

"There is a legal crisis inside the tribunal, and the trial is not going in a normal course," Khamis Obeidi, a member of Hussein's defense team, told the Associated Press.

"There's too much violence in the country, there's too much division and too much pressure on the court," former U.S. attorney general Ramsey Clark, the most vocal of Hussein's lawyers, told CNN. "The project ought to be abandoned. It was a creature of the United States in the first place."

"I don't know what's going on over there, but I certainly smell a rat," said David Crane, an American who was chief prosecutor for a U.S.-backed war crimes court in Sierra Leone.

"This is a setback," Crane said by telephone from the United States. "One of the monsters of the 20th century is going to be tried by a faltering extrajudicial tribunal.

"I fear this is going to be a bad example -- you have to show the rule of law is the cornerstone of any democracy. If there's a lack of respect for the law, we're off to a shaky start."

"An embarrassment," Leila Sadat, a Washington University law professor who helped train Hussein's judges, said in a telephone interview. "The American government, I think, has been extraordinarily naive to try to push for an Iraqi trial in an Iraqi court in the middle of civil war using international or American law."

The only clear hope for calm, secure proceedings is for Iraq to move the trial somewhere else in the Middle East, with or without U.S. approval, Sadat said. If Iraq and the United States keep the trial in place, she said, they should look at the option proposed by Iraqi President Jalal Talabani.

"They reopen the trial really quickly, and they execute him really quickly," she said. "It sounds terribly cruel, but they can't go on like this indefinitely. It's becoming nothing but a shambles."

Talabani, an ethnic Kurd and former rebel leader, drew criticism late last year for saying the evidence already presented against Hussein warranted his hanging.

In the Shiite holy city of Najaf, scores of men and women -- most of them religious students -- rallied Tuesday to demand a better trial and a speedy execution.

"The court has been an auditorium for the political speeches of Hussein and his political henchmen," said Ali Abdul Hussein, 29, a student at Najaf's Islamic University.

"We want this court to be an Iraqi one," added Hussein Ahmed, 26, another student at the university. "Iraqis still feel the pain caused by Saddam. The court shouldn't be American."

"We want to see him and his men hanged in the streets," said Amina Hasan, a 66-year-old woman who said her 22-year-old son was executed by Hussein's government.

The United States has made the prosecution of Hussein -- accused of presiding over the killings of hundreds of thousands of Shiites and Kurds -- one of its priorities since U.S. troops invaded Iraq in 2003. The Bush administration spent hundreds of millions of dollars of a $18.4 billion reconstruction package for Iraq to exhume mass graves and gather forensic evidence. It refurbished courthouses, trained Iraqi judges and provided most of the security for the courts. Americans drafted many of the statutes under which Hussein and his associates are being tried.

Though the United States is a strong opponent of the International Criminal Court, the administration's critics say it should have ensured adequate credibility and help for the Iraqi tribunal by making it international or, at a minimum, moving the trial out of Baghdad.

International qualms about the legality of the proceeding, and about the death sentence that Hussein could face if convicted, have left the United States virtually alone in shepherding his prosecution by the Iraqi government. A U.S. official in Baghdad confirmed last weekend that only the United States and Britain had contributed experts to advise the court on how to prosecute governments for war crimes and other such matters.

The official did not say how many British advisers were taking part; Britain, like other countries, has expressed reluctance to help in the case because it is a capital one.

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The U.S. Embassy and the U.S. Regime Crimes Liaison Office run much of the day-to-day arrangements for the trial. Plainclothes security workers, many of them Americans, and Iraqi soldiers guard the turreted, fortress-like former Baath Party headquarters in the American-held Green Zone where the trial is playing out.

The five-member panel hearing the case was thrown into confusion after the trial's last session, on Dec. 22. Chief judge Rizgar Mohammed Amin resigned, complaining of criticism from politicians in Iraq's Shiite-dominated government that he was not reining in Hussein.

The government objected that the judge named to replace Amin had ties to Hussein's Baath Party. He was abruptly removed, and a Kurdish judge from a northern town where Hussein's military is alleged to have killed thousands with poison gas was named on Monday.

Two judges in the tribunal told the Associated Press that the collapse of Tuesday's hearing was due to more wrangling about the head judge's spot, not because of the pilgrimage to Mecca.

Asked what the problem was, one of the judges told the Associated Press, "Matters are not in our hands." He did not elaborate. The news service did not identify the judges.

A U.S. Embassy spokesman did not immediately respond to a request for comment Tuesday.

This past weekend, the U.S. official knowledgeable about the trial maintained that the Iraqi High Tribunal "is an independent organization" and not run by Americans.

Outbursts by Hussein and his co-defendants actually were providing more evidence against them, the official said. And despite the delays, he said, the court had heard testimony from 14 witnesses on atrocities in the eight days of hearings.

Michael Scharf, another U.S. law professor who helped train the judges and a defender of the proceedings here, called that "a very efficient pace even by American judicial standards." Scharf posted his comment on a Web log set up by Case Western Reserve University School of Law.

Special correspondent Saad Sarhan in Najaf contributed to this report.

Trial Judge Dispute Delays Saddam Trial (LAT)

By Richard Boudreaux, Times Staff Writer

The Los Angeles Times, January 25, 2006

BAGHDAD — Embroiled in a leadership crisis, the Iraqi high tribunal abruptly postponed a scheduled resumption of Saddam Hussein's trial today amid bickering among its judges over the surprise appointment of a new chief of their trial panel.

After a morning of divisive, closed-door exchanges among the five trial judges, the tribunal's spokesman issued a terse announcement of the five-day delay, citing the absence of witnesses who were to testify this week but supposedly had not yet returned from the hajj pilgrimage to Saudi Arabia.

One of the trial judges, Hussein Moussawi, said the official explanation was "just an excuse" to give the judges time for "long discussions" needed to resolve issues surrounding a shakeup of their panel, which lost two members during the monthlong recess that was to end Tuesday.

Moussawi would not elaborate, but other court officials, who spoke on condition of anonymity, said the trial panel was sharply divided over whether to accept the designation Monday of Raouf Rasheed Abdel Rahman as its temporary leader.

Hussein's lawyers seized on the turmoil, calling it a symptom of political pressures on the U.S.-created court to speed up the trial and convict the deposed dictator and seven co-defendants.

"I don't know if they'll ever get their act together. I don't think they can," former U.S. Atty. Gen. Ramsey Clark, who is here as part of the defense team, told CNN. "There's too much violence in the country, too much division, too much pressure on the court.… The project ought to be abandoned."

Saddam Trial Delay Angers Defence Lawyers (FT)

By Steve Negus, Iraq Correspondent, And Agencies

Financial Times, January 25, 2006

The trial of Saddam Hussein was delayed again yesterday reportedly because members of the tribunal hearing the case against the deposed president objected to the appointment of a new chief judge.

The cancellation suggests that what was already a troubled process might be breaking down even further amid differences over whether it is to be a showcase for justice in post-Hussein Iraq or simply to bring swift retribution.

The development leaves the trial struggling to maintain an appearance of independence as it comes under criticism from senior Shia leaders and defence lawyers.

After waiting for hours for hearings to begin, reporters were informed by Raed al-Juhi, chief prosecutor, that the trial had been postponed until Sunday as some of the witnesses were still outside Iraq following the hajj pilgrimage.

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However, the Associated Press reported that two members of the five-member tribunal had in fact said that the judges were arguing over the replacement of Rizgar Amin, former chief justice .

Mr Amin, until recently the public face of the trial, tendered his resignation on January 15 after being criticised for moving the trial too slowly and for being too lenient on Mr Hussein and his seven co-defendants, who have interrupted proceedings numerous times with political outbursts.

Mr Amin was initially scheduled to be replaced by his deputy justice, Saeed al-Hammash, but the latter was withdrawn from the panel after a government commission charged with purging Ba'athists said that he should not serve because he was once a member of Mr Hussein's former ruling party.

Less than 24 hours before the trial was scheduled to begin, Iraqi officials announced that a third judge who came from outside the tribunal, Raouf Rasheed Abd al-Rahman, was taking over.

The tussle over the chief justice led to calls yesterday from some in Mr Hussein's defence team for the trial to be moved to international jurisdiction.

"This is just an excuse to cover up the state of turmoil and chaos in the court," Khalil al-Dulaimi, lead defence attorney, told Reuters, speaking about the delay.

Hussein's Trial Is Abruptly Postponed (NYT)

By Robert F. Worth

The New York Times, January 25, 2006

BAGHDAD, Iraq, Jan. 24 - The court trying Saddam Hussein abruptly postponed the trial's resumption today, an announcement that appeared related to behind-the-scenes conflict among the judges.

The postponement, coming a day after a new chief judge was appointed in a last-minute shake-up, is the latest troubling sign in a trial that has been marred by delays, assassinations and accusations of political interference since it began more than three months ago.

Raid Juhi, a judge and spokesman for the tribunal, said today that the hearing was being delayed until Sunday because some witnesses and complainants were out of the country, making a pilgrimage to Mecca.

But the announcement came at midday, after reporters and observers had been waiting more than four hours for the trial to start, and it was not clear why the absence of some witnesses would not have been apparent to the authorities much earlier. The trial adjourned on Dec. 22, in part to allow for the pilgrimage.

A judge on the tribunal said he believed today's delay was related to disagreements among the judges over the replacement of Rizgar Muhammad Amin, the Kurdish judge who has presided over the trial until now.

Judge Amin resigned earlier this month, and had been scheduled to be replaced by his deputy on the five-judge panel that is trying Mr. Hussein, Said Hammash. But Judge Hammash was passed over after the commission charged with removing former high-level members of Mr. Hussein's Baath Party accused the judge of having been a Baathist.

That decision - an apparent concession to outside pressure -- caused some dissension that lingered on the panel today, said the judge, who belongs to a different panel on the tribunal. The judge asked not to be named, saying he was not authorized to speak publicly about the court.

The dispute suggested that the tribunal, for all its nominal independence, is vulnerable to the same divisions over Iraq's Baathist past that have plagued the rest of Iraqi society.

Judge Hammash has said he was never a member of the Baath Party, and the office of Prime Minster Ibrahim Jaafari has said the tribunal is not subject to the rulings of the de-Baathification commission. The law creating the Iraqi High Tribunal, passed last year, bars any former Baathist from serving as one of its judges. But that provision has been interpreted to refer only to high-level Baathists, since most members of the legal profession were obliged to join the party, said an American official close to the tribunal.

The postponement came as American military officials said two American soldiers were killed on Monday when a roadside bomb struck their convoy in southeastern Baghdad. West of the capital, two marines were killed in an accident, officials said.

Insurgents launched a number of attacks across Iraq today. North of Baghdad, gunmen shot and killed Zamil Mula Chiad, a sheik of the Janabeen tribe, and injured his son as they drove to Beiji, said a spokesman for the governor of Salahuddin Province.

In the northern city of Mosul, a suicide bomber detonated his car near an American military patrol, but without causing any injuries, the police said. In Basra, far to the south, a roadside bomb exploded near a British patrol, injuring four civilians, police officials said.

Near Kirkuk, a major pipeline that carries crude oil north to Turkey was shut off today after a major fire broke out, officials of the Northern Oil Company. Insurgents have often attacked the pipeline, which runs to Turkey's Jehan harbor, cutting down on

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Iraq's oil exports. But Col. Muhsin Abdullah, the commander of the Iraqi Army division responsible for protecting oil lines in the area, said it was not yet clear whether the fire was caused by an accident or deliberate sabotage.

Sentence In Death Of Iraqi Angers Son (WP)

By Josh White

The Washington Post, January 25, 2006

Mohammed Mowhoush, the son of an Iraqi general who died in U.S. custody in late 2003, assailed the U.S. military yesterday for imposing a reprimand instead of prison time for an Army interrogator convicted in connection with his father's death, saying the United States has not properly administered justice.

Speaking by telephone from Iraq, Mowhoush, 18, decried the military jury's sentencing this week of Chief Warrant Officer Lewis E. Welshofer Jr. He emotionally recounted his own arrest and seeing his father shortly before he died in an interrogation room in northern Iraq.

A military jury convicted Welshofer of negligent homicide late Saturday, after hearing evidence that he was using an aggressive interrogation technique on Maj. Gen. Abed Hamed Mowhoush when the general stopped breathing.

"His punishment is not justice," Mohammed Mowhoush said in English, speaking to reporters on a conference call. "He must be punished more harder. At least 40 years."

Welshofer apologized at a sentencing hearing Monday, saying he hoped his actions had not tarnished the soldiers in Iraq. His attorney argued that Welshofer was using an approved interrogation tactic and worked with only murky guidance and policies from officials in Baghdad. His sentence was much lighter than those given to some soldiers convicted of abusing detainees at the Abu Ghraib prison.

Abed Mowhoush was taken into custody in November 2003 and was subjected to harsh interrogations that included beatings and unusual techniques. He died while stuffed into a sleeping bag, wrapped in a cord, and with Welshofer straddling his chest. U.S. officials believed he was a major figure in the insurgency around Qaim, Iraq, but had a hard time getting him to talk.

Mohammed Mowhoush yesterday recalled his own arrest on Oct. 27, 2003, when he and his three brothers were taken from their Qaim home as U.S. forces searched for his father. Mohammed, then 15, said U.S. troops arrived in the early morning darkness with helicopters and armored vehicles, and demanded to see his father.

"They said if my father did not come and give up, they will send us to Guantanamo," Mowhoush said, adding that he and his family had been observing Ramadan, but that his father was not home at the time. "That celebration turned into a real tragedy for us. They said if my father does not come, you will never see your family back."

Arresting someone to entice relatives to turn themselves in is considered by human rights organizations to be a form of hostage-taking. It is considered illegal in wartime but military investigative documents reveal it has occurred in Iraq.

Mowhoush said he and his brothers were taken into custody and interrogated for days, with U.S. officials accusing them of carrying out roles in the insurgency. He said he was told they believed he was a sniper, though he said he knew nothing about the war. He and his brothers were not charged with crimes.

Mowhoush said U.S. troops took his clothes off, poured cold water on him, beat him, and made him get into uncomfortable and painful "stress positions," as they are known in the military.

His father later surrendered in an attempt to free his sons, according to classified documents. The military began to use the sons against the general, Mohammed Mowhoush said. After about 28 days in prison, the younger Mowhoush said, the Army brought the general to an old train depot outside of Qaim -- a temporary detention facility nicknamed "Blacksmith Hotel" -- to pressure him to talk.

"He was tired and I saw wounds on his body, and he was tired because they hit him so much, they made a lot of pain on him and he couldn't even talk to me," Mowhoush said, describing how he was briefly reunited with his father.

It was about that time that Abed Mowhoush had been beaten by Iraqi paramilitaries code-named "Scorpions," who were working with the CIA, according to classified documents. Mohammed Mowhoush said he saw some masked Iraqis at the prison, and said at one point they escorted him into a room near where his father was being interrogated. He said they yelled at his father and told him that if he did not tell the truth, they would execute his son.

"We expected that my father would die because of the treatment," Mowhoush said. "We were young boys -- we can handle anything. But my father was an old man -- he can't handle the treatment."

Human Rights First, an advocacy organization based in New York, organized the conference call with several reporters. David Danzig, director of the group's "End Torture Now" campaign, said he is concerned about Welshofer's sentence and about the treatment of Mowhoush's sons. "It is yet another disturbing set of evidence that suggests all kinds of illegal activity was taking place," Danzig said.

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Mohammed Mowhoush said he and his brothers want to sue Welshofer for his role in their father's death. Mowhoush said he has nothing against the American people but harbors ill feelings for the U.S. Army. "We want justice to be done," he said.

Mild Penalties In Military Abuse Cases (LAT)

By Nicholas Riccardi

The Los Angeles Times, January 25, 2006

DENVER — Soldiers prosecuted in the abuse or even deaths of detainees rarely have paid a heavy price, an indication of the difficulties the U.S. military has had sorting out right from wrong during the war on terrorism, human rights groups and military lawyers say.

A report to be released next week by Human Rights First has found that service members were disciplined in 12 of the 33 cases in which detainees' deaths were ruled homicides. Often that punishment was relatively mild, as was the case for Chief Warrant Officer Lewis E. Welshofer Jr.

Charged with murder in an Iraqi general's death during an interrogation session, Welshofer was convicted last week of lesser offenses. On Monday, a jury of six Army officers at Ft. Carson, Colo., ruled that instead of serving jail time and being forced from the military, Welshofer would receive a formal reprimand, forfeit $6,000 of his salary and spend 60 days restricted to his home, office and church.

It was the latest in a growing list of setbacks for military prosecutors.

Last year, a jury acquitted a Navy SEAL in the beating of an Iraqi detainee who later died in CIA custody. And of 15 soldiers serving in Afghanistan whom the Army has disciplined for abuse at a jail where two detainees died, three were acquitted and none has received more than five months' jail time.

There is no complete independent tracking of military abuse prosecutions. But observers say the stiffest sentence appears to have gone to Spc. Charles A. Graner Jr., convicted of torturing but not killing detainees at Abu Ghraib prison in Iraq. He is serving 10 years in a military prison.

"It's telling that the person who got the most time was the one all over television," said Jumana Musa, an official with Amnesty International. "The less in the news, the lighter the sentence seems to be."

Frank Spinner, Welshofer's lawyer, said the lighter sentences were a reaction to overzealous prosecution of service members who were trying to protect the U.S.

"When you're going to send our men and women over there to fight and put their lives on the line," Spinner said, "you've got to back it up. You've got to give them clear rules and you've got to give them the room to make mistakes and not treat them like a criminal."

Experts in military law and other monitors note that every case is different, but say there are a variety of reasons for the difficulty in punishing service members for detainee abuse.

Because the Bush administration repeatedly has shifted regulations on detainee treatment, it is difficult to hold soldiers accountable for violating standards, experts say. And with combat raging in Iraq, many accused soldiers have made the argument that they are trying to save lives and are not criminals.

The presence of intelligence agents during some of the alleged brutality also makes juries less likely to place all the blame on soldiers. And in some cases, key pieces of evidence have been lost, hindering prosecution.

Finally, soldiers make sympathetic defendants during wartime, said Eugene R. Fidell, a longtime military lawyer and president of the National Institute of Military Justice in Washington, which tracks legal issues in the armed services.

"Is there a question as to whether it's a hard sell for a military jury to hammer somebody?" he asked rhetorically.

Besides, Fidell said, "we're not alone in this." He cited the case of five Danish soldiers convicted of abusing detainees in Iraq. Last week, a Danish court refused to sentence them to prison because they'd been given unclear interrogation orders — almost the identical defense Welshofer used to avoid jail time.

During a Tuesday conference call arranged by Human Rights First, the dead Iraqi general's son, Mohammed Mowhoush, said Welshofer's sentence was too light.

"This judgment is not fair," he said. "This man, Lewis Welshofer, killed someone and he must be punished more harder than that."

In Washington, presidential spokesman Scott McClellan said Welshofer's sentence did not indicate that the U.S. was lax about punishing its own. "When there is wrongdoing or abuse, people are held to account, and we have seen that time and time again," McClellan told reporters. "This country holds people to account if they don't follow the law — if they don't follow the rules that are in place."

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Welshofer and his lawyer argued in court that there were no clear rules on interrogation in Iraq during much of 2003, and that the interrogator believed that binding captives in a sleeping bag to induce claustrophobia was allowable under a set of techniques that the U.S. commander in Iraq had approved.

On Nov. 26, 2003, Maj. Gen. Abed Hamed Mowhoush, the suspected leader of the insurgency near the western Iraqi town of Qaim, died in a sleeping bag while Welshofer straddled his chest and occasionally covered his mouth to silence him.

Three members of the six-officer jury had served in Iraq, and arguments that Welshofer, a 19-year veteran, was trying to save lives by getting information out of the general appeared to sway the panel.

That's to be expected, said Walter Huffman, dean of Texas Tech's law school and the Army's former top lawyer, given that military juries these days are drawn from officers who likely served on battlefields in the war on terrorism.

"Persons who are charged with committing an act during that time, in front of a jury that's been there, are more likely to be given the benefit of the doubt … than if they committed the same offense at Ft. Hood, Texas," he said.

Huffman pointed out that military juries tended to consist of educated officers who were experts in procedure. But he joined other observers in saying that the administration's findings that the Geneva Convention did not apply to some combatants during the war on terrorism could have made juries sympathetic to soldiers who argued that they were trying to sort out the right behavior amid unclear standards.

"Juries are being presented a real mixed bag of evidence, where on one hand the person before them bears some direct responsibility for the crime that is committed, but on the other hand they're hearing evidence that this person was operating under either unlawful orders or mixed messages about what sort of job they were supposed to be doing," said Deborah Pearlstein, director of the U.S. law and security program at Human Rights First in New York.

Another roadblock for prosecutors, Pearlstein said, is that the military sometimes has been careless in handling evidence. For example, a military autopsy found that an Iraqi detainee had been strangled to death at a Marine holding camp in south-central Iraq in June 2003, but the corpse was left at the Baghdad airport and irreparably damaged. According to excerpts from the Human Rights First report, most Marines charged in the death had their cases dismissed because of the destroyed evidence.

The CIA's role in some of the abuse also has complicated prosecutions. Last year, a jury of naval officers acquitted Lt. Andrew K. Ledford of charges that he'd led a brutal beating of an Abu Ghraib detainee who later died in CIA custody. Ledford and other SEALs were photographed with the detainee, but his lawyer, Spinner, argued at trial that the CIA had to be called to account for the death.

Spinner faced a similar dynamic at Welshofer's trial. Evidence showed that two days before he died, Welshofer's prisoner was beaten by reported CIA contract workers in the presence of a possible CIA agent.

"Something occurred in that courtroom that indicated to the jury that this guy was not doing this all by himself," said Scott L. Silliman, a Duke University law professor and former Air Force lawyer. "In future trials, I think you're going to see this CIA presence raised."

Two German Engineers Kidnapped In Northern Iraq (USAT)

USA Today, January 25, 2006

BAGHDAD — Gunmen wearing military fatigues seized two German engineers in northern Iraq on Tuesday in the latest kidnapping that pushed a foreign government into a desperate race to free its nationals.

The German government confirmed that two men from Leipzig were kidnapped and said a special crisis team was sent to Iraq to deal with the matter.

Foreign Minister Frank-Walter Steinmeier said Berlin is doing “everything in our power so that … the hostages will be returned to us safely.”

More than 250 foreigners have been kidnapped in Iraq since the 2003 U.S.-led invasion that toppled Saddam Hussein, and at least 39 have been killed.

The hostages worked at an Iraqi state-owned detergent plant, near the oil refinery in Beiji, 155 miles north of Baghdad. German media said they were employed by a manufacturing and engineering company involved in Iraq since before the war began in 2003.

Police Capt. Falah al-Janabi said gunmen using two vehicles and wearing military uniforms grabbed the Germans as they arrived for work by car.

Sectarian tensions, meanwhile, flared in separate regions of the country. Hundreds of Shiite Muslims in the southern city of Basra demanded British troops free Iraqi policemen arrested Tuesday in connection with multiple militia-linked assassinations.

In the northern city of Samarra, about 1,000 Sunni Arabs marched to condemn the execution-style killings of 31 Sunnis abducted last week on their way home by bus after being rejected for admission to a Baghdad police academy. Protesters demanded government action to find those who killed the men, whose bodies were dumped in remote farmland.

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In Basra, the Shiite crowd massed after British and Iraqi forces detained 14 men Tuesday. The detainees, including at least five policemen, are suspected of involvement in multiple killings and kidnappings of local residents and other police forces. The British military said it received Iraqi Interior Ministry authority to arrest the men, nine of whom were later released.

Also Tuesday:

·Car bombs and mortar fire rumbled in Baghdad ahead of the planned resumption of Saddam Hussein's trial in the 1982 killing of more than 140 Shiite Muslims. After nearly a five-hour wait for the start of the court session, the trial was postponed until Sunday.

·The U.S. military said four American military personnel were killed in separate incidents Monday: two soldiers in a Baghdad roadside bombing and two Marines in a vehicle accident west of the capital.

Injured Soldier 'A Beacon Of Hope' (WT)

By Maya Alleruzzo

The Washington Times, January 25, 2006

BALAD AIR BASE, Iraq -- The powerful legs that carried him through battle lay stretched before him, motionless underneath a blanket. The broad shoulders and bulging forearms that once easily carried an 80-pound machine gun lay limp at his sides. Somewhere in Iraq, those who tried to kill him wait to finish the job.

Capt. Furat, 28, struggles to sort out a life that was shattered Christmas Day in an ambush by gunmen disguised as Iraqi soldiers while he was visiting his family.

His wounds are slowly beginning to heal. The surgical staples holding his abdomen together are gone.

He somehow survived the destruction of 12 bullets, but one of them cut through his spinal cord, leaving him paralyzed from the waist down.

"I am a dream. My future is very dark. These are the legs of Captain Furat," he said.

Other wounds include a bullet-shattered arm. They will heal but the paralysis is permanent. His family and doctors are searching for a solution to the next hurdle.

Normally, once an Iraqi patient is stable, he is transferred to a local hospital for follow-up care. But the news of Capt. Furat's survival traveled quickly through Muqdadiyah.

His family fears the killers will finish the job when he leaves this heavily guarded American base for a local hospital protected only by a few Iraqi policemen.

Col. Elisha Powell, commander of the 332nd Expeditionary Medical Group that runs the hospital, said Capt. Furat will stay there until he recovers.

The Air Force Theater Hospital in Balad is the busiest field hospital in Iraq. It consists of a sea of tents that house everything from state-of-the art operating rooms to patient wards with up to 10 beds per tent.

96 percent survive

"If you come here alive, you have a 96 percent chance of leaving here alive," said Col. Powell.

Americans typically are stabilized and flown to Landstuhl Regional Medical Facility in Germany for follow-up treatment, then on to the United States.

Though 70 percent of patients here are Americans, the hospital also treats Iraqi security forces and civilians.

Iraqis like Capt. Furat are usually transferred to Iraqi hospitals or sent home when they are well enough.

Now that he is stable, he will need to learn to use his arms and upper body to lift himself and use a wheelchair. But before that can happen, his right arm must heal, and that could take up to eight months.

"He doesn't fit the typical patient that we usually see," said Lt. Col. Jim Keeney, one of the hospital's orthopedic surgeons.

He fought the enemy

A decorated officer with the 2nd Battalion of the 2nd Brigade of the 5th Iraqi Army Division -- also known as the Tiger Battalion -- based at Camp Falloc, 54 miles northeast of Baghdad, Capt. Furat loves Iraq and fought its enemies with a passion that won praise from American and Iraqi troops.

U.S. soldiers of Task Force 1-30 who worked with Capt. Furat often called him "Rambo"; he could wield an 80-pound machine gun and belts of ammunition as if carrying an Uzi.

"To me he is a superhero," said 1st Lt. John Newton of Hague, Va., from the 1st Battalion of the 30th Infantry Regiment of the 3rd Infantry Division, who wept at Capt. Furat's bedside hours after the attack.

"He was fearless under fire," said Lt. Col. Roger Cloutier, commander of Task Force 1-30, from Fort Benning, Ga.

Few visits home

Capt. Furat, who uses only his given name because of continued threats to his family, rarely visited home for the same reason. When not on patrol or other missions, he stayed on base while other soldiers saw their families for brief periods.

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His commander, Col. Theya Abd Ismael Al-Tamimmi, warned him not to go home. But his family wanted to see him, and on the weekend of Dec. 23, he went.

"He was out on vacation with no security and they got him," said Col. Cloutier, whose men share a home base with the Tiger Battalion. "He was a wanted man."

Capt. Furat brought along Sgt. Hussein, 21, a fellow soldier in the Dali Abbas Company of the Tiger Battalion. As they drove back to base, a red Opel station wagon blocked their path. Three masked gunmen in Iraqi Army uniforms opened fire.

One attacker killed

At first, Capt. Furat did not shoot back because of the uniforms. He killed one of his attackers. Three civilians caught in the crossfire also died and Capt. Furat and Sgt. Hussein were severely wounded -- Sgt. Hussein with nine bullets to his leg and arm. Capt. Furat took 12 shots.

They were taken to the American field hospital at nearby Base Normandy and then by helicopter to the Air Force Hospital for surgery. As doctors worked to save their lives, they managed to give enough information for Iraqi soldiers to raid the ambush site and arrest two men involved in the attack.

On the operating table, a damaged kidney was removed from Capt. Furat and a metal plate was used to repair his right forearm, hit by a bullet. A computer-assisted-tomography scan revealed how much more damage one of the bullets did.

"We knew at the time it had crossed through his spinal cord," said Maj. Alan Murdock. "Once they're cut, nerves don't usually regenerate."

For two days, Capt. Furat would be under heavy sedation and connected to a ventilator.

Soon, the doctors would have to tell him the news.

Devastating word

"I was very straightforward with him about what to expect: That he'd be in a wheelchair," said Maj. Jeffrey McNeil, a cardiothoracic surgeon.

"It's kind of like a professional athlete having a career-ending injury," said Lt. Col. Jim Keeney, an orthopedic surgeon at Balad. "He is going to be much more functional but it's going to be a setback."

For Capt. Furat, the news was devastating. On some days, he just wept. On other days, he burned with rage.

"I love Iraq," he said in fluent English, which he learned in college during the presidency of Saddam Hussein. "I worked all over Iraq and liked all the soldiers I worked with. I loved my body. I loved all the civilians I helped, but I don't think all the civilians loved me. I was a brave soldier. I helped anybody -- men, women, children.

Nobody helped

"But when Ali Baba shot me, and when I lay there in the street and couldn't move, nobody helped me. Why? Capt. Furat is dead because Capt. Furat is weak. Nobody on the street helped him."

Capt. Furat enlisted in the Iraqi Army when he was 18, and was stationed in Baghdad and Mosul. He rose through the ranks, attended Army College and was part of an elite special forces unit.

When American soldiers entered Baghdad in April 2003, Capt. Furat was in the capital with the Al Qanata Brigade.

"I told my platoon, 'hey, don't move,' " he recalled. "I saw the U.S. Army coming toward us. My platoon shot at them with their AK-47s. They were very noble.

"I couldn't kill anyone. [The Americans] had big weapons, but all I had was a pistol and an AK-47."

Stranger took him in

He took a bullet in the leg during the battle and somehow managed to escape amid the confusion, taking shelter in a stranger's house.

"He cut off my uniform and gave me pajamas," Capt. Furat recalled. "He took my weapon and pistol and ID and went to the garden and buried them in the earth.

"I was afraid the U.S. Army would come in the house. I saw through the window the Army in the street."

He stayed there five days, then his host drove him to his family's home in Diyala province, not far from base.

"My father thought I was dead because a soldier came to the house and said he saw me get shot by the Americans.

U.S. sought officers

"When I knocked on the door, my father saw me and he couldn't believe it was me. I hugged him to my chest and wept."

Capt. Furat stayed with his family in Muqdadiyah for about a year.

"I had no work, no dreams. I just sat in the house."

Then he heard through a friend that American troops at nearby Base Falloc, the former site of an Iraqi Army division, were looking for former Iraqi officers to begin building the new army. He joined, and has since worked with six or seven different groups of American soldiers.

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"I was with the last group for three or four months before Ali Baba shot me," he says. "I'd go with them anywhere. I trust them, and they trust me. Now I am sad. This life was very good. I worked with kings, not soldiers. But I can't move with them."

Inspiration to others

"My dream is just to stand up with my legs," he said. "When I can stand up with my legs, just tell me and I'll go anywhere -- Iraq, Afghanistan, Iran -- just tell me."

As Capt. Furat works through the physical and emotional trauma of his tragedy, those on the hospital staff see an opportunity for the disabled soldier.

"He could be a beacon of hope for all the handicapped people in Iraq," said Col. Powell.

"He could be a champion, a great one. There are going to be thousands of disabled people here, maybe more. There's nothing keeping him from doing anything. We just want him to reach his full potential."

In Iraqi Provinces, NATO Could Help (NYT)

By Roger Cohen International Herald Tribune

The New York Times, January 25, 2006

The Black Hawk helicopters skim out over the rooftops of Baghdad, leaving the palm-lined boulevards of the Green Zone, the walled city within a city that Western officials seldom leave, and heading into the Red Zone, the land of uncertainty that is the rest of Iraq.

It might better be described as the Dust Zone. The dun-colored, garbage-ridden sprawl of the city yields to an expanse of dirt, somewhere between desert and wasteland, as the two low-flying choppers swing south. Only beside the Euphrates is the land fertile. Children in farmyards wave and jump, little bundles of enthusiasm in a country of fear.

Senator John Kerry of Massachusetts is being ferried by the U.S. military to Hilla, a provincial town about 110 kilometers, or 70 miles, south of Baghdad. Hilla is adjacent to Babylon, the ancient city that Saddam Hussein, his megalomania in overdrive, chose to rebuild, describing himself as the son of King Nebuchadnezzar.

But his legacy is not splendor; it is ruin. The wreckage is apparent in the shattered infrastructure of Iraq, but is less immediately evident in the places where it is most damaging: the conspiracy-filled, terror-haunted, initiative-stripped minds of Iraqis.

In Hilla, the United States recently established a Provincial Reconstruction Team, or PRT, a group of military and civilian officials working to jump-start the economy by instilling in Iraqis the conviction that they now have control of their own lives and can make decisions at local level without awaiting a despot's word from Baghdad.

It is to assess this experiment, tried with some success by NATO in Afghanistan, that Kerry has headed into the provinces. The blue shirt and Hermès tie, familiar on the U.S. campaign trail, are offset here, with a certain chic, by a camouflage flak jacket, removed as he strides into the regional embassy. Officials headed by Fred Fonteneau, a diplomat with wide experience in the Middle East, gather around a table. The atmosphere is businesslike: no coffee, no drinks. Kerry wastes little time: "What kinds of problems do you face?"

The list is long, but begins with security, or rather its absence. Although the immediate area is largely Shiite, and the insurgency has been led by Sunnis, attacks are not infrequent. A favored method is roadside bombs. Two people from the regional office were killed by one last year.

"As soon as we've got used to one kind of method, they shift to another," says Major Lloyd Navarro, a U.S. officer attached to the PRT. Of late, explosive devices, believed to be manufactured in Iran, that direct armor-penetrating projectiles have proved particularly devastating.

Kerry is puzzled. Why is a largely Shiite area so treacherous? "This suggests a greater depth to the insurgency than has been described," he says. Babil Province, where Hilla is situated, has a population of 1.6 million, of whom 75 percent are Shia and 25 percent Sunnis living mainly in the northern part.

Fonteneau and other officials try to explain. There are opportunists who don't want stable government. There are followers of the radical Shiite cleric Moktada al-Sadr. There are tribal rivalries and fights between militias. In short, there's a fog out there beyond the compound's walls in which no one faction has a monopoly on violence.

The bottom line is this: every time anyone heads out, a four-vehicle convoy is required, protected by more than a dozen guards from the Blackwater USA security firm of North Carolina. This protection gets hugely expensive, absorbing resources needed for reconstruction.

The senator ponders this. Even in a stable environment, the challenges would be daunting. Kerry has before him a 14-page paper setting out the "institutional challenges" in Hilla.

"Legislature branch is weak with limited power and no procedural rules or regulations," it says. "Executive branch answers to the federal, not provincial government. It is inefficient and riddled with corruption."

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The judicial branch is weak. The police have strong leadership, "but are under siege to become a political arm of SCIRI," the Supreme Council for the Islamic Revolution in Iraq, a major Shiite political party.

In short, the Hilla PRT, currently 44 personnel and growing, is confronted by the challenge of reinventing an entire political culture as it pursues its mission statement: "Developing a transparent, functional, responsive and representative government."

This will take time, but funds are running out and skepticism in Washington is growing. Kerry is told to deliver the message to Congress that Iraq needs and merits more money. In an impassioned outburst, Martin Hanratty of the U.S. Agency for International Development says:

"The demand is unbelievable from Iraqis. They are excited about what we are doing. If we can't get it together to support that, there is something wrong with us. Not with them, but with us."

There is something else wrong in Hilla, and elsewhere in Iraq. In Afghanistan, the work of the PRTs has not been that of America alone, but of America and its allies in NATO. What is the alliance for if not to fight the most critical battle of this generation: the forging, against the odds, of a decent and democratic Iraq that could change the closed, repressive culture of the Middle East?

The disagreements over the start of the war, and the Bush administration's misrepresentation of its justification, no longer matter. The United States is deep in Iraq, and real NATO assistance could make a decisive difference, as it has in Afghanistan.

A 90-day action plan in Hilla includes development of telecommunications services, aerial spraying of palm groves to stop a disease that has devastated date production, and installation of 14 drinking-water supply networks. Is there any reason France and Germany couldn't get behind that?

There is a reason, of course: overwhelming opposition in those countries to the war. That opposition is short-sighted but will not go away. As for Kerry, the darling of the French and Germans, his verdict is sober: "There are a lot of difficulties, but this is not impossible. We are doing many things better than we were."

America's Message To Iraq (WP)

By David Ignatius

The Washington Post, January 25, 2006

America's agile envoy in Baghdad, Zalmay Khalilzad, is working these days to cajole Iraqi political leaders to put aside narrow interests in favor of a government of national unity. But behind the political dickering lies a stark message: If the Iraqis can't agree on a broad-based government of reconciliation, the United States may have to reduce its military and economic support. America won't bankroll one side in a civil war.

I spoke with Khalilzad by telephone this week about his efforts to coax a compromise from the Iraqis. By most accounts, the Afghan-born diplomat has been a brilliant ringmaster of the Baghdad political circus. But even he can't soften the dilemma facing the Iraqis: They must find a way to work together or the fragile Iraqi state will unravel.

The American envoy is deploying a weapon the United States hasn't used much in Iraq -- the word "no." He said he is arguing that the new government must give the two security ministries -- Interior and Defense -- to people who have broad national support and aren't linked to sectarian militias. Otherwise, America may have to adjust its massive effort to train and equip the Iraqi security forces.

"The security ministries have to be run by people who are not associated with militias and who are not regarded as sectarian," Khalilzad told me. "The issue is how forces that we're investing a huge amount of money in are perceived by the Iraqis. If they are perceived as sectarian, their effectiveness will not be there. We have insisted on this, stated it clearly. These two ministries need people who are acceptable to all parties of a national unity government. . . . We are saying: If you choose the wrong candidates, that will affect U.S. aid."

Khalilzad's message is aimed largely at Abdul Aziz Hakim, the leader of the Shiite religious coalition that won the largest number of votes in December's election. The current interior minister is a close ally of Hakim's and a former leader of the Shiite militia known as the Badr Brigade. U.S. officials believe that under his control, the Interior Ministry has condoned torture of Sunni prisoners and increasingly used the police to settle sectarian scores. That must stop, the Americans argue.

U.S. officials see Iraq at a decisive turning point following December's election to choose a permanent government. They had hoped the balloting would open the way for a secular coalition that might bridge the bitter divisions among Shiites, Sunnis and Kurds. Instead, the balloting reinforced those sectarian tendencies. Iraqis voted their fears and the us-or-them logic of sectarian conflict. Religious and ethnic parties that maintain strong militias did well; secular parties that support national institutions did poorly.

"We've reached a point of no return now," argues Raad Alkadiri, an Anglo-Iraqi who advised the British government in Baghdad during the first year of occupation and who is now a consultant with PFC Energy in Washington. "Are Iraqis willing to put aside their narrow interests? Is there a real Iraqi state? You can't fudge this. This is the edge of the precipice."

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Khalilzad is telling Shiite and Kurdish leaders that they have a golden opportunity to stabilize the country because of a sharp split that is emerging within the Sunni insurgency. Sunni tribal and political leaders who had been backing the insurgency are increasingly angry at the terrorist tactics of al Qaeda's leader in Iraq, Abu Musab Zarqawi. That opens the way for a deal -- if the Shiites and Kurds want one. "The tectonics are shifting in the Sunni heartland," Khalilzad told me. "A fault line is developing that is going to expand, between Zarqawi and his allies and elements of the insurgency."

If the Iraqis can reach across the sectarian chasm, it could mark the beginning of a virtuous cycle in Iraq that could finally bring a measure of stability and prosperity. Khalilzad has been talking with Iraqi leaders about a "First 100 Days" program that would get the new government off to a fast start. He has discussed creating a National Security Council that would hammer out consensus within a small leadership group. He is talking with Iraqi leaders about a national Bill of Assurances that would address the anxieties of each sect. But all these good steps require the basic willingness to compromise, bury the hatchets and bring in the Sunnis.

Khalilzad's message is that America's money and patience aren't unlimited. If the Iraqis can come together to build a framework for cooperation, America stands with them. If they can't pull together, they will eventually have to face the nightmare of a shattered Iraq on their own. Ironically, that's America's hidden leverage in Iraq -- the power to walk away.

History Lessons (WT)

The Washington Times, January 25, 2006

Dec. 20, 1998 (USA Today) -- One day after President Clinton halted a four-night U.S. and British air assault on Iraq, his national security team blanketed the Sunday talk shows to get out the message: "Mission accomplished."

But some critics say it's unclear what the mission was and what it accomplished.

"This was a largely punitive operation," said Anthony Cordesman, a defense analyst at the Center for Strategic and International Studies. "It did not cripple any of Saddam's capabilities."...

In Operation Desert Fox, the stated mission was to "degrade" Saddam's ability to develop, manufacture and deliver [WMD]. After four days, the Pentagon said his weapon-making capacity was diminished but that it was too early to say how much. And critics said the vague word "degrade" had been used deliberately to allow leaders to claim success no matter what...

CORPORATE SCANDALS:

Slapping Down A Dynamic Duo (WSJ)

By Peter Lattman And Kara Scannell

The Wall Street Journal, January 25, 2006

The Justice Department and the Securities and Exchange Commission long have worked in concert in fighting corporate wrongdoing, securing convictions and settlements in recent years against former executives at WorldCom Inc., Enron and elsewhere.

The SEC can bring civil charges and seek to impose financial penalties and to ban transgressors from top jobs at publicly traded corporations or from the securities industry. The Justice Department can bring criminal charges and seek prison sentences for the most serious white-collar violators.

In two recent cases, however, federal judges have taken the agencies to task for using what the judges deemed an unfair one-two-punch approach in criminal cases.

In Oregon this month, a judge dismissed criminal charges against three corporate executives, saying the Justice Department unconstitutionally pursued a stealth criminal investigation under the cloak of a less-threatening civil proceeding by the SEC. And in Alabama last year, a judge dismissed charges that former HealthSouth Corp. Chief Executive Richard Scrushy lied to the SEC, ruling that he should have been warned that the Justice Department already had opened a criminal investigation when the SEC questioned him.

In both cases, the judges found the line between the agencies' roles had become improperly blurred.

"It is entirely appropriate and necessary for courts to make sure that line is clear," says defense lawyer Jacob Frenkel, a former SEC lawyer and federal prosecutor.

The SEC and the Justice Department long have run parallel investigations. Business scandals prompted President Bush in July 2002 to create the Corporate Fraud Task Force, which stepped up coordination between federal agencies.

"It's important that those of us with expertise in the securities field can lend that expertise to criminal prosecutors and work together," says Linda Chatman Thomsen, the SEC's director of enforcement. "All of us do have to worry about making sure we do it right while protecting fairness and due process."

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The SEC refers matters to the Justice Department if the agency decides violations merit criminal investigation. But defense lawyers say the system becomes unfair if prosecutors use a civil SEC probe to secretly advance a criminal case.

Without an explicit threat of jail time, executives have a greater incentive to cooperate in SEC investigations. Subjects of SEC probes can assert their Fifth Amendment rights against self-incrimination and stay silent, but judges and juries are allowed to draw "adverse inferences" from such assertions in civil trials. In criminal trials, such inferences aren't allowed. It puts corporate defendants in a Catch-22: If they talk to the SEC, they might help criminal prosecutors. If they don't, they will be disadvantaged in the civil case.

Though no statute articulates how parallel civil and criminal proceedings work, courts for years have allowed the U.S. agencies leeway: They can communicate regularly, exchange information and discuss strategy, though prosecutors can't share anything they learn via grand-jury proceedings, which are by law secret.

In a 1970 case involving the Food and Drug Administration and criminal prosecutors, the Supreme Court confirmed that parallel proceedings are constitutional. But it said that case didn't involve the government's using a civil action "solely to obtain evidence for its criminal prosecution" or failing to advise a defendant that he faced criminal charges -- suggesting that such tactics might be unconstitutional.

"Up until now, the courts have mostly taken a hands-off approach to parallel proceedings," says Peter Henning, law professor at Wayne State University Law School in Detroit and a former federal prosecutor and SEC lawyer.

He adds: "Judges are trying to find a line to accommodate the cooperation between civil and criminal investigations without allowing the civil investigation to be a facade for the Justice Department."

In the Oregon case, U.S. v. Stringer, U.S. District Judge Ancer Hagerty dismissed criminal indictments against three former executives at Flir Systems Inc., a technology company.

The judge pointed to a Federal Bureau of Investigation memo about a 2000 meeting with the SEC and federal prosecutors. The memo said that because one of the defendants had agreed to an SEC interview, the FBI -- an arm of the Justice Department -- wouldn't conduct any interviews that would flag a criminal investigation "so as not to jeopardize the opportunity to obtain statements from these individuals."

Another memo cited by the judge indicated that prosecutors opted against opening a grand-jury investigation so they could "passively observe the results of the SEC's work" -- a strategy that "provided good investigative results, at little cost." The judge also cited an SEC lawyer's handwritten note to herself to "make sure court reporters won't tell" a defense lawyer about Justice Department involvement.

Judge Hagerty's Jan. 9 ruling was blistering in its criticism, accusing prosecutors of spending "years hiding behind the civil investigation to obtain evidence, avoid criminal-discovery rules and avoid constitutional protections." The judge accused prosecutors of using "deceit and trickery" to conduct a criminal probe "behind the guise of a civil prosecution."

The U.S. attorney for Oregon, Karin Immergut, says the Justice Department is reviewing appeal options and "we disagree with the court's decision based on the facts and the law." The SEC declined to comment on the case, which was the subject of an Oregonian newspaper article Jan. 15.

The judge's opinion "clearly shows judicial aversion" to the close working relationship between the two agencies, says Mary Jo White, a former U.S. attorney for the Southern District of New York. While the conduct "sounded scuzzy," she adds, "I don't think it's going to have broad repercussions."

In dismissing the perjury counts against HealthSouth's Mr. Scrushy, U.S. District Judge Karon Bowdre criticized the government for "failing to advise Mr. Scrushy or his attorneys about the criminal investigation."

The judge based her decision in part on a 2003 ruling by U.S. District Judge Inge Johnson in the SEC's civil case against Mr. Scrushy. Reversing a court-approved freeze of Mr. Scrushy's assets by the SEC, Judge Johnson also criticized the two agencies.

"The government had undoubtedly manipulated simultaneous criminal and civil proceedings," she wrote.

Thomas Sjoblom, a former SEC lawyer and Mr. Scrushy's lawyer in the asset-freeze hearing, says parallel probes were more carefully conducted in his days at the agency. Defense lawyer Ralph Ferrara, a former SEC general counsel, agrees. "These folks are moving in shadows with one another," he says.

Judges don't always act on defendants' complaints. Lawyers for Jeffrey Skilling, the former Enron chief executive, sought to bar Mr. Skilling's SEC deposition testimony from being introduced at his coming criminal trial, citing the Oregon case. Monday, the judge denied the request.

Enron Judge Nixes Bid To Move Trial From Houston (AP)

By Kristen Hays, The Associated Press

AP, January 25, 2006

DOJ_NMG_0011490

Enron Corp. founder Kenneth Lay and former CEO Jeffrey Skilling will go to trial in the scandal-ridden company's hometown of Houston, a judge has ruled.

U.S. District Judge Sim Lake issued an order late Monday denying the former executives' last-minute request to move the trial from Houston based on potential jurors' vitriolic statements about Lay and Skilling on questionnaires.

The judge said he wasn't persuaded by defense arguments that a fair jury can't be found in Houston because the questionnaire answers reveal inherent prejudice against Lay and Skilling.

Lake said questionnaires with unbiased answers and his intention to question the pool during jury selection next Monday "provide adequate safeguards to defendants and will result in the selection of a fair and impartial jury in this case."

He also denied defense requests that attorneys be allowed to question potential jurors individually and postpone the trial to send out a new round of questionnaires in light of a guilty plea by former chief accounting officer Richard Causey. Causey was supposed to have been tried alongside his former bosses.

Lake has rejected all those requests before. He has yet to rule on a separate, more recent defense request to postpone the trial.

A year ago he nixed the defense's first request to move the trial to Denver, Atlanta or Phoenix, noting that extensive pretrial publicity wasn't so inflammatory or pervasive that it would prevent a fair trial.

The renewed venue change request emerged from what the defense teams called a "rage of publicity" stemming from Causey's decision to cut a deal with prosecutors. The government opposed any move.

Skilling attorney Daniel Petrocelli and Lay attorney Michael Ramsey also were concerned about potential jurors' comments about their clients on questionnaires sent out last November in the first step of jury selection.

Some prospective jurors called Skilling "a high-class crook" and "cheater" who "would lie to his mother if it would further his cause." Comments about Lay included "the biggest lying crook of all" who "did a lot of injustice to a lot of good people."

The jury pool has been whittled to 164 from the original 400 who filled out questionnaires. Defense attorneys wanted to question potential jurors individually to ferret out hidden bias, but Lake has repeatedly said he will conduct overall questioning. If answers indicate a need to speak to individuals in the pool, attorneys can question them privately at the judge's bench, he has said.

Lake also has repeatedly said he expects a jury to be chosen in a day. If so, defense attorneys and prosecutors would present the panel with opening statements on Tuesday and Wednesday next week. Prosecutors have been alloted two hours for opening statements, while the combined defense teams have four hours.

Skilling faces 35 counts of fraud, conspiracy, insider trading and lying to auditors for allegedly conspiring to fool investors into believing a fragile Enron was healthy before the company went bankrupt in December 2001. Prosecutors intend to tell Lake at a hearing Thursday that the government will drop four wire fraud counts against Skilling that are related to Causey counts, so the former CEO will face 31 criminal counts.

Lay faces seven counts of fraud and conspiracy for allegedly perpetuating the public lies about Enron's health after Skilling resigned in August 2001.

Both have pleaded not guilty.

Hard Times Haunt Enron's Ex-Workers (NYT)

By Simon Romero

The New York Times, January 25, 2006

HOUSTON, Jan. 24 - For Angelique Chappell, a former administrative assistant at Enron, it all now seems like a mirage.

There were the trips organized just for assistants, including one to California to visit a new chain of hotels where they would be booking reservations for their bosses. There was the time she won a company drawing for seats behind the dugout at a Houston Astros baseball game in a stadium then known as Enron Field. And, she recalls, there were the American Express gift cards that were handed out frequently to those who answered a trivia question.

"We may have been a little overcompensated, but we worked our tails off every single day," said Ms. Chappell, 33, an Army veteran who goes by Angie. "There was so much fun, so much camaraderie among us. At that time in my life I felt like I could do almost anything." But life took a jarring turn for Ms. Chappell, as it did for thousands of others among Enron's rank and file after the company's chaotic collapse into bankruptcy at the end of 2001. Four years of bouncing from job to job followed. Today, Ms. Chappell has finally found a secretarial job that might, sometime soon, even provide health and retirement benefits.

Her experience resembles that of most former Enron employees who had nothing to do with the fraud at the company, in contrast to the success enjoyed by those at the top who cashed out early and a comparative handful of high-ranking professionals who were able to parlay their status and skills into lucrative jobs at other energy companies. Few like Ms. Chappell

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have been able to restore the glitter of their jobs at Enron, a factor that still overlays the mood in Houston as the trial of Kenneth L. Lay and Jeffrey K. Skilling, the company's former chief executives, is set to get under way next week.

Some of the Enron diaspora have had to start their careers all over again. Karl Klicker, who lost a comfortable employee-training position at Enron with a six-figure salary, recently rejoined the Marine Corps at age 50, and is studying Arabic in hopes of going to Iraq.

Like Ms. Chappell, Mr. Klicker had been in the military, a not uncommon background for many of the people Enron hired. A self-described "base brat," he followed his father and grandfather into the Marines shortly after high school, eventually earning a doctorate in adult education while also serving as a Marine intelligence officer.

"I went from the top to the bottom to the top again," Mr. Klicker said.

In the months after Enron's collapse, Mr. Klicker said, he sent out about 400 job applications and had offers for only two interviews. A marathon runner, he said he had plenty of time - perhaps too much time - to think about Enron during the 100 to 200 miles he ran each month.

Of course, other companies have laid off large numbers of workers - Ford just announced on Monday that it would be eliminating 30,000 jobs over the next six years. But Enron's collapse not only unfolded swiftly, it also destroyed the livelihood and retirement savings of many employees who had believed the company symbolized the future course of the global economy.

"Enron was such an aggressive, complex entity at the avant-garde of many developments," said Richard I. Evans, director of the social psychology program at the University of Houston. "It was not just losing a job. It was losing an identity associated with power and innovation, producing trauma and sometimes grief."

For Ms. Chappell, the former Enron secretary, there have been plenty of tears. It took five months for her to find a job after Enron collapsed. By that time, she had adjusted her salary expectations downward after earning nearly $50,000 a year. About the time her unemployment benefits were about to run out in 2002, she found a part-time position in the Houston office of CMS Energy.

A contact at CMS suggested to Ms. Chappell that she should avoid discussing her time at Enron, given the general unease associated with the company's demise, particularly in Houston's energy circles. But Ms. Chappell, a talkative native of Southern California, did exactly the opposite.

"What was I going to do, ignore that time in my life?" Ms. Chappell said. She joked in her job interview, she said, about how fast she had gone from working for a respected company to one that had turned into a pauper - kind of a Cinderella tale in reverse.

But soon after she landed the job at CMS, company executives were implicated in a scandal involving trades, similar to some of the manipulations at Enron and other energy and telecommunications companies that exaggerated their revenue. Ms. Chappell helped downsize CMS's office in Houston, moving with a skeleton crew of two other employees to a less expensive location in suburban Sugarland, Tex., before eventually losing the job at the end of 2003.

Meanwhile, Ms. Chappell's husband, a native of Houston she had met while they were both in the Army in their 20's, found a new job as a firefighter earning less than $30,000 a year. That helped keep food on the table.

They have managed to keep the modest tract home they bought in Katy, Tex., a fast-growing distant suburb of Houston, where they live with their two sons, ages 12 and 9. Finances, though, remain extremely tight.

"I still have creditors calling me to pay certain bills," said Ms. Chappell. "I was mad at God for a while, but I got over it."

Ms. Chappell found temporary administrative work again in the spring of 2004 with a company that charters vessels for the oil and gas industry, but left that job for another temporary position at a mortgage company last October, cutting her commute to an hour from an hour and a half. It is a solid job, she says, with a salary approaching what she made at Enron - she declined to give the exact amount - and the possibility of benefits sometime soon.

As for Mr. Klicker, with no job in sight, he began painting murals, babysitting and writing about his thoughts on leadership strategies. He said he ate Ramen noodles regularly to cut down on expenses. He founded his own company to advise clients on management training and organizational psychology, but had trouble getting it off the ground.

Finally, last August, he decided to rejoin the Marines in a recall aimed at retired officers. The motivation, Mr. Klicker said, had less to do with his financial situation and more to do with a yearning to combat terror threats. He said he lost a friend in the 9/11 attack on the Pentagon, and still keeps his business card as a bookmark.

"A lot of Enron went through my mind when I was unemployed," said Mr. Klicker, now a captain in the Marine Corps. "But I find now, back in uniform, there are many things I learned at Enron about leadership - like how not to lead."

"Take away the corporate setting and the $2,000 wool blend suit and you see the real Ken Lay," Mr. Klicker said in a telephone interview from Virginia Beach, where he is now stationed.

These days, Mr. Klicker said he was happy training soldiers in leadership procedures and living in an oceanfront rental home during the winter months - "unaffordable in the summer," he said - where his 9-year-old daughter can visit him during

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school breaks. And despite being almost twice the age of some other Marine captains, Mr. Klicker hopes he has the chance for a tour of duty in Iraq.

"I keep my ear to the tracks for an opportunity," Mr. Klicker said. "Of course, I want to go. You never have to explain why as a marine."

Meanwhile, Ms. Chappell has little set aside for the future. She lost her $12,000 in retirement savings at Enron and has no 401(k). She had to scrimp recently to buy winter jackets for her sons and to take them to a movie.

But rather than relishing the opportunity to see Mr. Lay and Mr. Skilling put on trial, Ms. Chappell said, she was hoping to avoid thinking about the past.

"I don't want to turn on the TV and see their faces," she said, her voice quivering with anger, as it sometimes does when she is reliving Enron's demise. "I mean, when is it going to be over? We live paycheck to paycheck and they're spending millions of dollars on their lawyers.

"Ken Lay should have known every nook and cranny of that company. I just cringe when I see his image."

In the weeks leading up to the company's bankruptcy filing, she was training for a different assignment, feeling somewhat in limbo in redeployment, as that status was called within Enron. So she did not hesitate to accept the suggestion of an Enron human resources employee that she accept a "temporary" layoff with a severance package.

Within days of leaving Enron in late November 2001, however, the company was essentially out of business, ending her hope of getting any severance pay. The whole experience, she says, will shape her outlook on life forever.

"I learned not to be loyal to anyone but my family," Ms. Chappell said. She said she still dreamed of advancing as she did at Enron, but that her aspirations were now more modest. She would like to finish her undergraduate degree, though she was not sure what her major would be; entering a new career path in her 30's, she said, would not be easy.

Ms. Chappell said she had thought of leaving Houston, moving to the Pacific Northwest, where she was stationed in the Army, or going to Iraq, where she hears contractors pay overtime-laden salaries into six figures. But the risks are great and doing so would take her away from her children. She has shelved that option.

Now she looks forward to a better life for her sons, hoping they will be able to attend a nearby university like Texas A&M, where she believes they will have the opportunity for an education that may allow them to view something like the Enron story from a higher perch than hers.

"I just don't want my sons to have to experience what I went through."

CRIMINAL LAW:

Members Aided Abramoff Bid (RC)

By John Bresnahan

Roll Call, January 25, 2006

Reps. Steven LaTourette (R-Ohio) and Don Young (R-Alaska) sought to intervene with a federal agency in September 2002 on behalf of American Indian clients of lobbyist Jack Abramoff as part of Abramoff's effort to gain control of the Old Post Office Pavilion in downtown Washington, D.C.

LaTourette and Young both wrote to the General Services Administration in September 2002 urging Stephen Perry, then head of the GSA, to give preferential treatment to organizations such as Indian tribes when the GSA evaluated proposals to develop the Old Post Office site.

Young, chairman of the House Transportation and Infrastructure Committee, received $7,000 from two of Abramoff's tribal clients just weeks after the letters went to the GSA.

LaTourette, for his part, said he agreed to send the letters after being lobbied on the issue by a former top aide to Rep. Bob Ney (R-Ohio). Ney is under investigation by the Justice Department over his ties to Abramoff. Ten days ago, Speaker Dennis Hastert (R-Ill.) pressured Ney into giving up his gavel at the House Administration Committee because of his alleged involvement in the Abramoff scandal.

Abramoff's interest in leasing and developing the Old Post Office building is one of the key pieces of the federal government's case against David Safavian, the former GSA chief of staff who was indicted Sept. 19 on charges of making false statements to Senate and federal investigators and obstruction of justice.

Abramoff himself pleaded guilty on Jan. 3 to fraud, tax evasion and conspiracy to bribe public officers. The one-time lobbying superstar is cooperating with the Justice Department in its ongoing corruption probe.

In its complaint against Safavian, federal prosecutors allege that Abramoff repeatedly sought guidance from Safavian on how best to proceed in winning control of the Old Post Office.

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An affidavit filed by an FBI agent in support of the Safavian complaint states that Abramoff sought "changes in the regulations governing the development of the [Old Post Office], including the granting of HUBZone contracting preferences that could have given some of Lobbyist A's tribal clients a competitive advantage in efforts to lease and develop the building." Lobbyist A, while not named, is Abramoff.

The affidavit also adds further details on Abramoff and Safavian's interactions with regard to the Old Post Office, Washington's second tallest building and a downtown tourist magnet for more than 100 years.

"Lobbyist A solicited SAFAVIAN's assistance and guidance regarding leasing the [Old Post Office] from GSA," the affidavit states. "For example, on July 22, 2002, Lobbyist A sent an e-mail to SAFAVIAN's home e-mail address containing a draft letter purportedly to be sent by at least two Members of Congress to the Administrator of GSA and requesting special consideration for HUBZone businesses. Lobbyist A asked SAFAVIAN, 'Does this work, or do you want it to be longer?'"

The affidavit adds: "SAFAVIAN responded to Lobbyist A's requests for assistance and guidance regarding leasing the OPO from GSA. For example, on July 25, 2002, SAFAVIAN forwarded an e-mail describing resistance by an Office of Management and Budget ("OMB") employee to leasing the OPO from GSA. SAFAVIAN advised Lobbyist A, "I suspect we'll end up having to bring some Hill pressure to bear on OMB.'" It is unclear who at OMB objected or why.

HUBZone is the acronym for "historically underutilized business zone," and small businesses located in those areas are given preferences on government contracts. HUBZone businesses include American Indian tribes.

In an interview Tuesday, LaTourette said Neil Volz, a former top aide to Ney, approached his office in late July 2003 and asked him to write to the GSA regarding the Old Post Office facility. At the time, LaTourette was the chairman of the Transportation and Infrastructure subcommittee on economic development, public buildings and emergency management, which has jurisdiction over federal facilities like the Old Post Office building.

LaTourette said he agreed to the request because Volz was "an old friend," and that after checking with staffers at the Transportation and Infrastructure Committee, he saw no problems with contacting Perry on the issue.

LaTourette added that he never personally met with Volz regarding the two letters he sent to the GSA in September 2002.

Volz left Ney's staff and went to work for Abramoff at the firm Greenberg Traurig in February 2002. Ney's subsequent involvement that year with Abramoff, including taking part in a Scotland golf junket in August 2002, was part of the plea deal that Abramoff struck with the Justice Department. Both Ney and Volz are referenced in the plea document, although neither is singled out by name.

Volz contacted LaTourette's office on July 23, 2002, seeking a meeting with the Ohio Republican or his staffers regarding the Old Post Office building. Volz's request is spelled out in an e-mail to one of the Ohio Republican's aides. The e-mail was given to Roll Call by LaTourette for this story.

In the e-mail, Volz said he had tried to contact LaTourette's personal office chief of staff but found that she was not available. Volz then e-mailed another aide "seeking advice" when his first message went unreturned.

"With her being out though, I wasn't sure who to contact since we have a time sensitive issue I was hoping Congressman LaTourette could take a look at," Volz wrote. "Do you have a few minutes sometime soon so that I could you a call to chat about a building/gsa issue? Or could you give me some advice on who I should contact to talk through."

Volz was directed by LaTourette's aide to speak to staffers on the subcommittee on economic development, public buildings and emergency management.

In August 2002, Safavian was part of a golf junket to Scotland that included Abramoff, Volz, Ney and others. The trip cost more than $150,000, according to The Washington Post.

In the Sept. 5, 2002, letter, LaTourette asked Perry to give preferential treatment for HUBZone business as the GSA evaluated proposals to develop the Old Post Office.

"As GSA proceeds with this important historic reuse project, I urge you to give consideration to providing additional opportunities for Hubzone businesses in the redevelopment process," LaTourette wrote. "Specifically, I ask that you consider giving Hubzone businesses an advance opportunity to provide redevelopment proposals that could be given priority if they otherwise meet" federal requirements.

LaTourette and Young then sent the exact same letter to Perry again one week later.

The letters were provided to Roll Call as part of a Freedom of Information Act request to the GSA.

Perry responded to the two lawmakers' letters on Nov. 19, 2002. Perry said the GSA expected that redevelopment of the Old Post Office "will require significant diversity in skills and experience" for those taking on the project, including expertise in such fields as "historic preservation, architecture/design, real estate finance, construction management, estimation, commercial development, residential development and property management." The GSA's view was that only "development teams," not individual organizations, would be able to meet federal standards for the project.

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Perry, however, added that there would be "many opportunities for small business concerns which will include HUBZone small business, minority and women-owned business. We anticipate opportunities for small businesses to participate either as development team members or subcontractors to team members."

A former Abramoff associate said Abramoff wanted to build a hotel on the Old Post Office site, although it is unclear if it would have been entirely paid for by tribal funds. The project, however, never got beyond the planning stage.

LaTourette said on Tuesday that "there were two things that concerned us" when his staff drafted the letters to the GSA — "preference and an advanced look."

According to LaTourette, the GSA was already giving special preferences and briefings to HUBZone businesses on similar federal projects, so there was no conflict there.

LaTourette said he "assumed" that Volz was acting on behalf of one of his tribal clients at Greenberg Traurig in making the request for a letter to the GSA. "I mean, why else would he come in?" LaTourette asked.

LaTourette later co-sponsored legislation to create a national women's museum at the Old Post Office site.

Mike Anderson, chief of staff in Young's personal office, called the Alaska Republican's letter to the GSA "a coincidence." Anderson said Young has "no recollection" of how that letter to the GSA came about, although he was adamant that Young cannot recall ever meeting with Abramoff personally.

Anderson said he could not provide records of any meetings between Transportation Committee staff and any Greenberg Traurig lobbyists or tribal representatives.

Anderson denied that Young ever sought to help Abramoff. "There is no relationship between Young and Abramoff," Anderson said.

Young, however, has an extensive history of acting on behalf of Abramoff's lobbying clients.

His leadership political action committee, the Midnight Sun PAC, received $7,000 from two of Abramoff's tribal clients, the Aqua Caliente of California and Mississippi Choctaws, on Oct. 17, 2002, just five weeks after he wrote to Perry.

All together, the Midnight Sun PAC received $12,000 from Abramoff's tribal clients during the 2001-02 election cycle.

In addition, one of the Alaska Republican's former aides, Duane Gibson, went to work for Abramoff at Greenberg Traurig several months before Young intervened with the GSA on the Old Post Office site.

Going back to 1997, Young, then chairman of the House Resources Committee, authored legislation to hold a plebiscite in Puerto Rico over the island's political future. At the time, Abramoff was also lobbying in favor of a Puerto Rican plebiscite.

Young also repeatedly acted to aid the government of the Commonwealth of the Northern Mariana Islands, a group of Pacific Ocean islands controlled by the United States. The CNMI government paid Abramoff $8 million to lobby on its behalf.

Young refused to hold hearings on the conditions for CNMI garment-industry workers despite complaints over their treatment, and he also blocked a proposal by House Democrats to boost the minimum wage on the islands. Young visited the CNMI in 1999 along with a number of Resource Committee members.

While Young received considerable financial backing from Abramoff clients, the former lobbyist never donated directly to Young's re-election campaigns or his leadership PAC. All together, Abramoff's tribal clients gave $20,000 to Young.

In 2000, the firm Preston Gates Ellis Rouvelas & Meeds, then Abramoff's employer, held a tribute to Young during the Republican convention in Philadelphia.

Young also used Abramoff's skybox at the MCI Center in D.C. for two fundraisers, events he did not report to the Federal Election Commission until after the Abramoff scandal broke.

Anderson dismissed the overlap between Young and Abramoff as "mere circumstance."

"If Abramoff is lobbying for Resources-related issues, which he did, what is the likelihood that Mr. Young and [Abramoff's] clients are going to be in a nexus sometime?" Anderson asked.

LaTourette, a former member of the House ethics committee, received no campaign contributions from Abramoff or his clients during the 2001-02 cycle, and neither the lawmaker nor his staff ever took any trips paid for by an organization tied to Abramoff.

Abramoff, The Triplets And The Nanny Fund (HILL)

By Susan Crabtree

The Hill, January 25, 2006

Before the lobbying scandal hit Washington and GOP lobbyist Jack Abramoff was still one of the town's most influential powerbrokers, it may have seemed like a normal, even run-of-the mill personal Washington event.

Abramoff, who recently pleaded guilty to fraud, bribery and tax evasion, helped host a baby shower for Rep. Dana Rohrabacher (R-Calif.) and his wife in December 2003. The Rohrabachers were expecting triplets and feeling the pinch of the

prevailing congressional salary of $154,700 at the time while maintaining homes in D.C. and the lawmaker's pricey Southern California coastal district.

Abramoff's and his wife's names appeared on the invitation, with Reps. George Radanovich (R-Calif.) and Ed Whitfield (R-Ky.) and their wives. The names of former Rep. David McIntosh (R-Ind.), who left Congress in 2001 and became a lobbyist at Mayer, Brown, Rowe & Maw, also were listed as hosts.

The lobbyist, who had been friends with Rohrabacher since the early 1980s when the future lawmaker was a White House speechwriter and Abramoff was chairman of the College Republicans, allowed the couple to use his restaurant, Signatures, between lunch and dinner for the shower. Only hors d'oeuvres were served, Rohrabacher disclosed in a Los Angeles Times article two weeks ago.

In the same article, Rohrabacher called Abramoff a close friend of 20 years and a "good person who's done bad things and has to be punished for doing bad things."

The article did not mention that guests at the shower contributed to a fund for nanny service provided by After the Stork, a 24-hour child-care service based in the district.

Since Abramoff's plea agreement went public, House Republicans have been scrambling to reform rules governing congressional ethics, lobbying and gifts to lawmakers.

Rohrabacher did nothing wrong under current rules, but ethics experts say that in the new atmosphere of reform Congress may want to rethink whether the rules governing gifts at personal events such as weddings and showers are strict enough.

Rohrabacher spokeswoman Rebecca Rudman estimates that fewer than 25 people attended the shower and that gifts to the fund amounted to roughly $3,000. She noted that After the Stork charges $250 a day for 24-hour nanny care for triplets.

The guests, Rudman said, were members of Congress, staffers and former staffers who were close friends of the Rohrabachers. She said she did not know whether any guests, other than Abramoff and McIntosh, were registered lobbyists or who contributed to the nanny fund.

At the time, Abramoff was representing several Indian tribes, whom he allegedly bilked out of more than $65 million. He, his wife and several tribal clients have donated $12,500 in political contributions to Rohrabacher since 1999, according to the Center for Responsive Politics.

In 2003, McIntosh's lobbying clients included the U.S. Chamber of Commerce, Pfizer, Verizon and the Coalition for Tax Fairness, among others.

When Rudman asked Rohrabacher whether Abramoff had contributed to the event, she said he couldn't remember.

"He didn't give any more than anyone else did," she said.

She also said Abramoff did not play a role in collecting checks for the fund or organizing the event. When asked what they would like as shower gifts, Rohrabacher and his wife came up with the idea of setting up a nanny-service fund. The invitation makes no mention of the fund, saying only: "For RSVP and for gift suggestions, contact [Rohrabacher staffer] Phaedra Dugan."

"Dana and Rhonda knew they were going to need help when the triplets came," Rudman said. "He invited friends [to the shower], but he didn't record their professions when they walked in the door. It was a small event with close friends."

Radanovich spokesman Mike Lukens said his boss remembers giving $200 to the nanny fund. When asked if the shower organizers could put his name on the invitation, Radanovich readily agreed but Lukens said Radanovich didn't know that Abramoff would also be listed as a host.

The $3,000 gift does not appear on Rohrabacher's annual personal financial disclosure documents because the congressman asked the House ethics committee to waive that disclosure requirement after it had granted him a waiver to accept shower gifts.

The committee, known officially as the Committee on Standards of Official Conduct, does not make public initial requests for waivers from the gift rule and does not discuss any waivers it grants, according to a panel staffer, so there is no way to tell if Rohrabacher told the committee he was setting up a nanny-service fund in lieu of self-selected shower gifts.

The committee, however, does make public its response to requests to waive the disclosure of gifts received in connection with a shower or gift. Rohrabacher's office filed the request, and the committee granted it in a letter dated Dec. 3, 2003.

The letters are supposed to be kept on file at the House Legislative Resource Center, where the public can look them up. In this case, the letter is missing, but Rohrabacher's office provided a copy to The Hill.

The gift rule bars lawmakers from receiving gifts of more than $50 in value and more than $100 from any one person during a single year. But waivers are routinely granted for wedding and baby gifts, according to GOP ethics lawyer Jan Baran.

The rules on wedding and baby gifts warn recipients "to exercise caution in accepting any gift that likely would not have been offered but for the individual's official position.

"As to any such gift, the individual should consider its source, nature and value, and any possible conflict with official duties."

In this case, Baran said, Rohrabacher satisfied the ethics rules requirements.

"Waivers are granted on a fairly regular basis because there are baby showers and weddings," he said. "There's nothing to prevent the value of the gift from being several hundred dollars. There's nothing to prevent it from being several thousand dollars."

Whether the rules makes sense is another question, he said.

"Maybe there ought to be fewer exceptions granted," he said. "Perhaps it should be reexamined in the course of Congress reexamining all the ethics rules."

Larry Noble, who heads the watchdog group the Center for Responsive Politics, argued that whether a waiver should be granted in this case should depend on who attended the event and gave the gifts and whether they had any business before Congress. But accepting gifts, especially cash, should be avoided.

"I think you have to accept that, when you're a public official, certain relationships that in other contexts may be just close personal friends may require more caution," he said. "When you have lobbyists giving you cash, regardless of the reason, it doesn't look good."

Lobbyists Bring Unwanted Attention To Law Firm (DMN)

By Joshua Benton, The Dallas Morning News

The Dallas Morning News, January 25, 2006

Lobbyists are hired for their connections. But as Washington sorts through a growing lobbying scandal, the past connections of two lobbyists hired last fall by Locke Liddell & Sapp are bringing unwanted attention to the powerful Dallas law firm.

The two men, Roy Coffee and David DiStefano, have been connected to a foreign company's attempt to work around U.S. sanctions against Iran and sell airplane parts to that nation – an attempt that centered on U.S. Rep. Bob Ney, an Ohio Republican accused in lobbyist Jack Abramoff's recent plea agreement of accepting bribes.

The two lobbyists were hired in 2003 by a pair of businessmen with résumés out of a James Bond movie. One, a Syrian gambler nicknamed "The Fat Man," made his fortune in Middle East arms deals. The other, a felon, was banned from East Coast racetracks in the 1980s for his connections to organized crime and has a Tennessee rap sheet for trying to defraud Elvis Presley.

Mr. Coffee and Mr. DiStefano have not been charged with any crimes, and there is no public evidence to indicate either is a direct target of the ongoing investigation. Their activities generating scrutiny predate their joining the Dallas firm.

Locke Liddell spokeswoman Julie Gilbert said the firm still has confidence in the two lobbyists. "Our firm feels very comfortable about their reputation, credibility and ethical standing," she said.

Mr. Coffee and Mr. DiStefano started work in Locke Liddell's new Washington office in October, at a time when the firm – one of the biggest in Texas – wanted to expand its national footprint. One of its former partners, Harriet Miers, had just been nominated to the U.S. Supreme Court by President Bush.

On its Web site, the firm promotes its lobbyists' connections in the federal government, promising "a unique team with a vast number of political contacts at every level of government and the inside knowledge on how public processes operate. This adds up to success for our clients."

According to news reports, documents about the attempted Iran sale have been subpoenaed as part of a spin-off from the Justice Department's Abramoff investigation. Mr. DiStefano was Mr. Ney's chief of staff from 1994 to 1998.

Mr. Coffee – son and grandson of the former University Park mayors of the same name and a longtime associate of President Bush – said he and Mr. DiStefano have done nothing wrong, despite questions from reporters.

"They love the salaciousness of a Syrian-born person and a guy with a criminal record," he said. "It's almost a guilt-by-association story."

That story begins in early 2003, when Mr. Coffee and Mr. DiStefano were hired as lobbyists by a little-known company named FN Aviation.

FN Aviation was registered to an address in Larnaca, a city on the island nation of Cyprus. It was led by Nigel Winfield, a 68-year-old British man who has had a series of problems with the law.

Prison time

He served a federal prison term in the 1980s for conspiring to evade $7.4 million in taxes while living the high life selling jets and owning racehorses. In 1982, he was sentenced to six months for his role in trying to defraud Elvis Presley out of $330,000 through a complicated leasing scheme on a private jet.

In the late 1960s, he pleaded guilty on eight occasions to larceny, fraud and forgery charges in Massachusetts. And in 1981, he was banned from running his horses at a series of racetracks in part because of his connections to organized-crime figures in New Jersey and Rhode Island.

Mr. Coffee said he and Mr. DiStefano had no idea about Mr. Winfield's past when FN hired them. "It's not my normal mode of operation to ask whether someone is a felon," he said. "I never thought that someone who was very presentable, who had an ongoing company you could look up on the Internet, that I should be worried about somebody's background."

'The Fat Man'

Mr. Winfield's business partner in the venture was Fouad al-Zayat, a Syrian-born man who made millions in the 1980s working on Middle Eastern defense deals.

In 2002, a London court froze Mr. al-Zayat's assets – including a Boeing 727 and a Rolls Royce – after the Ritz Casino charged that he had tried to buy about $3 million worth of gambling chips with seven checks that bounced.

That came after he lost about $17 million over more than 150 visits to the casino between 1999 and 2001.

Mr. al-Zayat is nicknamed "The Fat Man" in British gambling circles, according to news reports at the time of the court action, which called him "Britain's biggest gambler." The court also seized his bank accounts in Switzerland, the Isle of Man and Cyprus.

FN Aviation hired Mr. Coffee and Mr. DiStefano as lobbyists to "monitor trade legislation," according to mandatory lobbying disclosure filings. Mr. Coffee was paid about $220,000 by FN in 2003, according to those filings. Mr. DiStefano was paid about $20,000.

Mr. Coffee said the two men arranged for FN officials to meet with Mr. Ney. In February 2003, Mr. Ney flew to London on a three-day trip paid for by the company. He reported on House disclosure forms that the trip was valued at $2,707 and concerned "trade and international business matters."

There, he met with Mr. Winfield and Mr. al-Zayat, who said they wanted to sell airplane parts to Iran but were prevented by U.S. sanctions against the country. They were seeking a special government permit that could allow them to get around the sanctions.

Special permits

Mr. Coffee said he would not discuss the details of his work for FN Aviation. But the Jan. 23 issue of Newsweek reports that, after Mr. Ney's trip, the congressman personally lobbied then-Secretary of State Colin Powell to allow the exception to sanctions.

The special permits were in the end not approved, Newsweek reports, because FN Aviation's proposed deal with Iran fell through. Mr. Coffee said the company dissolved a few months later. Mr. Ney's spokesman, Brian Walsh, did not return a call from The News, but he told the Los Angeles Times that Mr. Ney "did not lobby" for FN Aviation.

According to his personal finance disclosure filing, Mr. Ney returned to London sometime later in 2003 and gambled at the Ambassador's Club, a private casino at which Mr. Al-Zayat was a member. He reported winning $34,000. Mr. Walsh, his spokesman, has said that Mr. Ney won that sum by playing two hands of a three-card game of chance, with an initial bet of $100.

Mr. Ney is one of the key figures in the widening Abramoff scandal. Under pressure from GOP leadership, he agreed last week to temporarily resign his chairmanship of the House administration committee while he is investigated on corruption charges. He has denied any wrongdoing.

In Mr. Abramoff's plea agreement, Mr. Ney is referred to as "Representative No. 1." As part of his guilty plea, Mr. Abramoff admitted bribing Mr. Ney and members of his staff with a series of gifts, including expense-paid trips to Scotland and the Northern Marianas, in exchange for various favors.

Ties to Texas

Mr. Coffee was deputy campaign manager for George W. Bush's first run for governor in 1994. After the election, he was Texas' director of state-federal relations until 1998. He then joined the Washington lobbying firm O'Connor & Hannan.

He was known for close connections to the Bush family. In 2000, the Capitol Hill newspaper Roll Call said some lobbyists called him "Bush's 'eyes and ears' on K Street."

It's not unusual for powerful law firms to offer lobbying services. Locke Liddell's lobbying business represents a wide range of clients, including a number of firms in the telecommunications, energy and health care industries.

Ms. Gilbert, the firm's director of strategic communications, said Locke Liddell's October announcement of a new Washington office was not timed to coincide with Ms. Miers' nomination to the Supreme Court.

Mr. Coffee and Mr. DiStefano joined the firm in October after a lengthy search process, Ms. Gilbert said.

"We had been doing a search and they came highly recommended," she said. "We felt they each had strong backgrounds and exceptional credentials and matched what we wanted. They have capabilities in all branches of the government."

But Alex Knott, a lobbying analyst for the government watchdog group Center for Public Integrity, said that lobbying firms hire former Capitol Hill staffers like Mr. DiStefano to gain access to their connections.

"Why else would you hire somebody with a revolving-door connection to Bob Ney unless you planned on using that pre-existing relationship?" he said. "The people with revolving-door connections deliver. That's why they're hired in the first place."

Mr. Coffee said he is confident Mr. Ney's difficulties will not taint him or Mr. DiStefano.

"Everything was filed ethically and legally, and there was no problem," he said. "I know we have done nothing wrong."

Feds Claim Ryan Failed To Report $80,000 In Income (AP)

By Mike Robinson

AP, January 25, 2006

CHICAGO - There was $45 for a snack on the Mexican Riviera. And $540 for an overnight stay at Caesar's Palace on a trip to Palm Springs and Las Vegas.

On trips to St. Louis, Toronto and New York to watch the Blackhawks, the White Sox and the Bulls, George Ryan used Citizens for Ryan plastic to pay for dinners and failed to declare the campaign money as income, an Internal Revenue Service tax expert testified Tuesday.

The total Ryan should have declared but didn't came to just over $80,000 in four years, IRS forensic accountant Shari Schindler testified during the former governor's racketeering and fraud trial.

Schindler testified that the biggest single item was a series of payments totaling $55,000 to help troubled son-in-law Michael Fairman dig out from his gambling debts.

But other items ranged from $6,000 for his elderly mother-in-law's caregiver to $455 in golf lessons for former state senator and lobbyist Arthur "Ron" Swanson, one of Ryan's closest friends.

Ryan, 71, and longtime friend Larry Warner, 67, are charged in a 22-count federal indictment with racketeering and fraud. Prosecutors say Ryan dipped into his campaign fund for years to pay for personal expenses and hand out gifts to his friends and relatives.

No one says Ryan did anything illegal in using campaign funds for personal expenses. But the government maintains he should have paid taxes on the money and that not declaring it was fraud.

Ryan defense attorney Dan K. Webb immediately began building a defense based on the notion that Ryan had no way of understanding the complexities of the tax code and meant no harm.

He chose a dramatic way of making his point, challenging Schindler to show him anywhere in eight heavy volumes of tax laws and IRS regulations that it said Ryan owed the money.

"It's very complicated, isn't it?" Webb asked as books piled up on the witness stand and the hours ticked away.

"Yes, it is," Schindler said.

The cross-examination consumed considerably more time than expected by prosecutors, who had been planning to rest their case Wednesday. Lead prosecutor Patrick M. Collins said searching through "all these big books" was a waste of time.

He urged Judge Rebecca R. Pallmeyer to speed things up.

At one point, Webb and Schindler went searching through several volumes for the IRS definition of the word "gift" without finding it. But Pallmeyer gave no sign that she plans to hurry the process along, and prospects for the prosecution resting Wednesday faded.

Webb showed jurors a letter from Ryan to the IRS explaining that "it was my understanding that the persons who actually received the money were the persons who should pay the taxes."

"While I have served in public office for 30 years, my professional training is as a pharmacist, not a lawyer or an accountant," Ryan said in his letter.

Webb noted that Fairman and other relatives who received money through Ryan did pay taxes on it - even though he was the one who owed the government and they did not.

Ryan amended his tax returns twice, once in 1998 and again in 2002.

He is not charged with fraud in connection with back taxes that he paid along with the 1998 amended return. But Schindler said he is charged with tax fraud related to the back taxes he acknowledged owing on the 2002 amended return because "by then the investigation had started."

Parents Of Crash Victims Speak After Ryan Trial (CHIT)

By Matt O'connor, Tribune Staff Reporter

Chicago Tribune, January 25, 2006

While jurors at former Gov. George Ryan's trial got a dry lesson Tuesday in the complexities of tax law, the parents of six children killed in a horrific crash that came to symbolize the tragic consequences of Illinois' licenses-for-bribes scandal spoke outside the courtroom in more personal terms.

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Public corruption "has to stop," Rev. Duane "Scott" Willis told reporters as he and his wife, Janet, made their first appearance at the marathon trial since October. "You know if it was just money, we may not be as vigilant, but ... deaths are involved."

The couple, who now live in Tennessee, said they were in Chicago to celebrate that 8½-year-old grandson Danny had been "declared cured" after a three-year battle with leukemia. Janet Willis recently completed a children's book based on her husband's discussion of forgiveness with son Hank, one of the children killed in the wreck, after he had broken a window at the family home while playing baseball.

With the prosecution case nearing its end, Willis said he and his wife don't intend to make a special trip back here to attend possible testimony by Ryan himself. "I don't want to make a circus out of it," he said.

However, he made it clear the couple care deeply about the outcome of the trial. "It is related to the loss of our children," he said. "There's a connection there ... so there's a very personal aspect to it."

Jurors have heard limited details about the crash because U.S. District Judge Rebecca Pallmeyer considered the issue too prejudicial for Ryan and co-defendant Lawrence Warner.

Among the wide-ranging charges against Ryan, prosecutors have alleged he gutted the investigative arm of his office in 1995 to stop its agents from looking into the sale of driver's licenses for bribes by employees under pressure to sell Ryan fundraising tickets.

One investigator testified that Dean Bauer, Ryan's inspector general, refused to let him investigate the fatal 1994 Willis crash outside Milwaukee.

The fiery accident occurred when a heavy piece of metal fell from a truck and punctured the gas tank of the Willis van. The truck driver, Ricardo Guzman, had paid a bribe for his commercial driver's license in Illinois and could not understand warnings from other truckers, in English, that the piece was dangling dangerously from his rig.

Willis said he wasn't bothered that details of the crash have been kept from jurors. "From a personal standpoint, I really don't seek the limelight," he said. "The way it worked out was OK."

In the courtroom Tuesday, Ryan's lead lawyer, Dan Webb, showed a bit of a theatrical flair, lugging eight volumes of tax laws and regulations to the witness stand to wonder aloud how Ryan was supposed to figure out the seemingly arcane world of the Internal Revenue Service.

The witness, IRS agent Shari Schindler, pointed out several times that Ryan had accountants to help him navigate the maze.

Under questioning by the prosecution, Schindler testified that Ryan had intentionally omitted from tax returns for 1995 through 1998 a combined $80,000 in campaign funds that had been spent on personal expenses and should have been declared as income.

The tax charges against Ryan allege he failed to report expenditures by his campaign that went for personal travel, gifts and other expenses. Among the largest expenditures were payments of $55,000 to a son-in-law in financial trouble because of gambling addiction and $6,225 to a Ryan family caretaker.

The government has also charged that Ryan concealed $9,675 in payments from former U.S. Sen. Phil Gramm's failed 1996 presidential campaign. Ryan passed the money on to four of his daughters, who did little or no work for the Gramm campaign, according to testimony.

In late 2002, Ryan amended his 1995, 1996 and 1997 tax returns to pay the taxes owed on the payments from Gramm and to his son-in-law, but Schindler was quick to note that came after Ryan was aware of the federal investigation into his dealings.

In a statement to the IRS at the time, Ryan contended he didn't realize he had to pay taxes on the Gramm payments since he had passed the money on to his daughters and they had paid taxes on the income.

On cross-examination, Webb asked where Ryan was expected to find out about that concept and then handed up to Schindler two thick volumes of the IRS Code, the nation's tax laws, and six more volumes of tax regulations.

Asked to find a definition for gifts in the volumes, Schindler said she believed the answer rather would be found in court cases.

"George Ryan should have to know case law?" Webb asked.

Webb tried to show that the omissions on Ryan's tax returns weren't intentional but simply mistakes or oversights on the part of secretary of state staffers assigned to track what campaign expenditures should be reported as personal expenses.

Schindler conceded that Ryan paid taxes in his 1996 return for a $350 trip that the campaign had paid for on behalf of Nancy Smith, then a caretaker for Ryan's mother-in-law.

But Ryan is charged with intentionally omitting a $226 trip taken by Smith in 1997.

Asked if that could be a mistake, Schindler said no.

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Witness Doesn't Connect Illegal Contributions To Bill Campbell (AJC)

By Beth Warren , Jeffry Scott, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, January 25, 2006

Seven years of investigating. Sixteen months of preparing their corruption case against former Atlanta Mayor Bill Campbell.

Yet when federal prosecutors had their first witness on the stand Tuesday, they appeared to stumble.

Witness Kevin Ross, an attorney who chaired Campbell's political campaigns, seemed to actually help the defense more than prosecutors as the federal corruption trial entered its second day with testimony that at times was more confusing than convincing.

Part of the federal indictment against Campbell claims he knowingly accepted illegal campaign contributions while he was mayor.

Ross spent six hours on the witness stand Monday and Tuesday detailing Campbell's inner circle and the key players involved in raising more than $3 million to help the former mayor win re-election in 1997 despite serious opposition.

Ross, questioned by Assistant U.S. Attorney Russell Vineyard, said there were several questionable donations totaling more than $100,000. The donations, in the form of cashier's checks and money orders, used various donors' names but all appeared to be in the handwriting of Campbell's golfing buddy, Steve Labovitz, an attorney who served as the mayor's campaign treasurer.

There were also five cashier's checks totaling $5,000 with the names of five of Campbell's family members, Ross said. Defense attorneys agreed that the mayor's family members' names were used but they weren't the true contributors.

Under cross examination by defense attorney Fred Orr, Ross said he didn't believe Campbell would have been the one to misuse his relatives' names to make illegal contributions.

"I can't conceive he would put his family at risk in that way," Ross said. "He's always been somewhat protective of his family."

So while the prosecution will set out to show the seven-man, five-woman jury that there were illegal contributions to the mayor's campaign, Ross did not connect the contributions to Campbell.

Campbell is charged with racketeering, including taking more than $160,000 in payoffs and $137,000 in illegal campaign contributions. His defense attorneys, led by Billy Martin, told jurors during opening statements Monday that there were excessive contributions that exceeded the legal limits but that Campbell didn't know about them.

Ross also said he stood by his October 2000 comments to The Atlanta Journal-Constitution that "Bill Campbell has been the most accomplished mayor in recent Atlanta history."

Earlier in the day, Ross described how Campbell was desperately trying to hold on to his reign as mayor after failing to garner half the votes needed to win re-election on Nov. 4, 1997. Ross said the campaign relied on questionable contributions.

Ross said thousands of dollars poured in, with much of it coming from the cashier's checks and money orders in Labovitz's handwriting. Labovitz, who hasn't been charged with a crime, is expected to testify during the trial.

Campbell won the runoff, beating out Marvin Arrington, who is now a Fulton County judge, on Nov. 25, 1997. Yet Campbell still needed more money, Ross testified.

The mayor's campaign had raised $3 million but was left with an $80,000 debt. Ross said he wanted to take a closer look at expenditures, but Campbell told him not to.

Prosecutors showed jurors a memo Labovitz sent to staffers suggesting it would be a good time to ask for donations from people who had failed to support the mayor or who didn't give "to the best of their abilities."

Campbell's defense team acknowledges that there were illegal campaign contributions and bribes from city contractors to officials under Campbell, but they insist the mayor didn't know anything about the crimes.

Orr asked Ross: "Would you agree there's no way the mayor, the candidate, the governor, the candidate, or the president of the United States, the candidate ... can always know what people are doing in their names?"

Ross responded: "I agree that is true."

Also Tuesday, U.S. District Judge Richard Story suspended the proceedings while attorneys on both sides determined how evidence is to be introduced. On Monday and Tuesday, the defense lodged several objections about the relevance of certain questions prosecutors asked Ross and Byron Marshall, a former chief operating officer under Campbell who was also called to testify.

"We have tried to prevent certain evidence, not because it is harmful, but because it is not admissible," said Martin, Campbell's lead attorney.

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"I am concerned that we don't have clear lines of what is admissible and what is not," said Story, who ordered both sides to be prepared to resolve the issue today.

Staff writer Ernie Suggs contributed to this report.

Knoxville Fire Chief Under Fire For Too Much Overtime (AP)

AP, January 25, 2006

GREENEVILLE, Tenn. (AP) -- A former Unicoi County court clerk will serve three years probation for stealing more than $10,000 from his office.

Fifty-seven-year-old Gregg Masters will serve six months of his probation in home confinement. He will also have to pay restitution for the money he stole.

He faced a maximum sentence of ten years in prison.

In 2003, Masters resigned the office he had held for 27 years five days after the FBI raided the clerk's office.

At the time he said health problems were the reason he was leaving.

In September, he pleaded guilty in federal court. He admitted stealing payments of traffic violation fines and using the stamp for the Unicoi County general sessions judge to dismiss those cases.

'Embarrassed' Mobster Sentenced To 6½ Years In Prison (AP)

By Matt Apuzzo, Associated Press

AP, January 25, 2006

NEW HAVEN — Prosecutors said he should have spent his old age planting gardens or visiting his grandchildren, but instead 72-year-old Victor Riccitelli was running gambling operations for the mob.

Friday, a federal judge sentenced him to 6½ years in prison for racketeering, flatly rejecting his argument that prosecutors sought to embarrass him by releasing transcripts of his conversations with an FBI informant.

U.S. District Judge Janet Bond Arterton also found "somewhat preposterous" the argument that, when the convicted mobster was recorded discussing his Mafia induction ceremony and the hierarchy of the Gambino crime family, he claimed to have been repeating things he read in a book or saw on the HBO drama "The Sopranos."

Riccitelli, who has 29 convictions dating to the 1950s, became one of the most colorful characters in the landmark Mafia case federal prosecutors brought in 2004.

He allegedly moved bulk cocaine — a fact prosecutors said he hid from his mob superiors — and was caught on tape negotiating deals while receiving treatment for colon cancer.

"He started chemo in January of '04 and sold a kilo (of cocaine) in February of '04," Arterton said, later adding, "Mr. Riccitelli is a man of great stamina, it would seem."

He was also caught on tape trying to arrange a kidnapping, surprising prosecutors who said most criminals slow down in their old age.

"Spend time with the grandkids, plant a garden — something other than plan a kidnapping," prosecutor Mike Gustafson said.

Riccitelli, who is already serving 13 years in prison on federal drug charges, told Arterton he was in the "wrong place at the wrong time."

"All I know how to do is gamble. I had no education," Riccitelli said. "I leave my faith up to you."

While all of Riccitelli's co-defendants, including reputed Mafia underboss Anthony Megale, struck plea deals with prosecutors, Riccitelli became a thorn in the side of the Justice Department.

He rejected plea deals, accused the FBI of selectively recording him and claimed no knowledge of the Gambino family.

Only on the eve of trial, as prosecutors prepared to make public hours of taped conversations between Riccitelli and the informant, did Riccitelli admit his Mafia membership and plead guilty.

Soon after, prosecutors shocked Riccitelli when they released transcripts of his conversations anyway, revealing that he talked freely about the secretive world of the Gambino family. Riccitelli accused the Justice Department of overstepping its bounds and intentionally embarrassing him.

"It's turning into something personal against Mr. Riccitelli or using him as a scapegoat to put on a dog-and-pony show against, as your honor calls it, the Mafia," attorney John Einhorn said.

Arterton agreed that he could serve the new prison sentence at the same time as his drug sentence but said she did not accept his argument of prosecutorial misconduct or his renewed efforts to distance himself from the crime family.

Gambino Figure Will Be 82 Before Release Date (CTPOST)

DOJ_NMG_0011502

By MICHAEL P. MAYKO

Connecticut Post, January 25, 2006

NEW HAVEN — In the end, none of the infamous mob hierarchy tapes were played.

Nor was Victor Riccitelli's 13-year, four-month federal prison term for cocaine trafficking increased Friday, as a result of his guilty pleas to racketeering and gambling.

Instead the 72-year-old reputed Gambino crime family soldier left the courtroom $8,000 poorer.

U.S. District Judge Janet Bond Arterton imposed a 78-month sentence concurrent to the time the Bridgeport mob figure is already serving.

The judge explained that to do anything else would be "piling on." She did note that should Riccitelli, formerly of Capitol Avenue, overturn his cocaine conviction on appeal, her sentence would keep him behind bars.

The judge fined him $7,500 and ordered him to pay another $500 in special assessments — all coming from his prison earnings.

"It was a very fair sentence," said Jonathan Einhorn, Riccitelli's court-appointed lawyer.

Einhorn said if the drug conviction is not overturned, Riccitelli will be 82 at the least before he gets out.

"For him to embark in criminal activity again at that age would be amazing," Einhorn said. "There's no future for Mr. Riccitelli in crime. I hope there's a future for him at all."

Riccitelli, who operated a Bridgeport nightclub for years, has racked up 29 state and federal convictions since his 18th birthday. Most of the convictions

Advertisement

involve bookmaking, Einhorn explained.

When he was 71 years old in 2004, just months after surgery for colon cancer and heart disease, Riccitelli was recorded by the FBI plotting a kidnapping, Assistant U.S. Attorney Michael Gustafson said.

It involved snatching Alfred Lenoci's youngest son and holding him for $2 million ransom. The elder Lenoci is the multi-millionaire founder of United Properties, a Fairfield-based real estate development company.

The plot never went forward.

Still, Gustafson said, at that stage of life, Riccitelli should have been "visiting his grandchildren, planting a garden — anything but plotting a kidnapping."

Gustafson said that if Riccitelli gets out of jail, "he'll go back to criminal activity he has the support of a criminal organization around him."

The prosecutor said Riccitelli's induction into the mob was "handed out as a lifetime achievement award. He was recognized by other criminals for his accomplishments."

Michael P. Mayko, who covers legal issues, can be reached at 330-6286.

Florida Business Briefs (MH)

The Miami Herald, January 25, 2006

AGRICULTURE

Tomato shortage ends; prices should go down

A tomato shortage, created by eight hurricanes the past two storm seasons, appears to be ending.

With Florida's winter harvest now in full swing, Agriculture Commissioner Charles Bronson said Monday that grocery shelves should soon be full of the state's top quality tomatoes and prices should decrease.

Hurricane Wilma that struck Florida in October delayed the current harvest, sending tomato prices to the $4 a pound range, up about $1.50. Some restaurants, including fast-food giant Wendy's, removed tomatoes unless specifically requested.

Hurricanes made 2005 one of the worst years in recent memory for Florida agriculture. Four storms that struck the state not only caused an estimated $2.2 billion in damage to the state's crops and farming infrastructure, but the storms are believed to have spread citrus canker as well.

CELLPHONES

BILL TO CRIMINALIZE SALE OF RECORDS

Legislators introduced a new bill in Congress that would criminalize the sale of cellphone records over the Internet, following reports that data brokers posing as customers obtained confidential information from phone carriers.

Some 40 companies around the country, including a Tamarac-based firm, have websites that advertise the sale of phone records made from any cell number for a $100 fee. Consumer groups have decried the practice as a violation of privacy rights.

The bipartisan bill, co-sponsored by U.S. Sen. Bill Nelson (D-Fla.), would close loopholes in the current law, which makes it a felony to pose as someone else to obtain and then sell customers' call records.

INSURANCE

HEARINGS TO DISCUSS PROPOSED RATE HIKE

State insurance regulators will hold hearings in Miami next week to give consumers a chance to discuss the average 38-percent rate hike requested by QBE Insurance Corp.

The company, a unit of a major Australian insurer, covers condo buildings including many waterfront properties.

The hearings will be held Jan. 31 at the Manuel Artime Theater, 900 SW First St. in Little Havana at 10 a.m. and again at 6 p.m.

INVESTMENTS

MIAMI STOCKBROKER ARRESTED FOR FRAUD

Lazaro J. Rodriguez, a Miami stockbroker, was arrested on mail fraud charges, the U.S. Attorney's Office said Monday.

Rodriguez was president of The Firm Investments, headquartered at 5201 Blue Lagoon Dr., Suite 872, in Miami.

Rodriguez allegedly misappropriated about $1.5 million of investor money from more than 400 investors.

Using Spanish language newspaper and Creole radio advertisements to lure investors, the company's website and written materials offered a number of investment options, Justice officials said.

MANUFACTURING

RECRUITMENT FAIR SET FOR THURSDAY

The South Florida Manufacturers Association and Workforce One are holding a recruitment fair on Thursday to recruit participants for a free "boot camp" that will provide training on a variety of skills.

The fair is from 9 a.m. to 3 p.m. at Florida Atlantic University, 1515 W. Commercial Blvd., Fort Lauderdale.

The boot camp is scheduled for Feb. 6. Participants will be taught how to read a tape measure, safety training, blue-print reading and interviewing skills. The camp will culminate with a job fair. Attendance at the fair is required to participate in the boot camp. For more information, go to www.sfma.org.

AIRLINES

AMERICAN TO BOOST NEW ORLEANS SERVICE

American Airlines said Monday that it will add another flight between Miami and New Orleans on April 3.

The new flight will be the third daily between the two cities.

American said it is nearing its pre-Katrina flight schedule in New Orleans, with service from New York's LaGuardia, Dallas/Fort Worth, St. Louis, Chicago's O'Hare and Miami, bringing New Orleans to 15 daily jet departures versus 16 daily departures pre-Katrina.

OUTSOURCING

ADP TOTALSOURCE OPENS CALIF. OFFICES

Miami-based ADP TotalSource, part of Automatic Data Processing (ADP)'s Employer Services division, said Monday that it has opened seven offices in California -- in Los Angeles, Orange and San Bernardino counties.

The offices offer human resources outsourcing services to small and medium-size businesses in southern California.

The company currently operates 43 offices in 18 states that serve more than 5,400 client companies and 126,000 site employees.

ONLINE

PETMED EXPRESS POSTS HIGHER PROFIT

Shares of Pompano Beach-based PetMed Express (PETS) surged Monday after the online veterinarian drug distributor posted strong results for the latest quarter, due to a wave of new customers.

Shares of PetMed climbed $2.67, or 18 percent, to $17.15 on the Nasdaq Stock Market. Volume was heavy.

Monday's strongest level of $17.25 was a 52-week high, surpassing the previous high of $15.82 set Dec. 27. There was a 52-week low of $6.44 on May 12.

PetMed reported income of $2.7 million, or 11 cents a share, for the fiscal third quarter ended Dec. 31. That's a 37 percent rise from $2 million, or 8 cents a share, in the prior third quarter. Analysts surveyed by Thomson Financial had forecast, on average, earnings of about 9 cents a share.

Sales rose to $25.9 million from $20.8 million, beating the average Wall Street expectation of $24.9 million.

PetMed said it acquired about 105,000 new customers during the third quarter.

FUEL

BROWARD FIRM SETS UP NEW ORLEANS BASE

Fort Lauderdale's Streicher Mobile Fueling (FUEL) has established a permanent operation in the New Orleans area where it will supply commercial bulk and mobile fueling.

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The company said it set up an emergency response following Hurricane Katrina to support the area's energy and distribution infrastructure. The company said it decided to create a permanent operation in the area because it has developed a solid customer base.

Google Launches Services In China (MERCN)

By Michael Bazeley

The San Jose Mercury News, January 25, 2006

Google on Tuesday launched operations in China, a decision executives have agonized over because it will require the Internet firm to subject itself to self-censorship to comply with Chinese law.

The Mountain View search giant is one of the last large U.S. Internet companies to set up shop inside China. The delay reflects months of internal wrangling at Google over how to balance business interests against the company's distaste at having to comply with China's restrictive speech policies.

For now, the Google is making what one executive described as a ``targeted entry," offering Internet search but not e-mail, blogging, video or messaging services. As if Tuesday some Chinese Internet users were able to access the www.google.cn Web site.

They were not, however, able to search for information on the ``three T's": Taiwan independence, Tibet independence and Tiananmen Square, which are all forbidden topics in China. And Google is not yet offering its e-mail service, called GMail.

Ironically, Google's agreement to censor itself and comply with Chinese government rules comes at the same time it's being lauded in the United States for refusing a Justice Department subpoena to turn over data about seaches conducted on its site.

Google needs to compete in the quickly emerging and potentially vast Internet search market in China. That market is becoming increasingly competitive between U.S. and Chinese companies.

But until now, the only way that the Chinese could access the company's services was through its U.S.-based Web sites. But those sites often were sluggish when viewed from China, Google executives said, and what Chinese users see on those sites was subject to filtering and censorship by government officials.

Locating Web servers in China should improve the availability of Google's services, according to company executives.

``Google is mindful that governments around the world impose restrictions on access to information," said Andrew McLaughlin, Google's Senior Policy Counsel, in a statement. ``In order to operate from China, we have removed some content from the search results available on Google.cn, in response to local law, regulation or policy.

``While removing search results is inconsistent with Google's mission," added McLaughlin, ``providing no information (or a heavily degraded user experience that amounts to no information) is more inconsistent with our mission."

To offer its services from within China, Google had to register with the Chinese Ministry of Information Industry and agree to comply with information security rules.

Owing to the delicate nature of the move, Google only briefed reporters about its decision on background, and then released a carefully worded statement. Google executives Larry Page and Sergey Brin were at the World Economic Forum's annual meeting in Davos, Switzerland, and were not expected to comment on the announcement.

Other U.S. Internet companies -- including Microsoft, eBay and Yahoo -- are already established in China. But Google's entrance has been highly anticipated because of the company's global influence and its stated ``Don't Be Evil" motto.

``Google's dilemma with China is a near-textbook case study on the deep question of how much assistance, if any, companies chartered in free societies should render to regimes that censor political and cultural expression," said Jon Zittrain, an assistant professor of entrepreneurial legal studies at Harvard Law School who has studied Chinese censorship.

The human rights group Reporters Without Borders immediately condemned the move. The group's longstanding position has been that U.S. companies should not do business in China as long as it's ruled by a repressive regime.

``Google is following along the lines of other Internet giants and bending to the rules of Communist regimes and going against the original, democratic guidelines under which they were founded,' said Tala Dowlatshahi, the New York representative for the group. ``At some point, they should draw the line and say no."

Google's announcement surprised no one. The company has been telegraphing this move since last year, when it announced the planned opening of a research and development center, hired a top China expert from Microsoft and opened a sales office.

Unknown until now, though, was how Google would make its move.

For now, Google is limiting its China services to Web and image searching, local searching and news.

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Google will voluntarily censor its own search results. The company has compiled information on the types of Web sites and phrases China finds offensive, based on information from third parties and by observing the behavior of China's Internet filtering mechanisms.

``We intend to disclose to users when information has been removed from our search results in response to local laws and regulations," McLaughlin said in the statement.

Google makes similar concessions in other countries. In Germany, for example, a Google search for a specific Web site that allegedly contains Nazi content returns a page that says that, for legal reasons, the Web site is not available.

Google's decision not to place any e-mail servers in China is a calculated move intended to shield it from the type of trouble that befell Yahoo last year. Human rights activists blamed Yahoo for the jailing of a Chinese journalist after the company identified him as the owner of a Yahoo Mail account allegedly used to relay the contents of a secret government order.

Yahoo said at the time that it was required to operate under local laws and had no choice but to cooperate with police.

Google also intends to store some records of its Web server activity outside of China so that authorities cannot access them.

``They're trying to straddle, and it always seems like a good compromise," said Michael Lord, an international business professor at Wake Forest Universitys. ``But it can sometimes not work very well in practice. By limiting what services they offer and what they have on the ground in China, it's difficult to see how they won't be limited by that."

Google's late entrance into the Chinese market has allowed competitors such as Baidu and Yahoo China -- now owned by e-commerce company Alibaba -- to secure strong footholds while Google's market share has dropped.

Baidu, in which Google owns a small stake, is the Internet search leader in China with as much as 30 percent of the market, said Dick Wei, an analyst for JPMorgan Technology Research in Hong Kong.

Google and Yahoo each have about 20 percent, he said.

Wei said Baidu benefits by being perceived as a local company, while Google is seen as foreign company. Baidu is more popular with teenagers, while Google is favored by university students and higher-income users, he said.

Freehold School District Using Eye-scanning Technology (AP)

AP, January 25, 2006

FREEHOLD, N.J. -- The school district in this Monmouth County borough has become the second in the Garden State to start using iris recognition technology to screen visitors, according to computer maker Hewlett-Packard Co.

Freehold launched the system Monday in its three schools, one of which includes the district's offices. The system is being employed as part of a study funded by a $369,000 grant from the U.S. Justice Department's National Institute of Justice.

Plumsted Township in Ocean County started using the eye-scanning technology in 2003 under a similar federal grant.

Iris recognition systems use a video camera to record the colored ring around the eye's pupil. Markings in the iris are unique to each person.

Deployment of the technology in Freehold was the result of a collaboration between Palo-Alto, Calif.-based HP; Renton, Wash.-based Newton Security Inc.; and two New Jersey companies _ Eyemetric Identity Systems and LG Electronics USA.

HP said the Freehold system has enhancements from lessons learned at Plumsted:

_A visitor management computer system that keeps a digital record of everybody that enters the school.

_A system that sounds an alarm when a person holds a door open for someone else.

_A timesaving application scanning driver's license information and retrieving information for records.

Panel Suspends Roane County Judge (KNOXNS)

By JAMIE SATTERFIELD

Knoxville News Sentinel (TN), January 24, 2006

A Roane County judge arrested Monday on federal extortion charges was suspended today from his post.

The Tennessee Court of the Judiciary, which handles disciplinary actions involving judges, announced today that Roane County General Sessions Court Judge Thomas A. Austin has been suspended from his judgeship.

Austin, 57, was arraigned Monday in U.S. District Court on an eight-count indictment accusing him of extortion and money laundering.

"This court has determined an interim suspension is appropriate," the Court of the Judiciary order stated.

Presiding Judge Steven Stafford, who heads up of the disciplinary panel and also serves as a chancellor for the 29th Judicial District, said the court felt quick action was needed.

"Under the circumstances, the members of the Court of the Judiciary agreed that it was necessary to act as quickly as possible to suspend Judge Austin," Stafford said.

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State law dictates that Austin will continue to draw his salary, estimated to be more than $100,000, while suspended.

Roane County will not be without a Sessions Court judge. There are two who handle the docket. But it will burden a court system already overloaded with a backlog of cases, according to Roane County Public Defender Joe Walker.

In addition to Sessions Court, Austin also served as Juvenile Court judge.

Austin is accused of forcing kickbacks from the operators of two driving schools where the judge sent traffic offenders for remedial instruction and from the chief of a private firm that handles offenders placed on county probation.

Assistant U.S. Attorney Charles Atchley also alleged during Monday's court hearing that Austin regularly used "illegal drugs."

A complaint filed against Austin in 2004 by Roane County attorney Tom McFarland contained allegations of sexual harassment by the judge. That complaint has not yet been made public.

Austin's arrest came after McFarland's complaint sparked a Tennessee Bureau of Investigation probe that eventually led to an investigation by the FBI, officials have said.

Federal Magistrate Judge Bruce Guyton freed Austin Monday on a conditional bond after ordering him to undergo drug testing, turn over his guns to his brother and stay away from alleged victims and witnesses in the case.

Jamie Satterfield may be reached at 865-342-6308.

Judge Orders 30-year Sentence For Kansas Group Home Operator (FINDLAW/AP)

By Roxana Hegeman, Associated Press Writer

AP, January 25, 2006

(AP) - WICHITA, Kansas-A former social worker was sentenced to 30 years in prison after being convicted of abusing mentally ill residents of a group home he operated with his wife.

Arlan Kaufman was found guilty in November of 31 federal charges and his wife, Linda, was convicted of 30 counts. The charges include health care fraud, Medicare fraud, forced labor and holding clients in involuntary servitude at the Kaufman House Residential Treatment Center.

Linda Kaufman was sentenced to seven years in prison.

Federal prosecutors had argued that the couple controlled the lives of mentally ill residents, including deciding who could wear clothes. They were found guilty of forcing residents to masturbate, fondle each other and shave each other's genitals - activities that Arlan Kaufman videotaped.

"You are an arrogant individual, you don't recognize what you have done is wrong," District Judge Monti Belot told Arlan Kaufman during the sentencing hearing on Monday. "You see yourself as a victim of some massive conspiracy."

But Belot showed some leniency for Linda Kaufman, agreeing with Wichita psychiatrist Ted Moeller that she had a dependent personality and was manipulated by her husband.

Arlan Kaufman, in a three-hour speech before his sentencing, said he didn't believe he and his wife should have to spend the rest of their lives in prison for trying to help mentally ill patients.

"It was never my intent to exploit any of my patients," he said.

Linda Kaufman, speaking in court for the first time, told the judge she never intentionally hurt anybody and asked for forgiveness.

"I stand before you today humble and broken," she said softly.

Arlan Kaufman, whose social work license was suspended in 2001, had disputed the reports of forcing residents to commit sex acts, saying their behavior was voluntary. He testified that he videotaped the residents so they could see themselves more objectively when their judgment was not so clouded or emotionally charged.

The Kaufmans incorporated their unlicensed treatment center in 1980 and ran it until their arrests in October 2004. Their crimes dated to 1984.

Body Part Scandal In New York Is Expected To Spawn Lots Of Lawsuits (FINDLAW/AP)

By Tom Hays, Associated Press Writer

AP, January 25, 2006

(AP) - NEW YORK-Patricia Battisti had thought her back surgery in early 2005 was routine. A letter from her hospital nearly a year later made it clear she was wrong.

Battisti was informed that the cadaver bone that was implanted in her back may have been infected with various viruses - the result of what investigators say was a large-scale scheme in which corpses were cut up and body parts illegally sold.

The Brooklyn district attorney's office has opened a criminal case focusing on scores of funeral homes in the New York City area and hundreds of looted bodies, including that of "Masterpiece Theatre" host Alistair Cooke. No arrests have been made.

Battisti's case may be an early warning that the gruesome body parts scandal is going to lead to a lot of lawsuits.

The Long Island woman now claims she contracted syphilis from the bone implant and plans to sue. The hospital adamantly denies the allegation.

"I just want answers," said Battisti, 41, a single mother of four, in a recent interview. "I had the operation to feel better, not get sick."

Battisti joins a burgeoning list of potential victims.

Authorities believe two men paid off funeral homes so they could take bone and skin from the dead without their families' knowledge. Worse, some body parts came from elderly people and perhaps victims of infectious diseases, and the paperwork was doctored to say they had been younger and healthier, investigators say.

The U.S. Food and Drug Administration is trying to trace the tissue, which was sold to medical facilities across the country and in Canada.

Both the FDA and hospital officials, while suggesting certain patients should get tested for viruses as a precaution, insisted the risk of becoming ill from tainted tissue is minuscule.

But some of those patients are not comforted, said Battisti's attorney, Jeffrey S. Lisabeth.

"It really freaks them out," he said.

Also disturbed are families who recently learned of evidence that their dead relatives were secretly carved up before being buried or cremated.

A lawsuit filed in Brooklyn accuses a now-defunct New Jersey tissue bank, Biomedical Tissue Services, of stealing parts from a 43-year-old woman who died of ovarian cancer in 2003. The business allegedly forged a signature on a consent form, and listed the cause of death as head trauma.

Authorities also found paperwork indicating Cooke's bones had been removed by the tissue bank before he was cremated. Cooke died of cancer last year at 95, but authorities say documents listed the cause of death as heart attack and lowered his age to 85.

The operators of the tissue bank have denied any wrongdoing.

Battisti's ordeal began in December, when North Shore-Long Island Jewish Health System warned her and 41 other patients that they were at risk for HIV, hepatitis B and C and syphilis. The letters explained that tissue products used for surgical repairs came from body parts that were removed without permission or medical safeguards.

Doctors implanted bone in Battisti's back to relieve pain from a car accident injury. Her lawyer said a recent blood test indicated she had been exposed to syphilis; she is awaiting the results of further tests.

The hospital's attorney, Anthony Sola, argued the tissue banks were responsible for screening and sterilizing their products, which arrive at hospitals ready for use in sealed containers. He also claimed anyone getting syphilis from a bone graft would be "a medical first."

Unfounded allegations, he warned, could "create undue fear in patients who need treatment."

Both Lisabeth and the attorney who filed the lawsuit in Brooklyn said they have been contacted by other lawyers and possible victims nationwide.

"The number of potential plaintiffs is virtually limitless," Lisabeth said.

High Court Delays Fla. Inmate Execution (AP)

By RON WORD

AP, January 25, 2006

STARKE, Fla. - A death row inmate won a stay from the Supreme Court Tuesday night about an hour after he was scheduled to be executed for killing a police officer.

Clarence Hill claimed he is mentally retarded and also challenged the state's use of execution drugs as cruel.

It was not clear if the court's intervention would only briefly delay Hill's execution, which had been scheduled for 6 p.m., to give justices additional time to review stay requests.

Witnesses had gathered at the Florida State Prison for the execution, which was put off for more than an hour before word came from the court.

The witnesses were sent home after Justice Anthony M. Kennedy filed paperwork that said Hill's death sentence would "be stayed pending further order" of the justices.

"The court will not rule until tomorrow," said Robby Cunningham, spokesman for the Florida Department of Corrections.

D. Todd Doss, Hill's attorney, expressed relief. "The important thing is he's still alive tonight," he said.

Earlier, Hill lost appeals at the 11th U.S. Circuit Court of Appeals in Atlanta. He was scheduled to die for the October 1982 slaying of a Pensacola police officer and the wounding of his partner.

DOJ_NMG_0011508

Hill was to be the 61st inmate executed in Florida since 1976, when executions resumed after a 12-year moratorium.

In one of his appeals, Hill, 48, asked for a delay to give him time to contest the chemicals that will be used. Kennedy cited that case in granting the stay.

Hill's lawyers argue that the three chemicals used in Florida's lethal injection method cause pain, making his execution cruel and unusual punishment.

Associated Press Writer Gina Holland in Washington contributed to this report.

DNA Exonerates Fla. Man After 24 Years (FINDLAW/AP)

By Mitch Stacy, Associated Press Writer

AP, January 25, 2006

(AP) - TAMPA, Fla.-Alan Crotzer stepped into the warm sunlight outside the courthouse Monday and raised his arms to the sky, celebrating his freedom after more than 24 years behind bars for crimes he didn't commit.

A judge freed the 45-year-old Crotzer after DNA testing and other evidence convinced prosecutors he was not involved in the 1981 armed robbery and rapes that led to his 130-year prison sentence.

"It's been a long time coming," said Crotzer, his black hair graying at the temples. "Thank God for this day."

Crotzer walked free more than three years after he wrote to the Innocence Project in New York, a legal clinic that seeks to exonerate inmates through DNA testing.

"Are you ready for what you waited so long to hear?" Circuit Judge J. Rogers Padgett said to Crotzer during the brief hearing. "Motion granted - you're a free man."

Members of Crotzer's family and other courtroom spectators clapped and cheered as a bailiff removed the shackles from his wrists and ankles.

Prosecutor Mike Sinacore congratulated him. "Trying to fix an error in the system is just as important as trying to convict someone who is guilty," he said.

DNA has been used to clear at least 172 people wrongly convicted of crimes in 31 states since 1989, according to the Innocence Project.

Crotzer and brothers Douglas James and Corlenzo James were convicted of robbing a Tampa family in 1981. Douglas James and Crotzer were also found guilty of kidnapping and raping a 38-year-old woman and her 12-year-old girl at gunpoint.

A victim picked Crotzer out of a photo lineup. But Douglas James says Crotzer is innocent. He said he and his brother were the rapists and a childhood friend was their accomplice.

Crotzer, who has never held a paying job, said he will go live with a sister in St. Petersburg and try to find work. His attorneys said they will seek compensation from the state for him.

In December, Gov. Jeb Bush signed a bill allowing Wilton Dedge to receive $2 million for the 22 years he spent in prison for a rape he did not commit. Dedge, 44, also was exonerated by DNA evidence.

"There ain't no compensation for what they done to me," said Crotzer, whose mother died while he was in prison. "But I'm not bitter."

Crotzer said he was looking forward to a barbecue with his family, who promised him his favorites - pork chops and banana pudding. Then, he said, he wanted to take a bath in a real bathtub.

"I want to soak," he said. "I want to get some of this off me."

On the Net:

The Innocence Project: http://www.innocenceproject.org

Florida Innocence Project: http://www.floridainnocence.org

Girl, 7, Shot By Boy, 8, At Day Care In Montgomery (WP)

By Ernesto Londoño

The Washington Post, January 25, 2006

An 8-year-old boy who shot a 7-year-old girl in the arm yesterday with a handgun he sneaked into a Germantown day-care center in his backpack told classmates last Friday after a fight that he had easy access to guns, two law enforcement officials said.

The boy, a third-grader at Cedar Grove Elementary, had been suspended in the past for bringing a toy weapon to school, said the sources, who declined to be identified because the case is open.

He was armed yesterday with a .38-caliber Taurus revolver that belonged to his father, a felon with a lengthy record, police said.

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The law enforcement sources said they do not believe that the shooting victim, a second-grader at S. Christa McAuliffe Elementary, was involved in Friday's fight. It was unclear what the boy had planned to do with his father's gun, they said. But whatever his plans, they were cut short around sunrise as six children supervised by a female teacher were huddled around a television set watching Peter Pan at the day-care center.

The sources said the boy threatened to rob the girl and then fired the gun once, striking her in the upper right arm.

The boy's father, John Linwood Hall, 56, was arrested and charged with leaving a firearm within reach of an unsupervised minor, contributing to the delinquency of a minor and possession of a firearm by a felon. His son was charged as a juvenile with numerous counts that police declined to outline yesterday. The boy was placed in the custody of the Maryland Department of Juvenile Services, which provides counseling and treatment to delinquent juveniles.

In charging the boy, authorities weighed the nature of the offense and the child's disciplinary history against his age, officials said.

"An innocent 7-year-old girl was shot in the arm inches away from her heart," Montgomery County State's Attorney Douglas F. Gansler said. "In the final analysis, given this particular child's personal history, both at home and school, the decision was made that it would be in the best interest of this juvenile to be charged."

Minutes before 7 a.m., police received the call about the shooting at For Kids We Care Inc., which rents a unit at the Northlake apartments in the 12600 block of Grey Eagle Court. For Kids We Care cares for children before the regular school day begins.

Paramedics rushed the girl to the sports field of her school, near the apartments, and about 7:35 a.m. a state police helicopter took her from the field to Children's Hospital in the District. She was reported in stable condition last night. Her family could not be reached for comment yesterday.

The sound of the helicopter was the first indication McAuliffe Principal Loretta Favret had that something was amiss.

"I turned on the TV and saw it was happening here," Favret said. Within minutes, she learned from school system supervisors who the shooting victim was.

"Our first concern was for her and her family," Favret said. "She's kind of a favorite around here -- very gregarious, always has a crowd around her."

Miles away, in a McLean office, parent Jackie Tazwell, 29, an administrative assistant, got a frantic call from her sister, who had recognized the name of the day-care center's street from news reports. Tazwell's heart pounded as she called the center, where she had left her 4-year-old son at 6:30 a.m. He was not hurt, she was told during a brief conversation with a day-care worker. Still, she yearned to hold her son.

"I dropped everything and ran straight from work to find out what was going on," Tazwell said.

At McAuliffe, administrators went to Code Blue -- a state of heightened awareness used in emergency situations. School officials told parents concerned about the shooting that their children would be safe in school.

"Not a lot of kids knew about this incident," said Favret, the principal. "It was scary for parents to hear that a kid had a gun inside a backpack. The reality is, it's scary that we're in a large community where people have guns and kids have access to them."

When asked by police where he got the gun, the 8-year-old boy said "he brought the handgun from home and that it was his father's," according to a police document. The boy also "stated that there were numerous additional firearms in that residence which he had access to," the document said.

Hall's criminal history dates to at least 1968 in Baltimore, according to a list of 17 offenses outlined in the police document prepared yesterday. The list says he has been charged with assault with the intent to commit murder, battery, intimidating a witness, assault with the intent to maim and a handgun violation, among other offenses. It did not say how many charges had led to convictions.

Hall was being held on $750,000 bond.

Parents of McAuliffe students expressed shock and anger yesterday.

"It's very scary," said Rana Kuri, 41, whose 10-year-old son is a fifth-grader. "This is an elementary school. Are they going to put in a metal detector?" She paused, seemingly outraged by the thought. "They might as well consider it."

Jason Musser, 25, whose 7-year-old daughter attends McAuliffe, said he was concerned by what he perceived to be a recent surge in crime in Germantown.

"This is a shocker, especially happening just across the street" from the school, he said. "I was a kid here. I would never feel unsafe walking alone at night. I don't do that anymore."

The center is one of two operated by For Kids We Care. The second is at the Canterbury apartments in the 19900 block of Sweetgum Circle in Germantown. Property managers at both locations asked reporters to leave the premises yesterday. A woman who answered the phone at the Canterbury center declined to comment.

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Tazwell said she thought the day-care staff handled the situation well. She said she plans to continue taking her son to the center. Her son seems unfazed by what he witnessed, she said.

"He hasn't talked about it unless he's been asked," she said.

The shooting came days after 4-year old Fahad Islam was hit in the head Friday night by what appeared to be a stray bullet while playing in his Columbia home. He was taken to the hospital in serious condition but is expected to be released in two to three weeks, according to Renu Shrestha, a family friend.

Howard County police said they are trying to determine who was responsible for the shooting.

Boy, 8, 'Accidentally' Shoots Girl (WT)

By Arlo Wagner And Matthew Cella

The Washington Times, January 25, 2006

Montgomery County police yesterday charged a Germantown man and his 8-year-old son after the boy took his father's handgun and shot a 7-year-old girl in the arm while playing with it at a child care center before school.

John Linwood Hall, 56, was charged with leaving a firearm in a location accessible to a minor, contributing to the delinquency of a minor and possession of a firearm by a felon. He was held last night in the Seven Locks Detention Center.

Police also said they "initiated charges" against Mr. Hall's son, whose name was not released because he is a juvenile. They referred calls for comment to the county's Department of Juvenile Services.

Montgomery County State's Attorney Douglas F. Gansler confirmed that the boy was charged in the case, but he would not identify the charges. Mr. Gansler said that authorities considered the seriousness of the incident and the age of the boy in deciding to file charges.

"In the final analysis, given the history of this boy, both at school and at home, the decision was made to charge him and get him into the system and get him the help he needs," Mr. Gansler said.

Officer Derek Baliles, a county police spokesman, said the shooting occurred just before 7 a.m. at the For Kids We Care child care center at 12648 Grey Eagle Court in Germantown.

Police said the boy took a .38-caliber Taurus revolver from an unlocked container in his father's closet and put it into his school backpack.

Officer Baliles said the gun fired "accidentally" at the day care center when the boy played with it inside the backpack. The girl was struck in the arm, authorities said.

The girl, whose name was not released, was flown to Children's Hospital and was in stable condition last night. She is a second-grader at S. Christa McAuliffe Elementary School in Germantown.

The girl's father, who was not identified, said in a statement issued through the hospital and obtained by the Associated Press: "Everyone has a responsibility to ensure that guns are kept unloaded, locked and out of children's reach to prevent incidents like this."

The AP reported that Mr. Hall has an arrest record that goes back nearly 40 years. The record includes six arrests in Baltimore between 1968 and 1970. There are also eight arrests in Montgomery and Frederick counties from 1971 to 1989. The charges include contributing to the delinquency of a minor, assault with intent to murder and intimidating a witness. The outcome of those cases isn't clear, according to the AP.

Police said Mr. Hall had the .38 caliber Taurus for several years and that he and his son live in the Northlake apartment complex where For Kids We Care center is located.

The center, which caters to infants and toddlers and offers before- and after-school programs, is located in a specially outfitted ground-floor apartment that's connected to a fenced-in outdoor playground.

When police arrived, Mr. Hall's son, the wounded girl and four other children were calm, police said. "The child care providers did a marvelous job," said Lucille Baur, a county police spokeswoman.

Providers voluntarily closed the center where the incident occurred and another one they operate about two miles away.

"It scared me," said Rashida Means, 25, who lives in the apartment complex.

William Reinhard, a spokesman for the Maryland State Department of Education, said the child care facility has been licensed since August 2003.

The license is in the name of Touye Simmons. More recent documents identify the owner and president of For Kids We Care as Touye Harris.

Mr. Reinhard said the department would conduct its own investigation. He could not say whether the center would reopen today.

Messages left yesterday at the center's two locations were not returned.

DOJ_NMG_0011511

Boy Shoots Girl (WP)

The Washington Post, January 25, 2006

AT A DAY-CARE center in Germantown, an 8-year-old boy shot a 7-year-old girl with a handgun yesterday, hitting her in the arm but not killing her. The boy, whose father is a convicted felon with a long rap sheet, had bragged that he had access to guns. But why is it that after years of similar incidents and anguish and debate, the country has yet to enact laws to prevent such tragedies?

In the late 1990s, then-Gov. Parris N. Glendening's task force on gun violence in Maryland pushed for tougher rules mandating safety devices on handguns. In the following years, the state adopted a number of laws -- stronger than most in the nation -- including a requirement that handguns sold in Maryland be equipped with a childproof locking device, and another forbidding people from leaving loaded firearms within reach of unsupervised children. But other regulations -- potentially more effective ones in preventing accidents such as yesterday's -- went nowhere. Most notable was a proposal that guns be "personalized" by incorporating technology restricting a gun's use to its owner, for instance by using fingerprint recognition. In a study published in 2003, researchers led by Jon S. Vernick of the Johns Hopkins School of Public Health examined 117 unintentional homicide deaths in Maryland from 1991 to 1998, four-fifths of them involving handguns. The conclusion: 37 percent of the deaths could have been prevented by a "personalized" gun.

A third or more U.S. households keep a gun at home, often a loaded one, in the belief that it will protect them from intruders who would do them harm. These guns may furnish some people with a sense of personal security, and at times they do safeguard the lives of innocent homeowners. But the pervasive presence of guns in homes comes with a cost; a substantial body of research suggests that households with guns are more likely to be the scenes of suicides and homicides than those without.

More gun safety laws will prevent many incidents, but they won't protect everyone from lawbreakers such as the father of the Germantown boy. Without stricter federal laws on access to handguns, more of these tragedies will occur.

CIVIL LAW:

Lawyers For Defense, Unions Detail Their Differences For Federal Judge (WP)

By Stephen Barr

The Washington Post, January 25, 2006

Judge Emmet G. Sullivan presides over his federal courtroom with an easy manner, a sleek laptop computer on his desk and the ancient scales of justice behind his chair. He does not always require the audience to stand when he enters and leaves the courtroom, and yesterday he gave ample time to Justice Department and union lawyers to argue over new workplace rules at the Defense Department.

The rules will change the way in which 650,000 Defense civil service employees are assigned work, paid and disciplined. A coalition of unions filed suit to stop certain changes, and Sullivan's decision in the case could affect other Bush administration efforts to revamp civil service rules across government.

The rules, as Sullivan put it yesterday, are "extremely important, extremely complicated." To limit confusion, union and Justice Department lawyers used slide shows to make their points to Sullivan.

Sullivan asked the lawyers to shed light on what Congress intended in creating the National Security Personnel System, whether Pentagon officials had honored a mandate to collaborate with unions on the development of the rules, and whether the Pentagon could waive civil service law on union rights and take numerous issues off the bargaining table.

Daniel M. Schember , representing the union coalition, and Joseph W. LoBue , a Justice lawyer representing the Pentagon and the Office of Personnel Management, jousted over whether rules on labor-management negotiations must be read as a whole. One part calls for ensuring that Defense employees retain their bargaining rights, but a second part gives the department broad powers to limit labor rights and to override union contracts.

Schember pointed to statements by senators, such as Susan Collins (R-Maine) and Carl M. Levin (D-Mich.), that a compromise reached between the House and Senate did not allow the Pentagon to waive the basic requirements of civil service labor law.

LoBue said Congress knew it would be allowing Defense to set up a different system and that the judge should treat part two of the rules as an exception to the first part.

When the judge asked about the process used to shape the new rules, Joseph Goldberg , representing the American Federation of Government Employees, said the Pentagon had not followed the law, which calls for "meaningful discussions" and the participation of unions in revising workplace rules. Goldberg said the Pentagon "went dark" on the unions and drafted a regulation without their involvement.

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Sullivan asked why the Pentagon had waited 60 days to start talks with unions on the new rules and whether they had a seat on the design team. LoBue said the Pentagon had provided the unions with ideas and draft proposals and had given them time to comment when a proposed rule was published. The "meet and confer" period was not a sham, LoBue said, contending that unions had the opportunity to be heard.

Hovering over the case is a ruling by one of Sullivan's colleagues on the U.S. District Court concerning workplace changes planned at the Department of Homeland Security. Judge Rosemary M. Collyer blocked the department's new labor rules because they fell short of guaranteeing bargaining rights.

Like Defense, Homeland Security would permit department officials to override any provision in a union contract by issuing a policy directive. Homeland Security has appealed Collyer's decision.

LoBue told Sullivan it is inappropriate to compare the cases, because Congress wrote a different law for Defense that included a provision saying that the new rules "shall supersede" collective bargaining agreements. Homeland Security was not given such congressional instruction, LoBue said.

In addition, he said, the Pentagon regulation allows only a relatively few senior officials to issue NSPS directives, eliminating the possibility that a lower-level manager could curb bargaining.

The case could turn on how the judge views the new rules in relation to national security. LoBue argued that Defense needs maximum flexibility to respond to terrorist threats and reassign civil service employees quickly to support the military. Schember pointed out that the government has not identified any national security problems that would require the jettisoning of union rights.

Sullivan listened, but noted, "This is a different world since 9/11."

He promised to reach a decision by March 1.

New DOD Personnel System Delayed (WP)

By Christopher Lee

The Washington Post, January 25, 2006

The Defense Department agreed yesterday to delay implementation of its new personnel system until at least March 1 to give a federal judge time to decide whether the new rules pass legal muster.

Judge Emmet G. Sullivan of the U.S. District Court for the District of Columbia told lawyers for the department and for a coalition of federal employee labor unions that it would take him at least that long to sort through the issues at the heart of the unions' lawsuit against the new system.

"It's an extremely important case and it is extremely complex," Sullivan said yesterday during a three-hour hearing.

The National Security Personnel System, which would cover 650,000 civilian employees, would replace the familiar 15-grade General Schedule pay system with one in which raises are linked to annual performance evaluations. The new work rules also would curtail the power of labor unions and make it easier to hire, promote and discipline employees -- all in the name of making the Defense Department more nimble in the struggle against terrorism.

The unions contend that the new rules would gut collective bargaining in violation of federal law. And they maintain that department officials did not live up to their obligation, spelled out in the 2003 law that paved the way for the changes, to consult with employees' representatives in developing a new labor management system.

"They simply ignored the explicit requirement of the law and did what they wanted to do," said Joe Goldberg, a lawyer for the American Federation of Government Employees, the lead union.

A similar lawsuit against the Homeland Security Department has delayed the implementation of a new pay system there by as much as a year. In August, U.S. District Judge Rosemary M. Collyer faulted the new DHS system for undermining employees' rights to collective bargaining, and blocked implementation of new rules governing labor relations and employee appeals. DHS has appealed.

Joseph Lobue, a lawyer for the Justice Department, told Sullivan that the DOD personnel system was "very different from Judge Collyer's case." He added: "She was faced with a very different statue. . . . These agencies have explicit authority to do just what they did."

Agreeing to the delay was a small concession. The DOD already had pushed back the start date of the new system to April 30. It will continue to develop a new internal labor relations board, however.

Pentagon Again Delays New Labor Rules Upon Judge's Request (GOVEXEC)

By Karen Rutzick

Government Executive, January 25, 2006

DOJ_NMG_0011513

The Defense Department has delayed the rollout of its new labor relations system until March 1 in response to a judge's request that he be given more time to consider a lawsuit challenging the system.

Judge Emmet Sullivan of the U.S. District Court for the District of Columbia heard arguments Tuesday in a lawsuit filed by a coalition of federal employee unions against the National Security Personnel System.

NSPS would supplant the decades-old General Schedule pay system with broad paybands that would allow supervisors to use greater discretion in hiring and employee compensation. It also would tie annual raises to a system of rigorous performance reviews. At issue in the lawsuit, however, are other portions of the NSPS regulations that curtail collective bargaining rights for Defense employees.

Sullivan said he needed until March to decide the case on its merits. The department had already agreed to stall the system until Feb. 1 because of the lawsuit. Lawyers for the Pentagon agreed to the second delay, with a few exceptions.

Most notably, the government said it would move forward with setting up the National Security Labor Relations Board as planned. The NSLRB would replace the governmentwide Federal Labor Relations Authority in hearing labor disputes. Its members would be appointed by the Defense secretary with some consultation from unions.

Justice Department lawyer Joseph Lobue, who argued on behalf of the Defense Department and also represented the Homeland Security Department last summer in a similar case, said the government would appoint a chairman, hire staff and complete regulations on the structure of the NSLRB.

The NSLRB would not hear any labor disputes until March 1, Lobue added. Union lawyers agreed to the deal, although they said they will continue to contest the legality of the new board in their lawsuit.

The department said it will retain the right to continue training employees on the workings of NSPS and developing further details of the system. Recently, Defense announced a significant delay and scaling back of the first installment of the human resources portion of the system to allow more time to work on it.

Sullivan heard more than three hours of arguments on NSPS collective bargaining procedures, and called the Pentagon's ability to waive previously negotiated collective bargaining agreements "the principle question concerning the validity of the labor relations system."

In August, D.C. Circuit Judge Rosemary Collyer ruled that DHS' similar labor relations system was illegal, in large part because of this very ability.

Sullivan said he had read Collyer's decision closely. But both sides pointed out that Congress passed different laws to authorize the Defense and Homeland Security systems, and the departments have developed different regulations to implement them.

"It's a very separate case," Lobue said. "It's also a different regulation. The [DHS] regulation authorized the agencies to impose limitations on bargaining by any manager in the agency. Here the issuances that we're talking about can only be promulgated by a discrete group of people. You don't have a situation where the danger is a lower level agency official can impose a limitation on bargaining."

Also at issue in the case is the process by which the department developed the NSPS regulations. Government lawyers said the agency met its legal obligation to meet and confer with unions by holding a number of meetings and by receiving input to the regulations when they were published in the Federal Register.

But the unions argued that the meetings served no purpose because the agency ignored their comments.

Sullivan could rule that because the process was illegal, the regulations are voided in their entirety.

Big U.S. Telecom Contracts Delayed (WP)

By Arshad Mohammed

The Washington Post, January 25, 2006

The General Services Administration yesterday told bidders on its estimated $20 billion, 10-year "Networx" telecommunications contract that it had postponed the award dates until 2007 but gave no specific reason for the delay.

The telecom contract, the largest ever to be awarded by the GSA, is the grand prize in federal communications work and attracted bids from groups led by AT&T Inc., Qwest Communications International Inc., Sprint Nextel Corp. and Verizon Communications Inc.

The contract is split into two parts. Networx Universal, the larger and more lucrative piece, requires bidders to serve more than 15,000 locations in the United States and overseas, providing noncombat communications for the military and U.S. missions in roughly 190 countries.

Winners of Networx Universal, whose award date has been delayed until March 2007 from July of this year, will share $525 million in guaranteed revenue. Beyond that they will bid for individual agency projects.

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Networx Enterprise, whose contract award has been postponed to May 2007 from September of this year, is a more tailored piece of the project designed to give smaller companies without global reach a chance to bid for part of the work.

Spokesmen for AT&T, Qwest, Sprint Nextel and Verizon, which all bid on Networx Universal, said their companies were informed of the delay yesterday but were given no detailed reason.

The delay offers something of a silver lining for Sprint Nextel and Verizon because both provide the federal government with telecommunications services under the FTS 2001 contract, which will have to be extended because of the Networx delay.

Verizon has a piece of FTS 2001 because of its $8.5 billion purchase of MCI Inc., which was one of the winning bidders on that contract.

Sprint Nextel spokeswoman Stephanie C. Taliaferro said her company is negotiating a two-year extension of its FTS 2001 contract, which is due to expire in December, to take into account the Networx delay.

A GSA spokesman did not immediately return telephone calls seeking comment.

GSA spokesman Blake Williams earlier told Washington Technology he could not comment on the reason for the Networx delay.

A Threat To The Campaign Law (NYT)

The New York Times, January 25, 2006

Just when the American public - outraged by the growing lobbying scandals - is calling for more regulation of money in politics, the Supreme Court has opened the door for a move in the other direction. Its brief 9-to-0 ruling this week is technical in nature, but carries the potential to undermine campaign finance reform.

The decision involves the McCain-Feingold reform law, which the court upheld in a landmark 2003 ruling. During the 2004 elections, Wisconsin Right to Life, an anti-abortion group, wanted to run television ads that put Senator Russell Feingold, a Democrat who was in a tough re-election fight, in a bad light.

The ads expressed concern about the use of filibusters to block judicial nominees, and urged viewers to tell Senator Feingold, and Wisconsin's other senator, to oppose filibusters. McCain-Feingold bans the use of corporate and special-interest group money for "electioneering communications," which it defines in part as ads that run within 60 days of a general election and mention a candidate by name. But Wisconsin Right to Life argued that its ads were grass-roots lobbying - an attempt to change the process of judicial confirmation - not an electioneering effort to defeat Senator Feingold. Therefore, the group said, the ads did not come under the law's limitations.

The lower court interpreted the Supreme Court's 2003 ruling to mean that all ads of this kind were restricted within the 60-day window, and that lower courts should not get involved in trying to separate acceptable ads from unacceptable ones. But the Supreme Court disagreed this week, saying that courts could hear "as applied" challenges like Wisconsin Right to Life's, and consider which ads were really no more than grass-roots lobbying.

There is nothing wrong with that in principle. But it is important that the courts develop a narrow and honest test for when advertisements are grass-roots lobbying. In this case, Wisconsin Right to Life was actively opposing Senator Feingold's re-election. It had supported candidates against him, and the ads it wanted to run right before his election were clearly intended to encourage people to vote against him. The claim that those ads were unrelated to opposing Senator Feingold's re-election is simply not credible.

If the courts create a big "grass-roots lobbying" loophole, it will free corporations and special interests to run phony "issue ads" that are actually a form of unregulated campaign contribution. That is not what Congress wanted when it passed McCain-Feingold, and it is not what the public wants today.

If this case comes back to the Supreme Court, as seems likely, it will be an important test of the new Roberts court. At his confirmation hearings, Chief Justice John Roberts Jr. expressed his commitment to "judicial modesty" and his respect for precedent. It would not be judicially modest to tear a gaping hole in Congress's landmark campaign-finance statute, and it would not show respect for precedent to undo a key part of the landmark 2003 case that upheld the law's reasonable restrictions on money in politics.

CIVIL RIGHTS:

Senate Approves Voter ID Requirement (AP)

By Doug Gross

AP, January 25, 2006

DOJ_NMG_0011515

ATLANTA - Georgia voters would need photo identification to vote, under a bill that got approval from the state Senate on Tuesday.

The bill, which spurred several hours of emotional and sometimes racially charged debate on the Senate floor, now must return to the House for a vote on minor Senate changes. Gov. Sonny Perdue, who must sign it into law, has said he supports the bill.

The bill passed 32-22, largely along party lines. Sen. Jack Hill, R-Reidsville, a former Democrat who switched parties in 2003, was the only Republican voting against it.

The legislation would require a driver's license, military ID or a state-issued identification card, with a photo, to vote. It removes several forms of identification currently accepted, including Social Security cards, birth certificates and utility bills.

The plan was voted into law by the Legislature last year. But a federal judge blocked it, saying it amounted to an unconstitutional poll tax. Most voters who didn't already have approved identification would have paid $35 for a state ID.

This year's changes waive that fee and give equipment to each of Georgia's 159 counties to issue the cards.

Critics argued Tuesday, as they have since last year, that the plan unfairly impacts the poor, the elderly and minorities, who are less likely to have driver's licenses.

Supporters say the bill is an effort to crack down on voter fraud.

Sen. Cecil Staton, R-Macon, called critics' comparisons to the poll taxes of the segregation-era South unfair, saying his effort was about protecting the Constitutional right to vote.

"There is also another side to the civil rights argument," Staton said. "Our civil rights also dictate that we have a right to have our vote count, not disqualified by someone else who votes illegally."

Critics argued the plan is little more than an effort by majority Republicans to make voting more difficult for voting blocs that don't tend to support them.

"This is not about voter identification, but rather a voter constriction bill," said Sen. Ed Harbison, D-Columbus. "This ultimately will have a chilling effect."

Tuesday's debate, which took up virtually all of a seven-hour Senate session, failed to reach the highly emotional level of last year's - when one senator brandished shackles, saying the effort reminded him of slavery, and black Democrats led a walkout after the vote.

Still, Sen. Sam Zamarripa, D-Atlanta, derided the effort as "mean to old people" and Sen. Steen Miles, D-Decatur, referred to the "white sheet of power politics" after a speech that mentioned the Ku Klux Klan.

Sen. Preston Smith, R-Rome, argued that race had nothing to do with plan.

"Why should we intellectually accept that a system designed to verify identity through the use of a photo ID has a disparate impact on the minority community?" he said.

Hill, who did not speak against the bill, said that as a Democrat he helped author the state's previous voting laws and that he felt the 17 forms of identification formerly accepted to vote were sufficient.

Because the Senate made minor changes to the bill, it must now go back to the House for final approval.

If signed by Perdue, the bill then would have to be approved by the U.S. Justice Department before it goes into effect. Georgia, like other states with a segregationist past, must get federal approval to any change in its voting laws.

SIU Receives Justice Department Proposal On Minority Fellowships (AP)

By JIM SUHR, Associated Press

AP, January 24, 2006

Southern Illinois University administrators are weighing a Justice Department proposal that would head off the government's threatened lawsuit over three allegedly discriminatory graduate fellowships, the university system's general counsel said Tuesday.

Jerry Blakemore refused to publicly discuss the Justice Department's recommendations but cast them as a breakthrough, marking the first time in months of negotiations that he's had a proposal of adequate clarity to take to SIU President Glenn Poshard and other administrators.

"We certainly believe we have sufficient understanding of the legal issues for me to be making a legal recommendation to the president, the board and the university," Blakemore said.

Though the Justice Department has not categorized the proposal as its final offering, Blakemore said the university was treating it as such "because we've had lots of discussions for some time" with the government.

Poshard and Walter Wendler, chancellor of the Carbondale campus, on Tuesday and Wednesday were to meet with SIU administrators and key "constituency groups" for feedback about the government's suggested solution to the dispute. After those private talks, SIU would respond, said Blakemore, not offering a time frame.

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Justice Department spokesman Eric Holland said the agency was "currently in settlement negotiations with the university" and "hoped to resolve our differences without resorting to contested litigation."

The Justice Department demanded in writing in November that SIU halt the fellowships or be sued, arguing that the programs violate the federal Civil Rights Act of 1964 and result in "intentional discrimination against whites, non-preferred minorities and males."

SIU officials have denied that the fellowships discriminate, saying the financial aid incentives promote the university's tradition of diversity.

Two of the fellowship programs are aimed at increasing minority enrollment in graduate programs in which minorities are underrepresented. The third fellowship is offered to women — including whites — and minorities who have overcome social, cultural or economic obstacles.

Nearly 130 students have been aided through the fellowships, the university has said. Just under 8 percent of SIU's 5,500 graduate students are black or Hispanic, according to SIU.

The university has been in negotiations with the Justice Department for weeks but has refused to discuss the dialogue, which Blakemore on Tuesday called "good and fruitful."

Rob Benford, a sociology professor serving as president of the school's Faculty Senate, said Tuesday he looked forward to Poshard detailing the Justice Department's proposal during their meeting Wednesday — but that he would likely question any retreat by the university from the fellowships.

Last month, the Faculty Senate unanimously passed a symbolic resolution urging the school's administration to maintain the programs.

"These programs bring enormous benefit to the university," Benford said. "My concern is, where are the people who supposedly have been harmed by the current policy? All I can point to is people who have been helped."

Montgomery Repeals Lawn Sign Limit (WP)

By Tim Craig

The Washington Post, January 25, 2006

The Montgomery County Council voted yesterday to repeal a provision that requires property owners to remove lawn signs after 30 days or pay $30 to apply for a permit to keep them up longer.

The American Civil Liberties Union had argued that the time limit -- a provision in a larger sign ordinance that had been in place since 1998 -- violates the First Amendment right to free speech, and the organization was threatening to sue the county.

Although county attorneys said yesterday that they were willing to defend the law, the council appeared reluctant to pick a fight with the ACLU.

"There is a disconnect between the U.S. Constitution and our sign ordinance, and that is why we must pass this bill," said council member Howard A. Denis (R-Potomac-Bethesda), a sponsor of an amendment to repeal the time-limit provision.

The repeal, which goes into effect Feb. 3, will apply only to private properties. Signs posted in public rights of way will still have to be removed after 30 days.

The two council members who voted against changing the law, Nancy Floreen (D-At Large) and Marilyn Praisner (D-Eastern County), warned that unsightly signs may soon proliferate in neighborhoods.

"The real issue is what it means for neighborhoods," Floreen said.

The ACLU represents a group of residents who erected signs to protest the planned construction of what they considered an oversize house in their Chevy Chase area neighborhood of Brookdale. A limited liability corporation headed by Thomas R. Eldridge, a developer and Somerset Town Council member, bought a 2 1/2 -story house in Brookdale in March and tore it down. The corporation has since broken ground on a house that residents contend will be four stories.

In August, several dozen residents posted signs in their yards that read, "Council Member Eldridge, We Don't Want Your McMansion for Profit in Our Neighborhood!"

In September, the county Department of Permitting Services, which in July approved Eldridge's plans for building the house, said the signs had to go.

When six residents refused, they were issued violation notices, the first step toward fines that could have approached $500.

After the ACLU got involved, County Executive Douglas M. Duncan (D) announced that he supported scrapping the 30-day limit. But the county Planning Board, concerned that lawn signs could stay up forever, urged the council not to act on the proposal.

Several community groups also opposed repealing the time limit.

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"It opens the door to visual clutter," said Dennis Holden, co-chairman of the Fairland Coalition, a community group in the Burtonsville area.

But council member Phil Andrews (D-Gaithersburg-Rockville) argued yesterday that "eliminating clutter is not an argument for limiting free speech."

Defending The Faith New Battleground In Textbook Wars: Religion In History (WSJ)

By Daniel Golden, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, January 25, 2006

The victors write the history books, the saying goes. But increasingly, religious advocates try to edit them.

Religious pressure on textbooks is growing well beyond Christian fundamentalists' attack on evolution. History books are the biggest battleground, as groups vie for changes in texts for elementary and secondary schools that cast their faiths in a better light.

Two Hindu groups and a Jewish group have been set up in the past three years as textbook watchdogs, adding to Islamic advocates who have monitored history textbooks since 1990. In addition, some Sikhs have started to complain about being short-changed in history textbooks.

QUESTION OF THE DAY

1 · Cast Your Vote: Do you think the history books used in your local schools are accurate?2

All are seeking to extract concessions as California holds its periodic approval process for history textbooks. The process drives school-district purchases in the most populous state, and books adopted for California typically are the ones that schools in the rest of the country end up using for several years.

Hindu groups, in particular, have swamped California authorities with proposed revisions, which would delete or soften references to polytheism, the caste system and the inferior status of women in ancient India. For example, the Hindu Education Foundation, a group linked to a Hindu nationalist organization in India, proposed replacing a textbook's statement that "men had many more rights than women" in ancient India with: "Men had different duties ... as well as rights than women. Many women were among the sages to whom the Vedas [sacred texts] were revealed."

California's Curriculum Commission endorsed this and most other changes pushed by Hindu groups, moving the matter along to the state board of education, which usually follows its advice. But then a strong objection to such changes arrived from a group of U.S. scholars, led by a Harvard professor, Michael Witzel. The scholars' protest, in turn, led to a lawsuit threat, a call for Harvard to disband the professor's department, and finally an unusual state-sponsored head-to-head debate between two scholars of ancient India.

Underlying such free-for-alls is the question of whether lobbying by religious groups yields a more sensitive and accurate version of history or a sugar-coated one -- and also whether students are served better or less well. "It tends to be scholar pitted against believer," says Kenneth Noonan, a member of the state education board.

For textbook publishers, meanwhile, to ignore religious groups is to risk exclusion from markets. One of the nation's largest school districts, Fairfax County, Va., dropped a McGraw-Hill Cos. 10th-grade text from its recommended list last year after complaints from Hindu parents, keeping it out of classrooms there.

Religious protests nearly crippled Oxford University Press's effort to enter the U.S. world-history textbook market. The prestigious university press sought to impress California authorities with cutting-edge scholarship and narrative verve, but the Curriculum Commission initially recommended against adopting Oxford's sixth-grade book last fall after Jewish and Hindu groups objected to it.

The Institute for Curriculum Services, a Jewish group set up in 2004 to scrutinize textbooks, was upset by the book's statement that archaeology and ancient Egyptian records don't support the Biblical account of the Exodus of the Israelite slaves from Egypt. While conceding this was true, the group said the book didn't apply the same skepticism to Islamic or Christian events, such as when it said that "ancient writings" and the Gospel according to Matthew relate that "wise men (probably philosophers or astrologers) followed a brightly shining star" when Jesus was born. Similarly, the book said that "according to Muslim tradition," the prophet Muhammad flew into heaven from the site of the Dome of the Rock mosque.

The Hindu groups, meanwhile, called the book's tone insensitive, such as its heading over a column about vegetarianism in India: "Where's the Beef?" The state board finally put the book on its approved list after Oxford cut the passages found objectionable and added a paragraph saying that for Jews, the Exodus is a "central event in their history" and "powerful symbol of the importance of freedom."

Casper Grathwohl, an official of Oxford University Press, says it preserved its integrity, and the give-and-take improved the text. But he complains that "the process is skewed toward giving the loudest voices what they want."

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Every six years, California adopts a list of history books for kindergarten through eighth grade, and districts can spend designated state money only for books on this list. Publishers typically roll out new textbooks for the state, whose districts are expected to buy nearly $200 million of history books over the next two years. California alone represents 10% to 12% of the national textbook market.

In the 1970s and 1980s, history texts shied away from religion. "They didn't use the 'capital G' word," says Roger Rogalin, a publishing consultant. "They said the pilgrims gave thanks on Thanksgiving, but they didn't say to whom."

Difficult Goals

Prodded by religious groups, states began requiring more coverage of the topic. But they imposed goals that can be hard to reconcile: both maintaining historical accuracy and enhancing the pride and self-esteem of believers. California's guidelines, for instance, say students "should understand the intense religious passions that have produced fanaticism and war." But also, texts should avoid "reflecting adversely" on anyone's creed or instilling "prejudice against...those who believe in other religions."

Such cautions provide an opportunity for religious activists such as the Council on Islamic Education in Fountain Valley, Calif. In California's most recent review, the council called for extensive changes, most of which the state appears likely to accept.

One target: A Prentice Hall text said the medieval spread of Islam was partly due to military conquest. "Actual conversion to Islam did NOT occur...at the point of a sword," the council told the state. A specialist appointed by the state board to review Islamic coverage recommended dropping the reference, and Prentice Hall says it will do so.

Publishers often hire the Council on Islamic Education to prescreen manuscripts. In California, the council is a "content consultant" for Houghton Mifflin Co. and Ballard & Tighe Co., an educational publisher in Brea, Calif. The council has sometimes advised Prentice Hall and other publishers as well.

Publishers have allowed the Islamic group to "dictate" content, charges Gilbert Sewall, director of the American Textbook Council, a New York nonprofit group that reviews history texts and has said they often lack depth and factual fidelity. "Islamic pressure groups have been working energetically for 15 years to scrub the past in instructional materials," he wrote to California officials. He added that "textbooks submitted either gloss over jihad, sharia [Islamic law], Muslim slavery, the status of women and Islamic terrorism -- or omit the subject altogether."

Houghton Mifflin says it hasn't ceded any control to the Council on Islamic Education, and seeks Hindu, Jewish, Protestant, Catholic and Buddhist perspectives too. "We listen to their input and weigh it against what our scholarly authors believe is true," a spokesman says. Ballard & Tighe says its text was examined by Jewish and Hindu experts as well as the Islamic council. "We're mostly looking not to insult people," says an executive of the publisher. A spokeswoman for Prentice Hall says it has found the Council on Islamic Education to be a "solid resource for reviewing content."

The council's founder, Shabbir Mansuri, says that texts are treating Islam better not because of his efforts but because of state guidelines that stress sensitivity toward religious beliefs.

Disputes over textbook portrayal of Hinduism are a staple of politics in India, and the concerns have arrived in America along with many Indian immigrants. The conventional view of ancient India in U.S. history texts is that men enjoyed more rights than women and that, then as now, Hindus worshipped many gods and were divided into castes.

But the Hindu Education Foundation and the Vedic Foundation, the educational arm of a Hindu temple in Austin, Texas, say Hinduism is monotheistic because all of its deities are aspects of one god, Brahman. So when one textbook referred to Hindus visiting temples to "express their love of the gods," this should be changed to "express their love for God," said the Vedic group.

The groups repeatedly proposed deleting references to the caste system and making other changes that burnished the image of Indian history and culture. For instance, McGraw-Hill's book said of an early monarch called Asoka that his "tolerance was unusual for the time." The Hindu Education Foundation suggested changing "unusual" to "usual."

'Source of Misunderstanding'

At the Vedic Foundation, "Our motto is to re-establish the greatness of Hinduism, and part of that is to correct the textbooks," says Janeshwari Devi, director of programs. "Those are a source of misunderstanding, prejudice and derogatory information."

Some Hindu students say they're humiliated in school because texts dwell on customs such as ostracism of untouchables and an old tradition, rarely observed today, of "sati" -- widows immolating themselves on their husbands' funeral pyres. Trisha Pasricha, a high-school junior in a Houston suburb, says she used to deny being Hindu to classmates because she was tired of refuting stereotypes perpetuated by textbooks and teachers. "The textbooks bring up all these obscure practices, like bride burning, and act like they happen every day," she says. "The biggest mistake is that Hinduism is portrayed as polytheistic. And the caste system has nothing to do with Hinduism. But no one believes you, because it's in the textbook."

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But some prominent scholars, both non-Hindu and Hindu, say the books were right. According to Madhav Deshpande, a Sanskrit professor at the University of Michigan who is Hindu, Hinduism is polytheistic and linked to the caste system, and women did have inferior status in ancient India.

He says the Hindu groups hold a mistaken position that dates to when India was ruled by Britain in the 19th century and under pressure from Christian missionaries. The missionaries told prospective converts Christianity was superior because it had one god, treated women fairly, and didn't have castes, Mr. Deshpande says, adding that to counter, Hindu intellectuals made up an argument that their religion had once been the same way. The foundations' contention that the caste system developed separately from Hinduism is incorrect, he maintains, because "in ancient texts, there is no distinction between the religious and nonreligious domains of life."

Jackson Spielvogel, a retired Penn State professor and author of McGraw-Hill's "Ancient Civilizations" textbook, says, "You can't allow Hindu nationalists to rewrite the history of India.... It becomes an issue of censorship."

To review changes proposed by the Hindu groups, California hired an expert recommended by one of the groups: Shiva Bajpai, a retired California State University history professor. He endorsed most of their changes. "I want to recognize the negatives but project the positives," says Mr. Bajpai, who is Hindu.

With his blessing, the changes were rolling toward ratification by the state board when Harvard's Prof. Witzel unexpectedly intervened. Alerted by an Indian-American graduate student whom the Vedic Foundation had approached to support its changes, Mr. Witzel wrote to the board the day before a Nov. 9 meeting at which approval of the Hindu-backed changes was expected. "They are unscholarly [and] politically and religiously motivated," wrote Mr. Witzel, a Sanskrit professor. His letter was co-signed by nearly 50 scholars, including Mr. Deshpande of Michigan.

Mr. Witzel calls the Hindu Education Foundation a front for a prominent nationalist group in India, the Rashtriya Swayamsevak Sangh, whose leader caused a stir in November by urging Hindu women to have more children to keep up with the Muslim growth rate. A spokesman for the Hindu Education Foundation acknowledges a connection -- it was established by the U.S. counterpart of the Indian group -- but says it acts independently.

State officials did an about-face after they got Mr. Witzel's letter, inviting him and two like-minded scholars to scrutinize Mr. Bajpai's recommendations. When the three advised restoring much of the textbooks' original wording, angry letters began pouring in from Hindu groups. One, the Hindu American Foundation, threatened to sue the state. A petition from Hindu advocates called on Harvard to end its association with "Aryan Supremacist Creationist hate mongering." Harvard responded by defending Mr. Witzel's academic freedom.

The groups persuaded two members of California's congressional delegation to weigh in. Rep. Pete Stark, a Unitarian, and Rep. Linda Sanchez, a Catholic, asked the state superintendent of public instruction to investigate Mr. Witzel. The superintendent replied that the state had already held three public hearings on the history texts, received more than 1,000 pages of testimony, and considered more than 800 textual changes.

The pendulum swung back on Dec. 2, when the Curriculum Commission voted to support most of the changes sought by the Hindu foundations. "We have to err on the side of sensitivity toward religion," a commission member, Stan Metzenberg, said at the time.

The game wasn't over. Other Hindu groups -- including members of the "untouchables" caste -- entered the fray on Mr. Witzel's behalf. The Dalit Freedom Network, an advocacy group for untouchables, wrote to the education board that the proposed Vedic and Hindu Education Foundation changes reflect "a view of Indian history that softens...the violent truth of caste-based discrimination in India.... Do not allow politically-minded revisionists to change Indian history."

Caught in the cross-fire, the board of education summoned Mr. Witzel and Mr. Bajpai to an unusual private session Jan. 6. Before board and commission members, staffers and the board's lawyer, the scholars debated each edit.

"It was a gladiator combat," Mr. Bajpai recalls, "the most acrimonious thing I have ever done in my entire life. It deteriorated into me telling him he didn't understand anything." Mr. Witzel says Mr. Bajpai "mixed his religion with scholarship."

The duo did reach consensus on some changes. They agreed to narrow the McGraw-Hill text's statement that men in ancient India had "more rights" than women to "more property rights" -- but not to the Hindu groups' preferred wording of "different" rights.

Still, it isn't certain the compromises reached by the two scholars will stand. At a meeting Jan. 12, the state board of education created a subcommittee to reconsider the matter -- and to prepare for still more religious pressure when books are expected to be added to the list in two years.

Write to Daniel Golden at dan.golden@wsj.com3

DOJ_NMG_0011520

Public Schools Looking At Bible Literacy Class Backers Say Course Is Academic; Others See Religious Motive (USAT)

By Mike Linn

USA Today, January 25, 2006

High schools across the nation are considering an elective course in Bible literacy. That's pitting advocates of church-state separation against proponents of the class who say their mission is purely scholarly.

Lawmakers in Alabama and Georgia in the past few weeks have introduced legislation clearing the way for their high schools to offer the course, which is based on the textbook The Bible and Its Influence.

The book's publisher, the Fairfax, Va.-based Bible Literacy Project, says about 300 school districts are considering the course, which covers the Old Testament, followed by both Jews and Christians, and the New Testament, the story of Jesus and his disciples.

In the past week, the school board in New Braunfels, Texas, voted to offer the course next year. Some high schools in California, Oregon and Washington, where the text was tested in a pilot program last year, already are offering it.

Charles Haynes, senior scholar at the Freedom Forum First Amendment Center, says the textbook, which is promoted as an examination of the Bible's influence on literature, art, history and culture, successfully keeps religion out of public schools. The center is a non-profit institute that promotes constitutional freedoms covered by the First Amendment.

"If you're considering a Bible elective, look at this textbook," says Haynes, who helped review a draft of the book with 41 other scholars, including Christians, Jews and agnostics. "They've done a Herculean effort to make it as constitutional as they could."

The textbook does have critics, including Americans United for the Separation of Church and State.

"There has been an effort underway for many years to try to do an end run around the Supreme Court's rulings on religion in the schools, and we see this as the latest move," says Joseph Conn, a spokesman for the group.

The textbook has generated no lawsuits, says Sheila Weber, a spokeswoman for the Bible Literacy Project. Jeremy Gunn, director of the American Civil Liberties Union's Program on Freedom of Religion and Beliefs, also says he hasn't heard of any litigation.

"If people were to actually implement this in a fair and neutral way, there wouldn't be any lawsuits," Gunn says. "If people are going to use this as a backdoor way to proselytizing in public schools, I would imagine there would be lawsuits."

Conn says the textbook paints the Bible's influence mostly in a positive light. However, Chuck Stetson, founder of the Bible Literacy Project, says the textbook does examine the Bible's negative impact. As an example, he cites a boxed feature in the book that he says shows the Bible was used "to justify and even encourage anti-Semitism."

Stetson describes the course as being academic and says it helps connect the dots for students who would not be able, for example, to understand the works of Shakespeare without understanding their biblical references.

The 'Whites Only' Retirement Fund (NYT)

The New York Times, January 25, 2006

Americans tend to think that the worst forms of institutional racism simply went away after Congress passed the landmark civil rights laws of the 1960's. But black police officers in Georgia who were denied membership in a supplementary retirement fund decades ago for reasons of race know better. Because of Jim Crow policies that barred them from the fund as shamefully late as the mid-1970's, many of these officers are facing troubled and underfunded retirements, with benefits substantially lower than those of their white colleagues.

The Georgia Legislature inexplicably failed to help these officers when a bill came before it two years ago, but it has received a new bill and a fresh opportunity to show its commitment to simple justice. Under the current bill, being shepherded by State Representative Tyrone Brooks, the state would assume half of what it would cost hundreds of working black officers to buy retirement coverage for the years they were barred from the fund.

If the measure is passed, which seems likely, it will take care of only those police officers who are still on the job. Retired officers are left out in the cold by a provision of the State Constitution that prevents the Legislature from helping them. To help this group, the voters would have to ratify an amendment to the State Constitution, which would first have to clear a State Legislature that has not been exemplary when it comes to issues of racial fairness.

But Georgia should do whatever it takes to give justice to all of the people affected by this shameful episode. Beyond that, other Southern states with Jim Crow legacies should begin to prepare themselves to encounter similar issues. If this happened in Georgia, it almost certainly happened elsewhere.

DOJ_NMG_0011521

ANTITRUST:

Microsoft Foot-dragging Irks EU And US (REU)

By David Lawsky

Reuters, January 24, 2006

BRUSSELS (Reuters) - For the first time in 12 years, Microsoft is in trouble on both sides of the Atlantic for the same reason at the same time -- failing to share information needed to remedy its antitrust violations.

The European Commission has reacted to Microsoft's foot-dragging with a threatened fine of up to 2 million euros ($2.46 million) daily. Now that the Justice Department this week for the first time expressed similar frustration, it will be up to a judge to decide if new action is necessary.

Microsoft's general counsel, Brad Smith, plans to hold a news conference in Brussels on Wednesday to discuss the case.

The United States and the European Commission take very different approaches to the software giant, but their recent statements have begun to resemble one another. One lawyer said that is because of the company's behavior pattern.

"There's a striking similarity between Microsoft's efforts to evade compliance with the European decision and its failure to properly comply with the U.S. settlement," said Thomas Vinje, a Brussels lawyer who represents Microsoft critics.

Microsoft has said it does not want to provide so much information that it would unfairly surrender its intellectual property to other companies.

"The current issue with the U.S. program is not comparable to the concerns raised in Europe. We have a program here that is successfully operating with 26 licensees and a dozen products shipping," Microsoft spokesman Jack Evans said by telephone from the company's headquarters in Redmond, Washington.

The governments say the remedies are aimed at restoring competition that Microsoft destroyed through illegal actions.

That competition, Brussels and Washington contend, will give consumers a broader choice and promote innovation.

Six years after a U.S. judge found Microsoft violated the Sherman Act against monopoly abuse, the Justice Department complained to a judge this week that the software giant had provided inaccurate information and failed to meet deadlines.

Two years after the European Commission found Microsoft had violated the 25-member bloc's antitrust laws, the EU regulator told Microsoft late last year that documentation it had provided was "fundamentally flawed."

"The Justice Department and the Commission's competition department have regular contact on this case," said Commission spokesman Jonathan Todd.

SIMILAR REMEDIES

In the United States, Microsoft is supposed to license its software to help rivals' servers work smoothly with its Windows operating system, because it competed unfairly in the 1990s.

In Europe, the Commission has ordered Microsoft to license its protocols -- rules of the road -- to help rivals' server software work with other servers and with its Windows operating system, because it competed unfairly in the late 1990s.

In each case, competitors need instruction to use the software.

But in a filing to the U.S. District Court in Washington, the Justice Department and 10 states said Microsoft was dragging its feet and its last filing had "not detailed the seriousness of the current situation."

The company had fallen significantly behind and needed to "dramatically increase the resources devoted to responding to technical documentation issues."

The U.S. filing said Microsoft had acknowledged it provided inaccurate information and on some occasions had been unable to provide accurate information.

The European Commission quoted a trustee nominated by Microsoft as calling the company's approach to documentation "fundamentally flawed in its conception and ... explanation and detail."

Throughout the fight, critics and governments have said that delaying the remedies perpetuates Microsoft's advantage while changes in technology and competition erode their relevance.

Wednesday was meant to be the deadline for the company to respond to the Commission's threatened fine, but once again Microsoft has gained time with a delay to February 15.

The last time the United States and Europe worked together on the case was in 1994, when they reached a joint agreement with Microsoft over licensing policies.

At one time, Microsoft also faced lawsuits from companies that complained its unfair practices had damaged their business, some following on cases brought by governments.

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Microsoft settled those cases with AOL-Time Warner, Sun Microsystems, InterTrust Technologies, Novell, the Computer & Communications Industry Association and RealNetworks between 2003 and 2005 for about $4.5 billion.

The main legal actions left involve 30 governments -- the 25-nation EU and three other states linked to it in the European Economic Area, the United States and South Korea.

Microsoft Lags In Antitrust Compliance, U.S. Says (CNET)

By Anne Broache, Staff Writer, CNET News.com

CNET News, January 24, 2006

Microsoft is falling behind in meeting certain obligations under its antitrust agreement with the U.S. government, the Bush administration said.

The criticism, leveled by federal and state prosecutors in a document filed Monday with U.S. District Judge Colleen Kollar-Kotelly, largely surrounded the company's progress in developing technical documentation for developers who license the Microsoft Communications Protocol Program.

Microsoft started the program as part of its efforts to comply with a 2002 consent decree reached with the government.

Since its last court appearance in mid-November, Microsoft has "fallen significantly behind" in responding to concerns raised by a technical committee charged with overseeing the program's documentation project, according to the Washington, D.C., court document.

The project, known as Troika, is intended to be an automated system that can validate the accuracy of the technical documentation by comparing it to actual network traffic, Microsoft has said. The software giant originally expected to complete the project by February 2006.

Microsoft must "dramatically increase the resources devoted to responding to technical documentation issues," the number of which continues to grow, the prosecutors said.

Microsoft said in a statement that it is "working hard to resolve the concerns" raised by regulators.

"In our filing Jan. 17, we detailed the efforts we've made to increase the speed of our responses to technical documentation issues found by the Technical Committee," Microsoft said. "We also underscored our commitment to expend whatever resources are necessary to address these issues, including hiring as many qualified people as we can find to accomplish these highly specialized tasks."

The software maker also noted that 26 companies have taken licenses for its communications protocols and a dozen products have been shipped that use Microsoft technology.

The Justice Department and Microsoft are expected to file their quarterly status report on Feb. 8, and both parties are due in court on Valentine's Day for a status conference before Judge Kollar-Kotelly.

CNET News.com's Ina Fried contributed to this report.

Disney Announces Deal To Buy Pixar For $7.4 Billion (LAT)

By Jesus Sanchez

The Los Angeles Times, January 25, 2006

Walt Disney Co. today agreed to buy Pixar Animation Studios — which has produced the hits "Toy Story" and "The Incredibles" — in a $7.4-billion deal that will make Pixar CEO Steve Jobs the entertainment company's single-largest shareholder.

The long-awaited buyout was announced after months of talks between the two companies to extend and expand a long-term distribution pact that was due to expire in June with the release of Pixar's most recent feature, "Cars."

The deal to acquire Emeryville, Calif.-based Pixar became a major goal for Disney Chief Executive Robert Iger, who began to work on repairing the company's frayed relationship with the animation studio as soon as he took control of Disney in October.

"The addition of Pixar significantly enhances Disney animation, which is a critical creative engine for driving growth across our businesses," Iger said in a statement.

Under the terms of the deal, each share of Pixar will be exchanged for 2.3 shares of Disney common stock. Jobs, who owns 50.6% of the Pixar stock, will vote his shares in favor of the deal and will join the board of directors of Burbank-based Disney.

The acquisition has been approved by the directors of both companies but must still be approved by the remainder of Pixar's shareholders.

"Disney and Pixar can now collaborate without the barriers that come from two different companies with two different sets of shareholders," Jobs said in a statement. "Now, everyone can focus on what is most important, creating innovative stories, characters and films that delight millions of people around the world."

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The companies had broken off negotiations in 2004 when Jobs, who is also chief executive officer of Apple Computer Inc., clashed with Iger's predecessor, Michael Eisner.

Pixar President Ed Catmull will serve in the same position as head of Pixar and Disney animation studios. Meanwhile, John Lasseter, Pixar's highly regarded creative leader, will be chief creative officer of both animation studios and will advise Walt Disney Imagineering on the design of new attractions for Disney theme parks.

By acquiring industry leader Pixar, Disney would once again regain its role as a leader in the animation industry, which it pioneered with "Snow White and the Seven Dwarfs" in 1937 and dominated in the 1990s with such hits as "The Lion King" and "Beauty and the Beast."

But Disney's animation division produced several costly failures recently, including "Treasure Planet" and "Atlantis: The Lost Empire." In contrast, Pixar has generated such box office hits as "Monsters, Inc." and "Finding Nemo."

Disney In $7.4bn Pixar Deal (FT)

By Joshua Chaffin and James Politi

Financial Times, January 25, 2006

Walt Disney on Tuesday agreed to acquire Pixar, the animated film studio, in a $7.4bn deal it hopes will revive its animation department and better position the company to compete in a media industry being remade by digital technology.

As part of the agreement, which is expected to be finalised this summer, Steve Jobs, Pixar's founder, will take a seat on Disney's board and become the company's biggest shareholder.

Another key Pixar executive, Ed Catmull, will become president of the combined studios, while its creative guru, John Lasseter, will assume the title of principal creative advisor. In that role, Mr Lasseter will also help to develop new Disney theme park attractions.

After months of negotiation, Disney agreed to offer 2.3 of its shares for each Pixar share. Disney is betting that the acquisition will at a stroke restore it as the pre-eminent Hollywood animation studio, satisfying a goal set out by Robert Iger when he took over as chief executive nearly four months ago.

Animation is vital to Disney because the cartoon characters created by its artists and storytellers lie at the centre of its global businesses, from films to theme parks and consumer products.

"The addition of Pixar significantly enhances Disney animation, which is a critical creative engine for driving growth across our business," Mr Iger said.

Some analysts believe that the agreement could be even more valuable by bringing Mr Jobs, who is also chief executive of Apple Computer, and Mr Lasseter, into the Disney fold. Their technical wizardry would bolster Disney at a time when it and other media companies are attempting to sell their content on a variety of emerging digital platforms, including iPods, mobile phones and other devices.

Mr Jobs said: "Disney and Pixar can now collaborate without the barriers that come from two different companies with two different sets of shareholders."

Animators to suffer as success draws imitators

Click here

The deal confirms a remarkable reversal of fortunes for Disney and Pixar. Disney's Magic Kingdom was built on animation, and was once synonymous with the art form. But it has faltered in recent years as its artists struggled to make the transition from hand-drawn cartoons to the computer-generated techniques Pixar made famous with the 1995 release of Toy Story. Since then, the studio, based near San Francisco, has produced string of hits, including Finding Nemo and The Incredibles.

The deal was greeted with enthusiasm by Wall Street although some complained about the price. "The price tag is a little more than people were expecting," said analyst Dennis McAlpine, of McAlpine Associates. Some analysts, such as JP Morgan's Spencer Wang, have questioned an outright acquisition, arguing that it would dilute Disney's earnings. There are also concerns that Mr Jobs could face conflicts of interest between his job at Apple and a new role at Disney.

Nonetheless, Disney's shares continued a recent rally, closing Tuesday's trading day in New York up 47 cents, or 1.8 per cent at $25.99. Pixar was down 70 cents at $57.57, giving it a market capitalisation just shy of $6.9bn.

The two sides have held long-running talks about renegotiating an agreement under which Disney distributes Pixar's works. That deal was set to expire in June with the release of Cars. It appears to have escalated to include the possibility of a strategic partnership or sale after Mr Iger took over from Michael Eisner, the long-time Disney chief executive who had clashed with Mr Jobs.

A final deal would raise the question of whether Pixar could maintain its creative force as part of a much larger Disney empire. It has also focused attention on John Lasseter, the Pixar creative director, who some analysts believe may be more important to Disney's ultimate success than Mr Jobs. Mr Lasseter was a Disney animator before he bolted for Pixar years ago.

DOJ_NMG_0011524

Disney Reaches Deal To Buy Pixar For $7.4 Billion In Stock (NYT)

By Laura M. Holson And Andrew Ross Sorkin

The New York Times, January 25, 2006

LOS ANGELES, Jan. 24 - The Walt Disney Company said this afternoon that it would buy Pixar Animation Studios in a stock transaction valued at about $7.4 billion, in a deal that comes almost 15 years after the companies began their lucrative partnership.

Disney said it would exchange 2.3 of its shares for each Pixar share, valuing Pixar at $59.77 a share, an almost 4 percent premium based on closing share prices today. The deal would also place senior executives from Pixar in key roles overseeing both the Pixar and Disney animation studios.

John Lasseter, Pixar's chief creative officer and a former animator at Disney, will have the same title covering both animation units and will also become the principal creative adviser to the Disney unit that designs new attractions for the company's theme parks, and in that capacity will report directly to Robert A. Iger, Disney's chief executive. Pixar's president, Ed Catmull, will be the president of the combined studios and will report to Mr. Iger and Dick Cook, chairman of the Walt Disney Studios.

Stephen P. Jobs, Pixar's chairman and chief executive, will get a seat on Disney's board. Mr. Jobs owns 50.6 percent of the outstanding shares of Pixar and has agreed to vote at least 40 percent of the company's oustanding shares in favor of the transaction.

Shareholders of Pixar will have to approve the acquisition, which will also be subject to antitrust review by federal regulators.

The deal comes two years ago Disney and Pixar began renegotiating a distribution agreement that would have given Disney the right to distribute Pixar's films after the release of the forthcoming "Cars." (The two jointly produce Pixar movies although Disney owns the rights. The agreement ends after "Cars.")

At that time, as with these talks, price was an issue. In 2004, Mr. Jobs was demanding that Disney share rights to the movies that Pixar had yet to make, including "The Incredibles," which was released in 2005, as well as "Cars." But Disney, which owned all of the rights to these movies, did not want to give them up.

Mr. Jobs appeared to cast the deal as a way to resolve those discussions and move on to the important business of movie making.

"Disney and Pixar can now collaborate without the barriers that come from two different companies with two different sets of shareholders," Mr. Jobs said in a statement. "Now, everyone can focus on what is most important, creating innovative stories, characters and films that delight millions of people around the world."

In the same statement, Mr. Iger said: "The addition of Pixar significantly enhances Disney animation, which is a critical creative engine for driving growth across our businesses."

Pixar, based in Emeryville, Calif., has grown to hundreds of employees from about 44 in 1986, two years after Mr. Jobs acquired the company from the director George Lucas for $10 million. Pixar and DreamWorks Animation have led the way in computer animation for films.

Last year, talks about renewing the distribution deal with Pixar arose again after Mr. Iger was named chief executive of Disney. Mr. Iger began thinking about the acquisition last fall when it became clear to him that distribution alone would not add much value to Disney over all, said a person who discussed the matter with the Disney chief.

Disney's own animation unit lagged behind its peers, and Mr. Iger made it a priority to improve its operation. Animation is essential to Disney's success because it provides the characters that drive the company's theme parks, consumer products and cable television programs. In recent years, Pixar has become a steady supplier of such characters.

In after-hours trading today, shares of Pixar were up $1.95, or 3.4 percent, to $59.52; shares of Disney were up 10 cents, to $26.09.

Disney, Pixar Merge In $7.5B Deal Once-hostile Relationship Evolves Into Marriage (USAT)

By David Lieberman And Laura Petrecca

USA Today, January 25, 2006

NEW YORK — Disney and Pixar made it official Tuesday: The entertainment giant agreed to buy the computer-animation studio for stock valued at nearly $7.5 billion based on Disney's closing price Tuesday of $25.99.

They chose to merge instead of renewing their production and distribution deal that expires in June because “no matter what kind of partnership we had, we're still two separate, publicly traded companies,” Pixar CEO Steve Jobs says. “Sometimes that stuff just gets in the way of making the best films we could,” as well as using Pixar's characters in Disney's theme parks.

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They expect the deal to close this summer. It will make Jobs, who owns about half of Pixar, Disney's No. 1 shareholder, with 6.6%. He will join the Disney board.

Disney is offering 2.3 shares of its stock for each Pixar share. That's a 3.8% premium on Pixar's closing price of $57.57, which already is up 8% since Jan. 3 on investor anticipation of a deal.

There's no collar on the agreement, which means the value will rise or fall with Disney's stock price. Disney is issuing new stock but says it will buy back shares to return to the current float in 2007.

The agreement represents a startling change of direction for Disney's animation unit — arguably its most important business.

The operation that produced classics such as Snow White and The Lion King failed to keep up with computer animation and released a series of disappointments, including Treasure Planet and The Emperor's New Groove.

Disney CEO Robert Iger will put Pixar President Ed Catmull in charge of Disney and Pixar's animation operations, which will remain in their respective quarters in Burbank and Emeryville, Calif. Catmull will report to Iger and Disney studio chief Dick Cook.

In addition, Pixar's John Lasseter — who wrote and directed Toy Story, A Bug's Life, Toy Story 2, and the upcoming Cars — will report to Iger as chief creative officer for the animation studios and principal creative adviser for Walt Disney Imagineering, which develops theme park attractions.

Iger's willingness to give Pixar so much control is a sharp break from the management style of his predecessor, Michael Eisner. Clashes between Eisner and Jobs caused earlier deal talks to break down.

The company says the Pixar executives will decide whether to streamline operations or lay off people in their units. And Iger leaves open the possibility that Catmull and Lasseter might tinker with Disney films in production.

Lassiter will remain under contract until 2011. Catmull does not have a contract.

Disney Sets $7.4 Billion Pixar Deal (WSJ)

By Merissa Marr And Nick Wingfield

The Wall Street Journal, January 25, 2006

With Walt Disney Co.'s $7.4 billion deal to acquire Pixar Animation Studios, the combined animation powerhouses face a tricky task: how to revive Disney's animation efforts without disrupting the formula that has made Pixar one of the most successful moviemakers in Hollywood history.

The stock deal announced yesterday represents a quick fix for Disney's lagging animation business, which relies on movie characters that can be spun across its theme park, merchandise and television empires. Pixar has in the last decade become the gold standard in animated filmmaking with computer-generated hits like "Finding Nemo," while Disney's own efforts have tailed off in popularity, and its pipeline is uncertain. Disney has benefited from Pixar's success by co-financing and distributing Pixar films, but that arrangement was set to expire this year.

The proposed deal comes with risks. Disney is acquiring Pixar in the midst of a profitable winning streak -- all six of its movies have been blockbusters -- in a business where failure is considered an inevitability. It also comes when revenue from DVD sales, a key movie-industry driver, may have passed its peak. And the companies face a cultural challenge in trying to maintain Pixar's esprit de corps.

As part of the deal, Pixar Chairman and Chief Executive Steve Jobs will become Disney's largest individual shareholder and a key adviser at a time when the entertainment industry is scrambling for ways to reinvent itself in a digital era. Mr. Jobs, who also heads Apple Computer Inc. will join Disney's board and take a stake of around 6.5%. He ruled out becoming Disney's chairman in future, however, saying: "that's not on my radar. Being chairman of a public company is an awful lot of work."

Regardless, even Mr. Jobs' Pixar colleagues expect him to become a potent force on the Disney board. "They're going to have to install seat belts in that board room because when Steve gets in there, he'll be a ball of fire," said John Lasseter, the Pixar creative guru who will play a pivotal role in the combined company. (See related article1.)

In an interview, Mr. Jobs said an important consideration in the decision to unite with Disney was Pixar's desire to make new movies based on existing Pixar characters. Under their distribution deal, Disney retained rights to create sequels to Pixar movies. "The opportunity to reunite the family was certainly a factor in our decision," Mr. Jobs said. He added that Disney was the only company with animation in its DNA and an "incredible collection of unique assets like theme parks."

Mr. Jobs, who owns 50.6% of Pixar's stock, is making his move as Pixar's stock hovers around an all-time high. Pixar's stock has rallied 33% since the start of 2005. In 4 p.m. composite trading on the Nasdaq, Pixar shares were down 1.2% at $57.57. Disney shares were up 1.8% at $25.99. As part of the agreement, Disney will issue 2.3 of its own shares for each Pixar share. The total price includes $1 billion of Pixar cash.

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For Disney, CEO Robert Iger said the consideration was about "getting a business that is vital to the future of Disney right." In evaluating the price, Disney said it was confident Pixar's box-office success would continue but recognized that not all its future films would be sure-fire hits. The company also took into account the current trends at the box office and in DVD sales.

Messrs. Iger and Jobs acknowledged that the key was to maintain Pixar's unique culture. "Most of the time that Bob and I have spent talking about this hasn't been about economics, it's been about preserving the Pixar culture because we all know that's the thing that's going to determine the success here in the long run," said Mr. Jobs. At the same time, Pixar President Ed Catmull and Mr. Lasseter will "help provide a slightly different culture at Disney feature animation that will maximize some of the talent there to make even better films," said Mr. Jobs.

Mr. Catmull, who co-founded the studio, will become president of the combined Pixar/Disney animation business. Mr. Lasseter will take a role as chief creative officer of the combined company as well as a creative role advising Disney's Imagineering division, helping design attractions for the theme parks. Pixar will remain based in Emeryville, Calif., far from Disney's Burbank, California, home.

Another vital piece of the puzzle is securing Pixar's core creative team beyond Mr. Lasseter, including the likes of Pete Docter, Andrew Stanton and Brad Bird. Mr. Iger said Disney would continue with Pixar's practice of not making its creative team sign contracts. However, he said they would be enticed with Disney stock options.

Mr. Iger said he first considered an acquisition while watching a parade of characters at the opening of Hong Kong Disneyland last September. In buying Pixar, Disney leapfrogs back to the top of an increasingly crowded competitive landscape in animated films. That field includes not only DreamWorks Animation SKG, home of the "Shrek" movies, but also other players that have emerged in the last couple of years.

A big question is how good Pixar's pipeline is going forward. From its first movie, "Toy Story," through 2004's "The Incredibles," every Pixar film has been a substantial hit. Pixar's next movie is "Cars." But Pixar hasn't announced its slate beyond that.

Disney said the plan was for Pixar and Disney to each make one animated movie a year, although there may be years when they make more movies.

The deal won praise from Roy Disney, the company's former vice chairman and a major shareholder who led a shareholder revolt against the company in 2004. "This clearly solidifies the Walt Disney Company's position as the dominant leader in motion picture animation and we applaud and support Bob Iger's vision."

Disney was advised by Goldman Sachs Group Inc. and Bear Stearns Cos. and law firms Dewey Ballantine and Skadden, Arps, Slate, Meagher & Flom. Pixar was advised by Credit Suisse and law firm Wilson Sonsini Goodrich & Rosati.

Pixar's Magic Touch (WP)

By Yuki Noguchi

The Washington Post, January 25, 2006

When Apple Computer Inc. founder Steve Jobs bought what became Pixar Animation Studios for $10 million in 1986, it was a small animation-systems firm with a few alumni from Walt Disney Co., not the least of whom included creative director John A. Lasseter.

Yesterday, Disney secured the return of Lasseter and his talented team as part of a $7.4 billion deal for Pixar aimed at jump-starting the media giant's animation empire.

Over the past two decades, the 730-person Pixar has garnered a reputation as a place where creative genius thrives, and in recent years the studio has far outpaced the bigger and more institutionalized Disney with hits such as "The Incredibles" and "Finding Nemo." Beyond its money-making ability, Pixar won critical acclaim for bringing adult emotional appeal to a traditional kids' medium.

Pixar started as a computer graphics company, and it is still known for its technical prowess and its ability to digitally replicate the look and texture of rusting cars, peeling paint and fur blowing in the wind. But Pixar's hands-off management style and its artisan cultivation of the creative process have helped it become the benchmark against which the rest of the industry measures itself.

"For us now, the high-water mark is Pixar," said Dug Ward, manager of the Animation Workshop at the University of California in Los Angeles film school. "I remember just a few years ago when students wanted to go to work for Disney. Now they want to go to Pixar."

Under the deal, Pixar President Edwin E. Catmull, 60, would head Disney and Pixar's animation studios, and Lasseter, 49, would head the creative operations of both companies' animation divisions.

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News of the merger prompted some animators to worry whether Pixar would be able to maintain its free-wheeling culture. Disney executives pledged to protect Pixar's independence but did not say whether the two companies' animation units might merge.

"A fear a lot of us have is . . . if Disney takes over Pixar and micromanages every detail, they will strangle the golden goose," Ward said.

Even if Disney leaves Pixar alone, there is no guarantee that the relationship will lift the parent's fortunes on Wall Street. Ford Motor Co., for example, never really capitalized on its purchase of Jaguar, nor did America Online Inc. make much of its acquisition of Netscape Inc.

Lasseter, though, is among a handful of Pixar's longtime executives credited with shepherding the company from its early days as a spinoff of "Star Wars" director George Lucas's Lucasfilm operation to a powerhouse in animation. Lasseter graduated from a school founded by Walt Disney and his brother, the California Institute of the Arts, and started his career as an old-fashioned pen-and-paper animator at Disney, where making early film classic films like "Snow White and the Seven Dwarves" required millions of drawings. After moving to Pixar in 1984, Lasseter gravitated to computer animation, producing early short films like "Nick Nack" and "Luxo Jr."

Lasseter's hallmark is his ability to foster originality and create strong story lines, taking advantage of innovative technology to deliver the results, Ward said.

At an animated film screening in the late 1980s, Lasseter talked about his goals for computer animation, Ward recalled. "He was saying that his goal was to do an animated feature film, all in 3-D computer animation," and that high ambition set the crowd abuzz, he said.

When the company's movies first hit the screens, critics marveled at the attention to detail.

"One thing Pixar is good at doing is the eyes. You can tell so much about what someone's thinking with the eyes," Ward offered as an example.

By comparison, Disney's recent film, "Chicken Little," showed little in the way of originality, using old songs instead of an original score and employing gags already used in other animated films, he said. While both "Chicken Little" and "Nemo" both featured father-son dramas, "Nemo" made the audience care more, he said. Watching the Disney film "just felt like watching the 1970s cartoon," Ward said. "I can see why Disney would want to buy them back."

Starting with its 1995 Academy Award-winning hit "Toy Story," Pixar has six major feature films to its name, all of which were hits at the box office.

"Pixar is known for a cost-effective way of creating life-like animation," said Ivan Feinseth, an analyst with Matrix USA LLC, an institutional research and brokerage firm.

By comparison, Disney still garners $7.6 billion in studio-entertainment revenue -- far more than Pixar -- but it has become "the serial re-releaser" of old films, he said.

Still, the culture Lasseter has built at Pixar "is in some ways very close to the historical Disney culture," with its focus on story and the back and forth between the artist and the producer, said Steven D. Lavine, president of the California Institute of the Arts. "There is a real sense of cultivating the individual talents of employees."

In its release, Pixar credited Disney with helping to develop talent through a seven-year co-production partnership that ended in 2004, after Jobs's falling out with former Disney chief Michael D. Eisner.

"I'm very sensitive to what can happen when a company gets bought," Disney's president and chief executive Robert A. Iger said of the deal in a news conference yesterday. "I'm really deeply committed to seeing to it that Pixar is allowed to exist in the form it existed."

Disney To Buy Pixar Studios In Its Move To A Digital Era (WP)

By Steven Levingston And Mike Musgrove

The Washington Post, January 25, 2006

Walt Disney Co. announced yesterday that it will acquire Steve Jobs's Pixar Animation Studios in a deal aimed at restoring the Disney magic in the age of computer-generated animation.

As audiences have cooled to hand-drawn films, Disney has been slow to embrace the newer technologies behind such Pixar-produced hits as "Toy Story" and "Finding Nemo." The media giant hopes buying one of Hollywood's hottest studios for $7.4 billion in stock will help it in the intensifying competition for the hearts of young moviegoers.

"The goal here, above all else, is to make great animated films -- the rest kind of takes care of itself," Disney's new chief executive, Robert A. Iger, said in a conference call with investors yesterday.

The deal opens the possibility of a wider partnership between Disney and Jobs, Pixar's chief executive and the head of Apple Computer Inc. Jobs, who would become a Disney director after the merger, has helped foster the cultural phenomenon of

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portable digital music and video with Apple's iPod. Iger and Jobs spoke enthusiastically yesterday about finding other avenues of cooperation as the new media era evolves.

Under Iger, Disney has been pushing hard to shake off an apparent weakness lingering from its days under former chief executive Michael D. Eisner, when the company had to fight off an unsolicited takeover bid by cable giant Comcast Corp. ABC, which is owned by Disney, has climbed in the ratings with hit shows such as "Desperate Housewives" and "Lost." Disney's ESPN network is a hot property on cable. But Disney's stock price has languished in recent years as the company has struggled to reassert its preeminence in animation.

The need to bolster Disney's animation division grew urgent as other studios moved aggressively into computer-generated production. The number of these types of films is growing yearly. Sony Pictures plans to release its first computer-animated movie this year, with another to follow in 2007. With Pixar's releases, Disney will likely catapult into the forefront of the field. It has its own computer-generated movies in the pipeline, including "Meet the Robinsons," scheduled for release this year, and "An American Dog" next year. But Disney's earlier computer-animated feature, "Chicken Little," did not garner the mega-sales typical of a Pixar release.

"Disney built the company on animation, and its hand went cold just as Pixar's went hot. This is big, big stuff for Disney," said Tom Adams, president of Adams Media Research, an entertainment-industry research and consulting firm.

As a result of the deal, Jobs would become one of Disney's largest shareholders. Pixar President Edwin E. Catmull would serve as president of the new Pixar and Disney animation studios. Pixar's executive vice president and powerful creative force John A. Lasseter, who once worked in animation at Disney, would become chief creative officer of the animation studios.

The deal came together only after Eisner left Disney, allowing Iger to smooth over the company's soured relations with Jobs. Eisner and Jobs had a contentious relationship, and analysts expected Pixar would look for a new distributor for its films after its arrangement with Disney expires this year.

"After a lot of soul searching and thinking and, of course, getting to know Bob, this looked to be the most exciting path for Pixar's future," Jobs said during the investor conference call with Iger.

By gobbling up a creative, intensely independent boutique studio, Disney has the challenge of encouraging new, high-quality work without stifling talent under its bureaucratic wing. It also hopes Jobs and his team will infuse other animation efforts at the company with their cutting-edge vision.

Anant Sundaram, professor at the Tuck School of Business at Dartmouth College, is skeptical that Pixar will have much influence over its huge parent. "One is hard-pressed to find where a much smaller entity comes in and changes a larger entity," he said. "What happens is the smaller entity and its modes of operating often get squelched."

Jobs discounted those concerns, saying he has grown to trust Iger. Much of the discussion leading up to the deal, Jobs said, "hasn't been about economics, it's been about preserving the Pixar culture because, as you know, that's what's going to determine the success in the long run."

Disney is buying Pixar after the small studio's remarkable run of blockbusters has translated into a lofty stock price. Under the deal, 2.3 Disney shares will be issued for each Pixar share, and Disney will pay about $59.78 a share for Pixar. That's about a 4 percent premium over Pixar's closing price yesterday of $57.57. The deal is slated to be completed by the summer.

The purchase price assumes that Pixar's successes will continue -- and will bring in a steady stream of revenue.

"Obviously, in the movie business, there's always a lot of risk," said Joseph Bonner, a media analyst at Argus Research Corp. "Pixar has an unbroken string of hits. The perceived wisdom is you do produce a flop sometime."

Iger said he recognized the risks implicit in investing in a film company. "Anytime you're putting money behind the creative process, there are risks associated with it," he said. But, he added, "Pixar has a track record that is unrivaled."

Although the deal would not officially affect Apple, speculating on possible byproducts of the agreement has become a popular pastime among Mac watchers. Some figure that becoming part of Disney will help Jobs score more content, including possibly feature-length films, for Apple's online music-and-video store, iTunes.

Others argue that Jobs's alliance with Disney would sacrifice Apple's image as a neutral dealer among TV producers looking to put their shows online. And some Mac fans worry that the company is paying less attention to its computer products as it ventures further into music and entertainment.

For Disney and fans of animation, the deal could wind up bringing more people into the theaters. Pixar's influence could help improve the story lines and characters in Disney's future films, said John Canemaker, a professor at New York University's Tisch School of the Arts, where he is director of the animation program.

"The main problem with Disney recently was not technology but that its stories and characters just haven't caught on with the public as they did in the past," he said. "Pixar has had a winner every time and has become what Disney used to be in terms of well-crafted stories, vibrant personalities, warmth and heart."

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Pixar Executive Played Key Role In Disney Deal (WSJ)

By Nick Wingfield And Merissa Marr

The Wall Street Journal, January 25, 2006

During their decade-plus partnership, relations between Pixar Animation Studios Chief Executive Officer Steven P. Jobs and Walt Disney Co.'s former chief, Michael Eisner, were as topsy-turvy as a roller-coaster ride at Disneyland. But even as animosity between the two men came close to destroying one of the most lucrative relationships in the film industry, a key Pixar executive -- John Lasseter -- held an emotional connection to Disney.

In the $7.4 billion agreement by Disney to acquire Pixar announced yesterday, Mr. Lasseter -- Pixar's top creative executive -- played an important role and now stands to assume an even more influential position: chief creative officer of Disney's animation studios and principal creative adviser of Walt Disney Imagineering, where he will work on designing new theme-park attractions.

While Mr. Jobs, with just over 50% of Pixar's stock, ultimately made the decision to sell the company, Mr. Lasseter's blessing of the deal was crucial to making it happen, according to people familiar with the matter.

How this will play with the Disney people is anybody's guess at this early stage. This much is certain: A former Disney employee himself -- both as a young artist and as a theme-park employee -- Mr. Lasseter never lost his love for all things Disney, or his desire to reunite with the company that played such a large role in his life.

"This deal would not happen if John didn't want it to happen," says former Disney studio chief Peter Schneider, part of the team that negotiated Disney's original deal with Pixar to distribute and co-finance its films.

Mr. Jobs said the support of Mr. Lasseter and Pixar's president and co-founder, Edwin Catmull, was key to making the deal work. "This wasn't my decision alone -- this was really Ed and John and me," Mr. Jobs said in an interview. "If any of the three of us hadn't wanted to do this, we wouldn't have done it."

Mr. Lasseter, 49 years old, is widely recognized as one of Pixar's most valuable assets, credited with helping to turn the company into a powerhouse in computer-animated films through his emphasis on compelling storytelling rather than bland technical wizardry. A traditional animator by training, Mr. Lasseter directed and helped write the script for 1995's "Toy Story," the first Pixar feature film, and its next movie, "Cars."

Mr. Lasseter is also deeply involved in overseeing the production of films by Pixar's stable of in-house directors. Going forward, he faces a tougher assignment: keeping Pixar on its long box-office winning streak while helping Disney return to its past glory in the medium it helped to pioneer. He will likely face insecurities all around, both from Disney animators who may feel usurped by the transaction, and from Pixar employees who fear their small-company style will disappear.

Mr. Lasseter's advantage lies in the fact that he has remained a familiar face at Disney even while Pixar was on the rise. His affinity for the company began during his childhood in Whittier, Calif., a half-hour from the Disneyland theme park in Anaheim, where he worked as a youngster operating the Jungle Cruise.

"It's really Disney blood throughout my veins," Mr. Lasseter said in an interview yesterday.

Inspired by the cartoons he loved as a child, Mr. Lasseter, just out of high school, enrolled in a new character-animation program at the California Institute for the Arts in Valencia, along with classmates that included the director Tim Burton. He went to work for Disney in the early 1980s, helping to animate movies like "Mickey's Christmas Carol."

A turning point for Mr. Lasseter came during early screenings of the dailies from the Disney science-fiction movie "Tron," released in 1982. He was dazzled by the groundbreaking computer-animated special effects in the movie, and he helped to persuade Disney to do a short test film that combined hand-drawn animation with computer generated backgrounds.

While he was thrilled by the artistic possibilities that computer animation seemed to open up, Mr. Lasseter was put off by Disney's belief that computers could primarily be used to save money during the creation of animated films.

"There just wasn't an interest in pushing the technology of animation," Mr. Lasseter says.

That attitude and what he saw as the declining quality of Disney's animated films prompted him to leave the company in 1983 for a job at Lucasfilm Ltd., the Northern California movie-production company run by George Lucas. There Mr. Lasseter did groundbreaking work with other members of the computer-animation team at Lucasfilm, including Mr. Catmull.

Mr. Catmull will become president of the new Pixar and Disney animation studios as a result of the deal.

After Mr. Jobs acquired the Lucasfilm computer-animation group in 1986 for $10 million, renaming the new company Pixar, Mr. Lasseter helped to establish a relationship with Disney in 1991, from which came some of the most memorable and successful films of the past decade, including "Finding Nemo" and "The Incredibles."

Mr. Lasseter pitched "Toy Story" to Disney, and the two companies ended up making the movie together, according to people familiar with the situation.

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Along the way, Mr. Lasseter has reaped the rewards of Pixar's success. He is, by far, Pixar's highest salaried employee, earning $2.9 million in salary during 2004, more than five times as much as Mr. Catmull earned, according to Pixar regulatory filings. Mr. Lasseter held Pixar shares, as of last July, valued at $26 million. He lives with his wife and children far from the bustle of Hollywood in the Sonoma County wine country north of San Francisco, where he owns a winery.

While at Pixar, Mr. Lasseter has stayed close to Disney, helping to design rides for theme parks based on Pixar characters such as Buzz Lightyear. At the 50th anniversary of Disneyland last year, Mr. Lasseter turned up at a small dinner for Disney executives, mingling alongside Mr. Eisner and Disney's current CEO Robert Iger, even as the relationship between Messrs. Eisner and Jobs remained deeply acrimonious. Mr. Lasseter often said to staff at Disney that he wished such tensions between the two men could be resolved.

Some people who know Mr. Lasseter, though, speculate that any support he has given for the Disney acquisition is likely driven more by a desire to help shape future films and other uses of Pixar's characters than by a love for Disney.

Under the two companies' distribution deal, which expires with the release of "Cars" this June, sequel rights to Pixar movies are owned by Disney, which had already begun development on its own script for "Toy Story 3" before Disney agreed to acquire Pixar, a prospect that horrified Pixar executives.

"That is the kind of thing that would break John's heart," says Pam Kerwin, a former Pixar vice president who left the company in 1999. "They're his children."

"There's no question that a big part of keeping the negotiations going, even when it was difficult, was because Disney had control of our characters that we had created," Mr. Lasseter said.

In his new role at Disney, Mr. Lasseter says he doesn't intend to force Disney's animation to copy everything Pixar does. "We're not going to come into Disney feature animation and insist everything becomes like Pixar." He adds: "The goal is simply to be there to help those artists make the best movies possible."

Imagining A Day Without BlackBerrys (WSJ)

By Jane Spencer And Jessica E. Vascellaro

The Wall Street Journal, January 25, 2006

The latest development in the legal battle involving BlackBerry hand-helds is forcing millions of people to confront an unsettling question: What would life be like without a BlackBerry?

While the possibility of a disruption in BlackBerry service is still extremely remote, the Supreme Court's decision not to hear an appeal by BlackBerry maker Research In Motion Ltd. on Monday has triggered new concerns that BlackBerrys -- the wireless email gadgets often dubbed crackberries because their users are so devoted -- could go dark.

The BlackBerry started out seven years ago as a device for high-ranking corporate types, but it has quickly become a verb, a source of marital discord, a safety hazard for those who cross busy streets while responding to email, a status symbol (Will your company give you one?) and even a pick-up tool. (Michael L. Romero, a 27-year-old systems administrator in Phoenix, says his friends email him on his BlackBerry to point out "cute girls" at nightclubs.) The BlackBerry has been responsible for many an interrupted vacation and dinner hour, but it's also integral for keeping the wheels of commerce, government and even law enforcement moving. So even the inkling of a possibility that it could shut down has sent people scrambling to arrange backups.

Information-technology professionals at dozens of big companies -- including Citigroup Inc. and Boeing Co. -- are drafting contingency plans. Law firms such as White & Case LLP, a New York-based firm, are stockpiling alternative wireless email devices like the Palm Treo 700w. And dozens of government agencies -- including the Los Angeles Police Department -- are contemplating how they would operate without BlackBerrys, which are currently used to alert police captains in the field about homicides.

Roughly four million Americans have a BlackBerry device, and RIM controls about 50% of the market for wireless email devices, according to Gartner. "A stoppage of BlackBerry would cause major havoc," says Bob Egan, director of emerging technology at the research firm Tower Group. "CEOs use them, doctors use them, Wall Street guys use them."

But for the many BlackBerry victims, the prospect of a blackout is liberating. Patrick Blanchfield, who works for a New York-based nongovernmental organization, says it would prevent his boss from sending him emails at all hours of the night.

And Debra Lucas, an office manager in Ashburn, Va., says her husband is constantly checking the device, and she has banned it from the bedroom and restaurants. Still, she says she sometimes finds him hiding in the foyer, huddled up with the device. "It's like there's another woman -- but it's really just the BlackBerry," she says.

Some companies have put off purchasing BlackBerry upgrades. Law firm Hogan & Hartson has delayed an upgrade for the company's 1,000 lawyers until RIM's legal issues are resolved. In addition, the company is considering teaching lawyers how to use text messaging on their cellphones and looking at text-to-speech companies, including iHello and jConnect, that would allow lawyers to call in and have their email read to them over the phone by a computer.

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Individual users are also trying to wean themselves off the devices in anticipation of a possible shutdown. Elana Centor, a 54-year-old free-lance writer, rarely lets her BlackBerry 7250 out of her sight -- that is, until earlier this week, when she decided to try to kick her habit in light of the lawsuit. "I'm preparing myself," says Ms. Centor of Minneapolis, describing how she suspended her routine of checking her email every 15 minutes and even went to the gym without the BlackBerry.

Meanwhile, interest in BlackBerry alternatives is taking off. Good Technology Inc., which makes wireless email software applications for devices such as Treo, Motorola Q and Nokia E-series devices, launched a "Try Good" campaign in December that allows corporate clients to test the services for 45 days free of charge. The company says it has fielded close to 600 calls in the past month from companies and government agencies.

Intellisync Corp. of San Jose, Calif., another RIM competitor, has launched pilot programs for more than 40 financial-services firms and government customers looking to test BlackBerry alternatives.

The high court's decision bounced the long-running patent-infringement battle between RIM and NTP Inc. back to a district court in Virginia, where it will likely be heard in February. Some worry the judge could rule in favor of NTP and issue an injunction that would shut down BlackBerry service to U.S. users, at least temporarily, though analysts say a settlement between RIM and NTP is more likely.

Even if an injunction is issued, RIM officials say it won't disrupt service. They say that have backup technology that will keep BlackBerry emails running without infringing NTP's patents. But some analysts have questioned the feasibility of implementing a so-called workaround, and some customers are worried it could compromise BlackBerry's functioning. And NTP has said it would challenge the workaround in court.

Analysts also say any court-ordered injunction would likely carve out an exception for government users. BlackBerrys are currently used by many federal agencies including members of the House of Representatives and Department of Justice lawyers. Senate Majority Leader Bill Frist is known for sending late-night messages to Senate colleagues via his BlackBerry.

Since BlackBerry handsets run only the BlackBerry operating system, users wouldn't have access to other corporate email programs in the event of a service shutdown. But the device wouldn't be totally useless. The phone part, along with text messaging, may still work, analysts say.

Still, some remain worried. Larry Engel, a partner at White & Case in San Francisco, says his BlackBerry actually alleviates marital tension by allowing him to secretly check his email and get work done during vacations with his wife. "BlackBerrys are very easy to conceal in your palm," he says. A shutdown would blow his cover, since he'd have to break out a laptop at the beach.

In Patent Disputes, A Scramble To Prove Ideas Are Old Hat (WSJ)

By Anne Marie Squeo

The Wall Street Journal, January 25, 2006

Research in Motion Ltd., facing the threat that its popular BlackBerry service would be shut down in the U.S. over a patent dispute, got a tip early last year from a high-tech industry official: Check out a library in Norway.

At a university in Trondheim, a city about 310 miles from the Arctic Circle, the company found eight Norwegian Telecommunications Administration reports going back to 1986 and 1989. The reports described a wireless-email messaging system similar to that used by BlackBerry.

The reports, it turned out, helped RIM fire back at a company waging a patent war against it. The company, NTP Inc., says RIM infringed on patents it holds. RIM argued the Norway reports show NTP's patents weren't entirely original. Although RIM is making progress at the U.S. Patent and Trademark Office, the fight is still mired in court. (See related article1).

Patent battles across the country are sending lawyers scrambling for finds like the Norway memos: published evidence that a patent is invalid because the idea was already in the air. The legal term for such documents is "prior art." When it's used successfully to fend off a patent-infringement claim, lawyers sometimes call it "killer art."

A cartoon strip by Rube Goldberg and a 1978 issue of Mad magazine have both successfully been cited as prior art in patent cases. The Patent Office late last year cited the Norwegian reports in preliminary decisions rejecting NTP's patents. "All you need is one reference that was publicly available, and that's sufficient to invalidate a patent," says Dennis Crouch, a Chicago patent attorney.

It used to be a lot harder than it is now to find such offbeat references. Up until the mid-1990s, the U.S. Patent and Trademark Office still did much of its patent-examination work manually. Patent examiners would sift through boxes called "shoes" (because they looked like shoe boxes) for old patents and articles from the likes of Popular Science and trade magazines that might undermine the supposed novelty of a patent claim. (Patent claims are the statements that bolster a patent application spelling out how the invention is unique.)

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Don Kelly, a Virginia consultant who worked for the patent office for 37 years, remembers spending days looking through those shoes, investigating a single patent claim. On one application, he decided that a drawing by Mr. Goldberg, famous for his cartoons depicting complicated ways to perform simple tasks, represented prior art. The patent being sought was for a dog-food dispenser that attached to a dog's collar and dumped food when the dog jerked the chain. In searching for prior art, Mr. Kelly found a cartoon by Mr. Goldberg dubbed "Teeing Up a Golf Ball" that worked on the same premise; it even featured an animal with a collar attached to a chain that helped move the ball toward the tee. The company, whose name Mr. Kelly can't remember, narrowed its patent claims to avoid a rejection, he says.

These days, computerized databases and the Internet have made the task a lot easier. There are Web sites devoted solely to finding prior art. Archived materials at university libraries, out-of-print textbooks and international patent filings all are now easily accessible, opening up a world of possibility to those trying to fend off patent-infringement suits.

The Norway find isn't the first time David Long, RIM's patent attorney at Washington-based Howrey LLP, has hit upon potential killer art. In 2000, Mr. Long was representing the National Retail Federation and International Mass Retail Association in a case involving infringement claims by the estate of an inventor named Jerome Lemelson. The estate alleged that companies selling and using bar-code technology were infringing on patents Mr. Lemelson had obtained and updated between the mid-1950s and 1990s. Mr. Long's client countered by seeking to prove "that the bar code has been part of Americana for years," he says. In other words, the technology has been widely available for so long it's too late now to cite a problem with it.

Mr. Long recalled from his childhood an issue of Mad magazine with a big black bar code on the cover denouncing the technology. "But I didn't preserve it, because I didn't know I'd need it for litigation someday," jokes Mr. Long.

Thanks to eBay, the online-auction site, Mr. Long found a copy of the April 1978 issue and included the reference in an appeals-court filing for his client. A federal judge last year threw out the estate's claims and an appeals court upheld that decision, citing the bar code's widespread acceptance and years of delay by Mr. Lemelson in seeking redress for any patent infringement.

Those seeking patents are required to search for prior art and bring it to the attention of government examiners when filing applications. Likewise, the patent office also looks for prior art in deciding whether to grant a patent. But because of a heavy backlog, examiners usually don't spend more than 20 hours per filing, so it isn't likely that they will turn up truly obscure examples.

Thorough searches like the one in Research in Motion's case tend to be done only in high-stakes court cases where major money is on the line. The hunt for art in those situations helped spawn a Web-based service in 2000 called BountyQuest. Subscribers to the service would post a patent on the site and offer a $10,000 reward for anyone who found published materials debunking it. The site, now defunct, was partially funded by Amazon.com founder Jeff Bezos, who at the time was trying to keep Barnes & Noble's Web site from using one-click technology that Mr. Bezos argued violated Amazon's patent.

Though that case was settled out of court for undisclosed terms, Charles Cella, a Boston patent attorney and the former chief executive of BountyQuest, says they did turn up some prior art that could have proved useful in that case. For example, one submission was a 1980s software program mailed to customers by the Bank of Montreal that allowed people to re-order personal checks with a single click. "As far as we know, that's the first evidence of one-click shopping," says Mr. Cella.

In the end, though, the company couldn't make enough money and shut down its service in late 2002.

Companies fighting patent suits often get help from others in the industry, sometimes anonymously. In RIM's case, they know who their tipster is, but have declined to name the person beyond saying it's an industry official. But the suggestion that RIM search through the Norwegian library has turned out to be a potential lifesaver for the company. The Norwegian reports were issued at least two years before NTP's earliest patent was filed, and the patent office already has cited the documents in preliminary decisions invalidating at least four of the five NTP patents involved in the case. It could take another year for the patent office to finalize its decision.

Still, the lawsuit is moving ahead much more quickly, with a federal judge in Virginia already ruling against RIM and threatening to shut down BlackBerry service in the U.S. as early as next month. While it might be too late for the judge to consider the Norwegian reports in his decision, they almost certainly will play a role in any appeals by RIM.

Arcelor Clinches Deal For Dofasco As Thyssen Quits (WSJ)

By Juliane Von Reppert-bismarck

The Wall Street Journal, January 25, 2006

BRUSSELS -- Arcelor SA yesterday said it agreed to an all-cash deal to buy Canadian steelmaker Dofasco Inc. for about €3.95 billion ($4.86 billion), after rival bidder ThyssenKrupp AG of Germany pulled out of the running late Monday.

Arcelor, the world's second-largest steel producer behind London-based Mittal Steel Co., rose 4.5% to €21.63 ($26.62) in late trading yesterday on the Belgian stock exchange. While the deal ends Arcelor's recent streak of losing expensive bidding

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wars, some analysts said the bid looks expensive. ThyssenKrupp and Arcelor had been fighting for control of Dofasco since November, and both had raised their bids several times.

"Arcelor may have been too eager to close an important acquisition," said Delta Lloyd Securities analyst Gert Biesmans.

The deal needs to generate some €100 million in synergies to create value and be justified "not only from a strategic rationale," said Dexia analyst Mickael Van den Hauwe.

Arcelor said it will pay C$71, or about US$62, a share for Dofasco. The Luxembourg-based company didn't say what synergies it expected to achieve through the acquisition. While Dofasco's board has recommended Arcelor's bid, shareholders must still approve the deal.

ThyssenKrupp said it decided to pull out of the battle for Dofasco because a higher offer "would go beyond the point of creating economic value." The company had until midnight Monday New York time to respond to Arcelor's latest bid, made Jan. 17. ThyssenKrupp's last bid was C$68 a share.

Credit Suisse praised ThyssenKrupp's move, upgrading the stock to "outperform" from "neutral" and raising its target price to €23 from €17.50. In afternoon Frankfurt trading, the stock rose 2.6% to €19.20.

ThyssenKrupp said it still plans to expand its North American steel operations, and while it didn't rule out U.S. acquisitions, it said it preferred to build new plants.

WB, UPN To Merge Into Single New Network (WT/AP)

By Seth Sutel

The Washington Times, January 25, 2006

NEW YORK -- Two small, long-struggling television networks -- UPN and the WB, which air on Channels 20 and 50, respectively, in the Washington area -- will shut down this fall, and programming from both will be used to start a new network aimed mainly at young and minority viewers.

The new network will be called the CW -- "C" for CBS Corp. and "W" for Warner Bros. -- each of which will own half of the new entity and contribute programs, assets and executives to the venture.

The WB was owned by Time Warner Inc., parent of Warner Bros., and the Tribune Co., a Chicago-based media company, which will relinquish its 22.5 percent stake in exchange for a 10-year affiliation deal to carry the new network on 16 of its stations, including Washington's WBDC-TV (Channel 50).

"We're going to have the WB programs [through August], and then we'll become the CW network," said Eric Meyrowitz, vice president and general manager of WBDC. "We're ecstatic about the change. To get the best of the WB and UPN is just incredible."

The CW will air 30 hours of programming each week, like the WB. Shows will air Monday through Friday 3-5 p.m. and 8-10 p.m., and Sundays 5-10 p.m. There also will be five hours of children's programs on Saturday mornings, Mr. Meyrowitz said.

The CW also will be carried on the 12 stations owned by UPN, a unit of CBS Corp., guaranteeing the network carriage in 48 percent of the country and 20 of the top 25 TV markets. Network executives said they hoped to have agreements in place to cover most of the rest of the country by the time the network starts in the fall.

Fox Entertainment Group owns WDCA-TV (Channel 20), Washington's UPN station. Local Fox executives did not return repeated calls for comment yesterday about the future of the station, which has been on the air since April 1966.

Chris Ender, a CBS spokesman, said UPN programming will air through the end of August on WDCA, but CW programs will be available exclusively on WBDC.

UPN and the WB had struggled to compete against larger rivals in the broadcast-TV business, including Walt Disney Co.'s ABC, General Electric Co.'s NBC, CBS Corp.'s CBS and News Corp.'s Fox. Both consistently place behind their larger rivals in the Nielsen ratings race and have financially burdened their parent companies.

"Looking down the road, this was much better than keeping UPN alive," said Leslie Moonves, chief executive of CBS, which became a separate company from Viacom Inc., the owner of MTV and VH1, at the beginning of the year.

But it's not clear that the combination of two struggling networks will result in a strong one or in a moneymaker.

"Chances are, in five years they may not exist at all, or it may be something else, but right now it's better than going alone," said Hal Vogel, a longtime media analyst and author of a book on the economics of the entertainment industry.

"This makes sense -- it's not a slam-dunk proposition, but it makes sense. Six networks was too many," he said.

The new network will draw on programming from both UPN -- whose shows include "Everybody Hates Chris" and "Veronica Mars" -- and from the WB -- whose shows include "Supernatural," "Smallville" and "Everwood."

The new network will based in a new, undetermined location, network executives said. The WB and UPN both are based in Southern California.

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Dawn Ostroff, currently UPN's president, will become the president of entertainment at the CW, overseeing programming. John Maatta, the WB's current chief operating officer, will oversee business operations at the CW as COO.

CBS shares rose $1.08, or 4 percent, to $26.90 in trading on the New York Stock Exchange, while Tribune's fell 25 cents to $29.65.

Time Warner's shares rose 18 cents, or 1.1 percent, to $17.27.

ENVIRONMENT:

Hearing Set For Early February In Ivory-billed Woodpecker Case (AP)

AP, January 24, 2006

LITTLE ROCK (AP) - Attorneys for environmental groups came to court with an audiovisual presentation showing an image of the black, white and red ivory-billed woodpecker.

But they didn't have a chance to explain Monday why they believe the Grand Prairie Irrigation project in eastern Arkansas should be stopped in order to avoid harming the rare bird.

Instead, U.S. District Judge G. Thomas Eisele recused himself before the hearing began. The case was bumped to another court before landing in the court of U.S. District Judge William R. Wilson, who set a hearing on it for Feb. 6 in Jonesboro.

Work on the $320 million project to siphon water from the White River for use on farms that have been depleting the underground water supply will continue for now.

The National Wildlife Federation and the Arkansas Wildlife Federation filed the lawsuit in September, claiming that the project would violate the Endangered Species Act. The suit claims that diverting water from the White River could damage the ivory-billed's habitat.

The bird was once thought to be extinct and was only recently rediscovered in Arkansas.

Other lawsuits, both federal and state, have ended unfavorably for the environmentalists.

In a note to lawyers, Eisele wrote that while reviewing the case at his home Sunday, he found an affidavit by Kenneth Lee Smith, whom he identified as director of the Arkansas Audubon Society, a conservation group. Eisele wrote that while the group was not a party to the case, he had recused in a recent case involving the society because in February 2003 he made a $200 contribution in honor of a friend, Bob Shults, one of the group's founders.

District Court Clerk James McCormack said that one of the parties to the case declined to go forward after Eisele mentioned the conflict. McCormack said federal rules wouldn't allow him to say which of the parties had caused the judge to recuse himself.

The case was reassigned to Judge George Howard Jr., but his docket was full so the case was then assigned to Wilson.

Work on the project began in June with construction on a $34.5 million pumping station on the White River. In all, project is to include pipelines and canals and on-farm water-holding structures. The construction site, on 241 acres of mostly treeless fields, is more than 20 miles south of where the woodpecker was spotted.

The Grand Prairie covers a half-million acres. And if all goes as planned, water will be flowing to farms across the White River Irrigation District by 2012.

But environmental groups say the corps has refused to perform an in-depth investigation into whether the project will harm the woodpecker's habitat.

"It would cause major changes to the area," said Lisa Madry, regional representative with the National Wildlife Federation. Madry said drawing large amounts of water from the river could affect vegetation in the area. She said that so little is known about the ivory-billed woodpecker that it's unclear how the bird could be harmed.

Justice Department attorneys Devon McCune and Bridget McNeil declined to comment Monday. But farmers who traveled to Little Rock for the hearing said the project could be completed without hurting the woodpecker.

"Our position is what we're doing presently is not disruptive of any habitat of the woodpecker in the past years, knowingly or unknowingly," said Tommy Hillman, a farmer from near Carlisle.

Tom Fortner, director of the White River Irrigation District, which would oversee the irrigation system, said only about half of the water for the project would come from the river. The rest would come from measures to capture rainwater and irrigation runoff on farms, he said.

Bush Administration Outlines More Funding For Hydrogen Fuel Cells (BOS)

By Ken Thomas

The Boston Globe, January 25, 2006

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WASHINGTON --The Bush administration said Tuesday it would provide $119 million in funding for research into hydrogen fuel cells, touting the automotive technology as a way to reduce the nation's dependence on foreign oil.

Energy Secretary Samuel Bodman, touring the Washington Auto Show, said the money would fund projects to help overcome some of the barriers "in getting technology out of the laboratory and out onto the test track."

"We are well past the point where we see that it can be done, and now we're at the point of figuring out how it can be done -- affordably and safely," Bodman said.

The funding is part of President Bush's $1.7 billion hydrogen research program, first detailed in 2003. The government and automakers have been working to develop vehicles powered by pollution-free hydrogen fuel cells, which could reduce demand for imported oil while cutting greenhouse gas emissions.

Many obstacles remain -- fuel cell vehicles are extremely expensive to produce and lack an infrastructure of fueling stations to make them viable. The government has said it hopes hydrogen fuel cell vehicles will be available in car showrooms by 2020.

The Energy Department would provide up to $100 million during the next four years for research projects to improve various components of fuel cell systems, with the goal of improving performance and lowering cost by 2010.

Another $19 million will be devoted toward a dozen research projects looking at the components involved in using hydrogen to create electricity. The projects will be conducted in Arizona, Colorado, Connecticut, Florida, Massachusetts, New York, Ohio, Pennsylvania, South Carolina, Tennessee and Virginia.

Bodman also released guidelines for identifying and overcoming some of the technical challenges facing the industry. Some of the challenges include the reducing the cost of hydrogen production and fuel cell systems, improving the durability of the systems and increasing the capacity of onboard hydrogen storage.

Coalition Turns On To 'Plug-In Hybrids' (WSJ)

By John J. Fialka

The Wall Street Journal, January 25, 2006

DAVIS, Calif. -- In the 1950s, an aspiring Pasadena hot-rodder named Andrew Frank shocked the competition by powering his 1936 Ford with a Cadillac V-12 engine. "It had gobs of torque," he recalls.

In the 1990s, as a mechanical-engineering professor at the University of California here, Dr. Frank produced another shocker. He yanked big engines out of American cars and replaced them with electric motors that worked in tandem with much smaller gasoline engines. He called his new configuration the "plug-in hybrid" because it allowed homeowners to recharge the car's batteries by plugging into an electrical outlet.

Hybrid automobiles work with two engines. Auto makers have tinkered with them since the early 1900s, but the cars didn't gain much attention in the U.S. until Japanese companies began selling them in 1999. The current top seller is Toyota Motor Corp.'s Prius; Americans bought 205,790 of them last year. What Dr. Frank was proposing more than 10 years ago, however, was a variation on the hybrid theme.

But Detroit auto makers ignored him. Japanese car makers, about to market their own hybrids that didn't plug in, paid scant attention. This year, however, as hybrids have gained in popularity amid high gasoline prices, Dr. Frank, now 72 years old, is getting some traction:

A U.S. coalition led by electric utilities, sensing a way to gain market share through vehicles that derive 90% of their power from electricity and can recharge at night when power is plentiful and cheap, kicked off a national campaign in Washington yesterday to push auto makers to make plug-in hybrids.

Some cities, environmental groups and state pollution regulators have joined this "Plug-in Partners" effort. They see plug-ins as a means to meet tightening air-pollution standards and to use controls over utilities as a way to clean up urban air.

DaimlerChrysler AG has turned a European delivery van, called the Sprinter, into a prototype diesel-electric plug-in. Forty of the vehicles will be tested over the next two years by a variety of U.S. agencies and companies.

The plug-in campaign is intensifying just as car buyers and policy makers are grasping for ways to ease the nation's energy problems. When President Bush delivers his State of the Union address next week, he is expected to tout alternative auto fuels, like ethanol, as well as nuclear energy.

A key difference between plug-in hybrids and conventional hybrids is that plug-ins have a bigger battery pack and can be designed to run a passenger car on electricity for the first 60 miles -- about the length of an average daily commute.

Dr. Frank estimates that if drivers regularly recharge their batteries at home, plug-ins may get well over 100 miles per gallon. By comparison, conventional hybrids must rely on gasoline-powered engines to recharge their batteries and get between 40 and 60 mpg.

While running on electricity, the plug-in's fuel cost drops to 70 cents a gallon, or lower, Dr. Frank estimates.

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Only a handful of experimental plug-ins are on the road. Some auto makers say the vehicles are more vulnerable to wear and tear than other hybrids. The biggest government spenders on auto research, the federal government and the state of California, remain focused not on hybrids but on fuel-cell-powered cars that use hydrogen.

"You should take a look and see at least what the federal government is thinking," Dr. Frank told students in one of his graduate classes recently, adding with a smile and a wink, "I don't agree with most of what they have to say." In the basement of his school's engineering building, Dr. Frank and his students tinker with sport-utility vehicles.

Their first move with a Ford Motor Co. Explorer was to rip up its floor panels. "Most cars have plenty of underutilized space," Dr. Frank explains, showing how he and the students filled that space with batteries.

Then the students replaced the Explorer's big gasoline engine with a fuel-sipper taken from a General Motors Corp. Saturn and a 200-horsepower electric motor. Power from the two engines, which operate on the same drive shaft, is controlled by a continuously variable transmission, a gearless, computer-controlled device. Dr. Frank estimates that the car's weight remains about the same. The batteries he puts in make it heavier, but his engines and transmissions are lighter than the ones he removes.

Dr. Frank's hybrids have enough electric power to run for the first 60 miles; then, computers turn on the gasoline engine to help run the car and keep the batteries charged. Dr. Frank's students have discovered that even with six of them riding in the Explorer, it could still "burn rubber."

That was the Explorer's downfall last year in an annual contest held by the Department of Energy to see which American university could build the most efficient-running car. Dr. Frank's students were showing off the car's acceleration in the parking lot before the contest, when it died. "We broke the motor," he explains.

In June, U.C. Davis will try again with a Chevrolet Equinox, powered by a relatively tiny Toyota Prius gasoline engine and electric equipment similar to that in the Explorer. To demonstrate that cars can be weaned almost entirely from fossil fuel, Dr. Frank's students plan to run the gasoline engine mainly on ethanol made from corn. They are designing a tent with solar panels that can be used to recharge the batteries.

Utilities are drawn to the idea of a car that plugs in at home. The Electric Power Research Institute, which is financed by utilities, is sponsoring DaimlerChrysler's experiment with plug-in delivery vans. The project is being shepherded one of Dr. Frank's former students, Mark Duvall, who remembers working long nights modifying cars in the professor's lab. "He was a complete master of giving you enough rope to hang yourself," Mr. Duvall says.

Critics say the plug-in's weak point may be its batteries, which could burn out if power is drawn up and down frequently. Dr. Frank says recent experiments with electric cars by Toyota and GM have developed batteries that can stand the strain.

Dan Benjamin, a transportation analyst for ABI Research, an Oyster Bay, N.Y., market-research firm, says the battery problem means plug-ins will appear first as commercial vehicles: "Stop-and-go city driving really takes advantage of this technology."

Bill Kwong, a spokesman for Toyota, says the company doesn't encourage buyers of its hybrids to use kits, made by some companies, that convert them into plug-ins, since "it cycles the batteries down way too deeply and shortens the life of the batteries." For that reason, he says Toyota isn't working on a plug-in hybrid.

Others think the car will be too expensive. It costs Dr. Frank about $100,000 to customize a car. But he estimates that made in volume, his adjustments would raise the cost of a car by a more affordable 25%. He says most plug-in parts could be made by a well-equipped machine shop.

The plug-in feature will add from $4,000 to $6,000 to the cost of a car, he calculates, noting "that's what some people pay for a sunroof, leather seats and a fancy navigation system."

Drug Makers Plan Big Increase In Flu Vaccine For Next Fall (NYT/AP)

By The Associated Press

The New York Times, January 25, 2006

ATLANTA, Jan. 24 (AP) - Pharmaceutical companies say they are preparing to produce as many as 120 million doses of flu vaccine for the next flu season, by far the most ever.

The increased production could mean an end to the shortages of the past several years, especially in the 2004-5 flu season, when bacterial contamination led to the shutdown of a British factory that was to produce nearly half the United States' supply.

Speaking Tuesday at a flu vaccine conference here sponsored by the American Medical Association and the Centers for Disease Control and Prevention, vaccine makers said the increase was warranted for several reasons: better government reimbursement for shots, indications that federal health officials may one day recommend flu shots for nearly everyone, and public fears of avian flu (although the vaccine would protect only against conventional flu).

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GlaxoSmithKline, which produced 7.5 million doses of flu vaccine for the current flu season, said it expected to distribute 20 million to 30 million for next season. The company recently acquired plants in Canada and Pennsylvania and is expanding its plants in Dresden, Germany.

Sanofi Pasteur, the main vaccine producer for the current season, broke ground last July on a vaccine plant in Swiftwater, Pa., to double the capacity of that company, a joint venture of Sanofi-Aventis and Merck.

Five percent to 20 percent of the population gets the flu each year, with the disease leading to 36,000 deaths and 200,000 hospitalizations.

Flu vaccinations are currently recommended by the disease control centers for groups most at risk of complications, including the elderly and people with weakened immune systems. But officials at the centers say they may expand the recommendation to include most children.

About 86 million doses of vaccine were produced for the current season in the United States, up from about 61 million for last season. The record is 95 million, for 2002-3.

A New Tack In West's Land Battles (CSM)

By Jeff Oliver

The Christian Science Monitor, January 25, 2006

CHALLIS, IDAHO - The federal government owns so much of Custer County, Idaho, that one could call it common ground. More than 95 percent lies in public hands. But for years, Idaho has failed to find much, if any, common ground on what to do with the region's pristine backwoods.

Environmentalists wanted to protect the roadless forestland as federal wilderness, ranchers hoped to maintain the land for their cattle, and weekend warriors pushed for access for their dirt bikes and off-road vehicles. Local government officials, starved for revenue, looked to privatize some government land to generate more property taxes.

Exhausted after three decades of lawsuits, failed legislation, and ill will, these groups are backing a compromise bill that would designate some 300,000 acres as wilderness, privatize another 6,000, and keep the rest open for multiple uses. Some observers call the legislation, submitted last year by US Rep. Mike Simpson (R) of Idaho, an example of "collaborative process," an evolving concept that could define the future of conservation.

"The environmental movement has gotten very good at fighting and we've lost touch with a lot of people," says Rick Johnson, executive director of The Idaho Conservation League and a key figure in the Custer County compromise.

"Collaboration, in the big sense, means getting things done instead of simply fighting. People are hungry for that."

While definitions of the process vary, the basic idea has existed for decades. Most often it's used to describe a coming together of stakeholders intimately connected to a particular problem. The use of such cooperative approaches has surged in recent years. Now, the movement seems to be presenting itself as a viable alternative to mainstream environmentalism.

The trend is particularly evident here in the West, where public landholdings are vast and debate has sharpened over what to do with them. For example:

· In southern Oregon, a group of environmentalists, government agents, logging representatives, and concerned citizens came to an amicable agreement this past fall regarding a long-disputed timber sale. According to the agreement, loggers will bypass the forest's largest and oldest trees while a local committee will help to mediate any future conflicts.

· Last year in south-central Utah, a collaborative collection of state agencies, university professors, residents, and ranchers got a $350,000 federal grant to aid their effort to boost sage grouse populations. In return for help in keeping the sage grouse off the endangered species list, conservationists got help restoring the bird's habitat.

· After witnessing what happened to timber towns when the spotted owl made the endangered species list, farmers in Washington state joined environmentalists in a similar effort to protect sage grouse.

· In southwestern Idaho, ranchers, environmentalists, government officials, native Americans, and local residents are working together to protect the long- disputed Owyhee Canyonlands. The group is crafting a compromise similar to Custer County's, which will then be introduced as legislation by US Sen. Michael Crapo (R) of Idaho.

Some experts attribute the movement's increased momentum to the rise of the Republican Party. Indeed, collaboration has quietly become a priority for the Bush White House. In August, the administration sponsored the first White House Conference on Cooperative Conservation, dedicated to promoting the "appropriate inclusion of local participation in Federal decision making."

Collaboration has found another champion in Senator Crapo. In December, he proposed amending the Endangered Species Act to encourage broad-based local groups to find collaborative solutions to wildlife decline.

Other experts attribute the impetus to a rising dissatisfaction with the strict gospel of conservation and the resulting stalemates. In its place, a more temperate approach, the so-called "wise-use" ideology, is gaining ground, says Kirk Emerson,

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director of the US Institute for Environmental Conflict Resolution in Tucson, Ariz. That ideology, in turn, has given birth to a number of well-funded organizations dedicated to advancing collaborative process. These include The Quivira Coalition in New Mexico, the Sonoran Institute in Arizona, and the Montana-based Red Lodge Clearinghouse.

Not everyone is thrilled by this expansion. The collaborative movement has mostly produced "a lot of talk and little follow-through," says environmentalist Michael McCloskey, who in 1995 wrote a now-famous memo. It warned environmentalists: "A new dogma is emerging as a challenge to us. It embodies the proposition that the best way for the public to determine how to manage its interest in the environment is through collaboration among stakeholders."

Ten years later, he remains unimpressed. He argues that the main reason conservationists increasingly turn to compromise is that the federal government is failing to do its job protecting the environment. Also, many collaborative groups set the bar so low that they declare success if they can get all the stakeholders to the table, he says.

Indeed, there remains little hard evidence that collaboration works in the long term, experts agree. This is partly because few researchers follow the trend, partly because the collaborations frequently span so many years that they're hard for researchers to track.

For proponents, however, anecdotes have long filled in for proof. "In almost every case you find people who have fought those old wars over and over again," says Daniel Kemmis, senior fellow at the Center for the Rocky Mountain West in Missoula, Mont. "These old warriors have agreed to lay down their arms and see if there is an alternative answer."

Clogged Rockies Highway Divides Coloradans (NYT)

By Kirk Johnson

The New York Times, January 25, 2006

SILVERTHORNE, Colo., Jan. 22 - When Interstate 70 was built through here in the 1960's and 70's, the Colorado Rockies were largely rural and remote, and the old roads that the highway replaced were a widely recognized danger.

Over the years, as the population grew, delays and frustrations on the highway began to mount. Traffic jams at nosebleed altitude became common. In 8,800-foot-high Silverthorne, which was little more than a gas station pit stop a generation ago, with a grocery that got fresh produce only on Thursdays, alpine meadows gave way to factory outlet stores.

Now state officials are considering a major and contentious widening project for Interstate 70 that is dividing people over the question of who the highway is for and how it transformed these mountains.

The project is a variation of a drama that is playing out across much of the West as once-rural outposts are transformed into brimming settlements with newfound political and economic clout in transportation decisions.

As the Federal Highway Act of 1956 established the Interstate System and helped open vast expanses of the West, highways like Interstate 70 changed just about everything by putting on the map distant places that had been mostly untouched.

Now, the very places that were changed, like Silverthorne - 65 miles west of Denver - are wading in as aggressive and muscular participants in discussions about what comes next.

In Nevada, the expansion U.S. 95 connecting Las Vegas and its sprawling western suburbs has resumed after environmentalists settled a lawsuit last year over the effect of increased vehicle emissions on nearby residents.

The proposed Legacy Highway in Utah, extending south of Salt Lake City, was blocked for years before receiving final approval this month.

Elsewhere in Colorado, a plan for a toll road across the once-empty plains east of Denver was put on hold last year after opposition from residents.

Transportation experts, politicians and residents agree that the stakes and implications of these fights are enormous, touching on tenets of the West that are scriptural: unbridled growth, local identity, civic autonomy and an uneasy dependence on government.

Here in Colorado, where Interstate 70 is crucial to the tourism economy and the state's image as the mountain playground of the West, businesses, residents and interest groups do not remotely agree on what to do.

"The question is, How much do we really want to improve I-70 - and do we want to improve it so much that it changes the character of our communities?" said Gary Severson, the executive director of the Northwest Colorado Council of Governments. "That's the tightrope."

The idea that transportation systems can reshape the regions through which they pass is well established. As far back as the Erie Canal and the transcontinental railroad, geographers and historians say that getting from Point A to Point B has always been at least partly about property values, boosterism and the restless American impulse to move on and create anew.

But that pattern is being given a decidedly new twist here on a road that was hailed and agonized over as one of the most daunting stretches of the Interstate System.

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Places like Silverthorne - incorporated in 1967, when it was populated mainly by highway construction workers - have become destinations for shopping or homebuilding and tend to favor an expansion of the highway that would deliver more of the bounty that Interstate 70 has already bestowed. Towns closer to Denver, like Idaho Springs, which have not seen the influx of vacation homes or tourists and which also have many more commuters to Denver, say mass transit must be on the table.

Some politicians and residents say that doing nothing may be the wisest course. Colorado's population in and out of the mountains is expected to increase by 50 percent in the next 20 years, pushing people toward mass transit as traffic congestion worsens.

Not everything that has happened here is a result of transportation, of course. The explosion of population and the economy since the completion of Interstate 70's last leg in 1979 - the second tube of the Eisenhower/Johnson Tunnel at 11,000 feet across the Continental Divide - also coincided with a demographic transformation as members of the post-World War II generation reached their peak earning years, stock and real estate markets boomed and changes in tax law made buying vacation real estate more attractive.

Resorts that opened or grew during the highway's early years - like Vail, in 1962, Keystone in 1970 and Beaver Creek in 1980 - have moved toward year-round operations and real-estate development that bring more visitors and residents.

The results have all fed back into the equation of traffic, which is increasingly bumper-to-bumper on weekends in winter and summer. Another record was set last year for the number of cars trying to squeeze through the four lanes of the Eisenhower/Johnson Tunnel in one month - just over 37,000 a day, last July.

Issues of class and clout have further clouded the picture.

Summit County, where Silverthorne is located, was one of the fastest-growing counties in the nation in the 1990's, with the population up 83 percent. Equally important, many residents and politicians say, is that the nine counties along the Interstate 70 corridor - led by Summit and Eagle, where the big resorts and the biggest waves of homebuilding are concentrated - are becoming more and more important to the state's economy.

In 2000, a private study commissioned by the state found that the corridor produced about $2 billion in recreation revenue, out of $9.3 billion statewide, and generated $136 million in state and local tax revenues.

"Do we accommodate growth, or do we stifle it? That is the question," said Lou DelPiccolo, Silverthorne's mayor, who favors a highway widening plan.

Thirty miles east, in Clear Creek County, where the growth has been slower and the big payoff from the highway never quite materialized, political leaders like the Idaho Springs mayor, Dennis Lunbery, are asking the opposite question: Could they survive the widening of the highway?

Idaho Springs, confined in a narrow canyon - the back door of City Hall is less than 100 feet from the Interstate's westbound guardrail - would be destroyed, Mr. Lunbery said, by the miasma of asphalt, noise and dust that a bigger highway, and the years of construction, would bring.

Mr. Lunbery said he thought that the state, in its environmental assessment of the corridor, had "stacked the deck" toward a highway-widening option by excluding any plan that costs more than $4 billion. Most mass transit proposals would add at least another $2 billion to $4 billion.

Coincidentally or not, widening is what the destination communities farther west mostly want. Many people farther west also worry that a mass transit rail line, however good it may be for closer-in communities like Idaho Springs, could turn resort communities into bedroom communities, full of commuters catching the train to their offices in Denver.

The executive director of the State Department of Transportation, Thomas E. Norton, who is expected to make a decision on the corridor later this year, said he was open to all options.

"I don't think there is a bias in my perspective," Mr. Norton said. "There is a bias toward best use of the public dollar, and until you can get really high transit kinds of usage, the economics are not there. Rail that can move 10,000 people an hour looks great, but if only 12 days of the year it would be used by that many people, it's not an efficient use of dollars."

Many people, including Mr. Lunbery, who expects the state's study to be challenged in court almost no matter what happens, think that nothing will happen for years on the corridor - partly because of the difficulty in finding the money - and that worsening traffic is, for now, the only certainty.

Gary Lindstrom thinks that is a good thing. He is a legislator in the Colorado House whose district includes much of the corridor. He is also a Democratic candidate for governor this year and favors the mass transit idea, but he agrees with Mr. Norton that for now it does not appear feasible. Time will change that equation, Mr. Lindstrom said.

"The worst thing we can do is widen the highway," he said. "We need to keep the congestion so people will be interested in the transit."

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No matter what unfolds, Linda Wellington and her husband, Bill, who have lived all their lives here, will probably not see it. Ms. Wellington has watched it all - the good and the bad - and often talked it over with her father, a career highway worker, before he died, who regularly plowed the highest passes of the old road before Interstate 70 was built.

"At one time I was bitter. I'd say, 'Dad, don't you hate all the people and the traffic?' and he'd say, 'We need to move forward,' " said Ms. Wellington, who is in her 50's. "So that's where I am now. You can't stop it. It's here, we've built it, and you can't close the door."

The Wellingtons are planning to move. Mr. Wellington, who is 56, said he had been looking at a place in northeastern Colorado, out on the plains toward Kansas, where it is not as crowded as the mountains have become and where their son now lives. He will hate to leave, he said, but things have changed too much to stay.

FBI/DEA/ATF/USMS:

Grassley Backs Ex-FBI Agent (WP)

By Christopher Lee

The Washington Post, January 25, 2006

When Cecilia Woods, an FBI special agent based in Panama, suspected her boss of having extramarital affairs including one with a paid informant in 2000, she reported her concerns to bureau officials -- and started investigating on her own.

For her trouble, the bureau suspended her for 10 days, then later transferred her to a less prestigious post in Washington, Woods said. The 23-year veteran retired in 2005 after enduring a second, unrelated suspension of 14 days and concluding that she would never get back in the agency's good graces.

"All I wanted is for the FBI to look into his actions," Woods said in an interview. "And because I raised the issue with the bureau, the bureau came after me instead. The bureau made me the target."

Woods, who in 2001 filed an equal employment opportunity complaint alleging a hostile work environment, is hardly the first federal employee to allege that she was the victim of unfair treatment by the brass. But she has attracted a powerful ally -- Sen. Charles E. Grassley (R-Iowa), chairman of the Senate Finance Committee and a longtime critic of the FBI.

Woods's supervisor eventually admitted to the affairs, and to giving the informant lingerie and other gifts, said Grassley, whose staff investigated the case. For that and for misusing government vehicles, he received a 14-day suspension, a demotion and a transfer to the office of his choice, Grassley said.

In a six-page letter sent Monday to FBI Director Robert S. Mueller III, Grassley cited Woods's case as an example of what he believes is a chronic "double standard" of discipline at the agency, in which misconduct by supervisors is punished more lightly than that by underlings. The FBI also has a habit of dealing more harshly with misconduct by agents who are seen as disloyal than by those seen as loyal, wrote Grassley, who asked Mueller for more information about discipline at the agency.

"The lesson is this: If you are loyal to the FBI and you are a supervisor, it is possible to engage in conduct that dishonors the Bureau and undermines its mission while keeping your job," Grassley wrote. "However, if you show any sign of disloyalty to the FBI or your supervisors, they will try to fire you -- even if your 'disloyalty' consists of reporting misconduct or concerns about national security."

An FBI spokesman said the agency planned to review Grassley's letter before responding "in an expeditious manner" to the senator. "The director is currently traveling overseas, and therefore the FBI has no additional response at this time," Special Agent Richard Kolko said.

The thrust of Grassley's criticism is not new. A 2002 report by the Justice Department's inspector general said there was a perception among FBI employees that a double standard of discipline exists within the agency. That view arose, in part, because there was a separate disciplinary system for managers until 2000. Inspector General Glenn A. Fine cited several "troubling cases" in which discipline for managers appeared "unduly lenient."

In 2003, Fine reported on inappropriate sexual behavior and racial comments by senior FBI managers, saying the incidents reinforced earlier findings that the agency had repeatedly let senior managers get away with egregious conduct while handing out stronger punishment to lower-level employees who behaved similarly.

Woods drew her first suspension after she asked a hotel bar worker to let her know when her supervisor left the hotel. Woods and the supervisor had met with the informant in a hotel room before he told Woods to depart, leaving the two of them alone -- and Woods suspicious. She was suspended in February 2001 for acting unprofessionally and providing information to an non-bureau individual (the hotel worker).

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Woods received her second suspension in November 2003 for providing her attorney in her EEO case with unredacted documents that may have contained sensitive or classified materials. Woods acknowledged the lapse but said that "there was nothing classified. If anything, there were some names that were sensitive."

In his letter, Grassley wrote: "I am aware of no evidence that her alleged disclosures, either to the acquaintance in the hotel bar or to her attorney, had any actual negative impact on the security of FBI operations."

Woods said the experience in Panama taught her that FBI discipline runs on the "good old boy" system. "I wanted the bureau to be responsible," she said. "They shoved everything under the carpet. They just didn't want to look at it."

Medical Marijuana Advocates File Challenge To San Diego County (AP)

By Elliot Spagat

The Associated Press, January 24, 2006

SAN DIEGO – Medicinal marijuana advocates on Tuesday challenged a San Diego County lawsuit that seeks to overturn a state law permitting the use of pot for medical purposes.

The county sued the state of California and its director of health services on Friday in federal court, saying federal law that prohibits marijuana use trumps state law that allows it. California approved the use of marijuana for medicinal purposes with the passage of Proposition 215, which won 55 percent votes cast in 1996.

San Diego is the only California county that has refused to provide identification cards to registered medical marijuana users.

The American Civil Liberties Union, Americans for Safe Access and the Drug Policy Alliance filed a motion to intervene in the lawsuit on behalf of patients including Pamela Sakuda, 58, who uses marijuana to treat side effects of chemotherapy for rectal cancer. The San Diego woman said the drug has quelled nausea and stimulated her appetite.

"The supervisors have turned a deaf ear to the pleas of sick and dying people, and now they have shown that they are equally willing to ignore the law," said Joe Elford, chief counsel for Americans for Safe Access.

According to the ACLU, 11 states have approved marijuana for medical purposes. California was first, followed by Montana, Arizona, Alaska, Colorado, Hawaii, Maine, Nevada, Oregon, Washington and, most recently, Rhode Island.

The county's five Republican supervisors were mostly silent as several marijuana users urged them Tuesday to drop the lawsuit filed last week in San Diego. One supervisor, Ron Roberts, garnered applause when he said he opposed the lawsuit.

"Your actions are unjust, unlawful and un-American," said Wendy Christakes of La Mesa, who has used marijuana since 2003 to treat a back injury. She used a cane to step up to the microphone.

Rudy Reyes, 28, said marijuana has allowed him to sleep after massive wildfires in 2003 burned 75 percent of his body and put him in the hospital for eight months. He said doctors at UC San Diego Medical Center recommended the drug after his body rejected morphine.

"I don't have flashbacks, I don't have those middle-of-the-night terrors," he said in an interview after urging the supervisors to drop their fight.

Last year, a 3-2 board majority voted to ignore a state requirement that counties issue identification cards for medical marijuana users and maintain a registry of people who apply for the cards. The move came despite a warning from the county counsel that the move would likely result in costly litigation.

Challenge To Pot ID Law To Continue (LAT)

By Tony Perry And Ashley Powers, Times Staff Writers

The Los Angeles Times, January 25, 2006

SAN DIEGO — Despite pleas from the ACLU and several individuals suffering chronic pain, the San Diego County Board of Supervisors on Tuesday declined to withdraw a lawsuit seeking to overturn a state law requiring the county to issue medical marijuana cards.

Meanwhile, San Bernardino County officials announced they supported the San Diego board's decision to challenge the state law on grounds that federal prohibition of marijuana use takes precedence. By day's end, the county counsel of San Bernardino had contacted his counterpart in San Diego to discuss legal strategy.

Kevin Keenan, executive director of the American Civil Liberties Union's office for San Diego and Imperial counties, said he was disappointed but not surprised by the San Diego supervisors' decision to "forge ahead with this misguided lawsuit." The ACLU and two groups that support medical marijuana on Tuesday petitioned the federal court to allow them to oppose the lawsuit.

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San Bernardino County Supervisors Dennis Hansberger and Josie Gonzales said their county's action was intended to force the state to clarify its policies on how local agencies should enforce drug laws. They said they believe San Bernardino County Sheriff Gary Penrod will join as a plaintiff, although Penrod could not be reached for comment.

"I don't want law enforcement trapped between a rock and a hard place," Gonzales said.

In 1996, 56% of California voters approved Proposition 215, which allowed doctors to prescribe cannabis for therapeutic use. Three years ago, state legislation mandated ID cards for patients and their caregivers.

But the U.S. Supreme Court in June ruled that federal officials could seize and destroy pot plants and arrest growers and consumers, even in the 11 states where the drug has been legalized for medical use.

Last month, federal Drug Enforcement Administration agents raided 13 San Diego-area marijuana dispensaries.

The San Diego lawsuit, filed last week in federal court, asserts that the requirement to issue medicinal marijuana ID cards is preempted by the federal Controlled Substances Act, which criminalizes pot, and an international treaty called the Single Convention on Narcotic Drugs. The ACLU asserts the county lacks legal standing to bring such a lawsuit.

San Bernardino County had tentative plans to begin issuing ID cards in February, but had not begun printing cards or designating staff for the project, which is now on hold, said county spokesman David Wert.

The state had calculated that up to 7,000 San Bernardino County residents might be eligible for cards, Wert said.

In December, Riverside County became the first Southern California county to begin issuing the ID cards, which include the marijuana user's photo and a computer-generated identification number.

Cardholders must submit a state form, proof of residency and their doctor's recommendation, and provide government-issued identification. The annual cost to get and renew the card is $100.

The San Diego supervisors last year voted 3 to 2 not to issue the identification card. On Tuesday, the supervisors listened to lawsuit opponents but declined to schedule a new vote on the issue.

Perry reported from San Diego and Powers from Riverside.

Official Details Texas - Mexico Standoff (NYT/AP)

By The Associated Press

The New York Times, January 24, 2006

SIERRA BLANCA, Texas (AP) -- Texas law enforcement officers faced off with men dressed as Mexican Army soldiers and apparent drug suspects near the U.S.-Mexican border Tuesday, after three SUVs attempted to flee state authorities, officials said.

Andrea Simmons, an agency spokeswoman in El Paso, told The Associated Press that Texas Department of Public Safety troopers chased three SUVs, believing they were carrying drugs, to the banks of the Rio Grande during Monday's incident.

Men dressed in Mexican military uniforms or camouflage were on the U.S. side of the border in Texas, she said.

Simmons said the FBI was not involved and referred requests for further details to U.S. Immigration and Customs Enforcement.

The Inland Valley Daily Bulletin of Ontario, Calif., reported Tuesday that the incident included an armed standoff involving the Mexican military and suspected drug smugglers. The incident follows a story in the Bulletin on Jan. 15 that said the Mexican military had crossed into the United States more than 200 times since 1996.

In a news conference, Rick Glancey of the Texas Border Sheriff's Coalition, said three Hudspeth County deputies and at least two Texas Department of Public Safety troopers squared off against at least 10 heavily armed men from the Mexican side of the Rio Grande.

U.S. officials who pursued three fleeing SUVs to the Mexican border saw what appeared to be a Mexican military Humvee help one of the SUVs when it got stuck in the river, he said.

When that didn't work, a group of men dressed in civilian clothes started unloading what appeared to be bundles of marijuana from the SUV, and the stuck vehicle was then torched, he said. A second SUV had a flat tire and was left behind in the United States and its occupant ran across the border, he said.

Glancey said he could not confirm whether the armed men seen at the site were Mexican Army, police officers, or drug dealers, and would not detail what markings deputies may have seen on the men's uniforms or the Humvee.

Chief Deputy Mike Doyal of the Hudspeth County Sheriff's Department said that Mexican army personnel had several mounted machine guns on the ground more than 200 yards inside the U.S. border, the Daily Bulletin newspaper reported earlier.

"It's been so bred into everyone not to start an international incident with Mexico that it's been going on for years," Doyal said. "When you're up against mounted machine guns, what can you do? Who wants to pull the trigger first? Certainly not us."

Hudspeth County Sheriff Arvin West, whose officers were involved in a similar incident last year, said he is certain that Mexican authorities know who was involved.

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After the newspaper reported on Mexican military crossings earlier this month, Homeland Security Secretary Michael Chertoff said the report was overblown and most of the incursions were just mistakes.

In eastern California, Arizona and New Mexico, the U.S.-Mexico border is largely unmarked. But in Texas, the Rio Grande separates the two countries and even when dry, is a riverbed about 200 feet wide.

In November, Doyal said Border Patrol agents in the border town of Fort Hancock called for help after confronting more than six men dressed in Mexican military uniforms. The men allegedly were trying to bring more than three tons of marijuana across the Rio Grande, Doyal told the newspaper.

Border Incident Sparks Outrage (DMN)

By David Mclemore

The Dallas Morning News, January 25, 2006

A West Texas standoff along the Rio Grande between U.S. law enforcement officers and heavily armed Mexican drug smugglers in military-style clothing prompted congressional demands Tuesday for an international investigation and a call for deployment of U.S. troops to the border.

The incident, which occurred Monday on U.S. soil at an isolated river crossing about 50 miles east of El Paso, is the latest involving armed incursions along the U.S. border with Mexico.

And it comes less than a week after Homeland Security Secretary Michael Chertoff called a California newspaper's account of such border incursions "overblown."

The incident Monday involved an encounter between two Hudspeth County Sheriff's Department deputies and three Department of Public Safety troopers and 10 heavily armed drug smugglers at an area about 50 miles down the river from El Paso.

A spokesman for Mexico's Foreign Ministry said Mexican military personnel had nothing to do with the incident and suggested the trespassers may have been drug traffickers wearing military-style gear.

The incident began on Interstate 10 near the Sierra Blanca checkpoint when DPS troopers began chasing three westbound SUVs believed to be carrying marijuana.

When the SUV drivers saw that they were being followed, they made a U-turn and headed south toward the river to an area known as Neely's Crossing, said Rick Glancey, executive director of the Texas Border Sheriffs Coalition.

At the crossing, one of the SUVs drove across the shallow river into Mexico. A second one got stuck in the muddy banks. And as the Texas deputies watched, a military-style Humvee attempted to pull it from the mud, while several armed men in green uniforms fanned out around it, Mr. Glancey said.

When the Humvee failed to extricate the truck, a group of men in civilian clothes walked into the ankle-deep river, removed what appeared to be bales of marijuana and hauled them to the Mexican side. They then set the truck, a Ford Expedition, ablaze.

The third vehicle, a Cadillac Escalade, was abandoned on the U.S. side with a flat tire as the driver escaped on foot. Deputies found 1,447 pounds of marijuana inside.

"What this latest incidence underscores is the necessity of increased support for local law enforcement to aid improving our border security," said Mr. Glancey. "If this doesn't open D.C.'s eyes, I don't know what will."

Inquiry launched

Monday's incident was not the first face-to-face confrontation for Hudspeth County deputies. In November, deputies responded to assist Border Patrol agents at the border town of Fort Hancock where they encountered six men in military uniforms attempting to carry a load of marijuana over the river.

U.S. Customs and Border Protection officials said Tuesday they have launched an inquiry into the Monday incident and asked Mexican authorities for a thorough investigation and full answer on what happened.

Customs "is coordinating closely with the appropriate federal, state and local authorities," said Kristi Clemens, Customs' assistant commissioner for public affairs. "The U.S. government is also discussing the matter with the government of Mexico and is asking for a thorough investigation and response. We take very seriously and investigate fully any alleged incident of criminal activity, threats against our agents or possible incursions."

Gov. Rick Perry also has ordered an investigation, spokeswoman Kathy Walt said.

U.S. Rep. Tom Tancredo, R-Colo., a frequent critic of the administration's border security efforts, called Tuesday for the federal government and the governments of southern border states to immediately deploy troops to the U.S.-Mexico border in light of what he termed "recent armed assistance Mexico's military has given to drug smugglers."

"Our border has literally turned into a war zone with foreign military personnel challenging our laws and our sovereignty," Mr. Tancredo said.

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"The only way to deal with this dangerous situation is to tap the resources of our own military," Mr. Tancredo said. "I call on President Bush and the governors of border states to immediately deploy military personnel to defend our borders against the Mexican military."

U.S. Sen. Jon Kyl, chairman of the Senate Judiciary Subcommittee on Terrorism and Homeland Security, called on Secretary of State Condoleeza Rice to initiate a formal investigation on the reported border crossings and to begin a dialogue with Mexican officials to prevent further occurrences.

"These illegal incursions are a violation of our sovereignty and pose a significant danger to U.S. law enforcement officials and citizens near the border – especially if all parties involved are armed. The potential for violence is significant.

Mr. Kyl noted that the Department of Homeland Security released figures that indicate that there have been 231 documented incursions along the 2,000-mile border with Mexico since 1996.

Of those, 63 in that nine-year period occurred in Arizona and 28 occurred along the Texas border, according to Homeland Security.

In each instance, U.S. agents at the local level asked Mexican federal police and army officials to clarify what happened.

Border forays

Many included accidental forays by legitimate Mexican authorities across a poorly defined border in rough and isolated country while in pursuit of drug dealers. The Texas-Mexico border, however, is delineated by the Rio Grande River.

Investigators have long documented that Mexican drug gangs often wear camouflage clothing and carry military-style automatic weapons.

But Tuesday's request for a Mexican government response significantly ups the ante, federal officials said.

In Mexico, officials said the National Defense Ministry has begun an investigation of the incident and launched a search for the vehicles identified by photographs taken by Hudspeth County deputies.

Hudspeth County Chief Deputy Mike Doyal said that men dressed as Mexican soldiers manned what looked like .50-caliber machine guns mounted on vehicles about 200 yards inside the U.S. border during the incident.

In Mexico, a ministry spokesman said that the Army's Ciudad Juarez garrison does not maintain Humvees with mounted .50-caliber machine guns.

"It cannot be ruled out that said actions are designed as much to harm the image of our armed forces as the bilateral cooperation between Mexico and the United States in the fight against organized crime and, in particular, narcotrafficking," a foreign ministry spokesman said.

Mexican Drug Run Thwarted At Border (WT)

By Jerry Seper, The Washington Times

The Washington Times, January 25, 2006

U.S. law-enforcement authorities confronted several men in Mexican military uniforms and a camouflaged Humvee with .50-caliber machine guns who had crossed into Texas with suspected drug smugglers 50 miles southeast of El Paso, forcing an armed standoff along the Rio Grande, says a Texas sheriff.

Hudspeth County, Texas, Sheriff Arvin West said the incident began at 2:19 p.m. Monday when his deputies -- working as part of an anti-drug smuggling enforcement initiative known as "Operation Linebacker" -- pursued three SUVs spotted driving north from a border area along the Rio Grande near Interstate 10.

Sheriff West said the pursuit, which began near Sierra Blanca, Texas, ended for one of the vehicles when it blew out a tire and the driver fled. He said deputies seized 1,400 pounds of marijuana from that vehicle.

As the southbound chase continued for the other two SUVs, he said the deputies and at least two Texas Department of Public Safety troopers who had joined in the pursuit encountered several men on the U.S. side of the border dressed in what he described as battle dress uniforms (BDUs). He said they "appeared to be soldiers, in a Humvee vehicle with what appeared to the officers as being .50-caliber machine guns."

Sheriff West said one of the vehicles made it into Mexico, but the other got stuck in the river, where a group of men in civilian clothes offloaded what appeared to be bundles of marijuana. He said the truck was then set ablaze by the "soldiers."

No shots were fired and no injuries were reported during what amounted to an armed standoff at the border.

T.J. Bonner, a veteran Border Patrol agent and president of the National Border Patrol Council, yesterday called the incident "just another example of what we have been saying all along: This is a serious problem and it's not going to go away.

"The U.S. government has got to put its foot down and take decisive action," said Mr. Bonner, whose union represents all 10,000 of the agency's non-supervisory personnel. "It would be nice if the Mexican government would address the problem, but it won't even admit there is one."

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In November, the U.S. Border Patrol chased a dump truck full of marijuana in the same area when it also got stuck in the river seeking to return to Mexico. While Border Patrol agents sought to unload 3 tons of marijuana, the driver -- who had fled -- returned with a heavily armed group of men wearing Mexican military uniforms and carrying military-style weapons. The soldiers backed the agents away and bulldozed the truck back into Mexico.

Last week, Homeland Security Secretary Michael Chertoff dismissed reports of possible Mexican military incursions into the United States as "overblown" and "scare tactics." He said those involved in the crossings may have been dressed in military uniforms, "but they are just criminals, they are not military but they are wearing camouflage so someone may assume they are military."

Mr. Chertoff also said a significant number of 216 confirmed incursions since 1996 were "innocent," noting that police and military units in Mexico pursuing criminals "may step across the border because they do not know exactly where the line is."

Law-enforcement officials yesterday noted that the Texas-Mexico border is clearly marked by the Rio Grande.

Yesterday, U.S. Customs and Border Protection (CBP) spokeswoman Kristi M. Clemens said the Border Patrol was notified of possible narcotics smuggling by the sheriff's office involving suspects dressed in military-style uniforms and using military-style equipment. She said the incident is under investigation.

Ms. Clemens also said the Bush administration is discussing the matter with the government of Mexico and is asking for a thorough investigation and response.

Rafael Laveaga, spokesman for the Mexican Embassy in Washington, yesterday said that country's Ministry of Defense has ordered an investigation of the incident, but "already has informed us they do not have the type of vehicles and heavy weapons described by the sheriff" in the area.

"We strongly deny that members of the Mexican military were involved," Mr. Laveaga said, adding that criminal organizations involved in drug trafficking "wear look-alike military uniforms and use look-alike military equipment to affect an image of the Mexican military."

Republican Reps. David Dreier, chairman of the House Rules Committee, and Duncan Hunter, chairman of the House Armed Services Committee, have asked the House Judiciary Committee, the Department of Homeland Security, the House Homeland Security Committee and the House International Relations Committee to investigate suspected incursions by the Mexican military.

The two California congressmen, citing what they called the "critical importance of border and national security," also asked Mr. Chertoff to explain how these incidents occurred, to outline the department's current policies to address illegal crossings, and to explain its strategy for preventing similar acts in the future.

Sen. Jon Kyl, Arizona Republican and chairman of the Senate Judiciary Subcommittee on Terrorism, Technology and Homeland Security, also has asked Secretary of State Condoleezza Rice to "initiate an official investigation" and "open a dialogue with Mexico to prevent any future incursions.

"These incidents pose a significant threat to our national security, as I'm sure you agree," Mr. Kyl said.

A Mexican government commission yesterday said it will distribute at least 70,000 maps showing highways, rescue beacons and water tanks in the Arizona desert to curb the death toll among illegal border crossers.

Feel The Rush Of A Smuggler (LAT)

By Richard Marosi

The Los Angeles Times, January 25, 2006

TIJUANA — The Mexican gang of human smugglers, hiding behind the wobbly fence of a drab town house, prepare the car for the latest run across the border.

Two young men wipe down the dusty windshield and check the brake lights while three migrants wait silently inside the house.

Finally, the driver arrives, an American who puffs nervously on a cheap cigarette and calls himself Trent. Accompanying Trent is Felix, the heavyset smuggling boss.

"Venganse!" — "Let's get going!" — a gang member yells. One by one, the migrants get in the trunk, twisting to fit inside. The one woman hesitates. She crosses herself. She steps in.

Curled beside one another, the migrants look up at the gang member.

"It won't be long, 20 minutes," he promises. "Don't move," he adds, slamming the lid shut. Within minutes, Trent drives the car into a sea of traffic inching toward the row of U.S. inspection booths at the border.

Smuggling operations like this one — Mexican rings teaming up with American drivers — occur daily at the two main vehicle gateways into California, a phenomenon that frustrates U.S. authorities.

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In the last fiscal year, Americans drivers were caught 4,078 times on suspicion of smuggling migrants through the San Ysidro and Otay Mesa ports of entry into San Diego. The figure has hovered around 4,000 since the number of car smuggling cases spiked about six years go. U.S. agents can only inspect a fraction of the estimated 64,000 vehicles that cross daily. Even if drivers are caught, they are usually released. Only 279 drivers in 2005 faced alien smuggling charges.

Federal authorities say they are overwhelmed.

Secretary of Homeland Security Michael Chertoff, in a recent visit to San Ysidro, said he sympathized with federal prosecutors.

"There's a lot of crime out there," he said. "There just aren't enough prosecutors and judges to prosecute everything." Chertoff promised more alien-smuggling prosecutions in the future. Port authorities announced last week that drivers caught smuggling will be fined $5,000 for the first offense and $10,000 for the second.

The smugglers come from all walks of life — homeless veterans, single mothers, senior citizens and college students. Some drivers are drug addicts or gamblers who are down on their luck.

Felix says he employs so many American drivers like Trent that he rents them to other smuggling organizations. Dispensing orders on three constantly ringing cellphones, Felix has a code word for U.S. drivers: monos — monkeys.

"Siempre llegan los monos," — the monkeys always come to me, Felix says with a glint in his eye.

Felix, like many smugglers, provides drivers with free stays at motels in Tijuana, meals and drugs included. A driver doing three weekly runs can earn more than $100,000 per year, Trent said.

There's nothing like the euphoric feeling that rushes over him, Trent says, when he clears customs, a sense of relief mixed with satisfaction. After he helps migrants from the car, some shake his hand and thank him.

In between runs, Trent dreams of an early retirement and spends his earnings on a "weakness for Latina babes," typically prostitutes. "What it boils down to: It's such an easy life, that it lures you in," he says.

I met Felix while reporting another story involving a low-budget Mexican movie producer. The producer said he knew a human smuggler — Felix, his financier and a part-time actor — and asked Felix to join us for dinner at a downtown Tijuana restaurant.

During the interview, Felix invited me to accompany him on a smuggling operation, but on several occasions over a five-month period he failed to show up for scheduled meetings.

One day last fall, Felix invited me to his home. A taxi driver, guided by Felix on the phone, drove me up the winding, potholed streets to his hillside house.

Felix shook my hand at the steel gate entrance to his walled property and introduced me to Trent. Both men agreed to be interviewed on the condition that their identities not be disclosed.

Felix didn't say why he agreed to bring me along. He said that he trusted me and that he didn't believe an article would harm his interests.

During the eight-hour visit, I realized that I would probably witness criminal activity and that the agreement would limit my ability to disclose details.

But the trade-off was gaining access into the world of human smuggling that remains a serious problem for the United States.

The frontier here — a 14-mile stretch blocked by double-fencing, stadium lighting, and hundreds of Border Patrol agents — is among the country's most heavily fortified.

With crossings between the ports of entry becoming so difficult, Tijuana has become the major staging ground for car-smuggling trips on the Southwest border.

The number of illegal migrants caught inside vehicles at the San Ysidro gateway has quadrupled since 2000, from 10,600 to 40,033 in 2005.

The bosses, like Felix, are typically Mexican and charge migrants as much as $2,500. They prefer teaming up with Americans to get their clients across the border.

Migrants are hidden in hollowed-out dashboards, radiators, and "coffin compartments" welded to the undercarriages of vehicles. Inspectors have found migrants in piñatas, rolled-up carpets and gasoline tanks. Some don't even hide, hoping to slip by as passengers.

Federal authorities focus on prosecuting cases in which drivers endanger the migrants' lives. According to court records, for example, Norma Martinez-Warnett was convicted in 2004 after trying to smuggle three children in a Honda Acura in 120-degree heat. A boy was hidden inside a special compartment in the back seat and agents discovered the boy after hearing his screams.

On the day of my visit to Felix's hillside home, Trent arrives grizzled and sleepy-eyed after a late night in the red light district. Felix works the phones while watching a Mexican soccer match on TV.

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Hovering around the grounds are Felix's underlings: three heavily tattooed convicted felons. The men were deported from the U.S. and now work for Felix recruiting and shuttling drivers.

During a lunch of carnitas cooked by Felix's mother, Trent and Felix discuss the tricks of the trade, the morality of human smuggling and their partnership.

Felix and Trent say they met a few years ago, shortly after Trent showed up in Tijuana with 12 cents in his pocket. Trent says he lived in a nice home in a Southern California suburb when his marriage hit the rocks. His wife divorced him, took his four children and Trent said he was financially ruined.

In Tijuana's red light district, one of Felix's recruiters made an irresistible offer: $500 per migrant.

Trent quickly proved to be a reliable driver, Felix says, unlike many of the hundreds he has employed over the years. Would-be drivers are often drug addicts who must be "cured," Felix says, before being given jobs.

Felix's remedy? He gives them a present of one last fix before putting them through terapia intensiva — "intensive therapy": A cold-turkey detoxification regimen consisting of a shave, haircut and lots of cold showers, Felix said.

Trent, Felix says, is not a drug addict and thanks to his dignified bearing and gutsy attitude has become one of his best drivers.

Trent, who speaks little Spanish, considers migrant smuggling "illegal, but not immoral." He says he doesn't smuggle drugs, and called the migrants he brings into the country hard-working people who contribute to American society and support families back home in Mexico.

Trent says the smuggling work provides ample support for himself too, thanks to Felix, who Trent said is more generous than other human smugglers he's worked for.

"What impressed me about him is, when you do get done with a piece of work, he asks you, 'Do you need anything … food, drugs, girls? He'll take care of you," says Trent.

Trent says he makes a good living, despite all his spending on women. "Unfortunately they consume a significant portion of my income," he says. "I've been robbed, cheated, drugged and fallen for a few."

One reason for Felix's largesse with drivers: The long wait between runs as the smugglers organize loads. Trent goes days between jobs, he says. When he is finally summoned, the wait to launch the run can take hours, just like this day.

After the meal, Felix waters his plants, plays with his young daughters and confers with his cronies.

They watch a low-budget Mexican movie about warring drug cartels. Felix partly financed the film and played a bit part as a gunman. When Felix's character is peppered with bullets, he staggers to his death with a dramatic flourish, cracking up everyone in the room, including Felix.

"You should have been an actor," Felix's sister tells him.

The film and human smuggling worlds share some similarities, Felix says. He plans to "recast" one newly arrived American, who looked like a tough guy in baggy jeans, into a mellow surfer dude with knee-length shorts and colored T-shirt. A beach vibe is better than an urban thug look for driving migrants across the border. "It's just like the movies," Felix said. "You have to cast them properly."

A short while later, Felix gets another phone call, hangs up and tells Trent: "Hey, do me a favor. Go shower and shave. Dress perfectly. We're working in one hour."

The mens' relaxed demeanors turn serious. Trent hurries upstairs, and Felix tries to keep up with the constant phone calls.

Trent emerges wearing slacks and a beige, pullover shirt, his chin bloodied from shaving. They get into a car, and Felix begins driving us on the half-hour trip across the traffic-choked city to the town house where the migrants are waiting. Blue rosary beads dangle from the rear-view mirror. No one speaks.

When they stop and Trent runs into a mini-mart for cigarettes, Felix says Trent is unusually nervous. A jumpy driver facing off with U.S. inspectors — What were you doing in Tijuana? What did you buy? — is definitely not a good thing, he says.

A sweaty brow, darting eyes, fidgety shoulders can give away a smuggler.

Earlier, Trent had boasted about being able to fool any inspector. "It's all about presentability," he said. "I'm a professional."

But just before getting into the car Trent had confessed fear. Trent has been caught before — he won't say how many times — and if authorities pursue charges, he could face three years in prison.

"The stress is killing me. You can mask it, hide it, appear to be relaxed. But the reality is, there's always that little nagging sensation that grows louder the closer you get to the gate," he said.

When they arrive at the town house, the mood is tense. The gang works quickly knowing that if police arrive, it would be easy to prove smuggling charges. In Mexico, that would mean a possible six-year prison term or, according to Felix, a $15,000 bribe to get the case dismissed.

Trent gets his instructions: After clearing customs, he is to drive to a parking lot in a San Diego suburb where the migrants will be turned over to another driver.

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After the migrants squeeze into the trunk, the gang members peer beneath the car to make sure the modified suspension has kept the rear end from dipping low enough to catch inspectors' attention.

Behind the wheel, Trent studies the dashboard and turns on the defroster so the migrants' breaths won't fog the rear window.

He is angry at Felix because he has offered less money than the usual, $500 per migrant. "I'm not a happy camper," he says, "but we'll deal with that later."

As Trent pulls out, Felix leans into the window. "Everything is going to be OK…. Don't forget your seat belt." Trent buckles up.

The drive to the border takes a few minutes.

Felix, taking me in his vehicle, follows to make sure police are not tailing Trent. When Trent drives into the lanes leading to the border checkpoint, Felix pulls over in front of a small house and honks the horn.

It's a waiting game now. Felix gets calls every few minutes from a lookout near the border. The line of cars is longer than expected, at least a 40-minute wait. Felix knows that some migrants, overwhelmed by the darkness and heat in the trunk, start crying. The operation could be foiled if a roving U.S. inspector walks by with a dog trained to sniff out drugs and humans.

As Felix told me in an earlier meeting, "Those dogs smell fear."

A middle-aged woman emerges from the house and gets in Felix's car. She houses migrants for him and Felix owes her money. They chat about some of Felix's successful drivers. One father-son team from Texas, they say, used smuggling profits to pay for the boy's cancer treatments.

Then the lookout calls Felix with news: Trent got busted.

Felix hangs up the phone. "Somehow he got tripped up answering the questions," he says.

The authorities will free him shortly, Felix predicts. "They don't do anything to drivers."

As federal arrest records later show, Trent will indeed be released — along with 36 other American drivers caught trying to smuggle 61 migrants during a four-day stretch.

"Tomorrow, he'll come back," Felix says, "and we'll try again."

Maps Show Illegal Migrants Best Routes (LAT)

By Sam Enriquez, Times Staff Writer

The Los Angeles Times, January 25, 2006

MEXICO CITY — Mexico's National Human Rights Commission will print and distribute at least 70,000 maps showing immigrants the safest routes to cross the border into Arizona, officials said Tuesday.

The project, which immediately drew fire from groups organized against illegal immigration, is aimed at reducing the number of people who die trying to cross 50 miles of Sonoran Desert to reach highways in southern Arizona, according to Humane Borders, the Tucson-based humanitarian group that created the maps.

Steel barriers and stepped-up border patrols in California over the last decade have pushed immigrant smuggling routes east to more sparsely populated stretches of the Arizona border. Summer temperatures there routinely surpass 100 degrees.

"We can close the border with enough money and political will, which I don't think we have, but we don't have to kill people by forcing them out into the desert," said the Rev. Robin Hoover, president of Humane Borders.

The Mexican government said 441 of its citizens died last year on the border, most in Arizona.

The new maps will show spots where people have died — presumably discouraging some prospective migrants — as well as main roads, rescue beacons and the locations of water stations maintained by Humane Borders.

The Pima County Board of Supervisors this fall approved spending $25,000 to support the group's water stations after administrators argued that it was cheaper than the $300,000 the county spends recovering and storing the bodies of immigrants who died in failed desert crossings.

Hoover said work on the desert maps began in May using government data and donated mapping software. The maps also show how far an average adult can walk in one, two or three days.

"The idea is to put the fear of God into some of these migrants so they'll stay in the main corridors and don't go where there's no water," said Hoover, pastor of the First Christian Church in Tucson.

Jose Luis Soberanes, president of Mexico's human rights commission, thanked Hoover and his group Tuesday, saying they have been saving the lives of migrants.

The group last year compiled safety tips for desert crossings that covered proper clothing and how much water to bring for each day's journey. Mexico was criticized for printing a million of the 32-page booklets for migrants headed to the United States.

Jack Martin, special projects director for the Federation for American Immigration Reform, said the maps and other efforts only encourage illegal immigration.

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"The fact that there's an American group doing this," he said, "sends the message that there are Americans who think that it's perfectly acceptable to enter the U.S. illegally, and probably will be down on the border aiding and abetting the illegals when they get in the U.S."

The U.S. House of Representatives approved a bill in December that would add 700 miles of border fencing and make illegal immigration a felony. The bill is expected to reach the Senate next month.

Mexico opposes increased border enforcement without creating a broad temporary worker program and provisions for the millions of Mexicans living illegally in the United States.

Times staff writer Richard Marosi in San Diego and Cecilia Sanchez in The Times' Mexico City Bureau contributed to this report.

Case Sent To Grand Jury, Conner Sent Back To Jail (BRITSHC)

By Matthew Lakin, Bristol Herald Courier

Bristol (VA) Herald Courier, January 25, 2006

GREENEVILLE - Evidence against a Navy recruiter accused of a murder-for-hire plot will stay secret a little longer.

Chief Petty Officer Keith Patrick Conner, 38, appeared briefly in federal court Tuesday - just long enough to waive his rights to bond and to a preliminary hearing on charges of trying to buy a bomb to kill someone.

"This will save us a lot of time," said his lawyer, Nikki Pierce, an assistant federal public defender.

U.S. Magistrate Judge Dennis Inman sent the case to the grand jury and sent Conner back to jail.

Conner, a Gulf War veteran and the senior recruiter for the Navy's office in Bristol Virginia, met an undercover agent for the federal Bureau of Alcohol, Tobacco, Firearms and Explosives in the parking lot of the Bristol Mall last week and paid $1,000 as a down payment for what he thought was a homemade bomb, authorities said.

He showed up two days later at the Days Inn on West State Street to pick it up, according to court records. Conner put the "bomb" - a fake - in his truck, authorities said, and federal agents put him in handcuffs.

"Our bombs don't work," said Jim Cavanaugh, special agent in charge of the bureau's Nashville office and chief of ATF operations in Tennessee. "But without these agents' hard work, we could very easily have ended up working a bombing fatality."

Skipping the preliminary hearing saved prosecutors from making the evidence against Conner public, including the details of a confession federal agents said he signed and the name of the bomb's intended target.

Federal agents have refused to say who they think Conner wanted to blow up.

"It really doesn't matter who he intended to kill, as long as there's evidence that he tried to buy a bomb," Cavanaugh said.

At the recruiting office in Bristol, Conner's fellow sailors still couldn't believe the news.

"It was a shock to everybody," said Cmdr. Dan Cunningham, his commanding officer. "We've never experienced anything like this. It's like a bad TV show."

Cunningham said he spent the past few days telling Conner's recruits what happened.

"You're dealing mainly with teenagers and 20-year-olds," he said. "They get to know these people. They look up to them."

Conner, a native of the Jacksonville, Fla., area, joined the Navy in 1985. He spent most of his time on ships as a hull technician, doing welding and various repair jobs, before going to work as a recruiter.

He arrived at the Bristol office in April 2003 and recruited 29 sailors during his time there. He last reported for work on Thursday, just a few hours before his arrest.

"He's still in the Navy," Cunningham said. "Right now all I can do is wait and see what route they take with his case."

Kingsport Man Accused Of Trying To Buy Bomb For Use In Murder (KINGSTN)

Kingsport (TN) Times-News, January 25, 2006

KINGSPORT - A U.S. Navy recruiter is accused of trying to buy a homemade bomb with plans to use it to murder another person. But authorities say the person he attempted to buy the bomb from was an undercover ATF agent.

Chief Petty Officer Keith Patrick Conner, 38, of Kingsport, was arrested last week on the charge of using an interstate commerce facility (telephone) in the commission of murder for hire.

Officials with the Bureau of Alcohol, Tobacco, Firearms and Explosives said Conner attempted to buy an explosive device from an undercover ATF agent last week and was subsequently arrested.

Conner, the senior recruiter for the U.S. Navy's Bristol office, appeared in U.S. District Court in Greeneville on Monday, where he waived a detention and preliminary hearing.

U.S. Magistrate Judge Dennis Inman ruled Conner be held without bond until trial. U.S. Attorney Rob Reeves said no trial date has been set. The case will now go before a grand jury for possible indictment.

Conner faces a maximum sentence of 10 years in prison and a $250,000 fine.

Jim Cavanaugh, special agent in charge of the Nashville Field Division of the ATF, said the ATF was called into the case after the Naval Criminal Investigative Service (NCIS) received a tip about Conner's plot.

According to court records, on Jan. 15 Conner spoke to an undercover ATF agent over the phone about hiring him to build a bomb.

"Conner was buying the bomb from the agent, and either he or others were going to plant the bomb," Cavanaugh said.

Cavanaugh said Conner has told authorities who he intended to target with the bomb, but federal agents are not releasing that person's identity.

Federal agents say they are not certain when Conner was going to commit the murder.

Court records state Conner agreed to pay $1,000 up front for the bomb and pay an additional $1,000 plus an unspecified bonus once the murder was completed.

Officials say Conner met the ATF agent at the Bristol Mall on Jan. 17 and paid him the first $1,000. Two days later, Conner allegedly met the agent in the parking lot of the Days Inn in Bristol, Tenn., in order to pick up the explosive device.

Court records state when the device was placed in Conner's truck, federal agents arrested him.

Cavanaugh said incidents such as this do happen from time to time.

"They're rare for any city, but they're not rare across the country," Cavanaugh said. "When a person comes up and acquires an explosive device and plans to murder somebody, it becomes very dicey.

"If we didn't get involved and intercept this, the potential is Conner could go to someone else to make the bomb, it could blow up, the victim could be killed. There's a whole lot of associated dangers. We're just glad we're not working a fatal bombing."

Dozens Of Sticks Of Dynamite Are Stolen (FWST)

By Alex Branch And Gale Bradford

The Fort Worth Star-Telegram, January 25, 2006

PARKER COUNTY - A thief who used a torch to cut a lock on a shed where explosives are kept stole about 100 sticks of dynamite from a stone business in southern Parker County, law-enforcement officials said.

The theft from Fort Worth Crushed Stone, in the 4300 block of Bethel Road, was reported about 6:30 a.m. Monday, Parker County Sheriff Larry Fowler said.

County Judge Mark Riley immediately notified state and federal authorities, Fowler said.

Investigators and company officials took inventory Monday to determine whether anything else was missing, said Tom Crowley, spokesman for the Bureau of Alcohol, Tobacco, Firearms and Explosives in Dallas.

"We're already doing interviews and chasing down leads," Crowley said. "Obviously, it's a big concern anytime you're talking about explosives potentially falling into the wrong hands."

The Texas Department of Public Safety is also assisting in the investigation, he said.

To provide information about the theft, call the Parker County Sheriff's Department at (817) 594-8845 or the ATF at (469) 227-4300.

IMMIGRATION:

Accused Nazi Guard Appeals U.S. Deportation Order (FINDLAW/AP)

AP, January 25, 2006

(AP) - CLEVELAND-An 85-year-old retired autoworker who lost his U.S. citizenship based on evidence he was a Nazi death camp guard asked an immigration board to reverse a judge's order that he be deported.

Chief Immigration Judge Michael Creppy ruled Dec. 28 that there was no evidence to document John Demjanjuk's claim that he would be tortured if deported to his home country of Ukraine. The judge ruled that Demjanjuk should be deported to Germany or Poland if Ukraine does not accept him.

Demjanjuk's appeal filed Monday sticks to the argument that he faces torture in Ukraine and that the case should have been handed to a judge responsible for Cleveland. Creppy is based in Falls Church, Virginia, as is the Board of Immigration Appeals.

Demjanjuk, who came to the United States in 1952, was cleared in 1993 in Israel of being Ivan the Terrible, a sadistic guard at the Treblinka concentration camp. He had faced a death sentence in Israel until new evidence emerged that someone else was the notorious Ivan.

He lost his U.S. citizenship for a second time after a judge ruled in 2002 that documents from World War II prove he was a Nazi guard at various death or forced labor camps.

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House Republican Cites Guest-worker 'Amnesty' (WT)

By Stephen Dinan

The Washington Times, January 25, 2006

Rep. F. James Sensenbrenner Jr., the House point man on immigration, yesterday said that a guest-worker program like the one proposed by President Bush is amnesty and that he cannot accept it in a final immigration bill.

"A guest-worker program that applies to illegal aliens already here is an amnesty," the chairman of the House Judiciary Committee said in an interview with The Washington Times.

As the chief House negotiator in any House-Senate conference committee on immigration, he said voters will not accept a plan that amounts to amnesty, and said Mr. Bush's proposal would simply push the problem down the road.

"It seems to me that if you give these people the temporary cards, and the president talked a little bit about that yesterday out in Kansas, whether they are three-year cards or six-year cards or any other term, how do you get them to go back home when they expire?" he said. "We end up simply postponing the decision on what to do about illegal aliens until the end of the validity of these cards."

He also said when Congress and the White House agreed in December 2004 to increase the U.S. Border Patrol by 2,000 agents a year, then two months later the president only funded 210 positions, it "was embarrassing both to the administration and those of us who fought for increased assets for border protection in the intelligence bill and then were let down."

The Wisconsin Republican was a driving force behind last year's House immigration-enforcement bill, which calls for nearly 700 miles of border fence, requires employers to verify employees' Social Security numbers and allows border county sheriffs to enforce immigration laws.

He said he would prefer that Congress make sure border and interior enforcement is in place before a guest-worker program begins to operate.

"The guest-worker provision won't work without interior enforcement and verification of Social Security numbers. It's as simple as that," he said.

He also said the U.S. Chamber of Commerce "should be ashamed of themselves" for sponsoring meetings with Luis Ernesto Derbez, Mexico's secretary of foreign affairs, in Chicago in December, after which the minister criticized the House bill.

"What they are doing is saying that it's OK to use fake Social Security numbers. I don't think that anybody who is in business ought to be condoning the use of false documentation," Mr. Sensenbrenner said. "If they continue promoting speeches by Mexican government officials then maybe they ought to register as an agent of a foreign government under the law."

Randy Johnson, the chamber's vice president for labor and immigration issues, said the chamber "does not condone, and never has condoned, the use of fake Social Security numbers, and we recognize that improved worksite verification is necessary as part of any reform package."

But he said verification has to be phased in and "shown to work." He said the bill sponsored by Sen. John McCain, Arizona Republican, also has verification.

He also said the chamber did not invite Mr. Derbez to attack Mr. Sensenbrenner, and said the chamber works with Mr. Sensenbrenner on many issues.

Mr. Sensenbrenner also:

·Said he supports expanding the local law-enforcement provisions in last month's bill so that authorities nationwide could enforce immigration laws.

·Called on the president to include funds to pay for the pending House enforcement bill in his upcoming budget.

·Said employers should pay for the applications process for a guest-worker program and employers should also determine the period for their temporary workers, because then they will have an incentive to make sure the worker remains employed.

Full text of interview with Rep. James Sensenbrenner Jr.

TAX:

IRS To Revise Tax-Fraud Screening (WSJ/AP)

The Wall Street Journal, January 25, 2006

WASHINGTON -- IRS Commissioner Mark Everson ordered a review of a tax-fraud detection program criticized for freezing thousands of refunds without notifying taxpayers.

Mr. Everson said the tax agency will soon announce new procedures to advise taxpayers when a refund has been frozen. The agency will also revise its fraud screening procedures so that it withholds fewer refunds owed to innocent taxpayers. "Honest taxpayers expecting a refund deserve to be treated fairly," Mr. Everson said.

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National Taxpayer Advocate Nina Olson criticized the program in her annual list of the worst problems facing taxpayers. Her office, which helps taxpayers resolve disputes with the IRS, handles more frozen refunds than any other issue. A study of those cases found no evidence of fraud in two out of three instances.

Lawmakers said the IRS needed to take more care to prevent innocent taxpayers from enduring long delays in receiving a refund, and Mr. Everson said critics raised legitimate complaints.

IRS criminal investigators use the Questionable Refund Program to screen tax returns for indications of fraud. It temporarily freezes refunds when it detects evidence of potential fraud.

The IRS tries to validate the taxpayers' right to a refund and lifts the freeze if no fraud is discovered. If the refund can't be validated, the tax collectors permanently freeze the refund for further investigation. In most cases, the tax agency doesn't inform taxpayers that they are suspected of fraud. A taxpayer wouldn't be told anything until six months after trying to find out what happened to an expected refund.

Refunds claimed on tax returns determined to be fraudulent remain frozen for a number of years until the IRS sees the taxpayer file a number of legitimate returns.

The tax agency said it is fighting a rising tide of refund fraud, which it now estimates to be more than $500 million a year. A significant portion involves false earned-income-tax-credit claims, which can amount to $4,400 on a tax return, the IRS said. Nearly 75% of the pool of frozen refunds studied by the taxpayer advocate were low-income families claiming the earned-income-tax credit, designed to reduce poverty among the working poor.

The IRS issues more than 100 million refunds each year, and the Questionable Refund Program withholds less than 1% for further scrutiny. The IRS said about 200,000 refunds are held longer than a week, but many of those can be held for months or years.

Senate Finance Committee Chairman Charles Grassley (R., Iowa), who asked the IRS to revise the program before this year's tax-filing deadline, called the announcement "a good step."

"Taxpayers deserve notification of their refund status and a chance to tell their side of the story," Sen. Grassley said in a statement.

IRS To Tell Taxpayers Of Frozen Refunds (WP)

By Albert B. Crenshaw

The Washington Post, January 25, 2006

The Internal Revenue Service, under pressure from Congress and its taxpayer advocate, said yesterday that it will notify taxpayers when their refunds are withheld because of suspicion of fraud.

Last year, according to a study by the office of the IRS's national taxpayer advocate, the IRS "froze" more than 120,000 refunds that were identified as likely to be fraudulent. Over the past five years, more than 1.6 million such refunds were withheld.

Taxpayers were not notified that their refunds had been frozen, nor were they given a chance to respond. Eventually some of the refunds were released, but many were delayed months or years. Others remained frozen indefinitely.

Nina E. Olson, the taxpayer advocate, highlighted the issue in her annual report to Congress this month. She noted that many of the blocked refunds involved the earned income tax credit, which is available to low-income working families.

The report elicited concern from many on Capitol Hill, including Chairman Charles E. Grassley (R-Iowa) and senior Democrat Max Baucus (Mont.) of the Senate Finance Committee.

Internal Revenue Commissioner Mark W. Everson said yesterday that he had ordered a review of the program.

"We will announce plans in the very near future to institute notification procedures as well as significant processing improvements to minimize the number of taxpayers whose refunds are frozen unnecessarily," Everson said in a written statement. Everson provided no details, but an IRS spokesman said the agency expects more information to be available next week.

"Claiming fraudulent refunds ultimately undermines the integrity of the tax system, but I believe that appropriate notification should be given when refunds have been frozen. Honest taxpayers expecting a refund deserve to be treated fairly," he said.

The IRS estimates refund fraud at $500 million a year and noted that Congress has pressed the agency to narrow the gap between what taxpayers owe and what they pay. That gap is estimated at $300 billion to $350 billion.

Agency officials noted after the release of Olson's report that the 120,000 frozen refunds were claimed on a tiny fraction of the 130 million returns filed annually and that refund fraud had increased 322 percent in the past six years.

Olson expressed doubts in her report about the unannounced seizure of refunds by the IRS's criminal investigation division.

"At a minimum, this procedure constitutes an extraordinary violation of fundamental taxpayer rights and fairness. In our view, it may also constitute a violation of due process of law," she said in the report.

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Yesterday, Olson commended Everson for initiating the review, acknowledging that the program "serves an important tax administration purpose." She urged that in addition to notification, the agency allow affected taxpayers to present their side of the cases "before making any 'determination' that someone has committed tax fraud." She also recommended that it "refine fraud-screening methods to reduce the number of honest taxpayers whose refunds are frozen in error" and speed up processing of frozen-refund cases.

IRS Chief Wants Policy Freezing Tax Refunds Reviewed (USAT)

By Sandra Block

USA Today, January 25, 2006

IRS Commissioner Mark Everson said Tuesday that he's ordered the IRS to review a controversial anti-fraud program that freezes refunds for hundreds of thousands of mostly low-income taxpayers without their knowledge.

In a statement, Everson said the IRS will soon announce procedures to notify taxpayers when their refunds are frozen. The IRS also plans to change its screening process to minimize the number of taxpayers whose refunds are frozen unnecessarily, he said.

Earlier this month, the IRS' taxpayer advocate, Nina Olson, said the Questionable Refund Program might violate taxpayers' rights to due process of law.

The program freezes refunds that are potentially fraudulent. But the IRS doesn't notify taxpayers that their returns are being investigated. If taxpayers call to inquire, IRS employees are usually barred from providing any information for six months after a taxpayer's inquiry.

Olson said complaints to her office about unpaid tax refunds have risen more than 400% since 2002. More than two-thirds of those who complained were entitled to a full refund, an investigation by her office found.

Olson said low-income families who claimed the earned income tax credit were disproportionately affected by the program. Delayed refunds cause a significant hardship for these families, she said.

While fraudulent refunds undermine the integrity of the tax system, “Appropriate notification should be given when refunds have been frozen,” Everson said. “Honest taxpayers expecting a refund deserve to be treated fairly.”

Asked about Everson's announcement Tuesday, Olson said the IRS should focus immediately on four priorities: providing prompt notification to taxpayers whose refunds have been frozen; allowing taxpayers whose refunds have been frozen to present evidence supporting their refund claims; reducing the number of refunds frozen in error; and processing frozen-refund cases more quickly.

Senate Finance Committee Chairman Charles Grassley, R-Iowa, sent a letter to Treasury Secretary John Snow last week, urging the IRS to fix the problem before the spring tax-filing season.

In a statement Tuesday, Grassley called the IRS announcement a “good step.”

“Taxpayers deserve notification of their refund status and a chance to tell their side of the story,” Grassley said. “They deserve not to get caught in a criminal dragnet unnecessarily.”

Tax Shelter Inquiry Expands (NYT)

By Lynnley Browning

The New York Times, January 25, 2006

Federal prosecutors are investigating three lawyers at a prominent Dallas law firm, Jenkens & Gilchrist, in a widening of an investigation into questionable shelters that shielded billions of dollars from taxes, according to people briefed on the inquiry.

The criminal investigation of the lawyers, now being heard by a grand jury in Manhattan, is a clear sign that the government is extending the investigation of tax shelters that it considers abusive beyond the case involving the accounting firm KPMG.

There is no indication that Jenkens & Gilchrist itself is a target of the investigation. Petri Darby, a spokesman for Jenkens & Gilchrist, said yesterday, "We are cooperating fully with the investigation."

Instead, the investigation is focused on three current and former tax lawyers based in the firm's Chicago office, the heart of its tax practice. They are Paul M. Daugerdas (pronounced DOG-er-dus), Erwin Mayer and Donna M. Guerin, according to the people who have been briefed on the investigation.

The three lawyers wrote hundreds of legal opinion letters in recent years blessing aggressive tax shelters sold by accounting firms and, in some cases, by the law firm itself, that did not pass muster with the Internal Revenue Service, according to separate civil litigation against the firm. Investors used those legal opinion letters, often costing $75,000 or more each, as a form of protection that they thought guaranteed their tax shelters were legitimate.

Mr. Daugerdas in particular became among the richest of those who participated in the tax shelter business, according to court papers in the separate civil proceedings.

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In the civil litigation, Jenkens & Gilchrist has argued that what it did was proper at the time, and the firm has generally sought to settle cases or have them dismissed.

Lawyers for Mr. Daugerdas, Mr. Mayer and Ms. Guerin declined to comment yesterday.

The criminal investigation of the lawyers indicates that the government's focus on questionable tax shelters has broadened beyond KPMG.

In the KPMG case, the firm agreed to pay a $456 million penalty, accept an independent monitor of its operations and acknowledge wrongdoing to avoid an indictment. Seventeen former KPMG tax professionals, an outside lawyer and an investment adviser have been indicted on charges of defrauding the I.R.S. through the creation and sale of four shelters. All 19 are fighting the charges.

At the time of the original indictment, prosecutors indicated that the investigation was continuing and that they would be looking at the law firms, advisory firms and banks that the government contends helped accounting firms create and sell aggressive tax shelters in recent years. Such shelters, which in the eyes of the I.R.S. are illegitimate tax dodges, have deprived federal coffers of tens of billions of dollars in revenue. A Senate subcommittee that conducted hearings on abusive tax shelters in 2003 identified several banks, including Deutsche Bank, law firms and others that worked together to create and sell questionable tax shelters.

According to civil lawsuits against it, Jenkens & Gilchrist sold legal opinions attesting to the acceptability of tax shelters with names like Cobra, Homer and Bart. The firm also helped design certain questionable tax shelters, according to the lawsuits.

Jenkens & Gilchrist, with about 270 lawyers, has been struggling in recent years as it defends itself in more than a dozen lawsuits over its work on tax shelters.

Partners and clients have left the firm. An $82 million settlement between Jenkens & Gilchrist and about 1,100 wealthy investors who bought invalid tax shelters using its opinion letters is still awaiting court approval.

In December, Jenkens & Gilchrist did not renew the contracts of Mr. Daugerdas and Mr. Mayer; it had previously stripped both men of their stakes in the firm. Ms. Guerin is still employed by the firm, but she is no longer an equity partner sharing in profits.

Lawyers for the three Jenkens & Gilchrist lawyers are expected to argue that the amount of money that Mr. Daugerdas was earning for himself and the firm through his tax shelter work was well known to the firm's top leadership.

The opinion letters written by all three lawyers typically bore the co-signatures of tax partners in the Dallas office of Jenkens & Gilchrist, according to a person who has seen the letters.

Mr. Daugerdas earned $93 million in fees from 1999 through 2003 by selling opinion letters for questionable shelters and by designing and selling certain shelters, according to persons who have seen sealed documents filed in connection with a previous class-action civil settlement between Jenkens & Gilchrist and investors.

That figure would make Mr. Daugerdas one of the wealthiest single participants in the tax shelter business. The Chicago tax practice that Mr. Daugerdas led in the late 1990's generated $267 million in fees from its work on tax shelters, according to the people who have seen the settlement documents.

Of that amount, about a third went to the general coffers of Jenkens & Gilchrist, while the rest went to other partners, including Mr. Mayer and Ms. Guerin, and accounting and financial firms with which the law firm worked on tax shelters. Mr. Mayer's work on questionable shelters earned him about $28 million from 1999 through 2003, while Ms. Guerin made around $4 million, according to the people who have seen the sealed settlement papers.

Jenkens & Gilchrist has been in the sights of the I.R.S. and Justice Department since at least 2003. That year, in the first case of its kind involving a law firm, the Justice Department petitioned a federal court in Illinois to enforce several I.R.S. summonses and petitions that sought to force the law firm to turn over the names of 600 investors who bought aggressive shelters. Jenkens & Gilchrist eventually complied.

The grand jury investigating the three Jenkens lawyers was impaneled by the United States attorney's office in Manhattan sometime last summer, according to the people briefed on the investigation. It is the second to examine the illicit tax shelter industry.

The first grand jury on tax shelters was impaneled in early 2004 to investigate KPMG. Its findings led federal prosecutors to recommend to the Justice Department that KPMG be indicted. KPMG and Justice reached a deferred-prosecution agreement in late August.

IRS Steps Up Scrutiny Of Family Partnerships (WSJ)

By Rachel Emma Silverman And Tom Herman

The Wall Street Journal, January 25, 2006

The IRS is intensifying its scrutiny of family limited partnerships, a popular technique for reducing estate and gift taxes.

The heightened scrutiny comes as the Internal Revenue Service has stepped up enforcement more broadly, increasing the number of audits it performs. The agency has said it plans to focus more resources investigating taxpayers with incomes of $100,000 and above. Officials also are focusing especially on what they call abusive shelters, or transactions with no real economic purpose other than evading taxes.

As part of its deepening probe into family limited partnerships, the IRS is questioning more of these transactions and taking a harder line during audits, seeking evidence of whether they really were set up for legitimate business purposes -- or merely as an elaborate tax dodge, officials say. In an increasing number of cases, auditors are interviewing taxpayers' adult children and others involved in a partnership for details on how it was set up and run. Officials are sometimes even scrutinizing partners' medical records, or interviewing doctors, to determine if a partnership was improperly created mainly to save taxes by someone on the verge of dying.

"We think it's a significant area of abuse," says Aileen Condon, chief of the estate and gift-tax program in the IRS's small business/self-employed division. She says a string of court victories by the IRS involving family limited partnerships in recent years has helped make the agency "more effective in identifying and challenging noncompliance and abuse."

Tax lawyers say the IRS's more aggressive stance has cast a chill over the partnerships and led them to be more careful about which clients they recommend the transactions to. David Handler, a partner at Kirkland & Ellis LLP in Chicago, says he has begun routinely telling clients considering setting up these partnerships "to plan on their gift-tax or estate-tax returns being audited." He says he has seen the IRS step up its scrutiny in recent months and has reduced the number of partnerships he has set up.

In a typical family limited partnership, a parent transfers assets, such as stock, real estate or a business, into a partnership formed with the children. Most of the shares in the partnership are eventually given to the children. Parents retain a small ownership stake and sometimes are the general partner, which means they can make management decisions about the assets. Because the children often receive limited partnership interests with less control, the value of their limited shares often can be discounted at least 20%, thereby lowering the gift-tax bite. Partnership interests given to the children also may be considered out of the parents' estate.

Martin E. Basson, an IRS lawyer based in southern Florida, and James L. Gulley, an IRS lawyer in Houston, said at a recent tax conference that the agency has gotten more aggressive in its scrutiny of family limited partnerships. One area of interest: Is the discount applied in valuing partnership interests a reasonable amount?

What's more, auditors increasingly might interview adult children of a deceased person who had set up a family limited partnership. "The IRS may be checking that those children who are limited and general partners have the business knowledge, expertise and involvement that establish a valid business purpose" for the partnership, according to Bruce Friedland, an IRS spokesman.

While nobody knows exactly how many family limited partnerships exist, lawyers and IRS officials say billions of dollars have flowed into these vehicles. The cost of setting up a partnership varies depending on its complexity. The partnerships can cost $15,000 or more in lawyer and appraisal fees. There are also annual accounting and administration fees that can cost several thousand dollars a year.

A major IRS courtroom victory occurred over the summer, when the U.S. Court of Appeals for the Fifth Circuit ruled in favor of the government in a case involving the partnership of a deceased Texas businessman named Albert Strangi. The court found that the assets transferred into the partnership should be included in Mr. Strangi's estate, and thus subject to estate taxes. In essence, the court found that Mr. Strangi didn't really give up possession of his assets even after transferring them into the partnership. What's more, the partnership didn't have a "substantial" purpose besides saving taxes, according to the ruling.

While the IRS has won numerous court cases involving family limited partnerships, it has also lost a few. Tax lawyers say the cases have provided them with helpful hints on how to structure transactions. For example, in light of heightened IRS scrutiny, advisers emphasize that partnerships should have a valid nontax reason to exist -- such as managing a family business or to pool together investment assets, such as real estate. Also, the parent shouldn't regularly dip into partnership assets, such as cash or a house, for personal use. If a parent donates to a partnership but still continues to hang onto the assets, the property may revert back to the parent's estate.

Some advisers also recommend that parents name an independent third party as a general partner, so parents don't retain too much control over the partnership. And parents should set up a partnership while in good health, rather than on their deathbed to avoid the appearance the partnership is intended mainly to avoid estate tax. * * *

Speculation grows over whether Congress will extend lower rates on capital gains and dividends.

The top 15% rate on long-term capital gains and most types of corporate dividends is scheduled to expire after 2008. There is "probably about a one-in-three chance" that Congress won't act this year to extend these rates through 2010, says Andy Laperriere of ISI Group, an investment research and brokerage firm.

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If legislation doesn't pass early this year to extend the dividend tax break, "investors will rightly question whether this will expire, considering Republicans are likely to have smaller majorities in Congress next year," the ISI report says.

Also, if this doesn't pass, "it is a negative for the overall market, but particularly high dividend-paying stocks, such as utilities." * * *

New laws affecting hurricane victims are summarized in an IRS publication.

The IRS said yesterday that Publication 4492 is available on its Web site (www.irs.gov1). It explains changes to the tax law and relief provisions available for those affected by Hurricanes Katrina, Rita and Wilma.

The publication applies to both individuals and businesses. * * *

BRIEFS: Kimberly S. Blanchard of Weil, Gotshal & Manges LLP takes over as head of the New York State Bar Association tax section, succeeding David P. Hariton of Sullivan & Cromwell LLP… The IRS deadline expired Monday for thousands of taxpayers to file papers to accept the government's offer to settle high-stakes battles over 21 shelters. The IRS hasn't yet said how many taxpayers filed.

CONGRESS-ADMINISTRATION:

Alito Confirmation Supporters Look Strong (AP)

By Jesse J. Holland, Associated Press Writer

The Associated Press, January 25, 2006

(01-24) 18:54 PST WASHINGTON, (AP) --

Supreme Court nominee Samuel Alito won commitments from a majority of senators Tuesday, assuring his eventual confirmation and a likely tilt of the court to the right.

On the same day Alito won a 10-8 party-line approval from the Senate Judiciary Committee, five Republicans announced that they would vote for his confirmation in the full Senate, pushing him over 50 votes in the 100-member chamber.

Fifty Senate Republicans, plus one Democrat, Ben Nelson of Nebraska, have publicly committed to vote for Alito through their representatives, interviews with The Associated Press or news releases.

No Republicans have opposed him and five have yet to declare how they will vote: Sens. Lamar Alexander of Tennessee, Lincoln Chafee of Rhode Island, Susan Collins and Olympia Snowe of Maine and Ted Stevens of Alaska.

One of Alito's supporters, Sen. Craig Thomas of Wyoming, announced after meeting with Alito in his Senate office. "He represents the kind of justice who will interpret the law with respect to the Constitution and not legislate from the bench. His judicial experience is second to none and I'm confident he will do an excellent job handling his constitutional responsibility," Thomas said.

Twenty Democrats are publicly opposing President Bush's pick to replace retiring Justice Sandra Day O'Connor, while the other 23 and independent Sen. Jim Jeffords of Vermont are still publicly undecided or refuse to say how they will vote on Alito's nomination.

The only way Democrats can stop the conservative judge now is through a filibuster, a maneuver they show little interest in.

The final debate on the 55-year-old New Jersey jurist begins Wednesday.

"We urge the Senate to move forward with a swift up-or-down vote so he can begin serving on our nation's highest court," White House spokesman Scott McClellan said.

Democrats are working to get a large opposition vote to make their points against President Bush.

"I think it sends a message to the American people that this guy is not King George, he's President George," said Senate Democratic leader Harry Reid of Nevada.

Bush should have picked a woman, said Reid, who urged the president last year to pick White House counsel Harriet Miers. "They couldn't go for her because she was an independent woman," Reid said of Miers, whose nomination was withdrawn under conservative criticism.

Bush then picked Alito, a 15-year federal appeals judge, former federal prosecutor and lawyer for the Reagan administration.

Republicans say he is a perfect choice for the high court. They praise his parrying of Democratic attacks on his judicial record and personal credibility during his confirmation hearings this month.

"If anybody has demonstrated judicial temperament and poise and patience, it is Judge Alito, And he ought to be confirmed on that basis alone," said committee chairman Arlen Specter, R-Pa.

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Democrats worry that Alito, along with new Chief Justice John Roberts, will push the court to the right and could even help overturn major decisions such as Roe v. Wade, the abortion rights case.

"Roberts, who promised us humility, who promised us that he would be looking to chart a middle course, we see time and again that he's falling in league with Justice Scalia and Justice Thomas," said Sen. Dick Durbin of Illinois, referring to Antonin Scalia and Clarence Thomas, the court's most conservative members. "My fear is that we are adding a fourth vote to that coalition with Sam Alito's nomination. And that's why I'm going to vote no."

Roberts won the votes of 22 Democrats last year — including three on the Judiciary Committee — ranking Democrat Patrick Leahy of Vermont as well as Wisconsin Sens. Russ Feingold and Herb Kohl. Those three senators voted against Alito Tuesday.

Several other Democrats who voted for Roberts have announced they will vote against Alito, sending the judge toward the sharpest partisan split for a Supreme Court nominee in years. The closest margin for victory for a justice in modern history is Thomas' 52-48 in 1991. In that vote, 11 Democrats broke with their party and supported President George H.W. Bush's nominee.

Both Republicans and Democrats are preparing to use Alito as a campaign issue. Republicans say the Democratic filibuster of lower-court judges helped them knock off former Democratic Senate leader Tom Daschle of South Dakota two years ago.

If Democrats want to make judges a campaign issue, "we welcome that debate on our side. We'll clean your clock," said Sen. Lindsey Graham, R-S.C.

More than half, 54 percent in a CNN-USA Today-Gallup poll out this week, said they thought the Senate should vote to confirm Alito. That is up slightly from early January before his confirmation hearings.

Sen. Jon Kyl, R-Ariz., also warned that Republicans would remember a party-line Alito vote in future Supreme Court nominations, noting that many Republicans voted for Justices Stephen Breyer and Ruth Bader Ginsburg, who were nominated by President Clinton.

Sen. Dianne Feinstein, D-Calif., said things are different from when the Senate considered Breyer and Ginsburg, who were confirmed 87-9 and 96-3 respectively. "There was not the polarization within America that is there today, and not the defined move to take this court in a singular direction," she said.

Alito Clears Senate Judiciary Panel (WSJ)

By Jeanne Cummings

The Wall Street Journal, January 25, 2006

WASHINGTON -- A divided Senate begins debate today on confirming U.S. Circuit Judge Samuel Alito for a pivotal seat on the Supreme Court, following a 10-8 party-line vote by the Judiciary Committee for the nomination.

Democrats won't try to filibuster, despite pressure from some party activists. Still, Judge Alito's confirmation vote is expected to be a narrow one that could draw opposition from one or two Republicans and scant support from Democrats, half of whom backed Chief Justice John Roberts's nomination to the high court last year. And the debate will likely continue to play out into the fall elections.

Sens. Lincoln Chafee (R., R.I.) and Olympia Snowe (R., Maine) both have expressed concern about Judge Alito's history of opposing abortion rights, and spokesmen said neither has decided yet which way to vote. Thus far, Nebraska Sen. Ben Nelson is the only Democrat committed to support the nomination when it comes to a vote sometime in the next week.

Judiciary Committee Chairman Arlen Specter (R., Pa.) said he was "personally sorry" to see his panel so divided, and predicted that Judge Alito, who serves on the Third U.S. Circuit Court of Appeals in Philadelphia, may face "close to a party-line vote" in the full Senate too.

The partisan split over President Bush's high-court nominee sets the stage for a contentious session of Congress leading up to the midterm elections. Republicans, eager to bolster their majorities in the House and Senate, vowed to focus attention on the votes of Democrats representing states President Bush carried in 2004. Two Bush supporters have pledged a combined $5 million for the campaign, a Republican activist said.

A $100,000 television ad buy ran in the Dakotas over the weekend to pressure Democratic Sens. Tim Johnson and Kent Conrad to support Judge Alito. Sen. Conrad, from North Dakota, is up for re-election. The senators, who both voted for the Roberts appointment, will also be under heavy pressure from Democratic activists to oppose this nomination.

Judge Alito's public statements deferring to presidential power and against abortion rights are the driving forces behind the opposition this time around. The issue of executive power gained new importance with the news of government surveillance of some domestic communication without court warrants, in an effort to identify potential terrorists. The Judiciary Committee will hold hearings soon on whether the counterterrorism campaign is legal or not.

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"The Supreme Court needs to act as a check" on the presidency "to provide balance," said Sen. Patrick Leahy (D., Vt.). The Judiciary Committee's senior Democrat supported the president's selection of Judge Roberts to serve as chief justice, but yesterday opposed Judge Alito, saying he had no confidence the judge "will provide that check and balance."

Republicans defended the nominee, citing his 15 years on the appellate court and a top rating from the American Bar Association. "Some on the left cannot abide a judge who thinks that the Constitution is the supreme law of the land," said Sen. Orrin Hatch (R., Utah).

Recalling that most Republicans put politics aside to support President Clinton's appointments of Justices Ruth Bader Ginsburg and Stephen Breyer, Sen. Jon Kyl (R., Ariz.) warned that the Democrats were setting a "very bad precedent. Think carefully about what is being done today."

But Sen. Richard Durbin (D., Ill.) argued that Republicans already had applied a partisan litmus test to the nomination when they forced the withdrawal of White House Counsel Harriet Miers, the president's first choice for the seat, as insufficiently conservative.

Sen. Dianne Feinstein (D., Calif.) said Judge Alito's nomination was distinct because it is part of a Republican strategy to move the federal courts to the right, and because he would succeed Justice Sandra Day O'Connor, who is retiring. During her 24 years on the court she has often been the swing vote on issues such as abortion, affirmative action and the death penalty.

Panel Sends Alito Nomination To Full Senate (REU)

By Thomas Ferraro

Reuters, January 25, 2006

WASHINGTON (Reuters) - The Senate Judiciary Committee voted along party lines on Tuesday to approve President George W. Bush's nomination of Samuel Alito to the Supreme Court, moving the 55-year-old conservative a step closer toward confirmation by the full Republican-led Senate.

With 10 Republicans voting yes and eight Democrats voting no, the committee sent the nomination to the 100-member Senate. The full chamber is to begin debate on Wednesday, with a confirmation vote as early as the end of this week.

If confirmed, Alito, a federal appeals judge since 1990, would replace moderate conservative Justice Sandra Day O'Connor and could help move the high court to the right on abortion, civil rights and other hot-button issues.

White House spokesman Scott McClellan said, "We urge the Senate to move forward with a swift up-or-down vote so that he can begin serving on our nation's highest court."

Sen. Jon Kyl, an Arizona Republican, denounced the partisan rancor over Alito, saying, "Today was the first time in the history of the United States Senate that the Judiciary Committee passed out a Supreme Court nominee on a purely partisan vote."

The Senate historian's office could not immediately confirm Kyl's assertion but noted that traditionally the Senate has approved successful nominees to the high court with bipartisan support.

So far, just one of the Senate's 44 Democrats -- moderate Ben Nelson of Nebraska -- has announced he will vote for Alito. All but a handful of others are expected to oppose him.

Senate Democratic leader Harry Reid of Nevada said he would oppose the nomination. "It is unfortunate the president made such a divisive nomination."

"At a time when the president is abusing his power at every turn, I cannot vote to confirm a judge who won't be an independent check on the executive branch," Reid said.

BAR ASSOCIATION'S TOP RATING

Before the committee vote, Republicans hailed Alito as a fair-minded, mainstream conservative who had received the American Bar Association's top rating.

But Democrats charged Alito had staked out some extreme positions on such matters as abortion rights, civil rights and presidential powers.

Judiciary Chairman Arlen Specter, a moderate Pennsylvania Republican, said he believed Alito was qualified.

"His personal background is exemplary. His professional qualifications are outstanding. His educational achievements are of the highest order," Specter said.

Specter also said he believes Alito's colleagues on the 3rd U.S. Circuit Court of Appeals answered many critics when they testified at his confirmation hearing that "he is not an ideologue and that he does have an open mind."

The Senate vote on Alito is expected to be far closer than the 78-22 one that John Roberts, Bush's first nomination to the high court, received in September in being confirmed as U.S. chief justice.

But no Democrat has threatened a filibuster, since they do not appear to have the votes to sustain such a procedural roadblock.

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Sen. John Cornyn, a Texas Republican, said, "If qualifications, integrity, fairness and judicial philosophy were all that mattered in this process, Judge Alito would have been voted out of this committee unanimously."

"But the new rule is that any nominee who refuses to promise to impose a liberal agenda from the bench is subjected to ... tactics of distortion and smear," Cornyn said.

Sen. Dianne Feinstein, a California Democrat, said the committee was sharply divided because "this president has clearly indicated that he wants to take the court even further to the right than it has been in the last 10 years."

On Party Lines, Panel Approves Alito For Court (NYT)

By David D. Kirkpatrick

The New York Times, January 25, 2006

WASHINGTON, Jan. 24 - The Senate Judiciary Committee voted along party lines Tuesday to approve the Supreme Court nomination of Judge Samuel A. Alito Jr. as senators turned the occasion into a broader and sometimes heated debate over the rancorous and partisan nature of the confirmation process.

Republicans threatened retaliation against future Democratic nominees, saying Democrats had rallied party members to vote against Judge Alito's confirmation for political reasons unrelated to his qualifications. Democrats said a close vote would warn President Bush not to name such conservative judges.

Judge Alito's confirmation to the court is now all but assured, by a vote of the full Senate roughly along party lines.

In contrast, the president's previous nominee, Chief Justice John G. Roberts Jr., was confirmed just a few months ago with the support of three of the eight Democrats on the committee and half of the 44 Democrats in the Senate.

Recalling the overwhelming and bipartisan majorities that approved President Bill Clinton's Supreme Court nominees, Justices Ruth Bader Ginsburg and Stephen G. Breyer, several Republican senators said their party had evaluated the qualifications of nominees on less ideological terms. They said the Democratic opposition to Judge Alito could alter the judicial confirmation process for years to come.

Senator Jon Kyl, Republican of Arizona, warned that Republicans might apply the same political tactics to future Democratic nominees in return: "So I say to my Democratic friends, think carefully about what is being done today. Its impact will be felt well beyond this particular nominee."

Democrats countered that the Bush administration had politicized the confirmation process by nominating a roster of staunch conservatives to the federal courts.

"It's a very different day and time" than during the Clinton administration's nominations, Senator Dianne Feinstein, Democrat of California, said. "There was not the polarization within America that is there today and not the defined move to take this court in a singular direction."

The committee vote, with all 10 Republicans voting to confirm and all 8 Democrats voting to reject the nomination, sets the stage for equally contentious if predictable debate beginning Wednesday on the Senate floor. Many Democrats have indicated Judge Alito appeared too well qualified and unthreatening in his confirmation hearings to justify a filibuster, and without one his confirmation by a majority vote is virtually guaranteed.

Democratic leaders are nonetheless pushing for a lengthy debate over the nomination to make their case against Judge Alito. And Democratic aides say privately that they also hope to hold off the final vote until Tuesday, when the president's State of the Union speech will overshadow the news.

Republicans had talked about holding the vote this weekend, but some senators plan to be in Davos, Switzerland, mingling with international business and political leaders at the World Economic Forum.

Behind the public arguments about the importance of the courts and the confirmation process, strategists for both parties say they are planning to use the Senate vote as a political weapon in the midterm elections. Such elections are typically decided by the turnout of party loyalists, and such voters would most likely have passionate views on the Alito nomination.

Republicans are laying the groundwork to attack Democrats who vote against Judge Alito as beholden to liberal interest groups. Democrats plan to make an issue of his votes on subjects like abortion rights or environmental regulations.

Speaking to reporters after the committee vote, Senator Harry Reid of Nevada, the Democratic leader, said that even if Judge Alito was confirmed, the strong Democratic opposition should send a message.

"I would hope it sends a message to the president that he should be more careful," Mr. Reid said. "I think it sends a message to the American people that this guy is not King George, he's President George."

Still, if Judge Alito joins Chief Justice Roberts on the bench, Mr. Bush will have put a substantial mark on the court. On many social issues, the court has been the biggest obstacle to the goals of conservatives now in control of the other branches of government, and Judge Alito would replace retiring Justice Sandra Day O'Connor, who often had been a pivotal vote.

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After his statement to reporters, Mr. Reid met privately with representatives of a coalition of liberal groups opposing Judge Alito, a group that included People for the American Way, the Alliance for Justice, and labor, abortion rights and environmental groups.

Democratic aides briefed on the meeting said officials of the groups made a last-ditch plea for a filibuster. People present said Mr. Reid agreed only that the Democrats would discuss their plans at a party meeting on Wednesday.

Democrats also began making an issue of Chief Justice Roberts's decisions on the court in explaining their opposition to Judge Alito.

Mrs. Feinstein said that in the recent Gonzales v. Oregon decision, involving an Oregon law allowing doctor-assisted suicide, Chief Justice Roberts sided with conservative justices Antonin Scalia and Clarence Thomas in finding that the Bush administration could block the practice.

Chief Justice Roberts's vote ran counter to some of the statements he made during his confirmation hearing, suggesting that the court should stay out of "end-of-life" decisions, Mrs. Feinstein said. She quoted from his testimony: "The basic understanding is that it's a free country, and the right to be left alone is one of our basic rights."

She said that Judge Alito's record suggested he was also likely to join the same conservative faction of the court, especially on abortion rights.

"If one is pro-choice in this day and age, in this structure," Mrs. Feinstein said, "one can't vote for Judge Alito. It is simply that simple."

Republicans said that making an issue of Judge Alito's rulings would redound to their benefit, asserting that his legal views were more in line with the American electorate than those of his liberal critics.

"I'll just tell you right now we welcome that debate on our side," Senator Lindsey Graham, Republican of South Carolina, told the Democrats. "We'll clean your clock."

Senate Panel Backs Alito On Party-Line Vote (LAT)

By Maura Reynolds

The Los Angeles Times, January 25, 2006

WASHINGTON — The Senate Judiciary Committee on Tuesday endorsed the Supreme Court nomination of Samuel A. Alito Jr. in a vote that split along party lines and highlighted disputes over his conservative judicial record.

The full Senate will begin its debate on Alito today and a vote on his selection by President Bush to replace Justice Sandra Day O'Connor could come by the end of the week. Alito is expected to narrowly win confirmation and, as a justice, tilt the court to the right.

O'Connor, 75, frequently sided with the court's more liberal members on an array of social issues, providing the swing vote on some decisions. Alito, 55, probably would take more conservative positions in many cases, including those involving abortion rights and the death penalty.

In Tuesday's committee vote, all of the panel's 10 Republicans supported Alito, praising him as an accomplished federal appellate judge who, on the high court, would follow the law, not try to rewrite it.

"If anybody has demonstrated judicial temperament and poise and patience, it is Judge Alito," said Sen. Arlen Specter (R-Pa.), the committee's chairman. "He ought to be confirmed on that basis alone."

All the committee's eight Democrats voted against Alito, with several saying they were especially concerned that his record and his testimony to the panel this month suggested he would not move to curb Bush's efforts to expand his wartime powers.

Senate Minority Leader Harry Reid (D-Nev.), who does not serve on the committee, echoed the complaints about Alito in announcing that he would oppose his nomination.

"Judge Alito has failed to demonstrate a commitment to the system of checks and balances enshrined in our Constitution," Reid said. "At a time when the president is abusing his power at every turn, I cannot vote to confirm a judge who won't be an independent check on the executive branch."

But Democrats stopped short of calling for a filibuster — the only apparent way the minority party could derail Alito's nomination in the GOP-controlled Senate.

Asked whether he would mount such a parliamentary tactic against Alito, Reid answered, "No," although he refused to rule out the possibility.

Specter said he was glad that Alito received the formal nod from the panel, but expressed regret at the partisan outcome of the vote.

"I am personally sorry to see a party-line vote out of this committee, and perhaps very close to a party-line vote out of the full Senate," Specter said. "But we all have our points of view."

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According to congressional researchers, the last Supreme Court nominee to be approved by the committee on a party-line vote was Louis D. Brandeis in 1916. Brandeis was picked for the court by Democratic President Wilson.

Reid and other leading Senate Democrats sent a clear signal that party members would vote nearly as a bloc against Alito's confirmation. But Reid also said the matter was a "vote of conscience," meaning the leaders would not insist upon opposition to him.

Only one Democrat, Sen. Ben Nelson of Nebraska, has said he plans to vote for Alito.

Nelson is among a handful of Democrats facing reelection this fall in states that lean Republican, and party leaders don't want to pressure them to take a position that could jeopardize their seats.

Almost all of the Senate's 55 Republicans have expressed support for Alito, with just a few from Democratic-leaning states remaining officially undecided. One believed likely to oppose Alito is Sen. Lincoln Chafee of Rhode Island, a supporter of abortion rights who is up for reelection in November.

A close vote on Alito would contrast with the 78-22 tally by which John G. Roberts Jr. was confirmed in September as Bush's choice for chief justice. In that vote, half the Senate's 22 Democrats supported him. He also had won the backing of three of the Judiciary Committee's Democrats.

Alito, who before becoming a federal appellate judge in 1990 worked in the Reagan administration's Justice Department, has sparked more opposition partly because of Democrats' concerns that he would change the court's political balance. Roberts was replacing the late Chief Justice William H. Rehnquist, who consistently issued conservative rulings.

Before the Judiciary Committee vote, senators from both parties made the case for and against Alito. For Democrats, the question of the limits on executive power took front and center.

"The president is in the midst of a radical realignment of the powers of the government and its intrusiveness into the private lives of Americans," said Sen. Patrick J. Leahy of Vermont, the committee's top Democrat. "And I believe this nomination is part of that plan. I am concerned that if we confirm this nominee, we will further erode the checks and balances that have protected our constitutional rights for more than 200 years."

The controversy over the president's decision to bypass special courts and order warrantless wiretaps on American citizens and others inside the country was a consistent strain in Democrats' critique of Alito.

"We have a president who claims that he has the authority to spy on persons on American soil without a court order required by law," said Sen. Edward M. Kennedy (D-Mass.). "The record demonstrates that we cannot count on Judge Alito to blow the whistle when the president is out of bounds. He is a long-standing advocate for expanding executive power, even at the expense of core individual liberties."

Sen. Dianne Feinstein (D-Calif.), the only woman on the committee, said she was troubled by Alito's statement during his committee testimony that legal "precedent is not an inexorable command" in decisions by the Supreme Court.

She said that suggested to her that Alito would not be committed to uphold the 1973 Roe vs. Wade decision that legalized abortion nationwide. "That's exactly the language Justice Rehnquist used arguing to overturn Roe," Feinstein said. "That spoke volumes to me."

Republicans accused Democrats of politicizing what they said should be a nonpartisan confirmation process.

"Why is this committee divided over Judge Alito?" asked Sen. Jon Kyl (R-Ariz.). "It cannot be because of his qualifications or temperament, but only because our Democratic colleagues don't think he will vote the right way, the way that they think he should, on some cases."

He added: "I fear a very bad precedent is being set today, a precedent that a unanimous minority will oppose a nominee on political grounds, not because the nominee is in any way unqualified."

Sen. Lindsey Graham (R-S.C.) accused Democrats of trying to turn Alito's nomination into a campaign issue in fall congressional elections.

"We're no longer advising and consenting. We're jockeying for the next election," Graham said. "And over time we'll erode the quality of the judiciary."

But Graham acknowledged that politics, at least the presidential kind, are part of the equation when it comes to the Supreme Court.

"What did you expect President Bush to do" in making court nominations? he asked Democrats rhetorically.

Throughout his two winning presidential campaigns, Bush stressed he would nominate conservatives to the court.

Judiciary Panel OKs Alito (WT)

By Charles Hurt

The Washington Times, January 25, 2006

DOJ_NMG_0011562

The Senate Judiciary Committee approved the Supreme Court nomination of Judge Samuel A. Alito Jr. yesterday in a party-line vote, but Democrats refused to rule out a filibuster to block the jurist's confirmation.

After the committee's 10-8 vote, Senate Minority Leader Harry Reid declined to reveal whether he will lead a filibuster against Judge Alito as liberal lobbyists are demanding, only saying that he opposes President Bush's nominee to replace retiring Justice Sandra Day O'Connor.

With commitments of support from 51 senators, Judge Alito has the majority needed for confirmation but remains below the 60-vote threshold needed to guarantee a full-floor vote and prevent a filibuster. Recent Democratic filibusters of nominees to the federal bench all began with a party-line vote by the Senate committee.

"There is a storm cloud on the horizon," said Sen. Jon Kyl, Arizona Republican.

Observers on both sides of the aisle, however, say they doubt Democrats really have the stomach for a high-profile filibuster. For instance, Sen. Dianne Feinstein, California Democrat and member of the Senate Judiciary Committee, said last week that she would not support a filibuster.

Sen. Lindsey Graham, South Carolina Republican, said it would be bad for the country to turn the judicial-nominations process into a litmus test on raw political issues such as abortion. And, he said, if Democrats insist, they'll regret it.

"I'll just tell you right now we welcome that debate on our side," Mr. Graham said. "We'll clean your clock. I mean, Judge Alito is closer to the mainstream of America than [liberal lobbyists People] for the American Way. We'll win that debate, but the judiciary will lose if we continue to do this."

Sen. John Cornyn, Texas Republican, warned Democrats that Americans overwhelmingly side with Republicans on many of the hot-button political issues before the court, such as so-called "partial-birth abortion," homosexual "marriage" and keeping the words "under God" in the Pledge of Allegiance.

Yesterday's committee meeting, however, provided no real drama. The only member whose vote remained in question beforehand was that of Sen. Herb Kohl, the Wisconsin Democrat who voted in favor of confirming Chief Justice John G. Roberts Jr.

"I fear that a Justice Alito will narrow our rights, limit our freedoms and overturn decades of progress," Mr. Kohl said. "To confirm Judge Alito to the Supreme Court would be to gamble with our liberties, a bet I fear the Constitution and the American people would lose."

Mr. Kohl was among other committee Democrats who echoed warnings by Massachusetts Sen. Edward M. Kennedy, who said Judge Alito "refuses to enforce core constitutional standards protecting individuals against low-level government officials in routine situations."

One issue that dominated the hearings earlier this month -- accusations of ethical lapses by Judge Alito -- have all but evaporated as the full Senate plans to begin debating the Alito nomination first thing this morning. Debate is expected to last until Friday.

During the hearings, Judge Alito was asked 113 questions about ethics and his membership in Concerned Alumni of Princeton, which had formed in opposition to the admission of women to the university. That number was surpassed only by the 120 questions asked about presidential authority, according to a Republican tally.

Yesterday, Judge Alito's membership in Concerned Alumni of Princeton never was mentioned, and his belated recusal from the case involving Vanguard Group Inc. was referenced only once.

Senators spent more time talking about abortion rights.

"If one is pro-choice in this day and age, in this structure, one can't vote for Judge Alito," Mrs. Feinstein said. "It is simply that simple."

She said Judge Alito refused to say that federal abortion rights are settled. He did not, Mrs. Feinstein said, go as far as Justice Roberts, whom she also voted against, citing fears that he would undo the federal abortion-rights guarantee.

Democrats also said Judge Alito too often sides with big corporate or government interests against the "little guy."

But Sen. Tom Coburn, Oklahoma Republican, said their concern is hollow as long as they support abortion rights.

"I think about the most vulnerable little guy in this world, which is the unborn child, which we attain no liberty for in this country any longer," he said. "And how can we claim to be for the little guy and ignore that little guy?"

Mr. Graham said he did not recognize the caricature of Judge Alito that Democrats described during yesterday's meeting.

"It's amazing he would even be considered for nomination," he joked. "He should be under house arrest."

Mr. Cornyn, at one point, held aloft a magazine with Judge Alito's wife, in tears, on the cover and said they had overplayed their hand in attacking the nominee.

Fifty of 55 Republicans and Democratic Sen. Ben Nelson of Nebraska have committed publicly to vote for Judge Alito, giving him the 51 votes needed for confirmation, according to interviews with The Washington Times or the Associated Press or from press releases.

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Twenty Democrats publicly are opposing Judge Alito, and 23 others still are undecided publicly.

Republican Sens. Lamar Alexander of Tennessee; Lincoln Chafee of Rhode Island; Susan Collins and Olympia J. Snowe of Maine; and Ted Stevens of Alaska have not publicly committed to vote for Judge Alito.

Alito Debate Begins Today In Full Senate Discussions Likely To Spotlight Partisan Rift Over Court Nominee (USAT)

By Kathy Kiely

USA Today, January 25, 2006

WASHINGTON — President Bush's third pick for the Supreme Court, Samuel Alito, is headed for almost-certain confirmation by next week. The Senate vote, however, could emphasize deep partisan divisions over the swing seat he will occupy on the nation's highest court.

The Senate Judiciary Committee approved Alito on Tuesday, 10-8, without a single Democratic vote. Sen. Ben Nelson of Nebraska is the only Democrat who has said he will back him. Senate Minority Leader Harry Reid of Nevada called Alito "divisive."

Senate Judiciary Committee Chairman Arlen Specter, R-Pa., praised Alito, 55, as an even-handed jurist. "He does have an open mind," Specter said.

The Senate begins debate on Alito's nomination today. A final vote is likely before Bush's State of the Union address Tuesday.

Specter said he is "disappointed" by the near-unanimous opposition of Democrats, who hold 44 of the Senate's 100 seats. It contrasts with the reception for Chief Justice John Roberts, Bush's first court pick, who was confirmed in September with 22 Democratic votes.

"Democrats' relentless politicization of a process that has traditionally been above partisan politics is disappointing," White House spokesman Steve Schmidt said.

The Alito nomination is different, Democrats contend, because he will succeed retiring Justice Sandra Day O'Connor, a deciding vote on abortion and other controversial issues.

"This is not just another nomination to the Supreme Court," said Sen. Dick Durbin, D-Ill. "It is truly going to tip the scales of justice."

Republicans noted that Alito, a judge on the 3rd U.S. Circuit Court of Appeals, received bipartisan support from colleagues on the bench and the American Bar Association's highest rating. Democrats' opposition to Alito is "about politics," said Sen. Lindsey Graham, R-S.C. "We're jockeying for the next election."

Democrats portrayed Alito as a jurist who allows legal technicalities to override compassion and favors corporate and government power over ordinary citizens.

"He has shown a hostility to … average Americans," said Sen. Edward Kennedy, D-Mass.

Republican Sens. Lincoln Chafee of Rhode Island and Olympia Snowe and Susan Collins of Maine have yet to say whether they will support Alito. All are abortion rights supporters. Alito opposed abortion as a lawyer in the Reagan administration but said during his confirmation hearings that he won't allow his personal views to affect his rulings.

A handful of Democratic centrists, including Blanche Lincoln of Arkansas, Daniel Inouye of Hawaii and Joe Lieberman of Connecticut, also have not said how they will vote. Sen. Bill Nelson, D-Fla., said Tuesday that he will oppose Alito. "He is not the centrist voice I believe this nation needs," he said.

Given the Republican majority in the Senate, the only way for Alito's opponents to halt his nomination would be through a filibuster, which allows 40 senators to block a vote by refusing to end debate. Reid has not publicly ruled out the parliamentary technique. Key centrists such as Snowe and Sen. Mark Pryor, D-Ark., whose support would be needed, have said a filibuster isn't justified.

Alito Clears On Party-line Vote (HILL)

By Jonathan Allen

The Hill, January 25, 2006

The Judiciary Committee approved Supreme Court nominee Samuel Alito on a straight party-line vote yesterday, likely foreshadowing a relatively close confirmation on the Senate floor.

Alito won the support of the 10 committee Republicans and was opposed by all eight panel Democrats.

"I guess there's 18 ways of saying the same thing, broken into two categories," said Sen. Lindsey Graham (R-S.C.), providing a moment of levity during an otherwise laborious three-hour hearing in which most senators ignored an oversized digital speech timer.

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Senate Minority Leader Harry Reid (D-Nev.) refused to rule out a Democratic filibuster against the nomination, though such a move would surprise many congressional observers.

The party-line vote contrasted sharply with the 14-4 approval the committee gave to President Bush's first pick for the high court, Chief Justice John Roberts Jr., late last year. Accordingly, congressional observers expect Alito will win confirmation with a far smaller margin than the 78-22 vote for Roberts.

Already, some Democrats who voted for Roberts have announced their opposition to Alito.

"There is a fear that this one will turn the balance, will tip the balance of the court, and that probably raises the stakes of this nomination," Nebraska Sen. Ben Nelson said on C-SPAN yesterday. Nelson is the only Democrat in the upper chamber to announce support for Alito.

At the final committee hearing, Republicans focused on Alito's qualifications, including his 15 years on the 3rd U.S. Circuit Court of Appeals, and characteristics such as integrity and honor that they said he demonstrated both on the bench and in committee hearings. Democrats again voiced concerns about the possibility that Alito would vote to overturn abortion rights and that he would support the expansion of presidential powers.

"If one is pro-choice in this day and age … one cannot vote for Judge Alito," said Sen. Dianne Feinstein (D-Calif.).

Even as they celebrated Alito's advancement yesterday, Republicans and conservative interest groups denounced Democratic opposition.

"While it's heartening to see Judge Alito favorably recommended by the Senate Judiciary Committee, it's disappointing to hear the continued partisan attacks that accompanied a party-line vote," said Republican National Committee Chairman Ken Mehlman.

"Their goal is to impose radical policy ideas on America through control of the court," Family Research Council President Tony Perkins said in a statement released before the hearing concluded. "It demonstrates the allegiance Democrats have sworn to the extreme factions of their party."

But as Alito's nomination moved from the Judiciary Committee to the floor, President Bush and his Republican allies in the Senate inched closer to fulfilling campaign promises to fill the high court with unambiguously conservative jurists.

The Senate is expected to begin debate on the nomination today, but it was not clear as of press time when a confirmation vote would occur. "A justice delayed will not be a justice denied," said Eric Ueland, chief of staff to Senate Majority Leader Bill Frist (R-Tenn.).

Senate Republicans and Democrats are engaged in a two-step over the timing of the confirmation vote, which could be held just before or just after the president's annual State of the Union address Tuesday. The speech appears to be a factor in the tussle over timing.

"Not sure if we can get it done this week," Reid spokesman Jim Manley said.

Interest groups on the left are still encouraging their allies in the Senate to put up a fight.

Meanwhile, Senate Republican leaders could file a cloture motion and force a vote on whether to cut off debate.

"Nothing is ruled in, or ruled out," a GOP aide said.

"The calculus on when Alito is finito comes from how long Senate Democrats want to continue to fight to suppress the final vote total against an outstanding nominee," the aide said.

The Unsmoked Signal Of Victory On Alito (WP)

By Marcia Davis

The Washington Post, January 25, 2006

Sometimes it's not the words that tell the story. Sometimes it's a cigar.

During yesterday's Senate Judiciary Committee vote on Supreme Court nominee Samuel A. Alito Jr., there were words aplenty, thousands of them, spoken for nearly three hours. There were words of praise and condemnation, expressions of great confidence and deep doubts, incriminations and recriminations, all delivered with rock-hard partisan sincerity. There were moments of passion and humor, and, at times, even moments of eloquence.

And then there was the cigar.

It was fat and brown, and when it wasn't clutched between the fingers of Bill Reynolds, Republican Sen. Arlen Specter's chief of staff, it was tucked -- unlit -- squarely in the left side of his mouth, or being delicately finger-twirled between his lips. Despite all the speeches in that ornate, wood-paneled room, it was his cigar that was sending the true message of the day.

This legislative "minuet," as Reynolds's boss, the Judiciary Committee chairman, described the confirmation process at the start of the Alito hearings -- was just about over. The dance was done but for a few formal steps. It was time to pass the cigars and pop the corks -- and -- oh, yeah -- somebody should count the votes.

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Yesterday, those votes fell strictly along partisan lines, and that meant 10 to 8 in Alito's favor. Now the nomination will go before the full Senate, where the balance of power is tilted in the GOP's favor, 55 to 44 (with one independent). Yesterday's committee outcome was no surprise, and the vote before the full Senate won't be, either.

Specter started yesterday's meeting acknowledging such.

"I don't believe . . . that there is a great deal of suspense as to what's going to happen," he said as he pleaded with his colleagues for brevity, saying he was limiting himself to five minutes and that he hoped others would follow his lead.

Sen. Patrick Leahy of Vermont, the ranking Democrat on the committee, heard Specter's call for brevity but said he didn't know if he could heed it. He had much to say at "this critical time in the nation's history."

Calling Bush a divider and not a uniter, he criticized the president for not sending a nominee to the Senate who might have been "someone who would have the support of all Americans." Leahy was one of three Democrats on the committee who voted for Chief Justice John Roberts in September, and one of 22 Democrats who voted to confirm the chief justice on the Senate floor.

But yesterday was different. "This is a time in our history when the protections of Americans' liberties are at risk," Leahy said, focusing his remarks on the issue of executive power and his belief that the Bush administration is illegally grabbing power under the cover of the war on terrorism.

"This is a critical nomination, one that can tip the balance on the Supreme Court radically away from constitutional checks and balances and the protection of Americans' fundamental rights."

Utah's Orrin Hatch set the tone for his Republican colleagues. The GOP strategy had not changed from the hearings themselves: praise Alito's "outstanding record" as a jurist and shake a finger of shame in the face of his critics. Democrats, Hatch and his colleagues said repeatedly, were destroying the bipartisan tradition on confirmations with their partisan politics.

"Observers of what the judicial confirmation process has become in the last several years might have a hard time remembering that fair process," Hatch said. "Where were the filibusters? Where were the litmus paper and the scorecards? Did people tally up Justice [Ruth Bader] Ginsburg's past appeals court rulings and, on that basis, warn that she would not give certain groups a fair shake in the future?"

And so it went. One by one, the Democrats repeated concerns about a Bush power grab and a judge they say is too deferential to big government and big business in his rulings.

Sen. Joseph Biden (D-Del.) was uncharacteristically restrained in the length of his remarks. He voiced his concern that Alito was insensitive to the subtleties of today's problems of discrimination. Alito "is not someone who looks into the shadows" when it comes to ferreting out such forms of bias, he said.

Sen. Jon Kyl of Arizona, like his Republican colleagues, pointed to the outstanding recommendations that Alito has gotten from the American Bar Association and the number of people who had come to testify on his behalf. He wanted to know how someone so respected could come under such attacks.

Sen. Dianne Feinstein (D-Calif.) had an answer.

It's not just qualifications that matter, she said, because "legal philosophy and personal views do play a role on the Supreme Court." And, she said, these are polarized times.

Last, Feinstein addressed the issue on which so many thought this nomination would rise or fall: abortion rights.

"If one is pro-choice in this day and age, one cannot vote for Judge Alito."

But it was Lindsey Graham, the Republican senator from South Carolina who always seems ready with a quip, who let it all hang out.

"I guess there are 18 ways of saying the same thing," he said, eliciting one of the few moments of bipartisan chuckling, "broken into two different categories."

Look, he said: "What did you expect President Bush to do when he won?" These are the spoils of victory. Clinton, after all, got his picks.

And if the Democrats think they're going to use the issue in the election, he taunted, "go ahead, we'll clean your clock."

But Richard Durbin of Illinois, the last Democrat to speak, had a few jabs of his own.

"We were supposed to be meeting on the nomination of Harriet Miers," he said.

Supporters and opponents of Alito stood in the back of the room watching. They had their red stickers pasted to their lapels, for Alito and against, standing side by side. They stood for three hours straight, watching as if the outcome were an unanswered question. Later, Alito supporters condemned Democrats for their dissent. And the judge's opponents praised the Democrats for their strong speeches and their unity.

It isn't over until it's over, they said. The battle moves to the offices of the moderates on both sides who might be swayed, whether they are Democrats in red states or Republicans who support abortion rights.

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But the numbers are the numbers. And after the vote, our cigar man was down the hall listening to his boss give a news conference.

So what was up with that cigar, he was asked. After all, sometimes a cigar is just a cigar.

"It's clearly a bad habit," he said. "Something I need to quit."

Florida Senator To Vote Against Alito Supreme Court Confirmation (HTRIB)

By brent kallestad

The Herald Tribune (Southwest Florida), January 25, 2006

TALLAHASSEE, Fla. -- U.S. Sen. Bill Nelson said Tuesday he plans to vote against Judge Samuel Alito's confirmation to the Supreme Court.

Nelson announced his decision in a statement from his Washington office shortly after the Senate Judiciary Committee favorably recommended Alito's Supreme Court nomination to the full Senate on a 10-8 party-line vote.

"His many legal writings, judicial opinions and evasive answers both at his hearing and in our private meeting, convinced me he would tilt the scales of justice in favor of big government," Nelson said.

"Judge Alito is an extremist judge with proven views far outside those of mainstream Floridians," said Stephanie Grutman, executive director of the Florida Association of Planned Parenthood Affiliates, who applauded Nelson's decision.

Alito, who was chosen by Bush to succeed retiring Justice Sandra Day O'Connor, spent nearly an hour with Nelson last week in the senator's office.

The full Senate is expected to vote later this week or early next week and confirmation is considered likely.

Alito picked up the support last week of Florida's other U.S. senator, Republican Mel Martinez. Many of the state's largest newspapers also endorsed Alito's nomination.

A Democrat seeking re-election in November, Nelson is likely to find himself forced to defend his decision in this year's campaign.

Nelson's office noted in the same statement opposing Alito that the senator had voted for 215 of President George W. Bush's 225 judicial picks, including Chief Justice John Roberts.

"Sen. Nelson has proved himself to have a moderate record in support of the president's judicial nominees the vast majority of the time," Nelson spokesman Bryan Gulley said Tuesday. "I think it goes to show he calls them as he sees them."

The Republican Party of Florida disagreed.

"Sen. Nelson's opposition confirms that he has lost sight of the profound credentials of Judge Alito, the sentiments of Florida voters and the integrity of the Supreme Court," state GOP chairman Carole Jean Jordan said.

U.S. Rep. Katherine Harris of Sarasota is seeking the Republican nomination to oppose Nelson in November. Her office issued a statement that Nelson chose to play politics with the decision and ignore Alito's credentials.

Sen. Bill Nelson Says He'll Vote Against Alito's Nomination (MH)

By Lesley Clark

The Miami Herald, January 25, 2006

U.S. Sen. Bill Nelson said Tuesday he'll vote against Judge Samuel Alito Jr.'s nomination to the U.S. Supreme Court, saying he believes the jurist would ``tilt the scales of justice in favor of big government over the average person."

The Democrat's decision came as Alito, President Bush's nominee to succeed retiring Justice Sandra Day O'Connor, was favorably recommended by the Senate Judiciary Committee along a party-line vote, 10 to 8.

The full Senate is expected to vote later this week. That vote, too, is expected to fall along party lines, with Nebraska's Ben Nelson the only Democrat so far to pledge support for the jurist.

Nelson, who likely will come under Republican attack for his "no" vote, underscored in a statement that he has voted "for almost all" of Bush's judicial nominees.

But, Nelson, who met privately with Alito last week, said Alito's ``many legal writings, judicial opinions and evasive answers both at his hearing and in our private meeting, convinced me he would tilt the scales of justice in favor of big government over the average person.

"Because he is not the centrist voice I believe this nation needs to replace the retiring Justice Sandra Day O'Connor, who fiercely defended the rights and liberties of all Americans, I'm going to vote no on his confirmation," Nelson said in the statement.

Nelson, who faces a re-election challenge in November, likely from Republican U.S. Rep. Katherine Harris, noted in his statement that since arriving to the Senate in 2001, he has voted for 215 -- or 96 percent -- of the president's 225 judicial picks, including Miguel Estrada and Chief Justice John Roberts.

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Nelson, who has sought to fashion himself as a moderate in a state nearly evenly divided between Democrats and Republicans, had been pressured on both sides.

Republican groups as late as Tuesday morning sent out a package of material -- including newspaper editorials that backed Alito -- to ``respectfully encourage Sen. Nelson to review the facts and join fellow Florida Sen. Mel Martinez in supporting the Alito confirmation."

Civil rights groups and others rallied Tuesday morning in Miami against Alito, saying they had petitions from nearly 50,000 Floridians opposing Alito. The petitions were delivered to the two senators' offices, the groups said.

Now It's The Full Senate's Turn To Look At Alito (LAW)

By T.r. Goldman, Legal Times

Legal Times, January 25, 2006

Supreme Court nominee Judge Samuel Alito Jr. was voted out of the Senate Judiciary Committee early Tuesday afternoon on straight party lines, with all 10 Republicans endorsing the 55-year-old federal appeals court judge and all eight Democrats opposing him. The strictly partisan committee vote had been widely anticipated after Alito's weeklong hearings earlier this month.

"I do not believe, notwithstanding all the cameras here today, that there's a great deal of suspense," said committee Chairman Arlen Specter, R-Pa. "I am personally very sorry to see a party-line vote out of this committee and almost a party-line vote out of the full Senate," Specter added, shortly after he gaveled the committee to order at 9:30 a.m., some three hours before the panel's actual roll-call vote.

The full Senate will take up the Alito nomination this morning; it could vote on his confirmation as early as Friday or as late as next Tuesday, the day President George W. Bush is slated to give his annual State of the Union address.

Specter permitted each member of the committee five minutes to talk about the nomination, although several went far beyond that limit.

Democrats were unapologetic in their opposition to Alito, who has served on the 3rd U.S. Circuit Court of Appeals for the past 15 years. Republicans, by contrast, were effusive in their praise. And they insisted that Democratic problems with Alito boiled down to one issue: abortion.

"Seeing one of the finest judges in the country have a straight party-line vote, that's amazing to me," said Utah Republican Sen. Orrin Hatch, during an impromptu news conference with seven other Republican committee members a half-hour after the vote.

In a 1985 application for a senior position at the Department of Justice, Alito wrote that he did not believe that the Constitution protected a woman's right to an abortion. During his three days of questioning, Alito confirmed the accuracy of the 1985 memo, but he never explicitly said whether he continued to hold that view.

California Democrat Sen. Dianne Feinstein, the committee's only female member and a strong proponent of abortion rights, was unsettled by Alito's response to her question about the precedential strength of the Supreme Court's 1973 opinion Roe v. Wade.

"Precedent is not an inexorable command," she noted Alito had said during his confirmation hearings. "That spoke volumes to me," she said, adding that was the same language the late Chief Justice William Rehnquist used when he tried to overturn well-established precedents. "That said, Judge Alito probably would not uphold Roe if given the chance."

Democrats also complained that, more generally speaking, Alito's answers on a range of subjects, from executive power to civil rights, may have appeared to be substantive responses, but, in fact, were not.

"On too many issues we were treated to artful evasions and pleasant banalities," New York Democrat Sen. Charles Schumer told his fellow committee members as well as the national television audience watching the committee meeting. Alito, said Schumer, "intoned no fewer than six times that 'No one is above the law.' But has any nominee ever said anyone is above the law?" Reading from a prewritten speech, Schumer said, the American people, like most members of the committee, deserve "honest answers, not practiced platitudes." Alito, he added, "has stood alone, at the edge of the judicial mainstream, in too many important cases and on too many important issues."

Other Democrats complained that Alito's hundreds of decisions over the years demonstrated undue deference to executive power. "We cannot count on Judge Alito to blow the whistle when the president is out of bounds," noted Massachusetts Democrat Sen. Edward Kennedy.

Democrats also faulted Alito for taking a narrow and technical view of large and complex legal issues. "He repeatedly, and in some cases gratuitously, raised questions of justiciability," said Wisconsin Democrat Sen. Russ Feingold, who went on to criticize Alito's views on privacy and deference to the executive branch.

That led South Carolina Republican Sen. Lindsey Graham to respond: "After listening to Senator Feingold, it's amazing that [Alito] should even be considered for the nomination -- he should be under house arrest."

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Republicans, including Graham, had strong praise for the nominee, sometimes even soaring praise.

"This is a towering legal figure," said Alabama Sen. Jeff Sessions. "He was a magnificent witness, he was unflappable. It was exciting to see him perform that way. He represents the very best in judges."

Other Republicans felt it was the content of Alito's answers, rather than his style, that bothered Senate Democrats.

Said Texas Republican Sen. John Cornyn: "I think some of my colleagues are voting against Judge Alito not because he didn't answer the questions adequately, but they didn't like the answers he gave."

Why Dems Can't Sink Alito (HILL)

The Hill, January 25, 2006

The reason Democrats and liberals did not get more popular traction in their opposition to the appointment of Judge Samuel Alito to the Supreme Court is that their worldview of what constitutes a good nominee is sharply at variance with that of the American public at large.

To the likes of Sens. Edward Kennedy (D-Mass.), Charles Schumer (D-N.Y.), Hillary Clinton (D-N.Y.) et al., the Supreme Court is a kind of super-Congress — nine special Senate seats — and the criterion for confirmation is agreement with the nominee on the key issues likely to come before the court. But to the American voters, the Supreme Court is above politics and ideology and confirmation should be awarded based on personal attributes such as integrity, intelligence, judgment, compassion, wisdom, maturity, fairness and temperament.

Realizing this difference in perspective between the Democratic base and the public at large, President Bush has done very well with both the John Roberts and the Alito appointments. When his people forgot about the dichotomy — and nominated Harriet Miers who was seen as a poorly qualified if conservative candidate — they got their heads handed to them.

Of course, ideology is as important (if not more so) to conservatives as it is to liberals. But with the White House comes the ability to get men or women who share your ideology approved as long as they are objectively well-qualified. Bill Clinton learned that lesson when the Senate easily approved his nominations of moderate liberal Stephen Breyer and ultraliberal Ruth Bader Ginsburg. Republicans then, as with Democrats now, could not rally public opposition to a judge simply based on his or her ideology.

The Robert Bork nomination failed, ultimately, not so much because he was a conservative but because his opponents managed to cast doubts on his temperament by engaging him in harsh rhetorical exchanges during his hearings. Clarence Thomas was not seriously opposed because of his conservatism but as a result of the allegations of Anita Hill that he sexually harassed her.

The failure of voters to understand the role of ideology in court decisions seems to fly in the face of the knee-jerk conservatism of Antonin Scalia, Thomas and, during his tenure, Rehnquist and the automatic liberalism of John Paul Stevens and Ginsburg. But voters are not deluded; they simply do not see Roe v. Wade in quite the apocalyptic terms that both the left and the right do. To the vast middle of the American political spectrum, it is more important that a Supreme Court nominee be a good person with sterling credentials than be predictably for or against Roe v. Wade.

But, in an even broader sense, voters are increasingly appalled at the growth of partisanship on Capitol Hill. Clinton's impeachment and the GOP government closures of the 1990s have left their legacy in the growing public impatience with shrill, blind partisan advocacy in their elected Congress. Their insistence on credentials and personal qualifications in Supreme Court nominees reflects their desire not to see this unappealing trait spread to the Supreme Court.

Public OKs wiretapping

The Fox News poll of Jan. 11 confirms that the public stands solidly behind Bush's policy of authorizing warrantless wiretaps by the National Security Agency of conversations between American citizens and people outside the United States.

By 58-32, voters supported the policy, and 60 percent of the public said that they would be willing, personally, to sacrifice some of their privacy to help national security.

The poll also found that Americans disagree with Osama bin Laden that we have avoided terrorist attacks simply because al Qaeda has not planned any raids. Forty-six percent say that it was because of our efforts at homeland security that we have not been hit in four and a half years. Only 22 percent said it was because no attacks were attempted. Twenty percent said both were responsible. And 60 percent want the Patriot Act to be renewed.

These survey findings underscore that Democrats attack Bush on his efforts to prevent domestic terror attacks at their own peril. The public dislikes Republicans because of their corruption scandals but appreciates their positions on homeland security. It differs with the Democrats over domestic anti-terror efforts but exempts them from its condemnation of congressional dishonesty. Each party should stay on its own turf and clean up the rest of its act.

Morris, a former political adviser to Sen. Trent Lott (R-Miss.) and President Bill Clinton, is the author of Condi vs. Hillary: The Next Great Presidential Race.

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Alito Nomination Sent To Full Senate (CHIT)

By Jill Zuckman

Chicago Tribune, January 25, 2006

WASHINGTON -- The Supreme Court nomination of Judge Samuel Alito moved to the full Senate Tuesday on a strictly party-line vote in the Judiciary Committee, foreshadowing a rocky election year in which Democrats and Republicans are likely to angrily part ways on judicial nominations and a range of other issues.

Democrats objected to elevating Alito to the Supreme Court, saying they had little faith that he would serve as a check on a power-hungry executive branch. They said they worried that he would not protect Americans' civil liberties and would fail to uphold a woman's right to an abortion.

"I'm concerned that if we confirm this nominee, we'll further erode the checks and balances that have protected our constitutional rights for more than 200 years," said Sen. Patrick Leahy (D-Vt.), the committee's top Democrat.

Republicans, on the other hand, called Alito a superb judge whose 15 years as a federal appeals court judge made him more experienced than most Supreme Court nominees.

"He's a good, decent, honest man," said Sen. Mike DeWine (R-Ohio). "He has an extraordinary legal talent and he approaches each case with an open mind and understanding heart. Throughout this process, Judge Alito has conducted himself with dignity, patience and poise."

Alito had the misfortune of being nominated to replace Justice Sandra Day O'Connor, a swing vote on some of the most controversial matters to come before the court, from abortion to affirmative action. That raised the stakes for the Democrats, since Alito's confirmation as the 110th justice in U.S. history, which seems all but assured, would likely determine the future direction of the high court.

Alito's nomination comes at a time of deep unhappiness among Democrats toward the White House over domestic eavesdropping and the treatment of suspected terrorists in American military custody. That and Bush's relatively low poll numbers helped contribute to the party-line vote.

The full Senate is expected to vote on Alito's confirmation Monday, with only a handful of Democrats supporting him. He would likely be sworn in almost immediately, taking the place of O'Connor, who would step down. Cases that the justices have heard in recent months that have not yet been decided might have to be reargued, since Alito could not vote on a case if he was not sitting at the time of the argument.

Alito Would Likely Change Supreme Court In Unexpected Ways (KRT)

By Stephen Henderson And James Kuhnhenn

Knight Ridder, January 25, 2006

WASHINGTON - The Senate Judiciary Committee moved Samuel Alito one step closer to a lifetime seat on the Supreme Court on Tuesday, where he could immediately shift the court's stance on high-profile issues such as abortion, the death penalty, religion and executive power.

Yet it is Alito's vision of judicial restraint and a limited role for courts - a vision he shares with new Chief Justice John G. Roberts - that could produce an even more fundamental change in the high court.

Together, the two are likely to bring a narrow and lawyerly approach to deciding cases that, if persuasive, could help remove the justices from some of the high-profile political squabbles that now define them.

"Overall, I think the court could appear a lot less political with these two new justices, and that's a good thing," said Jonathan Adler, a law professor at Case Western Reserve University in Cleveland and a constitutional scholar. "Both Roberts and Alito seem to feel that courts are most effective and respected when they operate within a limited role, rather than seeking to intrude into a lot of other contexts."

Cambridge University professor and court expert David Garrow agreed.

"Neither has much of an appetite for grand declarations," he said of Roberts and Alito. "Once you get away from the left-right spectrum that everyone views the court in, I think you see them having a very different kind of effect on things."

Alito's confirmation hearings were hard fought in the Senate Judiciary Committee earlier this month and inspired bitterly partisan campaigns on both sides, but his confirmation seems all but assured after the committee voted Tuesday to move debate to the Senate floor.

The 10-8 party vote portends an equally partisan outcome in the full Senate and one of the slimmest confirmation margins since Clarence Thomas got 52 votes in 1991.

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Judiciary Committee Republicans applauded Alito's experience and intellect and complained that Democrats were judging Alito only on ideological grounds. Democrats said Alito didn't deserve their votes because as a conservative jurist he would alter the balance of the court.

Sen. Lindsey Graham, R-S.C., said the political split on Alito's nomination illustrated a dramatic shift since liberal-leaning jurists such as Ruth Bader Ginsburg and Stephen G. Breyer won confirmation to the court with overwhelming bipartisan votes.

"What's going on in the Judge Alito nomination, I think, is not advising and consenting. It's more about politics," Graham said. "We're jockeying for the next election. And over time we'll erode the quality of the judiciary."

Without question, Alito's presence could have an immediate impact on many attention-grabbing issues as the high court. And because his outlook is markedly different from retiring Supreme Court Justice Sandra Day O'Connor's, his vote could be crucial.

Alito won't likely see the partial-birth abortion ban the same way O'Connor did in 2000, when she cast the deciding vote to strike it down because it lacked a health exception.

Alito's strong First Amendment leanings could also lead him to see campaign regulations differently from O'Connor. This spring, the court will decide whether Vermont can limit not only campaign contributions, but also expenditures by candidates in statewide races.

Alito has also been particularly loath to overturn death sentences as an appellate judge, while O'Connor has been key to the court's ongoing review of capital punishment standards. This term alone, the court is considering several death penalty cases, and experts expect that Alito's arrival might slow the pace of reform dictated by the court.

As the court begins to consider challenges to the Bush administration's bold assertions of executive authority, Alito's record suggests strongly that he'll be more deferential than O'Connor was.

"I don't think there's any question that Alito, like Roberts, will be voting an awful lot with Justices Antonin Scalia and Clarence Thomas," said Garrow, referring to the court's most conservative jurists.

But more than these controversial single issues, Alito's allegiance to a minimalist court could magnify his influence.

In his appellate court decisions, Alito tended toward scholarly, reserved opinions that were long on technical analysis and short on sweeping pronouncements. While his decisions almost uniformly tacked to the right, his approach was humble and often persuasive to other judges on his court.

Already, there are signs that Roberts, in the chief justice's job since October, may be pushing that approach at the high court with some success. The justices have decided several seemingly high-profile cases already this term - on assisted suicide, abortion regulations, the scope of disability law and campaign finance regulations.

But in each case, the court avoided addressing the central, polarizing issues in the cases and decided them on narrow legal terms. None turned out to be a headline-grabbing decision.

`They're not ducking the issues in those cases," said Adler. "They're just saying they have no need to answer things they don't have to answer."

Doug Kendall, an environmental lawyer and executive director of a public-interest law firm in Washington, said that while the idea of judicial restraint is hard to oppose, it may be difficult to define in practical terms.

Judges frequently must decide between competing interpretations of law, and the most restrained decision from a judicial perspective yields the most activist result in terms of the law's intent and impact.

"Is it restrained to accept a dramatically restrictive interpretation of, say, clean water regulations to avoid addressing broader constitutional issues about the law?" Kendall asked. "I suppose it is in one way, but that's also pretty activist in another way because it limits the reach that Congress intended for that law."

Still, Kendall said he can be optimistic in theory about how Roberts and Alito will approach their jobs on the high court.

"I think what we're seeing so far with Roberts may be encouraging," he said. "But Alito's conservative record suggests he may not be quite the same. We'll see."

Alito Seems Assured Of A Seat On High Court (WP)

By Charles Babington

The Washington Post, January 25, 2006

Democrats all but conceded the Supreme Court confirmation of Samuel A. Alito Jr. yesterday but signaled they will use the Senate debate that begins today to focus on President Bush's domestic spying program and their predictions that Alito will be too pliant in supporting it.

The Senate Judiciary Committee voted 10 to 8 along party lines to recommend Alito's confirmation, depriving him of the bipartisan support enjoyed by most current justices and setting the stage for a sharply partisan Senate debate this week. The

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vote, which was anticipated, occurred after stinging criticisms by Democrats, including the three who supported Chief Justice John G. Roberts Jr. last fall.

Democratic leaders indicated they will attack Alito's record as an appellate judge in the floor debate expected to extend to Friday or later. But they strongly hinted there will be no filibuster, a parliamentary tactic that conceivably could enable Democrats to block the confirmation in a 100-member chamber in which Republicans hold 55 seats.

Minority Leader Harry M. Reid (D-Nev.) and Sen. Edward M. Kennedy (D-Mass.) told reporters that each senator's decision on Alito is "a vote of conscience," a term used when the leadership does not press for party solidarity. Reid would not rule a filibuster in or out, but top Democratic staff aides said they saw little chance of one.

It is unclear whether Democrats would have tried a filibuster under any circumstances. An accord reached last year between seven Democratic and seven Republican senators, which averted a showdown over judicial filibusters in general, rendered an Alito filibuster virtually impossible. Several of the "Gang of 14" members, as they are called, said they would oppose a filibuster, and their pact gave them the clout to prevail.

Republicans predicted the Senate will confirm Alito by a much narrower margin than the 78 to 22 vote Roberts received on Sept. 29, and they berated Democrats for making a Supreme Court nomination a largely partisan matter. As of yesterday, the only Democratic senator to publicly announce support of Alito was Ben Nelson (Neb.).

Senators agreed that one reason Alito's nomination is more divisive than Roberts's is that Alito, 55, is slated to replace the swing-voting Justice Sandra Day O'Connor, a move that could move the court notably to the right. Roberts succeeded a fellow conservative, Chief Justice William H. Rehnquist.

At yesterday's committee meeting, Democrats repeatedly criticized Bush's use of the National Security Agency to conduct warrantless eavesdropping on U.S. citizens, the subject of committee hearings scheduled for next month. As an appellate judge for 15 years, Democrats said, Alito backed broad executive powers, making him a poor Supreme Court choice when the White House needs to be reined in.

"This is a nomination that I fear threatens the fundamental rights and liberties of all Americans," said Sen. Patrick J. Leahy (D-Vt.), who voted for Roberts. Saying Bush "is in the midst of a radical realignment of the powers of the government and its intrusiveness into the private lives of Americans," Leahy concluded: "I will not lend my support to an effort by this president to move the Supreme Court and the law radically to the right and to remove the final check within our democracy."

The other two committee Democrats who had backed Roberts -- Sens. Russell Feingold and Herb Kohl of Wisconsin -- also said Alito appears far more likely than Roberts to vote to expand presidential powers, limit civil rights and possibly allow states to outlaw abortion.

"I fear that a Justice Alito will narrow our rights, limit our freedoms and overturn decades of progress," Kohl said. Feingold said Bush "thinks his executive power permits him to violate explicit criminal statutes by spying on Americans without a court order."

The Supreme Court may ultimately decide such matters, Feingold said, adding that he and others "repeatedly asked Judge Alito whether the president can violate a clear statutory prohibition such as the Foreign Intelligence Surveillance Act and the ban on torture" and that "he never answered the question."

Reid, who opposed Roberts and is not on the Judiciary Committee, told reporters: "I have no confidence he will serve as real check on the abuse of presidential power that we see so prevalent today. . . . President Bush continues to believe that he is above the law and above the Constitution."

Judiciary Committee Republicans defended Alito, even as some reserved judgment on Bush's surveillance practices. Sen. Lindsey O. Graham (R-S.C.) told colleagues, "I am very concerned that the war resolution is being interpreted overly broad," a reference to a congressional vote that Bush cites as justification for his NSA policies.

Graham called Alito an outstanding nominee and chastised Democrats for failing to give him bipartisan backing similar to that enjoyed by Justices Ruth Bader Ginsburg and Stephen G. Breyer, who were nominated by President Bill Clinton.

"What's changed?" Graham said. "It's not the quality of the nominees, it's the quality of the process." He said Democrats want to make "a campaign issue of the decisions on the court." In that contest, he warned Democrats, "we'll clean your clock."

Why Democrats Are United Against Alito (CSM)

By Gail Russell Chaddock

The Christian Science Monitor, January 25, 2006

WASHINGTON - With Senate math against them, Democrats see scant prospect of blocking Judge Samuel Alito's rise to the Supreme Court - a final call to be made in a caucus meeting Wednesday.

But their push for a party-line vote on Alito signals another prize in this week's confirmation debate: a possible takeover of the Senate in next fall's elections.

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While liberal groups critical to the the Democratic base are disappointed with the probable confirmation of Judge Alito, Democrats are eager to mount an aggressive rhetorical case heading into this week's final vote - and coming midterm elections.

"This is a nomination that threatens the rights and liberties of Americans now and for generations to come," said Sen. Patrick Leahy (D) of Vermont, the ranking Democrat on the Senate Judiciary Committee in his opening salvo against the nominee Tuesday. On a 10-8 party-line vote, the panel voted to send the Alito nomination to the full Senate.

Senator Leahy was one of 22 Democrats who voted to confirm John Roberts as chief justice in September. In a far more contentious confirmation, 11 Democrats voted with Republicans to confirm Clarence Thomas to the Supreme Court in 1991. The vote to confirm Mr. Alito is expected to draw even fewer Democratic votes.

So far, the only Democrat to publicly back Alito is Sen. Ben Nelson of Nebraska. Six Democrats who voted for Justice Roberts have already announced their opposition to Alito.

In a week billed as a "prebuttal" of the president's State of the Union Address Jan. 31, Democrats are rallying around a few key themes: privacy rights, civil rights, and the dangers of unchecked presidential power.

"We'll use the debate to set the bar for the president's [speech] and set some themes for the 2006 elections," says Senate Democratic spokesman Jim Manley.

As President Bush takes his case for domestic eavesdropping without a warrant to the American people in a series of events this week, Democrats are using the Alito debate to raise objections. Before voting Tuesday, Democrats on the Senate Judiciary panel zeroed in on Alito's statements in support of executive powers, especially in a time of war.

"In times of constitutional crisis, the Supreme Court can tell the executive it has gone too far, and require it to obey the law," said Sen. Russ Feingold of Wisconsin, another Democrat who voted for Roberts but who opposes Alito. "Yet Judge Alito's record and testimony strongly suggest that he would do what he has done for much of his 15 years on the bench: defer to the executive branch in case after case at the expense of individual rights."

For the small army of interest groups opposing the nomination, the Democrats' war of words falls short of the all-out battle they had expected. Some say they still hope Democrats will mount a filibuster against the nomination, which requires 60 votes to break. Republicans have 55 votes in the 100-member Senate.

"Many of these Democrats ran on the promise to fight with any means possible to bar someone like Samuel Alito," says Jonathan Turley, a law professor at George Washington University. "Yet, the Democrats could not even field their members to a filibuster. That will leave a view with many Democratic voters that the current Democratic leadership is ineffectual."

In a preemptive move to break a possible filibuster, Senate Republicans have threatened a change in Senate rules that would ban that option in the case of judicial nominations. Last May, a bipartisan group of 14 senators agreed to vote against either a filibuster or a rule change in a bid to defuse the crisis.

Republicans say Alito is one of the most highly qualified judges ever to come before the Senate and should be confirmed. "Many of Judge Alito's detractors oppose his nomination simply because he will not promise to impose a liberal agenda from the bench," said Sen. John Cornyn (R) of Texas, before Tuesday's vote.

Fixes Considered For 'Broken' Supreme Court Confirmation Process (FOX)

By Jane Roh

Fox News, January 25, 2006

Samuel Alito's elevation to the U.S. Supreme Court is nearly a foregone conclusion despite serious misgivings about him by Democrats and, reportedly, a few moderate Republicans. But that hasn't stopped a partisan fight from casting an unflattering light on the judiciary confirmation process as a whole.

The Senate Judiciary Committee confirmed Alito Tuesday on a 10-8 party-line vote. Most notably lacking in the panel tally was any suspense surrounding where its members would come down. Even a one-week delay in the committee vote failed to whip up any further mystery surrounding the outcome.

Few additional surprises are expected during the full Senate debate, which was beginning Wednesday. A final vote on the nominee could come as early as Friday and again is expected to split down party lines.

After the confirmation hearing for Alito wrapped up on Jan. 13, Delaware Democratic Sen. Joseph Biden, who voted by proxy against Alito because he is abroad monitoring Wednesday's Palestinian election, called the system "broken." At least one Republican who backs Alito's confirmation agreed with Biden's assessment.

"I find myself tending to agree a little bit with Senator Biden, who questioned whether such a process really has a meaningful purpose," Texas Republican Sen. John Cornyn said just before announcing his vote for Alito on Tuesday. "I don't think the hearings should be a place to dump one's political or ideological outbox."

That description largely fit the Alito hearing, and to a lesser degree, the one for Chief Justice John Roberts in September, observers say. During the Alito hearing, many Democratic senators spent more time discussing how they would have voted in

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legal disputes and their thoughts about Princeton University, Alito's alma mater, than actually asking Alito questions — ostensibly the reason for the hearing.

Republican senators weren't particularly inquisitive either, opting instead to extol Alito as a serious-minded, intellectually gifted jurist who is "not a racist."

As a result, critics say, the public did not learn anything more about the 3rd Circuit Court of Appeals judge than they would have by reading the numerous opinions he authored in 15 years on the bench. Not learning more, they say, may be all but built into the process.

"What this has done is set a new standard of evasiveness," said Richard Davis, author of "Electing Justice: Fixing the Supreme Court Nomination Process." "That will obviously give heart to White Houses in the future: It is possible to get by the Senate."

Davis, who teaches political science at Brigham Young University, said the most fundamental arguments against holding hearings is that it is almost universally agreed upon that judges' personal views should not affect their jurisprudence and judges should not forecast how they would vote on specific issues.

In fact, the late William H. Rehnquist initially refused to sit through the hearing process when he was nominated to be elevated from associate justice to chief justice of the United States.

"He said, 'Look, I have this record, I've been on the court for 14 years,'" Davis said. "One could make the same argument for federal judges like Samuel Alito."

Observers add that once questions regarding a nominee's personal views or hypothetical cases that may one day reach the court are taken off the table, not much is left to discuss.

"The nominees have learned not to say very much. They've simply learned in the wake of Bork — and now they go through murder boards that have them rehearse every possible question — they've learned to say relatively bland or banal things that don't give away very much," said Perry Dane, professor at Rutgers School of Law and one-time clerk for the late Justice William Brennan.

The highly political nature of the confirmation process has caused administrations to be extra cautious about their nominees because fumbles and surprises do occur, as evidenced by Justice Clarence Thomas, withdrawn Bush nominee Harriet Miers and rejected candidate Robert Bork, whose failed nomination is viewed as a playbook of "don'ts" for subsequent nominees.

"No nominee to the Supreme Court can answer the questions the senators most want answered," said Dennis J. Hutchinson of the University of Chicago School of Law.

That prudence translates into snoozes for both the hearings and the nominees. Lacking the congenital twinkle of Roberts, who many say charmed the senators as much as demonstrated his intellect, Alito was left to rely on his encyclopedic memory and scholarly dexterity.

"What goes on at the hearings is not particularly well-correlated with a judge's actual job description. Judges spend most of their time writing and thinking, and to the extent they play a public role, they are asking questions rather than answering them," Dane said.

"This is the same dilemma we get into with political candidates: the best leaders are not necessarily the best debaters and the best judges are not necessarily the ones who will perform the best in a hearing," he added.

Dane said based on the current debate over nominees and executive branch efforts to find irreproachable candidates, voters should not expect to see many more personalities like the humorously grouchy Antonin Scalia or the feisty John Paul Stevens in the court's future.

"There is this tendency to pick people who are going to do themselves the least damage at the hearings and to avoid people who might be more interesting," Dane said.

A Constitutional Solution?

"Any nominee coming up here is so coached the process can't work very well," Biden told Newsweek after Alito's confirmation hearing. He suggested doing away with hearings entirely and just holding a full Senate floor debate.

But defenders of committee hearings say they can be useful, even if only in a just-in-case kind of way.

"We have to wait and see what sort of justices the recent appointees turn out to be and where they take the Supreme Court and the country before we can say the process is broken," said Michael Comiskey, author of "Seeking Justices: The Judging of Supreme Court Nominees."

"It is useful to confirm what you thought you already knew. We sometimes do learn new things about their constitutional philosophies, although we didn't in this case," he said.

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While Democratic committee members Edward Kennedy and Charles Schumer were assailed by the right for questioning Alito's integrity, strict scrutiny is called for when the stakes are so high, Comiskey told FOXNews.com. Such pointed questions would likely get lost in the cacophony of a floor debate.

"We are seeing a turning point in the court. You had to believe certain things in order to rise up in the political ranks in the Reagan Justice Department," he said, referring to both Roberts' and Alito's allegiance during their time in that administration. "With [Justice Sandra Day] O'Connor's seat now going to Alito, we're going to see a big change."

O'Connor, who was nominated by the late President Reagan, has been a crucial swing vote on culture war issues like access to abortion, affirmative action and separation of church and state. The retiring justice has also shown skepticism toward the Bush administration's use of the War on Terror to defend its executive power claims.

While whittling down the process to just floor debates may seem a more attractive option, senators need to get over their curiosity about nominees' personal views, Hutchinson said. Instead, scrutinize the nominee's record and debate it.

"When the Senate tries to use job applications and club memberships as proxies for the nominee's views, they almost by definition trivialize the stakes of the inquiry," he said, referring to Alito's membership in a controversial Princeton alumni group and a job application he submitted to the Reagan Justice Department.

And as much as this may fall on deaf ears on Capitol Hill, committee members need to ignore interest groups, many observers agree.

"What [the abortion issue has] done is galvanize interest groups on the both the left and the right, who view Roe v. Wade and abortion as an accessible and profound symbol of the role of government and of the definition of their party," Hutchinson said. "Senators who rely on interest groups as part of their base are beholden in various ways to those groups, and that just automatically creates a polarized process, about which the nominee can say nothing substantial and shouldn't."

"I think abortion fatigue has set in," Comiskey added.

It seems unlikely that the founders, who could not have imagined the advent of television, would have foreseen the judicial confirmation process they envisioned become so partisan or political. But supporters of the current nominee, who reject the use of the filibuster now permitted by Senate rules, may think differently if Democrats take back the White House and Congress.

"For the long-term health of our constitutional system, wouldn't it help to have something that is somewhat more attuned to really trying to get judges who are simply excellent with less care about their ideology?" Dane asked.

Dane proposed that lawmakers look at states that rely on special nominating committees comprising prominent lawyers and legal scholars. In 23 states and the District of Columbia, nominating committees work with the governor in appointing judges to courts of last resort, according to the American Judicature Society. Only eight states rely on partisan elections for their highest courts.

Dane also suggested depriving presidents of their winner-takes-all approach to reshaping the court. Acknowledging the nation's reluctance to tinker with the Constitution, he said he would rather see a system of justice-designates that automatically fill seats as they open up. The emphasis on qualifications would trump ideological bent because presidents and senators would have no idea in advance who was going to be replaced.

Any changes to the system have little chance of occurring as long as the American public remains uninterested in the process, as they seem to have been with Alito, critics add.

"You could say they tuned it out because of what was being offered them," said Ruben Navarrette, syndicated columnist with The Washington Post Writers Group. "So much of this is about feeding the egos of these men and one woman on the panel, who are bright and want to show us all how bright they are."

But, he added, "it is our responsibility and it begins on Election Day."

Casey Announces Endorsement Of Alito (AP)

By KIMBERLY HEFLING, The Associated Press

AP, January 24, 2006

WASHINGTON (AP) — Sen. Rick Santorum's leading Democratic challenger, Pennsylvania Treasurer Bob Casey, announced Tuesday that he endorses Judge Samuel Alito's confirmation to the Supreme Court.

For weeks, Republicans have called Casey "Silent Bob" and pressed him to say whether he supports Alito's confirmation. Casey and Alito have a family connection because Alito, who serves on the 3rd U.S. Circuit Court of Appeals based in Philadelphia, sided with Casey's father, the late Gov. Bob Casey, in Planned Parenthood v. Casey. The case challenged a state law requiring women seeking abortions to notify their spouses.

"I do not agree with everything that Judge Samuel Alito has done or said — particularly many of his rulings which too often result in corporate power prevailing over the interests of consumers and workers," Casey said in a statement. "However, I agree

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with The Philadelphia Inquirer and Washington Post editorial boards that the arguments against Judge Alito do not rise to the level that would require a vote denying him a seat on the U.S. Supreme Court."

Advertisement

Santorum's campaign manager responded with a statement accusing Casey of ducking the issue and then following the lead of Santorum, the No. 3 Senate Republican. Both candidates are generally against abortion. Santorum came out strong in support of Alito at a conservative rally Jan. 8.

Alito on Tuesday won narrow approval along strict party lines from the Senate Judiciary Committee, with all Republicans supporting him and the Democrats opposed. He still must be confirmed by the full Senate.

Larry Smar, a Casey spokesman, said the treasurer wanted time to examine Alito's background. The focus on Alito was an attempt by the Santorum campaign to distract from other issues, Smar said.

Casey's endorsement came shortly after Gov. Ed Rendell said Tuesday during a news conference in Washington that he reluctantly supports Alito's confirmation. Smar said the timing was a coincidence.

The Planned Parenthood v. Casey decision was overturned in 1992 by the Supreme Court, but justices did give states new powers to make it more difficult for women to end their pregnancies. Alito defended the ruling at his Senate confirmation hearing.

Dem Senate Challengers Would Reject Samuel Alito (HILL)

By David Mikhail And Andrew Barr

The Hill, January 25, 2006

None of the Democrats challenging incumbent Republican senators in competitive midterm races has said they would vote to confirm Judge Samuel Alito to the Supreme Court.

While Chief Justice John Roberts Jr. received support from a majority of such challengers, the Democrats offer a striking contrast on Alito. Even though these Senate hopefuls will not have a say in the upcoming floor vote, political observers are closely tracking their public comments on the controversial nominee.

The question of whether to confirm Alito is politically difficult for Democrats running in red states. If they reject Alito, the candidates open themselves to obstruction criticisms. If they support Alito, they could alienate political donors.

All Democratic candidates surveyed by The Hill who answered definitively said they would vote against Alito, who would replace centrist Justice Sandra Day O'Connor. The remaining candidates either provided no comment or did not respond.

Sen. Ben Nelson (Neb.) is the only Senate Democrat to speak out in favor of Alito.

Todd Gaziano, director for the Center for Legal and Judiciary Studies at the Heritage Foundation, said the lack of Democratic support for Alito is a function of candidates' securing campaign contributions from liberal donors as "Howard Dean candidates."

Sean Rushton, executive director with the Committee for Justice, said that Democratic challengers are following the lead of many Senate Democrats who decided to support Roberts and reject Alito in an effort to appear fair-minded. Rushton added that the judicial philosophies of Roberts and Alito were "almost indistinguishable."

Jonathan Turley, professor of law at George Washington University Law School and an outspoken opponent of Alito, said Alito's hard-right stance — specifically on abortion and presidential power — would remind voters in November of his confirmation, making him "the political gift that keeps on giving" for Democrats.

A spokesperson for Claire McCaskill, who is challenging Sen. James Talent (R-Mo.), said McCaskill is opposed to the Alito confirmation.

In a press release, McCaskill said, "Missourians want their senator to be an independent voice for their concerns, not a rubber stamp for the administration."

McCaskill said, however, that she would oppose a Senate filibuster. Last year she said she would have voted for Roberts had she been in the upper chamber.

A spokesperson for Pennsylvania Treasurer Bob Casey Jr., who is looking to unseat Sen. Rick Santorum (R-Pa.), said that Casey has not yet announced his position. Casey, an opponent of abortion rights, spoke out in favor of the Roberts nomination.

The Democrats seeking to challenge Sen. Mike DeWine (R-Ohio) are rejecting Alito.

Carl Frisch, a spokesman for Democratic candidate Paul Hackett, said that Alito is out of the mainstream and that his views on equality and corporate governance are unfit for the court.

A spokesperson for Rep. Sherrod Brown (D-Ohio), who is vying with Hackett to face DeWine, said Brown would vote against Alito if given the opportunity.

Two candidates looking to unseat Sen. Lincoln Chafee (R-R.I.), Rhode Island Secretary of State Matt Brown and former state Attorney General Sheldon Whitehouse, have released statements on their opposition to Alito's confirmation.

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Brown described Alito as a “right-wing ideologue” and spoke of the importance of standing up against the confirmation. Whitehouse called on Chafee “to stand by a promise he made in 2000 to oppose any Supreme Court nominee who would put a women’s right to choose at risk and to filibuster.”

Chafee, whose reelection this year has been endorsed by NARAL Pro-Choice America, has not announced how he will vote on Alito.

Jon Tester and John Morrison, both challenging Conrad Burns (R-Mont.), have said they oppose the confirmation of Alito. Specifically addressing Alito’s failure to recuse himself in cases involving Vanguard Properties, through which Alito owned mutual funds, Tester said, “Alito is not a man of his word.”

Rep. Bernie Sanders (I-Vt.), who is vying for the seat of retiring Sen. Jim Jeffords (I-Vt.), said that Alito would move the court “in a direction that this country should not be going.”

Turley predicted that the confirmation vote will be extremely close, much closer than the 78-22 vote confirming Roberts. But others said that the vote will not be a nail-biter and that Alito is heading to passage by a comfortable margin.

Rep. Harold Ford Jr. (D-Tenn.), who is running for the Senate seat held by Majority Leader Bill Frist (R-Tenn.) and supported Roberts’s confirmation, did not respond to a request for comment.

Others not responding included Rep. Ed Case (D-Hawaii), who is challenging Sen. Daniel Akaka (D-Hawaii) in a primary, and Jim Pederson, who is running against Sen. Jon Kyl (R-Ariz.).

Pulling Rank (NYT)

By John R. Lott Jr.

The New York Times, January 25, 2006

Washington

REPUBLICAN senators have found a new friend during judicial confirmations: the American Bar Association. During the confirmation hearings of John G. Roberts Jr. and Samuel A. Alito Jr., the senators invoked A.B.A. evaluations to ward off Democratic attacks - including in yesterday's vote by the Senate Judiciary Committee sending Judge Alito's nomination to the full Senate. But this tactic is shortsighted: what works now may make it difficult for Republicans to credibly reject A.B.A. ratings when they really matter.

The bar association has liberal views on issues from abortion rights to gun control, but it has always claimed that a high wall separates its evaluations from its policy positions.

Yet the bar association's liberal bias on its evaluations is there for all to see. Academics rank the influence of judges by how frequently other federal judges cite their opinions. Among serving United States Court of Appeals jurists, the three outstanding judges are Richard A. Posner, Frank H. Easterbrook and J. Harvie Wilkinson III. By the citations yardstick, these three judges, especially Judge Posner and Judge Easterbrook, wield unrivaled influence. But all three were Reagan appointees, and when they were nominated, the A.B.A. gave them the lowest possible ratings, "qualified/not qualified." From Jimmy Carter through George W. Bush's first term, it rated 89 percent of Court of Appeals nominees more highly.

These cases, while extreme, were not unique. I recently completed a study of A.B.A. ratings, analyzing the 342 circuit court and 1,215 district court nominees from 1977 through 2004 to see whether A.B.A. ratings were politically biased after taking into account factors like nominees' schools; whether they served on law review; clerked for different courts; had already been judges; their race, gender and age; publications; and how many years and in what types of positions they served as lawyers. Surveys of lawyers who argued before the judges by The Almanac of the Federal Judiciary also allowed me to examine the relationship between A.B.A. ratings and professional competence, judicial temperament and political bias.

While Democratic Court of Appeals nominees who were clerks on the Supreme Court had an average rating of slightly below "well qualified," similar Republican nominees were rated on average as only "qualified/well qualified." Likewise, of nominees who attended Top 10 law schools and served on their law reviews, Democrats had an average rating as "well qualified/qualified," but Republican nominees were only "qualified/well qualified." Overall, Republican nominees had lower ratings than the nominees of either President Carter or President Clinton.

Moreover, the A.B.A. rating system was a poor guide to how judges will do once they are on the bench. According to The Almanac of the Federal Judiciary's lawyer survey, judges who had "good" judicial temperament got lower A.B.A. ratings than judges whom lawyers rated as only "fair."

The A.B.A. didn't give all Republicans low ratings. They saved the lowest ratings for when there was a Republican president and a Democratic Senate, when the nominations were most likely to be contested.

For the Supreme Court, a similar pattern exits. So in the cases of Judge Alito and Justice Roberts, the A.B.A. is staying true to form. There's no reason to give a low rating to a nominee when a Republican majority will pretty much assure his confirmation.

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But what will Senate Republicans say when Democrats use A.B.A. ratings against them?

Bush Considering Tax Breaks For Health Care Workers Who Must Buy Coverage May Be Aided, Economic Adviser Says (USAT)

By David Jackson

USA Today, January 25, 2006

WASHINGTON — President Bush is weighing proposals for new tax breaks for health care costs, which will be a major topic of next week's State of the Union address, a top economic adviser to the president said Tuesday.

"People are very, very frustrated about the cost of health care," said Allan Hubbard, director of the National Economic Council.

Hubbard told reporters at USA TODAY and Gannett News Service that the tax code offers advantages when a company buys health coverage for its employees but doesn't do the same for employees who have to buy coverage on their own.

"The president's very concerned about the unfairness of the tax code," Hubbard said.

Bush himself has discussed some other health care ideas, including expansion of health savings accounts, which are tax-free savings accounts that can be used for medical expenses.

Bush has also talked about providing consumers with more information about medical costs, to enable them to be better shoppers. "Do you realize the medical field is one where you don't do any comparative shopping?" the president asked the crowd last week during an event in Virginia.

Hubbard said Bush will discuss that topic, but he declined to say whether Bush would propose that the government require doctors to post their fees, or simply encourage patients to ask.

"I'm going to let the president talk about exactly how this should happen," he said.

Hubbard said Bush will also devote part of Tuesday's speech to higher energy prices and the rising costs of entitlement programs such as Medicare and Social Security.

Sen. Edward Kennedy, D-Mass., said the administration's health care approach does not address the increasing numbers of uninsured Americans, or problems with Medicare's new prescription-drug plan.

"Its health proposals will fatten the bank accounts of HMOs and the drug industry, and lavish more tax giveaways on the wealthy," Kennedy said.

In recent appearances, Bush has indicated he will revive past health care proposals. They include allowing businesses to pool their health insurance costs across state boundaries and restricting what Bush calls "junk lawsuits" that drive up medical costs.

The president and aides will also promote health insurance "portability" in an increasingly mobile society. "People should be able to leave their jobs and keep their insurance," Hubbard said.

Bush has cited portability as a reason for expanding health savings accounts. One idea, according to Hubbard, is to increase the amount of money that can be deposited in a tax-free health account.

A presidential commission on tax law changes suggested last year that the administration consider taxing employer-provided health benefits.

That idea has been rejected, Hubbard said, and Bush is not expected to spend much time on ways to overhaul the tax code.

"Tax reform is not off the table," Hubbard said. "At the same time, it doesn't have the priority that health care does right now."

New Tax Breaks For Medical Expenses (WP)

By Amy Goldstein

The Washington Post, January 25, 2006

President Bush will propose that Americans be allowed to take tax deductions on more of their out-of pocket medical expenses, as part of an initiative the White House believes will rein in soaring health costs by shifting responsibility toward individuals, according to congressional and other sources familiar with the administration's thinking.

The new tax breaks for personal health spending, to be included in the 2007 budget Bush will release in less than two weeks, are designed to help the uninsured and to allow people with insurance to write off a greater portion of the money they spend on co-payments, deductibles and care that is not covered. Under current tax rules, people can deduct medical expenses only if they exceed 7.5 percent of their adjusted gross income.

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The president also plans to call for an expansion of health savings accounts, an idea long favored by conservatives and approved by Congress slightly more than two years ago, in which people who buy bare-bones insurance policies are allowed to put money into tax-free accounts for their medical expenses.

In addition, Bush intends to propose changes to allow people to keep their insurance, without extra cost, if they change jobs or decide to start a business, building on a decade-old law that was designed to make health coverage more "portable."

The three proposals -- and possibly others -- are part of a renewed effort by the White House to tackle medical costs, a theme that administration officials said yesterday Bush intends to emphasize in his State of the Union address next week. The health initiative also represents one of the few areas in which the president will try to create new domestic policies through what he and aides have said will be an austere budget.

Part of the initiative recycles proposals that the White House could not push through Congress, including tighter limits on medical malpractice lawsuits and changes that would allow small businesses to band together to buy insurance in ways that bypass state insurance rules.

But the new components would propel the nation's health care system in a direction that many Republicans and business groups embrace: lightening the burden of insurance cost on employers to some degree, while creating financial incentives for individual patients to restrict how much care and medicine they use.

Even before most people on Capitol Hill learn of the proposals, several senior congressional aides and health policy experts predicted yesterday that Bush may have a difficult time winning support. They said that fiscal conservatives may balk at the expense, and that many Democrats will argue the changes are inadequate for poor people, who are most likely to be uninsured.

White House officials would not confirm the decision to allow tax breaks on consumer health spending, and it remains unclear how large a deduction the president envisions.

In an interview yesterday, however, Allan B. Hubbard, director of the White House's National Economic Council, said the current system is flawed because it gives employers tax deductions for the health insurance they buy for workers, but no similar tax preferences for people who buy coverage because their company does not provide it.

"That's not fair. It's really almost backwards," Hubbard said. He said that inconsistency concerns Bush, adding: "Normally, when he's got concerns, he tries to find solutions."

Hubbard said Americans are not as careful consumers of health care as they are in shopping for other services, because insurance masks from them much of the cost. He said the price and quality of health care would improve if consumers were given greater financial incentives and had to decide for themselves how much care they really need.

The idea of tax breaks for out-of-pocket medical expenses is borrowed from a recent book by three academics, including two with whom Hubbard has close ties: R. Glenn Hubbard, a former chairman under Bush of the White House Council of Economic Advisers, and John F. Cogan, a White House economic adviser when Ronald Reagan was president. Their book, "Healthy, Wealthy & Wise," calls for all such spending to become tax-deductible. The authors estimate that the revision in tax law would cost $28 billion a year when phased in completely, although they predict much of that lost revenue would be regained through ripple effects the change would create in the health care system.

Several outside health policy experts, both Democrat and Republican, speculated yesterday that the president is unlikely to make such a large financial commitment at a time when the administration has pledged to halve a $400 billion budget deficit during the next several years. Joseph R. Antos, a scholar at the conservative American Enterprise Institute, predicted that Bush will "open this particular door. But how far does it open? We'll see."

An administration official, speaking anonymously because he was not authorized to discuss the budget in advance, said Bush is focused on both the deficit and medical costs. "He feels . . . there may need to be some additional investment to deal with the cost" of health care, the official said. "The overall gain, not only to the federal budget but the family budget, is worth that."

Allan Hubbard said Bush also thinks the government has not done enough to help people keep insurance when they change jobs. Under a law passed in 1996, an insurer may not penalize people who change jobs -- by charging them more because of preexisting medical problems -- as long as they began a new job within about two months. Hubbard said the protection should be extended to include people who take longer before they begin a new job or who go to work for themselves.

Hubbard also said "it would not surprise me" if Bush proposes to expand health savings accounts, although Hubbard would not describe the changes the White House would like.

Business Likes Bush's Healthcare Hints (HILL)

By Jeffrey Young
The Hill, January 25, 2006

DOJ_NMG_0011579

Big business interests are prepared to back up President Bush's expected call to make healthcare legislation a priority in the coming legislative year.

Facing escalating costs and aging populations of workers and retirees, large employers are seeking policies that would enable them to limit their future healthcare spending while allowing them to avoid dropping expensive health benefits altogether. The small-business community also favors legislation that would make it less pricey to provide employees health coverage.

Bush has made healthcare a central topic in recent public remarks and highlighted the issue in his weekly radio address Saturday. Observers in lobbying and elsewhere have interpreted the president's emphasis on healthcare as a preview of his State of the Union address scheduled for Tuesday.

The healthcare priorities of the U.S. Chamber of Commerce, for example, "align almost completely with the recent speeches the president has given," said Bruce Josten, the Chamber's executive vice president for government affairs.

The Business Roundtable's legislative agenda for the year also resonates with the signals coming out of the White House. CEOs representing the Roundtable are planning one of their quarterly visits to Washington Feb. 8, spokeswoman Tita Freeman said, adding that the cost of health benefits will be a major topic of discussion this year.

"We've been extremely vocal," said Maria Ghazal, the Roundtable's director of public policy. "We've had numerous visits with the House and Senate and the White House" already, she added. Other business-sector interest groups, such as the National Federation of Independent Business, have similar aims, she said.

Particularly appealing to business interests are proposals to increase the allure of health savings accounts (HSAs), tax-free vehicles created to encourage people to set aside money for their medical expenses. In a recent radio address, Bush said, "This year, I will ask Congress to take steps to make these accounts more available, more affordable and more portable."

The proposals that might emerge this year likely will focus on providing additional tax incentives, such as exemptions for the cost of the high-deductible health-insurance plans people must buy in conjunction with the accounts. Some lobbyists also are eyeing increases in the limit on how much an employer or employee can put in the account each year.

HSAs, described by advocates as "consumer directed" healthcare, would work to address the concerns of the business community about their open-ended commitments to health benefits in the future, according to Neil Trautwein, assistant vice president of the National Association of Manufacturers.

A central component of consumer-directed healthcare is to make employees more aware of, and more responsible for, rising costs, thereby "making individuals better healthcare consumers," Ghazal said.

Critics, including most congressional Democrats, decry this approach as a simple attempt to pass along high healthcare costs to workers. HSAs and other health benefits make employees more vulnerable to high medical expenses without expanding coverage to many of the approximately 39 million people without health insurance, opponents contend.

Josten said that employers are moving in this direction regardless. "It's ultimately inevitable," he said, because companies will not continue devoting more of their resources to health benefits.

The desire for more access to HSAs represents a sea change much like that which continues to replace traditional pensions with 401(k) plans, Josten said. The interest in consumer-directed healthcare is part of the same "movement by companies away from defined-benefit offerings" and toward those for which employers can reliably predict their future spending.

These market-based healthcare reforms also could appeal to the segment of the Republican Party most dissatisfied with the Bush administration's last major foray into healthcare legislation, the Medicare prescription-drug benefit.

"It's pretty hard to deny that there's a bad taste left in a lot of lawmakers' mouths" about the Medicare bill, remarked Pete Sepp, vice president of communications for the National Taxpayers Union. "The HSAs were about the only valuable thing in the rotten Medicare drug bill."

Language in the Medicare bill created HSAs in their present form. At the time, a number of congressional Republicans indicated that the HSA provisions provided them with consolation while voting for a large expansion of a federal entitlement program.

Fiscal conservatives may still be dissatisfied with the Medicare expansion, but "HSAs certainly fit with their philosophy," said Mary Grealy, president of a coalition of healthcare CEOs called the Healthcare Leadership Council. "I think the environment for doing something on HSAs … is probably a little more favorable than a lot of people think," she said.

Proposals foreshadowed by Bush closely resemble legislation sponsored last year by prominent conservative Republicans such as Reps. Eric Cantor (Va.) and John Shadegg (Ariz.).

In the Senate, Health, Education, Labor and Pensions Committee Chairman Mike Enzi (R-Wyo.) is preparing to move ahead on some of the White House's agenda, a spokesman said. "I wouldn't expect him to echo everything the president says, ... [but] we do expect to be supportive in a number of areas," the spokesman added.

For example, Enzi has been seeking Democratic support for legislation that would enable small employers to form large groups to buy health insurance. Legislation to create the so-called association, or small-business, health plans has stalled in the

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Senate because it would circumvent state laws that guarantee the availability of certain health benefits and limit how much insurers can raise premiums.

A Blueprint For Health-care Freedom (WT)

By Michael F. Cannon

The Washington Times, January 25, 2006

The White House has been dropping hints that the president will make health-care reform the centerpiece of his State of the Union address. The Bush administration's health care record is, to put it delicately, inconsistent. It has supported efforts to remove government influence over the health care sector, such as health savings accounts (HSAs). On the other hand, the president signed into law the largest expansion of federal power over health care in generations the ill-fated Medicare drug program.

So in an attempt to help the administration straighten up and fly right, here's my health policy wish list for the State of the Union.

1. Propose "large HSAs." Federal tax laws encourage workers to surrender control over their health care to their employer. Among other things, that means that most people lose their health insurance when they leave a job.

HSAs give some of that control back to workers. Workers and their employer make tax-free contributions into an HSA, which covers out-of-pocket medical expenses. But workers are required to purchase catastrophic coverage, with deductibles in the neighborhood of $1,000 to $5,000. For many, that makes HSAs downright unappealing.

The president should propose using HSAs to give workers control over all their health-care dollars. First, nearly all workers and employers should be allowed to deposit the entire amount they are now spending on health benefits into a "large HSA." Then, workers should be allowed (but not required) to use their HSA funds to purchase a health plan of their choosing, from their employer or any other source. Large HSAs would allow a worker to purchase the coverage she wants rather than what politicians or employers think she should have and that stays with her when she leaves her job. Large HSAs would also increase competition among insurers, and make health care more affordable for workers who cannot obtain coverage, either because they are too sick or too poor.

2. Push hard for interstate commerce in health insurance. A big reason that health insurance is so expensive is over-regulation by the states and the fact that each state forbids you to buy insurance from carriers in another state. The Congressional Budget Office estimates some state regulations increase insurance premiums by as much as 15 percent.

The Constitution allows Congress to remove such interstate trade barriers. The president already supports legislation (sponsored by Rep. John Shadegg and Sen. Jim DeMint) that would allow individuals and employers to purchase insurance from states where regulatory costs are lower. He should push Congress hard to give purchasers that freedom now.

3. Avoid further expansions of federal power. There is no shortage of people who argue that health-care markets would work better if only we gave the federal government more power. They want taxpayer dollars to create electronic medical records. Or they want to require health-care providers to furnish price and quality information. Or they want Washington to make decisions that belong to the states, including health insurance regulation (read: "association health plans") and medical malpractice reform.

The president should explain that markets will deliver conveniences like electronic medical records and price and quality information just as soon as government stops monkeying with market incentives. And he should explain that expanding federal power at the expense of states is improper, because it limits individual freedom and the states' ability to experiment.

4. Clean up the Medicare mess. Finally, it would be nice for the president to acknowledge that the Medicare drug program that took effect this month was a huge mistake. Though the intent was to expand coverage, so far the program has caused many to lose the coverage they had, including some of the poorest and sickest seniors.

But the worst is yet to come. The Medicare drug plans will soon begin dropping drugs and pharmacies from their plans to keep the sickest seniors away. And the cost of the program, which already looks to be twice the sticker price, will continue to outstrip projections. At a minimum, the president should commit to reforming Medicare. The program's fiscal outlook is six times worse than Social Security's, and the president himself is responsible for a large part of Medicare's troubles. Absent reform, Medicare will require a tax increase equal to one-quarter of wages. It's time for the president to start thinking about his legacy, and whether he wants that type of tax increase to be a part of it.

Michael F. Cannon is director of health policy studies at the Cato Institute and author of "Healthy Competition: What's Holding Back Health Care and How to Free It."

Democrat Blasts Bush Before State Of The Union (REU)

By Donna Smith

DOJ_NMG_0011581

Reuters, January 25, 2006

Senate Democratic Leader Harry Reid on Tuesday urged President George W. Bush to "swagger" less and show more honesty and humility in his annual State of the Union speech to the nation next week.

In a speech at a liberal think tank, Reid gave a scathing assessment of the state of the nation under Bush and the Republican-controlled Congress.

"Republicans run good campaigns, but when it comes to actually governing and protecting Americans, they have a record of incompetence," Reid told an audience at the Center for American Progress.

Reid's speech was part of an effort to lay the groundwork for the November congressional election in which Democrats hope to win control of Congress or at least shrink the Republican majority.

Reid took aim at the president's national security record, saying Bush "must unite the nation behind our most important goal -- keeping our people and way of life safe. We need to hear honesty and humility from the commander in chief, not swagger from the campaigner-in-chief."

Bush is to deliver his State of the Union address before Congress on January 31 and lay out his priorities for the year. He is expected to talk about national security and suggest expansion of tax-free "Health Savings Accounts" to help people pay medical expenses.

Reid accused Bush of making promises in past State of the Union speeches and doing the opposite. In 2003, Reid said, Bush promised not to pass the nation's current bills on to the next generation.

Noting that the government will breach the $8.184 trillion debt limit next month, Reid accused Bush of "bankrupting our country and placing an enormous tax on our children and grandchildren, simply so he can hand out tax breaks to special interests and the wealthy."

The White House has asked Congress to raise the credit limit by mid-February, saying the Treasury would have to take extraordinary measures to keep paying bills for everything from Social Security and national defense. Since 2002, Congress has raised the debt ceiling by $2.2 trillion.

Reid also urged Bush to offer a plan to fix the new Medicare prescription drug program for the elderly. Since the plan was launched on January 1, many poor and elderly people have been snagged by problems that have made it difficult for them to get their prescription costs covered.

About half of the states have stepped in to pay the costs of people who have run into problems. The drug plan relies on private insurers, pharmacies and healthcare companies to provide coverage to Medicare's 42 million beneficiaries.

Sen. Reid: Bush Should 'Come Clean' (AP)

AP, January 25, 2006

Senate Minority Leader Harry Reid urged President Bush Tuesday to "come clean" in next week's State of the Union speech and acknowledge "the costs of Republican corruption."

"In his 2000 campaign, George Bush promised to bring 'dignity' to the White House, but we've since found that he brought Jack Abramoff instead," said Reid, D-Nev. He spoke at the Center for American Progress, a liberal think tank, in remarks previewing Democratic criticism of the presidential speech on Jan. 31.

"President Bush needs to quit stonewalling about his White House's connection to corruption, and finally tell us how he's going to reform Washington," Reid said.

Asked about the criticism, White House press secretary Scott McClellan said, "This is more of the kind of partisan attacks that we see in this city that only lower the discourse in this town."

McClellan repeated refusals to disclose details of administration contacts with Abramoff, the disgraced ex-lobbyist who has pleaded guilty to corruption charges.

"There's a difference between responding to questions like that and engaging in a fishing expedition that has nothing to do with the investigation," he said.

Reid ticked off a list of what he termed Bush failures, contending Bush policies have made the country less safe, driven up debt and increased dependence on foreign oil.

He noted problems with the newly implemented Medicare prescription drug plan. "The state of our union today is that we have seniors begging in the streets for the medicine they need," Reid said.

Reid also said Bush was "deeply dishonest" when he promised in his 2003 State of the Union not to pass along problems to future generations. Instead, younger generations will pay "so he can hand out tax breaks to special interests and the wealthy," Reid said.

The 15-minute speech was prefaced by a video showing Bush clips from past speeches followed by quotes meant to show a failure to deliver. Reid said the video showed the president "has been giving us doublespeak for years."

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Reid Says Bush, GOP Corruption Hurts U.S. (WT)

By Stephen Dinan

The Washington Times, January 25, 2006

Senate Minority Leader Harry Reid said yesterday that President Bush and other Republicans are so corrupt they have weakened the United States.

"The Republican abuse of power comes at great cost to our country, and we can see it in the present state of our union," the Nevada Democrat said in a speech yesterday to the Center for American Progress, a liberal think tank. "Special interests and the well-connected have grown stronger, while our national security, our economy, our health care and our government have grown weaker."

Mr. Reid set a series of hurdles for Mr. Bush to clear in next week's State of the Union address, particularly on political-process reforms.

"In his 2000 campaign, George Bush promised to bring 'dignity' to the White House -- but we've since found that he brought Jack Abramoff instead," Mr. Reid said. "President Bush needs to quit stonewalling about his White House's connection to corruption and finally tell us how he's going to reform Washington."

While most of the charges about Abramoff seem to center on Congress, Mr. Reid said the president has his own problems -- including charges against Vice President Dick Cheney's former chief of staff and the arrest of David Safavian, who ran the Office of Federal Procurement Policy.

At the White House, press secretary Scott McClellan said the remarks were "more of the kind of partisan attacks that we see in this city."

He said that Abramoff, the lobbyist who has pleaded guilty to corruption charges, "has contributed to both Democrats and Republicans alike, whether it was directly or indirectly."

And Tracey Schmitt, the Republican National Committee's press secretary, said Mr. Reid mischaracterized the president's record "in an effort to score cheap political points."

Mr. Reid directly challenged Republicans' national-security credentials -- the one issue where Republicans believe they run the strongest.

"Republicans run good campaigns, but when it comes to actually governing and protecting Americans, they have a record of incompetence," he said.

Mr. Reid said he was trying to lay out a framework for what Mr. Bush must do next week in his State of the Union address, including explaining a path to success in Iraq, acknowledging the nation's poor fiscal state and finding a plan "to fix his bait-and-switch Medicare [prescription] drug program."

"We need to hear honesty and humility from the commander in chief, not swagger from the campaigner in chief," Mr. Reid said.

Frist Nixes Reid On Agenda Plan (RC)

By John Stanton

Roll Call, January 25, 2006

Senate Majority Leader Bill Frist (R-Tenn.) rejected an expected demand by Senate Democrats late Tuesday that the GOP leader postpone consideration of asbestos legislation in favor of their lobbying reform bill, arguing in a letter to Senate Minority Leader Harry Reid (D-Nev.) that “to postpone debate on this issue is to blatantly ignore a very real problem” and accusing Reid of wanting to “kill this bipartisan legislation that ensures victims are better compensated.”

Subsequently, Democratic aides said that Reid no longer expects to make a formal request.

The pre-emptive attack, a senior GOP aide said Tuesday, is the first offensive maneuver orchestrated by Frist’s message operation, which is winkingly called the “peace room” as a contrast to Reid’s “war room.”

The aide said Frist hopes that such message tactics will allow Republicans “to be more flexible and adaptive as we move on ahead, both on offense and refuting spurious and scurrilous Democratic claims.”

According to the letter, Frist said he decided to move forward with the pre-emptive rejection following a Tuesday story in Roll Call that outlines Reid’s plan to release a Democratic Caucus letter today demanding that the asbestos bill be set aside in favor of ethics reform.

“I have read with interest press reports that tomorrow you will ask me to put aside early Senate action on bipartisan asbestos reform in order to immediately begin action on lobbying reform,” Frist wrote in the letter.

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In the letter, Frist also chides Reid for seeking a quick resolution to the ethics issue, arguing that while "I acted before anyone else in Congress to commit us to pass bipartisan lobbying reform ... I expect the Senate to pass a thorough and comprehensive lobby reform bill early this year that is done right and well, not fast and foolish."

A Reid spokeswoman denounced Frist's decision to stick with his previous schedule as bad policy and said Reid continues to oppose the bill. "Having asbestos as the first bill up shows Bill Frist's misplaced priorities. Sen. Reid is strongly opposed to the bill," the spokeswoman said.

The decision to formally begin operations of the peace room also stems from Frist's desire to demonstrate that the GOP leadership is responding the desire of many Republican Senators "for a crisper and firmer caucus, prepared to act to stand up on behalf of what it believes in," a Senate Republican said.

The GOP aide acknowledged that Frist's letter represents a departure from Frist's normally calculated and carefully thought-out responses to Democrats' message salvos. Although Republicans will continue to push their agenda in a positive light, the aide said, "the novelty is that we are pre-acting to Reid's misbehavior."

Republicans said that Frist will continue to take a notably more aggressive approach to the perennial message war with Democrats — a stance that is clear in the language used in the asbestos letter.

For instance, Frist closes the letter with a direct attack on Reid's motives in seeking a delay of the asbestos bill, saying "Don't put the future at risk with partisan, obstructionist tactics."

While Frist is expected to pick his shots as the message operation develops, Republicans hope that the new muscular approach to fighting Reid will put Democrats back on the defensive and open the minority Party to more traditional GOP charges of obstructionism and a lack of a positive Democratic agenda.

"Not everything deserves a response," the aide said. "The uniform negativity of the Democrats will end up punching them in the jaw, with no solutions, no ideas, nothing but whining and complaining to offer as their agenda."

US To Help Reimburse States For Medicare Drugs (REU-Y2)

By Susan Heavey

Reuters, January 25, 2006

The federal government will help reimburse states that have been paying for prescription drugs after glitches with Medicare's new benefit left many patients stranded, U.S. health officials said on Tuesday.

Since the program began three weeks ago, enrollment problems have left hundreds of thousands of Medicare's elderly and disabled caught without coverage for their medications. More than half of the states stepped in to pay for them, but not without calling for reimbursement.

Mark McClellan, head of the Centers for Medicare & Medicaid Services (CMS), said states should first seek reimbursement from health insurers and other companies offering the plans. But if states paid out more than they can get back, Medicare will pay the difference, he said.

"We'll reimburse states for the drug costs and the administrative costs they have incurred in their systems during this transition period for certain people," McClellan told reporters in a conference call. He added the agency would make sure companies repay states.

McClellan called on states to stop paying for the drugs by February 15 and allow Medicare to take over, although some states could get an extension.

"States that work with us ... will be reimbursed," he said.

Patients most affected are the 6 million who are also enrolled in Medicaid, which covers the poor. Many were either not enrolled properly or were automatically signed up with a plan that did not cover their particular medication.

It's not clear how many millions of dollars the roughly 25 states and Washington, D.C. have spent so far.

Several governors and state organizations welcomed the announcement.

"I'm pleased that the federal government has agreed to reimburse us for the total cost of providing a safety net while the new program's issues are worked out," said Illinois Gov. Rod Blagojevich, a Democrat.

Martha Roherty, director National Association of State Medicaid Directors, said Medicare's plan seemed positive, but added, "It's going to come down to how it's all implemented."

Previously, McClellan had said Medicare could not pay the states under law. He did not say what had changed, but on Tuesday ruled out any need for congressional action. "We don't need legislation," he said.

Medicare's offer did not satisfy some members of Congress, mostly Democrats and a few moderate Republicans, who have been pushing legislation to force the agency to pay the states.

Medicare officials, consumer groups and other have all said they expect another spike in reported problems in May, the last month for beneficiaries to sign up without extra fees.

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Health and Human Services Secretary Mike Leavitt told reporters the agency was trying to anticipate future problems.

Some critics have called on Congress to extend the enrollment period until the glitches are worked out.

Sen. Charles Grassley (news, bio, voting record), head of the Senate Committee on Finance that oversees Medicare, said postponing the deadline would not help and could lead to higher costs.

"CMS can fix these problems using its authority under the law and can do it faster than if Congress comes in and changes the law," the Iowa Republican said, adding that the committee would meet with McClellan and Leavitt on Wednesday.

Bush Troubled By Medicare Delays (FT)

By Holly Yeager In Washington

Financial Times, January 25, 2006

The Bush administration was forced to step in to mend problems with the new Medicare prescription drug programme on Tuesday, promising to reimburse states for money they have spent to provide medicine to people whose benefits were delayed.

The decision to intervene is an embarrassing setback for President George W. Bush, who has listed the programme among the primary accomplishments of his first term. But it reflects growing pressure from Republican and Democratic governors, as well as members of Congress, following reports that trouble enrolling in the programme has left hundreds of thousands of people without coverage since it took effect on January 1.

Chuck Grassley, chairman of the Senate finance committee, has called a private meeting of the panel for this morning, at which senators will be able to question Mike Leavitt, secretary of health and human services, and Mark McClellan, administrator of the federal agency that runs Medicare, the health programme for the elderly.

The prescription drug programme was enacted in 2003 and its supporters said it would help patients deal with rising healthcare costs by limiting what they pay for medicine. About 24m people have signed up for the benefit so far. Most of those who have experienced trouble with it are among the 6m people who had been covered by Medicaid, the health programme for the poor.

About two dozen states have stepped in to pay for emergency drugs this month, prompting many governors to call for reimbursement from Washington. Mr McClellan said states should go first for payment to the insurance companies administering the plans but that Medicare would cover the rest of their costs.

Conservatives in Mr Bush's party have long criticised the plan as too expensive, while Democrats see it as too friendly to insurance companies.

Harry Reid, Democratic leader in the Senate, said on Tuesday: "We need to fix Medicare – and do it now." But Mr Grassley said the implementation problems were "mainly logistical and administrative" and could be fixed without changing the law.

States' Costs To Be Repaid In Drug Plan (NYT)

By Robert Pear

The New York Times, January 25, 2006

WASHINGTON, Jan. 24 - The Bush administration said Tuesday that states would be fully reimbursed for any costs they incurred in paying claims for prescription drugs that should have been covered by the new federal Medicare program.

Michael O. Leavitt, the secretary of health and human services, announced the plan in response to a political furor swirling around the new Medicare drug benefit.

At least two dozen states have taken emergency action to help low-income people who could not get their medications under the program, which began Jan. 1. States are spending millions of dollars a day in such assistance.

Dr. Mark B. McClellan, administrator of the Centers for Medicare and Medicaid Services, said the Bush administration would use its influence to ensure that prescription drug plans - private insurers under contract to Medicare - reimbursed states for the cost of claims that the insurers should have paid.

Many states have paid more for particular drugs than private plans would have paid. Dr. McClellan said the federal government would reimburse states for the difference and would also cover any administrative costs that states had incurred in operating stopgap programs.

Mr. Leavitt said, "In cases where states have continued to pay for drugs at rates higher than what the plans would reimburse, as a function of our transition, we're going to help them cover that."

The federal government said it would reimburse states for prescription drugs dispensed to low-income Medicare beneficiaries through Feb. 15. Federal officials assume that problems in the new program will be worked out by then.

Gov. Arnold Schwarzenegger of California, a Republican, welcomed the promise of full reimbursement. "This is great news," he said. "The federal government is living up to its responsibility."

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But the steps were not enough to satisfy some Democrats, who said the federal government should reimburse all state costs, without requiring states to dun insurers.

Gov. John Lynch of New Hampshire, a Democrat, expressed concern about the Feb. 15 deadline. "New Hampshire citizens are still having problems getting their medications through Medicare," Mr. Lynch said. "The federal government should not set a deadline until it can prove that everyone who is eligible can actually get their prescriptions."

Senator Hillary Rodham Clinton, Democrat of New York, said the announcement showed that Bush administration officials "are feeling the heat, are finally recognizing the crisis they created in the design and implementation of the new drug benefit."

In an interview, Ms. Clinton said the action was intended to head off legislation that would require the federal government to reimburse the states directly. "I am very skeptical that all the kinks in the new program will be worked out by Feb. 15," she added.

The chief sponsor of the legislation, Senator Frank R. Lautenberg, Democrat of New Jersey, said: "Today's announcement only makes the problem worse. First, states had to step in and spend millions to prevent the Medicare system from collapsing at the beginning of this year. Now the federal government wants the states to act as its bill collectors."

A co-author of the bill, Senator Olympia J. Snowe, Republican of Maine, said she was pleased that the administration would compensate states for the costs of their emergency assistance programs, which she said had "averted great harm to those with limited resources."

For weeks, federal officials said they did not have authority to reimburse states. On Tuesday, they said they had discovered that they could reimburse the states by conducting a demonstration project under Section 402 of the Social Security Amendments of 1967.

Bush administration officials said they did not know how much their commitment to the states would cost. Dr. McClellan said "the bulk of costs" would be paid by insurers, not the government. But, he said, federal officials would help the states collect through a "reconciliation process," the details of which were still being worked out.

While acknowledging some problems, Dr. McClellan said Tuesday, "The prescription drug program is working for the vast majority of seniors and people with disabilities."

But William P. Scheer, president of the Pharmacists Society of the State of New York, who owns a drugstore in the Bronx, said: "Federal officials must be taking happy juice if they believe that everything is running so well. Some of the prescription drug plans are running roughshod over us and our patients."

States To Be Reimbursed For Drugs (WP/AP)

The Washington Post, January 25, 2006

Federal officials said yesterday that they will reimburse states that bought medicine for senior citizens and disabled people who could not get help through the new Medicare drug benefit.

Under the program, which began Jan. 1, beneficiaries enroll in private plans selected by the government to provide prescription drug coverage.

But the program got off to such a difficult start that more than 20 states opted to provide emergency coverage for low-income residents who ran into difficulty. Some people did not show up in pharmacists' computers as being enrolled in a plan, and others were charged far more than they were supposed to pay.

Previously, officials said reimbursement to the states would come from the private plans themselves. But in cases in which states incurred expense above and beyond what the plans are required to pay, the federal government will step in, officials said.

States To Be Reimbursed For Emergency Drugs (LAT)

By Ricardo Alonso-zaldivar

The Los Angeles Times, January 25, 2006

WASHINGTON — California and more than 20 other states will be "fully reimbursed" for hundreds of thousands of emergency prescriptions for seniors who ran into trouble with the new Medicare drug benefit, top federal officials said Tuesday.

The promise was part of a seven-point plan by Health and Human Services Secretary Mike Leavitt to try to resolve the continuing frustration faced by many patients and pharmacists since the benefit took effect three weeks ago.

Leavitt's announcement marked the first time that a senior official publicly acknowledged the need to fix the broad range of problems. It came a week before President Bush's scheduled State of the Union message, in which the president, despite the glitches, is expected to praise the benefit as a significant accomplishment and a foundation for market-oriented healthcare reforms.

Started Jan. 1, the program offers 43 million Medicare beneficiaries the opportunity to enroll in private insurance plans providing government-subsidized coverage for their outpatient prescriptions. But its complicated design appears to have

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dampened enthusiasm among seniors, and many low-income beneficiaries who were automatically enrolled in the program have encountered a host of unintended coverage problems, leading some to leave the pharmacy without medicines they needed.

Quoting an e-mail sent to him by an Alabama pharmacist, Leavitt said, " 'There are still plenty of bumps, but it's much better.'

"To every single [patient] who went to the drug counter and wasn't able to get a prescription filled, it was a big problem — and we are taking it seriously," he said.

Federal and state officials estimate that 80% to 90% of seniors have not encountered such problems. But error rates of 10% to 20% in a program that is supposed to provide crucial medications for millions of people are considered unacceptable.

Leavitt also threatened to unleash federal investigators on private drug plans that failed to deliver services required by their contracts with the government, such as providing transitional supplies of medications they did not normally cover.

Critics said Leavitt's response was overdue.

"The secretary is confronting reality finally, and that is a good thing," said Robert M. Hayes, president of the Medicare Rights Center, a New York-based advocacy group. "We all know consumers were confused, but we had no sense the leadership in the federal government was so confused."

California has spent more than $9 million for about 110,000 emergency prescriptions since Gov. Arnold Schwarzenegger intervened about two weeks ago.

The state was concerned that many low-income and disabled beneficiaries who had gotten drugs under Medi-Cal were having problems renewing prescriptions under Medicare. In some cases, beneficiaries were dropped from computerized eligibility lists. In others, the drug plans wanted hefty co-payments that low-income patients were not supposed to be charged. Some plans did not cover the same drugs that Medi-Cal did.

As part of the reimbursement plan, the federal government will help states collect from drug plans that were supposed to be taking care of low-income beneficiaries. Washington will also cover the states' administrative costs plus any difference between what pharmacies charged the states and rates the drug plans pay to pharmacies.

"Almost all of it is paid for by the plans," Leavitt said.

Medicare Administrator Mark B. McClellan said no congressional action was needed to authorize the program. He said he expected most states to shut down their emergency assistance efforts by Feb. 15.

"We will ensure the plans reimburse the states … and pay for any difference," he said. Federal officials did not yet have a cost estimate.

Such an arrangement would be acceptable to California, Stan Rosenstein, the state's deputy director of medical services, said in a recent interview.

"We are willing to work with the federal government on that," he said. "It can work as long as the federal government insists that the plans reimburse us."

Leavitt's repair plan for the Medicare drug benefit closely tracks the flaws that critics have pointed to in recent weeks. It calls on Medicare to purge computerized errors that have caused delays and on drug companies to beef up call centers.

It also urges seniors who want to enroll in or switch plans to do so early in the month so their paperwork is in order on the first day of the following month, when coverage takes effect. But that might be difficult, said advocates for the elderly, because some changes are prompted by unforeseen medical needs.

Rx Plan Failing To Help Neediest Low-income Seniors Are Slow To Sign Up (USAT)

By Richard Wolf

USA Today, January 25, 2006

WASHINGTON — Low-income seniors without Medicaid or prescription coverage are signing up for a new Medicare drug benefit at a far slower rate than others, a sign the program isn't reaching many of those who need it most.

Fewer than 300,000 of the 3.6 million people who have voluntarily enrolled in the drug program were approved for a low-income subsidy. That's just 4% of the 8.2 million people the Bush administration has estimated could qualify for the subsidy.

By contrast, more than 3.3 million people have signed up for coverage without qualifying for the subsidy. That's nearly 25% of an estimated 14 million people without full prescription drug coverage who are not low-income.

The six-month signup period ends May 15; the program's benefits began Jan. 1.

The inability to sign up more low-income seniors and disabled Americans is caused by two factors. Historically, only one-third to two-thirds of people eligible for low-income programs take advantage of them. And in this case, the two-step process of qualifying for the subsidy and enrolling in a plan is complex, experts say.

“This is a problem,” says former senator John Breaux, chairman of the Medicare Rx Education Network. “This is a very difficult population to get to.”

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Gary Karr, spokesman for the Centers for Medicare and Medicaid Services, says the program likely is reaching more low-income people. “There are going to be people who are in the program who haven't applied for the low-income subsidy,” he says.

Another 6.2 million low-income Americans were automatically enrolled because they had received prescription drugs through Medicaid. Thousands were denied drugs or were overcharged at pharmacies this month because of glitches in the process, leading more than 20 states to offer emergency coverage. Health and Human Services Secretary Mike Leavitt said Tuesday that the states will be reimbursed.

After those problems and months of widespread confusion among seniors over the program's scores of insurance options, most Americans say the program is struggling. By a 2-to-1 ratio, they say the program isn't working, according to a USA TODAY/CNN/Gallup Poll released Tuesday.

The low-income subsidy is available to individuals with annual incomes below about $15,000 and assets below about $11,500, not including their homes. Many will pay no premiums or deductibles, and no more than $2 monthly for each generic drug and $5 for each brand-name drug.

Last year, the Social Security Administration sent letters to about 19 million people advising them of the subsidy, then followed up with 65,000 public events. To date, 1.2 million people have qualified for the subsidy: Those who don't sign up with an insurance plan will be automatically enrolled in May.

Golden Oldies New Medicare Drug Benefit Sparks An Industry Land Grab (WSJ)

By Sarah Lueck And Vanessa Fuhrmans

The Wall Street Journal, January 25, 2006

The government's new Medicare benefit that gives private drug coverage to millions of Americans has sparked a competitive scramble in the health-insurance industry. One of the battlegrounds is UnitedHealth Group Inc.'s cavernous call center in Roanoke, Va., which houses more than 500 customer-service representatives.

Fliers pinned on the wall list the "5 things every caller should know about our prescription-drug plan." The top one: "We are the only...plan endorsed by AARP, the most respected organization serving older Americans."

AARP, the powerful seniors' organization, is in the awkward position of providing impartial advice to seniors while at the same time selling them products. For UnitedHealth, the nation's No. 2 health-insurance provider, the AARP relationship is a powerful tool in what is becoming an all-out land grab.

Defying early predictions that private insurers wouldn't offer prescription-drug policies, dozens of companies are offering regional plans and 10 are selling them nationwide. The government is heavily subsidizing the policies, for which 42 million people are eligible. It's a big and unexpected growth opportunity at a time when the industry's traditional business -- administering employer health benefits -- is stagnant or shrinking.

UnitedHealth, based in Minnetonka, Minn., is one of the most aggressive players and one of the most successful so far. It has signed up about 2.8 million Medicare beneficiaries, either to stand-alone drug plans or within its more comprehensive Medicare plans. It picked up 1.5 million more sign-ups from its acquisition in December of PacifiCare Health Systems.

One of UnitedHealth's biggest rivals is Humana Inc., a midsize player in the market of offering insurance to corporate employees. Seeking quick growth, the Louisville, Ky., company is relying heavily on low prices, selling policies with monthly premiums as low as $2, alongside other more expensive plans. UnitedHealth's AARP premiums range between $23 and $31. Humana, in part through a marketing alliance with Wal-Mart Stores Inc., has signed up 1.7 million people for the drug benefit, either alone or through one of its comprehensive Medicare plans. It hopes to eventually switch many of these new customers to more lucrative policies.

"Basically 42 million people have been put in the marketplace, and that won't happen again," says Steve Brueckner, Humana's vice president of senior products. "If you don't get your fair share, you're going to be in trouble later on."

Every major insurer has carved out a slightly different strategy. WellPoint Inc., the nation's biggest health insurer, is counting on its long track record selling individual insurance products through the Blue Cross and Blue Shield plans in 14 states. WellPoint is marketing many of them at Walgreen Co. stores. Like a handful of other plans, it has eliminated deductibles in some offerings.

Aetna Inc. and Cigna Inc. are touting options with higher premiums but covering more drugs. Aetna, the third biggest insurer, is taking a relatively conservative approach to pricing and how many people it expects to sign up. It might stand to benefit if the new program proves a commercial bust.

Before the new Medicare legislation passed in 2003, insurers didn't sell stand-alone drug coverage, which they thought would be unprofitable. The likely consumers were people with high drug bills. Insurers covered medications only as part of broader packages that included doctor and hospital insurance.

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But the Bush administration's prescription-drug program suddenly changed the calculus. Not only did the Medicare benefit provide a new way to drum up business from seniors, the government agreed to protect insurance companies from much of the risk.

Each year under the new drug program, insurers submit bids based on their estimated costs to the federal government, which then calculates a national average. The government pays insurers about 74.5% of that average. It requires companies to charge customers the balance between the government subsidy and insurers' initial estimates.

Thus, the lower the insurer's bid, the lower the premium for the customer. The government hopes this formula will keep its costs low.

Insurers also get additional federal payments for enrolling high-risk beneficiaries and those with low incomes. If an insurance company spends more than the estimate, the government will help pay the excess. If an insurer spends less, the government gets part of the savings.

Insurers say there's about 3% to 4% profit margin in drug-only insurance. The extra government payments mean there's little downside risk.

Bumpy Start

Medicare drug coverage, which began Jan. 1, has gotten off to a bumpy start. Many pharmacists have had problems confirming customers' new insurance. Some beneficiaries haven't received cards or letters proving they have coverage. Many states are stepping in to buy drugs temporarily for low-income seniors who ran into problems after being switched by the government to the new Medicare program from Medicaid.

Health and Human Services Secretary Michael Leavitt says that problems are being worked out and that "the vast majority" of people signed up for the benefit are using it successfully. "When you move large amounts of people and data...there's always an imperfect match," he says.

For some companies, the new benefit is a welcome boost. Humana, for example, with seven million members, is only half the size of Cigna, its next largest competitor, in the employee-based health-insurance market. Humana is betting that its experience in the Medicare market and its super-low premiums will let it take advantage of this "one-shot opportunity," says Mr. Brueckner, the vice president.

After grabbing market share, Humana hopes to entice many seniors to switch to more comprehensive Medicare plans, which are known as Medicare Advantage. The company calls this strategy "enroll and migrate." These more-lucrative plans cover doctors' visits, hospital stays and other services.

The premiums on Humana's least-expensive plan make the insurer such an outlier in the market that, "either they've figured out something the others haven't or they're pursuing a reckless strategy," says Matthew Borsch, a health-insurance analyst at Goldman Sachs.

Under the cheapest Humana plan, consumers pay a $250 deductible, then 25% of the next $2,000, all of the next $2,850, and 5% of everything else for the rest of the year. Other Humana plans don't have an initial deductible, charging only co-pays, and the most-expensive option provides coverage without a gap.

On a recent morning, Humana sales representatives manned tables in front of Wal-Mart's largest outlet in Tucson, Ariz. One Humana representative offered free, canvas tote bags to coax people into talking to a sales agent.

Jim Winger, 70 years old, a retired truck driver, said he wanted to avoid the higher premiums that kick in after a May 15 deadline. "I just want to avoid that penalty and get a plan that doesn't cost that much," said Mr. Winger, who at the moment doesn't take any medications. He bought a midpriced policy for $11.58 a month and no deductible, among the cheapest available in Arizona.

This marketing push is designed to shore up Humana's battle against traditional heavyweights such as UnitedHealth. "We had to do eight different things to compete with that one," says Humana's Mr. Brueckner.

The UnitedHealth/AARP combination is emerging as one of the major players in this new market with the AARP Medicare Rx plan. The plan doesn't have any deductibles.

AARP, which counts more than 36 million members, has a long-running relationship with UnitedHealth. The insurer beat rivals to win a 10-year contract with the seniors group that started in 1998. The two co-market, under AARP's name, supplemental Medicare insurance policies, sometimes called Medigap, which cover some services and items not paid by Medicare.

It was a lucrative relationship even before the start of the new drug benefit. In 2004, UnitedHealth collected $4.5 billion in premiums from AARP-related products. Currently, nearly three million people buy the AARP/UnitedHealth Medigap plans, making the duo the biggest Medigap vendor. The AARP-based drug plan has generated at least 95% of UnitedHealth's overall Medicare drug enrollment so far.

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Lois Quam, head of Ovations, the UnitedHealth unit that oversees products for older people, calls the company's tie with AARP "a partnership that we treasure."

The partnership has been lucrative for AARP, too. In 2004, AARP earned $197 million in insurance-related royalties and an additional $23 million from investing insurance premiums, in both cases mostly from Medigap. In total, 40% of the organizations $878 million in 2004 revenue came from various royalties and service provider fees. That compares to $224 million, or 26%, from membership dues.

AARP and UnitedHealth are testing an AARP-branded Medicare Advantage plan in Rhode Island, which they could expand if successful.

AARP's Dual Role

The seniors' group often draws fire for its dual role as a seniors' advocate and a sales organization. Wearing a policy hat, AARP played a pivotal role in the 2003 passage of the drug-benefit legislation. That angered some of the bill's Democratic opponents who disliked the level of private-sector involvement in the new program. Some 60,000 people revoked or declined to renew their AARP memberships.

The two sides of AARP operate separately but communicate frequently. Information gleaned from the policy side's field offices is often shared with the business side, says Mark Carter of AARP Services Inc., the organization's business arm. When the AARP is considering a new product, the policy side gives it advice about local markets, for example.

Mr. Carter says "goal No. 1" on the business side is to make sure anyone who contacts AARP is educated about the Medicare drug benefit. But a "close second," he says, is selling the AARP product. "We try to be objective and at the same time not turn away business."

AARP publications in the past two months, such as AARP The Magazine and AARP Bulletin, have explained the overall federal program without mentioning AARP's plan. They've also mentioned some of Humana's plans -- without using the company's name.

But AARP's Web site showcases the organization's own insurance products, including those from UnitedHealth. Ads for AARP's products, which the business side has to buy at standard rates, also dominate the magazines.

AARP officials realize there are "perception issues," says Cheryl Matheis, director of health strategy in AARP's Office of Social Impact, part of the group's policy operation. Ms. Matheis says AARP staff won't help people fill out applications for a specific drug plan or advise people about which one to choose.

Ms. Matheis notes that AARP ploughs most of its revenue back into the association. "Clearly there will be more revenue to the association if more people sign up," she says. "It's a good thing because I can do more social impact work."

On a recent day, Bernard Bernstein, an 82-year-old retiree in Boca Raton, Fla., spoke with a sales agent at the Roanoke call center. Mr. Bernstein already had AARP/UnitedHealth Medicare supplemental insurance. After getting an expensive prescription from his doctor, he decided to enroll in a drug plan and called the number on the back of his AARP insurance card.

"I'd like to get a prescription-drug plan," he told UnitedHealth sales agent Heather Reynolds. "I'm an AARP member.... What information do I have to have?" She signed him up after he found his Medicare card.

Mr. Bernstein, a former sales manager for a Japanese electronics company, said in a later interview he didn't consider other companies' plans because he was happy with his AARP Medigap coverage. "I've never had any problems," he said. "Why not go back to them?"

At the call center, UnitedHealth invites local residents for lunchtime information sessions. On a recent day, Ronnie Reed, 69, and his wife Emma, 68, of Salem, Va., sat in a conference room to hear a pitch on the AARP drug plan. A white board on the wall carried the message: "Information is Power."

"We've pretty well made up our minds," said Mrs. Reed afterward. "We're going to go with the AARP program."

"I hope we can pretty well trust them," Mr. Reed said.

"We can," his wife said.

Democrats Move To Revive Medicare Law (WP)

By Jonathan Weisman

The Washington Post, January 25, 2006

Sen. Hillary Rodham Clinton (D-N.Y.) and Rep. John D. Dingell (D-Mich.) will introduce legislation to restore Senate-passed language that would cut payments to private insurers in Medicare by $26 billion over the next decade, the lawmakers said yesterday.

As part of a broad budget-cutting bill, the Senate approved legislation that targeted private HMOs participating in Medicare by changing the formula that governs their reimbursement, lowering payments $26 billion over the next decade. But after

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lobbying by the health insurance industry, House and Senate Republican negotiators last month made a critical change that had the effect of eliminating all but $4 billion of the projected savings, according to the Congressional Budget Office.

Language inserted into the budget compromise stipulated that a key part of the formula change could be applied only in 2008, 2009 and 2010. The result, CBO analysts say, was a $22 billion swing in the insurance industry's favor.

Clinton described the behind-the-scenes action, detailed yesterday in a Washington Post report, as "the latest example of Republicans taking care of their special interests at the expense of the American people."

The Senate approved the compromise budget plan last month, but one vote remains in the House early next month. If the plan is signed into law, Clinton and Dingell said they will introduce legislation to restore the original Senate language.

They would also try to revive a Senate-approved cut to a fund established to lure managed-care companies into Medicare. If both Clinton-Dingell proposals are approved, it would save the government more than $32 billion over a decade, according to CBO estimates.

Republicans have been adamant that the changes made in conference will not have the impact that CBO analysts project. In a statement this week, Senate Finance Committee Chairman Charles E. Grassley (R-Iowa) said CBO is assuming that Medicare administrators would let private health plans "game the system so badly that they not only would reverse the payment cut, but they'd also gain even more money from Medicare. This is a ridiculous assumption."

Grassley said yesterday he would be "happy to work with my colleagues on legislation to cut other overpayments made by Medicare and Medicaid."

Md. Urged To Cover Funding Gaps In Medicare Drug Plan (WP)

By Susan Levine And Ann E. Marimow

The Washington Post, January 25, 2006

The new Medicare drug program, repeatedly slammed as a disaster during hearings yesterday in Maryland and the District, is putting elderly and disabled people at ever greater peril because of continuing difficulties getting their prescriptions, lawmakers were told.

In Maryland, advocates called on the state to immediately pick up the cost of medications and co-payments that the federal government otherwise would be handling under the Medicare Part D plan.

"A lot of very vulnerable people aren't getting their meds," said Herbert S. Cromwell, executive director of Community Behavioral Health of Maryland, which serves children and adults with mental health problems. "This is nothing short of a fiasco."

Legislators in the Democratic-controlled General Assembly echoed his concern, although they urged Gov. Robert L. Ehrlich Jr. (R) to instead make state money available so additional caseworkers could be hired to help beneficiaries navigate the complex drug program. Its escalating troubles have emerged as a local campaign issue, with both Democratic candidates for governor criticizing Ehrlich's response.

In the District, Health Committee Chairman David A. Catania (I-At Large) warned that the $3 million that Mayor Anthony A. Williams (D) recently ordered to be set aside to pay for medicines for the city's most needy may not be nearly enough.

"The burn rate of that $3 million is going to be fast," he said.

Every day brings another avalanche of queries from worried, even desperate, D.C. residents. The Health Insurance Counseling Project, part of George Washington University's National Law Center, has helped resolve about 400 cases and has 250 more in process, yet its small paid and volunteer staff remains overwhelmed 24 days into the new federal coverage.

"We have 350 people . . . we've not been able to call back yet," director Suzanne Jackson testified yesterday, a thick stack of client reports on the table in front of her.

Those people, like others at risk in every state, are very low-income Americans who are elderly or disabled or both. They are simultaneously eligible for Medicare and Medicaid. An estimated 16,000 District residents fall into that category. In Maryland, they number 55,000.

In the past, they received their pills virtually free of charge through Medicaid, but the new Part D program requires that their prescription coverage be switched to Medicare. That enrollment was to happen automatically Jan. 1. In many cases it did not, or people were not notified about the plan they were assigned or were put in plans that do not cover their drugs.

With people walking away empty-handed from pharmacies or erroneously being charged steep deductibles for critical medications, the District and more than two dozen states have stepped forward in recent weeks, expending hundreds of millions of dollars from their own budgets. In late 2005, some allowed beneficiaries to refill their prescriptions early.

"We're all extremely concerned, which is why we moved as we did," said Kate Jesberg of the D.C. Income Maintenance Administration. "Because we're afraid people will die."

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Catania suggested that he might use the committee's subpoena powers to compel federal officials to discuss the situation -- and the costs to the city and states that Medicare administrators had repeatedly maintained they could not reimburse. Yesterday, after much pressure, they reversed course and agreed to help compensate the emergency medicine purchases.

"For once," Catania said, "it's not the District government making a mess of things."

In Annapolis, Dennis Carroll of the Centers for Medicare and Medicaid Services told lawmakers that the federal government would work with states to assist them in recouping money from the private drug plans participating. "We're very sympathetic to the people trying to deal with the problems on the front lines," said Carroll, an associate regional administrator.

The Ehrlich administration defended itself in the half-day hearing before the House Health and Government Operations Committee. Paul A. Gurny, a deputy secretary of Maryland's Department of Health and Mental Hygiene, noted that state officials allocated $2.2 million in December so "dual eligibles" could get advance refills.

"We preempted that problem," said Gurny, who disputed advocates' characterization of a public health crisis. "It may be in other states, but it certainly isn't in Maryland. I think people in Maryland are getting their medication, for the most part."

Gurny said he would forward legislators' request that Ehrlich provide emergency funding to provide more caseworkers. But he asked local health officials and community advocates for empirical evidence on the number of people in need.

To which Del. Adrienne A. Mandel (D-Montgomery) responded, "You've asked for evidence, but how long can we wait?"

Limits Are Sought For Doctors' Ties To Drug Makers (WSJ)

By Anna Wilde Mathews

The Wall Street Journal, January 25, 2006

A group of academics called for stringent limits on the ties between drug companies and doctors, saying in an article published in the Journal of the American Medical Association that the current relationships lead to conflicts of interest.

The medical profession's standing is "jeopardized by allowing obvious conflicts to continue," and academic medical centers should take the lead in reforming them, the JAMA article said. The writers, from Harvard University, Columbia University, the University of California at Berkeley and other institutions, echoed concerns expressed with increasing frequency by medical-journal editors, professors and some doctors.

The authors want to end all free drug samples and gifts to doctors from pharmaceutical and medical-device makers, including payments for travel to meetings, meals and attending medical-education sessions. The article calls for companies to stop directly funding medical-education sessions because they could lead to a mingling of promotional and educational goals. The authors also called on medical-school faculty to stop serving as speakers for companies and using industry-paid ghostwriters.

The writers want new limits on industry consulting and research contracts, including a prohibition on "so-called 'no strings attached' grants or gifts to individual researchers." Such agreements should be disclosed on a public Web site, they said, because company-funded research is likely to lead to more positive results and "on occasion companies have restricted the dissemination of research results unfavorable to their products."

The Pharmaceutical Research and Manufacturers of America, an industry trade group, said in a prepared statement that it already has adopted voluntary guidelines limiting gifts to doctors, and other government and standards-setting groups have rules on medical education. "The current rules...really ought to address the concerns that they've got," said Scott Lassman, an assistant general counsel for the group. The group believes its guidelines "have been extremely effective," he said, even though they are voluntary.

The American Medical Association said that it has ethics guidance for doctors that suggests limits on gifts. It also said it has been "examining and updating" the policy.

But members of the group that wrote the JAMA article dismissed the current guidelines from medical and other groups as inadequate, particularly concerning disclosure of relationships. "They are weak, they lack enforcement, they lack monitoring," said David Rothman, a professor at Columbia University and president of the nonprofit Institute on Medicine as a Profession. "Transparency goes way beyond disclosure."

Jordan Cohen, an author of the article and president of the Association of American Medical Colleges, said he planned to bring up the article with the organization's executive council; his work on it wasn't on behalf of the association. "The public has become quite appropriately concerned," said Dr. Cohen. But, he said, he expects "resistance" from universities and doctors wary of losing a substantial income stream.

Distance Sought Between Doctors And Drug Industry (WP)

By Ceci Connolly

The Washington Post, January 25, 2006

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Declaring that the pervasive influence of drug industry money is distorting doctors' treatment decisions and scientific findings, a prestigious panel of medical experts called on their colleagues yesterday to adopt far-reaching new conflict-of-interest policies.

In an article in the Journal of the American Medical Association, the group said that voluntary efforts to limit corporate inducements have failed, resulting in the overprescribing of some medications and the withholding of negative discoveries about others. Highly publicized cases involving the anti-inflammatory drug Vioxx, antidepressants for children and spinal implants made by Medtronic -- all occurring while voluntary guidelines were in place -- highlight the need for stricter measures, they said.

"My mother told me never to accept gifts from strangers. If a stranger wants to give you a gift, it's very likely they want something in return," said Jordan J. Cohen, president of the Association of American Medical Colleges and a co-author of the new proposal. "We've become overly dependent on these kinds of blandishments to support our core activities, and that is jeopardizing public trust and scientific integrity."

The panel -- which includes Cohen, officials from several medical schools and members of the Institute on Medicine as a Profession -- urged the nation's 400 teaching hospitals to impose stringent measures, including a ban on accepting gifts, meals and drug samples and tight restrictions on outside income. A series of articles published today in the journal Academic Medicine reach similar conclusions, noting that strict, standardized policies are needed to ensure patients receive unbiased, evidence-based treatments.

Spokesmen for the pharmaceutical industry said the extra steps are unnecessary and could deprive physicians of valuable information.

From their first rounds as residents, doctors travel in a world increasingly dominated by drug company salespeople proffering meals, office supplies, entertainment and even cash to speak at conferences or sit on advisory boards.

Some physicians have been paid lucrative consulting retainers for no specific work; others are paid to put their names on articles ghostwritten by industry employees. One congressional inquiry cited in the report found that pharmaceutical executives steer research grants to doctors and schools that promote their firms' drugs.

"The problem has gotten worse and worse and worse," Cohen said. The relationships can prompt doctors to order unnecessary tests, prescribe more expensive medicines or advocate adding certain medications to a hospital's list of preferred drugs, he said.

Although most doctors say their relationships with drugmakers do not affect medical decisions, numerous studies suggest otherwise.

"There is solid evidence it isn't the size of the gift, it's the gifting itself that creates a sense of loyalty and indebtedness," said Sharon Levine, associate executive director of Kaiser Permanente's Northern California group practice. The 6,000-doctor practice and the Yale University School of Medicine are among the only institutions in the nation to implement policies similar to those outlined in JAMA.

"The industry is spending $13 billion per year on direct-to-physician promotion," she continued. "That wouldn't be happening if it weren't resulting in changing patterns of utilization. It doesn't necessarily mean patients are getting bad care, but it does mean their influence is out there."

Judging from the "grumbling" he has heard from physicians, Scott Lassman, assistant general counsel at the Pharmaceutical Research and Manufacturers of America, the industry's lobbying group, said voluntary guidelines issued by industry, government and the profession in recent years seem to be working. Modest gifts such as lunch or pens may persuade a doctor "to listen to the presentation of information, not necessarily to prescribe that product." And having those discussions over a "working meal" is merely a timesaver for busy doctors, he said.

But the JAMA authors said it is a costly mistake to confuse marketing with scientific data.

"Drug companies spend $13,000 per physician annually," said co-author David J. Rothman, a professor of social medicine at Columbia University Medical Center. "Those marketing tactics are very, very effective at getting physicians to do what each drug company wants -- to prescribe their product."

The team conducted focus groups with doctors who "came right out and said if one drug rep is nicer than another, I'm going to prescribe that person's drug, all else being equal," said co-author David Blumenthal, director of the Institute for Health Policy at Massachusetts General Hospital. In a second article, Blumenthal found that conflicts of interest have contributed to growing secrecy in research, with some scientists intentionally omitting negative findings about a drug or device.

Rather than severing all ties to the pharmaceutical industry, the panel suggested creating financial firewalls. Instead of paying a physician directly for continuing medical education, it would be more appropriate for drug companies to contribute to a central account that supported educational programs, they wrote. In addition, payments for outside work such as speeches or consulting should be explicitly defined and posted on the Internet.

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Finally, the group urged the nation's 125 medical schools and affiliated hospitals to refuse drug samples and instead create a voucher system or central distribution bank for poor patients.

"The availability of free samples is a powerful inducement for physicians and patients to rely on medications that are expensive but not more effective," the JAMA article said. In most cases, once patients begin the expensive drug regimen, they are inclined to stick with it.

Some industry experts said the recommendations underestimated the ability of physicians and patients to think on their own.

"I subscribe to the crazy view that more information is better," said Daniel Troy, former chief counsel of the Food and Drug Administration. "This very sweeping proposed ban would really choke off an important flow of information to physicians."

A drug sample handed out in a doctor's office is a good way to begin treatment immediately, he said, rather than waiting to have a prescription filled.

Cohen predicted the industry and many medical institutions would blanch at the recommendations. But both could stand to improve their reputations, he said. He added: "We need a strong, ethical, effective partnership with industry."

In Article, Doctors Back Ban On Gifts From Drug Makers (NYT)

By Gardiner Harris

The New York Times, January 25, 2006

The gifts, drugs and classes that makers of pharmaceuticals and medical devices routinely give doctors undermine medical care, hurt patients and should be banned, a group of influential doctors say in today's issue of The Journal of the American Medical Association.

Medical schools and teaching hospitals should be the first to establish a comprehensive ban, the group writes. But the authors argue that all doctors should eventually follow suit.

Broadly adopted, the recommendations would transform doctors' day-to-day lives and shut off the focus of drug makers' biggest expenditures. But Dr. David Blumenthal, an author of the article, said it was "not very likely" that many in medicine would listen to the group.

"I'm not very optimistic," said Dr. Blumenthal, a professor at Harvard Medical School who, like many of the article's 10 other authors, has studied conflicts of interest in medicine for years.

Federal law forbids companies from paying doctors to prescribe drugs or devices, but gifts and consulting arrangements are almost entirely unregulated. Voluntary professional guidelines suggest that doctors refuse gifts of greater than "modest" value. Sanctions against doctors who accept gifts of great value are extremely rare.

The drug industry spends tens of billions of dollars a year to woo doctors, far more than it spends on research or consumer advertising. Some doctors receive a significant part of their income from consulting arrangements with drug and device makers. Others take regular vacations and golfing trips that are paid for by companies.

A recent lawsuit involving the device maker Medtronic revealed that one prominent Wisconsin surgeon received $400,000 for a consulting contract that required him to work just eight days. While such rich arrangements are often restricted to specialists, most physicians routinely accept small gifts from drug salespeople, including pens, mugs, pads and food.

Surveys show that most doctors do not believe that these gifts influence their medical decisions, although most believe that they do affect their colleagues' medical judgment.

But even small gifts can lead to profound changes in doctors' prescribing behavior, with "negative results on clinical care," the article states. As a result, all gifts should be banned, the authors conclude.

Ken Johnson, a spokesman for the Pharmaceutical Research and Manufacturers of America, said the drug industry had a voluntary code of marketing conduct.

"Only practices that do not compromise independent judgments of health providers - such as modest working meals, gifts of minimal value that support the medical practice, and distribution of free samples - are permitted," Mr. Johnson said in a statement.

Dr. Duane M. Cady, board chairman of the American Medical Association, said in a statement that "drug and medical device makers can play a role in educating physicians about new products." He said the organization was "in the process of examining and updating its policy on gifts to physicians from industry."

The article is part of a spate of reports in medical journals that have taken a skeptical view of drug makers' influence on medical practice and research. The New England Journal of Medicine recently published an article accusing Merck of withholding crucial safety information about the withdrawn painkiller Vioxx, a charge that Merck denies. Other articles have criticized drug makers' tendency to keep the results of human research secret.

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Dr. Catherine DeAngelis, editor in chief of The Journal of the American Medical Association, said drug makers were a vital part of the nation's health care system because of their research efforts.

"But there has been a substantial change in the way pharmaceutical companies function over the last decade," Dr. DeAngelis said. Drug makers are far more aggressive in their marketing efforts, she said, and these efforts are having a deleterious effect on the practice of medicine.

Dr. Steven Shea, vice dean of the faculty of medicine at Columbia University Medical Center, predicted that the journal article would "prompt changes in policy and guidelines at many academic health centers, including ours."

Kaiser Permanente, the California-based managed-care group, is one of the few medical organizations in the United States that have enacted nearly all of the recommendations suggested by the journal article. Kaiser physicians prescribe heavily marketed medicines far less frequently than doctors nationally.

"We thought it was critical for us that our patients never had a doubt that the decision made about a drug or a device was based on the best interests of the patient and not the financial interest of the physician," said Dr. Sharon Levine, associate executive director of Kaiser Permanente Northern California.

The article also argues that "no strings attached" consulting arrangements should be banned, and that all other consulting agreements should be posted on Web sites. Doctors should refuse free drug samples, the article states, because they are "a powerful inducement for physicians and patients to rely on medications that are expensive but not more effective."

Such a refusal would also eliminate one of the principal reasons for which drug salespeople are routinely allowed to enter doctors' offices, the article states. While the article does not suggest that salespeople be refused entry into offices, it states that such visits have few useful functions.

"Would we be delighted if drug reps never saw the inside of doctors' offices? Absolutely," said Dr. David J. Rothman, president of the Institute of Medicine and one of the article's two principal authors. "But you can't mandate that. It's a free country."

Two years ago, Dr. Rothman received a $7.5 million grant from the financier George Soros to set up an organization that would study medical professionalism. Today's article is in part an outgrowth of that grant, he said.

Dr. Troy A. Brennan, former chairman of the American Board of Internal Medicine and the other principal author of the article, said he was looking forward to reading responses to it.

"I don't think there are a lot of good answers as to why it's O.K. to accept these gifts and contracts," Dr. Brennan said.

Med Schools Urged To Keep Drugmakers At Arm's Length (USAT)

By Rita Rubin

USA Today, January 25, 2006

Medical school faculty must set an example for their profession by distancing themselves from drug companies' marketing efforts, a group of academic medicine leaders urges in a paper today.

The relationship between academic medical centers and drugmakers represents a “serious threat” to trust in doctors, according to the paper, published in the Journal of the American Medical Association. “This paper represents a call to action,” says co-author David Rothman, a Columbia University medical historian and president of the Institute on Medicine as a Profession.

Despite a dramatic increase in direct-to-consumer advertising, about 90% of the pharmaceutical industry's $21 billion marketing budget is directed at doctors, according to the authors. The authors include Jordan J. Cohen, president of the American Association of Medical Colleges.

“Marketing … should not be allowed to undermine physicians' commitment to their patient's best interest or to scientific integrity,” they write. The authors say voluntary guidelines don't go far enough, and they recommend that medical schools:

·Ban all gifts, including free meals. Research shows that even inexpensive gifts, such as pens, can distort doctors' behavior.

·Prohibit doctors from accepting free samples, a “powerful inducement … to rely on medications that are expensive but not more effective.”

·Exclude doctors with financial ties to drug firms from serving on panels that decide what drugs should be prescribed.

·Prohibit drugmakers from directly financing continuing medical education.

·Ban faculty from belonging to manufacturers' speakers bureaus or publishing articles ghostwritten by industry staff.

·Require faculty members with drug company consulting agreements or unconditional grants to post them on a publicly available Internet site.

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Some medical schools may find these guidelines difficult to implement because of how much they depend on drug company money, says co-author Jerome Kassirer, a former editor of The New England Journal of Medicine. “A lot of our funds for education and for lunches now come from pharmaceutical companies,” he notes.

Coincidentally, Yale's medical school today published its new conflict-of-interest guidelines, similar to those in JAMA, in the journal Academic Medicine.

“We believe it's the most restrictive set of guidelines … established by a medical school,” says lead author David Coleman, Yale's interim chair of internal medicine.

The Case Western Reserve medical school hopes to implement its new policy by July 1. Says Dean Ralph Horwitz: “Medical schools need to be the conscience of American medicine.”

Bush Courts Charities In Bid To Change Foreign Food-Aid Program (BLOOM)

By Mark Drajem

Bloomberg, January 25, 2006

Jan. 25 (Bloomberg) -- The Bush administration is reviving a plan to buy some of the food it uses for overseas aid from foreign rather than domestic farmers, and is courting the support of charities that helped sink the idea last year.

The proposal, a version of last year's plan to funnel one- quarter of the $1.2 billion spent by the government on foreign aid to local suppliers, still faces opposition from U.S. agricultural producers, who currently supply all the food aid.

U.S. Agency for International Development officials met recently with groups such as Care, which runs poverty programs in more than 70 countries, and Save the Children, to try to win their support for reviving the idea of buying emergency food supplies in or near countries hit by famine, according to Alina Labrada of Care and Ina Schonberg of Save the Children.

``What the U.S. seeks is a flexible box of tools to deal with crises,'' Jonathan Dworken, the acting director of USAID's Food for Peace office, said in an interview. ``Purchasing locally is often cheaper and might allow us to react more quickly.'' He declined to provide details of what Bush will propose in the budget he sends Congress on Feb. 6.

The five-decade-old food aid and famine-relief program has maintained its political support in Washington because Congress mandates that all food and grain be bought from U.S. farmers, packaged by U.S. exporters such as Cargill Inc. of Wayzata, Minnesota, the largest U.S. agricultural company, and shipped on U.S.-flagged vessels. Bush is renewing his plan as the European Union pushes the U.S. to accept limits on its use of food aid as part of World Trade Organization talks.

Farmers `Strongly Opposed'

``We're strongly opposed'' to changing the system, said Dawn Forsythe, director of public affairs at U.S. Wheat Associates in Washington, the crop producers' export-marketing arm. ``We don't see the value of purchasing our competitors' wheat with U.S. funds.''

Charities also have something to lose under the Bush plan. Groups such as Monrovia, California-based World Vision, Baltimore-based Catholic Relief Services and Care, with a U.S. headquarters in Atlanta, currently can sell some of the U.S. food donations they handle to finance other development projects, such as education or health care. The Bush plan would reduce the amount of food aid available for that purpose.

Government food aid programs accounted for about 30 percent of the revenue of the eight largest private groups that distribute U.S. government food aid, according to Cornell University economist Chris Barrett.

``They are desperately scared of losing'' that money, said Barrett, author of the 2005 book ``Food Aid After Fifty Years.'' ``With a few influential people who have something at stake and these images that come out of food aid, politically this is a tough ball to move.''

Political Risk

The U.S. bought from U.S. farms and distributed to foreign nations $1.6 billion of food in 2004, mostly through programs run by USAID and private charities, according to the Agriculture Department. That includes purchases of 200,000 metric tons of rice, 300,500 tons of corn and 1.63 million tons of wheat.

While some foreign purchases may be acceptable, if they remove too much of the financial benefits for U.S. producers and organizations, support in Washington will be lost, said Michael Wiest, the chief operating officer of Catholic Relief Services.

``There is the great risk that there is no longer the political support to protect these programs from cuts,'' said Wiest, whose group distributed $154 million in food aid in 2004.

Critics say the current program spends too much money shipping U.S. food overseas while undercutting the ability of local farmers to make a profit. Cornell's Barrett says maintaining the current practices can also mean delays in times of emergency.

`Structural Problem'

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``There is a structural problem in bringing food from a long way off in every situation," Andrew Natsios, who stepped down as head of the USAID this month, said in an interview. ``If I had more funds, I would not invest it in more food aid, but in agriculture development" overseas.

Bush's proposal last year would have let USAID spend $300 million of the $1.2 billion food aid budget buying products in or near the countries in need.

Natsios said he had expected opposition from farm groups and shippers, and was surprised by the resistance from the charities. They said Natsios was creating a slush fund without any details on how the program would work.

Objections

House Agriculture Committee Chairman Bob Goodlatte, a Republican from Virginia, criticized Bush's proposal last year because it would have transferred U.S. taxpayer funds to foreign competitors.

``Under the current system we're able to help those in need, and also help U.S. farmers and ranchers," Alise Kowalski, a spokeswoman for Goodlatte, said this week.

Congress not only declined to pursue Bush's plan last year, it admonished Bush not to propose it again. The 20 members of Congress who negotiated a final farm spending bill said in their October report that Bush should ``refrain from proposals which place at risk a carefully balanced coalition of interests which have served the interests of international food assistance programs well for more than 50 years."

``The reaction last year surprised a lot of people," said Patrick Webb, the former chief of nutrition at the United Nations' World Food Programme who is now a dean at Tufts University near Boston. If Bush had courted the charities last year, ``maybe the reaction would have been different," he said.

Ready to Listen

Some of the charity groups who have met recently with Dworken or his aides say they are ready to listen now, partly because outside pressures, such as the WTO talks and funding cuts, are already pushing changes to the system. They say they never opposed the overall idea, just the lack of detail.

The charities already face cuts in U.S. aid for long-term donation programs, especially those that allow them to sell food in poor countries and use the proceeds to fund their other programs. About $600 million of food aid in 2004 was used in this way, according to the U.S. Agriculture Department.

``We all want to find a way to test this out and make it work," said Schonberg, the director of food security programs at Save the Children in Westport, Connecticut, which provides food, AIDS treatment and education in 110 countries. ``But there are a lot of questions. One is: Are the agriculture producers going to block this?"

Bush, Congress Focus On Science (HILL)

By Elana Schor

The Hill, January 25, 2006

A bipartisan group of senators will introduce an ambitious trifecta of bills today aiming billions of dollars in new spending at the nation's sliding science and technology sector.

The bills, collectively called Protecting America's Competitive Edge (PACE), sprang from a request made by Sens. Lamar Alexander (R-Tenn.) and Jeff Bingaman (D-N.M.) to the independently funded National Academies: What specific actions could Congress take to ensure continued U.S. competitiveness?

When the National Academies came back with 20 recommendations and a report on how to implement them, the senators took notice, as did President Bush, who is reportedly considering making science and technology innovation a major theme of his State of the Union address.

Alongside Energy and Natural Resources Committee Chairman Pete Domenici (R-N.M.) and Sen. Barbara Mikulski (D-Md.), Alexander and Bingaman are sponsoring three versions of PACE: one for energy, one for education and one for tax policy. The bills would set up a new transformational-energy agency within the Energy Department, create science and math scholarships for 25,000 students and boost research spending at seven federal agencies.

The bills are estimated to cost upwards of $9 billion, a price tag that could prove anathema to a congressional leadership already wary of the bloated federal deficit. But the PACE bills have the solid support of the GOP-leaning business community.

Fifteen manufacturing and high-tech lobbying groups, including the U.S. Chamber of Commerce, the Business Roundtable and the National Association of Manufacturers, issued a report last July imploring the Bush administration to refocus its efforts on improving the quality of science and math education and research.

"We are running out of scientists and engineers," Roundtable President John Castellani said late last week. "It will hurt our ability to be competitive in the future."

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The Roundtable plans to recommend a major increase in the federal research budget in letters to Capitol Hill and the White House that will be sent before the State of the Union.

Bush's Foes Eager To Get Photos Of President With Abramoff (KRT)

By William Douglas And Maria Recio

Knight Ridder, January 25, 2006

WASHINGTON - A picture is worth a thousand words, the old adage goes, which is why President Bush's foes are anxious to get their hands on photos of him posing with disgraced lobbyist Jack Abramoff.

Until now, the only tangible link between Bush and Abramoff was the $6,000 that Abramoff donated to the president's re-election campaign. The White House ended up giving that money to the American Heart Association. But Time magazine reported this week that it's seen five photos of Bush with Abramoff, the lobbyist's sons and Raul Garza Sr., then-chairman of the Texas Kickapoo Indian tribe, which owns a casino in southwestern Texas.

The photos aren't proof of any wrongdoing on Bush's part. But they do put him in the uncomfortable position of standing next to an admitted felon who's become the symbol for all that's wrong with Washington. Bush's opponents would like the ammo as mid-term elections approach.

"I would love to have those pictures. I would use the pictures (in advertisements) and write `Why is this man smiling?' in the cutlines under the pictures," said Paul Begala, a veteran of Democratic political campaigns and a former counselor to President Clinton during the Monica Lewinsky scandal. "This is a visual age. The story becomes bigger when there are pictures. It puts the scandal in the White House."

White House press secretary Scott McClellan, while not commenting on the specific pictures reported by Time, said there probably are photos of Bush with Abramoff because the president has been photographed with thousands of people at political and social events since he took office in 2001.

Garza, who knew Bush when he was governor of Texas, said he remembers spending about 45 seconds talking with the president while his picture was being snapped in a White House meeting room in 2001. Garza recalls Bush fondly greeting him as "jefe," the Spanish word for "chief."

"I told him the tribe is with you," Garza told Knight Ridder Monday. Garza said Abramoff arranged his brief meeting with Bush. Garza was ousted in 2002 after 29 years as a tribal chairman. He's now under indictment for allegedly looting more than $500,000 from the tribe's casino, the Lucky Eagle.

White House officials have refused requests to release any photos of Bush and Abramoff together.

"I know that there's some Democrats that want to try to engage in partisan attacks," McClellan said Monday. "Trying to say there's more to it than the president taking a picture in a photo line is just absurd."

Indeed, the Democratic National Committee sent a release to reporters on Sunday, alerting them to the Time magazine piece. McClellan acknowledged that Abramoff visited the White House at least twice for Hanukkah receptions in 2001 and 2002. Published reports indicate that Abramoff and his associates had nearly 200 contacts with the White House during Bush's first 10 months in office.

While Begala believes the pictures would politically cripple Bush and the Republican Party, Scott Reed, who managed former Senate Majority Leader Bob Dole's presidential campaign, thinks they'd cause minimal damage.

"It's short-term heartache because the pictures would be blasted around the world," Reed said. "It will be an embarrassment because of what Abramoff has come to symbolize, but it will be short term because the Democrats still don't have an agenda or the leaders."

Mike McCurry, Clinton's former press secretary, also questioned the picture's long-term impact.

"They will cause a mild titter and will show up in some campaign commercials," he said. "Other than that, I don't know what their value is."

Embarrassing pictures and videos have haunted presidents in the past, including Bush. While the White House was trying to distance itself from the Enron scandal, a video from 1997 showed Bush, then Texas governor, wishing a departing Enron executive well.

On the video, Bush's father, former President George H.W. Bush, hinted at close family ties with the Enron official: "I don't think anybody did more than you did to support George," the elder Bush said.

Clinton endured repeated showings of pictures of him with Lewinsky, including one shown regularly on television of him encountering a starry-eyed Lewinsky in a greeting line.

Mr. Abramoff's Meetings (WP)

The Washington Post, January 25, 2006

DOJ_NMG_0011598

HERE ARE SOME things we know about Jack Abramoff and the White House: The disgraced lobbyist raised at least $100,000 for President Bush's reelection campaign. He had long-standing ties to Karl Rove, a key presidential adviser. He had extensive dealings with executive branch officials and departments -- one of whom, former procurement chief David H. Safavian, has been charged by federal prosecutors with lying to investigators about his involvement with Mr. Abramoff.

We also know that Mr. Abramoff is an admitted crook who was willing to bribe members of Congress and their staffs to get what he (or his clients) wanted. In addition to attending a few White House Hanukkah parties and other events at which he had his picture snapped with the president, Mr. Abramoff had, according to the White House, "a few staff-level meetings" with White House aides.

Here is what we don't know about Jack Abramoff and the White House: whom he met with and what was discussed. Nor, if the White House sticks to its current position, will we learn that anytime soon. Press secretary Scott McClellan told the White House press corps: "If you've got some specific issue that you need to bring to my attention, fine. But what we're not going to do is engage in a fishing expedition that has nothing to do with the investigation."

This is not a tenable position. It's undisputed that Mr. Abramoff tried to use his influence, and his restaurant and his skyboxes and his chartered jets, to sway lawmakers and their staffs. Information uncovered by Mr. Bush's own Justice Department shows that Mr. Abramoff tried to do the same inside the executive branch.

Under these circumstances, asking about Mr. Abramoff's White House meetings is no mere exercise in reportorial curiosity but a legitimate inquiry about what an admitted felon might have been seeking at the highest levels of government. Whatever White House officials did or didn't do, there is every reason to believe that Mr. Abramoff was up to no good and therefore every reason the public ought to know with whom he was meeting.

Mr. McClellan dismisses requests for the information as an effort to play "partisan politics," and no doubt there is more than an element of partisanship in Democrats' efforts to extract this information. But Republicans wouldn't stand for this kind of stonewalling if the situation were reversed. We can say that with confidence because history proves it. During the 1996 scandal over foreign fundraising in the Clinton White House, Republicans demanded -- and obtained, though not without a fight -- extensive information about White House coffees and other meetings, including photos and videotapes.

"Any suggestion by critics or anybody else to suggest that the president was doing something nefarious with Jack Abramoff is absolutely wrong, and it's absurd," presidential adviser Dan Bartlett said on NBC's "Today" show. The best way to refute such "absurd" suggestions is to get all of Mr. Abramoff's dealings with the Bush White House and the Bush administration out in the open -- now.

K St. Counteroffensive (HILL)

By Alexander Bolton

The Hill, January 25, 2006

Big trade associations — lobbyists — are getting ready to fight the sharp tightening of lobbying regulations.

The board of directors of the American League of Lobbyists (ALL), a trade association representing lobbyists, met Monday to discuss the various reform proposals and to lay plans for a coalition of lobbying heavyweights to work with lawmakers to review them.

“Our big issue right now is that we’re not sure you can say the system is broken,” Paul Miller, ALL’s president, said in an interview. “We’ve got to start with enforcement, and that’s our message to Congress. We want to make sure they find a way to enforce the current rules before they make up any new rules.”

Momentum for reform is building. The Senate Homeland Security and Governmental Affairs Committee is scheduled today to consider how to respond to concerns raised by the scandal surrounding lobbyist Jack Abramoff, who has pleaded guilty to federal charges of fraud, conspiracy to bribe and tax evasion.

Miller said a coordination effort is under way among several of the biggest business lobbying groups, including the U.S. Chamber of Commerce, the National Association of Manufacturers (NAM), the National Federation of Independent Business (NFIB), the American Society of Association Executives (ASAE) and others. A similar coalition was formed in 1995 when Congress last seriously scrutinized lobbying regulations, Miller said.

Some of the groups Miller cites seem leery about joining the effort to influence reform proposals when criticism of lobbyists is so intense both on and off Capitol Hill.

“The hope is we can all do this together,” said Miller. “I’d like to see a coalition formed so we can hold a meeting in the next few weeks.”

Former Michigan Gov. John Engler, president of NAM, plans to testify today against some of the most far-reaching reform proposals before the Senate Homeland Security panel. Miller will also testify, as will Bill Samuel, director of the AFL-CIO’s legislative department.

Darren McKinney, a spokesman for NAM, said Engler will stress the same message as Miller, that existing laws and rules impose serious penalties on those who violate the public trust and that additional rules are not necessary.

Engler will argue four other points, McKinney said:

· Congress should not treat all lobbyists the same, for trade associations with thousands of members are different from so-called hired guns who represent smaller interests.

· Gifts and meals given to lawmakers should not be weighed down with onerous reporting requirements.

· Lawmakers should be allowed to accept invitations to tour plants and factories in their districts.

· Each lawmaker's personal integrity determines whether unethical lobbyists are able to corrupt government.

A source familiar with NAM's leadership said the group would likely be willing to participate in a larger coalition or working group to help members of Congress fashion what lobbyists could accept as sensible reforms.

Jim Clarke, senior vice president of public policy at ASAE, said his group opposes the ban on congressional travel paid for by outside groups proposed last week by Speaker Dennis Hastert (Ill.) and House Rules Committee Chairman David Dreier (R-Calif.).

"Our efforts has been focused on [the effort aimed at] banning paid travel," he said. "We want to have everyone take a look at what travel really means and the difference between an exotic trip and taking the train to Philadelphia and talking to folks around the country."

Clarke said trips to vacation destinations may be curbed but not legitimate trips around the country to discuss the potential impact of policy proposals. ASAE plans to circulate a letter to lawmakers expressing its concerns today and to hold a press conference tomorrow.

Clarke declined to say whether ASAE would join a coordinated effort by trade associations and lobbyists to moderate reform proposals in Congress.

Other major trade groups are lying low on the contentious issue of lobbying reform

Mike Hardiman, a spokesman for the NFIB, said his organization would not join a coalition organized by the league of lobbyists on the issue of reform. The NFIB was not active on the issue, he added.

"Our membership hasn't been polled on this," Hardiman said. "We're driven by the membership. … The issues we work on come from the membership."

Other issues are a much higher priority for the NFIB, he said.

Trade associations and lobbyists seeking to stanch a flood of new rules may have an ally in at least one candidate for House majority leader.

"The solution to the problems we face is to stop abuses of power by Congress or individual members, not more bureaucratic rules," said Rep. John Shadegg (R-Ariz.). "I applaud the Speaker and Chairman Dreier's efforts. However, many trips are truly educational, and I believe a complete ban on all private travel would be an overreaction that doesn't get to the root of the problem."

Jessica Boulanger, a spokesman for interim House Majority Leader Roy Blunt (R-Mo.), who is vying against Shadegg and Rep. John Boehner (R-Ohio) to remain majority leader, said reform proposals should be fully debated in the House.

"I would reiterate Congressman Blunt's support for the Speaker's and Chairman Dreier's efforts," she said. "Mr. Blunt said it is important to look at all the proposals, go through regular order and have ample debate."

Congressman Seeks To End K Street-Wall Street Linkage (HILL)

By Jim Snyder

The Hill, January 25, 2006

Rep. Brian Baird, a Washington state Democrat, wants to end an inside-the-Beltway version of insider trading as part of his party's larger lobbying-reform effort.

But to do so, he may have to craft a legislative remedy to this town's tendency to talk, an effort Baird admits will be difficult and lobbyists say is an overreach.

The conversations in question are secret tips lobbyists get from their contacts on Capitol Hill and pass along to hedge-fund clients, who in turn may use the information to buy or sell a stock. The tips could include, for example, nonpublic information about when a bill is going to be introduced or a key member's opinion on a particular policy.

Several K Street firms supplement their lobbying incomes through this type of "political intelligence" work, serving as pipelines to hedge funds in particular because they often trade stocks more frequently than other businesses, such as mutual funds.

The problem, Baird says, is the trading on information that is not yet public and therefore not readily available to other investors who can't afford to hire lobbyists.

"Clearly, the selling or buying of stock based on this type of 'political intelligence' has the potential to profit some private parties at the expense of others who may not have access to the same information," Baird wrote to the House ethics committee in November after learning of the activity in a report published in The Hill.

Staffers and lawmakers are prevented from releasing classified information. Congressional rules prohibit members or staff from using confidential information available to them as a consequence of their positions to make money. Beyond those, though, there are few formal institutional limitations on what Capitol Hill employees can discuss with outsiders.

It's tricky to deal with political intelligence, Baird acknowledged, because lawmakers and their staffs need to talk with lobbyists about prospective bills to ensure any measure doesn't have unintended consequences.

Defining what is and isn't public information is another complication, Baird said.

"It turns out that it's not easy," Baird says of his efforts to draft a bill.

But Baird says he's determined to shine some light on the practice, which has increased along with the growth of hedge funds in the past decade, because the potential to make big money from the release of the information could have a corrupting influence on the process.

One possible solution Baird suggested was that lobbyists would promise not to pass along information gleaned from Capitol Hill contacts to their hedge funds for investment purposes.

"I think there are ways you can do this," he said.

At a minimum, Baird said, he would press for "clear-cut, full disclosure" of lobbyists' relationships with hedge funds. Lobbyists currently can keep their relationships with hedge funds private. Disclosure rules don't apply because the firms aren't attempting to influence Congress.

Baird said he expected his bill to be part of the broader reform package Democrats offer this year.

But even supporters of broad lobbying reforms said it might be difficult to try to stem the flow of information from Capitol Hill.

"The Hill is so gossip-driven. Information flows all over the place," said Joan Claybrook, president of Public Citizen, a watchdog group. "It would be hard to define what is unique information."

That said, Claybrook supports an effort to require lobbyists and other political-intelligence practitioners to disclose their clients.

Lobbyists who do political-intelligence work but asked not to be identified because they didn't want to challenge a reform effort publicly in light of the scandals, said their business is not dependent on the hot tips Baird seems to be after.

Some firms do only political-intelligence work; others use it to supplement their lobbying practices.

Because companies don't have to disclose these revenues, it's unclear how big the business is.

One source said that while his firm provides the occasional heads-up about a bill to be introduced or an amendment offered during floor debate, the bulk of its work is more macroeconomic, such as providing advice on which companies may benefit from an energy bill or a particular version of asbestos-litigation reform.

The source equated his practice with a "high-cost media subscription service" because the tips the firm does pass on could be the same type of not-yet-public information that press outlets provide readers. It would be unfair to prevent his firm from profiting from its contacts on Capitol Hill while also allowing reporters to mine their contacts, the source said.

Another lobbyist who advises Wall Street also said his investor clients are rarely looking for a hot tip. More often, clients look for an analysis of a bill or just basic information about how Washington works.

"You can't believe the dumb questions that I get paid to answer," the source said.

When Does A Gift Become A Bribe? (CSM)

By G. Jeffrey Macdonald

The Christian Science Monitor, January 25, 2006

As members of Congress scramble to take cover amid a storm of corruption scandals, professionals of all stripes have fresh reasons to question whether the business-related gifts they give and receive are truly innocent.

Norms vary as to what constitutes a bribe, say ethicists and other experts on the subtle, sometimes manipulative, power of gifts. As a result, individuals in positions of responsibility and trust are likely to get entangled - perhaps tragically - in the absence of explicit policies for what is acceptable.

"If you don't know where the lines are, you may not be able to make the best decision," says Judy Nadler, senior fellow in government ethics at the Markkula Center for Applied Ethics at Santa Clara University in California. Having clear rules in place, she says, "makes it easier when you are tempted."

On Capitol Hill, a plea bargain from Republican lobbyist Jack Abramoff has attracted the glare of an unwelcome spotlight. Wary that Mr. Abramoff's legendary largesse might constitute bribery in a Department of Justice probe, dozens in Congress have

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rushed to donate or return hundreds of thousands of dollars linked to him. Such steps, however, won't undo the times when members allegedly unwound in Abramoff's skybox seats at sporting events or flew to such destinations as the Northern Mariana Islands on his dime.

Congressional rules cap noncampaign-related gifts at $50 per item and $100 per year from any individual, including lunches or other meals.

Abramoff's case threatens to build upon the confessed shame of US Rep. Randy "Duke" Cunningham (R) of California, who pled guilty in November to charges of accepting a luxury yacht and other gifts from private firms seeking government contracts. And outside Congress, charges of bribery in the past year have taken down a city councilor in San Jose, Calif., a mayor in Chicopee, Mass., and Chicago's city clerk.

Amid this climate, some professionals are taking steps to ensure that even traditional gifts don't create conflicts of interest.

In medicine, the prescription-drug industry now bans its representatives from doling out gifts worth more than $100 each to physicians, and doctors' spouses are no longer welcome at industry-sponsored "educational" dinners in restaurants.

About 400 physicians and the 60,000-member American Medical Students Association are urging colleagues to go further and take no gifts whatsoever from drugmakers, lest their independence of judgment come into question.

In 2004, New York City joined other school districts that have begun restricting gifts to teachers. The policy of capping gift values at $5 in New York resulted after parents complained that students were getting special treatment in exchange for high-priced gifts.

Hard and fast rules, however, tend to get blurry in international business settings. Even Fortune 500 companies with laudably firm policies have trouble in this area, says Peter Madsen, executive director of the Center for the Advancement of Applied Ethics and Political Philosophy at Carnegie Mellon University in Pittsburgh.

In Asian countries, for instance, refusing a gift is often considered unthinkably rude. And in some less-developed nations, foreigners are sometimes expected to "pay to play."

"Relativism is rampant ... and when you're talking business, cultural relativism becomes a really big problem," Mr. Madsen says.

Multinational corporations, he says, "engage in what we would call a bribe, although perhaps elsewhere it's not [called that], but they do it nonetheless to get the business. So there's all of this, what we would call, 'corruption in government'.... But if you impose your values elsewhere, you're told you're practicing cultural imperialism. So you can't win."

Even in the US, where bribery is said to be less brazen than in some other countries, not all agree at what point a gift becomes a bribe.

For Nadler, any gift given with "an expectation of compensation" has crossed the line into bribery.

Another view holds that a gift becomes a bribe only when the expected compensation is "specific," says Mark Osteen, editor of an essay collection titled, "The Question of the Gift." Decisionmakers need to start declining gifts long before they reach that level, he says.

"When you're in power and someone is giving you a gift, it's pretty difficult for it not to be tainted with some kind of expectation," says Mr. Osteen, professor of literature at Loyola College in Baltimore.

"I would think that a truly ethical person in power - whether it's a politician, a person above you in a job, a religious figure, or a police officer - would want to steer away from that kind of thing because ... the person who gave it is going to expect something back, whether it's specified or not."

Having a no-gifts policy works best, Nadler says. But in situations where a gift cannot be refused, such as one from a foreign host, she suggests accepting it and then publicly donating it to a charity.

Concerning the power of gifts, no ground is so holy as to be immune. At Sinai Temple in Los Angeles, Senior Rabbi David Wolpe notes that the oral and written Judaic traditions emphasize the moral duties of the not-yet-corrupted person who might be tempted to take a bribe.

He points to Exodus 23:8, which warns that "a bribe blinds those who see and twists the words of the righteous."

Consequently, he says he accepts neither monetary gifts nor anything more "extravagant" than, say, a briefcase or a necktie.

"I'm in a much better position than the politician is, because what I dispense is not monetarily valuable," Rabbi Wolpe says.

Yet when making judgment calls, such as evaluating whether bar mitzvah applicants have met minimal study requirements, he appreciates feeling indebted to no one.

"I don't want anyone to be able to say to me, 'How could you say no? I gave you this,' " Wolpe says.

"I don't want it to be about what was given to me. I want it to be about the issue.... Even if they give a large gift to the synagogue, I get that, you know, 'We gave such a big gift to the synagogue, how could you do this?' But at least that gives me one level of removal because I can say ... 'The synagogue promotes exactly the values that I'm trying to enforce here.' "

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To reduce corruption in Congress, the activist group Common Cause is proposing a ban on privately sponsored travel for Congress members and their staffs, as well as a ban on taking personal gifts.

Currently, "no one follows [gift rules] because no one has been checking" to see if rules are being followed, says Michael Surrusco, ethics campaign director at Common Cause.

Yet at this point, he says, Congress still has a long way to go. Among the 535 members of Congress, Mr. Surrusco says he's not aware of one who insists that staffers pay their own way when dining with lobbyists.

House Democrats Hold Off On Ethics Complaints, For Now (HILL)

By Jonathan E. Kaplan

The Hill, January 25, 2006

House Democrats have no immediate plans to file complaints against Republicans when the ethics committee is up and running again, according to a top Democratic lawmaker.

As Republicans have hinted they may file formal ethics complaints, Democrats are content to sit on the sidelines for now.

"The Justice Department is moving, and there's no reason to interfere and give the Republicans a tool to say the investigation is being politicized," the Democratic lawmaker said. "That's not in their rhetoric, and right now they have to answer the Justice Department's charges. Once it looks like it's political, they don't have to answer that."

Democrats also said that they would not move forward because the panel remains shuttered after a months-long partisan disagreement over how to staff the committee and that the committee would not pursue an investigation in tandem with the Justice Department.

Still, a handful of House Republicans could be ensnared in the department's wide-ranging influence-peddling probe involving Jack Abramoff, including Rep. Bob Ney (Ohio), identified as the "Representative #1" of a Justice Department inquiry in Abramoff's Jan. 3 plea agreement.

Ney was recently persuaded to step down temporarily as chairman of the House Administration Committee.

With the focus on the Abramoff controversy so far highlighting Republican lawmakers and their possible indictments, GOP lawmakers could have more to gain than Democrats by filing ethics complaints.

Meanwhile, GOP sources say that the new staff director of the ethics committee, William Reilly, is nearly finished hiring an investigative staff.

A Republican aide attributed the Democratic reticence to concern by House Minority Leader Nancy Pelosi (D-Calif.) about possible pressure on the ethics panel's ranking Democrat, Rep. Alan Mollohan (D-W.Va.), to pursue the cases.

"Pelosi won't permit complaints to be filed because she knows that doing so would put pressure on Mollohan to move forward," the aide said. "Pelosi has the best of both worlds because she can criticize the failure to investigate when the only reason they can't investigate is because she won't let them."

The ethics panel has investigations pending into Reps. Jim McDermott (D-Wash.) and Tom DeLay (R-Texas) on hold from the 108th Congress.

Despite the uncertainty, Democrats have their eyes on a House rule that requires complaints to be filed no fewer than 60 days before an election. The deadline for filing a complaint against Ney, given Ohio's May 2 primary, is March 2.

Ney has offered to meet with the ethics panel several times but has not received a response, said his spokesman, Brian Walsh.

"Ney would welcome the opportunity to clear his name. … He is confident that has done nothing wrong and that he will ultimately cleared," Walsh added.

Reps. DeLay, John Doolittle (R-Calif.) and Richard Pombo (R-Calif.) also have ties to the Abramoff probe. In Texas, the primary is set for March 7, so Democrats have missed the 60-day window. But the California primary will take place Aug. 1, so Democrats have until June 1 to file a complaint against Pombo or Doolittle.

Republicans and Democrats have lobbed threats of an ethics war against one other. Speaker Dennis Hastert (R-Ill.) told reporters last week that it was unfortunate the ethics committee is shut down because "there are people on the other side that should be before the ethics committee and were cued up to go before the ethics committee."

"Minority Leader Nancy Pelosi has never been a party to an ethics truce and has always said that individual members have the right to file a complaint," said Jennifer Crider, Pelosi's spokeswoman.

Rep. Louise Slaughter (D-N.Y.), who favors taking an aggressive approach in an ethics war against Republicans, is preparing a report titled, "America for Sale: The Cost of Corruption," which she expects to release within the next few weeks, said Eric Burns, Slaughter's spokesman. The report will tie ethics charges against the GOP to what the Democrats consider "horrific" legislative outcomes.

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Historically, Indictments Tough To Overcome (HILL)

By Peter Savodnik

The Hill, January 25, 2006

History shows that members of Congress with an indictment hanging over their heads are almost certain to lose their seats — a cautionary tale not only for House Republicans tied to lobbyist Jack Abramoff but the entire GOP conference as a whole.

Republicans with Abramoff ties who could be indicted in the coming weeks include Rep. Bob Ney of Ohio, a target of a Justice Department probe. But a handful of other members have or are suspected of having ties to Abramoff and are watching intently as the events unfold.

Former House Majority Leader Tom DeLay (R-Texas) has been indicted in a state court on money-laundering charges related to a political committee suspected of channeling corporate money into Texas elections illegally, but so far DeLay has not been indicted for his ties to Abramoff.

While the Congressional Research Service does not keep a tally of all members of Congress ever indicted, anecdotal evidence suggests that the vast majority of indicted members either step down or lose at the polls, a CRS official said.

"It's usually a killer for your political career to be indicted," said the official, who declined to speak openly because of the ongoing, Abramoff-related investigations. "If a member's under indictment and stands for reelection … it really casts such a pall over them.

"The party — they're worried about losing the seat. They really want someone else to run for that seat. And [members] often feel tremendous pressure to resign."

Don Ritchie, a historian with the Senate's Historical Office, estimated that only 10 senators in the nation's history have been indicted, beginning with Ohio's John Smith in 1808.

More recently, Ritchie noted, Sen. David Durenberger (R-Minn.) was indicted in 1993 and 1994 for filing fraudulent reimbursement claims. The senator did not seek reelection in 1994.

Most of the indictments, Ritchie said, dealt with "financial mismanagement."

Smith was accused of conspiracy for what modern-day lawyers might consider treason: he was trying to form a new nation in the western part of the country.

Several House members' careers have been short-circuited by lengthy investigations, guilty pleas or convictions, including Reps. Randy "Duke" Cunningham, who resigned last year after he admitted to taking millions of dollars in bribes, and Jay Kim, who lost a primary in 1998, some six years after taking $250,000 in illegal campaign contributions. Both are California Republicans.

Rep. James Traficant, an Ohio Democrat, was expelled from Congress in 2002 after a conviction for bribery, tax evasion and racketeering. Later that year, he launched a failed effort from prison to win back his seat as a write-in candidate.

But an indictment alone has also proved damaging — most famously, perhaps, when veteran Rep. Dan Rostenkowski (D-Ill.) was thrown out of his strongly Democratic Chicago seat amid the 1994 investigations of the House post office.

Moreover, the 1994 election shows, the indictment of just a few members can precipitate an avalanche of incumbent losses, which is what Democrats who continue to lambaste Republicans for creating a "culture of corruption" hope will happen in 2006.

The post office and concurrent check-kiting scandals, for instance, led to the indictments of just seven lawmakers, none of whom is still in Congress. But Democrats lost 54 House seats in the subsequent Republican takeover.

This year, Democrats say that if their strategy works they may pick up seats that extend far beyond Ney's or DeLay's districts. One Democratic official in Washington said Colo.-7, Ohio-15, Fla.-22 and N.M.-1 top the party's list of possible pickups.

Ney spokesman Brian Walsh declined to speculate on his boss's plans if he is indicted.

"I'm not going to go down that path," Walsh said.

Walsh said that at a recent rally in Zanesville, Ohio, GOP officials had pledged their support to Ney. Later this week, he added, the congressman will announce his reelection bid for a seventh term.

Criminal misconduct has not always meant premature retirement.

In 1789, Rep. Matthew Lyon of Vermont won reelection after being imprisoned for a conviction on sedition. In 1956, Rep. Thomas Lane won reelection despite having spent four months in prison for tax evasion; he served until 1963.

Rep. Joseph McDade (R-Pa.) was indicted in 1992 on charges that he accepted gifts from defense companies in exchange for contracts. But he managed to stay in office for the better part of the decade; McDade was exonerated in 1996.

Still, Democrats are confident that the growing pool of indictments or possible indictments bodes well for them.

Price Tag For Enforcing Lobby Reform Unclear (HILL)

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By Elana Schor

The Hill, January 25, 2006

The offices are nondescript and rarely crowded. No cameras are permitted inside. Visitors strolling the halls of Hart or Cannon would have little reason to know the rooms exist.

But the Senate's Office of Public Records and the House's Legislative Resource Center are poised to become hotbeds of activity this year, with Congress weighing big changes to lobbying disclosure rules that could flood the offices with paper and newfound responsibility.

Public Records Superintendent Pam Gavin said the office would be hard-pressed to determine what it might need to administer a new disclosure regime that the Senate has not yet passed or even debated.

"Whatever we do, I suspect we're going to have to look at our work processes and see if there is any space to make more efficiencies," Gavin said. "Do I think I'm suddenly going to get a lot more money? No."

The Office of Public Records (OPR) collects thousands of lobbying disclosure forms, which are double-checked and provided for public viewing. In private, Gavin's three full-time lobbying staffers send correction letters to the unknown number of lobbyists and firms who have erred in their filings.

Lobbyists who fail to file at all, or who cover their tracks with a technically accurate but misleading disclosure, can easily escape any notice.

"We're not asking anyone in the correction letters if they are telling the truth," Gavin said. "There are people who see competitors in the halls who they believe should be registered. They tell the office, the office sends inquiries."

Yet Gavin acknowledged that this kind of K Street whistle-blowing, which she jokingly called "the lobby wars," is rare. And the OPR does not keep track of how many initial correction letters it sends to lobbyists, making follow-up difficult.

"We don't think it's a statistic that has any relevance," Gavin said. "It's sort of like, the ethics committee sends correction letters on public financial disclosures, and they don't keep statistics on that either."

The OPR has an Internet presence, unlike its counterparts in the Clerk of the House's Office. A new lobbying law passed this session is likely to require the House to post its lobby filings online, although the House Administration Committee, now under Chairman Vernon Ehlers (R-Mich.), has yet to assess the practical costs of changes.

"It's a little premature to know that," committee spokesman Jon Brandt said. As for posting lobbyist filings on the Web, "the law doesn't require it to be disclosed. If the law is changed to require it to be disclosed [online], then it will be."

In addition to filings from more than 20,000 lobbyists, the Legislative Resource Center (LRC) also allows visitors to view House members' annual financial disclosures, but not before asking for the name, address and affiliation of those making a search. Curious parties can then check up on who is spying on whom, from eager reporters to staffers peeping at forms filed by their bosses' rivals.

Neither the OPR nor the LRC would disclose how many noncompliant lobbying cases they refer to the U.S. attorney for the District of Columbia, who plays the role of lobby police. But of the 200 referrals made by Congress since 2003, prosecutors have pursued only 13, according to U.S. attorney spokesman Channing Phillips.

One senior attorney pores over the list of lobbyists who failed to respond within four months to several letters from the House and Senate asking for corrected disclosures, Phillips said, and "we go on which have merit." Seven of the 13 cases deemed worthy remain unsettled with the lawbreaking lobbyists in question, and three of the remaining six cases exited the system unpunished.

Most proposed lobbying and ethics reforms would double the frequency of lobby filings. Lawmakers have rarely discussed the cost of cracking down, and congressional ethics watchers are beginning to raise questions.

"You can beef up the rules, but if you don't enforce them, and people know that what they're going to do will be ignored, it will get to a point where it's out of control again," Norm Ornstein, a resident scholar at the American Enterprise Institute, told reporters Monday.

Dennis Thompson, a professor of political ethics at Harvard University's Kennedy School of Government, pointed out that even well-enforced disclosure rules might not repair public disapproval of Congress.

"Disclosure by itself is not only not adequate but can make the problem worse," Thompson said. When annual financial disclosures are released, "instead of looking at patterns of influence, we look at a top 10 list of wealth. We need some serious effort to do something with what's disclosed."

Senate Democratic plans to chill relations between Congress and K Street involve creating an Office of Public Integrity, which would conduct audits and investigations to ensure lobbyists are following the stronger disclosure rules. Rep. Mike Rogers (R-Mich.), a candidate for House majority whip, has released details of a bill that would create an independent lobbying enforcement commission.

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Still, conservatives in both chambers will probably rebel against any reform bill that contains the bureaucratic burden of a new lobbying agency or office.

"We don't want to create a whole new entity if it's not necessary," Sen. Rick Santorum (R-Pa.) told reporters last week at a joint appearance on lobbying reform with Sen. John McCain (R-Ariz.). Santorum stressed that Senate Republicans are "open to ideas."

Republicans have started discussing those ideas through a small lobbying-reform working group convened by Senate Majority Leader Bill Frist (R-Tenn.), according to Rules Committee spokeswoman Susan Irby. The group is composed of Rules Chairman Trent Lott (R-Miss.), Santorum, McCain and Sen. Susan Collins (R-Maine), chairwoman of the Homeland Security and Governmental Affairs Committee.

Despite Collins's committee's taking the majority of jurisdiction over the lobbying and ethics overhaul, Irby said the OPR, overseen by the secretary of the Senate, will likely ask Rules for a bigger budget this year.

Absent from the Frist working-group roster is Senate Ethics Committee Chairman George Voinovich (R-Ohio). Both the House and Senate ethics panels have a long-standing policy of declining to investigate members who already face an inquiry from the Justice Department.

Secrecy As A Spoil Of Victory (NYT)

The New York Times, January 25, 2006

Never mind the golf junkets and poolside seminars. One of the rawest displays of lobbyists' power in the Capitol occurred beyond the sight of the public last month, when Republican Congressional negotiators tweaked a budget-cutting bill in order to provide the health insurance industry with a $22 billion windfall. The circumstance of this victory by insurance lobbyists is particularly relevant now that the same Congressional leaders are feverishly vowing to enact lobbying reform. The bill change, dearly sought by the H.M.O. industry, was written by House and Senate lawmakers and staff members in closed-door, Republican-only bargaining sessions - one of the "conference committees" for settling differences in final legislation that are themselves becoming part of the Capitol's influence-peddling scandal.

The current version of this deal-setting routine entirely excludes Democratic lawmakers, who are in the minority but still represent significant numbers of Americans. Rather, the lobbyists who successfully worked for a whopping fix in the Medicare reimbursement formula were far more clued in by cooperative Republicans. This is business as usual in Congress; no one is promising hearings about secretive behavior, skulking about in a black hat or hiring defense lawyers.

The bill change might have gone unnoticed but for the fact that the nonpartisan Congressional Budget Office was doing its job in parsing out the last-minute gutting of a formula that was originally intended to produce a $26 billion savings for taxpayers across 10 years. Instead, the final bargainers reduced the projected savings to $4 billion and handed the H.M.O.'s a $22 billion gift by protecting the inflated reimbursements they currently reap through Medicare.

Republican lawmakers insist that nothing nefarious was transacted, and that a minor formula change was grossly miscalculated in the budget office report. It's nice to see the lawmakers coming out of the shadows, if only to make excuses. But their credibility problem lies in the deep secrecy and partisanship that shroud the conference committees.

If the tables were reversed, Democrats might indulge the same hegemony. But right now, some are proposing that the forthcoming attempt at lobbying reform include a rules change to at least open the conference committees to the public and allow minority party lawmakers votes in committee on the final wording of legislation. It remains to be seen whether such an advance in participatory democracy can survive the inevitable assault by dissatisfied lobbyists and their allied incumbents.

Candidates Try To Force Second Ballot (HILL)

By Patrick O'connor

The Hill, January 25, 2006

With Rep. Roy Blunt (R-Mo.) the front-runner in the race to become the next majority leader, Reps. John Boehner (R-Ohio) and John Shadegg (R-Ariz.) are locked in a precarious duel to force a second ballot.

The prospect of a second ballot generates significant uncertainty for each team heading into the Feb. 2 election, but it creates a particularly difficult dynamic between Boehner and Shadegg because the two lawmakers must work together in forcing the second vote while trying to beat each other on the first.

With most members already committed to one of the three candidates, the race is stuck in a momentary lull. This question about a second ballot is just one of the many uncertainties lawmakers must confront when they return next week for the president's State of the Union speech and an as-yet-undetermined number of leadership races.

Members, aides and lobbyists have started to debate this second-ballot question in anticipation of next week's race.

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At press time, Blunt had 91 public supporters, Boehner had 41 and Shadegg had 10. Unlike Blunt and Boehner, Shadegg is not whipping his vote count or releasing the names of public backers.

Some in the House had noted that Blunt's public supporters had not moved much recently — until he added five new endorsements Monday.

The unspoken alliance between Blunt's two challengers appears to benefit Boehner because the Ohio lawmaker claims more public support than Shadegg — but not enough to win the first ballot on his own. That would allow him to face Blunt in a runoff if the acting majority leader is unable to win outright on the first ballot and Shadegg does not eclipse him by Feb. 2 — both of which are distinct possibilities.

Shadegg has begun to distance himself from Boehner in the past week, casting himself as the one true conservative with "the real and consistent record of reform," but he is also working with the Ohio lawmaker to criticize Blunt.

Shadegg called Boehner last week after hearing that Blunt had declined separate requests to debate his two opponents on NBC's "Meet the Press" and "Fox News Sunday," Shadegg spokesman Michael Steel said yesterday. After that conversation, the two issued a joint statement criticizing Blunt for declining the invitations for a public debate.

In addition, the two camps have repeatedly questioned Blunt's decision not to resign his position as majority whip after declaring his candidacy for the leader's role.

While Shadegg is attempting to accentuate his difference with Boehner, members and staff have questioned the effect their apparent cooperation would have on Shadegg's campaign.

"Shadegg is running a general-election strategy in the primary," one GOP aide said. "He doesn't seem to be focused on beating Boehner."

Boehner continues to praise Shadegg's candidacy, even as the Arizona conservative wins the support of conservative media outlets and conservative, reform-minded Republicans such as Reps. Jeff Flake (Ariz.) and Mike Pence (Ind.). Boehner officials even issued releases touting their boss's reform credentials after the endorsements by Flake and Pence.

In response to a question about whether Boehner was deliberately running with Shadegg to force a second ballot, Boehner spokesman Kevin Smith wrote, "Mr. Boehner and Mr. Shadegg are the two candidates in this race talking about the need to change the status quo, and to the extent that Mr. Shadegg's candidacy has helped to make reform and change the dominant topic of conversation in the race, John has embraced his candidacy."

Blunt is running a quiet campaign as the established member of the leadership, while Boehner and Shadegg are fighting for the role of reform candidate.

Even though the race to replace DeLay has not attracted headlines in most congressional districts, a handful of regional newspapers have seized on the race — and Shadegg's candidacy, in particular — to encourage their representatives to make wholesale changes in the current leadership.

Shadegg has been the toast of conservative editorial boards since entering the contest almost two weeks ago. The Dallas Morning News, the Mobile Register in Alabama and the Rocky Mountain News in Denver all endorsed the former Republican Study Committee chairman in the past week, and The Palm Beach Post and The Arizona Republic took their push for change a step further by separately challenging two potentially vulnerable Republicans, Reps. Clay Shaw (Fla.) and Rick Renzi (Ariz.), for supporting Blunt.

Shaw is facing a tough reelection while simultaneously waging a campaign to become chairman of the powerful Ways and Means Committee. The Post wrote that, by supporting Blunt, "Shaw is also supporting corruption as usual in Congress." That day, his Democratic opponent, state Sen. Ron Klein, issued a statement condemning Shaw for backing Blunt.

However, grassroots pressure has not yet become significant enough for a bloc of members publicly to shift their support from one candidate to another.

Because the vote will be determined by 232 members of the Republican Conference, media endorsements hold much less sway, but grassroots criticism could be detrimental for the party as members prepare for the midterm election in November.

Blunt has already claimed enough support to win the election on the first ballot. Yet this race is unlike tough votes he has whipped over the years because the secret ballot will not allow him to see who, if anyone, has betrayed him. Blunt's claim has solidified his position as front-runner, but it could damage him politically if the votes don't back him up Feb. 2.

"Congressman Blunt remains confident he has the support of his colleagues needed to win this race," spokeswoman Jessica Boulanger said. "He looks forward to wrapping up this campaign and getting to the important work on behalf of the American people that House Republicans do so well."

Blunt has attracted the most support of the three contenders from the revolutionary class of 1994, of which Shadegg is a member. Rep. Charles Bass (R-N.H.), who came in with Shadegg, formally backed his classmate yesterday.

Boehner, meanwhile, has the most House committee chairmen publicly behind him, attracting the support of six of them (excluding Boehner himself). Ways and Means Committee Chairman Bill Thomas (R-Calif.) has not publicly announced his

support, but he worked closely with Boehner on pension reform last year and supported him in his 1998 race for Policy Committee chairman against then-Rep. J.C. Watts (R-Okla.) in 1998. Likewise, International Relations Committee Chairman Henry Hyde (R-Ill.), who has not endorsed any candidate for majority leader, publicly backed Boehner in 1998.

Members of the conference have already been notified that a second ballot would occur immediately after the first, conference spokesman Sean Spicer said yesterday. In addition to the race for majority leader, the conference will also vote for a new chairman of the Republican Policy Committee and any openings that result from the races. That could include a race for majority whip if Blunt wins the race for majority leader.

The other details are still being worked out, Spicer said, and it is still unclear whether there will be any other elections. Rep. Marsha Blackburn (R-Tenn.) could challenge Conference Chairwoman Deborah Pryce (R-Ohio), and Rep. Jack Kingston (R-Ga.) could also join that race.

Unlikely GOP Allies Back Shadegg (WT)

By Amy Fagan

The Washington Times, January 25, 2006

A vocal House conservative and the leader of a liberal wing of House Republicans united yesterday to back Rep. John Shadegg to be majority leader, saying he is the best choice to bring true reform.

"We're most likely to see bold initiatives if John Shadegg is elected majority leader," said Rep. Charles Bass of New Hampshire, chairman of the Tuesday Group, a gathering of more liberal House Republicans.

Mr. Bass announced the endorsement yesterday with Rep. Jeff Flake, Arizona Republican, weeks after the two first spurred the leadership race by circulating a petition calling for such elections.

The Republican Party has been shaken by the indictment of lobbyist Jack Abramoff, and many are now discussing lobbying reform, budget reform and other changes.

Mr. Shadegg, Arizona Republican, made a late entrance into the majority leader's race, joining Rep. John A. Boehner of Ohio and front-runner Rep. Roy Blunt of Missouri, who has been acting majority leader since Rep. Tom DeLay, Texas Republican, stepped down from the post in September.

Mr. Bass and Mr. Flake worked closely together last year to try to reform the budget process, enforce fiscal discipline, reduce the number of earmarks and create a more open, honest budget structure. Their efforts were largely unsuccessful, but both said yesterday Mr. Shadegg is the one to work with them to make those changes.

"John has been a reformer from the beginning," Mr. Flake said.

"I want moderate Republicans to understand that if you care about reform and you want a fresh face, this is the man to support," Mr. Bass added.

"This shows again that this race is not about moderate versus conservative -- it is a choice between real reform and the status quo," Mr. Shadegg said in a statement.

Mr. Boehner, meanwhile, praised Mr. Bass and Mr. Flake "for helping bring greater attention to the need for reducing pork and wasteful earmarks."

He noted that he has never asked for a single pork-barrel project for his congressional district.

"I look forward to working with them as majority leader on earmark and budget reforms so we can change the way Congress does business," Mr. Boehner said.

A senior House Republican aide said Mr. Boehner is likely wooing the Shadegg camp so they'll vote for him in the likelihood that none of the three candidates win a majority of Republicans and members must vote a second time in a runoff between the top two candidates, likely Mr. Boehner and Mr. Blunt.

Mr. Flake agreed that Mr. Boehner is solid on the earmark issue, but said Mr. Shadegg is still his first choice. Mr. Bass said all three candidates are philosophically in the same conservative camp, but Mr. Shadegg "will restore America's faith" in Congress.

Mr. Blunt's office made no public statement on the pair's endorsement, but continued to say Mr. Blunt has enough public and private commitments to win the race.

A secret-ballot vote is set for Feb. 2.

Arizonan Running For House Majority Leader Wins Backing Of 2 Who Helped Ease Out DeLay (NYT)

By Carl Hulse

The New York Times, January 25, 2006

DOJ_NMG_0011608

WASHINGTON, Jan. 24 - Two House Republicans who pushed to keep Representative Tom DeLay from regaining his post as majority leader threw their support for the job behind Representative John Shadegg of Arizona on Tuesday, portraying him as the candidate who represents a true change in party direction.

"If you care about reform and you want a fresh face, this is the man to support," said Representative Charles Bass, who was joined by Representative Jeff Flake in endorsing Mr. Shadegg over the two other candidates: Roy Blunt of Missouri, the acting majority leader, and John A. Boehner of Ohio.

There was no surprise in the pledge by Mr. Flake, like Mr. Shadegg an Arizona conservative. But Mr. Bass, of New Hampshire, is a moderate leader in the House, and he acknowledged that it would be hard for some to accept his support of Mr. Shadegg, arguably the most conservative of the contenders.

Mr. Bass said that he did not see significant ideological differences among the three and that Mr. Shadegg had made a stronger commitment to "bring transparency, accountability and necessary disclosure back to the legislative scene here in Washington."

Still, with little more than a week to go before the vote for a permanent successor to Mr. DeLay, Mr. Blunt remains in the lead with a public list of 90 backers. Mr. Boehner counts 46 public backers, and Mr. Shadegg, who entered the race late, about a dozen. Mr. Blunt has said he has public or private commitments from more than the 117 lawmakers needed to win, while Mr. Boehner claims about 90.

Mr. Blunt, who in 2002 was elected party whip, the No. 3 House leadership position, and Mr. Boehner, a former member of the leadership who is chairman of the Committee on Education and the Workforce, have come under criticism from some lawmakers of both parties, as well as Republican operatives outside Congress, who say both men symbolize the status quo in a year when Congress has been rocked by scandal.

That was a point driven home Tuesday by Mr. Flake and Mr. Bass, who earlier this month were the architects of a petition drive that helped persuade Mr. DeLay, under indictment on campaign finance charges in Texas, to abandon the idea of reclaiming his leadership post.

"What we're saying is that you want someone who doesn't have to have an epiphany on reform," Mr. Flake said, "somebody who's been there from the beginning, pushing reform, and doesn't have to have an election-year conversion on the topic."

In a statement responding to the endorsements for a rival, Mr. Boehner simply commended the two lawmakers for their push to make it harder for members of Congress to get money for pet projects. A spokeswoman for Mr. Blunt said that he remained confident he would win and that his backers represented diverse ideological viewpoints among House Republicans.

Welcoming the new backing, Mr. Shadegg said: "These men - a moderate leader and a conservative leader - recognize that our party faces a crisis. They were out in front when it was a difficult thing to do."

Both Mr. Boehner and Mr. Blunt have their own prominent centrist backers. Representatives Christopher Shays of Connecticut and Mark Steven Kirk of Illinois are among moderates supporting Mr. Blunt, while Representatives Michael N. Castle of Delaware and Ray LaHood of Illinois are behind Mr. Boehner.

Republican moderates have wielded greater influence in the House in recent months, with the leadership relying heavily on their support to win close budget and spending votes in the face of unified Democratic opposition. And, amid the corruption scandal revolving around the lobbyist Jack Abramoff, they have joined with conservatives in pushing for significant changes in lobbying rules and more open consideration of legislation.

All three candidates for majority leader have embraced some changes in the rules governing the relationships between lawmakers and lobbyists, though they disagree on the details.

Those three, as well as candidates for other leadership posts, will spend the next week trying to solidify support ahead of the Feb. 2 vote. Representatives Bass and Flake said they still considered the outcome of the election uncertain despite Mr. Blunt's claim to have sufficient votes to win.

"A lot can happen in nine days," Mr. Bass said. "It is ultimately a secret ballot."

Kinky Money (RC)

By Mary Ann Akers

Roll Call, January 25, 2006

Seeing as he's an outspoken social conservative, some folks were surprised to find out that one of the largest contributors to Rep. Roy Blunt's (R-Mo.) political action committee last year was a businessman who made his fortune in the 1990s off the phone-sex business.

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Jeffrey Prosser, dubbed by the Columbia Journalism Review in a 1998 story "a world-class phone-sex operator," gave $5,000 to Blunt's Rely On Your Beliefs fund in 2005 and his wife, Dawn Prosser, gave another $5,000, making them the largest donor couple to Blunt's PAC.

Prosser, who owns the Virgin Islands Telephone Co., its cable television company and the territory's largest newspaper, was scheduled to "shed" the phone-sex side of his business in a complicated split with his partner, CJR reported. But it's hard to ignore his recent past raking in the bucks off porn chat lines.

The donations have given giddy Democrats an opening to attack Blunt, in tacky and personal ways. "If I received special interest money from phone-sex magnates, my eyebrows would be in surprise mode all the time, too," one Democratic aide told HOH. "Though, in truth, the phone sex donors probably gave to Blunt's PAC because up until Tom DeLay stepped aside — post-indictment — Roy Blunt was known as 'whip.'"

Blunt's ROYB Fund executive director, Keri Ann Hayes, said the Congressman had no clue that Prosser was a 1-900 kind of a guy. "Mr. Blunt was not aware of the colorful history of this individual contributor when his PAC accepted the donation," she said.

Hayes said Blunt will not return the money because "the funds were given in a 100 percent legal and ethical fashion."

Calling Miss Manners. Rep. Brian Baird (D-Wash.) must have been channeling Emily Post when he wrote a letter lecturing a college student — who had just been awarded a scholarship in Baird's name — on how to write a proper thank-you note. And the student must have been channeling Karl Rove when he retaliated with a full-on political attack on Baird.

The letter exchanges have become "the" topic of Washington state political gossip. Compiled in a tidy little file (by state GOP operatives, perhaps?) the letters were sent en masse to Washington delegation members, Senators and their staff ... and to HOH.

The student, Kevin Nelson, who attends Centralia College in Centralia, Wash., won the Congressman Brian Baird and Rachel Nugent Scholarship award this past fall to help send him to business or law school. His thank-you note to the Congressman and his wife wasn't so swift: a bland, typed, one-paragraph note, addressed impersonally to the "Brian Baird Scholarship."

Baird, again channeling Ms. Post, wrote to the student with what he said he hoped would be received as "a friendly and helpful suggestion."

"Your note, a copy of which is attached, was, quite frankly, not very impressive to say the least," Baird wrote. "Perhaps you have not been given instruction in how to write formal letters, but let us suggest that you learn. If you truly wish to advance in business and law, you will need to know how to write a proper letter."

Baird went on to tell the young man that he should learn how to write "a truly thoughtful and expressive letter of gratitude," one that should be handwritten, preferably. "If your handwriting is as poor as mine, I certainly understand a typed alternative, but at the very least what you write should be in a format that shows you spent more than two minutes preparing it."

It was the distinct tone of condescension that struck a raw nerve in Nelson, as well as the fact that Baird had CCed his letter on proper etiquette to the Centralia College Scholarship Office. Nelson, who is no stranger to politics — he's a precinct committee officer in Lewis County, Wash. — whipped off letters to the state Republican Party and to both Senators in the Washington delegation, telling them how offended he was by Baird's letter.

"In his letter he accused me of ignorance and a lack of courtesy — telling me that a proper thank you note should have been longer and on a more appropriate letterhead," Nelson wrote in a letter to his state GOP. "Because of his attack on my character, I felt compelled to respond."

Baird said he wasn't attacking the young man's character, just giving the lad a little guidance from a former professor. Spokeswoman Meghan O'Shaughnessy said Baird "did not intend this to be blown out of proportion like this." He was only providing a "friendly and helpful suggestion."

Bummed at Begala. Former presidential campaign aides are fit to be tied over the way they and Sen. John Kerry (D-Mass.) are portrayed in the new book "Take It Back" by Democratic strategists Paul Begala and James Carville. They were seething when they watched "Meet the Press" on Sunday morning, when host Tim Russert, quoting a passage written by Begala, read aloud:

"Our friends who ran the Kerry campaign continue to insist they did have a message. Here's what they called a message: J-HOS. That's right, J-HOS. It stands for jobs, healthcare, oil, security. They talked and they talk[ed] but voters weren't listening or more accurately, couldn't hear any message in the laundry list of issues. Without a message, Democrats were, if you'll pardon the expression, J-HOSED."

"Ouch," Russert said. Ouch is certainly what the former Kerry presidential campaign aides are saying, too.

One former Kerry speechwriter said he and others were "taken aback" because Begala was advising the campaign and, according to him, helped write the stump speech that was based on J-HOS issues. "We won't be J-Spun because we were J-

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there," quipped the speechwriter. "Mr. Begala was there at the scene of the crime writing that speech, and we haven't J-forgotten. The pander of candor doesn't work if you cover up the truth."

But Begala said the Kerry aides are suffering from revisionist history syndrome. He categorically denies having helped write the J-HOS issues platform that he trashed in his book. "Nice try," he told HOH. "They're gonna have to wash the stench of their own failure off themselves."

Ouch again.

Begala said he tried his hardest to get Kerry to "have a message." He suggested: "You can't trust George W. Bush." But the Kerry camp, he said, "didn't have a message, and they didn't want one."

The Money Maw (WP)

By Al Kamen

The Washington Post, January 25, 2006

Washington so far has managed to take the much-hyped "Abramoff Effect" in stride. There was a little hiccup, to be sure, when the birthday bash-fundraiser tonight for Sen. Conrad Burns (R-Mont.) moved from powerhouse lobbyist Cassidy & Associates offices to the National Republican Senatorial Committee.

Tonight also turns out to be all-Montana night, as Sen. Max Baucus (D-Mont.), who's not even running this year, has invited lobbyists to a dinner at a tony restaurant at 9th and K Streets NW. That's also $2,000 for political action committees and $1,000 for individuals. (So first hors d'oeuvres for Burns, a little song and then down the hill to Baucus's for dinner.)

Can't make it to dinner? No problem. Baucus will be in the Cassidy skybox at the MCI Center raising money at a Bon Jovi concert next week.

Out of town tonight? No problem. You are cordially invited to attend a reception in support of Sen. Arlen Specter (R-Pa.), who's also not running this year. It's a cheap-o, just $500 a person and $1,000 a PAC, at his apartment in Georgetown on Feb. 6.

That is scheduled to be the first day of debate in the Senate on the very complicated asbestos trust fund legislation. Specter is leading the debate on his bill that aims to take care of people exposed to asbestos fibers.

The invite, we were told, was sent to many of the lobbyists involved on the many, many sides of the issue. Specter, chatting with our colleague Jeffrey H. Birnbaum , said this is an annual event that he does during his birthday week and no particular lobbying interests were singled out.

If you can't go, send a card. It's his 76th on Feb. 12.Farewell, Graham Farewell

Did you mark your calendars next week for a "farewell reception" Tuesday "honoring John Graham ," the administrator of the Office of Information and Regulatory Affairs at the Office of Management and Budget?

That's the super-powerful office that oversees many business regulations. The lobbying firm Valis Associates, which lists manufacturing, telecommunications and energy groups among its 2005 clients, had booked the Committee on Small Business room in the Rayburn House Office Building for the event.

Graham has often been blasted for being pro-business, and some hypersensitive eyebrows arched yesterday about this gathering. But he is leaving his job March 1, and people throw farewell receptions all the time to thank oversight officials for jobs well done.

Even so, OMB spokesman Alex Conant , asked yesterday about the reception, said: "After it was first cleared by the ethics office, our understanding of the basic event changed and no longer fits within our ethical guidelines, so it was canceled." We're told the cancellation came around 5:30 p.m.Tiebreaker Looms on FCC Horizon

The Federal Communications Commission may be a step closer to filling its long-vacant third Republican seat. The name of Robert M. McDowell , senior vice president and assistant general counsel at the Comptel telecom trade association, is being floated for the seat, Reuters reported, which would give FCC Chairman Kevin J. Martin a working majority. There hasn't been a GOP majority on the commission since Michael K. Powell left as chairman in March 2005.

Senate Commerce Committee Chairman Ted Stevens (R-Alaska), whose support is key -- and there has been to-ing and fro-ing between him and the White House for months over the slot -- said yesterday he would support McDowell.For Lawmakers, a One-Night Sand

Neither rain nor storm nor gloom of night nor even a "debilitating sandstorm" will deter congressional delegations from their appointed rounds. In fact, a codel headed by Rep. Ileana Ros-Lehtinen (R-Fla.) used a weekend sandstorm in Iraq to tout that it had "established a landmark as being the first such group to stay overnight with American troops in Fallujah."

Of course the group, which included Reps. Jim Gerlach (R-Pa.), Todd R. Platts (R-Pa.) and Stephen Lynch (D-Mass.), didn't have much choice, because they arrived by air at the base in Fallujah and were marooned by the storm.

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Why, there wasn't even a chance to stroll the back streets of Fallujah and ask folks how things are going. Even so, the hardy band, which had earlier stopped in Kuwait to meet with Kuwaiti officials, media and women activists, took off the next day for Afghanistan.What's Left of the Score

Speaking of the MCI Center, a Loop Fan checking out the scoreboard at a Wizards game the other night noticed the fine banner ad for MZM Inc. That was the defense contracting firm founded by Mitchell J. Wade , who's under investigation for certain dealings with former representative Randy "Duke" Cunningham (R-Calif.). Cunningham pleaded guilty to conspiring to take millions in bribes from contractors.

MZM was sold over the summer and is now known as Athena Innovative Solutions Inc., but its MCI account still must be paid. The ad says "MZM Inc. Providing Solutions Through Innovation."

Innovation? Sounds like pretty traditional stuff.

Bush The Incompetent (WP)

By Harold Meyerson

The Washington Post, January 25, 2006

Incompetence is not one of the seven deadly sins, and it's hardly the worst attribute that can be ascribed to George W. Bush. But it is this president's defining attribute. Historians, looking back at the hash that his administration has made of his war in Iraq, his response to Hurricane Katrina and his Medicare drug plan, will have to grapple with how one president could so cosmically botch so many big things -- particularly when most of them were the president's own initiatives.

In numbing profusion, the newspapers are filled with litanies of screw-ups. Yesterday's New York Times brought news of the first official assessment of our reconstruction efforts in Iraq, in which the government's special inspector general depicted a policy beset, as Times reporter James Glanz put it, "by gross understaffing, a lack of technical expertise, bureaucratic infighting [and] secrecy." At one point, rebuilding efforts were divided, bewilderingly and counterproductively, between the Army Corps of Engineers and, for projects involving water, the Navy. That's when you'd think a president would make clear in no uncertain terms that bureaucratic turf battles would not be allowed to impede Iraq's reconstruction. But then, the president had no guiding vision for how to rebuild Iraq -- indeed, he went to war believing that such an undertaking really wouldn't require much in the way of American treasure and American lives.

It's the president's prescription drug plan (Medicare Part D), though, that is his most mind-boggling failure. As was not the case in Iraq or with Katrina, it hasn't had to overcome the opposition of man or nature. Pharmacists are not resisting the program; seniors are not planting car bombs to impede it (not yet, anyway). But in what must be an unforeseen development, people are trying to get their medications covered under the program. Apparently, this is a contingency for which the administration was not prepared, as it has been singularly unable to get its own program up and running.

Initially, Part D's biggest glitch seemed to be the difficulty that seniors encountered in selecting a plan. But since Part D took effect on Jan. 1, the most acute problem has been the plan's failure to cover the 6.2 million low-income seniors whose medications had been covered by Medicaid. On New Year's Day, the new law shifted these people's coverage to private insurers. And all hell broke loose.

Pharmacists found that the insurers didn't have the seniors' names in their systems, or charged them far in excess of what the new law stipulated -- and what the seniors could afford. In California fully 20 percent of the state's 1.1 million elderly Medicaid recipients had their coverage denied. The state had to step in to pick up the tab for their medications. California has appropriated $150 million for the medications, and estimates that it will be out of pocket more than $900 million by 2008-09. Before Jan. 1 the Bush administration had told California that it would save roughly $120 million a year once Part D was in effect.

California's experience is hardly unique. To date at least 25 states and the District have had to defray the costs to seniors that Part D was supposed to cover. What's truly stunning about this tale is that, while officials may not have known how many non-indigent seniors would sign up of their own accord, they always knew that these 6.2 million seniors would be shifted into the plan on the first day of the year. There were absolutely no surprises, and yet administration officials weren't even remotely prepared.

No such problems attended the creation of Medicare itself in the mid-1960s. Then, a governmental agency simply assumed responsibility for seniors' doctor and hospital visits. But, financially beholden to both the drug and insurance industries, the Bush administration and the Repsublican Congress mandated that millions of Americans have their coverage shifted to these most byzantine of bureaucracies.

This is, remember, the president's signature domestic initiative, just as the Iraq war is his signature foreign initiative.

How could a president get these things so wrong? Incompetence may describe this presidency, but it doesn't explain it. For that, historians may need to turn to the seven deadly sins: to greed, in understanding why Bush entrusted his new drug

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entitlement to a financial mainstay of modern Republicanism. To sloth, in understanding why Incurious George has repeatedly ignored the work of experts whose advice runs counter to his desires.

More and more, the key question for this administration is that of the great American sage, Casey Stengel: Can't anybody here play this game?

Terrorists, By Any Name (WSJ)

The Wall Street Journal, January 25, 2006

Osama bin Laden's latest tape was such big news last week that its coverage swamped some other major terror news: that the Bush Administration has rounded up some of America's most dangerous domestic terrorists.

The Justice Department on Friday released a 65-count indictment against 11 members of an animal-rights and ecoterrorism outfit that for more than four years had spread violence and destruction across five Western states. Using fire and explosives, the individuals stand accused of targeting ranger stations, animal-holding facilities, lumber companies, timber farms, a ski resort and even a police department. Eight have been detained; another three are believed to be hiding outside the country.

Credit here goes to the FBI, which in recent years has listed green extremists as a top domestic terror threat -- responsible for more than 1,200 criminal acts and millions of dollars in damage. In recent years these outfits have been expanding their scope, targeting bodies that are only marginally linked to practices they resent. The New York Stock Exchange's recent decision to postpone the listing of Huntingdon Life Sciences -- a U.K. animal-research company that has been a top terrorist target for years -- was put down to the Exchange's worry that it would be next on the hit list.

Law enforcement agencies have made some important arrests in recent years, yet they still face difficulties tracking down these thugs -- who operate in underground cells linked to organizations such as the Earth Liberation Front or Animal Liberation Front. Oklahoma Senator Jim Inhofe last year introduced legislation to give authorities more tools to prosecute ecoterrorists; current statutes don't cover many ecoterrorist activities, such as threats or coercion against third-party targets. The sooner Congress takes this up the better, and more news coverage of their widespread threats and violence wouldn't hurt either.

OTHER NEWS:

Oil Drops On Saudi Pledge To Keep Market Supplied (FT)

By Neil Dennis

Financial Times, January 25, 2006

Zinc hit a record on Tuesday as inventory declines and the threat of strikes in Peru added to concerns that supply was already likely to be outstripped by demand.

The metal, used as an anti-corrosive coating for steel, hit $2,230 a tonne, in spite of news that workers at three of Volcan's mines in Peru were to return to work tomorrow. The company fears however, that more walkouts will take place next month. Peru is the world's third biggest producer of zinc.

Daily zinc output from Volcan was down by 40 per cent after six days of the strike. Meanwhile, inventories in warehouses monitored by the London Metal Exchange yesterday fell to their lowest levels since September 2001.

"We see the back end of the forward price curve staying well supported, due to severe medium-term supply constraints, with far forward prices currently catching up with strong performance in other base metals," said Ingrid Sternby at Barclays Capital. Three-month zinc on the LME closed up $44 to $2,229 a tonne.

Lead also hit a record price, in spite of inventories rising in LME warehouses, as it too began catching up with the other base metals.

The threat of strikes in Mexico has helped underpin lead prices this year, while speculators expect a repeat of last year's deficit, which was in excess of 100,000 tonnes. Three-month lead gained $33 to $1,339 a tonne, just $1 off its record earlier in the day.

Crude prices fell after Saudi Arabia pledged to pump more oil to cover supply problems in Nigeria.

While the problems with militant activity in Nigeria and the nuclear debate with Iran persisted on Tuesday, Saudi Arabia's pledge to ensure supply levels from the Organisation of the Petroleum Exporting Countries did not drop took the heat out of prices.

Analysts at Société Générale believed the market was now starting to price in the Iran effect. "Although the dispute with Iran could have a devastating impact on the supply-demand balance, the market seems still cautious in pricing this possible outcome," said analyst Frédéric Lasserre. He added: "One could argue that this simply reflects its expectations that everything will be done to avoid an oil embargo."

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But Merrill Lynch said these geopolitical factors had led it to upgrade its average forecasts for 2006 and 2007 on both Nymex West Texas Intermediate and Brent by $5 a barrel. This would take its average price on WTI to $57 a barrel and Brent to $56 in 2006, and to $47 and $46 respectively in 2007. By midday in New York, Nymex WTI for March delivery was down 25 cents to $67.85 a barrel, while March Brent eased 25 cents to $65.92.

Market Makes Another Push (WSJ)

By Scott Patterson

The Wall Street Journal, January 25, 2006

Investors, still woozy after Friday's mauling, managed to stay on their feet for a second day in a row Tuesday. While the gains were moderate, they at least helped investors regain a semblance of confidence in the market.

"It's like when you've had a little too much to drink, it takes you a few days to get your legs back," said Barry Ritholtz, chief market strategist of Ritholtz Capital Partners.

The Dow industrials gained 23.45 points to 10712.22. The Standard & Poor's 500-stock index added 3.04 to 1266.86 and the Nasdaq Composite Index, heavy with tech stocks, gained 16.78 points to 2265.25.

Small stocks rallied. The Russell 2000, a barometer of small companies, surged 10.20 points, or 1.44%, to 718.02. The Dow Transports gained 99.27 points, or 2.38%, to 4275.02, amid a decline in oil prices.

Light, sweet crude-oil prices fell $1.04 to $67.06 on the New York Mercantile Exchange ahead of a weekly inventory report Wednesday expected to show a solid build in oil stock piles as warm weather persists in the Northeast.

Now, as earnings season cranks into high gear and with five Dow components reporting Tuesday, investors are getting a better look at how companies performed at the end of 2005. Despite a wave of high-profile misses last week from bellwethers such as Citigroup and Intel, results so far are coming in slightly better than forecast, according to data from earnings tracker Thomson Financial.

About 25% of the companies in the Standard & Poor's 500-stock index have reported results as of Tuesday afternoon. Somewhat surprisingly, given all the slipups, those companies have topped expectations by 4%, compared with an average of 3% historically, according to David Dropsy, an earnings analyst at Thomson.

The best performing sector so far: consumer-discretionary stocks, which have topped estimates by 16%, though just 23% of companies in the sector have reported earnings.

The mood on Wall Street, though, is more downbeat after the high-profile misses last week. A number of professional investors, though, say they expect companies to continue to post solid earnings for their latest quarter.

Tuesday, strong results from United Technologies, which gained nearly 4%, provided investors a welcome respite from misses by other headline grabbers such as General Electric and Citigroup, which helped trigger Friday's selloff. But the day wasn't without a downside, as DuPont, Johnson & Johnson, 3M and Texas Instruments each served up results that disappointed Wall Street forecasts.

Analyst upgrades of Coca-Cola and Wal-Mart Stores, and a solid earnings report from McDonald's also helped the market, though stocks finished well off their highs for the day.

DuPont's fourth-quarter net income fell 45%7 due to hurricane disruptions and other production outages. The chemical behemoth also warned that the weakness in earnings would continue into the first few months of 2006. Its shares fell 0.7%.

Johnson & Johnson slid 3% after it hit earnings targets for a gain of 73 cents a share, but sales of $12.75 billion fell below targets for $13.18 billion. And 3M, which topped fourth-quarter forecasts by a penny, slid 1.4% after the company said it expects to post first-quarter earnings in the range of $1.10 to $1.14 a share, below expectations for a gain of $1.15.

On the plus side, United Technologies reported fourth-quarter earnings8 excluding extraordinary items of 71 cents a share on revenue of $11.26 billion, topping earnings expectations by a penny. Analysts had expected the maker of Pratt & Whitney engines and Sikorsky aircraft to post sales of $11.1 billion.

Shares of McDonald's gained 0.4% after the company posted net income of 31 cents a share for the fourth quarter, in line with estimates. Sales of $5.23 billion were above targets for $5.18 billion.

In major market action:

Stocks rose9. On the Big Board, where 1.9 billion shares traded, 2,266 stocks rose and 1,077 fell. On the Nasdaq Stock Market, where 2.1 billion shares traded, 2,002 rose and 1,017 declined.

Bonds fell10. The benchmark 10-year Treasury note lost 9/32, or $2.81 for every $1,000 invested, to yield 4.394%. The 30-year bond fell 18/32 to yield 4.572%. Yields move inversely to prices.

The dollar rose.11 It traded at 114.59 yen, up from 114.46 yen late Monday, while the euro fell to $1.2282 from $1.2306.

Cost-Cutting At Daimler To Eliminate 6,000 Jobs (NYT)

DOJ_NMG_0011614

By Carter Dougherty International Herald Tribune

The New York Times, January 25, 2006

FRANKFURT, Jan. 24 - DaimlerChrysler said Tuesday that it would eliminate 6,000 white-collar jobs, 20 percent of its administrative work force around the world, taking its cost-cutting drive beyond the factory floor.

The company said it would save $1.8 billion a year after this and other streamlining efforts were completed by the end of 2008. Of the white-collar cuts, 30 percent would come from the management level.

"Over the last several years, we focused on our automotive business and started to streamline the core processes in our divisions," Dieter Zetsche, the chief executive, said in a statement on Tuesday. "But to safeguard our future in this competitive global industry, we need to apply that same equation across all general and administrative functions."

While declining to speculate where the cuts would occur, Mr. Zetsche said that the pool of employees affected was overwhelmingly in Germany, where the company is based. About 57 percent of the company's white-collar employees are in Germany, with 25 percent in the United States and Canada, and the rest spread throughout the world, he said.

The move follows Ford Motor's announcement Monday that it would eliminate as many as 30,000 jobs over the next six years, and it further hardened Mr. Zetsche's reputation as a cost-cutter.

In his previous post as chief of the Chrysler division, he eliminated 26,000 jobs, turning it around in a manner that its American competitors, Ford and General Motors, are trying to emulate. In September, Mr. Zetsche pushed through 8,500 job cuts at the Mercedes car group, which he directs personally alongside his job as chief executive.

Mr. Zetsche succeeded Jürgen E. Schrempp as chief on Jan. 1, and hinted at the time that management jobs would need to go. Tuesday's announcement was his first major move as chief.

Shares of Daimler rallied in response to the news, increasing $2.60, to $54.84.

Mr. Zetsche also announced that he and other members of the management board based at headquarters in Stuttgart would move from an office tower in the Möhringen district to offices near a Mercedes-Benz production line in Untertürkheim, another section of the city.

In a nod to the engineering traditions that made Mercedes a global synonym for high performance, Mr. Zetsche called Untertürkheim "the cradle of the Daimler organization." The move underscored Mr. Zetsche's determination to get executives and engineers working more closely and solve the chronic quality problems at the luxury brand, analysts said.

Michael Raab, an analyst with Sal Oppenheim in Frankfurt, said, "Everything began where they are now going." He added, "This is clearly intended as a signal that Zetsche wants to get back to the roots."

Mr. Zetsche said that the job-cutting plan - affecting areas like finance, human resources and strategic planning - would take three years and cost Daimler 2 billion euros ($2.5 billion), although he emphasized that reductions among senior executives would be in place by March 1.

"You have low-hanging fruit that you will be able to benefit from in the first 12 months," Mr. Zetsche said. "Then you have things that require significant changes in the way you do your business."

With Mr. Zetsche already serving as both chief executive and head of Mercedes, further consolidation of responsibilities will reduce the number of management board members to 9, from 12.

White-Collar Blues In The Auto Industry (WP)

By Amy Joyce

The Washington Post, January 25, 2006

DaimlerChrysler AG said yesterday that it is cutting 6,000 administrative and management jobs, including about 1,500 in the United States, becoming the latest automaker to shed thousands of white-collar workers.

The announcement came a day after that of a Ford Motor Co. restructuring, which includes a reduction of about 4,000 salaried positions, some of them contract workers, by the end of March.

General Motors Corp. eliminated 6 to 7 percent of its 36,000 salaried employees each of the past three years "through normal attrition and special programs," according to spokesman Stefan Weinmann. GM expects a similar reduction this year.

While U.S. automakers are eliminating unionized workers by the tens of thousands, they are also paring their ranks of engineers, executives and other white-collar workers.

Oftentimes, white-collar, nonunion workers in the manufacturing industries are on the front line of staff reductions. Companies do not have to go through negotiations to eliminate nonunion jobs.

The workers often cost less to fire because they do not have the same protections that organized workers have. For example, the Big Three automakers pay into a job bank, which pays hourly workers even if they have been laid off.

"White-collar workers in an economic crunch usually get it in the neck first," said Robert Bruno, professor of labor and industrial relations at the University of Illinois. "They are not the largest number, but they were the easiest to let go."

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Both blue-collar and white-collar jobs have fallen victim to increased productivity from new technology.

"We see it in engineering, where they moved from a physical to a virtual world," said David E. Cole, chairman of the Center for Automotive Research. The work is now "heavily computer-based, which has enabled a huge increase in productivity, and fewer people are required."

Ford's white-collar cuts, first announced in November, will reduce North American salary costs by 10 percent, the company said. Ford cut an additional 2,750 white-collar jobs earlier last year.

The company would not release details of severance packages available to white-collar workers. The amount a worker receives in a separation or severance agreement depends on years of service, said Marcey Evans, a spokeswoman.

The company employs 35,000 salaried workers in North American automotive operations.

Ford also started reducing its corporate officer ranks -- executives appointed by the board and at the level of vice president or above -- yesterday, hoping to cut the number by six by the end of the quarter.

Stephen G. Lyons will retire from his position as group vice president for North American marketing, sales and service. He will be replaced by Cisco Codina, vice president in charge of the customer service division. Darryl B. Hazel, vice president of marketing, will replace Codina.

Ford cut one corporate officer position in product development and one in marketing, sales and service. Barbara L. Gasper, the company's vice president of investor relations, will leave, and the position will no longer be at the officer level. Tim O'Brien, Ford's vice president of corporate relations, will become the deputy chief of staff, and his position will also not be officer-level.

Ford's salaried workers, however, may have an easier time finding work than the 30,000 union workers. White-collar auto-industry workers, Cole said, typically have marketable skills that can help land them jobs at other automotive companies or at firms outside the industry.

Hyundai Motor Co. will be adding engineers and other workers to its laboratory in Ann Arbor, Mich., and Toyota Motor Corp. is tripling the size of its Ann Arbor facility, according to Cole. With a large number of white-collar workers retiring from skilled auto-industry jobs, he said, openings for salaried workers will increase. "Even though it will be a . . . hardship on individuals now, we're going to run into a stone wall very quickly on [finding] people with skills."

Auto Workers Of The World Unite . . . (WSJ)

By John B. Schnapp

The Wall Street Journal, January 25, 2006

General Motors and Ford, bleeding cash and market share, have vowed to cut 60,000 jobs over the next half-dozen years. So far, though, they have been unable to request, much less obtain, more than token economic first-aid from the United Automobile Workers. A recent modest health-care "give-up" proposal at Ford provoked angry union militants to accuse their president, Ron Gettlefinger, of rank appeasement and was endorsed by a vote of only 51% to 49%. Ford's announcement of its "Way Forward" downsizing has led UAW leaders to grouse that both auto makers should be mobilizing to increase sales rather than engaging in brutal cutbacks.

The collective bargaining negotiations upcoming in 2007 loom as a likely auto industry Armageddon, in stark contrast to a rising trend among similarly threatened industries in Germany, where unions are quietly customizing deals to protect jobs and preserve employers. The evident unwillingness of the UAW rank-and-file to participate in that sort of salvation effort is a legacy of the union's justly admired founder, Walter Reuther, an inheritance likely to prove now progressively more obsolete and self-defeating. * * *

Reuther (1907-1970) was an old-fashioned American lefty, a breed now long extinct. Growing up in the household of an ardently Socialist immigrant father, he and his dad in 1917 visited party leader Eugene Debs during his controversial incarceration for opposition to American involvement in World War I. It made a lasting impression.

Reuther became a tool-and-die maker at Ford, the pinnacle of auto worker technical achievements. In the midst of the Great Depression, Walter and his brother Victor worked for two years at the Gorky automobile factory in the USSR, designed by Ford for the Stalin regime. The experience left Reuther with a firm antipathy toward communism and communist labor factions in the U.S. He believed that they cynically subordinated worker interest to political ambition.

On his return, he became active in the infant UAW and on May 26, 1937, became engraved into the national conscience. He and other UAW leaders, engaged in a leafleting effort at the Miller Road gate of Ford's River Rouge complex, were confronted by club-wielding thugs led by Henry Ford's confidante, ex-boxer Harry Bennett. The resulting "Battle of the Overpass" and its one-sided bloodletting, photographed by Scotty Kilpatrick of the Detroit News and widely circulated in Life, Time and other outlets, shocked the country.

Inevitably, the persistent worker "sitdown" occupations of their plants, combined with pressure from the Roosevelt administration's National Labor Relations Board, led to the unionization of all American auto makers. In 1946, Reuther was

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elected president of the UAW after a longstanding struggle against a faction led by Homer Martin, George Addes and Richard Frankensteen, which was considered -- probably accurately -- as Communist. It was almost surely an outgrowth of this intramural conflict that prompted a 1948 shotgun blast through Reuther's kitchen window, which left his right arm permanently damaged.

As leader of his union, Reuther was a stubborn and tactically brilliant negotiator. He repeatedly challenged the auto makers to prove that they were economically unable to meet his demands, and invented the concept of a "target company." For each collective bargaining cycle, the UAW selected one auto maker for negotiation: It might be the weakest and most vulnerable to a strike threat, or the strongest and most able to provide a generous settlement. The contract hammered out with the target company became the "pattern" applied to everyone else. In 1948, Reuther also invented the linking of worker compensation to inflation through an automatic cost-of-living (COLA) escalator.

Walter Reuther created the foundation of the entire panoply of worker benefits that now contribute to the overall cost sclerosis at GM and Ford. But the aspect of his legacy that currently weighs most heavily on the future of these auto makers was philosophic.

First was the cultivation among UAW members of a primary attachment to the union rather than to their employers. The employer was an adversary to be confronted rather than an ally to which workers owed loyalty and support.

Second was Reuther's belief that the UAW should never allow itself to influence competition among auto makers by differentiating contract terms. Wages, hours, benefits and work rules were to be identical. Even as the weakest companies -- Studebaker, Hudson, Packard -- foundered in the '40s and '50s, Reuther's UAW made little effort to throw them a life preserver. Indeed, there was little reason to do so since overall industry growth in that period readily absorbed displaced UAW members.

Reuther died in 1970, and it was only a decade later, with Chrysler teetering on the edge of insolvency, did then-UAW President Douglas Fraser allow that company some relief from the established-pattern terms. This gesture and his accession to Chrysler's board of directors, together with a modest federal loan guarantee and Lee Iacocca's inspired managerial improvisation, saved the company. But Mr. Fraser's actions came late in the Chrysler crisis and it was all a close-run thing.

Walter Reuther could not have foreseen the competitive world that Doug Fraser faced, much less today's. In the year of his death, American companies still held 87% of the U.S. market. Only Volkswagen, among offshore auto makers, sold as many as half a million vehicles here. Toyota and Datsun jointly accounted for about a quarter million and the coming of Honda was still five years in the future. Indeed the big story in 1970 was a three-month UAW strike at GM, which cost that company more than a million units of production.

The habit of confrontation established by Reuther, though, deeply impedes the willingness of his union to seek creative quid pro quos that might help GM and Ford avoid bankruptcies -- bankruptcies that would undermine their credibility among potential customers and lead to likely voiding of collective bargaining agreements. Throughout Germany, in contrast, unions affiliated with the IG Metall confederation -- many of them in the auto-parts sector -- have quietly been making the company-specific deals with employers that Reuther abhorred, in order to prevent the shifting of production to lower-wage venues and to guarantee job security. The German unions' most frequent concessions have given employers greater control over work hours, extended the work day without additional compensation, applied lower wages to new employees and reduced year-end bonuses.

The UAW, instead, seems to be falling into a policy of angry negativism. GM and Ford, despite the intensity of their problems, are viewed as still-rich enterprises afflicted with managerial ineptness who will just have to figure things out for themselves. It remains an "us versus them" kind of world at Solidarity House, the UAW's Detroit headquarters. By refusing to become involved in solutions to the auto makers' problems, as Doug Fraser found it desirable to do 25 years ago, the UAW makes itself into an increasingly prominent part of those problems. * * *

In the late '70s, I figured in a singular reflection of the consequences to the UAW, both then and now, of the Reuther philosophy. My consulting firm was engaged by Nissan to advise it on key issues related to the establishment of what became the second Japanese-owned auto assembly plant in the U.S. One of them was labor relations.

Nissan was predisposed toward replicating its situation in Japan, where it has a company union which, in turn, maintains ties to a relatively weak national federation. Despite traditional theatrics around annual wage negotiations, Nissan's Japanese workers are deeply loyal to the company and proud of their affiliation with it.

We told Nissan that autonomous company-specific unions were a rarity in the U.S. and tended to be absorbed by strong national federations. Its real choice, then, was between the UAW and no union at all. We wrote a briefing book on the history of the UAW, striving to make it unbiased. We stressed the union's social progressiveness and its lack of corruption. But we also stressed its commitment, stemming from Reuther, to identical treatment of all auto makers.

The Nissan management struggled with this, weighing its traditional attachment to dealing with a workers' organization against the likelihood that the UAW would force it into work practices identical to those of GM or Ford or Chrysler. This was not at all what it had in mind. It prompted a painful decision, one that went deeply against the grain, but Nissan chose to reject UAW overtures to unionize its new Smyrna, Tenn., plant. It sent nearly 400 of its initial work force for training in Japan, most of them at

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a twin plant in Kyushu to learn its ways alongside Japanese counterparts on Kyushu's production line. Many of these Tennesseans had never been farther from home than Nashville.

Nissan adopted also a number of important symbolic gestures. All employees, including top executives, wore identical work uniforms. Production workers were empowered to stop the assembly line if they perceived any problem affecting quality. There were no reserved parking spaces nor was there an executive dining room. Smyrna quickly became the most productive auto plant in the U.S., with the highest level of objectively measured product quality, an eminence it continues to enjoy.

Three separate UAW organizing efforts have all foundered at Smyrna. No later Asian auto maker plant unaffiliated with the Big Three has ever been organized either.

Walter Reuther was an undoubted great man. However, the persistence in the contemporary UAW of his intractability, understandable though it may have been in his own time, ensures a continuation of the worst of all outcomes -- a shrinkage of employers and the disappearance of jobs.

Churches To Weigh In On Stem Cell Research (BSUN)

By Jennifer Skalka

The Baltimore Sun, January 25, 2006

Despite the pleas of many doctors and researchers to keep arguments rooted in science, the debate over embryonic stem cell research won't be confined to laboratories.

When three legislative committees convene Wednesday to hear testimony about bills that would commit $125 million over five years for embryonic stem cell research, members of various religious communities will weigh in. And while the official position of the Roman Catholic Church against embryonic stem cell research might be widely known, there are members of other denominations who stand firmly in favor of the bills.

"What troubles me is that the current Catholic understanding regarding the beginning of life seems to somehow have become the gold standard by which everything is judged," said the Rev. Peter K. Nord, executive presbyter of the Presbytery of Baltimore, who plans to testify in Annapolis Wednesday. "That is one perspective, but there are others. Most of us support the use of embryos that would otherwise be discarded."

The Episcopal Diocese of Maryland also will submit written testimony in support of the legislation, as will Bishop John R. Schol of the Baltimore-Washington Conference of the United Methodist Church.

"The United Methodist Church is supportive of stem cell research because of the healing opportunities that it potentially gives us, and we as a denomination are very much interested in health in life," Schol said.

Public discourse over when life begins has predominated conservative arguments against federal and state funding for embryonic stem cell research, a science that experts believe could help develop treatments for debilitating illnesses such as Parkinson's and Alzheimer's. Catholic leaders have argued that an embryo is a living being entitled to protection.

"There's a real misunderstanding of the value of the human person and human dignity and how every person is created in God's eyes," said Nancy Fortier, associate director for the Respect for Life Department of the Maryland Catholic Conference. Fortier plans to speak against the bills but acknowledged that she could not name another religious group that shares her opposition to embryonic research.

With an election looming in November, Gov. Robert L. Ehrlich Jr. has entered the debate, proposing $13.5 million for a new research center in Baltimore and $20 million in state funding for stem cell research. The has proposed that the Maryland Technology Development Corp. decide which kind of projects to fund.

That opening has given hope to people like Fortier, who said she could support research using adult stem cells. But it concerns others, including the sponsors of the House and Senate funding bills, who like many scientists believe embryonic research holds the greatest promise.

"There's tenfold the amount of evidence that embryonic stem cells hold special things that adult-derived stem cells don't," said John McDonald, director of the International Center for Spinal Cord Injury at the Kennedy Krieger Institute in Baltimore.

Lawmakers sponsoring the legislation say the measures the bills contain for making sure money goes to the most potentially fruitful projects are essential. But they don't stand alone in their view.

Don Schroeder, bishop's deputy for public policy for the Episcopal Diocese of Maryland, said the diocese's support for the bills, which comes with a caveat against human cloning, is unwavering.

"It's a shame that a year was wasted," Schroeder said, noting that the diocese supported similar bills last year that stalled in the Senate.

Schol said the United Methodist Church is supportive as well, with a few qualifiers, notably that embryos created for fertility treatments have been donated with prior informed consent and that they were not deliberately created for research purposes or obtained by sale or purchase.

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John Deckenback, conference minister for the Central Atlantic Conference of the United Church of Christ, said his national church adopted a statement in 2001 in support of embryonic stem cell research.

"Clearly we have theological differences with our Roman Catholic friends and colleagues," Decken back said. "We have to agree to disagree on this one."

N.Va. Trial Over Air Bags Begins (WP)

By Tom Jackman

The Washington Post, January 25, 2006

Attorneys for an Arlington woman who contends that she was blinded in one eye when an air bag deployed told a Fairfax County jury yesterday that Ford Motor Co. knew its 1995 Escort was dangerous but did nothing to fix it or warn motorists.

Berta Benitez, 44, was on her way to work more than six years ago as the front-seat passenger in an Escort station wagon when the car and a Plymouth Voyager minivan collided on Lee Highway in Arlington. She filed suit in 2001 against Ford and the Koons Ford dealership where the car was bought.

Ford's attorneys, who dispute that the air bag caused Benitez's injuries, said in their opening statement yesterday that the 1995 Escort was safe and that its passenger air bag was no different than the air bags in other cars made in the mid-1990s. Benitez's attorneys said the air bags were too big and deployed much faster than called for in safety guidelines.

Benitez's attorney David Bernhard enlisted the help of Taras S. Rudnitsky, a former air bag engineer for General Motors Corp. who became disenchanted with what he says was the lack of safety concern in the auto industry. Rudnitsky quit to go to law school. After graduating, Rudnitsky served as an expert witness in lawsuits against carmakers, but he had eased away from auto litigation -- until Benitez's case came along.

Her case and e-mails from Bernhard lured him back, Rudnitsky said before trial. And so yesterday, in Fairfax Circuit Court, Rudnitsky began his first trial as a lawyer.

"Ford knew since the late 1960s and early 1970s that air bags can kill people or seriously injure them," Rudnitsky told the jury. He cited a renowned 1975 research study from Japan that concluded that air bags should not be traveling faster than about 92 mph when they make contact with a passenger.

Rudnitsky said that Ford's main expert will acknowledge the accuracy of the Japanese study and that the expert used it in his own published papers on air bags with Ford's approval. But when Ford made a last-minute decision to install front passenger air bags in the Escort and its sister car, the Mercury Tracer, Rudnitsky said, Ford designed a "unique air bag" for the 1995 and 1996 model years.

Bernhard said that nearly 700,000 of the cars were manufactured. He said he did not know how many are still on the road.

Ford's engineers said in pretrial depositions that they were unaware of the velocity of the Escort's air bags, Rudnitsky said, and were unaware of the Japanese study's standards.

Rudnitsky said his experts conducted three tests on the Escort's air bag and found that it deployed at more than 200 mph and was still moving far in excess of 92 mph when it reached the passenger's face and body milliseconds later. Rudnitsky said that "Ford lied to the government" when it claimed that the air bag inflated to 18 inches. Rudnitsky said it actually was 29 to 30 inches.

Sandra G. Ezell, an attorney for Ford, responded that in 1995, "nobody else had a less-powerful inflator" or a tether to limit the air bag's deployment. "Ford believes in selling safe products," Ezell said. "They believe in the 1995 Escort."

She said that the decision to install a passenger air bag was not "last-minute" and that the air bag was "well-designed, thoroughly tested."

Ezell noted that the Sept. 14, 1999, collision was a violent one, injuring Benitez, a housekeeper, and three others in the Escort. She said no one would testify at the trial that the air bag -- as opposed to Benitez's arms or other items flying in the car -- caused the blindness in Benitez's left eye and cataracts in her right eye. "No act or omission on the part of Ford Motor Company is responsible for these injuries," Ezell said.

Rudnitsky said before the trial that he had helped persuade Nissan to recall some of its Altima models after a similar lawsuit, and that he hoped this case would have the same effect on Ford. The trial is expected to last two weeks.

Palestinians Head For Coalition Government (FT)

By Harvey Morris In Gaza City

Financial Times, January 25, 2006

A multi-party coalition government led by Fatah, with the possible inclusion of ministers from Hamas, appeared the most likely outcome of Wednesday's Palestinian parliamentary elections as last-minute polls showed the ruling party maintaining its lead.

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A poll by the Palestinian Centre for Public opinion indicated Fatah would win just under 40 percent support among 1.35m registered voters in the West Bank and Gaza, 10 per cent ahead of Hamas, the Islamic movement that is contesting its first national election.

Some analysts believe Hamas's inclusion in the democratic process, a prospect that initially alarmed Israel and the US, might improve the chances of a renewal of negotiations with the next Israeli government.

With the election likely to deny Fatah the overall majority it won in the first Palestinian Authority parliamentary elections in 1996, its most likely coalition partners are small, formerly Marxist left-wing parties, the centre-left National Initiative List and the Third Way, headed by Salam Fayyad, former finance minister.

Mr Fayyad, a widely respected former IMF official who helped restore the PA's chaotic finances but quit after the leadership expanded the public payroll to pacify the restless security forces, is spoken of as a possible prime minister in a coalition government.

Hamas's inclusion will depend largely on the post-election stance of the party itself.

The Islamists might press for portfolios linked to welfare and social issues or alternatively choose to remain in opposition, at least in the short term.

Hamas has softened its traditionally militant tone, indicating that even if it gained power it would leave any dealings with Israel to Mahmoud Abbas, the PA's Fatah president.

Mahmoud Zahar, a Hamas leader in Gaza did not rule out negotiations with Israel as long as these related to ending its occupation and releasing prisoners.

"Negotiation is not a taboo," he said. "But the political crime is when we sit with the Israelis and then come out with a wide smile to tell the Palestinian people that there is progress, when in fact, there is not."

"Hamas is completely devoted to the electoral process," said Qaid Abdul-Karim, who heads the left-wing Badil list. "Not one bullet is coming from their rifles."

He said Hamas might not yet be ready for a negotiated settlement. "Hamas has some time to prepare its internal climate. But I'm sure it will do it in the end."

Fatah has restored some of its credibility in recent weeks, after a near-disastrous split at the end of last year, in part due to a vigorous anti-Hamas campaign spearheaded in Gaza by Mohamed Dahlan, a former security chief and the local strongman.

In a highly personalised televised debate at the weekend between Mr Dahlan and Mr Zahar, the Fatah candidate accused the Islamic party of being incapable of looking after the future of the Palestinians.

Mr Zahar, who alleges he was tortured in a PA prison, reminded Mr Dahlan he had been responsible in the past for the repression of Hamas militants. "As far as you're concerned, a good Hamas member is a dead Hamas member," he said.

Despite the political invective, all groups - including the frequently troublesome Fatah-linked Aqsa Martyrs' Brigades - have pledged to ensure an orderly election.

Politicians had expressed fears that armed groups might stage attacks on polling stations or kidnap foreigners if they believed the vote was not going their way.

If election day passes peacefully, officials anticipate publishing results within 24 hours.

Voters will choose from 11 party lists to fill 66 seats in the new parliament by proportional representation. With a threshold of 2 percent, only six parties are likely to win seats. The remaining winners will be chosen from candidates standing in 19 multi-seat electoral districts, including east Jerusalem.

Palestinian Vote Could Redraw Political Scene First Parliamentary Elections Since 1996 Likely To Dilute Fatah's Power (USAT)

By Matthew Gutman

USA Today, January 25, 2006

RAMALLAH, West Bank — Palestinians in the West Bank and Gaza are voting today in parliamentary elections that could change the course of politics in the Palestinian territories and the region.

About 1.3 million Palestinian voters were eligible to choose candidates from 11 parties in the first elections for the 132-member Palestinian Legislative Council since 1996. Concerns about violence, however, had cast a shadow over the election. On Tuesday, Yousef Hassouna, 35, a local politician from a branch of the ruling Fatah Party, was killed in Nablus, a West Bank city. Hassouna was shot when he ordered opposing Fatah gunmen not to tear down a campaign poster, said Abdel Rahim Omar, a Nablus-based journalist.

Such election-related violence could deter people from voting, said Les Campbell, executive director of the Washington-based National Democratic Institute, a non-governmental organization that facilitates elections worldwide.

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In response to the Nablus attack, seven militant organizations, including Hamas, signed a declaration disavowing violence on election day, said Ghazi Hamid, editor of the Hamas-affiliated weekly Al-Risala.

Palestinian President Mahmoud Abbas called on Palestinians to vote despite the threat of unrest. “The election is a right and duty,” Abbas told reporters in Ramallah, the West Bank city where his Palestinian Authority is based.

Acting Israeli Prime Minister Ehud Olmert on Tuesday said his government “will know how to operate and act under any eventuality” after the elections. In his first major televised address since taking over from Prime Minister Ariel Sharon, who suffered a massive stroke three weeks ago, Olmert reaffirmed his commitment to the U.S.-backed “road map” to peace and said he supported the idea of a Palestinian state.

He also said Israel will have to give up small portions of territory in the West Bank to keep its Jewish majority but would keep larger settlements there and never renounce its claim to Jerusalem.

Referring to Hamas, which appeared set to capture nearly a third of the parliamentary seats, Olmert said he hoped Palestinians would not “choose again the extremists who have led them from tragedy to tragedy and to sorrowful lives.”

A poll released Jan. 20 by the Jerusalem Media & Communication Center, a Palestinian research group, indicated Hamas would win 30.2% of the vote, and Abbas' Fatah would win a slim plurality with 32.3%.

Israel has said it would not deal with Hamas politicians. The United States and Europe have warned they would withhold aid to the Palestinian Authority if Hamas, which opposes Israel's existence and is on the U.S. State Department's list of terrorist groups, becomes part of the government.

Fatah and Hamas say they might consider forming a national unity government. Such a coalition would dim prospects for future Palestinian-Israeli negotiations. Hamid, the editor, said Hamas wants to join a broad coalition and would press the Palestinian Authority to adopt a harder line toward Israel. Once in government, “Hamas would not make the same mistake as Fatah and engage in 12 years of fruitless negotiation,” he said.

Sunday, Fatah's leading candidate, Marwan Barghouti, also called for a national unity government that would include Hamas. Serving five life terms in an Israeli prison for killing Israelis, Barghouti told the Al-Jazeera satellite channel, “There is no peace process.”

In Ramallah, jeweler Khamis Ali, 38, said, “We need quiet and peace for the economy.” Ali said Palestinians “need to vote for a party that can talk to Israel and America. We need a party with diplomatic experience.”

Firas Jasser Arar, 35, an electrician who was on his way to a Hamas meeting in Ramallah, referred to recent fighting among Fatah factions as a reason to doubt the ruling party's effectiveness:

“If Fatah can't even control itself, how is it supposed to achieve a state?” he asked.

Hamas Narrows Gap With Fatah (WT)

By Betsy Pisik

The Washington Times, January 25, 2006

NABLUS, West Bank -- The final campaign rally of Palestinian Authority President Mahmoud Abbas' Fatah party was a noisy, overheated affair, with supporters up on their feet, chanting and waving banners over their heads.

But buildings, bridges and lampposts along the road to this central West Bank city were plastered with bright green posters representing Hamas -- the militant Islamist movement that is looking for an upset in parliamentary elections today.

Hamas always had been expected to perform well in the Gaza Strip, its traditional power base. But its highly visible presence in the Fatah-dominated West Bank has worried even dedicated supporters of the party created by Yasser Arafat.

"I don't think Fatah will win," said Nadia abu Ziaher, a soft-spoken student at Birzeit University who volunteers in the office of Fatah candidate Dalal Salameh.

Miss Ziaher said she likes her candidate more than his party, saying life has become harder since Fatah began ruling the West Bank a decade ago. There are more roadblocks, fewer services and persistent corruption.

Hamas did well in recent municipal elections, she said, and "they deserve it. They'll work harder."

Both parties have coordinated extensive get-out-the-vote efforts in Gaza and the West Bank, employing canvassers, rallies, media coverage and smear campaigns.

Recent polls show Hamas gaining rapidly on Fatah, though the presence of several minor parties means neither will achieve an outright majority.

Each voter will cast two ballots -- one for a party and one for a candidate running in his local district, with half the seats in the legislative council to be filled by each system. A number of seats have been set aside for women and Christian candidates.

Hamas is expected to win just under half of the votes cast for the political parties, while Fatah candidates are expected to do better than their Hamas rivals in the district-by-district voting.

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But if Hamas does well enough to secure seats in the next Palestinian Cabinet, it will create a crisis in relations with Israel, which has refused to negotiate with what it considers a terrorist organization.

The top two names on Fatah's party slate are those of Mr. Abbas and jailed resistance fighter Marwan Barghouti. But pictures of the late Fatah leader, Yasser Arafat, are everywhere.

"If Fatah wins it will be because of a dead man and a jailed man," sighed one Ramallah taxi driver.

Many voters, such as a Palestinian border agent at the Erez Crossing into the Gaza Strip, say they will vote for Fatah despite its shortcomings, because they fear that Hamas would exacerbate already inflamed relations with Israel.

Hamas -- which is so deeply religious that its female followers sometimes attend separate rallies rather than mix with men -- has won many followers with an extensive network of social services and a reputation for honesty.

Hamas also has played on resentment of Israeli occupation, criticizing Mr. Arafat and his successors for negotiating with Israel and catering to its demands.

The United States and the European Union have indicated they could greatly reduce assistance to the Palestinians if Hamas plays a substantial role in the next government.

Hamas has tried to turn the threat to its advantage. "Israel and the U.S. say no to Hamas," says one flapping banner in Nablus. "What do you say?"

Waheeb Attabeh says yes.

"I am not a religious man, but I am in favor of Hamas," said Mr. Attabeh, who has sold olive oil in the historic Nablus market for 30 years. "I look to Lebanon and I see [Sheik Hassan] Nasrallah spreading the strength of Hezbollah. I want to see that here."

Mr. Attabeh, 50, sees parallels between Hezbollah and Hamas, both of which have been declared terrorist organizations by the U.S. government.

Both have stood against corruption, provided significant health care, education and welfare to the poor, and have sponsored separate political and military wings.

By comparison, Mr. Attabeh and many others dismiss Fatah as a clubby organization that looks after its members first and the people later.

Amin Makboul, Fatah's campaign manager in Nablus, doesn't deny corruption, but claims Fatah is best positioned to end it.

"Fatah was the first to open the file on corruption," he declared. "We're telling people we've arrested and judged [the perpetrators]."

Palestinians Set For Vote And Big Shift (NYT)

By Steven Erlanger

The New York Times, January 25, 2006

RAMALLAH, West Bank, Jan. 24 - For better or worse, Mahmoud Abbas, the Palestinian president, has gotten what he wanted: Palestinian legislative elections, the first such vote in a decade.

But Mr. Abbas's accomplishment with the election on Wednesday is also an extraordinary risk. He has decided to end the monopoly of his Fatah faction over all the instruments of power in the Palestinian territories, bringing the radical Islamic group Hamas into national politics.

Many in Fatah, let alone in Israel and the United States, say they believe that Mr. Abbas is inviting the snake into the garden. They think that by trying to co-opt Hamas, rather than confronting it, he risks handing the nascent state of Palestine over to an armed group, sworn to the destruction of Israel. And they say he is digging his own political grave.

But Mr. Abbas, a pale, scholarly man of 70, has overridden the objections with his trademark distance from the fray, and his refusal to try to exercise power in the personal, tribal style of his late predecessor, Yasir Arafat.

Long Mr. Arafat's No. 2, Mr. Abbas was an obvious successor, but not a natural one. He is a man of logic, not passion; a negotiator, not a politician; a man who wears a business suit, not a military uniform; a man who condemns violence, not incites it; a man who despises personality cults and refuses to put his face up in every office; a touchy man of dark moods, who often threatens to quit, as he quit as prime minister after four months in 2003 when Mr. Arafat did not allow him enough power.

If the elections fail or if Hamas wins, making it difficult or impossible for him to carry out his intended policies of internal reform and peace negotiations with Israel, Mr. Abbas says he will quit this job as well.

Abdul Fatah Ayyseh, a Palestinian vendor, voted for Mr. Abbas and likes him. "Abu Mazen is a smart man who doesn't deserve to be the president of the Palestinian people," he said, using the name by which Mr. Abbas is known here. "He deserves to be the president of a Scandinavian country. He's smart, calm and unmilitary. He rejected the armed intifada, but he wasn't helped by the Palestinian factions, or by Fatah, or by Israel."

But Nariman Sharif regrets the moment she voted for Mr. Abbas. "You can't compare him to Abu Ammar," she said, referring to Mr. Arafat. "Abu Mazen has a weak character. I was expecting the situation on the ground would improve the minute

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he took over. But he's failed. He has nothing to say except, 'O.K.' Abu Ammar was respected, and the president should enjoy respect and fear. He lacks these things."

A pragmatist, Mr. Abbas is a refugee, born in what is now the Israeli town of Safed, which he fled with his family at the age of 13, in 1948. But he is considered by Israelis to be a man of principle who believes that the armed intifada is counterproductive, negotiates fairly and wants two states to live side by side.

On Tuesday, on the eve of the vote, Mr. Abbas stepped out here to urge all Palestinians to vote. "The election is a right and duty at the same time," he said. "And I hope that the results of this election will reflect honestly the choice of every Palestinian."

Palestinians seem eager to vote, with turnout expected to be above 80 percent and opinion polls suggesting a narrow win for Fatah and its secular allies. But whether Fatah then tries to govern in coalition with Hamas or tries to leave them outside as a large opposition is unclear, and Mr. Abbas, who will appoint the next prime minister, has remained silent about his intentions.

"It is Abu Mazen's achievement that these elections will take place on time," said Salah Abdel Shafi, a Gazan economist. "He was under great pressure to postpone or cancel them. It proves his genuine commitment to the process of democracy and the results of these elections."

The stakes are immense, Mr. Shafi said: "The future of Palestine in the near and medium future will be decided in the next week."

Mr. Abbas's great gamble is a successful outcome in which Hamas is an engaged player but not dominant. "Either we emerge with a strong parliament and government, or we have the collapse of the Palestinian Authority," Mr. Shafi said. "I don't think there's any third option."

Mahdi Abdul Hadi, the director of Passia, a Palestinian research institute in Jerusalem, says the entire region is trying to come to terms with Islamic parties like Hamas, citing Egypt, Lebanon, Jordan and Syria. "You can't ignore them any more or deny them or contain them, so you have to bring them in," he said.

Hamas, with an army of 5,000 men, is too powerful to fight, and could take over Gaza within hours if it wanted, many experts say. Mr. Abbas has always said he would not start a civil war, but he has also promised Washington that he would disarm Hamas after the elections. Yet few expect anything more than a cosmetic effort to incorporate the Hamas militia into the Palestinian security forces, the way Fatah's Aksa Martyrs Brigades have been at least partly incorporated.

Mr. Abbas was elected little more than a year ago to fill the vacancy left by the death of Mr. Arafat, the complicated, charismatic leader of the Palestine Liberation Organization, of the Fatah faction and of the Palestinian Authority. "The Arafat era was three things: to pay, to appoint and to kill," said Mr. Hadi, the economist. "But Abu Mazen doesn't have this character. We don't need this kind of leader, and he is trying to deliver rule of law in stages."

Mr. Abbas has long argued that democracy will tame the radicals, and he has stuck to his plan to make that work. But in the process, he has made many mistakes. While his personal standing among Palestinians remains high, with an approval rating of more than 60 percent, he is largely without effective allies, either in Fatah or the Palestinian Authority itself, and Israel has not helped him to convince Palestinians that its withdrawal from Gaza was Mr. Abbas's accomplishment and not due to Hamas's rockets and suicide bombings.

"The general view is that he's weak," said Mr. Shafi. "People expected more leadership from him."

Mr. Abbas never set up an efficient presidential office, despite American efforts to help him do so. He never appointed a permanent press secretary to help him appeal to the population. He remained reactive and indecisive. "I don't think he really understood what it is to be president, the challenge before him and the gross mismanagement and corruption of Fatah," said a former Palestinian official who watched the process at close hand.

"There is no decision-making process, no clear chain of command," the official said. "It's like throwing cooked spaghetti against the wall. People like democracy, but they wanted institutional change. He inherited a mess, but he promised to end corruption and restore law and order and create 'one law, one authority and one gun,' but he failed miserably to do any of that."

The former official, who admires Mr. Abbas, said he had also failed to move against the Arafat holdovers in his office, who retain power to block decisions. In particular, he kept on Ahmed Qurei as his prime minister despite Mr. Qurei's opposition to nearly all of Mr. Abbas's policies.

Hanan Ashrawi, a Fatah legislator now running on the independent Third Way slate with former Finance Minister Salam Fayyad, was explicit in her criticism. "Our people have despaired of the corruption in the government institutions, the internal squabbles between the president and prime minister, over the fact that Abu Mazen goes around and does nothing," she told the Israeli daily Yediot Aharonot.

Legislators brought Mr. Qurei a plan of action for reform, but he did nothing, she said. So they brought it to Mr. Abbas, who was enthusiastic. "But instead of taking action," she said, "he cooked up a deal: freeze everything, don't throw out the corrupt officials, sit and do nothing, grasp onto the excuse of the elections."

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But the elections, originally scheduled for last July, are instrumental to Mr. Abbas's effort to clean out the older members of Fatah, like Mr. Qurei, who decided not even to run.

Mr. Abbas's theory is that his mandate comes from voters - unlike Mr. Arafat's, which came from his past. With Fatah split into three parts or more, the Palestinian Authority was scarcely representative, so it needed a new, democratic legitimacy. And Hamas had become too powerful to fight on any battlefield except the democratic one, where he believed it might be contained.

So in Mr. Hadi's view, "he left things loose - he didn't embrace anyone or commit himself to any one path; he let things develop on their own." Whether that's good or bad, he said, remains to be seen.

Mr. Shafi said, "He understood his role to have new elections and put a legitimately elected government in place, but he didn't understand that he also had to restructure and reform the Palestinian Authority."

Prime Minister Ariel Sharon of Israel "wanted no Palestinian partner," Mr. Hadi said. "He had no interest in recognizing the Palestinians or dealing with them."

Israeli promises to Mr. Abbas to release a large number of Palestinian prisoners, hand back large cities to Palestinian control, loosen travel restrictions in the West Bank and ease access of people and goods to Gaza all fell afoul of Palestinian terrorist attacks and Israeli internal politics, making his arguments against terrorism seem hollow.

"The fact that Israel and the international community did not deliver hurts Abu Mazen," Mr. Ahmed said. "It's a miscalculation that will be reflected in the results of the elections."

Still, Mr. Abbas is the author of many of his own problems, Mr. Hadi said. "Abbas is no hypocrite," he said. "Everyone wants him to be different. But he cannot be."

Hamas Poised To Become Insiders (WP)

By Scott Wilson

The Washington Post, January 25, 2006

GAZA CITY -- Mahmoud Zahar is a relatively well-off thyroid surgeon who wears his thinning gray hair in a comb-over that shakes loose when he is angry, which is often. On his forehead is the dime-size bruise of a devout Muslim, the result of many hours spent praying in the mosque across the dirt street from his house here.

He is also among the most obdurate leaders of the Islamic Resistance Movement, or Hamas, and will almost certainly be among those who emerge victorious as Palestinians vote Wednesday for parliament for the first time in a decade. Often described by those who know him as severe and short-tempered, Zahar is ebullient as the movement makes its first bid for power in the Palestinian Legislative Council.

"We are feeling victory," Zahar, 60, said during an interview earlier this week in the sunny courtyard of his home. "The people are going to vote for the project of the resistance. Israel should know that a new political and moral atmosphere is going to appear."

Hamas is projected to win roughly a third of the new parliament's 132 seats and bring the Islamic movement inside the Palestinian government. Hamas, a party at war with Israel, refused to participate in earlier elections and rejected the 1993 Oslo peace accords that led to the creation of the Palestinian Authority. Now, Hamas may be taking new risks by joining a weak and nearly bankrupt Palestinian government it has scolded from the outside for years.

Already Hamas leaders are facing questions about how they will manage future peace negotiations with Israel, win the freedom of thousands of Palestinian prisoners from Israeli jails, and ease the occupation in the West Bank given their vow not to recognize Israel or talk to its leaders.

At the same time, many Hamas followers who favored the group's past attacks on Israeli soldiers and civilians over the Palestinian Authority's cooperation with Israel are wondering why the movement is going mainstream while the occupation endures in the West Bank.

Each week in the courtyard of the Red Cross here, a group of women gather to demand the release of the estimated 7,000 Palestinians in Israeli jails. Most of the women are poor, desperate residents of the Jabalya refugee camp. They are veiled, clutching framed photos of their sons. They are the natural constituency of Hamas. Yet none said they intend to support Hamas now. "If they wanted to help, they would be here protesting with us," said Ghaliah Barood, 70, who leads the weekly demonstration. "But you can see that none of them are."

Although Hamas officials vow not to meet with Israeli officials, Zahar said he favors mediation through Egypt, Jordan or the European Union to win the prisoners' release, perhaps the most emotional issue in Palestinian politics. Barood, whose son Ibrahim has been in an Israeli jail for two decades, said only kidnapping Israeli soldiers would win the prisoners' release. "We've never seen anyone pay attention to us, and now they only come for our vote," said Aziza Abu Dabah, 55, whose son has been in jail for 11 years.

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Though designated a terrorist organization by the United States, Europe and Israel, Hamas has positioned itself among Palestinians as the clean counterweight to the corrupt, ineffective rule of Fatah, the movement that governs the Palestinian Authority. Hamas has a military wing that has carried out deadly attacks on Israelis, but its popularity stems largely from the grass-roots charity work and political organizing that is the hallmark of Islamic movements throughout the Arab world.

Here in the Gaza Strip banners festoon the streets bearing the "Change and Reform" label alongside a green crescent moon, the Hamas trademark. In some places, the signs bear the faces of Sheik Ahmed Yassin and Abdel Aziz Rantisi, Hamas leaders in Gaza whom Israel assassinated in 2004.

In the final week of the campaign, Hamas has been broadcasting television ads featuring the party's top national candidate, Ismail Haniyeh, explaining why it is joining the government. Haniyeh, who favored participating in the first parliamentary elections a decade ago, says Hamas will be better able to confront corruption, free Palestinian prisoners and fight the Israeli occupation from inside the system.

Zahar, who lost a son in a 2003 Israeli airstrike that also broke his back and badly injured his wife, said Hamas will not abandon its goal of establishing a Palestinian state across a territory that includes what is now Israel. He argued that Hamas is not joining the existing Palestinian Authority so much as creating a new government through its presence.

"This is to assure people they have not shifted," said Nashat Aqtash, a professor of media studies at Bir Zeit University in the West Bank who is designing the Hamas advertising strategy, though he is not a party member. "They are moving in one direction -- fighting corruption and the occupation -- and that has not changed."

He added with a laugh, "I'm just afraid they'll win more than 50 percent of the vote, and then they'll be in real trouble."

Hamas showed well in a number of municipal races last year, especially in urban areas where its message of war with Israel and its charity networks have broad appeal in the refugee camps. But Hamas may find criticizing the Palestinian government far easier than governing an increasingly frustrated electorate. Leaders of Fatah, a secular movement, say a coalition government with Hamas will likely be impossible given their vastly different views on relations with Israel, the role of Islam in political life, and the future of party-affiliated militias now roaming the Palestinian territories.

"The issue is not who will win in the elections, but the power-sharing and political partnership that must follow," said Ziad Abu Amr, a longtime broker between the Palestinian factions, who is running as an independent candidate from the Gaza City district with the public support of Hamas.

Abu Amr said a "national accord" will have to be reached in parliament outlining a political consensus on the most pressing issues -- peace talks with Israel, continuation of the temporary cease-fire, disarmament of the militias, and reforms in a bureaucracy staffed almost entirely by Fatah members. He said Israel's elections in March and the aftermath will give the new Palestinian parliament time to focus first on internal matters.

"We'll have a breathing space of about six months, and we'll need that time to organize ourselves," he said. "The fact is there is no alternative to real partnership, and the two parties will be Fatah and Hamas."

Polls show that roughly 30 percent of the Palestinian electorate remains undecided, and in the final week, Fatah and Hamas leaders have been casting their rivals as the more dangerous option.

Abdullah Frangi, head of Fatah's campaign here, said of Hamas: "They are pragmatic and they say they will not try to destroy Israel. But it is not working. It would be very hard on the Palestinians if Hamas became the government, and this is the message we are telling people now."

Zahar, dressed in a khaki suit and stylish silk tie, is among the sternest personalities in a movement whose members celebrate the grim culture of suicide attacks and hope to establish Islamic law in the Palestinian territories.

Zahar said Hamas would not give up its military wing after joining the government, which Palestinian Authority President Mahmoud Abbas has said would be required. Zahar also warned that the cease-fire with Israel that Abbas brokered with armed Palestinian factions last year was no longer operative, saying, "We are outside the calm, but it is in our hands."

"The Palestinian Authority has failed to achieve even the most basic demand: a Palestinian state with Jerusalem as its capital," Zahar said. "The people know it is time for the party with clean hands to take over."

But Hamas has already dealt with Israeli officials in its capacity running municipal councils. In the West Bank town of Qalqilyah, Hashem Masri, the Hamas mayor, acknowledged recently that he has sought permission from the Israeli military to build an industrial park he hopes will create hundreds of jobs. Whether that contact will continue at the national level is uncertain, but some former Israeli security officials see the elections as an opportunity.

"Israel must take a chance with Hamas inside the system," said Shalom Harari, a retired senior Israeli military intelligence officer now with the International Policy Institute for Counter-Terrorism in Herzliya. "We're already faced with a failing peace process that had them on the outside. Israel has nothing to lose. They are already here. Let's try to tame them."

Why Hamas Is Gaining In Palestinian Polls (CSM)

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By Ilene R. Prusher, Staff Writer Of The Christian Science Monitor

The Christian Science Monitor, January 25, 2006

NABLUS, WEST BANK - Speaking easy English and shaking the hand of male and female visitors alike, Adli Yaish is hardly the typical face of Hamas, the Islamic Resistance Movement.

Rather, the new mayor of Nablus embodies a cadre of Hamas "spinoffs." Gone are the full beards and fiery religious rhetoric. Absent are assertions that all Israel is a "Zionist entity" that Muslims must destroy.

Saying they are inspired by - though not in lock step with - Hamas's militant core, politicians like Mr. Yaish have come to the fore in the group's first campaign for national representation. And when Palestinians vote in Wednesday's legislative elections, analysts say, it's Hamas's more moderate tone, as well as disillusionment with the ruling Fatah Party, that will yield the group significant gains.

At the same time, its mix of moderate and hard-line messages may complicate Israeli and US stands against dealing with Hamas, which both countries consider a terrorist organization.

Campaigning was barred Tuesday, while thousands of Palestinian security officers took up positions in the West Bank and Gaza to protect polling stations. Armed groups pledged to maintain calm during the election, but gunmen linked to Fatah killed a party leader, spurring about 1,000 supporters and activists to march in Nablus in protest of the lawlessness.

According to the latest figures from the Palestinian Center for Policy and Survey Research, based in Ramallah, 42 percent of Palestinians will vote for Fatah, while 35 percent will vote for the Hamas-backed Change and Reform Party.

But it is unclear how Hamas's popularity will translate into policy. The group, which is responsible for the greatest number of suicide bombings targeting Israeli civilians, only recently became involved in municipal, let alone national, governance.

Some Palestinians say that Hamas is hoping it doesn't get a majority, preparing instead to be an opposition or second-largest power. In recent interviews, leaders have said that they will not change their charter calling for Israel's destruction. But Tuesday, Hamas leader and candidate Mahmoud Zahar said in Gaza that "negotiation is not a taboo," adding at the same time that "we do not consider the Israeli enemy as a partner or a neighbor." Hamas takes a pragmatic turn

To some observers, appearance of figures like Yaish suggest that Hamas may be placing itself in a more pragmatic spot on the Palestinian spectrum. Others say that Hamas has widened its umbrella by appealing to people who abide by Muslim values but are not extreme. And amid disarray within the Palestinian Authority (PA), run since 1994 by the secular Fatah faction, Hamas is gleaning much of what might be called a protest vote.

At the Arafat Sweets Shop - no relation to the late Palestinian leader - there is a popular sentiment: Throw the Bums Out, Middle Eastern-style.

"We want change. We want our leaders to be people who fear God," says Abdullah Kassem. "We were Fatah supporters," he says of his friends, "but we are demanding new faces. The PA is full of criminals and there is unbelievable lawlessness."

As the men chat, Amal Khreishe, a candidate for one of the most liberal of the 11 lists running for office, approaches to ask for support.

"If we only have Fatah and Hamas, and if there is conflict because of that, the people will pay the price," she says. She is a member of the list headed by Mustafa Barghouti, a physician with a small following among academics and moderates.

The men are friendly but appear unswayed in their intent to vote for Hamas. A nearby wall is carpeted with posters, almost all of them for Hamas. On the street, there is malaise and a desire for quick solutions. Anger at Israel mixes with feelings that the Palestinian leadership is corrupt and weak. Violence within Fatah, particularly in Gaza, seems to bolster the image of a Hamas that is tightly run.

"Fatah has had 10 years to negotiate, and just look at this," says Suleiman Kawarik, a driver, as he points to long lines at the checkpoint south of the city. "It's like trying to leave the country, just trying to leave your city. The PA can't help anybody - they just give out small services...." Hamas provides social services

Hamas was founded in the Gaza Strip in late 1987, at the start of the first intifada, as the Palestinian branch of the Muslim Brotherhood. Its secretive military wing, as Hamas describes it, carried out attacks on Israelis. But while its political wing rejected the Oslo Accords, it opened a dialogue with the Palestinian authors of the peace process in Fatah.

Meanwhile, Hamas runs preschools, youth clubs, and health clinics. It provides needy people with assistance, and even holds free weddings. It is that face of Hamas that many Palestinians see first.

"People think of Hamas as only killing people, but no, this is only one side of the picture. We are also doing a lot of social work," says Yaish, who studied at Liverpool University in England and is a father of six. He believes that Hamas will come to be accepted internationally as an interlocutor. "I think the Americans and the Israelis have to deal with anyone the people choose," he says.

The city's deputy mayor, also from the Reform and Change Party, says the world should see their party as one might view Christian Democrats in Europe.

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"Religious people here are the elite," says Nihad Masri, an obstetrician. "You can't find an unemployed man among us. I condemn suicide bombings, but are they justified or not? We don't have anything else to defend ourselves with," he says, pointing to Israel's controversial barrier and military incursions.

But some Palestinians say the only way out of conflict is to return to talks with Israel, and support Fatah as the best route. "[O]nly Fatah can negotiate with Israel," says Hussam Bakeer, who runs an appliance store here. "Fatah is internationally accepted at the negotiating table."

Indeed, while Hamas says a temporary truce - even a long-term one - could be on the table, it continues to strike a combative tone. In one campaign ad, rebroadcast by CNN, the group shows footage of militants as it states: "We will not rest as long as one inch of our holy land is in the hands of the Jews. Our flags will fly over the minarets of Jerusalem."

· Wire material was used in this report.

Hamas Plays Different Tune (WT)

By Joshua Mitnick

The Washington Times, January 25, 2006

BIDDU, West Bank -- Hamas is working to soften its image both abroad and domestically on the eve of today's Palestinian elections, recognizing that its reputation for violence is hurting its cause, at least in the West.

At a campaign rally in this village of 8,000 in the final days before the elections, one banner featured a slogan in English that said, "We don't sing the song of death, but recite the hymns of life."

A professional media consultant hired by the campaign acknowledged that after years of suicide bombings and other attacks on Israelis, the Palestinians in general and Hamas in particular are thought of abroad as bloodthirsty.

"We are just screaming and shouting, and nobody knows the story. People think we are occupying Israel," said Nashat Aqtash, a communications professor at Birzeit University. "We need to address Westerners differently. We need to talk their language."

Mr. Aqtash, who said he is not a member of Hamas, said the group is spending about $40,000 to improve its image in the foreign press.

Hamas could end up with one-third to half the seats in the Palestinian parliament, giving the militant group a powerful role both domestically and in relations with Israel. That has made it more imperative for the group to repackage itself.

The new tone also offers a test for the Bush administration's theory that as militant organizations buy into a growing Middle East democracy movement, they will become more responsible.

"As people start getting elected and have to start worrying about constituencies, social issues and living standards -- and not about whether their fire-breathing rhetoric against Israel is being heard -- then things start to change," Secretary of State Condoleezza Rice said in an interview at The Washington Times in March.

But Israelis will not be easily convinced. Acting Israeli Prime Minister Ehud Olmert said yesterday that he hoped Palestinians would not "choose again the extremists who have led them from tragedy to tragedy and to sorrowful lives."

Nevertheless, the Hamas campaign rally in Biddu was missing the incendiary rhetoric of the recent intifada, with its threats to target Israeli buses and restaurants.

The Hamas charter calling for the destruction of Israel also has been submerged by a campaign platform that is much more vague about the issue.

A rising star in the party is the relatively moderate Sheik Mohammed Abu Tir, a candidate from East Jerusalem who has spent 25 years in Israeli jails and is instantly recognizable by his fiery red beard.

In the past week, Sheik Abu Tir has been quoted on Israeli television and in newspapers boasting that Hamas would do a better job of negotiating peace than the Palestinian Authority has done.

At the Biddu rally, he sent out mixed messages. He wagged his finger as he declared the 1993 Oslo peace accords a dead letter, done in by the "blessed intifada." Then he hinted at the possibility of talks.

"We are the owners of a mature political process," he said of Hamas' diplomatic strategy for ending violence with Israel. "We want to engage politically and socially."

Eyad Saraj, an independent candidate for parliament and a Palestinian human rights activist, said Hamas is undergoing a real change, even if it has not gone far enough to satisfy Israel. He pointed to the group's honoring of a yearlong moratorium on attacks on Israel.

The Islamists have not dropped support for an armed uprising against Israel, but now advocate negotiating a settlement indirectly with Israel based on the ill-fated U.N. partition plan of 1947.

"They have become more sophisticated, and more mature, and more professional in their work," Mr. Saraj said. "They are playing it cool."

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Yossi Alpher, editor of the online Israeli-Palestinian opinion forum Bitterlemons.org, said it's too early to say what direction the organization is headed.

He noted that Hezbollah in Lebanon refused to disarm even after winning a bloc of seats in that country's parliament. "Frankly," he said, "I'll be very surprised if after the election [Hamas] will become more moderate, but there is a possibility."

With Hamas On Palestinian Ballot, The Stakes Are Immense (USAT)

By Barbara Slavin

USA Today, January 25, 2006

A strong showing in today's Palestinian elections by Hamas, which the United States has designated a terrorist group, could jeopardize U.S. aid to the Palestinians and Arab-Israeli peace efforts.

In December, the House of Representatives approved, 397-17, a resolution saying U.S. relations and $350 million in aid pledged to the Palestinians this year would be at risk if Hamas becomes part of the government. The European Union also has warned that it might cut off its $312 million contribution.

In a letter to President Bush on Dec. 21, 70 U.S. senators said the president must “make clear to Palestinian leaders that terrorist groups must either disarm or be banned from the political process.” If Hamas gains a foothold in the Palestinian legislature, the United States “will have little choice but to re-evaluate all aspects of our relations with the Palestinian Authority,” the letter said.

The Bush administration says it expects those who come to political office to renounce violence.

“There should be no place in the political process for groups and individuals who refuse to renounce terror and violence or refuse to recognize Israel's right to exist or refuse to disarm,” Assistant Secretary of State David Welch said this month.

That may be too optimistic, says a new report on Hamas by the International Crisis Group, a Brussels-based organization that tries to avert and end conflicts.

“It is a safe assumption that for most Islamists, integration (into electoral politics) is meant to complement armed struggle rather than replace it,” the report says.

Israel originally tolerated Hamas in the 1980s to blunt the power of the Palestine Liberation Organization, which was leading the fight against Israeli occupation of the West Bank and Gaza.

Israel reached a peace deal with the PLO and its leader, Yasser Arafat, in 1993. Arafat then became leader of the Palestinian Authority, while Hamas continued to reject Israel's right to exist.

Now Hamas could win 30% or more of the seats in the legislature, according to recent surveys.

Khalil Shikaki, a Palestinian pollster, said the weakness of the government led by Prime Minister Mahmoud Abbas, Arafat's successor, and his Fatah Party could clear the way for a Hamas takeover.

“We are at a point where this could be the end of the era of the nationalists and the beginning of the era of the Islamicists,” he says.

Hamas is one of several Islamic political parties gaining strength throughout the Middle East, most prominently in Egypt, Iraq and Lebanon. They all share opposition to U.S. policies, particularly American support for Israel.

Religious parties are gaining because they are “the most organized, best-funded, most dedicated and most attractive” alternatives to corrupt authoritarian regimes, says Daniel Pipes, director of the Middle East Forum, a Philadelphia-based think tank. Their views contradict the U.S. goal of creating “liberal, stable, open societies,” he says.

Don't Deal With Terrorists (USAT)

By Daniel Pipes

USA Today, January 25, 2006

As Hamas, the Islamist terror group, surges in the polls with a prospect of joining the Palestinian Authority or even running it, governments worldwide must decide on their responses.

Masked Hamas gunmen join a press conference in Gaza. Hamas is intent on destroying Israel, one founder recently reiterated.

An increasing number of voices are calling for Hamas to be recognized, arguing that the imperatives of governance would tame it, ending its arch-murderous vocation (it has killed about 600 Israelis) and turning it into a responsible citizen.

Even President Bush made this argument in early 2005: "There's a positive effect when you run for office. Maybe some will run for office and say, 'Vote for me, I look forward to blowing up America.' ... I don't think so. I think people who generally run for office say, 'Vote for me, I'm looking forward to fixing your potholes, or making sure you got bread on the table.' "

The historical record, however, refutes this "pothole theory of democracy." Mussolini made the trains run, Hitler built autobahns, Stalin cleared the snow and Castro reduced infant mortality — without any of these totalitarians giving up their

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ideological zeal nor their grandiose ambitions. Likewise, Islamists in Afghanistan, Iran and Sudan have governed without becoming tamed. If proof is needed, note the Iranian efforts to build nuclear weapons amid an apocalyptic fervor.

Hamas might have hired a spin doctor to improve its image in the West, but its leadership candidly maintains it has no intention of changing. Responding to a question on whether Bush is correct that U.S. engagement with Hamas would moderate the terror group, Mahmoud Zahar, a Hamas founder, laughed and declared that this tactic "will not succeed." In recent days, Zahar has publicly reiterated that Hamas still intends to destroy Israel.

Fortunately, U.S. policy remains steadfast: "We haven't dealt with Hamas, and we won't deal with Hamas members who are elected," says U.S. embassy spokesman Stewart Tuttle in Israel. That is a good start; ideally, there should be no dealings at all with a Palestinian Authority that includes Hamas in its leadership.

It was a mistake to permit Hamas to compete in elections. Like al-Qaeda, Hamas should be destroyed, not legitimated, much less courted.

Ballot Box Gains For Hamas Pose Dilemma For U.S., Allies (USAT)

USA Today, January 25, 2006

The Middle East, one saying goes, is a place where anything can happen — and often does. How else to describe the transformation of now-ailing Israeli Prime Minister Ariel Sharon?

After dedicating his life to settling disputed land, Sharon recently gave some settlements up — forcing Israeli families out at army gunpoint — in the name of long-term Israeli security.

An equally stunning transformation, at least on the surface, has been taking place in the run-up to today's first legislative Palestinian elections in a decade. Hamas, an Islamic terror organization dedicated to the destruction of Israel, has given itself a campaign makeover.

Curtailed are the black masks, glorification of suicide bombers, Kalashnikovs and much of the wipe-Israel-off-the-map rhetoric. Hamas has been campaigning as the "Change and Reformation Party," specializing in getting out the vote, ending corruption and bringing prosperity.

A strong showing by Hamas would underscore one of the biggest risks in promoting democracy in the Middle East: Radical Muslims can win elections. Though many Palestinians are wary of its Islamic fundamentalism, polls indicate Hamas could get as much or more of the vote in its first big foray into politics as the ruling Fatah Party could.

Hamas' makeover is being orchestrated by a savvy PR expert, raising the obvious question: How much of it is for real, and how much of it is a cynical ploy to grab power, then revert to big-time terrorism? Given Hamas' history, extreme skepticism is in order.

Even so, the smartest strategy for U.S., Israeli and international policymakers is to find ways to prod Hamas to make its new image more than cosmetic. Hamas needs to be pushed onto the path taken by the Irish Republican Army (IRA), which over time split into a military and political wing, the former slowly overwhelmed by the latter.

That's far easier said than done. First, the United States and others correctly insist, Hamas has to affirm Israel's right to exist and commit itself to disarm. That has to be the non-negotiable baseline. But beyond that there needs to be a concerted campaign to coerce Hamas into taking political responsibility and building constructively on its long-standing social services to Palestinians. Unlike al-Qaeda, which condemns democracy and elections, Hamas shows some willingness to change.

Fatah, the party whose dominance is set to be weakened — or even end — in the elections, has similar origins to Hamas: It originated in the former Palestine Liberation Organization, a terror group led by the iconic Yasser Arafat. Israel, with U.S. and international backing, ultimately negotiated with Arafat. But Mahmoud Abbas, who became president after Arafat's death in 2004, has been weak and unable to control infighting.

One reason the IRA evolved was because followers in Northern Ireland, much as the Palestinians now, grew tired of violence. Many Palestinians who vote for Hamas today want their own version of the "Sharon precedent," according to Israeli newspaper columnist Sever Plocker.

That might take years, if at all. But Sharon's late-in-life conversion shows nothing is impossible, even Israeli talks some day with a Hamas offshoot. As Yitzhak Rabin, the late Israeli prime minister, once said, "You don't make peace with friends. You make it with very unsavory enemies."

Acting Israeli Leader Backs A Palestinian State (NYT)

By Greg Myre

The New York Times, January 25, 2006

DOJ_NMG_0011629

JERUSALEM, Jan. 24 - In his first major policy address since becoming Israel's acting prime minister, Ehud Olmert said Tuesday that he backed the creation of a Palestinian state, and that Israel would have to relinquish parts of the West Bank to maintain its Jewish majority.

"We support the establishment of a modern, democratic Palestinian state," Mr. Olmert said at the annual Herzliya Conference near Tel Aviv, which has become a forum for important speeches by Israeli leaders. "The existence of two nations, one Jewish and one Palestinian, is the full solution to the national aspirations and problems of each of the peoples."

He said he was following the path set down by Prime Minister Ariel Sharon, who suffered a severe stroke on Jan. 4 and remains in a coma.

In his remarks, Mr. Olmert said the biggest challenge facing Israel was defining the country's permanent borders in ways that assured a continued Jewish majority. While maintaining that the West Bank is part of "our historic homeland," he said demographic realities required handing back parts of the territories, which Israel captured during the 1967 Arab-Israeli war.

"The choice between allowing Jews to live in all parts of the land of Israel and living in a state with a Jewish majority mandates giving up parts of the land of Israel," he said. "We will not be able to continue ruling over the territories in which the majority of the Palestinian population lives."

Mr. Olmert did not offer new proposals, but said this was an opportune moment to revive peacemaking efforts, with the Palestinians holding parliamentary elections on Wednesday and with Israel holding its legislative elections on March 28.

"The elections tomorrow in the Palestinian Authority are a historic opportunity for the Palestinians to take a giant step toward realizing their goal to achieve national independence," he said. But he added, "The key to moving the political process forward is for the Palestinians to abandon the path of terror."

The elections could complicate peace efforts, however. The radical Islamic faction Hamas, which has waged a suicide bombing campaign against Israel, is poised to make a strong showing, and Israel and Hamas have always refused to deal with each other.

Like Mr. Sharon, Mr. Olmert said he would be guided by the road map, the international peace plan that was introduced in the summer of 2003 but immediately stalled.

Neither side has met its requirements in the first stage of the plan, which has three stages and ultimately calls for a comprehensive peace agreement and a Palestinian state. Still, Mr. Olmert cited the rarely mentioned second stage, which would allow for a Palestinian state with temporary borders.

The Palestinians could have a state "even before all the complicated issues connected to a final agreement are resolved," he noted.

The Palestinians have generally opposed interim measures, and prefer to focus on final-status issues. The Palestinian leadership seeks a state in all of the Gaza Strip and the West Bank, with a capital in East Jerusalem. Mr. Olmert stressed that, in any final settlement, Jerusalem would remain a unified city under Israeli control.

Responding to the speech, Saeb Erekat, the chief Palestinian negotiator, said: "I want Mr. Olmert to know he has a partner on the Palestinian side. I hope he will abandon unilateral Israeli actions and come back to the negotiating table so both sides can begin to implement their obligations under the road map."

Mr. Sharon has not shown any significant signs of recovery in recent days, and there is now an almost universal assumption that he will not return to political life. In his absence, Mr. Olmert has become the acting head of the centrist Kadima party, which is heavily favored in the Israeli elections, according to opinion surveys.

As the acting prime minister, Mr. Olmert initially avoided major decisions, but lately has begun to assert himself. He said Israel should limit construction in Jewish settlements, work to improve the daily lives of Palestinians and take down West Bank settlement outposts that were erected without government permission.

But the Palestinians want all Jewish settlements in the West Bank removed, something Mr. Olmert said he was not prepared to do.

He said Israel would "maintain control over the security zones, the Jewish settlement blocs and those places which have supreme national importance to the Jewish people, first and foremost a united Jerusalem under Israeli sovereignty."

About 250,000 Jewish settlers now live in the West Bank, a figure that is increasing by more than 10,000 annually. The figures do not include Israelis living in East Jerusalem, which was captured by Israel in the 1967 war and then annexed.

Mr. Olmert was a strong advocate of Israel's unilateral withdrawal from the Gaza Strip last summer, though he has not said whether he would be prepared to take a similar action in the West Bank.

"We would prefer an agreement," he said. "To realize this opportunity, the Palestinians will have to give up part of their national dreams, just as we have given up some of our national dreams."

The Samurai Of Zionism (NY)

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New Yorker, January 25, 2006

This week in the magazine, Ari Shavit writes about the life and career of Israel's Prime Minister, Ariel Sharon, who has been incapacitated since suffering a stroke, earlier this month. Here, with Amy Davidson, Shavit, a columnist for the Israeli newspaper Ha'aretz, discusses Sharon's legacy.

AMY DAVIDSON: In your piece this week, you write that there have been many Sharons: Arik of Sinai, Arik the Settler, Arik the Leper. Was one of them the real Sharon?

ARI SHAVIT: If you look at Sharon's life, the bottom line is that he is the "samurai of Zionism," as I refer to him in the article. Basically, he is a warrior. He is the product of the Israeli-Palestinian tragedy, and he became a major player—actor—in it. His life was about the aggressive and combative elements of the Zionist directive. This man has affected the lives of all Israelis and Palestinians, in many episodes over several decades, but I think that, at the end of the day, what was most important was the settlements. In this sense, Arik the Settler is the one who, unfortunately, had more influence than all the others. He changed the reality on the ground in a fundamental way. Ironically, toward the end of his life, he began undoing some of what he did during most of the previous quarter of a century, while still trying to save other parts. The drama of creating the settlements—which I think was a pitiful project and absurd in many ways—and the drama of the undoing are what will remain with us in the years following the Sharon era. This is not history; it is still history in the making, and it will shape our future here in the next decade.

AD: What do you think drove him to undo some of what he did? For a lot of Israelis, the dilemma is remaining both a Jewish state and a democratic state, given the demographic reality. Was that his concern?

AS: Later on, it did become his concern. But I'm not sure that his initial conversion was because of democracy. I think that it came about for strategic reasons. He failed to suppress terror; he failed to create a suitable Palestinian partner for the political process he had in mind; and he failed to get enough international support for his war against Yasir Arafat. So he was faced with a real political threat in 2003. One has to understand that, to begin with, the Sharon strategy for this decade was, basically, to suppress terror in the first phase, not to negotiate until there was calm, and then to try to negotiate an interim long-term agreement with the Palestinians. He had some success with both, but, ultimately, he failed. He did not beat terror, and he could not bring Arafat—and not even Abu Mazen—to go along with his sort of political process. So he found himself facing a political dead end, in which he saw that the outcome would be increasing international pressure on Israel and, possibly, the loss of the support of the American Administration, which was so essential to him. And the Israeli left, which was beginning to have war fatigue after giving Sharon a chance for two years, was emerging again as a potential opposition. All of that together brought him to understand that he must take the initiative in order to stop the stagnation and create some sort of new momentum, which he hoped he would be able to master. The demographic factor has dominated the discourse of the Israeli left and center for a long time. Sharon was a late bloomer, or discoverer, of the demographic reality.

AD: Sharon went from being the champion of the most radical settlers to being someone they viewed as having betrayed them by withdrawing from Gaza. How do you think the settlers view him now, as he nears the end of his life?

AS: This is a fascinating story, which not only is political, with historical repercussions, but has a very strong emotional and human element. There was, I would say, an unholy alliance between Sharon and the settlers. He needed their messianic energy to fulfill his strategic settlement plan, which was to take part of the West Bank and Gaza and to basically annex them to Israel, but he did this without having any religious and messianic thinking. He was using them because he did not have the support of the Israeli left, the Israeli Labor movement, or even the Likud people, who are not settler types. The settlers, for their part, saw him as a sort of contractor, who carried out their divine plan although he didn't believe in it. They thought, He doesn't know what he's doing. These were two different schools of thought, two different persuasions, and they made a kind of alliance that was strategic but had a contradiction at its core. They chose each other without anyone knowing who would laugh last. The crisis between Sharon and the settlers was waiting to happen. It was not a total surprise. Throughout the years, the settlers respected him very much, they admired him; he was not only helping them with their project but was an embodiment of the warrior, the man of the land. They worshipped these elements in his character, but they were suspicious of him, and many of them feared that one day Sharon would dismantle the settlements. Sharon swore to them, literally swore, that he never would. And then, as in a Greek tragedy—and to the delight of the liberals in Israel and throughout the world—he betrayed them, in a very aggressive, brutal way. They also knew that he was the only person, the only politician, who had the political ability to carry out this project; if anyone would do this to them, it would be Sharon. And their nightmare was fulfilled. On the one hand, they felt betrayed, and, on the other hand, they were somehow paralyzed, bewitched by his nationalistic charisma, by the Zionist mythology he carried with him, and they couldn't quite get their act together in fighting him. And this is why he really left them completely shattered. He not only dismantled twenty-five settlements; he left their leadership in deep crisis, their entire political force in complete disarray. We who saw the settlers as a great enemy of benign Zionism, of Israel as a democratic state, we have to thank Sharon for this. Yet, if you look at it from a storyteller's point of view, this was a very cruel drama that had all the elements of trust and betrayal.

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AD: That ambivalence you talk about, on the part of liberals in Israel—do you think that's shared by Palestinians? Do you think that Arabs will eventually view Sharon as a strangely positive figure, or always as a negative figure?

AS: I think you saw growing respect for Sharon among Palestinians and throughout the Arab world in the past two years. When he first made his disengagement plan public, there was total mistrust. People did not believe that he would fulfill it. And there were very good reasons for this mistrust, because Sharon's record was very troublesome, both because of his past brutality and because of his cunning ways. But once Sharon proved that he was serious, and that he was willing to put all his political capital on the line and risk everything in order to implement the pullout from Gaza, I think that brought him a lot of respect among Palestinians. I don't think they can, or should, forget his history. They'll always remember the brutal Sharon, the Sharon who fought viciously and aggressively against them in the fifties and sixties, in 1971 in Gaza, and, most of all, in Lebanon in the early eighties. But look at the turnaround of this person, who was so hated, and yet left them with two amazing achievements. He left 1.4 million Palestinians free, for the first time in Palestinian history. Gaza is a mess, it's surrounded, the situation there is very troubling, and Sharon bears a lot of responsibility for that. But one cannot ignore the fact that he created this precedent. The other contribution is bringing the entire Israeli public to accept the idea of a Palestinian state and a two-state solution. Ehud Barak, the Israeli Prime Minister in 2000, broke the taboo, but he didn't have political backing. In many ways, Sharon became, whether he liked it or not, the father of the Palestinian state-to-be. This is an enormous historical contribution, and I think that sober Palestinians realize that.

AD: In your interviews with him and elsewhere, Sharon has been very blunt about his disdain for Arabs—his disdain for them not just as political adversaries or enemies but as a people. One likes to think that peace and reconciliation go together, that increased understanding between Jews and Arabs is a part of the peace process, and yet it seems not to have been for him.

AS: Sharon was a deeply incorrect—politically incorrect—person, and not only regarding Arabs. He had prejudices regarding Jews as well, and regarding Europeans; he was not p.c. in any way, from the day he first knew his own mind to the day he collapsed. It was not part of his world. He was not a humanist in any way, he was not a universalist; he cared about the Jews and only about the Jews, and whatever he did he did because he thought it would serve him and his people. Now, when it comes to his attitude toward Arabs—first of all, I must say these are some of the most fascinating and troubling lines I've heard from him, and I was surprised how direct and frank he was in saying it, not realizing how immoral it was, when he talked about not trusting Arabs in general. I think that this was something that was very true of him, this deep mistrust of our Arab and Palestinian neighbors. And I think that, to the end, he really was not a man of peace. Because you're absolutely right: if you want peace, you need real respect of the other, real understanding of the other's rights, and real understanding that not all justice is on your side and that compromise is needed, not only for political reasons but for moral reasons. Sharon had none of this; I do not think he had a moral element of this sort. But, perhaps, this makes his process even more interesting. Because, although he did not believe in peace, he wanted to have some sort of quiet. He did—and here I do believe him—want to have less bloodshed and more stability. And, in fact, he thought that the people who speak highly of peace, of the perfect peace, of an ideal peace, were actually going to bring much more bloodshed. He thought—and he was not the only one—that the record of recent years proved that when you try to impose an ideal notion of peace on a very troublesome, rough neighborhood, such as the Middle East, the outcome is actually more violence, more bloodshed, and even war. What he was trying to do was reduce occupation, reduce friction, reduce the level of violence, although he didn't have any of what he would call "illusions" about a European kind of peace and coöperation. He did believe in a kind of coöperation on the ground—economics, commerce, water, agriculture. But he didn't believe it was time for a real, historical reconciliation, because he thought the Palestinians were not ripe for that. One might say he was not ripe for that, either.

Having said all that, it is worth mentioning that he did have respect for our Arab neighbors in terms of what he believed was their concept of nationalism, their attachment to the land, the role that honor played in their political life. He even expressed envy of that. He felt that, in these aspects, the Arabs were more impressive than the Jews, and in this sense, ironically, he wanted the Jews to be more like Arabs. Here I'll close the circle of the argument: perhaps it's not that surprising that he found a common language with people like President Hosni Mubarak, of Egypt, and some of the other Arab leaders, who felt that they could have, with Sharon, the kind of dialogue they understood, which they could not have with European-type statesmen like Shimon Peres, for instance. Peres is much more generous, elegant, humanist, universalist, but less understood. Sharon, with all his prejudices, somehow found a way of living in a kind of dialogue with the region. And, at the end of the day, some in the region were actually willing to accept him.

AD: Sharon talked about his own attachment to the land in your interviews with him. You said earlier that the settlers saw him as too secular. It's a strange thing—he speaks about the land in Biblical terms, evoking Biblical figures, without ever being religious.

AS: Sharon was a godless person, in a very profound way. He had no religion, no faith. When you look at the brutal chapters of his biography, you can say that there was something of the brutal secularist about him; this was the modus operandi

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of a person who's really not God-fearing in any way. This is fact No. 1. Fact No. 2 is that he had a very strong sense of history, with a special attachment to the land, and a very strong Biblical memory—the Bible and the land came together in a potent fusion process within him. He was truly a nationalist romantic, in an almost scary way. The two sides seem to be contradictory, but, if you look at the history of Zionism, you see that there is not that much of a contradiction. For the early Zionists, the Labor-movement Zionists, history replaced God, and the Bible replaced both the Talmud and the Orthodox way of living as a Jew. History was the God of the Zionists. The idea was to bring the Jews—who, in the old Zionist terminology, had lived outside of history—back to the family of nations, the theatre of nations, where there is peace and war. This was the great thrill of the founding fathers of Zionism. And, in the same way, the Bible, being taken and read as the book about Jews living in this land, with a real, physical life as a nation, cultivating the land, defending the land—this was very powerful for the young Zionists and the young Sabras of Sharon's generation. He took it perhaps to a bit of an extreme, because he was a person of extremes, but this intimate relationship with the land and with Biblical legacy and tradition actually goes well together with the godless dimension of his personality, and, in many ways, makes him the last of this early line of Zionists; we are not going to see any more of this type in the future.

AD: Let's talk about the immediate future. Is there a vacuum with Sharon still in a coma? Can Ehud Olmert, the acting Prime Minister, operate freely, or is the question still "What would Sharon want?"

AS: Right now, we are in limbo. Sharon is in the hospital and there is less and less hope among his supporters of him coming back as a political figure of any sort; yet, because he is still there, hovering between life and death, things have not been settled yet—what his legacy is, who follows it, how Israel will deal with what he has left behind. What you do have right now are the political facts on the ground, and the most dominant fact is Kadima, Sharon's new party, which, in an astonishing way, is doing remarkably well, even without him. Which proves that the need for a centrist party in Israel was so great that once Sharon created it—and there was a need for Sharon to be the creator—it had a life of its own, even without him leading it. Things might change, but right now it seems that there is enough political energy to have, so to speak, the "Sharon way," even when Sharon is politically gone. Having said that, it's going to be much more difficult, because Olmert does not have Sharon's gravitas or authority, especially when it comes to dealing with the settlers. Although Olmert is more dovish than Sharon was, and he will try to go beyond what Sharon had in mind—he will probably try to dismantle more settlements than Sharon would have—he will run into more difficulty, because he lacks Sharon's historical range and his unique place within the collective Israeli psyche. When it comes to implementation on the ground, I feel that it will be much harder; anyone hoping for something as elegant, efficient, and quick as the disengagement in Gaza to repeat itself in the West Bank will be proved wrong. We are going to try, as a people, to deal with the difficulty of the settlements in the West Bank, but without Sharon it's going to be more difficult and more violent and, I'm afraid, it might even become bloody.

AD: You've interviewed Sharon several times over the years, and you write that he always confounded you in some ways. Do you think that, in the end, you understood him? Did you like him? Did you appreciate him?

AS: First of all, I learned before interviewing Sharon that it's very easy for politicians to be nice to journalists. They may be polite, even generous, sometimes charming with you, as a journalist interviewing them, but it's not relevant at all to the way they conduct politics, and it's not how you should judge them. Yes, I had a good time with Sharon; he gave people a good time—in a deep sense—but that is totally irrelevant to the way I see him as a political and historical figure. I did know him, and perhaps I did figure him out, in a way; I think I knew what to expect and I was able to predict, generally, what his next step would be. But there was, and still is, an enigma. I think that the Sharon enigma, which I tried to decipher in this piece, is still there. Therefore there will be something to linger over in the coming years, when all of this really becomes history.

Mideast Democracy Boosts Islamists U.S. Pushes Elections; Fundamentalists Gain (USAT)

By Barbara Slavin

USA Today, January 25, 2006

Islamic fundamentalists who oppose U.S. interests in the Middle East have benefited from the U.S. policy of promoting democracy, making significant gains in recent elections.

Hamas is the latest to rise. Its likely strong showing in Palestinian parliamentary elections today poses a dilemma for the United States and Israel, which refuse to deal with a group responsible for numerous suicide bombings.

Kenneth Katzman, a Middle East expert at the non-partisan Congressional Research Service, says the United States has pressured Egypt, Iraq and the Palestinian territories to hold free elections. "The pro-democracy effort has had the actual effect of strengthening fundamentalist movements," Katzman says.

In Egypt, he says, the Muslim Brotherhood was the most organized opposition to longtime President Hosni Mubarak, so it was ideally positioned to do well in the elections.

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Hamas, the Muslim Brotherhood, Hezbollah in Lebanon and several Iraqi religious groups oppose U.S. support for Israel and back policies that could restrict social freedoms.

State Department spokesman Sean McCormack declined to comment on the trend and said the administration would wait for Palestinian election results.

Promoting democracy should “obviously” be part of U.S. policy, says Richard Haass, a senior State Department official in President Bush's first term. But there's debate about whether it is outweighing other foreign policy goals, he says.

The Realities Of Exporting Democracy (WP)

By Peter Baker

The Washington Post, January 25, 2006

Sitting in a prison cell halfway around the planet, an Egyptian opposition leader forced President Bush this month to confront the question of how serious he was when he vowed to devote his second term to "ending tyranny in our world."

Ayman Nour, who dared challenge Egypt's authoritarian leader in manipulated elections, was sentenced on Christmas Eve to five years on what U.S. officials consider bogus charges. Inside the administration, a debate ensued over whether to shelve a new trade agreement with Egypt in protest. In the end, the trade talks were suspended and an Egyptian negotiating team invited to Washington last week was told it was no longer welcome.

In the year since Bush redefined U.S. foreign policy in his second inaugural address to make the spread of democracy the nation's primary mission, the clarion-call language has resonated in the dungeons and desolate corners of the world. But soaring rhetoric has often clashed with geopolitical reality and competing U.S. priorities.

While the administration has enjoyed notable success in promoting liberty in some places, it has applied the speech's principles inconsistently in others, according to analysts, activists, diplomats and officials. Beyond its focus on Iraq, Washington has stepped up pressure on repressive regimes in countries such as Belarus, Burma and Zimbabwe -- where the costs of a confrontation are minimal -- while still gingerly dealing with China, Pakistan, Russia and other countries with strategic and trade significance.

In the Middle East, where the administration has centered its attention, it has promoted elections in the Palestinian territories such as today's balloting for parliament, even as it directed money aimed at clandestinely preventing the radical Islamic group Hamas from winning. And although it has now suspended trade negotiations with Egypt, it did not publicly announce the move, nor has it cut the traditionally generous U.S. aid to Cairo.

"The glass is a quarter full, but we need more of it," said Jennifer Windsor, executive director of Freedom House, a group that promotes democracy. "The administration deserves credit, but it's just a start."

In its annual survey ranking nations as free, partly free or not free, the group upgraded nine nations or territories in 2005 and downgraded four. Among those deemed freer were Ukraine and Kyrgyzstan, where peaceful revolutions overthrew entrenched governments; Lebanon, where Syrian occupation troops were pressured to withdraw; and Afghanistan and the Palestinian territories, where trailblazing elections were held. Overall, Freedom House concluded, "the past year was one of the most successful for freedom" since the survey began in 1972.

At the same time, Human Rights Watch released its annual report, upbraiding the Bush administration for undermining its credibility in promoting freedom abroad through its embrace of abusive interrogation tactics in the battle with terrorists. "There's no question that the issue of torture in particular has compromised the U.S. voice, and not only torture but a manifold list of other human rights issues," said the group's associate director, Carroll Bogert.

The broader question is the degree to which Bush's speech marked genuine change in policy rather than so much talk. In many parts of the government, democracy promotion seems still to take a back seat to other goals.

After the government in Uzbekistan massacred hundreds of protesters in Andijan, for instance, the Pentagon resisted any tough response to protect its military base there. Ultimately, even the restrained statements by the U.S. government alienated the autocratic Uzbek president, Islam Karimov, who threw out the U.S. military.

"They come into conflict every day," a senior official said of rival priorities inside the administration. "The question becomes the weight given to the intangible interest in freedom versus the tangible interest in having a base in Uzbekistan, for instance."

The official, who spoke on the condition of anonymity citing administration rules, called Bush's speech "a weapon in the hands of everyone in the administration who is pushing for a stronger and stronger democracy agenda."

"Anytime there's a question, should we say this or say that . . . someone can pull out a copy of the president's speech and say, 'Wait a second, may I quote from what the president said?' " the official added.

Outside the United States, the speech inspired many fighting for freedom but also raised expectations that are hard to fulfill. "All they do is talk right now," said Gulam Umarov. His father, Sanjar Umarov, head of the opposition Sunshine Coalition in

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Uzbekistan, has been in prison since October. "I don't know what actual moves they take. But they are talking, which is really good."

In other places, the United States has done more than talk. In Kyrgyzstan, the U.S. government funded pro-democracy groups and provided generators to print an opposition newspaper before its revolution. Edil Baisalov, director of the Coalition for Democracy and Civil Society, can quote extensively from the Bush inaugural speech. "The Kyrgyz people are much, much better off today than they were a year ago, and I think the U.S. government should take pride in taking credit for that," he said. "And [it] should never apologize that it wants the people to be free."

In Belarus, another former Soviet republic ruled by an iron-fisted leader, Bush's words also stir hope. "We draw strength from these statements," said Vladimir Kolas, chairman of the Council of the Belarusian Intelligentsia opposing President Alexander Lukashenko. "We understand there are limits to what the U.S. can do. But we do need strong and decisive statements . . . that they will not recognize falsified election results."

The Bush administration has been willing to stay tough on Belarus and others it labeled "outposts of tyranny," such as Burma and Zimbabwe. Bush lobbied Asian leaders at a November summit in South Korea to bring Burma before the U.N. Security Council, and as a result the council had an unprecedented discussion last month. The United States also renewed economic sanctions adopted in 2003.

Opposition activists in Burma said they were grateful for U.S. efforts to highlight repression in their country. But despite these measures, little has changed, and some diplomats believe the situation has deteriorated. More than 1,100 political prisoners are behind bars, according to Amnesty International, and all regional offices of Aung San Suu Kyi's National League for Democracy remain shuttered.

In Zimbabwe, U.S. Ambassador Christopher W. Dell has been so outspoken about President Robert Mugabe's government that he has been threatened with expulsion. David Coltart, an opposition member of parliament, said Zimbabwe has been on the Bush administration's radar screen, even if not the president's. "George Bush is too preoccupied by Iraq to be personally engaged in the Zimbabwe crisis," he said. "But Colin Powell certainly was a friend of those struggling to bring democracy. It's too early to say whether Condoleezza Rice is focused on Zimbabwe."

Elsewhere, the U.S. hand is not seen as readily. In East Africa, newspapers are filled with columns asking why the Bush administration ignores their undemocratic leaders. After violence spilled into the streets of Uganda's capital when President Yoweri Museveni changed the constitution to run for a third term, Washington was silent. Museveni also jailed his opponent on what critics call trumped-up charges of treason and rape.

In Ethiopia, where 40 people were killed by government forces firing into crowds protesting fraudulent elections, Ethiopians complained that it took months for U.S. officials to speak out. "Does the Bush administration care about fighting terrorism for its citizens or does it care about the political situation in a Third World country like Ethiopia?" asked Tamrat G. Giorgis, managing editor of Fortune, one of Ethiopia's few independent newspapers. "I think Africans are asking that question, and we know the war on terror is more important."

When it comes to places such as China and Russia, the Bush administration prefers private friendly advice to ringing public denunciations. Sometimes it passes on both. Although U.S. officials have said they would like Gen. Pervez Musharraf, who took over Pakistan in a military coup, to give up his army post and govern as a civilian, Musharraf said last year that Bush has never raised the issue with him.

"I know presidents and diplomats are not dissidents and when they say they can achieve more in private talks, they may be sincere," said Lyudmila Alexeyeva of the Moscow Helsinki Group, a human rights organization under pressure from the Kremlin. "But I would still like to hear more. And maybe it will have an effect on our president."

Then there are Iran and North Korea, the two top enemies on Bush's list. The president appointed a special envoy on human rights in North Korea, but Abdollah Momeni of the Office for Fostering Unity, an Iranian student group, wants more constructive help. "If they only make noises about this, or if they think that through military action democracy can be achieved, they are moving on the wrong path," said Momeni, who is appealing a five-year prison sentence. "Military action against a country would dry up the democratic blossoms." But, he added, "more action and less talking is needed."

And there is Egypt, one of the most problematic places for the Bush democracy push. When President Hosni Mubarak agreed to let challengers run against him for the first time, a visiting Laura Bush praised the "wise and bold" move. But shortly after she left, Mubarak supporters orchestrated attacks on democracy demonstrators. The presidential election was manipulated, and a subsequent parliamentary election degenerated into violence and mass arrests.

The arrest of Nour, who won an unprecedented 7 percent against Mubarak, presented a singular challenge to Bush, who promised in his inaugural address to stand with "democratic reformers facing repression, prison or exile." The White House pronounced itself "deeply troubled" and demanded Mubarak "release Mr. Nour from detention."

Nour remains behind bars.

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Correspondents Peter Finn in Moscow, Ellen Nakashima and Alan Sipress in Jakarta, Craig Timberg in Johannesburg, Karl Vick in Tehran, Emily Wax in Nairobi, and Daniel Williams in Istanbul contributed to this report.

6 Powers To Meet In London To Seek A Common Policy On Iran (NYT)

By Elaine Sciolino

The New York Times, January 25, 2006

VIENNA, Jan. 24 - The foreign ministers of Britain, France, Germany, Russia and China and Secretary of State Condoleezza Rice will meet in London on Monday in an effort to resolve their differences on how best to punish Iran for its nuclear activities, three diplomats said Tuesday.

The United States and the Europeans say they believe that the United Nations Security Council must begin to pass judgment now on Iran for its nuclear behavior. The meeting was prompted by Iran's decision earlier this month to reopen its uranium enrichment plant despite a voluntary agreement freezing such activity, although the behavior being criticized also includes violations of Iran's treaty obligations over the years.

But Russia and China are resisting entreaties to move immediately, arguing that Iran should be pressed to close the plant but should be given more time to comply with the demands being made before the Security Council acts.

The meeting in London will give the five permanent members of the Security Council, as well as Germany, a last opportunity to forge a common position before a crucial meeting in Vienna on Feb. 2 of the 35country board of the International Atomic Energy Agency, the diplomats said, speaking on condition of anonymity under customary diplomatic rules.

At a minimum, the ministers could be expected to issue a statement of concern calling on Iran to immediately close down its uranium enrichment plant at Natanz, which Iran says it wants to operate for research purposes.

The site is still under strict monitoring by the atomic energy agency, based in Vienna. While Iran has begun to move equipment around and clear the site, international inspectors have seen no evidence that it has begun to operate any of the machinery there, diplomats said.

The United States and the Europeans are still hoping that the agency's board will vote at its meeting next week to refer the situation to the Security Council.

The Iran dispute has set in motion intense global diplomatic efforts by the Americans and Europeans as well as the Iranians, who have threatened to put into effect a law of theirs that would require them to move ahead with a full-scale uranium enrichment program and limit cooperation with the international atomic agency if the Iran dossier went before the Security Council.

Enriched uranium can be used for peaceful energy purposes or for making atomic bombs, and the process of enrichment for peaceful purposes is allowed under the Nuclear Nonproliferation Treaty.

In Moscow on Tuesday, Ali Larijani, the chief Iranian nuclear negotiator, met with Russian officials to discuss their proposal to enrich Iran's uranium on Russian soil under Russian supervision.

After the talks, the office of Igor S. Ivanov, the secretary of Russia's Security Council, issued a statement saying only that "both sides expressed their desire to solve the issue in a diplomatic way within the framework of the International Atomic Energy Agency."

In Nicosia, Cyprus, on Tuesday, Foreign Secretary Jack Straw of Britain urged Iran to "look much more seriously" at the Russian proposal, The Associated Press reported. When the Russians made their proposal late last year, Iran at first denied that the proposal existed, then rejected it, and now says it is under consideration.

In another diplomatic development, officials from the atomic agency flew on Tuesday to Tehran, where they will give Iran a last chance to cooperate fully with the agency's demands concerning Iran's past nuclear activities, agency officials said.

Olli Heinonen, the deputy director general for safeguards, and a team of inspectors will press longstanding demands, including access to a former military site in Tehran, information about Iran's dealings with an international nuclear black market that supplied it with atomic technology, and information about possible work related to nuclear weapons.

Critical White House Seeks Russia's Aid (AP)

By Barry Schweid, AP Diplomatic Writer

AP, January 25, 2006

WASHINGTON — The Bush administration is looking to Russia for diplomatic help in harnessing Iran's nuclear program despite growing U.S. criticism of Russian domestic policies.

A recent law requiring all non-governmental organizations to register with a state commission was criticized again Tuesday by State Department spokesman Sean McCormack.

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The law is viewed by its defenders as a measure to crack down on extremism. Critics find in it evidence that President Vladimir Putin, in an authoritarian move, is tightening controls on democratic and humanitarian activities.

"We have previously expressed our concern about the recent law," McCormack said in tersely registering U.S. opposition again.

However, this displeasure was overshadowed by the urgency of trying to line up Russia to challenge Iran's nuclear programs — first in the International Atomic Energy Agency at a special meeting Feb. 2-3 and then at the United Nations if the agency sends the dispute there.

Russia has signaled it favors a go-slow approach. At the same time, it is offering to defuse some of the concern about Iran's activities by offering to shift enrichment activities to Russia so they could be monitored as designed for civilian and not weapons purposes.

The European Union's senior diplomat, Javier Solana, said while holding talks last week in Washington that it remains a live idea.

McCormack said the Russian proposal, if accepted by Iran, "would provide the international community some comfort that Iran couldn't use that mechanism (enrichment) to try to obtain nuclear weapons."

However, McCormack described the Russians as frustrated in their efforts to intercede with Iran.

In Moscow, after a meeting with Iran's top nuclear negotiator, the office of Russia's security council secretary, Igor Ivanov, issued a brief statement saying the Iranian nuclear dispute must be solved by diplomatic efforts within the U.N. nuclear agency.

Meanwhile, at a conference at the Nixon Center, Dimitri Simes, president of the private group, said "the state of Russian democracy today is bleak and getting bleaker."

Simes said the judicial system is corrupt and totally controlled by the government and that the Duma, the Russian legislature, is a rubber-stamp body.

"You are allowed to express any opinion you like," he said, "as long as you are ineffective."

And President Bush's "special relationship" with Putin in which the two leaders spoke frequently to each other, stopped two years ago, he said.

Simes, who visited Russia last week, said Putin and his associates "have destroyed the checks and balances" common to democracies.

Simes said the law requiring registration of non-governmental groups was not so bad as the original draft. But Simes said in an interview that "the trouble is the law will be implemented by a Russian bureaucracy with no role for the courts."

The other principal speaker, Lorne Cramer, president of the International Republican Institute, which is partly U.S.-financed, said the Bush administration was silent about repression in Russia during its first term.

But now, he said, "we are seeing the first manifestation of breaking our silence."

Iran Defends Planned Holocaust Conference (AP)

By Ali Akbar Dareini, Associated Press Writer

AP, January 25, 2006

TEHRAN, Iran — Iran on Tuesday defended its plan to organize a conference to examine what it terms the scientific evidence for the Holocaust.

At the United Nations, the Israeli ambassador said the conference plans were proof that Iran was run by an "extreme, fundamentalist, lunatic regime."

The planned conference, which has drawn condemnation from Western leaders, is yet another step in hard-line President Mahmoud Ahmadinejad's public campaign against Israel.

"For over half a century, those who seek to prove the Holocaust have used every podium to defend their position. Now they should listen to others," Iran's Foreign Ministry spokesman, Hamid Reza Asefi, was quoted as saying Tuesday by the official Islamic Republic News Agency.

Ahmadinejad already had called the Nazis' World War II slaughter of 6 million European Jews a "myth" and said the Jewish state should be "wiped off the map."

Dan Gillerman, Israel's ambassador to the United Nations, said the planned conference was "proof of what a global threat Iran really is."

"I fear that the only reason Iran is showing so much interest in the Holocaust is because they may be preparing another Holocaust and it is up to the world and the United Nations to prevent that from happening," Gillerman told The Associated Press on the sidelines of the opening of the "No Child's Play" exhibit at the U.N. commemorating Holocaust remembrance week.

IRNA quoted Asefi as saying: that "blind prejudice together with political interests and aims have closed the eyes of the Holocaust defenders to the realities of the world, and they reject without any logic a scientific conference."

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Iran's Foreign Ministry, which was expected to sponsor the conference, has yet to fix a date or place. It was not clear who might attend.

"Iran is proving yet again what an extreme, fundamentalist, lunatic regime it is," Gillerman said.

Ahmadinejad has been issuing the highly inflammatory comments about Israel and the Holocaust in conjunction with the country's deepening confrontation with the West over its nuclear activities. The United States and its allies accuse Iran of seeking nuclear weapons. Tehran says the program is its right under the Nonproliferation Treaty and is designed for electricity generation.

Russia's national security chief and Iran's top nuclear negotiator said Tuesday that the nuclear standoff must be resolved by diplomatic efforts in the U.N. atomic watchdog agency.

The Kremlin statement reflected Russia's efforts to delay Iran's referral to the U.N. Security Council and Moscow's opposition to international sanctions against Tehran.

8 Are Killed By Bombings In Restive City In South Iran (NYT)

By Nazila Fathi

The New York Times, January 25, 2006

TEHRAN, Jan. 24 - Two separate bombs exploded Tuesday morning in the southern city of Ahwaz at a bank and a government building, leaving 8 people dead and 46 wounded, state-run news agencies reported.

The first bomb went off at 9:30 a.m. at Saman Bank and the second 30 minutes later at the government office for natural resources.

President Mahmoud Ahmadinejad had been expected to meet his cabinet in the city, but the trip was canceled Monday evening. His office said the four-day trip was canceled because of bad weather, the IRNA news agency reported Monday. The explosions occurred at the time he had been expected to make a speech in Ahwaz.

A series of deadly bombs went off in Ahwaz last year, and the government accused Britain of provoking the attacks. Foreign Minister Manouchehr Mottaki said in October that Iran had proof of British involvement.

Britain has repeatedly denied the accusations.

Mostafa Pourmohammadi, the interior minister, said the bombings on Tuesday were motivated by foreigners. Mr. Ahmadinejad ordered the Intelligence and Foreign Ministries to investigate "the role of foreign hands" in the bombings, the ISNA student news agency reported.

"The president has ordered a prompt and firm probe into today's blast and the terrorists who executed it," a government spokesman, Gholam Hossein Elham, was quoted as saying.

"Iran has always been victimized by terrorism, and these blind blasts show the continuity of brutal acts against Iran by international terrorists," he added.

Samad Tavakoli, the manager of Saman Bank, said there were nearly 60 people at the bank when the bomb exploded Tuesday.

"I was speaking to one of the customers when the power suddenly went off," ISNA quoted him as saying. "Then I saw something explode in the middle of the bank in front of me and I saw all my colleagues and many customers getting injured."

Ahwaz is the capital of Khuzestan Province and home to a Sunni Arab minority. The province borders Iraq and was battered during the Iran-Iraq war. It has remained one of the least developed regions in the country since then.

Unrest broke out in the city in April, and several people were killed after rumors spread that the government planned to relocate Arabs.

U.S. Troops On Front Line Of Expanding India Ties (WP)

By John Lancaster

The Washington Post, January 25, 2006

CHAUBATIA, India -- More than half a century after independence, foreign soldiers have returned to this onetime colonial garrison of tin-roofed bungalows, stone churches and panoramic Himalayan views. But this time, the soldiers' accents are American, not British, and their purpose is not to subdue India but to cultivate it as an ally.

In the latest of a series of such exercises, 120 U.S. combat troops have come here to train with their Indian counterparts in areas such as counterinsurgency and peacekeeping. Besides taking classroom instruction, they are firing Indian weapons, bonding with Indian soldiers over games of soccer and volleyball, and even developing a taste for vegetarian cuisine, albeit with spices toned down for sensitive American palates.

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"When you get the armies together, it's like saying, 'Hey, we can work together, we can accomplish this together,' " said U.S. Army Capt. Robert Atienza, 31, of San Diego, who commands the Hawaii-based infantry company that is participating in the 2 1/2 -week exercise that began last week. "It's very broad."

The exercise is an example of the striking improvement in relations between the United States and India following decades of Cold War estrangement and more recent tensions stemming from India's nuclear tests in 1998.

Spurred by the United States, the two governments have signed commercial, scientific and military agreements in the last two years and are negotiating a controversial deal that could permit the sale of civilian nuclear technology to India. The Bush administration is eager to cultivate India as a partner in counterterrorism and, some analysts say, as a strategic counterweight to China.

The warming trend is also reflected in the surge of interest in India among U.S. business leaders such as Bill Gates, the chairman of Microsoft Corp., who recently announced a $1.7 billion investment in the country, the latest in a string of such commitments by U.S. technology firms eager to cash in on India's booming economy and surplus of inexpensive brainpower.

Other indicators include the parade of U.S. lawmakers through New Delhi in recent months and steadily expanding commercial air links. In addition, a record number of Indian students -- more than 80,000 -- are studying at U.S. universities, according to the U.S. Embassy in New Delhi.

President Bush is scheduled to visit India for the first time in early March at the invitation of Prime Minister Manmohan Singh, a self-effacing economist who met with Bush at the White House last July. In New Delhi on Friday, Indian Foreign Secretary Shyam Saran said the planned visit is "really reflective of the very significant transformation that has taken place, and is taking place, in India-U.S. relations."

Saran was speaking at a news conference after meetings with Undersecretary of State R. Nicholas Burns, who was making his third visit to the Indian capital in the last six months. "India is one of the few countries in the world that has the capability to act globally and has the same basic interests as the United States," Burns said in a telephone interview from New Delhi.

The two countries still have important differences. In particular, India has a long history of warm relations with Iran and is pursuing plans to build a natural gas pipeline from Iran across Pakistan, a move that the Bush administration has warned could trigger sanctions against Indian companies under a U.S. law aimed at isolating Iran's Islamic regime. Indian officials say the project is essential to their country's energy security.

Partly for that reason, India has walked a tightrope in its handling of the standoff between Iran and the United States over allegations that Iran is secretly developing nuclear weapons.

India's reluctance to dance entirely to Washington's tune stems in part from the influence of political parties opposed to the Bush administration's policies on Iraq and free trade.

One of the most important tests of the new relationship centers on the agreement signed by Bush and Singh in Washington last July that would give India access to nuclear fuel and reactors to produce electricity. Under the deal, the United States would lift a ban on the sale of such technology to India, provided that India opens up its civilian nuclear facilities to international inspections and other safeguards.

That cannot happen, however, until the administration and India agree on a plan to separate the country's civilian and military nuclear facilities. The U.S. Congress would then have to vote on the deal, which critics say would weaken efforts to curb the spread of nuclear weapons and create perceptions of a double standard in U.S. dealings with such countries as Iran and North Korea.

"The nonproliferation system is built on rules," said Michael Krepon, a specialist on the issue at the Henry L. Stimson Center in Washington. "They're not always honored, but having them makes it easier to gang up on people who break the rules. The approach the administration is taking is very poisonous to all that."

U.S. officials say the deal would strengthen nonproliferation efforts by opening up India's civilian nuclear facilities to outside inspection for the first time. India, they say, is entitled to special treatment in light of its democratic values and exemplary record of preventing nuclear secrets from falling into the wrong hands.

Burns said in the interview that his discussions last week with Indian officials had not yielded a breakthrough on the separation plan, and he made no prediction about whether a deal would be secured in time for Bush's visit. "It's a possibility but not a certainty," he said.

If the deal does fall apart, "a lot of people would be quite happy to say, 'We told you the United States cannot be trusted,' " said C. Raja Mohan, an analyst and commentator in New Delhi.

Other analysts say the relationship would survive such a setback, citing many common interests. Already, they note, India and the United States are working closely to coordinate policy on regional concerns such as instability in Nepal and Bangladesh. "The relationship is going to stand on its own," Burns said.

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The goodwill marks a sharp change from the Cold War, when India was a champion of the Non-Aligned Movement and had close ties to the Soviet Union. Relations began to improve in the early 1990s following the Soviet collapse and India's initial moves to liberalize its economy. But they nosedived when the United States imposed sanctions in response to India's 1998 nuclear tests.

The Bush administration lifted the sanctions after the Sept. 11, 2001, attacks and has promoted India as a new global partner, citing its vast economic potential and status as the world's largest democracy.

Analysts say the White House drive to court India was also influenced by frustration with traditional allies such as France and Germany and concerns over the rising power of China.

The administration has paid special attention to strengthening India's military capabilities.

Since 2002, India and the United States have held a number of naval, air and ground exercises. The latest is being conducted in Chaubatia, an army base that was established by the British Indian Army in the late 19th century in the forested Himalayan foothills about 90 miles northeast of New Delhi. It is now occupied by the Indian army's Kumaon Regiment and, at least through the end of January, by the men of Charlie Company, 2nd Battalion, 27th Infantry Regiment, which is part of the 25th Infantry Division out of Scofield Barracks, Hawaii.

Chaubatia is an exotic setting for the exercise, with its striking views of snow-capped peaks, immaculate grounds and road sign alerting drivers that "leopards have right of way."

One morning last week, Atienza, the company commander, lectured Indian soldiers on lessons learned during the battalion's year-long tour of Afghanistan, which ended in March 2004, as an interpreter translated his words into Hindi. In other classes, Indian officers shared their experiences fighting Islamic guerrillas in Kashmir. Later in the day, Indian and American troops converged on a firing range, where they took turns shooting each other's assault rifles at pop-up targets.

In part, the exercise is aimed at bridging cultural gaps between the two militaries. Several American officers, for example, said they had been struck by the relative lack of autonomy vested in Indian soldiers at the platoon level. And an Indian officer, who under Indian army ground rules could not be identified by name, said the U.S. soldiers were "quite relaxed," adding philosophically, "That is their way."

Report: U.S. Arms Helped Indonesia Attack East Timor (WP)

By Colum Lynch

The Washington Post, January 25, 2006

UNITED NATIONS, Jan. 24 -- U.S. political and military support for Indonesia was vital to its ability to invade East Timor in December 1975 and to sustain a brutal 24-year occupation that cost the lives of at least 100,000 people, parts of a Timorese inquiry made public Tuesday show.

East Timor's Commission for Reception, Truth and Reconciliation contended that the Ford administration "turned a blind eye" to the Indonesian invasion even though it knew that U.S.-supplied arms would be used to carry it out. The report called on the United States, France, Britain and other military backers of Indonesia to pay reparations to victims of Indonesian oppression.

The commission relied on more than 4,500 pages of recently declassified documents collected by the Washington-based National Security Archive, a nonprofit research group, which posted a 119-page portion of the commission's 2,500-page report on its Web site Tuesday. The rest is expected to be made public in the coming weeks.

The commission was created in 2001 by the United Nations and East Timor to provide a comprehensive account of abuses during Indonesia's occupation, which ended in 1999. East Timor's President Xanana Gusmao delivered it last week to Secretary General Kofi Annan.

"The Commission finds that the United States of America failed to support the right of the East Timorese people to self-determination, and that its political and military support were fundamental to the Indonesian invasion and occupation," the report said. "The support of the United States was given out of a strategically-motivated desire to maintain a good relationship with Indonesia, whose anti-communist regime was seen as an essential bastion against the spread of communism."

The national archive gave the commission National Security Council documents showing that U.S. officials were aware of Indonesian plans to invade East Timor a year before the invasion and did not discourage it. Other documents showed that U.S. officials had evidence that Indonesia had used U.S. naval vessels in support of air bombardment during its invasion of East Timor, but decided to remain silent about it.

The commission's report cites a Dec. 6, 1975, meeting in Jakarta -- the day before the invasion -- in which Indonesia's former ruler, President Suharto, asked then-President Gerald R. Ford and then-Secretary of State Henry A. Kissinger for their "understanding" if his government took "rapid or drastic action" against East Timor, according to a declassified account of the conversation first made public in 2001.

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Ford assured Suharto that "we will understand and will not press you on the issue," the documents say. Kissinger pressed Suharto to delay an invasion until the president had returned to the United States. "It is important that whatever you do succeeds quickly," Kissinger is reported to have said.

Kissinger did not respond to a request for comment Tuesday evening. A spokeswoman, Jesse LePorin, said he is recuperating from shoulder surgery.

In 1998, Kissinger was asked at Arizona State University about the invasion and, according to the Arizona Republic, replied: "You may not believe this, but Indonesia is a country of 180 million people, and they didn't ask our permission. Also, we were negotiating an end to the Vietnam War at that time, and we were not looking to make another enemy in Southeast Asia."

Simulated Attack Showcases Defense (WT)

By Bill Gertz

The Washington Times, January 25, 2006

The Pentagon showed off its new command-and-control system for U.S. missile defenses yesterday during a war-game missile attack on the United States, Japan and South Korea.

The simulation did not identify the missiles as coming from North Korea, but it was clear to observers and participants that the fictional island nation of Midland in the Sea of Japan/East Sea represented the communist state referred to by President Bush as part of an "axis of evil."

Several minutes into the hourlong simulation, one of the seven long-range missile warheads landed on the Aleutian Islands, in western Alaska, while six others aimed at Honolulu, Los Angeles, Colorado Springs and Fort Greely, Alaska, were intercepted and destroyed in midflight.

Brig. Gen. Robert Dehnert, program director for command and control at the Pentagon's Missile Defense Agency (MDA), said hitting a flying missile with another missile is not easy.

"As you've seen in the war game, this is easy to say, but difficult to accomplish," he told congressional lawmakers, congressional staff members and 12 journalists, who played the roles of key decision-makers, from the president to Patriot anti-missile battery operators.

"The purpose today is ... to provide some level of insight into the command-and-control battle-management system," Gen. Dehnert said.

The command-and-control system connects sensors that detect and track enemy missiles with military units charged with firing interceptors at the incoming missiles, including long-range missiles traveling at speeds of up to 15,000 miles per hour.

The control system distributes data from satellites and surface radar on missile launches. It also allows commanders in Washington, Nebraska, Colorado, Alaska and Hawaii and on ships in Asia to communicate and order launches using different missile interceptors.

The war game used missile-defense systems such as Patriot PAC-3 batteries in South Korea, Navy SM-3 interceptors on a ship near Japan, and 10 ground-based strategic-missile interceptors -- eight in Alaska and two in Southern California.

Sen. Wayne Allard, Colorado Republican, who sponsored the three days of war games, said the exercise "reminds us all of the vulnerability of our country" to missile attack.

Mr. Allard said the main missile threats today are from Iran, which is building nuclear arms and has medium-range missiles, and North Korea, which has short-range, medium-range and long-range missiles.

On the overall threat from missile attack, Mr. Allard said, "This is a threat that is emerging more and more every year because our adversaries are getting more and more competent every year."

Compass Name In UN Fraud Report (FT)

By Salamander Davoudi and Stephen Fidler

Financial Times, January 25, 2006

A United Nations report into procurement operations at its peacekeeping missions has uncovered evidence of suspected mismanagement, favouritism and financial irregularities in relation to its dealings with several companies including a subsidiary of Compass, the troubled contract caterer.

The investigation by the Office of Internal Oversight Services, the UN's internal investigative arm, examined 27 contracts worth $1bn, or 31 per cent of the cumulative value of all commercial contracts over $5m. As reported, it found that the world body could have lost as much as $298m in contract irregularities.

"A lack of enforcement of accountability and a reluctance to investigate mismanagement of resources, fraud and abuse of delegated authority has led to a pattern of corrupt practices," the report, distributed to UN members this week, said.

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However, an earlier draft report, not for public distribution but seen by the FT, provides detail on that part of the investigation in which the OIOS looked into the UN's relationship with ESS, a subsidiary of Compass. The UN suspended ESS last October as a registered vendor pending the completion of an investigation into allegations about the way ESS won a Liberia contract in 2004.

The report describes seemingly irregular payments made to ESS, suspicions over why contracts were awarded to ESS and the absence of proper financing on one contract.

A spokesman for Compass said the company was aware of the report. "We are in constant contact with the head of the UN investigation, Paul L. Roberts. We have not seen the report but have been assured that there is nothing significant in it relating to ESS that we are not already aware of. We continue to co-operate very closely with all relevant authorities."

The draft report cites four separate areas in which UN dealings with ESS were called into question.

Firstly, the UN mission in Liberia complained that ESS's performance in providing food rations was "dismal" and hired a private investigations company, SGS, to ascertain why it had been awarded the contract. UN head office also sent its own investigator.

Secondly, ESS allegedly billed the $7.3m for transportation costs in excess of the value of a contract in East Timor. Some $7.6m was allegedly paid in violation of the UN's regulations.

The third instance in which UN dealings with ESS were called into question was a meeting in December 2004 to decide on several contract awards, including a $201m proposal to award ESS with a contract to provide the food rations for the UN mission in Sudan, took place without the usual chairman and other members. The contract was awarded to ESS without the requirement that it provide a guarantee, even though this represented, according to the report, "a crucial business risk" for the UN.

Finally, the report says ESS was among the companies that allegedly benefited from a failure to enforce UN rules relating to the provision of performance bonds, which are issued by banks to guarantee satisfactory performance by a contractor. UN rules state that the bonds should represent 10-30 per cent of the contract value. But investigators found on one $61.4m contract that ESS did not provide bonds up to the required value, and that its performance bond was returned eight months before the contract ended.

The UN is still investigating.

Annan's Son Will Repay Ghana For Fees On Car (NYT)

By Warren Hoge

The New York Times, January 25, 2006

UNITED NATIONS, Jan. 24 - Kojo Annan, the son of Secretary General Kofi Annan, will repay the government of Ghana import duties he avoided by falsely claiming that a Mercedes he bought was for his father, his lawyer disclosed Tuesday.

"The automobile was not for the secretary general's own personal use and therefore the exemption was not justified," William W. Taylor III, the lawyer, said in a Jan. 19 letter from his Washington office to the customs services in Accra, the Ghanaian capital.

"I write to inform you that Mr. Kojo Annan wishes to make full payment of the amount due to the government of Ghana as a result of this transaction," the letter read.

The transaction first became public in a September report by the committee led by Paul A. Volcker investigating corruption and mismanagement in the oil-for-food program.

The report said that Kojo Annan had admired the luxury station wagon at a Geneva car show in March 1998 and arranged to purchase it and have it shipped to Ghana in November.

By using his father's name, he obtained a $6,541 discount from Mercedes and avoided paying $14,103 in import duties.

The Volcker committee was interested in the case because it was trying to establish whether there was any connection between Kofi Annan and the award of an oil-for-food contract to Cotecna Inspection Services, the Swiss company that had employed his son.

In the report, investigators said they first suspected that the car might be a payoff. They concluded, however, that the senior Mr. Annan had not known about the purchase and his son's use of his name.

Kojo Annan told investigators that he had misrepresented the ownership of the car to Abdoulie Janneh, a family friend who was a representative of the United Nations Development Program in Ghana, to get him to sign the necessary waiver request.

Adam L. Rosman, a partner of Mr. Taylor, the lawyer, said in an e-mail message on Tuesday that the automobile had been damaged beyond repair as a result of an accident in November 2005.

He also said that although Kojo Annan was willing to compensate Ghana, he did not intend to pay back the discount that Mercedes gave him for the faked ownership claim.

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Blair Is More Popular In USA Than In UK (USAT)

By César G. Soriano

USA Today, January 25, 2006

LONDON — At home, British Prime Minister Tony Blair is frequently caricatured as a poodle following President Bush's lead. His ratings are in the loo (toilet). Not so in the USA, where a USA TODAY/CNN/Gallup Poll shows 67% of Americans view Blair favorably.

Sixty-six percent say Blair would be a good secretary-general of the United Nations when he no longer is leading Great Britain. Last week, former president Bill Clinton recommended Blair for that job, now held by Kofi Annan.

Blair's spokesman Ian Gleeson would not comment on why Americans think highly of the prime minister. Nor would he speculate about what Blair will do after his term ends, tentatively in 2009.

The latest poll numbers coincide with a ringing endorsement of Blair from Bush on Monday at Kansas State University. Bush branded as unfair suggestions that Blair is a yes man for Bush's policies, particularly the Iraq war.

In Britain, Blair's approval rating has averaged 34% since January 2003, according to Market & Opinion Research International (MORI), Britain's largest independent polling organization.

A number of factors, including the unpopular war in Iraq, have led to Blair's eroding popularity here. In November, his anti-terrorism bill, which included a plan to jail terror suspects for 90 days without charges, was rejected by Parliament, including by members of his own Labor Party. Scandals haven't helped, including this month's revelation that the Education Department allowed sex offenders to work in schools.

"I don't think it's unusual for the British to have lower opinions of their leaders than the rest of the world," says Andrew Russell, a political analyst at the University of Manchester. He says former prime minister Margaret Thatcher was "hated" by many Britons while she was revered in the USA.

Blair's "foreign policy has been pro-American, so naturally Americans would approve of that," says Roger Mortimore, political analyst at the MORI polling group. He says Blair also has charisma. "Blair has come across as a reliable ally and a decisive and successful leader. He does successfully come across as an honest and likable guy, and that improves his ratings" in the USA.

Most Britons feel the prime minister "is more presentation than politics," Russell says. Blair's gifts as an orator in the international arena have helped him in this area. "Blair is at his best when he's … involved in international summits and representing Britain on the big stage," which would prove useful at the United Nations, Russell says.

Steve Bettison, general manager of the Adam Smith Institute, a libertarian think tank that often is critical of Blair's domestic policies, attributes Blair's popularity in the USA to his unwavering support since the Sept. 11 terrorist attacks. "If the American media reported what he did over here, then maybe they'd view him differently," Bettison says.

As for the U.N. job, Bettison says, "He's very good on the world stage." However, Bettison says the job probably would go to an emissary from the Third World.

Please, Sir, May We Have An Ambassador? (CSM)

By Janaki Kremmer, Correspondent Of The Christian Science Monitor

The Christian Science Monitor, January 25, 2006

SYDNEY, AUSTRALIA - More than a year after the former US ambassador said his goodbyes to Australia, the top diplomatic post remains vacant in Canberra, reflecting a casualness that has the typically laid-back Aussies getting a little anxious.

Sure, even good mates don't always keep in touch - to a point.

And with trouble in the Middle East, spy scandals at home, and plans to move hundreds of diplomats to hot spots around the world, filling an ambassadorial post in the South Pacific may not be high on the White House's priority list.

A relaxed attitude by both governments - which are in agreement on almost all matters of foreign policy - has allowed months to pass before doubts finally began to be raised here that perhaps the Americans were being a tad callous toward their close ally.

"The US definitely takes us for granted - and they know that it's not a difficult relationship to manage and that we don't need any sort of mollycoddling or day-to-day attention," says Elizabeth Thurbon, professor of politics and international relations at the University of New South Wales in Sydney.

No reason has been given for the delay in dispatching an ambassador to Canberra's vast US Embassy grounds. Foreign Minister Alexander Downer has stated that he would like the position to be filled as quickly as possible.

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After Secretary of State Condoleezza Rice canceled two trips to this country in as many months for more pressing matters overseas, an editorial in The Australian asked, "Is it something we've done?"

Among America's closest allies in the war on terror, only the United Kingdom has suffered for so long recently without the attentions of an American ambassador. But even in London's case, the post was filled within 12 months.

US watchers here say that the person appointed must be someone loyal to President Bush, and preferably a major donor to the Republican Party. In addition, he or she has to be able to operate easily at high levels between the countries' two leaders. They also point out that sun-drenched Australia could hardly be considered a hardship posting.

The job of any ambassador, besides dealing with political and economic differences, is to enhance the image of his or her country overseas.

"But when we've signed the Free Trade Agreement, agreed to send troops to Iraq and Afghanistan, there are no real grievances between the US and Australia," says James Jupp, professor of political science at the Australian National University. "And as far as spreading the American image abroad, nothing does it better than TV."

The US could not have a bigger supporter in Australia than Prime Minister John Howard - a sort of de facto US ambassador, some say, who in case of a crisis can just pick up the phone and call the White House. The leader of the opposition here is also strongly pro-American.

"If you look at the recent Free Trade Agreement, you see that we were compliant on most issues, and when Australian negotiators were ready to walk away from the agreement at one point because they said it was unfair to the sugar farmers, the Australian prime minister basically told them to go back and sign on the dotted line," says Ms. Thurbon, adding that it made a mockery of the negotiating process.

When an ambassador is finally picked, it could take Congress several months to clear the nominee, meaning that it may be nearly two years before the post is filled.

China's Hu Will Visit U.S. In April To Talk Trade (WSJ)

By Jason Dean

The Wall Street Journal, January 25, 2006

BEIJING -- Chinese President Hu Jintao will visit the U.S. in April as the two nations try to hash out persistent disagreements over trade and other issues.

U.S. Deputy Secretary of State Robert Zoellick disclosed the timing of the planned trip while in Beijing yesterday. Mr. Hu had been scheduled to visit Washington while in the U.S. last September, but the White House visit was postponed because of Hurricane Katrina.

Mr. Zoellick didn't provide further details of the coming trip. Chinese Foreign Ministry spokesman Kong Quan said it "will be a big event for the two countries and will be very significant for furthering a constructive, cooperative Sino-U.S. relationship in the new century."

Talking to reporters, Mr. Zoellick struck a broadly positive tone in his comments about China, underscoring a relative improvement in relations in recent months despite a host of nagging disputes over trade and other issues.

Mr. Zoellick said he raised those sticking points during meetings yesterday with senior Chinese officials, including Premier Wen Jiabao. The U.S. official said he reiterated comments by President Bush on Monday urging China to show further flexibility in the exchange rate of the yuan. That issue is certain to come up during Mr. Hu's April visit.

China allowed the yuan to appreciate 2.1% against the dollar in the summer, but critics in the U.S. argue that the currency still is undervalued. They say that makes Chinese exports unfairly cheap, further aggravating the U.S.'s huge trade deficit with China, which Washington estimates topped $200 billion in 2005. China, which calculates its trade figures differently, has said that its trade surplus with the U.S. is likely to have exceeded $110 billion last year.

"I tried to explain the domestic context in the U.S., where you have a very large bilateral deficit with China," and "the importance for those of us who want to stress open markets ... in the U.S., to make sure that there are fair and open opportunities in China as well," Mr. Zoellick said.

In meeting with Mr. Zoellick, Mr. Wen said China hopes to improve bilateral strategic discussions and "further improve mutual understanding and mutual trust, so that we can put the China-U.S. relationship on a track of steady and sound growth."

Mr. Zoellick emphasized areas of potential cooperation with China, even on subjects that have sometimes been sources of disagreement, such as Beijing's expanding pursuit of overseas energy deals.

He said he was "pleased to see" a visit this week to China by Saudi Arabia's leader, King Abdullah, during which the two countries signed a bilateral deal calling for greater cooperation and investment in oil, natural gas and minerals. "It's natural that China is going to encourage energy investment around the world," Mr. Zoellick said.

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He also stressed what he said are a "common set of interests and concerns" between Beijing and Washington over the issue of Iran's nuclear program. The U.S. is trying to bring Iran before the United Nations Security Council, but faces possible resistance to any serious action there by Russia and China, both of which wield veto power in the body. Mr. Zoellick said he didn't discuss the possibility of a veto with Chinese officials yesterday.

Even on China's ties with Sudan -- a relationship that has been criticized because of the Sudanese government's alleged human-rights abuses -- Mr. Zoellick stressed that Beijing could play a positive role. "I believe that as China develops its relationship with Sudan, it also gives it an opportunity to help us deal with some of the problems" there, he said.

Mr. Zoellick, who also stopped in Tokyo during his current tour, is scheduled to spend today in the city of Chengdu in China's relatively impoverished hinterland. He said he hopes his visit to the city will give him a deeper sense of the domestic economic challenges facing China. He then travels to Davos, Switzerland, for the World Economic Forum.

China's Economy Grows 9.9% In 2005 (FT)

By Sun Yu In Beijing

Financial Times, January 25, 2006

China's economy grew a powerful 9.9 per cent in the fourth quarter of last year, fueled by strong domestic investment and export growth.

The National Bureau of Statistics said on Wednesday China's gross domestic product was Rmb18,232bn (US$2,251bn) for all of 2005, also up 9.9 per cent - a growth rate slightly slower than the 10.1 per cent recorded for 2004. Per capita GDP reached US$1,700.

Li Deshui, head of the statistics bureau, warned of overheating in sectors such as aluminum and automobile manufacturing, despite a series of a government efforts over the last two years aimed at cooling investor enthusiasm.

Fixed asset investment remained high in 2005, climbing 25.7 per cent in the whole of 2005, only 0.9 percentage points slower than the year before. Industrial production rose 11.4 per cent last year.

"A conspicuous problem in China currently is that capacity in some sectors is expanding too fast and over-supply problems are relatively serious," Mr Li said. "This issue deserves close attention."

Over-capacity was one of a number of deflationary influences acting on the economy, he said.

However, Mr Li warned that inflationary pressures were also present, citing possible price deregulation for public services and energy as a potential catalysts for broader price increases.

Consumer price inflation was a moderate 1.8 per cent in 2005, down from 3.9 per cent in 2004.

Growth in foreign direct investment in China slowed to 0.5 per cent, reaching US$60.3bn last year, the first such decline in the last few years.

But Mr. Li said FDI remained "stable" and the decline was not a matter for concern, adding that in 2004 some foreign investors had rushed into China's property market - a target of state efforts to cool the economy.

"Foreign businesses came into the real estate market and some engaged in malicious speculation. Less of this is not a problem - it's good for us," he said.

Retail sales rose 12 per cent last year, including a 17.7 per cent registered by restaurants. Consumption's role in the economy grew, accounting for 33.3 per cent in the GDP of 2005.

However, the income gap between urban and rural areas continued to widen, as growth of disposable income last year of rural residents declined 0.6 percentage points compared with 2004, while growth in urban residents' incomes rose 1.9 percentage points.

China's net oil imports declined 5.3 per cent in 2005, amid government efforts to reduce the economy's dependence on energy inputs.

China's GDP Jumps 9.9% (WSJ)

By Andrew Browne

The Wall Street Journal, January 25, 2006

HONG KONG -- China's economy surged 9.9% last year from a year earlier as exports boomed, although some economists believe even that figure underestimates the powerful momentum behind what may now be the world's fourth largest economy.

The figure came in slightly below revised 10.1% growth for 2004 and 10% for 2003. It matches growth of 9.9% in the fourth quarter of 2005, according to numbers released Wednesday by the National Bureau of Statistics.

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The numbers indicate that not only has China escaped a "hard landing" that some feared as Beijing cooled overheated investment in sectors like real estate and steel starting in 2004, but it has maintained rapid growth for the third straight year with low inflation, currently running at around 1%.

Economists are also encouraged by what appears to more balanced growth, somewhat less reliant on high levels of fixed asset investment that threaten industrial overcapacity and falling corporate profits. Domestic consumption is strong, although one of the biggest challenges for Chinese authorities this year will be to unleash more of the country's vast savings pool. The success of Beijing's efforts to encourage Chinese to spend more, thus putting the economy on a more self-sustaining track, could have an extra importance for the global economy if U.S. consumption falters this year.

Although the Chinese economy relied heavily on exports for growth last year (its trade surplus more than tripled to $102 billion), many economists believe the surplus will moderate this year as domestic demand picks up and China offloads less of its production of steel, chemicals and heavy machinery on the rest of the world. Already, there are signs that the real estate market is recovering, particularly in poorer inland cities where Beijing is targeting higher growth and investment.

Yet doubts persist about the accuracy of China's GDP data, even though authorities announced this month they had found an additional $278 billion in the 2004 economy -- almost the size of the entire Indonesian economy -- after revising higher nominal GDP for that year by 16.8%. That revision was based on a census that showed China's statistics had underestimated the size of the services sector -- everything from restaurants to moving companies and beauty parlors. After the revision, China's 2004 growth was revised to 10.1% from 9.5%.

More importantly, because the overall economy was bigger, it meant that fixed investment as a proportion of GDP came down from an alarming 45% or so to a still strong, but more reasonable, 38%. The better ratio gives comfort to foreign investors worried that out-of-control investment could lead to a crash.

At the same time, the revision vaulted China over Italy and France in economic global league tables, and most likely over Britain, too, which has yet to announce its 2005 GDP data, according to Rob Subbaraman, chief Asia economist for Lehman Brothers.

The strong data mean there is unlikely to be any easing of pressure on China to let the yuan appreciate.

The yuan didn't move after the data were issued. The dollar was last quoted at 8.0621 yuan from yesterday's close of 8.0614 yuan. Beijing announced a 2.1% appreciation of the yuan against the dollar last year, but since then it has added only another 0.5% or so. Growth last quarter was up slightly from a revised 9.8% rise in GDP in the third quarter from a year earlier and beat economists' forecasts, which had centered on a rise of 9.5%.

The statistics agency said that fixed-asset investment growth slowed slightly to 24.2% in December from a year earlier. It grew 29% in November.

The country's top statistician, Li Deshui, said conditions exist for both inflation and deflation, but his remarks at a briefing were focused more on the possibility of deflation.

"It is not correct to say China is now facing deflation," he said. But, in general, "overcapacity is dangerous. Enterprises will suffer and go bankrupt."

Still, ING's chief economist in Asia, Tim Condon, said the small drop in fixed-asset investment growth "is a welcome development," and deflation is unlikely given that strong global growth will prop up demand in China.

China said that the consumer price index rose 1.6% in December from a year earlier, slightly faster than market expectations, which had centered on a 1.5% gain. The producer price index increased by 3.2% in December and retail sales rose 12.5% last month from a year earlier. Industrial output grew 16.5% from a year earlier in December, slightly below expectations for a 16.6% gain.

China Shuts Down Influential Weekly Newspaper In Crackdown On Media (NYT)

By Joseph Kahn

The New York Times, January 25, 2006

BEIJING, Jan. 24 - China's Propaganda Department on Tuesday ordered the closing of Bing Dian, an influential weekly newspaper that often tackled touchy political and social subjects, as the authorities stepped up efforts to curb the spread of information and views the Communist Party considers unfavorable.

The shutdown came the same day that Google announced that it would begin steering its Chinese users to www.google.cn, which will restrict access to content that China's media monitors consider problematic.

President Hu Jintao has been tightening controls on expression as his leadership grapples with mounting internal challenges, including social unrest over corruption, pollution, unpaid wages and land seizures.

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Though the Chinese news media have never been permitted to criticize top leaders, television, newspapers and Web-based news sites, now mostly commercially driven, have often competed to break explosive news stories and discuss sensitive topics.

But authorities under Mr. Hu have slowly but systematically purged editors who defy propaganda controls and have closed or reorganized publications that they believe have become too bold, making the news media more timid today than they were regarded as being in recent years.

Bing Dian, or Freezing Point, published as a supplement to the influential newspaper China Youth Daily, was one of the few major news outlets that routinely printed in-depth investigative stories and broached delicate topics.

The order to cease publication is effective immediately, the paper's longtime editor, Li Datong, said in a telephone interview.

"This is an intolerable step that has absolutely no basis in law and is in fact completely illegal," he said. It cannot be appealed, he said.

The authorities cited the publication of a lengthy study of Chinese middle-school textbooks as a reason for the order, Mr. Li said. The Jan. 11 article discussed what the author, Yuan Weishi, a Zhongshan University professor, referred to as official distortions of history to emphasize the humiliations China suffered at the hands of imperial powers.

He criticized the textbooks' treatment of events like the Boxer Rebellion and the burning of the Summer Palace by British and French troops in 1860, which he said were partly the result of mistakes by then-flailing Qing Dynasty leaders.

"We are at a critical moment in our modernization and the key to the success of our development is understanding our system and mental model," he wrote. "I was shocked to see that few things had changed since the Cultural Revolution."

Mr. Li said the article, though provocative, was just an excuse for closing the paper. In August, a letter by Mr. Li led to a revolt at the China Youth Daily group after the paper's new party-appointed editor, Li Erliang, sought to impose a review system that graded the staff on factors including the reaction their work elicited from party leaders.

The letter, which was posted on the Web, and the backlash resulted in the modification of the review system.

Leading Publication Shut Down In China (WP)

By Philip P. Pan

The Washington Post, January 25, 2006

BEIJING, Jan. 24 -- China's ruling Communist Party on Tuesday suspended one of the premier publications in Chinese journalism, escalating a campaign to rein in the state media, part of the government's toughest crackdown on freedom of expression here in more than a decade.

The decision to shut down Freezing Point, a four-page weekly feature section of the state-run China Youth Daily that often tested the censors and challenged the party line, came less than a month after the authorities replaced the top editors of another daring newspaper, the Beijing News.

The China Youth Daily is the official newspaper of the Communist Youth League, a power base for President Hu Jintao. Because any move to punish it would almost certainly require his approval, the decision to close Freezing Point was seen as further evidence of Hu's personal support for a tightening of controls on the media that began two years ago, about a year after Hu took office.

Party officials summoned the senior editors of the China Youth Daily and ordered Freezing Point closed a day after distributing a five-page document that accused the section of "viciously attacking the socialist system" and condemned a recent article in it that criticized the history textbooks used in Chinese middle schools.

Propaganda authorities issued an order barring all media from reporting the suspension, all reporters from participating in any news conference about it and all Web sites from carrying any discussion about it, journalists said.

The chief editor of Freezing Point, Li Datong, confirmed the suspension in a message on his blog before censors deleted the page. "My colleagues and I just finished the full-page proof of tomorrow's Freezing Point, but it looks like it can't come out," he wrote. "Freezing Point tenaciously survived for 11 years, and it has finally died."

Reached by telephone, Li said that it was inconvenient to discuss what happened in detail but that he planned to write an essay to fight the decision. He said propaganda officials issued a notice criticizing him and the newspaper's editor in chief by name and ordering the section closed until it is "rectified and fully recognizes and corrects its mistakes."

Li, a party member and veteran journalist, stunned the propaganda authorities last summer with a lengthy letter attacking a plan to award bonuses to reporters at the newspaper who had won praise from government officials while deducting pay from reporters whose articles were criticized by officials. After the letter was leaked, the newspaper scrapped the bonus plan.

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Though some publications ordered to undergo "rectification" by the party resume operations within weeks, others never publish again. Li said he planned to meet with his colleagues before deciding how to proceed, but he indicated that he did not believe Freezing Point had erred in publishing the article about the history textbooks.

The piece, written by Yuan Weishi, a reform-minded scholar at Zhongshan University in the southern Chinese city of Guangzhou, criticized Chinese textbooks for teaching an incomplete history of China's last imperial dynasty, the Qing, that fosters blind nationalism and closed-minded anti-foreign sentiment.

For example, he challenged the textbooks for portraying the 1900 Boxer Rebellion as a "magnificent feat of patriotism" without describing the violence committed by the rebels or their extreme anti-foreign views. He also criticized the books for blaming the Opium Wars of the mid-1800s entirely on foreign nations, without mentioning the Qing government's record of violating treaties by refusing foreign merchants access to Chinese cities.

The piece was the latest in a long series of articles in Freezing Point that carefully pushed the limits of permissible journalism in China. In November, the section published an essay describing the "White Terror" of authoritarian rule in Taiwan during the 1950s and democratic Taiwan's efforts to cope with that history of political repression. The contrast with events in mainland China was obvious but unstated.

Researcher Jin Ling contributed to this report.

Japan's Economy Extends Growth On Back Of Factory-output Gains (WSJ)

By Stanley White

The Wall Street Journal, January 25, 2006

TOKYO -- Japanese economic activity continued to pick up in November, fueled by strong industrial production, the government said.

The data suggest Japan's economic recovery remains on solid footing. Growth in services was moderate, but economists say they remain optimistic given signs of improvement in other areas.

"Production has accelerated even after the index surpassed its post-economic bubble peak in October," said Goldman Sachs economist Daisuke Yamazaki. "With exports now expanding, we can say Japan's post-bubble era is truly over and we'll probably see very positive gross domestic product in the October-December quarter."

The Ministry of Economy, Trade and Industry's all-industries index stood at 105.2 in November, up 0.3% from the previous month. The increase marked the highest level for the index since the ministry began compiling data with a base year of 2000. Economists surveyed by Dow Jones Newswires had forecast the all-industries index would rise 0.4% from the previous month. In October the index rose 0.9%.

Strength in industrial output contributed to the rise in the all-industries index, according to the ministry. In November, industrial output rose an upwardly revised 1.5% from a month earlier.

US Anti-war Protester Cindy Sheehan Hails Venezuela's Chavez (AFP-Y2)

AFP, January 25, 2006

Anti-war protester Cindy Sheehan, mother of a US soldier killed in Iraq, joined more than 10,000 anti-globalization activists in Caracas, where she hailed Venezuela's leftist President Hugo Chavez.

"I admire him for his resolve against my government and its meddling," said Sheehan, who gained notoriety when she camped outside US President George W. Bush's ranch last year to protest the Iraq war. She said she hoped to meet Chavez later in the week.

Sheehan was among more than 10,000 people from across the Americas who took to the streets of the Venezuelan capital Tuesday in an anti-war protest that launched the six-day Caracas World Social Forum (WSF).

My government should not meddle anywhere, the "peace mom" told AFP during the march, which was marked by anti-Bush slogans.

We must stop the Iraq war, we must not let it happen again, said Sheehan, who has been arrested at least twice while demonstrating outside the White House.

Tuesday's march ended outside the armed forces headquarters, on an avenue usually reserved for military parades. "It's a peace route now," Sheehan said.

Sheehan, whose son Casey was killed in Iraq on April 4, 2004, said she would remain in Caracas until the WSF concludes on Sunday, and would address participants on several occasions.

She said Venezuela's foreign ministry sponsored her visit.

Canadians Give Conservatives Tenuous Victory (WSJ)

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By Christopher J. Chipello

The Wall Street Journal, January 25, 2006

MONTREAL -- Canadians ended 12 years of Liberal Party rule but put the new Conservative government on a short leash by leaving the victors well short of a parliamentary majority.

Preliminary results of Monday's balloting showed the Conservatives, led by Stephen Harper, winning 124 seats and 36% of the popular vote, compared with 103 seats and 30% of the popular vote for the Liberals.

Mr. Harper, a 46-year-old economist from the Western province of Alberta, said he will work with the three opposition parties to make the fragmented Parliament function. Meanwhile, Prime Minister Paul Martin said he will step down as leader of the Liberals, who were hurt by a series of scandals.

Analysts said Mr. Harper will have to steer a careful centrist course, as the Conservatives will need help from other parties to pass legislation and remain in office. Minority governments in Canada typically cooperate with opposition parties on an issue-by-issue basis, rather than through formal coalitions. Such governments have lasted around 18 months on average.

The Conservatives expanded on their Western Canadian electoral base, but they fell short of the 155 seats required to command a majority in the 308-seat House of Commons, the elected part of Ottawa's Parliament.

Preliminary results showed the separatist Bloc Québécois winning 51 of Quebec's 75 seats, down from 54 in the previous election in 2005. The Conservatives picked up 10 seats in the mainly French-speaking province. The left-of-center New Democratic Party won 29 seats nationally, leaving it just short of the number needed to sway the balance in parliamentary votes.

The Conservatives' tenuous grip on power will give them little leeway to pursue foreign-policy initiatives. Still, the change in Ottawa is likely to result in warmer relations with the Bush administration.

White House spokesman Scott McClellan said yesterday that "we have had a strong and broad relationship with Canada, and we look forward to working with the new government to strengthen our relations even more."

Mr. Harper has vowed to cut taxes and keep Ottawa's budget in the black. But he also pledged to boost spending on Canada's armed forces -- something Washington has long advocated.

Financial-market reaction to the results was muted, possibly reflecting disappointment with the weak mandate handed to the Conservatives. The Toronto Stock Exchange's S&P/TSX Composite Index slipped 41.02 points to 11,692.35. The Canadian dollar, which had strengthened to 87 U.S. cents before the vote, eased to 86.8 cents yesterday following an apparent hint by the Bank of Canada that its interest-rate increases may be nearing an end.

Conservative Winner's Agenda Faces Tough Haul (WT)

By Levon Sevunts

The Washington Times, January 25, 2006

MONTREAL -- Canada's Conservative Party leader, still elated from his election victory Monday, flew yesterday to the capital, Ottawa, where he must begin figuring out how to push his political agenda through a reluctant Parliament.

With just 124 seats in the 308-seat House of Commons, the presumptive prime minister, Stephen Harper, will have to find allies on an issue-by-issue basis from among three left-of-center parties.

Mr. Harper, a 48-year-old economist from Calgary, gave little indication of his plans yesterday, postponing a scheduled press conference until tomorrow and offering only a short greeting to supporters at the Ottawa airport.

"We had a good sleep, we're all excited and we're all feeling pretty upbeat, as you can imagine ... to start rebuilding this great country of ours," he said with his wife and two children at his side.

Mr. Harper, whose election ended 12 years of Liberal Party rule, campaigned o promises to clean up the government after a searing corruption scandal, cut taxes and increase defense spending.

He also promised to improve relations with the United States after a period of tension over Canada's refusal to join the war in Iraq and a continental missile defense program, as well as trade disputes over softwood lumber and mad cow disease.

But he will have a much tougher time passing his agenda than his predecessor, outgoing Prime Minister Paul Martin, whose Liberal Party had a minority in Parliament since 2004.

Mr. Martin was able to turn for support to the Conservatives, the far-left New Democratic Party or the separatist Bloc Quebecois depending on the issue; Mr. Harper will be alone on the right wing of Canadian politics.

Analysts said he may find support for his plans to clean up government, cut the federal sales tax or allow the French-speaking province of Quebec to have its own seat at the United Nations' cultural agency. But his conservative social policies will be much tougher to push through.

Still, with Liberals facing a leadership race after Mr. Martin said he will step down, and the Bloc Quebecois smarting from a surprise loss of seats, Mr. Harper can count on a few months of relative stability.

During his acceptance speech Monday night, Mr. Harper sounded a conciliatory tone.

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"Tonight, although Canadians have voted for change, they have not given any one party in the House of Commons a majority," he said. "They have asked us to cooperate, to work together and to get on with tackling the real concerns of ordinary working people and their families."

Mr. Harper also pledged to follow the economic course set by Mr. Martin, who eliminated chronic budget deficits as finance minister in mid-1990s before taking over as prime minister in 2003.

"To those around the world who have watched this campaign our message is the same: The result tonight signals a change of government, not a change of country," he said.

Canada's Shift: To The Right, Gently (NYT)

By Clifford Krauss

The New York Times, January 25, 2006

TORONTO, Jan. 24 - Has Canada turned upside down in electing Stephen Harper as the next prime minister? Are conservative winds suddenly blowing through cities where gays and lesbians legally marry and the government pays everyone's health bills?

The next leader of Canada expresses skepticism about the Kyoto climate change protocol, opposes same-sex marriage and wants to make the Canadian military muscular again. He openly supported the American-led invasion of Iraq. All are positions that put Mr. Harper, 46, well to the right on the Canadian political spectrum.

By electing this free-market economist from Alberta, a conservative oil-producing province frequently likened to Texas, it may seem that the Canadian people were trying to debunk the prevailing political wisdom of recent years that their progressive-minded nation was drawing further and further away from the United States.

But many analysts and political observers here caution that it is too soon to draw too stark a conclusion from the election on Monday, in which Mr. Harper's party won a mere 36.3 percent of the popular vote. The shift in Canadian politics is likely to be far from seismic.

Mr. Harper ran a tightly orchestrated campaign focused pragmatically on the pocketbook, shirking ideology and hot-button social issues. He promised allowances to families with young children to help them pay for child care. He pledged modest cuts to the unpopular national sales tax and promised tax breaks for people using public transit. He did not make bold proposals for reforming the national health insurance system, and he made it clear that despite his support for the war in Iraq, he would not send troops there.

The election outcome, in fact, can be read as more of a rejection of Prime Minister Paul Martin's scandal-racked Liberal Party than an embrace of Mr. Harper's own modest agenda.

"It's a very slim mandate, and the party that is holding power is holding it by a thread," said Pierre Martin, a political scientist at the University of Montreal. "If you have a party system divided into four, one party can take power with a proportion of the vote in the 30's percent range. That doesn't mean the country is moving right."

Indeed, when the victorious Mr. Harper stepped to the platform early Tuesday morning before his adoring campaign supporters, he was careful not to suggest that he planned anything more than careful change.

Implicitly acknowledging that his backing was less than overwhelming, he noted that voters had "asked us to cooperate, to work together and to get on with tackling the real issues that matter to ordinary working people and their families."

Arriving in Ottawa in the afternoon, he made the briefest, and vaguest, of statements at the airport. "I know a lot of you are going to be with us now in the next few months and years ahead," he said, "as we start rebuilding this great country of ours."

Mr. Harper's modest words in part reflect a man who is shy to the point of being aloof, someone who has always been careful not to show all of his cards. He is known to have a fiery temper, and he barely disguises his distrust for reporters. His sense of humor on the campaign trail was most revealing in its self-deprecating jokes about his lack of charisma.

But the statements on Tuesday were also intended to balance two goals that will probably not always fit comfortably together.

To enact legislation and even for his government to survive, Mr. Harper must build bridges to work with three left-leaning parties that together will hold the balance of power in the lower house of Parliament, where his Conservative Party won 124 seats of 308 on Monday.

At the same time, he must offer hope to his western base that its patience during years in the political wilderness will eventually take it to a more conservative promised land.

"The westerners will have to understand they will have to make compromises and move to the center," said Michel C. Auger, a political columnist at Le Journal de Montréal. "But Harper can use the time to build a stronger power base in the Maritimes, Quebec and Ontario so next time he can build a majority government and put forward their agenda."

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His own background already straddles that geographic and political divide. Born and raised in Toronto, he moved to Alberta to work in the oil and gas industry in his early 20's and began his conservative tilt as he studied economics at the University of Calgary. He met his wife, Laureen, at a Reform Party convention in 1991.

In the 1990's he directed the National Citizens Coalition, a conservative advocacy group that favored free-market economics, privatizations and tax cuts, an agenda that does not necessarily resonate with most Canadians even today.

The one area where Mr. Harper may be able to make a difference is foreign affairs, even though he admits to having little expertise there. He will surely improve the tone of relations with the Bush administration, which has been downright acrimonious since the Iraq invasion, which Ottawa opposed.

Mr. Harper could serve as a bridge between the United States and countries that have signed and ratified the Kyoto protocol to find ways to cooperate on controlling climate change. He could reopen the debate on whether Canada should join the Bush administration's missile defense system, which Mr. Martin rejected with little diplomatic finesse. But even those modest goals may not be easy.

"It's a delicate balancing act," said James Blanchard, a former United States ambassador to Ottawa. "I am sure that Stephen Harper wants good relations with President Bush and the United States, but any Canadian prime minister has to keep a noticeable independence from the United States, or he loses credibility in Canada."

Canada's Harper Seen As Shrewd, Serious, Bland (WP)

By Doug Struck

The Washington Post, January 25, 2006

TORONTO, Jan. 24 -- On March 20, 2003, as the United States launched its invasion of Iraq, Stephen Harper rose in the Canadian House of Commons and bitterly condemned his country's refusal to join the fight.

The government "has betrayed Canada's history and values," he thundered. "The government has for the first time in our history left us outside our British and American allies in their time of need."

It was a vintage performance for the Conservative leader: self-assured, serious, claiming the moral high ground, and caustically critical of the liberals then in power. Now Harper, 46, has reached the pinnacle of a political career. Following his party's victory over the ruling Liberal Party in parliamentary elections Monday, he will become the 22nd prime minister when Parliament reconvenes in the coming weeks.

On Tuesday, Canadians awoke uncertain whether Harper's customary role would change, and whether his history of opposition was well-suited for building the alliances he needs to support the new minority government.

Those who know Harper insist he will not change.

"I expect him to be straightforward," said Diane Ablonczy, a Conservative lawmaker who has known Harper for 19 years and is likely to join his cabinet. "We won't get a dizzying round of rhetoric. He will say what he means and mean what he says."

Despite Harper's years in public life and a long record of speeches, however, many Canadians feel they do not know him well. The political strategist has never been a warm, approachable public figure. He had to overcome a reputation for stiffness that left him at a disadvantage compared with his garrulous opponent, Prime Minister Paul Martin.

"He's not an extrovert. Clearly," said a longtime friend, geologist John Weissenberger, in an interview Tuesday. "He approaches his work in a very serious, professional way. I think he viewed some of the showmanship of politics as being beside the point."

In personality, though not politics, Harper is similar to America's 2000 Democratic presidential nominee, Al Gore. Both are smart, studious policy mavens who come across in public as somewhat wooden. Like Gore, Harper incorporated self-deprecating jokes about his blandness into his standard campaign speech.

"One lesson I have learned in politics is that dull works," he would say, usually the only laugh line in an otherwise policy-filled speech.

Policy and conservatism have been Harper's obsession. When he and Weissenberger were graduate students at the University of Calgary, they debated free-market theory and plotted political strategy over Chinese food at the mall outside campus.

"It sounds kind of incredible to have two guys in their twenties sitting down to say how should we change the way the government works," Weissenberger said. "But that's what we did. We were both kind of political junkies and policy junkies."

Harper's father was an accountant in Toronto, where Harper was born and raised in a white, middle-class neighborhood. Completing the Canadian portrait, Stephen and his two younger brothers were absorbed in ice hockey, and Harper still is a master of hockey trivia.

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Childhood friends remember him as polite, studious and quiet. After high school, Harper set out to work in western Canada. He soon enrolled in the University of Calgary, where his political interests blossomed and he began a march through the conservative political ranks, according to the biography "Stephen Harper and the Future of Canada," by William Johnson.

On campus, he became immersed in the Canadian equivalent of the U.S. Young Republicans. Harper and Weissenberger were avid fans of intellectual conservative William F. Buckley's weekly television debate show, "Firing Line."

The students traded political tomes, debated political theory and hungrily followed the growing popularity of Margaret Thatcher in Britain and Ronald Reagan in the United States, according to Johnson. They wondered why the strident conservatism those leaders represented had largely bypassed Canada.

"We called ourselves the 'Tiny Tories,' " said Goldy Hyder, another college mate, who went on to be chief of staff to a Progressive Conservative leader, Joe Clark.

"I would describe Stephen then pretty much as I would describe him now," Hyder said. "He is a very serious person. He obviously enjoys his policy and his public policy musing. He's reserved, fairly quiet. There is no question of his smarts. He was often in a room full of persons and he was the smartest of them all."

Harper ran unsuccessfully for Parliament in 1988 and won in 1993, but left four years later to take a job as head of the National Citizens Coalition, a conservative advocacy group. There, he forcefully argued that Ottawa and the eastern power structure treated western Canada unfairly. In 2001, he signed a letter urging the Alberta premier to "build firewalls around Alberta" against a "hostile federal government."

It became a controversial letter. And it was not the only position that later caused Harper trouble after he returned to Parliament in 2002 as leader of the opposition party. In their first matchup, in the 2004 national election, the shrewd Martin used Harper's support for the Iraq war and other pro-American statements to portray the Conservative as too closely aligned with right-wing U.S. Republicans.

"It's a very difficult balancing act," said James Blanchard, a former U.S. ambassador to Canada who is now a lawyer and consultant in Washington. Canadian prime ministers do not want to be seen as too close to Washington, he said.

Harper learned the lesson. He avoided foreign policy and politically explosive social policy issues in this campaign, focusing instead on government reform, tax cuts, health care, crime and transferring more power to provinces.

Even detractors give Harper credit for rescuing his party. He engineered the merger of feuding conservative wings into a single party in 2003, applied lessons from their defeat in 2004, and then commanded a tightly disciplined campaign with no major mistakes leading to this election.

His supporters point to that accomplishment as evidence that Harper is a keen political strategist, not just an ideologue.

"Those are marks of leadership," said the last Conservative premier, Brian Mulroney, in an election-night television interview from West Palm Beach, Fla. "Reaching out to unify the party, then to move the party to the center, then to devise a campaign strategy and finally to execute it flawlessly."

Harper's campaign staff declined a request for an interview before the election, citing the load of campaign obligations.

His first step after the election seemed as careful as his campaign. In his late-night victory speech in Calgary, he graciously thanked Martin for his service to the country. He also sought to soften his stern image by appearing with his two children, Rachel, 7, and Benjamin, 9.

His wife, Laureen Teskey, a graphic designer, remained a constant figure by his side in the campaign. Both disdain the media, according to reporters who covered the campaign, though they made an effort in this election run-up to be more civil to the press.

But those who know Harper credit Teskey with helping to soften his hard edges.

"He also has changed a lot. He became more well-rounded after he became married and had children," said Monte Solberg, a Parliament member from Alberta. "He has learned how to compromise. A lot of people have called him an ideologue, but I think he has put that to rest."

Canada Tilts, Cautiously, Rightward (NYT)

The New York Times, January 25, 2006

Canadian voters have done the un-Canadian thing by electing a hard-edged Conservative, Stephen Harper, as their new prime minister. In the past, they have typically chosen leaders from the soft center-left or, less often, from the soft center-right. Mr. Harper's victory puts an end to more than 12 years of economically successful but scandal-marred Liberal Party governments.

But with the Conservatives winning only a little more than 36 percent of the vote and obliged to govern in a coalition with more left-leaning partners, Mr. Harper will need to steer clear of radical policy changes, at least on domestic matters. His

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electoral platform pragmatically recognizes that by emphasizing cleaner government, lower taxes and increased child care subsidies for families with young children.

On foreign policy, where Canadian prime ministers have freer rein, Mr. Harper is likely to move quickly to cozy up to the Bush administration - Canada's relationship with the United States has been distinctly chilly since the start of the Iraq war. But even here Mr. Harper will need to tread carefully because neither the war nor President Bush are very popular in Canada, and the Conservatives will be angling for a chance to win an outright majority by calling a new election sometime in the next few years.

Mr. Harper's victory is nevertheless a historic breakthrough for his party, which was formed in 2003 by a merger of the old Progressive Conservatives, based in eastern Canada, and the American-style free-market social conservatives from the West. In contrast with the new party's initial unsuccessful run, in 2004, this election resulted in the party's doing well in every region of the country. That notably includes Quebec, long a stronghold of Liberals and separatists.

The Conservatives' success was helped by voters' exhaustion with the divided and squabbling Liberals, with the unending series of slush-fund and inside-dealing scandals that have swirled around their rule for the past few years, and with the distinctly lackluster campaign skills of the outgoing prime minister, Paul Martin, who managed to be uncharismatic even by Canada's undemanding standards.

But the victory belongs chiefly to Mr. Harper. We hope he puts it to good use.

Canadian Warm Front (WSJ)

The Wall Street Journal, January 25, 2006

It's January, so naturally much of Canada has fled to Florida, but enough voters were at home Monday to cast their ballots in an election that was as heated as Miami Beach on Canada Day (July 1).

The Conservative Party won a plurality in Parliament on a campaign of national renewal, and not only because party leader Stephen Harper has pledged to root out the corruption in Ottawa brought on by 13 consecutive years of Liberal Party rule. With the growth in labor productivity dropping sharply since 1998 and Canada's geopolitical importance trending in the same direction, Mr. Harper is promising to steer the country in a more prosperous direction, both at home and abroad.

His message resonated well beyond his small-government conservative base in the West and into traditionally Liberal strongholds in Ontario and in parts of Quebec, where the separatist Bloc Québécois party has ruled unchallenged. With just 124 seats in the next Parliament, the Conservatives only managed a minority government. But their success in some Eastern liberal bastions is a testament to a popular hunger to reclaim lost Canadian prestige. This is good news for the U.S., which has more than a passing interest in a strong and prosperous Canada.

While the Liberal Party was trying to paint Mr. Harper as a right-wing extremist (and blood brother to that cowboy in the White House), he was out on the stump vowing to shift power away from Ottawa back to the provinces and return part of the federal budget surplus to taxpayers in the form of tax cuts. His campaign estimated that a two-percentage-point cut in the 7% national goods-and-services tax could save Canadian families an average of $400 a year.

That undoubtedly got the attention of voters, who are feeling the pinch of Canada's declining labor productivity growth. As a tax study just out from the Vancouver-based Fraser Institute notes, in 2004 Canada's per-capita disposable income had fallen to 66.9% of that in the U.S. from 80.4% in 1985. The Harper campaign's proposal for a capital-gains tax exemption -- as long as the money is reinvested within six months -- is one small step toward rebuilding Canadian productivity by attracting capital and rewarding risk.

Mr. Harper also wants to end the Liberal retreat on national defense and reassert some Canadian influence in the world. While other NATO countries are running away from their defense responsibilities, leaving the world's superpower holding the bag, Mr. Harper said he wants Canada both to revive what had been an important international role and to ensure that it can defend its own Northern territory. He promises to spend more on the armed forces and revisit the issue of Canada's participation in a missile-defense shield for North America, which was rejected by Liberal Prime Minister Paul Martin.

Which brings us to Canada's most important bilateral relationship -- with the U.S. Mr. Harper took some political risk by campaigning for an end to the Liberal practice of bad-mouthing the neighbors and promising to renew this traditional friendship.

By far the biggest dispute between the two countries -- each of which is the other's largest trading partner -- concerns the anti-dumping duties on Canadian lumber entering the U.S. Four panels have ruled that the U.S. tariffs violate the North American Free Trade Agreement. The Bush Administration could welcome Mr. Harper's victory -- and turn a new page in U.S.-Canada relations -- by lifting the illegal duties.

Candidate Is Booed By Mexican Students (NYT/REU)

By Reuters

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The New York Times, January 25, 2006

MEXICO CITY, Jan. 24 (Reuters) - Thousands of Mexican students heckled a presidential candidate, Roberto Madrazo, at a rally on Tuesday, forcing him to cut short a speech and handing him a major embarrassment only days after campaigning began.

Mr. Madrazo, in third place in opinion polls, ended his speech after only two minutes and abandoned the rodeo ring where the rally was taking place in the central city of Pachuca, witnesses said.

He walked off after students whistled and shouted slogans in favor of Andrés Manuel López Obrador, the left-wing front-runner, and booed Mr. Madrazo, from the Institutional Revolutionary Party, or PRI.

Mr. Madrazo is linked to the old guard of the PRI, which ruled Mexico for 71 years and earned a reputation for corruption and authoritarianism. "Long live the Peje!" students shouted, using Mr. López Obrador's nickname, after the pejelagarto fish typical of his home state of Tabasco.

Mr. López Obrador heads opinion polls for the July 2 elections by up to 10 points. Felipe Calderón, of the governing conservative National Action Party, is in second place in the polls.

Morales' Policies Could Jeopardize U.S. Foreign Aid (WT)

By David R. Sands

The Washington Times, January 25, 2006

A showcase U.S. aid package for Bolivia worth nearly $600 million could be in jeopardy if new leftist President Evo Morales follows through on some of his campaign promises, a senior U.S. aid official announced this week.

"We will consider the situation in Bolivia very, very carefully," said John Danilovich, chairman of the quasi-independent Millennium Challenge Corp. (MCC), President Bush's signature new program to target U.S. foreign aid to countries with strong records of social, economic and political reforms.

"The evolution of policy in Bolivia under President Morales remains to be seen," Mr. Danilovich told a forum sponsored by the American Enterprise Institute on Monday.

Mr. Morales, a former coca grower and close ally of populist Venezuelan leader Hugo Chavez, has said his election would be a "nightmare" for the Bush administration.

He has vowed to boost state control of Bolivia's sizable oil and gas reserves and denounced the hard-line U.S. approach to curbing Bolivia's cocaine trade. Despite U.S. economic and military aid that has averaged $145 million annually since 1998, Mr. Morales has denounced what he called U.S.-style "neoliberalism" and his country's heavy dependence on foreign aid.

While moderating some of his anti-U.S. and anti-market rhetoric in his Sunday inaugural remarks, Mr. Morales named a Cabinet this week heavy with radical leftist figures, including a new energy minister who has been fiercely critical of foreign investors.

Bush administration officials have taken a wait-and-see approach to the new Bolivian leader, but the Millennium Challenge aid package may be a critical first test of bilateral relations.

Conceived by Mr. Bush as a way to use foreign aid to promote lasting pro-market and political reforms in low-income countries, the MCC uses 16 indicators ranging from corruption and civil rights to the percentage of girls completing primary education in evaluating which countries qualify for assistance.

Just six weeks before Mr. Morales' Dec. 18 election, the agency announced that Bolivia had qualified to apply for MCC funds. The $598 million Bolivian proposal -- for a major road-improvement program and new financial instruments to boost local exporters -- would be the largest single grant in the MCC's two-year history.

Mr. Danilovich, who took over the top job at the MCC in November, said the agency was prepared to suspend or kill grant programs if the recipient country fails to meet its goals or backslides on reforms, and had already done so with applications from Yemen and Armenia.

With Mr. Morales trying to balance the demands of his radical supporters, a parliament in which conservative forces are still strong, and foreign-aid and business groups, even some conservative analysts say the Bush administration should not be too quick to write off La Paz.

According to Heritage Foundation researcher Stephen Johnson, Mr. Morales "shows every sign of becoming a Castro puppet and plunging Bolivia into civil conflict. But no one should say the United States pushed him in that direction."

Castro Directs Anti-U.S. March In Havana (FWJD)

By Vanessa Arrington

The Fort Wayne Journal Gazette, January 25, 2006

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HAVANA - Fidel Castro directed a vast protest march past the U.S. mission here Tuesday, accusing the United States of preparing to free one of the hemisphere's worst terrorists as thousands of Cubans carried signs equating President Bush with Hitler.

The government-sponsored march coincides with a U.S. court deadline for evidence to be filed in the case of Luis Posada Carriles, a former CIA operative and anti-Castro militant held on immigration charges at a detention center in El Paso, Texas. His lawyers are seeking his freedom as U.S. immigration authorities seek his deportation.

The Cuban president called Posada a "repugnant character" as well as a terrorist as he spoke to a sea of cheering Cubans along the coastal Malecon highway.

Cuba and Venezuela accuse the Cuban-born Posada of masterminding the 1976 bombing of a Cuban airliner and staging bombings in Havana in 1997 and 1998. Together the attacks killed 74 people. Castro also has accused Posada and his colleagues of plotting to assassinate him at a summit in Panama in November 2000.

"We don't want revenge, we just want justice," said Lucia Roja, a retired educator. Although she is 67 and diabetic, Roja said, "It's important to be here - I've never missed a march."

State-run television estimated 1.4 million people at the march. Those who attend government-sponsored marches are given the day off from work.

Organized by school, work and military groups, marchers waved little red, white and blue Cuban flags and chanted "Bush: fascist! Condemn the terrorist!" The 79-year-old Cuban leader watched the nearly seven-hour event, then marched himself at the end.

Another focus of Castro's ire is a new electronic sign installed outside the U.S. Interests Section in Havana, which handles consular affairs in the absence of full diplomatic relations. The sign was activated as Castro began speaking Tuesday, relaying global news and quotes including Abraham Lincoln's: "No man is good enough to govern another man without that other's consent."

"They already turned on the little sign - the cockroaches are brave," Castro said before starting his speech.

The mission launched the sign a week ago with streaming text of sayings from Martin Luther King Jr. and excerpts from the Universal Declaration of Human Rights, to which Cuba is a signatory.

"It's nonsense!" said Carla Smith, a 61-year-old lawyer among the marchers. "Within a few days, we'll have forgotten all about them."

In Washington, State Department spokesman Sean McCormack said he did not see why messages containing quotes about freedom "should be such a source of concern for the Cuban government."

Posada was arrested in Miami in May on charges he entered the United States illegally. His Miami lawyer, Eduardo Soto, filed documents with U.S. Immigration and Customs Enforcement officials on Monday seeking his release from custody.

The ICE said today that while a judge had forbidden Posada's deportation to Venezuela or Cuba, for fear that he would be tortured there, the agency was still seeking to expel him to a third country.

Africans Pick Congo Republic Leader, Not Sudanese, For Union Post (NYT)

By Marc Lacey

The New York Times, January 25, 2006

KHARTOUM, Sudan, Jan. 24 - African leaders bypassed one of the continent's most controversial presidents as the choice to head the African Union on Tuesday and opted instead for a leader who has managed to reinvent himself, Denis Sassou Nguesso of the Congo Republic, a onetime coup leader now regarded as a stabilizing force in the region.

President Omar Hassan al-Bashir of Sudan had wanted the job as Africa's chief peacemaker and emissary, but his colleagues, who are holding a summit meeting in his capital, thought otherwise, troubled by the Sudanese government's involvement in the war in the western Darfur region of the country.

Mr. Bashir did not lose out completely, though, since his colleagues indicated that the job would be his in 2007. The offer came with the clear expectation that Mr. Bashir would work to end the Darfur crisis before then.

Mr. Sassou, who succeeds Olusegun Obasanjo of Nigeria as chairman of the 53-member bloc, is a smartly dressed former paratrooper who has long used his perch in the tiny Congo Republic, on the continent's Atlantic coast, to speak out on behalf of Africa. He is one of the longest-serving leaders in the African Union and previously filled the rotating chairmanship in the group's predecessor, the Organization of African States.

In some respects, Mr. Sassou is not so different from the man who failed to get the job. Both Mr. Sassou and Mr. Bashir took power in military coups, in 1979 and 1989, respectively. The two soldiers also preside over countries that have spent much of their postcolonial history torn by civil war.

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But one major difference is that the Congo Republic has managed to quell its civil war, while Sudan has reached a peace deal in one big conflict, its 20-year-long north-south dispute, only to find itself enmeshed in another one, the crisis in Darfur.

Also, while Sudan is in the early stages of allowing political dissent, Mr. Sassou opened up his country to multiparty elections in 1992. They did not go as he planned, and he found himself voted out of office. But he resurfaced five years later, backed by Angolan troops, and grabbed back the presidency in a brief but bloody civil war.

He fared better in his second attempt at electoral politics, winning by a landslide in March 2002.

Human rights organizations praised African leaders for rebuffing Mr. Bashir's bid for the chairmanship and offered lukewarm praise for Mr. Sassou.

"Sassou's human rights record is nothing to celebrate, but there are not atrocities on the level of Sudan," said Reed Brody of Human Rights Watch.

Mr. Sassou's colleagues described him as serious, eloquent and committed to the betterment of Africa.

Jendayi Frazier, the American assistant secretary of state for African affairs, said Mr. Sassou was a leader the Bush administration could work with to help resolve the crisis in Darfur, indicating that the United States would continue to back the African Union's peacekeeping mission there.

Financing for that operation will dry up in March, and some African leaders have suggested that the United Nations should take over the peacekeeping duties. That will be only one of the issues Mr. Sassou will face.

"We shall do everything we can to ensure peace will come," he said. "It's a big challenge for us."

European Leaders Appear Far Apart On Energy Policy (WSJ)

By Juliane Von Reppert-bismarck And William Echikson

The Wall Street Journal, January 25, 2006

BRUSSELS -- Unsettled by high oil prices and Russia's recent rupture of gas contracts, European leaders pushed for the creation of a common continentwide energy policy, only to end up demonstrating their differences on such key areas as nuclear power.

At a finance ministers' meeting here, France presented a paper calling for increasing research and development into its favored source of "clean" energy -- nuclear power. French officials warned of an energy shortage if Europe continues to dismantle its present reactors and fails to build new ones. Italian Economy Minister Giulio Tremonti joined ranks, saying Europe has "no alternative" to nuclear power.

Energy will be a key topic at the next summit of leaders in March. At that time, the European Commission will unveil policy proposals.

But so far, divergences seem great. While a European Commission poll published yesterday showed 47% of European citizens favor a European energy policy, it illustrated little enthusiasm for an increase in nuclear power, with only 12% seeing it as the best solution to reduce Europe's dependency on current energy sources.

The idea of a common European Union energy chest has been bandied about since the beginning of the postwar pan-European project. The EU's precursor was designed to create a common coal and steel policy. But countries still have their own national oil stocks. They negotiate different rates with Russia on gas supplies. In 2003, studies reported that only about 8% of electricity flowed across national borders.

As the EU has expanded and its own domestic-energy sources such as German coal and Dutch gas have dwindled, however, the argument for a common policy is re-emerging.

Environmental groups are calling instead for Europe to focus on sustainable energy. They want renewable sources such as wind and biomass energy to make up a quarter of Europe's primary energy supply by 2020.

Darfur Descending (WP)

By Kofi A. Annan

The Washington Post, January 25, 2006

When I visited Darfur last May, I felt hopeful. Today I am pessimistic, unless a major new international effort is mustered in the coming weeks.

I visited a village whose people had returned after fleeing from violence and were living in relative safety, thanks to the presence of troops from the African Union (A.U.). True, this was only a beginning. Much of the vast region was prey to sporadic violence, with more than a million people living in camps. But thanks to a massive relief operation led by the United Nations, the number dying from hunger or disease was falling dramatically. A cease-fire, admittedly flawed, was in place. Peace talks between the Sudanese government and the rebel movements, ably mediated by A.U. representatives, were proceeding in Abuja, Nigeria. It was hoped that agreement could be reached by the end of the year.

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There were other positive signs. The U.N. Security Council had referred the situation to the International Criminal Court and had decided in principle to apply targeted sanctions to individuals who could be identified as responsible for the atrocities of the past two years.

I wish I could report that all these efforts had borne fruit -- that Darfur was at peace and on the road to recovery. Alas, the opposite is true. People in many parts of Darfur continue to be killed, raped and driven from their homes by the thousands. The number displaced has reached 2 million, while 3 million (half the total population of Darfur) are dependent on international relief for food and other basics. Many parts of Darfur are becoming too dangerous for relief workers to reach. The peace talks are far from reaching a conclusion. And fighting now threatens to spread into neighboring Chad, which has accused Sudan of arming rebels on its territory.

Despite a chronic funding crisis, A.U. troops in Darfur are doing a valiant job. People feel safer when the troops are present. But there are too few of them -- a protection force of only 5,000, with an additional 2,000 police and military observers, to cover a territory the size of Texas. They have neither the equipment nor the broad mandate they would need to protect the people under threat or to enforce a cease-fire routinely broken by the rebels, as well as by the Janjaweed militia and Sudanese government forces.

On Jan. 12, the African Union decided to renew the mission's mandate until March 31, while expressing support, in principle, for a transition to a U.N. operation this year. The timing of this transition is still being discussed, including at this week's A.U. summit in Khartoum. This puts the Security Council on the spot. The U.N. Charter gives the council primary responsibility for international peace and security. And in September, in a historic first, U.N. members unanimously accepted the responsibility to protect populations from genocide, ethnic cleansing, war crimes and crimes against humanity, pledging to take action through the Security Council when national authorities fail.

The transition from the A.U. force to a U.N. peace operation in Darfur is now inevitable. A firm decision by the Security Council is needed, and soon, for an effective transition to take place.

But let no one imagine that this crisis can be solved simply by giving the present A.U. mission a "U.N. hat." Any new mission will need a strong and clear mandate, allowing it to protect those under threat, by force if necessary, as well as the means to do so. That means it will need to be larger, more mobile and much better equipped than the current African Union mission. Those countries that have the required military assets must be ready to deploy them.

Such a force would take the United Nations months to deploy. In the meantime, the A.U. mission must be maintained and strengthened. We cannot afford any gaps or any weakening of the force in place. Last May the African Union and the United Nations organized a donor conference in Addis Ababa, Ethiopia, to raise money and logistical support for the A.U. force. A follow-up conference is planned for Feb. 20. At the same time, the massive relief operation must continue, and be fully funded, so that Darfur's people continue to receive clean water, food and other vital supplies.

Finally, and above all, much stronger pressure must be brought on all parties -- the rebels as well as the government -- to observe the cease-fire and commit themselves to the Abuja peace talks with a sense of urgency. The current delays are inexcusable; they cost lives every day. Those negotiating must be reminded of their personal responsibility.

One thing is clear: Whatever external force is sent to Darfur can provide at best only temporary security to the people there. Only a political agreement among their leaders can secure their future and the return of 2 million of them to their homes.

The writer is secretary general of the United Nations.

A Deal To End All Barter (WSJ)

By Viktor Yushchenko

The Wall Street Journal, January 25, 2006

When Ukrainian voters elected me President last year, I promised that our future relations with Russia would be based on national interests alone. The time when our policy to Moscow would be dictated by the special interests of financial-industrial groups and oligarchs was over.

The dispute that recently erupted between Moscow and Kiev over Russian natural gas prices was a trying test of our political maturity. Corporate players threatened our sovereignty, economic independence and freedom.

We could have contributed to the rising tensions by pursuing court action to assert our contractual rights. Under the terms of an existing agreement signed in 2004 between our national gas companies, prices had been fixed until 2009.

However, we were troubled by the fact that Gazprom's unilateral decision to reduce gas deliveries to Ukraine also led to a loss of gas pressure in our pipelines to the rest of Europe. Instead of escalating the conflict we therefore sought to settle the differences with Moscow and allay the fears of both Ukrainian and European citizens.

Fortunately, pragmatic heads on both sides prevailed. The importance of this settlement became all too evident for Ukrainians who for the past week had to endure double-digit sub-zero temperatures.

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Together with Russia's President Vladimir Putin, we were able to find a workable formula for the transport of Russian natural gas to European consumers. As was our strategic goal from the outset, the deal was based on mutual respect for national interests and market pricing.

For Ukraine, the compromise has several advantages. First, unlike in our neighboring countries -- where Gazprom has taken control of the national gas pipelines -- our strategic gas pipelines remain Ukrainian property.

Second, and maybe most importantly, the compromise finally introduces cash payments to our international gas trade, ending the murky Russian-Ukrainian barter operations for energy supplies.

Previously, Ukraine contractually withdrew up to 25 billion cubic meters of Russian gas pumped towards Europe through its pipelines in exchange of industrial assets and the right to use our pipeline to deliver gas to the Continent. Now, Ukraine pays cash for the Russian gas it consumes just as Russia pays cash for the transport of its gas through Ukraine's pipeline. Everything is transparent and fixed in contracts.

For fourteen years, though, international barter settlements had cost Ukraine hundreds of strategic assets such as factories, shipping vessels and other enterprises, which had been used as payment for Russian (and Turkmen) gas supplies. The practice of forfeiting strategic assets had fueled cronyism and corruption, enriching a few oligarchs at the expense of the rest of the nation. This intolerable practice has finally ended.

It is true that Ukraine now pays a higher price for Russian natural gas. However, we still pay less per cubic meter than what Moscow charges our closest neighbors, with the exception of Belarus. That's because we now receive more cheap Turkmen and Kazakh gas.

Moving closer to market pricing mechanisms will force our domestic industry to improve energy efficiency and conservation. At the same time, developing domestic gas drilling has become a policy priority and will help Ukraine become more energy independent.

During the discussions with President Putin we also agreed to soon create a joint venture for a more transparent international gas transporter to fulfill the terms reached between our national gas companies. The opaque shareholder structure of the gas transporter currently in charge has caused concern domestically and abroad.

European businesses and consumers will also benefit. Russian gas deliveries to Ukraine have now been contractually separated from gas designated to the rest of Europe. Honoring these now separate agreements and their five-year terms offer consumers in both Europe and Ukraine predictability and stability. Meanwhile, we intend to work with all gas producing countries to our east on developing and diversifying natural gas supplies to Europe in order to provide consumers with options for the future. The idea is to transport natural gas from Turkmenistan, Kazakhstan and other central Asian countries through new pipelines which could eventually be connected to the existing network supplying Europe.

The gas compromise, though, caught many in Ukraine off-guard. Oligarchs oppose it because it ends one of the largest and most corrupt international barter schemes in Europe. Proceeds from it benefited numerous fifth column groups at the expense of Ukraine's national security. The influence of these oligarchs reaches as far as to Ukraine's parliament. Last month lawmakers broke constitutional procedures and sacked the cabinet of Prime Minister Yuriy Yekhanurov -- only weeks before Ukrainians are set to elect a new legislature.

Ukraine experienced a similar episode only five years ago. In 2000, as Prime Minister, I set the goal of ending domestic barter payments for energy supplies. Achieving that objective cost me my political job when once more the oligarchs used their political influence to rally lawmakers against the government.

Nonetheless, it ended corrupt barter schemes between national enterprises and introduced competitive pricing within the economy, unleashing six years of consecutive economic growth in Ukraine. By removing murky business intermediaries who facilitated the flow of natural gas to Ukraine, our gas debts to Russia became more transparent and manageable. This benefited both Ukrainian and European consumers as it allowed a stable gas transportation system to operate for more than half a decade. Only Ukraine's oligarchs were unhappy then because a grey market loophole of hyper-profits and barter schemes was closed.

The compromise reached earlier this month over Russian gas supplies to Ukraine and their transit to Europe attests to the pragmatic relations developing between our two countries. Through actions rather than mere slogans Ukraine demonstrated its commitment to regional stability and ability to forge mutually beneficial economic relations. My country's course toward European integration and adherence to market principles has once again been affirmed.

In the long-term, domestic market prices for energy will only enhance Ukraine's global economic competitiveness. I am convinced that Ukrainian entrepreneurs will meet this challenge. Together we will develop our energy diversity, strengthen domestic gas reserves and launch a long overdue national energy conservation program. To help facilitate these goals and develop key sectors of our national economy, Ukraine is ready and open for strategic foreign investment.

Mr. Yushchenko is president of Ukraine.

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Oil-for-Missiles (WSJ)

By Richard L. Russell

The Wall Street Journal, January 25, 2006

It was no coincidence that Saudi Arabia's King Abdullah this week chose China for his first official trip outside the Middle East since acceding to the throne in August. With five agreements signed during the visit, including a pact for closer cooperation in oil, natural gas and minerals, the two countries are laying the foundations for a strategic relationship that challenges U.S. interests.

Humiliated by their dependence on Washington for survival in the wake of Iraq's invasion of Kuwait, the Saudi royal family has long been seeking to forge closer ties with Beijing in the hope of reducing their dependence on the U.S. The Saudis began moving in this direction even before the first Gulf War, secretly negotiating a deal with China in the mid-'80s to purchase CSS-2 ballistic missiles. That was an affront to the Reagan administration and its policy of preventing the proliferation of ballistic missiles. But the Saudis risked American ire because they saw Iran, Iraq and Israel all armed with ballistic missiles and did not want to be left out. In return, China won hard currency for the missile sale, as well as diplomatic relations with Riyadh in a snub to Taiwan.

Since 9/11, and the American public's backlash over the fact that the majority of the hijackers were Saudi nationals, Riyadh's search for a new strategic partner has assumed fresh impetus. China, for its part, is importing ever increasing amounts of oil from the Gulf to fuel its rapidly expanding economy. That has prompted a degree of paranoia over "energy insecurity." Beijing military strategists worry that, because they lack America's "blue-water" navy, the country is potentially vulnerable to a U.S. blockade of oil shipments from the Gulf to China.

Hence the mutual interest in a closer relationship demonstrated during King Abdullah's three-day visit, which ended yesterday. For all the headlines about the agreements he signed with President Hu Jintao on issues such as energy cooperation and double taxation, it's a safe assumption that strategic issues were also on the agenda away from the bright lights of the media. Saudi Arabia's CSS-2 missiles are now obsolescent and Riyadh would welcome modern Chinese models as replacements. For Beijing, that offers a useful tit-for-tat should Washington agree to further large arms sales to Taiwan. But it would come at the price of violating China's commitment to adhere to the Missile Technology Control Regime, which seeks to control international transfers of ballistic missile technology.

The danger is that these developments will pass largely unnoticed in Washington, as they fall between bureaucratic cracks in the national-security apparatus. In the National Security Council, as well as at the Departments of State and Defense, separate sections still focus on the Middle East and Asia (despite Condoleezza Rice's recent reforms). No one seems to be looking at the bigger picture in terms of the emerging strategic relationship between two regions so important to American national interests.

In the old days of the Cold War, the U.S. viewed the security relationships in the Middle East through the prism of its rivalry with the Soviet Union. Today, Russian power in the Middle East has withdrawn as Moscow grapples with getting its domestic house in order. But China's power in the Middle East, especially in the Persian Gulf, is increasing, a dimension of world politics that American policy makers need to begin focusing attention on.

Mr. Russell teaches at the National Defense University's Near East and South Asia Center for Strategic Studies and is the author of "Weapons Proliferation and War in the Greater Middle East" (Routledge, 2005).

DOJ_NMG_0011659

Williams, Jan

From: Williams, Jan

Sent: Wednesday, January 25, 2006 8:19 AM

To: Nelson, Carrie; /o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford

Subject: The Morning Update: 1/25/06

Attachments: tmp.htm

Attachments: tmp.htm
Importance: Low

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EST National Security Agency | Fort Meade, Maryland

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3:30 pm: THE PRESIDENT makes a Statement with Former Clerks of Judge Samuel A. Alito

EST The White House | Washington, DC

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President Welcomes Prime Minister Aziz Of Pakistan To The White House <http://www.whitehouse.gov/news/releases/2006/01/20060124.html>

* In Focus: Global Diplomacy <http://www.whitehouse.gov/infocus/globaldiplomacy/>

Setting The Record Straight: Charges Of "Domestic Spying" <http://www.whitehouse.gov/news/releases/2006/01/20060124-4.html>

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<http://www.whitehouse.gov/news/setting-record-straight/>

Press Briefing By Scott McClellan
<http://www.whitehouse.gov/news/releases/2006/01/20060124-3.html>

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Press Briefing By Scott McClellan

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Meron, Daniel (CIV)

From: Meron, Daniel (CIV)
Sent: Wednesday, January 25, 2006 11:29 AM
To: Gorsuch, Neil M
Subject: FW: Restrictions on Political Activities and Convention
Attachments: Memo - Restrictions on Political Activities 2000.doc

Memo designates you for civil components. Let me check with your predecessor, one Peter D. Keisler, about this

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From: Richmond, Susan
Sent: Friday, August 20, 2004 4:07 PM
To: Alex Acosta; Ben Reyna; Carl Truscott; Chris Wray; Cranston Mitchell; Dan Bryant; Deborah Daniels; Deborah Spagnoli; Diane Stuart; Domingo Herraiz; Edward Reilly; Eileen O'Connor; Glenn Fine; Hew Pate; James Comey; John Gillis; Karen Tandy; Larry Greenfeld; Mauricio Tamargo; Michele Leonhart; Peter Keisler; Robert Flores; Robert McCallum; Sarah Hart; Sharee Freeman; Tom Sansonetti; William Moschella; Andrew Emrich; Brad Schlozman; Brian Boyle; Bruce Mcdonald; Carl Peed; Cheri Nolan; Chuck Rosenberg; Crystal Roberts; Dan Levin; Dan Meron; David Ayres; David Higbee; David Israelite; David Nahmias; David Sibley; Deborah Rhodes; Donald Gambatesa; Gregory Katsas; Howard Nielson; Jeffrey Bucholtz; Jeffrey Clark; Jeffrey Taylor; John Richter; John Wood; Jonathan Cohn; Kelly Johnson; Kristi Remington; Kyle Sampson; Laura Parsky; Lawrence Friedman; Lizette Benedi; Makan Delrahim; Margaret Davis; Mark Corallo; Mark Epley; Michael Carrington; Mike Wiggins; Noel Francisco; Patrick Hofer; Patrick Philbin; Patrick Purtill; Paul Clement; Rachel Brand; Rebecca Seidel; Renee Lerner; Richard Hertling; Richard Morrison; Rod Rosenstein; Sean McLaughlin; Sheldon Bradshaw; Steve Bradbury; Susan Richmond; Thomas Barnett; Thomas Lee; Tracy Henke; Wan Kim; Ajit Pai; Andrew Beach; Andrew Schauder; Angela Williamson; Blain Rethmeier; Blair Birkeland; Bruce Taylor; C. Kevin Marshall; Candice Chiu; Chad Boudreaux; Christopher Donesa; Cynthia McDowell; Cynthia McKnight; Deborah Underhill; Denise Gitsham; Dimple Gupta; Ebony Lee; Ed McFadden; Eric Grannon; Eric Holland; Glenn Schmitt; Gordon Todd; Greg Harris; Janet Potter; Jeffrey Wadsworth; Jessica Gavora; Kimberly Smith; Lara Reynolds; Luis Reyes; Mary Neumayr; Matt Dummermuth; Matt Robinson; Matthew Miranda; Matthew Zabel; Michael Costigan; Michael Tierney; Monica Goodling; Natalie Voris; Omar Vargas; Price Roe; Robert Hur; Spence Pryor; Stephanie McNees; Sujean Lee; Theodore Cooperstein; Trent Luckinbill; Wanda Martinson; Will Adams; William Otis; William Woodruff; Wroe Jackson
Subject: Restrictions on Political Activities and Convention

Attached is the DOJ policy regarding Restrictions on Political Activities which applies to all political appointees. While this policy has been circulated to all appointees several times previously, as we approach the November elections it is important to ensure that all DOJ appointees are clear on the rules that govern political activity. Please review this Memorandum carefully. There was a technical problem in the scanning of this document which resulted in one error; the word "not" should appear on page 3 in the first line under "Statutory Restrictions." The sentence should read:

"The statutory restrictions are set forth in the regulations at 5 CFR 734, which are summarized below. Under the regulations, non-career appointees may <u>not</u>:"

Additionally, please note that **DOJ appointees are prohibited from attending or otherwise participating in any events or activities of the Republican National Convention in New York**. There will be no exceptions granted to this policy.

Thank you for your careful attention to this matter.

WwWwWwWwWwWwWwWwW

Susan M. Richmond
Advisor to the Attorney General
& White House Liaison
Office of the Attorney General
U.S. Department of Justice
Tel: (202) 514-2927
Fax: (202) 616-5117

"We have seen freedom arrive, on waves of unstoppable progress, to nations in Latin America and Asia and Africa and Eastern Europe. Now freedom is stirring in the Middle East, and no one should bet against it." -- President George W. Bush, 6/2/04

August 8, 2000

MEMORANDUM FOR ALL DEPARTMENT OF JUSTICE NON-CAREER APPOINTEES

FROM: THE ATTORNEY GENERAL

SUBJECT: Restrictions on Political Activities

As employees of the Department of Justice (Department), we have been entrusted with the authority to enforce the la~s of the united States, and with the responsibility to do so in a neutral and impartial manner. For the public to retain its confidence that we are adhering to our responsibility, we must ensure that politics--both in fact and appearance--does not compromise the integrity of our work.

The purpose of this memorandum is to remind all non-career appointees about Department policy regarding the propriety of engaging in certain political activities, and to set forth the policy and statutory/regulatory rules applicable to non-career appointees. As a matter of Department policy, I previously determined that non-career appointees would be held to the restrictions of the pre-1994 Hatch Act, which prohibits employees from active participation in political management or partisan political campaigns. The specific statutory provisions are summarized at the end of this memorandum. Iaalso imposed additional restrictions that are set forth below, which are more strict than required by statute or regulation for I believe that the Department should be held to a higher standard to avoid activity that might be considered partisan in nature.

These policy restrictions, as well as an outline of statutory requirements, are set out below.

Policy Restrictions

Events that may be construed as partisan in nature may be divided into two categories.

1. Political Events

The first category encompasses those functions that are clearly political such as campaign events, political fund-raisers, and conventions, which would never be attended in

DOJ_NMG_0011672

an official capacity. As a matter of Department policy, all Senate-confirmed presidential appointees, non-career members of the Senior Executive Service (S8S) and Schedule C appointees must obtain approval prior to attending any political event, including a fund-raising or campaign event, or a convention, or to accept a gift of free or discounted attendance at a political event.

As a matter of Department policy, active participation in these events is prohibited for all non-career appointees. Active participation includes making a speech at a party function, appearing on the program, on the dais or in the receiving line of a political event, or allowing your name to be used in connection with the promotion of the event.

Although passive participation is not prohibited, it is subject to a prior approval policy. Passive participation includes merely att~nding a fund-raising or a campaign event. Acceptance- of a gift of free or discounted attendance may be approved if it meets one of the exceptions to the gift rules, including gifts based on a personal relationship or outside business relationship unrelated to official status- If you seek approval to attend an event or accept a gift in connection with an event, you must contact the Principal Associate Deputy Attorney General, the Chief of Staff to the Deputy Attorney General, or the Principal Deputy Associate Attorney General (these three officials are hereafter referred to as the "Leadership Designees").

Of course, any employee may always make an otherwise appropriate donation to the candidate of their choice so long as the fact of the donation *is* not used in a promotional manner.

2. Official Events

The second category includes official events such as a speech or grant announcement made in a state shortly before a general election, primary or caucus, or an event that may involve an appearance with a candidate for partisan office. We must be especially vigilant to prevent even the appearance that any of our official duties are motivated by improper partisan electoral politics. In determining whether your appearance could be construed as inappropriately partisan, you should consider, among other factors, the identity *of* the sponsor of the event, the

group being addressed, the other participants, the timing of the event, and the subject of any speech to be given. If you have any doubt about whether an appearance may be inappropriate, you should seek approval before agreeing to appear by contacting one of the three Leadership Designees.

Generally, I do not travel to any state within 30 days of a primary or general election within that state. I urge all Senate-confirmed officials to adopt a similar practice to the greatest extent practicable.

If asked by a current or former member of the Administration to participate in an official capacity in an event that you believe could be construed as inappropriately partisan, please contact one of the three Leadership Designees for consultation regarding how to proceed.

Statutory Restrictions

The statutory restrictions are set forth in the regulations at 5 CFR 734, which are summarized below. Under the regulations, non-career appointees may~:

A. use their official authority or influence to interfere with or affect the result of an election;

B. solicit, accept or receive a political contribution;[1] solicit, accept, or receive uncompensated volunteer services from an individual who is a subordinate; or allow their official titles to be used in connection with fund-raising activities;

C. run for nomination or election to public office in a partisan election;

[1] The only statutory exception is for soliciting, accepting or receiving a political contribution to a multi-candidate political committee from a fellow member of a federal labor organization or certain other employee organizations, as long as the solicited employee is not a subordinate and the activity does not violate E below.

[2] In certain designated communities, including the Washington, DC suburbs, an employee may run for office in a local partisan election but only as an independent candidate and may receive, but not solicit, contributions. 5 U.S.C. 7325.

D. solicit or discourage the political activity of any person vho is a participant in any matter before the Department;

Policy Restrictions

In addition, under Department policy, non-career appointees may not:

E. engage in political activity (to include wearing political buttons), while on duty, while in a government occupied office or building, while wearing an official uniform or insignia, or while using a government vehicle; however, an employee may put a bumper sticker on a personal vehicle and park it in a government-owned or subsidized parking lot, but may not use the vehicle in the course of official business; and employees may display signs on their lawns and in their residences, and in similar personal circumstances.

F. distribute fliers printed by a candidate's campaign committee, a political party or partisan political group;

G. serve as an officer of a political party, a member of a national, state, or local committee of a political party, an officer or member of a committee of a partisan political group, or be a candidate for any of these positions;

H. organize or reorganize a political party organization or partisan political group;

I. serve as a delegate, alternate, or proxy to a political party convention;

J. address a convention, caucus, rally, or similar gathering of a political party or partisan political group in support of or in opposition to a candidate for partisan political office or political party office, if such address is done in concert with such a candidate, political party, or partisan political group;

K. organize, sell tickets to, promote, or actively participate in fund-raising activity of a candidate for partisan political office or of a political party or partisan political group; active participation includes making a speech at an event, appearing on the program, on the dais or in the receiving line of an event, or allowing your name to be used in connection with the

promotion of the event; passive participation, which is allowed, means merely attending a fund-raising or campaign event;

L. canvass for votes in support of or in opposition to a candidate for partisan political office or a candidate for political party office, if such canvassing is done in concert with such a candidate, political party, or partisan political group;

M. endorse or oppose a candidate for partisan political office or a candidate for political party office in a political advertisement, broadcast, campaign literature, or similar material if such endorsement or opposition is done in concert with such a candidate, political party, or partisan political group;

N. initiate or circulate a partisan nominating petition;

O. act as recorder, watcher, challenger, or similar officer at polling places in consultation or coordination with a political party, partisan political group. Or a candidate for partisan political office;

P. drive voters to polling places in consultation or coordination with a political party, partisan political group, or a candidate for partisan political office.

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: THURSDAY, JANUARY 26, 2006 7:45 AM EST

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TERRORISM NEWS:

Specter To Question Gonzales On NSA Surveillance. The Pittsburgh Post-Gazette (1/26, McGough) reports, "If Attorney General Alberto R. Gonzales thought he might be spared tough questioning from Republican senators when he testifies about the warrantless wiretapping of Americans thought to be in contact with foreign terrorists, Sen. Arlen Specter, R-Pa., yesterday disabused him of that notion." The Post-Gazette continues, "In a letter sent to the attorney general and shared with the press, the chairman of the Senate Judiciary Committee propounded a series of questions that in a courtroom setting might be called 'leading' and requested that Mr. Gonzales answer them in his opening statement before the committee on Feb. 6. … The combative nature of the letter wasn't altered by the fact that the printed salutation to 'Attorney General Gonzales' was replaced by a hand-written 'Al.'" The Post-Gazette adds, "The letter honed in on the Bush administration's assertion-ridiculed by critics -- that Congress empowered the president to engage in electronic surveillance of Americans without a court order when it passed a resolution after the Sept. 11 2001, attacks authorizing him to 'use all necessary and appropriate force' against terrorists. … Mr. Specter asked: 'In interpreting whether Congress intended to amend the Foreign Intelligence Surveillance Act by the Sept. 14, 2001, resolution, would it be relevant on the issue of congressional intent that the administration did not specifically ask for an expansion for executive powers under FISA?' … Mr. Specter further asked: 'If Congress had intended to amend FISA by the resolution, wouldn't Congress have specifically acted to [do so] as Congress did in passing the Patriot Act giving the executive expanded powers and greater flexibility in using "roving" wiretaps?' … Mr. Specter also made it clear he would press Mr. Gonzales about the administration's other legal rationale for the surveillance -- that it flowed from Mr. Bush's constitutional authority as commander-in-chief."

The National Journal's Technology Daily (1/25, Stirland) reports, "Pressure mounted on the Bush administration Wednesday to provide lawmakers with answers on domestic spying activities. … Senate Judiciary Committee Chairman Arlen Specter, R-Pa., released a three-page letter with detailed questions to Attorney General Alberto Gonzales on the president's decision in 2002 to secretly authorize domestic wiretaps without warrants. … The letter includes many of the questions that constitutional scholars have been posing about the president's order, and several questions could put Gonzales in an awkward position." Technology Daily adds, "At the same time, Democrats on the Senate Intelligence Committee demanded that Chairman Pat Roberts, R-Kan., hold a business meeting so the committee can vote to investigate several aspects of the administration's domestic spying. … Under committee rules, Roberts is obligated to hold a meeting if at least five members formally ask for one. All seven Democrats on the panel signed the request to Roberts." Technology Daily notes, "A majority vote is needed to move ahead with the investigation. Two Republicans on the committee, Sens. Chuck Hagel of Nebraska and Olympia Snowe of Maine, have asked Roberts for a hearing on the matter. Roberts has said nothing publicly about holding a hearing. … Also on Wednesday, a group of Democrats, including Sens. Richard Durbin of Illinois and Charles Schumer of New York, sent a letter to President Bush asking him for specific changes in the law that he believes are necessary to permit effective surveillance of suspected terrorists."

Gonzales Warned To Expect Tough Questions From Senate Committee. The CBS Evening News (1/25, lead

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story, 4:00, Roberts) noted, "NSA officials aren't likely to be called in the first round of hearings, but in a letter, the Attorney General was warned by the Judiciary Committee chair, he's in for a full day of grilling on February 6. Among the questions: Why did the President bypass the Federal court that covers wire taps, and how does he justify not more fully informing Congress? The President insists he has informed Congress but complains existing laws aren't nimble enough to cover the explosion of technology through which terrorists communicate."

NBC Nightly News (1/25, lead story, 3:00, Mitchell) also noted, "The White House says when Congress authorized the war on terror after 9/11, it gave the President the power to spy without court orders. But even some powerful Republicans are challenging the program's legality. Today, Judiciary Committee chairman Arlen Specter sent this 'dear Al' letter to Attorney General Alberto Gonzales, listing 15 tough questions he will be asked at a hearing two weeks from now, including whether the spying was an illegal expansion of presidential power." Sen. Specter: "There was no thought when we passed the authorization for the use of force that it had implications for electronic surveillance."

The Baltimore Sun (1/26, Davis, 296K) focuses on Specter's letter, reporting that even as Bush spoke, "questions mounted about the administration's legal justifications for the program. A key Republican senator took issue with Bush's defense of the operation, which was secretly authorized by the president after the Sept. 11, 2001, terrorist attacks and targets some communications inside the United States. Also, new reports surfaced suggesting that the administration had rejected an earlier proposal in Congress that would have made it easier to obtain court approval for domestic wiretapping."

Administration Dismissed 2002 Proposal To Change Surveillance Warrant Standard. The Washington Post (1/26, A4, Eggen) reports, "The Bush administration rejected a 2002 Senate proposal that would have made it easier for FBI agents to obtain surveillance warrants in terrorism cases, concluding that the system was working well and that it would likely be unconstitutional to lower the legal standard." The Post continues, "The proposed legislation by Sen. Mike DeWine (R-Ohio) would have allowed the FBI to obtain surveillance warrants for non-U.S. citizens if they had a 'reasonable suspicion' they were connected to terrorism -- a lower standard than the 'probable cause' requirement in the statute that governs the warrants. … The administration has contended that it launched a secret program of warrantless domestic eavesdropping by the National Security Agency in part because of the time it takes to obtain such secret warrants from federal judges under the Foreign Intelligence Surveillance Act (FISA)." The Post adds, "The wiretapping program, ordered by President Bush in 2001, is used when intelligence agents have a 'reasonable basis to believe' that a target is tied to al Qaeda or related groups, according to recent statements by administration officials. It can be used on U.S. citizens as well as foreign nationals, without court oversight. … Democrats and national security law experts who oppose the NSA program say the Justice Department's opposition to the DeWine legislation seriously undermines arguments by Attorney General Alberto R. Gonzales and others, who have said the NSA spying is constitutional and that surveillance warrants are often too cumbersome to obtain. … 'It's entirely inconsistent with their current position,' said Philip B. Heymann, a deputy attorney general in the Clinton administration who teaches law at Harvard University. 'The only reason to do what they've been doing is because they wanted a lower standard than 'probable cause.' A member of Congress offered that to them, but they turned it down.'" The Post notes, "But Justice Department officials disagreed, saying the standard the department opposed in 2002 is legally different from the one used by the NSA. … 'The FISA "probable cause" standard is essentially the same as the "reasonable basis" standard used in the terrorist surveillance program,' said spokeswoman Tasia Scolinos, using the term for the NSA program the White House has adopted. 'The "reasonable suspicion" standard, which is lower than both of these, is not used in either program.' … Justice officials also said that even under a different standard, the process of obtaining a surveillance warrant would take longer than is necessary for the NSA to efficiently track suspected terrorists."

Under the headline "Words, Deeds On Spying Differed," The Los Angeles Times (1/26, Savage, 958K) also reports on the 2002 bill, noting that the administration's "public position then was the mirror opposite of its rationale today in defending its warrantless domestic spying program, which has come under attack as a violation of civil liberties. … A Justice Department spokesman confirmed Wednesday the administration had opposed changing the law in 2002 in part because it did not want to publicly debate the issue. 'There was a conscious choice not to have a public discussion about it. It could have exposed the program. This was a military defense intelligence program,' said the spokesman." The Times notes Sen. Patrick Leahy "accused the administration of having tried 'to paper over the legality of a secret spying program. If they really believed the current law is too burdensome, the Bush administration should have asked Congress to change it, but they did not. Instead a top lawyer in the Bush administration did just the opposite.'"

Knight Ridder (1/26, Landay) reports, "James A. Baker, the Justice Department's top lawyer on intelligence policy, made the statement before the Senate Intelligence Committee on July 31, 2002. He was laying out the department's position on an amendment to FISA proposed by

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Sen. Mike DeWine, R-Ohio. The committee rejected DeWine's proposal, leaving FISA intact. … So while Congress chose not to weaken FISA in 2002, today Bush and his allies contend that Congress implicitly gave Bush the authority to evade FISA's requirements when it authorized him to use force in response to the Sept. 11, 2001, attacks three days after they occurred - a contention that many lawmakers reject." Knight Ridder adds, "Glenn Greenwald, an Internet blogger, first connected the earlier Justice Department statement to the Bush administration's current arguments on his Web log, called Unclaimed Territory. … Baker's 2002 statement drew new attention Wednesday as the White House continued its campaign to justify eavesdropping on Americans who are suspected of being in contact with al-Qaida or other terrorist groups, despite possible violation of FISA." Knight Ridder notes, "Brian Roehrkasse, a Justice Department spokesman, said Wednesday that Gonzales stands by the administration's current view that FISA warrant requirements impose 'additional layers of review' that sacrifice 'critical speed and agility.'"

Administration Launches Campaign To Frame Surveillance Debate. The Dallas Morning News (1/26, Mittelstadt) reports, "The Bush administration raced this week to defend its warrantless domestic spying program, with several aims in mind, experts say: Win over a conflicted public; force Democrats into an arena that plays to GOP strength; and head off talk of impeachment and special prosecutors." The News continues, "With polls showing the public sharply divided over the controversial surveillance program, the White House and its critics – Democrats, small-government conservatives and civil libertarians – are engaged in a high-stakes contest to frame the debate. … 'If it's defined primarily as "government abuse, the president out of control, the White House running roughshod over basic constitutional rights," it would be a major problem for an extended period of time for the president – both on Capitol Hill but also with the voters,' said political analyst Stuart Rothenberg. … 'If the issue is defined more as "protecting national security, keeping people safe, stopping terrorism," then what the Democrats immediately saw might be a good issue for them could actually be turned around for the president and the Republican Party.' … Though the court of public opinion is key, some suggest that the political system or the courts will be the ultimate arbiter of the program's legality – and the far weightier question of whether Mr. Bush is claiming executive powers outside the bounds of the Constitution or the law." The News notes, "Mr. Specter has summoned Attorney General Al Gonzales for a Feb. 6 hearing and is under pressure from Democrats to invite former Deputy Attorney General James Comey and other administration officials who reportedly raised concerns about the legality of the domestic surveillance."

Debate Over Legality Of NSA Surveillance Narrows. Fox News (1/26) reports, "After three days of a Bush administration offensive and weeks of debate and accusations, some legal experts are coming to terms on what is illegal and what is not in the National Security Agency electronic surveillance program. … 'When the president goes around and speaks ... and says we're monitoring calls from overseas from Al Qaeda to the United States, the NSA can go ahead and do that now under the law,' Sen. Edward Kennedy, D-Mass., said after the Senate Judiciary confirmation hearing of Supreme Court nominee Samuel Alito." Fox News continues, "But Kennedy said independent organizations, like the Congressional Research Service, have studied the legality of the NSA program and say the president has gone beyond what the rules allow. Bush, however, says the eavesdropping program is legal and doesn't overstep the boundaries allowed to him by the Constitution and congressional resolution. … According to legal experts, hypothetically, if the NSA had intercepted calls from alleged terrorists such as Khalid Sheikh Mohammed or Ramzi Binalshibb, both now in custody, while they were abroad, then U.S. intelligence agents could listen to the calls without a warrant. That goes for phone calls with people on the other end of the line who happen to be in United States. … Only when the person inside the United States becomes the target of surveillance is a warrant from the Foreign Intelligence Surveillance court required. … Other experts agree that a warrant is not needed until the U.S.-based individual becomes a suspect. … But others argue that the law says domestic communications monitoring rules apply even when only one end of the call is on U.S. soil. They say that's why Bush signed a highly classified directive approving the program and has to re-approve it every 45 days."

Bush Continues Defense Of NSA Domestic Surveillance Program. President Bush defended the NSA domestic surveillance program yesterday. Media reports describe the President continuing to wage a "campaign" style offensive against its critics, with CBS saying Bush used "his strongest words yet to defend the program" and ABC saying he "made the most dramatic link yet between the September 11th attacks and his controversial domestic spying program." ABC, like most print sources this morning, was referring to the President's reference to the latest Osama Bin Laden tape.

Bush said the tape was a reminder of how serious the terror threat is. Reuters (1/26) reports Bush said "he took…bin Laden's threats of another attack seriously and invoked the al Qaeda leader's recent audiotape to defend a domestic eavesdropping program." The AP (1/26, Pickler) also focuses on Bush's Bin Laden argument, as does the Washington Times (1/26, Sammon, 90K), which notes the

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President "the unusual step of imploring Americans to heed the warnings of…bin Laden." Likewise, USA Today (1/26, 2.31M) headlines its brief report "Take Bin Laden Threat Seriously, Bush Warns."

The CBS Evening News (1/25, lead story, 4:00, Schieffer) reported, "The President has clearly decided the best defense is a good offense. Democrats and even some within his own party have raised strong criticism of his decision to eavesdrop without warrants on some Americans, but today the President used his strongest words yet to defend the program." CBS (Roberts) added, "Bush privately told NSA staff today they have his 100% support in the eavesdropping program." His "visit was accompanied by a new White House PR line, casting the program as a vital military operation, one that can't wait for courts to consider warrants." Scott McClellan: "Do you expect our commanders in a time of war to go to a court while they're trying to survey the enemy? I don't think so."

ABC's World News Tonight (1/25, story 5, 0:42, Vargas) reported, "Bush made the most dramatic link yet between the September 11th attacks and his controversial domestic spying program." At the NSA he "said had the eavesdropping program been in effect prior to 9/11, the hijackers might have been stopped." Bush: "We know that two of the hijackers who struck the Pentagon were inside the United States, communicating with al Qaeda operatives overseas. But we didn't realize they were here plotting the attack until it was too late. We must be able to connect the dots, before the terrorists strike, so we can stop new attacks."

NBC Nightly News (1/25, lead story, 3:00, Williams) reported, "When it was first disclosed, the critics pounced upon learning that American intelligence personnel were eavesdropping on Americans who were placing suspect phone calls outside of the country. And while many Americans still say it's illegal domestic spying, the president insists on calling it a terrorist surveillance program and insists it's necessary and within his legal powers. And today, he took his argument right to the source." NBC (Mitchell) added, "Inside the NSA, he brushed off critics who say it is illegal." President Bush: "All I would ask them to do is listen to the words of Osama bin Laden and take him seriously. When he says he's going to hurt the American people again, or try to, he means it."

Fox News' Special Report (1/25, Cameron) said Bush "reiterated that the program has helped prevent attacks and saved lives and that the US must detect and track all al Qaeda communications to secure the homeland."

CNN's The Situation Room (1/25, Bash) added, "One of the things that even the President's opponents say that they give him credit for is knowing how to run a campaign, and that's exactly what the White House has been doing in trying to defend the controversial spying program this whole week. They are also really pulling out all the stops. One of the things that they did…was have the President himself" go to the NSA "to not only thank the people who are conducting his program, but also to, of course, make the arguments that we've heard time and time again about why it is legal and necessary. But another thing that sort of fell into the President's lap, if you will, was, of course, the tape from Osama bin Laden. And so the White House, for the first time today, had the President use that in making the argument for this program." CNN added that Bush "spent a lot of time on making the argument at the NSA today that it is just perhaps people who are talking to members of al Qaeda who could be listened in on, that it is not just people in the United States who are being surveilled, if you will. That is an argument that we've heard many times but certainly more so today."

The Washington Post (1/26, A4, VandeHei, 744K) reports, "Bush, whose aides said they consider the issue a clear political winner, is resurrecting tactics from the last campaign to make the NSA spying program a referendum on which party will keep the United States safe from terrorists." He "has dispatched top White House officials almost daily to defend the program and has sent a message to party activists that he considers fighting terrorism with tools such as NSA eavesdropping the defining issue of the November elections." The Post adds, "Exhibiting an obsession to detail not seen in the Social Security rollout a year ago, the White House is even waging a war on the semantics being used in the debate, lashing out at reporters who call the program 'domestic' spying, because the monitored calls involve a person overseas." It is also "putting out pages of highly detailed -- and often hotly disputed -- legal analyses of the program and drawing what Democratic critics and many independent analysts regard as questionable historical parallels to show Bush is following a long wartime tradition."

The Los Angeles Times (1/26, Gerstenzang, 958K) says Bush's visit to NSA headquarters at Ft. Meade, MD, "was part of a stepped-up campaign in recent days to gain public support for the spying program." Earlier, White House Press Secretary Scott McClellan "defended Bush's decision not to ask a special court for warrants to monitor people in the United States. 'This is a time of war. This is about wartime surveillance of the enemy,' McClellan said, adding a refinement of his earlier arguments: 'We don't ask our commanders to go to the court and ask for approval while they're trying to gain intelligence on the enemy.'"

The New York Times (1/26, Bumiller, Lichtblau, 1.19M) reports Bush "first met privately with employees at the agency, then told a small group of reporters who accompanied him that the program, which intercepts international phone calls and e-mail messages of people in the United States suspected of links to Al Qaeda, had been a crucial tool in fighting terrorism."

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The President's speech was widely noted by local television news. Local coverage largely mirrored the national newscasts. For example, WGCL-TV Atlanta (1/25, 11:00 p.m.) reported, "Bush continued his aggressive defense of his domestic spying program today." KPRC-TV Houston (1/25, 4:16 p.m.) reported, "The President' s strong defense of a surveillance program is forcing some Democrats to mute criticism." KPNX-TV Phoenix (1/25, 10:12 p.m.) said Democrats "'disagree [with the President] and the Senate will hold hearings," but as KWGN-TV Denver (1/25, 9:24 p.m.) reported, this is a "controversy…the President himself seems almost anxious to keep alive."

White House Confident Public Supports Monitoring Efforts. NBC Nightly News (1/25, lead story, 3:00, Mitchell) reported, "Democrats think their best argument is the move was the power grab the President and will ultimately prove to be unpopular. Despite the furor, the White House is encouraged by recent polls, showing more Americans care about fighting terror than preserving their privacy." Andrew Kohut, independent pollster: "The public is concerned about civil liberties but what they tell us in the polls is they're more concerned about whether the government is doing enough to protect it from another terrorist attack." Mitchell: "Tonight the President plans to reauthorize the spying for as long as terrorists remain a threat."

Claims NSA Program Could Have Prevented 9/11 Attacks Challenged. The CBS Evening News (1/25, story 2, 2:00, Martin) reported, "The man who ran the NSA on 9/11 has made the most powerful argument in favor of the controversial eavesdropping program." Gen. Michael Hayden: "Had this program been in effect prior to 9/11, it is my professional judgment that we would have detected some of the 9/11 al Qaeda operatives in the United States." He "offered no specifics, and Democratic members of the 9/11 commission dispute it." Former 9/11 commissioner Tim Roemer: "Indicating that an intercepted communication would somehow identify and then stop or block parts of 9/11, I think is stretching this argument entirely too far." Former 9/11 commissioner Bob Kerrey: "We lost them. There was a breakdown in communication that many has nothing to do with the inability of getting an intercept permission to listen to people's communication." Martin: "Hayden stopped just short of saying warrantless eavesdropping could have broken up the 9/11 plot, but today, the White House claimed it might have. You can't prove any of that with what the 9/11 commission found."

Republicans May Propose Expanding Administration Wiretapping Authority. As a sign of growing Republican confidence in supporting Bush's terrorist monitoring policy one unidentified GOP Senator may propose expanding the Administration's wiretapping authority. The CBS Evening News (1/25, lead story, 4:00, Roberts) reported, "The growing response from Republicans in Congress: Tell us what you need. We'll write new laws. In fact, one Republican Senator told CBS News tonight, she might consider loosening the standards for approving the wiretap and allowing more officials at the Justice Department, not just the Attorney General, to authorize eavesdropping, so that it could begin just as soon as the NSA needed it." Schieffer: "Now, just a second, John. Are you telling me, there's a feeling amongst Republicans up in the Congress that they're going to give more people in the government the authority to eavesdrop without warrants? Is that what you're saying here?" Roberts: "That's what one Republican Senator is suggesting, that instead of making all eavesdropping or wiretapping requests go through the Attorney General, that some upper-level officials might be available and able to be able to authorize those wiretaps. It would spread it out among dozens of people as opposed to a single one at the top." Schieffer: "What do you think the mood is up there? Do you think anything like that could pass?" Roberts: "It's certainty being considered by the Republicans. They have the majority in the Senate and in the House, and if they want it, they'll probably get it."

Democrats On House Intel Panel Demand Open And Closed Hearings On NSA Spying. CNN's The Situation Room (1/25, Blitzer) reported, "Democrats on the House Intelligence Committee are demanding that the panel hold both open and closed hearings on the NSA surveillance program. In a letter to the Republican chairman, they say they want to know the purpose of the spying, when it began and when it was first authorized. They want to know the targets of the eavesdropping, who decides what information to collect."

Hillary Clinton Calls Bush's Explanations Of Domestic Spying Program "Strange And Farfetched." CNN's The Situation Room (1/25, Blitzer) reported, "Senator Hillary Clinton says she doesn't know if Mr. Bush broke the law by authorizing these wiretaps without warrants, but today the New York Democrat called the President's explanations about domestic spying -- and I'm quoting now – 'strange and farfetched.'"

Under the headline "Rift Between Parties Over NSA Wiretapping Grows," the Washington Post (1/26, A4, VandeHei, 744K) reports, "In the latest sign of the escalating debate on the issue, Sen. Hillary Rodham Clinton (D-N.Y.) called Bush's rationale a 'strange' and dangerous legal stretch." The "conflicting views of the NSA spying program highlighted by the Bush-Clinton exchange reflect a widening divide over warrantless eavesdropping," and "how leaders in both major parties are trying to shape the debate in preparation for upcoming congressional hearings and this year's elections."

LATimes Says Bush Equating Appeasement With Standing Up For Rule Of Law. In an editorial titled "Spying

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By Another Name," the Los Angeles Times (1/26, 958K) says, "With polls showing the American public increasingly skeptical about the need to abridge core constitutional freedoms to wage the war on terrorism, the Bush administration launched a major PR offensive this week to justify its decision to conduct warrantless wiretapping within the United States." The White House "deserves credit for at least making its case. Unfortunately for the president, it's a weak case, and repetition doesn't make it any better." The Administration's "legal case remains wobbly, which may explain…Bush's churlish attitude toward his critics." The President "is equating concerns about the legality of bypassing the courts to obtain a warrant to eavesdrop on Americans with a lack of appreciation for the threats posed by Al Qaeda. In Bush's world, only appeasers stand up for the Constitution."

Judge Orders US To Give Moussaoui Defense Documents About Pre-9/11 Intelligence. The AP (1/26) reports US District Judge Leonie Brinkema "has ordered the government to give admitted terrorist conspirator Zacarias Moussaoui's defense team documents describing what officials knew before Sept. 11, 2001, about al-Qaeda threats and some of its hijackers. … 'Several of the categories of information are so critical to the issues in this case that the court can address some of the requests without a response,' Brinkema wrote. 'Moreover, given the increasingly shortening time before the start of the trial, discovery issues must be resolved quickly.' Granted Tuesday under seal, her order was released Wednesday after government censors blacked out about five lines of it." The AP notes that the "data clearly was sought by the defense for use in the first part of the upcoming court proceeding, in which prosecutors will try to convince jurors that the FBI would have prevented the Sept. 11 attacks if Moussaoui had told federal agents what he knew about al-Qaeda's desire to fly planes into U.S. buildings. The defense will argue that agents had more information about the plot than Moussaoui could provide but still could not prevent the attacks."

Scripps Howard (1/25, Gordon) reports, "The ruling could create a legal showdown, for example, if it requires intelligence agencies to produce classified information that they consider too sensitive to release, even to defense lawyers with government security clearances. … Jury selection is set to begin on Feb. 6, with opening arguments slated for March 6 in a sentencing trial to determine whether Moussaoui, who pleaded guilty to six conspiracy counts last April, should live or die."

Al Arian Lawyers Seek To Withdraw From Case If Retried. The AP (1/26) reports Sami al Arian's defense attorneys, Linda Moreno and Bill Moffitt, "asked a federal judge to let them off the case if prosecutors retry the former college professor on charges of aiding terrorists. … A hearing is scheduled for Friday. 'We gave everything we had, and I'm too exhausted to give anymore,' Moffitt…said Tuesday." The AP notes, "Federal prosecutor Terry Zitek told the court that if the case is retried, his team will need until June to present 'a streamlined case,' which should take about two months to present to a jury."

Texas Men Sentenced For Illegal Exports To Libya, Syria. In a widely-distributed story, the AP (1/26) reports Texas "brothers convicted of sending exports from their U.S. company to countries considered sponsors of terrorism were sentenced Wednesday to federal prison, the U.S. Attorney's Office said. Hazim Elashi was sentenced to 5 1/2 years in prison and will be deported after serving his sentence. His brother Ihsan 'Sammy' Elashi was given a six-year term, which will run consecutively to the four-year sentence he is currently serving. Hazim and Ihsan Elashi, their three brothers and their company," InforCom, "were convicted in 2004 on charges of making illegal technology shipments to Libya and Syria." The AP notes, "Agents from the FBI investigated InfoCom for years and raided the business the week before the Sept. 11 terror attacks. Attorney General John Ashcroft announced the original indictments against the brothers, calling it part of a campaign against 'the financiers of terror.'"

ACLU Files Lawsuit In Support Of Tariq Ramadan. The New York Times (1/26, Preston, 1.19M) reports that the ACLU filed a lawsuit in Federal District Court in Manhattan on behalf of scholar Tariq Ramadan, and three national organizations of academics or writers who have invited him to speak to their members yesterday, "seeking to strike down a clause of the USA Patriot Act that bars foreigners who endorse terrorism from entering to this country." Ramadan "has been denied a United States visa since July 2004, when he was on the verge of moving with his family to Indiana to take up a tenured professor's position at the Joan B. Kroc Institute for International Peace Studies at the University of Notre Dame. … The ACLU, joined by the New York Civil Liberties Union, brought the suit against Michael Chertoff, the homeland security secretary, and Secretary of State Condoleezza Rice, asserting that the Patriot Act clause is unconstitutional and that the ban on Mr. Ramadan violates the First Amendment rights of American thinkers who want to meet with him." The Wall Street Journal (1/26, A4, 2.11M) reports, "The lawsuit…intensifies the debate over the Patriot Act and reflects concerns in academia that the US's security precautions are hampering the flow of ideas between foreign and US scholars."

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PATRIOT ACT:

US Scholarly Organizations File Lawsuit Over Patriot Act Visa Provision. The Wall Street Journal (1/26, A4, 2.11M) reports, "Three scholarly organizations sued the federal government over its 2004 decision to revoke a visa granted to a European expert on Islam," Tariq Ramadan, "preventing him from taking a faculty position at the University of Notre Dame. The lawsuit…intensifies the debate over the Patriot Act and reflects concerns in academia that the U.S.'s security precautions are hampering the flow of ideas between foreign and U.S. scholars." The Journal adds, "The lawsuit asks the U.S. District Court in New York City to declare unconstitutional a portion of the Patriot Act that denies entry on the grounds of 'ideological exclusion' to those who have endorsed or espoused terrorist activity or who have persuaded others to do so. 'There is simply no evidence' of Mr. Ramadan supporting terrorism, said Barbara DeConcini, executive director of the American Academy of Religion, one of the plaintiff groups." The New York Times (1/26, Preston, 1.19M) notes, "The ACLU, joined by the New York Civil Liberties Union, brought the suit against" DHS Secretary Michael Chertoff "and Secretary of State Condoleezza Rice, asserting that the Patriot Act clause is unconstitutional and that the ban on Mr. Ramadan violates the First Amendment rights of American thinkers who want to meet with him." The AP (1/25, Neumeister) and Knight Ridder (1/26, Strobel) also report on the lawsuit.

HOMELAND RESPONSE:

Georgia ACLU Releases Documents Allegedly Showing Spying On Activist Groups. The Atlanta Journal-Constitution (1/26, Montgomery, 430K) reports, "In the name of fighting terrorism, the U.S. government and police agencies from the federal to the local level have been spying on Georgia anti-war rallies, peace and social action groups, and even a vegan protest, the state legal director of the American Civil Liberties Union charged Wednesday. Documents and surveillance photos obtained by the ACLU through a Freedom of Information Act request reveal a pattern of 'spying on Georgians who are our friends and neighbors, and are leading lawful lives,' attorney Gerald Weber said…outside the Georgia Homeland Security offices in downtown Atlanta. … 'Many of us remember the days of J.Edgar Hoover, and this is another reminder,' said state Rep. Nan Grogan Orrock." The Journal-Constitution adds, "A special agent at the FBI press office in Washington who would not give her name said the FBI 'investigates groups or individuals when we have information or allegations of federal law being broken. We do not investigate groups or persons exercising their constitutional right of protest or dissent.'"

The AP (1/26) reports the ACLU "released two documents from the FBI and DeKalb County Homeland Security," and "Weber says so far the ACLU has received complaints from six organizations and nearly two dozen people who fear they have been spied upon, photographed, videotaped or had their events infiltrated by government agents. He says none of them did anything that would justify surveillance but rather are critics of the Bush administration." The AP notes, "FBI spokesman Bill Carter says all FBI investigations are conducted in response to information that the people being investigated were involved in or might have information about crimes."

White House Declines To Release Documents On Katrina Warning. NBC Nightly News (1/25, story 2, 2:00, Williams) in its story on Federal Katrina relief reported, "Congress also wants answers from the White House about the poor Federal response to Katrina, and tonight members of both parties complain the President is holding back important information about who knew what and when." Sen. Joe Liebermann: "They haven't given us the documents we've asked for. They haven't let us into the people in the White House who were involved in the decision making regarding Hurricane Katrina." Gregory: "The White House cites executive privilege." Scott McClellan, White House Press Secretary: "The President believes that Senator Lieberman ought to have the right to confidential conversations with his advisors, just like all presidents have asserted they ought to have that same right."

The New York Times (1/26, Lipton, 1.19M) reports, "In their four months of digging, House and Senate investigators have collected hundreds of thousands of pages of documents and testimony from governors, mayors, Homeland Security and Pentagon officials and dozens of others touched by Hurricane Katrina." While Republican leaders of the two committees are satisfied with "the mountains of still-accumulating evidence," to Democrats, "crucial holes still remain, particularly related to what senior White House aides and the president knew, and how they reacted to this knowledge, right before the storm and after it." Senator Joseph I. Lieberman "said Wednesday that he realized it was unlikely he could get the information he wanted by threatening to subpoena. Even if one were issued, the administration would probably fight it in court."

MSNBC's Hardball (1/25, Shuster) reported, "Ratcheting up a battle with Congress, the Bush White House is now refusing to turn over Hurricane Katrina related documents or make senior officials available for testimony. The Administration contends executive branch discussions about the storm are not open to review by Congress. … It

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was Senator Lieberman, the President's favorite Democrat, who on Tuesday alleged the Bush Administration's refusal to cooperate has killed the Katrina investigation."

Landrieu Says Administration Should Be More Forthcoming. Sen. Mary Landrieu said on MSNBC's Hardball (1/25), "I believe the committee, the Bipartisan Committee of Senator Collins and Lieberman, has asked for those records. They are truly acting in a bipartisan spirit. And we would like a full investigation of actually what happened. Not so that we can spend time blaming…but that we can prevent this from happening again, and we can get on the business of rebuilding New Orleans, Louisiana, and the Gulf Coast. So you'll have to ask them specifically what they asked for, but I would hope they would provide all the records so we could get to the bottom of whose fault it was that the levees broke and how do we fix it in the future." Asked about White House claims that the requested information is privileged, Landrieu said, "I would think it would be in the country's best interest, as we seek to protect the people of this nation from terrorist attacks, from catastrophic events, that we would have a real independent investigation of that. Our governor has turned over a great deal of information. I'm assuming that our mayor and local officials have. The White House needs to step up and be very forthcoming. But more than turning over that information, the White House needs to turn over some good plans for rebuilding. All we've heard is a lot of empty promises and criticism."

Vitter Criticizes Federal, State and Local Responses To Hurricane. Sen. David Vitter said on MSNBC's Hardball (1/25), "We need to understand what broke down at the federal level and the state level and the local level. Because things clearly broke down at every level. This was not a disaster that was predictable. This was a disaster that was utterly predicted in print, in studies like the hurricane pan exercise. And every level of government fell flat." Vitter added, "I was disappointed at the federal response, very disappointed. I said so matter of factly the Friday after the storm. I gave the whole recovery effort an F. And the state response was just as poor and the local response."

White House Rejects Plan To Buy Out Katrina Home Owners. In a story that characterized the White House as declining to approve aid for Louisiana NBC Nightly News (1/25, story 2, 2:00, Williams) reported on "the long road back for the Gulf Coast, specifically the state of Louisiana. Crippled by Katrina and hoping for a $30 billion Federal relief package that just today was shot down by the Bush White House." NBC (Gregory) added, "Despite lofty promises, the White House has rejected Louisiana's homeowner bailout plan which local officials consider it crucial for recovery." Rep. Richard Baker, New Orleans: "To leave us in that state of disrepair without the hope of recovery is very troubling." Gregory: "The White House considers the" state plan to buy out home owners as "too expensive and bureaucratic suggesting instead the state settle for the more than $6 billion in Federal grants released today to bail out just those homeowners who didn't have insurance because they lived outside the floodplain." Administration officials "say more Federal dollars may come later, but acknowledge that conservatives in Congress are worried about spiraling costs."

The New York Times (1/26, Nossiter, 1.19M) carried a similar tone, reporting, "The White House decision to withhold support from a major Congressional reconstruction plan left Louisiana officials expressing bewilderment on Wednesday over what they characterized as the lack of a workable alternative from the Bush administration. … 'The White House simply needs to tell us what their plan is,' Gov. Kathleen Babineaux Blanco said Wednesday at a news conference in Baton Rouge. 'We don't see an adequate plan. You can't fix a $12 billion problem with $6 billion.'"

Reuters (1/25, Roberts) reported, "A group representing mortgage bankers also said President George W. Bush had yet to offer an alternative that was comparable to the plan proposed in Baker's legislation to create the Louisiana Recovery Corp. 'We'll really pay attention to the State of the Union address because we'll be anxious to see what the president is going to propose as a plan for rebuilding those devastated areas,' said Kurt Pfotenhauer, senior vice president of government affairs at the Mortgage Bankers Association. 'It's clear that some plan has to be in place in order to spur the investment of private capital.'"

USA Today (1/26, Dorell, Konigsmark, 2.31M) reports, "Donald Powell, President Bush's coordinator for Gulf Coast rebuilding, suggested that money from the government's funding grant, announced Wednesday, be doled out to roughly 20,000 homeowners who weren't in a flood zone and did not have flood insurance when Hurricane Katrina hit. State officials must draw up plans for disbursing the money and get federal approval." Blanco said the plan "simply will not work," and added that "she won't use the money as the White House recommends. 'We are not in the business of choosing between our citizens.'"

Highlighting the severity of the damage caused by Hurricane Katrina, NBC Nightly News (1/25, story 10, 1:30, Williams) also reported that some viewers were complaining about NBC's continuing coverage of the impact of Hurricane Katrina. NBC defended the extent of its coverage saying that it reported on the impact of all of last year's hurricane's in the region, but "Katrina is different. Katrina displaced two million Americans. It destroyed 350,000 homes. Not all the bodies have been found yet. It exposed cracks in our society, and it has us talking about race and class and money and relief. It affected what we pay for gas and may affect what we pay in taxes. It literally rearranged the map of the Gulf Coast. There

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are many heroes, but no one villain. Tonight, one of the great American cities is partially in ruins, and many of our fellow citizens are hurting and have nothing left. And in some places, nothing's been done yet." And "we intend to keep covering it."

Nagin's Comments Scrutinized. The Washington Post (1/26, C1, Haygood, 744K) reports, "New Orleans Mayor Ray Nagin blew into the original Chocolate City yesterday. Everywhere he goes these days, there seem to be things to explain, his words and comments tossed about as if, well, in yet another hurricane." Attending the winter meeting of the US Conference of Mayors at the Capital Hilton, Nagin said, "I don't get what all the fuss was about when I talked about New Orleans being a chocolate city. I mean, I understand the frustration with my 'God' comments. Maybe I went a little overboard. But Chocolate City? Come on.'"

Flood Insurance Program Administrator Seeks Changes. The New York Times (1/26, 1.19M) reports, "The administrator of the National Flood Insurance Program asked Congress on Wednesday to allow the elimination of discounts on as many as 1.2 million policies and suggested that the government consider requiring millions more homeowners to buy coverage. The program expects to borrow $23 billion from the Treasury to pay claims from Hurricanes Katrina, Rita and Wilma." David I. Maurstad, the administrator, "asked Congress to order the program's parent agency, the Federal Emergency Management Agency, to study expanding coverage requirements to properties in areas known as 500-year flood plains, with a 0.2 percent chance of flooding in any year, and to properties protected by levees and dams. He estimated that would affect four million to six million properties."

The Wall Street Journal (1/26, Schroeder, 2.11M) reports "the Senate Banking Committee is preparing to overhaul the federal flood insurance program, resulting in much higher premiums for many homeowners and a likely taxpayer bailout. … While broad legislation hasn't yet been proposed, several committee members and experts who appeared before the banking panel yesterday agreed that the insurance program needs to be restructured to operate more like a private insurance company."

WAR NEWS:

US, Iraqi Forces Repel Insurgent Attacks In Ramadi. US Marines and Iraqi troops repelled insurgent attacks in Ramadi Tuesday afternoon, killing seven insurgents. The Washington Post (1/26, A18, Finer, 744K) reports, "Five insurgents -- whose assault included mortar, small-arms and machine-gun fire -- were killed by a strike from a Marine Harrier jet as they gathered in a nearby cemetery, according to a statement from Capt. Jeffrey S. Pool, a Marine spokesman in the city. Two other fighters died in a firefight after insurgents used a rocket-propelled grenade to attack a military convoy entering the city's main government compound. No U.S. or Iraqi forces were wounded in the clashes, the statement said." The Post adds, "During the fighting, Zaal Shehan Mahmoud, 30, a cameraman for the Baghdad TV network, was killed by more than 20 bullets to the head, abdomen and legs, according to Mohammed Dulaimi, a doctor at the Ramadi hospital."

Officials See Rift Between Foreign Fighters, Local Insurgents. Maj. Gen. Richard Zahner, deputy chief of staff for intelligence for multinational forces in Iraq says a deepening rift between radical foreign fighters and native Iraqi insurgents has turned violent, creating an opportunity for US forces to try to persuade local guerillas to lay down their arms and join the political process. USA Today (1/26, Jervis, 2.31M) reports, "Iraq's national security adviser, Mouwafak al-Rubaie, also said there is a rift in the insurgency, calling it a 'a major step forward in our fight against terrorism.'" Zahner "said the insurgency consists of about 12,000 to 15,000 hard-core Iraqi fighters and supporters, as well as 1,000 militants loyal to al-Qaeda in Iraq, of which about 10% are foreign."

Videos Of Insurgent Attacks Provide Training Tool For US Forces. USA Today (1/26, Diamond, 2.31M) reports, "Videotapes of insurgent attacks in Iraq have become a potent propaganda tool for militant Islamists but also a handy training aid for U.S. forces, according to Army briefing documents being given to U.S. officers deploying for duty in Iraq. Insurgents routinely videotape their attacks and sometimes post the footage on the Internet as propaganda to show tactical victories against U.S. military convoys or helicopters. A briefing report prepared by the intelligence division of the Army's Training and Doctrine Command shows how the Army is mining the insurgent tapes for ways to avoid casualties." The briefing "report says 55% of U.S. military deaths in Iraq are attributed to improvised explosive devices, the military's term for roadside bombs, and small-arms attacks. It says 59% of U.S. military deaths occurred in Baghdad and Sunni-dominated Anbar province, which runs from just west of Baghdad to the Syrian border. Designed to help soldiers know what to expect and how to counter insurgent tactics, the briefing also warns that Iranian-backed Shiite militants as well as Iraqi Sunnis and foreign Sunni fighters are regularly mounting attacks."

US Troops Train Iraqi Police To Defeat Insurgents, Combat Corruption. NBC Nightly News (1/25, story 6, 2:00, Miklaszewski) reported that Colonel Bushar Hussein, commander of Iraq's first special police brigade, and his "commandos are slowly taking back parts of the city." And

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"he isn't doing it alone. For the past nine months, 10-man teams of US military advisors have trained and fought alongside Iraqi police commandos. Major General Joe Peterson heads the increased US effort to turn Iraqi police into an independent fighting force by the end of this year." Peterson: "Our troops are making a significant difference in increasing that capability." Miklaszewski: "Despite some progress, the Iraqi commandos are far from fighting entirely on their own." Peterson: "There are times when a guy will walk off down the street and buy a pack of cigarettes while we are trying to provide security. And I'll have to fix him." Miklaszewski: "In addition, some police units have been infiltrated by militias while others are reportedly ripe with corruption." And "Colonel Bushar warns that government corruption and incompetence may pose more of a threat to the future of Iraq than the insurgents. And in the long run, may be even more difficult to defeat."

US To Release Five Female Iraqi Prisoners. ABC's World News Tonight (1/25, story 3, 0:25, Woodruff) reported, "Iraq's justice ministry said at least five Iraqi women, in US custody, would be freed soon, possibly tomorrow. This would go a long way toward meeting the demands of militants who kidnapped American journalist Jill Carroll of the Christian Science Monitor. A US spokesman confirmed the release of prisoners would occur, but the US has said consistently that any release would be a coincidence and not a response to the kidnapping."

The CBS Evening News (1/25, story 4, :45, Schieffer) reported, "US officials insist this is not linked to the demand by the kidnappers of American journalist Jill Carroll that US forces release all women detainees."

The Christian Science Monitor (1/26, Murphy, 61K) reports, "Reuters reported that Iraqi officials have suggested the delay in releasing the women was linked to the demands of the kidnappers of American journalist Jill Carroll, who threatened to kill her by last Friday unless all women prisoners were freed. The deadline passed with no word on Ms. Carroll's fate."

However, the Washington Times (1/26, Deshmukh, 90K) says that the Iraqi Justice Ministry official "denied that the release of the women had anything to do with kidnappers' demands, and U.S. forces have stressed they do not negotiate with hostage-takers."

Reporter Recounts Attempted Kidnapping In Iraq. The Washington Post (1/26, C1, 744K) excerpts the book "Tell Them I Didn't Cry: A Young Journalist's Story of Joy, Loss, and Survival in Iraq" by reporter Jackie Spinner. In it, Spinner writes, "For 13 months in 2004 and 2005, my half was in Baghdad, dodging mortar rounds, roadside bombs and potential kidnappers, while [twin sister] Jenny worried from home that I would not be able to keep my promise to my nephew, her young son. 'Aunt Jackie always comes back,' I told him each time I returned to Baghdad, to a place that began to feel more like home the longer I stayed." Spinner recounts a day outside Abu Ghraib prison, "when a stranger grabbed my arm and began dragging me toward a car. … Another man came up behind me and grabbed me around the waist. Someone else grabbed the pillowcase that held my belongings and threw it aside. At first I couldn't fathom what was going on. What was happening to me? Were they trying to kidnap me? They were trying to kidnap me! My heart pounded. … Once the men who grabbed me saw the Marines, they let go, and everyone scattered."

In Wake Of Carroll Kidnapping, Journalist Rethinks Dangers In Iraq. Journalist Alissa Rubin writes in the Los Angeles Times (1/26, 958K), "When Jill Carroll was kidnapped, other journalists in Iraq were aghast that something so horrible had happened to someone they knew. But many insisted privately that it never would have happened to them. … The truth is that we are working in a war zone where no rules apply. No one is safe: not Iraqis, not Westerners, not men, not women." Rubin adds, "For most journalists in Iraq, it's hard to be honest about danger, even though we talk about it all the time. … To family and friends not in Iraq, it is incomprehensible why you came here, and certainly why you returned twice, three times — in my case, over and over for nearly three years. … For me, at least, what is true is that once in a while as a journalist you get the chance to witness history, a moment when tectonic plates shift, when more is at stake than you ever imagined you would touch or see. It's the adrenaline surge of being in a place where people's lives are in the balance, where every decision counts and where what you're writing might, might just matter. … I was aware of the statistics: Since the beginning of the war, 60 journalists, five of them women, had been killed in Iraq and at least 37 abducted, according to a tally by the Committee to Protect Journalists. But like all the other foreign journalists in Iraq — fewer than 75 of us, down from more than a thousand after the war — I needed to believe that I was going to slip through. After [journalist Jill] Carroll's abduction, I don't feel that way anymore." Iraq "is hostile ground and nothing I do can make it safe."

Former General Says Iraq WMD Moved To Syria Before US Invasion. Former Iraqi general George Sada, author of "Saddam's Secrets, How an Iraqi General Survived Saddam Hussein," in an interview on Fox News' Hannity & Colmes (1/25) said, "I want to make it very clear to everybody in the world that" there were weapons of mass destruction in Iraq "and the regime used them against our Iraqi people. It was used against Kurds in the north. Against Arabs." Asked whether Iraq had the WMD when the US toppled Hussein's regime, Sada replied, "Up to the year

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2002, 2002, in summer, they were in Iraq. And then when Saddam realized that the inspectors are coming on first of November and the Americans are coming, so he took the advantage of natural disaster happened in Syria, a dam was broken. So announced to the world that he is going to make an air bridge" and moved the WMD to Syria.

Kurdish Writer's Prosecution Seen As Test Of Iraq's Move Toward Democracy. The New York Times (1/26, Oppel, 1.19M) reports on Kamal Sayid Qadir a Kurd who, from Austria has written articles accusing Kurdish leader Massoud Barzani's Democratic Party of corruption "while calling members of its intelligence service, the Parastin, criminals and its chief -- Mr. Barzani's son -- a 'pimp.'" Qadir is now imprisoned in Iraq, "sentenced last month to 30 years for defaming the Parastin and Kurdish political leaders after a trial that he said had lasted 15 minutes." The Times adds, "His case, while extraordinary, is by no means unique." These prosecutions "indicate how much remains at play in newly democratic Iraq. The nation has made remarkable steps away from totalitarian rule: the overthrow and prosecution of a genocidal dictator, two national elections and the adoption of a Constitution. But it remains to be seen how far Iraq will ultimately travel toward true Western-style democracy." Iraq "is still testing the limits of responsible free speech, and some of the name-calling and rumor-mongering that goes on clearly oversteps the boundaries. Many of Mr. Qadir's criticisms exceeded what would be tolerated in other Middle East countries, particularly his assertions about the sexual proclivities of the Barzani clan. A number of Kurdish journalists who have called Mr. Qadir's imprisonment outrageous say they are nevertheless uncomfortable with some of his writings, calling them offensive and reckless."

Arrest Of Police Strains Relations Between Iraqis, UK Troops. The Los Angeles Times (1/26, Moore, 958K) reports, "Tensions continued to simmer Wednesday between local Iraqi officials and British troops in the Shiite-dominated southern city of Basra, where the British this week arrested 14 law enforcement officials, including two senior police intelligence officers, allegedly linked to political corruption and assassinations. The British released several of the men Wednesday, but a spokesman for the Basra provincial council said that eight remained in custody, including three who had been transferred to a prison facility after British authorities said they had bomb-making materials in their possession. … The province has responded to the arrests by threatening to cut off all cooperation with British forces in Iraq's second-largest city."

Soldiers Make Digital Memorials For Fallen Comrades. The Wall Street Journal (1/26, Searcey, 2.11M) reports, "Digital photography, video and Internet access have let soldiers in Iraq stay closer to distant friends and family than troops in any other war. Now, these electronic records are also creating a powerful and raw new wave of war memorials. … Wartime cinematographers say commanders ask to review the videos before they're shown at memorial services to make sure they don't degrade the image of soldiers with, for example, footage showing them drinking."

Hoagland Says Administration Has Been "Bitten" By Reality In Iraq. Jim Hoagland writes in the Washington Post (1/26, A25, 744K), "Iraq's Dec. 15 balloting was orderly and inspiring, but it has created an aftermath that is neither of those things. It has also forced the Bush administration into a silent reassessment of where Iraq is going and how it is going to get there. Increasingly, the country drifts toward the future as two relatively stable autonomous regions and a violently unstable central zone, all linked by a weak central government and a reduced, reactive U.S. military presence." The Bush Administration "gives no sign of trying to hurry things along as it concedes it must deal with the election results it has, not the results it wanted. Those were canceled by the poor showing of Ayad Allawi and Ahmed Chalabi -- secularists who conceivably could have been strong, independent executives -- and successful electioneering by Iranian-backed Shiite parties distrusted by Washington. … Reality has bitten the Bush administration in Iraq and forced the president to settle for less than he wanted. Let's hope that reality can now do the same with Iraq's newly empowered Shiite leaders."

In 1998, Clinton Said No-Fly Zones Over Iraq Would Be Enforced. In its "History Lessons" column, the Washington Times (1/26, 90K) excerpts a December 28,, 1998 statement by then-President Bill Clinton. Clinton said, "I think I should say a few words about an incident early this morning over the skies of Iraq, where American and British air crews were enforcing a no-fly zone in Northern Iraq. They were fired on by Iraqi surface-to-air missiles. They took evasive action, returned fire on the missile site, and returned safely to their base in Turkey ... They attacked because they were attacked. And they did the appropriate thing. We will continue to enforce the no-fly zones."

Musharaff Blames US Missile Attack For Increasing Domestic Turmoil. The Wall Street Journal (1/26, Champion, Kempe, 2.11M) in an interview with Pakistan President Pervez Musharraf at the World Economic Forum reports Musharraf "said a suspected U.S. missile attack on a Pakistani village that killed civilians this month 'probably' killed five or six al Qaeda operatives, but had

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'harmed our interests' by violating his country's sovereignty and feeding domestic unrest." He "said his goal is to transform Pakistani society by ending conflicts like the one in Baluchistan, defusing Islamist extremism and generally calming 'a nation in turmoil.'" Gen. Musharraf said, "We want to guard our own sovereignty." He "also said his close cooperation with the U.S. in the fight against terrorism hadn't been damaged, and that Pakistan needs the technical help the U.S. can offer to gather intelligence. 'Intelligence is far more significant and difficult than operating against [al Qaeda],' he added."

India Provides Aid To Afghanistan. The Washington Times (1/26, Nelson, 90K) reports, "India has poured more than a half-billion dollars of foreign aid into Afghanistan in the past three years in an attempt to create a friendly and stable neighbor in a volatile part of the world." India's "effort, which continues despite a Pakistani blockade of Indian goods bound for Afghanistan, touches all aspects of life." Tensions "between India and Pakistan has complicated proposed energy pipelines from Afghanistan, which would have to run through Pakistan on the way to India." But some observers "think Pakistan is more worried about losing its dominant position in Afghan trade."

Rumsfeld Takes Issue With Reports Saying US Military Is Overstretched. Fox News' Special Report (1/25, Hume) reported, "A couple of new reports suggesting that the US military is overstretched or overstressed or both drew a sharp response from the Secretary of Defense. One report was funded by the Pentagon itself." Fox (Baier) added, "On Capitol Hill today, former officials from the Clinton Administration joined top Democrats to release a new study on the state of the US armed forces. Titled 'The US Military -- Under Strain And At Risk,' it concludes the war in Iraq threatened the battle-readiness of US troops. … At the Pentagon, Defense Secretary Donald Rumsfeld addressed the criticism head on." Rumsfeld "said today's US military, while trying to recover from underfunding…is far from broken." Rumsfeld "pointed out there are more than 2 million troops in the US military if you're counting active duty, National Guard and Reserves and only 136,000 troops in Iraq."

NBC Nightly News (1/25, story 5, :45, Williams) reported, "Two new reports say tonight the US military is so overburdened from the wars in Iraq and Afghanistan that it's near the breaking point. One report flatly warns ground forces are stretched so thin and under such enormous strain, the Pentagon may not be able to recruit and retain enough troops in the all volunteer army to defeat the insurgency. This afternoon, Defense Secretary Donald Rumsfeld responded." Rumsfeld: "This armed force is enormously capable. In addition, it's battle hardened. And it is not a peace time force that has been in barracks or garrisons." Williams: "Rumsfeld pointed out that there are 138,000 US troops in Iraq, out of two million total including the National Guard and Reserve units."

In a brief story The CBS Evening News (1/25, story 3, :45, Schieffer) noted, "Rumsfeld took strong issue today with former Clinton Administration officials who say the wars in Iraq and Afghanistan have stretched the US military to the near breaking point. At a Pentagon news conference, Rumsfeld called that misdirected, and he praised the military as, quote, 'enormously capable and battle hardened.'"

The Wall Street Journal/AP (1/26) says Rumsfeld "spoke a day after the Associated Press reported that an unreleased study conducted for the Pentagon said the Army is being overextended, thanks to the two wars, and may not be able to retain and recruit enough troops to defeat the insurgency in Iraq. Congressional Democrats released a report Wednesday that also concluded the U.S. military is under severe stress."

The Washington Times (1/26, Scarborough, 90K) reports that Rumsfeld responded to the reports with a "combative appearance at a Pentagon press conference. He reminded reporters that during the Clinton years, when the military was sent on about 50 war and peacekeeping missions, that the force suffered from lack of funding and that some units were 'hollow pieces.'" Rumsfeld "said anyone who concludes that the Army is breaking does not know what he or she is talking about. 'I suspect the people writing these things don't know, either, because I suspect that they don't have any more insight than the other people around here do,' he said. 'I just can't imagine someone looking at the United States armed forces today and suggesting that they're close to breaking. That's just not the case.'"

USA Today (1/26, Komarow, 2.31M) says Rumsfeld "dismissed" the reports, "calling their authors ill-informed about America's 'battle-hardened' forces." Speaking at a news conference, Rumsfeld said, "People just don't fully understand," adding that today's military is "battle hardened. It's not a peacetime force that has been in barracks or garrisons."

The Washington Post (1/26, A18, Tyson, 744K) reports that Rumsfeld "said a recent decision to scale back U.S. troop levels in Iraq did not grow out of a need to relieve the strain on American ground forces." Rumsfeld said, "The force is not broken," adding, "I just can't imagine someone looking at the United States armed forces today and suggesting that they're close to breaking. That's just not the case." Rumsfeld called the US military an "'enormously capable force,' as demonstrated to the world by its swift overthrow of governments in Iraq and Afghanistan. Such proven capability

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'ought to increase the deterrent rather than weaken it,' he added."

Study Finds Active Duty Reservists Earn More Than In Civilian Jobs. A study released yesterday by the RAND Corporation says that nearly three-fourths of military reservists called to serve in Afghanistan and Iraq are making more money on duty than in their civilian jobs. USA Today (1/26, Komarow, 2.31M) reports, "In many cases, the troops earn a higher gross salary in civilian life. But when the federal tax exemption and other allowances approved by Congress for troops in combat are factored in, about 72% are better off, according to a study by the RAND Corp., a research institute. The RAND study, which was funded by the Pentagon, showed an average benefit of 25% over civilian pay, about $10,000 a year." USA notes, "The study results run counter to complaints by Reserve and Guard troops that they have suffered financially when activated. It is part of an effort to track the war on terrorism's effects on part-time troops."

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Federal Judge Extends Temporary Appointment Of Alabama US Attorney. The Mobile (AL) Register (1/26, Kirby) reports, "Chief U.S. District Judge Ginny Granade has extended the term of U.S. Attorney Deborah Rhodes, whose temporary appointment to the Mobile office expires this month." The Register continues, "Rhodes took over for David York, who resigned in September amid reports of an internal Department of Justice investigation into allegations that he had an improper relationship with an assistant prosecutor." The Register adds, "Under the law, the Justice Department could replace York for a maximum of 120 days. The statute gives the chief judge of the district the power to name the U.S. attorney beyond that, and Granade said Tuesday that she complied with a request by the Justice Department to extend Rhodes' tenure until President Bush names a permanent successor. … When appointed to Mobile, Rhodes, 47, was on special assignment to the Justice Department in Washington as a counselor to the assistant attorney general of the criminal division."

DHS Assisting DOJ With Case Management System. Federal Computer Week (1/25, Arnone) reports, "The Homeland Security Department is helping the Justice Department develop new case management systems for the entire federal government, DHS' chief information officer said today." FCW continues, "DHS is working with DOJ to create a Consolidated Enforcement Environment (CEE), which allows access to all available data, analyzes data and links relevant law enforcement partners, DHS' CIO Scott Charbo said. … One goal of the collaboration is to move beyond products and create a layer of information that can be used governmentwide, Charbo said."

CORPORATE SCANDALS:

Enron Trial Seen As Big Test For Federal Prosecutors. The New York Times (1/26, Eichenwald) reports, "In the court of public opinion, they were convicted long ago. But as Kenneth L. Lay and Jeffrey K. Skilling, the onetime leaders of Enron, step into a court of law next week, the outcome of their fraud trial is far from certain, creating one of the most closely watched and hotly contested white-collar criminal cases ever." The Times continues, "On one side of the Houston federal courtroom starting Monday will be two top-flight teams of defense lawyers, who will be taking the risky approach of proclaiming many of the controversial actions of Enron and some much-criticized statements of their clients to be legal and truthful." The Times adds, "On the other, the prosecutors for the Justice Department's Enron Task Force, who have racked up an impressive array of guilty pleas in the case, but whose performance at trial has been decidedly less dazzling. … 'For the government, if they lose the Enron case, it will be seen as a symbolic failure of their rather significant campaign against white-collar crime,' said John C. Coffee Jr., a professor at Columbia Law School. 'It will be seen as some evidence that some cases are too complicated to be brought into the criminal justice process.'" The Times notes, "Of the three major Enron-related criminal cases brought by the government before juries, guilty verdicts stand from only one, which involved Enron's booking what the government said were phantom profits on the sale of Nigerian barges to Merrill Lynch. A second case, against the accounting firm Arthur Andersen, was thrown out by the Supreme Court on appeal. The third, involving the broadband division of Enron, resulted in no convictions, but the five defendants await a retrial."

Success Of Efforts To Curb Corporate Fraud Seen As Problematic. The Washington Post (1/26, D1, Johnson, Ben White) reports, "Four years after the collapse of Enron Corp. spurred the most sweeping revisions in business regulation since the Great Depression, experts warn that the ingredients for a similar financial disaster remain." The Post continues, "Despite new laws and regulations, companies still face enormous pressure to meet short-term financial goals, creating a powerful motive for accounting fraud. Outsized executive compensation grows by the year, offering another rich incentive to cook the books. And there is no certainty that Congress will continue to fund regulatory budgets at current levels. … But some things have changed since December

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2001, when Enron's sudden descent into bankruptcy protection rocked investor confidence and left the markets reeling. Accountants face independent oversight for the first time in 70 years. Most corporate board members take their jobs far more seriously. Wall Street is somewhat less willing to accommodate clients' interests." The Post adds, "Nearly a dozen experts contacted by The Washington Post, including regulators, accountants, chief executives, board members and investor advocates, agreed to fill out a corporate governance report card on the eve of the Enron trial. … Congress passed the Sarbanes-Oxley Act in July 2002, imposing new duties on corporate executives, auditors and directors. The Securities and Exchange Commission and the Justice Department spent tens of millions of dollars to root out malfeasance. Along the way, prosecutors won criminal convictions and decades-long prison terms for former leaders of Adelphia Communications Corp., Tyco International Ltd. and WorldCom Inc. … But in a sense, the government efforts may have backfired, inspiring a dangerous overconfidence among investors."

Ex-Enron Employees Still Feel Effects Of Stock Price Plummet. USA Today (1/26, Armour, 2.31M) reports, "Four years after the Texas energy giant began its meltdown -- and on the eve of a criminal trial for its former top executives -- many former Enron employees still feel betrayed." Some of them, "at the end of their careers, have started over again in new jobs -- but working harder to keep up with younger co-workers. They've turned to churches and food pantries to eat, sold homes they could no longer pay for, and endured financial stresses that frayed their marriages."

Former Securities Broker Pleads Guilty To New York Market-Timing Charge. The AP (1/26, Gormley) reports, "A former Las Vegas securities broker pleaded guilty to a felony charge Wednesday in a mutual fund investigation in which investors were defrauded through improper late trading and market timing, according to New York Attorney General Eliot Spitzer." The AP continues, "Daniel Calugar, 52, now of Ponte Vedra, Fla., pleaded guilty in state Supreme Court in New York City to violating a state business integrity law called the Martin Act. He was accused of entering into a secret agreement in August, 2001, that defrauded a mutual fund called the Franklin Small-Mid Cap Growth Fund. … He faces up to four years in prison when he is sentenced March 23." The AP adds, "Earlier this month, Calugar agreed to pay $153 million to settle civil charges brought by the U.S. Securities and Exchange Commission. Calugar will relinquish $103 million in ill-gotten gains and pay a civil penalty of $50 million, the largest penalty regulators have imposed on an individual in a late trading and market timing case, SEC officials said. … Spitzer said Calugar secretly agreed to a deal with an employee of Franklin's investment adviser. Calugar would be allowed to rapidly trade in the mutual fund without paying a 2 percent penalty. Calugar then invested $10 million in another hedge fund run by Franklin and defrauded the fund and its shareholders of more than $1 million in fees that he avoided."

Livedoor Investigation Prompts Re-Examination of Japanese Accounting Standards. The Wall Street Journal (1/26, Hayashi, Morse) reports, "The investigation into Internet company Livedoor Co. has pointed a spotlight" on Japanese accounting standards, which need to be upgraded, the article says. The Journal notes, "Tokyo district prosecutors arrested Livedoor Chief Executive Takafumi Horie on suspicion of violating securities law." Now, "in Japan, experts … are calling for stepped-up efforts to improve accounting standards, as companies .... increasingly use sophisticated and aggressive financial techniques." In particular, the article notes, "Japan has no standards on accounting for special-purpose companies," and no rules "on how to interpret revenue at Internet and software companies, whose business structures tend to differ significantly from those of traditional companies." However, the article notes, changes are beginning to take place, with the Financial Services Agency issuing "a guideline calling for closer examination of accounting firms and requiring companies to rotate their accountants more frequently" and the Accounting Standards Board of Japan adopting "a handful of standards in the past two months, covering areas from mergers and acquisitions to executive compensation."

CRIMINAL LAW:

Leahy Seeks Information From DOJ On Google Subpoena. Reuters (1/26, Vicini) reports, "The Senate Judiciary Committee's top Democrat asked Attorney General Alberto Gonzales what steps are being taken to protect Americans' privacy rights as the Justice Department demands information about Internet searches." Reuters continues, "In the letter released on Wednesday, Sen. Patrick Leahy of Vermont asked Gonzales about the subpoena to Google Inc. and three other companies seeking data about what millions of Americans search for on the Internet's leading search engines." Reuters adds, "Leahy asked about the types of information being sought, how the department intends to use the information while protecting individual privacy rights and civil liberties and whether it will issue any additional subpoenas. … Leahy's letter comes at a time of growing criticism in Congress over the government's monitoring of communications, after the disclosure that the

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Bush administration has been conducting domestic eavesdropping after the September 11 attacks."

CNET News (1/25, Broache) reports, "Justice Department spokesman Charles Miller said the department planned to respond accordingly, though he was not sure what the response would entail. … As for the privacy concerns raised by Leahy, 'We've addressed that in our subpoenas and to the search engines,' Miller said. 'We weren't seeking information about the individuals, we were only seeking the search terms....We don't even want to know the names of the people.'"

Rep Davis Questions Google's Response To Subpoeana. Government Computer News (1/25, Grimes) reports, "House Government Reform Committee Chairman Tom Davis (R-Va.) said today that search giant Google Inc. has 'bent over backward' to comply with the Chinese government's demand that it block certain search results in order to operate in that country. So why, he wondered, won't the company cooperate with the U.S. Justice Department in its efforts to fight online pornography?" GCN continues, "Google has refused a Justice Department subpoena for search results, saying it violated users' privacy. The government has said it needs the data to prepare a case regarding the 1998 Child Online Protection Act. … Other search companies have complied with the subpoena. … The company today also launched a Chinese version of its search site after agreeing to censor topics such as Falun Gong and Tibet. … 'Google gave the Chinese everything they wanted. They're not going to put data on there about human rights,' Davis said." GCN notes, "Davis spoke to public-sector CIOs today at a summit hosted by Micrsosoft Corp. Microsoft's MSN service also censors search results in China, as do Yahoo and others. Microsoft, Yahoo and America Online have also reportedly given the Justice Department information it was seeking. … 'What does it mean to be a corporate citizen, working to bring terrorists or child pornographers to bear? What are the boundaries?' Davis said. 'These are new areas for a lot of us that we've got to work our way through.'"

Dow Jones (1/25, Richmond) reports, "In the last week, Google Inc. stood up to one government and acquiesced to another. … The moves show the kind of treacherous terrain the Internet giant, whose corporate philosophy is 'Don't Be Evil,' must traverse as it weighs its ideals and its business interests. It also spotlights how important Google (GOOG) has become as a key waypoint on the global Internet, where individual and government interests around access to information can and do collide. … 'Google is at the cutting edge in terms of trying to figure out what is acceptable and what is not acceptable in this century,' when the Internet is making information more accessible than ever before, says Lauren Gelman, associate director of Stanford Law School's Center for Internet and Society. 'What happens to information Google collects? I think this is a big question for society as new technologies evolve and we have to rethink privacy and censorship.'"

The Christian Science Monitor (1/26, Macdonald) reports that Google is confronting "an age-old business dilemma caught up in the new age of globalization: When governments demand something that compromises the interests of customers, what's a company to do?" The article notes that Google launched service in China and "because of government sensitivities there, will limit what users there can access." However, the article says, Google is also "vigorously fighting US government efforts to obtain data on its users' search habits." The article quotes one expert who lauds Google's decision to fight the subpoena, and another who dislikes Google's decision. The article notes that "So far, Google seems to be winning points for its tough stand against the US Department of Justice. According to one survey released this week, 56 percent of American users of the Internet believe Google should not release information about Web searches to the government." But overseas, the article says, "Google has endured criticism, as has Microsoft's MSN search service, for limiting what Chinese users can find."

Debate In Google Case Not Really About Privacy. The New York Times (1/26, Liptak) reports, "The Justice Department went to court last week to try to force Google, by far the world's largest Internet search engine, to turn over an entire week's worth of searches. The move, which Google is fighting, has alarmed its users, enraged privacy advocates, changed some people's Internet search habits and set off a debate about how much privacy one can expect on the Web. … But the case itself, according to people involved in it and scholars who are following it, has almost nothing to do with privacy. It will turn, instead, on serious but relatively routine questions about trade secrets and civil procedure." The Times continues, "The privacy debate prompted by the case may thus be an instance of the right answer to the wrong question. As recently demonstrated by disclosures of surveillance by the National Security Agency and secret inquiries under the USA Patriot Act, the government is aggressively collecting information to combat terror. And even in ordinary criminal prosecutions and in civil lawsuits, Internet companies including Google routinely turn over authentically private information in response to focused warrants and subpoenas from prosecutors and litigants. … But 'this particular subpoena does not raise serious privacy issues,' said Timothy Wu, a law professor at Columbia. 'These records are completely disconnected. They're just strings of words.'" The Times notes, "In its only extended discussion of its reasons for fighting the subpoena, a Google lawyer told the Justice Department in October that complying would be bad for business. 'Google objects,' the lawyer, Ashok Ramani, wrote,

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'because to comply with the request could endanger its crown-jewel trade secrets.' … Mr. Ramani's five-page letter mentioned privacy only once, at the bottom of the fourth page, and then primarily in the context of perception rather than reality. … Even Google's allies are shying away from legal arguments based on privacy. The American Civil Liberties Union, for instance, said it planned to file papers supporting Google. But not on privacy grounds. 'We will probably not be making that argument,' said Aden J. Fine, a lawyer with the civil liberties union." The Times adds, "Other Internet search engine companies, including Yahoo, America Online and MSN, have complied with the same Justice Department subpoena, which also sought a random sample of a million Web addresses. The companies all said there were no privacy issues involved. … A Justice Department spokesman, Brian Roehrkasse, agreed. 'We specifically stated in our requests,' he said, 'that we did not want the names, or any other information, regarding the users of Google.' … None of this is to say that subpoenas for search records linked to individuals are inconceivable. Google maintains information that could be used that way, and a subpoena could ask for it. But the recent subpoena does not."

Louisiana Businessman Pleads Guilty To New Orleans Contract Fraud. The AP (1/26) reports, "A businessman described by federal prosecutors as a key player pleaded guilty Wednesday to conspiring in a kickback scheme for the biggest contract signed while Marc Morial was New Orleans mayor. Terry Songy "admitted taking kickbacks from subcontractors, participating in a larger kickback conspiracy with the city's director of property management, and failing to file federal income tax returns for 2001, U.S. Attorney Jim Letten said." The AP notes, "An affidavit filed with the guilty plea states that, after FBI agents approached him, Songy 'admitted his involvement in a much larger scheme than the government was aware' of. … The indictment described Songy as sharing hundreds of thousands of dollars in kickbacks with the three major defendants: Morial associates Stan 'Pampy' Barre, a restaurant owner and Morial confidant, city property manager Kerry De Cay, and construction company owner Reginald Walker. … All three have denied wrongdoing. Their trial is scheduled Sept. 5 before U.S. District Judge Carl Barbier."

Six Indicted On Bribery Charges In Ongoing Tennessee License Fraud Probe. The Tennessean (1/26, Carey) reports, "A widespread bribery scheme funneled hundreds of illegal aliens into a Winchester, Tenn.-based driving school, netting them fraudulent licenses. And six people, including one current and one former state employee, got more than $146,000, federal prosecutors said yesterday. The U.S. attorney's office yesterday unsealed a six-count indictment of the six people who are accused of helping hundreds of people since May 2004 obtain driver's licenses they didn't earn. … 'Just as in previous investigations, you had those who thought that what they did in secret would never come to light,' said My Harrison, FBI special agent in charge for the Middle and Western Districts of Tennessee. The FBI was one of several agencies involved in the probe. U.S. Attorney Jim Vines said the people who fraudulently received licenses weren't eligible for 'a variety of reasons.'" The Tennessean adds, "The investigation, dubbed Operation Crooked Highway, has been under way by federal and state agencies for 18 months, Vines said yesterday." The Murfreesboro Daily News (1/26) notes, "The FBI charged driver's license examiner Bruce Conklin with taking about $9,200 in cash from July 2005 to January. Agents also charged Bryan Guess, owner of the Winchester Driving School…with paying bribes to Conklin and a former examiner, Teresa Jones.

The AP (1/26) reports, "Authorities said they won't know how many illegal documents were issued until all evidence is studied and declined to speculate on the total. They did say that one state worker accepted $20 per student in bribes for about 1,000 licenses or certificates. 'We come to you with another sad chapter in the book of public corruption in Tennessee,' FBI agent in charge My Harrison said at an afternoon news conference." The AP adds, "Citing a number of recent public corruption investigations in Tennessee, Harrison said agents were getting better with practice. 'If you can hear me and are involved in public corruption, the eyes of law enforcement are upon you,' she said." The Nashville City Paper (1/26, Lewis) also notes Harrison said that "it's the latest 'sad chapter' in a string of Tennessee public corruption cases." She added, "You've heard of Operation Tennessee Waltz, Operation Tarnish Blue and Operation Tarnish Shield. What can I say? Same game, only the names have changed. The title of this new chapter is, Operation Crooked Highway." The City Paper adds that as a result of the investigation, "customs officials took into custody 50 undocumented immigrants and began deportation proceedings against 50 other immigrants who were uncovered in the investigation, said Rick Crocker, assistant special agent in charge of Immigration and Customs Enforcement."

IRS Agent Downplays Ryan's Eventual Declaration Of Campaign Funds As Income. The Chicago Tribune (1/26, O'Connor, 643K) reports IRS Agent Shari Schindler "on Wednesday downplayed that former Gov. George Ryan filed corrected tax returns for 1995, 1996 and 1997 several years later because Ryan knew by then of the federal investigation into his finances." Schindler "said that by the time Ryan filed the amended returns in late 2002, each of his six children had testified before the grand

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jury and there had been press coverage of the nature of the probe." On cross-examination, Ryan lawyer Dan Webb "contended that records showed Ryan had paid taxes on most of the travel expenses, but that certain charges hadn't been itemized in campaign disclosure reports, fell through the cracks and mistakenly weren't reported on Ryan's returns." But Assistant US Attorney Laurie Barsella "pointed out that Roger Bickel, Ryan's former chief lawyer, had spelled out for Ryan 'in plain English' that personal use of campaign funds had to be reported on his tax returns." The AP (1/26, Robinson) notes that the "verbal fencing match between" Webb and Schindler "came to an end with no one sure who emerged the victor. Webb repeatedly tried to get her to agree that Ryan couldn't be blamed if he failed to report thousands of dollars in income because he was grappling with vague, complex tax laws. Schindler coolly disagreed, saying Ryan easily could have asked his tax advisers."

Prosecution Hopes To Rest Thursday After FBI Agent's Testimony. The Chicago Tribune (1/26, O'Connor, 643K) also reports Assistant US Attorney Patrick Collins "said he still hopes to rest the prosecution case on Thursday after four months of testimony. The FBI's case agent is scheduled to be the government's last witness." And US District Judge Rebecca Pallmeyer "ruled Wednesday that prosecutors can play a portion of a videotape of Ryan from November when he made a statement to reporters outside the court defending his receipt of $9,675 from the Gramm campaign." The AP (1/26, Robinson) notes, "Prosecutors indicated Wednesday night that just one more prosecution witness remains - Raymond Ruebenson, the veteran FBI man who has long been the case agent for the government's seven-year Operation Safe Road investigation that led to the former governor's indictment. But Ruebenson was absent with a case of the flu Wednesday.

Laski Vows To Fight Bribery Charges, Alleges US Withheld Exculpatory Recordings. The Chicago Tribune (1/26, Washburn, 643K) reports, "Facing federal corruption charges, a defiant James Laski vowed Wednesday to 'keep fighting,' insisted his office is running smoothly and took sharp issue with claims he was away from his job as Chicago city clerk for a prolonged period before charges were filed. 'Somebody is lying, and it isn't me,' Laski declared. The clerk's comments came after a surprise appearance at a City Council committee meeting, his first visit to the council chamber in nearly two months." The Tribune adds, "Laski implied Wednesday that exonerating portions of the recordings were not released when the U.S. attorney's office announced the charges against him on Jan. 13."

Former Campbell Aides Testify About Relationship With Contractor. The Atlanta Journal-Constitution (1/26, Suggs, Scott, 430K) reports former Atlanta contracts compliance director Michael Sullivan testified at former Mayor Bill Campbell's corruption trial on Wednesday "that in 1994 he and the former mayor, along with city contractor Ricky Rowe, traveled together to Florida to attend a golf and tennis tournament sponsored by Black Enterprise magazine. Sullivan said the city paid for his trip. He said he was unsure of who paid for Campbell's but noticed that when he and Rowe were checking out of the hotel, Rowe used his credit card for Campbell's incidentals. … 'He was upset that I allowed Mr. Rowe to pay for his incidentals,' Sullivan told the jury. 'He told me that you can't use a credit card to pay for things like that. It leaves a trail.'" The Journal-Constitution adds, "The theme of loyalty to the mayor was played over and over Wednesday, witness after witness, as prosecutors tried to establish that City Hall under Campbell…was a den of cronyism and deal-making between Campbell, his friends and political allies. None of the prosecution's witnesses testified that Campbell made them do anything illegal, nor did they say they saw Campbell doing anything criminal."

Wisconsin Procurement Official Indicted Over Travel Contract Award. The AP (1/26) reports, "An official in Gov. Jim Doyle's administration was indicted on two felony counts Tuesday for her role in awarding a state travel contract to a company whose executives donated $20,000 to Doyle's campaign. The federal indictment alleges that Georgia Thompson, chief of the Department of Administration's procurement bureau, tried to give her bosses political advantage and help her own job security." The AP notes Thompson, "who was hired before Doyle took office in 2003, served on a committee that awarded a contract to Adelman Travel as part of an effort to cut travel costs. … Questions were raised this summer after media reports that Adelman's CEO donated $10,000 to Doyle before the contract went into effect. An Adelman board member gave another $10,000 afterward, finance reports show."

Former New Jersey Councilman Pleads Guilty To Money Laundering. The Farmingdale (NJ) News Transcript (1/25, Front Page, Israeli) reports former Marlboro Township Councilman Thomas Broderick "pleaded guilty in federal court last week to one count of money laundering. … Broderick was one of the 11 Monmouth County officials who were arrested…in an FBI investigation known as 'Operation Bid Rig.' … Broderick admitted that he accepted $15,000 for assisting in the laundering of large sums of cash from a cooperating government witness whom he believed was a corrupt demolition contractor." The News Transcript notes, "He is scheduled to be sentenced on April 27. Broderick remains free on $50,000 bail."

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Contractor Sentenced To Probation, Fine For SoCom Bribery Scheme. The Tampa Tribune (1/26, Lardner) reports, "A contractor formerly employed by U.S. Special Operations Command was sentenced Wednesday to three years probation and a $4,500 fine for his role in a bribery scheme that has tarnished the war fighting organization's reputation for acquiring equipment used by the nation's elite fighting forces. U.S. District Judge Susan Bucklew, who called William E. Burke's crime 'scary' and a 'bad thing,' could have saddled him with a prison term of up to 16 months and a heftier fine. But Bucklew opted for the lighter penalties mainly because Burke has been cooperating with federal law enforcement agents examining contracting practices at Socom, which is headquartered at MacDill Air Force Base in Tampa."

Texas Hired Abramoff-Linked Firm Due To Access To Rove. The AP (1/26) reports the Texas state government "hired a firm with close ties to lobbyist Jack Abramoff after rejecting competing bids that met more of its selection criteria and cost less." The Austin American-Statesman reported that Cassidy & Associates, the winning firm, has access "all the way to presidential aide Karl Rove. … The firm was awarded a $15,000-a-month contract in 2004 to lobby Congress for the state." On Friday, seven Democratic Texas state legislators sent a letter to Gov. Rick Perry "demanding that Cassidy's contract be canceled."

California Man Pleads Guilty To Cyber Attack. Federal Computer Week (1/26, Brewin) reports, "A hacker indicted for creating botnet armies that infected Defense Information Systems Agency networks and computers at the Naval Air Warfare Center at China Lake, Calif., pleaded guilty to the charges at a hearing earlier this week in the U.S. District Court in Los Angeles, the Justice Department said." FCW continues, "Justice said James Ancheta 20, of Downey, Calif, entered guilty pleas of conspiring to violate the Computer Fraud Abuse Act and causing damage to computers used in national defense." FCW adds, "Justice said the prosecution of Ancheta was the first of its kind in the United States against a hacker who used botnets, armies of computers infected with Trojan horse programs that allowed Ancheta to remotely control the computers. Justice said Ancheta controlled more than 400,000 computers as part of his botnet armies, which in turn infected other computers with unwanted adware."

Former Dietary Supplement Company Executives Admit $100 Million Mail Fraud. The AP (1/26) reports, "Former executives of a mail-order firm admitted that the company bilked buyers out of more than $100 million by charging credit cards without permission and offering refund guarantees it had no intention of honoring. Four former executives of Berkeley Premium Nutraceuticals Inc. detailed their involvement Wednesday with the Cincinnati-based company that sold vitamins and supplements for a variety of ills from fatigue to sexual disfunction. The four executives filed written statements as part of an agreement to plead guilty in U.S. District Court in Cincinnati to charges of conspiracy to commit mail and wire fraud. Federal agencies -- including the FBI, the Internal Revenue Service and the Food and Drug Administration -- have been investigating Berkeley." The AP adds, "The former executives said Berkeley's vitamins and supplements…weren't supported by strong medical proof, according to court documents."

Jury Convicts Palestinian Man Of Being Iraqi Agent. The AP (1/26, Callahan) reports, "Jurors on Wednesday convicted a Palestinian migrant accused of being an Iraqi agent on six federal charges but could not reach a decision on a charge that he tried to sell to Saddam Hussein's regime the names of U.S. operatives and agents." The AP continues, "Shaaban Hafiz Ahmad Ali Shaaban, 53, showed little reaction as the federal jury returned its verdicts finding him guilty of six of seven counts, including acting as an unregistered foreign agent, violating sanctions against Iraq, conspiracy and witness tampering. … They could not decide his guilt on a charge of violating the International Emergency Economic Powers Act by allegedly trying in late 2002 to sell U.S. intelligence secrets to Iraq for $3 million. No evidence was presented during his trial, however, that he had access to that classified information. … U.S. District Judge John Tinder set sentencing for April 13 on the six convictions." The AP notes, "Shaaban represented himself during an 11-day trial that included testimony by a former Iraqi intelligence officer. He repeatedly contended that the government had confused him with a dead identical twin brother who worked for the CIA."

Three Kidnap Suspects Face Federal Charges In Ohio. Cox News Service (1/26, Giordano, Hardy) reports, "The FBI on Wednesday brought criminal charges against three people accused in the abduction, assault and robbery of a Miami University freshman." Cox continues, "Sidney R. Jones, 23, of Richmond, Ind.; Katrina L. Jones, 18, of Oxford; and Seth R. Jett, 21, of Richmond were turned over to federal custody Monday by local authorities, Special Agent Michael E. Brooks said. … The three had been detained at the Butler County Jail following their arrests Jan. 14 and 15 stemming from a case involving MU freshman Ryan Coli. … The charges were the result of a joint effort by the U.S. Marshals Service and the FBI in three states." Cox adds, "The three appeared Wednesday in U.S. District Court

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(in Oxford, OH) where Magistrate Judge Timothy S. Hogan ordered them held pending a detention hearing Jan. 30, when the court will determine bond."

Supreme Court To Hear Lethal Injection Case. The Washington Post (1/26, A3, Lane, 744K) reports, "The Supreme Court agreed yesterday to decide when death row inmates may challenge lethal injection as a method of capital punishment, in a surprise decision issued after the justices dramatically stopped the execution of a Florida prisoner who was already strapped to a gurney preparing to die." The High Court said it will hear convicted murderer Clarence Hill's "claim that he should have an opportunity to argue that his civil rights would be violated because the chemicals used to execute him would cause excessive pain. It is a claim that has been pressed with growing frequency by capital defense lawyers around the country in recent years -- but that has generally not yet succeeded, either in lower courts or at the Supreme Court."

The AP (1/26, Holland) reports, "Lethal injections are used in most states that have capital punishment, and there's been a growing dispute over the way they are carried out. … The Supreme Court has never found a specific form of execution to be cruel and unusual punishment, and the latest case from Florida does not give Court members that opportunity. The justices will, however, spell out what options are available to inmates with last-minute challenges to the way they will be put to death." The AP adds, "Florida inmate Clarence Hill, who filed the appeal, had been strapped to a gurney with intravenous lines running into his arms Tuesday night when he won a temporary Supreme Court stay, Hill's lawyer said. The stay was signed by Justice Anthony M. Kennedy. … The full Court announced Wednesday that the stay would be permanent until justices decide whether an appeals court was wrong to prevent Hill from challenging the lethal injection method. … The argument is expected April 26, with a ruling before July."

Texas Executes Man For 1992 Murders. The Associated Press (1/25) reported that Marion Dudley, an "Alabama man who was part of a ring that shuttled drugs from Texas to his home state was executed [Wednesday] for the slayings of four people in Houston nearly 14 years ago." But the AP noted that Dudley maintained he wasn't at the house where the murders occurred the night of June 20, 1992, when "six people were shot, four of them fatally, in what authorities said was a drug dealer ripoff." Dudley was "the first Texas inmate put to death this year." The wire service added, "Besides Dudley, Arthur 'Squirt' Brown, of Tuscaloosa, was convicted of capital murder and sentenced to death. Now 35, he remains on death row. A third man, Tony Dunson, also from Alabama and 19 at the time of the shootings, received a life sentence."

ID Theft Complaints Rising, But Rate Of Increase Down. The Wall Street Journal (1/26, Conkey) reports, "Businesses, law-enforcement agencies and consumers may be beginning to turn the tide in the war against identity theft, data from the Federal Trade Commission suggest. Identity-theft complaints were up again last year to nearly 256,000, the FTC said, but that was only 3.5% higher than the year before. In 2004, complaints rose by 15% and in 2003 by 33%. … Industry officials and analysts say the development and widespread adoption of antifraud technologies are responsible for lower levels of card fraud." The article also said, "the FTC is expected to announce today tough action against" ChoicePoint Inc., which "is expected to agree to pay a multimillion-dollar penalty to settle alleged data-security violations stemming from a yearlong investigation by federal regulators, according to a person briefed on the matter."

Jury Reject Insanity Defense, Convicts Killer of Accused Pedophile Priest. The New York Times (1/26, Zezima) reports, "Rejecting an insanity defense, a state jury on Wednesday convicted an inmate of the prison murder of John J. Geoghan, a defrocked priest who was accused of molesting 150 boys. … Judge Francis R. Fecteau of Worcester District Court sentenced the inmate, Joseph L. Druce, to life in prison without parole, in addition to the life sentence he is serving for another murder. … Prosecutors argued that Mr. Druce was a calculated killer who planned the murder for weeks and saw Mr. Geoghan as a trophy. But Mr. Druce's lawyer, John LaChance, painted his client as someone who 'never had a chance,' unwanted from birth and the victim of physical and sexual abuse for much of his childhood and teenage years."

Girl's Death Highlights "Dual-Track" Handling Of Abuse Reports. The Christian Science Monitor (1/26, Ridberg) reports, "Calls to New York's child-abuse hot line have spiked dramatically ever since Nixzmary Brown was buried." The Monitor notes that the girl, allegedly killed by her stepfather, "captured the hearts and minds of New Yorkers who never want to see such a tragedy happen again." However, the article says, "the city is left with the tall task of distinguishing the serious cases of abuse from reports of neglect. This is one of the most controversial challenges facing social welfare systems nationwide." The article says that some states have adopted a dual-track system that divides complaints "into two groups." This approach "aims to ease systems overburdened with poverty-related neglect reports and focus aggressive tactics on the rarer cases of

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abuse," the article says. It "has been adopted in various states, including Michigan, Missouri, Minnesota, and North Carolina. In Minnesota, one recent study shows the law improved the safety of children by providing better services for families such as food." However, the article notes, New York City fears that under a dual-track approach "an abused child may be handled as a neglect case."

Fairfax County, VA, Police "Accidentally" Shoot, Kill Optometrist Suspected Of Gambling. The Washington Post (1/26, A1, Jackman) reports, "Fairfax County's police chief said yesterday that one of his officers accidentally shot and killed an optometrist outside the unarmed man's townhouse Tuesday night as an undercover detective was about to arrest him on suspicion of gambling on sports. Police had been secretly making bets with Salvatore J. Culosi Jr., 37, since October as part of a gambling investigation, according to court records." In the incident, "Culosi came out of his townhouse on Cavalier Landing Court about 9:35 p.m. and was standing next to the detective's sport-utility vehicle, police said, when the detective gave a signal to tactical officers assembled nearby to move in and arrest Culosi. 'As they approached him . . . one officer's weapon, a handgun, was unintentionally discharged,' said Fairfax Police Chief David M. Rohrer. Culosi was not making any threatening moves when he was shot once in the upper part of his body, police said. He was taken to Inova Fairfax Hospital, where he was pronounced dead."

Crimes Prompt DC Police To Beef Up Presence In Neighborhood. The Washington Post (1/26, B1, Schwartzman) reports, "A spate of crimes outside Adams Morgan clubs and bars, including two assaults in which victims were left in critical condition, has prompted police to plan greater deployment in the area. … A business group plans to supplement the effort with a contingent of security guards and off-duty police to patrol the area on weekends, said Josh Gibson, executive director of Adams Morgan's newly formed business improvement district. Thousands of people pour into Adams Morgan on weekend nights, drawn by its cafes and clubs."

Father Charged With Gun Offenses In Daycare Shooting. The Washington Post (1/26, B1, Londoño) reports that John L. Hall, who is the "father of an 8-year-old boy arrested in the shooting of a 7-year-old girl at their Germantown day-care center provided his son with violent video games and showed him how to cock and release a gun hammer the day before the boy pulled the trigger, a prosecutor said yesterday" at Hall's bond hearing. The Post reports, "Hall's sister, Darlene Hall, 53, disputed the prosecutor's characterization of her brother's influence over the child." The article adds, "Montgomery District Court Judge Mary Beth McCormick reduced Hall's bond to $75,000 yesterday after authorities charged him Tuesday with leaving a firearm within reach of an unsupervised minor and two other gun charges."

NYTimes Columnist Pans Show About Innocence On Death Row. In a New York Times (1/26) column, Joshua Marquis disapproves of a new ABC drama called "In Justice." He writes, "'In Justice' has received dismal reviews. But that hasn't stopped its premise from permeating the conventional wisdom: that our prisons are chock-full of doe-eyed innocents who have been framed by venal prosecutors and corrupt police officers with the help of grossly incompetent public defenders." Calling this "a misconception that has run through our popular culture," Marquis notes that "only 14 Americans who were once on death row have been exonerated by DNA evidence alone. The hordes of Americans wrongfully convicted exist primarily on Planet Hollywood." Marquis says that it is "understandable that journalists focus on the rare case in which an innocent man or woman is sent to prison." However, he says, "The larger issue is whether those who influence the culture, like an enormous television network, have a moral responsibility to keep the facts straight regardless of their thirst for drama. 'In Justice' may soon find itself on the canceled list, but several million people will still have watched it, and they are likely to have the impression that wrongfully convicted death row inmates are the virtual rule."

Times Writer Wistful For Buttafuoco Era. In a New York Times (1/26) column, Lawrence Downes writes, "Before Angie and Brad, before Monica and Bill, there was Amy and Joey. Amy Fisher and Joey Buttafuoco — the Long Island Lolita and her body-shop lover — with Joey's wife, Mary Jo, formed a triangle of passion, obsession and violence that became the industry standard for tabloid crime way, way back in 1992. There is an entire generation, or at least a cohort, or maybe a handful, or at least one or two journalists who remember working on that day in May when the story broke, and who still marvel at how that strange crime — a housewife in a swanky suburb shot in the face — soon became much stranger. It swelled in significance until it made headlines coast to coast and around the globe. … I miss the Buttafuoco era. Joey and Amy were the Sid Caesar and Howdy Doody of reality TV, relics of a simpler time when crime sold newspapers — imagine that — and when the culture tended to look down on adultery and teenage prostitutes, and when attempted murder carried a hint of shame, which presumably was why Amy, in her perp walk, went to the trouble of hiding her face with her long brown hair."

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CIVIL LAW:

Former Kentucky GE Plant Supervisor Files Whistleblower Suit. The AP (1/26) reports, "A former supervisor at a General Electric Co. plant has filed $50.5 million federal lawsuit that claims that he was fired for testifying that GE shipped defective parts to military and commercial customers." The AP continues, "James Richard Gardner, of Madisonville, filed the suit Friday in U.S. District Court in Louisville. Gardner said he repeatedly alerted managers at the Madisonville plant that engine turbine blades were not meeting company and government specifications and that defective parts were shipped with the knowledge of managers to meet production requirements." The AP adds, "Marta Rhyner, a GE spokeswoman, said she couldn't comment on specific allegations made in the lawsuit. She said the company is 'confident in the parts produced by our employees at Madisonville.' … The Defense Department began a criminal investigation at the plant in November 2000. The Justice Department is conducting a civil investigation."

Judge Rules Trustee Request Could Jeopardize Adelphia Bankruptcy. The New York Law Journal (1/26, Lin) reports, "In a decision released Wednesday in the Chapter 11 bankruptcy of cable company Adelphia Communications, the presiding judge said the motions by which one group of creditors sought the appointment of a trustee to oversee disputes and the disqualification of chief Adelphia bankruptcy counsel Willkie Farr & Gallagher constituted a 'nuclear war button' threatening obliteration of a crucial $17.6 billion deal." The Journal continues, "Southern District of New York Bankruptcy Judge Robert Gerber's strongly worded 113-page decision, In re Adelphia, 02-41729, previously filed under seal, clarified his order issued earlier in the week denying the appointment of a trustee but granting the disqualification of Willkie lawyers from participating in the disputes at issue. Willkie remains bankruptcy counsel to Adelphia. … Those disputes, which the requested trustee would have overseen, are between different groups of debt holders, all seeking to maximize their own claims on the bankruptcy estate, most of the assets of which are slated to be sold to rival cable companies Time Warner and Comcast for $17.6 billion." The Journal adds, "The potential appointment of a bankruptcy trustee is almost always controversial, as such trustees are usually granted broad-ranging powers to settle disputes or dispose of assets. … Gerber said the disqualification and trustee motions, brought in November by noteholders of Arahova, a subsidiary through which Adelphia issued some $540 million in debt, seemed designed to 'purposefully' imperil that sale as part of a 'scorched earth litigation strategy' aimed at extracting a larger distribution by threatening dire consequences for all."

GSA's Networx Contract Award Delayed By Unexpectedly High Number Of Bids. The Washington Post (1/26, D5, Mohammed, 744K) reports, "The General Services Administration said yesterday that it got more bids than expected for a $20 billion telecommunications contract known as Networx," a "10-year telecom contract, the largest ever to be awarded by the GSA," which is "forcing the agency to delay the award so it can evaluate the complex proposals."

Lockheed Loses Spy Plane Contract. The Wall Street Journal (1/26, A1, Karp, 2.11M) reports, "In 2004, Lockheed Martin Corp. won an Army spy-plane contract that broke with the past." Instead of building it, they "would serve as the 'lead integrator' -- stuffing somebody else's hardware with high-tech eavesdropping gear." However, "Lockheed engineers proved unable to load the airframe they were buying from Brazil with the equipment the Army wanted. Earlier this month, the Army scrapped Lockheed's contract," in "a setback for Chief Executive Robert Stevens and his young 'integrated solutions' division," and "a signal for the entire defense industry that de-emphasizing old-style hardware in favor of software and systems management isn't a sure path to success."

CIVIL RIGHTS:

Virginia Likely To Vote On Gay Marriage Ban; Similar Measure Unveiled In Maryland. The Washington Post (1/26, A1, Jenkins, 744K) reports, "The state Senate all but guaranteed on Wednesday that Virginia will hold a November referendum on whether to amend its 230-year-old Bill of Rights to bar same-sex marriages. The Senate voted 28 to 11 to follow the House of Delegates in approving the amendment. Though each chamber still must pass the measure adopted by the other, their wording is identical and support among the senators and delegates is strong." Meanwhile, Maryland Republicans "introduced a similar measure in the Senate on Wednesday and said they believe they have the votes they need to bring the matter to an up-or-down vote, despite resistance from leaders of the Democrat-controlled legislature. In the wake of a circuit court ruling last week that declared Maryland's 33-year-old ban on same-sex marriage discriminatory, GOP leaders said it was important to at least put the matter to a vote."

The Washington Times (1/26, Bellantoni, Miller, 90K) notes that Maryland Democratic leaders "appear reluctant to put a constitutional amendment on the ballot because it could

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energize conservative voters in an election year in which Gov. Robert L. Ehrlich Jr., a Republican, is seeking re-election, and Lt. Gov. Michael S. Steele, also a Republican, is running for the U.S. Senate." The Times adds, "In Virginia, state Sen. Stephen D. Newman said the constitutional amendment is necessary to guard against 'aggressive' judges in other states, including Maryland, who are trying to redefine marriage. 'A few judges or a few localities are now presuming to change that fundamental meaning for our civilization and their actions have created confusion on the issue,' the Lynchburg Republican said. 'The federal courts are going to leave us with no other recourse.'"

FBI Mississippi SAC Says Report Could Rewrite Till Story. The AP (1/26) reports, "An FBI report on the decades-old murder of 14-year-old Emmett Till could rewrite the story of the slaying that put a young man's face on racial injustice in the South during that period." The AP adds that "some details of the crime could have been distorted or embellished over the past five decades, the FBI special agent in charge of Mississippi, John G. Raucci, told The Associated Press this week. 'The facts were told one way because that's the information that was available at the time,' Raucci said. 'And often times it's through urban legends and folklore -- and people who lived in the community pass along information from generation to generation -- and the next thing you know, they become fact.' Raucci did not rule out the possibility of indictments in the case or provide a timetable for releasing the report." The AP notes that the FBI report "should soon be turned over to District Attorney Joyce Chiles in Greenville. 'That does not necessarily mean that everybody involved in the Emmett Till case or the overt act is still alive or will one day be prosecuted,' Raucci said. … 'Evidence may no longer be available. Individuals who may have witnessed an event, time has now gotten the better of their minds.'"

FBI Reaching Out To NC Hispanics In New Human Trafficking Initiative. The Charlotte Observer (1/25, Ordoñez, 234K) reports that with funding from the Trafficking Victims Protection Reauthorization Act, "The FBI is launching a new effort to raise awareness of human trafficking. Calling it an offense against humanity akin to modern-day slavery, the Federal Bureau of Investigation in Charlotte estimates thousands of victims are trafficked into the state each year for forced labor and prostitution. 'This is something that is flying under the radar,' said Special Agent Kevin Kendrick, who is heading the local campaign. … In conjunction with increased investigative efforts to shut down human trafficking rings, the FBI is teaming up with local advocacy groups and social organizations to get a message out that federal agents should be trusted and not feared. The FBI, Kendrick said, is looking to assist all victims of human trafficking, even if they're living in the country illegally. Not only will the FBI protect victims and their rights, Kendrick said, the agency also will help them remain permanently." The Observer adds, "'This is a reprehensible problem,' said Assistant Special Agent Robert Clifford. 'We'd look at every weapon in FBI's arsenal to countering human trafficking.' … 'We need to let people know it's OK to contact us,' Kendrick said. 'This is an affront against humanity. This goes far past someone's immigration status.'"

Georgia Lawmakers Approve Voter ID Bill. The AP (1/25) reports, "A birth certificate might not be enough to vote in Georgia this year - legislation sent to the governor Wednesday would require photo identification before voters could cast their ballots." The AP continues, "Gov. Sonny Perdue said he would sign it quickly to give counties time to prepare for the primary in July and the general election in November. … The U.S. Justice Department also must approve the requirement before it takes effect." The AP adds, "The legislation would require voters to have a driver's license, military ID or state-issued identification card with a photo. Social Security cards, birth certificates and utility bills would no longer be accepted. … Supporters said it would help fight voter fraud. Critics argued it would disenfranchise the poor, minorities or elderly - people who are less likely to have driver's licenses."

5th Circuit Rules Against Shreveport In Race Bias Suit. The Shreveport (LA) Times (1/26, McCabe) reports, "A federal appellate court changed its stance and ruled today in favor of plaintiffs in a discrimination lawsuit against the city of Shreveport and its Fire Department, overturning a lower court's decision to dismiss the five-year-old case." The Times continues, "The 5th U.S. Circuit Court of Appeals remanded the heart of the discrimination case back to U.S. District Court in Shreveport. … The petition originally was brought against the city in 2000 by Todd Dean, who was not hired by the Fire Department and felt the city's hiring practices discriminated against him because he is white. Dean earned a higher test score than some blacks hired then, his lawsuit alleges. Other men joined the lawsuit soon after." The Times adds, "The 5th Circuit's ruling should compel the city not only to cease race-based hiring procedures in all departments, but also to re-evaluate the continued validity of all city programs that incorporate race as a criteria for participation," said local attorney Pamela R. Jones, who represented Dean, Shawn Sanders and Jason Matthews in the lawsuit. … The department ended race-based hiring practices 11 months before a federal magistrate dismissed Dean's case in December 2004 hoping to avoid further lawsuits, according to officials. Now the department relies on a pass/fail civil service exam, the educational background and

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technical training of each candidate and psychological and physical ability exams. … The city has maintained that the Fire Department's hiring practices are based on a complaint brought by the U.S. Justice Department in 1980 that said the department had discriminated against blacks and women. Up to that point, the department had hired only three black men in its history, according to court records."

SIU Changes Web Descriptions Of Challenged Fellowships. The AP (1/26) reports, "While threatened with a federal lawsuit over three graduate fellowships the government considers discriminatory, Southern Illinois University has tweaked the descriptions of at least two of those scholarship programs on its Web site." The AP continues, "The fellowships at issue were said to specifically target minorities or 'underrepresented groups,' before the Justice Department objected last year, but the site now says those programs seek to help 'underserved' populations. … The revisions come as SIU administrators are weighing a Justice Department proposal that would head off a lawsuit threatened by the government, which in demanding that SIU discontinue the fellowship programs has accused the university of engaging in 'intentional discrimination against whites, non-preferred minorities and males.'" The AP adds, "The university has refused to publicly discuss the proposal it got from the Justice Department last week, saying only that administrators and key constituency groups were being tapped this week for feedback before the university responds. … David Gross, a spokesman for the SIU system, said Wednesday the Web site changes were done without the consent of the university's president, the Carbondale school's chancellor or the system's legal counsel and 'do not reflect the proposed offer from Department of Justice.'"

Judge Orders EEOC To Pay $1 Million To Law Firm For Frivolous Action. The AP (1/26) reports, "The U.S. Equal Opportunity Employment Commission must pay more than $1 million to a law firm that it sued unsuccessfully for allegations of sexual harassment and pregnancy discrimination, a federal judge has ruled." The AP continues, "The EEOC action was a 'frivolous' lawsuit against Robert L. Reeves & Associates, which practices immigration law, U.S. District Judge Dickran Tevrizian said in a ruling issued Monday." The AP adds, "Reeves maintained that the EEOC should have known the harassment and discrimination allegations the agency was pursuing were part of a scheme by two of his former law associates to destroy his firm, said a statement from lawyers representing Reeves. … The EEOC has already appealed the judge's findings, said Anna Park, the EEOC regional attorney in charge of the Los Angeles district office's legal division."

ANTITRUST:

Microsoft Offers To Release Part of Its Source Code In EU Antitrust Case. The Financial Times (1/26, Buck) reports, "Microsoft made a concession in its six-year dispute with European competition regulators on Wednesday by offering to give rivals access to parts of its Windows source code. With only three weeks until a compliance deadline set by Brussels, which had threatened fines of €2m ($2.5m) a day, Brad Smith, the group's general counsel, said: 'We are putting our most valuable intellectual property on the table.' … Microsoft's offer … came in response to a European Commission warning last month that it would impose fines unless the software group complied quickly with Brussels' 2004 antitrust ruling against the US group. The daily fines would come on top of the record €497m payment the Commission ordered in 2004. The regulator said Microsoft had failed to comply with a part of the ruling requiring the software group to share information about its Windows operating system."

The USA Today (1/26, Acohido) reports, "The European Commission issued a terse statement saying it would 'study carefully' Microsoft's announcement 'once it has received the full details.' … This is not the first time Microsoft has let outsiders view such code. It has granted governments, academics and business partners varying levels of access under tight restrictions."

Reuters (1/25, Lawsky, Zawadzki) reports, "Critics of Microsoft contend that protocols are standard software and that Microsoft has used what is essentially a digital combination lock to make them inaccessible. … A Commission spokesman said if that turns out to be true then Microsoft has no right to charge for them. … However, Microsoft says that the protocols include valuable patents and that it should be able to charge for their use, an argument under review at the Commission."

The AP (1/25) reports, "The company's chief counsel, Brad Smith, said sharing the part of the Windows workgroup server operating system and desktop software code that helps rival PCs communicate with Windows servers was 'a bold stroke' that should answer both EU and U.S. regulators' concerns. .. He insisted that Microsoft had already complied in December with an EU order to supply technical information by handing over up to 12,000 pages of documentation and offering 500 hours of free technical support to rivals worth some $100,000. … An independent monitor nominated by Microsoft found last month that the documents were 'totally unfit for its intended purpose.'"

Move Comes After Justice Department Complaints. The Wall Street Journal (1/26, Jacoby) reports, "The move came after the Justice Department complained in a court filing

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this week about Microsoft's compliance with U.S. legal requirements -- and six years after a U.S. judge found Microsoft violated the Sherman Antitrust Act against monopoly abuse. The Justice Department said the Redmond, Wash., software giant had provided inaccurate information to a technical committee, and described one incident as 'particularly troubling' because it delayed an investigative team that had traveled to India. The filing also said the company had 'fallen significantly behind' in complying with monitors' technical requests. … In 2001, the Bush administration dropped the U.S. government's case against Microsoft, but ordered it to change certain anticompetitive practices."

Guidant Accepts Boston Scientific's Takeover Offer. USA Today (1/26, Iwata) reports, "Medical device maker Guidant on Wednesday accepted Boston Scientific's $27 billion bid, rebuffing a lower offer from Johnson & Johnson and ending a long-running takeover war." USA continues, "The companies have been vying for an edge in the growing multibillion-dollar market for medical and heart devices, and Guidant's pacemakers, defibrillators and stents made it an attractive acquisition target. … The merger, to be completed early this year, will make Boston Scientific the world's No. 2 maker of implantable pacemakers and defibrillators. Boston Scientific also will gain share in the market for heart stent devices, which hold open blood vessels." USA adds, "Most Wall Street analysts and some Guidant investors had urged Guidant to take the pricier Boston Scientific offer, calling it a better long-term investment than J&J's deal. The combined company will have $9 billion in revenue in 2006, Boston Scientific says. … To help close the deal and appease antitrust regulators, Boston Scientific teamed with Abbott Laboratories. Abbott will pay Boston Scientific $6.4 billion in cash to buy Guidant's vascular intervention and endovascular businesses." … Approvals are needed from U.S. and European regulators, plus shareholders for both companies."

The New York Times (1/26, Feder) reports, "For Johnson & Johnson, Tuesday started with a morning conference call with analysts to discuss earnings and ended with William C. Weldon, the company's chief executive, and Robert J. Darretta Jr., the chief financial officer, attending a dinner for several dozen institutional investors at the '21' Club in New York. Throughout the day and evening, the company maintained a rigid silence about the one subject on everyone's mind — whether it would respond to a midnight deadline to counter Boston Scientific's bold $27 billion offer for Guidant." The Times notes that Johnson & Johnson released a statement yesterday "saying the company had 'determined not to increase its last offer for Guidant Corporation, because to do so would not have been in the best interest of its shareholders.' About the only comment was its reminder that Guidant was obliged to pay it a $705 million breakup fee by today. … It was a remarkably quiet conclusion to the biggest and most contentious takeover battle yet in the medical device industry. The outcome leaves Boston Scientific as the apparent winner of Guidant, the No. 2 company in the $10 billion market for defibrillators and other implantable devices that regulate human heartbeats."

BlackBerry Injunction Hearing Set For Feb. 24. The Wall Street Journal (1/26) reports, "BlackBerry maker Research In Motion Ltd. and NTP Inc. will appear in U.S. District Court for the Eastern District of Virginia Feb. 24 for the court to consider a shutdown of U.S. sales and service of the popular wireless email device. In recent court filings, RIM, based in Waterloo, Ontario, argued a BlackBerry shutdown isn't warranted for various reasons, including recent preliminary moves by the U.S. Patent and Trademark Office to reject NTP's wireless email patents. NTP, a Virginia patent holding concern, argues a BlackBerry shutdown is appropriate, since the court has already found RIM infringed on NTP's patents and case law calls for such a shutdown. The court could rule on the injunction as early as Feb. 24 or in the days following, an NTP lawyer said."

NYTimes Says Pixar-Disney Deal Is Chance To Reform Disney's Creative Culture. The New York Times (1/26, 1.19M) editorializes, "A company like" Pixar "— and a figure like Mr. Jobs, notable for his dynamic role at both Apple and Pixar — doesn't let itself be bought for money alone, though the money is certainly enticing enough. This is really an opportunity to infect, and change, the creative culture of Disney, which, back in its founder's day, used to be one of the most creative places around" but whose "animated films have been nothing to shout about in the past decade or so." For Pixar and Apple the deal has "only an upside," and "the same is true for Disney, especially if it keeps shedding the ways of Mr. Eisner's old company and allows itself to become what may turn out to be, in the end, Mr. Jobs's company after all."

ENVIRONMENT:

Three ELF Activists Indicted On Ecoterror Charges In California. Reuters (1/26, Fitzgerald) reports, "A federal grand jury indicted three alleged 'eco-terrorists' on Wednesday on charges of plotting to blow up facilities like dams and cell phone towers. 'These three individuals planned to commit a number of dangerous and destructive acts in our region, all in the name of the Environmental Liberation Front,' U.S. Attorney McGregor

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Scott told a news conference in the California state capital." Eric McDavid, Zachary Jenson and Lauren Weiner were "arrested January 13 outside a retail store in Auburn, California, following six months of surveillance of McDavid by federal authorities. … The charges were not related to a separate 65-count indictment handed down on Monday in Washington involving 11 environmental and animal rights activists in the Western United States." Scott "said the trio rented a house east of Sacramento in the foothills where they engaged in bomb-making. At some point, the three were joined by an unnamed woman who was a government informant. 'Because of the exceptional work of the FBI's Joint Terrorism Task Force and the brave efforts of a confidential source they were prevented from carrying out their planned attacks,' the U.S. Attorney said."

EPA Seeks Ban On Chemicals Used In Cookware. USA Today (1/26, Weise) reports, "In a surprise turn Wednesday, the Environmental Protection Agency moved to eliminate the production of a suspected carcinogen used in the making of Teflon and other non-stick and non-stain coatings. The EPA has asked eight manufacturers that use a family of chemicals known as perfluorooctanoic acid, or PFOA, to reduce production 95% by 2010 and to stop using it altogether by 2015. … Environmentalists and consumer groups have long dogged the agency to act. 'The science is still coming in, but the concern is there, so acting now to minimize future releases of PFOA is the right thing to do for our environment and our health'" says Susan Hazen of EPA's Office of Prevention, Pesticides and Toxic Substances." According to the article, "EPA officials are calling for voluntary PFOA cutbacks because 'under the Toxic Substances Control Act, they don't have authority to ban it,' says Richard Wiles of the Environmental Working Group, a public interest group that has long fought to bring public attention to PFOA in the environment." Wiles says that if the chemicals are phased out, it "will be 'the single biggest action the agency has ever taken.'"

The Washington Post (1/26, A1, Eilperin) reports favorable coverage of the EPA for this action. It quotes Ken Cook, president of the Environmental Working Group, who says, "'This is one of those days when the Environmental Protection Agency is at its best. With its announcement today, the EPA is challenging an entire industry to err on the side of precaution and public safety, and invent new ways of doing business. … As harshly as we have singled out DuPont for criticism for its past handling of PFOA pollution, today we want to single out and commend the company and acknowledge its leadership going forward."

DuPont Targeted. USA Today and the Post both note that DuPont was a particular target in the PFOA deal. In the first paragraph of its story, The Washington Post (1/26, A1, Eilperin) says, "Eight U.S. companies, including giant DuPont Co., agreed yesterday to virtually eliminate a harmful chemical used to make Teflon from all consumer products coated with the ubiquitous nonstick material." Both the Post and USA Today note that DuPont recently agreed to a $6.5 million settlement with the EPA over charges that it hid information about the dangers of PFOA.

ABC's World News Tonight (1/25, story 7, 2:50, Vargas) reported, "Today, the government asked companies to virtually eliminate" a chemical used to make Teflon "over the next nine years." Ross: "Today, the Federal government said DuPont had virtually agreed to eliminate any new emissions of the key Teflon chemical at its factories." Susan Hazen EPA: "This is the right thing to do. And we are going to move forward with it." The New York Times (1/26, Janofsky, 1.19M) adds, "DuPont immediately pledged to join the" voluntary program," along with "3M/Dyneon, Arkema, Asahi, Ciba, Clariant, Daikin and Solvay Solexis." The EPA says that "full compliance by the companies and their overseas affiliates would lead to a 95 percent reduction by 2010 in use of the substance, perfluorooctanoic acid, or PFOA, and to their total elimination by 2015."

Video Highlights Problems With Federal Mine Safety Oversight. NBC Nightly News (1/25, story 8, 2:30, Williams) reported, "Those two West Virginia mining disasters have now focused a lot of attention on mine safety in this country." A videotape tape shows "the perils of digging for coal. And the often lax oversight of this nation's mines." NBC (Myers) added, "This is the inside of Coal Creek Mine in southeastern Kentucky. Videotaped by a miner who smuggled a camera into work in June 2004 to document what he said were dangerous conditions." Edwin Pennington "is crushed under this slab of rock 200 feet long." One "safety official who investigated Pennington's death says his tragedy underscores a widespread problem in mines across the country. He says fines are too small to induce companies to fix hazards and the entire system has no teeth." Tony Oppegard, former Mine Safety & Health official: "The company has been going on about its business for the last year and a half without any consequences thus far."

Bush To Push For Reprocessing Of Spent Nuclear Fuel. The Wall Street Journal (1/26, Fialka, 2.11M) reports, "The Bush administration plans to announce a $250 million initiative to reprocess spent nuclear fuel, a first step toward reversing a 1970s policy that rejected reprocessing as too dangerous to pursue." The Administration's "decision to put the money into its fiscal 2007 budget to test new technologies is part of an effort to jump-start the nuclear-power industry at a time when energy prices

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are high and concerns about global warming make nuclear power plants more acceptable." The Journal adds, "According to nuclear industry officials and others briefed on the proposal in recent weeks, the program could be announced as early as next week in President Bush's State of the Union address. If the technology works, it could vastly reduce the amount of spent nuclear waste that would have to be buried in underground storage, such as at Nevada's Yucca Mountain, set to open after 2012."

The Washington Post (1/26, A1, Baker, Linzer, 744K) adds the fuel proposal "is part of a broader push by the president for domestic and global nuclear energy. With worldwide energy demands on the rise and U.S. reliance on foreign oil increasing, Bush has held out nuclear power as a solution that will not affect global warming."

Gore Documentary On Global Warming Has Premiere At Sundance Festival. The Washington Post (1/26, A1, Booth, 744K) reports that ex-Vice President Al Gore's documentary on global warming, "An Inconvenient Truth," "had its world premiere at the Sundance Film Festival on Tuesday night before an enthusiastic audience that gave the former vice president and his movie a big standing O. Among the film's lessons: Earth's glaciers are melting, the polar bears are screwed, each year sets new heat records." The Post notes, "The core of the film is a one-man, ever-evolving multimedia slide show that Gore assembled himself. A little-known fact: Since his defeat by George W. Bush in 2000, Gore has traveled the globe with his bar graphs, staging event after event for small, invited audiences. Free of charge. And he's presented one version or another of this slide show, by his own estimation, a thousand times. … In the film, Gore presents the latest evidence to demonstrate how the accumulation of carbon dioxide and other pollutants of the industrial age are increasing temperatures."

FBI/DEA/ATF/USMS:

Mueller Recuses Himself From Trade School Probe. Under the headline "F.B.I. Director Recused From Investigation Of Weld's Former School," The New York Times (1/26, Healy, 1.19M) reports in "Metro Briefing" that "The F.B.I. director will not play a role in the inquiry into Decker College, the Kentucky school once run by William F. Weld, because the director and Mr. Weld, a Republican candidate for governor, are friends and former colleagues, an F.B.I. spokesman said yesterday. … The New York Democratic Party had asked that Mr. Mueller recuse himself, according to a party spokesman. Mr. Weld has not been accused of any wrongdoing involving Decker, which declared bankruptcy last fall amid allegations of fraud."

Under the headline "Weld's Pal Off Inquiry," The New York Post (1/25, Dicker, 624K) reported yesterday, "FBI spokesman Richard Kolko told The Post that while the Decker probe was being handled by the special agent in charge of the Louisville, Ky., field office, Mueller himself is 'regularly briefed on significant investigations and cases.' And while Kolko insisted Mueller 'has not had a role in directing any part of this investigation,' he said, 'since the issue has been raised publicly, and to avoid even the appearance of any conflict, any decisions that would otherwise be made by the director in this matter will, instead, be handled by Deputy Director John Pistole.' Kolko's announcement came a few hours after state Democratic Chairman Herman 'Denny' Farrell joined D'Amato in urging Mueller to step aside. … Farrell said Weld and Mueller were 'good friends' during the 1980s when both served in the U.S. Attorney's office in Boston. He said Mueller had also contributed to Weld's unsuccessful U.S. Senate campaign against incumbent John Kerry of Massachusetts in 1996."

Minnesota Attorney Charged In Internet Pharmacy Scheme. The AP (1/26) reports, "A lawyer has been indicted (in Minneapolis) on federal charges alleging he helped an Internet pharmacy illegally obtain narcotics and helped its founder hide assets." The AP continues, "Daniel Adkins, who was general counsel for Xpress Pharmacy Direct, helped deceive legitimate pharmacies into supplying the narcotics that Xpress hawked over the Internet and by telephone, according to the indictment issued Tuesday." The AP adds, 'Federal authorities say Xpress filled about 72,000 illegal prescriptions for pain killers and other controlled substances, generating sales of about $20 million. Authorities shut down Xpress last May and company founder Christopher Smith, his accountant and a doctor who issued prescriptions were indicted in August. … The indictment alleges that Adkins helped Smith hide assets after they learned about the investigation. It also alleges that Adkins wrote to legitimate pharmacies from which Xpress ordered drugs, assuring them that Xpress was 'both legal and authorized by federal and state statutes.' … Adkins was charged with conspiracy to distribute and dispense controlled substances, wire fraud; unlawful distribution and dispensing of controlled substances and misbranding drugs. If convicted of wire fraud he could face up to 20 years in prison and a $250,000 fine, the U.S. attorney's office said."

Drug Ring's Alleged Second-In-Command Pleads Guilty. The Knoxville (TN) News-Sentinel (1/26, Satterfield) reports, "Admitting crimes that could lock him away for life made Stephen 'Black' Ardis downright scared Wednesday. Ardis, who was captured on secret recordings expressing worries that an undercover agent he dubbed

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'Superman' was on his trail, pleaded guilty in U.S. District Court to being second-in-command of a Detroit-to-Knoxville drug running operation. But the 26-year-old drug slinger made it clear before entering his plea that a possible life sentence was a scary proposition he wanted to avoid. … Assistant U.S. Attorney Mike Winck said the massive amount of drugs Ardis conspired to put onto Knoxville's streets guarantees the Detroit man a 20-year prison term. … The drug ring was broken in November after a probe led by U.S. Drug Enforcement Administration Agent Todd Lee and Knoxville Police Department Investigator Bruce Conkey. It was Conkey whom Ardis dubbed 'Superman' in a conversation secretly recorded by the agents during their investigation."

Prosecutor Delays Charges In Washington Bomb Case. The Tri-City (WA) Herald (1/25, Trumbo) reports, "Benton County prosecutors will need several weeks to decide potential charges against a Richland man who says he kept bomb-making material because he is a miner." The Herald continues, "Kevin D. Johnson, 49, was released from jail Friday, three days after Richland police arrested him at his home where they seized gunpowder, nitro-methane and about 20 pounds of ammonium nitrate. They also found six firearms." The Herald adds, "Prosecutor Andy Miller said Tuesday that no charges were filed during the 72-hour hold on Johnson because more investigation is needed. Items taken from the home also have to be analyzed by agents of the federal Bureau of Alcohol, Tobacco and Firearms, he said. … 'To prove the elements of the case, we'd have to get the ATF to test the items,' Miller said. … Richland police Capt. Mike Cobb said an ATF agent told him Tuesday analysis of the items found at Johnson's home would be completed in two to four weeks. … Cobb said the investigation also involves 91 blasting caps that allegedly belonged to Johnson that were found Jan. 15 at a home in Franklin County. Cobb said officers discovered the caps in a closet of a man's home after they investigated a domestic violence complaint."

IMMIGRATION:

Daughter Of Former Chilean Dictator Pinochet May Seek Asylum In US. Reuters (1/26) reports, "The eldest daughter of former Chilean dictator Augusto Pinochet on Wednesday asked the United States to grant her political asylum after she fled tax charges in Chile, Chilean officials said." Reuters continues, "Lucia Pinochet Hiriart, 60, was being moved to an immigration detention center late on Wednesday after spending most of the day at Dulles International Airport near Washington, Chile's Foreign Relations Minister Ignacio Walker told local radio in Santiago. … Earlier, Interior Minister Francisco Vidal said Chile had been told that Pinochet Hiriart had asked for asylum. … 'In the coming two or three days we will have a decision from the United States which, I insist, will be a rejection (of asylum),' Walker said." Reuters adds, "U.S. officials would not confirm that Pinochet Hiriart had requested asylum. … 'Lucia Pinochet is currently in U.S. Customs and Border Protection custody at Dulles International Airport, pending resolution of her immigration status,' said Jarrod Agen, a spokesman for the Department of Homeland Security. … Pinochet Hiriart has been charged with tax fraud related to some $1 million in undeclared taxes and falsification of documents as part of a widening tax evasion and fraud investigation involving the Pinochet family."

TAX:

Jury Finds "Survivor" Winner Hatch Guilty Of Tax Evasion. The AP (1/26, Henry) reports, "Richard Hatch, who won $1 million in the debut season of the reality show 'Survivor,' was found guilty Wednesday of failing to pay taxes on his winnings and taken straight to jail." The AP continues, "Hatch remained calm as the court clerk read the verdict. He waved goodbye to family members, then was handcuffed and taken into custody after U.S. District Judge Ernest Torres said he was a potential flight risk. … The charges carry up to 13 years in prison. Torres said he expected a sentence of between 33 months and 41 months, but said the time could be longer because prosecutors say Hatch committed perjury. Sentencing was scheduled for April 28." The AP adds, "Hatch, 44, was also convicted of evading taxes on $327,000 he earned as co-host of a Boston radio show and $28,000 in rent on property he owned. He was acquitted of seven bank, mail and wire fraud charges related to a charity, Horizon Bound, he planned to open for troubled youth. … Hatch's lawyer, John MacDonald, said he would appeal the verdict. He said Hatch was aware of the possibility of jail time."

Former Washington Man Wanted On Tax Charge Captured In Panama. The Puget Sound (WA) Business Journal (1/26) reports, "The U.S. Department of Justice said Wednesday that former Renton resident David Struckman has been captured in Panama. Struckman had been charged by the Internal Revenue Service for running an operation that promoted tax-avoidance plans." The Journal continues, "Struckman was indicted in 2004 and charged with conspiracy to defraud the United States. He then "disappeared," according to a Justice Department spokeswoman. He was arrested in Panama earlier this month

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and deported, the department said, and will be transported to Western Washington." The Journal adds, "The government alleges that Struckman and four others sold 'Global Prosperity' wealth-building products, including videotapes, CDs and seminars, which 'included fraudulent methods of income tax elimination.' .. The seminars cost as much as $37,000 to attend and, according to the government, the group then concealed income earned from the products by using bogus trusts and offshore bank accounts."

CONGRESS-ADMINISTRATION:

Full Senate Begins Debate On Alito Confirmation. CNN's The Situation Room (1/25, Blitzer) reported, "The full Senate debate is under way on Samuel Alito's nomination to the U.S. Supreme Court. A day after the judiciary committee cast the divided vote over Alito, Republicans and Democrats are voicing fierce support and opposition to the President's choice for the high court." Alito "met today with Republicans senators whose majority votes are expected to seal his confirmation despite strong Democratic opposition."

NBC Nightly News (1/25, story 3, 1:00, Williams) reported, "As the full Senate began debating his Supreme Court nomination, Judge Samuel Alito took something of a pre-victory lap on Capitol Hill, thanking Republicans who helped move his nomination to the expected finish line. On the Senate floor, Democrats continued to call him a bad choice, while Republicans praised him." Currently, "Alito has enough support to be confirmed right now."

The AP (1/26, Holland) also says Alito "took a victory lap in the Senate on Wednesday, accepting congratulations from Republican leaders as lawmakers moved toward confirming him in a largely party-line vote." Reuters (1/26) adds Alito "appeared to have the votes for confirmation…as the Senate began a bitter debate."

The Washington Times (1/26, Hurt, 90K) says Republicans "rounded up the 60 votes they need to block any attempt to filibuster his nomination." Meanwhile, Sen. Edward M. Kennedy "called the vote on the nomination 'the vote of a generation.'"

Fox News' Special Report (1/25, Angle) reported, "Though Alito appears to be on track for confirmation and though it appears Democrats aligned against Alito do not have the votes to sustain a filibuster, Virginia's Republican Senator George Allen felt it necessary to issue a warning today." Allen: "My reaction is if they move forward with such a filibuster, my reaction is, 'make my day.' We will enjoy pulling the constitutional trigger to allow Judge Alito a fair up-or-down vote."

ABC's World News Tonight (1/25, story 6, 1:15, Vargas) reported, "Senators were divided along party lines." Sen. Hillary Clinton: "Roe v. Wade is at-risk. The privacy of Americans is at-risk. Environmental safeguards, laws that protect workers from abuse or negligence. Laws, even, that keep machine guns off the streets. All these and many other, are imperiled." Sen. Edward Kennedy: "The record demonstrates that we cannot count on Judge Alito to blow the whistle when the President is out of bounds. He is a long-standing advocate of expanding executive power." Senate Majority Leader Bill Frist: "Judge Alito deserves to become Justice Alito. And those who oppose him are smearing a decent and honorable man and posing an unfair political standard on all judicial nominees."

Bush Meets With Alito's Former Clerks. CNN's The Situation Room (1/25, Blitzer) reported the President met "with about 40 people, Republicans and Democrats, who've clerked for Judge Alito. It is another attempt to drive home the administration's insistence that Alito is qualified and deserves a quick and fair up or down Senate vote."

Novak Says Red State Democrats Who Oppose Alito Regret Vote. Syndicated columnist Robert Novak (1/26) writes that Sens. Kent Conrad and Byron Dorgan of North Dakota, "Bill Nelson of Florida, Tim Johnson of South Dakota, Ken Salazar of Colorado, Mary Landrieu of Louisiana, and Mark Pryor and Blanche Lincoln of Arkansas are red state Democrats who voted to confirm Chief Justice John Roberts. While Roberts is no less conservative than Alito…these Democrats who voted for the chief justice have been under intense pressure from the left to oppose Alito. All such senators may be willing to risk a politically unpopular 'no' vote, partly thanks to disappointing Senate Republican candidate recruitment this year." Novak notes, "The contention that President Bush's nominee is outside the 'mainstream' is the major talking point against Alito, but polls show support for him and his endorsement of spousal abortion notification. That debate's outcome may determine whether senators who vote against Alito will suffer at the polls this year and in the years ahead."

NYTimes Urges Democrats To Filibuster Alito's Nomination. The New York Times (1/26, 1.19M) editorialized that Alito's "elevation will come courtesy of a president whose grandiose vision of his own powers threatens to undermine the nation's basic philosophy of government --- and a Senate that seems eager to cooperate by rolling over and playing dead. It is hard to imagine a moment when it would be more appropriate for senators to fight for a principle. Even a losing battle would draw the public's attention to the import of this nomination." The Times adds, "Senate Democrats, who presented a united front against the nomination of Judge Alito in the Judiciary Committee, seem unwilling to risk the public criticism that

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might come with a filibuster -- particularly since there is very little chance it would work. Judge Alito's supporters would almost certainly be able to muster the 60 senators necessary to put the nomination to a final vote. A filibuster is a radical tool. It's easy to see why Democrats are frightened of it. But from our perspective, there are some things far more frightening. One of them is Samuel Alito on the Supreme Court."

Roberts, Alito Appointments Called Bush's Greatest Domestic Successes Since 2003. The Wall Street Journal (1/26, 2.11M) editorializes, "With at least 52 Senators already on record in support, it's clear that -- short of some smear ex machina -- liberal Democrats can't stop Samuel Alito from being confirmed to a seat on the Supreme Court. So it's a good moment to consider what this says about our politics and what it means for the Court as it enters a new era. One conclusion is that the confirmation of both Chief Justice John Roberts and Judge Alito marks the most important domestic success for President Bush since his 2003 tax cuts." The "Alito-Roberts ascendancy also marks a victory for the generation of legal conservatives who earned their stripes in the Reagan Administration. … The Roberts-Alito Court also represents a notable, and greatly satisfying, rebuke for the legal left and its 'borking' strategy."

Bush Resubmits Nominee Previously Blocked By Democrats. The Washington Post (1/26, A3, Babington, 744K) reports the White House "renominated Brett M. Kavanaugh to the US Court of Appeals for the District of Columbia Circuit. President Bush nominated Kavanaugh, the White House staff secretary, in July 2003, but he fell victim to intense battles between Senate Democrats and Republicans over numerous judicial appointments. A May 2005 bipartisan pact averted a showdown over judicial filibusters and enabled some contested nominees to win confirmation. But it left Kavanaugh in limbo." The Senate Judiciary Committee's eight Democrats "complained last year that Kavanaugh took several months to answer their written questions about his qualifications. Other Democrats have noted that Kavanaugh, 40, has limited courtroom experience and helped independent counsel Kenneth W. Starr pursue the Monica S. Lewinsky case during the Clinton presidency."

Abramoff Prosecutor Among Nominees To Federal Bench. The AP (1/26) reports, "President Bush on Wednesday nominated one of the Justice Department's lead prosecutors in the Jack Abramoff corruption probe to a U.S. District Court seat." The AP continues, "Noel Hillman, chief of the department's public integrity section, was nominated for the federal judgeship in New Jersey, where he served in the U.S. Attorney's office under Michael Chertoff, now secretary of Homeland Security." The AP adds, "The White House was poised to nominate Hillman last summer, after New Jersey's two Democratic senators took the opportunity to weigh in on Hillman and other nominees in exchange for lifting their objections to another candidate Bush had nominated in 2003. … Hillman will step down as chief of the public integrity unit next week, but remain in the Justice Department's criminal division until he is confirmed, a department official said. Andrew Lourie, a career prosecutor in Miami, will lead the public corruption-fighting office on a temporary basis, the official said, speaking on condition of anonymity because he is not authorized to discuss personnel matters. … Lourie performed the same role until Hillman took over early in 2003."

Bush Suggests Government Will Not Bail Out GM And Ford. The Wall Street Journal (1/26, Cooper, McKinnon, 2.11M) reports, "President Bush said General Motors Corp. and Ford Motor Co. should develop 'a product that's relevant' rather than look to Washington for help with their heavy pension obligations, and hinted he would take a dim view of a government bailout of the struggling auto makers." In an Oval Office interview, Bush "said that his administration has discussed the development of new fuel technologies with the nation's top two auto makers, which might make them more competitive, but that he has had no talks about the companies' finances." Asked if he had spoken to GM Chairman and Chief Executive Rick Wagoner or Ford Chairman and CEO William Clay Ford Jr., Mr. Bush replied, "Not about their balance sheets. … And I haven't been asked by any automobile manufacturer about a bailout." Asked if the government should take "any pre-emptive action," he said, "I think it's very important for the market to function." Bush "suggested he felt optimistic about the companies' prospects."

WPost Says Detroit, Congress Should Embrace "Competition." In an editorial titled "Managing Detroit," the Washington Post (1/26, A24, 744K) says, "It's not clear whether the GM and Ford restructuring plans will be enough to avert bankruptcy. Their difficulties may take on a more political tone, particularly since the Midwest is a key battleground for presidential campaign strategists." But "Congress needs to keep Motown's troubles in perspective. They are the result of competitive pressures that most parts of the US economy take for granted every day. And it is precisely by embracing competition that the United States has become the world's most powerful economy."

Bush Unlikely To Push Large Initiatives In State Of The Union Speech. The New York Times (1/26, Stevenson, 1.19M) reports, "Having stabilized his political standing after a difficult 2005, President Bush is heading into his State of the Union address on Tuesday intent

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primarily on retaining his party's slim majority in Congress this year and completing unfinished business from his existing agenda." Unlike last year, "when he used the occasion to kick off an ambitious and ultimately failed effort to overhaul Social Security, Mr. Bush seems unlikely to reshape the political landscape with his speech on Tuesday, members of both parties said." The Times adds, "Administration officials and other Republicans in Washington said Mr. Bush would focus on several topics, including health care, spending restraint, illegal immigration and the nation's international economic competitiveness, as well as an unapologetic restatement of his national security policy. Much of the speech, they said, will be tied together under a broad theme acknowledging that the United States is going through transitions that involve wrenching dislocation as well as opportunity." His aides "portray Mr. Bush as undaunted by the plague of setbacks last year that loosened his grip on his party and drove down his poll numbers, which although up from their lows last fall remain at anemic levels."

Bush Urged To Tackle Medicare Reform. David Gratzer, a physician and senior fellow at the Manhattan Institute, writes in the Wall Street Journal (1/26, 2.11M), "Bush will cite rising health costs as a major problem for Americans and their businesses, and he will outline steps to strengthen health savings accounts as a remedy." But "he is unlikely to mention Medicare reform -- and that would be a mistake. Indeed, if the president is serious about health reform, he will have to tackle Medicare. And he can start by re-engaging a debate from 1999." Seven years ago, Sen. John Breaux and Rep. Bill Thomas "completed the final report of the National Bipartisan Commission on the Future of Medicare. Considering various reforms, they eventually settled on a proposal modeled after the popular Federal Employees Health Benefits Plan (FEHBP), which covers nine million federal employees and their families. Instead of today's one-size-fits-all Medicare structure, they envisioned a program where seniors choose among competing private plans. Since then, Washington has debated the size and scope of Medicare expansion -- such as the prescription benefit -- but the program itself has yet to be fundamentally rethought." It "needs to be, because faced with Medicare's rising costs over the past four decades, the only real response has been a bipartisan exercise in wage and price controls."

Protestors Sue For Spot During State Of The Union. The Washington Post (1/26, A6, Barker, 744K) reports, "Organizers planning a protest during President Bush's State of the Union address next week say they have been denied a permit to hold the demonstration around the U.S. Capitol Reflecting Pool because that area has been reclassified as part of the security perimeter for the day of the speech. The organizers of the Tuesday protest, called 'World Can't Wait -- Drive Out the Bush Regime,' say the National Park Service and the U.S. Capitol Police initially offered them the Capitol Reflecting Pool as a demonstration site but changed their minds. Demonstrators have been told to confine their gathering to the gravel walkways on the Mall between Third and Fourth streets, farther from the Capitol. The grassy areas are fenced off because they are being resodded." Travis Morales, one of the organizers of the demonstration, "said the group was offered use of the area around the Capitol Reflecting Pool on Jan. 10 and that the site was not then part of any security perimeter. But on Jan. 19, he said, the group was told the security area had been expanded to include the Reflecting Pool. He called the change 'politically motivated,' adding that the Bush administration 'is trying to push us so far away that we can't be seen or heard. … A protest not seen and a protest not heard is not a protest.'" The demonstrators "filed a federal lawsuit yesterday seeking a court order that would enable them to gather at the Capitol Reflecting Pool. U.S. District Judge Ricardo M. Urbina will convene a hearing, possibly today."

Many Liberals Upset Kaine Was Chosen To Respond To Bush. USA Today (1/26, Lawrence, 2.31M) reports, "Virginia Gov. Timothy Kaine lifted the Democratic Party's spirits last fall when he won in a conservative state and gave his fellow Democrats some ideas about how to replicate his success. The fruits of victory include the honor of being picked to respond to President Bush's State of the Union address Tuesday -- and the wrath of liberal bloggers wondering why Democrats didn't choose somebody else. Anybody else." The selection of Kaine, "a Roman Catholic who opposes gay marriage -- highlighted fault lines within the party. Bloggers on several liberal websites were furious for reasons including Kaine's looks, style and obscurity, his open talk about religion, his moderate positions and his inexperience in foreign affairs. 'What the hell are they thinking?' Arianna Huffington demanded on www.huffingtonpost.com. … Bloggers at dailykos.com, talkleft.com and other liberal sites showered cyberspace with alternatives: new faces — Illinois Sen. Barack Obama, New York Attorney General Eliot Spitzer -- and famous faces -- Al Gore, New York Sen. Hillary Rodham Clinton."

Villaraigosa To Give Spanish-Language Response. The Los Angeles Times (1/26, Chen, 958K) reports, "Congressional Democrats announced today that Los Angeles Mayor Antonio Villaraigosa will deliver the party's Spanish-language response to next week's State of the Union address. … This will be the third consecutive year that Democrats have offered a Spanish language response to Bush's speech. Two years ago, Gov. Bill Richardson of New Mexico delivered the first such response. Last year, it was

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jointly given by then Rep. Robert Menendez, now a senator from New Jersey, and Sen. Jeff Bingaman of New Mexico."

CNN's The Situation Room (1/25, Blitzer) added "Villaraigosa's remarks clearly will be aimed at helping Democrats reach out to Hispanic voters right here in the United States."

Effectiveness Of Health Savings Accounts Disputed. The New York Times (1/26, Freudenheim, 1.19M) reports, "Bush has made 'consumer-directed' health savings plans a cornerstone of his policy for addressing runaway medical costs, and he plans to push them again in the State of the Union address next week." But "so far there is little evidence that the approach is helping many consumers come to grips with the high price of health care," even though "the early results do offer some hope. More than two million people have signed up for the plans, which were created as part of Medicare overhaul legislation in 2003 but were not an option for many people until the health insurance sign-up season last fall. While that is a tiny fraction of the 180 million Americans with health insurance, some experts say the numbers show a notably fast adoption rate for a complicated new consumer program. By other measures, though, workers and employers have been slow to embrace health savings plans, which are intended to reduce corporate health care costs while giving individuals more control of their medical spending."

In his Wall Street Journal (1/26, 2.11M), David Wessel criticizes Bush's "cure-all for health care," saying Bush argues for making "health care more like the market for tile and pipes." Adds Wessel, "Set aside the case that only a taxpayer-financed, government-organized solution works. A Republican president and Congress aren't going there, and a lot of Democrats are skeptical, too. … A bigger problem is that too many healthy (for now) Americans go without preventive care, and too many chronically ill Americans don't get care that would avoid costly, painful complications later. HSAs don't help there. And then there's the uncomfortable fact that 80% of health spending in the U.S. each year is spent on 8% of the population. Giving them tax breaks to buy health-insurance policies with $2,000 deductibles won't ensure that money is well spent."

Robert J. Samuelson writes in the Washington Post (1/26, 744K), "Americans want more health care for less money, and when they don't get it, they indict drug companies, insurers, trial lawyers and bureaucrats. Although these familiar scapegoats may not be blameless, the real problem is us. We demand the impossible. The changes we truly need are political. We need to reconnect people with the public consequences of their private acts. We should curb the subsidization of private insurance." Medicare recipients, "especially wealthier ones, should pay more of their bills." But "these changes won't happen because people don't want to see the costs. We don't have the health care system we need, but we do have the one we deserve."

Leavitt Says Government Moving To Solve Prescription Drug Program Problems. The Washington Times (1/26, Fagan, 90K) reports, "Administration officials yesterday told senators the new Medicare prescription-drug program has problems, but they're under control, and states will be reimbursed for covering seniors' prescription costs resulting from the glitches." Senators on the Finance Committee "seemed cautiously optimistic at the assurances, but some said Congress will still probably need to act. 'I think there's no question that the issue of prescription drugs will be back on the [Senate] floor in some form this year,' said Sen. Ron Wyden, Oregon Democrat." Health and Human Services Secretary Michael O. Leavitt said yesterday, "We've identified the problems, we're working on them and the plan gets better every day." He and Medicare chief Mark McClellan "had a private meeting yesterday with committee members to brief them on the situation."

The CBS Evening News (1/25, story 8, 2:00, Schieffer) reported, "It is no secret the new Medicare prescription drug program is not off to a great start. Many elderly have been lost in the bureaucratic maze. Many have found themselves with no coverage at all." CBS (Andrews) added, "According to advocates for senior citizens, in thousands of cases so far, drugs might be covered under Medicare, but patients still need prior authorization before insurance actually covers the drug. The Center for Medicare Advocacy calls that sleight of hand. What's the sleight of hand?" Vicki Gottlich: "I think people were promised that they would be able to get all the drugs that they require, but they weren't told that they might have to go through a little extra." Andrews: "Medicare has ordered insurance plans to solve this saying, 'we expect prior authorization to be resolved at the point of service,' meaning the pharmacy counter. … So now in this transition to this massive new benefit, prior authorization is yet another complication in an already-troubled program."

OLC Urges Caution For Federal Employees On Nonprofit Boards. Government Executive (1/26, Pulliam) reports, "Agencies should be careful about allowing employees to serve on the boards of nonprofit organizations that have an interest in their work, according to a recent opinion published by the Justice Department's Office of Legal Counsel." GE continues, "Federal executives can serve as officers or directors at nonprofit organizations, a 19-page opinion released Jan. 11 stated. But agencies should take into account the appearance of an ethical violation before permitting employees to serve in a group that handles issues

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related to their government work. … 'Government employees [have a] . . . duty to "avoid any actions creating the appearance that they are violating the law ... or ethical standards,'" the Justice office's opinion said. … 'If an outside organization in which an employee is a director has been advocating its views directly to the federal government on a matter that the organization has identified as especially significant, there is a significantly heightened risk that the employee ... will at least appear less than independent in his judgments,' the legal counsel stated. 'And that risk ... calls for serious consideration by the employee's agency.' … Federal law requires government employees to recuse themselves from work activities when a nonprofit on which they serve has a financial interest in the matter. But just because nonprofits spend money advocating a position does not necessarily mean they have a financial interest in an agency action, according to the opinion." GE notes, "The case leading to the opinion originated in July 2004 when a senior executive at the Education Department was told by the Office of Government Ethics that election to the Senior Executives Association board of directors would result in a criminal conflict of interest due to his service on his department's Executive Resources Board."

Senate Committee Opens Hearings Into Lobbying Reform. USA Today (1/26, Drinkard, 2.31M) reports that after "weeks of calls for restrictions on how lobbyists influence Congress, lawmakers began Wednesday to grapple with the thorny details of just how to do it." The Senate Homeland Security and Governmental Affairs Committee opened the first congressional hearing on reforms, and "lobbyists argued against proposals to ban privately financed trips for House and Senate members and their aides, saying travel helps them make good policy decisions in an era of globalization." And some senators "rejected calls for more restrictions, saying problems…are rooted in lawmakers' own behavior, the way Congress operates and a failure to enforce rules already on the books." The Washington Post (1/26, A6, Milbank, 744K) reports lawmakers "had no difficulty conceding they had a problem. But there was yawning disconnect between the problem and the proposed remedies. While most everybody agreed that Congress was being subverted by lawmakers' reliance on lobbyists for campaign cash, the proposals getting the most serious consideration yesterday were relatively minor: whether to ban lobbyist-paid lunches or a few million dollars' worth of privately funded congressional trips." Both newspapers quote Sen. Tom Coburn saying, "I don't believe lobbying reform's the problem; I believe Congress is."

However, CNN's The Situation Room (1/25, Koppel) called the hearing "a bipartisan show of support for what Democrat Joe Lieberman called 'doing away' with what they believe is the faulty impression that their votes go to the highest bidder. The high-flying days of Congressional lobbying could be in for a rough landing as Democrats and Republicans alike rushed to put luxury vacations and expensive meals on the Congressional chopping block." The AP (1/25, Abrams) quotes Homeland Security and Governmental Affairs Chairman Susan Collins saying, "The public's trust in Congress is perilously low." The panel's ranking Democrat, Sen. Joseph Lieberman, similarly said, "The status quo stinks and cries out for us to clear the air."

McCain Testifies In Opposition To Earmarks. The Washington Post (1/26, Branigin, 744K) reports Sen. John McCain, appearing as a witness before the panel, "was one of several senators to denounce earmarking, a practice he called 'disgraceful.' He outlined one of several proposals to tighten rules and require greater disclosure of lobbying activities. But he told the committee, 'We're not going to fix this system until we fix the earmarks.'" But "representatives of lobbying organizations urged the committee today not to overreact to what they described as the unscrupulous activities of one corrupt lobbyist," and Minority Whip Richard Durbin said the problem "goes beyond earmarks and that solving it must start with reducing the 'outrageous expense' of political campaigns."

Lewis Offers Steps For Earmarking Reforms. House Appropriations Committee Chairman Jerry Lewis writes in Roll Call (1/26), "The president's budget contains numerous earmarks inserted by nameless, faceless bureaucrats within each government agency. Teach for America, The Points of Light Foundation, and America's Promise are just a few examples of unauthorized, limited-scope initiatives that routinely receive a line-item request in the president's budget. Yet elected representatives know more about local, state or national priorities than the Beltway bureaucracy. It would be a mistake to ignore this expertise when determining how to allocate scarce federal dollars." Lewis calls for "curbing the appetite to spend by sharply reducing the number of earmarks in annual spending bills and making the appropriations process more open and transparent. In order to succeed, the House and Senate must jointly embrace these efforts. Specifically, the leadership of the House Appropriations Committee recommends the following: 1) Sharply limit the number of Member project requests. … 2) Require increased accountability, disclosure and transparency by requiring that Member request letters be made public prior to House consideration of each appropriations bill. … 3) Require that all project requests be submitted in writing to the appropriations subcommittee of jurisdiction via a Member-signed request letter or form. 4) Establish clearly defined criteria for all project requests and require Members to specify how each project meets the criteria. … 5) Increase the proportion of projects that have a

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dollar-matching requirement. … 6) Require all Congressionally approved projects to go through a formal executive branch contracting and auditing process. 7) Finally, require that all other committees adopt similar earmarking reforms."

Nelson, Coleman Call For Independent Commission. The Los Angeles Times (1/26, Curtius, 958K) reports Sens. Ben Nelson and Norm Coleman, "convinced that Congress cannot overhaul its rules on ethics and lobbying in the politically charged atmosphere of an election year," called for the creation of an independent commission for the job. But their "proposal faced quick resistance from two senators leading the reform push," Lieberman and McCain, both of whom said they "feared creating an independent commission and that waiting for it to act would slow the momentum for change." McCain said, "I don't want to wait. We've got to act quickly."

House Democratic Leaders Float "Toughest Lobbying Reform Package Yet." Roll Call (1/26, Newmyer) reports House Minority Leader Nancy Pelosi, Minority Whip Steny Hoyer, and Democratic Caucus Chairman James Clyburn "circulated principles" of the "toughest lobbying reform package yet" to Democrats, seeking their support. The measure would "force lawmakers to report when they are sponsoring earmarks, require them to pay fair market value for travel on private jets and create an office of public integrity to oversee these and other new lobbying rules. Details of the plan emerged after a day in which lawmakers on both sides of the Capitol traded barbs, with each party claiming to want a bipartisan solution, but finding no partner across the aisle."

GOP Ends Vestige Of "K Street Project." The Washington Post (1/26, A2, Birnbaum, 744K) reports the GOP has ended a "long practice of routinely summoning lobbyists to the Capitol to try to persuade them to hire their aides and colleagues," a "remnant of the K Street Project once championed by Rep. Tom DeLay." The Senate Republican Conference staff director said Wednesday that a "K-Street-job-vacancies memo -- the heart of Congress's remaining involvement in the effort these days -- will no longer be distributed during high-level meetings hosted by the conference on Capitol Hill between lawmakers and lobbyists."

Hill Staff May Rush To Lobbying Jobs Before Rules Change. Roll Call (1/26, Ackley) writes that while the two parties "might not agree on all things lobbying," they "seem united on doubling the current one-year cooling-off period for newly minted advocates. And that has Congressional staffers, who already had an eye toward employment on K Street, stepping up their job-seeking efforts. Lobbyists, headhunters and Capitol Hill aides speculate that a mini-exodus of staffers from both sides of the aisle may be coming as a result."

ASAE Opposes Proposal To Ban Privately Funded Travel For Lawmakers. The Washington Post (1/26, A23, Sarasohn, 744K) reports in its "Special Interests" column, "The American Society of Association Executives (sometimes referred to as the 'association of associations') is weighing in on plans to overhaul lobbying laws. ASAE, like some other trade groups, is concerned Congress may being acting too fast. ASAE opposes a measure that would ban all privately funded travel for members of Congress because, it believes, the ban would discourage true fact-finding trips and meetings with diverse groups."

DeLay Unrepentant As Ethics Talk Dominates Washington. In his Washington Post (1/26, A25, 744K) column, George Will writes of a visit with Tom DeLay in Richmond, Texas, writing, "Most people, battered as he recently has been, would be curled up on the carpet in a fetal position. But DeLay is as direct and uncomplicated as the tool that supplies his nickname -- 'The Hammer' -- and his faults do not include being a whiner. Furthermore, he is not about to plea-bargain in the court of public opinion. He chafes under prudential reticence: His attorneys tell him not to trumpet the fact that the Justice Department told them he is not a target in the Jack Abramoff investigation. But about other matters, the bantam is belligerent." And in DeLay country, "unlike on the Potomac, the fever for reform is not high. To a visiting columnist who waxes censorious about earmarks for highway projects, DeLay responds with a notable lack of repentance: 'You just drove out on one.'"

Social Security Group Redefines Itself To Push For Lobbying Reform. The Washington Post (1/26, A23, Sarasohn, 744K) reports in its "Special Interests" column, "Fresh off its success in raising a grass-roots wave of public opposition that helped block President Bush's plan to overhaul Social Security, Americans United to Protect Social Security has redefined itself. The name is shorter -- Americans United -- and the mission is broader: public corruption, education, health and energy costs, economic prosperity and such. Yesterday, Americans United unveiled a $1 million advertising campaign urging support for legislation proposed by Democratic lawyers aimed at tightening the restrictions on lobbying." The group "has received initial support from organized labor, including the American Federation of State, County and Municipal Employees. Brad Woodhouse , director of communication, says Americans United hopes to raise $10 million to $20 million from labor, individuals and others."

Blunt, Boehner Make Case For Their Candidacies. Rep. Roy Blunt, a candidate for House Majority Leader, writes in USA Today (1/26, 2.31M), "House members cannot ignore recent scandals that have many questioning the credibility of our system. Republicans will

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regain Americans' trust by enacting tough penalties for those who break the law and focusing on our agenda of limited government, personal responsibility and growing the economy by returning money to the Americans who earned it. … Lobbying reforms should include new rules governing travel and disclosure and regulations subjecting shadowy, tax-exempt '527' political groups to the same standards as others who attempt to influence the process. Then the credibility of honest public servants will be not be questioned -- even when some try to paint them with the same brush as those who break the law."

Meanwhile, Rep. John Boehner, a candidate for House Majority Leader writes in USA Today (1/26, 2.31M), "House Republicans need leadership that will help provide a vision and a plan for renewal. We need a leader who will stand up to Democrats when they're wrong, but who has credibility to work with them when it's in the country's best interests.' Boehner adds, "As of now, I am the only candidate who has released a detailed plan that would help House Republicans regain the spirit and energy of 1994, embrace real reform and reclaim the vision responsible for our success."

USA Today Says Blunt, Boehner Not Credible Reformers. An editorial in USA Today (1/26, 2.31M) says, "The former majority leader, Tom DeLay, stepped down after he was indicted in a Texas fundraising case and linked to crooked lobbyist Jack Abramoff. So where is the GOP seeking this fresh face and new start? With two lawmakers -- Roy Blunt of Missouri and John Boehner of Ohio -- who have cozy relations with lobbyists and a penchant for accepting perks from corporate friends." USA adds, "A third candidate for majority leader, John Shadegg of Arizona, is less enmeshed with the lobbying establishment and high-powered fundraising. That's one reason he's given virtually no chance of winning." USA continues, "Both Blunt and Boehner have one point right: Voters are clamoring for change. That requires recognition of what's wrong and the will to do something about it. Lawmakers who've spent their careers accepting perks and raking in special-interest campaign cash don't make for credible reformers."

Cornyn Emerges As Senate GOP's "Self-Appointed Public Relations Man." Roll Call (1/26, Pierce) reports, "With President Bush and Republicans struggling to regain their standing in public opinion as Senate Democrats hammer away daily at every perceived foible or folly committed by the ruling majority," Sen. John Cornyn "has made it his mission to strike back." Over the past year, Cornyn "has become a self-appointed public relations man for Republicans in Congress and the White House, filling a communications void that has developed in the Senate GOP leadership." Cornyn said, "I saw it as addressing this quick-response need that I don't think we had been set up for before, and really didn't need before the Democrats created their war room. It's not enough to come back later on, a week later, two weeks later, and respond. … A charge unrebutted is a charge believed." Cornyn has taken a key role in judicial nominations and also spearheaded "an aggressive effort among his colleagues in directing staff to send out partisan press releases, opposition research papers and talking points." He is now running for the "low-profile but still influential post of vice chairman of the Senate Republican Conference, which just happens to be the No. 2 'message' position."

First Lady's Approval Rating Is 82% In CNN/USA Today/Gallup Poll. CNN's The Situation Room (1/25, Crowley) reported, "In the latest CNN/USA Today/Gallup poll, 82 percent of Americans gave thumbs up to the way Laura Bush is handling her job. … Her approval rating is almost 40 points higher than her husband's." CNN added, "Despite that 82 percent approval rating, only 40 percent of Americans say they would like to see Mrs. Bush run for Senate. The truth is, when people see her as outside the world of politics, she is one of his biggest political assets."

Cheney Still A GOP Fundraising Draw. Roll Call (1/26, Akers) reports in its "Heard on the Hill" column, "Despite a recent spate of bad publicity, Vice President Cheney is still a big draw for GOP fundraising. The vice president is slated to be the headline attraction this evening at a fundraiser for Sen. Mike DeWine (R-Ohio). Anyone can attend for a simple $1,000. But the most generous donors may have a picture snapped with the veep: Going for that 'max out' opportunity before Ohio's primary in May, the DeWine re-election campaign is charging political action committees $5,000 per photo op."

Hillary Clinton Says Bush Disregarding Cities' Needs In Favor Of Tax Cuts. Reuters (1/25, Whitesides) reported, "Democratic Sen. Hillary Rodham Clinton accused the Bush administration on Wednesday of ignoring the needs of cities in its politically driven zeal for tax cuts and told US mayors 'you are on your own.' Clinton, a potential White House candidate in 2008 who is seeking Senate re-election this year in New York, said that since the September 11 attacks President George W. Bush had reneged on his obligation to states and cities to pay for crucial security and social programs." Clinton said tax "cuts are desirable in the right political and economic climate but 'it is hard to square with the challenges we face at this time of terrorist threat.' At the federal level, 'the sense of urgency that marked the months after the 9/11 attacks has largely given way to politics as usual,' she said."

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Clinton Stumbles Over Question On Her Time As Wal-Mart Board Member. The New York Daily News (1/26, McAuliff, 729K) reports that Sen. Clinton "easily pointed at Wal-Mart yesterday as not doing enough about health care but found it a little tougher when asked if she had ever suggested the retailer do more when she was on its board of directors. 'Well, you know, I, that was a long time ago, I have to remember,' she stammered, before pointing to her work on health care while First Lady. She sat on the Wal-Mart board from 1986 to 1992. Her spokesman insisted it's 'a very different company now.'"

Columnist Says Liberals Increasingly Unhappy With Clinton. Columnist Jonah Goldberg writes in the Los Angeles Times (1/26, 958K), "Liberals are sizing up Hillary Clinton for the umpteenth time, and they don't like what they see. … 'I will not support Hillary Clinton for president,' wrote Molly Ivins, the voice of conventional thinking on the left. 'Enough. Enough triangulation, calculation and equivocation. Enough clever straddling, enough not offending anyone.'" Goldberg adds, "The New Republic offers perhaps an even more devastating critique of Clinton for Democratic pragmatists: She can't win. Marisa Katz dismantled the myth that Clinton can appeal to 'red state' voters because she won in upstate New York. Turns out former Vice President Al Gore and Sen. John Kerry each did better in upstate New York than she did. … Meanwhile, a recent Gallup poll showed that 51% of Americans won't even consider voting for Clinton." Goldberg relates that there is "something oddly satisfying in the possibility that Clinton being herself is politically disastrous. And, if she's really just playing one more role according to some classically Clintonian political triangulation, there's something equally satisfying to the prospect that even her fans aren't falling for it anymore."

Obey, Frank To Propose Full Public Financing Of House Contests. Roll Call (1/26, Kornacki) reports that Rep. David Obey (D-Wis.) "is joining with Rep. Barney Frank (D-Mass.) to propose full public financing of all House elections. They announced Wednesday that they will introduce the plan, which would bar all candidates from fundraising and self-financing in their campaigns, when the House reconvenes next week." Obey's "plan would radically curtail the financial advantage most incumbents now enjoy, even making it difficult for some of them to pay for television ads. And even if Democrats were to unite behind it, the prospect on a vote in the GOP-controlled House is less than remote. … Beyond that, the plan also faces an almost certain constitutional hurdle, in the form of the Supreme Court's 1976 Buckley v. Valeo decision that equated campaign spending with free speech."

Kondracke Says House GOP Group To Unveil "Suburban Agenda" Next Month. Roll Call Executive Editor Morton M. Kondracke writes in Roll Call (1/26), "A different kind of agenda -- different from the president's State of the Union address and the anticipated Democratic election year document -- is scheduled to be unveiled early next month to House Republicans: 'The Suburban Agenda.' It's the work of a group of 22 GOP Members from across the party's ideological spectrum and led by moderate Rep. Mark Kirk (Ill.), who's also tried to sell it to President Bush's top political adviser, Karl Rove." Kirk said "this agenda is designed to answer the problems faced by a suburban family as it moves through its day." Kondracke notes, "There's clearly strategic political intent behind trying to build the 2006 GOP legislative strategy around the suburbs: More than half of U.S. voters live in the 'burbs, and these places, formerly Republican strongholds, have been trending Democratic in recent years. … The agenda is designed to keep Republicans in power, but many of the items -- electronic health records and anti-gang measures, for sure -- ought to be bipartisan. It wouldn't be surprising if there's a bidding war for the support of the suburbs."

Postal Service Opposes Collins Bill On Mail Rates. The Washington Post (1/26, B2, Barr, 744K) reports in its "Federal Diary" column, "The U.S. Postal Service headquarters launched a blitz yesterday to block a Senate bill, contending that the legislation, in combination with White House demands, could trigger a 20 percent increase in stamp prices in the near future. The bill's sponsors, Sens. Susan Collins (R-Maine) and Thomas R. Carper (D-Del.), said they were 'outraged that the Postal Service would mislead senators.' In a statement, they said, 'Nothing in the bill would lead to rate increases.' Government agencies rarely risk incurring the wrath of committee chairmen who oversee their operations, as is the case with Collins. As head of the Homeland Security and Governmental Affairs Committee, she has made the overhaul of postal operations one of her priorities. Her bill would create a system of setting mail rates that she believes would give the post office greater pricing flexibility and would prevent it from raising rates each year in excess of inflation as measured by the consumer price index."

Federalist Society Protests Nightline Report On Scalia. The Washington Times (1/26, Pierce, 90K) reports in its "Inside Politics" column "The Federalist Society yesterday called on ABC to investigate a report by its news show 'Nightline' that suggested Supreme Court Justice Antonin Scalia had done something unethical by participating in a legal seminar sponsored by the group. 'The report grossly misled viewers about a recent trip Supreme Court Justice Antonin Scalia took to teach a 10-hour course on the

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Constitution and separation of powers. 'Nightline' suggested that Justice Scalia's trip was a "judicial junket," and even strained to manufacture a link with disgraced lobbyist Jack Abramoff,' Federalist Society President Eugene B. Meyer said in a letter yesterday to ABC News President David Westin. The program, which aired Monday, emphasized that Justice Scalia had missed the September swearing-in of Chief Justice John G. Roberts Jr. because of his commitment to attend the legal seminar at a Colorado resort, suggesting that the jurist spent most of his time playing tennis and engaging in other frivolous pursuits."

High Court Urged To Look To Foreign Opinions In Interpreting Law. Felix G. Rohatyn, the United States ambassador to France from 1997 to 2001, writes in an op-ed in the New York Times (1/26, 1.19M), "Globalization has made it not only 'appropriate or useful' but vital to look at foreign laws" when interpreting our own. "When we require European support on security issues…our job is made more difficult by the intensity of popular opposition in Europe to our policy" on the death penalty. "Contempt for the laws of our allies is a major factor in our increasing isolation in the world," and "that is why is it is deeply troubling that the next member of the Supreme Court will most likely share Justice Scalia and Justice Thomas's" opposition to that view. "Taking the views of 450 million Europeans into account is not a sign of weakness on our part, nor is it a commitment to change our views" but "simply recognition that the laws of our most important allies, our biggest foreign investors, foreign employers, foreign customers and trading partners are worthy of our attention."

OTHER NEWS:

Home Sales Drop Sharply. USA Today (1/26, Knox, 2.31M) reports, "Sales of existing homes fell in December for the third-consecutive month, in a surprisingly sharp drop that signaled the housing market is cooling off faster than expected. Home resales declined 5.7% from November to a seasonally adjusted annual pace of 6.6 million, the slowest since March 2004, the National Association of Realtors said Wednesday. Western states, notably California, suffered the worst, with home sales in the region skidding 11.4% from November and from December 2004." The Wall Street Journal (1/26, Preciphs, 2.11M), however, adds that even if "sales of existing homes fell in December to their lowest level in three months," they "still set a record for the year." The New York Times (1/26, Bajaj, 1.19M) also reports "the housing market registered a fifth consecutive year of increased sales." The data, nonetheless, "appear to suggest that the era of rapidly increasing sales may be coming to a close."

Stocks Down. The New York Times (1/26, 1.19M) reports, "Stocks ended a two-day rally yesterday as a worsening profit outlook for oil companies and homebuilders, two of the market's best performers during the last 12 months, sent prices lower." The Standard & Poor's 500-stock index "fell 2.18 points, or 0.2 percent, to close at 1,264.68, its first drop this week. The Nasdaq composite index lost 4.60 points, or 0.2 percent, to 2,260.65. The Dow Jones industrial average dropped 2.48 points, or less than 0.1 percent, to 10,709.74, helped by a gain in General Motors." The Wall Street Journal (1/26, Patterson, 2.11M) and USA Today (1/26, 2.31M) also report the stock numbers.

Oil Industry Defends Record-High Profits. ABC World News Tonight (1/25, story 4, 2:30, Vargas) reported, "Some breath-taking numbers from the oil industry today. Conoco/Phillips said it made 13.5 $13.5 billion last year, an increase of 66% from the year before. The record-high profits are the result of record-high oil and gas prices people are paying at the pump and to heat their homes. So, the oil industry is feeling the heat. Today, it launched a counterattack." ABC (Stark): "Today the oil industry tried to argue that it's not just the companies themselves who benefit when profits are high. At the gas pump, where prices are once again increasing, news of the huge oil company profits had consumers up in arms." After "all the numbers are in, analysts expect oil industry profits for the fourth quarter to be up at least 46% over a year ago. The industry today was quick to go on the defensive, pointing out its earnings are just slightly above average for all corporations, just over 7 cents for every dollar spent. It also argued that what's good for big oil is good for average Americans." Stark concluded: "So, for oil companies and those who own shares in them, it has been a boom year. But for many consumers, it's a bust." Vargas: "Indeed it is."

Greenspan To Open Consulting Firm. When he leaves the Fed at the end of the month, Greenspan plans to set up a consulting firm, Greenspan Associates, in Washington, DC, the Wall Street Journal (1/26, 2.11M) reports. The Journal adds, "One of his first hires will be Michelle Smith, who the Fed said yesterday will leave her job as director of its office of board members to join Mr. Greenspan's new firm. … In addition, the Fed said David W. Skidmore, Ms. Smith's deputy, would become the board's chief spokesman and Rose Pianalto Cameron will oversee other public information activities.

Greenspan Opposes Banking Loophole. Federal Reserve Chairman Alan Greenspan opposes a regulatory loophole that allows corporations to own banks. The Wall

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Street Journal (1/26, Wysocki, 2.11M) says Greenspan's opposition puts him "into the middle of an effort by Wal-Mart Stores Inc. to establish a bank. Mr. Greenspan's salvo, outlined in a 12-page letter to Congress that was reviewed by The Wall Street Journal, is the latest in a controversy over the separation of commerce and banking. Wal-Mart, the Bentonville, Ark., retailer, is trying to obtain a state banking charter in Utah, using precisely the exemption in the banking laws opposed by Mr. Greenspan." The Journal adds that the remarks "could be Mr. Greenspan's last major statement to Congress as Fed chairman."

Investors Were Skeptical When Greenspan Took Over Fed Chair. USA Today (1/26, Hagenbaugh, 2.31M) reports, "Investors jittery about how incoming Federal Reserve chairman Ben Bernanke will pan out can take some solace -- folks weren't sure some guy named Alan Greenspan was up to snuff either. Investors didn't take the news so well on the day in June 1987 when Paul Volcker announced he was leaving the Fed after eight years and Greenspan was named to his position. Bond markets took their worst one-day beating in more than five years, and the dollar fell." USA adds, "In many ways, Bernanke — although widely respected in economic circles — is more of an unknown to the public than Greenspan was in 1987. … But no matter how well they knew Greenspan, people in 1987 were still nervous about him taking over the Fed."

Dow Chemical Loses Appeal On Life-Insurance Policies. The Wall Street Journal (1/26, Matthews) reports, "A federal appeals court ruled Dow Chemical Co. is liable for $22.2 million in back taxes and interest for claiming tax-income losses on thousands of life-insurance policies it took out on its employees. … The ruling is a victory for the Internal Revenue Service, which for the past decade has been cracking down on companies that take out life-insurance policies on their executives and employees, often without their knowledge, in order to reduce their corporate-tax bill." The article says that only Dow Chemical had prevailed against the IRS in these cases, but lost that victory on appeal. The article explains that companies took out these insurance policies "to generate tax deductions with minimal cash outlay. They did this by taking a tax deduction for the interest they paid on loans taken out against the insurance policies, while allowing the policy to build value tax-free."

Ney Announces He Will Seek Reelection. CNN's The Situation Room (1/25, Blitzer) reported, "A leading target in the influence peddling investigation isn't letting the probe keep him from the campaign trail. Congressman Bob Ney announced today that he is running for re-election. The Ohio Republican recently gave up his committee chairmanship. State party officials have urged him to give up a seat as well if he is indicted. Ney denies any wrongdoing."

The AP (1/26, Hammer) notes that in stepping down as chairman of the House Administration Committee earlier this month, Ney "acknowledged that his ties to Abramoff were a distraction from his duties, particularly as Republicans push an ethics reform agenda -- part of which must be implemented by the Administration Committee. But Ney spokesman Brian Walsh said no such distraction has affected Ney's work for his district, where he's known for hands-on constituent service and independence from GOP trade and labor policies."

The New York Times (1/26, Hauser, 1.19M) relates that Ney, in a statement, said "that the campaign this year promises to be a 'vigorous' one 'and I am ready for the fight.' 'I look forward to joining my friends and supporters, including the many state and local officials backing my re-election bid, as we kick off the 2006 campaign this Thursday and Friday,' he said." Ney "is referred to as 'Representative No. 1' in court documents filed in connection with the corruption scandal surrounding" Abramoff. Ney's statement "said he would announce his re-election bid at a campaign rally in Dover tomorrow evening and then travel to the southern part of the district for a second rally in Chillicothe on Friday at noon."

Roll Call (1/26, Whittington) adds, "Chillicothe Mayor Joe Sulzer and Dover Law Director Zack Space are vying in the May 2 Democratic primary for the chance to face Ney, who has held the expansive 18th district seat since 1994."

Ehrlich Says Stem-Cell Funding Decisions Should Be Based On Science. The Washington Post (1/26, B4, Wagner, 744K) reports that Maryland Gov. Robert Ehrlich (R) "is pushing a plan to spend $20 million next year on stem cell research," but "is not committing himself on the question that has stirred the most controversy: whether the money should be used primarily for work on stem cells derived from human embryos or from less controversial adult stem cells." Ehrlich, in an interview, said, "I'm not going to make that decision. … The point here is that the decision should be a function of the science. These are fundamentally science questions, not political questions." Ehrlich "would leave it to a state-founded technology corporation to decide whether to provide grants for work on adult stem cells or work on embryonic stems cells, which many scientists say holds greater promise but some in his party consider tantamount to abortion." Ehrlich, "who has supported stem cell research since his days in Congress," said, "The strong pro-life members know the administration does not share their views on this issue, but we wanted to try to lower the temperature on the politics. … I wanted to try to keep everyone's eye on the ball, and I believe this approach accomplishes that goal."

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Republicans Say They Have Bipartisan Support For Stem-Cell Bill Filibuster. The Washington Times (1/26, Ward, 90K) reports that Democratic and GOP Maryland state senators on Wednesday vowed "to stop a bill that would promote the creation of embryos for research. 'If [Senate President Thomas V. Mike] Miller wants to do this extraordinary thing, he will get a filibuster that lasts as long as he wants it to last,' said Senate Minority Whip Andrew P. Harris, Baltimore County Republican. Senate Minority Leader J. Lowell Stoltzfus said he had more than the minimum 19 votes to filibuster. 'We think we have 20,' said Mr. Stoltzfus, an Eastern Shore Republican." The Times notes, "There are 14 Republicans in the 47-member Senate, which means six Democrats have agreed to filibuster. Sen. Paula C. Hollinger, Baltimore County Democrat, is sponsoring the Senate bill in support of embryonic stem-cell research for the second year. … 'I'm sure they will filibuster, and I'm sure we will round up the votes,' she said. Mrs. Hollinger also said she would fight for the bill and against the filibuster for 'as long as it takes.'"

Ford Released From Hospital. ABC's World News Tonight (1/25, story 9, 0:10, Vargas) reported, "Gerald Ford was released from the hospital today. He spent the last 12 days being treated for pneumonia at the Eisenhower Medical Center near Rancho Mirage, California. His doctors say he is doing well."

NBC Nightly News (1/25, story 7, :45, Williams) added, "At 92, he is the oldest living former president. His spokesperson said he's doing well but it's safe to say doctors will be keeping a close eye on him."

The Los Angeles Times (1/26, Rosenblatt, 958K) reports, "Ford, 92, originally had been scheduled to leave Eisenhower Medical Center in Rancho Mirage on Jan. 19, but doctors kept him for additional treatment."

Professors Say Maryland Wal-Mart Defeat Stems From Government-Employed Voters. Steve H. Hanke, professor of applied economics at Johns Hopkins University, and Stephen J.K. Walters, professor of economics at Loyola College in Maryland, write in an op-ed in the Wall Street Journal (1/26, 2.11M), "The consequences of" Maryland's "legislature's override of Republican Gov. Robert Ehrlich's veto of their 'Fair Share Health Care Act' on Jan. 12 will be tragic for some of the state's neediest residents." The reason for the override is that legislators "are simply eager for Big Labor's votes and money and therefore subservient to its interests." Estimates show "that as much as a third of the state's economic activity stems from federal employment and purchases," that "sector where revenues appear to arrive automatically and inefficiency never leads to bankruptcy," so "many Marylanders are simply unmindful of the necessities of survival in the private sector." This elects legislators who "often behave as if business is a problem to be solved." However, "legislators should be mindful that companies like Wal-Mart are not the enemy but rather front-line soldiers in a real war on poverty."

Hamas Wins Palestinian Elections; Government Resigns. The AP (1/26) reports this morning, "The Islamic militant group Hamas said Thursday it won control of the Palestinian parliament and officials from the ruling Fatah Party confirmed the estimate -- though Palestinian election officials delayed the release of preliminary official results." The claim by Hamas leader Ismail Haniyeh "was based on reporting by Hamas activists who observed the counting in the polling stations, the group said. He said Hamas had won about 70 seats, enough for a majority in the 132-seat parliament. … Officials with Fatah also said that Hamas had won about 70 seats, which would give the Islamists a majority in the 132-seat parliament. They spoke on condition of anonymity because counting in some districts was continuing."

Meanwhile, CNN.com (1/26) reports, "In a stunning development ahead of official election results, Palestinian Prime Minister Ahmed Qorie said he and the rest of the Palestinian Authority government will resign in the wake of militant group Hamas' apparent victory in historic elections. The announcement was an acknowledgment that election results showed Hamas had won a majority of seats in the 132-seat Palestinian Legislative Council, supplanting the ruling Fatah party." This announcement came before official election results had been released, CNN.com reported. According to the article, Qorie's office "said it will be up to Hamas to form a new government."

Previously, most reports had referred to exit polls showing a narrow Fatah win. The Wall Street Journal (1/26, Leggett, 2.11M) reports that "according to Beir Zeit University's exit poll, the ruling Fatah party emerged victorious with 46% of the vote and Hamas captured about 40%, making its Reform and Change party the second-most popular among voters. Independent parties accounted for the difference. Final results are expected today." The CBS Evening News (1/25, story 5, 2:00, Schieffer) reported that "exit polls show that a militant group dedicated to Israel's destruction did very well, maybe even well enough to gain a role in the Palestinian government." NBC Nightly News (1/25, story 4, 1:30, Williams) showed Ali Zarbawi, Birzeit University saying, "Hamas will be an active opposition, a very strong opposition, but Fatah is going to lead the government."

USA Today (1/26, Gutman, 2.31M) adds "about 1 million Palestinians voted Wednesday in parliamentary elections that threaten to end the ruling Fatah Party's decade-long monopoly over Palestinian politics." The Washington Post (1/26, A1, Wilson, 744K) headlines its story "Hamas

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Makes Strong Showing In Vote," while the Washington Times (1/26, Mitnick, 90K) titles its reprot "Fatah Edges Hamas In Polls." The Christian Science Monitor (1/26, Prusher, Mitnick, 61K) and Los Angeles Times (1/26, King, 958K) run similar reports.

Bush Touts Palestinian Elections But Says He Will Not Deal With Hamas. In its "Washington Wire" column on its web site,, the Wall Street Journal (1/26, 2.11M) reports, "President Bush, in an Oval Office interview, declared that he isn't ready yet to deal with the radical Palestinian Islamist group Hamas no matter how well it does in Wednesday's Palestinian elections. Speaking to The Wall Street Journal as Palestinians were electing a new parliament, Bush lauded the Middle Eastern trend toward democracy that produced Palestinian elections, but he said that Hamas isn't a suitable partner for diplomacy until it renounces its position calling for the destruction of Israel. 'A political party, in order to be viable, is one that professes peace, in my judgment, in order that it will keep the peace,' the president said. 'And so you're getting a sense of how I'm going to deal with Hamas if they end up in positions of responsibility. And the answer is: Not until you renounce your desire to destroy Israel will we deal with you.'"

The Washington Post (1/26, A19, Kessler, 744K) reports "yesterday's better-than-expected electoral showing by a group labeled a terrorist organization by the United States greatly complicates the administration's diplomacy in the region, U.S. officials said yesterday.' Hamas, "which is dedicated to the destruction of Israel, appears to have ridden a wave of popular disgust at the perceived corruption and incompetence of the ruling Fatah Party. Exit polls indicate Fatah will have only a slim edge over Hamas in the Palestinian Legislative Council, giving Hamas a strong claim to a role in the government." The results "suggested the risks inherent in the Bush administration's campaign to bring democracy to the Middle East." Administration spokesmen "officially celebrated the 'historic moment' for the Palestinians while officials privately reeled at the outcome."

All three network news programs briefly noted Bush's pledge the US would not deal with Hamas unless it renounces violence. ABC's World News Tonight (1/25, story 2, 0:20, Woodruff) reported, "The Bush Administration declared the election 'historic' and called this 'a great day for the Palestinian people.' But President Bush made clear the US will not deal with Hamas, no matter how well it did in the election. He told 'The Wall Street Journal' today 'We view Hamas as a terrorist organization. We don't deal with Hamas. … I don't see that changing.'"

The CBS Evening News (1/25, story 6, :30, Schieffer) reported, "Hamas may have won a lot of Palestinian votes, but they got no vote of confidence from President Bush in a 'Wall Street Journal' interview today. The President says he will not deal with Hamas unless the group renounces its call for Israel's destruction."

ABC's World News Tonight (1/25, lead story, 3:10, Woodruff) reported "Israel's new foreign minister holds out little hope." Israeli Foreign Minister Tsipy Livney: "The essence and the reasons of the existence of the Hamas is not because they want to gain some political gains in the conflict. They are talking about demolishing the state of Israel, to erase the state of Israel from earth."

NBC Nightly News (1/25, story 4, 1:30, Williams) in its coverage also noted, "President Bush told 'The Wall Street Journal' today he would not deal with Hamas unless it renounces its call for the destruction of Israel."

The New York Times (1/26, Erlanger, Myre, 1.19M) reports "the acting prime minister of Israel, Ehud Olmert, said his country could not accept a situation in which Hamas would be part of the Palestinian Authority if the group remained armed with unchanged goals."

Carter Hopes Hamas Will Moderate Stance And Renounce Violence. ABC's World News Tonight (1/25, lead story, 3:10, Woodruff) reported, "What no one knows is if Hamas will change, now that it has gained political power. Former President Jimmy Carter came to monitor today's election elections. There are some that believe Hamas will be pragmatic." Former President Carter: "That's my hope. Everybody hopes Hamas will be pragmatic. Because one thing is, if not for their own benefit but maybe for the benefit of the people they represent. Because no doubt if Hamas is not, as you say, pragmatic, then there will be a reduction in foreign assistance."

The CBS Evening News (1/25, story 5, 2:00, Hawkins) reported "Former President Jimmy Carter, who is leading international election monitors here, says bringing Hamas into the system may soften its hard-line positions." Carter: "My hope is and my prayer is that this will be a moderating influence on Hamas, that they'll see the responsibility in the government itself that they will moderate their position, forgo violence and terrorist acts."

Sharon's Absence From Stage Said To Make Peace Process Uncertain. The CBS Evening News (1/25, story 7, 2:00, Schieffer) reported that former Israeli prime minister Ariel Sharon's medical condition "leaves Israel with many unresolved matters, including that wall being built in the West Bank." CBS (Pizzey) added, "The most troublesome and obvious symbol of the unfinished business Ariel Sharon has left behind is the security wall separating Israelis and Palestinians on the West Bank. It wasn't Sharon's idea, but he made it a reality, an unplanned but now integral feature of the so-called road map that is supposed to lead to a peace deal. The problem for those who built on Sharon's legacies is that his plans and policies were like this wall: Only gaps that only he seemed to know how to fill."

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Iran Open To Russian Enrichment Of Their Uranium. The Washington Post (1/26, Finn, 744K) reports that Ali Larijani, head of Iran's Supreme National Security Council," said "that his country was open to a compromise proposal from Russia that it enrich uranium for Iran on Russian soil," but added that that "the idea needed fine-tuning in advance of further talks scheduled for the middle of next month." The New York Times (1/26, Myers, 1.19M) adds that Larijani "indicated that no agreement had been reached and that significant details remained to be negotiated" and "warned that Iran would begin enriching uranium on an industrial scale if Iran's nuclear program was referred to the United Nations Security Council." His "remarks made it clear that further discussions on it would not take place until later in February, after the meeting at the atomic energy agency's headquarters in Vienna."

Fox News' Special Report (1/25, Rosen) reported that the head of Iran's national security council, "said in Moscow today Iran now takes a positive view of the so-called Russian proposal, which the Iranians previously rejected. The proposal would have Russia enrich uranium and ship the resulting nuclear fuel to Iran for nonmilitary use."

The AP (1/26, Gutterman) adds that President Bush said "Russia's proposal offered the best chance for resolving the impasse, adding 'it's important for us to exhaust all diplomacy' in dealing with Iran."

The Wall Street Journal/AP (1/26) says "Chief negotiator Ali Larijani also reiterated Iran's threat to renew enrichment activities if it is referred to the United Nations Security Council." The Washington Times (1/26, 90K) runs the same AP story. The Washington Post (1/26, A21, Finn, 744K) runs a similar report under the headline "Iran Says It Is Open To Russian Plan On Nuclear Program," while the New York Times (1/26, Myers, 1.19M) titles its report "Iran Welcomes Russia's Offer To Enrich Uranium Jointly; Details Remain."

Iran's Non-Cooperation Said To Be At Heart Of The Standoff. Knight Ridder (1/26, Landay) reports, "Iran's…obfuscation, conflicting answers and stonewalling on…the enrichment program are at the heart of the crisis over its nuclear program." It is "only by reconstructing the complete history and extent of Iran's nuclear work" that the IAEA can "determine the truth. So far, that's been impossible," and while "Iran has filled some gaps and is promising to fill the rest," IAEA Director General Mohamed ElBaradei said "in a Nov. 18 report to the IAEA board…that 'there still remain issues to be resolved' and Iran's 'full transparency is ... long overdue.'"

Blix Says Bush Administration Overemphasizing Possible Military Action. Fox News' Special Report (1/25, Rosen) reported that "one of the world's best-known weapons inspectors, one who clashed with the Bush Administration before, is criticizing it again now for its approach in the current standoff. Hans Blix, the chief UN weapons inspector in Iraq prior to the war, argued the Administration is overemphasizing the potential for US military interaction in Iran."

Washington Backs Off Linking Iran Vote To India Nuclear Deal. The AFP (1/26) reports, "Washington moved to unlink a landmark US-India civilian nuclear deal with how New Delhi votes on the Iranian nuclear question at a key meeting of the UN atomic watchdog agency." The US Ambassador to India, David Mulford, "had warned Wednesday that a historic deal giving American nuclear technology to India might fall through if New Delhi did not vote against Iran at the February 2-3 meeting of the International Atomic Energy Agency (IAEA)." However, State Department spokesman Sean McCormack said, "we deal with the Indian Government on these two issues as separate issues."

Reuters (1/25) added that "Mulford, told the Press Trust of India news agency that if India decided not to vote against Iran, 'the effect on members of the U.S. Congress with regard to the civil nuclear initiative will be devastating.'" He was also quoted "as saying the deal would 'die,'"

The AP (1/26, Rosenberg) adds, "The State Department in Washington said later that Mulford wasn't speaking for the U.S. government."

Reuters (1/26, Hafezi) also covered this story.

US Envoy Says China's US's Approach To Iran Differ. The New York Times (1/26, Kahn, 1.19M) reports, "China and the United States want to prevent Iran from acquiring nuclear weapons, but their 'approach may differ' on the best tactics to achieve that result, Deputy Secretary of State Robert B. Zoellick said after a round of meetings on the subject in Beijing." He also "called the diplomatic discussions fluid and said there were still differences over what steps should be taken to respond to what Western powers say is a covert program by Iran to build nuclear bombs." This suggests "hat China, despite heavy lobbying, had left some doubts as to whether it is prepared to back a proposal…to get the United Nations Security Council involved in deciding how to handle Iran's nuclear program."

Annan Doesn't Expect IAEA To Be Ready In February To Refer Iran To Security Council. Reuters (1/26, Leopold) reports, "U.N. chief Kofi Annan said on Wednesday he doubted that a U.N. nuclear watchdog would be able to come to a decision by early February on referring Iran to the Security Council over its nuclear programme," adding that "Mohamed ElBaradei, the director-general of the Vienna-based International Atomic Energy Agency, did not expect to have a report on Iran ready until the end of February, for the IAEA's regular board meeting in March."

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Iran Accuses British Military Of Aiding Bombers. The Washington Post/Reuters (1/26, A17) reports, "Iran accused the British military on Wednesday of cooperating with bombers who killed eight people in southwest Iran, an allegation Britain described as ludicrous. A little-known group campaigning for independence for Iran's Arab minority asserted responsibility in a Web statement for Tuesday's attacks on a bank and government building in the oil city of Ahvaz." Foreign Minister Manouchehr Mottaki "said that London's involvement was clear and that Tehran would make strong protests." A spokesman in British Prime Minister Tony Blair's office "said Iran's allegation 'deserves to be treated with scorn by the whole international community.'"

UN Peacekeepers To Maintain Monitoring Of Israeli-Lebanese Border. The New York Times/Reuters (1/26) reports, "The members of the United Nations Security Council have agreed that United Nations peacekeepers should keep monitoring the Israeli-Lebanese border for six more months, the current Council president said on Wednesday." Lebanon wanted "a renewal of the mandate of the United Nations' peacekeeping mission for the border area for a year, until Jan. 31, 2007." Yet "the 15 Security Council members instead reached a consensus on an extension until July 31."

Frist Says US, International Community Must "Ramp Up The Pressure" On Syria. In a New York Sun (1/26) op-ed, Senate Majority Leader Bill Frist writes, "A year ago this month, a car bomb killed the former Lebanese prime minister, Rafic Hariri. An ongoing U.N. investigation has implicated the Syrian government in the murder. The Syrian president, Bashar al-Assad, may have played a personal role. Several additional high-profile bombings have occurred in the last several months. Enough is enough: Syria's actions in Lebanon have proven that it has no desire to play by the rules of civilized nations. Now, the United States and its partners need to ramp up the pressure on Damascus. We need to push Syria away from its homegrown brand of Arab fascism and toward democracy, peace, and an authentic end to its interference with Lebanon's affairs. We should start by increasing and expanding our funding for prodemocracy groups in Lebanon and Syria. In the coming Congress, I plan to support legislation that will do just that."

Bush Administration Criticizes Mexico's Plan To Distribute Border Maps. Following an announcement Tuesday by Mexico's National Human Rights Commission that it will print and distribute maps showing immigrants the safest routes to cross the border into Arizona, Mexican President Vicente Fox distanced his government from the group, saying that it was an "autonomous commission." However, the Washington Times (1/26, Kralev, Seper, 90K) reports, "The Bush administration yesterday accused the Mexican government of facilitating illegal entry into the United States after Mexican officials said they would distribute maps of dangerous border areas and posters with safety instructions and other tips. … 'We oppose in the strongest terms the publication of maps to aid those who wish to enter the United States illegally,' said Homeland Security Secretary Michael Chertoff. 'It is a bad idea to encourage migrants to undertake this highly dangerous and ultimately futile effort.'" Meanwhile, "Rafael Laveaga, spokesman for the Mexican Embassy in Washington, said the NHRC is an independent body and receives no government funds."

Hutchison, Border Sheriff Seek Investigation Of Suspected Mexican Military Incursions. The Washington Times (1/26, Seper, 90K) reports Zapata County Sheriff Sigifredo Gonzalez Jr., who heads the Texas Sheriff's Border Coalition, demanded yesterday "that the US and Mexican governments investigate incursions into the United States by heavily armed drug escorts dressed in Mexican military uniforms 'before someone gets killed.'" He "said a growing number of suspected incursions and violence aimed at the area's law-enforcement officers is making the border 'a pretty dangerous place.'" Also yesterday, "Sen. Kay Bailey Hutchison, Texas Republican, said she was 'deeply concerned' about the possible incursions and asked Homeland Security Secretary Michael Chertoff to 'fully investigate this matter and report to Congress the details and confirm whether or not Mexican military officials were involved. … The Mexican government has denied that the men in any of the incidents were soldiers, saying that some drug smugglers dress in military-style uniforms, carry automatic weapons and drive military-style vehicles."

Kyl Says Border Encounters "Undermine Efforts" To Keep Drugs Out Of US. The Los Angeles Times (1/26, Marosi, Lopez, Connell, 958K) reports, "Armed Mexican government personnel made unauthorized incursions into the United States five times in the last three months of 2005, including one incident last month in Southern California, according to confidential Department of Homeland Security records. … The records obtained by The Times provide new details on more than a dozen incursions into the US, including the five most recent ones." Meanwhile, "US Border Patrol Chief David V. Aguilar said "that incursions have declined by more than 50% since 2002. Still, with assault rates against agents at record highs, any incursion is taken 'very seriously.' However, "US Sen. Jon Kyl (R-Ariz.) said in an interview Wednesday that this week's incident in Texas was 'about as serious as it gets' and noted that dozens of reported incursions have occurred in his state. The encounters seriously undermine efforts to stop the flow of drugs coming

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across the US border and suggest possible cooperation among Mexican authorities and traffickers, he said."

Mexico Said To Be Helping US Secure Southern Border From Terrorists. Meanwhile, the Christian Science Monitor (1/26, Bowers, 61K) reports, "A top priority of the United States government is to prevent a determined terrorist from crossing the US- Mexico border. It is also becoming a primary mission for Mexico - and the first place it's focusing on is the 375-mile, desolate stretch of land that abuts Arizona. In addition to sharing intelligence and cooperating on investigations with its US counterparts in Arizona, Mexico last year set up three checkpoints along known human-smuggling routes on its side of the border and plans to add two more. Between August, when the checkpoints became operational, and December, Mexican officials stopped 1,277 non-Mexicans (OTMs, for 'other than Mexicans') from crossing into Arizona, according to a Mexican government report obtained by the Monitor. The report shows that most of the OTMs came from Central and South America, but seven are listed as Iraqis." Meanwhile, "the US government is apprehending record numbers of illegal immigrants on the Arizona side of the border."

State Legislators Considering Immigration Legislation. USA Today (1/26, Cauchon, 2.31M) reports, "Frustrated by slow action in Congress, state legislatures are debating whether to increase border enforcement at their own expense, fine employers who use undocumented workers and get local police involved in deporting them." However, "like Congress, legislatures are divided on what to do about the estimated 11 million undocumented immigrants who provide a low-wage workforce in the USA." It "is one of the hottest issues as 37 legislatures convene this month. Last year, states considered 300 immigration laws and approved 40." Meanwhile, "Congress is considering changes to immigration policies — a border fence, a guest worker program — but it's uncertain whether action will be taken this year."

Provision Of Immigration Bill Compared To Nazi Practice. Andrew S. Grove, a member of the board of overseers of the International Rescue Committee, in an op-ed for the Wall Street Journal (1/26, A10, 2.11M) writes that the recently passed "Sensenbrenner-King" immigration bill "scares me because it has the potential of turning neighbor against neighbor -- and of changing our country into a place of fear and mistrust. … The bill contains a provision punishing anyone who 'assists, [or] encourages . . . a person who . . . lacks lawful authority to remain in the United States' to remain here." Grove states, "This could change the nature of our society in a way that I have seen firsthand. As a Jewish child hiding from the Nazis in Hungary, I saw how the persecution of non-Jewish Hungarians who hid their Jewish friends or neighbors cast a wide blanket of fear over everyone. This fear led to mistrust, and mistrust led to hostility, until neighbors turned upon neighbors in order to protect themselves. Is this what we want?"

Mexican Presidential Candidate Seeks To Boost Profile. The New York Times (1/26, McKinley, 1.19M) reports on Mexican presidential candidate Felipe Calderón's efforts to succeed President Vicente Fox. After "a bitter primary fight last year, Mr. Calderón transformed himself from a little-known former energy commissioner into the best hope for the president's right-of-center party. He is running a strong second in most opinion polls to the leftist former mayor of Mexico City, Andrés Manuel López Obrador, and many political strategists say he has a chance to win the election on July 2." Yet, "outside the capital's opinion-makers and party insiders, surveys show that one in five Mexican voters still do not know who Mr. Calderón is, and as the presidential campaign officially kicked off last week, he made his first tour to try to change that."

Musharraf Vows To Construct Natural-Gas Pipeline To Iran. The Wall Street Journal (1/26, Champion, Kempe, 2.11M) reports, "Pakistani president Pervez Musharraf "said his country would build a planned natural-gas pipeline from Iran without India's participation if talks among the three nations continue to produce no result." His "threat came at a delicate time for Gen. Pervez Musharraf, while he is having to balance domestic public opinion and relations with the U.S., India and Iran." At the World Economic Forum he "said Pakistan had opened bilateral talks with Tehran to build a gas pipeline that would run from Iran." But India has "expressed concern about recent attacks on existing gas and power lines in Baluchistan, the region of South Western Pakistan through which a pipeline from Iran would pass. Gen. Musharraf played down the threat posed by Baluchistan militants, dismissing the conflict as limited to one isolated local tribe." His "tough line on the pipeline talks contrasts with that of his prime minister, Shaukat Aziz, while in New York last week."

OPEC Will Refrain From Cutting Oil Output. The Wall Street Journal (1/26, Bahree, 2.11M) reports that OPEC "is widely expected to refrain from trimming output levels when its oil ministers meet in Vienna next week, but Iran remains a wild card." The Journal notes, "With the price of oil nearing records recently, an OPEC decision to continue pumping oil at close to capacity should reassure markets of plentiful supply, something Saudi Arabia appears to favor and the U.S. seems to be counting on. In short, there is no economic incentive for OPEC to trim output when market forces have sent billions of extra dollars pouring into the coffers of oil-rich countries anyway." But Iran "could use the OPEC meeting to send a warning to Western Europe and the

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U.S., both big oil importers." Meanwhile, "U.S. Energy Secretary Samuel Bodman says he has been in regular contact with oil producers. 'By and large, they seem to be understanding that we have a situation where there needs to be more oil rather than less oil in the world,' Mr. Bodman said this week."

South Korea Ignores US Call For Action On North Korean Financial Activity. The Washington Times (1/26, Salmon, 90K) reports, "A day after the United States urged South Korea to take an active stance against what it contends are North Korea's illicit financial activities, Seoul refused to say whether it would take action and made clear it opposed any attempt at regime change in Pyongyang." South Korean President Roh Moo-hyun said, "When it comes to the North Korean regime, raising issues about it or pressuring it or sometimes wishing for its collapse, on that position of some Americans, we do not agree." The Times notes, "By 'some Americans,' Mr. Roh appeared to be referring to hard-liners in the Bush administration who favor toppling North Korean strongman Kim Jong-il."

US, South Korea Close To Reaching Free Trade Deal. The Washington Post (1/26, D6, Blustein, 744K) reports, "The United States and South Korea are very close to launching negotiations for a free-trade agreement, which would be the most economically significant free-trade pact for Washington since the North American Free Trade Agreement." Yet "both sides have been reluctant to start formal talks until they are reasonably confident that the negotiations would end in agreement. South Korea's farmers are bitterly opposed to opening their country's agricultural markets, and their political clout could scuttle a deal." While "plans to launch the U.S.-Korea talks could still founder, officials and other sources who have spoken recently with negotiators said an announcement is likely to materialize before long. Asked about the prospects, one administration official replied, 'How do you say 'soon' in Korean?'" And "Rob Portman, the U.S. trade representative, heightened the speculation Friday when he told reporters, 'We'll be announcing some additional [free-trade agreement] partners soon. As I think you will notice, they will not be with small economies because I do think we need to move on to some larger economies.'"

"Gas War" Between Russia And Ukraine Leads To European Shortages. The Wall Street Journal (1/26, White, Crawford, 2.11M) reports, "Bickering over natural-gas shipments intensified between Moscow and Kiev has reduced supplies of Russian gas to Europe, led to shortages in several countries and fueled energy-security anxieties across a continent gripped by an arctic cold snap." Few experts "expect a repeat of Russia's New Year's gas cutoff to Ukraine. … But as details of the Jan. 4 deal have emerged, doubts have grown about whether it sets the stable foundation for supplies and exports to Europe that its backers claim." Despite reassurances from both countries, "the two sides yesterday failed to reach agreement on the details of implementing the Jan. 4 compromise, intended to halt what is known as the 'gas war' in the region."

Putin Claims Alleged British Spies Linked To NGOs. The Washington Post (1/26, A16, Finn, 744K) reports, "Russian President Vladimir Putin on Wednesday linked the scandal to foreign financing of nongovernmental organizations in Russia, a connection that grass-roots activists say is tangential and being used to smear their work." Putin said, "The situation is regrettable, as we have seen, when attempts are made to use secret services to work with nongovernmental organizations and when financing is carried out through secret services' channels." The UK government "has refused to comment on the espionage charges, but has denied it was doing anything illegal with nongovernmental organizations." And "Russian authorities have so far presented no evidence that the alleged spy ring recruited human rights activists." Yet the claims have been "seized on by many Russian politicians. The lower house of parliament, by a vote of 401 to 6, passed a resolution Wednesday condemning the involvement of foreign intelligence services with the private groups."

The New York Times (1/26, Myers, 1.19M) notes, "Putin's "remarks intensified a furor" that "could worsen relations with Britain and other countries as Russia presses its assault on European and American financial support of groups that criticize the Kremlin." Putin "said Russia was still considering whether to expel the four diplomats, all mid-ranking secretaries in the British Embassy, indicating for the first time that they had not yet been expelled or withdrawn, though the espionage that was alleged was reported to have been uncovered last fall."

Google Complies With Chinese Censorship. The CBS Evening News (1/25, story 10, 2:00, Schieffer) reported, "Google has launched a new search engine today in China, but in order to do it, it had to agree to restrictions from the communist government." CBS (Gonzales) added, "Just last week, Google stood up to another government, the US government, and refused to turn over personal information the Justice Department wants for its defense of an anti-pornography law." Larry Magid, CBS technology analyst: "The fact that they're making a strong, stand firm with the Justice Department over privacy and then being very loose with the Chinese over censorship, I find a little bit disturbing." Gonzales: "Both decisions actually make good business

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sense for Google. The company can't afford to spook American users, and it has to get a foothold in the world's largest market."

GOP Lawmaker To Question Google's Move. The Financial Times (1/26, Kirchgaessner) reports, "Google will be called to task in Washington next month following a controversial decision by the internet search engine to launch a China-based version of its website that will censor results to avoid angering the country's Communist government." Rep. Chris Smith's decision "to call for a February 16 hearing to examine the operating procedures of US internet companies in China, represents the first signs of what could become a serious backlash against Google and other internet companies in Washington that are perceived as capitulating to the Chinese government."

Zoellick Sends Message About Strengthening US Relations With China. The Washington Post (1/26, A16, Cody, 744K) reports that deputy secretary of state Robert Zoellick's appearance with a Chinese panda "was seen at least in part as a signal to China about where he wants to steer U.S.-Chinese relations. The official New China News Agency received his message 10-4. It immediately transmitted a happy photo of Zoellick and Jing Jing around the country, illustrating the government's view that good U.S.-China relations are essential and, in fact, getting better and better." His "gesture, in another reading, could also be seen as a signal of where he stands in the Washington debate about China. Interpreted that way, becoming a public panda-hugger was an eloquent endorsement of the view that engagement with Beijing is the best path for the United States and that China's emergence as an Asian power does not have to mean conflict in the Pacific." Zoellick's trip "also included specific talks on issues that could be seen as a test of the U.S.-Chinese engagement his panda photo was meant to symbolize. These, he said, included China's stand on the effort to prevent Iran from acquiring nuclear weapons, China's role in diplomacy to persuade North Korea to eliminate its nuclear weapons program and China's currency policies at a time of soaring U.S. trade deficits."

Concerns Raised Chinese Economic Growth May Be Too Rapid. The Washington Post (1/26, D1, Goodman, 744K) reports, "Led by surging exports, China's economy grew by 9.9 percent last year, the government announced Wednesday, underscoring the swiftness by which this once insular communist country has remade itself into a global trading power." But "the news also increased concern that China could be growing too fast, despite measures aimed at cooling the hottest parts of the economy. Aggressive investment has produced too many factories, heightening trade tensions with the United States as China exports surplus wares such as steel, depressing prices globally. Chinese officials worry that unneeded plants could deliver a crippling era of deflation -- falling prices -- which hurts profits and reduces incentives for companies to invest. Such a syndrome kept Japan mired in recession and unemployment for much of the past 16 years."

Report Suggests China Has Fewer AIDS Cases. The New York Times (1/26, Yardley, 1.19M) reports, "China countered the long-held suspicion that it has undercounted the number of people with H.I.V. and AIDS by releasing a new, more extensive estimate on Wednesday that found the opposite: that the country had actually overestimated its number of cases." The new WHO and United Nations AIDS program report "lowered the country's estimated number of H.I.V. and AIDS cases to 650,000 from the official figure of 840,000 released by the government in 2003. Many experts and AIDS workers have long believed that China has at least 1.5 million cases, possibly far more, and some expressed skepticism that the new figure was any more reliable than past estimates."

European Commission Proposes "Nordic-Style" Economic Reforms. The Wall Street Journal (1/26, Echikson, 2.11M) reports, "The European Commission presented a new plan to reinvigorate Europe's economies, calling for a Nordic-style, seemingly social-democratic approach rather than an Anglo-Saxon free-market model." The report "gave the most praise to northern European countries that are increasing spending on research and development universities and pursuing interventionist jobs policies." It "also called for the creation of a competitive, continent-wide energy program, and support for small and medium-size businesses." It represents Commission President José Manuel Barroso's attempt to recover the initiative after a tough first year in office. Many of his previous plans for jump-starting Europe's economies have faltered."

Sri Lankan Factions To Resume Peace Talks. The New York Times (1/26, Senanayake, Sengupta, 1.19M) reports, "In a measure of how intractable this country's ethnic conflict is, the warring parties agreed Wednesday to begin talking to each other again, after more than 18 months of deadlock over a site for peace talks and with scores of killings in the meantime." The negotiations "would focus on strengthening an all-but-ineffectual four-year-old cease-fire agreement. They are scheduled to take place in Geneva, starting as early as February." While "modest," the agreement "represents a major breakthrough in the decade-long war."

African Worshipers Mix Islam With Christianity. The Christian Science Monitor (1/26, McLaughlin, 61K) reports that "worshipers at 'The True

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Message of God Mission' say it's entirely natural for Christianity and Islam to coexist, even overlap. They begin their worship by praying at the Jesus alcove and then 'running their deliverance' - sprinting laps around the mosque's mosaic-tiled courtyard, praying to the one God for forgiveness and help. They say it's akin to Israelites circling the walls of Jericho - and Muslims swirling around the Ka'ba shrine in Mecca." The group represents "a window on an ongoing religious ferment in Africa. It's still up for debate whether this group, and others like it, could become models for Muslim-Christian unity worldwide or whether they're uniquely African. But either way, they are 'part of a trend,' says Dana Robert, a Boston University religion professor."

Villagers Flee Nigerian Troops. The New York Times/Reuters (1/26) reports, "Villagers fled Nigeria's lawless delta on Wednesday amid fears of military reprisals after a wave of attacks on foreign oil companies by ethnic Ijaw militiamen." Reuters adds, "The army deployed more troops to major installations, and oil companies tightened security around offices a day after heavily armed men stormed the headquarters of the Italian oil firm Agip, robbing a bank on the premises and killing eight policemen and a civilian."

Annan Denies Arranging Deal For Son's Car. The Los Angeles Times (1/26, Farley, 958K) reports that after his son, Kojo Annan, agreed to reimburse Ghana for the import duties on a car he misidentified as belonging to his father, UN Secretary General Kofi Annan "welcomed news of his son's move. 'It was the right thing to do. … He knew I wanted him to sort it out, clean it up. It was between him, his lawyer and the government." Asked if "he, as secretary-general, secured the tax break for his son, Annan said, 'Absolutely not. It was done behind my back.'"

Former Surfer Volunteers For International Disaster Relief. ABC's World News Tonight (1/25, story 11, 2:20, Wright) reported, "The remarkable story of one American making so much of a difference. He was a laidback, California surfer, until he saw the damage done by the tsunami" ABC (Wright): "If relief organizations had special forces, Matt George would be a Green Beret. He's a one-man trauma ward, in what may be the coldest clinic on earth. A builder doing what he calls extreme home makeovers. And he delivers supplies where no aid workers have gone before."

Pinochet's Daughter Seeks Asylum In US. The Washington Post (1/26, A20, Reel, Constable, 744K) reports, "The oldest daughter of the former Chilean dictator Gen. Augusto Pinochet was detained Wednesday at Dulles International Airport outside Washington, where she requested political asylum, a Chilean official said." Lucia Pinochet "had been served with a subpoena over the weekend in Chile, along with her mother and three siblings. They had been ordered to appear in court on Monday…on tax fraud charges connected to a probe of her father's illegal bank accounts." A DHS spokesman "said she was in U.S. custody at the airport in Virginia 'pending resolution of her immigration status.'" And "Chile's Interior Minister, Francisco Vidal, said U.S. Ambassador Craig Kelly informed his government that Pinochet, sought on an international arrest warrant, had requested asylum. U.S. officials said they could not comment on that issue."

Success Of Bush Allies In War In Iraq Contrasted With Opponents' Downfall. Columnist Mark Steyn in an op-ed in the Wall Street Journal (1/26, 2.11M) writes, "Remember the conventional wisdom of 2004? Back then, you'll recall, it was the many members of George Bush's 'unilateral' coalition who were supposed to be in trouble, not least the three doughty warriors of the Anglosphere -- the president, Tony Blair and John Howard -- who would all be paying a terrible electoral price for lying their way into war in Iraq. The Democrats' position was that Mr. Bush's rinky-dink nickel-&-dime allies didn't count: The president has 'alienated almost everyone,' said Jimmy Carter, 'and now we have just a handful of little tiny countries supposedly helping us in Iraq.' (That would be Britain, Australia, Poland, Japan . . .) Instead of those nobodies, John Kerry pledged that, under his leadership, 'America will rejoin the community of nations' -- by which he meant Jacques Chirac, Gerhard Schröder, the Belgian guy." But now "Bush, Blair, Howard and Koizumi are all re-elected, while Mr. Chirac is the lamest of lame ducks, and his ingrate citizenry have tossed out his big legacy, the European Constitution; Mr. Schröder's government was defeated and he's now shilling for Russia's state-owned Gazprom ('It's all about Gaz!'); and the latest member of the coalition of the unwilling to hit the skids is Canada's Liberal Party, which fell from office on Monday. John Kerry may have wanted to 'rejoin the community of nations.' Instead, 'the community of nations' has joined John Kerry, windsurfing off Nantucket in electric-yellow buttock-hugging Lycra, or whatever he's doing these days."

WSJournal Honors Memory Of Free Market Leader Of Hong Kong. The Wall Street Journal (1/26, 2.11M) editorializes, "Hong Kong's prosperity since World War II is sometimes referred to as a 'miracle.' But miracles require the intervention of a deity, whereas Hong Kong's remarkable economic growth between 1945 and its handover to China in 1997 owes a great deal to the nonintervention of a mortal man, John James Cowperthwaite, who died over the weekend at the age of 90." As Financial Secretary from

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1961-1971, Cowperthwaite "was the architect and guardian of the greatest natural experiment in free-market capitalism in the postwar world." The Journal concludes, "Other would-be central planners could learn a lot from what John Cowperthwaite didn't do."

NYTimes Applauds African Union Rejection Of Sudan Leadership. The New York Times (1/26, 1.19M) editorializes, "The African Union did the right thing in rejecting Sudan's bid for the rotating presidency of the organization. Allowing President Omar Hassan al-Bashir of Sudan to become Africa's face to the world would have sent just about every wrong message imaginable." But while "rebuffed for now, Mr. Bashir was promised the group's presidency in 2007, and for now the chair will go to the Congo Republic, hardly a model of human rights. Giving Sudan the African Union presidency next year will be just as unacceptable as it was this year."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"The Day Disaster Changed Their Lives."
"Hamas Makes Major Inroad In Balloting."
"Villa Shines Through Getty's Clouds."
"Abduction Forces A Grim Look At What A Story Is Worth."
"Reports Cite Incursions On U.S. Border."
"Multiple Risks Of Surgery Drug Seen."
"There Isn't Enough Good Entertainment To Go Around."

USA Today:
"States Weigh Immigration Controls."
"X Games Upstarts Now Embrace The Olympics."
"General Sees Rift In Iraq Enemy."

New York Times:
"Hamas Presses Fatah In Palestinian Vote, Surveys Say."
"Big Test Looms For Prosecutors At Enron Trial."
"New Estimate In China Finds Fewer AIDS Cases."
"Bush, In Speech, Is Seen Avoiding Large Initiatives."
"In Public Schools, The Name Game As A Donor Lure."
"News Analysis: In Case About Google's Secrets, Yours Are Safe."

Washington Post:
"Gay Marriage Ban Advances Toward Va. Referendum."
'Hamas Makes Strong Showing In Vote."
"Nuclear Energy Plan Would Use Spent Fuel."
"Fairfax Police Say Shooting Was Accident."
"Al Gore, Sundance's Leading Man."
"Harmful Teflon Chemical To Be Eliminated By 2015."

Washington Times:
"White House Slams Mexico For Aid Maps."
"Sheriff Demands Probe Of Incursions."
"Fatah Edges Hamas In Polls."
"Bush Reiterates Spy Authority."
"Marriage Amendment Set For Virginia Ballot."
"BB&T Opposes Eminent Domain."
"Toyota Racing Teams Break Through Nextel Cup Barrier."

Detroit Free Press:
"Winter Bust Won't Stop Blast."
"Granholm: Let's Help People Save."
"Audits Find Waste At State Universities."
"DIA Defends Its Right To Van Gogh."

Atlanta Journal-Constitution:
"Voter ID Bill Approved."
"Whose Tax Cut Is It?"
"Fat Lady Warms Up As Opera Gets Closer To Cobb Center Move."
"Palestinian Vote Realigns Power."

Dallas Morning News:
"Drought Taking Its Toll."
"State To Pick Up Medicare Slack."
"Strayhorn Gets Democratic Cash."
"Bush PR Blitz Races To Frame Spying Debate."
"Nuclear Energy Policy Would Reprocess Fuel."
"Study: Internet Fosters Contact."

Houston Chronicle:
"Hamas Party Shows Muscle In Vote."
"Delay In Oil-Spill Notification Probed."
"The Media May Not Be Rock Stars, But This Is Their Big Gig."
"Mexico Police Arrest Woman In 'Old Lady' Serial Killings."
"NASA's Teachable Moments."

Story Lineup From Last Night's Network News:
ABC: Palestinian Election; US Palestinian Election Response; Release Of Iraqi Women; Oil Industry Profits; Bush NSA Defense; Alito Debate; Teflon Dangers; FL Bus Accident; Ford Released; Breast Cancer Treatment; Disaster Relief Volunteer.
CBS: Bush Domestic Spying; Hayden-9/11 Prevention; US Troops Overburdened; Iraq-Prisoner Release; Palestinian Elections; Bush-Palestinian Elections; Sharon Void; Medicare Problems; Ford Release From Hospital; Google-China Censor.
NBC: Bush-Domestic Spying; Katrina Aftermath-White House; Alito Confirmation Hearing; Palestinian Elections; US Troops Overburdened; US Troops Security Advisors; Ford Released From Hospital; Mine Safety; Sandwich Generation; Katrina Coverage.

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Story Lineup From This Morning's Radio News Broadcasts:

ABC: Ameriprise-security breach, Identity theft; FL-deadly car accident; WV-Sago mine victim's condition; Palestinian election; Bush-domestic spying; Wall Street.

CBS: Palestinian election; Iraq-female prisoner release; FL-deadly car accident; CA-bank hostage standoff; EPA-teflon chemical; Wall Street.

NPR: Palestinian election; CA-bank hostage standoff; FL-deadly car accident; Senate-Alito; Cuba-US interests section message board; Bush-domestic spying; Iraq-female prisoner release.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH – No schedule available.

FIRST LADY LAURA BUSH -- Visits Harte Elementary School. New Orleans. Visits St. Bernard Unified School. Chalmette, La. Participates in building a playground. Hancock North Central Elementary School, Kiln, Miss.

VICE PRESIDENT CHENEY -- No schedule available.

US Senate: -- COMMITTEE MEETINGS

10 a.m. ARMED SERVICES _ Full Committee. Closed, members-only briefing on alternatives for tanker recapitalization. Location: Room 222, Russell.

2:30 p.m. SELECT INTELLIGENCE _ Full Committee. Closed, members-only briefing on pending matters. Location: Room 219, Hart.

US House: -- No events scheduled.

Other: ALL DAY

Jan. 22 - 26. TRANSPORTATION MEETING _ The Transportation Research Board holds its 85th annual meeting. Five days of workshops and presentations by and for transportation professionals. Location: Omni Shoreham Hotel, 2500 Calvert St. NW, Washington Hilton & Towers, 1919 Connecticut Ave. NW, Washington Marriott Wardman Park, 2660 Woodley Road NW. Contacts: Russell Houston, 202-334-3252 Notes: Newsroom facilities at all three venues.

Jan. 24 - 26. AGRICULTURAL EMPLOYERS _ The National Council of Agriculture Employers holds its annual meeting. Location: Hamilton Crowne Plaza Hotel, 14th and K Sts. NW. Contacts: n/a, 202-728-0300

Jan. 24 - 26. HEALTH AND HUMAN SERVICES _ The Medicaid Commission holds three days of meetings to discuss longer term recommendations on the future of Medicaid. Location: Holidat Inn-Chevy Chase, 5520 Wisconsin Ave., Chevy Chase, MD. Contacts: Margaret Reiser, 202-205-8255

Jan. 25 - 27. MAYORS _ The U.S. Conference of Mayors holds its 75th Winner Meeting. Highlights: 9 a.m. Plenary session on avian flu and homeland security, with Deputy HHS Secretary Alex Azar, Seattle Mayor Greg Nickels, Baltimore Mayor Martin O'Malley, Denver Mayor John Hickenlooper, Deputy DHS Secretary Michael Jackson, others. 11 a.m. News conference on homeland security and avian flu. 11 a.m. Session on childhood obesity, with William Dietz of CDC, others. 11 a.m. Session on housing for hurricane evacuees, with Rep. Michael Turner, Assistant HUD Secretary Steven Nesmith, others. 11 a.m. Session on energy costs, with Sen. Jack Reed, Steven Crout of the American Gas Association, others. 12:30 p.m. Luncheon, with HUD Secretary Jackson, others. 2:30 p.m. Session on faith-based and community initiatives, with Sen. Sam Brownback, Rep. Danny Davis, others. Location: Capital Hilton, 16th and K Sts. NW. Contacts: Elena Temple, 202-861-6719

Jan. 26 - 27. ENERGY _ The National Council for Science and the Envionrment holds its 6th National Conference on Science, Policy and the Environment: Energy for a Sustainable and Secure Future. Highlights: 9 a.m. Keynote address : Ross Pillari, President, BP America. 10 a.m. Session on opportunities for decision-making that will shape the energy future, with Bob Greco of API, Pennsylvania Enviorinmental Protection Secretary Katie McGinty, former Energy Secretary Hazel O'Leary, others. 5:30 p.m. Presentation of Lifetime Achievement Award to former EPA Administrator Russell Train. Location: Reagan Trade Center. Contacts: David Blockstein, 202-207-0004

9 a.m. LOBBYING REFORM _ American University's CEnter for Congressional and Presidential Studies aqnd the Committee for Economic Development hold a lobbying reform summit. Location: National Press Club. Contacts: Maralee Csellar, 202-885-5952

8:30 a.m. IMMIGRATION LAW _ The American Bar Association Section on Individual Rights hosts a panel discussion on immigration reform, asylum and refugees. Location: National Press Club, 14th and F Sts. NW Contacts: Stephanie Ortbals Tibbs, 202-662-1091 Notes: RSVP requested to 202-662-1030.

9:15 a.m. TAX SIMPLIFICATION _ Sen. Ron Wyden holds a news conference about the need for tax reform to make the tax code simpler. Location: In front of IRS, Pennsylvania Ave. and 10th St. NW. Contacts: Andrew Blotky, 202-224-3789

9:30 a.m. - 11 a.m. HEALTH CARE COSTS _ The Progressive Policy Institute holds a forum to discuss the promise of a local health care reform experiment, The Puget Sound Health Alliance, designed to control costs and reward better care. With David Kendall, PPI; Ron Simms, King County Executive; Janet Corrigan, president, National

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Committee for Quality Health Care; Anne Gauthier, senior policy director, Commonwealth Fund's Commission on a High Performance Health System. Location: PPI, Suite 400, 600 Pennsylvania Ave, SE. Contacts: Austin Bonner, 202-547-0001

10 a.m. IDENTITY THEFT _ Treasury Secretary Snow releases ``Identity Theft: Outsmarting the Crooks" DVD. Location: Media Room, main Treasury. Contacts: n/a, 202-622-2920

10 a.m. LOBBYING REFORM _ The American Society of Association Executives holds a news conference on lobbying reform and the value of associations to America. Location: National Press Club. Contacts: Angel Venable, 202-626-2788

10:30 a.m. - 12 p.m. SCHOOL CHOICE _ The Brookings Brown Center on Education Policy holds an education policy forum on school choice in K-12 education. Focusing on ``Getting Choice Right," the final voume from the National Working Commission on Choice in K-12 Education. With Tom Loveless, director, Brown Center on Education Policy; Julian Betts, professor of economics, UC San Diego; Patrick Wolf, principal investigator, School Choice Demonstration Project at Georgetown University; and Laura Hamilton, senior behavioral scientist, RAND Corporation. Location: 1775 Massachusetts Ave., N.W. Contacts: n/a, 202-797-6105

10:45 a.m. DEMOCRATS-MEDICARE RX _ Senators Harry Reid, Ted Kennedy, Jeff Bingaman and Debbie Stabenow joins Concerned Seniors for a press conference to call on the president to take immediate action to fix widespread problems and confusion caused by the Medicare prescription drug bill. Location: Room 406, Dirksen Senate Office Building. Contacts: Jim Manley, 202-224-2939

11 a.m. BUDGET OUTLOOK _ The Congressional Budget Office holds a briefing on the 2006 Budget and Economic Outlook. With acting CBO Director Donald Marron. Location: CBO, 483 Ford House Office Bldg., 2nd and D Sts, S.W. Contacts: Melissa Merson, 202-226-2602 Notes: Congressional press credentials required. Report available at 10 am at www.cbo.gov. Limited copies available at briefing.

11 a.m. REBUILDING NEW ORLEANS _ The Foreign Press Center offers a digital video conference of a New York Press Center on-the-record briefing on rebuilding Cnew Orleans and Lousiana, with Louisiana Economic Development Secretary Michael Olivier, others. Location: Foreign Press Center, National Press Building. Contacts: Sheila Hoban, 202-504-6314 Notes: Foreign media only.

11:15 a.m. ALITO _ Public Advocate of the U.S. group holds an event in support of Samuel Alito's nomination to the Supreme Court, with an ensemble signing ``Alito" as they pass out materials. Location: In front of Dirksen, at 1st St. and Constitution Ave. NE. Contacts: Jesse Binnall, 703-582-7924

12 p.m. ANTI-DUMPING _ The World Bank hosts a briefing on its study finding the use of safeguards, antidumping in Latin America, seen as judicious. The briefing will be chaired by Guillermo Perry, World Bank Chief Economist for the Latin America and Caribbean region. Panelists will include: Hector Marquez, Director, Trade and NAFTA Office, Embassy of Mexico; Brad Ward, partner, Dewey Ballantine LLP; and J. Michael Finger, Retired World Bank Lead Economist. Location: World Bank Headquarters, I Building, 1850 I St. NW, Room I1-200. Contacts: Chris Neal Sr., 202-473-7229

12 p.m. - 2 p.m. UN REFORM-HUMAN RIGHTS _ The United Nations Development Programme holds a roundtable discussion to take stock of UN progress on initiatives for democracy and human rights. With Mark Lagon, deputy assistant secretary, International Organization Affairs, State Department; Magdy Martinez-Soliman, Practice Manager, Democratic-Governance Group, UNDP; Jennifer Windsor, executive director, Freedom House; and others.

12:30 p.m. DEMOCRATS-LOBBYING REFORM _ Senators Lieberman, Feingold, and Obama hold a news conference to call for immediate attention on the Honest Leadership Act, the Democratic proposal to reform congressional lobbying rules. Location: Senate Radi/TV Gallery. Contacts: Jim Manley, 202-224-2939

12:30 p.m. - 1:30 p.m. ECONOMICS-MUTUAL FUNDS _ The National Economics Club hosts a speech by Brian Reid, chief economist, Investment Company Institute, on ``How Well is the Market for Mutual Funds Working?" Location: Chinatown Garden Restaurant, 618 H St, NW. Contacts: n/a, 202-493-8824

1 p.m. DEMOCRATIC LEADERS _ Sen. Dick Durbin and Rep. Nancy Pelosi speak at the National Press Club to give the Democratic pre-buttal fo the State of the Union Address. Location: National Press Club. Contacts: Brendan Daly, 202-226-7616

1 p.m. NORTHERN IRELAND _ The National Press Club holds an Afternoon Newsmaker news conferencde with the leader and deputy leader of the Social Democratic labor party of Northern Ireland discussing the peace process. Location: National Press Club. Contacts: Peter Hickman, 301-530-1210

2 p.m. DEMOCRATS-BUDGET _ Rep. John Spratt and Sen. Kent Conrad hold a news conference on the CBO budget report. Location: House Radio-TV Gallery.

2 p.m. MASSACHUSETTS HEALTH CARE _ The Heritage Foundation holds a discussion with Massachusetts Gov. Mitt Romney on health care reform in his state. Location: Room 2261, Rayburn. Contacts: n/a, 202-675-1761

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2:15 p.m. AFGHANISTAN _ U.S. Ambassador to Afghanistan Ronald Neumann holds an on-the-record briefing on the London Conference on Afghanistan next week. Location: Foreign Press Center, National Press Club. Contacts: Doris Robinson, 202-504-6353 Notes: Foreign media only.

3 p.m. BUDGET _ The Center on Budget and Policy Priorities holds a telephone briefing on the new budget and economic forecast by the CBO which will be released Thursday morning. Contacts: Michelle Bazie, 202-408-1080 Notes: Call Contact for details.

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Sent:	Thursday, January 26, 2006 8:04 AM
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Attachments:	agnb060126.pdf; agnb060126.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: THURSDAY, JANUARY 26, 2006 7:45 AM EST

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TERRORISM NEWS:

Specter To Question Gonzales On NSA Surveillance. The Pittsburgh Post-Gazette (1/26, McGough) reports, "If Attorney General Alberto R. Gonzales thought he might be spared tough questioning from Republican senators when he testifies about the warrantless wiretapping of Americans thought to be in contact with foreign terrorists, Sen. Arlen Specter, R-Pa., yesterday disabused him of that notion." The Post-Gazette continues, "In a letter sent to the attorney general and shared with the press, the chairman of the Senate Judiciary Committee propounded a series of questions that in a courtroom setting might be called 'leading' and requested that Mr. Gonzales answer them in his opening statement before the committee on Feb. 6. … The combative nature of the letter wasn't altered by the fact that the printed salutation to 'Attorney General Gonzales' was replaced by a hand-written 'Al.'" The Post-Gazette adds, "The letter honed in on the Bush administration's assertion-ridiculed by critics -- that Congress empowered the president to engage in electronic surveillance of Americans without a court order when it passed a resolution after the Sept. 11 2001, attacks authorizing him to 'use all necessary and appropriate force' against terrorists. … Mr. Specter asked: 'In interpreting whether Congress intended to amend the Foreign Intelligence Surveillance Act by the Sept. 14, 2001, resolution, would it be relevant on the issue of congressional intent that the administration did not specifically ask for an expansion for executive powers under FISA?' … Mr. Specter further asked: 'If Congress had intended to amend FISA by the resolution, wouldn't Congress have specifically acted to [do so] as Congress did in passing the Patriot Act giving the executive expanded powers and greater flexibility in using "roving" wiretaps?' … Mr. Specter also made it clear he would press Mr. Gonzales about the administration's other legal rationale for the surveillance -- that it flowed from Mr. Bush's constitutional authority as commander-in-chief."

The National Journal's Technology Daily (1/25, Stirland) reports, "Pressure mounted on the Bush administration Wednesday to provide lawmakers with answers on domestic spying activities. … Senate Judiciary Committee Chairman Arlen Specter, R-Pa., released a three-page letter with detailed questions to Attorney General Alberto Gonzales on the president's decision in 2002 to secretly authorize domestic wiretaps without warrants. … The letter includes many of the questions that constitutional scholars have been posing about the president's order, and several questions could put Gonzales in an awkward position." Technology Daily adds, "At the same time, Democrats on the Senate Intelligence Committee demanded that Chairman Pat Roberts, R-Kan., hold a business meeting so the committee can vote to investigate several aspects of the administration's domestic spying. … Under committee rules, Roberts is obligated to hold a meeting if at least five members formally ask for one. All seven Democrats on the panel signed the request to Roberts." Technology Daily notes, "A majority vote is needed to move ahead with the investigation. Two Republicans on the committee, Sens. Chuck Hagel of Nebraska and Olympia Snowe of Maine, have asked Roberts for a hearing on the matter. Roberts has said nothing publicly about holding a hearing. … Also on Wednesday, a group of Democrats, including Sens. Richard Durbin of Illinois and Charles Schumer of New York, sent a letter to President Bush asking him for specific changes in the law that he believes are necessary to permit effective surveillance of suspected terrorists."

Gonzales Warned To Expect Tough Questions From Senate Committee. The CBS Evening News (1/25, lead

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story, 4:00, Roberts) noted, "NSA officials aren't likely to be called in the first round of hearings, but in a letter, the Attorney General was warned by the Judiciary Committee chair, he's in for a full day of grilling on February 6. Among the questions: Why did the President bypass the Federal court that covers wire taps, and how does he justify not more fully informing Congress? The President insists he has informed Congress but complains existing laws aren't nimble enough to cover the explosion of technology through which terrorists communicate."

NBC Nightly News (1/25, lead story, 3:00, Mitchell) also noted, "The White House says when Congress authorized the war on terror after 9/11, it gave the President the power to spy without court orders. But even some powerful Republicans are challenging the program's legality. Today, Judiciary Committee chairman Arlen Specter sent this 'dear Al' letter to Attorney General Alberto Gonzales, listing 15 tough questions he will be asked at a hearing two weeks from now, including whether the spying was an illegal expansion of presidential power." Sen. Specter: "There was no thought when we passed the authorization for the use of force that it had implications for electronic surveillance."

The Baltimore Sun (1/26, Davis, 296K) focuses on Specter's letter, reporting that even as Bush spoke, "questions mounted about the administration's legal justifications for the program. A key Republican senator took issue with Bush's defense of the operation, which was secretly authorized by the president after the Sept. 11, 2001, terrorist attacks and targets some communications inside the United States. Also, new reports surfaced suggesting that the administration had rejected an earlier proposal in Congress that would have made it easier to obtain court approval for domestic wiretapping."

Administration Dismissed 2002 Proposal To Change Surveillance Warrant Standard. The Washington Post (1/26, A4, Eggen) reports, "The Bush administration rejected a 2002 Senate proposal that would have made it easier for FBI agents to obtain surveillance warrants in terrorism cases, concluding that the system was working well and that it would likely be unconstitutional to lower the legal standard." The Post continues, "The proposed legislation by Sen. Mike DeWine (R-Ohio) would have allowed the FBI to obtain surveillance warrants for non-U.S. citizens if they had a 'reasonable suspicion' they were connected to terrorism -- a lower standard than the 'probable cause' requirement in the statute that governs the warrants. … The administration has contended that it launched a secret program of warrantless domestic eavesdropping by the National Security Agency in part because of the time it takes to obtain such secret warrants from federal judges under the Foreign Intelligence Surveillance Act (FISA)." The Post adds, "The wiretapping program, ordered by President Bush in 2001, is used when intelligence agents have a 'reasonable basis to believe' that a target is tied to al Qaeda or related groups, according to recent statements by administration officials. It can be used on U.S. citizens as well as foreign nationals, without court oversight. … Democrats and national security law experts who oppose the NSA program say the Justice Department's opposition to the DeWine legislation seriously undermines arguments by Attorney General Alberto R. Gonzales and others, who have said the NSA spying is constitutional and that surveillance warrants are often too cumbersome to obtain. … 'It's entirely inconsistent with their current position,' said Philip B. Heymann, a deputy attorney general in the Clinton administration who teaches law at Harvard University. 'The only reason to do what they've been doing is because they wanted a lower standard than 'probable cause.' A member of Congress offered that to them, but they turned it down.'" The Post notes, "But Justice Department officials disagreed, saying the standard the department opposed in 2002 is legally different from the one used by the NSA. … 'The FISA "probable cause" standard is essentially the same as the "reasonable basis" standard used in the terrorist surveillance program,' said spokeswoman Tasia Scolinos, using the term for the NSA program the White House has adopted. 'The "reasonable suspicion" standard, which is lower than both of these, is not used in either program.' … Justice officials also said that even under a different standard, the process of obtaining a surveillance warrant would take longer than is necessary for the NSA to efficiently track suspected terrorists."

Under the headline "Words, Deeds On Spying Differed," The Los Angeles Times (1/26, Savage, 958K) also reports on the 2002 bill, noting that the administration's "public position then was the mirror opposite of its rationale today in defending its warrantless domestic spying program, which has come under attack as a violation of civil liberties. … A Justice Department spokesman confirmed Wednesday the administration had opposed changing the law in 2002 in part because it did not want to publicly debate the issue. 'There was a conscious choice not to have a public discussion about it. It could have exposed the program. This was a military defense intelligence program,' said the spokesman." The Times notes Sen. Patrick Leahy "accused the administration of having tried 'to paper over the legality of a secret spying program. If they really believed the current law is too burdensome, the Bush administration should have asked Congress to change it, but they did not. Instead a top lawyer in the Bush administration did just the opposite.'"

Knight Ridder (1/26, Landay) reports, "James A. Baker, the Justice Department's top lawyer on intelligence policy, made the statement before the Senate Intelligence Committee on July 31, 2002. He was laying out the department's position on an amendment to FISA proposed by

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Sen. Mike DeWine, R-Ohio. The committee rejected DeWine's proposal, leaving FISA intact. … So while Congress chose not to weaken FISA in 2002, today Bush and his allies contend that Congress implicitly gave Bush the authority to evade FISA's requirements when it authorized him to use force in response to the Sept. 11, 2001, attacks three days after they occurred - a contention that many lawmakers reject." Knight Ridder adds, "Glenn Greenwald, an Internet blogger, first connected the earlier Justice Department statement to the Bush administration's current arguments on his Web log, called Unclaimed Territory. … Baker's 2002 statement drew new attention Wednesday as the White House continued its campaign to justify eavesdropping on Americans who are suspected of being in contact with al-Qaida or other terrorist groups, despite possible violation of FISA." Knight Ridder notes, "Brian Roehrkasse, a Justice Department spokesman, said Wednesday that Gonzales stands by the administration's current view that FISA warrant requirements impose 'additional layers of review' that sacrifice 'critical speed and agility.'"

Administration Launches Campaign To Frame Surveillance Debate. The Dallas Morning News (1/26, Mittelstadt) reports, "The Bush administration raced this week to defend its warrantless domestic spying program, with several aims in mind, experts say: Win over a conflicted public; force Democrats into an arena that plays to GOP strength; and head off talk of impeachment and special prosecutors." The News continues, "With polls showing the public sharply divided over the controversial surveillance program, the White House and its critics – Democrats, small-government conservatives and civil libertarians – are engaged in a high-stakes contest to frame the debate. … 'If it's defined primarily as "government abuse, the president out of control, the White House running roughshod over basic constitutional rights," it would be a major problem for an extended period of time for the president – both on Capitol Hill but also with the voters,' said political analyst Stuart Rothenberg. … 'If the issue is defined more as "protecting national security, keeping people safe, stopping terrorism," then what the Democrats immediately saw might be a good issue for them could actually be turned around for the president and the Republican Party.' … Though the court of public opinion is key, some suggest that the political system or the courts will be the ultimate arbiter of the program's legality – and the far weightier question of whether Mr. Bush is claiming executive powers outside the bounds of the Constitution or the law." The News notes, "Mr. Specter has summoned Attorney General Al Gonzales for a Feb. 6 hearing and is under pressure from Democrats to invite former Deputy Attorney General James Comey and other administration officials who reportedly raised concerns about the legality of the domestic surveillance."

Debate Over Legality Of NSA Surveillance Narrows. Fox News (1/26) reports, "After three days of a Bush administration offensive and weeks of debate and accusations, some legal experts are coming to terms on what is illegal and what is not in the National Security Agency electronic surveillance program. … 'When the president goes around and speaks ... and says we're monitoring calls from overseas from Al Qaeda to the United States, the NSA can go ahead and do that now under the law,' Sen. Edward Kennedy, D-Mass., said after the Senate Judiciary confirmation hearing of Supreme Court nominee Samuel Alito." Fox News continues, "But Kennedy said independent organizations, like the Congressional Research Service, have studied the legality of the NSA program and say the president has gone beyond what the rules allow. Bush, however, says the eavesdropping program is legal and doesn't overstep the boundaries allowed to him by the Constitution and congressional resolution. … According to legal experts, hypothetically, if the NSA had intercepted calls from alleged terrorists such as Khalid Sheikh Mohammed or Ramzi Binalshibb, both now in custody, while they were abroad, then U.S. intelligence agents could listen to the calls without a warrant. That goes for phone calls with people on the other end of the line who happen to be in United States. … Only when the person inside the United States becomes the target of surveillance is a warrant from the Foreign Intelligence Surveillance court required. … Other experts agree that a warrant is not needed until the U.S.-based individual becomes a suspect. … But others argue that the law says domestic communications monitoring rules apply even when only one end of the call is on U.S. soil. They say that's why Bush signed a highly classified directive approving the program and has to re-approve it every 45 days."

Bush Continues Defense Of NSA Domestic Surveillance Program. President Bush defended the NSA domestic surveillance program yesterday. Media reports describe the President continuing to wage a "campaign" style offensive against its critics, with CBS saying Bush used "his strongest words yet to defend the program" and ABC saying he "made the most dramatic link yet between the September 11th attacks and his controversial domestic spying program." ABC, like most print sources this morning, was referring to the President's reference to the latest Osama Bin Laden tape.

Bush said the tape was a reminder of how serious the terror threat is. Reuters (1/26) reports Bush said "he took…bin Laden's threats of another attack seriously and invoked the al Qaeda leader's recent audiotape to defend a domestic eavesdropping program." The AP (1/26, Pickler) also focuses on Bush's Bin Laden argument, as does the Washington Times (1/26, Sammon, 90K), which notes the

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President "the unusual step of imploring Americans to heed the warnings of…bin Laden." Likewise, USA Today (1/26, 2.31M) headlines its brief report "Take Bin Laden Threat Seriously, Bush Warns."

The CBS Evening News (1/25, lead story, 4:00, Schieffer) reported, "The President has clearly decided the best defense is a good offense. Democrats and even some within his own party have raised strong criticism of his decision to eavesdrop without warrants on some Americans, but today the President used his strongest words yet to defend the program." CBS (Roberts) added, "Bush privately told NSA staff today they have his 100% support in the eavesdropping program." His "visit was accompanied by a new White House PR line, casting the program as a vital military operation, one that can't wait for courts to consider warrants." Scott McClellan: "Do you expect our commanders in a time of war to go to a court while they're trying to survey the enemy? I don't think so."

ABC's World News Tonight (1/25, story 5, 0:42, Vargas) reported, "Bush made the most dramatic link yet between the September 11th attacks and his controversial domestic spying program." At the NSA he "said had the eavesdropping program been in effect prior to 9/11, the hijackers might have been stopped." Bush: "We know that two of the hijackers who struck the Pentagon were inside the United States, communicating with al Qaeda operatives overseas. But we didn't realize they were here plotting the attack until it was too late. We must be able to connect the dots, before the terrorists strike, so we can stop new attacks."

NBC Nightly News (1/25, lead story, 3:00, Williams) reported, "When it was first disclosed, the critics pounced upon learning that American intelligence personnel were eavesdropping on Americans who were placing suspect phone calls outside of the country. And while many Americans still say it's illegal domestic spying, the president insists on calling it a terrorist surveillance program and insists it's necessary and within his legal powers. And today, he took his argument right to the source." NBC (Mitchell) added, "Inside the NSA, he brushed off critics who say it is illegal." President Bush: "All I would ask them to do is listen to the words of Osama bin Laden and take him seriously. When he says he's going to hurt the American people again, or try to, he means it."

Fox News' Special Report (1/25, Cameron) said Bush "reiterated that the program has helped prevent attacks and saved lives and that the US must detect and track all al Qaeda communications to secure the homeland."

CNN's The Situation Room (1/25, Bash) added, "One of the things that even the President's opponents say that they give him credit for is knowing how to run a campaign, and that's exactly what the White House has been doing in trying to defend the controversial spying program this whole week. They are also really pulling out all the stops. One of the things that they did…was have the President himself" go to the NSA "to not only thank the people who are conducting his program, but also to, of course, make the arguments that we've heard time and time again about why it is legal and necessary. But another thing that sort of fell into the President's lap, if you will, was, of course, the tape from Osama bin Laden. And so the White House, for the first time today, had the President use that in making the argument for this program." CNN added that Bush "spent a lot of time on making the argument at the NSA today that it is just perhaps people who are talking to members of al Qaeda who could be listened in on, that it is not just people in the United States who are being surveilled, if you will. That is an argument that we've heard many times but certainly more so today."

The Washington Post (1/26, A4, VandeHei, 744K) reports, "Bush, whose aides said they consider the issue a clear political winner, is resurrecting tactics from the last campaign to make the NSA spying program a referendum on which party will keep the United States safe from terrorists." He "has dispatched top White House officials almost daily to defend the program and has sent a message to party activists that he considers fighting terrorism with tools such as NSA eavesdropping the defining issue of the November elections." The Post adds, "Exhibiting an obsession to detail not seen in the Social Security rollout a year ago, the White House is even waging a war on the semantics being used in the debate, lashing out at reporters who call the program 'domestic' spying, because the monitored calls involve a person overseas." It is also "putting out pages of highly detailed -- and often hotly disputed -- legal analyses of the program and drawing what Democratic critics and many independent analysts regard as questionable historical parallels to show Bush is following a long wartime tradition."

The Los Angeles Times (1/26, Gerstenzang, 958K) says Bush's visit to NSA headquarters at Ft. Meade, MD, "was part of a stepped-up campaign in recent days to gain public support for the spying program." Earlier, White House Press Secretary Scott McClellan "defended Bush's decision not to ask a special court for warrants to monitor people in the United States. 'This is a time of war. This is about wartime surveillance of the enemy,' McClellan said, adding a refinement of his earlier arguments: 'We don't ask our commanders to go to the court and ask for approval while they're trying to gain intelligence on the enemy.'"

The New York Times (1/26, Bumiller, Lichtblau, 1.19M) reports Bush "first met privately with employees at the agency, then told a small group of reporters who accompanied him that the program, which intercepts international phone calls and e-mail messages of people in the United States suspected of links to Al Qaeda, had been a crucial tool in fighting terrorism."

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The President's speech was widely noted by local television news. Local coverage largely mirrored the national newscasts. For example, WGCL-TV Atlanta (1/25, 11:00 p.m.) reported, "Bush continued his aggressive defense of his domestic spying program today." KPRC-TV Houston (1/25, 4:16 p.m.) reported, "The President' s strong defense of a surveillance program is forcing some Democrats to mute criticism." KPNX-TV Phoenix (1/25, 10:12 p.m.) said Democrats "'disagree [with the President] and the Senate will hold hearings," but as KWGN-TV Denver (1/25, 9:24 p.m.) reported, this is a "controversy…the President himself seems almost anxious to keep alive."

White House Confident Public Supports Monitoring Efforts. NBC Nightly News (1/25, lead story, 3:00, Mitchell) reported, "Democrats think their best argument is the move was the power grab the President and will ultimately prove to be unpopular. Despite the furor, the White House is encouraged by recent polls, showing more Americans care about fighting terror than preserving their privacy." Andrew Kohut, independent pollster: "The public is concerned about civil liberties but what they tell us in the polls is they're more concerned about whether the government is doing enough to protect it from another terrorist attack." Mitchell: "Tonight the President plans to reauthorize the spying for as long as terrorists remain a threat."

Claims NSA Program Could Have Prevented 9/11 Attacks Challenged. The CBS Evening News (1/25, story 2, 2:00, Martin) reported, "The man who ran the NSA on 9/11 has made the most powerful argument in favor of the controversial eavesdropping program." Gen. Michael Hayden: "Had this program been in effect prior to 9/11, it is my professional judgment that we would have detected some of the 9/11 al Qaeda operatives in the United States." He "offered no specifics, and Democratic members of the 9/11 commission dispute it." Former 9/11 commissioner Tim Roemer: "Indicating that an intercepted communication would somehow identify and then stop or block parts of 9/11, I think is stretching this argument entirely too far." Former 9/11 commissioner Bob Kerrey: "We lost them. There was a breakdown in communication that many has nothing to do with the inability of getting an intercept permission to listen to people's communication." Martin: "Hayden stopped just short of saying warrantless eavesdropping could have broken up the 9/11 plot, but today, the White House claimed it might have. You can't prove any of that with what the 9/11 commission found."

Republicans May Propose Expanding Administration Wiretapping Authority. As a sign of growing Republican confidence in supporting Bush's terrorist monitoring policy one unidentified GOP Senator may propose expanding the Administration's wiretapping authority. The CBS Evening News (1/25, lead story, 4:00, Roberts) reported, "The growing response from Republicans in Congress: Tell us what you need. We'll write new laws. In fact, one Republican Senator told CBS News tonight, she might consider loosening the standards for approving the wiretap and allowing more officials at the Justice Department, not just the Attorney General, to authorize eavesdropping, so that it could begin just as soon as the NSA needed it." Schieffer: "Now, just a second, John. Are you telling me, there's a feeling amongst Republicans up in the Congress that they're going to give more people in the government the authority to eavesdrop without warrants? Is that what you're saying here?" Roberts: "That's what one Republican Senator is suggesting, that instead of making all eavesdropping or wiretapping requests go through the Attorney General, that some upper-level officials might be available and able to be able to authorize those wiretaps. It would spread it out among dozens of people as opposed to a single one at the top." Schieffer: "What do you think the mood is up there? Do you think anything like that could pass?" Roberts: "It's certainty being considered by the Republicans. They have the majority in the Senate and in the House, and if they want it, they'll probably get it."

Democrats On House Intel Panel Demand Open And Closed Hearings On NSA Spying. CNN's The Situation Room (1/25, Blitzer) reported, "Democrats on the House Intelligence Committee are demanding that the panel hold both open and closed hearings on the NSA surveillance program. In a letter to the Republican chairman, they say they want to know the purpose of the spying, when it began and when it was first authorized. They want to know the targets of the eavesdropping, who decides what information to collect."

Hillary Clinton Calls Bush's Explanations Of Domestic Spying Program "Strange And Farfetched." CNN's The Situation Room (1/25, Blitzer) reported, "Senator Hillary Clinton says she doesn't know if Mr. Bush broke the law by authorizing these wiretaps without warrants, but today the New York Democrat called the President's explanations about domestic spying -- and I'm quoting now – 'strange and farfetched.'"

Under the headline "Rift Between Parties Over NSA Wiretapping Grows," the Washington Post (1/26, A4, VandeHei, 744K) reports, "In the latest sign of the escalating debate on the issue, Sen. Hillary Rodham Clinton (D-N.Y.) called Bush's rationale a 'strange' and dangerous legal stretch." The "conflicting views of the NSA spying program highlighted by the Bush-Clinton exchange reflect a widening divide over warrantless eavesdropping," and "how leaders in both major parties are trying to shape the debate in preparation for upcoming congressional hearings and this year's elections."

LATimes Says Bush Equating Appeasement With Standing Up For Rule Of Law. In an editorial titled "Spying

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By Another Name," the Los Angeles Times (1/26, 958K) says, "With polls showing the American public increasingly skeptical about the need to abridge core constitutional freedoms to wage the war on terrorism, the Bush administration launched a major PR offensive this week to justify its decision to conduct warrantless wiretapping within the United States." The White House "deserves credit for at least making its case. Unfortunately for the president, it's a weak case, and repetition doesn't make it any better." The Administration's "legal case remains wobbly, which may explain…Bush's churlish attitude toward his critics." The President "is equating concerns about the legality of bypassing the courts to obtain a warrant to eavesdrop on Americans with a lack of appreciation for the threats posed by Al Qaeda. In Bush's world, only appeasers stand up for the Constitution."

Judge Orders US To Give Moussaoui Defense Documents About Pre-9/11 Intelligence. The AP (1/26) reports US District Judge Leonie Brinkema "has ordered the government to give admitted terrorist conspirator Zacarias Moussaoui's defense team documents describing what officials knew before Sept. 11, 2001, about al-Qaeda threats and some of its hijackers. … 'Several of the categories of information are so critical to the issues in this case that the court can address some of the requests without a response,' Brinkema wrote. 'Moreover, given the increasingly shortening time before the start of the trial, discovery issues must be resolved quickly.' Granted Tuesday under seal, her order was released Wednesday after government censors blacked out about five lines of it." The AP notes that the "data clearly was sought by the defense for use in the first part of the upcoming court proceeding, in which prosecutors will try to convince jurors that the FBI would have prevented the Sept. 11 attacks if Moussaoui had told federal agents what he knew about al-Qaeda's desire to fly planes into U.S. buildings. The defense will argue that agents had more information about the plot than Moussaoui could provide but still could not prevent the attacks."

Scripps Howard (1/25, Gordon) reports, "The ruling could create a legal showdown, for example, if it requires intelligence agencies to produce classified information that they consider too sensitive to release, even to defense lawyers with government security clearances. … Jury selection is set to begin on Feb. 6, with opening arguments slated for March 6 in a sentencing trial to determine whether Moussaoui, who pleaded guilty to six conspiracy counts last April, should live or die."

Al Arian Lawyers Seek To Withdraw From Case If Retried. The AP (1/26) reports Sami al Arian's defense attorneys, Linda Moreno and Bill Moffitt, "asked a federal judge to let them off the case if prosecutors retry the former college professor on charges of aiding terrorists. … A hearing is scheduled for Friday. 'We gave everything we had, and I'm too exhausted to give anymore,' Moffitt…said Tuesday." The AP notes, "Federal prosecutor Terry Zitek told the court that if the case is retried, his team will need until June to present 'a streamlined case,' which should take about two months to present to a jury."

Texas Men Sentenced For Illegal Exports To Libya, Syria. In a widely-distributed story, the AP (1/26) reports Texas "brothers convicted of sending exports from their U.S. company to countries considered sponsors of terrorism were sentenced Wednesday to federal prison, the U.S. Attorney's Office said. Hazim Elashi was sentenced to 5 1/2 years in prison and will be deported after serving his sentence. His brother Ihsan 'Sammy' Elashi was given a six-year term, which will run consecutively to the four-year sentence he is currently serving. Hazim and Ihsan Elashi, their three brothers and their company," InforCom, "were convicted in 2004 on charges of making illegal technology shipments to Libya and Syria." The AP notes, "Agents from the FBI investigated InfoCom for years and raided the business the week before the Sept. 11 terror attacks. Attorney General John Ashcroft announced the original indictments against the brothers, calling it part of a campaign against 'the financiers of terror.'"

ACLU Files Lawsuit In Support Of Tariq Ramadan. The New York Times (1/26, Preston, 1.19M) reports that the ACLU filed a lawsuit in Federal District Court in Manhattan on behalf of scholar Tariq Ramadan, and three national organizations of academics or writers who have invited him to speak to their members yesterday, "seeking to strike down a clause of the USA Patriot Act that bars foreigners who endorse terrorism from entering to this country." Ramadan "has been denied a United States visa since July 2004, when he was on the verge of moving with his family to Indiana to take up a tenured professor's position at the Joan B. Kroc Institute for International Peace Studies at the University of Notre Dame. … The ACLU, joined by the New York Civil Liberties Union, brought the suit against Michael Chertoff, the homeland security secretary, and Secretary of State Condoleezza Rice, asserting that the Patriot Act clause is unconstitutional and that the ban on Mr. Ramadan violates the First Amendment rights of American thinkers who want to meet with him." The Wall Street Journal (1/26, A4, 2.11M) reports, "The lawsuit…intensifies the debate over the Patriot Act and reflects concerns in academia that the US's security precautions are hampering the flow of ideas between foreign and US scholars."

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PATRIOT ACT:

US Scholarly Organizations File Lawsuit Over Patriot Act Visa Provision. The Wall Street Journal (1/26, A4, 2.11M) reports, "Three scholarly organizations sued the federal government over its 2004 decision to revoke a visa granted to a European expert on Islam," Tariq Ramadan, "preventing him from taking a faculty position at the University of Notre Dame. The lawsuit…intensifies the debate over the Patriot Act and reflects concerns in academia that the U.S.'s security precautions are hampering the flow of ideas between foreign and U.S. scholars." The Journal adds, "The lawsuit asks the U.S. District Court in New York City to declare unconstitutional a portion of the Patriot Act that denies entry on the grounds of 'ideological exclusion' to those who have endorsed or espoused terrorist activity or who have persuaded others to do so. 'There is simply no evidence' of Mr. Ramadan supporting terrorism, said Barbara DeConcini, executive director of the American Academy of Religion, one of the plaintiff groups." The New York Times (1/26, Preston, 1.19M) notes, "The ACLU, joined by the New York Civil Liberties Union, brought the suit against" DHS Secretary Michael Chertoff "and Secretary of State Condoleezza Rice, asserting that the Patriot Act clause is unconstitutional and that the ban on Mr. Ramadan violates the First Amendment rights of American thinkers who want to meet with him." The AP (1/25, Neumeister) and Knight Ridder (1/26, Strobel) also report on the lawsuit.

HOMELAND RESPONSE:

Georgia ACLU Releases Documents Allegedly Showing Spying On Activist Groups. The Atlanta Journal-Constitution (1/26, Montgomery, 430K) reports, "In the name of fighting terrorism, the U.S. government and police agencies from the federal to the local level have been spying on Georgia anti-war rallies, peace and social action groups, and even a vegan protest, the state legal director of the American Civil Liberties Union charged Wednesday. Documents and surveillance photos obtained by the ACLU through a Freedom of Information Act request reveal a pattern of 'spying on Georgians who are our friends and neighbors, and are leading lawful lives,' attorney Gerald Weber said…outside the Georgia Homeland Security offices in downtown Atlanta. … 'Many of us remember the days of J.Edgar Hoover, and this is another reminder,' said state Rep. Nan Grogan Orrock." The Journal-Constitution adds, "A special agent at the FBI press office in Washington who would not give her name said the FBI 'investigates groups or individuals when we have information or allegations of federal law being broken. We do not investigate groups or persons exercising their constitutional right of protest or dissent.'"

The AP (1/26) reports the ACLU "released two documents from the FBI and DeKalb County Homeland Security," and "Weber says so far the ACLU has received complaints from six organizations and nearly two dozen people who fear they have been spied upon, photographed, videotaped or had their events infiltrated by government agents. He says none of them did anything that would justify surveillance but rather are critics of the Bush administration." The AP notes, "FBI spokesman Bill Carter says all FBI investigations are conducted in response to information that the people being investigated were involved in or might have information about crimes."

White House Declines To Release Documents On Katrina Warning. NBC Nightly News (1/25, story 2, 2:00, Williams) in its story on Federal Katrina relief reported, "Congress also wants answers from the White House about the poor Federal response to Katrina, and tonight members of both parties complain the President is holding back important information about who knew what and when." Sen. Joe Liebermann: "They haven't given us the documents we've asked for. They haven't let us into the people in the White House who were involved in the decision making regarding Hurricane Katrina." Gregory: "The White House cites executive privilege." Scott McClellan, White House Press Secretary: "The President believes that Senator Lieberman ought to have the right to confidential conversations with his advisors, just like all presidents have asserted they ought to have that same right."

The New York Times (1/26, Lipton, 1.19M) reports, "In their four months of digging, House and Senate investigators have collected hundreds of thousands of pages of documents and testimony from governors, mayors, Homeland Security and Pentagon officials and dozens of others touched by Hurricane Katrina." While Republican leaders of the two committees are satisfied with "the mountains of still-accumulating evidence," to Democrats, "crucial holes still remain, particularly related to what senior White House aides and the president knew, and how they reacted to this knowledge, right before the storm and after it." Senator Joseph I. Lieberman "said Wednesday that he realized it was unlikely he could get the information he wanted by threatening to subpoena. Even if one were issued, the administration would probably fight it in court."

MSNBC's Hardball (1/25, Shuster) reported, "Ratcheting up a battle with Congress, the Bush White House is now refusing to turn over Hurricane Katrina related documents or make senior officials available for testimony. The Administration contends executive branch discussions about the storm are not open to review by Congress. … It

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was Senator Lieberman, the President's favorite Democrat, who on Tuesday alleged the Bush Administration's refusal to cooperate has killed the Katrina investigation."

Landrieu Says Administration Should Be More Forthcoming. Sen. Mary Landrieu said on MSNBC's Hardball (1/25), "I believe the committee, the Bipartisan Committee of Senator Collins and Lieberman, has asked for those records. They are truly acting in a bipartisan spirit. And we would like a full investigation of actually what happened. Not so that we can spend time blaming…but that we can prevent this from happening again, and we can get on the business of rebuilding New Orleans, Louisiana, and the Gulf Coast. So you'll have to ask them specifically what they asked for, but I would hope they would provide all the records so we could get to the bottom of whose fault it was that the levees broke and how do we fix it in the future." Asked about White House claims that the requested information is privileged, Landrieu said, "I would think it would be in the country's best interest, as we seek to protect the people of this nation from terrorist attacks, from catastrophic events, that we would have a real independent investigation of that. Our governor has turned over a great deal of information. I'm assuming that our mayor and local officials have. The White House needs to step up and be very forthcoming. But more than turning over that information, the White House needs to turn over some good plans for rebuilding. All we've heard is a lot of empty promises and criticism."

Vitter Criticizes Federal, State and Local Responses To Hurricane. Sen. David Vitter said on MSNBC's Hardball (1/25), "We need to understand what broke down at the federal level and the state level and the local level. Because things clearly broke down at every level. This was not a disaster that was predictable. This was a disaster that was utterly predicted in print, in studies like the hurricane pan exercise. And every level of government fell flat." Vitter added, "I was disappointed at the federal response, very disappointed. I said so matter of factly the Friday after the storm. I gave the whole recovery effort an F. And the state response was just as poor and the local response."

White House Rejects Plan To Buy Out Katrina Home Owners. In a story that characterized the White House as declining to approve aid for Louisiana NBC Nightly News (1/25, story 2, 2:00, Williams) reported on "the long road back for the Gulf Coast, specifically the state of Louisiana. Crippled by Katrina and hoping for a $30 billion Federal relief package that just today was shot down by the Bush White House." NBC (Gregory) added, "Despite lofty promises, the White House has rejected Louisiana's homeowner bailout plan which local officials consider it crucial for recovery." Rep. Richard Baker, New Orleans: "To leave us in that state of disrepair without the hope of recovery is very troubling." Gregory: "The White House considers the" state plan to buy out home owners as "too expensive and bureaucratic suggesting instead the state settle for the more than $6 billion in Federal grants released today to bail out just those homeowners who didn't have insurance because they lived outside the floodplain." Administration officials "say more Federal dollars may come later, but acknowledge that conservatives in Congress are worried about spiraling costs."

The New York Times (1/26, Nossiter, 1.19M) carried a similar tone, reporting, "The White House decision to withhold support from a major Congressional reconstruction plan left Louisiana officials expressing bewilderment on Wednesday over what they characterized as the lack of a workable alternative from the Bush administration. … 'The White House simply needs to tell us what their plan is,' Gov. Kathleen Babineaux Blanco said Wednesday at a news conference in Baton Rouge. 'We don't see an adequate plan. You can't fix a $12 billion problem with $6 billion.'"

Reuters (1/25, Roberts) reported, "A group representing mortgage bankers also said President George W. Bush had yet to offer an alternative that was comparable to the plan proposed in Baker's legislation to create the Louisiana Recovery Corp. 'We'll really pay attention to the State of the Union address because we'll be anxious to see what the president is going to propose as a plan for rebuilding those devastated areas,' said Kurt Pfotenhauer, senior vice president of government affairs at the Mortgage Bankers Association. 'It's clear that some plan has to be in place in order to spur the investment of private capital.'"

USA Today (1/26, Dorell, Konigsmark, 2.31M) reports, "Donald Powell, President Bush's coordinator for Gulf Coast rebuilding, suggested that money from the government's funding grant, announced Wednesday, be doled out to roughly 20,000 homeowners who weren't in a flood zone and did not have flood insurance when Hurricane Katrina hit. State officials must draw up plans for disbursing the money and get federal approval." Blanco said the plan "simply will not work," and added that "she won't use the money as the White House recommends. 'We are not in the business of choosing between our citizens.'"

Highlighting the severity of the damage caused by Hurricane Katrina, NBC Nightly News (1/25, story 10, 1:30, Williams) also reported that some viewers were complaining about NBC's continuing coverage of the impact of Hurricane Katrina. NBC defended the extent of its coverage saying that it reported on the impact of all of last year's hurricane's in the region, but "Katrina is different. Katrina displaced two million Americans. It destroyed 350,000 homes. Not all the bodies have been found yet. It exposed cracks in our society, and it has us talking about race and class and money and relief. It affected what we pay for gas and may affect what we pay in taxes. It literally rearranged the map of the Gulf Coast. There

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are many heroes, but no one villain. Tonight, one of the great American cities is partially in ruins, and many of our fellow citizens are hurting and have nothing left. And in some places, nothing's been done yet." And "we intend to keep covering it."

Nagin's Comments Scrutinized. The Washington Post (1/26, C1, Haygood, 744K) reports, "New Orleans Mayor Ray Nagin blew into the original Chocolate City yesterday. Everywhere he goes these days, there seem to be things to explain, his words and comments tossed about as if, well, in yet another hurricane." Attending the winter meeting of the US Conference of Mayors at the Capital Hilton, Nagin said, "I don't get what all the fuss was about when I talked about New Orleans being a chocolate city. I mean, I understand the frustration with my 'God' comments. Maybe I went a little overboard. But Chocolate City? Come on.'"

Flood Insurance Program Administrator Seeks Changes. The New York Times (1/26, 1.19M) reports, "The administrator of the National Flood Insurance Program asked Congress on Wednesday to allow the elimination of discounts on as many as 1.2 million policies and suggested that the government consider requiring millions more homeowners to buy coverage. The program expects to borrow $23 billion from the Treasury to pay claims from Hurricanes Katrina, Rita and Wilma." David I. Maurstad, the administrator, "asked Congress to order the program's parent agency, the Federal Emergency Management Agency, to study expanding coverage requirements to properties in areas known as 500-year flood plains, with a 0.2 percent chance of flooding in any year, and to properties protected by levees and dams. He estimated that would affect four million to six million properties."

The Wall Street Journal (1/26, Schroeder, 2.11M) reports "the Senate Banking Committee is preparing to overhaul the federal flood insurance program, resulting in much higher premiums for many homeowners and a likely taxpayer bailout. … While broad legislation hasn't yet been proposed, several committee members and experts who appeared before the banking panel yesterday agreed that the insurance program needs to be restructured to operate more like a private insurance company."

WAR NEWS:

US, Iraqi Forces Repel Insurgent Attacks In Ramadi. US Marines and Iraqi troops repelled insurgent attacks in Ramadi Tuesday afternoon, killing seven insurgents. The Washington Post (1/26, A18, Finer, 744K) reports, "Five insurgents -- whose assault included mortar, small-arms and machine-gun fire -- were killed by a strike from a Marine Harrier jet as they gathered in a nearby cemetery, according to a statement from Capt. Jeffrey S. Pool, a Marine spokesman in the city. Two other fighters died in a firefight after insurgents used a rocket-propelled grenade to attack a military convoy entering the city's main government compound. No U.S. or Iraqi forces were wounded in the clashes, the statement said." The Post adds, "During the fighting, Zaal Shehan Mahmoud, 30, a cameraman for the Baghdad TV network, was killed by more than 20 bullets to the head, abdomen and legs, according to Mohammed Dulaimi, a doctor at the Ramadi hospital."

Officials See Rift Between Foreign Fighters, Local Insurgents. Maj. Gen. Richard Zahner, deputy chief of staff for intelligence for multinational forces in Iraq says a deepening rift between radical foreign fighters and native Iraqi insurgents has turned violent, creating an opportunity for US forces to try to persuade local guerillas to lay down their arms and join the political process. USA Today (1/26, Jervis, 2.31M) reports, "Iraq's national security adviser, Mouwafak al-Rubaie, also said there is a rift in the insurgency, calling it a 'a major step forward in our fight against terrorism.'" Zahner "said the insurgency consists of about 12,000 to 15,000 hard-core Iraqi fighters and supporters, as well as 1,000 militants loyal to al-Qaeda in Iraq, of which about 10% are foreign."

Videos Of Insurgent Attacks Provide Training Tool For US Forces. USA Today (1/26, Diamond, 2.31M) reports, "Videotapes of insurgent attacks in Iraq have become a potent propaganda tool for militant Islamists but also a handy training aid for U.S. forces, according to Army briefing documents being given to U.S. officers deploying for duty in Iraq. Insurgents routinely videotape their attacks and sometimes post the footage on the Internet as propaganda to show tactical victories against U.S. military convoys or helicopters. A briefing report prepared by the intelligence division of the Army's Training and Doctrine Command shows how the Army is mining the insurgent tapes for ways to avoid casualties." The briefing "report says 55% of U.S. military deaths in Iraq are attributed to improvised explosive devices, the military's term for roadside bombs, and small-arms attacks. It says 59% of U.S. military deaths occurred in Baghdad and Sunni-dominated Anbar province, which runs from just west of Baghdad to the Syrian border. Designed to help soldiers know what to expect and how to counter insurgent tactics, the briefing also warns that Iranian-backed Shiite militants as well as Iraqi Sunnis and foreign Sunni fighters are regularly mounting attacks."

US Troops Train Iraqi Police To Defeat Insurgents, Combat Corruption. NBC Nightly News (1/25, story 6, 2:00, Miklaszewski) reported that Colonel Bushar Hussein, commander of Iraq's first special police brigade, and his "commandos are slowly taking back parts of the city." And

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"he isn't doing it alone. For the past nine months, 10-man teams of US military advisors have trained and fought alongside Iraqi police commandos. Major General Joe Peterson heads the increased US effort to turn Iraqi police into an independent fighting force by the end of this year." Peterson: "Our troops are making a significant difference in increasing that capability." Miklaszewski: "Despite some progress, the Iraqi commandos are far from fighting entirely on their own." Peterson: "There are times when a guy will walk off down the street and buy a pack of cigarettes while we are trying to provide security. And I'll have to fix him." Miklaszewski: "In addition, some police units have been infiltrated by militias while others are reportedly ripe with corruption." And "Colonel Bushar warns that government corruption and incompetence may pose more of a threat to the future of Iraq than the insurgents. And in the long run, may be even more difficult to defeat."

US To Release Five Female Iraqi Prisoners. ABC's World News Tonight (1/25, story 3, 0:25, Woodruff) reported, "Iraq's justice ministry said at least five Iraqi women, in US custody, would be freed soon, possibly tomorrow. This would go a long way toward meeting the demands of militants who kidnapped American journalist Jill Carroll of the Christian Science Monitor. A US spokesman confirmed the release of prisoners would occur, but the US has said consistently that any release would be a coincidence and not a response to the kidnapping."

The CBS Evening News (1/25, story 4, :45, Schieffer) reported, "US officials insist this is not linked to the demand by the kidnappers of American journalist Jill Carroll that US forces release all women detainees."

The Christian Science Monitor (1/26, Murphy, 61K) reports, "Reuters reported that Iraqi officials have suggested the delay in releasing the women was linked to the demands of the kidnappers of American journalist Jill Carroll, who threatened to kill her by last Friday unless all women prisoners were freed. The deadline passed with no word on Ms. Carroll's fate."

However, the Washington Times (1/26, Deshmukh, 90K) says that the Iraqi Justice Ministry official "denied that the release of the women had anything to do with kidnappers' demands, and U.S. forces have stressed they do not negotiate with hostage-takers."

Reporter Recounts Attempted Kidnapping In Iraq. The Washington Post (1/26, C1, 744K) excerpts the book "Tell Them I Didn't Cry: A Young Journalist's Story of Joy, Loss, and Survival in Iraq" by reporter Jackie Spinner. In it, Spinner writes, "For 13 months in 2004 and 2005, my half was in Baghdad, dodging mortar rounds, roadside bombs and potential kidnappers, while [twin sister] Jenny worried from home that I would not be able to keep my promise to my nephew, her young son. 'Aunt Jackie always comes back,' I told him each time I returned to Baghdad, to a place that began to feel more like home the longer I stayed." Spinner recounts a day outside Abu Ghraib prison, "when a stranger grabbed my arm and began dragging me toward a car. … Another man came up behind me and grabbed me around the waist. Someone else grabbed the pillowcase that held my belongings and threw it aside. At first I couldn't fathom what was going on. What was happening to me? Were they trying to kidnap me? They were trying to kidnap me! My heart pounded. … Once the men who grabbed me saw the Marines, they let go, and everyone scattered."

In Wake Of Carroll Kidnapping, Journalist Rethinks Dangers In Iraq. Journalist Alissa Rubin writes in the Los Angeles Times (1/26, 958K), "When Jill Carroll was kidnapped, other journalists in Iraq were aghast that something so horrible had happened to someone they knew. But many insisted privately that it never would have happened to them. … The truth is that we are working in a war zone where no rules apply. No one is safe: not Iraqis, not Westerners, not men, not women." Rubin adds, "For most journalists in Iraq, it's hard to be honest about danger, even though we talk about it all the time. … To family and friends not in Iraq, it is incomprehensible why you came here, and certainly why you returned twice, three times — in my case, over and over for nearly three years. … For me, at least, what is true is that once in a while as a journalist you get the chance to witness history, a moment when tectonic plates shift, when more is at stake than you ever imagined you would touch or see. It's the adrenaline surge of being in a place where people's lives are in the balance, where every decision counts and where what you're writing might, might just matter. … I was aware of the statistics: Since the beginning of the war, 60 journalists, five of them women, had been killed in Iraq and at least 37 abducted, according to a tally by the Committee to Protect Journalists. But like all the other foreign journalists in Iraq — fewer than 75 of us, down from more than a thousand after the war — I needed to believe that I was going to slip through. After [journalist Jill] Carroll's abduction, I don't feel that way anymore." Iraq "is hostile ground and nothing I do can make it safe."

Former General Says Iraq WMD Moved To Syria Before US Invasion. Former Iraqi general George Sada, author of "Saddam's Secrets, How an Iraqi General Survived Saddam Hussein," in an interview on Fox News' Hannity & Colmes (1/25) said, "I want to make it very clear to everybody in the world that" there were weapons of mass destruction in Iraq "and the regime used them against our Iraqi people. It was used against Kurds in the north. Against Arabs." Asked whether Iraq had the WMD when the US toppled Hussein's regime, Sada replied, "Up to the year

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2002, 2002, in summer, they were in Iraq. And then when Saddam realized that the inspectors are coming on first of November and the Americans are coming, so he took the advantage of natural disaster happened in Syria, a dam was broken. So announced to the world that he is going to make an air bridge" and moved the WMD to Syria.

Kurdish Writer's Prosecution Seen As Test Of Iraq's Move Toward Democracy. The New York Times (1/26, Oppel, 1.19M) reports on Kamal Sayid Qadir a Kurd who, from Austria has written articles accusing Kurdish leader Massoud Barzani's Democratic Party of corruption "while calling members of its intelligence service, the Parastin, criminals and its chief -- Mr. Barzani's son -- a 'pimp.'" Qadir is now imprisoned in Iraq, "sentenced last month to 30 years for defaming the Parastin and Kurdish political leaders after a trial that he said had lasted 15 minutes." The Times adds, "His case, while extraordinary, is by no means unique." These prosecutions "indicate how much remains at play in newly democratic Iraq. The nation has made remarkable steps away from totalitarian rule: the overthrow and prosecution of a genocidal dictator, two national elections and the adoption of a Constitution. But it remains to be seen how far Iraq will ultimately travel toward true Western-style democracy." Iraq "is still testing the limits of responsible free speech, and some of the name-calling and rumor-mongering that goes on clearly oversteps the boundaries. Many of Mr. Qadir's criticisms exceeded what would be tolerated in other Middle East countries, particularly his assertions about the sexual proclivities of the Barzani clan. A number of Kurdish journalists who have called Mr. Qadir's imprisonment outrageous say they are nevertheless uncomfortable with some of his writings, calling them offensive and reckless."

Arrest Of Police Strains Relations Between Iraqis, UK Troops. The Los Angeles Times (1/26, Moore, 958K) reports, "Tensions continued to simmer Wednesday between local Iraqi officials and British troops in the Shiite-dominated southern city of Basra, where the British this week arrested 14 law enforcement officials, including two senior police intelligence officers, allegedly linked to political corruption and assassinations. The British released several of the men Wednesday, but a spokesman for the Basra provincial council said that eight remained in custody, including three who had been transferred to a prison facility after British authorities said they had bomb-making materials in their possession. … The province has responded to the arrests by threatening to cut off all cooperation with British forces in Iraq's second-largest city."

Soldiers Make Digital Memorials For Fallen Comrades. The Wall Street Journal (1/26, Searcey, 2.11M) reports, "Digital photography, video and Internet access have let soldiers in Iraq stay closer to distant friends and family than troops in any other war. Now, these electronic records are also creating a powerful and raw new wave of war memorials. … Wartime cinematographers say commanders ask to review the videos before they're shown at memorial services to make sure they don't degrade the image of soldiers with, for example, footage showing them drinking."

Hoagland Says Administration Has Been "Bitten" By Reality In Iraq. Jim Hoagland writes in the Washington Post (1/26, A25, 744K), "Iraq's Dec. 15 balloting was orderly and inspiring, but it has created an aftermath that is neither of those things. It has also forced the Bush administration into a silent reassessment of where Iraq is going and how it is going to get there. Increasingly, the country drifts toward the future as two relatively stable autonomous regions and a violently unstable central zone, all linked by a weak central government and a reduced, reactive U.S. military presence." The Bush Administration "gives no sign of trying to hurry things along as it concedes it must deal with the election results it has, not the results it wanted. Those were canceled by the poor showing of Ayad Allawi and Ahmed Chalabi -- secularists who conceivably could have been strong, independent executives -- and successful electioneering by Iranian-backed Shiite parties distrusted by Washington. … Reality has bitten the Bush administration in Iraq and forced the president to settle for less than he wanted. Let's hope that reality can now do the same with Iraq's newly empowered Shiite leaders."

In 1998, Clinton Said No-Fly Zones Over Iraq Would Be Enforced. In its "History Lessons" column, the Washington Times (1/26, 90K) excerpts a December 28,, 1998 statement by then-President Bill Clinton. Clinton said, "I think I should say a few words about an incident early this morning over the skies of Iraq, where American and British air crews were enforcing a no-fly zone in Northern Iraq. They were fired on by Iraqi surface-to-air missiles. They took evasive action, returned fire on the missile site, and returned safely to their base in Turkey ... They attacked because they were attacked. And they did the appropriate thing. We will continue to enforce the no-fly zones."

Musharaff Blames US Missile Attack For Increasing Domestic Turmoil. The Wall Street Journal (1/26, Champion, Kempe, 2.11M) in an interview with Pakistan President Pervez Musharraf at the World Economic Forum reports Musharraf "said a suspected U.S. missile attack on a Pakistani village that killed civilians this month 'probably' killed five or six al Qaeda operatives, but had

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'harmed our interests' by violating his country's sovereignty and feeding domestic unrest." He "said his goal is to transform Pakistani society by ending conflicts like the one in Baluchistan, defusing Islamist extremism and generally calming 'a nation in turmoil.'" Gen. Musharraf said, "We want to guard our own sovereignty." He "also said his close cooperation with the U.S. in the fight against terrorism hadn't been damaged, and that Pakistan needs the technical help the U.S. can offer to gather intelligence. 'Intelligence is far more significant and difficult than operating against [al Qaeda],' he added."

India Provides Aid To Afghanistan. The Washington Times (1/26, Nelson, 90K) reports, "India has poured more than a half-billion dollars of foreign aid into Afghanistan in the past three years in an attempt to create a friendly and stable neighbor in a volatile part of the world." India's "effort, which continues despite a Pakistani blockade of Indian goods bound for Afghanistan, touches all aspects of life." Tensions "between India and Pakistan has complicated proposed energy pipelines from Afghanistan, which would have to run through Pakistan on the way to India." But some observers "think Pakistan is more worried about losing its dominant position in Afghan trade."

Rumsfeld Takes Issue With Reports Saying US Military Is Overstretched. Fox News' Special Report (1/25, Hume) reported, "A couple of new reports suggesting that the US military is overstretched or overstressed or both drew a sharp response from the Secretary of Defense. One report was funded by the Pentagon itself." Fox (Baier) added, "On Capitol Hill today, former officials from the Clinton Administration joined top Democrats to release a new study on the state of the US armed forces. Titled 'The US Military -- Under Strain And At Risk,' it concludes the war in Iraq threatened the battle-readiness of US troops. … At the Pentagon, Defense Secretary Donald Rumsfeld addressed the criticism head on." Rumsfeld "said today's US military, while trying to recover from underfunding…is far from broken." Rumsfeld "pointed out there are more than 2 million troops in the US military if you're counting active duty, National Guard and Reserves and only 136,000 troops in Iraq."

NBC Nightly News (1/25, story 5, :45, Williams) reported, "Two new reports say tonight the US military is so overburdened from the wars in Iraq and Afghanistan that it's near the breaking point. One report flatly warns ground forces are stretched so thin and under such enormous strain, the Pentagon may not be able to recruit and retain enough troops in the all volunteer army to defeat the insurgency. This afternoon, Defense Secretary Donald Rumsfeld responded." Rumsfeld: "This armed force is enormously capable. In addition, it's battle hardened. And it is not a peace time force that has been in barracks or garrisons." Williams: "Rumsfeld pointed out that there are 138,000 US troops in Iraq, out of two million total including the National Guard and Reserve units."

In a brief story The CBS Evening News (1/25, story 3, :45, Schieffer) noted, "Rumsfeld took strong issue today with former Clinton Administration officials who say the wars in Iraq and Afghanistan have stretched the US military to the near breaking point. At a Pentagon news conference, Rumsfeld called that misdirected, and he praised the military as, quote, 'enormously capable and battle hardened.'"

The Wall Street Journal/AP (1/26) says Rumsfeld "spoke a day after the Associated Press reported that an unreleased study conducted for the Pentagon said the Army is being overextended, thanks to the two wars, and may not be able to retain and recruit enough troops to defeat the insurgency in Iraq. Congressional Democrats released a report Wednesday that also concluded the U.S. military is under severe stress."

The Washington Times (1/26, Scarborough, 90K) reports that Rumsfeld responded to the reports with a "combative appearance at a Pentagon press conference. He reminded reporters that during the Clinton years, when the military was sent on about 50 war and peacekeeping missions, that the force suffered from lack of funding and that some units were 'hollow pieces.'" Rumsfeld "said anyone who concludes that the Army is breaking does not know what he or she is talking about. 'I suspect the people writing these things don't know, either, because I suspect that they don't have any more insight than the other people around here do,' he said. 'I just can't imagine someone looking at the United States armed forces today and suggesting that they're close to breaking. That's just not the case.'"

USA Today (1/26, Komarow, 2.31M) says Rumsfeld "dismissed" the reports, "calling their authors ill-informed about America's 'battle-hardened' forces." Speaking at a news conference, Rumsfeld said, "People just don't fully understand," adding that today's military is "battle hardened. It's not a peacetime force that has been in barracks or garrisons."

The Washington Post (1/26, A18, Tyson, 744K) reports that Rumsfeld "said a recent decision to scale back U.S. troop levels in Iraq did not grow out of a need to relieve the strain on American ground forces." Rumsfeld said, "The force is not broken," adding, "I just can't imagine someone looking at the United States armed forces today and suggesting that they're close to breaking. That's just not the case." Rumsfeld called the US military an "'enormously capable force,' as demonstrated to the world by its swift overthrow of governments in Iraq and Afghanistan. Such proven capability

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'ought to increase the deterrent rather than weaken it,' he added."

Study Finds Active Duty Reservists Earn More Than In Civilian Jobs. A study released yesterday by the RAND Corporation says that nearly three-fourths of military reservists called to serve in Afghanistan and Iraq are making more money on duty than in their civilian jobs. USA Today (1/26, Komarow, 2.31M) reports, "In many cases, the troops earn a higher gross salary in civilian life. But when the federal tax exemption and other allowances approved by Congress for troops in combat are factored in, about 72% are better off, according to a study by the RAND Corp., a research institute. The RAND study, which was funded by the Pentagon, showed an average benefit of 25% over civilian pay, about $10,000 a year." USA notes, "The study results run counter to complaints by Reserve and Guard troops that they have suffered financially when activated. It is part of an effort to track the war on terrorism's effects on part-time troops."

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Federal Judge Extends Temporary Appointment Of Alabama US Attorney. The Mobile (AL) Register (1/26, Kirby) reports, "Chief U.S. District Judge Ginny Granade has extended the term of U.S. Attorney Deborah Rhodes, whose temporary appointment to the Mobile office expires this month." The Register continues, "Rhodes took over for David York, who resigned in September amid reports of an internal Department of Justice investigation into allegations that he had an improper relationship with an assistant prosecutor." The Register adds, "Under the law, the Justice Department could replace York for a maximum of 120 days. The statute gives the chief judge of the district the power to name the U.S. attorney beyond that, and Granade said Tuesday that she complied with a request by the Justice Department to extend Rhodes' tenure until President Bush names a permanent successor. … When appointed to Mobile, Rhodes, 47, was on special assignment to the Justice Department in Washington as a counselor to the assistant attorney general of the criminal division."

DHS Assisting DOJ With Case Management System. Federal Computer Week (1/25, Arnone) reports, "The Homeland Security Department is helping the Justice Department develop new case management systems for the entire federal government, DHS' chief information officer said today." FCW continues, "DHS is working with DOJ to create a Consolidated Enforcement Environment (CEE), which allows access to all available data, analyzes data and links relevant law enforcement partners, DHS' CIO Scott Charbo said. … One goal of the collaboration is to move beyond products and create a layer of information that can be used governmentwide, Charbo said."

CORPORATE SCANDALS:

Enron Trial Seen As Big Test For Federal Prosecutors. The New York Times (1/26, Eichenwald) reports, "In the court of public opinion, they were convicted long ago. But as Kenneth L. Lay and Jeffrey K. Skilling, the onetime leaders of Enron, step into a court of law next week, the outcome of their fraud trial is far from certain, creating one of the most closely watched and hotly contested white-collar criminal cases ever." The Times continues, "On one side of the Houston federal courtroom starting Monday will be two top-flight teams of defense lawyers, who will be taking the risky approach of proclaiming many of the controversial actions of Enron and some much-criticized statements of their clients to be legal and truthful." The Times adds, "On the other, the prosecutors for the Justice Department's Enron Task Force, who have racked up an impressive array of guilty pleas in the case, but whose performance at trial has been decidedly less dazzling. … 'For the government, if they lose the Enron case, it will be seen as a symbolic failure of their rather significant campaign against white-collar crime,' said John C. Coffee Jr., a professor at Columbia Law School. 'It will be seen as some evidence that some cases are too complicated to be brought into the criminal justice process.'" The Times notes, "Of the three major Enron-related criminal cases brought by the government before juries, guilty verdicts stand from only one, which involved Enron's booking what the government said were phantom profits on the sale of Nigerian barges to Merrill Lynch. A second case, against the accounting firm Arthur Andersen, was thrown out by the Supreme Court on appeal. The third, involving the broadband division of Enron, resulted in no convictions, but the five defendants await a retrial."

Success Of Efforts To Curb Corporate Fraud Seen As Problematic. The Washington Post (1/26, D1, Johnson, Ben White) reports, "Four years after the collapse of Enron Corp. spurred the most sweeping revisions in business regulation since the Great Depression, experts warn that the ingredients for a similar financial disaster remain." The Post continues, "Despite new laws and regulations, companies still face enormous pressure to meet short-term financial goals, creating a powerful motive for accounting fraud. Outsized executive compensation grows by the year, offering another rich incentive to cook the books. And there is no certainty that Congress will continue to fund regulatory budgets at current levels. … But some things have changed since December

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2001, when Enron's sudden descent into bankruptcy protection rocked investor confidence and left the markets reeling. Accountants face independent oversight for the first time in 70 years. Most corporate board members take their jobs far more seriously. Wall Street is somewhat less willing to accommodate clients' interests." The Post adds, "Nearly a dozen experts contacted by The Washington Post, including regulators, accountants, chief executives, board members and investor advocates, agreed to fill out a corporate governance report card on the eve of the Enron trial. … Congress passed the Sarbanes-Oxley Act in July 2002, imposing new duties on corporate executives, auditors and directors. The Securities and Exchange Commission and the Justice Department spent tens of millions of dollars to root out malfeasance. Along the way, prosecutors won criminal convictions and decades-long prison terms for former leaders of Adelphia Communications Corp., Tyco International Ltd. and WorldCom Inc. … But in a sense, the government efforts may have backfired, inspiring a dangerous overconfidence among investors."

Ex-Enron Employees Still Feel Effects Of Stock Price Plummet. USA Today (1/26, Armour, 2.31M) reports, "Four years after the Texas energy giant began its meltdown -- and on the eve of a criminal trial for its former top executives -- many former Enron employees still feel betrayed." Some of them, "at the end of their careers, have started over again in new jobs -- but working harder to keep up with younger co-workers. They've turned to churches and food pantries to eat, sold homes they could no longer pay for, and endured financial stresses that frayed their marriages."

Former Securities Broker Pleads Guilty To New York Market-Timing Charge. The AP (1/26, Gormley) reports, "A former Las Vegas securities broker pleaded guilty to a felony charge Wednesday in a mutual fund investigation in which investors were defrauded through improper late trading and market timing, according to New York Attorney General Eliot Spitzer." The AP continues, "Daniel Calugar, 52, now of Ponte Vedra, Fla., pleaded guilty in state Supreme Court in New York City to violating a state business integrity law called the Martin Act. He was accused of entering into a secret agreement in August, 2001, that defrauded a mutual fund called the Franklin Small-Mid Cap Growth Fund. … He faces up to four years in prison when he is sentenced March 23." The AP adds, "Earlier this month, Calugar agreed to pay $153 million to settle civil charges brought by the U.S. Securities and Exchange Commission. Calugar will relinquish $103 million in ill-gotten gains and pay a civil penalty of $50 million, the largest penalty regulators have imposed on an individual in a late trading and market timing case, SEC officials said. … Spitzer said Calugar secretly agreed to a deal with an employee of Franklin's investment adviser. Calugar would be allowed to rapidly trade in the mutual fund without paying a 2 percent penalty. Calugar then invested $10 million in another hedge fund run by Franklin and defrauded the fund and its shareholders of more than $1 million in fees that he avoided."

Livedoor Investigation Prompts Re-Examination of Japanese Accounting Standards. The Wall Street Journal (1/26, Hayashi, Morse) reports, "The investigation into Internet company Livedoor Co. has pointed a spotlight" on Japanese accounting standards, which need to be upgraded, the article says. The Journal notes, "Tokyo district prosecutors arrested Livedoor Chief Executive Takafumi Horie on suspicion of violating securities law." Now, "in Japan, experts … are calling for stepped-up efforts to improve accounting standards, as companies .... increasingly use sophisticated and aggressive financial techniques." In particular, the article notes, "Japan has no standards on accounting for special-purpose companies," and no rules "on how to interpret revenue at Internet and software companies, whose business structures tend to differ significantly from those of traditional companies." However, the article notes, changes are beginning to take place, with the Financial Services Agency issuing "a guideline calling for closer examination of accounting firms and requiring companies to rotate their accountants more frequently" and the Accounting Standards Board of Japan adopting "a handful of standards in the past two months, covering areas from mergers and acquisitions to executive compensation."

CRIMINAL LAW:

Leahy Seeks Information From DOJ On Google Subpoena. Reuters (1/26, Vicini) reports, "The Senate Judiciary Committee's top Democrat asked Attorney General Alberto Gonzales what steps are being taken to protect Americans' privacy rights as the Justice Department demands information about Internet searches." Reuters continues, "In the letter released on Wednesday, Sen. Patrick Leahy of Vermont asked Gonzales about the subpoena to Google Inc. and three other companies seeking data about what millions of Americans search for on the Internet's leading search engines." Reuters adds, "Leahy asked about the types of information being sought, how the department intends to use the information while protecting individual privacy rights and civil liberties and whether it will issue any additional subpoenas. … Leahy's letter comes at a time of growing criticism in Congress over the government's monitoring of communications, after the disclosure that the

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Bush administration has been conducting domestic eavesdropping after the September 11 attacks."

CNET News (1/25, Broache) reports, "Justice Department spokesman Charles Miller said the department planned to respond accordingly, though he was not sure what the response would entail. … As for the privacy concerns raised by Leahy, 'We've addressed that in our subpoenas and to the search engines,' Miller said. 'We weren't seeking information about the individuals, we were only seeking the search terms....We don't even want to know the names of the people.'"

Rep Davis Questions Google's Response To Subpoeana. Government Computer News (1/25, Grimes) reports, "House Government Reform Committee Chairman Tom Davis (R-Va.) said today that search giant Google Inc. has 'bent over backward' to comply with the Chinese government's demand that it block certain search results in order to operate in that country. So why, he wondered, won't the company cooperate with the U.S. Justice Department in its efforts to fight online pornography?" GCN continues, "Google has refused a Justice Department subpoena for search results, saying it violated users' privacy. The government has said it needs the data to prepare a case regarding the 1998 Child Online Protection Act. … Other search companies have complied with the subpoena. … The company today also launched a Chinese version of its search site after agreeing to censor topics such as Falun Gong and Tibet. … 'Google gave the Chinese everything they wanted. They're not going to put data on there about human rights,' Davis said." GCN notes, "Davis spoke to public-sector CIOs today at a summit hosted by Micrsosoft Corp. Microsoft's MSN service also censors search results in China, as do Yahoo and others. Microsoft, Yahoo and America Online have also reportedly given the Justice Department information it was seeking. … 'What does it mean to be a corporate citizen, working to bring terrorists or child pornographers to bear? What are the boundaries?' Davis said. 'These are new areas for a lot of us that we've got to work our way through.'"

Dow Jones (1/25, Richmond) reports, "In the last week, Google Inc. stood up to one government and acquiesced to another. … The moves show the kind of treacherous terrain the Internet giant, whose corporate philosophy is 'Don't Be Evil,' must traverse as it weighs its ideals and its business interests. It also spotlights how important Google (GOOG) has become as a key waypoint on the global Internet, where individual and government interests around access to information can and do collide. … 'Google is at the cutting edge in terms of trying to figure out what is acceptable and what is not acceptable in this century,' when the Internet is making information more accessible than ever before, says Lauren Gelman, associate director of Stanford Law School's Center for Internet and Society. 'What happens to information Google collects? I think this is a big question for society as new technologies evolve and we have to rethink privacy and censorship.'"

The Christian Science Monitor (1/26, Macdonald) reports that Google is confronting "an age-old business dilemma caught up in the new age of globalization: When governments demand something that compromises the interests of customers, what's a company to do?" The article notes that Google launched service in China and "because of government sensitivities there, will limit what users there can access." However, the article says, Google is also "vigorously fighting US government efforts to obtain data on its users' search habits." The article quotes one expert who lauds Google's decision to fight the subpoena, and another who dislikes Google's decision. The article notes that "So far, Google seems to be winning points for its tough stand against the US Department of Justice. According to one survey released this week, 56 percent of American users of the Internet believe Google should not release information about Web searches to the government." But overseas, the article says, "Google has endured criticism, as has Microsoft's MSN search service, for limiting what Chinese users can find."

Debate In Google Case Not Really About Privacy. The New York Times (1/26, Liptak) reports, "The Justice Department went to court last week to try to force Google, by far the world's largest Internet search engine, to turn over an entire week's worth of searches. The move, which Google is fighting, has alarmed its users, enraged privacy advocates, changed some people's Internet search habits and set off a debate about how much privacy one can expect on the Web. … But the case itself, according to people involved in it and scholars who are following it, has almost nothing to do with privacy. It will turn, instead, on serious but relatively routine questions about trade secrets and civil procedure." The Times continues, "The privacy debate prompted by the case may thus be an instance of the right answer to the wrong question. As recently demonstrated by disclosures of surveillance by the National Security Agency and secret inquiries under the USA Patriot Act, the government is aggressively collecting information to combat terror. And even in ordinary criminal prosecutions and in civil lawsuits, Internet companies including Google routinely turn over authentically private information in response to focused warrants and subpoenas from prosecutors and litigants. … But 'this particular subpoena does not raise serious privacy issues,' said Timothy Wu, a law professor at Columbia. 'These records are completely disconnected. They're just strings of words.'" The Times notes, "In its only extended discussion of its reasons for fighting the subpoena, a Google lawyer told the Justice Department in October that complying would be bad for business. 'Google objects,' the lawyer, Ashok Ramani, wrote,

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'because to comply with the request could endanger its crown-jewel trade secrets.' … Mr. Ramani's five-page letter mentioned privacy only once, at the bottom of the fourth page, and then primarily in the context of perception rather than reality. … Even Google's allies are shying away from legal arguments based on privacy. The American Civil Liberties Union, for instance, said it planned to file papers supporting Google. But not on privacy grounds. 'We will probably not be making that argument,' said Aden J. Fine, a lawyer with the civil liberties union." The Times adds, "Other Internet search engine companies, including Yahoo, America Online and MSN, have complied with the same Justice Department subpoena, which also sought a random sample of a million Web addresses. The companies all said there were no privacy issues involved. … A Justice Department spokesman, Brian Roehrkasse, agreed. 'We specifically stated in our requests,' he said, 'that we did not want the names, or any other information, regarding the users of Google.' … None of this is to say that subpoenas for search records linked to individuals are inconceivable. Google maintains information that could be used that way, and a subpoena could ask for it. But the recent subpoena does not."

Louisiana Businessman Pleads Guilty To New Orleans Contract Fraud. The AP (1/26) reports, "A businessman described by federal prosecutors as a key player pleaded guilty Wednesday to conspiring in a kickback scheme for the biggest contract signed while Marc Morial was New Orleans mayor. Terry Songy "admitted taking kickbacks from subcontractors, participating in a larger kickback conspiracy with the city's director of property management, and failing to file federal income tax returns for 2001, U.S. Attorney Jim Letten said." The AP notes, "An affidavit filed with the guilty plea states that, after FBI agents approached him, Songy 'admitted his involvement in a much larger scheme than the government was aware' of. … The indictment described Songy as sharing hundreds of thousands of dollars in kickbacks with the three major defendants: Morial associates Stan 'Pampy' Barre, a restaurant owner and Morial confidant, city property manager Kerry De Cay, and construction company owner Reginald Walker. … All three have denied wrongdoing. Their trial is scheduled Sept. 5 before U.S. District Judge Carl Barbier."

Six Indicted On Bribery Charges In Ongoing Tennessee License Fraud Probe. The Tennessean (1/26, Carey) reports, "A widespread bribery scheme funneled hundreds of illegal aliens into a Winchester, Tenn.-based driving school, netting them fraudulent licenses. And six people, including one current and one former state employee, got more than $146,000, federal prosecutors said yesterday. The U.S. attorney's office yesterday unsealed a six-count indictment of the six people who are accused of helping hundreds of people since May 2004 obtain driver's licenses they didn't earn. … 'Just as in previous investigations, you had those who thought that what they did in secret would never come to light,' said My Harrison, FBI special agent in charge for the Middle and Western Districts of Tennessee. The FBI was one of several agencies involved in the probe. U.S. Attorney Jim Vines said the people who fraudulently received licenses weren't eligible for 'a variety of reasons.'" The Tennessean adds, "The investigation, dubbed Operation Crooked Highway, has been under way by federal and state agencies for 18 months, Vines said yesterday." The Murfreesboro Daily News (1/26) notes, "The FBI charged driver's license examiner Bruce Conklin with taking about $9,200 in cash from July 2005 to January. Agents also charged Bryan Guess, owner of the Winchester Driving School…with paying bribes to Conklin and a former examiner, Teresa Jones.

The AP (1/26) reports, "Authorities said they won't know how many illegal documents were issued until all evidence is studied and declined to speculate on the total. They did say that one state worker accepted $20 per student in bribes for about 1,000 licenses or certificates. 'We come to you with another sad chapter in the book of public corruption in Tennessee,' FBI agent in charge My Harrison said at an afternoon news conference." The AP adds, "Citing a number of recent public corruption investigations in Tennessee, Harrison said agents were getting better with practice. 'If you can hear me and are involved in public corruption, the eyes of law enforcement are upon you,' she said." The Nashville City Paper (1/26, Lewis) also notes Harrison said that "it's the latest 'sad chapter' in a string of Tennessee public corruption cases." She added, "You've heard of Operation Tennessee Waltz, Operation Tarnish Blue and Operation Tarnish Shield. What can I say? Same game, only the names have changed. The title of this new chapter is, Operation Crooked Highway." The City Paper adds that as a result of the investigation, "customs officials took into custody 50 undocumented immigrants and began deportation proceedings against 50 other immigrants who were uncovered in the investigation, said Rick Crocker, assistant special agent in charge of Immigration and Customs Enforcement."

IRS Agent Downplays Ryan's Eventual Declaration Of Campaign Funds As Income. The Chicago Tribune (1/26, O'Connor, 643K) reports IRS Agent Shari Schindler "on Wednesday downplayed that former Gov. George Ryan filed corrected tax returns for 1995, 1996 and 1997 several years later because Ryan knew by then of the federal investigation into his finances." Schindler "said that by the time Ryan filed the amended returns in late 2002, each of his six children had testified before the grand

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jury and there had been press coverage of the nature of the probe." On cross-examination, Ryan lawyer Dan Webb "contended that records showed Ryan had paid taxes on most of the travel expenses, but that certain charges hadn't been itemized in campaign disclosure reports, fell through the cracks and mistakenly weren't reported on Ryan's returns." But Assistant US Attorney Laurie Barsella "pointed out that Roger Bickel, Ryan's former chief lawyer, had spelled out for Ryan 'in plain English' that personal use of campaign funds had to be reported on his tax returns." The AP (1/26, Robinson) notes that the "verbal fencing match between" Webb and Schindler "came to an end with no one sure who emerged the victor. Webb repeatedly tried to get her to agree that Ryan couldn't be blamed if he failed to report thousands of dollars in income because he was grappling with vague, complex tax laws. Schindler coolly disagreed, saying Ryan easily could have asked his tax advisers."

Prosecution Hopes To Rest Thursday After FBI Agent's Testimony. The Chicago Tribune (1/26, O'Connor, 643K) also reports Assistant US Attorney Patrick Collins "said he still hopes to rest the prosecution case on Thursday after four months of testimony. The FBI's case agent is scheduled to be the government's last witness." And US District Judge Rebecca Pallmeyer "ruled Wednesday that prosecutors can play a portion of a videotape of Ryan from November when he made a statement to reporters outside the court defending his receipt of $9,675 from the Gramm campaign." The AP (1/26, Robinson) notes, "Prosecutors indicated Wednesday night that just one more prosecution witness remains - Raymond Ruebenson, the veteran FBI man who has long been the case agent for the government's seven-year Operation Safe Road investigation that led to the former governor's indictment. But Ruebenson was absent with a case of the flu Wednesday.

Laski Vows To Fight Bribery Charges, Alleges US Withheld Exculpatory Recordings. The Chicago Tribune (1/26, Washburn, 643K) reports, "Facing federal corruption charges, a defiant James Laski vowed Wednesday to 'keep fighting,' insisted his office is running smoothly and took sharp issue with claims he was away from his job as Chicago city clerk for a prolonged period before charges were filed. 'Somebody is lying, and it isn't me,' Laski declared. The clerk's comments came after a surprise appearance at a City Council committee meeting, his first visit to the council chamber in nearly two months." The Tribune adds, "Laski implied Wednesday that exonerating portions of the recordings were not released when the U.S. attorney's office announced the charges against him on Jan. 13."

Former Campbell Aides Testify About Relationship With Contractor. The Atlanta Journal-Constitution (1/26, Suggs, Scott, 430K) reports former Atlanta contracts compliance director Michael Sullivan testified at former Mayor Bill Campbell's corruption trial on Wednesday "that in 1994 he and the former mayor, along with city contractor Ricky Rowe, traveled together to Florida to attend a golf and tennis tournament sponsored by Black Enterprise magazine. Sullivan said the city paid for his trip. He said he was unsure of who paid for Campbell's but noticed that when he and Rowe were checking out of the hotel, Rowe used his credit card for Campbell's incidentals. … 'He was upset that I allowed Mr. Rowe to pay for his incidentals,' Sullivan told the jury. 'He told me that you can't use a credit card to pay for things like that. It leaves a trail.'" The Journal-Constitution adds, "The theme of loyalty to the mayor was played over and over Wednesday, witness after witness, as prosecutors tried to establish that City Hall under Campbell…was a den of cronyism and deal-making between Campbell, his friends and political allies. None of the prosecution's witnesses testified that Campbell made them do anything illegal, nor did they say they saw Campbell doing anything criminal."

Wisconsin Procurement Official Indicted Over Travel Contract Award. The AP (1/26) reports, "An official in Gov. Jim Doyle's administration was indicted on two felony counts Tuesday for her role in awarding a state travel contract to a company whose executives donated $20,000 to Doyle's campaign. The federal indictment alleges that Georgia Thompson, chief of the Department of Administration's procurement bureau, tried to give her bosses political advantage and help her own job security." The AP notes Thompson, "who was hired before Doyle took office in 2003, served on a committee that awarded a contract to Adelman Travel as part of an effort to cut travel costs. … Questions were raised this summer after media reports that Adelman's CEO donated $10,000 to Doyle before the contract went into effect. An Adelman board member gave another $10,000 afterward, finance reports show."

Former New Jersey Councilman Pleads Guilty To Money Laundering. The Farmingdale (NJ) News Transcript (1/25, Front Page, Israeli) reports former Marlboro Township Councilman Thomas Broderick "pleaded guilty in federal court last week to one count of money laundering. … Broderick was one of the 11 Monmouth County officials who were arrested…in an FBI investigation known as 'Operation Bid Rig.' … Broderick admitted that he accepted $15,000 for assisting in the laundering of large sums of cash from a cooperating government witness whom he believed was a corrupt demolition contractor." The News Transcript notes, "He is scheduled to be sentenced on April 27. Broderick remains free on $50,000 bail."

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Contractor Sentenced To Probation, Fine For SoCom Bribery Scheme. The Tampa Tribune (1/26, Lardner) reports, "A contractor formerly employed by U.S. Special Operations Command was sentenced Wednesday to three years probation and a $4,500 fine for his role in a bribery scheme that has tarnished the war fighting organization's reputation for acquiring equipment used by the nation's elite fighting forces. U.S. District Judge Susan Bucklew, who called William E. Burke's crime 'scary' and a 'bad thing,' could have saddled him with a prison term of up to 16 months and a heftier fine. But Bucklew opted for the lighter penalties mainly because Burke has been cooperating with federal law enforcement agents examining contracting practices at Socom, which is headquartered at MacDill Air Force Base in Tampa."

Texas Hired Abramoff-Linked Firm Due To Access To Rove. The AP (1/26) reports the Texas state government "hired a firm with close ties to lobbyist Jack Abramoff after rejecting competing bids that met more of its selection criteria and cost less." The Austin American-Statesman reported that Cassidy & Associates, the winning firm, has access "all the way to presidential aide Karl Rove. … The firm was awarded a $15,000-a-month contract in 2004 to lobby Congress for the state." On Friday, seven Democratic Texas state legislators sent a letter to Gov. Rick Perry "demanding that Cassidy's contract be canceled."

California Man Pleads Guilty To Cyber Attack. Federal Computer Week (1/26, Brewin) reports, "A hacker indicted for creating botnet armies that infected Defense Information Systems Agency networks and computers at the Naval Air Warfare Center at China Lake, Calif., pleaded guilty to the charges at a hearing earlier this week in the U.S. District Court in Los Angeles, the Justice Department said." FCW continues, "Justice said James Ancheta 20, of Downey, Calif, entered guilty pleas of conspiring to violate the Computer Fraud Abuse Act and causing damage to computers used in national defense." FCW adds, "Justice said the prosecution of Ancheta was the first of its kind in the United States against a hacker who used botnets, armies of computers infected with Trojan horse programs that allowed Ancheta to remotely control the computers. Justice said Ancheta controlled more than 400,000 computers as part of his botnet armies, which in turn infected other computers with unwanted adware."

Former Dietary Supplement Company Executives Admit $100 Million Mail Fraud. The AP (1/26) reports, "Former executives of a mail-order firm admitted that the company bilked buyers out of more than $100 million by charging credit cards without permission and offering refund guarantees it had no intention of honoring. Four former executives of Berkeley Premium Nutraceuticals Inc. detailed their involvement Wednesday with the Cincinnati-based company that sold vitamins and supplements for a variety of ills from fatigue to sexual disfunction. The four executives filed written statements as part of an agreement to plead guilty in U.S. District Court in Cincinnati to charges of conspiracy to commit mail and wire fraud. Federal agencies -- including the FBI, the Internal Revenue Service and the Food and Drug Administration -- have been investigating Berkeley." The AP adds, "The former executives said Berkeley's vitamins and supplements…weren't supported by strong medical proof, according to court documents."

Jury Convicts Palestinian Man Of Being Iraqi Agent. The AP (1/26, Callahan) reports, "Jurors on Wednesday convicted a Palestinian migrant accused of being an Iraqi agent on six federal charges but could not reach a decision on a charge that he tried to sell to Saddam Hussein's regime the names of U.S. operatives and agents." The AP continues, "Shaaban Hafiz Ahmad Ali Shaaban, 53, showed little reaction as the federal jury returned its verdicts finding him guilty of six of seven counts, including acting as an unregistered foreign agent, violating sanctions against Iraq, conspiracy and witness tampering. … They could not decide his guilt on a charge of violating the International Emergency Economic Powers Act by allegedly trying in late 2002 to sell U.S. intelligence secrets to Iraq for $3 million. No evidence was presented during his trial, however, that he had access to that classified information. … U.S. District Judge John Tinder set sentencing for April 13 on the six convictions." The AP notes, "Shaaban represented himself during an 11-day trial that included testimony by a former Iraqi intelligence officer. He repeatedly contended that the government had confused him with a dead identical twin brother who worked for the CIA."

Three Kidnap Suspects Face Federal Charges In Ohio. Cox News Service (1/26, Giordano, Hardy) reports, "The FBI on Wednesday brought criminal charges against three people accused in the abduction, assault and robbery of a Miami University freshman." Cox continues, "Sidney R. Jones, 23, of Richmond, Ind.; Katrina L. Jones, 18, of Oxford; and Seth R. Jett, 21, of Richmond were turned over to federal custody Monday by local authorities, Special Agent Michael E. Brooks said. … The three had been detained at the Butler County Jail following their arrests Jan. 14 and 15 stemming from a case involving MU freshman Ryan Coli. … The charges were the result of a joint effort by the U.S. Marshals Service and the FBI in three states." Cox adds, "The three appeared Wednesday in U.S. District Court

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(in Oxford, OH) where Magistrate Judge Timothy S. Hogan ordered them held pending a detention hearing Jan. 30, when the court will determine bond."

Supreme Court To Hear Lethal Injection Case. The Washington Post (1/26, A3, Lane, 744K) reports, "The Supreme Court agreed yesterday to decide when death row inmates may challenge lethal injection as a method of capital punishment, in a surprise decision issued after the justices dramatically stopped the execution of a Florida prisoner who was already strapped to a gurney preparing to die." The High Court said it will hear convicted murderer Clarence Hill's "claim that he should have an opportunity to argue that his civil rights would be violated because the chemicals used to execute him would cause excessive pain. It is a claim that has been pressed with growing frequency by capital defense lawyers around the country in recent years -- but that has generally not yet succeeded, either in lower courts or at the Supreme Court."

The AP (1/26, Holland) reports, "Lethal injections are used in most states that have capital punishment, and there's been a growing dispute over the way they are carried out. … The Supreme Court has never found a specific form of execution to be cruel and unusual punishment, and the latest case from Florida does not give Court members that opportunity. The justices will, however, spell out what options are available to inmates with last-minute challenges to the way they will be put to death." The AP adds, "Florida inmate Clarence Hill, who filed the appeal, had been strapped to a gurney with intravenous lines running into his arms Tuesday night when he won a temporary Supreme Court stay, Hill's lawyer said. The stay was signed by Justice Anthony M. Kennedy. … The full Court announced Wednesday that the stay would be permanent until justices decide whether an appeals court was wrong to prevent Hill from challenging the lethal injection method. … The argument is expected April 26, with a ruling before July."

Texas Executes Man For 1992 Murders. The Associated Press (1/25) reported that Marion Dudley, an "Alabama man who was part of a ring that shuttled drugs from Texas to his home state was executed [Wednesday] for the slayings of four people in Houston nearly 14 years ago." But the AP noted that Dudley maintained he wasn't at the house where the murders occurred the night of June 20, 1992, when "six people were shot, four of them fatally, in what authorities said was a drug dealer ripoff." Dudley was "the first Texas inmate put to death this year." The wire service added, "Besides Dudley, Arthur 'Squirt' Brown, of Tuscaloosa, was convicted of capital murder and sentenced to death. Now 35, he remains on death row. A third man, Tony Dunson, also from Alabama and 19 at the time of the shootings, received a life sentence."

ID Theft Complaints Rising, But Rate Of Increase Down. The Wall Street Journal (1/26, Conkey) reports, "Businesses, law-enforcement agencies and consumers may be beginning to turn the tide in the war against identity theft, data from the Federal Trade Commission suggest. Identity-theft complaints were up again last year to nearly 256,000, the FTC said, but that was only 3.5% higher than the year before. In 2004, complaints rose by 15% and in 2003 by 33%. … Industry officials and analysts say the development and widespread adoption of antifraud technologies are responsible for lower levels of card fraud." The article also said, "the FTC is expected to announce today tough action against" ChoicePoint Inc., which "is expected to agree to pay a multimillion-dollar penalty to settle alleged data-security violations stemming from a yearlong investigation by federal regulators, according to a person briefed on the matter."

Jury Reject Insanity Defense, Convicts Killer of Accused Pedophile Priest. The New York Times (1/26, Zezima) reports, "Rejecting an insanity defense, a state jury on Wednesday convicted an inmate of the prison murder of John J. Geoghan, a defrocked priest who was accused of molesting 150 boys. … Judge Francis R. Fecteau of Worcester District Court sentenced the inmate, Joseph L. Druce, to life in prison without parole, in addition to the life sentence he is serving for another murder. … Prosecutors argued that Mr. Druce was a calculated killer who planned the murder for weeks and saw Mr. Geoghan as a trophy. But Mr. Druce's lawyer, John LaChance, painted his client as someone who 'never had a chance,' unwanted from birth and the victim of physical and sexual abuse for much of his childhood and teenage years."

Girl's Death Highlights "Dual-Track" Handling Of Abuse Reports. The Christian Science Monitor (1/26, Ridberg) reports, "Calls to New York's child-abuse hot line have spiked dramatically ever since Nixzmary Brown was buried." The Monitor notes that the girl, allegedly killed by her stepfather, "captured the hearts and minds of New Yorkers who never want to see such a tragedy happen again." However, the article says, "the city is left with the tall task of distinguishing the serious cases of abuse from reports of neglect. This is one of the most controversial challenges facing social welfare systems nationwide." The article says that some states have adopted a dual-track system that divides complaints "into two groups." This approach "aims to ease systems overburdened with poverty-related neglect reports and focus aggressive tactics on the rarer cases of

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abuse," the article says. It "has been adopted in various states, including Michigan, Missouri, Minnesota, and North Carolina. In Minnesota, one recent study shows the law improved the safety of children by providing better services for families such as food." However, the article notes, New York City fears that under a dual-track approach "an abused child may be handled as a neglect case."

Fairfax County, VA, Police "Accidentally" Shoot, Kill Optometrist Suspected Of Gambling. The Washington Post (1/26, A1, Jackman) reports, "Fairfax County's police chief said yesterday that one of his officers accidentally shot and killed an optometrist outside the unarmed man's townhouse Tuesday night as an undercover detective was about to arrest him on suspicion of gambling on sports. Police had been secretly making bets with Salvatore J. Culosi Jr., 37, since October as part of a gambling investigation, according to court records." In the incident, "Culosi came out of his townhouse on Cavalier Landing Court about 9:35 p.m. and was standing next to the detective's sport-utility vehicle, police said, when the detective gave a signal to tactical officers assembled nearby to move in and arrest Culosi. 'As they approached him . . . one officer's weapon, a handgun, was unintentionally discharged,' said Fairfax Police Chief David M. Rohrer. Culosi was not making any threatening moves when he was shot once in the upper part of his body, police said. He was taken to Inova Fairfax Hospital, where he was pronounced dead."

Crimes Prompt DC Police To Beef Up Presence In Neighborhood. The Washington Post (1/26, B1, Schwartzman) reports, "A spate of crimes outside Adams Morgan clubs and bars, including two assaults in which victims were left in critical condition, has prompted police to plan greater deployment in the area. … A business group plans to supplement the effort with a contingent of security guards and off-duty police to patrol the area on weekends, said Josh Gibson, executive director of Adams Morgan's newly formed business improvement district. Thousands of people pour into Adams Morgan on weekend nights, drawn by its cafes and clubs."

Father Charged With Gun Offenses In Daycare Shooting. The Washington Post (1/26, B1, Londoño) reports that John L. Hall, who is the "father of an 8-year-old boy arrested in the shooting of a 7-year-old girl at their Germantown day-care center provided his son with violent video games and showed him how to cock and release a gun hammer the day before the boy pulled the trigger, a prosecutor said yesterday" at Hall's bond hearing. The Post reports, "Hall's sister, Darlene Hall, 53, disputed the prosecutor's characterization of her brother's influence over the child." The article adds, "Montgomery District Court Judge Mary Beth McCormick reduced Hall's bond to $75,000 yesterday after authorities charged him Tuesday with leaving a firearm within reach of an unsupervised minor and two other gun charges."

NYTimes Columnist Pans Show About Innocence On Death Row. In a New York Times (1/26) column, Joshua Marquis disapproves of a new ABC drama called "In Justice." He writes, "'In Justice' has received dismal reviews. But that hasn't stopped its premise from permeating the conventional wisdom: that our prisons are chock-full of doe-eyed innocents who have been framed by venal prosecutors and corrupt police officers with the help of grossly incompetent public defenders." Calling this "a misconception that has run through our popular culture," Marquis notes that "only 14 Americans who were once on death row have been exonerated by DNA evidence alone. The hordes of Americans wrongfully convicted exist primarily on Planet Hollywood." Marquis says that it is "understandable that journalists focus on the rare case in which an innocent man or woman is sent to prison." However, he says, "The larger issue is whether those who influence the culture, like an enormous television network, have a moral responsibility to keep the facts straight regardless of their thirst for drama. 'In Justice' may soon find itself on the canceled list, but several million people will still have watched it, and they are likely to have the impression that wrongfully convicted death row inmates are the virtual rule."

Times Writer Wistful For Buttafuoco Era. In a New York Times (1/26) column, Lawrence Downes writes, "Before Angie and Brad, before Monica and Bill, there was Amy and Joey. Amy Fisher and Joey Buttafuoco — the Long Island Lolita and her body-shop lover — with Joey's wife, Mary Jo, formed a triangle of passion, obsession and violence that became the industry standard for tabloid crime way, way back in 1992. There is an entire generation, or at least a cohort, or maybe a handful, or at least one or two journalists who remember working on that day in May when the story broke, and who still marvel at how that strange crime — a housewife in a swanky suburb shot in the face — soon became much stranger. It swelled in significance until it made headlines coast to coast and around the globe. … I miss the Buttafuoco era. Joey and Amy were the Sid Caesar and Howdy Doody of reality TV, relics of a simpler time when crime sold newspapers — imagine that — and when the culture tended to look down on adultery and teenage prostitutes, and when attempted murder carried a hint of shame, which presumably was why Amy, in her perp walk, went to the trouble of hiding her face with her long brown hair."

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CIVIL LAW:

Former Kentucky GE Plant Supervisor Files Whistleblower Suit. The AP (1/26) reports, "A former supervisor at a General Electric Co. plant has filed $50.5 million federal lawsuit that claims that he was fired for testifying that GE shipped defective parts to military and commercial customers." The AP continues, "James Richard Gardner, of Madisonville, filed the suit Friday in U.S. District Court in Louisville. Gardner said he repeatedly alerted managers at the Madisonville plant that engine turbine blades were not meeting company and government specifications and that defective parts were shipped with the knowledge of managers to meet production requirements." The AP adds, "Marta Rhyner, a GE spokeswoman, said she couldn't comment on specific allegations made in the lawsuit. She said the company is 'confident in the parts produced by our employees at Madisonville.' … The Defense Department began a criminal investigation at the plant in November 2000. The Justice Department is conducting a civil investigation."

Judge Rules Trustee Request Could Jeopardize Adelphia Bankruptcy. The New York Law Journal (1/26, Lin) reports, "In a decision released Wednesday in the Chapter 11 bankruptcy of cable company Adelphia Communications, the presiding judge said the motions by which one group of creditors sought the appointment of a trustee to oversee disputes and the disqualification of chief Adelphia bankruptcy counsel Willkie Farr & Gallagher constituted a 'nuclear war button' threatening obliteration of a crucial $17.6 billion deal." The Journal continues, "Southern District of New York Bankruptcy Judge Robert Gerber's strongly worded 113-page decision, In re Adelphia, 02-41729, previously filed under seal, clarified his order issued earlier in the week denying the appointment of a trustee but granting the disqualification of Willkie lawyers from participating in the disputes at issue. Willkie remains bankruptcy counsel to Adelphia. … Those disputes, which the requested trustee would have overseen, are between different groups of debt holders, all seeking to maximize their own claims on the bankruptcy estate, most of the assets of which are slated to be sold to rival cable companies Time Warner and Comcast for $17.6 billion." The Journal adds, "The potential appointment of a bankruptcy trustee is almost always controversial, as such trustees are usually granted broad-ranging powers to settle disputes or dispose of assets. … Gerber said the disqualification and trustee motions, brought in November by noteholders of Arahova, a subsidiary through which Adelphia issued some $540 million in debt, seemed designed to 'purposefully' imperil that sale as part of a 'scorched earth litigation strategy' aimed at extracting a larger distribution by threatening dire consequences for all."

GSA's Networx Contract Award Delayed By Unexpectedly High Number Of Bids. The Washington Post (1/26, D5, Mohammed, 744K) reports, "The General Services Administration said yesterday that it got more bids than expected for a $20 billion telecommunications contract known as Networx," a "10-year telecom contract, the largest ever to be awarded by the GSA," which is "forcing the agency to delay the award so it can evaluate the complex proposals."

Lockheed Loses Spy Plane Contract. The Wall Street Journal (1/26, A1, Karp, 2.11M) reports, "In 2004, Lockheed Martin Corp. won an Army spy-plane contract that broke with the past." Instead of building it, they "would serve as the 'lead integrator' -- stuffing somebody else's hardware with high-tech eavesdropping gear." However, "Lockheed engineers proved unable to load the airframe they were buying from Brazil with the equipment the Army wanted. Earlier this month, the Army scrapped Lockheed's contract," in "a setback for Chief Executive Robert Stevens and his young 'integrated solutions' division," and "a signal for the entire defense industry that de-emphasizing old-style hardware in favor of software and systems management isn't a sure path to success."

CIVIL RIGHTS:

Virginia Likely To Vote On Gay Marriage Ban; Similar Measure Unveiled In Maryland. The Washington Post (1/26, A1, Jenkins, 744K) reports, "The state Senate all but guaranteed on Wednesday that Virginia will hold a November referendum on whether to amend its 230-year-old Bill of Rights to bar same-sex marriages. The Senate voted 28 to 11 to follow the House of Delegates in approving the amendment. Though each chamber still must pass the measure adopted by the other, their wording is identical and support among the senators and delegates is strong." Meanwhile, Maryland Republicans "introduced a similar measure in the Senate on Wednesday and said they believe they have the votes they need to bring the matter to an up-or-down vote, despite resistance from leaders of the Democrat-controlled legislature. In the wake of a circuit court ruling last week that declared Maryland's 33-year-old ban on same-sex marriage discriminatory, GOP leaders said it was important to at least put the matter to a vote."

The Washington Times (1/26, Bellantoni, Miller, 90K) notes that Maryland Democratic leaders "appear reluctant to put a constitutional amendment on the ballot because it could

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energize conservative voters in an election year in which Gov. Robert L. Ehrlich Jr., a Republican, is seeking re-election, and Lt. Gov. Michael S. Steele, also a Republican, is running for the U.S. Senate." The Times adds, "In Virginia, state Sen. Stephen D. Newman said the constitutional amendment is necessary to guard against 'aggressive' judges in other states, including Maryland, who are trying to redefine marriage. 'A few judges or a few localities are now presuming to change that fundamental meaning for our civilization and their actions have created confusion on the issue,' the Lynchburg Republican said. 'The federal courts are going to leave us with no other recourse.'"

FBI Mississippi SAC Says Report Could Rewrite Till Story. The AP (1/26) reports, "An FBI report on the decades-old murder of 14-year-old Emmett Till could rewrite the story of the slaying that put a young man's face on racial injustice in the South during that period." The AP adds that "some details of the crime could have been distorted or embellished over the past five decades, the FBI special agent in charge of Mississippi, John G. Raucci, told The Associated Press this week. 'The facts were told one way because that's the information that was available at the time,' Raucci said. 'And often times it's through urban legends and folklore -- and people who lived in the community pass along information from generation to generation -- and the next thing you know, they become fact.' Raucci did not rule out the possibility of indictments in the case or provide a timetable for releasing the report." The AP notes that the FBI report "should soon be turned over to District Attorney Joyce Chiles in Greenville. 'That does not necessarily mean that everybody involved in the Emmett Till case or the overt act is still alive or will one day be prosecuted,' Raucci said. … 'Evidence may no longer be available. Individuals who may have witnessed an event, time has now gotten the better of their minds.'"

FBI Reaching Out To NC Hispanics In New Human Trafficking Initiative. The Charlotte Observer (1/25, Ordoñez, 234K) reports that with funding from the Trafficking Victims Protection Reauthorization Act, "The FBI is launching a new effort to raise awareness of human trafficking. Calling it an offense against humanity akin to modern-day slavery, the Federal Bureau of Investigation in Charlotte estimates thousands of victims are trafficked into the state each year for forced labor and prostitution. 'This is something that is flying under the radar,' said Special Agent Kevin Kendrick, who is heading the local campaign. … In conjunction with increased investigative efforts to shut down human trafficking rings, the FBI is teaming up with local advocacy groups and social organizations to get a message out that federal agents should be trusted and not feared. The FBI, Kendrick said, is looking to assist all victims of human trafficking, even if they're living in the country illegally. Not only will the FBI protect victims and their rights, Kendrick said, the agency also will help them remain permanently." The Observer adds, "'This is a reprehensible problem,' said Assistant Special Agent Robert Clifford. 'We'd look at every weapon in FBI's arsenal to countering human trafficking.' … 'We need to let people know it's OK to contact us,' Kendrick said. 'This is an affront against humanity. This goes far past someone's immigration status.'"

Georgia Lawmakers Approve Voter ID Bill. The AP (1/25) reports, "A birth certificate might not be enough to vote in Georgia this year - legislation sent to the governor Wednesday would require photo identification before voters could cast their ballots." The AP continues, "Gov. Sonny Perdue said he would sign it quickly to give counties time to prepare for the primary in July and the general election in November. … The U.S. Justice Department also must approve the requirement before it takes effect." The AP adds, "The legislation would require voters to have a driver's license, military ID or state-issued identification card with a photo. Social Security cards, birth certificates and utility bills would no longer be accepted. … Supporters said it would help fight voter fraud. Critics argued it would disenfranchise the poor, minorities or elderly - people who are less likely to have driver's licenses."

5th Circuit Rules Against Shreveport In Race Bias Suit. The Shreveport (LA) Times (1/26, McCabe) reports, "A federal appellate court changed its stance and ruled today in favor of plaintiffs in a discrimination lawsuit against the city of Shreveport and its Fire Department, overturning a lower court's decision to dismiss the five-year-old case." The Times continues, "The 5th U.S. Circuit Court of Appeals remanded the heart of the discrimination case back to U.S. District Court in Shreveport. … The petition originally was brought against the city in 2000 by Todd Dean, who was not hired by the Fire Department and felt the city's hiring practices discriminated against him because he is white. Dean earned a higher test score than some blacks hired then, his lawsuit alleges. Other men joined the lawsuit soon after." The Times adds, "The 5th Circuit's ruling should compel the city not only to cease race-based hiring procedures in all departments, but also to re-evaluate the continued validity of all city programs that incorporate race as a criteria for participation," said local attorney Pamela R. Jones, who represented Dean, Shawn Sanders and Jason Matthews in the lawsuit. … The department ended race-based hiring practices 11 months before a federal magistrate dismissed Dean's case in December 2004 hoping to avoid further lawsuits, according to officials. Now the department relies on a pass/fail civil service exam, the educational background and

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technical training of each candidate and psychological and physical ability exams. … The city has maintained that the Fire Department's hiring practices are based on a complaint brought by the U.S. Justice Department in 1980 that said the department had discriminated against blacks and women. Up to that point, the department had hired only three black men in its history, according to court records."

SIU Changes Web Descriptions Of Challenged Fellowships. The AP (1/26) reports, "While threatened with a federal lawsuit over three graduate fellowships the government considers discriminatory, Southern Illinois University has tweaked the descriptions of at least two of those scholarship programs on its Web site." The AP continues, "The fellowships at issue were said to specifically target minorities or 'underrepresented groups,' before the Justice Department objected last year, but the site now says those programs seek to help 'underserved' populations. … The revisions come as SIU administrators are weighing a Justice Department proposal that would head off a lawsuit threatened by the government, which in demanding that SIU discontinue the fellowship programs has accused the university of engaging in 'intentional discrimination against whites, non-preferred minorities and males.'" The AP adds, "The university has refused to publicly discuss the proposal it got from the Justice Department last week, saying only that administrators and key constituency groups were being tapped this week for feedback before the university responds. … David Gross, a spokesman for the SIU system, said Wednesday the Web site changes were done without the consent of the university's president, the Carbondale school's chancellor or the system's legal counsel and 'do not reflect the proposed offer from Department of Justice.'"

Judge Orders EEOC To Pay $1 Million To Law Firm For Frivolous Action. The AP (1/26) reports, "The U.S. Equal Opportunity Employment Commission must pay more than $1 million to a law firm that it sued unsuccessfully for allegations of sexual harassment and pregnancy discrimination, a federal judge has ruled." The AP continues, "The EEOC action was a 'frivolous' lawsuit against Robert L. Reeves & Associates, which practices immigration law, U.S. District Judge Dickran Tevrizian said in a ruling issued Monday." The AP adds, "Reeves maintained that the EEOC should have known the harassment and discrimination allegations the agency was pursuing were part of a scheme by two of his former law associates to destroy his firm, said a statement from lawyers representing Reeves. … The EEOC has already appealed the judge's findings, said Anna Park, the EEOC regional attorney in charge of the Los Angeles district office's legal division."

ANTITRUST:

Microsoft Offers To Release Part of Its Source Code In EU Antitrust Case. The Financial Times (1/26, Buck) reports, "Microsoft made a concession in its six-year dispute with European competition regulators on Wednesday by offering to give rivals access to parts of its Windows source code. With only three weeks until a compliance deadline set by Brussels, which had threatened fines of €2m ($2.5m) a day, Brad Smith, the group's general counsel, said: 'We are putting our most valuable intellectual property on the table.' … Microsoft's offer … came in response to a European Commission warning last month that it would impose fines unless the software group complied quickly with Brussels' 2004 antitrust ruling against the US group. The daily fines would come on top of the record €497m payment the Commission ordered in 2004. The regulator said Microsoft had failed to comply with a part of the ruling requiring the software group to share information about its Windows operating system."

The USA Today (1/26, Acohido) reports, "The European Commission issued a terse statement saying it would 'study carefully' Microsoft's announcement 'once it has received the full details.' … This is not the first time Microsoft has let outsiders view such code. It has granted governments, academics and business partners varying levels of access under tight restrictions."

Reuters (1/25, Lawsky, Zawadzki) reports, "Critics of Microsoft contend that protocols are standard software and that Microsoft has used what is essentially a digital combination lock to make them inaccessible. … A Commission spokesman said if that turns out to be true then Microsoft has no right to charge for them. … However, Microsoft says that the protocols include valuable patents and that it should be able to charge for their use, an argument under review at the Commission."

The AP (1/25) reports, "The company's chief counsel, Brad Smith, said sharing the part of the Windows workgroup server operating system and desktop software code that helps rival PCs communicate with Windows servers was 'a bold stroke' that should answer both EU and U.S. regulators' concerns. .. He insisted that Microsoft had already complied in December with an EU order to supply technical information by handing over up to 12,000 pages of documentation and offering 500 hours of free technical support to rivals worth some $100,000. … An independent monitor nominated by Microsoft found last month that the documents were 'totally unfit for its intended purpose.'"

Move Comes After Justice Department Complaints. The Wall Street Journal (1/26, Jacoby) reports, "The move came after the Justice Department complained in a court filing

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this week about Microsoft's compliance with U.S. legal requirements -- and six years after a U.S. judge found Microsoft violated the Sherman Antitrust Act against monopoly abuse. The Justice Department said the Redmond, Wash., software giant had provided inaccurate information to a technical committee, and described one incident as 'particularly troubling' because it delayed an investigative team that had traveled to India. The filing also said the company had 'fallen significantly behind' in complying with monitors' technical requests. … In 2001, the Bush administration dropped the U.S. government's case against Microsoft, but ordered it to change certain anticompetitive practices."

Guidant Accepts Boston Scientific's Takeover Offer. USA Today (1/26, Iwata) reports, "Medical device maker Guidant on Wednesday accepted Boston Scientific's $27 billion bid, rebuffing a lower offer from Johnson & Johnson and ending a long-running takeover war." USA continues, "The companies have been vying for an edge in the growing multibillion-dollar market for medical and heart devices, and Guidant's pacemakers, defibrillators and stents made it an attractive acquisition target. … The merger, to be completed early this year, will make Boston Scientific the world's No. 2 maker of implantable pacemakers and defibrillators. Boston Scientific also will gain share in the market for heart stent devices, which hold open blood vessels." USA adds, "Most Wall Street analysts and some Guidant investors had urged Guidant to take the pricier Boston Scientific offer, calling it a better long-term investment than J&J's deal. The combined company will have $9 billion in revenue in 2006, Boston Scientific says. … To help close the deal and appease antitrust regulators, Boston Scientific teamed with Abbott Laboratories. Abbott will pay Boston Scientific $6.4 billion in cash to buy Guidant's vascular intervention and endovascular businesses." … Approvals are needed from U.S. and European regulators, plus shareholders for both companies."

The New York Times (1/26, Feder) reports, "For Johnson & Johnson, Tuesday started with a morning conference call with analysts to discuss earnings and ended with William C. Weldon, the company's chief executive, and Robert J. Darretta Jr., the chief financial officer, attending a dinner for several dozen institutional investors at the '21' Club in New York. Throughout the day and evening, the company maintained a rigid silence about the one subject on everyone's mind — whether it would respond to a midnight deadline to counter Boston Scientific's bold $27 billion offer for Guidant." The Times notes that Johnson & Johnson released a statement yesterday "saying the company had 'determined not to increase its last offer for Guidant Corporation, because to do so would not have been in the best interest of its shareholders.' About the only comment was its reminder that Guidant was obliged to pay it a $705 million breakup fee by today. … It was a remarkably quiet conclusion to the biggest and most contentious takeover battle yet in the medical device industry. The outcome leaves Boston Scientific as the apparent winner of Guidant, the No. 2 company in the $10 billion market for defibrillators and other implantable devices that regulate human heartbeats."

BlackBerry Injunction Hearing Set For Feb. 24. The Wall Street Journal (1/26) reports, "BlackBerry maker Research In Motion Ltd. and NTP Inc. will appear in U.S. District Court for the Eastern District of Virginia Feb. 24 for the court to consider a shutdown of U.S. sales and service of the popular wireless email device. In recent court filings, RIM, based in Waterloo, Ontario, argued a BlackBerry shutdown isn't warranted for various reasons, including recent preliminary moves by the U.S. Patent and Trademark Office to reject NTP's wireless email patents. NTP, a Virginia patent holding concern, argues a BlackBerry shutdown is appropriate, since the court has already found RIM infringed on NTP's patents and case law calls for such a shutdown. The court could rule on the injunction as early as Feb. 24 or in the days following, an NTP lawyer said."

NYTimes Says Pixar-Disney Deal Is Chance To Reform Disney's Creative Culture. The New York Times (1/26, 1.19M) editorializes, "A company like" Pixar "— and a figure like Mr. Jobs, notable for his dynamic role at both Apple and Pixar — doesn't let itself be bought for money alone, though the money is certainly enticing enough. This is really an opportunity to infect, and change, the creative culture of Disney, which, back in its founder's day, used to be one of the most creative places around" but whose "animated films have been nothing to shout about in the past decade or so." For Pixar and Apple the deal has "only an upside," and "the same is true for Disney, especially if it keeps shedding the ways of Mr. Eisner's old company and allows itself to become what may turn out to be, in the end, Mr. Jobs's company after all."

ENVIRONMENT:

Three ELF Activists Indicted On Ecoterror Charges In California. Reuters (1/26, Fitzgerald) reports, "A federal grand jury indicted three alleged 'eco-terrorists' on Wednesday on charges of plotting to blow up facilities like dams and cell phone towers. 'These three individuals planned to commit a number of dangerous and destructive acts in our region, all in the name of the Environmental Liberation Front,' U.S. Attorney McGregor

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Scott told a news conference in the California state capital." Eric McDavid, Zachary Jenson and Lauren Weiner were "arrested January 13 outside a retail store in Auburn, California, following six months of surveillance of McDavid by federal authorities. … The charges were not related to a separate 65-count indictment handed down on Monday in Washington involving 11 environmental and animal rights activists in the Western United States." Scott "said the trio rented a house east of Sacramento in the foothills where they engaged in bomb-making. At some point, the three were joined by an unnamed woman who was a government informant. 'Because of the exceptional work of the FBI's Joint Terrorism Task Force and the brave efforts of a confidential source they were prevented from carrying out their planned attacks,' the U.S. Attorney said."

EPA Seeks Ban On Chemicals Used In Cookware. USA Today (1/26, Weise) reports, "In a surprise turn Wednesday, the Environmental Protection Agency moved to eliminate the production of a suspected carcinogen used in the making of Teflon and other non-stick and non-stain coatings. The EPA has asked eight manufacturers that use a family of chemicals known as perfluorooctanoic acid, or PFOA, to reduce production 95% by 2010 and to stop using it altogether by 2015. … Environmentalists and consumer groups have long dogged the agency to act. 'The science is still coming in, but the concern is there, so acting now to minimize future releases of PFOA is the right thing to do for our environment and our health'" says Susan Hazen of EPA's Office of Prevention, Pesticides and Toxic Substances." According to the article, "EPA officials are calling for voluntary PFOA cutbacks because 'under the Toxic Substances Control Act, they don't have authority to ban it,' says Richard Wiles of the Environmental Working Group, a public interest group that has long fought to bring public attention to PFOA in the environment." Wiles says that if the chemicals are phased out, it "will be 'the single biggest action the agency has ever taken.'"

The Washington Post (1/26, A1, Eilperin) reports favorable coverage of the EPA for this action. It quotes Ken Cook, president of the Environmental Working Group, who says, "'This is one of those days when the Environmental Protection Agency is at its best. With its announcement today, the EPA is challenging an entire industry to err on the side of precaution and public safety, and invent new ways of doing business. … As harshly as we have singled out DuPont for criticism for its past handling of PFOA pollution, today we want to single out and commend the company and acknowledge its leadership going forward."

DuPont Targeted. USA Today and the Post both note that DuPont was a particular target in the PFOA deal. In the first paragraph of its story, The Washington Post (1/26, A1, Eilperin) says, "Eight U.S. companies, including giant DuPont Co., agreed yesterday to virtually eliminate a harmful chemical used to make Teflon from all consumer products coated with the ubiquitous nonstick material." Both the Post and USA Today note that DuPont recently agreed to a $6.5 million settlement with the EPA over charges that it hid information about the dangers of PFOA.

ABC's World News Tonight (1/25, story 7, 2:50, Vargas) reported, "Today, the government asked companies to virtually eliminate" a chemical used to make Teflon "over the next nine years." Ross: "Today, the Federal government said DuPont had virtually agreed to eliminate any new emissions of the key Teflon chemical at its factories." Susan Hazen EPA: "This is the right thing to do. And we are going to move forward with it." The New York Times (1/26, Janofsky, 1.19M) adds, "DuPont immediately pledged to join the" voluntary program," along with "3M/Dyneon, Arkema, Asahi, Ciba, Clariant, Daikin and Solvay Solexis." The EPA says that "full compliance by the companies and their overseas affiliates would lead to a 95 percent reduction by 2010 in use of the substance, perfluorooctanoic acid, or PFOA, and to their total elimination by 2015."

Video Highlights Problems With Federal Mine Safety Oversight. NBC Nightly News (1/25, story 8, 2:30, Williams) reported, "Those two West Virginia mining disasters have now focused a lot of attention on mine safety in this country." A videotape tape shows "the perils of digging for coal. And the often lax oversight of this nation's mines." NBC (Myers) added, "This is the inside of Coal Creek Mine in southeastern Kentucky. Videotaped by a miner who smuggled a camera into work in June 2004 to document what he said were dangerous conditions." Edwin Pennington "is crushed under this slab of rock 200 feet long." One "safety official who investigated Pennington's death says his tragedy underscores a widespread problem in mines across the country. He says fines are too small to induce companies to fix hazards and the entire system has no teeth." Tony Oppegard, former Mine Safety & Health official: "The company has been going on about its business for the last year and a half without any consequences thus far."

Bush To Push For Reprocessing Of Spent Nuclear Fuel. The Wall Street Journal (1/26, Fialka, 2.11M) reports, "The Bush administration plans to announce a $250 million initiative to reprocess spent nuclear fuel, a first step toward reversing a 1970s policy that rejected reprocessing as too dangerous to pursue." The Administration's "decision to put the money into its fiscal 2007 budget to test new technologies is part of an effort to jump-start the nuclear-power industry at a time when energy prices

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are high and concerns about global warming make nuclear power plants more acceptable." The Journal adds, "According to nuclear industry officials and others briefed on the proposal in recent weeks, the program could be announced as early as next week in President Bush's State of the Union address. If the technology works, it could vastly reduce the amount of spent nuclear waste that would have to be buried in underground storage, such as at Nevada's Yucca Mountain, set to open after 2012."

The Washington Post (1/26, A1, Baker, Linzer, 744K) adds the fuel proposal "is part of a broader push by the president for domestic and global nuclear energy. With worldwide energy demands on the rise and U.S. reliance on foreign oil increasing, Bush has held out nuclear power as a solution that will not affect global warming."

Gore Documentary On Global Warming Has Premiere At Sundance Festival. The Washington Post (1/26, A1, Booth, 744K) reports that ex-Vice President Al Gore's documentary on global warming, "An Inconvenient Truth," "had its world premiere at the Sundance Film Festival on Tuesday night before an enthusiastic audience that gave the former vice president and his movie a big standing O. Among the film's lessons: Earth's glaciers are melting, the polar bears are screwed, each year sets new heat records." The Post notes, "The core of the film is a one-man, ever-evolving multimedia slide show that Gore assembled himself. A little-known fact: Since his defeat by George W. Bush in 2000, Gore has traveled the globe with his bar graphs, staging event after event for small, invited audiences. Free of charge. And he's presented one version or another of this slide show, by his own estimation, a thousand times. … In the film, Gore presents the latest evidence to demonstrate how the accumulation of carbon dioxide and other pollutants of the industrial age are increasing temperatures."

FBI/DEA/ATF/USMS:

Mueller Recuses Himself From Trade School Probe. Under the headline "F.B.I. Director Recused From Investigation Of Weld's Former School," The New York Times (1/26, Healy, 1.19M) reports in "Metro Briefing" that "The F.B.I. director will not play a role in the inquiry into Decker College, the Kentucky school once run by William F. Weld, because the director and Mr. Weld, a Republican candidate for governor, are friends and former colleagues, an F.B.I. spokesman said yesterday. … The New York Democratic Party had asked that Mr. Mueller recuse himself, according to a party spokesman. Mr. Weld has not been accused of any wrongdoing involving Decker, which declared bankruptcy last fall amid allegations of fraud."

Under the headline "Weld's Pal Off Inquiry," The New York Post (1/25, Dicker, 624K) reported yesterday, "FBI spokesman Richard Kolko told The Post that while the Decker probe was being handled by the special agent in charge of the Louisville, Ky., field office, Mueller himself is 'regularly briefed on significant investigations and cases.' And while Kolko insisted Mueller 'has not had a role in directing any part of this investigation,' he said, 'since the issue has been raised publicly, and to avoid even the appearance of any conflict, any decisions that would otherwise be made by the director in this matter will, instead, be handled by Deputy Director John Pistole.' Kolko's announcement came a few hours after state Democratic Chairman Herman 'Denny' Farrell joined D'Amato in urging Mueller to step aside. … Farrell said Weld and Mueller were 'good friends' during the 1980s when both served in the U.S. Attorney's office in Boston. He said Mueller had also contributed to Weld's unsuccessful U.S. Senate campaign against incumbent John Kerry of Massachusetts in 1996."

Minnesota Attorney Charged In Internet Pharmacy Scheme. The AP (1/26) reports, "A lawyer has been indicted (in Minneapolis) on federal charges alleging he helped an Internet pharmacy illegally obtain narcotics and helped its founder hide assets." The AP continues, "Daniel Adkins, who was general counsel for Xpress Pharmacy Direct, helped deceive legitimate pharmacies into supplying the narcotics that Xpress hawked over the Internet and by telephone, according to the indictment issued Tuesday." The AP adds, 'Federal authorities say Xpress filled about 72,000 illegal prescriptions for pain killers and other controlled substances, generating sales of about $20 million. Authorities shut down Xpress last May and company founder Christopher Smith, his accountant and a doctor who issued prescriptions were indicted in August. … The indictment alleges that Adkins helped Smith hide assets after they learned about the investigation. It also alleges that Adkins wrote to legitimate pharmacies from which Xpress ordered drugs, assuring them that Xpress was 'both legal and authorized by federal and state statutes.' … Adkins was charged with conspiracy to distribute and dispense controlled substances, wire fraud; unlawful distribution and dispensing of controlled substances and misbranding drugs. If convicted of wire fraud he could face up to 20 years in prison and a $250,000 fine, the U.S. attorney's office said."

Drug Ring's Alleged Second-In-Command Pleads Guilty. The Knoxville (TN) News-Sentinel (1/26, Satterfield) reports, "Admitting crimes that could lock him away for life made Stephen 'Black' Ardis downright scared Wednesday. Ardis, who was captured on secret recordings expressing worries that an undercover agent he dubbed

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'Superman' was on his trail, pleaded guilty in U.S. District Court to being second-in-command of a Detroit-to-Knoxville drug running operation. But the 26-year-old drug slinger made it clear before entering his plea that a possible life sentence was a scary proposition he wanted to avoid. … Assistant U.S. Attorney Mike Winck said the massive amount of drugs Ardis conspired to put onto Knoxville's streets guarantees the Detroit man a 20-year prison term. … The drug ring was broken in November after a probe led by U.S. Drug Enforcement Administration Agent Todd Lee and Knoxville Police Department Investigator Bruce Conkey. It was Conkey whom Ardis dubbed 'Superman' in a conversation secretly recorded by the agents during their investigation."

Prosecutor Delays Charges In Washington Bomb Case. The Tri-City (WA) Herald (1/25, Trumbo) reports, "Benton County prosecutors will need several weeks to decide potential charges against a Richland man who says he kept bomb-making material because he is a miner." The Herald continues, "Kevin D. Johnson, 49, was released from jail Friday, three days after Richland police arrested him at his home where they seized gunpowder, nitro-methane and about 20 pounds of ammonium nitrate. They also found six firearms." The Herald adds, "Prosecutor Andy Miller said Tuesday that no charges were filed during the 72-hour hold on Johnson because more investigation is needed. Items taken from the home also have to be analyzed by agents of the federal Bureau of Alcohol, Tobacco and Firearms, he said. … 'To prove the elements of the case, we'd have to get the ATF to test the items,' Miller said. … Richland police Capt. Mike Cobb said an ATF agent told him Tuesday analysis of the items found at Johnson's home would be completed in two to four weeks. … Cobb said the investigation also involves 91 blasting caps that allegedly belonged to Johnson that were found Jan. 15 at a home in Franklin County. Cobb said officers discovered the caps in a closet of a man's home after they investigated a domestic violence complaint."

IMMIGRATION:

Daughter Of Former Chilean Dictator Pinochet May Seek Asylum In US. Reuters (1/26) reports, "The eldest daughter of former Chilean dictator Augusto Pinochet on Wednesday asked the United States to grant her political asylum after she fled tax charges in Chile, Chilean officials said." Reuters continues, "Lucia Pinochet Hiriart, 60, was being moved to an immigration detention center late on Wednesday after spending most of the day at Dulles International Airport near Washington, Chile's Foreign Relations Minister Ignacio Walker told local radio in Santiago. … Earlier, Interior Minister Francisco Vidal said Chile had been told that Pinochet Hiriart had asked for asylum. … 'In the coming two or three days we will have a decision from the United States which, I insist, will be a rejection (of asylum),' Walker said." Reuters adds, "U.S. officials would not confirm that Pinochet Hiriart had requested asylum. … 'Lucia Pinochet is currently in U.S. Customs and Border Protection custody at Dulles International Airport, pending resolution of her immigration status,' said Jarrod Agen, a spokesman for the Department of Homeland Security. … Pinochet Hiriart has been charged with tax fraud related to some $1 million in undeclared taxes and falsification of documents as part of a widening tax evasion and fraud investigation involving the Pinochet family."

TAX:

Jury Finds "Survivor" Winner Hatch Guilty Of Tax Evasion. The AP (1/26, Henry) reports, "Richard Hatch, who won $1 million in the debut season of the reality show 'Survivor,' was found guilty Wednesday of failing to pay taxes on his winnings and taken straight to jail." The AP continues, "Hatch remained calm as the court clerk read the verdict. He waved goodbye to family members, then was handcuffed and taken into custody after U.S. District Judge Ernest Torres said he was a potential flight risk. … The charges carry up to 13 years in prison. Torres said he expected a sentence of between 33 months and 41 months, but said the time could be longer because prosecutors say Hatch committed perjury. Sentencing was scheduled for April 28." The AP adds, "Hatch, 44, was also convicted of evading taxes on $327,000 he earned as co-host of a Boston radio show and $28,000 in rent on property he owned. He was acquitted of seven bank, mail and wire fraud charges related to a charity, Horizon Bound, he planned to open for troubled youth. … Hatch's lawyer, John MacDonald, said he would appeal the verdict. He said Hatch was aware of the possibility of jail time."

Former Washington Man Wanted On Tax Charge Captured In Panama. The Puget Sound (WA) Business Journal (1/26) reports, "The U.S. Department of Justice said Wednesday that former Renton resident David Struckman has been captured in Panama. Struckman had been charged by the Internal Revenue Service for running an operation that promoted tax-avoidance plans." The Journal continues, "Struckman was indicted in 2004 and charged with conspiracy to defraud the United States. He then "disappeared," according to a Justice Department spokeswoman. He was arrested in Panama earlier this month

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and deported, the department said, and will be transported to Western Washington." The Journal adds, "The government alleges that Struckman and four others sold 'Global Prosperity' wealth-building products, including videotapes, CDs and seminars, which 'included fraudulent methods of income tax elimination.' .. The seminars cost as much as $37,000 to attend and, according to the government, the group then concealed income earned from the products by using bogus trusts and offshore bank accounts."

CONGRESS-ADMINISTRATION:

Full Senate Begins Debate On Alito Confirmation. CNN's The Situation Room (1/25, Blitzer) reported, "The full Senate debate is under way on Samuel Alito's nomination to the U.S. Supreme Court. A day after the judiciary committee cast the divided vote over Alito, Republicans and Democrats are voicing fierce support and opposition to the President's choice for the high court." Alito "met today with Republicans senators whose majority votes are expected to seal his confirmation despite strong Democratic opposition."

NBC Nightly News (1/25, story 3, 1:00, Williams) reported, "As the full Senate began debating his Supreme Court nomination, Judge Samuel Alito took something of a pre-victory lap on Capitol Hill, thanking Republicans who helped move his nomination to the expected finish line. On the Senate floor, Democrats continued to call him a bad choice, while Republicans praised him." Currently, "Alito has enough support to be confirmed right now."

The AP (1/26, Holland) also says Alito "took a victory lap in the Senate on Wednesday, accepting congratulations from Republican leaders as lawmakers moved toward confirming him in a largely party-line vote." Reuters (1/26) adds Alito "appeared to have the votes for confirmation…as the Senate began a bitter debate."

The Washington Times (1/26, Hurt, 90K) says Republicans "rounded up the 60 votes they need to block any attempt to filibuster his nomination." Meanwhile, Sen. Edward M. Kennedy "called the vote on the nomination 'the vote of a generation.'"

Fox News' Special Report (1/25, Angle) reported, "Though Alito appears to be on track for confirmation and though it appears Democrats aligned against Alito do not have the votes to sustain a filibuster, Virginia's Republican Senator George Allen felt it necessary to issue a warning today." Allen: "My reaction is if they move forward with such a filibuster, my reaction is, 'make my day.' We will enjoy pulling the constitutional trigger to allow Judge Alito a fair up-or-down vote."

ABC's World News Tonight (1/25, story 6, 1:15, Vargas) reported, "Senators were divided along party lines." Sen. Hillary Clinton: "Roe v. Wade is at-risk. The privacy of Americans is at-risk. Environmental safeguards, laws that protect workers from abuse or negligence. Laws, even, that keep machine guns off the streets. All these and many other, are imperiled." Sen. Edward Kennedy: "The record demonstrates that we cannot count on Judge Alito to blow the whistle when the President is out of bounds. He is a long-standing advocate of expanding executive power." Senate Majority Leader Bill Frist: "Judge Alito deserves to become Justice Alito. And those who oppose him are smearing a decent and honorable man and posing an unfair political standard on all judicial nominees."

Bush Meets With Alito's Former Clerks. CNN's The Situation Room (1/25, Blitzer) reported the President met "with about 40 people, Republicans and Democrats, who've clerked for Judge Alito. It is another attempt to drive home the administration's insistence that Alito is qualified and deserves a quick and fair up or down Senate vote."

Novak Says Red State Democrats Who Oppose Alito Regret Vote. Syndicated columnist Robert Novak (1/26) writes that Sens. Kent Conrad and Byron Dorgan of North Dakota, "Bill Nelson of Florida, Tim Johnson of South Dakota, Ken Salazar of Colorado, Mary Landrieu of Louisiana, and Mark Pryor and Blanche Lincoln of Arkansas are red state Democrats who voted to confirm Chief Justice John Roberts. While Roberts is no less conservative than Alito…these Democrats who voted for the chief justice have been under intense pressure from the left to oppose Alito. All such senators may be willing to risk a politically unpopular 'no' vote, partly thanks to disappointing Senate Republican candidate recruitment this year." Novak notes, "The contention that President Bush's nominee is outside the 'mainstream' is the major talking point against Alito, but polls show support for him and his endorsement of spousal abortion notification. That debate's outcome may determine whether senators who vote against Alito will suffer at the polls this year and in the years ahead."

NYTimes Urges Democrats To Filibuster Alito's Nomination. The New York Times (1/26, 1.19M) editorialized that Alito's "elevation will come courtesy of a president whose grandiose vision of his own powers threatens to undermine the nation's basic philosophy of government --- and a Senate that seems eager to cooperate by rolling over and playing dead. It is hard to imagine a moment when it would be more appropriate for senators to fight for a principle. Even a losing battle would draw the public's attention to the import of this nomination." The Times adds, "Senate Democrats, who presented a united front against the nomination of Judge Alito in the Judiciary Committee, seem unwilling to risk the public criticism that

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might come with a filibuster -- particularly since there is very little chance it would work. Judge Alito's supporters would almost certainly be able to muster the 60 senators necessary to put the nomination to a final vote. A filibuster is a radical tool. It's easy to see why Democrats are frightened of it. But from our perspective, there are some things far more frightening. One of them is Samuel Alito on the Supreme Court."

Roberts, Alito Appointments Called Bush's Greatest Domestic Successes Since 2003. The Wall Street Journal (1/26, 2.11M) editorializes, "With at least 52 Senators already on record in support, it's clear that -- short of some smear ex machina -- liberal Democrats can't stop Samuel Alito from being confirmed to a seat on the Supreme Court. So it's a good moment to consider what this says about our politics and what it means for the Court as it enters a new era. One conclusion is that the confirmation of both Chief Justice John Roberts and Judge Alito marks the most important domestic success for President Bush since his 2003 tax cuts." The "Alito-Roberts ascendancy also marks a victory for the generation of legal conservatives who earned their stripes in the Reagan Administration. … The Roberts-Alito Court also represents a notable, and greatly satisfying, rebuke for the legal left and its 'borking' strategy."

Bush Resubmits Nominee Previously Blocked By Democrats. The Washington Post (1/26, A3, Babington, 744K) reports the White House "renominated Brett M. Kavanaugh to the US Court of Appeals for the District of Columbia Circuit. President Bush nominated Kavanaugh, the White House staff secretary, in July 2003, but he fell victim to intense battles between Senate Democrats and Republicans over numerous judicial appointments. A May 2005 bipartisan pact averted a showdown over judicial filibusters and enabled some contested nominees to win confirmation. But it left Kavanaugh in limbo." The Senate Judiciary Committee's eight Democrats "complained last year that Kavanaugh took several months to answer their written questions about his qualifications. Other Democrats have noted that Kavanaugh, 40, has limited courtroom experience and helped independent counsel Kenneth W. Starr pursue the Monica S. Lewinsky case during the Clinton presidency."

Abramoff Prosecutor Among Nominees To Federal Bench. The AP (1/26) reports, "President Bush on Wednesday nominated one of the Justice Department's lead prosecutors in the Jack Abramoff corruption probe to a U.S. District Court seat." The AP continues, "Noel Hillman, chief of the department's public integrity section, was nominated for the federal judgeship in New Jersey, where he served in the U.S. Attorney's office under Michael Chertoff, now secretary of Homeland Security." The AP adds, "The White House was poised to nominate Hillman last summer, after New Jersey's two Democratic senators took the opportunity to weigh in on Hillman and other nominees in exchange for lifting their objections to another candidate Bush had nominated in 2003. … Hillman will step down as chief of the public integrity unit next week, but remain in the Justice Department's criminal division until he is confirmed, a department official said. Andrew Lourie, a career prosecutor in Miami, will lead the public corruption-fighting office on a temporary basis, the official said, speaking on condition of anonymity because he is not authorized to discuss personnel matters. … Lourie performed the same role until Hillman took over early in 2003."

Bush Suggests Government Will Not Bail Out GM And Ford. The Wall Street Journal (1/26, Cooper, McKinnon, 2.11M) reports, "President Bush said General Motors Corp. and Ford Motor Co. should develop 'a product that's relevant' rather than look to Washington for help with their heavy pension obligations, and hinted he would take a dim view of a government bailout of the struggling auto makers." In an Oval Office interview, Bush "said that his administration has discussed the development of new fuel technologies with the nation's top two auto makers, which might make them more competitive, but that he has had no talks about the companies' finances." Asked if he had spoken to GM Chairman and Chief Executive Rick Wagoner or Ford Chairman and CEO William Clay Ford Jr., Mr. Bush replied, "Not about their balance sheets. … And I haven't been asked by any automobile manufacturer about a bailout." Asked if the government should take "any pre-emptive action," he said, "I think it's very important for the market to function." Bush "suggested he felt optimistic about the companies' prospects."

WPost Says Detroit, Congress Should Embrace "Competition." In an editorial titled "Managing Detroit," the Washington Post (1/26, A24, 744K) says, "It's not clear whether the GM and Ford restructuring plans will be enough to avert bankruptcy. Their difficulties may take on a more political tone, particularly since the Midwest is a key battleground for presidential campaign strategists." But "Congress needs to keep Motown's troubles in perspective. They are the result of competitive pressures that most parts of the US economy take for granted every day. And it is precisely by embracing competition that the United States has become the world's most powerful economy."

Bush Unlikely To Push Large Initiatives In State Of The Union Speech. The New York Times (1/26, Stevenson, 1.19M) reports, "Having stabilized his political standing after a difficult 2005, President Bush is heading into his State of the Union address on Tuesday intent

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primarily on retaining his party's slim majority in Congress this year and completing unfinished business from his existing agenda." Unlike last year, "when he used the occasion to kick off an ambitious and ultimately failed effort to overhaul Social Security, Mr. Bush seems unlikely to reshape the political landscape with his speech on Tuesday, members of both parties said." The Times adds, "Administration officials and other Republicans in Washington said Mr. Bush would focus on several topics, including health care, spending restraint, illegal immigration and the nation's international economic competitiveness, as well as an unapologetic restatement of his national security policy. Much of the speech, they said, will be tied together under a broad theme acknowledging that the United States is going through transitions that involve wrenching dislocation as well as opportunity." His aides "portray Mr. Bush as undaunted by the plague of setbacks last year that loosened his grip on his party and drove down his poll numbers, which although up from their lows last fall remain at anemic levels."

Bush Urged To Tackle Medicare Reform. David Gratzer, a physician and senior fellow at the Manhattan Institute, writes in the Wall Street Journal (1/26, 2.11M), "Bush will cite rising health costs as a major problem for Americans and their businesses, and he will outline steps to strengthen health savings accounts as a remedy." But "he is unlikely to mention Medicare reform -- and that would be a mistake. Indeed, if the president is serious about health reform, he will have to tackle Medicare. And he can start by re-engaging a debate from 1999." Seven years ago, Sen. John Breaux and Rep. Bill Thomas "completed the final report of the National Bipartisan Commission on the Future of Medicare. Considering various reforms, they eventually settled on a proposal modeled after the popular Federal Employees Health Benefits Plan (FEHBP), which covers nine million federal employees and their families. Instead of today's one-size-fits-all Medicare structure, they envisioned a program where seniors choose among competing private plans. Since then, Washington has debated the size and scope of Medicare expansion -- such as the prescription benefit -- but the program itself has yet to be fundamentally rethought." It "needs to be, because faced with Medicare's rising costs over the past four decades, the only real response has been a bipartisan exercise in wage and price controls."

Protestors Sue For Spot During State Of The Union. The Washington Post (1/26, A6, Barker, 744K) reports, "Organizers planning a protest during President Bush's State of the Union address next week say they have been denied a permit to hold the demonstration around the U.S. Capitol Reflecting Pool because that area has been reclassified as part of the security perimeter for the day of the speech. The organizers of the Tuesday protest, called 'World Can't Wait -- Drive Out the Bush Regime,' say the National Park Service and the U.S. Capitol Police initially offered them the Capitol Reflecting Pool as a demonstration site but changed their minds. Demonstrators have been told to confine their gathering to the gravel walkways on the Mall between Third and Fourth streets, farther from the Capitol. The grassy areas are fenced off because they are being resodded." Travis Morales, one of the organizers of the demonstration, "said the group was offered use of the area around the Capitol Reflecting Pool on Jan. 10 and that the site was not then part of any security perimeter. But on Jan. 19, he said, the group was told the security area had been expanded to include the Reflecting Pool. He called the change 'politically motivated,' adding that the Bush administration 'is trying to push us so far away that we can't be seen or heard. … A protest not seen and a protest not heard is not a protest.'" The demonstrators "filed a federal lawsuit yesterday seeking a court order that would enable them to gather at the Capitol Reflecting Pool. U.S. District Judge Ricardo M. Urbina will convene a hearing, possibly today."

Many Liberals Upset Kaine Was Chosen To Respond To Bush. USA Today (1/26, Lawrence, 2.31M) reports, "Virginia Gov. Timothy Kaine lifted the Democratic Party's spirits last fall when he won in a conservative state and gave his fellow Democrats some ideas about how to replicate his success. The fruits of victory include the honor of being picked to respond to President Bush's State of the Union address Tuesday -- and the wrath of liberal bloggers wondering why Democrats didn't choose somebody else. Anybody else." The selection of Kaine, "a Roman Catholic who opposes gay marriage -- highlighted fault lines within the party. Bloggers on several liberal websites were furious for reasons including Kaine's looks, style and obscurity, his open talk about religion, his moderate positions and his inexperience in foreign affairs. 'What the hell are they thinking?' Arianna Huffington demanded on www.huffingtonpost.com. … Bloggers at dailykos.com, talkleft.com and other liberal sites showered cyberspace with alternatives: new faces — Illinois Sen. Barack Obama, New York Attorney General Eliot Spitzer -- and famous faces -- Al Gore, New York Sen. Hillary Rodham Clinton."

Villaraigosa To Give Spanish-Language Response. The Los Angeles Times (1/26, Chen, 958K) reports, "Congressional Democrats announced today that Los Angeles Mayor Antonio Villaraigosa will deliver the party's Spanish-language response to next week's State of the Union address. … This will be the third consecutive year that Democrats have offered a Spanish language response to Bush's speech. Two years ago, Gov. Bill Richardson of New Mexico delivered the first such response. Last year, it was

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jointly given by then Rep. Robert Menendez, now a senator from New Jersey, and Sen. Jeff Bingaman of New Mexico."

CNN's The Situation Room (1/25, Blitzer) added "Villaraigosa's remarks clearly will be aimed at helping Democrats reach out to Hispanic voters right here in the United States."

Effectiveness Of Health Savings Accounts Disputed. The New York Times (1/26, Freudenheim, 1.19M) reports, "Bush has made 'consumer-directed' health savings plans a cornerstone of his policy for addressing runaway medical costs, and he plans to push them again in the State of the Union address next week." But "so far there is little evidence that the approach is helping many consumers come to grips with the high price of health care," even though "the early results do offer some hope. More than two million people have signed up for the plans, which were created as part of Medicare overhaul legislation in 2003 but were not an option for many people until the health insurance sign-up season last fall. While that is a tiny fraction of the 180 million Americans with health insurance, some experts say the numbers show a notably fast adoption rate for a complicated new consumer program. By other measures, though, workers and employers have been slow to embrace health savings plans, which are intended to reduce corporate health care costs while giving individuals more control of their medical spending."

In his Wall Street Journal (1/26, 2.11M), David Wessel criticizes Bush's "cure-all for health care," saying Bush argues for making "health care more like the market for tile and pipes." Adds Wessel, "Set aside the case that only a taxpayer-financed, government-organized solution works. A Republican president and Congress aren't going there, and a lot of Democrats are skeptical, too. … A bigger problem is that too many healthy (for now) Americans go without preventive care, and too many chronically ill Americans don't get care that would avoid costly, painful complications later. HSAs don't help there. And then there's the uncomfortable fact that 80% of health spending in the U.S. each year is spent on 8% of the population. Giving them tax breaks to buy health-insurance policies with $2,000 deductibles won't ensure that money is well spent."

Robert J. Samuelson writes in the Washington Post (1/26, 744K), "Americans want more health care for less money, and when they don't get it, they indict drug companies, insurers, trial lawyers and bureaucrats. Although these familiar scapegoats may not be blameless, the real problem is us. We demand the impossible. The changes we truly need are political. We need to reconnect people with the public consequences of their private acts. We should curb the subsidization of private insurance." Medicare recipients, "especially wealthier ones, should pay more of their bills." But "these changes won't happen because people don't want to see the costs. We don't have the health care system we need, but we do have the one we deserve."

Leavitt Says Government Moving To Solve Prescription Drug Program Problems. The Washington Times (1/26, Fagan, 90K) reports, "Administration officials yesterday told senators the new Medicare prescription-drug program has problems, but they're under control, and states will be reimbursed for covering seniors' prescription costs resulting from the glitches." Senators on the Finance Committee "seemed cautiously optimistic at the assurances, but some said Congress will still probably need to act. 'I think there's no question that the issue of prescription drugs will be back on the [Senate] floor in some form this year,' said Sen. Ron Wyden, Oregon Democrat." Health and Human Services Secretary Michael O. Leavitt said yesterday, "We've identified the problems, we're working on them and the plan gets better every day." He and Medicare chief Mark McClellan "had a private meeting yesterday with committee members to brief them on the situation."

The CBS Evening News (1/25, story 8, 2:00, Schieffer) reported, "It is no secret the new Medicare prescription drug program is not off to a great start. Many elderly have been lost in the bureaucratic maze. Many have found themselves with no coverage at all." CBS (Andrews) added, "According to advocates for senior citizens, in thousands of cases so far, drugs might be covered under Medicare, but patients still need prior authorization before insurance actually covers the drug. The Center for Medicare Advocacy calls that sleight of hand. What's the sleight of hand?" Vicki Gottlich: "I think people were promised that they would be able to get all the drugs that they require, but they weren't told that they might have to go through a little extra." Andrews: "Medicare has ordered insurance plans to solve this saying, 'we expect prior authorization to be resolved at the point of service,' meaning the pharmacy counter. … So now in this transition to this massive new benefit, prior authorization is yet another complication in an already-troubled program."

OLC Urges Caution For Federal Employees On Nonprofit Boards. Government Executive (1/26, Pulliam) reports, "Agencies should be careful about allowing employees to serve on the boards of nonprofit organizations that have an interest in their work, according to a recent opinion published by the Justice Department's Office of Legal Counsel." GE continues, "Federal executives can serve as officers or directors at nonprofit organizations, a 19-page opinion released Jan. 11 stated. But agencies should take into account the appearance of an ethical violation before permitting employees to serve in a group that handles issues

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related to their government work. … 'Government employees [have a] . . . duty to "avoid any actions creating the appearance that they are violating the law ... or ethical standards,"' the Justice office's opinion said. … 'If an outside organization in which an employee is a director has been advocating its views directly to the federal government on a matter that the organization has identified as especially significant, there is a significantly heightened risk that the employee ... will at least appear less than independent in his judgments,' the legal counsel stated. 'And that risk ... calls for serious consideration by the employee's agency.' … Federal law requires government employees to recuse themselves from work activities when a nonprofit on which they serve has a financial interest in the matter. But just because nonprofits spend money advocating a position does not necessarily mean they have a financial interest in an agency action, according to the opinion." GE notes, "The case leading to the opinion originated in July 2004 when a senior executive at the Education Department was told by the Office of Government Ethics that election to the Senior Executives Association board of directors would result in a criminal conflict of interest due to his service on his department's Executive Resources Board."

Senate Committee Opens Hearings Into Lobbying Reform. USA Today (1/26, Drinkard, 2.31M) reports that after "weeks of calls for restrictions on how lobbyists influence Congress, lawmakers began Wednesday to grapple with the thorny details of just how to do it." The Senate Homeland Security and Governmental Affairs Committee opened the first congressional hearing on reforms, and "lobbyists argued against proposals to ban privately financed trips for House and Senate members and their aides, saying travel helps them make good policy decisions in an era of globalization." And some senators "rejected calls for more restrictions, saying problems…are rooted in lawmakers' own behavior, the way Congress operates and a failure to enforce rules already on the books." The Washington Post (1/26, A6, Milbank, 744K) reports lawmakers "had no difficulty conceding they had a problem. But there was yawning disconnect between the problem and the proposed remedies. While most everybody agreed that Congress was being subverted by lawmakers' reliance on lobbyists for campaign cash, the proposals getting the most serious consideration yesterday were relatively minor: whether to ban lobbyist-paid lunches or a few million dollars' worth of privately funded congressional trips." Both newspapers quote Sen. Tom Coburn saying, "I don't believe lobbying reform's the problem; I believe Congress is."

However, CNN's The Situation Room (1/25, Koppel) called the hearing "a bipartisan show of support for what Democrat Joe Lieberman called 'doing away' with what they believe is the faulty impression that their votes go to the highest bidder. The high-flying days of Congressional lobbying could be in for a rough landing as Democrats and Republicans alike rushed to put luxury vacations and expensive meals on the Congressional chopping block." The AP (1/25, Abrams) quotes Homeland Security and Governmental Affairs Chairman Susan Collins saying, "The public's trust in Congress is perilously low." The panel's ranking Democrat, Sen. Joseph Lieberman, similarly said, "The status quo stinks and cries out for us to clear the air."

McCain Testifies In Opposition To Earmarks. The Washington Post (1/26, Branigin, 744K) reports Sen. John McCain, appearing as a witness before the panel, "was one of several senators to denounce earmarking, a practice he called 'disgraceful.' He outlined one of several proposals to tighten rules and require greater disclosure of lobbying activities. But he told the committee, 'We're not going to fix this system until we fix the earmarks.'" But "representatives of lobbying organizations urged the committee today not to overreact to what they described as the unscrupulous activities of one corrupt lobbyist," and Minority Whip Richard Durbin said the problem "goes beyond earmarks and that solving it must start with reducing the 'outrageous expense' of political campaigns."

Lewis Offers Steps For Earmarking Reforms. House Appropriations Committee Chairman Jerry Lewis writes in Roll Call (1/26), "The president's budget contains numerous earmarks inserted by nameless, faceless bureaucrats within each government agency. Teach for America, The Points of Light Foundation, and America's Promise are just a few examples of unauthorized, limited-scope initiatives that routinely receive a line-item request in the president's budget. Yet elected representatives know more about local, state or national priorities than the Beltway bureaucracy. It would be a mistake to ignore this expertise when determining how to allocate scarce federal dollars." Lewis calls for "curbing the appetite to spend by sharply reducing the number of earmarks in annual spending bills and making the appropriations process more open and transparent. In order to succeed, the House and Senate must jointly embrace these efforts. Specifically, the leadership of the House Appropriations Committee recommends the following: 1) Sharply limit the number of Member project requests. … 2) Require increased accountability, disclosure and transparency by requiring that Member request letters be made public prior to House consideration of each appropriations bill. … 3) Require that all project requests be submitted in writing to the appropriations subcommittee of jurisdiction via a Member-signed request letter or form. 4) Establish clearly defined criteria for all project requests and require Members to specify how each project meets the criteria. … 5) Increase the proportion of projects that have a

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dollar-matching requirement. … 6) Require all Congressionally approved projects to go through a formal executive branch contracting and auditing process. 7) Finally, require that all other committees adopt similar earmarking reforms."

Nelson, Coleman Call For Independent Commission. The Los Angeles Times (1/26, Curtius, 958K) reports Sens. Ben Nelson and Norm Coleman, "convinced that Congress cannot overhaul its rules on ethics and lobbying in the politically charged atmosphere of an election year," called for the creation of an independent commission for the job. But their "proposal faced quick resistance from two senators leading the reform push," Lieberman and McCain, both of whom said they "feared creating an independent commission and that waiting for it to act would slow the momentum for change." McCain said, "I don't want to wait. We've got to act quickly."

House Democratic Leaders Float "Toughest Lobbying Reform Package Yet." Roll Call (1/26, Newmyer) reports House Minority Leader Nancy Pelosi, Minority Whip Steny Hoyer, and Democratic Caucus Chairman James Clyburn "circulated principles" of the "toughest lobbying reform package yet" to Democrats, seeking their support. The measure would "force lawmakers to report when they are sponsoring earmarks, require them to pay fair market value for travel on private jets and create an office of public integrity to oversee these and other new lobbying rules. Details of the plan emerged after a day in which lawmakers on both sides of the Capitol traded barbs, with each party claiming to want a bipartisan solution, but finding no partner across the aisle."

GOP Ends Vestige Of "K Street Project." The Washington Post (1/26, A2, Birnbaum, 744K) reports the GOP has ended a "long practice of routinely summoning lobbyists to the Capitol to try to persuade them to hire their aides and colleagues," a "remnant of the K Street Project once championed by Rep. Tom DeLay." The Senate Republican Conference staff director said Wednesday that a "K-Street-job-vacancies memo -- the heart of Congress's remaining involvement in the effort these days -- will no longer be distributed during high-level meetings hosted by the conference on Capitol Hill between lawmakers and lobbyists."

Hill Staff May Rush To Lobbying Jobs Before Rules Change. Roll Call (1/26, Ackley) writes that while the two parties "might not agree on all things lobbying," they "seem united on doubling the current one-year cooling-off period for newly minted advocates. And that has Congressional staffers, who already had an eye toward employment on K Street, stepping up their job-seeking efforts. Lobbyists, headhunters and Capitol Hill aides speculate that a mini-exodus of staffers from both sides of the aisle may be coming as a result."

ASAE Opposes Proposal To Ban Privately Funded Travel For Lawmakers. The Washington Post (1/26, A23, Sarasohn, 744K) reports in its "Special Interests" column, "The American Society of Association Executives (sometimes referred to as the 'association of associations') is weighing in on plans to overhaul lobbying laws. ASAE, like some other trade groups, is concerned Congress may being acting too fast. ASAE opposes a measure that would ban all privately funded travel for members of Congress because, it believes, the ban would discourage true fact-finding trips and meetings with diverse groups."

DeLay Unrepentant As Ethics Talk Dominates Washington. In his Washington Post (1/26, A25, 744K) column, George Will writes of a visit with Tom DeLay in Richmond, Texas, writing, "Most people, battered as he recently has been, would be curled up on the carpet in a fetal position. But DeLay is as direct and uncomplicated as the tool that supplies his nickname -- 'The Hammer' -- and his faults do not include being a whiner. Furthermore, he is not about to plea-bargain in the court of public opinion. He chafes under prudential reticence: His attorneys tell him not to trumpet the fact that the Justice Department told them he is not a target in the Jack Abramoff investigation. But about other matters, the bantam is belligerent." And in DeLay country, "unlike on the Potomac, the fever for reform is not high. To a visiting columnist who waxes censorious about earmarks for highway projects, DeLay responds with a notable lack of repentance: 'You just drove out on one.'"

Social Security Group Redefines Itself To Push For Lobbying Reform. The Washington Post (1/26, A23, Sarasohn, 744K) reports in its "Special Interests" column, "Fresh off its success in raising a grass-roots wave of public opposition that helped block President Bush's plan to overhaul Social Security, Americans United to Protect Social Security has redefined itself. The name is shorter -- Americans United -- and the mission is broader: public corruption, education, health and energy costs, economic prosperity and such. Yesterday, Americans United unveiled a $1 million advertising campaign urging support for legislation proposed by Democratic lawyers aimed at tightening the restrictions on lobbying." The group "has received initial support from organized labor, including the American Federation of State, County and Municipal Employees. Brad Woodhouse , director of communication, says Americans United hopes to raise $10 million to $20 million from labor, individuals and others."

Blunt, Boehner Make Case For Their Candidacies. Rep. Roy Blunt, a candidate for House Majority Leader, writes in USA Today (1/26, 2.31M), "House members cannot ignore recent scandals that have many questioning the credibility of our system. Republicans will

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regain Americans' trust by enacting tough penalties for those who break the law and focusing on our agenda of limited government, personal responsibility and growing the economy by returning money to the Americans who earned it. … Lobbying reforms should include new rules governing travel and disclosure and regulations subjecting shadowy, tax-exempt '527' political groups to the same standards as others who attempt to influence the process. Then the credibility of honest public servants will be not be questioned -- even when some try to paint them with the same brush as those who break the law."

Meanwhile, Rep. John Boehner, a candidate for House Majority Leader writes in USA Today (1/26, 2.31M), "House Republicans need leadership that will help provide a vision and a plan for renewal. We need a leader who will stand up to Democrats when they're wrong, but who has credibility to work with them when it's in the country's best interests.' Boehner adds, "As of now, I am the only candidate who has released a detailed plan that would help House Republicans regain the spirit and energy of 1994, embrace real reform and reclaim the vision responsible for our success."

USA Today Says Blunt, Boehner Not Credible Reformers. An editorial in USA Today (1/26, 2.31M) says, "The former majority leader, Tom DeLay, stepped down after he was indicted in a Texas fundraising case and linked to crooked lobbyist Jack Abramoff. So where is the GOP seeking this fresh face and new start? With two lawmakers -- Roy Blunt of Missouri and John Boehner of Ohio -- who have cozy relations with lobbyists and a penchant for accepting perks from corporate friends." USA adds, "A third candidate for majority leader, John Shadegg of Arizona, is less enmeshed with the lobbying establishment and high-powered fundraising. That's one reason he's given virtually no chance of winning." USA continues, "Both Blunt and Boehner have one point right: Voters are clamoring for change. That requires recognition of what's wrong and the will to do something about it. Lawmakers who've spent their careers accepting perks and raking in special-interest campaign cash don't make for credible reformers."

Cornyn Emerges As Senate GOP's "Self-Appointed Public Relations Man." Roll Call (1/26, Pierce) reports, "With President Bush and Republicans struggling to regain their standing in public opinion as Senate Democrats hammer away daily at every perceived foible or folly committed by the ruling majority," Sen. John Cornyn "has made it his mission to strike back." Over the past year, Cornyn "has become a self-appointed public relations man for Republicans in Congress and the White House, filling a communications void that has developed in the Senate GOP leadership." Cornyn said, "I saw it as addressing this quick-response need that I don't think we had been set up for before, and really didn't need before the Democrats created their war room. It's not enough to come back later on, a week later, two weeks later, and respond. … A charge unrebutted is a charge believed." Cornyn has taken a key role in judicial nominations and also spearheaded "an aggressive effort among his colleagues in directing staff to send out partisan press releases, opposition research papers and talking points." He is now running for the "low-profile but still influential post of vice chairman of the Senate Republican Conference, which just happens to be the No. 2 'message' position."

First Lady's Approval Rating Is 82% In CNN/USA Today/Gallup Poll. CNN's The Situation Room (1/25, Crowley) reported, "In the latest CNN/USA Today/Gallup poll, 82 percent of Americans gave thumbs up to the way Laura Bush is handling her job. … Her approval rating is almost 40 points higher than her husband's." CNN added, "Despite that 82 percent approval rating, only 40 percent of Americans say they would like to see Mrs. Bush run for Senate. The truth is, when people see her as outside the world of politics, she is one of his biggest political assets."

Cheney Still A GOP Fundraising Draw. Roll Call (1/26, Akers) reports in its "Heard on the Hill" column, "Despite a recent spate of bad publicity, Vice President Cheney is still a big draw for GOP fundraising. The vice president is slated to be the headline attraction this evening at a fundraiser for Sen. Mike DeWine (R-Ohio). Anyone can attend for a simple $1,000. But the most generous donors may have a picture snapped with the veep: Going for that 'max out' opportunity before Ohio's primary in May, the DeWine re-election campaign is charging political action committees $5,000 per photo op."

Hillary Clinton Says Bush Disregarding Cities' Needs In Favor Of Tax Cuts. Reuters (1/25, Whitesides) reported, "Democratic Sen. Hillary Rodham Clinton accused the Bush administration on Wednesday of ignoring the needs of cities in its politically driven zeal for tax cuts and told US mayors 'you are on your own.' Clinton, a potential White House candidate in 2008 who is seeking Senate re-election this year in New York, said that since the September 11 attacks President George W. Bush had reneged on his obligation to states and cities to pay for crucial security and social programs." Clinton said tax "cuts are desirable in the right political and economic climate but 'it is hard to square with the challenges we face at this time of terrorist threat.' At the federal level, 'the sense of urgency that marked the months after the 9/11 attacks has largely given way to politics as usual,' she said."

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Clinton Stumbles Over Question On Her Time As Wal-Mart Board Member. The New York Daily News (1/26, McAuliff, 729K) reports that Sen. Clinton "easily pointed at Wal-Mart yesterday as not doing enough about health care but found it a little tougher when asked if she had ever suggested the retailer do more when she was on its board of directors. 'Well, you know, I, that was a long time ago, I have to remember,' she stammered, before pointing to her work on health care while First Lady. She sat on the Wal-Mart board from 1986 to 1992. Her spokesman insisted it's 'a very different company now.'"

Columnist Says Liberals Increasingly Unhappy With Clinton. Columnist Jonah Goldberg writes in the Los Angeles Times (1/26, 958K), "Liberals are sizing up Hillary Clinton for the umpteenth time, and they don't like what they see. … 'I will not support Hillary Clinton for president,' wrote Molly Ivins, the voice of conventional thinking on the left. 'Enough. Enough triangulation, calculation and equivocation. Enough clever straddling, enough not offending anyone.'" Goldberg adds, "The New Republic offers perhaps an even more devastating critique of Clinton for Democratic pragmatists: She can't win. Marisa Katz dismantled the myth that Clinton can appeal to 'red state' voters because she won in upstate New York. Turns out former Vice President Al Gore and Sen. John Kerry each did better in upstate New York than she did. … Meanwhile, a recent Gallup poll showed that 51% of Americans won't even consider voting for Clinton." Goldberg relates that there is "something oddly satisfying in the possibility that Clinton being herself is politically disastrous. And, if she's really just playing one more role according to some classically Clintonian political triangulation, there's something equally satisfying to the prospect that even her fans aren't falling for it anymore."

Obey, Frank To Propose Full Public Financing Of House Contests. Roll Call (1/26, Kornacki) reports that Rep. David Obey (D-Wis.) "is joining with Rep. Barney Frank (D-Mass.) to propose full public financing of all House elections. They announced Wednesday that they will introduce the plan, which would bar all candidates from fundraising and self-financing in their campaigns, when the House reconvenes next week." Obey's "plan would radically curtail the financial advantage most incumbents now enjoy, even making it difficult for some of them to pay for television ads. And even if Democrats were to unite behind it, the prospect on a vote in the GOP-controlled House is less than remote. … Beyond that, the plan also faces an almost certain constitutional hurdle, in the form of the Supreme Court's 1976 Buckley v. Valeo decision that equated campaign spending with free speech."

Kondracke Says House GOP Group To Unveil "Suburban Agenda" Next Month. Roll Call Executive Editor Morton M. Kondracke writes in Roll Call (1/26), "A different kind of agenda -- different from the president's State of the Union address and the anticipated Democratic election year document -- is scheduled to be unveiled early next month to House Republicans: 'The Suburban Agenda.' It's the work of a group of 22 GOP Members from across the party's ideological spectrum and led by moderate Rep. Mark Kirk (Ill.), who's also tried to sell it to President Bush's top political adviser, Karl Rove." Kirk said "this agenda is designed to answer the problems faced by a suburban family as it moves through its day." Kondracke notes, "There's clearly strategic political intent behind trying to build the 2006 GOP legislative strategy around the suburbs: More than half of U.S. voters live in the 'burbs, and these places, formerly Republican strongholds, have been trending Democratic in recent years. … The agenda is designed to keep Republicans in power, but many of the items -- electronic health records and anti-gang measures, for sure -- ought to be bipartisan. It wouldn't be surprising if there's a bidding war for the support of the suburbs."

Postal Service Opposes Collins Bill On Mail Rates. The Washington Post (1/26, B2, Barr, 744K) reports in its "Federal Diary" column, "The U.S. Postal Service headquarters launched a blitz yesterday to block a Senate bill, contending that the legislation, in combination with White House demands, could trigger a 20 percent increase in stamp prices in the near future. The bill's sponsors, Sens. Susan Collins (R-Maine) and Thomas R. Carper (D-Del.), said they were 'outraged that the Postal Service would mislead senators.' In a statement, they said, 'Nothing in the bill would lead to rate increases.' Government agencies rarely risk incurring the wrath of committee chairmen who oversee their operations, as is the case with Collins. As head of the Homeland Security and Governmental Affairs Committee, she has made the overhaul of postal operations one of her priorities. Her bill would create a system of setting mail rates that she believes would give the post office greater pricing flexibility and would prevent it from raising rates each year in excess of inflation as measured by the consumer price index."

Federalist Society Protests Nightline Report On Scalia. The Washington Times (1/26, Pierce, 90K) reports in its "Inside Politics" column "The Federalist Society yesterday called on ABC to investigate a report by its news show 'Nightline' that suggested Supreme Court Justice Antonin Scalia had done something unethical by participating in a legal seminar sponsored by the group. 'The report grossly misled viewers about a recent trip Supreme Court Justice Antonin Scalia took to teach a 10-hour course on the

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Constitution and separation of powers. 'Nightline' suggested that Justice Scalia's trip was a "judicial junket," and even strained to manufacture a link with disgraced lobbyist Jack Abramoff,' Federalist Society President Eugene B. Meyer said in a letter yesterday to ABC News President David Westin. The program, which aired Monday, emphasized that Justice Scalia had missed the September swearing-in of Chief Justice John G. Roberts Jr. because of his commitment to attend the legal seminar at a Colorado resort, suggesting that the jurist spent most of his time playing tennis and engaging in other frivolous pursuits."

High Court Urged To Look To Foreign Opinions In Interpreting Law. Felix G. Rohatyn, the United States ambassador to France from 1997 to 2001, writes in an op-ed in the New York Times (1/26, 1.19M), "Globalization has made it not only 'appropriate or useful' but vital to look at foreign laws" when interpreting our own. "When we require European support on security issues…our job is made more difficult by the intensity of popular opposition in Europe to our policy" on the death penalty. "Contempt for the laws of our allies is a major factor in our increasing isolation in the world," and "that is why is it is deeply troubling that the next member of the Supreme Court will most likely share Justice Scalia and Justice Thomas's" opposition to that view. "Taking the views of 450 million Europeans into account is not a sign of weakness on our part, nor is it a commitment to change our views" but "simply recognition that the laws of our most important allies, our biggest foreign investors, foreign employers, foreign customers and trading partners are worthy of our attention."

OTHER NEWS:

Home Sales Drop Sharply. USA Today (1/26, Knox, 2.31M) reports, "Sales of existing homes fell in December for the third-consecutive month, in a surprisingly sharp drop that signaled the housing market is cooling off faster than expected. Home resales declined 5.7% from November to a seasonally adjusted annual pace of 6.6 million, the slowest since March 2004, the National Association of Realtors said Wednesday. Western states, notably California, suffered the worst, with home sales in the region skidding 11.4% from November and from December 2004." The Wall Street Journal (1/26, Preciphs, 2.11M), however, adds that even if "sales of existing homes fell in December to their lowest level in three months," they "still set a record for the year." The New York Times (1/26, Bajaj, 1.19M) also reports "the housing market registered a fifth consecutive year of increased sales." The data, nonetheless, "appear to suggest that the era of rapidly increasing sales may be coming to a close."

Stocks Down. The New York Times (1/26, 1.19M) reports, "Stocks ended a two-day rally yesterday as a worsening profit outlook for oil companies and homebuilders, two of the market's best performers during the last 12 months, sent prices lower." The Standard & Poor's 500-stock index "fell 2.18 points, or 0.2 percent, to close at 1,264.68, its first drop this week. The Nasdaq composite index lost 4.60 points, or 0.2 percent, to 2,260.65. The Dow Jones industrial average dropped 2.48 points, or less than 0.1 percent, to 10,709.74, helped by a gain in General Motors." The Wall Street Journal (1/26, Patterson, 2.11M) and USA Today (1/26, 2.31M) also report the stock numbers.

Oil Industry Defends Record-High Profits. ABC World News Tonight (1/25, story 4, 2:30, Vargas) reported, "Some breath-taking numbers from the oil industry today. Conoco/Phillips said it made 13.5 $13.5 billion last year, an increase of 66% from the year before. The record-high profits are the result of record-high oil and gas prices people are paying at the pump and to heat their homes. So, the oil industry is feeling the heat. Today, it launched a counterattack." ABC (Stark): "Today the oil industry tried to argue that it's not just the companies themselves who benefit when profits are high. At the gas pump, where prices are once again increasing, news of the huge oil company profits had consumers up in arms." After "all the numbers are in, analysts expect oil industry profits for the fourth quarter to be up at least 46% over a year ago. The industry today was quick to go on the defensive, pointing out its earnings are just slightly above average for all corporations, just over 7 cents for every dollar spent. It also argued that what's good for big oil is good for average Americans." Stark concluded: "So, for oil companies and those who own shares in them, it has been a boom year. But for many consumers, it's a bust." Vargas: "Indeed it is."

Greenspan To Open Consulting Firm. When he leaves the Fed at the end of the month, Greenspan plans to set up a consulting firm, Greenspan Associates, in Washington, DC, the Wall Street Journal (1/26, 2.11M) reports. The Journal adds, "One of his first hires will be Michelle Smith, who the Fed said yesterday will leave her job as director of its office of board members to join Mr. Greenspan's new firm. … In addition, the Fed said David W. Skidmore, Ms. Smith's deputy, would become the board's chief spokesman and Rose Pianalto Cameron will oversee other public information activities.

Greenspan Opposes Banking Loophole. Federal Reserve Chairman Alan Greenspan opposes a regulatory loophole that allows corporations to own banks. The Wall

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Street Journal (1/26, Wysocki, 2.11M) says Greenspan's opposition puts him "into the middle of an effort by Wal-Mart Stores Inc. to establish a bank. Mr. Greenspan's salvo, outlined in a 12-page letter to Congress that was reviewed by The Wall Street Journal, is the latest in a controversy over the separation of commerce and banking. Wal-Mart, the Bentonville, Ark., retailer, is trying to obtain a state banking charter in Utah, using precisely the exemption in the banking laws opposed by Mr. Greenspan." The Journal adds that the remarks "could be Mr. Greenspan's last major statement to Congress as Fed chairman."

Investors Were Skeptical When Greenspan Took Over Fed Chair. USA Today (1/26, Hagenbaugh, 2.31M) reports, "Investors jittery about how incoming Federal Reserve chairman Ben Bernanke will pan out can take some solace -- folks weren't sure some guy named Alan Greenspan was up to snuff either. Investors didn't take the news so well on the day in June 1987 when Paul Volcker announced he was leaving the Fed after eight years and Greenspan was named to his position. Bond markets took their worst one-day beating in more than five years, and the dollar fell." USA adds, "In many ways, Bernanke — although widely respected in economic circles — is more of an unknown to the public than Greenspan was in 1987. … But no matter how well they knew Greenspan, people in 1987 were still nervous about him taking over the Fed."

Dow Chemical Loses Appeal On Life-Insurance Policies. The Wall Street Journal (1/26, Matthews) reports, "A federal appeals court ruled Dow Chemical Co. is liable for $22.2 million in back taxes and interest for claiming tax-income losses on thousands of life-insurance policies it took out on its employees. … The ruling is a victory for the Internal Revenue Service, which for the past decade has been cracking down on companies that take out life-insurance policies on their executives and employees, often without their knowledge, in order to reduce their corporate-tax bill." The article says that only Dow Chemical had prevailed against the IRS in these cases, but lost that victory on appeal. The article explains that companies took out these insurance policies "to generate tax deductions with minimal cash outlay. They did this by taking a tax deduction for the interest they paid on loans taken out against the insurance policies, while allowing the policy to build value tax-free."

Ney Announces He Will Seek Reelection. CNN's The Situation Room (1/25, Blitzer) reported, "A leading target in the influence peddling investigation isn't letting the probe keep him from the campaign trail. Congressman Bob Ney announced today that he is running for re-election. The Ohio Republican recently gave up his committee chairmanship. State party officials have urged him to give up a seat as well if he is indicted. Ney denies any wrongdoing."

The AP (1/26, Hammer) notes that in stepping down as chairman of the House Administration Committee earlier this month, Ney "acknowledged that his ties to Abramoff were a distraction from his duties, particularly as Republicans push an ethics reform agenda -- part of which must be implemented by the Administration Committee. But Ney spokesman Brian Walsh said no such distraction has affected Ney's work for his district, where he's known for hands-on constituent service and independence from GOP trade and labor policies."

The New York Times (1/26, Hauser, 1.19M) relates that Ney, in a statement, said "that the campaign this year promises to be a 'vigorous' one 'and I am ready for the fight.' 'I look forward to joining my friends and supporters, including the many state and local officials backing my re-election bid, as we kick off the 2006 campaign this Thursday and Friday,' he said." Ney "is referred to as 'Representative No. 1' in court documents filed in connection with the corruption scandal surrounding" Abramoff. Ney's statement "said he would announce his re-election bid at a campaign rally in Dover tomorrow evening and then travel to the southern part of the district for a second rally in Chillicothe on Friday at noon."

Roll Call (1/26, Whittington) adds, "Chillicothe Mayor Joe Sulzer and Dover Law Director Zack Space are vying in the May 2 Democratic primary for the chance to face Ney, who has held the expansive 18th district seat since 1994."

Ehrlich Says Stem-Cell Funding Decisions Should Be Based On Science. The Washington Post (1/26, B4, Wagner, 744K) reports that Maryland Gov. Robert Ehrlich (R) "is pushing a plan to spend $20 million next year on stem cell research," but "is not committing himself on the question that has stirred the most controversy: whether the money should be used primarily for work on stem cells derived from human embryos or from less controversial adult stem cells." Ehrlich, in an interview, said, "I'm not going to make that decision. … The point here is that the decision should be a function of the science. These are fundamentally science questions, not political questions." Ehrlich "would leave it to a state-founded technology corporation to decide whether to provide grants for work on adult stem cells or work on embryonic stems cells, which many scientists say holds greater promise but some in his party consider tantamount to abortion." Ehrlich, "who has supported stem cell research since his days in Congress," said, "The strong pro-life members know the administration does not share their views on this issue, but we wanted to try to lower the temperature on the politics. … I wanted to try to keep everyone's eye on the ball, and I believe this approach accomplishes that goal."

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Republicans Say They Have Bipartisan Support For Stem-Cell Bill Filibuster. The Washington Times (1/26, Ward, 90K) reports that Democratic and GOP Maryland state senators on Wednesday vowed "to stop a bill that would promote the creation of embryos for research. 'If [Senate President Thomas V. Mike] Miller wants to do this extraordinary thing, he will get a filibuster that lasts as long as he wants it to last,' said Senate Minority Whip Andrew P. Harris, Baltimore County Republican. Senate Minority Leader J. Lowell Stoltzfus said he had more than the minimum 19 votes to filibuster. 'We think we have 20,' said Mr. Stoltzfus, an Eastern Shore Republican." The Times notes, "There are 14 Republicans in the 47-member Senate, which means six Democrats have agreed to filibuster. Sen. Paula C. Hollinger, Baltimore County Democrat, is sponsoring the Senate bill in support of embryonic stem-cell research for the second year. … 'I'm sure they will filibuster, and I'm sure we will round up the votes,' she said. Mrs. Hollinger also said she would fight for the bill and against the filibuster for 'as long as it takes.'"

Ford Released From Hospital. ABC's World News Tonight (1/25, story 9, 0:10, Vargas) reported, "Gerald Ford was released from the hospital today. He spent the last 12 days being treated for pneumonia at the Eisenhower Medical Center near Rancho Mirage, California. His doctors say he is doing well."

NBC Nightly News (1/25, story 7, :45, Williams) added, "At 92, he is the oldest living former president. His spokesperson said he's doing well but it's safe to say doctors will be keeping a close eye on him."

The Los Angeles Times (1/26, Rosenblatt, 958K) reports, "Ford, 92, originally had been scheduled to leave Eisenhower Medical Center in Rancho Mirage on Jan. 19, but doctors kept him for additional treatment."

Professors Say Maryland Wal-Mart Defeat Stems From Government-Employed Voters. Steve H. Hanke, professor of applied economics at Johns Hopkins University, and Stephen J.K. Walters, professor of economics at Loyola College in Maryland, write in an op-ed in the Wall Street Journal (1/26, 2.11M), "The consequences of" Maryland's "legislature's override of Republican Gov. Robert Ehrlich's veto of their 'Fair Share Health Care Act' on Jan. 12 will be tragic for some of the state's neediest residents." The reason for the override is that legislators "are simply eager for Big Labor's votes and money and therefore subservient to its interests." Estimates show "that as much as a third of the state's economic activity stems from federal employment and purchases," that "sector where revenues appear to arrive automatically and inefficiency never leads to bankruptcy," so "many Marylanders are simply unmindful of the necessities of survival in the private sector." This elects legislators who "often behave as if business is a problem to be solved." However, "legislators should be mindful that companies like Wal-Mart are not the enemy but rather front-line soldiers in a real war on poverty."

Hamas Wins Palestinian Elections; Government Resigns. The AP (1/26) reports this morning, "The Islamic militant group Hamas said Thursday it won control of the Palestinian parliament and officials from the ruling Fatah Party confirmed the estimate -- though Palestinian election officials delayed the release of preliminary official results." The claim by Hamas leader Ismail Haniyeh "was based on reporting by Hamas activists who observed the counting in the polling stations, the group said. He said Hamas had won about 70 seats, enough for a majority in the 132-seat parliament. … Officials with Fatah also said that Hamas had won about 70 seats, which would give the Islamists a majority in the 132-seat parliament. They spoke on condition of anonymity because counting in some districts was continuing."

Meanwhile, CNN.com (1/26) reports, "In a stunning development ahead of official election results, Palestinian Prime Minister Ahmed Qorie said he and the rest of the Palestinian Authority government will resign in the wake of militant group Hamas' apparent victory in historic elections. The announcement was an acknowledgment that election results showed Hamas had won a majority of seats in the 132-seat Palestinian Legislative Council, supplanting the ruling Fatah party." This announcement came before official election results had been released, CNN.com reported. According to the article, Qorie's office "said it will be up to Hamas to form a new government."

Previously, most reports had referred to exit polls showing a narrow Fatah win. The Wall Street Journal (1/26, Leggett, 2.11M) reports that "according to Beir Zeit University's exit poll, the ruling Fatah party emerged victorious with 46% of the vote and Hamas captured about 40%, making its Reform and Change party the second-most popular among voters. Independent parties accounted for the difference. Final results are expected today." The CBS Evening News (1/25, story 5, 2:00, Schieffer) reported that "exit polls show that a militant group dedicated to Israel's destruction did very well, maybe even well enough to gain a role in the Palestinian government." NBC Nightly News (1/25, story 4, 1:30, Williams) showed Ali Zarbawi, Birzeit University saying, "Hamas will be an active opposition, a very strong opposition, but Fatah is going to lead the government."

USA Today (1/26, Gutman, 2.31M) adds "about 1 million Palestinians voted Wednesday in parliamentary elections that threaten to end the ruling Fatah Party's decade-long monopoly over Palestinian politics." The Washington Post (1/26, A1, Wilson, 744K) headlines its story "Hamas

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Makes Strong Showing In Vote," while the Washington Times (1/26, Mitnick, 90K) titles its reprot "Fatah Edges Hamas In Polls." The Christian Science Monitor (1/26, Prusher, Mitnick, 61K) and Los Angeles Times (1/26, King, 958K) run similar reports.

Bush Touts Palestinian Elections But Says He Will Not Deal With Hamas. In its "Washington Wire" column on its web site,, the Wall Street Journal (1/26, 2.11M) reports, "President Bush, in an Oval Office interview, declared that he isn't ready yet to deal with the radical Palestinian Islamist group Hamas no matter how well it does in Wednesday's Palestinian elections. Speaking to The Wall Street Journal as Palestinians were electing a new parliament, Bush lauded the Middle Eastern trend toward democracy that produced Palestinian elections, but he said that Hamas isn't a suitable partner for diplomacy until it renounces its position calling for the destruction of Israel. 'A political party, in order to be viable, is one that professes peace, in my judgment, in order that it will keep the peace,' the president said. 'And so you're getting a sense of how I'm going to deal with Hamas if they end up in positions of responsibility. And the answer is: Not until you renounce your desire to destroy Israel will we deal with you.'"

The Washington Post (1/26, A19, Kessler, 744K) reports "yesterday's better-than-expected electoral showing by a group labeled a terrorist organization by the United States greatly complicates the administration's diplomacy in the region, U.S. officials said yesterday.' Hamas, "which is dedicated to the destruction of Israel, appears to have ridden a wave of popular disgust at the perceived corruption and incompetence of the ruling Fatah Party. Exit polls indicate Fatah will have only a slim edge over Hamas in the Palestinian Legislative Council, giving Hamas a strong claim to a role in the government." The results "suggested the risks inherent in the Bush administration's campaign to bring democracy to the Middle East." Administration spokesmen "officially celebrated the 'historic moment' for the Palestinians while officials privately reeled at the outcome."

All three network news programs briefly noted Bush's pledge the US would not deal with Hamas unless it renounces violence. ABC's World News Tonight (1/25, story 2, 0:20, Woodruff) reported, "The Bush Administration declared the election 'historic' and called this 'a great day for the Palestinian people.' But President Bush made clear the US will not deal with Hamas, no matter how well it did in the election. He told 'The Wall Street Journal' today 'We view Hamas as a terrorist organization. We don't deal with Hamas. … I don't see that changing.'"

The CBS Evening News (1/25, story 6, :30, Schieffer) reported, "Hamas may have won a lot of Palestinian votes, but they got no vote of confidence from President Bush in a 'Wall Street Journal' interview today. The President says he will not deal with Hamas unless the group renounces its call for Israel's destruction."

ABC's World News Tonight (1/25, lead story, 3:10, Woodruff) reported "Israel's new foreign minister holds out little hope." Israeli Foreign Minister Tsipy Livney: "The essence and the reasons of the existence of the Hamas is not because they want to gain some political gains in the conflict. They are talking about demolishing the state of Israel, to erase the state of Israel from earth."

NBC Nightly News (1/25, story 4, 1:30, Williams) in its coverage also noted, "President Bush told 'The Wall Street Journal' today he would not deal with Hamas unless it renounces its call for the destruction of Israel."

The New York Times (1/26, Erlanger, Myre, 1.19M) reports "the acting prime minister of Israel, Ehud Olmert, said his country could not accept a situation in which Hamas would be part of the Palestinian Authority if the group remained armed with unchanged goals."

Carter Hopes Hamas Will Moderate Stance And Renounce Violence. ABC's World News Tonight (1/25, lead story, 3:10, Woodruff) reported, "What no one knows is if Hamas will change, now that it has gained political power. Former President Jimmy Carter came to monitor today's election elections. There are some that believe Hamas will be pragmatic." Former President Carter: "That's my hope. Everybody hopes Hamas will be pragmatic. Because one thing is, if not for their own benefit but maybe for the benefit of the people they represent. Because no doubt if Hamas is not, as you say, pragmatic, then there will be a reduction in foreign assistance."

The CBS Evening News (1/25, story 5, 2:00, Hawkins) reported "Former President Jimmy Carter, who is leading international election monitors here, says bringing Hamas into the system may soften its hard-line positions." Carter: "My hope is and my prayer is that this will be a moderating influence on Hamas, that they'll see the responsibility in the government itself that they will moderate their position, forgo violence and terrorist acts."

Sharon's Absence From Stage Said To Make Peace Process Uncertain. The CBS Evening News (1/25, story 7, 2:00, Schieffer) reported that former Israeli prime minister Ariel Sharon's medical condition "leaves Israel with many unresolved matters, including that wall being built in the West Bank." CBS (Pizzey) added, "The most troublesome and obvious symbol of the unfinished business Ariel Sharon has left behind is the security wall separating Israelis and Palestinians on the West Bank. It wasn't Sharon's idea, but he made it a reality, an unplanned but now integral feature of the so-called road map that is supposed to lead to a peace deal. The problem for those who built on Sharon's legacies is that his plans and policies were like this wall: Only gaps that only he seemed to know how to fill."

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Iran Open To Russian Enrichment Of Their Uranium. The Washington Post (1/26, Finn, 744K) reports that Ali Larijani, head of Iran's Supreme National Security Council," said "that his country was open to a compromise proposal from Russia that it enrich uranium for Iran on Russian soil," but added that that "the idea needed fine-tuning in advance of further talks scheduled for the middle of next month." The New York Times (1/26, Myers, 1.19M) adds that Larijani "indicated that no agreement had been reached and that significant details remained to be negotiated" and "warned that Iran would begin enriching uranium on an industrial scale if Iran's nuclear program was referred to the United Nations Security Council." His "remarks made it clear that further discussions on it would not take place until later in February, after the meeting at the atomic energy agency's headquarters in Vienna."

Fox News' Special Report (1/25, Rosen) reported that the head of Iran's national security council, "said in Moscow today Iran now takes a positive view of the so-called Russian proposal, which the Iranians previously rejected. The proposal would have Russia enrich uranium and ship the resulting nuclear fuel to Iran for nonmilitary use."

The AP (1/26, Gutterman) adds that President Bush said "Russia's proposal offered the best chance for resolving the impasse, adding 'it's important for us to exhaust all diplomacy' in dealing with Iran."

The Wall Street Journal/AP (1/26) says "Chief negotiator Ali Larijani also reiterated Iran's threat to renew enrichment activities if it is referred to the United Nations Security Council." The Washington Times (1/26, 90K) runs the same AP story. The Washington Post (1/26, A21, Finn, 744K) runs a similar report under the headline "Iran Says It Is Open To Russian Plan On Nuclear Program," while the New York Times (1/26, Myers, 1.19M) titles its report "Iran Welcomes Russia's Offer To Enrich Uranium Jointly; Details Remain."

Iran's Non-Cooperation Said To Be At Heart Of The Standoff. Knight Ridder (1/26, Landay) reports, "Iran's…obfuscation, conflicting answers and stonewalling on…the enrichment program are at the heart of the crisis over its nuclear program." It is "only by reconstructing the complete history and extent of Iran's nuclear work" that the IAEA can "determine the truth. So far, that's been impossible," and while "Iran has filled some gaps and is promising to fill the rest," IAEA Director General Mohamed ElBaradei said "in a Nov. 18 report to the IAEA board…that 'there still remain issues to be resolved' and Iran's 'full transparency is ... long overdue.'"

Blix Says Bush Administration Overemphasizing Possible Military Action. Fox News' Special Report (1/25, Rosen) reported that "one of the world's best-known weapons inspectors, one who clashed with the Bush Administration before, is criticizing it again now for its approach in the current standoff. Hans Blix, the chief UN weapons inspector in Iraq prior to the war, argued the Administration is overemphasizing the potential for US military interaction in Iran."

Washington Backs Off Linking Iran Vote To India Nuclear Deal. The AFP (1/26) reports, "Washington moved to unlink a landmark US-India civilian nuclear deal with how New Delhi votes on the Iranian nuclear question at a key meeting of the UN atomic watchdog agency." The US Ambassador to India, David Mulford, "had warned Wednesday that a historic deal giving American nuclear technology to India might fall through if New Delhi did not vote against Iran at the February 2-3 meeting of the International Atomic Energy Agency (IAEA)." However, State Department spokesman Sean McCormack said, "we deal with the Indian Government on these two issues as separate issues."

Reuters (1/25) added that "Mulford, told the Press Trust of India news agency that if India decided not to vote against Iran, 'the effect on members of the U.S. Congress with regard to the civil nuclear initiative will be devastating.'" He was also quoted "as saying the deal would 'die,'"

The AP (1/26, Rosenberg) adds, "The State Department in Washington said later that Mulford wasn't speaking for the U.S. government."

Reuters (1/26, Hafezi) also covered this story.

US Envoy Says China's US's Approach To Iran Differ. The New York Times (1/26, Kahn, 1.19M) reports, "China and the United States want to prevent Iran from acquiring nuclear weapons, but their 'approach may differ' on the best tactics to achieve that result, Deputy Secretary of State Robert B. Zoellick said after a round of meetings on the subject in Beijing." He also "called the diplomatic discussions fluid and said there were still differences over what steps should be taken to respond to what Western powers say is a covert program by Iran to build nuclear bombs." This suggests "hat China, despite heavy lobbying, had left some doubts as to whether it is prepared to back a proposal…to get the United Nations Security Council involved in deciding how to handle Iran's nuclear program."

Annan Doesn't Expect IAEA To Be Ready In February To Refer Iran To Security Council. Reuters (1/26, Leopold) reports, "U.N. chief Kofi Annan said on Wednesday he doubted that a U.N. nuclear watchdog would be able to come to a decision by early February on referring Iran to the Security Council over its nuclear programme," adding that "Mohamed ElBaradei, the director-general of the Vienna-based International Atomic Energy Agency, did not expect to have a report on Iran ready until the end of February, for the IAEA's regular board meeting in March."

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Iran Accuses British Military Of Aiding Bombers. The Washington Post/Reuters (1/26, A17) reports, "Iran accused the British military on Wednesday of cooperating with bombers who killed eight people in southwest Iran, an allegation Britain described as ludicrous. A little-known group campaigning for independence for Iran's Arab minority asserted responsibility in a Web statement for Tuesday's attacks on a bank and government building in the oil city of Ahvaz." Foreign Minister Manouchehr Mottaki "said that London's involvement was clear and that Tehran would make strong protests." A spokesman in British Prime Minister Tony Blair's office "said Iran's allegation 'deserves to be treated with scorn by the whole international community.'"

UN Peacekeepers To Maintain Monitoring Of Israeli-Lebanese Border. The New York Times/Reuters (1/26) reports, "The members of the United Nations Security Council have agreed that United Nations peacekeepers should keep monitoring the Israeli-Lebanese border for six more months, the current Council president said on Wednesday." Lebanon wanted "a renewal of the mandate of the United Nations' peacekeeping mission for the border area for a year, until Jan. 31, 2007." Yet "the 15 Security Council members instead reached a consensus on an extension until July 31."

Frist Says US, International Community Must "Ramp Up The Pressure" On Syria. In a New York Sun (1/26) op-ed, Senate Majority Leader Bill Frist writes, "A year ago this month, a car bomb killed the former Lebanese prime minister, Rafic Hariri. An ongoing U.N. investigation has implicated the Syrian government in the murder. The Syrian president, Bashar al-Assad, may have played a personal role. Several additional high-profile bombings have occurred in the last several months. Enough is enough: Syria's actions in Lebanon have proven that it has no desire to play by the rules of civilized nations. Now, the United States and its partners need to ramp up the pressure on Damascus. We need to push Syria away from its homegrown brand of Arab fascism and toward democracy, peace, and an authentic end to its interference with Lebanon's affairs. We should start by increasing and expanding our funding for prodemocracy groups in Lebanon and Syria. In the coming Congress, I plan to support legislation that will do just that."

Bush Administration Criticizes Mexico's Plan To Distribute Border Maps. Following an announcement Tuesday by Mexico's National Human Rights Commission that it will print and distribute maps showing immigrants the safest routes to cross the border into Arizona, Mexican President Vicente Fox distanced his government from the group, saying that it was an "autonomous commission." However, the Washington Times (1/26, Kralev, Seper, 90K) reports, "The Bush administration yesterday accused the Mexican government of facilitating illegal entry into the United States after Mexican officials said they would distribute maps of dangerous border areas and posters with safety instructions and other tips. … 'We oppose in the strongest terms the publication of maps to aid those who wish to enter the United States illegally,' said Homeland Security Secretary Michael Chertoff. 'It is a bad idea to encourage migrants to undertake this highly dangerous and ultimately futile effort.'" Meanwhile, "Rafael Laveaga, spokesman for the Mexican Embassy in Washington, said the NHRC is an independent body and receives no government funds."

Hutchison, Border Sheriff Seek Investigation Of Suspected Mexican Military Incursions. The Washington Times (1/26, Seper, 90K) reports Zapata County Sheriff Sigifredo Gonzalez Jr., who heads the Texas Sheriff's Border Coalition, demanded yesterday "that the US and Mexican governments investigate incursions into the United States by heavily armed drug escorts dressed in Mexican military uniforms 'before someone gets killed.'" He "said a growing number of suspected incursions and violence aimed at the area's law-enforcement officers is making the border 'a pretty dangerous place.'" Also yesterday, "Sen. Kay Bailey Hutchison, Texas Republican, said she was 'deeply concerned' about the possible incursions and asked Homeland Security Secretary Michael Chertoff to 'fully investigate this matter and report to Congress the details and confirm whether or not Mexican military officials were involved. … The Mexican government has denied that the men in any of the incidents were soldiers, saying that some drug smugglers dress in military-style uniforms, carry automatic weapons and drive military-style vehicles."

Kyl Says Border Encounters "Undermine Efforts" To Keep Drugs Out Of US. The Los Angeles Times (1/26, Marosi, Lopez, Connell, 958K) reports, "Armed Mexican government personnel made unauthorized incursions into the United States five times in the last three months of 2005, including one incident last month in Southern California, according to confidential Department of Homeland Security records. … The records obtained by The Times provide new details on more than a dozen incursions into the US, including the five most recent ones." Meanwhile, "US Border Patrol Chief David V. Aguilar said "that incursions have declined by more than 50% since 2002. Still, with assault rates against agents at record highs, any incursion is taken 'very seriously.' However, "US Sen. Jon Kyl (R-Ariz.) said in an interview Wednesday that this week's incident in Texas was 'about as serious as it gets' and noted that dozens of reported incursions have occurred in his state. The encounters seriously undermine efforts to stop the flow of drugs coming

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across the US border and suggest possible cooperation among Mexican authorities and traffickers, he said."

Mexico Said To Be Helping US Secure Southern Border From Terrorists. Meanwhile, the Christian Science Monitor (1/26, Bowers, 61K) reports, "A top priority of the United States government is to prevent a determined terrorist from crossing the US- Mexico border. It is also becoming a primary mission for Mexico - and the first place it's focusing on is the 375-mile, desolate stretch of land that abuts Arizona. In addition to sharing intelligence and cooperating on investigations with its US counterparts in Arizona, Mexico last year set up three checkpoints along known human-smuggling routes on its side of the border and plans to add two more. Between August, when the checkpoints became operational, and December, Mexican officials stopped 1,277 non-Mexicans (OTMs, for 'other than Mexicans') from crossing into Arizona, according to a Mexican government report obtained by the Monitor. The report shows that most of the OTMs came from Central and South America, but seven are listed as Iraqis." Meanwhile, "the US government is apprehending record numbers of illegal immigrants on the Arizona side of the border."

State Legislators Considering Immigration Legislation. USA Today (1/26, Cauchon, 2.31M) reports, "Frustrated by slow action in Congress, state legislatures are debating whether to increase border enforcement at their own expense, fine employers who use undocumented workers and get local police involved in deporting them." However, "like Congress, legislatures are divided on what to do about the estimated 11 million undocumented immigrants who provide a low-wage workforce in the USA." It "is one of the hottest issues as 37 legislatures convene this month. Last year, states considered 300 immigration laws and approved 40." Meanwhile, "Congress is considering changes to immigration policies — a border fence, a guest worker program — but it's uncertain whether action will be taken this year."

Provision Of Immigration Bill Compared To Nazi Practice. Andrew S. Grove, a member of the board of overseers of the International Rescue Committee, in an op-ed for the Wall Street Journal (1/26, A10, 2.11M) writes that the recently passed "Sensenbrenner-King" immigration bill "scares me because it has the potential of turning neighbor against neighbor -- and of changing our country into a place of fear and mistrust. … The bill contains a provision punishing anyone who 'assists, [or] encourages . . . a person who . . . lacks lawful authority to remain in the United States' to remain here." Grove states, "This could change the nature of our society in a way that I have seen firsthand. As a Jewish child hiding from the Nazis in Hungary, I saw how the persecution of non-Jewish Hungarians who hid their Jewish friends or neighbors cast a wide blanket of fear over everyone. This fear led to mistrust, and mistrust led to hostility, until neighbors turned upon neighbors in order to protect themselves. Is this what we want?"

Mexican Presidential Candidate Seeks To Boost Profile. The New York Times (1/26, McKinley, 1.19M) reports on Mexican presidential candidate Felipe Calderón's efforts to succeed President Vicente Fox. After "a bitter primary fight last year, Mr. Calderón transformed himself from a little-known former energy commissioner into the best hope for the president's right-of-center party. He is running a strong second in most opinion polls to the leftist former mayor of Mexico City, Andrés Manuel López Obrador, and many political strategists say he has a chance to win the election on July 2." Yet, "outside the capital's opinion-makers and party insiders, surveys show that one in five Mexican voters still do not know who Mr. Calderón is, and as the presidential campaign officially kicked off last week, he made his first tour to try to change that."

Musharraf Vows To Construct Natural-Gas Pipeline To Iran. The Wall Street Journal (1/26, Champion, Kempe, 2.11M) reports, "Pakistani president Pervez Musharraf "said his country would build a planned natural-gas pipeline from Iran without India's participation if talks among the three nations continue to produce no result." His "threat came at a delicate time for Gen. Pervez Musharraf, while he is having to balance domestic public opinion and relations with the U.S., India and Iran." At the World Economic Forum he "said Pakistan had opened bilateral talks with Tehran to build a gas pipeline that would run from Iran." But India has "expressed concern about recent attacks on existing gas and power lines in Baluchistan, the region of South Western Pakistan through which a pipeline from Iran would pass. Gen. Musharraf played down the threat posed by Baluchistan militants, dismissing the conflict as limited to one isolated local tribe." His "tough line on the pipeline talks contrasts with that of his prime minister, Shaukat Aziz, while in New York last week."

OPEC Will Refrain From Cutting Oil Output. The Wall Street Journal (1/26, Bahree, 2.11M) reports that OPEC "is widely expected to refrain from trimming output levels when its oil ministers meet in Vienna next week, but Iran remains a wild card." The Journal notes, "With the price of oil nearing records recently, an OPEC decision to continue pumping oil at close to capacity should reassure markets of plentiful supply, something Saudi Arabia appears to favor and the U.S. seems to be counting on. In short, there is no economic incentive for OPEC to trim output when market forces have sent billions of extra dollars pouring into the coffers of oil-rich countries anyway." But Iran "could use the OPEC meeting to send a warning to Western Europe and the

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U.S., both big oil importers." Meanwhile, "U.S. Energy Secretary Samuel Bodman says he has been in regular contact with oil producers. 'By and large, they seem to be understanding that we have a situation where there needs to be more oil rather than less oil in the world,' Mr. Bodman said this week."

South Korea Ignores US Call For Action On North Korean Financial Activity. The Washington Times (1/26, Salmon, 90K) reports, "A day after the United States urged South Korea to take an active stance against what it contends are North Korea's illicit financial activities, Seoul refused to say whether it would take action and made clear it opposed any attempt at regime change in Pyongyang." South Korean President Roh Moo-hyun said, "When it comes to the North Korean regime, raising issues about it or pressuring it or sometimes wishing for its collapse, on that position of some Americans, we do not agree." The Times notes, "By 'some Americans,' Mr. Roh appeared to be referring to hard-liners in the Bush administration who favor toppling North Korean strongman Kim Jong-il."

US, South Korea Close To Reaching Free Trade Deal. The Washington Post (1/26, D6, Blustein, 744K) reports, "The United States and South Korea are very close to launching negotiations for a free-trade agreement, which would be the most economically significant free-trade pact for Washington since the North American Free Trade Agreement." Yet "both sides have been reluctant to start formal talks until they are reasonably confident that the negotiations would end in agreement. South Korea's farmers are bitterly opposed to opening their country's agricultural markets, and their political clout could scuttle a deal." While "plans to launch the U.S.-Korea talks could still founder, officials and other sources who have spoken recently with negotiators said an announcement is likely to materialize before long. Asked about the prospects, one administration official replied, 'How do you say 'soon' in Korean?'" And "Rob Portman, the U.S. trade representative, heightened the speculation Friday when he told reporters, 'We'll be announcing some additional [free-trade agreement] partners soon. As I think you will notice, they will not be with small economies because I do think we need to move on to some larger economies.'"

"Gas War" Between Russia And Ukraine Leads To European Shortages. The Wall Street Journal (1/26, White, Crawford, 2.11M) reports, "Bickering over natural-gas shipments intensified between Moscow and Kiev has reduced supplies of Russian gas to Europe, led to shortages in several countries and fueled energy-security anxieties across a continent gripped by an arctic cold snap." Few experts "expect a repeat of Russia's New Year's gas cutoff to Ukraine. … But as details of the Jan. 4 deal have emerged, doubts have grown about whether it sets the stable foundation for supplies and exports to Europe that its backers claim." Despite reassurances from both countries, "the two sides yesterday failed to reach agreement on the details of implementing the Jan. 4 compromise, intended to halt what is known as the 'gas war' in the region."

Putin Claims Alleged British Spies Linked To NGOs. The Washington Post (1/26, A16, Finn, 744K) reports, "Russian President Vladimir Putin on Wednesday linked the scandal to foreign financing of nongovernmental organizations in Russia, a connection that grass-roots activists say is tangential and being used to smear their work." Putin said, "The situation is regrettable, as we have seen, when attempts are made to use secret services to work with nongovernmental organizations and when financing is carried out through secret services' channels." The UK government "has refused to comment on the espionage charges, but has denied it was doing anything illegal with nongovernmental organizations." And "Russian authorities have so far presented no evidence that the alleged spy ring recruited human rights activists." Yet the claims have been "seized on by many Russian politicians. The lower house of parliament, by a vote of 401 to 6, passed a resolution Wednesday condemning the involvement of foreign intelligence services with the private groups."

The New York Times (1/26, Myers, 1.19M) notes, "Putin's "remarks intensified a furor" that "could worsen relations with Britain and other countries as Russia presses its assault on European and American financial support of groups that criticize the Kremlin." Putin "said Russia was still considering whether to expel the four diplomats, all mid-ranking secretaries in the British Embassy, indicating for the first time that they had not yet been expelled or withdrawn, though the espionage that was alleged was reported to have been uncovered last fall."

Google Complies With Chinese Censorship. The CBS Evening News (1/25, story 10, 2:00, Schieffer) reported, "Google has launched a new search engine today in China, but in order to do it, it had to agree to restrictions from the communist government." CBS (Gonzales) added, "Just last week, Google stood up to another government, the US government, and refused to turn over personal information the Justice Department wants for its defense of an anti-pornography law." Larry Magid, CBS technology analyst: "The fact that they're making a strong, stand firm with the Justice Department over privacy and then being very loose with the Chinese over censorship, I find a little bit disturbing." Gonzales: "Both decisions actually make good business

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sense for Google. The company can't afford to spook American users, and it has to get a foothold in the world's largest market."

GOP Lawmaker To Question Google's Move. The Financial Times (1/26, Kirchgaessner) reports, "Google will be called to task in Washington next month following a controversial decision by the internet search engine to launch a China-based version of its website that will censor results to avoid angering the country's Communist government." Rep. Chris Smith's decision "to call for a February 16 hearing to examine the operating procedures of US internet companies in China, represents the first signs of what could become a serious backlash against Google and other internet companies in Washington that are perceived as capitulating to the Chinese government."

Zoellick Sends Message About Strengthening US Relations With China. The Washington Post (1/26, A16, Cody, 744K) reports that deputy secretary of state Robert Zoellick's appearance with a Chinese panda "was seen at least in part as a signal to China about where he wants to steer U.S.-Chinese relations. The official New China News Agency received his message 10-4. It immediately transmitted a happy photo of Zoellick and Jing Jing around the country, illustrating the government's view that good U.S.-China relations are essential and, in fact, getting better and better." His "gesture, in another reading, could also be seen as a signal of where he stands in the Washington debate about China. Interpreted that way, becoming a public panda-hugger was an eloquent endorsement of the view that engagement with Beijing is the best path for the United States and that China's emergence as an Asian power does not have to mean conflict in the Pacific." Zoellick's trip "also included specific talks on issues that could be seen as a test of the U.S.-Chinese engagement his panda photo was meant to symbolize. These, he said, included China's stand on the effort to prevent Iran from acquiring nuclear weapons, China's role in diplomacy to persuade North Korea to eliminate its nuclear weapons program and China's currency policies at a time of soaring U.S. trade deficits."

Concerns Raised Chinese Economic Growth May Be Too Rapid. The Washington Post (1/26, D1, Goodman, 744K) reports, "Led by surging exports, China's economy grew by 9.9 percent last year, the government announced Wednesday, underscoring the swiftness by which this once insular communist country has remade itself into a global trading power." But "the news also increased concern that China could be growing too fast, despite measures aimed at cooling the hottest parts of the economy. Aggressive investment has produced too many factories, heightening trade tensions with the United States as China exports surplus wares such as steel, depressing prices globally. Chinese officials worry that unneeded plants could deliver a crippling era of deflation -- falling prices -- which hurts profits and reduces incentives for companies to invest. Such a syndrome kept Japan mired in recession and unemployment for much of the past 16 years."

Report Suggests China Has Fewer AIDS Cases. The New York Times (1/26, Yardley, 1.19M) reports, "China countered the long-held suspicion that it has undercounted the number of people with H.I.V. and AIDS by releasing a new, more extensive estimate on Wednesday that found the opposite: that the country had actually overestimated its number of cases." The new WHO and United Nations AIDS program report "lowered the country's estimated number of H.I.V. and AIDS cases to 650,000 from the official figure of 840,000 released by the government in 2003. Many experts and AIDS workers have long believed that China has at least 1.5 million cases, possibly far more, and some expressed skepticism that the new figure was any more reliable than past estimates."

European Commission Proposes "Nordic-Style" Economic Reforms. The Wall Street Journal (1/26, Echikson, 2.11M) reports, "The European Commission presented a new plan to reinvigorate Europe's economies, calling for a Nordic-style, seemingly social-democratic approach rather than an Anglo-Saxon free-market model." The report "gave the most praise to northern European countries that are increasing spending on research and development universities and pursuing interventionist jobs policies." It "also called for the creation of a competitive, continent-wide energy program, and support for small and medium-size businesses." It represents Commission President José Manuel Barroso's attempt to recover the initiative after a tough first year in office. Many of his previous plans for jump-starting Europe's economies have faltered."

Sri Lankan Factions To Resume Peace Talks. The New York Times (1/26, Senanayake, Sengupta, 1.19M) reports, "In a measure of how intractable this country's ethnic conflict is, the warring parties agreed Wednesday to begin talking to each other again, after more than 18 months of deadlock over a site for peace talks and with scores of killings in the meantime." The negotiations "would focus on strengthening an all-but-ineffectual four-year-old cease-fire agreement. They are scheduled to take place in Geneva, starting as early as February." While "modest," the agreement "represents a major breakthrough in the decade-long war."

African Worshipers Mix Islam With Christianity. The Christian Science Monitor (1/26, McLaughlin, 61K) reports that "worshipers at 'The True

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Message of God Mission' say it's entirely natural for Christianity and Islam to coexist, even overlap. They begin their worship by praying at the Jesus alcove and then 'running their deliverance' - sprinting laps around the mosque's mosaic-tiled courtyard, praying to the one God for forgiveness and help. They say it's akin to Israelites circling the walls of Jericho - and Muslims swirling around the Ka'ba shrine in Mecca." The group represents "a window on an ongoing religious ferment in Africa. It's still up for debate whether this group, and others like it, could become models for Muslim-Christian unity worldwide or whether they're uniquely African. But either way, they are 'part of a trend,' says Dana Robert, a Boston University religion professor."

Villagers Flee Nigerian Troops. The New York Times/Reuters (1/26) reports, "Villagers fled Nigeria's lawless delta on Wednesday amid fears of military reprisals after a wave of attacks on foreign oil companies by ethnic Ijaw militiamen." Reuters adds, "The army deployed more troops to major installations, and oil companies tightened security around offices a day after heavily armed men stormed the headquarters of the Italian oil firm Agip, robbing a bank on the premises and killing eight policemen and a civilian."

Annan Denies Arranging Deal For Son's Car. The Los Angeles Times (1/26, Farley, 958K) reports that after his son, Kojo Annan, agreed to reimburse Ghana for the import duties on a car he misidentified as belonging to his father, UN Secretary General Kofi Annan "welcomed news of his son's move. 'It was the right thing to do. … He knew I wanted him to sort it out, clean it up. It was between him, his lawyer and the government." Asked if "he, as secretary-general, secured the tax break for his son, Annan said, 'Absolutely not. It was done behind my back.'"

Former Surfer Volunteers For International Disaster Relief. ABC's World News Tonight (1/25, story 11, 2:20, Wright) reported, "The remarkable story of one American making so much of a difference. He was a laidback, California surfer, until he saw the damage done by the tsunami" ABC (Wright): "If relief organizations had special forces, Matt George would be a Green Beret. He's a one-man trauma ward, in what may be the coldest clinic on earth. A builder doing what he calls extreme home makeovers. And he delivers supplies where no aid workers have gone before."

Pinochet's Daughter Seeks Asylum In US. The Washington Post (1/26, A20, Reel, Constable, 744K) reports, "The oldest daughter of the former Chilean dictator Gen. Augusto Pinochet was detained Wednesday at Dulles International Airport outside Washington, where she requested political asylum, a Chilean official said." Lucia Pinochet "had been served with a subpoena over the weekend in Chile, along with her mother and three siblings. They had been ordered to appear in court on Monday…on tax fraud charges connected to a probe of her father's illegal bank accounts." A DHS spokesman "said she was in U.S. custody at the airport in Virginia 'pending resolution of her immigration status.'" And "Chile's Interior Minister, Francisco Vidal, said U.S. Ambassador Craig Kelly informed his government that Pinochet, sought on an international arrest warrant, had requested asylum. U.S. officials said they could not comment on that issue."

Success Of Bush Allies In War In Iraq Contrasted With Opponents' Downfall. Columnist Mark Steyn in an op-ed in the Wall Street Journal (1/26, 2.11M) writes, "Remember the conventional wisdom of 2004? Back then, you'll recall, it was the many members of George Bush's 'unilateral' coalition who were supposed to be in trouble, not least the three doughty warriors of the Anglosphere -- the president, Tony Blair and John Howard -- who would all be paying a terrible electoral price for lying their way into war in Iraq. The Democrats' position was that Mr. Bush's rinky-dink nickel-&-dime allies didn't count: The president has 'alienated almost everyone,' said Jimmy Carter, 'and now we have just a handful of little tiny countries supposedly helping us in Iraq.' (That would be Britain, Australia, Poland, Japan . . .) Instead of those nobodies, John Kerry pledged that, under his leadership, 'America will rejoin the community of nations' -- by which he meant Jacques Chirac, Gerhard Schröder, the Belgian guy." But now "Bush, Blair, Howard and Koizumi are all re-elected, while Mr. Chirac is the lamest of lame ducks, and his ingrate citizenry have tossed out his big legacy, the European Constitution; Mr. Schröder's government was defeated and he's now shilling for Russia's state-owned Gazprom ('It's all about Gaz!'); and the latest member of the coalition of the unwilling to hit the skids is Canada's Liberal Party, which fell from office on Monday. John Kerry may have wanted to 'rejoin the community of nations.' Instead, 'the community of nations' has joined John Kerry, windsurfing off Nantucket in electric-yellow buttock-hugging Lycra, or whatever he's doing these days."

WSJournal Honors Memory Of Free Market Leader Of Hong Kong. The Wall Street Journal (1/26, 2.11M) editorializes, "Hong Kong's prosperity since World War II is sometimes referred to as a 'miracle.' But miracles require the intervention of a deity, whereas Hong Kong's remarkable economic growth between 1945 and its handover to China in 1997 owes a great deal to the nonintervention of a mortal man, John James Cowperthwaite, who died over the weekend at the age of 90." As Financial Secretary from

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1961-1971, Cowperthwaite "was the architect and guardian of the greatest natural experiment in free-market capitalism in the postwar world." The Journal concludes, "Other would-be central planners could learn a lot from what John Cowperthwaite didn't do."

NYTimes Applauds African Union Rejection Of Sudan Leadership. The New York Times (1/26, 1.19M) editorializes, "The African Union did the right thing in rejecting Sudan's bid for the rotating presidency of the organization. Allowing President Omar Hassan al-Bashir of Sudan to become Africa's face to the world would have sent just about every wrong message imaginable." But while "rebuffed for now, Mr. Bashir was promised the group's presidency in 2007, and for now the chair will go to the Congo Republic, hardly a model of human rights. Giving Sudan the African Union presidency next year will be just as unacceptable as it was this year."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"The Day Disaster Changed Their Lives."
"Hamas Makes Major Inroad In Balloting."
"Villa Shines Through Getty's Clouds."
"Abduction Forces A Grim Look At What A Story Is Worth."
"Reports Cite Incursions On U.S. Border."
"Multiple Risks Of Surgery Drug Seen."
"There Isn't Enough Good Entertainment To Go Around."

USA Today:
"States Weigh Immigration Controls."
"X Games Upstarts Now Embrace The Olympics."
"General Sees Rift In Iraq Enemy."

New York Times:
"Hamas Presses Fatah In Palestinian Vote, Surveys Say."
"Big Test Looms For Prosecutors At Enron Trial."
"New Estimate In China Finds Fewer AIDS Cases."
"Bush, In Speech, Is Seen Avoiding Large Initiatives."
"In Public Schools, The Name Game As A Donor Lure."
"News Analysis: In Case About Google's Secrets, Yours Are Safe."

Washington Post:
"Gay Marriage Ban Advances Toward Va. Referendum."
'Hamas Makes Strong Showing In Vote."
"Nuclear Energy Plan Would Use Spent Fuel."
"Fairfax Police Say Shooting Was Accident."
"Al Gore, Sundance's Leading Man."
"Harmful Teflon Chemical To Be Eliminated By 2015."

Washington Times:
"White House Slams Mexico For Aid Maps."
"Sheriff Demands Probe Of Incursions."
"Fatah Edges Hamas In Polls."
"Bush Reiterates Spy Authority."
"Marriage Amendment Set For Virginia Ballot."
"BB&T Opposes Eminent Domain."
"Toyota Racing Teams Break Through Nextel Cup Barrier."

Detroit Free Press:
"Winter Bust Won't Stop Blast."
"Granholm: Let's Help People Save."
"Audits Find Waste At State Universities."
"DIA Defends Its Right To Van Gogh."

Atlanta Journal-Constitution:
"Voter ID Bill Approved."
"Whose Tax Cut Is It?"
"Fat Lady Warms Up As Opera Gets Closer To Cobb Center Move."
"Palestinian Vote Realigns Power."

Dallas Morning News:
"Drought Taking Its Toll."
"State To Pick Up Medicare Slack."
"Strayhorn Gets Democratic Cash."
"Bush PR Blitz Races To Frame Spying Debate."
"Nuclear Energy Policy Would Reprocess Fuel."
"Study: Internet Fosters Contact."

Houston Chronicle:
"Hamas Party Shows Muscle In Vote."
"Delay In Oil-Spill Notification Probed."
"The Media May Not Be Rock Stars, But This Is Their Big Gig."
"Mexico Police Arrest Woman In 'Old Lady' Serial Killings."
"NASA's Teachable Moments."

Story Lineup From Last Night's Network News:
ABC: Palestinian Election; US Palestinian Election Response; Release Of Iraqi Women; Oil Industry Profits; Bush NSA Defense; Alito Debate; Teflon Dangers; FL Bus Accident; Ford Released; Breast Cancer Treatment; Disaster Relief Volunteer.
CBS: Bush Domestic Spying; Hayden-9/11 Prevention; US Troops Overburdened; Iraq-Prisoner Release; Palestinian Elections; Bush-Palestinian Elections; Sharon Void; Medicare Problems; Ford Release From Hospital; Google-China Censor.
NBC: Bush-Domestic Spying; Katrina Aftermath-White House; Alito Confirmation Hearing; Palestinian Elections; US Troops Overburdened; US Troops Security Advisors; Ford Released From Hospital; Mine Safety; Sandwich Generation; Katrina Coverage.

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Story Lineup From This Morning's Radio News Broadcasts:

ABC: Ameriprise-security breach, Identity theft; FL-deadly car accident; WV-Sago mine victim's condition; Palestinian election; Bush-domestic spying; Wall Street.

CBS: Palestinian election; Iraq-female prisoner release; FL-deadly car accident; CA-bank hostage standoff; EPA-teflon chemical; Wall Street.

NPR: Palestinian election; CA-bank hostage standoff; FL-deadly car accident; Senate-Alito; Cuba-US interests section message board; Bush-domestic spying; Iraq-female prisoner release.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH – No schedule available.

FIRST LADY LAURA BUSH -- Visits Harte Elementary School. New Orleans. Visits St. Bernard Unified School. Chalmette, La. Participates in building a playground. Hancock North Central Elementary School, Kiln, Miss.

VICE PRESIDENT CHENEY -- No schedule available.

US Senate: -- COMMITTEE MEETINGS

10 a.m. ARMED SERVICES _ Full Committee. Closed, members-only briefing on alternatives for tanker recapitalization. Location: Room 222, Russell.

2:30 p.m. SELECT INTELLIGENCE _ Full Committee. Closed, members-only briefing on pending matters. Location: Room 219, Hart.

US House: -- No events scheduled.

Other: ALL DAY

Jan. 22 - 26. TRANSPORTATION MEETING _ The Transportation Research Board holds its 85th annual meeting. Five days of workshops and presentations by and for transportation professionals. Location: Omni Shoreham Hotel, 2500 Calvert St. NW, Washington Hilton & Towers, 1919 Connecticut Ave. NW, Washington Marriott Wardman Park, 2660 Woodley Road NW. Contacts: Russell Houston, 202-334-3252 Notes: Newsroom facilities at all three venues.

Jan. 24 - 26. AGRICULTURAL EMPLOYERS _ The National Council of Agriculture Employers holds its annual meeting. Location: Hamilton Crowne Plaza Hotel, 14th and K Sts. NW. Contacts: n/a, 202-728-0300

Jan. 24 - 26. HEALTH AND HUMAN SERVICES _ The Medicaid Commission holds three days of meetings to discuss longer term recommendations on the future of Medicaid. Location: Holidat Inn-Chevy Chase, 5520 Wisconsin Ave., Chevy Chase, MD. Contacts: Margaret Reiser, 202-205-8255

Jan. 25 - 27. MAYORS _ The U.S. Conference of Mayors holds its 75th Winner Meeting. Highlights: 9 a.m. Plenary session on avian flu and homeland security, with Deputy HHS Secretary Alex Azar, Seattle Mayor Greg Nickels, Baltimore Mayor Martin O'Malley, Denver Mayor John Hickenlooper, Deputy DHS Secretary Michael Jackson, others. 11 a.m. News conference on homeland security and avian flu. 11 a.m. Session on childhood obesity, with William Dietz of CDC, others. 11 a.m. Session on housing for hurricane evacuees, with Rep. Michael Turner, Assistant HUD Secretary Steven Nesmith, others. 11 a.m. Session on energy costs, with Sen. Jack Reed, Steven Crout of the American Gas Association, others. 12:30 p.m. Luncheon, with HUD Secretary Jackson, others. 2:30 p.m. Session on faith-based and community initiatives, with Sen. Sam Brownback, Rep. Danny Davis, others. Location: Capital Hilton, 16th and K Sts. NW. Contacts: Elena Temple, 202-861-6719

Jan. 26 - 27. ENERGY _ The National Council for Science and the Envionrment holds its 6th National Conference on Science, Policy and the Environment: Energy for a Sustainable and Secure Future. Highlights: 9 a.m. Keynote address : Ross Pillari, President, BP America. 10 a.m. Session on opportunities for decision-making that will shape the energy future, with Bob Greco of API, Pennsylvania Enviorinmental Protection Secretary Katie McGinty, former Energy Secretary Hazel O'Leary, others. 5:30 p.m. Presentation of Lifetime Achievement Award to former EPA Administrator Russell Train. Location: Reagan Trade Center. Contacts: David Blockstein, 202-207-0004

9 a.m. LOBBYING REFORM _ American University's CEnter for Congressional and Presidential Studies aqnd the Committee for Economic Development hold a lobbying reform summit. Location: National Press Club. Contacts: Maralee Csellar, 202-885-5952

8:30 a.m. IMMIGRATION LAW _ The American Bar Association Section on Individual Rights hosts a panel discussion on immigration reform, asylum and refugees. Location: National Press Club, 14th and F Sts. NW Contacts: Stephanie Ortbals Tibbs, 202-662-1091 Notes: RSVP requested to 202-662-1030.

9:15 a.m. TAX SIMPLIFICATION _ Sen. Ron Wyden holds a news conference about the need for tax reform to make the tax code simpler. Location: In front of IRS, Pennsylvania Ave. and 10th St. NW. Contacts: Andrew Blotky, 202-224-3789

9:30 a.m. - 11 a.m. HEALTH CARE COSTS _ The Progressive Policy Institute holds a forum to discuss the promise of a local health care reform experiment, The Puget Sound Health Alliance, designed to control costs and reward better care. With David Kendall, PPI; Ron Simms, King County Executive; Janet Corrigan, president, National

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Committee for Quality Health Care; Anne Gauthier, senior policy director, Commonwealth Fund's Commission on a High Performance Health System. Location: PPI, Suite 400, 600 Pennsylvania Ave, SE. Contacts: Austin Bonner, 202-547-0001

10 a.m. IDENTITY THEFT _ Treasury Secretary Snow releases ``Identity Theft: Outsmarting the Crooks" DVD. Location: Media Room, main Treasury. Contacts: n/a, 202-622-2920

10 a.m. LOBBYING REFORM _ The American Society of Association Executives holds a news conference on lobbying reform and the value of associations to America. Location: National Press Club. Contacts: Angel Venable, 202-626-2788

10:30 a.m. - 12 p.m. SCHOOL CHOICE _ The Brookings Brown Center on Education Policy holds an education policy forum on school choice in K-12 education. Focusing on ``Getting Choice Right," the final voume from the National Working Commission on Choice in K-12 Education. With Tom Loveless, director, Brown Center on Education Policy; Julian Betts, professor of economics, UC San Diego; Patrick Wolf, principal investigator, School Choice Demonstration Project at Georgetown University; and Laura Hamilton, senior behavioral scientist, RAND Corporation. Location: 1775 Massachusetts Ave., N.W. Contacts: n/a, 202-797-6105

10:45 a.m. DEMOCRATS-MEDICARE RX _ Senators Harry Reid, Ted Kennedy, Jeff Bingaman and Debbie Stabenow joins Concerned Seniors for a press conference to call on the president to take immediate action to fix widespread problems and confusion caused by the Medicare prescription drug bill. Location: Room 406, Dirksen Senate Office Building. Contacts: Jim Manley, 202-224-2939

11 a.m. BUDGET OUTLOOK _ The Congressional Budget Office holds a briefing on the 2006 Budget and Economic Outlook. With acting CBO Director Donald Marron. Location: CBO, 483 Ford House Office Bldg., 2nd and D Sts, S.W. Contacts: Melissa Merson, 202-226-2602 Notes: Congressional press credentials required. Report available at 10 am at www.cbo.gov. Limited copies available at briefing.

11 a.m. REBUILDING NEW ORLEANS _ The Foreign Press Center offers a digital video conference of a New York Press Center on-the-record briefing on rebuilding Cnew Orleans and Lousiana, with Louisiana Economic Development Secretary Michael Olivier, others. Location: Foreign Press Center, National Press Building. Contacts: Sheila Hoban, 202-504-6314 Notes: Foreign media only.

11:15 a.m. ALITO _ Public Advocate of the U.S. group holds an event in support of Samuel Alito's nomination to the Supreme Court, with an ensemble signing ``Alito" as they pass out materials. Location: In front of Dirksen, at 1st St. and Constitution Ave. NE. Contacts: Jesse Binnall, 703-582-7924

12 p.m. ANTI-DUMPING _ The World Bank hosts a briefing on its study finding the use of safeguards, antidumping in Latin America, seen as judicious. The briefing will be chaired by Guillermo Perry, World Bank Chief Economist for the Latin America and Caribbean region. Panelists will include: Hector Marquez, Director, Trade and NAFTA Office, Embassy of Mexico; Brad Ward, partner, Dewey Ballantine LLP; and J. Michael Finger, Retired World Bank Lead Economist. Location: World Bank Headquarters, I Building, 1850 I St. NW, Room I1-200. Contacts: Chris Neal Sr., 202-473-7229

12 p.m. - 2 p.m. UN REFORM-HUMAN RIGHTS _ The United Nations Development Programme holds a roundtable discussion to take stock of UN progress on initiatives for democracy and human rights. With Mark Lagon, deputy assistant secretary, International Organization Affairs, State Department; Magdy Martinez-Soliman, Practice Manager, Democratic-Governance Group, UNDP; Jennifer Windsor, executive director, Freedom House; and others.

12:30 p.m. DEMOCRATS-LOBBYING REFORM _ Senators Lieberman, Feingold, and Obama hold a news conference to call for immediate attention on the Honest Leadership Act, the Democratic proposal to reform congressional lobbying rules. Location: Senate Radi/TV Gallery. Contacts: Jim Manley, 202-224-2939

12:30 p.m. - 1:30 p.m. ECONOMICS-MUTUAL FUNDS _ The National Economics Club hosts a speech by Brian Reid, chief economist, Investment Company Institute, on ``How Well is the Market for Mutual Funds Working?" Location: Chinatown Garden Restaurant, 618 H St, NW. Contacts: n/a, 202-493-8824

1 p.m. DEMOCRATIC LEADERS _ Sen. Dick Durbin and Rep. Nancy Pelosi speak at the National Press Club to give the Democratic pre-buttal fo the State of the Union Address. Location: National Press Club. Contacts: Brendan Daly, 202-226-7616

1 p.m. NORTHERN IRELAND _ The National Press Club holds an Afternoon Newsmaker news conferencde with the leader and deputy leader of the Social Democratic labor party of Northern Ireland discussing the peace process. Location: National Press Club. Contacts: Peter Hickman, 301-530-1210

2 p.m. DEMOCRATS-BUDGET _ Rep. John Spratt and Sen. Kent Conrad hold a news conference on the CBO budget report. Location: House Radio-TV Gallery.

2 p.m. MASSACHUSETTS HEALTH CARE _ The Heritage Foundation holds a discussion with Massachusetts Gov. Mitt Romney on health care reform in his state. Location: Room 2261, Rayburn. Contacts: n/a, 202-675-1761

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2:15 p.m. AFGHANISTAN _ U.S. Ambassador to Afghanistan Ronald Neumann holds an on-the-record briefing on the London Conference on Afghanistan next week. Location: Foreign Press Center, National Press Club. Contacts: Doris Robinson, 202-504-6353 Notes: Foreign media only.

3 p.m. BUDGET _ The Center on Budget and Policy Priorities holds a telephone briefing on the new budget and economic forecast by the CBO which will be released Thursday morning. Contacts: Michelle Bazie, 202-408-1080 Notes: Call Contact for details.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: THURSDAY, JANUARY 26, 2006 7:45 AM EST

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TERRORISM NEWS:

Specter To Question Gonzales On NSA Surveillance. The Pittsburgh Post-Gazette (1/26, McGough) reports, "If Attorney General Alberto R. Gonzales thought he might be spared tough questioning from Republican senators when he testifies about the warrantless wiretapping of Americans thought to be in contact with foreign terrorists, Sen. Arlen Specter, R-Pa., yesterday disabused him of that notion." The Post-Gazette continues, "In a letter sent to the attorney general and shared with the press, the chairman of the Senate Judiciary Committee propounded a series of questions that in a courtroom setting might be called 'leading' and requested that Mr. Gonzales answer them in his opening statement before the committee on Feb. 6. … The combative nature of the letter wasn't altered by the fact that the printed salutation to 'Attorney General Gonzales' was replaced by a hand-written 'Al.'" The Post-Gazette adds, "The letter honed in on the Bush administration's assertion-ridiculed by critics -- that Congress empowered the president to engage in electronic surveillance of Americans without a court order when it passed a resolution after the Sept. 11 2001, attacks authorizing him to 'use all necessary and appropriate force' against terrorists. … Mr. Specter asked: 'In interpreting whether Congress intended to amend the Foreign Intelligence Surveillance Act by the Sept. 14, 2001, resolution, would it be relevant on the issue of congressional intent that the administration did not specifically ask for an expansion for executive powers under FISA?' … Mr. Specter further asked: 'If Congress had intended to amend FISA by the resolution, wouldn't Congress have specifically acted to [do so] as Congress did in passing the Patriot Act giving the executive expanded powers and greater flexibility in using "roving" wiretaps?' … Mr. Specter also made it clear he would press Mr. Gonzales about the administration's other legal rationale for the surveillance -- that it flowed from Mr. Bush's constitutional authority as commander-in-chief."

The National Journal's Technology Daily (1/25, Stirland) reports, "Pressure mounted on the Bush administration Wednesday to provide lawmakers with answers on domestic spying activities. … Senate Judiciary Committee Chairman Arlen Specter, R-Pa., released a three-page letter with detailed questions to Attorney General Alberto Gonzales on the president's decision in 2002 to secretly authorize domestic wiretaps without warrants. … The letter includes many of the questions that constitutional scholars have been posing about the president's order, and several questions could put Gonzales in an awkward position." Technology Daily adds, "At the same time, Democrats on the Senate Intelligence Committee demanded that Chairman Pat Roberts, R-Kan., hold a business meeting so the committee can vote to investigate several aspects of the administration's domestic spying. … Under committee rules, Roberts is obligated to hold a meeting if at least five members formally ask for one. All seven Democrats on the panel signed the request to Roberts." Technology Daily notes, "A majority vote is needed to move ahead with the investigation. Two Republicans on the committee, Sens. Chuck Hagel of Nebraska and Olympia Snowe of Maine, have asked Roberts for a hearing on the matter. Roberts has said nothing publicly about holding a hearing. … Also on Wednesday, a group of Democrats, including Sens. Richard Durbin of Illinois and Charles Schumer of New York, sent a letter to President Bush asking him for specific changes in the law that he believes are necessary to permit effective surveillance of suspected terrorists."

Gonzales Warned To Expect Tough Questions From Senate Committee. The CBS Evening News (1/25, lead story, 4:00, Roberts) noted, "NSA officials aren't likely to be called in the first round of hearings, but in a letter, the Attorney General was warned by the Judiciary Committee

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chair, he's in for a full day of grilling on February 6. Among the questions: Why did the President bypass the Federal court that covers wire taps, and how does he justify not more fully informing Congress? The President insists he has informed Congress but complains existing laws aren't nimble enough to cover the explosion of technology through which terrorists communicate."

NBC Nightly News (1/25, lead story, 3:00, Mitchell) also noted, "The White House says when Congress authorized the war on terror after 9/11, it gave the President the power to spy without court orders. But even some powerful Republicans are challenging the program's legality. Today, Judiciary Committee chairman Arlen Specter sent this 'dear Al' letter to Attorney General Alberto Gonzales, listing 15 tough questions he will be asked at a hearing two weeks from now, including whether the spying was an illegal expansion of presidential power." Sen. Specter: "There was no thought when we passed the authorization for the use of force that it had implications for electronic surveillance."

The Baltimore Sun (1/26, Davis, 296K) focuses on Specter's letter, reporting that even as Bush spoke, "questions mounted about the administration's legal justifications for the program. A key Republican senator took issue with Bush's defense of the operation, which was secretly authorized by the president after the Sept. 11, 2001, terrorist attacks and targets some communications inside the United States. Also, new reports surfaced suggesting that the administration had rejected an earlier proposal in Congress that would have made it easier to obtain court approval for domestic wiretapping."

Administration Dismissed 2002 Proposal To Change Surveillance Warrant Standard. The Washington Post (1/26, A4, Eggen) reports, "The Bush administration rejected a 2002 Senate proposal that would have made it easier for FBI agents to obtain surveillance warrants in terrorism cases, concluding that the system was working well and that it would likely be unconstitutional to lower the legal standard." The Post continues, "The proposed legislation by Sen. Mike DeWine (R-Ohio) would have allowed the FBI to obtain surveillance warrants for non-U.S. citizens if they had a 'reasonable suspicion' they were connected to terrorism -- a lower standard than the 'probable cause' requirement in the statute that governs the warrants. … The administration has contended that it launched a secret program of warrantless domestic eavesdropping by the National Security Agency in part because of the time it takes to obtain such secret warrants from federal judges under the Foreign Intelligence Surveillance Act (FISA)." The Post adds, "The wiretapping program, ordered by President Bush in 2001, is used when intelligence agents have a 'reasonable basis to believe' that a target is tied to al Qaeda or related groups, according to recent statements by administration officials. It can be used on U.S. citizens as well as foreign nationals, without court oversight. … Democrats and national security law experts who oppose the NSA program say the Justice Department's opposition to the DeWine legislation seriously undermines arguments by Attorney General Alberto R. Gonzales and others, who have said the NSA spying is constitutional and that surveillance warrants are often too cumbersome to obtain. … 'It's entirely inconsistent with their current position,' said Philip B. Heymann, a deputy attorney general in the Clinton administration who teaches law at Harvard University. 'The only reason to do what they've been doing is because they wanted a lower standard than 'probable cause.' A member of Congress offered that to them, but they turned it down.'" The Post notes, "But Justice Department officials disagreed, saying the standard the department opposed in 2002 is legally different from the one used by the NSA. … 'The FISA "probable cause" standard is essentially the same as the "reasonable basis" standard used in the terrorist surveillance program,' said spokeswoman Tasia Scolinos, using the term for the NSA program the White House has adopted. 'The "reasonable suspicion" standard, which is lower than both of these, is not used in either program.' … Justice officials also said that even under a different standard, the process of obtaining a surveillance warrant would take longer than is necessary for the NSA to efficiently track suspected terrorists."

Under the headline "Words, Deeds On Spying Differed," The Los Angeles Times (1/26, Savage, 958K) also reports on the 2002 bill, noting that the administration's "public position then was the mirror opposite of its rationale today in defending its warrantless domestic spying program, which has come under attack as a violation of civil liberties. … A Justice Department spokesman confirmed Wednesday the administration had opposed changing the law in 2002 in part because it did not want to publicly debate the issue. 'There was a conscious choice not to have a public discussion about it. It could have exposed the program. This was a military defense intelligence program,' said the spokesman." The Times notes Sen. Patrick Leahy "accused the administration of having tried 'to paper over the legality of a secret spying program. If they really believed the current law is too burdensome, the Bush administration should have asked Congress to change it, but they did not. Instead a top lawyer in the Bush administration did just the opposite.'"

Knight Ridder (1/26, Landay) reports, "James A. Baker, the Justice Department's top lawyer on intelligence policy, made the statement before the Senate Intelligence Committee on July 31, 2002. He was laying out the department's position on an amendment to FISA proposed by Sen. Mike DeWine, R-Ohio. The committee rejected DeWine's proposal, leaving FISA intact. … So while Congress chose not to weaken FISA in 2002, today Bush and his allies contend that Congress implicitly gave Bush the authority to evade FISA's requirements when it authorized

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him to use force in response to the Sept. 11, 2001, attacks three days after they occurred - a contention that many lawmakers reject." Knight Ridder adds, "Glenn Greenwald, an Internet blogger, first connected the earlier Justice Department statement to the Bush administration's current arguments on his Web log, called Unclaimed Territory. … Baker's 2002 statement drew new attention Wednesday as the White House continued its campaign to justify eavesdropping on Americans who are suspected of being in contact with al-Qaida or other terrorist groups, despite possible violation of FISA." Knight Ridder notes, "Brian Roehrkasse, a Justice Department spokesman, said Wednesday that Gonzales stands by the administration's current view that FISA warrant requirements impose 'additional layers of review' that sacrifice 'critical speed and agility.'"

Administration Launches Campaign To Frame Surveillance Debate. The Dallas Morning News (1/26, Mittelstadt) reports, "The Bush administration raced this week to defend its warrantless domestic spying program, with several aims in mind, experts say: Win over a conflicted public; force Democrats into an arena that plays to GOP strength; and head off talk of impeachment and special prosecutors." The News continues, "With polls showing the public sharply divided over the controversial surveillance program, the White House and its critics – Democrats, small-government conservatives and civil libertarians – are engaged in a high-stakes contest to frame the debate. … 'If it's defined primarily as "government abuse, the president out of control, the White House running roughshod over basic constitutional rights," it would be a major problem for an extended period of time for the president – both on Capitol Hill but also with the voters,' said political analyst Stuart Rothenberg. … 'If the issue is defined more as "protecting national security, keeping people safe, stopping terrorism," then what the Democrats immediately saw might be a good issue for them could actually be turned around for the president and the Republican Party.' … Though the court of public opinion is key, some suggest that the political system or the courts will be the ultimate arbiter of the program's legality – and the far weightier question of whether Mr. Bush is claiming executive powers outside the bounds of the Constitution or the law." The News notes, "Mr. Specter has summoned Attorney General Al Gonzales for a Feb. 6 hearing and is under pressure from Democrats to invite former Deputy Attorney General James Comey and other administration officials who reportedly raised concerns about the legality of the domestic surveillance."

Debate Over Legality Of NSA Surveillance Narrows. Fox News (1/26) reports, "After three days of a Bush administration offensive and weeks of debate and accusations, some legal experts are coming to terms on what is illegal and what is not in the National Security Agency electronic surveillance program. … 'When the president goes around and speaks ... and says we're monitoring calls from overseas from Al Qaeda to the United States, the NSA can go ahead and do that now under the law,' Sen. Edward Kennedy, D-Mass., said after the Senate Judiciary confirmation hearing of Supreme Court nominee Samuel Alito." Fox News continues, "But Kennedy said independent organizations, like the Congressional Research Service, have studied the legality of the NSA program and say the president has gone beyond what the rules allow. Bush, however, says the eavesdropping program is legal and doesn't overstep the boundaries allowed to him by the Constitution and congressional resolution. … According to legal experts, hypothetically, if the NSA had intercepted calls from alleged terrorists such as Khalid Sheikh Mohammed or Ramzi Binalshibb, both now in custody, while they were abroad, then U.S. intelligence agents could listen to the calls without a warrant. That goes for phone calls with people on the other end of the line who happen to be in United States. … Only when the person inside the United States becomes the target of surveillance is a warrant from the Foreign Intelligence Surveillance court required. … Other experts agree that a warrant is not needed until the U.S.-based individual becomes a suspect. … But others argue that the law says domestic communications monitoring rules apply even when only one end of the call is on U.S. soil. They say that's why Bush signed a highly classified directive approving the program and has to re-approve it every 45 days."

Bush Continues Defense Of NSA Domestic Surveillance Program. President Bush defended the NSA domestic surveillance program yesterday. Media reports describe the President continuing to wage a "campaign" style offensive against its critics, with CBS saying Bush used "his strongest words yet to defend the program" and ABC saying he "made the most dramatic link yet between the September 11th attacks and his controversial domestic spying program." ABC, like most print sources this morning, was referring to the President's reference to the latest Osama Bin Laden tape.

Bush said the tape was a reminder of how serious the terror threat is. Reuters (1/26) reports Bush said "he took…bin Laden's threats of another attack seriously and invoked the al Qaeda leader's recent audiotape to defend a domestic eavesdropping program." The AP (1/26, Pickler) also focuses on Bush's Bin Laden argument, as does the Washington Times (1/26, Sammon, 90K), which notes the President "the unusual step of imploring Americans to heed the warnings of…bin Laden." Likewise, USA Today (1/26, 2.31M) headlines its brief report "Take Bin Laden Threat Seriously, Bush Warns."

The CBS Evening News (1/25, lead story, 4:00, Schieffer) reported, "The President has clearly decided the best defense is a good offense. Democrats and even some

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within his own party have raised strong criticism of his decision to eavesdrop without warrants on some Americans, but today the President used his strongest words yet to defend the program." CBS (Roberts) added, "Bush privately told NSA staff today they have his 100% support in the eavesdropping program." His "visit was accompanied by a new White House PR line, casting the program as a vital military operation, one that can't wait for courts to consider warrants." Scott McClellan: "Do you expect our commanders in a time of war to go to a court while they're trying to survey the enemy? I don't think so."

ABC's World News Tonight (1/25, story 5, 0:42, Vargas) reported, "Bush made the most dramatic link yet between the September 11th attacks and his controversial domestic spying program." At the NSA he "said had the eavesdropping program been in effect prior to 9/11, the hijackers might have been stopped." Bush: "We know that two of the hijackers who struck the Pentagon were inside the United States, communicating with al Qaeda operatives overseas. But we didn't realize they were here plotting the attack until it was too late. We must be able to connect the dots, before the terrorists strike, so we can stop new attacks."

NBC Nightly News (1/25, lead story, 3:00, Williams) reported, "When it was first disclosed, the critics pounced upon learning that American intelligence personnel were eavesdropping on Americans who were placing suspect phone calls outside of the country. And while many Americans still say it's illegal domestic spying, the president insists on calling it a terrorist surveillance program and insists it's necessary and within his legal powers. And today, he took his argument right to the source." NBC (Mitchell) added, "Inside the NSA, he brushed off critics who say it is illegal." President Bush: "All I would ask them to do is listen to the words of Osama bin Laden and take him seriously. When he says he's going to hurt the American people again, or try to, he means it."

Fox News' Special Report (1/25, Cameron) said Bush "reiterated that the program has helped prevent attacks and saved lives and that the US must detect and track all al Qaeda communications to secure the homeland."

CNN's The Situation Room (1/25, Bash) added, "One of the things that even the President's opponents say that they give him credit for is knowing how to run a campaign, and that's exactly what the White House has been doing in trying to defend the controversial spying program this whole week. They are also really pulling out all the stops. One of the things that they did…was have the President himself" go to the NSA "to not only thank the people who are conducting his program, but also to, of course, make the arguments that we've heard time and time again about why it is legal and necessary. But another thing that sort of fell into the President's lap, if you will, was, of course, the tape from Osama bin Laden. And so the White House, for the first time today, had the President use that in making the argument for this program." CNN added that Bush "spent a lot of time on making the argument at the NSA today that it is just perhaps people who are talking to members of al Qaeda who could be listened in on, that it is not just people in the United States who are being surveilled, if you will. That is an argument that we've heard many times but certainly more so today."

The Washington Post (1/26, A4, VandeHei, 744K) reports, "Bush, whose aides said they consider the issue a clear political winner, is resurrecting tactics from the last campaign to make the NSA spying program a referendum on which party will keep the United States safe from terrorists." He "has dispatched top White House officials almost daily to defend the program and has sent a message to party activists that he considers fighting terrorism with tools such as NSA eavesdropping the defining issue of the November elections." The Post adds, "Exhibiting an obsession to detail not seen in the Social Security rollout a year ago, the White House is even waging a war on the semantics being used in the debate, lashing out at reporters who call the program 'domestic' spying, because the monitored calls involve a person overseas." It is also "putting out pages of highly detailed -- and often hotly disputed -- legal analyses of the program and drawing what Democratic critics and many independent analysts regard as questionable historical parallels to show Bush is following a long wartime tradition."

The Los Angeles Times (1/26, Gerstenzang, 958K) says Bush's visit to NSA headquarters at Ft. Meade, MD, "was part of a stepped-up campaign in recent days to gain public support for the spying program." Earlier, White House Press Secretary Scott McClellan "defended Bush's decision not to ask a special court for warrants to monitor people in the United States. 'This is a time of war. This is about wartime surveillance of the enemy,' McClellan said, adding a refinement of his earlier arguments: 'We don't ask our commanders to go to the court and ask for approval while they're trying to gain intelligence on the enemy.'"

The New York Times (1/26, Bumiller, Lichtblau, 1.19M) reports Bush "first met privately with employees at the agency, then told a small group of reporters who accompanied him that the program, which intercepts international phone calls and e-mail messages of people in the United States suspected of links to Al Qaeda, had been a crucial tool in fighting terrorism."

The President's speech was widely noted by local television news. Local coverage largely mirrored the national newscasts. For example, WGCL-TV Atlanta (1/25, 11:00 p.m.) reported, "Bush continued his aggressive defense of his domestic spying program today." KPRC-TV Houston (1/25, 4:16 p.m.) reported, "The President' s strong defense of a surveillance program is forcing some Democrats to mute criticism." KPNX-TV Phoenix (1/25, 10:12 p.m.) said Democrats '"disagree [with the President] and the Senate will

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hold hearings," but as KWGN-TV Denver (1/25, 9:24 p.m.) reported, this is a "controversy…the President himself seems almost anxious to keep alive."

White House Confident Public Supports Monitoring Efforts. NBC Nightly News (1/25, lead story, 3:00, Mitchell) reported, "Democrats think their best argument is the move was the power grab the President and will ultimately prove to be unpopular. Despite the furor, the White House is encouraged by recent polls, showing more Americans care about fighting terror than preserving their privacy." Andrew Kohut, independent pollster: "The public is concerned about civil liberties but what they tell us in the polls is they're more concerned about whether the government is doing enough to protect it from another terrorist attack." Mitchell: "Tonight the President plans to reauthorize the spying for as long as terrorists remain a threat."

Claims NSA Program Could Have Prevented 9/11 Attacks Challenged. The CBS Evening News (1/25, story 2, 2:00, Martin) reported, "The man who ran the NSA on 9/11 has made the most powerful argument in favor of the controversial eavesdropping program." Gen. Michael Hayden: "Had this program been in effect prior to 9/11, it is my professional judgment that we would have detected some of the 9/11 al Qaeda operatives in the United States." He "offered no specifics, and Democratic members of the 9/11 commission dispute it." Former 9/11 commissioner Tim Roemer: "Indicating that an intercepted communication would somehow identify and then stop or block parts of 9/11, I think is stretching this argument entirely too far." Former 9/11 commissioner Bob Kerrey: "We lost them. There was a breakdown in communication that many has nothing to do with the inability of getting an intercept permission to listen to people's communication." Martin: "Hayden stopped just short of saying warrantless eavesdropping could have broken up the 9/11 plot, but today, the White House claimed it might have. You can't prove any of that with what the 9/11 commission found."

Republicans May Propose Expanding Administration Wiretapping Authority. As a sign of growing Republican confidence in supporting Bush's terrorist monitoring policy one unidentified GOP Senator may propose expanding the Administration's wiretapping authority. The CBS Evening News (1/25, lead story, 4:00, Roberts) reported, "The growing response from Republicans in Congress: Tell us what you need. We'll write new laws. In fact, one Republican Senator told CBS News tonight, she might consider loosening the standards for approving the wiretap and allowing more officials at the Justice Department, not just the Attorney General, to authorize eavesdropping, so that it could begin just as soon as the NSA needed it." Schieffer: "Now, just a second, John. Are you telling me, there's a feeling amongst Republicans up in the Congress that they're going to give more people in the government the authority to eavesdrop without warrants? Is that what you're saying here?" Roberts: "That's what one Republican Senator is suggesting, that instead of making all eavesdropping or wiretapping requests go through the Attorney General, that some upper-level officials might be available and able to be able to authorize those wiretaps. It would spread it out among dozens of people as opposed to a single one at the top." Schieffer: "What do you think the mood is up there? Do you think anything like that could pass?" Roberts: "It's certainty being considered by the Republicans. They have the majority in the Senate and in the House, and if they want it, they'll probably get it."

Democrats On House Intel Panel Demand Open And Closed Hearings On NSA Spying. CNN's The Situation Room (1/25, Blitzer) reported, "Democrats on the House Intelligence Committee are demanding that the panel hold both open and closed hearings on the NSA surveillance program. In a letter to the Republican chairman, they say they want to know the purpose of the spying, when it began and when it was first authorized. They want to know the targets of the eavesdropping, who decides what information to collect."

Hillary Clinton Calls Bush's Explanations Of Domestic Spying Program "Strange And Farfetched." CNN's The Situation Room (1/25, Blitzer) reported, "Senator Hillary Clinton says she doesn't know if Mr. Bush broke the law by authorizing these wiretaps without warrants, but today the New York Democrat called the President's explanations about domestic spying -- and I'm quoting now – 'strange and farfetched.'"

Under the headline "Rift Between Parties Over NSA Wiretapping Grows," the Washington Post (1/26, A4, VandeHei, 744K) reports, "In the latest sign of the escalating debate on the issue, Sen. Hillary Rodham Clinton (D-N.Y.) called Bush's rationale a 'strange' and dangerous legal stretch." The "conflicting views of the NSA spying program highlighted by the Bush-Clinton exchange reflect a widening divide over warrantless eavesdropping," and "how leaders in both major parties are trying to shape the debate in preparation for upcoming congressional hearings and this year's elections."

LATimes Says Bush Equating Appeasement With Standing Up For Rule Of Law. In an editorial titled "Spying By Another Name," the Los Angeles Times (1/26, 958K) says, "With polls showing the American public increasingly skeptical about the need to abridge core constitutional freedoms to wage the war on terrorism, the Bush administration launched a major PR offensive this week to justify its decision to conduct warrantless wiretapping within the United States." The White House "deserves credit for at least making its case. Unfortunately for the president, it's a weak case, and repetition doesn't make it any better." The Administration's "legal case remains wobbly, which may explain…Bush's churlish attitude toward his critics." The

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President "is equating concerns about the legality of bypassing the courts to obtain a warrant to eavesdrop on Americans with a lack of appreciation for the threats posed by Al Qaeda. In Bush's world, only appeasers stand up for the Constitution."

Judge Orders US To Give Moussaoui Defense Documents About Pre-9/11 Intelligence. The AP (1/26) reports US District Judge Leonie Brinkema "has ordered the government to give admitted terrorist conspirator Zacarias Moussaoui's defense team documents describing what officials knew before Sept. 11, 2001, about al-Qaeda threats and some of its hijackers. … 'Several of the categories of information are so critical to the issues in this case that the court can address some of the requests without a response,' Brinkema wrote. 'Moreover, given the increasingly shortening time before the start of the trial, discovery issues must be resolved quickly.' Granted Tuesday under seal, her order was released Wednesday after government censors blacked out about five lines of it." The AP notes that the "data clearly was sought by the defense for use in the first part of the upcoming court proceeding, in which prosecutors will try to convince jurors that the FBI would have prevented the Sept. 11 attacks if Moussaoui had told federal agents what he knew about al-Qaeda's desire to fly planes into U.S. buildings. The defense will argue that agents had more information about the plot than Moussaoui could provide but still could not prevent the attacks."

Scripps Howard (1/25, Gordon) reports, "The ruling could create a legal showdown, for example, if it requires intelligence agencies to produce classified information that they consider too sensitive to release, even to defense lawyers with government security clearances. … Jury selection is set to begin on Feb. 6, with opening arguments slated for March 6 in a sentencing trial to determine whether Moussaoui, who pleaded guilty to six conspiracy counts last April, should live or die."

Al Arian Lawyers Seek To Withdraw From Case If Retried. The AP (1/26) reports Sami al Arian's defense attorneys, Linda Moreno and Bill Moffitt, "asked a federal judge to let them off the case if prosecutors retry the former college professor on charges of aiding terrorists. … A hearing is scheduled for Friday. 'We gave everything we had, and I'm too exhausted to give anymore,' Moffitt…said Tuesday." The AP notes, "Federal prosecutor Terry Zitek told the court that if the case is retried, his team will need until June to present 'a streamlined case,' which should take about two months to present to a jury."

Texas Men Sentenced For Illegal Exports To Libya, Syria. In a widely-distributed story, the AP (1/26) reports Texas "brothers convicted of sending exports from their U.S. company to countries considered sponsors of terrorism were sentenced Wednesday to federal prison, the U.S. Attorney's Office said. Hazim Elashi was sentenced to 5 1/2 years in prison and will be deported after serving his sentence. His brother Ihsan 'Sammy' Elashi was given a six-year term, which will run consecutively to the four-year sentence he is currently serving. Hazim and Ihsan Elashi, their three brothers and their company," InforCom, "were convicted in 2004 on charges of making illegal technology shipments to Libya and Syria." The AP notes, "Agents from the FBI investigated InfoCom for years and raided the business the week before the Sept. 11 terror attacks. Attorney General John Ashcroft announced the original indictments against the brothers, calling it part of a campaign against 'the financiers of terror.'"

ACLU Files Lawsuit In Support Of Tariq Ramadan. The New York Times (1/26, Preston, 1.19M) reports that the ACLU filed a lawsuit in Federal District Court in Manhattan on behalf of scholar Tariq Ramadan, and three national organizations of academics or writers who have invited him to speak to their members yesterday, "seeking to strike down a clause of the USA Patriot Act that bars foreigners who endorse terrorism from entering to this country." Ramadan "has been denied a United States visa since July 2004, when he was on the verge of moving with his family to Indiana to take up a tenured professor's position at the Joan B. Kroc Institute for International Peace Studies at the University of Notre Dame. … The ACLU, joined by the New York Civil Liberties Union, brought the suit against Michael Chertoff, the homeland security secretary, and Secretary of State Condoleezza Rice, asserting that the Patriot Act clause is unconstitutional and that the ban on Mr. Ramadan violates the First Amendment rights of American thinkers who want to meet with him." The Wall Street Journal (1/26, A4, 2.11M) reports, "The lawsuit…intensifies the debate over the Patriot Act and reflects concerns in academia that the US's security precautions are hampering the flow of ideas between foreign and US scholars."

PATRIOT ACT:

US Scholarly Organizations File Lawsuit Over Patriot Act Visa Provision. The Wall Street Journal (1/26, A4, 2.11M) reports, "Three scholarly organizations sued the federal government over its 2004 decision to revoke a visa granted to a European expert on Islam," Tariq Ramadan, "preventing him from taking a faculty position at

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the University of Notre Dame. The lawsuit…intensifies the debate over the Patriot Act and reflects concerns in academia that the U.S.'s security precautions are hampering the flow of ideas between foreign and U.S. scholars." The Journal adds, "The lawsuit asks the U.S. District Court in New York City to declare unconstitutional a portion of the Patriot Act that denies entry on the grounds of 'ideological exclusion' to those who have endorsed or espoused terrorist activity or who have persuaded others to do so. 'There is simply no evidence' of Mr. Ramadan supporting terrorism, said Barbara DeConcini, executive director of the American Academy of Religion, one of the plaintiff groups." The New York Times (1/26, Preston, 1.19M) notes, "The ACLU, joined by the New York Civil Liberties Union, brought the suit against" DHS Secretary Michael Chertoff "and Secretary of State Condoleezza Rice, asserting that the Patriot Act clause is unconstitutional and that the ban on Mr. Ramadan violates the First Amendment rights of American thinkers who want to meet with him." The AP (1/25, Neumeister) and Knight Ridder (1/26, Strobel) also report on the lawsuit.

HOMELAND RESPONSE:

Georgia ACLU Releases Documents Allegedly Showing Spying On Activist Groups. The Atlanta Journal-Constitution (1/26, Montgomery, 430K) reports, "In the name of fighting terrorism, the U.S. government and police agencies from the federal to the local level have been spying on Georgia anti-war rallies, peace and social action groups, and even a vegan protest, the state legal director of the American Civil Liberties Union charged Wednesday. Documents and surveillance photos obtained by the ACLU through a Freedom of Information Act request reveal a pattern of 'spying on Georgians who are our friends and neighbors, and are leading lawful lives,' attorney Gerald Weber said…outside the Georgia Homeland Security offices in downtown Atlanta. … 'Many of us remember the days of J.Edgar Hoover, and this is another reminder,' said state Rep. Nan Grogan Orrock." The Journal-Constitution adds, "A special agent at the FBI press office in Washington who would not give her name said the FBI 'investigates groups or individuals when we have information or allegations of federal law being broken. We do not investigate groups or persons exercising their constitutional right of protest or dissent.'"

The AP (1/26) reports the ACLU "released two documents from the FBI and DeKalb County Homeland Security," and "Weber says so far the ACLU has received complaints from six organizations and nearly two dozen people who fear they have been spied upon, photographed, videotaped or had their events infiltrated by government agents. He says none of them did anything that would justify surveillance but rather are critics of the Bush administration." The AP notes, "FBI spokesman Bill Carter says all FBI investigations are conducted in response to information that the people being investigated were involved in or might have information about crimes."

White House Declines To Release Documents On Katrina Warning. NBC Nightly News (1/25, story 2, 2:00, Williams) in its story on Federal Katrina relief reported, "Congress also wants answers from the White House about the poor Federal response to Katrina, and tonight members of both parties complain the President is holding back important information about who knew what and when." Sen. Joe Liebermann: "They haven't given us the documents we've asked for. They haven't let us into the people in the White House who were involved in the decision making regarding Hurricane Katrina." Gregory: "The White House cites executive privilege." Scott McClellan, White House Press Secretary: "The President believes that Senator Lieberman ought to have the right to confidential conversations with his advisors, just like all presidents have asserted they ought to have that same right."

The New York Times (1/26, Lipton, 1.19M) reports, "In their four months of digging, House and Senate investigators have collected hundreds of thousands of pages of documents and testimony from governors, mayors, Homeland Security and Pentagon officials and dozens of others touched by Hurricane Katrina." While Republican leaders of the two committees are satisfied with "the mountains of still-accumulating evidence," to Democrats, "crucial holes still remain, particularly related to what senior White House aides and the president knew, and how they reacted to this knowledge, right before the storm and after it." Senator Joseph I. Lieberman "said Wednesday that he realized it was unlikely he could get the information he wanted by threatening to subpoena. Even if one were issued, the administration would probably fight it in court."

MSNBC's Hardball (1/25, Shuster) reported, "Ratcheting up a battle with Congress, the Bush White House is now refusing to turn over Hurricane Katrina related documents or make senior officials available for testimony. The Administration contends executive branch discussions about the storm are not open to review by Congress. … It was Senator Lieberman, the President's favorite Democrat, who on Tuesday alleged the Bush Administration's refusal to cooperate has killed the Katrina investigation."

Landrieu Says Administration Should Be More Forthcoming. Sen. Mary Landrieu said on MSNBC's Hardball (1/25), "I believe the committee, the Bipartisan Committee of Senator Collins and Lieberman, has asked for those records. They are truly acting in a bipartisan spirit. And we would like a full investigation of actually what happened. Not so that we can spend time blaming…but that we can

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prevent this from happening again, and we can get on the business of rebuilding New Orleans, Louisiana, and the Gulf Coast. So you'll have to ask them specifically what they asked for, but I would hope they would provide all the records so we could get to the bottom of whose fault it was that the levees broke and how do we fix it in the future." Asked about White House claims that the requested information is privileged, Landrieu said, "I would think it would be in the country's best interest, as we seek to protect the people of this nation from terrorist attacks, from catastrophic events, that we would have a real independent investigation of that. Our governor has turned over a great deal of information. I'm assuming that our mayor and local officials have. The White House needs to step up and be very forthcoming. But more than turning over that information, the White House needs to turn over some good plans for rebuilding. All we've heard is a lot of empty promises and criticism."

Vitter Criticizes Federal, State and Local Responses To Hurricane. Sen. David Vitter said on MSNBC's Hardball (1/25), "We need to understand what broke down at the federal level and the state level and the local level. Because things clearly broke down at every level. This was not a disaster that was predictable. This was a disaster that was utterly predicted in print, in studies like the hurricane pan exercise. And every level of government fell flat." Vitter added, "I was disappointed at the federal response, very disappointed. I said so matter of factly the Friday after the storm. I gave the whole recovery effort an F. And the state response was just as poor and the local response."

White House Rejects Plan To Buy Out Katrina Home Owners. In a story that characterized the White House as declining to approve aid for Louisiana NBC Nightly News (1/25, story 2, 2:00, Williams) reported on "the long road back for the Gulf Coast, specifically the state of Louisiana. Crippled by Katrina and hoping for a $30 billion Federal relief package that just today was shot down by the Bush White House." NBC (Gregory) added, "Despite lofty promises, the White House has rejected Louisiana's homeowner bailout plan which local officials consider it crucial for recovery." Rep. Richard Baker, New Orleans: "To leave us in that state of disrepair without the hope of recovery is very troubling." Gregory: "The White House considers the" state plan to buy out home owners as "too expensive and bureaucratic suggesting instead the state settle for the more than $6 billion in Federal grants released today to bail out just those homeowners who didn't have insurance because they lived outside the floodplain." Administration officials "say more Federal dollars may come later, but acknowledge that conservatives in Congress are worried about spiraling costs."

The New York Times (1/26, Nossiter, 1.19M) carried a similar tone, reporting, "The White House decision to withhold support from a major Congressional reconstruction plan left Louisiana officials expressing bewilderment on Wednesday over what they characterized as the lack of a workable alternative from the Bush administration. … 'The White House simply needs to tell us what their plan is,' Gov. Kathleen Babineaux Blanco said Wednesday at a news conference in Baton Rouge. 'We don't see an adequate plan. You can't fix a $12 billion problem with $6 billion.'"

Reuters (1/25, Roberts) reported, "A group representing mortgage bankers also said President George W. Bush had yet to offer an alternative that was comparable to the plan proposed in Baker's legislation to create the Louisiana Recovery Corp. 'We'll really pay attention to the State of the Union address because we'll be anxious to see what the president is going to propose as a plan for rebuilding those devastated areas,' said Kurt Pfotenhauer, senior vice president of government affairs at the Mortgage Bankers Association. 'It's clear that some plan has to be in place in order to spur the investment of private capital.'"

USA Today (1/26, Dorell, Konigsmark, 2.31M) reports, "Donald Powell, President Bush's coordinator for Gulf Coast rebuilding, suggested that money from the government's funding grant, announced Wednesday, be doled out to roughly 20,000 homeowners who weren't in a flood zone and did not have flood insurance when Hurricane Katrina hit. State officials must draw up plans for disbursing the money and get federal approval." Blanco said the plan "simply will not work," and added that "she won't use the money as the White House recommends. 'We are not in the business of choosing between our citizens.'"

Highlighting the severity of the damage caused by Hurricane Katrina, NBC Nightly News (1/25, story 10, 1:30, Williams) also reported that some viewers were complaining about NBC's continuing coverage of the impact of Hurricane Katrina. NBC defended the extent of its coverage saying that it reported on the impact of all of last year's hurricane's in the region, but "Katrina is different. Katrina displaced two million Americans. It destroyed 350,000 homes. Not all the bodies have been found yet. It exposed cracks in our society, and it has us talking about race and class and money and relief. It affected what we pay for gas and may affect what we pay in taxes. It literally rearranged the map of the Gulf Coast. There are many heroes, but no one villain. Tonight, one of the great American cities is partially in ruins, and many of our fellow citizens are hurting and have nothing left. And in some places, nothing's been done yet." And "we intend to keep covering it."

Nagin's Comments Scrutinized. The Washington Post (1/26, C1, Haygood, 744K) reports, "New Orleans Mayor Ray Nagin blew into the original Chocolate City yesterday. Everywhere he goes these days, there seem to be things to explain, his words and comments tossed about as if, well, in

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yet another hurricane." Attending the winter meeting of the US Conference of Mayors at the Capital Hilton, Nagin said, "I don't get what all the fuss was about when I talked about New Orleans being a chocolate city. I mean, I understand the frustration with my 'God' comments. Maybe I went a little overboard. But Chocolate City? Come on.'"

Flood Insurance Program Administrator Seeks Changes. The New York Times (1/26, 1.19M) reports, "The administrator of the National Flood Insurance Program asked Congress on Wednesday to allow the elimination of discounts on as many as 1.2 million policies and suggested that the government consider requiring millions more homeowners to buy coverage. The program expects to borrow $23 billion from the Treasury to pay claims from Hurricanes Katrina, Rita and Wilma." David I. Maurstad, the administrator, "asked Congress to order the program's parent agency, the Federal Emergency Management Agency, to study expanding coverage requirements to properties in areas known as 500-year flood plains, with a 0.2 percent chance of flooding in any year, and to properties protected by levees and dams. He estimated that would affect four million to six million properties."

The Wall Street Journal (1/26, Schroeder, 2.11M) reports "the Senate Banking Committee is preparing to overhaul the federal flood insurance program, resulting in much higher premiums for many homeowners and a likely taxpayer bailout. … While broad legislation hasn't yet been proposed, several committee members and experts who appeared before the banking panel yesterday agreed that the insurance program needs to be restructured to operate more like a private insurance company."

WAR NEWS:

US, Iraqi Forces Repel Insurgent Attacks In Ramadi. US Marines and Iraqi troops repelled insurgent attacks in Ramadi Tuesday afternoon, killing seven insurgents. The Washington Post (1/26, A18, Finer, 744K) reports, "Five insurgents -- whose assault included mortar, small-arms and machine-gun fire -- were killed by a strike from a Marine Harrier jet as they gathered in a nearby cemetery, according to a statement from Capt. Jeffrey S. Pool, a Marine spokesman in the city. Two other fighters died in a firefight after insurgents used a rocket-propelled grenade to attack a military convoy entering the city's main government compound. No U.S. or Iraqi forces were wounded in the clashes, the statement said." The Post adds, "During the fighting, Zaal Shehan Mahmoud, 30, a cameraman for the Baghdad TV network, was killed by more than 20 bullets to the head, abdomen and legs, according to Mohammed Dulaimi, a doctor at the Ramadi hospital."

Officials See Rift Between Foreign Fighters, Local Insurgents. Maj. Gen. Richard Zahner, deputy chief of staff for intelligence for multinational forces in Iraq says a deepening rift between radical foreign fighters and native Iraqi insurgents has turned violent, creating an opportunity for US forces to try to persuade local guerillas to lay down their arms and join the political process. USA Today (1/26, Jervis, 2.31M) reports, "Iraq's national security adviser, Mouwafak al-Rubaie, also said there is a rift in the insurgency, calling it a 'a major step forward in our fight against terrorism.'" Zahner "said the insurgency consists of about 12,000 to 15,000 hard-core Iraqi fighters and supporters, as well as 1,000 militants loyal to al-Qaeda in Iraq, of which about 10% are foreign."

Videos Of Insurgent Attacks Provide Training Tool For US Forces. USA Today (1/26, Diamond, 2.31M) reports, "Videotapes of insurgent attacks in Iraq have become a potent propaganda tool for militant Islamists but also a handy training aid for U.S. forces, according to Army briefing documents being given to U.S. officers deploying for duty in Iraq. Insurgents routinely videotape their attacks and sometimes post the footage on the Internet as propaganda to show tactical victories against U.S. military convoys or helicopters. A briefing report prepared by the intelligence division of the Army's Training and Doctrine Command shows how the Army is mining the insurgent tapes for ways to avoid casualties." The briefing "report says 55% of U.S. military deaths in Iraq are attributed to improvised explosive devices, the military's term for roadside bombs, and small-arms attacks. It says 59% of U.S. military deaths occurred in Baghdad and Sunni-dominated Anbar province, which runs from just west of Baghdad to the Syrian border. Designed to help soldiers know what to expect and how to counter insurgent tactics, the briefing also warns that Iranian-backed Shiite militants as well as Iraqi Sunnis and foreign Sunni fighters are regularly mounting attacks."

US Troops Train Iraqi Police To Defeat Insurgents, Combat Corruption. NBC Nightly News (1/25, story 6, 2:00, Miklaszewski) reported that Colonel Bushar Hussein, commander of Iraq's first special police brigade, and his "commandos are slowly taking back parts of the city." And "he isn't doing it alone. For the past nine months, 10-man teams of US military advisors have trained and fought alongside Iraqi police commandos. Major General Joe Peterson heads the increased US effort to turn Iraqi police into an independent fighting force by the end of this year." Peterson: "Our troops are making a significant difference in increasing that capability." Miklaszewski: "Despite some progress, the Iraqi commandos are far from fighting entirely on their own." Peterson: "There are times when a guy will walk off down the street and buy a pack of cigarettes while we are trying to provide security. And I'll have to fix him." Miklaszewski: "In addition, some police units have been infiltrated by militias while others are reportedly ripe with

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corruption." And "Colonel Bushar warns that government corruption and incompetence may pose more of a threat to the future of Iraq than the insurgents. And in the long run, may be even more difficult to defeat."

US To Release Five Female Iraqi Prisoners. ABC's World News Tonight (1/25, story 3, 0:25, Woodruff) reported, "Iraq's justice ministry said at least five Iraqi women, in US custody, would be freed soon, possibly tomorrow. This would go a long way toward meeting the demands of militants who kidnapped American journalist Jill Carroll of the Christian Science Monitor. A US spokesman confirmed the release of prisoners would occur, but the US has said consistently that any release would be a coincidence and not a response to the kidnapping."

The CBS Evening News (1/25, story 4, :45, Schieffer) reported, "US officials insist this is not linked to the demand by the kidnappers of American journalist Jill Carroll that US forces release all women detainees."

The Christian Science Monitor (1/26, Murphy, 61K) reports, "Reuters reported that Iraqi officials have suggested the delay in releasing the women was linked to the demands of the kidnappers of American journalist Jill Carroll, who threatened to kill her by last Friday unless all women prisoners were freed. The deadline passed with no word on Ms. Carroll's fate."

However, the Washington Times (1/26, Deshmukh, 90K) says that the Iraqi Justice Ministry official "denied that the release of the women had anything to do with kidnappers' demands, and U.S. forces have stressed they do not negotiate with hostage-takers."

Reporter Recounts Attempted Kidnapping In Iraq. The Washington Post (1/26, C1, 744K) excerpts the book "Tell Them I Didn't Cry: A Young Journalist's Story of Joy, Loss, and Survival in Iraq" by reporter Jackie Spinner. In it, Spinner writes, "For 13 months in 2004 and 2005, my half was in Baghdad, dodging mortar rounds, roadside bombs and potential kidnappers, while [twin sister] Jenny worried from home that I would not be able to keep my promise to my nephew, her young son. 'Aunt Jackie always comes back,' I told him each time I returned to Baghdad, to a place that began to feel more like home the longer I stayed." Spinner recounts a day outside Abu Ghraib prison, "when a stranger grabbed my arm and began dragging me toward a car. … Another man came up behind me and grabbed me around the waist. Someone else grabbed the pillowcase that held my belongings and threw it aside. At first I couldn't fathom what was going on. What was happening to me? Were they trying to kidnap me? They were trying to kidnap me! My heart pounded. … Once the men who grabbed me saw the Marines, they let go, and everyone scattered."

In Wake Of Carroll Kidnapping, Journalist Rethinks Dangers In Iraq. Journalist Alissa Rubin writes in the Los Angeles Times (1/26, 958K), "When Jill Carroll was kidnapped, other journalists in Iraq were aghast that something so horrible had happened to someone they knew. But many insisted privately that it never would have happened to them. … The truth is that we are working in a war zone where no rules apply. No one is safe: not Iraqis, not Westerners, not men, not women." Rubin adds, "For most journalists in Iraq, it's hard to be honest about danger, even though we talk about it all the time. … To family and friends not in Iraq, it is incomprehensible why you came here, and certainly why you returned twice, three times — in my case, over and over for nearly three years. … For me, at least, what is true is that once in a while as a journalist you get the chance to witness history, a moment when tectonic plates shift, when more is at stake than you ever imagined you would touch or see. It's the adrenaline surge of being in a place where people's lives are in the balance, where every decision counts and where what you're writing might, might just matter. … I was aware of the statistics: Since the beginning of the war, 60 journalists, five of them women, had been killed in Iraq and at least 37 abducted, according to a tally by the Committee to Protect Journalists. But like all the other foreign journalists in Iraq — fewer than 75 of us, down from more than a thousand after the war — I needed to believe that I was going to slip through. After [journalist Jill] Carroll's abduction, I don't feel that way anymore." Iraq "is hostile ground and nothing I do can make it safe."

Former General Says Iraq WMD Moved To Syria Before US Invasion. Former Iraqi general George Sada, author of "Saddam's Secrets, How an Iraqi General Survived Saddam Hussein," in an interview on Fox News' Hannity & Colmes (1/25) said, "I want to make it very clear to everybody in the world that" there were weapons of mass destruction in Iraq "and the regime used them against our Iraqi people. It was used against Kurds in the north. Against Arabs." Asked whether Iraq had the WMD when the US toppled Hussein's regime, Sada replied, "Up to the year 2002, 2002, in summer, they were in Iraq. And then when Saddam realized that the inspectors are coming on first of November and the Americans are coming, so he took the advantage of natural disaster happened in Syria, a dam was broken. So announced to the world that he is going to make an air bridge" and moved the WMD to Syria.

Kurdish Writer's Prosecution Seen As Test Of Iraq's Move Toward Democracy. The New York Times (1/26, Oppel, 1.19M) reports on Kamal Sayid Qadir a Kurd who, from Austria has written articles accusing Kurdish leader Massoud Barzani's Democratic Party of corruption "while calling members of its intelligence service, the Parastin, criminals and its chief -- Mr. Barzani's son -- a

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'pimp.'" Qadir is now imprisoned in Iraq, "sentenced last month to 30 years for defaming the Parastin and Kurdish political leaders after a trial that he said had lasted 15 minutes." The Times adds, "His case, while extraordinary, is by no means unique." These prosecutions "indicate how much remains at play in newly democratic Iraq. The nation has made remarkable steps away from totalitarian rule: the overthrow and prosecution of a genocidal dictator, two national elections and the adoption of a Constitution. But it remains to be seen how far Iraq will ultimately travel toward true Western-style democracy." Iraq "is still testing the limits of responsible free speech, and some of the name-calling and rumor-mongering that goes on clearly oversteps the boundaries. Many of Mr. Qadir's criticisms exceeded what would be tolerated in other Middle East countries, particularly his assertions about the sexual proclivities of the Barzani clan. A number of Kurdish journalists who have called Mr. Qadir's imprisonment outrageous say they are nevertheless uncomfortable with some of his writings, calling them offensive and reckless."

Arrest Of Police Strains Relations Between Iraqis, UK Troops. The Los Angeles Times (1/26, Moore, 958K) reports, "Tensions continued to simmer Wednesday between local Iraqi officials and British troops in the Shiite-dominated southern city of Basra, where the British this week arrested 14 law enforcement officials, including two senior police intelligence officers, allegedly linked to political corruption and assassinations. The British released several of the men Wednesday, but a spokesman for the Basra provincial council said that eight remained in custody, including three who had been transferred to a prison facility after British authorities said they had bomb-making materials in their possession. … The province has responded to the arrests by threatening to cut off all cooperation with British forces in Iraq's second-largest city."

Soldiers Make Digital Memorials For Fallen Comrades. The Wall Street Journal (1/26, Searcey, 2.11M) reports, "Digital photography, video and Internet access have let soldiers in Iraq stay closer to distant friends and family than troops in any other war. Now, these electronic records are also creating a powerful and raw new wave of war memorials. … Wartime cinematographers say commanders ask to review the videos before they're shown at memorial services to make sure they don't degrade the image of soldiers with, for example, footage showing them drinking."

Hoagland Says Administration Has Been "Bitten" By Reality In Iraq. Jim Hoagland writes in the Washington Post (1/26, A25, 744K), "Iraq's Dec. 15 balloting was orderly and inspiring, but it has created an aftermath that is neither of those things. It has also forced the Bush administration into a silent reassessment of where Iraq is going and how it is going to get there. Increasingly, the country drifts toward the future as two relatively stable autonomous regions and a violently unstable central zone, all linked by a weak central government and a reduced, reactive U.S. military presence." The Bush Administration "gives no sign of trying to hurry things along as it concedes it must deal with the election results it has, not the results it wanted. Those were canceled by the poor showing of Ayad Allawi and Ahmed Chalabi -- secularists who conceivably could have been strong, independent executives -- and successful electioneering by Iranian-backed Shiite parties distrusted by Washington. … Reality has bitten the Bush administration in Iraq and forced the president to settle for less than he wanted. Let's hope that reality can now do the same with Iraq's newly empowered Shiite leaders."

In 1998, Clinton Said No-Fly Zones Over Iraq Would Be Enforced. In its "History Lessons" column, the Washington Times (1/26, 90K) excerpts a December 28,, 1998 statement by then-President Bill Clinton. Clinton said, "I think I should say a few words about an incident early this morning over the skies of Iraq, where American and British air crews were enforcing a no-fly zone in Northern Iraq. They were fired on by Iraqi surface-to-air missiles. They took evasive action, returned fire on the missile site, and returned safely to their base in Turkey ... They attacked because they were attacked. And they did the appropriate thing. We will continue to enforce the no-fly zones."

Musharaff Blames US Missile Attack For Increasing Domestic Turmoil. The Wall Street Journal (1/26, Champion, Kempe, 2.11M) in an interview with Pakistan President Pervez Musharraf at the World Economic Forum reports Musharraf "said a suspected U.S. missile attack on a Pakistani village that killed civilians this month 'probably' killed five or six al Qaeda operatives, but had 'harmed our interests' by violating his country's sovereignty and feeding domestic unrest." He "said his goal is to transform Pakistani society by ending conflicts like the one in Baluchistan, defusing Islamist extremism and generally calming 'a nation in turmoil.'" Gen. Musharraf said, "We want to guard our own sovereignty." He "also said his close cooperation with the U.S. in the fight against terrorism hadn't been damaged, and that Pakistan needs the technical help the U.S. can offer to gather intelligence. 'Intelligence is far more significant and difficult than operating against [al Qaeda],' he added."

India Provides Aid To Afghanistan. The Washington Times (1/26, Nelson, 90K) reports, "India has

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poured more than a half-billion dollars of foreign aid into Afghanistan in the past three years in an attempt to create a friendly and stable neighbor in a volatile part of the world." India's "effort, which continues despite a Pakistani blockade of Indian goods bound for Afghanistan, touches all aspects of life." Tensions "between India and Pakistan has complicated proposed energy pipelines from Afghanistan, which would have to run through Pakistan on the way to India." But some observers "think Pakistan is more worried about losing its dominant position in Afghan trade."

Rumsfeld Takes Issue With Reports Saying US Military Is Overstretched. Fox News' Special Report (1/25, Hume) reported, "A couple of new reports suggesting that the US military is overstretched or overstressed or both drew a sharp response from the Secretary of Defense. One report was funded by the Pentagon itself." Fox (Baier) added, "On Capitol Hill today, former officials from the Clinton Administration joined top Democrats to release a new study on the state of the US armed forces. Titled 'The US Military -- Under Strain And At Risk,' it concludes the war in Iraq threatened the battle-readiness of US troops. … At the Pentagon, Defense Secretary Donald Rumsfeld addressed the criticism head on." Rumsfeld "said today's US military, while trying to recover from underfunding…is far from broken." Rumsfeld "pointed out there are more than 2 million troops in the US military if you're counting active duty, National Guard and Reserves and only 136,000 troops in Iraq."

NBC Nightly News (1/25, story 5, :45, Williams) reported, "Two new reports say tonight the US military is so overburdened from the wars in Iraq and Afghanistan that it's near the breaking point. One report flatly warns ground forces are stretched so thin and under such enormous strain, the Pentagon may not be able to recruit and retain enough troops in the all volunteer army to defeat the insurgency. This afternoon, Defense Secretary Donald Rumsfeld responded." Rumsfeld: "This armed force is enormously capable. In addition, it's battle hardened. And it is not a peace time force that has been in barracks or garrisons." Williams: "Rumsfeld pointed out that there are 138,000 US troops in Iraq, out of two million total including the National Guard and Reserve units."

In a brief story The CBS Evening News (1/25, story 3, :45, Schieffer) noted, "Rumsfeld took strong issue today with former Clinton Administration officials who say the wars in Iraq and Afghanistan have stretched the US military to the near breaking point. At a Pentagon news conference, Rumsfeld called that misdirected, and he praised the military as, quote, 'enormously capable and battle hardened.'"

The Wall Street Journal/AP (1/26) says Rumsfeld "spoke a day after the Associated Press reported that an unreleased study conducted for the Pentagon said the Army is being overextended, thanks to the two wars, and may not be able to retain and recruit enough troops to defeat the insurgency in Iraq. Congressional Democrats released a report Wednesday that also concluded the U.S. military is under severe stress."

The Washington Times (1/26, Scarborough, 90K) reports that Rumsfeld responded to the reports with a "combative appearance at a Pentagon press conference. He reminded reporters that during the Clinton years, when the military was sent on about 50 war and peacekeeping missions, that the force suffered from lack of funding and that some units were 'hollow pieces.'" Rumsfeld "said anyone who concludes that the Army is breaking does not know what he or she is talking about. 'I suspect the people writing these things don't know, either, because I suspect that they don't have any more insight than the other people around here do,' he said. 'I just can't imagine someone looking at the United States armed forces today and suggesting that they're close to breaking. That's just not the case.'"

USA Today (1/26, Komarow, 2.31M) says Rumsfeld "dismissed" the reports, "calling their authors ill-informed about America's 'battle-hardened' forces." Speaking at a news conference, Rumsfeld said, "People just don't fully understand," adding that today's military is "battle hardened. It's not a peacetime force that has been in barracks or garrisons."

The Washington Post (1/26, A18, Tyson, 744K) reports that Rumsfeld "said a recent decision to scale back U.S. troop levels in Iraq did not grow out of a need to relieve the strain on American ground forces." Rumsfeld said, "The force is not broken," adding, "I just can't imagine someone looking at the United States armed forces today and suggesting that they're close to breaking. That's just not the case." Rumsfeld called the US military an "'enormously capable force,' as demonstrated to the world by its swift overthrow of governments in Iraq and Afghanistan. Such proven capability 'ought to increase the deterrent rather than weaken it,' he added."

Study Finds Active Duty Reservists Earn More Than In Civilian Jobs. A study released yesterday by the RAND Corporation says that nearly three-fourths of military reservists called to serve in Afghanistan and Iraq are making more money on duty than in their civilian jobs. USA Today (1/26, Komarow, 2.31M) reports, "In many cases, the troops earn a higher gross salary in civilian life. But when the federal tax exemption and other allowances approved by Congress for troops in combat are factored in, about 72% are better off, according to a study by the RAND Corp., a research institute. The RAND study, which was funded by the Pentagon, showed an average benefit of 25% over

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civilian pay, about $10,000 a year." USA notes, "The study results run counter to complaints by Reserve and Guard troops that they have suffered financially when activated. It is part of an effort to track the war on terrorism's effects on part-time troops."

DOJ:

Federal Judge Extends Temporary Appointment Of Alabama US Attorney. The Mobile (AL) Register (1/26, Kirby) reports, "Chief U.S. District Judge Ginny Granade has extended the term of U.S. Attorney Deborah Rhodes, whose temporary appointment to the Mobile office expires this month." The Register continues, "Rhodes took over for David York, who resigned in September amid reports of an internal Department of Justice investigation into allegations that he had an improper relationship with an assistant prosecutor." The Register adds, "Under the law, the Justice Department could replace York for a maximum of 120 days. The statute gives the chief judge of the district the power to name the U.S. attorney beyond that, and Granade said Tuesday that she complied with a request by the Justice Department to extend Rhodes' tenure until President Bush names a permanent successor. … When appointed to Mobile, Rhodes, 47, was on special assignment to the Justice Department in Washington as a counselor to the assistant attorney general of the criminal division."

DHS Assisting DOJ With Case Management System. Federal Computer Week (1/25, Arnone) reports, "The Homeland Security Department is helping the Justice Department develop new case management systems for the entire federal government, DHS' chief information officer said today." FCW continues, "DHS is working with DOJ to create a Consolidated Enforcement Environment (CEE), which allows access to all available data, analyzes data and links relevant law enforcement partners, DHS' CIO Scott Charbo said. … One goal of the collaboration is to move beyond products and create a layer of information that can be used governmentwide, Charbo said."

CORPORATE SCANDALS:

Enron Trial Seen As Big Test For Federal Prosecutors. The New York Times (1/26, Eichenwald) reports, "In the court of public opinion, they were convicted long ago. But as Kenneth L. Lay and Jeffrey K. Skilling, the onetime leaders of Enron, step into a court of law next week, the outcome of their fraud trial is far from certain, creating one of the most closely watched and hotly contested white-collar criminal cases ever." The Times continues, "On one side of the Houston federal courtroom starting Monday will be two top-flight teams of defense lawyers, who will be taking the risky approach of proclaiming many of the controversial actions of Enron and some much-criticized statements of their clients to be legal and truthful." The Times adds, "On the other, the prosecutors for the Justice Department's Enron Task Force, who have racked up an impressive array of guilty pleas in the case, but whose performance at trial has been decidedly less dazzling. … 'For the government, if they lose the Enron case, it will be seen as a symbolic failure of their rather significant campaign against white-collar crime,' said John C. Coffee Jr., a professor at Columbia Law School. 'It will be seen as some evidence that some cases are too complicated to be brought into the criminal justice process.'" The Times notes, "Of the three major Enron-related criminal cases brought by the government before juries, guilty verdicts stand from only one, which involved Enron's booking what the government said were phantom profits on the sale of Nigerian barges to Merrill Lynch. A second case, against the accounting firm Arthur Andersen, was thrown out by the Supreme Court on appeal. The third, involving the broadband division of Enron, resulted in no convictions, but the five defendants await a retrial."

Success Of Efforts To Curb Corporate Fraud Seen As Problematic. The Washington Post (1/26, D1, Johnson, Ben White) reports, "Four years after the collapse of Enron Corp. spurred the most sweeping revisions in business regulation since the Great Depression, experts warn that the ingredients for a similar financial disaster remain." The Post continues, "Despite new laws and regulations, companies still face enormous pressure to meet short-term financial goals, creating a powerful motive for accounting fraud. Outsized executive compensation grows by the year, offering another rich incentive to cook the books. And there is no certainty that Congress will continue to fund regulatory budgets at current levels. … But some things have changed since December 2001, when Enron's sudden descent into bankruptcy protection rocked investor confidence and left the markets reeling. Accountants face independent oversight for the first time in 70 years. Most corporate board members take their jobs far more seriously. Wall Street is somewhat less willing to accommodate clients' interests." The Post adds, "Nearly a dozen experts contacted by The Washington Post, including regulators, accountants, chief executives, board members and investor advocates, agreed to fill out a corporate governance report card on the eve of the Enron trial. … Congress passed the Sarbanes-Oxley Act in July 2002, imposing new duties on corporate executives, auditors and directors. The Securities and Exchange Commission and the Justice Department spent tens of millions of dollars to root out malfeasance. Along the way, prosecutors won criminal convictions and decades-long prison terms for former leaders of Adelphia Communications Corp., Tyco International Ltd.

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and WorldCom Inc. … But in a sense, the government efforts may have backfired, inspiring a dangerous overconfidence among investors."

Ex-Enron Employees Still Feel Effects Of Stock Price Plummet. USA Today (1/26, Armour, 2.31M) reports, "Four years after the Texas energy giant began its meltdown -- and on the eve of a criminal trial for its former top executives -- many former Enron employees still feel betrayed." Some of them, "at the end of their careers, have started over again in new jobs -- but working harder to keep up with younger co-workers. They've turned to churches and food pantries to eat, sold homes they could no longer pay for, and endured financial stresses that frayed their marriages."

Former Securities Broker Pleads Guilty To New York Market-Timing Charge. The AP (1/26, Gormley) reports, "A former Las Vegas securities broker pleaded guilty to a felony charge Wednesday in a mutual fund investigation in which investors were defrauded through improper late trading and market timing, according to New York Attorney General Eliot Spitzer." The AP continues, "Daniel Calugar, 52, now of Ponte Vedra, Fla., pleaded guilty in state Supreme Court in New York City to violating a state business integrity law called the Martin Act. He was accused of entering into a secret agreement in August, 2001, that defrauded a mutual fund called the Franklin Small-Mid Cap Growth Fund. … He faces up to four years in prison when he is sentenced March 23." The AP adds, "Earlier this month, Calugar agreed to pay $153 million to settle civil charges brought by the U.S. Securities and Exchange Commission. Calugar will relinquish $103 million in ill-gotten gains and pay a civil penalty of $50 million, the largest penalty regulators have imposed on an individual in a late trading and market timing case, SEC officials said. … Spitzer said Calugar secretly agreed to a deal with an employee of Franklin's investment adviser. Calugar would be allowed to rapidly trade in the mutual fund without paying a 2 percent penalty. Calugar then invested $10 million in another hedge fund run by Franklin and defrauded the fund and its shareholders of more than $1 million in fees that he avoided."

Livedoor Investigation Prompts Re-Examination of Japanese Accounting Standards. The Wall Street Journal (1/26, Hayashi, Morse) reports, "The investigation into Internet company Livedoor Co. has pointed a spotlight" on Japanese accounting standards, which need to be upgraded, the article says. The Journal notes, "Tokyo district prosecutors arrested Livedoor Chief Executive Takafumi Horie on suspicion of violating securities law." Now, "in Japan, experts … are calling for stepped-up efforts to improve accounting standards, as companies .... increasingly use sophisticated and aggressive financial techniques." In particular, the article notes, "Japan has no standards on accounting for special-purpose companies," and no rules "on how to interpret revenue at Internet and software companies, whose business structures tend to differ significantly from those of traditional companies." However, the article notes, changes are beginning to take place, with the Financial Services Agency issuing "a guideline calling for closer examination of accounting firms and requiring companies to rotate their accountants more frequently" and the Accounting Standards Board of Japan adopting "a handful of standards in the past two months, covering areas from mergers and acquisitions to executive compensation."

CRIMINAL LAW:

Leahy Seeks Information From DOJ On Google Subpoena. Reuters (1/26, Vicini) reports, "The Senate Judiciary Committee's top Democrat asked Attorney General Alberto Gonzales what steps are being taken to protect Americans' privacy rights as the Justice Department demands information about Internet searches." Reuters continues, "In the letter released on Wednesday, Sen. Patrick Leahy of Vermont asked Gonzales about the subpoena to Google Inc. and three other companies seeking data about what millions of Americans search for on the Internet's leading search engines." Reuters adds, "Leahy asked about the types of information being sought, how the department intends to use the information while protecting individual privacy rights and civil liberties and whether it will issue any additional subpoenas. … Leahy's letter comes at a time of growing criticism in Congress over the government's monitoring of communications, after the disclosure that the Bush administration has been conducting domestic eavesdropping after the September 11 attacks."

CNET News (1/25, Broache) reports, "Justice Department spokesman Charles Miller said the department planned to respond accordingly, though he was not sure what the response would entail. … As for the privacy concerns raised by Leahy, 'We've addressed that in our subpoenas and to the search engines,' Miller said. 'We weren't seeking information about the individuals, we were only seeking the search terms....We don't even want to know the names of the people.'"

Rep Davis Questions Google's Response To Subpoeana. Government Computer News (1/25, Grimes) reports, "House Government Reform Committee Chairman Tom Davis (R-Va.) said today that search giant Google Inc. has 'bent over backward' to comply with the Chinese government's demand that it block certain search results in order to operate in that country. So why, he wondered, won't the company cooperate with the U.S. Justice Department in

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its efforts to fight online pornography?" GCN continues, "Google has refused a Justice Department subpoena for search results, saying it violated users' privacy. The government has said it needs the data to prepare a case regarding the 1998 Child Online Protection Act. … Other search companies have complied with the subpoena. … The company today also launched a Chinese version of its search site after agreeing to censor topics such as Falun Gong and Tibet. … 'Google gave the Chinese everything they wanted. They're not going to put data on there about human rights,' Davis said." GCN notes, "Davis spoke to public-sector CIOs today at a summit hosted by Micrsosoft Corp. Microsoft's MSN service also censors search results in China, as do Yahoo and others. Microsoft, Yahoo and America Online have also reportedly given the Justice Department information it was seeking. … 'What does it mean to be a corporate citizen, working to bring terrorists or child pornographers to bear? What are the boundaries?' Davis said. 'These are new areas for a lot of us that we've got to work our way through.'"

Dow Jones (1/25, Richmond) reports, "In the last week, Google Inc. stood up to one government and acquiesced to another. … The moves show the kind of treacherous terrain the Internet giant, whose corporate philosophy is 'Don't Be Evil,' must traverse as it weighs its ideals and its business interests. It also spotlights how important Google (GOOG) has become as a key waypoint on the global Internet, where individual and government interests around access to information can and do collide. … 'Google is at the cutting edge in terms of trying to figure out what is acceptable and what is not acceptable in this century,' when the Internet is making information more accessible than ever before, says Lauren Gelman, associate director of Stanford Law School's Center for Internet and Society. 'What happens to information Google collects? I think this is a big question for society as new technologies evolve and we have to rethink privacy and censorship.'"

The Christian Science Monitor (1/26, Macdonald) reports that Google is confronting "an age-old business dilemma caught up in the new age of globalization: When governments demand something that compromises the interests of customers, what's a company to do?" The article notes that Google launched service in China and "because of government sensitivities there, will limit what users there can access." However, the article says, Google is also "vigorously fighting US government efforts to obtain data on its users' search habits." The article quotes one expert who lauds Google's decision to fight the subpoena, and another who dislikes Google's decision. The article notes that "So far, Google seems to be winning points for its tough stand against the US Department of Justice. According to one survey released this week, 56 percent of American users of the Internet believe Google should not release information about Web searches to the government." But overseas, the article says, "Google has endured criticism, as has Microsoft's MSN search service, for limiting what Chinese users can find."

Debate In Google Case Not Really About Privacy. The New York Times (1/26, Liptak) reports, "The Justice Department went to court last week to try to force Google, by far the world's largest Internet search engine, to turn over an entire week's worth of searches. The move, which Google is fighting, has alarmed its users, enraged privacy advocates, changed some people's Internet search habits and set off a debate about how much privacy one can expect on the Web. … But the case itself, according to people involved in it and scholars who are following it, has almost nothing to do with privacy. It will turn, instead, on serious but relatively routine questions about trade secrets and civil procedure." The Times continues, "The privacy debate prompted by the case may thus be an instance of the right answer to the wrong question. As recently demonstrated by disclosures of surveillance by the National Security Agency and secret inquiries under the USA Patriot Act, the government is aggressively collecting information to combat terror. And even in ordinary criminal prosecutions and in civil lawsuits, Internet companies including Google routinely turn over authentically private information in response to focused warrants and subpoenas from prosecutors and litigants. … But 'this particular subpoena does not raise serious privacy issues,' said Timothy Wu, a law professor at Columbia. 'These records are completely disconnected. They're just strings of words.'" The Times notes, "In its only extended discussion of its reasons for fighting the subpoena, a Google lawyer told the Justice Department in October that complying would be bad for business. 'Google objects,' the lawyer, Ashok Ramani, wrote, 'because to comply with the request could endanger its crown-jewel trade secrets.' … Mr. Ramani's five-page letter mentioned privacy only once, at the bottom of the fourth page, and then primarily in the context of perception rather than reality. … Even Google's allies are shying away from legal arguments based on privacy. The American Civil Liberties Union, for instance, said it planned to file papers supporting Google. But not on privacy grounds. 'We will probably not be making that argument,' said Aden J. Fine, a lawyer with the civil liberties union." The Times adds, "Other Internet search engine companies, including Yahoo, America Online and MSN, have complied with the same Justice Department subpoena, which also sought a random sample of a million Web addresses. The companies all said there were no privacy issues involved. … A Justice Department spokesman, Brian Roehrkasse, agreed. 'We specifically stated in our requests,' he said, 'that we did not want the names, or any other information, regarding the users of Google.' … None of this is to say that subpoenas for search records linked to individuals are inconceivable. Google maintains information that could be used that way,

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and a subpoena could ask for it. But the recent subpoena does not."

Louisiana Businessman Pleads Guilty To New Orleans Contract Fraud. The AP (1/26) reports, "A businessman described by federal prosecutors as a key player pleaded guilty Wednesday to conspiring in a kickback scheme for the biggest contract signed while Marc Morial was New Orleans mayor. Terry Songy "admitted taking kickbacks from subcontractors, participating in a larger kickback conspiracy with the city's director of property management, and failing to file federal income tax returns for 2001, U.S. Attorney Jim Letten said." The AP notes, "An affidavit filed with the guilty plea states that, after FBI agents approached him, Songy 'admitted his involvement in a much larger scheme than the government was aware' of. … The indictment described Songy as sharing hundreds of thousands of dollars in kickbacks with the three major defendants: Morial associates Stan 'Pampy' Barre, a restaurant owner and Morial confidant, city property manager Kerry De Cay, and construction company owner Reginald Walker. … All three have denied wrongdoing. Their trial is scheduled Sept. 5 before U.S. District Judge Carl Barbier."

Six Indicted On Bribery Charges In Ongoing Tennessee License Fraud Probe. The Tennessean (1/26, Carey) reports, "A widespread bribery scheme funneled hundreds of illegal aliens into a Winchester, Tenn.-based driving school, netting them fraudulent licenses. And six people, including one current and one former state employee, got more than $146,000, federal prosecutors said yesterday. The U.S. attorney's office yesterday unsealed a six-count indictment of the six people who are accused of helping hundreds of people since May 2004 obtain driver's licenses they didn't earn. … 'Just as in previous investigations, you had those who thought that what they did in secret would never come to light,' said My Harrison, FBI special agent in charge for the Middle and Western Districts of Tennessee. The FBI was one of several agencies involved in the probe. U.S. Attorney Jim Vines said the people who fraudulently received licenses weren't eligible for 'a variety of reasons.'" The Tennessean adds, "The investigation, dubbed Operation Crooked Highway, has been under way by federal and state agencies for 18 months, Vines said yesterday." The Murfreesboro Daily News (1/26) notes, "The FBI charged driver's license examiner Bruce Conklin with taking about $9,200 in cash from July 2005 to January. Agents also charged Bryan Guess, owner of the Winchester Driving School…with paying bribes to Conklin and a former examiner, Teresa Jones.

The AP (1/26) reports, "Authorities said they won't know how many illegal documents were issued until all evidence is studied and declined to speculate on the total. They did say that one state worker accepted $20 per student in bribes for about 1,000 licenses or certificates. 'We come to you with another sad chapter in the book of public corruption in Tennessee,' FBI agent in charge My Harrison said at an afternoon news conference." The AP adds, "Citing a number of recent public corruption investigations in Tennessee, Harrison said agents were getting better with practice. 'If you can hear me and are involved in public corruption, the eyes of law enforcement are upon you,' she said." The Nashville City Paper (1/26, Lewis) also notes Harrison said that "it's the latest 'sad chapter' in a string of Tennessee public corruption cases." She added, "You've heard of Operation Tennessee Waltz, Operation Tarnish Blue and Operation Tarnish Shield. What can I say? Same game, only the names have changed. The title of this new chapter is, Operation Crooked Highway." The City Paper adds that as a result of the investigation, "customs officials took into custody 50 undocumented immigrants and began deportation proceedings against 50 other immigrants who were uncovered in the investigation, said Rick Crocker, assistant special agent in charge of Immigration and Customs Enforcement."

IRS Agent Downplays Ryan's Eventual Declaration Of Campaign Funds As Income. The Chicago Tribune (1/26, O'Connor, 643K) reports IRS Agent Shari Schindler "on Wednesday downplayed that former Gov. George Ryan filed corrected tax returns for 1995, 1996 and 1997 several years later because Ryan knew by then of the federal investigation into his finances." Schindler "said that by the time Ryan filed the amended returns in late 2002, each of his six children had testified before the grand jury and there had been press coverage of the nature of the probe." On cross-examination, Ryan lawyer Dan Webb "contended that records showed Ryan had paid taxes on most of the travel expenses, but that certain charges hadn't been itemized in campaign disclosure reports, fell through the cracks and mistakenly weren't reported on Ryan's returns." But Assistant US Attorney Laurie Barsella "pointed out that Roger Bickel, Ryan's former chief lawyer, had spelled out for Ryan 'in plain English' that personal use of campaign funds had to be reported on his tax returns." The AP (1/26, Robinson) notes that the "verbal fencing match between" Webb and Schindler "came to an end with no one sure who emerged the victor. Webb repeatedly tried to get her to agree that Ryan couldn't be blamed if he failed to report thousands of dollars in income because he was grappling with vague, complex tax laws. Schindler coolly disagreed, saying Ryan easily could have asked his tax advisers."

Prosecution Hopes To Rest Thursday After FBI Agent's Testimony. The Chicago Tribune (1/26, O'Connor,

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643K) also reports Assistant US Attorney Patrick Collins "said he still hopes to rest the prosecution case on Thursday after four months of testimony. The FBI's case agent is scheduled to be the government's last witness." And US District Judge Rebecca Pallmeyer "ruled Wednesday that prosecutors can play a portion of a videotape of Ryan from November when he made a statement to reporters outside the court defending his receipt of $9,675 from the Gramm campaign." The AP (1/26, Robinson) notes, "Prosecutors indicated Wednesday night that just one more prosecution witness remains - Raymond Ruebenson, the veteran FBI man who has long been the case agent for the government's seven-year Operation Safe Road investigation that led to the former governor's indictment. But Ruebenson was absent with a case of the flu Wednesday.

Laski Vows To Fight Bribery Charges, Alleges US Withheld Exculpatory Recordings. The Chicago Tribune (1/26, Washburn, 643K) reports, "Facing federal corruption charges, a defiant James Laski vowed Wednesday to 'keep fighting,' insisted his office is running smoothly and took sharp issue with claims he was away from his job as Chicago city clerk for a prolonged period before charges were filed. 'Somebody is lying, and it isn't me,' Laski declared. The clerk's comments came after a surprise appearance at a City Council committee meeting, his first visit to the council chamber in nearly two months." The Tribune adds, "Laski implied Wednesday that exonerating portions of the recordings were not released when the U.S. attorney's office announced the charges against him on Jan. 13."

Former Campbell Aides Testify About Relationship With Contractor. The Atlanta Journal-Constitution (1/26, Suggs, Scott, 430K) reports former Atlanta contracts compliance director Michael Sullivan testified at former Mayor Bill Campbell's corruption trial on Wednesday "that in 1994 he and the former mayor, along with city contractor Ricky Rowe, traveled together to Florida to attend a golf and tennis tournament sponsored by Black Enterprise magazine. Sullivan said the city paid for his trip. He said he was unsure of who paid for Campbell's but noticed that when he and Rowe were checking out of the hotel, Rowe used his credit card for Campbell's incidentals. … 'He was upset that I allowed Mr. Rowe to pay for his incidentals,' Sullivan told the jury. 'He told me that you can't use a credit card to pay for things like that. It leaves a trail.'" The Journal-Constitution adds, "The theme of loyalty to the mayor was played over and over Wednesday, witness after witness, as prosecutors tried to establish that City Hall under Campbell…was a den of cronyism and deal-making between Campbell, his friends and political allies. None of the prosecution's witnesses testified that Campbell made them do anything illegal, nor did they say they saw Campbell doing anything criminal."

Wisconsin Procurement Official Indicted Over Travel Contract Award. The AP (1/26) reports, "An official in Gov. Jim Doyle's administration was indicted on two felony counts Tuesday for her role in awarding a state travel contract to a company whose executives donated $20,000 to Doyle's campaign. The federal indictment alleges that Georgia Thompson, chief of the Department of Administration's procurement bureau, tried to give her bosses political advantage and help her own job security." The AP notes Thompson, "who was hired before Doyle took office in 2003, served on a committee that awarded a contract to Adelman Travel as part of an effort to cut travel costs. … Questions were raised this summer after media reports that Adelman's CEO donated $10,000 to Doyle before the contract went into effect. An Adelman board member gave another $10,000 afterward, finance reports show."

Former New Jersey Councilman Pleads Guilty To Money Laundering. The Farmingdale (NJ) News Transcript (1/25, Front Page, Israeli) reports former Marlboro Township Councilman Thomas Broderick "pleaded guilty in federal court last week to one count of money laundering. … Broderick was one of the 11 Monmouth County officials who were arrested…in an FBI investigation known as 'Operation Bid Rig.' … Broderick admitted that he accepted $15,000 for assisting in the laundering of large sums of cash from a cooperating government witness whom he believed was a corrupt demolition contractor." The News Transcript notes, "He is scheduled to be sentenced on April 27. Broderick remains free on $50,000 bail."

Contractor Sentenced To Probation, Fine For SoCom Bribery Scheme. The Tampa Tribune (1/26, Lardner) reports, "A contractor formerly employed by U.S. Special Operations Command was sentenced Wednesday to three years probation and a $4,500 fine for his role in a bribery scheme that has tarnished the war fighting organization's reputation for acquiring equipment used by the nation's elite fighting forces. U.S. District Judge Susan Bucklew, who called William E. Burke's crime 'scary' and a 'bad thing,' could have saddled him with a prison term of up to 16 months and a heftier fine. But Bucklew opted for the lighter penalties mainly because Burke has been cooperating with federal law enforcement agents examining contracting practices at Socom, which is headquartered at MacDill Air Force Base in Tampa."

Texas Hired Abramoff-Linked Firm Due To Access To Rove. The AP (1/26) reports the Texas state

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government "hired a firm with close ties to lobbyist Jack Abramoff after rejecting competing bids that met more of its selection criteria and cost less." The Austin American-Statesman reported that Cassidy & Associates, the winning firm, has access "all the way to presidential aide Karl Rove. … The firm was awarded a $15,000-a-month contract in 2004 to lobby Congress for the state." On Friday, seven Democratic Texas state legislators sent a letter to Gov. Rick Perry "demanding that Cassidy's contract be canceled."

California Man Pleads Guilty To Cyber Attack. Federal Computer Week (1/26, Brewin) reports, "A hacker indicted for creating botnet armies that infected Defense Information Systems Agency networks and computers at the Naval Air Warfare Center at China Lake, Calif., pleaded guilty to the charges at a hearing earlier this week in the U.S. District Court in Los Angeles, the Justice Department said." FCW continues, "Justice said James Ancheta 20, of Downey, Calif, entered guilty pleas of conspiring to violate the Computer Fraud Abuse Act and causing damage to computers used in national defense." FCW adds, "Justice said the prosecution of Ancheta was the first of its kind in the United States against a hacker who used botnets, armies of computers infected with Trojan horse programs that allowed Ancheta to remotely control the computers. Justice said Ancheta controlled more than 400,000 computers as part of his botnet armies, which in turn infected other computers with unwanted adware."

Former Dietary Supplement Company Executives Admit $100 Million Mail Fraud. The AP (1/26) reports, "Former executives of a mail-order firm admitted that the company bilked buyers out of more than $100 million by charging credit cards without permission and offering refund guarantees it had no intention of honoring. Four former executives of Berkeley Premium Nutraceuticals Inc. detailed their involvement Wednesday with the Cincinnati-based company that sold vitamins and supplements for a variety of ills from fatigue to sexual disfunction. The four executives filed written statements as part of an agreement to plead guilty in U.S. District Court in Cincinnati to charges of conspiracy to commit mail and wire fraud. Federal agencies -- including the FBI, the Internal Revenue Service and the Food and Drug Administration -- have been investigating Berkeley." The AP adds, "The former executives said Berkeley's vitamins and supplements…weren't supported by strong medical proof, according to court documents."

Jury Convicts Palestinian Man Of Being Iraqi Agent. The AP (1/26, Callahan) reports, "Jurors on Wednesday convicted a Palestinian migrant accused of being an Iraqi agent on six federal charges but could not reach a decision on a charge that he tried to sell to Saddam Hussein's regime the names of U.S. operatives and agents." The AP continues, "Shaaban Hafiz Ahmad Ali Shaaban, 53, showed little reaction as the federal jury returned its verdicts finding him guilty of six of seven counts, including acting as an unregistered foreign agent, violating sanctions against Iraq, conspiracy and witness tampering. … They could not decide his guilt on a charge of violating the International Emergency Economic Powers Act by allegedly trying in late 2002 to sell U.S. intelligence secrets to Iraq for $3 million. No evidence was presented during his trial, however, that he had access to that classified information. … U.S. District Judge John Tinder set sentencing for April 13 on the six convictions." The AP notes, "Shaaban represented himself during an 11-day trial that included testimony by a former Iraqi intelligence officer. He repeatedly contended that the government had confused him with a dead identical twin brother who worked for the CIA."

Three Kidnap Suspects Face Federal Charges In Ohio. Cox News Service (1/26, Giordano, Hardy) reports, "The FBI on Wednesday brought criminal charges against three people accused in the abduction, assault and robbery of a Miami University freshman." Cox continues, "Sidney R. Jones, 23, of Richmond, Ind.; Katrina L. Jones, 18, of Oxford; and Seth R. Jett, 21, of Richmond were turned over to federal custody Monday by local authorities, Special Agent Michael E. Brooks said. … The three had been detained at the Butler County Jail following their arrests Jan. 14 and 15 stemming from a case involving MU freshman Ryan Coli. … The charges were the result of a joint effort by the U.S. Marshals Service and the FBI in three states." Cox adds, "The three appeared Wednesday in U.S. District Court (in Oxford, OH) where Magistrate Judge Timothy S. Hogan ordered them held pending a detention hearing Jan. 30, when the court will determine bond."

Supreme Court To Hear Lethal Injection Case. The Washington Post (1/26, A3, Lane, 744K) reports, "The Supreme Court agreed yesterday to decide when death row inmates may challenge lethal injection as a method of capital punishment, in a surprise decision issued after the justices dramatically stopped the execution of a Florida prisoner who was already strapped to a gurney preparing to die." The High Court said it will hear convicted murderer Clarence Hill's "claim that he should have an opportunity to argue that his civil rights would be violated because the chemicals used to execute him would cause excessive pain. It is a claim that has been pressed with growing frequency by capital defense lawyers around the country in recent years -- but that has generally not yet succeeded, either in lower courts or at the Supreme Court."

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The AP (1/26, Holland) reports, "Lethal injections are used in most states that have capital punishment, and there's been a growing dispute over the way they are carried out. … The Supreme Court has never found a specific form of execution to be cruel and unusual punishment, and the latest case from Florida does not give Court members that opportunity. The justices will, however, spell out what options are available to inmates with last-minute challenges to the way they will be put to death." The AP adds, "Florida inmate Clarence Hill, who filed the appeal, had been strapped to a gurney with intravenous lines running into his arms Tuesday night when he won a temporary Supreme Court stay, Hill's lawyer said. The stay was signed by Justice Anthony M. Kennedy. … The full Court announced Wednesday that the stay would be permanent until justices decide whether an appeals court was wrong to prevent Hill from challenging the lethal injection method. … The argument is expected April 26, with a ruling before July."

Texas Executes Man For 1992 Murders. The Associated Press (1/25) reported that Marion Dudley, an "Alabama man who was part of a ring that shuttled drugs from Texas to his home state was executed [Wednesday] for the slayings of four people in Houston nearly 14 years ago." But the AP noted that Dudley maintained he wasn't at the house where the murders occurred the night of June 20, 1992, when "six people were shot, four of them fatally, in what authorities said was a drug dealer ripoff." Dudley was "the first Texas inmate put to death this year." The wire service added, "Besides Dudley, Arthur 'Squirt' Brown, of Tuscaloosa, was convicted of capital murder and sentenced to death. Now 35, he remains on death row. A third man, Tony Dunson, also from Alabama and 19 at the time of the shootings, received a life sentence."

ID Theft Complaints Rising, But Rate Of Increase Down. The Wall Street Journal (1/26, Conkey) reports, "Businesses, law-enforcement agencies and consumers may be beginning to turn the tide in the war against identity theft, data from the Federal Trade Commission suggest. Identity-theft complaints were up again last year to nearly 256,000, the FTC said, but that was only 3.5% higher than the year before. In 2004, complaints rose by 15% and in 2003 by 33%. … Industry officials and analysts say the development and widespread adoption of antifraud technologies are responsible for lower levels of card fraud." The article also said, "the FTC is expected to announce today tough action against" ChoicePoint Inc., which "is expected to agree to pay a multimillion-dollar penalty to settle alleged data-security violations stemming from a yearlong investigation by federal regulators, according to a person briefed on the matter."

Jury Reject Insanity Defense, Convicts Killer of Accused Pedophile Priest. The New York Times (1/26, Zezima) reports, "Rejecting an insanity defense, a state jury on Wednesday convicted an inmate of the prison murder of John J. Geoghan, a defrocked priest who was accused of molesting 150 boys. … Judge Francis R. Fecteau of Worcester District Court sentenced the inmate, Joseph L. Druce, to life in prison without parole, in addition to the life sentence he is serving for another murder. … Prosecutors argued that Mr. Druce was a calculated killer who planned the murder for weeks and saw Mr. Geoghan as a trophy. But Mr. Druce's lawyer, John LaChance, painted his client as someone who 'never had a chance,' unwanted from birth and the victim of physical and sexual abuse for much of his childhood and teenage years."

Girl's Death Highlights "Dual-Track" Handling Of Abuse Reports. The Christian Science Monitor (1/26, Ridberg) reports, "Calls to New York's child-abuse hot line have spiked dramatically ever since Nixzmary Brown was buried." The Monitor notes that the girl, allegedly killed by her stepfather, "captured the hearts and minds of New Yorkers who never want to see such a tragedy happen again." However, the article says, "the city is left with the tall task of distinguishing the serious cases of abuse from reports of neglect. This is one of the most controversial challenges facing social welfare systems nationwide." The article says that some states have adopted a dual-track system that divides complaints "into two groups." This approach "aims to ease systems overburdened with poverty-related neglect reports and focus aggressive tactics on the rarer cases of abuse," the article says. It "has been adopted in various states, including Michigan, Missouri, Minnesota, and North Carolina. In Minnesota, one recent study shows the law improved the safety of children by providing better services for families such as food." However, the article notes, New York City fears that under a dual-track approach "an abused child may be handled as a neglect case."

Fairfax County, VA, Police "Accidentally" Shoot, Kill Optometrist Suspected Of Gambling. The Washington Post (1/26, A1, Jackman) reports, "Fairfax County's police chief said yesterday that one of his officers accidentally shot and killed an optometrist outside the unarmed man's townhouse Tuesday night as an undercover detective was about to arrest him on suspicion of gambling on sports. Police had been secretly making bets with Salvatore J. Culosi Jr., 37, since October as part of a gambling investigation, according to court records." In the incident, "Culosi came out of his townhouse on Cavalier Landing Court about 9:35 p.m. and was standing next to the detective's sport-utility vehicle, police said, when the detective

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gave a signal to tactical officers assembled nearby to move in and arrest Culosi. 'As they approached him . . . one officer's weapon, a handgun, was unintentionally discharged,' said Fairfax Police Chief David M. Rohrer. Culosi was not making any threatening moves when he was shot once in the upper part of his body, police said. He was taken to Inova Fairfax Hospital, where he was pronounced dead."

Crimes Prompt DC Police To Beef Up Presence In Neighborhood. The Washington Post (1/26, B1, Schwartzman) reports, "A spate of crimes outside Adams Morgan clubs and bars, including two assaults in which victims were left in critical condition, has prompted police to plan greater deployment in the area. … A business group plans to supplement the effort with a contingent of security guards and off-duty police to patrol the area on weekends, said Josh Gibson, executive director of Adams Morgan's newly formed business improvement district. Thousands of people pour into Adams Morgan on weekend nights, drawn by its cafes and clubs."

Father Charged With Gun Offenses In Daycare Shooting. The Washington Post (1/26, B1, Londoño) reports that John L. Hall, who is the "father of an 8-year-old boy arrested in the shooting of a 7-year-old girl at their Germantown day-care center provided his son with violent video games and showed him how to cock and release a gun hammer the day before the boy pulled the trigger, a prosecutor said yesterday" at Hall's bond hearing. The Post reports, "Hall's sister, Darlene Hall, 53, disputed the prosecutor's characterization of her brother's influence over the child." The article adds, "Montgomery District Court Judge Mary Beth McCormick reduced Hall's bond to $75,000 yesterday after authorities charged him Tuesday with leaving a firearm within reach of an unsupervised minor and two other gun charges."

NYTimes Columnist Pans Show About Innocence On Death Row. In a New York Times (1/26) column, Joshua Marquis disapproves of a new ABC drama called "In Justice." He writes, "'In Justice' has received dismal reviews. But that hasn't stopped its premise from permeating the conventional wisdom: that our prisons are chock-full of doe-eyed innocents who have been framed by venal prosecutors and corrupt police officers with the help of grossly incompetent public defenders." Calling this "a misconception that has run through our popular culture," Marquis notes that "only 14 Americans who were once on death row have been exonerated by DNA evidence alone. The hordes of Americans wrongfully convicted exist primarily on Planet Hollywood." Marquis says that it is "understandable that journalists focus on the rare case in which an innocent man or woman is sent to prison." However, he says, "The larger issue is whether those who influence the culture, like an enormous television network, have a moral responsibility to keep the facts straight regardless of their thirst for drama. 'In Justice' may soon find itself on the canceled list, but several million people will still have watched it, and they are likely to have the impression that wrongfully convicted death row inmates are the virtual rule."

Times Writer Wistful For Buttafuoco Era. In a New York Times (1/26) column, Lawrence Downes writes, "Before Angie and Brad, before Monica and Bill, there was Amy and Joey. Amy Fisher and Joey Buttafuoco — the Long Island Lolita and her body-shop lover — with Joey's wife, Mary Jo, formed a triangle of passion, obsession and violence that became the industry standard for tabloid crime way, way back in 1992. There is an entire generation, or at least a cohort, or maybe a handful, or at least one or two journalists who remember working on that day in May when the story broke, and who still marvel at how that strange crime — a housewife in a swanky suburb shot in the face — soon became much stranger. It swelled in significance until it made headlines coast to coast and around the globe. … I miss the Buttafuoco era. Joey and Amy were the Sid Caesar and Howdy Doody of reality TV, relics of a simpler time when crime sold newspapers — imagine that — and when the culture tended to look down on adultery and teenage prostitutes, and when attempted murder carried a hint of shame, which presumably was why Amy, in her perp walk, went to the trouble of hiding her face with her long brown hair."

CIVIL LAW:

Former Kentucky GE Plant Supervisor Files Whistleblower Suit. The AP (1/26) reports, "A former supervisor at a General Electric Co. plant has filed $50.5 million federal lawsuit that claims that he was fired for testifying that GE shipped defective parts to military and commercial customers." The AP continues, "James Richard Gardner, of Madisonville, filed the suit Friday in U.S. District Court in Louisville. Gardner said he repeatedly alerted managers at the Madisonville plant that engine turbine blades were not meeting company and government specifications and that defective parts were shipped with the knowledge of managers to meet production requirements." The AP adds, "Marta Rhyner, a GE spokeswoman, said she couldn't comment on specific allegations made in the lawsuit. She said the company is 'confident in the parts produced by our employees at Madisonville.' … The Defense Department began a criminal investigation at the plant in November 2000. The Justice Department is conducting a civil investigation."

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Judge Rules Trustee Request Could Jeopardize Adelphia Bankruptcy. The New York Law Journal (1/26, Lin) reports, "In a decision released Wednesday in the Chapter 11 bankruptcy of cable company Adelphia Communications, the presiding judge said the motions by which one group of creditors sought the appointment of a trustee to oversee disputes and the disqualification of chief Adelphia bankruptcy counsel Willkie Farr & Gallagher constituted a 'nuclear war button' threatening obliteration of a crucial $17.6 billion deal." The Journal continues, "Southern District of New York Bankruptcy Judge Robert Gerber's strongly worded 113-page decision, In re Adelphia, 02-41729, previously filed under seal, clarified his order issued earlier in the week denying the appointment of a trustee but granting the disqualification of Willkie lawyers from participating in the disputes at issue. Willkie remains bankruptcy counsel to Adelphia. … Those disputes, which the requested trustee would have overseen, are between different groups of debt holders, all seeking to maximize their own claims on the bankruptcy estate, most of the assets of which are slated to be sold to rival cable companies Time Warner and Comcast for $17.6 billion." The Journal adds, "The potential appointment of a bankruptcy trustee is almost always controversial, as such trustees are usually granted broad-ranging powers to settle disputes or dispose of assets. … Gerber said the disqualification and trustee motions, brought in November by noteholders of Arahova, a subsidiary through which Adelphia issued some $540 million in debt, seemed designed to 'purposefully' imperil that sale as part of a 'scorched earth litigation strategy' aimed at extracting a larger distribution by threatening dire consequences for all."

GSA's Networx Contract Award Delayed By Unexpectedly High Number Of Bids. The Washington Post (1/26, D5, Mohammed, 744K) reports, "The General Services Administration said yesterday that it got more bids than expected for a $20 billion telecommunications contract known as Networx," a "10-year telecom contract, the largest ever to be awarded by the GSA," which is "forcing the agency to delay the award so it can evaluate the complex proposals."

Lockheed Loses Spy Plane Contract. The Wall Street Journal (1/26, A1, Karp, 2.11M) reports, "In 2004, Lockheed Martin Corp. won an Army spy-plane contract that broke with the past." Instead of building it, they "would serve as the 'lead integrator' -- stuffing somebody else's hardware with high-tech eavesdropping gear." However, "Lockheed engineers proved unable to load the airframe they were buying from Brazil with the equipment the Army wanted. Earlier this month, the Army scrapped Lockheed's contract," in "a setback for Chief Executive Robert Stevens and his young 'integrated solutions' division," and "a signal for the entire defense industry that de-emphasizing old-style hardware in favor of software and systems management isn't a sure path to success."

CIVIL RIGHTS:

Virginia Likely To Vote On Gay Marriage Ban; Similar Measure Unveiled In Maryland. The Washington Post (1/26, A1, Jenkins, 744K) reports, "The state Senate all but guaranteed on Wednesday that Virginia will hold a November referendum on whether to amend its 230-year-old Bill of Rights to bar same-sex marriages. The Senate voted 28 to 11 to follow the House of Delegates in approving the amendment. Though each chamber still must pass the measure adopted by the other, their wording is identical and support among the senators and delegates is strong." Meanwhile, Maryland Republicans "introduced a similar measure in the Senate on Wednesday and said they believe they have the votes they need to bring the matter to an up-or-down vote, despite resistance from leaders of the Democrat-controlled legislature. In the wake of a circuit court ruling last week that declared Maryland's 33-year-old ban on same-sex marriage discriminatory, GOP leaders said it was important to at least put the matter to a vote."

The Washington Times (1/26, Bellantoni, Miller, 90K) notes that Maryland Democratic leaders "appear reluctant to put a constitutional amendment on the ballot because it could energize conservative voters in an election year in which Gov. Robert L. Ehrlich Jr., a Republican, is seeking re-election, and Lt. Gov. Michael S. Steele, also a Republican, is running for the U.S. Senate." The Times adds, "In Virginia, state Sen. Stephen D. Newman said the constitutional amendment is necessary to guard against 'aggressive' judges in other states, including Maryland, who are trying to redefine marriage. 'A few judges or a few localities are now presuming to change that fundamental meaning for our civilization and their actions have created confusion on the issue,' the Lynchburg Republican said. 'The federal courts are going to leave us with no other recourse.'"

FBI Mississippi SAC Says Report Could Rewrite Till Story. The AP (1/26) reports, "An FBI report on the decades-old murder of 14-year-old Emmett Till could rewrite the story of the slaying that put a young man's face on racial injustice in the South during that period." The AP adds that "some details of the crime could have been distorted or embellished over the past five decades, the FBI special agent in charge of Mississippi, John G. Raucci, told The Associated Press this week. 'The facts were told one way because that's the information that was available at the time,' Raucci said. 'And often times it's through urban legends and folklore -- and

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people who lived in the community pass along information from generation to generation -- and the next thing you know, they become fact.' Raucci did not rule out the possibility of indictments in the case or provide a timetable for releasing the report." The AP notes that the FBI report "should soon be turned over to District Attorney Joyce Chiles in Greenville. 'That does not necessarily mean that everybody involved in the Emmett Till case or the overt act is still alive or will one day be prosecuted,' Raucci said. … 'Evidence may no longer be available. Individuals who may have witnessed an event, time has now gotten the better of their minds.'"

FBI Reaching Out To NC Hispanics In New Human Trafficking Initiative. The Charlotte Observer (1/25, Ordoñez, 234K) reports that with funding from the Trafficking Victims Protection Reauthorization Act, "The FBI is launching a new effort to raise awareness of human trafficking. Calling it an offense against humanity akin to modern-day slavery, the Federal Bureau of Investigation in Charlotte estimates thousands of victims are trafficked into the state each year for forced labor and prostitution. 'This is something that is flying under the radar,' said Special Agent Kevin Kendrick, who is heading the local campaign. … In conjunction with increased investigative efforts to shut down human trafficking rings, the FBI is teaming up with local advocacy groups and social organizations to get a message out that federal agents should be trusted and not feared. The FBI, Kendrick said, is looking to assist all victims of human trafficking, even if they're living in the country illegally. Not only will the FBI protect victims and their rights, Kendrick said, the agency also will help them remain permanently." The Observer adds, "'This is a reprehensible problem,' said Assistant Special Agent Robert Clifford. 'We'd look at every weapon in FBI's arsenal to countering human trafficking.' … 'We need to let people know it's OK to contact us,' Kendrick said. 'This is an affront against humanity. This goes far past someone's immigration status.'"

Georgia Lawmakers Approve Voter ID Bill. The AP (1/25) reports, "A birth certificate might not be enough to vote in Georgia this year - legislation sent to the governor Wednesday would require photo identification before voters could cast their ballots." The AP continues, "Gov. Sonny Perdue said he would sign it quickly to give counties time to prepare for the primary in July and the general election in November. … The U.S. Justice Department also must approve the requirement before it takes effect." The AP adds, "The legislation would require voters to have a driver's license, military ID or state-issued identification card with a photo. Social Security cards, birth certificates and utility bills would no longer be accepted. … Supporters said it would help fight voter fraud. Critics argued it would disenfranchise the poor, minorities or elderly - people who are less likely to have driver's licenses."

5th Circuit Rules Against Shreveport In Race Bias Suit. The Shreveport (LA) Times (1/26, McCabe) reports, "A federal appellate court changed its stance and ruled today in favor of plaintiffs in a discrimination lawsuit against the city of Shreveport and its Fire Department, overturning a lower court's decision to dismiss the five-year-old case." The Times continues, "The 5th U.S. Circuit Court of Appeals remanded the heart of the discrimination case back to U.S. District Court in Shreveport. … The petition originally was brought against the city in 2000 by Todd Dean, who was not hired by the Fire Department and felt the city's hiring practices discriminated against him because he is white. Dean earned a higher test score than some blacks hired then, his lawsuit alleges. Other men joined the lawsuit soon after." The Times adds, "The 5th Circuit's ruling should compel the city not only to cease race-based hiring procedures in all departments, but also to re-evaluate the continued validity of all city programs that incorporate race as a criteria for participation," said local attorney Pamela R. Jones, who represented Dean, Shawn Sanders and Jason Matthews in the lawsuit. … The department ended race-based hiring practices 11 months before a federal magistrate dismissed Dean's case in December 2004 hoping to avoid further lawsuits, according to officials. Now the department relies on a pass/fail civil service exam, the educational background and technical training of each candidate and psychological and physical ability exams. … The city has maintained that the Fire Department's hiring practices are based on a complaint brought by the U.S. Justice Department in 1980 that said the department had discriminated against blacks and women. Up to that point, the department had hired only three black men in its history, according to court records."

SIU Changes Web Descriptions Of Challenged Fellowships. The AP (1/26) reports, "While threatened with a federal lawsuit over three graduate fellowships the government considers discriminatory, Southern Illinois University has tweaked the descriptions of at least two of those scholarship programs on its Web site." The AP continues, "The fellowships at issue were said to specifically target minorities or 'underrepresented groups,' before the Justice Department objected last year, but the site now says those programs seek to help 'underserved' populations. … The revisions come as SIU administrators are weighing a Justice Department proposal that would head off a lawsuit threatened by the government, which in demanding that SIU discontinue the fellowship programs has accused the university of engaging in 'intentional discrimination against

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whites, non-preferred minorities and males.'" The AP adds, "The university has refused to publicly discuss the proposal it got from the Justice Department last week, saying only that administrators and key constituency groups were being tapped this week for feedback before the university responds. … David Gross, a spokesman for the SIU system, said Wednesday the Web site changes were done without the consent of the university's president, the Carbondale school's chancellor or the system's legal counsel and 'do not reflect the proposed offer from Department of Justice.'"

Judge Orders EEOC To Pay $1 Million To Law Firm For Frivolous Action. The AP (1/26) reports, "The U.S. Equal Opportunity Employment Commission must pay more than $1 million to a law firm that it sued unsuccessfully for allegations of sexual harassment and pregnancy discrimination, a federal judge has ruled." The AP continues, "The EEOC action was a 'frivolous' lawsuit against Robert L. Reeves & Associates, which practices immigration law, U.S. District Judge Dickran Tevrizian said in a ruling issued Monday." The AP adds, "Reeves maintained that the EEOC should have known the harassment and discrimination allegations the agency was pursuing were part of a scheme by two of his former law associates to destroy his firm, said a statement from lawyers representing Reeves. … The EEOC has already appealed the judge's findings, said Anna Park, the EEOC regional attorney in charge of the Los Angeles district office's legal division."

ANTITRUST:

Microsoft Offers To Release Part of Its Source Code In EU Antitrust Case. The Financial Times (1/26, Buck) reports, "Microsoft made a concession in its six-year dispute with European competition regulators on Wednesday by offering to give rivals access to parts of its Windows source code. With only three weeks until a compliance deadline set by Brussels, which had threatened fines of €2m ($2.5m) a day, Brad Smith, the group's general counsel, said: 'We are putting our most valuable intellectual property on the table.' … Microsoft's offer … came in response to a European Commission warning last month that it would impose fines unless the software group complied quickly with Brussels' 2004 antitrust ruling against the US group. The daily fines would come on top of the record €497m payment the Commission ordered in 2004. The regulator said Microsoft had failed to comply with a part of the ruling requiring the software group to share information about its Windows operating system."

The USA Today (1/26, Acohido) reports, "The European Commission issued a terse statement saying it would 'study carefully' Microsoft's announcement 'once it has received the full details.' … This is not the first time Microsoft has let outsiders view such code. It has granted governments, academics and business partners varying levels of access under tight restrictions."

Reuters (1/25, Lawsky, Zawadzki) reports, "Critics of Microsoft contend that protocols are standard software and that Microsoft has used what is essentially a digital combination lock to make them inaccessible. … A Commission spokesman said if that turns out to be true then Microsoft has no right to charge for them. … However, Microsoft says that the protocols include valuable patents and that it should be able to charge for their use, an argument under review at the Commission."

The AP (1/25) reports, "The company's chief counsel, Brad Smith, said sharing the part of the Windows workgroup server operating system and desktop software code that helps rival PCs communicate with Windows servers was 'a bold stroke' that should answer both EU and U.S. regulators' concerns. .. He insisted that Microsoft had already complied in December with an EU order to supply technical information by handing over up to 12,000 pages of documentation and offering 500 hours of free technical support to rivals worth some $100,000. … An independent monitor nominated by Microsoft found last month that the documents were 'totally unfit for its intended purpose.'"

Move Comes After Justice Department Complaints. The Wall Street Journal (1/26, Jacoby) reports, "The move came after the Justice Department complained in a court filing this week about Microsoft's compliance with U.S. legal requirements -- and six years after a U.S. judge found Microsoft violated the Sherman Antitrust Act against monopoly abuse. The Justice Department said the Redmond, Wash., software giant had provided inaccurate information to a technical committee, and described one incident as 'particularly troubling' because it delayed an investigative team that had traveled to India. The filing also said the company had 'fallen significantly behind' in complying with monitors' technical requests. … In 2001, the Bush administration dropped the U.S. government's case against Microsoft, but ordered it to change certain anticompetitive practices."

Guidant Accepts Boston Scientific's Takeover Offer. USA Today (1/26, Iwata) reports, "Medical device maker Guidant on Wednesday accepted Boston Scientific's $27 billion bid, rebuffing a lower offer from Johnson & Johnson and ending a long-running takeover war." USA continues, "The companies have been vying for an edge in the growing multibillion-dollar market for medical and heart devices, and Guidant's pacemakers, defibrillators and stents made it an attractive acquisition target. … The merger, to be completed early this year, will make Boston Scientific the

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world's No. 2 maker of implantable pacemakers and defibrillators. Boston Scientific also will gain share in the market for heart stent devices, which hold open blood vessels." USA adds, "Most Wall Street analysts and some Guidant investors had urged Guidant to take the pricier Boston Scientific offer, calling it a better long-term investment than J&J's deal. The combined company will have $9 billion in revenue in 2006, Boston Scientific says. … To help close the deal and appease antitrust regulators, Boston Scientific teamed with Abbott Laboratories. Abbott will pay Boston Scientific $6.4 billion in cash to buy Guidant's vascular intervention and endovascular businesses." … Approvals are needed from U.S. and European regulators, plus shareholders for both companies."

The New York Times (1/26, Feder) reports, "For Johnson & Johnson, Tuesday started with a morning conference call with analysts to discuss earnings and ended with William C. Weldon, the company's chief executive, and Robert J. Darretta Jr., the chief financial officer, attending a dinner for several dozen institutional investors at the '21' Club in New York. Throughout the day and evening, the company maintained a rigid silence about the one subject on everyone's mind — whether it would respond to a midnight deadline to counter Boston Scientific's bold $27 billion offer for Guidant." The Times notes that Johnson & Johnson released a statement yesterday "saying the company had 'determined not to increase its last offer for Guidant Corporation, because to do so would not have been in the best interest of its shareholders.' About the only comment was its reminder that Guidant was obliged to pay it a $705 million breakup fee by today. … It was a remarkably quiet conclusion to the biggest and most contentious takeover battle yet in the medical device industry. The outcome leaves Boston Scientific as the apparent winner of Guidant, the No. 2 company in the $10 billion market for defibrillators and other implantable devices that regulate human heartbeats."

BlackBerry Injunction Hearing Set For Feb. 24. The Wall Street Journal (1/26) reports, "BlackBerry maker Research In Motion Ltd. and NTP Inc. will appear in U.S. District Court for the Eastern District of Virginia Feb. 24 for the court to consider a shutdown of U.S. sales and service of the popular wireless email device. In recent court filings, RIM, based in Waterloo, Ontario, argued a BlackBerry shutdown isn't warranted for various reasons, including recent preliminary moves by the U.S. Patent and Trademark Office to reject NTP's wireless email patents. NTP, a Virginia patent holding concern, argues a BlackBerry shutdown is appropriate, since the court has already found RIM infringed on NTP's patents and case law calls for such a shutdown. The court could rule on the injunction as early as Feb. 24 or in the days following, an NTP lawyer said."

NYTimes Says Pixar-Disney Deal Is Chance To Reform Disney's Creative Culture. The New York Times (1/26, 1.19M) editorializes, "A company like" Pixar "— and a figure like Mr. Jobs, notable for his dynamic role at both Apple and Pixar — doesn't let itself be bought for money alone, though the money is certainly enticing enough. This is really an opportunity to infect, and change, the creative culture of Disney, which, back in its founder's day, used to be one of the most creative places around" but whose "animated films have been nothing to shout about in the past decade or so." For Pixar and Apple the deal has "only an upside," and "the same is true for Disney, especially if it keeps shedding the ways of Mr. Eisner's old company and allows itself to become what may turn out to be, in the end, Mr. Jobs's company after all."

ENVIRONMENT:

Three ELF Activists Indicted On Ecoterror Charges In California. Reuters (1/26, Fitzgerald) reports, "A federal grand jury indicted three alleged 'eco-terrorists' on Wednesday on charges of plotting to blow up facilities like dams and cell phone towers. 'These three individuals planned to commit a number of dangerous and destructive acts in our region, all in the name of the Environmental Liberation Front,' U.S. Attorney McGregor Scott told a news conference in the California state capital." Eric McDavid, Zachary Jenson and Lauren Weiner were "arrested January 13 outside a retail store in Auburn, California, following six months of surveillance of McDavid by federal authorities. … The charges were not related to a separate 65-count indictment handed down on Monday in Washington involving 11 environmental and animal rights activists in the Western United States." Scott "said the trio rented a house east of Sacramento in the foothills where they engaged in bomb-making. At some point, the three were joined by an unnamed woman who was a government informant. 'Because of the exceptional work of the FBI's Joint Terrorism Task Force and the brave efforts of a confidential source they were prevented from carrying out their planned attacks,' the U.S. Attorney said."

EPA Seeks Ban On Chemicals Used In Cookware. USA Today (1/26, Weise) reports, "In a surprise turn Wednesday, the Environmental Protection Agency moved to eliminate the production of a suspected carcinogen used in the making of Teflon and other non-stick and non-stain coatings. The EPA has asked eight manufacturers that use a family of chemicals known as perfluorooctanoic acid, or PFOA, to reduce production 95% by 2010 and to stop using it altogether by 2015. …

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Environmentalists and consumer groups have long dogged the agency to act. 'The science is still coming in, but the concern is there, so acting now to minimize future releases of PFOA is the right thing to do for our environment and our health'" says Susan Hazen of EPA's Office of Prevention, Pesticides and Toxic Substances." According to the article, "EPA officials are calling for voluntary PFOA cutbacks because 'under the Toxic Substances Control Act, they don't have authority to ban it,' says Richard Wiles of the Environmental Working Group, a public interest group that has long fought to bring public attention to PFOA in the environment." Wiles says that if the chemicals are phased out, it "will be 'the single biggest action the agency has ever taken.'"

The Washington Post (1/26, A1, Eilperin) reports favorable coverage of the EPA for this action. It quotes Ken Cook, president of the Environmental Working Group, who says, "'This is one of those days when the Environmental Protection Agency is at its best. With its announcement today, the EPA is challenging an entire industry to err on the side of precaution and public safety, and invent new ways of doing business. … As harshly as we have singled out DuPont for criticism for its past handling of PFOA pollution, today we want to single out and commend the company and acknowledge its leadership going forward."

DuPont Targeted. USA Today and the Post both note that DuPont was a particular target in the PFOA deal. In the first paragraph of its story, The Washington Post (1/26, A1, Eilperin) says, "Eight U.S. companies, including giant DuPont Co., agreed yesterday to virtually eliminate a harmful chemical used to make Teflon from all consumer products coated with the ubiquitous nonstick material." Both the Post and USA Today note that DuPont recently agreed to a $6.5 million settlement with the EPA over charges that it hid information about the dangers of PFOA.

ABC's World News Tonight (1/25, story 7, 2:50, Vargas) reported, "Today, the government asked companies to virtually eliminate" a chemical used to make Teflon "over the next nine years." Ross: "Today, the Federal government said DuPont had virtually agreed to eliminate any new emissions of the key Teflon chemical at its factories." Susan Hazen EPA: "This is the right thing to do. And we are going to move forward with it." The New York Times (1/26, Janofsky, 1.19M) adds, "DuPont immediately pledged to join the" voluntary program," along with "3M/Dyneon, Arkema, Asahi, Ciba, Clariant, Daikin and Solvay Solexis." The EPA says that "full compliance by the companies and their overseas affiliates would lead to a 95 percent reduction by 2010 in use of the substance, perfluorooctanoic acid, or PFOA, and to their total elimination by 2015."

Video Highlights Problems With Federal Mine Safety Oversight. NBC Nightly News (1/25, story 8, 2:30, Williams) reported, "Those two West Virginia mining disasters have now focused a lot of attention on mine safety in this country." A videotape tape shows "the perils of digging for coal. And the often lax oversight of this nation's mines." NBC (Myers) added, "This is the inside of Coal Creek Mine in southeastern Kentucky. Videotaped by a miner who smuggled a camera into work in June 2004 to document what he said were dangerous conditions." Edwin Pennington "is crushed under this slab of rock 200 feet long." One "safety official who investigated Pennington's death says his tragedy underscores a widespread problem in mines across the country. He says fines are too small to induce companies to fix hazards and the entire system has no teeth." Tony Oppegard, former Mine Safety & Health official: "The company has been going on about its business for the last year and a half without any consequences thus far."

Bush To Push For Reprocessing Of Spent Nuclear Fuel. The Wall Street Journal (1/26, Fialka, 2.11M) reports, "The Bush administration plans to announce a $250 million initiative to reprocess spent nuclear fuel, a first step toward reversing a 1970s policy that rejected reprocessing as too dangerous to pursue." The Administration's "decision to put the money into its fiscal 2007 budget to test new technologies is part of an effort to jump-start the nuclear-power industry at a time when energy prices are high and concerns about global warming make nuclear power plants more acceptable." The Journal adds, "According to nuclear industry officials and others briefed on the proposal in recent weeks, the program could be announced as early as next week in President Bush's State of the Union address. If the technology works, it could vastly reduce the amount of spent nuclear waste that would have to be buried in underground storage, such as at Nevada's Yucca Mountain, set to open after 2012."

The Washington Post (1/26, A1, Baker, Linzer, 744K) adds the fuel proposal "is part of a broader push by the president for domestic and global nuclear energy. With worldwide energy demands on the rise and U.S. reliance on foreign oil increasing, Bush has held out nuclear power as a solution that will not affect global warming."

Gore Documentary On Global Warming Has Premiere At Sundance Festival. The Washington Post (1/26, A1, Booth, 744K) reports that ex-Vice President Al Gore's documentary on global warming, "An Inconvenient Truth," "had its world premiere at the Sundance Film Festival on Tuesday night before an enthusiastic audience that gave the former vice president and his movie a big standing O. Among the film's lessons: Earth's glaciers are melting, the

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polar bears are screwed, each year sets new heat records." The Post notes, "The core of the film is a one-man, ever-evolving multimedia slide show that Gore assembled himself. A little-known fact: Since his defeat by George W. Bush in 2000, Gore has traveled the globe with his bar graphs, staging event after event for small, invited audiences. Free of charge. And he's presented one version or another of this slide show, by his own estimation, a thousand times. … In the film, Gore presents the latest evidence to demonstrate how the accumulation of carbon dioxide and other pollutants of the industrial age are increasing temperatures."

FBI/DEA/ATF/USMS:

Mueller Recuses Himself From Trade School Probe. Under the headline "F.B.I. Director Recused From Investigation Of Weld's Former School," The New York Times (1/26, Healy, 1.19M) reports in "Metro Briefing" that "The F.B.I. director will not play a role in the inquiry into Decker College, the Kentucky school once run by William F. Weld, because the director and Mr. Weld, a Republican candidate for governor, are friends and former colleagues, an F.B.I. spokesman said yesterday. … The New York Democratic Party had asked that Mr. Mueller recuse himself, according to a party spokesman. Mr. Weld has not been accused of any wrongdoing involving Decker, which declared bankruptcy last fall amid allegations of fraud."

Under the headline "Weld's Pal Off Inquiry," The New York Post (1/25, Dicker, 624K) reported yesterday, "FBI spokesman Richard Kolko told The Post that while the Decker probe was being handled by the special agent in charge of the Louisville, Ky., field office, Mueller himself is 'regularly briefed on significant investigations and cases.' And while Kolko insisted Mueller 'has not had a role in directing any part of this investigation,' he said, 'since the issue has been raised publicly, and to avoid even the appearance of any conflict, any decisions that would otherwise be made by the director in this matter will, instead, be handled by Deputy Director John Pistole.' Kolko's announcement came a few hours after state Democratic Chairman Herman 'Denny' Farrell joined D'Amato in urging Mueller to step aside. … Farrell said Weld and Mueller were 'good friends' during the 1980s when both served in the U.S. Attorney's office in Boston. He said Mueller had also contributed to Weld's unsuccessful U.S. Senate campaign against incumbent John Kerry of Massachusetts in 1996."

Minnesota Attorney Charged In Internet Pharmacy Scheme. The AP (1/26) reports, "A lawyer has been indicted (in Minneapolis) on federal charges alleging he helped an Internet pharmacy illegally obtain narcotics and helped its founder hide assets." The AP continues, "Daniel Adkins, who was general counsel for Xpress Pharmacy Direct, helped deceive legitimate pharmacies into supplying the narcotics that Xpress hawked over the Internet and by telephone, according to the indictment issued Tuesday." The AP adds, 'Federal authorities say Xpress filled about 72,000 illegal prescriptions for pain killers and other controlled substances, generating sales of about $20 million. Authorities shut down Xpress last May and company founder Christopher Smith, his accountant and a doctor who issued prescriptions were indicted in August. … The indictment alleges that Adkins helped Smith hide assets after they learned about the investigation. It also alleges that Adkins wrote to legitimate pharmacies from which Xpress ordered drugs, assuring them that Xpress was 'both legal and authorized by federal and state statutes.' … Adkins was charged with conspiracy to distribute and dispense controlled substances, wire fraud; unlawful distribution and dispensing of controlled substances and misbranding drugs. If convicted of wire fraud he could face up to 20 years in prison and a $250,000 fine, the U.S. attorney's office said."

Drug Ring's Alleged Second-In-Command Pleads Guilty. The Knoxville (TN) News-Sentinel (1/26, Satterfield) reports, "Admitting crimes that could lock him away for life made Stephen 'Black' Ardis downright scared Wednesday. Ardis, who was captured on secret recordings expressing worries that an undercover agent he dubbed 'Superman' was on his trail, pleaded guilty in U.S. District Court to being second-in-command of a Detroit-to-Knoxville drug running operation. But the 26-year-old drug slinger made it clear before entering his plea that a possible life sentence was a scary proposition he wanted to avoid. … Assistant U.S. Attorney Mike Winck said the massive amount of drugs Ardis conspired to put onto Knoxville's streets guarantees the Detroit man a 20-year prison term. … The drug ring was broken in November after a probe led by U.S. Drug Enforcement Administration Agent Todd Lee and Knoxville Police Department Investigator Bruce Conkey. It was Conkey whom Ardis dubbed 'Superman' in a conversation secretly recorded by the agents during their investigation."

Prosecutor Delays Charges In Washington Bomb Case. The Tri-City (WA) Herald (1/25, Trumbo) reports, "Benton County prosecutors will need several weeks to decide potential charges against a Richland man who says he kept bomb-making material because he is a miner." The Herald continues, "Kevin D. Johnson, 49, was released from jail Friday, three days after Richland police arrested him at his home where they seized gunpowder, nitro-methane and about 20 pounds of ammonium nitrate. They also found six firearms." The Herald adds, "Prosecutor Andy Miller said

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Tuesday that no charges were filed during the 72-hour hold on Johnson because more investigation is needed. Items taken from the home also have to be analyzed by agents of the federal Bureau of Alcohol, Tobacco and Firearms, he said. … 'To prove the elements of the case, we'd have to get the ATF to test the items,' Miller said. … Richland police Capt. Mike Cobb said an ATF agent told him Tuesday analysis of the items found at Johnson's home would be completed in two to four weeks. … Cobb said the investigation also involves 91 blasting caps that allegedly belonged to Johnson that were found Jan. 15 at a home in Franklin County. Cobb said officers discovered the caps in a closet of a man's home after they investigated a domestic violence complaint."

IMMIGRATION:

Daughter Of Former Chilean Dictator Pinochet May Seek Asylum In US. Reuters (1/26) reports, "The eldest daughter of former Chilean dictator Augusto Pinochet on Wednesday asked the United States to grant her political asylum after she fled tax charges in Chile, Chilean officials said." Reuters continues, "Lucia Pinochet Hiriart, 60, was being moved to an immigration detention center late on Wednesday after spending most of the day at Dulles International Airport near Washington, Chile's Foreign Relations Minister Ignacio Walker told local radio in Santiago. … Earlier, Interior Minister Francisco Vidal said Chile had been told that Pinochet Hiriart had asked for asylum. … 'In the coming two or three days we will have a decision from the United States which, I insist, will be a rejection (of asylum),' Walker said." Reuters adds, "U.S. officials would not confirm that Pinochet Hiriart had requested asylum. … 'Lucia Pinochet is currently in U.S. Customs and Border Protection custody at Dulles International Airport, pending resolution of her immigration status,' said Jarrod Agen, a spokesman for the Department of Homeland Security. … Pinochet Hiriart has been charged with tax fraud related to some $1 million in undeclared taxes and falsification of documents as part of a widening tax evasion and fraud investigation involving the Pinochet family."

TAX:

Jury Finds "Survivor" Winner Hatch Guilty Of Tax Evasion. The AP (1/26, Henry) reports, "Richard Hatch, who won $1 million in the debut season of the reality show 'Survivor,' was found guilty Wednesday of failing to pay taxes on his winnings and taken straight to jail." The AP continues, "Hatch remained calm as the court clerk read the verdict. He waved goodbye to family members, then was handcuffed and taken into custody after U.S. District Judge Ernest Torres said he was a potential flight risk. … The charges carry up to 13 years in prison. Torres said he expected a sentence of between 33 months and 41 months, but said the time could be longer because prosecutors say Hatch committed perjury. Sentencing was scheduled for April 28." The AP adds, "Hatch, 44, was also convicted of evading taxes on $327,000 he earned as co-host of a Boston radio show and $28,000 in rent on property he owned. He was acquitted of seven bank, mail and wire fraud charges related to a charity, Horizon Bound, he planned to open for troubled youth. … Hatch's lawyer, John MacDonald, said he would appeal the verdict. He said Hatch was aware of the possibility of jail time."

Former Washington Man Wanted On Tax Charge Captured In Panama. The Puget Sound (WA) Business Journal (1/26) reports, "The U.S. Department of Justice said Wednesday that former Renton resident David Struckman has been captured in Panama. Struckman had been charged by the Internal Revenue Service for running an operation that promoted tax-avoidance plans." The Journal continues, "Struckman was indicted in 2004 and charged with conspiracy to defraud the United States. He then "disappeared," according to a Justice Department spokeswoman. He was arrested in Panama earlier this month and deported, the department said, and will be transported to Western Washington." The Journal adds, "The government alleges that Struckman and four others sold 'Global Prosperity' wealth-building products, including videotapes, CDs and seminars, which 'included fraudulent methods of income tax elimination.' .. The seminars cost as much as $37,000 to attend and, according to the government, the group then concealed income earned from the products by using bogus trusts and offshore bank accounts."

CONGRESS-ADMINISTRATION:

Full Senate Begins Debate On Alito Confirmation. CNN's The Situation Room (1/25, Blitzer) reported, "The full Senate debate is under way on Samuel Alito's nomination to the U.S. Supreme Court. A day after the judiciary committee cast the divided vote over Alito, Republicans and Democrats are voicing fierce support and opposition to the President's choice for the high court." Alito "met today with Republicans senators whose majority votes are expected to seal his confirmation despite strong Democratic opposition."

NBC Nightly News (1/25, story 3, 1:00, Williams) reported, "As the full Senate began debating his Supreme Court nomination, Judge Samuel Alito took something of a pre-victory lap on Capitol Hill, thanking Republicans who

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helped move his nomination to the expected finish line. On the Senate floor, Democrats continued to call him a bad choice, while Republicans praised him." Currently, "Alito has enough support to be confirmed right now."

The AP (1/26, Holland) also says Alito "took a victory lap in the Senate on Wednesday, accepting congratulations from Republican leaders as lawmakers moved toward confirming him in a largely party-line vote." Reuters (1/26) adds Alito "appeared to have the votes for confirmation…as the Senate began a bitter debate."

The Washington Times (1/26, Hurt, 90K) says Republicans "rounded up the 60 votes they need to block any attempt to filibuster his nomination." Meanwhile, Sen. Edward M. Kennedy "called the vote on the nomination 'the vote of a generation.'"

Fox News' Special Report (1/25, Angle) reported, "Though Alito appears to be on track for confirmation and though it appears Democrats aligned against Alito do not have the votes to sustain a filibuster, Virginia's Republican Senator George Allen felt it necessary to issue a warning today." Allen: "My reaction is if they move forward with such a filibuster, my reaction is, 'make my day.' We will enjoy pulling the constitutional trigger to allow Judge Alito a fair up-or-down vote."

ABC's World News Tonight (1/25, story 6, 1:15, Vargas) reported, "Senators were divided along party lines." Sen. Hillary Clinton: "Roe v. Wade is at-risk. The privacy of Americans is at-risk. Environmental safeguards, laws that protect workers from abuse or negligence. Laws, even, that keep machine guns off the streets. All these and many other, are imperiled." Sen. Edward Kennedy: "The record demonstrates that we cannot count on Judge Alito to blow the whistle when the President is out of bounds. He is a long-standing advocate of expanding executive power." Senate Majority Leader Bill Frist: "Judge Alito deserves to become Justice Alito. And those who oppose him are smearing a decent and honorable man and posing an unfair political standard on all judicial nominees."

Bush Meets With Alito's Former Clerks. CNN's The Situation Room (1/25, Blitzer) reported the President met "with about 40 people, Republicans and Democrats, who've clerked for Judge Alito. It is another attempt to drive home the administration's insistence that Alito is qualified and deserves a quick and fair up or down Senate vote."

Novak Says Red State Democrats Who Oppose Alito Regret Vote. Syndicated columnist Robert Novak (1/26) writes that Sens. Kent Conrad and Byron Dorgan of North Dakota, "Bill Nelson of Florida, Tim Johnson of South Dakota, Ken Salazar of Colorado, Mary Landrieu of Louisiana, and Mark Pryor and Blanche Lincoln of Arkansas are red state Democrats who voted to confirm Chief Justice John Roberts. While Roberts is no less conservative than Alito…these Democrats who voted for the chief justice have been under intense pressure from the left to oppose Alito. All such senators may be willing to risk a politically unpopular 'no' vote, partly thanks to disappointing Senate Republican candidate recruitment this year." Novak notes, "The contention that President Bush's nominee is outside the 'mainstream' is the major talking point against Alito, but polls show support for him and his endorsement of spousal abortion notification. That debate's outcome may determine whether senators who vote against Alito will suffer at the polls this year and in the years ahead."

NYTimes Urges Democrats To Filibuster Alito's Nomination. The New York Times (1/26, 1.19M) editorialized that Alito's "elevation will come courtesy of a president whose grandiose vision of his own powers threatens to undermine the nation's basic philosophy of government --- and a Senate that seems eager to cooperate by rolling over and playing dead. It is hard to imagine a moment when it would be more appropriate for senators to fight for a principle. Even a losing battle would draw the public's attention to the import of this nomination." The Times adds, "Senate Democrats, who presented a united front against the nomination of Judge Alito in the Judiciary Committee, seem unwilling to risk the public criticism that might come with a filibuster -- particularly since there is very little chance it would work. Judge Alito's supporters would almost certainly be able to muster the 60 senators necessary to put the nomination to a final vote. A filibuster is a radical tool. It's easy to see why Democrats are frightened of it. But from our perspective, there are some things far more frightening. One of them is Samuel Alito on the Supreme Court."

Roberts, Alito Appointments Called Bush's Greatest Domestic Successes Since 2003. The Wall Street Journal (1/26, 2.11M) editorializes, "With at least 52 Senators already on record in support, it's clear that -- short of some smear ex machina -- liberal Democrats can't stop Samuel Alito from being confirmed to a seat on the Supreme Court. So it's a good moment to consider what this says about our politics and what it means for the Court as it enters a new era. One conclusion is that the confirmation of both Chief Justice John Roberts and Judge Alito marks the most important domestic success for President Bush since his 2003 tax cuts." The "Alito-Roberts ascendancy also marks a victory for the generation of legal conservatives who earned their stripes in the Reagan Administration. … The Roberts-Alito Court also represents a notable, and greatly satisfying, rebuke for the legal left and its 'borking' strategy."

Bush Resubmits Nominee Previously Blocked By Democrats. The Washington Post (1/26, A3, Babington, 744K) reports the White House "renominated Brett M. Kavanaugh to the US Court of Appeals for the District of Columbia Circuit. President Bush nominated

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Kavanaugh, the White House staff secretary, in July 2003, but he fell victim to intense battles between Senate Democrats and Republicans over numerous judicial appointments. A May 2005 bipartisan pact averted a showdown over judicial filibusters and enabled some contested nominees to win confirmation. But it left Kavanaugh in limbo." The Senate Judiciary Committee's eight Democrats "complained last year that Kavanaugh took several months to answer their written questions about his qualifications. Other Democrats have noted that Kavanaugh, 40, has limited courtroom experience and helped independent counsel Kenneth W. Starr pursue the Monica S. Lewinsky case during the Clinton presidency."

Abramoff Prosecutor Among Nominees To Federal Bench. The AP (1/26) reports, "President Bush on Wednesday nominated one of the Justice Department's lead prosecutors in the Jack Abramoff corruption probe to a U.S. District Court seat." The AP continues, "Noel Hillman, chief of the department's public integrity section, was nominated for the federal judgeship in New Jersey, where he served in the U.S. Attorney's office under Michael Chertoff, now secretary of Homeland Security." The AP adds, "The White House was poised to nominate Hillman last summer, after New Jersey's two Democratic senators took the opportunity to weigh in on Hillman and other nominees in exchange for lifting their objections to another candidate Bush had nominated in 2003. … Hillman will step down as chief of the public integrity unit next week, but remain in the Justice Department's criminal division until he is confirmed, a department official said. Andrew Lourie, a career prosecutor in Miami, will lead the public corruption-fighting office on a temporary basis, the official said, speaking on condition of anonymity because he is not authorized to discuss personnel matters. … Lourie performed the same role until Hillman took over early in 2003."

Bush Suggests Government Will Not Bail Out GM And Ford. The Wall Street Journal (1/26, Cooper, McKinnon, 2.11M) reports, "President Bush said General Motors Corp. and Ford Motor Co. should develop 'a product that's relevant' rather than look to Washington for help with their heavy pension obligations, and hinted he would take a dim view of a government bailout of the struggling auto makers." In an Oval Office interview, Bush "said that his administration has discussed the development of new fuel technologies with the nation's top two auto makers, which might make them more competitive, but that he has had no talks about the companies' finances." Asked if he had spoken to GM Chairman and Chief Executive Rick Wagoner or Ford Chairman and CEO William Clay Ford Jr., Mr. Bush replied, "Not about their balance sheets. … And I haven't been asked by any automobile manufacturer about a bailout." Asked if the government should take "any pre-emptive action," he said, "I think it's very important for the market to function." Bush "suggested he felt optimistic about the companies' prospects."

WPost Says Detroit, Congress Should Embrace "Competition." In an editorial titled "Managing Detroit," the Washington Post (1/26, A24, 744K) says, "It's not clear whether the GM and Ford restructuring plans will be enough to avert bankruptcy. Their difficulties may take on a more political tone, particularly since the Midwest is a key battleground for presidential campaign strategists." But "Congress needs to keep Motown's troubles in perspective. They are the result of competitive pressures that most parts of the US economy take for granted every day. And it is precisely by embracing competition that the United States has become the world's most powerful economy."

Bush Unlikely To Push Large Initiatives In State Of The Union Speech. The New York Times (1/26, Stevenson, 1.19M) reports, "Having stabilized his political standing after a difficult 2005, President Bush is heading into his State of the Union address on Tuesday intent primarily on retaining his party's slim majority in Congress this year and completing unfinished business from his existing agenda." Unlike last year, "when he used the occasion to kick off an ambitious and ultimately failed effort to overhaul Social Security, Mr. Bush seems unlikely to reshape the political landscape with his speech on Tuesday, members of both parties said." The Times adds, "Administration officials and other Republicans in Washington said Mr. Bush would focus on several topics, including health care, spending restraint, illegal immigration and the nation's international economic competitiveness, as well as an unapologetic restatement of his national security policy. Much of the speech, they said, will be tied together under a broad theme acknowledging that the United States is going through transitions that involve wrenching dislocation as well as opportunity." His aides "portray Mr. Bush as undaunted by the plague of setbacks last year that loosened his grip on his party and drove down his poll numbers, which although up from their lows last fall remain at anemic levels."

Bush Urged To Tackle Medicare Reform. David Gratzer, a physician and senior fellow at the Manhattan Institute, writes in the Wall Street Journal (1/26, 2.11M), "Bush will cite rising health costs as a major problem for Americans and their businesses, and he will outline steps to strengthen health savings accounts as a remedy." But "he is unlikely to mention Medicare reform -- and that would be a mistake. Indeed, if the president is serious about health reform, he will have to tackle Medicare. And he can start by re-engaging a debate from 1999." Seven years ago, Sen.

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John Breaux and Rep. Bill Thomas "completed the final report of the National Bipartisan Commission on the Future of Medicare. Considering various reforms, they eventually settled on a proposal modeled after the popular Federal Employees Health Benefits Plan (FEHBP), which covers nine million federal employees and their families. Instead of today's one-size-fits-all Medicare structure, they envisioned a program where seniors choose among competing private plans. Since then, Washington has debated the size and scope of Medicare expansion -- such as the prescription benefit -- but the program itself has yet to be fundamentally rethought." It "needs to be, because faced with Medicare's rising costs over the past four decades, the only real response has been a bipartisan exercise in wage and price controls."

Protestors Sue For Spot During State Of The Union. The Washington Post (1/26, A6, Barker, 744K) reports, "Organizers planning a protest during President Bush's State of the Union address next week say they have been denied a permit to hold the demonstration around the U.S. Capitol Reflecting Pool because that area has been reclassified as part of the security perimeter for the day of the speech. The organizers of the Tuesday protest, called 'World Can't Wait -- Drive Out the Bush Regime,' say the National Park Service and the U.S. Capitol Police initially offered them the Capitol Reflecting Pool as a demonstration site but changed their minds. Demonstrators have been told to confine their gathering to the gravel walkways on the Mall between Third and Fourth streets, farther from the Capitol. The grassy areas are fenced off because they are being resodded." Travis Morales, one of the organizers of the demonstration, "said the group was offered use of the area around the Capitol Reflecting Pool on Jan. 10 and that the site was not then part of any security perimeter. But on Jan. 19, he said, the group was told the security area had been expanded to include the Reflecting Pool. He called the change 'politically motivated,' adding that the Bush administration 'is trying to push us so far away that we can't be seen or heard. … A protest not seen and a protest not heard is not a protest.'" The demonstrators "filed a federal lawsuit yesterday seeking a court order that would enable them to gather at the Capitol Reflecting Pool. U.S. District Judge Ricardo M. Urbina will convene a hearing, possibly today."

Many Liberals Upset Kaine Was Chosen To Respond To Bush. USA Today (1/26, Lawrence, 2.31M) reports, "Virginia Gov. Timothy Kaine lifted the Democratic Party's spirits last fall when he won in a conservative state and gave his fellow Democrats some ideas about how to replicate his success. The fruits of victory include the honor of being picked to respond to President Bush's State of the Union address Tuesday -- and the wrath of liberal bloggers wondering why Democrats didn't choose somebody else. Anybody else." The selection of Kaine, "a Roman Catholic who opposes gay marriage -- highlighted fault lines within the party. Bloggers on several liberal websites were furious for reasons including Kaine's looks, style and obscurity, his open talk about religion, his moderate positions and his inexperience in foreign affairs. 'What the hell are they thinking?' Arianna Huffington demanded on www.huffingtonpost.com. … Bloggers at dailykos.com, talkleft.com and other liberal sites showered cyberspace with alternatives: new faces — Illinois Sen. Barack Obama, New York Attorney General Eliot Spitzer -- and famous faces -- Al Gore, New York Sen. Hillary Rodham Clinton."

Villaraigosa To Give Spanish-Language Response. The Los Angeles Times (1/26, Chen, 958K) reports, "Congressional Democrats announced today that Los Angeles Mayor Antonio Villaraigosa will deliver the party's Spanish-language response to next week's State of the Union address. … This will be the third consecutive year that Democrats have offered a Spanish language response to Bush's speech. Two years ago, Gov. Bill Richardson of New Mexico delivered the first such response. Last year, it was jointly given by then Rep. Robert Menendez, now a senator from New Jersey, and Sen. Jeff Bingaman of New Mexico."

CNN's The Situation Room (1/25, Blitzer) added "Villaraigosa's remarks clearly will be aimed at helping Democrats reach out to Hispanic voters right here in the United States."

Effectiveness Of Health Savings Accounts Disputed. The New York Times (1/26, Freudenheim, 1.19M) reports, "Bush has made 'consumer-directed' health savings plans a cornerstone of his policy for addressing runaway medical costs, and he plans to push them again in the State of the Union address next week." But "so far there is little evidence that the approach is helping many consumers come to grips with the high price of health care," even though "the early results do offer some hope. More than two million people have signed up for the plans, which were created as part of Medicare overhaul legislation in 2003 but were not an option for many people until the health insurance sign-up season last fall. While that is a tiny fraction of the 180 million Americans with health insurance, some experts say the numbers show a notably fast adoption rate for a complicated new consumer program. By other measures, though, workers and employers have been slow to embrace health savings plans, which are intended to reduce corporate health care costs while giving individuals more control of their medical spending."

In his Wall Street Journal (1/26, 2.11M), David Wessel criticizes Bush's "cure-all for health care," saying Bush argues for making "health care more like the market for tile and

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pipes." Adds Wessel, "Set aside the case that only a taxpayer-financed, government-organized solution works. A Republican president and Congress aren't going there, and a lot of Democrats are skeptical, too. … A bigger problem is that too many healthy (for now) Americans go without preventive care, and too many chronically ill Americans don't get care that would avoid costly, painful complications later. HSAs don't help there. And then there's the uncomfortable fact that 80% of health spending in the U.S. each year is spent on 8% of the population. Giving them tax breaks to buy health-insurance policies with $2,000 deductibles won't ensure that money is well spent."

Robert J. Samuelson writes in the Washington Post (1/26, 744K), "Americans want more health care for less money, and when they don't get it, they indict drug companies, insurers, trial lawyers and bureaucrats. Although these familiar scapegoats may not be blameless, the real problem is us. We demand the impossible. The changes we truly need are political. We need to reconnect people with the public consequences of their private acts. We should curb the subsidization of private insurance." Medicare recipients, "especially wealthier ones, should pay more of their bills." But "these changes won't happen because people don't want to see the costs. We don't have the health care system we need, but we do have the one we deserve."

Leavitt Says Government Moving To Solve Prescription Drug Program Problems. The Washington Times (1/26, Fagan, 90K) reports, "Administration officials yesterday told senators the new Medicare prescription-drug program has problems, but they're under control, and states will be reimbursed for covering seniors' prescription costs resulting from the glitches." Senators on the Finance Committee "seemed cautiously optimistic at the assurances, but some said Congress will still probably need to act. 'I think there's no question that the issue of prescription drugs will be back on the [Senate] floor in some form this year,' said Sen. Ron Wyden, Oregon Democrat." Health and Human Services Secretary Michael O. Leavitt said yesterday, "We've identified the problems, we're working on them and the plan gets better every day." He and Medicare chief Mark McClellan "had a private meeting yesterday with committee members to brief them on the situation."

The CBS Evening News (1/25, story 8, 2:00, Schieffer) reported, "It is no secret the new Medicare prescription drug program is not off to a great start. Many elderly have been lost in the bureaucratic maze. Many have found themselves with no coverage at all." CBS (Andrews) added, "According to advocates for senior citizens, in thousands of cases so far, drugs might be covered under Medicare, but patients still need prior authorization before insurance actually covers the drug. The Center for Medicare Advocacy calls that sleight of hand. What's the sleight of hand?" Vicki Gottlich: "I think people were promised that they would be able to get all the drugs that they require, but they weren't told that they might have to go through a little extra." Andrews: "Medicare has ordered insurance plans to solve this saying, 'we expect prior authorization to be resolved at the point of service,' meaning the pharmacy counter. … So now in this transition to this massive new benefit, prior authorization is yet another complication in an already-troubled program."

OLC Urges Caution For Federal Employees On Nonprofit Boards. Government Executive (1/26, Pulliam) reports, "Agencies should be careful about allowing employees to serve on the boards of nonprofit organizations that have an interest in their work, according to a recent opinion published by the Justice Department's Office of Legal Counsel." GE continues, "Federal executives can serve as officers or directors at nonprofit organizations, a 19-page opinion released Jan. 11 stated. But agencies should take into account the appearance of an ethical violation before permitting employees to serve in a group that handles issues related to their government work. … 'Government employees [have a] . . . duty to "avoid any actions creating the appearance that they are violating the law ... or ethical standards,"' the Justice office's opinion said. … 'If an outside organization in which an employee is a director has been advocating its views directly to the federal government on a matter that the organization has identified as especially significant, there is a significantly heightened risk that the employee ... will at least appear less than independent in his judgments,' the legal counsel stated. 'And that risk ... calls for serious consideration by the employee's agency.' … Federal law requires government employees to recuse themselves from work activities when a nonprofit on which they serve has a financial interest in the matter. But just because nonprofits spend money advocating a position does not necessarily mean they have a financial interest in an agency action, according to the opinion." GE notes, "The case leading to the opinion originated in July 2004 when a senior executive at the Education Department was told by the Office of Government Ethics that election to the Senior Executives Association board of directors would result in a criminal conflict of interest due to his service on his department's Executive Resources Board."

Senate Committee Opens Hearings Into Lobbying Reform. USA Today (1/26, Drinkard, 2.31M) reports that after "weeks of calls for restrictions on how lobbyists influence Congress, lawmakers began Wednesday to grapple with the thorny details of just how to do it." The Senate Homeland Security and Governmental Affairs

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Committee opened the first congressional hearing on reforms, and "lobbyists argued against proposals to ban privately financed trips for House and Senate members and their aides, saying travel helps them make good policy decisions in an era of globalization." And some senators "rejected calls for more restrictions, saying problems…are rooted in lawmakers' own behavior, the way Congress operates and a failure to enforce rules already on the books." The Washington Post (1/26, A6, Milbank, 744K) reports lawmakers "had no difficulty conceding they had a problem. But there was yawning disconnect between the problem and the proposed remedies. While most everybody agreed that Congress was being subverted by lawmakers' reliance on lobbyists for campaign cash, the proposals getting the most serious consideration yesterday were relatively minor: whether to ban lobbyist-paid lunches or a few million dollars' worth of privately funded congressional trips." Both newspapers quote Sen. Tom Coburn saying, "I don't believe lobbying reform's the problem; I believe Congress is."

However, CNN's The Situation Room (1/25, Koppel) called the hearing "a bipartisan show of support for what Democrat Joe Lieberman called 'doing away' with what they believe is the faulty impression that their votes go to the highest bidder. The high-flying days of Congressional lobbying could be in for a rough landing as Democrats and Republicans alike rushed to put luxury vacations and expensive meals on the Congressional chopping block." The AP (1/25, Abrams) quotes Homeland Security and Governmental Affairs Chairman Susan Collins saying, "The public's trust in Congress is perilously low." The panel's ranking Democrat, Sen. Joseph Lieberman, similarly said, "The status quo stinks and cries out for us to clear the air."

McCain Testifies In Opposition To Earmarks. The Washington Post (1/26, Branigin, 744K) reports Sen. John McCain, appearing as a witness before the panel, "was one of several senators to denounce earmarking, a practice he called 'disgraceful.' He outlined one of several proposals to tighten rules and require greater disclosure of lobbying activities. But he told the committee, 'We're not going to fix this system until we fix the earmarks.'" But "representatives of lobbying organizations urged the committee today not to overreact to what they described as the unscrupulous activities of one corrupt lobbyist," and Minority Whip Richard Durbin said the problem "goes beyond earmarks and that solving it must start with reducing the 'outrageous expense' of political campaigns."

Lewis Offers Steps For Earmarking Reforms. House Appropriations Committee Chairman Jerry Lewis writes in Roll Call (1/26), "The president's budget contains numerous earmarks inserted by nameless, faceless bureaucrats within each government agency. Teach for America, The Points of Light Foundation, and America's Promise are just a few examples of unauthorized, limited-scope initiatives that routinely receive a line-item request in the president's budget. Yet elected representatives know more about local, state or national priorities than the Beltway bureaucracy. It would be a mistake to ignore this expertise when determining how to allocate scarce federal dollars." Lewis calls for "curbing the appetite to spend by sharply reducing the number of earmarks in annual spending bills and making the appropriations process more open and transparent. In order to succeed, the House and Senate must jointly embrace these efforts. Specifically, the leadership of the House Appropriations Committee recommends the following: 1) Sharply limit the number of Member project requests. … 2) Require increased accountability, disclosure and transparency by requiring that Member request letters be made public prior to House consideration of each appropriations bill. … 3) Require that all project requests be submitted in writing to the appropriations subcommittee of jurisdiction via a Member-signed request letter or form. 4) Establish clearly defined criteria for all project requests and require Members to specify how each project meets the criteria. … 5) Increase the proportion of projects that have a dollar-matching requirement. … 6) Require all Congressionally approved projects to go through a formal executive branch contracting and auditing process. 7) Finally, require that all other committees adopt similar earmarking reforms."

Nelson, Coleman Call For Independent Commission. The Los Angeles Times (1/26, Curtius, 958K) reports Sens. Ben Nelson and Norm Coleman, "convinced that Congress cannot overhaul its rules on ethics and lobbying in the politically charged atmosphere of an election year," called for the creation of an independent commission for the job. But their "proposal faced quick resistance from two senators leading the reform push," Lieberman and McCain, both of whom said they "feared creating an independent commission and that waiting for it to act would slow the momentum for change." McCain said, "I don't want to wait. We've got to act quickly."

House Democratic Leaders Float "Toughest Lobbying Reform Package Yet." Roll Call (1/26, Newmyer) reports House Minority Leader Nancy Pelosi, Minority Whip Steny Hoyer, and Democratic Caucus Chairman James Clyburn "circulated principles" of the "toughest lobbying reform package yet" to Democrats, seeking their support. The measure would "force lawmakers to report when they are sponsoring earmarks, require them to pay fair market value for travel on private jets and create an office of public integrity to oversee these and other new lobbying rules. Details of the plan emerged after a day in which lawmakers on both sides of the Capitol traded barbs, with each party claiming to want a bipartisan solution, but finding no partner across the aisle."

GOP Ends Vestige Of "K Street Project." The Washington Post (1/26, A2, Birnbaum, 744K) reports the

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GOP has ended a "long practice of routinely summoning lobbyists to the Capitol to try to persuade them to hire their aides and colleagues," a "remnant of the K Street Project once championed by Rep. Tom DeLay." The Senate Republican Conference staff director said Wednesday that a "K-Street-job-vacancies memo -- the heart of Congress's remaining involvement in the effort these days -- will no longer be distributed during high-level meetings hosted by the conference on Capitol Hill between lawmakers and lobbyists."

Hill Staff May Rush To Lobbying Jobs Before Rules Change. Roll Call (1/26, Ackley) writes that while the two parties "might not agree on all things lobbying," they "seem united on doubling the current one-year cooling-off period for newly minted advocates. And that has Congressional staffers, who already had an eye toward employment on K Street, stepping up their job-seeking efforts. Lobbyists, headhunters and Capitol Hill aides speculate that a mini-exodus of staffers from both sides of the aisle may be coming as a result."

ASAE Opposes Proposal To Ban Privately Funded Travel For Lawmakers. The Washington Post (1/26, A23, Sarasohn, 744K) reports in its "Special Interests" column, "The American Society of Association Executives (sometimes referred to as the 'association of associations') is weighing in on plans to overhaul lobbying laws. ASAE, like some other trade groups, is concerned Congress may being acting too fast. ASAE opposes a measure that would ban all privately funded travel for members of Congress because, it believes, the ban would discourage true fact-finding trips and meetings with diverse groups."

DeLay Unrepentant As Ethics Talk Dominates Washington. In his Washington Post (1/26, A25, 744K) column, George Will writes of a visit with Tom DeLay in Richmond, Texas, writing, "Most people, battered as he recently has been, would be curled up on the carpet in a fetal position. But DeLay is as direct and uncomplicated as the tool that supplies his nickname -- 'The Hammer' -- and his faults do not include being a whiner. Furthermore, he is not about to plea-bargain in the court of public opinion. He chafes under prudential reticence: His attorneys tell him not to trumpet the fact that the Justice Department told them he is not a target in the Jack Abramoff investigation. But about other matters, the bantam is belligerent." And in DeLay country, "unlike on the Potomac, the fever for reform is not high. To a visiting columnist who waxes censorious about earmarks for highway projects, DeLay responds with a notable lack of repentance: 'You just drove out on one.'"

Social Security Group Redefines Itself To Push For Lobbying Reform. The Washington Post (1/26, A23, Sarasohn, 744K) reports in its "Special Interests" column, "Fresh off its success in raising a grass-roots wave of public opposition that helped block President Bush's plan to overhaul Social Security, Americans United to Protect Social Security has redefined itself. The name is shorter -- Americans United -- and the mission is broader: public corruption, education, health and energy costs, economic prosperity and such. Yesterday, Americans United unveiled a $1 million advertising campaign urging support for legislation proposed by Democratic lawyers aimed at tightening the restrictions on lobbying." The group "has received initial support from organized labor, including the American Federation of State, County and Municipal Employees. Brad Woodhouse , director of communication, says Americans United hopes to raise $10 million to $20 million from labor, individuals and others."

Blunt, Boehner Make Case For Their Candidacies. Rep. Roy Blunt, a candidate for House Majority Leader, writes in USA Today (1/26, 2.31M), "House members cannot ignore recent scandals that have many questioning the credibility of our system. Republicans will regain Americans' trust by enacting tough penalties for those who break the law and focusing on our agenda of limited government, personal responsibility and growing the economy by returning money to the Americans who earned it. … Lobbying reforms should include new rules governing travel and disclosure and regulations subjecting shadowy, tax-exempt '527' political groups to the same standards as others who attempt to influence the process. Then the credibility of honest public servants will be not be questioned -- even when some try to paint them with the same brush as those who break the law."

Meanwhile, Rep. John Boehner, a candidate for House Majority Leader writes in USA Today (1/26, 2.31M), "House Republicans need leadership that will help provide a vision and a plan for renewal. We need a leader who will stand up to Democrats when they're wrong, but who has credibility to work with them when it's in the country's best interests.' Boehner adds, "As of now, I am the only candidate who has released a detailed plan that would help House Republicans regain the spirit and energy of 1994, embrace real reform and reclaim the vision responsible for our success."

USA Today Says Blunt, Boehner Not Credible Reformers. An editorial in USA Today (1/26, 2.31M) says, "The former majority leader, Tom DeLay, stepped down after he was indicted in a Texas fundraising case and linked to crooked lobbyist Jack Abramoff. So where is the GOP seeking this fresh face and new start? With two lawmakers -- Roy Blunt of Missouri and John Boehner of Ohio -- who have cozy relations with lobbyists and a penchant for accepting perks from corporate friends." USA adds, "A third candidate for majority leader, John Shadegg of Arizona, is less enmeshed with the lobbying establishment and high-powered fundraising. That's one reason he's given virtually no chance of winning." USA continues, "Both Blunt and Boehner have

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one point right: Voters are clamoring for change. That requires recognition of what's wrong and the will to do something about it. Lawmakers who've spent their careers accepting perks and raking in special-interest campaign cash don't make for credible reformers."

Cornyn Emerges As Senate GOP's "Self-Appointed Public Relations Man." Roll Call (1/26, Pierce) reports, "With President Bush and Republicans struggling to regain their standing in public opinion as Senate Democrats hammer away daily at every perceived foible or folly committed by the ruling majority," Sen. John Cornyn "has made it his mission to strike back." Over the past year, Cornyn "has become a self-appointed public relations man for Republicans in Congress and the White House, filling a communications void that has developed in the Senate GOP leadership." Cornyn said, "I saw it as addressing this quick-response need that I don't think we had been set up for before, and really didn't need before the Democrats created their war room. It's not enough to come back later on, a week later, two weeks later, and respond. … A charge unrebutted is a charge believed." Cornyn has taken a key role in judicial nominations and also spearheaded "an aggressive effort among his colleagues in directing staff to send out partisan press releases, opposition research papers and talking points." He is now running for the "low-profile but still influential post of vice chairman of the Senate Republican Conference, which just happens to be the No. 2 'message' position."

First Lady's Approval Rating Is 82% In CNN/USA Today/Gallup Poll. CNN's The Situation Room (1/25, Crowley) reported, "In the latest CNN/USA Today/Gallup poll, 82 percent of Americans gave thumbs up to the way Laura Bush is handling her job. … Her approval rating is almost 40 points higher than her husband's." CNN added, "Despite that 82 percent approval rating, only 40 percent of Americans say they would like to see Mrs. Bush run for Senate. The truth is, when people see her as outside the world of politics, she is one of his biggest political assets."

Cheney Still A GOP Fundraising Draw. Roll Call (1/26, Akers) reports in its "Heard on the Hill" column, "Despite a recent spate of bad publicity, Vice President Cheney is still a big draw for GOP fundraising. The vice president is slated to be the headline attraction this evening at a fundraiser for Sen. Mike DeWine (R-Ohio). Anyone can attend for a simple $1,000. But the most generous donors may have a picture snapped with the veep: Going for that 'max out' opportunity before Ohio's primary in May, the DeWine re-election campaign is charging political action committees $5,000 per photo op."

Hillary Clinton Says Bush Disregarding Cities' Needs In Favor Of Tax Cuts. Reuters (1/25, Whitesides) reported, "Democratic Sen. Hillary Rodham Clinton accused the Bush administration on Wednesday of ignoring the needs of cities in its politically driven zeal for tax cuts and told US mayors 'you are on your own.' Clinton, a potential White House candidate in 2008 who is seeking Senate re-election this year in New York, said that since the September 11 attacks President George W. Bush had reneged on his obligation to states and cities to pay for crucial security and social programs." Clinton said tax "cuts are desirable in the right political and economic climate but 'it is hard to square with the challenges we face at this time of terrorist threat.' At the federal level, 'the sense of urgency that marked the months after the 9/11 attacks has largely given way to politics as usual,' she said."

Clinton Stumbles Over Question On Her Time As Wal-Mart Board Member. The New York Daily News (1/26, McAuliff, 729K) reports that Sen. Clinton "easily pointed at Wal-Mart yesterday as not doing enough about health care but found it a little tougher when asked if she had ever suggested the retailer do more when she was on its board of directors. 'Well, you know, I, that was a long time ago, I have to remember,' she stammered, before pointing to her work on health care while First Lady. She sat on the Wal-Mart board from 1986 to 1992. Her spokesman insisted it's 'a very different company now.'"

Columnist Says Liberals Increasingly Unhappy With Clinton. Columnist Jonah Goldberg writes in the Los Angeles Times (1/26, 958K), "Liberals are sizing up Hillary Clinton for the umpteenth time, and they don't like what they see. … 'I will not support Hillary Clinton for president,' wrote Molly Ivins, the voice of conventional thinking on the left. 'Enough. Enough triangulation, calculation and equivocation. Enough clever straddling, enough not offending anyone.'" Goldberg adds, "The New Republic offers perhaps an even more devastating critique of Clinton for Democratic pragmatists: She can't win. Marisa Katz dismantled the myth that Clinton can appeal to 'red state' voters because she won in upstate New York. Turns out former Vice President Al Gore and Sen. John Kerry each did better in upstate New York than she did. … Meanwhile, a recent Gallup poll showed that 51% of Americans won't even consider voting for Clinton." Goldberg relates that there is "something oddly satisfying in the possibility that Clinton being herself is politically disastrous. And, if she's really just playing one more role according to some classically Clintonian political triangulation, there's something equally satisfying to the prospect that even her fans aren't falling for it anymore."

Obey, Frank To Propose Full Public Financing Of House Contests. Roll Call (1/26, Kornacki) reports

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that Rep. David Obey (D-Wis.) "is joining with Rep. Barney Frank (D-Mass.) to propose full public financing of all House elections. They announced Wednesday that they will introduce the plan, which would bar all candidates from fundraising and self-financing in their campaigns, when the House reconvenes next week." Obey's "plan would radically curtail the financial advantage most incumbents now enjoy, even making it difficult for some of them to pay for television ads. And even if Democrats were to unite behind it, the prospect on a vote in the GOP-controlled House is less than remote. … Beyond that, the plan also faces an almost certain constitutional hurdle, in the form of the Supreme Court's 1976 Buckley v. Valeo decision that equated campaign spending with free speech."

Kondracke Says House GOP Group To Unveil "Suburban Agenda" Next Month. Roll Call Executive Editor Morton M. Kondracke writes in Roll Call (1/26), "A different kind of agenda -- different from the president's State of the Union address and the anticipated Democratic election year document -- is scheduled to be unveiled early next month to House Republicans: 'The Suburban Agenda.' It's the work of a group of 22 GOP Members from across the party's ideological spectrum and led by moderate Rep. Mark Kirk (Ill.), who's also tried to sell it to President Bush's top political adviser, Karl Rove." Kirk said "this agenda is designed to answer the problems faced by a suburban family as it moves through its day." Kondracke notes, "There's clearly strategic political intent behind trying to build the 2006 GOP legislative strategy around the suburbs: More than half of U.S. voters live in the 'burbs, and these places, formerly Republican strongholds, have been trending Democratic in recent years. … The agenda is designed to keep Republicans in power, but many of the items -- electronic health records and anti-gang measures, for sure -- ought to be bipartisan. It wouldn't be surprising if there's a bidding war for the support of the suburbs."

Postal Service Opposes Collins Bill On Mail Rates. The Washington Post (1/26, B2, Barr, 744K) reports in its "Federal Diary" column, "The U.S. Postal Service headquarters launched a blitz yesterday to block a Senate bill, contending that the legislation, in combination with White House demands, could trigger a 20 percent increase in stamp prices in the near future. The bill's sponsors, Sens. Susan Collins (R-Maine) and Thomas R. Carper (D-Del.), said they were 'outraged that the Postal Service would mislead senators.' In a statement, they said, 'Nothing in the bill would lead to rate increases.' Government agencies rarely risk incurring the wrath of committee chairmen who oversee their operations, as is the case with Collins. As head of the Homeland Security and Governmental Affairs Committee, she has made the overhaul of postal operations one of her priorities. Her bill would create a system of setting mail rates that she believes would give the post office greater pricing flexibility and would prevent it from raising rates each year in excess of inflation as measured by the consumer price index."

Federalist Society Protests Nightline Report On Scalia. The Washington Times (1/26, Pierce, 90K) reports in its "Inside Politics" column "The Federalist Society yesterday called on ABC to investigate a report by its news show 'Nightline' that suggested Supreme Court Justice Antonin Scalia had done something unethical by participating in a legal seminar sponsored by the group. 'The report grossly misled viewers about a recent trip Supreme Court Justice Antonin Scalia took to teach a 10-hour course on the Constitution and separation of powers. 'Nightline' suggested that Justice Scalia's trip was a "judicial junket," and even strained to manufacture a link with disgraced lobbyist Jack Abramoff,' Federalist Society President Eugene B. Meyer said in a letter yesterday to ABC News President David Westin. The program, which aired Monday, emphasized that Justice Scalia had missed the September swearing-in of Chief Justice John G. Roberts Jr. because of his commitment to attend the legal seminar at a Colorado resort, suggesting that the jurist spent most of his time playing tennis and engaging in other frivolous pursuits."

High Court Urged To Look To Foreign Opinions In Interpreting Law. Felix G. Rohatyn, the United States ambassador to France from 1997 to 2001, writes in an op-ed in the New York Times (1/26, 1.19M), "Globalization has made it not only 'appropriate or useful' but vital to look at foreign laws" when interpreting our own. "When we require European support on security issues…our job is made more difficult by the intensity of popular opposition in Europe to our policy" on the death penalty. "Contempt for the laws of our allies is a major factor in our increasing isolation in the world," and "that is why is it is deeply troubling that the next member of the Supreme Court will most likely share Justice Scalia and Justice Thomas's" opposition to that view. "Taking the views of 450 million Europeans into account is not a sign of weakness on our part, nor is it a commitment to change our views" but "simply recognition that the laws of our most important allies, our biggest foreign investors, foreign employers, foreign customers and trading partners are worthy of our attention."

OTHER NEWS:

Home Sales Drop Sharply. USA Today (1/26, Knox, 2.31M) reports, "Sales of existing homes fell in December for

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the third-consecutive month, in a surprisingly sharp drop that signaled the housing market is cooling off faster than expected. Home resales declined 5.7% from November to a seasonally adjusted annual pace of 6.6 million, the slowest since March 2004, the National Association of Realtors said Wednesday. Western states, notably California, suffered the worst, with home sales in the region skidding 11.4% from November and from December 2004." The Wall Street Journal (1/26, Preciphs, 2.11M), however, adds that even if "sales of existing homes fell in December to their lowest level in three months," they "still set a record for the year." The New York Times (1/26, Bajaj, 1.19M) also reports "the housing market registered a fifth consecutive year of increased sales." The data, nonetheless, "appear to suggest that the era of rapidly increasing sales may be coming to a close."

Stocks Down. The New York Times (1/26, 1.19M) reports, "Stocks ended a two-day rally yesterday as a worsening profit outlook for oil companies and homebuilders, two of the market's best performers during the last 12 months, sent prices lower." The Standard & Poor's 500-stock index "fell 2.18 points, or 0.2 percent, to close at 1,264.68, its first drop this week. The Nasdaq composite index lost 4.60 points, or 0.2 percent, to 2,260.65. The Dow Jones industrial average dropped 2.48 points, or less than 0.1 percent, to 10,709.74, helped by a gain in General Motors." The Wall Street Journal (1/26, Patterson, 2.11M) and USA Today (1/26, 2.31M) also report the stock numbers.

Oil Industry Defends Record-High Profits. ABC World News Tonight (1/25, story 4, 2:30, Vargas) reported, "Some breath-taking numbers from the oil industry today. Conoco/Phillips said it made 13.5 $13.5 billion last year, an increase of 66% from the year before. The record-high profits are the result of record-high oil and gas prices people are paying at the pump and to heat their homes. So, the oil industry is feeling the heat. Today, it launched a counterattack." ABC (Stark): "Today the oil industry tried to argue that it's not just the companies themselves who benefit when profits are high. At the gas pump, where prices are once again increasing, news of the huge oil company profits had consumers up in arms." After "all the numbers are in, analysts expect oil industry profits for the fourth quarter to be up at least 46% over a year ago. The industry today was quick to go on the defensive, pointing out its earnings are just slightly above average for all corporations, just over 7 cents for every dollar spent. It also argued that what's good for big oil is good for average Americans." Stark concluded: "So, for oil companies and those who own shares in them, it has been a boom year. But for many consumers, it's a bust." Vargas: "Indeed it is."

Greenspan To Open Consulting Firm. When he leaves the Fed at the end of the month, Greenspan plans to set up a consulting firm, Greenspan Associates, in Washington, DC, the Wall Street Journal (1/26, 2.11M) reports. The Journal adds, "One of his first hires will be Michelle Smith, who the Fed said yesterday will leave her job as director of its office of board members to join Mr. Greenspan's new firm. … In addition, the Fed said David W. Skidmore, Ms. Smith's deputy, would become the board's chief spokesman and Rose Pianalto Cameron will oversee other public information activities.

Greenspan Opposes Banking Loophole. Federal Reserve Chairman Alan Greenspan opposes a regulatory loophole that allows corporations to own banks. The Wall Street Journal (1/26, Wysocki, 2.11M) says Greenspan's opposition puts him "into the middle of an effort by Wal-Mart Stores Inc. to establish a bank. Mr. Greenspan's salvo, outlined in a 12-page letter to Congress that was reviewed by The Wall Street Journal, is the latest in a controversy over the separation of commerce and banking. Wal-Mart, the Bentonville, Ark., retailer, is trying to obtain a state banking charter in Utah, using precisely the exemption in the banking laws opposed by Mr. Greenspan." The Journal adds that the remarks "could be Mr. Greenspan's last major statement to Congress as Fed chairman."

Investors Were Skeptical When Greenspan Took Over Fed Chair. USA Today (1/26, Hagenbaugh, 2.31M) reports, "Investors jittery about how incoming Federal Reserve chairman Ben Bernanke will pan out can take some solace -- folks weren't sure some guy named Alan Greenspan was up to snuff either. Investors didn't take the news so well on the day in June 1987 when Paul Volcker announced he was leaving the Fed after eight years and Greenspan was named to his position. Bond markets took their worst one-day beating in more than five years, and the dollar fell." USA adds, "In many ways, Bernanke — although widely respected in economic circles — is more of an unknown to the public than Greenspan was in 1987. … But no matter how well they knew Greenspan, people in 1987 were still nervous about him taking over the Fed."

Dow Chemical Loses Appeal On Life-Insurance Policies. The Wall Street Journal (1/26, Matthews) reports, "A federal appeals court ruled Dow Chemical Co. is liable for $22.2 million in back taxes and interest for claiming tax-income losses on thousands of life-insurance policies it took out on its employees. … The ruling is a victory for the Internal Revenue Service, which for the past decade has been cracking down on companies that take out life-insurance policies on their executives and employees, often without their knowledge, in order to reduce their corporate-tax bill." The article says that only Dow Chemical had prevailed

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against the IRS in these cases, but lost that victory on appeal. The article explains that companies took out these insurance policies "to generate tax deductions with minimal cash outlay. They did this by taking a tax deduction for the interest they paid on loans taken out against the insurance policies, while allowing the policy to build value tax-free."

Ney Announces He Will Seek Reelection. CNN's The Situation Room (1/25, Blitzer) reported, "A leading target in the influence peddling investigation isn't letting the probe keep him from the campaign trail. Congressman Bob Ney announced today that he is running for re-election. The Ohio Republican recently gave up his committee chairmanship. State party officials have urged him to give up a seat as well if he is indicted. Ney denies any wrongdoing."

The AP (1/26, Hammer) notes that in stepping down as chairman of the House Administration Committee earlier this month, Ney "acknowledged that his ties to Abramoff were a distraction from his duties, particularly as Republicans push an ethics reform agenda -- part of which must be implemented by the Administration Committee. But Ney spokesman Brian Walsh said no such distraction has affected Ney's work for his district, where he's known for hands-on constituent service and independence from GOP trade and labor policies."

The New York Times (1/26, Hauser, 1.19M) relates that Ney, in a statement, said "that the campaign this year promises to be a 'vigorous' one 'and I am ready for the fight.' 'I look forward to joining my friends and supporters, including the many state and local officials backing my re-election bid, as we kick off the 2006 campaign this Thursday and Friday,' he said." Ney "is referred to as 'Representative No. 1' in court documents filed in connection with the corruption scandal surrounding" Abramoff. Ney's statement "said he would announce his re-election bid at a campaign rally in Dover tomorrow evening and then travel to the southern part of the district for a second rally in Chillicothe on Friday at noon."

Roll Call (1/26, Whittington) adds, "Chillicothe Mayor Joe Sulzer and Dover Law Director Zack Space are vying in the May 2 Democratic primary for the chance to face Ney, who has held the expansive 18th district seat since 1994."

Ehrlich Says Stem-Cell Funding Decisions Should Be Based On Science. The Washington Post (1/26, B4, Wagner, 744K) reports that Maryland Gov. Robert Ehrlich (R) "is pushing a plan to spend $20 million next year on stem cell research," but "is not committing himself on the question that has stirred the most controversy: whether the money should be used primarily for work on stem cells derived from human embryos or from less controversial adult stem cells." Ehrlich, in an interview, said, "I'm not going to make that decision. … The point here is that the decision should be a function of the science. These are fundamentally science questions, not political questions." Ehrlich "would leave it to a state-founded technology corporation to decide whether to provide grants for work on adult stem cells or work on embryonic stems cells, which many scientists say holds greater promise but some in his party consider tantamount to abortion." Ehrlich, "who has supported stem cell research since his days in Congress," said, "The strong pro-life members know the administration does not share their views on this issue, but we wanted to try to lower the temperature on the politics. … I wanted to try to keep everyone's eye on the ball, and I believe this approach accomplishes that goal."

Republicans Say They Have Bipartisan Support For Stem-Cell Bill Filibuster. The Washington Times (1/26, Ward, 90K) reports that Democratic and GOP Maryland state senators on Wednesday vowed "to stop a bill that would promote the creation of embryos for research. 'If [Senate President Thomas V. Mike] Miller wants to do this extraordinary thing, he will get a filibuster that lasts as long as he wants it to last,' said Senate Minority Whip Andrew P. Harris, Baltimore County Republican. Senate Minority Leader J. Lowell Stoltzfus said he had more than the minimum 19 votes to filibuster. 'We think we have 20,' said Mr. Stoltzfus, an Eastern Shore Republican." The Times notes, "There are 14 Republicans in the 47-member Senate, which means six Democrats have agreed to filibuster. Sen. Paula C. Hollinger, Baltimore County Democrat, is sponsoring the Senate bill in support of embryonic stem-cell research for the second year. … 'I'm sure they will filibuster, and I'm sure we will round up the votes,' she said. Mrs. Hollinger also said she would fight for the bill and against the filibuster for 'as long as it takes.'"

Ford Released From Hospital. ABC's World News Tonight (1/25, story 9, 0:10, Vargas) reported, "Gerald Ford was released from the hospital today. He spent the last 12 days being treated for pneumonia at the Eisenhower Medical Center near Rancho Mirage, California. His doctors say he is doing well."

NBC Nightly News (1/25, story 7, :45, Williams) added, "At 92, he is the oldest living former president. His spokesperson said he's doing well but it's safe to say doctors will be keeping a close eye on him."

The Los Angeles Times (1/26, Rosenblatt, 958K) reports, "Ford, 92, originally had been scheduled to leave Eisenhower Medical Center in Rancho Mirage on Jan. 19, but doctors kept him for additional treatment."

Professors Say Maryland Wal-Mart Defeat Stems From Government-Employed Voters. Steve H. Hanke, professor of applied economics at Johns Hopkins University, and Stephen J.K. Walters, professor of economics at Loyola College in Maryland, write in an op-ed in the Wall Street Journal (1/26, 2.11M), "The consequences of"

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Maryland's "legislature's override of Republican Gov. Robert Ehrlich's veto of their 'Fair Share Health Care Act' on Jan. 12 will be tragic for some of the state's neediest residents." The reason for the override is that legislators "are simply eager for Big Labor's votes and money and therefore subservient to its interests." Estimates show "that as much as a third of the state's economic activity stems from federal employment and purchases," that "sector where revenues appear to arrive automatically and inefficiency never leads to bankruptcy," so "many Marylanders are simply unmindful of the necessities of survival in the private sector." This elects legislators who "often behave as if business is a problem to be solved." However, "legislators should be mindful that companies like Wal-Mart are not the enemy but rather front-line soldiers in a real war on poverty."

Hamas Wins Palestinian Elections; Government Resigns. The AP (1/26) reports this morning, "The Islamic militant group Hamas said Thursday it won control of the Palestinian parliament and officials from the ruling Fatah Party confirmed the estimate -- though Palestinian election officials delayed the release of preliminary official results." The claim by Hamas leader Ismail Haniyeh "was based on reporting by Hamas activists who observed the counting in the polling stations, the group said. He said Hamas had won about 70 seats, enough for a majority in the 132-seat parliament. … Officials with Fatah also said that Hamas had won about 70 seats, which would give the Islamists a majority in the 132-seat parliament. They spoke on condition of anonymity because counting in some districts was continuing."

Meanwhile, CNN.com (1/26) reports, "In a stunning development ahead of official election results, Palestinian Prime Minister Ahmed Qorie said he and the rest of the Palestinian Authority government will resign in the wake of militant group Hamas' apparent victory in historic elections. The announcement was an acknowledgment that election results showed Hamas had won a majority of seats in the 132-seat Palestinian Legislative Council, supplanting the ruling Fatah party." This announcement came before official election results had been released, CNN.com reported. According to the article, Qorie's office "said it will be up to Hamas to form a new government."

Previously, most reports had referred to exit polls showing a narrow Fatah win. The Wall Street Journal (1/26, Leggett, 2.11M) reports that "according to Beir Zeit University's exit poll, the ruling Fatah party emerged victorious with 46% of the vote and Hamas captured about 40%, making its Reform and Change party the second-most popular among voters. Independent parties accounted for the difference. Final results are expected today." The CBS Evening News (1/25, story 5, 2:00, Schieffer) reported that "exit polls show that a militant group dedicated to Israel's destruction did very well, maybe even well enough to gain a role in the Palestinian government." NBC Nightly News (1/25, story 4, 1:30, Williams) showed Ali Zarbawi, Birzeit University saying, "Hamas will be an active opposition, a very strong opposition, but Fatah is going to lead the government."

USA Today (1/26, Gutman, 2.31M) adds "about 1 million Palestinians voted Wednesday in parliamentary elections that threaten to end the ruling Fatah Party's decade-long monopoly over Palestinian politics." The Washington Post (1/26, A1, Wilson, 744K) headlines its story "Hamas Makes Strong Showing In Vote," while the Washington Times (1/26, Mitnick, 90K) titles its reprot "Fatah Edges Hamas In Polls." The Christian Science Monitor (1/26, Prusher, Mitnick, 61K) and Los Angeles Times (1/26, King, 958K) run similar reports.

Bush Touts Palestinian Elections But Says He Will Not Deal With Hamas. In its "Washington Wire" column on its web site,, the Wall Street Journal (1/26, 2.11M) reports, "President Bush, in an Oval Office interview, declared that he isn't ready yet to deal with the radical Palestinian Islamist group Hamas no matter how well it does in Wednesday's Palestinian elections. Speaking to The Wall Street Journal as Palestinians were electing a new parliament, Bush lauded the Middle Eastern trend toward democracy that produced Palestinian elections, but he said that Hamas isn't a suitable partner for diplomacy until it renounces its position calling for the destruction of Israel. 'A political party, in order to be viable, is one that professes peace, in my judgment, in order that it will keep the peace,' the president said. 'And so you're getting a sense of how I'm going to deal with Hamas if they end up in positions of responsibility. And the answer is: Not until you renounce your desire to destroy Israel will we deal with you.'"

The Washington Post (1/26, A19, Kessler, 744K) reports "yesterday's better-than-expected electoral showing by a group labeled a terrorist organization by the United States greatly complicates the administration's diplomacy in the region, U.S. officials said yesterday.' Hamas, "which is dedicated to the destruction of Israel, appears to have ridden a wave of popular disgust at the perceived corruption and incompetence of the ruling Fatah Party. Exit polls indicate Fatah will have only a slim edge over Hamas in the Palestinian Legislative Council, giving Hamas a strong claim to a role in the government." The results "suggested the risks inherent in the Bush administration's campaign to bring democracy to the Middle East." Administration spokesmen "officially celebrated the 'historic moment' for the Palestinians while officials privately reeled at the outcome."

All three network news programs briefly noted Bush's pledge the US would not deal with Hamas unless it renounces violence. ABC's World News Tonight (1/25, story 2, 0:20, Woodruff) reported, "The Bush Administration

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declared the election 'historic' and called this 'a great day for the Palestinian people.' But President Bush made clear the US will not deal with Hamas, no matter how well it did in the election. He told 'The Wall Street Journal' today 'We view Hamas as a terrorist organization. We don't deal with Hamas. … I don't see that changing.'"

The CBS Evening News (1/25, story 6, :30, Schieffer) reported, "Hamas may have won a lot of Palestinian votes, but they got no vote of confidence from President Bush in a 'Wall Street Journal' interview today. The President says he will not deal with Hamas unless the group renounces its call for Israel's destruction."

ABC's World News Tonight (1/25, lead story, 3:10, Woodruff) reported "Israel's new foreign minister holds out little hope." Israeli Foreign Minister Tsipy Livney: "The essence and the reasons of the existence of the Hamas is not because they want to gain some political gains in the conflict. They are talking about demolishing the state of Israel, to erase the state of Israel from earth."

NBC Nightly News (1/25, story 4, 1:30, Williams) in its coverage also noted, "President Bush told 'The Wall Street Journal' today he would not deal with Hamas unless it renounces its call for the destruction of Israel."

The New York Times (1/26, Erlanger, Myre, 1.19M) reports "the acting prime minister of Israel, Ehud Olmert, said his country could not accept a situation in which Hamas would be part of the Palestinian Authority if the group remained armed with unchanged goals."

Carter Hopes Hamas Will Moderate Stance And Renounce Violence. ABC's World News Tonight (1/25, lead story, 3:10, Woodruff) reported, "What no one knows is if Hamas will change, now that it has gained political power. Former President Jimmy Carter came to monitor today's election elections. There are some that believe Hamas will be pragmatic." Former President Carter: "That's my hope. Everybody hopes Hamas will be pragmatic. Because one thing is, if not for their own benefit but maybe for the benefit of the people they represent. Because no doubt if Hamas is not, as you say, pragmatic, then there will be a reduction in foreign assistance."

The CBS Evening News (1/25, story 5, 2:00, Hawkins) reported "Former President Jimmy Carter, who is leading international election monitors here, says bringing Hamas into the system may soften its hard-line positions." Carter: "My hope is and my prayer is that this will be a moderating influence on Hamas, that they'll see the responsibility in the government itself that they will moderate their position, forgo violence and terrorist acts."

Sharon's Absence From Stage Said To Make Peace Process Uncertain. The CBS Evening News (1/25, story 7, 2:00, Schieffer) reported that former Israeli prime minister Ariel Sharon's medical condition "leaves Israel with many unresolved matters, including that wall being built in the West Bank." CBS (Pizzey) added, "The most troublesome and obvious symbol of the unfinished business Ariel Sharon has left behind is the security wall separating Israelis and Palestinians on the West Bank. It wasn't Sharon's idea, but he made it a reality, an unplanned but now integral feature of the so-called road map that is supposed to lead to a peace deal. The problem for those who built on Sharon's legacies is that his plans and policies were like this wall: Only gaps that only he seemed to know how to fill."

Iran Open To Russian Enrichment Of Their Uranium. The Washington Post (1/26, Finn, 744K) reports that Ali Larijani, head of Iran's Supreme National Security Council," said "that his country was open to a compromise proposal from Russia that it enrich uranium for Iran on Russian soil," but added that that "the idea needed fine-tuning in advance of further talks scheduled for the middle of next month." The New York Times (1/26, Myers, 1.19M) adds that Larijani "indicated that no agreement had been reached and that significant details remained to be negotiated" and "warned that Iran would begin enriching uranium on an industrial scale if Iran's nuclear program was referred to the United Nations Security Council." His "remarks made it clear that further discussions on it would not take place until later in February, after the meeting at the atomic energy agency's headquarters in Vienna."

Fox News' Special Report (1/25, Rosen) reported that the head of Iran's national security council, "said in Moscow today Iran now takes a positive view of the so-called Russian proposal, which the Iranians previously rejected. The proposal would have Russia enrich uranium and ship the resulting nuclear fuel to Iran for nonmilitary use."

The AP (1/26, Gutterman) adds that President Bush said "Russia's proposal offered the best chance for resolving the impasse, adding 'it's important for us to exhaust all diplomacy' in dealing with Iran."

The Wall Street Journal/AP (1/26) says "Chief negotiator Ali Larijani also reiterated Iran's threat to renew enrichment activities if it is referred to the United Nations Security Council." The Washington Times (1/26, 90K) runs the same AP story. The Washington Post (1/26, A21, Finn, 744K) runs a similar report under the headline "Iran Says It Is Open To Russian Plan On Nuclear Program," while the New York Times (1/26, Myers, 1.19M) titles its report "Iran Welcomes Russia's Offer To Enrich Uranium Jointly; Details Remain."

Iran's Non-Cooperation Said To Be At Heart Of The Standoff. Knight Ridder (1/26, Landay) reports, "Iran's…obfuscation, conflicting answers and stonewalling on…the enrichment program are at the heart of the crisis over its nuclear program." It is "only by reconstructing the complete history and extent of Iran's nuclear work" that the

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IAEA can "determine the truth. So far, that's been impossible," and while "Iran has filled some gaps and is promising to fill the rest," IAEA Director General Mohamed ElBaradei said "in a Nov. 18 report to the IAEA board…that 'there still remain issues to be resolved' and Iran's 'full transparency is ... long overdue.'"

Blix Says Bush Administration Overemphasizing Possible Military Action. Fox News' Special Report (1/25, Rosen) reported that "one of the world's best-known weapons inspectors, one who clashed with the Bush Administration before, is criticizing it again now for its approach in the current standoff. Hans Blix, the chief UN weapons inspector in Iraq prior to the war, argued the Administration is overemphasizing the potential for US military interaction in Iran."

Washington Backs Off Linking Iran Vote To India Nuclear Deal. The AFP (1/26) reports, "Washington moved to unlink a landmark US-India civilian nuclear deal with how New Delhi votes on the Iranian nuclear question at a key meeting of the UN atomic watchdog agency." The US Ambassador to India, David Mulford, "had warned Wednesday that a historic deal giving American nuclear technology to India might fall through if New Delhi did not vote against Iran at the February 2-3 meeting of the International Atomic Energy Agency (IAEA)." However, State Department spokesman Sean McCormack said, "we deal with the Indian Government on these two issues as separate issues."

Reuters (1/25) added that "Mulford, told the Press Trust of India news agency that if India decided not to vote against Iran, 'the effect on members of the U.S. Congress with regard to the civil nuclear initiative will be devastating.'" He was also quoted "as saying the deal would 'die,'"

The AP (1/26, Rosenberg) adds, "The State Department in Washington said later that Mulford wasn't speaking for the U.S. government."

Reuters (1/26, Hafezi) also covered this story.

US Envoy Says China's US's Approach To Iran Differ. The New York Times (1/26, Kahn, 1.19M) reports, "China and the United States want to prevent Iran from acquiring nuclear weapons, but their 'approach may differ' on the best tactics to achieve that result, Deputy Secretary of State Robert B. Zoellick said after a round of meetings on the subject in Beijing." He also "called the diplomatic discussions fluid and said there were still differences over what steps should be taken to respond to what Western powers say is a covert program by Iran to build nuclear bombs." This suggests "hat China, despite heavy lobbying, had left some doubts as to whether it is prepared to back a proposal…to get the United Nations Security Council involved in deciding how to handle Iran's nuclear program."

Annan Doesn't Expect IAEA To Be Ready In February To Refer Iran To Security Council. Reuters (1/26, Leopold) reports, "U.N. chief Kofi Annan said on Wednesday he doubted that a U.N. nuclear watchdog would be able to come to a decision by early February on referring Iran to the Security Council over its nuclear programme," adding that "Mohamed ElBaradei, the director-general of the Vienna-based International Atomic Energy Agency, did not expect to have a report on Iran ready until the end of February, for the IAEA's regular board meeting in March."

Iran Accuses British Military Of Aiding Bombers. The Washington Post/Reuters (1/26, A17) reports, "Iran accused the British military on Wednesday of cooperating with bombers who killed eight people in southwest Iran, an allegation Britain described as ludicrous. A little-known group campaigning for independence for Iran's Arab minority asserted responsibility in a Web statement for Tuesday's attacks on a bank and government building in the oil city of Ahvaz." Foreign Minister Manouchehr Mottaki "said that London's involvement was clear and that Tehran would make strong protests." A spokesman in British Prime Minister Tony Blair's office "said Iran's allegation 'deserves to be treated with scorn by the whole international community.'"

UN Peacekeepers To Maintain Monitoring Of Israeli-Lebanese Border. The New York Times/Reuters (1/26) reports, "The members of the United Nations Security Council have agreed that United Nations peacekeepers should keep monitoring the Israeli-Lebanese border for six more months, the current Council president said on Wednesday." Lebanon wanted "a renewal of the mandate of the United Nations' peacekeeping mission for the border area for a year, until Jan. 31, 2007." Yet "the 15 Security Council members instead reached a consensus on an extension until July 31."

Frist Says US, International Community Must "Ramp Up The Pressure" On Syria. In a New York Sun (1/26) op-ed, Senate Majority Leader Bill Frist writes, "A year ago this month, a car bomb killed the former Lebanese prime minister, Rafic Hariri. An ongoing U.N. investigation has implicated the Syrian government in the murder. The Syrian president, Bashar al-Assad, may have played a personal role. Several additional high-profile bombings have occurred in the last several months. Enough is enough: Syria's actions in Lebanon have proven that it has no desire to play by the rules of civilized nations. Now, the United States and its partners need to ramp up the pressure on Damascus. We need to push Syria away from its homegrown brand of Arab fascism and toward democracy, peace, and an authentic end to its interference with Lebanon's affairs. We should start by increasing and

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expanding our funding for prodemocracy groups in Lebanon and Syria. In the coming Congress, I plan to support legislation that will do just that."

Bush Administration Criticizes Mexico's Plan To Distribute Border Maps. Following an announcement Tuesday by Mexico's National Human Rights Commission that it will print and distribute maps showing immigrants the safest routes to cross the border into Arizona, Mexican President Vicente Fox distanced his government from the group, saying that it was an "autonomous commission." However, the Washington Times (1/26, Kralev, Seper, 90K) reports, "The Bush administration yesterday accused the Mexican government of facilitating illegal entry into the United States after Mexican officials said they would distribute maps of dangerous border areas and posters with safety instructions and other tips. … 'We oppose in the strongest terms the publication of maps to aid those who wish to enter the United States illegally,' said Homeland Security Secretary Michael Chertoff. 'It is a bad idea to encourage migrants to undertake this highly dangerous and ultimately futile effort.'" Meanwhile, "Rafael Laveaga, spokesman for the Mexican Embassy in Washington, said the NHRC is an independent body and receives no government funds."

Hutchison, Border Sheriff Seek Investigation Of Suspected Mexican Military Incursions. The Washington Times (1/26, Seper, 90K) reports Zapata County Sheriff Sigifredo Gonzalez Jr., who heads the Texas Sheriff's Border Coalition, demanded yesterday "that the US and Mexican governments investigate incursions into the United States by heavily armed drug escorts dressed in Mexican military uniforms 'before someone gets killed.'" He "said a growing number of suspected incursions and violence aimed at the area's law-enforcement officers is making the border 'a pretty dangerous place.'" Also yesterday, "Sen. Kay Bailey Hutchison, Texas Republican, said she was 'deeply concerned' about the possible incursions and asked Homeland Security Secretary Michael Chertoff to 'fully investigate this matter and report to Congress the details and confirm whether or not Mexican military officials were involved. … The Mexican government has denied that the men in any of the incidents were soldiers, saying that some drug smugglers dress in military-style uniforms, carry automatic weapons and drive military-style vehicles."

Kyl Says Border Encounters "Undermine Efforts" To Keep Drugs Out Of US. The Los Angeles Times (1/26, Marosi, Lopez, Connell, 958K) reports, "Armed Mexican government personnel made unauthorized incursions into the United States five times in the last three months of 2005, including one incident last month in Southern California, according to confidential Department of Homeland Security records. … The records obtained by The Times provide new details on more than a dozen incursions into the US, including the five most recent ones." Meanwhile, "US Border Patrol Chief David V. Aguilar said "that incursions have declined by more than 50% since 2002. Still, with assault rates against agents at record highs, any incursion is taken 'very seriously.' However, "US Sen. Jon Kyl (R-Ariz.) said in an interview Wednesday that this week's incident in Texas was 'about as serious as it gets' and noted that dozens of reported incursions have occurred in his state. The encounters seriously undermine efforts to stop the flow of drugs coming across the US border and suggest possible cooperation among Mexican authorities and traffickers, he said."

Mexico Said To Be Helping US Secure Southern Border From Terrorists. Meanwhile, the Christian Science Monitor (1/26, Bowers, 61K) reports, "A top priority of the United States government is to prevent a determined terrorist from crossing the US- Mexico border. It is also becoming a primary mission for Mexico - and the first place it's focusing on is the 375-mile, desolate stretch of land that abuts Arizona. In addition to sharing intelligence and cooperating on investigations with its US counterparts in Arizona, Mexico last year set up three checkpoints along known human-smuggling routes on its side of the border and plans to add two more. Between August, when the checkpoints became operational, and December, Mexican officials stopped 1,277 non-Mexicans (OTMs, for 'other than Mexicans') from crossing into Arizona, according to a Mexican government report obtained by the Monitor. The report shows that most of the OTMs came from Central and South America, but seven are listed as Iraqis." Meanwhile, "the US government is apprehending record numbers of illegal immigrants on the Arizona side of the border."

State Legislators Considering Immigration Legislation. USA Today (1/26, Cauchon, 2.31M) reports, "Frustrated by slow action in Congress, state legislatures are debating whether to increase border enforcement at their own expense, fine employers who use undocumented workers and get local police involved in deporting them." However, "like Congress, legislatures are divided on what to do about the estimated 11 million undocumented immigrants who provide a low-wage workforce in the USA." It "is one of the hottest issues as 37 legislatures convene this month. Last year, states considered 300 immigration laws and approved 40." Meanwhile, "Congress is considering changes to immigration policies — a border fence, a guest worker program — but it's uncertain whether action will be taken this year."

Provision Of Immigration Bill Compared To Nazi Practice. Andrew S. Grove, a member of the board of overseers of the International Rescue Committee, in an op-ed for the Wall Street Journal (1/26, A10, 2.11M) writes that the recently passed "Sensenbrenner-King" immigration bill "scares me because it has the potential of turning neighbor

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against neighbor -- and of changing our country into a place of fear and mistrust. … The bill contains a provision punishing anyone who 'assists, [or] encourages . . . a person who . . . lacks lawful authority to remain in the United States' to remain here." Grove states, "This could change the nature of our society in a way that I have seen firsthand. As a Jewish child hiding from the Nazis in Hungary, I saw how the persecution of non-Jewish Hungarians who hid their Jewish friends or neighbors cast a wide blanket of fear over everyone. This fear led to mistrust, and mistrust led to hostility, until neighbors turned upon neighbors in order to protect themselves. Is this what we want?"

Mexican Presidential Candidate Seeks To Boost Profile. The New York Times (1/26, McKinley, 1.19M) reports on Mexican presidential candidate Felipe Calderón's efforts to succeed President Vicente Fox. After "a bitter primary fight last year, Mr. Calderón transformed himself from a little-known former energy commissioner into the best hope for the president's right-of-center party. He is running a strong second in most opinion polls to the leftist former mayor of Mexico City, Andrés Manuel López Obrador, and many political strategists say he has a chance to win the election on July 2." Yet, "outside the capital's opinion-makers and party insiders, surveys show that one in five Mexican voters still do not know who Mr. Calderón is, and as the presidential campaign officially kicked off last week, he made his first tour to try to change that."

Musharraf Vows To Construct Natural-Gas Pipeline To Iran. The Wall Street Journal (1/26, Champion, Kempe, 2.11M) reports, "Pakistani president Pervez Musharraf "said his country would build a planned natural-gas pipeline from Iran without India's participation if talks among the three nations continue to produce no result." His "threat came at a delicate time for Gen. Pervez Musharraf, while he is having to balance domestic public opinion and relations with the U.S., India and Iran." At the World Economic Forum he "said Pakistan had opened bilateral talks with Tehran to build a gas pipeline that would run from Iran." But India has "expressed concern about recent attacks on existing gas and power lines in Baluchistan, the region of South Western Pakistan through which a pipeline from Iran would pass. Gen. Musharraf played down the threat posed by Baluchistan militants, dismissing the conflict as limited to one isolated local tribe." His "tough line on the pipeline talks contrasts with that of his prime minister, Shaukat Aziz, while in New York last week."

OPEC Will Refrain From Cutting Oil Output. The Wall Street Journal (1/26, Bahree, 2.11M) reports that OPEC "is widely expected to refrain from trimming output levels when its oil ministers meet in Vienna next week, but Iran remains a wild card." The Journal notes, "With the price of oil nearing records recently, an OPEC decision to continue pumping oil at close to capacity should reassure markets of plentiful supply, something Saudi Arabia appears to favor and the U.S. seems to be counting on. In short, there is no economic incentive for OPEC to trim output when market forces have sent billions of extra dollars pouring into the coffers of oil-rich countries anyway." But Iran "could use the OPEC meeting to send a warning to Western Europe and the U.S., both big oil importers." Meanwhile, "U.S. Energy Secretary Samuel Bodman says he has been in regular contact with oil producers. 'By and large, they seem to be understanding that we have a situation where there needs to be more oil rather than less oil in the world,' Mr. Bodman said this week."

South Korea Ignores US Call For Action On North Korean Financial Activity. The Washington Times (1/26, Salmon, 90K) reports, "A day after the United States urged South Korea to take an active stance against what it contends are North Korea's illicit financial activities, Seoul refused to say whether it would take action and made clear it opposed any attempt at regime change in Pyongyang." South Korean President Roh Moo-hyun said, "When it comes to the North Korean regime, raising issues about it or pressuring it or sometimes wishing for its collapse, on that position of some Americans, we do not agree." The Times notes, "By 'some Americans,' Mr. Roh appeared to be referring to hard-liners in the Bush administration who favor toppling North Korean strongman Kim Jong-il."

US, South Korea Close To Reaching Free Trade Deal. The Washington Post (1/26, D6, Blustein, 744K) reports, "The United States and South Korea are very close to launching negotiations for a free-trade agreement, which would be the most economically significant free-trade pact for Washington since the North American Free Trade Agreement." Yet "both sides have been reluctant to start formal talks until they are reasonably confident that the negotiations would end in agreement. South Korea's farmers are bitterly opposed to opening their country's agricultural markets, and their political clout could scuttle a deal." While "plans to launch the U.S.-Korea talks could still founder, officials and other sources who have spoken recently with negotiators said an announcement is likely to materialize before long. Asked about the prospects, one administration official replied, 'How do you say 'soon' in Korean?'" And "Rob Portman, the U.S. trade representative, heightened the speculation Friday when he told reporters, 'We'll be announcing some additional [free-trade agreement] partners soon. As I think you will notice, they will not be with small economies because I do think we need to move on to some larger economies.'"

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"Gas War" Between Russia And Ukraine Leads To European Shortages. The Wall Street Journal (1/26, White, Crawford, 2.11M) reports, "Bickering over natural-gas shipments intensified between Moscow and Kiev has reduced supplies of Russian gas to Europe, led to shortages in several countries and fueled energy-security anxieties across a continent gripped by an arctic cold snap." Few experts "expect a repeat of Russia's New Year's gas cutoff to Ukraine. … But as details of the Jan. 4 deal have emerged, doubts have grown about whether it sets the stable foundation for supplies and exports to Europe that its backers claim." Despite reassurances from both countries, "the two sides yesterday failed to reach agreement on the details of implementing the Jan. 4 compromise, intended to halt what is known as the 'gas war' in the region."

Putin Claims Alleged British Spies Linked To NGOs. The Washington Post (1/26, A16, Finn, 744K) reports, "Russian President Vladimir Putin on Wednesday linked the scandal to foreign financing of nongovernmental organizations in Russia, a connection that grass-roots activists say is tangential and being used to smear their work." Putin said, "The situation is regrettable, as we have seen, when attempts are made to use secret services to work with nongovernmental organizations and when financing is carried out through secret services' channels." The UK government "has refused to comment on the espionage charges, but has denied it was doing anything illegal with nongovernmental organizations." And "Russian authorities have so far presented no evidence that the alleged spy ring recruited human rights activists." Yet the claims have been "seized on by many Russian politicians. The lower house of parliament, by a vote of 401 to 6, passed a resolution Wednesday condemning the involvement of foreign intelligence services with the private groups."

The New York Times (1/26, Myers, 1.19M) notes, "Putin's "remarks intensified a furor" that "could worsen relations with Britain and other countries as Russia presses its assault on European and American financial support of groups that criticize the Kremlin." Putin "said Russia was still considering whether to expel the four diplomats, all mid-ranking secretaries in the British Embassy, indicating for the first time that they had not yet been expelled or withdrawn, though the espionage that was alleged was reported to have been uncovered last fall."

Google Complies With Chinese Censorship. The CBS Evening News (1/25, story 10, 2:00, Schieffer) reported, "Google has launched a new search engine today in China, but in order to do it, it had to agree to restrictions from the communist government." CBS (Gonzales) added, "Just last week, Google stood up to another government, the US government, and refused to turn over personal information the Justice Department wants for its defense of an anti-pornography law." Larry Magid, CBS technology analyst: "The fact that they're making a strong, stand firm with the Justice Department over privacy and then being very loose with the Chinese over censorship, I find a little bit disturbing." Gonzales: "Both decisions actually make good business sense for Google. The company can't afford to spook American users, and it has to get a foothold in the world's largest market."

GOP Lawmaker To Question Google's Move. The Financial Times (1/26, Kirchgaessner) reports, "Google will be called to task in Washington next month following a controversial decision by the internet search engine to launch a China-based version of its website that will censor results to avoid angering the country's Communist government." Rep. Chris Smith's decision "to call for a February 16 hearing to examine the operating procedures of US internet companies in China, represents the first signs of what could become a serious backlash against Google and other internet companies in Washington that are perceived as capitulating to the Chinese government."

Zoellick Sends Message About Strengthening US Relations With China. The Washington Post (1/26, A16, Cody, 744K) reports that deputy secretary of state Robert Zoellick's appearance with a Chinese panda "was seen at least in part as a signal to China about where he wants to steer U.S.-Chinese relations. The official New China News Agency received his message 10-4. It immediately transmitted a happy photo of Zoellick and Jing Jing around the country, illustrating the government's view that good U.S.-China relations are essential and, in fact, getting better and better." His "gesture, in another reading, could also be seen as a signal of where he stands in the Washington debate about China. Interpreted that way, becoming a public panda-hugger was an eloquent endorsement of the view that engagement with Beijing is the best path for the United States and that China's emergence as an Asian power does not have to mean conflict in the Pacific." Zoellick's trip "also included specific talks on issues that could be seen as a test of the U.S.-Chinese engagement his panda photo was meant to symbolize. These, he said, included China's stand on the effort to prevent Iran from acquiring nuclear weapons, China's role in diplomacy to persuade North Korea to eliminate its nuclear weapons program and China's currency policies at a time of soaring U.S. trade deficits."

Concerns Raised Chinese Economic Growth May Be Too Rapid. The Washington Post (1/26, D1, Goodman, 744K) reports, "Led by surging exports, China's economy grew by 9.9 percent last year, the government announced Wednesday, underscoring the swiftness by which this once

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insular communist country has remade itself into a global trading power." But "the news also increased concern that China could be growing too fast, despite measures aimed at cooling the hottest parts of the economy. Aggressive investment has produced too many factories, heightening trade tensions with the United States as China exports surplus wares such as steel, depressing prices globally. Chinese officials worry that unneeded plants could deliver a crippling era of deflation -- falling prices -- which hurts profits and reduces incentives for companies to invest. Such a syndrome kept Japan mired in recession and unemployment for much of the past 16 years."

Report Suggests China Has Fewer AIDS Cases. The New York Times (1/26, Yardley, 1.19M) reports, "China countered the long-held suspicion that it has undercounted the number of people with H.I.V. and AIDS by releasing a new, more extensive estimate on Wednesday that found the opposite: that the country had actually overestimated its number of cases." The new WHO and United Nations AIDS program report "lowered the country's estimated number of H.I.V. and AIDS cases to 650,000 from the official figure of 840,000 released by the government in 2003. Many experts and AIDS workers have long believed that China has at least 1.5 million cases, possibly far more, and some expressed skepticism that the new figure was any more reliable than past estimates."

European Commission Proposes "Nordic-Style" Economic Reforms. The Wall Street Journal (1/26, Echikson, 2.11M) reports, "The European Commission presented a new plan to reinvigorate Europe's economies, calling for a Nordic-style, seemingly social-democratic approach rather than an Anglo-Saxon free-market model." The report "gave the most praise to northern European countries that are increasing spending on research and development universities and pursuing interventionist jobs policies." It "also called for the creation of a competitive, continent-wide energy program, and support for small and medium-size businesses." It represents Commission President José Manuel Barroso's attempt to recover the initiative after a tough first year in office. Many of his previous plans for jump-starting Europe's economies have faltered."

Sri Lankan Factions To Resume Peace Talks. The New York Times (1/26, Senanayake, Sengupta, 1.19M) reports, "In a measure of how intractable this country's ethnic conflict is, the warring parties agreed Wednesday to begin talking to each other again, after more than 18 months of deadlock over a site for peace talks and with scores of killings in the meantime." The negotiations "would focus on strengthening an all-but-ineffectual four-year-old cease-fire agreement. They are scheduled to take place in Geneva, starting as early as February." While "modest," the agreement "represents a major breakthrough in the decade-long war."

African Worshipers Mix Islam With Christianity. The Christian Science Monitor (1/26, McLaughlin, 61K) reports that "worshipers at 'The True Message of God Mission' say it's entirely natural for Christianity and Islam to coexist, even overlap. They begin their worship by praying at the Jesus alcove and then 'running their deliverance' - sprinting laps around the mosque's mosaic-tiled courtyard, praying to the one God for forgiveness and help. They say it's akin to Israelites circling the walls of Jericho - and Muslims swirling around the Ka'ba shrine in Mecca." The group represents "a window on an ongoing religious ferment in Africa. It's still up for debate whether this group, and others like it, could become models for Muslim-Christian unity worldwide or whether they're uniquely African. But either way, they are 'part of a trend,' says Dana Robert, a Boston University religion professor."

Villagers Flee Nigerian Troops. The New York Times/Reuters (1/26) reports, "Villagers fled Nigeria's lawless delta on Wednesday amid fears of military reprisals after a wave of attacks on foreign oil companies by ethnic Ijaw militiamen." Reuters adds, "The army deployed more troops to major installations, and oil companies tightened security around offices a day after heavily armed men stormed the headquarters of the Italian oil firm Agip, robbing a bank on the premises and killing eight policemen and a civilian."

Annan Denies Arranging Deal For Son's Car. The Los Angeles Times (1/26, Farley, 958K) reports that after his son, Kojo Annan, agreed to reimburse Ghana for the import duties on a car he misidentified as belonging to his father, UN Secretary General Kofi Annan "welcomed news of his son's move. 'It was the right thing to do. … He knew I wanted him to sort it out, clean it up. It was between him, his lawyer and the government." Asked if "he, as secretary-general, secured the tax break for his son, Annan said, 'Absolutely not. It was done behind my back.'"

Former Surfer Volunteers For International Disaster Relief. ABC's World News Tonight (1/25, story 11, 2:20, Wright) reported, "The remarkable story of one American making so much of a difference. He was a laidback, California surfer, until he saw the damage done by the tsunami" ABC (Wright): "If relief organizations had special forces, Matt George would be a Green Beret. He's a one-man trauma ward, in what may be the coldest clinic on earth. A builder doing what he calls extreme home makeovers. And he delivers supplies where no aid workers have gone before."

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Pinochet's Daughter Seeks Asylum In US. The Washington Post (1/26, A20, Reel, Constable, 744K) reports, "The oldest daughter of the former Chilean dictator Gen. Augusto Pinochet was detained Wednesday at Dulles International Airport outside Washington, where she requested political asylum, a Chilean official said." Lucia Pinochet "had been served with a subpoena over the weekend in Chile, along with her mother and three siblings. They had been ordered to appear in court on Monday…on tax fraud charges connected to a probe of her father's illegal bank accounts." A DHS spokesman "said she was in U.S. custody at the airport in Virginia 'pending resolution of her immigration status.'" And "Chile's Interior Minister, Francisco Vidal, said U.S. Ambassador Craig Kelly informed his government that Pinochet, sought on an international arrest warrant, had requested asylum. U.S. officials said they could not comment on that issue."

Success Of Bush Allies In War In Iraq Contrasted With Opponents' Downfall. Columnist Mark Steyn in an op-ed in the Wall Street Journal (1/26, 2.11M) writes, "Remember the conventional wisdom of 2004? Back then, you'll recall, it was the many members of George Bush's 'unilateral' coalition who were supposed to be in trouble, not least the three doughty warriors of the Anglosphere -- the president, Tony Blair and John Howard -- who would all be paying a terrible electoral price for lying their way into war in Iraq. The Democrats' position was that Mr. Bush's rinky-dink nickel-&-dime allies didn't count: The president has 'alienated almost everyone,' said Jimmy Carter, 'and now we have just a handful of little tiny countries supposedly helping us in Iraq.' (That would be Britain, Australia, Poland, Japan . . .) Instead of those nobodies, John Kerry pledged that, under his leadership, 'America will rejoin the community of nations' -- by which he meant Jacques Chirac, Gerhard Schröder, the Belgian guy." But now "Bush, Blair, Howard and Koizumi are all re-elected, while Mr. Chirac is the lamest of lame ducks, and his ingrate citizenry have tossed out his big legacy, the European Constitution; Mr. Schröder's government was defeated and he's now shilling for Russia's state-owned Gazprom ('It's all about Gaz!'); and the latest member of the coalition of the unwilling to hit the skids is Canada's Liberal Party, which fell from office on Monday. John Kerry may have wanted to 'rejoin the community of nations.' Instead, 'the community of nations' has joined John Kerry, windsurfing off Nantucket in electric-yellow buttock-hugging Lycra, or whatever he's doing these days."

WSJournal Honors Memory Of Free Market Leader Of Hong Kong. The Wall Street Journal (1/26, 2.11M) editorializes, "Hong Kong's prosperity since World War II is sometimes referred to as a 'miracle.' But miracles require the intervention of a deity, whereas Hong Kong's remarkable economic growth between 1945 and its handover to China in 1997 owes a great deal to the nonintervention of a mortal man, John James Cowperthwaite, who died over the weekend at the age of 90." As Financial Secretary from 1961-1971, Cowperthwaite "was the architect and guardian of the greatest natural experiment in free-market capitalism in the postwar world." The Journal concludes, "Other would-be central planners could learn a lot from what John Cowperthwaite didn't do."

NYTimes Applauds African Union Rejection Of Sudan Leadership. The New York Times (1/26, 1.19M) editorializes, "The African Union did the right thing in rejecting Sudan's bid for the rotating presidency of the organization. Allowing President Omar Hassan al-Bashir of Sudan to become Africa's face to the world would have sent just about every wrong message imaginable." But while "rebuffed for now, Mr. Bashir was promised the group's presidency in 2007, and for now the chair will go to the Congo Republic, hardly a model of human rights. Giving Sudan the African Union presidency next year will be just as unacceptable as it was this year."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"The Day Disaster Changed Their Lives."
"Hamas Makes Major Inroad In Balloting."
"Villa Shines Through Getty's Clouds."
"Abduction Forces A Grim Look At What A Story Is Worth."
"Reports Cite Incursions On U.S. Border."
"Multiple Risks Of Surgery Drug Seen."
"There Isn't Enough Good Entertainment To Go Around."

USA Today:
"States Weigh Immigration Controls."
"X Games Upstarts Now Embrace The Olympics."
"General Sees Rift In Iraq Enemy."

New York Times:
"Hamas Presses Fatah In Palestinian Vote, Surveys Say."
"Big Test Looms For Prosecutors At Enron Trial."
"New Estimate In China Finds Fewer AIDS Cases."
"Bush, In Speech, Is Seen Avoiding Large Initiatives."
"In Public Schools, The Name Game As A Donor Lure."
"News Analysis: In Case About Google's Secrets, Yours Are Safe."

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Washington Post:
"Gay Marriage Ban Advances Toward Va. Referendum."
'Hamas Makes Strong Showing In Vote."
"Nuclear Energy Plan Would Use Spent Fuel."
"Fairfax Police Say Shooting Was Accident."
"Al Gore, Sundance's Leading Man."
"Harmful Teflon Chemical To Be Eliminated By 2015."

Washington Times:
"White House Slams Mexico For Aid Maps."
"Sheriff Demands Probe Of Incursions."
"Fatah Edges Hamas In Polls."
"Bush Reiterates Spy Authority."
"Marriage Amendment Set For Virginia Ballot."
"BB&T Opposes Eminent Domain."
"Toyota Racing Teams Break Through Nextel Cup Barrier."

Detroit Free Press:
"Winter Bust Won't Stop Blast."
"Granholm: Let's Help People Save."
"Audits Find Waste At State Universities."
"DIA Defends Its Right To Van Gogh."

Atlanta Journal-Constitution:
"Voter ID Bill Approved."
"Whose Tax Cut Is It?"
"Fat Lady Warms Up As Opera Gets Closer To Cobb Center Move."
"Palestinian Vote Realigns Power."

Dallas Morning News:
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"State To Pick Up Medicare Slack."
"Strayhorn Gets Democratic Cash."
"Bush PR Blitz Races To Frame Spying Debate."
"Nuclear Energy Policy Would Reprocess Fuel."
"Study: Internet Fosters Contact."

Houston Chronicle:
"Hamas Party Shows Muscle In Vote."
"Delay In Oil-Spill Notification Probed."
"The Media May Not Be Rock Stars, But This Is Their Big Gig."
"Mexico Police Arrest Woman In 'Old Lady' Serial Killings."
"NASA's Teachable Moments."

Story Lineup From Last Night's Network News:
ABC: Palestinian Election; US Palestinian Election Response; Release Of Iraqi Women; Oil Industry Profits; Bush NSA Defense; Alito Debate; Teflon Dangers; FL Bus Accident; Ford Released; Breast Cancer Treatment; Disaster Relief Volunteer.
CBS: Bush Domestic Spying; Hayden-9/11 Prevention; US Troops Overburdened; Iraq-Prisoner Release; Palestinian Elections; Bush-Palestinian Elections; Sharon Void; Medicare Problems; Ford Release From Hospital; Google-China Censor.
NBC: Bush-Domestic Spying; Katrina Aftermath-White House; Alito Confirmation Hearing; Palestinian Elections; US Troops Overburdened; US Troops Security Advisors; Ford Released From Hospital; Mine Safety; Sandwich Generation; Katrina Coverage.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Ameriprise-security breach, Identity theft; FL-deadly car accident; WV-Sago mine victim's condition; Palestinian election; Bush-domestic spying; Wall Street.
CBS: Palestinian election; Iraq-female prisoner release; FL-deadly car accident; CA-bank hostage standoff; EPA-teflon chemical; Wall Street.
NPR: Palestinian election; CA-bank hostage standoff; FL-deadly car accident; Senate-Alito; Cuba-US interests section message board; Bush-domestic spying; Iraq-female prisoner release.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH – No schedule available.

FIRST LADY LAURA BUSH -- Visits Harte Elementary School. New Orleans. Visits St. Bernard Unified School. Chalmette, La. Participates in building a playground. Hancock North Central Elementary School, Kiln, Miss.

VICE PRESIDENT CHENEY -- No schedule available.

US Senate: -- COMMITTEE MEETINGS

10 a.m. ARMED SERVICES _ Full Committee. Closed, members-only briefing on alternatives for tanker recapitalization. Location: Room 222, Russell.

2:30 p.m. SELECT INTELLIGENCE _ Full Committee. Closed, members-only briefing on pending matters. Location: Room 219, Hart.

US House: -- No events scheduled.

Other: ALL DAY

Jan. 22 - 26. TRANSPORTATION MEETING _ The Transportation Research Board holds its 85th annual meeting. Five days of workshops and presentations by and for transportation professionals. Location: Omni Shoreham Hotel, 2500 Calvert St. NW, Washington Hilton & Towers, 1919 Connecticut Ave. NW, Washington Marriott Wardman Park, 2660 Woodley Road NW. Contacts: Russell Houston, 202-334-3252 Notes: Newsroom facilities at all three venues.

Jan. 24 - 26. AGRICULTURAL EMPLOYERS _ The National Council of Agriculture Employers holds its annual meeting. Location: Hamilton Crowne Plaza Hotel, 14th and K Sts. NW. Contacts: n/a, 202-728-0300

Jan. 24 - 26. HEALTH AND HUMAN SERVICES _ The Medicaid Commission holds three days of meetings to

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discuss longer term recommendations on the future of Medicaid. Location: Holidat Inn-Chevy Chase, 5520 Wisconsin Ave., Chevy Chase, MD. Contacts: Margaret Reiser, 202-205-8255

Jan. 25 - 27. MAYORS _ The U.S. Conference of Mayors holds its 75th Winner Meeting. Highlights: 9 a.m. Plenary session on avian flu and homeland security, with Deputy HHS Secretary Alex Azar, Seattle Mayor Greg Nickels, Baltimore Mayor Martin O'Malley, Denver Mayor John Hickenlooper, Deputy DHS Secretary Michael Jackson, others. 11 a.m. News conference on homeland security and avian flu. 11 a.m. Session on childhood obesity, with William Dietz of CDC, others. 11 a.m. Session on housing for hurricane evacuees, with Rep. Michael Turner, Assistant HUD Secretary Steven Nesmith, others. 11 a.m. Session on energy costs, with Sen. Jack Reed, Steven Crout of the American Gas Association, others. 12:30 p.m. Luncheon, with HUD Secretary Jackson, others. 2:30 p.m. Session on faith-based and community initiatives, with Sen. Sam Brownback, Rep. Danny Davis, others. Location: Capital Hilton, 16th and K Sts. NW. Contacts: Elena Temple, 202-861-6719

Jan. 26 - 27. ENERGY _ The National Council for Science and the Envionrment holds its 6th National Conference on Science, Policy and the Environment: Energy for a Sustainable and Secure Future. Highlights: 9 a.m. Keynote address : Ross Pillari, President, BP America. 10 a.m. Session on opportunities for decision-making that will shape the energy future, with Bob Greco of API, Pennsylvania Enviorinmental Protection Secretary Katie McGinty, former Energy Secretary Hazel O'Leary, others. 5:30 p.m. Presentation of Lifetime Achievement Award to former EPA Administrator Russell Train. Location: Reagan Trade Center. Contacts: David Blockstein, 202-207-0004

9 a.m. LOBBYING REFORM _ American University's CEnter for Congressional and Presidential Studies aqnd the Committee for Economic Development hold a lobbying reform summit. Location: National Press Club. Contacts: Maralee Csellar, 202-885-5952

8:30 a.m. IMMIGRATION LAW _ The American Bar Association Section on Individual Rights hosts a panel discussion on immigration reform, asylum and refugees. Location: National Press Club, 14th and F Sts. NW Contacts: Stephanie Ortbals Tibbs, 202-662-1091 Notes: RSVP requested to 202-662-1030.

9:15 a.m. TAX SIMPLIFICATION _ Sen. Ron Wyden holds a news conference about the need for tax reform to make the tax code simpler. Location: In front of IRS, Pennsylvania Ave. and 10th St. NW. Contacts: Andrew Blotky, 202-224-3789

9:30 a.m. - 11 a.m. HEALTH CARE COSTS _ The Progressive Policy Institute holds a forum to discuss the promise of a local health care reform experiment, The Puget Sound Health Alliance, designed to control costs and reward better care. With David Kendall, PPI; Ron Simms, King County Executive; Janet Corrigan, president, National Committee for Quality Health Care; Anne Gauthier, senior policy director, Commonwealth Fund's Commission on a High Performance Health System. Location: PPI, Suite 400, 600 Pennsylvania Ave, SE. Contacts: Austin Bonner, 202-547-0001

10 a.m. IDENTITY THEFT _ Treasury Secretary Snow releases ``Identity Theft: Outsmarting the Crooks'' DVD. Location: Media Room, main Treasury. Contacts: n/a, 202-622-2920

10 a.m. LOBBYING REFORM _ The American Society of Association Executives holds a news conference on lobbying reform and the value of associations to America. Location: National Press Club. Contacts: Angel Venable, 202-626-2788

10:30 a.m. - 12 p.m. SCHOOL CHOICE _ The Brookings Brown Center on Education Policy holds an education policy forum on school choice in K-12 education. Focusing on ``Getting Choice Right,'' the final voume from the National Working Commission on Choice in K-12 Education. With Tom Loveless, director, Brown Center on Education Policy; Julian Betts, professor of economics, UC San Diego; Patrick Wolf, principal investigator, School Choice Demonstration Project at Georgetown University; and Laura Hamilton, senior behavioral scientist, RAND Corporation. Location: 1775 Massachusetts Ave., N.W. Contacts: n/a, 202-797-6105

10:45 a.m. DEMOCRATS-MEDICARE RX _ Senators Harry Reid, Ted Kennedy, Jeff Bingaman and Debbie Stabenow joins Concerned Seniors for a press conference to call on the president to take immediate action to fix widespread problems and confusion caused by the Medicare prescription drug bill. Location: Room 406, Dirksen Senate Office Building. Contacts: Jim Manley, 202-224-2939

11 a.m. BUDGET OUTLOOK _ The Congressional Budget Office holds a briefing on the 2006 Budget and Economic Outlook. With acting CBO Director Donald Marron. Location: CBO, 483 Ford House Office Bldg., 2nd and D Sts, S.W. Contacts: Melissa Merson, 202-226-2602 Notes: Congressional press credentials required. Report available at 10 am at www.cbo.gov. Limited copies available at briefing.

11 a.m. REBUILDING NEW ORLEANS _ The Foreign Press Center offers a digital video conference of a New York Press Center on-the-record briefing on rebuilding Cnew Orleans and Lousiana, with Louisiana Economic Development Secretary Michael Olivier, others. Location: Foreign Press Center, National Press Building. Contacts: Sheila Hoban, 202-504-6314 Notes: Foreign media only.

11:15 a.m. ALITO _ Public Advocate of the U.S. group holds an event in support of Samuel Alito's nomination to the Supreme Court, with an ensemble signing ``Alito'' as they

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pass out materials. Location: In front of Dirksen, at 1st St. and Constitution Ave. NE. Contacts: Jesse Binnall, 703-582-7924

12 p.m. ANTI-DUMPING _ The World Bank hosts a briefing on its study finding the use of safeguards, antidumping in Latin America, seen as judicious. The briefing will be chaired by Guillermo Perry, World Bank Chief Economist for the Latin America and Caribbean region. Panelists will include: Hector Marquez, Director, Trade and NAFTA Office, Embassy of Mexico; Brad Ward, partner, Dewey Ballantine LLP; and J. Michael Finger, Retired World Bank Lead Economist. Location: World Bank Headquarters, I Building, 1850 I St. NW, Room I1-200. Contacts: Chris Neal Sr., 202-473-7229

12 p.m. - 2 p.m. UN REFORM-HUMAN RIGHTS _ The United Nations Development Programme holds a roundtable discussion to take stock of UN progress on initiatives for democracy and human rights. With Mark Lagon, deputy assistant secretary, International Organization Affairs, State Department; Magdy Martinez-Soliman, Practice Manager, Democratic-Governance Group, UNDP; Jennifer Windsor, executive director, Freedom House; and others.

12:30 p.m. DEMOCRATS-LOBBYING REFORM _ Senators Lieberman, Feingold, and Obama hold a news conference to call for immediate attention on the Honest Leadership Act, the Democratic proposal to reform congressional lobbying rules. Location: Senate Radi/TV Gallery. Contacts: Jim Manley, 202-224-2939

12:30 p.m. - 1:30 p.m. ECONOMICS-MUTUAL FUNDS _ The National Economics Club hosts a speech by Brian Reid, chief economist, Investment Company Institute, on ``How Well is the Market for Mutual Funds Working?'' Location: Chinatown Garden Restaurant, 618 H St, NW. Contacts: n/a, 202-493-8824

1 p.m. DEMOCRATIC LEADERS _ Sen. Dick Durbin and Rep. Nancy Pelosi speak at the National Press Club to give the Democratic pre-buttal fo the State of the Union Address. Location: National Press Club. Contacts: Brendan Daly, 202-226-7616

1 p.m. NORTHERN IRELAND _ The National Press Club holds an Afternoon Newsmaker news conferencde with the leader and deputy leader of the Social Democratic labor party of Northern Ireland discussing the peace process. Location: National Press Club. Contacts: Peter Hickman, 301-530-1210

2 p.m. DEMOCRATS-BUDGET _ Rep. John Spratt and Sen. Kent Conrad hold a news conference on the CBO budget report. Location: House Radio-TV Gallery.

2 p.m. MASSACHUSETTS HEALTH CARE _ The Heritage Foundation holds a discussion with Massachusetts Gov. Mitt Romney on health care reform in his state. Location: Room 2261, Rayburn. Contacts: n/a, 202-675-1761

2:15 p.m. AFGHANISTAN _ U.S. Ambassador to Afghanistan Ronald Neumann holds an on-the-record briefing on the London Conference on Afghanistan next week. Location: Foreign Press Center, National Press Club. Contacts: Doris Robinson, 202-504-6353 Notes: Foreign media only.

3 p.m. BUDGET _ The Center on Budget and Policy Priorities holds a telephone briefing on the new budget and economic forecast by the CBO which will be released Thursday morning. Contacts: Michelle Bazie, 202-408-1080 Notes: Call Contact for details.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

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TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: THURSDAY, JANUARY 26, 2006 7:45 AM EST

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TERRORISM NEWS:

Specter To Grill Gonzales On Spy Program (PPG)

By Michael Mcgough, Post-gazette National Bureau

Pittsburgh Post-Gazette, January 26, 2006

WASHINGTON -- If Attorney General Alberto R. Gonzales thought he might be spared tough questioning from Republican senators when he testifies about the warrantless wiretapping of Americans thought to be in contact with foreign terrorists, Sen. Arlen Specter, R-Pa., yesterday disabused him of that notion.

In a letter sent to the attorney general and shared with the press, the chairman of the Senate Judiciary Committee propounded a series of questions that in a courtroom setting might be called "leading" and requested that Mr. Gonzales answer them in his opening statement before the committee on Feb. 6.

The combative nature of the letter wasn't altered by the fact that the printed salutation to "Attorney General Gonzales" was replaced by a hand-written "Al."

The letter honed in on the Bush administration's assertion-ridiculed by critics -- that Congress empowered the president to engage in electronic surveillance of Americans without a court order when it passed a resolution after the Sept. 11 2001, attacks authorizing him to "use all necessary and appropriate force" against terrorists.

Mr. Specter asked: "In interpreting whether Congress intended to amend the Foreign Intelligence Surveillance Act by the Sept. 14, 2001, resolution, would it be relevant on the issue of congressional intent that the administration did not specifically ask for an expansion for executive powers under FISA?"

Mr. Specter further asked: "If Congress had intended to amend FISA by the resolution, wouldn't Congress have specifically acted to [do so] as Congress did in passing the Patriot Act giving the executive expanded powers and greater flexibility in using 'roving' wiretaps?"

Mr. Specter also made it clear he would press Mr. Gonzales about the administration's other legal rationale for the surveillance -- that it flowed from Mr. Bush's constitutional authority as commander-in-chief.

On this point, Mr. Specter asked: "isn't President Carter's signature on FISA in 1978, together with his signing statement, an explicit renunciation of any claim to inherent executive authority under Article II of the Constitution to conduct warrantless domestic surveillance?"

In what might be the most ticklish question for Mr. Gonzales, Mr. Specter said he would ask if the administration would be willing belatedly to seek approval from the FISA court for "the ongoing surveillance program at issue."

In posing these other questions, Mr. Specter made it clear that Democrats won't be the only members of the committee to grill Mr. Gonzales about the rationale for the NSA program. That will make it harder for the administration to portray criticism of the operation as partisan.

On Tuesday, before the committee voted on the Supreme Court nomination of Judge Samuel A. Alito Jr., Mr. Specter was praised by Sen. Patrick Leahy, D-Vt., for scheduling hearings on the NSA program.

Mr. Leahy, the ranking Democrat on the panel, said that "most committees in the Senate have been unwilling to hold hearings because of the pressure from the White House."

Lawmakers Seek Details On Administration's Spying (NJTD)

By Sarah Lai Stirland, National Journal's Technology Daily

National Journal's Technology Daily, January 25, 2006

Pressure mounted on the Bush administration Wednesday to provide lawmakers with answers on domestic spying activities.

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Senate Judiciary Committee Chairman Arlen Specter, R-Pa., released a three-page letter with detailed questions to Attorney General Alberto Gonzales on the president's decision in 2002 to secretly authorize domestic wiretaps without warrants.

The letter includes many of the questions that constitutional scholars have been posing about the president's order, and several questions could put Gonzales in an awkward position.

Specter's Tuesday letter asked Gonzales why the president did not ask lawmakers to include the authority to conduct such surveillance as part of the USA PATRIOT Act. Congress passed the legislation shortly after the terrorist attacks of Sept. 11, 2001, specifically to loosen legal standards governing terrorist investigations.

The letter also asks Gonzales to justify the administration's selective briefing of particular members of Congress, rather than of all of the members of the House and Senate Intelligence committees, as required by law.

At the same time, Democrats on the Senate Intelligence Committee demanded that Chairman Pat Roberts, R-Kan., hold a business meeting so the committee can vote to investigate several aspects of the administration's domestic spying.

Under committee rules, Roberts is obligated to hold a meeting if at least five members formally ask for one. All seven Democrats on the panel signed the request to Roberts.

A majority vote is needed to move ahead with the investigation. Two Republicans on the committee, Sens. Chuck Hagel of Nebraska and Olympia Snowe of Maine, have asked Roberts for a hearing on the matter. Roberts has said nothing publicly about holding a hearing. A press call asking whether the senator plans for any hearings was not returned by press time.

Also on Wednesday, a group of Democrats, including Sens. Richard Durbin of Illinois and Charles Schumer of New York, sent a letter to President Bush asking him for specific changes in the law that he believes are necessary to permit effective surveillance of suspected terrorists.

When asked whether they were posing the questions so new provisions could be included in pending legislation to reauthorize the USA PATRIOT Act, a spokesman for Durbin replied: "No. that's because we believe that the president is breaking the law, and we would rather have him not do that."

The spokesman added, "If [Bush] feels that he doesn't have the tools he needs, he has an obligation under the Constitution to come to Congress."

In a speech delivered at National Security Agency headquarters at Fort Meade, Md., President Bush sounded defiant.

"I'll continue to reauthorize this program for so long as our country faces a continuing threat from al Qaeda and related groups," he said. "This enemy still wants to do harm to the American people. We cannot let the fact that we have not been attacked lull us into the illusion that the threats to our nation have disappeared."

Senators Questioning Spy Program (BSUN)

By Julie Hirschfeld Davis

The Baltimore Sun, January 26, 2006

WASHINGTON -- On a day when President Bush visited the National Security Agency to defend its warrantless eavesdropping operation, questions mounted about the administration's legal justifications for the program.

A key Republican senator took issue with Bush's defense of the operation, which was secretly authorized by the president after the Sept. 11, 2001, terrorist attacks and targets some communications inside the United States. Also, new reports surfaced suggesting that the administration had rejected an earlier proposal in Congress that would have made it easier to obtain court approval for domestic wiretapping.

In a letter to Attorney General Alberto R. Gonzales, Senate Judiciary Chairman Arlen Specter took issue with major themes of Bush's legal defense of the program, including that Congress gave implicit approval for it in a 2001 resolution authorizing the use of force against terrorists.

Specter, who has called Gonzales to testify at hearings into the NSA surveillance activities, asked the attorney general to answer more than a dozen questions about the legal reasoning behind the operation. Among them: why Bush sidestepped a 1978 law requiring approval by a secret court for most domestic wiretaps; why the administration did not ask for express authority to carry out the program; and how the administration can justify briefing only eight members of Congress about the activities when the law requires that congressional committees be kept up to date on intelligence matters.

The letter from Specter, a Pennsylvania Republican, asked Gonzales to appear for a full day of testimony at the hearings, scheduled to open Feb. 6. Specter was particularly pointed in questioning whether it actually was Congress' intent to let Bush circumvent the Foreign Intelligence Surveillance Act of 1978, which generally requires warrants for domestic surveillance.

ßsubhed 'Necessary' force

Bush contends the post-9/11 resolution, which authorized the use of "all necessary and appropriate force" to pursue al-Qaida, extends to wiretapping terrorist communications that originate or end inside the United States.

Still, legal experts and several lawmakers in both parties have questioned why Bush did not seek court approval for the program, or ask that the standards of the 1978 law be relaxed, if necessary, to accommodate it. Late last year, Gonzales said officials determined that such an expansion was "not something that we could likely get" from Congress.

But the Bush administration opposed loosening FISA's legal standards in 2002, when Republican Sen. Mike DeWine of Ohio introduced legislation that would have done so for wiretaps on non-U.S. persons. The change might not be necessary and could be unconstitutional, James A. Baker, the Justice Department intelligence counsel, testified on Capitol Hill in July 2002.

The issue is important to the raging debate over the legality of the NSA program, which operates without such warrants, since Bush and his top advisors argue that the secret authorization was needed because the FISA approval process is too unwieldy for intelligence officers tracking terrorist communications.

To obtain a domestic wiretap warrant through the FISA court, authorities must show "probable cause." In his 2002 testimony, Baker questioned whether relaxing the standard to "reasonable suspicion" would pass constitutional muster.

"If the current standard has not posed an obstacle, then there may be little to gain from the lower standard and, as I previously stated, perhaps much to lose," he said.

A Justice Department spokesman said there was no contradiction between Baker's statement and the administration's position on the NSA program. Officials carrying out the surveillance program operate on a "reasonable basis to believe" standard, which is similar to "probable cause," and a higher threshold than "reasonable suspicion," said Brian Roehrkasse, the spokesman.

"The legal standards are essentially the same; however, when time is of the essence, interposing additional layers of review sacrifices critical speed and agility," Roehrkasse said.

National security lawyers, however, view "probable cause" as a higher standard than "reasonable basis to believe."

Bush pressed ahead with his campaign to quell public anxiety about the program during a visit to the NSA's Fort Meade headquarters, painting his critics as weak-kneed in the face of terrorist threats. "There's some in America who say, 'Well, this can't be true [that] there are still people willing to attack,'" Bush said. "Listen to the words of Osama bin Laden and take him seriously. When he says he's going to hurt the American people again, or try to, he means it."

Flanked by senior advisors and Lt. Gen. Keith B. Alexander, the NSA director, Bush spoke to reporters from outside the NSA's Threat Operations Center, a high-tech hub of activity with a video wall displaying snippets of the vast amounts of information the agency collects and crunches. Earlier, in a portion of his visit that was closed to reporters, Bush addressed NSA employees. His remarks were beamed to agency personnel around the world, including in Iraq and Afghanistan.

Democrats pounced on Bush's NSA visit Wednesday to criticize the operation. "I regret that President Bush has chosen to use NSA, and its hard-working employees, as a photo opportunity for his own political purposes," Maryland Sen. Barbara A. Mikulski said. "Instead he should be working to sort out the complicated issues surrounding his domestic spying program."

Democratic Rep. Elijah E. Cummings of Baltimore said Bush should focus on helping Americans without jobs, health insurance or access to a quality education, rather than speaking out on the spying program.

"I urge our president to open his eyes and address the nation's immediate needs instead of defending the illegal action of listening in on private telephone conversations," Cummings said in a statement.

Republicans sent word to millions of supporters, asking them to rally behind the program in letters to newspapers and calls to radio shows and lawmakers. In an e-mail, National Republican Chairman Ken Mehlman accused Democrats of "deliberately distorting the truth" about the operation, and urged Republicans to "separate fact from fiction."

Democrats' letter

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A group of Democratic senators released a letter to Bush that accused the president of breaking the law through the eavesdropping program. They called on him to tell Congress by Feb. 1 what changes he would seek in current law to carry it out.

"If you or officials in your administration believe that FISA, or any law, does not give you enough authority to combat terrorism, you should propose changes in the law to Congress. You may not simply disregard the law," wrote the group, including Sens. Richard J. Durbin of Illinois, Russell D. Feingold of Wisconsin, Edward M. Kennedy of Massachusetts and Harry Reid of Nevada, the minority leader.

A request by Sen. John D. Rockefeller IV of West Virginia, the top Intelligence Committee Democrat, for prompt hearings on the NSA program touched off a testy exchange of letters between him and Sen. Pat Roberts of Kansas, the panel's Republican chairman, with each accusing the other of playing politics with the issue.

House Intelligence Committee Democrats, too, renewed their calls for hearings on the NSA program. Also, Senate Democrats called on Specter to widen the scope of the Judiciary Committee hearings by calling current and former administration officials, including Andrew H. Card Jr., the White House chief of staff.

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White House Dismissed '02 Surveillance Proposal (WP)

By Dan Eggen

The Washington Post, January 26, 2006

The Bush administration rejected a 2002 Senate proposal that would have made it easier for FBI agents to obtain surveillance warrants in terrorism cases, concluding that the system was working well and that it would likely be unconstitutional to lower the legal standard.

The proposed legislation by Sen. Mike DeWine (R-Ohio) would have allowed the FBI to obtain surveillance warrants for non-U.S. citizens if they had a "reasonable suspicion" they were connected to terrorism -- a lower standard than the "probable cause" requirement in the statute that governs the warrants.

The administration has contended that it launched a secret program of warrantless domestic eavesdropping by the National Security Agency in part because of the time it takes to obtain such secret warrants from federal judges under the Foreign Intelligence Surveillance Act (FISA).

The wiretapping program, ordered by President Bush in 2001, is used when intelligence agents have a "reasonable basis to believe" that a target is tied to al Qaeda or related groups, according to recent statements by administration officials. It can be used on U.S. citizens as well as foreign nationals, without court oversight.

Democrats and national security law experts who oppose the NSA program say the Justice Department's opposition to the DeWine legislation seriously undermines arguments by Attorney General Alberto R. Gonzales and others, who have said the NSA spying is constitutional and that surveillance warrants are often too cumbersome to obtain.

"It's entirely inconsistent with their current position," said Philip B. Heymann, a deputy attorney general in the Clinton administration who teaches law at Harvard University. "The only reason to do what they've been doing is because they wanted a lower standard than 'probable cause.' A member of Congress offered that to them, but they turned it down."

But Justice Department officials disagreed, saying the standard the department opposed in 2002 is legally different from the one used by the NSA.

"The FISA 'probable cause' standard is essentially the same as the 'reasonable basis' standard used in the terrorist surveillance program," said spokeswoman Tasia Scolinos, using the term for the NSA program the White House has adopted. "The 'reasonable suspicion' standard, which is lower than both of these, is not used in either program."

Justice officials also said that even under a different standard, the process of obtaining a surveillance warrant would take longer than is necessary for the NSA to efficiently track suspected terrorists.

The DeWine amendment -- first highlighted this week by Internet blogger Glenn Greenwald and widely publicized yesterday by the Project on Government Secrecy, an arm of the Federation of American Scientists -- is the latest point of contention in a fierce political and legal battle over the NSA monitoring program.

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Many Democrats and some Republicans, along with legal experts from both sides, have criticized the program as a clear violation of the 1978 FISA law, which makes it a crime to conduct domestic surveillance without a criminal or intelligence warrant. The administration argues that Bush acted legally under the congressional authorization to use military force against al Qaeda, and that FISA would be unconstitutional if it constrains his power as commander in chief.

During separate appearances this week, Gonzales and Gen. Michael V. Hayden, the deputy intelligence chief, also said the legal requirements under FISA made it difficult for intelligence agents to act quickly enough in many cases.

Under the NSA program, Hayden said, "the trigger is quicker and a bit softer than it is for a FISA warrant."

During Senate debate over DeWine's amendment in July 2002, James A. Baker, the Justice Department's counsel for intelligence policy, said in a statement that the Bush administration did not support the proposal "because the proposed change raises both significant legal and practical issues."

Baker said it was "not clear cut" whether the proposal would "pass constitutional muster," and "we could potentially put at risk ongoing investigations and prosecutions" if the amendment was later struck down by the courts. He also said Justice had been using FISA aggressively and played down the notion that the probable cause standard was too high.

A DeWine spokesman declined to comment on the issue yesterday.

Also yesterday, Senate Judiciary Committee Chairman Arlen Specter (R-Pa.) sent a list of 15 sharply worded questions to Gonzales in preparation for a Feb. 6 hearing on the legality of the NSA program. Specter asks, among other things, why the government did not ask Congress for new legislation to allow the spying.

Words, Deeds On Spying Differed (LAT)

By David G. Savage, Times Staff Writer

The Los Angeles Times, January 26, 2006

WASHINGTON — Four years ago, top Bush administration lawyers told Congress they opposed lowering the legal standard for intercepting the phone calls of foreigners who were in the United States, even while the administration had secretly adopted a lower standard on its own.

The government's public position then was the mirror opposite of its rationale today in defending its warrantless domestic spying program, which has come under attack as a violation of civil liberties.

Government wiretapping — and who sets the rules — has emerged at the center of a growing debate between the White House and Congress since the disclosure last month of the administration's warrantless spying program.

A Justice Department spokesman confirmed Wednesday the administration had opposed changing the law in 2002 in part because it did not want to publicly debate the issue.

"There was a conscious choice not to have a public discussion about it. It could have exposed the program. This was a military defense intelligence program," said the spokesman, who asked not be named because of the sensitivity surrounding the still-classified presidential order on wiretapping.

After the terrorist attacks of September 2001, lawmakers proposed several changes that would make it easier for the government to detect terrorists and their allies who might be operating in the United States.

Sen. Mike DeWine (R-Ohio) proposed making it easier for officials to obtain warrants to conduct wiretapping. The current law, the Foreign Intelligence Surveillance Act of 1978, said officials must have "probable cause" to believe someone was an agent of an international terrorist group before they could obtain a warrant to tap their phones.

This high standard proved to be a stumbling block at times. When Zacarias Moussaoui — the man later dubbed the 20th hijacker of the Sept. 11 attacks — was arrested in Minnesota in August 2001, officials in the Justice Department did not seek a warrant to search his laptop computer because they did not have probable cause to believe he was an Al Qaeda operative.

This was later judged to be a mistake. DeWine cited this when he proposed to lower the standard for obtaining a warrant to one of "reasonable suspicion." This would permit the government to move quickly to search or eavesdrop on suspicious foreigners such as Moussaoui, he said, even if they lacked "probable cause" to show they were members of Al Qaeda.

But when the proposal came before a Senate committee, the administration's lawyers testified that no change was needed.

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"The administration at this time is not prepared to support it," the Justice Department's James A. Baker said of the DeWine amendment in congressional testimony. As counsel for intelligence policy at the time, he headed the office that sought search warrants from the secret Foreign Intelligence Surveillance Act court that meets inside the Justice Department.

The administration now defends the constitutionality of the warrantless domestic spying program and says it is necessary to avoid the "cumbersome" process of getting a warrant from the FISA court.

But in 2002, Baker told Congress it was not clear "whether a 'reasonable suspicion' standard for electronic surveillance would … pass constitutional muster."

Baker also said the existing standard was not a problem.

"We have been aggressive in seeking FISA warrants, and thanks to Congress' passage of the [Patriot Act] we have been able to use our expanded FISA tools more effectively to combat terrorist activities," he said. "It may not be the case that the probable cause standard has caused any difficulties in our ability to seek FISA warrants we require."

DeWine's proposal failed to pass the committee.

This week, top administration officials confirmed that before DeWine even made his proposal, they had adopted a "reasonable basis" standard for this eavesdropping.

"The president's authorization allows us to track this kind of call more comprehensively and more efficiently. The trigger is quicker and a bit softer than it is for a FISA warrant," Gen. Michael V. Hayden, the No. 2 ranking intelligence official and the former head of NSA, told reporters Monday.

Asked whether the key change was to switch from "probable cause" to a "reasonableness" standard, Hayden said, "I think you have accurately described the criteria under which this operates."

A Senate Democrat, Patrick J. Leahy of Vermont, accused the administration of having tried "to paper over the legality of a secret spying program. If they really believed the current law is too burdensome, the Bush administration should have asked Congress to change it, but they did not. Instead a top lawyer in the Bush administration did just the opposite."

Timothy Edgar, a lawyer on national security policy for the American Civil Liberties Union, also accused the administration of "remarkable duplicity" for having testified in public against the legal change while carrying it out in private. "It seems they were being incredibly deceptive," he said.

The Justice Department's conflicting statements came to light Wednesday after Glenn Greenwald, a New York lawyer, posted the differing statements on a blog.

In 2002, Justice Department Said Eavesdropping Law Working Well (KRT)

By Jonathan S. Landay

Knight Ridder, January 26, 2006

WASHINGTON - A July 2002 Justice Department statement to a Senate committee appears to contradict several key arguments that the Bush administration is making to defend its eavesdropping on U.S. citizens without court warrants.

The Foreign Intelligence Surveillance Act, the law governing such operations, was working well, the department said in 2002. A "significant review" would be needed to determine whether FISA's legal requirements for obtaining warrants should be loosened because they hampered counterterrorism efforts, the department said then.

President Bush, Attorney General Alberto Gonzales and other top officials now argue that warrantless eavesdropping is necessary in part because complying with the FISA law is too burdensome and impedes the government's ability to rapidly track communications between suspected terrorists.

In its 2002 statement, the Justice Department said it opposed a legislative proposal to change FISA to make it easier to obtain warrants that would allow the super-secret National Security Agency to listen in on communications involving non-U.S. citizens inside the United States.

Today, senior U.S. officials complain that FISA prevents them from doing that.

James A. Baker, the Justice Department's top lawyer on intelligence policy, made the statement before the Senate Intelligence Committee on July 31, 2002. He was laying out the department's position on an amendment to FISA proposed by Sen. Mike DeWine, R-Ohio. The committee rejected DeWine's proposal, leaving FISA intact.

So while Congress chose not to weaken FISA in 2002, today Bush and his allies contend that Congress implicitly gave Bush the authority to evade FISA's requirements when it authorized him to use force in response to the Sept. 11, 2001, attacks three days after they occurred - a contention that many lawmakers reject.

Glenn Greenwald, an Internet blogger, first connected the earlier Justice Department statement to the Bush administration's current arguments on his Web log, called Unclaimed Territory.

Baker's 2002 statement drew new attention Wednesday as the White House continued its campaign to justify eavesdropping on Americans who are suspected of being in contact with al-Qaida or other terrorist groups, despite possible violation of FISA.

Bush visited the NSA's sprawling complex at Fort Meade, Md., on Wednesday to deliver a closed-door morale-boosting talk to its workforce.

He later repeated to reporters that the eavesdropping operation was limited to communications in which one participant was outside the United States.

"When terrorist operatives are here in America communicating with someone overseas, we must understand what's going on if we're going to do our job to protect the people," Bush said.

The administration insists that Bush has the legal and constitutional authority to order the NSA program, which began after the Sept. 11, 2001, attacks. But Democrats and some Republicans contend that Bush may have violated FISA, which governs how the government can monitor international calls and e-mails.

The law requires the government to show a secret federal court that it has "probable cause" to believe that a target for domestic eavesdropping is an agent of a foreign government or involved with a terrorist organization like al-Qaida.

DeWine's bill would have lowered the "probable cause" standard to one of only "reasonable suspicion" for warrants involving foreigners in the country.

Baker said in 2002 that because the "proposed change raises both significant legal and practical issues, the administration at this time is not prepared to support it."

He said that Justice Department lawyers were trying to determine whether the lower standard would pass "constitutional muster."

Baker also said that the Justice Department had "been aggressive in seeking FISA warrants" and that congressional approval of the USA Patriot Act had allowed investigators "to use our expanded FISA tools more effectively to combat terrorist activities."

"It may not be the case that the probable cause standard has caused any difficulties in our ability to seek the FISA warrants we require," he said then.

Brian Roehrkasse, a Justice Department spokesman, said Wednesday that Gonzales stands by the administration's current view that FISA warrant requirements impose "additional layers of review" that sacrifice "critical speed and agility."

Sen. Arlen Specter, R-Pa., the chairman of the Senate Judiciary Committee, sent Gonzales a letter detailing a series of pointed questions that he intends to ask during a Feb. 6 hearing into the NSA program's legality.

The letter noted that under FISA, federal authorities can wiretap anyone and then seek a warrant within 72 hours.

Specter said he wanted Gonzales to explain why Bush didn't ask Congress to change FISA to make it easier to conduct surveillance with judicial approval.

He also indicated that Congress could have adjusted the law when it passed the anti-terrorism Patriot Act in the wake of the Sept. 11 attacks.

To read Greenwald's posts on the 2002 Justice Department statement, go to http://glenngreenwald.blogspot.com/

Knight Ridder Newspapers correspondents William Douglas and James Kuhnhenn contributed to this report.

Bush PR Blitz Races To Frame Spying Debate (DMN)

By Michelle Mittelstadt, The Dallas Morning News

The Dallas Morning News, January 26, 2006

WASHINGTON – The Bush administration raced this week to defend its warrantless domestic spying program, with several aims in mind, experts say: Win over a conflicted public; force Democrats into an arena that plays to GOP strength; and head off talk of impeachment and special prosecutors.

With polls showing the public sharply divided over the controversial surveillance program, the White House and its critics – Democrats, small-government conservatives and civil libertarians – are engaged in a high-stakes contest to frame the debate.

"If it's defined primarily as 'government abuse, the president out of control, the White House running roughshod over basic constitutional rights,' it would be a major problem for an extended period of time for the president – both on Capitol Hill but also with the voters," said political analyst Stuart Rothenberg.

"If the issue is defined more as 'protecting national security, keeping people safe, stopping terrorism,' then what the Democrats immediately saw might be a good issue for them could actually be turned around for the president and the Republican Party."

Though the court of public opinion is key, some suggest that the political system or the courts will be the ultimate arbiter of the program's legality – and the far weightier question of whether Mr. Bush is claiming executive powers outside the bounds of the Constitution or the law.

"This is the dangerous side of what's going on," said David Keene, chairman of the American Conservative Union.

He argues that the White House has gone too far in its assertion of presidential powers.

"It sets the stage for a clash between institutions of government because what the executive claims, when it claims the inherent power to do anything it wants in times of war, is saying that what Congress thinks doesn't matter and ultimately what the courts think doesn't matter."

Little oversight?

But Caroline Fredrickson, head of the American Civil Liberties Union's Washington office, said she fears that clash won't materialize because the GOP-led Congress has shown little appetite for oversight of the administration's anti-terrorism efforts.

"Where you have bipartisan groups of individuals from the broadest spectrum of American political life suggesting that the president's actions are illegal, I think this is where Congress should be undertaking extensive hearings," she said.

Thus far, the Senate Judiciary Committee is the only one committed to hold hearings, with Chairman Arlen Specter, R-Pa., voicing skepticism about the program's legal justification.

Mr. Specter has summoned Attorney General Al Gonzales for a Feb. 6 hearing and is under pressure from Democrats to invite former Deputy Attorney General James Comey and other administration officials who reportedly raised concerns about the legality of the domestic surveillance.

Mr. Gonzales and other top aides joined the president this week in a public relations blitz to assert that Mr. Bush had full authority to initiate warrantless surveillance of Americans believed to be engaged in communication with people overseas suspected of ties to al-Qaeda or its affiliates.

"We must be able to quickly detect when someone linked to al-Qaeda is communicating with someone inside of America," Mr. Bush said Wednesday during a visit to NSA headquarters in Maryland.

But critics say that can be done, with court review, under the 1978 Foreign Intelligence Surveillance Act.

Though administration officials complain that the law is too cumbersome for "hot pursuit" surveillance, FISA backers note that the law permits emergency eavesdropping so long as court approval is sought within 72 hours.

Legal challenges

While the ACLU and the Center for Constitutional Rights have sued to challenge the spy program's constitutionality, some suggest that the controversy may not be settled in the courts.

"It's very unlikely it will ever make it to the Supreme Court or a federal court because it basically is a disagreement between the executive branch and the legislative branch over who has power," Sen. John Cornyn, R-Texas, said Wednesday. "And the truth is, both branches have a responsibility and have authority."

The groups' lawsuits were brought on behalf of Americans troubled by the thought of domestic spying without court oversight.

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But they will probably be deemed to lack legal standing because the groups weren't wiretap targets, said Kate Martin, head of the Center for National Security Studies. And while lawyers for defendants charged in terrorism cases have sued to learn if the warrantless wiretaps were used against their clients, Ms. Martin predicted that they are unlikely to pierce the veil of secrecy around the program.

Her solution? Congressional hearings. And if lawmakers deem that Mr. Bush exceeded his power, Congress should censure him.

Asked on a recent Sunday news show what he thought the remedy would be for a president breaking the law, Mr. Specter said, "Impeachment is the remedy."

He quickly noted that he was speaking theoretically. And thus far, impeachment isn't being touted by the political establishment. Nor is the possibility of a special prosecutor, though a new USA Today/CNN/Gallup poll found that 58 percent of Americans favor appointment of a special prosecutor.

But Bruce Fein, who served in the Nixon Justice Department, noted that it took many months for impeachment to gain currency during Watergate.

"I think that it would be premature to write off the impeachment option," Mr. Fein said.

Impeachment is not likely to gain political traction, said Larry Sabato, a University of Virginia political scientist. "Only hard-core Democratic partisans want to see Bush impeached, so it just turns people off."

Congressional Democrats, who have been burned at the polls after jousting with Mr. Bush over national security issues, are far less likely to raise impeachment, Mr. Rothenberg agreed.

A better option for them, he said, is to push the question of whether Mr. Bush broke the law or abused his power.

Backlash predicted

Mr. Keene, typically a staunch Bush ally, predicted that the administration's stance would "create an institutional backlash," with Congress moving to assert its power.

The best outcome, Mr. Fein said, would be for the White House to seek a rewrite of the FISA law if changes are deemed necessarily – and to quietly renounce the idea that the Constitution grants the president unparalleled wartime power.

Few of those challenging the administration's actions have suggested that the spy program should be terminated, and congressional Democrats have urged the administration to come to Congress for legislative approval.

The White House sees no need to do so, spokesman Scott McClellan said. "The president has the authority and responsibility to do what he's doing to prevent attacks from happening," he said.

Mr. Keene and others predicted that resolution may be years away.

"I'm not sure how it plays out, but ultimately it plays out by getting some kind of balance," he said.

After all, he noted, executive excesses in the past – such as President Harry Truman's seizure of U.S. steel mills during the Korean War – ultimately were corrected.

NSA Surveillance Legality Debate Narrows (FOX)

Fox News, January 26, 2006

WASHINGTON — After three days of a Bush administration offensive and weeks of debate and accusations, some legal experts are coming to terms on what is illegal and what is not in the National Security Agency electronic surveillance program.

"When the president goes around and speaks ... and says we're monitoring calls from overseas from Al Qaeda to the United States, the NSA can go ahead and do that now under the law," Sen. Edward Kennedy, D-Mass., said after the Senate Judiciary confirmation hearing of Supreme Court nominee Samuel Alito.

But Kennedy said independent organizations, like the Congressional Research Service, have studied the legality of the NSA program and say the president has gone beyond what the rules allow. Bush, however, says the eavesdropping program is legal and doesn't overstep the boundaries allowed to him by the Constitution and congressional resolution.

"These tools include surveillance to protect and prevent further attacks by our enemies," Bush said Wednesday after visiting the NSA to give a morale boost to workers there. "I have the authorization both from the Constitution and the Congress to

undertake this vital program. The American people expect me to protect our lives and our civil liberties and that's exactly what we're doing with this program."

On Monday, the president described exactly what the NSA is doing.

"What I'm talking about is the intercept of certain communications emanating between somebody inside the United States and outside the United States and one of the numbers would be reasonably suspected to be an Al Qaeda link or affiliate," Bush told an audience at Kansas State University.

He added that just because the United States hasn't been hit in more than four years, the threat persists.

"Listen to the words of Usama bin Laden and take them seriously when he says he's going to hurt the American people again -- or try to -- he means it," Bush told reporters. "I take it seriously and the people of NSA take it seriously and most of the American people take it seriously, as well.

"This enemy still wants to do harm to the American people. We cannot let the fact that we have not been attacked lull us into the conclusion that the terrorists have disappeared. They have not disappeared," he said.

According to legal experts, hypothetically, if the NSA had intercepted calls from alleged terrorists such as Khalid Sheikh Mohammed or Ramzi Binalshibb, both now in custody, while they were abroad, then U.S. intelligence agents could listen to the calls without a warrant. That goes for phone calls with people on the other end of the line who happen to be in United States.

Only when the person inside the United States becomes the target of surveillance is a warrant from the Foreign Intelligence Surveillance court required.

"You wouldn't need a warrant to do the initial interception, but afterwards, once you're targeting the American citizen, then you need that warrant," said Bruce Fein, a former official in the Reagan Justice Department and a fierce critic of the Bush' administration's terror surveillance.

Other experts agree that a warrant is not needed until the U.S.-based individual becomes a suspect.

"If ... you are not targeting the person in the United States, you get the conversations, you are perfectly free to use those, that information provide it to other government agencies, if you want," said Bryan Cunningham, a former official with the Bush National Security Council.

Once the government agencies are given the information, they can open investigations with warrants to conduct further surveillance.

But others argue that the law says domestic communications monitoring rules apply even when only one end of the call is on U.S. soil. They say that's why Bush signed a highly classified directive approving the program and has to re-approve it every 45 days.

Current and former government officials familiar with electronic monitoring say that accidental eavesdropping — so-called "incidental intercepts" — are also a dark part of the business. When it happens, the NSA has procedures to protect the identities of Americans and their privacy.

Lt. Gen. Michael Hayden, the former head of the NSA at the time the president first authorized surveillance of terrorists, addressed that issue and others in a speech at the National Press Club on Monday.

"When you're talking to your daughter at state college, this program cannot intercept your conversations. And when she takes a semester abroad to complete her Arabic studies, this program will not intercept your communications," Hayden said.

He added that it would be impossible to monitor all phone calls between the United States and abroad because in 2003 alone, Americans participated in 200 billion minutes of international calls.

"The purpose of all of this is not to collect reams of intelligence, but to detect and prevent attacks. The intelligence community has neither the time, the resources nor the legal authority to read communications that aren't likely to protect us. And NSA has no interest in doing so. These are communications that we have reason to believe are Al Qaeda communications," Hayden said.

Critics say they don't believe Bush or administration officials when they say the program is limited. Sen. Dick Durbin, D-Ill., said Wednesday that Senate Democratic leaders as well as Kennedy and Russ Feingold of Wisconsin have signed a letter to Bush outlining their concerns with the program and the fact that they know very little about it.

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Durbin noted that while an emergency exception to current law allows domestic wiretaps without court approval in the case of an emergency, it should not be the norm that the court is circumvented.

"This is not about whether we should wiretap terrorists. Democrats believe we should use every legal resource we have to put an end to Usama bin Laden's deadly franchise," Durbin said. "It isn't a matter of missing an opportunity; the government can act instantly to deal with a wiretap on a suspected terrorist and has 72 hours to contact the [FISA] court and advise them of the action that's been taken. If the president thinks the current laws are inadequate to wiretap terrorists, he should come to Congress."

Durbin said most lawmakers only know what the media has been reporting about the program. Although it appears from those reports that the president has gone beyond his authority, Durbin said, he's waiting to make his own judgment on that.

"I'd like to, before I reach that point, at least know how the program is being used," he said. "I'm not sure any member is looking for political confrontation. We want to establish a legal framework to keep America safe. I am concerned on a constitutional basis this president is saying, 'I don't need a political framework.' And that, I think, goes too far."

Sen. Chuck Schumer, D-N.Y., echoed complaints about how the president created the program but not about its importance. Defending Congress' oversight responsibilities and the need for civil liberties protections, Schumer said he worried about abuses similar to those before the Foreign Intelligence Surveillance Act was enacted in 1978.

"My view has generally been that when the president needs powers to protect us, he ought to get them, but there ought to be debate and it ought to be done with safeguards in place so that there aren't abuses, which we've seen in other wiretaps such as in the days of (J. Edgar) Hoover," Schumer said.

The latest Gallup Poll, taken just before the administration's public relations blitz this week shows a slight majority, 51-46, thinks the administration was wrong to allow warrantless wiretapping. The 5 percent difference is equal to the survey's margin of error.

After a Justice Department briefing Wednesday for former government officials on the president's so-called "terrorist surveillance program," former FBI and CIA Director William Webster, who served under Republican and Democratic presidents, expressed his support.

Asked if the U.S. government has done its due diligence regarding the law and civil liberty protections, Webster said, "I'm confident that we're, that they do have their act together."

Former CIA Director James Woolsey sides with the president, but recently said it's a close call.

"If anyone says it's a crystal clear issue one way or another, that is the only position I regard as wrong," he said.

All kinds of congressional hearings have been demanded regarding the program. The only one scheduled to date is on Feb. 6 by the Senate Judiciary Committee where Attorney General Alberto Gonzales is scheduled to testify.

On Wednesday, Committee Chairman Sen. Arlen Specter, R-Pa., sent Gonzales a letter with 15 opening questions on the legality of the communications intercepts, and he warned that the committee would want to question him the entire day.

"Would you consider seeking approval from the FISA court at this time for the ongoing surveillance program at issue? ... Why did the White House not ask Congress for changes to a 1978 foreign surveillance law? ... Why didn't the administration go to an established intelligence court to get approval for the monitoring?" are some of the questions asked by Specter.

Democrats say they want to see the committee call more witnesses than now planned, including former Attorney General John Ashcroft Deputy Attorneys General James Comey and Larry Thompson and White House Chief of Staff Andrew Card.

FOX News' Jim Angle, Carl Cameron and Liza Porteus and The Associated Press contributed to this report.

Bush Says Takes Threats From Bin Laden Seriously (REU)

By Caren Bohan

Reuters, January 26, 2006

President George W. Bush said on Wednesday he took Osama bin Laden's threats of another attack seriously and invoked the al Qaeda leader's recent audiotape to defend a domestic eavesdropping program.

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"I understand there are some in America who say, 'Well this can't be true, there aren't still people willing to attack.' All I would ask them to do is listen to the words of Osama bin Laden and take him seriously," Bush said at the National Security Agency.

"When he says he's going to hurt the American people again or try to, he means it. I take it seriously and the people of NSA take it seriously and most of the American people take it seriously as well," Bush said.

Democrats have criticized Bush for authorizing the warrantless monitoring of international telephone calls and e-mail messages of people in the United States suspected of aiding al Qaeda.

Critics say the program, conducted by the NSA, violates the U.S. Constitution and the 1978 Foreign Intelligence Surveillance Act, which makes it illegal to spy on U.S. citizens in the United States without the approval of a special secret court.

Bin Laden in an audiotape that aired last week warned that al Qaeda was preparing attacks in the United States but was open to a conditional truce with Americans.

"Just last week ... we heard from Osama bin Laden," Bush said. "The terrorists will do everything they can to strike us. I am going to continue to do everything I can within my legal authority to stop them."

Top Senate Democrats sent a letter to Bush on Wednesday asking he outline, by February 1, any changes in current law he would propose to improve surveillance of suspected terrorists.

"We are ... gravely concerned that sometime in 2001, in apparent violation of federal law, you authorized the National Security Agency to eavesdrop on Americans in the United States without court approval," said the letter, signed by Senate Minority Leader Harry Reid of Nevada and others.

The senators noted that in a speech in 2004, Bush said, "When we're talking about chasing down terrorists, we're talking about getting a court order before we do so." They quoted Bush saying, "A wiretap requires a court order."

Democrats have noted that in special cases the NSA is allowed to conduct domestic surveillance but has to obtain a warrant within 72 hours.

Democrats in the Senate and House of Representatives also pressured Republicans on Wednesday to submit Bush's domestic eavesdropping program to the scrutiny of Congress' intelligence oversight committees.

'FAR-FETCHED'

Sen. Hillary Rodham Clinton, Democrat of New York, said the administration's argument it needed to bypass the warrant process in order to go after al Qaeda was "far-fetched."

Senate Judiciary Committee Chairman Arlen Specter, a Pennsylvania Republican, plans hearings on the NSA program on February 6.

Bush told reporters he would continue to authorize the eavesdropping program.

"The American people expect me to protect their lives and their civil liberties and that's exactly what we're doing with this program," he said.

Touring the NSA in Fort Meade, Bush visited a room with a large screen highlighting statistics about cyberspace, including one saying over 592 billion instant messages were sent daily. That was projected to grow to 1.38 trillion by 2007.

The NSA is one of the most secretive of the U.S. spy agencies. Founded in 1952, it uses high-tech equipment such as satellites and bugs to pick up foreign electronic signals such as telephone calls and computer messages.

(Additional reporting by Tabassum Zakaria, Richard Cowan and David Morgan)

Bush: Bin Laden Should Be Taken Seriously (AP)

By Nedra Pickler

AP, January 26, 2006

President Bush, defending the government's secret surveillance program, said Wednesday that Americans should take Osama bin Laden seriously when he says he's going to attack again.

"When he says he's going to hurt the American people again, or try to, he means it," Bush told reporters after visiting the top-secret National Security Agency where the surveillance program is based. "I take it seriously, and the people of NSA take it seriously."

It was Bush's first comment about bin Laden since the al-Qaida leader warned in a tape aired last week that his fighters are preparing new attacks in the United States. Bin Laden offered a truce, without specifying the conditions, and the White House responded that the United States would never negotiate with the mastermind of the Sept. 11 attacks.

Bush's NSA visit was part of an aggressive administration effort to defend the surveillance program. Experts and lawmakers from both parties have questioned whether it's legal for the government to listen to conversations in the United States without a warrant, which the administration could get through the Foreign Intelligence Surveillance Court.

Four leading Democratic senators wrote Bush Wednesday saying they support efforts to do everything possible within the law to combat terrorism, but that the NSA program is an "apparent violation of federal law."

"If you or officials in your administration believe that FISA, or any law, does not give you enough authority to combat terrorism, you should propose changes in the law to Congress," wrote Sens. Harry Reid, Edward Kennedy, Richard Durbin and Russ Feingold. "You may not simply disregard the law."

Reporters traveling with the president were only allowed to see a few minutes of Bush's NSA tour, as he walked through the high-tech Threat Operations Center where intelligence experts monitor Internet traffic. He spoke to reporters from a podium set up in a hallway after completing his tour, but did not take questions.

In keeping with the NSA's secrecy, reporters were required to leave their cell phones, pagers, laptops and wireless e-mail devices outside the complex. The White House negotiated so that the journalists could bring in cameras and video equipment, but they were allowed only to take photos of the president, not the inside or outside of the facility itself.

Bush said the NSA program is limited to communications between the United States and people overseas who are linked to al-Qaida. He said it has helped prevent terrorist attacks and save American lives, although the government has not given any specifics.

Bush urged that people "listen to the words of Osama bin Laden and take him seriously."

His critics say the law requires him to get permission from the Foreign Intelligence Surveillance Court to eavesdrop on communications involving Americans.

"Obviously, I support tracking down terrorists," Sen. Hillary Rodham Clinton, D-N.Y., said in a speech Wednesday. "I think that's our obligation. But I think it can be done in a lawful way."

Sen. Patrick Leahy, D-Vt., said the administration should have asked Congress to change the law if it wanted additional surveillance powers.

"Instead, a top lawyer in the Bush administration did just the opposite," Leahy said Wednesday, circulating 2002 testimony from a Justice Department official who said the administration had no position on a bill that would have made it easier to get warrants from the FISA court.

Bush said he had the legal right to do whatever he could to prevent further attacks and that the NSA program "is fully consistent with our nation's laws and Constitution."

"I'll continue to reauthorize this program for so long as our country faces a continuing threat from al-Qaida and related groups," Bush said.

Sen. John McCain, R-Ariz., said he's eager to learn more. Asked on NBC's "Today" show, if Bush broke the law, McCain replied: "I don't know. I want to be perfectly clear. I don't know the answer."

Bush Reiterates Spy Authority (WT)

By Bill Sammon

The Washington Times, January 26, 2006

President Bush yesterday defended National Security Agency employees who eavesdrop on suspected terrorists, even as the legality of the program was questioned by senators from both parties.

"I have the authority, both from the Constitution and the Congress, to undertake this vital program," Mr. Bush said after a private speech to employees at the NSA headquarters in Fort Meade, Md.

"The American people expect me to protect their lives and their civil liberties, and that's exactly what we're doing with this program."

The president took the unusual step of imploring Americans to heed the warnings of Osama bin Laden, who threatened additional attacks against the U.S. in an audiotape that surfaced last week.

"Listen to the words of Osama bin Laden and take him seriously," Mr. Bush said. "When he says he's going to hurt the American people again, or try to, he means it. I take it seriously, and the people of NSA take it seriously."

Sen. Hillary Rodham Clinton was skeptical of such arguments by Mr. Bush and his advisers, who are in the midst of a public-relations offensive to justify the eavesdropping program.

"Their argument that it's rooted in the authority to go after al Qaeda is far-fetched," the New York Democrat told reporters at a gathering of the nation's mayors. "Their argument that it's rooted in the Constitution inherently is kind of strange."

Mrs. Clinton, who is widely expected to run for president in 2008, questioned the legality of the program, which targets conversations between Americans and overseas terror suspects.

"Obviously, I support tracking down terrorists -- I think that's our obligation," she said. "But I think it can be done in a lawful way."

Sen. John McCain, Arizona Republican, said the legalities of the program will be explored in Senate Judiciary Committee hearings scheduled to begin Feb. 6. The committee chairman, Sen. Arlen Specter, Pennsylvania Republican, yesterday outlined 15 areas of inquiry in a letter to Attorney General Alberto R. Gonzales, who has agreed to testify.

Asked by NBC whether the president "broke the law," Mr. McCain said, "I don't know the answer. That's why I welcome the hearings. If I was sure whether it's legal or not, then I wouldn't feel that these hearings are important."

Still, Mr. McCain said the program serves a vital purpose.

"There's no American that wouldn't want us to absolutely be able to listen in on al Qaeda cells," he said. "This is a new threat, and frankly, a lot of us are very concerned."

The president was unambiguous about the legality of the program, which allows eavesdropping without a warrant.

"This terrorist surveillance program includes multiple safeguards to protect civil liberties, and it is fully consistent with our nation's laws and Constitution," he told reporters. "Federal courts have consistently ruled that a president has authority under the Constitution to conduct foreign intelligence surveillance against our enemies."

Mr. Bush suggested that some of the same people who criticized him for not doing enough to prevent the terrorist attacks of September 11 are now criticizing him for doing too much.

"Two of the hijackers who struck the Pentagon were inside the United States communicating with al Qaeda operatives overseas," he said. "But we didn't realize they were here plotting the attack until it was too late."

He added, "The 9/11 commission made clear, in this era of new dangers we must be able to connect the dots before the terrorists strike so we can stop new attacks. And this NSA program is doing just that."

In a letter sent yesterday to Mr. Gonzales, Mr. Specter said he will ask the Bush administration why it didn't seek expanded congressional authority for the program.

"Was it because you thought you couldn't get such an expansion as when you said: 'That was not something that we could likely get?' " he asks, referring to a press briefing by Mr. Gonzales in December.

Mr. Specter said he also plans to ask the Bush administration why it bypassed the Foreign Intelligence Surveillance Act (FISA) court, the secretive judicial panel designed to consider issuing warrants for surveillance.

In a separate letter, Democrats yesterday called on Mr. Bush to immediately notify Congress of the changes in current law to "permit effective surveillance of suspected terrorists."

"When you concluded over four years ago that existing law did not provide you sufficient authority to conduct the program, you had an obligation to propose changes in the law to Congress," wrote Sens. Richard J. Durbin of Illinois, Russell D. Feingold of Wisconsin, Harry Reid of Nevada and Edward M. Kennedy of Massachusetts.

Also yesterday, the Senate Democratic "war room" released a "fact check" that said "there is evidence that the spying program is diverting valuable FBI resources and making America less safe."

Sen. John Cornyn, a member of the Judiciary Committee and chairman of the emerging threats and capabilities subcommittee of the Armed Services Committee, chided the Democrats, asking the rhetorical question, "Are the Democrats just playing politics with national security? You decide."

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The Texas Republican noted that Mr. Reid, the Senate minority leader, "has been briefed on the NSA's efforts, as have the heads of the intelligence committees in both houses of Congress. Are they now calling for the president to stop intercepting al Qaeda-related calls?"

Take Bin Laden Threat Seriously, Bush Warns (USAT)

USA Today, January 26, 2006

President Bush, defending the government's secret surveillance program, said Wednesday that Americans should take Osama bin Laden seriously when he says he's going to attack again.

"When he says he's going to hurt the American people again, or try to, he means it," Bush told reporters after visiting the top-secret National Security Agency, where the surveillance program is based. "I take it seriously, and the people of NSA take it seriously." It was Bush's first comment about bin Laden since a tape was aired last week in which the al-Qaeda leader warned that his fighters are preparing new attacks in the USA.

Meanwhile, four leading Democratic senators sent Bush a letter Wednesday saying they support everything possible within the law to combat terrorism, but the NSA program is an "apparent violation of federal law." The letter was signed by Sens. Harry Reid of Nevada, Edward Kennedy of Massachusetts, Dick Durbin of Illinois and Russ Feingold of Wisconsin.

Few soldiers seek money for body armor

Just 29 Army soldiers have sought reimbursement for body armor and other equipment they bought to protect themselves on the front lines, the Associated Press reported. It said the requests, mostly for updated ceramic body armor, total $21,000 under a repayment program begun in October. Defense Department officials said last year that the program could be costly if people pressed for reimbursement for large amounts of protective gear. "It hasn't been what we thought it would be, but we didn't have any real judgment what it would be," said Army Maj. Paul Cucuzzella, who runs the program at Fort Meade in Maryland. Troops and their families had complained that soldiers in Iraq and Afghanistan weren't getting vital pieces of body armor from the Pentagon.

Alito heads closer to confirmation

Supreme Court nominee Samuel Alito accepted congratulations from Republican leaders as lawmakers moved toward confirming him in a largely party-line vote.

A few hours after the Senate debate began, Alito thanked "all of the senators who supported me and were kind enough to meet with me."

Sen. Dick Durbin of Illinois, the Senate's No. 2 Democrat and one of 22 Democrats who have announced their opposition, said Alito "will tip the balance against protecting our basic privacy and personal freedoms. He will tip the balance in favor of presidential power even when it violates the law."

Alito, a judge of U.S. 3rd U.S. Circuit Court of Appeals, has enough support from 51 Republicans and Democratic Sen. Ben Nelson of Nebraska to ensure his confirmation. He would replace Justice Sandra Day O'Connor, who is retiring.

Rift Between Parties Over NSA Wiretapping Grows (WP)

By Jim Vandehei

The Washington Post, January 26, 2006

In a pep talk yesterday to intelligence experts at the National Security Agency, President Bush defended eavesdropping on overseas communications to and from U.S. residents as legal and imperative to stopping terrorists.

In the latest sign of the escalating debate on the issue, Sen. Hillary Rodham Clinton (D-N.Y.) called Bush's rationale a "strange" and dangerous legal stretch.

The conflicting views of the NSA spying program highlighted by the Bush-Clinton exchange reflect a widening divide over warrantless eavesdropping, and how leaders in both major parties are trying to shape the debate in preparation for upcoming congressional hearings and this year's elections.

Bush, whose aides said they consider the issue a clear political winner, is resurrecting tactics from the last campaign to make the NSA spying program a referendum on which party will keep the United States safe from terrorists. He has dispatched

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top White House officials almost daily to defend the program and has sent a message to party activists that he considers fighting terrorism with tools such as NSA eavesdropping the defining issue of the November elections.

Exhibiting an obsession to detail not seen in the Social Security rollout a year ago, the White House is even waging a war on the semantics being used in the debate, lashing out at reporters who call the program "domestic" spying, because the monitored calls involve a person overseas. It is also putting out pages of highly detailed -- and often hotly disputed -- legal analyses of the program and drawing what Democratic critics and many independent analysts regard as questionable historical parallels to show Bush is following a long wartime tradition.

Speaking to reporters, Clinton took aim at what she called a lawless assertion of power: "My question is, why can't we do what we want to do within the rule of law?"

Her comments came after an appearance at the winter meeting of the U.S. Conference of Mayors. Clinton, a leading contender for the 2008 Democratic presidential nomination, rejected Bush's argument that the president had power to order surveillance after the Sept. 11, 2001, attacks. She said established procedures for approval for such spying from the Foreign Intelligence Surveillance Act would have protected civil liberties and national security.

"Their argument that it's rooted in the authority to go after al Qaeda is far-fetched," Clinton said. "Their argument that it's rooted in the Constitution inherently is kind of strange because we have FISA, and FISA operated very effectively and it wasn't that hard to get their permission."

Bush staged his latest defense at NSA headquarters at Fort Meade, Md. Speaking to the code breakers, analysts and linguistic experts who help sift through the information obtained with the warrantless searches of overseas phone calls and e-mails involving at least one person in the United States, Bush called the program a "vital" defense tool.

The issue is different but the message is similar to the one many political analysts credit for Bush's 2004 victory: He can be trusted to protect U.S. citizens, and Democrats cannot. In a recent speech to the Republican National Committee, White House Deputy Chief of Staff Karl Rove previewed a similar strategy for this year's elections, in which the GOP majorities in the House, Senate and governorships are at risk. When news of the NSA program broke, Bush was put on the defensive, but he and strategists quickly decided this fight could be an asset at a time when the president was struggling to regain his balance, advisers said.

"It is amazing to me -- not only are the Democrats not learning from costly policy mistakes, they are not learning what happened from the political mistakes of 2002 and 2004," said RNC Chairman Ken Mehlman.

Some Democratic strategists say the NSA program is a political loser for Democrats, whom many voters still see as soft on national security. But there is no way for elected Democrats to avoid the fight -- and few want to. With congressional hearings on the topic expected early next month, Democrats and several Republicans have serious policy differences with Bush and consider the NSA fight part of a much larger battle over presidential power and congressional oversight.

"I don't think it's bad politics," said Jim Manley, spokesman for Senate Minority Leader Harry M. Reid (D-Nev.). "I don't think the national security attack works this time," he said, because "we have a politically weakened president whose poll numbers are down and whose credibility is under increased scrutiny."

Although arguments about the legality of the eavesdropping program are boiling, details about what the NSA is doing remain hidden from all but eight members of Congress: the House speaker and minority leader, the Senate majority and minority leaders, and the chairmen and ranking minority members of the House and Senate intelligence committees.

Pressed yesterday by Democratic members of the Senate intelligence committee for a closed hearing or briefing on the NSA program, Chairman Pat Roberts (R-Kan.) said he had scheduled a Feb. 1 Justice Department briefing on the legal issues involved but not on the program itself. Under Roberts's proposal, the committee will meet on Feb. 16 "to discuss the terrorist surveillance issue" but apparently will not be briefed on what it entails.

Democrats told Roberts yesterday they want a business meeting of the committee Tuesday, when they will call for a vote on whether to hold a hearing or briefing with NSA witnesses, congressional sources said.

In The Eye Of The Spying Storm (LAT)

By James Gerstenzang, Times Staff Writer

DOJ_NMG_0011850

The Los Angeles Times, January 26, 2006

WASHINGTON — President Bush made a rare visit Wednesday to the National Security Agency, the office at the center of the controversy over warrantless eavesdropping, telling employees there: "When terrorist operatives are here in America communicating with someone overseas, we must understand what's going on."

And he urged Americans to take seriously the words of Osama bin Laden, likely the NSA's No. 1 target, in an audiotape released last week.

"When he says he's going to hurt the American people again, or try to, he means it," Bush said. "I take it seriously, and the people of the NSA take it seriously."

Challenging assertions that his approval of the wiretapping and inspection of e-mail violated the law, Bush said, "The American people expect me to protect their lives and their civil liberties, and that's exactly what we're doing with this program."

Bush's visit to NSA headquarters at Ft. Meade, Md. — a site once so secret that NSA was said to stand for "No Such Agency" — was part of a stepped-up campaign in recent days to gain public support for the spying program.

Earlier, White House Press Secretary Scott McClellan defended Bush's decision not to ask a special court for warrants to monitor people in the United States.

"This is a time of war. This is about wartime surveillance of the enemy," McClellan said, adding a refinement of his earlier arguments: "We don't ask our commanders to go to the court and ask for approval while they're trying to gain intelligence on the enemy."

The administration contends that Bush's inherent powers as commander in chief and a congressional resolution approved after the Sept. 11 attacks, authorizing him to use all necessary force to fight terrorism, gave him the power to order domestic intelligence-gathering without getting warrants.

With the administration focused on Senate Judiciary Committee hearings on the eavesdropping which are to begin Feb. 6, the panel's chairman, Sen. Arlen Specter (R-Pa.), signaled the approach he would take.

He sent 15 questions to Atty. Gen. Alberto R. Gonzales, one of the witnesses from the executive branch.

Among the questions:

• Why didn't the administration seek the authority to conduct such surveillance when Congress passed the Patriot Act, the post-Sept. 11 expansion of anti-terrorism law?

• Didn't President Jimmy Carter's signature on the 1978 Foreign Intelligence Surveillance Act, and the statement Carter issued at the time, amount to a renunciation of presidential authority "to conduct warrantless domestic surveillance"?

• When foreign calls are made through U.S. switches, isn't such monitoring against the law or a violation of regulations that restrict the NSA from conducting surveillance inside the United States?

The last question goes to the heart of an argument McClellan has made in recent days that takes issue with calling the program "domestic spying."

The administration has said it allows the surveillance only when at least one end of the phone call or e-mail traffic is outside the United States and one person involved is a suspected terrorist.

"I think it leaves an inaccurate impression with the American people to say that this is domestic spying," McClellan said. "You don't call a flight from New York to somewhere in Afghanistan a domestic flight. It's called an international flight."

Sen. Hillary Rodham Clinton (D-N.Y.), speaking at a meeting of the nation's mayors, joined the criticism of the program, challenging Bush's contention that he has the authority to conduct the monitoring.

"Their argument that it's rooted in the authority to go after Al Qaeda is far-fetched. Their argument that it's rooted in the Constitution inherently is kind of strange," Clinton said, citing the Foreign Intelligence Surveillance Act, under which she said it would not be hard to gain permission for the wiretaps.

Bush Visits Security Agency And Defends Surveillance (NYT)

By Elisabeth Bumiller And Eric Lichtblau

The New York Times, January 26, 2006

DOJ_NMG_0011851

WASHINGTON, Jan. 25 — President Bush went Wednesday to the heart of the debate over the National Security Agency's eavesdropping program, the supersecret agency itself, where he sought to bolster employee morale and make a case for ordering a surveillance program that has come under increasing political attack.

"It's just such an honor to be able to tell these people that the work they do is vital and necessary, and I support them a hundred percent," Mr. Bush told reporters during a rare presidential trip to the agency at Fort Meade, Md., in the suburban sprawl between Baltimore and Washington.

Mr. Bush's trip was part of a weeklong news media offensive to push back against lawmakers who argue that the program may be illegal. Hearings into the program by the Senate Judiciary Committee are to begin next month.

Mr. Bush first met privately with employees at the agency, then told a small group of reporters who accompanied him that the program, which intercepts international phone calls and e-mail messages of people in the United States suspected of links to Al Qaeda, had been a crucial tool in fighting terrorism.

"We've seen that part of the terrorist strategy is to place operatives inside of our country," the president said. "They blend in with the civilian population. They get their orders from overseas, and then they emerge to strike from within. We must be able to quickly detect when someone linked to Al Qaeda is communicating with someone inside of America."

The National Security Agency, the largest American intelligence agency, specializes in eavesdropping on foreign communications. It is so secret that for years the joke has been that its initials stood for "No Such Agency."

But its heavily guarded campus just off the Baltimore-Washington Parkway opened up a bit to the news media in recent years under the leadership of Gen. Michael V. Hayden, now the principal deputy director of national intelligence and Mr. Bush's point man on the eavesdropping program.

While the president was visiting the agency, the two parties on Capitol Hill spent the day in an exchange of dueling letters. Senate and House Democrats pressed their Republican counterparts to hold additional hearings beyond those already scheduled by the Senate Judiciary Committee, while Republicans suggested that Democrats were trying to use the issue for political advantage and jeopardizing national security.

In a letter released Wednesday to the chairman of the House Intelligence Committee, all nine Democrats on the panel said that only public hearings could provide the kind of "vigorous oversight" needed to answer questions about the program.

Likewise, all seven Democratic members of the Senate Intelligence Committee urged the panel chairman to hold hearings to address, among other issues, "the legal justifications for the program."

Leading Democrats, in another letter, told Mr. Bush that they were "gravely concerned" about the eavesdropping program. Rather than going to the court that governs foreign intelligence for wiretaps warrants, the letter said, "you have apparently chosen to ignore the law." The letter was signed by four Senate Democrats — Harry Reid of Nevada, Richard J. Durbin of Illinois, Edward M. Kennedy of Massachusetts and Russell D. Feingold of Wisconsin.

In yet another letter, Senator Pat Roberts of Kansas, the Republican who leads the Intelligence Committee, fired back expressing annoyance over the Democrats' complaints.

Mr. Roberts said he was already planning a closed-door briefing for the committee by the Justice Department on Feb. 1, and another closed-door meeting related to the program two weeks after that. He suggested that Democrats had bypassed protocol by making their pleas public before giving him a chance to respond.

"I think we can all agree that intelligence issues, especially in the middle of a war, should not be used as fodder for political advantage," Mr. Roberts said. "Doing so is unnecessary, unwise and potentially dangerous."

So far, Senator Arlen Specter of Pennsylvania, who leads the Judiciary Committee, is the only Republican to commit to a public hearing on the N.S.A. program. It is scheduled for Feb. 6 with testimony from Attorney General Alberto R. Gonzales.

But in a letter to Mr. Specter, Senator Charles E. Schumer, the New York Democrat who sits on the Judiciary Committee, said the committee should seek testimony from other former administration officials who may have had misgivings about the program, including former Attorney General John Ashcroft and James B. Comey, the former deputy attorney general. If necessary, Mr. Schumer said, the committee should subpoena the former officials to testify.

The New York Times reported this month that Mr. Comey refused to reauthorize the continuation of the N.S.A. program in 2004, prompting senior White House officials to visit Mr. Ashcroft in a hospital after an attack of pancreatitis to press for his

agreement. He was also said to have voiced concerns about the program. The episode led to the suspension of the program for months.

Mr. Specter said Friday that he was already considering calling other witnesses beyond Mr. Gonzales.

Spying By Another Name (LAT)

The Los Angeles Times, January 26, 2006

WITH POLLS SHOWING THE American public increasingly skeptical about the need to abridge core constitutional freedoms to wage the war on terrorism, the Bush administration launched a major PR offensive this week to justify its decision to conduct warrantless wiretapping within the United States. The White House deserves credit for at least making its case. Unfortunately for the president, it's a weak case, and repetition doesn't make it any better.

Indeed, the administration's marketing team may be more adept than its legal theorists. All White House references to the National Security Agency's eavesdropping now call it a "terrorist surveillance program." That sounds far less objectionable than the media's blanket term, "domestic spying program." After all, it's hard to support domestic spying, but who wants to oppose "terrorist surveillance"? Maybe the Los Angeles Police Department could suspend the 4th Amendment's protections against unreasonable searches by launching a "criminal surveillance program."

Semantics aside, the administration's legal case remains wobbly, which may explain President Bush's churlish attitude toward his critics. On Wednesday, Bush defended the need for the program at NSA headquarters in Maryland. "Now, I understand there's some in America who say, well, this can't be true that there are still people willing to attack," he said. He then referred to Osama bin Laden's latest threatening audiotape.

Get it? The president is equating concerns about the legality of bypassing the courts to obtain a warrant to eavesdrop on Americans with a lack of appreciation for the threats posed by Al Qaeda. In Bush's world, only appeasers stand up for the Constitution.

The Foreign Intelligence Surveillance Act of 1978, which created courts that act quickly and secretly to approve such requests for wiretaps, remains a sensible law. It strikes the proper balance between the need for judicial oversight and the requirements of national security — and helps to ensure that the government does not trample on individual liberty. These courts are extremely accommodating to government requests, which sometimes needn't be supported until after the wiretapping has taken place.

In a long letter to Senate Majority Leader Bill Frist last week, Atty. Gen. Alberto R. Gonzales said that the FISA law itself allows for the possibility that Congress could authorize electronic surveillance in another statute, and argued that the post-Sept. 11 congressional authorization "to use all necessary force" in response to the terrorist attacks is just such a statute. For anyone who feels it's a stretch to think that Congress meant to suspend basic 4th Amendment principles by supporting military action against the Taliban and Al Qaeda, Gonzales is quick to point out that warrantless wiretapping also took place in the Civil War.

The administration is also de-emphasizing the fact that the eavesdropping is taking place on American soil by pointing out that it is only targeting communications that involve one party outside the United States. This is irrelevant as a legal matter. And as a practical matter, it's not entirely true. Lt. Gen. Michael V. Hayden, who led the NSA in the aftermath of the 9/11 attacks and is now the nation's second-ranking intelligence official, conceded on Monday that some purely domestic communications might be accidentally wiretapped under the program.

Senate hearings on the NSA program are scheduled to begin Feb. 6. They could prove interesting if GOP senators opt to cast themselves as defenders of the Constitution, and not of their president.

U.S. Must Submit Papers To Moussaoui Team (USAT/AP)

USA Today, January 26, 2006

WASHINGTON (AP) — A federal judge has ordered the government to give admitted terrorist conspirator Zacarias Moussaoui's defense team documents describing what officials knew before Sept. 11, 2001, about al-Qaeda threats and some of its hijackers.

With a trial to determine Moussaoui's sentence set to begin next month, U.S. District Judge Leonie Brinkema granted part of a Jan. 20 defense motion for documents without waiting for the government's response.

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"Several of the categories of information are so critical to the issues in this case that the court can address some of the requests without a response," Brinkema wrote. "Moreover, given the increasingly shortening time before the start of the trial, discovery issues must be resolved quickly."

Granted Tuesday under seal, her order was released Wednesday after government censors blacked out about five lines of it.

She ordered the government to immediately turn over any threat assessments, especially those completed in the year before the Sept. 11 attacks.

Defense attorneys also will get all reports, cables, slides, talking points, memos and other documents about Moussaoui's arrest a month before the attacks and about two Sept. 11 hijackers, Khalid al-Mihdahar and Nawaf al-Hazmi, whose presence in the United States was known to federal officials before the attacks.

That data clearly was sought by the defense for use in the first part of the upcoming court proceeding, in which prosecutors will try to convince jurors that the FBI would have prevented the Sept. 11 attacks if Moussaoui had told federal agents what he knew about al-Qaeda's desire to fly planes into U.S. buildings.

The defense will argue that agents had more information about the plot than Moussaoui could provide but still could not prevent the attacks. If the jury disagrees with prosecutors, Moussaoui will receive life in prison. If jurors agree with prosecutors, they will decide whether he should be executed.

Brinkema also ordered that she be given both an unclassified and a classified version of a CIA inspector general report. Defense attorneys already have seen the unclassified version, but Brinkema said she wanted to determine for herself that the deletions from the original were appropriate.

A 37-year-old Frenchman of Moroccan descent, Moussaoui is the only person who has been charged in the United States as part of the Sept. 11 al-Qaeda attacks on the World Trade Center and the Pentagon.

Last April, he pleaded guilty to six conspiracy charges, but insisted he was not part of the Sept. 11 plot. However, he said he was taking flight lessons to prepare to hijack a 747 jet later and fly it into the White House if the U.S. government refused to release a radical Egyptian cleric serving a life term for the 1993 World Trade Center bombing and 1995 plots against New York landmarks.

Moussaoui was in custody in Minnesota on immigration violations when the hijacked jets crashed on Sept. 11.

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WASHINGTON Judge Orders Release Of Pre-9/11 Attack Assessments (SCRIPPS)

By GREG GORDON, McClatchy Newspapers

Scripps Howard, January 25, 2006

WASHINGTON - A federal judge has ordered the government to turn over to Zacarias Moussaoui's defense lawyers pre-Sept. 11 documents assessing the threat of an al Qaeda attack, calling the material "critical" to his upcoming trial, it was disclosed Wednesday.

It could not immediately be determined whether the ruling by U.S. District Judge Leonie Brinkema of Alexandria, Va., will create a significant, 11th-hour snag over protection of classified data in the only U.S. prosecution to stem from the suicide hijackings.

The ruling could create a legal showdown, for example, if it requires intelligence agencies to produce classified information that they consider too sensitive to release, even to defense lawyers with government security clearances.

Jury selection is set to begin on Feb. 6, with opening arguments slated for March 6 in a sentencing trial to determine whether Moussaoui, who pleaded guilty to six conspiracy counts last April, should live or die.

Defense lawyers asked the court last week to compel the government to release the intelligence assessments and an array of other documents shedding light about what U.S. counter-terrorism officials knew of al Qaeda's plans before the attack.

Brinkema said in her ruling, issued Tuesday and made public Wednesday in declassified form, that the intelligence assessments are "highly relevant" to the case.

She also ruled that the defense is entitled to copies of additional material surrounding the Minnesota arrest and investigation of Moussaoui and the government's tracking of two suicide hijackers who slipped into the United States in early 2000.

Moussaoui, who was arrested while learning to fly a jumbo jet at a Twin Cities flight school, has denied knowing details of the Sept. 11 plot despite his guilty plea.

Prosecutors contend that Moussaoui should be sentenced to die because he lied when he was interrogated by Minneapolis FBI and immigration agents after his arrest on Aug. 16, 2001, and failed to disclose his role in the hijacking conspiracy. They say they will prove beyond a reasonable doubt that if he had revealed the plot, the government would have been able to stop the attack or limit the toll of nearly 3,000 deaths when hijacked planes slammed into the World Trade Center, the Pentagon and the Pennsylvania countryside.

Defense lawyers sought the pre-Sept. 11 records for the first phase of the two-stage trial, when a jury will be asked to determine whether he is eligible for a death sentence. Moussaoui's lawyers argue that counter-terrorism officials overlooked clues and made so many other missteps before the attacks that they never would have thwarted the attacks, even if Moussaoui had told them all he knew.

If the government complies with Brinkema's ruling, it could give defense lawyers new ammunition in their efforts to show that U.S. counter-terrorism agencies and national security officials knew more about the suicide hijacking scheme than Moussaoui did, and that his assistance wouldn't have changed the outcome. The threat assessments presumably were reviewed by the Sept. 11 Commission, which said in its public report in 2004 that U.S. intelligence agencies received a stream of warnings in the spring and summer of 2001 that al Qaeda was planning "something very, very, very big"

If the government fails to produce the records, Brinkema could issue a sanction, such as dismissing the case. In that event, prosecutors could ask an appeals court to intervene in the case for a third time or drop the charges. Even if the government scuttled the case, Moussaoui would face a minimum sentence of life in prison without parole.

The four-year-old case has been delayed repeatedly by legal tangles over classified information, though the 28-year-old federal Classified Information Procedures Act offers methods for moving ahead by using substitute language to shield national security secrets.

A Justice Department official declined to comment on Brinkema's ruling.

"I won't discuss it under any circumstances," said Edward MacMahon, a lawyer for Moussaoui.

Al-Arian's Attorneys Want Off The Case (AP)

AP, January 26, 2006

TAMPA -- Defense attorneys for Sami Al-Arian asked a federal judge to let them off the case if prosecutors retry the former college professor on charges of aiding terrorists.

While federal prosecutors are deciding whether to retry nine mistrial counts on Al-Arian, attorneys Linda Moreno and Bill Moffitt are asking to withdraw from the case. A hearing is scheduled for Friday.

"We gave everything we had, and I'm too exhausted to give anymore," Moffitt, an attorney for the law firm Cozen O'Connor in Washington, said Tuesday.

Moreno, who works for a civil litigation firm in Tampa, declined to comment.

Al-Arian's wife, Nahla, said her husband was looking for other attorneys but had yet to find replacements.

After six months of trial jurors failed to return a single guilty verdict against Al-Arian and three co-defendants. Al-Arian was found not guilty on eight counts but the jury deadlocked on the nine others. Two of the defendants were acquitted of all the charges.

The four were charged with raising money for terrorist attacks by the Palestinian Islamic Jihad in Israel, the West Bank and Gaza Strip.

Federal prosecutor Terry Zitek told the court that if the case is retried, his team will need until June to present "a streamlined case," which should take about two months to present to a jury.

Two Get Prison In Exports To Syria, Libya (AP)

AP, January 26, 2006

DALLAS — Two brothers convicted of sending exports from their U.S. company to countries considered sponsors of terrorism were sentenced Wednesday to federal prison, the U.S. Attorney's Office said.

Hazim Elashi was sentenced to 5 1/2 years in prison and will be deported after serving his sentence. His brother Ihsan "Sammy" Elashi was given a six-year term, which will run consecutively to the four-year sentence he is currently serving.

Hazim and Ihsan Elashi, their three brothers and their company were convicted in 2004 on charges of making illegal technology shipments to Libya and Syria.

The Elashis ran InfoCom Corp., a Richardson firm that did up to $5 million in business a year selling computers and Internet services to mostly customers in the Middle East. Prosecutors say they shipped computer products to Libya and Syria from 1997 to 2000, violating a ban on exporting technology, goods or software to countries the U.S. government lists as state sponsors of terrorism.

Agents from the FBI investigated InfoCom for years and raided the business the week before the Sept. 11 terror attacks. Attorney General John Ashcroft announced the original indictments against the brothers, calling it part of a campaign against "the financiers of terror."

The men also were involved in the Holy Land Foundation for Relief and Development, a Muslim charity that was closed after the Treasury Department accused it of being a front for the militant group Hamas.

Bayan Elashi, Ghassan Elashi and Basman Elashi have not been sentenced on the exporting charges.

Lawsuit Filed In Support Of Muslim Scholar Barred From U.S. (NYT)

By Julia Preston

The New York Times, January 26, 2006

Citing the case of a prominent Muslim scholar who has been barred from the United States, the American Civil Liberties Union filed a federal lawsuit yesterday seeking to strike down a clause of the USA Patriot Act that bars foreigners who endorse terrorism from entering to this country.

The suit was filed in Federal District Court in Manhattan on behalf of the scholar, Tariq Ramadan, and three national organizations of academics or writers who have invited him to speak to their members. The groups, including the American Academy of Religion, the leading American organization of scholars of religion, say Mr. Ramadan has never expressed support for terrorism. They also argue that the Patriot Act clause has been applied to stifle academic debate in the United States.

Mr. Ramadan, a Swiss citizen, has been denied a United States visa since July 2004, when he was on the verge of moving with his family to Indiana to take up a tenured professor's position at the Joan B. Kroc Institute for International Peace Studies at the University of Notre Dame.

In a telephone interview from Oxford University in England, where he is currently a visiting professor, Mr. Ramadan said he had never had an explanation why his visa was revoked, after he had been approved to teach at Notre Dame and had been a frequent traveler to the United States for many years.

"It's clear there is nothing in my record supporting terrorism," Mr. Ramadan said.

Speaking to reporters in August 2004, a spokesman for the Department of Homeland Security, Russ Knocke, cited the Patriot Act clause as the reason that Mr. Ramadan's visa was canceled. The clause, adopted when the act was passed in 2001 and amended last May, bars foreigners who "endorse or espouse terrorist activity or persuade others" to support terrorism.

The author of some 20 books on Islamic theology and the place of Muslims in the Western world, Mr. Ramadan, 43, is an outspoken critic of the Bush administration's policies in the Middle East. He has also rejected Muslim terrorism, calling it "anti-Islam." Last August, he was invited by Prime Minister Tony Blair to participate in a task force to counter extremism after the London bombings in July.

The A.C.L.U., joined by the New York Civil Liberties Union, brought the suit against Michael Chertoff, the homeland security secretary, and Secretary of State Condoleezza Rice, asserting that the Patriot Act clause is unconstitutional and that the ban on Mr. Ramadan violates the First Amendment rights of American thinkers who want to meet with him. The American Association of University Professors and the PEN American Center are also plaintiffs.

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After Notre Dame applied a second time for a visa for Mr. Ramadan and he waited for five months with no response, Mr. Ramadan resigned in December 2004 from his position there. R. Scott Appleby, the director of the Kroc center, said the government never gave an explanation to the university. Notre Dame saw Mr. Ramadan as a theologian who could help build ties between Middle Eastern Muslims and the West, Mr. Appleby said.

Mr. Ramadan filed a new visa application on Sept. 16, after receiving about 40 invitations for speaking engagements in the United States over the past year. Interviewed in December in Bern, Switzerland, by agents of the Homeland Security and State Departments, Mr. Ramadan said he was mainly questioned about his views of the war in Iraq.

"I told them what I have said many times publicly, that I think the war was a mistake and illegal," he said. "Even the United Nations has said that. I think the resistance is legitimate but the means they are using are not."

A State Department spokeswoman, Janelle Hironimus, confirmed Mr. Ramadan's 2005 visa application but said the department did not comment on pending visa or legal matters.

Mr. Knocke of the Department of Homeland Security also declined comment on the suit or Mr. Ramadan's status. But he noted that the criteria for revoking visas included "public safety and national security risks," among others.

"We have a strong commitment and clear responsibility to restore integrity to our immigration system, which includes preventing people who might present risks from entering the country," Mr. Knocke said.

The controversy about Mr. Ramadan's ideas arises in part because he is the grandson of Hasan al-Banna, a founder in 1928 of the Muslim Brotherhood, an Egyptian group that has turned to violent attacks in recent decades. Some critics say that he speaks with two voices, espousing moderate views in Europe but embracing more militant ideas when he addresses Muslims in the Arabic world.

Barbara DeConcini, the executive director of the American Academy of Religion, described Mr. Ramadan as "one of the most respected scholars of Islam working today."

He was invited to give a keynote address at the group's annual meeting in November, Ms. DeConcini said, but without a visa he was limited to giving a lecture to a small audience by videoconference, which she called a poor substitute for his participation in the group's discussions. He has been invited to address the next annual meeting, she said.

While the government has the authority to exclude terrorists, Ms. DeConcini said, the Patriot Act clause "is being used much more broadly to censor and manipulate academic and political debate."

Mr. Ramadan said the ban had damaged him professionally, and the disruption had been jarring to his wife and children. He said he has not been offered another tenured university position.

U.S. Sued Over Islam Expert's Visa (WSJ)

The Wall Street Journal, January 26, 2006

Three scholarly organizations sued the federal government over its 2004 decision to revoke a visa granted to a European expert on Islam, preventing him from taking a faculty position at the University of Notre Dame.

The lawsuit, on behalf of Tariq Ramadan, a visiting scholar at Oxford University and critic of U.S. policy in Iraq, intensifies the debate over the Patriot Act and reflects concerns in academia that the U.S.'s security precautions are hampering the flow of ideas between foreign and U.S. scholars. A Department of Homeland Security spokesman and a State Department spokeswoman declined to comment.

The lawsuit asks the U.S. District Court in New York City to declare unconstitutional a portion of the Patriot Act that denies entry on the grounds of "ideological exclusion" to those who have endorsed or espoused terrorist activity or who have persuaded others to do so.

"There is simply no evidence" of Mr. Ramadan supporting terrorism, said Barbara DeConcini, executive director of the American Academy of Religion, one of the plaintiff groups.

PATRIOT ACT:

ACLU Says Patriot Act Excludes Muslim Scholar From U.S. (AP)

By Larry Neumeister, ASSOCIATED PRESS

AP, January 25, 2006

NEW YORK – The ACLU sued the federal government Wednesday for blocking a Muslim scholar from entering the United States, arguing that the government should not use anti-terrorism laws as "instruments of censorship."

The lawsuit filed by the American Civil Liberties Union in U.S. District Court sought to open the way for Tariq Ramadan, a Swiss intellectual and Muslim scholar, to accept invitations to speak to audiences in the United States.

Ramadan was blocked from accepting a tenured teaching position at the University of Notre Dame when his visa was revoked in August 2004 because of a provision of the Patriot Act, said Jameel Jaffer, an ACLU staff attorney.

Jaffer said the provision blocks entry into the United States by any prominent alien who has used his status to endorse or espouse terrorism or to persuade others to endorse or espouse terrorist activity.

"We don't think there's any evidence at all that he has endorsed terrorism," Jaffer said. "In fact, there is overwhelming evidence that he has condemned terrorism."

Academic Groups Suing To Stop U.S. From Denying Visas To Scholars Based On Their Political Views (KRT)

By Warren P. Strobel

Knight Ridder, January 26, 2006

WASHINGTON - Three academic groups, backed by the American Civil Liberties Union, sued the Bush administration Wednesday to stop it from barring foreign scholars from the United States based on their political views.

The lawsuit seeks to overturn the government's use of the so-called "ideological exclusion" provision of the USA Patriot Act, which the Bush administration cited in revoking a visa for Tariq Ramadan, a prominent Islamic scholar, in August 2004.

Ramadan has sought to reconcile the Islamic and Western worlds and was offered a teaching position at the University of Notre Dame. His case has become a symbol for concerns over restrictions on academic freedom.

"If the instance of Ramadan is any indication, we are concerned about scholars ... who may be prevented from coming to speak with us, to meet with us," said Barbara DeConcini, executive director of the Georgia-based American Academy of Religion, which invited him to speak at its annual conference in 2004.

The group, which calls itself the world's largest association of scholars of religion, rarely takes stands on public policy issues. "It was important for us to step up to the plate," DeConcini said.

Megan Gaffney, a spokeswoman for the U.S. attorney's office in Manhattan, said she had no comment on the lawsuit.

It was filed by the ACLU on behalf of the religion group, the American Association of University Professors and the literary group PEN American Center.

Many scholars are expressing concern that security restrictions invoked in the name of fighting terrorism have constricted academic debate on controversial issues.

Knight Ridder reported last month that the State Department has been using ideological litmus tests in a program that sends American experts overseas to represent the United States, weeding out critics of the Iraq war. The department denied it was doing so.

In the last two years, the government also has barred 61 Cuban scholars who were to have attended a 2004 conference, and Dora Maria Tellez, a Nicaraguan scholar and former minister of health.

"The government has resurrected a practice that existed during the Cold War of excluding people because of their views" and is manipulating immigration laws to do so, said Jameel Jaffer, an ACLU staff attorney.

The Bush administration has never fully explained its decision to revoke Ramadan's visa days before he was to come to the United States.

Russ Knocke, a Department of Homeland Security spokesman, said at the time that the decision was based on "public safety or national security interests."

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A provision of the Patriot Act, amended last May, allows the government to exclude a foreigner who's found to "endorse or espouse terrorist activity or persuade others to endorse or espouse terrorist activity or support a terrorist organization," according to the lawsuit. The suit seeks to invalidate that provision.

Ramadan's many defenders say that, although he's been highly critical of the Bush administration's foreign policy, he has condemned terrorism.

Ramadan, a Swiss citizen, was invited by British Prime Minister Tony Blair last year to join a government task force on the sources of extremism in Britain.

Critics, including analyst Daniel Pipes, say Ramadan's been much more equivocal on the issue of terrorism. Pipes called Ramadan "Islamist royalty" in an article because his grandfather, Hassan Banna, founded the Muslim Brotherhood, the Middle East's oldest Islamist group.

Ramadan reapplied for a U.S. visa but was told last month that it could take almost two years to get an answer, the suit says.

HOMELAND RESPONSE:

ACLU Decries 'Spying On Georgians' By Feds, Locals (AJC)

By Bill Montgomery, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, January 26, 2006

In the name of fighting terrorism, the U.S. government and police agencies from the federal to the local level have been spying on Georgia anti-war rallies, peace and social action groups, and even a vegan protest, the state legal director of the American Civil Liberties Union charged Wednesday.

Documents and surveillance photos obtained by the ACLU through a Freedom of Information Act request reveal a pattern of "spying on Georgians who are our friends and neighbors, and are leading lawful lives," attorney Gerald Weber said at a chilly morning news conference Wednesday outside the Georgia Homeland Security offices in downtown Atlanta.

"We have just seen the tip of the iceberg, but it's clear that citizens throughout Georgia have been spied upon by their own government," said Weber. "It's clearly an intimidation process."

"Many of us remember the days of J.Edgar Hoover, and this is another reminder," said state Rep. Nan Grogan Orrock (D-Atlanta). "If excessive power is not challenged, it can and will lead to abuse of power."

Officials from state and federal Homeland Security offices did not respond to requests for comment Wednesday.

Weber said some of the documents involve the National Security Agency, whose surveillance program has come under fire since it was disclosed in December by NBC News. That program, approved by President Bush, allowed the agency to eavesdrop, without warrants, on communications within the United States.

Weber said the released documents from a classified Pentagon database of suspicious people revealed that two local protests by the pacifist group Georgia Peace and Justice Coalition were monitored by federal agents last spring. The demonstrators were termed a "credible threat" in the documents. The surveillance was done at a meeting at the Piedmont Drive Quaker headquarters and at a vigil at an Atlanta Army recruiting station on Ponce de Leon Avenue.

"Why is our government spying on us?" asked Coalition organizer Ann Mauney. "While not the terrorist threat that the Bush administration claims as a rationale for all its surveillance, we are indeed a threat to the Bush administration's policies ... spying by the government has long been the first line of attack on citizens who challenge those in power."

A special agent at the FBI press office in Washington who would not give her name said the FBI "investigates groups or individuals when we have information or allegations of federal law being broken. We do not investigate groups or persons exercising their constitutional right of protest or dissent."

Other local organizations that complained of being targeted by surveillance include two other anti-war organizations, Atlanta Refuse and Resist and WAND (Women's Action for New Directions); a media watchdog group, the Atlanta Independent Media Center; and even a group of Georgians who eat only plants.

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Vegan Caitlin Childs recounted Wednesday how she was detained for close to two hours last September for writing down the license plate number of a plainclothes DeKalb Homeland Security officer taking pictures of her and five others picketing outside a HoneyBaked Ham store on Buford Highway just before Christmas 2003.

"I was handing out fliers and couldn't help noticing the unmarked [police] car ... I wanted to know who was taking our pictures," Childs said.

A handout provided by Weber included copies of 20 photos taken by DeKalb Homeland Security of Childs and the other vegan protesters.

DeKalb's director of Homeland Security, Moses Ector, declined to discuss it. "We understand they have filed an intent to sue, so it's now a legal issue. Whatever I might say could come back to haunt us for years in that case, so I can't make any comment," said Ector.

The Associated Press contributed to this article.

ACLU Releases Documents It Says Show Government Spied On Georgians (AP)

AP, January 26, 2006

ATLANTA - The American Civil Liberties Union has released two documents from the FBI and DeKalb County Homeland Security related to an anti-war protest and a vegan protest that it says show those agencies spied on Georgia residents.

The ACLU's Gerry Weber said during a news conference in Atlanta Wednesday that the documents are part of a case the group is building that will show that officials at all levels of government are doing surveillance of government critics.

Weber says so far the ACLU has received complaints from six organizations and nearly two dozen people who fear they have been spied upon, photographed, videotaped or had their events infiltrated by government agents.

He says none of them did anything that would justify surveillance but rather are critics of the Bush administration.

Democratic State Representative Nan Orrock of Atlanta says Congress must check what she calls the government's excessive power.

The leader of an umbrella pacifist organization -- the Georgia Peace and Justice Coalition -- says her group is the one that organized two Atlanta peace events cited in a Defense Department database as ``credible threats'' to the Pentagon.

The coalition's Ann Mauney says spying is the government's first line of attack in trying to silence those who dissent.

FBI spokesman Bill Carter says all FBI investigations are conducted in response to information that the people being investigated were involved in or might have information about crimes.

A Mountain Of Documents On Hurricane Response, But Democrats Seek More (NYT)

By Eric Lipton

The New York Times, January 26, 2006

WASHINGTON, Jan. 25 — In their four months of digging, House and Senate investigators have collected hundreds of thousands of pages of documents and testimony from governors, mayors, Homeland Security and Pentagon officials and dozens of others touched by Hurricane Katrina.

To the Republican leaders of the two committees, the mountains of still-accumulating evidence are sufficient to answer questions about why the government did not do more to prevent a well-predicted disaster scenario from turning into a catastrophe.

Democrats say crucial holes still remain, particularly related to what senior White House aides and the president knew, and how they reacted to this knowledge, right before the storm and after it.

Senator Joseph I. Lieberman of Connecticut and other Democrats on the investigative committees say they are not looking for a smoking-gun document implicating the White House. Instead, they say, they are trying to resolve contradictions and questions that have come up.

"What do they have to hide?" Representative Gene Taylor, Democrat of Mississippi, said in a telephone interview on Wednesday. "Why don't they just come forward and say, 'This is what we knew, when we knew, and this is how we reacted?' "

The White House said on Tuesday that it would deny requests for e-mail and other correspondence among top White House aides, including the chief of staff, Andrew H. Card Jr. and the homeland security adviser, Frances Fragos Townsend.

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In September, speaking in New Orleans, President Bush vowed to "work with members of both parties to make sure this effort is thorough," and his aides say he has done that.

"There are some 120 administration officials that have been made available to the committees for interviews or for hearings," Scott McClellan, Mr. Bush's press secretary, said Wednesday, adding that 15,000 pages of White House documents were provided. "We believe they're getting the information they need to do their job."

Yet certain questions remain. Michael Brown, the former director of the Federal Emergency Management Agency, testified to the House committee that he repeatedly e-mailed or spoke on the telephone to Mr. Bush, Mr. Card and Mr. Card's deputy, starting Saturday and Sunday before the hurricane struck.

Asked what kind of aid he requested, Mr. Brown replied, "I'm being advised by counsel that I can't discuss with you my conversations with the president's chief of staff and the president."

Documents uncovered during the investigation show that the White House was notified early Monday, hours before the storm hit later that morning, that it was probable that Hurricane Katrina would "lead to severe flooding and/or levee breaching," adding, "This could leave the New Orleans metro area submerged for weeks or months."

That night, after the storm passed, a report sent to the White House warned of a quarter-mile breach "in the levee near the 17th Street Canal" and that "an estimated 2/3 to 75 percent of the city is underwater."

Yet Mr. Bush and the homeland security secretary, Michael Chertoff, in interviews after the storm hit, said they never expected the levees to be breached. They said that after the storm had passed Monday, they were convinced that the city had survived without catastrophic damage.

"There was a sense of relaxation," Mr. Bush said at a news conference in New Orleans on Sept. 12, recounting his reaction. "I was listening to people, probably over the airways, say, the bullet has been dodged."

Mr. Lieberman wants to know more about how the White House could have felt it was appropriate to relax.

"That is central to the investigation," Mr. Lieberman said in an interview Wednesday.

A closed-door briefing provided to investigators by Ken Rapuano, Mr. Bush's deputy domestic security adviser, did not resolve these and other discrepancies, Mr. Taylor said.

At the briefing, Mr. Rapuano acknowledged that the government's response was deeply flawed, participants said. But when asked about the involvement of Mr. Bush, Mr. Card or Ms. Townsend, he also declined to offer details, saying, "I am really not here to discuss specific information that was passed to the president," according to a written summary of the briefing prepared by Democratic staff members.

"It was as shallow and phony a presentation by the administration as they possible could conceive," Mr. Taylor said, adding that he walked out in frustration.

Democrats also said that the documents provided by the White House consisted largely of news conference transcripts or e-mail sent to many people, instead of correspondence disclosing the decision-making process at the White House.

But Representative Thomas M. Davis III, Republican of Virginia, said that based on what his committee had, he was convinced that the report would be complete.

"The Select Committee has all the information we need to fulfill our duties and produce a comprehensive, fair, no-holds-barred report about the failures in response to Hurricane Katrina," Mr. Davis said Tuesday.

Mr. Lieberman said Wednesday that he realized it was unlikely he could get the information he wanted by threatening to subpoena. Even if one were issued, the administration would probably fight it in court.

Mr. McClellan all but invited such a response Wednesday.

"The president believes that Senator Lieberman ought to have the right to confidential conversations with his advisers, just like all presidents have asserted they ought to have that same right," he said. "That's what this is about."

Rejection Of Building Plan Causes Dismay In Louisiana (NYT)

By Adam Nossiter

The New York Times, January 26, 2006

DOJ_NMG_0011861

NEW ORLEANS, Jan. 25 — The White House decision to withhold support from a major Congressional reconstruction plan left Louisiana officials expressing bewilderment on Wednesday over what they characterized as the lack of a workable alternative from the Bush administration.

Congress has appropriated $6.2 billion in reconstruction aid, but officials say that is not enough to meet housing needs.

"The White House simply needs to tell us what their plan is," Gov. Kathleen Babineaux Blanco said Wednesday at a news conference in Baton Rouge. "We don't see an adequate plan. You can't fix a $12 billion problem with $6 billion."

Other estimates have put the reconstruction cost much higher, with some going as high as $80 billion.

With whole neighborhoods in ruins nearly five months after Hurricane Katrina, officials of both political parties had lined up behind the Congressional reconstruction plan, which would have set up a federal agency to buy out flooded homeowners, cleaned up the land and sold it to builders.

Planners and officials had described the proposal, by Representative Richard H. Baker, Republican of Louisiana, as the best hope for avoiding what is starting to occur, islets of rebuilding in seas of destruction.

A measure setting up the agency, the Louisiana Reconstruction Corporation, was approved by the House Financial Services Committee before Congress adjourned last month. White House officials told Mr. Baker on Monday, however, that they would not support his bill.

He joined Ms. Blanco at the news conference on Wednesday.

Thousands of homeowners remain in limbo. Officials here say the storm destroyed or damaged more than 200,000 houses.

Emerging from the officials' statements on Wednesday was a sharp disagreement with the White House over the state's needs. Although Mr. Baker and Ms. Blanco described a sight that has become grimly familiar to residents, block after block of ruined houses, the administration has begun to concentrate on a much smaller picture of destruction.

Donald E. Powell, the federal coordinator for Gulf Coast rebuilding, spoke this week of helping homeowners who lacked flood insurance because they were not in the federally designated flood plain, a number that comes to 20,000, an aide said. The $6.2 billion in block grants for Louisiana will be enough to help them, Mr. Powell said.

Louisiana state officials say that number understates the problem, failing to include tens of thousands of other homeowners whose houses were destroyed .

"Our count indicates far in excess of 200,000," Mr. Baker said. "What happened to the other 185,00?"

Administration officials have suggested that Louisiana follow Mississippi's lead in providing grants to homeowners. Ms. Blanco, a Democrat, rejected that approach on Wednesday, saying the state did not have enough money for it.

Representative Bobby Jindal, a Republican from New Orleans suburbs, also said 20,000 homeowners represented a significant understatement.

"I very strongly disagree with their methodology in terms of the final numbers," Mr. Jindal said.

Administration objections to Mr. Baker's bill centered on two aspects, Mr. Powell suggested. The bill would add a federal bureaucracy and set up what would be a government real estate agency, "which we don't think is a good business," said Mr. Powell, a former chairman of the Federal Deposit Insurance Corporation.

The cost of Mr. Baker's plan— he and an aide used figures from $30 billion to $80 billion — prompted wariness, too. Old suspicions about how Louisiana spends its money have not disappeared.

Mr. Powell has all but put state officials on notice that close watch will be kept on the Community Development Block Grant money.

"I think it's important for Louisiana to spend this money in a very prudent and wise manner," he said on Tuesday.

That was echoed by an administration supporter on a rebuilding committee, Donald T. Bollinger, a shipbuilder, who said, "I think we have to demonstrate to Congress and the president that we are going to handle our C.D.B.G. grants responsibly."

Mr. Bollinger, a major fund-raiser for President Bush, was not so pessimistic about the rejection of Mr. Baker's plan.

"Everybody wants to think that if the Baker bill fails we have no other solution," he said. "I don't agree with that at all. I know we need a tool similar to that."

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More typical of the disappointment was a statement by Walter Isaacson, a member of the Louisiana Recovery Authority, created by Governor Blanco.

"We tried to have a prudent plan that was a way to build a safer city," Mr. Isaacson said. "This undercuts us, and undercuts the credibility of a president when he says he wants New Orleans to be able to rebuild itself."

Bush Eyes Grants, Not Agency, For La. Recovery (REU-Y2)

By Kristin Roberts

Reuters, January 26, 2006

The White House on Wednesday opposed a plan from a Louisiana Republican to create a federal agency to buy homes destroyed by recent Gulf Coast hurricanes, saying grants to state governments were a better approach.

The Bush administration said it was concerned about creating an outside entity to funnel federal money into housing redevelopment, and instead allocated $11.5 billion in previously approved funds to states hurt by the 2005 storms.

"We believe a more direct, better approach is to provide assistance directly to the local communities so that they can get that to the people through things like a Community Development Block Grant," said White House spokesman Scott McClellan.

But the Bush administration's rejection of Louisiana Rep. Richard Baker (news, bio, voting record)'s proposal was criticized by some government officials in Louisiana, which with Mississippi suffered most of the damage from hurricanes Katrina, Rita and Wilma last year.

A group representing mortgage bankers also said President George W. Bush had yet to offer an alternative that was comparable to the plan proposed in Baker's legislation to create the Louisiana Recovery Corp.

"We'll really pay attention to the State of the Union address because we'll be anxious to see what the president is going to propose as a plan for rebuilding those devastated areas," said Kurt Pfotenhauer, senior vice president of government affairs at the Mortgage Bankers Association.

"It's clear that some plan has to be in place in order to spur the investment of private capital."

Pfotenhauer said he expects to see an increase in property abandonment and foreclosures over the coming months as people in the Gulf region are unable to make mortgage payments on homes that were destroyed or damaged by the storms.

Baker's legislation, already approved by a House committee, would create a corporation to buy and redevelop tracts of land devastated by the hurricanes, helping property owners in Louisiana avoid defaults on home and business loans.

The bill would redirect $17 billion in previously approved funds to pay for rebuilding in Louisiana, including $13 billion in Community Development Block Grant money.

The corporation would take over destroyed properties at the request of owners and pay off lenders. Under the legislation, the U.S. Treasury Department could sell bonds to pay for the corporation's property purchases.

"If there truly is a better way, then we should ask to see it, and I will help lead the fight to get it done," Baker said in a prepared statement. "But if there isn't, or if other plans prove unfair or ineffective, then we should not accept that this matter is settled."

Senate Banking Committee Chairman Richard Shelby, an Alabama Republican, said he would hold hearings on the proposal.

"It's an ambitious program," he said. "We'll look at it real thoroughly; that's what hearings are for."

GRANT APPROACH

The U.S. Housing and Urban Development Department on Wednesday afternoon set distribution levels for $11.5 billion in grants authorized under a bill Bush signed in December.

Louisiana will receive $6.21 billion in grants -- the statutory maximum. Mississippi will receive $5.06 billion and another $231.8 million in grants will be sent to three other states affected by the storms.

"This program allows states' leaders -- who are closest to the people -- to decide exactly how this grant money should be spent," said Donald Powell, a former bank regulator who took over as coordinator for the federal government's Gulf Coast rebuilding effort.

New Orleans Mayor Ray Nagin said the grant funds were a "good step."

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"The question that I'm going to raise is, are the dollars enough to really stand up our economy," he said.

Katrina Aid Falls Short, Blanco Says Grant To Give $6.2 Billion For La. Areas (USAT)

By Oren Dorell And Anne Rochell Konigsmark

USA Today, January 26, 2006

Storm-ravaged areas of Louisiana will get $6.2 billion in federal relief funds in a controversial plan that recommends giving the money to a small fraction of homeowners affected by the storm.

Donald Powell, President Bush's coordinator for Gulf Coast rebuilding, suggested that money from the government's funding grant, announced Wednesday, be doled out to roughly 20,000 homeowners who weren't in a flood zone and did not have flood insurance when Hurricane Katrina hit. State officials must draw up plans for disbursing the money and get federal approval. Louisiana officials had proposed a far more ambitious $30 billion initiative to rebuild ruined areas and said the government's relief effort would exclude at least 140,000 homes.

"It simply will not work," said Louisiana Gov. Kathleen Blanco, adding that she won't use the money as the White House recommends. "We are not in the business of choosing between our citizens."

Powell told reporters the money should go to homeowners without flood insurance who lived outside the area where federal officials thought flooding would occur. Under that proposal, homeowners who lived inside the flood zone and did not buy flood insurance would not be eligible for the federal funds.

Four other states affected by Hurricanes Katrina, Rita and Wilma also will get relief money from the grant, Powell said. Alabama will receive $74 million; Florida, $83 million; Mississippi, $5.1 billion; and Texas, $74 million.

Areas that were severely hit by the storm, including large portions of New Orleans and nearly all of St. Bernard Parish, would be excluded from the compensation plan.

Blanco spoke at a news conference in Baton Rouge with Rep. Richard Baker, R-La., architect of a proposal for the federal government to buy and later resell damaged homes. The White House rejected the plan, but Baker said Wednesday, "I've had inquiries from the House and the Senate in the last 48 hours for more information on the bill." He said he has passed bills before that initially were rejected by the White House.

Blanco said she appreciates the government's effort, but "they've almost designed this as a prescription for failure. … They gave us a ladder but took away the top two rungs."

In Mississippi, where 65,000 homes were left uninhabitable by the storm, authorities expect to be ready to accept applications for federal funds from homeowners in about a month, said Scott Hamilton, spokesman for the Mississippi Development Authority.

Mississippi plans to spend about $4 billion on homeowner assistance and the rest on public works, transportation and economic development. People who accept federal money will have to abide by new, stricter building codes and new Federal Emergency Management Agency flood maps, which might mean they will have to elevate their homes to rebuild, Hamilton said.

Powell said the government is leaving the door open for more money, should the grant not be enough.

'Chocolate' Aftertaste: Bittersweet, Indeed (WP)

By Wil Haygood

The Washington Post, January 26, 2006

New Orleans Mayor Ray Nagin blew into the original Chocolate City yesterday. Everywhere he goes these days, there seem to be things to explain, his words and comments tossed about as if, well, in yet another hurricane.

"Everything I say gets zoomed in on," sighs Nagin, in town to attend the winter meeting of the U.S. Conference of Mayors at the Capital Hilton. "I don't get what all the fuss was about when I talked about New Orleans being a chocolate city. I mean, I understand the frustration with my 'God' comments. Maybe I went a little overboard. But Chocolate City? Come on."

In the aftermath of the horrific Hurricane Katrina, the mayor has been richly and routinely quotable.

He said, "How do I make sure New Orleans is not overrun with Mexican workers?"

He said to federal officials, whom he criticized for a feeble response to Katrina, "Get off your asses."

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He said, "Surely, God is mad at New Orleans. He sent us hurricane after hurricane after hurricane, and it's destroyed and put stress on the country."

And he said, of God, "But surely he is upset at black America also."

And he said that New Orleans will be a "Chocolate City" again.

The Chocolate City reference, Nagin has explained, exploded when he did not mean it to. The term was widely used by Washington's black radio announcers in the early '70s and referred proudly to the city's majority-black status and its prominent place in the black cultural scene. It gained wider recognition as the title of a 1975 album by the funk band Parliament.

Before Katrina, New Orleans was 67 percent black. Nagin says he was appealing to those evacuated to come back to a welcoming New Orleans. But there were those who believed his comment could be interpreted to mean that whites were no longer wanted.

Nagin says he wants anyone and everyone to return to New Orleans, heretofore known as the Crescent City.

"I thought, personally," says San Bernardino, Calif., Mayor Judith Valles, "with his 'Chocolate City' comment, he was just saying to the people who left -- and let's face it, most were African American -- that this is still your city. I think he meant it in a positive way. But it was politically incorrect, I guess. It missed the proper gesture." Then she says: "I'm a Democrat. That's why I understand the 'Chocolate City' phrase."

"I stepped out there and did something bold and unique," Nagin was saying yesterday. "I created a need for people to try to corner me. I think it's just me stepping out and being right."

Nagin is a tall, confident man with a shaved head and a bright smile. He was dressed in a smart black pinstriped suit and wore a Mardi Gras-like bracelet of black and white beads on his right wrist. A native of New Orleans, he had never run for political office before winning the mayor's race in 2002. He's married with three children. He's got a degree from Tuskegee University and one from Tulane. Before he entered politics, he was a vice president at Cox Communications. Before Katrina hit, much of the world did not know of Clarence Ray Nagin.

"It has been tough," acknowledges Seletha Smith Nagin, the mayor's wife. "It takes a toll on you." She says she has been gratified by outpourings of support. "We'll be okay. We'll be fine."

Nagin is up for reelection this year. He figures his chances are pretty good.

"At the end of the day, people look at my track record," he says. "Before the hurricane hit, real estate purchases were up, people were coming off the poverty rolls."

Many in the city gave him credit for tackling corruption, a chronic problem in the city government. Then came Katrina, and verbal clashes with the White House and with the administration of Gov. Kathleen Babineaux Blanco.

"He's a human being. He's stressed," says Camden, N.J., Mayor Gwendolyn Faison, a conference attendee. "How many people say 'God has forgotten me' when there's been an accident in their family? He's human. It's not easy. His city has been destroyed and he's getting criticized for everything he does."

In a brief address to the conference yesterday, Nagin was rueful, hopeful and candid, offering a kind of "Our Town" look back, and ahead, for New Orleans.

"Imagine, if you will, being the mayor of a city where 80 percent of the city took on water and the water stayed three weeks. Imagine that city in the midst of an awful crisis, and 40,000 people are stuck. Then, the cavalry arrives and sends your devastated citizens to 44 different states. On airplanes. With one-way tickets."

He went on:

"Think of those people, who have gone through hell, sitting on that airplane. They don't know where they're going next. Some went to Alaska. And so the doors of the plane opens and after having gone through hell, you are in Alaska. And you see Eskimos and penguins."

The mayor's narratives have often been revealed to be apocryphal. He went on to say he didn't mind the criticism that has been heaped upon him, much of it from inside New Orleans. "I had to be their psychological punching bag."

He cautioned the gathering that the woes of FEMA need to be addressed. He said government infighting must stop. "We don't need to do a dance between the governor and the president when people are suffering." He said too many in New Orleans

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didn't have flood insurance because they had been told by mortgage lenders it was unnecessary. "We must take care of the people who did the right thing and got caught up in the worst disaster in the history of this country."

He was very warmly received.

Nagin said at the start of his address he would not be controversial. When he said it, a man sitting behind him grinned. It was Anthony Williams, the often-praised, often-maligned mayor of Chocolate City.

Changes Are Sought In Flood Insurance (NYT)

By New York Times Regional Newspapers

The New York Times, January 26, 2006

New York Times Regional Newspapers

WASHINGTON, Jan. 25 — The administrator of the National Flood Insurance Program asked Congress on Wednesday to allow the elimination of discounts on as many as 1.2 million policies and suggested that the government consider requiring millions more homeowners to buy coverage.

The program expects to borrow $23 billion from the Treasury to pay claims from Hurricanes Katrina, Rita and Wilma. In written testimony to a Senate committee, David I. Maurstad, the administrator, said the program would reach its debt limit by mid-February and require another infusion of up to $5.6 billion.

About 1.2 million policyholders, or about 24 percent, receive discounts on premiums because their homes predate flood maps. Mr. Maurstad asked Congress for the authority to phase out those discounts.

Mr. Maurstad also asked Congress to order the program's parent agency, the Federal Emergency Management Agency, to study expanding coverage requirements to properties in areas known as 500-year flood plains, with a 0.2 percent chance of flooding in any year, and to properties protected by levees and dams. He estimated that would affect four million to six million properties.

Massive Hurricane Claims Force U.S. Flood Insurance Overhaul (WSJ)

By Michael Schroeder

The Wall Street Journal, January 26, 2006

WASHINGTON -- Amid massive claims from last year's Gulf Coast hurricanes, the Senate Banking Committee is preparing to overhaul the federal flood insurance program, resulting in much higher premiums for many homeowners and a likely taxpayer bailout.

Hurricanes Katrina and Rita put the National Flood Insurance Program so deeply in the red that experts are calling for radical surgery. So far, 239,000 damage claims have been filed by property owners around the Gulf Coast. Costs amounting to $23 billion are expected to dwarf the $2 billion in premiums and fees the program collects each year. "The flood-insurance program is in need of fundamental reform if we expect it to exist in the long term," said David Walker, who heads the Government Accountability Office, Congress's audit and investigative arm.

While broad legislation hasn't yet been proposed, several committee members and experts who appeared before the banking panel yesterday agreed that the insurance program needs to be restructured to operate more like a private insurance company. They suggested that subsidies given many policyholders now must be cut back and coverage should be curtailed for properties that are repeatedly flooded. Congress has rejected such moves in the past, but the program hasn't faced such a cash crunch. "We don't have the luxury of doing nothing. We have to make this program as actuarially sound as possible," said Committee Chairman Richard Shelby of Alabama.

The debate is over creating a premium and cost structure to allow the program to build surplus reserves that would cover costs of unusually expensive natural disasters. But it is unrealistic to think premiums could be raised high enough to repay the Treasury Department for the costs of last year's hurricanes, some committee members said. Property owners are required to buy the policies -- which for residences can cover as much as $250,000 in structural damage and $100,000 in lost belongings -- if they meet two conditions: They live in the most flood-prone parts of more than 20,100 communities that participate in the flood-insurance program, and they have mortgages from federally regulated banks or the Federal Housing Administration.

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Legislation likely will roll back the program's premium subsidies, valued at about $1.3 billion a year, that go to about 25% of policyholders whose properties were built in the most flood-prone areas before the program's creation. The annual average premium for regular policies was $340 last year, while the average subsidized policy cost $710, according to the Congressional Budget Office. If the subsidy were removed the average premium on those risky properties would jump to about $1,800 a year.

WAR NEWS:

Insurgent Attacks Repelled (WP)

By Jonathan Finer

The Washington Post, January 26, 2006

BAGHDAD, Jan. 25 -- U.S. Marines and Iraqi soldiers repelled coordinated attacks on the provincial government headquarters in the western city of Ramadi on Tuesday afternoon, killing seven insurgents, the military said Wednesday.

Five insurgents -- whose assault included mortar, small-arms and machine-gun fire -- were killed by a strike from a Marine Harrier jet as they gathered in a nearby cemetery, according to a statement from Capt. Jeffrey S. Pool, a Marine spokesman in the city. Two other fighters died in a firefight after insurgents used a rocket-propelled grenade to attack a military convoy entering the city's main government compound.

No U.S. or Iraqi forces were wounded in the clashes, the statement said.

During the fighting, Zaal Shehan Mahmoud, 30, a cameraman for the Baghdad TV network, was killed by more than 20 bullets to the head, abdomen and legs, according to Mohammed Dulaimi, a doctor at the Ramadi hospital.

Baghdad TV is owned by the country's dominant Sunni Arab political organization, the Iraqi Islamic Party, which recently re-entered politics after boycotting elections held a year ago. A party official, Baha Aldin Naqshabandi, said Marines mistook Mahmoud for a fighter while he was gathering footage in the city's main market. He had been sent to Ramadi to report on the condition of residents after the recent outbreak of violence.

Ramadi, capital of the insurgent stronghold of Anbar province, has in recent months experienced some of the heaviest exchanges between U.S. and Iraqi forces and Sunni-led insurgents, who in early January killed dozens of police recruits in a suicide bombing.

Tension also mounted Wednesday in the predominantly Shiite southern city of Basra. Several hundred protesters took to the streets to denounce raids conducted Tuesday by British forces in which at least a dozen people were detained, most of them members of the city's police force.

Provincial Gov. Muhammed Waili joined the protesters, many of whom were of the same tribes as the detainees. They chanted slogans calling for independence from the foreign forces that police their region.

The police forces in Basra and across southern Iraq have increasingly come under the control of sectarian militias blamed for widespread kidnappings, assassinations and other acts of political violence. In September, British troops plowed armored vehicles through the wall of a police station in an attempt to free two service members believed to be detained there. The men were later found in a house nearby controlled by militiamen.

In Samarra, north of Baghdad, where more than 40 police recruits were killed by gunmen this week, Sunni Arab cleric Abdul Karim Jasim Muhammed was shot dead by police at a checkpoint on the road to the Iraqi capital on Wednesday.

Muhammed's mother, who was traveling with him in the vehicle, said police "shot randomly to frighten the people and force them to go back. I was about to tell my son to go back, but it was too late. One of the bullets reached his head and killed him immediately."

Meanwhile, a U.S. government audit of its spending in Iraq published Tuesday revealed irregularities and improprieties, including tens of millions of dollars in cash deposited and withdrawn from a vault without any tracking documentation and up to $60,000 in reconstruction funds gambled away by an American soldier traveling in the Philippines.

U.S. officials "did not effectively manage" more than 2,000 contracts worth $88 million, according to the report by the Special Inspector General for Iraq Reconstruction, which covered spending during 2003 and 2004 in six southern and central provinces.

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In the southern city of Hilla, the document said, the United States paid $108,140 for renovations that were never made to an Olympic-size swimming pool and signed off on repairs to an elevator in the city's general hospital that later crashed to the ground, killing three people.

Special correspondents Salih Saif Aldin and Bassam Sebti contributed to this report.

General Sees Rift In Iraq Enemy Local-foreign Divide Could Aid U.S. Goals (USAT)

By Rick Jervis

USA Today, January 26, 2006

BAGHDAD — A deepening rift between radical foreign-led fighters and native Iraqi insurgents has turned violent, the top U.S. intelligence officer in Iraq says. That creates an opportunity for American forces to try to persuade local guerrillas to put down their weapons and join the political process, he says.

"Now you actually have a wedge, or a split, between the Sunni population and al-Qaeda in Iraq," said Maj. Gen. Richard Zahner, deputy chief of staff for intelligence for multinational forces in Iraq. "It poses a significant crossroads for these groups as they look at where they head."

The U.S. military cited incidents of insurgent infighting in a rare public description of a split:

•At least six ranking members of al-Qaeda in Iraq have been assassinated by Sunni insurgents or tribal gunmen in separate incidents since September, Zahner said. The killings are usually in retaliation for al-Qaeda's role in violence, such as the execution of local police officers, he said.

•In Ramadi, in western Iraq, he said, armed clashes have erupted between local Iraqi insurgents and al-Qaeda operatives in recent months. At least one high-ranking al-Qaeda member, Abu Khatab, was recently run out of Ramadi by insurgents loyal to the local tribe.

•Near the Syrian border, members of the Albu Mahal tribe, which attacked U.S. positions as recently as March, have lately been pointing U.S. troops to al-Qaeda hideouts, Zahner said.

Iraq's national security adviser, Mouwafak al-Rubaie, also said there is a rift in the insurgency, calling it a "a major step forward in our fight against terrorism."

However, the significance of fighting among Iraq's diverse insurgent groups is difficult to determine. In the past 10 weeks, 18 groups have claimed responsibility for separate attacks in Iraq, said Ben Venzke of IntelCenter, a Washington-area think tank that works for U.S. intelligence. "With all those different moving pieces, you're going to see this constant movement and realignment," he said.

The U.S. military has described the insurgency as a mix of former Saddam Hussein loyalists, foreign militants and disenfranchised Sunni Arabs.

Zahner said the insurgency consists of about 12,000 to 15,000 hard-core Iraqi fighters and supporters, as well as 1,000 militants loyal to al-Qaeda in Iraq, of which about 10% are foreign.

Several trends have accompanied the split:

•The constitutional referendum in October and parliamentary elections in December attracted more Sunni voters than in the past. Voter turnout in the largely Sunni province of Anbar, for example, climbed from 2% in elections Jan. 30, 2005, to 55% in the vote last month. Al-Qaeda insurgents, however, have continued to attack voters and people involved in politics.

•Iraq's complex network of tribes and family relations means some families have members on both sides of the conflict. The foreign fighters' killing of police and government officials is beginning to trigger a response from local insurgents who are more loyal to tribe and family than to ideology, Zahner said.

•Al-Qaeda's aim of turning Iraq into a strict Islamic caliphate has turned some Iraqi fighters against the group, Zahner said.

Insurgents Give U.S. Valuable Training Tool Video Of Attacks Provides Up-close Look At Fighters' Tactics And Capabilities (USAT)

By John Diamond

USA Today, January 26, 2006

DOJ_NMG_0011868

WASHINGTON — Videotapes of insurgent attacks in Iraq have become a potent propaganda tool for militant Islamists but also a handy training aid for U.S. forces, according to Army briefing documents being given to U.S. officers deploying for duty in Iraq.

Insurgents routinely videotape their attacks and sometimes post the footage on the Internet as propaganda to show tactical victories against U.S. military convoys or helicopters.

A briefing report prepared by the intelligence division of the Army's Training and Doctrine Command shows how the Army is mining the insurgent tapes for ways to avoid casualties.

"Insurgent videos have grown complex and sophisticated, with detailed graphics, English subtitles, English narrators, Jihadist 'humor,' and insults directed at the coalition to weaken (coalition forces') resolve and popular support," the report says. The document warns U.S. soldiers that "any non-media or not-CF (coalition forces) personnel with a camera should be considered suspicious."

The briefing is presented in the form of PowerPoint slides that have also been shown to soldiers already deployed in Iraq. It offers insights into insurgent tactics with the help of videos and photos taken by the insurgents themselves.

One shows an incident Aug. 10 when an Army supply truck passed a homemade road sign that concealed a bomb. In one image, the tractor-trailer is completely obscured by the fiery blast. The briefing warns that some roadside bombs are "victim activated," meaning that the motion of a passing vehicle sets off the explosive.

The overall thrust of the report is to show Army officers how and where Americans are dying in Iraq. The information in the report was current up to last month.

The briefing report says 55% of U.S. military deaths in Iraq are attributed to improvised explosive devices, the military's term for roadside bombs, and small-arms attacks. It says 59% of U.S. military deaths occurred in Baghdad and Sunni-dominated Anbar province, which runs from just west of Baghdad to the Syrian border.

Designed to help soldiers know what to expect and how to counter insurgent tactics, the briefing also warns that Iranian-backed Shiite militants as well as Iraqi Sunnis and foreign Sunni fighters are regularly mounting attacks.

Maj. Mark VanHout of the Training and Doctrine Command, based at Fort Monroe, Va., confirmed the authenticity of the report, which is unclassified but not released publicly.

Training commanders had asked for the report to give officers "a statistical analysis of what enemy tactics, techniques and procedures kill most soldiers," according to Gary Phillips, a threats specialist at the command's intelligence branch at Fort Leavenworth, Kan.

Phillips, a retired Army colonel who travels to military bases around the country preparing officers for duty in Iraq, says the roadside bombs are the most worrisome threat.

"They continue to move forward in how they're emplaced, how they're configured and how they're used," Phillips says.

His son, Army Capt. Dustin Phillips, deploys to Iraq in late February to train Iraqi police. "I told him this weekend, the issue is, don't let complacency set in. Don't think everything's copacetic. There is no safe spot."

The briefing characterizes insurgents as difficult to find, let alone defeat, and able to change their tactics as the U.S. military changed its own. Adjustments have included more powerful roadside bombs as the number of armored U.S. military vehicles has increased, the use of secondary bombs to kill those responding to initial roadside bombing attacks, and coordinated daylight raids.

The threat of small-arms fire, often directed at military checkpoints and convoys, "comes from all ages and sexes," according to the briefing, and usually originates from homes, vehicles or crowds that allow quick escape. The insurgents have also emulated the U.S. military's preference for "stand-off" style attacks in which the enemy can be hit without exposing the attacker, it says.

US To Release Five Female Prisoners In Iraq (CSM)

By Dan Murphy

The Christian Science Monitor, January 26, 2006

DOJ_NMG_0011869

BAGHDAD - A US military spokesman in Baghdad confirmed Wednesday statements by Iraq Justice Ministry officials who said five women detainees are scheduled to be released Thursday.

Iraqi officials have been at odds with their US counterparts over the release of the five, among nine women terrorism suspects in American custody in Iraq.

The Justice Ministry said last week that six women were about to be freed. Reuters reported that Iraqi officials have suggested the delay in releasing the women was linked to the demands of the kidnappers of American journalist Jill Carroll, who threatened to kill her by last Friday unless all women prisoners were freed.

The deadline passed with no word on Ms. Carroll's fate. The US says it does not negotiate with kidnappers.

The handful of Iraqi women in detention at any given moment are a source of particular anger for average Iraqis and insurgents alike.

The US military says it makes special efforts to process women more quickly than men, because of the anger and violence generated by US detention of women. Many Iraqis assume that women are abused in US detention, and in a culture in which a family's honor is seen as tied up with their ability to protect their women, female detainees are an especially emotional issue.

Sunni Arab political leaders complain frequently about women in detention here. Demands that women be released have been made in other cases than Carroll's.

Shortly after the abduction of Iraq Interior Minister Bayan Jabr's sister on Jan. 4, for instance, her captors demanded that all women be released from the ministry's jails. She was later released unharmed.

The American military spokesman said Thursday's release of the female Iraqi detainees is unconnected to Carroll's abduction. He stated that the US military and Iraqi government had processed the women's cases according to normal procedures and determined they did not need to be held any longer.

The US military is holding about 14,000 security detainees following the release of about 500 guerrilla suspects last week. An Iraqi Justice Ministry official said the women would be among 424 prisoners released Thursday.

Deputy Justice Minister Busho Ibrahim Ali told the Associated Press that an Iraqi government commission had reviewed the six women's cases and suggested they be released due to lack of evidence. US authorities would not comment on his claim.

Carroll was kidnapped on a Baghdad street on Jan. 7 and her translator was killed. Muslim leaders have joined her family, friends, and colleagues in calling for her release.

• Wire material was used in this report.

Female Detainees Will Be Freed (WT)

By Jay Deshmukh

The Washington Times, January 26, 2006

BAGHDAD -- Iraq will release women detainees from the infamous Abu Ghraib prison today in a move that might help free a U.S. reporter abducted by insurgents, one of a number of foreigners taken hostage in recent weeks.

An Iraqi Justice Ministry official said 424 detainees were to be freed today after a review of their cases by a joint Iraqi-U.S. board. These would include six of the nine women known to be in detention.

The kidnappers of U.S. journalist Jill Carroll, seized on a Baghdad street on Jan. 7, have threatened to kill her unless all Iraqi women detainees are set free. The deadline set for her has passed; her condition is unknown.

The official denied that the release of the women had anything to do with kidnappers' demands, and U.S. forces have stressed they do not negotiate with hostage-takers.

But a recent spike in hostage-taking of foreigners has embarrassed the government.

"Government services are doing all they can to free people kidnapped and detained," President Jalal Talabani's office said yesterday, quoting National Security Minister Abdul Karim al-Anizi, who met with the president.

More than 250 foreigners have been seized since the March 2003 U.S.-led invasion that toppled Saddam Hussein. A number of them, including Westerners, have been killed.

U.S. and Iraqi forces are searching for two German engineers, Rene Braunlich and Thomas Nilzchke, the most recent kidnap victims, seized at gunpoint Tuesday by men posing as Iraqi soldiers in Beiji in northern Iraq.

"We are trying at the moment to obtain any information possible," German Foreign Minister Frank-Walter Steinmeier said in Berlin, adding that no contact had been established with the captors yet.

The two Germans arrived in Iraq only on Sunday for a brief assignment at a detergent plant, the Associated Press reported citing German and Iraqi officials.

Two Kenyan telecommunications engineers were abducted last week after their bodyguards were gunned down in Baghdad, and there was still no news on the fate of four Western peace activists seized in November.

Meanwhile, a Jordanian hostage said in a videotape his captors had set a new deadline to execute him.

Meanwhile, the military said a U.S. Marine was killed by small-arms fire Tuesday in Karmah, 50 miles west of Baghdad.

A prominent Sunni Arab cleric, Karim Jassim Mohammed, 39, was fatally shot yesterday by police at a checkpoint heading into the northern city of Samarra, police said.

The Other Beat Of Her Heart (WP)

By Jackie Spinner

The Washington Post, January 26, 2006

That can't be Jill, I whispered to myself, over and over, even as her picture hung on the TV screen.

No, it's not her, I said to myself in denial. Jill? Jill Carroll? Being kidnapped in Iraq, sitting cross-legged with black-hooded, gun-toting men behind you, was there any worse fate for an American reporter in Baghdad? I couldn't imagine it. This was my friend, a correspondent for the Christian Science Monitor, who, like me, had fallen in love with Iraq.

The day I left to join The Post's Baghdad bureau in May 2004, my twin, Jenny, told me that if anything happened to me, she would never feel joy again. I went anyway, selfishly clinging to an ideal, a quest for truth, grasping for a sense of purpose that even my twin could not give me.

In our 34 years, Jenny and I had never been apart for more than a few months at a time. She was always my identity, the other half of the Spinner twins who grew up in a blue-collar town in the Midwest, chasing lightning bugs and a sense that the world extended beyond the corn and soybean fields surrounding us.

For 13 months in 2004 and 2005, my half was in Baghdad, dodging mortar rounds, roadside bombs and potential kidnappers, while Jenny worried from home that I would not be able to keep my promise to my nephew, her young son. "Aunt Jackie always comes back," I told him each time I returned to Baghdad, to a place that began to feel more like home the longer I stayed.

Although I had tucked Jenny's warning words deep inside of me when I left, I realize now that on this journey of a lifetime, I had gone alone. And I was alone that day outside Abu Ghraib prison, when a stranger grabbed my arm and began dragging me toward a car.

* * *

After the kidnapping and killing of Nicholas Berg in May 2004, journalists were more careful when gathering outside Abu Ghraib to cover the release of U.S. security detainees. These releases occurred outside the secure compound, on an open stretch of highway between Baghdad and volatile Fallujah. Post reporter Daniel Williams had been ambushed on that road, his car raked with bullets. We reporters had become targets, forced to send our Iraqi translators out to interview those being released from Abu Ghraib.

Frustrated with this awkward interview system, I devised a new plan -- to cover the release from inside the prison. No other reporter had done this. It would be a good exclusive. I persuaded the military officials on the ground to let me do it, then consulted with my more experienced colleagues about the best way to get there. We decided it would be safer if a driver dropped me off with Post photographer Andrea Bruce. I had an abaya for disguise and a bodyguard with an AK-47. We would go at dusk. Our overnight bags for prison would be dirty hotel pillowcases, because they looked like the flour sacks Iraqi women often used. Abu Saif, who was working for The Post as an interpreter, made sure I knew a few words in Arabic. "Say it like this," he instructed. " Ani Sahafiya ," I repeated after him. "I am a journalist."

On Sunday night, June 13, 2004, Andrea and I slipped out of the car and walked into Abu Ghraib under a pink sky.

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We settled into a small, whitewashed cell in a large warehouse and plotted how to cover the next day's story. The Army had painted the cell's walls, but the stains were still there: sweat, dirt, blood. Saddam Hussein had crammed as many as 64 prisoners into the same space where Andrea and I had two single cots, separated by only an arm's length.

Jenny. Her name often came out of nowhere when I found myself in a nearly unimaginable place. I needed to describe this to her. I needed her to see the colorful murals of Hussein still painted above the cell blocks: Hussein in a white military uniform surrounded by white doves, with the snow-capped mountains of the Kurdish north over his left shoulder; Hussein in dark glasses and a white fedora against a splashy black and orange background; Hussein in a dark suit, his eyes scratched by vandals.

I took my satellite phone outside and pointed it southeast, spinning around to get a signal. Bats fluttered in the artificial lights as I talked to Jenny a half-world away. "You'll never guess where I am. Abu Ghraib! The prison. Yes, I'm inside. It's so creepy, Jenny. I have to sleep in a cell. And I'm looking up right now, and there are all these bats, which makes it even more creepy. But I had salad for dinner."

With Jenny, I could be wide-eyed, excited, sad, scared, elated, real. In the bureau and with my editors, I had expectations to meet. The other correspondents were so hardened. They had seen war many times, had faced down dictators, guerrilla leaders and warlords in exotic, far-off places. This -- Iraq -- was all I had. I could not pretend to be more experienced than I was. But I could hide how green I was. I didn't need to act like a clown who had just joined the circus. No, I saved that for Jenny.

My words gushed out, as usual. I tried to call her at least once a day, never talking long, to check in, to bring her with me, when I just needed to hear her voice, when I was full of new sights and sounds and had to empty some of it. I could tell Jenny the part of the story that could not go in the news articles. I could tell her my story.

Back on my cot in the cell, I could not sleep. I kept imagining the ghosts of the detainees who had died in that room, kept hearing their screams, their voices finally growing hoarse, then fading into the nothingness that had already consumed them.

Andrea and I got up early the next morning to watch the release of about 500 detainees. The prisoners lined up according to the direction they were headed, Tikrit here, Baghdad there. They clutched homemade bags sewn from brown plastic MRE packages. Most professed their innocence to me.

From a guard tower, Andrea and I watched for hours as the buses with released prisoners rolled out, the crowd of nearly 600 waiting family members slowly thinning as the morning went on. Ghazwan and Bassam, our driver and interpreter for this trip, were outside the prison watching for us to come out. I wanted to wait until most of the onlookers had left so we would not attract as much attention.

Andrea decided to follow a bus of released detainees and jumped into a car with an Associated Press photographer and reporter. I called Bassam to let him know I was on my way and asked the Marines in the tower to make sure I made it to my car. I said it with such breeze, as if I were leaving a movie theater in the United States and getting ready to walk across a dark parking lot.

I followed a narrow path through barbed wire that led from the prison to a small parking lot near the front. Several cars idled in the noon heat. No one seemed to pay much attention to me. I walked along the perimeter of the parking lot and headed for the highway. I could not see Bassam or Ghazwan, but based on our telephone contact, I knew they were waiting in Ghazwan's yellow sedan.

Suddenly, a man ran toward me, grabbed me by the wrist and began pulling me toward an orange and white car. At first I said in Arabic, " La. La. Rajan. " No. No. Please. I pointed to the highway, where Bassam and Ghazwan were hidden from view. But he kept pulling me by the wrist. Another man came up behind me and grabbed me around the waist. Someone else grabbed the pillowcase that held my belongings and threw it aside. At first I couldn't fathom what was going on. What was happening to me? Were they trying to kidnap me? They were trying to kidnap me! My heart pounded.

I had avoided watching the video footage of Berg's beheading that played repeatedly on Arab satellite television. I imagined it now anyway. I could not let these men put me in that vehicle.

I was trying to remember how to say "I am a journalist" in Arabic as Abu Saif had instructed. I couldn't find the words. Instead, in a panic, I told them that I was a vegetarian. Ani Nabatiya! Ani Nabatiya! I fell to the ground and started kicking them. It did not stop them. They just dragged me on the ground, still trying to pull me by my hand. Someone yanked me up, and the man who first grabbed me ripped off my abaya. They saw the blue bulletproof flak jacket that foreigners wore in Iraq. He said, "No Iraqi,

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no Iraqi." I realized instantly: They think I'm CIA. So I screamed back, Washington Post! Washington Post! Until then, I had tried not to raise my voice. I did not want to attract the relatives still waiting for the detainees, but our tussle finally drew their attention, and a crowd formed around me. Where was Bassam? Where were the Marines I had asked to watch me as I walked to my car?

I looked over at the faces in the crowd, and I didn't see a single person who saw me as a human. I tried to plead with a woman standing there, plead with my eyes, and she looked like she wanted to spit on me. I was an American woman, no better than the American soldier in the photographs of the abused detainees who dragged one of their bloodied sons or husbands naked on a leash.

Bombs were going off almost daily. Iraqis were dying. They blamed the Americans. This is not what they had imagined when they imagined democracy. There was no distinction made between the American press and U.S. soldiers and contractors who had promised electricity and had not delivered it. They felt occupied, and I was part of that occupation.

I saw the helicopters blaze in the sky coming out of the prison, while the Marines followed on foot, pointing their weapons and shouting at the crowd. I didn't hear anything at first but the sound of my own voice, which had grown hoarse from my mantra: Washington Post! Washington Post!

Once the men who grabbed me saw the Marines, they let go, and everyone scattered. Bassam came running as the crowd parted. He had been trying to get a better look at what had drawn the people. But he had not seen me. Please, my bag, I mimed to Bassam, as the Marines led us back inside Abu Ghraib.

I balled up my head scarf and threw it on the dirt. "It didn't even work!" I yelled. I was furious that something about me -- my walk, my body, the way I carried myself -- had tipped them off that I was a foreigner. I leaned against a concrete barricade inside the prison, folding my hands in my lap to stop them from shaking. My entire body convulsed. I looked over at Bassam. "When we get back to the office, you tell them I didn't cry. Tell them," I insisted until he agreed. I needed them to know. I had not buckled. I had not broken down. I was intact.

When I called Jenny later, my voice shook. "These guys tried to kidnap me!" I exclaimed. I had already talked to my editor back in Washington, had heard myself begging: "Please, do not make me come home. I want to stay. Please, do not call me home."

Although I could tell Jenny the truth that I could not tell my editor -- that I was rattled but also resigned -- I did not tell her that I had pleaded to stay in Iraq. I did not want her to know that I had gotten so close to terror, so far from her, and yet I could not bring myself to come back, so that I could take away her own fears.

* * *

In the book, Jenny Spinner, an English professor, writes about getting Jackie's call about the attempted kidnapping.

I always knew it was her before she said anything, my "hello" met by a long pause, then the "click click" of the satellite phone as it attempted to shrink the miles between us. Sometimes I waited for her to speak; other times, I shouted eagerly into the phone, "Jackie? Is that you, Jackie? Can you hear me?" When she left for Iraq, she promised to call me as often as she could. We usually talked every few days, taking advantage of her journalist's access to the world outside Iraq. When she couldn't call, we e-mailed, often several times a day. As far away as she felt to me, it helped that I rarely went half a day without communicating with her, and we both understood what a privilege that was. But it also made her journey to Iraq seem closer, easier, than it truly was -- at least for me. As long as I could reach her, she was within my grasp.

This phone call, though, was different -- the pause longer, heavier, before I heard her voice. "Jenny," she whispered.

"What's wrong?" I asked, leaning into the kitchen counter where I had been cleaning breakfast dishes, steadying myself for whatever dark and unimaginable news she was about to share. I recognized that tone, the way she wrapped the letters of my name around a barely contained gasp. "Somebody tried to kidnap me," she said.

My world heaved. "Say that again," I said, even though I heard her the first time. Say it again and again and again. Say it until I begin to reconcile the bright Connecticut morning, happy and oblivious, with your world in Iraq. "I fought like a dog," she said, the narrative steadying her shaky voice. "I kicked and screamed until the Marines finally rescued me."

I tried to picture it: my thin sister, on the ground, her hands digging into someone else's dirt, scrambling for freedom.

"I don't understand," I stammered.

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"I'll be okay," she said, shifting into protective mode. "We left the prison and are -- " She stopped, interrupted by a loud voice. "Oh, no," she said, before the phone clicked and went silent.

I stood at the sink, unsure what to do, how to go about the morning, the day, the rest of my life.

It would be hours before she would call again, and by then she was a new self, resolved, distant, yes, farther away than ever before.

Adapted from "Tell Them I Didn't Cry: A Young Journalist's Story of Joy, Loss, and Survival in Iraq" by Jackie Spinner. Copyright 2006 by Jackie Spinner. Printed by permission of Scribner, a division of Simon & Schuster Inc., N.Y.

Abduction Forces A Grim Look At What A Story Is Worth (LAT)

By Alissa J. Rubin, Times Staff Writer

The Los Angeles Times, January 26, 2006

BAGHDAD — When Jill Carroll was kidnapped, other journalists in Iraq were aghast that something so horrible had happened to someone they knew. But many insisted privately that it never would have happened to them.

They would have traveled in an armored car. They would have taken two vehicles so the second, the chase car, could have scared off the gunmen. They never would have gone to that neighborhood.

Maybe, maybe not. You could avoid western Baghdad, where she was abducted, only to be nabbed in the southern district. You could have two cars and the second could have its tires shot out and careen off the road. You could be in an armored car and your driver could lose his nerve.

The truth is that we are working in a war zone where no rules apply. No one is safe: not Iraqis, not Westerners, not men, not women.

For most journalists in Iraq, it's hard to be honest about danger, even though we talk about it all the time. We follow daily reports about the number of roadside bombings, suicide attacks and abductions. We chart violence the way other people watch the weather.

But talking about the danger in Iraq for what it is — my life, my death — is too scary. So we make it ordinary. "Oh, did you see any gunmen on your way over, there were some at the intersection yesterday, and would you like a cup of coffee?"

To family and friends not in Iraq, it is incomprehensible why you came here, and certainly why you returned twice, three times — in my case, over and over for nearly three years.

I could say something like "The cycle of risk and survival makes life more valuable," but that wouldn't be true, although some journalists do become addicted to the danger, to the high of sidestepping death.

Witnessing History

For me, at least, what is true is that once in a while as a journalist you get the chance to witness history, a moment when tectonic plates shift, when more is at stake than you ever imagined you would touch or see. It's the adrenaline surge of being in a place where people's lives are in the balance, where every decision counts and where what you're writing might, might just matter.

And you feel more alive than you've ever felt — but you're also often closer to being killed. You notice I wrote "often." I needed a qualifier.

As I said, I wasn't drawn to the danger; it crept up on me. I put out of my mind unsettling questions about just how close I might be to getting killed. But it lurked out there, inescapable. Is a 50-50 chance of survival acceptable? Or are you only comfortable if the odds are better than 80-20?

These are the calculations I've made every day, sometimes several times in a day. Calculations about the odds of being caught in a suicide bombing, abducted, shot by mistake or on purpose. I've become a bookmaker of sorts. I can tell you that the chance of being caught in a suicide bombing is slight, unless you have to go through a checkpoint, at which point it skyrockets. But the chances of my being kidnapped, well, I don't even want to write about that.

I remember an American security contractor with a faraway, almost happy look telling me in 2003, when we could still drive around Baghdad without worrying about it, "Nothing clarifies your thought like a gun to the head." Well, I assured myself, I'm not that far gone.

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A year later, I had a chance to test his assertion. I had gone to a hospital in Fallouja to report on the killing of four Iraqis, reportedly by U.S. Marines. But a relative of one of the dead saw in me an infidel intruding on his family's private grief, and in a rage he pulled a gun on me and my interpreter. In that moment, I learned that with a gun near my head, I didn't feel clear about anything except that what I was doing wasn't worth it and that I had put my interpreter, whom I cared about deeply, in danger. He had four children and a wife. What did I think I was doing? And I couldn't bear to think about my family and what it would do to them if I were killed in a foreign place.

The waves of nausea came hours later and I kept trying to breathe more deeply, but for almost a day I felt like I couldn't fill my lungs.

Trying to Blend In

Still, it took nearly two years before I turned back from an assignment. Because something changed for me when Jill Carroll, an American freelance journalist for the Christian Science Monitor, was abducted Jan. 7.

I had always told myself that despite my blue eyes and pale skin, I would slip unnoticed through Iraq with my hijab, head scarf and black abaya. The abaya was my cloak of invisibility, my body armor.

I studied the way many Iraqi women walked — with a slight shuffle, from wearing slip-on mules much of the time. I studied how they linked arms with other women when they walked in the markets. I noted the kind of purses they carried — large and black. I blended. I was thrilled when people addressed me in Arabic; perhaps they really thought I was one of them.

Carroll had gone one better than me — she actually spoke Arabic — and still she was unable to avoid the wash of fury and hatred that now confronts Westerners. We are not wanted.

The words of a dear colleague floated to my consciousness on my most recent trip to Iraq. We used to argue daily about safety, and each thought the other took unnecessary risks — the truth was that we each took risks in our own way. I had proposed driving to Najaf, a city south of Baghdad, at a time when the road was known for ambushes, kidnappings and beheadings. "Alissa, an abaya is not bulletproof," he had said.

So when Carroll was kidnapped, although I did not know her, my heart went out to her.

I was aware of the statistics: Since the beginning of the war, 60 journalists, five of them women, had been killed in Iraq and at least 37 abducted, according to a tally by the Committee to Protect Journalists. But like all the other foreign journalists in Iraq — fewer than 75 of us, down from more than a thousand after the war — I needed to believe that I was going to slip through.

After Carroll's abduction, I don't feel that way anymore.

Last week I set out in the early morning for Kut, a city about two hours south of Baghdad. We left early so that we could get back in a day, adhering to the rule that you shouldn't stay long in a single place because word will get around that a Westerner is in town.

I roused one of our British security advisors at 7 a.m. and had him remind the drivers of protocol (keep the cars apart, don't look like a convoy, rely on radios to communicate). But when I went out, it turned out the driver had brought his own vehicle, not an armored car.

Moment of Truth

Carroll's experience hung in my mind. She had been abducted in part because she lacked the protection of an armored car, and her interpreter had been shot dead. I looked at my interpreter, a beautiful young Iraqi woman who loved to read English literature, had helped me buy Iraqi shoes so that I would appear more local and had taught me about the world of Iraqi women. But I pushed ahead.

Then it turned out we didn't have a Thuraya satellite phone in the car. Cellphones are notoriously unreliable in Iraq because the U.S. military often blocks signals during its operations. Traveling without a satellite telephone as a backup is at best foolhardy. But we had already left, so I resigned myself to traveling without it.

We weaved through the Baghdad traffic. The road was crowded and people could easily see us through the car windows. Although I usually look out at the passing scene, I forced myself to look into the car so that my eyes and skin would not be visible.

The most dangerous part of the trip is the 15 miles of road immediately south of Baghdad proper. It runs through a largely Sunni farming area, one where mutilated, headless bodies have turned up often. It feels like outlaw country: Someone could grab you and no one would say anything.

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As we went through the last Baghdad checkpoint, a policeman told our driver that a new security plan was in effect and we would not be able to reenter the capital for 48 hours. The driver pulled over and turned to me: Did I still want to go?

It was a moment of truth. I had to get back that night. Was there any other way I could get into Baghdad if the roads were closed? Yes, my driver said. "You can walk across the Diyala bridge and the office can send a car to meet you."

He nodded to a stream of people who were doing that right then — women in swirling abayas picking their way through the mud, men striding along. "How far would I have to walk?" I asked. About a mile. "Is it safe?" The driver shook his head. "There are bad people here. Everyone can see you when you are walking. We cannot honestly tell you it is safe."

I appealed to my interpreter. "What do you think, Zainab? Is it that unsafe?" She turned and looked at me. "I'll go with you if that's what you decide to do, but the driver wants to know what he can do with his car. He can't leave it outside Baghdad on the road for the night. It would be stolen. He can't stay with it — it's dangerous. And then we have the chase car. What do you want them to do? "

'We Can't Go'

I was silent. I had come back to Iraq to do a small number of interviews. If I didn't go to the one in Kut, I wouldn't be able to finish the story.

I thought about close calls I had had in the past. About my interpreter, who said she would go with me no matter what. About my parents, who hated that I was in Iraq. About Carroll, whom I imagined alone in a room, perhaps cold, perhaps not knowing that thousands of people were thinking about her.

And I thought about an autumn night more than a year ago when a colleague had rushed off into western Iraq to cover a suicide bombing. I remembered how worried I had been, and when I finally reached him on the satellite phone I had said: "It's not about us. We can die if we want to here, but we can't put those who work for us in more danger than they already are. We're making decisions for more than ourselves."

I remember that he had listened and, hard as it must have been, said, "You're right, I'm coming back."

I heard my own words now in my head. There was no choice. "We can't go. There's no way to make it a safe trip," I said. "Let's turn around and go back to the office."

Was it the right decision? Could I have walked across the bridge unnoticed? Did the drivers really assess the danger correctly? I don't know. But what I do know is that Iraq is hostile ground and nothing I do can make it safe.

Kurd's Writings Land Him In Jail: A Critic Of Party Corruption, Or A Reckless Defamer? (NYT)

By Richard A. Oppel Jr.

The New York Times, January 26, 2006

ERBIL, Iraq, Jan. 25 — Kamal Sayid Qadir had just returned here from Austria in late October when two trusted former students invited him for coffee at the Hotel Avista.

For Mr. Qadir, the meeting held the promise of a reunion of kindred spirits from Salahaddin University where, as a faculty member a few years back, he had clashed with administrators allied with the Kurdish leader Massoud Barzani. From Austria he had written articles accusing Mr. Barzani's all-powerful Kurdistan Democratic Party of corruption while calling members of its intelligence service, the Parastin, criminals and its chief — Mr. Barzani's son — a "pimp."

But Mr. Qadir said he never made it home from the hotel that night. Betrayed by his former students, who unknown to him had joined the Parastin, he says he was abducted after he left the hotel. He is now imprisoned here, sentenced last month to 30 years for defaming the Parastin and Kurdish political leaders after a trial that he said had lasted 15 minutes.

His case, while extraordinary, is by no means unique. Two journalists from Wasit Province in east central Iraq face 10 years in prison for suggesting that Iraqi judges kowtow to the American authorities just as Saddam Hussein's courts rubber-stamped edicts of the Baath Party. The journalists, Ayad Mahmoud al-Tamimi and Ahmed Mutair Abbas, had also accused the then-governor of Wasit of corruption and labeled him a bastard, a grave insult here.

Taken together, the prosecutions indicate how much remains at play in newly democratic Iraq. The nation has made remarkable steps away from totalitarian rule: the overthrow and prosecution of a genocidal dictator, two national elections and the adoption of a Constitution. But it remains to be seen how far Iraq will ultimately travel toward true Western-style democracy.

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In much of southern Iraq, for example, real power increasingly lies with Shiite militias that serve religious leaders and enforce a rule of strict Islamic mores and second-class treatment of women. Now, the prosecutions of journalists suggests that the new Iraqi government is at another crossroads. Will it revert to state-sanctioned intimidation of the news media or allow the sort of free-flowing exchange of ideas that flourish in newspapers, blogs and other media in the Western world?

"These cases set a terrible precedent and are sure to make any Iraqi journalist think twice before writing about powerful political figures," said Joel Campagna, senior program coordinator for the Middle East and North Africa for the Committee to Protect Journalists, a watchdog group in New York.

As with other nations newly liberated from authoritarianism, Iraq is still testing the limits of responsible free speech, and some of the name-calling and rumor-mongering that goes on clearly oversteps the boundaries. Many of Mr. Qadir's criticisms exceeded what would be tolerated in other Middle East countries, particularly his assertions about the sexual proclivities of the Barzani clan.

A number of Kurdish journalists who have called Mr. Qadir's imprisonment outrageous say they are nevertheless uncomfortable with some of his writings, calling them offensive and reckless. Indeed, Mr. Qadir said in a prison interview that he had apologized for parts of articles he now says contained improper personal insults. But he vowed to continue to criticize official corruption, including what he says are secret abductions by the police.

But the Iraqi authorities increasingly go beyond merely responding to unfair or false claims, Mr. Campagna and other observers say, using the courts as an instrument of intimidation to discourage reporting on corruption and abuses of power. Iraq, he added, "is following the poor example of its neighbors who routinely detain, criminally prosecute or imprison reporters for their work."

For its part, the Kurdistan Democratic Party says almost all Mr. Qadir's accusations are false. His arrest came after he was served with a proper warrant, said a senior official of the K.D.P. and the Parastin, who asked that his name not be used because he was not authorized to speak publicly about the case. He said Mr. Qadir had been given a fair trial and had not, as he has asserted, been abused in prison, forced to sleep in his own excrement, threatened with torture or denied food and water. Massoud Barzani "has nothing against him," the official added.

The Kurdish party tolerates reporting of official corruption and supports narrowing defamation laws so fewer types of articles might be subject to criminal prosecution, the official said. But he also said defamatory writings intended "as a political weapon" should still be subject to prosecution. Mr. Qadir's writings would fall in this category, he said.

Mr. Qadir's case has drawn international attention and put enormous pressure on Kurdish leaders. The senior official of the K.D.P., which controls western Kurdistan, said that Mr. Qadir's sentence would be reduced to one year and that his family would be permitted to bail him out. The senior official said a court would make the ruling in the next few weeks.

But Mr. Qadir still could face serious criminal jeopardy from complaints yet to be prosecuted, said Ismael Khalil Shakeeb, the presiding criminal court judge in Erbil and one of the judges who sentenced him last month. "He has insulted many other people," he said.

Mr. Qadir, 48, credits a statement issued by the United States over the Voice of America for possibly saving his life. An American official in Baghdad said Washington had discussed the case with Kurdish officials. Delegations including Austrian officials have paid prison visits, he says, adding pressure that greatly improved his living conditions.

Kurdistan is, in most respects, the most westernized and prosperous part of the new Iraq, having experienced a decade or more of virtual independence even before the American invasion. But writers here face threats and arrest for running afoul of the K.D.P., Mr. Qadir says.

"We have no freedom of the press," he said in an interview conducted Friday afternoon in the Erbil prison. "It's all arbitrary; they can arrest anybody. I never thought I'd be a victim of the Kurds."

Mr. Qadir's complaints about curbs on press freedoms are supported by Rebin Ismael, a former senior editor of a large Kurdish newspaper who now runs an American aid organization in Erbil.

In Kurdistan, he says, it is not unusual for the secret police to threaten or arrest journalists who fail to toe the line of the K.D.P. More than a dozen journalists have been arrested in recent years, he says, but the cases are never reported on in Kurdistan because other journalists fear saying anything critical of the party.

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"Generally, any journalists or writers not connected to the party are under threats," Mr. Ismael said. "If you write anything not in their interest, they will arrest you or call your cellphone and threaten you."

He said he and his wife, a Kurdish reporter whose articles have mocked the party, had not slept in their house for nearly a month, having fled after she received threatening calls.

The senior Kurdish party official described Mr. Ismael as a credible and respected journalist but took issue with his comments. Told the names of four of the writers Mr. Ismael said had been arrested, the official said the four had not been arrested but had been called to "interviews" by the police.

He said he did not know how many other journalists had submitted to such police interviews. He said only one writer aside from Mr. Qadir had been sent to prison in recent years.

Mr. Qadir, born and raised in Kurdistan, is now a citizen of Austria, where he studied and lived until 1991, when Kurdistan was effectively liberated after the Persian Gulf war. He returned to teach law and political science at Salahaddin University but clashed with the administration as he lectured students about K.D.P. abuses, he said. Nepotism and graft are still rampant today, he said.

He left the university a few years ago, he said, and returned to Austria, where he continued to write about Kurdistan for Internet publications, adopting a strident and disparaging tone that pushed his criticism well past what anyone living here would contemplate. He accused K.D.P. officials of siphoning public funds and spying for the K.G.B. and the Israeli Mossad, and he wrote that one Barzani clan member was homosexual and another had had trysts with Russian women.

He say he regrets calling Massur Barzani, the Kurdish leader's son, a pimp. But he argues that the Parastin often use prostitutes to gather information.

The senior K.D.P. official said the criticism of the Parastin and the personal attacks on the Barzanis were all false. But he admitted he did not know whether the Parastin used prostitutes to aid intelligence gathering.

If freed and allowed to stay in Kurdistan, Mr. Qadir says he will continue to criticize what he characterizes as the police-state atmosphere in Kurdistan. "I never knew Kurdistan was in this shape, where people get abducted by the secret police," he said.

British Arrests Of Police Strain Relations In Basra (LAT)

By Solomon Moore, Times Staff Writer

The Los Angeles Times, January 26, 2006

BAGHDAD — Tensions continued to simmer Wednesday between local Iraqi officials and British troops in the Shiite-dominated southern city of Basra, where the British this week arrested 14 law enforcement officials, including two senior police intelligence officers, allegedly linked to political corruption and assassinations.

The British released several of the men Wednesday, but a spokesman for the Basra provincial council said that eight remained in custody, including three who had been transferred to a prison facility after British authorities said they had bomb-making materials in their possession.

Among the officers still being held by the British are Maj. Jasim Qasim Hassan Daraji, Basra's deputy chief of intelligence, and intelligence officer Capt. Abbas Munis Abdalali Hilfi.

The province has responded to the arrests by threatening to cut off all cooperation with British forces in Iraq's second-largest city.

"For some time, the British forces have made random arrests in a provocative way against the citizens of Basra without the knowledge of the local government," said a statement released by provincial officials. "We have demanded over and over that these forces stop these arrests and release detainees, but all in vain."

Iraqi officials also demanded the unconditional release of the police officers and threatened to "suspend all dealings with British forces" if the men were not freed by Wednesday afternoon.

Maj. Peter Cripps, a British military spokesman in Basra, said the arrests were part of an ongoing investigation of police corruption.

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"These men were all part of the former internal affairs department that was disbanded by the Ministry of Interior and are now in the criminal intelligence unit and the serious crimes unit," Cripps said. "They are alleged to be following their own agenda, including corruption, assassinations and persecutions of citizens."

Although Basra, a predominately Shiite Muslim port city and oil hub, has experienced less of the insurgent violence that has wracked Baghdad, it has seen a wave of sectarian-driven killings and political attacks since the beginning of last year. Shiite militia members are believed to have a strong presence in the police force.

In October, scores of Iraqi policemen raided the Thar Allah Party headquarters, a small militant Shiite political organization based in Basra, and burned the building down. Four Thar Allah members were killed in the incident. Party leaders blamed Al Fadila al Islamiya, or the Islamic Virtue Party, which holds a narrow majority on the Basra provincial council, and Al Mahdi militia. Both groups are associated with radical Shiite cleric Muqtada Sadr.

And in September, Shiite militiamen clashed with British troops after tanks rescued four British soldiers from a Basra jail.

In recent months, British officials in Iraq and in London have also complained that Basra militiamen may be involved in bomb attacks against British troops, using ordnance fashioned in Iran. Basra is a suspected hub for Iranian intelligence agents.

"The Iranians have interests in Basra and have organizations in Basra, Amarah and Nasiriya," said Mansour Alkanaan, an Iraqi National Assembly member from Basra.

In Baghdad, meanwhile, members of the United Iraqi Alliance, the Shiite bloc that won the most seats in the parliament elected Dec. 15, named four Shiite candidates for prime minister to be chosen by its members. Candidates include current Prime Minister Ibrahim Jafari, Adel Abdul Mehdi of the Supreme Council for Islamic Revolution in Iraq, deputy parliament speaker Hussein Shahristani and Fadila party member Nadim Jabiri.

In initial negotiations with Kurdish and Sunni Muslim Arab legislators on the new government, United Iraqi Alliance member Baha Araji said the Shiite bloc would not consult with other coalitions on the selection of prime minister, but would offer the presidency to a Sunni Arab candidate.

However, Saad Ilyan, a member of Iraqi National Dialogue, a Sunni Arab party, said he would be satisfied to keep the incumbent president, Jalal Talabani, a Kurd. The Kurdish slate won the second-highest vote total in the December election.

"We only now want the security situation to be better, whether the government is going to be Sunni, Shiite or Kurdish," Ilyan said.

In other developments, the Iraqi Ministry of Justice announced Wednesday that it would release five of eight female detainees today as part of a larger release program. This month, a group claiming to be the abductors of American freelance journalist Jill Carroll issued a statement demanding the release of all female prisoners in Iraq.

The five are in U.S. custody, but Iraqi and U.S. officials have denied any connection between the planned releases and the kidnappers' demands.

Carroll's condition is unknown, as is the fate of two German contractors who were kidnapped near the northern oil refinery in Baiji and two Kenyan engineers seized last week. More than 250 foreigners and hundreds of Iraqis have been kidnapped since the March 2003 U.S.-led invasion.

Times staff writers Suhail Ahmad, Shamil Aziz and Saif Rasheed, special correspondent Asmaa Waguih and a special correspondent in Basra contributed to this report.

On Iraq's Front Lines, Digital Memorials For Fallen Friends (WSJ)

By Dionne Searcey

The Wall Street Journal, January 26, 2006

The night his buddy was killed by insurgent gunfire in Iraq last March, Army Spc. Mitchell Bass hopped out of his bunk and grabbed his laptop. He searched his computer for every digital photo he could find of the friend, Staff Sgt. Juan Solorio, and then wandered around the camp in Mosul with his portable hard drive asking other soldiers whether they had any photos or video clips.

They gave him shots of Sgt. Solorio sporting a newly shaved head and leaning against a burned-out truck on an Iraqi roadside. They found footage of Sgt. Solorio reaching for his pistol, dropping it in the mud and laughing. Spc. Bass strung all the

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images together into a video and added a soundtrack, "The Night That the Lights Went Out in NYC" by punk band the Ataris. Then he played it at a memorial service in Iraq.

"As a joke he grew this huge, disgusting mustache," Spc. Bass said of his friend. "I made sure to add a few of those photos in there."

Digital photography, video and Internet access have let soldiers in Iraq stay closer to distant friends and family than troops in any other war. Now, these electronic records are also creating a powerful and raw new wave of war memorials.

A dusty tent in Mosul served as Army Capt. Kevin Latham's studio, where he made videos to honor the four soldiers in his unit who had died just before Christmas 2004 when a suicide bomber detonated explosives in the camp's mess hall. Mortars boomed in the distance as he worked long past midnight to carefully select music to go with the videos.

Paul Rieckhoff, who served in the Army National Guard in Iraq in 2003-2004, said that in the early days, soldiers in his unit made action videos of themselves raiding insurgent hideouts and carrying out other wartime tasks. "It was kind of like the ESPN highlight reels -- the music is pumping and everyone was running around," said Mr. Rieckhoff, who founded the advocacy group Iraq and Afghanistan Veterans of America.

When a fellow soldier, Spc. Robert Wise, a 21-year-old from Tallahassee, Fla., was killed in Baghdad in November 2003, his friends used a laptop to create a digital slideshow, set to music, of photos of Spc. Wise. It was projected onto a screen at his memorial service in Baghdad.

"When soldiers are killed in Iraq, all you see in the paper is name, rank and age," said Mr. Rieckhoff, a first lieutenant. The videos, he said, are "cathartic and a way to eternally honor their memory."

DIGITAL MEMORIES

Watch the memorial videos for Sgts. Juan Solorio1, Zachary Wobler2 and Christopher Pusateri3. (Windows Media Player required4)

In another memorial video, Army Master Sgt. Brian Mack, who died in Mosul a year ago this month, is shown in photos riding in a Blackhawk helicopter and in a short video clip rushing a stationary target during gun practice, shooting repeatedly while friends laugh. It's set to the melancholy song "Clocks" by Coldplay.

"Every time someone was killed, we put together a little thing like that," said Sgt. Emmet Cullen, a sniper who fought alongside Master Sgt. Mack. "It helps the grieving process putting them together. Talking about them, seeing them with a big goofy smile on -- it helps."

Wartime cinematographers say commanders ask to review the videos before they're shown at memorial services to make sure they don't degrade the image of soldiers with, for example, footage showing them drinking. In Master Sgt. Mack's video, some officers initially objected to a clip that showed the soldier firing his weapon without wearing his helmet, a violation of military safety standards, said soldiers who helped make the video. But the clip was allowed to go into the finished product.

Lt. Col. Christopher Gibson, who has completed two tours in Iraq as commander of an 82nd Airborne battalion, said he watched the videos for two of his troopers -- Sgt. Christopher Pusateri and Staff Sgt. Zachary Wobler -- several times in advance of their memorial services "so I could keep myself together when I delivered my remarks," he said.

When Sgt. Pusateri was shot to death last winter, Col. Gibson turned to members of his communications team to make his memorial video because they were familiar with computer equipment. One of them was Capt. Jerrold Castro, who met with fellow troopers and laid out a storyboard of sorts, to select the order of the photos and video clips. On his laptop, he used Microsoft's Movie Maker to fiddle with the photos, changing some to a sepia tint and adding special effects.

The final product is set to the song "Rough and Ready" by country singer Trace Adkins, a funny song that he said matched Sgt. Pusateri's personality. The video shows Sgt. Pusateri smirking in his floppy camouflage hat and gritting his teeth in full battle gear.

"Going through the process of building it was a little emotional," said Capt. Castro. "It's a feeling inside of you saying you have to honor this person. If it wasn't them, it could have been me."

A couple of weeks later, a member of that unit who was home on leave from Iraq presented the video to Sgt. Pusateri's mother, Brenda West. Ms. West watched it two or three times and then put it away.

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"I don't know if it's something every parent can handle," said Ms. West. "It's almost like being outside of yourself watching it. It's not real."

She says she plans to look at it again Feb. 16, the anniversary of her son's death.

For Spc. Bass, the process of creating Sgt. Solorio's video was therapeutic, he said. "He was like a dad to me," said Spc. Bass, 20 years old, who was with 32-year-old Sgt. Solorio when he was killed.

After he put the finishing touches on the video, Spc. Bass offered an advance screening to a few members of his platoon, who gave their approval. The video finally had its premiere on the big screen in a darkened auditorium where soldiers gathered for Sgt. Solorio's memorial service in Mosul.

"The whole time I was working on it, it didn't really hit me what it was. I just wanted to get it done," said Spc. Bass. "When it started playing at the actual service, it got pretty sad."

Where Iraq Goes Now (WP)

By Jim Hoagland

The Washington Post, January 26, 2006

Iraq's official election returns bring glad tidings for Ibrahim Jafari, the country's nebulous interim prime minister. For a chastened Bush administration, Jafari becomes something better than an unknown entity: He is a known nonentity.

Jafari's sudden strength in his bid to stay on stems entirely from his weakness: He does not command a major political party or militia. He has done little since taking office nearly nine months ago but give poetic and confusing speeches. If some leaders suck all the oxygen out of a room, Jafari fills it with mist and will-o'-the-wisp.

It is this elusive quality that belatedly recommends him to Zalmay Khalilzad, the U.S. ambassador in Baghdad and crafty overseer of American efforts to be a midwife to a new coalition government.

Iraq's Dec. 15 balloting was orderly and inspiring, but it has created an aftermath that is neither of those things. It has also forced the Bush administration into a silent reassessment of where Iraq is going and how it is going to get there. Increasingly, the country drifts toward the future as two relatively stable autonomous regions and a violently unstable central zone, all linked by a weak central government and a reduced, reactive U.S. military presence.

All things considered, such a loose, imperfect federalism is not the worst outcome that could befall Iraq. Totalitarian systems, whether run by Saddam Hussein or Soviet commissars, create weak power centers when they collapse. A decade of managing their own affairs and security could provide an important transition stage for Iraq's Shiites, Sunnis and Kurds to sort out oil revenue, relations with neighbors and other troublesome issues.

That kind of future -- and a renewal of Jafari's term in office that would make it more likely -- did not figure in the hopes and predictions of U.S. policymakers before the December parliamentary election. Back then, the word passed to Iraqi officials visiting Washington was to form a strong central government, much more quickly and transparently than after the January 2005 election, when Jafari emerged from electoral stalemate as the lowest common denominator in Iraqi leadership.

The administration now gives no sign of trying to hurry things along as it concedes it must deal with the election results it has, not the results it wanted. Those were canceled by the poor showing of Ayad Allawi and Ahmed Chalabi -- secularists who conceivably could have been strong, independent executives -- and successful electioneering by Iranian-backed Shiite parties distrusted by Washington.

As the largest bloc in parliament, the United Iraqi Alliance -- dominated by the Supreme Council for the Islamic Revolution in Iraq and the radical cleric Moqtada Sadr -- will ultimately choose the prime minister. Jafari's Dawa party is a junior partner in the alliance and, unlike its Shiite allies, does not have a large militia.

The release of the final results has triggered a new round of three-dimensional chess to allocate cabinet positions among Iraq's three major population groups -- the Shiite majority of the south, the Kurds of the north and the Sunni minority that is the source of central Iraq's continuing violent rebellion.

The Sunnis voted in greatly increased numbers this time and now have a serious claim on cabinet posts. President Bush has hailed this as a breakthrough, portraying voting as an alternative to insurgency.

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But a renewal of violence since the election suggests that the Sunnis, egged on by neighboring Arab regimes and Baathist remnants, may be adopting a long-term "vote and fight" strategy to reclaim the kind of power they wielded under the Baathists. That is one outcome far worse than a de facto partition of Iraq, if it comes to that.

Working with nudges, winks, long sit-downs with Iraq's fledgling politicians and inexhaustible patience -- qualities alien to L. Paul Bremer and John Negroponte, his two predecessors as U.S. proconsul -- Khalilzad seems to be maneuvering toward a cabinet that would effectively be run by strong deputy prime ministers while Jafari floats effortlessly above the hard work.

Allawi, both proud and lazy, is reportedly resisting U.S. entreaties to take such a post under Jafari. Chalabi and Sadoun Dulaimi, a Sunni who is currently defense minister, are other possibilities. But Khalilzad's dealmaking talents will be stretched to their limits in getting the Shiite parties to accept U.S.-inspired limits on the political victory they have achieved.

Reality has bitten the Bush administration in Iraq and forced the president to settle for less than he wanted. Let's hope that reality can now do the same with Iraq's newly empowered Shiite leaders.

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History Lessons (WT)

The Washington Times, January 26, 2006

Dec. 28, 1998, statement by the president:

President Clinton: Ladies and gentlemen, before I get into my remarks ... I think I should say a few words about an incident early this morning over the skies of Iraq, where American and British air crews were enforcing a no-fly zone in Northern Iraq. They were fired on by Iraq[i] surface-to-air missiles. They took evasive action, returned fire on the missile site, and returned safely to their base in Turkey ... They attacked because they were attacked. And they did the appropriate thing. We will continue to enforce the no-fly zones.

Pakistan Pledges To Push Forward On Iran Pipeline (WSJ)

By Marc Champion And Frederick Kempe

The Wall Street Journal, January 26, 2006

DAVOS, Switzerland – Pakistan's president said his country would build a planned natural-gas pipeline from Iran without India's participation if talks among the three nations continue to produce no result.

The threat came at a delicate time for Gen. Pervez Musharraf, while he is having to balance domestic public opinion and relations with the U.S., India and Iran. Gen. Musharraf also said a suspected U.S. missile attack on a Pakistani village that killed civilians this month "probably" killed five or six al Qaeda operatives, but had "harmed our interests" by violating his country's sovereignty and feeding domestic unrest.

In an interview during the annual meeting of the World Economic Forum in the Swiss Alps, Gen. Musharraf said Pakistan had opened bilateral talks with Tehran to build a gas pipeline that would run from Iran, which has the world's second-largest natural-gas reserves, after Russia. Negotiations to build a line that would run on to India have proved difficult, he said, although Pakistan remains open to "the trilateral track if it comes through."

"We aren't reaching any agreement and our [energy] requirements have increased with our growth and the increasing foreign investment in Pakistan," he said, noting foreign direct investment has grown 500% over the past five years. "We are energy-short."

Indian government officials have expressed concern about recent attacks on existing gas and power lines in Baluchistan, the region of South Western Pakistan through which a pipeline from Iran would pass. Gen. Musharraf played down the threat posed by Baluchistan militants, dismissing the conflict as limited to one isolated local tribe.

The Pakistani president's tough line on the pipeline talks contrasts with that of his prime minister, Shaukat Aziz, while in New York last week. Mr. Aziz stressed the project's potential to help stabilize still-strained relations between Pakistan and India. Gen. Musharraf, too, said a three-way deal remains the best option, but said Pakistan's energy needs couldn't wait forever.

Pakistan's gross domestic product grew 8.4% in the fiscal year ended June 30. Analysts in the past have doubted that the $4 billion pipeline would be viable for Pakistan alone if it didn't continue to India, but Gen. Musharraf said that is changing.

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Gen. Musharraf, whose term as president expires in 2007, said his goal is to transform Pakistani society by ending conflicts like the one in Baluchistan, defusing Islamist extremism and generally calming "a nation in turmoil."

Partly for that reason, Gen. Musharraf said the recent U.S. missile attack by an unmanned drone on a village where al Qaeda leaders were expected to have dinner had been against Pakistan's national interests. The attack, which killed women and children, has sparked a series of street protests in Pakistani cities. The U.S. hasn't officially acknowledged a role in the missile strike.

Gen. Musharraf said that he hadn't been informed ahead of time of the attack and that Pakistan had told the U.S. that "we don't want anyone to operate in Pakistan" -- even if that means responding more slowly to intelligence about al Qaeda. Pakistan doesn't have unmanned drones.

"We want to guard our own sovereignty," he said. But he also said his close cooperation with the U.S. in the fight against terrorism hadn't been damaged, and that Pakistan needs the technical help the U.S. can offer to gather intelligence. "Intelligence is far more significant and difficult than operating against [al Qaeda]," he added.

Gen. Musharraf said human, technical and aerial intelligence-gathering had helped Pakistan sweep up 95% of groups that carried out terrorist bombings within Pakistan, including assassination attempts on himself. "There is a perception that everything we do with al Qaeda is in the U.S. interests. I would like to clarify -- it is first of all in our interest," he said.

Gen. Musharraf also rejected criticism that he has failed to deliver on promises to shut down religious schools, known as madrassas, that preach violence. He said 80% of madrassas had accepted that they should teach subjects on the secular state school curriculum, although talks were continuing because the madrassas wanted to set their own exams for the subjects. He said troublesome foreigners at the schools had been expelled from the country as promised, although perhaps 150 remain in hiding.

Stressing success in the campaign against al Qaeda, Gen. Musharraf said he is able to move around the country freely. "I go to marriages, I visit my friends in their houses. I take people out to restaurants," he said.

He declined to say whether he would give up his military command or attempt to extend his term.

India Sends Aid, Despite Pakistani Block (WT)

By Erica Lee Nelson, The Washington Times

The Washington Times, January 26, 2006

NEW DELHI -- India has poured more than a half-billion dollars of foreign aid into Afghanistan in the past three years in an attempt to create a friendly and stable neighbor in a volatile part of the world.

The effort, which continues despite a Pakistani blockade of Indian goods bound for Afghanistan, touches all aspects of life -- biscuits for 1 million children, planes for the national airline, artificial limbs for thousands of land-mine victims, jeeps for the military, scholarships, energy, dams, telephone lines and even satellite downlinks.

India also has helped train those deprived of an education during the Taliban rule -- from diplomats to doctors to elevator operators. Indian engineers are even helping to design and build the new Afghan parliament building.

"We would like to see Afghanistan develop in our own image -- pluralistic, democratic, free from interference from its neighbors and prosperous," a senior official in New Delhi said.

But Indian officials say Pakistan is putting up obstacles to the effort.

The historic rivalry between India and Pakistan has complicated proposed energy pipelines from Afghanistan, which would have to run through Pakistan on the way to India.

Additionally, Pakistan usually refuses to let Indian aid pass through its borders to reach Afghanistan.

"There was much trade between India and Afghanistan before, but Pakistan is creating problems. They allow Afghan goods to go to India, but not Indian goods to come to Afghanistan," said Younus Momtaz, first secretary at the Embassy of Afghanistan in New Delhi.

Officially, Pakistan has said the blockade will not stop until steps are taken to resolve the long-standing dispute over Kashmir, a territory claimed by both India and Pakistan since they achieved independence in 1947.

However, some analysts think Pakistan is more worried about losing its dominant position in Afghan trade.

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Since the fall of the Taliban, Pakistan's trade with Afghanistan has risen exponentially, from $192 million in 2001 to '02 to more than $1 billion in 2004 to '05.

Indian trade with Afghanistan, meanwhile, is estimated by the Federation of Indian Chambers of Commerce and Industryat $202 million for 2004 to '05. Total Indian aid to Afghanistan since 2003 is approaching $600 million.

In ancient times, Afghanistan traded easily with the Indian subcontinent. Merchants traveled on the Grand Trunk Road from the fertile plains of northern India, through Pakistan and onward to Kabul, Afghanistan.

Now, Indian aid and trading goods are unloaded at ports in Iran and trucked to Kabul over winding mountain roads.

Indian aid often takes a month to reach its destination -- and sometimes cannot get through at all. The same goods could be transported through Pakistan in about a week.

India's aid effort includes an $84 million joint project with Iran to build a 136-mile road from Iran's Chabahar and Bandar Abbas ports to Afghanistan. That will eliminate a detour of 900 miles and cut travel time substantially.

It is hoped that the road will also bring development to a relatively lawless region of southwestern Afghanistan, which has turned into a center of opium farming in recent years.

Travel in the region remains highly dangerous; one Indian worker on the project was kidnapped and killed in November.

India and Pakistan backed contending factions during Taliban rule in Afghanistan, with the rebel Northern Alliance being allowed to maintain an embassy in New Delhi.

Now, 10 movie theaters in Kabul screen India's Bollywood blockbusters throughout the day, and a Bollywood film is being made in the Afghan capital for the first time in more than a decade.

"We have a long relationship, we share our joys and sorrows," said Mr. Momtaz of the Afghan Embassy in New Delhi.

Rumsfeld Says Army Isn't Overextended (WSJ/AP)

Associated Press

The Wall Street Journal, January 26, 2006

WASHINGTON -- Secretary of Defense Donald Rumsfeld on Wednesday disputed reports suggesting that the U.S. military is stretched thin and close to a snapping point from operations in Iraq and Afghanistan, asserting "the force is not broken."

"This armed force is enormously capable," Mr. Rumsfeld told reporters at a Pentagon briefing. "In addition, it's battle-hardened. It's not a peacetime force that has been in barracks or garrisons."

Mr. Rumsfeld spoke a day after the Associated Press reported that an unreleased study conducted for the Pentagon said the Army is being overextended, thanks to the two wars, and may not be able to retain and recruit enough troops to defeat the insurgency in Iraq.

Congressional Democrats released a report Wednesday that also concluded the U.S. military is under severe stress.

Reports suggesting that the U.S. military is close to the breaking point "is just not consistent with the facts," he said.

In an apparent shot at the Democratic Clinton administration, Mr. Rumsfeld said a number of components of the armed forces were underfunded during the 1990s, "and there were hollow pieces to it. Today, that's just not the case."

He said there were over 1.4 million active U.S. troops, and some 2 million -- counting National Guard and Reserve units -- of which only 138,000 people were in Iraq.

"Do we still need more rebalancing? You bet," Mr. Rumsfeld said.

The secretary suggested he was not familiar with reports suggesting an overburdened military. But, he said, "It's clear that those comments do not reflect the current situation. They are either out of date or just misdirected."

Former Secretary of State Madeleine Albright and former Secretary of Defense William Perry, both members of the Clinton administration, were credited among the authors of the study that congressional Democrats released.

It said that U.S. ground forces are under "enormous strain," adding, "This strain, if not soon relieved, will have highly corrosive and potentially long-term effects on the force."

In the earlier report obtained by the Associated Press, Andrew Krepinevich, a retired Army officer who wrote it under Pentagon contract, concluded that the Army cannot sustain the pace of troop deployments to Iraq long enough to break the back of the insurgency.

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As evidence, he pointed to the Army's 2005 recruiting slump -- missing its recruiting goal for the first time since 1999 -- and its decision to offer much bigger enlistment bonuses and other incentives.

Mr. Rumsfeld said that "retention is up" and that recruitment levels must meet higher goals, ones raised because of the operations on the ground.

At the same time, Mr. Rumsfeld added: "There is no question if a country is in a conflict and we are in the global war on terror, it requires our forces to do something other than what they do in peacetime."

"The force is not broken," Mr. Rumsfeld said, suggesting such an implication was "almost backward."

"The world saw the United States military go halfway around the world in a matter of weeks, throw the Al Qaida and Taliban out of Afghanistan, in a landlocked country thousands and thousands of miles away. They saw what the United States military did in Iraq.

"And the message from that is not that this armed force is broken, but that this armed force is enormously capable," Mr. Rumsfeld said.

The Army fell more than 6,600 recruits short of its goal of enlisting 80,000 troops last year, the first time it missed its annual target since 1999 and the largest shortfall in 26 years.

But the Army exceeded its monthly recruiting goal in December for the seventh consecutive month, though some of those targets were lowered from last year's. It will have to increase its recruiting pace, however, to meet its target of 80,000 that it has set for the budget year ending next Sept. 30.

A new law will let the Army attract older recruits, raising the top age from 35 to 42. In addition, financial bonuses for enlistments and re-enlistments have increased.

Also, according to Mr. Rumsfeld, an increased emphasis and spending on Special Operations forces and intelligence operations results from lessons learned in Iraq.

The Pentagon's next budget and a broadbased review of U.S. defense strategy should be seen as "the next step in a long line of bold changes" for the military, rather than a list of program adjustments, he said. Both the budget for fiscal 2007 and an update of the Pentagon's long-range plans are to be released early next month.

Special operations and intelligence are among the programs expected to see increased funding in the new spending plan. Mr. Rumsfeld said that improvements in the programs reflect setbacks and successes since the first days of combat in Iraq.

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Rumsfeld Says Army 'Not Broken' (WT)

By Rowan Scarborough

The Washington Times, January 26, 2006

Defense Secretary Donald H. Rumsfeld sparred from afar yesterday with a Pentagon consultant and former Clinton administration officials who say the Army is in danger of "breaking."

A report by retired Army officer Andrew F. Krepinevich Jr., who directs the Center for Strategic and Budgetary Assessments, said the Army could not meet war-fighting missions unless the demands slacken in the coming years.

The report surfaced as former Clinton administration officials and retired officers who backed the presidential bid of Sen. John Kerry, Massachusetts Democrat, put out a similar study saying that the 1.4-million-active-member military is frayed.

Mr. Rumsfeld responded with a combative appearance at a Pentagon press conference. He reminded reporters that during the Clinton years, when the military was sent on about 50 war and peacekeeping missions, that the force suffered from lack of funding and that some units were "hollow pieces."

The Bush administration has requested huge spending increases for the military, with this year's budget at $442 billion, plus about $350 billion to fund operations in Iraq and Afghanistan.

Mr. Rumsfeld said anyone who concludes that the Army is breaking does not know what he or she is talking about.

"I suspect the people writing these things don't know, either, because I suspect that they don't have any more insight than the other people around here do," he said. "I just can't imagine someone looking at the United States armed forces today and suggesting that they're close to breaking. That's just not the case."

He said, "The force is not broken ... the world saw the United States military go halfway around the world, and in a matter of weeks throw the al Qaeda and Taliban out of Afghanistan, in a landlocked country thousands and thousands of miles away. They saw what the United States military did in Iraq, and the message from that is not that this armed forces is broken, but that this armed forces is enormously capable."

Mr. Rumsfeld said he was at the White House yesterday, where a group of senators asked about the Army. He said Gen. Peter Schoomaker, the Army chief of staff, responded that "it's just not correct" that the Army is breaking.

The Associated Press obtained a copy of the Krepinevich study, which contains one chapter titled "The Thin Green Line."

The Army has been a frequent target of such criticism. Last year, the active-duty Army and the Army National Guard missed recruiting goals, as the force of 500,000 active soldiers and reserves waged two wars in Iraq and Afghanistan, forcing year-on, year-off overseas deployments for many.

Rep. John P. Murtha, Pennsylvania Democrat, heightened the criticism by calling for a quick pullout from Iraq.

The Army issued a statement that although the force is stressed by commitments in the global war against terrorism, it is far from broken. The Army has met recruiting goals for seven consecutive months, after raising enlistment bonuses to as much as $40,000, deploying more recruiters and changing advertising.

Rumsfeld Denies Military Is Stretched Too Thin Defense Secretary Says Troop Retention Up (USAT)

By Steven Komarow

USA Today, January 26, 2006

Defense Secretary Donald Rumsfeld on Wednesday dismissed two new reports warning that the U.S. military is badly stretched by the wars in Iraq and Afghanistan, calling their authors ill-informed about America's "battle-hardened" forces.

The Clinton administration military had "hollow pieces" that have now been fixed under his leadership, Rumsfeld said. Worries about recruiting and keeping veteran troops are also unfounded, he said.

"People just don't fully understand," he told reporters at a news conference. Today's military is "battle hardened. It's not a peacetime force that has been in barracks or garrisons."

On Wednesday, former Defense secretary William Perry, former secretary of State Madeleine Albright and congressional Democrats released a report calling on the Bush administration to increase the size of the Army and spend more on replacing equipment worn out in Iraq and Afghanistan.

The two members of the Clinton administration cited the Army's failure last year to meet its recruiting needs as an early sign of trouble. The Army missed by almost 6,600 its goal of 80,000 new recruits in the fiscal year ending Sept. 30. To help prevent another shortfall, this year the Army has increased its percentage of recruits who scored in the lowest category on an aptitude test that every soldier must take.

The Bush administration's actions "fall far short of what is required," Perry said.

"In order to carry out effective diplomacy, you have to have an effective (military) force," Albright said. Things are so stretched today that the United States was unable to contribute troops for Haiti's elections, she said.

Their report said U.S. ground forces are under "enormous strain." It warned of "highly corrosive and potentially long-term effects on the force" if nothing is changed.

The Democratic report came a day after a Pentagon-sponsored review by a retired Army officer issued a similar warning. The study, first reported by the Associated Press, said the military was on "a thin green line," especially in recruiting, that could snap because of the strain of extended deployments. The author, Andrew Krepinevich, said commanders were weighing their battle plans against the potential strain on forces.

Rumsfeld called such assertions false. "The force is not broken," he said, and not breaking.

"And there isn't any reason in the world why we shouldn't be able to maintain, with an active and reserve total force … of over 2 million people, why we shouldn't be able to maintain 138,000" troops in Iraq, he said.

Rumsfeld also said the retention of troops is up.

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Pentagon sponsored studies such as the one by Krepinevich, head of the Center for Strategic and Budgetary Assessments, are good to have because they present differing viewpoints, Rumsfeld said.

"It's a useful thing to invite people to make comments and critiques and to opine on this and to opine on that," he said.

Rumsfeld said he hadn't yet read the Democratic report. However, he said, "These are the people basically, who did that report, who were here in the '90s. And what we're doing is trying to adjust what was left us to fit the 21st century."

Rumsfeld: Army Not 'Broken' (WP)

By Ann Scott Tyson

The Washington Post, January 26, 2006

Defense Secretary Donald H. Rumsfeld yesterday strongly rejected warnings in a Pentagon-contracted study that the Iraq war risks "breaking" the U.S. Army, and he said a recent decision to scale back U.S. troop levels in Iraq did not grow out of a need to relieve the strain on American ground forces.

"The force is not broken," Rumsfeld said at a Pentagon press briefing yesterday. "I just can't imagine someone looking at the United States armed forces today and suggesting that they're close to breaking. That's just not the case."

On the contrary, Rumsfeld said, the U.S. military is "battle-hardened" and an "enormously capable force," as demonstrated to the world by its swift overthrow of governments in Iraq and Afghanistan. Such proven capability "ought to increase the deterrent rather than weaken it," he added.

Rumsfeld's remarks came in response to questions about two studies released yesterday -- one by a Democratic advisory group chaired by former defense secretary William J. Perry, and another by a military analyst contracted by the Pentagon -- that warned of the long-term consequences of strains on U.S. military manpower and equipment from repeated war-zone deployments. Such stress, if not alleviated, could worsen recruiting and undermine retention, threatening the all-volunteer force, the studies found.

"Soldiers and brigades are being deployed more frequently, and for longer periods, than what the Army believes is appropriate in order to attract and retain the number of soldiers necessary," Andrew F. Krepinevich, executive director of the Center for Strategic and Budgetary Assessments, wrote in a November 2005 study for the Pentagon first disclosed Tuesday by the Associated Press. "It is not clear, even to Army leaders, how long this practice can be sustained."

Krepinevich concluded that "vigorous efforts should be made to enable a substantial drawdown in U.S. force levels" from Iraq, because "the Army simply cannot sustain the force levels desired to sustain the momentum needed to break the back of the insurgent movement."

Rumsfeld, however, expressed confidence yesterday that the Pentagon could maintain the current troop level of 138,000 in Iraq indefinitely, although he said he did not expect to do so. "There isn't any reason in the world why we shouldn't be able to maintain, with an active and reserve total force concept of over 2 million people, why we shouldn't be able to maintain 138,000," he said.

Rumsfeld also said that a decision announced in December to cut the number of troops in Iraq by this spring to about 130,000 was not driven by a need to ease strain on U.S. forces. "That's just false," Rumsfeld said in response to a reporter's question. He said Gen. George W. Casey Jr., the senior U.S. commander in Iraq, "is not making his recommendations based on that."

Since mid-2004, troop levels in Iraq have ranged from about 135,000 to 160,000, requiring Army and Marine combat units to rotate into Iraq with shorter-than-usual stays at home in between. Active-duty Army units, for example, have been spending a year in Iraq and then 15 to 22 months at home -- less than the goal of two years set by Army leaders.

The prospect of serving in Iraq contributed to a shortfall in Army recruiting of nearly 7,000 soldiers last year, Army officials have said, despite large increases in bonuses and incentives. High overall retention helped make up for the deficit, Army figures show.

The second study, by the group commissioned by congressional Democrats and chaired by Perry, criticized what it called the Bush administration's inadequate planning for Iraq. It said not sending sufficient troops and equipment has put the Army and Marine Corps under "enormous strain" that risks undermining national security.

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The active-duty Army has a deficit of about 18,000 junior enlisted personnel, the study found. Army manpower has dropped over the past year, falling to the current level of about 492,000 -- about 10,000 short of the goal of 502,000 authorized by Congress, Defense Department figures show.

The study proposed increased funding for recruiting, equipment, as well as a permanent increase of 30,000 soldiers in the Army's active-duty deployable forces. That would allow the Army to increase active-duty combat brigades from 37 to 48, the study said.

But Rumsfeld reiterated yesterday that Army leaders do not seek a permanent growth of 30,000. Moreover, the Army, which had planned to increase its active-duty combat brigades from 33 to 43, last week announced that it seeks to grow to 42 as a result of a top-level review of Pentagon strategy and resources. Together with a cut in National Guard combat brigades, from 34 to 28, that would give the Army 70 total combat brigades instead of the previously planned 77.

Army Secretary Francis J. Harvey said in an interview that the change resulted from a new Pentagon goal of being able to sustain a deployment of 18 or 19 combat brigades around the world -- a reduction from a target set by Army leaders of 20 to 21 brigades.

Reserve Members On Active Duty Earn More, Pay Study Says Findings By RAND Counter Prevailing View Of Service (USAT)

By Steven Komarow

USA Today, January 26, 2006

WASHINGTON — Nearly three-fourths of military reservists called to serve in Afghanistan and Iraq are taking home more money on duty than in their civilian jobs, according to a study on military pay released Wednesday.

In many cases, the troops earn a higher gross salary in civilian life. But when the federal tax exemption and other allowances approved by Congress for troops in combat are factored in, about 72% are better off, according to a study by the RAND Corp., a research institute.

The RAND study, which was funded by the Pentagon, showed an average benefit of 25% over civilian pay, about $10,000 a year.

The study results run counter to complaints by Reserve and Guard troops that they have suffered financially when activated. It is part of an effort to track the war on terrorism's effects on part-time troops. Since the Sept. 11, 2001, attacks, those troops have been called up by the tens of thousands.

The Army National Guard, heavily used in Iraq, missed its recruiting goals last year. Currently, about 108,000 Guard and Reserve members are activated.

News coverage of the National Guard and Reserves often focuses on the financial hardships of its members. In 2004, the Defense Department conducted a survey of reservists in which more than half said they lost income when they were deployed.

However, the RAND study found that only about one-fourth of reservists suffered a loss in income after being activated. RAND researchers compared Social Security earnings data for servicemembers before deployment with Defense Department records afterward.

RAND surveyed more than 110,000 Army and Air National Guard and Reserve members for the study.

Though the study ends in 2003, the beginning of the U.S. deployment of troops to Iraq, preliminary figures for later deployments show the pattern continues.

Deployed reservists may have an even higher comparative earnings advantage, said Jacob Klerman, a RAND senior economist and co-author of the study. That's because the data do not track the additional income provided by major corporations to their employees who are in the Reserves or Guard.

Klerman said the study focused on earnings and doesn't include the extra expenses that reservists often must pay. Also, he said, more research is needed on the long-term effect that being called to active duty has on the careers of Guard and Reserve members.

“We are looking here at earnings while people are activated,” Klerman said. “That's different than the question about what will happen when (they) get back.”

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Stephen Koper, a retired brigadier general and president of the National Guard Association, says the results do nothing to ease the concerns of current or potential Guard members. Koper said the Pentagon needs more professional people and entrepreneurs, but they're being driven away by financial problems caused by serving in the part-time military. "Guardsmen and reservists accept the fact that they are … going to run into certain shortfalls."

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Judge Extends Appointment Of U.S. Attorney (MR)

By Brendan Kirby, Staff Reporter

Mobile Register, January 26, 2006

Chief U.S. District Judge Ginny Granade has extended the term of U.S. Attorney Deborah Rhodes, whose temporary appointment to the Mobile office expires this month.

Rhodes took over for David York, who resigned in September amid reports of an internal Department of Justice investigation into allegations that he had an improper relationship with an assistant prosecutor.

The U.S. attorney oversees all federal prosecutions in the Southern District of Alabama, which covers 13 counties. The office includes a staff of 25 lawyers and 27 support workers, and operates on an annual budget of about $5.7 million.

Under the law, the Justice Department could replace York for a maximum of 120 days. The statute gives the chief judge of the district the power to name the U.S. attorney beyond that, and Granade said Tuesday that she complied with a request by the Justice Department to extend Rhodes' tenure until President Bush names a permanent successor.

When appointed to Mobile, Rhodes, 47, was on special assignment to the Justice Department in Washington as a counselor to the assistant attorney general of the criminal division.

From 1990 to 2003, Rhodes served as an assistant U.S. attorney in San Diego, where she prosecuted large drug organizations and returned the first indictments against the leaders of the Tijuana cartel.

In Mobile, Rhodes said, she has not made major changes. "We've been focusing on our work and focusing on our cases," she said.

Rhodes, who eventually will return to the U.S. attorney's office in San Diego, said she has no guess as to how long her stint in Mobile might last.

That depends on how long it takes Alabama's two U.S. senators to agree on a recommendation to the president. With less than three years remaining in Bush's term, it is possible Rhodes will serve until the next presidential election, though Granade said that's unlikely.

"My guess is there will be an appointment. But when or who or how, I don't know," she said.

DHS Helps DOJ With Case Management Systems (FCW)

By Michael Arnone

Federal Computer Week, January 25, 2006

The Homeland Security Department is helping the Justice Department develop new case management systems for the entire federal government, DHS' chief information officer said today.

DHS is working with DOJ to create a Consolidated Enforcement Environment (CEE), which allows access to all available data, analyzes data and links relevant law enforcement partners, DHS' CIO Scott Charbo said.

One goal of the collaboration is to move beyond products and create a layer of information that can be used governmentwide, Charbo said. "The real core to solving the business problem is standardizing data" and real-time information sharing, he said.

Charbo said he didn't know if DHS will have a procurement for CEE because both departments want to leverage as much existing infrastructure as possible, Charbo said.

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CORPORATE SCANDALS:

Big Test Looms For Prosecutors At Enron Trial (NYT)

By Kurt Eichenwald

The New York Times, January 26, 2006

In the court of public opinion, they were convicted long ago. But as Kenneth L. Lay and Jeffrey K. Skilling, the onetime leaders of Enron, step into a court of law next week, the outcome of their fraud trial is far from certain, creating one of the most closely watched and hotly contested white-collar criminal cases ever.

On one side of the Houston federal courtroom starting Monday will be two top-flight teams of defense lawyers, who will be taking the risky approach of proclaiming many of the controversial actions of Enron and some much-criticized statements of their clients to be legal and truthful.

On the other, the prosecutors for the Justice Department's Enron Task Force, who have racked up an impressive array of guilty pleas in the case, but whose performance at trial has been decidedly less dazzling.

"For the government, if they lose the Enron case, it will be seen as a symbolic failure of their rather significant campaign against white-collar crime," said John C. Coffee Jr., a professor at Columbia Law School. "It will be seen as some evidence that some cases are too complicated to be brought into the criminal justice process."

Of the three major Enron-related criminal cases brought by the government before juries, guilty verdicts stand from only one, which involved Enron's booking what the government said were phantom profits on the sale of Nigerian barges to Merrill Lynch. A second case, against the accounting firm Arthur Andersen, was thrown out by the Supreme Court on appeal. The third, involving the broadband division of Enron, resulted in no convictions, but the five defendants await a retrial.

Those cases involved narrower accusations of wrongdoing than those against Mr. Skilling, 52, who has been charged with dozens of counts, including fraud, conspiracy and insider trading, and Mr. Lay, 63, who is accused of seven counts of fraud and conspiracy. Indeed, this trial will be the first time that the government's theory of the existence of an overarching criminal conspiracy at the company has been put to the test.

Learning its lesson from previous corporate fraud trials involving Enron and other companies, the government is expected to keep this trial as simple as possible to avoid confusing and boring the jury. Riding on the prosecution's success, experts said, is public support.

The implications of the outcome of the case against Mr. Lay and Mr. Skilling, whose names have become fused to the scandals that have exploded across corporate America in recent years, are sure to be felt far beyond the courtroom.

"Most people in the white-collar world would agree that Enron is the granddaddy of all frauds in the last two decades," said Stephen L. Meagher, a former federal prosecutor who is now a lawyer in San Francisco. "How this comes out is a test of the limits of what the corporate community will tolerate in business practices."

The importance of the trial to the government and the defense is underscored by the millions of dollars each side is committing to the case.

Mr. Skilling, for example, has hired Daniel Petrocelli, a top civil lawyer who has no criminal trial experience but made his name winning a $33.5 million verdict for the family of Ronald Goldman in a wrongful-death suit against O. J. Simpson. Mr. Skilling alone has some two dozen people, half of them lawyers, working full time at a makeshift office near the courthouse. Several more are employed as trial consultants helping with jury selection, which begins Monday.

The government is also committing significant resources, with 8 lawyers and 10 agents of the Federal Bureau of Investigation working exclusively on this case.

In presenting the case, the government will be depicting a company where law breaking was commonplace. In official reports from the government, the bankruptcy court and the independent directors of Enron, and in the guilty pleas of former executives, Enron has emerged as a company that failed to follow the dictates of federal securities laws, with executives who deceived investors, directors and, in some cases, one another. While that is helpful to prosecutors, experts said that the government would have to be wary of focusing too much on the broad problems within the company.

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"To the extent this becomes more of a trial about Enron and less of a trial about Skilling and Lay, that is likely to play into the defense's strategy to put the accounting techniques on trial rather than the individuals," said Robert A. Mintz, a former federal prosecutor who is now head of white-collar criminal defense at McCarter & English in Newark.

The defense case will focus on the requirements and dictates of accounting and securities rules. While both defendants deny knowledge of some of the brazen crimes, like transactions that resulted in millions of dollars from Enron's coffers being drained into other executives' personal bank accounts, there will be little effort to distance themselves from some of the financial dealings that have become infamous over the last few years. These include Enron's use of byzantine off-books partnerships that helped pretty up the company's balance sheet and improve its income statement.

Instead, according to people who know both men, their statements and actions will be defended with a simple response: their business practices may have been aggressive, but everything they did was lawful. Both men, who are expected to testify, plan to maintain that many of the accounting and financial decisions were both correct and appropriately disclosed, and their statements about them were truthful.

There are dangers to this strategy. At times, the defense — particularly that of Mr. Skilling, a former chief executive who is charged with playing a direct role in some of the partnership deals — will have to maintain that accounting rules allowed Enron to exaggerate earnings or hide losses, practices that strike outside experts as bizarre and that jurors may have a hard time accepting. There is the complexity of explaining why, if so much of what Enron did was legal and the company's finances were as strong as the executives maintain, the company quickly collapsed into bankruptcy.

There is also one final challenge, which experts refer to as the Simon problem. In a decision from the early 1970's in United States v. Simon, a federal court held that compliance with accounting rules is not, in itself, enough to disprove an accusation of fraud. In that case, the court held that there was also a positive duty for full and fair disclosure under the securities laws, which might not be met simply by following generally accepted accounting principles.

That these executives and this case would ultimately serve as a symbol of an era of corporate corruption might have seemed laughable five years ago, when Enron was repeatedly proclaimed by Wall Street and academics as among the best of the best, a cutting-edge company redefining the boundaries of business.

The government, however, hopes to bring in evidence that it contends will prove that Mr. Lay oversaw a reckless organization from soon after its founding as a gas pipeline company in 1985 with the merger of Houston Natural Gas and Internorth of Omaha. By early 1987, Mr. Lay, then the chairman and chief executive, was confronted with evidence of potential financial wrongdoing by top executives at Enron's oil trading unit in Valhalla, N.Y.

The government will seek to admit testimony that despite hearing the evidence, Mr. Lay allowed the executives to remain and, months later, those same executives committed other improper acts that exposed Enron to as much as $1 billion in losses. While prosecutors have been arguing that they should be allowed to present the Valhalla episode to the jury to show that Mr. Lay had a pattern of tolerating wrongdoers, the federal judge who is hearing the case, Simeon T. Lake III, has not issued a final ruling on whether he will allow such evidence.

A crucial witness in the government's case will be Andrew S. Fastow, the former Enron chief financial officer who has pleaded guilty and is cooperating with the prosecution.

Mr. Fastow was a specialist in the growing business of structured finance, a technique that companies use to gain access to new capital by essentially selling off portions of their risk through the use of off-books partnerships. When such transactions are done properly, at least 3 percent of the entity's capital is contributed by an independent investor. Under the accounting rules, assets sold to the entity can then be moved off the balance sheet and the purchase price can be reported as revenue.

By 1996, Mr. Fastow began committing crimes through use of the off-the-books entities for personal enrichment. He arranged to be the 3 percent investor himself — a strategy that would not have met the accounting standards for independence — then set up elaborate schemes in which bogus "investors" stood in as fronts for him. In one deal, called RADR, Mr. Fastow funneled money to various investors, who then returned profits to him. In another, called Chewco, Mr. Fastow allowed a close colleague, Michael J. Kopper, to control the 3 percent investor, then accepted kickbacks on the deal.

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While neither RADR nor Chewco appear in the criminal indictments against Mr. Lay and Mr. Skilling, the defense lawyers have already argued that they need to explore both transactions in front of the jury to try to prove that Mr. Fastow had a pattern of hiding illicit personal profits from his bosses.

It is this point — from Mr. Fastow's crimes beginning in 1996 to the charges against Mr. Skilling for actions years later — that will serve as a crucial battleground, with both the defense and the government fighting over the questions that the jurors should be asking themselves.

If Mr. Fastow engaged in crimes involving RADR and Chewco without the knowledge of his superiors, the defense argues, how can the jury believe that he told his bosses in later years about similar illegal acts that were used to manipulate Enron's financial reports? But, the government will counter, would Mr. Fastow — along with other executives who have pleaded guilty, including Richard A. Causey, the former chief accounting officer — have engaged in subsequent illegal acts that seemed to solely benefit the company without consulting superiors?

Numerous allegations against both Mr. Lay and Mr. Skilling relate little to Mr. Fastow. Instead, they portray the executives as consistently working to disguise the true economic realities of Enron in violation of federal securities laws.

The economic underpinnings of Enron began to become unhinged in 1998. That summer, Enron entered into several capital intensive transactions that ultimately proved to be abject financial disasters, including a venture into the water business and the purchase of a portion of an electricity distribution plant in Brazil.

The government's case is built not so much on showing that Enron was destroyed by fraud, but rather on showing that fraud, including the suspected deceptions by Mr. Lay and Mr. Skilling, prevented the marketplace from knowing how badly things were going inside the company. But the cases against the two men are very different. Mr. Skilling faces the most complex series of allegations, which essentially accuse him of leading a concerted effort to make Enron appear more financially sound than it actually was.

Through the use of the off-books partnerships, the company avoided reporting losses and was able to generate tens of millions of dollars in profit. It wrote up the value of certain assets when it needed income, and did not write them back down when circumstances changed. It entered into transactions in which there were secret buyback agreements that would have required accountants, had they known, to remove the related profits from the company's books. All of this, according to the indictment, involved Mr. Skilling.

The charges against Mr. Lay are far narrower, on the other hand. He is not accused of involvement in the partnership machinations; rather, the vast majority of the allegations against him involve public statements he made in the final few months of Enron's existence. The government says that many of those statements, including upbeat assessments of the company's liquidity and business performance, were lies through which Mr. Lay continued the earlier deceptions involving Mr. Skilling.

In many ways, it is fitting for Enron's tale to end with a trial that is widely viewed as a verdict on business practices in the late 1990's. When it was flying high, the energy giant was celebrated from boardrooms to business schools as a lodestar for the future of the corporate world, the embodiment of a company that got everything right. But with its collapse into bankruptcy in 2001 — costing investors billions and pushing thousands of employees out onto the street — it became emblematic of everything wrong in corporate America.

"Enron has become a poster child for an era, so I think people will remember what happens at this trial more than any other white-collar trial that occurs," said Linnea Bernard McCord, associate professor of business law at the Graziadio School of Business and Management at Pepperdine University. "It made a real imprint on everybody's psyche."

Opportunity For Corporate Fraud Has Shrunk -- But It's Still There (WP)

By Carrie Johnson And Ben White

The Washington Post, January 26, 2006

Four years after the collapse of Enron Corp. spurred the most sweeping revisions in business regulation since the Great Depression, experts warn that the ingredients for a similar financial disaster remain.

Despite new laws and regulations, companies still face enormous pressure to meet short-term financial goals, creating a powerful motive for accounting fraud. Outsized executive compensation grows by the year, offering another rich incentive to cook the books. And there is no certainty that Congress will continue to fund regulatory budgets at current levels.

But some things have changed since December 2001, when Enron's sudden descent into bankruptcy protection rocked investor confidence and left the markets reeling. Accountants face independent oversight for the first time in 70 years. Most corporate board members take their jobs far more seriously. Wall Street is somewhat less willing to accommodate clients' interests.

Nearly a dozen experts contacted by The Washington Post, including regulators, accountants, chief executives, board members and investor advocates, agreed to fill out a corporate governance report card on the eve of the Enron trial.

The Houston energy trader's implosion exposed wide gaps in the safety net designed to protect shareholders, some of which remain today. Former executives Kenneth L. Lay and Jeffrey K. Skilling go to trial Monday on fraud and conspiracy charges.

Accountants exploited loopholes to curry favor with companies that paid their fees. Executives collected more than $400 million in salary and bonuses but denied knowing about fraud on their watch. Investment bankers engaged in sham deals to help clients meet quarterly profit targets. Boards of directors waived conflicts-of-interest policies and turned a blind eye to overly aggressive business practices. And overwhelmed regulators failed to devote enough resources to combat fraud.

Congress passed the Sarbanes-Oxley Act in July 2002, imposing new duties on corporate executives, auditors and directors. The Securities and Exchange Commission and the Justice Department spent tens of millions of dollars to root out malfeasance. Along the way, prosecutors won criminal convictions and decades-long prison terms for former leaders of Adelphia Communications Corp., Tyco International Ltd. and WorldCom Inc.

But in a sense, the government efforts may have backfired, inspiring a dangerous overconfidence among investors.

"I just don't think we are as far along as we need to be," said former SEC chairman Harvey L. Pitt, who led the agency when it brought the biggest-ever fraud case against telecommunications company WorldCom Inc. in 2002. "Many shareholders may have been led to believe that [reforms] have cured all the problems, and we're home free. Unfortunately, that's a prescription for disaster."

The lingering problems were on display late last fall, when commodities-trading firm Refco Inc. collapsed in an accounting scandal just two months after an initial public offering, led by blue-chip investment bank Goldman Sachs and Co. Investors snapped up Refco shares even though the company admitted in its prospectus that there were serious problems with accounting controls. "Could Enron happen again? Sure it could. Just look at Refco," said Henry T.C. Hu, a law professor at the University of Texas at Austin.

The grades suggest that the greatest improvement has been in the regulation of the behavior of accountants who serve as gatekeepers to the markets. New York Attorney General Eliot L. Spitzer said the profession has been "scared straight" by fallout from the scandals, which included the death of accounting firm Arthur Andersen LLP and a $456 million deferred prosecution settlement by KPMG LLP last year.

Corporate boards get fair marks for meeting more often and paying more attention to the work of auditors. Last year, longtime directors at insurer American International Group Inc. overthrew Maurice R. "Hank" Greenberg as chairman after nearly 40 years at the helm after regulators stepped up an accounting probe at the company. And Hewlett-Packard Co.'s board fired star chief executive Carly Fiorina because of dissatisfaction with the way she handled a merger. She was not accused of any wrongdoing at the company.

Even so, many board members still lack the financial know-how to interpret complex information, said Dennis R. Beresford, former chairman of the audit committee at MCI Inc.

At the same time, opposition to some of the changes made since Enron is growing. Increasingly, trade groups, including the U.S. Chamber of Commerce and securities law professors, have complained that boards and accountants spend too much time meeting meaningless criteria rather than getting to the root of more insidious problems.

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Bob Merritt, the former finance chief at Outback Steakhouse Inc., noisily resigned his post last April after decrying "overzealous" regulations that tied him up in minutiae, far away from business decisions. Many other executives across the country privately applauded his stance.

Jeffrey Stone, a former federal prosecutor who now heads the white-collar defense practice at McDermott Will & Emery, said some new rules, especially one that requires a company and its auditors to examine financial controls, impose heavy costs "that far outstrip the protections that are afforded."

Each of the experts stressed that crooks bent on stealing from a company will still take their chances and some will succeed. Regulators can never pass laws that will force executives to act with integrity -- or force investors to do their homework before they buy stock.

Little has changed to shrink the incentives for taking big risks, business as well as ethical, that can give rise to misdeeds.

Wall Street analysts and reporters still seek guidance about company revenue each quarter. Businesses pay a price for missing targets by even a penny or two. The earnings guidance is "like heroin" for analysts, said Colleen Saytherr Cunningham, who leads a trade group for corporate finance officials. "Once you put it into your arm, you can't kick it."

There has been no slowdown in the race for higher executive pay, the experts said. Chief executives won a median pay raise of 30 percent in 2004, twice the increase from 2003, according to the Corporate Library, a watchdog group that rates public companies on corporate governance. Repeated studies have shown virtually no connection between high compensation and good corporate performance.

"As long as CEO pay is so fundamentally out of whack, we cannot say that boards are doing their job or that corporate governance reform has been accomplished," said Nell Minow, an investor advocate and co-founder of the Corporate Library.

Some companies have moved away from compensating top executives with stock options now that they are required to count them as an expense. But in numerous cases, they have simply replaced options, which pay off only if a company's stock performs well, with restricted shares, which promise a gain for executives no matter what. Critics refer to such compensation as "pay for pulse."

William J. McDonough, former leader of an accounting industry oversight panel, said recent initiatives, including a drive by the SEC to beef up disclosures about executive pay, are heartening. In all, though, there is "not as much [progress] as I'd like to see. I don't think anybody including me has any theory of how executive compensation should be set."

In addition, investor advocates said they fear that once the Enron trial ends and the focus on corporate crime fades, regulatory budgets could again get squeezed. "Already, recent appropriations have not matched agency funding requests," said Barbara Roper, chief of investor protection at the Consumer Federation of America.

The outcome of the Enron trial could have a more profound impact on attitudes among corporate executives in the long run than the regulatory changes, said Harvey J. Goldschmid, a law professor and former SEC official.

"Deterrence is very important, and this trial is of large consequence for that reason," Goldschmid said.

Staff writers Brooke A. Masters and Steven Pearlstein contributed to this report.

Enron Woes Reverberate Through Lives Many Saw Retirement Plans Evaporate With Stock Price (USAT)

By Stephanie Armour

USA Today, January 26, 2006

MINNEAPOLIS — Roger Boyce was looking forward to retirement from Enron's Minneapolis Gas Pipeline Group in 2000.

His Enron stock was worth more than $2 million on paper. With that nest egg and other investments, Boyce anticipated a comfortable retirement that he'd spend traveling and funding his six grandchildren's college educations.

That didn't happen. At 71, he works full time in the summer months doing business consulting at a pool and spa company. Much of his savings evaporated in Enron's financial collapse in 2001, leaving him less able to travel and with little to contribute to the grandchildren's college expenses. Initially, there was a lot of bitterness and resentment because of the sense of betrayal that he and other former employees felt.

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Four years after the Texas energy giant began its meltdown — and on the eve of a criminal trial for its former top executives — many former Enron employees still feel betrayed.

How did it happen? Like many employees, Boyce believed in Enron's stock. He bought and held Enron shares until it was too late to get out. About 20,000 participants in Enron retirement plans lost about $1.1 billion in their accounts, according to a lawsuit and lawyers for the workers.

Former employees who thought they'd be well off have abandoned retirement visions that included taking expensive pleasure trips and financing philanthropic projects. Some, at the end of their careers, have started over again in new jobs — but working harder to keep up with younger co-workers. They've turned to churches and food pantries to eat, sold homes they could no longer pay for, and endured financial stresses that frayed their marriages.

"A lot of them aren't doing well. The older workers had retired, and then they had to go to work. They're too old to make it up," says Lynn Sarko, a Seattle-based lawyer representing many employees in lawsuits to recover some of the lost retirement funds. "They've had trouble getting jobs, and some have taken jobs that are a step down. There's a lot of anger."

Enron workers' retirement savings were demolished because their 401(k) assets were mostly invested in company stock, which was considered a sound investment until late 2001. That October, Enron shocked Wall Street by announcing a quarterly loss and a big write-off of some investments. The Securities and Exchange Commission began an investigation. But for about three weeks in October and November, employees were blocked from selling the stock in their accounts. Enron shares, which had reached $90 in 2000, fell to less than a $1 after the company filed for bankruptcy-court protection on Dec. 2, 2001.

"Enron was held in such high esteem that employees had confidence in the company. We were misled all the way. This has compromised the quality of all of our lives after so many years of saving to that end," says Boyce, of Edina, Minn., who was director of human resources for the northern region of Enron's pipeline group. "The trial is finally bringing this thing to an end; it's bringing some closure."

Dale and Darlene Roberts are still waiting for closure. In 2001, Dale earned $3,000 a month as a field mechanic at Enron in Oklahoma. The Enron stock in his 401(k) account was worth roughly $50,000.

Within months, the couple lost it all: his job and the money in the stock. Dale was laid off, and the couple got by on $1,200 a month in unemployment until that ran out after six months. Darlene, a hairdresser, was disabled and couldn't work. Dale was out of work for more than two years.

The family house was briefly put into foreclosure, but they sold one of their cars to make the payments.

"I was devastated. We'd owned that home for almost 10 years. It was horrifying," Darlene says.

They also sold belongings such as tools and went to their local church for basic food supplies. It was humiliating, she says, to get a chicken, canned goods, toilet paper and soap from strangers.

"We lost everything. We had to sell things just to be able to live. We had to go to the church to eat," says Darlene, of Duncan, Okla.

Dale, 54, now has a job as a mechanic for a different company, but bitterness about the experience lingers. He earns less than he did at Enron.

"Things are much, much better, but it caused physical and mental anguish, and it caused stress on our marriage," says Darlene, 54. "I am very bitter. I don't believe there's enough justification for what they did. Greed is a horrible, horrible thing."

Enron's collapse has delayed retirements and led to desperate efforts to rebuild savings.

Roy Rinard, 57, has worked since 1980 at Portland General Electric (PGE), which Enron purchased in 1997. PGE is a stable, well-known utility founded in 1889. Many of those at PGE have had parents and grandparents who worked there; employees such as Rinard felt comfortable with their future.

Rinard says he lost $470,000 after Enron went under. At first, he and his wife, Vicki, a nurse, felt panic. "It was just gone overnight. You can't imagine the feeling that everything you've worked your whole life for — your retirement — is dashed," Roy says. "We would drive around and say, 'What are we going to do now?' "

Within six months, they made the painful decision to sell their home, a 2,800-square-foot house on two acres in Damascus, Ore., to buy a much smaller home in Welches. That meant they could put more money away for retirement. They began saving

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furiously, living on a tight budget, giving up plans to travel or buy expensive presents for their two granddaughters and two grandsons.

Roy realized he could not retire at 60. He wouldn't have enough money. Now, he's trying to work until 67, hoping that by then, he'll have saved at least $200,000, half what he'd expected to have four years ago.

It's tough work. In one two-week stretch, Roy put in more than 130 hours of overtime on top of 80 hours of regular work in his job as a lineman troubleshooter.

"You're out in the cold, up on poles at night in all kinds of weather. I'm hoping physically I can work to 67. But even then, I won't have near the retirement nest egg," he says. "It's a sick feeling. To start over at 55 — it's hard."

Some employees say that they strive not to become bitter or to think about what might have been. Steve Lacey, an emergency repair dispatcher with PGE in Portland, didn't see any reason to worry. The value of his Enron shares ranged from $160,000 to $260,000 before Enron fell apart.

"It was all fake," he says.

Lacey, 49, of Salem, Ore., still works for PGE. The now independent company is expected to become a publicly traded company again in April. He says he still feels the reverberations of the Enron turmoil. But he's trying hard, he says, to put those days behind him.

"I'm not going to say that I feel good about losing that money. You scrounged and saved in those early working days to save that, and that makes me mad. It's made me a pretty bitter American citizen," Lacey says. "But if you dwell on it, it will ruin the rest of your life."

The experience also brought him to Washington. In 2002, Lacey spoke before a congressional hearing on Enron pension and retirement issues and tried to explain what losing savings is like.

"That was the hardest thing I've ever done, was to sit down and explain to my wife that I had lost everything," he said. "And that's probably one of the few times I've ever really emotionally broke down and cried in my whole life. And that was a tough night, and I won't forget it."

But in some cases, former employees — especially younger workers who were far from retirement — have rebounded.

Matt Hommel, 36, lost several thousand dollars and his job at Enron Online in Enron's unraveling, but was recalled after a few days. While still working for the beleaguered company, he took his time picking over job offers. For the past four years, he's worked as a technology consultant at Texas Instruments.

"There was such a media furor over Enron's crash that everyone knew the whole story. People ask, 'What was it like to go through a piece of history like that?' " says Hommel, a married father of two young daughters in League City, Texas. "It's something I actually went through."

Despite a rebound more successful than that of some former employees, the experience changed him. "I'm a little more careful now. If I work at a company, I ask more questions. I want to be sure my trust is appropriately placed," he says. "It shows you that no matter how up the Fortune 500 you are, anything can fall."

Recovering from the Enron crash has been especially hard for those on the cusp of retirement, who had counted on 401(k)s and have little time left in their working years to save again.

In 2001, Tom Padgett, 63, was within six months of retiring and was feeling pretty good about his retirement. The former senior lab technician had 11,000 Enron shares — worth about $700,000 before Enron's bankruptcy — in his 401(k). He and his wife, Karen, had planned to spend their retirement opening and operating a ranch for disabled children.

Then the scandal erupted. Now, he's a lab technician at another company, and expects to work another seven or eight years. The stress of the financial loss has worsened Karen's rheumatoid arthritis, he says.

"I have to continue to work even though I don't want to. And it's harder at my age. I've had to work a lot harder than I used to," says Tom, of Mont Belvieu, Texas. "It's had an emotional impact on me and my wife both. She had always wanted to start a ranch for handicapped kids, to allow parents to have a free week or weekend. … Some days are good, and some are bad. They're bad when we sit and think about what we could have done."

Former Broker Pleads Guilty In Market Timing Probe (AP)

By Michael Gormley, The Associated Press

AP, January 26, 2006

A former Las Vegas securities broker pleaded guilty to a felony charge Wednesday in a mutual fund investigation in which investors were defrauded through improper late trading and market timing, according to New York Attorney General Eliot Spitzer.

Daniel Calugar, 52, now of Ponte Vedra, Fla., pleaded guilty in state Supreme Court in New York City to violating a state business integrity law called the Martin Act. He was accused of entering into a secret agreement in August, 2001, that defrauded a mutual fund called the Franklin Small-Mid Cap Growth Fund.

He faces up to four years in prison when he is sentenced March 23.

His attorney didn't immediately respond to a request for comment.

Earlier this month, Calugar agreed to pay $153 million to settle civil charges brought by the U.S. Securities and Exchange Commission. Calugar will relinquish $103 million in ill-gotten gains and pay a civil penalty of $50 million, the largest penalty regulators have imposed on an individual in a late trading and market timing case, SEC officials said.

Calugar is also banned from working for a brokerage firm.

Spitzer said Calugar secretly agreed to a deal with an employee of Franklin's investment adviser. Calugar would be allowed to rapidly trade in the mutual fund without paying a 2 percent penalty. Calugar then invested $10 million in another hedge fund run by Franklin and defrauded the fund and its shareholders of more than $1 million in fees that he avoided.

Calugar also paid $72 million to settle a class action civil suit that will compensate investors.

Market timing of mutual funds, which involves rapid in-and-out trades, is not illegal but is prohibited by many funds because it can disadvantage ordinary shareholders by diluting the value of their shares. Late trading involves trades placed after the market close at that day's closing price. Many of the cases brought by Spitzer and the SEC in recent years have targeted mutual fund companies that allowed favored clients such as hedge funds to engage in market timing.

In 2004, two Franklin Templeton Investments units agreed to pay $5 million to settle a Massachusetts complaint that accused the firm of allowing a big hedge fund investor to make inappropriate mutual fund trades. The San Mateo, Calif.-based Franklin Templeton said that while it did not admit or deny any wrongdoing, the company settled to move forward. No individuals were charged.

Livedoor Inquiry Prompts Focus On Japan's Accounting Rules (WSJ)

By Yuka Hayashi And Andrew Morse

The Wall Street Journal, January 26, 2006

TOKYO -- The investigation into Internet company Livedoor Co. has pointed a spotlight on another practice in Japan that needs upgrading: accounting standards.

On Monday, Tokyo district prosecutors arrested Livedoor Chief Executive Takafumi Horie on suspicion of violating securities law, raising questions about how the company used complex financial practices to grow through acquisitions and whether it manipulated its financial statements to prop up shares of an affiliate.

Prosecutors also raided the office of Koyo & Co., a small accounting firm in Yokohama that audited Livedoor's financial statements, according to Japanese media reports. A Koyo spokeswoman declined to comment on the investigations.

Separately, Livedoor said yesterday that Mr. Horie resigned as a director, a day after he stepped down as president and chief executive of the company he founded 10 years ago.

Yesterday on the Tokyo Stock Exchange, Livedoor shares fell 22%, or 39 yen (34 U.S. cents), to 137 yen a share, a fifth of what they were worth before Livedoor offices were raided Jan. 16. Trading was limited to 90 minutes on concerns that high volume could overwhelm the exchange's computers.

In the U.S., similar investigations into such companies as Enron Corp. and WorldCom Inc. resulted in sweeping changes in accounting rules. In Japan, experts now are calling for stepped-up efforts to improve accounting standards, as companies -- particularly smaller start-ups -- increasingly use sophisticated and aggressive financial techniques.

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Japan has no standards on accounting for special-purpose companies -- a tool used by Enron and other U.S. firms in the past to keep certain financial deals off their books. Tokyo prosecutors alleged that Livedoor relied on a similar vehicle to make an acquisition and to print and sell more shares of an affiliate.

Also lacking are rules on how to interpret revenue at Internet and software companies, whose business structures tend to differ significantly from those of traditional companies.

Changes are beginning to take place. In October, the Financial Services Agency issued a guideline calling for closer examination of accounting firms and requiring companies to rotate their accountants more frequently. Meanwhile, the Accounting Standards Board of Japan adopted a handful of standards in the past two months, covering areas from mergers and acquisitions to executive compensation.

Other newly established standards are forcing Japanese companies to be more transparent, investors say. Just a few years ago, publicly traded companies were required to release their earnings only twice a year. Now, they give investors updates on a quarterly basis.

Still, Livedoor raises questions about Japan's accounting practices, including the nature of the relationship between a company and its accounting firm. These include what resources an accounting firm should have to handle a publicly traded company and how dependent it should be on a single client.

Koyo, founded in 1998, has just 12 certified public accountants, according to its Web site. It had no publicly traded companies as clients until April 2000, when it did the books for the initial public offering of Livin' on the Edge, Livedoor's predecessor. A person at Koyo declined to discuss the company's involvement with Livedoor.

As Livedoor acquired more companies, it shifted their accounting services to Koyo, even though those acquisitions had been using bigger, more established accountancies. Now, Koyo works with many Livedoor-group companies, making the Internet conglomerate one of the accountancy's biggest clients.

ValueClick Japan Inc., an Internet-advertising distributor, was one of those companies. Before Livedoor bought a 29.3% stake in ValueClick in 2004, the company used Chuo Aoyama Audit Corp., a member of the PricewaterhouseCoopers group that has more than 1,200 certified public accountants. Now the company, currently called Livedoor Marketing Co., uses tiny Koyo.

CRIMINAL LAW:

Senator Seeks Information On Subpoena Of Google (REU-Y2)

By James Vicini

Reuters, January 26, 2006

The Senate Judiciary Committee's top Democrat asked Attorney General Alberto Gonzales what steps are being taken to protect Americans' privacy rights as the Justice Department demands information about Internet searches.

In the letter released on Wednesday, Sen. Patrick Leahy (news, bio, voting record) of Vermont asked Gonzales about the subpoena to Google Inc. and three other companies seeking data about what millions of Americans search for on the Internet's leading search engines.

Leahy asked about the types of information being sought, how the department intends to use the information while protecting individual privacy rights and civil liberties and whether it will issue any additional subpoenas.

Leahy's letter comes at a time of growing criticism in Congress over the government's monitoring of communications, after the disclosure that the Bush administration has been conducting domestic eavesdropping after the September 11 attacks.

In court papers filed in California last week, the department said Google had refused to comply with the subpoena issued last year for 1 million random Web addresses from its databases and for records of all searches entered on Google during any one-week period.

The government said it needed the information to prepare its case defending the 1998 Child Online Protection Act. The law prohibited Internet companies from knowingly making available obscene or pornographic material to minors.

The Justice Department has said that America Online, Yahoo Inc. and Microsoft Corp. had all complied with similar requests for the information. America Online is owned by Time Warner Inc.

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Mountain View, California-based Google, the world's No. 1 Internet search engine, advertises its informal code of conduct as "Don't be evil."

Leahy said the collection and use by government law enforcement agencies of such data posed unique concerns.

He said it raised "the specter of excessive government surveillance that may intrude upon important privacy interests and chill the exercise of" constitutionally protected free-speech rights under the First Amendment.

Leahy asked how the department is addressing the privacy and civil liberties concerns raised by the collection, storage and use of such data.

He also asked whether the department requested or obtained any personally identifiable information.

Gonzales has defended the subpoena and has rejected concerns that individual privacy rights might be violated. The department's request to force Google to comply with the subpoena is pending before a federal judge in California.

Google on Tuesday said it would voluntarily block politically sensitive terms on its new China site, bowing to conditions set by Beijing in return for access to the world's second largest Internet market.

Senator Demands Info On Search Engine Subpoena (CNET)

By Anne Broache, Staff Writer, CNET News.com

CNET News, January 25, 2006

A top Senate Democrat is demanding details about the Bush administration's motives for sending subpoenas to Google, America Online, Microsoft's MSN and Yahoo.

In a two-page letter (click here for PDF) sent Tuesday to Attorney General Alberto Gonzales, Sen. Patrick Leahy of Vermont asked the department to outline the type of information it has requested, its reasons for the requests, the steps it is taking to safeguard any data obtained, and any plans to issue additional subpoenas in the future.

Late last week, it was reported that federal prosecutors had subpoenaed the companies for millions of search records for use in preparing their upcoming defense of the constitutionality of a controversial Internet pornography law.

That 1998 pornography law, called the Child Online Protection Act, or COPA, restricts sexually explicit material deemed "harmful to minors" on commercial Web sites. The Supreme Court raised questions about its constitutionality in 2004 and sent the law back to a Philadelphia-based federal appeals court for further review.

"I am interested in learning more about the extent to which the Department of Justice is relying upon data mining of the Internet search queries made by law-abiding American citizens to support its efforts under COPA and how the department is addressing the privacy and civil liberties concerns raised by the collection, storage and use of that data," wrote Leahy, the Senate Judiciary Committee's top-ranking Democrat.

Google vowed last week to fight a renewed request from the agency, calling the subpoena overbroad. Yahoo, Microsoft and AOL all conceded that they have turned over some records, noting that they did so in a limited fashion involving only aggregated data and no personally identifiable information.

Leahy said in his letter that his concerns came "against the backdrop of strong public concern over the government's monitoring of Internet communications and warrantless eavesdropping on the telephone conversations of American citizens."

Justice Department spokesman Charles Miller said the department planned to respond accordingly, though he was not sure what the response would entail.

As for the privacy concerns raised by Leahy, "We've addressed that in our subpoenas and to the search engines," Miller said. "We weren't seeking information about the individuals, we were only seeking the search terms....We don't even want to know the names of the people."

Davis Takes Issue With Google Over Records Request (GCN)

By Brad Grimes, GCN Staff

Government Computer News, January 25, 2006

REDMOND, Wash.— House Government Reform Committee Chairman Tom Davis (R-Va.) said today that search giant Google Inc. has “bent over backward” to comply with the Chinese government’s demand that it block certain search results in

order to operate in that country. So why, he wondered, won't the company cooperate with the U.S. Justice Department in its efforts to fight online pornography?

Google has refused a Justice Department subpoena for search results, saying it violated users' privacy. The government has said it needs the data to prepare a case regarding the 1998 Child Online Protection Act.

Other search companies have complied with the subpoena.

The company today also launched a Chinese version of its search site after agreeing to censor topics such as Falun Gong and Tibet.

"Google gave the Chinese everything they wanted. They're not going to put data on there about human rights," Davis said.

Davis spoke to public-sector CIOs today at a summit hosted by Micrsosoft Corp. Microsoft's MSN service also censors search results in China, as do Yahoo and others. Microsoft, Yahoo and America Online have also reportedly given the Justice Department information it was seeking.

"What does it mean to be a corporate citizen, working to bring terrorists or child pornographers to bear? What are the boundaries?" Davis said. "These are new areas for a lot of us that we've got to work our way through."

Davis did not expect there to be a standoff over the issue, but he clearly hoped an agreement could be reached between Google and the Justice Department.

"Google has shown an ability to be flexible when it's in their business interests," Davis said. "And I'm hoping the government will show the appropriate flexibility in trying to get what we need without everybody feeling that every time you Google something, the government's going to be looking over your shoulder."

Sen. Patrick Leahy (D-Vt.) today released a letter he'd sent to Attorney General Alberto Gonzalez asking for more information about the subpoenaed information and how the Justice Department was protecting personal privacy in its efforts.

UPDATE: Google Stands Up To US, Accedes To China (DOWJONES)

By Riva Richmond, Of DOW JONES NEWSWIRES

Dow Jones, January 25, 2006

NEW YORK -(Dow Jones)- In the last week, Google Inc. (GOOG) (GOOG) stood up to one government and acquiesced to another.

The moves show the kind of treacherous terrain the Internet giant, whose corporate philosophy is "Don't Be Evil," must traverse as it weighs its ideals and its business interests. It also spotlights how important Google (GOOG) has become as a key waypoint on the global Internet, where individual and government interests around access to information can and do collide.

Google (GOOG) said late Tuesday it plans to launch a Chinese search service this week, Google.cn, that will censor query results to comply with Chinese government restrictions on information about such sensitive political subjects as Taiwan and Tibet independence and the Tiananmen Square massacre. The company, which is determined to expand its presence in China's huge and fast-growing Internet market, said the move was necessary to provide Chinese users with better site performance.

Last week, the company said it would "vigorously" oppose a U.S. Department of Justice motion to compel Google (GOOG) to provide data about consumer Web searches. The request didn't seek personal information about consumers' online activities, but Google (GOOG) argued in an October letter to the DOJ that turning over the information would create an unacceptable perception it's amenable to turning over private information about it's customers. It also made a number of other arguments, including concerns key trade secrets could be revealed.

"Google (GOOG) is at the cutting edge in terms of trying to figure out what is acceptable and what is not acceptable in this century," when the Internet is making information more accessible than ever before, says Lauren Gelman, associate director of Stanford Law School's Center for Internet and Society. " What happens to information Google (GOOG) collects? I think this is a big question for society as new technologies evolve and we have to rethink privacy and censorship."

Criticism came swiftly from Reporters Without Borders, a press freedom group that has spoken out aggressively recently about Internet-company practices in repressive countries. "The launch of Google.cn is a black day for freedom of expression in

China," the group said in a statement. "The firm defends the rights of US Internet users before the US government but fails to defend its Chinese users against theirs."

"These are two different issues," a Google (GOOG) spokesman said in an email. "We judge requests for information on a case by case basis - just as we do in America and all the countries in which we operate. Whenever we deal with these requests, we will respond - as we do in all markets - in the manner we feel best balances key Google (GOOG) values: our users' interests, expanding access to information and responding to local conditions."

In the two cases, Google's (GOOG) divergent approaches appear to be a matter of where it has legal recourse to fight perceived wrongs. Google (GOOG) can fight the U.S. government in court and get a fair hearing, but its options in China are far more limited.

In China, the question, says Gelman, is: "Do I say 'no thank you' and walk away, or do I engage and operate by the rules China sets out?"

That was apparently an agonizing question for Google (GOOG). But after months of internal debate, executives concluded they could not say 'no' to China, which has the world's second largest Internet population at more than 100 million and rising fast.

"As an emerging economic powerhouse, China is developing rapidly, thanks in no small measure to the Internet. We firmly believe, with our culture of innovation, Google (GOOG) can make meaningful and positive contributions to the already impressive pace of development in China," said Google Senior Policy Counsel Andrew McLaughlin in a statement.

Still, with Google.cn, the company tried to balance its mission to make information universally accessible with its competitive need to expand its foothold in China. The service will exclude links to sites offensive to the Chinese government in exchange for permission to use computer servers located in China. But Google (GOOG) plans to alert users when material has been censored by placing a short notice at the bottom of the Web page, as it has done in Germany and France when excluding sites with Nazi paraphernalia.

Google's (GOOG) current Chinese-language search service, which uses servers in the U.S., will remain in operation. That site has suffered service slowdowns because of Beijing's own efforts to filter content.

"While removing search results is inconsistent with Google's (GOOG) mission, providing no information (or a heavily degraded user experience that amounts to no information) is more inconsistent with our mission," McLaughlin said.

The company also said it will not host blogs or email on computer servers in China to avoid the possibility of requests for users' personal information, a minefield rival Yahoo Inc. (YHOO) (YHOO) stepped into last year in a case that sent a Chinese journalist to jail.

In the Justice Department situation, the government served Google (GOOG) with a subpoena in late August that requested Google (GOOG) provide all Web addresses that could be found through its search engine and a list of all search queries handled between June 1 and July 31. The request was part of the DOJ's efforts to defend the Child Online Protection Act, a 1998 law designed to shield minors from online pornography.

While Google (GOOG) objected, rivals Yahoo (YHOO), Microsoft Corp. (MSFT)'s (MSFT) MSN unit and Time Warner Inc. (TWX)'s (TWX) America Online (TWX) complied with the requests for search data.

In its October letter, Google (GOOG) called the agency's request "overbroad, unduly burdensome, vague and intended to harass." It also argued compliance could endanger its "crown-jewel trade secrets." Observers have also speculated that Google (GOOG) may be concerned about drawing attention to its role in steering Web surfers to pornographic sites and revenue it derives from porn-industry ads.

Google's (GOOG) resistance to the request, until the China news hit, made the company a hero with privacy advocates, who have worried about how much personal data Google (GOOG) collects about Web users and how it might use that information.

-By Riva Richmond, Dow Jones Newswires; 201-938-5670; riva.richmond@ dowjones.com

Google's Dilemma: Privacy Vs. Police (CSM)

By G. Jeffrey Macdonald

The Christian Science Monitor, January 26, 2006

It's an age-old business dilemma caught up in the new age of globalization: When governments demand something that compromises the interests of customers, what's a company to do?

That's the question now before American telecommunications and Internet companies.

This week, for example, Internet giant Google is launching a new search service in China that, because of government sensitivities there, will limit what users there can access. They already couldn't see links to objectionable sites. Now, they won't be able to use Google for e-mail messaging or writing blogs.

But at the same time as Google is acceding to some Chinese government demands, it is vigorously fighting US government efforts to obtain data on its users' search habits.

Some observers see a double standard. Others call it a careful balancing act. What's clear is that controversies over the electronic intrusiveness of government don't disappear in a data-glutted age. In fact, they're heating up.

Last week in a spirited speech, former Vice President Al Gore called on telecommunications companies to stop helping US federal agents hunt for terrorists by listening in on international calls without a warrant.

Some observers say Google needs to stand up to the US. "I would make absolutely no distinction between what's happening in China and what's happening in this country," says Geoffrey Bowker, director of the Center for Science, Technology and Society at Santa Clara University in California. "The US government has [entered] the overreaching state that governments naturally fall into. They know the data's there. They want to use it.... I'm happy to see Google fighting it."

Others are appalled by the lack of cooperation, especially in time of war.

"I would like to think that there remains a reservoir - call it patriotism, if you will, or call it civic duty - within the private sector that does not require companies to be leaned on in order to cooperate," says Frank Gaffney, president of the Center for Security Policy in Washington. "I have to ask the question: Are these companies, and Google comes to mind, putting up more of a fight to provide assistance to our government in protecting Americans than they are to [resist] Communist China? ... My guess is the answer is yes."

The US government claims to need the data to help reinstate a law aimed at blocking access to child pornography.

So far, Google seems to be winning points for its tough stand against the US Department of Justice. According to one survey released this week, 56 percent of American users of the Internet believe Google should not release information about Web searches to the government.

"Google is not a party to this lawsuit, and [the government's] demand for information overreaches," says Nicole Wong, associate general counsel at Google. "We had lengthy discussions with them to try to resolve this, but were not able to and we intend to resist their motion vigorously."

But overseas, Google has endured criticism, as has Microsoft's MSN search service, for limiting what Chinese users can find. Yahoo! China faced especially sharp rebuke last year for supplying data about Shi Tao, a dissident Chinese journalist and Yahoo! user now serving a 10-year jail term. Yahoo! China said it was simply abiding by local laws.

Unlike Google, Yahoo! and Microsoft complied with the US government's request because they say they weren't supplying personally identifiable data.

Such acquiescence is normal, industry insiders say. "I don't know if a lot of companies are in the business of civil disobedience," says Bruce Bernstein, president of the New York Software Industry Association. "In most cases, they would ask counsel, and in most cases, the lawyers would tell them to follow the path of least resistance. And they'll comply."

Still, companies are wary of the risks of being seen as negligent on privacy. Such concerns got a high-profile showcase on Martin Luther King Jr. Day when Mr. Gore addressed the issue in a widely reported speech. "Any telecommunications company that has provided the government with access to private information concerning the communications of Americans without a proper warrant should immediately cease and desist their complicity in this apparently illegal invasion of the privacy of American citizens."

In the meantime, high-tech companies with membership in Business for Social Responsibility are scrambling to tighten and clarify their privacy policies for customers before the government comes knocking again, says a spokesperson for the San Francisco-based group. Its advice: be forthright with the public if you do supply the government with information, and don't forget you have rights.

In Case About Google's Secrets, Yours Are Safe (NYT)

By Adam Liptak

The New York Times, January 26, 2006

The Justice Department went to court last week to try to force Google, by far the world's largest Internet search engine, to turn over an entire week's worth of searches. The move, which Google is fighting, has alarmed its users, enraged privacy advocates, changed some people's Internet search habits and set off a debate about how much privacy one can expect on the Web.

But the case itself, according to people involved in it and scholars who are following it, has almost nothing to do with privacy. It will turn, instead, on serious but relatively routine questions about trade secrets and civil procedure.

The privacy debate prompted by the case may thus be an instance of the right answer to the wrong question. As recently demonstrated by disclosures of surveillance by the National Security Agency and secret inquiries under the USA Patriot Act, the government is aggressively collecting information to combat terror. And even in ordinary criminal prosecutions and in civil lawsuits, Internet companies including Google routinely turn over authentically private information in response to focused warrants and subpoenas from prosecutors and litigants.

But "this particular subpoena does not raise serious privacy issues," said Timothy Wu, a law professor at Columbia. "These records are completely disconnected. They're just strings of words."

In its only extended discussion of its reasons for fighting the subpoena, a Google lawyer told the Justice Department in October that complying would be bad for business. "Google objects," the lawyer, Ashok Ramani, wrote, "because to comply with the request could endanger its crown-jewel trade secrets."

Mr. Ramani's five-page letter mentioned privacy only once, at the bottom of the fourth page, and then primarily in the context of perception rather than reality.

"Google's acceding to the request would suggest that it is willing to reveal information about those who use its services," he wrote. "This is not a perception that Google can accept."

Even Google's allies are shying away from legal arguments based on privacy. The American Civil Liberties Union, for instance, said it planned to file papers supporting Google. But not on privacy grounds. "We will probably not be making that argument," said Aden J. Fine, a lawyer with the civil liberties union.

The issues raised by the new subpoena, while substantial, are fairly technical, according to Professor Wu. "The legal point here is what is the relevancy standard for subpoenas?" he said. "That is interesting to procedure scholars but to no one else."

Other Internet search engine companies, including Yahoo, America Online and MSN, have complied with the same Justice Department subpoena, which also sought a random sample of a million Web addresses. The companies all said there were no privacy issues involved.

A Justice Department spokesman, Brian Roehrkasse, agreed. "We specifically stated in our requests," he said, "that we did not want the names, or any other information, regarding the users of Google."

None of this is to say that subpoenas for search records linked to individuals are inconceivable. Google maintains information that could be used that way, and a subpoena could ask for it. But the recent subpoena does not.

The problem with the subpoena, Mr. Fine said, is more general. "This is another instance of government overreaching," he said.

The government says it needs Google's information to defend a challenge from the civil liberties union to a 1998 law, the Child Online Protection Act, which makes it a crime to make "material that is harmful to minors" commercially available on the Web. The law was enjoined by a federal court in Philadelphia before it became effective, and it has never been enforced.

In 2004, the United States Supreme Court affirmed the injunction, ruling that filtering devices may work as well or better than criminal prosecutions in achieving the law's aims of keeping some offensive materials away from children, and it sent the case back for a trial to explore that question.

At a trial scheduled to start in October, the government will try to prove that filters are ineffective. Philip B. Stark, an expert retained by the government and a statistics professor at the University of California, Berkeley, said in a court filing that the Web

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addresses and search terms sought from Google and other Internet companies would help him "to measure the effectiveness of content filters."

The government apparently wants to show that real-world searches will pull up offensive materials that filters will not catch. Why it needs Google to do that is unclear, and Professor Stark declined a request for an interview, citing the pending litigation.

Google has not yet filed a response in court, and it has not discussed the case publicly beyond a brief statement citing government overreaching. Its fullest explanation of its position was in Mr. Ramani's letter in October.

Google objected, Mr. Ramani said, because the fit between what the government seeks and what it seeks to prove is poor. He also said that collecting and providing the information was burdensome and that the government could find it elsewhere.

Mr. Ramani did say that "one could envision scenarios" where Internet searches alone could reveal private information, but he provided no examples. But Google's main argument was that its "highly proprietary" trade secrets could be jeopardized.

Marc Rotenberg, the executive director of the Electronic Privacy Information Center, a civil liberties group that has frequently been critical of Google, said the trade-secrets argument was a serious one.

In other contexts, Google and other Internet companies say they are serious about protecting privacy. But their privacy policies acknowledge that they will comply with valid requests from the government and private litigants. Google's policy, for instance, says it may share users' personal information if it has "a good faith belief" that disclosure "is reasonably necessary to satisfy any applicable law, regulation, legal process or enforceable government request." Nicole Wong, Google's associate general counsel, said in an interview that the company "complies with valid legal process."

According to a 2004 decision of a federal court in Virginia, America Online alone responds to about 1,000 criminal warrants each month. AOL, Google and other Internet companies also receive subpoenas in divorce, libel, fraud and other types of civil cases. With limited exceptions, they are required by law to comply.

Ms. Wong said Google tried to notify users so they could object in court before the company turned over information about them. But the law forbids such notification in some criminal cases.

Even notification can be small comfort. It means a user must quickly and often at considerable expense find a lawyer and try to persuade a court to quash the subpoena. But the law often offers very limited protection for personal information held by third parties.

That approach no longer makes sense, said Daniel J. Solove, a law professor at George Washington University. "In the information age," he said, "so much of our information is in the hands of third parties."

Mr. Rotenberg said Internet search records, if collected and linked to individuals, could give rise to a particularly profound invasion of privacy. "It's kind of the shadow of the thoughts within your head — your interests, your desires, your hobbies, your fears," he said.

The situation is more complicated outside the United States. Internet companies have complied with local laws, as they must to do business abroad. Yahoo, for instance, provided information that helped China send a journalist there to prison for 10 years on charges of leaking state secrets to a foreign Web site.

Still, the current subpoena to Google, legal experts said, has given rise to an important debate, whether the facts of the case are apt or not.

"It allows us to have a national dialogue about whether current privacy protections are adequate," said Susan P. Crawford, a specialist in Internet law at the Cardozo Law School. Even if the Justice Department is not seeking private information now, she said, "the next subpoena could ask for that kind of data."

`Key Player' Pleads Guilty To Morial-era City Hall Corruption (AP)

AP, January 26, 2006

NEW ORLEANS (AP) — A businessman described by federal prosecutors as a key player pleaded guilty Wednesday to conspiring in a kickback scheme for the biggest contract signed while Marc Morial was New Orleans mayor.

Advertisement

Terry Songy oversaw a $65 million, 20-year contract to upgrade chillers, boilers, lights and other energy-related fixtures in city buildings for Johnson Controls Inc.

He admitted taking kickbacks from subcontractors, participating in a larger kickback conspiracy with the city's director of property management, and failing to file federal income tax returns for 2001, U.S. Attorney Jim Letten said.

According to an indictment handed up in June, the kickbacks allegedly enriched some of the closest associates of Morial, who served two terms as mayor and now is president of the National Urban League. He has not been charged, and has refused to comment about the investigation.

Federal officials have said the contract cost New Orleans tens of thousands of unnecessary dollars, while benefiting the Morial associates handsomely.

Songy's sentencing was set April 19. He could get up to five years for conspiracy and three on the income tax charge, with a $250,000 fine for each — though first offenders rarely get the maximum sentence.

Five subcontractors pleaded guilty earlier to paying kickbacks.

When the six entered not guilty pleas in mid-August, prosecutors said they all were cooperating with the government and were likely to make plea agreements.

An affidavit filed with the guilty plea states that, after FBI agents approached him, Songy "admitted his involvement in a much larger scheme than the government was aware" of.

The indictment described Songy as sharing hundreds of thousands of dollars in kickbacks with the three major defendants: Morial associates Stan "Pampy" Barre, a restaurant owner and Morial confidant, city property manager Kerry De Cay, and construction company owner Reginald Walker.

Barre, who also owned a Johnson Controls subcontractor called Commmon Street Ventures, allegedly shared $546,000 with co-conspirators. Walker's company received a large subcontract from Johnson Controls, prosecutors said.

All three have denied wrongdoing.

Their trial is scheduled Sept. 5 before U.S. District Judge Carl Barbier.

Six Indicted In Driver's License Fraud (TENN)

By CLAY CAREY, Staff Writer

The Tennessean, January 26, 2006

A widespread bribery scheme funneled hundreds of illegal aliens into a Winchester, Tenn.-based driving school, netting them fraudulent licenses. And six people, including one current and one former state employee, got more than $146,000, federal prosecutors said yesterday.

The U.S. attorney's office yesterday unsealed a six-count indictment of the six people who are accused of helping hundreds of people since May 2004 obtain driver's licenses they didn't earn. They have been charged with bribing state employees, accepting bribes and conspiracy.

About 100 people who got the fake licenses have been deported or are in the deportation process as a result of the investigation, federal authorities said.

"Just as in previous investigations, you had those who thought that what they did in secret would never come to light," said My Harrison, FBI special agent in charge for the Middle and Western Districts of Tennessee. The FBI was one of several agencies involved in the probe.

U.S. Attorney Jim Vines said the people who fraudulently received licenses weren't eligible for "a variety of reasons."

Officials also said most of those getting the licenses were in the country illegally.

The investigation, dubbed Operation Crooked Highway, has been under way by federal and state agencies for 18 months, Vines said yesterday.

Federal officials say two immigrants directed people, many immigrants themselves, to Winchester Driving School in Franklin County and paid for fraudulent third-party certification. In turn, the driving school allegedly paid two Department of Motor Vehicle clerks to provide licenses to those certificate holders.

Those named in the indictment are:

• Bryan Guess, 61, the owner and operator of Winchester Driving School, accused of accepting more than $46,000 to issue fraudulent third-party certificates on behalf of the driving school.

• Shelia Robertson, a former employee of the driving school, accused of paying bribes to state DMV worker Teresa Jones to help students get licenses and driving certificates.

• Teresa Jones, 48, a former DMV worker in the Mufreesboro office, accused of accepting $20 per person for about 1,000 Winchester Driving School students who obtained driver's licenses or driving certificates between March 2004 and May 2005. She worked for the state for a little more than a year and then was hired at Winchester Driving School in May 2005, federal officials said.

• Shun Gao, 24, an employee at a Murfreesboro Chinese restaurant, accused of funneling people to Winchester and paying the school, through an unidentified employee, $32,510 in exchange third-party certificates.

• Syed Abbas Parvez, 33, an alleged illegal immigrant accused of paying the driving school $1,100 in exchange for a third-party certificate, fake proof-of-residency documents and a regular driver's license for a Pakistani citizen whom Parvez had allegedly transported to Tennessee from Georgia.

• Bruce Conklin, 38, a DMV employee, accused of accepting $9,200 in cash from an employee at Winchester during the investigation and issuing about 50 driver's licenses to Shun Gao's clients between August and December 2005. State Department of Safety officials said Conklin is on paid administrative leave while the case is pending.

Several driving schools in the state can issue third-party certificates. They administer the state's written and road driving tests and, if students pass, they get a certificate. From there, the DMV will issue a license or driving certificate if they pass a vision test, residency check and other routine measures.

All six face conspiracy charges that carry up to five years in prison and a $250,000 fine. Charges of accepting bribes or bribing state employees carry maximum sentences of 10 years and fines up to $250,000.

News of the indictments prompted state Sen. Bill Ketron of Murfreesboro to again call for tighter regulations on the license requirements. Last year, Ketron pushed a bill that requires applicants to provide a valid Social Security number or documentation from the Bureau of Citizenship and Immigration Services, but it didn't get out of the transportation committee.

"At the risk of sounding really bad, it's a good start," said Theresa Harmon, co-founder of Tennesseans for Responsible Immigration Polices, a group that has called for stricter standards.

The indictments "may help deter some state workers who may take money under the table," Harmon said. "But the ones who come here to get those driver's certificates, they're crossing the desert to get here. There just isn't that much of a deterrent for those people."

Revoking immigrants' abilities to get driving certificates won't make roads any safer, according to Stephen Fotopulos, policy coordinator for the Tennessee Immigrant and Refugee Council. Most immigrants and refugees who attain those documents do so through legal means, he said.

The council has pushed for measures making it easier for immigrants to get driver's licenses in Tennessee and has spoken out against racial profiling and other practices that it believes violate the civil rights of immigrants.

"The immigration system is broken, and there are many symptoms of it being broken in Tennessee," he said. "But the more we, as a society, try to alienate immigrants and refugees, the more they are open to exploitation." •

The FBI's My Harrison, right, discusses a conspiracy to obtain driver's licenses for people who were not eligible. U.S. Attorney Jim Vines, left, said most of those getting fake licenses were in the country illegally. (AP)

FBI Arrests License Examiner (MDN)

Murfreesboro Daily News, January 26, 2006

Federal agents indicted three people Wednesday in a conspiracy to take payments for providing driver's licenses to illegal immigrants at the Murfreesboro driver testing center.

The FBI charged driver's license examiner Bruce Conklin with taking about $9,200 in cash from July 2005 to January. Agents also charged Bryan Guess, owner of the Winchester Driving School next to the testing center on Samsonite Boulevard, with paying bribes to Conklin and a former examiner, Teresa Jones.

Operation Crooked Highway: Federal Prosecutors Charge Six With Driver's License Fraud (AP)

AP, January 26, 2006

NASHVILLE, Tenn. (AP) - Federal prosecutors charged six people, including two state driver's license examiners, Wednesday with a conspiracy to issue possibly thousands of fraudulent driving licenses and certificates to illegal immigrants.

A federal indictment lists charges ranging from paying bribes, taking bribes and transporting illegal workers into the state to get the fraudulent driving documents. Authorities said they won't know how many illegal documents were issued until all evidence is studied and declined to speculate on the total.

They did say that one state worker accepted $20 per student in bribes for about 1,000 licenses or certificates. "We come to you with another sad chapter in the book of public corruption in Tennessee," FBI agent in charge My Harrison said at an afternoon news conference. Two of those charged worked at the driver's license examining station in Murfreesboro, a Nashville suburb.

Tennessee began licensing illegal immigrants in early 2001 but in response to terrorism concerns switched in 2004 to issuing driving certificates that are labeled not to be used for identification. The indictment unsealed Wednesday says that Safety Department employee Bruce Conklin and former employee Teresa Jones took bribes from a driving school. Conklin is accused of taking $9,200 in cash payments from July through January while Jones allegedly got $20,000 from May 2004 through March. Bryan Guess, who owns the Winchester Driving School, was charged along with former school worker Sheila Robertson with paying bribes between May 2004 and March 2005.

Jones went to work for the driving school after she left state government. Prosecutors said Winchester Driving School had a contract with the state to issue "third-party certificates" after providing six hours of driving instruction and administering written and road driving tests to students.

According to the indictment, the school was accepting money to issue the third-party certificate without any training or tests. Shun Gao was charged with paying cash to the school in exchange for the certificates.

Syed Abbas Parvez, an illegal immigrant living in Georgia, was charged with transporting another illegal immigrant from Pakistan to Tennessee to get a fraudulent license through the driving school.

The joint federal-state investigation was dubbed Operation Crooked Highway. About 100 illegal immigrants are being deported as a result of the investigation, federal immigration agent Rick Crocker said.

U.S. Attorney Jim Vines said three people, including a former state worker at a driver's license station in the Nashville suburb of Gallatin, had already pleaded guilty in the case. Vines credited the Safety Department with starting the investigation. "They did a fantastic job of cleaning their own house," he said. Interim Safety Commissioner Gerald Nicely said the department is studying an overhaul of licensing procedures, including how to prevent fraud. "Obviously what we're doing here today will be a big deterrent," he said.

The Safety Department has been at the center of a series of scandals, including Highway Patrol officers with criminal backgrounds, ticket-fixing and an atmosphere of political favoritism. Nicely has been assigned there temporarily to help develop a reform plan.

Wednesday's indictment follows arrests last July in East Tennessee of an illegal immigrant from Argentina and her boyfriend on charges they shuttled other illegal immigrants from New Jersey to Tennessee to get fraudulent licenses and certificates.

Citing a number of recent public corruption investigations in Tennessee, Harrison said agents were getting better with practice. "If you can hear me and are involved in public corruption, the eyes of law enforcement are upon you," she said.

Six Indicted In Alleged License Scheme (NASHCP)

By CHRIS LEWIS

Nashville City Paper, January 26, 2006

Two workers at a state driver's license station in Murfreesboro allegedly received thousands of dollars in bribes from a driving school to issue at least 1,000 fraudulent driver's licenses and certificates, authorities said Wednesday.

Flanked by a host of state and federal officials, U.S. Attorney for Middle Tennessee Jim Vines announced that a total of six people, including two from the Winchester Driving School, were indicted by a grand jury Jan. 18 on federal charges involving conspiracy to commit bribery.

It's the latest "sad chapter" in a string of Tennessee public corruption cases, said My Harrison, special agent in charge of the FBI for the Middle and Western Districts of Tennessee.

"You've heard of Operation Tennessee Waltz, Operation Tarnish Blue and Operation Tarnish Shield," she said. "What can I say? Same game, only the names have changed. The title of this new chapter is, Operation Crooked Highway."

The 18-month investigation was a cooperative effort by the Tennessee Highway Patrol, state Department of Safety, FBI, Immigrations and Customs Enforcement and IRS.

As a result, customs officials took into custody 50 undocumented immigrants and began deportation proceedings against 50 other immigrants who were uncovered in the investigation, said Rick Crocker, assistant special agent in charge of Immigration and Customs Enforcement.

"It runs the gamut of countries," he said. "It's not just Mexico."

The Winchester Driving School – which lists offices in Columbia, Murfreesboro, Nashville and Winchester – is one of several institutions that contract with the state to train and test drivers. It issues third-party certificates as documented proof that a student has passed all necessary requirements.

Those certificates can be exchanged for a driver's license or driver's certificate (for non-U.S. citizens) at a state driver's license station, provided the applicants pass other state checks.

The attorney's office alleges that the school, for a fee, would provide students with certificates without the required 36 hours of instruction and arranged to have them meet with "friendly" state license examiners.

Bryan Guess, owner and operator of Winchester Driving School, and his former employee, Sheila Robertson, are accused of paying off two examiners at the Murfreesboro station.

Calls placed to an answering service for the school were not returned by deadline Wednesday.

Bruce Conklin, an examiner who was arrested at the Murfreesboro station Wednesday, is accused of accepting $9,200 in bribes. Teresa Jones, a former temporary worker at the station who now works for Winchester, is accused of accepting $20,000 in cash for issuing licenses to 1,000 driving school students in exchange for $20 each.

Also indicted is Shun Gao, a Chinese restaurant worker in Murfreesboro who officials say brought numerous clients to the school to help them obtain the fraudulent licenses. Authorities say Gao paid the unidentified Winchester employee about $32,500 to get the third-party certificates.

Syed Abbas Parvez, an undocumented resident of Georgia, is charged with transporting an undocumented Pakistan citizen to Tennessee and arranging for him to get a fraudulent license.

If convicted, the defendants face up to 10 years in jail and fines of up to $250,000, according to the U.S. Attorney's Office.

In addition to the latest indictments, three other people pleaded guilty last year in connection with the alleged driver's license scheme, officials said.

The multi-agency investigation is part of a nation-wide effort called "Operation Broken Wheel" that has been in effect since 2003 to uncover incidents of fraudulent driver's license issuance, said George Bolds, supervisory special agent for the FBI.

IRS Agent Grilled About Ryan Campaign Fund Expenses (CHIT)

By Matt O'connor, Tribune Staff Reporter

Chicago Tribune, January 26, 2006

A government agent on Wednesday downplayed that former Gov. George Ryan filed corrected tax returns for 1995, 1996 and 1997 several years later because Ryan knew by then of the federal investigation into his finances.

Shari Schindler, an Internal Revenue Service agent, said that by the time Ryan filed the amended returns in late 2002, each of his six children had testified before the grand jury and there had been press coverage of the nature of the probe.

During three days on the witness stand, Schindler said her review of Ryan's records indicated he intentionally omitted from tax returns for 1995 through 1998 a combined $80,000 in campaign funds that had been spent on personal expenses and should have been declared as income.

At issue were payments of $55,000 to a son-in-law in financial trouble because of a gambling addiction and $9,675 in payments that Ryan allegedly concealed from former U.S. Sen. Phil Gramm's failed 1996 presidential campaign.

On cross-examination Wednesday, Dan Webb, Ryan's lead lawyer, focused on campaign expenditures Ryan made on nearly a dozen personal vacations between 1995 and 1997.

Webb contended that records showed Ryan had paid taxes on most of the travel expenses, but that certain charges hadn't been itemized in campaign disclosure reports, fell through the cracks and mistakenly weren't reported on Ryan's returns.

On Tuesday, Webb hauled eight volumes of tax laws and regulations to the witness stand to question Schindler about how Ryan was supposed to know about complicated, arcane IRS rules.

Through her questioning of Schindler on Wednesday, Assistant U.S. Atty. Laurie Barsella pointed out that Roger Bickel, Ryan's former chief lawyer, had spelled out for Ryan "in plain English" that personal use of campaign funds had to be reported on his tax returns.

Yet Ryan failed to tell his accountants about the $55,000 in campaign funds spent on Michael Fairman, the son-in-law whose gambling led to his bankruptcy, Schindler said.

On cross-examination, Webb also pressed the point that Ryan's campaign records were so incomplete that many expense reimbursement checks cashed by Ryan were missing. The defense has suggested that could have been Ryan's source of cash, not bribes from co-defendant Lawrence Warner and other friends to whom he steered lucrative state business.

Meanwhile, Assistant U.S. Atty. Patrick Collins said he still hopes to rest the prosecution case on Thursday after four months of testimony. The FBI's case agent is scheduled to be the government's last witness.

U.S. District Judge Rebecca Pallmeyer, who is presiding over the trial, ruled Wednesday that prosecutors can play a portion of a videotape of Ryan from November when he made a statement to reporters outside the court defending his receipt of $9,675 from the Gramm campaign.

In his only public statement during the trial, Ryan lashed out after Gramm testified he never knew or approved of the payments to Ryan and wouldn't pay an officeholder for an endorsement. "It is basically that it's a difference between love and prostitution," Gramm said.

Since that comment came outside the jury's presence, Pallmeyer barred a defense request to play the portion of the videotape in which Ryan angrily reacted to Gramm's testimony and blasted his former political ally's character.

Pallmeyer ruled, though, that prosecutors could air Ryan's remarks at the time about how he worked hard for Gramm's campaign, saying, "I earned every penny" of the consulting fee.

Ryan passed the money on to four daughters, who did little or no work for the campaign, according to testimony. He is charged with failing to pay taxes on the income.

Also Wednesday, an agreed-upon statement from the lawyers was read to jurors that a reporter for a Springfield newspaper wrote a story in 2001 quoting Ryan as saying a family caretaker had been paid with campaign funds for political work she did.

Nancy Smith of Kankakee, who cared for the elderly mother of Ryan's wife, Lura Lynn, before her death, testified earlier in the trial that she hadn't done any campaign work for Ryan. She was paid $6,000 from Ryan campaign funds in 1998, a personal expense that Ryan failed to report on his tax return, prosecutors charge.

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Federal Prosecutors Hoping To Wrap Up Case Against Ryan By The Weekend (AP)

By Mike Robinson

AP, January 26, 2006

CHICAGO - Prosecutors are hoping to rest the government's case against George Ryan before the weekend but admit it might be a tight squeeze to cram all the remaining evidence in without spilling into Monday - the 18th week of the marathon racketeering and fraud trial.

Prosecutors indicated Wednesday night that just one more prosecution witness remains - Raymond Ruebenson, the veteran FBI man who has long been the case agent for the government's seven-year Operation Safe Road investigation that led to the former governor's indictment.

But Ruebenson was absent with a case of the flu Wednesday. Even if he is well enough to take the witness stand Thursday, prosecutors are hoping to shoehorn videos of Ryan talking with reporters into the trial record before they sit down and let defense attorneys take over.

And U.S. District Judge Rebecca R. Pallmeyer plans to recess early for the weekend Thursday, giving them less time to wrap things up. So there is no guarantee the prosecution will rest.

On Wednesday, a verbal fencing match between Ryan's lawyer, Dan K. Webb, and Internal Revenue Service agent Shari Schindler came to an end with no one sure who emerged the victor.

Webb repeatedly tried to get her to agree that Ryan couldn't be blamed if he failed to report thousands of dollars in income because he was grappling with vague, complex tax laws.

Schindler coolly disagreed, saying Ryan easily could have asked his tax advisers.

"Did Ryan's lawyer spell out in plain English for him and more than once that personal use of campaign funds must be reported as income to him?" federal prosecutor Laurie Barcella asked.

"Yes," Schindler said.

Ryan, 71, and longtime friend Larry Warner, 67, are charged in a 22-count indictment with racketeering, mail fraud and other offenses. Prosecutors say Ryan failed to report $80,000 in income over four years, much of it money he withdrew from the Citizens for Ryan campaign fund.

Ryan filed two batches of amended tax returns, one in 1998 and another in 2002, and paid most of the money prosecutors say was owing.

He isn't charged with offenses stemming from the additional money that he paid along with his amended returns in 1998. But prosecutors refused to credit him with the money he paid along with his 2002 amended returns, saying the investigation had already begun.

Webb suggested Ryan hadn't been officially notified of the investigation when he filed his amended returns in December 2002. But Schindler testified that earlier in 2002 five Ryan children and his son-in-law had testified before a federal grand jury looking into the former governor's taxes and that newspapers were full of reports about the investigation.

Before their duel was over, Webb took Schindler item by item through every bit of allegedly unreported income, from a dinner at Zorba's restaurant in Palm Springs that was charged to the campaign fund to $55,000 in money from the fund that he gave to a debt-ridden son-in-law.

Pointing to plane tickets to Las Vegas for Ryan and Cook County Republican Chairman Manny Hoffman after the 1996 Republican National Convention, Webb suggested they might be considered a bona fide entertainment expense for the campaign fund in view of Hoffman's status.

"If they wanted to entertain him at the Republican convention, then I would consider that, but this was a private trip after the convention was over," Schindler said.

One observer who considered the duel evenly matched was Ryan co-defendant Warner, who approached reporters after court and volunteered that he was impressed with both participants.

"If you ask me, Dan Webb earned his reputation today," Warner said. But he added: "She held her own with him."

Accused City Clerk: 'Somebody Is Lying And It Isn't Me' (CHIT)

By Gary Washburn, Tribune Staff Reporter

Chicago Tribune, January 26, 2006

Facing federal corruption charges, a defiant James Laski vowed Wednesday to "keep fighting," insisted his office is running smoothly and took sharp issue with claims he was away from his job as Chicago city clerk for a prolonged period before charges were filed.

"Somebody is lying, and it isn't me," Laski declared.

The clerk's comments came after a surprise appearance at a City Council committee meeting, his first visit to the council chamber in nearly two months—a period during which a federal investigation culminated in bribery and obstruction-of-justice charges against him.

Laski attended a meeting of the council's Budget Committee in which aldermen advanced a measure designed to eliminate a loophole used by some city sticker scofflaws. The clerk's office issues stickers and cites motorists who fail to buy them.

Laski was not called upon to speak on the matter, but he made a show of walking onto the floor where he shook hands and chatted briefly with several aldermen.

"I wanted them to tell you I am here today, just in case you didn't see me," Laski said sarcastically to reporters as he walked from the council chamber, on the second floor of City Hall, to the clerk's first-floor office.

Laski is charged with taking bribes in return for obtaining city business for a trucking company and then trying to cover up the arrangement as federal agents investigated.

The company, Get Plowed Inc., was operated by Michael "Mick" Jones, a longtime Laski friend and top official in the clerk's office, and Jones' wife Traci, who also works in the office.

The Joneses secretly recorded Laski, who federal prosecutors contend referred to the bribes on tape and sought to prevent the couple from providing information to the government.

Laski implied Wednesday that exonerating portions of the recordings were not released when the U.S. attorney's office announced the charges against him on Jan. 13.

"Have you heard all of them?" he asked reporters. "Listen to all of them.... There are many more stories to be told."

The four Chicago police bodyguards assigned to Laski were withdrawn earlier this month because of his alleged absence from his office.

On Tuesday, First Deputy Police Supt. Dana Starks said he pulled the officers after they reported that Laski was not going to work.

"Mr. Starks and everybody is telling you things, and you believe that kind of stuff," Laski responded on Wednesday. "Why don't you check my office? Why don't you check [with] people in my office?"

Laski insisted he has been at work.

The exceptions have been a two-week vacation in December and days he was off for medical reasons, he said.

"I was taking tests at the hospital for my stomach," he said.

Laski said he has a history of stomach problems, and he added, "I guess stress would make anything worse."

Laski intentionally stayed away from the last three City Council meetings because of what he contends would have been the resulting "media circus."

But he said he will be in his usual spot on the dais just below Mayor Richard Daley at the next meeting on Feb. 8 , an announcement sure to attract a media throng.

Laski would not say whether he would ask for a reinstatement of his police detail. But "I am taking care of business, with or without bodyguards," he asserted.

The security contingent "was in place before I even came on board," and the officers assigned to him spent part of their time issuing citations to motorists whose vehicles did not have city stickers, he said.

"Check their logs. They wrote tickets constantly, generating revenue for the City of Chicago, OK?"

Laski was asked if he is going to beat the criminal charges.

"I am going to keep fighting," he replied. "I am going to keep fighting."

Aldermen greeted by him on Wednesday said Laski stressed his on-duty status.

"He basically said: 'I'm here—here I am in living flesh and blood. This is me,'" said Ald. Freddrenna Lyle (6th).

While there has been much speculation at City Hall about who might replace the clerk, there were no calls Wednesday for Laski to resign or take a leave of absence pending the outcome of his case.

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"There is a presumption of innocence," said Ald. Thomas Allen (38th), an attorney. "That is what our system is built on. Politically and personally, there may be other factors that weigh in his decision, but from a lawyer's perspective, they have charged him with something. They have to prove the case beyond a reasonable doubt. Everybody is entitled to that."

"Hell no, I wouldn't quit," declared Ald. Bernard Stone (50th). "Why should he quit? As I understand it, he hasn't admitted doing anything wrong up to this point."

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Ex-Campbell Hire Testifies Loyalty Vital (AJC)

By Ernie Suggs , Jeffry Scott, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, January 26, 2006

Only months after being hired by Bill Campbell, Michael Sullivan testified Wednesday that he tasted what he described as the good life with the former Atlanta mayor.

Campbell's former contracts compliance director said he also learned hard lessons about discretion, but especially loyalty.

Sullivan, called by the prosecution, testified in Campbell's federal corruption trial that in 1994 he and the former mayor, along with city contractor Ricky Rowe, traveled together to Florida to attend a golf and tennis tournament sponsored by Black Enterprise magazine.

Sullivan said the city paid for his trip. He said he was unsure of who paid for Campbell's but noticed that when he and Rowe were checking out of the hotel, Rowe used his credit card for Campbell's incidentals. Sullivan told Campbell about it.

"He was upset that I allowed Mr. Rowe to pay for his incidentals," Sullivan told the jury. "He told me that you can't use a credit card to pay for things like that. It leaves a trail. He was upset about the manner it was paid for and a credit card receipt being generated."

The theme of loyalty to the mayor was played over and over Wednesday, witness after witness, as prosecutors tried to establish that City Hall under Campbell, who was mayor from 1994 until 2002, was a den of cronyism and deal-making between Campbell, his friends and political allies.

None of the prosecution's witnesses testified that Campbell made them do anything illegal, nor did they say they saw Campbell doing anything criminal.

The prosecution, however, has argued that it is first trying to establish a pattern of behavior and later witnesses will produce evidence of criminality. U.S. District Judge Richard Story had ruled prosecutors could use additional evidence to establish a pattern of Campbell's activities.

Among the witnesses for the prosecution Wednesday were former Campbell Chief Operating Officer Byron Marshall and Doug Hooker, a former commissioner of Public Works, both of whom, like Sullivan, testified about how vital loyalty was to Campbell.

Marshall said the debate over loyalty vs. competence became a running joke between him and Campbell. During his two days of testimony, Marshall said he and Campbell often battled over hires and what qualifications they needed.

During cross-examination, Campbell lead attorney Billy Martin asked Marshall if Campbell ever hired someone who wasn't competent.

"No one who is outright, totally incompetent," Marshall said. "But, there were people hired who were incompetent in their jobs."

When it came to city contracts, Marshall said he advocated a "transparent" bidding process once at a meeting. He said Campbell called him aside to complain he had not discussed the idea with the mayor first. Campbell never adopted the plan, Marshall said. He also said Campbell often interceded on contractors' behalf.

Another witness for the prosecution, Steven Baker, a former deputy general manager at Hartsfield International Airport, testified that in fall 1995 he was summoned to Campbell's office about an airport concessions contract that Rowe's company wanted to bid.

"He said, 'Ricky and [his wife] Dott are friends of mine. I expect you to take care of them.'" Baker testified he later wrote a memo complaining about the incident but has since lost it. Rowe died in 2004.

On cross-examination, Martin pressed Baker: "When you went in to see the mayor he didn't ask you to bribe anybody, did he?"

"No," Baker said.

Sullivan, the former contracts compliance director, said to make it easier for the mayor to identify contractors who were loyal to him he drew up a grid of potential contractors, putting an asterisk beside names that contributed to his political campaigns.

"He was pleased to have that information," Sullivan said.

Wis. Official Indicted Over Contract (NYT/AP)

By The Associated Press

The New York Times, January 26, 2006

Filed at 12:44 a.m. ET

MADISON, Wis. (AP) -- An official in Gov. Jim Doyle's administration was indicted on two felony counts Tuesday for her role in awarding a state travel contract to a company whose executives donated $20,000 to Doyle's campaign.

The federal indictment alleges that Georgia Thompson, chief of the Department of Administration's procurement bureau, tried to give her bosses political advantage and help her own job security.

Doyle's fundraising has become an issue in the Democrat's re-election bid this fall, with Republicans charging ethical lapses.

The indictment alleges wrongdoing by no one but Thompson.

Doyle was in Iraq visiting troops Tuesday. Thompson and her attorney did not return phone calls.

Thompson, 55, who was hired before Doyle took office in 2003, served on a committee that awarded a contract to Adelman Travel as part of an effort to cut travel costs. The indictment said she inflated the company's scores used to award the contract.

Questions were raised this summer after media reports that Adelman's CEO donated $10,000 to Doyle before the contract went into effect. An Adelman board member gave another $10,000 afterward, finance reports show.

Thompson faces as many as 20 years in prison if convicted of fraud and misapplication of funds.

Broderick Faces Jail Time After Guilty Plea In U.S. Court (FARMNT)

By TALI ISRAELI, Staff Writer

Farmingdale (NJ) News Transcript, January 26, 2006

MARLBORO — Thomas Broderick, a former public official, pleaded guilty in federal court last week to one count of money laundering.

Broderick, 56, served on the Township Council in the 1990s. He is a former assistant supervisor at the Monmouth County Division of Highways and a former Monmouth County undersheriff. He is a retired New York Police Department officer.

Broderick was one of the 11 Monmouth County officials who were arrested on Feb. 22, 2005 in an FBI investigation known as “Operation Bid Rig.”

According to the U.S. Attorney’s Office in Newark, Broderick pleaded guilty on Jan. 18 before U.S. District Judge William J. Martini. Broderick admitted that he accepted $15,000 for assisting in the laundering of large sums of cash from a cooperating government witness whom he believed was a corrupt demolition contractor.

Broderick faces a maximum penalty of 20 years in prison and a $250,000 fine. He is scheduled to be sentenced on April 27. Broderick remains free on $50,000 bail.

According to the charges, in May 2004 Broderick was introduced to the cooperating witness by a member of the Keyport Borough Council (subsequently identified as Robert Hyer, who has since died) and by an unnamed Monmouth County official.

Broderick believed the cooperating witness to be involved in construction work, extortionate illegal loan sharking and money laundering. Two law enforcement officers went undercover as employees of the cooperating witness.

Following the introduction, several money laundering transactions were made between Broderick and the cooperating witness.

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"Broderick entered into these transactions with a stunning eagerness and returned to feed at the trough repeatedly," U.S. Attorney Christopher J. Christie said in a press release. "Unfortunately, there were plenty of others in Monmouth County who knew each other, spread the word between them, and followed their corrupt instincts as well."

In his guilty plea, Broderick specifically admitted conducting the following money laundering transactions:

• On May 4, 2004, Broderick met the cooperating witness and exchanged a $45,000 check for a brown paper bag containing $50,000 in cash.

• On May 17, 2004, Broderick exchanged a check for $22,500 for $25,000 in cash from the cooperating witness.

• On Sept. 14, 2004, Broderick provided another check for $22,500 in exchange for $25,000 in cash from the undercover agent acting as an employee of the cooperating witness.

• In October 2004, Broderick provided two checks totaling $45,000 to the undercover agent in exchange for $50,000 in cash.

Broderick also admitted to giving a portion of the money laundering proceeds to the unnamed Monmouth County official for his role in setting up the transactions.

In a press release dated Jan. 19, state Sen. Ellen Karcher (D-Monmouth and Mercer), of Marlboro, said Broderick's guilty plea is another embarrassment for the people of Monmouth County.

"Though it may be dismaying to read that yet another Monmouth official will be going to jail, we should be encouraged that corrupt practices, that for years went unnoticed, are now being dragged into the light of day," Karcher said.

"As a former undersheriff for Monmouth County, Broderick should have known that crime doesn't pay, but reports that he eagerly and frequently accepted bribes from a cooperating federal witness seem to suggest otherwise. Thankfully, he'll have a lot of time to catch up on the lessons he missed the first time around, considering he faces a maximum of 20 years in prison for his crimes," Karcher said.

In one of the documents released by Christie last week, Broderick is quoted as having said to the cooperating witness following their first transaction on May 4, 2004, "I wish I would have known you sooner."

Attorney Robert S. Bonney, who represented Broderick, could not be reached for comment.

Contractor Serving Socom Gets Probation, Fine (TAMPTRIB)

Tampa Tribune, January 26, 2006

TAMPA - A contractor formerly employed by U.S. Special Operations Command was sentenced Wednesday to three years probation and a $4,500 fine for his role in a bribery scheme that has tarnished the war fighting organization's reputation for acquiring equipment used by the nation's elite fighting forces.

U.S. District Judge Susan Bucklew, who called William E. Burke's crime ``scary`` and a ``bad thing,`` could have saddled him with a prison term of up to 16 months and a heftier fine.

But Bucklew opted for the lighter penalties mainly because Burke has been cooperating with federal law enforcement agents examining contracting practices at Socom, which is headquartered at MacDill Air Force Base in Tampa.

Burke pleaded guilty to bribery Oct. 14.

Burke and his attorney, Daniel Hernandez , refused to answer questions before or after the nearly one-hour session in Bucklew's chambers.

Robert O'Neill, the assistant U.S. attorney prosecuting the case, said it would not be appropriate for him to comment on the sentence.

During the hearing, however, O'Neill told the judge that sentencing Burke to jail could cause logistical challenges in the upcoming trial of Thomas F. Spellissy, the former Army colonel who formed a defense consulting company months before he retired from Socom in January 2005.

In late 2004 and early 2005, Spellissy paid $4,500 to Burke, who used his position at the command to favor Spellissy's clients seeking to do business with Socom, according to court documents. More ``illegal payments`` were expected to change hands ``down the road,`` prosecutors charged.

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Burke worked for Sentel Corp. and had been assigned to Socom's acquisition directorate since 1999. In June 2005, several months after federal agents began their investigation, he was barred from entering Socom headquarters. Burke is no longer employed by Sentel.

Spellissy, of Clearwater, has been indicted on charges of bribery, conspiracy and wire fraud. He has pleaded not guilty and his trial is scheduled to begin in April.

Paper: Texas Favored Firm Tied To Abramoff (AP-Y2)

AP2, January 26, 2006

The state of Texas hired a firm with close ties to lobbyist Jack Abramoff after rejecting competing bids that met more of its selection criteria and cost less, a newspaper reported Wednesday.

What the winning firm, Cassidy & Associates, had was access all the way to presidential aide Karl Rove, the Austin American-Statesman reported, citing memos and e-mails it obtained through a Texas open records request.

The firm was awarded a $15,000-a-month contract in 2004 to lobby Congress for the state.

"Cassidy is the best fit for Texas," David Pagan, associate director of the Office of State-Federal Relations, said in a May 25, 2004, e-mail to staff members. He wrote that the firm was the leader in Washington in acquiring federal funding.

Cassidy & Associates is under fire from Texas House Democrats because of the close ties between Cassidy senior vice president Todd Boulanger and Abramoff, who has pleaded guilty to federal charges of conspiracy, tax evasion and mail fraud.

Seven Texas House Democrats sent a letter to Gov. Rick Perry, a Republican, on Friday demanding that Cassidy's contract be canceled.

Perry's spokeswoman, Kathy Walt, said that although Cassidy was not initially the top scorer in the bidding process, it rose to the top after interviews with the state's selection committee and after its references were checked.

Cassidy was one of 17 firms that competed for the contract to represent the state.

An initial state assessment ranked Cassidy fourth, the newspaper said. Two of the firms ranked ahead of it would have charged Texas $300 to $833 less per month than Cassidy's initial offer of $15,833 a month.

Once the contract was signed, Cassidy's fee was down to $15,000, plus expenses.

Cyberattacker Pleads Guilty (FCW)

By Bob Brewin

Federal Computer Week, January 26, 2006

A hacker indicted for creating botnet armies that infected Defense Information Systems Agency networks and computers at the Naval Air Warfare Center at China Lake, Calif., pleaded guilty to the charges at a hearing earlier this week in the U.S. District Court in Los Angeles, the Justice Department said.

Justice said James Ancheta 20, of Downey, Calif, entered guilty pleas of conspiring to violate the Computer Fraud Abuse Act and causing damage to computers used in national defense.

Justice said the prosecution of Ancheta was the first of its kind in the United States against a hacker who used botnets, armies of computers infected with Trojan horse programs that allowed Ancheta to remotely control the computers. Justice said Ancheta controlled more than 400,000 computers as part of his botnet armies, which in turn infected other computers with unwanted adware.

Ancheta agreed to pay $15,000 in restitution to DISA and the Naval Air Warfare Center for damage he caused to their networks and computers. He also forfeited $60,000 in cash and a BMW, which he gained in payment for using his botnets to distribute adware.

Former Execs For Mail-order Company Outline Fraudulent Practices (PHI)

The Philadelphia Inquirer, January 26, 2006

CINCINNATI - Former executives of a mail-order firm admitted that the company bilked buyers out of more than $100 million by charging credit cards without permission and offering refund guarantees it had no intention of honoring.

DOJ_NMG_0011915

Four former executives of Berkeley Premium Nutraceuticals Inc. detailed their involvement Wednesday with the Cincinnati-based company that sold vitamins and supplements for a variety of ills from fatigue to sexual disfunction.

The four executives filed written statements as part of an agreement to plead guilty in U.S. District Court in Cincinnati to charges of conspiracy to commit mail and wire fraud.

Federal agencies - including the FBI, the Internal Revenue Service and the Food and Drug Administration - have been investigating Berkeley, which is behind the popular "Smiling Bob" ads. The spots chronicle a down-on-his-luck man who improves his life after using Enzyte for natural male enhancement.

The former executives said Berkeley's vitamins and supplements - marketed as stress reducers, sex enhancers and diet boosters - weren't supported by strong medical proof, according to court documents.

Company ads contained fake surveys and doctor endorsements, and the company touted double or triple money-back guarantees without following through, the former executives said.

Sales representatives were told to overstate the effectiveness of the pills, and the company's director of customer care didn't exist, they wrote.

The company also altered credit card numbers and expiration dates to bring in more money, they said.

Berkeley did not return an e-mail message seeking comment from The (Cleveland) Plain Dealer.

The suspects have agreed to cooperate in the investigation as part of the plea agreement. No sentencing date has been set.

The four include the former president, vice president, controller and a division head.

Berkeley was founded in 2001. It generated approximately $250 million in sales in 2004, mostly from telephone orders spurred by television ads.

Jury Convicts Accused Iraqi Agent On Six Of Seven Counts (AP)

By Rick Callahan, Associated Press Writer

AP, January 26, 2006

(AP) - INDIANAPOLIS-Jurors on Wednesday convicted a Palestinian migrant accused of being an Iraqi agent on six federal charges but could not reach a decision on a charge that he tried to sell to Saddam Hussein's regime the names of U.S. operatives and agents.

Shaaban Hafiz Ahmad Ali Shaaban, 53, showed little reaction as the federal jury returned its verdicts finding him guilty of six of seven counts, including acting as an unregistered foreign agent, violating sanctions against Iraq, conspiracy and witness tampering.

They could not decide his guilt on a charge of violating the International Emergency Economic Powers Act by allegedly trying in late 2002 to sell U.S. intelligence secrets to Iraq for $3 million (â,¬2.44 million). No evidence was presented during his trial, however, that he had access to that classified information.

U.S. District Judge John Tinder set sentencing for April 13 on the six convictions.

He said he would seek a hearing for sometime next week to discuss a retrial on charges of offering to sell U.S. secrets to Saddam Hussein's government.

Shaaban represented himself during an 11-day trial that included testimony by a former Iraqi intelligence officer. He repeatedly contended that the government had confused him with a dead identical twin brother who worked for the CIA.

Mike Donahoe, an attorney who advised Shaaban during the trial, said an appeal is likely.

"I'm disappointed in the verdict," he said. "I don't think he represents a threat to our national security."

Donahoe said Shaaban plans to continue to represent himself through his sentencing.

In tape recordings played in his trial, Shaaban told an FBI undercover agent he never had a list of agents but that he had hoped to receive the information from a Russian contact.

Shaaban was working as an Indiana truck driver when he was arrested last March after a yearlong FBI-led investigation.

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Prosecutors said Shaaban was trained as a spy in the former Soviet Union and, after emigrating to the U.S., legally changed his name in 1997 to Joe Brown. He also went by the name Shaaban S. Hafed and several other names, according to his indictment.

Last March, FBI agents who raided his house in Greenfield, about 20 miles (32 kilometers) east of Indianapolis, allegedly found computer files praising Hussein and an unsigned contract proposing to recruit "human shields" to protect Iraq from the U.S. invasion.

Kidnap Suspects Face U.S. Charges (COX)

By Joe Giordano and Ken-Yon Hardy, Cox News Service

Cox News Service, January 26, 2006

OXFORD | The FBI on Wednesday brought criminal charges against three people accused in the abduction, assault and robbery of a Miami University freshman.

Sidney R. Jones, 23, of Richmond, Ind.; Katrina L. Jones, 18, of Oxford; and Seth R. Jett, 21, of Richmond were turned over to federal custody Monday by local authorities, Special Agent Michael E. Brooks said.

The three had been detained at the Butler County Jail following their arrests Jan. 14 and 15 stemming from a case involving MU freshman Ryan Coli.

The charges were the result of a joint effort by the U.S. Marshals Service and the FBI in three states.

The three appeared Wednesday in U.S. District Court where Magistrate Judge Timothy S. Hogan ordered them held pending a detention hearing Jan. 30, when the court will determine bond.

Brooks lauded the actions of two MU students who contacted police following Coli's disappearance.

"If (the students) had not immediately notified authorities with the significant information about the vehicle, (the authorities) probably would have not solved the case so quickly," Brooks said.

According to police, the two MU students were helping Coli back to his dormitory shortly before 3 a.m. Jan. 13 when some people pulled up in a van and offered Coli a ride.

The 19-year-old had trusted the three strangers to give him a ride to his Stanton Hall dorm.

Coli never made it to his dorm. He told police he was beaten and robbed of his cell phone and wallet and left stranded on Nine Mile Road in Union County, Ind.

The freshman found his way to a farmhouse where a resident called for help.

The kidnapping was one of four crimes against MU students reported since Jan. 9. The only arrests have come in the Coli case. Suspects in the other cases have not been identified, police said.

High Court To Hear Lethal-Injection Case (WP)

By Charles Lane

The Washington Post, January 26, 2006

The Supreme Court agreed yesterday to decide when death row inmates may challenge lethal injection as a method of capital punishment, in a surprise decision issued after the justices dramatically stopped the execution of a Florida prisoner who was already strapped to a gurney preparing to die.

Clarence E. Hill, 48, convicted of murdering a Pensacola police officer in 1982, had refused a final meal and needles had punctured his arm when the Supreme Court stayed his execution. The court said it would hear his claim that he should have an opportunity to argue that his civil rights would be violated because the chemicals used to execute him would cause excessive pain.

It is a claim that has been pressed with growing frequency by capital defense lawyers around the country in recent years -- but that has generally not yet succeeded, either in lower courts or at the Supreme Court.

Thirty-seven of the 38 death penalty states use lethal injection, as do the U.S. military and the federal government. Since the chemical mixtures in all jurisdictions are similar to those used in Florida, a victory for Hill at the Supreme Court could tie up the death penalty across the county in litigation, at least temporarily, legal analysts said.

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"It certainly could be a mess," said Douglas A. Berman, a professor at Ohio State University who specializes in criminal law. According to the Death Penalty Information Center, an anti-death-penalty organization, at least 25 inmates are scheduled for execution between now and the end of June, when the court would probably issue a decision.

The Hill case does not ask the court to rule directly on the constitutionality of lethal injection -- which states adopted as an alternative to hanging, gas, electrocution and shooting -- even though Hill maintains that the particular mix of chemicals used in Florida would cause him an unconstitutional degree of suffering.

Rather, the case raises a procedural problem: what recourse there should be for a prisoner who finds out at or near the last minute that the method by which the state proposes to execute him might be "cruel and unusual" punishment.

Normally, death row inmates try to fight their sentences through claims that their constitutional rights were violated at trial. Congress and the Supreme Court have limited those appeals, known as petitions for habeas corpus, and once they run out, further efforts are generally not allowed.

But for years capital defense lawyers have argued that a separate federal civil rights statute creates a way to press constitutional claims between the time an inmate exhausts habeas corpus and the actual moment of execution.

Hill tried to persuade the U.S. Court of Appeals for the 11th Circuit, based in Atlanta, to give him a day in court to argue against Florida's lethal-injection protocol, based in part on an article about lethal injection in the Lancet, a medical journal.

The article, published in 2005, said that 21 of 49 inmates executed by lethal injection in Arizona, Georgia, North Carolina and South Carolina may have been conscious and feeling pain.

The 11th Circuit dismissed Hill's appeal, and he remained scheduled to die at 6 p.m. Tuesday. But the Supreme Court intervened, setting oral argument in the case for April 26.

The court's decision was a surprise to legal analysts because the court issued a stern rebuke of a similar last-minute challenge by a California death row inmate in 1992, and avoided the issue of permitting last-minute civil rights appeal in 2004. At that time it noted that "imposition of the death penalty presupposes a means of carrying it out."

But the court's most liberal members, Justices John Paul Stevens, David H. Souter, Ruth Bader Ginsburg and Stephen G. Breyer, have indicated an interest in the question of challenges to lethal injection.

In May 2005, they dissented from a 5 to 4 ruling that denied a stay of execution for a Missouri death row inmate on a similar issue.

Whether there would be five votes on the court to support Hill's claim is another question. The case is likely to be heard by a court that includes two new conservative justices appointed by President Bush: Chief Justice John G. Roberts Jr. and Judge Samuel A. Alito Jr., whose Senate confirmation is expected this week.

The case is Hill v. Crosby , No. 05-8794.

Strapped To Gurney, Inmate Wins Stay; High Court To Hear Appeal (AP)

By Gina Holland, The Associated Press

AP, January 26, 2006

Hours after staying the execution of an inmate who was already strapped to a gurney, the Supreme Court said Wednesday it would hear arguments from the man who claims the drug cocktail used in lethal injections can cause excruciating pain.

Lethal injections are used in most states that have capital punishment, and there's been a growing dispute over the way they are carried out.

The Supreme Court has never found a specific form of execution to be cruel and unusual punishment, and the latest case from Florida does not give Court members that opportunity. The justices will, however, spell out what options are available to inmates with last-minute challenges to the way they will be put to death.

Florida inmate Clarence Hill, who filed the appeal, had been strapped to a gurney with intravenous lines running into his arms Tuesday night when he won a temporary Supreme Court stay, Hill's lawyer said. The stay was signed by Justice Anthony M. Kennedy.

The full Court announced Wednesday that the stay would be permanent until justices decide whether an appeals court was wrong to prevent Hill from challenging the lethal injection method.

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The argument is expected April 26, with a ruling before July.

"What a fantastic day. What a fantastic day," said Hill's attorney D. Todd Doss, who relayed the news to his client. "He was happy we get to go and present this to the U.S. Supreme Court."

Hill is on death row for killing a Pensacola, Fla., police officer after a bank robbery in 1982. Hill has converted to Islam and taken the name Razzaq Muhammad, although he does not use that name in court filings.

A Florida Department of Corrections spokeswoman said Hill would be moved off death watch, a cell block adjacent to the execution chamber, and back to death row.

Hill argues that the doses of three chemicals used in Florida executions -- sodium pentothal, pancuronium bromide and potassium chloride -- can cause pain. The first drug is a pain killer. The second one paralyzes the inmate and the third causes a fatal heart attack.

The final drug, potassium chloride, "burns intensely as it courses through the veins toward the heart," Doss wrote in the appeal. He said there is "a foreseeable risk of the gratuitous and unnecessary infliction of pain."

Hill's case allows the Court to revisit a 2004 ruling in an Alabama death case, in which justices said David Larry Nelson could pursue a last-ditch claim that his death by lethal injection would be unconstitutionally cruel because of his damaged veins.

While Hill does not have damaged veins, his appeal cites medical studies about the cocktail of drugs used by Florida and other states.

"The Court may be willing to broaden what can be considered as a civil rights claim," said Richard Dieter, executive director of the anti-capital punishment Death Penalty Information Center.

Dieter predicted that inmates facing executions in coming months will requests delays, based on the Hill case.

Justice Sandra Day O'Connor, who is retiring, wrote the 2004 decision, which said that although Nelson had exhausted his traditional appeals, he should not have been barred from pursuing the issue that came up in the final days before the scheduled execution.

O'Connor said in the unanimous 2004 ruling that the Court was not going to "open the floodgates to all manner of method-of-execution challenges."

If appeals court Judge Samuel Alito is confirmed, as expected, to replace O'Connor, he will hear arguments and help decide the case.

The case is Hill v. Florida, 05-8794.

First Texas Inmate Put To Death This Year (AP)

The Associated Press, January 25, 2006

HUNTSVILLE - An Alabama man who was part of a ring that shuttled drugs from Texas to his home state was executed today for the slayings of four people in Houston nearly 14 years ago.

When asked by a warden if he had any final statement, Marion Dudley did not respond, kept his eyes closed and never turned his head toward witnesses in the chamber, which included one of his survivors and relatives of one of the people killed.

Eight minutes later at 6:16 p.m. CST, he was pronounced dead.

Dudley, 33, of Tuscaloosa, Ala., had said he wasn't at the house the night of June 20, 1992, where six people were shot, four of them fatally, in what authorities said was a drug dealer ripoff.

Dudley, who had record in his home state for burglary, assault, receiving stolen property and violating probation, was the first Texas inmate put to death this year.

Nineteen convicted killers were executed in 2005 as Texas maintained its notoriety as the nation's most active capital punishment state. Another inmate is set for lethal injection next week and three more next month. They are among more than a dozen Texas prisoners with execution dates in the first five months of this year.

Dudley's lawyer had hoped the U.S. Supreme Court would stop his punishment, arguing prosecutors improperly withheld from defense attorneys at his capital murder trial a letter to Alabama parole officials regarding an inmate from that state who testified against Dudley.

Attorney Ken McLean, however, said he wasn't optimistic.

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"Absolutely, it's a reach," he said. "But if it's the only thing you've got ..."

A few hours before his scheduled execution time, the high court rejected the appeal.

The two survivors identified the then 20-year-old Dudley as one of the three gunmen who barged into the home of Jose Tovar, 32, and his wife, Rachel, then 33.

In a recent interview on death row, Dudley said they were wrong.

"I was not," he said.

Jose Tovar was fatally shot in the head, as were his wife's son, Frank Farias, 17; Farias' girlfriend, Jessica Quinones, 19, who was seven months pregnant; and a neighbor Audrey Brown, 21, who had just stopped by to visit. Rachel Tovar and another friend, Nicholas Cortez, 22 at the time, survived.

All the victims were bound with towels or strips of sheets, hands tied behind their backs and nooses around their necks. Rachel Tovar managed to crawl to a neighbor's house for help.

Besides Dudley, Arthur "Squirt" Brown, of Tuscaloosa, was convicted of capital murder and sentenced to death. Now 35, he remains on death row. A third man, Tony Dunson, also from Alabama and 19 at the time of the shootings, received a life sentence.

Police said the three previously had been at the Tovar house to buy drugs and knew drugs and money were there. Brown ran the ring that for nine months had been moving marijuana and cocaine from Houston to Tuscaloosa, authorities said.

A mini-van used as the getaway vehicle was recovered in the Alabama city, where evidence showed they bought a new Jeep SUV with cash, eventually traveling to Louisville, Ky., and Columbus, Ohio. About 2 1/2 weeks after the shootings, Dudley and Dunson were arrested in Fayetteville, N.C.

"My number one problem was women," Dudley said from death row. "I was running around. Everything went downhill from there... I just wanted to get money, easy money. And once you start getting easy money, it's so hard to slow down."

ID Theft Complaints Still Rising, But Rate Of Increase Slows (WSJ)

By Christopher Conkey

The Wall Street Journal, January 26, 2006

Businesses, law-enforcement agencies and consumers may be beginning to turn the tide in the war against identity theft, data from the Federal Trade Commission suggest.

Identity-theft complaints were up again last year to nearly 256,000, the FTC said, but that was only 3.5% higher than the year before. In 2004, complaints rose by 15% and in 2003 by 33%.

Complaints about credit-card fraud -- the largest subset of identity theft -- declined 1.3% last year to 67,228, from 68,113 in 2004, and were also lower than the 2003 level. Total consumer-fraud complaints -- including identity theft -- totaled 686,683 last year, up slightly from 2004.

Industry officials and analysts say the development and widespread adoption of antifraud technologies are responsible for lower levels of card fraud. Visa USA Inc. said investments in its risk-management systems have reduced fraud levels to six cents for every $100 processed, down from 12 cents a decade ago.

Separately, the FTC is expected to announce today tough action against a company at the center of the personal-data industry. ChoicePoint Inc. is expected to agree to pay a multimillion-dollar penalty to settle alleged data-security violations stemming from a yearlong investigation by federal regulators, according to a person briefed on the matter. ChoicePoint spokesman Chuck Jones declined to comment.

ChoicePoint, which sells consumer data to financial institutions and government agencies, last February disclosed that criminals posing as legitimate businessmen had fraudulently obtained personal information on 145,000 people. That figure was later revised to 162,000 people.

In order to prevent fraud, many companies have turned to real-time fraud-scoring systems, which -- much like credit-scoring models -- assign three-digit scores to credit applications based on a variety of data confirmations and behavioral examinations. Steven Gal, vice president for corporate development at ID Analytics, a San Diego company that provides fraud-

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detection services, says his company screened over 250 million applications last year for potential fraud, a fourfold increase from 2004.

The FTC figures offer a rare bit of hopeful news for consumers concerned that the recent string of security breaches at credit-card processors and banks will place them at risk, and for a financial industry continually under attack by computer fraud and other scams.

To be sure, identity theft remains a huge threat that costs businesses $50 billion a year and plunges victims into a draining, time-consuming battle to eradicate fraudulent activity. The FTC will release a survey this spring, but its most recent figures show that 10 million people, or roughly 4.6% of the adult population, are affected by identity theft each year, and that victims spend an average of $500 and 30 hours to clear their records.

The FTC report, based on data the agency receives from consumers, comes after a year of high-profile security lapses that exposed personal information belonging to more than 50 million consumers and familiarized many people with the crime of identity theft. Just yesterday, financial-services provider Ameriprise Financial Inc. announced that the theft of one of its employees' laptops had compromised the data of some 226,000 clients and current and former workers.

Such breaches have led to an outcry from consumer advocates, and lawmakers across the country moved to enact stiffer penalties and stronger protections. Legislation in Congress has stalled, but many states have enacted laws that force companies to disclose breaches or allow consumers to shield their credit reports from unauthorized access.

FTC Chairman Deborah Platt Majoras stressed how important it is for consumers to file complaints when they are victimized, saying they "provide ammunition that helps law enforcers fight fraud and identity theft."

When the agency receives identity-theft complaints, they are analyzed, clustered with similar ones and made available to law-enforcement officials to assist with investigations and criminal trials. Betsy Broder, the attorney in charge of the FTC's identity-theft program, says the agency's database now contains more than one million complaints, which are used by law enforcement in investigations and criminal trials.

The FTC's complaint data showed that identity theft accounted for 37% of total fraud complaints. For the fourth year in a row, Washington, D.C., was the leader in total per-capita fraud complaints, and several Western cities led in the category of identity-theft complaints, including Phoenix, Las Vegas and Los Angeles.

Meanwhile, identity-theft complaints surged in hurricane-ravaged Louisiana, rising 26% last year, while Mississippi saw an 8% increase. Complaints related to "government documents or benefits" in Louisiana more than doubled, however, to 551 from 247, possibly an indicator of post-Katrina fraud.

Overall, the drop in credit-card fraud complaints was offset by an increase in complaints about the misuse of government records, and fraud involving things such as medical records, legal documents and fitness-club memberships. Bank-, phone- and utilities-related complaints stayed roughly the same, although complaints about electronic fund transfers rose.

Sophisticated identity thieves are always probing for vulnerabilities. One troubling trend emerged late last year, when the Securities and Exchange Commission warned that identity thieves were using keystroke-detecting programs to drain online brokerage accounts. Similarly, federal banking regulators have prodded financial institutions to move beyond "single-factor" authentication, which only requires a user name and password to gain access to accounts, by the end of this year.

For many consumer advocates, the focus is squarely on financial institutions to do more to catch identity thieves in the act. Beth Givens, director of the Privacy Rights Clearinghouse, says "there are some technology-based tools they can use, and there's some evidence showing that these tools are having marked effect. But sadly for victims, identity theft remains rampant."

Inmate Convicted Of Murdering Defrocked Priest (NYT)

By Katie Zezima

The New York Times, January 26, 2006

BOSTON, Jan. 25 — Rejecting an insanity defense, a state jury on Wednesday convicted an inmate of the prison murder of John J. Geoghan, a defrocked priest who was accused of molesting 150 boys. Mr. Geoghan played a central role in the sexual abuse scandal in the Roman Catholic Archdiocese here.

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Judge Francis R. Fecteau of Worcester District Court sentenced the inmate, Joseph L. Druce, to life in prison without parole, in addition to the life sentence he is serving for another murder.

After the verdict, Mr. Druce told the jury that he had "no hard feelings." Mr. Druce, 40, who had testified that he had been abused as a child, asked after the sentencing that pedophiles be held accountable for their behavior.

During the trial there was no disagreement about what happened at 11:53 a.m. on Aug. 23, 2003, in a protective custody wing at Souza-Baranowski Correctional Center in Shirley, Mass.

Mr. Druce admitted to sneaking into Mr. Geoghan's cell while prisoners were returning their lunch trays, and strangling him.

Mr. Geoghan, 68, was serving a 9-to-10-year sentence for groping a boy at a suburban Boston swimming pool. His case began the sexual abuse scandal four years ago when internal church documents showed that officials had shuttled Mr. Geoghan from parish to parish, despite repeated accusations of abuse.

Prosecutors argued that Mr. Druce was a calculated killer who planned the murder for weeks and saw Mr. Geoghan as a trophy.

But Mr. Druce's lawyer, John LaChance, painted his client as someone who "never had a chance," unwanted from birth and the victim of physical and sexual abuse for much of his childhood and teenage years. He said Mr. Druce had concocted a "fantasy world" while in prison where he pretended to be a millionaire who owned yachts and expensive homes.

Mr. LaChance said that Mr. Druce believed that God ordered him to kill Mr. Geoghan and that he would be viewed as a savior of children.

Lawyers, and Mr. Druce, said he became delusional after overhearing Mr. Geoghan say over the phone that he planned to work with children in Costa Rica when his sentence was over. Mr. LaChance said the delusions got worse after Mr. Druce heard Mr. Geoghan and other pedophiles discuss child molesting.

The jury foreman, Thomas Wiegand, told The Associated Press that jurors felt sympathy for Mr. Druce and felt he was mentally ill, but that he willfully committed murder.

"Everyone agreed he has a mental illness," Mr. Wiegand said. "It's the degree that's always the question."

A Push To Focus On Worst Cases In Child Abuse (CSM)

By Maia Ridberg, Contributor To The Christian Science Monitor

The Christian Science Monitor, January 26, 2006

NEW YORK - Calls to New York's child-abuse hot line have spiked dramatically ever since Nixzmary Brown was buried.

The 7-year-old girl, allegedly killed by her stepfather in her Brooklyn home this month, captured the hearts and minds of New Yorkers who never want to see such a tragedy happen again.

But now the city is left with the tall task of distinguishing the serious cases of abuse from reports of neglect. This is one of the most controversial challenges facing social welfare systems nationwide.

A growing number of states are passing laws that alter the way authorities investigate a child-abuse report, creating what is essentially a child-welfare triage system. Rather than treat all reports equally, the approach divides them into two groups.

This dual-track approach aims to ease systems overburdened with poverty-related neglect reports and focus aggressive tactics on the rarer cases of abuse.

"What it is attempting to do is to respond in a more helpful way ... by supporting parents in their responses rather than automatically approaching it from a criminal-investigation standpoint," says Lynn Usher, professor of social work at the University of North Carolina in Chapel Hill.

The approach has been adopted in various states, including Michigan, Missouri, Minnesota, and North Carolina. In Minnesota, one recent study shows the law improved the safety of children by providing better services for families such as food. "If we are able to address the needs of families who are reported ... in a positive and helpful way, we are able to reduce child maltreatment and improve family well-being," says Erin Sullivan Sutton of Minnesota's Child Safety and Permanency Office.

In North Carolina, 10 counties have implemented the program, and by 2006, all counties in the state will have the option of implementing the dual-track approach. David Atkinson, a local operations manager of the state's Division of Social Services, says

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60 to 70 percent of its caseload involves neglect of children living in poor conditions. "We realized that as a system we could handle those cases ... in a family-centered way."

So far, employees of North Carolina's child-welfare services are applauding the program. "Social workers are now feeling like they can make a difference," says Adele Spitz Roth of the Durham Family Initiative.

Controversy over how child welfare services should investigate a family stems from the 1960s, according to Karen Schimke, the former head of Buffalo's child services, who has over 35 years' experience in child welfare. The debate then, she says, was whether child-abuse cases should be handled by police or child-welfare services. Child services gained the upper hand, but as the system became codified, it was increasingly akin to "law enforcement in a welfare agency," says Ms. Schimke.

Sharwline Nicholson knows firsthand the potentially negative impact of an aggressive child welfare system. In 1999, Ms. Nicholson lost her two children to foster care without a court order. "My children were snatched away from me because I was a victim of domestic violence. They were taken from my home without any investigation," Nicholson says. Nicholson won her son and daughter back, along with a civil judgment against New York City for the wrongful removal of her children.

"The problem is that [a law-enforcement approach] has significant chilling effects on families' willingness to engage.... It is organized around placing blame and identifying the perpetrator," says Schimke, who is now lobbying for a dual-track approach in New York.

That lobbying effort failed most recently in 2005, when a dual-track law was passed by the state Legislature but was vetoed by the governor. In his veto message to the Senate, Gov. George Pataki cited New York City's opposition to the bill.

The city's main fear with dual track is that an abused child would be mishandled as a neglect case. In testimony opposing the dual-track bill last year, the city's Administration for Children's Services delivered the following statement: "Our current system addresses the core issues that the dual-track bill seeks to address without running a risk" of wrongly addressing a case of abuse.

That risk exists with or without dual track, as apparent with the Brown case. Last week, the Kings County District Attorney in Brooklyn indicted Nixzmary 's mother and stepfather with second-degree murder. According to the district attorney, the child's body showed signs of long-term abuse - some of it investigated by the city.

In the aftermath of the girl's death, authorities disciplined six employees involved in the investigation into her abuse. On Tuesday, the Mayor announced a $16 million plan to hire new child-welfare staff and increase cooperation between police, schools, and child services.

Some advocates of the dual-track approach say serious cases like Nixzmary's would receive more attention. But others caution against universal support for dual track, particularly in a city known for vast improvements in child protective services over the past decade.

"You can do this right whether you have dual track or not," says Andrew White, director of the Center for New York City Affairs at the New School. "What they are trying to do in New York City ... [is] infuse the system with better training and better respect for the parents," he says.

Fairfax Police Say Shooting Was Accident (WP)

By Tom Jackman

The Washington Post, January 26, 2006

Fairfax County's police chief said yesterday that one of his officers accidentally shot and killed an optometrist outside the unarmed man's townhouse Tuesday night as an undercover detective was about to arrest him on suspicion of gambling on sports.

Police had been secretly making bets with Salvatore J. Culosi Jr., 37, since October as part of a gambling investigation, according to court records. They planned to search his home in the Fair Oaks area, just off Lee Highway, shortly after 9:30 p.m.

Culosi came out of his townhouse on Cavalier Landing Court about 9:35 p.m. and was standing next to the detective's sport-utility vehicle, police said, when the detective gave a signal to tactical officers assembled nearby to move in and arrest Culosi.

"As they approached him . . . one officer's weapon, a handgun, was unintentionally discharged," said Fairfax Police Chief David M. Rohrer.

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Culosi was not making any threatening moves when he was shot once in the upper part of his body, police said. He was taken to Inova Fairfax Hospital, where he was pronounced dead.

The last fatal police shooting in Fairfax was in September 2000, when an officer killed a man threatening him with a woodcutting tool.

"On behalf of the Fairfax County Police Department and myself, I wish to express our condolences and our sincere sympathy to Mr. Culosi's family and friends," Rohrer said. He declined to answer questions after making the statement.

Police departments generally do not accept responsibility for an officer-involved shooting before an investigation is completed.

Culosi's family in Annandale was grief-stricken and declined to be interviewed. Culosi's older sister, Constance Culosi Gulley, issued a statement saying that her brother was "a respected local businessman and doctor with his whole life ahead of him and didn't deserve to have his life end this way."

Culosi grew up just off Annandale Road, graduated from Bishop O'Connell High School and the University of Virginia, then attended the Southern College of Optometry in Memphis and became a doctor of optometry. He opened practices in Manassas and Warrenton that are attached to Wal-Mart stores.

The officer, a 17-year veteran assigned to the police tactical unit, was not identified. He was placed on leave with pay while police conduct both an internal administrative investigation and a criminal investigation. Rohrer also expressed support for the officer, calling him a valued veteran of the department.

Lt. Richard Perez, a police spokesman, said he could not say how or why the gun discharged.

"When you draw the weapon, you always try to assess what the potential threat is going to be," Perez said. He said the officers in the tactical squad are "highly trained officers. Do unintentional shootings occur? Absolutely. We're humans, and these kind of things do occur."

Perez said he did not know what type of handgun Culosi was shot with.

After several years without any shootings, officers shot and wounded several people last year, including one of their own officers in an accidental shooting. A robbery suspect was shot this month on Route 1. In the nearly 39 years that Robert F. Horan Jr. has been the chief prosecutor in Fairfax, no officer has been charged with improperly shooting someone.

Rohrer said in his statement that the tactical squad routinely performs arrests and provides support for detectives executing search warrants. The chief said in his statement that "we will fully review, as always, our policies, practices and this operation in detail."

Culosi's family said that "police action that results in the death of an unarmed, nonthreatening person calls for a full and open investigation. We hope proper steps are taken by county police to ensure other families won't have to endure similar pain."

Culosi was a lifelong Pittsburgh Steelers fan, longtime friend Steve Lunceford said. Culosi excelled at soccer, playing on travel teams as a youth and for the O'Connell varsity. He was not married and had no children.

"He was gregarious, outgoing, loved to sing off-key at weddings," Lunceford said. "For this to happen, it's surreal. The police need to account for and be held accountable for their actions."

Deon Chapman said he became a casual friend of Culosi's after meeting him at a pool tournament at a Fairfax bar about 10 years ago. "He was a laid-back guy, funny guy. . . . I've never known him to even carry a pocketknife. This is a college boy, clean-cut." He also said he had no idea that Culosi might have been a bookie.

In an affidavit for the search warrant, Detective David J. Baucom, who often investigates sports gambling in Fairfax, said he met Culosi at a bar in October and started making NFL bets with him by cell phone. Baucom said he placed more than $28,000 in bets on games through last Sunday and met Culosi about every two weeks to pay his debts or collect his winnings, either at a restaurant or Culosi's home. Through Jan. 16, Baucom had lost more than $5,500 to Culosi, his affidavit stated.

Lt. Steve Thompson, Baucom's supervisor in the police organized crime division, said in a recent interview that there is no shortage of sports bookies in Fairfax and that police investigate only those who meet certain criteria. He said that Fairfax typically goes after only those bookies with many customers who take in $100,000 in bets per week and that larger bookies will take in $300,000 to $400,000 on a busy football weekend.

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Last month, another investigation headed by Baucom resulted in the arrest of a man suspected of being a bookie who lives in Washington but operated in Fairfax. When police searched his safe deposit boxes, they seized nearly $350,000 in cash, court records show. Charges against that man are pending.

After shooting Culosi, police searched his townhouse. The results of that search were not available yesterday.

Perez said Culosi had not displayed a weapon or shown any violent tendencies while he was being investigated by Baucom. But Perez said police had to be prepared for any possibility, because "the unexpected can occur."

Crimes Prompt More Police Patrols In Adams Morgan (WP)

By Paul Schwartzman

The Washington Post, January 26, 2006

A spate of crimes outside Adams Morgan clubs and bars, including two assaults in which victims were left in critical condition, has prompted police to plan greater deployment in the area of 18th Street NW, they said yesterday.

Larry McCoy, commander of the 3rd Police District, said the number of officers will grow to as many as 23, up from five to 10 on a typical Thursday, Friday or Saturday night.

McCoy said that the officers will be moved from other shifts in the 3rd District and that they will be on foot, in cars and on scooters. The officers will patrol the main strip and side streets, he said.

"We're going to get this under control and make sure people can come into Adams Morgan and not have any fear," McCoy said at a news conference organized by D.C. Council member Jim Graham (D-Ward 1).

A business group plans to supplement the effort with a contingent of security guards and off-duty police to patrol the area on weekends, said Josh Gibson, executive director of Adams Morgan's newly formed business improvement district.

Thousands of people pour into Adams Morgan on weekend nights, drawn by its cafes and clubs.

Pat Patrick, vice president of the Adams Morgan Business and Professional Association, said fights have been started by youths who hang out on 18th Street NW until clubs close at 3 a.m.

"They have nothing better to do than insult or assault women as they come out; I've seen it with my own eyes," he said. "And then you have a full-fledged fight. These are not people who work in the area. These are purely people who look to pick a fight."

Overall, reported crime in the area that includes 18th Street increased by 5 percent from 2004 to 2005, including a 38 percent increase in burglaries, according to police statistics provided by the Kalorama Citizens Association.

While robberies declined by 13 percent last year, there was an increase from August to December, when there were 61, compared with 42 during the same period in 2004, according to the statistics.

In recent weeks, five assaults were reported, up from two for the same period last year, McCoy said. In one incident in December, a man was beaten outside a parking garage on 18th Street and was in a coma for more than a week. Police recently made an arrest after a suspect surrendered.

Last weekend, a man, 35, fell into a coma after he was punched and his head hit the pavement, apparently while defending a woman who had exchanged words with a group of men.

At the news conference, Graham said the neighborhood is generally safe but needs more policing.

"It's not a situation where we have gangs," he said. "It's a situation where people are losing their tempers."

Man Taught Son To Work Gun, Prosecutor Says (WP)

By Ernesto Londoño

The Washington Post, January 26, 2006

The father of an 8-year-old boy arrested in the shooting of a 7-year-old girl at their Germantown day-care center provided his son with violent video games and showed him how to cock and release a gun hammer the day before the boy pulled the trigger, a prosecutor said yesterday.

John L. Hall has "significant influence" over the juvenile suspect, Montgomery County Assistant State's Attorney Karyn McAuliffe said during a bond hearing for Hall, who has been charged with numerous weapons offenses and was arrested the same day as his son.

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"He shares a bedroom with the 8-year-old child where he keeps the gun," McAuliffe said, referring to the .38-caliber Taurus revolver suspected of being used to shoot the girl in the upper right arm. "The child had previously been discovered playing with bullets."

Hall's sister, Darlene Hall, 53, disputed the prosecutor's characterization of her brother's influence over the child. "My brother is not a monster," she said.

The shooting victim, a second-grader at S. Christa McAuliffe Elementary, was scheduled to be released last night from Children's Hospital in the District, her father said in a statement issued by the hospital. Neither he nor the girl was identified.

Law enforcement sources said the boy took the gun to the For Kids We Care Inc. center Tuesday after telling classmates last Friday after a fight that he had easy access to guns. The sources said the boy, who was not identified because he was charged as a juvenile, threatened to rob the girl before firing the single shot. Police have not disclosed the charges against the boy.

Montgomery District Court Judge Mary Beth McCormick reduced Hall's bond to $75,000 yesterday after authorities charged him Tuesday with leaving a firearm within reach of an unsupervised minor and two other gun charges.

He is to appear before a judge again today because police have filed two additional weapons charges against him -- the unlawful transfer of a firearm and possession of a firearm by a felon convicted of a violent crime, which carries a mandatory minimum five-year sentence for a conviction.

Yesterday, police arrested a second man, Clyde Colmes Jr., 53, of Germantown, who they said was the registered owner of the weapon fired at the day-care center. Police said Colmes gave Hall the gun knowing that Hall couldn't possess one.

Assistant public defender Samantha Sandler said Hall has worked at the National Institutes of Health for more than a decade and has not been in trouble since 1989. Before then, he had been convicted of numerous crimes, including assault with the intent to maim.

Darlene Hall acknowledged her brother's criminal history, which stretched from 1968 to 1989, but said, "As an adult, he's been a productive citizen."

She said her nephew has had long-standing behavior problems.

"The child is on Ritalin," a drug often prescribed to children who are hyperactive or have attention deficit disorder, she said. "The mother can't control him."

The aunt said she doesn't think the boy took the gun to the day-care center, in the 12600 block of Grey Eagle Court, where he was dropped off by his stepsister early Tuesday. Darlene Hall also said her brother lives with her in Gaithersburg, disputing prosecutors' assertion that he shares a room with the boy at his mother's apartment.

John Hall listed the Grey Eagle address in his June 28 application for a restraining order against a woman he says assaulted him. The order was dismissed because Hall did not appear for a hearing.

The boy, a third-grader at Cedar Grove Elementary School, appeared before a judge yesterday shortly after his father's bond hearing. Montgomery County Circuit Court Judge Michael J. Algeo closed the child's hearing to the public. Maryland judges may in some instances close hearings of juveniles in criminal proceedings.

The boy's mother, Debbie Shipp, attended his hearing. She declined to comment.

The girl's father released a statement late Tuesday through the hospital urging more parental responsibility.

"This is a harsh reminder that we can never be too careful when it comes to the safety of our children," he said in the statement. "Parents need to realize how dangerous it is to keep guns in a place where their children can get to them. I don't want any parent to have to get a call like I got this morning."

He said his daughter will return to the day-care center once she recovers.

Mike Bass, the father of a 2-year-old girl who attends For Kids We Care, dropped off his daughter at sunrise yesterday. He said that although the shooting was chilling, he plans to continue using the center.

"I wouldn't want to take my daughter to a day care where they searched the kids," said Bass, 30, of Germantown. "The responsibility lies within the parents. I don't think the day care could have done anything to prevent it."

The Innocent And The Shammed (NYT)

By Joshua Marquis

The New York Times, January 26, 2006

Astoria, Ore.

AS the words scroll across a darkened TV screen, we hear an authoritative voice announce that every year an alarming number of people in this country "are wrongfully convicted." Millions of Americans who watched these promotions in recent weeks knew they were pitches for the new ABC television drama "In Justice." But if they'd been listening from the next room, they might easily have thought from the somber tone that it was a tease for the nightly news or "20/20."

"In Justice" has received dismal reviews. But that hasn't stopped its premise from permeating the conventional wisdom: that our prisons are chock-full of doe-eyed innocents who have been framed by venal prosecutors and corrupt police officers with the help of grossly incompetent public defenders. It is a misconception that has run through our popular culture from "Perry Mason" to the novels of Scott Turow to the recent hit play "The Exonerated."

It was also seen on the front pages in recent weeks, in reporting about Roger Coleman, who was executed in Virginia in 1992 for rape and murder. DNA testing at the time had placed him within one-fifth of a percent of possible suspects, leading to widespread claims that he was innocent. The governor, L. Douglas Wilder, said he would consider commuting Mr. Coleman's sentence if he passed a lie detector test. He failed and was executed.

For more than a decade opponents of the death penalty have held up the Coleman case as the example that would prove that America executed an innocent man. Yet on Jan. 12 the Canadian laboratory that had been sent the last remaining DNA sample in the case announced the results of more advanced testing: it put the odds of Mr. Coleman not being the killer at less than 1 in 19 million. Still, while Mr. Coleman's face graced the cover of Time magazine at the height of the controversy, it is unlikely you will see him on the cover again marking his rightful conviction.

Americans love the underdog. Thousands of law students aspire to be Atticus Finch, the famous fictional lawyer from "To Kill A Mockingbird." But this can go too far: one of the jurors who acquitted the actor Robert Blake of murder last year cited the TV program "CSI" as the basis of her knowledge of what good police work should be. And if we take a deep breath and examine the state of American justice, a very different picture will emerge.

To start, only 14 Americans who were once on death row have been exonerated by DNA evidence alone. The hordes of Americans wrongfully convicted exist primarily on Planet Hollywood. In the Winter 2005 Journal of Criminal Law and Criminology, a group led by Samuel Gross, a law professor at the University of Michigan, published an exhaustive study of exonerations around the country from 1989 to 2003 in cases ranging from robbery to capital murder. They were able to document only 340 inmates who were eventually freed. (They counted cases where defendants were retried after an initial conviction and subsequently found not guilty as "exonerations.") Yet, despite the relatively small number his research came up with, Mr. Gross says he is certain that far more innocents languish undiscovered in prison.

So, let's give the professor the benefit of the doubt: let's assume that he understated the number of innocents by roughly a factor of 10, that instead of 340 there were 4,000 people in prison who weren't involved in the crime in any way. During that same 15 years, there were more than 15 million felony convictions across the country. That would make the error rate .027 percent — or, to put it another way, a success rate of 99.973 percent.

Most industries would like to claim such a record of efficiency. And while, of course, people's lives are far more important than widgets, we have an entire appeals court system intended to intervene in those few cases where the innocent are in jeopardy.

It is understandable that journalists focus on the rare case in which an innocent man or woman is sent to prison — because, as all reporters know, how many planes landed safely today has never been news. The larger issue is whether those who influence the culture, like an enormous television network, have a moral responsibility to keep the facts straight regardless of their thirst for drama. "In Justice" may soon find itself on the canceled list, but several million people will still have watched it, and they are likely to have the impression that wrongfully convicted death row inmates are the virtual rule.

The words "innocent" and "exonerated" carry tremendous emotional and political weight. But these terms have been tortured beyond recognition — not just by defense lawyers, but by the disseminators of entertainment under the guise of social conscience.

"The Exonerated" played for several years Off Broadway with a Who's Who of stage and screen stars portraying six supposedly innocent people who were once on death row. The play, originally subsidized by George Soros, the liberal billionaire philanthropist, now tours college campuses and was made into a television movie by Court TV.

The script never mentions that two of the play's six characters (Sonia Jacobs and Kerry Cook) were not exonerated, but were let out of prison after a combined 36 years behind bars when they agreed to plea bargains. A third (Robert Hayes) was unavailable to do publicity tours because he is in prison, having pleaded guilty to another homicide almost identical to the one of which he was acquitted.

American justice is a work in progress, and those of us charged with administering it are well aware that it needs constant improvement. But nothing is gained by deluding the public into believing that the police and prosecutors are trying to send innocent people to prison. Any experienced defense lawyer will concede that he would starve if he accepted only "innocent" clients. Americans should be far more worried about the wrongfully freed than the wrongfully convicted.

Once More With Amy, Joey And Mary Jo (NYT)

By Lawrence Downes

The New York Times, January 26, 2006

Before Angie and Brad, before Monica and Bill, there was Amy and Joey. Amy Fisher and Joey Buttafuoco — the Long Island Lolita and her body-shop lover — with Joey's wife, Mary Jo, formed a triangle of passion, obsession and violence that became the industry standard for tabloid crime way, way back in 1992.

There is an entire generation, or at least a cohort, or maybe a handful, or at least one or two journalists who remember working on that day in May when the story broke, and who still marvel at how that strange crime — a housewife in a swanky suburb shot in the face — soon became much stranger. It swelled in significance until it made headlines coast to coast and around the globe.

The South Shore of Long Island was something then. Nobody could touch Long Island for tabloid crime in those days, and people were raised right — they paid attention. The Amy and Joey story spawned not just one made-for-TV movie but three, among them vehicles for Alyssa Milano and Drew Barrymore. It put Massapequa on the map.

Back then, a nobody starting out with nothing — just a mighty helmet of hair, a pair of snakeskin boots and a statutory rape conviction — could dream of one day making it big in Hollywood. And make it Joey sorta did, taking bit parts in movies like "Mafia Movie Madness" and, lately, selling protein shakes on the set of "Desperate Housewives." He seems incapable of parlaying his fame into lasting fortune, though, possibly because of problems involving insurance fraud, probation violations and ammunition possession, possibly because he is a skeevy knucklehead.

Amy Fisher always seemed to be the smart one in this dense equation. She left prison, wrote a book and found a respectable position as a columnist for The Long Island Press. She left that job recently, but not before impressing many people with her articulate voice and winning a journalism award.

Poor Mary Jo, who miraculously survived the shooting despite serious injuries, forgave both Amy and Joey, and moved out to California with him. They divorced in 2003.

I miss the Buttafuoco era. Joey and Amy were the Sid Caesar and Howdy Doody of reality TV, relics of a simpler time when crime sold newspapers — imagine that — and when the culture tended to look down on adultery and teenage prostitutes, and when attempted murder carried a hint of shame, which presumably was why Amy, in her perp walk, went to the trouble of hiding her face with her long brown hair.

We learned this week in The New York Post that Amy, Joey and Mary Jo had agreed to be reunited for a TV show. That promises to be a complete waste of time, although the guy trying to sell the idea says there will be shocking revelations.

It is hard to imagine what those may be, or that a revival of this Long Island melodrama — even with its original cast — can regain even a fraction of its former glory. But you never know. Billy Joel, who sank pretty low into his own tabloid hell, is playing Madison Square Garden again in a sold-out engagement of record length. Howard Stern has re-emerged on satellite radio. We could be on the brink of another Long Island moment, and those have been hard to come by lately.

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CIVIL LAW:

Ex-supervisor At GE Parts Plant Sues (AP)

Associated Press

AP, January 26, 2006

MADISONVILLE, Ky. -- A former supervisor at a General Electric Co. plant has filed $50.5 million federal lawsuit that claims that he was fired for testifying that GE shipped defective parts to military and commercial customers.

James Richard Gardner, of Madisonville, filed the suit Friday in U.S. District Court in Louisville. Gardner said he repeatedly alerted managers at the Madisonville plant that engine turbine blades were not meeting company and government specifications and that defective parts were shipped with the knowledge of managers to meet production requirements.

Marta Rhyner, a GE spokeswoman, said she couldn't comment on specific allegations made in the lawsuit. She said the company is "confident in the parts produced by our employees at Madisonville."

The Defense Department began a criminal investigation at the plant in November 2000. The Justice Department is conducting a civil investigation.

Gardner alleged that the plant had concealed flaws on some blades. He said he asked his supervisor, "Is this legal?" He said he was told, "It's our shop. As long as people stamp it, it's good," according to the lawsuit.

Gardner was subpoenaed to testify before a federal grand jury in Bowling Green in June 2003. Before his appearance, Gardner said he was told by a plant manager that he would meet with a corporate attorney to be coached on how to answer. Gardner said he was told to answer "No" or "I don't know."

Gardner said he was later transferred to a different part of the plant, subsequently demoted and then fired last April after refusing a company buyout offer.

The lawsuit said the Air Force notified GE in 1999 that defective blades had been found in engines on fighter jets. Approximately 5,000 blades were returned to Madisonville for inspection and cleaning.

Former supervisor and quality control expert Terri Brown filed a $53 million lawsuit against GE in 2004. The filing alleges Brown was harassed and shoved down a stairway after raising concerns about defective parts being shipped to customers. It was unsealed in 2004.

Trustee Called Threat To Plan For Adelphia (LAW)

By Anthony Lin, New York Law Journal

New York Law Journal, January 26, 2006

In a decision released Wednesday in the Chapter 11 bankruptcy of cable company Adelphia Communications, the presiding judge said the motions by which one group of creditors sought the appointment of a trustee to oversee disputes and the disqualification of chief Adelphia bankruptcy counsel Willkie Farr & Gallagher constituted a "nuclear war button" threatening obliteration of a crucial $17.6 billion deal.

Southern District of New York Bankruptcy Judge Robert Gerber's strongly worded 113-page decision, In re Adelphia, 02-41729, previously filed under seal, clarified his order issued earlier in the week denying the appointment of a trustee but granting the disqualification of Willkie lawyers from participating in the disputes at issue. Willkie remains bankruptcy counsel to Adelphia.

Those disputes, which the requested trustee would have overseen, are between different groups of debt holders, all seeking to maximize their own claims on the bankruptcy estate, most of the assets of which are slated to be sold to rival cable companies Time Warner and Comcast for $17.6 billion.

The potential appointment of a bankruptcy trustee is almost always controversial, as such trustees are usually granted broad-ranging powers to settle disputes or dispose of assets.

Gerber said the disqualification and trustee motions, brought in November by noteholders of Arahova, a subsidiary through which Adelphia issued some $540 million in debt, seemed designed to "purposefully" imperil that sale as part of a "scorched earth litigation strategy" aimed at extracting a larger distribution by threatening dire consequences for all.

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"The relief sought by the Arahova Noteholders Committee could (and, in some circumstances, will) give Time Warner and Comcast the right to terminate the Purchase Agreements," he wrote. "If the sale transaction is not consummated, there will be severe, negative economic impact on all of the Debtors, including the subsidiaries of Arahova."

The judge pointed out Adelphia could owe Time Warner and Comcast a $443 million breakup fee if the transaction failed to close. He further noted the appointment of a trustee would constitute a default event under the agreement that provided Adelphia with $1.3 billion in debtor-in-possession financing.

"Where interdebtor issues exist and are material, they cannot, of course, be swept under the rug ... But the means established to resolve them should be the least destructive available," the judge wrote. "And neither the interests of a debtor's creditor body, nor the integrity of the bankruptcy system, can tolerate the use of motions like these as a tactic to assist creditor groups wishing to augment their personal recoveries."

Gerber noted that similar disputes among creditors had been a feature of other major bankruptcies, including those of WorldCom Inc., and Enron Corp.

Southern District Bankruptcy Judge Arthur Gonzalez, who oversaw both of those cases, appointed a trustee in neither, citing in the former the complexity of the case and the expense and delay that familiarizing a trustee would entail.

Likewise, Gerber said the case's complexity as well as the cost and delay involved weighed heavily against the appointment of a trustee. Moreover, "[t]he Balkanization of the decision making in this case would be highly damaging to all of the debtors, and their creditors, and the Arahova Debtors and their creditors would be no exception," he said.

NEUTRAL POSITION

Though he denied the motion to appoint a trustee, Gerber granted the disqualification of Willkie and further directed the recusal of Arahova managers with regard to disputes between creditors. But he made clear he felt the lawyers and executives had already voluntarily acted to maintain their neutrality in those disputes and his ruling was merely "prophylactic."

"[Willkie] has done nothing wrong," the judge wrote. "But the prophylactic imposition of mandatory neutrality on [Willkie] on interdebtor issues would not cause [Willkie], or the debtors, any material prejudice either."

Willkie has represented Adelphia since its 2002 bankruptcy filing amid charges that the Rigases, the company's founding family, looted it of hundreds of millions of dollars. The judge said the firm has played little role in the creditors' disputes beyond a neutral role of providing parties with information.

But the Arahova noteholders had originally sought to disqualify the law firm generally, barring it even from continuing work on the Time Warner/Comcast sale. This, Gerber said, would have been a disaster for the company.

"[Willkie] has acquired an extraordinary expertise in Adelphia affairs," the judge wrote, "and has performed its responsibilities with distinction. The loss of either of those especially at this late date, would be terrible for creditors, and would materially delay, if not torpedo, the Debtor's timely reorganization."

The Arahova noteholders were represented by J. Christopher Shore and Thomas Lauria of White & Case. The lawyers from Willkie leading the case have been Marc Abrams and Roger Netzer. Both sides declined to comment.

Flood Of Bids Is Behind Delay At GSA (WP)

By Arshad Mohammed

The Washington Post, January 26, 2006

The General Services Administration said yesterday that it got more bids than expected for a $20 billion telecommunications contract known as Networx, forcing the agency to delay the award so it can evaluate the complex proposals.

"The good news is that we have a tremendous amount of interest in the program. The bad news is that we have a lot of work to do," said John C. Johnson, who is overseeing the program for the GSA.

The 10-year telecom contract, the largest ever to be awarded by the GSA, has attracted bids from companies including AT&T Inc., Qwest Communications International Inc., Sprint Nextel Corp. and Verizon Communications Inc.

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The contract is split into two parts: Networx Universal, which requires bidders to show they can provide a vast array of services around the globe, and Networx Enterprise, which has narrower requirements to allow smaller firms to get a piece of the action.

Contract awards had been due this year, but the GSA said Monday that bids would be delayed until next year without giving a reason.

Johnson, who said he was barred by federal procurement regulations from disclosing the number or names of bidders, said more companies had showed interest in the overall project than he expected and the bids covered "the whole spectrum" in terms of their quality.

"The level of interest was higher than expected, and these are large -- very large -- contracts, very complex, and the quality of the offers varies," he said. "Taking those things into account, we believe that it's going to take us longer to evaluate and ultimately make the awards."

Johnson said the GSA does not need more resources to handle the bids.

Federal contracting experts said delays of large federal contracts were not unusual, particularly those with complex technical requirements such as Networx. They also said there is often a lengthy back-and-forth with bidders to clarify their proposals.

Rep. Thomas M. Davis III (R-Va.), chairman of the House Committee on Government Reform, which has federal procurement oversight, said he was not too troubled by the delay.

"While I am certainly a bit disappointed in this latest delay and feel it's taking longer than it should, it is more important for GSA to do this right than to do it on schedule," Davis said in a written statement.

"Most of us expected there might be some delay. I think we were all surprised at the length of the delay," said Tony D'Agata, a vice president for federal government business at Sprint Nextel.

The GSA's Johnson said his agency planned to extend the current federal telecom contract -- FTS 2001 -- with the two incumbent providers, Sprint Nextel and Verizon.

D'Agata said the GSA had proposed prolonging Sprint Nextel's contract, which expires in December, for two years with the option for three further six-month extensions. He said the extra time might be needed to migrate federal agencies from the current contract to Networx.

Airborne Incident As It Adapts To Information Age, Lockheed Fumbles Key Project (WSJ)

By Jonathan Karp

The Wall Street Journal, January 26, 2006

BETHESDA, Md. -- In 2004, Lockheed Martin Corp. won an Army spy-plane contract that broke with the past. Lockheed, the maker of such legendary surveillance planes as the U-2, wouldn't actually build the new model. Instead it would serve as the "lead integrator" -- stuffing somebody else's hardware with high-tech eavesdropping gear.

The spy plane was supposed to symbolize Lockheed's skill at harnessing information-age technology for the battlefield, a big goal at the Pentagon these days. But Lockheed engineers proved unable to load the airframe they were buying from Brazil with the equipment the Army wanted. Earlier this month, the Army scrapped Lockheed's contract.

The debacle is a setback for Chief Executive Robert Stevens and his young "integrated solutions" division, which he has put at the center of Lockheed's effort to recast itself for a new era. It's also a signal for the entire defense industry that de-emphasizing old-style hardware in favor of software and systems management isn't a sure path to success. The speed with which Lockheed's new spy plane crashed indicates how little margin there is for error as the Pentagon comes under pressure to pare weapons spending because of Iraq war costs and the rising federal deficit.

The Army, which sent mixed signals about what it wanted in the spy plane, shares some of the blame for the contract's demise, and Lockheed wasn't formally cited for performance shortfalls. In an interview while Lockheed was still scrambling to save the spy plane, Mr. Stevens said he was "personally disappointed" about the design problems but called them a reminder of the risks in projects that "push the state of the art."

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Lockheed, the biggest U.S. defense contractor, isn't alone in trying to transform itself from manufacturer to integrator. Companies that used to boast about their planes, ships and tanks now talk about operating systems and communications networks. The shift reflects the fact that across all technology markets, the biggest profits often lie in designing software and making products work together. Meanwhile manufacturing hardware is becoming a lower-margin business.

Boeing Co. won a contract as lead integrator for the Army's program to modernize its ground forces, whose ultimate cost may top $150 billion. The Chicago plane maker will develop the software blueprint for the program, but it isn't making any of the 18 new vehicles. General Dynamics Corp., best known for its ships and tanks, is designing a battlefield communications network to keep moving troops linked to satellites.

Mr. Stevens has moved aggressively to seize opportunities in what he calls the "evolution from the Industrial Age to the Information Age." Besides the spy plane, Lockheed has other high-profile integration projects where the company acts as chief architect to make software, electronics and other systems work together with hardware. Though not a helicopter maker, Lockheed won an upset victory last year to develop the next Marine One presidential chopper fleet by teaming with a foreign helicopter maker, Italian-owned AgustaWestland. Lockheed also gained a share of a Navy program for small, stealthy warships, though it owns no shipyard. The company is even building a digital database for the National Archives.

Mr. Stevens hopes the growth will make up for a possible slowdown in Lockheed's traditional mainstay of plane manufacturing. Budget challenges could curtail two huge programs led by Lockheed: the Joint Strike Fighter, which carries an estimated lifetime price tag of $240 billion, and the F-22 supersonic stealth fighter, which was officially deployed this month. Space, another Lockheed mainstay, could also face pressure as military-space programs undergo restructuring.

Wave of Deals

For decades, Lockheed has been synonymous with innovative aircraft. Its hits include the original radar-evading stealth planes. But a wave of deals in the 1990s including a merger with Martin Marietta Corp. left the company sprawling and heavily indebted. Prior to his promotion to chief executive in 2004, Mr. Stevens helped lead Lockheed's successful comeback strategy of slashing costs and refocusing by selling nondefense assets such as commercial telecommunications ventures. The company had already stopped making commercial aircraft in the 1980s.

Helped by post-9/11 defense spending and the big Joint Strike Fighter contract, Lockheed has grown rapidly in recent years and restored profits. In 2005 analysts estimate its revenue exceeded $37 billion, up from $24 billion in 2001. The company reports full-year 2005 figures today. Its stock price, which fell below $17 in 2000, now stands at about $65, near a 52-week high.

A former Marine, the 54-year-old Mr. Stevens is the only current chief executive at a top-five U.S. defense contractor who served in the military. He has sought to instill a more collaborative culture across Lockheed's five business units and 135,000 employees. Managers now get incentives for joining internal teams even if they aren't running a project. "The concept is that it's as good to be the follower as it is to be the leader," says Robert Coutts, executive vice president of electronic systems, which leads four major multidivision programs and supports four others.

The collaboration drive has even incorporated Lockheed's renowned Skunk Works, the secretive unit that fathered the stealth planes and long worked almost exclusively on aerospace projects. Now, it spends one-third of its time lending its expertise to other Lockheed businesses. Skunk Works head Frank Cappuccio credits the change to a "culture created by Stevens that says, 'Reach out.' "

No division was meant to embody Mr. Stevens's strategy more than the integrated systems and solutions unit -- the one in charge of the aborted spy plane. Formed in late 2003 by Mr. Stevens, then Lockheed president, the unit is designed to herd ideas and experts from around the company to capture Pentagon business in networked battlefield systems.

The Army spy plane, called the Aerial Common Sensor and potentially valued at $8 billion over its lifetime, looked like the perfect project for the new Lockheed unit. The Army wanted to replace two aging propeller-plane models that patrol battlefields and flashpoints such as the border between North and South Korea. The new spy plane would bulge with scores of antennas and sensors, collecting a wealth of information to be sped in real time to commanders and troops.

Heeding a Pentagon drive to save money by developing common weapons, the Army tried to enlist the Navy, which needed to replace its own creaky spy planes. The Army also decided to award the contract as a package deal instead of holding one

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competition for the airframe and another for the electronics and sensors. Both strategies would ultimately complicate the program.

To speed up development and keep costs down, Lockheed wanted to adapt an existing airplane model for the mission. After studying dozens of airplanes, it chose to go into the bid with a 50-seat passenger jet made by Brazil's Empresa Brasileira de Aeronáutica SA, or Embraer. The Embraer plane had been adapted for military use in Brazil and was among the cheapest of its size in the market.

Even before the final bid, some engineers at Lockheed questioned whether the Embraer plane could support the weight of the crew and equipment, according to people involved in the bid. The Army wanted six onboard workstations instead of Lockheed's suggested four. Lockheed re-evaluated its bid and considered ditching Embraer. Just weeks before the June 2004 deadline, Lockheed sent letters to at least three plane makers, Boeing, General Dynamics and Bombardier Inc., seeking information about larger airframes.

Instead of switching at the 11th hour, Lockheed made what it describes as low-risk modifications to the wings, engines and fuselage of the Embraer plane to accommodate the extra weight. It submitted its bid with full confidence that the proposal could fulfill the Army's mission, says Marshall Keith, who later became Lockheed's vice president for the spy-plane program.

On Aug. 3, 2004, Lockheed beat out Northrop Grumman Corp., which had bid using a Gulfstream business jet from General Dynamics, for an $879 million development contract to build the first five Aerial Common Sensor planes. The Northrop bid was nixed because its jet couldn't carry the weight, Army officials said.

Airplane programs almost always encounter weight issues in development, but Lockheed's problems became severe early on. Because the company approached the program as an electronic integration project, it had largely excluded senior aeronautical engineers from its development team. Once detailed design work began, Lockheed discovered that the sensors and workstations would require extra supports, insulation and other equipment, adding significant unexpected weight.

By November, just three months after winning the contract, the startup problems forced Lockheed to clean house. It replaced 11 of the 13 engineering team leaders and dumped the program's manager in favor of Mr. Keith, who had aircraft-integration experience. It enlisted engineers from the aeronautics division, including the Skunk Works.

Reinforcements Arrive

The reinforcements arrived in Denver, where spy-plane work was based. As they corrected basic assumptions, the plane grew even heavier. One key problem: Technology advances had made electronic components lighter, but Lockheed had used a modeling tool that presumed the same degree of slimming for cables and wires. That wasn't the case, says Edward Bair, the Army's top official for the spy-plane program.

"We sent experts to major subcontractors to weigh cables on scales," says Lockheed's Mr. Keith -- a step that normally comes much later in development.

While Lockheed had left itself little leeway, the weight issues weren't all its fault. Mr. Bair says the Army insisted that the plane be able to operate all spy sensors simultaneously for nearly eight hours in flight, whether or not all were needed. That meant greater cooling and power demands, and thus more weight. The Army also demanded a stronger frame for crash protection, and the Navy -- which still hadn't formally joined the program -- wanted additional reinforcement in order to fly at low altitudes, within range of surface fire.

By May of last year, the plane had ballooned by 5,139 pounds beyond Lockheed's bid proposal to 42,886 pounds, according to Army figures. The weight had become nearly 3,000 pounds more than the Embraer model could bear. The weight of cables and installation equipment alone nearly doubled.

Lockheed proposed substituting a 100-passenger jet made by Embraer for the original 50-seat plane. Eager to retain its inaugural Pentagon project, the Brazilian company offered the plane at the same price as the previous jet, according to a Lockheed official. Embraer declined to comment.

The Army was open at first to letting Lockheed swap the plane without reopening its contract for bidding. It asked Lockheed to look at other companies' planes in addition to Embraer's 100-seater. However, the Army quickly grew more concerned as the spy plane's estimated development cost grew to $1.8 billion, double the size of the original Lockheed contract, because of new

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engineering and other costs. In September, the Army suspended development funding, meaning Lockheed wouldn't be paid as it researched ways to salvage the program.

That same day, Mr. Stevens accepted responsibility for the spy plane, telling an investor conference that almost all of Lockheed's 3,000 programs are "performing superbly well. But we're not flawless, and it takes just a single program to create real stress in the enterprise." He denied in an October interview that the plane's woes stemmed from an initial shortage of aeronautical engineers, but said he was "applying all of the resources of this company" to produce a workable plane.

Soon after funding was halted, Mr. Stevens visited Army Secretary Francis Harvey to try saving the contract. At the Denver facility, the Brazilian flag representing Lockheed's partnership with Embraer still flew, but the team turned its energies to another airframe for the project: the Global Express business jet made by Bombardier Inc. of Montreal. In November, after thousands of engineering man-hours for which Lockheed and its subcontractors weren't paid, the company pitched the Global Express to the Army.

Army acquisition officials were wary of the repeated changes and inclined to pull the plug. They extended a review to avoid jeopardizing funds while Congress was still debating the Pentagon budget. On Jan. 12, the Army made its decision: The Lockheed contract was dead.

Army acquisition chief Claude Bolton says a new spy plane is still needed, but to make it succeed, the government and industry will have to go "back to the drawing board."

CIVIL RIGHTS:

Gay Marriage Ban Advances Toward Va. Referendum (WP)

By Chris L. Jenkins

The Washington Post, January 26, 2006

RICHMOND, Jan. 25 -- The state Senate all but guaranteed on Wednesday that Virginia will hold a November referendum on whether to amend its 230-year-old Bill of Rights to bar same-sex marriages.

The Senate voted 28 to 11 to follow the House of Delegates in approving the amendment. Though each chamber still must pass the measure adopted by the other, their wording is identical and support among the senators and delegates is strong.

"The family is the foundation of our society, and it's been based on a union of a man and a woman since the inception of marriage," said Del. John A. Cosgrove (R-Chesapeake). "A constitutional amendment . . . will protect that."

In Maryland, Republicans introduced a similar measure in the Senate on Wednesday and said they believe they have the votes they need to bring the matter to an up-or-down vote, despite resistance from leaders of the Democrat-controlled legislature.

In the wake of a circuit court ruling last week that declared Maryland's 33-year-old ban on same-sex marriage discriminatory, GOP leaders said it was important to at least put the matter to a vote.

"Some senators are clearly going to be put on the spot," said Senate Minority Whip Andrew P. Harris (R-Baltimore County). "But I think they know we can't take the risk of sitting it out and doing nothing."

Eighteen state constitutions define marriage as a union between a man and a woman, many through amendments approved since 2003, according to the National Conference of State Legislatures.

Massachusetts is the only state that grants marriage licenses to same-sex couples. Connecticut and Vermont recognize civil unions, while four states, the District and several dozen localities allow couples to formalize relationships through domestic-partnership registries.

District leaders are considering a bill that would strengthen the city's domestic-partnership law.

In Virginia, the General Assembly's action is likely to spark an intense campaign by the amendment's supporters and by gay rights groups before the Nov. 7 vote.

The state Bill of Rights was last amended in 1996, when voters supported adding a section protecting the rights of crime victims. Although changes to the state constitution are common, the 1996 action was the only time the Bill of Rights has been amended since 1970, when voters ratified a new version of the constitution.

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The Bill of Rights was written by George Mason, a founding father of Virginia and the United States. "It's essentially the same document it was in 1776 in body and spirit," said A.E. Dick Howard, a professor of constitutional law at the University of Virginia, who led a commission responsible for writing the state's current constitution.

The amendment barring same-sex marriage would be added to Section 15, which begins by saying, "That no free government, nor the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue . . . "

The Virginia Bill of Rights served as a model for other states and for the first 10 amendments to the U.S. Constitution.

The marriage amendment would say in part, "That only a union between one man and one woman may be a marriage valid in or recognized by this Commonwealth and its political subdivisions."

Supporters said that a traditional definition of marriage is so important that it belongs in the most hallowed of Virginia documents.

"The only place in the constitution to put this is in the Bill of Rights," said Sen. Stephen D. Newman (R-Lynchburg). "There is currently no right in the United States, or certainly not in Virginia, for anything other than a marriage between one man and one woman."

Virginia law already defines marriage as the union of a man and a woman and does not allow for civil unions, but proponents said the amendment is needed in case courts try to force the state to recognize same-sex marriages or civil unions performed in other states.

Opponents said the amendment would corrupt the original intent of Mason's document by preventing a class of Virginians from enjoying the same rights as other Virginians.

"I find it ironic, Mr. President, that this resolution will amend the Bill of Rights, that section of the constitution that holds sacrosanct the unalienable rights of all human beings," said Sen. Mamie Locke (D-Newport News) during a floor speech.

Del. Adam P. Ebbin (D-Alexandria), the only openly gay legislator, said during the House debate this month, "This resolution seeks to write citizens out of our most sacred document."

At the Capitol on Wednesday, hundreds of supporters of Equality Virginia, the state's leading gay rights organization, vowed they would defeat the amendment.

"There are tens of thousands of people . . . prepared to fight this so-called marriage amendment," said Dyana Mason, executive director of Equality Virginia.

Virginia Gov. Timothy M. Kaine (D) does not have to review the amendment resolution. He could veto a separate bill that specifically calls for the November referendum, but press secretary Delacey Skinner said he will not do so.

"The governor's position is that a marriage is between one man and one woman," Skinner said.

The issue had been largely dormant in Maryland until last week, when a Baltimore Circuit Court judge ruled that the state's ban on same-sex marriage was unconstitutional.

The ruling, which came at the start of an election year for the Maryland General Assembly and governor, triggered an immediate response from Republican lawmakers, who said they needed to quickly amend the constitution before the state's highest court had the chance to uphold the lower court.

The Republicans introduced a proposed constitutional amendment in the Senate on Wednesday.

Even though they are outnumbered in the Senate, Republicans said they may have enough support from Democrats to compel a floor vote.

Maryland Gov. Robert L. Ehrlich Jr. (R), who is seeking reelection, received a memo this week from his counsel advising him of three options: Wait for the Court of Appeals to rule, lead an effort to amend the constitution or support one led by GOP legislators, aides said.

"My politics on this are very clear," Ehrlich said. "We're going to protect marriage. Traditional marriage."

Democratic leaders have been discussing a strategy that would enable them to voice a clear position without hurting candidates. They're concerned the ruling could galvanize Ehrlich's conservative base, increasing Election Day turnout for him and other Republicans.

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There is also a sizable contingent of Democrats who plan to fight GOP efforts because they believe banning gay and lesbian couples from marrying is wrong.

"I think it's a waste of time for a legislative body to argue for something that is so utterly and completely discriminatory," said Del. Sharon Grosfeld (D-Montgomery).

Marriage Amendment Set For Virginia Ballot (WT)

By Christina Bellantoni And S.a. Miller

The Washington Times, January 26, 2006

The Virginia Senate yesterday gave overwhelming final approval to a constitutional amendment that would define marriage as the union of one man and one woman, clearing the way for the issue to be put to voters in November.

The measure, which also would ban same-sex civil unions, passed 28-11 after a short debate.

Meanwhile, a similar proposal is gaining momentum in Maryland since a Baltimore Circuit Court judge last week ruled that the state's 33-year-old ban on same-sex "marriage" is unconstitutional.

Traditional marriage has widespread support in the Democrat-controlled Maryland legislature.

But state Democratic leaders appear reluctant to put a constitutional amendment on the ballot because it could energize conservative voters in an election year in which Gov. Robert L. Ehrlich Jr., a Republican, is seeking re-election, and Lt. Gov. Michael S. Steele, also a Republican, is running for the U.S. Senate.

Maryland House Speaker Michael E. Busch and Senate President Thomas V. Mike Miller Jr., both Democrats, said that they support traditional marriage, but that the General Assembly should not consider a constitutional amendment on the issue until the state's appellate court can rule on the circuit court judge's decision.

The court isn't expected to issue a ruling before the legislature adjourns in April.

"They don't want it on the ballot," said Senate Minority Whip Andrew P. Harris, Baltimore County Republican. "The votes are there. This is going to boil down to politics."

In Virginia, state Sen. Stephen D. Newman said the constitutional amendment is necessary to guard against "aggressive" judges in other states, including Maryland, who are trying to redefine marriage.

"A few judges or a few localities are now presuming to change that fundamental meaning for our civilization and their actions have created confusion on the issue," the Lynchburg Republican said. "The federal courts are going to leave us with no other recourse."

Democrats, bolstered by the hundreds of Virginians who lobbied at the state Capitol yesterday for special homosexual rights, argued that the measure would write discrimination into the constitution.

"I feel this overwhelming sense of sadness today, to think that we are deliberately doing something so intolerant, so discriminatory and so overreaching," said Sen. Mary Margaret Whipple, Arlington Democrat.

Sen. Richard L. Saslaw said the amendment will not protect marriage.

"If this is a threat to your marriage, you've got a problem," the Fairfax County Democrat said.

A poll conducted earlier this month by Rasmussen Reports showed that 63 percent of Virginians and 54 percent of Marylanders would support constitutional amendments that define marriage as the union between one man and one woman.

A proposed amendment would need a three-fifths majority in the Maryland House and Senate to go before voters in November.

Virginia's House of Delegates approved the amendment 73-22 earlier this month, and yesterday's final Senate passage placed it on the Nov. 7 ballot. It does not need the signature of Gov. Timothy M. Kaine, a Democrat.

On Friday, Baltimore Circuit Court Judge M. Brooke Murdock ruled that it was unconstitutional for Maryland county clerks to deny marriage licenses to nine same-sex couples who applied for them. Judge Murdock said the 1973 law defining marriage violates the state's Equal Rights Amendment to the constitution.

The Maryland Attorney General's Office is appealing the decision.

FBI Report Could Rewrite Account Of Till's Murder (AP)

AP, January 26, 2006

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JACKSON - An FBI report on the decades-old murder of 14-year-old Emmett Till could rewrite the story of the slaying that put a young man's face on racial injustice in the South during that period.

The Chicago teenager was visiting relatives in the tiny Delta town of Money when he was tortured and killed in the summer of 1955.

His brutalized body was pulled from the Tallahatchie River a few days later. A gin fan was tied to his neck.

But some details of the crime could have been distorted or embellished over the past five decades, the FBI special agent in charge of Mississippi, John G. Raucci, told The Associated Press this week.

"The facts were told one way because that's the information that was available at the time," Raucci said. "And often times it's through urban legends and folklore - and people who lived in the community pass along information from generation to generation - and the next thing you know, they become fact."

Raucci did not rule out the possibility of indictments in the case or provide a timetable for releasing the report.

The reason Till was pulled from his uncle's home late one night before being beaten and shot, differ from person to person. Some say the youngster bragged about dating white women, and Carolyn Bryant, the 21-year-old wife of grocery story owner Roy Bryant, has claimed Till asked her for date.

Others have said a wolf whistle Till let out outside the grocery store was enough to motivate Roy Bryant and his half brother to kill Till.

Roy Bryant and J.W. Milam were acquitted by an all-white jury after a five-day trial in 1955. And while Milam and Bryant later confessed to the murder in a paid interview with Look Magazine, both men are now dead and no one has been punished.

Some witnesses have said a woman's voice, likely that of Carolyn Bryant could be heard at the scene of the abduction.

A telephone listing for her in Greenville was disconnected when called by the AP on Tuesday. Carolyn Bryant has declined interviews in the past.

Investigators with the U.S. Department of Justice have reportedly said that Henry Lee Loggins, a black man who worked for Milam, has also been investigated. Loggins, 82, has denied any involvement.

Some circumstances of the murder may not yet be clear, but there is little doubt Till's death helped invigorate the civil rights movement.

Mamie Till-Mobley had her son's body returned to Chicago for an open-casket funeral.

Thousands turned out for the service and a photograph of Till's disfigured face in Jet Magazine let the world see what was happening in the South.

Now, more than 50 years later, an official FBI investigative report is under review and should soon be turned over to District Attorney Joyce Chiles in Greenville.

"That does not necessarily mean that everybody involved in the Emmett Till case or the overt act is still alive or will one day be prosecuted," Raucci said. "Time hurts for a variety of reasons. Evidence may no longer be available. Individuals who may have witnessed an event, time has now gotten the better of their minds."

FBI Project Targets Human Smuggling (CO)

By Franco Ordoñez

The Charlotte Observer, January 26, 2006

The FBI is launching a new effort to raise awareness of human trafficking.

Calling it an offense against humanity akin to modern-day slavery, the Federal Bureau of Investigation in Charlotte estimates thousands of victims are trafficked into the state each year for forced labor and prostitution.

"This is something that is flying under the radar," said Special Agent Kevin Kendrick, who is heading the local campaign. "This is a big problem."

In conjunction with increased investigative efforts to shut down human trafficking rings, the FBI is teaming up with local advocacy groups and social organizations to get a message out that federal agents should be trusted and not feared.

The FBI, Kendrick said, is looking to assist all victims of human trafficking, even if they're living in the country illegally. Not only will the FBI protect victims and their rights, Kendrick said, the agency also will help them remain permanently.

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Human trafficking often begins with someone paying to be smuggled across the border. The situation changes when smugglers change their prices or add fees the person is unable to pay. Smugglers then force them into work to pay off the debt. The low pay often doesn't cover the debt -- turning them into indentured servants.

Victims don't report the crime because they're afraid of being arrested or deported.

Nationally, between 20,000 and 50,000 victims are trafficked into the United States each year to be exploited for use in factories, migrant farm work, construction, domestic work and prostitution, according to the FBI.

"This is a reprehensible problem," said Assistant Special Agent Robert Clifford. "We'd look at every weapon in FBI's arsenal to countering human trafficking."

In the Southeast, where nearly a quarter of the trafficking occurs, about 61 percent of victims are from Latin America. About 35 percent of the victims are forced to work on farms and 29 percent in prostitution.

The push is funded by $15 million in the Trafficking Victims Protection Reauthorization Act, signed by President Bush on Jan. 10. The law also provides assistance and immigration benefits to trafficking victims, including issuing special visas, so victims can remain in the country legally without the fear of being sent back home.

"We need to let people know it's OK to contact us," Kendrick said. "This is an affront against humanity. This goes far past someone's immigration status."

For More Information

The FBI is asking those who may know anything about human trafficking operations to call their Charlotte office at (704) 377-9200.

El FBI Pide Su Ayuda

Si sabe algo sobre incidentes de tráfico humano, llame el FBI en Charlotte al (704) 377-9200.

Ga. Lawmakers Approve Requiring Voter ID (AP)

AP, January 25, 2006

ATLANTA - A birth certificate might not be enough to vote in Georgia this year - legislation sent to the governor Wednesday would require photo identification before voters could cast their ballots.

Gov. Sonny Perdue said he would sign it quickly to give counties time to prepare for the primary in July and the general election in November.

The U.S. Justice Department also must approve the requirement before it takes effect.

The legislation would require voters to have a driver's license, military ID or state-issued identification card with a photo. Social Security cards, birth certificates and utility bills would no longer be accepted.

Supporters said it would help fight voter fraud. Critics argued it would disenfranchise the poor, minorities or elderly - people who are less likely to have driver's licenses.

Similar legislation last year was blocked by a federal judge because a state ID fee would have amounted to an unconstitutional poll tax. This year's bill waives that fee.

Appellate Court Rules Against Shreveport In Race Discrimination Lawsuit (SHREVET)

By Francis McCabe

Shreveport (LA) Times, January 26, 2006

A federal appellate court changed its stance and ruled today in favor of plaintiffs in a discrimination lawsuit against the city of Shreveport and its Fire Department, overturning a lower court's decision to dismiss the five-year-old case.

The 5th U.S. Circuit Court of Appeals remanded the heart of the discrimination case back to U.S. District Court in Shreveport.

The petition originally was brought against the city in 2000 by Todd Dean, who was not hired by the Fire Department and felt the city's hiring practices discriminated against him because he is white. Dean earned a higher test score than some blacks hired then, his lawsuit alleges. Other men joined the lawsuit soon after.

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The 5th Circuit's ruling should compel the city not only to cease race-based hiring procedures in all departments, but also to re-evaluate the continued validity of all city programs that incorporate race as a criteria for participation," said local attorney Pamela R. Jones, who represented Dean, Shawn Sanders and Jason Matthews in the lawsuit.

Fire Chief Kelvin Cochran said he was unaware of the decision and withheld comment until he reviews it and discusses it with the city attorney's office.

The department ended race-based hiring practices 11 months before a federal magistrate dismissed Dean's case in December 2004 hoping to avoid further lawsuits, according to officials. Now the department relies on a pass/fail civil service exam, the educational background and technical training of each candidate and psychological and physical ability exams.

The city has maintained that the Fire Department's hiring practices are based on a complaint brought by the U.S. Justice Department in 1980 that said the department had discriminated against blacks and women. Up to that point, the department had hired only three black men in its history, according to court records.

Then the 5th Circuit ruled that the department had to fill "at least 50 percent of all vacancies with qualified black applicants." And the department must hire qualified women for at least 15 percent of all vacancies. The department was ordered to divide job candidates into two categories, white and black. The most qualified candidates from each category received job offers — even if the most qualified candidates were all in one category — so that jobs were equally distributed to both whites and blacks.

A consent decree was agreed to with a long-term goal of the department staff reflecting the available work force of the city.

In its ruling Wednesday, the appellate court noted its change in view of the decree: "We reviewed the decree at that time under a rational basis standard of review. This standard of review no longer applies, and we now strictly scrutinize all race-conscious remedies to ensure they are narrowly tailored to achieve a compelling government interest. Thus, as we re-evaluate the decree under strict scrutiny, we are not bound by our prior approval of it under the rational basis standard."

SIU Tweaks Web Descriptions Of Fellowships Government Questioned (AP)

AP, January 26, 2006

CARBONDALE, Ill. - While threatened with a federal lawsuit over three graduate fellowships the government considers discriminatory, Southern Illinois University has tweaked the descriptions of at least two of those scholarship programs on its Web site.

The fellowships at issue were said to specifically target minorities or "underrepresented groups," before the Justice Department objected last year, but the site now says those programs seek to help "underserved" populations.

The revisions come as SIU administrators are weighing a Justice Department proposal that would head off a lawsuit threatened by the government, which in demanding that SIU discontinue the fellowship programs has accused the university of engaging in "intentional discrimination against whites, non-preferred minorities and males."

The university has refused to publicly discuss the proposal it got from the Justice Department last week, saying only that administrators and key constituency groups were being tapped this week for feedback before the university responds.

David Gross, a spokesman for the SIU system, said Wednesday the Web site changes were done without the consent of the university's president, the Carbondale school's chancellor or the system's legal counsel and "do not reflect the proposed offer from Department of Justice."

"We believe it was an assumption made from certain administrators," he said.

Gross said it remains unclear why the changes were made. But when asked if the unauthorized revisions would be pulled from the Web site, Gross said that "at this point, we are not sure about that."

Marvin Zeman, a math professor serving as the SIU Faculty Association's president, attended a private briefing Wednesday afternoon about the Justice Department proposal but declined to discuss it afterward, saying he'd been advised not to by administrators who led the meeting. Zeman said he was told that speaking publicly about the matter would violate "attorney-client privilege."

The university Web site's page titled "Underserved Fellowships" reads that applications for two of the fellowships - the Graduate Dean's and the Proactive Recruitment of Multicultural Professionals for Tomorrow, or PROMPT - "have been

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extensively revised and are now open to individuals whose personal or family background, life, cultural, and/or ethnic experiences could contribute to a more reflective responsive environment in the program, the institution, and the larger academic community."

That portion, on the page last updated Jan. 20, is highlighted by asterisks and notes that the application deadline has been extended to Feb. 17 "to allow interested students to apply under the new guidelines."

PROMPT, which provided tuition waivers and monthly stipends to 78 students since 2000, previously had stated its goal was to "increase the number of minorities receiving advanced degrees in disciplines in which they are underrepresented."

But the Web site now doesn't mention race and says the program seeks "to increase the number of individuals receiving advanced degrees ... from families which have traditionally not had access to the opportunities of higher education."

The Graduate Dean's Fellowship, used by 27 students since 2000, was formerly "for women and traditionally underrepresented students who have overcome social, cultural or economic conditions." The Web site now says that program is for "traditionally underserved individuals" who have overcome barriers to their education.

Pat McNeil, the head of the office that oversees the third program at issue, the National Science Foundation's Bridge to the Doctorate program, said that program was not accepting applications.

That program, which has helped 24 students since its start in 2004, offered a $30,000 stipend plus $10,500 for educational expenses "for underrepresented minority students" to study in fields including math and engineering.

ON THE NET

Southern Illinois University: http://www.siu.edu

Justice Department: http://usdoj.gov

EEOC Ordered To Pay $1 Million To Law Firm For 'Frivolous' Legal Action (AP)

The Associated Press

AP, January 26, 2006

The U.S. Equal Opportunity Employment Commission must pay more than $1 million to a law firm that it sued unsuccessfully for allegations of sexual harassment and pregnancy discrimination, a federal judge has ruled.

The EEOC action was a "frivolous" lawsuit against Robert L. Reeves & Associates, which practices immigration law, U.S. District Judge Dickran Tevrizian said in a ruling issued Monday.

Reeves maintained that the EEOC should have known the harassment and discrimination allegations the agency was pursuing were part of a scheme by two of his former law associates to destroy his firm, said a statement from lawyers representing Reeves.

The EEOC has already appealed the judge's findings, said Anna Park, the EEOC regional attorney in charge of the Los Angeles district office's legal division.

"I think the judge's ruling is absolutely wrong," Park said.

The EEOC originally filed suit against Reeves & Associates in 2001.

Tevrizian dismissed the case the following year and ordered EEOC to pay Reeves $363,000 in legal fees. Before the EEOC sued Reeves, Tevrizian said, commission staffers only interviewed the two former Reeves associates and a third person who was romantically involved with one of them. One of the former associates, Tevrizian added, was also a decision maker in the firm's dismissal of an employee who complained she was fired after she became pregnant.

He accused the commission of "unreasonable and just plain mean-spirited" conduct.

The 9th U.S. Circuit Court of Appeals reversed Tevrizian's first decision and returned the case to his court, resulting in Monday's ruling.

ANTITRUST:

Microsoft Offers Rivals Source Code (FT)

By Tobias Buck In Brussels

DOJ_NMG_0011940

Financial Times, January 26, 2006

Microsoft made a concession in its six-year dispute with European competition regulators on Wednesday by offering to give rivals access to parts of its Windows source code.

With only three weeks until a compliance deadline set by Brussels, which had threatened fines of €2m ($2.5m) a day, Brad Smith, the group's general counsel, said: "We are putting our most valuable intellectual property on the table."

However, while the software giant said the move went beyond the Commission's requirements, rivals were quick to say it fell far short of the demands on Microsoft. The Commission refused to say whether the offer was good enough.

Microsoft's offer, which it hopes will remove the threat of fresh financial penalties, came in response to a European Commission warning last month that it would impose fines unless the software group complied quickly with Brussels' 2004 antitrust ruling against the US group. The daily fines would come on top of the record €497m payment the Commission ordered in 2004.

The regulator said Microsoft had failed to comply with a part of the ruling requiring the software group to share information about its Windows operating system. That information, the Commission argues, is essential for rivals wanting to develop software that works with Windows-driven computers and servers.

Microsoft argues that in giving away a part of its source code – the basic programming instructions that form the core of the operating system – it has gone beyond the Commission's demand. But rivals say that instead it has dumped a vast amount of data on companies without the "road map" that tells them how to use it. The regulator did not, however, order Microsoft to release parts of the Windows source code.

In an attempt to end months of wrangling over the extent of the information required by the decision, Microsoft said it would license the relevant parts of the Windows source code.

Mr Smith said: "We have come to the conclusion that the only way to be certain of satisfying the Commission's demands is to go beyond the 2004 decision and offer a licence to the source code of the Windows server operating system."

Microsoft's rivals dismissed the group's offer. Thomas Vinje, a partner at Clifford Chance, who represents several Microsoft rivals, said the move was a "PR ploy". He added: "Microsoft is offering to dump a huge load of source code on companies that have not asked for source code and cannot use it. Without a roadmap that says how to use the code, a software engineer will not be able to design interoperable products."

Mr Smith had pointed out that the group had drawn up 12,000 pages of interoperability information for potential licensees, and had offered free advice on how to use the technical specifications contained on those pages.

Microsoft To Make More Code Available Move Made To Comply With EU Antitrust Sanctions (USAT)

By Byron Acohido

USA Today, January 26, 2006

SEATTLE — Microsoft said Wednesday that it will make more of its proprietary computer code available to rivals in an effort to comply with European antitrust sanctions.

The computer code, which normally can be viewed only by Microsoft employees and partners, is central to its Windows computer operating system.

The European Commission issued a terse statement saying it would "study carefully" Microsoft's announcement "once it has received the full details." The software giant is locked in a dispute about penalties that the Commission, the European Union's administrative arm, levied in March 2004.

Microsoft already has paid a record $613 million fine. And it has supplied Europe with a version of Windows for desktop PCs with Windows Media Player removed. But it has failed to make it easier for other software suppliers to write business applications that run smoothly on Windows server software.

Last October, Microsoft offered to share 12,000 pages of technical documents with other software companies, as long as they paid a licensing fee. The documents would make it easier for them to write programs that work well with Windows.

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But an independent monitor found the package to be “totally unfit.” The Commission in late December said it would fine the company $2.4 million a day if it failed to comply by Jan. 25, later extending the deadline to Feb. 15.

Meanwhile, Microsoft has said it expects to reverse the Commission's overall ruling in an appeal before Europe's Court of First Instance; hearings are to begin in Luxembourg in April.

“It looks a bit like Microsoft stalling for time, as it readies for the bigger battle,” said James Governor, London-based tech analyst for consulting firm RedMonk.

Microsoft on Wednesday sweetened the licensing plan by adding computer code to the package. “Today, we are putting our most valuable intellectual property on the table so we can put technical compliance issues to rest,” Microsoft's general counsel Brad Smith said at a press conference in Brussels.

This is not the first time Microsoft has let outsiders view such code. It has granted governments, academics and business partners varying levels of access under tight restrictions.

“That statement suggests that the whole enchilada is on the table,” said tech industry analyst Paul DeGroot, who tracks the company's licensing programs for research firm Directions on Microsoft. “But that's simply impossible. It would mark a huge and strange departure for Microsoft, far beyond anything required.”

Microsoft Offers Blueprint License To Avert Fines (REU)

By David Lawsky and Sabina Zawadzki

Reuters, January 25, 2006

BRUSSELS (Reuters) - Microsoft Corp. will license some of its secret software blueprints in an effort to avert fines of up to 2 million euros ($2.5 million) a day for failing to comply with European antitrust penalties, the U.S. company said on Wednesday.

"We are putting our most valuable intellectual property on the table, so we can put technical compliance issues to rest and move forward with a serious discussion about the substance of this case," Microsoft general counsel Brad Smith said.

The European Commission said in a response three hours later that it would "study carefully the announcement" by Microsoft.

Microsoft's offer to license a small amount of its source code, relating to server software that helps manage tasks like printing within a group of desktop machines, would help proprietary software makers but not the so-called open source community.

Smith said he was telling a news conference, rather than the Commission, about the plan because "it now is a public issue" as the EU executive had revealed publicly its intention to impose the fines.

But a lawyer who represents opponents of Microsoft dismissed Smith's comments as "purely a PR ploy" and said large amounts of source code would be entirely useless, even with 500 free hours of support promised by Microsoft.

"They would dump millions of lines of code and finding what competitors need to interoperate would be like looking for a needle in a haystack. Even the most sophisticated software engineers would be lost," said Thomas Vinje.

The Commission decided in March 2004 that Microsoft had violated European Union antitrust laws by exploiting its dominant position to compete unfairly against other companies, and fined it 497 million euros.

Microsoft appealed against that decision to the Court of First Instance (CFI) in Luxembourg. Earlier in the day, the court announced a hearing on the full case would be heard before a 13-judge panel on April 24-28.

As part of the Commission's decision, Microsoft was also supposed to offer rivals so-called protocols, or rules of the road, that would enable rival makers of server software to work as well with Microsoft's Windows operating system as Microsoft server software does.

But a Microsoft-nominated trustee said that documentation to help rivals use its protocols was "fundamentally flawed". Earlier this week, the U.S. Justice Department made similar complaints about Microsoft software being licensed there.

SOURCE CODE

Smith was critical of the European trustee's comments, but said that in any event the company's offer would resolve all questions.

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"The Windows source code is the ultimate documentation of Windows server technologies," Smith said. "With this step our goal is to resolve all questions about the sufficiency of our technical documentation."

Microsoft shares were up 0.2 percent at $26.45 by 1732 GMT.

Smith said all source code related to protocols in the Commission remedy would be made available, but only for inspection. It may not be used by licensees.

He said Microsoft would charge no extra money for the code beyond what it was already planning to charge for the protocol licenses.

At this point, however, the price Microsoft wants others to pay for licensing is itself an issue before the EU executive.

Critics of Microsoft contend that protocols are standard software and that Microsoft has used what is essentially a digital combination lock to make them inaccessible.

A Commission spokesman said if that turns out to be true then Microsoft has no right to charge for them.

However, Microsoft says that the protocols include valuable patents and that it should be able to charge for their use, an argument under review at the Commission.

The price that Microsoft charges for licensing and the clarity of its protocols documentation are the two issues which could lead to the daily fine of up to 2 million euros.

A lawyer for some "open source" software developers, who reveal their source code openly, said the offer was of no interest to his clients.

Carlo Piana, who is the lawyer for the Free Software Foundation Europe and Microsoft competitor Samba, said the licensing would be useful for non-open source developers.

"This demonstrates that Microsoft doesn't fear very much competition from proprietary developers but rather from free software developers," he said.

Microsoft To License Windows Source Code In EU (AP)

AP, January 25, 2006

BRUSSELS, Belgium – Microsoft Corp. said today it will license part of its Windows source code, in what it called a voluntary step going beyond a European Union antitrust ruling.

The source code provides the building blocks of the operating system that competitors need to make products compatible with Windows.

The company's chief counsel, Brad Smith, said sharing the part of the Windows workgroup server operating system and desktop software code that helps rival PCs communicate with Windows servers was "a bold stroke" that should answer both EU and U.S. regulators' concerns.

"The source code is the ultimate documentation," he said. "It should have the answer to any questions that remain."

He insisted that Microsoft had already complied in December with an EU order to supply technical information by handing over up to 12,000 pages of documentation and offering 500 hours of free technical support to rivals worth some $100,000.

An independent monitor nominated by Microsoft found last month that the documents were "totally unfit for its intended purpose."

Microsoft has refused to license the source code in the past. Software developers licensed under a European Commission program will still have to pay for the code, which open source advocates will not be allowed to "publish for free," Smith cautioned. The company had "just started to provide this information on both sides on the Atlantic" and regulators "want to see all the details," Smith added.

The company only plans to make available the source code that implements the communications server protocols. Smith said there were no plans to publish the entire Windows source code.

Governments and some customers are already allowed to look at the code, but this is the first time it has been available to rivals.

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In March 2004, the EU executive levied a record $613 million fine against Microsoft, ordered it to share code with rivals and offer an unbundled version of Windows without the Media Player software for what the court saw as an abuse of the company's dominant position in the industry.

Last month, the European Commission threatened to fine Microsoft up to $2.36 million a day backdated to Dec. 15 for failing to obey, saying the software giant was being intransigent about sharing data with competitors.

today's move is designed "to put that issue to rest," Smith said.

Microsoft has launched a legal challenge scheduled to be heard by the European Court of First Instance on April 24-28.

Smith told a news conference he was confident of winning the case, saying the world had moved on since the EU opened its antitrust investigation eight years ago.

"If anything, it is clear that there are more opportunities for competitors today than there were a few years ago," he said.

"This case is going to establish the law that will determine how companies that have popular technology products can integrate new features into them."

Earlier, the EU had repeated its complaints that Microsoft was not complying with its demands.

"Microsoft is not disclosing complete and accurate interface information to allow non-Microsoft workgroup servers to receive full interoperability with Windows PCs and servers," said EU spokesman Jonathan Todd.

He said EU regulators took note that the U.S. Department of Justice was also claiming that Microsoft was failing to provide the technical information asked for in a Justice Department settlement.

In December, Microsoft said the EU Commission was trying to undermine its Windows operating system with more demands for technological transparency, and that it would contest the measure under EU law.

Todd said this was untrue. "We are not moving the goal posts as has been suggested," he said. "We are not changing our demands."

Todd stressed that the final word on whether Microsoft is meeting the terms of the EU antitrust order "rests in the first place with the Commission and not Microsoft."

Microsoft Bares Code To Avoid Fines (WSJ)

By Mary Jacoby

The Wall Street Journal, January 26, 2006

BRUSSELS -- Microsoft Corp. offered to allow rivals some access to the proprietary source code of its Windows operating system, a move designed to head off large daily fines in Europe and mollify increasingly impatient antitrust authorities in the U.S.

The offer to partly unveil the map of Windows was a shrewd step for Microsoft, analysts said. It may deflect criticism that Microsoft is defying legal orders to share programming information with rivals and government investigators. It also could thwart the ambitions of software developers who advocate free or "open source" access -- a threat to Microsoft's fee-based software business.

Microsoft was castigated yesterday by rival camps as trying to fake out regulators, with one calling the offer "a poisoned honey pot" that couldn't be used without risking legal jeopardy.

To answer European demands, Microsoft would allow competitors to review computer code that handles how two large "server" computers trade data. Microsoft is under orders in Europe to license so-called communications protocols that allow other software to mesh better with Microsoft's systems, and faces the threat of a €2 million ($2.5 million) daily fine if regulators aren't satisfied with its efforts. Microsoft currently provides some documentation about the protocols; handing over the source code -- the programming instructions used to make the software -- reveals more information about how the operating system works.

Microsoft general counsel Brad Smith yesterday called the code the "DNA" of Windows. In a Brussels news conference, Mr. Smith called the offer a "bold stroke" that would leave little doubt that Microsoft was cooperating with orders to open up software markets. The license would be restrictive, however, only allowing competitors to view and search through the code, not copy it, and only over a protected Web site.

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The move came after the Justice Department complained in a court filing this week about Microsoft's compliance with U.S. legal requirements -- and six years after a U.S. judge found Microsoft violated the Sherman Antitrust Act against monopoly abuse. The Justice Department said the Redmond, Wash., software giant had provided inaccurate information to a technical committee, and described one incident as "particularly troubling" because it delayed an investigative team that had traveled to India. The filing also said the company had "fallen significantly behind" in complying with monitors' technical requests.

In Europe, the eight-year-old Microsoft case heated up in December when European Union regulators announced they were formally charging the company with evading a March 2004 order to share certain programming information with competitors. Regulators cited a report from a consultant, British computer scientist Neil Barrett, who said trying to make use of the Microsoft's programming information was "an absolutely frustrating, time-consuming and ultimately fruitless task."

The European Commission, the EU's regulatory arm, said in a statement that it would "study carefully" Mr. Smith's announcement. The statement reiterated that Microsoft has until Feb. 15 to answer the commission's formal complaint of intransigence. The Justice Department said only that it was discussing the source-code proposal with Microsoft.

A major objective in the European antitrust case is to open up Microsoft-dominated software markets to competition from so-called open-source developers. Because open-source software can be copied and modified and can run on the free Linux operating system, it is attractive to large companies and poses an increasing threat to Microsoft.

Open-source developers condemned Microsoft's offer to share source code as a feint. They fear that having any kind of access to the source code will make them vulnerable to later allegations from Microsoft of theft of patented intellectual property, if they write software that happens to mimic Microsoft's code.

"We will never look at Microsoft source code, never," said Volker Lendecke, a programmer for the free Samba network software. "They will sue us in an instant." Added Georg Greve, president of the Free Software Foundation Europe, a party to the European antitrust suit: "We never wanted their source code in the first place. It's putting out a poisoned honey pot."

In the U.S. case, the source code at issue is for Microsoft's Windows operating system for desktop computers. In Europe, the source code Microsoft is offering to license is for operating systems on the large computers that served as hubs for offices.

In 2001, the Bush administration dropped the U.S. government's case against Microsoft, but ordered it to change certain anticompetitive practices. In Europe, Microsoft paid a €497 million fine in 2004 but has appealed the EU's antitrust allegations to the Luxembourg-based Court of First Instance. The court announced yesterday that it will hold hearings in the case from April 24 to 28. A verdict will come about six months later, a court official said.

Guidant Can't Refuse Boston Scientific's Offer (USAT)

By Edward Iwata, Usa Today

USA Today, January 26, 2006

Medical device maker Guidant (GDT) on Wednesday accepted Boston Scientific's $27 billion bid, rebuffing a lower offer from Johnson & Johnson (JNJ) and ending a long-running takeover war.

The companies have been vying for an edge in the growing multibillion-dollar market for medical and heart devices, and Guidant's pacemakers, defibrillators and stents made it an attractive acquisition target.

The merger, to be completed early this year, will make Boston Scientific (BSX) the world's No. 2 maker of implantable pacemakers and defibrillators. Boston Scientific also will gain share in the market for heart stent devices, which hold open blood vessels.

Guidant CEO Jim Cornelius said: "We believe the transaction and the strategic rationale for this combination are in the best interests of our patients, employees, customers and shareholders — reflecting the full value of our firm."

Most Wall Street analysts and some Guidant investors had urged Guidant to take the pricier Boston Scientific offer, calling it a better long-term investment than J&J's deal. The combined company will have $9 billion in revenue in 2006, Boston Scientific says.

"I think Boston will do a good job," analyst Bruce Nudell of Sanford Bernstein told Bloomberg News. "They have the cash flow to pay off the debt. The revenue base is diversified and strengthened. It's a better investment vehicle with Guidant than without it."

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Boston Scientific will buy all Guidant shares at $80 each — $42 in cash and $38 in stock. Guidant shareholders will own 36% of the company. Boston Scientific also will cover a $705 million merger breakup fee that Guidant owes J&J.

To help close the deal and appease antitrust regulators, Boston Scientific teamed with Abbott Laboratories. Abbott will pay Boston Scientific $6.4 billion in cash to buy Guidant's vascular intervention and endovascular businesses.

Approvals are needed from U.S. and European regulators, plus shareholders for both companies.

Johnson & Johnson had offered $25 billion for Guidant in December 2004, but lowered its offer to $21 billion because of Guidant's legal and regulatory problems with recalled products and lawsuits.

In December, Boston Scientific set off a takeover battle when it offered $25 billion. After another round of bidding, Boston Scientific triumphed Wednesday.

Johnson & Johnson, which had $50 billion in revenue in 2005, could look for other acquisitions.

John Putnam, an analyst at Stanford Group, told the Associated Press on Wednesday that a higher bid by J&J would have hurt the conglomerate in future acquisitions, signaling that J&J "didn't have the financial discipline they've always been known for."

"We are excited about combining the talent and experience of Boston Scientific and Guidant employees," said Jim Tobin, Boston Scientific's president and CEO. "We look forward to working with Guidant to complete the transaction quickly and to creating a global leader in cardiovascular devices."

In filings with the Securities and Exchange Commission this month, Boston Scientific said Guidant's pacemakers and defibrillators could account for nearly one-quarter of pro forma sales. The heart device market is expected to grow by nearly 25% by 2008.

That growth will likely offset any of Guidant's legal liability — estimated to be as high as $2 billion — that Boston Scientific may have to absorb. Guidant has been plagued by lawsuits and regulatory investigations following multiple recalls and safety advisories. At least seven deaths have been linked to faulty devices.

Contributing: Reuters

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Quiet End To Battle Of The Bids (NYT)

By Barnaby J. Feder

The New York Times, January 26, 2006

For Johnson & Johnson, Tuesday started with a morning conference call with analysts to discuss earnings and ended with William C. Weldon, the company's chief executive, and Robert J. Darretta Jr., the chief financial officer, attending a dinner for several dozen institutional investors at the "21" Club in New York. Throughout the day and evening, the company maintained a rigid silence about the one subject on everyone's mind — whether it would respond to a midnight deadline to counter Boston Scientific's bold $27 billion offer for Guidant.

"They wanted to talk about anything but Guidant," said one investor who attended the dinner. "It was the elephant in the room."

Only yesterday morning did Johnson & Johnson address the elephant, in a terse news release saying the company had "determined not to increase its last offer for Guidant Corporation, because to do so would not have been in the best interest of its shareholders." About the only comment was its reminder that Guidant was obliged to pay it a $705 million breakup fee by today.

It was a remarkably quiet conclusion to the biggest and most contentious takeover battle yet in the medical device industry. The outcome leaves Boston Scientific as the apparent winner of Guidant, the No. 2 company in the $10 billion market for defibrillators and other implantable devices that regulate human heartbeats.

Those two companies announced their deal yesterday, pending the approval of shareholders and regulators. People close to the takeover negotiations say it had become evident at least 24 hours before the midnight deadline that a counteroffer was unlikely because Johnson & Johnson's advisers had stopped communicating with the Guidant team.

But in many ways, Johnson & Johnson had been forced into silence much earlier — by choices it made last fall, when it assumed it had the upper hand in its merger dealings with Guidant and reduced its offer by nearly $4 billion.

It was a short time later that Boston Scientific mounted its surprise takeover effort and emerged as the company willing to risk the most to acquire Guidant. By last week, having decided not to raise its own bid of $71 a share, Johnson & Johnson was reduced to behind-the-scenes attacks on the rationality of Boston Scientific's $80-a-share offer. It apparently hoped that Boston Scientific's stock would decline so far that Guidant shareholders would begin to doubt the deal's value.

Johnson & Johnson was not talking yesterday, but some analysts say the company's tough bargaining last fall resulted not only in the company's losing Guidant, but a certain amount of corporate luster as well.

"Their reputation had been as a savvy acquirer and a fair acquirer, and I think those two elements have been diminished in this," said Jan David Wald, a health care analyst at A. G. Edwards & Sons. Johnson & Johnson's declining drug sales in the United States make further expansion into medical devices a necessity, Mr. Wald said, but the Guidant stumble could hinder its ability to pursue future deals.

There are risks for Boston Scientific in coming out on top of this fight, not the least of which is the possibility that it is paying too much for Guidant to ever recoup its investment. And Johnson & Johnson could try to slow down Boston Scientific's efforts to close the Guidant deal by pressing antitrust objections at the Federal Trade Commission.

Such delays might send Boston Scientific's stock below $22.62, the price at which the value of the stock portion of the deal would begin shrinking, and induce Guidant investors to vote against the merger. Boston Scientific's shares are down nearly 14 percent since it announced its first bid in December, including a decline of 2 percent yesterday, to $23.54.

But Johnson & Johnson has lost its biggest advantage — the fact that its merger deal had been fully reviewed by regulators and could have been completed immediately after a Guidant shareholders' vote that had been scheduled for Jan. 31. "The odds of them stopping this are not high," said Matthew Dodds, who follows the industry for Citigroup. "They are fully committed to walking."

Analysts say that may be best for all concerned. Johnson & Johnson could easily afford Guidant. And it desperately needs Guidant or some other large, fast-growing acquisition to mollify shareholders restive about the stagnation in its drug business. But Johnson & Johnson's shareholders have apparently shared management's concern about overpaying for Guidant. Johnson & Johnson's shares fell every time it raised its bid for Guidant.

Analysts have published a blizzard of speculation about whether Johnson & Johnson will now turn its attention to smaller device companies — like St. Jude Medical, the third-ranked producer of heart-regulating implants, or Conor Medsystems, the developer of a promising new stent design for propping open heart arteries.

But some also note that the company could just as easily look for growth outside devices by purchasing drug or biotech companies.

"J.& J. has the financial strength to move on and the cash to acquire elsewhere to further its growth prospects," said Kenneth R. Weakley, who follows the industry for UBS, the brokerage house that sponsored Tuesday evening's dinner at the "21" Club. Mr. Weakley called the failure to close the deal with Guidant a "heartache, not a heart attack" for the company.

Johnson & Johnson's stock has fallen 4.4 percent since Boston Scientific first entered the bidding war, including a decline yesterday of 86 cents, to $58.50.

Boston Scientific clearly faces stiffer challenges. While Guidant will immediately transform it into a company with more than $9 billion in annual revenues and a shot at double-digit revenue growth for years to come, the cost of the transaction will eat into earnings for at least five years, according to most analysts' estimates.

In the near term, analysts will be closely watching whether Boston Scientific can keep to its ambitious timetable for completing regulatory reviews and close the deal by the end of this quarter. Under the terms of the agreement, it must pay interest to Guidant shareholders at a 6 percent annual rate for every day after March 31 that the closing is delayed.

The terms of the deal put extreme pressure on Boston Scientific to maintain the market share and profit margins of its blockbuster drug-coated stent, Taxus, which doctors use to keep patients' coronary arteries propped open after blockages are cleared. Boston Scientific will also need to meet targets for introducing important new products, like a disposable line of endoscopes, used to diagnose gastrointestinal problems, that is scheduled to be released later this year.

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Taxus is the market leader in the $6 billion market in countries where it competes with Cypher, Johnson & Johnson's drug-coated stent, but that lead has eroded. In addition, Medtronic recently entered the drug-coated stent market in Europe, and Guidant received word Tuesday that Europe is about to approve its Xience stent.

The one clear winner in the deal, analysts said, is Abbott Laboratories, which injected up to $6.2 billion into Boston Scientific's offer through a variety of side deals, stock sales and below-market-rate loans to that company. The payoff is that Abbott would receive virtually all of Guidant's business except for its heart-regulating implants. On news of the deal and a forecast of strong drug sales during Abbott's fourth-quarter earnings announcement, the company's stock was up more than 5 percent yesterday.

The Guidant portfolio of products to treat damage to the circulatory system from diseases like diabetes generates more than $1 billion annually in sales. It would transform Abbott into a major player in outpatient clinics and hospital laboratories that deliver therapy through catheters as an alternative to more invasive surgical treatments. Analysts say its share of the Guidant deal could begin contributing to Abbott's earnings next year.

That outcome represents a huge improvement from the gains Abbott could have expected if Johnson & Johnson had acquired Guidant. Under that deal, Abbott was to receive access to a valuable stent implant system and rights to certain stent-coating drugs. Johnson & Johnson had worked out that arrangement to satisfy antitrust objections. But those were mere hors d'oeuvres for Abbott, while Boston Scientific offered a seven-course meal.

Judge Sets Court Hearing On BlackBerry Injunction (WSJ)

The Wall Street Journal, January 26, 2006

BlackBerry maker Research In Motion Ltd. and NTP Inc. will appear in U.S. District Court for the Eastern District of Virginia Feb. 24 for the court to consider a shutdown of U.S. sales and service of the popular wireless email device.

In recent court filings, RIM, based in Waterloo, Ontario, argued a BlackBerry shutdown isn't warranted for various reasons, including recent preliminary moves by the U.S. Patent and Trademark Office to reject NTP's wireless email patents.

NTP, a Virginia patent holding concern, argues a BlackBerry shutdown is appropriate, since the court has already found RIM infringed on NTP's patents and case law calls for such a shutdown. The court could rule on the injunction as early as Feb. 24 or in the days following, an NTP lawyer said.

RIM could appeal a shutdown, lawyers following the case have said, though it isn't clear that would delay a court-ordered shutdown.

The U.S. Supreme Court this week declined a RIM appeal of the case.

Change From Within At Disney (NYT)

The New York Times, January 26, 2006

A couple of years ago, nothing seemed less likely than the sale of Pixar to the Walt Disney Company. At the time, it looked as if the two companies wouldn't even be able to agree on the terms of their distribution deal, which gave Disney, then run by Michael Eisner, an unfair stake in Pixar's films, according to Pixar's chief executive, Steven Jobs. Now Mr. Eisner is gone, and on Tuesday Disney's board approved an offer of $7.4 billion, about $59 a share, to acquire Pixar, whose major shareholder is Mr. Jobs. The deal now goes to the Pixar board.

A company like that — and a figure like Mr. Jobs, notable for his dynamic role at both Apple and Pixar — doesn't let itself be bought for money alone, though the money is certainly enticing enough. This is really an opportunity to infect, and change, the creative culture of Disney, which, back in its founder's day, used to be one of the most creative places around.

Steven Jobs will take a seat on Disney's board, and John Lasseter, who is the chief creative officer at Pixar and a former Disney animator, will probably take over as head of animation at Disney. Disney's animated films have been nothing to shout about in the past decade or so, while Pixar, driven by extraordinary shifts in computer technology, has produced one imaginative and highly profitable hit after another.

On the surface, this looks like the joining of two companies whose shared mission is to produce cultural content. But Mr. Jobs's other company — Apple — has helped create, with its video iPods, a revolution in the way cultural content is distributed.

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For Pixar and Apple, there is only an upside in this deal. The same is true for Disney, especially if it keeps shedding the ways of Mr. Eisner's old company and allows itself to become what may turn out to be, in the end, Mr. Jobs's company after all.

ENVIRONMENT:

US Grand Jury Indicts Three For 'eco-terrorism' (REU)

By Michael Fitzgerald

Reuters, January 25, 2006

SACRAMENTO, California (Reuters) - A federal grand jury indicted three alleged "eco-terrorists" on Wednesday on charges of plotting to blow up facilities like dams and cell phone towers.

"These three individuals planned to commit a number of dangerous and destructive acts in our region, all in the name of the Environmental Liberation Front," U.S. Attorney McGregor Scott told a news conference in the California state capital.

The grand jury indicted Eric McDavid, 28, of Foresthill, California, Zachary Jenson, 20, of Washington state, and Lauren Weiner, 20, of Philadelphia, Pennsylvania. The trio was arrested January 13 outside a retail store in Auburn, California, following six months of surveillance of McDavid by federal authorities.

According to Scott, McDavid attended two meetings of anarchist groups, one in July in Indiana and a second in August in Philadelphia, at which he announced intentions to construct explosive devices from common household items.

He also said he planned to blow up several northern California facilities and expressed a desire to kill a police officer, Scott said.

Officials said one of the bombing targets was the U.S. Forest Service Institute of Forest Genetics in Placerville, California. Other potential targets include the Nimbus Dam and Fish Hatchery, east of Sacramento, cell phone towers and electric power stations.

The charges were not related to a separate 65-count indictment handed down on Monday in Washington involving 11 environmental and animal rights activists in the Western United States.

Scott that McDavid recruited the other two defendants and conspired with them to construct homemade bombs and scout potential target locations. He said the trio rented a house east of Sacramento in the foothills where they engaged in bomb-making.

At some point, the three were joined by an unnamed woman who was a government informant.

"Because of the exceptional work of the FBI's Joint Terrorism Task Force and the brave efforts of a confidential source they were prevented from carrying out their planned attacks," the U.S. Attorney said.

"They were acquiring very significant materials. ... We thought it better to shut it down. We were satisfied we had enough evidence to bring a criminal prosecution," Scott said.

The three defendants, now in Sacramento County jail, face maximum sentences of 20 years in federal prison.

EPA Moves To Ban Cookware Chemicals (USAT)

By Elizabeth Weise

USA Today, January 26, 2006

In a surprise turn Wednesday, the Environmental Protection Agency moved to eliminate the production of a suspected carcinogen used in the making of Teflon and other non-stick and non-stain coatings.

The EPA has asked eight manufacturers that use a family of chemicals known as perfluorooctanoic acid, or PFOA, to reduce production 95% by 2010 and to stop using it altogether by 2015.

PFOA, which is found in the blood of more than 95% of Americans, has been tied to cancer and developmental damage in animal studies. It is used in the process that makes water-, stain- and grease-resistant products, everything from microwave popcorn bags to pizza box liners, non-stick cookware to pillows, upholstery to carpets.

Environmentalists and consumer groups have long dogged the agency to act.

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"The science is still coming in, but the concern is there, so acting now to minimize future releases of PFOA is the right thing to do for our environment and our health," says Susan Hazen of EPA's Office of Prevention, Pesticides and Toxic Substances.

"This program will call on industry to essentially eliminate PFOA release and its presence in products over the next decade."

EPA officials are calling for voluntary PFOA cutbacks because "under the Toxic Substances Control Act, they don't have authority to ban it," says Richard Wiles of the Environmental Working Group, a public interest group that has long fought to bring public attention to PFOA in the environment.

If the EPA is able to get the chemicals phased out, Wiles says, it will be "the single biggest action the agency has ever taken."

The DuPont Company announced Wednesday that it would comply with the EPA's voluntary guidelines. "DuPont has been aggressively reducing PFOA emissions to the environment," DuPont vice president Susan Stalnecker says.

DuPont has been at the center of the controversy. The company agreed in December to pay $10.25 million in fines and $6.25 million for research and education to resolve federal charges that it hid information about the dangers posed by PFOA.

Less toxic alternatives are readily available, says Scott Mabury, a professor of environmental chemistry at the University of Toronto in Canada.

PFOA is characterized by a chain of eight carbon atoms. But a version of four carbon atoms works well and doesn't accumulate in bodies, Mabury says. "You won't find them in huge quantities in polar bears or human blood, like we do the eight-carbon version. There will be chemical pollution from it but you can't have toxicology if you don't have exposure. It is an appropriate chemical solution to a chemical problem."

Harmful Teflon Chemical To Be Eliminated By 2015 (WP)

By Juliet Eilperin

The Washington Post, January 26, 2006

Eight U.S. companies, including giant DuPont Co., agreed yesterday to virtually eliminate a harmful chemical used to make Teflon from all consumer products coated with the ubiquitous nonstick material.

Although the chemical would still be used to manufacture Teflon and similar products, processes will be developed to ensure that perfluorooctanoic acid (PFOA) would not be released into the environment from finished products or manufacturing plants.

PFOA -- a key processing agent in making nonstick and stain-resistant materials -- has been linked to cancer and birth defects in animals and is in the blood of 95 percent of Americans, including pregnant women. It has also been found in the blood of marine organisms and Arctic polar bears.

The voluntary pact, which was crafted by the Environmental Protection Agency, will force companies to reduce manufacturing emissions of PFOA by 95 percent by no later than 2010. They will also have to reduce trace amounts of the compound in consumer products by 95 percent during the same period and virtually eliminate them by 2015.

The agreement will dramatically reduce the extent to which PFOA shows up in a wide variety of everyday products, including pizza boxes, nonstick pans and microwave-popcorn bags.

While not as sweeping as the federal ban on DDT in 1972, yesterday's agreement is expected to have profound implications for public health and the environment. An independent federal scientific advisory board is expected to recommend soon whether the government should classify the chemical as a "likely" or "probable" carcinogen in humans, which could trigger a new set of federal regulations.

"The science is still coming in on PFOA, but the concern is there," said Susan B. Hazen, acting assistant administrator of EPA's Office of Prevention, Pesticides and Toxic Substances. "This is the right thing to do for our health and our environment."

The move, which came just a month after DuPont reached a $16.5 million settlement with EPA over the company's failure to report possible health risks associated with PFOA, drew applause from environmental groups that have frequently criticized both the administration and DuPont.

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"This is one of those days when the Environmental Protection Agency is at its best. With its announcement today, the EPA is challenging an entire industry to err on the side of precaution and public safety, and invent new ways of doing business," said Ken Cook, president of the Environmental Working Group, an advocacy organization. "As harshly as we have singled out DuPont for criticism for its past handling of PFOA pollution, today we want to single out and commend the company and acknowledge its leadership going forward."

DuPont officials said they were confident they could alter manufacturing methods over the coming decade to contain PFOA exposure from products that generated $1 billion in sales for the company in 2004.

"It's important to do this because this is a persistent material in the environment, and it's at low levels in people's blood," said David Boothe, DuPont's global business director. To remove PFOA, he said, the company will subject some of its products to extra heat and will sometimes add a step in the manufacturing process. "We're going to push it really hard and take it as far as we can."

Scientific studies have not established a link between using products containing trace amounts of PFOA, such as microwave-popcorn bags or nonstick pans, and elevated cancer levels. Hazen said yesterday's announcement should "not indicate any concern . . . for consumers using household products" with such coatings.

Several other companies agreed yesterday to reduce public exposure to the chemical, including 3M Co., Ciba and Clariant Corp. But DuPont, which settled a class-action suit last year accusing it of contaminating drinking water in Ohio and West Virginia communities near its plant in Parkersburg, W.Va., has attracted the most public scrutiny over its PFOA use.

William Bailey III, who was born in 1981 with multiple birth defects while his mother, Sue, was working with the chemical at the Parkersburg plant, said he will "be watching" to see if the chemical giant complies with the new agreement.

"They're trying to save face," said Bailey, who is suing DuPont over his birth defects.

E.P.A. Seeks To Phase Out A Toxic Chemical (NYT)

By Michael Janofsky

The New York Times, January 26, 2006

WASHINGTON, Jan. 25 — The Environmental Protection Agency has asked DuPont and seven other chemical companies to stop using a toxic substance in the making of everyday products, including Teflon-coated pans, that has been linked in some studies to cancer, strokes and other health problems.

Announcing the voluntary program, officials of the agency said Wednesday that full compliance by the companies and their overseas affiliates would lead to a 95 percent reduction by 2010 in use of the substance, perfluorooctanoic acid, or PFOA, and to their total elimination by 2015.

DuPont immediately pledged to join the program, saying it had already reduced its PFOA manufacturing emissions by 94 percent and had developed new technologies that could reduce PFOA content in products by more than 97 percent. The other companies are expected to commit to the program as well. They are 3M/Dyneon, Arkema, Asahi, Ciba, Clariant, Daikin and Solvay Solexis.

PFOA makes high-performance plastics resistant to fire, grease and stains. Its presence may be best known in Teflon, made by DuPont, but it is also found in fabrics, leather, automobile parts, wire insulation and microwave popcorn bags.

Uncertainties still surround the way PFOA exposure affects humans, and as part of the new program, the companies will provide test data so that those questions can be explored.

"The science is still coming in, but the concern is there, so acting now to minimize future releases of PFOA is the right thing to do," said Susan B. Hazen, acting assistant administrator of the agency's Office of Prevention, Pesticides and Toxic Substances.

Bush Seeks To Jump-Start Nuclear Power (WSJ)

By John J. Fialka

The Wall Street Journal, January 26, 2006

WASHINGTON -- The Bush administration plans to announce a $250 million initiative to reprocess spent nuclear fuel, a first step toward reversing a 1970s policy that rejected reprocessing as too dangerous to pursue.

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The administration's decision to put the money into its fiscal 2007 budget to test new technologies is part of an effort to jump-start the nuclear-power industry at a time when energy prices are high and concerns about global warming make nuclear power plants more acceptable.

According to nuclear industry officials and others briefed on the proposal in recent weeks, the program could be announced as early as next week in President Bush's State of the Union address. If the technology works, it could vastly reduce the amount of spent nuclear waste that would have to be buried in underground storage, such as at Nevada's Yucca Mountain, set to open after 2012.

The initiative will also explore using one or more temporary, above-ground nuclear-waste storage sites to relieve the logjam that has left thousands of tons of nuclear waste stored around reactors, many located near big cities. Since the Sept. 11, 2001, terrorist attacks, Department of Energy experts have worried about the damage that could be caused by a terrorist attack on the spent fuel.

The heart of the initiative is reprocessing technology called UREX+ being developed by Argonne National Laboratory in Illinois. It is a method of removing plutonium and other long-lived radioactive elements in spent nuclear fuel that makes the elements reusable in nuclear power plants, but difficult to use for making nuclear weapons.

The process, according to its scientific backers, would also save the bulk of other elements in spent nuclear fuel, primarily uranium, to be reused or disposed of in facilities that don't require thousands of years of storage, such as the plant being prepared at Yucca Mountain. Phillip J. Finck, an Argonne official, told the House Science Committee last summer that UREX+ would reduce the nation's eventual need for more nuclear-waste storage by "a factor of more than 100."

The technology involves burning plutonium and other long-lived byproducts in special "fast" reactors. However, Dr. Finck added: "The practicality of these schemes is not yet established and requires additional scientific and engineering research."

The Bush proposal, tentatively called the Global Nuclear Energy Partnership, would also give U.S. vendors, such as General Electric Co., opportunities to sell nuclear-power reactors and nuclear fuel to developing nations. It would promote the export of simpler, smaller and less-costly reactors and nuclear fuel on the condition that the U.S. would take back the spent fuel for reprocessing. While a safe way to reprocess nuclear waste also would remove a licensing hurdle to new nuclear plants in the U.S., building nuclear plants here will remain a costly and lengthy process.

The proposal is likely to renew a decades-old fight in Congress on U.S. nuclear-waste policy. "We're supportive of the concepts as a company and as an industry," said Christopher Crane, chief nuclear officer for Exelon Corp., which operates 17 nuclear reactors among the 103 running in the U.S. "We do agree that there is a good deal of unused energy in the fuel we have discharged from our reactors. We think it's positive that the U.S. Department of Energy and the administration want to look at ways to handle that."

Nuclear-industry officials said that without reprocessing, new nuclear plants called for by President Bush in his 2001 energy policy may not be licensed. Yucca Mountain will reach its storage limit -- 70,000 tons -- with waste produced by 2010 from existing plants.

The Department of Energy predicts that as many as eight more underground-storage sites may be needed by the end of the century if the current cycle for power plant fuel continues.

Thomas B. Cochran, a nuclear physicist at the Natural Resources Defense Council, which promoted the earlier policy to ban nuclear reprocessing along with other environmental and arms control groups, called the new reprocessing technology "uneconomical, unreliable, unsafe and unworkable." He predicted the utility industry wouldn't support its long-term costs, particularly the "fast" reactors that transform spent fuel by bombarding it with neutrons -- powerful, subatomic particles -- that can further reduce the radioactive waste content.

Ernest Muniz, a physicist at the Massachusetts Institute of Technology and a former Clinton administration official at the Department of Energy, said he supports the renewed research and development of reprocessing, but predicts that it will require decades of research. Dr. Muniz said he also supports the idea of temporary above-ground waste-storage sites because it helps cool the heat-generating elements in the waste -- reducing a major complication for underground storage facilities.

Some of the changes the administration is proposing, particularly those that affect Yucca Mountain, will require action by Congress. A wild card in that debate is Senate Minority Leader Harry Reid of Nevada, who has led his state's battle to stop the

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project, which is 90 miles from Las Vegas. He has regarded reprocessing as an alternative to long-term storage, but may have some interest in supporting a process that reduces the amount of spent fuel stored at Yucca Mountain.

The original reprocessing technique chopped up spent nuclear-fuel rods and dissolved them in acid, extracting plutonium in an almost pure form. It was derived in the 1950s from the U.S. nuclear-weapons program, which uses plutonium as the primary metal to make atomic warheads explode. Japan, Russia and France use variants of this process, called PUREX, for power-plant fuel recycling, but the U.S. stopped research on its use during the Carter administration.

President Carter, a former nuclear engineer, and other officials were persuaded that separating pure plutonium and encouraging recycling around the world might encourage developing nations to use the plutonium to make bombs. The UREX+ process is designed to reduce this problem by extracting plutonium along with other heavy and highly radioactive elements that make it too hot to handle without advanced robotics to remove and deal with the material.

Write to John J. Fialka at john.fialka@wsj.com1

Nuclear Energy Plan Would Use Spent Fuel (WP)

By Peter Baker And Dafna Linzer

The Washington Post, January 26, 2006

The Bush administration is preparing a plan to expand civilian nuclear energy at home and abroad while taking spent fuel from foreign countries and reprocessing it, in a break with decades of U.S. policy, according to U.S. and foreign officials briefed on the initiative.

The United States has adamantly opposed reprocessing spent fuel from civilian reactors since the 1970s because it would produce material that could be used in nuclear weapons. But the Bush program, envisioned as a multi-decade effort dubbed the Global Nuclear Energy Partnership, would invest research money to develop technologies intended to avoid any such risk, the officials said.

The program has been the subject of intense debate within the administration, and although a consensus has been reached about the direction, a senior official said it will not be ready for Bush to announce in his State of the Union address Tuesday. Even the discussion has stirred concerns among nuclear specialists and some members of Congress who consider it an expensive venture that relies on unproven concepts and could increase the danger of proliferation.

The notion of accepting other countries' spent fuel at a time when the United States has had trouble disposing of its own nuclear waste could also prove highly controversial.

But a small initial investment of money has been programmed into the administration's federal budget plan to be sent to Capitol Hill in two weeks. Senate Energy Committee Chairman Pete V. Domenici (R-N.M.) said yesterday that he expects the White House to send accompanying legislation in February.

"I expect a draft bill from the administration next month on spent nuclear fuel," he said. "I will introduce that bill on behalf of the president, hold a hearing on it and mark it up in committee this spring. I hope it will include a nuclear fuel recycling component. If it doesn't, well, I have been a career-long proponent of nuclear fuel recycling and I intend to pursue it aggressively."

Advocates use the word "recycling" to describe an advanced form of reprocessing that, instead of separating plutonium that can be used in bombs from spent fuel, would produce a mixed-oxide fuel too radioactive for terrorists to handle. Such fuel, called MOX, could be used in special reactors that exist in France but not in the United States.

Edwin Lyman, a senior scientist with the Union of Concerned Scientists, a nonprofit think tank that studies environmental and security issues, said U.N. nuclear inspectors would not make a distinction between that material or the kind of separated plutonium the world is worried Iran might get.

"We think they are putting a fig leaf on it by calling it proliferation-resistant and saying that it's not really reprocessing, so concerns about proliferation risks won't be valid," he said. "But if we develop something that we call proliferation-resistant and it really isn't, then other countries are going to claim rights to this technology. If it's really proliferation-resistant, would we let Iran have it?"

The fuel proposal is part of a broader push by the president for domestic and global nuclear energy. With worldwide energy demands on the rise and U.S. reliance on foreign oil increasing, Bush has held out nuclear power as a solution that will not affect

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global warming. "We ought to have more nuclear power in the United States of America," Bush said in a speech last week in Loudoun County. "It's clean, it's renewable, it's safer than it ever was in the past."

In a modern version of the Atoms for Peace program during President Dwight D. Eisenhower's administration, officials said the administration envisions helping developing countries build small nuclear reactors that would produce about 5 to 10 percent of the energy generated by a typical reactor now on line in the United States. Some in Congress believe a global nuclear energy program is aimed at aiding the U.S. effort to build an alliance with India, which is eager for U.S. civilian nuclear technology.

Two senior U.S. officials traveled last week to several countries, including Japan and Russia, to brief them about the initiative. At one session, according to a source who was present, the administration officials said the United States has finally moved on from the Three Mile Island nuclear incident in 1979 that paralyzed the industry for years.

Bush has been briefed on the plan but has not given his final approval while diplomats consult with other nations, a senior administration official said. Energy Secretary Samuel W. Bodman hinted at the initiative in a November speech at the Carnegie Endowment for International Peace.

"The world will need much more energy in coming decades," he said, citing projections showing global demand increasing as much as 50 percent by 2025. "How do we meet this demand? How do we do it in a way that leaves all the nations of the earth safer and more secure? The search for answers to these questions increasingly points in one direction: nuclear energy."

Rather than just provide nuclear fuel to other countries that want to have their own reactors, Bodman suggested, the United States would also take back the fuel once it has been spent. "In the longer term, we see fuel-cycle states offering cradle-to-grave fuel-cycle services, leasing fuel for power reactors and then taking it back for reprocessing and ultimate disposition."

The main purpose for reprocessing spent fuel is to extract the radioactive plutonium within it and use that to fuel a reactor. But the process is considered dangerous, and many countries gave up civilian reprocessing years ago.

Officials briefed on the Bush plan said $250 million -- less than requested by the Energy Department -- will be included in the fiscal 2007 budget in a down payment on what they expect to be billions of dollars of spending. Among other things, it would pay for a pilot plant, possibly at the department's Savannah River facility in South Carolina, to test chemical reprocessing. If the program goes forward as planned, the domestic nuclear industry stands to reap hundreds of millions of dollars.

U.S. officials said they are interested in developing reactors that would not produce spent fuel that could be accessed by recipient countries. One model is a self-contained reactor that cannot be opened, is never refueled and is removed when it runs out of energy. Another, known as a pebble-bed reactor, has been under development in Germany and South Africa and likewise would not have fuel that could be used for weapons.

Al Gore, Sundance's Leading Man (WP)

By William Booth

The Washington Post, January 26, 2006

PARK CITY, Utah -- Has ever a little indie film faced a greater hurdle? Imagine this sales pitch: Babe, it's a movie about global warming. Starring Al Gore. Doing a slide show.

With charts.

About "soil evaporation."

Improbable? Perhaps. So it's all the more amazing that "An Inconvenient Truth" had its world premiere at the Sundance Film Festival on Tuesday night before an enthusiastic audience that gave the former vice president and his movie a big standing O.

Among the film's lessons: Earth's glaciers are melting, the polar bears are screwed, each year sets new heat records. Al Gore sometimes flies coach. He also schleps his own bags.

The morning after his debut as leading man, Gore pronounces this whole Sundance thing "a most excellent time." He is wearing earth tones again. He seems jolly. He brought Tipper and the kids. He is attending parties and posing for pictures with his fans and enjoying macaroni and cheese at the Discovery Channel soiree. He's palling around with Larry David of "Curb Your

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Enthusiasm," who says, "Al is a funny guy." But he is also a very serious guy who believes humans may have only 10 years left to save the planet from turning into a total frying pan.

The core of the film is a one-man, ever-evolving multimedia slide show that Gore assembled himself. A little-known fact: Since his defeat by George W. Bush in 2000, Gore has traveled the globe with his bar graphs, staging event after event for small, invited audiences. Free of charge. And he's presented one version or another of this slide show, by his own estimation, a thousand times.

The official Sundance Film Festival guide calls the documentary a "gripping story" with "a visually mesmerizing presentation" that is "activist cinema at its very best."

In the film, Gore presents the latest evidence to demonstrate how the accumulation of carbon dioxide and other pollutants of the industrial age are increasing temperatures. In addition to timelines and bell curves and stuff about oxygen isotopes in Greenland ice cores, Gore includes several cartoons, one featuring a Mister Sunbeam trapped by the bullies known as Greenhouse Gases.

Gore argues -- with scientific evidence projected on big screens at his back -- that global warming may soon lead to catastrophic sea level rises, which could inundate cities such as New York (flooding the former site of the World Trade Center), producing scary nonlinear runaway spasms of extreme weather (bigger, badder hurricanes and typhoons), global pandemics and, depending on where you live, torrential rains or decade-long drought. It is not a pretty picture.

But the film's director, Davis Guggenheim (husband of actress Elisabeth Shue), captures another side of Gore, showing the former veep hitting the road, part Cassandra, part Willy Loman, working out of dreary hotel rooms, pecking away on his Apple laptop, crisscrossing the continents to tell his story over and over.

"I'm interested in choices characters make, especially when they hit against an obstacle," says Guggenheim as Gore sits beside him during an interview yesterday morning. "As I got into Al's story, I see a human being who's made some tough, tough choices in his life. After the 2000 election? To go back deeper and deeper into this issue? To decide that it is the most important thing he can do. . . . I see how tireless he is. That, to me, is so dramatic, so inspiring."

The film touches briefly but with emotion on three events in Gore's life and how they inspired his environmental activism: the car accident that almost took the life of his son; his defeat in Florida to Bush; and perhaps most foreboding, the death of his sister, a lifelong smoker, from lung cancer ("That's not one of the ways you want to die," Gore says in the film in a voice-over) and the fact that his family farmed tobacco and didn't stop until after her death. Gore underscores that this is the way people are, that it is hard to change old habits, be it smoking or growing tobacco or emitting carbon dioxide, but that without change, the bell tolls.

The film came about after Laurie David, wife of Larry David, saw Gore's slide show in New York after the 2004 premiere of the mega-budget global-warming feature film "The Day After Tomorrow" (starring Dennis Quaid and Jake Gyllenhaal). Laurie David gathered a team, including Lawrence Bender (producer of Quentin Tarantino films, including "Pulp Fiction") and Jeffrey Skoll, the billionaire eBay founder and movie mogul. They met with Gore. "We said you have to let us make this into a movie," David says in an interview over breakfast.

It took some convincing. The slide show, she says, "was his baby, and he felt proprietary about it and it was hard for him to let go." Now, David says, the filmmakers are in discussion with three or four distributors, hoping for a sale.

"This isn't about box office," David says. "None of us are going to make a dime." What is at stake, she says, "is, you know, the planet."

FBI/DEA/ATF/USMS:

Metro Briefing (NYT)

The New York Times, January 26, 2006

NEW YORK

F.B.I. DIRECTOR RECUSED FROM INVESTIGATION OF WELD'S FORMER SCHOOL The F.B.I. director will not play a role in the inquiry into Decker College, the Kentucky school once run by William F. Weld, because the director and Mr. Weld, a Republican candidate for governor, are friends and former colleagues, an F.B.I. spokesman said yesterday. The New York Post

reported the decision by Robert Mueller, the director, yesterday. The New York Democratic Party had asked that Mr. Mueller recuse himself, according to a party spokesman. Mr. Weld has not been accused of any wrongdoing involving Decker, which declared bankruptcy last fall amid allegations of fraud. PATRICK D. HEALY (NYT)

BROOKLYN: DOMESTIC VIOLENCE COURT PRAISED A special Brooklyn court that handles aspects of domestic violence cases including criminal, family and matrimonial matters has heard about 500 cases involving 115 families since it opened on Oct. 31, court officials announced at a news conference yesterday. The court, the integrated domestic violence court, is the fourth of its kind in the city. Charles J. Hynes, the Brooklyn district attorney, said the new court would treat victims of domestic violence with greater sensitivity. MICHAEL BRICK (NYT)

MANHATTAN: ACCOUNTANT SOUGHT IN INQUIRY IS IN ISRAEL David E. Cohen, an accountant who boasted that he could make tax problems disappear "like magic," is in Israel, the Manhattan district attorney's office said yesterday. Prosecutors said they were exploring the possibility of extraditing him to New York, where he and a partner, Jeffrey C. Rosner, face charges of grand larceny and tax fraud. Mr. Rosner surrendered on Tuesday. ANEMONA HARTOCOLLIS (NYT)

BINGHAMTON: ANTIWAR PROTESTERS SENTENCED An antiwar campaigner who poured blood around a military recruitment center three years ago was sentenced to prison yesterday for trespassing and destroying government property. Clare Grady, 47, of Ithaca, received a sentence of six months in federal prison. Ms. Grady is the third defendant to be sentenced for the protest, which took place before the invasion of Iraq in 2003. Two others were sentenced earlier this week. MICHELLE YORK (NYT)

GARDEN CITY: COUNTY LEGISLATORS BATTLE OVER LEADERSHIP The Nassau County Legislature met in a belated and tumultuous session yesterday to pick a presiding officer. The Republican minority leader, Peter J. Schmitt, claimed victory with nine votes, while the Democrats split with eight for Kevan M. Abrahams and two for Roger H. Corbin. Claiming that the law requires 10 votes to win, the main Democrats obtained a temporary court order barring Mr. Schmitt from doing any hiring or firing. BRUCE LAMBERT (NYT)

MANHATTAN: VETERAN CHIEF TO HEAD COMMUNITY UNIT Police Commissioner Raymond W. Kelly has asked a veteran chief to head a Community Affairs Bureau focusing on counterterrorism as well as crime fighting. On Feb. 1, the chief, Douglas Zeigler, will take command of the bureau as it absorbs the School Safety Division to oversee more than 4,500 police officers and safety agents who work in schools. It is the first time that a uniformed member of the department, rather than a civilian, will head the bureau. Chief Zeigler is now head of the Organized Crime Control Bureau. AL BAKER (NYT)

WHITE PLAINS: PARENTS PLEAD GUILTY IN TODDLERS' DEATHS The parents of two toddlers who were burned to death in scalding water while trapped in the bathroom of their Yonkers apartment last July pleaded guilty to manslaughter and homicide charges on Wednesday. The parents, David Maldonado and Luz Arroyo, had maintained their innocence ever since the boys died, but on Wednesday they reversed themselves and pleaded guilty after prosecutors agreed to drop drug-possession charges against them. The plea deal was made only days before the parents were set to go on trial in County Court here. Mr. Maldonado, who pleaded guilty to second-degree manslaughter, faces 5 to 15 years in prison. Ms. Arroyo, who pleaded guilty to criminally negligent homicide, faces 1 to 4 years. ANAHAD O'CONNOR (NYT)

NEW JERSEY

TRENTON: STATE GIVEN MORE TIME TO REFORM CHILD WELFARE Lawyers in a class-action suit against New Jersey's child welfare agency agreed yesterday to delay action on a request that the system be placed under federal control. The child welfare advocacy group, Children's Rights Inc., said the decision by its lawyers reflected the group's confidence in Gov. Jon S. Corzine and Kevin M. Ryan, the human services commissioner. Although the agreement still leaves open the possibility of a federal takeover of New Jersey's child welfare system, Mr. Ryan vowed that he would not allow that to occur. RICHARD LEZIN JONES (NYT)

NEWARK: UNIVERSITY PRESIDENT'S DEPARTURE IS DELAYED Trustees at New Jersey's troubled state medical school yesterday said they would wait an additional week before voting on the $600,000 severance package being offered to the school's outgoing president, Dr. John J. Petillo. Dr. Petillo resigned last week, after a year in which the University of Medicine and Dentistry of New Jersey was rattled by financial scandals and was forced to accept a federal monitor. Board members were set to vote on

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Dr. Petillo's resignation at their meeting, but the federal monitor requested more time to review the severance package. DAVID KOCIENIEWSKI (NYT)

Compiled by John Sullivan

(NYPOST)

By FREDRIC U. DICKER

The New York Post, January 25, 2006

FBI Director Robert Mueller will recuse himself from the potentially explosive ongoing probe of Decker College, which was once headed by his longtime friend and colleague, New York GOP gubernatorial hopeful William Weld, The Post learned yesterday.

Mueller's decision to step aside came after The Post told the FBI that New York Democrats would be joining former Republican Sen. Alfonse D'Amato's call for Mueller to do that.

FBI spokesman Richard Kolko told The Post that while the Decker probe was being handled by the special agent in charge of the Louisville, Ky., field office, Mueller himself is "regularly briefed on significant investigations and cases."

And while Kolko insisted Mueller "has not had a role in directing any part of this investigation," he said, "since the issue has been raised publicly, and to avoid even the appearance of any conflict, any decisions that would otherwise be made by the director in this matter will, instead, be handled by Deputy Director John Pistole."

Kolko's announcement came a few hours after state Democratic Chairman Herman "Denny" Farrell joined D'Amato in urging Mueller to step aside.

The Post disclosed yesterday that D'Amato, who has bitterly attacked former Massachusetts Gov. Weld for his supposed role as a U.S. Justice Department official in prosecuting his brother, Armand, in the early 1990s. Alfonse D'Amato had urged Mueller to recuse himself because of his strong ties to Weld.

Farrell said Weld and Mueller were "good friends" during the 1980s when both served in the U.S. Attorney's office in Boston.

He said Mueller had also contributed to Weld's unsuccessful U.S. Senate campaign against incumbent John Kerry of Massachusetts in 1996.

Decker College in Kentucky, which emphasized job-training skills, was shut down in September amid an FBI probe into allegations of widespread financial improprieties.

Weld, whose investment company owned part of the for-profit college, served as the school's chief executive officer for several months last year and has denied any wrongdoing.

Lawyer Charged In Internet Pharmacy Scheme (AP)

AP, January 26, 2006

(AP) - MINNEAPOLIS-A lawyer has been indicted on federal charges alleging he helped an Internet pharmacy illegally obtain narcotics and helped its founder hide assets.

Daniel Adkins, who was general counsel for Xpress Pharmacy Direct, helped deceive legitimate pharmacies into supplying the narcotics that Xpress hawked over the Internet and by telephone, according to the indictment issued Tuesday.

Federal authorities say Xpress filled about 72,000 illegal prescriptions for pain killers and other controlled substances, generating sales of about $20 million. Authorities shut down Xpress last May and company founder Christopher Smith, his accountant and a doctor who issued prescriptions were indicted in August.

The indictment alleges that Adkins helped Smith hide assets after they learned about the investigation. It also alleges that Adkins wrote to legitimate pharmacies from which Xpress ordered drugs, assuring them that Xpress was "both legal and authorized by federal and state statutes."

Adkins was charged with conspiracy to distribute and dispense controlled substances, wire fraud; unlawful distribution and dispensing of controlled substances and misbranding drugs. If convicted of wire fraud he could face up to 20 years in prison and a $250,000 fine, the U.S. attorney's office said.

Adkins, from St. Paul, refused to comment and referred calls to his own attorney, Earl Gray. Gray said Wednesday that the allegations "are simply not true."

Smith's bail was revoked for violating the terms of his release and he remains in custody.

No. 2 In Drug Ring Pleads Guilty (KNOXNS)

By Jamie Satterfield

Knoxville News Sentinel (TN), January 26, 2006

"Superman" made him nervous.

But admitting crimes that could lock him away for life made Stephen "Black" Ardis downright scared Wednesday.

Ardis, who was captured on secret recordings expressing worries that an undercover agent he dubbed "Superman" was on his trail, pleaded guilty in U.S. District Court to being second-in-command of a Detroit-to-Knoxville drug running operation.

But the 26-year-old drug slinger made it clear before entering his plea that a possible life sentence was a scary proposition he wanted to avoid.

"This person has a very high number of months to serve," defense attorney James W. Bell told federal Judge Thomas Phillips. "I can never be sure what (a client's) criminal history is. I've explained to (Ardis) his criminal history could push this so his sentence could be life."

It's not an entirely reasonable fear, though.

Assistant U.S. Attorney Mike Winck said the massive amount of drugs Ardis conspired to put onto Knoxville's streets guarantees the Detroit man a 20-year prison term.

Then, there are the half dozen or so guns the group used to protect the slew of stash and crack houses the organization set up in Knoxville, Winck said. That weaponry, Winck said, will boost Ardis even farther up the sentencing scale.

If Ardis has a criminal record already, he would climb even higher up the sentencing ladder. Still, his likely punishment would hover around the 30-year mark, not a life term.

Phillips, however, wanted to make sure Ardis knew the ramifications of his guilty plea.

"It could turn out to be very different than what it looks like now," Phillips told Ardis of his possible punishment. "Do you understand that, Mr. Ardis?"

Ardis hesitated and then replied, "Yeah."

His boss in the drug conspiracy that involved cocaine, crack, marijuana and Ecstasy is facing a life term. Conspiracy leader Robert "Party" Smith, 31, of Detroit, pleaded guilty last week. His potential penalty range is so high it outpaces the highest rung on the federal sentencing ladder.

The drug ring was broken in November after a probe led by U.S. Drug Enforcement Administration Agent Todd Lee and Knoxville Police Department Investigator Bruce Conkey.

It was Conkey whom Ardis dubbed "Superman" in a conversation secretly recorded by the agents during their investigation. In that conversation, Ardis told Smith that he had just learned that Conkey, a well-known undercover officer, had been following him.

A few weeks later, the pair, along with three others, were arrested, several houses raided, and drugs and guns seized.

Phillips set an April 17 sentencing hearing for Ardis.

Prosecutor Postpones Charges In Bomb Case (TRICH)

By John Trumbo, Herald staff writer

Tri-City Herald, January 25, 2006

Benton County prosecutors will need several weeks to decide potential charges against a Richland man who says he kept bomb-making material because he is a miner.

Kevin D. Johnson, 49, was released from jail Friday, three days after Richland police arrested him at his home where they seized gunpowder, nitro-methane and about 20 pounds of ammonium nitrate. They also found six firearms.

Prosecutor Andy Miller said Tuesday that no charges were filed during the 72-hour hold on Johnson because more investigation is needed. Items taken from the home also have to be analyzed by agents of the federal Bureau of Alcohol, Tobacco and Firearms, he said.

"To prove the elements of the case, we'd have to get the ATF to test the items," Miller said.

Johnson told the Herald in an interview at the jail last week that he has mining claims in Oregon and college degrees in civil engineering and geophysics.

"We want to follow up on some of the items mentioned in the (Tri-City Herald) news story," Miller said.

Johnson said he doesn't have a grudge against the police who arrested him.

"I think the police were doing their jobs," he said, noting that Richland officers made an arrest in an unrelated explosives case days before he was arrested.

"The police were here to check me out and it would've been irresponsible if they didn't," he said.

Richland police Capt. Mike Cobb said an ATF agent told him Tuesday analysis of the items found at Johnson's home would be completed in two to four weeks.

Cobb said the investigation also involves 91 blasting caps that allegedly belonged to Johnson that were found Jan. 15 at a home in Franklin County. Cobb said officers discovered the caps in a closet of a man's home after they investigated a domestic violence complaint.

Richland's bomb squad was invited by Franklin County authorities to pick up the material, Cobb said.

"The person who had them said he was keeping them for a guy who lives in Richland," Cobb said.

A search warrant for the Franklin County address on Quail Road said officers found 38, one-third pound sticks of an ammonium nitrate explosive. A box labeled "blasting caps," a gallon of racing nitro-methane, six jars of nitric acid and pre-made electrical charges also were found, according to court documents.

The owner of the property said the items "were used in mining and that a friend (Kevin Johnson) had given them to him to hold (for safekeeping)," the document said.

That led Richland police to Johnson's home at 914 Smith Avenue, where a search was done Jan 15. Johnson was booked into Benton County jail three days later on an investigative hold.

Johnson said if no charges are filed he hopes to have his guns returned because some of them are family heirlooms.

"The guys from the ATF were here and they didn't seem to be overly concerned," he said.

IMMIGRATION:

Pinochet's Daughter May Seek US Asylum (REU)

Reuters, January 26, 2006

WASHINGTON/SANTIAGO (Reuters) - The eldest daughter of former Chilean dictator Augusto Pinochet on Wednesday asked the United States to grant her political asylum after she fled tax charges in Chile, Chilean officials said.

Lucia Pinochet Hiriart, 60, was being moved to an immigration detention center late on Wednesday after spending most of the day at Dulles International Airport near Washington, Chile's Foreign Relations Minister Ignacio Walker told local radio in Santiago.

Earlier, Interior Minister Francisco Vidal said Chile had been told that Pinochet Hiriart had asked for asylum.

"In the coming two or three days we will have a decision from the United States which, I insist, will be a rejection (of asylum)," Walker said.

U.S. officials would not confirm that Pinochet Hiriart had requested asylum.

"Lucia Pinochet is currently in U.S. Customs and Border Protection custody at Dulles International Airport, pending resolution of her immigration status," said Jarrod Agen, a spokesman for the Department of Homeland Security.

"The Department of Homeland Security is unable to comment on whether or not an individual is seeking asylum."

Pinochet Hiriart has been charged with tax fraud related to some $1 million in undeclared taxes and falsification of documents as part of a widening tax evasion and fraud investigation involving the Pinochet family.

She was served with a subpoena in Chile over the weekend to attend court on Monday, but never appeared.

Pinochet Hiriart was pulled over for special screening after arriving at Virginia's Dulles airport.

"She did arrive this morning at about 7 a.m. at Dulles on a flight from Argentina and she's currently being interviewed," Customs and Border Protection agency spokeswoman Suzanne Trevino said.

Chilean officials said Pinochet Hiriart was considered a fugitive from justice and President Ricardo Lagos said she would be asked to return to her country voluntarily.

"As I understand it, contact has been made and we are trying to see if she could return voluntarily to the country," Lagos told reporters.

EXTRADITION UNCERTAIN

A U.S. Justice Department official said the United States has a limited extradition treaty with Chile, but it did not cover all crimes and may not cover the criminal charges against Pinochet Hiriart.

Media reports in Chile said Pinochet Hiriart fled to neighboring Argentina by car on Sunday, a day before her mother and four siblings were arrested on charges of tax evasion and fraud linked to her father's multimillion-dollar bank accounts.

Pinochet Hiriart's son Rodrigo Garcia Pinochet told a radio in Santiago that his mother had decided to visit the United States and return in March to "clear up this situation."

"She never imagined being in this turmoil, in this situation," he said.

Augusto Pinochet, 90, ruled Chile for 17 years after he took power in a 1973 military coup that toppled Salvador Allende. He has been accused of responsibility in the deaths of as many as 3,000 Chileans during his regime between 1973 and 1990, and in tens of thousands of torture cases.

He was charged last year with evading taxes on an estimated $27 million hidden in foreign accounts. Prosecutors say Pinochet and his family stashed millions of dollars in more than 100 bank accounts outside of Chile.

Observers say he may end up facing prosecution for tax crimes before any of the human rights charges against him, which are stalled in the courts because of his health.

On Tuesday, a Santiago court of appeals approved bail for wife Lucia Hiriart, his youngest son Marco Antonio, and his daughters Jacqueline and Veronica.

Pinochet's eldest son Augusto was released on Monday, hours after being arrested on charges of falsification of documents related to a fraud and tax evasion investigation involving more than 100 secret foreign bank accounts.

The bank accounts have damaged Pinochet's reputation domestically. The left has long accused him of being ultimately responsible for thousands of deaths and the torture of tens of thousands of leftists that occurred during his regime.

But many Chileans had supported him partly because he was seen as a clean leader in financial matters compared with many other Latin American presidents and dictators.

(Additional reporting by Antonio de la Jara in Santiago, Louise Egan in Buenos Aires and David Wiessler in Washington)

TAX:

Hatch Guilty Of Failing To Pay Taxes On 'Survivor' Winnings (AP)

By Ray Henry, Associated Press Writer

AP, January 26, 2006

(AP) - PROVIDENCE, Rhode Island-Richard Hatch, who won $1 million (â,¬810,000) in the debut season of the reality show "Survivor," was found guilty Wednesday of failing to pay taxes on his winnings and taken straight to jail.

Hatch remained calm as the court clerk read the verdict. He waved goodbye to family members, then was handcuffed and taken into custody after U.S. District Judge Ernest Torres said he was a potential flight risk.

The charges carry up to 13 years in prison. Torres said he expected a sentence of between 33 months and 41 months, but said the time could be longer because prosecutors say Hatch committed perjury. Sentencing was scheduled for April 28.

Hatch, 44, was also convicted of evading taxes on $327,000 (â,¬265,983) he earned as co-host of a Boston radio show and $28,000 (â,¬22,775) in rent on property he owned. He was acquitted of seven bank, mail and wire fraud charges related to a charity, Horizon Bound, he planned to open for troubled youth.

Hatch's lawyer, John MacDonald, said he would appeal the verdict. He said Hatch was aware of the possibility of jail time.

"Rich has been going through this now for three years and he's prepared himself mentally and emotionally for this date," MacDonald said.

Torres said Hatch never accounted for a significant part of his money, including the "Survivor" prize, which he said could be used to flee.

Near the end of the trial, an explanation for Hatch's failure to pay taxes was raised by his lawyer - but never mentioned in the jury's presence. Hatch's lawyer, Michael Minns, said Hatch caught fellow contestants cheating and struck a deal with the show's producers to pay his taxes if he won. But Hatch was never asked about the allegation when he testified.

Instead, Minns told jurors Hatch was the "world's worst bookkeeper" and said his client never meant to do anything wrong. Hatch testified that he thought producers were supposed to pay his "Survivor" taxes, and said the donations he took from his charity were far less than the money he had already poured into it.

One juror, Robert Paquette, said in a telephone interview that the jury believed Hatch had legitimate questions about who was responsible for paying his "Survivor" taxes. But he said Hatch crossed the line when he didn't report income from his rental property and radio show.

"Even if you take the `Survivor' money out of there, there was still a lot of evidence," Paquette said.

More than five years after winning, Hatch remains reality TV's most famous villain, the man viewers loved to hate. He first captured their attention for shedding his clothes on "Survivor," prompting David Letterman to nickname him "the fat naked guy," and became known for manipulating competitors to his advantage.

Government Says Struckman Nabbed (PSBIZ)

Puget Sound (WA) Business Journal, January 26, 2006

The U.S. Department of Justice said Wednesday that former Renton resident David Struckman has been captured in Panama. Struckman had been charged by the Internal Revenue Service for running an operation that promoted tax-avoidance plans.

Struckman was indicted in 2004 and charged with conspiracy to defraud the United States. He then "disappeared," according to a Justice Department spokeswoman. He was arrested in Panama earlier this month and deported, the department said, and will be transported to Western Washington.

The government alleges that Struckman and four others sold "Global Prosperity" wealth-building products, including videotapes, CDs and seminars, which "included fraudulent methods of income tax elimination."

The seminars cost as much as $37,000 to attend and, according to the government, the group then concealed income earned from the products by using bogus trusts and offshore bank accounts.

Struckman's four co-defendants pleaded guilty and face sentencing on April 10 in Seattle. Last year, Struckman was also charged by the government with tax evasion for 1999 through 2001. If convicted, he faces up to 20 years in jail and $1 million in fines.

CONGRESS-ADMINISTRATION:

Alito Moves Toward Senate Confirmation (SACBEE)

By jesse holland

The Sacramento Bee, January 26, 2006

Supreme Court nominee Samuel Alito is moving toward all-but-certain confirmation as the nation's 110th justice, with unhappy Democrats keeping up a drumbeat of criticism of the conservative judge while advising their leaders against attempting a filibuster.

"Because we have such a full plate of pressing issues before Congress, a filibuster at this time would be, in my view, very counterproductive," said Sen. Mary Landrieu, D-La., who wants the Senate to concentrate on Hurricane Katrina rebuilding programs. "We simply cannot afford to bring the Senate to a halt at a time when we need its action the most."

Without a filibuster, Alito will be confirmed as the replacement for retiring Justice Sandra Day O'Connor, who throughout her years on the high court often has been a key fifth vote on contentious social issues including abortion, affirmative action and

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the death penalty. Alito already has majority support in the Senate, with 51 Republicans and Democratic Sen. Ben Nelson of Nebraska already publicly supporting his confirmation.

The confirmation debate on the Senate floor was continuing Thursday, but Republicans and the White House are so confident that Alito will be approved by the Senate that they've already started congratulating him and sending up new lower-court nominations for senators to consider.

A few hours after senators started debating his nomination Wednesday, Alito met with Senate Majority Leader Bill Frist, Majority Whip Mitch McConnell and Judiciary Committee Chairman Arlen Specter in a U.S. Capitol room that directly faces the neighboring Supreme Court.

The conservative judge shook their hands and joked with the Republican leaders and thanked them for their efforts. Alito, who had met privately with more than 80 senators since President Bush nominated him in October, also thanked "all of the senators who supported me and were kind enough to meet with me."

The 100-member Senate is expected to confirm the 55-year-old judge from the 3rd U.S. Circuit Court of Appeals in Philadelphia before Bush's State of the Union address on Tuesday.

"I call on the United States Senate to put partisanship aside and give Judge Alito the up-or-down vote he deserves and confirm him as the next associate justice of the Supreme Court," the president said at the White House.

Even though Democrats like Landrieu and Ken Salazar of Colorado won't support a filibuster, that doesn't mean that liberals aren't working to get the largest vote against Alito possible.

Nelson is the only Democrat to express support for Alito, and all eight Democrats on the Senate Judiciary Committee voted against his nomination on Tuesday. Twenty-three Democrats have already said they will vote against Alito, which is one more than opposed conservative Chief Justice John Roberts last year.

If the pattern continues, Alito may be on his way to the most partisan Senate victory for a Supreme Court nominee in years. The closest vote in modern history is Justice Clarence Thomas' 52-48 victory in 1991, when 11 Democrats broke with their party and voted for President George H.W. Bush's nominee.

Democrats argue that replacing O'Connor with Alito would put people's rights and liberties in danger.

Alito "will tip the balance of the scales of justice," said Sen. Dick Durbin of Illinois, the Senate's No. 2 Democrat. "He will tip the balance against protecting our basic privacy and personal freedoms. He will tip the balance in favor of presidential power even when it violates the law."

Senate Debates Bush Court Pick, Approval Expected (REU-Y2)

By Thomas Ferraro

Reuters, January 26, 2006

U.S. Supreme Court nominee Samuel Alito appeared to have the votes for confirmation on Wednesday as the Senate began a bitter debate about the conservative judge who could push the high court to the right.

Democrats said Alito valued presidential power over civil liberties, and Republicans denounced what they described as a smear campaign against President George W. Bush's 55-year-old nominee.

At least 51 of the Senate's 55 Republicans, along with at least one Democrat, plan to vote for Alito, according to an unofficial tally based on statements and interviews with lawmakers and aides in the 100-member chamber.

"Judge Alito deserves to become Justice Alito," said Senate Republican leader Bill Frist of Tennessee. "Those who oppose him are smearing a decent and honorable man."

Democratic Sen. Edward Kennedy (news, bio, voting record) of Massachusetts ripped into Alito by complaining about what he described as bid for expanded power by Bush. He cited in particular the administration's program of domestic eavesdropping without warrants.

"The record demonstrates that we cannot count on Judge Alito to blow the whistle when the president is out of bounds," Kennedy said. "He (Alito) is a long-standing advocate for expanding executive power, even at the expense of core individual liberties."

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If confirmed, Alito would replace moderate conservative Justice Sandra Day O'Connor and could help move the nine-member high court to the right on abortion, civil rights and other hot-button issues.

The Senate began its debate a day after its Judiciary Committee split 10-8 along party lines to approve Bush's second justice on the high court, which the president has promised to make more conservative.

NO FILIBUSTER

Democrats have not threatened a filibuster since they do not appear to have the votes to sustain such a procedural roadblock. But they appear certain to push the Senate into holding at least a few days of debate.

At the White House, Bush called on the Senate to "put partisanship aside and give Judge Alito the up-or-down vote he deserves and to confirm him as the next associate justice of the Supreme Court."

Flanked by 39 of Alito's former law clerks, Bush said, "In its 216-year history, the Senate has held an up-or-down vote on every Supreme Court nominee with a majority of Senate support."

Democrats have made clear they intend to make Alito and the high-court an issue in the November congressional elections.

Republicans have said they would welcome such a debate and argued that Alito, a federal appeals judge for the past 15 years, is far more mainstream than many Democratic supporters.

Traditionally, the Senate has approved successful Supreme Court nominees with broad bipartisan support, but Sen. Jeff Sessions (news, bio, voting record), an Alabama Republican, charged that Democrats have sought to mount opposition to Alito to score political points.

The "knife cuts both ways," Sessions said. "If this is affirmed, then it will be more difficult in the future for Democratic presidents to have their nominees confirmed."

Republican backers have hailed Alito as a fair-minded judge who received the American Bar Association's top rating. But Democratic critics say he has staked out extreme positions on such matters as abortion, civil rights and presidential powers.

With Republicans holding 55 of 100 seats in the Senate, Alito appears certain to be approved. As of Wednesday, only four Republicans had not disclosed their intentions.

The Senate vote on Alito is expected to be far closer than the 78-22 one that John Roberts, Bush's first nomination to the high court, received in September in being confirmed as U.S. chief justice.

Half of the Senate's 44 Democrats voted for Roberts but only one of them, Ben Nelson of Nebraska, has announced he will vote for Alito. All but a few other Democrats appear certain to oppose him.

Parties Shore Up Votes On Alito (WT)

By Charles Hurt

The Washington Times, January 26, 2006

Democrats took their opposition of Supreme Court nominee Samuel A. Alito Jr. to the Senate floor yesterday as Republicans rounded up the 60 votes they need to block any attempt to filibuster his nomination.

"The Democrats know that they can't defeat this nomination," Sen. John Cornyn, Texas Republican and member of the Senate Judiciary Committee, said yesterday. "There won't be a filibuster, in all likelihood. But what they can do, unfortunately, is smear the name and the reputation of this good man who has offered himself to public service."

Sen. Edward M. Kennedy, Massachusetts Democrat and one of Judge Alito's harshest critics, called the vote on the nomination "the vote of a generation."

"The American people will have no second chance to decide whether this person should be trusted with such an awesome responsibility," Mr. Kennedy said. "As their representatives, it is our responsibility to ask the tough questions and demand meaningful answers."

Republicans, meanwhile, counted the 60 votes they need to prevent a filibuster. Party leaders expect at least five Democrats to join the chamber's 55 Republicans in opposing a filibuster, although they expect to win fewer than 60 votes on final confirmation.

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Sen. Ben Nelson, Nebraska Democrat, has announced that he will support Judge Alito's confirmation. Also, Democratic Sens. Dianne Feinstein of California, Mark Pryor of Arkansas, Robert C. Byrd of West Virginia and Joe Lieberman of Connecticut have said they see no grounds for a filibuster.

Sen. Ken Salazar, Colorado Democrat, who campaigned on a pledge not to participate in filibusters of judicial nominees, has declined to rule out supporting an Alito filibuster.

Mr. Salazar is part of the so-called "Gang of 14" senators who last year brokered an end to the judicial filibusters. Of those seven Democrats and seven Republicans, 11 say the Alito nomination is not an "extraordinary circumstance" under which a filibuster would be acceptable.

Democratic Sens. Joseph R. Biden Jr. of Delaware and Frank R. Lautenberg of New Jersey have speculated that Democrats won't filibuster the nomination. But the Democratic leadership in the Senate repeatedly has refused to say that a filibuster is no longer being considered.

However, not everybody who supports Judge Alito wants to avoid a filibuster.

"If they move forward with such a filibuster, my reaction is: Make my day," Sen. George Allen, Virginia Republican, said yesterday. "We'll enjoy pulling the constitutional trigger to allow Judge Alito a fair up-or-down vote."

The "constitutional" route would require 51 votes to ban judicial filibusters.

With a filibuster looking unlikely, the only question remaining about Judge Alito's Senate confirmation is when the full vote will occur.

Republicans said yesterday that they are hoping for a vote Monday. Democrats, however, are aiming for a vote as late as Tuesday so President Bush's State of the Union address that day will downplay news of the confirmation.

Robert Novak (CHIST)

By Alito a dilemma for red state Dems

Chicago Sun-Times, January 26, 2006

As the Senate moved this week toward the anticipated vote to confirm Samuel Alito, a resident of far-off North Dakota was likely to watch a heavily aired television ad. A female announcer read this:

"Along with Democrats and Republicans, newspapers across America . . . are endorsing Judge Samuel Alito for the U.S. Supreme Court. Yet, politically motivated liberal extremists like Ted Kennedy continue to attack Alito. Sen. Kent Conrad will soon cast his vote. Call Sen. Conrad and tell him to vote yes on Judge Alito and stand with mainstream America, not Ted Kennedy."

Conrad, a powerful figure in the Senate as ranking Democrat on the Budget Committee, normally experiences no difficulty in making up his mind to express firm opinions. But not on the Alito confirmation. He scheduled an extra meeting with the judge on Friday, and his staff said an internal meeting to decide his vote would be held later that morning. Facing re-election this year in the very red state of North Dakota, Conrad may be wondering what political price he might pay to vote no on Alito.

The Democratic leadership has made a calculated decision to follow Kennedy and liberal pressure groups in opposition to Alito. Sen. Ben Nelson, up for re-election in Nebraska, at this writing is the Senate's only Democrat to endorse Alito. Regarding this opposition as a political decision, conservative strategists are determined to play politics themselves this year against Democrats -- particularly red state senators who oppose Alito.

That has opened the door for conservatives to turn the Alito confirmation into a political asset in the 2006 elections. Two unnamed donors have contributed $100,000 for current TV ads in the Dakotas to influence Democrats Kent Conrad and Tim Johnson. These same contributors, who spent $4.5 million in the 2004 election cycle, have privately committed $5 million against the re-election of red state Democrats who actually vote against Alito.

Conrad and his North Dakota colleague Byron Dorgan, Bill Nelson of Florida, Tim Johnson of South Dakota, Ken Salazar of Colorado, Mary Landrieu of Louisiana, and Mark Pryor and Blanche Lincoln of Arkansas are red state Democrats who voted to confirm Chief Justice John Roberts. While Roberts is no less conservative than Alito and was markedly less forthcoming in answering Senate Judiciary Committee questions, these Democrats who voted for the chief justice have been under intense pressure from the left to oppose Alito.

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All such senators may be willing to risk a politically unpopular "no" vote, partly thanks to disappointing Senate Republican candidate recruitment this year. With party leaders unable to persuade popular Republican Gov. John Hoeven to run in North Dakota, Conrad does not yet even have an opponent. Florida Republican leaders did not get the candidate they wanted with Rep. Katherine Harris running far behind, enabling Bill Nelson to surprise many colleagues by announcing opposition to Alito. However, conservative money now will pour into both Florida and North Dakota.

Politicizing the confirmation vote also poses problems for prominent Democratic non-incumbent candidates. Pennsylvania State Treasurer Bob Casey Jr., the nominally pro-life opponent of Republican Sen. Rick Santorum, is keeping quiet about Alito. In New Jersey, newly appointed Democratic Sen. Robert Menendez does not have Casey's luxury of neutrality on Alito. He is expected to vote no, threatening Italian-American votes against him this year in favor of Republican Thomas Kean (son of the former governor).

Alito strategists were delighted this week when "Friends of John Kerry" dispatched over the whole country an e-mail signed by the 2004 presidential nominee. That facilitates the conservative tactic of linking Conrad with Kennedy and Kerry in the minds of North Dakotans if he votes against Alito.

"We can't trust [Alito] to defend mainstream American values," contended Kerry's letter. The contention that President Bush's nominee is outside the "mainstream" is the major talking point against Alito, but polls show support for him and his endorsement of spousal abortion notification. That debate's outcome may determine whether senators who vote against Alito will suffer at the polls this year and in the years ahead.

Senators In Need Of A Spine (NYT)

The New York Times, January 26, 2006

Judge Samuel Alito Jr., whose entire history suggests that he holds extreme views about the expansive powers of the presidency and the limited role of Congress, will almost certainly be a Supreme Court justice soon. His elevation will come courtesy of a president whose grandiose vision of his own powers threatens to undermine the nation's basic philosophy of government — and a Senate that seems eager to cooperate by rolling over and playing dead.

It is hard to imagine a moment when it would be more appropriate for senators to fight for a principle. Even a losing battle would draw the public's attention to the import of this nomination.

At the Judiciary Committee hearings, the judge followed the well-worn path to confirmation, which has the nominee offer up only the most boring statements and unarguable truisms: the president is not above the law; diversity in college student bodies is a good thing. But in what he has said in the past, and what he refused to say in the hearings, Judge Alito raised warning flags that, in the current political context, cannot simply be shrugged away with a promise to fight again another day.

The Alito nomination has been discussed largely in the context of his opposition to abortion rights, and if the hearings provided any serious insight at all into the nominee's intentions, it was that he has never changed his early convictions on that point. The judge — who long maintained that Roe v. Wade should be overturned — ignored all the efforts by the Judiciary Committee's chairman, Arlen Specter, to get him to provide some cover for pro-choice senators who wanted to support the nomination. As it stands, it is indefensible for Mr. Specter or any other senator who has promised constituents to protect a woman's right to an abortion to turn around and hand Judge Alito a potent vote to undermine or even end it.

But portraying the Alito nomination as just another volley in the culture wars vastly underestimates its significance. The judge's record strongly suggests that he is an eager lieutenant in the ranks of the conservative theorists who ignore our system of checks and balances, elevating the presidency over everything else. He has expressed little enthusiasm for restrictions on presidential power and has espoused the peculiar argument that a president's intent in signing a bill is just as important as the intent of Congress in writing it. This would be worrisome at any time, but it takes on far more significance now, when the Bush administration seems determined to use the cover of the "war on terror" and presidential privilege to ignore every restraint, from the Constitution to Congressional demands for information.

There was nothing that Judge Alito said in his hearings that gave any comfort to those of us who wonder whether the new Roberts court will follow precedent and continue to affirm, for instance, that a man the president labels an "unlawful enemy combatant" has the basic right to challenge the government's ability to hold him in detention forever without explanation. His

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much-quoted statement that the president is not above the law is meaningless unless he also believes that the law requires the chief executive to defer to Congress and the courts.

Judge Alito's refusal to even pretend to sound like a moderate was telling because it would have cost him so little. Chief Justice John Roberts Jr., who was far more skillful at appearing mainstream at the hearings, has already given indications that whatever he said about the limits of executive power when he was questioned by the Senate has little practical impact on how he will rule now that he has a lifetime appointment.

Senate Democrats, who presented a united front against the nomination of Judge Alito in the Judiciary Committee, seem unwilling to risk the public criticism that might come with a filibuster — particularly since there is very little chance it would work. Judge Alito's supporters would almost certainly be able to muster the 60 senators necessary to put the nomination to a final vote.

A filibuster is a radical tool. It's easy to see why Democrats are frightened of it. But from our perspective, there are some things far more frightening. One of them is Samuel Alito on the Supreme Court.

The Roberts-Alito Court (WSJ)

The Wall Street Journal, January 26, 2006

With at least 52 Senators already on record in support, it's clear that -- short of some smear ex machina -- liberal Democrats can't stop Samuel Alito from being confirmed to a seat on the Supreme Court. So it's a good moment to consider what this says about our politics and what it means for the Court as it enters a new era.

One conclusion is that the confirmation of both Chief Justice John Roberts and Judge Alito marks the most important domestic success for President Bush since his 2003 tax cuts. These look like legacy picks. Despite the Harriet Miers misstep, Mr. Bush has now fulfilled one of his campaign promises. And with two distinguished conservative jurists joining Justices Antonin Scalia and Clarence Thomas, the Court is closer than it's been in 50 years to having a majority that can restore Constitutional interpretation to its founding principles.

In this sense, the Alito-Roberts ascendancy also marks a victory for the generation of legal conservatives who earned their stripes in the Reagan Administration. The two new Justices are both stars of that generation -- many others are scattered throughout the lower courts -- and they are now poised to influence the law and culture for 20 years or more. All those Federalist Society seminars may have finally paid off. Call it Ed Meese's revenge.

The Roberts-Alito Court also represents a notable, and greatly satisfying, rebuke for the legal left and its "borking" strategy. They have long thought of the Courts as their personal legislature, and they have shown they will do and say anything to keep control of it. But this time they lost, and on their own ideological terms.

Senator Chuck Schumer declared in 2001 that he wanted to turn judicial confirmations into battles over "ideology." The New York Democrat succeeded in doing so, but he ended up losing in a self-knockout. One reason Democrats couldn't defeat Chief Justice Roberts or Judge Alito, despite near party-line opposition, is that their filibuster strategy had made judges a top-line election issue in both 2002 and 2004.

The battle over their unprecedented filibuster of 10 appeals-court nominees helped to sweep Democrats out of the Senate in Bush-leaning states and give Republicans a larger majority. The Democrats who remain in red states -- five of whom are up for re-election in November -- saw all this and had no appetite for a repeat in 2006. The liberal interest groups that devised the filibuster strategy and wrote the anti-Alito talking points for Senators Ted Kennedy and Patrick Leahy thus contributed as much as anyone to Judge Alito's confirmation. Congratulations, Ralph Neas. It's your finest hour.

While it's impossible to know how any new Justice will vote on specific issues, every indication is that the new duo will fit somewhere along the Court's conservative-libertarian wing. With Judge Alito replacing Justice Sandra Day O'Connor, who in her later years had moved markedly left on the culture, we can anticipate more skepticism toward both racial preferences and campaign-finance restrictions on free speech.

We can also expect more respect for the Free Exercise of religion clause in the First Amendment, as opposed to the rigid invocation of the Establishment Clause's "wall" of separation between church and state. We'd also hope for greater respect for property rights, including a revisiting of last year's egregious Kelo decision, as well as a revival of the Lopez line of Commerce

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Clause cases showing more respect for federalism. Roe v. Wade may survive, or not, but we'd expect that individual states would receive more leeway to enact restrictions on abortion as per the wishes of their citizens.

This does not mean this will be a "conservative" Court, however. Four reliable liberals remain, as well as the protean Justice Anthony Kennedy, who has been making his own migration to the cultural left and the make-it-up-as-you-go jurisprudence exemplified by Lawrence (on state laws on homosexuality) and Roper v. Simmons (on the juvenile death penalty). You can bet the press corps and liberal politicians will now apply their carrot-and-stick strategy of praise and castigation to push Justice Kennedy further to the left and retain a five-vote liberal majority. This will be especially true on the polarizing cultural disputes that are better solved democratically.

All of which means that the political battles over the Courts will continue. It is possible Mr. Bush will get another Supreme Court nomination before his term ends. Even if he doesn't, there will be many crucial places on the appellate courts to fill. There are eight appeals-court nominees awaiting action and a total of 15 vacancies, excluding Judge Alito's slot on the Third Circuit.

The White House and Senate should move with confidence and dispatch to fill these openings with judges in the Thomas-Scalia and now Roberts-Alito mold, while they still have the votes to confirm them. One thing we've surely learned from the past six months of Supreme Court debate is that elections matter to the courts as much as they do to the other two branches of government.

A Stop At Senate On The Way To Court (WP)

By Charles Babington

The Washington Post, January 26, 2006

On the verge of a second successful Supreme Court appointment, the White House flexed its judicial muscles yesterday, sending Samuel A. Alito Jr. to the Capitol for an early victory lap and resubmitting a contentious appellate court nominee blocked by Democrats in past years.

Just hours after Senate debate opened on his nomination to the Supreme Court, Alito posed for photographs and congratulations with Majority Leader Bill Frist (Tenn.) and other senior GOP senators. Although a Senate confirmation vote is not expected until Friday at the earliest -- and possibly as late as Tuesday -- the group acted as if the result was not in doubt. Alito, an appellate judge for 15 years, thanked "all of the senators who supported me and were kind enough to meet with me."

Meanwhile, the White House renominated Brett M. Kavanaugh to the U.S. Court of Appeals for the District of Columbia Circuit. President Bush nominated Kavanaugh, the White House staff secretary, in July 2003, but he fell victim to intense battles between Senate Democrats and Republicans over numerous judicial appointments. A May 2005 bipartisan pact averted a showdown over judicial filibusters and enabled some contested nominees to win confirmation. But it left Kavanaugh in limbo.

The Senate Judiciary Committee's eight Democrats complained last year that Kavanaugh took several months to answer their written questions about his qualifications. Other Democrats have noted that Kavanaugh, 40, has limited courtroom experience and helped independent counsel Kenneth W. Starr pursue the Monica S. Lewinsky case during the Clinton presidency.

Senate debate on Alito opened with Republicans praising him and Democrats calling him a threat to long-established rights such as access to abortion in all 50 states. "He has voted to narrow that circle, to restrict the rights that Americans hold dear," Sen. Hillary Rodham Clinton (D-N.Y.) said.

Sen. Barbara A. Mikulski (D-Md.) said Alito "has stated he looks at the facts of each case. Yet time and time again his decisions show support for big business, for the executive branch, but not so much for everyday Americans."

Sen. Orrin G. Hatch (R-Utah) said Alito "is highly qualified to serve on the Supreme Court." Democrats, he said, "are so intent on manufacturing a case against this nominee that they brush aside this seemingly minor detail of his qualifications as if it were just an annoyance."

Frist began the debate by saying that "those who oppose him are smearing a decent and honorable man and imposing an unfair, political standard on all judicial nominees." The senator added: "He has a record that demonstrates a respect for judicial restraint, an aversion to political agendas on the bench, and a commitment to the rule of law and the Constitution."

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At the White House, Bush met with 54 of Alito's former law clerks. The president told reporters that Alito "has earned broad support from his fellow judges on the 3rd Circuit" and said: "There's no doubt about Judge Alito's qualifications, his intellect, or his complete dedication to our Constitution and laws. He is exactly the kind of person Americans want on the Supreme Court."

Bush NJ Federal Court Nominees Include Abramoff Prosecutor (AP)

AP, January 26, 2006

WASHINGTON — President Bush on Wednesday nominated one of the Justice Department's lead prosecutors in the Jack Abramoff corruption probe to a U.S. District Court seat.

Noel Hillman, chief of the department's public integrity section, was nominated for the federal judgeship in New Jersey, where he served in the U.S. Attorney's office under Michael Chertoff, now secretary of Homeland Security.

The White House was poised to nominate Hillman last summer, after New Jersey's two Democratic senators took the opportunity to weigh in on Hillman and other nominees in exchange for lifting their objections to another candidate Bush had nominated in 2003.

White House press officials did not immediately comment on the timing of the nomination.

Hillman will step down as chief of the public integrity unit next week, but remain in the Justice Department's criminal division until he is confirmed, a department official said. Andrew Lourie, a career prosecutor in Miami, will lead the public corruption-fighting office on a temporary basis, the official said, speaking on condition of anonymity because he is not authorized to discuss personnel matters.

Lourie performed the same role until Hillman took over early in 2003.

During a news conference earlier this month following Abramoff's guilty plea on corruption-related charges, Assistant Attorney General Alice Fisher said Hillman played an important role in providing leadership in the investigation.

Hillman came to Washington in 2001. Before that, he was an assistant U.S. attorney in New Jersey from 1992 to 2001, coming in while Chertoff was the U.S. attorney.

Last summer, Democratic Sens. Jon Corzine and Frank Lautenberg signed off on the nominations of Hillman and two others nominated to judgeships in New Jersey on Wednesday. They gave the OK as part of an agreement to lift their objections to Bush's nomination of Peter Sheridan, a lawyer and Republican activist, to the federal bench.

Bush Plays Down Bailout Prospects For GM And Ford (WSJ)

By Christopher Cooper And John D. Mckinnon, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, January 26, 2006

WASHINGTON -- President Bush said General Motors Corp. and Ford Motor Co. should develop "a product that's relevant" rather than look to Washington for help with their heavy pension obligations, and hinted he would take a dim view of a government bailout of the struggling auto makers.

In an Oval Office interview, Mr. Bush said that his administration has discussed the development of new fuel technologies with the nation's top two auto makers, which might make them more competitive, but that he has had no talks about the companies' finances.

Asked if he had spoken to GM Chairman and Chief Executive Rick Wagoner or Ford Chairman and CEO William Clay Ford Jr., Mr. Bush replied: "Not about their balance sheets." He added: "And I haven't been asked by any automobile manufacturer about a bailout."

Earlier this week, Ford announced sweeping layoffs and plant closings, amid falling sales and increased foreign competition that have sparked concerns one or both of the auto makers may seek bankruptcy protection. Both have denied such plans. But the prospect has fueled speculation that the federal government could face pressure to bail out the companies, as President Carter's administration did in 1979 with $1.5 billion in loan guarantees for Chrysler Corp.

Mr. Bush said little to suggest the companies should find comfort in that precedent. "I have been very reluctant -- I'm mindful of the past where at one point in time, a predecessor of mine was faced with that same dilemma," he said. "I would hope I wouldn't be asked to make that decision."

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Asked if the government should take any pre-emptive action, he said: "I think it's very important for the market to function." He suggested he felt optimistic about the companies' prospects.

1 TRANSCRIPT

Read an edited transcript2 of the interview with President Bush.

The auto industry's struggles could become a big political issue in this year's midterm elections and beyond, especially in Midwestern states such as Michigan and Ohio, where much of the industry's manufacturing base is located. Ford and GM plan to cut at least 60,000 jobs over the next few years, and the fallout could ripple across the auto-supply industry as well, whether or not the companies ever seek bankruptcy protection. While resisting a bailout could cost Republicans support among some voters, it also would serve to shore up their support among those who favor free-market solutions.

While neither GM nor Ford has explicitly sought a Chrysler-style bailout, the two auto makers have dropped hints they would welcome government help in areas such as coping with rising health-care and pension burdens and the high costs of developing fuel-efficient vehicles. And both are key administration priorities in 2006.

Market Forces for Health Care

Speaking less than a week before his annual State of the Union address, Mr. Bush previewed his push to harness market forces to make health care more affordable by giving consumers more direct control of their care. Among other things, Mr. Bush signaled he wants to significantly expand the Health Savings Account program, under which workers who sign up for special high-deductible insurance are allowed to put away money tax-free to bankroll basic expenditures.

On other matters, Mr. Bush:

• said he would not deal with the radical Hamas Islamist party, regardless of how many seats it won in yesterday's Palestinian parliamentary elections until it accepts Israel's right to exist;

• declared that "it's important for us to exhaust all diplomacy" in trying to halt Iran's nuclear program, and said he advocates a plan for Russia to enrich nuclear material and deliver it to Iran for a civilian nuclear-energy program;

• said the controversial program to wiretap conversations between people inside and outside the U.S. without warrants was developed by national-security experts and was constructed outside an existing law on covert surveillance because "we require a different response to an enemy" in an era of terrorism.

In discussing the auto companies' woes, Mr. Bush suggested his sympathies lie more with the workers who are displaced or unsettled by a changing corporate environment, saying his administration would focus on ways to retrain laid-off employees. "This is going to be a very troubling time for workers and their families," Mr. Bush said, adding that companies had an obligation to assist employees they cut loose.

On the subject of ballooning pension expenses, which are part of Detroit's problems, Mr. Bush called on GM, Ford and the airline industry to think twice before backing away from their promises to pay in full. "That's not how the market works and that's not corporate responsibility as I see it," he said. "I'm very firm on seeing to it that this government hold people to account."

While neither GM nor Ford has sought to pass on pension obligations, a few airlines have. After filing for bankruptcy protection, UAL Corp.'s United Airlines and US Airways Group Inc. dumped nearly $10 billion in unfunded pension obligations on the Pension Benefit Guaranty Corp., the federal insurer of private-sector traditional pension plans. Northwest Airlines and Delta Air Lines, which are currently operating in Chapter 11, have said they haven't decided whether they will ask the court to shift their pension plans to the PBGC.

Mr. Bush suggested that one way auto makers can make more appealing products is to promote cars using alternative fuels -- a topic he plans to touch on in his speech next week. He said U.S. auto makers could find new market share in the competition to sell so-called flexible-fuel vehicles, which can use gasoline or blends containing such alternative fuels as ethanol.

"As these automobile manufacturers compete for market share and use technology to try to get consumers to buy their product, they also will be helping America become less dependent on foreign sources of oil," he said.

Mr. Bush's discussion of alternative fuels is likely to boost efforts on Capitol Hill to set targets for reducing U.S. oil consumption, and to start mandating flexible-fuel technology on motor vehicles. He said he has been impressed by the example of Brazil, where alternative auto fuels made from sugar are expected to soon help that country end dependence on imported oil.

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But Mr. Bush's proposal is likely to focus more on government-sponsored research than expansive new tax breaks for purchase of flex-fuel vehicles, for example.

On the health-care front, Mr. Bush will call on Congress to provide more information on providers, including how much they charge, so consumers can be smarter shoppers. "The patient-doctor relationship is a crucial relationship in helping control the costs of medicine," Mr. Bush said. "The more transparent pricing is, and the more opportunities patients have to make decisions in the health-care field, the more likely it is costs will not increase as dramatically as they have in the past."

He said he also will push for legislation making it harder to file malpractice lawsuits, which he said are "running up the cost of medicine." Congress has declined to address this issue in the past.

Acknowledging that he hasn't always managed to get the Republican-controlled Congress to take on his priorities, Mr. Bush called Washington gridlock "the challenge of the '06 year." He said he would make an effort to draw Democrats into the health-care debate.

During the interview, Mr. Bush appeared relaxed as he sipped coffee and called for questions, often holding up his hands to say more about a topic or finish a thought. His most animated and expansive comments came as he discussed his drive to introduce democracy in the Middle East, a topic that often drew him to the edge of his seat.

The president said his administration's efforts are advancing across the Middle East, despite concerns that they are sowing instability. "My attitude is that America must have faith in our values, be idealistic about our vision, and practical about what's possible," he said. "But it's changing. It's changing."

Conditions for Hamas

Still, Mr. Bush warned he isn't prepared to accept one offshoot of that drive: the electoral rise of the radical Hamas party among Palestinians. Whether Hamas is democratically elected or not, Mr. Bush said, the U.S. won't deal with the group. Hamas has claimed responsibility for many attacks on Israel over the years and continues to deny its right to exist.

"A political party, in order to be viable, is one that professes peace, in my judgment, in order that it will keep the peace," Mr. Bush said. "And so you're getting a sense of how I'm going to deal with Hamas if they end up in positions of responsibility. And the answer is: Not until you renounce your desire to destroy Israel will we deal with you."

The Palestinian election is a reminder that, in some countries in the region, elections could elevate Islamic religious parties that aren't friendly to the West or eager to see other Western values spread. But Mr. Bush made clear he isn't deterred by such concerns, saying he sees "no alternative" to democracy as a long-term stabilizing force.

Elsewhere in the Middle East, Mr. Bush said he is working with other international leaders to defuse Iran's nuclear program. He made it clear that he is particularly supportive of a proposal under which Russia would enrich nuclear material on the Iranians' behalf in return for that country's renunciation of nuclear-weapons research.

Iran has said it is interested in the idea. Its top nuclear negotiator has been discussing it with Russian officials this week, but no agreement has been reached.

Mr. Bush suggested he had grave reservations about the West's ability to work with Iran's new president, Mahmoud Ahmadinejad, citing that leader's call for the destruction of Israel. Mr. Bush said Mr. Ahmadinejad's "interest in the destruction of one of our closest allies" is a matter of concern "to people who care for the peace around the world."

Mr. Bush also had words of criticism for Syria, saying that government continued to meddle in the affairs of its neighbor Lebanon in direct defiance of United Nations disengagement demands.

--Joseph B. White in Detroit contributed to this article.

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Managing Detroit (WP)

The Washington Post, January 26, 2006

IT'S BEEN YEARS since chrome and tail fins seduced consumers, and few people still believe that what's good for General Motors is good for America. But the big Detroit carmakers remain so prominent -- as employers, industrial symbols and purveyors of cultural icons -- that it's hard to keep their grim results in some sort of perspective. Last year General Motors Corp. announced plans to cut 30,000 U.S. jobs, and this week Ford Motor Co. followed with plans to cut at least 25,000. These losses are painful.

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But they do not herald the death of American car manufacturing. Nor do they justify special measures from the federal government.

Since 1985 the value of cars, trucks and components manufactured in the United States has roughly doubled. Even more remarkably, the industry employs about the same number of workers it did 20 years ago -- a notable achievement given that employment in other types of manufacturing has fallen. What the GM and Ford announcements signal is not the decline of an industry but rather a shift in its makeup. The U.S. payrolls of Detroit's Big Three (the third company being Chrysler, though it is now German-owned) fell from about 1 million people to roughly 400,000 between 1979 and 2003. Some of those jobs were transferred to components makers that were spun off by GM and Ford, and some were replaced by foreign "transplant" factories whose American payrolls have grown to just under 300,000. As a result of this process, membership in the United Auto Workers union has fallen by more than half over the past quarter-century.

The dislocation has been grueling. Michigan has been a net loser of at least 100,000 automobile jobs since the late 1970s, although other Midwestern states have held roughly level; Indiana has even gained a bit. The new Sun Belt factories make up for Michigan's loss to some extent, but some of the foreign plants offer workers lower benefits and remain union-free partly because of harsh laws that discourage workers from organizing. Even with fairer labor laws, though, the generous compensation offered by Detroit would not have been sustainable. Only a combination of oligopoly and perverse government policy disguised this fact for a generation.

Until the 1970s the Detroit three accounted for more than 80 percent of vehicle sales in the United States. At its peak, GM alone controlled more than half of the market. This power allowed Detroit to charge high prices, which hurt ordinary families, and in turn to pay wages that were much more generous than workers in other industries could expect. But by the late 1970s foreign imports were growing, and generous compensation became unaffordable; in 1979, Chrysler had to be rescued by the federal government. The arrival of transplant factories in the 1980s was an extension of this foreign competition -- and a welcome one. If the foreigners hadn't started making cars here, imports would have boomed even faster. Michigan's pain would not have been offset by gains in the Sun Belt.

The rise of foreign competition should have forced the auto workers' compensation into line with that of other industries, but this is where perverse government incentives kicked in. The government allowed companies to boost compensation by promising generous retirement benefits, but it failed to require firms to set aside the cash to make good on those pledges. In the case of pensions, companies had to set aside something, but not the full amount needed. In the case of retiree health benefits, they were free to set aside only what they wanted . This "promise now, pay later" option allowed carmakers to postpone adjustment to foreign competition. But "later" has arrived, and the Detroit three confront benefit costs that undermine their ability to compete against the transplant factories.

Detroit's advocates understandably wish that the old world of oligopoly wages could somehow be preserved forever. They tend to oppose trade, which they rightly identify as the root cause of their problems. But trade and competition promote efficiency and innovation -- new models, safety features and hybrid engines, not to mention good prices -- and these consumer gains outweigh the losses for unionized car workers. Equally, Detroit's advocates tend to favor regulation that expands the option of paying later; right now, they are pushing Congress to weaken rules on pension funding still further. But the pay-later approach is cruel to workers who count on benefit promises that turn out to be fake, and it increases the risk that pension plans will ultimately be bailed out by taxpayers.

It's not clear whether the GM and Ford restructuring plans will be enough to avert bankruptcy. Their difficulties may take on a more political tone, particularly since the Midwest is a key battleground for presidential campaign strategists. But Congress needs to keep Motown's troubles in perspective. They are the result of competitive pressures that most parts of the U.S. economy take for granted every day. And it is precisely by embracing competition that the United States has become the world's most powerful economy.

In Address, Bush Is Seen Avoiding Large Initiatives (NYT)

By Richard W. Stevenson

The New York Times, January 26, 2006

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WASHINGTON, Jan. 25 — Having stabilized his political standing after a difficult 2005, President Bush is heading into his State of the Union address on Tuesday intent primarily on retaining his party's slim majority in Congress this year and completing unfinished business from his existing agenda.

Unlike last year, when he used the occasion to kick off an ambitious and ultimately failed effort to overhaul Social Security, Mr. Bush seems unlikely to reshape the political landscape with his speech on Tuesday, members of both parties said.

Lawmakers said this election year would not be a good time to push difficult initiatives, and the White House has already shelved what it had initially planned as its big idea for 2006, a rewriting of the tax code.

Administration officials and other Republicans in Washington said Mr. Bush would focus on several topics, including health care, spending restraint, illegal immigration and the nation's international economic competitiveness, as well as an unapologetic restatement of his national security policy.

Much of the speech, they said, will be tied together under a broad theme acknowledging that the United States is going through transitions that involve wrenching dislocation as well as opportunity.

His aides portray Mr. Bush as undaunted by the plague of setbacks last year that loosened his grip on his party and drove down his poll numbers, which although up from their lows last fall remain at anemic levels. They said he was intent on using the nationally televised address on Tuesday to set out a forceful agenda that he will use to draw sharp contrasts with Democrats.

"People don't sit around here wallowing and wondering if we should go the school uniform route because we had some challenges last year," said Nicolle Wallace, the White House communications director, referring to an initiative once championed by President Bill Clinton that has come to symbolize a retreat into small-bore leadership.

"The state of the union address will be directional for our party and our country, and visionary," Ms. Wallace said. "That is not code for it lacking substance."

In the broadest sense, Mr. Bush's challenge is to demonstrate to both parties that he can still drive the national agenda despite the increasing difficulties he has had keeping Republicans together on domestic issues and in line with his assertively expansive view of his own wartime powers.

After five tumultuous years in office, he must show that his administration is not exhausted and bereft of ideas, and that the more ambitious goals he has set out at home and abroad have not crashed up against the nation's tolerance for ideological change.

The president's main goals for the year appear to be showing progress in Iraq, the issue that more than any determines his public support, and doing all he can to help maintain Republican control of Congress in the fall elections.

Part of that calculation, members of both parties said, is acknowledging that overreaching on legislative initiatives this year could carry outsized political risks, since the loss of even of few seats in either chamber could endanger his ability to get anything done for the remainder of his term.

"We shouldn't underestimate the White House's ability to win a political campaign, so to the extent that success in November is his objective, this is his announcement speech, and an important one," said Bruce Reed, president of the Democratic Leadership Council, an organization of centrist Democrats.

The speech is an opportunity for Mr. Bush to frame the legislative debates that will dominate Congress in coming months and provide ammunition for the fall elections. He has signaled that he will push hard for the extension of his tax cuts, arguing that failure to do so would amount to a tax increase that would endanger the economy. He is also fighting big fights over reauthorization of the antiterrorism law known as the USA Patriot Act and legislation to stem illegal immigration.

Aides said he also wanted to set out a broader vision of where the country should be heading and how it should get there.

"He views the times we are living in to be transformational, and with that comes great anxiety," said a senior administration official who is working closely with the president on the speech and who spoke on the condition of anonymity to provide a glimpse of the speech's contents.

Mr. Bush, the official said, will bring up topics like protectionism and isolationism to make a point that "America is at its best when we are shaping events, not when we are being shaped by them, both in foreign policy and domestically."

The president goes into the speech having dealt to a large degree with the most acute political problems from the latter half of last year. One was the demoralization of his conservative base, whose enthusiasm could determine the control of

Congress. The other was his loss of control last fall of the terms of the partisan debate over national security, the issue that more than any other has determined his political fortunes.

The nomination of Judge Samuel A. Alito Jr. to the Supreme Court, and the smooth handling of his confirmation process, has gone a long way toward calming social conservatives. Economic conservatives say they have been reassured by signals from the White House that Mr. Bush will tackle more directly their main area of concern, the rapid growth in government spending.

On the politics of national security, Mr. Bush has struck back forcefully after spending much of last year on the defensive, especially over the continued bloodshed in Iraq and his evolving rationales for taking the United States to war.

"They're on their way up, and they're going to be slow and methodical about recovering the political capital and the ground they will need to advance more of their agenda," said Pat Toomey, a former Republican member of Congress who is now the president of the Club for Growth, a conservative political action committee.

Mr. Bush and other White House officials have issued broad hints about his 2006 agenda, especially a repackaged set of health care initiatives built on existing proposals.

The White House has signaled that Mr. Bush will highlight his support for expanding the tax deductibility of medical expenses for people who lack employer-provided insurance or who have out-of-pocket expenses.

Economists who have consulted with the administration on the issue said Mr. Bush might push for a tax credit for uninsured medical expenses that would be structured so that even people who pay little or nothing in federal income tax would receive it.

Supporters of this proposal say it would mitigate a bias in the tax code that encourages employer-provided health insurance rather than individually purchased coverage.

R. Glenn Hubbard, dean of the Graduate School of Business at Columbia University and a former chief economist at the White House, and two other economists set forth the rationale in a recent book, "Healthy, Wealthy and Wise."

If the government encourages people to buy individual insurance policies with lower premiums and higher co-payments, they said, consumers will "make careful choices about their health care spending," and this, in turn, "will significantly reduce the growths in health costs."

In his budget last year, Mr. Bush proposed a refundable tax credit for the cost of health insurance bought by individuals under 65. The Treasury estimated the 10-year cost at $74 billion. Mr. Bush also said that people should be allowed to take tax deductions for the premiums they paid for high-deductible health insurance plans.

People buy such plans when they establish health savings accounts to pay routine medical expenses. The Treasury said the proposed deduction would cost $28 billion over 10 years.

On health care and other issues, however, Mr. Bush faces daunting hurdles. House Republicans are in the middle of a leadership fight that will not be concluded until after the State of the Union address. In addition, the criminal inquiry into bribery and corruption by lobbyists holds huge risks for Republicans.

Federal budget deficits limit the president's ability to undertake new programs. And members of his own party, especially in the Senate, are beginning to maneuver for advantage for the 2008 presidential race.

"You're starting to see the beginnings of a shift in the center of gravity away from Bush and his agenda toward the next agenda and the next leader of the party," said Bruce Bartlett, a conservative commentator who is often critical of the administration.

Health Of The Union (WSJ)

By David Gratzer

The Wall Street Journal, January 26, 2006

During next week's State of the Union address, President Bush will cite rising health costs as a major problem for Americans and their businesses, and he will outline steps to strengthen health savings accounts as a remedy. But he is unlikely to mention Medicare reform -- and that would be a mistake. Indeed, if the president is serious about health reform, he will have to tackle Medicare. And he can start by re-engaging a debate from 1999.

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Seven years ago, Sen. John Breaux and Rep. Bill Thomas completed the final report of the National Bipartisan Commission on the Future of Medicare. Considering various reforms, they eventually settled on a proposal modeled after the popular Federal Employees Health Benefits Plan (FEHBP), which covers nine million federal employees and their families. Instead of today's one-size-fits-all Medicare structure, they envisioned a program where seniors choose among competing private plans.

Since then, Washington has debated the size and scope of Medicare expansion -- such as the prescription benefit -- but the program itself has yet to be fundamentally rethought. It needs to be, because faced with Medicare's rising costs over the past four decades, the only real response has been a bipartisan exercise in wage and price controls. The results have been dismal:

• Poor physician participation. In cities such as Denver, it is hard for the elderly to find a doctor. According to a new study by the Center for Studying Health System Change, nearly 30% of American physicians will not accept new Medicare patients.

• Regulatory excess. Medicare requires hospitals and other providers to comply with over 130,000 pages of regulations, according to a Mayo Clinic estimate. A study for the American Hospital Association found that for every hour of care delivered to a Medicare patient, hospital officials spend roughly a half-hour completing the paperwork.

• Uneven service. "One unintended consequence of [Medicare's] administered pricing systems," notes a recent Federal Trade Commission report, "has been to make some hospital services extraordinarily lucrative and others unprofitable. As a result, some services are more available (and others less available) than they would be in a competitive market."

Herein lies the core problem with attempting to separate health reform from Medicare reform: The pricing and regulations of this massively large federal program have a profound impact on the rest of health care. With its controls, Medicare bureaucrats simply shift costs over to insured Americans. And if we really fret over rising health care costs, Medicare gives us plenty of reason for angst: It will consume 25% of federal income-tax revenues by 2030.

What then to do about Medicare? Breaux-Thomas proposed various worthwhile ideas, like collapsing the archaic structure of Medicare (Parts A and B) into a single plan. But the most far-reaching ideas focused on replacing the present program with competing private plans. The federal government would then offer premium support to individuals, providing more subsidies for lower-income seniors than those with higher-incomes.

Premium support is mentioned in the Medicare Modernization Act of 2003, but the idea is confined to a handful of demonstration projects starting in 2010. Writing on this page, former House Majority Leader Dick Armey observed: "I was in Congress long enough to know how demonstration projects really work. . . . On meaningful needed reforms, demonstration projects mean a quiet, obscure death."

There are, of course, other steps that must be taken to reform Medicare. The age of eligibility remains 65 -- just as it was 40 years ago when House Ways and Means Chairman Wilbur Mills helped ink the original legislation. Even social security changes its age of eligibility, albeit over the next two decades. We live longer and work longer than ever before -- shouldn't Medicare reflect that?

Medicare works on a pay-as-you-go basis, meaning that today's retirees depend on the financial support of today's taxpayers. With an aging population, the foundations are sinking. Some type of prefunding would be critically important. Indeed, the arguments made in favor of private accounts for social security are even stronger for Medicare reform, given that the unfunded liability is so much larger.

The White House is unlikely to touch prefunding again. Still, it would make sense is to finish the job started by Sen. Breaux and Rep. Thomas. Let's not forget that premium support won approval from a majority on a commission appointed by President Clinton.

In his State of the Union address three years ago, President Bush outlined sweeping changes to Medicare, suggesting that the program needed choice. He even alluded to the FEHBP when he suggested that seniors should have coverage "just like you -- the members of Congress, and your staff, and other federal employees." If the president is serious about taming rising health costs, he will use his second term to act on these words. In fact, the cool reception to his new prescription drug benefit may present an opportunity, since many seniors want the coverage but are hesitant on Plan D. Certainly a bold proposal will give Congress more to discuss than earmarks.

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Protesters Sue For Speech Spot (WP)

By Karlyn Barker

The Washington Post, January 26, 2006

Organizers planning a protest during President Bush's State of the Union address next week say they have been denied a permit to hold the demonstration around the U.S. Capitol Reflecting Pool because that area has been reclassified as part of the security perimeter for the day of the speech.

The organizers of the Tuesday protest, called "World Can't Wait -- Drive Out the Bush Regime," say the National Park Service and the U.S. Capitol Police initially offered them the Capitol Reflecting Pool as a demonstration site but changed their minds.

Demonstrators have been told to confine their gathering to the gravel walkways on the Mall between Third and Fourth streets, farther from the Capitol. The grassy areas are fenced off because they are being resodded.

Travis Morales, one of the organizers of the demonstration, said the restrictions effectively deny the protesters a meaningful public space to gather as a group. The nearest place to meet together, he said, is Seventh Street, about a mile from the Capitol.

"We are being told that turf renovation and security trump our First Amendment right to protest," he said.

Morales said the group was offered use of the area around the Capitol Reflecting Pool on Jan. 10 and that the site was not then part of any security perimeter. But on Jan. 19, he said, the group was told the security area had been expanded to include the Reflecting Pool.

He called the change "politically motivated," adding that the Bush administration "is trying to push us so far away that we can't be seen or heard. . . . A protest not seen and a protest not heard is not a protest."

The demonstrators filed a federal lawsuit yesterday seeking a court order that would enable them to gather at the Capitol Reflecting Pool. U.S. District Judge Ricardo M. Urbina will convene a hearing, possibly today.

A spokeswoman for the U.S. Capitol Police declined to comment on Morales's allegations that politics played a part in the decision and would not say if the Capitol Reflecting Pool has been used in the past as a protest site.

"Many of the questions you are asking are security-related, so we can't comment on that," said Sgt. Kimberly Schneider, a public information officer with the agency.

Mara Verheyden-Hilliard, a lawyer with the Partnership for Civil Justice, said the area around the Capitol Reflecting Pool on the west side of the U.S. Capitol has historically been a site where demonstrators have staged protests.

"It's been used time and time again for major demonstrations and small demonstrations," she said. "It's been a critical location for First Amendment expressive activity for a long, long time."

James R. Klimaski, an attorney for the demonstrators, said protesters have been told they can't use the area because it would interfere with Bush's motorcade. But, Klimaski said, that portion of the Capitol grounds is normally used as a parking lot.

Klimaski said that other groups have previously held demonstrations on the east side of the Capitol during State of the Union addresses but that those areas are now off limits because of the construction of a new visitor center.

Morales said organizers of the Capitol Hill protest expect it to draw about 5,000 participants. The demonstration is one of several planned around the country. The group's Web site urges people to gather on the night of Bush's address to Congress and to "symbolically drown out" the president's speech with drums, pots and pans, and other noise.

He said organizers are trying to get a permit from D.C. police to close part of Third Street so they can rally there. The group said it does have a permit to hold a national demonstration against the Bush administration at the Ellipse on Feb. 4.

Moderate, Picked As Dems' Voice, Faces Liberal Outcry Governor To Respond To State Of The Union (USAT)

By Jill Lawrence

USA Today, January 26, 2006

WASHINGTON — Virginia Gov. Timothy Kaine lifted the Democratic Party's spirits last fall when he won in a conservative state and gave his fellow Democrats some ideas about how to replicate his success.

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The fruits of victory include the honor of being picked to respond to President Bush's State of the Union address Tuesday — and the wrath of liberal bloggers wondering why Democrats didn't choose somebody else. Anybody else.

On the campaign trail, Kaine was "not at all bashful about talking about faith and values," as he puts it, or about contrasting the successes of his state's popular Democratic leaders with the record of the Republican president and Congress.

He set "a leadership example for the rest of the country," Senate Minority Leader Harry Reid, D-Nev., and House Minority Leader Nancy Pelosi, D-Calif., said when they named Kaine to give the party response on national TV.

Their pick — a Roman Catholic who opposes gay marriage — highlighted fault lines within the party. Bloggers on several liberal websites were furious for reasons including Kaine's looks, style and obscurity, his open talk about religion, his moderate positions and his inexperience in foreign affairs.

"What the hell are they thinking?" Arianna Huffington demanded on www.huffingtonpost.com. In a post that drew 262 responses mostly echoing her irritation, she accused Democrats of choosing "someone whose only claim to fame is that he carried a red state" when they badly need to make the case that "the GOP is not the party that can best keep us safe."

Kaine is not planning to ignore Iraq, national security or what Democrats call the Republican "culture of corruption." But, he said, when he speaks from Richmond on his 17th day as governor, he won't throw red meat either.

In an interview Wednesday, Kaine said he insisted on writing his own speech. He said it will highlight results, bipartisanship and good management at the state level. He'll draw a contrast with "the partisan gridlock, corruption and back and forth" in Washington.

"Bad management at the federal level covers a litany of sins, and corruption is one of them," Kaine said. Others he might mention, he said, include problems with the Iraq war, the Katrina response and the Medicare prescription-drug program.

The overall message: "Results matter. Management is important. Management can be life or death."

Nathan Gonzales, an analyst for the non-partisan Rothenberg Political Report, said anyone responding to a State of the Union speech is in a "futile" position, given the trappings of the main event. For Kaine the job is especially tough, he said, because "people don't have any idea who he is or what he's done."

Bloggers at dailykos.com, talkleft.com and other liberal sites showered cyberspace with alternatives: new faces — Illinois Sen. Barack Obama, New York Attorney General Eliot Spitzer — and famous faces — Al Gore, New York Sen. Hillary Rodham Clinton.

Rep. Rick Boucher, D-Va., said Kaine is a "brilliant" choice. He won rural and suburban support last fall, Boucher said, "the very constituents that Democrats need to … regain the House and the Senate."

Liberal writer Ezra Klein atezraklein.typepad.com was unimpressed. He called Kaine "a squat, squinty, pug-nosed fellow" with little oratorical skill.

Kaine addressed his appearance in a USA TODAY interview last fall. "I start with looks that appeal to the homely," he said. His press aide grew agitated, but Kaine reassured him: "Homely polls well."

DIRTY TRICKS (HP)

Huffington Post, January 26, 2006

Why is the White House desperately stonewalling requests to release information about Jack Abramoff's White House comings and goings? I mean, sure, the former uber-lobbyist has become the poster boy for the GOP's culture of corruption -- but it's not like he's been implicated in murder, right? Oh, wait a minute, he has -- the 2001 gangland-style murder of Gus Boulis, a Florida businessman involved in a disputed business deal with Abramoff and two of Abramoff's buddies from his College Republican days. Abramoff has denied any involvement in the murder, but the more you learn about his connection to the case, the more something smells fishy in Florida.

Dems Pick Villaraigosa To Rebut State Of Union, In Spanish (LAT)

By Edwin Chen

The Los Angeles Times, January 26, 2006

WASHINGTON — Congressional Democrats announced today that Los Angeles Mayor Antonio Villaraigosa will deliver the party's Spanish-language response to next week's State of the Union address

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Virginia Gov. Tim Kaine will deliver the Democratic response in English from the governor's mansion in Richmond, Va., while Villaraigosa will do so in Spanish from his office in Los Angeles City Hall, said Sen. Minority Leader Harry Reid of Nevada and House Minority Leader Nancy Pelosi of California.

The annual presidential address, before a joint session of Congress and a national audience, gives the chief executive the opportunity to lay out his agenda for the coming year.

Bush's speech will begin at 6 p.m. PST; the Democratic response generally begins about an hour later. The mayor's comments will be carried on Spanish-language networks.

This will be the third consecutive year that Democrats have offered a Spanish language response to Bush's speech.

Two years ago, Gov. Bill Richardson of New Mexico delivered the first such response. Last year, it was jointly given by then Rep. Robert Menendez, now a senator from New Jersey, and Sen. Jeff Bingaman of New Mexico.

Bush began editing drafts of his speech yesterday. He is expected to propose an array of new initiatives, including allowing Americans to take tax deductions on more of their out-of-pocket medical expenses.

"We are proud to have Mayor Antonio Villaraigosa delivering the Spanish language response this year," Reid and Pelosi said in a joint statement issued in both languages.

"Mayor Villaraigosa is working hard to increase economic opportunity and provide affordable and quality education for the people of Los Angeles. As the first Latino mayor of Los Angeles in more than a century, we are proud to have his diverse voice within the party," they said.

Prognosis Is Mixed For Health Savings (NYT)

By Milt Freudenheim

The New York Times, January 26, 2006

President Bush has made "consumer-directed" health savings plans a cornerstone of his policy for addressing runaway medical costs, and he plans to push them again in the State of the Union address next week. But so far there is little evidence that the approach is helping many consumers come to grips with the high price of health care.

In a way, the early results do offer some hope. More than two million people have signed up for the plans, which were created as part of Medicare overhaul legislation in 2003 but were not an option for many people until the health insurance sign-up season last fall. While that is a tiny fraction of the 180 million Americans with health insurance, some experts say the numbers show a notably fast adoption rate for a complicated new consumer program.

By other measures, though, workers and employers have been slow to embrace health savings plans, which are intended to reduce corporate health care costs while giving individuals more control of their medical spending.

In essence, health savings plans are high-deductible insurance policies that people can obtain through their employers or buy independently from insurance companies. In exchange for paying at least the first $1,050 of their medical expenses each year (or for families, a deductible of the first $2,100, consumers are supposed to benefit in two ways: lower monthly premiums and the ability to put pretax dollars into a savings account that grows tax-free.

Those savings, in theory, could be used toward the deductible in future years and help pay additional health bills not covered by the underlying insurance policy. As with a 401(k) retirement account, the health savings are the individual's to keep when changing employers — a portability feature that Bush administration officials like to cite.

But in many cases, people have evidently signed up not because they are eager to direct their own medical spending but because the plan looked cheap or they had no other insurance option. And at least half of those enrolled have not put money in their health savings accounts. So there will be no money building up for next year's out-of-pocket expenses — a big selling point for these health plans.

In addition, many employers have been slow to offer the plans. And companies that do so have been reluctant to encourage worker participation by contributing money to the savings accounts. The employers figure that "portability" means that their money will go out the door with workers who leave.

"That is our main concern," said Eric Airola, benefits director of J. B. Hunt Transport Services, a trucking company based in Lowell, Ark. "Turnover in the truckload industry as a whole is very high," he said.

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As the plans were conceived, people using their own money could be expected to spend less on health care, switching to lower-cost drugs, for example, and adopting healthier lifestyles. Employers were promised savings as they shifted responsibility to workers for thousands of dollars in costs. Uninsured employees of small companies and self-employed people would be able to set aside pretax dollars for low-cost, limited coverage.

But for those who criticized the idea of health savings plans from the start, the early results simply confirm their gloomier forecasts. The critics say this approach is increasing many people's out-of-pocket expenses and warn that it will make them less likely to seek routine preventive care that might stave off bigger problems down the road.

Pat Schoeni, executive director of the National Coalition on Health Care, a group seeking better, more affordable medical care, said, "The savings accounts are not designed to help people pay for health care; they are designed to help employers unload their health care costs."

Mr. Bush, in his weekly radio talk last Saturday, said he would call on Congress in the State of the Union speech to make the plans "more available, more affordable and more portable." Among other steps, White House officials say, he will propose raising the tax-free contribution ceiling, which for 2006 is $2,700 for individuals and $5,450 for families.

Frank McArdle, a health policy expert in Washington for Hewitt Associates, the big benefits-consulting firm, predicted that "expanding health savings accounts to make them more attractive to employers and their people will be a hot issue in Congress this year."

For people with modest incomes who are hard put to save for medical needs or much else, raising the contribution limit may be a moot point. But for those who have the money to set aside, the savings accounts can be attractive.

Eric Kok, 32, a printing and packaging company manager in Lancaster, Pa., says he will put part of his pay this year into a tax-free health savings account. "Because I'm young, I'm still maxing out my 401(k)," he said of his retirement plan at the Banta Corporation. He calls that Step 1. "Step 2 is opening a health savings account and trying to put as much into it as possible."

He and his wife, Susan, who has her own insurance from her employer, together have a six-figure income. Mr. Kok said that when he retires, he can use the health savings tax-free for care and for premiums in the company's retiree health plan. If he dies with a balance in the account, his survivors can inherit the money, as with a 401(k) account.

Stacy Ryan, the benefits manager at Banta, said the company saw the plan as "the new wave of health care." Banta added health savings accounts and eliminated company-subsidized health benefits for its 4,000 nonunion workers this year.

She said the health savings plan had already had "a huge impact" on employees' actions. They are "making better decisions, such as not going to the emergency room if it is not an emergency."

Based on the acceptance of health maintenance organizations in the 1980's, some industry analysts predict the pace of people signing up for the plans will continue to grow quickly. Forrester Research, a market research firm, projects that nearly 22 million people will have health savings plans by January 2008 — about 12 percent of those with insurance.

While nonunion employees of Banta have no insurance alternative, workers at large companies that still offer a choice have been slow to abandon coverage like H.M.O.'s and preferred-provider networks.

At I.B.M., only "a very small number" of employees have selected the health savings account option, according to Marianne E. DeFazio, the director of global health benefits, who declined to provide a specific figure. Industry experts estimated that 3 percent of I.B.M. employees had signed up for the savings plans, which the company has offered for the last two enrollment periods.

UnitedHealth Group, the largest provider of the savings plans, says that of the 24 million people insured under its various types of policies, 654,000 now have health savings plans. But so far, only about half have started setting aside money, a spokesman, Daryl Richard, said.

Among UnitedHealth's policy holders, a larger number — 846,000 — are still covered under an older type of policy that, like health savings plans, has low premiums and high annual deductibles. But instead of employees' setting aside money, the employer contributes to an account that gradually grows in value and is available for the employee to draw down for health expenses.

The money in these plans, known as health reimbursement accounts, reverts to the employer when workers leave their jobs. That is one reason some large employers are sticking with this older form of insurance.

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Schneider National, a big trucking company in Green Bay, Wis., went further last year and chose such a plan as its only insurance option.

A happy beneficiary of Schneider's insurance plan is Lara Hobbs, 36, of Spring Hill, Fla. Ms. Hobbs, who drives 18-wheelers cross-country, has the liver disease hepatitis C. "It's terminal and deadly unless you cure it," said Ms. Hobbs, who is being treated with an expensive drug, a form of alpha interferon. "I've already been tested," she said. The hepatitis was not detectable. "They are hoping that I've beat it."

Last year, Schneider contributed $750 to Ms. Hobbs's health reimbursement account. She paid $1,500 more herself. But beyond that, her insurance covered 100 percent of weekly injections and six pills a day, whose total cost exceeded $50,000 — more than her annual income.

For Schneider, the first year was "pretty challenging," a spokeswoman, Janet Bonkowski, said. "There was a lot of learning that goes on. Our associates had to become much more involved and active in their care." But Schneider saved money and intends to continue the program, she said, though it is also considering whether to offer the savings plans.

At the White House, the deputy press secretary, Trent Duffy, said the president had no preference between the older health reimbursement plans and the new savings accounts he has been promoting.

But these days, Mr. Duffy said, people change jobs so frequently that they need a health plan they can take with them when they move. Mr. Bush, he said, believes "that the health care system that worked 30 or 40 years ago isn't working."

Bush's Cure-All For Health Care Sidesteps Big Ills (WSJ)

By David Wessel

The Wall Street Journal, January 26, 2006

President Bush has found the cure for what ails the American health-care system.

"Do you realize the medical field is one where you don't do any comparative shopping," he told an audience last week. "When you buy tile ... for your house, you're out there shopping it. You ... say, 'Look, what am I bid?' When you're buying pipe or things you put in the wall ... you're out there bidding price."

"There's no transparency in pricing in medicine," he said. "You don't know whether the guy next [door] is going to offer a better deal."

That's true. The issue is what to do about it. Mr. Bush's reply: Give Americans more skin in the health-care game so they'll be better shoppers. (That's what he means when he talks about health savings accounts and policies with large deductibles.) Make health care more like the market for tile and pipes, he argues, and Americans will get better health care for less.

Set aside the case that only a taxpayer-financed, government-organized solution works. A Republican president and Congress aren't going there, and a lot of Democrats are skeptical, too.

Instead, the U.S. is going to experiment with market forces to solve this problem: that Americans aren't getting their money's worth for the $1.9 trillion a year they spend on health care. For that sum, we ought to have more equitable access to health care and have healthier people. Politicians too often boast the U.S. has the best health-care system in the world, marvel at medical technology -- and then fail to ask if we should be getting more, given what we spend.

In the 1990s, the U.S. focused market weaponry on providers, not patients. Managed care was about giving groups of health-care providers a flat sum, thus giving them incentives to do what was necessary to keep patients healthy and costs down, rather than underpaying for preventive care and paying up each time a patient showed up ill. Forcing managed-care outfits to compete for patients was supposed to stop them from skimping on care.

Americans tasted that and spit it out. The 2000s "pay for performance" version, one Medicare is toying with, is to pay doctors and hospitals not for how much care they give but rather for how well they care for patients.

Mr. Bush, by contrast, is talking about using market forces to influence individuals, not providers. He reasons that if Americans had to pay more out of their pockets, perhaps with money that employers or government hands them, they'd use health care more judiciously. And if Americans were better shoppers, health-care providers would compete much as cellphone companies and auto makers do -- to the benefit of consumers.

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Implicit in this approach is the notion that Americans use too much health care. So, make them pay for unnecessary emergency-room visits or the costlier one-a-day antibiotic instead of the generic, and they'll spend less. That's a sound idea. It may save the system some money by eliminating the cost of processing small claims for essentially healthy people. But is avoiding the emergency room the big problem that needs solving?

Not Really. A bigger problem is that too many healthy (for now) Americans go without preventive care, and too many chronically ill Americans don't get care that would avoid costly, painful complications later. HSAs don't help there. And then there's the uncomfortable fact that 80% of health spending in the U.S. each year is spent on 8% of the population. Giving them tax breaks to buy health-insurance policies with $2,000 deductibles won't ensure that money is well spent.

"HSAs aren't a way of responding to the very sick people who are responsible for the bulk of health-care spending," says James Robinson, an economist at the University of California at Berkeley.

Is moving to "empower the individual" appropriate to health care? In part, it is. Doctors, hospitals and insurers need a nudge to think of us more as customers than they sometimes do. But choosing floor tile is easier than distinguishing between a headache caused by stress and a headache caused by a brain tumor. The costs of a mistaken decision to avoid a doctor visit are greater than choosing the wrong cellphone plan.

Well-functioning markets require consumers with enough information to make sound choices. That doesn't yet describe health care. "It's going to take a lot of effort to get us to the point where we're confident that using the market is going to improve care, rather than make it worse," says Elliott Fisher, a Dartmouth Medical School professor.

Talking about health care on the national stage is better than not talking about it. But let's clearly define the problem so we devise the right solutions.

The Fix-It Myth (WP)

By Robert J. Samuelson

The Washington Post, January 26, 2006

Almost everyone agrees that we ought to "fix the health care system" -- a completely meaningless phrase despite its popularity with politicians, pundits and "experts." Indeed, it is popular precisely because it is meaningless. The people who proclaim it rarely tell you the discomforting choices it might involve. Instead, they focus on a few specific shortcomings of our $1.9 trillion health-industrial complex and imply that, if we correct these often serious flaws, we'll have "fixed" the system or at least made a good start. This is rarely true, and so most forays into "health reform" end with disillusion.

We are about to start the cycle again. By most accounts, President Bush plans to highlight health care in his forthcoming State of the Union address. His proposals may or may not have merit, but they surely won't fix the health system in any fundamental way. The reason is that most Americans don't want to fix the system in that sense. Most are satisfied with their care. Most don't see (or directly pay) the vast majority of their costs. Because politicians -- of both parties -- reflect public opinion, they won't do more than tinker.

Unfortunately, tinkering isn't enough. As everyone knows, health care spending has risen steadily. In 2004, it totaled 16 percent of national income, up from 7.2 percent in 1970. Spending will continue to rise, if for no other reasons than that the population is aging and the average annual health costs for someone 65 and older ($7,910 in 2003) are -- surprise -- more than twice those for someone 35 to 54 ($2,966). As health insurance becomes more costly, the number of uninsured, now about 46 million, may grow. Worse, health costs may depress wage gains, raise taxes and squeeze other government programs.

Here's the paradox: A health care system that satisfies most of us as individuals may hurt us as a society. Let me offer myself as an example. All my doctors are in small practices. I like it that way. It seems to make for closer personal connections. But I'm always stunned by how many people they employ for nonmedical chores -- appointments, recordkeeping, insurance collections. A bigger practice, though more impersonal, might be more efficient. Because insurance covers most of my medical bills, though, I don't have any stake in switching.

On a grander scale, that's our predicament. Americans generally want their health care system to do three things: (1) provide needed care to all people, regardless of income; (2) maintain our freedom to pick doctors and their freedom to recommend the best care for us; and (3) control costs. The trouble is that these laudable goals aren't compatible. We can have

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any two of them, but not all three. Everyone can get care with complete choice -- but costs will explode, because patients and doctors have no reason to control them. We can control costs but only by denying care or limiting choices.

Disliking the inconsistencies, we hide them -- to individuals. We subsidize employer-paid health insurance by excluding it from income taxes (the 2006 cost to government: an estimated $126 billion). Most workers don't see the full costs of their health care; a reported Bush proposal to add new tax subsidies would magnify the effect. A similar blindness applies to Medicare recipients, whose costs are paid mainly by other people's payroll taxes. Despite complaints about rising co-payments and deductibles, out-of-pocket costs are still falling as a share of all health spending. In 2004, they were 12.5 percent; in 1993, they were 15.8 percent.

We're living in a fantasy world. Given our inconsistent expectations, no health care system -- not one completely run by government or one following "market" principles -- can satisfy public opinion. Politicians and pundits can score cheap points by emphasizing one goal or another (insure the uninsured, cover drugs for Medicare recipients, expand "choice") without facing the harder job: finding a better balance among competing goals.

Every attempt to do so has failed. Consider the "managed care" experiment of the 1990s. The idea was simple: Herd patients into health maintenance organizations or large physician networks; impose "best practices" on doctors and patients to encourage preventive medicine and eliminate wasteful spending; and cut costs through administrative economies. For a while, it seemed to work. From 1993 to 1997, private insurance premiums rose only 2.6 percent annually. But managed care upset doctors and patients. It restricted personal choice. Some coverage denials seemed inhumane or inept. After a political backlash, managed-care organizations relaxed cost controls.

Now, some say that because the "market" has failed, greater government control is the answer. Private insurance has high overhead costs and generates too much paperwork. True. Still, there's not much evidence that over long periods government controls health spending any better. From 1970 to 2003, Medicare spending rose an average of 9 percent annually, reports the Kaiser Family Foundation. In the same years, private insurance costs rose 10.1 percent annually. Part of the gap reflected private insurance's greater generosity. It covered drugs while Medicare didn't.

Americans want more health care for less money, and when they don't get it, they indict drug companies, insurers, trial lawyers and bureaucrats. Although these familiar scapegoats may not be blameless, the real problem is us. We demand the impossible. The changes we truly need are political. We need to reconnect people with the public consequences of their private acts. We should curb the subsidization of private insurance. Medicare recipients, especially wealthier ones, should pay more of their bills. But these changes won't happen because people don't want to see the costs. We don't have the health care system we need, but we do have the one we deserve.

Drug Benefit Suffers Side Effects (WT)

By Amy Fagan

The Washington Times, January 26, 2006

Administration officials yesterday told senators the new Medicare prescription-drug program has problems, but they're under control, and states will be reimbursed for covering seniors' prescription costs resulting from the glitches.

Senators on the Finance Committee seemed cautiously optimistic at the assurances, but some said Congress will still probably need to act.

"I think there's no question that the issue of prescription drugs will be back on the [Senate] floor in some form this year," said Sen. Ron Wyden, Oregon Democrat.

Health and Human Services Secretary Michael O. Leavitt said yesterday, "We've identified the problems, we're working on them and the plan gets better every day."

He and Medicare chief Mark McClellan had a private meeting yesterday with committee members to brief them on the situation.

Since the new Medicare drug program began three weeks ago, enrollment problems have left many seniors without coverage, and more than 20 states stepped in to cover costs. Low-income seniors had the most trouble, as the government worked to automatically transfer them from Medicaid drug coverage to the new Medicare program.

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Mr. McClellan said states should first seek reimbursement from private plans offering the drug coverage, but the government will reimburse the states for any difference. The total price tag isn't clear yet.

"The good news is the administration does admit there's problems," said Sen. Max Baucus, Montana Democrat and the Finance Committee's ranking member, who will work with committee Chairman Charles E. Grassley, Iowa Republican, to "nail down" a timeline for reimbursement. He said that if he's not satisfied with the reimbursement plan, "then I think legislation will be much more likely."

He also said some seniors are paying co-payments they shouldn't.

Mr. Grassley said he'll follow up with a public hearing on the new program, but he's satisfied Mr. Leavitt has it "under control."

"They've identified problems very well ... and I feel they're making good progress," he said.

Sen. Olympia J. Snowe, Maine Republican, said officials are "making good-faith efforts," and reimbursement legislation "may not be necessary."

But she and other senators are ready with a bill that would reimburse the states, cut the wait time for seniors who call the Medicare hot line and make other changes.

Today, top Senate Democrats will demand President Bush make immediate changes to fix the program.

Mrs. Snowe said legislation may be required to extend the mid-May deadline seniors face for choosing their new drug plan. Mr. Grassley said that will be decided closer to May.

Sen. Charles E. Schumer, New York Democrat, said he worried the administration will "leave the states holding the bag" on the reimbursement issue.

"We have to monitor very carefully," Mr. Schumer said.

Caution Urged For Executives Seeking Spots On Nonprofit Boards (GOVEXEC)

By Daniel Pulliam

Government Executive, January 26, 2006

Agencies should be careful about allowing employees to serve on the boards of nonprofit organizations that have an interest in their work, according to a recent opinion published by the Justice Department's Office of Legal Counsel.

Federal executives can serve as officers or directors at nonprofit organizations, a 19-page opinion released Jan. 11 stated. But agencies should take into account the appearance of an ethical violation before permitting employees to serve in a group that handles issues related to their government work.

"Government employees [have a] . . . duty to 'avoid any actions creating the appearance that they are violating the law ... or ethical standards,' " the Justice office's opinion said.

"If an outside organization in which an employee is a director has been advocating its views directly to the federal government on a matter that the organization has identified as especially significant, there is a significantly heightened risk that the employee ... will at least appear less than independent in his judgments," the legal counsel stated. "And that risk ... calls for serious consideration by the employee's agency."

Federal law requires government employees to recuse themselves from work activities when a nonprofit on which they serve has a financial interest in the matter. But just because nonprofits spend money advocating a position does not necessarily mean they have a financial interest in an agency action, according to the opinion.

The case leading to the opinion originated in July 2004 when a senior executive at the Education Department was told by the Office of Government Ethics that election to the Senior Executives Association board of directors would result in a criminal conflict of interest due to his service on his department's Executive Resources Board.

An executive resources panel, among other things, makes recommendations on the senior executive pay system to the Office of Personnel Management. The SEA is a nonprofit professional association that advocates in the interest of career federal executives.

According to SEA President Carol Bonosaro, the association appealed the case in August 2004 and is pleased with the Office of Legal Counsel's decision.

"Employees who want to serve on boards like this should not have to worry about being charged under a criminal statute," Bonosaro said. "To us, [the opinion] essentially puts the matter to rest. It's up to the agencies, where individual decisions will be made by ethics officers."

Bonosaro said that since the opinion was released, a federal executive was approved by his agency's ethics officer to serve on the SEA board, which has 15 members serving staggered three-year terms.

The Office of Government Ethics' verbal opinion had made several members of the association hesitant about running for a board of director position because they didn't want to put themselves at risk, according to Bonosaro.

Had the 2004 opinion been permitted to stand, it could have eliminated some federal employees not only from consideration for the SEA board but for the boards of other organizations, such as the International Personnel Management Association or the American Society of Public Administration, according to Bonosaro.

Bonosaro said the decision was a long time in coming and added that the association's lawyers are working to issue a statement carefully laying out what the appearance standard means.

"Appearance is often in the eye of the beholder," Bonosaro said.

The Justice opinion also addresses a situation where National Oceanic and Atmospheric Administration employees were serving as councilors of the American Meteorological Society, a position equivalent to a member of a board of directors.

Despite the fact that the society spent money advocating positions on matters such as hurricane research, the opinion found that the organization did not have a financial interest in the matter and NOAA employees could serve with the group.

The American Meteorological Society did not return calls for comment and NOAA was not able to comment in time for publication of this article.

Senators Debate Details Of Lobbying Rules (USAT)

By Jim Drinkard

USA Today, January 26, 2006

WASHINGTON — After weeks of calls for restrictions on how lobbyists influence Congress, lawmakers began Wednesday to grapple with the thorny details of just how to do it.

At the first congressional hearing on revamping the rules, lobbyists argued against proposals to ban privately financed trips for House and Senate members and their aides, saying travel helps them make good policy decisions in an era of globalization.

Some senators rejected calls for more restrictions, saying problems illustrated by the scandal involving former lobbyist Jack Abramoff are rooted in lawmakers' own behavior, the way Congress operates and a failure to enforce rules already on the books.

“I don't believe lobby reform is the problem. Congress is,” said Sen. Tom Coburn, R-Okla., a member of the Senate's governmental affairs committee.

At the same time, Senate leaders clashed over how to go about writing the new rules. Majority Leader Bill Frist, R-Tenn., proposed a bipartisan task force to handle the job. Minority Leader Harry Reid, D-Nev., rejected the idea, saying the legislation should be drafted through the Senate's regular committees.

At the hearing, former senator Dick Clark, D-Iowa, who runs educational trips for members of Congress through the non-profit Aspen Institute, said a total ban on privately sponsored travel would be “foolhardy.”

He said his group, which has sponsored more than $3.5 million in trips since 2000, accepts only foundation funds and does not allow lobbyist participation. That should be the standard for future trips, he said.

Committee Chairwoman Susan Collins said drawing distinctions among groups that sponsor travel would be difficult. Many non-profits that sponsor travel are backed by interests that lobby Congress, and their boards are heavily sprinkled with lobbyists.

“Today, lobbying too often conjures up images of all-expense-paid vacations masquerading as fact-finding trips,” the Maine Republican said.

There is broad agreement on Capitol Hill for greater disclosure of lobbyists' activities, limits on gifts and travel paid for by special interests, and a longer “cooling-off period” — currently one year — before members of Congress and staff who take lobbying jobs can lobby their former colleagues.

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Contentious proposals also are on the agenda, including limiting lobbyists' ability to raise campaign funds for lawmakers, banning or limiting the use of corporate aircraft for lawmakers' travel, and making it tougher for members of the House and Senate to “earmark” tax dollars for pet projects.

Sen. Pete Domenici, R-N.M., said corruption stems from the growing cost of campaigns and the constant chase to raise funds for re-election. He proposed limiting members of Congress to raising money only from their home states, and not from Washington lobbyists. In the House, Reps. David Obey, D-Wis., and Barney Frank, D-Mass., proposed a new system to publicly finance congressional elections.

For Would-Be Lobbying Reformers, Money Habit Is Hard To Kick (WP)

By Dana Milbank

The Washington Post, January 26, 2006

Paul Miller had the bad luck to ascend to the presidency of the American League of Lobbyists just as Jack Abramoff was descending from the profession. And so it was that the young and earnest Wisconsinite found himself before the Senate governmental affairs committee yesterday explaining why "this is not a widespread scandal."

"Our government is not corrupt, lobbyists are not bribing people, and members of Congress are not being bought for campaign contributions," pleaded Miller, wearing a boyish hairdo and the gray pinstripe suit, French-blue shirt and wingtips of his profession. "I don't think we can say with certainty that the current system is broken."

To the Abramoff-panicked lawmakers, Miller might as well have been asserting the airworthiness of pigs.

Miller and his cohort -- the ones in the gallery with the leather portfolios -- were about the only ones in the room who thought everything was hunky-dory. The senators seemed virtually unanimous in their view that, when it came to influence peddling, "the status quo stinks," as Sen. Joseph I. Lieberman (D-Conn.), the recipient of more than $2 million from lobbyists and lawyers in recent years, succinctly put it.

As the hearing kicked off the congressional debate on lobbying reform, the lawmakers had no difficulty conceding they had a problem. But there was yawning disconnect between the problem and the proposed remedies. While most everybody agreed that Congress was being subverted by lawmakers' reliance on lobbyists for campaign cash, the proposals getting the most serious consideration yesterday were relatively minor: whether to ban lobbyist-paid lunches or a few million dollars' worth of privately funded congressional trips.

"I don't believe lobbying reform's the problem; I believe Congress is," committee dissident Tom Coburn (R-Okla.) lectured his colleagues. "We ought to be real frank with the American people. We're going to do a lot of window dressing, but in the long run we're not going to change anything till we change the motivation that the next election is more important than anything else."

Sen. Richard J. Durbin (Ill.), the Democratic whip, found himself in a rare convergence with Coburn. "We are carping on trifles here," he testified. "Why is it that we warm up to all these lobbyists? It isn't for a meal. . . . We know when it comes time to finance our campaigns, we're going to be knocking on those same doors."

Registered lobbyists have served as treasurers of at least 868 political committees, according to the Center for Public Integrity, including the campaign committees or leadership PACs of at least 39 sitting members of Congress. And virtually all members benefit from lavish fundraisers arranged by lobbyists or contributions from lobbyists that have exceeded $100 million in recent years. This money frightens challengers out of the race -- a main reason 98 percent of incumbent House members won reelection in 2004.

The senators yesterday sounded like addicts, powerless to overcome their reliance on lobbyist cash. "It's out of control," lamented Sen. George V. Voinovich (R-Ohio), a recipient of $573,000 from lobbyists and lawyers over five years, according to the Center for Responsive Politics. "We all hate it. And it's about time we collectively think about how we can get off the treadmill."

"I'm afraid nobody will take me seriously unless we can also find some way to do something further about campaign spending and fundraising," fretted Sen. Tom Carper (D-Del.), recipient of $314,000.

New Mexico Republican Pete V. Domenici ($196,000) proposed limiting fundraising to a lawmaker's home state. Alaska Republican Ted Stevens ($229,000) suggested a constitutional amendment.

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But these cries for help fell on the deaf ears of Sen. Rick Santorum (R-Pa.), the man designated by Senate GOP leadership to draft a lobbying reform bill. Santorum, in a tough reelection race, ranked fifth out of the 535 members of Congress in receipts from lobbyists and lawyers ($519,000 last year alone).

"We need to look at a variety of different things -- look at gifts, we need to look at meals, we need to look at travel," Santorum testified. He didn't say a peep about campaign financing.

Instead, he delivered a campaign speech. "I have a long history of being involved in congressional reform," he said, boasting that "those of you who frequent the Senate restaurant and barbershops now know that they are no longer taxpayer-subsidized."

If Santorum's presentation lacked details, it didn't seem to matter. Only two of the 16 senators on the committee sat through the entire hearing. National Association of Manufacturers chief John Engler, missing when called to the witness table, explained later that he had been taking "a quick break."

Engler, like Miller, assured the nervous lawmakers that all was well. "Additional rules and laws weren't needed" to catch the bad guys, he advised. And besides, he said, "working meals" are legitimate. "A hamburger, I don't think, is going to change the mind of members of this committee."

Engler didn't say what might happen if that hamburger came with a side of campaign cash.

Senators Say Ethics Issue Goes Beyond Lobbying Reform (GFH)

By Jim Abrams

The Grand Forks Herald, January 26, 2006

WASHINGTON - Members of Congress must look at their own behavior as well as lobbyists' if they are to regain the trust of the American public, senators said Wednesday.

At the same time, lobbyists and those who sponsor trips for lawmakers warned against overreacting to the headlines on the influence peddling activities of Jack Abramoff. In particular, they said, banning all privately funded travel could isolate lawmakers from the knowledge they need to write law.

What's clear, said Sen. Susan Collins, R-Maine, chair of the Homeland Security and Governmental Affairs Committee, is that Congress can't tackle the big issues facing the nation without the trust of the public. "And the public's trust in Congress is perilously low."

"Frankly, the status quo stinks and cries out for us to clear the air," Sen. Joseph Lieberman of Connecticut, the committee's top Democrat, said at the first hearing following the Abramoff lobbying scandal.

Leaders from both parties in both chambers have promoted measures to tighten rules and laws governing lawmaker contacts with lobbyists. There are several common themes: restricting or banning the giving of gifts to lawmakers, prohibiting lobbyists from arranging or funding trips, lengthening the time between when a lawmaker leaves office and takes a job as a lobbyist and requiring greater disclosure of lobbyist activities.

But speakers at the hearing also said members of Congress must look at how they do business and get elected, larger issues that could complicate quick passage of the first lobbying reform bill in a decade.

Sen. John McCain, R-Ariz., co-sponsor of one of the major lobbying bills, said Congress must tackle the problem of earmarks, special interest projects that get inserted in larger pieces of legislation, often with the help of lobbyists. "We're not going to fix this system until we fix the earmarks," he said. "It's disgraceful, this process."

Sen. Rick Santorum, R-Pa., who is preparing legislation at the behest of the Senate GOP leadership, said his bill might also look at spending by tax-exempt partisan groups known as 527s, a touchy subject because Democrats relied heavily on such groups in the last election.

Sen. Dick Durbin, D-Ill., also noted, in a broader sense, that Congress must look at how lawmakers finance their political campaigns. "Unless and until we address this in an honest fashion, we are carping on trifles here."

In the House on Wednesday, Democrats David Obey of Wisconsin and Barney Frank of Massachusetts said they would introduce legislation to eliminate all private money for House elections, turning instead to public financing. "The problem with politics is more fundamental than meals or trips with lobbyists," Obey said in a statement.

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Taking a different approach, Sens. Norm Coleman, R-Minn., Wayne Allard, R-Colo., and Ben Nelson, D-Neb., unveiled a plan to create an independent commission, similar to the 9/11 Commission, to recommend ethics reforms. "What is at stake here is clearly the credibility of the institution," Coleman said at the hearing.

Senate Majority Leader Bill Frist, R-Tenn., separately wrote Senate Minority Leader Harry Reid, D-Nev., asking him to join in establishing a bipartisan Senate lobbying reform task force to explore the various proposals.

Reid, who has linked the lobbying scandal to GOP control of Congress, declined. "We don't need a task force to study what's wrong. We know what's wrong," he said at a news conference.

Paul Miller, president of the American League of Lobbyists, urged Congress not to respond to the actions of a "few unscrupulous operatives" by impeding the rights of citizens, including lobbyists, to petition Congress and keep members of Congress informed.

John Engler, former governor of Michigan and current head of the National Association of Manufacturers, told the panel that the current system was working, noting that a lobbyist was going to jail and a member of Congress was going to be sentenced. He was apparently referring to Abramoff and former Rep. Duke Cunningham, R-Calif., who recently pleaded guilty to bribery.

"Whatever occurs, I think it is imperative that you do not overreact," he said.

Dick Clark, a former senator from Iowa who established the Aspen Institute program for Congress, said it was right for Congress to reject lobbyist involvement in trips. But a total ban on privately funded travel "would be a disservice to members of Congress," he said.

Aspen arranges seminars both inside the country and around the world where members of Congress are required to attend conferences that last six hours a day over four days. It does not pay for recreational activities.

"Foreign travel is essential in an era of globalization," he said. "Insularity is not an option for the world's only superpower."

McCain Calls To Reform Pork Barrel Politics (WP)

By William Branigin

The Washington Post, January 26, 2006

A Senate committee reviewing proposals to reform lobbying today heard calls for Congress to reform its pork barrel politics by ending the practice of quietly adding pet projects known as "earmarks" to appropriations bills.

Appearing as a witness on the opening day of a Senate hearing on lobbying reform, Sen. John McCain (R-Ariz.) was one of several senators to denounce earmarking, a practice he called "disgraceful." He outlined one of several proposals to tighten rules and require greater disclosure of lobbying activities. But he told the committee, "We're not going to fix this system until we fix the earmarks."

McCain made the comments before the Senate Committee on Homeland Security and Governmental Affairs, which convened to discuss lobbying reform proposals amid a scandal surrounding the activities of Jack Abramoff, a once-powerful Republican lobbyist. Abramoff pleaded guilty earlier this month to federal charges including bribery of a congressman. His cooperation with investigators as part of a plea deal has stoked concerns on Capitol Hill that other legislators could be implicated, and Congress has responded with a flurry of legislative proposals to reform the system.

However, representatives of lobbying organizations urged the committee today not to overreact to what they described as the unscrupulous activities of one corrupt lobbyist.

And Sen. Richard J. Durbin (D-Ill.), the Senate minority whip, said the problem goes beyond earmarks and that solving it must start with reducing the "outrageous expense" of political campaigns.

The chairman of the committee, Sen. Susan M. Collins (R-Me.), said the actions of Abramoff and former Rep. Randy "Duke" Cunningham (R-Fla.), who resigned from the House in November after pleading guilty in a separate case to federal bribery and fraud charges, "have prompted a much-needed review of legal lobbying activities that raise questions of improper influence."

As part of reform efforts, she said, "We must end the practice of allowing members to slip earmarks that have received neither scrutiny nor a vote in either the House or the Senate into the final versions of legislation."

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Sen. Joseph I. Lieberman (D-Conn.), the top Democrat on the committee, said he and McCain have proposed legislation -- the Bipartisan Lobbying Transparency and Accountability Act of 2005 -- that would require more frequent and detailed disclosure of lobbying activities "and, for the first time, full disclosure from grassroots lobbying firms paid to conduct mass television or direct mail campaigns to influence members of Congress." One such firm was used by Abramoff to conceal millions of dollars in payments that he received from overcharging Indian tribes, Lieberman said.

Other lobbying reform bills have been introduced by Sen. Harry M. Reid (D-Nev.), the Senate minority leader, and by Sen. Russell D. Feingold (D-Wis.). Sen. Rick Santorum (R-Pa.) is separately working on lobbying reform legislation on behalf of the Senate GOP leadership.

Lieberman said differences among the proposals are "reconcilable" and that "we now have a once-in-a-generation opportunity to reach agreement on a broad set of lobbying reforms that will reduce the cynicism" of many Americans toward their government. "Frankly, the status quo stinks," he said.

Sen. Tom Coburn (R-Okla.) backed the call to end earmarking, saying, "The problem is us." In the long run, he said, "we're not going to change anything 'til we change the motivation that the next election is more important than anything else."

McCain said his reform bill, among other things, requires lobbyists to disclose their involvement in congressional travel and report gifts worth more than $20. Members of Congress would be required to pay the fair market value of charter flights for travel on private airplanes and would have to file reports of meetings, tours, events or outings in which they participated while on official travel.

McCain also said that "if we don't stop the earmarking, we're not going to stop the abuses of power here in Washington." He suggested that his own party was largely responsible.

"In 1994, when the Congress was taken over by Republicans, there were 4,000 earmarks on appropriations bills," he told the committee. "Last year there were 15,000. It's disgraceful, this process."

McCain said he was especially bothered that at the end of the last congressional session, various extraneous appropriations were "larded onto the money that was supposed to be devoted to the men and women in the military and their ability to conduct the war on terror."

Citizens Against Government Waste, a fiscal watchdog group, estimates that earmarks last year cost taxpayers $27.3 billion, up from $10.1 billion in 1995, the year that Republicans took office as the majority in Congress.

McCain, who uses a broader definition of earmarks, calculates that the pork barrel projects amounted to $47 billion last year.

In testimony to the committee, lobbyists stressed that the practice of petitioning the government is protected by the Constitution.

Dick Clark, a former Democratic senator from Iowa who now heads the Aspen Institute's congressional program, expressed support for some reforms on congressional travel. "However, a total ban on privately funded travel would be a disservice to members of Congress," he said in prepared testimony.

John Engler, a former Republican governor of Michigan who now is president of the National Association of Manufacturers, said, "Whatever occurs, it is imperative that you do not overreact."

Paul A. Miller, president of the American League of Lobbyists, told the committee, "Members of our profession are as disgusted and appalled by what Mr. Abramoff has done as you are. But we should not allow the actions of a few unscrupulous operatives to paint our entire profession as 'crooks' or unscrupulous scoundrels who will stop at nothing to have their way with members of Congress."

Miller added in his prepared testimony: "Our government is not 'corrupt.' Lobbyists are not 'bribing' people; and members of Congress are not being 'bought' for campaign contributions. One man broke the law by lying, cheating and stealing from his clients. Unfortunately, he was a lobbyist."

He said he wanted to assure the panel that Abramoff was "not the norm in our profession," but "truly the exception." Any profession has "bad apples" no matter what rules are in place, he said.

"Unfortunately, we often find our bad apples on the front page of every newspaper, because frankly, scandal sells," Miller said.

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Earmark Reform Requires Oversight And Accountability (RC)

By Rep. Jerry Lewis

Roll Call, January 26, 2006

In the early morning hours, in a remote tribal area of Afghanistan, a gathering of al Qaeda leaders is interrupted by the explosions of Hellfire missiles launched from a Predator unmanned aerial vehicle. The UAV has become one of the most effective weapons in the global war against terrorism. Its development came not from war planners within the Pentagon, but from a Congressional earmark.

Some have suggested that Congressional earmarking should be eliminated. But this course of action cedes to the executive branch Congress' Constitutionally based spending prerogatives.

The president's budget contains numerous earmarks inserted by nameless, faceless bureaucrats within each government agency. Teach for America, The Points of Light Foundation, and America's Promise are just a few examples of unauthorized, limited-scope initiatives that routinely receive a line-item request in the president's budget. Yet elected representatives know more about local, state or national priorities than the Beltway bureaucracy. It would be a mistake to ignore this expertise when determining how to allocate scarce federal dollars.

Another misguided proposal would give Member project funding the force of law by requiring all earmarks to be listed in statute. This would eliminate a federal agency's flexibility in allocating federal spending, particularly in time of national emergency or crisis, while doing nothing to improve the transparency and accountability of the appropriations process. Thoughtful, timely and orderly consideration of individual appropriations bills would be replaced by partisan one-upmanship. The increased delays would make it inevitable that Congress would revert to the fiscal mischief fostered by wrapping these bills into a massive end-of-session omnibus.

In 2005, House Republicans began taking tangible steps to restore accountability, increase transparency and reform the annual budget process. But few outside of Congress have taken notice of the considerable progress that's been made over the past year.

We reduced non-security discretionary spending for the first time since the Reagan administration, eliminating 53 low-priority programs and saving taxpayers more than $3.5 billion. We got our work done on time: The House passed all 11 individual appropriations bills by June 30, the earliest that each of the bills has been passed in 18 years. We reduced Congressional spending on Member requested projects by more than $3 billion.

Most importantly, this progress set the stage for an even larger success: eliminating, for the first time in years, a massive, year-end, omnibus spending bill. Just one year earlier, Congress wrapped nine appropriations bills into one colossal, 3,500-page spending package.

Though it's been less noticed, the committee also has taken positive steps toward strengthening transparency of the appropriations process by Webcasting all full-committee markups, requiring open House-Senate Conference Committee sessions and making Appropriations Committee conference reports publicly available at least one day prior to House consideration. Important progress was also made to ensure that an unprecedented degree of oversight is provided for taxpayer dollars spent on federal programs as well as necessary hurricane relief on the Gulf Coast.

These are critical first steps to reforming the budget process and restoring confidence in Congress. Unfortunately, this solid record of reform has been largely overshadowed by the criminal, self-serving actions of a few individuals who violated both the public trust and the law.

The next step involves further curbing the appetite to spend by sharply reducing the number of earmarks in annual spending bills and making the appropriations process more open and transparent. In order to succeed, the House and Senate must jointly embrace these efforts. Specifically, the leadership of the House Appropriations Committee recommends the following:

1) Sharply limit the number of Member project requests. Curtailing the number of Member requests per Appropriations subcommittee would dramatically improve oversight and lead to a reduction of earmarks. Last year, the House Appropriations Committee received nearly 35,000 individual project requests. In the Labor-HHS appropriations bill, 417 Members requested 10,272 projects, or nearly 25 per Member.

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2) Require increased accountability, disclosure and transparency by requiring that Member request letters be made public prior to House consideration of each appropriations bill. These letters would be provided by the Members' offices to the Clerk of the House and printed in the Congressional Record.

3) Require that all project requests be submitted in writing to the appropriations subcommittee of jurisdiction via a Member-signed request letter or form.

4) Establish clearly defined criteria for all project requests and require Members to specify how each project meets the criteria. Member requests would also be required to be strictly germane to the spending bills in which they are contained.

5) Increase the proportion of projects that have a dollar-matching requirement. Economic development initiative grants from the Department of Housing and Urban Development are among those that ought to be considered for a local matching requirement.

6) Require all Congressionally approved projects to go through a formal executive branch contracting and auditing process.

7) Finally, require that all other committees adopt similar earmarking reforms. Earmarks are not unique to the House Appropriations Committee. The most notable earmark in recent history — the "Bridge to Nowhere" — had its origins elsewhere.

Senators Want Outsiders For Ethics Overhaul (LAT)

By Mary Curtius, Times Staff Writer

The Los Angeles Times, January 26, 2006

WASHINGTON — Convinced that Congress cannot overhaul its rules on ethics and lobbying in the politically charged atmosphere of an election year, two senators called Wednesday for the creation of an independent commission to do the job.

Sens. Ben Nelson (D-Neb.) and Norm Coleman (R-Minn.) said an outside panel was more likely to come up with a sweeping package of changes than a Congress riven by partisanship.

But their proposal faced quick resistance from two senators leading the reform push — Democrat Joe Lieberman of Connecticut and Republican John McCain of Arizona. They have proposed legislation that would require lobbyists to provide more detailed reports about their contacts with lawmakers and other business activities.

Both said Wednesday that they feared creating an independent commission and that waiting for it to act would slow the momentum for change that had been building since former lobbyist Jack Abramoff pleaded guilty this month to corruption charges.

"I don't want to wait," McCain told reporters. "We've got to act quickly."

The call for an independent panel also was likely to face opposition from Senate veterans who zealously guard the institution's prerogatives and are loath to allow outsiders to help drive its decision-making.

The commission proposal and the hurdles to it underscore the difficulties lawmakers face as they attempt to rewrite the guidelines that govern the dealings between themselves and lobbyists.

Proposals for tightening ethics and lobbying rules have proliferated in the House and Senate. They include measures that would ban trips by lawmakers and their aides that are financed by outside groups. GOP leaders of both chambers have vowed to push through an overhaul by the middle of the year.

Some members of Congress say the packages go too far, arguing the efforts to rein in travel would prevent them from getting firsthand information about domestic and international problems.

Others complain the reform proposals fail to address what they say are the roots of the problem spotlighted by the Abramoff case — private funding of campaigns and the common practice of lawmakers inserting money for pet projects and programs into government spending bills. Lobbyists offer help to lawmakers on both fronts.

Coleman said he believed the creation of an independent commission offered the best hope for Congress to grapple with such issues and to "overcome the stain" caused by the Abramoff scandal.

Sen. Tom Coburn (R-Okla.) said he supported the idea because it would provide "a whole lot more credibility" to the reform process.

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Only by bringing in outsiders to make recommendations, he said, could Capitol Hill achieve "real reform based not on political reaction but on what is best for the institution and best for the republic."

The proposal received no support from Senate leaders in either party, who engaged in their own squabble about how to proceed with carrying out reforms.

Majority Leader Bill Frist (R-Tenn.) offered to create a bipartisan task force with equal numbers of Democratic and Republican senators to rewrite ethics and lobbying rules — a proposal quickly rejected by Minority Leader Harry Reid (D-Nev.).

Such a task force, Reid spokesman Jim Manley said, would hamper the process. "Legislating is hard work," Manley said. "We know what the problem is and we know what needs to be done. We should just do it."

Coleman and Nelson said the independent panel they wanted would be modeled on the commission appointed after the Sept. 11 terrorist attacks to investigate failings by the U.S. intelligence community. That panel, divided evenly between Democrats and Republicans, produced a report that spurred Congress to restructure the workings of intelligence-gathering agencies.

But former Rep. Lee H. Hamilton (D-Ind.), co-chairman of the Sept. 11 commission, noted that lawmakers rebuffed the panel's recommendations for reorganizing congressional oversight of the intelligence community.

"They didn't pay any attention to us at all," Hamilton said. "They reformed the executive branch, but on the whole question of robust oversight they just totally ignored those recommendations."

Hamilton, who served on the House Ethics Committee, said he believed Congress was incapable of policing itself. He advocates the creation of a permanent, independent commission to oversee congressional ethics, a proposal supported by some watchdog groups.

To be effective, Hamilton added, the commission would "have the power to initiate investigations, hold hearings, hear complaints and … make recommendations about punishment."

Lobby Battle Splitting Parties (RC)

By Tory Newmyer

Roll Call, January 26, 2006

House Democratic leaders are preparing to offer the toughest lobbying reform package yet, with a measure that would in some ways be more stringent than other bills offered so far.

On Wednesday, Minority Leader Nancy Pelosi (Calif.), Minority Whip Steny Hoyer (Md.) and Democratic Caucus Chairman James Clyburn (S.C.) circulated principles of the plan to their Democratic colleagues and asked for their support. Included in the measure will be provisions that force lawmakers to report when they are sponsoring earmarks, require them to pay fair market value for travel on private jets and create an office of public integrity to oversee these and other new lobbying rules.

Details of the plan emerged after a day in which lawmakers on both sides of the Capitol traded barbs, with each party claiming to want a bipartisan solution, but finding no partner across the aisle. Though the House isn't even in session yet, both chambers of Congress have been absorbed this month by responding to the scandal involving former lobbyist Jack Abramoff.

Meanwhile, momentum appears to be growing for reforming the earmarking process. Beyond the new disclosure requirement House Democrats are planning to push, several GOP Senators on Wednesday expressed support for cracking down on the practice. And in an op-ed in today's issue of Roll Call, the spending chief of the House, Appropriations Chairman Jerry Lewis (R-Calif.), laid out a plan for cleaning up the budget process (see Guest Observer, p. 8).

"The next step involves further curbing the appetite to spend by sharply reducing the number of earmarks in annual spending bills and make the appropriations process more open and transparent," Lewis wrote.

Sen. John McCain (R-Ariz.), who is trying to round up as much bipartisan support as possible for his own plan, said he is adamant that some form of earmark reform be included in the bill as a way to get at the "root cause" of lobbyist corruption. "I'm going to fight as hard as I can to get it in," said McCain, who added Sen. Bill Nelson (D-Fla.) to his plan Wednesday.

Sen. Bob Bennett (Utah), a member of both the GOP leadership and the Appropriations Committee, expressed support for more "transparency" in lobbying reform, but he did not endorse a broad prohibition on earmarks. Bennett said he would support the idea of each earmark being identified with its sponsor and that each one appear in the Congressional Record.

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Wednesday's action kicked off in the Senate, where the Homeland Security and Governmental Affairs Committee convened in the morning for its first look at the lobbying reform proposals offered so far. At that event, bipartisanship was the buzzword, as Senators from both parties insisted that only cooperation would yield a solid solution to the systemic problems highlighted by the Abramoff scandal.

As the day wore on, however, the early détente on the politically charged issue began to disappear as both parties dug in their heels over the best way to move forward.

Senate Majority Leader Bill Frist (R-Tenn.), in a letter to Senate Minority Leader Harry Reid (D-Nev.), asked for the two leaders to agree to a bipartisan task force to develop any reforms. But Reid shot back by calling on Frist to instead assign the Homeland Security panel — led by Sens. Susan Collins (R-Maine) and Joe Lieberman (D-Conn.) — to work on a bill he introduced that has already gathered wide support from Democrats.

"Lobbying and ethics reform should not be a partisan issue," Frist wrote Reid. "The rules apply equally to every Senator and every staffer, regardless of political party. The rules are bipartisan and the reforms should be bipartisan."

Reid said that instead of another task force to look into the chamber's ethics, the bipartisan Senate panel should consider his lobby reform bill, which has attracted 39 Democrats but no Republicans. Among other things, the measure calls for a ban on lobbyist travel and gifts.

With little agreement over how to proceed, it remained unclear Wednesday whether and how the Senate will move ahead.

As one GOP Senate aide characterized the hope of togetherness: "The Republican door is always open about working together on a bipartisan basis, even after Harry tossed a hand grenade into it."

Across the Capitol, the parties were no more friendly. House Rules Chairman David Dreier (R-Calif.), the Member tapped by GOP leadership to lead the chamber's reform drive, is focusing on the "really good feedback" a spokeswoman said he has received from some Democrats, despite being rebuffed by several.

Among those unwilling to work with Dreier is his panel's ranking member, Rep. Louise Slaughter (D-N.Y.). She said when the California Republican asked for her help constructing a reform package, she replied, "I don't see how you people can clean this up. I think it's our job.

"The people who got us into this swamp are not going to be able to get us out," she added. "This is, in my view, the worst scandal that has ever fallen on Congress."

Ron Bonjean, spokesman for Speaker Dennis Hastert (R-Ill.), said the Democrats' position is typical of their "just-say-no obstructionist tactics."

"For them, it is a partisan political exercise with the hopes of winning in November," he said.

Despite the partisan rancor, there were a few signs of bipartisanship. Sens. Norm Coleman (R-Minn.) and Ben Nelson (D-Neb.) teamed up to unveil a bill that would establish an independent commission to examine and report a range of reform proposals.

McCain dismissed that idea as taking too long, but he expressed hope for some new Democratic support on his own measure, indicating that his longtime partner in past reform efforts, Sen. Russ Feingold (D-Wis.), may eventually come aboard his bill. "Russ and I will work things out. I am confident," he said.

And in the House, Rep. Christopher Shays (R-Conn.), himself a partner of McCain's from the fight to reform campaign finance laws, said that he thinks there is still room for the parties to work together.

"I think there are many Republicans and many Democrats who want to see Congress as a whole clean up its act," he said.

GOP Freezes Jobs List, A Vestige Of The K Street Project (WP)

By Jeffrey H. Birnbaum

The Washington Post, January 26, 2006

Republican lawmakers yesterday ended their long practice of routinely summoning lobbyists to the Capitol to try to persuade them to hire their aides and colleagues, in the wake of the Jack Abramoff political corruption scandal.

GOP lawmakers for years have regularly presented lists of job openings on K Street to lobbyists to encourage them to hire Republicans over Democrats. The program is a remnant of the K Street Project once championed by Rep. Tom DeLay (R-Tex.)

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as a way to coerce trade associations and companies to hire Republicans as their top lobbyists and to warn firms that hired Democrats that they would not be welcome.

Yesterday, the staff director of the Senate Republican Conference said that a K-Street-job-vacancies memo -- the heart of Congress's remaining involvement in the effort these days -- will no longer be distributed during high-level meetings hosted by the conference on Capitol Hill between lawmakers and lobbyists. Responsibility for the listings migrated from the House to the Senate several years ago, according to lobbyists.

While lobbyists and others could still obtain the information elsewhere, the change removes the formal involvement of lawmakers from the process and any implied encouragement by them to transform K Street into a Republican bastion.

In addition, the decision could provide a public relations benefit to Sen. Rick Santorum (R-Pa.), the conference head and the person who has long chaired the lobbyist meetings. He is facing a tough reelection fight this year that has been made even tougher by Democratic accusations that he is too close to lobbyists and the GOP's K Street jobs operation.

In recent years, the effort has become less aggressive and now includes in its non-congressional component a job listing service on the Internet.

Participants describe the meeting as an information exchange at which Santorum and other GOP senators discuss their priorities and collect intelligence from lobbyists. Toward the end of the meetings, which begin at 8:30 a.m. every other Tuesday, a representative of the Republican National Committee distributes the document that lists who in Congress is looking for work and what jobs are available. A discussion of jobs sometimes ensued.

Asked whether the document will continue to be passed out during those meetings, Mark D. Rodgers, the conference's staff director, said, "Since the RNC is already widely distributing the jobs list, we have decided it is duplicative to hand it out and will no longer do so." But Brian Jones, a spokesman for the RNC, said the data were not easily obtainable. "It's not public information," Jones said.

The decision to drop the list comes as Santorum is being disparaged by his opponents in Washington and at home as the "liaison to the K Street Project." Senate Minority Leader Harry M. Reid (D-Nev.) last week said Santorum is "as responsible as anyone in the world for the K Street Project." He added that Santorum was unsuited to serve in his current role as the Republicans' point man in the effort to overhaul lobbying laws.

Those sorts of assertions are "one of a series of problems" Santorum has in his race this year against Pennsylvania state Treasurer Bob Casey Jr., said Stuart Rothenberg, a nonpartisan election analyst. "Santorum at the moment is the No. 1 most vulnerable Republican senator seeking reelection," Rothenberg added.

A Republican Conference aide said there is "no connection" between Santorum's meetings and the K Street Project, and Santorum has said that everything he has done in the meetings is appropriate. Last week, Santorum characterized the meetings as a way for Republicans to get their points of view disseminated in Washington.

"If you're going to affect public policy in a positive way, you've got to get your message out," Santorum said. "That's what the project that I've been involved with has been about, period."

Democrats have also been passing around jobs memos of their own during Monday meetings between lobbyists and congressional chiefs of staff. A spokesman for the Democratic Senatorial Campaign Committee said the "job bank" document -- as the Democrats called their listing -- has not been distributed for months and "there's no plan to put it back in place."

But Democratic attacks on Santorum and the K Street Project will continue, lawmakers said. Yesterday, Reid and Sen. Charles E. Schumer (D-N.Y.) wrote Sen. Susan Collins (R-Maine), chairman of the Committee on Homeland Security and Government Affairs, to ask for an investigation of the project. "What we seek to do is just shine a little sunlight on this K Street Project and have one of our committees investigate what happened so that we can see if there's legislation needed," Schumer said.

Grover Norquist, president of Americans for Tax Reform, said that he pioneered the project in the late 1980s and continues to urge companies and associations to hire free-market advocates via a Web site called the K Street Project. But when Democrats and others refer to the project, they speak more generally about the efforts of DeLay and his colleagues on Capitol Hill after the Republican takeover of the House in 1994. The House ethics committee privately warned DeLay in 1998 about threatening the Electronics Industry Alliance with retaliation for hiring a prominent Democrat.

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Yesterday, Collins's committee held a hearing on lobbying legislation that highlighted the range of opinions Congress will have to bridge if it is to pass a bill that deals with abuses of travel, fundraising and other matters. Former senator Dick Clark (D-Iowa), director of the nonpartisan Aspen Institute Congressional Program, urged a ban on lawmakers' trips that include "in any way, shape or form the participation of lobbyists."

But John M. Engler, president of the National Association of Manufacturers, said information-gathering trips are essential for lawmakers. Private groups should be allowed to fund some of them, within ethical guidelines, he said.

Reform Talk May Spur Hill Exodus (RC)

By Kate Ackley

Roll Call, January 26, 2006

Democrats and Republicans might not agree on all things lobbying, but they seem united on doubling the current one-year cooling-off period for newly minted advocates. And that has Congressional staffers, who already had an eye toward employment on K Street, stepping up their job-seeking efforts.

Lobbyists, headhunters and Capitol Hill aides speculate that a mini-exodus of staffers from both sides of the aisle may be coming as a result. The lobby ban may not be the only potential reform drawing staffers downtown, either. Congressional aides and lobbyists say that the ongoing discussion of other bans, or tougher restrictions, on free travel and entertainment will make working on Capitol Hill less appealing.

Nels Olson, managing director of the Washington, D.C., office for search firm Korn/Ferry International, said in recent days he's been fielding calls from Democratic and Republican Hill aides who are quickening the pace of looking for work downtown.

"For obvious reasons, there's been a heightened interest for those who were thinking about leaving anyways, about leaving potentially a bit earlier," Olson said. "There is some concern about the potential of their livelihood going forward. It tipped the balance toward leaving."

Olson said the volume of staffers looking to quickly jump ship is small for now, but "as the legislation moves forward, you could see a greatly increased number as it becomes more real."

Because discussion of staffers' future employment options tends to be deeply personal and secretive, most lobbyists and Congressional aides would talk only on the condition of anonymity. But in interviews with 24 high-level lobbyists and Congressional aides, it is clear that discussions about job opportunities off the Hill have increased as Members of Congress have stepped up their talk of tightening lobbying rules.

Steve Phillips, a partner at DLA Piper Rudnick Gray Cary and a former legislative director to then-Sen. Jesse Helms (R-N.C.), said he has heard from many staffers who are thinking about leaving the government payroll — fast.

"This has definitely expedited their decision-making process, no doubt about it," Phillips said. "They think their value is greatest now, whether that's real or perceived. We have definitely had a spike in conversations about this."

Ralph Hellmann, the chief lobbyist at the Information Technology Industry Council, said Hill aides were looking toward K Street even before Members began introducing reform measures after former lobbyist Jack Abramoff's guilty plea in a bribery scandal earlier this month.

"This is now going to speed up that effort," Hellmann said. "The morale up there is awful."

A senior-level GOP leadership aide added, "I have heard some of my senior staff indicate that they would have to consider" leaving now because of the likelihood of reforms.

This longtime staffer added, "What does a two-year ban accomplish? ... So I'm going to be punished for something somebody else did? Do I really want to stay now for another year, and then tie my hands for an extra year" in the private sector?

The kind of travel experiences that could soon be eliminated, the staffer said, "are nice benefits to the job. It's going to get to the point where this just isn't a great place to work anymore."

Rich Gold, who heads the public policy group for Holland & Knight, said he, too, expects a rise in movement off the Hill.

"There's definitely going to be a swing, and not just on the two-year thing," Gold said. "I've definitely heard staff say if there's no travel, I'm out of here. It's one of the main things they love about the job."

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Gold said people don't take the jobs for the perks, but he added that those comforts have been part of the employment package of working for Members.

"It's the equivalent of somebody coming to me and saying we're no longer going to have the cafeteria in the basement and we're getting rid of parking spots," he said. "The folks work long hours and these were all the little things that made it bearable sometimes. If you don't think staff are telling Members that, you're mistaken."

A Democratic head of a lobbying practice said that some senior Republicans on the Hill have reached out to his firm, in some cases using the reform proposals as a starting point.

"A couple of them have said this whole thing, in their judgment, is out of control and they're going to start looking around. They're just perplexed and if they're talking about two-year bans, then they may go now," this lobbyist said.

House Republican Conference Chief of Staff Andrew Shore, who has already told his boss that he plans to head to the private sector, said impending reforms are not the reason why.

"It's not a factor that has played into my thinking," Shore said. "This is about my family."

A senior GOP aide said that while his colleagues are giving careful consideration to leaving before more expansive restrictions could take place, they won't jump for just any job.

"It's a double-edged sword," this staffer said. "People don't know that lobbying will be what it has been, so it might not be the same job that it has been. Most of the people I know have pretty high [salary] expectations and probably won't be met in this environment."

One Hill aide flat-out questioned why his colleagues would eye K Street in the current climate. "The industry is sort of tainted," he said.

Paul Miller, president of the American League of Lobbyists, said that extending the one-year ban amounts to penalizing people for government service "and that's not fair."

Miller said he has personally heard from one senior staffer who told Miller that he was considering leaving the Hill because of the reforms.

Of course, there are at least a few people on K Street who think a two-year ban could be a good thing.

Juleanna Glover Weiss, a former aide to Vice President Cheney and a former Senate staffer, said a two-year ban might encourage people to stay in Hill jobs longer, enabling Congress to keep employing individuals who have significant experience in their area of expertise.

"The majority of staffers go up there because they want to make a difference," said Weiss, who lobbies at the Ashcroft Group. "They want to work in government, they want to do that job."

Trevor Potter, president of the Campaign Legal Center, said he supports expanding the cooling-off period to two years, and he hopes that and other new lobbying regulations take effect quickly — leaving little time for would-be lobbyists to line up new jobs on K Street.

"Congress is talking about doing something in the next couple of weeks, so it would seem to me to be unlikely that people would have enough time to go through the process" of finding a private-sector job, Potter said.

Under the current ban, former senior staffers aren't allowed to lobby their old offices, and ex-Members are barred from directly lobbying the entire Congress for one year. These budding lobbyists, though, can strategize and work issues from behind the scenes.

"I can tell you for an absolute fact that the year when people are banned is a year when some of them are unproductive," said a Democratic lobbyist.

Headhunter Olson said it's hard enough "for them to be sitting on the sidelines for a year. Two years is a long time."

And Michael Fulton, a lobbyist with Golin/Harris, said the former Congressional staffers "we have hired here view that one-year ban as practically an eternity."

But, he said, from the firm's perspective the ban isn't much of a hardship. "We don't sell access," Fulton said. "Our clients have all the access they need. We sell process, and timing and extra arms and legs and strategy and creativity."

Ivan Adler, a lobbyist headhunter for the McCormick Group, said that an extension of the lobbying ban would likely have zero impact on the salaries and job opportunities of former Members and senior-level Congressional aides. But expanded bans

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could deeply hamper junior and mid-level staffers, he said. “I think their value will go down because of their inability to reach out to a particular Member or committee,” Adler said.

Of course, some existing lobbyists see the ban’s extension as good for their own business.

Stewart Van Scoyoc, who runs the firm Van Scoyoc Associates, said the two-year ban would give big firms like his an advantage when trying to lure people off the Hill because it will be more difficult for an ex-staffer to set up his or her own shop. Instead, they will need the extra resources of a firm. “We can absorb the cost,” he said.

One established GOP lobbyist said he was rooting for a 50-year ban to cut down on the competition. “I’m kidding,” he quickly added.

Dodd Out, Link In (WP)

By Judy Sarasohn

The Washington Post, January 26, 2006

Larson Dodd Stewart & Myrick is now Larson Stewart Myrick and Link, with co-founder Quin Dodd having left after being appointed by President Bush to the Consumer Product Safety Commission and with the addition of veteran lobbyist and GOP congressional staffer James Link .

Link moves over the lobby shop from Fleischman and Walsh , bringing his clients, including Barcardi and some hospitals, according to Dave Larson . Larson Stewart has a roster of more than 30 clients, Larson said, including Fannie Mae and the Grocery Manufacturers Association.

Earlier, Link was deputy director of the Senate Republican whip's office, as well as an aide to then-Rep. Richard B. Cheney (R-Wyo.).

While the lobby shop is now all-GOP, Larson, a former health policy adviser to Sen. Bill Frist (R-Tenn.), said he is talking to some Democrats about joining the team. "We don't look at the party; we look at the person," he said.

Hammering Away (WP)

By George F. Will

The Washington Post, January 26, 2006

RICHMOND, Tex. -- Out here, where the tendrils of Houston's growing exurbs reach for open ground, sits Rio Bend, a cluster of new houses and other facilities for parents having difficult times with troubled foster children -- difficulties like those Tom and Christine DeLay experienced with several teenagers they took into their home. Rio Bend was built by the DeLays, with help from friends, of sorts.

She, an acerbic realist from south Texas, says more houses are planned by their charitable organization, but: "I hated to lose the leadership position because it helps me to raise money for those kids." Note her agreeably guileless acknowledgment that some friends of Rio Bend may not have been seized by simple altruism. She shares her husband's credo -- power is useful and should be used -- and knows the moral ambiguities it can involve.

He strides like a bantam rooster into the living room of one of the Rio Bend bungalows, having just been buoyed by an appreciative luncheon of 400 Realtors to whom he read a list of earmarks -- personally directed spending, aka pork -- he has delivered to his district. Most people, battered as he recently has been, would be curled up on the carpet in a fetal position. But DeLay is as direct and uncomplicated as the tool that supplies his nickname -- "The Hammer" -- and his faults do not include being a whiner.

Furthermore, he is not about to plea-bargain in the court of public opinion. He chafes under prudential reticence: His attorneys tell him not to trumpet the fact that the Justice Department told them he is not a target in the Jack Abramoff investigation. But about other matters, the bantam is belligerent.

Earmarks? Although recently "they got out of hand," they are, he says, necessary and proper because it is best to have spending dictated by a politician who knows his district's needs: "We are an equal branch of government -- why should we let a bureaucrat decide?" He says that in a state such as Illinois, which is dominated by Democrats "who play hardball," earmarks are the only way even House Speaker Dennis Hastert can get highway money spent in his district.

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The K Street Project? That is, getting interest groups to hire Republican lobbyists, and to make such hirings fruitful by transactions using, among other things, earmarks? The author of this insists: "I'm very proud of it." In 1994 "we were coming as a Republican majority into a Democratic culture" in Washington. For 40 years, he says, the media had hired people congenial to sources who controlled Congress. And K Street -- the lobbyists' habitat -- hired Democrats to ensure access to Democrats. K Street Republicans "never got to see John Dingell or [Dan] Rostenkowski," two Democratic chairmen of crucial committees.

So, DeLay asks: In 1995, what do you think Democratic-dominated K Street was interested in? "Helping us get our work done? Secure our majority?" Those are rhetorical questions.

DeLay's Democratic opponent this fall will be Nick Lampson, a former congressman who in 2004 lost his seat in another district, partly because of the redistricting DeLay engineered that resulted in five additional Republican seats. DeLay won in 2004 with only 55 percent of the vote, partly because he thought that "to set an example" he should consent to making his district more Democratic in order to make others less so.

Referring to his trial on campaign finance charges brought by a notoriously political Democratic prosecutor, DeLay says, with a confidence that might be misplaced but clearly is unfeigned, "I'll be acquitted by the end of April." Then he says he will secure a 12th term, winning "the most expensive congressional race ever ." The national Democratic Party and several liberal groups -- already running ads and phone banks -- spend, well, liberally.

Because undecided voters are thin here -- he estimates they are about 13 percent of the district -- this election will be about mobilizing the faithful. So the piling on by his critics -- their wretched excesses in response to what they perceive to be his -- may help him.

Congress under Republican control has increased earmarks 873 percent in a decade and validated the axiom that the more solicitous government becomes, the more servile it seems and the more scorn it receives. Congress has not been so unpopular since 1994, when Democrats lost their 40-year grip on the House. But here on the east bend of the Brazos River, unlike on the Potomac, the fever for reform is not high. To a visiting columnist who waxes censorious about earmarks for highway projects, DeLay responds with a notable lack of repentance: "You just drove out on one."

GOP Will Regain Trust (USAT)

By Roy Blunt

USA Today, January 26, 2006

House members cannot ignore recent scandals that have many questioning the credibility of our system.

Republicans will regain Americans' trust by enacting tough penalties for those who break the law and focusing on our agenda of limited government, personal responsibility and growing the economy by returning money to the Americans who earned it.

Lobbying reforms should include new rules governing travel and disclosure and regulations subjecting shadowy, tax-exempt "527" political groups to the same standards as others who attempt to influence the process. Then the credibility of honest public servants will be not be questioned — even when some try to paint them with the same brush as those who break the law.

I personally adhere to the strictest policy on Capitol Hill regarding interactions with lobbyists. I insist my staff does the same.

A top priority of mine is to retain and grow our Republican majority. I visited more than 100 congressional districts last campaign season. It's not glamorous, but it's important work that often puts me in three towns in one day. Private travel, in accordance with the law and House rules, has enabled me to reach multiple events for members, often in remote locations, in a single day.

Republicans, as we consider lobbying reform, will address proposals that would enhance the immediacy and transparency of disclosure — critical to the democratic process — and are another step in earning the American people's trust.

Rep. Roy Blunt, of Missouri, is House majority whip. He has been acting majority leader since September.

Proven Record (USAT)

By John Boehner

USA Today, January 26, 2006

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House Republicans need leadership that will help provide a vision and a plan for renewal. We need a leader who will stand up to Democrats when they're wrong, but who has credibility to work with them when it's in the country's best interests.

I have a proven record of bringing together members of both parties to support bills rooted in Republican principles, such as stronger accountability, fiscal responsibility and greater competition. Recently, I managed a bipartisan overhaul of our nation's pension laws, strengthening worker retirement security and protecting taxpayers from a massive bailout of the Pension Benefit Guaranty Corp. And when it comes to reform credentials, actions speak louder than words:

• I've never requested pork money for my Ohio district.

• I've never taken a dime from lobbyist Jack Abramoff.

• Every trip I've taken has been within the rules.

• Every relationship I have with a contributor or a lobbyist is an ethical one.

In the early 1990s, I exposed the corrupt practices of the Democrat-controlled House and have worked ever since to strengthen ethics rules under the Republican majority.

As of now, I am the only candidate who has released a detailed plan that would help House Republicans regain the spirit and energy of 1994, embrace real reform and reclaim the vision responsible for our success.

Rep. John Boehner, of Ohio, is chairman of the Committee on Education and the Workforce and a former chairman of the House Republican Conference.

Looking For Mr. Clean? Not In This House Race. (USAT)

USA Today, January 26, 2006

Republicans in the House of Representatives need a new leader and a new image.

The former majority leader, Tom DeLay, stepped down after he was indicted in a Texas fundraising case and linked to crooked lobbyist Jack Abramoff.

So where is the GOP seeking this fresh face and new start? With two lawmakers — Roy Blunt of Missouri and John Boehner of Ohio — who have cozy relations with lobbyists and a penchant for accepting perks from corporate friends.

A third candidate for majority leader, John Shadegg of Arizona, is less enmeshed with the lobbying establishment and high-powered fundraising. That's one reason he's given virtually no chance of winning. Politicians who don't raise big money and spread it around to colleagues don't often find themselves in line to be congressional leaders.

We don't presume to tell House Republicans which of their colleagues to pick when they vote next Thursday, but the public has a big stake in the outcome. The majority leader, second only to the House speaker on the leadership ladder, has a key role in setting Congress' agenda. DeLay, for example, was the driving force behind the impeachment of President Clinton.

The leadership race demonstrates how Congress' corrupt culture extends beyond DeLay and Abramoff. Those who rise to the top tend to be the smoothest practitioners of the system: corporate lobbyists provide money and perks to gain access and legislative favors, and lawmakers use the money to win campaigns and earn colleagues' fealty.

It's a seamy game Republicans certainly didn't invent, but one at which the two leading contenders for majority leader excel. Blunt and Boehner are both calling for changes, but it's hard to take them seriously when they're so much a part of the problem:

• Blunt, 56, is a DeLay protégé who came to Congress in 1997 and quickly learned that money paves the path to power. In the past decade, he has raised $9.2 million for his own campaigns, half of it from political action committees run by a who's who of business. He hardly needs the money: He clobbered opponents, taking 70% of the vote in 2004.

In November 2002, Blunt was involved in a particularly noxious episode: He quietly inserted a provision to benefit cigarette-maker Philip Morris in a bill on the verge of passage. When other House leaders discovered the provision, they got rid of it.

It was just the kind of thing that makes the public believe — with good reason — that Congress is for sale. Adding to the odor: One of Blunt's sons was a lobbyist for Philip Morris on Missouri state matters. And months later, Blunt married a lobbyist for Altria, Philip Morris' parent. A wedding present from colleagues: a waiver of House rules so he didn't have to disclose the gifts the couple received from lobbyists.

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Blunt also punched another leadership ticket. Since 1999, he has raised $4.7 million and doled most of it out to colleagues facing tougher election battles. He campaigns for them, often on private jets loaned by friendly corporations. That, too, is legal under House rules.

• Boehner, also 56, came to Congress in 1991 in a class of reformers. As one of the "Gang of Seven," he pushed the House to name names in one of that era's scandals — a House bank that let members overdraw their accounts.

Since then, however, Boehner has grown comfortable with Congress' looser ways. In 1995, he distributed campaign checks from tobacco-run political action committees to colleagues on the House floor — an event so unseemly it made headlines. He has cultivated lobbyists, raised $14.3 million for himself and colleagues and avails himself of one of Congress' favorite perks. Since 2000, Boehner has taken $157,000 worth of "fact finding" trips, many to resorts and European capitals, paid for by special interests and non-profit groups — the 9th highest ranking in Congress.

As chairman of the House committee that oversees students' loan program, he has forged close ties with industry giant Sallie Mae. Since 2002, Sallie Mae executives have given $132,000 to a Boehner political committee, according to the Center for Responsive Politics. Meanwhile, with help from Congress and taxpayers, Sallie has prospered.

To his credit, Boehner has consistently opposed "earmarks," legislative favors that lobbyists love, and he voted last year against the pork-laden highway bill.

Both Blunt and Boehner have one point right: Voters are clamoring for change. That requires recognition of what's wrong and the will to do something about it. Lawmakers who've spent their careers accepting perks and raking in special-interest campaign cash don't make for credible reformers.

Message Efforts May Boost The Messenger (RC)

By Emily Pierce

Roll Call, January 26, 2006

With President Bush and Republicans struggling to regain their standing in public opinion as Senate Democrats hammer away daily at every perceived foible or folly committed by the ruling majority, one man has made it his mission to strike back.

Over the past year, Sen. John Cornyn (R-Texas) has become a self-appointed public relations man for Republicans in Congress and the White House, filling a communications void that has developed in the Senate GOP leadership.

“I saw it as addressing this quick-response need that I don’t think we had been set up for before, and really didn’t need before the Democrats created their war room,” said Cornyn, referencing Senate Minority Leader Harry Reid’s (D-Nev.) highly effective press operation. “It’s not enough to come back later on, a week later, two weeks later, and respond. ...

A charge unrebutted is a charge believed.”

A veteran of the Texas Supreme Court, Cornyn will undoubtedly have a high profile this week during Senate deliberations over Supreme Court nominee Judge Samuel Alito, reprising a role he has frequently played in the highly partisan judicial confirmation battles of the past few years.

Cornyn hasn’t limited himself to judicial battles, however, expanding his scope in recent months to lead an aggressive effort among his colleagues in directing staff to send out partisan press releases, opposition research papers and talking points reacting to just about every major policy issue and every major Democratic attack that is made in the Senate, and sometimes in the House.

His efforts include issuing rebuttals to Democrats speaking on the Senate floor even before the Member in question has finished his or her remarks, as well as releases pointing out inconsistencies in the Democratic message and noting when Democrats backtrack on previous statements.

But the role Cornyn is filling may be about more than party loyalty. He’s also running against Sen. John Ensign (Nev.) for the low-profile but still influential post of vice chairman of the Senate Republican Conference, which just happens to be the No. 2 “message” position.

“I’m just trying to do as good of a job that I can do, and if people think that is a benefit to the Conference and would benefit by having me in their vice chair position, then so much the better,” said Cornyn in a recent interview.

Others acknowledge that Cornyn’s PR strategies are putting him in a good position to win the vice chairman race.

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"Obviously, that's one of the things that I think he can point to," said current Senate Republican Conference Chairman and top Conference message man Sen. Rick Santorum (Pa.).

Even Ensign concedes that he thinks "John would do a good job in leadership," but added, "I offered myself up to my colleagues, and if they think I'll do a better job, then I hope they'll support me."

Careful to stress he is not criticizing the current Senate GOP leadership, Cornyn said he thinks he fills "a niche" more than a void in the GOP message operation.

But other Republicans said a gap in messaging definitely existed, particularly prior to the creation last week by Senate Majority Leader Bill Frist (Tenn.) of a rapid response "peace room" intended to counter Reid's war room.

"Clearly, he does fill a void. He's willing to go out there and do the press work when other Members are busy with other things," said one Senate GOP leadership aide.

There has been no lack of evidence that the Senate GOP leadership has appeared to be without a rudder in its message efforts prior to last week's unveiling of the peace room.

Most notably, Santorum has been scheduling fewer GOP agenda and message events since last year while he concentrates on a tough re-election battle back home.

Frist, never regarded as a dynamic public speaker, has been dealing with legal and ethical questions surrounding his decision to sell stock in a health care company owned by his family. Majority Whip Mitch McConnell (Ky.) and Senate Republican Policy Committee Chairman Jon Kyl (Ariz.) often shy away from media appearances, and both are known to have a distaste for dealing with the press.

That leaves current Vice Chairman Kay Bailey Hutchison (Texas), who as the lowest-ranking member of the leadership team doesn't yet command major media attention.

Santorum has "done a pretty good job at messaging," noted one senior Senate Republican staffer. "But with all his attention focused on his own re-election bid, it doesn't seem that we have many members of the leadership that are willing to step in and fill that vacuum."

Santorum acknowledged that he has been somewhat distracted by his campaign, but said, "I think I still do a fair amount." But he praised Cornyn's efforts.

"I'm constantly asking him to go out [to do message events], because he's so good," Santorum said. "I'm always recruiting him, in addition to the work he does on his own."

And even with the advent of the peace room, Frist spokeswoman Amy Call said Cornyn's efforts would continue to be welcomed and encouraged.

"Sen. Cornyn is such an active voice for the Republican Conference that there will always be a need for him," Call said.

Over the past few months Cornyn has taken a lead in scoring points for the GOP in debates over reauthorization of the anti-terrorism USA PATRIOT Act, controversy over Bush authorizing the National Security Agency to spy on Americans without a warrant, lobbying and ethics reform, and the war in Iraq.

On Iraq, Cornyn said he felt the need to defend the Bush administration from Democratic attacks on the president's policies.

"I'm not the first one to observe this, but I don't think the administration was doing a very good job of defending its policies or successes in Iraq," Cornyn said. "My attitude is, Republicans are all in this together When the president does well, we do well. When the president doesn't do well in terms of public opinion, we don't tend to do as well."

Cornyn also has gone after Senate Democrats' decision last week to release a report questioning the ethics of 33 Republican Senators.

"It's beyond ironic that in an attempt to smear the ethics of others, the Democrat 'war room' chose to use taxpayer-funded staff and equipment to compile a blatantly political attack on Republican Senators," Cornyn said in a release that was widely publicized because it was one of the few GOP responses to the Democratic attack. Reid subsequently apologized for the tone of the report.

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Still, Democrats don't appear to be taking Cornyn's efforts lightly. Just this week, a war room press release accused Cornyn of blindly following the administration's talking points when he accused Democrats of supporting "special rights for those who are suspected of plotting terrorism."

Senate Minority Whip Dick Durbin (D-Ill.) called some of Cornyn's criticisms of Democrats "hyperbolic" and reiterated that Democrats view him as simply an extension of the White House press office.

"He has been acknowledged to be very closely linked to the White House press operation," Durbin said.

Despite such criticism and regardless of whether he is elected Conference vice chairman, Cornyn shows no sign of stopping. "I'm happy to help whether I'm in the leadership or not," he said.

Just In Time For Valentine's Day (RC)

By Mary Ann Akers

Roll Call, January 26, 2006

All of them were laughing, some were horrified and a few were undoubtedly secretly delighted. When they found their boss' name on the front of thongs for sale on the Internet, aides to Senate Minority Leader Harry Reid (D-Nev.) couldn't keep it a secret.

"This is just bad," read the subject line of an e-mail from one Reid staffer to another. The missive, which eventually wound up in HOH's inbox, had a link to a Web site selling "I [heart] HARRY REID" thongs for $15.99.

"Panty-minimalists love our casual thong that covers sweet spots without covering your assets — putting an end to panty-lines," the online retailer, cafepress.com, boasts. "This under-goodie is 'outta sight' in low-rise pants. Toss these message panties onstage at your favorite rock star or share a surprise message with someone special ... later."

Hmmm. Harry Reid thongs being tossed at a rock star? Impressing your boyfriend with the notion that you love Harry Reid and keep him in a very special place, not just in your heart? For goodness sakes, what is Mrs. Reid going to think?

Reid aides wouldn't dare go there. And none would admit whether she (or he) would be ordering a Harry Reid thong. But one aide, giggling as she asked that her name not be used, said, "We're just happy Sen. Reid's popularity stretches across all types."

HOH agrees with the other Reid aide: This is just bad!

Oui, ou Non? Will he, or won't he? We're talking about the newly appointed chairman of the House Administration Committee and the question, of course, is: Will he change freedom fries back to french fries?

Everyone is dying to know, but Rep. Vernon Ehlers (R-Mich.) is keeping tight-lipped about how he'll handle the trés, trés delicate issue, now that Rep. Bob Ney (R-Ohio), the creator of freedom fries, has been forced out as chairman of the panel that oversees Capitol Hill eateries.

It seems like ages ago that Ney banned the term "french" from the menus in response to France's opposition to the Iraq war. A masterful move that accomplished, well, absolutely nothing as far as we can tell. So now, with the drumbeat of reform resounding throughout the land, the torch is Ehlers' and fries, be they freedom or french, are his responsibility.

Speculation is running rampant, especially on the House side, where the Rayburn cafeteria may be the only place where fries are still listed on the menu as "freedom fries." One House GOP aide said "anyone named Vern is sure to know his way around a potato farm," so he'd be happy to defer to the new chairman. "If there is a change, I think that Vern's spud fries will now be readily available in all Hill cafeterias much to the disappointment of [Sen.] John Kerry (D-Mass.) and other French loyalists."

Ehlers spokesman Jon Brandt won't say which way his boss is tilting on the freedom/french spectrum. And HOH got the feeling that he didn't want to be bothered with such nonsense, though, let's face it, Ehlers' predecessor made it a serious issue.

"The bottom line is, it is not one of our top priorities ... and it's not anything we're going to be dealing with in the near future," Brandt told HOH. "We have many other items on the agenda that are going to need to be dealt with over the near course. This is not one of the things that's on our front burner."

No pun intended.

Still the One. Despite a recent spate of bad publicity, Vice President Cheney is still a big draw for GOP fundraising.

The vice president is slated to be the headline attraction this evening at a fundraiser for Sen. Mike DeWine (R-Ohio). Anyone can attend for a simple $1,000. But the most generous donors may have a picture snapped with the veep: Going for that

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"max out" opportunity before Ohio's primary in May, the DeWine re-election campaign is charging political action committees $5,000 per photo op.

The fun starts at 5 p.m. at the Capitol Hill Club.

Sen. Clinton: Bush Ignoring Needs Of US Cities (REU)

By John Whitesides

Reuters, January 26, 2006

Democratic Sen. Hillary Rodham Clinton accused the Bush administration on Wednesday of ignoring the needs of cities in its politically driven zeal for tax cuts and told U.S. mayors "you are on your own."

Clinton, a potential White House candidate in 2008 who is seeking Senate re-election this year in New York, said that since the September 11 attacks President George W. Bush had reneged on his obligation to states and cities to pay for crucial security and social programs.

"Across the board, federal budget cuts are leaving states and cities struggling to make up the difference," Clinton told a meeting of the U.S. Conference of Mayors.

"We know the money is going to tax cuts," she said, adding those cuts are desirable in the right political and economic climate but "it is hard to square with the challenges we face at this time of terrorist threat."

At the federal level, "the sense of urgency that marked the months after the 9/11 attacks has largely given way to politics as usual," she said.

Bush's message in his State of the Union speech to the U.S. Congress next week "can be summed up in three words: on your own. We are shifting costs and we are shifting risks onto individuals and families and local governments," she said.

"Mayors, you are on your own to protect your cities," she added.

Clinton's comments were the latest in a series of blasts at Bush in recent weeks. She said earlier this month his presidency would "go down in history as one of the worst" and accused him last week of playing down the Iranian threat.

Talking to reporters after her speech, she criticized Bush's defense of the legality of his domestic surveillance plan, saying "their argument that it's rooted in the authority to go after al Qaeda is far-fetched."

In an indirect reference to her husband, former President Bill Clinton, she told the mayors Bush had squandered the federal budget surpluses of five years ago.

She said Bush had slashed community development block grants, school improvement funds, Medicaid and foster care while not delivering the money to hire, train and equip local emergency and security personnel.

"There is hardly a program that is part of the social safety net that hasn't been slashed," Clinton said.

Hillary Has A Wobble Over Wal-Mart Days (Daily News)

By Michael McAuliff

Daily News, January 26, 2006

WASHINGTON - Sen. Hillary Clinton easily pointed at Wal-Mart yesterday as not doing enough about health care but found it a little tougher when asked if she had ever suggested the retailer do more when she was on its board of directors.

"Well, you know, I, that was a long time ago, I have to remember," she stammered, before pointing to her work on health care while First Lady.

She sat on the Wal-Mart board from 1986 to 1992. Her spokesman insisted it's "a very different company now."

Many Faces Of Hillary -- None A Winner (LAT)

By Jonah Goldberg

The Los Angeles Times, January 26, 2006

LIBERALS ARE sizing up Hillary Clinton for the umpteenth time, and they don't like what they see.

To be honest, I never understood what they saw in her in the first place. The amazing thing about Clinton is that she's so unappealing. She isn't a particularly gifted speaker. She's smart, but in a conventional and lawyerly way. She doesn't connect well with audiences. Her idea of improvisation seems to be leaping from the prepared text to prepared note cards.

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However, she has defied the rules of nature and gotten better looking over the years, which, along with her soap-opera marriage, probably explains some of her success with supermarket checkout-aisle publications.

Indeed, her greatest success has been at exploiting expectations others have for her. For some fans, she was the struggling career woman who could bring home the bacon. For some detractors, she was "Lady MacBeth," cold and calculating in an obviously political marriage. She was also the apotheosis of the 1960s, for friends and foes alike. For the Children's Defense Fund crowd, she was the baby boomer idealist who worked her way through the system. For the American Spectator gang, she was the former Black Panther sympathizer and acolyte of Chicago radical Saul Alinsky who finally achieved power. After the Monica Lewinsky scandal, Hillary — who was no stranger to her husband's weaknesses — suddenly became the victim in a culture with a fetish for victims.

At every turn, Hillary Clinton's Zelig-like public persona has been a fabrication — either by her fans, her enemies or herself. One telling episode came when she published her massively successful autobiography, "Living History." The book tour was nothing short of a coronation, confirming her gravitas and commitment to "the issues." She portrayed herself as resigned to the fact that she'd have to answer Barbara Walters' questions about her personal life, but she always made it seem like she'd rather wrestle with the hard issues of public policy. But when the Washington Post actually tried to ask her about something other than how she cried over her husband's sexcapades with an intern, the senator from New York "declined to be interviewed about the political content of her book."

Hillary Clinton's latest reinvention paints her as a moderate, even an Iraq war hawk. Few people buy it. Reporters regularly assume her motives are opportunistic rather than sincere, focusing on how every pronouncement will position her for the 2008 presidential race. National Public Radio's Mara Liasson, for example, recently observed, "She certainly sees it in her interest to get to the right of the president on many issues, especially in the area of national security."

Whatever the reason, some liberals have had enough. "I will not support Hillary Clinton for president," wrote Molly Ivins, the voice of conventional thinking on the left. "Enough. Enough triangulation, calculation and equivocation. Enough clever straddling, enough not offending anyone." The segment of Democrats who sanctified Cindy Sheehan can hardly countenance a presidential candidate who unapologetically voted for the war and positioned herself to the right of President Bush on foreign policy.

The New Republic offers perhaps an even more devastating critique of Clinton for Democratic pragmatists: She can't win. Marisa Katz dismantled the myth that Clinton can appeal to "red state" voters because she won in upstate New York. Turns out former Vice President Al Gore and Sen. John Kerry each did better in upstate New York than she did. And Gore, a Southerner, couldn't even win his home state of Tennessee. Meanwhile, a recent Gallup poll showed that 51% of Americans won't even consider voting for Clinton.

All of this could change. But there's a great irony here. Hillary Clinton's success over the last decade and a half has been in pretending to be her own woman while really playing one part or another for the benefit of the media, her husband or various feminist constituencies desperate for a role model to confirm all of their comfortable stereotypes.

That's why there's something oddly satisfying in the possibility that Clinton being herself is politically disastrous. And, if she's really just playing one more role according to some classically Clintonian political triangulation, there's something equally satisfying to the prospect that even her fans aren't falling for it anymore.

Obey Seeks Public Financing Debate (RC)

By Steve Kornacki

Roll Call, January 26, 2006

For the record, Rep. David Obey (D-Wis.) doesn't have anything nice to say about Jack Abramoff: "He's a leech and a parasite on the system, and for the life of me I don't even know what he delivered for anyone."

But Obey, a Capitol Hill veteran who's played a prominent role in four decades worth of debates over Congressional ethics, thinks the legislative response to the Abramoff scandal is missing the point entirely.

"Right now, this is going to come down to who's got the tighter limits on trips, or who's got the tighter limits on meals. With all due respect, I don't care what happens with either one of those," he said.

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The real issue, Obey says, is the source of campaign funds.

"In general elections, there should not be a dime of private money," he said.

To that end, Obey is joining with Rep. Barney Frank (D-Mass.) to propose full public financing of all House elections. They announced Wednesday that they will introduce the plan, which would bar all candidates from fundraising and self-financing in their campaigns, when the House reconvenes next week.

"Instead of dialing for dollars, Members could actually be in their committees, learning what their bills would actually do," Obey said. "You could actually have a Congress that's 50-50 between politics and legislating. Right now it's 90 percent politics and 10 percent legislating."

Many Congressional Democrats have long embraced the principle of public financing — House Minority Leader Nancy Pelosi (D-Calif.), for instance, is a longtime backer of the idea — and Obey has pushed similar plans in the past. But concern that the public would be uneasy with the idea of taxpayer money going to political campaigns, lampooned as "welfare for politicians" by Republicans in the past, consistently undercut Democratic efforts to push such plans in the years before they lost their House majority. And it seems unlikely that even many of Obey's Democratic colleagues will be cheering his new proposal.

While freeing Members from the pressures of raising money, Obey's plan would radically curtail the financial advantage most incumbents now enjoy, even making it difficult for some of them to pay for television ads. And even if Democrats were to unite behind it, the prospect on a vote in the GOP-controlled House is less than remote.

"I didn't offer this because people would flock to it and swoon," Obey, the ranking member on the Appropriations Committee, said. "I'm introducing it so we can expand the discussion."

Beyond that, the plan also faces an almost certain constitutional hurdle, in the form of the Supreme Court's 1976 Buckley v. Valeo decision that equated campaign spending with free speech.

Under the Obey-Frank plan, citizens would voluntarily contribute to the "Grassroots Good Citizenship Fund" through a "check-up" — as opposed to the current check-off that helps fund the presidential public financing system — on their federal tax return. The Federal Election Commission would then allocate funds to each of the 435 Congressional districts, based on median family income. The wealthiest districts would be allocated about $1.5 million, and the poorest about $750,000. Within each district, the money would then be distributed to general election candidates in direct relation to each party's showing in the previous two elections; if the Democrats have averaged 60 percent, their candidate would get 60 percent of the money.

The program would be mandatory for all candidates, and spending by any outside groups would be barred. Candidates would also be prohibited from opting out and dipping into their own wallets to finance their races. State and national parties could only contribute money, goods and services equal to 5 percent of their candidate's expenditure cap.

The rules would apply to general elections only, and not primaries.

Far from protecting incumbents, a criticism leveled at some of his past public financing efforts, Obey notes that the plan would increase the bankrolls of challengers in more than 80 percent of districts. He said it's more than enough money for candidates to run credible campaigns, but Members who equate a strong campaign with television saturation might not agree.

For instance, the 5th and 13th districts in New Jersey both sit in the New York media market, where airtime is pricier than anywhere else in the country. The wealthy, suburban 5th (median income: $72,781) would likely be eligible for the full $1.5 million. Once divvied up, that could be enough for both candidates to finance modest television campaigns. But that might not be the case in the gritty 13th (median income: $37,129). By the same token, the cash allocated to Nebraska's impoverished 3rd district, home of the poorest county in America, might be enough to flood the comparatively cheap airwaves there.

And limiting the program to the general election could produce an unbalanced playing field, not to mention some significant loopholes. Incumbents in safe Democratic or Republican districts might not find much relief from the pressures of fundraising, since the main threat to their re-election is usually the primary — not the November election. And multimillionaires would be able to indirectly pay their way into office, if their money was enough to win a primary, especially in a district where their party is the favorite in the fall.

Obey warned against nit-picking, stressing that his goal is to launch a debate about real reform, saying, "I've been doing this a long time and I've heard every doggone argument against everything that everyone's said."

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He also has an answer to the constitutional questions about the plan. In its 1976 ruling, he said, the court left the door open for the kind of regulation he's proposing — if it was necessary in order for Congress to protect itself. As such, Obey is including in the legislation a Congressional finding that brands the current campaign finance system "a fundamental threat to the integrity of the national election process."

That, he said, might be enough for the court to reconsider Buckley v. Valeo. And if it doesn't, the legislation also calls for "expedited consideration" of a constitutional amendment.

"I don't anticipate anyone's action," Obey said. "This comes from my gut and Barney's gut. Both of us have some goals. We're trying to get people to focus on the fundamentals."

House Republicans To Get Presentation On 'Suburban Agenda' (RC)

By Morton M. Kondracke

Roll Call, January 26, 2006

A different kind of agenda — different from the president's State of the Union address and the anticipated Democratic election year document — is scheduled to be unveiled early next month to House Republicans: "The Suburban Agenda."

It's the work of a group of 22 GOP Members from across the party's ideological spectrum and led by moderate Rep. Mark Kirk (Ill.), who's also tried to sell it to President Bush's top political adviser, Karl Rove.

Instead of a laundry-list policy agenda, Kirk told me in an interview, this agenda is designed to answer the problems faced by a suburban family as it moves through its day.

Kirk represents Chicago's northern suburbs, and other members of the "suburban strategy caucus" represent the suburbs of such cities as New York, Philadelphia, Seattle, Cleveland, Atlanta and Denver.

There's clearly strategic political intent behind trying to build the 2006 GOP legislative strategy around the suburbs: More than half of U.S. voters live in the 'burbs, and these places, formerly Republican strongholds, have been trending Democratic in recent years.

As Fred Barnes pointed out in the Weekly Standard earlier this month, what Kirk calls the "inburbs" of major cities — as opposed to the more-distant exurbs — are increasingly Democratic.

Kirk's district was represented in the 1960s by current Defense Secretary Donald Rumsfeld and for two decades by GOP Rep. John Porter. Kirk carried it with 64 percent of the vote in 2004 — far better than the 47 percent President Bush won in the district.

In the 2005 Virginia gubernatorial race, Democrat Tim Kaine won the close-in Washington, D.C., suburbs of Arlington, Alexandria and Fairfax by huge margins.

Of the 14 districts held by GOP representatives but carried by Democratic nominee John Kerry (Mass.) in 2004, virtually all are suburban. At the same time, there are 12 suburban districts held by Democrats that Bush carried. So it's not a stretch to say that suburban voters will decide who controls the House after this year's elections.

Kirk and others in the suburban caucus are scheduled to make the case for their agenda at the House GOP Members' retreat Feb. 9, which follows leadership elections Feb. 1.

Kirk had 20 issues of concern to suburbanites tested in his district and rated by GOP pollster John McLaughlin. McLaughlin is currently in the field with a more sophisticated poll of other suburbs to determine, for example, whether voters are willing to pay for proposals in the package.

At the end of the day, there is a "laundry list" of proposals — "20 defining issues to win the suburbs and keep our Republican majority," Kirk calls it. But he insists that he got there simply by tracing a day in suburbia.

"You wake up in the morning and you might turn on the radio and hear about Iraq and the war on terror and you want it solved, but then you think, 'OK, I've got to get to work,'" Kirk said.

"'How long does it take to get there? Am I going to drive by strip malls the whole way? Can't we have more open space?'" McLaughlin found that 83 percent of Kirk's constituents support limits on the lawsuits that delay Superfund environmental cleanups. Rep. Jim Gerlach (R-Pa.) is the caucus' open spaces presenter.

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"I get to work," Kirk continued. "The average American has five jobs in a working life. If I switch, I don't want to be left high and dry without health insurance. Current COBRA regs allow me to pay for only 18 months of coverage? Why not indefinite?"

Portability of health insurance and expansion of health savings accounts got overwhelming support in McLaughlin's poll. Rep. Nancy Johnson (R-Conn.) is the caucus expert in that area.

"Meanwhile, my kids went to school. My wife has probably looked up to see whether there's a pedophile in our neighborhood, but why shouldn't our school district be able to pay the federal government $50 to background check on new teachers and coaches?

"Also, the suburbs have an increased presence of youth gangs. In my district, Lake County, the 16th wealthiest in the country, has identified 3,000 members of international gangs. Why shouldn't the federal Bureau of Alchohol, Tobacco and Firearms not also be the Bureau of Gangs to help localities?

"We also need to clarify the 4th Amendment, so that privacy rights do not extend to school lockers, to make sure there are no weapons or drugs in school." Rep. Dave Reichert (Wash.), former sheriff of King County (Seattle), is the caucus' lead advocate on youth crime, which is also a theme of first lady Laura Bush.

Other items on the suburban agenda include a federal requirement that all medical records be made electronic by a certain date and a "401-Kids" tax-benefited savings plan allowing parents to set up accounts that children could use for purposes other than college tuition, which is now covered by 529 plans.

Kirk's poll found strong support for several kinds of tax credits — for first-time homebuyers, for computers and tutors for children and for new-career training for adults. Respondents also favored eliminating the estate tax.

Significantly, the entire suburban agenda has not been costed-out and matched against the Republicans' stated goal of closing the federal budget deficit.

The agenda is designed to keep Republicans in power, but many of the items — electronic health records and anti-gang measures, for sure — ought to be bipartisan. It wouldn't be surprising if there's a bidding war for the support of the suburbs.

Postal Service Goes On Offensive In Fight With Senators Over System To Set Mail Rates (WP)

By Stephen Barr

The Washington Post, January 26, 2006

The U.S. Postal Service headquarters launched a blitz yesterday to block a Senate bill, contending that the legislation, in combination with White House demands, could trigger a 20 percent increase in stamp prices in the near future.

The bill's sponsors, Sens. Susan Collins (R-Maine) and Thomas R. Carper (D-Del.), said they were "outraged that the Postal Service would mislead senators." In a statement, they said, "Nothing in the bill would lead to rate increases."

Government agencies rarely risk incurring the wrath of committee chairmen who oversee their operations, as is the case with Collins. As head of the Homeland Security and Governmental Affairs Committee, she has made the overhaul of postal operations one of her priorities.

Her bill would create a system of setting mail rates that she believes would give the post office greater pricing flexibility and would prevent it from raising rates each year in excess of inflation as measured by the consumer price index.

The Postal Service faces a bleak future if e-mail and Internet services continue to expand and erode first-class mail volume. Although the post office has stabilized its finances in recent years, efforts continue to reduce labor costs and consolidate operations.

As the word spread this week that Collins planned to bring her bill to the Senate floor, postal officials distributed a letter from the postal Board of Governors reaffirming the board's objections to the proposed overhaul, the first in more than 30 years.

Yesterday, postal officials stepped up their effort to block the bill, contacting Senate staff members and providing each Senate office with a copy of the board's objections.

"We need meaningful reform, and this is not it," Tom Day , senior vice president for government relations, said in a telephone interview.

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Senate leaders plan to bring the Collins bill to the floor for speedy approval, called unanimous consent, that does not require a roll-call vote. Postal lobbyists were on the hunt for a senator who would object to the maneuver and put a hold on the bill.

The House has approved a postal overhaul, and once the Senate clears the Collins bill, it will go to a House-Senate committee that will reconcile differences between the two versions. The White House has announced opposition to any compromise that would increase the federal deficit.

Postal officials fear that a compromise bill could leave it on the hook for two major financial obligations and would allow postal regulators to intrude on internal operations and override business decisions.

Day said mail rates could soar by as much as 20 percent if Congress and the White House agreed to extend a 2003 law that requires the post office to pay for military retirement benefits earned by employees before their postal careers, and if the post office also is ordered to prepay health benefits for employees in the Civil Service Retirement System. Such costs are usually covered by the Treasury Department, using taxpayer dollars.

In the worst scenario, he said, the post office would have no choice but to keep raising postal rates, which would set off a "death spiral."

Although the Postal Service has worked with Congress and the White House on proposals to overhaul operations, Day said postal concerns over accountability and management control have been in contention since 1996.

Collins and Carper, however, said, "We are extremely troubled and disappointed that at the very last minute, the Postal Service is attempting to block action on our bill."

They added, "It is ironic that the Postal Service -- which has been forced to raise rates four times in five years because of its inability to control its costs and respond to the new economic landscape -- is accusing us of putting the health of the postal system at risk."Helping Enrollees

Two House members wrote the Office of Personnel Management yesterday to "strongly urge . . . seamless health care coverage" for enrollees in the discontinued Postmasters Benefit Plan.

OPM dropped the plan Monday from the federal health insurance program because of concerns about its financial solvency and management.

Reps. Thomas M. Davis III (R-Va.) and Jon Porter (R-Nev.), who oversee civil service matters, asked OPM to provide information on whether benefit counselors will be made available to affected employees and what steps will be taken to ensure that the enrollees do not experience a break in coverage.

OPM has said it will move enrollees into the Blue Cross and Blue Shield standard option unless individuals opt for a different plan.

Inside Politics (WT)

By Greg Pierce

The Washington Times, January 26, 2006

'Nightline' accused

The Federalist Society yesterday called on ABC to investigate a report by its news show "Nightline" that suggested Supreme Court Justice Antonin Scalia had done something unethical by participating in a legal seminar sponsored by the group.

"The report grossly misled viewers about a recent trip Supreme Court Justice Antonin Scalia took to teach a 10-hour course on the Constitution and separation of powers. 'Nightline' suggested that Justice Scalia's trip was a 'judicial junket,' and even strained to manufacture a link with disgraced lobbyist Jack Abramoff," Federalist Society President Eugene B. Meyer said in a letter yesterday to ABC News President David Westin.

The program, which aired Monday, emphasized that Justice Scalia had missed the September swearing-in of Chief Justice John G. Roberts Jr. because of his commitment to attend the legal seminar at a Colorado resort, suggesting that the jurist spent most of his time playing tennis and engaging in other frivolous pursuits.

"Rather than taking a recreational trip with hours of tennis and going fly-fishing, as ABC would have its viewers believe, Justice Scalia was honoring an agreement made nearly a year in advance with the Federalist Society to teach a serious

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scholarly program to more than 100 lawyers from 38 states that required considerable work and advance preparation," Mr. Meyer said in his letter.

"Prior to the course, Justice Scalia produced a 481-page course book that attendees were expected to review in advance. The course was approved by at least 30 state bars for most of the attending lawyers' continuing education requirements. Justice Scalia was there to share his knowledge and experience and received only reimbursement for travel and lodging."

As reported in this column yesterday, the ABC program strained to link Justice Scalia to disgraced lobbyist Abramoff, saying the jurist attended a cocktail reception partly funded by a legal and lobbying firm where Mr. Abramoff once worked.

"We call on ABC to launch an independent investigation into the circumstances surrounding the development and production of this story," Mr. Meyer said.

Ney seeks re-election

Undaunted by speculation within his own party that he may have to quit Congress because of a corruption probe, Rep. Bob Ney announced yesterday he's running for re-election.

"2006 promises to be a vigorous campaign, and I am ready for the fight," said Mr. Ney, Ohio Republican. He planned to hold his first formal campaign event today.

Mr. Ney's popularity has hardly dimmed in his expansive rural district even after he was identified in disgraced lobbyist Jack Abramoff's guilty plea as the central figure in Abramoff's scheme to bribe members of Congress, the Associated Press reports.

Spanish response

Los Angeles Mayor Antonio Villaraigosa will give the Spanish-language response to President Bush's State of the Union address on Tuesday, Democratic congressional leaders announced.

Mr. Villaraigosa has been seen as a rising Democratic star since his election in May as the first Hispanic in 133 years to lead Los Angeles, the country's second-largest city. He will deliver his remarks from his Los Angeles office, said Senate Minority Leader Harry Reid, Nevada Democrat, and House Minority Leader Nancy Pelosi, California Democrat.

The Democrats' English-language response will be given by newly inaugurated Virginia Gov. Timothy M. Kaine.

New name, game

An advocacy group that fought President Bush's Social Security reforms and Republican efforts to cut entitlement spending is now changing its name and going after Republicans on corruption charges.

Americans United to Protect Social Security -- an umbrella organization for about 200 liberal advocacy groups -- is retooling as Americans United. "We are shortening our name and expanding our scope," the group said yesterday in announcing a $1 million ad campaign focusing on the legal troubles of various Republicans, including Rep. Tom DeLay and lobbyist Jack Abramoff.

The National Republican Congressional Committee noted the change and said Democrats are outsourcing their agenda. "National Democrats are at it again," read an NRCC statement. "Before Thanksgiving, they punted on presenting voters with their agenda for 2006. Now, they are hiding behind a shadow group that can accept unlimited donations to advance Democrat ideals, whatever those are."

Gloomy prognosis

Pennsylvania Gov. Ed Rendell says the United States is losing its edge in the global economy and needs to spend $100 billion to recover its advantage, reports Donald Lambro of The Washington Times.

Mr. Rendell, the Democratic Governors' Association's finance chairman, presented a lengthy list of economic reforms on trade, education, health care and energy at a National Press Club news conference Tuesday. On behalf of the DGA, Mr. Rendell hoped President Bush will consider including the reforms in his State of the Union proposals next week.

"Sadly, America is losing its competitive edge," Mr. Rendell said, pointing to U.S. dependence on foreign oil, a declining number of engineers and science graduates, skyrocketing health care costs and a mushrooming trade deficit.

DGA proposals call for increased spending for higher teacher salaries, alternative sources of energy, a health care tax credit for businesses who offer worker health care coverage, and a "level playing field" in global trade.

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But when a reporter asked how the United States could be losing its edge when it has stronger scores in technology development, employment, incomes, economic growth and trade exports than the rest of the major industrialized nations, Mr. Rendell dismissed those factors. "The trend line is getting worse," he said.

Hillary's numbers

Only 16 percent of voters say they would vote for Sen. Hillary Rodham Clinton for president in 2008, while 51 percent said they definitely would vote against the New York Democrat, according to a CNN-Gallup poll.

Thirty-two percent said they might consider voting for Mrs. Clinton.

However, the poll offered Mrs. Clinton little encouragement in seeking crossover votes: 90 percent of Republicans said there was no chance they would support her.

Bennett to CNN

William J. Bennett, radio talk-show host and former secretary of education, will join CNN as an analyst and commentator for various programs, the network announced yesterday.

CNN-U.S. President Jon Klein said Mr. Bennett will be one of CNN's political commentators as part of the network's continuing effort to bring a broad range of perspectives to its viewers. The network in recent days also hired former Rep. J.C. Watts, Oklahoma Republican, to do analysis and commentary.

Dead To The World (NYT)

By Felix G. Rohatyn

The New York Times, January 26, 2006

DURING my four years as the American ambassador to France, I discovered that no single issue was viewed with as much hostility as our support for the death penalty. Outlawed by every member of the European Union, the death penalty was, and is, viewed in Europe as a throwback to the Middle Ages. When we require European support on security issues — Iran's nuclear program; the war in Iraq; North Korea's bomb; relations with China and Russia; the Middle East peace process — our job is made more difficult by the intensity of popular opposition in Europe to our policy.

Several years ago, Justice Anthony Kennedy spoke to the senior staff of our embassy in Paris on this issue to help them explain our position to a very hostile French audience. I was agreeably surprised when he indicated his belief that sooner or later, we would have to take into account the views of Europeans in determining what constitutes "cruel and unusual punishment."

Last March, the Supreme Court, in a 5 to 4 decision, abolished capital punishment for juvenile offenders, concluding that the death penalty for minors is indeed cruel and unusual punishment. "Our determination," Justice Kennedy wrote in the majority decision, "finds confirmation in the stark reality that the United States is the only country in the world that continues to give official sanction to the juvenile death penalty."

While, unsurprisingly, Justices Antonin Scalia and Clarence Thomas dissented, it is notable that Justice Sandra Day O'Connor agreed with Justice Kennedy that international trends affect the meaning of "cruel and unusual punishment." Justices Scalia and Thomas, on the other hand, took the majority to task for taking "guidance from the views of foreign courts and legislators."

This attitude, reflecting a narrow and parochial view of the issue, is also found in Judge Samuel Alito's testimony before the Senate Judiciary Committee on his nomination to the Supreme Court: "I don't think it appropriate or useful to look to foreign law in interpreting the provisions of our Constitution. I think the framers would be stunned by the idea that the Bill of Rights is to be interpreted by taking a poll of countries of the world."

To the contrary, globalization has made it not only "appropriate or useful" but vital to look at foreign laws. It is in our interest to be aware of their impact whether they concern antitrust, food safety or the death penalty. Contempt for the laws of our allies is a major factor in our increasing isolation in the world; our present posture in Iraq reflects that reality. That is why is it is deeply troubling that the next member of the Supreme Court will most likely share Justice Scalia and Justice Thomas's point of view.

The Supreme Court is our most respected institution. Whether it is conservative or liberal is important; but it is even more important that it be enlightened. It must show understanding, if not respect, for other peoples' beliefs and laws, and occasionally

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be willing to support reasonable changes. Our Constitution, itself, was an extension of Enlightenment ideas that were incubated on the Continent. It certainly did not spring up in a vacuum, but was affected by strains of political thinking in Europe.

"That our understanding of the Constitution does change from time to time has been settled since John Marshall breathed life into its text," Justice John Paul Stevens wrote last year, concurring with Justice Kennedy. Taking the views of 450 million Europeans into account is not a sign of weakness on our part, nor is it a commitment to change our views. It is simply recognition that the laws of our most important allies, our biggest foreign investors, foreign employers, foreign customers and trading partners are worthy of our attention. That is a sign of enlighten- ment.

OTHER NEWS:

Home Sales Drop 3rd Month In Row Market Cooling Off Faster Than Expected (USAT)

By Noelle Knox

USA Today, January 26, 2006

WASHINGTON — Sales of existing homes fell in December for the third-consecutive month, in a surprisingly sharp drop that signaled the housing market is cooling off faster than expected.

Home resales declined 5.7% from November to a seasonally adjusted annual pace of 6.6 million, the slowest since March 2004, the National Association of Realtors said Wednesday. Western states, notably California, suffered the worst, with home sales in the region skidding 11.4% from November and from December 2004.

"We got to 6.6 sooner than I expected. I hadn't expected that for two or three months," said David Lereah, chief economist for the NAR, who conceded that his forecast for 2006 might now be too optimistic. He had predicted sales of existing homes would drop 5% this year, from a record 7.07 million in 2005. The rise in home prices, meanwhile, will slow to 6% this year from 12.7% in 2005, he projected.

Home buyers shelled out $211,000 for a median-priced home in December, an increase of 10.5% from the year before. But rising mortgage rates are pricing many would-be buyers out of the market, Lereah said.

The average rate on a 30-year fixed mortgage was 6.27% in December, up from last year's low of 5.53% in July. The Mortgage Bankers Association predicted Wednesday that the average 30-year fixed loan would hit a high of 6.4% in the second half of this year and stay there until the end of 2007.

That's bad news, in particular, for buyers in California, where prices have skyrocketed. The median price there for a single-family home was $548,430 last month, up 15.6% over a year earlier. Many buyers can afford to buy a home only with a riskier adjustable-rate or interest-only mortgage.

Leslie Appleton-Young, chief economist for the California Association of Realtors, had been projecting over the past 18 months that the market would slow. Now that it has, the drop is deeper than she expected.

In addition to higher mortgage rates, Appleton-Young blamed high oil prices and weak consumer confidence for the cooling of California's housing market.

But after the feeding frenzy in the California market for most of last year, the recent trend has restored sanity to the home-buying process, said Lisa Strong, an agent for Lyon Real Estate in Sacramento. "There are no fights anymore" among competing buyers and their agents, she said.

In the South, sales of existing homes dropped 7.2%, and sales slipped 2.6% in the Midwest, from November levels. Sales were flat in the Northeast.

"They were disappointing, clearly, but not a catastrophe," said Phillip Neuhart, an analyst for Wachovia. "You have to put this into perspective: 6.6 million is historically a high level. We're expecting a soft landing. We're not expecting a crash."

Homes Sales Fell In December; A Record Still Set (WSJ)

By Joi Preciphs

The Wall Street Journal, January 26, 2006

Sales of existing homes fell in December to their lowest level in three months, but they still set a record for the year.

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The National Association of Realtors said nationwide sales of previously owned homes fell 5.7% to an annual rate of 6.60 million last month from November's revised annual rate of 7.0 million. Analysts had projected a 6.87 million sales rate in the existing-home market, which includes single-family residences, condominiums, townhomes and co-ops.

The national median price for existing homes of all types in December was $211,000, down from an unrevised $215,000 in November, but up 10.5% from December 2004. The inventory of homes on the market increased slightly to a 5.1 months' supply last month, compared with 5.0 months in November.

The pattern was mixed regionally, with sales falling 11.4% in the West, 7.2% in the South, and 2.6% in the Midwest. Sales in the Northeast were unchanged.

Patrick Newport, U.S. economist at consulting firm Global Insight in Waltham, Mass., said in a statement that the movement of interest rates is cooling the housing market and will continue to do so in 2006.

Read the complete text1 of the National Association of Realtors report on December existing-home sales and analysis2 from Briefing.com.

"Interest rates have eased in recent weeks, but we are expecting them to drift back up over the first half of 2006," he said, adding that if the Federal Reserve raises interest rates two more times before pausing, the increases "will cool off the housing market and deflate many local housing bubbles."

Mr. Newport doesn't expect the market to collapse anytime soon. The first casualties might come in places like the condo market, where the inventory of unsold homes jumped 8% last month. Sales of existing condominiums and co-ops increased a modest 1.6% in December, according to the NAR report.

Financial institutions have been keeping a watchful eye on the condo market and in some cases have scaled back lending for new condo developments. "We see risk of a substantial condo-price decline in certain frothy markets, based on record high inventory levels and the recent rapid price appreciation in condos," said Banc of America Securities analyst Daniel Oppenheim.

Despite the apparent slowing, existing-home sales for the year reached 7.072 million units, setting their fifth successive annual record, the NAR said. Home prices still remain strong, despite some softening. Given these factors, NAR Chief Economist David Lereah said in a statement that there is a "soft landing in sight for the housing sector."

"The level of home-sales activity is now at a sustainable level, and is likely to pick up a bit in the months ahead," Mr. Lereah said, adding that he expects the 2006 housing market to "remain historically high but lower" than 2005.

The recent boost in mortgage applications might suggest a "partial rebound in sales is directly ahead," Banc of America Securities economist Gary Bigg said. Mortgage giant Freddie Mac said the average 30-year fixed-rate mortgage was 6.27% last month, down from November's 6.33%.

Write to Joi Preciphs at joi.preciphs@dowjones.com3

Home Sales Fell Again In December (NYT)

By Vikas Bajaj

The New York Times, January 26, 2006

Sales of existing homes fell in December for the third consecutive month, a trade group reported yesterday, even as the housing market registered a fifth consecutive year of increased sales.

The data appear to suggest that the era of rapidly increasing sales may be coming to a close. Sales in December fell 5.7 percent, to an annual pace of 6.6 million homes, after a 1.3 percent dip in November and a 2.7 percent drop in October. It was the lowest level of sales since March 2004.

Sales of existing homes fell or stayed flat in all four regions of the country, while the total inventory of homes for sale dipped slightly, the National Association of Realtors reported. Median prices — half the homes sold for less, half for more — were up 10.5 percent, to $211,000, from a year earlier.

For the year, home sales grew 4.2 percent, to 7.07 million, setting another record. The nation's long housing boom is almost a decade old, with the exception of 2000, when sales fell by 0.4 percent.

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"The housing boom in the United States is over," said Lynn Reaser, the chief economist for Bank of America's investment strategies group. "It at this point appears to be on the soft-landing plane, with sales slowing, some growth of inventory and sellers not receiving their full asking price."

The economy has become increasingly dependent on the growth generated by home sales, mortgage refinancings and related spending. A housing slowdown is figuring prominently into many analysts' forecasts for slower economic growth in 2006.

But forecasters have pronounced an end to the boom before and were proved wrong. Mortgage interest rates, though higher than a year ago, remain near historical lows, making home ownership more affordable for many. The average interest rate on a 30-year fixed mortgage was 6.1 percent last week, up from 5.71 percent in January 2005, according to Freddie Mac.

Economists say the sharpness of the current slowdown, and whether it will become more severe, will not become clear until the peak spring and summer home-buying season.

Prices in markets on the coasts that have experienced sharp increases will be an important barometer for the housing market this year, along with mortgage delinquencies and foreclosures, said Dean Baker, co-director of the Center for Economic and Policy Research. Prices, though still higher than a year ago, did not rise as fast in December as they did earlier in 2005.

Officials with the Realtors' group said a fundamentally strong economy and housing demand would help keep home sales generally steady, but even they acknowledged that the market had changed. "Clearly the air is coming out of the balloon," David A. Lereah, chief economist for the Realtors association, said, according to Bloomberg News. "We're transferring from a sellers' market to a buyers' market." The association expects sales to drop 4.4 percent in 2006.

December sales dropped the most in the West, 11.4 percent, followed by the South at 7.2 percent and the Midwest at 2.6 percent. Sales activity in the Northeast was unchanged from November.

Nationwide, the number of homes available for sale dropped to 2.8 million at the end of December, from 2.9 million, but because of the slower pace of sales, that represented 5.1-month supply of homes, up from a five-month supply in November.

Weaker Outlook For Homes And Oil Profits End A Rally (NYT)

By Bloomberg News

The New York Times, January 26, 2006

By Bloomberg News

Stocks ended a two-day rally yesterday as a worsening profit outlook for oil companies and homebuilders, two of the market's best performers during the last 12 months, sent prices lower.

The Standard & Poor's 500-stock index fell 2.18 points, or 0.2 percent, to close at 1,264.68, its first drop this week. The Nasdaq composite index lost 4.60 points, or 0.2 percent, to 2,260.65. The Dow Jones industrial average dropped 2.48 points, or less than 0.1 percent, to 10,709.74, helped by a gain in General Motors.

Some 1.93 billion shares changed hands on the New York Stock Exchange, 20 percent more than the three-month average, as investors dealt with a flurry of earnings reports. About six stocks fell for every five that rose on the Big Board.

About 37 percent of the companies that have reported earnings so far have failed to surpass analysts' estimates. For the same quarter last year, 34 percent missed or met forecasts, according to a Bloomberg analysis of Thomson Financial data.

"Earnings are not bad, but they're just not as good as they have been," said Robert C. Doll, who oversees $539 billion as president and chief investment officer of Merrill Lynch Investment Managers in Plainsboro, N.J. "We've gotten so used to them being better than expected, and now that they've returned to normal, the market is struggling with that."

More than 140 companies in the S.& P. 500 release results this week, the busiest period for fourth-quarter earnings. The S.& P. 500 is down 2.3 percent from a four-year high reached on Jan. 11, just before the bulk of the index's members began reporting.

United States Treasuries fell the most since November after the government's $22 billion two-year note sale drew the weakest demand in nine months. By late in the day, the price of the benchmark 10-year note fell 21/32, to 1006/32. The yield, which moves in the opposite direction of the price, rose to 4.48 percent, from 4.39 percent on Tuesday.

Crude oil for March delivery lost 1.2 percent, to $65.85 a barrel, after an Energy Department report showed that supplies of gasoline and distillate fuel rose for a fourth consecutive week.

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Shares of the oil company ConocoPhillips fell 94 cents, to $63.54, even after the company reported that its profit last quarter jumped 51 percent, to $3.68 billion, or $2.61 a share.

Amerada Hess, another oil company, gained $1.86, to $148.47. The company said fourth-quarter profit increased 97 percent, to $452 million, or $4.31 a share.

Exxon Mobil, which is set to report earnings on Jan. 30, fell 75 cents, to $60.21. The S.& P. 500 Energy Index lost 1.8 percent, cutting its 12-month advance to 41 percent.

Sales of previously owned homes declined for a third consecutive month in December, sliding 5.7 percent to a 6.60 million annual rate, the National Association of Realtors said.

"The housing news was the big setback," said Jack A. Ablin, chief investment officer at Harris Private Bank, which manages $44 billion in Chicago. "While we suspect that housing is likely to slow and thereby take the primary catalyst away from consumer spending, the number came in worse than expected and forced investors to face reality much sooner."

A gauge of homebuilding stocks in S.& P. indexes dropped 2.4 percent, paring its 12-month rise to 15 percent.

Toll Brothers, the nation's largest builder of luxury homes, lost 59 cents, to $34.02. D. R. Horton, the country's No. 1 homebuilder over all, fell 78 cents, to $37.20.

Here are the results of yesterday's auction of two-year Treasure notes:

Concerns Of Slowdown (WSJ)

The Wall Street Journal, January 26, 2006

Lower oil prices and signs of a softening housing market battled for control of the market Wednesday, sending stocks on a string of sharp jumps and sudden drops that left the major indexes where they began the day.

The Dow Jones Industrial Average, which at times was up as much as 48.45 points and down as much as 39.62, finished off just 2.48 at 10709.74. The Standard & Poor's 500-stock index slipped 2.18 to 1264.68 and the Nasdaq Composite Index fell 4.60 to 2260.65.

Also worrying equity investors: A steep jump in bond yields after a weak reception to an auction of two-year Treasury notes. Analysts said buyers were shying away from bonds ahead of next Tuesday's meeting by the Federal Reserve. The jump in yields came as especially unsettling news on a day that investors were jittery about the housing market.

At first, it appeared stocks would rack up a third-consecutive day of gains since last Friday's 200-point gut check in the Dow. But a report by the National Association of Realtors said existing home sales fell a steeper-than-expected 5.7%, the third straight decline in a row. That took the wind out of stocks, since the housing market has been a big driver of the economy, said Jay Suskind, director of trading at Ryan Beck. The Philadelphia Housing Sector Index fell 1.6%, led by steep declines by components Centex and Hovnanian Enterprises.

The market righted itself after a government report showed a build in inventories of distillate fuels, including heating oil used to warm many homes in the Northeast U.S. Light, sweet crude-oil prices tumbled $1.21 to $65.85 on the New York Mercantile Exchange, on top of yesterday's $1.04 slide. Housing versus oil "caused the market to rollercoaster," Mr. Suskind said.

There could be a bright side to housing news, though. The Fed, which has had the housing market on its radar, could be encouraged by coolness in housing sales, said Stuart Freeman, chief investment officer of A.G. Edwards. "It's good to see a little weakness in housing here," he said. "It makes it more likely that the Fed will stop raising rates soon."

Policy markers meet Tuesday to decide whether to raise rates from their current level of 4.25%. It will be the last meeting chaired by Alan Greenspan, who's set to be replaced by Ben Bernanke.

Among major stock movers: Boston Scientific slumped 1.5% on news that its $27 billion bid for Guidant won out over Johnson & Johnson's $24.2 billion offer. J&J's shares finished down by 1.5% and Guidant fell 2%. Walt Disney fell 2.1% on news it sealed a deal to buy Pixar for $7.4 billion, though the stock ran up gains of 6.2% this year on previous reports of the deal. Pixar's shares, which were flat Wednesday, have gained about 10% this year on the deal talk.

Bristol-Myers Squibb shares rose 2.6% after reporting earnings that, excluding items, topped Wall Street's expectations. Xerox slid 1% after it posted net income of 32 cents a share for the fourth quarter, meeting analyst expectations, but revenue of $4.25 billion fell short of the $4.42 million Wall Street expected.

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In major market action:

Stocks were mixed8. On the Big Board, where 1.9 billion shares traded, 1,555 stocks rose and 1,814 fell. On the Nasdaq Stock Market, where 2.1 billion shares traded, 1,262 rose and 1,762 declined.

Bonds declined9. The benchmark 10-year Treasury note lost 22/32 point, or $6.88 for every $1,000 invested, to yield 4.477%. The 30-year bond fell 1 11/32 to yield 4.656%. Yields move inversely to prices.

The dollar gained.10 It traded at 114.71 yen, up from 114.59 yen late Tuesday, while the euro fell to $1.2245 from $1.2282.

Weak Earnings Reports Soften Stocks (USAT)

USA Today, January 26, 2006

NEW YORK — U.S. stocks ended slightly lower Wednesday, hurt by signs of slackening corporate profit growth and a slowdown in existing home sales.

Shares of copier company Xerox and candymaker Hershey both declined after the companies each reported revenue that fell short of Wall Street estimates, overshadowing gains in profit.

"The market has focused on disappointing earnings or disappointing guidance about future earnings of just a handful of companies," says Brian Gendreau, strategist at ING Investment Management. "When there's any hint that we're at the peak of earnings growth, the market gets pummeled."

The Dow Jones industrial average was down 2.48 points at 10,709.74. The Standard & Poor's 500 fell 2.18 points to 1264.68. The Nasdaq composite was down 4.60 points at 2260.65.

The market has struggled since last Friday, when U.S. stocks suffered their biggest loss in nearly three years after several earnings reports missed estimates and crude oil prices surged.

Data showing softer-than-expected U.S. existing home sales also sparked some caution and dimmed hopes of a strong market rebound after U.S. stocks' slide last week. U.S. Treasury bond prices fell for the second-consecutive day on unusually heavy volume, driving the yield of the benchmark 10-year Treasury note up to 4.48% in its biggest one-day gain in six months.

Shares of Xerox fell 15 cents to $14.31, while Hershey lost $1.80 to $52.30 as investors focused on their disappointing revenue. They followed other big companies, including Johnson & Johnson, IBM, Motorola and General Electric, that have delivered sour sales news in their earnings reports.

Norfolk Southern jumped $1.84 to $47.64 after it became the latest railroad to deliver stellar results with a 37% gain in fourth-quarter earnings. U.S. railroads have seen demand and revenue soar in the past two years and last year significantly raised prices for the first time since rail freight was deregulated in 1980. Among other rallying railroads, Burlington Northern Santa Fe rose 88 cents to $75.68, and CSX gained $1.65 to $52.40.

•CNF skidded $5.41, or 10%, to $50.51 after the trucking company posted weaker-than-expected results and forecast a disappointing quarter.

•Colgate-Palmolive climbed $1.90 to $55.65. The consumer products company reported 26% higher fourth-quarter profit — the first time in two years it has topped expectations.

•St. Jude Medical fell $3.27 to $50.03. The medical device maker said fourth-quarter sales of its devices to treat irregular heartbeats were lower than expected.

Greenspan To Set Up A Consulting Firm (WSJ)

The Wall Street Journal, January 26, 2006

WASHINGTON -- Federal Reserve Chairman Alan Greenspan plans to set up a consulting firm, Greenspan Associates, in Washington, D.C., after he leaves the Fed at the end of the month, according to people familiar with the matter.

In addition to consulting, Mr. Greenspan plans to give speeches and write a book, these people say.

One of his first hires will be Michelle Smith, who the Fed said yesterday will leave her job as director of its office of board members to join Mr. Greenspan's new firm. Ms. Smith joined the Fed as communications director in 2001 after serving as press secretary to Clinton Treasury Secretary Lawrence Summers. She served in effect as Mr. Greenspan's chief of staff, advising him on relations with the public, politicians and the media, Fed insiders say. She has also advised Fed policy makers on monetary-

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policy communications, such as the postmeeting statement and meeting minutes, though not on the formulation of monetary policy itself.

In addition, the Fed said David W. Skidmore, Ms. Smith's deputy, would become the board's chief spokesman and Rose Pianalto Cameron will oversee other public information activities.

Greenspan Opposes Bank Loophole (WSJ)

By Bernard Wysocki Jr.

The Wall Street Journal, January 26, 2006

Federal Reserve Chairman Alan Greenspan is opposing a regulatory loophole that allows corporations to own banks, thrusting himself into the middle of an effort by Wal-Mart Stores Inc. to establish a bank.

Mr. Greenspan's salvo, outlined in a 12-page letter to Congress that was reviewed by The Wall Street Journal, is the latest in a controversy over the separation of commerce and banking. Wal-Mart, the Bentonville, Ark., retailer, is trying to obtain a state banking charter in Utah, using precisely the exemption in the banking laws opposed by Mr. Greenspan.

His remarks, reiterating and expanding on previous comments, could be Mr. Greenspan's last major statement to Congress as Fed chairman. The 79-year-old Mr. Greenspan, who took office in 1987, is scheduled to step down Jan. 31.

Wal-Mart officials say the Utah bank would be a back-office processing center, handling debit-card, credit-card and electronic check-transfer payments by customers at its stores. A third party currently processes the transactions -- estimated at 140 million a month -- and bringing the work in-house would save Wal-Mart money. Company officials repeatedly have said they don't plan to establish bank branches. Under current law, these state-chartered banks, many incorporated in Utah, may open branches in more than 20 states and the District of Columbia.

The Federal Deposit Insurance Corporation must rule on Wal-Mart's application for deposit insurance for the proposed bank. In the past six months, more than 1,500 comments have been filed with the FDIC about Wal-Mart's application. Last week, in a letter to members of Congress, the FDIC said it would wait for a full board, including a new chairman, before voting, and would probably hold hearings beforehand.

THE FULL LETTER

Read Greenspan's letter1 to Congress. (Adobe Acrobat required2.)

In his letter, sent Jan. 20 in response to questions from Rep. Jim Leach, an Iowa Republican and member of the House Financial Services Committee, Mr. Greenspan doesn't single out Wal-Mart's application for criticism but mentions it along with the names of other big companies that have established industrial-loan corporations -- or industrial banks, as these state-chartered financial institutions are sometimes called.

General Electric Co., Volkswagen AG, General Motors Corp., Merrill Lynch & Co. and Pitney Bowes Inc. all own industrial-loan corporations. Mr. Greenspan cited in his letter the sharp growth in such corporations, known as ILCs, noting that assets have grown to $140 billion in 2004 from $3.8 billion in 1987 when the current law created the industrial-loan exemption.

"The ILC exemption is now the primary means by which commercial firms may control an FDIC-insured bank engaged in broad lending and deposit-taking activities and thereby breach the general separation of banking and commerce," Mr. Greenspan's letter said. He warned that the growing use of the loophole is "undermining the prudential framework that Congress has carefully crafted and developed" to oversee financial institutions.

Mr. Greenspan's letter noted that the parent companies of these industrial-loan entities escape the regulatory scrutiny of bank holding companies, which must operate under the supervisory authority of the Fed. In uncharacteristically blunt language, Mr. Greenspan urged Congress to close the loophole, which he said "provides the corporate owners of exempt ILCs a significant competitive advantage over other types of banking institutions, and creates an unlevel competitive playing field among banking organizations."

In an interview, Mr. Leach, the former chairman of the House banking committee, said he considered Mr. Greenspan's letter significant.

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"It's very comprehensive. It is a very considered Federal Reserve position on the issue. And it is a stark warning to the Congress" about the need to separate commerce and banking, Mr. Leach said. "This is not primarily a Wal-Mart issue. It is a 'nature of the American economy' issue."

Mr. Leach, the co-author of landmark 1999 banking legislation breaking down Depression-era laws separating securities and banking, has long warned against emulating Japan, where the lax lending of bank-centered industrial groups, called "keiretsu," contributed to the 1980s economic bubble and the sharp economic downturn of the past 15 years. The 1999 Gramm-Leach-Bliley law allowed linkups among banking, securities and insurance but largely ruled out combinations involving nonfinancial institutions' ownership of banks.

In coming out against the ILC loophole, and by implication against Wal-Mart's bid for a bank, Mr. Greenspan has parted company with some free-market advocates who believe that a Wal-Mart bank, if it did turn into a retail-banking powerhouse, would encourage competition in the financial-services field, and would ultimately lower costs to consumers.

To some experts, Mr. Greenspan's opposition to the industrial banks is largely based on maintaining the Fed's power amid constant inside-the-Beltway turf battles.

The FDIC, which regulates the industrial banks, says it has all the tools it needs to supervise these entities for safety and soundness. The Fed, which oversees bank holding companies, says that loophole leaves the banking system exposed to risk since no financial regulators have oversight of the parent company.

"If Wal-Mart acquired an Industrial Loan Company, its primary prudential banking regulator would be the FDIC, not the Fed," Charles Calomiris, a professor at Columbia University's business school, wrote in a recent paper. "This could lead to a major incursion on the Fed's regulatory turf if nonfinancial firms entered in significant number and were regulated by the FDIC, a form of regulatory competition that would be welcomed by historians of bank regulation, but not by the Fed."

A spokesman for the Fed said it couldn't comment on whether incoming Fed Chairman Ben Bernanke would endorse every word of Mr. Greenspan's comments. However, the spokesman said other Fed officials have made similar comments, as official Fed positions, during the time Mr. Bernanke was a Fed official.

Many banking organizations oppose Wal-Mart because they fear its strength, and believe it would compete unfairly. "The Wal-Mart bank would have no incentive -- in fact it would have a disincentive -- to lend to businesses that compete with its parent company," said David Hayes, president of a small bank in Dyersburg, Tenn., and chairman of the Independent Community Bankers of America, in testimony before a congressional committee in October.

Wal-Mart has made numerous efforts to get into banking. In 1999, the company tried to buy a savings and loan in Oklahoma, but failed. Four years ago, the retailer struck a partnership with a Canadian bank to open branches in 100 U.S. Wal-Mart stores. The U.S. Office of Thrift Supervision rejected the application, claiming it crossed the line between banking and commerce. Two years ago, Wal-Mart tried to buy the Franklin Bank, an industrial bank in California, only to be thwarted when the state passed a law barring bank purchases by nonfinancial companies.

Skepticism Greeted Greenspan, Too Bernanke's Fed Chief Tenure Begins Similarly To Predecessor's (USAT)

By Barbara Hagenbaugh

USA Today, January 26, 2006

WASHINGTON — Investors jittery about how incoming Federal Reserve chairman Ben Bernanke will pan out can take some solace — folks weren't sure some guy named Alan Greenspan was up to snuff either.

Investors didn't take the news so well on the day in June 1987 when Paul Volcker announced he was leaving the Fed after eight years and Greenspan was named to his position. Bond markets took their worst one-day beating in more than five years, and the dollar fell.

“The new chairman cannot just pick up Mr. Volcker's wealth of experience or his worldwide network of trust and respect,” The New York Times said in an editorial at the time.

“Mr. Greenspan faces a daunting challenge in proving to the financial markets that he is a worthy replacement for the outgoing Fed chief,” The Wall Street Journal said in an article.

DOJ_NMG_0012015

"Greenspan … will soon get his turn on the monetary tightrope," an article in U.S. News and World Report said. "If he keeps his cool, it could be a great act. But the risks of a nasty spill are also considerable."

Bernanke, a former Fed governor and current head of the White House Council of Economic Advisers, will take over at the Fed next week after Greenspan presides over his last policymaking meeting on Tuesday.

In many ways, Bernanke — although widely respected in economic circles — is more of an unknown to the public than Greenspan was in 1987. Greenspan in the early 1980s was chairman of a widely watched panel on reforming Social Security. He also served as chairman of the CEA for 21/2 years in the mid-1970s during President Ford's public "Whip Inflation Now" campaign. Greenspan also did numerous media interviews as head of a successful economic consulting firm.

Bernanke has served as chairman of the CEA only since June. Before that, he was a Fed governor for nearly three years and head of Princeton University's economics department. His only other public service was on a local school board.

But no matter how well they knew Greenspan, people in 1987 were still nervous about him taking over the Fed. The concerns:

•International. Although Greenspan had a solid reputation as an economist, some worried that he lacked experience on the international stage. Although calling Greenspan an "excellent choice," BusinessWeek magazine in an editorial said he "lacks Volcker's worldwide stature."

•Political. Still others questioned whether Greenspan was too political. He, like Bernanke, had served as CEA chairman. With an election a little more than a year away, some commentators in 1987 questioned if Greenspan would not take the necessary steps to squeeze out inflation in an attempt to juice up the economy to keep a Republican in the White House.

•Mythical. And some questioned if Greenspan could fill the shoes of Volcker, who had become so revered and trusted that one economist in a Wall Street Journal article referred to him as a "financial demigod."

"We were nervous for all the reasons we're probably nervous about Bernanke," says Hugh Johnson, chairman of Johnson Illington Advisors, a money management company in Albany, N.Y.

"Paul Volcker was something of an icon for the financial markets," Johnson recalls. "The financial markets are always uncomfortable with change. … Just as we were nervous about moving beyond Volcker, we're nervous about moving beyond Greenspan."

Several economists even warned Greenspan's appointment raised the risk a recession would hit the U.S. economy. As an economic consultant, Greenspan himself had predicted just a few months before his appointment to the chairmanship that a recession was likely coming in the not-so-distant future.

Marshall Vest was one of the economists who was quoted as saying Greenspan's arrival raised the chances of a recession in a USA TODAY article. Eighteen years later, Vest, now director of economic and business research at the Eller College of Management at the University of Arizona, says it's hard to imagine being worried about Greenspan's talents.

"I would give him very high marks," he says. "The economy has been much less volatile and much more predictable under his watch."

Former San Francisco Fed president Robert Parry says it's quite possible Bernanke, like Greenspan, will develop the larger-than-life reputation enjoyed by the two chairmen before him.

"I don't know if I would have said in August of '87 that Greenspan would have developed this aura as well," Parry says. "You just didn't know that at the time. … In some respects, if you were to base it on training and area of expertise, experience … you'd have to say Bernanke has a real shot of continuing to receive that kind of aura."

Said Princeton University economists Alan Blinder and Ricardo Reis in a paper delivered at a conference on Greenspan's legacy in August: "Back in 1987, the financial markets viewed the impending retirement of Paul Volcker as tantamount to the end of civilization as they knew it. But they got over it, as they will in 2006."

Dow Chemical Is Ordered To Pay In 'Janitors' Case (WSJ)

By Robert Guy Matthews

The Wall Street Journal, January 26, 2006

DOJ_NMG_0012016

A federal appeals court ruled Dow Chemical Co. is liable for $22.2 million in back taxes and interest for claiming tax-income losses on thousands of life-insurance policies it took out on its employees.

The decision Monday by the U.S. Court of Appeals for the Sixth Circuit, in Cincinnati, reverses a district-court ruling in 2003 that Dow Chemical's company-owned life-insurance plans were legitimate business transactions. The ruling is a victory for the Internal Revenue Service, which for the past decade has been cracking down on companies that take out life-insurance policies on their executives and employees, often without their knowledge, in order to reduce their corporate-tax bill. Of employers contesting the IRS stance, only Dow Chemical had prevailed in court, and a spokeswoman said the Midland, Mich., chemicals manufacturer continues to weigh its options for a possible appeal.

With such company-owned life insurance -- known as "janitors insurance" because it covered everyone including the janitors -- employers aimed to generate tax deductions with minimal cash outlay. They did this by taking a tax deduction for the interest they paid on loans taken out against the insurance policies, while allowing the policy to build value tax-free. The tactic was the subject of a series of articles in The Wall Street Journal in 2002.

Several companies using janitors insurance have settled or lost cases brought by the IRS, including Winn-Dixie Stores Inc., CM Holdings Inc. and American Electric Power Co. In these cases, the courts ruled that the company-owned life-insurance policies had no other economic value other than creating a tax loss.

The IRS disallows these types of tax shelters in part because it wouldn't make financial sense to engage in them without the tax implications.

Dow Chemical's plan worked much like the others, but the company chose not to settle with the IRS.

"We believe that Corporate Owned Life Insurance policies had economic substance, as the District Court held. We are currently reviewing the opinion with our legal counsel," said Terri F. McNeill, a Dow Chemical spokeswoman. "Once we better understand the basis of the decision and have gauged its implications, we will decide on the most appropriate course of action going forward."

Dow Chemical could appeal this decision to the U.S. Supreme Court.

From 1988 to 1991, Dow Chemical purchased life insurance on 21,112 employees. The company was both the owner and beneficiary of these policies. It paid the premiums using a complicated system of loans that used the policies as collateral, taking cash withdrawals from some of the policies.

In the tax years 1988-1991, the chemical company claimed deductions totaling $33 million for interest paid on the loans used to pay the janitors-insurance-plan premiums and for fees related to the administration of the policies.

The IRS, arguing that the policies were a sham and purchased explicitly to create income-tax losses, disallowed the deduction. It assessed back taxes and interests totaling $22.2 million.

Many large companies throughout the 1980s and 1990s purchased janitors insurance policies. Congress started to phase out the interest deduction on many of the janitors-insurance policy plans beginning in 1996.

Embattled Rep. Ney To Seek Re-Election (AP-Y2)

By David Hammer

AP2, January 26, 2006

Undaunted by speculation within his own party that he may have to quit Congress because of a corruption probe, Rep. Bob Ney (news, bio, voting record) announced Wednesday he's running for re-election.

"2006 promises to be a vigorous campaign and I am ready for the fight," said Ney, R-Ohio. He planned to hold his first formal campaign event Thursday.

Ney's popularity has hardly dimmed in his expansive rural district, even after he was identified in disgraced lobbyist Jack Abramoff's guilty plea as the central figure in Abramoff's scheme to bribe members of Congress.

Supporters of Ney have been unfazed by Ohio party chairman Bob Bennett's pronouncement last week that Ney should resign if he's indicted.

Bennett attempted to soften his nationally televised comments Friday by noting Ney hadn't been charged with a crime, but he later reiterated that Ney should leave Congress if the Justice Department files criminal charges against him.

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Rep. Tom DeLay, R-Texas, who also had ties to Abramoff, stepped down temporarily as majority leader last year when he was indicted on unrelated charges in Texas, then made it permanent after the Abramoff guilty plea. But he has not relinquished his House seat.

Earlier this month, Ney temporarily stepped down as chairman of the House Administration Committee. He acknowledged that his ties to Abramoff were a distraction from his duties, particularly as Republicans push an ethics reform agenda — part of which must be implemented by the Administration Committee.

But Ney spokesman Brian Walsh said no such distraction has affected Ney's work for his district, where he's known for hands-on constituent service and independence from GOP trade and labor policies.

Two Republican members of Congress have moved early to dissociate themselves from Ney. Sen. Mel Martinez of Florida gave away $2,500 he had received from Ney and Rep. Charles Boustany of Louisiana shed $10,000 Ney gave him. Ney's political action committee gave money to both lawmakers shortly before the 2004 elections.

Congressman Tied To Lobbying Inquiry To Seek Re-election (NYT)

By Christine Hauser

The New York Times, January 26, 2006

Representative Bob Ney, a lawmaker from Ohio who became a target of the broad Justice Department inquiry into corruption and influence-peddling in Washington, said today that he will seek re-election.

A spokesman said Mr. Ney planned to make an official announcement on Thursday when he kicks off his campaign.

"He is filing the petitions to be on the ballot tomorrow and holding an event with a few hundred supporters tomorrow evening," a spokesman for Mr. Ney, Brian J. Walsh, said by telephone.

Mr. Ney said in a statement today that the campaign this year promises to be a "vigorous" one "and I am ready for the fight."

"I look forward to joining my friends and supporters, including the many state and local officials backing my re-election bid, as we kick off the 2006 campaign this Thursday and Friday," he said.

Mr. Ney is referred to as "Representative No. 1" in court documents filed in connection with the corruption scandal surrounding the lobbyist Jack Abramoff. Democrats have attacked Mr. Ney over accusations that he assisted Mr. Abramoff in exchange for gifts and travel.

Mr. Ney temporarily relinquished his chairmanship of the House Administration Committee, acknowledging that his association with Mr. Abramoff was becoming a distraction for the Republican Party. As chairman, he would also be at the center of efforts to revise Congressional ethics rules, which members of both parties are proposing.

Mr. Ney and his lawyers say they will offer evidence to counter the accusations by Mr. Abramoff, who agreed to testify in the corruption case in exchange for a reduced sentence.

His supporters have been unfazed by the pronouncement by the Ohio party chairman, Bob Bennett, last week that Mr. Ney should resign if he is indicted, The Associated Press reported today.

Mr. Ney represents the mainly blue-collar district in eastern Ohio.

The statement from his office said he would announce his re-election bid at a campaign rally in Dover tomorrow evening and then travel to the southern part of the district for a second rally in Chillicothe on Friday at noon.

West Virginia: Late Senate Race Entry For GOP Media Mogul (RC)

Roll Call, January 26, 2006

With the filing deadline for federal candidates set to pass Saturday, Senate Republicans finally have lured a potentially top-tier challenger into the race against Sen. Robert Byrd (D).

Millionaire media mogul John Raese (R) filed candidacy papers Wednesday and will announce today that he is trying to unseat Byrd, who is set to become the longest-serving Senator in history later this spring.

Raese, who splits his time between homes in Palm Beach, Fla. and Morgantown, W.Va., is a former West Virginia Republican Party chairman.

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He currently serves as chairman of West Virginia Radio Corp., president and CEO of Greer Industries Inc., which produces steel and limestone, and vice president of West Virginia Newspaper Publishing Co. He is expected to spend personal resources in the contest.

"John has a great opportunity to become the next Senator from West Virginia," National Republican Senatorial Committee Chairman Elizabeth Dole (N.C.) said in a statement. "He will represent the state's mainstream values and bring fresh leadership to the United States Senate."

He is also no stranger to campaigning.

Raese ran for Senate in 1984, losing an open-seat contest to now-Sen. Jay Rockefeller (D) 52 percent to 48 percent. Raese was outspent by a 12-1 margin in that contest.

He later challenged then-Gov. Arch Moore (R) in the 1988 GOP primary, losing to the incumbent 53 percent to 47 percent.

Since the beginning of the cycle National Republicans have been desperately trying to generate a competitive race for Byrd, suffering several recruiting setbacks in the process.

— Lauren W. Whittington

MINNESOTA

All Eyes on Ciresi, Who Is Expected to Enter Race

A wealthy trial attorney may be about to pick the lock that Hennepin County Attorney Amy Klobuchar appears to have on the Democratic Senate primary.

Mike Ciresi, who sought the 2000 nomination, said he will announce whether he will try again next week, The Associated Press reported.

Minnesota political observers believe that Ciresi, who has been mulling a Senate bid for a year, will pull the trigger this time.

If he was disinclined to run, he would have just said so, they reason. Instead he told the AP: "I'm very close to announcing what those plans may be."

Ciresi would be wise to enter the race now, as child safety advocate Patty Wetterling dropped her bid last week and is likely to run for lieutenant governor instead. That leaves only under-funded veterinarian Ford Bell to challenge Klobuchar, who seems assured of the Democratic nod unless another heavy-hitter jumps in and mixes things up.

Wetterling endorsed Klobuchar, as did Rep. Betty McCollum (D), after Wetterling withdrew.

Ciresi also said that he "learned the last time around that you don't need to get in too early."

In 2000, now-Sen. Mark Dayton (D) waited until April to decide that he wanted to challenge then-Sen. Rod Grams (R).

Spending lavishly from his personal fortune, Dayton bypassed the state party's nominating process and forced the state party-backed candidate into a primary.

Dayton, who is retiring, will not be in the mix, but Ciresi has the ability to finance a campaign largely from his own wallet. He was the lead lawyer in Minnesota's successful $6.6 billion 1998 settlement with the nation's largest tobacco companies.

No one is seriously challenging Rep. Mark Kennedy for the Republican nomination.

— Nicole Duran

FLORIDA

Castor Has Wide Lead Over Miller in New Poll

A new poll released this week by the campaign of Hillsborough County Commissioner Kathy Castor showed her well-positioned to win the Democratic nomination in the 11th district race to succeed Rep. Jim Davis (D).

The poll, conducted by The Feldman Group Inc., found that Castor led state Sen. Les Miller (D) 46 percent to 29 percent. The contest also features three lesser-known candidates, who registered a combined 8 percent in the poll.

The survey of 606 likely Democratic primary voters was taken Jan. 10-12. It had a 4 percent margin of error.

Castor, the daughter of 2004 Democratic Senate nominee Betty Castor, has raised $465,000 for the race so far.

"Castor is a popular member of the Hillsborough County Commission with a strong base of her own and also benefits from her mother, Betty Castor's, widespread popularity," pollster Diane Feldman wrote in a polling memo.

The poll also showed that Miller, who has a base in the black community, enjoys some crossover support, as does Castor.

The primary winner is almost certain to win the general election in the Democratic stronghold.

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— L.W.W.

OHIO

Ney to Start Re-election Bid With Rally Today

Embattled Rep. Bob Ney (R) will formally kickoff his re-election campaign today at a rally in his district.

"2006 promises to be a vigorous campaign and I am ready for the fight," Ney said in a statement.

Ney has faced increased scrutiny in recent months for his involvement in the scandal surrounding disgraced lobbyist Jack Abramoff. His office has acknowledged that he is the "Representative #1" cited in Abramoff's plea bargain agreement.

Under pressure from party leaders, he recently temporarily relinquished the chairmanship of the House Administration Committee. Ney has said repeatedly that he has done nothing improper.

Chillicothe Mayor Joe Sulzer and Dover Law Director Zack Space are vying in the May 2 Democratic primary for the chance to face Ney, who has held the expansive 18th district seat since 1994.

— L.W.W.

MAINE

Key Unions Back Snowe, Who Has No Major Foe

In a move that could dissuade any big-name Democrat from entering the race, Sen. Olympia Snowe (R) secured the endorsement of two major labor groups Wednesday.

The AFL-CIO and the International Federation of Professional & Technical Engineers announced that they would back Snowe in her bid for a third term.

Snowe's work to save the Portsmouth Naval Shipyard during the most recent round of base closings went a long way to help her win the endorsements. Kirk Miller, president of the local engineers union, called Snowe an effective leader on workers' issues.

"Her around-the-clock efforts ... to successfully protect the shipyard from closure last year will never be forgotten," Miller said in a news release.

The moderate Snowe is already a tough target for Democrats, but the AFL-CIO's decision could make it even harder for a top-tier Democrat to raise money.

Snowe had more than $1.6 million in the bank as of Sept. 30.

So far only Bangor lawyer Eric Mehnert and local activist Jean Hay Bright are vying for the Democratic nomination.

State Senate Majority Leader Michael Brennan (D) is still mulling the race.

One Republican, retired high school teacher S. Charles Tamboia is challenging Snowe in the Republican primary.

— N.D.

MICHIGAN

State Right to Life Group Backs Walberg Challenge

Tim Walberg (R) finally got the Michigan Right to Life endorsement he wanted so badly in the 7th district race — he just got it two years late.

In the previous cycle, six Republicans vied for the open 7th district seat. Five, including Walberg, a former state Representative, were social conservatives who desperately wanted the Michigan Right to Life endorsement. Then-state Rep. Clark Bisbee secured the endorsement instead.

Joe Schwarz, then a former state Senator, went on to win the GOP primary and the seat.

Now Walberg is the only Republican challenging Schwarz. With the backing of the Club for Growth and now Michigan Right to Life, Walberg hopes to merge the conservative primary vote, which splintered in 2004 across the five other GOP candidates and take Schwarz down in the primary.

The district is heavily Republican.

— N.D.

PENNSYLVANIA

GOP Hopes Alito Stance Hurts Casey With Base

DOJ_NMG_0012020

State Treasurer Bob Casey Jr. (D) announced late Tuesday that he supports the confirmation of Judge Samuel Alito to the Supreme Court, after weeks of calls from Republicans to take a position on the controversial nominee.

Casey, who is trying to unseat Sen. Rick Santorum (R) in November, is the first Democratic Senate challenger to come out in support of Alito's confirmation.

The announcement came on the heels of Pennsylvania Gov. Ed Rendell's (D) announcement that he, too, is supportive of Alito, who serves on the Philadelphia-based 3rd Circuit Court of Appeals with Rendell's wife.

Casey's position puts him at odds with abortion-rights advocates, who strongly oppose Alito. Casey does not favor abortion rights and Republicans are hopeful that his Alito position could hamper his fundraising within the party's base.

"It will make his job more difficult in the state of Pennsylvania as he tries to appeal to progressive voters, and it should make his job harder," Kate Michelman, former president of NARAL Pro-Choice America, told the Harrisburg Patriot-News this week.

Meanwhile, a new GOP poll out this week showed Casey with a 10-point lead over Santorum. The Strategic Vision survey of 1,200 likely voters found Casey ahead of Santorum 50 percent to 40 percent. It had a 3 percent margin of error.

— L.W.W.

TEXAS

Dallas Paper Endorses Anderson Over Taylor

Van Taylor (R) might have the money and tacit backing of the Washington GOP establishment in his bid to take on Rep. Chet Edwards (D), but former Congressional aide Tucker Anderson (R) has the support of the 17th district's biggest newspaper.

The Dallas Morning News endorsed Anderson, who used to work for Rep. Pete Sessions (R), over Taylor, a wealthy businessman and Iraq war combat veteran, in their Republican primary fight to determine who gets to take on Edwards this November.

"His opponent, Van Taylor, is a Harvard-educated Marine-turned-businessman. The 33-year-old served courageously in Iraq, volunteering for the military after college. And we greatly respect that commitment," the Morning News staff editorial, published Wednesday, said.

"But when it comes to representing the 17th District, the recent transplant to West, Texas, doesn't have the same history as Mr. Anderson. And the private equity investor wouldn't know Capitol Hill as well as his opponent."

Taylor has already begun running television ads in advance of the March 7 primary.

— David M. Drucker

ARIZONA

Ex-State GOP Chief Joins Race in Kolbe's District

The 8th district Republican primary plot has thickened, with former state GOP Chairman Mike Hellon entering the race to replace retiring Rep. Jim Kolbe (R), the Arizona Daily Star reported this week.

Hellon, 63, who like Kolbe is considered a moderate Republican, describes himself as a "moderate conservative," and told the Daily Star he has what it takes to keep the Tucson-area seat in GOP hands.

"A vote for Randy Graf (R) in the primary is a vote for [Minority Leader] Nancy Pelosi (D-Calif.) as Speaker of the House," Hellon said.

Graf, a conservative former state Representative, received 43 percent of the vote when he challenged Kolbe in the 2004 8th district Republican primary and was running before the Congressman announced his retirement plans in the fall.

Mike Jenkins (R), a Marine Corps veteran and small business owner, is also running in the primary. Hellon dismissed his candidacy as lacking the broad support needed to win.

The leading candidates in the Democratic primary are former state Sen. Gabrielle Giffords, who per Arizona law was forced to resign her Senate seat in order to run for Congress, and longtime Tucson television news anchor Patty Weiss.

— D.M.D.

Ehrlich Alters Landscape Of Stem Cell Funding Debate (WP)

By John Wagner

The Washington Post, January 26, 2006

DOJ_NMG_0012021

Yesterday's hearings on stem cell research in Maryland had a familiar ring: Advocates touted the potential for treating Parkinson's disease, juvenile diabetes and other conditions, and opponents raised the same ethical objections they made a year ago when lawmakers proposed spending $25 million a year on the emerging science.

But it was a voice legislators did not hear, neither yesterday nor a year ago, that could alter this year's debate -- that of Gov. Robert L. Ehrlich Jr.

After remaining mostly silent on a bill that was killed last year by a Republican-led filibuster threat, Ehrlich (R) is pushing a plan to spend $20 million next year on stem cell research.

But Ehrlich is not committing himself on the question that has stirred the most controversy: whether the money should be used primarily for work on stem cells derived from human embryos or from less controversial adult stem cells.

Although the move has drawn some criticism, Ehrlich argued in an interview that he is acting prudently, given the evolving nature of the science.

"I wasn't that good of a biology student. I'm not going to make that decision," Ehrlich said. "The point here is that the decision should be a function of the science. These are fundamentally science questions, not political questions."

The governor would leave it to a state-founded technology corporation to decide whether to provide grants for work on adult stem cells or work on embryonic stems cells, which many scientists say holds greater promise but some in his party consider tantamount to abortion.

Ehrlich, who has supported stem cell research since his days in Congress, said that his public silence last year masked a behind-the-scenes effort to develop an alternate approach that would both bolster the state's biotechnology sector and depoliticize a difficult issue for Republicans.

"The strong pro-life members know the administration does not share their views on this issue, but we wanted to try to lower the temperature on the politics," he said. "I wanted to try to keep everyone's eye on the ball, and I believe this approach accomplishes that goal."

Ehrlich's involvement has scrambled the politics surrounding the issue, making it all but certain Maryland will join the growing number of states subsidizing the research, either with the legislation considered at yesterday's hearings or a provision Ehrlich has inserted into his budget.

Ehrlich said his budget-based approach makes additional legislation unnecessary.

Some advocates of the research say Ehrlich's plan has merit and view it as more likely to withstand opposition in the Senate.

"As long as there's no preference for adult, that's fine," said Robert Johnson, a lobbyist for Maryland Families for Stem Cell Research, a coalition formed during last year's debate that has primarily supported embryonic work.

But the governor's posture drew criticism yesterday from sponsors of the stem cell bills.

In an interview, Sen. Paula C. Hollinger (D-Baltimore County) was adamant that money be spent on work on embryonic stem cells, which is controversial because it involves the destruction of human embryos. Hollinger's bill would restrict research funded with state money to embryos discarded at fertility clinics and establish other rules for funding the science.

"The only reason we're doing this bill is that the president has refused to allow the research to be done," Hollinger said, referring to a 2001 executive order by President Bush that set limits on the embryonic stem cell research that can be funded with federal money.

Her view was echoed by Del. Samuel I. Rosenberg (D-Baltimore), the lead sponsor of the House bill, which passed similar legislation last year earmarking $23 million for embryonic work.

Other lawmakers questioned why a compromise could not have been worked out last session. "We wasted a year, and people still suffer," said Sen. James Brochin (D-Baltimore County).

Some advocates have questioned whether there are enough university and private-sector researchers geared up to spend $25 million on embryonic stem cell research. But that view was rebutted yesterday by Curt Civin, a stem cell researcher from Johns Hopkins University, who was among several scientists to testify at yesterday's hearing.

"Yeah, we can spend this tomorrow," Civin said. "We would be all over this."

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Republican leaders signaled this week that they would put up a vigorous fight against any bill that steers money only to embryonic work, which they consider "killing unborn babies," said Senate Minority Leader J. Lowell Stoltzfus (R-Somerset).

"We're going to be opposed to the bill," he said. "We're going to be as aggressive as we can to kill it."

Under the governor's approach, grants would be made by the Maryland Technology Development Corporation, overseen by a 15-member board appointed by the governor. Although money could still go to embryonic stem cell projects, Stoltzfus said Republicans are more comfortable with the approach.

Supporters of the Democratic bill say they fell two votes short last year of gathering enough to end the threatened filibuster, which kept the bill from the Senate floor the final day of the session. Lobbying this year will focus on two Republicans who voted for the bill in committee last year but agreed to stick with their party in a filibuster effort.

In interviews this week, both Sen. Sandra B. Schrader (R-Howard) and Sen. Allan H. Kittleman (R-Howard) said they support the governor's approach but declined to say whether they would back a filibuster of Hollinger's bill.

Because Ehrlich's plan is included in the budget bill, debate over the measure will play out among a different set of lawmakers.

Some members of both parties have suggested they might attempt to use the budget process to limit the type of stem cell work permitted -- a move Ehrlich said he would oppose.

"I would discourage both sides from impacting this thoughtful approach that we've developed," he said.

Republicans Pledge Bipartisan Filibuster Of Stem-cell Bill (WT)

By Jon Ward

The Washington Times, January 26, 2006

The Maryland Senate is facing a showdown over stem-cell research, with Republicans and a few Democrats vowing yesterday to stop a bill that would promote the creation of embryos for research.

"If [Senate President Thomas V. Mike] Miller wants to do this extraordinary thing, he will get a filibuster that lasts as long as he wants it to last," said Senate Minority Whip Andrew P. Harris, Baltimore County Republican.

Senate Minority Leader J. Lowell Stoltzfus said he had more than the minimum 19 votes to filibuster.

"We think we have 20," said Mr. Stoltzfus, an Eastern Shore Republican. "We support stem-cell research. We just don't support embryonic. We don't believe in killing a baby, and that's what we believe embryos are."

There are 14 Republicans in the 47-member Senate, which means six Democrats have agreed to filibuster.

Sen. Paula C. Hollinger, Baltimore County Democrat, is sponsoring the Senate bill in support of embryonic stem-cell research for the second year and supports the House version, sponsored by Delegate Samuel I. Rosenberg, a Baltimore City Democrat.

Mrs. Hollinger wants a Senate vote as early as next week -- the fourth week of the 90-day General Assembly session.

"I'm sure they will filibuster, and I'm sure we will round up the votes," she said.

Mrs. Hollinger also said she would fight for the bill and against the filibuster for "as long as it takes."

Her bill would give $25 million a year for five years, starting in fiscal 2008, to embryonic stem-cell research.

The bill also allows the legislature to appoint a committee of scientists and representatives from business and biotechnology industries to award grants through the state's Department of Health and Mental Hygiene.

Some scientists hope embryonic stem cells will eventually produce cures and treatments for such chronic and degenerative illnesses as Parkinson's disease and diabetes.

Opponents of the research say there have been no proven results that embryos can yield positive results, while adult and umbilical cord stem cells are now used to treat 65 medical conditions.

Gov. Robert L. Ehrlich Jr., a Republican, announced his proposal to fund stem-cell research on Jan. 11, the second day of the session.

President Bush in 2001 restricted the use of embryos for federal stem-cell research. So scientists who want to conduct such research are looking to state governments for funding.

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Mr. Ehrlich's plan would provide $20 million for one year toward stem-cell research, with no specifics on whether the money would fund embryonic stem-cell research or only research using adult stem cells and stem cells from umbilical cords.

Mr. Ehrlich's plan also would allow a committee of scientists, business representatives and biotechnology representatives to make the decisions on where the funding goes.

However, the committee in the governor's proposal would be selected by the Maryland Technology Development Corporation, created in 1998 by the state legislature.

The committee is governed by a 15-member board, appointed by the governor with advice and consent of the Senate, according to its Web site.

"Mr. Ehrlich's proposal depoliticizes the situation," said Henry Fawell, a spokesman for the governor. He also said Democratic lawmakers are publicly saying what are the best scientific decisions, but "they need to stay out of that and let the scientists decide."

Gerald Ford Returns Home From Hospital (LAT)

By Susannah Rosenblatt

The Los Angeles Times, January 26, 2006

Former President Gerald R. Ford returned home from the hospital Wednesday morning after a 12-day stay while being treated for pneumonia, his spokeswoman said.

"He is doing well," Penny Circle, Ford's chief of staff, said in a brief statement Wednesday.

Ford, 92, originally had been scheduled to leave Eisenhower Medical Center in Rancho Mirage on Jan. 19, but doctors kept him for additional treatment.

"Obviously, we're delighted that he's doing well," said Ford's son, Mike, director of student development at Wake Forest University in Winston-Salem, N.C.

Circle has described Ford during the last week as out of bed, reading the newspaper and eating well.

The 38th president was hospitalized briefly last month for a bad cold when undergoing routine medical tests. Ford suffered two small strokes in 2000 and a dizzy spell on a golf course in 2003.

The former chief executive served in the White House from 1974 to 1977, taking the oath of office after Richard M. Nixon resigned during the Watergate scandal. Nixon had appointed Ford as vice president in 1973 when Spiro T. Agnew resigned.

Ford has lived in Rancho Mirage with his wife, Betty, for nearly three decades.

Hard Line State (WSJ)

By Steve H. Hanke And Stephen J.k. Walters

The Wall Street Journal, January 26, 2006

BALTIMORE -- In Big Labor's war against Wal-Mart, "collateral damage" -- in the form of lost jobs and income for the poor -- is starting to add up. Of course, since the unions and their legislative allies claim that their motive is to liberate people from exploitation by Wal-Mart, these unintended effects are often ignored.

Here in Maryland, however, that's getting hard to do. The consequences of our legislature's override of Republican Gov. Robert Ehrlich's veto of their "Fair Share Health Care Act" on Jan. 12 will be tragic for some of the state's neediest residents. The law will force companies that employ over 10,000 to spend at least 8% of their payroll on health care or kick any shortfall into a special state fund. Wal-Mart would be the only employer in the state to be affected.

Almost surely, therefore, the company will pull the plug on plans to build a distribution center that would have employed 800 in Somerset County, on Maryland's picturesque Eastern Shore. As a Wal-Mart spokesman has put it, "you have to take a step back and call into question how business-friendly is a state like Maryland when they pass a bill that . . . takes a swipe at one company that provides 15,000 jobs."

Unfortunately, in Somerset, the new law looks more like a body blow than a "swipe." The rural county is Maryland's poorest, with per capita personal income 46% below the state average and a poverty rate 130% above it. Somerset's enduring problem is weak labor demand that greatly limits its 25,250 residents' economic opportunities.

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There are just 0.8 jobs per household in Somerset, barely half the 1.5 figure that applies to the rest of the state. Somerset's top-10 list of employers features sectors like food services (average annual compensation per employee: $9,637), poultry and egg production ($14,320) and seafood preparation and packaging ($19,190).

It is hard to exaggerate how much the planned distribution center might have meant to Somerset's economy. Using an input/output model, we forecast the "ripple effects" of the new income and spending which could have emanated from Wal-Mart's facility as follows:

• The center's 800 employees would have created an additional 282 jobs among "upstream" suppliers and "downstream" retailers and service establishments; all told, the center would have boosted county employment by 14% and private-sector employment by 20%.

• Total annual employee compensation in Somerset would have risen by $46.5 million, or 19%.

• Annual output (or "gross county product") would have risen by $128.3 million, or 19%.

• State and local tax receipts would have increased by $19.2 million annually; this would include $8.5 million in property taxes, $5.6 million in sales taxes and $1.4 million in personal income taxes.

Those losses, though dramatic, probably understate the full extent of the damage in this case. They do not include foregone employment and income from construction of the facility and related infrastructure improvements. What is more, Wal-Mart's tentative plans for a second distribution center in Garrett County, in mountainous western Maryland, also appear dead. Garrett, with a poverty rate that is 70% above the state's, is only slightly better off than Somerset.

How could our legislators turn a blind eye to such areas? Partly, of course, they are simply eager for Big Labor's votes and money and therefore subservient to its interests. The Service Employees International Union actually helped draft what became known as the "Wal-Mart bill." Unable -- so far -- to organize workers at the company, the union's immediate national strategy is to limit Wal-Mart's competitive reach by raising its costs. Maryland was a shrewdly chosen place to kick off this campaign.

Some estimate that as much as a third of the state's economic activity stems from federal employment and purchases. Over 150,000 Marylanders -- six times the population of tiny Somerset -- are on the federal (non-military) payroll; they are concentrated in central Maryland, near the nation's capital. Nearly 268,000 more Marylanders draw checks from state and local government.

With so many workers in a sector where revenues appear to arrive automatically and inefficiency never leads to bankruptcy, our state's resulting political culture is quite predictable. Many Marylanders are simply unmindful of the necessities of survival in the private sector: pleasing customers, controlling costs and satisfying shareholders. Thanks to the federal tax dollars collected from the rest of the country and spent in Maryland, the prevailing view of economic reality is inverted: The public sector is seen as the engine of prosperity, with the private one along for the ride.

Reflecting this culture, our legislators often behave as if business is a problem to be solved. On Jan. 17, they also overrode a gubernatorial veto of a $1-per-hour increase in the state's minimum wage. Like the health-care mandate, the hike is a job-killer -- though not in affluent areas of the state, where strong labor demand long ago pushed the going wage above the minimum. In those areas, the law is largely symbolic and enables well-meaning voters and legislators to conclude that they are "doing something for working families." Safely out of their view, however, at Maryland's impoverished margins, already-weak labor demand will be further diminished.

What remains to be seen is whether Maryland will be a leading political indicator or an anomaly, for Wal-Mart bills have been drafted in 33 other states. Emboldened by success here, lawmakers in some states have set the threshold for companies to be hit with mandated health benefits as low as 1,000 workers.

In these upcoming battles, legislators should be mindful that companies like Wal-Mart are not the enemy but rather front-line soldiers in a real war on poverty. The profit motive leads them to seek out areas where there is much idle labor and put it to work. Where they are prevented or discouraged from doing so, the alternative job prospect is rarely a cushy spot in the bureaucracy. Rather, it is continued idleness and hardship.

Mr. Hanke, a professor of applied economics at Johns Hopkins University, served as a member of the Governor's Council of Economic Advisers in Maryland (1976-77). Mr. Walters is a professor of economics at Loyola College in Maryland.

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Palestinian Premier, Cabinet Resigns (AP)

By Sarah El Deeb, Associated Press Writer

AP, January 26, 2006

Palestinian Prime Minister Ahmed Qureia and his Cabinet ministers submitted their resignations Thursday as the Islamic militant group Hamas appeared to have captured a large majority of seats in the Palestinian elections — a shocking upset sure to throw Mideast peacemaking into turmoil.

"This is the choice of the people. It should be respected," Qureia said. "If it's true (the results), then the president should ask Hamas to form a new government. For me, personally, I sent my resignation."

Under the law, Abbas must ask the largest party in the new parliament — presumably Hamas — to form the next government. Abbas was elected separately a year ago and remains president.

Hamas said before the election it does not want to govern alone, and would prefer to bring Fatah into a coalition. Hamas leader Mahmoud Zahar said Thursday that the group will declare its intentions after official results are announced later in the day.

Israel and the United States have said they would not deal with a Hamas-led Palestinian government. Palestinian leader Mahmoud Abbas has said he would step down if he could no longer pursue his peace agenda with Israel.

Palestinian election officials said on condition of anonymity that Hamas had won a large majority of the 66 seats up for grabs in electoral districts in the West Bank and Gaza. Half the seats in Wednesday's parliament vote were chosen on a national list and the other half by districts.

The Central Election Commission said the vote count had not been completed and that it would make an official announcement at 7 p.m. Thursday.

Hamas' top candidate Ismail Haniyeh earlier said the group had won about 70 total seats in the 132-seat parliament, based on reporting by Hamas activists who observed the counting in the polling stations. Later in the day, another Hamas official, speaking on condition of anonymity, said the number had risen to at least 75.

Officials with Fatah conceded that Hamas had won about 70 total seats. They also spoke on condition of anonymity because counting in some districts was continuing.

Initial exit polls on Wednesday night had forecast a slight edge for Fatah, with Hamas coming in a strong second. The polls predicted that neither Hamas nor Fatah would have enough seats to form a government alone, and would have to rely on smaller parties to form a coalition.

The discrepancy between the exit polls and the results provided by officials on Thursday was apparently due to voting in districts, where Hamas was apparently able to capitalize on divisions within Fatah.

A senior Fatah member, Saeb Erekat, said he could not confirm the unofficial results, but blamed Israel's refusal to resume peace talks with a Fatah-led government for the party's poor showing.

"Israel has declared us non-partners about four years ago and they were not speaking to our elected president," he told Israel Army Radio. "Everybody was blaming Fatah for every mistake in the world. Everybody was tying our hands and our legs and throwing us into the sea. And now I think all these things, including our mistakes in Fatah, led to this result."

Acting Israeli Prime Minister Ehud Olmert said Wednesday, before Hamas claimed victory, that Israel cannot trust a Palestinian leadership in which the Islamic group has a role, according to a statement by his office.

"Israel can't accept a situation in which Hamas, in its present form as a terror group calling for the destruction of Israel, will be part of the Palestinian Authority without disarming," Olmert told U.S. Sen. Joseph Biden (news, bio, voting record) in a meeting, according to Olmert's office. "I won't hold negotiations with a government that does not stick to its most basic obligation of fighting terror."

Israel is willing to help the Palestinians and Palestinian leader Mahmoud Abbas "a great deal" but only if they crack down on militants, Olmert said.

Israel has repeatedly asked Abbas to force Hamas and other militant groups to disarm but Abbas has refused, warning such an act could cause civil war. Hamas has committed dozens of suicide bombings against Israel.

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President Bush told The Wall Street Journal in an interview Wednesday that the United States will not deal with Hamas until it renounces its position calling for the destruction of Israel.

The election Wednesday was the Palestinians' first truly competitive vote, with Hamas contesting a parliamentary vote for the first time and winning considerable clout. Hundreds of thousands of Palestinians flooded polling stations throughout the West Bank and Gaza Strip for a vote that would determine how Palestinians wanted to be governed and whether they would pursue negotiations or confrontation with Israel.

Long lines formed at polling stations, and 77.7 percent of 1.3 million eligible voters cast ballots. Under a compromise with Israel, some Arabs in east Jerusalem were allowed to cast absentee ballots at post offices in the disputed city, and voting was extended there by two hours because postal workers were slow.

Routine power cuts in the Gaza Strip town of Khan Younis forced election workers to count ballots by candlelight.

"Whoever is the winner, it's a great victory for the Palestinians in general because partnership starts from this minute," said Samer Lulu, 29, a merchant who voted in Gaza City.

Hamas' success has alarmed Israel and the West, but Abbas has argued that luring the group, which has been behind dozens of deadly attacks on Israel, into politics would tame it and increase the chances for peace. The election will usher in a new parliament and Cabinet, but Abbas, who was elected president last year, will remain head of the Palestinian Authority regardless of the results.

"We are coming into a new phase. In this phase, we are calling for the international community to help us return to the negotiating table with the Israelis, conclude the peace process and implement it," Abbas said after the voting ended.

Palestinians were given the day off to vote, and the election was held in a celebratory atmosphere that was rare in the recent years of fighting with Israel. Some activists covered their cars with red carnations and others blasted campaign songs from car stereos and storefront speakers.

Campaign posters hung on nearly every wall, dangled from electric lines over the street and were plastered to the hoods of cars. Some children ran through the streets wearing the green flag of Hamas as a cape. Others wore the black-and-white checkered scarf of Fatah.

Some 13,500 police officers guarded the 1,008 polling stations to prevent gunmen from disrupting the vote, and there were no reports of major violence. In the West Bank's Balata refugee camp, militants who had threatened to burn down polling stations checked their assault rifles at the door with a flourish and peacefully voted.

Hoping to harness a wave of discontent with Fatah, Hamas ran an anti-corruption campaign, calling its party Reform and Change.

"We've reached the worst. The most important thing now is change," said Raed Abu Hamam, 35, a construction worker in Gaza's Beach camp who said he has lost faith in Fatah.

Fatah appealed for another chance to clean up the government and expand an economy shattered by nearly five years of fighting with Israel. Many Fatah voters said they were grudgingly supporting the party out of old loyalties.

"The Palestinian Authority did nothing for us. People here have no jobs, while people in the PA got millions of dollars," said Ali Taha, 35, a laborer in the Amari refugee camp in Ramallah, who voted for Fatah anyway.

Though the election appeared likely to turn on internal issues, the results will have deep implications for future peace efforts with Israel.

Abbas said Wednesday he is prepared to resume peace talks, even if Hamas joins his government. Hamas is expected to ask for service ministries — health, education and welfare — and to leave diplomacy to others.

"We are ready to negotiate," Abbas said. "We are partners with the Israelis. They don't have the right to choose their partner."

Israel says it will not deal with Hamas until it disarms. But Haniyeh said the group had no intention of laying down its arms after the elections. Another candidate, Mahmoud Zahar, said his group is "not going to change a single word" in its covenant calling for Israel's destruction.

Palestinian Government Resigns In Wake Of Hamas Win (CNN)

CNN.com, January 26, 2006

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RAMALLAH, West Bank (CNN) -- In a stunning development ahead of official election results, Palestinian Prime Minister Ahmed Qorie said he and the rest of the Palestinian Authority government will resign in the wake of militant group Hamas' apparent victory in historic elections.

The announcement was an acknowledgment that election results showed Hamas had won a majority of seats in the 132-seat Palestinian Legislative Council, supplanting the ruling Fatah party.

Qorie's office said it will be up to Hamas to form a new government.

"It's the choice of the people and it should be respected," Qorie said. "I think, if the majority is approved and has been reached, I think Hamas should form a new government, it's true. The president should ask Hamas to form a new government.

"For me personally, I sent my resignation to the president to enable him to choose a new prime minister," Qorie said.

Initial election results are scheduled to be released Thursday at 7 p.m. (noon ET).

Exit polls earlier had shown Hamas thrusting itself into the center of Palestinian politics but had not indicated an outright majority win by the group.

The exit poll from Bir Zeit University, a respected Palestinian school, showed Fatah garnered 46.4 percent of the vote and Hamas won 39.8 percent in the 132-seat Palestinian Legislative Council. That translates into 63 seats for Fatah and 58 for Hamas, according to the exit poll.

But other polls showed Hamas claiming a slim majority, a claim echoed by some Hamas officials, prompting a warning from Jerusalem.

Acting Israeli Prime Minister Ehud Olmert said Israel could not accept a situation in which Hamas in its current configuration -- committed to the destruction of Israel -- was a part of the Palestinian Authority.

"I will not negotiate with a government that does not meet its most basic obligations -- to fight terrorism. We are prepared to assist the Palestinians and Abu Mazen (Palestinian President Mahmoud Abbas) very much but they must meet their commitments," Olmert said, according to a statement released by his office.

The European Union, meanwhile, said it was prepared to work with any government -- to a point.

"We are prepared to work with any Palestinian government, if this government seeks peace, using peaceful means," said Benita Ferrero-Waldner, EU external relations commissioner.

Hamas, which boycotted the last election in 1996, capitalized on widespread dissatisfaction with what is seen as corruption within the Palestinian Authority and Fatah, and a perceived inability by the authority to manage the affairs of the Palestinians.

Fatah was formed in 1965 by longtime Palestinian leader Yasser Arafat, who died in November 2004, and dominated Palestinian politics for decades as the mainstream Palestinian nationalist movement.

"Mostly, they were voting for opposition and voting against Fatah -- against corruption, against nepotism, against the failure of the peace process, and against the lack of leadership," said Mustafa Barghouti with the Palestinian National Initiative, a democratic opposition movement.

He added: "Today (Wednesday) was a great day for Palestine. This is the best democratic practice ever in the Arab world." (Watch Gaza residents talk about why election day is so important -- 2:32)

Hamas has called for the destruction of Israel and carried out numerous terrorists attacks that have killed scores of Israelis over the years. The group is listed as a terrorist group by the U.S. State Department.Turnout near 78 percent

Election officials estimated about 77.7 percent of the eligible 1.3 million voters turned out to cast their ballots at more than 1,000 polling stations. Voting closed around 7 p.m. (noon ET) in Gaza and the West Bank, and it was extended in predominantly Arab east Jerusalem for two hours to accommodate heavy turnout. (Watch how preliminary results divide up seats -- 3:05)

Among those who joined the voters were Abbas and Mahmoud Zahar, the leader of Hamas. Militant Palestinian groups had agreed to a cease-fire during the voting, and there were no reports of major violence.

"We are embarking on a new era, and we call on the international community to help us return to the negotiating table with the Israelis, to conclude a peace agreement and implement it," Abbas said at the end of the election.

Palestinian Foreign Minister Nasser al-Kidwa told CNN: "It's a happy day. There is no doubt about that. And I think that the Palestinian people are generally happy because of this." (Read how the vote demonstrates Palestinians' will to flex their political muscle)'Monopoly ... is finished'

At polling sites in Gaza, many voters jubilantly waved the green flag of Hamas and expressed anger at Fatah.

"Fatah hasn't done anything for us, for our children," said one Hamas voter at a polling site in Gaza.

Another said: "Fatah only helps itself. We want to see what Hamas can do for us."

Naila Ayesh and her husband, Jamal, said they are worried about the message Hamas is sending to Palestinians. Naila said Hamas told women if they didn't vote for the militant group that "at the end, God will punish you."

The couple voted for Third Way, a secular, pro-reform party. Jamal said the days when Fatah called the shots are over.

"Monopoly of the political system is finished," he said.

The results of the election were being closely monitored by the United States and European Union, both of which have threatened to cut aid if Hamas becomes part of the government.

The U.S. State Department was blunt.

"We view Hamas as a terrorist organization. We don't deal with Hamas. And under the current circumstances, I don't see that changing," State Department spokesman Sean McCormack said.

White House spokesman Scott McClellan was more cautious: "We'll see what the election results are. I'm not going to play a what-if scenario here."Impact on the peace process?

There have been talks about a power-sharing coalition, in which Fatah maintains the more political posts and Hamas has lower-level ministry positions.

Asked how Palestinians could move forward with peacemaking with Israel, al-Kidwa told CNN, "Maybe this is one of the reasons why we prefer not to have it in the government at this stage."

He added: "We have to maintain making peace with Israel as a priority. Actually, this is in our interest, in the interests of the Palestinian people. We need to reach final settlement with Israelis."

Zahar, the head of Hamas, earlier in the day left open the possibility of forming a coalition with Fatah, as well as the possibility of future negotiations with Israel, under certain conditions. (Watch Hamas attempt to redefine its image -- 2:51)

Zahar said his goals include reconstruction of areas he said have been destroyed by years of Israeli occupation and corruption, and the rebuilding of the Palestinian infrastructure.

He said he would be open to negotiations with Israel, but only if the Israelis enter into talks with good will and respect for the rights of Palestinians.

"We are not going to meet them just for meeting," Zahar told a throng of reporters after casting his own ballot. Previously, he said, many meetings have been held but "ended with nothing."

Asked if Hamas would ever recognize Israel, Zahar replied: "Never."

On the eve of the voting, Israel's Olmert had this message for Palestinians: "Do not choose extremists who have led them from tragedy to tragedy and to misery."

No Clear Victor In Palestinian Vote (WSJ)

By Karby Leggett, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, January 26, 2006

JERUSALEM -- After a strong showing by the militant Islamic group Hamas in yesterday's Palestinian legislative election, the U.S. and Israel vowed again to have no contact with any of its members who are blacklisted as terrorists.

The reality on the ground suggests a more nuanced -- and pragmatic -- policy may loom, though.

Yesterday's vote by more than 70% of the 1.4 million eligible voters proceeded without violence or other major disruptions. According to Beir Zeit University's exit poll, the ruling Fatah party emerged victorious with 46% of the vote and Hamas captured about 40%, making its Reform and Change party the second-most popular among voters. Independent parties accounted for the difference. Final results are expected today.

The balloting marks a watershed for Palestinians, Israel and the U.S. -- and a pivotal moment in a conflict that has roiled the Middle East for decades. The legislative election was the first for Palestinians since 1996 and opens a new era of multiparty politics. Palestinian Authority President Mahmoud Abbas now has the opportunity to appoint a new prime minister and

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government cabinet. The effort is expected to be marked by intense coalition negotiations among his Fatah party, Hamas and the scattering of independent parties.

If Hamas joins Mr. Abbas's new government, it will have an enormous impact on the future contours of the Israeli-Palestinian conflict and any resolution of it. The group's official manifesto calls for the destruction of Israel and the creation of an Islamic state in its place. Yesterday, Hamas's top two leaders repeated their strident positions, saying the group has no intention of laying down its weapons after the vote and that its core goals remained unchanged.

Though the U.S. and Israel acquiesced in Hamas's participation in the election, their response to its possible role in Palestinian government has been far chillier. Yesterday, President Bush said in an interview with The Wall Street Journal that he won't deal with any Hamas leaders until the organization renounces its call for the elimination of Israel. Similarly, Israeli officials have vowed to have no official contact with Hamas members. For the U.S., the situation is complicated by a law banning U.S. individuals from providing any form of material support to terrorist groups and their members.

Even so, Israel, and to a lesser degree the U.S., may find the no-contact policy difficult to maintain. In addition to the Palestinian legislature, many West Bank cities are now managed by Hamas officials voted in over the past year. Because Israel supplies many of these cities with electricity and sewage, informal and low-level ties already exist in many areas.

Consider the case of Hisham al-Masri, the new deputy mayor of Qalqilya, a city of 45,000 Palestinians just a short drive from Tel Aviv. A devout Islamist who says Israel has no right to exist, Mr. al-Masri was elected on a platform of clean and efficient government. When he took office last year, he inherited some $4 million of debt owed to Israel's state-owned electricity company. In the months that followed, Mr. al-Masri met regularly with executives from the power company to discuss repayment.

"There is no choice but to speak with them. Our city needs electricity, and we have to pay for it," Mr. al-Masri says. To facilitate the delicate process, Mr. al-Masri and his counterparts hold most of their meetings at the city's edge near an Israeli liaison office staffed by Israel Defense Force personnel.

Though purely administrative, such encounters could become a model for extended contacts in the future. Ehud Yaari, a prominent Israeli political commentator, argues that such contacts could presage a broad policy shift down the road. "Maybe it will be called the political Hamas or Hamas inside the parliament, but the day is approaching when Israeli representatives will sit and talk with Hamas representatives," he said in a recent TV commentary.

Mr. Yaari and other political analysts say the need for an eventual dialogue with Hamas reflects a less-noticed reality. Amid the stark chaos that has enveloped the Palestinian Authority and Fatah in recent years, Hamas emerged as a model of discipline and order on the street, able to mobilize and corral its supporters in ways Fatah no longer can match. That discipline, many analysts say, means Hamas could prove more useful than Fatah in upholding any future cease fire that both sides have been gently speculating about in recent weeks.

The emphasis on internal discipline was reflected across the West Bank yesterday. At polling stations, Hamas supporters set up tents with computers and offered training to voters on how to check the ballots. In the run-up to the election, some Hamas members had talked about their possible ambitions in government, saying they would like to focus their efforts on revamping and improving aspects of government, such as welfare and education, that have the maximum impact on daily Palestinian life and little to no contact with Israel.

Write to Karby Leggett at karby.leggett@wsj.com1

About 1 Million People Vote For Palestinian Parliament Terror Group Hamas Takes On Ruling Fatah Party In Elections (USAT)

By Matthew Gutman

USA Today, January 26, 2006

RAMALLAH, West Bank — About 1 million Palestinians voted Wednesday in parliamentary elections that threaten to end the ruling Fatah Party's decade-long monopoly over Palestinian politics.

The elections for 132 seats in the Palestinian Legislative Council pitted the terrorist Islamic Hamas group against Fatah, founded by Yasser Arafat and President Mahmoud Abbas.

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About 78% of the 1.3 million eligible Palestinians cast their ballots for one of 11 parties, according to the Palestinian Central Elections Commission.

Participation was higher than the 75% turnout in the last parliamentary elections in 1996. Hamas boycotted that vote.

Hamas, which rejects the existence of Israel and is on the U.S. State Department's list of terrorist organizations, wants to get members into parliament to press the Palestinian Authority to take a tougher stance against Israel.

In an interview Wednesday with Al-Jazeera, the Arabic satellite network, top Hamas candidate Ismail Hania hailed the dawn of "a new reality after five years of (a Palestinian uprising)."

Hania said "Oslo was killed," referring the accord reached in that city in 1993 that led to peace talks with Israel and created the Palestinian Authority.

But Hamas' No. 2 candidate, Mohammad Abu Teir, said last week his group does not "rule out negotiations" with Israel.

Hamas focused its campaign less on fighting Israel than on Palestinian issues, such as government corruption.

Last week, the European Commission announced it would suspend half of its aid to the Fatah-dominated Palestinian Authority, citing a lack of budgetary discipline. Abbas' party, in control for 12 years, also has failed to stem increasing lawlessness in Gaza and the West Bank.

Former U.S. president Jimmy Carter, who was among a team of international observers monitoring the vote, warned that "if Hamas becomes part of the executive branch with government portfolios … then it precludes us doing business with the Palestinian Authority."

In a reference to Hamas after the polls closed, President Bush told The Wall Street Journal, "Not until you renounce your desire to destroy Israel will we deal with you."

Speaking to reporters in Ramallah in the West Bank, Abbas tried to assuage concerns about a politically empowered Hamas.

"We are ready to negotiate" with Israel, the Palestinian president said.

Whatever the outcome, Abbas — elected a year ago — will remain president. However, the composition of the parliament and Cabinet could change dramatically.

Lines of voters curled outside polling stations in the West Bank and Gaza. In East Jerusalem, voters cast absentee ballots at six post offices that served as polling centers.

After voting at the an-Najah Girls School in Ramallah, which served as a polling station, Muntasser Hamdan, 23, said, "We must vote Fatah because this is the party that has led this people for 40 years."

A few feet away, clad in the emerald green that symbolizes Islam and Hamas, Fadi Ahmad, 28, said he voted for Hamas because "it gives us everything: religion and truth."

Undaunted by his party's historic antagonism toward Israel, Ahmad said, "If Israel doesn't bother us, we won't bother it."

Hamas Makes Strong Showing In Vote (WP)

By Scott Wilson

The Washington Post, January 26, 2006

RAMALLAH, West Bank, Jan. 25 -- Hamas won a large share of the vote Wednesday as Palestinians selected their first new parliament in a decade, but appeared to fall short of deposing the governing Fatah movement as the leading party in the legislature, according to an exit poll conducted in coordination with the Palestinian election commission.

The poll showed that neither Fatah nor Hamas achieved a majority in the 132-seat legislature, meaning that the next Palestinian cabinet will be made up of a coalition of parties. But by gaining near-parity with Fatah in the parliament, Hamas -- formally known as the Islamic Resistance Movement -- will have a major role in the Palestinian Authority and complicate efforts to revive a dormant U.S.-backed peace plan that runs counter to the party's campaign platform in key respects.

The poll, conducted by Bir Zeit University, projected Fatah winning 63 seats and Hamas 58 seats, leaving the Popular Front for the Liberation of Palestine and an assortment of leftist and independent parties far behind.

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A second poll, by the Palestinian Center for Policy and Survey Research, also conducted in coordination with the election commission, showed Fatah winning 58 seats to Hamas's 53. But the poll said that at least eight seats remained too close to call. Official results were expected Thursday.

"We knew that Hamas had this strength," said Ghassan Khatib, the Palestinian Authority's planning minister, who does not belong to either party. "Having them inside the council, abiding by its laws and regulations, hopefully will be better than having them outside. Now competition will be based on legal politics, rather than outside the law in the streets."

Election officials and observers reported no serious problems from either Israeli security measures or Palestinian factional rivalry that had threatened to disrupt voting in several cities in the West Bank and Gaza Strip. The officials said 77 percent of the 1.3 million registered Palestinian voters cast ballots on a brisk day, far surpassing the turnout in last year's presidential race.

In an initial assessment, a member of one international observer mission described the voting as "a generally smooth process with only sporadic violence and a robust turnout." The observer from the National Democratic Institute/Carter Center delegation, who declined to be named because of the preliminary nature of his evaluation, said his team had received only isolated reports of problems with voting materials.

The only apparent violation, the observer said, was the active campaigning that occurred throughout the day despite a Palestinian election law that requires campaigning to end 24 hours before the start of voting. But because all parties appeared to be violating the rule, the observer said, "at this point it doesn't appear to be a serious impediment to the election."

The atmosphere was celebratory here in Ramallah, where cars bearing the green banners of Hamas or the black-and-white kaffiyehs of Fatah jammed the streets. Each party appeared to have well-organized efforts to ensure its supporters made it to the polls.

The last parliamentary voting, in 1996, led to a Fatah-dominated legislature, which has now been expanded by 50 percent. Mahmoud Abbas, the president of the Palestinian Authority and leader of Fatah, postponed the elections in July to secure an election law more favorable to his party.

At the El Bireh Girls Secondary School, Hamas supporters set up a card table with a bound voter-registration list and laptop computer loaded with a database of all voters and their assigned polling stations. Hamas activists said they were helping anyone who had questions, not just those who supported their movement.

"I saw Hamas closer to the people, closer to the feelings and problems of the people," said Hassan Hamudah, 44, a Hamas supporter who works for the Palestinian Water Authority. "They are honest men. The others have made many promises, but we have only seen corruption."

Hamas has built its popularity over the years through patient political organizing, charity work and an unyielding position regarding Israel. The party's charter calls for Israel's destruction, and Hamas's armed wing has carried out numerous deadly attacks on Israeli civilians, police and soldiers.

The secular Fatah movement is suffering from generational divisions and a reputation for corrupt, ineffective government.

Abbas, who has threatened to resign as president if he is unable to carry out his program after the elections, will now appoint a prime minister who must form a cabinet approved by the parliament. Although it is theoretically possible that Hamas could form the next government, it is expected that Fatah would be invited to do so and join with the nationalist and leftist parties to forge a parliamentary majority.

As the main faction in the Palestine Liberation Organization, Fatah joined with Israel to endorse the 1993 Oslo accords and the U.S.-backed peace plan known as the "road map," signed in 2003. The plan has been frozen because of the Palestinian uprising, but each side has pledged to return to its phased framework for creation of an independent Palestinian state.

Hamas, on the other hand, has pledged to maintain its military wing, which Israel says must be dismantled before new peace talks take place under the road map. It is unclear how much influence Hamas could exert over a future peace process since it is not a member of the PLO, although its strong showing could hasten talks to bring the group inside the organization.

Hamas supporters say the party, which Israel, the United States and Europe classify as a terrorist organization, will concentrate on political and educational reform before moving on to issues of peace and diplomacy. Israeli and U.S. officials have warned that its presence in government could undermine diplomatic initiatives and imperil foreign aid.

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President Bush, in an interview Wednesday with the Wall Street Journal, lauded the democratic trend that produced the Palestinian elections but said Hamas would not be a suitable partner for diplomacy until it renounced its call for the destruction of Israel.

"A political party, in order to be viable, is one that professes peace, in my judgment, in order that it will keep the peace," Bush said. "And so you're getting a sense of how I'm going to deal with Hamas if they end up in positions of responsibility. And the answer is: Not until you renounce your desire to destroy Israel will we deal with you."

In a school adjacent to the al-Amari refugee camp, Ahmad Safi not only cast his vote for Fatah but draped the movement's black-and-white kaffiyeh across his shoulders against the cold.

"Historically, this is the movement that has given the most to the Palestinian cause," said Safi, 42, who works for the Fatah-run Interior Ministry and spent a dozen years in Israeli prisons.

Cars decked with banners and posters of Hamas green, Fatah yellow and the red of the Popular Front for the Liberation of Palestine clogged the street in front of him. Many of the parties rented collective taxis to ferry their supporters to the polls.

"They are secular and democratic," he said of Fatah. "The proof of this is that we are now in pluralistic elections."

The Israeli police presence was heavy in Arab East Jerusalem, where roughly 6,000 of the 120,000 Palestinians eligible to vote in the city were expected to cast ballots. Israel's acting prime minister, Ehud Olmert, agreed to allow voting to proceed in Jerusalem, which both Israelis and Palestinians claim as their capital, but prohibited the participation of Hamas.

Palestinian election officials extended voting in East Jerusalem for two hours, saying long lines caused by Israeli security measures prevented many from casting ballots on time.

In a statement issued after polls closed, Hamas officials accused Fatah of rigging the vote in the city.

At the post office on Salahudeen Street near the Old City's Damascus Gate, members of the governing party's youth movement chanted "Your blood is Fatah" from the steps and passed out lists with the names of the party's local and national candidates.

"It's good that all factions are participating in this," said Omar Bazian, 56, a Fatah supporter from the Old City. "Never mind losing some power -- this is a vote for the future."

On the other side of the separation barrier erected by the Israeli government, a cluster of Hamas flags flew from the dome of a mosque along the wide, worn avenue into the West Bank town of Abu Dis. The 24-foot-high wall, sealing what was once the main road from Jerusalem to Jericho, is covered with candidate posters and graffiti, including "This Wall Must Fall" in English.

"We're telling people Islam is the solution," said Radi Johar, 29, who was passing out Hamas candidate pamphlets in the dirt street outside a crowded polling station. "We are victorious, whether we win or not, since we are raising the flag of Islam."

Fatah Edges Hamas In Polls (WT)

By Joshua Mitnick, The Washington Times

The Washington Times, January 26, 2006

GAZA CITY, Gaza Strip -- Palestinian Authority President Mahmoud Abbas' Fatah party eked out a narrow victory over the militant movement Hamas in parliamentary elections yesterday but will be unable to govern alone, exit polls showed.

The news sent carloads of Fatah faithful streaming into Gaza City's central square to celebrate, firing guns and honking horns in a deafening display. Hamas followers were strangely absent from the streets, even in their political stronghold.

Nevertheless, Hamas' strong challenge to the long-ruling party of Yasser Arafat in its first attempt at parliamentary politics is bound to change the face of Palestinian politics and the Middle East peace process.

To achieve a legislative majority, Mr. Abbas will have to choose between forming an unstable coalition government with smaller independent parties or forming a broad coalition with Hamas -- which has transformed itself from a small militant underground group dedicated to Israel's destruction.

Both Israel and the United States have refused to deal with a government that includes Hamas until it renounces violence and abandons a constitution that calls for Israel's destruction.

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"You're getting a sense of how I'm going to deal with Hamas if they end up in positions of responsibility," President Bush said in an interview with the Wall Street Journal published yesterday. "And the answer is: Not until you renounce your desire to destroy Israel will we deal with you."

Hamas in recent days had hinted at a willingness to consider a negotiated settlement with the Jewish state. But the Associated Press last night quoted Hamas' top parliamentary candidate, Ismail Haniyeh, saying the group had no intention of laying down its arms. And another leading candidate, Mahmoud Zahar, said Hamas was "not going to change a single word" in its charter.

An exit poll by Birzeit University in Ramallah showed Fatah winning 63 seats in the 132-member parliament and Hamas taking 58 seats, the AP reported. A second survey showed Fatah beating Hamas by 58 seats to 53.

The Palestinian election commission said yesterday's turnout was about 78 percent, compared to the 52 percent of registered voters who turned out in the 2002 U.S. congressional elections.

For Fatah and Mr. Abbas, heirs of the political movement that served as the foundation of modern Palestinian nationalism, the disappointing results are likely to deepen a crisis triggered by the death of Mr. Arafat.

"It's not pleasant news for Fatah, and it's encouraging news for Hamas," said Birzeit political science professor Basem Ezbidi.

"It's an indication that the Palestinian Liberation Organization has failed historically. This project of the PLO since 1965 did not work, and the people have chosen Hamas."

The vote was proclaimed a "milestone" in Palestinian history by Hamas leader Ismail Haniyeh, whose party boycotted the first parliamentary vote in 1995 because it was a direct result of the Oslo peace negotiations with Israel. The party decided not to challenge Mr. Abbas in a presidential ballot last year.

Mr. Abbas, for his part, hailed the peaceful conduct of the election, which saw largely celebratory crowds enjoying fair weather and a holiday atmosphere in which shops and offices were shut.

"We are so happy with this election festival," said Mr. Abbas, who added that the Palestinian Authority remains a partner for peace negotiations with Israel.

In a pointed reference to Israel's refusal to negotiate with any government that included Hamas, Mr. Abbas said it was not for the Jewish state to dictate who its counterparts are.

The hundreds of foreign election monitors who observed the voting reported few irregularities.

"People are voting in peace," said Cypriot monitor Eleni Theochapous.

"I was monitoring elections in Minneapolis, Minnesota. Compared with the Palestinians, I don't think there is that much of a difference. I saw homeless people voting three times. Here you can't do that because of the ink on your hands."

Palestinians Cast Historic Vote (CSM)

By Ilene R. Prusher And Joshua Mitnick

The Christian Science Monitor, January 26, 2006

BETHLEHEM AND RAMALLAH, WEST BANK; KHAN YOUNIS, GAZA STRIP - Palestinians streamed into more than 1,000 polling stations Wednesday in the first parliamentary election in a decade, one that will determine the shape of future prospects for returning to peace talks with Israel.

The ballot itself is largely viewed as a reality check over who Palestinians want steering them into that future: secular Fatah Party, the ruling faction that brought the Palestinian Authority (PA) into being through its willingness to negotiate with Israel, or Islamic Hamas, which stands by suicide bombings and other attacks as its way of facing off with the Jewish state.

Three hours after the polls closed, different organizations released varying figures. Al Arabiyeh, the Arab satellite channel, estimated that of the 132 seats, Fatah won 65 and Hamas won 48. But Al Jazeera, quoting an exit poll carried out by Bir Zeit University near Ramallah, showed Fatah winning 63 seats and Hamas winning 58.

Exit polls suggest that small parties and independent candidates attracted more supporters than expected, and many of these would be natural coalition partners of Fatah.

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These potential allies of Fatah include the Third Way Party, led by former finance minister Salaam Fayyad and Palestinian spokeswoman Hanan Ashrawi, as well as a liberal, progressive party led by Dr. Mustafa Barghouti.

Official results were expected to be released Thursday. Divided between militant, moderate

Given recent unrest in the West Bank and Gaza, the elections were carried out without any major incidents of violence or disruptions at polling stations.

Still, many campaign activists bent the rules, ignoring a prohibition on any electioneering outside the voting places. Hadija Jadour and Samah Jarah passed out campaign cards to voters who made their way up the dirt road into a girls' school in Obediyeh, a West Bank municipality east of Bethlehem.

The women describe themselves as friends, but the black-and-white keffiyeh-style sash that Ms. Jadour wears stands in contrast to the green one around Ms. Jarah's veil. That seems to say it all: Palestinians are deeply divided over who should lead and how.

The keffiyah marks Jadour's support for Fatah, while Jarah's green ribbon shows the world, as she puts it, "I love Hamas."

Explains Jarah: "Hamas has always been the center of the resistance, and they are working on giving assistance to people and developing our society."

"It's not true," argues Jadour, smiling wryly at her friend's comment. "Fatah is the one who established the Palestinian Authority in the first place. Fatah wants to solve things in a diplomatic way, not by violence."

Asked if they discuss these issues often, the women grin and look in different directions. "We don't go into politics," says Jarah, "or it might ruin the good relationship we have."

That dynamic, pitting friend against friend, and even brother against brother, was repeated throughout the Palestinian territories. Among the more famed divisions, one of the senior-most members of the Fatah, Jibril Rajoub, who long served as the West Bank security czar for the PA, was running against his own brother, Naif Rajoub, an Islamic religious figure who is high on the list of candidates for Hamas.

"Let's remember that the decision to hold new elections was made by us in Fatah, to reestablish the legitimacy of the regime. But I'm sure both of us will win," Jibril Rajoub says, speaking of his brother. "There's nothing wrong with having him, as part of Hamas, in the government. I'm proud of that."

But Hamas isn't sure that it's actually prepared to be part of a government led by Fatah - particularly one with plans to carve out peace with Israel.

One top candidate in Hamas, interviewed in Ramallah, says that Hamas is keeping its options open. It may decide to join Fatah and be a partner in the PA, or it may decide to instead play the role of a feisty opposition party, blocking attempts to make concessions in negotiations with Israel. Equally interesting, however, may be what Hamas plans to do domestically with its bolstered muscle and putative legitimacy.

"We want to clean the internal Palestinian house, to put an end to corruption in the Palestinian Authority, and to bring to justice those who have stolen from the people," says Ahmad Abdel-Aziz Mubarek, a Ramallah candidate for Hamas. "The Authority sometimes banned Hamas people from getting jobs and harassed them. We will put an end to that." The Gaza situation

Driving much of the dissatisfaction with the PA is the lawlessness that has gripped Gaza since Israeli disengagement last year. At a polling station there, a spurt of machine-gun fire rang out. Voters and election workers barely flinched as sporadic gunfire has become all too common in the coastal strip.

There was plenty else to fuel the anxiety. Hamas leader Mahmoud az-Zahar predicted there would be voter fraud, and last month a Fatah primary in Gaza was cancelled because of attacks on voting booths. But voting Wednesday was festive nonetheless. Banners of Fatah yellow and Hamas green fluttered from taxis and minivans ferrying groups of voters to the polls.

"Congratulations, Palestine for the day of democracy, the day of freedom," crooned a singer on a radio station.

In the southern Gaza town of Rafah, voters cast ballots at a school surrounded by bullet-ravaged buildings, a grim reminder of the five-year Israeli war against the Palestinians.

Atidal Hafagah says the outer wall of her house was once destroyed by the Israelis, but life has improved since the September withdrawal of Israeli settlers from Gaza. A black hijab covering her face, Hafagah says she voted for Hamas, which she thought would rid the PA of corruption and institute Islamic rule. Hamas to promote Islamic law

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Indeed, Mr. Mubarek says that Hamas gradually will change Palestinian society so that it conforms with Islamic law, or sharia. For example, he says, Hamas will see to it that the casino in Jericho will be closed down, since gambling is forbidden in Islam.

He says that it should be mandatory that people give zakkat, or charity, which is one of a Muslim's five major religious duties. "Christians will pay a different kind of tax," he adds, "and we will consider Christians as full citizens. We will deal with the minorities in Palestine according to Islamic rules."

Campaign pledges like these may have attracted some voters, but they quickly turn others off - including other Muslims.

At the Deheishe Refugee Camp in Bethlehem, secular Palestinians were trying to round up support for a leftist party, the Popular Front for the Liberation of Palestine, one of 11 lists in the race.

"Hamas wants an Islamic state, not a Palestinian state," says Mohammed Ramadan, a schoolteacher who was dismayed by growing support for Hamas. "We believe we need to build our state with a political and social program, without imposing Islam on people." US, Israel refuse to deal with Hamas

Outside the polling station in Dar Salah, a large village southeast of Jerusalem, Hamas certainly seemed the most palpable presence.

Although members of Fatah were elected last year to lead the local council, posters of Hamas carpeted the ramshackle town overlooking the desert. Most of the posters featured Sheikh Ahmed Yassin and Abdul Aziz Rantissi, two top Hamas leaders assassinated by Israel in 2004.

A white four-wheel drive vehicle, festooned with Hamas flags, sat parked at the entrance to the school where voters entered.

"We will cooperate with anyone who has clean hands, who safeguards the Palestinian people, and who opposes the occupation," says Nidal Huzeibi, the man with the keys. "But I totally reject recognition of Israel because they don't give us our rights," he says. "I'm 100 percent sure that Hamas will soon be the largest force on the Palestinian street."

Palestinian President Mahmoud Abbas, whose seat is not up for reelection, said Wednesday that the PA will renew negotiations with Israel even if Hamas is a partner in the government. But the US and Israel have made clear that they will not deal with Hamas, which they consider a terrorist group.

Former President Jimmy Carter, heading a 900-member observer mission to the elections, told reporters Wednesday that the US would distinguish being Hamas in the legislative branch and Hamas at the helm: "The US government is prepared to continue to deal with the Palestinian Authority with Hamas members in the government. But if Hamas members become part of the executive branch, US law would preclude dealing with them."

After The Election, Hamas Must Learn To Govern (LAT)

By Laura King

The Los Angeles Times, January 26, 2006

GAZA CITY — With its capture of at least a third of the vote in Wednesday's parliamentary election, the Islamist group Hamas has cemented its place in the heart of the Palestinian political establishment and fundamentally altered it.

But the group now faces dilemmas it has never confronted before. Hamas will have to decide whether to enter into a parliamentary alliance with its archrival, Fatah, and whether to take Cabinet positions in a new government controlled by Fatah.

Most important, it must decide whether to formally renounce its stated goal of Israel's destruction and open the way for negotiations with the Jewish state.

With roots in the rubble-strewn streets and teeming mosques of Gaza Strip refugee camps, Hamas has always harbored deep mistrust of the secular-minded ruling Fatah movement. The group's very name, an Arabic acronym for Islamic Resistance Movement, was a deliberate rebuke to all who sought accommodation of any kind with Israel.

At times during the last decade, Hamas' enmity toward Fatah has rivaled its hatred of Israel. Many rank-and-file Hamas activists, along with the organization's senior leaders, have served time not only in Israeli jails, but in Palestinian Authority prisons.

Hamas by no means speaks with one voice on these crucial questions, even when the same person is doing the talking. In recent days, views aired by Hamas candidates and officials have ranged from conciliatory to studiedly vague to utterly unyielding.

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"Never!" snapped Mahmoud Zahar, a senior figure in the group, when asked Wednesday whether Hamas would recognize Israel. But Zahar, one of the few members of Hamas' upper echelon to escape assassination by Israeli forces over the last 2 1/2 years, also said this week that negotiations with Israel were not "taboo," especially if conducted through a third party.

Those who have closely observed Hamas through the years note its tendency to scrap any strategy the group believes has run its course, without necessarily trumpeting the fact that it is doing so.

Hamas did not carry out any suicide bombings inside Israel in 2005, a period that coincided with its first entry into the political arena. That strategic shift paid off with victories in municipal elections that gave Hamas control of dozens of cities, towns and villages across the West Bank and Gaza.

Over the last two decades, Hamas built a formidable following by trading on its perceived standing as an outsider, even an underdog. Being part of the Palestinian power structure will inevitably change that dynamic.

"It's good that the people are with us," Imad Afana, a Hamas election observer, said as he watched his refugee-camp neighbors waiting patiently to cast ballots Wednesday. "But we cannot pretend that the result will not be complicated for us — very, very complicated."

Governance of the West Bank and Gaza Strip, as the Palestinian Authority has long since discovered, is a messy affair. Hamas honed a reputation for fiscal integrity while administering its far-flung network of schools, clinics and charities, but playing any significant role in the sprawling, ineffectual Palestinian bureaucracy carries the risk of taint.

"You are about to enter the Authority; we warmly greet you," senior Fatah candidate Mohammed Dahlan rather sardonically told Zahar during a televised debate this week. Then came the zinger: "It's time for you to become acquainted with the suffering of being in government."

The Palestinian election campaign bared fault lines within not only Hamas, but Israel. Impassioned debate has broken out over whether the Jewish state can possibly have any political dealings with a group whose suicide bombings wrought carnage on commuter buses and in crowded cafes and markets.

"It is important to understand that the participation of terror elements in democratic elections ... is a Trojan horse that will destroy democracy from within," Ron Prosor, director-general of Israel's Foreign Ministry, told an academic conference this week.

But former Prime Minister Shimon Peres, a senior figure in the centrist Kadima Party that is expected to win Israel's March 28 general election, argued that Israel should realize that pragmatic self-interest may have changed Hamas' agenda.

"We are not fighting against a name — we are fighting against a situation," Peres told Israel Radio this week. "If the situation changes, then what difference does a name make?"

Already, Israel is starting to draw a distinction between dealing with a Palestinian government in which Hamas takes part and one controlled by Hamas.

The Bush administration, too, appeared to be giving itself room to maneuver. Though the United States considers Hamas a terrorist organization and refuses any direct dealings with it, State Department spokesman Sean McCormack on Tuesday refused to rule out negotiations with a Palestinian government that included Hamas ministers.

Some observers point out that a Hamas role in government would give Israel the advantage of dealing with a ruling body that better represents the spectrum of Palestinian political views, perhaps making for more realistic talks.

"This time around, everything that was hidden during years of negotiations will finally be on the table," Nasser Laham, editor-in-chief of the Palestinian news agency Maan, wrote in a commentary for the Israeli newspaper Maariv.

A premier Israeli political commentator, Nahum Barnea, warned that with Hamas as a player in government, the fractious Fatah would have to pull itself together or risk being outflanked.

"In the new Palestinian parliament, a cohesive and disciplined Hamas faction will contend with a disintegrated and conflicted Fatah," Barnea wrote in the Yediot Aharonot daily.

In historical terms, any Israeli decision to engage Hamas would be reminiscent of its policy shift toward the Palestine Liberation Organization after it recognized Israel's existence, opening the path to negotiations.

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"The entire process calls to mind what happened to the PLO," said Shaul Mishal, a Tel Aviv University professor whose specialty is Hamas. "I understand that this is a long, rough road, but these are the new Palestinian politics, and this could be the light at the end of the tunnel."

Although Fatah cannot help but be stung by Hamas' latest showing of electoral strength, its senior officials may sense a fresh opportunity to co-opt the Islamist group rather than try to defeat it in a head-on military confrontation. That has been Palestinian Authority President Mahmoud Abbas' wish all along.

"What we see is that Hamas may change its views," Abbas told the satellite TV channel Al Arabiya this week.

Hamas is reluctant to tip its hand about disarming, and for now, the group plainly intends to have it both ways.

"The Europeans and Americans are telling Hamas to choose between having weapons and being in government," said Ismail Haniya, the top Hamas candidate. "But we say we will go for arms — and parliament."

WASHINGTON WIRE (WSJ)

The Wall Street Journal, January 26, 2006

President Bush, in an Oval Office interview, declared that he isn't ready yet to deal with the radical Palestinian Islamist group Hamas no matter how well it does in Wednesday's Palestinian elections.

Speaking to The Wall Street Journal as Palestinians were electing a new parliament, Bush lauded the Middle Eastern trend toward democracy that produced Palestinian elections, but he said that Hamas isn't a suitable partner for diplomacy until it renounces its position calling for the destruction of Israel. "A political party, in order to be viable, is one that professes peace, in my judgment, in order that it will keep the peace," the president said. "And so you're getting a sense of how I'm going to deal with Hamas if they end up in positions of responsibility. And the answer is: Not until you renounce your desire to destroy Israel will we deal with you." (Read a transcript of the interview1.)

On other international subjects, Bush said "it's important for us to exhaust all diplomacy" in dealing with Iran's nuclear program. And he said his principal hope for resolving the impasse is a plan in which Russia would enrich uranium on behalf of the Iranians, and then ship the material to civilian nuclear plants in Iran, negating Iran's need to develop its own enrichment abilities. If such efforts don't work, Bush said, "clearly, there's a set of different options available through the [United Nations] Security Council, and now we're working with our friends to review those options."

The president also said his administration's controversial plan for warrantless wiretaps of phone conversations was designed by experts at the National Security Agency to improve on a process laid out by Congress in the 1970s for eavesdropping on U.S. citizens under the Foreign Intelligence Surveillance Act. Mr. Bush said he didn't use the provisions of that law allowing for court approvals of wiretaps, even after they have been instituted, because "we require a different response to an enemy" in the age of terrorism. --Gerald F. Seib

* * *

Private-Sector Growth: When Alan Greenspan leaves the Fed at the end of the day Jan. 31, he will set up a consulting firm called Greenspan Associates based in Washington, D.C.

Greenspan plans to consult, give speeches, and write a book. One of his first hires will be Michelle Smith, who the Fed said Wednesday will quit as director of its office of board members to join Mr. Greenspan's new firm. Ms. Smith joined the Fed as communications director in 2001 after serving as press secretary to Clinton Treasury Secretary Lawrence Summers. Ms. Smith's responsibilities went well beyond public affairs: she served in effect as Mr. Greenspan's chief of staff, advising him on relations with the public, politicians, and the media, Fed insiders say. She has also advised Fed policy makers on monetary policy communications, such as the post-meeting statement and meeting minutes, though not on the formulation of monetary policy itself.

Also assisting Mr. Greenspan in his new business, at least initially, is Anne Nielsen, who has been his office and research assistant since his days at Townsend-Greenspan, the advisory service he ran before joining the Fed in 1987. The Fed said effective Feb. 1, David W. Skidmore, Ms. Smith's deputy, would become the board's chief spokesperson and Rose Pianalto Cameron will oversee other public information activities. The elevation of Mr. Skidmore was made after consultation with Ben Bernanke, scheduled to take over as chairman on Feb. 1. Mr. Skidmore worked closely with Mr. Bernanke during his term as

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governor from 2002 to 2005. The promotion suggests that the transition will not trigger any major turnover among senior staff or the appointment of outsiders to key advisory positions, as has occurred at some other federal agencies like the CIA and SEC. --Greg Ip * * *

Medicaid Requirement: Millions of low-income U.S. citizens would have trouble meeting Medicaid's new proof-of-citizenship requirements that are poised for passage in Congress, a new survey finds.

Under the new rules, part of the budget-reconciliation agreement scheduled for a final House vote next month, Medicaid recipients would have to document their citizenship in order to get health benefits from the federal-state program for the poor. In effect, that means producing a birth certificate or passport.

But one in 12 U.S.-born adults with annual incomes below $25,000 reported not having either of those documents, according to a survey of about 2,000 people commissioned by the liberal-leaning Center on Budget and Policy Priorities. More than one in 10 adults said they didn't have a birth certificate or passport for at least one of their children. The center said that indicates as many as 4.6 million low-income citizens would have trouble meeting the new requirements, which were pushed by some Republicans as a way to ensure that illegal immigrants aren't getting Medicaid coverage. That means those needing Medicaid -- or trying to requalify for it, which often is required every six months -- might be excluded from coverage or would have to wait while they obtain proper documentation.

"It's going to cause problems for a lot of people," said Leighton Ku, a co-author of the paper. Many other groups unlikely to have the documents -- such as Katrina survivors and people in nursing homes -- weren't represented in the survey, he said. The survey showed a high percentage of elderly people -- particularly African-Americans -- lack birth certificates and passports, he added. --Sarah Lueck * * *

Top to Bottom: U.S. Trade Representative Rob Portman aims to conclude his "top-to-bottom review" of trade policy toward China soon.

Results of the administration-wide initiative are being closely held, but aides mull making it public in mid-February after the Bush administration moves beyond releasing the president's fiscal 2007 budget.

A top Portman aide, Deputy U.S. Trade Representative Karan Bhatia, said the China initiative is in the final stages. "This has been a valuable effort and one that bears repeating from time to time to make sure that our trade policy with respect to China remains on course," Mr. Bhatia told the U.S.-China Business Council Wednesday. Mr. Portman promised to conduct the review last year, amid rising fears on Capitol Hill about the economic threat posed by Beijing.

Insisting that "China's apprentice period must now come to a close," Mr. Bhatia urged Beijing to shoulder more responsibility as a leader in the rules-based global trading system. He warned that the Bush administration "will not hesitate, when appropriate, to use all tools at its disposal to ensure that China lives up to its commitments, including dispute settlement at the WTO or the use of trade remedies within our legal system." --Greg Hitt * * *

McCain

Remembering Rehnquist: Arizona Republican Sens. John McCain and Jon Kyl propose spending $10 million to set up a judicial research center in honor the late Chief Justice William Rehnquist. Their bill would authorize $2 million annually through 2011 for a William H. Rehnquist Center on Constitutional Structures and Judicial Independence at the University of Arizona law school. The bill says the center "would advance nonpartisan scholarship about the judicial branch," particularly in areas the chief justice "held dearest" -- "constitutional federalism, judicial independence and the separation of powers." Although born in Milwaukee and educated at Stanford University, Chief Justice Rehnquist rose to prominence as a practicing attorney and Republican activist in Phoenix. President Nixon appointed him a Supreme Court associate justice in 1971, and in 1986 President Reagan elevated him to chief justice. He died in September at age 80 and was succeeded by his former clerk, John Roberts. --Jess Bravin * * *

Tuesday, Jan. 24

With the Feb. 3 deadline on renewing Patriot Act provisions looming, Senate Democrats predict a deal can be reached soon. To speed it along, Sen. Patrick Leahy of Vermont is trying to tap First Lady Laura Bush's sympathies as a former school librarian.

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"The time is fast approaching when we have to extend it or change it," said Senate Democratic Leader Harry Reid of Nevada, who hinted that House Judiciary Committee Chairman James Sensenbrenner (R., Wis.) will find it harder to block an extension next week. "Sensenbrenner doesn't run the House. There will be 434 other people over there," Reid said. "I think everyone agrees that with a little bit of time alone, Leahy and [Senate Judiciary Chairman Arlen] Specter can work out the problems."

Majority Leader Bill Frist predicts that "ultimately if we do an extension for six to eight weeks, I think we'll be able to work it out." But any Senate deal must also be sold to the House, where Republican turmoil over leadership races could be an obstacle. "We have to work through it here," Frist said. "Then I've got to shop that over there, which -- until they get through and things settle down -- will be hard. So we need just another six weeks."

Leahy, the Judiciary Committee's ranking Democrat, recalled a Jan. 6 conversation with top players and President Bush, who had gathered at the White House for a signing ceremony for an unrelated bill. "I raised the fact that we could easily do that, work out the few remaining differences," said Leahy, who played to the first lady on the issue of searches involving libraries. "I said, `Why don't we work out that problem with the librarians?' I mentioned librarians twice and Mrs. Bush caught my drift." --David Rogers * * *

Information, Please: The U.S. dialogue with China is intensifying on the important issue of enforcing intellectual-property rights.

The two camps have sparred in recent weeks over the legal basis of a U.S. move, launched through the Geneva-based World Trade Organization last October, to compel China to provide detailed descriptions of intellectual-property rights cases it has pursued as well as the penalties imposed on infringers. But a senior U.S. trade official said Tuesday that Beijing and Washington have set aside the dispute over whether the U.S. has the right to the information and, for now, are focusing on ways to allow an exchange of the disputed information.

"They have expressed an openness to work with us," the official said. "They've agreed to talk with us." The U.S. official said filing a piracy complaint against China at the WTO "remains a possibility," but stressed the U.S. is working through a number of channels, including bilateral talks, to encourage China to step up its enforcement. --Greg Hitt * * *

Lost Millions: Another Pentagon audit of Iraq reconstruction work found that a variety of jobs were never done and millions of dollars are missing. The report of the Special Inspector General for Iraq Reconstruction4 examined 907 contracts and "micro-purchases" totaling about $88 million that were awarded by U.S. officials using Iraqi funds in 2003 and 2004.

The audit found that 17% of the work, totaling $16.3 million, was not competitively bid, that $87,000 in cash was somehow lost, and that $6.3 million was transferred to "unauthorized persons" without any trace of work being done in return. The report said that $471,000 was paid to install Internet service in the city of Ramadi, but quotes an internal memo saying, "There is no way to verify this project was ever completed, because we don't even know where exactly in Ramadi it was supposed to take place." Another 11 contracts were overpaid to the tune of $571,000.

The Justice Department has charged some U.S. officials and contractors with fraud in connection with similar work in southern Iraq, and more prosecutions are expected. --Neil King Jr. * * *

With an eye toward the oldest members of the Supreme Court, the White House is trying to scratch out a filibuster-proof 60 votes for Judge Samuel Alito to set a conservative standard that gives Bush some maneuvering room in the event of another opening.

Insiders say the odds of achieving that goal aren't good. But Bush allies take heart that the Democrats' vigorous opposition to Judge Alito irritated enough of the Republican members of the Gang of 14 -- the bipartisan group of senators who neutralized Democrats' threat to block Bush judicial nominees and Republicans' threat to change Senate rules to ban filibusters -- to edge them closer to voting for a judicial filibuster ban down the road.

After announcing the Judiciary Committee's 10-8 party-line vote for Judge Alito, Vermont Sen. Patrick Leahy, the panel's ranking Democrat, and Republican Committee Chairman Arlen Specter wrap it up: "OK, Arlen," said Sen. Leahy as he grabbed his papers. "OK, Patrick," the chairman replied. --Jeanne Cummings

• Read excerpts5 from the Senate Judiciary Committee's meeting to vote on Alito, and see a chart of the nominees6 to the Supreme Court since the start of the Nixon administration.

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* * *

Frist

Asbestos Warning: With the Senate beginning hearings on lobbying overhaul Wednesday, Frist warned Democrats against trying to use the issue to delay action on the asbestos bill.

In a letter Tuesday to Reid, Frist predicted passage of the lobbying bill early this year -- "done right and well, not fast and foolish." But the Tennessean said asbestos action has waited long enough. "This problem is devastating and it requires leadership and action," he wrote to Reid. "To postpone debate on this issue is to blatantly ignore a very real problem." --David Rogers * * *

Frustration, continued: White House officials have been frustrated for months that President Bush gets so little credit from the public for an economy that's moving along reasonably well. They will have to continue to be frustrated, it appears. A new poll7 from the Pew Research Center for the People and the Press shows that only about a third of Americans (34%) rate economic conditions as excellent or good. Almost twice as many -- 64% -- call conditions only fair or poor. Overall, attitudes are darker than they were a year ago.

The poll's authors note that on this front, as on so many, views have grown more divided along partisan lines. More than half of Republicans see an economy that's excellent or good. Just 28% of independents and 23% of Democrats agree the economy is doing well. One of the goals of Bush's State of the Union speech next week is to improve public perceptions of the economy overall. The telephone survey of 1,503 adults nationwide has a three percentage point margin of error. --Jerry Seib * * *

Bernanke

Speech Pattern: Kevin Hassett, economist at the American Enterprise Institute offers a bit of advice to Ben Bernanke, Bush's choice to head the Federal Reserve: In the early days on the job, sound as much like Chairman Alan Greenspan as possible. "Take an Alan Greenspan speech, run it through Google into Spanish then translate it back. It's still basically a Greenspan speech." --Greg Ip * * *

Flood Watch: Overhauling the National Flood Insurance Program is a prominent item on the Senate's agenda. The program has been thrust deeply in the red by Hurricanes Katrina and Rita, with damage from the two storms expected to reach $23 billion -- almost all on the taxpayers' tab.

The Senate Banking Committee will kick off the debate Wednesday at a hearing on how to fix the system, "which is clearly broken," said a committee spokesman. Some lawmakers, including Committee Chairman Richard Shelby of Alabama, suggest that the insurance program should be restructured to operate more like a private insurance company.

A first step may be for Congress to direct the program to deny coverage to properties that are repeatedly flooded, they say. Also to be considered is an idea being pushed by Republican Rep. Richard Baker of Louisiana to form a new government agency to oversee redevelopment of storm-battered Louisiana. The House Financial Services Committee passed a flood insurance bill late last year, but it hasn't come up for a floor vote. --Michael Schroeder

Vote Complicates Area's Diplomacy (WP)

By Glenn Kessler

The Washington Post, January 26, 2006

The Bush administration has strongly urged Palestinian leaders not to permit any Hamas members into the Palestinian cabinet, but yesterday's better-than-expected electoral showing by a group labeled a terrorist organization by the United States greatly complicates the administration's diplomacy in the region, U.S. officials said yesterday.

Hamas, which is dedicated to the destruction of Israel, appears to have ridden a wave of popular disgust at the perceived corruption and incompetence of the ruling Fatah Party. Exit polls indicate Fatah will have only a slim edge over Hamas in the Palestinian Legislative Council, giving Hamas a strong claim to a role in the government.

Fatah in theory may still be able to form a government that excludes Hamas -- formally the Islamic Resistance Movement -- but Palestinian President Mahmoud Abbas has expressed hope that by bringing Hamas into the political process, it will become a partner in seeking a peace accord with Israel.

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The results also suggested the risks inherent in the Bush administration's campaign to bring democracy to the Middle East. Administration spokesmen officially celebrated the "historic moment" for the Palestinians while officials privately reeled at the outcome.

Bush administration officials had hoped Hamas would get as little as 20 percent of the vote. The Washington Post reported Sunday that the United States had spent $2 million in recent weeks to promote the Palestinian Authority, and by extension Fatah, in a campaign that kept U.S. involvement hidden. Before yesterday, officials were bracing for Hamas to receive 30 to 40 percent of the vote; exit polls indicated that Hamas topped 40 percent of the seats.

U.S. officials, from President Bush on down, reiterated that the United States will not deal with Hamas as long as it does not renounce violence.

"A political party, in order to be viable, is one that professes peace, in my judgment, in order that it will keep the peace," Bush said in an interview with the Wall Street Journal yesterday. "And so you're getting a sense of how I'm going to deal with Hamas if they end up in positions of responsibility. And the answer is: not until you renounce your desire to destroy Israel will we deal with you."

Bush's statement left open the possibility that the United States would not reject a Palestinian government that includes Hamas, but instead that the United States would not work directly with cabinet ministers who have Hamas connections. There is a precedent for this approach: The Bush administration already works with the Lebanese government, even though one cabinet member is a member of Hezbollah, also labeled a terrorist group.

The U.S. ambassador to Israel, Dick Jones, was quoted this week in the Israeli newspaper Haaretz as saying the Lebanese model might serve as a guide for dealing with the Palestinian Authority if Hamas joins the government. Jones has told officials in Washington the remarks were made at a dinner party and were taken out of context.

One major issue is that the United States has much more extensive dealings with the Palestinian Authority than it does with Lebanon. Hamas has indicated it would like to obtain ministerial portfolios that touch on social services, raising questions about whether some of the hundreds of millions of dollars in annual U.S. aid could continue to flow to certain public works projects if they are overseen by a Hamas cabinet member.

Moreover, with Israel facing critical elections in March, the administration must deal carefully with the emerging Palestinian government.

The administration must also hold together its allies in the peace process, particularly the European Union. Last late year, the sponsors of the "road map" peace plan, known as the Quartet, issued a statement saying that "a future Palestinian Authority cabinet should include no member who has not committed to the principles of Israel's right to exist in peace and security and an unequivocal end to violence and terrorism."

But that statement was not categorical, and some European officials have indicated in recent days that instead of the black-and-white view expressed by the United States, perhaps Hamas needed greater encouragement to make a break with its past, much like the Irish Republican Army. One U.S. official sighed that the European Union was like the "International House of Pancakes -- there are a ton of waffles there."

Secretary of State Condoleezza Rice will meet in London next week with her counterparts from the European Union, Russia and the United Nations to try to reach an agreement. "There will be a very healthy debate about how to encourage Hamas to eschew violence and get into the political process," one diplomat involved in the discussions said.

Hamas Presses Fatah In Palestinian Vote, Surveys Say (NYT)

By Steven Erlanger And Greg Myre

The New York Times, January 26, 2006

RAMALLAH, West Bank, Jan. 25 — Hamas, the militant Islamic party sworn to the destruction of Israel, won a large share of votes in the first Palestinian legislative elections in a decade, depriving the more secular Fatah party of its longstanding monopoly on power, surveys of voters leaving the polls indicated Wednesday.

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While those surveys showed Fatah with a narrow lead, the vote marked the first entry of Hamas into representative Palestinian politics, a fundamental change, and its strong showing raised questions about the near-term future of any peace talks with Israel.

The acting prime minister of Israel, Ehud Olmert, said his country could not accept a situation in which Hamas would be part of the Palestinian Authority if the group remained armed with unchanged goals.

Detailed results for the parliament's 132 seats are not expected until Thursday. Numerous Fatah candidates are competing against one another, which could allow Hamas candidates to win in some constituencies with a minority of the votes.

But judging from the polls, Fatah, though battered, should be able to form a working majority in coalition with other independent or secular parties like that of Salam Fayyad, the former finance minister who is considered a likely choice for prime minister. But Mahmoud Abbas, the Palestinian president, who will choose a prime minister, is thought to favor the inclusion of at least a few Hamas ministers to draw the party into the duties and responsibilities of government.

As voter surveys indicated that Fatah may have fended off the Hamas challenge, celebratory gunfire echoed through Ramallah's streets. The election itself went off remarkably smoothly, with little trouble at any of the more than 1,000 polling stations or in East Jerusalem, where Israel allowed Palestinians to cast "absentee ballots" in post offices. About 900 foreign observers, including former President Jimmy Carter and the former Swedish prime minister, Carl Bildt, monitored the voting. In a preliminary assessment, an official from a United States delegation called the voting "generally smooth, with sporadic violence and a robust turnout."

An exit poll from the Palestinian Center for Policy and Survey Research, headed by Khalil Shikaki, showed Fatah winning 42 percent of the national vote and Hamas 35 percent, with a margin of sampling error of 2 percentage points.

Another such survey from Birzeit University indicated that Fatah would get 46 percent of the vote to Hamas's 39 percent. That would mean Fatah would be short of a majority of the legislature's 132 seats. The leftist Popular Front for the Liberation of Palestine could get several seats, Mr. Fayyad's list would get a couple, as would another independent one and the leftist Badil list. The director, Nader Said, cautioned that the poll should be treated as indicative, not final.

Palestinian voters, candidates and analysts said they expected Hamas to take some cabinet positions in service or welfare ministries, thus joining the government, but in jobs that would not necessarily require contact with Israel. But Hamas could stay out of the government and remain a parliamentary opposition, telling its voters that its job is to keep Fatah honest and to protect those who fight against Israeli occupation.

Ahmed Mubarak, a Hamas candidate in Ramallah and an Islamic jurist, said that "I personally see no problem with being in the government if we were confident it will be for the sake of the people."

The Palestinian Authority is committed, under the internationally backed peace plan known as the road map, to dismantling armed militias and "terrorist capabilities and infrastructure."

Inside the government or out, then, Hamas is considered likely to keep the Palestinian president, Mr. Abbas — known as Abu Mazen — and the new government from pursuing serious negotiations with Israel on any basis that Israel is likely to accept.

In a meeting with Sen. Joseph R. Biden, Democrat of Delaware, Israel's acting prime minister, Mr. Olmert, said: "I will not negotiate with a government that does not meet its most basic obligations — to fight terrorism. We are prepared to assist the Palestinians and Abu Mazen very much but they must meet their commitments."

Israel, the United States and Europe all label Hamas a terrorist organization, and while American and European officials say they will not meet or deal with any Hamas officials, they will continue to have close relations with Mr. Abbas and a new Palestinian prime minister, much as they do in Lebanon, where Hezbollah, a radical Islamic party, has cabinet representation.

Mr. Abbas pressed for these elections against considerable opposition from inside Fatah, convinced that the only way to tame Hamas and turn it from an armed militia to a political party was through representative democracy. A normally stiff and shy man, Mr. Abbas looked positively happy on Wednesday morning as he voted with his wife and then posed for the television cameras.

"We are so happy with this election festival," he said. Palestinians were festive, too, coming out in large numbers to vote in an election they understood to be a vital moment for their own history. Turnout was estimated by officials at nearly 78 percent of the 1.3 million eligible voters.

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Mr. Abbas also had words of calm for Israel. "The Israelis should have no reason to be fearful but rather pleased as we are building a democracy which can serve as a base for peace between us," he said. "I am always ready for negotiations with the Israelis although they must want them on their side."

Israel is engaged in its own election campaign and with Prime Minister Ariel Sharon still comatose after a massive stroke, it is not likely any time soon to talk to any government containing Hamas representatives. The Hamas showing and what should now be done will be a major issue in the Israeli campaign, which ends March 28.

Although Mr. Abbas has promised Washington that he will move to disarm Hamas after these elections, there is considerable skepticism that he will be able to do so.

Voting himself on Wednesday, the head of Hamas's candidate list, Ismail Haniya, said: "The Americans and the Europeans say to Hamas: either you have weapons or you enter the legislative council. We say weapons and the legislative council. There is no contradiction between the two."

The comments point up the awkwardness of any Fatah-Hamas coalition. Fatah, a secular, nationalist movement, wants to restart negotiations with Israel based on the road map, the dormant peace plan that was introduced in 2003, and Mr. Abbas has often suggested parallel secret talks with Israel on a final agreement.

Hamas has waged a suicide bombing campaign and always rejected negotiations with Israel. During the campaign, some Hamas leaders toned down their rhetoric, and the group has largely abided by a truce announced early last year, and is expected to continue to do so, focusing on an internal agenda and keeping its promise to voters of "change and reform." Still, Hamas leaders say the group will not lay down its weapons.

The polling stations here in Ramallah were vivid with the yellow flags of Fatah and the green of Hamas and the colorful posters of individual candidates and others of the 11 party lists running, as candidates and party workers handed out election material and lobbied voters up until the entrance of the stations.

Voters were anxious but talkative, pleased with the process of democracy but worried about the results.

Mai Alami, a mother of three girls and one boy, said the election was vital and would bring some needed "fresh faces" to a stagnant politics in the wake of the death of Yasir Arafat more than a year ago. "But we're afraid of the Islamic party," she said, "not because we are against them, but because of their prejudice and their policies."

Fatah was being punished by voters for the misrule and corruption of the last 12 years, Ms. Alami said outside the busy polling station at the elegant stone Friends Boys School.

Her husband, Ali Khashen, a constitutional lawyer, said the election also gave legitimacy to independent candidates like Mr. Fayyad and Mustafa Barghouti. "But now with Hamas we may have more obstacles for the peace process just as Israel was becoming more receptive," he said. "We all formed our agenda around Fatah, and now we need a new strategy."

In East Jerusalem, Fida Abdellatif, an architect, said: "This election is different because there is a full spectrum of parties, which wasn't the case before. We hope this will produce a strong leadership that everyone can support."

Mr. Abbas hopes so, too. He met on Wednesday with Senator Biden, the ranking Democrat on the Senate Foreign Relations Committee, and suggested that he was considering ways to press Hamas to disarm, the senator said. "He said they'd have to choose in the end, that they can't be part of a government and have a militia," Senator Biden said. Mr. Abbas also asked the United States not to react too quickly to the Hamas vote and to continue to help him improve, reform and equip the Palestinian security services.

But the election also marked a fundamental change in Palestinian politics and a political earthquake rare in Arab countries.

"Fatah has decided to share power, that's the point," said Nader Said of Birzeit University here. "It's not easy for them, but in no Arab country I can think of has any ruling party wittingly shared power in a democratic process."

Mr. Said says that the transition will be difficult, and Fatah's own divisions will resurface. "But things will never be the same," he said. "Hamas has accepted to be a part of the political game, and it will never be able to be as militant or hard-line as it used to be, no matter its rhetoric."

Fatah, though its campaign finally came to life in the last 10 days, suffered from "tremendous disappointment in Fatah and the Palestinian Authority and Abu Mazen," said the pollster Khalil Shikaki. "There was anger about corruption, chaos, lack of law

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and order and a lot of disillusionment." Despite Hamas's participation and support, he said, the election "was not really about the peace process — in fact three-quarters of Palestinians support the peace process and negotiations" and are more moderate on final-status issues like Jerusalem and refugees than ever before.

"Fatah will get more votes than Hamas today," Mr. Shikaki said. "But this is the last opportunity Fatah will have to get its act together." And if Mr. Abbas does not choose a candidate for prime minister that can get the support of Fatah's younger generation, Mr. Shikaki said, "you could see Fatah split."

Mr. Shikaki said he believed that Hamas wanted to join the cabinet in some role, and that Mr. Abbas also wanted it to do so, but would not predicate participation on disarmament.

"Abu Mazen wants to disarm Hamas, but through consensus, not confrontation," he said. "Hamas won't agree to disarm as a precondition, but could agree to hand over weapons voluntarily."

Iran Says It Is Open To Russian Plan On Nuclear Program (WP)

By Peter Finn

The Washington Post, January 26, 2006

MOSCOW, Jan. 25 -- Iran's leading negotiator on nuclear issues said here Wednesday that his country was open to a compromise proposal from Russia that it enrich uranium for Iran on Russian soil to guarantee it would be used only for peaceful purposes, not to create nuclear weapons. But he said the idea needed fine-tuning in advance of further talks scheduled for the middle of next month.

"Our attitude to the proposal is positive," said Ali Larijani, head of Iran's Supreme National Security Council, after talks here with the secretary of the Russian Security Council, Igor Ivanov. "The project won't have the full potential to resolve all problems. It should be fine-tuned, together with other measures."

The foreign ministers of the five permanent members of the U.N. Security Council -- the United States, China, Russia, France and Britain -- plus Germany plan to meet Monday in London in advance of a Feb. 2 emergency session of the board of the U.N. International Atomic Energy Agency.

The United States, France and Britain are pushing for a vote at the IAEA to refer Iran to the Security Council, which can impose sanctions. They fear that Iran is attempting to develop nuclear weapons, and enrichment is a key step in that process. Iranian officials say their nuclear program is solely for the purpose of generating electricity but that Iran has the right to control of the entire nuclear fuel cycle.

The positions of Russia and China on referring Iran to the Security Council remain unclear. Russia, which has expressed doubts about the idea, is helping Iran build a nuclear power plant. Iran is a major supplier of energy to China, which needs power for its rapid industrialization.

Deputy Secretary of State Robert B. Zoellick said Wednesday in Beijing that he told Chinese Premier Wen Jiabao that it would be "extremely dangerous" to allow the proliferation of nuclear weapons in the Middle East and that it would damage China's interest in energy security. Larijani is scheduled to arrive in China for talks Thursday.

Larijani said Wednesday that if the Feb. 2 meeting referred Iran to the Security Council, the country would begin enrichment. "In this case," he said, "our activities will not be limited to research and we'll begin industrial enrichment of uranium."

Some Western officials fear that the Iranians are appearing to consider the Russian offer in order to buy time and prevent any Russian vote to send the matter to the council.

Iran Open To Nuclear Venture With Russia (NYT)

By Steven Lee Myers

The New York Times, January 26, 2006

MOSCOW, Jan. 25 — Iran's top nuclear negotiator, Ali Larijani, said here today that he welcomed a Russian proposal to defuse the confrontation between Iran and the West over its nuclear programs by establishing a joint venture to enrich uranium in Russia. But he indicated that no agreement had been reached and that significant details remained to be negotiated.

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"Our attitude to the proposal is positive," Mr. Larijani, the secretary of the Supreme National Security Council, said after meeting with his Russian counterpart, Igor S. Ivanov, Russian news agencies reported. "We tried to bring the positions of the two sides closer."

At the same time, he warned that Iran would begin enriching uranium on an industrial scale if Iran's nuclear program was referred to the United Nations Security Council. His remarks came a day after he and Mr. Ivanov said the confrontation should be resolved at the International Atomic Energy Agency, whose governors are to meet next week.

Although the Russian proposal has been seen as a possible compromise, Mr. Larijani's remarks made it clear that further discussions on it would not take place until later in February, after the meeting at the atomic energy agency's headquarters in Vienna.

Russia has publicized few details of the proposal, including whether Iran's involvement in a joint venture would simply be financial or whether it would be scientific as well. Russia had previously offered to produce uranium for a nuclear power plant it is building in Iran on condition that the spent fuel be returned to Russia for reprocessing.

"The big issue for the Russians will be how much the Iranians demand technical access to the processes," said Rose Gottemoeller, director of the Moscow Carnegie Center and a former nonproliferation official during the Clinton administration.

President Vladimir V. Putin of Russia expanded on the idea of a joint enrichment facility today by expressing support for establishing an international center for providing nuclear fuel to nations that seek to develop civilian nuclear power plants. He said that Russia "was prepared to set up an international center of this kind on its territory."

The idea of international enrichment centers, which has been endorsed by the atomic energy agency's director general, Mohamed ElBaradei, and others, would be to provide fuel under strict international supervision, negating the need for countries to develop their own enrichment capabilities and lowering the risk that civilian work could be used to support weapons programs.

Mr. Putin said that he would make the proposal a part of negotiations with leaders of the Group of Eight industrial nations later this year.

"Further development of peaceful uses of nuclear energy ranks among our priorities," he said, Interfax reported, at a meeting in St. Petersburg with leaders of former Soviet republics.

Iran Wants More Work On Nuke Deal (AJC/AP)

By Steve Gutterman, Associated Press Writer

The Atlanta Journal-Constitution, January 26, 2006

MOSCOW — Iran's top nuclear negotiator said Wednesday that a Russian proposal to enrich uranium for the Islamic republic needs more work, and renewed a threat that, if the issue is referred to the U.N. Security Council, Tehran will forge ahead with technology that can make nuclear arms.

Ali Larijani's comments came amid quickening diplomatic negotiations ahead of a crucial Feb. 2 meeting of the U.N.'s International Atomic Energy Agency, which could refer the issue to the Security Council. The 15-member council has the power to impose sanctions on Iran.

Larijani suggested it would take time to work out details of Russia's proposal — a Western-backed compromise that could provide more oversight and ease fears that Tehran is using its pursuit of atomic power as a front for a nuclear weapons program.

In Washington, President Bush said Russia's proposal offered the best chance for resolving the impasse, adding "it's important for us to exhaust all diplomacy" in dealing with Iran.

If such efforts do not work, Bush said, "clearly, there's a set of different options available through the Security Council, and now we're working with our friends to review those options." He made his remarks in an interview with The Wall Street Journal.

Iran, which insists its program is peaceful, has welcomed Moscow's suggestion that uranium could be enriched in Russia, then returned to Iran for use in the country's reactors. But haggling has continued over the specifics.

Uranium enrichment can produce fuel for nuclear reactors to generate electricity or, if sufficiently processed, the material for nuclear warheads.

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"Our view of this offer is positive, and we tried to bring the positions of the sides closer," Larijani told reporters Wednesday, a day after talks with Russian security council chief Igor Ivanov. "This plan can be perfected in the future, during further talks that will be held in February."

"There are lots of details surrounding this offer that must be must be decided — the location of the plant, the form of participation, technical cooperation," Larijani said.

Speaking to Iranian state television after returning to Tehran, Larijani said the "minds of Iran and Russia are getting closer" but more effort was needed.

Russian officials have said further talks on the proposal would be held in Russia around Feb. 16 — two weeks after the emergency IAEA board meeting in Vienna, Austria.

Larijani also said Tehran would welcome talks with European countries — though an Iranian proposal to renew talks with the European Union was recently rejected.

State television quoted Larijani as saying Iran was ready to negotiate with all countries except Israel. Iranian officials normally reject negotiations with both Israel and the United States and it was not clear whether his comments signaled a shift in position.

Larijani reiterated that any attempt to refer Iran to the Security Council would lead the country to move forward with a full-scale uranium enrichment program.

"If they use political pressure, if our dossier is handed over or opened in an unofficial way by the Security Council, then according to a parliament decision we are obligated to revoke the fulfillment of all moratoriums," he said. "In this situation, our actions will not be limited to research. Then we will begin industrial enrichment."

He said Tehran also would be obliged to forsake a 2003 agreement with the IAEA that gave the agency more power to inspect Iranian nuclear sites and warned of unspecified additional actions to be revealed "in due time."

Iran removed IAEA seals from equipment Jan. 10, ending a 15-month moratorium, and announced it would restart research on nuclear fuel including what it described as small-scale enrichment.

European countries believe they will have enough votes at the emergency IAEA board session next week to haul Iran before the Security Council — a move also favored by the United States — but they want broad support, especially from Russia and China. Moscow and Beijing, which have close commercial ties with Iran and wield veto power in the Security Council, are not eager to see the issue come before the powerful U.N. body.

The issue also was expected to come up Monday on the sidelines of a donors conference on Afghanistan in London, with the State Department saying Secretary of State Condoleezza Rice would use the forum to discuss Iran's nuclear program with key nations.

In Vienna, a diplomat accredited to the IAEA — who demanded anonymity because he is not authorized to discuss the planned meeting with the media — said Washington and the Europeans would use the meeting to try to persuade reluctant Russia and China to support referral.

Larijani, meanwhile, was expected to meet with top Chinese officials in Beijing Thursday.

On Wednesday, U.S. Deputy Secretary of State Robert Zoellick said he had warned Chinese officials that allowing Iran to develop nuclear weapons could threaten Beijing's crucial supplies of Middle Eastern oil.

The Russian enrichment plan presents President Vladimir Putin with an opportunity to please the West without sacrificing ties with Iran. Russia is building a reactor for Iran's first nuclear power plant.

Putin called for the creation of an international system of facilities to provide enrichment and other nuclear-cycle services to nations that want nuclear power. In televised comments Wednesday, he said Russia could establish the prototype facility on its territory.

Iran, Russia Fail To Reach Deal On Uranium Enrichment (WSJ/AP)

The Wall Street Journal, January 26, 2006

MOSCOW -- Iran's top nuclear negotiator said Wednesday that Tehran saw Moscow's offer to have Iran's uranium enriched in Russia as a positive development but no agreement has been reached.

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Chief negotiator Ali Larijani also reiterated Iran's threat to renew enrichment activities if it is referred to the United Nations Security Council.

After talks with Russian Security Council Chief Igor Ivanov, which included discussion of the plan to enrich uranium in Russia, Mr. Larijani told a news conference: "Our view of this offer is positive, and we tried to bring the positions of the sides closer." He added, "This plan can be perfected in the future, during further talks that will be held in February," speaking through a translator.

Mr. Larijani suggested that it would take some time to work out details of Russia's proposal. Some critics allege that the Iranians are using the proposal to stall for time as diplomatic pressure on Tehran mounts over its alleged nuclear-weapons program. "There are lots of details surrounding this offer that must be examined," Mr. Larijani said.

On Tuesday, Mr. Larijani and Mr. Ivanov said in a joint statement that Tehran's nuclear standoff must be resolved through the U.N. atomic watchdog agency's diplomatic efforts. The statement reflected Russia's efforts to delay Iran's referral to the U.N. Security Council and Moscow's opposition to international sanctions against Tehran.

"Both sides expressed their desire to solve the issue in a diplomatic way within the framework of the International Atomic Energy Agency," Russia's Security Council said after the two met.

Iran has warned that IAEA referral to the U.N. Security Council over its nuclear ambitions would lead it to move forward with a full-scale uranium-enrichment program, a possible precursor to making atomic weapons.

High-level diplomacy has intensified with little more than a week to go until the Feb. 2 meeting of the IAEA's 35-nation board.

Prior to that session, U.S. Secretary of State Condoleezza Rice will attend an international conference in London on Jan. 31 focusing on Afghanistan, but department spokesman Sean McCormack said Ms. Rice is expected to use the meeting to have discussions with key nations on Iran's nuclear program.

The New York Times reported the foreign ministers of the five permanent members of the U.N. Security Council -- Britain, France, Russia and China, in addition to the U.S. -- as well as Germany would attend the meeting.

Moscow has proposed having Iran's uranium enriched in Russia, then returned to Iran for use in the country's reactors -- a compromise that could provide more oversight and ease tensions. Haggling has continued over the specifics of the proposal, including Tehran's proposal to have China involved in the Russian enrichment process.

British Foreign Secretary Jack Straw urged Tehran on Tuesday to seriously consider Russia's offer to enrich Iran's uranium in an effort to end the standoff. Mr. Straw also said in an interview with the Associated Press that he hoped the IAEA would refer the matter to the Security Council.

The West fears Iran wants to develop a nuclear bomb, but Tehran says its intentions are peaceful and that it wants only civilian nuclear energy. Iran removed IAEA seals from equipment Jan. 10, ending a 15-month moratorium, and announced it would restart experiments including what it described as small-scale enrichment. The move led lead negotiators Germany, Britain and France to call for the Feb. 2 emergency board session.

European countries believe they have enough votes to haul Iran before the Security Council, but they want broad support including Russia, China and key developing nations.

In Washington, Ms. Rice said that "referral absolutely has to be made" on Feb. 2, while remaining vague on what action she thought the Security Council should take, and when.

Tehran Holds Up Russian Nuke Deal (WT/AP)

By Steve Gutterman

The Washington Times, January 26, 2006

MOSCOW -- Iran's top nuclear negotiator said yesterday that a Russian proposal to enrich uranium for the Islamic republic needs more work and renewed a threat that Tehran will forge ahead with the technology that can make nuclear arms if the issue is referred to the U.N. Security Council.

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Ali Larijani's comments came amid quickening diplomatic negotiations ahead of a crucial meeting next Thursday of the International Atomic Energy Agency (IAEA), the U.N. nuclear watchdog that could refer the issue to the 15-nation council, which could impose sanctions.

Mr. Larijani suggested that it would take time to work out details of Russia's proposal -- a Western-backed compromise that could provide more oversight and ease fears that Tehran is pursuing a nuclear weapons program.

Iran has welcomed Moscow's proposal that uranium could be enriched in Russia, then returned to Iran for use in the country's reactors. But haggling has continued over the specifics.

"Our view of this offer is positive, and we tried to bring the positions of the sides closer," Mr. Larijani told reporters yesterday, a day after talks with Russian security council chief Igor Ivanov. "This plan can be perfected in the future, during further talks that will be held in February."

Russian officials have said further talks on the proposal would be held in Russia around Feb. 16 -- two weeks after the emergency IAEA board meeting in Vienna, Austria.

Hans Blix, a former IAEA director and chief U.N. weapons inspector in Iraq, said yesterday that Tehran could be offered a package of incentives to wean it away from a nuclear program.

Mr. Blix, chairman of the Weapons of Mass Destruction Commission in Sweden, said the package could be similar to that offered to North Korea, with a focus on security.

"We promised not to attack North Korea, and we opened diplomatic relations," Mr. Blix said in an address to the Arms Control Association in Washington. "If it's done for North Korea, I don't see why it couldn't be done for Iran."

Mr. Larijani said Tehran would welcome talks with European countries. But he reiterated that any attempt to refer Iran to the Security Council would lead the country to move forward with a full-scale uranium-enrichment program.

"If they use political pressure, if our dossier is handed over or opened in an unofficial way by the Security Council, then according to a parliament decision, we are obligated to revoke the fulfillment of all moratoriums," he said. "In this situation, our actions will not be limited to research. Then we will begin industrial enrichment."

European countries think they will have enough votes at the IAEA board session next week to haul Iran before the Security Council, but Russia and China, which have close commercial ties with Iran.

Iran Welcomes Russia's Offer To Enrich Uranium Jointly; Details Remain (NYT)

By Steven Lee Myers

The New York Times, January 26, 2006

MOSCOW, Jan. 25 — Iran's top nuclear negotiator, Ali Larijani, said here on Wednesday that he welcomed a Russian proposal to defuse the confrontation between Iran and the West over its nuclear programs by establishing a joint venture to enrich uranium in Russia. But he indicated that no agreement had been reached and that significant details remained to be negotiated.

"Our attitude to the proposal is positive," Mr. Larijani, the secretary of the Supreme National Security Council, said after meeting with his Russian counterpart, Igor S. Ivanov, Russian news agencies reported. "We tried to bring the positions of the two sides closer."

At the same time, he warned that Iran would begin enriching uranium on an industrial scale if its nuclear program was referred to the United Nations Security Council. His remarks came a day after Mr. Larijani and Mr. Ivanov said the confrontation should be resolved at the International Atomic Energy Agency, whose governors are scheduled to meet next week.

Although the Russian proposal has been seen as a possible compromise, Mr. Larijani's remarks made it clear that further discussions of it would not take place until later in February, after the meeting at the atomic energy agency's headquarters in Vienna.

Russia has publicized few details of the proposal. It has not addressed, for example, whether Iran's involvement in a joint venture would simply be financial or whether it would be scientific as well. Russia had previously offered to produce uranium for a nuclear power plant it is building in Iran on condition that the spent fuel be returned to Russia for reprocessing.

"The big issue for the Russians will be how much the Iranians demand technical access to the processes," said Rose Gottemoeller, director of the Moscow Carnegie Center and a former nonproliferation official during the Clinton administration.

DOJ_NMG_0012049

Iran's Stonewalling At Heart Of Crisis (KRT)

By Jonathan S. Landay

Knight Ridder, January 26, 2006

WASHINGTON - U.N. International Atomic Energy Agency inspectors were anxious to learn if the military-run physics research center on the edge of Tehran was part of the uranium enrichment program that Iran had admitted hiding for 18 years.

But wrecking crews got in first.

Even as the inspectors waited in late 2003 for permission to enter, the top-secret Lavizan-Shian Technical Research Center was bulldozed flat and the tons of rubble and earth trucked into the desert and scattered, obliterating evidence that the IAEA had hoped to gather.

Iran's failure since then to fully explain activities at the site and its obfuscation, conflicting answers and stonewalling on other aspects of the enrichment program are at the heart of the crisis over its nuclear program.

The IAEA has been trying to determine whether Iran is developing nuclear arms behind the facade of a civilian nuclear project. Iran claims it has no weapons program.

Only by reconstructing the complete history and extent of Iran's nuclear work can the IAEA determine the truth. So far, that's been impossible.

"Even after three years (of investigation), I am not yet in a position to make a judgment on the peaceful nature of the program," IAEA Director General Mohamed ElBaradei lamented earlier this month to Newsweek magazine.

The dispute became a full-blown crisis on Jan. 10 when Iran ended a 26-month freeze on work on uranium enrichment, a method that produces fuel for both civilian power plants and warheads, depending on the duration of the process.

Iran claims the right to enrichment for peaceful purposes as a signer of the Non-Proliferation Treaty, the key international safeguard against the spread of nuclear arms.

But the IAEA board of governors in September declared Tehran in breach of its treaty obligations to disclose all aspects of its program to the IAEA. This includes complete information on Iran's deals with the Pakistani-led smuggling ring that also supplied the know-how and technology to develop nuclear weapons to Libya.

The United States, Britain, France and Germany are pushing to have the IAEA board ask the U.N. Security Council to step up pressure on Iran to answer the IAEA's questions.

In October 2003, Iran gave the IAEA what it declared was a full accounting of its nuclear program. Agency experts quickly began finding holes.

Iran has filled some gaps and is promising to fill the rest. But in a Nov. 18 report to the IAEA board, ElBaradei complained that "there still remain issues to be resolved" and Iran's "full transparency is ... long overdue."

The agency's most pressing questions concern Iran's work on the equipment used to enrich uranium, whether it got blueprints for a Chinese nuclear weapon, and more about what was going on at the razed Lavizan-Shian research center.

Here's what Iran has done in each of these areas and why the IAEA is concerned:

CENTRIFUGES: These are devices that are linked together in the thousands to separate uranium 235, the isotope used to fuel power plants and weapons, from uranium hexafluoride gas.

Tehran asserts that it's working only on the P1, an older centrifuge whose design it admitted buying as part of a 1987 deal with the smuggling network led by A.Q. Khan, the father of Pakistan's nuclear arsenal.

But IAEA experts who studied materials and documents that the Khan ring supplied to Libya concluded that, like Libya, Iran also received the design of the P2, a device twice as efficient as the P1.

Confronted by the IAEA, Iran admitted omitting from its 2003 declaration a 1995 purchase of P2 blueprints from the Khan network.

Iranian officials insisted that they did nothing with the blueprints until they were given to an engineering firm for limited research in 2002.

When IAEA inspectors visited the firm, they discovered that it had fabricated a P2 component from a specialized metal, maraging steel. They later determined that the firm had ties to the Iranian military.

Iran has dragged its feet on providing additional data on its P2 work.

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"We have a deep and wide body of intelligence that Iran has a parallel clandestine centrifuge program, but we have never been able to get coordinates," said a U.S. official, who requested anonymity because of the sensitivity of the issue. "We assume it is a P2 capacity they are focusing on."

Those suspicions grew after Iran told the IAEA that it broke the seals on a stock of maraging steel when it resumed enrichment work at Natanz, a key research facility, he said.

While the metal has limited applications in the P1 program centered at Natanz, "it is basically a necessity in the P2," said the U.S. official.

U.S. experts, he said, believe that Iranian officials may have resumed work at Natanz so they could use P1 machines to investigate and resolve technical hurdles in the suspected P2 program.

"It doesn't seem credible that they got P2 design information and it sat on a shelf," said Corey Hinderstein of the Institute for Science and International Security, a private research group that monitors the Iranian program.

Another unanswered question related to the P2 work "is the level of the involvement of military or military organs," she said.

OTHER KHAN RING DOCUMENTS: The IAEA has outstanding questions about the 1987 deal in which Iran admitted purchasing P1 blueprints and components and related documents from the Khan ring.

ElBaradei revealed in November that one document Iran provided contained specifications for casting and milling enriched uranium metal into hemispheres - which have no application in civilian power plants, but form the explosive core of nuclear warheads.

Iran said it didn't ask for the document and did nothing with it.

But an official close to the IAEA, who asked not to be identified further, said the issue is a serious one and agency investigators are interviewing former members of the Khan network to assess Iran's claim.

Another pressing question is whether Iran bought blueprints for a Chinese-designed nuclear warhead in 1987 from the Khan ring.

Documents provided to Iran by the Khan network were identical to papers that Khan sold to Libya, which received a Chinese nuclear warhead design.

"This is a fairly new concern that opens up a new avenue of investigation ... that Iran is blocking," said the U.S. official. "This to us is one of the key indicators of weapons intent by Iran."

WARHEAD RESEARCH: The IAEA opened an inquiry earlier this month into whether Iran has been secretly developing a nuclear warhead for its medium-range missiles.

The official close to the agency said that the Bush administration has turned over to the agency thousands of pages of computer simulations and studies that appeared to indicate that Iranian missile experts have been working on such a program.

The data came from a laptop computer obtained by U.S. intelligence officials in 2004 reportedly from a source in Iran, the official said.

Iranian officials deny that such materials exist.

THE BULLDOZED PLANT: The IAEA also is still investigating activities that took place at the Lavizan-Shian site.

Iran told the agency that research there involved the treatment of casualties of a nuclear attack and that the Tehran municipal government razed the facility after it prevailed over the military in an ownership dispute.

Environmental samples taken by IAEA inspectors when they were finally allowed into the site last summer found no traces of radioactivity.

Iran has been refusing to allow agency experts to interview senior officers who ran the center or to inspect equipment removed from it that had both civilian purposes and applications for centrifuge development.

"The IAEA has hard evidence of dual-use equipment ordered for Lavizan that almost certainly was used in a centrifuge research and development program," said the U.S. official.

US Moves To Delink Indian Nuclear Deal With Iran Vote (AFP)

AFP, January 26, 2006

DOJ_NMG_0012051

Washington moved to unlink a landmark US-India civilian nuclear deal with how New Delhi votes on the Iranian nuclear question at a key meeting of the UN atomic watchdog agency.

"Well, we deal with the Indian Government on these two issues as separate issues," State Department spokesman Sean McCormack told reporters on Wednesday. "Certainly, they come up in the same conversations, I'll tell you that," he said.

US Ambassador to India David Mulford had warned Wednesday that a historic deal giving American nuclear technology to India might fall through if New Delhi did not vote against Iran at the February 2-3 meeting of the International Atomic Energy Agency (IAEA).

The West wants to refer Iran to the UN Security Council amid concerns over its nuclear program heightened earlier this month when Tehran announced it was suspending a voluntary moratorium and resuming sensitive nuclear research work.

Western countries suspect Iran wants to build nuclear weapons under the guise of a civilian nuclear power program, a charge Tehran denies.

Mulford had said that a prospective deal for the United States to transfer civilian nuclear technology to India would "die" in the US Congress if India voted against a resolution on Iran.

If India decides not to back the resolution, "the effect on members of the US Congress with regard to (India-US) civil nuclear initiative will be devastating," Mulford told the Press Trust of India (PTI) news agency.

India, which carried out a string of nuclear tests in 1998 and declared itself to be a nuclear-armed state, bristled at Mulford's comments, saying New Delhi would be guided by its own national interest.

McCormack said Washington encouraged the Indian Government to vote for Iran's referral to the UN Security Council but "ultimately, that is going to be their decision."

But he recalled that last September, India voted along with the United States when Iran came up before the global atomic agency, a part of the United Nations.

Under the Indo-US nuclear deal, signed by US President George W. Bush and Indian Prime Minister Manmohan Singh last July, India would get advanced nuclear technology which it has been denied for 30 years for conducting nuclear tests and refusing to sign on to the nuclear Non-Proliferation Treaty (NPT).

For the deal to be approved, the United States wants India to separate its civilian and military nuclear programs under a plan that would place its civilian nuclear reactors under IAEA inspection.

Mulford said Washington felt the ideas put forth by India on nuclear programme separation had not met the "test of credibility".

US Says India Nuclear Deal May Depend On Iran Vote (WP/REU)

By Reuters

The Washington Post, January 26, 2006

NEW DELHI (Reuters) - The United States said on Wednesday a nuclear cooperation deal with India may stall unless New Delhi votes against Iran next month at the U.N. nuclear energy watchdog.

The International Atomic Energy Agency (IAEA) meets on February 2 to discuss whether to refer Iran to the U.N. Security Council over a nuclear program the West says is aimed at developing weapons, which Tehran denies.

The U.S. ambassador to India, David Mulford, told the Press Trust of India news agency that if India decided not to vote against Iran, "the effect on members of the U.S. Congress with regard to the civil nuclear initiative will be devastating."

The agency quoted Mulford as saying the deal would "die," but the government said it would vote based on its "own independent judgment."

U.N. chief Kofi Annan said on Wednesday the IAEA was unlikely to decide at that meeting what to do about Iran.

U.S. President George Bush and Indian Prime Minister Manmohan Singh agreed in July an accord on civil nuclear energy that would reverse a nearly 30-year-old ban on atomic cooperation with New Delhi, which has tested nuclear arms.

The deal has yet to be fully worked out, especially the key requirement of a separation plan for India's civil and military nuclear facilities, and must then pass a final test in the U.S. Congress and be agreed by the 44-nation Nuclear Suppliers Group.

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India surprised its historic ally Iran in September by siding with the West when the IAEA declared Iran had failed to comply with its international obligations.

Its role at next week's IAEA meeting is being keenly watched.

"The position India will take on this issue at the IAEA will be based on India's own independent judgment," the Foreign Ministry said in a statement.

"We categorically reject any attempt to link this to the proposed India-U.S. agreement on civil nuclear energy cooperation."

The first sign of trouble with the deal came last week when after talks with Indian officials U.S. Undersecretary of State Nicholas Burns said there were "difficulties" in finalizing it but that he remained hopeful.

The two sides were hoping to finish the pact before Bush visits the subcontinent in March.

U.S. Envoy Says India Nuke Deal Could Die (AP)

By Matthew Rosenberg

AP, January 26, 2006

The U.S. ambassador to India said Wednesday that a nuclear deal between India and the United States could "die" if New Delhi supports Iran during a U.N. atomic watchdog agency meeting. The State Department said the envoy was speaking for himself.

A week before the International Atomic Energy Agency meets to discuss Iran's nuclear program, Ambassador David Mulford said that if India does not vote to refer Tehran to the U.N. Security Council, it would be "devastating" to the deal currently before the U.S. Congress.

"I think the Congress will simply stop considering the matter," Mulford told the Press Trust of India news agency.

The deal, seen as a cornerstone of the emerging alliance between India and the United States, "will die in the Congress," he said.

The U.S. Embassy confirmed that Mulford was accurately quoted. The State Department in Washington said later that Mulford wasn't speaking for the U.S. government.

"The Ambassador was expressing his personal opinions about what the potential political outcome might be. He was giving his personal assessment of how the Congress might react to such an action by India," State Department spokesman Sean McCormack said.

Mulford's frank comments were the first time a senior U.S. official has made a direct link between India's stance on the Iran issue and the nuclear deal.

After Mulford's comments, India reiterated that the two issues should remain separate.

"We categorically reject any attempt to link (Iran) to the proposed Indo-U.S. agreement on civil nuclear energy cooperation, which stands on its own merits," Indian Foreign Ministry spokesman Navtej Sarna said in a statement.

"The position that India will take on this issue at the IAEA will be based on India's own independent judgment."

Under the deal, Washington is to share civilian nuclear technology and supply nuclear fuel to India in return for New Delhi separating its civilian and military nuclear programs and allowing international inspections of its atomic facilities.

The separation is necessary because the United States has only agreed to recognize India as having a civilian nuclear program — not as a legitimate nuclear weapons state.

The deal was signed in July when Indian Prime Minister Manmohan Singh visited Washington, and marked a major policy shift for the United States, which imposed sanctions on India in 1998 after it conducted nuclear tests. The restrictions have been lifted.

IAEA referral of Iran to the Security Council could lead to economic and political sanctions against Tehran, which the United States and European powers fear could use its nuclear program to develop weapons. Tehran insists its program is for generating electricity.

European countries believe they have enough votes at the IAEA, which will hold an emergency board session on Feb. 2, to haul Iran before the Security Council. But they are seeking support from Russia, China and key developing nations, such as India.

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New Delhi voted in September with the U.S. and European powers on an earlier IAEA resolution that could have led to Iran's referral to the council.

But the Indian government faced fierce domestic criticism over the move from its left-wing political allies, who accused it of selling out a longtime ally to curry favor with Washington. New Delhi has, in recent weeks, appeared hesitant to repeat the vote, instead urging negotiations with Tehran.

India, which has few domestic sources of fuel, also plans to build a 1,750-mile gas pipeline from Iran through Pakistan, a project that has raised concerns in Washington.

"We have made it known to (India) that we would very much like India's support because India has arrived on the world stage and is a very important player in the world," Mulford said.

Iran, Russia Closer To Uranium Deal (REU)

By Parisa Hafezi

Reuters, January 26, 2006

TEHRAN (Reuters) - Iran again threatened on Wednesday to start full-scale uranium enrichment if reported to the U.N. Security Council, while signalling interest in a Russian proposal aimed at calming its nuclear row with the West.

The council's five veto-wielding permanent members plus Germany plan to meet in London on Monday to try to resolve differences over whether to send Iran to the council at a crisis meeting of the U.N. nuclear watchdog on February 2, diplomats said.

They said foreign ministers of Britain, China, France, Russia, the United States and Germany would seek a consensus before the 35-nation board of the International Atomic Energy Agency (IAEA) gathers in Vienna to weigh what to do about Iran.

The United States and its European Union allies say it is time for the IAEA to turn Iran's nuclear dossier over to the Security Council. China and Russia have urged caution.

U.S. ambassador to India, David Mulford, suggested to the Press Trust of India news agency that a nuclear cooperation deal with India could collapse unless New Delhi voted against Iran next month at the IAEA. So far India has been non-committal.

But U.S. State Department spokesman Sean McCormack said how India voted was solely a decision for the Indian government.

"We deal with the Indian government on these two issues as separate issues," he said of the Iran vote and the U.S.-Indian nuclear agreement sealed last July.

U.N. Secretary-General Kofi Annan said he doubted any decision on referral could be reached at the February 2 meeting.

Iranian Foreign Minister Manouchehr Mottaki said his country would immediately halt voluntary dealings with the IAEA, which include snap checks on its atomic sites, if sent to the council.

Iran, going beyond its Non-Proliferation Treaty obligations, allows impromptu inspections by the U.N. nuclear watchdog.

Mottaki urged the Britain, France and Germany to renew talks they halted this month when Iran removed U.N. seals on uranium enrichment equipment and resumed nuclear fuel research.

RUSSIAN PROPOSAL

Iran's top nuclear negotiator Ali Larijani said after talks in Moscow he was positive about the idea of setting up a joint venture with Russia to purify uranium on Russian soil.

He said the plan could be "perfected" at talks in Moscow set for February 16 -- two weeks after the IAEA board meeting.

The proposal aims to prevent Iran gaining technology that could be used for military purposes. Iran says it does not want atomic bombs, but has the right to enrich uranium at home.

Foreign Secretary Jack Straw reiterated that the Russian proposal was welcome if it enabled Iran to receive nuclear fuel that was processed safely outside its borders.

"That may provide a solution," he told a news conference in Cyprus. "But what the world is also looking for is for Iran to stop the beginnings of running its centrifuges. That's essential if it is to avoid reference to the Security Council."

Annan said it was encouraging to hear the Iranians say they were considering the Russian offer seriously. "It is a solution that the international community is ready to accept," he told Reuters on the sidelines of the World Economic Forum in Davos.

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He said he was not sure any decision on referring Iran to the council could be taken before the IAEA board gets a report that the agency's chief Mohamed ElBaradei aims to deliver at the end of February for a regular board meeting in March.

ElBaradei has already rejected Western pressure to provide a full report for the emergency meeting.

IAEA safeguards investigators led by deputy agency director general Olli Heinonen flew to Tehran on Tuesday to try to get Iran to reveal more about its past nuclear activities.

Larijani, who begins a visit to China on Thursday, warned that referral would prompt Iran to begin large-scale enrichment.

Mottaki said there was no way Iran would suspend its atomic fuel research programme, a step the EU trio has made a condition for any renewal of talks that began in 2003.

Russia and China are reluctant to see Iran hauled before the council, which has the power to impose sanctions, and do not back a draft EU resolution asking the IAEA for referral.

An EU diplomat said Moscow wanted the IAEA only to "inform" the council about Iran. He said China had told the EU it had its own proposal, but had not submitted it in writing.

(Additional reporting by Mark Heinrich in Vienna, Oliver Bullough in Moscow and Madeline Chambers in London)

Annan Doubts West Can Make Iran Decision In Feb (REU)

By Evelyn Leopold

Reuters, January 26, 2006

DAVOS, Switzerland, Jan 25 (Reuters) - U.N. chief Kofi Annan said on Wednesday he doubted that a U.N. nuclear watchdog would be able to come to a decision by early February on referring Iran to the Security Council over its nuclear programme.

Annan told Reuters that Mohamed ElBaradei, the director-general of the Vienna-based International Atomic Energy Agency, did not expect to have a report on Iran ready until the end of February, for the IAEA's regular board meeting in March.

"I am not sure that they will be ready to refer (Iran) to the Security Council if the official report of the board has not been released and deliberated upon by the board and a decision taken," Annan said on the sidelines of the World Economic Forum.

The IAEA is scheduled to discuss the crisis on Feb. 2.

The United States and its European Union allies say it is time for the IAEA to turn Iran's nuclear dossier over to the Security Council. Russia and China are urging caution.

The United States, Britain, France, Russia and China, the five veto-wielding powers of the 15-member Security Council, plus Germany plan to meet in London on Monday to try to resolve differences over whether to send Iran to the council. Both Russia and China to date have opposed a formal referral.

Annan said he was encouraged by comments from Iran's top nuclear negotiator Ali Larijani, who said after talks in Moscow, he was positive about the idea of setting up a joint venture with Russia to purify uranium on Russian soil.

Larijani said the plan could be "perfected" during talks in Moscow scheduled for Feb. 16 -- two weeks after the IAEA board meeting.

Annan previously appealed to Iran to scrap its decision to stop nuclear research and return to negotiations with France, Britain and Germany. He has said a Security Council referral, which could lead to sanctions, should be a last resort.

On Wednesday, he said: "As you know, I have appealed to the Iranians not to escalate, maintain the situation as it is today in order to create the right environment and confidence that negotiations are serious and lead to concrete results that would be mutually acceptable.

"It is also encouraging to hear the Iranians say they are considering the Russian offer very seriously. It is a solution that the international community is ready to accept."

Iranians Accuse British Military Of Aiding Bombers (WP/REU)

By Reuters

The Washington Post, January 26, 2006

TEHRAN, Jan. 25 -- Iran accused the British military on Wednesday of cooperating with bombers who killed eight people in southwest Iran, an allegation Britain described as ludicrous.

DOJ_NMG_0012055

A little-known group campaigning for independence for Iran's Arab minority asserted responsibility in a Web statement for Tuesday's attacks on a bank and government building in the oil city of Ahvaz.

Foreign Minister Manouchehr Mottaki said that London's involvement was clear and that Tehran would make strong protests. He said the attackers "enjoy the cooperation of British army commanders and use their facilities in Basra," the oil city in southern Iraq.

A spokesman in British Prime Minister Tony Blair's office said Iran's allegation "deserves to be treated with scorn by the whole international community."

U.N. Council Backs Monitors In Lebanon (REU)

By Reuters

Reuters, January 26, 2006

UNITED NATIONS, Jan. 25 — (Reuters) — The members of the United Nations Security Council have agreed that United Nations peacekeepers should keep monitoring the Israeli-Lebanese border for six more months, the current Council president said on Wednesday.

Lebanon had asked for a renewal of the mandate of the United Nations' peacekeeping mission for the border area for a year, until Jan. 31, 2007.

But the 15 Security Council members instead reached a consensus on an extension until July 31, said Augustine Mahiga, the United Nations ambassador from Tanzania, which holds the Council presidency for January.

The mandate of the 2,000-member United Nations Interim Force in Lebanon will expire on Jan. 31 unless renewed by the Council. A vote on a resolution prolonging the mission is expected on Monday or Tuesday, Council diplomats said.

While the mission has been in place since March 1978, a draft resolution circulated by France on Wednesday would emphasize "the interim nature" of the mission and emphasize that the Council was "looking forward to the early fulfillment of its mandate."

The draft would also urge Israel and Lebanon to put an end to violations of their shared border and would renew appeals to Lebanon's government to extend its authority across the south, to prevent attacks on Israel from its side of the border.

The Security Council and the United Nations secretary general, Kofi Annan, have regularly pressed the Lebanese government to assert control over the south since Israel pulled out of the region in May 2000, ending 22 years of occupation.

The militant group Hezbollah dominates the southern part of the country, profiting from a power vacuum there. Hezbollah guerrillas have sporadically clashed with Israeli forces.

The Council and Mr. Annan have been urging the Lebanese government to disarm Hezbollah, in line with a September 2004 Council resolution demanding that all foreign militias on Lebanese soil be disbanded.

But Hezbollah has refused to disarm, and last year it joined the Lebanese government after its candidates did well in June parliamentary elections.

White House Slams Mexico For Aid Maps (WT)

By Nicholas Kralev And Jerry Seper, The Washington Times

The Washington Times, January 26, 2006

The Bush administration yesterday accused the Mexican government of facilitating illegal entry into the United States after Mexican officials said they would distribute maps of dangerous border areas and posters with safety instructions and other tips.

Mexico's National Human Rights Commission (NHRC) said the maps, which would provide details of the terrain, cell-phone coverage and water stations set up by the U.S. charity Humane Borders, would help to save lives.

"We oppose in the strongest terms the publication of maps to aid those who wish to enter the United States illegally," said Homeland Security Secretary Michael Chertoff. "It is a bad idea to encourage migrants to undertake this highly dangerous and ultimately futile effort.

"This effort will entice more people to cross, leading to more migrant deaths and the further enrichment of the criminal human trafficking rings that prey on the suffering of others," he said.

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State Department spokesman Sean McCormack said the United States would "take whatever steps it deems necessary to protect its own borders."

"No government, including the government of Mexico, should facilitate or encourage its citizens to try to enter the United States outside established legal procedures," he said.

Rafael Laveaga, spokesman for the Mexican Embassy in Washington, said the NHRC is an independent body and receives no government funds. He said the commission is working with Humane Borders in distributing the maps.

Hundreds of Mexicans die every year while crossing the southern U.S. border illegally in search of a better life in the United States. They sometimes walk in temperatures that exceed 110 degrees.

The NHRC said it would distribute about 70,000 posters beginning in March, mostly in border towns and villages, as well as bars and restaurants frequented by emigrants.

The commission also said the posters show the estimated time it takes to walk or drive to nearby cities, note with red dots where migrants have died in the past and mark the location of water stations and emergency beacons set up by U.S. authorities.

"This is going to give people a false sense of security," said Shannon Stevens, a spokeswoman for the U.S. Border Patrol in Tucson, Ariz. "This is going to give them the idea that they are better educated so they can cross the border easier."

But Mexican officials disagreed, saying that illegal border crossing by thousands of people each year is a fact of life and that they are simply trying to prevent tragedies.

"Without a doubt, these maps will enable many lives to be saved," Mauricio Farah, an inspector with the NHRC said in Mexico City. "We are not trying in any way to encourage or promote migration. The only thing we are trying to do is warn them of the risks they face and where to get water, so they don't die."

Mexican officials also said that the posters would warn potential emigrants not to believe promises of an easy journey from smugglers. "Don't Do It," the posters say. "It's Hard. There's Not Enough Water."

At the same time, they advise migrants to travel with someone they trust and bring enough water and food, phone numbers of relatives, identification, and shoes adequate for a long and difficult journey.

Last year, the Mexican government issued a comic-style book as a guide to migrants on how to cross the border and avoid detection. It included "practical advice" on when and where to enter and what to wear and other instructions, including a tip to avoid sending children with strangers.

Illegal migration has become a thorny issue in the U.S.-Mexico relationship.

Mexican President Vicente Fox has called for a "status of regularization" for Mexicans illegally in the United States, which would allow them to remain as long as they were employed. He also has criticized recently approved legislation in the House authorizing the construction of 700 miles of fence on the U.S.-Mexico border and the designation of illegal entry as a felony.

"What is not resolved by intelligent policies and by leaders is resolved by citizens. That is how the Berlin Wall fell and that is how this wall will fall," he told Reuters news agency Tuesday. "I hope it isn't even built because, if it is, it will fall."

Migrants working in the United States are a huge source of revenue for Mexico, sending home an estimated $16 billion a year -- Mexico's second largest source of foreign currency after oil exports.

The Mexican government has vigorously lobbied U.S. lawmakers and civic leaders for a guest-worker status for millions of illegal aliens in the United States, working through a coalition of U.S.-based immigration rights groups.

Part of the Fox administration's effort to assist Mexican nationals in this country has included a move to adopt the consular or "matricula" identification cards issued to its citizens in the United States. The cards assist Mexican nationals in sending money home.

•This article is based in part on wire service reports.

Sheriff Demands Probe Of Incursions (WT)

By Jerry Seper, The Washington Times

The Washington Times, January 26, 2006

A Texas border sheriff yesterday demanded that the U.S. and Mexican governments investigate incursions into the United States by heavily armed drug escorts dressed in Mexican military uniforms "before someone gets killed."

DOJ_NMG_0012057

Zapata County Sheriff Sigifredo Gonzalez Jr., who heads the Texas Sheriff's Border Coalition, said a growing number of suspected incursions and violence aimed at the area's law-enforcement officers is making the border "a pretty dangerous place."

"We have tried everything we know to make the federal government aware of the problems at the border and how they have affected us," said Sheriff Gonzalez, who has fewer than two dozen deputies to patrol 1,000 square miles, including 60 miles of Texas-Mexico border.

"It appears our government is covering this thing up because it just doesn't want to admit there is a problem," he said. "Trade between the United States and Mexico may be more important to Washington than human lives."

His comments come in the wake of an incident Monday in which U.S. law-enforcement authorities in Hudspeth County, Texas, confronted several men in Mexican military uniforms who were accompanying drug smugglers. The "soldiers" were in a camouflaged Humvee with a mounted .50-caliber machine gun, said Hudspeth County Sheriff Arvin West.

Yesterday, Sen. Kay Bailey Hutchison, Texas Republican, said she was "deeply concerned" about the possible incursions and asked Homeland Security Secretary Michael Chertoff to "fully investigate this matter and report to Congress the details and confirm whether or not Mexican military officials were involved.

"But make no mistake -- this is only a symptom of a much larger problem," she said. "Even after September 11, our nation's borders remain porous. We must take bold action in securing our borders."

The Mexican government has denied that the men in any of the incidents were soldiers, saying that some drug smugglers dress in military-style uniforms, carry automatic weapons and drive military-style vehicles.

Sheriff Gonzalez said he could not confirm that the men were soldiers, but said he was skeptical of the denials by the Mexican government. He described the suspected soldiers as "very military looking, clean cut and in good physical condition -- not your average drug smuggler."

"When you spot a Humvee with military paint on it and a .50 caliber machine gun, this leads you to suspect that it's not a vehicle being used by drug lords," Sheriff Gonzalez said.

In Monday's incident, Hudspeth sheriff's deputies pursued three SUVs back to Mexico after spotting them driving north from the Rio Grande. Sheriff West said the pursuit ended on the U.S. side of the border when the deputies -- joined by Texas state troopers -- encountered at least 10 heavily armed men in what he described as battle dress uniforms.

Sheriff West said deputies found 1,400 pounds of marijuana in one of the vehicles abandoned after it blew a tire early in the pursuit. Another made it into Mexico and a third got stuck in the Rio Grande and was burned by the "soldiers" after it was unloaded, said Sheriff West, who is a Border Coalition member.

No shots were fired and no injuries were reported.

U.S. Customs and Border Protection spokeswoman Kristi M. Clemens said the Hudspeth County incident is under investigation and CBP is "coordinating closely" with the federal, state and local authorities. She said the government also has discussed the matter with Mexico and is asking for a thorough investigation and response.

California Republican Reps. David Dreier and Duncan Hunter have asked three House committees and the Department of Homeland Security to investigate suspected incursions by the Mexican military. Sen. Jon Kyl, Arizona Republican, also asked Secretary of State Condoleezza Rice to "initiate an official investigation" and "open a dialogue with Mexico to prevent any future incursions."

In November, Sheriff Gonzalez said Hudspeth deputies chased a dump truck, which also fled and got stuck in the Rio Grande. He said men dressed in uniforms showed up and threatened the deputies with machine guns. He said the men then bulldozed the truck back into Mexico.

On the border in Zapata County in September, he said, three of his deputies spotted 25 men dressed in military uniforms in the U.S. during a late-night patrol. He said that the men marched two abreast and carried duffel bags and automatic weapons, and that his outmanned and outgunned deputies retreated.

"The only thing you can do in that kind of situation is seek cover," Sheriff Gonzalez said. "I'm not going to lose someone in an unfair fight."

Reports Cite Incursions On U.S. Border (LAT)

By Richard Marosi, Robert J. Lopez And Rich Connell, Times Staff Writers

The Los Angeles Times, January 26, 2006

Armed Mexican government personnel made unauthorized incursions into the United States five times in the last three months of 2005, including one incident last month in Southern California, according to confidential Department of Homeland Security records.

The crossings involved police officers or soldiers in military vehicles and were among 231 such incidents recorded by the U.S. Border Patrol in the last 10 years.

The records obtained by The Times provide new details on more than a dozen incursions into the U.S., including the five most recent ones.

Details of the incidents emerged as authorities on both sides of the border scrambled to investigate a dangerous confrontation Monday in Texas.

Heavily armed personnel in a military-style Humvee from Mexico helped drug smugglers fleeing police to escape back across the border, according to authorities. An internal Border Patrol summary of the incident said the Humvee was equipped with a .50-caliber machine gun.

It was the second such incident in three months in the same rural county southeast of El Paso.

"It's clear you're dealing with a large number of incursions by bona-fide Mexican military units, based on the tactics and the equipment being used," said T.J. Bonner, a Border Patrol veteran and president of the agents union.

Reports of incursions into the U.S. by gun-toting groups of men dressed in what appeared to be military or police uniforms along the Mexican frontier have become a powerful rallying point for advocates of illegal immigration crackdowns and tighter border security.

The incursions have also intensified a long-running debate over the merits of fencing the 2,000-mile Mexican border, now a patchwork of metal barriers, rusted and broken barbed wire and expanses of rugged terrain where the divide is difficult to identify. In Texas, the Rio Grande separates the two nations.

U.S. Border Patrol Chief David V. Aguilar said that incursions by Mexican government personnel were nothing new, and that U.S. agents on occasion have crossed accidentally into Mexico. He noted that incursions have declined by more than 50% since 2002. Still, with assault rates against agents at record highs, any incursion is taken "very seriously."

"These are not taken lightly at any level within the Border Patrol … and it is an ongoing concern," Aguilar said.

U.S. Sen. Jon Kyl (R-Ariz.) said in an interview Wednesday that this week's incident in Texas was "about as serious as it gets" and noted that dozens of reported incursions have occurred in his state.

The encounters seriously undermine efforts to stop the flow of drugs coming across the U.S. border and suggest possible cooperation among Mexican authorities and traffickers, he said.

"You do not want to get into a fight with guys carrying machine guns," said Kyl, chairman of the Senate Judiciary Subcommittee on Terrorism, Technology and Homeland Security.

He has asked the State Department to investigate the incursions and said that he plans to hold a hearing on the issue in March. Rep. Tom Tancredo (R-Colo.), a leading anti-illegal immigration lawmaker, called this week for U.S. troops to be deployed along the border to counter armed incursions.

Mexican officials on Wednesday denied that their police and military have been involved in illicit crossings but said they are investigating Monday's incident.

In recent interviews, local and federal law enforcement officials in south Texas and the San Diego area said a long pattern of encounters with Mexican government units along the border have bolstered suspicions that their counterparts work with smugglers. In Laredo, Texas, authorities said they have repeatedly seen Mexican military units clearing people from brushy areas along the south banks of the Rio Grande shortly before loads of migrants and drugs are brought across.

Several of the incidents described in the Department of Homeland Security reports appeared to involve Mexican officials getting lost or pursuing suspects. For example, five Tijuana police officers pursued two men across the border in 2004. Some of the officers fired at the suspects while on U.S. soil, according to a Border Patrol report. The police returned to Mexico after arresting the men.

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Other encounters were more suspicious and add to concerns among many U.S. law enforcement officials that corruption in Mexico is eroding efforts to gain control of the border and combat trafficking in humans and drugs.

In October, Border Patrol agents in the El Cajon area east of San Diego reported seeing Humvees on the south side of the border fence. Minutes later, they saw two men in Mexican military uniforms carrying rifles in a creek bed north of the border, according to the records. When an agent approached, the two men ran south and drove off in the Humvees. Agents found footprints indicating three or four individuals had come north of the border and then returned.

Other incidents included Mexican helicopters flying north into U.S. airspace near El Paso for about 15 minutes, five Mexican officials armed with assault rifles entering the country near El Centro and returning without incident, and two Mexican police officers observed wandering along the U.S. side of the border near Yuma, Ariz.

Witnesses in El Paso reported in 2004 that a Mexican military-style helicopter landed just south of the border and armed men in federal police uniforms crossed into the U.S. and questioned them about vehicles before returning to Mexico, according to a Border Patrol report.

A spokesman for the Mexican Embassy in Washington, Rafael Laveaga, said Wednesday that he had not seen the report and declined to comment.

He said there have been accidental entries across the border in recent years by both U.S. and Mexican law enforcement personnel. As a result of those incidents, Mexican military units are prohibited from coming within a mile of the U.S. border unless they receive authorization from commanders to pursue criminals, Laveaga said.

Many U.S. law enforcement authorities paint a different picture.

"Every time traffickers come across, the military is close by," said Sheriff Arvin West of Hudspeth County, Texas, where Monday's standoff occurred. He said military crossings occur weekly in his county and are so common that "people don't even report it anymore."

Monday's incident is being investigated by U.S., Texas and Mexican authorities. But initial accounts appear to make it one of the clearest examples yet of either private militia or government troops aiding traffickers.

A confidential Border Patrol summary of the incident said it began when county sheriff's deputies and state troopers tried to stop three vehicles on an interstate highway southeast of El Paso. All three vehicles made a run for the border, the report said.

One vehicle, a black 2006 Cadillac Escalade loaded with nearly 1,500 pounds of marijuana in plastic-wrapped bales, was abandoned near the border, West said.

As deputies approached the river they saw a Mexican military Humvee on the U.S. side, West said. A second vehicle bogged down in ankle-deep water in the Rio Grande, while the other made it back to Mexico.

"The Humvee attempted to push and pull [the stuck vehicle] toward Mexico to no avail," the Border Patrol summary said.

At that point, West said, Mexican soldiers and civilians began unloading marijuana from the stranded vehicle. About 20 Mexican personnel in military uniforms, with insignias on their caps, took up positions on the south side of the river and pointed automatic rifles at about half a dozen sheriff's deputies and state troopers.

"They were daring my guys to make a move," West said.

As deputies took photos, the uniformed men burned the vehicle after it had been unloaded, then retreated into Mexico.

Laveaga, the Mexican embassy spokesman, said his country's military units in the area do not use Humvees or the types of weapons described by U.S. authorities. He noted that Mexican drug-smuggling rings have been known to use military uniforms and weapons.

Bonner, of the border agents union, questioned how anyone "can move around in a Humvee with a 50-cal on it unless they have the permission of the government."

West said the confrontation was similar to an incident in mid-November in the same area. In that incident, sheriff's deputies and Border Patrol agents who intercepted a disabled dump truck filled with several tons of marijuana were backed off by heavily armed, uniformed men described by West as military personnel.

A bulldozer appeared on the Mexican side, West said, and towed the truck back across the border.

Texas has launched its own investigation of this week's incident, said Rachael Novier, a spokeswoman for Gov. Rick Perry. Regardless of who was involved on the Mexican side, she said, "it was unacceptable."

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Why Mexico Helps US Fight Terror (CSM)

By Faye Bowers

The Christian Science Monitor, January 26, 2006

TUCSON, ARIZ. - A top priority of the United States government is to prevent a determined terrorist from crossing the US-Mexico border. It is also becoming a primary mission for Mexico - and the first place it's focusing on is the 375-mile, desolate stretch of land that abuts Arizona.

In addition to sharing intelligence and cooperating on investigations with its US counterparts in Arizona, Mexico last year set up three checkpoints along known human-smuggling routes on its side of the border and plans to add two more.

Between August, when the checkpoints became operational, and December, Mexican officials stopped 1,277 non-Mexicans (OTMs, for "other than Mexicans") from crossing into Arizona, according to a Mexican government report obtained by the Monitor. The report shows that most of the OTMs came from Central and South America, but seven are listed as Iraqis.

FBI officials decline to say if they know what became of the Iraqis detained in Mexico. The seven - believed to have been apprehended simultaneously at one checkpoint - could be members of a single family or unrelated individuals simply trying to find a better life in the US. But they also could have been trying to illegally cross the southern border for nefarious purposes.

That's where the additional checkpoints could prove crucial.

The Mexican government has "an immense interest in making sure terrorists don't cross from Mexico into the US," says Ben Peres of the FBI office in Tucson, the bureau's liaison here with Mexico on cross-border issues. "If something were to harm the US, it would harm them, too."

Government officials and terror experts have long fretted about the porous border between the US and Mexico. With the onset of the Iraq war in 2003, they worried that teams of Iraqis might cross the border to set off terror attacks inside the US, and they say they know that people tied to Al Qaeda have entered the US through Mexico using false identities. One they cite is Mahmoud Youssef Kourani, who paid to be smuggled across the US-Mexico border in 2001 and later was convicted and imprisoned for providing material support to Hizbullah, which is on the US list of terror groups.

Last March, US officials intercepted a letter purportedly written by Abu Musab al-Zarqawi, the Al Qaeda leader in Iraq, who suggested to his acolytes that it would be easy to infiltrate the US through the southern border.

For its part, the US government is apprehending record numbers of illegal immigrants on the Arizona side of the border. In 2005, Border Patrol officials nabbed 577,418 illegals. Of those, 14,323 were non-Mexicans - up from 9,974 in 2004. Most OTMs came from Central and South America. But 407 came from elsewhere, some from nations designated as "countries of interest," meaning those that are known to harbor terrorists.

US Customs and Border Patrol officials say the number of OTMs from "countries of interest" is small. But they don't divulge these because of "national security and law-enforcement sensitivity issues," says Michael Gramley, Border Patrol spokesman in Yuma, Ariz.

"Borders inherently are dangerous places where the state has the least amount of control and supervision," says Adrian Pantoja, a political scientist at Arizona State University in Tempe. Measures that have been put into place to secure the border so far, he says, are largely symbolic.

"If the US wanted to seal the border with Mexico it could. Look at the demilitarized zone between South Korea and North Korea," Dr. Pantoja says. "The dilemma is really between political will and economic necessity. How do you protect the nation's security while ensuring its economic well-being?"

Still, cooperation between Mexico and the US is steadily improving on the issue of illegal entry of OTMs, FBI officials say. Although they cannot discuss the Iraqis' case specifically, the officials explain how the current system works.

OTMs detained on the Mexican side of the border are screened by Mexican officials for possible criminal or potential terror activities. If evidence of wrongdoing surfaces, Mexican intelligence officials, in turn, share that information with US Immigration and Customs Enforcement (ICE).

ICE officials then pass that information to the Joint Terrorism Task Force, in a weekly meeting. In Tucson, the JTTF is made up of an FBI official, who leads the effort, and representatives from Border Patrol, ICE, the Drug Enforcement Administration, the Arizona state police, and two county sheriff's departments.

"It would be our job to corroborate that information and act appropriately, or debunk it," says the FBI's director of the JTTF in Tucson.

FBI agents in Tucson describe a successful operation in which they have worked with their Mexican counterparts to stop a cross-border people-smuggling ring, one with potential terrorism risks. A joint sting operation led to the arrest last May of Iranian-born Zeayadali Malhamdary, a legal permanent resident of the US. Mr. Malhamdary is now in Arizona awaiting trial on charges of smuggling illegal immigrants into the US. Officials say he smuggled in about 60 Iranians via Mexico - and provided high-quality fraudulent documents for entry into the US. The FBI says it is tracking down the 60 Iranians.

States Weigh Immigration Controls Congress Moving Too Slow For Some (USAT)

By Dennis Cauchon

USA Today, January 26, 2006

Frustrated by slow action in Congress, state legislatures are debating whether to increase border enforcement at their own expense, fine employers who use undocumented workers and get local police involved in deporting them.

It's unclear how far the proposals would go because, like Congress, legislatures are divided on what to do about the estimated 11 million undocumented immigrants who provide a low-wage workforce in the USA. Federal law may limit state power on actions such as penalizing employers, says Ann Morse, an analyst at the National Conference of State Legislatures.

Immigration policy is one of the hottest issues as 37 legislatures convene this month. Last year, states considered 300 immigration laws and approved 40. That number is expected to rise this year, Morse says.

The immigration proposals are part of a larger trend of states getting involved in traditionally federal issues ranging from pollution control to prescription drug prices. Congress is considering changes to immigration policies — a border fence, a guest worker program — but it's uncertain whether action will be taken this year.

Among the state proposals:

•Arizona is debating installing a radar system and video cameras along the state's 340-mile border with Mexico. The proposed $50 million system would alert law enforcement when crossings occur.

•About a dozen states are considering employer sanctions, Morse says. Kentucky's proposal, for example, would fine employers up to $5,000 for knowingly hiring undocumented workers.

•Border states and a few others are ready to spend their own money on immigration enforcement. State and local police would be asked to check the residency status of people arrested or given traffic tickets under some proposals.

Away from the Mexican border, Minnesota Gov. Tim Pawlenty wants to create a team of 10 state agents to police undocumented immigrants, charging them with state crimes such as identity theft or turning them over to federal authorities. “The federal government hasn't been doing a good job, so states have to play a role,” says Pawlenty, a Republican.

Flavia Jimenez, a policy analyst at the National Council of La Raza, a Latino civil rights group, says the legislative activity “reflects real concern about the failure of Congress to pass real immigration reform.” She says the job is best left to the federal government, and states will face a costly task if police get involved in determining people's immigration status.

'Keep America, America' (WSJ)

By Andrew S. Grove

The Wall Street Journal, January 26, 2006

Recently the House of Representatives passed an immigration bill -- the Sensenbrenner-King bill -- by a vote of 233 to 189. It is now on its way to the Senate.

This bill scares me.

It's not likely to affect me directly. I'm no longer in day-to-day business, nor do I have regular contact with immigrants. But it scares me because it has the potential of turning neighbor against neighbor -- and of changing our country into a place of fear and mistrust.

Let me illustrate. The bill contains a provision punishing anyone who "assists, [or] encourages . . . a person who . . . lacks lawful authority to remain in the United States" to remain here. Punishment: three to 20 years in prison, the same punishment meted out to professional smugglers who profit from transporting illegal aliens across the border.

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This could change the nature of our society in a way that I have seen firsthand. As a Jewish child hiding from the Nazis in Hungary, I saw how the persecution of non-Jewish Hungarians who hid their Jewish friends or neighbors cast a wide blanket of fear over everyone. This fear led to mistrust, and mistrust led to hostility, until neighbors turned upon neighbors in order to protect themselves. Is this what we want?

Consider the potential effect of this bill. Victims of the hurricane that devastated New Orleans more often than not did not have proof of their immigration status. Relief workers who helped them -- for example, by providing schooling to their children -- could have been charged under this bill with assisting undocumented aliens. Volunteers who save the lives of individuals who are left to die by smugglers -- by providing water or food, or by taking them to a hospital -- could face arrest and prosecution. An immigration worker who encourages a refugee from political persecution to seek asylum in the United States could be charged with a felony; so could a manager who forgets to check the papers of a job applicant.

Prosecution of these well-intentioned people will lead to a growing schism. We will be forced to become a nation of identity-checkers; anyone who looked "foreign" would likely have to endure a lifetime of proving their status even if they were native-born American citizens. People will be deterred from helping anyone suspected of foreign origin. The events of World War II, the civil wars in Africa, the strife in the Middle East, ethnic cleansing in the Balkans, the decades-long civil disturbances in Ireland and the recent riots in France, all provide wrenching examples of fractured societies.

This bill forces us to answer the question: What kind of country do we want? Our country has promoted tolerance and diversity through most of its history, providing an outstanding and attractive example to others. Coming to this country and enjoying its openness has taught me how wonderful it is.

Church groups, relief organizations and legal scholars have spoken out against this bill. Business groups have not. Perhaps they consider this bill of little concern to them. I disagree. This is a time when we face increasing competition from well-educated and highly motivated workers from many corners of the world. The stability and diversity of our society are two key competitive differentiators we enjoy. We must hang on to them.

Let's keep America, America.

Mr. Grove, former chairman of the Intel Corporation, is a member of the board of overseers of the International Rescue Committee.

Mexican Candidate Tries To Emerge From Fox's Shadow (NYT)

By James C. Mckinley Jr.

The New York Times, January 26, 2006

MEXICO CITY, Jan. 25 — Francisco Rendón twirled a blue and white party flag in his weathered hands on a recent evening in a square in Querétaro, more than 100 miles northwest of the capital, waiting patiently for the man his party had nominated for the unenviable job of trying to succeed President Vicente Fox and keep the National Action Party in power.

"Fox promised a lot, and we want to see those things completed," Mr. Rendón said, echoing a widespread feeling. "About Felipe Calderón we don't really know anything except that he's a politician."

Mr. Rendón is not alone. During a bitter primary fight last year, Mr. Calderón transformed himself from a little-known former energy commissioner into the best hope for the president's right-of-center party. He is running a strong second in most opinion polls to the leftist former mayor of Mexico City, Andrés Manuel López Obrador, and many political strategists say he has a chance to win the election on July 2.

But outside the capital's opinion-makers and party insiders, surveys show that one in five Mexican voters still do not know who Mr. Calderón is, and as the presidential campaign officially kicked off last week, he made his first tour to try to change that.

Mr. Calderón, 43, opened a sunny, optimistic campaign, presenting himself as a principled, honest and incorruptible man, the only candidate "with clean hands," a young candidate of the future.

He portrays his adversaries as old-fashioned politicians stuck in the past. He depicts Roberto Madrazo of the Institutional Revolutionary Party as a political boss from the old ruling party, the sort who used to buy votes with everything from cash to free roofing and then, once in office, enrich themselves and their friends.

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Mr. López Obrador, candidate of the Party of the Democratic Revolution, he says, is a throwback to the ruinous economic policies of the 1970's, a closed economy with enormous public spending financed by foreign debt.

"In 2006 we have to have an election about the course of the country," Mr. Calderón said Saturday evening at a rally in Aguascalientes, in north central Mexico. "We have to choose between the past and the future."

But perhaps his biggest challenge is President Fox himself. The president remains popular for breaking more than 70 years of one-party rule in 2000 but is seen as having promised much more than he could ever deliver without a majority in Congress. Mr. Fox's image as a reformer has also been tarnished by allegations that his wife's sons have become rich businessmen through influence-peddling.

So every day on the campaign trail Mr. Calderón walks a fine line, praising Mr. Fox for creating economic stability and trying at the same time to distance himself from the many failures of a president who is seen as an ineffectual leader.

"Fox has been a transition president," he said in an interview, speaking slowly and choosing his words with care. "He has the indubitable merit of having been the leader of the transition and the peaceful change of power in Mexico."

But in the same breath Mr. Calderón said he did not plan to suffer from the same congressional deadlock that stymied most of Mr. Fox's reform proposals. "If you don't have a majority, you have to construct it," he said.

For the United States, a Calderón presidency would promise continuity. Like Mr. Fox and most other Mexican politicians, he has railed against a bill in Washington that would build a longer border fence and make illegal migration a felony. Also like Mr. Fox, he wants a guest worker program.

In another north central city, San Luis Potosí, he said: "I'm going to act as president not only with the government of the United States but with the legislators from both parties, Republicans and Democrats, to persuade them that Mexicans are not criminals and that it would be good for the economy of the United States to legally regularize migratory labor. The economy of America cannot advance, would not have been able to advance, at the same rate as it has without Mexican labor."

With such statements Mr. Calderón has tried to tap a wellspring of national pride and feelings of inferiority in Mexico, pledging to make it competitive in everything from industry to sports and to shed its history of corruption and backwardness.

Again and again he says he wants to make Mexico "a winning country," one that "not only competes with the world but beats it."

"My whole life I have dreamed of this country," he told a crowd in Querétaro. "I don't accept that our country will be condemned forever to be behind in development."

To get there he favors a flat tax on businesses and personal income to encourage foreign investment. He wants to continue the free-trade policies of Mr. Fox, arguing that the only way to create jobs and curb migration is to attract investment. He even favors a limited amount of private investment and competition with the state-owned energy companies, a proposal that has long been politically taboo in this country.

Mr. Calderón has also zeroed in on the main preoccupation of middle-class and upper-class Mexicans: organized crime and kidnappings. Calling the current law enforcement agencies "a cancer," he has proposed setting up a single federal police force to replace the myriad, sometimes corrupt, forces that now exist. He also wants to give the local police the power to investigate crimes, something they now lack.

"It's clear to me the potential Mexico has lost because it is not completely law-abiding," he said in an interview. "The potential of Mexico is enormous if we can manage to be a country of judicial certainty. I want to be a president who complies with the law and makes everyone comply with the law."

A short man with a paunch and gray, receding hair, Mr. Calderón lacks the stage presence of President Fox, a barrel-chested man with a baritone voice. When Mr. Calderón arrived at a campaign event for truckers driving a tractor-trailer on Friday in San Juan del Río, not far from Querétaro, the effect was almost comical. He was barely visible behind the wheel.

He is also one of those speakers who seem to confuse shouting with passion, giving speeches that have all the dynamics of a Nascar race, starting loud and getting louder. In private, though, he is serious and analytical, a soft-spoken intellectual who often sounds like the Harvard-trained economist that he is.

The son of one of his party's founders from Morelia, capital of the west central state of Michoacán, Mr. Calderón received advanced degrees in law and economics and spent only a short time in the private sector before running for office at 26 and

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gaining a seat in Mexico City's assembly. He went on to a seat in Congress in the early 1990's, but lost a race for governor in his home state in 1995.

After that he became national president of his party and engineered gubernatorial victories in three states, as well as victories in more than a dozen mayoral races. In 2000 he supported Mr. Fox but was not close to him. Then the president reached out for him in 2003 to head an agency that builds toll roads and later made him energy secretary.

Mr. Fox asked him to step down in May 2004 when Mr. Calderón made it plain that he would run for president.

Now it remains to be seen whether he can generate the passion for his campaign that he says he feels for Mexico. First he must somehow erase the disappointment and apathy that many in his party feel after Mr. Fox's tenure. And he acknowledges that he needs to pull votes from the two other major parties and from independent voters to put together enough of the popular vote to win.

Asked why he is running, his answer is simple: "I don't want Mexico to go backward."

OPEC Is Expected To Maintain Output Levels (WSJ)

By Bhushan Bahree

The Wall Street Journal, January 26, 2006

The Organization of Petroleum Exporting Countries is widely expected to refrain from trimming output levels when its oil ministers meet in Vienna next week, but Iran remains a wild card.

With the price of oil nearing records recently, an OPEC decision to continue pumping oil at close to capacity should reassure markets of plentiful supply, something Saudi Arabia appears to favor and the U.S. seems to be counting on. In short, there is no economic incentive for OPEC to trim output when market forces have sent billions of extra dollars pouring into the coffers of oil-rich countries anyway.

ENERGY DIARY

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Still, Iran -- an OPEC founding member and the No. 4 oil producer in the world -- is feuding with the West over its nuclear ambitions, and it could use the OPEC meeting to send a warning to Western Europe and the U.S., both big oil importers.

"Iran is going to make a political point" at the meeting, predicts Roger Diwan, an analyst at PFC Energy, a Washington consulting company. The nuclear dispute has helped push up oil prices recently, and no early resolution is seen, at least for now. "This Iran thing has legs," he said.

Iran appears poised to propose a reduction in OPEC quotas, with Iranian officials citing a buildup of excess supply ahead of a seasonal dip in demand in spring. Venezuela has said it would back such a cut. Still, these two countries are unlikely to carry the day at OPEC, if Saudi Arabia and its allies in the cartel hold firm against reducing the group's quotas totaling 28 million barrels a day for 10 members, excluding Iraq.

Saudi Arabia's oil minister, Ali Naimi, the de facto leader of OPEC, and Nigerian Oil Minister Edmund Daukoru, who is OPEC's president, already have said they see no reason to cut production at next week's meeting. Oil prices are on the "high side," Mr. Naimi told an Indian TV network this week. He added: "Unless the market changes significantly between now and the meeting, there is probably no real reason to do anything different."

Yesterday, the benchmark light, sweet crude-oil futures for March delivery fell $1.21, to settle at $65.85 a barrel on the New York Mercantile Exchange. Based on that price, this year the U.S. benchmark price is up $4.81 from the settlement price of $61.04 recorded Dec. 30, the last trading day of 2005.

Many in the industry, including the U.S. Energy Department, see prices rising this year. Some see them skyrocketing.

"We'll see a price well above $100 a barrel before the end of the year," predicts Philip Verleger Jr., an oil analyst and senior fellow at the Institute for International Economics in Washington. Mr. Verleger cites international uncertainties, strong world economic growth, lack of interest by central banks in the price of oil and changes in oil-product specifications. He also cited investor interest. "Oil is a tremendous investment and $3 billion have already gone into the [U.S. benchmark] contract" on the Nymex this year, Mr. Verleger said.

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Many other analysts are far less bullish on oil prices. But, by all accounts, demand for oil continues to rise as the world economy flourishes. The International Energy Agency in Paris expects world oil demand to increase by 1.8 million barrels a day this year to 85.1 million barrels a day.

U.S. Energy Secretary Samuel Bodman says he has been in regular contact with oil producers. "By and large, they seem to be understanding that we have a situation where there needs to be more oil rather than less oil in the world," Mr. Bodman said this week.

The question is if Iran shares in that understanding. The OPEC meeting is scheduled to take place two days before the International Atomic Energy Agency meets, also in Vienna, to consider what to do to dissuade Iran from moving toward enriching uranium.

Iran has drawn a link between any move by the West to seek United Nations approval for sanctions and the price of oil. Iran produces nearly four million barrels of oil a day, exporting 2.5 million. The spare oil-pumping capacity of the rest of the world is currently estimated at less than two million barrels a day.

Sanctions against Iran aren't considered imminent, and Iran isn't seen as being close to halting oil exports. Still, the dispute could provoke Iran into using the OPEC meeting to grandstand ahead of the nuclear meeting. "They don't have many big venues to bluster," says Yasser Elguindi, a managing director at Medley Global Advisors.

Roh Opposes U.S. On Regime Change Plans For NorthWarns Of 'Difference Of Opinion' (WT)

By Andrew Salmon, The Washington Times

The Washington Times, January 26, 2006

SEOUL -- A day after the United States urged South Korea to take an active stance against what it contends are North Korea's illicit financial activities, Seoul refused to say whether it would take action and made clear it opposed any attempt at regime change in Pyongyang.

"When it comes to the North Korean regime, raising issues about it or pressuring it or sometimes wishing for its collapse, on that position of some Americans, we do not agree," South Korean President Roh Moo-hyun said in a press conference yesterday.

"If the U.S. government tried to solve the situation through that process, there might be a rift or a difference of opinion between the two governments."

He added that whereas both governments had officially agreed to resolve the North Korean nuclear issue through dialogue, there was, however, no dispute.

Mr. Roh's comments came one day after the U.S. Embassy released a statement in which U.S. officials requested Seoul join action against what it says are illicit financial activities by the North Korean government.

Some here think the U.S. move is part of a strategy to squeeze Pyongyang by cutting off its funding sources.

By "some Americans," Mr. Roh appeared to be referring to hard-liners in the Bush administration who favor toppling North Korean strongman Kim Jong-il.

Mr. Roh refused to respond to the U.S. accusations on North Korea.

"A detailed review needs to take place ... fact-finding and consultation between the two governments is necessary," he said. "I don't think it is now time for the Korean president to express an opinion on this issue. It is quite risky for the [Korean] president to get into this directly and draw a conclusion."

Also yesterday, the South Korean Foreign Ministry released a statement in which it said that the U.S. Embassy's press release on Tuesday was "inappropriate," and did not accurately represent the results of talks between U.S. and Korean officials.

In its release, the U.S. Embassy said it had "urged" South Korea to take action against the North Korean transactions. The ministry denied being asked to take any concrete steps.

Analysts think that the reason for a U.S. Treasury team's 10-day Asian tour was to present Asian capitals with evidence of North Korea's financial crimes, pressuring them to act.

But given that there has been evidence of Pyongyang's activities for years, the chances of Beijing or Seoul exerting pressure at the insistence of a frustrated Washington appears minimal at present.

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"South Koreans feel that quiet diplomacy is the way to go with North Korea," said Michael Breen, the Seoul-based author of a biography of Mr. Kim. "The Americans believe that if you are nice to the North Koreans, they will abuse you, but if you are tough, you might make progress. It's a classic carrot-and-stick dispute."

There have been cracks in the Seoul-Washington "blood-forged alliance" since President Bush was inaugurated in 2000: His administration's North Korean policies have contravened the engagement policies promoted by South Korean President Kim Dae-jung from 1997-2002, and by Mr. Roh currently.

U.S., South Korea Near Free-Trade Talks (WP)

By Paul Blustein

The Washington Post, January 26, 2006

The United States and South Korea are very close to launching negotiations for a free-trade agreement, which would be the most economically significant free-trade pact for Washington since the North American Free Trade Agreement, according to people familiar with the matter.

Officials in Washington and Seoul have been discussing the idea of a trade accord for more than a year, fueled by a mutual desire to deepen an already extensive commercial relationship. Two-way trade was $72 billion in 2004, making South Korea the United States' seventh-largest trading partner. The United States is the second-largest market for Korean exports.

But both sides have been reluctant to start formal talks until they are reasonably confident that the negotiations would end in agreement. South Korea's farmers are bitterly opposed to opening their country's agricultural markets, and their political clout could scuttle a deal.

Most of the other countries the United States has free-trade pacts with have much smaller economies than South Korea and are thus much less important markets for U.S. products. They include Chile, Singapore, Jordan, Israel, Australia, Morocco, Bahrain, and the six countries in the Central America-Dominican Republic Free Trade Agreement, which squeaked through Congress in July. For example, combined U.S. exports to the six CAFTA-DR countries were $15 billion in 2004, whereas exports to South Korea reached $26 billion.

Only the NAFTA countries -- Canada and Mexico -- surpass South Korea among current and likely free-trade partners as a market for U.S. exports. Canada bought $190 billion in U.S. products in 2004, and Mexico bought $110 billion.

Free-trade agreements have proliferated in recent years and involve a variety of provisions. The United States has generally insisted on eliminating or phasing out all tariffs and other impediments to bilateral trade, including agriculture, though it has sometimes allowed exceptions or long phase-out periods for a handful of products. Korea would certainly insist on maintaining some protections for its rice market, said Jeffrey J. Schott, a scholar at the Institute for International Economics who has written a book about the benefits of a U.S.-Korea deal.

A 2001 study by the U.S. International Trade Commission estimated that a U.S.-Korea free-trade agreement could increase U.S. exports to Korea by $19 billion and U.S. imports from Korea by $10 billion. As large as those numbers are, they would not have an appreciable impact on U.S. gross domestic product, which is in the $11 trillion range.

Although plans to launch the U.S.-Korea talks could still founder, officials and other sources who have spoken recently with negotiators said an announcement is likely to materialize before long. Asked about the prospects, one administration official replied, "How do you say 'soon' in Korean?" The source spoke on condition of anonymity because the final decision has not yet been made.

Rob Portman, the U.S. trade representative, heightened the speculation Friday when he told reporters, "We'll be announcing some additional [free-trade agreement] partners soon. As I think you will notice, they will not be with small economies because I do think we need to move on to some larger economies."

Yesterday, Neena Moorjani, a spokeswoman for Portman, said it was "premature" to say whether the formal talks with Korea would be launched.

Moscow-Kiev Gas Spat Heats Up As Supplies, Temperatures Drop (WSJ)

By Gregory L. White And David Crawford

The Wall Street Journal, January 26, 2006

DOJ_NMG_0012067

Bickering over natural-gas shipments intensified between Moscow and Kiev as reduced supplies of Russian gas to Europe led to shortages in several countries and fueled energy-security anxieties across a continent gripped by an arctic cold snap.

Russia, which provides a quarter of Europe's gas, blamed Ukraine for taking too much of the fuel from pipelines carrying Moscow's exports to Europe. Kiev insisted it was entitled to the extra volume amid the winter freeze, though officials pledged drastic measures to rein in record gas consumption.

Alexei Miller, chief executive of Russian gas monopoly OAO Gazprom, said Ukraine's consumption has been rising in the past few days, swamping Gazprom's efforts to increase supplies to its frost-stricken European customers. "We boosted supply again today," he said.

Few analysts expect a repeat of Russia's New Year's gas cutoff to Ukraine, which led to sharp drops in supplies to European customers and triggered harsh criticism of Moscow for using energy as a political weapon. But as details of the Jan. 4 deal have emerged, doubts have grown about whether it sets the stable foundation for supplies and exports to Europe that its backers claim.

"It's not at all a compromise. It's more of a time bomb that could lead to future conflicts," said Vladimir Milov, president of the Institute for Energy Policy in Moscow and a former deputy energy minister.

Facing steady shortfalls in supplies, Italian officials called on the public to lower thermostats and take other steps to reduce energy use. Italy's industry minister will meet today in Moscow with Russian officials to seek assurances that supply contracts would be observed. Romania, facing temperatures as low as 22 degrees below zero Fahrenheit, appealed to Russia to boost supplies as shortages developed and led to school and other closings.

"For most of the last 15 years, there really haven't been any concerns about security of supply," said Ben Hollins, a gas specialist at consultants Wood Mackenzie. "The reality is that Europe is dependent on Russia and will remain so."

The gas troubles have fueled debate about alternatives. "We want Europe to take common responsibility for energy security -- all for one and one for all. This is a brand new initiative: joint reaction to any individual country's problems, joint investments in energy security," Polish Prime Minister Kazimierz Marcinkiewicz announced in Warsaw.

Russia has sought to reassure its customers of its reliability, and Ukrainian officials have vowed to ensure that shipments to Europe are delivered. Still, the two sides yesterday failed to reach agreement on the details of implementing the Jan. 4 compromise, intended to halt what is known as the "gas war" in the region.

Officials said the agreements, which would finalize the terms for shipments to Ukraine as well as transit of Russian gas to Europe, will be signed in the next few days. Opposition politicians in Ukraine have attacked the deal, which calls for gas prices to jump to $95 a thousand cubic meters from about $50 last year. That price is for gas from Turkmenistan and other Central Asian producers.

"The gas conflict isn't over," said Vladimir Saprykin of the Ukrainian Center for Political and Economic Studies in Kiev.

A key element of the pact, the $95 price for Ukraine, is fixed only through the first half of this year, and analysts warn that the rate could rise sharply after that, dealing a brutal blow to Ukraine's fuel-guzzling economy.

Rosukrenergo AG, the Swiss-registered trading company at the heart of the Russian-Ukrainian deal, has drawn increased scrutiny. Half-owned by a unit of Gazprom, the identities of the owners of the rest, held by a unit of Austria's Raiffeisen Bank, remain secret.

"My clients say their names can't be released at this time for political reasons," said Wolfgang Putschek, the Raiffeisen official representing the unidentified shareholders. He said they have been instrumental in mediating compromises between Moscow, Kiev and the Central Asian suppliers.

In an interview, he said Rosukrenergo could earn as much as $1.3 billion in profit this year thanks to the agreement, which substantially increases the volumes it handles and opens the way for more sales of gas to high-paying customers in Europe. The group earned about $500 million last year supplying Turkmen gas to Ukraine through Russia. Details of its financials remain secret.

Yesterday, Ukrainian Prime Minister Yuri Yekhanurov rejected calls for his government to buy the 50% stake in Rosukrenergo not owned by Gazprom. Gazprom officials have defended Rosukrenergo's role in the Ukrainian trade as critical to reaching the compromise deal with Kiev. Antitrust regulators in Kiev are investigating its ownership structure.

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Putin Links Espionage To NGO Funding (WP)

By Peter Finn

The Washington Post, January 26, 2006

MOSCOW, Jan. 25 -- In his first comments on the discovery of alleged British spies in Moscow, Russian President Vladimir Putin on Wednesday linked the scandal to foreign financing of nongovernmental organizations in Russia, a connection that grass-roots activists say is tangential and being used to smear their work.

"The situation is regrettable, as we have seen, when attempts are made to use secret services to work with nongovernmental organizations and when financing is carried out through secret services' channels," Putin told journalists in St. Petersburg. "No one can then say the money does not smell. Beneficial aims cannot be attained with unsuitable means."

The FSB, Russia's domestic security service, announced Monday that it had found British electronic equipment hidden in a fake rock in a Moscow park and that a Russian, allegedly recruited by the British, was using it to upload information and receive instructions. Four people said to be British diplomats were videotaped downloading data from the device.

One of the accused spies, Marc Doe, a second secretary in the British Embassy, has been involved in the British government's dispersal of grants to Russian human rights organizations. The British government has refused to comment on the espionage charges, but has denied it was doing anything illegal with nongovernmental organizations.

The Russian authorities have so far presented no evidence that the alleged spy ring recruited human rights activists. An unidentified Russian citizen has been arrested, but what kind of information the British may have been attempting to obtain or who the Russian is remain unknown.

Still, Doe's work with nongovernmental organizations has been seized on by many Russian politicians. The lower house of parliament, by a vote of 401 to 6, passed a resolution Wednesday condemning the involvement of foreign intelligence services with the private groups. "Such actions undermine trust in NGOs as a universally recognized institution of civil society," the resolution said.

The Moscow Bureau for Human Rights, a private group, said in a statement Wednesday that "the idea is being imposed on society that public organizations are involved with espionage activity. This injures their reputation and defames the name of NGOs in public opinion."

Privately, a number of activists expressed dismay that Doe, if he was indeed a spy, would have used his work with the groups as public cover, particularly given the current climate in which grass-roots organizations believe they are under attack from the state.

Putin this month signed into law a controversial bill regulating nongovernmental groups. Some of its authors argued that it was necessary to prevent foreign money from corrupting Russia's political process. On Wednesday, Putin again defended the law.

"It is aimed at preventing the intrusion of foreign states into Russia's interior political life and to create favorable and transparent conditions for the financing of nongovernmental organizations," he said.

Putin went on to say that he was still supportive of the work of the groups. "Society needs activity of this kind so that close control over the state's activity is put in place," he said.

Putin said it was up to the Russian Foreign Ministry, in conjunction with the FSB, to decide whether to expel the four diplomats. It is unclear if they're still in Moscow.

"My opinion is that if these intelligence agents are expelled, they will send new ones," Putin said. "These people may prove to be smart. In this case, we will have to go to a lot of trouble spotting them. Think about it."

Putin Says Foreigners Use Private Groups To Meddle In Russia (NYT)

By Steven Lee Myers

The New York Times, January 26, 2006

DOJ_NMG_0012069

MOSCOW, Jan. 25 — President Vladimir V. Putin accused foreign intelligence operatives on Wednesday of using private groups to interfere in Russia's internal affairs, saying that accusations that four British diplomats were spies justified new government curbs on the groups.

Mr. Putin has previously criticized foreign support for groups involved in politics here, but on Wednesday he linked the groups to intelligence agencies more explicitly than before.

His remarks intensified a furor that erupted after the disclosure of what officials said was a British espionage operation that used a device concealed in a fake rock to exchange information with a Russian agent.

"We see that there are attempts to work with nongovernmental organizations with the help of special services and that there is financing of nongovernmental organizations through the channels of foreign secret services," Mr. Putin said in televised remarks from St. Petersburg, where he was meeting with leaders of other former Soviet republics.

"I think that nobody has the right, in the given situation, to claim that money has no smell," he added.

One of the accused British diplomats, identified as Marc Doe, oversaw British grants to private organizations, including some prominent groups that promote democracy and human rights. While intelligence officials acknowledged there was no direct connection between those grants and the espionage that has been alleged, the distinction has largely evaporated in the fury of Russian reaction to the spy scandal.

Parliament's lower house adopted a statement Wednesday denouncing support for private groups by foreign spies. "Such actions undermine trust in noncommercial nongovernmental organizations," it read.

British officials have declined to discuss Russia's accusations, though the Foreign Office denied that any of its grants to Russian groups were improper. The groups Russia has linked to the affair — without specifying illegalities — include the Moscow Helsinki Group and the Center for Democracy and Human Rights. The scandal could worsen relations with Britain and other countries as Russia presses its assault on European and American financial support of groups that criticize the Kremlin.

This month Mr. Putin signed into law new controls over private groups, requiring them to reregister and prohibiting foreign financing of activities deemed political. Foreign leaders and Russian representatives of the groups called the curbs a bid to stifle political discourse.

Ulrich Fischer, the president of the International Helsinki Federation for Human Rights called the accusations against its Moscow branch and other groups slanderous and "part of an official Russian policy to silence criticism and strengthen ever further a centralized state power."

Mr. Putin, in his remarks, said Russia was still considering whether to expel the four diplomats, all mid-ranking secretaries in the British Embassy, indicating for the first time that they had not yet been expelled or withdrawn, though the espionage that was alleged was reported to have been uncovered last fall.

Kyrgyzstan to Investigate Groups

By The New York Times

BISHKEK, Kyrgyzstan, Jan. 25 — Following the lead of Russia, Uzbekistan and Belarus, Kyrgyzstan on Wednesday ordered investigations into private groups that get foreign money, including from the United States, which has continued to support pro-democracy groups since the popular uprising here last year.

US Congressman Takes Google To Task On China (FT)

By Stephanie Kirchgaessner

Financial Times, January 26, 2006

Google will be called to task in Washington next month following a controversial decision by the internet search engine to launch a China-based version of its website that will censor results to avoid angering the country's Communist government.

The decision by Chris Smith, a Republican congressman from New Jersey who chairs a House subcommittee on Human Rights, to call for a February 16 hearing to examine the operating procedures of US internet companies in China, represents the first signs of what could become a serious backlash against Google and other internet companies in Washington that are perceived as capitulating to the Chinese government.

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Mr Smith on Wednesday accused Google of "collaborating .. with persecutors" who imprison and torture Chinese citizens "in the service of truth".

"It is astounding that Google, whose corporate philosophy is 'don't be evil' would enable evil by cooperating with China's censorship policies just to make a buck," he said.

The hearing will also include testimony from Yahoo, Microsoft, Cisco and senior State Department officials who advise on China.

Mr Smith on Wednesday in a statement drew comparisons between Google and Radio Free Europe and Asia, reflecting on the capacity the radio stations had on empowering the "voices of freedom throughout Communist countries".

News about the congressional hearing came just hours after another lawmaker, Democratic senator Patrick Leahy, spoke out on another issue that has enveloped Google in recent days: the company's refusal to comply with a subpeona by the Justice Department that would require it to hand over toe the government extensive records about the way people use the company's search engine.

In a letter to attorney general Alberto Gonzales, Mr Leahy demanded more information about four subpoenas to major internet companies, including how the DOJ intended to use the information while protecting privacy rights, and whether the DOJ planned to request further information from the companies.

Mr Leahy, the leading Democrat on the judiciary committee, said the collection of data on law-abiding Americans posed "unique concers".

U.S. Envoy Engages In Panda Diplomacy (WP)

By Edward Cody

The Washington Post, January 26, 2006

CHENGDU, China, Jan. 25 -- Diplomacy is in large part symbolism, and the symbol was unmistakable. There was Robert B. Zoellick, the deputy secretary of state assigned to manage U.S. relations with China, hugging a baby panda.

Zoellick, who was formerly a member of the advisory council of the World Wildlife Fund, had a natural interest in visiting the Giant Panda Breeding Research Base here in Chengdu, capital of Sichuan province in central China. The appealing creatures, he pointed out during a two-hour tour Wednesday, have long been a symbol of joint U.S.-Chinese efforts to preserve the environment and protect wild animals.

But ever since President Richard M. Nixon opened contacts with the Communist government in 1972, pandas also have been a symbol of political cooperation between Beijing and Washington. The Chinese program of sending pandas as gifts, but more frequently on lease and loan, to zoos in Washington, Atlanta, San Diego and Memphis, has played a large role in de-icing diplomatic, commercial and public relations over the past 30 years.

In that context, Zoellick's pose with Jing Jing, a female cub born at the Chengdu facility in August, was seen at least in part as a signal to China about where he wants to steer U.S.-Chinese relations. The official New China News Agency received his message 10-4. It immediately transmitted a happy photo of Zoellick and Jing Jing around the country, illustrating the government's view that good U.S.-China relations are essential and, in fact, getting better and better.

Zoellick's gesture, in another reading, could also be seen as a signal of where he stands in the Washington debate about China. Interpreted that way, becoming a public panda-hugger was an eloquent endorsement of the view that engagement with Beijing is the best path for the United States and that China's emergence as an Asian power does not have to mean conflict in the Pacific.

"You want to know how the panda felt?" he asked. "Very soft."

Zoellick, in a meeting with reporters, joked that he had discussed the various readings of his panda poses with his staff before agreeing to take Jing Jing on his lap. Some aides had questioned whether the image was the right one to convey, he acknowledged, but he decided to go ahead because his wife wanted a photo of him with a panda. "At my age, I listen to my wife," he said.

Zoellick, who left Chengdu for a panel discussion on China at the annual economic forum in Davos, Switzerland, was named point man for U.S.-China policy by Secretary of State Condoleezza Rice at the start of the second Bush administration. In

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particular, he has become the main U.S. interlocutor in a strategic dialogue set up last year in response to Chinese requests for sustained discussions on long-term issues between Washington and Beijing.

This visit to China, which came in addition to that twice-yearly schedule, was partly to maintain contacts with Chinese leaders and show interest in keeping up a close relationship, Zoellick said. He met Tuesday with Premier Wen Jiabao, Foreign Minister Li Zhaoxing and his own counterpart in the Chinese Foreign Ministry, Dai Bingguo.

But the two-day stay here, after stops in Japan and at U.S. Pacific Command headquarters in Hawaii, also included specific talks on issues that could be seen as a test of the U.S.-Chinese engagement his panda photo was meant to symbolize. These, he said, included China's stand on the effort to prevent Iran from acquiring nuclear weapons, China's role in diplomacy to persuade North Korea to eliminate its nuclear weapons program and China's currency policies at a time of soaring U.S. trade deficits.

Chinese officials made clear they shared the U.S. and European goal of demonstrating to Iran's rulers that they should not proceed with a program that could lead to nuclear weapons production, Zoellick said.

The Foreign Ministry spokesman, Kong Quan, said Tuesday, however, that China believed more time should be allowed for diplomacy before resorting to sanctions or other pressures from the U.N. Security Council.

Reporting on his talks, Zoellick said he emphasized to Chinese officials that their own oft-repeated goal of energy security argued for joining in the effort. A government such as Iran's armed with nuclear missiles would be a destabilizing force in the Middle East, China's main source of imported oil, even though China has signed a long-term oil and gas deal with Tehran, he said.

The argument, Zoellick explained, flowed from the idea of making China more of a "responsible stakeholder," a major state with worldwide interests to preserve through cooperation with other governments. The approach was laid out in a speech in September outlining the administration's underlying policy toward China.

Zoellick also received a report from Chinese officials on last week's tour by the North Korean leader, Kim Jong Il. In addition to meetings with President Hu Jintao, Wen and other senior Chinese Communist Party officials, Kim visited ports and factories in the booming Pearl River Delta, just north of Hong Kong and a showcase for China's economic reforms.

The question was whether what Kim saw would inspire him to enact similar changes in his own country, which some officials believe would open North Korea to the world and help with a long-term solution to the nuclear standoff. Zoellick suggested the response from Chinese officials who hosted Kim was: "We'll see."

Too Fast In China? (WP)

By Peter S. Goodman

The Washington Post, January 26, 2006

SHANGHAI, Jan. 25 Led by surging exports, China's economy grew by 9.9 percent last year, the government announced Wednesday, underscoring the swiftness by which this once insular communist country has remade itself into a global trading power.

The rapid expansion appears to move China's economy ahead of those of Great Britain, France and Italy to become the world's fourth-largest, although many countries have yet to report their final 2005 economic data. Over the past decade, China's output has more than doubled in size as the country's transition toward capitalism has progressed, turning farmers into factory workers and linking the fortunes of its people to the appetites of shoppers in the United States, Europe and Japan.

Yet the news also increased concern that China could be growing too fast, despite measures aimed at cooling the hottest parts of the economy. Aggressive investment has produced too many factories, heightening trade tensions with the United States as China exports surplus wares such as steel, depressing prices globally. Chinese officials worry that unneeded plants could deliver a crippling era of deflation -- falling prices -- which hurts profits and reduces incentives for companies to invest. Such a syndrome kept Japan mired in recession and unemployment for much of the past 16 years.

"Overcapacity is dangerous," said China's leading statistician, Li DeShui, speaking at a media briefing in Beijing, according to a transcript on the Web site of the official New China News Agency. "It will cause huge waste, and will especially generate huge bad loans for banks. For some businesses, it will cause losses and even closures, which will lead to rising unemployment."

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Li emphasized that China is not yet facing this problem, with inflation still at a healthy 1 percent. He pronounced himself "cautiously optimistic" about China's economic prospects this year.

State data paint a troubling picture. Steel capacity already outstrips domestic demand by 120 million tons a year, and new mills that would add an additional 70 million tons are under construction, according to the National Development and Reform Commission, a unit of China's governing State Council. Chinese automakers saw profit margins plummet last year as ultra-low-priced vehicles came on the market, and as dramatic expansion brought production capacity to 2 million more than China's annual sales.

Still, some say fears of overcapacity are overblown: Even as the supply of everything from aluminum to motorcycles swells, the underlying demand for the trappings of modern life within this land of 1.3 billion people should not be underestimated. China's appetite for new housing, roads and vehicles will eventually put the extra plants to work, some economists say.

"There's no question that there's demand," said Jonathan Anderson, chief economist for Asia at UBS Investment Research in Hong Kong. "Local governments want to build science parks and subways, and people want to build houses. And now [Chinese authorities] are actually letting stuff get built again."

Anderson argues that the growth of manufacturing capacity is slowing -- a sign that it will eventually disappear.

He cites the Chinese steel industry, which saw capacity grow by nearly 40 percent in 2004 and 2005. This year, he said, capacity will continue to grow, but by only 10 percent. At the same time, growth in demand for steel will bounce back to about 18 percent this year, after decelerating to about 7 percent last year as the government clamped down on development.

"You've got spending going on," Anderson said. "Overcapacity is actually going to be going away."

China's economic data is notoriously unreliable, and many say the data fail to capture the true magnitude of the economy. Last year, the government restated several years' worth of economic data when a nationwide census discovered that millions of mostly private service companies had previously been left out of the calculation. In one shot, the government declared that China's economy was 17 percent bigger than it had previously realized -- the statistical equivalent of finding an Austria lying around uncounted.

On Wednesday, speaking at the World Economic Forum in Davos, Switzerland, Zhu Min, an executive at one of China's largest state banks, said the economy remains underestimated.

"There's another 15 percent to 20 percent space for China to grow," Zhu said, according to Bloomberg.

Whatever the real rate of growth, the ceaseless clatter of machinery that has become the national soundtrack and the construction cranes hovering over every urban skyline attest to the dramatic expansion, one that has refashioned China and its relationship with the rest of the world.

Last year's growth was propelled largely by exports, which leapt 28 percent, leaving China with a $102 billion global trade surplus. Manufacturing trade groups in the United States, Europe and developing countries argue that much of this success is a result of China's maintaining its currency, the yuan, at an artificially low value, making its goods unfairly cheap on world markets. Congress is considering a bill that would slap across-the-board punitive tariffs on Chinese goods if Beijing does not significantly raise the value of the yuan. China counters that it is being made the scapegoat for the loss of factory jobs elsewhere.

China's growth has prompted Beijing to dispatch state oil firms around the globe in search of new energy supplies. This has stoked a historic rivalry with Japan for access to Russia's Siberian oil fields. It has sent Chinese investment into Africa, Latin America and Indonesia, and has provoked accusations in Washington that China's thirst for energy threatens U.S. interests. Chinese demand is a key factor behind the recent spike in world oil prices.

Within China, years of rapid growth have sown concern that new wealth is not being shared equally, with much being stolen from the poor via corrupt land acquisitions by Communist Party officials. Recent years have seen sometimes-violent protests around the country as farmers complain they are being pushed off land without just compensation. Last week, Premier Wen Jiabao pledged that more investment had to be directed into poor, rural areas to address the growing income gap.

Growth last year brought China's overall economic output to $2.26 trillion, according to state data. But its rapid growth still leaves China's economy at less than one-fifth the size of the world's largest -- that of the United States, whose output reached $11.7 trillion in 2004.

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New Estimate In China Finds Fewer AIDS Cases (NYT)

By Jim Yardley

The New York Times, January 26, 2006

BEIJING, Jan. 25 — China countered the long-held suspicion that it has undercounted the number of people with H.I.V. and AIDS by releasing a new, more extensive estimate on Wednesday that found the opposite: that the country had actually overestimated its number of cases.

The new estimate, conducted with the World Health Organization and the United Nations AIDS program, lowered the country's estimated number of H.I.V. and AIDS cases to 650,000 from the official figure of 840,000 released by the government in 2003. Many experts and AIDS workers have long believed that China has at least 1.5 million cases, possibly far more, and some expressed skepticism that the new figure was any more reliable than past estimates.

At a news conference on Wednesday morning, Chinese and international health officials endorsed the new findings but also warned that while the overall number of cases is less than previously believed, the rate of infection is still rising, with 70,000 new cases in 2005. Drug users and prostitutes are transmitting H.I.V., the virus that causes AIDS, in most of the new cases, but the report also found that the disease is now spreading from such high-risk groups into the general population, raising the risk of broader infection.

"Almost 200 people are infected every day in China," said Wang Longde, a vice minister of health. "The situation is grave."

With AIDS and H.I.V. having already devastated large swaths of Africa, experts have feared that China and India, the world's two most populous countries, may become the next epicenters of major outbreaks.

The lower estimate in China, if accurate, would place it in a far more enviable position than India, which is estimated to have more than five million people living with H.I.V. The Indian government has been criticized for failing to respond swiftly and effectively to the disease.

China is still trying to regain its credibility on AIDS. Not too many years ago, top leaders denied that the country had an AIDS problem and tried to cover up an outbreak in central China caused by a tainted, government-sponsored blood selling program. Since late 2003, China has mounted an aggressive nationwide campaign against AIDS and introduced pilot programs that provide free condoms, free methadone and even free antiretroviral drugs.

The joint effort by China, the World Health Organization and the United Nations AIDS program, Unaids, in drafting the new study reflected the improved openness of Chinese health officials on AIDS. But that collaboration also underscores the fact that the outside world would most likely be skeptical of any study conducted solely by China. Some Chinese health officials had privately fretted that the study would be regarded as a whitewash.

Henk Bekedam, head of the W.H.O.'s office in Beijing, warned that China still faced a major AIDS problem and needed to raise public awareness about H.I.V. while expanding prevention and treatment programs. But he endorsed the new estimate "as a more accurate portrait of the epidemic" and described China's H.I.V. status as "low prevalence."

Ray Yip, the Beijing representative of the United States Centers for Disease Control and Prevention, did not attend the news conference on Wednesday but said his office had provided technical assistance for the new study. He said the new figure represented a far broader sampling from across China. "It's a more robust and more complete number," Mr. Yip said in a telephone interview. "But by all means, it is an estimate."

Some AIDS experts in China expressed doubts about the lowered estimate. Chung To, chairman of the Chi Heng Foundation, which helps AIDS orphans in central China, questioned the reliability of the raw data used in the estimate. He noted that local officials often hid the true prevalence of the disease, while many H.I.V.-positive people lied about their condition to avoid social stigma.

"To me it is hard to believe they are revising downward," he said. "It is certainly not what I see as a front-line, grass-roots AIDS worker."

Another advocate, Odilon Couzin, also was skeptical about how accurately officials were able to count infected people among groups like prostitutes, drug users and gay men, all of whom are loath to reveal their H.I.V. status in China.

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"Frankly, in all of my experience, the quality of the data and the accuracy of the information here is not high enough to have confidence in this new estimate," said Mr. Couzin, who runs China AIDS Info, an AIDS information and advocacy group based in Hong Kong.

Officials involved in the study say improved methodology and a bigger sampling of data have made it more accurate than the earlier one. The 2003 study estimated 840,000 cases, based on samples drawn from 194 "surveillance" sites around the country. By comparison, the new study used 329 national sites and several hundred other sites operated by provincial governments.

A key difference between the two studies is the revised estimate of the number of people infected by the tainted blood selling operation in the 1990's. Some doctors in Henan Province, a center of the blood selling operation, estimated that more than a million people had been infected in that province alone. The 2003 study estimated that the blood program had infected 199,000 people. By comparison, the new study estimates that only 55,000 former blood donors are infected with H.I.V.

To some degree the lower number of infected blood donors may be partly because many of them have died. The study found that nationally, 25,000 people died of AIDS last year. Of that figure, 10,000 were former blood and plasma donors, the estimate found. Over all, Chinese health officials estimate that fewer than 100,000 people have died of AIDS in the country.

The study found infection rates varied greatly in different regions of the country and could be broken down into six major groups: drug users, prostitutes and their clients, former blood and plasma donors, gay men, partners of H.I.V.-positive people, and infants infected in the womb by H.I.V.-positive mothers.

Drug users living with H.I.V. or AIDS accounted for 288,000 people, or 44.3 percent of the estimated total. Nearly all of them live in seven southern provinces. Prostitutes and their clients accounted for 127,000 cases, or 19.5 percent.

A large majority of those infected in China still do not know it. The estimate found that only 141,000 of the estimated 650,000 cases have been detected through testing.

China still faces enormous challenges on AIDS. Efforts to distribute anti-retroviral drugs have created a host of problems, while local officials in some regions still try to deny the presence of H.I.V. Some public security bureaus continue to arrest infected drug users rather than steer them to treatment.

Joel Rehnstrom, the coordinator in China for Unaids, said the new figures provide "a better picture" of the problem in China but should not be interpreted as meaning the situation is improving.

"This is good news, but there is still a long way to go," he said.

European Economic Plan Seeks Nordic-style Approach (WSJ)

By William Echikson

The Wall Street Journal, January 26, 2006

BRUSSELS -- The European Commission presented a new plan to reinvigorate Europe's economies, calling for a Nordic-style, seemingly social-democratic approach rather than an Anglo-Saxon free-market model.

European leaders are scheduled to discuss the plan at their spring summit.

In the 247-page report, Commission President José Manuel Barroso gave the most praise to northern European countries that are increasing spending on research and development universities and pursuing interventionist jobs policies. He also called for the creation of a competitive, continent-wide energy program, and support for small and medium-size businesses.

He also singled out previously Communist Eastern European countries that joined the bloc in 2004 "for doing some amazing things" in turning around their formerly state-run economies.

The announcement represents Mr. Barroso's attempt to recover the initiative after a tough first year in office. Many of his previous plans for jump-starting Europe's economies have faltered. Both European governments and the European Parliament, for example, rejected his plan to free up the services market, allowing plumbers, hairdressers and other small-business people to work more easily outside their homelands.

The report includes evaluations of the 25 national reform programs drawn up by EU members. While commission officials insist the process doesn't amount to naming and shaming, it does go out of its way to praise many Nordic initiatives. The Nordics

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are saluted for setting up "an integrating market for buying and selling electricity," for putting their public finances in order and improving the financial health of their pension systems.

Some countries come in for gentle criticism. Italy, for example, is chided for not setting "targets, timetables and details" in its program. Rome is urged to control its public finances, take action to increase the competitiveness of traditional industries that face stiff Asian competition, and raise its employment level.

Warring Factions In Sri Lanka Agree To Resume Peace Talks (NYT)

By Shimali Senanayake And Somini Sengupta

The New York Times, January 26, 2006

COLOMBO, Sri Lanka, Jan. 25 — In a measure of how intractable this country's ethnic conflict is, the warring parties agreed Wednesday to begin talking to each other again, after more than 18 months of deadlock over a site for peace talks and with scores of killings in the meantime.

The talks would focus on strengthening an all-but-ineffectual four-year-old cease-fire agreement. They are scheduled to take place in Geneva, starting as early as February.

The agreement, though modest in scope, represents a major breakthrough in the decade-long war between the ethnic-Sinhalese-dominated government and the Liberation Tigers of Tamil Eelam, the separatist guerrilla outfit that effectively runs a swath of the country's north and east. It is better known as the L.T.T.E.

The cease-fire, brokered by Norway in February 2002, remains in place, but has frayed so much recently that the country appears to be at war in all but name.

There were 100 killings in December alone. Sailors and soldiers have repeatedly been the targets of bombs and land mines. A pro-rebel politician was gunned down during Christmas Eve Mass. Even the compound of the Nordic peace monitors, in the eastern town of Batticaloa, was bombed, on Jan. 13.

"Both sides have agreed on the need to meet and decide how the cease-fire can be implemented better," Erik Solheim, the chief Norwegian mediator, said after talks with the leader of the Tamil Tigers, Velupillai Prabhakaran, in the rebel capital, Kilinochchi. Talks would focus on "strengthening the 2002 cease-fire," he said.

Mr. Solheim said it was imperative to halt the tide of violence for the talks to be productive. "There is a need to create a climate that is conducive to peace," he added. "The violence has to stop."

The choice of Geneva marks a significant concession for the government, which had long insisted that negotiations take place only inside Sri Lanka, or at best, in another Asian country.

The European Union has barred Tamil Tiger delegations from traveling to its territory. But the restriction does not apply to Switzerland, which is not part of the European Union.

The government of President Mahinda Rajapakse, a Sinhalese hard-liner, has also made a concession on the subject of the talks. Mr. Rajapakse had insisted that the cease-fire agreement be renegotiated. The Tamil Tigers had insisted that the terms of the agreement could not be tampered with.

Even so, the talks are not going to be easy. The Tamil Tigers are particularly exercised about a breakaway faction operating in government-held territory, led by a prominent former Tiger leader called Karuna. The rebels will press the government to enforce an existing clause in the agreement: to disarm paramilitary forces operating in its area.

The government, meanwhile, will point to numerous cease-fire violations for which it blames the Tigers.

"On our part we have given our assurance there will be no act of violence by the L.T.T.E. against government forces," said Anton Balasingham, the chief negotiator for the Tigers, according to Tamilnet, a Web-based news service.

Then there is the bigger gulf that fuels the war in the first place. Mr. Rajapakse insists that he wants a unified state, while the rebels demand greater autonomy for the Tamil-majority areas.

In Africa, Islam And Christianity Are Growing - And Blending (CSM)

By Abraham McLaughlin

The Christian Science Monitor, January 26, 2006

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LAGOS, NIGERIA - At first, it seems a surprising sight: inside a two-story mosque in sub-Saharan Africa's largest metropolis hangs a life-size portrait of Jesus Christ.

Yet worshipers at "The True Message of God Mission" say it's entirely natural for Christianity and Islam to cexist, even overlap. They begin their worship by praying at the Jesus alcove and then "running their deliverance" - sprinting laps around the mosque's mosaic-tiled courtyard, praying to the one God for forgiveness and help. They say it's akin to Israelites circling the walls of Jericho - and Muslims swirling around the Ka'ba shrine in Mecca.

This group - originally called "Chris-lam-herb" for its mix-and-match approach to Christianity, Islam, and traditional medicine - is a window on an ongoing religious ferment in Africa. It's still up for debate whether this group, and others like it, could become models for Muslim-Christian unity worldwide or whether they're uniquely African. But either way, they are "part of a trend," says Dana Robert, a Boston University religion professor.

Amid intense sectarian violence in this half- Muslim, half-Christian country, these groups serve as tolerant peacemakers. Also, with widespread poverty and health concerns here, people are seeking practical, profitable religion more than rigid doctrine.

Before Islam and Christianity arrived in Africa, people here "believed in deities being close" - in gods who resided in trees or rivers and helped or hurt locals daily, explains Kamaldeen Balogun, an Islamic studies professor at Olabisi Onabanjo University in southeastern Nigeria.

"You in the West are satisfied with one hour of church on Sunday," says Mr. Balogun. But for people in Africa, who he says need so many solutions, "This is about a practical way of life," about a willingness to combine Christianity or Islam with their own traditions to "see if they can make something new" - something that will help.

Worshipers at the "True Message" mission say unifying the two theologies has made a major difference in their lives.

A slight woman with a quick smile, Kuburat Hamzat says she came here in 1998 with a severe menstruation problem. She was embraced by the mission's "man of God," a soft-spoken, bald man named Samusideen Saka. He told her, "Dancing will not kill you" and prescribed 91 laps of "running deliverance" each day. He also explained the commonalities of the great faiths to Ms. Hamzat who had grown up in Islam. That understanding, she says, changed her. "Because I understood that in my mind, I got healed," she says. Her problem hasn't recurred, she says. Others say they've been cured of barrenness, mental illness, and other troubles.

Pastor Saka explains that his father was an herbalist and that both Muslims and Christians would come to him for healing. Although he grew up Muslim, and has been to Mecca on pilgrimage several times, he couldn't comprehend Nigeria's sectarian strife. He now considers himself a Christian, "but that doesn't mean Islam is bad."

Quite the opposite. Next to his mosque is a televangelist's dream - an auditorium with 1,500 seats, banks of speakers, a live band, and klieg lights. On Sundays the choir switches easily between Muslim and Christian songs, and Pastor Saka preaches from both the Bible and the Koran. His sermons are often broadcast on local TV.

The broader context here is Africa's dramatic shift in recent decades to Christianity and Islam. During the 20th century, fully 40 percent of Africa's population moved from traditional religions to "different shades of Christianity," says Philip Jenkins, a history and religion professor at the University of Pennsylvania. It is, he adds, "the largest religious change that has ever occurred in history." There are debates about whether Christianity or Islam is spreading faster in Africa, but clearly they're both on the rise - and sometimes are the source of tension.

In Nigeria's religious city of Jos (short for "Jesus Our Savior") the government says 50,000 people died between 1999 and 2004 in sectarian clashes. Until a peace deal last year, Sudan's northern Muslims and southern Christians were at war for two decades.

Clearly, the religious revolution is still shaking out. "People are converting rapidly, but they don't necessarily have instruction" in the details of their faiths, says Boston University's Professor Robert. Nor have they had "time for their belief system to solidify." It is, she says, "still shifting." She argues that eventually the faithful will choose one religion or another, and the hybrids will fade away.

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But the ferment is quite evident on the chaotic streets of Lagos, which is home to some 10 million people. Hundreds of church-sponsored banners scream out, "It's your day of RECOVERY @ LAST where life's pains are healed" or "Jesus Christ: A friend indeed! Even in times of need!!"

Healing is a regularly promised feature of churches across Africa. It's symbolic of a key element of the continent's religious explorations - fusing faith and rationality, Professor Balogun says. According to Western thought, with its emphasis on rationality, "Everything that goes up must come down," he says. But a more African approach is that, "By divine intervention it may not come down." In fact, his university is initiating a degree focusing on the religion-science nexus.

Meanwhile, it's not just Saka who's exploring the common ground between Christianity and Islam. Sitting in a wrought-iron throne, swathed in silky white fabric, the founder of "Chrislam" has these words for followers of the two great faiths: "The same sun that dries the clothes of Muslims also dries the clothes of Christians." Stroking his beard, the man named Tela Tella says, "I don't believe God loves Christians any more than Muslims."

His followers calls him His Royal Holiness, The Messenger, Ifeoluwa or "The Will of God." Since the religion's founding two decades ago, this small band has been gathering almost daily to hear his message of inclusiveness - that Christians and Muslims, "who are sons of Abraham, can be one."

Delta Villages Fear Troops In Nigeria (NYT/REU)

By Reuters

The New York Times, January 26, 2006

WARRI, Nigeria, Jan. 25 (Reuters) — Villagers fled Nigeria's lawless delta on Wednesday amid fears of military reprisals after a wave of attacks on foreign oil companies by ethnic Ijaw militiamen.

The army deployed more troops to major installations, and oil companies tightened security around offices a day after heavily armed men stormed the headquarters of the Italian oil firm Agip, robbing a bank on the premises and killing eight policemen and a civilian.

"There are soldiers everywhere, and I don't want my three girls in the firing line," said Return Powei, who lives in the remote village of Ogbotobo. "Our youths run into the forest when they hear the soldiers are coming. Everyone is moving out of Ogbotobo."

It was not clear if the attack on Agip, a unit of ENI of Italy, was the work of the Movement for the Emancipation of the Niger Delta, whose five-week campaign of sabotage and kidnapping has contributed to an increase in oil prices.

The group said it would make Royal Dutch Shell suffer unless it paid $1.5 billion to delta villages in compensation for decades of oil pollution, which is one of its demands for releasing four foreign hostages.

The government has set up a committee to negotiate the release of four oil workers kidnapped Jan. 11.

U.N. Chief's Son Agrees To Pay Duties On SUV (LAT)

By Maggie Farley, Times Staff Writer

The Los Angeles Times, January 26, 2006

UNITED NATIONS — The son of U.N. Secretary-General Kofi Annan has announced that he intends to pay Ghana's government $14,301 in import duties on a Mercedes SUV that he had avoided paying by misusing his father's name.

Kojo Annan had obtained diplomatic discounts and tax exemptions on the luxury vehicle when he bought it in his father's name seven years ago. He does not intend to reimburse a German Mercedes dealership that gave him a $6,541 diplomatic discount, his lawyer said this week.

"The automobile was not for the secretary-general's own personal use and therefore the [import duties] exemption was not justified," William Taylor III, Kojo Annan's lawyer, said in a letter to Ghanaian officials last Thursday. "I write to inform you that Mr. Kojo Annan wishes to make full payment of the amount due to the government of Ghana."

A probe of the United Nations oil-for-food program revealed in September the false statements involving the car. Investigators initially suspected that the Mercedes was a payoff to Kofi Annan for awarding a U.N. contract to his son's employer, Cotecna Inspection. The investigators found a memo on the computer of an assistant to Annan that relayed Kojo Annan's request to approve the use of his name to obtain a diplomatic discount.

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The secretary-general said that he gave his son $15,000 toward the purchase but that he did not realize that his name had been used to receive diplomatic discounts and tax exemptions.

On Wednesday, he welcomed news of his son's move. "It was the right thing to do," Annan told Reuters at the World Economic Forum in Davos, Switzerland. "He knew I wanted him to sort it out, clean it up. It was between him, his lawyer and the government."

Asked whether he, as secretary-general, secured the tax break for his son, Annan said, "Absolutely not. It was done behind my back."

The investigative panel, led by former U.S. Federal Reserve Chairman Paul A. Volcker, found no evidence of wrongdoing by the secretary-general. But journalists' persistent requests to the secretary-general's office for more information about the car roiled the elder Annan, who considered the matter closed and refused to address it.

At a news conference last month, Annan called a Times of London reporter "an embarrassment to his profession."

On Tuesday, Taylor announced that Kojo Annan would reimburse Ghana's government. The lawyer also said that the car was no longer in the secretary-general's name and that it had been totaled in a crash.

Ghanaian customs officials told the Times of London on Wednesday that they had received Kojo Annan's offer but that the attorney general had not decided whether to press charges.

Pinochet Daughter Detained At Dulles (WP)

By Monte Reel And Pamela Constable

The Washington Post, January 26, 2006

BUENOS AIRES, Jan. 25 -- The oldest daughter of the former Chilean dictator Gen. Augusto Pinochet was detained Wednesday at Dulles International Airport outside Washington, where she requested political asylum, a Chilean official said.

Lucia Pinochet, 60, arrived at about 7 a.m. on a United Airlines flight from Buenos Aires, and customs officials stopped her for questioning. She had been served with a subpoena over the weekend in Chile, along with her mother and three siblings. They had been ordered to appear in court on Monday in Santiago, the Chilean capital, on tax fraud charges connected to a probe of her father's illegal bank accounts.

A spokesman for the Department of Homeland Security said she was in U.S. custody at the airport in Virginia "pending resolution of her immigration status."

Chile's Interior Minister, Francisco Vidal, said U.S. Ambassador Craig Kelly informed his government that Pinochet, sought on an international arrest warrant, had requested asylum. U.S. officials said they could not comment on that issue.

Vidal said the Chilean government, as a democracy, rejects the basis for such a claim.

"Political asylum . . . is when there is no system of law, when there is no due process," he said.

Pinochet's father, 90, faces charges for financial crimes and human rights abuses committed during his 17-year rule, from 1973 to 1990. His wife, Lucia Hiriart, and three of their other children obeyed the summons, but Lucia was not present in court, according to Chilean news reports.

Lucia Pinochet's son, Rodrigo Garcia, told Chile's Radio Agricultura that he had traveled by car with his mother Sunday across the Chilean border into Argentina.

Diplomatic sources said she then took a domestic flight from the city of Mendoza to Buenos Aires, where she boarded a U.S.-bound flight. Garcia stayed behind.

"I want to make it clear that the journey we made to Argentina had been planned beforehand and she was never running away from anything," Garcia said in the radio interview.

He also sent a statement by his mother to a Santiago newspaper, in which she rejected the charges against her family.

"I am sorry that the instruments of the state are being used with the purpose of defaming and discrediting the honor of the people," the statement said. "They don't seek to clarify the source of my father's funds, but instead some seek the total defamation of each and every member of my family."

Lucia Pinochet is accused of evading almost $1 million in taxes. A Chilean prosecutor said Wednesday that the minimum punishment for a conviction of the charges would be three years in prison.

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A U.S. customs service spokeswoman, Suzanne Trevino, said she did not know why Pinochet had been stopped at the airport. In general, she said, travelers would be referred by airport inspectors for additional interviews "if there were a problem with the documents or something suspicious."

Along with her mother and three siblings, Pinochet was charged with filing false tax declarations and helping her father hide nearly $27 million in more than 125 bank accounts outside Chile, including an account at the now-defunct Riggs National Bank in Washington, where he kept about $8 million.

Court officials in Santiago said the family members had been charged with filing "maliciously incomplete" and false tax declarations.

Chilean Foreign Minister Ignacio Walker told reporters that Pinochet could be sent back to Argentina by U.S. authorities, could voluntarily return to Argentina where Chile would submit an extradition request, or could decide to return to Chile and appear in court.

In Santiago, President Ricardo Lagos told reporters that talks were underway to arrange for her voluntary return.

"All of this has an effect on the country -- it's sad," said Lagos, a moderate socialist and longtime critic of the former dictator.

Augusto Pinochet has been charged with financial fraud, and faces prosecution related to the murder and torture of thousands of people after the 1973 military coup that brought him to power. He has avoided standing trial on the human rights charges by claiming health problems, including dementia.

A U.S. Senate report last year revealed that nine banks had allowed Pinochet to use false account names and offshore companies to hide millions of dollars from tax authorities and international prosecutors seeking to seize assets stolen from Chile. Riggs pleaded guilty last year to a criminal felony charge for failing to report suspicious transactions, and agreed to pay $41 million in civil and criminal fines to the U.S. government.

On Tuesday, a Santiago court approved bail for Pinochet's wife and their other children; Marco Antonio, Jacqueline and Veronica. Pinochet's eldest son, Augusto, was not arrested. He has been charged with falsifying passports but not with tax evasion.

Constable reported from Washington. Staff writer Spencer S. Hsu in Washington and special correspondent Jonathan Franklin in Santiago contributed to this report.

An Act Of Political Hygiene (WSJ)

By Mark Steyn

The Wall Street Journal, January 26, 2006

QUEBEC CITY -- Remember the conventional wisdom of 2004? Back then, you'll recall, it was the many members of George Bush's "unilateral" coalition who were supposed to be in trouble, not least the three doughty warriors of the Anglosphere -- the president, Tony Blair and John Howard -- who would all be paying a terrible electoral price for lying their way into war in Iraq. The Democrats' position was that Mr. Bush's rinky-dink nickel-&-dime allies didn't count: The president has "alienated almost everyone," said Jimmy Carter, "and now we have just a handful of little tiny countries supposedly helping us in Iraq." (That would be Britain, Australia, Poland, Japan . . .) Instead of those nobodies, John Kerry pledged that, under his leadership, "America will rejoin the community of nations" -- by which he meant Jacques Chirac, Gerhard Schröder, the Belgian guy . . .

Two years on, Messrs. Bush, Blair, Howard and Koizumi are all re-elected, while Mr. Chirac is the lamest of lame ducks, and his ingrate citizenry have tossed out his big legacy, the European Constitution; Mr. Schröder's government was defeated and he's now shilling for Russia's state-owned Gazprom ("It's all about Gaz!"); and the latest member of the coalition of the unwilling to hit the skids is Canada's Liberal Party, which fell from office on Monday. John Kerry may have wanted to "rejoin the community of nations." Instead, "the community of nations" has joined John Kerry, windsurfing off Nantucket in electric-yellow buttock-hugging Lycra, or whatever he's doing these days. * * *

It would be a stretch to argue that Mr. Chirac, Mr. Schröder and now Paul Martin in Ottawa ran into trouble because of their anti-Americanism. Au contraire, cheap demonization of the Great Satan is almost as popular in the streets of Toronto as in the streets of Islamabad. But these days anti-Americanism is the first refuge of the scoundrel, and it's usually a reliable indicator that you're not up to the challenges of the modern world or of your own country. In the final two weeks of the Canadian election, Mr.

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Martin's Liberals unleashed a barrage of anti-Conservative attack ads whose ferocity was matched only by their stupidity: They warned that Stephen Harper, the Conservatives' leader, would be "George Bush's new best friend"! They dug up damaging quotes from a shocking 1997 speech in which he'd praised America as "a light and inspiration"! Another week and they'd have had pictures from that summer in the late '80s he spent as Dick Cheney's pool boy.

Mr. Harper, the incoming prime minister, will not be "George Bush's new best friend" -- that's a more competitive field than John Kerry and Jimmy Carter think. But at the very least a Harper government won't rely on reflexive anti-Americanism as the defining element of Canadian identity. No cheery right-wingers south of the border should exaggerate what happened on Monday. It was an act of political hygiene: The Liberal Party was mired in a swamp of scandals, the most surreal of which was a racket to shore up the anti-separatist cause in Quebec by handing out millions of free Canadian flags, a project which so overburdened the domestic flag industry the project had to be outsourced to overseas companies, who at a cost of $45 each sent back a gazillion flags that can't fly. That's to say, they had no eyelets, no sleeve, no halyard line for your rope and toggle and whatnot. You have to lean a ladder up against the pole and nail it into position, which on a January morning at Lac St-Jean hardly seems likely to endear nationalist Quebecers to the virtues of the Canadian state. Millions of dollars were transferred to "advertising agencies" and "consultancies" run by the party's pals and in return they came up with a quintessentially Liberal wheeze: Even if you wanted to salute it, you can't run it up the flagpole. As a forlorn emblem of Trudeaupian nationalism, that's hard to beat.

And yet and yet . . . in throwing the bums out, Canadian voters declined to subject them to full-scale humiliation. Even with viable alternatives for all tastes -- conservative, socialist and Quebec separatist -- it seems one can never underestimate the appeal of a party of floundering discredited kleptocrat incompetents led by a vindictive empty suit who fought one of the most inept campaigns in modern political history. They clung on to over 100 seats and the votes of Canada's three biggest cities. Truly, the Liberals are one of the most amazingly resilient parties this side of Kim Jong-Il's.

Stephen Harper has to live with that political reality, but, as he's done with his party, he'll move the country incrementally. On the environment, his views are compatible with Mr. Bush, John Howard and now Tony Blair: That's to say, if "climate change" is a problem, Kyoto's not the answer to it. On missile defense, the Conservatives will string along with Washington because it's the easy option and we'll be covered by it anyway: Even Canadians aren't prepared to argue that, if there's something headed toward Winnipeg or Montreal, we'd rather the Americans minded their own bloody business and didn't tell us about it. But it's a good gauge of the deterioration in U.S.-Canadian relations that a quintessential piece of postmodern, humbug multilateralism -- an issue that required Canada to be minimally supportive without being helpful, at no political cost and in return for some lucrative contracts for northern defense contractors -- was whooped up by the Liberals into a big scare about Washington's plans for the "weaponization of space." On missile defense, Mr. Harper will be more down to earth in every sense.

But will there be Canadian troops in Iraq or wherever's next? No, not in any meaningful sense. The sad fact is, even if we'd wanted to liberate Baghdad, we have an emaciated military worn to the bone. But it goes beyond the lack of equipment and lack of transport that now afflict what was, 60 years ago, the world's fourth largest military. In April 2002, the Pentagon wished to confer the Bronze Star on five snipers from the Princess Patricia's Canadian Light Infantry in Afghanistan for their service in . . . killing the enemy. Ottawa put the request on hold, relenting grudgingly only after the matter was made public. It seems the Canadian government's main objection was a reluctance to let it be known that our military still, er, shoots people, and extremely accurately. The backs of our five-dollar bills celebrate the armed forces, but they're all unarmed -- peacekeepers, elderly veterans, etc.

Like much of the European Union, we're so heavily invested in the idea that we've found a kinder gentler way we can scarce bear to contemplate the reality. At the Washington state/British Columbia border this week, two guys on the lam were hightailing it through Blaine heading for the 49th parallel with the cops in hot pursuit. Alerted to what was coming their way, Canada's (unarmed) border guards walked off the job. For a country whose national anthem lyrics are mostly endless reprises of the line "we stand on guard for thee," we could at least stand on guard. A few years back, I was chatting with a border guard at the Derby Line, Vt./Rock Island, Quebec crossing. A beat-up sedan came hurtling northward and we jumped out of the way. She sounded a klaxon. By then the driver was halfway up the Trans-Quebecoise autoroute and, if he ever heard her stern warning, he declined to brake and reverse back to the post to show his papers. "Oh, well," she said to me, "it's probably nothing."

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Canadians have been reluctant in the last four years to accept that we no longer live in an "it's probably nothing" world. Many Continentals feel the same way. Unlike his hollow predecessor, Stephen Harper is a thoughtful man who understands the gulf between self-mythologizing and the harder realities. You can't change a free country unless you persuade free people to change their minds, and he will at least start that tough job. He doesn't have to be George Bush's best friend, and he may even be more effective at opposing him on trade and agriculture disputes. But he could try being Tony Blair's and John Howard's best friend and reconnecting us with other traditional pals from whom Canada's become increasingly estranged. He could honor our small but brave contribution to Afghanistan by flying out and meeting them on the ground. But, even if he does nothing else, he'll bring to an end a decade of self-defeating sneering. The ayatollahs at least flatter America as a seducer -- the Great Satan -- which is a more accurate and sophisticated construct than deriding her as the Great Moron. The difference between sniping at the Taliban and sniping at Washington is that in the latter case we're firing blanks.

Mr. Steyn is a columnist for Canada's Western Standard and Maclean's magazine, as well as for National Review and the Atlantic Monthly.

Freedom's Unsung Hero (WSJ)

The Wall Street Journal, January 26, 2006

Hong Kong's prosperity since World War II is sometimes referred to as a "miracle." But miracles require the intervention of a deity, whereas Hong Kong's remarkable economic growth between 1945 and its handover to China in 1997 owes a great deal to the nonintervention of a mortal man, John James Cowperthwaite, who died over the weekend at the age of 90.

Cowperthwaite arrived in Hong Kong in 1945 and served as Financial Secretary of the then-British colony from 1961-1971. Perhaps more than any other single figure, he was the architect and guardian of the greatest natural experiment in free-market capitalism in the postwar world. It is all the more remarkable that he kept the colonial government small and out of the business of business at a time when socialism was ascendant in Britain.

In 1997, Milton Friedman noted that since 1945 Hong Kong's GDP per capita had gone from a fraction to substantially more than that of Israel and Britain, and had caught up with that of the U.S., even as the colony's population increased tenfold. That astonishing performance became a policy beacon first to the nearby small nations of Asia (the "tigers") and eventually to Mainland China itself.

One of the better known stories about the undeservedly obscure Cowperthwaite was his refusal to collect economic statistics about Hong Kong during his tenure as Financial Secretary, lest they produce an impulse toward central planning among the bureaucrats. "I did very little," Sir John once said. "All I did was to try to prevent some of the things that might undo it." Other would-be central planners could learn a lot from what John Cowperthwaite didn't do.

The African Union Gets It Half-Right (NYT)

The New York Times, January 26, 2006

The African Union did the right thing in rejecting Sudan's bid for the rotating presidency of the organization. Allowing President Omar Hassan al-Bashir of Sudan to become Africa's face to the world would have sent just about every wrong message imaginable. Mr. Bashir has presided over the genocide perpetrated by Sudanese solders and allied militias in Darfur since 2003. He's not exactly the person anyone would want in nominal command of the 7,000-strong African Union force that is trying to protect civilians in Darfur. His ascension would have mocked the group's declared goal of promoting democracy, human rights and development.

The only question is why the African leaders in Khartoum for the sixth African Union summit meeting even wasted so much time on the issue, given the really pressing problems on their agenda. While the African Union usually passes the presidency on to the host of its regular summit meeting, the main purpose in founding the organization in 2002 was to avoid the pitfalls of its predecessor, the Organization of African Unity, which came to be derisively known as a dictators' club because of its consistent failure to sanction any member. The African Union, loosely modeled on the European Union, was meant to confront the continent's failings and problems head-on, and to find African solutions for them. So accepting Mr. Bashir's bid for the presidency would have been a serious blow to the union's credibility.

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Unfortunately, that credibility is still on probation. Though rebuffed for now, Mr. Bashir was promised the group's presidency in 2007, and for now the chair will go to the Congo Republic, hardly a model of human rights. Giving Sudan the African Union presidency next year will be just as unacceptable as it was this year.

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TERRORISM NEWS:

Specter To Grill Gonzales On Spy Program (PPG)

By Michael Mcgough, Post-gazette National Bureau

Pittsburgh Post-Gazette, January 26, 2006

WASHINGTON -- If Attorney General Alberto R. Gonzales thought he might be spared tough questioning from Republican senators when he testifies about the warrantless wiretapping of Americans thought to be in contact with foreign terrorists, Sen. Arlen Specter, R-Pa., yesterday disabused him of that notion.

In a letter sent to the attorney general and shared with the press, the chairman of the Senate Judiciary Committee propounded a series of questions that in a courtroom setting might be called "leading" and requested that Mr. Gonzales answer them in his opening statement before the committee on Feb. 6.

The combative nature of the letter wasn't altered by the fact that the printed salutation to "Attorney General Gonzales" was replaced by a hand-written "Al."

The letter honed in on the Bush administration's assertion-ridiculed by critics -- that Congress empowered the president to engage in electronic surveillance of Americans without a court order when it passed a resolution after the Sept. 11 2001, attacks authorizing him to "use all necessary and appropriate force" against terrorists.

Mr. Specter asked: "In interpreting whether Congress intended to amend the Foreign Intelligence Surveillance Act by the Sept. 14, 2001, resolution, would it be relevant on the issue of congressional intent that the administration did not specifically ask for an expansion for executive powers under FISA?"

Mr. Specter further asked: "If Congress had intended to amend FISA by the resolution, wouldn't Congress have specifically acted to [do so] as Congress did in passing the Patriot Act giving the executive expanded powers and greater flexibility in using 'roving' wiretaps?"

Mr. Specter also made it clear he would press Mr. Gonzales about the administration's other legal rationale for the surveillance -- that it flowed from Mr. Bush's constitutional authority as commander-in-chief.

On this point, Mr. Specter asked: "isn't President Carter's signature on FISA in 1978, together with his signing statement, an explicit renunciation of any claim to inherent executive authority under Article II of the Constitution to conduct warrantless domestic surveillance?"

In what might be the most ticklish question for Mr. Gonzales, Mr. Specter said he would ask if the administration would be willing belatedly to seek approval from the FISA court for "the ongoing surveillance program at issue."

In posing these other questions, Mr. Specter made it clear that Democrats won't be the only members of the committee to grill Mr. Gonzales about the rationale for the NSA program. That will make it harder for the administration to portray criticism of the operation as partisan.

On Tuesday, before the committee voted on the Supreme Court nomination of Judge Samuel A. Alito Jr., Mr. Specter was praised by Sen. Patrick Leahy, D-Vt., for scheduling hearings on the NSA program.

Mr. Leahy, the ranking Democrat on the panel, said that "most committees in the Senate have been unwilling to hold hearings because of the pressure from the White House."

Lawmakers Seek Details On Administration's Spying (NJTD)

By Sarah Lai Stirland, National Journal's Technology Daily

National Journal's Technology Daily, January 25, 2006

Pressure mounted on the Bush administration Wednesday to provide lawmakers with answers on domestic spying activities.

Senate Judiciary Committee Chairman Arlen Specter, R-Pa., released a three-page letter with detailed questions to Attorney General Alberto Gonzales on the president's decision in 2002 to secretly authorize domestic wiretaps without warrants.

The letter includes many of the questions that constitutional scholars have been posing about the president's order, and several questions could put Gonzales in an awkward position.

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Specter's Tuesday letter asked Gonzales why the president did not ask lawmakers to include the authority to conduct such surveillance as part of the USA PATRIOT Act. Congress passed the legislation shortly after the terrorist attacks of Sept. 11, 2001, specifically to loosen legal standards governing terrorist investigations.

The letter also asks Gonzales to justify the administration's selective briefing of particular members of Congress, rather than of all of the members of the House and Senate Intelligence committees, as required by law.

At the same time, Democrats on the Senate Intelligence Committee demanded that Chairman Pat Roberts, R-Kan., hold a business meeting so the committee can vote to investigate several aspects of the administration's domestic spying.

Under committee rules, Roberts is obligated to hold a meeting if at least five members formally ask for one. All seven Democrats on the panel signed the request to Roberts.

A majority vote is needed to move ahead with the investigation. Two Republicans on the committee, Sens. Chuck Hagel of Nebraska and Olympia Snowe of Maine, have asked Roberts for a hearing on the matter. Roberts has said nothing publicly about holding a hearing. A press call asking whether the senator plans for any hearings was not returned by press time.

Also on Wednesday, a group of Democrats, including Sens. Richard Durbin of Illinois and Charles Schumer of New York, sent a letter to President Bush asking him for specific changes in the law that he believes are necessary to permit effective surveillance of suspected terrorists.

When asked whether they were posing the questions so new provisions could be included in pending legislation to reauthorize the USA PATRIOT Act, a spokesman for Durbin replied: "No. that's because we believe that the president is breaking the law, and we would rather have him not do that."

The spokesman added, "If [Bush] feels that he doesn't have the tools he needs, he has an obligation under the Constitution to come to Congress."

In a speech delivered at National Security Agency headquarters at Fort Meade, Md., President Bush sounded defiant.

"I'll continue to reauthorize this program for so long as our country faces a continuing threat from al Qaeda and related groups," he said. "This enemy still wants to do harm to the American people. We cannot let the fact that we have not been attacked lull us into the illusion that the threats to our nation have disappeared."

Senators Questioning Spy Program (BSUN)

By Julie Hirschfeld Davis

The Baltimore Sun, January 26, 2006

WASHINGTON -- On a day when President Bush visited the National Security Agency to defend its warrantless eavesdropping operation, questions mounted about the administration's legal justifications for the program.

A key Republican senator took issue with Bush's defense of the operation, which was secretly authorized by the president after the Sept. 11, 2001, terrorist attacks and targets some communications inside the United States. Also, new reports surfaced suggesting that the administration had rejected an earlier proposal in Congress that would have made it easier to obtain court approval for domestic wiretapping.

In a letter to Attorney General Alberto R. Gonzales, Senate Judiciary Chairman Arlen Specter took issue with major themes of Bush's legal defense of the program, including that Congress gave implicit approval for it in a 2001 resolution authorizing the use of force against terrorists.

Specter, who has called Gonzales to testify at hearings into the NSA surveillance activities, asked the attorney general to answer more than a dozen questions about the legal reasoning behind the operation. Among them: why Bush sidestepped a 1978 law requiring approval by a secret court for most domestic wiretaps; why the administration did not ask for express authority to carry out the program; and how the administration can justify briefing only eight members of Congress about the activities when the law requires that congressional committees be kept up to date on intelligence matters.

The letter from Specter, a Pennsylvania Republican, asked Gonzales to appear for a full day of testimony at the hearings, scheduled to open Feb. 6. Specter was particularly pointed in questioning whether it actually was Congress' intent to let Bush circumvent the Foreign Intelligence Surveillance Act of 1978, which generally requires warrants for domestic surveillance.

ßsubhed 'Necessary' force

Bush contends the post-9/11 resolution, which authorized the use of "all necessary and appropriate force" to pursue al-Qaida, extends to wiretapping terrorist communications that originate or end inside the United States.

Still, legal experts and several lawmakers in both parties have questioned why Bush did not seek court approval for the program, or ask that the standards of the 1978 law be relaxed, if necessary, to accommodate it. Late last year, Gonzales said officials determined that such an expansion was "not something that we could likely get" from Congress.

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But the Bush administration opposed loosening FISA's legal standards in 2002, when Republican Sen. Mike DeWine of Ohio introduced legislation that would have done so for wiretaps on non-U.S. persons. The change might not be necessary and could be unconstitutional, James A. Baker, the Justice Department intelligence counsel, testified on Capitol Hill in July 2002.

The issue is important to the raging debate over the legality of the NSA program, which operates without such warrants, since Bush and his top advisors argue that the secret authorization was needed because the FISA approval process is too unwieldy for intelligence officers tracking terrorist communications.

To obtain a domestic wiretap warrant through the FISA court, authorities must show "probable cause." In his 2002 testimony, Baker questioned whether relaxing the standard to "reasonable suspicion" would pass constitutional muster.

"If the current standard has not posed an obstacle, then there may be little to gain from the lower standard and, as I previously stated, perhaps much to lose," he said.

A Justice Department spokesman said there was no contradiction between Baker's statement and the administration's position on the NSA program. Officials carrying out the surveillance program operate on a "reasonable basis to believe" standard, which is similar to "probable cause," and a higher threshold than "reasonable suspicion," said Brian Roehrkasse, the spokesman.

"The legal standards are essentially the same; however, when time is of the essence, interposing additional layers of review sacrifices critical speed and agility," Roehrkasse said.

National security lawyers, however, view "probable cause" as a higher standard than "reasonable basis to believe."

Bush pressed ahead with his campaign to quell public anxiety about the program during a visit to the NSA's Fort Meade headquarters, painting his critics as weak-kneed in the face of terrorist threats. "There's some in America who say, 'Well, this can't be true [that] there are still people willing to attack,'" Bush said. "Listen to the words of Osama bin Laden and take him seriously. When he says he's going to hurt the American people again, or try to, he means it."

Flanked by senior advisors and Lt. Gen. Keith B. Alexander, the NSA director, Bush spoke to reporters from outside the NSA's Threat Operations Center, a high-tech hub of activity with a video wall displaying snippets of the vast amounts of information the agency collects and crunches. Earlier, in a portion of his visit that was closed to reporters, Bush addressed NSA employees. His remarks were beamed to agency personnel around the world, including in Iraq and Afghanistan.

Democrats pounced on Bush's NSA visit Wednesday to criticize the operation. "I regret that President Bush has chosen to use NSA, and its hard-working employees, as a photo opportunity for his own political purposes," Maryland Sen. Barbara A. Mikulski said. "Instead he should be working to sort out the complicated issues surrounding his domestic spying program."

Democratic Rep. Elijah E. Cummings of Baltimore said Bush should focus on helping Americans without jobs, health insurance or access to a quality education, rather than speaking out on the spying program.

"I urge our president to open his eyes and address the nation's immediate needs instead of defending the illegal action of listening in on private telephone conversations," Cummings said in a statement.

Republicans sent word to millions of supporters, asking them to rally behind the program in letters to newspapers and calls to radio shows and lawmakers. In an e-mail, National Republican Chairman Ken Mehlman accused Democrats of "deliberately distorting the truth" about the operation, and urged Republicans to "separate fact from fiction."

Democrats' letter

A group of Democratic senators released a letter to Bush that accused the president of breaking the law through the eavesdropping program. They called on him to tell Congress by Feb. 1 what changes he would seek in current law to carry it out.

"If you or officials in your administration believe that FISA, or any law, does not give you enough authority to combat terrorism, you should propose changes in the law to Congress. You may not simply disregard the law," wrote the group, including Sens. Richard J. Durbin of Illinois, Russell D. Feingold of Wisconsin, Edward M. Kennedy of Massachusetts and Harry Reid of Nevada, the minority leader.

A request by Sen. John D. Rockefeller IV of West Virginia, the top Intelligence Committee Democrat, for prompt hearings on the NSA program touched off a testy exchange of letters between him and Sen. Pat Roberts of Kansas, the panel's Republican chairman, with each accusing the other of playing politics with the issue.

House Intelligence Committee Democrats, too, renewed their calls for hearings on the NSA program. Also, Senate Democrats called on Specter to widen the scope of the Judiciary Committee hearings by calling current and former administration officials, including Andrew H. Card Jr., the White House chief of staff.

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White House Dismissed '02 Surveillance Proposal (WP)

By Dan Eggen

The Washington Post, January 26, 2006

The Bush administration rejected a 2002 Senate proposal that would have made it easier for FBI agents to obtain surveillance warrants in terrorism cases, concluding that the system was working well and that it would likely be unconstitutional to lower the legal standard.

The proposed legislation by Sen. Mike DeWine (R-Ohio) would have allowed the FBI to obtain surveillance warrants for non-U.S. citizens if they had a "reasonable suspicion" they were connected to terrorism -- a lower standard than the "probable cause" requirement in the statute that governs the warrants.

The administration has contended that it launched a secret program of warrantless domestic eavesdropping by the National Security Agency in part because of the time it takes to obtain such secret warrants from federal judges under the Foreign Intelligence Surveillance Act (FISA).

The wiretapping program, ordered by President Bush in 2001, is used when intelligence agents have a "reasonable basis to believe" that a target is tied to al Qaeda or related groups, according to recent statements by administration officials. It can be used on U.S. citizens as well as foreign nationals, without court oversight.

Democrats and national security law experts who oppose the NSA program say the Justice Department's opposition to the DeWine legislation seriously undermines arguments by Attorney General Alberto R. Gonzales and others, who have said the NSA spying is constitutional and that surveillance warrants are often too cumbersome to obtain.

"It's entirely inconsistent with their current position," said Philip B. Heymann, a deputy attorney general in the Clinton administration who teaches law at Harvard University. "The only reason to do what they've been doing is because they wanted a lower standard than 'probable cause.' A member of Congress offered that to them, but they turned it down."

But Justice Department officials disagreed, saying the standard the department opposed in 2002 is legally different from the one used by the NSA.

"The FISA 'probable cause' standard is essentially the same as the 'reasonable basis' standard used in the terrorist surveillance program," said spokeswoman Tasia Scolinos, using the term for the NSA program the White House has adopted. "The 'reasonable suspicion' standard, which is lower than both of these, is not used in either program."

Justice officials also said that even under a different standard, the process of obtaining a surveillance warrant would take longer than is necessary for the NSA to efficiently track suspected terrorists.

The DeWine amendment -- first highlighted this week by Internet blogger Glenn Greenwald and widely publicized yesterday by the Project on Government Secrecy, an arm of the Federation of American Scientists -- is the latest point of contention in a fierce political and legal battle over the NSA monitoring program.

Many Democrats and some Republicans, along with legal experts from both sides, have criticized the program as a clear violation of the 1978 FISA law, which makes it a crime to conduct domestic surveillance without a criminal or intelligence warrant. The administration argues that Bush acted legally under the congressional authorization to use military force against al Qaeda, and that FISA would be unconstitutional if it constrains his power as commander in chief.

During separate appearances this week, Gonzales and Gen. Michael V. Hayden, the deputy intelligence chief, also said the legal requirements under FISA made it difficult for intelligence agents to act quickly enough in many cases.

Under the NSA program, Hayden said, "the trigger is quicker and a bit softer than it is for a FISA warrant."

During Senate debate over DeWine's amendment in July 2002, James A. Baker, the Justice Department's counsel for intelligence policy, said in a statement that the Bush administration did not support the proposal "because the proposed change raises both significant legal and practical issues."

Baker said it was "not clear cut" whether the proposal would "pass constitutional muster," and "we could potentially put at risk ongoing investigations and prosecutions" if the amendment was later struck down by the courts. He also said Justice had been using FISA aggressively and played down the notion that the probable cause standard was too high.

A DeWine spokesman declined to comment on the issue yesterday.

Also yesterday, Senate Judiciary Committee Chairman Arlen Specter (R-Pa.) sent a list of 15 sharply worded questions to Gonzales in preparation for a Feb. 6 hearing on the legality of the NSA program. Specter asks, among other things, why the government did not ask Congress for new legislation to allow the spying.

Words, Deeds On Spying Differed (LAT)

By David G. Savage, Times Staff Writer

The Los Angeles Times, January 26, 2006

WASHINGTON — Four years ago, top Bush administration lawyers told Congress they opposed lowering the legal standard for intercepting the phone calls of foreigners who were in the United States, even while the administration had secretly adopted a lower standard on its own.

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The government's public position then was the mirror opposite of its rationale today in defending its warrantless domestic spying program, which has come under attack as a violation of civil liberties.

Government wiretapping — and who sets the rules — has emerged at the center of a growing debate between the White House and Congress since the disclosure last month of the administration's warrantless spying program.

A Justice Department spokesman confirmed Wednesday the administration had opposed changing the law in 2002 in part because it did not want to publicly debate the issue.

"There was a conscious choice not to have a public discussion about it. It could have exposed the program. This was a military defense intelligence program," said the spokesman, who asked not be named because of the sensitivity surrounding the still-classified presidential order on wiretapping.

After the terrorist attacks of September 2001, lawmakers proposed several changes that would make it easier for the government to detect terrorists and their allies who might be operating in the United States.

Sen. Mike DeWine (R-Ohio) proposed making it easier for officials to obtain warrants to conduct wiretapping. The current law, the Foreign Intelligence Surveillance Act of 1978, said officials must have "probable cause" to believe someone was an agent of an international terrorist group before they could obtain a warrant to tap their phones.

This high standard proved to be a stumbling block at times. When Zacarias Moussaoui — the man later dubbed the 20th hijacker of the Sept. 11 attacks — was arrested in Minnesota in August 2001, officials in the Justice Department did not seek a warrant to search his laptop computer because they did not have probable cause to believe he was an Al Qaeda operative.

This was later judged to be a mistake. DeWine cited this when he proposed to lower the standard for obtaining a warrant to one of "reasonable suspicion." This would permit the government to move quickly to search or eavesdrop on suspicious foreigners such as Moussaoui, he said, even if they lacked "probable cause" to show they were members of Al Qaeda.

But when the proposal came before a Senate committee, the administration's lawyers testified that no change was needed.

"The administration at this time is not prepared to support it," the Justice Department's James A. Baker said of the DeWine amendment in congressional testimony. As counsel for intelligence policy at the time, he headed the office that sought search warrants from the secret Foreign Intelligence Surveillance Act court that meets inside the Justice Department.

The administration now defends the constitutionality of the warrantless domestic spying program and says it is necessary to avoid the "cumbersome" process of getting a warrant from the FISA court.

But in 2002, Baker told Congress it was not clear "whether a 'reasonable suspicion' standard for electronic surveillance would … pass constitutional muster."

Baker also said the existing standard was not a problem.

"We have been aggressive in seeking FISA warrants, and thanks to Congress' passage of the [Patriot Act] we have been able to use our expanded FISA tools more effectively to combat terrorist activities," he said. "It may not be the case that the probable cause standard has caused any difficulties in our ability to seek FISA warrants we require."

DeWine's proposal failed to pass the committee.

This week, top administration officials confirmed that before DeWine even made his proposal, they had adopted a "reasonable basis" standard for this eavesdropping.

"The president's authorization allows us to track this kind of call more comprehensively and more efficiently. The trigger is quicker and a bit softer than it is for a FISA warrant," Gen. Michael V. Hayden, the No. 2 ranking intelligence official and the former head of NSA, told reporters Monday.

Asked whether the key change was to switch from "probable cause" to a "reasonableness" standard, Hayden said, "I think you have accurately described the criteria under which this operates."

A Senate Democrat, Patrick J. Leahy of Vermont, accused the administration of having tried "to paper over the legality of a secret spying program. If they really believed the current law is too burdensome, the Bush administration should have asked Congress to change it, but they did not. Instead a top lawyer in the Bush administration did just the opposite."

Timothy Edgar, a lawyer on national security policy for the American Civil Liberties Union, also accused the administration of "remarkable duplicity" for having testified in public against the legal change while carrying it out in private. "It seems they were being incredibly deceptive," he said.

The Justice Department's conflicting statements came to light Wednesday after Glenn Greenwald, a New York lawyer, posted the differing statements on a blog.

In 2002, Justice Department Said Eavesdropping Law Working Well (KRT)

By Jonathan S. Landay

Knight Ridder, January 26, 2006

DOJ_NMG_0012092

WASHINGTON - A July 2002 Justice Department statement to a Senate committee appears to contradict several key arguments that the Bush administration is making to defend its eavesdropping on U.S. citizens without court warrants.

The Foreign Intelligence Surveillance Act, the law governing such operations, was working well, the department said in 2002. A "significant review" would be needed to determine whether FISA's legal requirements for obtaining warrants should be loosened because they hampered counterterrorism efforts, the department said then.

President Bush, Attorney General Alberto Gonzales and other top officials now argue that warrantless eavesdropping is necessary in part because complying with the FISA law is too burdensome and impedes the government's ability to rapidly track communications between suspected terrorists.

In its 2002 statement, the Justice Department said it opposed a legislative proposal to change FISA to make it easier to obtain warrants that would allow the super-secret National Security Agency to listen in on communications involving non-U.S. citizens inside the United States.

Today, senior U.S. officials complain that FISA prevents them from doing that.

James A. Baker, the Justice Department's top lawyer on intelligence policy, made the statement before the Senate Intelligence Committee on July 31, 2002. He was laying out the department's position on an amendment to FISA proposed by Sen. Mike DeWine, R-Ohio. The committee rejected DeWine's proposal, leaving FISA intact.

So while Congress chose not to weaken FISA in 2002, today Bush and his allies contend that Congress implicitly gave Bush the authority to evade FISA's requirements when it authorized him to use force in response to the Sept. 11, 2001, attacks three days after they occurred - a contention that many lawmakers reject.

Glenn Greenwald, an Internet blogger, first connected the earlier Justice Department statement to the Bush administration's current arguments on his Web log, called Unclaimed Territory.

Baker's 2002 statement drew new attention Wednesday as the White House continued its campaign to justify eavesdropping on Americans who are suspected of being in contact with al-Qaida or other terrorist groups, despite possible violation of FISA.

Bush visited the NSA's sprawling complex at Fort Meade, Md., on Wednesday to deliver a closed-door morale-boosting talk to its workforce.

He later repeated to reporters that the eavesdropping operation was limited to communications in which one participant was outside the United States.

"When terrorist operatives are here in America communicating with someone overseas, we must understand what's going on if we're going to do our job to protect the people," Bush said.

The administration insists that Bush has the legal and constitutional authority to order the NSA program, which began after the Sept. 11, 2001, attacks. But Democrats and some Republicans contend that Bush may have violated FISA, which governs how the government can monitor international calls and e-mails.

The law requires the government to show a secret federal court that it has "probable cause" to believe that a target for domestic eavesdropping is an agent of a foreign government or involved with a terrorist organization like al-Qaida.

DeWine's bill would have lowered the "probable cause" standard to one of only "reasonable suspicion" for warrants involving foreigners in the country.

Baker said in 2002 that because the "proposed change raises both significant legal and practical issues, the administration at this time is not prepared to support it."

He said that Justice Department lawyers were trying to determine whether the lower standard would pass "constitutional muster."

Baker also said that the Justice Department had "been aggressive in seeking FISA warrants" and that congressional approval of the USA Patriot Act had allowed investigators "to use our expanded FISA tools more effectively to combat terrorist activities."

"It may not be the case that the probable cause standard has caused any difficulties in our ability to seek the FISA warrants we require," he said then.

Brian Roehrkasse, a Justice Department spokesman, said Wednesday that Gonzales stands by the administration's current view that FISA warrant requirements impose "additional layers of review" that sacrifice "critical speed and agility."

Sen. Arlen Specter, R-Pa., the chairman of the Senate Judiciary Committee, sent Gonzales a letter detailing a series of pointed questions that he intends to ask during a Feb. 6 hearing into the NSA program's legality.

The letter noted that under FISA, federal authorities can wiretap anyone and then seek a warrant within 72 hours.

Specter said he wanted Gonzales to explain why Bush didn't ask Congress to change FISA to make it easier to conduct surveillance with judicial approval.

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He also indicated that Congress could have adjusted the law when it passed the anti-terrorism Patriot Act in the wake of the Sept. 11 attacks.

To read Greenwald's posts on the 2002 Justice Department statement, go to http://glenngreenwald.blogspot.com/

Knight Ridder Newspapers correspondents William Douglas and James Kuhnhenn contributed to this report.

Bush PR Blitz Races To Frame Spying Debate (DMN)

By Michelle Mittelstadt, The Dallas Morning News

The Dallas Morning News, January 26, 2006

WASHINGTON – The Bush administration raced this week to defend its warrantless domestic spying program, with several aims in mind, experts say: Win over a conflicted public; force Democrats into an arena that plays to GOP strength; and head off talk of impeachment and special prosecutors.

With polls showing the public sharply divided over the controversial surveillance program, the White House and its critics – Democrats, small-government conservatives and civil libertarians – are engaged in a high-stakes contest to frame the debate.

"If it's defined primarily as 'government abuse, the president out of control, the White House running roughshod over basic constitutional rights,' it would be a major problem for an extended period of time for the president – both on Capitol Hill but also with the voters," said political analyst Stuart Rothenberg.

"If the issue is defined more as 'protecting national security, keeping people safe, stopping terrorism,' then what the Democrats immediately saw might be a good issue for them could actually be turned around for the president and the Republican Party."

Though the court of public opinion is key, some suggest that the political system or the courts will be the ultimate arbiter of the program's legality – and the far weightier question of whether Mr. Bush is claiming executive powers outside the bounds of the Constitution or the law.

"This is the dangerous side of what's going on," said David Keene, chairman of the American Conservative Union.

He argues that the White House has gone too far in its assertion of presidential powers.

"It sets the stage for a clash between institutions of government because what the executive claims, when it claims the inherent power to do anything it wants in times of war, is saying that what Congress thinks doesn't matter and ultimately what the courts think doesn't matter."

Little oversight?

But Caroline Fredrickson, head of the American Civil Liberties Union's Washington office, said she fears that clash won't materialize because the GOP-led Congress has shown little appetite for oversight of the administration's anti-terrorism efforts.

"Where you have bipartisan groups of individuals from the broadest spectrum of American political life suggesting that the president's actions are illegal, I think this is where Congress should be undertaking extensive hearings," she said.

Thus far, the Senate Judiciary Committee is the only one committed to hold hearings, with Chairman Arlen Specter, R-Pa., voicing skepticism about the program's legal justification.

Mr. Specter has summoned Attorney General Al Gonzales for a Feb. 6 hearing and is under pressure from Democrats to invite former Deputy Attorney General James Comey and other administration officials who reportedly raised concerns about the legality of the domestic surveillance.

Mr. Gonzales and other top aides joined the president this week in a public relations blitz to assert that Mr. Bush had full authority to initiate warrantless surveillance of Americans believed to be engaged in communication with people overseas suspected of ties to al-Qaeda or its affiliates.

"We must be able to quickly detect when someone linked to al-Qaeda is communicating with someone inside of America," Mr. Bush said Wednesday during a visit to NSA headquarters in Maryland.

But critics say that can be done, with court review, under the 1978 Foreign Intelligence Surveillance Act.

Though administration officials complain that the law is too cumbersome for "hot pursuit" surveillance, FISA backers note that the law permits emergency eavesdropping so long as court approval is sought within 72 hours.

Legal challenges

While the ACLU and the Center for Constitutional Rights have sued to challenge the spy program's constitutionality, some suggest that the controversy may not be settled in the courts.

"It's very unlikely it will ever make it to the Supreme Court or a federal court because it basically is a disagreement between the executive branch and the legislative branch over who has power," Sen. John Cornyn, R-Texas, said Wednesday. "And the truth is, both branches have a responsibility and have authority."

The groups' lawsuits were brought on behalf of Americans troubled by the thought of domestic spying without court oversight.

But they will probably be deemed to lack legal standing because the groups weren't wiretap targets, said Kate Martin, head of the Center for National Security Studies. And while lawyers for defendants charged in terrorism cases have sued to learn if the warrantless wiretaps were used against their clients, Ms. Martin predicted that they are unlikely to pierce the veil of secrecy around the program.

Her solution? Congressional hearings. And if lawmakers deem that Mr. Bush exceeded his power, Congress should censure him.

Asked on a recent Sunday news show what he thought the remedy would be for a president breaking the law, Mr. Specter said, "Impeachment is the remedy."

He quickly noted that he was speaking theoretically. And thus far, impeachment isn't being touted by the political establishment. Nor is the possibility of a special prosecutor, though a new USA Today /CNN/Gallup poll found that 58 percent of Americans favor appointment of a special prosecutor.

But Bruce Fein, who served in the Nixon Justice Department, noted that it took many months for impeachment to gain currency during Watergate.

"I think that it would be premature to write off the impeachment option," Mr. Fein said.

Impeachment is not likely to gain political traction, said Larry Sabato, a University of Virginia political scientist. "Only hard-core Democratic partisans want to see Bush impeached, so it just turns people off."

Congressional Democrats, who have been burned at the polls after jousting with Mr. Bush over national security issues, are far less likely to raise impeachment, Mr. Rothenberg agreed.

A better option for them, he said, is to push the question of whether Mr. Bush broke the law or abused his power.

Backlash predicted

Mr. Keene, typically a staunch Bush ally, predicted that the administration's stance would "create an institutional backlash," with Congress moving to assert its power.

The best outcome, Mr. Fein said, would be for the White House to seek a rewrite of the FISA law if changes are deemed necessarily – and to quietly renounce the idea that the Constitution grants the president unparalleled wartime power.

Few of those challenging the administration's actions have suggested that the spy program should be terminated, and congressional Democrats have urged the administration to come to Congress for legislative approval.

The White House sees no need to do so, spokesman Scott McClellan said. "The president has the authority and responsibility to do what he's doing to prevent attacks from happening," he said.

Mr. Keene and others predicted that resolution may be years away.

"I'm not sure how it plays out, but ultimately it plays out by getting some kind of balance," he said.

After all, he noted, executive excesses in the past – such as President Harry Truman's seizure of U.S. steel mills during the Korean War – ultimately were corrected.

NSA Surveillance Legality Debate Narrows (FOX)

Fox News, January 26, 2006

WASHINGTON — After three days of a Bush administration offensive and weeks of debate and accusations, some legal experts are coming to terms on what is illegal and what is not in the National Security Agency electronic surveillance program.

"When the president goes around and speaks ... and says we're monitoring calls from overseas from Al Qaeda to the United States, the NSA can go ahead and do that now under the law," Sen. Edward Kennedy, D-Mass., said after the Senate Judiciary confirmation hearing of Supreme Court nominee Samuel Alito.

But Kennedy said independent organizations, like the Congressional Research Service, have studied the legality of the NSA program and say the president has gone beyond what the rules allow. Bush, however, says the eavesdropping program is legal and doesn't overstep the boundaries allowed to him by the Constitution and congressional resolution.

"These tools include surveillance to protect and prevent further attacks by our enemies," Bush said Wednesday after visiting the NSA to give a morale boost to workers there. "I have the authorization both from the Constitution and the Congress to undertake this vital program. The American people expect me to protect our lives and our civil liberties and that's exactly what we're doing with this program."

On Monday, the president described exactly what the NSA is doing.

"What I'm talking about is the intercept of certain communications emanating between somebody inside the United States and outside the United States and one of the numbers would be reasonably suspected to be an Al Qaeda link or affiliate," Bush told an audience at Kansas State University.

He added that just because the United States hasn't been hit in more than four years, the threat persists.

"Listen to the words of Usama bin Laden and take them seriously when he says he's going to hurt the American people again -- or try to -- he means it," Bush told reporters. "I take it seriously and the people of NSA take it seriously and most of the American people take it seriously, as well.

"This enemy still wants to do harm to the American people. We cannot let the fact that we have not been attacked lull us into the conclusion that the terrorists have disappeared. They have not disappeared," he said.

According to legal experts, hypothetically, if the NSA had intercepted calls from alleged terrorists such as Khalid Sheikh Mohammed or Ramzi Binalshibb, both now in custody, while they were abroad, then U.S. intelligence agents could listen to the calls without a warrant. That goes for phone calls with people on the other end of the line who happen to be in United States.

Only when the person inside the United States becomes the target of surveillance is a warrant from the Foreign Intelligence Surveillance court required.

"You wouldn't need a warrant to do the initial interception, but afterwards, once you're targeting the American citizen, then you need that warrant," said Bruce Fein, a former official in the Reagan Justice Department and a fierce critic of the Bush' administration's terror surveillance.

Other experts agree that a warrant is not needed until the U.S.-based individual becomes a suspect.

"If ... you are not targeting the person in the United States, you get the conversations, you are perfectly free to use those, that information provide it to other government agencies, if you want," said Bryan Cunningham, a former official with the Bush National Security Council.

Once the government agencies are given the information, they can open investigations with warrants to conduct further surveillance.

But others argue that the law says domestic communications monitoring rules apply even when only one end of the call is on U.S. soil. They say that's why Bush signed a highly classified directive approving the program and has to re-approve it every 45 days.

Current and former government officials familiar with electronic monitoring say that accidental eavesdropping — so-called "incidental intercepts" — are also a dark part of the business. When it happens, the NSA has procedures to protect the identities of Americans and their privacy.

Lt. Gen. Michael Hayden, the former head of the NSA at the time the president first authorized surveillance of terrorists, addressed that issue and others in a speech at the National Press Club on Monday.

"When you're talking to your daughter at state college, this program cannot intercept your conversations. And when she takes a semester abroad to complete her Arabic studies, this program will not intercept your communications," Hayden said.

He added that it would be impossible to monitor all phone calls between the United States and abroad because in 2003 alone, Americans participated in 200 billion minutes of international calls.

"The purpose of all of this is not to collect reams of intelligence, but to detect and prevent attacks. The intelligence community has neither the time, the resources nor the legal authority to read communications that aren't likely to protect us. And NSA has no interest in doing so. These are communications that we have reason to believe are Al Qaeda communications," Hayden said.

Critics say they don't believe Bush or administration officials when they say the program is limited. Sen. Dick Durbin, D-Ill., said Wednesday that Senate Democratic leaders as well as Kennedy and Russ Feingold of Wisconsin have signed a letter to Bush outlining their concerns with the program and the fact that they know very little about it.

Durbin noted that while an emergency exception to current law allows domestic wiretaps without court approval in the case of an emergency, it should not be the norm that the court is circumvented.

"This is not about whether we should wiretap terrorists. Democrats believe we should use every legal resource we have to put an end to Usama bin Laden's deadly franchise," Durbin said. "It isn't a matter of missing an opportunity; the government can act instantly to deal with a wiretap on a suspected terrorist and has 72 hours to contact the [FISA] court and advise them of the action that's been taken. If the president thinks the current laws are inadequate to wiretap terrorists, he should come to Congress."

Durbin said most lawmakers only know what the media has been reporting about the program. Although it appears from those reports that the president has gone beyond his authority, Durbin said, he's waiting to make his own judgment on that.

"I'd like to, before I reach that point, at least know how the program is being used," he said. "I'm not sure any member is looking for political confrontation. We want to establish a legal framework to keep America safe. I am concerned on a constitutional basis this president is saying, 'I don't need a political framework.' And that, I think, goes too far."

Sen. Chuck Schumer, D-N.Y., echoed complaints about how the president created the program but not about its importance. Defending Congress' oversight responsibilities and the need for civil liberties protections, Schumer said he worried about abuses similar to those before the Foreign Intelligence Surveillance Act was enacted in 1978.

"My view has generally been that when the president needs powers to protect us, he ought to get them, but there ought to be debate and it ought to be done with safeguards in place so that there aren't abuses, which we've seen in other wiretaps such as in the days of (J. Edgar) Hoover," Schumer said.

The latest Gallup Poll, taken just before the administration's public relations blitz this week shows a slight majority, 51-46, thinks the administration was wrong to allow warrantless wiretapping. The 5 percent difference is equal to the survey's margin of error.

After a Justice Department briefing Wednesday for former government officials on the president's so-called "terrorist surveillance program," former FBI and CIA Director William Webster, who served under Republican and Democratic presidents, expressed his support.

Asked if the U.S. government has done its due diligence regarding the law and civil liberty protections, Webster said, "I'm confident that we're, that they do have their act together."

Former CIA Director James Woolsey sides with the president, but recently said it's a close call.

"If anyone says it's a crystal clear issue one way or another, that is the only position I regard as wrong," he said.

All kinds of congressional hearings have been demanded regarding the program. The only one scheduled to date is on Feb. 6 by the Senate Judiciary Committee where Attorney General Alberto Gonzales is scheduled to testify.

On Wednesday, Committee Chairman Sen. Arlen Specter, R-Pa., sent Gonzales a letter with 15 opening questions on the legality of the communications intercepts, and he warned that the committee would want to question him the entire day.

"Would you consider seeking approval from the FISA court at this time for the ongoing surveillance program at issue? ... Why did the White House not ask Congress for changes to a 1978 foreign surveillance law? ... Why didn't the administration go to an established intelligence court to get approval for the monitoring?" are some of the questions asked by Specter.

Democrats say they want to see the committee call more witnesses than now planned, including former Attorney General John Ashcroft Deputy Attorneys General James Comey and Larry Thompson and White House Chief of Staff Andrew Card.

FOX News' Jim Angle, Carl Cameron and Liza Porteus and The Associated Press contributed to this report.

Bush Says Takes Threats From Bin Laden Seriously (REU)

By Caren Bohan

Reuters, January 26, 2006

President George W. Bush said on Wednesday he took Osama bin Laden's threats of another attack seriously and invoked the al Qaeda leader's recent audiotape to defend a domestic eavesdropping program.

"I understand there are some in America who say, 'Well this can't be true, there aren't still people willing to attack.' All I would ask them to do is listen to the words of Osama bin Laden and take him seriously," Bush said at the National Security Agency.

"When he says he's going to hurt the American people again or try to, he means it. I take it seriously and the people of NSA take it seriously and most of the American people take it seriously as well," Bush said.

Democrats have criticized Bush for authorizing the warrantless monitoring of international telephone calls and e-mail messages of people in the United States suspected of aiding al Qaeda.

Critics say the program, conducted by the NSA, violates the U.S. Constitution and the 1978 Foreign Intelligence Surveillance Act, which makes it illegal to spy on U.S. citizens in the United States without the approval of a special secret court.

Bin Laden in an audiotape that aired last week warned that al Qaeda was preparing attacks in the United States but was open to a conditional truce with Americans.

"Just last week ... we heard from Osama bin Laden," Bush said. "The terrorists will do everything they can to strike us. I am going to continue to do everything I can within my legal authority to stop them."

Top Senate Democrats sent a letter to Bush on Wednesday asking he outline, by February 1, any changes in current law he would propose to improve surveillance of suspected terrorists.

"We are ... gravely concerned that sometime in 2001, in apparent violation of federal law, you authorized the National Security Agency to eavesdrop on Americans in the United States without court approval," said the letter, signed by Senate Minority Leader Harry Reid of Nevada and others.

The senators noted that in a speech in 2004, Bush said, "When we're talking about chasing down terrorists, we're talking about getting a court order before we do so." They quoted Bush saying, "A wiretap requires a court order."

Democrats have noted that in special cases the NSA is allowed to conduct domestic surveillance but has to obtain a warrant within 72 hours.

Democrats in the Senate and House of Representatives also pressured Republicans on Wednesday to submit Bush's domestic eavesdropping program to the scrutiny of Congress' intelligence oversight committees.

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'FAR-FETCHED'

Sen. Hillary Rodham Clinton, Democrat of New York, said the administration's argument it needed to bypass the warrant process in order to go after al Qaeda was "far-fetched."

Senate Judiciary Committee Chairman Arlen Specter, a Pennsylvania Republican, plans hearings on the NSA program on February 6.

Bush told reporters he would continue to authorize the eavesdropping program.

"The American people expect me to protect their lives and their civil liberties and that's exactly what we're doing with this program," he said.

Touring the NSA in Fort Meade, Bush visited a room with a large screen highlighting statistics about cyberspace, including one saying over 592 billion instant messages were sent daily. That was projected to grow to 1.38 trillion by 2007.

The NSA is one of the most secretive of the U.S. spy agencies. Founded in 1952, it uses high-tech equipment such as satellites and bugs to pick up foreign electronic signals such as telephone calls and computer messages.

(Additional reporting by Tabassum Zakaria, Richard Cowan and David Morgan)

Bush: Bin Laden Should Be Taken Seriously (AP)

By Nedra Pickler

AP, January 26, 2006

President Bush, defending the government's secret surveillance program, said Wednesday that Americans should take Osama bin Laden seriously when he says he's going to attack again.

"When he says he's going to hurt the American people again, or try to, he means it," Bush told reporters after visiting the top-secret National Security Agency where the surveillance program is based. "I take it seriously, and the people of NSA take it seriously."

It was Bush's first comment about bin Laden since the al-Qaida leader warned in a tape aired last week that his fighters are preparing new attacks in the United States. Bin Laden offered a truce, without specifying the conditions, and the White House responded that the United States would never negotiate with the mastermind of the Sept. 11 attacks.

Bush's NSA visit was part of an aggressive administration effort to defend the surveillance program. Experts and lawmakers from both parties have questioned whether it's legal for the government to listen to conversations in the United States without a warrant, which the administration could get through the Foreign Intelligence Surveillance Court.

Four leading Democratic senators wrote Bush Wednesday saying they support efforts to do everything possible within the law to combat terrorism, but that the NSA program is an "apparent violation of federal law."

"If you or officials in your administration believe that FISA, or any law, does not give you enough authority to combat terrorism, you should propose changes in the law to Congress," wrote Sens. Harry Reid, Edward Kennedy, Richard Durbin and Russ Feingold. "You may not simply disregard the law."

Reporters traveling with the president were only allowed to see a few minutes of Bush's NSA tour, as he walked through the high-tech Threat Operations Center where intelligence experts monitor Internet traffic. He spoke to reporters from a podium set up in a hallway after completing his tour, but did not take questions.

In keeping with the NSA's secrecy, reporters were required to leave their cell phones, pagers, laptops and wireless e-mail devices outside the complex. The White House negotiated so that the journalists could bring in cameras and video equipment, but they were allowed only to take photos of the president, not the inside or outside of the facility itself.

Bush said the NSA program is limited to communications between the United States and people overseas who are linked to al-Qaida. He said it has helped prevent terrorist attacks and save American lives, although the government has not given any specifics.

Bush urged that people "listen to the words of Osama bin Laden and take him seriously."

His critics say the law requires him to get permission from the Foreign Intelligence Surveillance Court to eavesdrop on communications involving Americans.

"Obviously, I support tracking down terrorists," Sen. Hillary Rodham Clinton, D-N.Y., said in a speech Wednesday. "I think that's our obligation. But I think it can be done in a lawful way."

Sen. Patrick Leahy, D-Vt., said the administration should have asked Congress to change the law if it wanted additional surveillance powers.

"Instead, a top lawyer in the Bush administration did just the opposite," Leahy said Wednesday, circulating 2002 testimony from a Justice Department official who said the administration had no position on a bill that would have made it easier to get warrants from the FISA court.

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Bush said he had the legal right to do whatever he could to prevent further attacks and that the NSA program "is fully consistent with our nation's laws and Constitution."

"I'll continue to reauthorize this program for so long as our country faces a continuing threat from al-Qaida and related groups," Bush said.

Sen. John McCain, R-Ariz., said he's eager to learn more. Asked on NBC's "Today" show, if Bush broke the law, McCain replied: "I don't know. I want to be perfectly clear. I don't know the answer."

Bush Reiterates Spy Authority (WT)

By Bill Sammon

The Washington Times, January 26, 2006

President Bush yesterday defended National Security Agency employees who eavesdrop on suspected terrorists, even as the legality of the program was questioned by senators from both parties.

"I have the authority, both from the Constitution and the Congress, to undertake this vital program," Mr. Bush said after a private speech to employees at the NSA headquarters in Fort Meade, Md.

"The American people expect me to protect their lives and their civil liberties, and that's exactly what we're doing with this program."

The president took the unusual step of imploring Americans to heed the warnings of Osama bin Laden, who threatened additional attacks against the U.S. in an audiotape that surfaced last week.

"Listen to the words of Osama bin Laden and take him seriously," Mr. Bush said. "When he says he's going to hurt the American people again, or try to, he means it. I take it seriously, and the people of NSA take it seriously."

Sen. Hillary Rodham Clinton was skeptical of such arguments by Mr. Bush and his advisers, who are in the midst of a public-relations offensive to justify the eavesdropping program.

"Their argument that it's rooted in the authority to go after al Qaeda is far-fetched," the New York Democrat told reporters at a gathering of the nation's mayors. "Their argument that it's rooted in the Constitution inherently is kind of strange."

Mrs. Clinton, who is widely expected to run for president in 2008, questioned the legality of the program, which targets conversations between Americans and overseas terror suspects.

"Obviously, I support tracking down terrorists -- I think that's our obligation," she said. "But I think it can be done in a lawful way."

Sen. John McCain, Arizona Republican, said the legalities of the program will be explored in Senate Judiciary Committee hearings scheduled to begin Feb. 6. The committee chairman, Sen. Arlen Specter, Pennsylvania Republican, yesterday outlined 15 areas of inquiry in a letter to Attorney General Alberto R. Gonzales, who has agreed to testify.

Asked by NBC whether the president "broke the law," Mr. McCain said, "I don't know the answer. That's why I welcome the hearings. If I was sure whether it's legal or not, then I wouldn't feel that these hearings are important."

Still, Mr. McCain said the program serves a vital purpose.

"There's no American that wouldn't want us to absolutely be able to listen in on al Qaeda cells," he said. "This is a new threat, and frankly, a lot of us are very concerned."

The president was unambiguous about the legality of the program, which allows eavesdropping without a warrant.

"This terrorist surveillance program includes multiple safeguards to protect civil liberties, and it is fully consistent with our nation's laws and Constitution," he told reporters. "Federal courts have consistently ruled that a president has authority under the Constitution to conduct foreign intelligence surveillance against our enemies."

Mr. Bush suggested that some of the same people who criticized him for not doing enough to prevent the terrorist attacks of September 11 are now criticizing him for doing too much.

"Two of the hijackers who struck the Pentagon were inside the United States communicating with al Qaeda operatives overseas," he said. "But we didn't realize they were here plotting the attack until it was too late."

He added, "The 9/11 commission made clear, in this era of new dangers we must be able to connect the dots before the terrorists strike so we can stop new attacks. And this NSA program is doing just that."

In a letter sent yesterday to Mr. Gonzales, Mr. Specter said he will ask the Bush administration why it didn't seek expanded congressional authority for the program.

"Was it because you thought you couldn't get such an expansion as when you said: 'That was not something that we could likely get?' " he asks, referring to a press briefing by Mr. Gonzales in December.

Mr. Specter said he also plans to ask the Bush administration why it bypassed the Foreign Intelligence Surveillance Act (FISA) court, the secretive judicial panel designed to consider issuing warrants for surveillance.

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In a separate letter, Democrats yesterday called on Mr. Bush to immediately notify Congress of the changes in current law to "permit effective surveillance of suspected terrorists."

"When you concluded over four years ago that existing law did not provide you sufficient authority to conduct the program, you had an obligation to propose changes in the law to Congress," wrote Sens. Richard J. Durbin of Illinois, Russell D. Feingold of Wisconsin, Harry Reid of Nevada and Edward M. Kennedy of Massachusetts.

Also yesterday, the Senate Democratic "war room" released a "fact check" that said "there is evidence that the spying program is diverting valuable FBI resources and making America less safe."

Sen. John Cornyn, a member of the Judiciary Committee and chairman of the emerging threats and capabilities subcommittee of the Armed Services Committee, chided the Democrats, asking the rhetorical question, "Are the Democrats just playing politics with national security? You decide."

The Texas Republican noted that Mr. Reid, the Senate minority leader, "has been briefed on the NSA's efforts, as have the heads of the intelligence committees in both houses of Congress. Are they now calling for the president to stop intercepting al Qaeda-related calls?"

Take Bin Laden Threat Seriously, Bush Warns (USAT)

USA Today, January 26, 2006

President Bush, defending the government's secret surveillance program, said Wednesday that Americans should take Osama bin Laden seriously when he says he's going to attack again.

“When he says he's going to hurt the American people again, or try to, he means it,” Bush told reporters after visiting the top-secret National Security Agency, where the surveillance program is based. “I take it seriously, and the people of NSA take it seriously.” It was Bush's first comment about bin Laden since a tape was aired last week in which the al-Qaeda leader warned that his fighters are preparing new attacks in the USA.

Meanwhile, four leading Democratic senators sent Bush a letter Wednesday saying they support everything possible within the law to combat terrorism, but the NSA program is an “apparent violation of federal law.” The letter was signed by Sens. Harry Reid of Nevada, Edward Kennedy of Massachusetts, Dick Durbin of Illinois and Russ Feingold of Wisconsin.

Few soldiers seek money for body armor

Just 29 Army soldiers have sought reimbursement for body armor and other equipment they bought to protect themselves on the front lines, the Associated Press reported. It said the requests, mostly for updated ceramic body armor, total $21,000 under a repayment program begun in October. Defense Department officials said last year that the program could be costly if people pressed for reimbursement for large amounts of protective gear. “It hasn't been what we thought it would be, but we didn't have any real judgment what it would be,” said Army Maj. Paul Cucuzzella, who runs the program at Fort Meade in Maryland. Troops and their families had complained that soldiers in Iraq and Afghanistan weren't getting vital pieces of body armor from the Pentagon.

Alito heads closer to confirmation

Supreme Court nominee Samuel Alito accepted congratulations from Republican leaders as lawmakers moved toward confirming him in a largely party-line vote.

A few hours after the Senate debate began, Alito thanked “all of the senators who supported me and were kind enough to meet with me.”

Sen. Dick Durbin of Illinois, the Senate's No. 2 Democrat and one of 22 Democrats who have announced their opposition, said Alito “will tip the balance against protecting our basic privacy and personal freedoms. He will tip the balance in favor of presidential power even when it violates the law.”

Alito, a judge of U.S. 3rd U.S. Circuit Court of Appeals, has enough support from 51 Republicans and Democratic Sen. Ben Nelson of Nebraska to ensure his confirmation. He would replace Justice Sandra Day O'Connor, who is retiring.

Rift Between Parties Over NSA Wiretapping Grows (WP)

By Jim Vandehei

The Washington Post, January 26, 2006

In a pep talk yesterday to intelligence experts at the National Security Agency, President Bush defended eavesdropping on overseas communications to and from U.S. residents as legal and imperative to stopping terrorists.

In the latest sign of the escalating debate on the issue, Sen. Hillary Rodham Clinton (D-N.Y.) called Bush's rationale a "strange" and dangerous legal stretch.

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The conflicting views of the NSA spying program highlighted by the Bush-Clinton exchange reflect a widening divide over warrantless eavesdropping, and how leaders in both major parties are trying to shape the debate in preparation for upcoming congressional hearings and this year's elections.

Bush, whose aides said they consider the issue a clear political winner, is resurrecting tactics from the last campaign to make the NSA spying program a referendum on which party will keep the United States safe from terrorists. He has dispatched top White House officials almost daily to defend the program and has sent a message to party activists that he considers fighting terrorism with tools such as NSA eavesdropping the defining issue of the November elections.

Exhibiting an obsession to detail not seen in the Social Security rollout a year ago, the White House is even waging a war on the semantics being used in the debate, lashing out at reporters who call the program "domestic" spying, because the monitored calls involve a person overseas. It is also putting out pages of highly detailed -- and often hotly disputed -- legal analyses of the program and drawing what Democratic critics and many independent analysts regard as questionable historical parallels to show Bush is following a long wartime tradition.

Speaking to reporters, Clinton took aim at what she called a lawless assertion of power: "My question is, why can't we do what we want to do within the rule of law?"

Her comments came after an appearance at the winter meeting of the U.S. Conference of Mayors. Clinton, a leading contender for the 2008 Democratic presidential nomination, rejected Bush's argument that the president had power to order surveillance after the Sept. 11, 2001, attacks. She said established procedures for approval for such spying from the Foreign Intelligence Surveillance Act would have protected civil liberties and national security.

"Their argument that it's rooted in the authority to go after al Qaeda is far-fetched," Clinton said. "Their argument that it's rooted in the Constitution inherently is kind of strange because we have FISA, and FISA operated very effectively and it wasn't that hard to get their permission."

Bush staged his latest defense at NSA headquarters at Fort Meade, Md. Speaking to the code breakers, analysts and linguistic experts who help sift through the information obtained with the warrantless searches of overseas phone calls and e-mails involving at least one person in the United States, Bush called the program a "vital" defense tool.

The issue is different but the message is similar to the one many political analysts credit for Bush's 2004 victory: He can be trusted to protect U.S. citizens, and Democrats cannot. In a recent speech to the Republican National Committee, White House Deputy Chief of Staff Karl Rove previewed a similar strategy for this year's elections, in which the GOP majorities in the House, Senate and governorships are at risk. When news of the NSA program broke, Bush was put on the defensive, but he and strategists quickly decided this fight could be an asset at a time when the president was struggling to regain his balance, advisers said.

"It is amazing to me -- not only are the Democrats not learning from costly policy mistakes, they are not learning what happened from the political mistakes of 2002 and 2004," said RNC Chairman Ken Mehlman.

Some Democratic strategists say the NSA program is a political loser for Democrats, whom many voters still see as soft on national security. But there is no way for elected Democrats to avoid the fight -- and few want to. With congressional hearings on the topic expected early next month, Democrats and several Republicans have serious policy differences with Bush and consider the NSA fight part of a much larger battle over presidential power and congressional oversight.

"I don't think it's bad politics," said Jim Manley, spokesman for Senate Minority Leader Harry M. Reid (D-Nev.). "I don't think the national security attack works this time," he said, because "we have a politically weakened president whose poll numbers are down and whose credibility is under increased scrutiny."

Although arguments about the legality of the eavesdropping program are boiling, details about what the NSA is doing remain hidden from all but eight members of Congress: the House speaker and minority leader, the Senate majority and minority leaders, and the chairmen and ranking minority members of the House and Senate intelligence committees.

Pressed yesterday by Democratic members of the Senate intelligence committee for a closed hearing or briefing on the NSA program, Chairman Pat Roberts (R-Kan.) said he had scheduled a Feb. 1 Justice Department briefing on the legal issues involved but not on the program itself. Under Roberts's proposal, the committee will meet on Feb. 16 "to discuss the terrorist surveillance issue" but apparently will not be briefed on what it entails.

Democrats told Roberts yesterday they want a business meeting of the committee Tuesday, when they will call for a vote on whether to hold a hearing or briefing with NSA witnesses, congressional sources said.

In The Eye Of The Spying Storm (LAT)

By James Gerstenzang, Times Staff Writer
The Los Angeles Times, January 26, 2006

DOJ_NMG_0012101

WASHINGTON — President Bush made a rare visit Wednesday to the National Security Agency, the office at the center of the controversy over warrantless eavesdropping, telling employees there: "When terrorist operatives are here in America communicating with someone overseas, we must understand what's going on."

And he urged Americans to take seriously the words of Osama bin Laden, likely the NSA's No. 1 target, in an audiotape released last week.

"When he says he's going to hurt the American people again, or try to, he means it," Bush said. "I take it seriously, and the people of the NSA take it seriously."

Challenging assertions that his approval of the wiretapping and inspection of e-mail violated the law, Bush said, "The American people expect me to protect their lives and their civil liberties, and that's exactly what we're doing with this program."

Bush's visit to NSA headquarters at Ft. Meade, Md. — a site once so secret that NSA was said to stand for "No Such Agency" — was part of a stepped-up campaign in recent days to gain public support for the spying program.

Earlier, White House Press Secretary Scott McClellan defended Bush's decision not to ask a special court for warrants to monitor people in the United States.

"This is a time of war. This is about wartime surveillance of the enemy," McClellan said, adding a refinement of his earlier arguments: "We don't ask our commanders to go to the court and ask for approval while they're trying to gain intelligence on the enemy."

The administration contends that Bush's inherent powers as commander in chief and a congressional resolution approved after the Sept. 11 attacks, authorizing him to use all necessary force to fight terrorism, gave him the power to order domestic intelligence-gathering without getting warrants.

With the administration focused on Senate Judiciary Committee hearings on the eavesdropping which are to begin Feb. 6, the panel's chairman, Sen. Arlen Specter (R-Pa.), signaled the approach he would take.

He sent 15 questions to Atty. Gen. Alberto R. Gonzales, one of the witnesses from the executive branch.

Among the questions:

· Why didn't the administration seek the authority to conduct such surveillance when Congress passed the Patriot Act, the post-Sept. 11 expansion of anti-terrorism law?

· Didn't President Jimmy Carter's signature on the 1978 Foreign Intelligence Surveillance Act, and the statement Carter issued at the time, amount to a renunciation of presidential authority "to conduct warrantless domestic surveillance"?

· When foreign calls are made through U.S. switches, isn't such monitoring against the law or a violation of regulations that restrict the NSA from conducting surveillance inside the United States?

The last question goes to the heart of an argument McClellan has made in recent days that takes issue with calling the program "domestic spying."

The administration has said it allows the surveillance only when at least one end of the phone call or e-mail traffic is outside the United States and one person involved is a suspected terrorist.

"I think it leaves an inaccurate impression with the American people to say that this is domestic spying," McClellan said. "You don't call a flight from New York to somewhere in Afghanistan a domestic flight. It's called an international flight."

Sen. Hillary Rodham Clinton (D-N.Y.), speaking at a meeting of the nation's mayors, joined the criticism of the program, challenging Bush's contention that he has the authority to conduct the monitoring.

"Their argument that it's rooted in the authority to go after Al Qaeda is far-fetched. Their argument that it's rooted in the Constitution inherently is kind of strange," Clinton said, citing the Foreign Intelligence Surveillance Act, under which she said it would not be hard to gain permission for the wiretaps.

Bush Visits Security Agency And Defends Surveillance (NYT)

By Elisabeth Bumiller And Eric Lichtblau

The New York Times, January 26, 2006

WASHINGTON, Jan. 25 — President Bush went Wednesday to the heart of the debate over the National Security Agency's eavesdropping program, the supersecret agency itself, where he sought to bolster employee morale and make a case for ordering a surveillance program that has come under increasing political attack.

"It's just such an honor to be able to tell these people that the work they do is vital and necessary, and I support them a hundred percent," Mr. Bush told reporters during a rare presidential trip to the agency at Fort Meade, Md., in the suburban sprawl between Baltimore and Washington.

Mr. Bush's trip was part of a weeklong news media offensive to push back against lawmakers who argue that the program may be illegal. Hearings into the program by the Senate Judiciary Committee are to begin next month.

Mr. Bush first met privately with employees at the agency, then told a small group of reporters who accompanied him that the program, which intercepts international phone calls and e-mail messages of people in the United States suspected of links to Al Qaeda, had been a crucial tool in fighting terrorism.

"We've seen that part of the terrorist strategy is to place operatives inside of our country," the president said. "They blend in with the civilian population. They get their orders from overseas, and then they emerge to strike from within. We must be able to quickly detect when someone linked to Al Qaeda is communicating with someone inside of America."

The National Security Agency, the largest American intelligence agency, specializes in eavesdropping on foreign communications. It is so secret that for years the joke has been that its initials stood for "No Such Agency."

But its heavily guarded campus just off the Baltimore-Washington Parkway opened up a bit to the news media in recent years under the leadership of Gen. Michael V. Hayden, now the principal deputy director of national intelligence and Mr. Bush's point man on the eavesdropping program.

While the president was visiting the agency, the two parties on Capitol Hill spent the day in an exchange of dueling letters. Senate and House Democrats pressed their Republican counterparts to hold additional hearings beyond those already scheduled by the Senate Judiciary Committee, while Republicans suggested that Democrats were trying to use the issue for political advantage and jeopardizing national security.

In a letter released Wednesday to the chairman of the House Intelligence Committee, all nine Democrats on the panel said that only public hearings could provide the kind of "vigorous oversight" needed to answer questions about the program.

Likewise, all seven Democratic members of the Senate Intelligence Committee urged the panel chairman to hold hearings to address, among other issues, "the legal justifications for the program."

Leading Democrats, in another letter, told Mr. Bush that they were "gravely concerned" about the eavesdropping program. Rather than going to the court that governs foreign intelligence for wiretaps warrants, the letter said, "you have apparently chosen to ignore the law." The letter was signed by four Senate Democrats — Harry Reid of Nevada, Richard J. Durbin of Illinois, Edward M. Kennedy of Massachusetts and Russell D. Feingold of Wisconsin.

In yet another letter, Senator Pat Roberts of Kansas, the Republican who leads the Intelligence Committee, fired back expressing annoyance over the Democrats' complaints.

Mr. Roberts said he was already planning a closed-door briefing for the committee by the Justice Department on Feb. 1, and another closed-door meeting related to the program two weeks after that. He suggested that Democrats had bypassed protocol by making their pleas public before giving him a chance to respond.

"I think we can all agree that intelligence issues, especially in the middle of a war, should not be used as fodder for political advantage," Mr. Roberts said. "Doing so is unnecessary, unwise and potentially dangerous."

So far, Senator Arlen Specter of Pennsylvania, who leads the Judiciary Committee, is the only Republican to commit to a public hearing on the N.S.A. program. It is scheduled for Feb. 6 with testimony from Attorney General Alberto R. Gonzales.

But in a letter to Mr. Specter, Senator Charles E. Schumer, the New York Democrat who sits on the Judiciary Committee, said the committee should seek testimony from other former administration officials who may have had misgivings about the program, including former Attorney General John Ashcroft and James B. Comey, the former deputy attorney general. If necessary, Mr. Schumer said, the committee should subpoena the former officials to testify.

The New York Times reported this month that Mr. Comey refused to reauthorize the continuation of the N.S.A. program in 2004, prompting senior White House officials to visit Mr. Ashcroft in a hospital after an attack of pancreatitis to press for his agreement. He was also said to have voiced concerns about the program. The episode led to the suspension of the program for months.

Mr. Specter said Friday that he was already considering calling other witnesses beyond Mr. Gonzales.

Spying By Another Name (LAT)

The Los Angeles Times, January 26, 2006

WITH POLLS SHOWING THE American public increasingly skeptical about the need to abridge core constitutional freedoms to wage the war on terrorism, the Bush administration launched a major PR offensive this week to justify its decision to conduct warrantless wiretapping within the United States. The White House deserves credit for at least making its case. Unfortunately for the president, it's a weak case, and repetition doesn't make it any better.

Indeed, the administration's marketing team may be more adept than its legal theorists. All White House references to the National Security Agency's eavesdropping now call it a "terrorist surveillance program." That sounds far less objectionable than the media's blanket term, "domestic spying program." After all, it's hard to support domestic spying, but who wants to oppose "terrorist surveillance"? Maybe the Los Angeles Police Department could suspend the 4th Amendment's protections against unreasonable searches by launching a "criminal surveillance program."

Semantics aside, the administration's legal case remains wobbly, which may explain President Bush's churlish attitude toward his critics. On Wednesday, Bush defended the need for the program at NSA headquarters in Maryland. "Now, I understand there's some in America who say, well, this can't be true that there are still people willing to attack," he said. He then referred to Osama bin Laden's latest threatening audiotape.

Get it? The president is equating concerns about the legality of bypassing the courts to obtain a warrant to eavesdrop on Americans with a lack of appreciation for the threats posed by Al Qaeda. In Bush's world, only appeasers stand up for the Constitution.

The Foreign Intelligence Surveillance Act of 1978, which created courts that act quickly and secretly to approve such requests for wiretaps, remains a sensible law. It strikes the proper balance between the need for judicial oversight and the requirements of national security — and helps to ensure that the government does not trample on individual liberty. These courts are extremely accommodating to government requests, which sometimes needn't be supported until after the wiretapping has taken place.

In a long letter to Senate Majority Leader Bill Frist last week, Atty. Gen. Alberto R. Gonzales said that the FISA law itself allows for the possibility that Congress could authorize electronic surveillance in another statute, and argued that the post-Sept. 11 congressional authorization "to use all necessary force" in response to the terrorist attacks is just such a statute. For anyone who feels it's a stretch to think that Congress meant to suspend basic 4th Amendment principles by supporting military action against the Taliban and Al Qaeda, Gonzales is quick to point out that warrantless wiretapping also took place in the Civil War.

The administration is also de-emphasizing the fact that the eavesdropping is taking place on American soil by pointing out that it is only targeting communications that involve one party outside the United States. This is irrelevant as a legal matter. And as a practical matter, it's not entirely true. Lt. Gen. Michael V. Hayden, who led the NSA in the aftermath of the 9/11 attacks and is now the nation's second-ranking intelligence official, conceded on Monday that some purely domestic communications might be accidentally wiretapped under the program.

Senate hearings on the NSA program are scheduled to begin Feb. 6. They could prove interesting if GOP senators opt to cast themselves as defenders of the Constitution, and not of their president.

U.S. Must Submit Papers To Moussaoui Team (USAT/AP)

USA Today, January 26, 2006

WASHINGTON (AP) — A federal judge has ordered the government to give admitted terrorist conspirator Zacarias Moussaoui's defense team documents describing what officials knew before Sept. 11, 2001, about al-Qaeda threats and some of its hijackers.

With a trial to determine Moussaoui's sentence set to begin next month, U.S. District Judge Leonie Brinkema granted part of a Jan. 20 defense motion for documents without waiting for the government's response.

"Several of the categories of information are so critical to the issues in this case that the court can address some of the requests without a response," Brinkema wrote. "Moreover, given the increasingly shortening time before the start of the trial, discovery issues must be resolved quickly."

Granted Tuesday under seal, her order was released Wednesday after government censors blacked out about five lines of it.

She ordered the government to immediately turn over any threat assessments, especially those completed in the year before the Sept. 11 attacks.

Defense attorneys also will get all reports, cables, slides, talking points, memos and other documents about Moussaoui's arrest a month before the attacks and about two Sept. 11 hijackers, Khalid al-Mihdahar and Nawaf al-Hazmi, whose presence in the United States was known to federal officials before the attacks.

That data clearly was sought by the defense for use in the first part of the upcoming court proceeding, in which prosecutors will try to convince jurors that the FBI would have prevented the Sept. 11 attacks if Moussaoui had told federal agents what he knew about al-Qaeda's desire to fly planes into U.S. buildings.

The defense will argue that agents had more information about the plot than Moussaoui could provide but still could not prevent the attacks. If the jury disagrees with prosecutors, Moussaoui will receive life in prison. If jurors agree with prosecutors, they will decide whether he should be executed.

Brinkema also ordered that she be given both an unclassified and a classified version of a CIA inspector general report. Defense attorneys already have seen the unclassified version, but Brinkema said she wanted to determine for herself that the deletions from the original were appropriate.

A 37-year-old Frenchman of Moroccan descent, Moussaoui is the only person who has been charged in the United States as part of the Sept. 11 al-Qaeda attacks on the World Trade Center and the Pentagon.

Last April, he pleaded guilty to six conspiracy charges, but insisted he was not part of the Sept. 11 plot. However, he said he was taking flight lessons to prepare to hijack a 747 jet later and fly it into the White House if the U.S. government refused to release a radical Egyptian cleric serving a life term for the 1993 World Trade Center bombing and 1995 plots against New York landmarks.

Moussaoui was in custody in Minnesota on immigration violations when the hijacked jets crashed on Sept. 11.

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WASHINGTON Judge Orders Release Of Pre-9/11 Attack Assessments (SCRIPPS)

By GREG GORDON, McClatchy Newspapers

Scripps Howard, January 25, 2006

WASHINGTON - A federal judge has ordered the government to turn over to Zacarias Moussaoui's defense lawyers pre-Sept. 11 documents assessing the threat of an al Qaeda attack, calling the material "critical" to his upcoming trial, it was disclosed Wednesday.

It could not immediately be determined whether the ruling by U.S. District Judge Leonie Brinkema of Alexandria, Va., will create a significant, 11th-hour snag over protection of classified data in the only U.S. prosecution to stem from the suicide hijackings.

The ruling could create a legal showdown, for example, if it requires intelligence agencies to produce classified information that they consider too sensitive to release, even to defense lawyers with government security clearances.

Jury selection is set to begin on Feb. 6, with opening arguments slated for March 6 in a sentencing trial to determine whether Moussaoui, who pleaded guilty to six conspiracy counts last April, should live or die.

Defense lawyers asked the court last week to compel the government to release the intelligence assessments and an array of other documents shedding light about what U.S. counter-terrorism officials knew of al Qaeda's plans before the attack.

Brinkema said in her ruling, issued Tuesday and made public Wednesday in declassified form, that the intelligence assessments are "highly relevant" to the case.

She also ruled that the defense is entitled to copies of additional material surrounding the Minnesota arrest and investigation of Moussaoui and the government's tracking of two suicide hijackers who slipped into the United States in early 2000.

Moussaoui, who was arrested while learning to fly a jumbo jet at a Twin Cities flight school, has denied knowing details of the Sept. 11 plot despite his guilty plea.

Prosecutors contend that Moussaoui should be sentenced to die because he lied when he was interrogated by Minneapolis FBI and immigration agents after his arrest on Aug. 16, 2001, and failed to disclose his role in the hijacking conspiracy. They say they will prove beyond a reasonable doubt that if he had revealed the plot, the government would have been able to stop the attack or limit the toll of nearly 3,000 deaths when hijacked planes slammed into the World Trade Center, the Pentagon and the Pennsylvania countryside.

Defense lawyers sought the pre-Sept. 11 records for the first phase of the two-stage trial, when a jury will be asked to determine whether he is eligible for a death sentence. Moussaoui's lawyers argue that counter-terrorism officials overlooked clues and made so many other missteps before the attacks that they never would have thwarted the attacks, even if Moussaoui had told them all he knew.

If the government complies with Brinkema's ruling, it could give defense lawyers new ammunition in their efforts to show that U.S. counter-terrorism agencies and national security officials knew more about the suicide hijacking scheme than Moussaoui did, and that his assistance wouldn't have changed the outcome. The threat assessments presumably were reviewed by the Sept. 11 Commission, which said in its public report in 2004 that U.S. intelligence agencies received a stream of warnings in the spring and summer of 2001 that al Qaeda was planning "something very, very, very big"

If the government fails to produce the records, Brinkema could issue a sanction, such as dismissing the case. In that event, prosecutors could ask an appeals court to intervene in the case for a third time or drop the charges. Even if the government scuttled the case, Moussaoui would face a minimum sentence of life in prison without parole.

The four-year-old case has been delayed repeatedly by legal tangles over classified information, though the 28-year-old federal Classified Information Procedures Act offers methods for moving ahead by using substitute language to shield national security secrets.

A Justice Department official declined to comment on Brinkema's ruling.

"I won't discuss it under any circumstances," said Edward MacMahon, a lawyer for Moussaoui.

Al-Arian's Attorneys Want Off The Case (AP)

AP, January 26, 2006

TAMPA -- Defense attorneys for Sami Al-Arian asked a federal judge to let them off the case if prosecutors retry the former college professor on charges of aiding terrorists.

While federal prosecutors are deciding whether to retry nine mistrial counts on Al-Arian, attorneys Linda Moreno and Bill Moffitt are asking to withdraw from the case. A hearing is scheduled for Friday.

"We gave everything we had, and I'm too exhausted to give anymore," Moffitt, an attorney for the law firm Cozen O'Connor in Washington, said Tuesday.

Moreno, who works for a civil litigation firm in Tampa, declined to comment.

Al-Arian's wife, Nahla, said her husband was looking for other attorneys but had yet to find replacements.

After six months of trial jurors failed to return a single guilty verdict against Al-Arian and three co-defendants. Al-Arian was found not guilty on eight counts but the jury deadlocked on the nine others. Two of the defendants were acquitted of all the charges.

The four were charged with raising money for terrorist attacks by the Palestinian Islamic Jihad in Israel, the West Bank and Gaza Strip.

Federal prosecutor Terry Zitek told the court that if the case is retried, his team will need until June to present "a streamlined case," which should take about two months to present to a jury.

Two Get Prison In Exports To Syria, Libya (AP)

AP, January 26, 2006

DALLAS — Two brothers convicted of sending exports from their U.S. company to countries considered sponsors of terrorism were sentenced Wednesday to federal prison, the U.S. Attorney's Office said.

Hazim Elashi was sentenced to 5 1/2 years in prison and will be deported after serving his sentence. His brother Ihsan "Sammy" Elashi was given a six-year term, which will run consecutively to the four-year sentence he is currently serving.

Hazim and Ihsan Elashi, their three brothers and their company were convicted in 2004 on charges of making illegal technology shipments to Libya and Syria.

The Elashis ran InfoCom Corp., a Richardson firm that did up to $5 million in business a year selling computers and Internet services to mostly customers in the Middle East. Prosecutors say they shipped computer products to Libya and Syria from 1997 to 2000, violating a ban on exporting technology, goods or software to countries the U.S. government lists as state sponsors of terrorism.

Agents from the FBI investigated InfoCom for years and raided the business the week before the Sept. 11 terror attacks. Attorney General John Ashcroft announced the original indictments against the brothers, calling it part of a campaign against "the financiers of terror."

The men also were involved in the Holy Land Foundation for Relief and Development, a Muslim charity that was closed after the Treasury Department accused it of being a front for the militant group Hamas.

Bayan Elashi, Ghassan Elashi and Basman Elashi have not been sentenced on the exporting charges.

Lawsuit Filed In Support Of Muslim Scholar Barred From U.S. (NYT)

By Julia Preston

The New York Times, January 26, 2006

Citing the case of a prominent Muslim scholar who has been barred from the United States, the American Civil Liberties Union filed a federal lawsuit yesterday seeking to strike down a clause of the USA Patriot Act that bars foreigners who endorse terrorism from entering to this country.

The suit was filed in Federal District Court in Manhattan on behalf of the scholar, Tariq Ramadan, and three national organizations of academics or writers who have invited him to speak to their members. The groups, including the American Academy of Religion, the leading American organization of scholars of religion, say Mr. Ramadan has never expressed support for terrorism. They also argue that the Patriot Act clause has been applied to stifle academic debate in the United States.

Mr. Ramadan, a Swiss citizen, has been denied a United States visa since July 2004, when he was on the verge of moving with his family to Indiana to take up a tenured professor's position at the Joan B. Kroc Institute for International Peace Studies at the University of Notre Dame.

In a telephone interview from Oxford University in England, where he is currently a visiting professor, Mr. Ramadan said he had never had an explanation why his visa was revoked, after he had been approved to teach at Notre Dame and had been a frequent traveler to the United States for many years.

"It's clear there is nothing in my record supporting terrorism," Mr. Ramadan said.

Speaking to reporters in August 2004, a spokesman for the Department of Homeland Security, Russ Knocke, cited the Patriot Act clause as the reason that Mr. Ramadan's visa was canceled. The clause, adopted when the act was passed in 2001 and amended last May, bars foreigners who "endorse or espouse terrorist activity or persuade others" to support terrorism.

The author of some 20 books on Islamic theology and the place of Muslims in the Western world, Mr. Ramadan, 43, is an outspoken critic of the Bush administration's policies in the Middle East. He has also rejected Muslim terrorism, calling it "anti-Islam." Last August, he was invited by Prime Minister Tony Blair to participate in a task force to counter extremism after the London bombings in July.

The A.C.L.U., joined by the New York Civil Liberties Union, brought the suit against Michael Chertoff, the homeland security secretary, and Secretary of State Condoleezza Rice, asserting that the Patriot Act clause is unconstitutional and that the ban on Mr. Ramadan violates the First Amendment rights of American thinkers who want to meet with him. The American Association of University Professors and the PEN American Center are also plaintiffs.

After Notre Dame applied a second time for a visa for Mr. Ramadan and he waited for five months with no response, Mr. Ramadan resigned in December 2004 from his position there. R. Scott Appleby, the director of the Kroc center, said the government never gave an explanation to the university. Notre Dame saw Mr. Ramadan as a theologian who could help build ties between Middle Eastern Muslims and the West, Mr. Appleby said.

Mr. Ramadan filed a new visa application on Sept. 16, after receiving about 40 invitations for speaking engagements in the United States over the past year. Interviewed in December in Bern, Switzerland, by agents of the Homeland Security and State Departments, Mr. Ramadan said he was mainly questioned about his views of the war in Iraq.

"I told them what I have said many times publicly, that I think the war was a mistake and illegal," he said. "Even the United Nations has said that. I think the resistance is legitimate but the means they are using are not."

A State Department spokeswoman, Janelle Hironimus, confirmed Mr. Ramadan's 2005 visa application but said the department did not comment on pending visa or legal matters.

Mr. Knocke of the Department of Homeland Security also declined comment on the suit or Mr. Ramadan's status. But he noted that the criteria for revoking visas included "public safety and national security risks," among others.

"We have a strong commitment and clear responsibility to restore integrity to our immigration system, which includes preventing people who might present risks from entering the country," Mr. Knocke said.

The controversy about Mr. Ramadan's ideas arises in part because he is the grandson of Hasan al-Banna, a founder in 1928 of the Muslim Brotherhood, an Egyptian group that has turned to violent attacks in recent decades. Some critics say that he speaks with two voices, espousing moderate views in Europe but embracing more militant ideas when he addresses Muslims in the Arabic world.

Barbara DeConcini, the executive director of the American Academy of Religion, described Mr. Ramadan as "one of the most respected scholars of Islam working today."

He was invited to give a keynote address at the group's annual meeting in November, Ms. DeConcini said, but without a visa he was limited to giving a lecture to a small audience by videoconference, which she called a poor substitute for his participation in the group's discussions. He has been invited to address the next annual meeting, she said.

While the government has the authority to exclude terrorists, Ms. DeConcini said, the Patriot Act clause "is being used much more broadly to censor and manipulate academic and political debate."

Mr. Ramadan said the ban had damaged him professionally, and the disruption had been jarring to his wife and children. He said he has not been offered another tenured university position.

U.S. Sued Over Islam Expert's Visa (WSJ)

The Wall Street Journal, January 26, 2006

Three scholarly organizations sued the federal government over its 2004 decision to revoke a visa granted to a European expert on Islam, preventing him from taking a faculty position at the University of Notre Dame.

The lawsuit, on behalf of Tariq Ramadan, a visiting scholar at Oxford University and critic of U.S. policy in Iraq, intensifies the debate over the Patriot Act and reflects concerns in academia that the U.S.'s security precautions are hampering the flow of ideas between foreign and U.S. scholars. A Department of Homeland Security spokesman and a State Department spokeswoman declined to comment.

The lawsuit asks the U.S. District Court in New York City to declare unconstitutional a portion of the Patriot Act that denies entry on the grounds of "ideological exclusion" to those who have endorsed or espoused terrorist activity or who have persuaded others to do so.

DOJ_NMG_0012107

"There is simply no evidence" of Mr. Ramadan supporting terrorism, said Barbara DeConcini, executive director of the American Academy of Religion, one of the plaintiff groups.

PATRIOT ACT:

ACLU Says Patriot Act Excludes Muslim Scholar From U.S. (AP)

By Larry Neumeister, ASSOCIATED PRESS

AP, January 25, 2006

NEW YORK – The ACLU sued the federal government Wednesday for blocking a Muslim scholar from entering the United States, arguing that the government should not use anti-terrorism laws as "instruments of censorship."

The lawsuit filed by the American Civil Liberties Union in U.S. District Court sought to open the way for Tariq Ramadan, a Swiss intellectual and Muslim scholar, to accept invitations to speak to audiences in the United States.

Ramadan was blocked from accepting a tenured teaching position at the University of Notre Dame when his visa was revoked in August 2004 because of a provision of the Patriot Act, said Jameel Jaffer, an ACLU staff attorney.

Jaffer said the provision blocks entry into the United States by any prominent alien who has used his status to endorse or espouse terrorism or to persuade others to endorse or espouse terrorist activity.

"We don't think there's any evidence at all that he has endorsed terrorism," Jaffer said. "In fact, there is overwhelming evidence that he has condemned terrorism."

Academic Groups Suing To Stop U.S. From Denying Visas To Scholars Based On Their Political Views (KRT)

By Warren P. Strobel

Knight Ridder, January 26, 2006

WASHINGTON - Three academic groups, backed by the American Civil Liberties Union, sued the Bush administration Wednesday to stop it from barring foreign scholars from the United States based on their political views.

The lawsuit seeks to overturn the government's use of the so-called "ideological exclusion" provision of the USA Patriot Act, which the Bush administration cited in revoking a visa for Tariq Ramadan, a prominent Islamic scholar, in August 2004.

Ramadan has sought to reconcile the Islamic and Western worlds and was offered a teaching position at the University of Notre Dame. His case has become a symbol for concerns over restrictions on academic freedom.

"If the instance of Ramadan is any indication, we are concerned about scholars ... who may be prevented from coming to speak with us, to meet with us," said Barbara DeConcini, executive director of the Georgia-based American Academy of Religion, which invited him to speak at its annual conference in 2004.

The group, which calls itself the world's largest association of scholars of religion, rarely takes stands on public policy issues. "It was important for us to step up to the plate," DeConcini said.

Megan Gaffney, a spokeswoman for the U.S. attorney's office in Manhattan, said she had no comment on the lawsuit.

It was filed by the ACLU on behalf of the religion group, the American Association of University Professors and the literary group PEN American Center.

Many scholars are expressing concern that security restrictions invoked in the name of fighting terrorism have constricted academic debate on controversial issues.

Knight Ridder reported last month that the State Department has been using ideological litmus tests in a program that sends American experts overseas to represent the United States, weeding out critics of the Iraq war. The department denied it was doing so.

In the last two years, the government also has barred 61 Cuban scholars who were to have attended a 2004 conference, and Dora Maria Tellez, a Nicaraguan scholar and former minister of health.

"The government has resurrected a practice that existed during the Cold War of excluding people because of their views" and is manipulating immigration laws to do so, said Jameel Jaffer, an ACLU staff attorney.

The Bush administration has never fully explained its decision to revoke Ramadan's visa days before he was to come to the United States.

Russ Knocke, a Department of Homeland Security spokesman, said at the time that the decision was based on "public safety or national security interests."

DOJ_NMG_0012108

A provision of the Patriot Act, amended last May, allows the government to exclude a foreigner who's found to "endorse or espouse terrorist activity or persuade others to endorse or espouse terrorist activity or support a terrorist organization," according to the lawsuit. The suit seeks to invalidate that provision.

Ramadan's many defenders say that, although he's been highly critical of the Bush administration's foreign policy, he has condemned terrorism.

Ramadan, a Swiss citizen, was invited by British Prime Minister Tony Blair last year to join a government task force on the sources of extremism in Britain.

Critics, including analyst Daniel Pipes, say Ramadan's been much more equivocal on the issue of terrorism. Pipes called Ramadan "Islamist royalty" in an article because his grandfather, Hassan Banna, founded the Muslim Brotherhood, the Middle East's oldest Islamist group.

Ramadan reapplied for a U.S. visa but was told last month that it could take almost two years to get an answer, the suit says.

HOMELAND RESPONSE:

ACLU Decries 'Spying On Georgians' By Feds, Locals (AJC)

By Bill Montgomery, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, January 26, 2006

In the name of fighting terrorism, the U.S. government and police agencies from the federal to the local level have been spying on Georgia anti-war rallies, peace and social action groups, and even a vegan protest, the state legal director of the American Civil Liberties Union charged Wednesday.

Documents and surveillance photos obtained by the ACLU through a Freedom of Information Act request reveal a pattern of "spying on Georgians who are our friends and neighbors, and are leading lawful lives," attorney Gerald Weber said at a chilly morning news conference Wednesday outside the Georgia Homeland Security offices in downtown Atlanta.

"We have just seen the tip of the iceberg, but it's clear that citizens throughout Georgia have been spied upon by their own government," said Weber. "It's clearly an intimidation process."

"Many of us remember the days of J.Edgar Hoover, and this is another reminder," said state Rep. Nan Grogan Orrock (D-Atlanta). "If excessive power is not challenged, it can and will lead to abuse of power."

Officials from state and federal Homeland Security offices did not respond to requests for comment Wednesday.

Weber said some of the documents involve the National Security Agency, whose surveillance program has come under fire since it was disclosed in December by NBC News. That program, approved by President Bush, allowed the agency to eavesdrop, without warrants, on communications within the United States.

Weber said the released documents from a classified Pentagon database of suspicious people revealed that two local protests by the pacifist group Georgia Peace and Justice Coalition were monitored by federal agents last spring. The demonstrators were termed a "credible threat" in the documents. The surveillance was done at a meeting at the Piedmont Drive Quaker headquarters and at a vigil at an Atlanta Army recruiting station on Ponce de Leon Avenue.

"Why is our government spying on us?" asked Coalition organizer Ann Mauney. "While not the terrorist threat that the Bush administration claims as a rationale for all its surveillance, we are indeed a threat to the Bush administration's policies ... spying by the government has long been the first line of attack on citizens who challenge those in power."

A special agent at the FBI press office in Washington who would not give her name said the FBI "investigates groups or individuals when we have information or allegations of federal law being broken. We do not investigate groups or persons exercising their constitutional right of protest or dissent."

Other local organizations that complained of being targeted by surveillance include two other anti-war organizations, Atlanta Refuse and Resist and WAND (Women's Action for New Directions); a media watchdog group, the Atlanta Independent Media Center; and even a group of Georgians who eat only plants.

Vegan Caitlin Childs recounted Wednesday how she was detained for close to two hours last September for writing down the license plate number of a plainclothes DeKalb Homeland Security officer taking pictures of her and five others picketing outside a HoneyBaked Ham store on Buford Highway just before Christmas 2003.

"I was handing out fliers and couldn't help noticing the unmarked [police] car ... I wanted to know who was taking our pictures," Childs said.

A handout provided by Weber included copies of 20 photos taken by DeKalb Homeland Security of Childs and the other vegan protesters.

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DeKalb's director of Homeland Security, Moses Ector, declined to discuss it. "We understand they have filed an intent to sue, so it's now a legal issue. Whatever I might say could come back to haunt us for years in that case, so I can't make any comment," said Ector.

The Associated Press contributed to this article.

ACLU Releases Documents It Says Show Government Spied On Georgians (AP)

AP, January 26, 2006

ATLANTA - The American Civil Liberties Union has released two documents from the FBI and DeKalb County Homeland Security related to an anti-war protest and a vegan protest that it says show those agencies spied on Georgia residents.

The ACLU's Gerry Weber said during a news conference in Atlanta Wednesday that the documents are part of a case the group is building that will show that officials at all levels of government are doing surveillance of government critics.

Weber says so far the ACLU has received complaints from six organizations and nearly two dozen people who fear they have been spied upon, photographed, videotaped or had their events infiltrated by government agents.

He says none of them did anything that would justify surveillance but rather are critics of the Bush administration.

Democratic State Representative Nan Orrock of Atlanta says Congress must check what she calls the government's excessive power.

The leader of an umbrella pacifist organization -- the Georgia Peace and Justice Coalition -- says her group is the one that organized two Atlanta peace events cited in a Defense Department database as ``credible threats'' to the Pentagon.

The coalition's Ann Mauney says spying is the government's first line of attack in trying to silence those who dissent.

FBI spokesman Bill Carter says all FBI investigations are conducted in response to information that the people being investigated were involved in or might have information about crimes.

A Mountain Of Documents On Hurricane Response, But Democrats Seek More (NYT)

By Eric Lipton

The New York Times, January 26, 2006

WASHINGTON, Jan. 25 — In their four months of digging, House and Senate investigators have collected hundreds of thousands of pages of documents and testimony from governors, mayors, Homeland Security and Pentagon officials and dozens of others touched by Hurricane Katrina.

To the Republican leaders of the two committees, the mountains of still-accumulating evidence are sufficient to answer questions about why the government did not do more to prevent a well-predicted disaster scenario from turning into a catastrophe.

Democrats say crucial holes still remain, particularly related to what senior White House aides and the president knew, and how they reacted to this knowledge, right before the storm and after it.

Senator Joseph I. Lieberman of Connecticut and other Democrats on the investigative committees say they are not looking for a smoking-gun document implicating the White House. Instead, they say, they are trying to resolve contradictions and questions that have come up.

"What do they have to hide?" Representative Gene Taylor, Democrat of Mississippi, said in a telephone interview on Wednesday. "Why don't they just come forward and say, 'This is what we knew, when we knew, and this is how we reacted?' "

The White House said on Tuesday that it would deny requests for e-mail and other correspondence among top White House aides, including the chief of staff, Andrew H. Card Jr. and the homeland security adviser, Frances Fragos Townsend.

In September, speaking in New Orleans, President Bush vowed to "work with members of both parties to make sure this effort is thorough," and his aides say he has done that.

"There are some 120 administration officials that have been made available to the committees for interviews or for hearings," Scott McClellan, Mr. Bush's press secretary, said Wednesday, adding that 15,000 pages of White House documents were provided. "We believe they're getting the information they need to do their job."

Yet certain questions remain. Michael Brown, the former director of the Federal Emergency Management Agency, testified to the House committee that he repeatedly e-mailed or spoke on the telephone to Mr. Bush, Mr. Card and Mr. Card's deputy, starting Saturday and Sunday before the hurricane struck.

Asked what kind of aid he requested, Mr. Brown replied, "I'm being advised by counsel that I can't discuss with you my conversations with the president's chief of staff and the president."

Documents uncovered during the investigation show that the White House was notified early Monday, hours before the storm hit later that morning, that it was probable that Hurricane Katrina would "lead to severe flooding and/or levee breaching," adding, "This could leave the New Orleans metro area submerged for weeks or months."

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That night, after the storm passed, a report sent to the White House warned of a quarter-mile breach "in the levee near the 17th Street Canal" and that "an estimated 2/3 to 75 percent of the city is underwater."

Yet Mr. Bush and the homeland security secretary, Michael Chertoff, in interviews after the storm hit, said they never expected the levees to be breached. They said that after the storm had passed Monday, they were convinced that the city had survived without catastrophic damage.

"There was a sense of relaxation," Mr. Bush said at a news conference in New Orleans on Sept. 12, recounting his reaction. "I was listening to people, probably over the airways, say, the bullet has been dodged."

Mr. Lieberman wants to know more about how the White House could have felt it was appropriate to relax.

"That is central to the investigation," Mr. Lieberman said in an interview Wednesday.

A closed-door briefing provided to investigators by Ken Rapuano, Mr. Bush's deputy domestic security adviser, did not resolve these and other discrepancies, Mr. Taylor said.

At the briefing, Mr. Rapuano acknowledged that the government's response was deeply flawed, participants said. But when asked about the involvement of Mr. Bush, Mr. Card or Ms. Townsend, he also declined to offer details, saying, "I am really not here to discuss specific information that was passed to the president," according to a written summary of the briefing prepared by Democratic staff members.

"It was as shallow and phony a presentation by the administration as they possible could conceive," Mr. Taylor said, adding that he walked out in frustration.

Democrats also said that the documents provided by the White House consisted largely of news conference transcripts or e-mail sent to many people, instead of correspondence disclosing the decision-making process at the White House.

But Representative Thomas M. Davis III, Republican of Virginia, said that based on what his committee had, he was convinced that the report would be complete.

"The Select Committee has all the information we need to fulfill our duties and produce a comprehensive, fair, no-holds-barred report about the failures in response to Hurricane Katrina," Mr. Davis said Tuesday.

Mr. Lieberman said Wednesday that he realized it was unlikely he could get the information he wanted by threatening to subpoena. Even if one were issued, the administration would probably fight it in court.

Mr. McClellan all but invited such a response Wednesday.

"The president believes that Senator Lieberman ought to have the right to confidential conversations with his advisers, just like all presidents have asserted they ought to have that same right," he said. "That's what this is about."

Rejection Of Building Plan Causes Dismay In Louisiana (NYT)

By Adam Nossiter

The New York Times, January 26, 2006

NEW ORLEANS, Jan. 25 — The White House decision to withhold support from a major Congressional reconstruction plan left Louisiana officials expressing bewilderment on Wednesday over what they characterized as the lack of a workable alternative from the Bush administration.

Congress has appropriated $6.2 billion in reconstruction aid, but officials say that is not enough to meet housing needs.

"The White House simply needs to tell us what their plan is," Gov. Kathleen Babineaux Blanco said Wednesday at a news conference in Baton Rouge. "We don't see an adequate plan. You can't fix a $12 billion problem with $6 billion."

Other estimates have put the reconstruction cost much higher, with some going as high as $80 billion.

With whole neighborhoods in ruins nearly five months after Hurricane Katrina, officials of both political parties had lined up behind the Congressional reconstruction plan, which would have set up a federal agency to buy out flooded homeowners, cleaned up the land and sold it to builders.

Planners and officials had described the proposal, by Representative Richard H. Baker, Republican of Louisiana, as the best hope for avoiding what is starting to occur, islets of rebuilding in seas of destruction.

A measure setting up the agency, the Louisiana Reconstruction Corporation, was approved by the House Financial Services Committee before Congress adjourned last month. White House officials told Mr. Baker on Monday, however, that they would not support his bill.

He joined Ms. Blanco at the news conference on Wednesday.

Thousands of homeowners remain in limbo. Officials here say the storm destroyed or damaged more than 200,000 houses.

Emerging from the officials' statements on Wednesday was a sharp disagreement with the White House over the state's needs. Although Mr. Baker and Ms. Blanco described a sight that has become grimly familiar to residents, block after block of ruined houses, the administration has begun to concentrate on a much smaller picture of destruction.

Donald E. Powell, the federal coordinator for Gulf Coast rebuilding, spoke this week of helping homeowners who lacked flood insurance because they were not in the federally designated flood plain, a number that comes to 20,000, an aide said. The $6.2 billion in block grants for Louisiana will be enough to help them, Mr. Powell said.

Louisiana state officials say that number understates the problem, failing to include tens of thousands of other homeowners whose houses were destroyed .

"Our count indicates far in excess of 200,000," Mr. Baker said. "What happened to the other 185,00?"

Administration officials have suggested that Louisiana follow Mississippi's lead in providing grants to homeowners. Ms. Blanco, a Democrat, rejected that approach on Wednesday, saying the state did not have enough money for it.

Representative Bobby Jindal, a Republican from New Orleans suburbs, also said 20,000 homeowners represented a significant understatement.

"I very strongly disagree with their methodology in terms of the final numbers," Mr. Jindal said.

Administration objections to Mr. Baker's bill centered on two aspects, Mr. Powell suggested. The bill would add a federal bureaucracy and set up what would be a government real estate agency, "which we don't think is a good business," said Mr. Powell, a former chairman of the Federal Deposit Insurance Corporation.

The cost of Mr. Baker's plan— he and an aide used figures from $30 billion to $80 billion — prompted wariness, too. Old suspicions about how Louisiana spends its money have not disappeared.

Mr. Powell has all but put state officials on notice that close watch will be kept on the Community Development Block Grant money.

"I think it's important for Louisiana to spend this money in a very prudent and wise manner," he said on Tuesday.

That was echoed by an administration supporter on a rebuilding committee, Donald T. Bollinger, a shipbuilder, who said, "I think we have to demonstrate to Congress and the president that we are going to handle our C.D.B.G. grants responsibly."

Mr. Bollinger, a major fund-raiser for President Bush, was not so pessimistic about the rejection of Mr. Baker's plan.

"Everybody wants to think that if the Baker bill fails we have no other solution," he said. "I don't agree with that at all. I know we need a tool similar to that."

More typical of the disappointment was a statement by Walter Isaacson, a member of the Louisiana Recovery Authority, created by Governor Blanco.

"We tried to have a prudent plan that was a way to build a safer city," Mr. Isaacson said. "This undercuts us, and undercuts the credibility of a president when he says he wants New Orleans to be able to rebuild itself."

Bush Eyes Grants, Not Agency, For La. Recovery (REU-Y2)

By Kristin Roberts

Reuters, January 26, 2006

The White House on Wednesday opposed a plan from a Louisiana Republican to create a federal agency to buy homes destroyed by recent Gulf Coast hurricanes, saying grants to state governments were a better approach.

The Bush administration said it was concerned about creating an outside entity to funnel federal money into housing redevelopment, and instead allocated $11.5 billion in previously approved funds to states hurt by the 2005 storms.

"We believe a more direct, better approach is to provide assistance directly to the local communities so that they can get that to the people through things like a Community Development Block Grant," said White House spokesman Scott McClellan.

But the Bush administration's rejection of Louisiana Rep. Richard Baker (news, bio, voting record)'s proposal was criticized by some government officials in Louisiana, which with Mississippi suffered most of the damage from hurricanes Katrina, Rita and Wilma last year.

A group representing mortgage bankers also said President George W. Bush had yet to offer an alternative that was comparable to the plan proposed in Baker's legislation to create the Louisiana Recovery Corp.

"We'll really pay attention to the State of the Union address because we'll be anxious to see what the president is going to propose as a plan for rebuilding those devastated areas," said Kurt Pfotenhauer, senior vice president of government affairs at the Mortgage Bankers Association.

"It's clear that some plan has to be in place in order to spur the investment of private capital."

Pfotenhauer said he expects to see an increase in property abandonment and foreclosures over the coming months as people in the Gulf region are unable to make mortgage payments on homes that were destroyed or damaged by the storms.

Baker's legislation, already approved by a House committee, would create a corporation to buy and redevelop tracts of land devastated by the hurricanes, helping property owners in Louisiana avoid defaults on home and business loans.

The bill would redirect $17 billion in previously approved funds to pay for rebuilding in Louisiana, including $13 billion in Community Development Block Grant money.

The corporation would take over destroyed properties at the request of owners and pay off lenders. Under the legislation, the U.S. Treasury Department could sell bonds to pay for the corporation's property purchases.

"If there truly is a better way, then we should ask to see it, and I will help lead the fight to get it done," Baker said in a prepared statement. "But if there isn't, or if other plans prove unfair or ineffective, then we should not accept that this matter is settled."

Senate Banking Committee Chairman Richard Shelby, an Alabama Republican, said he would hold hearings on the proposal.

"It's an ambitious program," he said. "We'll look at it real thoroughly; that's what hearings are for."

GRANT APPROACH

The U.S. Housing and Urban Development Department on Wednesday afternoon set distribution levels for $11.5 billion in grants authorized under a bill Bush signed in December.

Louisiana will receive $6.21 billion in grants -- the statutory maximum. Mississippi will receive $5.06 billion and another $231.8 million in grants will be sent to three other states affected by the storms.

"This program allows states' leaders -- who are closest to the people -- to decide exactly how this grant money should be spent," said Donald Powell, a former bank regulator who took over as coordinator for the federal government's Gulf Coast rebuilding effort.

New Orleans Mayor Ray Nagin said the grant funds were a "good step."

"The question that I'm going to raise is, are the dollars enough to really stand up our economy," he said.

Katrina Aid Falls Short, Blanco Says Grant To Give $6.2 Billion For La. Areas (USAT)

By Oren Dorell And Anne Rochell Konigsmark

USA Today, January 26, 2006

Storm-ravaged areas of Louisiana will get $6.2 billion in federal relief funds in a controversial plan that recommends giving the money to a small fraction of homeowners affected by the storm.

Donald Powell, President Bush's coordinator for Gulf Coast rebuilding, suggested that money from the government's funding grant, announced Wednesday, be doled out to roughly 20,000 homeowners who weren't in a flood zone and did not have flood insurance when Hurricane Katrina hit. State officials must draw up plans for disbursing the money and get federal approval. Louisiana officials had proposed a far more ambitious $30 billion initiative to rebuild ruined areas and said the government's relief effort would exclude at least 140,000 homes.

“It simply will not work,” said Louisiana Gov. Kathleen Blanco, adding that she won't use the money as the White House recommends. “We are not in the business of choosing between our citizens.”

Powell told reporters the money should go to homeowners without flood insurance who lived outside the area where federal officials thought flooding would occur. Under that proposal, homeowners who lived inside the flood zone and did not buy flood insurance would not be eligible for the federal funds.

Four other states affected by Hurricanes Katrina, Rita and Wilma also will get relief money from the grant, Powell said. Alabama will receive $74 million; Florida, $83 million; Mississippi, $5.1 billion; and Texas, $74 million.

Areas that were severely hit by the storm, including large portions of New Orleans and nearly all of St. Bernard Parish, would be excluded from the compensation plan.

Blanco spoke at a news conference in Baton Rouge with Rep. Richard Baker, R-La., architect of a proposal for the federal government to buy and later resell damaged homes. The White House rejected the plan, but Baker said Wednesday, “I've had inquiries from the House and the Senate in the last 48 hours for more information on the bill.” He said he has passed bills before that initially were rejected by the White House.

Blanco said she appreciates the government's effort, but “they've almost designed this as a prescription for failure. … They gave us a ladder but took away the top two rungs.”

In Mississippi, where 65,000 homes were left uninhabitable by the storm, authorities expect to be ready to accept applications for federal funds from homeowners in about a month, said Scott Hamilton, spokesman for the Mississippi Development Authority.

Mississippi plans to spend about $4 billion on homeowner assistance and the rest on public works, transportation and economic development. People who accept federal money will have to abide by new, stricter building codes and new Federal Emergency Management Agency flood maps, which might mean they will have to elevate their homes to rebuild, Hamilton said.

Powell said the government is leaving the door open for more money, should the grant not be enough.

'Chocolate' Aftertaste: Bittersweet, Indeed (WP)

By Wil Haygood

The Washington Post, January 26, 2006

New Orleans Mayor Ray Nagin blew into the original Chocolate City yesterday. Everywhere he goes these days, there seem to be things to explain, his words and comments tossed about as if, well, in yet another hurricane.

"Everything I say gets zoomed in on," sighs Nagin, in town to attend the winter meeting of the U.S. Conference of Mayors at the Capital Hilton. "I don't get what all the fuss was about when I talked about New Orleans being a chocolate city. I mean, I understand the frustration with my 'God' comments. Maybe I went a little overboard. But Chocolate City? Come on."

In the aftermath of the horrific Hurricane Katrina, the mayor has been richly and routinely quotable.

He said, "How do I make sure New Orleans is not overrun with Mexican workers?"

He said to federal officials, whom he criticized for a feeble response to Katrina, "Get off your asses."

He said, "Surely, God is mad at New Orleans. He sent us hurricane after hurricane after hurricane, and it's destroyed and put stress on the country."

And he said, of God, "But surely he is upset at black America also."

And he said that New Orleans will be a "Chocolate City" again.

The Chocolate City reference, Nagin has explained, exploded when he did not mean it to. The term was widely used by Washington's black radio announcers in the early '70s and referred proudly to the city's majority-black status and its prominent place in the black cultural scene. It gained wider recognition as the title of a 1975 album by the funk band Parliament.

Before Katrina, New Orleans was 67 percent black. Nagin says he was appealing to those evacuated to come back to a welcoming New Orleans. But there were those who believed his comment could be interpreted to mean that whites were no longer wanted.

Nagin says he wants anyone and everyone to return to New Orleans, heretofore known as the Crescent City.

"I thought, personally," says San Bernardino, Calif., Mayor Judith Valles, "with his 'Chocolate City' comment, he was just saying to the people who left -- and let's face it, most were African American -- that this is still your city. I think he meant it in a positive way. But it was politically incorrect, I guess. It missed the proper gesture." Then she says: "I'm a Democrat. That's why I understand the 'Chocolate City' phrase."

"I stepped out there and did something bold and unique," Nagin was saying yesterday. "I created a need for people to try to corner me. I think it's just me stepping out and being right."

Nagin is a tall, confident man with a shaved head and a bright smile. He was dressed in a smart black pinstriped suit and wore a Mardi Gras-like bracelet of black and white beads on his right wrist. A native of New Orleans, he had never run for political office before winning the mayor's race in 2002. He's married with three children. He's got a degree from Tuskegee University and one from Tulane. Before he entered politics, he was a vice president at Cox Communications. Before Katrina hit, much of the world did not know of Clarence Ray Nagin.

"It has been tough," acknowledges Seletha Smith Nagin, the mayor's wife. "It takes a toll on you." She says she has been gratified by outpourings of support. "We'll be okay. We'll be fine."

Nagin is up for reelection this year. He figures his chances are pretty good.

"At the end of the day, people look at my track record," he says. "Before the hurricane hit, real estate purchases were up, people were coming off the poverty rolls."

Many in the city gave him credit for tackling corruption, a chronic problem in the city government. Then came Katrina, and verbal clashes with the White House and with the administration of Gov. Kathleen Babineaux Blanco.

"He's a human being. He's stressed," says Camden, N.J., Mayor Gwendolyn Faison, a conference attendee. "How many people say 'God has forgotten me' when there's been an accident in their family? He's human. It's not easy. His city has been destroyed and he's getting criticized for everything he does."

In a brief address to the conference yesterday, Nagin was rueful, hopeful and candid, offering a kind of "Our Town" look back, and ahead, for New Orleans.

"Imagine, if you will, being the mayor of a city where 80 percent of the city took on water and the water stayed three weeks. Imagine that city in the midst of an awful crisis, and 40,000 people are stuck. Then, the cavalry arrives and sends your devastated citizens to 44 different states. On airplanes. With one-way tickets."

He went on:

"Think of those people, who have gone through hell, sitting on that airplane. They don't know where they're going next. Some went to Alaska. And so the doors of the plane opens and after having gone through hell, you are in Alaska. And you see Eskimos and penguins."

The mayor's narratives have often been revealed to be apocryphal. He went on to say he didn't mind the criticism that has been heaped upon him, much of it from inside New Orleans. "I had to be their psychological punching bag."

He cautioned the gathering that the woes of FEMA need to be addressed. He said government infighting must stop. "We don't need to do a dance between the governor and the president when people are suffering." He said too many in New Orleans didn't have flood insurance because they had been told by mortgage lenders it was unnecessary. "We must take care of the people who did the right thing and got caught up in the worst disaster in the history of this country."

He was very warmly received.

Nagin said at the start of his address he would not be controversial. When he said it, a man sitting behind him grinned. It was Anthony Williams, the often-praised, often-maligned mayor of Chocolate City.

Changes Are Sought In Flood Insurance (NYT)

By New York Times Regional Newspapers

The New York Times, January 26, 2006

New York Times Regional Newspapers

WASHINGTON, Jan. 25 — The administrator of the National Flood Insurance Program asked Congress on Wednesday to allow the elimination of discounts on as many as 1.2 million policies and suggested that the government consider requiring millions more homeowners to buy coverage.

The program expects to borrow $23 billion from the Treasury to pay claims from Hurricanes Katrina, Rita and Wilma. In written testimony to a Senate committee, David I. Maurstad, the administrator, said the program would reach its debt limit by mid-February and require another infusion of up to $5.6 billion.

About 1.2 million policyholders, or about 24 percent, receive discounts on premiums because their homes predate flood maps. Mr. Maurstad asked Congress for the authority to phase out those discounts.

Mr. Maurstad also asked Congress to order the program's parent agency, the Federal Emergency Management Agency, to study expanding coverage requirements to properties in areas known as 500-year flood plains, with a 0.2 percent chance of flooding in any year, and to properties protected by levees and dams. He estimated that would affect four million to six million properties.

Massive Hurricane Claims Force U.S. Flood Insurance Overhaul (WSJ)

By Michael Schroeder

The Wall Street Journal, January 26, 2006

WASHINGTON -- Amid massive claims from last year's Gulf Coast hurricanes, the Senate Banking Committee is preparing to overhaul the federal flood insurance program, resulting in much higher premiums for many homeowners and a likely taxpayer bailout.

Hurricanes Katrina and Rita put the National Flood Insurance Program so deeply in the red that experts are calling for radical surgery. So far, 239,000 damage claims have been filed by property owners around the Gulf Coast. Costs amounting to $23 billion are expected to dwarf the $2 billion in premiums and fees the program collects each year. "The flood-insurance program is in need of fundamental reform if we expect it to exist in the long term," said David Walker, who heads the Government Accountability Office, Congress's audit and investigative arm.

While broad legislation hasn't yet been proposed, several committee members and experts who appeared before the banking panel yesterday agreed that the insurance program needs to be restructured to operate more like a private insurance company. They suggested that subsidies given many policyholders now must be cut back and coverage should be curtailed for properties that are repeatedly flooded. Congress has rejected such moves in the past, but the program hasn't faced such a cash crunch. "We don't have the luxury of doing nothing. We have to make this program as actuarially sound as possible," said Committee Chairman Richard Shelby of Alabama.

The debate is over creating a premium and cost structure to allow the program to build surplus reserves that would cover costs of unusually expensive natural disasters. But it is unrealistic to think premiums could be raised high enough to repay the Treasury Department for the costs of last year's hurricanes, some committee members said. Property owners are required to buy the policies -- which for residences can cover as much as $250,000 in structural damage and $100,000 in lost belongings -- if they meet two conditions: They live in the most flood-prone parts of more than 20,100 communities that participate in the flood-insurance program, and they have mortgages from federally regulated banks or the Federal Housing Administration.

Legislation likely will roll back the program's premium subsidies, valued at about $1.3 billion a year, that go to about 25% of policyholders whose properties were built in the most flood-prone areas before the program's creation. The annual average premium for regular policies was $340 last year, while the average subsidized policy cost $710, according to the Congressional Budget Office. If the subsidy were removed the average premium on those risky properties would jump to about $1,800 a year.

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WAR NEWS:

Insurgent Attacks Repelled (WP)

By Jonathan Finer

The Washington Post, January 26, 2006

BAGHDAD, Jan. 25 -- U.S. Marines and Iraqi soldiers repelled coordinated attacks on the provincial government headquarters in the western city of Ramadi on Tuesday afternoon, killing seven insurgents, the military said Wednesday.

Five insurgents -- whose assault included mortar, small-arms and machine-gun fire -- were killed by a strike from a Marine Harrier jet as they gathered in a nearby cemetery, according to a statement from Capt. Jeffrey S. Pool, a Marine spokesman in the city. Two other fighters died in a firefight after insurgents used a rocket-propelled grenade to attack a military convoy entering the city's main government compound.

No U.S. or Iraqi forces were wounded in the clashes, the statement said.

During the fighting, Zaal Shehan Mahmoud, 30, a cameraman for the Baghdad TV network, was killed by more than 20 bullets to the head, abdomen and legs, according to Mohammed Dulaimi, a doctor at the Ramadi hospital.

Baghdad TV is owned by the country's dominant Sunni Arab political organization, the Iraqi Islamic Party, which recently re-entered politics after boycotting elections held a year ago. A party official, Baha Aldin Naqshabandi, said Marines mistook Mahmoud for a fighter while he was gathering footage in the city's main market. He had been sent to Ramadi to report on the condition of residents after the recent outbreak of violence.

Ramadi, capital of the insurgent stronghold of Anbar province, has in recent months experienced some of the heaviest exchanges between U.S. and Iraqi forces and Sunni-led insurgents, who in early January killed dozens of police recruits in a suicide bombing.

Tension also mounted Wednesday in the predominantly Shiite southern city of Basra. Several hundred protesters took to the streets to denounce raids conducted Tuesday by British forces in which at least a dozen people were detained, most of them members of the city's police force.

Provincial Gov. Muhammed Waili joined the protesters, many of whom were of the same tribes as the detainees. They chanted slogans calling for independence from the foreign forces that police their region.

The police forces in Basra and across southern Iraq have increasingly come under the control of sectarian militias blamed for widespread kidnappings, assassinations and other acts of political violence. In September, British troops plowed armored vehicles through the wall of a police station in an attempt to free two service members believed to be detained there. The men were later found in a house nearby controlled by militiamen.

In Samarra, north of Baghdad, where more than 40 police recruits were killed by gunmen this week, Sunni Arab cleric Abdul Karim Jasim Muhammed was shot dead by police at a checkpoint on the road to the Iraqi capital on Wednesday.

Muhammed's mother, who was traveling with him in the vehicle, said police "shot randomly to frighten the people and force them to go back. I was about to tell my son to go back, but it was too late. One of the bullets reached his head and killed him immediately."

Meanwhile, a U.S. government audit of its spending in Iraq published Tuesday revealed irregularities and improprieties, including tens of millions of dollars in cash deposited and withdrawn from a vault without any tracking documentation and up to $60,000 in reconstruction funds gambled away by an American soldier traveling in the Philippines.

U.S. officials "did not effectively manage" more than 2,000 contracts worth $88 million, according to the report by the Special Inspector General for Iraq Reconstruction, which covered spending during 2003 and 2004 in six southern and central provinces.

In the southern city of Hilla, the document said, the United States paid $108,140 for renovations that were never made to an Olympic-size swimming pool and signed off on repairs to an elevator in the city's general hospital that later crashed to the ground, killing three people.

Special correspondents Salih Saif Aldin and Bassam Sebti contributed to this report.

General Sees Rift In Iraq Enemy Local-foreign Divide Could Aid U.S. Goals (USAT)

By Rick Jervis

USA Today, January 26, 2006

BAGHDAD — A deepening rift between radical foreign-led fighters and native Iraqi insurgents has turned violent, the top U.S. intelligence officer in Iraq says. That creates an opportunity for American forces to try to persuade local guerrillas to put down their weapons and join the political process, he says.

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"Now you actually have a wedge, or a split, between the Sunni population and al-Qaeda in Iraq," said Maj. Gen. Richard Zahner, deputy chief of staff for intelligence for multinational forces in Iraq. "It poses a significant crossroads for these groups as they look at where they head."

The U.S. military cited incidents of insurgent infighting in a rare public description of a split:

·At least six ranking members of al-Qaeda in Iraq have been assassinated by Sunni insurgents or tribal gunmen in separate incidents since September, Zahner said. The killings are usually in retaliation for al-Qaeda's role in violence, such as the execution of local police officers, he said.

·In Ramadi, in western Iraq, he said, armed clashes have erupted between local Iraqi insurgents and al-Qaeda operatives in recent months. At least one high-ranking al-Qaeda member, Abu Khatab, was recently run out of Ramadi by insurgents loyal to the local tribe.

·Near the Syrian border, members of the Albu Mahal tribe, which attacked U.S. positions as recently as March, have lately been pointing U.S. troops to al-Qaeda hideouts, Zahner said.

Iraq's national security adviser, Mouwafak al-Rubaie, also said there is a rift in the insurgency, calling it a "a major step forward in our fight against terrorism."

However, the significance of fighting among Iraq's diverse insurgent groups is difficult to determine. In the past 10 weeks, 18 groups have claimed responsibility for separate attacks in Iraq, said Ben Venzke of IntelCenter, a Washington-area think tank that works for U.S. intelligence. "With all those different moving pieces, you're going to see this constant movement and realignment," he said.

The U.S. military has described the insurgency as a mix of former Saddam Hussein loyalists, foreign militants and disenfranchised Sunni Arabs.

Zahner said the insurgency consists of about 12,000 to 15,000 hard-core Iraqi fighters and supporters, as well as 1,000 militants loyal to al-Qaeda in Iraq, of which about 10% are foreign.

Several trends have accompanied the split:

·The constitutional referendum in October and parliamentary elections in December attracted more Sunni voters than in the past. Voter turnout in the largely Sunni province of Anbar, for example, climbed from 2% in elections Jan. 30, 2005, to 55% in the vote last month. Al-Qaeda insurgents, however, have continued to attack voters and people involved in politics.

·Iraq's complex network of tribes and family relations means some families have members on both sides of the conflict. The foreign fighters' killing of police and government officials is beginning to trigger a response from local insurgents who are more loyal to tribe and family than to ideology, Zahner said.

·Al-Qaeda's aim of turning Iraq into a strict Islamic caliphate has turned some Iraqi fighters against the group, Zahner said.

Insurgents Give U.S. Valuable Training Tool Video Of Attacks Provides Up-close Look At Fighters' Tactics And Capabilities (USAT)

By John Diamond

USA Today, January 26, 2006

WASHINGTON — Videotapes of insurgent attacks in Iraq have become a potent propaganda tool for militant Islamists but also a handy training aid for U.S. forces, according to Army briefing documents being given to U.S. officers deploying for duty in Iraq.

Insurgents routinely videotape their attacks and sometimes post the footage on the Internet as propaganda to show tactical victories against U.S. military convoys or helicopters.

A briefing report prepared by the intelligence division of the Army's Training and Doctrine Command shows how the Army is mining the insurgent tapes for ways to avoid casualties.

"Insurgent videos have grown complex and sophisticated, with detailed graphics, English subtitles, English narrators, Jihadist 'humor,' and insults directed at the coalition to weaken (coalition forces') resolve and popular support," the report says. The document warns U.S. soldiers that "any non-media or not-CF (coalition forces) personnel with a camera should be considered suspicious."

The briefing is presented in the form of PowerPoint slides that have also been shown to soldiers already deployed in Iraq. It offers insights into insurgent tactics with the help of videos and photos taken by the insurgents themselves.

One shows an incident Aug. 10 when an Army supply truck passed a homemade road sign that concealed a bomb. In one image, the tractor-trailer is completely obscured by the fiery blast. The briefing warns that some roadside bombs are "victim activated," meaning that the motion of a passing vehicle sets off the explosive.

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The overall thrust of the report is to show Army officers how and where Americans are dying in Iraq. The information in the report was current up to last month.

The briefing report says 55% of U.S. military deaths in Iraq are attributed to improvised explosive devices, the military's term for roadside bombs, and small-arms attacks. It says 59% of U.S. military deaths occurred in Baghdad and Sunni-dominated Anbar province, which runs from just west of Baghdad to the Syrian border.

Designed to help soldiers know what to expect and how to counter insurgent tactics, the briefing also warns that Iranian-backed Shiite militants as well as Iraqi Sunnis and foreign Sunni fighters are regularly mounting attacks.

Maj. Mark VanHout of the Training and Doctrine Command, based at Fort Monroe, Va., confirmed the authenticity of the report, which is unclassified but not released publicly.

Training commanders had asked for the report to give officers "a statistical analysis of what enemy tactics, techniques and procedures kill most soldiers," according to Gary Phillips, a threats specialist at the command's intelligence branch at Fort Leavenworth, Kan.

Phillips, a retired Army colonel who travels to military bases around the country preparing officers for duty in Iraq, says the roadside bombs are the most worrisome threat.

"They continue to move forward in how they're emplaced, how they're configured and how they're used," Phillips says.

His son, Army Capt. Dustin Phillips, deploys to Iraq in late February to train Iraqi police. "I told him this weekend, the issue is, don't let complacency set in. Don't think everything's copacetic. There is no safe spot."

The briefing characterizes insurgents as difficult to find, let alone defeat, and able to change their tactics as the U.S. military changed its own. Adjustments have included more powerful roadside bombs as the number of armored U.S. military vehicles has increased, the use of secondary bombs to kill those responding to initial roadside bombing attacks, and coordinated daylight raids.

The threat of small-arms fire, often directed at military checkpoints and convoys, "comes from all ages and sexes," according to the briefing, and usually originates from homes, vehicles or crowds that allow quick escape. The insurgents have also emulated the U.S. military's preference for "stand-off" style attacks in which the enemy can be hit without exposing the attacker, it says.

US To Release Five Female Prisoners In Iraq (CSM)

By Dan Murphy

The Christian Science Monitor, January 26, 2006

BAGHDAD - A US military spokesman in Baghdad confirmed Wednesday statements by Iraq Justice Ministry officials who said five women detainees are scheduled to be released Thursday.

Iraqi officials have been at odds with their US counterparts over the release of the five, among nine women terrorism suspects in American custody in Iraq.

The Justice Ministry said last week that six women were about to be freed. Reuters reported that Iraqi officials have suggested the delay in releasing the women was linked to the demands of the kidnappers of American journalist Jill Carroll, who threatened to kill her by last Friday unless all women prisoners were freed.

The deadline passed with no word on Ms. Carroll's fate. The US says it does not negotiate with kidnappers.

The handful of Iraqi women in detention at any given moment are a source of particular anger for average Iraqis and insurgents alike.

The US military says it makes special efforts to process women more quickly than men, because of the anger and violence generated by US detention of women. Many Iraqis assume that women are abused in US detention, and in a culture in which a family's honor is seen as tied up with their ability to protect their women, female detainees are an especially emotional issue.

Sunni Arab political leaders complain frequently about women in detention here. Demands that women be released have been made in other cases than Carroll's.

Shortly after the abduction of Iraq Interior Minister Bayan Jabr's sister on Jan. 4, for instance, her captors demanded that all women be released from the ministry's jails. She was later released unharmed.

The American military spokesman said Thursday's release of the female Iraqi detainees is unconnected to Carroll's abduction. He stated that the US military and Iraqi government had processed the women's cases according to normal procedures and determined they did not need to be held any longer.

The US military is holding about 14,000 security detainees following the release of about 500 guerrilla suspects last week. An Iraqi Justice Ministry official said the women would be among 424 prisoners released Thursday.

Deputy Justice Minister Busho Ibrahim Ali told the Associated Press that an Iraqi government commission had reviewed the six women's cases and suggested they be released due to lack of evidence. US authorities would not comment on his claim.

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Carroll was kidnapped on a Baghdad street on Jan. 7 and her translator was killed. Muslim leaders have joined her family, friends, and colleagues in calling for her release.

· Wire material was used in this report.

Female Detainees Will Be Freed (WT)

By Jay Deshmukh

The Washington Times, January 26, 2006

BAGHDAD -- Iraq will release women detainees from the infamous Abu Ghraib prison today in a move that might help free a U.S. reporter abducted by insurgents, one of a number of foreigners taken hostage in recent weeks.

An Iraqi Justice Ministry official said 424 detainees were to be freed today after a review of their cases by a joint Iraqi-U.S. board. These would include six of the nine women known to be in detention.

The kidnappers of U.S. journalist Jill Carroll, seized on a Baghdad street on Jan. 7, have threatened to kill her unless all Iraqi women detainees are set free. The deadline set for her has passed; her condition is unknown.

The official denied that the release of the women had anything to do with kidnappers' demands, and U.S. forces have stressed they do not negotiate with hostage-takers.

But a recent spike in hostage-taking of foreigners has embarrassed the government.

"Government services are doing all they can to free people kidnapped and detained," President Jalal Talabani's office said yesterday, quoting National Security Minister Abdul Karim al-Anizi, who met with the president.

More than 250 foreigners have been seized since the March 2003 U.S.-led invasion that toppled Saddam Hussein. A number of them, including Westerners, have been killed.

U.S. and Iraqi forces are searching for two German engineers, Rene Braunlich and Thomas Nilzchke, the most recent kidnap victims, seized at gunpoint Tuesday by men posing as Iraqi soldiers in Beiji in northern Iraq.

"We are trying at the moment to obtain any information possible," German Foreign Minister Frank-Walter Steinmeier said in Berlin, adding that no contact had been established with the captors yet.

The two Germans arrived in Iraq only on Sunday for a brief assignment at a detergent plant, the Associated Press reported citing German and Iraqi officials.

Two Kenyan telecommunications engineers were abducted last week after their bodyguards were gunned down in Baghdad, and there was still no news on the fate of four Western peace activists seized in November.

Meanwhile, a Jordanian hostage said in a videotape his captors had set a new deadline to execute him.

Meanwhile, the military said a U.S. Marine was killed by small-arms fire Tuesday in Karmah, 50 miles west of Baghdad.

A prominent Sunni Arab cleric, Karim Jassim Mohammed, 39, was fatally shot yesterday by police at a checkpoint heading into the northern city of Samarra, police said.

The Other Beat Of Her Heart (WP)

By Jackie Spinner

The Washington Post, January 26, 2006

That can't be Jill, I whispered to myself, over and over, even as her picture hung on the TV screen.

No, it's not her, I said to myself in denial. Jill? Jill Carroll? Being kidnapped in Iraq, sitting cross-legged with black-hooded, gun-toting men behind you, was there any worse fate for an American reporter in Baghdad? I couldn't imagine it. This was my friend, a correspondent for the Christian Science Monitor, who, like me, had fallen in love with Iraq.

The day I left to join The Post's Baghdad bureau in May 2004, my twin, Jenny, told me that if anything happened to me, she would never feel joy again. I went anyway, selfishly clinging to an ideal, a quest for truth, grasping for a sense of purpose that even my twin could not give me.

In our 34 years, Jenny and I had never been apart for more than a few months at a time. She was always my identity, the other half of the Spinner twins who grew up in a blue-collar town in the Midwest, chasing lightning bugs and a sense that the world extended beyond the corn and soybean fields surrounding us.

For 13 months in 2004 and 2005, my half was in Baghdad, dodging mortar rounds, roadside bombs and potential kidnappers, while Jenny worried from home that I would not be able to keep my promise to my nephew, her young son. "Aunt Jackie always comes back," I told him each time I returned to Baghdad, to a place that began to feel more like home the longer I stayed.

Although I had tucked Jenny's warning words deep inside of me when I left, I realize now that on this journey of a lifetime, I had gone alone. And I was alone that day outside Abu Ghraib prison, when a stranger grabbed my arm and began dragging me toward a car.

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* * *

After the kidnapping and killing of Nicholas Berg in May 2004, journalists were more careful when gathering outside Abu Ghraib to cover the release of U.S. security detainees. These releases occurred outside the secure compound, on an open stretch of highway between Baghdad and volatile Fallujah. Post reporter Daniel Williams had been ambushed on that road, his car raked with bullets. We reporters had become targets, forced to send our Iraqi translators out to interview those being released from Abu Ghraib.

Frustrated with this awkward interview system, I devised a new plan -- to cover the release from inside the prison. No other reporter had done this. It would be a good exclusive. I persuaded the military officials on the ground to let me do it, then consulted with my more experienced colleagues about the best way to get there. We decided it would be safer if a driver dropped me off with Post photographer Andrea Bruce. I had an abaya for disguise and a bodyguard with an AK-47. We would go at dusk. Our overnight bags for prison would be dirty hotel pillowcases, because they looked like the flour sacks Iraqi women often used. Abu Saif, who was working for The Post as an interpreter, made sure I knew a few words in Arabic. "Say it like this," he instructed. " Ani Sahafiya ," I repeated after him. "I am a journalist."

On Sunday night, June 13, 2004, Andrea and I slipped out of the car and walked into Abu Ghraib under a pink sky.

We settled into a small, whitewashed cell in a large warehouse and plotted how to cover the next day's story. The Army had painted the cell's walls, but the stains were still there: sweat, dirt, blood. Saddam Hussein had crammed as many as 64 prisoners into the same space where Andrea and I had two single cots, separated by only an arm's length.

Jenny. Her name often came out of nowhere when I found myself in a nearly unimaginable place. I needed to describe this to her. I needed her to see the colorful murals of Hussein still painted above the cell blocks: Hussein in a white military uniform surrounded by white doves, with the snow-capped mountains of the Kurdish north over his left shoulder; Hussein in dark glasses and a white fedora against a splashy black and orange background; Hussein in a dark suit, his eyes scratched by vandals.

I took my satellite phone outside and pointed it southeast, spinning around to get a signal. Bats fluttered in the artificial lights as I talked to Jenny a half-world away. "You'll never guess where I am. Abu Ghraib! The prison. Yes, I'm inside. It's so creepy, Jenny. I have to sleep in a cell. And I'm looking up right now, and there are all these bats, which makes it even more creepy. But I had salad for dinner."

With Jenny, I could be wide-eyed, excited, sad, scared, elated, real. In the bureau and with my editors, I had expectations to meet. The other correspondents were so hardened. They had seen war many times, had faced down dictators, guerrilla leaders and warlords in exotic, far-off places. This -- Iraq -- was all I had. I could not pretend to be more experienced than I was. But I could hide how green I was. I didn't need to act like a clown who had just joined the circus. No, I saved that for Jenny.

My words gushed out, as usual. I tried to call her at least once a day, never talking long, to check in, to bring her with me, when I just needed to hear her voice, when I was full of new sights and sounds and had to empty some of it. I could tell Jenny the part of the story that could not go in the news articles. I could tell her my story.

Back on my cot in the cell, I could not sleep. I kept imagining the ghosts of the detainees who had died in that room, kept hearing their screams, their voices finally growing hoarse, then fading into the nothingness that had already consumed them.

Andrea and I got up early the next morning to watch the release of about 500 detainees. The prisoners lined up according to the direction they were headed, Tikrit here, Baghdad there. They clutched homemade bags sewn from brown plastic MRE packages. Most professed their innocence to me.

From a guard tower, Andrea and I watched for hours as the buses with released prisoners rolled out, the crowd of nearly 600 waiting family members slowly thinning as the morning went on. Ghazwan and Bassam, our driver and interpreter for this trip, were outside the prison watching for us to come out. I wanted to wait until most of the onlookers had left so we would not attract as much attention.

Andrea decided to follow a bus of released detainees and jumped into a car with an Associated Press photographer and reporter. I called Bassam to let him know I was on my way and asked the Marines in the tower to make sure I made it to my car. I said it with such breeze, as if I were leaving a movie theater in the United States and getting ready to walk across a dark parking lot.

I followed a narrow path through barbed wire that led from the prison to a small parking lot near the front. Several cars idled in the noon heat. No one seemed to pay much attention to me. I walked along the perimeter of the parking lot and headed for the highway. I could not see Bassam or Ghazwan, but based on our telephone contact, I knew they were waiting in Ghazwan's yellow sedan.

Suddenly, a man ran toward me, grabbed me by the wrist and began pulling me toward an orange and white car. At first I said in Arabic, " La. La. Rajan. " No. No. Please. I pointed to the highway, where Bassam and Ghazwan were hidden from view. But he kept pulling me by the wrist. Another man came up behind me and grabbed me around the waist. Someone else grabbed

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the pillowcase that held my belongings and threw it aside. At first I couldn't fathom what was going on. What was happening to me? Were they trying to kidnap me? They were trying to kidnap me! My heart pounded.

I had avoided watching the video footage of Berg's beheading that played repeatedly on Arab satellite television. I imagined it now anyway. I could not let these men put me in that vehicle.

I was trying to remember how to say "I am a journalist" in Arabic as Abu Saif had instructed. I couldn't find the words. Instead, in a panic, I told them that I was a vegetarian. Ani Nabatiya! Ani Nabatiya! I fell to the ground and started kicking them. It did not stop them. They just dragged me on the ground, still trying to pull me by my hand. Someone yanked me up, and the man who first grabbed me ripped off my abaya. They saw the blue bulletproof flak jacket that foreigners wore in Iraq. He said, "No Iraqi, no Iraqi." I realized instantly: They think I'm CIA. So I screamed back, Washington Post! Washington Post! Until then, I had tried not to raise my voice. I did not want to attract the relatives still waiting for the detainees, but our tussle finally drew their attention, and a crowd formed around me. Where was Bassam? Where were the Marines I had asked to watch me as I walked to my car?

I looked over at the faces in the crowd, and I didn't see a single person who saw me as a human. I tried to plead with a woman standing there, plead with my eyes, and she looked like she wanted to spit on me. I was an American woman, no better than the American soldier in the photographs of the abused detainees who dragged one of their bloodied sons or husbands naked on a leash.

Bombs were going off almost daily. Iraqis were dying. They blamed the Americans. This is not what they had imagined when they imagined democracy. There was no distinction made between the American press and U.S. soldiers and contractors who had promised electricity and had not delivered it. They felt occupied, and I was part of that occupation.

I saw the helicopters blaze in the sky coming out of the prison, while the Marines followed on foot, pointing their weapons and shouting at the crowd. I didn't hear anything at first but the sound of my own voice, which had grown hoarse from my mantra: Washington Post! Washington Post!

Once the men who grabbed me saw the Marines, they let go, and everyone scattered. Bassam came running as the crowd parted. He had been trying to get a better look at what had drawn the people. But he had not seen me. Please, my bag, I mimed to Bassam, as the Marines led us back inside Abu Ghraib.

I balled up my head scarf and threw it on the dirt. "It didn't even work!" I yelled. I was furious that something about me -- my walk, my body, the way I carried myself -- had tipped them off that I was a foreigner. I leaned against a concrete barricade inside the prison, folding my hands in my lap to stop them from shaking. My entire body convulsed. I looked over at Bassam. "When we get back to the office, you tell them I didn't cry. Tell them," I insisted until he agreed. I needed them to know. I had not buckled. I had not broken down. I was intact.

When I called Jenny later, my voice shook. "These guys tried to kidnap me!" I exclaimed. I had already talked to my editor back in Washington, had heard myself begging: "Please, do not make me come home. I want to stay. Please, do not call me home."

Although I could tell Jenny the truth that I could not tell my editor -- that I was rattled but also resigned -- I did not tell her that I had pleaded to stay in Iraq. I did not want her to know that I had gotten so close to terror, so far from her, and yet I could not bring myself to come back, so that I could take away her own fears.

* * *

In the book, Jenny Spinner, an English professor, writes about getting Jackie's call about the attempted kidnapping.

I always knew it was her before she said anything, my "hello" met by a long pause, then the "click click" of the satellite phone as it attempted to shrink the miles between us. Sometimes I waited for her to speak; other times, I shouted eagerly into the phone, "Jackie? Is that you, Jackie? Can you hear me?" When she left for Iraq, she promised to call me as often as she could. We usually talked every few days, taking advantage of her journalist's access to the world outside Iraq. When she couldn't call, we e-mailed, often several times a day. As far away as she felt to me, it helped that I rarely went half a day without communicating with her, and we both understood what a privilege that was. But it also made her journey to Iraq seem closer, easier, than it truly was -- at least for me. As long as I could reach her, she was within my grasp.

This phone call, though, was different -- the pause longer, heavier, before I heard her voice. "Jenny," she whispered.

"What's wrong?" I asked, leaning into the kitchen counter where I had been cleaning breakfast dishes, steadying myself for whatever dark and unimaginable news she was about to share. I recognized that tone, the way she wrapped the letters of my name around a barely contained gasp. "Somebody tried to kidnap me," she said.

My world heaved. "Say that again," I said, even though I heard her the first time. Say it again and again and again. Say it until I begin to reconcile the bright Connecticut morning, happy and oblivious, with your world in Iraq. "I fought like a dog," she said, the narrative steadying her shaky voice. "I kicked and screamed until the Marines finally rescued me."

I tried to picture it: my thin sister, on the ground, her hands digging into someone else's dirt, scrambling for freedom.

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"I don't understand," I stammered.

"I'll be okay," she said, shifting into protective mode. "We left the prison and are -- " She stopped, interrupted by a loud voice. "Oh, no," she said, before the phone clicked and went silent.

I stood at the sink, unsure what to do, how to go about the morning, the day, the rest of my life.

It would be hours before she would call again, and by then she was a new self, resolved, distant, yes, farther away than ever before.

Adapted from "Tell Them I Didn't Cry: A Young Journalist's Story of Joy, Loss, and Survival in Iraq" by Jackie Spinner. Copyright 2006 by Jackie Spinner. Printed by permission of Scribner, a division of Simon & Schuster Inc., N.Y.

Abduction Forces A Grim Look At What A Story Is Worth (LAT)

By Alissa J. Rubin, Times Staff Writer

The Los Angeles Times, January 26, 2006

BAGHDAD — When Jill Carroll was kidnapped, other journalists in Iraq were aghast that something so horrible had happened to someone they knew. But many insisted privately that it never would have happened to them.

They would have traveled in an armored car. They would have taken two vehicles so the second, the chase car, could have scared off the gunmen. They never would have gone to that neighborhood.

Maybe, maybe not. You could avoid western Baghdad, where she was abducted, only to be nabbed in the southern district. You could have two cars and the second could have its tires shot out and careen off the road. You could be in an armored car and your driver could lose his nerve.

The truth is that we are working in a war zone where no rules apply. No one is safe: not Iraqis, not Westerners, not men, not women.

For most journalists in Iraq, it's hard to be honest about danger, even though we talk about it all the time. We follow daily reports about the number of roadside bombings, suicide attacks and abductions. We chart violence the way other people watch the weather.

But talking about the danger in Iraq for what it is — my life, my death — is too scary. So we make it ordinary. "Oh, did you see any gunmen on your way over, there were some at the intersection yesterday, and would you like a cup of coffee?"

To family and friends not in Iraq, it is incomprehensible why you came here, and certainly why you returned twice, three times — in my case, over and over for nearly three years.

I could say something like "The cycle of risk and survival makes life more valuable," but that wouldn't be true, although some journalists do become addicted to the danger, to the high of sidestepping death.

Witnessing History

For me, at least, what is true is that once in a while as a journalist you get the chance to witness history, a moment when tectonic plates shift, when more is at stake than you ever imagined you would touch or see. It's the adrenaline surge of being in a place where people's lives are in the balance, where every decision counts and where what you're writing might, might just matter.

And you feel more alive than you've ever felt — but you're also often closer to being killed. You notice I wrote "often." I needed a qualifier.

As I said, I wasn't drawn to the danger; it crept up on me. I put out of my mind unsettling questions about just how close I might be to getting killed. But it lurked out there, inescapable. Is a 50-50 chance of survival acceptable? Or are you only comfortable if the odds are better than 80-20?

These are the calculations I've made every day, sometimes several times in a day. Calculations about the odds of being caught in a suicide bombing, abducted, shot by mistake or on purpose. I've become a bookmaker of sorts. I can tell you that the chance of being caught in a suicide bombing is slight, unless you have to go through a checkpoint, at which point it skyrockets. But the chances of my being kidnapped, well, I don't even want to write about that.

I remember an American security contractor with a faraway, almost happy look telling me in 2003, when we could still drive around Baghdad without worrying about it, "Nothing clarifies your thought like a gun to the head." Well, I assured myself, I'm not that far gone.

A year later, I had a chance to test his assertion. I had gone to a hospital in Fallouja to report on the killing of four Iraqis, reportedly by U.S. Marines. But a relative of one of the dead saw in me an infidel intruding on his family's private grief, and in a rage he pulled a gun on me and my interpreter. In that moment, I learned that with a gun near my head, I didn't feel clear about anything except that what I was doing wasn't worth it and that I had put my interpreter, whom I cared about deeply, in danger. He had four children and a wife. What did I think I was doing? And I couldn't bear to think about my family and what it would do to them if I were killed in a foreign place.

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The waves of nausea came hours later and I kept trying to breathe more deeply, but for almost a day I felt like I couldn't fill my lungs.

Trying to Blend In

Still, it took nearly two years before I turned back from an assignment. Because something changed for me when Jill Carroll, an American freelance journalist for the Christian Science Monitor, was abducted Jan. 7.

I had always told myself that despite my blue eyes and pale skin, I would slip unnoticed through Iraq with my hijab, head scarf and black abaya. The abaya was my cloak of invisibility, my body armor.

I studied the way many Iraqi women walked — with a slight shuffle, from wearing slip-on mules much of the time. I studied how they linked arms with other women when they walked in the markets. I noted the kind of purses they carried — large and black. I blended. I was thrilled when people addressed me in Arabic; perhaps they really thought I was one of them.

Carroll had gone one better than me — she actually spoke Arabic — and still she was unable to avoid the wash of fury and hatred that now confronts Westerners. We are not wanted.

The words of a dear colleague floated to my consciousness on my most recent trip to Iraq. We used to argue daily about safety, and each thought the other took unnecessary risks — the truth was that we each took risks in our own way. I had proposed driving to Najaf, a city south of Baghdad, at a time when the road was known for ambushes, kidnappings and beheadings. "Alissa, an abaya is not bulletproof," he had said.

So when Carroll was kidnapped, although I did not know her, my heart went out to her.

I was aware of the statistics: Since the beginning of the war, 60 journalists, five of them women, had been killed in Iraq and at least 37 abducted, according to a tally by the Committee to Protect Journalists. But like all the other foreign journalists in Iraq — fewer than 75 of us, down from more than a thousand after the war — I needed to believe that I was going to slip through.

After Carroll's abduction, I don't feel that way anymore.

Last week I set out in the early morning for Kut, a city about two hours south of Baghdad. We left early so that we could get back in a day, adhering to the rule that you shouldn't stay long in a single place because word will get around that a Westerner is in town.

I roused one of our British security advisors at 7 a.m. and had him remind the drivers of protocol (keep the cars apart, don't look like a convoy, rely on radios to communicate). But when I went out, it turned out the driver had brought his own vehicle, not an armored car.

Moment of Truth

Carroll's experience hung in my mind. She had been abducted in part because she lacked the protection of an armored car, and her interpreter had been shot dead. I looked at my interpreter, a beautiful young Iraqi woman who loved to read English literature, had helped me buy Iraqi shoes so that I would appear more local and had taught me about the world of Iraqi women. But I pushed ahead.

Then it turned out we didn't have a Thuraya satellite phone in the car. Cellphones are notoriously unreliable in Iraq because the U.S. military often blocks signals during its operations. Traveling without a satellite telephone as a backup is at best foolhardy. But we had already left, so I resigned myself to traveling without it.

We weaved through the Baghdad traffic. The road was crowded and people could easily see us through the car windows. Although I usually look out at the passing scene, I forced myself to look into the car so that my eyes and skin would not be visible.

The most dangerous part of the trip is the 15 miles of road immediately south of Baghdad proper. It runs through a largely Sunni farming area, one where mutilated, headless bodies have turned up often. It feels like outlaw country: Someone could grab you and no one would say anything.

As we went through the last Baghdad checkpoint, a policeman told our driver that a new security plan was in effect and we would not be able to reenter the capital for 48 hours. The driver pulled over and turned to me: Did I still want to go?

It was a moment of truth. I had to get back that night. Was there any other way I could get into Baghdad if the roads were closed? Yes, my driver said. "You can walk across the Diyala bridge and the office can send a car to meet you."

He nodded to a stream of people who were doing that right then — women in swirling abayas picking their way through the mud, men striding along. "How far would I have to walk?" I asked. About a mile. "Is it safe?" The driver shook his head. "There are bad people here. Everyone can see you when you are walking. We cannot honestly tell you it is safe."

I appealed to my interpreter. "What do you think, Zainab? Is it that unsafe?" She turned and looked at me. "I'll go with you if that's what you decide to do, but the driver wants to know what he can do with his car. He can't leave it outside Baghdad on the road for the night. It would be stolen. He can't stay with it — it's dangerous. And then we have the chase car. What do you want them to do? "

'We Can't Go'

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I was silent. I had come back to Iraq to do a small number of interviews. If I didn't go to the one in Kut, I wouldn't be able to finish the story.

I thought about close calls I had had in the past. About my interpreter, who said she would go with me no matter what. About my parents, who hated that I was in Iraq. About Carroll, whom I imagined alone in a room, perhaps cold, perhaps not knowing that thousands of people were thinking about her.

And I thought about an autumn night more than a year ago when a colleague had rushed off into western Iraq to cover a suicide bombing. I remembered how worried I had been, and when I finally reached him on the satellite phone I had said: "It's not about us. We can die if we want to here, but we can't put those who work for us in more danger than they already are. We're making decisions for more than ourselves."

I remember that he had listened and, hard as it must have been, said, "You're right, I'm coming back."

I heard my own words now in my head. There was no choice. "We can't go. There's no way to make it a safe trip," I said. "Let's turn around and go back to the office."

Was it the right decision? Could I have walked across the bridge unnoticed? Did the drivers really assess the danger correctly? I don't know. But what I do know is that Iraq is hostile ground and nothing I do can make it safe.

Kurd's Writings Land Him In Jail: A Critic Of Party Corruption, Or A Reckless Defamer? (NYT)

By Richard A. Oppel Jr.

The New York Times, January 26, 2006

ERBIL, Iraq, Jan. 25 — Kamal Sayid Qadir had just returned here from Austria in late October when two trusted former students invited him for coffee at the Hotel Avista.

For Mr. Qadir, the meeting held the promise of a reunion of kindred spirits from Salahaddin University where, as a faculty member a few years back, he had clashed with administrators allied with the Kurdish leader Massoud Barzani. From Austria he had written articles accusing Mr. Barzani's all-powerful Kurdistan Democratic Party of corruption while calling members of its intelligence service, the Parastin, criminals and its chief — Mr. Barzani's son — a "pimp."

But Mr. Qadir said he never made it home from the hotel that night. Betrayed by his former students, who unknown to him had joined the Parastin, he says he was abducted after he left the hotel. He is now imprisoned here, sentenced last month to 30 years for defaming the Parastin and Kurdish political leaders after a trial that he said had lasted 15 minutes.

His case, while extraordinary, is by no means unique. Two journalists from Wasit Province in east central Iraq face 10 years in prison for suggesting that Iraqi judges kowtow to the American authorities just as Saddam Hussein's courts rubber-stamped edicts of the Baath Party. The journalists, Ayad Mahmoud al-Tamimi and Ahmed Mutair Abbas, had also accused the then-governor of Wasit of corruption and labeled him a bastard, a grave insult here.

Taken together, the prosecutions indicate how much remains at play in newly democratic Iraq. The nation has made remarkable steps away from totalitarian rule: the overthrow and prosecution of a genocidal dictator, two national elections and the adoption of a Constitution. But it remains to be seen how far Iraq will ultimately travel toward true Western-style democracy.

In much of southern Iraq, for example, real power increasingly lies with Shiite militias that serve religious leaders and enforce a rule of strict Islamic mores and second-class treatment of women. Now, the prosecutions of journalists suggests that the new Iraqi government is at another crossroads. Will it revert to state-sanctioned intimidation of the news media or allow the sort of free-flowing exchange of ideas that flourish in newspapers, blogs and other media in the Western world?

"These cases set a terrible precedent and are sure to make any Iraqi journalist think twice before writing about powerful political figures," said Joel Campagna, senior program coordinator for the Middle East and North Africa for the Committee to Protect Journalists, a watchdog group in New York.

As with other nations newly liberated from authoritarianism, Iraq is still testing the limits of responsible free speech, and some of the name-calling and rumor-mongering that goes on clearly oversteps the boundaries. Many of Mr. Qadir's criticisms exceeded what would be tolerated in other Middle East countries, particularly his assertions about the sexual proclivities of the Barzani clan.

A number of Kurdish journalists who have called Mr. Qadir's imprisonment outrageous say they are nevertheless uncomfortable with some of his writings, calling them offensive and reckless. Indeed, Mr. Qadir said in a prison interview that he had apologized for parts of articles he now says contained improper personal insults. But he vowed to continue to criticize official corruption, including what he says are secret abductions by the police.

But the Iraqi authorities increasingly go beyond merely responding to unfair or false claims, Mr. Campagna and other observers say, using the courts as an instrument of intimidation to discourage reporting on corruption and abuses of power. Iraq, he added, "is following the poor example of its neighbors who routinely detain, criminally prosecute or imprison reporters for their work."

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For its part, the Kurdistan Democratic Party says almost all Mr. Qadir's accusations are false. His arrest came after he was served with a proper warrant, said a senior official of the K.D.P. and the Parastin, who asked that his name not be used because he was not authorized to speak publicly about the case. He said Mr. Qadir had been given a fair trial and had not, as he has asserted, been abused in prison, forced to sleep in his own excrement, threatened with torture or denied food and water. Massoud Barzani "has nothing against him," the official added.

The Kurdish party tolerates reporting of official corruption and supports narrowing defamation laws so fewer types of articles might be subject to criminal prosecution, the official said. But he also said defamatory writings intended "as a political weapon" should still be subject to prosecution. Mr. Qadir's writings would fall in this category, he said.

Mr. Qadir's case has drawn international attention and put enormous pressure on Kurdish leaders. The senior official of the K.D.P., which controls western Kurdistan, said that Mr. Qadir's sentence would be reduced to one year and that his family would be permitted to bail him out. The senior official said a court would make the ruling in the next few weeks.

But Mr. Qadir still could face serious criminal jeopardy from complaints yet to be prosecuted, said Ismael Khalil Shakeeb, the presiding criminal court judge in Erbil and one of the judges who sentenced him last month. "He has insulted many other people," he said.

Mr. Qadir, 48, credits a statement issued by the United States over the Voice of America for possibly saving his life. An American official in Baghdad said Washington had discussed the case with Kurdish officials. Delegations including Austrian officials have paid prison visits, he says, adding pressure that greatly improved his living conditions.

Kurdistan is, in most respects, the most westernized and prosperous part of the new Iraq, having experienced a decade or more of virtual independence even before the American invasion. But writers here face threats and arrest for running afoul of the K.D.P., Mr. Qadir says.

"We have no freedom of the press," he said in an interview conducted Friday afternoon in the Erbil prison. "It's all arbitrary; they can arrest anybody. I never thought I'd be a victim of the Kurds."

Mr. Qadir's complaints about curbs on press freedoms are supported by Rebin Ismael, a former senior editor of a large Kurdish newspaper who now runs an American aid organization in Erbil.

In Kurdistan, he says, it is not unusual for the secret police to threaten or arrest journalists who fail to toe the line of the K.D.P. More than a dozen journalists have been arrested in recent years, he says, but the cases are never reported on in Kurdistan because other journalists fear saying anything critical of the party.

"Generally, any journalists or writers not connected to the party are under threats," Mr. Ismael said. "If you write anything not in their interest, they will arrest you or call your cellphone and threaten you."

He said he and his wife, a Kurdish reporter whose articles have mocked the party, had not slept in their house for nearly a month, having fled after she received threatening calls.

The senior Kurdish party official described Mr. Ismael as a credible and respected journalist but took issue with his comments. Told the names of four of the writers Mr. Ismael said had been arrested, the official said the four had not been arrested but had been called to "interviews" by the police.

He said he did not know how many other journalists had submitted to such police interviews. He said only one writer aside from Mr. Qadir had been sent to prison in recent years.

Mr. Qadir, born and raised in Kurdistan, is now a citizen of Austria, where he studied and lived until 1991, when Kurdistan was effectively liberated after the Persian Gulf war. He returned to teach law and political science at Salahaddin University but clashed with the administration as he lectured students about K.D.P. abuses, he said. Nepotism and graft are still rampant today, he said.

He left the university a few years ago, he said, and returned to Austria, where he continued to write about Kurdistan for Internet publications, adopting a strident and disparaging tone that pushed his criticism well past what anyone living here would contemplate. He accused K.D.P. officials of siphoning public funds and spying for the K.G.B. and the Israeli Mossad, and he wrote that one Barzani clan member was homosexual and another had had trysts with Russian women.

He say he regrets calling Massur Barzani, the Kurdish leader's son, a pimp. But he argues that the Parastin often use prostitutes to gather information.

The senior K.D.P. official said the criticism of the Parastin and the personal attacks on the Barzanis were all false. But he admitted he did not know whether the Parastin used prostitutes to aid intelligence gathering.

If freed and allowed to stay in Kurdistan, Mr. Qadir says he will continue to criticize what he characterizes as the police-state atmosphere in Kurdistan. "I never knew Kurdistan was in this shape, where people get abducted by the secret police," he said.

British Arrests Of Police Strain Relations In Basra (LAT)

By Solomon Moore, Times Staff Writer

The Los Angeles Times, January 26, 2006

BAGHDAD — Tensions continued to simmer Wednesday between local Iraqi officials and British troops in the Shiite-dominated southern city of Basra, where the British this week arrested 14 law enforcement officials, including two senior police intelligence officers, allegedly linked to political corruption and assassinations.

The British released several of the men Wednesday, but a spokesman for the Basra provincial council said that eight remained in custody, including three who had been transferred to a prison facility after British authorities said they had bomb-making materials in their possession.

Among the officers still being held by the British are Maj. Jasim Qasim Hassan Daraji, Basra's deputy chief of intelligence, and intelligence officer Capt. Abbas Munis Abdalali Hilfi.

The province has responded to the arrests by threatening to cut off all cooperation with British forces in Iraq's second-largest city.

"For some time, the British forces have made random arrests in a provocative way against the citizens of Basra without the knowledge of the local government," said a statement released by provincial officials. "We have demanded over and over that these forces stop these arrests and release detainees, but all in vain."

Iraqi officials also demanded the unconditional release of the police officers and threatened to "suspend all dealings with British forces" if the men were not freed by Wednesday afternoon.

Maj. Peter Cripps, a British military spokesman in Basra, said the arrests were part of an ongoing investigation of police corruption.

"These men were all part of the former internal affairs department that was disbanded by the Ministry of Interior and are now in the criminal intelligence unit and the serious crimes unit," Cripps said. "They are alleged to be following their own agenda, including corruption, assassinations and persecutions of citizens."

Although Basra, a predominately Shiite Muslim port city and oil hub, has experienced less of the insurgent violence that has wracked Baghdad, it has seen a wave of sectarian-driven killings and political attacks since the beginning of last year. Shiite militia members are believed to have a strong presence in the police force.

In October, scores of Iraqi policemen raided the Thar Allah Party headquarters, a small militant Shiite political organization based in Basra, and burned the building down. Four Thar Allah members were killed in the incident. Party leaders blamed Al Fadila al Islamiya, or the Islamic Virtue Party, which holds a narrow majority on the Basra provincial council, and Al Mahdi militia. Both groups are associated with radical Shiite cleric Muqtada Sadr.

And in September, Shiite militiamen clashed with British troops after tanks rescued four British soldiers from a Basra jail.

In recent months, British officials in Iraq and in London have also complained that Basra militiamen may be involved in bomb attacks against British troops, using ordnance fashioned in Iran. Basra is a suspected hub for Iranian intelligence agents.

"The Iranians have interests in Basra and have organizations in Basra, Amarah and Nasiriya," said Mansour Alkanaan, an Iraqi National Assembly member from Basra.

In Baghdad, meanwhile, members of the United Iraqi Alliance, the Shiite bloc that won the most seats in the parliament elected Dec. 15, named four Shiite candidates for prime minister to be chosen by its members. Candidates include current Prime Minister Ibrahim Jafari, Adel Abdul Mehdi of the Supreme Council for Islamic Revolution in Iraq, deputy parliament speaker Hussein Shahristani and Fadila party member Nadim Jabiri.

In initial negotiations with Kurdish and Sunni Muslim Arab legislators on the new government, United Iraqi Alliance member Baha Araji said the Shiite bloc would not consult with other coalitions on the selection of prime minister, but would offer the presidency to a Sunni Arab candidate.

However, Saad Ilyan, a member of Iraqi National Dialogue, a Sunni Arab party, said he would be satisfied to keep the incumbent president, Jalal Talabani, a Kurd. The Kurdish slate won the second-highest vote total in the December election.

"We only now want the security situation to be better, whether the government is going to be Sunni, Shiite or Kurdish," Ilyan said.

In other developments, the Iraqi Ministry of Justice announced Wednesday that it would release five of eight female detainees today as part of a larger release program. This month, a group claiming to be the abductors of American freelance journalist Jill Carroll issued a statement demanding the release of all female prisoners in Iraq.

The five are in U.S. custody, but Iraqi and U.S. officials have denied any connection between the planned releases and the kidnappers' demands.

Carroll's condition is unknown, as is the fate of two German contractors who were kidnapped near the northern oil refinery in Baiji and two Kenyan engineers seized last week. More than 250 foreigners and hundreds of Iraqis have been kidnapped since the March 2003 U.S.-led invasion.

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Times staff writers Suhail Ahmad, Shamil Aziz and Saif Rasheed, special correspondent Asmaa Waguih and a special correspondent in Basra contributed to this report.

On Iraq's Front Lines, Digital Memorials For Fallen Friends (WSJ)

By Dionne Searcey

The Wall Street Journal, January 26, 2006

The night his buddy was killed by insurgent gunfire in Iraq last March, Army Spc. Mitchell Bass hopped out of his bunk and grabbed his laptop. He searched his computer for every digital photo he could find of the friend, Staff Sgt. Juan Solorio, and then wandered around the camp in Mosul with his portable hard drive asking other soldiers whether they had any photos or video clips.

They gave him shots of Sgt. Solorio sporting a newly shaved head and leaning against a burned-out truck on an Iraqi roadside. They found footage of Sgt. Solorio reaching for his pistol, dropping it in the mud and laughing. Spc. Bass strung all the images together into a video and added a soundtrack, "The Night That the Lights Went Out in NYC" by punk band the Ataris. Then he played it at a memorial service in Iraq.

"As a joke he grew this huge, disgusting mustache," Spc. Bass said of his friend. "I made sure to add a few of those photos in there."

Digital photography, video and Internet access have let soldiers in Iraq stay closer to distant friends and family than troops in any other war. Now, these electronic records are also creating a powerful and raw new wave of war memorials.

A dusty tent in Mosul served as Army Capt. Kevin Latham's studio, where he made videos to honor the four soldiers in his unit who had died just before Christmas 2004 when a suicide bomber detonated explosives in the camp's mess hall. Mortars boomed in the distance as he worked long past midnight to carefully select music to go with the videos.

Paul Rieckhoff, who served in the Army National Guard in Iraq in 2003-2004, said that in the early days, soldiers in his unit made action videos of themselves raiding insurgent hideouts and carrying out other wartime tasks. "It was kind of like the ESPN highlight reels -- the music is pumping and everyone was running around," said Mr. Rieckhoff, who founded the advocacy group Iraq and Afghanistan Veterans of America.

When a fellow soldier, Spc. Robert Wise, a 21-year-old from Tallahassee, Fla., was killed in Baghdad in November 2003, his friends used a laptop to create a digital slideshow, set to music, of photos of Spc. Wise. It was projected onto a screen at his memorial service in Baghdad.

"When soldiers are killed in Iraq, all you see in the paper is name, rank and age," said Mr. Rieckhoff, a first lieutenant. The videos, he said, are "cathartic and a way to eternally honor their memory."

DIGITAL MEMORIES

Watch the memorial videos for Sgts. Juan Solorio1, Zachary Wobler2 and Christopher Pusateri3. (Windows Media Player required4)

In another memorial video, Army Master Sgt. Brian Mack, who died in Mosul a year ago this month, is shown in photos riding in a Blackhawk helicopter and in a short video clip rushing a stationary target during gun practice, shooting repeatedly while friends laugh. It's set to the melancholy song "Clocks" by Coldplay.

"Every time someone was killed, we put together a little thing like that," said Sgt. Emmet Cullen, a sniper who fought alongside Master Sgt. Mack. "It helps the grieving process putting them together. Talking about them, seeing them with a big goofy smile on -- it helps."

Wartime cinematographers say commanders ask to review the videos before they're shown at memorial services to make sure they don't degrade the image of soldiers with, for example, footage showing them drinking. In Master Sgt. Mack's video, some officers initially objected to a clip that showed the soldier firing his weapon without wearing his helmet, a violation of military safety standards, said soldiers who helped make the video. But the clip was allowed to go into the finished product.

Lt. Col. Christopher Gibson, who has completed two tours in Iraq as commander of an 82nd Airborne battalion, said he watched the videos for two of his troopers -- Sgt. Christopher Pusateri and Staff Sgt. Zachary Wobler -- several times in advance of their memorial services "so I could keep myself together when I delivered my remarks," he said.

When Sgt. Pusateri was shot to death last winter, Col. Gibson turned to members of his communications team to make his memorial video because they were familiar with computer equipment. One of them was Capt. Jerrold Castro, who met with fellow troopers and laid out a storyboard of sorts, to select the order of the photos and video clips. On his laptop, he used Microsoft's Movie Maker to fiddle with the photos, changing some to a sepia tint and adding special effects.

The final product is set to the song "Rough and Ready" by country singer Trace Adkins, a funny song that he said matched Sgt. Pusateri's personality. The video shows Sgt. Pusateri smirking in his floppy camouflage hat and gritting his teeth in full battle gear.

"Going through the process of building it was a little emotional," said Capt. Castro. "It's a feeling inside of you saying you have to honor this person. If it wasn't them, it could have been me."

A couple of weeks later, a member of that unit who was home on leave from Iraq presented the video to Sgt. Pusateri's mother, Brenda West. Ms. West watched it two or three times and then put it away.

"I don't know if it's something every parent can handle," said Ms. West. "It's almost like being outside of yourself watching it. It's not real."

She says she plans to look at it again Feb. 16, the anniversary of her son's death.

For Spc. Bass, the process of creating Sgt. Solorio's video was therapeutic, he said. "He was like a dad to me," said Spc. Bass, 20 years old, who was with 32-year-old Sgt. Solorio when he was killed.

After he put the finishing touches on the video, Spc. Bass offered an advance screening to a few members of his platoon, who gave their approval. The video finally had its premiere on the big screen in a darkened auditorium where soldiers gathered for Sgt. Solorio's memorial service in Mosul.

"The whole time I was working on it, it didn't really hit me what it was. I just wanted to get it done," said Spc. Bass. "When it started playing at the actual service, it got pretty sad."

Where Iraq Goes Now (WP)

By Jim Hoagland

The Washington Post, January 26, 2006

Iraq's official election returns bring glad tidings for Ibrahim Jafari, the country's nebulous interim prime minister. For a chastened Bush administration, Jafari becomes something better than an unknown entity: He is a known nonentity.

Jafari's sudden strength in his bid to stay on stems entirely from his weakness: He does not command a major political party or militia. He has done little since taking office nearly nine months ago but give poetic and confusing speeches. If some leaders suck all the oxygen out of a room, Jafari fills it with mist and will-o'-the-wisp.

It is this elusive quality that belatedly recommends him to Zalmay Khalilzad, the U.S. ambassador in Baghdad and crafty overseer of American efforts to be a midwife to a new coalition government.

Iraq's Dec. 15 balloting was orderly and inspiring, but it has created an aftermath that is neither of those things. It has also forced the Bush administration into a silent reassessment of where Iraq is going and how it is going to get there. Increasingly, the country drifts toward the future as two relatively stable autonomous regions and a violently unstable central zone, all linked by a weak central government and a reduced, reactive U.S. military presence.

All things considered, such a loose, imperfect federalism is not the worst outcome that could befall Iraq. Totalitarian systems, whether run by Saddam Hussein or Soviet commissars, create weak power centers when they collapse. A decade of managing their own affairs and security could provide an important transition stage for Iraq's Shiites, Sunnis and Kurds to sort out oil revenue, relations with neighbors and other troublesome issues.

That kind of future -- and a renewal of Jafari's term in office that would make it more likely -- did not figure in the hopes and predictions of U.S. policymakers before the December parliamentary election. Back then, the word passed to Iraqi officials visiting Washington was to form a strong central government, much more quickly and transparently than after the January 2005 election, when Jafari emerged from electoral stalemate as the lowest common denominator in Iraqi leadership.

The administration now gives no sign of trying to hurry things along as it concedes it must deal with the election results it has, not the results it wanted. Those were canceled by the poor showing of Ayad Allawi and Ahmed Chalabi -- secularists who conceivably could have been strong, independent executives -- and successful electioneering by Iranian-backed Shiite parties distrusted by Washington.

As the largest bloc in parliament, the United Iraqi Alliance -- dominated by the Supreme Council for the Islamic Revolution in Iraq and the radical cleric Moqtada Sadr -- will ultimately choose the prime minister. Jafari's Dawa party is a junior partner in the alliance and, unlike its Shiite allies, does not have a large militia.

The release of the final results has triggered a new round of three-dimensional chess to allocate cabinet positions among Iraq's three major population groups -- the Shiite majority of the south, the Kurds of the north and the Sunni minority that is the source of central Iraq's continuing violent rebellion.

The Sunnis voted in greatly increased numbers this time and now have a serious claim on cabinet posts. President Bush has hailed this as a breakthrough, portraying voting as an alternative to insurgency.

But a renewal of violence since the election suggests that the Sunnis, egged on by neighboring Arab regimes and Baathist remnants, may be adopting a long-term "vote and fight" strategy to reclaim the kind of power they wielded under the Baathists. That is one outcome far worse than a de facto partition of Iraq, if it comes to that.

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Working with nudges, winks, long sit-downs with Iraq's fledgling politicians and inexhaustible patience -- qualities alien to L. Paul Bremer and John Negroponte, his two predecessors as U.S. proconsul -- Khalilzad seems to be maneuvering toward a cabinet that would effectively be run by strong deputy prime ministers while Jafari floats effortlessly above the hard work.

Allawi, both proud and lazy, is reportedly resisting U.S. entreaties to take such a post under Jafari. Chalabi and Sadoun Dulaimi, a Sunni who is currently defense minister, are other possibilities. But Khalilzad's dealmaking talents will be stretched to their limits in getting the Shiite parties to accept U.S.-inspired limits on the political victory they have achieved.

Reality has bitten the Bush administration in Iraq and forced the president to settle for less than he wanted. Let's hope that reality can now do the same with Iraq's newly empowered Shiite leaders.

jimhoagland@washpost.com

History Lessons (WT)

The Washington Times, January 26, 2006

Dec. 28, 1998, statement by the president:

President Clinton: Ladies and gentlemen, before I get into my remarks ... I think I should say a few words about an incident early this morning over the skies of Iraq, where American and British air crews were enforcing a no-fly zone in Northern Iraq. They were fired on by Iraq[i] surface-to-air missiles. They took evasive action, returned fire on the missile site, and returned safely to their base in Turkey ... They attacked because they were attacked. And they did the appropriate thing. We will continue to enforce the no-fly zones.

Pakistan Pledges To Push Forward On Iran Pipeline (WSJ)

By Marc Champion And Frederick Kempe

The Wall Street Journal, January 26, 2006

DAVOS, Switzerland – Pakistan's president said his country would build a planned natural-gas pipeline from Iran without India's participation if talks among the three nations continue to produce no result.

The threat came at a delicate time for Gen. Pervez Musharraf, while he is having to balance domestic public opinion and relations with the U.S., India and Iran. Gen. Musharraf also said a suspected U.S. missile attack on a Pakistani village that killed civilians this month "probably" killed five or six al Qaeda operatives, but had "harmed our interests" by violating his country's sovereignty and feeding domestic unrest.

In an interview during the annual meeting of the World Economic Forum in the Swiss Alps, Gen. Musharraf said Pakistan had opened bilateral talks with Tehran to build a gas pipeline that would run from Iran, which has the world's second-largest natural-gas reserves, after Russia. Negotiations to build a line that would run on to India have proved difficult, he said, although Pakistan remains open to "the trilateral track if it comes through."

"We aren't reaching any agreement and our [energy] requirements have increased with our growth and the increasing foreign investment in Pakistan," he said, noting foreign direct investment has grown 500% over the past five years. "We are energy-short."

Indian government officials have expressed concern about recent attacks on existing gas and power lines in Baluchistan, the region of South Western Pakistan through which a pipeline from Iran would pass. Gen. Musharraf played down the threat posed by Baluchistan militants, dismissing the conflict as limited to one isolated local tribe.

The Pakistani president's tough line on the pipeline talks contrasts with that of his prime minister, Shaukat Aziz, while in New York last week. Mr. Aziz stressed the project's potential to help stabilize still-strained relations between Pakistan and India. Gen. Musharraf, too, said a three-way deal remains the best option, but said Pakistan's energy needs couldn't wait forever.

Pakistan's gross domestic product grew 8.4% in the fiscal year ended June 30. Analysts in the past have doubted that the $4 billion pipeline would be viable for Pakistan alone if it didn't continue to India, but Gen. Musharraf said that is changing.

Gen. Musharraf, whose term as president expires in 2007, said his goal is to transform Pakistani society by ending conflicts like the one in Baluchistan, defusing Islamist extremism and generally calming "a nation in turmoil."

Partly for that reason, Gen. Musharraf said the recent U.S. missile attack by an unmanned drone on a village where al Qaeda leaders were expected to have dinner had been against Pakistan's national interests. The attack, which killed women and children, has sparked a series of street protests in Pakistani cities. The U.S. hasn't officially acknowledged a role in the missile strike.

Gen. Musharraf said that he hadn't been informed ahead of time of the attack and that Pakistan had told the U.S. that "we don't want anyone to operate in Pakistan" -- even if that means responding more slowly to intelligence about al Qaeda. Pakistan doesn't have unmanned drones.

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"We want to guard our own sovereignty," he said. But he also said his close cooperation with the U.S. in the fight against terrorism hadn't been damaged, and that Pakistan needs the technical help the U.S. can offer to gather intelligence. "Intelligence is far more significant and difficult than operating against [al Qaeda]," he added.

Gen. Musharraf said human, technical and aerial intelligence-gathering had helped Pakistan sweep up 95% of groups that carried out terrorist bombings within Pakistan, including assassination attempts on himself. "There is a perception that everything we do with al Qaeda is in the U.S. interests. I would like to clarify -- it is first of all in our interest," he said.

Gen. Musharraf also rejected criticism that he has failed to deliver on promises to shut down religious schools, known as madrassas, that preach violence. He said 80% of madrassas had accepted that they should teach subjects on the secular state school curriculum, although talks were continuing because the madrassas wanted to set their own exams for the subjects. He said troublesome foreigners at the schools had been expelled from the country as promised, although perhaps 150 remain in hiding.

Stressing success in the campaign against al Qaeda, Gen. Musharraf said he is able to move around the country freely. "I go to marriages, I visit my friends in their houses. I take people out to restaurants," he said.

He declined to say whether he would give up his military command or attempt to extend his term.

India Sends Aid, Despite Pakistani Block (WT)

By Erica Lee Nelson, The Washington Times

The Washington Times, January 26, 2006

NEW DELHI -- India has poured more than a half-billion dollars of foreign aid into Afghanistan in the past three years in an attempt to create a friendly and stable neighbor in a volatile part of the world.

The effort, which continues despite a Pakistani blockade of Indian goods bound for Afghanistan, touches all aspects of life -- biscuits for 1 million children, planes for the national airline, artificial limbs for thousands of land-mine victims, jeeps for the military, scholarships, energy, dams, telephone lines and even satellite downlinks.

India also has helped train those deprived of an education during the Taliban rule -- from diplomats to doctors to elevator operators. Indian engineers are even helping to design and build the new Afghan parliament building.

"We would like to see Afghanistan develop in our own image -- pluralistic, democratic, free from interference from its neighbors and prosperous," a senior official in New Delhi said.

But Indian officials say Pakistan is putting up obstacles to the effort.

The historic rivalry between India and Pakistan has complicated proposed energy pipelines from Afghanistan, which would have to run through Pakistan on the way to India.

Additionally, Pakistan usually refuses to let Indian aid pass through its borders to reach Afghanistan.

"There was much trade between India and Afghanistan before, but Pakistan is creating problems. They allow Afghan goods to go to India, but not Indian goods to come to Afghanistan," said Younus Momtaz, first secretary at the Embassy of Afghanistan in New Delhi.

Officially, Pakistan has said the blockade will not stop until steps are taken to resolve the long-standing dispute over Kashmir, a territory claimed by both India and Pakistan since they achieved independence in 1947.

However, some analysts think Pakistan is more worried about losing its dominant position in Afghan trade.

Since the fall of the Taliban, Pakistan's trade with Afghanistan has risen exponentially, from $192 million in 2001 to '02 to more than $1 billion in 2004 to '05.

Indian trade with Afghanistan, meanwhile, is estimated by the Federation of Indian Chambers of Commerce and Industryat $202 million for 2004 to '05. Total Indian aid to Afghanistan since 2003 is approaching $600 million.

In ancient times, Afghanistan traded easily with the Indian subcontinent. Merchants traveled on the Grand Trunk Road from the fertile plains of northern India, through Pakistan and onward to Kabul, Afghanistan.

Now, Indian aid and trading goods are unloaded at ports in Iran and trucked to Kabul over winding mountain roads.

Indian aid often takes a month to reach its destination -- and sometimes cannot get through at all. The same goods could be transported through Pakistan in about a week.

India's aid effort includes an $84 million joint project with Iran to build a 136-mile road from Iran's Chabahar and Bandar Abbas ports to Afghanistan. That will eliminate a detour of 900 miles and cut travel time substantially.

It is hoped that the road will also bring development to a relatively lawless region of southwestern Afghanistan, which has turned into a center of opium farming in recent years.

Travel in the region remains highly dangerous; one Indian worker on the project was kidnapped and killed in November.

India and Pakistan backed contending factions during Taliban rule in Afghanistan, with the rebel Northern Alliance being allowed to maintain an embassy in New Delhi.

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Now, 10 movie theaters in Kabul screen India's Bollywood blockbusters throughout the day, and a Bollywood film is being made in the Afghan capital for the first time in more than a decade.

"We have a long relationship, we share our joys and sorrows," said Mr. Momtaz of the Afghan Embassy in New Delhi.

Rumsfeld Says Army Isn't Overextended (WSJ/AP)

Associated Press

The Wall Street Journal, January 26, 2006

WASHINGTON -- Secretary of Defense Donald Rumsfeld on Wednesday disputed reports suggesting that the U.S. military is stretched thin and close to a snapping point from operations in Iraq and Afghanistan, asserting "the force is not broken."

"This armed force is enormously capable," Mr. Rumsfeld told reporters at a Pentagon briefing. "In addition, it's battle-hardened. It's not a peacetime force that has been in barracks or garrisons."

Mr. Rumsfeld spoke a day after the Associated Press reported that an unreleased study conducted for the Pentagon said the Army is being overextended, thanks to the two wars, and may not be able to retain and recruit enough troops to defeat the insurgency in Iraq.

Congressional Democrats released a report Wednesday that also concluded the U.S. military is under severe stress.

Reports suggesting that the U.S. military is close to the breaking point "is just not consistent with the facts," he said.

In an apparent shot at the Democratic Clinton administration, Mr. Rumsfeld said a number of components of the armed forces were underfunded during the 1990s, "and there were hollow pieces to it. Today, that's just not the case."

He said there were over 1.4 million active U.S. troops, and some 2 million -- counting National Guard and Reserve units -- of which only 138,000 people were in Iraq.

"Do we still need more rebalancing? You bet," Mr. Rumsfeld said.

The secretary suggested he was not familiar with reports suggesting an overburdened military. But, he said, "It's clear that those comments do not reflect the current situation. They are either out of date or just misdirected."

Former Secretary of State Madeleine Albright and former Secretary of Defense William Perry, both members of the Clinton administration, were credited among the authors of the study that congressional Democrats released.

It said that U.S. ground forces are under "enormous strain," adding, "This strain, if not soon relieved, will have highly corrosive and potentially long-term effects on the force."

In the earlier report obtained by the Associated Press, Andrew Krepinevich, a retired Army officer who wrote it under Pentagon contract, concluded that the Army cannot sustain the pace of troop deployments to Iraq long enough to break the back of the insurgency.

As evidence, he pointed to the Army's 2005 recruiting slump -- missing its recruiting goal for the first time since 1999 -- and its decision to offer much bigger enlistment bonuses and other incentives.

Mr. Rumsfeld said that "retention is up" and that recruitment levels must meet higher goals, ones raised because of the operations on the ground.

At the same time, Mr. Rumsfeld added: "There is no question if a country is in a conflict and we are in the global war on terror, it requires our forces to do something other than what they do in peacetime."

"The force is not broken," Mr. Rumsfeld said, suggesting such an implication was "almost backward."

"The world saw the United States military go halfway around the world in a matter of weeks, throw the Al Qaida and Taliban out of Afghanistan, in a landlocked country thousands and thousands of miles away. They saw what the United States military did in Iraq.

"And the message from that is not that this armed force is broken, but that this armed force is enormously capable," Mr. Rumsfeld said.

The Army fell more than 6,600 recruits short of its goal of enlisting 80,000 troops last year, the first time it missed its annual target since 1999 and the largest shortfall in 26 years.

But the Army exceeded its monthly recruiting goal in December for the seventh consecutive month, though some of those targets were lowered from last year's. It will have to increase its recruiting pace, however, to meet its target of 80,000 that it has set for the budget year ending next Sept. 30.

A new law will let the Army attract older recruits, raising the top age from 35 to 42. In addition, financial bonuses for enlistments and re-enlistments have increased.

Also, according to Mr. Rumsfeld, an increased emphasis and spending on Special Operations forces and intelligence operations results from lessons learned in Iraq.

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The Pentagon's next budget and a broadbased review of U.S. defense strategy should be seen as "the next step in a long line of bold changes" for the military, rather than a list of program adjustments, he said. Both the budget for fiscal 2007 and an update of the Pentagon's long-range plans are to be released early next month.

Special operations and intelligence are among the programs expected to see increased funding in the new spending plan. Mr. Rumsfeld said that improvements in the programs reflect setbacks and successes since the first days of combat in Iraq.

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Rumsfeld Says Army 'Not Broken' (WT)

By Rowan Scarborough

The Washington Times, January 26, 2006

Defense Secretary Donald H. Rumsfeld sparred from afar yesterday with a Pentagon consultant and former Clinton administration officials who say the Army is in danger of "breaking."

A report by retired Army officer Andrew F. Krepinevich Jr., who directs the Center for Strategic and Budgetary Assessments, said the Army could not meet war-fighting missions unless the demands slacken in the coming years.

The report surfaced as former Clinton administration officials and retired officers who backed the presidential bid of Sen. John Kerry, Massachusetts Democrat, put out a similar study saying that the 1.4-million-active-member military is frayed.

Mr. Rumsfeld responded with a combative appearance at a Pentagon press conference. He reminded reporters that during the Clinton years, when the military was sent on about 50 war and peacekeeping missions, that the force suffered from lack of funding and that some units were "hollow pieces."

The Bush administration has requested huge spending increases for the military, with this year's budget at $442 billion, plus about $350 billion to fund operations in Iraq and Afghanistan.

Mr. Rumsfeld said anyone who concludes that the Army is breaking does not know what he or she is talking about.

"I suspect the people writing these things don't know, either, because I suspect that they don't have any more insight than the other people around here do," he said. "I just can't imagine someone looking at the United States armed forces today and suggesting that they're close to breaking. That's just not the case."

He said, "The force is not broken ... the world saw the United States military go halfway around the world, and in a matter of weeks throw the al Qaeda and Taliban out of Afghanistan, in a landlocked country thousands and thousands of miles away. They saw what the United States military did in Iraq, and the message from that is not that this armed forces is broken, but that this armed forces is enormously capable."

Mr. Rumsfeld said he was at the White House yesterday, where a group of senators asked about the Army. He said Gen. Peter Schoomaker, the Army chief of staff, responded that "it's just not correct" that the Army is breaking.

The Associated Press obtained a copy of the Krepinevich study, which contains one chapter titled "The Thin Green Line."

The Army has been a frequent target of such criticism. Last year, the active-duty Army and the Army National Guard missed recruiting goals, as the force of 500,000 active soldiers and reserves waged two wars in Iraq and Afghanistan, forcing year-on, year-off overseas deployments for many.

Rep. John P. Murtha, Pennsylvania Democrat, heightened the criticism by calling for a quick pullout from Iraq.

The Army issued a statement that although the force is stressed by commitments in the global war against terrorism, it is far from broken. The Army has met recruiting goals for seven consecutive months, after raising enlistment bonuses to as much as $40,000, deploying more recruiters and changing advertising.

Rumsfeld Denies Military Is Stretched Too Thin Defense Secretary Says Troop Retention Up (USAT)

By Steven Komarow

USA Today, January 26, 2006

Defense Secretary Donald Rumsfeld on Wednesday dismissed two new reports warning that the U.S. military is badly stretched by the wars in Iraq and Afghanistan, calling their authors ill-informed about America's “battle-hardened” forces.

The Clinton administration military had “hollow pieces” that have now been fixed under his leadership, Rumsfeld said. Worries about recruiting and keeping veteran troops are also unfounded, he said.

“People just don't fully understand,” he told reporters at a news conference. Today's military is “battle hardened. It's not a peacetime force that has been in barracks or garrisons.”

On Wednesday, former Defense secretary William Perry, former secretary of State Madeleine Albright and congressional Democrats released a report calling on the Bush administration to increase the size of the Army and spend more on replacing equipment worn out in Iraq and Afghanistan.

The two members of the Clinton administration cited the Army's failure last year to meet its recruiting needs as an early sign of trouble. The Army missed by almost 6,600 its goal of 80,000 new recruits in the fiscal year ending Sept. 30. To help prevent another shortfall, this year the Army has increased its percentage of recruits who scored in the lowest category on an aptitude test that every soldier must take.

The Bush administration's actions “fall far short of what is required,” Perry said.

“In order to carry out effective diplomacy, you have to have an effective (military) force,” Albright said. Things are so stretched today that the United States was unable to contribute troops for Haiti's elections, she said.

Their report said U.S. ground forces are under “enormous strain.” It warned of “highly corrosive and potentially long-term effects on the force” if nothing is changed.

The Democratic report came a day after a Pentagon-sponsored review by a retired Army officer issued a similar warning. The study, first reported by the Associated Press, said the military was on “a thin green line,” especially in recruiting, that could snap because of the strain of extended deployments. The author, Andrew Krepinevich, said commanders were weighing their battle plans against the potential strain on forces.

Rumsfeld called such assertions false. “The force is not broken,” he said, and not breaking.

“And there isn't any reason in the world why we shouldn't be able to maintain, with an active and reserve total force … of over 2 million people, why we shouldn't be able to maintain 138,000” troops in Iraq, he said.

Rumsfeld also said the retention of troops is up.

Pentagon sponsored studies such as the one by Krepinevich, head of the Center for Strategic and Budgetary Assessments, are good to have because they present differing viewpoints, Rumsfeld said.

“It's a useful thing to invite people to make comments and critiques and to opine on this and to opine on that,” he said.

Rumsfeld said he hadn't yet read the Democratic report. However, he said, “These are the people basically, who did that report, who were here in the '90s. And what we're doing is trying to adjust what was left us to fit the 21st century.”

Rumsfeld: Army Not 'Broken' (WP)

By Ann Scott Tyson

The Washington Post, January 26, 2006

Defense Secretary Donald H. Rumsfeld yesterday strongly rejected warnings in a Pentagon-contracted study that the Iraq war risks "breaking" the U.S. Army, and he said a recent decision to scale back U.S. troop levels in Iraq did not grow out of a need to relieve the strain on American ground forces.

"The force is not broken," Rumsfeld said at a Pentagon press briefing yesterday. "I just can't imagine someone looking at the United States armed forces today and suggesting that they're close to breaking. That's just not the case."

On the contrary, Rumsfeld said, the U.S. military is "battle-hardened" and an "enormously capable force," as demonstrated to the world by its swift overthrow of governments in Iraq and Afghanistan. Such proven capability "ought to increase the deterrent rather than weaken it," he added.

Rumsfeld's remarks came in response to questions about two studies released yesterday -- one by a Democratic advisory group chaired by former defense secretary William J. Perry, and another by a military analyst contracted by the Pentagon -- that warned of the long-term consequences of strains on U.S. military manpower and equipment from repeated war-zone deployments. Such stress, if not alleviated, could worsen recruiting and undermine retention, threatening the all-volunteer force, the studies found.

"Soldiers and brigades are being deployed more frequently, and for longer periods, than what the Army believes is appropriate in order to attract and retain the number of soldiers necessary," Andrew F. Krepinevich, executive director of the Center for Strategic and Budgetary Assessments, wrote in a November 2005 study for the Pentagon first disclosed Tuesday by the Associated Press. "It is not clear, even to Army leaders, how long this practice can be sustained."

Krepinevich concluded that "vigorous efforts should be made to enable a substantial drawdown in U.S. force levels" from Iraq, because "the Army simply cannot sustain the force levels desired to sustain the momentum needed to break the back of the insurgent movement."

Rumsfeld, however, expressed confidence yesterday that the Pentagon could maintain the current troop level of 138,000 in Iraq indefinitely, although he said he did not expect to do so. "There isn't any reason in the world why we shouldn't be able to maintain, with an active and reserve total force concept of over 2 million people, why we shouldn't be able to maintain 138,000," he said.

Rumsfeld also said that a decision announced in December to cut the number of troops in Iraq by this spring to about 130,000 was not driven by a need to ease strain on U.S. forces. "That's just false," Rumsfeld said in response to a reporter's

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question. He said Gen. George W. Casey Jr., the senior U.S. commander in Iraq, "is not making his recommendations based on that."

Since mid-2004, troop levels in Iraq have ranged from about 135,000 to 160,000, requiring Army and Marine combat units to rotate into Iraq with shorter-than-usual stays at home in between. Active-duty Army units, for example, have been spending a year in Iraq and then 15 to 22 months at home -- less than the goal of two years set by Army leaders.

The prospect of serving in Iraq contributed to a shortfall in Army recruiting of nearly 7,000 soldiers last year, Army officials have said, despite large increases in bonuses and incentives. High overall retention helped make up for the deficit, Army figures show.

The second study, by the group commissioned by congressional Democrats and chaired by Perry, criticized what it called the Bush administration's inadequate planning for Iraq. It said not sending sufficient troops and equipment has put the Army and Marine Corps under "enormous strain" that risks undermining national security.

The active-duty Army has a deficit of about 18,000 junior enlisted personnel, the study found. Army manpower has dropped over the past year, falling to the current level of about 492,000 -- about 10,000 short of the goal of 502,000 authorized by Congress, Defense Department figures show.

The study proposed increased funding for recruiting, equipment, as well as a permanent increase of 30,000 soldiers in the Army's active-duty deployable forces. That would allow the Army to increase active-duty combat brigades from 37 to 48, the study said.

But Rumsfeld reiterated yesterday that Army leaders do not seek a permanent growth of 30,000. Moreover, the Army, which had planned to increase its active-duty combat brigades from 33 to 43, last week announced that it seeks to grow to 42 as a result of a top-level review of Pentagon strategy and resources. Together with a cut in National Guard combat brigades, from 34 to 28, that would give the Army 70 total combat brigades instead of the previously planned 77.

Army Secretary Francis J. Harvey said in an interview that the change resulted from a new Pentagon goal of being able to sustain a deployment of 18 or 19 combat brigades around the world -- a reduction from a target set by Army leaders of 20 to 21 brigades.

Reserve Members On Active Duty Earn More, Pay Study Says Findings By RAND Counter Prevailing View Of Service (USAT)

By Steven Komarow

USA Today, January 26, 2006

WASHINGTON — Nearly three-fourths of military reservists called to serve in Afghanistan and Iraq are taking home more money on duty than in their civilian jobs, according to a study on military pay released Wednesday.

In many cases, the troops earn a higher gross salary in civilian life. But when the federal tax exemption and other allowances approved by Congress for troops in combat are factored in, about 72% are better off, according to a study by the RAND Corp., a research institute.

The RAND study, which was funded by the Pentagon, showed an average benefit of 25% over civilian pay, about $10,000 a year.

The study results run counter to complaints by Reserve and Guard troops that they have suffered financially when activated. It is part of an effort to track the war on terrorism's effects on part-time troops. Since the Sept. 11, 2001, attacks, those troops have been called up by the tens of thousands.

The Army National Guard, heavily used in Iraq, missed its recruiting goals last year. Currently, about 108,000 Guard and Reserve members are activated.

News coverage of the National Guard and Reserves often focuses on the financial hardships of its members. In 2004, the Defense Department conducted a survey of reservists in which more than half said they lost income when they were deployed.

However, the RAND study found that only about one-fourth of reservists suffered a loss in income after being activated. RAND researchers compared Social Security earnings data for servicemembers before deployment with Defense Department records afterward.

RAND surveyed more than 110,000 Army and Air National Guard and Reserve members for the study.

Though the study ends in 2003, the beginning of the U.S. deployment of troops to Iraq, preliminary figures for later deployments show the pattern continues.

Deployed reservists may have an even higher comparative earnings advantage, said Jacob Klerman, a RAND senior economist and co-author of the study. That's because the data do not track the additional income provided by major corporations to their employees who are in the Reserves or Guard.

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Klerman said the study focused on earnings and doesn't include the extra expenses that reservists often must pay. Also, he said, more research is needed on the long-term effect that being called to active duty has on the careers of Guard and Reserve members.

"We are looking here at earnings while people are activated," Klerman said. "That's different than the question about what will happen when (they) get back."

Stephen Koper, a retired brigadier general and president of the National Guard Association, says the results do nothing to ease the concerns of current or potential Guard members. Koper said the Pentagon needs more professional people and entrepreneurs, but they're being driven away by financial problems caused by serving in the part-time military. "Guardsmen and reservists accept the fact that they are … going to run into certain shortfalls."

DOJ:

Judge Extends Appointment Of U.S. Attorney (MR)

By Brendan Kirby, Staff Reporter

Mobile Register, January 26, 2006

Chief U.S. District Judge Ginny Granade has extended the term of U.S. Attorney Deborah Rhodes, whose temporary appointment to the Mobile office expires this month.

Rhodes took over for David York, who resigned in September amid reports of an internal Department of Justice investigation into allegations that he had an improper relationship with an assistant prosecutor.

The U.S. attorney oversees all federal prosecutions in the Southern District of Alabama, which covers 13 counties. The office includes a staff of 25 lawyers and 27 support workers, and operates on an annual budget of about $5.7 million.

Under the law, the Justice Department could replace York for a maximum of 120 days. The statute gives the chief judge of the district the power to name the U.S. attorney beyond that, and Granade said Tuesday that she complied with a request by the Justice Department to extend Rhodes' tenure until President Bush names a permanent successor.

When appointed to Mobile, Rhodes, 47, was on special assignment to the Justice Department in Washington as a counselor to the assistant attorney general of the criminal division.

From 1990 to 2003, Rhodes served as an assistant U.S. attorney in San Diego, where she prosecuted large drug organizations and returned the first indictments against the leaders of the Tijuana cartel.

In Mobile, Rhodes said, she has not made major changes. "We've been focusing on our work and focusing on our cases," she said.

Rhodes, who eventually will return to the U.S. attorney's office in San Diego, said she has no guess as to how long her stint in Mobile might last.

That depends on how long it takes Alabama's two U.S. senators to agree on a recommendation to the president. With less than three years remaining in Bush's term, it is possible Rhodes will serve until the next presidential election, though Granade said that's unlikely.

"My guess is there will be an appointment. But when or who or how, I don't know," she said.

DHS Helps DOJ With Case Management Systems (FCW)

By Michael Arnone

Federal Computer Week, January 25, 2006

The Homeland Security Department is helping the Justice Department develop new case management systems for the entire federal government, DHS' chief information officer said today.

DHS is working with DOJ to create a Consolidated Enforcement Environment (CEE), which allows access to all available data, analyzes data and links relevant law enforcement partners, DHS' CIO Scott Charbo said.

One goal of the collaboration is to move beyond products and create a layer of information that can be used governmentwide, Charbo said. "The real core to solving the business problem is standardizing data" and real-time information sharing, he said.

Charbo said he didn't know if DHS will have a procurement for CEE because both departments want to leverage as much existing infrastructure as possible, Charbo said.

CORPORATE SCANDALS:

Big Test Looms For Prosecutors At Enron Trial (NYT)

By Kurt Eichenwald

The New York Times, January 26, 2006

In the court of public opinion, they were convicted long ago. But as Kenneth L. Lay and Jeffrey K. Skilling, the onetime leaders of Enron, step into a court of law next week, the outcome of their fraud trial is far from certain, creating one of the most closely watched and hotly contested white-collar criminal cases ever.

On one side of the Houston federal courtroom starting Monday will be two top-flight teams of defense lawyers, who will be taking the risky approach of proclaiming many of the controversial actions of Enron and some much-criticized statements of their clients to be legal and truthful.

On the other, the prosecutors for the Justice Department's Enron Task Force, who have racked up an impressive array of guilty pleas in the case, but whose performance at trial has been decidedly less dazzling.

"For the government, if they lose the Enron case, it will be seen as a symbolic failure of their rather significant campaign against white-collar crime," said John C. Coffee Jr., a professor at Columbia Law School. "It will be seen as some evidence that some cases are too complicated to be brought into the criminal justice process."

Of the three major Enron-related criminal cases brought by the government before juries, guilty verdicts stand from only one, which involved Enron's booking what the government said were phantom profits on the sale of Nigerian barges to Merrill Lynch. A second case, against the accounting firm Arthur Andersen, was thrown out by the Supreme Court on appeal. The third, involving the broadband division of Enron, resulted in no convictions, but the five defendants await a retrial.

Those cases involved narrower accusations of wrongdoing than those against Mr. Skilling, 52, who has been charged with dozens of counts, including fraud, conspiracy and insider trading, and Mr. Lay, 63, who is accused of seven counts of fraud and conspiracy. Indeed, this trial will be the first time that the government's theory of the existence of an overarching criminal conspiracy at the company has been put to the test.

Learning its lesson from previous corporate fraud trials involving Enron and other companies, the government is expected to keep this trial as simple as possible to avoid confusing and boring the jury. Riding on the prosecution's success, experts said, is public support.

The implications of the outcome of the case against Mr. Lay and Mr. Skilling, whose names have become fused to the scandals that have exploded across corporate America in recent years, are sure to be felt far beyond the courtroom.

"Most people in the white-collar world would agree that Enron is the granddaddy of all frauds in the last two decades," said Stephen L. Meagher, a former federal prosecutor who is now a lawyer in San Francisco. "How this comes out is a test of the limits of what the corporate community will tolerate in business practices."

The importance of the trial to the government and the defense is underscored by the millions of dollars each side is committing to the case.

Mr. Skilling, for example, has hired Daniel Petrocelli, a top civil lawyer who has no criminal trial experience but made his name winning a $33.5 million verdict for the family of Ronald Goldman in a wrongful-death suit against O. J. Simpson. Mr. Skilling alone has some two dozen people, half of them lawyers, working full time at a makeshift office near the courthouse. Several more are employed as trial consultants helping with jury selection, which begins Monday.

The government is also committing significant resources, with 8 lawyers and 10 agents of the Federal Bureau of Investigation working exclusively on this case.

In presenting the case, the government will be depicting a company where law breaking was commonplace. In official reports from the government, the bankruptcy court and the independent directors of Enron, and in the guilty pleas of former executives, Enron has emerged as a company that failed to follow the dictates of federal securities laws, with executives who deceived investors, directors and, in some cases, one another. While that is helpful to prosecutors, experts said that the government would have to be wary of focusing too much on the broad problems within the company.

"To the extent this becomes more of a trial about Enron and less of a trial about Skilling and Lay, that is likely to play into the defense's strategy to put the accounting techniques on trial rather than the individuals," said Robert A. Mintz, a former federal prosecutor who is now head of white-collar criminal defense at McCarter & English in Newark.

The defense case will focus on the requirements and dictates of accounting and securities rules. While both defendants deny knowledge of some of the brazen crimes, like transactions that resulted in millions of dollars from Enron's coffers being drained into other executives' personal bank accounts, there will be little effort to distance themselves from some of the financial

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dealings that have become infamous over the last few years. These include Enron's use of byzantine off-books partnerships that helped pretty up the company's balance sheet and improve its income statement.

Instead, according to people who know both men, their statements and actions will be defended with a simple response: their business practices may have been aggressive, but everything they did was lawful. Both men, who are expected to testify, plan to maintain that many of the accounting and financial decisions were both correct and appropriately disclosed, and their statements about them were truthful.

There are dangers to this strategy. At times, the defense — particularly that of Mr. Skilling, a former chief executive who is charged with playing a direct role in some of the partnership deals — will have to maintain that accounting rules allowed Enron to exaggerate earnings or hide losses, practices that strike outside experts as bizarre and that jurors may have a hard time accepting. There is the complexity of explaining why, if so much of what Enron did was legal and the company's finances were as strong as the executives maintain, the company quickly collapsed into bankruptcy.

There is also one final challenge, which experts refer to as the Simon problem. In a decision from the early 1970's in United States v. Simon, a federal court held that compliance with accounting rules is not, in itself, enough to disprove an accusation of fraud. In that case, the court held that there was also a positive duty for full and fair disclosure under the securities laws, which might not be met simply by following generally accepted accounting principles.

That these executives and this case would ultimately serve as a symbol of an era of corporate corruption might have seemed laughable five years ago, when Enron was repeatedly proclaimed by Wall Street and academics as among the best of the best, a cutting-edge company redefining the boundaries of business.

The government, however, hopes to bring in evidence that it contends will prove that Mr. Lay oversaw a reckless organization from soon after its founding as a gas pipeline company in 1985 with the merger of Houston Natural Gas and Internorth of Omaha. By early 1987, Mr. Lay, then the chairman and chief executive, was confronted with evidence of potential financial wrongdoing by top executives at Enron's oil trading unit in Valhalla, N.Y.

The government will seek to admit testimony that despite hearing the evidence, Mr. Lay allowed the executives to remain and, months later, those same executives committed other improper acts that exposed Enron to as much as $1 billion in losses. While prosecutors have been arguing that they should be allowed to present the Valhalla episode to the jury to show that Mr. Lay had a pattern of tolerating wrongdoers, the federal judge who is hearing the case, Simeon T. Lake III, has not issued a final ruling on whether he will allow such evidence.

A crucial witness in the government's case will be Andrew S. Fastow, the former Enron chief financial officer who has pleaded guilty and is cooperating with the prosecution.

Mr. Fastow was a specialist in the growing business of structured finance, a technique that companies use to gain access to new capital by essentially selling off portions of their risk through the use of off-books partnerships. When such transactions are done properly, at least 3 percent of the entity's capital is contributed by an independent investor. Under the accounting rules, assets sold to the entity can then be moved off the balance sheet and the purchase price can be reported as revenue.

By 1996, Mr. Fastow began committing crimes through use of the off-the-books entities for personal enrichment. He arranged to be the 3 percent investor himself — a strategy that would not have met the accounting standards for independence — then set up elaborate schemes in which bogus "investors" stood in as fronts for him. In one deal, called RADR, Mr. Fastow funneled money to various investors, who then returned profits to him. In another, called Chewco, Mr. Fastow allowed a close colleague, Michael J. Kopper, to control the 3 percent investor, then accepted kickbacks on the deal.

While neither RADR nor Chewco appear in the criminal indictments against Mr. Lay and Mr. Skilling, the defense lawyers have already argued that they need to explore both transactions in front of the jury to try to prove that Mr. Fastow had a pattern of hiding illicit personal profits from his bosses.

It is this point — from Mr. Fastow's crimes beginning in 1996 to the charges against Mr. Skilling for actions years later — that will serve as a crucial battleground, with both the defense and the government fighting over the questions that the jurors should be asking themselves.

If Mr. Fastow engaged in crimes involving RADR and Chewco without the knowledge of his superiors, the defense argues, how can the jury believe that he told his bosses in later years about similar illegal acts that were used to manipulate Enron's financial reports? But, the government will counter, would Mr. Fastow — along with other executives who have pleaded guilty, including Richard A. Causey, the former chief accounting officer — have engaged in subsequent illegal acts that seemed to solely benefit the company without consulting superiors?

Numerous allegations against both Mr. Lay and Mr. Skilling relate little to Mr. Fastow. Instead, they portray the executives as consistently working to disguise the true economic realities of Enron in violation of federal securities laws.

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The economic underpinnings of Enron began to become unhinged in 1998. That summer, Enron entered into several capital intensive transactions that ultimately proved to be abject financial disasters, including a venture into the water business and the purchase of a portion of an electricity distribution plant in Brazil.

The government's case is built not so much on showing that Enron was destroyed by fraud, but rather on showing that fraud, including the suspected deceptions by Mr. Lay and Mr. Skilling, prevented the marketplace from knowing how badly things were going inside the company. But the cases against the two men are very different. Mr. Skilling faces the most complex series of allegations, which essentially accuse him of leading a concerted effort to make Enron appear more financially sound than it actually was.

Through the use of the off-books partnerships, the company avoided reporting losses and was able to generate tens of millions of dollars in profit. It wrote up the value of certain assets when it needed income, and did not write them back down when circumstances changed. It entered into transactions in which there were secret buyback agreements that would have required accountants, had they known, to remove the related profits from the company's books. All of this, according to the indictment, involved Mr. Skilling.

The charges against Mr. Lay are far narrower, on the other hand. He is not accused of involvement in the partnership machinations; rather, the vast majority of the allegations against him involve public statements he made in the final few months of Enron's existence. The government says that many of those statements, including upbeat assessments of the company's liquidity and business performance, were lies through which Mr. Lay continued the earlier deceptions involving Mr. Skilling.

In many ways, it is fitting for Enron's tale to end with a trial that is widely viewed as a verdict on business practices in the late 1990's. When it was flying high, the energy giant was celebrated from boardrooms to business schools as a lodestar for the future of the corporate world, the embodiment of a company that got everything right. But with its collapse into bankruptcy in 2001 — costing investors billions and pushing thousands of employees out onto the street — it became emblematic of everything wrong in corporate America.

"Enron has become a poster child for an era, so I think people will remember what happens at this trial more than any other white-collar trial that occurs," said Linnea Bernard McCord, associate professor of business law at the Graziadio School of Business and Management at Pepperdine University. "It made a real imprint on everybody's psyche."

Opportunity For Corporate Fraud Has Shrunk -- But It's Still There (WP)

By Carrie Johnson And Ben White

The Washington Post, January 26, 2006

Four years after the collapse of Enron Corp. spurred the most sweeping revisions in business regulation since the Great Depression, experts warn that the ingredients for a similar financial disaster remain.

Despite new laws and regulations, companies still face enormous pressure to meet short-term financial goals, creating a powerful motive for accounting fraud. Outsized executive compensation grows by the year, offering another rich incentive to cook the books. And there is no certainty that Congress will continue to fund regulatory budgets at current levels.

But some things have changed since December 2001, when Enron's sudden descent into bankruptcy protection rocked investor confidence and left the markets reeling. Accountants face independent oversight for the first time in 70 years. Most corporate board members take their jobs far more seriously. Wall Street is somewhat less willing to accommodate clients' interests.

Nearly a dozen experts contacted by The Washington Post, including regulators, accountants, chief executives, board members and investor advocates, agreed to fill out a corporate governance report card on the eve of the Enron trial.

The Houston energy trader's implosion exposed wide gaps in the safety net designed to protect shareholders, some of which remain today. Former executives Kenneth L. Lay and Jeffrey K. Skilling go to trial Monday on fraud and conspiracy charges.

Accountants exploited loopholes to curry favor with companies that paid their fees. Executives collected more than $400 million in salary and bonuses but denied knowing about fraud on their watch. Investment bankers engaged in sham deals to help clients meet quarterly profit targets. Boards of directors waived conflicts-of-interest policies and turned a blind eye to overly aggressive business practices. And overwhelmed regulators failed to devote enough resources to combat fraud.

Congress passed the Sarbanes-Oxley Act in July 2002, imposing new duties on corporate executives, auditors and directors. The Securities and Exchange Commission and the Justice Department spent tens of millions of dollars to root out malfeasance. Along the way, prosecutors won criminal convictions and decades-long prison terms for former leaders of Adelphia Communications Corp., Tyco International Ltd. and WorldCom Inc.

But in a sense, the government efforts may have backfired, inspiring a dangerous overconfidence among investors.

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"I just don't think we are as far along as we need to be," said former SEC chairman Harvey L. Pitt, who led the agency when it brought the biggest-ever fraud case against telecommunications company WorldCom Inc. in 2002. "Many shareholders may have been led to believe that [reforms] have cured all the problems, and we're home free. Unfortunately, that's a prescription for disaster."

The lingering problems were on display late last fall, when commodities-trading firm Refco Inc. collapsed in an accounting scandal just two months after an initial public offering, led by blue-chip investment bank Goldman Sachs and Co. Investors snapped up Refco shares even though the company admitted in its prospectus that there were serious problems with accounting controls. "Could Enron happen again? Sure it could. Just look at Refco," said Henry T.C. Hu, a law professor at the University of Texas at Austin.

The grades suggest that the greatest improvement has been in the regulation of the behavior of accountants who serve as gatekeepers to the markets. New York Attorney General Eliot L. Spitzer said the profession has been "scared straight" by fallout from the scandals, which included the death of accounting firm Arthur Andersen LLP and a $456 million deferred prosecution settlement by KPMG LLP last year.

Corporate boards get fair marks for meeting more often and paying more attention to the work of auditors. Last year, longtime directors at insurer American International Group Inc. overthrew Maurice R. "Hank" Greenberg as chairman after nearly 40 years at the helm after regulators stepped up an accounting probe at the company. And Hewlett-Packard Co.'s board fired star chief executive Carly Fiorina because of dissatisfaction with the way she handled a merger. She was not accused of any wrongdoing at the company.

Even so, many board members still lack the financial know-how to interpret complex information, said Dennis R. Beresford, former chairman of the audit committee at MCI Inc.

At the same time, opposition to some of the changes made since Enron is growing. Increasingly, trade groups, including the U.S. Chamber of Commerce and securities law professors, have complained that boards and accountants spend too much time meeting meaningless criteria rather than getting to the root of more insidious problems.

Bob Merritt, the former finance chief at Outback Steakhouse Inc., noisily resigned his post last April after decrying "overzealous" regulations that tied him up in minutiae, far away from business decisions. Many other executives across the country privately applauded his stance.

Jeffrey Stone, a former federal prosecutor who now heads the white-collar defense practice at McDermott Will & Emery, said some new rules, especially one that requires a company and its auditors to examine financial controls, impose heavy costs "that far outstrip the protections that are afforded."

Each of the experts stressed that crooks bent on stealing from a company will still take their chances and some will succeed. Regulators can never pass laws that will force executives to act with integrity -- or force investors to do their homework before they buy stock.

Little has changed to shrink the incentives for taking big risks, business as well as ethical, that can give rise to misdeeds.

Wall Street analysts and reporters still seek guidance about company revenue each quarter. Businesses pay a price for missing targets by even a penny or two. The earnings guidance is "like heroin" for analysts, said Colleen Sayther Cunningham, who leads a trade group for corporate finance officials. "Once you put it into your arm, you can't kick it."

There has been no slowdown in the race for higher executive pay, the experts said. Chief executives won a median pay raise of 30 percent in 2004, twice the increase from 2003, according to the Corporate Library, a watchdog group that rates public companies on corporate governance. Repeated studies have shown virtually no connection between high compensation and good corporate performance.

"As long as CEO pay is so fundamentally out of whack, we cannot say that boards are doing their job or that corporate governance reform has been accomplished," said Nell Minow, an investor advocate and co-founder of the Corporate Library.

Some companies have moved away from compensating top executives with stock options now that they are required to count them as an expense. But in numerous cases, they have simply replaced options, which pay off only if a company's stock performs well, with restricted shares, which promise a gain for executives no matter what. Critics refer to such compensation as "pay for pulse."

William J. McDonough, former leader of an accounting industry oversight panel, said recent initiatives, including a drive by the SEC to beef up disclosures about executive pay, are heartening. In all, though, there is "not as much [progress] as I'd like to see. I don't think anybody including me has any theory of how executive compensation should be set."

In addition, investor advocates said they fear that once the Enron trial ends and the focus on corporate crime fades, regulatory budgets could again get squeezed. "Already, recent appropriations have not matched agency funding requests," said Barbara Roper, chief of investor protection at the Consumer Federation of America.

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The outcome of the Enron trial could have a more profound impact on attitudes among corporate executives in the long run than the regulatory changes, said Harvey J. Goldschmid, a law professor and former SEC official.

"Deterrence is very important, and this trial is of large consequence for that reason," Goldschmid said.

Staff writers Brooke A. Masters and Steven Pearlstein contributed to this report.

Enron Woes Reverberate Through Lives Many Saw Retirement Plans Evaporate With Stock Price (USAT)

By Stephanie Armour

USA Today, January 26, 2006

MINNEAPOLIS — Roger Boyce was looking forward to retirement from Enron's Minneapolis Gas Pipeline Group in 2000.

His Enron stock was worth more than $2 million on paper. With that nest egg and other investments, Boyce anticipated a comfortable retirement that he'd spend traveling and funding his six grandchildren's college educations.

That didn't happen. At 71, he works full time in the summer months doing business consulting at a pool and spa company. Much of his savings evaporated in Enron's financial collapse in 2001, leaving him less able to travel and with little to contribute to the grandchildren's college expenses. Initially, there was a lot of bitterness and resentment because of the sense of betrayal that he and other former employees felt.

Four years after the Texas energy giant began its meltdown — and on the eve of a criminal trial for its former top executives — many former Enron employees still feel betrayed.

How did it happen? Like many employees, Boyce believed in Enron's stock. He bought and held Enron shares until it was too late to get out. About 20,000 participants in Enron retirement plans lost about $1.1 billion in their accounts, according to a lawsuit and lawyers for the workers.

Former employees who thought they'd be well off have abandoned retirement visions that included taking expensive pleasure trips and financing philanthropic projects. Some, at the end of their careers, have started over again in new jobs — but working harder to keep up with younger co-workers. They've turned to churches and food pantries to eat, sold homes they could no longer pay for, and endured financial stresses that frayed their marriages.

“A lot of them aren't doing well. The older workers had retired, and then they had to go to work. They're too old to make it up,” says Lynn Sarko, a Seattle-based lawyer representing many employees in lawsuits to recover some of the lost retirement funds. “They've had trouble getting jobs, and some have taken jobs that are a step down. There's a lot of anger.”

Enron workers' retirement savings were demolished because their 401(k) assets were mostly invested in company stock, which was considered a sound investment until late 2001. That October, Enron shocked Wall Street by announcing a quarterly loss and a big write-off of some investments. The Securities and Exchange Commission began an investigation. But for about three weeks in October and November, employees were blocked from selling the stock in their accounts. Enron shares, which had reached $90 in 2000, fell to less than a $1 after the company filed for bankruptcy-court protection on Dec. 2, 2001.

“Enron was held in such high esteem that employees had confidence in the company. We were misled all the way. This has compromised the quality of all of our lives after so many years of saving to that end,” says Boyce, of Edina, Minn., who was director of human resources for the northern region of Enron's pipeline group. “The trial is finally bringing this thing to an end; it's bringing some closure.”

Dale and Darlene Roberts are still waiting for closure. In 2001, Dale earned $3,000 a month as a field mechanic at Enron in Oklahoma. The Enron stock in his 401(k) account was worth roughly $50,000.

Within months, the couple lost it all: his job and the money in the stock. Dale was laid off, and the couple got by on $1,200 a month in unemployment until that ran out after six months. Darlene, a hairdresser, was disabled and couldn't work. Dale was out of work for more than two years.

The family house was briefly put into foreclosure, but they sold one of their cars to make the payments.

“I was devastated. We'd owned that home for almost 10 years. It was horrifying,” Darlene says.

They also sold belongings such as tools and went to their local church for basic food supplies. It was humiliating, she says, to get a chicken, canned goods, toilet paper and soap from strangers.

“We lost everything. We had to sell things just to be able to live. We had to go to the church to eat,” says Darlene, of Duncan, Okla.

Dale, 54, now has a job as a mechanic for a different company, but bitterness about the experience lingers. He earns less than he did at Enron.

“Things are much, much better, but it caused physical and mental anguish, and it caused stress on our marriage,” says Darlene, 54. “I am very bitter. I don't believe there's enough justification for what they did. Greed is a horrible, horrible thing.”

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Enron's collapse has delayed retirements and led to desperate efforts to rebuild savings.

Roy Rinard, 57, has worked since 1980 at Portland General Electric (PGE), which Enron purchased in 1997. PGE is a stable, well-known utility founded in 1889. Many of those at PGE have had parents and grandparents who worked there; employees such as Rinard felt comfortable with their future.

Rinard says he lost $470,000 after Enron went under. At first, he and his wife, Vicki, a nurse, felt panic. “It was just gone overnight. You can't imagine the feeling that everything you've worked your whole life for — your retirement — is dashed,” Roy says. “We would drive around and say, ‘What are we going to do now?' ”

Within six months, they made the painful decision to sell their home, a 2,800-square-foot house on two acres in Damascus, Ore., to buy a much smaller home in Welches. That meant they could put more money away for retirement. They began saving furiously, living on a tight budget, giving up plans to travel or buy expensive presents for their two granddaughters and two grandsons.

Roy realized he could not retire at 60. He wouldn't have enough money. Now, he's trying to work until 67, hoping that by then, he'll have saved at least $200,000, half what he'd expected to have four years ago.

It's tough work. In one two-week stretch, Roy put in more than 130 hours of overtime on top of 80 hours of regular work in his job as a lineman troubleshooter.

“You're out in the cold, up on poles at night in all kinds of weather. I'm hoping physically I can work to 67. But even then, I won't have near the retirement nest egg,” he says. “It's a sick feeling. To start over at 55 — it's hard.”

Some employees say that they strive not to become bitter or to think about what might have been. Steve Lacey, an emergency repair dispatcher with PGE in Portland, didn't see any reason to worry. The value of his Enron shares ranged from $160,000 to $260,000 before Enron fell apart.

“It was all fake,” he says.

Lacey, 49, of Salem, Ore., still works for PGE. The now independent company is expected to become a publicly traded company again in April. He says he still feels the reverberations of the Enron turmoil. But he's trying hard, he says, to put those days behind him.

“I'm not going to say that I feel good about losing that money. You scrounged and saved in those early working days to save that, and that makes me mad. It's made me a pretty bitter American citizen,” Lacey says. “But if you dwell on it, it will ruin the rest of your life.”

The experience also brought him to Washington. In 2002, Lacey spoke before a congressional hearing on Enron pension and retirement issues and tried to explain what losing savings is like.

“That was the hardest thing I've ever done, was to sit down and explain to my wife that I had lost everything,” he said. “And that's probably one of the few times I've ever really emotionally broke down and cried in my whole life. And that was a tough night, and I won't forget it.”

But in some cases, former employees — especially younger workers who were far from retirement — have rebounded.

Matt Hommel, 36, lost several thousand dollars and his job at Enron Online in Enron's unraveling, but was recalled after a few days. While still working for the beleaguered company, he took his time picking over job offers. For the past four years, he's worked as a technology consultant at Texas Instruments.

“There was such a media furor over Enron's crash that everyone knew the whole story. People ask, ‘What was it like to go through a piece of history like that?' ” says Hommel, a married father of two young daughters in League City, Texas. “It's something I actually went through.”

Despite a rebound more successful than that of some former employees, the experience changed him. “I'm a little more careful now. If I work at a company, I ask more questions. I want to be sure my trust is appropriately placed,” he says. “It shows you that no matter how up the Fortune 500 you are, anything can fall.”

Recovering from the Enron crash has been especially hard for those on the cusp of retirement, who had counted on 401(k)s and have little time left in their working years to save again.

In 2001, Tom Padgett, 63, was within six months of retiring and was feeling pretty good about his retirement. The former senior lab technician had 11,000 Enron shares — worth about $700,000 before Enron's bankruptcy — in his 401(k). He and his wife, Karen, had planned to spend their retirement opening and operating a ranch for disabled children.

Then the scandal erupted. Now, he's a lab technician at another company, and expects to work another seven or eight years. The stress of the financial loss has worsened Karen's rheumatoid arthritis, he says.

“I have to continue to work even though I don't want to. And it's harder at my age. I've had to work a lot harder than I used to,” says Tom, of Mont Belvieu, Texas. “It's had an emotional impact on me and my wife both. She had always wanted to start a ranch for handicapped kids, to allow parents to have a free week or weekend. … Some days are good, and some are bad. They're bad when we sit and think about what we could have done.”

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Former Broker Pleads Guilty In Market Timing Probe (AP)

By Michael Gormley, The Associated Press

AP, January 26, 2006

A former Las Vegas securities broker pleaded guilty to a felony charge Wednesday in a mutual fund investigation in which investors were defrauded through improper late trading and market timing, according to New York Attorney General Eliot Spitzer.

Daniel Calugar, 52, now of Ponte Vedra, Fla., pleaded guilty in state Supreme Court in New York City to violating a state business integrity law called the Martin Act. He was accused of entering into a secret agreement in August, 2001, that defrauded a mutual fund called the Franklin Small-Mid Cap Growth Fund.

He faces up to four years in prison when he is sentenced March 23.

His attorney didn't immediately respond to a request for comment.

Earlier this month, Calugar agreed to pay $153 million to settle civil charges brought by the U.S. Securities and Exchange Commission. Calugar will relinquish $103 million in ill-gotten gains and pay a civil penalty of $50 million, the largest penalty regulators have imposed on an individual in a late trading and market timing case, SEC officials said.

Calugar is also banned from working for a brokerage firm.

Spitzer said Calugar secretly agreed to a deal with an employee of Franklin's investment adviser. Calugar would be allowed to rapidly trade in the mutual fund without paying a 2 percent penalty. Calugar then invested $10 million in another hedge fund run by Franklin and defrauded the fund and its shareholders of more than $1 million in fees that he avoided.

Calugar also paid $72 million to settle a class action civil suit that will compensate investors.

Market timing of mutual funds, which involves rapid in-and-out trades, is not illegal but is prohibited by many funds because it can disadvantage ordinary shareholders by diluting the value of their shares. Late trading involves trades placed after the market close at that day's closing price. Many of the cases brought by Spitzer and the SEC in recent years have targeted mutual fund companies that allowed favored clients such as hedge funds to engage in market timing.

In 2004, two Franklin Templeton Investments units agreed to pay $5 million to settle a Massachusetts complaint that accused the firm of allowing a big hedge fund investor to make inappropriate mutual fund trades. The San Mateo, Calif.-based Franklin Templeton said that while it did not admit or deny any wrongdoing, the company settled to move forward. No individuals were charged.

Livedoor Inquiry Prompts Focus On Japan's Accounting Rules (WSJ)

By Yuka Hayashi And Andrew Morse

The Wall Street Journal, January 26, 2006

TOKYO -- The investigation into Internet company Livedoor Co. has pointed a spotlight on another practice in Japan that needs upgrading: accounting standards.

On Monday, Tokyo district prosecutors arrested Livedoor Chief Executive Takafumi Horie on suspicion of violating securities law, raising questions about how the company used complex financial practices to grow through acquisitions and whether it manipulated its financial statements to prop up shares of an affiliate.

Prosecutors also raided the office of Koyo & Co., a small accounting firm in Yokohama that audited Livedoor's financial statements, according to Japanese media reports. A Koyo spokeswoman declined to comment on the investigations.

Separately, Livedoor said yesterday that Mr. Horie resigned as a director, a day after he stepped down as president and chief executive of the company he founded 10 years ago.

Yesterday on the Tokyo Stock Exchange, Livedoor shares fell 22%, or 39 yen (34 U.S. cents), to 137 yen a share, a fifth of what they were worth before Livedoor offices were raided Jan. 16. Trading was limited to 90 minutes on concerns that high volume could overwhelm the exchange's computers.

In the U.S., similar investigations into such companies as Enron Corp. and WorldCom Inc. resulted in sweeping changes in accounting rules. In Japan, experts now are calling for stepped-up efforts to improve accounting standards, as companies -- particularly smaller start-ups -- increasingly use sophisticated and aggressive financial techniques.

Japan has no standards on accounting for special-purpose companies -- a tool used by Enron and other U.S. firms in the past to keep certain financial deals off their books. Tokyo prosecutors alleged that Livedoor relied on a similar vehicle to make an acquisition and to print and sell more shares of an affiliate.

Also lacking are rules on how to interpret revenue at Internet and software companies, whose business structures tend to differ significantly from those of traditional companies.

Changes are beginning to take place. In October, the Financial Services Agency issued a guideline calling for closer examination of accounting firms and requiring companies to rotate their accountants more frequently. Meanwhile, the Accounting

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Standards Board of Japan adopted a handful of standards in the past two months, covering areas from mergers and acquisitions to executive compensation.

Other newly established standards are forcing Japanese companies to be more transparent, investors say. Just a few years ago, publicly traded companies were required to release their earnings only twice a year. Now, they give investors updates on a quarterly basis.

Still, Livedoor raises questions about Japan's accounting practices, including the nature of the relationship between a company and its accounting firm. These include what resources an accounting firm should have to handle a publicly traded company and how dependent it should be on a single client.

Koyo, founded in 1998, has just 12 certified public accountants, according to its Web site. It had no publicly traded companies as clients until April 2000, when it did the books for the initial public offering of Livin' on the Edge, Livedoor's predecessor. A person at Koyo declined to discuss the company's involvement with Livedoor.

As Livedoor acquired more companies, it shifted their accounting services to Koyo, even though those acquisitions had been using bigger, more established accountancies. Now, Koyo works with many Livedoor-group companies, making the Internet conglomerate one of the accountancy's biggest clients.

ValueClick Japan Inc., an Internet-advertising distributor, was one of those companies. Before Livedoor bought a 29.3% stake in ValueClick in 2004, the company used Chuo Aoyama Audit Corp., a member of the PricewaterhouseCoopers group that has more than 1,200 certified public accountants. Now the company, currently called Livedoor Marketing Co., uses tiny Koyo.

CRIMINAL LAW:

Senator Seeks Information On Subpoena Of Google (REU-Y2)

By James Vicini

Reuters, January 26, 2006

The Senate Judiciary Committee's top Democrat asked Attorney General Alberto Gonzales what steps are being taken to protect Americans' privacy rights as the Justice Department demands information about Internet searches.

In the letter released on Wednesday, Sen. Patrick Leahy (news, bio, voting record) of Vermont asked Gonzales about the subpoena to Google Inc. and three other companies seeking data about what millions of Americans search for on the Internet's leading search engines.

Leahy asked about the types of information being sought, how the department intends to use the information while protecting individual privacy rights and civil liberties and whether it will issue any additional subpoenas.

Leahy's letter comes at a time of growing criticism in Congress over the government's monitoring of communications, after the disclosure that the Bush administration has been conducting domestic eavesdropping after the September 11 attacks.

In court papers filed in California last week, the department said Google had refused to comply with the subpoena issued last year for 1 million random Web addresses from its databases and for records of all searches entered on Google during any one-week period.

The government said it needed the information to prepare its case defending the 1998 Child Online Protection Act. The law prohibited Internet companies from knowingly making available obscene or pornographic material to minors.

The Justice Department has said that America Online, Yahoo Inc. and Microsoft Corp. had all complied with similar requests for the information. America Online is owned by Time Warner Inc.

Mountain View, California-based Google, the world's No. 1 Internet search engine, advertises its informal code of conduct as "Don't be evil."

Leahy said the collection and use by government law enforcement agencies of such data posed unique concerns.

He said it raised "the specter of excessive government surveillance that may intrude upon important privacy interests and chill the exercise of" constitutionally protected free-speech rights under the First Amendment.

Leahy asked how the department is addressing the privacy and civil liberties concerns raised by the collection, storage and use of such data.

He also asked whether the department requested or obtained any personally identifiable information.

Gonzales has defended the subpoena and has rejected concerns that individual privacy rights might be violated. The department's request to force Google to comply with the subpoena is pending before a federal judge in California.

Google on Tuesday said it would voluntarily block politically sensitive terms on its new China site, bowing to conditions set by Beijing in return for access to the world's second largest Internet market.

DOJ_NMG_0012143

Senator Demands Info On Search Engine Subpoena (CNET)

By Anne Broache, Staff Writer, CNET News.com

CNET News, January 25, 2006

A top Senate Democrat is demanding details about the Bush administration's motives for sending subpoenas to Google, America Online, Microsoft's MSN and Yahoo.

In a two-page letter (click here for PDF) sent Tuesday to Attorney General Alberto Gonzales, Sen. Patrick Leahy of Vermont asked the department to outline the type of information it has requested, its reasons for the requests, the steps it is taking to safeguard any data obtained, and any plans to issue additional subpoenas in the future.

Late last week, it was reported that federal prosecutors had subpoenaed the companies for millions of search records for use in preparing their upcoming defense of the constitutionality of a controversial Internet pornography law.

That 1998 pornography law, called the Child Online Protection Act, or COPA, restricts sexually explicit material deemed "harmful to minors" on commercial Web sites. The Supreme Court raised questions about its constitutionality in 2004 and sent the law back to a Philadelphia-based federal appeals court for further review.

"I am interested in learning more about the extent to which the Department of Justice is relying upon data mining of the Internet search queries made by law-abiding American citizens to support its efforts under COPA and how the department is addressing the privacy and civil liberties concerns raised by the collection, storage and use of that data," wrote Leahy, the Senate Judiciary Committee's top-ranking Democrat.

Google vowed last week to fight a renewed request from the agency, calling the subpoena overbroad. Yahoo, Microsoft and AOL all conceded that they have turned over some records, noting that they did so in a limited fashion involving only aggregated data and no personally identifiable information.

Leahy said in his letter that his concerns came "against the backdrop of strong public concern over the government's monitoring of Internet communications and warrantless eavesdropping on the telephone conversations of American citizens."

Justice Department spokesman Charles Miller said the department planned to respond accordingly, though he was not sure what the response would entail.

As for the privacy concerns raised by Leahy, "We've addressed that in our subpoenas and to the search engines," Miller said. "We weren't seeking information about the individuals, we were only seeking the search terms....We don't even want to know the names of the people."

Davis Takes Issue With Google Over Records Request (GCN)

By Brad Grimes, GCN Staff

Government Computer News, January 25, 2006

REDMOND, Wash.— House Government Reform Committee Chairman Tom Davis (R-Va.) said today that search giant Google Inc. has “bent over backward” to comply with the Chinese government’s demand that it block certain search results in order to operate in that country. So why, he wondered, won’t the company cooperate with the U.S. Justice Department in its efforts to fight online pornography?

Google has refused a Justice Department subpoena for search results, saying it violated users’ privacy. The government has said it needs the data to prepare a case regarding the 1998 Child Online Protection Act.

Other search companies have complied with the subpoena.

The company today also launched a Chinese version of its search site after agreeing to censor topics such as Falun Gong and Tibet.

“Google gave the Chinese everything they wanted. They’re not going to put data on there about human rights,” Davis said.

Davis spoke to public-sector CIOs today at a summit hosted by Micrsosoft Corp. Microsoft’s MSN service also censors search results in China, as do Yahoo and others. Microsoft, Yahoo and America Online have also reportedly given the Justice Department information it was seeking.

“What does it mean to be a corporate citizen, working to bring terrorists or child pornographers to bear? What are the boundaries?” Davis said. “These are new areas for a lot of us that we’ve got to work our way through.”

Davis did not expect there to be a standoff over the issue, but he clearly hoped an agreement could be reached between Google and the Justice Department.

“Google has shown an ability to be flexible when it’s in their business interests,” Davis said. “And I’m hoping the government will show the appropriate flexibility in trying to get what we need without everybody feeling that every time you Google something, the government’s going to be looking over your shoulder.”

DOJ_NMG_0012144

Sen. Patrick Leahy (D-Vt.) today released a letter he'd sent to Attorney General Alberto Gonzalez asking for more information about the subpoenaed information and how the Justice Department was protecting personal privacy in its efforts.

UPDATE: Google Stands Up To US, Accedes To China (DOWJONES)

By Riva Richmond, Of DOW JONES NEWSWIRES

Dow Jones, January 25, 2006

NEW YORK -(Dow Jones)- In the last week, Google Inc. (GOOG) (GOOG) stood up to one government and acquiesced to another.

The moves show the kind of treacherous terrain the Internet giant, whose corporate philosophy is "Don't Be Evil," must traverse as it weighs its ideals and its business interests. It also spotlights how important Google (GOOG) has become as a key waypoint on the global Internet, where individual and government interests around access to information can and do collide.

Google (GOOG) said late Tuesday it plans to launch a Chinese search service this week, Google.cn, that will censor query results to comply with Chinese government restrictions on information about such sensitive political subjects as Taiwan and Tibet independence and the Tiananmen Square massacre. The company, which is determined to expand its presence in China's huge and fast-growing Internet market, said the move was necessary to provide Chinese users with better site performance.

Last week, the company said it would "vigorously" oppose a U.S. Department of Justice motion to compel Google (GOOG) to provide data about consumer Web searches. The request didn't seek personal information about consumers' online activities, but Google (GOOG) argued in an October letter to the DOJ that turning over the information would create an unacceptable perception it's amenable to turning over private information about it's customers. It also made a number of other arguments, including concerns key trade secrets could be revealed.

"Google (GOOG) is at the cutting edge in terms of trying to figure out what is acceptable and what is not acceptable in this century," when the Internet is making information more accessible than ever before, says Lauren Gelman, associate director of Stanford Law School's Center for Internet and Society. " What happens to information Google (GOOG) collects? I think this is a big question for society as new technologies evolve and we have to rethink privacy and censorship."

Criticism came swiftly from Reporters Without Borders, a press freedom group that has spoken out aggressively recently about Internet-company practices in repressive countries. "The launch of Google.cn is a black day for freedom of expression in China," the group said in a statement. "The firm defends the rights of US Internet users before the US government but fails to defend its Chinese users against theirs."

"These are two different issues," a Google (GOOG) spokesman said in an email. "We judge requests for information on a case by case basis - just as we do in America and all the countries in which we operate. Whenever we deal with these requests, we will respond - as we do in all markets - in the manner we feel best balances key Google (GOOG) values: our users' interests, expanding access to information and responding to local conditions."

In the two cases, Google's (GOOG) divergent approaches appear to be a matter of where it has legal recourse to fight perceived wrongs. Google (GOOG) can fight the U.S. government in court and get a fair hearing, but its options in China are far more limited.

In China, the question, says Gelman, is: "Do I say 'no thank you' and walk away, or do I engage and operate by the rules China sets out?"

That was apparently an agonizing question for Google (GOOG). But after months of internal debate, executives concluded they could not say 'no' to China, which has the world's second largest Internet population at more than 100 million and rising fast.

"As an emerging economic powerhouse, China is developing rapidly, thanks in no small measure to the Internet. We firmly believe, with our culture of innovation, Google (GOOG) can make meaningful and positive contributions to the already impressive pace of development in China," said Google Senior Policy Counsel Andrew McLaughlin in a statement.

Still, with Google.cn, the company tried to balance its mission to make information universally accessible with its competitive need to expand its foothold in China. The service will exclude links to sites offensive to the Chinese government in exchange for permission to use computer servers located in China. But Google (GOOG) plans to alert users when material has been censored by placing a short notice at the bottom of the Web page, as it has done in Germany and France when excluding sites with Nazi paraphernalia.

Google's (GOOG) current Chinese-language search service, which uses servers in the U.S., will remain in operation. That site has suffered service slowdowns because of Beijing's own efforts to filter content.

"While removing search results is inconsistent with Google's (GOOG) mission, providing no information (or a heavily degraded user experience that amounts to no information) is more inconsistent with our mission," McLaughlin said.

The company also said it will not host blogs or email on computer servers in China to avoid the possibility of requests for users' personal information, a minefield rival Yahoo Inc. (YHOO) (YHOO) stepped into last year in a case that sent a Chinese journalist to jail.

In the Justice Department situation, the government served Google (GOOG) with a subpoena in late August that requested Google (GOOG) provide all Web addresses that could be found through its search engine and a list of all search queries handled between June 1 and July 31. The request was part of the DOJ's efforts to defend the Child Online Protection Act, a 1998 law designed to shield minors from online pornography.

While Google (GOOG) objected, rivals Yahoo (YHOO), Microsoft Corp. (MSFT)'s (MSFT) MSN unit and Time Warner Inc. (TWX)'s (TWX) America Online (TWX) complied with the requests for search data.

In its October letter, Google (GOOG) called the agency's request "overbroad, unduly burdensome, vague and intended to harass." It also argued compliance could endanger its "crown-jewel trade secrets." Observers have also speculated that Google (GOOG) may be concerned about drawing attention to its role in steering Web surfers to pornographic sites and revenue it derives from porn-industry ads.

Google's (GOOG) resistance to the request, until the China news hit, made the company a hero with privacy advocates, who have worried about how much personal data Google (GOOG) collects about Web users and how it might use that information.

-By Riva Richmond, Dow Jones Newswires; 201-938-5670; riva.richmond@ dowjones.com

Google's Dilemma: Privacy Vs. Police (CSM)

By G. Jeffrey Macdonald

The Christian Science Monitor, January 26, 2006

It's an age-old business dilemma caught up in the new age of globalization: When governments demand something that compromises the interests of customers, what's a company to do?

That's the question now before American telecommunications and Internet companies.

This week, for example, Internet giant Google is launching a new search service in China that, because of government sensitivities there, will limit what users there can access. They already couldn't see links to objectionable sites. Now, they won't be able to use Google for e-mail messaging or writing blogs.

But at the same time as Google is acceding to some Chinese government demands, it is vigorously fighting US government efforts to obtain data on its users' search habits.

Some observers see a double standard. Others call it a careful balancing act. What's clear is that controversies over the electronic intrusiveness of government don't disappear in a data-glutted age. In fact, they're heating up.

Last week in a spirited speech, former Vice President Al Gore called on telecommunications companies to stop helping US federal agents hunt for terrorists by listening in on international calls without a warrant.

Some observers say Google needs to stand up to the US. "I would make absolutely no distinction between what's happening in China and what's happening in this country," says Geoffrey Bowker, director of the Center for Science, Technology and Society at Santa Clara University in California. "The US government has [entered] the overreaching state that governments naturally fall into. They know the data's there. They want to use it.... I'm happy to see Google fighting it."

Others are appalled by the lack of cooperation, especially in time of war.

"I would like to think that there remains a reservoir - call it patriotism, if you will, or call it civic duty - within the private sector that does not require companies to be leaned on in order to cooperate," says Frank Gaffney, president of the Center for Security Policy in Washington. "I have to ask the question: Are these companies, and Google comes to mind, putting up more of a fight to provide assistance to our government in protecting Americans than they are to [resist] Communist China? ... My guess is the answer is yes."

The US government claims to need the data to help reinstate a law aimed at blocking access to child pornography.

So far, Google seems to be winning points for its tough stand against the US Department of Justice. According to one survey released this week, 56 percent of American users of the Internet believe Google should not release information about Web searches to the government.

"Google is not a party to this lawsuit, and [the government's] demand for information overreaches," says Nicole Wong, associate general counsel at Google. "We had lengthy discussions with them to try to resolve this, but were not able to and we intend to resist their motion vigorously."

But overseas, Google has endured criticism, as has Microsoft's MSN search service, for limiting what Chinese users can find. Yahoo! China faced especially sharp rebuke last year for supplying data about Shi Tao, a dissident Chinese journalist and Yahoo! user now serving a 10-year jail term. Yahoo! China said it was simply abiding by local laws.

Unlike Google, Yahoo! and Microsoft complied with the US government's request because they say they weren't supplying personally identifiable data.

Such acquiescence is normal, industry insiders say. "I don't know if a lot of companies are in the business of civil disobedience," says Bruce Bernstein, president of the New York Software Industry Association. "In most cases, they would ask counsel, and in most cases, the lawyers would tell them to follow the path of least resistance. And they'll comply."

Still, companies are wary of the risks of being seen as negligent on privacy. Such concerns got a high-profile showcase on Martin Luther King Jr. Day when Mr. Gore addressed the issue in a widely reported speech. "Any telecommunications company that has provided the government with access to private information concerning the communications of Americans without a proper warrant should immediately cease and desist their complicity in this apparently illegal invasion of the privacy of American citizens."

In the meantime, high-tech companies with membership in Business for Social Responsibility are scrambling to tighten and clarify their privacy policies for customers before the government comes knocking again, says a spokesperson for the San Francisco-based group. Its advice: be forthright with the public if you do supply the government with information, and don't forget you have rights.

In Case About Google's Secrets, Yours Are Safe (NYT)

By Adam Liptak

The New York Times, January 26, 2006

The Justice Department went to court last week to try to force Google, by far the world's largest Internet search engine, to turn over an entire week's worth of searches. The move, which Google is fighting, has alarmed its users, enraged privacy advocates, changed some people's Internet search habits and set off a debate about how much privacy one can expect on the Web.

But the case itself, according to people involved in it and scholars who are following it, has almost nothing to do with privacy. It will turn, instead, on serious but relatively routine questions about trade secrets and civil procedure.

The privacy debate prompted by the case may thus be an instance of the right answer to the wrong question. As recently demonstrated by disclosures of surveillance by the National Security Agency and secret inquiries under the USA Patriot Act, the government is aggressively collecting information to combat terror. And even in ordinary criminal prosecutions and in civil lawsuits, Internet companies including Google routinely turn over authentically private information in response to focused warrants and subpoenas from prosecutors and litigants.

But "this particular subpoena does not raise serious privacy issues," said Timothy Wu, a law professor at Columbia. "These records are completely disconnected. They're just strings of words."

In its only extended discussion of its reasons for fighting the subpoena, a Google lawyer told the Justice Department in October that complying would be bad for business. "Google objects," the lawyer, Ashok Ramani, wrote, "because to comply with the request could endanger its crown-jewel trade secrets."

Mr. Ramani's five-page letter mentioned privacy only once, at the bottom of the fourth page, and then primarily in the context of perception rather than reality.

"Google's acceding to the request would suggest that it is willing to reveal information about those who use its services," he wrote. "This is not a perception that Google can accept."

Even Google's allies are shying away from legal arguments based on privacy. The American Civil Liberties Union, for instance, said it planned to file papers supporting Google. But not on privacy grounds. "We will probably not be making that argument," said Aden J. Fine, a lawyer with the civil liberties union.

The issues raised by the new subpoena, while substantial, are fairly technical, according to Professor Wu. "The legal point here is what is the relevancy standard for subpoenas?" he said. "That is interesting to procedure scholars but to no one else."

Other Internet search engine companies, including Yahoo, America Online and MSN, have complied with the same Justice Department subpoena, which also sought a random sample of a million Web addresses. The companies all said there were no privacy issues involved.

A Justice Department spokesman, Brian Roehrkasse, agreed. "We specifically stated in our requests," he said, "that we did not want the names, or any other information, regarding the users of Google."

None of this is to say that subpoenas for search records linked to individuals are inconceivable. Google maintains information that could be used that way, and a subpoena could ask for it. But the recent subpoena does not.

The problem with the subpoena, Mr. Fine said, is more general. "This is another instance of government overreaching," he said.

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The government says it needs Google's information to defend a challenge from the civil liberties union to a 1998 law, the Child Online Protection Act, which makes it a crime to make "material that is harmful to minors" commercially available on the Web. The law was enjoined by a federal court in Philadelphia before it became effective, and it has never been enforced.

In 2004, the United States Supreme Court affirmed the injunction, ruling that filtering devices may work as well or better than criminal prosecutions in achieving the law's aims of keeping some offensive materials away from children, and it sent the case back for a trial to explore that question.

At a trial scheduled to start in October, the government will try to prove that filters are ineffective. Philip B. Stark, an expert retained by the government and a statistics professor at the University of California, Berkeley, said in a court filing that the Web addresses and search terms sought from Google and other Internet companies would help him "to measure the effectiveness of content filters."

The government apparently wants to show that real-world searches will pull up offensive materials that filters will not catch. Why it needs Google to do that is unclear, and Professor Stark declined a request for an interview, citing the pending litigation.

Google has not yet filed a response in court, and it has not discussed the case publicly beyond a brief statement citing government overreaching. Its fullest explanation of its position was in Mr. Ramani's letter in October.

Google objected, Mr. Ramani said, because the fit between what the government seeks and what it seeks to prove is poor. He also said that collecting and providing the information was burdensome and that the government could find it elsewhere.

Mr. Ramani did say that "one could envision scenarios" where Internet searches alone could reveal private information, but he provided no examples. But Google's main argument was that its "highly proprietary" trade secrets could be jeopardized.

Marc Rotenberg, the executive director of the Electronic Privacy Information Center, a civil liberties group that has frequently been critical of Google, said the trade-secrets argument was a serious one.

In other contexts, Google and other Internet companies say they are serious about protecting privacy. But their privacy policies acknowledge that they will comply with valid requests from the government and private litigants. Google's policy, for instance, says it may share users' personal information if it has "a good faith belief" that disclosure "is reasonably necessary to satisfy any applicable law, regulation, legal process or enforceable government request." Nicole Wong, Google's associate general counsel, said in an interview that the company "complies with valid legal process."

According to a 2004 decision of a federal court in Virginia, America Online alone responds to about 1,000 criminal warrants each month. AOL, Google and other Internet companies also receive subpoenas in divorce, libel, fraud and other types of civil cases. With limited exceptions, they are required by law to comply.

Ms. Wong said Google tried to notify users so they could object in court before the company turned over information about them. But the law forbids such notification in some criminal cases.

Even notification can be small comfort. It means a user must quickly and often at considerable expense find a lawyer and try to persuade a court to quash the subpoena. But the law often offers very limited protection for personal information held by third parties.

That approach no longer makes sense, said Daniel J. Solove, a law professor at George Washington University. "In the information age," he said, "so much of our information is in the hands of third parties."

Mr. Rotenberg said Internet search records, if collected and linked to individuals, could give rise to a particularly profound invasion of privacy. "It's kind of the shadow of the thoughts within your head — your interests, your desires, your hobbies, your fears," he said.

The situation is more complicated outside the United States. Internet companies have complied with local laws, as they must to do business abroad. Yahoo, for instance, provided information that helped China send a journalist there to prison for 10 years on charges of leaking state secrets to a foreign Web site.

Still, the current subpoena to Google, legal experts said, has given rise to an important debate, whether the facts of the case are apt or not.

"It allows us to have a national dialogue about whether current privacy protections are adequate," said Susan P. Crawford, a specialist in Internet law at the Cardozo Law School. Even if the Justice Department is not seeking private information now, she said, "the next subpoena could ask for that kind of data."

`Key Player' Pleads Guilty To Morial-era City Hall Corruption (AP)

AP, January 26, 2006

NEW ORLEANS (AP) — A businessman described by federal prosecutors as a key player pleaded guilty Wednesday to conspiring in a kickback scheme for the biggest contract signed while Marc Morial was New Orleans mayor.

Advertisement

Terry Songy oversaw a $65 million, 20-year contract to upgrade chillers, boilers, lights and other energy-related fixtures in city buildings for Johnson Controls Inc.

He admitted taking kickbacks from subcontractors, participating in a larger kickback conspiracy with the city's director of property management, and failing to file federal income tax returns for 2001, U.S. Attorney Jim Letten said.

According to an indictment handed up in June, the kickbacks allegedly enriched some of the closest associates of Morial, who served two terms as mayor and now is president of the National Urban League. He has not been charged, and has refused to comment about the investigation.

Federal officials have said the contract cost New Orleans tens of thousands of unnecessary dollars, while benefiting the Morial associates handsomely.

Songy's sentencing was set April 19. He could get up to five years for conspiracy and three on the income tax charge, with a $250,000 fine for each — though first offenders rarely get the maximum sentence.

Five subcontractors pleaded guilty earlier to paying kickbacks.

When the six entered not guilty pleas in mid-August, prosecutors said they all were cooperating with the government and were likely to make plea agreements.

An affidavit filed with the guilty plea states that, after FBI agents approached him, Songy "admitted his involvement in a much larger scheme than the government was aware" of.

The indictment described Songy as sharing hundreds of thousands of dollars in kickbacks with the three major defendants: Morial associates Stan "Pampy" Barre, a restaurant owner and Morial confidant, city property manager Kerry De Cay, and construction company owner Reginald Walker.

Barre, who also owned a Johnson Controls subcontractor called Commmon Street Ventures, allegedly shared $546,000 with co-conspirators. Walker's company received a large subcontract from Johnson Controls, prosecutors said.

All three have denied wrongdoing.

Their trial is scheduled Sept. 5 before U.S. District Judge Carl Barbier.

Six Indicted In Driver's License Fraud (TENN)

By CLAY CAREY, Staff Writer

The Tennessean, January 26, 2006

A widespread bribery scheme funneled hundreds of illegal aliens into a Winchester, Tenn.-based driving school, netting them fraudulent licenses. And six people, including one current and one former state employee, got more than $146,000, federal prosecutors said yesterday.

The U.S. attorney's office yesterday unsealed a six-count indictment of the six people who are accused of helping hundreds of people since May 2004 obtain driver's licenses they didn't earn. They have been charged with bribing state employees, accepting bribes and conspiracy.

About 100 people who got the fake licenses have been deported or are in the deportation process as a result of the investigation, federal authorities said.

"Just as in previous investigations, you had those who thought that what they did in secret would never come to light," said My Harrison, FBI special agent in charge for the Middle and Western Districts of Tennessee. The FBI was one of several agencies involved in the probe.

U.S. Attorney Jim Vines said the people who fraudulently received licenses weren't eligible for "a variety of reasons."

Officials also said most of those getting the licenses were in the country illegally.

The investigation, dubbed Operation Crooked Highway, has been under way by federal and state agencies for 18 months, Vines said yesterday.

Federal officials say two immigrants directed people, many immigrants themselves, to Winchester Driving School in Franklin County and paid for fraudulent third-party certification. In turn, the driving school allegedly paid two Department of Motor Vehicle clerks to provide licenses to those certificate holders.

Those named in the indictment are:

· Bryan Guess, 61, the owner and operator of Winchester Driving School, accused of accepting more than $46,000 to issue fraudulent third-party certificates on behalf of the driving school.

· Shelia Robertson, a former employee of the driving school, accused of paying bribes to state DMV worker Teresa Jones to help students get licenses and driving certificates.

· Teresa Jones, 48, a former DMV worker in the Mufreesboro office, accused of accepting $20 per person for about 1,000 Winchester Driving School students who obtained driver's licenses or driving certificates between March 2004 and May 2005.

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She worked for the state for a little more than a year and then was hired at Winchester Driving School in May 2005, federal officials said.

· Shun Gao, 24, an employee at a Murfreesboro Chinese restaurant, accused of funneling people to Winchester and paying the school, through an unidentified employee, $32,510 in exchange third-party certificates.

· Syed Abbas Parvez, 33, an alleged illegal immigrant accused of paying the driving school $1,100 in exchange for a third-party certificate, fake proof-of-residency documents and a regular driver's license for a Pakistani citizen whom Parvez had allegedly transported to Tennessee from Georgia.

· Bruce Conklin, 38, a DMV employee, accused of accepting $9,200 in cash from an employee at Winchester during the investigation and issuing about 50 driver's licenses to Shun Gao's clients between August and December 2005. State Department of Safety officials said Conklin is on paid administrative leave while the case is pending.

Several driving schools in the state can issue third-party certificates. They administer the state's written and road driving tests and, if students pass, they get a certificate. From there, the DMV will issue a license or driving certificate if they pass a vision test, residency check and other routine measures.

All six face conspiracy charges that carry up to five years in prison and a $250,000 fine. Charges of accepting bribes or bribing state employees carry maximum sentences of 10 years and fines up to $250,000.

News of the indictments prompted state Sen. Bill Ketron of Murfreesboro to again call for tighter regulations on the license requirements. Last year, Ketron pushed a bill that requires applicants to provide a valid Social Security number or documentation from the Bureau of Citizenship and Immigration Services, but it didn't get out of the transportation committee.

"At the risk of sounding really bad, it's a good start," said Theresa Harmon, co-founder of Tennesseans for Responsible Immigration Polices, a group that has called for stricter standards.

The indictments "may help deter some state workers who may take money under the table," Harmon said. "But the ones who come here to get those driver's certificates, they're crossing the desert to get here. There just isn't that much of a deterrent for those people."

Revoking immigrants' abilities to get driving certificates won't make roads any safer, according to Stephen Fotopulos, policy coordinator for the Tennessee Immigrant and Refugee Council. Most immigrants and refugees who attain those documents do so through legal means, he said.

The council has pushed for measures making it easier for immigrants to get driver's licenses in Tennessee and has spoken out against racial profiling and other practices that it believes violate the civil rights of immigrants.

"The immigration system is broken, and there are many symptoms of it being broken in Tennessee," he said. "But the more we, as a society, try to alienate immigrants and refugees, the more they are open to exploitation." ·

The FBI's My Harrison, right, discusses a conspiracy to obtain driver's licenses for people who were not eligible. U.S. Attorney Jim Vines, left, said most of those getting fake licenses were in the country illegally. (AP)

FBI Arrests License Examiner (MDN)

Murfreesboro Daily News, January 26, 2006

Federal agents indicted three people Wednesday in a conspiracy to take payments for providing driver's licenses to illegal immigrants at the Murfreesboro driver testing center.

The FBI charged driver's license examiner Bruce Conklin with taking about $9,200 in cash from July 2005 to January. Agents also charged Bryan Guess, owner of the Winchester Driving School next to the testing center on Samsonite Boulevard, with paying bribes to Conklin and a former examiner, Teresa Jones.

Operation Crooked Highway: Federal Prosecutors Charge Six With Driver's License Fraud (AP)

AP, January 26, 2006

NASHVILLE, Tenn. (AP) - Federal prosecutors charged six people, including two state driver's license examiners, Wednesday with a conspiracy to issue possibly thousands of fraudulent driving licenses and certificates to illegal immigrants.

A federal indictment lists charges ranging from paying bribes, taking bribes and transporting illegal workers into the state to get the fraudulent driving documents. Authorities said they won't know how many illegal documents were issued until all evidence is studied and declined to speculate on the total.

They did say that one state worker accepted $20 per student in bribes for about 1,000 licenses or certificates. "We come to you with another sad chapter in the book of public corruption in Tennessee," FBI agent in charge My Harrison said at an afternoon news conference. Two of those charged worked at the driver's license examining station in Murfreesboro, a Nashville suburb.

Tennessee began licensing illegal immigrants in early 2001 but in response to terrorism concerns switched in 2004 to issuing driving certificates that are labeled not to be used for identification. The indictment unsealed Wednesday says that Safety Department employee Bruce Conklin and former employee Teresa Jones took bribes from a driving school. Conklin is accused of taking $9,200 in cash payments from July through January while Jones allegedly got $20,000 from May 2004 through March. Bryan Guess, who owns the Winchester Driving School, was charged along with former school worker Sheila Robertson with paying bribes between May 2004 and March 2005.

Jones went to work for the driving school after she left state government. Prosecutors said Winchester Driving School had a contract with the state to issue "third-party certificates" after providing six hours of driving instruction and administering written and road driving tests to students.

According to the indictment, the school was accepting money to issue the third-party certificate without any training or tests. Shun Gao was charged with paying cash to the school in exchange for the certificates.

Syed Abbas Parvez, an illegal immigrant living in Georgia, was charged with transporting another illegal immigrant from Pakistan to Tennessee to get a fraudulent license through the driving school.

The joint federal-state investigation was dubbed Operation Crooked Highway. About 100 illegal immigrants are being deported as a result of the investigation, federal immigration agent Rick Crocker said.

U.S. Attorney Jim Vines said three people, including a former state worker at a driver's license station in the Nashville suburb of Gallatin, had already pleaded guilty in the case. Vines credited the Safety Department with starting the investigation. "They did a fantastic job of cleaning their own house," he said. Interim Safety Commissioner Gerald Nicely said the department is studying an overhaul of licensing procedures, including how to prevent fraud. "Obviously what we're doing here today will be a big deterrent," he said.

The Safety Department has been at the center of a series of scandals, including Highway Patrol officers with criminal backgrounds, ticket-fixing and an atmosphere of political favoritism. Nicely has been assigned there temporarily to help develop a reform plan.

Wednesday's indictment follows arrests last July in East Tennessee of an illegal immigrant from Argentina and her boyfriend on charges they shuttled other illegal immigrants from New Jersey to Tennessee to get fraudulent licenses and certificates.

Citing a number of recent public corruption investigations in Tennessee, Harrison said agents were getting better with practice. "If you can hear me and are involved in public corruption, the eyes of law enforcement are upon you," she said.

Six Indicted In Alleged License Scheme (NASHCP)

By CHRIS LEWIS

Nashville City Paper, January 26, 2006

Two workers at a state driver's license station in Murfreesboro allegedly received thousands of dollars in bribes from a driving school to issue at least 1,000 fraudulent driver's licenses and certificates, authorities said Wednesday.

Flanked by a host of state and federal officials, U.S. Attorney for Middle Tennessee Jim Vines announced that a total of six people, including two from the Winchester Driving School, were indicted by a grand jury Jan. 18 on federal charges involving conspiracy to commit bribery.

It's the latest "sad chapter" in a string of Tennessee public corruption cases, said My Harrison, special agent in charge of the FBI for the Middle and Western Districts of Tennessee.

"You've heard of Operation Tennessee Waltz, Operation Tarnish Blue and Operation Tarnish Shield," she said. "What can I say? Same game, only the names have changed. The title of this new chapter is, Operation Crooked Highway."

The 18-month investigation was a cooperative effort by the Tennessee Highway Patrol, state Department of Safety, FBI, Immigrations and Customs Enforcement and IRS.

As a result, customs officials took into custody 50 undocumented immigrants and began deportation proceedings against 50 other immigrants who were uncovered in the investigation, said Rick Crocker, assistant special agent in charge of Immigration and Customs Enforcement.

"It runs the gamut of countries," he said. "It's not just Mexico."

The Winchester Driving School – which lists offices in Columbia, Murfreesboro, Nashville and Winchester – is one of several institutions that contract with the state to train and test drivers. It issues third-party certificates as documented proof that a student has passed all necessary requirements.

Those certificates can be exchanged for a driver's license or driver's certificate (for non-U.S. citizens) at a state driver's license station, provided the applicants pass other state checks.

DOJ_NMG_0012151

The attorney's office alleges that the school, for a fee, would provide students with certificates without the required 36 hours of instruction and arranged to have them meet with "friendly" state license examiners.

Bryan Guess, owner and operator of Winchester Driving School, and his former employee, Sheila Robertson, are accused of paying off two examiners at the Murfreesboro station.

Calls placed to an answering service for the school were not returned by deadline Wednesday.

Bruce Conklin, an examiner who was arrested at the Murfreesboro station Wednesday, is accused of accepting $9,200 in bribes. Teresa Jones, a former temporary worker at the station who now works for Winchester, is accused of accepting $20,000 in cash for issuing licenses to 1,000 driving school students in exchange for $20 each.

Also indicted is Shun Gao, a Chinese restaurant worker in Murfreesboro who officials say brought numerous clients to the school to help them obtain the fraudulent licenses. Authorities say Gao paid the unidentified Winchester employee about $32,500 to get the third-party certificates.

Syed Abbas Parvez, an undocumented resident of Georgia, is charged with transporting an undocumented Pakistan citizen to Tennessee and arranging for him to get a fraudulent license.

If convicted, the defendants face up to 10 years in jail and fines of up to $250,000, according to the U.S. Attorney's Office.

In addition to the latest indictments, three other people pleaded guilty last year in connection with the alleged driver's license scheme, officials said.

The multi-agency investigation is part of a nation-wide effort called "Operation Broken Wheel" that has been in effect since 2003 to uncover incidents of fraudulent driver's license issuance, said George Bolds, supervisory special agent for the FBI.

IRS Agent Grilled About Ryan Campaign Fund Expenses (CHIT)

By Matt O'connor, Tribune Staff Reporter

Chicago Tribune, January 26, 2006

A government agent on Wednesday downplayed that former Gov. George Ryan filed corrected tax returns for 1995, 1996 and 1997 several years later because Ryan knew by then of the federal investigation into his finances.

Shari Schindler, an Internal Revenue Service agent, said that by the time Ryan filed the amended returns in late 2002, each of his six children had testified before the grand jury and there had been press coverage of the nature of the probe.

During three days on the witness stand, Schindler said her review of Ryan's records indicated he intentionally omitted from tax returns for 1995 through 1998 a combined $80,000 in campaign funds that had been spent on personal expenses and should have been declared as income.

At issue were payments of $55,000 to a son-in-law in financial trouble because of a gambling addiction and $9,675 in payments that Ryan allegedly concealed from former U.S. Sen. Phil Gramm's failed 1996 presidential campaign.

On cross-examination Wednesday, Dan Webb, Ryan's lead lawyer, focused on campaign expenditures Ryan made on nearly a dozen personal vacations between 1995 and 1997.

Webb contended that records showed Ryan had paid taxes on most of the travel expenses, but that certain charges hadn't been itemized in campaign disclosure reports, fell through the cracks and mistakenly weren't reported on Ryan's returns.

On Tuesday, Webb hauled eight volumes of tax laws and regulations to the witness stand to question Schindler about how Ryan was supposed to know about complicated, arcane IRS rules.

Through her questioning of Schindler on Wednesday, Assistant U.S. Atty. Laurie Barsella pointed out that Roger Bickel, Ryan's former chief lawyer, had spelled out for Ryan "in plain English" that personal use of campaign funds had to be reported on his tax returns.

Yet Ryan failed to tell his accountants about the $55,000 in campaign funds spent on Michael Fairman, the son-in-law whose gambling led to his bankruptcy, Schindler said.

On cross-examination, Webb also pressed the point that Ryan's campaign records were so incomplete that many expense reimbursement checks cashed by Ryan were missing. The defense has suggested that could have been Ryan's source of cash, not bribes from co-defendant Lawrence Warner and other friends to whom he steered lucrative state business.

Meanwhile, Assistant U.S. Atty. Patrick Collins said he still hopes to rest the prosecution case on Thursday after four months of testimony. The FBI's case agent is scheduled to be the government's last witness.

U.S. District Judge Rebecca Pallmeyer, who is presiding over the trial, ruled Wednesday that prosecutors can play a portion of a videotape of Ryan from November when he made a statement to reporters outside the court defending his receipt of $9,675 from the Gramm campaign.

In his only public statement during the trial, Ryan lashed out after Gramm testified he never knew or approved of the payments to Ryan and wouldn't pay an officeholder for an endorsement. "It is basically that it's a difference between love and prostitution," Gramm said.

Since that comment came outside the jury's presence, Pallmeyer barred a defense request to play the portion of the videotape in which Ryan angrily reacted to Gramm's testimony and blasted his former political ally's character.

Pallmeyer ruled, though, that prosecutors could air Ryan's remarks at the time about how he worked hard for Gramm's campaign, saying, "I earned every penny" of the consulting fee.

Ryan passed the money on to four daughters, who did little or no work for the campaign, according to testimony. He is charged with failing to pay taxes on the income.

Also Wednesday, an agreed-upon statement from the lawyers was read to jurors that a reporter for a Springfield newspaper wrote a story in 2001 quoting Ryan as saying a family caretaker had been paid with campaign funds for political work she did.

Nancy Smith of Kankakee, who cared for the elderly mother of Ryan's wife, Lura Lynn, before her death, testified earlier in the trial that she hadn't done any campaign work for Ryan. She was paid $6,000 from Ryan campaign funds in 1998, a personal expense that Ryan failed to report on his tax return, prosecutors charge.

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Federal Prosecutors Hoping To Wrap Up Case Against Ryan By The Weekend (AP)

By Mike Robinson

AP, January 26, 2006

CHICAGO - Prosecutors are hoping to rest the government's case against George Ryan before the weekend but admit it might be a tight squeeze to cram all the remaining evidence in without spilling into Monday - the 18th week of the marathon racketeering and fraud trial.

Prosecutors indicated Wednesday night that just one more prosecution witness remains - Raymond Ruebenson, the veteran FBI man who has long been the case agent for the government's seven-year Operation Safe Road investigation that led to the former governor's indictment.

But Ruebenson was absent with a case of the flu Wednesday. Even if he is well enough to take the witness stand Thursday, prosecutors are hoping to shoehorn videos of Ryan talking with reporters into the trial record before they sit down and let defense attorneys take over.

And U.S. District Judge Rebecca R. Pallmeyer plans to recess early for the weekend Thursday, giving them less time to wrap things up. So there is no guarantee the prosecution will rest.

On Wednesday, a verbal fencing match between Ryan's lawyer, Dan K. Webb, and Internal Revenue Service agent Shari Schindler came to an end with no one sure who emerged the victor.

Webb repeatedly tried to get her to agree that Ryan couldn't be blamed if he failed to report thousands of dollars in income because he was grappling with vague, complex tax laws.

Schindler coolly disagreed, saying Ryan easily could have asked his tax advisers.

"Did Ryan's lawyer spell out in plain English for him and more than once that personal use of campaign funds must be reported as income to him?" federal prosecutor Laurie Barcella asked.

"Yes," Schindler said.

Ryan, 71, and longtime friend Larry Warner, 67, are charged in a 22-count indictment with racketeering, mail fraud and other offenses. Prosecutors say Ryan failed to report $80,000 in income over four years, much of it money he withdrew from the Citizens for Ryan campaign fund.

Ryan filed two batches of amended tax returns, one in 1998 and another in 2002, and paid most of the money prosecutors say was owing.

He isn't charged with offenses stemming from the additional money that he paid along with his amended returns in 1998. But prosecutors refused to credit him with the money he paid along with his 2002 amended returns, saying the investigation had already begun.

Webb suggested Ryan hadn't been officially notified of the investigation when he filed his amended returns in December 2002. But Schindler testified that earlier in 2002 five Ryan children and his son-in-law had testified before a federal grand jury looking into the former governor's taxes and that newspapers were full of reports about the investigation.

Before their duel was over, Webb took Schindler item by item through every bit of allegedly unreported income, from a dinner at Zorba's restaurant in Palm Springs that was charged to the campaign fund to $55,000 in money from the fund that he gave to a debt-ridden son-in-law.

Pointing to plane tickets to Las Vegas for Ryan and Cook County Republican Chairman Manny Hoffman after the 1996 Republican National Convention, Webb suggested they might be considered a bona fide entertainment expense for the campaign fund in view of Hoffman's status.

"If they wanted to entertain him at the Republican convention, then I would consider that, but this was a private trip after the convention was over," Schindler said.

One observer who considered the duel evenly matched was Ryan co-defendant Warner, who approached reporters after court and volunteered that he was impressed with both participants.

"If you ask me, Dan Webb earned his reputation today," Warner said. But he added: "She held her own with him."

Accused City Clerk: 'Somebody Is Lying And It Isn't Me' (CHIT)

By Gary Washburn, Tribune Staff Reporter

Chicago Tribune, January 26, 2006

Facing federal corruption charges, a defiant James Laski vowed Wednesday to "keep fighting," insisted his office is running smoothly and took sharp issue with claims he was away from his job as Chicago city clerk for a prolonged period before charges were filed.

"Somebody is lying, and it isn't me," Laski declared.

The clerk's comments came after a surprise appearance at a City Council committee meeting, his first visit to the council chamber in nearly two months—a period during which a federal investigation culminated in bribery and obstruction-of-justice charges against him.

Laski attended a meeting of the council's Budget Committee in which aldermen advanced a measure designed to eliminate a loophole used by some city sticker scofflaws. The clerk's office issues stickers and cites motorists who fail to buy them.

Laski was not called upon to speak on the matter, but he made a show of walking onto the floor where he shook hands and chatted briefly with several aldermen.

"I wanted them to tell you I am here today, just in case you didn't see me," Laski said sarcastically to reporters as he walked from the council chamber, on the second floor of City Hall, to the clerk's first-floor office.

Laski is charged with taking bribes in return for obtaining city business for a trucking company and then trying to cover up the arrangement as federal agents investigated.

The company, Get Plowed Inc., was operated by Michael "Mick" Jones, a longtime Laski friend and top official in the clerk's office, and Jones' wife Traci, who also works in the office.

The Joneses secretly recorded Laski, who federal prosecutors contend referred to the bribes on tape and sought to prevent the couple from providing information to the government.

Laski implied Wednesday that exonerating portions of the recordings were not released when the U.S. attorney's office announced the charges against him on Jan. 13.

"Have you heard all of them?" he asked reporters. "Listen to all of them.... There are many more stories to be told."

The four Chicago police bodyguards assigned to Laski were withdrawn earlier this month because of his alleged absence from his office.

On Tuesday, First Deputy Police Supt. Dana Starks said he pulled the officers after they reported that Laski was not going to work.

"Mr. Starks and everybody is telling you things, and you believe that kind of stuff," Laski responded on Wednesday. "Why don't you check my office? Why don't you check [with] people in my office?"

Laski insisted he has been at work.

The exceptions have been a two-week vacation in December and days he was off for medical reasons, he said.

"I was taking tests at the hospital for my stomach," he said.

Laski said he has a history of stomach problems, and he added, "I guess stress would make anything worse."

Laski intentionally stayed away from the last three City Council meetings because of what he contends would have been the resulting "media circus."

But he said he will be in his usual spot on the dais just below Mayor Richard Daley at the next meeting on Feb. 8, an announcement sure to attract a media throng.

Laski would not say whether he would ask for a reinstatement of his police detail. But "I am taking care of business, with or without bodyguards," he asserted.

The security contingent "was in place before I even came on board," and the officers assigned to him spent part of their time issuing citations to motorists whose vehicles did not have city stickers, he said.

"Check their logs. They wrote tickets constantly, generating revenue for the City of Chicago, OK?"

Laski was asked if he is going to beat the criminal charges.

"I am going to keep fighting," he replied. "I am going to keep fighting."

Aldermen greeted by him on Wednesday said Laski stressed his on-duty status.

"He basically said: 'I'm here—here I am in living flesh and blood. This is me,'" said Ald. Freddrenna Lyle (6th).

While there has been much speculation at City Hall about who might replace the clerk, there were no calls Wednesday for Laski to resign or take a leave of absence pending the outcome of his case.

"There is a presumption of innocence," said Ald. Thomas Allen (38th), an attorney. "That is what our system is built on. Politically and personally, there may be other factors that weigh in his decision, but from a lawyer's perspective, they have charged him with something. They have to prove the case beyond a reasonable doubt. Everybody is entitled to that."

"Hell no, I wouldn't quit," declared Ald. Bernard Stone (50th). "Why should he quit? As I understand it, he hasn't admitted doing anything wrong up to this point."

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Ex-Campbell Hire Testifies Loyalty Vital (AJC)

By Ernie Suggs , Jeffry Scott, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, January 26, 2006

Only months after being hired by Bill Campbell, Michael Sullivan testified Wednesday that he tasted what he described as the good life with the former Atlanta mayor.

Campbell's former contracts compliance director said he also learned hard lessons about discretion, but especially loyalty.

Sullivan, called by the prosecution, testified in Campbell's federal corruption trial that in 1994 he and the former mayor, along with city contractor Ricky Rowe, traveled together to Florida to attend a golf and tennis tournament sponsored by Black Enterprise magazine.

Sullivan said the city paid for his trip. He said he was unsure of who paid for Campbell's but noticed that when he and Rowe were checking out of the hotel, Rowe used his credit card for Campbell's incidentals. Sullivan told Campbell about it.

"He was upset that I allowed Mr. Rowe to pay for his incidentals," Sullivan told the jury. "He told me that you can't use a credit card to pay for things like that. It leaves a trail. He was upset about the manner it was paid for and a credit card receipt being generated."

The theme of loyalty to the mayor was played over and over Wednesday, witness after witness, as prosecutors tried to establish that City Hall under Campbell, who was mayor from 1994 until 2002, was a den of cronyism and deal-making between Campbell, his friends and political allies.

None of the prosecution's witnesses testified that Campbell made them do anything illegal, nor did they say they saw Campbell doing anything criminal.

The prosecution, however, has argued that it is first trying to establish a pattern of behavior and later witnesses will produce evidence of criminality. U.S. District Judge Richard Story had ruled prosecutors could use additional evidence to establish a pattern of Campbell's activities.

Among the witnesses for the prosecution Wednesday were former Campbell Chief Operating Officer Byron Marshall and Doug Hooker, a former commissioner of Public Works, both of whom, like Sullivan, testified about how vital loyalty was to Campbell.

Marshall said the debate over loyalty vs. competence became a running joke between him and Campbell. During his two days of testimony, Marshall said he and Campbell often battled over hires and what qualifications they needed.

During cross-examination, Campbell lead attorney Billy Martin asked Marshall if Campbell ever hired someone who wasn't competent.

"No one who is outright, totally incompetent," Marshall said. "But, there were people hired who were incompetent in their jobs."

When it came to city contracts, Marshall said he advocated a "transparent" bidding process once at a meeting. He said Campbell called him aside to complain he had not discussed the idea with the mayor first. Campbell never adopted the plan, Marshall said. He also said Campbell often interceded on contractors' behalf.

Another witness for the prosecution, Steven Baker, a former deputy general manager at Hartsfield International Airport, testified that in fall 1995 he was summoned to Campbell's office about an airport concessions contract that Rowe's company wanted to bid.

"He said, 'Ricky and [his wife] Dott are friends of mine. I expect you to take care of them.'" Baker testified he later wrote a memo complaining about the incident but has since lost it. Rowe died in 2004.

On cross-examination, Martin pressed Baker: "When you went in to see the mayor he didn't ask you to bribe anybody, did he?"

"No," Baker said.

DOJ_NMG_0012155

Sullivan, the former contracts compliance director, said to make it easier for the mayor to identify contractors who were loyal to him he drew up a grid of potential contractors, putting an asterisk beside names that contributed to his political campaigns.

"He was pleased to have that information," Sullivan said.

Wis. Official Indicted Over Contract (NYT/AP)

By The Associated Press

The New York Times, January 26, 2006

Filed at 12:44 a.m. ET

MADISON, Wis. (AP) -- An official in Gov. Jim Doyle's administration was indicted on two felony counts Tuesday for her role in awarding a state travel contract to a company whose executives donated $20,000 to Doyle's campaign.

The federal indictment alleges that Georgia Thompson, chief of the Department of Administration's procurement bureau, tried to give her bosses political advantage and help her own job security.

Doyle's fundraising has become an issue in the Democrat's re-election bid this fall, with Republicans charging ethical lapses.

The indictment alleges wrongdoing by no one but Thompson.

Doyle was in Iraq visiting troops Tuesday. Thompson and her attorney did not return phone calls.

Thompson, 55, who was hired before Doyle took office in 2003, served on a committee that awarded a contract to Adelman Travel as part of an effort to cut travel costs. The indictment said she inflated the company's scores used to award the contract.

Questions were raised this summer after media reports that Adelman's CEO donated $10,000 to Doyle before the contract went into effect. An Adelman board member gave another $10,000 afterward, finance reports show.

Thompson faces as many as 20 years in prison if convicted of fraud and misapplication of funds.

Broderick Faces Jail Time After Guilty Plea In U.S. Court (FARMNT)

By TALI ISRAELI, Staff Writer

Farmingdale (NJ) News Transcript, January 26, 2006

MARLBORO — Thomas Broderick, a former public official, pleaded guilty in federal court last week to one count of money laundering.

Broderick, 56, served on the Township Council in the 1990s. He is a former assistant supervisor at the Monmouth County Division of Highways and a former Monmouth County undersheriff. He is a retired New York Police Department officer.

Broderick was one of the 11 Monmouth County officials who were arrested on Feb. 22, 2005 in an FBI investigation known as “Operation Bid Rig.”

According to the U.S. Attorney’s Office in Newark, Broderick pleaded guilty on Jan. 18 before U.S. District Judge William J. Martini. Broderick admitted that he accepted $15,000 for assisting in the laundering of large sums of cash from a cooperating government witness whom he believed was a corrupt demolition contractor.

Broderick faces a maximum penalty of 20 years in prison and a $250,000 fine. He is scheduled to be sentenced on April 27. Broderick remains free on $50,000 bail.

According to the charges, in May 2004 Broderick was introduced to the cooperating witness by a member of the Keyport Borough Council (subsequently identified as Robert Hyer, who has since died) and by an unnamed Monmouth County official.

Broderick believed the cooperating witness to be involved in construction work, extortionate illegal loan sharking and money laundering. Two law enforcement officers went undercover as employees of the cooperating witness.

Following the introduction, several money laundering transactions were made between Broderick and the cooperating witness.

“Broderick entered into these transactions with a stunning eagerness and returned to feed at the trough repeatedly,” U.S. Attorney Christopher J. Christie said in a press release. “Unfortunately, there were plenty of others in Monmouth County who knew each other, spread the word between them, and followed their corrupt instincts as well.”

In his guilty plea, Broderick specifically admitted conducting the following money laundering transactions:

· On May 4, 2004, Broderick met the cooperating witness and exchanged a $45,000 check for a brown paper bag containing $50,000 in cash.

· On May 17, 2004, Broderick exchanged a check for $22,500 for $25,000 in cash from the cooperating witness.

· On Sept. 14, 2004, Broderick provided another check for $22,500 in exchange for $25,000 in cash from the undercover agent acting as an employee of the cooperating witness.

· In October 2004, Broderick provided two checks totaling $45,000 to the undercover agent in exchange for $50,000 in cash.

Broderick also admitted to giving a portion of the money laundering proceeds to the unnamed Monmouth County official for his role in setting up the transactions.

In a press release dated Jan. 19, state Sen. Ellen Karcher (D-Monmouth and Mercer), of Marlboro, said Broderick's guilty plea is another embarrassment for the people of Monmouth County.

"Though it may be dismaying to read that yet another Monmouth official will be going to jail, we should be encouraged that corrupt practices, that for years went unnoticed, are now being dragged into the light of day," Karcher said.

"As a former undersheriff for Monmouth County, Broderick should have known that crime doesn't pay, but reports that he eagerly and frequently accepted bribes from a cooperating federal witness seem to suggest otherwise. Thankfully, he'll have a lot of time to catch up on the lessons he missed the first time around, considering he faces a maximum of 20 years in prison for his crimes," Karcher said.

In one of the documents released by Christie last week, Broderick is quoted as having said to the cooperating witness following their first transaction on May 4, 2004, "I wish I would have known you sooner."

Attorney Robert S. Bonney, who represented Broderick, could not be reached for comment.

Contractor Serving Socom Gets Probation, Fine (TAMPTRIB)

Tampa Tribune, January 26, 2006

TAMPA - A contractor formerly employed by U.S. Special Operations Command was sentenced Wednesday to three years probation and a $4,500 fine for his role in a bribery scheme that has tarnished the war fighting organization's reputation for acquiring equipment used by the nation's elite fighting forces.

U.S. District Judge Susan Bucklew, who called William E. Burke's crime ``scary`` and a ``bad thing,`` could have saddled him with a prison term of up to 16 months and a heftier fine.

But Bucklew opted for the lighter penalties mainly because Burke has been cooperating with federal law enforcement agents examining contracting practices at Socom, which is headquartered at MacDill Air Force Base in Tampa.

Burke pleaded guilty to bribery Oct. 14.

Burke and his attorney, Daniel Hernandez , refused to answer questions before or after the nearly one-hour session in Bucklew's chambers.

Robert O'Neill, the assistant U.S. attorney prosecuting the case, said it would not be appropriate for him to comment on the sentence.

During the hearing, however, O'Neill told the judge that sentencing Burke to jail could cause logistical challenges in the upcoming trial of Thomas F. Spellissy, the former Army colonel who formed a defense consulting company months before he retired from Socom in January 2005.

In late 2004 and early 2005, Spellissy paid $4,500 to Burke, who used his position at the command to favor Spellissy's clients seeking to do business with Socom, according to court documents. More ``illegal payments`` were expected to change hands ``down the road,`` prosecutors charged.

Burke worked for Sentel Corp. and had been assigned to Socom's acquisition directorate since 1999. In June 2005, several months after federal agents began their investigation, he was barred from entering Socom headquarters. Burke is no longer employed by Sentel.

Spellissy, of Clearwater, has been indicted on charges of bribery, conspiracy and wire fraud. He has pleaded not guilty and his trial is scheduled to begin in April.

Paper: Texas Favored Firm Tied To Abramoff (AP-Y2)

AP2, January 26, 2006

The state of Texas hired a firm with close ties to lobbyist Jack Abramoff after rejecting competing bids that met more of its selection criteria and cost less, a newspaper reported Wednesday.

What the winning firm, Cassidy & Associates, had was access all the way to presidential aide Karl Rove, the Austin American-Statesman reported, citing memos and e-mails it obtained through a Texas open records request.

The firm was awarded a $15,000-a-month contract in 2004 to lobby Congress for the state.

"Cassidy is the best fit for Texas," David Pagan, associate director of the Office of State-Federal Relations, said in a May 25, 2004, e-mail to staff members. He wrote that the firm was the leader in Washington in acquiring federal funding.

Cassidy & Associates is under fire from Texas House Democrats because of the close ties between Cassidy senior vice president Todd Boulanger and Abramoff, who has pleaded guilty to federal charges of conspiracy, tax evasion and mail fraud.

Seven Texas House Democrats sent a letter to Gov. Rick Perry, a Republican, on Friday demanding that Cassidy's contract be canceled.

Perry's spokeswoman, Kathy Walt, said that although Cassidy was not initially the top scorer in the bidding process, it rose to the top after interviews with the state's selection committee and after its references were checked.

Cassidy was one of 17 firms that competed for the contract to represent the state.

An initial state assessment ranked Cassidy fourth, the newspaper said. Two of the firms ranked ahead of it would have charged Texas $300 to $833 less per month than Cassidy's initial offer of $15,833 a month.

Once the contract was signed, Cassidy's fee was down to $15,000, plus expenses.

Cyberattacker Pleads Guilty (FCW)

By Bob Brewin

Federal Computer Week, January 26, 2006

A hacker indicted for creating botnet armies that infected Defense Information Systems Agency networks and computers at the Naval Air Warfare Center at China Lake, Calif., pleaded guilty to the charges at a hearing earlier this week in the U.S. District Court in Los Angeles, the Justice Department said.

Justice said James Ancheta 20, of Downey, Calif, entered guilty pleas of conspiring to violate the Computer Fraud Abuse Act and causing damage to computers used in national defense.

Justice said the prosecution of Ancheta was the first of its kind in the United States against a hacker who used botnets, armies of computers infected with Trojan horse programs that allowed Ancheta to remotely control the computers. Justice said Ancheta controlled more than 400,000 computers as part of his botnet armies, which in turn infected other computers with unwanted adware.

Ancheta agreed to pay $15,000 in restitution to DISA and the Naval Air Warfare Center for damage he caused to their networks and computers. He also forfeited $60,000 in cash and a BMW, which he gained in payment for using his botnets to distribute adware.

Former Execs For Mail-order Company Outline Fraudulent Practices (PHI)

The Philadelphia Inquirer, January 26, 2006

CINCINNATI - Former executives of a mail-order firm admitted that the company bilked buyers out of more than $100 million by charging credit cards without permission and offering refund guarantees it had no intention of honoring.

Four former executives of Berkeley Premium Nutraceuticals Inc. detailed their involvement Wednesday with the Cincinnati-based company that sold vitamins and supplements for a variety of ills from fatigue to sexual disfunction.

The four executives filed written statements as part of an agreement to plead guilty in U.S. District Court in Cincinnati to charges of conspiracy to commit mail and wire fraud.

Federal agencies - including the FBI, the Internal Revenue Service and the Food and Drug Administration - have been investigating Berkeley, which is behind the popular "Smiling Bob" ads. The spots chronicle a down-on-his-luck man who improves his life after using Enzyte for natural male enhancement.

The former executives said Berkeley's vitamins and supplements - marketed as stress reducers, sex enhancers and diet boosters - weren't supported by strong medical proof, according to court documents.

Company ads contained fake surveys and doctor endorsements, and the company touted double or triple money-back guarantees without following through, the former executives said.

Sales representatives were told to overstate the effectiveness of the pills, and the company's director of customer care didn't exist, they wrote.

The company also altered credit card numbers and expiration dates to bring in more money, they said.

Berkeley did not return an e-mail message seeking comment from The (Cleveland) Plain Dealer.

The suspects have agreed to cooperate in the investigation as part of the plea agreement. No sentencing date has been set.

The four include the former president, vice president, controller and a division head.

Berkeley was founded in 2001. It generated approximately $250 million in sales in 2004, mostly from telephone orders spurred by television ads.

Jury Convicts Accused Iraqi Agent On Six Of Seven Counts (AP)

By Rick Callahan, Associated Press Writer

AP, January 26, 2006

DOJ_NMG_0012158

(AP) - INDIANAPOLIS-Jurors on Wednesday convicted a Palestinian migrant accused of being an Iraqi agent on six federal charges but could not reach a decision on a charge that he tried to sell to Saddam Hussein's regime the names of U.S. operatives and agents.

Shaaban Hafiz Ahmad Ali Shaaban, 53, showed little reaction as the federal jury returned its verdicts finding him guilty of six of seven counts, including acting as an unregistered foreign agent, violating sanctions against Iraq, conspiracy and witness tampering.

They could not decide his guilt on a charge of violating the International Emergency Economic Powers Act by allegedly trying in late 2002 to sell U.S. intelligence secrets to Iraq for $3 million (â‚¬2.44 million). No evidence was presented during his trial, however, that he had access to that classified information.

U.S. District Judge John Tinder set sentencing for April 13 on the six convictions.

He said he would seek a hearing for sometime next week to discuss a retrial on charges of offering to sell U.S. secrets to Saddam Hussein's government.

Shaaban represented himself during an 11-day trial that included testimony by a former Iraqi intelligence officer. He repeatedly contended that the government had confused him with a dead identical twin brother who worked for the CIA.

Mike Donahoe, an attorney who advised Shaaban during the trial, said an appeal is likely.

"I'm disappointed in the verdict," he said. "I don't think he represents a threat to our national security."

Donahoe said Shaaban plans to continue to represent himself through his sentencing.

In tape recordings played in his trial, Shaaban told an FBI undercover agent he never had a list of agents but that he had hoped to receive the information from a Russian contact.

Shaaban was working as an Indiana truck driver when he was arrested last March after a yearlong FBI-led investigation.

Prosecutors said Shaaban was trained as a spy in the former Soviet Union and, after emigrating to the U.S., legally changed his name in 1997 to Joe Brown. He also went by the name Shaaban S. Hafed and several other names, according to his indictment.

Last March, FBI agents who raided his house in Greenfield, about 20 miles (32 kilometers) east of Indianapolis, allegedly found computer files praising Hussein and an unsigned contract proposing to recruit "human shields" to protect Iraq from the U.S. invasion.

Kidnap Suspects Face U.S. Charges (COX)

By Joe Giordano and Ken-Yon Hardy, Cox News Service

Cox News Service, January 26, 2006

OXFORD | The FBI on Wednesday brought criminal charges against three people accused in the abduction, assault and robbery of a Miami University freshman.

Sidney R. Jones, 23, of Richmond, Ind.; Katrina L. Jones, 18, of Oxford; and Seth R. Jett, 21, of Richmond were turned over to federal custody Monday by local authorities, Special Agent Michael E. Brooks said.

The three had been detained at the Butler County Jail following their arrests Jan. 14 and 15 stemming from a case involving MU freshman Ryan Coli.

The charges were the result of a joint effort by the U.S. Marshals Service and the FBI in three states.

The three appeared Wednesday in U.S. District Court where Magistrate Judge Timothy S. Hogan ordered them held pending a detention hearing Jan. 30, when the court will determine bond.

Brooks lauded the actions of two MU students who contacted police following Coli's disappearance.

"If (the students) had not immediately notified authorities with the significant information about the vehicle, (the authorities) probably would have not solved the case so quickly," Brooks said.

According to police, the two MU students were helping Coli back to his dormitory shortly before 3 a.m. Jan. 13 when some people pulled up in a van and offered Coli a ride.

The 19-year-old had trusted the three strangers to give him a ride to his Stanton Hall dorm.

Coli never made it to his dorm. He told police he was beaten and robbed of his cell phone and wallet and left stranded on Nine Mile Road in Union County, Ind.

The freshman found his way to a farmhouse where a resident called for help.

The kidnapping was one of four crimes against MU students reported since Jan. 9. The only arrests have come in the Coli case. Suspects in the other cases have not been identified, police said.

High Court To Hear Lethal-Injection Case (WP)

By Charles Lane

The Washington Post, January 26, 2006

The Supreme Court agreed yesterday to decide when death row inmates may challenge lethal injection as a method of capital punishment, in a surprise decision issued after the justices dramatically stopped the execution of a Florida prisoner who was already strapped to a gurney preparing to die.

Clarence E. Hill, 48, convicted of murdering a Pensacola police officer in 1982, had refused a final meal and needles had punctured his arm when the Supreme Court stayed his execution. The court said it would hear his claim that he should have an opportunity to argue that his civil rights would be violated because the chemicals used to execute him would cause excessive pain.

It is a claim that has been pressed with growing frequency by capital defense lawyers around the country in recent years -- but that has generally not yet succeeded, either in lower courts or at the Supreme Court.

Thirty-seven of the 38 death penalty states use lethal injection, as do the U.S. military and the federal government. Since the chemical mixtures in all jurisdictions are similar to those used in Florida, a victory for Hill at the Supreme Court could tie up the death penalty across the county in litigation, at least temporarily, legal analysts said.

"It certainly could be a mess," said Douglas A. Berman, a professor at Ohio State University who specializes in criminal law. According to the Death Penalty Information Center, an anti-death-penalty organization, at least 25 inmates are scheduled for execution between now and the end of June, when the court would probably issue a decision.

The Hill case does not ask the court to rule directly on the constitutionality of lethal injection -- which states adopted as an alternative to hanging, gas, electrocution and shooting -- even though Hill maintains that the particular mix of chemicals used in Florida would cause him an unconstitutional degree of suffering.

Rather, the case raises a procedural problem: what recourse there should be for a prisoner who finds out at or near the last minute that the method by which the state proposes to execute him might be "cruel and unusual" punishment.

Normally, death row inmates try to fight their sentences through claims that their constitutional rights were violated at trial. Congress and the Supreme Court have limited those appeals, known as petitions for habeas corpus, and once they run out, further efforts are generally not allowed.

But for years capital defense lawyers have argued that a separate federal civil rights statute creates a way to press constitutional claims between the time an inmate exhausts habeas corpus and the actual moment of execution.

Hill tried to persuade the U.S. Court of Appeals for the 11th Circuit, based in Atlanta, to give him a day in court to argue against Florida's lethal-injection protocol, based in part on an article about lethal injection in the Lancet, a medical journal.

The article, published in 2005, said that 21 of 49 inmates executed by lethal injection in Arizona, Georgia, North Carolina and South Carolina may have been conscious and feeling pain.

The 11th Circuit dismissed Hill's appeal, and he remained scheduled to die at 6 p.m. Tuesday. But the Supreme Court intervened, setting oral argument in the case for April 26.

The court's decision was a surprise to legal analysts because the court issued a stern rebuke of a similar last-minute challenge by a California death row inmate in 1992, and avoided the issue of permitting last-minute civil rights appeal in 2004. At that time it noted that "imposition of the death penalty presupposes a means of carrying it out."

But the court's most liberal members, Justices John Paul Stevens, David H. Souter, Ruth Bader Ginsburg and Stephen G. Breyer, have indicated an interest in the question of challenges to lethal injection.

In May 2005, they dissented from a 5 to 4 ruling that denied a stay of execution for a Missouri death row inmate on a similar issue.

Whether there would be five votes on the court to support Hill's claim is another question. The case is likely to be heard by a court that includes two new conservative justices appointed by President Bush: Chief Justice John G. Roberts Jr. and Judge Samuel A. Alito Jr., whose Senate confirmation is expected this week.

The case is Hill v. Crosby , No. 05-8794.

Strapped To Gurney, Inmate Wins Stay; High Court To Hear Appeal (AP)

By Gina Holland, The Associated Press

AP, January 26, 2006

Hours after staying the execution of an inmate who was already strapped to a gurney, the Supreme Court said Wednesday it would hear arguments from the man who claims the drug cocktail used in lethal injections can cause excruciating pain.

Lethal injections are used in most states that have capital punishment, and there's been a growing dispute over the way they are carried out.

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The Supreme Court has never found a specific form of execution to be cruel and unusual punishment, and the latest case from Florida does not give Court members that opportunity. The justices will, however, spell out what options are available to inmates with last-minute challenges to the way they will be put to death.

Florida inmate Clarence Hill, who filed the appeal, had been strapped to a gurney with intravenous lines running into his arms Tuesday night when he won a temporary Supreme Court stay, Hill's lawyer said. The stay was signed by Justice Anthony M. Kennedy.

The full Court announced Wednesday that the stay would be permanent until justices decide whether an appeals court was wrong to prevent Hill from challenging the lethal injection method.

The argument is expected April 26, with a ruling before July.

"What a fantastic day. What a fantastic day," said Hill's attorney D. Todd Doss, who relayed the news to his client. "He was happy we get to go and present this to the U.S. Supreme Court."

Hill is on death row for killing a Pensacola, Fla., police officer after a bank robbery in 1982. Hill has converted to Islam and taken the name Razzaq Muhammad, although he does not use that name in court filings.

A Florida Department of Corrections spokeswoman said Hill would be moved off death watch, a cell block adjacent to the execution chamber, and back to death row.

Hill argues that the doses of three chemicals used in Florida executions -- sodium pentothal, pancuronium bromide and potassium chloride -- can cause pain. The first drug is a pain killer. The second one paralyzes the inmate and the third causes a fatal heart attack.

The final drug, potassium chloride, "burns intensely as it courses through the veins toward the heart," Doss wrote in the appeal. He said there is "a foreseeable risk of the gratuitous and unnecessary infliction of pain."

Hill's case allows the Court to revisit a 2004 ruling in an Alabama death case, in which justices said David Larry Nelson could pursue a last-ditch claim that his death by lethal injection would be unconstitutionally cruel because of his damaged veins.

While Hill does not have damaged veins, his appeal cites medical studies about the cocktail of drugs used by Florida and other states.

"The Court may be willing to broaden what can be considered as a civil rights claim," said Richard Dieter, executive director of the anti-capital punishment Death Penalty Information Center.

Dieter predicted that inmates facing executions in coming months will requests delays, based on the Hill case.

Justice Sandra Day O'Connor, who is retiring, wrote the 2004 decision, which said that although Nelson had exhausted his traditional appeals, he should not have been barred from pursuing the issue that came up in the final days before the scheduled execution.

O'Connor said in the unanimous 2004 ruling that the Court was not going to "open the floodgates to all manner of method-of-execution challenges."

If appeals court Judge Samuel Alito is confirmed, as expected, to replace O'Connor, he will hear arguments and help decide the case.

The case is Hill v. Florida, 05-8794.

First Texas Inmate Put To Death This Year (AP)

The Associated Press, January 25, 2006

HUNTSVILLE - An Alabama man who was part of a ring that shuttled drugs from Texas to his home state was executed today for the slayings of four people in Houston nearly 14 years ago.

When asked by a warden if he had any final statement, Marion Dudley did not respond, kept his eyes closed and never turned his head toward witnesses in the chamber, which included one of his survivors and relatives of one of the people killed.

Eight minutes later at 6:16 p.m. CST, he was pronounced dead.

Dudley, 33, of Tuscaloosa, Ala., had said he wasn't at the house the night of June 20, 1992, where six people were shot, four of them fatally, in what authorities said was a drug dealer ripoff.

Dudley, who had record in his home state for burglary, assault, receiving stolen property and violating probation, was the first Texas inmate put to death this year.

Nineteen convicted killers were executed in 2005 as Texas maintained its notoriety as the nation's most active capital punishment state. Another inmate is set for lethal injection next week and three more next month. They are among more than a dozen Texas prisoners with execution dates in the first five months of this year.

Dudley's lawyer had hoped the U.S. Supreme Court would stop his punishment, arguing prosecutors improperly withheld from defense attorneys at his capital murder trial a letter to Alabama parole officials regarding an inmate from that state who testified against Dudley.

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Attorney Ken McLean, however, said he wasn't optimistic.

"Absolutely, it's a reach," he said. "But if it's the only thing you've got ..."

A few hours before his scheduled execution time, the high court rejected the appeal.

The two survivors identified the then 20-year-old Dudley as one of the three gunmen who barged into the home of Jose Tovar, 32, and his wife, Rachel, then 33.

In a recent interview on death row, Dudley said they were wrong.

"I was not," he said.

Jose Tovar was fatally shot in the head, as were his wife's son, Frank Farias, 17; Farias' girlfriend, Jessica Quinones, 19, who was seven months pregnant; and a neighbor Audrey Brown, 21, who had just stopped by to visit. Rachel Tovar and another friend, Nicholas Cortez, 22 at the time, survived.

All the victims were bound with towels or strips of sheets, hands tied behind their backs and nooses around their necks. Rachel Tovar managed to crawl to a neighbor's house for help.

Besides Dudley, Arthur "Squirt" Brown, of Tuscaloosa, was convicted of capital murder and sentenced to death. Now 35, he remains on death row. A third man, Tony Dunson, also from Alabama and 19 at the time of the shootings, received a life sentence.

Police said the three previously had been at the Tovar house to buy drugs and knew drugs and money were there. Brown ran the ring that for nine months had been moving marijuana and cocaine from Houston to Tuscaloosa, authorities said.

A mini-van used as the getaway vehicle was recovered in the Alabama city, where evidence showed they bought a new Jeep SUV with cash, eventually traveling to Louisville, Ky., and Columbus, Ohio. About 2 1/2 weeks after the shootings, Dudley and Dunson were arrested in Fayetteville, N.C.

"My number one problem was women," Dudley said from death row. "I was running around. Everything went downhill from there... I just wanted to get money, easy money. And once you start getting easy money, it's so hard to slow down."

ID Theft Complaints Still Rising, But Rate Of Increase Slows (WSJ)

By Christopher Conkey

The Wall Street Journal, January 26, 2006

Businesses, law-enforcement agencies and consumers may be beginning to turn the tide in the war against identity theft, data from the Federal Trade Commission suggest.

Identity-theft complaints were up again last year to nearly 256,000, the FTC said, but that was only 3.5% higher than the year before. In 2004, complaints rose by 15% and in 2003 by 33%.

Complaints about credit-card fraud -- the largest subset of identity theft -- declined 1.3% last year to 67,228, from 68,113 in 2004, and were also lower than the 2003 level. Total consumer-fraud complaints -- including identity theft -- totaled 686,683 last year, up slightly from 2004.

Industry officials and analysts say the development and widespread adoption of antifraud technologies are responsible for lower levels of card fraud. Visa USA Inc. said investments in its risk-management systems have reduced fraud levels to six cents for every $100 processed, down from 12 cents a decade ago.

Separately, the FTC is expected to announce today tough action against a company at the center of the personal-data industry. ChoicePoint Inc. is expected to agree to pay a multimillion-dollar penalty to settle alleged data-security violations stemming from a yearlong investigation by federal regulators, according to a person briefed on the matter. ChoicePoint spokesman Chuck Jones declined to comment.

ChoicePoint, which sells consumer data to financial institutions and government agencies, last February disclosed that criminals posing as legitimate businessmen had fraudulently obtained personal information on 145,000 people. That figure was later revised to 162,000 people.

In order to prevent fraud, many companies have turned to real-time fraud-scoring systems, which -- much like credit-scoring models -- assign three-digit scores to credit applications based on a variety of data confirmations and behavioral examinations. Steven Gal, vice president for corporate development at ID Analytics, a San Diego company that provides fraud-detection services, says his company screened over 250 million applications last year for potential fraud, a fourfold increase from 2004.

The FTC figures offer a rare bit of hopeful news for consumers concerned that the recent string of security breaches at credit-card processors and banks will place them at risk, and for a financial industry continually under attack by computer fraud and other scams.

To be sure, identity theft remains a huge threat that costs businesses $50 billion a year and plunges victims into a draining, time-consuming battle to eradicate fraudulent activity. The FTC will release a survey this spring, but its most recent figures show

that 10 million people, or roughly 4.6% of the adult population, are affected by identity theft each year, and that victims spend an average of $500 and 30 hours to clear their records.

The FTC report, based on data the agency receives from consumers, comes after a year of high-profile security lapses that exposed personal information belonging to more than 50 million consumers and familiarized many people with the crime of identity theft. Just yesterday, financial-services provider Ameriprise Financial Inc. announced that the theft of one of its employees' laptops had compromised the data of some 226,000 clients and current and former workers.

Such breaches have led to an outcry from consumer advocates, and lawmakers across the country moved to enact stiffer penalties and stronger protections. Legislation in Congress has stalled, but many states have enacted laws that force companies to disclose breaches or allow consumers to shield their credit reports from unauthorized access.

FTC Chairman Deborah Platt Majoras stressed how important it is for consumers to file complaints when they are victimized, saying they "provide ammunition that helps law enforcers fight fraud and identity theft."

When the agency receives identity-theft complaints, they are analyzed, clustered with similar ones and made available to law-enforcement officials to assist with investigations and criminal trials. Betsy Broder, the attorney in charge of the FTC's identity-theft program, says the agency's database now contains more than one million complaints, which are used by law enforcement in investigations and criminal trials.

The FTC's complaint data showed that identity theft accounted for 37% of total fraud complaints. For the fourth year in a row, Washington, D.C., was the leader in total per-capita fraud complaints, and several Western cities led in the category of identity-theft complaints, including Phoenix, Las Vegas and Los Angeles.

Meanwhile, identity-theft complaints surged in hurricane-ravaged Louisiana, rising 26% last year, while Mississippi saw an 8% increase. Complaints related to "government documents or benefits" in Louisiana more than doubled, however, to 551 from 247, possibly an indicator of post-Katrina fraud.

Overall, the drop in credit-card fraud complaints was offset by an increase in complaints about the misuse of government records, and fraud involving things such as medical records, legal documents and fitness-club memberships. Bank-, phone- and utilities-related complaints stayed roughly the same, although complaints about electronic fund transfers rose.

Sophisticated identity thieves are always probing for vulnerabilities. One troubling trend emerged late last year, when the Securities and Exchange Commission warned that identity thieves were using keystroke-detecting programs to drain online brokerage accounts. Similarly, federal banking regulators have prodded financial institutions to move beyond "single-factor" authentication, which only requires a user name and password to gain access to accounts, by the end of this year.

For many consumer advocates, the focus is squarely on financial institutions to do more to catch identity thieves in the act. Beth Givens, director of the Privacy Rights Clearinghouse, says "there are some technology-based tools they can use, and there's some evidence showing that these tools are having marked effect. But sadly for victims, identity theft remains rampant."

Inmate Convicted Of Murdering Defrocked Priest (NYT)

By Katie Zezima

The New York Times, January 26, 2006

BOSTON, Jan. 25 — Rejecting an insanity defense, a state jury on Wednesday convicted an inmate of the prison murder of John J. Geoghan, a defrocked priest who was accused of molesting 150 boys. Mr. Geoghan played a central role in the sexual abuse scandal in the Roman Catholic Archdiocese here.

Judge Francis R. Fecteau of Worcester District Court sentenced the inmate, Joseph L. Druce, to life in prison without parole, in addition to the life sentence he is serving for another murder.

After the verdict, Mr. Druce told the jury that he had "no hard feelings." Mr. Druce, 40, who had testified that he had been abused as a child, asked after the sentencing that pedophiles be held accountable for their behavior.

During the trial there was no disagreement about what happened at 11:53 a.m. on Aug. 23, 2003, in a protective custody wing at Souza-Baranowski Correctional Center in Shirley, Mass.

Mr. Druce admitted to sneaking into Mr. Geoghan's cell while prisoners were returning their lunch trays, and strangling him.

Mr. Geoghan, 68, was serving a 9-to-10-year sentence for groping a boy at a suburban Boston swimming pool. His case began the sexual abuse scandal four years ago when internal church documents showed that officials had shuttled Mr. Geoghan from parish to parish, despite repeated accusations of abuse.

Prosecutors argued that Mr. Druce was a calculated killer who planned the murder for weeks and saw Mr. Geoghan as a trophy.

But Mr. Druce's lawyer, John LaChance, painted his client as someone who "never had a chance," unwanted from birth and the victim of physical and sexual abuse for much of his childhood and teenage years. He said Mr. Druce had concocted a "fantasy world" while in prison where he pretended to be a millionaire who owned yachts and expensive homes.

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Mr. LaChance said that Mr. Druce believed that God ordered him to kill Mr. Geoghan and that he would be viewed as a savior of children.

Lawyers, and Mr. Druce, said he became delusional after overhearing Mr. Geoghan say over the phone that he planned to work with children in Costa Rica when his sentence was over. Mr. LaChance said the delusions got worse after Mr. Druce heard Mr. Geoghan and other pedophiles discuss child molesting.

The jury foreman, Thomas Wiegand, told The Associated Press that jurors felt sympathy for Mr. Druce and felt he was mentally ill, but that he willfully committed murder.

"Everyone agreed he has a mental illness," Mr. Wiegand said. "It's the degree that's always the question."

A Push To Focus On Worst Cases In Child Abuse (CSM)

By Maia Ridberg, Contributor To The Christian Science Monitor

The Christian Science Monitor, January 26, 2006

NEW YORK - Calls to New York's child-abuse hot line have spiked dramatically ever since Nixzmary Brown was buried.

The 7-year-old girl, allegedly killed by her stepfather in her Brooklyn home this month, captured the hearts and minds of New Yorkers who never want to see such a tragedy happen again.

But now the city is left with the tall task of distinguishing the serious cases of abuse from reports of neglect. This is one of the most controversial challenges facing social welfare systems nationwide.

A growing number of states are passing laws that alter the way authorities investigate a child-abuse report, creating what is essentially a child-welfare triage system. Rather than treat all reports equally, the approach divides them into two groups.

This dual-track approach aims to ease systems overburdened with poverty-related neglect reports and focus aggressive tactics on the rarer cases of abuse.

"What it is attempting to do is to respond in a more helpful way ... by supporting parents in their responses rather than automatically approaching it from a criminal-investigation standpoint," says Lynn Usher, professor of social work at the University of North Carolina in Chapel Hill.

The approach has been adopted in various states, including Michigan, Missouri, Minnesota, and North Carolina. In Minnesota, one recent study shows the law improved the safety of children by providing better services for families such as food. "If we are able to address the needs of families who are reported ... in a positive and helpful way, we are able to reduce child maltreatment and improve family well-being," says Erin Sullivan Sutton of Minnesota's Child Safety and Permanency Office.

In North Carolina, 10 counties have implemented the program, and by 2006, all counties in the state will have the option of implementing the dual-track approach. David Atkinson, a local operations manager of the state's Division of Social Services, says 60 to 70 percent of its caseload involves neglect of children living in poor conditions. "We realized that as a system we could handle those cases ... in a family-centered way."

So far, employees of North Carolina's child-welfare services are applauding the program. "Social workers are now feeling like they can make a difference," says Adele Spitz Roth of the Durham Family Initiative.

Controversy over how child welfare services should investigate a family stems from the 1960s, according to Karen Schimke, the former head of Buffalo's child services, who has over 35 years' experience in child welfare. The debate then, she says, was whether child-abuse cases should be handled by police or child-welfare services. Child services gained the upper hand, but as the system became codified, it was increasingly akin to "law enforcement in a welfare agency," says Ms. Schimke.

Sharwline Nicholson knows firsthand the potentially negative impact of an aggressive child welfare system. In 1999, Ms. Nicholson lost her two children to foster care without a court order. "My children were snatched away from me because I was a victim of domestic violence. They were taken from my home without any investigation," Nicholson says. Nicholson won her son and daughter back, along with a civil judgment against New York City for the wrongful removal of her children.

"The problem is that [a law-enforcement approach] has significant chilling effects on families' willingness to engage.... It is organized around placing blame and identifying the perpetrator," says Schimke, who is now lobbying for a dual-track approach in New York.

That lobbying effort failed most recently in 2005, when a dual-track law was passed by the state Legislature but was vetoed by the governor. In his veto message to the Senate, Gov. George Pataki cited New York City's opposition to the bill.

The city's main fear with dual track is that an abused child would be mishandled as a neglect case. In testimony opposing the dual-track bill last year, the city's Administration for Children's Services delivered the following statement: "Our current system addresses the core issues that the dual-track bill seeks to address without running a risk" of wrongly addressing a case of abuse.

That risk exists with or without dual track, as apparent with the Brown case. Last week, the Kings County District Attorney in Brooklyn indicted Nixzmary 's mother and stepfather with second-degree murder. According to the district attorney, the child's body showed signs of long-term abuse - some of it investigated by the city.

In the aftermath of the girl's death, authorities disciplined six employees involved in the investigation into her abuse. On Tuesday, the Mayor announced a $16 million plan to hire new child-welfare staff and increase cooperation between police, schools, and child services.

Some advocates of the dual-track approach say serious cases like Nixzmary's would receive more attention. But others caution against universal support for dual track, particularly in a city known for vast improvements in child protective services over the past decade.

"You can do this right whether you have dual track or not," says Andrew White, director of the Center for New York City Affairs at the New School. "What they are trying to do in New York City ... [is] infuse the system with better training and better respect for the parents," he says.

Fairfax Police Say Shooting Was Accident (WP)

By Tom Jackman

The Washington Post, January 26, 2006

Fairfax County's police chief said yesterday that one of his officers accidentally shot and killed an optometrist outside the unarmed man's townhouse Tuesday night as an undercover detective was about to arrest him on suspicion of gambling on sports.

Police had been secretly making bets with Salvatore J. Culosi Jr., 37, since October as part of a gambling investigation, according to court records. They planned to search his home in the Fair Oaks area, just off Lee Highway, shortly after 9:30 p.m.

Culosi came out of his townhouse on Cavalier Landing Court about 9:35 p.m. and was standing next to the detective's sport-utility vehicle, police said, when the detective gave a signal to tactical officers assembled nearby to move in and arrest Culosi.

"As they approached him . . . one officer's weapon, a handgun, was unintentionally discharged," said Fairfax Police Chief David M. Rohrer.

Culosi was not making any threatening moves when he was shot once in the upper part of his body, police said. He was taken to Inova Fairfax Hospital, where he was pronounced dead.

The last fatal police shooting in Fairfax was in September 2000, when an officer killed a man threatening him with a woodcutting tool.

"On behalf of the Fairfax County Police Department and myself, I wish to express our condolences and our sincere sympathy to Mr. Culosi's family and friends," Rohrer said. He declined to answer questions after making the statement.

Police departments generally do not accept responsibility for an officer-involved shooting before an investigation is completed.

Culosi's family in Annandale was grief-stricken and declined to be interviewed. Culosi's older sister, Constance Culosi Gulley, issued a statement saying that her brother was "a respected local businessman and doctor with his whole life ahead of him and didn't deserve to have his life end this way."

Culosi grew up just off Annandale Road, graduated from Bishop O'Connell High School and the University of Virginia, then attended the Southern College of Optometry in Memphis and became a doctor of optometry. He opened practices in Manassas and Warrenton that are attached to Wal-Mart stores.

The officer, a 17-year veteran assigned to the police tactical unit, was not identified. He was placed on leave with pay while police conduct both an internal administrative investigation and a criminal investigation. Rohrer also expressed support for the officer, calling him a valued veteran of the department.

Lt. Richard Perez, a police spokesman, said he could not say how or why the gun discharged.

"When you draw the weapon, you always try to assess what the potential threat is going to be," Perez said. He said the officers in the tactical squad are "highly trained officers. Do unintentional shootings occur? Absolutely. We're humans, and these kind of things do occur."

Perez said he did not know what type of handgun Culosi was shot with.

After several years without any shootings, officers shot and wounded several people last year, including one of their own officers in an accidental shooting. A robbery suspect was shot this month on Route 1. In the nearly 39 years that Robert F. Horan Jr. has been the chief prosecutor in Fairfax, no officer has been charged with improperly shooting someone.

Rohrer said in his statement that the tactical squad routinely performs arrests and provides support for detectives executing search warrants. The chief said in his statement that "we will fully review, as always, our policies, practices and this operation in detail."

Culosi's family said that "police action that results in the death of an unarmed, nonthreatening person calls for a full and open investigation. We hope proper steps are taken by county police to ensure other families won't have to endure similar pain."

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Culosi was a lifelong Pittsburgh Steelers fan, longtime friend Steve Lunceford said. Culosi excelled at soccer, playing on travel teams as a youth and for the O'Connell varsity. He was not married and had no children.

"He was gregarious, outgoing, loved to sing off-key at weddings," Lunceford said. "For this to happen, it's surreal. The police need to account for and be held accountable for their actions."

Deon Chapman said he became a casual friend of Culosi's after meeting him at a pool tournament at a Fairfax bar about 10 years ago. "He was a laid-back guy, funny guy. . . . I've never known him to even carry a pocketknife. This is a college boy, clean-cut." He also said he had no idea that Culosi might have been a bookie.

In an affidavit for the search warrant, Detective David J. Baucom, who often investigates sports gambling in Fairfax, said he met Culosi at a bar in October and started making NFL bets with him by cell phone. Baucom said he placed more than $28,000 in bets on games through last Sunday and met Culosi about every two weeks to pay his debts or collect his winnings, either at a restaurant or Culosi's home. Through Jan. 16, Baucom had lost more than $5,500 to Culosi, his affidavit stated.

Lt. Steve Thompson, Baucom's supervisor in the police organized crime division, said in a recent interview that there is no shortage of sports bookies in Fairfax and that police investigate only those who meet certain criteria. He said that Fairfax typically goes after only those bookies with many customers who take in $100,000 in bets per week and that larger bookies will take in $300,000 to $400,000 on a busy football weekend.

Last month, another investigation headed by Baucom resulted in the arrest of a man suspected of being a bookie who lives in Washington but operated in Fairfax. When police searched his safe deposit boxes, they seized nearly $350,000 in cash, court records show. Charges against that man are pending.

After shooting Culosi, police searched his townhouse. The results of that search were not available yesterday.

Perez said Culosi had not displayed a weapon or shown any violent tendencies while he was being investigated by Baucom. But Perez said police had to be prepared for any possibility, because "the unexpected can occur."

Crimes Prompt More Police Patrols In Adams Morgan (WP)

By Paul Schwartzman

The Washington Post, January 26, 2006

A spate of crimes outside Adams Morgan clubs and bars, including two assaults in which victims were left in critical condition, has prompted police to plan greater deployment in the area of 18th Street NW, they said yesterday.

Larry McCoy, commander of the 3rd Police District, said the number of officers will grow to as many as 23, up from five to 10 on a typical Thursday, Friday or Saturday night.

McCoy said that the officers will be moved from other shifts in the 3rd District and that they will be on foot, in cars and on scooters. The officers will patrol the main strip and side streets, he said.

"We're going to get this under control and make sure people can come into Adams Morgan and not have any fear," McCoy said at a news conference organized by D.C. Council member Jim Graham (D-Ward 1).

A business group plans to supplement the effort with a contingent of security guards and off-duty police to patrol the area on weekends, said Josh Gibson, executive director of Adams Morgan's newly formed business improvement district.

Thousands of people pour into Adams Morgan on weekend nights, drawn by its cafes and clubs.

Pat Patrick, vice president of the Adams Morgan Business and Professional Association, said fights have been started by youths who hang out on 18th Street NW until clubs close at 3 a.m.

"They have nothing better to do than insult or assault women as they come out; I've seen it with my own eyes," he said. "And then you have a full-fledged fight. These are not people who work in the area. These are purely people who look to pick a fight."

Overall, reported crime in the area that includes 18th Street increased by 5 percent from 2004 to 2005, including a 38 percent increase in burglaries, according to police statistics provided by the Kalorama Citizens Association.

While robberies declined by 13 percent last year, there was an increase from August to December, when there were 61, compared with 42 during the same period in 2004, according to the statistics.

In recent weeks, five assaults were reported, up from two for the same period last year, McCoy said. In one incident in December, a man was beaten outside a parking garage on 18th Street and was in a coma for more than a week. Police recently made an arrest after a suspect surrendered.

Last weekend, a man, 35, fell into a coma after he was punched and his head hit the pavement, apparently while defending a woman who had exchanged words with a group of men.

At the news conference, Graham said the neighborhood is generally safe but needs more policing.

"It's not a situation where we have gangs," he said. "It's a situation where people are losing their tempers."

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Man Taught Son To Work Gun, Prosecutor Says (WP)

By Ernesto Londoño

The Washington Post, January 26, 2006

The father of an 8-year-old boy arrested in the shooting of a 7-year-old girl at their Germantown day-care center provided his son with violent video games and showed him how to cock and release a gun hammer the day before the boy pulled the trigger, a prosecutor said yesterday.

John L. Hall has "significant influence" over the juvenile suspect, Montgomery County Assistant State's Attorney Karyn McAuliffe said during a bond hearing for Hall, who has been charged with numerous weapons offenses and was arrested the same day as his son.

"He shares a bedroom with the 8-year-old child where he keeps the gun," McAuliffe said, referring to the .38-caliber Taurus revolver suspected of being used to shoot the girl in the upper right arm. "The child had previously been discovered playing with bullets."

Hall's sister, Darlene Hall, 53, disputed the prosecutor's characterization of her brother's influence over the child. "My brother is not a monster," she said.

The shooting victim, a second-grader at S. Christa McAuliffe Elementary, was scheduled to be released last night from Children's Hospital in the District, her father said in a statement issued by the hospital. Neither he nor the girl was identified.

Law enforcement sources said the boy took the gun to the For Kids We Care Inc. center Tuesday after telling classmates last Friday after a fight that he had easy access to guns. The sources said the boy, who was not identified because he was charged as a juvenile, threatened to rob the girl before firing the single shot. Police have not disclosed the charges against the boy.

Montgomery District Court Judge Mary Beth McCormick reduced Hall's bond to $75,000 yesterday after authorities charged him Tuesday with leaving a firearm within reach of an unsupervised minor and two other gun charges.

He is to appear before a judge again today because police have filed two additional weapons charges against him -- the unlawful transfer of a firearm and possession of a firearm by a felon convicted of a violent crime, which carries a mandatory minimum five-year sentence for a conviction.

Yesterday, police arrested a second man, Clyde Colmes Jr., 53, of Germantown, who they said was the registered owner of the weapon fired at the day-care center. Police said Colmes gave Hall the gun knowing that Hall couldn't possess one.

Assistant public defender Samantha Sandler said Hall has worked at the National Institutes of Health for more than a decade and has not been in trouble since 1989. Before then, he had been convicted of numerous crimes, including assault with the intent to maim.

Darlene Hall acknowledged her brother's criminal history, which stretched from 1968 to 1989, but said, "As an adult, he's been a productive citizen."

She said her nephew has had long-standing behavior problems.

"The child is on Ritalin," a drug often prescribed to children who are hyperactive or have attention deficit disorder, she said. "The mother can't control him."

The aunt said she doesn't think the boy took the gun to the day-care center, in the 12600 block of Grey Eagle Court, where he was dropped off by his stepsister early Tuesday. Darlene Hall also said her brother lives with her in Gaithersburg, disputing prosecutors' assertion that he shares a room with the boy at his mother's apartment.

John Hall listed the Grey Eagle address in his June 28 application for a restraining order against a woman he says assaulted him. The order was dismissed because Hall did not appear for a hearing.

The boy, a third-grader at Cedar Grove Elementary School, appeared before a judge yesterday shortly after his father's bond hearing. Montgomery County Circuit Court Judge Michael J. Algeo closed the child's hearing to the public. Maryland judges may in some instances close hearings of juveniles in criminal proceedings.

The boy's mother, Debbie Shipp, attended his hearing. She declined to comment.

The girl's father released a statement late Tuesday through the hospital urging more parental responsibility.

"This is a harsh reminder that we can never be too careful when it comes to the safety of our children," he said in the statement. "Parents need to realize how dangerous it is to keep guns in a place where their children can get to them. I don't want any parent to have to get a call like I got this morning."

He said his daughter will return to the day-care center once she recovers.

Mike Bass, the father of a 2-year-old girl who attends For Kids We Care, dropped off his daughter at sunrise yesterday. He said that although the shooting was chilling, he plans to continue using the center.

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"I wouldn't want to take my daughter to a day care where they searched the kids," said Bass, 30, of Germantown. "The responsibility lies within the parents. I don't think the day care could have done anything to prevent it."

The Innocent And The Shammed (NYT)

By Joshua Marquis

The New York Times, January 26, 2006

Astoria, Ore.

AS the words scroll across a darkened TV screen, we hear an authoritative voice announce that every year an alarming number of people in this country "are wrongfully convicted." Millions of Americans who watched these promotions in recent weeks knew they were pitches for the new ABC television drama "In Justice." But if they'd been listening from the next room, they might easily have thought from the somber tone that it was a tease for the nightly news or "20/20."

"In Justice" has received dismal reviews. But that hasn't stopped its premise from permeating the conventional wisdom: that our prisons are chock-full of doe-eyed innocents who have been framed by venal prosecutors and corrupt police officers with the help of grossly incompetent public defenders. It is a misconception that has run through our popular culture from "Perry Mason" to the novels of Scott Turow to the recent hit play "The Exonerated."

It was also seen on the front pages in recent weeks, in reporting about Roger Coleman, who was executed in Virginia in 1992 for rape and murder. DNA testing at the time had placed him within one-fifth of a percent of possible suspects, leading to widespread claims that he was innocent. The governor, L. Douglas Wilder, said he would consider commuting Mr. Coleman's sentence if he passed a lie detector test. He failed and was executed.

For more than a decade opponents of the death penalty have held up the Coleman case as the example that would prove that America executed an innocent man. Yet on Jan. 12 the Canadian laboratory that had been sent the last remaining DNA sample in the case announced the results of more advanced testing: it put the odds of Mr. Coleman not being the killer at less than 1 in 19 million. Still, while Mr. Coleman's face graced the cover of Time magazine at the height of the controversy, it is unlikely you will see him on the cover again marking his rightful conviction.

Americans love the underdog. Thousands of law students aspire to be Atticus Finch, the famous fictional lawyer from "To Kill A Mockingbird." But this can go too far: one of the jurors who acquitted the actor Robert Blake of murder last year cited the TV program "CSI" as the basis of her knowledge of what good police work should be. And if we take a deep breath and examine the state of American justice, a very different picture will emerge.

To start, only 14 Americans who were once on death row have been exonerated by DNA evidence alone. The hordes of Americans wrongfully convicted exist primarily on Planet Hollywood. In the Winter 2005 Journal of Criminal Law and Criminology, a group led by Samuel Gross, a law professor at the University of Michigan, published an exhaustive study of exonerations around the country from 1989 to 2003 in cases ranging from robbery to capital murder. They were able to document only 340 inmates who were eventually freed. (They counted cases where defendants were retried after an initial conviction and subsequently found not guilty as "exonerations.") Yet, despite the relatively small number his research came up with, Mr. Gross says he is certain that far more innocents languish undiscovered in prison.

So, let's give the professor the benefit of the doubt: let's assume that he understated the number of innocents by roughly a factor of 10, that instead of 340 there were 4,000 people in prison who weren't involved in the crime in any way. During that same 15 years, there were more than 15 million felony convictions across the country. That would make the error rate .027 percent — or, to put it another way, a success rate of 99.973 percent.

Most industries would like to claim such a record of efficiency. And while, of course, people's lives are far more important than widgets, we have an entire appeals court system intended to intervene in those few cases where the innocent are in jeopardy.

It is understandable that journalists focus on the rare case in which an innocent man or woman is sent to prison — because, as all reporters know, how many planes landed safely today has never been news. The larger issue is whether those who influence the culture, like an enormous television network, have a moral responsibility to keep the facts straight regardless of their thirst for drama. "In Justice" may soon find itself on the canceled list, but several million people will still have watched it, and they are likely to have the impression that wrongfully convicted death row inmates are the virtual rule.

The words "innocent" and "exonerated" carry tremendous emotional and political weight. But these terms have been tortured beyond recognition — not just by defense lawyers, but by the disseminators of entertainment under the guise of social conscience.

"The Exonerated" played for several years Off Broadway with a Who's Who of stage and screen stars portraying six supposedly innocent people who were once on death row. The play, originally subsidized by George Soros, the liberal billionaire philanthropist, now tours college campuses and was made into a television movie by Court TV.

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The script never mentions that two of the play's six characters (Sonia Jacobs and Kerry Cook) were not exonerated, but were let out of prison after a combined 36 years behind bars when they agreed to plea bargains. A third (Robert Hayes) was unavailable to do publicity tours because he is in prison, having pleaded guilty to another homicide almost identical to the one of which he was acquitted.

American justice is a work in progress, and those of us charged with administering it are well aware that it needs constant improvement. But nothing is gained by deluding the public into believing that the police and prosecutors are trying to send innocent people to prison. Any experienced defense lawyer will concede that he would starve if he accepted only "innocent" clients. Americans should be far more worried about the wrongfully freed than the wrongfully convicted.

Once More With Amy, Joey And Mary Jo (NYT)

By Lawrence Downes

The New York Times, January 26, 2006

Before Angie and Brad, before Monica and Bill, there was Amy and Joey. Amy Fisher and Joey Buttafuoco — the Long Island Lolita and her body-shop lover — with Joey's wife, Mary Jo, formed a triangle of passion, obsession and violence that became the industry standard for tabloid crime way, way back in 1992.

There is an entire generation, or at least a cohort, or maybe a handful, or at least one or two journalists who remember working on that day in May when the story broke, and who still marvel at how that strange crime — a housewife in a swanky suburb shot in the face — soon became much stranger. It swelled in significance until it made headlines coast to coast and around the globe.

The South Shore of Long Island was something then. Nobody could touch Long Island for tabloid crime in those days, and people were raised right — they paid attention. The Amy and Joey story spawned not just one made-for-TV movie but three, among them vehicles for Alyssa Milano and Drew Barrymore. It put Massapequa on the map.

Back then, a nobody starting out with nothing — just a mighty helmet of hair, a pair of snakeskin boots and a statutory rape conviction — could dream of one day making it big in Hollywood. And make it Joey sorta did, taking bit parts in movies like "Mafia Movie Madness" and, lately, selling protein shakes on the set of "Desperate Housewives." He seems incapable of parlaying his fame into lasting fortune, though, possibly because of problems involving insurance fraud, probation violations and ammunition possession, possibly because he is a skeevy knucklehead.

Amy Fisher always seemed to be the smart one in this dense equation. She left prison, wrote a book and found a respectable position as a columnist for The Long Island Press. She left that job recently, but not before impressing many people with her articulate voice and winning a journalism award.

Poor Mary Jo, who miraculously survived the shooting despite serious injuries, forgave both Amy and Joey, and moved out to California with him. They divorced in 2003.

I miss the Buttafuoco era. Joey and Amy were the Sid Caesar and Howdy Doody of reality TV, relics of a simpler time when crime sold newspapers — imagine that — and when the culture tended to look down on adultery and teenage prostitutes, and when attempted murder carried a hint of shame, which presumably was why Amy, in her perp walk, went to the trouble of hiding her face with her long brown hair.

We learned this week in The New York Post that Amy, Joey and Mary Jo had agreed to be reunited for a TV show. That promises to be a complete waste of time, although the guy trying to sell the idea says there will be shocking revelations.

It is hard to imagine what those may be, or that a revival of this Long Island melodrama — even with its original cast — can regain even a fraction of its former glory. But you never know. Billy Joel, who sank pretty low into his own tabloid hell, is playing Madison Square Garden again in a sold-out engagement of record length. Howard Stern has re-emerged on satellite radio. We could be on the brink of another Long Island moment, and those have been hard to come by lately.

CIVIL LAW:

Ex-supervisor At GE Parts Plant Sues (AP)

Associated Press

AP, January 26, 2006

MADISONVILLE, Ky. -- A former supervisor at a General Electric Co. plant has filed $50.5 million federal lawsuit that claims that he was fired for testifying that GE shipped defective parts to military and commercial customers.

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James Richard Gardner, of Madisonville, filed the suit Friday in U.S. District Court in Louisville. Gardner said he repeatedly alerted managers at the Madisonville plant that engine turbine blades were not meeting company and government specifications and that defective parts were shipped with the knowledge of managers to meet production requirements.

Marta Rhyner, a GE spokeswoman, said she couldn't comment on specific allegations made in the lawsuit. She said the company is "confident in the parts produced by our employees at Madisonville."

The Defense Department began a criminal investigation at the plant in November 2000. The Justice Department is conducting a civil investigation.

Gardner alleged that the plant had concealed flaws on some blades. He said he asked his supervisor, "Is this legal?" He said he was told, "It's our shop. As long as people stamp it, it's good," according to the lawsuit.

Gardner was subpoenaed to testify before a federal grand jury in Bowling Green in June 2003. Before his appearance, Gardner said he was told by a plant manager that he would meet with a corporate attorney to be coached on how to answer. Gardner said he was told to answer "No" or "I don't know."

Gardner said he was later transferred to a different part of the plant, subsequently demoted and then fired last April after refusing a company buyout offer.

The lawsuit said the Air Force notified GE in 1999 that defective blades had been found in engines on fighter jets. Approximately 5,000 blades were returned to Madisonville for inspection and cleaning.

Former supervisor and quality control expert Terri Brown filed a $53 million lawsuit against GE in 2004. The filing alleges Brown was harassed and shoved down a stairway after raising concerns about defective parts being shipped to customers. It was unsealed in 2004.

Trustee Called Threat To Plan For Adelphia (LAW)

By Anthony Lin, New York Law Journal

New York Law Journal, January 26, 2006

In a decision released Wednesday in the Chapter 11 bankruptcy of cable company Adelphia Communications, the presiding judge said the motions by which one group of creditors sought the appointment of a trustee to oversee disputes and the disqualification of chief Adelphia bankruptcy counsel Willkie Farr & Gallagher constituted a "nuclear war button" threatening obliteration of a crucial $17.6 billion deal.

Southern District of New York Bankruptcy Judge Robert Gerber's strongly worded 113-page decision, In re Adelphia, 02-41729, previously filed under seal, clarified his order issued earlier in the week denying the appointment of a trustee but granting the disqualification of Willkie lawyers from participating in the disputes at issue. Willkie remains bankruptcy counsel to Adelphia.

Those disputes, which the requested trustee would have overseen, are between different groups of debt holders, all seeking to maximize their own claims on the bankruptcy estate, most of the assets of which are slated to be sold to rival cable companies Time Warner and Comcast for $17.6 billion.

The potential appointment of a bankruptcy trustee is almost always controversial, as such trustees are usually granted broad-ranging powers to settle disputes or dispose of assets.

Gerber said the disqualification and trustee motions, brought in November by noteholders of Arahova, a subsidiary through which Adelphia issued some $540 million in debt, seemed designed to "purposefully" imperil that sale as part of a "scorched earth litigation strategy" aimed at extracting a larger distribution by threatening dire consequences for all.

"The relief sought by the Arahova Noteholders Committee could (and, in some circumstances, will) give Time Warner and Comcast the right to terminate the Purchase Agreements," he wrote. "If the sale transaction is not consummated, there will be severe, negative economic impact on all of the Debtors, including the subsidiaries of Arahova."

The judge pointed out Adelphia could owe Time Warner and Comcast a $443 million breakup fee if the transaction failed to close. He further noted the appointment of a trustee would constitute a default event under the agreement that provided Adelphia with $1.3 billion in debtor-in-possession financing.

"Where interdebtor issues exist and are material, they cannot, of course, be swept under the rug ... But the means established to resolve them should be the least destructive available," the judge wrote. "And neither the interests of a debtor's creditor body, nor the integrity of the bankruptcy system, can tolerate the use of motions like these as a tactic to assist creditor groups wishing to augment their personal recoveries."

Gerber noted that similar disputes among creditors had been a feature of other major bankruptcies, including those of WorldCom Inc., and Enron Corp.

Southern District Bankruptcy Judge Arthur Gonzalez, who oversaw both of those cases, appointed a trustee in neither, citing in the former the complexity of the case and the expense and delay that familiarizing a trustee would entail.

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Likewise, Gerber said the case's complexity as well as the cost and delay involved weighed heavily against the appointment of a trustee. Moreover, "[t]he Balkanization of the decision making in this case would be highly damaging to all of the debtors, and their creditors, and the Arahova Debtors and their creditors would be no exception," he said.

NEUTRAL POSITION

Though he denied the motion to appoint a trustee, Gerber granted the disqualification of Willkie and further directed the recusal of Arahova managers with regard to disputes between creditors. But he made clear he felt the lawyers and executives had already voluntarily acted to maintain their neutrality in those disputes and his ruling was merely "prophylactic."

"[Willkie] has done nothing wrong," the judge wrote. "But the prophylactic imposition of mandatory neutrality on [Willkie] on interdebtor issues would not cause [Willkie], or the debtors, any material prejudice either."

Willkie has represented Adelphia since its 2002 bankruptcy filing amid charges that the Rigases, the company's founding family, looted it of hundreds of millions of dollars. The judge said the firm has played little role in the creditors' disputes beyond a neutral role of providing parties with information.

But the Arahova noteholders had originally sought to disqualify the law firm generally, barring it even from continuing work on the Time Warner/Comcast sale. This, Gerber said, would have been a disaster for the company.

"[Willkie] has acquired an extraordinary expertise in Adelphia affairs," the judge wrote, "and has performed its responsibilities with distinction. The loss of either of those especially at this late date, would be terrible for creditors, and would materially delay, if not torpedo, the Debtor's timely reorganization."

The Arahova noteholders were represented by J. Christopher Shore and Thomas Lauria of White & Case. The lawyers from Willkie leading the case have been Marc Abrams and Roger Netzer. Both sides declined to comment.

Flood Of Bids Is Behind Delay At GSA (WP)

By Arshad Mohammed

The Washington Post, January 26, 2006

The General Services Administration said yesterday that it got more bids than expected for a $20 billion telecommunications contract known as Networx, forcing the agency to delay the award so it can evaluate the complex proposals.

"The good news is that we have a tremendous amount of interest in the program. The bad news is that we have a lot of work to do," said John C. Johnson, who is overseeing the program for the GSA.

The 10-year telecom contract, the largest ever to be awarded by the GSA, has attracted bids from companies including AT&T Inc., Qwest Communications International Inc., Sprint Nextel Corp. and Verizon Communications Inc.

The contract is split into two parts: Networx Universal, which requires bidders to show they can provide a vast array of services around the globe, and Networx Enterprise, which has narrower requirements to allow smaller firms to get a piece of the action.

Contract awards had been due this year, but the GSA said Monday that bids would be delayed until next year without giving a reason.

Johnson, who said he was barred by federal procurement regulations from disclosing the number or names of bidders, said more companies had showed interest in the overall project than he expected and the bids covered "the whole spectrum" in terms of their quality.

"The level of interest was higher than expected, and these are large -- very large -- contracts, very complex, and the quality of the offers varies," he said. "Taking those things into account, we believe that it's going to take us longer to evaluate and ultimately make the awards."

Johnson said the GSA does not need more resources to handle the bids.

Federal contracting experts said delays of large federal contracts were not unusual, particularly those with complex technical requirements such as Networx. They also said there is often a lengthy back-and-forth with bidders to clarify their proposals.

Rep. Thomas M. Davis III (R-Va.), chairman of the House Committee on Government Reform, which has federal procurement oversight, said he was not too troubled by the delay.

"While I am certainly a bit disappointed in this latest delay and feel it's taking longer than it should, it is more important for GSA to do this right than to do it on schedule," Davis said in a written statement.

"Most of us expected there might be some delay. I think we were all surprised at the length of the delay," said Tony D'Agata, a vice president for federal government business at Sprint Nextel.

The GSA's Johnson said his agency planned to extend the current federal telecom contract -- FTS 2001 -- with the two incumbent providers, Sprint Nextel and Verizon.

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D'Agata said the GSA had proposed prolonging Sprint Nextel's contract, which expires in December, for two years with the option for three further six-month extensions. He said the extra time might be needed to migrate federal agencies from the current contract to Networx.

Airborne Incident As It Adapts To Information Age, Lockheed Fumbles Key Project (WSJ)

By Jonathan Karp

The Wall Street Journal, January 26, 2006

BETHESDA, Md. -- In 2004, Lockheed Martin Corp. won an Army spy-plane contract that broke with the past. Lockheed, the maker of such legendary surveillance planes as the U-2, wouldn't actually build the new model. Instead it would serve as the "lead integrator" -- stuffing somebody else's hardware with high-tech eavesdropping gear.

The spy plane was supposed to symbolize Lockheed's skill at harnessing information-age technology for the battlefield, a big goal at the Pentagon these days. But Lockheed engineers proved unable to load the airframe they were buying from Brazil with the equipment the Army wanted. Earlier this month, the Army scrapped Lockheed's contract.

The debacle is a setback for Chief Executive Robert Stevens and his young "integrated solutions" division, which he has put at the center of Lockheed's effort to recast itself for a new era. It's also a signal for the entire defense industry that de-emphasizing old-style hardware in favor of software and systems management isn't a sure path to success. The speed with which Lockheed's new spy plane crashed indicates how little margin there is for error as the Pentagon comes under pressure to pare weapons spending because of Iraq war costs and the rising federal deficit.

The Army, which sent mixed signals about what it wanted in the spy plane, shares some of the blame for the contract's demise, and Lockheed wasn't formally cited for performance shortfalls. In an interview while Lockheed was still scrambling to save the spy plane, Mr. Stevens said he was "personally disappointed" about the design problems but called them a reminder of the risks in projects that "push the state of the art."

Lockheed, the biggest U.S. defense contractor, isn't alone in trying to transform itself from manufacturer to integrator. Companies that used to boast about their planes, ships and tanks now talk about operating systems and communications networks. The shift reflects the fact that across all technology markets, the biggest profits often lie in designing software and making products work together. Meanwhile manufacturing hardware is becoming a lower-margin business.

Boeing Co. won a contract as lead integrator for the Army's program to modernize its ground forces, whose ultimate cost may top $150 billion. The Chicago plane maker will develop the software blueprint for the program, but it isn't making any of the 18 new vehicles. General Dynamics Corp., best known for its ships and tanks, is designing a battlefield communications network to keep moving troops linked to satellites.

Mr. Stevens has moved aggressively to seize opportunities in what he calls the "evolution from the Industrial Age to the Information Age." Besides the spy plane, Lockheed has other high-profile integration projects where the company acts as chief architect to make software, electronics and other systems work together with hardware. Though not a helicopter maker, Lockheed won an upset victory last year to develop the next Marine One presidential chopper fleet by teaming with a foreign helicopter maker, Italian-owned AgustaWestland. Lockheed also gained a share of a Navy program for small, stealthy warships, though it owns no shipyard. The company is even building a digital database for the National Archives.

Mr. Stevens hopes the growth will make up for a possible slowdown in Lockheed's traditional mainstay of plane manufacturing. Budget challenges could curtail two huge programs led by Lockheed: the Joint Strike Fighter, which carries an estimated lifetime price tag of $240 billion, and the F-22 supersonic stealth fighter, which was officially deployed this month. Space, another Lockheed mainstay, could also face pressure as military-space programs undergo restructuring.

Wave of Deals

For decades, Lockheed has been synonymous with innovative aircraft. Its hits include the original radar-evading stealth planes. But a wave of deals in the 1990s including a merger with Martin Marietta Corp. left the company sprawling and heavily indebted. Prior to his promotion to chief executive in 2004, Mr. Stevens helped lead Lockheed's successful comeback strategy of slashing costs and refocusing by selling nondefense assets such as commercial telecommunications ventures. The company had already stopped making commercial aircraft in the 1980s.

Helped by post-9/11 defense spending and the big Joint Strike Fighter contract, Lockheed has grown rapidly in recent years and restored profits. In 2005 analysts estimate its revenue exceeded $37 billion, up from $24 billion in 2001. The company reports full-year 2005 figures today. Its stock price, which fell below $17 in 2000, now stands at about $65, near a 52-week high.

A former Marine, the 54-year-old Mr. Stevens is the only current chief executive at a top-five U.S. defense contractor who served in the military. He has sought to instill a more collaborative culture across Lockheed's five business units and 135,000 employees. Managers now get incentives for joining internal teams even if they aren't running a project. "The concept is that it's

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as good to be the follower as it is to be the leader," says Robert Coutts, executive vice president of electronic systems, which leads four major multidivision programs and supports four others.

The collaboration drive has even incorporated Lockheed's renowned Skunk Works, the secretive unit that fathered the stealth planes and long worked almost exclusively on aerospace projects. Now, it spends one-third of its time lending its expertise to other Lockheed businesses. Skunk Works head Frank Cappuccio credits the change to a "culture created by Stevens that says, 'Reach out.' "

No division was meant to embody Mr. Stevens's strategy more than the integrated systems and solutions unit -- the one in charge of the aborted spy plane. Formed in late 2003 by Mr. Stevens, then Lockheed president, the unit is designed to herd ideas and experts from around the company to capture Pentagon business in networked battlefield systems.

The Army spy plane, called the Aerial Common Sensor and potentially valued at $8 billion over its lifetime, looked like the perfect project for the new Lockheed unit. The Army wanted to replace two aging propeller-plane models that patrol battlefields and flashpoints such as the border between North and South Korea. The new spy plane would bulge with scores of antennas and sensors, collecting a wealth of information to be sped in real time to commanders and troops.

Heeding a Pentagon drive to save money by developing common weapons, the Army tried to enlist the Navy, which needed to replace its own creaky spy planes. The Army also decided to award the contract as a package deal instead of holding one competition for the airframe and another for the electronics and sensors. Both strategies would ultimately complicate the program.

To speed up development and keep costs down, Lockheed wanted to adapt an existing airplane model for the mission. After studying dozens of airplanes, it chose to go into the bid with a 50-seat passenger jet made by Brazil's Empresa Brasileira de Aeronáutica SA, or Embraer. The Embraer plane had been adapted for military use in Brazil and was among the cheapest of its size in the market.

Even before the final bid, some engineers at Lockheed questioned whether the Embraer plane could support the weight of the crew and equipment, according to people involved in the bid. The Army wanted six onboard workstations instead of Lockheed's suggested four. Lockheed re-evaluated its bid and considered ditching Embraer. Just weeks before the June 2004 deadline, Lockheed sent letters to at least three plane makers, Boeing, General Dynamics and Bombardier Inc., seeking information about larger airframes.

Instead of switching at the 11th hour, Lockheed made what it describes as low-risk modifications to the wings, engines and fuselage of the Embraer plane to accommodate the extra weight. It submitted its bid with full confidence that the proposal could fulfill the Army's mission, says Marshall Keith, who later became Lockheed's vice president for the spy-plane program.

On Aug. 3, 2004, Lockheed beat out Northrop Grumman Corp., which had bid using a Gulfstream business jet from General Dynamics, for an $879 million development contract to build the first five Aerial Common Sensor planes. The Northrop bid was nixed because its jet couldn't carry the weight, Army officials said.

Airplane programs almost always encounter weight issues in development, but Lockheed's problems became severe early on. Because the company approached the program as an electronic integration project, it had largely excluded senior aeronautical engineers from its development team. Once detailed design work began, Lockheed discovered that the sensors and workstations would require extra supports, insulation and other equipment, adding significant unexpected weight.

By November, just three months after winning the contract, the startup problems forced Lockheed to clean house. It replaced 11 of the 13 engineering team leaders and dumped the program's manager in favor of Mr. Keith, who had aircraft-integration experience. It enlisted engineers from the aeronautics division, including the Skunk Works.

Reinforcements Arrive

The reinforcements arrived in Denver, where spy-plane work was based. As they corrected basic assumptions, the plane grew even heavier. One key problem: Technology advances had made electronic components lighter, but Lockheed had used a modeling tool that presumed the same degree of slimming for cables and wires. That wasn't the case, says Edward Bair, the Army's top official for the spy-plane program.

"We sent experts to major subcontractors to weigh cables on scales," says Lockheed's Mr. Keith -- a step that normally comes much later in development.

While Lockheed had left itself little leeway, the weight issues weren't all its fault. Mr. Bair says the Army insisted that the plane be able to operate all spy sensors simultaneously for nearly eight hours in flight, whether or not all were needed. That meant greater cooling and power demands, and thus more weight. The Army also demanded a stronger frame for crash protection, and the Navy -- which still hadn't formally joined the program -- wanted additional reinforcement in order to fly at low altitudes, within range of surface fire.

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By May of last year, the plane had ballooned by 5,139 pounds beyond Lockheed's bid proposal to 42,886 pounds, according to Army figures. The weight had become nearly 3,000 pounds more than the Embraer model could bear. The weight of cables and installation equipment alone nearly doubled.

Lockheed proposed substituting a 100-passenger jet made by Embraer for the original 50-seat plane. Eager to retain its inaugural Pentagon project, the Brazilian company offered the plane at the same price as the previous jet, according to a Lockheed official. Embraer declined to comment.

The Army was open at first to letting Lockheed swap the plane without reopening its contract for bidding. It asked Lockheed to look at other companies' planes in addition to Embraer's 100-seater. However, the Army quickly grew more concerned as the spy plane's estimated development cost grew to $1.8 billion, double the size of the original Lockheed contract, because of new engineering and other costs. In September, the Army suspended development funding, meaning Lockheed wouldn't be paid as it researched ways to salvage the program.

That same day, Mr. Stevens accepted responsibility for the spy plane, telling an investor conference that almost all of Lockheed's 3,000 programs are "performing superbly well. But we're not flawless, and it takes just a single program to create real stress in the enterprise." He denied in an October interview that the plane's woes stemmed from an initial shortage of aeronautical engineers, but said he was "applying all of the resources of this company" to produce a workable plane.

Soon after funding was halted, Mr. Stevens visited Army Secretary Francis Harvey to try saving the contract. At the Denver facility, the Brazilian flag representing Lockheed's partnership with Embraer still flew, but the team turned its energies to another airframe for the project: the Global Express business jet made by Bombardier Inc. of Montreal. In November, after thousands of engineering man-hours for which Lockheed and its subcontractors weren't paid, the company pitched the Global Express to the Army.

Army acquisition officials were wary of the repeated changes and inclined to pull the plug. They extended a review to avoid jeopardizing funds while Congress was still debating the Pentagon budget. On Jan. 12, the Army made its decision: The Lockheed contract was dead.

Army acquisition chief Claude Bolton says a new spy plane is still needed, but to make it succeed, the government and industry will have to go "back to the drawing board."

CIVIL RIGHTS:

Gay Marriage Ban Advances Toward Va. Referendum (WP)

By Chris L. Jenkins

The Washington Post, January 26, 2006

RICHMOND, Jan. 25 -- The state Senate all but guaranteed on Wednesday that Virginia will hold a November referendum on whether to amend its 230-year-old Bill of Rights to bar same-sex marriages.

The Senate voted 28 to 11 to follow the House of Delegates in approving the amendment. Though each chamber still must pass the measure adopted by the other, their wording is identical and support among the senators and delegates is strong.

"The family is the foundation of our society, and it's been based on a union of a man and a woman since the inception of marriage," said Del. John A. Cosgrove (R-Chesapeake). "A constitutional amendment . . . will protect that."

In Maryland, Republicans introduced a similar measure in the Senate on Wednesday and said they believe they have the votes they need to bring the matter to an up-or-down vote, despite resistance from leaders of the Democrat-controlled legislature.

In the wake of a circuit court ruling last week that declared Maryland's 33-year-old ban on same-sex marriage discriminatory, GOP leaders said it was important to at least put the matter to a vote.

"Some senators are clearly going to be put on the spot," said Senate Minority Whip Andrew P. Harris (R-Baltimore County). "But I think they know we can't take the risk of sitting it out and doing nothing."

Eighteen state constitutions define marriage as a union between a man and a woman, many through amendments approved since 2003, according to the National Conference of State Legislatures.

Massachusetts is the only state that grants marriage licenses to same-sex couples. Connecticut and Vermont recognize civil unions, while four states, the District and several dozen localities allow couples to formalize relationships through domestic-partnership registries.

District leaders are considering a bill that would strengthen the city's domestic-partnership law.

In Virginia, the General Assembly's action is likely to spark an intense campaign by the amendment's supporters and by gay rights groups before the Nov. 7 vote.

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The state Bill of Rights was last amended in 1996, when voters supported adding a section protecting the rights of crime victims. Although changes to the state constitution are common, the 1996 action was the only time the Bill of Rights has been amended since 1970, when voters ratified a new version of the constitution.

The Bill of Rights was written by George Mason, a founding father of Virginia and the United States. "It's essentially the same document it was in 1776 in body and spirit," said A.E. Dick Howard, a professor of constitutional law at the University of Virginia, who led a commission responsible for writing the state's current constitution.

The amendment barring same-sex marriage would be added to Section 15, which begins by saying, "That no free government, nor the blessings of liberty, can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality, and virtue . . . "

The Virginia Bill of Rights served as a model for other states and for the first 10 amendments to the U.S. Constitution.

The marriage amendment would say in part, "That only a union between one man and one woman may be a marriage valid in or recognized by this Commonwealth and its political subdivisions."

Supporters said that a traditional definition of marriage is so important that it belongs in the most hallowed of Virginia documents.

"The only place in the constitution to put this is in the Bill of Rights," said Sen. Stephen D. Newman (R-Lynchburg). "There is currently no right in the United States, or certainly not in Virginia, for anything other than a marriage between one man and one woman."

Virginia law already defines marriage as the union of a man and a woman and does not allow for civil unions, but proponents said the amendment is needed in case courts try to force the state to recognize same-sex marriages or civil unions performed in other states.

Opponents said the amendment would corrupt the original intent of Mason's document by preventing a class of Virginians from enjoying the same rights as other Virginians.

"I find it ironic, Mr. President, that this resolution will amend the Bill of Rights, that section of the constitution that holds sacrosanct the unalienable rights of all human beings," said Sen. Mamie Locke (D-Newport News) during a floor speech.

Del. Adam P. Ebbin (D-Alexandria), the only openly gay legislator, said during the House debate this month, "This resolution seeks to write citizens out of our most sacred document."

At the Capitol on Wednesday, hundreds of supporters of Equality Virginia, the state's leading gay rights organization, vowed they would defeat the amendment.

"There are tens of thousands of people . . . prepared to fight this so-called marriage amendment," said Dyana Mason, executive director of Equality Virginia.

Virginia Gov. Timothy M. Kaine (D) does not have to review the amendment resolution. He could veto a separate bill that specifically calls for the November referendum, but press secretary Delacey Skinner said he will not do so.

"The governor's position is that a marriage is between one man and one woman," Skinner said.

The issue had been largely dormant in Maryland until last week, when a Baltimore Circuit Court judge ruled that the state's ban on same-sex marriage was unconstitutional.

The ruling, which came at the start of an election year for the Maryland General Assembly and governor, triggered an immediate response from Republican lawmakers, who said they needed to quickly amend the constitution before the state's highest court had the chance to uphold the lower court.

The Republicans introduced a proposed constitutional amendment in the Senate on Wednesday.

Even though they are outnumbered in the Senate, Republicans said they may have enough support from Democrats to compel a floor vote.

Maryland Gov. Robert L. Ehrlich Jr. (R), who is seeking reelection, received a memo this week from his counsel advising him of three options: Wait for the Court of Appeals to rule, lead an effort to amend the constitution or support one led by GOP legislators, aides said.

"My politics on this are very clear," Ehrlich said. "We're going to protect marriage. Traditional marriage."

Democratic leaders have been discussing a strategy that would enable them to voice a clear position without hurting candidates. They're concerned the ruling could galvanize Ehrlich's conservative base, increasing Election Day turnout for him and other Republicans.

There is also a sizable contingent of Democrats who plan to fight GOP efforts because they believe banning gay and lesbian couples from marrying is wrong.

"I think it's a waste of time for a legislative body to argue for something that is so utterly and completely discriminatory," said Del. Sharon Grosfeld (D-Montgomery).

DOJ_NMG_0012175

Marriage Amendment Set For Virginia Ballot (WT)

By Christina Bellantoni And S.a. Miller

The Washington Times, January 26, 2006

The Virginia Senate yesterday gave overwhelming final approval to a constitutional amendment that would define marriage as the union of one man and one woman, clearing the way for the issue to be put to voters in November.

The measure, which also would ban same-sex civil unions, passed 28-11 after a short debate.

Meanwhile, a similar proposal is gaining momentum in Maryland since a Baltimore Circuit Court judge last week ruled that the state's 33-year-old ban on same-sex "marriage" is unconstitutional.

Traditional marriage has widespread support in the Democrat-controlled Maryland legislature.

But state Democratic leaders appear reluctant to put a constitutional amendment on the ballot because it could energize conservative voters in an election year in which Gov. Robert L. Ehrlich Jr., a Republican, is seeking re-election, and Lt. Gov. Michael S. Steele, also a Republican, is running for the U.S. Senate.

Maryland House Speaker Michael E. Busch and Senate President Thomas V. Mike Miller Jr., both Democrats, said that they support traditional marriage, but that the General Assembly should not consider a constitutional amendment on the issue until the state's appellate court can rule on the circuit court judge's decision.

The court isn't expected to issue a ruling before the legislature adjourns in April.

"They don't want it on the ballot," said Senate Minority Whip Andrew P. Harris, Baltimore County Republican. "The votes are there. This is going to boil down to politics."

In Virginia, state Sen. Stephen D. Newman said the constitutional amendment is necessary to guard against "aggressive" judges in other states, including Maryland, who are trying to redefine marriage.

"A few judges or a few localities are now presuming to change that fundamental meaning for our civilization and their actions have created confusion on the issue," the Lynchburg Republican said. "The federal courts are going to leave us with no other recourse."

Democrats, bolstered by the hundreds of Virginians who lobbied at the state Capitol yesterday for special homosexual rights, argued that the measure would write discrimination into the constitution.

"I feel this overwhelming sense of sadness today, to think that we are deliberately doing something so intolerant, so discriminatory and so overreaching," said Sen. Mary Margaret Whipple, Arlington Democrat.

Sen. Richard L. Saslaw said the amendment will not protect marriage.

"If this is a threat to your marriage, you've got a problem," the Fairfax County Democrat said.

A poll conducted earlier this month by Rasmussen Reports showed that 63 percent of Virginians and 54 percent of Marylanders would support constitutional amendments that define marriage as the union between one man and one woman.

A proposed amendment would need a three-fifths majority in the Maryland House and Senate to go before voters in November.

Virginia's House of Delegates approved the amendment 73-22 earlier this month, and yesterday's final Senate passage placed it on the Nov. 7 ballot. It does not need the signature of Gov. Timothy M. Kaine, a Democrat.

On Friday, Baltimore Circuit Court Judge M. Brooke Murdock ruled that it was unconstitutional for Maryland county clerks to deny marriage licenses to nine same-sex couples who applied for them. Judge Murdock said the 1973 law defining marriage violates the state's Equal Rights Amendment to the constitution.

The Maryland Attorney General's Office is appealing the decision.

FBI Report Could Rewrite Account Of Till's Murder (AP)

AP, January 26, 2006

JACKSON - An FBI report on the decades-old murder of 14-year-old Emmett Till could rewrite the story of the slaying that put a young man's face on racial injustice in the South during that period.

The Chicago teenager was visiting relatives in the tiny Delta town of Money when he was tortured and killed in the summer of 1955.

His brutalized body was pulled from the Tallahatchie River a few days later. A gin fan was tied to his neck.

But some details of the crime could have been distorted or embellished over the past five decades, the FBI special agent in charge of Mississippi, John G. Raucci, told The Associated Press this week.

"The facts were told one way because that's the information that was available at the time," Raucci said. "And often times it's through urban legends and folklore - and people who lived in the community pass along information from generation to generation - and the next thing you know, they become fact."

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Raucci did not rule out the possibility of indictments in the case or provide a timetable for releasing the report.

The reason Till was pulled from his uncle's home late one night before being beaten and shot, differ from person to person. Some say the youngster bragged about dating white women, and Carolyn Bryant, the 21-year-old wife of grocery story owner Roy Bryant, has claimed Till asked her for date.

Others have said a wolf whistle Till let out outside the grocery store was enough to motivate Roy Bryant and his half brother to kill Till.

Roy Bryant and J.W. Milam were acquitted by an all-white jury after a five-day trial in 1955. And while Milam and Bryant later confessed to the murder in a paid interview with Look Magazine, both men are now dead and no one has been punished.

Some witnesses have said a woman's voice, likely that of Carolyn Bryant could be heard at the scene of the abduction.

A telephone listing for her in Greenville was disconnected when called by the AP on Tuesday. Carolyn Bryant has declined interviews in the past.

Investigators with the U.S. Department of Justice have reportedly said that Henry Lee Loggins, a black man who worked for Milam, has also been investigated. Loggins, 82, has denied any involvement.

Some circumstances of the murder may not yet be clear, but there is little doubt Till's death helped invigorate the civil rights movement.

Mamie Till-Mobley had her son's body returned to Chicago for an open-casket funeral.

Thousands turned out for the service and a photograph of Till's disfigured face in Jet Magazine let the world see what was happening in the South.

Now, more than 50 years later, an official FBI investigative report is under review and should soon be turned over to District Attorney Joyce Chiles in Greenville.

"That does not necessarily mean that everybody involved in the Emmett Till case or the overt act is still alive or will one day be prosecuted," Raucci said. "Time hurts for a variety of reasons. Evidence may no longer be available. Individuals who may have witnessed an event, time has now gotten the better of their minds."

FBI Project Targets Human Smuggling (CO)

By Franco Ordoñez

The Charlotte Observer, January 26, 2006

The FBI is launching a new effort to raise awareness of human trafficking.

Calling it an offense against humanity akin to modern-day slavery, the Federal Bureau of Investigation in Charlotte estimates thousands of victims are trafficked into the state each year for forced labor and prostitution.

"This is something that is flying under the radar," said Special Agent Kevin Kendrick, who is heading the local campaign. "This is a big problem."

In conjunction with increased investigative efforts to shut down human trafficking rings, the FBI is teaming up with local advocacy groups and social organizations to get a message out that federal agents should be trusted and not feared.

The FBI, Kendrick said, is looking to assist all victims of human trafficking, even if they're living in the country illegally. Not only will the FBI protect victims and their rights, Kendrick said, the agency also will help them remain permanently.

Human trafficking often begins with someone paying to be smuggled across the border. The situation changes when smugglers change their prices or add fees the person is unable to pay. Smugglers then force them into work to pay off the debt. The low pay often doesn't cover the debt -- turning them into indentured servants.

Victims don't report the crime because they're afraid of being arrested or deported.

Nationally, between 20,000 and 50,000 victims are trafficked into the United States each year to be exploited for use in factories, migrant farm work, construction, domestic work and prostitution, according to the FBI.

"This is a reprehensible problem," said Assistant Special Agent Robert Clifford. "We'd look at every weapon in FBI's arsenal to countering human trafficking."

In the Southeast, where nearly a quarter of the trafficking occurs, about 61 percent of victims are from Latin America. About 35 percent of the victims are forced to work on farms and 29 percent in prostitution.

The push is funded by $15 million in the Trafficking Victims Protection Reauthorization Act, signed by President Bush on Jan. 10. The law also provides assistance and immigration benefits to trafficking victims, including issuing special visas, so victims can remain in the country legally without the fear of being sent back home.

"We need to let people know it's OK to contact us," Kendrick said. "This is an affront against humanity. This goes far past someone's immigration status."

For More Information

DOJ_NMG_0012177

The FBI is asking those who may know anything about human trafficking operations to call their Charlotte office at (704) 377-9200.

El FBI Pide Su Ayuda

Si sabe algo sobre incidentes de tráfico humano, llame el FBI en Charlotte al (704) 377-9200.

Ga. Lawmakers Approve Requiring Voter ID (AP)

AP, January 25, 2006

ATLANTA - A birth certificate might not be enough to vote in Georgia this year - legislation sent to the governor Wednesday would require photo identification before voters could cast their ballots.

Gov. Sonny Perdue said he would sign it quickly to give counties time to prepare for the primary in July and the general election in November.

The U.S. Justice Department also must approve the requirement before it takes effect.

The legislation would require voters to have a driver's license, military ID or state-issued identification card with a photo. Social Security cards, birth certificates and utility bills would no longer be accepted.

Supporters said it would help fight voter fraud. Critics argued it would disenfranchise the poor, minorities or elderly - people who are less likely to have driver's licenses.

Similar legislation last year was blocked by a federal judge because a state ID fee would have amounted to an unconstitutional poll tax. This year's bill waives that fee.

Appellate Court Rules Against Shreveport In Race Discrimination Lawsuit (SHREVET)

By Francis McCabe

Shreveport (LA) Times, January 26, 2006

A federal appellate court changed its stance and ruled today in favor of plaintiffs in a discrimination lawsuit against the city of Shreveport and its Fire Department, overturning a lower court's decision to dismiss the five-year-old case.

The 5th U.S. Circuit Court of Appeals remanded the heart of the discrimination case back to U.S. District Court in Shreveport.

The petition originally was brought against the city in 2000 by Todd Dean, who was not hired by the Fire Department and felt the city's hiring practices discriminated against him because he is white. Dean earned a higher test score than some blacks hired then, his lawsuit alleges. Other men joined the lawsuit soon after.

The 5th Circuit's ruling should compel the city not only to cease race-based hiring procedures in all departments, but also to re-evaluate the continued validity of all city programs that incorporate race as a criteria for participation," said local attorney Pamela R. Jones, who represented Dean, Shawn Sanders and Jason Matthews in the lawsuit.

Fire Chief Kelvin Cochran said he was unaware of the decision and withheld comment until he reviews it and discusses it with the city attorney's office.

The department ended race-based hiring practices 11 months before a federal magistrate dismissed Dean's case in December 2004 hoping to avoid further lawsuits, according to officials. Now the department relies on a pass/fail civil service exam, the educational background and technical training of each candidate and psychological and physical ability exams.

The city has maintained that the Fire Department's hiring practices are based on a complaint brought by the U.S. Justice Department in 1980 that said the department had discriminated against blacks and women. Up to that point, the department had hired only three black men in its history, according to court records.

Then the 5th Circuit ruled that the department had to fill "at least 50 percent of all vacancies with qualified black applicants." And the department must hire qualified women for at least 15 percent of all vacancies. The department was ordered to divide job candidates into two categories, white and black. The most qualified candidates from each category received job offers — even if the most qualified candidates were all in one category — so that jobs were equally distributed to both whites and blacks.

A consent decree was agreed to with a long-term goal of the department staff reflecting the available work force of the city.

In its ruling Wednesday, the appellate court noted its change in view of the decree: "We reviewed the decree at that time under a rational basis standard of review. This standard of review no longer applies, and we now strictly scrutinize all race-conscious remedies to ensure they are narrowly tailored to achieve a compelling government interest. Thus, as we re-evaluate the decree under strict scrutiny, we are not bound by our prior approval of it under the rational basis standard."

SIU Tweaks Web Descriptions Of Fellowships Government Questioned (AP)

AP, January 26, 2006

DOJ_NMG_0012178

CARBONDALE, Ill. - While threatened with a federal lawsuit over three graduate fellowships the government considers discriminatory, Southern Illinois University has tweaked the descriptions of at least two of those scholarship programs on its Web site.

The fellowships at issue were said to specifically target minorities or "underrepresented groups," before the Justice Department objected last year, but the site now says those programs seek to help "underserved" populations.

The revisions come as SIU administrators are weighing a Justice Department proposal that would head off a lawsuit threatened by the government, which in demanding that SIU discontinue the fellowship programs has accused the university of engaging in "intentional discrimination against whites, non-preferred minorities and males."

The university has refused to publicly discuss the proposal it got from the Justice Department last week, saying only that administrators and key constituency groups were being tapped this week for feedback before the university responds.

David Gross, a spokesman for the SIU system, said Wednesday the Web site changes were done without the consent of the university's president, the Carbondale school's chancellor or the system's legal counsel and "do not reflect the proposed offer from Department of Justice."

"We believe it was an assumption made from certain administrators," he said.

Gross said it remains unclear why the changes were made. But when asked if the unauthorized revisions would be pulled from the Web site, Gross said that "at this point, we are not sure about that."

Marvin Zeman, a math professor serving as the SIU Faculty Association's president, attended a private briefing Wednesday afternoon about the Justice Department proposal but declined to discuss it afterward, saying he'd been advised not to by administrators who led the meeting. Zeman said he was told that speaking publicly about the matter would violate "attorney-client privilege."

The university Web site's page titled "Underserved Fellowships" reads that applications for two of the fellowships - the Graduate Dean's and the Proactive Recruitment of Multicultural Professionals for Tomorrow, or PROMPT - "have been extensively revised and are now open to individuals whose personal or family background, life, cultural, and/or ethnic experiences could contribute to a more reflective responsive environment in the program, the institution, and the larger academic community."

That portion, on the page last updated Jan. 20, is highlighted by asterisks and notes that the application deadline has been extended to Feb. 17 "to allow interested students to apply under the new guidelines."

PROMPT, which provided tuition waivers and monthly stipends to 78 students since 2000, previously had stated its goal was to "increase the number of minorities receiving advanced degrees in disciplines in which they are underrepresented."

But the Web site now doesn't mention race and says the program seeks "to increase the number of individuals receiving advanced degrees ... from families which have traditionally not had access to the opportunities of higher education."

The Graduate Dean's Fellowship, used by 27 students since 2000, was formerly "for women and traditionally underrepresented students who have overcome social, cultural or economic conditions." The Web site now says that program is for "traditionally underserved individuals" who have overcome barriers to their education.

Pat McNeil, the head of the office that oversees the third program at issue, the National Science Foundation's Bridge to the Doctorate program, said that program was not accepting applications.

That program, which has helped 24 students since its start in 2004, offered a $30,000 stipend plus $10,500 for educational expenses "for underrepresented minority students" to study in fields including math and engineering.

ON THE NET

Southern Illinois University: http://www.siu.edu

Justice Department: http://usdoj.gov

EEOC Ordered To Pay $1 Million To Law Firm For 'Frivolous' Legal Action (AP)

The Associated Press

AP, January 26, 2006

The U.S. Equal Opportunity Employment Commission must pay more than $1 million to a law firm that it sued unsuccessfully for allegations of sexual harassment and pregnancy discrimination, a federal judge has ruled.

The EEOC action was a "frivolous" lawsuit against Robert L. Reeves & Associates, which practices immigration law, U.S. District Judge Dickran Tevrizian said in a ruling issued Monday.

Reeves maintained that the EEOC should have known the harassment and discrimination allegations the agency was pursuing were part of a scheme by two of his former law associates to destroy his firm, said a statement from lawyers representing Reeves.

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The EEOC has already appealed the judge's findings, said Anna Park, the EEOC regional attorney in charge of the Los Angeles district office's legal division.

"I think the judge's ruling is absolutely wrong," Park said.

The EEOC originally filed suit against Reeves & Associates in 2001.

Tevrizian dismissed the case the following year and ordered EEOC to pay Reeves $363,000 in legal fees. Before the EEOC sued Reeves, Tevrizian said, commission staffers only interviewed the two former Reeves associates and a third person who was romantically involved with one of them. One of the former associates, Tevrizian added, was also a decision maker in the firm's dismissal of an employee who complained she was fired after she became pregnant.

He accused the commission of "unreasonable and just plain mean-spirited" conduct.

The 9th U.S. Circuit Court of Appeals reversed Tevrizian's first decision and returned the case to his court, resulting in Monday's ruling.

ANTITRUST:

Microsoft Offers Rivals Source Code (FT)

By Tobias Buck In Brussels

Financial Times, January 26, 2006

Microsoft made a concession in its six-year dispute with European competition regulators on Wednesday by offering to give rivals access to parts of its Windows source code.

With only three weeks until a compliance deadline set by Brussels, which had threatened fines of €2m ($2.5m) a day, Brad Smith, the group's general counsel, said: "We are putting our most valuable intellectual property on the table."

However, while the software giant said the move went beyond the Commission's requirements, rivals were quick to say it fell far short of the demands on Microsoft. The Commission refused to say whether the offer was good enough.

Microsoft's offer, which it hopes will remove the threat of fresh financial penalties, came in response to a European Commission warning last month that it would impose fines unless the software group complied quickly with Brussels' 2004 antitrust ruling against the US group. The daily fines would come on top of the record €497m payment the Commission ordered in 2004.

The regulator said Microsoft had failed to comply with a part of the ruling requiring the software group to share information about its Windows operating system. That information, the Commission argues, is essential for rivals wanting to develop software that works with Windows-driven computers and servers.

Microsoft argues that in giving away a part of its source code – the basic programming instructions that form the core of the operating system – it has gone beyond the Commission's demand. But rivals say that instead it has dumped a vast amount of data on companies without the "road map" that tells them how to use it. The regulator did not, however, order Microsoft to release parts of the Windows source code.

In an attempt to end months of wrangling over the extent of the information required by the decision, Microsoft said it would license the relevant parts of the Windows source code.

Mr Smith said: "We have come to the conclusion that the only way to be certain of satisfying the Commission's demands is to go beyond the 2004 decision and offer a licence to the source code of the Windows server operating system."

Microsoft's rivals dismissed the group's offer. Thomas Vinje, a partner at Clifford Chance, who represents several Microsoft rivals, said the move was a "PR ploy". He added: "Microsoft is offering to dump a huge load of source code on companies that have not asked for source code and cannot use it. Without a roadmap that says how to use the code, a software engineer will not be able to design interoperable products."

Mr Smith had pointed out that the group had drawn up 12,000 pages of interoperability information for potential licensees, and had offered free advice on how to use the technical specifications contained on those pages.

Microsoft To Make More Code Available Move Made To Comply With EU Antitrust Sanctions (USAT)

By Byron Acohido

USA Today, January 26, 2006

SEATTLE —- Microsoft said Wednesday that it will make more of its proprietary computer code available to rivals in an effort to comply with European antitrust sanctions.

The computer code, which normally can be viewed only by Microsoft employees and partners, is central to its Windows computer operating system.

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The European Commission issued a terse statement saying it would “study carefully” Microsoft's announcement “once it has received the full details.” The software giant is locked in a dispute about penalties that the Commission, the European Union's administrative arm, levied in March 2004.

Microsoft already has paid a record $613 million fine. And it has supplied Europe with a version of Windows for desktop PCs with Windows Media Player removed. But it has failed to make it easier for other software suppliers to write business applications that run smoothly on Windows server software.

Last October, Microsoft offered to share 12,000 pages of technical documents with other software companies, as long as they paid a licensing fee. The documents would make it easier for them to write programs that work well with Windows.

But an independent monitor found the package to be “totally unfit.” The Commission in late December said it would fine the company $2.4 million a day if it failed to comply by Jan. 25, later extending the deadline to Feb. 15.

Meanwhile, Microsoft has said it expects to reverse the Commission's overall ruling in an appeal before Europe's Court of First Instance; hearings are to begin in Luxembourg in April.

“It looks a bit like Microsoft stalling for time, as it readies for the bigger battle,” said James Governor, London-based tech analyst for consulting firm RedMonk.

Microsoft on Wednesday sweetened the licensing plan by adding computer code to the package. “Today, we are putting our most valuable intellectual property on the table so we can put technical compliance issues to rest,” Microsoft's general counsel Brad Smith said at a press conference in Brussels.

This is not the first time Microsoft has let outsiders view such code. It has granted governments, academics and business partners varying levels of access under tight restrictions.

“That statement suggests that the whole enchilada is on the table,” said tech industry analyst Paul DeGroot, who tracks the company's licensing programs for research firm Directions on Microsoft. “But that's simply impossible. It would mark a huge and strange departure for Microsoft, far beyond anything required.”

Microsoft Offers Blueprint License To Avert Fines (REU)

By David Lawsky and Sabina Zawadzki

Reuters, January 25, 2006

BRUSSELS (Reuters) - Microsoft Corp. will license some of its secret software blueprints in an effort to avert fines of up to 2 million euros ($2.5 million) a day for failing to comply with European antitrust penalties, the U.S. company said on Wednesday.

"We are putting our most valuable intellectual property on the table, so we can put technical compliance issues to rest and move forward with a serious discussion about the substance of this case," Microsoft general counsel Brad Smith said.

The European Commission said in a response three hours later that it would "study carefully the announcement" by Microsoft.

Microsoft's offer to license a small amount of its source code, relating to server software that helps manage tasks like printing within a group of desktop machines, would help proprietary software makers but not the so-called open source community.

Smith said he was telling a news conference, rather than the Commission, about the plan because "it now is a public issue" as the EU executive had revealed publicly its intention to impose the fines.

But a lawyer who represents opponents of Microsoft dismissed Smith's comments as "purely a PR ploy" and said large amounts of source code would be entirely useless, even with 500 free hours of support promised by Microsoft.

"They would dump millions of lines of code and finding what competitors need to interoperate would be like looking for a needle in a haystack. Even the most sophisticated software engineers would be lost," said Thomas Vinje.

The Commission decided in March 2004 that Microsoft had violated European Union antitrust laws by exploiting its dominant position to compete unfairly against other companies, and fined it 497 million euros.

Microsoft appealed against that decision to the Court of First Instance (CFI) in Luxembourg. Earlier in the day, the court announced a hearing on the full case would be heard before a 13-judge panel on April 24-28.

As part of the Commission's decision, Microsoft was also supposed to offer rivals so-called protocols, or rules of the road, that would enable rival makers of server software to work as well with Microsoft's Windows operating system as Microsoft server software does.

But a Microsoft-nominated trustee said that documentation to help rivals use its protocols was "fundamentally flawed". Earlier this week, the U.S. Justice Department made similar complaints about Microsoft software being licensed there.

SOURCE CODE

Smith was critical of the European trustee's comments, but said that in any event the company's offer would resolve all questions.

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"The Windows source code is the ultimate documentation of Windows server technologies," Smith said. "With this step our goal is to resolve all questions about the sufficiency of our technical documentation."

Microsoft shares were up 0.2 percent at $26.45 by 1732 GMT.

Smith said all source code related to protocols in the Commission remedy would be made available, but only for inspection. It may not be used by licensees.

He said Microsoft would charge no extra money for the code beyond what it was already planning to charge for the protocol licenses.

At this point, however, the price Microsoft wants others to pay for licensing is itself an issue before the EU executive.

Critics of Microsoft contend that protocols are standard software and that Microsoft has used what is essentially a digital combination lock to make them inaccessible.

A Commission spokesman said if that turns out to be true then Microsoft has no right to charge for them.

However, Microsoft says that the protocols include valuable patents and that it should be able to charge for their use, an argument under review at the Commission.

The price that Microsoft charges for licensing and the clarity of its protocols documentation are the two issues which could lead to the daily fine of up to 2 million euros.

A lawyer for some "open source" software developers, who reveal their source code openly, said the offer was of no interest to his clients.

Carlo Piana, who is the lawyer for the Free Software Foundation Europe and Microsoft competitor Samba, said the licensing would be useful for non-open source developers.

"This demonstrates that Microsoft doesn't fear very much competition from proprietary developers but rather from free software developers," he said.

Microsoft To License Windows Source Code In EU (AP)

AP, January 25, 2006

BRUSSELS, Belgium – Microsoft Corp. said today it will license part of its Windows source code, in what it called a voluntary step going beyond a European Union antitrust ruling.

The source code provides the building blocks of the operating system that competitors need to make products compatible with Windows.

The company's chief counsel, Brad Smith, said sharing the part of the Windows workgroup server operating system and desktop software code that helps rival PCs communicate with Windows servers was "a bold stroke" that should answer both EU and U.S. regulators' concerns.

"The source code is the ultimate documentation," he said. "It should have the answer to any questions that remain."

He insisted that Microsoft had already complied in December with an EU order to supply technical information by handing over up to 12,000 pages of documentation and offering 500 hours of free technical support to rivals worth some $100,000.

An independent monitor nominated by Microsoft found last month that the documents were "totally unfit for its intended purpose."

Microsoft has refused to license the source code in the past. Software developers licensed under a European Commission program will still have to pay for the code, which open source advocates will not be allowed to "publish for free," Smith cautioned. The company had "just started to provide this information on both sides on the Atlantic" and regulators "want to see all the details," Smith added.

The company only plans to make available the source code that implements the communications server protocols. Smith said there were no plans to publish the entire Windows source code.

Governments and some customers are already allowed to look at the code, but this is the first time it has been available to rivals.

In March 2004, the EU executive levied a record $613 million fine against Microsoft, ordered it to share code with rivals and offer an unbundled version of Windows without the Media Player software for what the court saw as an abuse of the company's dominant position in the industry.

Last month, the European Commission threatened to fine Microsoft up to $2.36 million a day backdated to Dec. 15 for failing to obey, saying the software giant was being intransigent about sharing data with competitors.

today's move is designed "to put that issue to rest," Smith said.

Microsoft has launched a legal challenge scheduled to be heard by the European Court of First Instance on April 24-28.

Smith told a news conference he was confident of winning the case, saying the world had moved on since the EU opened its antitrust investigation eight years ago.

"If anything, it is clear that there are more opportunities for competitors today than there were a few years ago," he said.

"This case is going to establish the law that will determine how companies that have popular technology products can integrate new features into them."

Earlier, the EU had repeated its complaints that Microsoft was not complying with its demands.

"Microsoft is not disclosing complete and accurate interface information to allow non-Microsoft workgroup servers to receive full interoperability with Windows PCs and servers," said EU spokesman Jonathan Todd.

He said EU regulators took note that the U.S. Department of Justice was also claiming that Microsoft was failing to provide the technical information asked for in a Justice Department settlement.

In December, Microsoft said the EU Commission was trying to undermine its Windows operating system with more demands for technological transparency, and that it would contest the measure under EU law.

Todd said this was untrue. "We are not moving the goal posts as has been suggested," he said. "We are not changing our demands."

Todd stressed that the final word on whether Microsoft is meeting the terms of the EU antitrust order "rests in the first place with the Commission and not Microsoft."

Microsoft Bares Code To Avoid Fines (WSJ)

By Mary Jacoby

The Wall Street Journal, January 26, 2006

BRUSSELS -- Microsoft Corp. offered to allow rivals some access to the proprietary source code of its Windows operating system, a move designed to head off large daily fines in Europe and mollify increasingly impatient antitrust authorities in the U.S.

The offer to partly unveil the map of Windows was a shrewd step for Microsoft, analysts said. It may deflect criticism that Microsoft is defying legal orders to share programming information with rivals and government investigators. It also could thwart the ambitions of software developers who advocate free or "open source" access -- a threat to Microsoft's fee-based software business.

Microsoft was castigated yesterday by rival camps as trying to fake out regulators, with one calling the offer "a poisoned honey pot" that couldn't be used without risking legal jeopardy.

To answer European demands, Microsoft would allow competitors to review computer code that handles how two large "server" computers trade data. Microsoft is under orders in Europe to license so-called communications protocols that allow other software to mesh better with Microsoft's systems, and faces the threat of a €2 million ($2.5 million) daily fine if regulators aren't satisfied with its efforts. Microsoft currently provides some documentation about the protocols; handing over the source code -- the programming instructions used to make the software -- reveals more information about how the operating system works.

Microsoft general counsel Brad Smith yesterday called the code the "DNA" of Windows. In a Brussels news conference, Mr. Smith called the offer a "bold stroke" that would leave little doubt that Microsoft was cooperating with orders to open up software markets. The license would be restrictive, however, only allowing competitors to view and search through the code, not copy it, and only over a protected Web site.

The move came after the Justice Department complained in a court filing this week about Microsoft's compliance with U.S. legal requirements -- and six years after a U.S. judge found Microsoft violated the Sherman Antitrust Act against monopoly abuse. The Justice Department said the Redmond, Wash., software giant had provided inaccurate information to a technical committee, and described one incident as "particularly troubling" because it delayed an investigative team that had traveled to India. The filing also said the company had "fallen significantly behind" in complying with monitors' technical requests.

In Europe, the eight-year-old Microsoft case heated up in December when European Union regulators announced they were formally charging the company with evading a March 2004 order to share certain programming information with competitors. Regulators cited a report from a consultant, British computer scientist Neil Barrett, who said trying to make use of the Microsoft's programming information was "an absolutely frustrating, time-consuming and ultimately fruitless task."

The European Commission, the EU's regulatory arm, said in a statement that it would "study carefully" Mr. Smith's announcement. The statement reiterated that Microsoft has until Feb. 15 to answer the commission's formal complaint of intransigence. The Justice Department said only that it was discussing the source-code proposal with Microsoft.

A major objective in the European antitrust case is to open up Microsoft-dominated software markets to competition from so-called open-source developers. Because open-source software can be copied and modified and can run on the free Linux operating system, it is attractive to large companies and poses an increasing threat to Microsoft.

Open-source developers condemned Microsoft's offer to share source code as a feint. They fear that having any kind of access to the source code will make them vulnerable to later allegations from Microsoft of theft of patented intellectual property, if they write software that happens to mimic Microsoft's code.

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"We will never look at Microsoft source code, never," said Volker Lendecke, a programmer for the free Samba network software. "They will sue us in an instant." Added Georg Greve, president of the Free Software Foundation Europe, a party to the European antitrust suit: "We never wanted their source code in the first place. It's putting out a poisoned honey pot."

In the U.S. case, the source code at issue is for Microsoft's Windows operating system for desktop computers. In Europe, the source code Microsoft is offering to license is for operating systems on the large computers that served as hubs for offices.

In 2001, the Bush administration dropped the U.S. government's case against Microsoft, but ordered it to change certain anticompetitive practices. In Europe, Microsoft paid a €497 million fine in 2004 but has appealed the EU's antitrust allegations to the Luxembourg-based Court of First Instance. The court announced yesterday that it will hold hearings in the case from April 24 to 28. A verdict will come about six months later, a court official said.

Guidant Can't Refuse Boston Scientific's Offer (USAT)

By Edward Iwata, Usa Today

USA Today, January 26, 2006

Medical device maker Guidant (GDT) on Wednesday accepted Boston Scientific's $27 billion bid, rebuffing a lower offer from Johnson & Johnson (JNJ) and ending a long-running takeover war.

The companies have been vying for an edge in the growing multibillion-dollar market for medical and heart devices, and Guidant's pacemakers, defibrillators and stents made it an attractive acquisition target.

The merger, to be completed early this year, will make Boston Scientific (BSX) the world's No. 2 maker of implantable pacemakers and defibrillators. Boston Scientific also will gain share in the market for heart stent devices, which hold open blood vessels.

Guidant CEO Jim Cornelius said: "We believe the transaction and the strategic rationale for this combination are in the best interests of our patients, employees, customers and shareholders — reflecting the full value of our firm."

Most Wall Street analysts and some Guidant investors had urged Guidant to take the pricier Boston Scientific offer, calling it a better long-term investment than J&J's deal. The combined company will have $9 billion in revenue in 2006, Boston Scientific says.

"I think Boston will do a good job," analyst Bruce Nudell of Sanford Bernstein told Bloomberg News. "They have the cash flow to pay off the debt. The revenue base is diversified and strengthened. It's a better investment vehicle with Guidant than without it."

Boston Scientific will buy all Guidant shares at $80 each — $42 in cash and $38 in stock. Guidant shareholders will own 36% of the company. Boston Scientific also will cover a $705 million merger breakup fee that Guidant owes J&J.

To help close the deal and appease antitrust regulators, Boston Scientific teamed with Abbott Laboratories. Abbott will pay Boston Scientific $6.4 billion in cash to buy Guidant's vascular intervention and endovascular businesses.

Approvals are needed from U.S. and European regulators, plus shareholders for both companies.

Johnson & Johnson had offered $25 billion for Guidant in December 2004, but lowered its offer to $21 billion because of Guidant's legal and regulatory problems with recalled products and lawsuits.

In December, Boston Scientific set off a takeover battle when it offered $25 billion. After another round of bidding, Boston Scientific triumphed Wednesday.

Johnson & Johnson, which had $50 billion in revenue in 2005, could look for other acquisitions.

John Putnam, an analyst at Stanford Group, told the Associated Press on Wednesday that a higher bid by J&J would have hurt the conglomerate in future acquisitions, signaling that J&J "didn't have the financial discipline they've always been known for."

"We are excited about combining the talent and experience of Boston Scientific and Guidant employees," said Jim Tobin, Boston Scientific's president and CEO. "We look forward to working with Guidant to complete the transaction quickly and to creating a global leader in cardiovascular devices."

In filings with the Securities and Exchange Commission this month, Boston Scientific said Guidant's pacemakers and defibrillators could account for nearly one-quarter of pro forma sales. The heart device market is expected to grow by nearly 25% by 2008.

That growth will likely offset any of Guidant's legal liability — estimated to be as high as $2 billion — that Boston Scientific may have to absorb. Guidant has been plagued by lawsuits and regulatory investigations following multiple recalls and safety advisories. At least seven deaths have been linked to faulty devices.

Contributing: Reuters

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Quiet End To Battle Of The Bids (NYT)

By Barnaby J. Feder

The New York Times, January 26, 2006

For Johnson & Johnson, Tuesday started with a morning conference call with analysts to discuss earnings and ended with William C. Weldon, the company's chief executive, and Robert J. Darretta Jr., the chief financial officer, attending a dinner for several dozen institutional investors at the "21" Club in New York. Throughout the day and evening, the company maintained a rigid silence about the one subject on everyone's mind — whether it would respond to a midnight deadline to counter Boston Scientific's bold $27 billion offer for Guidant.

"They wanted to talk about anything but Guidant," said one investor who attended the dinner. "It was the elephant in the room."

Only yesterday morning did Johnson & Johnson address the elephant, in a terse news release saying the company had "determined not to increase its last offer for Guidant Corporation, because to do so would not have been in the best interest of its shareholders." About the only comment was its reminder that Guidant was obliged to pay it a $705 million breakup fee by today.

It was a remarkably quiet conclusion to the biggest and most contentious takeover battle yet in the medical device industry. The outcome leaves Boston Scientific as the apparent winner of Guidant, the No. 2 company in the $10 billion market for defibrillators and other implantable devices that regulate human heartbeats.

Those two companies announced their deal yesterday, pending the approval of shareholders and regulators. People close to the takeover negotiations say it had become evident at least 24 hours before the midnight deadline that a counteroffer was unlikely because Johnson & Johnson's advisers had stopped communicating with the Guidant team.

But in many ways, Johnson & Johnson had been forced into silence much earlier — by choices it made last fall, when it assumed it had the upper hand in its merger dealings with Guidant and reduced its offer by nearly $4 billion.

It was a short time later that Boston Scientific mounted its surprise takeover effort and emerged as the company willing to risk the most to acquire Guidant. By last week, having decided not to raise its own bid of $71 a share, Johnson & Johnson was reduced to behind-the-scenes attacks on the rationality of Boston Scientific's $80-a-share offer. It apparently hoped that Boston Scientific's stock would decline so far that Guidant shareholders would begin to doubt the deal's value.

Johnson & Johnson was not talking yesterday, but some analysts say the company's tough bargaining last fall resulted not only in the company's losing Guidant, but a certain amount of corporate luster as well.

"Their reputation had been as a savvy acquirer and a fair acquirer, and I think those two elements have been diminished in this," said Jan David Wald, a health care analyst at A. G. Edwards & Sons. Johnson & Johnson's declining drug sales in the United States make further expansion into medical devices a necessity, Mr. Wald said, but the Guidant stumble could hinder its ability to pursue future deals.

There are risks for Boston Scientific in coming out on top of this fight, not the least of which is the possibility that it is paying too much for Guidant to ever recoup its investment. And Johnson & Johnson could try to slow down Boston Scientific's efforts to close the Guidant deal by pressing antitrust objections at the Federal Trade Commission.

Such delays might send Boston Scientific's stock below $22.62, the price at which the value of the stock portion of the deal would begin shrinking, and induce Guidant investors to vote against the merger. Boston Scientific's shares are down nearly 14 percent since it announced its first bid in December, including a decline of 2 percent yesterday, to $23.54.

But Johnson & Johnson has lost its biggest advantage — the fact that its merger deal had been fully reviewed by regulators and could have been completed immediately after a Guidant shareholders' vote that had been scheduled for Jan. 31. "The odds of them stopping this are not high," said Matthew Dodds, who follows the industry for Citigroup. "They are fully committed to walking."

Analysts say that may be best for all concerned. Johnson & Johnson could easily afford Guidant. And it desperately needs Guidant or some other large, fast-growing acquisition to mollify shareholders restive about the stagnation in its drug business. But Johnson & Johnson's shareholders have apparently shared management's concern about overpaying for Guidant. Johnson & Johnson's shares fell every time it raised its bid for Guidant.

Analysts have published a blizzard of speculation about whether Johnson & Johnson will now turn its attention to smaller device companies — like St. Jude Medical, the third-ranked producer of heart-regulating implants, or Conor Medsystems, the developer of a promising new stent design for propping open heart arteries.

But some also note that the company could just as easily look for growth outside devices by purchasing drug or biotech companies.

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"J.& J. has the financial strength to move on and the cash to acquire elsewhere to further its growth prospects," said Kenneth R. Weakley, who follows the industry for UBS, the brokerage house that sponsored Tuesday evening's dinner at the "21" Club. Mr. Weakley called the failure to close the deal with Guidant a "heartache, not a heart attack" for the company.

Johnson & Johnson's stock has fallen 4.4 percent since Boston Scientific first entered the bidding war, including a decline yesterday of 86 cents, to $58.50.

Boston Scientific clearly faces stiffer challenges. While Guidant will immediately transform it into a company with more than $9 billion in annual revenues and a shot at double-digit revenue growth for years to come, the cost of the transaction will eat into earnings for at least five years, according to most analysts' estimates.

In the near term, analysts will be closely watching whether Boston Scientific can keep to its ambitious timetable for completing regulatory reviews and close the deal by the end of this quarter. Under the terms of the agreement, it must pay interest to Guidant shareholders at a 6 percent annual rate for every day after March 31 that the closing is delayed.

The terms of the deal put extreme pressure on Boston Scientific to maintain the market share and profit margins of its blockbuster drug-coated stent, Taxus, which doctors use to keep patients' coronary arteries propped open after blockages are cleared. Boston Scientific will also need to meet targets for introducing important new products, like a disposable line of endoscopes, used to diagnose gastrointestinal problems, that is scheduled to be released later this year.

Taxus is the market leader in the $6 billion market in countries where it competes with Cypher, Johnson & Johnson's drug-coated stent, but that lead has eroded. In addition, Medtronic recently entered the drug-coated stent market in Europe, and Guidant received word Tuesday that Europe is about to approve its Xience stent.

The one clear winner in the deal, analysts said, is Abbott Laboratories, which injected up to $6.2 billion into Boston Scientific's offer through a variety of side deals, stock sales and below-market-rate loans to that company. The payoff is that Abbott would receive virtually all of Guidant's business except for its heart-regulating implants. On news of the deal and a forecast of strong drug sales during Abbott's fourth-quarter earnings announcement, the company's stock was up more than 5 percent yesterday.

The Guidant portfolio of products to treat damage to the circulatory system from diseases like diabetes generates more than $1 billion annually in sales. It would transform Abbott into a major player in outpatient clinics and hospital laboratories that deliver therapy through catheters as an alternative to more invasive surgical treatments. Analysts say its share of the Guidant deal could begin contributing to Abbott's earnings next year.

That outcome represents a huge improvement from the gains Abbott could have expected if Johnson & Johnson had acquired Guidant. Under that deal, Abbott was to receive access to a valuable stent implant system and rights to certain stent-coating drugs. Johnson & Johnson had worked out that arrangement to satisfy antitrust objections. But those were mere hors d'oeuvres for Abbott, while Boston Scientific offered a seven-course meal.

Judge Sets Court Hearing On BlackBerry Injunction (WSJ)

The Wall Street Journal, January 26, 2006

BlackBerry maker Research In Motion Ltd. and NTP Inc. will appear in U.S. District Court for the Eastern District of Virginia Feb. 24 for the court to consider a shutdown of U.S. sales and service of the popular wireless email device.

In recent court filings, RIM, based in Waterloo, Ontario, argued a BlackBerry shutdown isn't warranted for various reasons, including recent preliminary moves by the U.S. Patent and Trademark Office to reject NTP's wireless email patents.

NTP, a Virginia patent holding concern, argues a BlackBerry shutdown is appropriate, since the court has already found RIM infringed on NTP's patents and case law calls for such a shutdown. The court could rule on the injunction as early as Feb. 24 or in the days following, an NTP lawyer said.

RIM could appeal a shutdown, lawyers following the case have said, though it isn't clear that would delay a court-ordered shutdown.

The U.S. Supreme Court this week declined a RIM appeal of the case.

Change From Within At Disney (NYT)

The New York Times, January 26, 2006

A couple of years ago, nothing seemed less likely than the sale of Pixar to the Walt Disney Company. At the time, it looked as if the two companies wouldn't even be able to agree on the terms of their distribution deal, which gave Disney, then run by Michael Eisner, an unfair stake in Pixar's films, according to Pixar's chief executive, Steven Jobs. Now Mr. Eisner is gone, and on Tuesday Disney's board approved an offer of $7.4 billion, about $59 a share, to acquire Pixar, whose major shareholder is Mr. Jobs. The deal now goes to the Pixar board.

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A company like that — and a figure like Mr. Jobs, notable for his dynamic role at both Apple and Pixar — doesn't let itself be bought for money alone, though the money is certainly enticing enough. This is really an opportunity to infect, and change, the creative culture of Disney, which, back in its founder's day, used to be one of the most creative places around.

Steven Jobs will take a seat on Disney's board, and John Lasseter, who is the chief creative officer at Pixar and a former Disney animator, will probably take over as head of animation at Disney. Disney's animated films have been nothing to shout about in the past decade or so, while Pixar, driven by extraordinary shifts in computer technology, has produced one imaginative and highly profitable hit after another.

On the surface, this looks like the joining of two companies whose shared mission is to produce cultural content. But Mr. Jobs's other company — Apple — has helped create, with its video iPods, a revolution in the way cultural content is distributed. For Pixar and Apple, there is only an upside in this deal. The same is true for Disney, especially if it keeps shedding the ways of Mr. Eisner's old company and allows itself to become what may turn out to be, in the end, Mr. Jobs's company after all.

ENVIRONMENT:

US Grand Jury Indicts Three For 'eco-terrorism' (REU)

By Michael Fitzgerald

Reuters, January 25, 2006

SACRAMENTO, California (Reuters) - A federal grand jury indicted three alleged "eco-terrorists" on Wednesday on charges of plotting to blow up facilities like dams and cell phone towers.

"These three individuals planned to commit a number of dangerous and destructive acts in our region, all in the name of the Environmental Liberation Front," U.S. Attorney McGregor Scott told a news conference in the California state capital.

The grand jury indicted Eric McDavid, 28, of Foresthill, California, Zachary Jenson, 20, of Washington state, and Lauren Weiner, 20, of Philadelphia, Pennsylvania. The trio was arrested January 13 outside a retail store in Auburn, California, following six months of surveillance of McDavid by federal authorities.

According to Scott, McDavid attended two meetings of anarchist groups, one in July in Indiana and a second in August in Philadelphia, at which he announced intentions to construct explosive devices from common household items.

He also said he planned to blow up several northern California facilities and expressed a desire to kill a police officer, Scott said.

Officials said one of the bombing targets was the U.S. Forest Service Institute of Forest Genetics in Placerville, California. Other potential targets include the Nimbus Dam and Fish Hatchery, east of Sacramento, cell phone towers and electric power stations.

The charges were not related to a separate 65-count indictment handed down on Monday in Washington involving 11 environmental and animal rights activists in the Western United States.

Scott that McDavid recruited the other two defendants and conspired with them to construct homemade bombs and scout potential target locations. He said the trio rented a house east of Sacramento in the foothills where they engaged in bomb-making.

At some point, the three were joined by an unnamed woman who was a government informant.

"Because of the exceptional work of the FBI's Joint Terrorism Task Force and the brave efforts of a confidential source they were prevented from carrying out their planned attacks," the U.S. Attorney said.

"They were acquiring very significant materials. ... We thought it better to shut it down. We were satisfied we had enough evidence to bring a criminal prosecution," Scott said.

The three defendants, now in Sacramento County jail, face maximum sentences of 20 years in federal prison.

EPA Moves To Ban Cookware Chemicals (USAT)

By Elizabeth Weise

USA Today, January 26, 2006

In a surprise turn Wednesday, the Environmental Protection Agency moved to eliminate the production of a suspected carcinogen used in the making of Teflon and other non-stick and non-stain coatings.

The EPA has asked eight manufacturers that use a family of chemicals known as perfluorooctanoic acid, or PFOA, to reduce production 95% by 2010 and to stop using it altogether by 2015.

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PFOA, which is found in the blood of more than 95% of Americans, has been tied to cancer and developmental damage in animal studies. It is used in the process that makes water-, stain- and grease-resistant products, everything from microwave popcorn bags to pizza box liners, non-stick cookware to pillows, upholstery to carpets.

Environmentalists and consumer groups have long dogged the agency to act.

“The science is still coming in, but the concern is there, so acting now to minimize future releases of PFOA is the right thing to do for our environment and our health,” says Susan Hazen of EPA's Office of Prevention, Pesticides and Toxic Substances.

“This program will call on industry to essentially eliminate PFOA release and its presence in products over the next decade.”

EPA officials are calling for voluntary PFOA cutbacks because “under the Toxic Substances Control Act, they don't have authority to ban it,” says Richard Wiles of the Environmental Working Group, a public interest group that has long fought to bring public attention to PFOA in the environment.

If the EPA is able to get the chemicals phased out, Wiles says, it will be “the single biggest action the agency has ever taken.”

The DuPont Company announced Wednesday that it would comply with the EPA's voluntary guidelines. “DuPont has been aggressively reducing PFOA emissions to the environment,” DuPont vice president Susan Stalnecker says.

DuPont has been at the center of the controversy. The company agreed in December to pay $10.25 million in fines and $6.25 million for research and education to resolve federal charges that it hid information about the dangers posed by PFOA.

Less toxic alternatives are readily available, says Scott Mabury, a professor of environmental chemistry at the University of Toronto in Canada.

PFOA is characterized by a chain of eight carbon atoms. But a version of four carbon atoms works well and doesn't accumulate in bodies, Mabury says. “You won't find them in huge quantities in polar bears or human blood, like we do the eight-carbon version. There will be chemical pollution from it but you can't have toxicology if you don't have exposure. It is an appropriate chemical solution to a chemical problem.”

Harmful Teflon Chemical To Be Eliminated By 2015 (WP)

By Juliet Eilperin

The Washington Post, January 26, 2006

Eight U.S. companies, including giant DuPont Co., agreed yesterday to virtually eliminate a harmful chemical used to make Teflon from all consumer products coated with the ubiquitous nonstick material.

Although the chemical would still be used to manufacture Teflon and similar products, processes will be developed to ensure that perfluorooctanoic acid (PFOA) would not be released into the environment from finished products or manufacturing plants.

PFOA -- a key processing agent in making nonstick and stain-resistant materials -- has been linked to cancer and birth defects in animals and is in the blood of 95 percent of Americans, including pregnant women. It has also been found in the blood of marine organisms and Arctic polar bears.

The voluntary pact, which was crafted by the Environmental Protection Agency, will force companies to reduce manufacturing emissions of PFOA by 95 percent by no later than 2010. They will also have to reduce trace amounts of the compound in consumer products by 95 percent during the same period and virtually eliminate them by 2015.

The agreement will dramatically reduce the extent to which PFOA shows up in a wide variety of everyday products, including pizza boxes, nonstick pans and microwave-popcorn bags.

While not as sweeping as the federal ban on DDT in 1972, yesterday's agreement is expected to have profound implications for public health and the environment. An independent federal scientific advisory board is expected to recommend soon whether the government should classify the chemical as a "likely" or "probable" carcinogen in humans, which could trigger a new set of federal regulations.

"The science is still coming in on PFOA, but the concern is there," said Susan B. Hazen, acting assistant administrator of EPA's Office of Prevention, Pesticides and Toxic Substances. "This is the right thing to do for our health and our environment."

The move, which came just a month after DuPont reached a $16.5 million settlement with EPA over the company's failure to report possible health risks associated with PFOA, drew applause from environmental groups that have frequently criticized both the administration and DuPont.

"This is one of those days when the Environmental Protection Agency is at its best. With its announcement today, the EPA is challenging an entire industry to err on the side of precaution and public safety, and invent new ways of doing business," said Ken Cook, president of the Environmental Working Group, an advocacy organization. "As harshly as we have singled out

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DuPont for criticism for its past handling of PFOA pollution, today we want to single out and commend the company and acknowledge its leadership going forward."

DuPont officials said they were confident they could alter manufacturing methods over the coming decade to contain PFOA exposure from products that generated $1 billion in sales for the company in 2004.

"It's important to do this because this is a persistent material in the environment, and it's at low levels in people's blood," said David Boothe, DuPont's global business director. To remove PFOA, he said, the company will subject some of its products to extra heat and will sometimes add a step in the manufacturing process. "We're going to push it really hard and take it as far as we can."

Scientific studies have not established a link between using products containing trace amounts of PFOA, such as microwave-popcorn bags or nonstick pans, and elevated cancer levels. Hazen said yesterday's announcement should "not indicate any concern . . . for consumers using household products" with such coatings.

Several other companies agreed yesterday to reduce public exposure to the chemical, including 3M Co., Ciba and Clariant Corp. But DuPont, which settled a class-action suit last year accusing it of contaminating drinking water in Ohio and West Virginia communities near its plant in Parkersburg, W.Va., has attracted the most public scrutiny over its PFOA use.

William Bailey III, who was born in 1981 with multiple birth defects while his mother, Sue, was working with the chemical at the Parkersburg plant, said he will "be watching" to see if the chemical giant complies with the new agreement.

"They're trying to save face," said Bailey, who is suing DuPont over his birth defects.

E.P.A. Seeks To Phase Out A Toxic Chemical (NYT)

By Michael Janofsky

The New York Times, January 26, 2006

WASHINGTON, Jan. 25 — The Environmental Protection Agency has asked DuPont and seven other chemical companies to stop using a toxic substance in the making of everyday products, including Teflon-coated pans, that has been linked in some studies to cancer, strokes and other health problems.

Announcing the voluntary program, officials of the agency said Wednesday that full compliance by the companies and their overseas affiliates would lead to a 95 percent reduction by 2010 in use of the substance, perfluorooctanoic acid, or PFOA, and to their total elimination by 2015.

DuPont immediately pledged to join the program, saying it had already reduced its PFOA manufacturing emissions by 94 percent and had developed new technologies that could reduce PFOA content in products by more than 97 percent. The other companies are expected to commit to the program as well. They are 3M/Dyneon, Arkema, Asahi, Ciba, Clariant, Daikin and Solvay Solexis.

PFOA makes high-performance plastics resistant to fire, grease and stains. Its presence may be best known in Teflon, made by DuPont, but it is also found in fabrics, leather, automobile parts, wire insulation and microwave popcorn bags.

Uncertainties still surround the way PFOA exposure affects humans, and as part of the new program, the companies will provide test data so that those questions can be explored.

"The science is still coming in, but the concern is there, so acting now to minimize future releases of PFOA is the right thing to do," said Susan B. Hazen, acting assistant administrator of the agency's Office of Prevention, Pesticides and Toxic Substances.

Bush Seeks To Jump-Start Nuclear Power (WSJ)

By John J. Fialka

The Wall Street Journal, January 26, 2006

WASHINGTON -- The Bush administration plans to announce a $250 million initiative to reprocess spent nuclear fuel, a first step toward reversing a 1970s policy that rejected reprocessing as too dangerous to pursue.

The administration's decision to put the money into its fiscal 2007 budget to test new technologies is part of an effort to jump-start the nuclear-power industry at a time when energy prices are high and concerns about global warming make nuclear power plants more acceptable.

According to nuclear industry officials and others briefed on the proposal in recent weeks, the program could be announced as early as next week in President Bush's State of the Union address. If the technology works, it could vastly reduce the amount of spent nuclear waste that would have to be buried in underground storage, such as at Nevada's Yucca Mountain, set to open after 2012.

The initiative will also explore using one or more temporary, above-ground nuclear-waste storage sites to relieve the logjam that has left thousands of tons of nuclear waste stored around reactors, many located near big cities. Since the Sept. 11, 2001,

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terrorist attacks, Department of Energy experts have worried about the damage that could be caused by a terrorist attack on the spent fuel.

The heart of the initiative is reprocessing technology called UREX+ being developed by Argonne National Laboratory in Illinois. It is a method of removing plutonium and other long-lived radioactive elements in spent nuclear fuel that makes the elements reusable in nuclear power plants, but difficult to use for making nuclear weapons.

The process, according to its scientific backers, would also save the bulk of other elements in spent nuclear fuel, primarily uranium, to be reused or disposed of in facilities that don't require thousands of years of storage, such as the plant being prepared at Yucca Mountain. Phillip J. Finck, an Argonne official, told the House Science Committee last summer that UREX+ would reduce the nation's eventual need for more nuclear-waste storage by "a factor of more than 100."

The technology involves burning plutonium and other long-lived byproducts in special "fast" reactors. However, Dr. Finck added: "The practicality of these schemes is not yet established and requires additional scientific and engineering research."

The Bush proposal, tentatively called the Global Nuclear Energy Partnership, would also give U.S. vendors, such as General Electric Co., opportunities to sell nuclear-power reactors and nuclear fuel to developing nations. It would promote the export of simpler, smaller and less-costly reactors and nuclear fuel on the condition that the U.S. would take back the spent fuel for reprocessing. While a safe way to reprocess nuclear waste also would remove a licensing hurdle to new nuclear plants in the U.S., building nuclear plants here will remain a costly and lengthy process.

The proposal is likely to renew a decades-old fight in Congress on U.S. nuclear-waste policy. "We're supportive of the concepts as a company and as an industry," said Christopher Crane, chief nuclear officer for Exelon Corp., which operates 17 nuclear reactors among the 103 running in the U.S. "We do agree that there is a good deal of unused energy in the fuel we have discharged from our reactors. We think it's positive that the U.S. Department of Energy and the administration want to look at ways to handle that."

Nuclear-industry officials said that without reprocessing, new nuclear plants called for by President Bush in his 2001 energy policy may not be licensed. Yucca Mountain will reach its storage limit -- 70,000 tons -- with waste produced by 2010 from existing plants.

The Department of Energy predicts that as many as eight more underground-storage sites may be needed by the end of the century if the current cycle for power plant fuel continues.

Thomas B. Cochran, a nuclear physicist at the Natural Resources Defense Council, which promoted the earlier policy to ban nuclear reprocessing along with other environmental and arms control groups, called the new reprocessing technology "uneconomical, unreliable, unsafe and unworkable." He predicted the utility industry wouldn't support its long-term costs, particularly the "fast" reactors that transform spent fuel by bombarding it with neutrons -- powerful, subatomic particles -- that can further reduce the radioactive waste content.

Ernest Muniz, a physicist at the Massachusetts Institute of Technology and a former Clinton administration official at the Department of Energy, said he supports the renewed research and development of reprocessing, but predicts that it will require decades of research. Dr. Muniz said he also supports the idea of temporary above-ground waste-storage sites because it helps cool the heat-generating elements in the waste -- reducing a major complication for underground storage facilities.

Some of the changes the administration is proposing, particularly those that affect Yucca Mountain, will require action by Congress. A wild card in that debate is Senate Minority Leader Harry Reid of Nevada, who has led his state's battle to stop the project, which is 90 miles from Las Vegas. He has regarded reprocessing as an alternative to long-term storage, but may have some interest in supporting a process that reduces the amount of spent fuel stored at Yucca Mountain.

The original reprocessing technique chopped up spent nuclear-fuel rods and dissolved them in acid, extracting plutonium in an almost pure form. It was derived in the 1950s from the U.S. nuclear-weapons program, which uses plutonium as the primary metal to make atomic warheads explode. Japan, Russia and France use variants of this process, called PUREX, for power-plant fuel recycling, but the U.S. stopped research on its use during the Carter administration.

President Carter, a former nuclear engineer, and other officials were persuaded that separating pure plutonium and encouraging recycling around the world might encourage developing nations to use the plutonium to make bombs. The UREX+ process is designed to reduce this problem by extracting plutonium along with other heavy and highly radioactive elements that make it too hot to handle without advanced robotics to remove and deal with the material.

Write to John J. Fialka at john.fialka@wsj.com1

Nuclear Energy Plan Would Use Spent Fuel (WP)

By Peter Baker And Dafna Linzer

The Washington Post, January 26, 2006

DOJ_NMG_0012190

The Bush administration is preparing a plan to expand civilian nuclear energy at home and abroad while taking spent fuel from foreign countries and reprocessing it, in a break with decades of U.S. policy, according to U.S. and foreign officials briefed on the initiative.

The United States has adamantly opposed reprocessing spent fuel from civilian reactors since the 1970s because it would produce material that could be used in nuclear weapons. But the Bush program, envisioned as a multi-decade effort dubbed the Global Nuclear Energy Partnership, would invest research money to develop technologies intended to avoid any such risk, the officials said.

The program has been the subject of intense debate within the administration, and although a consensus has been reached about the direction, a senior official said it will not be ready for Bush to announce in his State of the Union address Tuesday. Even the discussion has stirred concerns among nuclear specialists and some members of Congress who consider it an expensive venture that relies on unproven concepts and could increase the danger of proliferation.

The notion of accepting other countries' spent fuel at a time when the United States has had trouble disposing of its own nuclear waste could also prove highly controversial.

But a small initial investment of money has been programmed into the administration's federal budget plan to be sent to Capitol Hill in two weeks. Senate Energy Committee Chairman Pete V. Domenici (R-N.M.) said yesterday that he expects the White House to send accompanying legislation in February.

"I expect a draft bill from the administration next month on spent nuclear fuel," he said. "I will introduce that bill on behalf of the president, hold a hearing on it and mark it up in committee this spring. I hope it will include a nuclear fuel recycling component. If it doesn't, well, I have been a career-long proponent of nuclear fuel recycling and I intend to pursue it aggressively."

Advocates use the word "recycling" to describe an advanced form of reprocessing that, instead of separating plutonium that can be used in bombs from spent fuel, would produce a mixed-oxide fuel too radioactive for terrorists to handle. Such fuel, called MOX, could be used in special reactors that exist in France but not in the United States.

Edwin Lyman, a senior scientist with the Union of Concerned Scientists, a nonprofit think tank that studies environmental and security issues, said U.N. nuclear inspectors would not make a distinction between that material or the kind of separated plutonium the world is worried Iran might get.

"We think they are putting a fig leaf on it by calling it proliferation-resistant and saying that it's not really reprocessing, so concerns about proliferation risks won't be valid," he said. "But if we develop something that we call proliferation-resistant and it really isn't, then other countries are going to claim rights to this technology. If it's really proliferation-resistant, would we let Iran have it?"

The fuel proposal is part of a broader push by the president for domestic and global nuclear energy. With worldwide energy demands on the rise and U.S. reliance on foreign oil increasing, Bush has held out nuclear power as a solution that will not affect global warming. "We ought to have more nuclear power in the United States of America," Bush said in a speech last week in Loudoun County. "It's clean, it's renewable, it's safer than it ever was in the past."

In a modern version of the Atoms for Peace program during President Dwight D. Eisenhower's administration, officials said the administration envisions helping developing countries build small nuclear reactors that would produce about 5 to 10 percent of the energy generated by a typical reactor now on line in the United States. Some in Congress believe a global nuclear energy program is aimed at aiding the U.S. effort to build an alliance with India, which is eager for U.S. civilian nuclear technology.

Two senior U.S. officials traveled last week to several countries, including Japan and Russia, to brief them about the initiative. At one session, according to a source who was present, the administration officials said the United States has finally moved on from the Three Mile Island nuclear incident in 1979 that paralyzed the industry for years.

Bush has been briefed on the plan but has not given his final approval while diplomats consult with other nations, a senior administration official said. Energy Secretary Samuel W. Bodman hinted at the initiative in a November speech at the Carnegie Endowment for International Peace.

"The world will need much more energy in coming decades," he said, citing projections showing global demand increasing as much as 50 percent by 2025. "How do we meet this demand? How do we do it in a way that leaves all the nations of the earth safer and more secure? The search for answers to these questions increasingly points in one direction: nuclear energy."

Rather than just provide nuclear fuel to other countries that want to have their own reactors, Bodman suggested, the United States would also take back the fuel once it has been spent. "In the longer term, we see fuel-cycle states offering cradle-to-grave fuel-cycle services, leasing fuel for power reactors and then taking it back for reprocessing and ultimate disposition."

The main purpose for reprocessing spent fuel is to extract the radioactive plutonium within it and use that to fuel a reactor. But the process is considered dangerous, and many countries gave up civilian reprocessing years ago.

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Officials briefed on the Bush plan said $250 million -- less than requested by the Energy Department -- will be included in the fiscal 2007 budget in a down payment on what they expect to be billions of dollars of spending. Among other things, it would pay for a pilot plant, possibly at the department's Savannah River facility in South Carolina, to test chemical reprocessing. If the program goes forward as planned, the domestic nuclear industry stands to reap hundreds of millions of dollars.

U.S. officials said they are interested in developing reactors that would not produce spent fuel that could be accessed by recipient countries. One model is a self-contained reactor that cannot be opened, is never refueled and is removed when it runs out of energy. Another, known as a pebble-bed reactor, has been under development in Germany and South Africa and likewise would not have fuel that could be used for weapons.

Al Gore, Sundance's Leading Man (WP)

By William Booth

The Washington Post, January 26, 2006

PARK CITY, Utah -- Has ever a little indie film faced a greater hurdle? Imagine this sales pitch: Babe, it's a movie about global warming. Starring Al Gore. Doing a slide show.

With charts.

About "soil evaporation."

Improbable? Perhaps. So it's all the more amazing that "An Inconvenient Truth" had its world premiere at the Sundance Film Festival on Tuesday night before an enthusiastic audience that gave the former vice president and his movie a big standing O.

Among the film's lessons: Earth's glaciers are melting, the polar bears are screwed, each year sets new heat records. Al Gore sometimes flies coach. He also schleps his own bags.

The morning after his debut as leading man, Gore pronounces this whole Sundance thing "a most excellent time." He is wearing earth tones again. He seems jolly . He brought Tipper and the kids. He is attending parties and posing for pictures with his fans and enjoying macaroni and cheese at the Discovery Channel soiree. He's palling around with Larry David of "Curb Your Enthusiasm," who says, "Al is a funny guy." But he is also a very serious guy who believes humans may have only 10 years left to save the planet from turning into a total frying pan.

The core of the film is a one-man, ever-evolving multimedia slide show that Gore assembled himself. A little-known fact: Since his defeat by George W. Bush in 2000, Gore has traveled the globe with his bar graphs, staging event after event for small, invited audiences. Free of charge. And he's presented one version or another of this slide show, by his own estimation, a thousand times.

The official Sundance Film Festival guide calls the documentary a "gripping story" with "a visually mesmerizing presentation" that is "activist cinema at its very best."

In the film, Gore presents the latest evidence to demonstrate how the accumulation of carbon dioxide and other pollutants of the industrial age are increasing temperatures. In addition to timelines and bell curves and stuff about oxygen isotopes in Greenland ice cores, Gore includes several cartoons, one featuring a Mister Sunbeam trapped by the bullies known as Greenhouse Gases.

Gore argues -- with scientific evidence projected on big screens at his back -- that global warming may soon lead to catastrophic sea level rises, which could inundate cities such as New York (flooding the former site of the World Trade Center), producing scary nonlinear runaway spasms of extreme weather (bigger, badder hurricanes and typhoons), global pandemics and, depending on where you live, torrential rains or decade-long drought. It is not a pretty picture.

But the film's director, Davis Guggenheim (husband of actress Elisabeth Shue), captures another side of Gore, showing the former veep hitting the road, part Cassandra, part Willy Loman, working out of dreary hotel rooms, pecking away on his Apple laptop, crisscrossing the continents to tell his story over and over.

"I'm interested in choices characters make, especially when they hit against an obstacle," says Guggenheim as Gore sits beside him during an interview yesterday morning. "As I got into Al's story, I see a human being who's made some tough, tough choices in his life. After the 2000 election? To go back deeper and deeper into this issue? To decide that it is the most important thing he can do. . . . I see how tireless he is. That, to me, is so dramatic, so inspiring."

The film touches briefly but with emotion on three events in Gore's life and how they inspired his environmental activism: the car accident that almost took the life of his son; his defeat in Florida to Bush; and perhaps most foreboding, the death of his sister, a lifelong smoker, from lung cancer ("That's not one of the ways you want to die," Gore says in the film in a voice-over) and the fact that his family farmed tobacco and didn't stop until after her death. Gore underscores that this is the way people are, that it is hard to change old habits, be it smoking or growing tobacco or emitting carbon dioxide, but that without change, the bell tolls.

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The film came about after Laurie David, wife of Larry David, saw Gore's slide show in New York after the 2004 premiere of the mega-budget global-warming feature film "The Day After Tomorrow" (starring Dennis Quaid and Jake Gyllenhaal). Laurie David gathered a team, including Lawrence Bender (producer of Quentin Tarantino films, including "Pulp Fiction") and Jeffrey Skoll, the billionaire eBay founder and movie mogul. They met with Gore. "We said you have to let us make this into a movie," David says in an interview over breakfast.

It took some convincing. The slide show, she says, "was his baby, and he felt proprietary about it and it was hard for him to let go." Now, David says, the filmmakers are in discussion with three or four distributors, hoping for a sale.

"This isn't about box office," David says. "None of us are going to make a dime." What is at stake, she says, "is, you know, the planet."

FBI/DEA/ATF/USMS:

Metro Briefing (NYT)

The New York Times, January 26, 2006

NEW YORK

F.B.I. DIRECTOR RECUSED FROM INVESTIGATION OF WELD'S FORMER SCHOOL The F.B.I. director will not play a role in the inquiry into Decker College, the Kentucky school once run by William F. Weld, because the director and Mr. Weld, a Republican candidate for governor, are friends and former colleagues, an F.B.I. spokesman said yesterday. The New York Post reported the decision by Robert Mueller, the director, yesterday. The New York Democratic Party had asked that Mr. Mueller recuse himself, according to a party spokesman. Mr. Weld has not been accused of any wrongdoing involving Decker, which declared bankruptcy last fall amid allegations of fraud. PATRICK D. HEALY (NYT)

BROOKLYN: DOMESTIC VIOLENCE COURT PRAISED A special Brooklyn court that handles aspects of domestic violence cases including criminal, family and matrimonial matters has heard about 500 cases involving 115 families since it opened on Oct. 31, court officials announced at a news conference yesterday. The court, the integrated domestic violence court, is the fourth of its kind in the city. Charles J. Hynes, the Brooklyn district attorney, said the new court would treat victims of domestic violence with greater sensitivity. MICHAEL BRICK (NYT)

MANHATTAN: ACCOUNTANT SOUGHT IN INQUIRY IS IN ISRAEL David E. Cohen, an accountant who boasted that he could make tax problems disappear "like magic," is in Israel, the Manhattan district attorney's office said yesterday. Prosecutors said they were exploring the possibility of extraditing him to New York, where he and a partner, Jeffrey C. Rosner, face charges of grand larceny and tax fraud. Mr. Rosner surrendered on Tuesday. ANEMONA HARTOCOLLIS (NYT)

BINGHAMTON: ANTIWAR PROTESTERS SENTENCED An antiwar campaigner who poured blood around a military recruitment center three years ago was sentenced to prison yesterday for trespassing and destroying government property. Clare Grady, 47, of Ithaca, received a sentence of six months in federal prison. Ms. Grady is the third defendant to be sentenced for the protest, which took place before the invasion of Iraq in 2003. Two others were sentenced earlier this week. MICHELLE YORK (NYT)

GARDEN CITY: COUNTY LEGISLATORS BATTLE OVER LEADERSHIP The Nassau County Legislature met in a belated and tumultuous session yesterday to pick a presiding officer. The Republican minority leader, Peter J. Schmitt, claimed victory with nine votes, while the Democrats split with eight for Kevan M. Abrahams and two for Roger H. Corbin. Claiming that the law requires 10 votes to win, the main Democrats obtained a temporary court order barring Mr. Schmitt from doing any hiring or firing. BRUCE LAMBERT (NYT)

MANHATTAN: VETERAN CHIEF TO HEAD COMMUNITY UNIT Police Commissioner Raymond W. Kelly has asked a veteran chief to head a Community Affairs Bureau focusing on counterterrorism as well as crime fighting. On Feb. 1, the chief, Douglas Zeigler, will take command of the bureau as it absorbs the School Safety Division to oversee more than 4,500 police officers and safety agents who work in schools. It is the first time that a uniformed member of the department, rather than a civilian, will head the bureau. Chief Zeigler is now head of the Organized Crime Control Bureau. AL BAKER (NYT)

WHITE PLAINS: PARENTS PLEAD GUILTY IN TODDLERS' DEATHS The parents of two toddlers who were burned to death in scalding water while trapped in the bathroom of their Yonkers apartment last July pleaded guilty to manslaughter and homicide charges on Wednesday. The parents, David Maldonado and Luz Arroyo, had maintained their innocence ever since the boys died, but on Wednesday they reversed themselves and pleaded guilty after prosecutors agreed to drop drug-possession charges against them. The plea deal was made only days before the parents were set to go on trial in County Court here. Mr. Maldonado, who pleaded guilty to second-degree manslaughter, faces 5 to 15 years in prison. Ms. Arroyo, who pleaded guilty to criminally negligent homicide, faces 1 to 4 years. ANAHAD O'CONNOR (NYT)

NEW JERSEY

TRENTON: STATE GIVEN MORE TIME TO REFORM CHILD WELFARE Lawyers in a class-action suit against New Jersey's child welfare agency agreed yesterday to delay action on a request that the system be placed under federal control. The child welfare advocacy group, Children's Rights Inc., said the decision by its lawyers reflected the group's confidence in Gov. Jon S. Corzine and Kevin M. Ryan, the human services commissioner. Although the agreement still leaves open the possibility of a federal takeover of New Jersey's child welfare system, Mr. Ryan vowed that he would not allow that to occur. RICHARD LEZIN JONES (NYT)

NEWARK: UNIVERSITY PRESIDENT'S DEPARTURE IS DELAYED Trustees at New Jersey's troubled state medical school yesterday said they would wait an additional week before voting on the $600,000 severance package being offered to the school's outgoing president, Dr. John J. Petillo. Dr. Petillo resigned last week, after a year in which the University of Medicine and Dentistry of New Jersey was rattled by financial scandals and was forced to accept a federal monitor. Board members were set to vote on Dr. Petillo's resignation at their meeting, but the federal monitor requested more time to review the severance package. DAVID KOCIENIEWSKI (NYT)

Compiled by John Sullivan

(NYPOST)

By FREDRIC U. DICKER

The New York Post, January 25, 2006

FBI Director Robert Mueller will recuse himself from the potentially explosive ongoing probe of Decker College, which was once headed by his longtime friend and colleague, New York GOP gubernatorial hopeful William Weld, The Post learned yesterday.

Mueller's decision to step aside came after The Post told the FBI that New York Democrats would be joining former Republican Sen. Alfonse D'Amato's call for Mueller to do that.

FBI spokesman Richard Kolko told The Post that while the Decker probe was being handled by the special agent in charge of the Louisville, Ky., field office, Mueller himself is "regularly briefed on significant investigations and cases."

And while Kolko insisted Mueller "has not had a role in directing any part of this investigation," he said, "since the issue has been raised publicly, and to avoid even the appearance of any conflict, any decisions that would otherwise be made by the director in this matter will, instead, be handled by Deputy Director John Pistole."

Kolko's announcement came a few hours after state Democratic Chairman Herman "Denny" Farrell joined D'Amato in urging Mueller to step aside.

The Post disclosed yesterday that D'Amato, who has bitterly attacked former Massachusetts Gov. Weld for his supposed role as a U.S. Justice Department official in prosecuting his brother, Armand, in the early 1990s. Alfonse D'Amato had urged Mueller to recuse himself because of his strong ties to Weld.

Farrell said Weld and Mueller were "good friends" during the 1980s when both served in the U.S. Attorney's office in Boston.

He said Mueller had also contributed to Weld's unsuccessful U.S. Senate campaign against incumbent John Kerry of Massachusetts in 1996.

Decker College in Kentucky, which emphasized job-training skills, was shut down in September amid an FBI probe into allegations of widespread financial improprieties.

Weld, whose investment company owned part of the for-profit college, served as the school's chief executive officer for several months last year and has denied any wrongdoing.

Lawyer Charged In Internet Pharmacy Scheme (AP)

AP, January 26, 2006

(AP) - MINNEAPOLIS-A lawyer has been indicted on federal charges alleging he helped an Internet pharmacy illegally obtain narcotics and helped its founder hide assets.

Daniel Adkins, who was general counsel for Xpress Pharmacy Direct, helped deceive legitimate pharmacies into supplying the narcotics that Xpress hawked over the Internet and by telephone, according to the indictment issued Tuesday.

Federal authorities say Xpress filled about 72,000 illegal prescriptions for pain killers and other controlled substances, generating sales of about $20 million. Authorities shut down Xpress last May and company founder Christopher Smith, his accountant and a doctor who issued prescriptions were indicted in August.

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The indictment alleges that Adkins helped Smith hide assets after they learned about the investigation. It also alleges that Adkins wrote to legitimate pharmacies from which Xpress ordered drugs, assuring them that Xpress was "both legal and authorized by federal and state statutes."

Adkins was charged with conspiracy to distribute and dispense controlled substances, wire fraud; unlawful distribution and dispensing of controlled substances and misbranding drugs. If convicted of wire fraud he could face up to 20 years in prison and a $250,000 fine, the U.S. attorney's office said.

Adkins, from St. Paul, refused to comment and referred calls to his own attorney, Earl Gray. Gray said Wednesday that the allegations "are simply not true."

Smith's bail was revoked for violating the terms of his release and he remains in custody.

No. 2 In Drug Ring Pleads Guilty (KNOXNS)

By Jamie Satterfield

Knoxville News Sentinel (TN), January 26, 2006

"Superman" made him nervous.

But admitting crimes that could lock him away for life made Stephen "Black" Ardis downright scared Wednesday.

Ardis, who was captured on secret recordings expressing worries that an undercover agent he dubbed "Superman" was on his trail, pleaded guilty in U.S. District Court to being second-in-command of a Detroit-to-Knoxville drug running operation.

But the 26-year-old drug slinger made it clear before entering his plea that a possible life sentence was a scary proposition he wanted to avoid.

"This person has a very high number of months to serve," defense attorney James W. Bell told federal Judge Thomas Phillips. "I can never be sure what (a client's) criminal history is. I've explained to (Ardis) his criminal history could push this so his sentence could be life."

It's not an entirely reasonable fear, though.

Assistant U.S. Attorney Mike Winck said the massive amount of drugs Ardis conspired to put onto Knoxville's streets guarantees the Detroit man a 20-year prison term.

Then, there are the half dozen or so guns the group used to protect the slew of stash and crack houses the organization set up in Knoxville, Winck said. That weaponry, Winck said, will boost Ardis even farther up the sentencing scale.

If Ardis has a criminal record already, he would climb even higher up the sentencing ladder. Still, his likely punishment would hover around the 30-year mark, not a life term.

Phillips, however, wanted to make sure Ardis knew the ramifications of his guilty plea.

"It could turn out to be very different than what it looks like now," Phillips told Ardis of his possible punishment. "Do you understand that, Mr. Ardis?"

Ardis hesitated and then replied, "Yeah."

His boss in the drug conspiracy that involved cocaine, crack, marijuana and Ecstasy is facing a life term. Conspiracy leader Robert "Party" Smith, 31, of Detroit, pleaded guilty last week. His potential penalty range is so high it outpaces the highest rung on the federal sentencing ladder.

The drug ring was broken in November after a probe led by U.S. Drug Enforcement Administration Agent Todd Lee and Knoxville Police Department Investigator Bruce Conkey.

It was Conkey whom Ardis dubbed "Superman" in a conversation secretly recorded by the agents during their investigation. In that conversation, Ardis told Smith that he had just learned that Conkey, a well-known undercover officer, had been following him.

A few weeks later, the pair, along with three others, were arrested, several houses raided, and drugs and guns seized.

Phillips set an April 17 sentencing hearing for Ardis.

Prosecutor Postpones Charges In Bomb Case (TRICH)

By John Trumbo, Herald staff writer

Tri-City Herald, January 25, 2006

Benton County prosecutors will need several weeks to decide potential charges against a Richland man who says he kept bomb-making material because he is a miner.

Kevin D. Johnson, 49, was released from jail Friday, three days after Richland police arrested him at his home where they seized gunpowder, nitro-methane and about 20 pounds of ammonium nitrate. They also found six firearms.

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Prosecutor Andy Miller said Tuesday that no charges were filed during the 72-hour hold on Johnson because more investigation is needed. Items taken from the home also have to be analyzed by agents of the federal Bureau of Alcohol, Tobacco and Firearms, he said.

"To prove the elements of the case, we'd have to get the ATF to test the items," Miller said.

Johnson told the Herald in an interview at the jail last week that he has mining claims in Oregon and college degrees in civil engineering and geophysics.

"We want to follow up on some of the items mentioned in the (Tri-City Herald) news story," Miller said.

Johnson said he doesn't have a grudge against the police who arrested him.

"I think the police were doing their jobs," he said, noting that Richland officers made an arrest in an unrelated explosives case days before he was arrested.

"The police were here to check me out and it would've been irresponsible if they didn't," he said.

Richland police Capt. Mike Cobb said an ATF agent told him Tuesday analysis of the items found at Johnson's home would be completed in two to four weeks.

Cobb said the investigation also involves 91 blasting caps that allegedly belonged to Johnson that were found Jan. 15 at a home in Franklin County. Cobb said officers discovered the caps in a closet of a man's home after they investigated a domestic violence complaint.

Richland's bomb squad was invited by Franklin County authorities to pick up the material, Cobb said.

"The person who had them said he was keeping them for a guy who lives in Richland," Cobb said.

A search warrant for the Franklin County address on Quail Road said officers found 38, one-third pound sticks of an ammonium nitrate explosive. A box labeled "blasting caps," a gallon of racing nitro-methane, six jars of nitric acid and pre-made electrical charges also were found, according to court documents.

The owner of the property said the items "were used in mining and that a friend (Kevin Johnson) had given them to him to hold (for safekeeping)," the document said.

That led Richland police to Johnson's home at 914 Smith Avenue, where a search was done Jan 15. Johnson was booked into Benton County jail three days later on an investigative hold.

Johnson said if no charges are filed he hopes to have his guns returned because some of them are family heirlooms.

"The guys from the ATF were here and they didn't seem to be overly concerned," he said.

IMMIGRATION:

Pinochet's Daughter May Seek US Asylum (REU)

Reuters, January 26, 2006

WASHINGTON/SANTIAGO (Reuters) - The eldest daughter of former Chilean dictator Augusto Pinochet on Wednesday asked the United States to grant her political asylum after she fled tax charges in Chile, Chilean officials said.

Lucia Pinochet Hiriart, 60, was being moved to an immigration detention center late on Wednesday after spending most of the day at Dulles International Airport near Washington, Chile's Foreign Relations Minister Ignacio Walker told local radio in Santiago.

Earlier, Interior Minister Francisco Vidal said Chile had been told that Pinochet Hiriart had asked for asylum.

"In the coming two or three days we will have a decision from the United States which, I insist, will be a rejection (of asylum)," Walker said.

U.S. officials would not confirm that Pinochet Hiriart had requested asylum.

"Lucia Pinochet is currently in U.S. Customs and Border Protection custody at Dulles International Airport, pending resolution of her immigration status," said Jarrod Agen, a spokesman for the Department of Homeland Security.

"The Department of Homeland Security is unable to comment on whether or not an individual is seeking asylum."

Pinochet Hiriart has been charged with tax fraud related to some $1 million in undeclared taxes and falsification of documents as part of a widening tax evasion and fraud investigation involving the Pinochet family.

She was served with a subpoena in Chile over the weekend to attend court on Monday, but never appeared.

Pinochet Hiriart was pulled over for special screening after arriving at Virginia's Dulles airport.

"She did arrive this morning at about 7 a.m. at Dulles on a flight from Argentina and she's currently being interviewed," Customs and Border Protection agency spokeswoman Suzanne Trevino said.

Chilean officials said Pinochet Hiriart was considered a fugitive from justice and President Ricardo Lagos said she would be asked to return to her country voluntarily.

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"As I understand it, contact has been made and we are trying to see if she could return voluntarily to the country," Lagos told reporters.

EXTRADITION UNCERTAIN

A U.S. Justice Department official said the United States has a limited extradition treaty with Chile, but it did not cover all crimes and may not cover the criminal charges against Pinochet Hiriart.

Media reports in Chile said Pinochet Hiriart fled to neighboring Argentina by car on Sunday, a day before her mother and four siblings were arrested on charges of tax evasion and fraud linked to her father's multimillion-dollar bank accounts.

Pinochet Hiriart's son Rodrigo Garcia Pinochet told a radio in Santiago that his mother had decided to visit the United States and return in March to "clear up this situation."

"She never imagined being in this turmoil, in this situation," he said.

Augusto Pinochet, 90, ruled Chile for 17 years after he took power in a 1973 military coup that toppled Salvador Allende. He has been accused of responsibility in the deaths of as many as 3,000 Chileans during his regime between 1973 and 1990, and in tens of thousands of torture cases.

He was charged last year with evading taxes on an estimated $27 million hidden in foreign accounts. Prosecutors say Pinochet and his family stashed millions of dollars in more than 100 bank accounts outside of Chile.

Observers say he may end up facing prosecution for tax crimes before any of the human rights charges against him, which are stalled in the courts because of his health.

On Tuesday, a Santiago court of appeals approved bail for wife Lucia Hiriart, his youngest son Marco Antonio, and his daughters Jacqueline and Veronica.

Pinochet's eldest son Augusto was released on Monday, hours after being arrested on charges of falsification of documents related to a fraud and tax evasion investigation involving more than 100 secret foreign bank accounts.

The bank accounts have damaged Pinochet's reputation domestically. The left has long accused him of being ultimately responsible for thousands of deaths and the torture of tens of thousands of leftists that occurred during his regime.

But many Chileans had supported him partly because he was seen as a clean leader in financial matters compared with many other Latin American presidents and dictators.

(Additional reporting by Antonio de la Jara in Santiago, Louise Egan in Buenos Aires and David Wiessler in Washington)

TAX:

Hatch Guilty Of Failing To Pay Taxes On 'Survivor' Winnings (AP)

By Ray Henry, Associated Press Writer

AP, January 26, 2006

(AP) - PROVIDENCE, Rhode Island-Richard Hatch, who won $1 million (â‚¬810,000) in the debut season of the reality show "Survivor," was found guilty Wednesday of failing to pay taxes on his winnings and taken straight to jail.

Hatch remained calm as the court clerk read the verdict. He waved goodbye to family members, then was handcuffed and taken into custody after U.S. District Judge Ernest Torres said he was a potential flight risk.

The charges carry up to 13 years in prison. Torres said he expected a sentence of between 33 months and 41 months, but said the time could be longer because prosecutors say Hatch committed perjury. Sentencing was scheduled for April 28.

Hatch, 44, was also convicted of evading taxes on $327,000 (â‚¬265,983) he earned as co-host of a Boston radio show and $28,000 (â‚¬22,775) in rent on property he owned. He was acquitted of seven bank, mail and wire fraud charges related to a charity, Horizon Bound, he planned to open for troubled youth.

Hatch's lawyer, John MacDonald, said he would appeal the verdict. He said Hatch was aware of the possibility of jail time.

"Rich has been going through this now for three years and he's prepared himself mentally and emotionally for this date," MacDonald said.

Torres said Hatch never accounted for a significant part of his money, including the "Survivor" prize, which he said could be used to flee.

Near the end of the trial, an explanation for Hatch's failure to pay taxes was raised by his lawyer - but never mentioned in the jury's presence. Hatch's lawyer, Michael Minns, said Hatch caught fellow contestants cheating and struck a deal with the show's producers to pay his taxes if he won. But Hatch was never asked about the allegation when he testified.

Instead, Minns told jurors Hatch was the "world's worst bookkeeper" and said his client never meant to do anything wrong. Hatch testified that he thought producers were supposed to pay his "Survivor" taxes, and said the donations he took from his charity were far less than the money he had already poured into it.

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One juror, Robert Paquette, said in a telephone interview that the jury believed Hatch had legitimate questions about who was responsible for paying his "Survivor" taxes. But he said Hatch crossed the line when he didn't report income from his rental property and radio show.

"Even if you take the `Survivor' money out of there, there was still a lot of evidence," Paquette said.

More than five years after winning, Hatch remains reality TV's most famous villain, the man viewers loved to hate. He first captured their attention for shedding his clothes on "Survivor," prompting David Letterman to nickname him "the fat naked guy," and became known for manipulating competitors to his advantage.

Government Says Struckman Nabbed (PSBIZ)

Puget Sound (WA) Business Journal, January 26, 2006

The U.S. Department of Justice said Wednesday that former Renton resident David Struckman has been captured in Panama. Struckman had been charged by the Internal Revenue Service for running an operation that promoted tax-avoidance plans.

Struckman was indicted in 2004 and charged with conspiracy to defraud the United States. He then "disappeared," according to a Justice Department spokeswoman. He was arrested in Panama earlier this month and deported, the department said, and will be transported to Western Washington.

The government alleges that Struckman and four others sold "Global Prosperity" wealth-building products, including videotapes, CDs and seminars, which "included fraudulent methods of income tax elimination."

The seminars cost as much as $37,000 to attend and, according to the government, the group then concealed income earned from the products by using bogus trusts and offshore bank accounts.

Struckman's four co-defendants pleaded guilty and face sentencing on April 10 in Seattle. Last year, Struckman was also charged by the government with tax evasion for 1999 through 2001. If convicted, he faces up to 20 years in jail and $1 million in fines.

CONGRESS-ADMINISTRATION:

Alito Moves Toward Senate Confirmation (SACBEE)

By jesse holland

The Sacramento Bee, January 26, 2006

Supreme Court nominee Samuel Alito is moving toward all-but-certain confirmation as the nation's 110th justice, with unhappy Democrats keeping up a drumbeat of criticism of the conservative judge while advising their leaders against attempting a filibuster.

"Because we have such a full plate of pressing issues before Congress, a filibuster at this time would be, in my view, very counterproductive," said Sen. Mary Landrieu, D-La., who wants the Senate to concentrate on Hurricane Katrina rebuilding programs. "We simply cannot afford to bring the Senate to a halt at a time when we need its action the most."

Without a filibuster, Alito will be confirmed as the replacement for retiring Justice Sandra Day O'Connor, who throughout her years on the high court often has been a key fifth vote on contentious social issues including abortion, affirmative action and the death penalty. Alito already has majority support in the Senate, with 51 Republicans and Democratic Sen. Ben Nelson of Nebraska already publicly supporting his confirmation.

The confirmation debate on the Senate floor was continuing Thursday, but Republicans and the White House are so confident that Alito will be approved by the Senate that they've already started congratulating him and sending up new lower-court nominations for senators to consider.

A few hours after senators started debating his nomination Wednesday, Alito met with Senate Majority Leader Bill Frist, Majority Whip Mitch McConnell and Judiciary Committee Chairman Arlen Specter in a U.S. Capitol room that directly faces the neighboring Supreme Court.

The conservative judge shook their hands and joked with the Republican leaders and thanked them for their efforts. Alito, who had met privately with more than 80 senators since President Bush nominated him in October, also thanked "all of the senators who supported me and were kind enough to meet with me."

The 100-member Senate is expected to confirm the 55-year-old judge from the 3rd U.S. Circuit Court of Appeals in Philadelphia before Bush's State of the Union address on Tuesday.

"I call on the United States Senate to put partisanship aside and give Judge Alito the up-or-down vote he deserves and confirm him as the next associate justice of the Supreme Court," the president said at the White House.

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Even though Democrats like Landrieu and Ken Salazar of Colorado won't support a filibuster, that doesn't mean that liberals aren't working to get the largest vote against Alito possible.

Nelson is the only Democrat to express support for Alito, and all eight Democrats on the Senate Judiciary Committee voted against his nomination on Tuesday. Twenty-three Democrats have already said they will vote against Alito, which is one more than opposed conservative Chief Justice John Roberts last year.

If the pattern continues, Alito may be on his way to the most partisan Senate victory for a Supreme Court nominee in years. The closest vote in modern history is Justice Clarence Thomas' 52-48 victory in 1991, when 11 Democrats broke with their party and voted for President George H.W. Bush's nominee.

Democrats argue that replacing O'Connor with Alito would put people's rights and liberties in danger.

Alito "will tip the balance of the scales of justice," said Sen. Dick Durbin of Illinois, the Senate's No. 2 Democrat. "He will tip the balance against protecting our basic privacy and personal freedoms. He will tip the balance in favor of presidential power even when it violates the law."

Senate Debates Bush Court Pick, Approval Expected (REU-Y2)

By Thomas Ferraro

Reuters, January 26, 2006

U.S. Supreme Court nominee Samuel Alito appeared to have the votes for confirmation on Wednesday as the Senate began a bitter debate about the conservative judge who could push the high court to the right.

Democrats said Alito valued presidential power over civil liberties, and Republicans denounced what they described as a smear campaign against President George W. Bush's 55-year-old nominee.

At least 51 of the Senate's 55 Republicans, along with at least one Democrat, plan to vote for Alito, according to an unofficial tally based on statements and interviews with lawmakers and aides in the 100-member chamber.

"Judge Alito deserves to become Justice Alito," said Senate Republican leader Bill Frist of Tennessee. "Those who oppose him are smearing a decent and honorable man."

Democratic Sen. Edward Kennedy (news, bio, voting record) of Massachusetts ripped into Alito by complaining about what he described as bid for expanded power by Bush. He cited in particular the administration's program of domestic eavesdropping without warrants.

"The record demonstrates that we cannot count on Judge Alito to blow the whistle when the president is out of bounds," Kennedy said. "He (Alito) is a long-standing advocate for expanding executive power, even at the expense of core individual liberties."

If confirmed, Alito would replace moderate conservative Justice Sandra Day O'Connor and could help move the nine-member high court to the right on abortion, civil rights and other hot-button issues.

The Senate began its debate a day after its Judiciary Committee split 10-8 along party lines to approve Bush's second justice on the high court, which the president has promised to make more conservative.

NO FILIBUSTER

Democrats have not threatened a filibuster since they do not appear to have the votes to sustain such a procedural roadblock. But they appear certain to push the Senate into holding at least a few days of debate.

At the White House, Bush called on the Senate to "put partisanship aside and give Judge Alito the up-or-down vote he deserves and to confirm him as the next associate justice of the Supreme Court."

Flanked by 39 of Alito's former law clerks, Bush said, "In its 216-year history, the Senate has held an up-or-down vote on every Supreme Court nominee with a majority of Senate support."

Democrats have made clear they intend to make Alito and the high-court an issue in the November congressional elections.

Republicans have said they would welcome such a debate and argued that Alito, a federal appeals judge for the past 15 years, is far more mainstream than many Democratic supporters.

Traditionally, the Senate has approved successful Supreme Court nominees with broad bipartisan support, but Sen. Jeff Sessions (news, bio, voting record), an Alabama Republican, charged that Democrats have sought to mount opposition to Alito to score political points.

The "knife cuts both ways," Sessions said. "If this is affirmed, then it will be more difficult in the future for Democratic presidents to have their nominees confirmed."

Republican backers have hailed Alito as a fair-minded judge who received the American Bar Association's top rating. But Democratic critics say he has staked out extreme positions on such matters as abortion, civil rights and presidential powers.

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With Republicans holding 55 of 100 seats in the Senate, Alito appears certain to be approved. As of Wednesday, only four Republicans had not disclosed their intentions.

The Senate vote on Alito is expected to be far closer than the 78-22 one that John Roberts, Bush's first nomination to the high court, received in September in being confirmed as U.S. chief justice.

Half of the Senate's 44 Democrats voted for Roberts but only one of them, Ben Nelson of Nebraska, has announced he will vote for Alito. All but a few other Democrats appear certain to oppose him.

Parties Shore Up Votes On Alito (WT)

By Charles Hurt

The Washington Times, January 26, 2006

Democrats took their opposition of Supreme Court nominee Samuel A. Alito Jr. to the Senate floor yesterday as Republicans rounded up the 60 votes they need to block any attempt to filibuster his nomination.

"The Democrats know that they can't defeat this nomination," Sen. John Cornyn, Texas Republican and member of the Senate Judiciary Committee, said yesterday. "There won't be a filibuster, in all likelihood. But what they can do, unfortunately, is smear the name and the reputation of this good man who has offered himself to public service."

Sen. Edward M. Kennedy, Massachusetts Democrat and one of Judge Alito's harshest critics, called the vote on the nomination "the vote of a generation."

"The American people will have no second chance to decide whether this person should be trusted with such an awesome responsibility," Mr. Kennedy said. "As their representatives, it is our responsibility to ask the tough questions and demand meaningful answers."

Republicans, meanwhile, counted the 60 votes they need to prevent a filibuster. Party leaders expect at least five Democrats to join the chamber's 55 Republicans in opposing a filibuster, although they expect to win fewer than 60 votes on final confirmation.

Sen. Ben Nelson, Nebraska Democrat, has announced that he will support Judge Alito's confirmation. Also, Democratic Sens. Dianne Feinstein of California, Mark Pryor of Arkansas, Robert C. Byrd of West Virginia and Joe Lieberman of Connecticut have said they see no grounds for a filibuster.

Sen. Ken Salazar, Colorado Democrat, who campaigned on a pledge not to participate in filibusters of judicial nominees, has declined to rule out supporting an Alito filibuster.

Mr. Salazar is part of the so-called "Gang of 14" senators who last year brokered an end to the judicial filibusters. Of those seven Democrats and seven Republicans, 11 say the Alito nomination is not an "extraordinary circumstance" under which a filibuster would be acceptable.

Democratic Sens. Joseph R. Biden Jr. of Delaware and Frank R. Lautenberg of New Jersey have speculated that Democrats won't filibuster the nomination. But the Democratic leadership in the Senate repeatedly has refused to say that a filibuster is no longer being considered.

However, not everybody who supports Judge Alito wants to avoid a filibuster.

"If they move forward with such a filibuster, my reaction is: Make my day," Sen. George Allen, Virginia Republican, said yesterday. "We'll enjoy pulling the constitutional trigger to allow Judge Alito a fair up-or-down vote."

The "constitutional" route would require 51 votes to ban judicial filibusters.

With a filibuster looking unlikely, the only question remaining about Judge Alito's Senate confirmation is when the full vote will occur.

Republicans said yesterday that they are hoping for a vote Monday. Democrats, however, are aiming for a vote as late as Tuesday so President Bush's State of the Union address that day will downplay news of the confirmation.

Robert Novak (CHIST)

By Alito a dilemma for red state Dems

Chicago Sun-Times, January 26, 2006

As the Senate moved this week toward the anticipated vote to confirm Samuel Alito, a resident of far-off North Dakota was likely to watch a heavily aired television ad. A female announcer read this:

"Along with Democrats and Republicans, newspapers across America . . . are endorsing Judge Samuel Alito for the U.S. Supreme Court. Yet, politically motivated liberal extremists like Ted Kennedy continue to attack Alito. Sen. Kent Conrad will soon cast his vote. Call Sen. Conrad and tell him to vote yes on Judge Alito and stand with mainstream America, not Ted Kennedy."

Conrad, a powerful figure in the Senate as ranking Democrat on the Budget Committee, normally experiences no difficulty in making up his mind to express firm opinions. But not on the Alito confirmation. He scheduled an extra meeting with the judge

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on Friday, and his staff said an internal meeting to decide his vote would be held later that morning. Facing re-election this year in the very red state of North Dakota, Conrad may be wondering what political price he might pay to vote no on Alito.

The Democratic leadership has made a calculated decision to follow Kennedy and liberal pressure groups in opposition to Alito. Sen. Ben Nelson, up for re-election in Nebraska, at this writing is the Senate's only Democrat to endorse Alito. Regarding this opposition as a political decision, conservative strategists are determined to play politics themselves this year against Democrats -- particularly red state senators who oppose Alito.

That has opened the door for conservatives to turn the Alito confirmation into a political asset in the 2006 elections. Two unnamed donors have contributed $100,000 for current TV ads in the Dakotas to influence Democrats Kent Conrad and Tim Johnson. These same contributors, who spent $4.5 million in the 2004 election cycle, have privately committed $5 million against the re-election of red state Democrats who actually vote against Alito.

Conrad and his North Dakota colleague Byron Dorgan, Bill Nelson of Florida, Tim Johnson of South Dakota, Ken Salazar of Colorado, Mary Landrieu of Louisiana, and Mark Pryor and Blanche Lincoln of Arkansas are red state Democrats who voted to confirm Chief Justice John Roberts. While Roberts is no less conservative than Alito and was markedly less forthcoming in answering Senate Judiciary Committee questions, these Democrats who voted for the chief justice have been under intense pressure from the left to oppose Alito.

All such senators may be willing to risk a politically unpopular "no" vote, partly thanks to disappointing Senate Republican candidate recruitment this year. With party leaders unable to persuade popular Republican Gov. John Hoeven to run in North Dakota, Conrad does not yet even have an opponent. Florida Republican leaders did not get the candidate they wanted with Rep. Katherine Harris running far behind, enabling Bill Nelson to surprise many colleagues by announcing opposition to Alito. However, conservative money now will pour into both Florida and North Dakota.

Politicizing the confirmation vote also poses problems for prominent Democratic non-incumbent candidates. Pennsylvania State Treasurer Bob Casey Jr., the nominally pro-life opponent of Republican Sen. Rick Santorum, is keeping quiet about Alito. In New Jersey, newly appointed Democratic Sen. Robert Menendez does not have Casey's luxury of neutrality on Alito. He is expected to vote no, threatening Italian-American votes against him this year in favor of Republican Thomas Kean (son of the former governor).

Alito strategists were delighted this week when "Friends of John Kerry" dispatched over the whole country an e-mail signed by the 2004 presidential nominee. That facilitates the conservative tactic of linking Conrad with Kennedy and Kerry in the minds of North Dakotans if he votes against Alito.

"We can't trust [Alito] to defend mainstream American values," contended Kerry's letter. The contention that President Bush's nominee is outside the "mainstream" is the major talking point against Alito, but polls show support for him and his endorsement of spousal abortion notification. That debate's outcome may determine whether senators who vote against Alito will suffer at the polls this year and in the years ahead.

Senators In Need Of A Spine (NYT)

The New York Times, January 26, 2006

Judge Samuel Alito Jr., whose entire history suggests that he holds extreme views about the expansive powers of the presidency and the limited role of Congress, will almost certainly be a Supreme Court justice soon. His elevation will come courtesy of a president whose grandiose vision of his own powers threatens to undermine the nation's basic philosophy of government — and a Senate that seems eager to cooperate by rolling over and playing dead.

It is hard to imagine a moment when it would be more appropriate for senators to fight for a principle. Even a losing battle would draw the public's attention to the import of this nomination.

At the Judiciary Committee hearings, the judge followed the well-worn path to confirmation, which has the nominee offer up only the most boring statements and unarguable truisms: the president is not above the law; diversity in college student bodies is a good thing. But in what he has said in the past, and what he refused to say in the hearings, Judge Alito raised warning flags that, in the current political context, cannot simply be shrugged away with a promise to fight again another day.

The Alito nomination has been discussed largely in the context of his opposition to abortion rights, and if the hearings provided any serious insight at all into the nominee's intentions, it was that he has never changed his early convictions on that point. The judge — who long maintained that Roe v. Wade should be overturned — ignored all the efforts by the Judiciary Committee's chairman, Arlen Specter, to get him to provide some cover for pro-choice senators who wanted to support the nomination. As it stands, it is indefensible for Mr. Specter or any other senator who has promised constituents to protect a woman's right to an abortion to turn around and hand Judge Alito a potent vote to undermine or even end it.

But portraying the Alito nomination as just another volley in the culture wars vastly underestimates its significance. The judge's record strongly suggests that he is an eager lieutenant in the ranks of the conservative theorists who ignore our system

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of checks and balances, elevating the presidency over everything else. He has expressed little enthusiasm for restrictions on presidential power and has espoused the peculiar argument that a president's intent in signing a bill is just as important as the intent of Congress in writing it. This would be worrisome at any time, but it takes on far more significance now, when the Bush administration seems determined to use the cover of the "war on terror" and presidential privilege to ignore every restraint, from the Constitution to Congressional demands for information.

There was nothing that Judge Alito said in his hearings that gave any comfort to those of us who wonder whether the new Roberts court will follow precedent and continue to affirm, for instance, that a man the president labels an "unlawful enemy combatant" has the basic right to challenge the government's ability to hold him in detention forever without explanation. His much-quoted statement that the president is not above the law is meaningless unless he also believes that the law requires the chief executive to defer to Congress and the courts.

Judge Alito's refusal to even pretend to sound like a moderate was telling because it would have cost him so little. Chief Justice John Roberts Jr., who was far more skillful at appearing mainstream at the hearings, has already given indications that whatever he said about the limits of executive power when he was questioned by the Senate has little practical impact on how he will rule now that he has a lifetime appointment.

Senate Democrats, who presented a united front against the nomination of Judge Alito in the Judiciary Committee, seem unwilling to risk the public criticism that might come with a filibuster — particularly since there is very little chance it would work. Judge Alito's supporters would almost certainly be able to muster the 60 senators necessary to put the nomination to a final vote.

A filibuster is a radical tool. It's easy to see why Democrats are frightened of it. But from our perspective, there are some things far more frightening. One of them is Samuel Alito on the Supreme Court.

The Roberts-Alito Court (WSJ)

The Wall Street Journal, January 26, 2006

With at least 52 Senators already on record in support, it's clear that -- short of some smear ex machina -- liberal Democrats can't stop Samuel Alito from being confirmed to a seat on the Supreme Court. So it's a good moment to consider what this says about our politics and what it means for the Court as it enters a new era.

One conclusion is that the confirmation of both Chief Justice John Roberts and Judge Alito marks the most important domestic success for President Bush since his 2003 tax cuts. These look like legacy picks. Despite the Harriet Miers misstep, Mr. Bush has now fulfilled one of his campaign promises. And with two distinguished conservative jurists joining Justices Antonin Scalia and Clarence Thomas, the Court is closer than it's been in 50 years to having a majority that can restore Constitutional interpretation to its founding principles.

In this sense, the Alito-Roberts ascendancy also marks a victory for the generation of legal conservatives who earned their stripes in the Reagan Administration. The two new Justices are both stars of that generation -- many others are scattered throughout the lower courts -- and they are now poised to influence the law and culture for 20 years or more. All those Federalist Society seminars may have finally paid off. Call it Ed Meese's revenge.

The Roberts-Alito Court also represents a notable, and greatly satisfying, rebuke for the legal left and its "borking" strategy. They have long thought of the Courts as their personal legislature, and they have shown they will do and say anything to keep control of it. But this time they lost, and on their own ideological terms.

Senator Chuck Schumer declared in 2001 that he wanted to turn judicial confirmations into battles over "ideology." The New York Democrat succeeded in doing so, but he ended up losing in a self-knockout. One reason Democrats couldn't defeat Chief Justice Roberts or Judge Alito, despite near party-line opposition, is that their filibuster strategy had made judges a top-line election issue in both 2002 and 2004.

The battle over their unprecedented filibuster of 10 appeals-court nominees helped to sweep Democrats out of the Senate in Bush-leaning states and give Republicans a larger majority. The Democrats who remain in red states -- five of whom are up for re-election in November -- saw all this and had no appetite for a repeat in 2006. The liberal interest groups that devised the filibuster strategy and wrote the anti-Alito talking points for Senators Ted Kennedy and Patrick Leahy thus contributed as much as anyone to Judge Alito's confirmation. Congratulations, Ralph Neas. It's your finest hour.

While it's impossible to know how any new Justice will vote on specific issues, every indication is that the new duo will fit somewhere along the Court's conservative-libertarian wing. With Judge Alito replacing Justice Sandra Day O'Connor, who in her later years had moved markedly left on the culture, we can anticipate more skepticism toward both racial preferences and campaign-finance restrictions on free speech.

We can also expect more respect for the Free Exercise of religion clause in the First Amendment, as opposed to the rigid invocation of the Establishment Clause's "wall" of separation between church and state. We'd also hope for greater respect for property rights, including a revisiting of last year's egregious Kelo decision, as well as a revival of the Lopez line of Commerce

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Clause cases showing more respect for federalism. Roe v. Wade may survive, or not, but we'd expect that individual states would receive more leeway to enact restrictions on abortion as per the wishes of their citizens.

This does not mean this will be a "conservative" Court, however. Four reliable liberals remain, as well as the protean Justice Anthony Kennedy, who has been making his own migration to the cultural left and the make-it-up-as-you-go jurisprudence exemplified by Lawrence (on state laws on homosexuality) and Roper v. Simmons (on the juvenile death penalty). You can bet the press corps and liberal politicians will now apply their carrot-and-stick strategy of praise and castigation to push Justice Kennedy further to the left and retain a five-vote liberal majority. This will be especially true on the polarizing cultural disputes that are better solved democratically.

All of which means that the political battles over the Courts will continue. It is possible Mr. Bush will get another Supreme Court nomination before his term ends. Even if he doesn't, there will be many crucial places on the appellate courts to fill. There are eight appeals-court nominees awaiting action and a total of 15 vacancies, excluding Judge Alito's slot on the Third Circuit.

The White House and Senate should move with confidence and dispatch to fill these openings with judges in the Thomas-Scalia and now Roberts-Alito mold, while they still have the votes to confirm them. One thing we've surely learned from the past six months of Supreme Court debate is that elections matter to the courts as much as they do to the other two branches of government.

A Stop At Senate On The Way To Court (WP)

By Charles Babington

The Washington Post, January 26, 2006

On the verge of a second successful Supreme Court appointment, the White House flexed its judicial muscles yesterday, sending Samuel A. Alito Jr. to the Capitol for an early victory lap and resubmitting a contentious appellate court nominee blocked by Democrats in past years.

Just hours after Senate debate opened on his nomination to the Supreme Court, Alito posed for photographs and congratulations with Majority Leader Bill Frist (Tenn.) and other senior GOP senators. Although a Senate confirmation vote is not expected until Friday at the earliest -- and possibly as late as Tuesday -- the group acted as if the result was not in doubt. Alito, an appellate judge for 15 years, thanked "all of the senators who supported me and were kind enough to meet with me."

Meanwhile, the White House renominated Brett M. Kavanaugh to the U.S. Court of Appeals for the District of Columbia Circuit. President Bush nominated Kavanaugh, the White House staff secretary, in July 2003, but he fell victim to intense battles between Senate Democrats and Republicans over numerous judicial appointments. A May 2005 bipartisan pact averted a showdown over judicial filibusters and enabled some contested nominees to win confirmation. But it left Kavanaugh in limbo.

The Senate Judiciary Committee's eight Democrats complained last year that Kavanaugh took several months to answer their written questions about his qualifications. Other Democrats have noted that Kavanaugh, 40, has limited courtroom experience and helped independent counsel Kenneth W. Starr pursue the Monica S. Lewinsky case during the Clinton presidency.

Senate debate on Alito opened with Republicans praising him and Democrats calling him a threat to long-established rights such as access to abortion in all 50 states. "He has voted to narrow that circle, to restrict the rights that Americans hold dear," Sen. Hillary Rodham Clinton (D-N.Y.) said.

Sen. Barbara A. Mikulski (D-Md.) said Alito "has stated he looks at the facts of each case. Yet time and time again his decisions show support for big business, for the executive branch, but not so much for everyday Americans."

Sen. Orrin G. Hatch (R-Utah) said Alito "is highly qualified to serve on the Supreme Court." Democrats, he said, "are so intent on manufacturing a case against this nominee that they brush aside this seemingly minor detail of his qualifications as if it were just an annoyance."

Frist began the debate by saying that "those who oppose him are smearing a decent and honorable man and imposing an unfair, political standard on all judicial nominees." The senator added: "He has a record that demonstrates a respect for judicial restraint, an aversion to political agendas on the bench, and a commitment to the rule of law and the Constitution."

At the White House, Bush met with 54 of Alito's former law clerks. The president told reporters that Alito "has earned broad support from his fellow judges on the 3rd Circuit" and said: "There's no doubt about Judge Alito's qualifications, his intellect, or his complete dedication to our Constitution and laws. He is exactly the kind of person Americans want on the Supreme Court."

Bush NJ Federal Court Nominees Include Abramoff Prosecutor (AP)

AP, January 26, 2006

WASHINGTON — President Bush on Wednesday nominated one of the Justice Department's lead prosecutors in the Jack Abramoff corruption probe to a U.S. District Court seat.

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Noel Hillman, chief of the department's public integrity section, was nominated for the federal judgeship in New Jersey, where he served in the U.S. Attorney's office under Michael Chertoff, now secretary of Homeland Security.

The White House was poised to nominate Hillman last summer, after New Jersey's two Democratic senators took the opportunity to weigh in on Hillman and other nominees in exchange for lifting their objections to another candidate Bush had nominated in 2003.

White House press officials did not immediately comment on the timing of the nomination.

Hillman will step down as chief of the public integrity unit next week, but remain in the Justice Department's criminal division until he is confirmed, a department official said. Andrew Lourie, a career prosecutor in Miami, will lead the public corruption-fighting office on a temporary basis, the official said, speaking on condition of anonymity because he is not authorized to discuss personnel matters.

Lourie performed the same role until Hillman took over early in 2003.

During a news conference earlier this month following Abramoff's guilty plea on corruption-related charges, Assistant Attorney General Alice Fisher said Hillman played an important role in providing leadership in the investigation.

Hillman came to Washington in 2001. Before that, he was an assistant U.S. attorney in New Jersey from 1992 to 2001, coming in while Chertoff was the U.S. attorney.

Last summer, Democratic Sens. Jon Corzine and Frank Lautenberg signed off on the nominations of Hillman and two others nominated to judgeships in New Jersey on Wednesday. They gave the OK as part of an agreement to lift their objections to Bush's nomination of Peter Sheridan, a lawyer and Republican activist, to the federal bench.

Bush Plays Down Bailout Prospects For GM And Ford (WSJ)

By Christopher Cooper And John D. Mckinnon, Staff Reporters Of The Wall Street Journal

The Wall Street Journal, January 26, 2006

WASHINGTON -- President Bush said General Motors Corp. and Ford Motor Co. should develop "a product that's relevant" rather than look to Washington for help with their heavy pension obligations, and hinted he would take a dim view of a government bailout of the struggling auto makers.

In an Oval Office interview, Mr. Bush said that his administration has discussed the development of new fuel technologies with the nation's top two auto makers, which might make them more competitive, but that he has had no talks about the companies' finances.

Asked if he had spoken to GM Chairman and Chief Executive Rick Wagoner or Ford Chairman and CEO William Clay Ford Jr., Mr. Bush replied: "Not about their balance sheets." He added: "And I haven't been asked by any automobile manufacturer about a bailout."

Earlier this week, Ford announced sweeping layoffs and plant closings, amid falling sales and increased foreign competition that have sparked concerns one or both of the auto makers may seek bankruptcy protection. Both have denied such plans. But the prospect has fueled speculation that the federal government could face pressure to bail out the companies, as President Carter's administration did in 1979 with $1.5 billion in loan guarantees for Chrysler Corp.

Mr. Bush said little to suggest the companies should find comfort in that precedent. "I have been very reluctant -- I'm mindful of the past where at one point in time, a predecessor of mine was faced with that same dilemma," he said. "I would hope I wouldn't be asked to make that decision."

Asked if the government should take any pre-emptive action, he said: "I think it's very important for the market to function." He suggested he felt optimistic about the companies' prospects.

1 TRANSCRIPT

Read an edited transcript2 of the interview with President Bush.

The auto industry's struggles could become a big political issue in this year's midterm elections and beyond, especially in Midwestern states such as Michigan and Ohio, where much of the industry's manufacturing base is located. Ford and GM plan to cut at least 60,000 jobs over the next few years, and the fallout could ripple across the auto-supply industry as well, whether or not the companies ever seek bankruptcy protection. While resisting a bailout could cost Republicans support among some voters, it also would serve to shore up their support among those who favor free-market solutions.

While neither GM nor Ford has explicitly sought a Chrysler-style bailout, the two auto makers have dropped hints they would welcome government help in areas such as coping with rising health-care and pension burdens and the high costs of developing fuel-efficient vehicles. And both are key administration priorities in 2006.

Market Forces for Health Care

Speaking less than a week before his annual State of the Union address, Mr. Bush previewed his push to harness market forces to make health care more affordable by giving consumers more direct control of their care. Among other things, Mr. Bush

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signaled he wants to significantly expand the Health Savings Account program, under which workers who sign up for special high-deductible insurance are allowed to put away money tax-free to bankroll basic expenditures.

On other matters, Mr. Bush:

· said he would not deal with the radical Hamas Islamist party, regardless of how many seats it won in yesterday's Palestinian parliamentary elections until it accepts Israel's right to exist;

· declared that "it's important for us to exhaust all diplomacy" in trying to halt Iran's nuclear program, and said he advocates a plan for Russia to enrich nuclear material and deliver it to Iran for a civilian nuclear-energy program;

· said the controversial program to wiretap conversations between people inside and outside the U.S. without warrants was developed by national-security experts and was constructed outside an existing law on covert surveillance because "we require a different response to an enemy" in an era of terrorism.

In discussing the auto companies' woes, Mr. Bush suggested his sympathies lie more with the workers who are displaced or unsettled by a changing corporate environment, saying his administration would focus on ways to retrain laid-off employees. "This is going to be a very troubling time for workers and their families," Mr. Bush said, adding that companies had an obligation to assist employees they cut loose.

On the subject of ballooning pension expenses, which are part of Detroit's problems, Mr. Bush called on GM, Ford and the airline industry to think twice before backing away from their promises to pay in full. "That's not how the market works and that's not corporate responsibility as I see it," he said. "I'm very firm on seeing to it that this government hold people to account."

While neither GM nor Ford has sought to pass on pension obligations, a few airlines have. After filing for bankruptcy protection, UAL Corp.'s United Airlines and US Airways Group Inc. dumped nearly $10 billion in unfunded pension obligations on the Pension Benefit Guaranty Corp., the federal insurer of private-sector traditional pension plans. Northwest Airlines and Delta Air Lines, which are currently operating in Chapter 11, have said they haven't decided whether they will ask the court to shift their pension plans to the PBGC.

Mr. Bush suggested that one way auto makers can make more appealing products is to promote cars using alternative fuels -- a topic he plans to touch on in his speech next week. He said U.S. auto makers could find new market share in the competition to sell so-called flexible-fuel vehicles, which can use gasoline or blends containing such alternative fuels as ethanol.

"As these automobile manufacturers compete for market share and use technology to try to get consumers to buy their product, they also will be helping America become less dependent on foreign sources of oil," he said.

Mr. Bush's discussion of alternative fuels is likely to boost efforts on Capitol Hill to set targets for reducing U.S. oil consumption, and to start mandating flexible-fuel technology on motor vehicles. He said he has been impressed by the example of Brazil, where alternative auto fuels made from sugar are expected to soon help that country end dependence on imported oil. But Mr. Bush's proposal is likely to focus more on government-sponsored research than expansive new tax breaks for purchase of flex-fuel vehicles, for example.

On the health-care front, Mr. Bush will call on Congress to provide more information on providers, including how much they charge, so consumers can be smarter shoppers. "The patient-doctor relationship is a crucial relationship in helping control the costs of medicine," Mr. Bush said. "The more transparent pricing is, and the more opportunities patients have to make decisions in the health-care field, the more likely it is costs will not increase as dramatically as they have in the past."

He said he also will push for legislation making it harder to file malpractice lawsuits, which he said are "running up the cost of medicine." Congress has declined to address this issue in the past.

Acknowledging that he hasn't always managed to get the Republican-controlled Congress to take on his priorities, Mr. Bush called Washington gridlock "the challenge of the '06 year." He said he would make an effort to draw Democrats into the health-care debate.

During the interview, Mr. Bush appeared relaxed as he sipped coffee and called for questions, often holding up his hands to say more about a topic or finish a thought. His most animated and expansive comments came as he discussed his drive to introduce democracy in the Middle East, a topic that often drew him to the edge of his seat.

The president said his administration's efforts are advancing across the Middle East, despite concerns that they are sowing instability. "My attitude is that America must have faith in our values, be idealistic about our vision, and practical about what's possible," he said. "But it's changing. It's changing."

Conditions for Hamas

Still, Mr. Bush warned he isn't prepared to accept one offshoot of that drive: the electoral rise of the radical Hamas party among Palestinians. Whether Hamas is democratically elected or not, Mr. Bush said, the U.S. won't deal with the group. Hamas has claimed responsibility for many attacks on Israel over the years and continues to deny its right to exist.

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"A political party, in order to be viable, is one that professes peace, in my judgment, in order that it will keep the peace," Mr. Bush said. "And so you're getting a sense of how I'm going to deal with Hamas if they end up in positions of responsibility. And the answer is: Not until you renounce your desire to destroy Israel will we deal with you. "

The Palestinian election is a reminder that, in some countries in the region, elections could elevate Islamic religious parties that aren't friendly to the West or eager to see other Western values spread. But Mr. Bush made clear he isn't deterred by such concerns, saying he sees "no alternative" to democracy as a long-term stabilizing force.

Elsewhere in the Middle East, Mr. Bush said he is working with other international leaders to defuse Iran's nuclear program. He made it clear that he is particularly supportive of a proposal under which Russia would enrich nuclear material on the Iranians' behalf in return for that country's renunciation of nuclear-weapons research.

Iran has said it is interested in the idea. Its top nuclear negotiator has been discussing it with Russian officials this week, but no agreement has been reached.

Mr. Bush suggested he had grave reservations about the West's ability to work with Iran's new president, Mahmoud Ahmadinejad, citing that leader's call for the destruction of Israel. Mr. Bush said Mr. Ahmadinejad's "interest in the destruction of one of our closest allies" is a matter of concern "to people who care for the peace around the world."

Mr. Bush also had words of criticism for Syria, saying that government continued to meddle in the affairs of its neighbor Lebanon in direct defiance of United Nations disengagement demands.

--Joseph B. White in Detroit contributed to this article.

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Managing Detroit (WP)

The Washington Post, January 26, 2006

IT'S BEEN YEARS since chrome and tail fins seduced consumers, and few people still believe that what's good for General Motors is good for America. But the big Detroit carmakers remain so prominent -- as employers, industrial symbols and purveyors of cultural icons -- that it's hard to keep their grim results in some sort of perspective. Last year General Motors Corp. announced plans to cut 30,000 U.S. jobs, and this week Ford Motor Co. followed with plans to cut at least 25,000. These losses are painful. But they do not herald the death of American car manufacturing. Nor do they justify special measures from the federal government.

Since 1985 the value of cars, trucks and components manufactured in the United States has roughly doubled. Even more remarkably, the industry employs about the same number of workers it did 20 years ago -- a notable achievement given that employment in other types of manufacturing has fallen. What the GM and Ford announcements signal is not the decline of an industry but rather a shift in its makeup. The U.S. payrolls of Detroit's Big Three (the third company being Chrysler, though it is now German-owned) fell from about 1 million people to roughly 400,000 between 1979 and 2003. Some of those jobs were transferred to components makers that were spun off by GM and Ford, and some were replaced by foreign "transplant" factories whose American payrolls have grown to just under 300,000. As a result of this process, membership in the United Auto Workers union has fallen by more than half over the past quarter-century.

The dislocation has been grueling. Michigan has been a net loser of at least 100,000 automobile jobs since the late 1970s, although other Midwestern states have held roughly level; Indiana has even gained a bit. The new Sun Belt factories make up for Michigan's loss to some extent, but some of the foreign plants offer workers lower benefits and remain union-free partly because of harsh laws that discourage workers from organizing. Even with fairer labor laws, though, the generous compensation offered by Detroit would not have been sustainable. Only a combination of oligopoly and perverse government policy disguised this fact for a generation.

Until the 1970s the Detroit three accounted for more than 80 percent of vehicle sales in the United States. At its peak, GM alone controlled more than half of the market. This power allowed Detroit to charge high prices, which hurt ordinary families, and in turn to pay wages that were much more generous than workers in other industries could expect. But by the late 1970s foreign imports were growing, and generous compensation became unaffordable; in 1979, Chrysler had to be rescued by the federal government. The arrival of transplant factories in the 1980s was an extension of this foreign competition -- and a welcome one. If the foreigners hadn't started making cars here, imports would have boomed even faster. Michigan's pain would not have been offset by gains in the Sun Belt.

The rise of foreign competition should have forced the auto workers' compensation into line with that of other industries, but this is where perverse government incentives kicked in. The government allowed companies to boost compensation by promising generous retirement benefits, but it failed to require firms to set aside the cash to make good on those pledges. In the case of pensions, companies had to set aside something, but not the full amount needed. In the case of retiree health benefits, they were free to set aside only what they wanted . This "promise now, pay later" option allowed carmakers to postpone

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adjustment to foreign competition. But "later" has arrived, and the Detroit three confront benefit costs that undermine their ability to compete against the transplant factories.

Detroit's advocates understandably wish that the old world of oligopoly wages could somehow be preserved forever. They tend to oppose trade, which they rightly identify as the root cause of their problems. But trade and competition promote efficiency and innovation -- new models, safety features and hybrid engines, not to mention good prices -- and these consumer gains outweigh the losses for unionized car workers. Equally, Detroit's advocates tend to favor regulation that expands the option of paying later; right now, they are pushing Congress to weaken rules on pension funding still further. But the pay-later approach is cruel to workers who count on benefit promises that turn out to be fake, and it increases the risk that pension plans will ultimately be bailed out by taxpayers.

It's not clear whether the GM and Ford restructuring plans will be enough to avert bankruptcy. Their difficulties may take on a more political tone, particularly since the Midwest is a key battleground for presidential campaign strategists. But Congress needs to keep Motown's troubles in perspective. They are the result of competitive pressures that most parts of the U.S. economy take for granted every day. And it is precisely by embracing competition that the United States has become the world's most powerful economy.

In Address, Bush Is Seen Avoiding Large Initiatives (NYT)

By Richard W. Stevenson

The New York Times, January 26, 2006

WASHINGTON, Jan. 25 — Having stabilized his political standing after a difficult 2005, President Bush is heading into his State of the Union address on Tuesday intent primarily on retaining his party's slim majority in Congress this year and completing unfinished business from his existing agenda.

Unlike last year, when he used the occasion to kick off an ambitious and ultimately failed effort to overhaul Social Security, Mr. Bush seems unlikely to reshape the political landscape with his speech on Tuesday, members of both parties said.

Lawmakers said this election year would not be a good time to push difficult initiatives, and the White House has already shelved what it had initially planned as its big idea for 2006, a rewriting of the tax code.

Administration officials and other Republicans in Washington said Mr. Bush would focus on several topics, including health care, spending restraint, illegal immigration and the nation's international economic competitiveness, as well as an unapologetic restatement of his national security policy.

Much of the speech, they said, will be tied together under a broad theme acknowledging that the United States is going through transitions that involve wrenching dislocation as well as opportunity.

His aides portray Mr. Bush as undaunted by the plague of setbacks last year that loosened his grip on his party and drove down his poll numbers, which although up from their lows last fall remain at anemic levels. They said he was intent on using the nationally televised address on Tuesday to set out a forceful agenda that he will use to draw sharp contrasts with Democrats.

"People don't sit around here wallowing and wondering if we should go the school uniform route because we had some challenges last year," said Nicolle Wallace, the White House communications director, referring to an initiative once championed by President Bill Clinton that has come to symbolize a retreat into small-bore leadership.

"The state of the union address will be directional for our party and our country, and visionary," Ms. Wallace said. "That is not code for it lacking substance."

In the broadest sense, Mr. Bush's challenge is to demonstrate to both parties that he can still drive the national agenda despite the increasing difficulties he has had keeping Republicans together on domestic issues and in line with his assertively expansive view of his own wartime powers.

After five tumultuous years in office, he must show that his administration is not exhausted and bereft of ideas, and that the more ambitious goals he has set out at home and abroad have not crashed up against the nation's tolerance for ideological change.

The president's main goals for the year appear to be showing progress in Iraq, the issue that more than any determines his public support, and doing all he can to help maintain Republican control of Congress in the fall elections.

Part of that calculation, members of both parties said, is acknowledging that overreaching on legislative initiatives this year could carry outsized political risks, since the loss of even of few seats in either chamber could endanger his ability to get anything done for the remainder of his term.

"We shouldn't underestimate the White House's ability to win a political campaign, so to the extent that success in November is his objective, this is his announcement speech, and an important one," said Bruce Reed, president of the Democratic Leadership Council, an organization of centrist Democrats.

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The speech is an opportunity for Mr. Bush to frame the legislative debates that will dominate Congress in coming months and provide ammunition for the fall elections. He has signaled that he will push hard for the extension of his tax cuts, arguing that failure to do so would amount to a tax increase that would endanger the economy. He is also fighting big fights over reauthorization of the antiterrorism law known as the USA Patriot Act and legislation to stem illegal immigration.

Aides said he also wanted to set out a broader vision of where the country should be heading and how it should get there.

"He views the times we are living in to be transformational, and with that comes great anxiety," said a senior administration official who is working closely with the president on the speech and who spoke on the condition of anonymity to provide a glimpse of the speech's contents.

Mr. Bush, the official said, will bring up topics like protectionism and isolationism to make a point that "America is at its best when we are shaping events, not when we are being shaped by them, both in foreign policy and domestically."

The president goes into the speech having dealt to a large degree with the most acute political problems from the latter half of last year. One was the demoralization of his conservative base, whose enthusiasm could determine the control of Congress. The other was his loss of control last fall of the terms of the partisan debate over national security, the issue that more than any other has determined his political fortunes.

The nomination of Judge Samuel A. Alito Jr. to the Supreme Court, and the smooth handling of his confirmation process, has gone a long way toward calming social conservatives. Economic conservatives say they have been reassured by signals from the White House that Mr. Bush will tackle more directly their main area of concern, the rapid growth in government spending.

On the politics of national security, Mr. Bush has struck back forcefully after spending much of last year on the defensive, especially over the continued bloodshed in Iraq and his evolving rationales for taking the United States to war.

"They're on their way up, and they're going to be slow and methodical about recovering the political capital and the ground they will need to advance more of their agenda," said Pat Toomey, a former Republican member of Congress who is now the president of the Club for Growth, a conservative political action committee.

Mr. Bush and other White House officials have issued broad hints about his 2006 agenda, especially a repackaged set of health care initiatives built on existing proposals.

The White House has signaled that Mr. Bush will highlight his support for expanding the tax deductibility of medical expenses for people who lack employer-provided insurance or who have out-of-pocket expenses.

Economists who have consulted with the administration on the issue said Mr. Bush might push for a tax credit for uninsured medical expenses that would be structured so that even people who pay little or nothing in federal income tax would receive it.

Supporters of this proposal say it would mitigate a bias in the tax code that encourages employer-provided health insurance rather than individually purchased coverage.

R. Glenn Hubbard, dean of the Graduate School of Business at Columbia University and a former chief economist at the White House, and two other economists set forth the rationale in a recent book, "Healthy, Wealthy and Wise."

If the government encourages people to buy individual insurance policies with lower premiums and higher co-payments, they said, consumers will "make careful choices about their health care spending," and this, in turn, "will significantly reduce the growths in health costs."

In his budget last year, Mr. Bush proposed a refundable tax credit for the cost of health insurance bought by individuals under 65. The Treasury estimated the 10-year cost at $74 billion. Mr. Bush also said that people should be allowed to take tax deductions for the premiums they paid for high-deductible health insurance plans.

People buy such plans when they establish health savings accounts to pay routine medical expenses. The Treasury said the proposed deduction would cost $28 billion over 10 years.

On health care and other issues, however, Mr. Bush faces daunting hurdles. House Republicans are in the middle of a leadership fight that will not be concluded until after the State of the Union address. In addition, the criminal inquiry into bribery and corruption by lobbyists holds huge risks for Republicans.

Federal budget deficits limit the president's ability to undertake new programs. And members of his own party, especially in the Senate, are beginning to maneuver for advantage for the 2008 presidential race.

"You're starting to see the beginnings of a shift in the center of gravity away from Bush and his agenda toward the next agenda and the next leader of the party," said Bruce Bartlett, a conservative commentator who is often critical of the administration.

Health Of The Union (WSJ)

By David Gratzer

The Wall Street Journal, January 26, 2006

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During next week's State of the Union address, President Bush will cite rising health costs as a major problem for Americans and their businesses, and he will outline steps to strengthen health savings accounts as a remedy. But he is unlikely to mention Medicare reform -- and that would be a mistake. Indeed, if the president is serious about health reform, he will have to tackle Medicare. And he can start by re-engaging a debate from 1999.

Seven years ago, Sen. John Breaux and Rep. Bill Thomas completed the final report of the National Bipartisan Commission on the Future of Medicare. Considering various reforms, they eventually settled on a proposal modeled after the popular Federal Employees Health Benefits Plan (FEHBP), which covers nine million federal employees and their families. Instead of today's one-size-fits-all Medicare structure, they envisioned a program where seniors choose among competing private plans.

Since then, Washington has debated the size and scope of Medicare expansion -- such as the prescription benefit -- but the program itself has yet to be fundamentally rethought. It needs to be, because faced with Medicare's rising costs over the past four decades, the only real response has been a bipartisan exercise in wage and price controls. The results have been dismal:

· Poor physician participation. In cities such as Denver, it is hard for the elderly to find a doctor. According to a new study by the Center for Studying Health System Change, nearly 30% of American physicians will not accept new Medicare patients.

· Regulatory excess. Medicare requires hospitals and other providers to comply with over 130,000 pages of regulations, according to a Mayo Clinic estimate. A study for the American Hospital Association found that for every hour of care delivered to a Medicare patient, hospital officials spend roughly a half-hour completing the paperwork.

· Uneven service. "One unintended consequence of [Medicare's] administered pricing systems," notes a recent Federal Trade Commission report, "has been to make some hospital services extraordinarily lucrative and others unprofitable. As a result, some services are more available (and others less available) than they would be in a competitive market."

Herein lies the core problem with attempting to separate health reform from Medicare reform: The pricing and regulations of this massively large federal program have a profound impact on the rest of health care. With its controls, Medicare bureaucrats simply shift costs over to insured Americans. And if we really fret over rising health care costs, Medicare gives us plenty of reason for angst: It will consume 25% of federal income-tax revenues by 2030.

What then to do about Medicare? Breaux-Thomas proposed various worthwhile ideas, like collapsing the archaic structure of Medicare (Parts A and B) into a single plan. But the most far-reaching ideas focused on replacing the present program with competing private plans. The federal government would then offer premium support to individuals, providing more subsidies for lower-income seniors than those with higher-incomes.

Premium support is mentioned in the Medicare Modernization Act of 2003, but the idea is confined to a handful of demonstration projects starting in 2010. Writing on this page, former House Majority Leader Dick Armey observed: "I was in Congress long enough to know how demonstration projects really work. . . . On meaningful needed reforms, demonstration projects mean a quiet, obscure death."

There are, of course, other steps that must be taken to reform Medicare. The age of eligibility remains 65 -- just as it was 40 years ago when House Ways and Means Chairman Wilbur Mills helped ink the original legislation. Even social security changes its age of eligibility, albeit over the next two decades. We live longer and work longer than ever before -- shouldn't Medicare reflect that?

Medicare works on a pay-as-you-go basis, meaning that today's retirees depend on the financial support of today's taxpayers. With an aging population, the foundations are sinking. Some type of prefunding would be critically important. Indeed, the arguments made in favor of private accounts for social security are even stronger for Medicare reform, given that the unfunded liability is so much larger.

The White House is unlikely to touch prefunding again. Still, it would make sense is to finish the job started by Sen. Breaux and Rep. Thomas. Let's not forget that premium support won approval from a majority on a commission appointed by President Clinton.

In his State of the Union address three years ago, President Bush outlined sweeping changes to Medicare, suggesting that the program needed choice. He even alluded to the FEHBP when he suggested that seniors should have coverage "just like you -- the members of Congress, and your staff, and other federal employees." If the president is serious about taming rising health costs, he will use his second term to act on these words. In fact, the cool reception to his new prescription drug benefit may present an opportunity, since many seniors want the coverage but are hesitant on Plan D. Certainly a bold proposal will give Congress more to discuss than earmarks.

Protesters Sue For Speech Spot (WP)

By Karlyn Barker

The Washington Post, January 26, 2006

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Organizers planning a protest during President Bush's State of the Union address next week say they have been denied a permit to hold the demonstration around the U.S. Capitol Reflecting Pool because that area has been reclassified as part of the security perimeter for the day of the speech.

The organizers of the Tuesday protest, called "World Can't Wait -- Drive Out the Bush Regime," say the National Park Service and the U.S. Capitol Police initially offered them the Capitol Reflecting Pool as a demonstration site but changed their minds.

Demonstrators have been told to confine their gathering to the gravel walkways on the Mall between Third and Fourth streets, farther from the Capitol. The grassy areas are fenced off because they are being resodded.

Travis Morales, one of the organizers of the demonstration, said the restrictions effectively deny the protesters a meaningful public space to gather as a group. The nearest place to meet together, he said, is Seventh Street, about a mile from the Capitol.

"We are being told that turf renovation and security trump our First Amendment right to protest," he said.

Morales said the group was offered use of the area around the Capitol Reflecting Pool on Jan. 10 and that the site was not then part of any security perimeter. But on Jan. 19, he said, the group was told the security area had been expanded to include the Reflecting Pool.

He called the change "politically motivated," adding that the Bush administration "is trying to push us so far away that we can't be seen or heard. . . . A protest not seen and a protest not heard is not a protest."

The demonstrators filed a federal lawsuit yesterday seeking a court order that would enable them to gather at the Capitol Reflecting Pool. U.S. District Judge Ricardo M. Urbina will convene a hearing, possibly today.

A spokeswoman for the U.S. Capitol Police declined to comment on Morales's allegations that politics played a part in the decision and would not say if the Capitol Reflecting Pool has been used in the past as a protest site.

"Many of the questions you are asking are security-related, so we can't comment on that," said Sgt. Kimberly Schneider, a public information officer with the agency.

Mara Verheyden-Hilliard, a lawyer with the Partnership for Civil Justice, said the area around the Capitol Reflecting Pool on the west side of the U.S. Capitol has historically been a site where demonstrators have staged protests.

"It's been used time and time again for major demonstrations and small demonstrations," she said. "It's been a critical location for First Amendment expressive activity for a long, long time."

James R. Klimaski, an attorney for the demonstrators, said protesters have been told they can't use the area because it would interfere with Bush's motorcade. But, Klimaski said, that portion of the Capitol grounds is normally used as a parking lot.

Klimaski said that other groups have previously held demonstrations on the east side of the Capitol during State of the Union addresses but that those areas are now off limits because of the construction of a new visitor center.

Morales said organizers of the Capitol Hill protest expect it to draw about 5,000 participants. The demonstration is one of several planned around the country. The group's Web site urges people to gather on the night of Bush's address to Congress and to "symbolically drown out" the president's speech with drums, pots and pans, and other noise.

He said organizers are trying to get a permit from D.C. police to close part of Third Street so they can rally there. The group said it does have a permit to hold a national demonstration against the Bush administration at the Ellipse on Feb. 4.

Moderate, Picked As Dems' Voice, Faces Liberal Outcry Governor To Respond To State Of The Union (USAT)

By Jill Lawrence

USA Today, January 26, 2006

WASHINGTON — Virginia Gov. Timothy Kaine lifted the Democratic Party's spirits last fall when he won in a conservative state and gave his fellow Democrats some ideas about how to replicate his success.

The fruits of victory include the honor of being picked to respond to President Bush's State of the Union address Tuesday — and the wrath of liberal bloggers wondering why Democrats didn't choose somebody else. Anybody else.

On the campaign trail, Kaine was “not at all bashful about talking about faith and values,” as he puts it, or about contrasting the successes of his state's popular Democratic leaders with the record of the Republican president and Congress.

He set “a leadership example for the rest of the country,” Senate Minority Leader Harry Reid, D-Nev., and House Minority Leader Nancy Pelosi, D-Calif., said when they named Kaine to give the party response on national TV.

Their pick — a Roman Catholic who opposes gay marriage — highlighted fault lines within the party. Bloggers on several liberal websites were furious for reasons including Kaine's looks, style and obscurity, his open talk about religion, his moderate positions and his inexperience in foreign affairs.

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"What the hell are they thinking?" Arianna Huffington demanded on www.huffingtonpost.com. In a post that drew 262 responses mostly echoing her irritation, she accused Democrats of choosing "someone whose only claim to fame is that he carried a red state" when they badly need to make the case that "the GOP is not the party that can best keep us safe."

Kaine is not planning to ignore Iraq, national security or what Democrats call the Republican "culture of corruption." But, he said, when he speaks from Richmond on his 17th day as governor, he won't throw red meat either.

In an interview Wednesday, Kaine said he insisted on writing his own speech. He said it will highlight results, bipartisanship and good management at the state level. He'll draw a contrast with "the partisan gridlock, corruption and back and forth" in Washington.

"Bad management at the federal level covers a litany of sins, and corruption is one of them," Kaine said. Others he might mention, he said, include problems with the Iraq war, the Katrina response and the Medicare prescription-drug program.

The overall message: "Results matter. Management is important. Management can be life or death."

Nathan Gonzales, an analyst for the non-partisan Rothenberg Political Report, said anyone responding to a State of the Union speech is in a "futile" position, given the trappings of the main event. For Kaine the job is especially tough, he said, because "people don't have any idea who he is or what he's done."

Bloggers at dailykos.com, talkleft.com and other liberal sites showered cyberspace with alternatives: new faces — Illinois Sen. Barack Obama, New York Attorney General Eliot Spitzer — and famous faces — Al Gore, New York Sen. Hillary Rodham Clinton.

Rep. Rick Boucher, D-Va., said Kaine is a "brilliant" choice. He won rural and suburban support last fall, Boucher said, "the very constituents that Democrats need to … regain the House and the Senate."

Liberal writer Ezra Klein atezraklein.typepad.com was unimpressed. He called Kaine "a squat, squinty, pug-nosed fellow" with little oratorical skill.

Kaine addressed his appearance in a USA TODAY interview last fall. "I start with looks that appeal to the homely," he said. His press aide grew agitated, but Kaine reassured him: "Homely polls well."

DIRTY TRICKS (HP)

Huffington Post, January 26, 2006

Why is the White House desperately stonewalling requests to release information about Jack Abramoff's White House comings and goings? I mean, sure, the former uber-lobbyist has become the poster boy for the GOP's culture of corruption -- but it's not like he's been implicated in murder, right? Oh, wait a minute, he has -- the 2001 gangland-style murder of Gus Boulis, a Florida businessman involved in a disputed business deal with Abramoff and two of Abramoff's buddies from his College Republican days. Abramoff has denied any involvement in the murder, but the more you learn about his connection to the case, the more something smells fishy in Florida.

Dems Pick Villaraigosa To Rebut State Of Union, In Spanish (LAT)

By Edwin Chen

The Los Angeles Times, January 26, 2006

WASHINGTON — Congressional Democrats announced today that Los Angeles Mayor Antonio Villaraigosa will deliver the party's Spanish-language response to next week's State of the Union address

Virginia Gov. Tim Kaine will deliver the Democratic response in English from the governor's mansion in Richmond, Va., while Villaraigosa will do so in Spanish from his office in Los Angeles City Hall, said Sen. Minority Leader Harry Reid of Nevada and House Minority Leader Nancy Pelosi of California.

The annual presidential address, before a joint session of Congress and a national audience, gives the chief executive the opportunity to lay out his agenda for the coming year.

Bush's speech will begin at 6 p.m. PST; the Democratic response generally begins about an hour later. The mayor's comments will be carried on Spanish-language networks.

This will be the third consecutive year that Democrats have offered a Spanish language response to Bush's speech.

Two years ago, Gov. Bill Richardson of New Mexico delivered the first such response. Last year, it was jointly given by then Rep. Robert Menendez, now a senator from New Jersey, and Sen. Jeff Bingaman of New Mexico.

Bush began editing drafts of his speech yesterday. He is expected to propose an array of new initiatives, including allowing Americans to take tax deductions on more of their out-of-pocket medical expenses.

"We are proud to have Mayor Antonio Villaraigosa delivering the Spanish language response this year," Reid and Pelosi said in a joint statement issued in both languages.

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"Mayor Villaraigosa is working hard to increase economic opportunity and provide affordable and quality education for the people of Los Angeles. As the first Latino mayor of Los Angeles in more than a century, we are proud to have his diverse voice within the party," they said.

Prognosis Is Mixed For Health Savings (NYT)

By Milt Freudenheim

The New York Times, January 26, 2006

President Bush has made "consumer-directed" health savings plans a cornerstone of his policy for addressing runaway medical costs, and he plans to push them again in the State of the Union address next week. But so far there is little evidence that the approach is helping many consumers come to grips with the high price of health care.

In a way, the early results do offer some hope. More than two million people have signed up for the plans, which were created as part of Medicare overhaul legislation in 2003 but were not an option for many people until the health insurance sign-up season last fall. While that is a tiny fraction of the 180 million Americans with health insurance, some experts say the numbers show a notably fast adoption rate for a complicated new consumer program.

By other measures, though, workers and employers have been slow to embrace health savings plans, which are intended to reduce corporate health care costs while giving individuals more control of their medical spending.

In essence, health savings plans are high-deductible insurance policies that people can obtain through their employers or buy independently from insurance companies. In exchange for paying at least the first $1,050 of their medical expenses each year (or for families, a deductible of the first $2,100, consumers are supposed to benefit in two ways: lower monthly premiums and the ability to put pretax dollars into a savings account that grows tax-free.

Those savings, in theory, could be used toward the deductible in future years and help pay additional health bills not covered by the underlying insurance policy. As with a 401(k) retirement account, the health savings are the individual's to keep when changing employers — a portability feature that Bush administration officials like to cite.

But in many cases, people have evidently signed up not because they are eager to direct their own medical spending but because the plan looked cheap or they had no other insurance option. And at least half of those enrolled have not put money in their health savings accounts. So there will be no money building up for next year's out-of-pocket expenses — a big selling point for these health plans.

In addition, many employers have been slow to offer the plans. And companies that do so have been reluctant to encourage worker participation by contributing money to the savings accounts. The employers figure that "portability" means that their money will go out the door with workers who leave.

"That is our main concern," said Eric Airola, benefits director of J. B. Hunt Transport Services, a trucking company based in Lowell, Ark. "Turnover in the truckload industry as a whole is very high," he said.

As the plans were conceived, people using their own money could be expected to spend less on health care, switching to lower-cost drugs, for example, and adopting healthier lifestyles. Employers were promised savings as they shifted responsibility to workers for thousands of dollars in costs. Uninsured employees of small companies and self-employed people would be able to set aside pretax dollars for low-cost, limited coverage.

But for those who criticized the idea of health savings plans from the start, the early results simply confirm their gloomier forecasts. The critics say this approach is increasing many people's out-of-pocket expenses and warn that it will make them less likely to seek routine preventive care that might stave off bigger problems down the road.

Pat Schoeni, executive director of the National Coalition on Health Care, a group seeking better, more affordable medical care, said, "The savings accounts are not designed to help people pay for health care; they are designed to help employers unload their health care costs."

Mr. Bush, in his weekly radio talk last Saturday, said he would call on Congress in the State of the Union speech to make the plans "more available, more affordable and more portable." Among other steps, White House officials say, he will propose raising the tax-free contribution ceiling, which for 2006 is $2,700 for individuals and $5,450 for families.

Frank McArdle, a health policy expert in Washington for Hewitt Associates, the big benefits-consulting firm, predicted that "expanding health savings accounts to make them more attractive to employers and their people will be a hot issue in Congress this year."

For people with modest incomes who are hard put to save for medical needs or much else, raising the contribution limit may be a moot point. But for those who have the money to set aside, the savings accounts can be attractive.

Eric Kok, 32, a printing and packaging company manager in Lancaster, Pa., says he will put part of his pay this year into a tax-free health savings account. "Because I'm young, I'm still maxing out my 401(k)," he said of his retirement plan at the Banta Corporation. He calls that Step 1. "Step 2 is opening a health savings account and trying to put as much into it as possible."

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He and his wife, Susan, who has her own insurance from her employer, together have a six-figure income. Mr. Kok said that when he retires, he can use the health savings tax-free for care and for premiums in the company's retiree health plan. If he dies with a balance in the account, his survivors can inherit the money, as with a 401(k) account.

Stacy Ryan, the benefits manager at Banta, said the company saw the plan as "the new wave of health care." Banta added health savings accounts and eliminated company-subsidized health benefits for its 4,000 nonunion workers this year.

She said the health savings plan had already had "a huge impact" on employees' actions. They are "making better decisions, such as not going to the emergency room if it is not an emergency."

Based on the acceptance of health maintenance organizations in the 1980's, some industry analysts predict the pace of people signing up for the plans will continue to grow quickly. Forrester Research, a market research firm, projects that nearly 22 million people will have health savings plans by January 2008 — about 12 percent of those with insurance.

While nonunion employees of Banta have no insurance alternative, workers at large companies that still offer a choice have been slow to abandon coverage like H.M.O.'s and preferred-provider networks.

At I.B.M., only "a very small number" of employees have selected the health savings account option, according to Marianne E. DeFazio, the director of global health benefits, who declined to provide a specific figure. Industry experts estimated that 3 percent of I.B.M. employees had signed up for the savings plans, which the company has offered for the last two enrollment periods.

UnitedHealth Group, the largest provider of the savings plans, says that of the 24 million people insured under its various types of policies, 654,000 now have health savings plans. But so far, only about half have started setting aside money, a spokesman, Daryl Richard, said.

Among UnitedHealth's policy holders, a larger number — 846,000 — are still covered under an older type of policy that, like health savings plans, has low premiums and high annual deductibles. But instead of employees' setting aside money, the employer contributes to an account that gradually grows in value and is available for the employee to draw down for health expenses.

The money in these plans, known as health reimbursement accounts, reverts to the employer when workers leave their jobs. That is one reason some large employers are sticking with this older form of insurance.

Schneider National, a big trucking company in Green Bay, Wis., went further last year and chose such a plan as its only insurance option.

A happy beneficiary of Schneider's insurance plan is Lara Hobbs, 36, of Spring Hill, Fla. Ms. Hobbs, who drives 18-wheelers cross-country, has the liver disease hepatitis C. "It's terminal and deadly unless you cure it," said Ms. Hobbs, who is being treated with an expensive drug, a form of alpha interferon. "I've already been tested," she said. The hepatitis was not detectable. "They are hoping that I've beat it."

Last year, Schneider contributed $750 to Ms. Hobbs's health reimbursement account. She paid $1,500 more herself. But beyond that, her insurance covered 100 percent of weekly injections and six pills a day, whose total cost exceeded $50,000 — more than her annual income.

For Schneider, the first year was "pretty challenging," a spokeswoman, Janet Bonkowski, said. "There was a lot of learning that goes on. Our associates had to become much more involved and active in their care." But Schneider saved money and intends to continue the program, she said, though it is also considering whether to offer the savings plans.

At the White House, the deputy press secretary, Trent Duffy, said the president had no preference between the older health reimbursement plans and the new savings accounts he has been promoting.

But these days, Mr. Duffy said, people change jobs so frequently that they need a health plan they can take with them when they move. Mr. Bush, he said, believes "that the health care system that worked 30 or 40 years ago isn't working."

Bush's Cure-All For Health Care Sidesteps Big Ills (WSJ)

By David Wessel

The Wall Street Journal, January 26, 2006

President Bush has found the cure for what ails the American health-care system.

"Do you realize the medical field is one where you don't do any comparative shopping," he told an audience last week. "When you buy tile ... for your house, you're out there shopping it. You ... say, 'Look, what am I bid?' When you're buying pipe or things you put in the wall ... you're out there bidding price."

"There's no transparency in pricing in medicine," he said. "You don't know whether the guy next [door] is going to offer a better deal."

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That's true. The issue is what to do about it. Mr. Bush's reply: Give Americans more skin in the health-care game so they'll be better shoppers. (That's what he means when he talks about health savings accounts and policies with large deductibles.) Make health care more like the market for tile and pipes, he argues, and Americans will get better health care for less.

Set aside the case that only a taxpayer-financed, government-organized solution works. A Republican president and Congress aren't going there, and a lot of Democrats are skeptical, too.

Instead, the U.S. is going to experiment with market forces to solve this problem: that Americans aren't getting their money's worth for the $1.9 trillion a year they spend on health care. For that sum, we ought to have more equitable access to health care and have healthier people. Politicians too often boast the U.S. has the best health-care system in the world, marvel at medical technology -- and then fail to ask if we should be getting more, given what we spend.

In the 1990s, the U.S. focused market weaponry on providers, not patients. Managed care was about giving groups of health-care providers a flat sum, thus giving them incentives to do what was necessary to keep patients healthy and costs down, rather than underpaying for preventive care and paying up each time a patient showed up ill. Forcing managed-care outfits to compete for patients was supposed to stop them from skimping on care.

Americans tasted that and spit it out. The 2000s "pay for performance" version, one Medicare is toying with, is to pay doctors and hospitals not for how much care they give but rather for how well they care for patients.

Mr. Bush, by contrast, is talking about using market forces to influence individuals, not providers. He reasons that if Americans had to pay more out of their pockets, perhaps with money that employers or government hands them, they'd use health care more judiciously. And if Americans were better shoppers, health-care providers would compete much as cellphone companies and auto makers do -- to the benefit of consumers.

Implicit in this approach is the notion that Americans use too much health care. So, make them pay for unnecessary emergency-room visits or the costlier one-a-day antibiotic instead of the generic, and they'll spend less. That's a sound idea. It may save the system some money by eliminating the cost of processing small claims for essentially healthy people. But is avoiding the emergency room the big problem that needs solving?

Not Really. A bigger problem is that too many healthy (for now) Americans go without preventive care, and too many chronically ill Americans don't get care that would avoid costly, painful complications later. HSAs don't help there. And then there's the uncomfortable fact that 80% of health spending in the U.S. each year is spent on 8% of the population. Giving them tax breaks to buy health-insurance policies with $2,000 deductibles won't ensure that money is well spent.

"HSAs aren't a way of responding to the very sick people who are responsible for the bulk of health-care spending," says James Robinson, an economist at the University of California at Berkeley.

Is moving to "empower the individual" appropriate to health care? In part, it is. Doctors, hospitals and insurers need a nudge to think of us more as customers than they sometimes do. But choosing floor tile is easier than distinguishing between a headache caused by stress and a headache caused by a brain tumor. The costs of a mistaken decision to avoid a doctor visit are greater than choosing the wrong cellphone plan.

Well-functioning markets require consumers with enough information to make sound choices. That doesn't yet describe health care. "It's going to take a lot of effort to get us to the point where we're confident that using the market is going to improve care, rather than make it worse," says Elliott Fisher, a Dartmouth Medical School professor.

Talking about health care on the national stage is better than not talking about it. But let's clearly define the problem so we devise the right solutions.

The Fix-It Myth (WP)

By Robert J. Samuelson

The Washington Post, January 26, 2006

Almost everyone agrees that we ought to "fix the health care system" -- a completely meaningless phrase despite its popularity with politicians, pundits and "experts." Indeed, it is popular precisely because it is meaningless. The people who proclaim it rarely tell you the discomforting choices it might involve. Instead, they focus on a few specific shortcomings of our $1.9 trillion health-industrial complex and imply that, if we correct these often serious flaws, we'll have "fixed" the system or at least made a good start. This is rarely true, and so most forays into "health reform" end with disillusion.

We are about to start the cycle again. By most accounts, President Bush plans to highlight health care in his forthcoming State of the Union address. His proposals may or may not have merit, but they surely won't fix the health system in any fundamental way. The reason is that most Americans don't want to fix the system in that sense. Most are satisfied with their care. Most don't see (or directly pay) the vast majority of their costs. Because politicians -- of both parties -- reflect public opinion, they won't do more than tinker.

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Unfortunately, tinkering isn't enough. As everyone knows, health care spending has risen steadily. In 2004, it totaled 16 percent of national income, up from 7.2 percent in 1970. Spending will continue to rise, if for no other reasons than that the population is aging and the average annual health costs for someone 65 and older ($7,910 in 2003) are -- surprise -- more than twice those for someone 35 to 54 ($2,966). As health insurance becomes more costly, the number of uninsured, now about 46 million, may grow. Worse, health costs may depress wage gains, raise taxes and squeeze other government programs.

Here's the paradox: A health care system that satisfies most of us as individuals may hurt us as a society. Let me offer myself as an example. All my doctors are in small practices. I like it that way. It seems to make for closer personal connections. But I'm always stunned by how many people they employ for nonmedical chores -- appointments, recordkeeping, insurance collections. A bigger practice, though more impersonal, might be more efficient. Because insurance covers most of my medical bills, though, I don't have any stake in switching.

On a grander scale, that's our predicament. Americans generally want their health care system to do three things: (1) provide needed care to all people, regardless of income; (2) maintain our freedom to pick doctors and their freedom to recommend the best care for us; and (3) control costs. The trouble is that these laudable goals aren't compatible. We can have any two of them, but not all three. Everyone can get care with complete choice -- but costs will explode, because patients and doctors have no reason to control them. We can control costs but only by denying care or limiting choices.

Disliking the inconsistencies, we hide them -- to individuals. We subsidize employer-paid health insurance by excluding it from income taxes (the 2006 cost to government: an estimated $126 billion). Most workers don't see the full costs of their health care; a reported Bush proposal to add new tax subsidies would magnify the effect. A similar blindness applies to Medicare recipients, whose costs are paid mainly by other people's payroll taxes. Despite complaints about rising co-payments and deductibles, out-of-pocket costs are still falling as a share of all health spending. In 2004, they were 12.5 percent; in 1993, they were 15.8 percent.

We're living in a fantasy world. Given our inconsistent expectations, no health care system -- not one completely run by government or one following "market" principles -- can satisfy public opinion. Politicians and pundits can score cheap points by emphasizing one goal or another (insure the uninsured, cover drugs for Medicare recipients, expand "choice") without facing the harder job: finding a better balance among competing goals.

Every attempt to do so has failed. Consider the "managed care" experiment of the 1990s. The idea was simple: Herd patients into health maintenance organizations or large physician networks; impose "best practices" on doctors and patients to encourage preventive medicine and eliminate wasteful spending; and cut costs through administrative economies. For a while, it seemed to work. From 1993 to 1997, private insurance premiums rose only 2.6 percent annually. But managed care upset doctors and patients. It restricted personal choice. Some coverage denials seemed inhumane or inept. After a political backlash, managed-care organizations relaxed cost controls.

Now, some say that because the "market" has failed, greater government control is the answer. Private insurance has high overhead costs and generates too much paperwork. True. Still, there's not much evidence that over long periods government controls health spending any better. From 1970 to 2003, Medicare spending rose an average of 9 percent annually, reports the Kaiser Family Foundation. In the same years, private insurance costs rose 10.1 percent annually. Part of the gap reflected private insurance's greater generosity. It covered drugs while Medicare didn't.

Americans want more health care for less money, and when they don't get it, they indict drug companies, insurers, trial lawyers and bureaucrats. Although these familiar scapegoats may not be blameless, the real problem is us. We demand the impossible. The changes we truly need are political. We need to reconnect people with the public consequences of their private acts. We should curb the subsidization of private insurance. Medicare recipients, especially wealthier ones, should pay more of their bills. But these changes won't happen because people don't want to see the costs. We don't have the health care system we need, but we do have the one we deserve.

Drug Benefit Suffers Side Effects (WT)

By Amy Fagan

The Washington Times, January 26, 2006

Administration officials yesterday told senators the new Medicare prescription-drug program has problems, but they're under control, and states will be reimbursed for covering seniors' prescription costs resulting from the glitches.

Senators on the Finance Committee seemed cautiously optimistic at the assurances, but some said Congress will still probably need to act.

"I think there's no question that the issue of prescription drugs will be back on the [Senate] floor in some form this year," said Sen. Ron Wyden, Oregon Democrat.

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Health and Human Services Secretary Michael O. Leavitt said yesterday, "We've identified the problems, we're working on them and the plan gets better every day."

He and Medicare chief Mark McClellan had a private meeting yesterday with committee members to brief them on the situation.

Since the new Medicare drug program began three weeks ago, enrollment problems have left many seniors without coverage, and more than 20 states stepped in to cover costs. Low-income seniors had the most trouble, as the government worked to automatically transfer them from Medicaid drug coverage to the new Medicare program.

Mr. McClellan said states should first seek reimbursement from private plans offering the drug coverage, but the government will reimburse the states for any difference. The total price tag isn't clear yet.

"The good news is the administration does admit there's problems," said Sen. Max Baucus, Montana Democrat and the Finance Committee's ranking member, who will work with committee Chairman Charles E. Grassley, Iowa Republican, to "nail down" a timeline for reimbursement. He said that if he's not satisfied with the reimbursement plan, "then I think legislation will be much more likely."

He also said some seniors are paying co-payments they shouldn't.

Mr. Grassley said he'll follow up with a public hearing on the new program, but he's satisfied Mr. Leavitt has it "under control."

"They've identified problems very well ... and I feel they're making good progress," he said.

Sen. Olympia J. Snowe, Maine Republican, said officials are "making good-faith efforts," and reimbursement legislation "may not be necessary."

But she and other senators are ready with a bill that would reimburse the states, cut the wait time for seniors who call the Medicare hot line and make other changes.

Today, top Senate Democrats will demand President Bush make immediate changes to fix the program.

Mrs. Snowe said legislation may be required to extend the mid-May deadline seniors face for choosing their new drug plan. Mr. Grassley said that will be decided closer to May.

Sen. Charles E. Schumer, New York Democrat, said he worried the administration will "leave the states holding the bag" on the reimbursement issue.

"We have to monitor very carefully," Mr. Schumer said.

Caution Urged For Executives Seeking Spots On Nonprofit Boards (GOVEXEC)

By Daniel Pulliam

Government Executive, January 26, 2006

Agencies should be careful about allowing employees to serve on the boards of nonprofit organizations that have an interest in their work, according to a recent opinion published by the Justice Department's Office of Legal Counsel.

Federal executives can serve as officers or directors at nonprofit organizations, a 19-page opinion released Jan. 11 stated. But agencies should take into account the appearance of an ethical violation before permitting employees to serve in a group that handles issues related to their government work.

"Government employees [have a] . . . duty to 'avoid any actions creating the appearance that they are violating the law ... or ethical standards,' " the Justice office's opinion said.

"If an outside organization in which an employee is a director has been advocating its views directly to the federal government on a matter that the organization has identified as especially significant, there is a significantly heightened risk that the employee ... will at least appear less than independent in his judgments," the legal counsel stated. "And that risk ... calls for serious consideration by the employee's agency."

Federal law requires government employees to recuse themselves from work activities when a nonprofit on which they serve has a financial interest in the matter. But just because nonprofits spend money advocating a position does not necessarily mean they have a financial interest in an agency action, according to the opinion.

The case leading to the opinion originated in July 2004 when a senior executive at the Education Department was told by the Office of Government Ethics that election to the Senior Executives Association board of directors would result in a criminal conflict of interest due to his service on his department's Executive Resources Board.

An executive resources panel, among other things, makes recommendations on the senior executive pay system to the Office of Personnel Management. The SEA is a nonprofit professional association that advocates in the interest of career federal executives.

According to SEA President Carol Bonosaro, the association appealed the case in August 2004 and is pleased with the Office of Legal Counsel's decision.

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"Employees who want to serve on boards like this should not have to worry about being charged under a criminal statute," Bonosaro said. "To us, [the opinion] essentially puts the matter to rest. It's up to the agencies, where individual decisions will be made by ethics officers."

Bonosaro said that since the opinion was released, a federal executive was approved by his agency's ethics officer to serve on the SEA board, which has 15 members serving staggered three-year terms.

The Office of Government Ethics' verbal opinion had made several members of the association hesitant about running for a board of director position because they didn't want to put themselves at risk, according to Bonosaro.

Had the 2004 opinion been permitted to stand, it could have eliminated some federal employees not only from consideration for the SEA board but for the boards of other organizations, such as the International Personnel Management Association or the American Society of Public Administration, according to Bonosaro.

Bonosaro said the decision was a long time in coming and added that the association's lawyers are working to issue a statement carefully laying out what the appearance standard means.

"Appearance is often in the eye of the beholder," Bonosaro said.

The Justice opinion also addresses a situation where National Oceanic and Atmospheric Administration employees were serving as councilors of the American Meteorological Society, a position equivalent to a member of a board of directors.

Despite the fact that the society spent money advocating positions on matters such as hurricane research, the opinion found that the organization did not have a financial interest in the matter and NOAA employees could serve with the group.

The American Meteorological Society did not return calls for comment and NOAA was not able to comment in time for publication of this article.

Senators Debate Details Of Lobbying Rules (USAT)

By Jim Drinkard

USA Today, January 26, 2006

WASHINGTON — After weeks of calls for restrictions on how lobbyists influence Congress, lawmakers began Wednesday to grapple with the thorny details of just how to do it.

At the first congressional hearing on revamping the rules, lobbyists argued against proposals to ban privately financed trips for House and Senate members and their aides, saying travel helps them make good policy decisions in an era of globalization.

Some senators rejected calls for more restrictions, saying problems illustrated by the scandal involving former lobbyist Jack Abramoff are rooted in lawmakers' own behavior, the way Congress operates and a failure to enforce rules already on the books.

“I don't believe lobby reform is the problem. Congress is,” said Sen. Tom Coburn, R-Okla., a member of the Senate's governmental affairs committee.

At the same time, Senate leaders clashed over how to go about writing the new rules. Majority Leader Bill Frist, R-Tenn., proposed a bipartisan task force to handle the job. Minority Leader Harry Reid, D-Nev., rejected the idea, saying the legislation should be drafted through the Senate's regular committees.

At the hearing, former senator Dick Clark, D-Iowa, who runs educational trips for members of Congress through the non-profit Aspen Institute, said a total ban on privately sponsored travel would be “foolhardy.”

He said his group, which has sponsored more than $3.5 million in trips since 2000, accepts only foundation funds and does not allow lobbyist participation. That should be the standard for future trips, he said.

Committee Chairwoman Susan Collins said drawing distinctions among groups that sponsor travel would be difficult. Many non-profits that sponsor travel are backed by interests that lobby Congress, and their boards are heavily sprinkled with lobbyists.

“Today, lobbying too often conjures up images of all-expense-paid vacations masquerading as fact-finding trips,” the Maine Republican said.

There is broad agreement on Capitol Hill for greater disclosure of lobbyists' activities, limits on gifts and travel paid for by special interests, and a longer “cooling-off period” — currently one year — before members of Congress and staff who take lobbying jobs can lobby their former colleagues.

Contentious proposals also are on the agenda, including limiting lobbyists' ability to raise campaign funds for lawmakers, banning or limiting the use of corporate aircraft for lawmakers' travel, and making it tougher for members of the House and Senate to “earmark” tax dollars for pet projects.

Sen. Pete Domenici, R-N.M., said corruption stems from the growing cost of campaigns and the constant chase to raise funds for re-election. He proposed limiting members of Congress to raising money only from their home states, and not from Washington lobbyists. In the House, Reps. David Obey, D-Wis., and Barney Frank, D-Mass., proposed a new system to publicly finance congressional elections.

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For Would-Be Lobbying Reformers, Money Habit Is Hard To Kick (WP)

By Dana Milbank

The Washington Post, January 26, 2006

Paul Miller had the bad luck to ascend to the presidency of the American League of Lobbyists just as Jack Abramoff was descending from the profession. And so it was that the young and earnest Wisconsinite found himself before the Senate governmental affairs committee yesterday explaining why "this is not a widespread scandal."

"Our government is not corrupt, lobbyists are not bribing people, and members of Congress are not being bought for campaign contributions," pleaded Miller, wearing a boyish hairdo and the gray pinstripe suit, French-blue shirt and wingtips of his profession. "I don't think we can say with certainty that the current system is broken."

To the Abramoff-panicked lawmakers, Miller might as well have been asserting the airworthiness of pigs.

Miller and his cohort -- the ones in the gallery with the leather portfolios -- were about the only ones in the room who thought everything was hunky-dory. The senators seemed virtually unanimous in their view that, when it came to influence peddling, "the status quo stinks," as Sen. Joseph I. Lieberman (D-Conn.), the recipient of more than $2 million from lobbyists and lawyers in recent years, succinctly put it.

As the hearing kicked off the congressional debate on lobbying reform, the lawmakers had no difficulty conceding they had a problem. But there was yawning disconnect between the problem and the proposed remedies. While most everybody agreed that Congress was being subverted by lawmakers' reliance on lobbyists for campaign cash, the proposals getting the most serious consideration yesterday were relatively minor: whether to ban lobbyist-paid lunches or a few million dollars' worth of privately funded congressional trips.

"I don't believe lobbying reform's the problem; I believe Congress is," committee dissident Tom Coburn (R-Okla.) lectured his colleagues. "We ought to be real frank with the American people. We're going to do a lot of window dressing, but in the long run we're not going to change anything till we change the motivation that the next election is more important than anything else."

Sen. Richard J. Durbin (Ill.), the Democratic whip, found himself in a rare convergence with Coburn. "We are carping on trifles here," he testified. "Why is it that we warm up to all these lobbyists? It isn't for a meal. . . . We know when it comes time to finance our campaigns, we're going to be knocking on those same doors."

Registered lobbyists have served as treasurers of at least 868 political committees, according to the Center for Public Integrity, including the campaign committees or leadership PACs of at least 39 sitting members of Congress. And virtually all members benefit from lavish fundraisers arranged by lobbyists or contributions from lobbyists that have exceeded $100 million in recent years. This money frightens challengers out of the race -- a main reason 98 percent of incumbent House members won reelection in 2004.

The senators yesterday sounded like addicts, powerless to overcome their reliance on lobbyist cash. "It's out of control," lamented Sen. George V. Voinovich (R-Ohio), a recipient of $573,000 from lobbyists and lawyers over five years, according to the Center for Responsive Politics. "We all hate it. And it's about time we collectively think about how we can get off the treadmill."

"I'm afraid nobody will take me seriously unless we can also find some way to do something further about campaign spending and fundraising," fretted Sen. Tom Carper (D-Del.), recipient of $314,000.

New Mexico Republican Pete V. Domenici ($196,000) proposed limiting fundraising to a lawmaker's home state. Alaska Republican Ted Stevens ($229,000) suggested a constitutional amendment.

But these cries for help fell on the deaf ears of Sen. Rick Santorum (R-Pa.), the man designated by Senate GOP leadership to draft a lobbying reform bill. Santorum, in a tough reelection race, ranked fifth out of the 535 members of Congress in receipts from lobbyists and lawyers ($519,000 last year alone).

"We need to look at a variety of different things -- look at gifts, we need to look at meals, we need to look at travel," Santorum testified. He didn't say a peep about campaign financing.

Instead, he delivered a campaign speech. "I have a long history of being involved in congressional reform," he said, boasting that "those of you who frequent the Senate restaurant and barbershops now know that they are no longer taxpayer-subsidized."

If Santorum's presentation lacked details, it didn't seem to matter. Only two of the 16 senators on the committee sat through the entire hearing. National Association of Manufacturers chief John Engler, missing when called to the witness table, explained later that he had been taking "a quick break."

Engler, like Miller, assured the nervous lawmakers that all was well. "Additional rules and laws weren't needed" to catch the bad guys, he advised. And besides, he said, "working meals" are legitimate. "A hamburger, I don't think, is going to change the mind of members of this committee."

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Engler didn't say what might happen if that hamburger came with a side of campaign cash.

Senators Say Ethics Issue Goes Beyond Lobbying Reform (GFH)

By Jim Abrams

The Grand Forks Herald, January 26, 2006

WASHINGTON - Members of Congress must look at their own behavior as well as lobbyists' if they are to regain the trust of the American public, senators said Wednesday.

At the same time, lobbyists and those who sponsor trips for lawmakers warned against overreacting to the headlines on the influence peddling activities of Jack Abramoff. In particular, they said, banning all privately funded travel could isolate lawmakers from the knowledge they need to write law.

What's clear, said Sen. Susan Collins, R-Maine, chair of the Homeland Security and Governmental Affairs Committee, is that Congress can't tackle the big issues facing the nation without the trust of the public. "And the public's trust in Congress is perilously low."

"Frankly, the status quo stinks and cries out for us to clear the air," Sen. Joseph Lieberman of Connecticut, the committee's top Democrat, said at the first hearing following the Abramoff lobbying scandal.

Leaders from both parties in both chambers have promoted measures to tighten rules and laws governing lawmaker contacts with lobbyists. There are several common themes: restricting or banning the giving of gifts to lawmakers, prohibiting lobbyists from arranging or funding trips, lengthening the time between when a lawmaker leaves office and takes a job as a lobbyist and requiring greater disclosure of lobbyist activities.

But speakers at the hearing also said members of Congress must look at how they do business and get elected, larger issues that could complicate quick passage of the first lobbying reform bill in a decade.

Sen. John McCain, R-Ariz., co-sponsor of one of the major lobbying bills, said Congress must tackle the problem of earmarks, special interest projects that get inserted in larger pieces of legislation, often with the help of lobbyists. "We're not going to fix this system until we fix the earmarks," he said. "It's disgraceful, this process."

Sen. Rick Santorum, R-Pa., who is preparing legislation at the behest of the Senate GOP leadership, said his bill might also look at spending by tax-exempt partisan groups known as 527s, a touchy subject because Democrats relied heavily on such groups in the last election.

Sen. Dick Durbin, D-Ill., also noted, in a broader sense, that Congress must look at how lawmakers finance their political campaigns. "Unless and until we address this in an honest fashion, we are carping on trifles here."

In the House on Wednesday, Democrats David Obey of Wisconsin and Barney Frank of Massachusetts said they would introduce legislation to eliminate all private money for House elections, turning instead to public financing. "The problem with politics is more fundamental than meals or trips with lobbyists," Obey said in a statement.

Taking a different approach, Sens. Norm Coleman, R-Minn., Wayne Allard, R-Colo., and Ben Nelson, D-Neb., unveiled a plan to create an independent commission, similar to the 9/11 Commission, to recommend ethics reforms. "What is at stake here is clearly the credibility of the institution," Coleman said at the hearing.

Senate Majority Leader Bill Frist, R-Tenn., separately wrote Senate Minority Leader Harry Reid, D-Nev., asking him to join in establishing a bipartisan Senate lobbying reform task force to explore the various proposals.

Reid, who has linked the lobbying scandal to GOP control of Congress, declined. "We don't need a task force to study what's wrong. We know what's wrong," he said at a news conference.

Paul Miller, president of the American League of Lobbyists, urged Congress not to respond to the actions of a "few unscrupulous operatives" by impeding the rights of citizens, including lobbyists, to petition Congress and keep members of Congress informed.

John Engler, former governor of Michigan and current head of the National Association of Manufacturers, told the panel that the current system was working, noting that a lobbyist was going to jail and a member of Congress was going to be sentenced. He was apparently referring to Abramoff and former Rep. Duke Cunningham, R-Calif., who recently pleaded guilty to bribery.

"Whatever occurs, I think it is imperative that you do not overreact," he said.

Dick Clark, a former senator from Iowa who established the Aspen Institute program for Congress, said it was right for Congress to reject lobbyist involvement in trips. But a total ban on privately funded travel "would be a disservice to members of Congress," he said.

Aspen arranges seminars both inside the country and around the world where members of Congress are required to attend conferences that last six hours a day over four days. It does not pay for recreational activities.

"Foreign travel is essential in an era of globalization," he said. "Insularity is not an option for the world's only superpower."

McCain Calls To Reform Pork Barrel Politics (WP)

By William Branigin

The Washington Post, January 26, 2006

A Senate committee reviewing proposals to reform lobbying today heard calls for Congress to reform its pork barrel politics by ending the practice of quietly adding pet projects known as "earmarks" to appropriations bills.

Appearing as a witness on the opening day of a Senate hearing on lobbying reform, Sen. John McCain (R-Ariz.) was one of several senators to denounce earmarking, a practice he called "disgraceful." He outlined one of several proposals to tighten rules and require greater disclosure of lobbying activities. But he told the committee, "We're not going to fix this system until we fix the earmarks."

McCain made the comments before the Senate Committee on Homeland Security and Governmental Affairs, which convened to discuss lobbying reform proposals amid a scandal surrounding the activities of Jack Abramoff, a once-powerful Republican lobbyist. Abramoff pleaded guilty earlier this month to federal charges including bribery of a congressman. His cooperation with investigators as part of a plea deal has stoked concerns on Capitol Hill that other legislators could be implicated, and Congress has responded with a flurry of legislative proposals to reform the system.

However, representatives of lobbying organizations urged the committee today not to overreact to what they described as the unscrupulous activities of one corrupt lobbyist.

And Sen. Richard J. Durbin (D-Ill.), the Senate minority whip, said the problem goes beyond earmarks and that solving it must start with reducing the "outrageous expense" of political campaigns.

The chairman of the committee, Sen. Susan M. Collins (R-Me.), said the actions of Abramoff and former Rep. Randy "Duke" Cunningham (R-Fla.), who resigned from the House in November after pleading guilty in a separate case to federal bribery and fraud charges, "have prompted a much-needed review of legal lobbying activities that raise questions of improper influence."

As part of reform efforts, she said, "We must end the practice of allowing members to slip earmarks that have received neither scrutiny nor a vote in either the House or the Senate into the final versions of legislation."

Sen. Joseph I. Lieberman (D-Conn.), the top Democrat on the committee, said he and McCain have proposed legislation -- the Bipartisan Lobbying Transparency and Accountability Act of 2005 -- that would require more frequent and detailed disclosure of lobbying activities "and, for the first time, full disclosure from grassroots lobbying firms paid to conduct mass television or direct mail campaigns to influence members of Congress." One such firm was used by Abramoff to conceal millions of dollars in payments that he received from overcharging Indian tribes, Lieberman said.

Other lobbying reform bills have been introduced by Sen. Harry M. Reid (D-Nev.), the Senate minority leader, and by Sen. Russell D. Feingold (D-Wis.). Sen. Rick Santorum (R-Pa.) is separately working on lobbying reform legislation on behalf of the Senate GOP leadership.

Lieberman said differences among the proposals are "reconcilable" and that "we now have a once-in-a-generation opportunity to reach agreement on a broad set of lobbying reforms that will reduce the cynicism" of many Americans toward their government. "Frankly, the status quo stinks," he said.

Sen. Tom Coburn (R-Okla.) backed the call to end earmarking, saying, "The problem is us." In the long run, he said, "we're not going to change anything 'til we change the motivation that the next election is more important than anything else."

McCain said his reform bill, among other things, requires lobbyists to disclose their involvement in congressional travel and report gifts worth more than $20. Members of Congress would be required to pay the fair market value of charter flights for travel on private airplanes and would have to file reports of meetings, tours, events or outings in which they participated while on official travel.

McCain also said that "if we don't stop the earmarking, we're not going to stop the abuses of power here in Washington." He suggested that his own party was largely responsible.

"In 1994, when the Congress was taken over by Republicans, there were 4,000 earmarks on appropriations bills," he told the committee. "Last year there were 15,000. It's disgraceful, this process."

McCain said he was especially bothered that at the end of the last congressional session, various extraneous appropriations were "larded onto the money that was supposed to be devoted to the men and women in the military and their ability to conduct the war on terror."

Citizens Against Government Waste, a fiscal watchdog group, estimates that earmarks last year cost taxpayers $27.3 billion, up from $10.1 billion in 1995, the year that Republicans took office as the majority in Congress.

McCain, who uses a broader definition of earmarks, calculates that the pork barrel projects amounted to $47 billion last year.

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In testimony to the committee, lobbyists stressed that the practice of petitioning the government is protected by the Constitution.

Dick Clark, a former Democratic senator from Iowa who now heads the Aspen Institute's congressional program, expressed support for some reforms on congressional travel. "However, a total ban on privately funded travel would be a disservice to members of Congress," he said in prepared testimony.

John Engler, a former Republican governor of Michigan who now is president of the National Association of Manufacturers, said, "Whatever occurs, it is imperative that you do not overreact."

Paul A. Miller, president of the American League of Lobbyists, told the committee, "Members of our profession are as disgusted and appalled by what Mr. Abramoff has done as you are. But we should not allow the actions of a few unscrupulous operatives to paint our entire profession as 'crooks' or unscrupulous scoundrels who will stop at nothing to have their way with members of Congress."

Miller added in his prepared testimony: "Our government is not 'corrupt.' Lobbyists are not 'bribing' people; and members of Congress are not being 'bought' for campaign contributions. One man broke the law by lying, cheating and stealing from his clients. Unfortunately, he was a lobbyist."

He said he wanted to assure the panel that Abramoff was "not the norm in our profession," but "truly the exception." Any profession has "bad apples" no matter what rules are in place, he said.

"Unfortunately, we often find our bad apples on the front page of every newspaper, because frankly, scandal sells," Miller said.

Earmark Reform Requires Oversight And Accountability (RC)

By Rep. Jerry Lewis

Roll Call, January 26, 2006

In the early morning hours, in a remote tribal area of Afghanistan, a gathering of al Qaeda leaders is interrupted by the explosions of Hellfire missiles launched from a Predator unmanned aerial vehicle. The UAV has become one of the most effective weapons in the global war against terrorism. Its development came not from war planners within the Pentagon, but from a Congressional earmark.

Some have suggested that Congressional earmarking should be eliminated. But this course of action cedes to the executive branch Congress' Constitutionally based spending prerogatives.

The president's budget contains numerous earmarks inserted by nameless, faceless bureaucrats within each government agency. Teach for America, The Points of Light Foundation, and America's Promise are just a few examples of unauthorized, limited-scope initiatives that routinely receive a line-item request in the president's budget. Yet elected representatives know more about local, state or national priorities than the Beltway bureaucracy. It would be a mistake to ignore this expertise when determining how to allocate scarce federal dollars.

Another misguided proposal would give Member project funding the force of law by requiring all earmarks to be listed in statute. This would eliminate a federal agency's flexibility in allocating federal spending, particularly in time of national emergency or crisis, while doing nothing to improve the transparency and accountability of the appropriations process. Thoughtful, timely and orderly consideration of individual appropriations bills would be replaced by partisan one-upmanship. The increased delays would make it inevitable that Congress would revert to the fiscal mischief fostered by wrapping these bills into a massive end-of-session omnibus.

In 2005, House Republicans began taking tangible steps to restore accountability, increase transparency and reform the annual budget process. But few outside of Congress have taken notice of the considerable progress that's been made over the past year.

We reduced non-security discretionary spending for the first time since the Reagan administration, eliminating 53 low-priority programs and saving taxpayers more than $3.5 billion. We got our work done on time: The House passed all 11 individual appropriations bills by June 30, the earliest that each of the bills has been passed in 18 years. We reduced Congressional spending on Member requested projects by more than $3 billion.

Most importantly, this progress set the stage for an even larger success: eliminating, for the first time in years, a massive, year-end, omnibus spending bill. Just one year earlier, Congress wrapped nine appropriations bills into one colossal, 3,500-page spending package.

Though it's been less noticed, the committee also has taken positive steps toward strengthening transparency of the appropriations process by Webcasting all full-committee markups, requiring open House-Senate Conference Committee sessions and making Appropriations Committee conference reports publicly available at least one day prior to House

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consideration. Important progress was also made to ensure that an unprecedented degree of oversight is provided for taxpayer dollars spent on federal programs as well as necessary hurricane relief on the Gulf Coast.

These are critical first steps to reforming the budget process and restoring confidence in Congress. Unfortunately, this solid record of reform has been largely overshadowed by the criminal, self-serving actions of a few individuals who violated both the public trust and the law.

The next step involves further curbing the appetite to spend by sharply reducing the number of earmarks in annual spending bills and making the appropriations process more open and transparent. In order to succeed, the House and Senate must jointly embrace these efforts. Specifically, the leadership of the House Appropriations Committee recommends the following:

1) Sharply limit the number of Member project requests. Curtailing the number of Member requests per Appropriations subcommittee would dramatically improve oversight and lead to a reduction of earmarks. Last year, the House Appropriations Committee received nearly 35,000 individual project requests. In the Labor-HHS appropriations bill, 417 Members requested 10,272 projects, or nearly 25 per Member.

2) Require increased accountability, disclosure and transparency by requiring that Member request letters be made public prior to House consideration of each appropriations bill. These letters would be provided by the Members' offices to the Clerk of the House and printed in the Congressional Record.

3) Require that all project requests be submitted in writing to the appropriations subcommittee of jurisdiction via a Member-signed request letter or form.

4) Establish clearly defined criteria for all project requests and require Members to specify how each project meets the criteria. Member requests would also be required to be strictly germane to the spending bills in which they are contained.

5) Increase the proportion of projects that have a dollar-matching requirement. Economic development initiative grants from the Department of Housing and Urban Development are among those that ought to be considered for a local matching requirement.

6) Require all Congressionally approved projects to go through a formal executive branch contracting and auditing process.

7) Finally, require that all other committees adopt similar earmarking reforms. Earmarks are not unique to the House Appropriations Committee. The most notable earmark in recent history — the "Bridge to Nowhere" — had its origins elsewhere.

Senators Want Outsiders For Ethics Overhaul (LAT)

By Mary Curtius, Times Staff Writer

The Los Angeles Times, January 26, 2006

WASHINGTON — Convinced that Congress cannot overhaul its rules on ethics and lobbying in the politically charged atmosphere of an election year, two senators called Wednesday for the creation of an independent commission to do the job.

Sens. Ben Nelson (D-Neb.) and Norm Coleman (R-Minn.) said an outside panel was more likely to come up with a sweeping package of changes than a Congress riven by partisanship.

But their proposal faced quick resistance from two senators leading the reform push — Democrat Joe Lieberman of Connecticut and Republican John McCain of Arizona. They have proposed legislation that would require lobbyists to provide more detailed reports about their contacts with lawmakers and other business activities.

Both said Wednesday that they feared creating an independent commission and that waiting for it to act would slow the momentum for change that had been building since former lobbyist Jack Abramoff pleaded guilty this month to corruption charges.

"I don't want to wait," McCain told reporters. "We've got to act quickly."

The call for an independent panel also was likely to face opposition from Senate veterans who zealously guard the institution's prerogatives and are loath to allow outsiders to help drive its decision-making.

The commission proposal and the hurdles to it underscore the difficulties lawmakers face as they attempt to rewrite the guidelines that govern the dealings between themselves and lobbyists.

Proposals for tightening ethics and lobbying rules have proliferated in the House and Senate. They include measures that would ban trips by lawmakers and their aides that are financed by outside groups. GOP leaders of both chambers have vowed to push through an overhaul by the middle of the year.

Some members of Congress say the packages go too far, arguing the efforts to rein in travel would prevent them from getting firsthand information about domestic and international problems.

Others complain the reform proposals fail to address what they say are the roots of the problem spotlighted by the Abramoff case — private funding of campaigns and the common practice of lawmakers inserting money for pet projects and programs into government spending bills. Lobbyists offer help to lawmakers on both fronts.

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Coleman said he believed the creation of an independent commission offered the best hope for Congress to grapple with such issues and to "overcome the stain" caused by the Abramoff scandal.

Sen. Tom Coburn (R-Okla.) said he supported the idea because it would provide "a whole lot more credibility" to the reform process.

Only by bringing in outsiders to make recommendations, he said, could Capitol Hill achieve "real reform based not on political reaction but on what is best for the institution and best for the republic."

The proposal received no support from Senate leaders in either party, who engaged in their own squabble about how to proceed with carrying out reforms.

Majority Leader Bill Frist (R-Tenn.) offered to create a bipartisan task force with equal numbers of Democratic and Republican senators to rewrite ethics and lobbying rules — a proposal quickly rejected by Minority Leader Harry Reid (D-Nev.).

Such a task force, Reid spokesman Jim Manley said, would hamper the process. "Legislating is hard work," Manley said. "We know what the problem is and we know what needs to be done. We should just do it."

Coleman and Nelson said the independent panel they wanted would be modeled on the commission appointed after the Sept. 11 terrorist attacks to investigate failings by the U.S. intelligence community. That panel, divided evenly between Democrats and Republicans, produced a report that spurred Congress to restructure the workings of intelligence-gathering agencies.

But former Rep. Lee H. Hamilton (D-Ind.), co-chairman of the Sept. 11 commission, noted that lawmakers rebuffed the panel's recommendations for reorganizing congressional oversight of the intelligence community.

"They didn't pay any attention to us at all," Hamilton said. "They reformed the executive branch, but on the whole question of robust oversight they just totally ignored those recommendations."

Hamilton, who served on the House Ethics Committee, said he believed Congress was incapable of policing itself. He advocates the creation of a permanent, independent commission to oversee congressional ethics, a proposal supported by some watchdog groups.

To be effective, Hamilton added, the commission would "have the power to initiate investigations, hold hearings, hear complaints and … make recommendations about punishment."

Lobby Battle Splitting Parties (RC)

By Tory Newmyer

Roll Call, January 26, 2006

House Democratic leaders are preparing to offer the toughest lobbying reform package yet, with a measure that would in some ways be more stringent than other bills offered so far.

On Wednesday, Minority Leader Nancy Pelosi (Calif.), Minority Whip Steny Hoyer (Md.) and Democratic Caucus Chairman James Clyburn (S.C.) circulated principles of the plan to their Democratic colleagues and asked for their support. Included in the measure will be provisions that force lawmakers to report when they are sponsoring earmarks, require them to pay fair market value for travel on private jets and create an office of public integrity to oversee these and other new lobbying rules.

Details of the plan emerged after a day in which lawmakers on both sides of the Capitol traded barbs, with each party claiming to want a bipartisan solution, but finding no partner across the aisle. Though the House isn't even in session yet, both chambers of Congress have been absorbed this month by responding to the scandal involving former lobbyist Jack Abramoff.

Meanwhile, momentum appears to be growing for reforming the earmarking process. Beyond the new disclosure requirement House Democrats are planning to push, several GOP Senators on Wednesday expressed support for cracking down on the practice. And in an op-ed in today's issue of Roll Call, the spending chief of the House, Appropriations Chairman Jerry Lewis (R-Calif.), laid out a plan for cleaning up the budget process (see Guest Observer, p. 8).

"The next step involves further curbing the appetite to spend by sharply reducing the number of earmarks in annual spending bills and make the appropriations process more open and transparent," Lewis wrote.

Sen. John McCain (R-Ariz.), who is trying to round up as much bipartisan support as possible for his own plan, said he is adamant that some form of earmark reform be included in the bill as a way to get at the "root cause" of lobbyist corruption. "I'm going to fight as hard as I can to get it in," said McCain, who added Sen. Bill Nelson (D-Fla.) to his plan Wednesday.

Sen. Bob Bennett (Utah), a member of both the GOP leadership and the Appropriations Committee, expressed support for more "transparency" in lobbying reform, but he did not endorse a broad prohibition on earmarks. Bennett said he would support the idea of each earmark being identified with its sponsor and that each one appear in the Congressional Record.

Wednesday's action kicked off in the Senate, where the Homeland Security and Governmental Affairs Committee convened in the morning for its first look at the lobbying reform proposals offered so far. At that event, bipartisanship was the

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buzzword, as Senators from both parties insisted that only cooperation would yield a solid solution to the systemic problems highlighted by the Abramoff scandal.

As the day wore on, however, the early détente on the politically charged issue began to disappear as both parties dug in their heels over the best way to move forward.

Senate Majority Leader Bill Frist (R-Tenn.), in a letter to Senate Minority Leader Harry Reid (D-Nev.), asked for the two leaders to agree to a bipartisan task force to develop any reforms. But Reid shot back by calling on Frist to instead assign the Homeland Security panel — led by Sens. Susan Collins (R-Maine) and Joe Lieberman (D-Conn.) — to work on a bill he introduced that has already gathered wide support from Democrats.

"Lobbying and ethics reform should not be a partisan issue," Frist wrote Reid. "The rules apply equally to every Senator and every staffer, regardless of political party. The rules are bipartisan and the reforms should be bipartisan."

Reid said that instead of another task force to look into the chamber's ethics, the bipartisan Senate panel should consider his lobby reform bill, which has attracted 39 Democrats but no Republicans. Among other things, the measure calls for a ban on lobbyist travel and gifts.

With little agreement over how to proceed, it remained unclear Wednesday whether and how the Senate will move ahead.

As one GOP Senate aide characterized the hope of togetherness: "The Republican door is always open about working together on a bipartisan basis, even after Harry tossed a hand grenade into it."

Across the Capitol, the parties were no more friendly. House Rules Chairman David Dreier (R-Calif.), the Member tapped by GOP leadership to lead the chamber's reform drive, is focusing on the "really good feedback" a spokeswoman said he has received from some Democrats, despite being rebuffed by several.

Among those unwilling to work with Dreier is his panel's ranking member, Rep. Louise Slaughter (D-N.Y.). She said when the California Republican asked for her help constructing a reform package, she replied, "I don't see how you people can clean this up. I think it's our job.

"The people who got us into this swamp are not going to be able to get us out," she added. "This is, in my view, the worst scandal that has ever fallen on Congress."

Ron Bonjean, spokesman for Speaker Dennis Hastert (R-Ill.), said the Democrats' position is typical of their "just-say-no obstructionist tactics."

"For them, it is a partisan political exercise with the hopes of winning in November," he said.

Despite the partisan rancor, there were a few signs of bipartisanship. Sens. Norm Coleman (R-Minn.) and Ben Nelson (D-Neb.) teamed up to unveil a bill that would establish an independent commission to examine and report a range of reform proposals.

McCain dismissed that idea as taking too long, but he expressed hope for some new Democratic support on his own measure, indicating that his longtime partner in past reform efforts, Sen. Russ Feingold (D-Wis.), may eventually come aboard his bill. "Russ and I will work things out. I am confident," he said.

And in the House, Rep. Christopher Shays (R-Conn.), himself a partner of McCain's from the fight to reform campaign finance laws, said that he thinks there is still room for the parties to work together.

"I think there are many Republicans and many Democrats who want to see Congress as a whole clean up its act," he said.

GOP Freezes Jobs List, A Vestige Of The K Street Project (WP)

By Jeffrey H. Birnbaum

The Washington Post, January 26, 2006

Republican lawmakers yesterday ended their long practice of routinely summoning lobbyists to the Capitol to try to persuade them to hire their aides and colleagues, in the wake of the Jack Abramoff political corruption scandal.

GOP lawmakers for years have regularly presented lists of job openings on K Street to lobbyists to encourage them to hire Republicans over Democrats. The program is a remnant of the K Street Project once championed by Rep. Tom DeLay (R-Tex.) as a way to coerce trade associations and companies to hire Republicans as their top lobbyists and to warn firms that hired Democrats that they would not be welcome.

Yesterday, the staff director of the Senate Republican Conference said that a K-Street-job-vacancies memo -- the heart of Congress's remaining involvement in the effort these days -- will no longer be distributed during high-level meetings hosted by the conference on Capitol Hill between lawmakers and lobbyists. Responsibility for the listings migrated from the House to the Senate several years ago, according to lobbyists.

While lobbyists and others could still obtain the information elsewhere, the change removes the formal involvement of lawmakers from the process and any implied encouragement by them to transform K Street into a Republican bastion.

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In addition, the decision could provide a public relations benefit to Sen. Rick Santorum (R-Pa.), the conference head and the person who has long chaired the lobbyist meetings. He is facing a tough reelection fight this year that has been made even tougher by Democratic accusations that he is too close to lobbyists and the GOP's K Street jobs operation.

In recent years, the effort has become less aggressive and now includes in its non-congressional component a job listing service on the Internet.

Participants describe the meeting as an information exchange at which Santorum and other GOP senators discuss their priorities and collect intelligence from lobbyists. Toward the end of the meetings, which begin at 8:30 a.m. every other Tuesday, a representative of the Republican National Committee distributes the document that lists who in Congress is looking for work and what jobs are available. A discussion of jobs sometimes ensued.

Asked whether the document will continue to be passed out during those meetings, Mark D. Rodgers, the conference's staff director, said, "Since the RNC is already widely distributing the jobs list, we have decided it is duplicative to hand it out and will no longer do so." But Brian Jones, a spokesman for the RNC, said the data were not easily obtainable. "It's not public information," Jones said.

The decision to drop the list comes as Santorum is being disparaged by his opponents in Washington and at home as the "liaison to the K Street Project." Senate Minority Leader Harry M. Reid (D-Nev.) last week said Santorum is "as responsible as anyone in the world for the K Street Project." He added that Santorum was unsuited to serve in his current role as the Republicans' point man in the effort to overhaul lobbying laws.

Those sorts of assertions are "one of a series of problems" Santorum has in his race this year against Pennsylvania state Treasurer Bob Casey Jr., said Stuart Rothenberg, a nonpartisan election analyst. "Santorum at the moment is the No. 1 most vulnerable Republican senator seeking reelection," Rothenberg added.

A Republican Conference aide said there is "no connection" between Santorum's meetings and the K Street Project, and Santorum has said that everything he has done in the meetings is appropriate. Last week, Santorum characterized the meetings as a way for Republicans to get their points of view disseminated in Washington.

"If you're going to affect public policy in a positive way, you've got to get your message out," Santorum said. "That's what the project that I've been involved with has been about, period."

Democrats have also been passing around jobs memos of their own during Monday meetings between lobbyists and congressional chiefs of staff. A spokesman for the Democratic Senatorial Campaign Committee said the "job bank" document -- as the Democrats called their listing -- has not been distributed for months and "there's no plan to put it back in place."

But Democratic attacks on Santorum and the K Street Project will continue, lawmakers said. Yesterday, Reid and Sen. Charles E. Schumer (D-N.Y.) wrote Sen. Susan Collins (R-Maine), chairman of the Committee on Homeland Security and Government Affairs, to ask for an investigation of the project. "What we seek to do is just shine a little sunlight on this K Street Project and have one of our committees investigate what happened so that we can see if there's legislation needed," Schumer said.

Grover Norquist, president of Americans for Tax Reform, said that he pioneered the project in the late 1980s and continues to urge companies and associations to hire free-market advocates via a Web site called the K Street Project. But when Democrats and others refer to the project, they speak more generally about the efforts of DeLay and his colleagues on Capitol Hill after the Republican takeover of the House in 1994. The House ethics committee privately warned DeLay in 1998 about threatening the Electronics Industry Alliance with retaliation for hiring a prominent Democrat.

Yesterday, Collins's committee held a hearing on lobbying legislation that highlighted the range of opinions Congress will have to bridge if it is to pass a bill that deals with abuses of travel, fundraising and other matters. Former senator Dick Clark (D-Iowa), director of the nonpartisan Aspen Institute Congressional Program, urged a ban on lawmakers' trips that include "in any way, shape or form the participation of lobbyists."

But John M. Engler, president of the National Association of Manufacturers, said information-gathering trips are essential for lawmakers. Private groups should be allowed to fund some of them, within ethical guidelines, he said.

Reform Talk May Spur Hill Exodus (RC)

By Kate Ackley

Roll Call, January 26, 2006

Democrats and Republicans might not agree on all things lobbying, but they seem united on doubling the current one-year cooling-off period for newly minted advocates. And that has Congressional staffers, who already had an eye toward employment on K Street, stepping up their job-seeking efforts.

Lobbyists, headhunters and Capitol Hill aides speculate that a mini-exodus of staffers from both sides of the aisle may be coming as a result. The lobby ban may not be the only potential reform drawing staffers downtown, either. Congressional aides

and lobbyists say that the ongoing discussion of other bans, or tougher restrictions, on free travel and entertainment will make working on Capitol Hill less appealing.

Nels Olson, managing director of the Washington, D.C., office for search firm Korn/Ferry International, said in recent days he's been fielding calls from Democratic and Republican Hill aides who are quickening the pace of looking for work downtown.

"For obvious reasons, there's been a heightened interest for those who were thinking about leaving anyways, about leaving potentially a bit earlier," Olson said. "There is some concern about the potential of their livelihood going forward. It tipped the balance toward leaving."

Olson said the volume of staffers looking to quickly jump ship is small for now, but "as the legislation moves forward, you could see a greatly increased number as it becomes more real."

Because discussion of staffers' future employment options tends to be deeply personal and secretive, most lobbyists and Congressional aides would talk only on the condition of anonymity. But in interviews with 24 high-level lobbyists and Congressional aides, it is clear that discussions about job opportunities off the Hill have increased as Members of Congress have stepped up their talk of tightening lobbying rules.

Steve Phillips, a partner at DLA Piper Rudnick Gray Cary and a former legislative director to then-Sen. Jesse Helms (R-N.C.), said he has heard from many staffers who are thinking about leaving the government payroll — fast.

"This has definitely expedited their decision-making process, no doubt about it," Phillips said. "They think their value is greatest now, whether that's real or perceived. We have definitely had a spike in conversations about this."

Ralph Hellmann, the chief lobbyist at the Information Technology Industry Council, said Hill aides were looking toward K Street even before Members began introducing reform measures after former lobbyist Jack Abramoff's guilty plea in a bribery scandal earlier this month.

"This is now going to speed up that effort," Hellmann said. "The morale up there is awful."

A senior-level GOP leadership aide added, "I have heard some of my senior staff indicate that they would have to consider" leaving now because of the likelihood of reforms.

This longtime staffer added, "What does a two-year ban accomplish? ... So I'm going to be punished for something somebody else did? Do I really want to stay now for another year, and then tie my hands for an extra year" in the private sector?

The kind of travel experiences that could soon be eliminated, the staffer said, "are nice benefits to the job. It's going to get to the point where this just isn't a great place to work anymore."

Rich Gold, who heads the public policy group for Holland & Knight, said he, too, expects a rise in movement off the Hill.

"There's definitely going to be a swing, and not just on the two-year thing," Gold said. "I've definitely heard staff say if there's no travel, I'm out of here. It's one of the main things they love about the job."

Gold said people don't take the jobs for the perks, but he added that those comforts have been part of the employment package of working for Members.

"It's the equivalent of somebody coming to me and saying we're no longer going to have the cafeteria in the basement and we're getting rid of parking spots," he said. "The folks work long hours and these were all the little things that made it bearable sometimes. If you don't think staff are telling Members that, you're mistaken."

A Democratic head of a lobbying practice said that some senior Republicans on the Hill have reached out to his firm, in some cases using the reform proposals as a starting point.

"A couple of them have said this whole thing, in their judgment, is out of control and they're going to start looking around. They're just perplexed and if they're talking about two-year bans, then they may go now," this lobbyist said.

House Republican Conference Chief of Staff Andrew Shore, who has already told his boss that he plans to head to the private sector, said impending reforms are not the reason why.

"It's not a factor that has played into my thinking," Shore said. "This is about my family."

A senior GOP aide said that while his colleagues are giving careful consideration to leaving before more expansive restrictions could take place, they won't jump for just any job.

"It's a double-edged sword," this staffer said. "People don't know that lobbying will be what it has been, so it might not be the same job that it has been. Most of the people I know have pretty high [salary] expectations and probably won't be met in this environment."

One Hill aide flat-out questioned why his colleagues would eye K Street in the current climate. "The industry is sort of tainted," he said.

Paul Miller, president of the American League of Lobbyists, said that extending the one-year ban amounts to penalizing people for government service "and that's not fair."

Miller said he has personally heard from one senior staffer who told Miller that he was considering leaving the Hill because of the reforms.

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Of course, there are at least a few people on K Street who think a two-year ban could be a good thing.

Juleanna Glover Weiss, a former aide to Vice President Cheney and a former Senate staffer, said a two-year ban might encourage people to stay in Hill jobs longer, enabling Congress to keep employing individuals who have significant experience in their area of expertise.

"The majority of staffers go up there because they want to make a difference," said Weiss, who lobbies at the Ashcroft Group. "They want to work in government, they want to do that job."

Trevor Potter, president of the Campaign Legal Center, said he supports expanding the cooling-off period to two years, and he hopes that and other new lobbying regulations take effect quickly — leaving little time for would-be lobbyists to line up new jobs on K Street.

"Congress is talking about doing something in the next couple of weeks, so it would seem to me to be unlikely that people would have enough time to go through the process" of finding a private-sector job, Potter said.

Under the current ban, former senior staffers aren't allowed to lobby their old offices, and ex-Members are barred from directly lobbying the entire Congress for one year. These budding lobbyists, though, can strategize and work issues from behind the scenes.

"I can tell you for an absolute fact that the year when people are banned is a year when some of them are unproductive," said a Democratic lobbyist.

Headhunter Olson said it's hard enough "for them to be sitting on the sidelines for a year. Two years is a long time."

And Michael Fulton, a lobbyist with Golin/Harris, said the former Congressional staffers "we have hired here view that one-year ban as practically an eternity."

But, he said, from the firm's perspective the ban isn't much of a hardship. "We don't sell access," Fulton said. "Our clients have all the access they need. We sell process, and timing and extra arms and legs and strategy and creativity."

Ivan Adler, a lobbyist headhunter for the McCormick Group, said that an extension of the lobbying ban would likely have zero impact on the salaries and job opportunities of former Members and senior-level Congressional aides. But expanded bans could deeply hamper junior and mid-level staffers, he said. "I think their value will go down because of their inability to reach out to a particular Member or committee," Adler said.

Of course, some existing lobbyists see the ban's extension as good for their own business.

Stewart Van Scoyoc, who runs the firm Van Scoyoc Associates, said the two-year ban would give big firms like his an advantage when trying to lure people off the Hill because it will be more difficult for an ex-staffer to set up his or her own shop. Instead, they will need the extra resources of a firm. "We can absorb the cost," he said.

One established GOP lobbyist said he was rooting for a 50-year ban to cut down on the competition. "I'm kidding," he quickly added.

Dodd Out, Link In (WP)

By Judy Sarasohn

The Washington Post, January 26, 2006

Larson Dodd Stewart & Myrick is now Larson Stewart Myrick and Link, with co-founder Quin Dodd having left after being appointed by President Bush to the Consumer Product Safety Commission and with the addition of veteran lobbyist and GOP congressional staffer James Link .

Link moves over the lobby shop from Fleischman and Walsh , bringing his clients, including Barcardi and some hospitals, according to Dave Larson . Larson Stewart has a roster of more than 30 clients, Larson said, including Fannie Mae and the Grocery Manufacturers Association.

Earlier, Link was deputy director of the Senate Republican whip's office, as well as an aide to then-Rep. Richard B. Cheney (R-Wyo.).

While the lobby shop is now all-GOP, Larson, a former health policy adviser to Sen. Bill Frist (R-Tenn.), said he is talking to some Democrats about joining the team. "We don't look at the party; we look at the person," he said.

Hammering Away (WP)

By George F. Will

The Washington Post, January 26, 2006

RICHMOND, Tex. -- Out here, where the tendrils of Houston's growing exurbs reach for open ground, sits Rio Bend, a cluster of new houses and other facilities for parents having difficult times with troubled foster children -- difficulties like those Tom and Christine DeLay experienced with several teenagers they took into their home. Rio Bend was built by the DeLays, with help from friends, of sorts.

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She, an acerbic realist from south Texas, says more houses are planned by their charitable organization, but: "I hated to lose the leadership position because it helps me to raise money for those kids." Note her agreeably guileless acknowledgment that some friends of Rio Bend may not have been seized by simple altruism. She shares her husband's credo -- power is useful and should be used -- and knows the moral ambiguities it can involve.

He strides like a bantam rooster into the living room of one of the Rio Bend bungalows, having just been buoyed by an appreciative luncheon of 400 Realtors to whom he read a list of earmarks -- personally directed spending, aka pork -- he has delivered to his district. Most people, battered as he recently has been, would be curled up on the carpet in a fetal position. But DeLay is as direct and uncomplicated as the tool that supplies his nickname -- "The Hammer" -- and his faults do not include being a whiner.

Furthermore, he is not about to plea-bargain in the court of public opinion. He chafes under prudential reticence: His attorneys tell him not to trumpet the fact that the Justice Department told them he is not a target in the Jack Abramoff investigation. But about other matters, the bantam is belligerent.

Earmarks? Although recently "they got out of hand," they are, he says, necessary and proper because it is best to have spending dictated by a politician who knows his district's needs: "We are an equal branch of government -- why should we let a bureaucrat decide?" He says that in a state such as Illinois, which is dominated by Democrats "who play hardball," earmarks are the only way even House Speaker Dennis Hastert can get highway money spent in his district.

The K Street Project? That is, getting interest groups to hire Republican lobbyists, and to make such hirings fruitful by transactions using, among other things, earmarks? The author of this insists: "I'm very proud of it." In 1994 "we were coming as a Republican majority into a Democratic culture" in Washington. For 40 years, he says, the media had hired people congenial to sources who controlled Congress. And K Street -- the lobbyists' habitat -- hired Democrats to ensure access to Democrats. K Street Republicans "never got to see John Dingell or [Dan] Rostenkowski," two Democratic chairmen of crucial committees.

So, DeLay asks: In 1995, what do you think Democratic-dominated K Street was interested in? "Helping us get our work done? Secure our majority?" Those are rhetorical questions.

DeLay's Democratic opponent this fall will be Nick Lampson, a former congressman who in 2004 lost his seat in another district, partly because of the redistricting DeLay engineered that resulted in five additional Republican seats. DeLay won in 2004 with only 55 percent of the vote, partly because he thought that "to set an example" he should consent to making his district more Democratic in order to make others less so.

Referring to his trial on campaign finance charges brought by a notoriously political Democratic prosecutor, DeLay says, with a confidence that might be misplaced but clearly is unfeigned, "I'll be acquitted by the end of April." Then he says he will secure a 12th term, winning "the most expensive congressional race ever ." The national Democratic Party and several liberal groups -- already running ads and phone banks -- spend, well, liberally.

Because undecided voters are thin here -- he estimates they are about 13 percent of the district -- this election will be about mobilizing the faithful. So the piling on by his critics -- their wretched excesses in response to what they perceive to be his -- may help him.

Congress under Republican control has increased earmarks 873 percent in a decade and validated the axiom that the more solicitous government becomes, the more servile it seems and the more scorn it receives. Congress has not been so unpopular since 1994, when Democrats lost their 40-year grip on the House. But here on the east bend of the Brazos River, unlike on the Potomac, the fever for reform is not high. To a visiting columnist who waxes censorious about earmarks for highway projects, DeLay responds with a notable lack of repentance: "You just drove out on one."

GOP Will Regain Trust (USAT)

By Roy Blunt

USA Today, January 26, 2006

House members cannot ignore recent scandals that have many questioning the credibility of our system.

Republicans will regain Americans' trust by enacting tough penalties for those who break the law and focusing on our agenda of limited government, personal responsibility and growing the economy by returning money to the Americans who earned it.

Lobbying reforms should include new rules governing travel and disclosure and regulations subjecting shadowy, tax-exempt "527" political groups to the same standards as others who attempt to influence the process. Then the credibility of honest public servants will be not be questioned — even when some try to paint them with the same brush as those who break the law.

I personally adhere to the strictest policy on Capitol Hill regarding interactions with lobbyists. I insist my staff does the same.

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A top priority of mine is to retain and grow our Republican majority. I visited more than 100 congressional districts last campaign season. It's not glamorous, but it's important work that often puts me in three towns in one day. Private travel, in accordance with the law and House rules, has enabled me to reach multiple events for members, often in remote locations, in a single day.

Republicans, as we consider lobbying reform, will address proposals that would enhance the immediacy and transparency of disclosure — critical to the democratic process — and are another step in earning the American people's trust.

Rep. Roy Blunt, of Missouri, is House majority whip. He has been acting majority leader since September.

Proven Record (USAT)

By John Boehner

USA Today, January 26, 2006

House Republicans need leadership that will help provide a vision and a plan for renewal. We need a leader who will stand up to Democrats when they're wrong, but who has credibility to work with them when it's in the country's best interests.

I have a proven record of bringing together members of both parties to support bills rooted in Republican principles, such as stronger accountability, fiscal responsibility and greater competition. Recently, I managed a bipartisan overhaul of our nation's pension laws, strengthening worker retirement security and protecting taxpayers from a massive bailout of the Pension Benefit Guaranty Corp. And when it comes to reform credentials, actions speak louder than words:

· I've never requested pork money for my Ohio district.

· I've never taken a dime from lobbyist Jack Abramoff.

· Every trip I've taken has been within the rules.

· Every relationship I have with a contributor or a lobbyist is an ethical one.

In the early 1990s, I exposed the corrupt practices of the Democrat-controlled House and have worked ever since to strengthen ethics rules under the Republican majority.

As of now, I am the only candidate who has released a detailed plan that would help House Republicans regain the spirit and energy of 1994, embrace real reform and reclaim the vision responsible for our success.

Rep. John Boehner, of Ohio, is chairman of the Committee on Education and the Workforce and a former chairman of the House Republican Conference.

Looking For Mr. Clean? Not In This House Race. (USAT)

USA Today, January 26, 2006

Republicans in the House of Representatives need a new leader and a new image.

The former majority leader, Tom DeLay, stepped down after he was indicted in a Texas fundraising case and linked to crooked lobbyist Jack Abramoff.

So where is the GOP seeking this fresh face and new start? With two lawmakers — Roy Blunt of Missouri and John Boehner of Ohio — who have cozy relations with lobbyists and a penchant for accepting perks from corporate friends.

A third candidate for majority leader, John Shadegg of Arizona, is less enmeshed with the lobbying establishment and high-powered fundraising. That's one reason he's given virtually no chance of winning. Politicians who don't raise big money and spread it around to colleagues don't often find themselves in line to be congressional leaders.

We don't presume to tell House Republicans which of their colleagues to pick when they vote next Thursday, but the public has a big stake in the outcome. The majority leader, second only to the House speaker on the leadership ladder, has a key role in setting Congress' agenda. DeLay, for example, was the driving force behind the impeachment of President Clinton.

The leadership race demonstrates how Congress' corrupt culture extends beyond DeLay and Abramoff. Those who rise to the top tend to be the smoothest practitioners of the system: corporate lobbyists provide money and perks to gain access and legislative favors, and lawmakers use the money to win campaigns and earn colleagues' fealty.

It's a seamy game Republicans certainly didn't invent, but one at which the two leading contenders for majority leader excel. Blunt and Boehner are both calling for changes, but it's hard to take them seriously when they're so much a part of the problem:

· Blunt, 56, is a DeLay protégé who came to Congress in 1997 and quickly learned that money paves the path to power. In the past decade, he has raised $9.2 million for his own campaigns, half of it from political action committees run by a who's who of business. He hardly needs the money: He clobbered opponents, taking 70% of the vote in 2004.

In November 2002, Blunt was involved in a particularly noxious episode: He quietly inserted a provision to benefit cigarette-maker Philip Morris in a bill on the verge of passage. When other House leaders discovered the provision, they got rid of it.

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It was just the kind of thing that makes the public believe — with good reason — that Congress is for sale. Adding to the odor: One of Blunt's sons was a lobbyist for Philip Morris on Missouri state matters. And months later, Blunt married a lobbyist for Altria, Philip Morris' parent. A wedding present from colleagues: a waiver of House rules so he didn't have to disclose the gifts the couple received from lobbyists.

Blunt also punched another leadership ticket. Since 1999, he has raised $4.7 million and doled most of it out to colleagues facing tougher election battles. He campaigns for them, often on private jets loaned by friendly corporations. That, too, is legal under House rules.

· Boehner, also 56, came to Congress in 1991 in a class of reformers. As one of the "Gang of Seven," he pushed the House to name names in one of that era's scandals — a House bank that let members overdraw their accounts.

Since then, however, Boehner has grown comfortable with Congress' looser ways. In 1995, he distributed campaign checks from tobacco-run political action committees to colleagues on the House floor — an event so unseemly it made headlines. He has cultivated lobbyists, raised $14.3 million for himself and colleagues and avails himself of one of Congress' favorite perks. Since 2000, Boehner has taken $157,000 worth of "fact finding" trips, many to resorts and European capitals, paid for by special interests and non-profit groups — the 9th highest ranking in Congress.

As chairman of the House committee that oversees students' loan program, he has forged close ties with industry giant Sallie Mae. Since 2002, Sallie Mae executives have given $132,000 to a Boehner political committee, according to the Center for Responsive Politics. Meanwhile, with help from Congress and taxpayers, Sallie has prospered.

To his credit, Boehner has consistently opposed "earmarks," legislative favors that lobbyists love, and he voted last year against the pork-laden highway bill.

Both Blunt and Boehner have one point right: Voters are clamoring for change. That requires recognition of what's wrong and the will to do something about it. Lawmakers who've spent their careers accepting perks and raking in special-interest campaign cash don't make for credible reformers.

Message Efforts May Boost The Messenger (RC)

By Emily Pierce

Roll Call, January 26, 2006

With President Bush and Republicans struggling to regain their standing in public opinion as Senate Democrats hammer away daily at every perceived foible or folly committed by the ruling majority, one man has made it his mission to strike back.

Over the past year, Sen. John Cornyn (R-Texas) has become a self-appointed public relations man for Republicans in Congress and the White House, filling a communications void that has developed in the Senate GOP leadership.

“I saw it as addressing this quick-response need that I don’t think we had been set up for before, and really didn’t need before the Democrats created their war room,” said Cornyn, referencing Senate Minority Leader Harry Reid’s (D-Nev.) highly effective press operation. “It’s not enough to come back later on, a week later, two weeks later, and respond. ...

A charge unrebutted is a charge believed.”

A veteran of the Texas Supreme Court, Cornyn will undoubtedly have a high profile this week during Senate deliberations over Supreme Court nominee Judge Samuel Alito, reprising a role he has frequently played in the highly partisan judicial confirmation battles of the past few years.

Cornyn hasn’t limited himself to judicial battles, however, expanding his scope in recent months to lead an aggressive effort among his colleagues in directing staff to send out partisan press releases, opposition research papers and talking points reacting to just about every major policy issue and every major Democratic attack that is made in the Senate, and sometimes in the House.

His efforts include issuing rebuttals to Democrats speaking on the Senate floor even before the Member in question has finished his or her remarks, as well as releases pointing out inconsistencies in the Democratic message and noting when Democrats backtrack on previous statements.

But the role Cornyn is filling may be about more than party loyalty. He’s also running against Sen. John Ensign (Nev.) for the low-profile but still influential post of vice chairman of the Senate Republican Conference, which just happens to be the No. 2 “message” position.

“I’m just trying to do as good of a job that I can do, and if people think that is a benefit to the Conference and would benefit by having me in their vice chair position, then so much the better,” said Cornyn in a recent interview.

Others acknowledge that Cornyn’s PR strategies are putting him in a good position to win the vice chairman race.

“Obviously, that’s one of the things that I think he can point to,” said current Senate Republican Conference Chairman and top Conference message man Sen. Rick Santorum (Pa.).

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Even Ensign concedes that he thinks "John would do a good job in leadership," but added, "I offered myself up to my colleagues, and if they think I'll do a better job, then I hope they'll support me."

Careful to stress he is not criticizing the current Senate GOP leadership, Cornyn said he thinks he fills "a niche" more than a void in the GOP message operation.

But other Republicans said a gap in messaging definitely existed, particularly prior to the creation last week by Senate Majority Leader Bill Frist (Tenn.) of a rapid response "peace room" intended to counter Reid's war room.

"Clearly, he does fill a void. He's willing to go out there and do the press work when other Members are busy with other things," said one Senate GOP leadership aide.

There has been no lack of evidence that the Senate GOP leadership has appeared to be without a rudder in its message efforts prior to last week's unveiling of the peace room.

Most notably, Santorum has been scheduling fewer GOP agenda and message events since last year while he concentrates on a tough re-election battle back home.

Frist, never regarded as a dynamic public speaker, has been dealing with legal and ethical questions surrounding his decision to sell stock in a health care company owned by his family. Majority Whip Mitch McConnell (Ky.) and Senate Republican Policy Committee Chairman Jon Kyl (Ariz.) often shy away from media appearances, and both are known to have a distaste for dealing with the press.

That leaves current Vice Chairman Kay Bailey Hutchison (Texas), who as the lowest-ranking member of the leadership team doesn't yet command major media attention.

Santorum has "done a pretty good job at messaging," noted one senior Senate Republican staffer. "But with all his attention focused on his own re-election bid, it doesn't seem that we have many members of the leadership that are willing to step in and fill that vacuum."

Santorum acknowledged that he has been somewhat distracted by his campaign, but said, "I think I still do a fair amount." But he praised Cornyn's efforts.

"I'm constantly asking him to go out [to do message events], because he's so good," Santorum said. "I'm always recruiting him, in addition to the work he does on his own."

And even with the advent of the peace room, Frist spokeswoman Amy Call said Cornyn's efforts would continue to be welcomed and encouraged.

"Sen. Cornyn is such an active voice for the Republican Conference that there will always be a need for him," Call said.

Over the past few months Cornyn has taken a lead in scoring points for the GOP in debates over reauthorization of the anti-terrorism USA PATRIOT Act, controversy over Bush authorizing the National Security Agency to spy on Americans without a warrant, lobbying and ethics reform, and the war in Iraq.

On Iraq, Cornyn said he felt the need to defend the Bush administration from Democratic attacks on the president's policies.

"I'm not the first one to observe this, but I don't think the administration was doing a very good job of defending its policies or successes in Iraq," Cornyn said. "My attitude is, Republicans are all in this together When the president does well, we do well. When the president doesn't do well in terms of public opinion, we don't tend to do as well."

Cornyn also has gone after Senate Democrats' decision last week to release a report questioning the ethics of 33 Republican Senators.

"It's beyond ironic that in an attempt to smear the ethics of others, the Democrat 'war room' chose to use taxpayer-funded staff and equipment to compile a blatantly political attack on Republican Senators," Cornyn said in a release that was widely publicized because it was one of the few GOP responses to the Democratic attack. Reid subsequently apologized for the tone of the report.

Still, Democrats don't appear to be taking Cornyn's efforts lightly. Just this week, a war room press release accused Cornyn of blindly following the administration's talking points when he accused Democrats of supporting "special rights for those who are suspected of plotting terrorism."

Senate Minority Whip Dick Durbin (D-Ill.) called some of Cornyn's criticisms of Democrats "hyperbolic" and reiterated that Democrats view him as simply an extension of the White House press office.

"He has been acknowledged to be very closely linked to the White House press operation," Durbin said.

Despite such criticism and regardless of whether he is elected Conference vice chairman, Cornyn shows no sign of stopping. "I'm happy to help whether I'm in the leadership or not," he said.

Just In Time For Valentine's Day (RC)

By Mary Ann Akers

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Roll Call, January 26, 2006

All of them were laughing, some were horrified and a few were undoubtedly secretly delighted. When they found their boss' name on the front of thongs for sale on the Internet, aides to Senate Minority Leader Harry Reid (D-Nev.) couldn't keep it a secret.

"This is just bad," read the subject line of an e-mail from one Reid staffer to another. The missive, which eventually wound up in HOH's inbox, had a link to a Web site selling "I [heart] HARRY REID" thongs for $15.99.

"Panty-minimalists love our casual thong that covers sweet spots without covering your assets — putting an end to panty-lines," the online retailer, cafepress.com, boasts. "This under-goodie is 'outta sight' in low-rise pants. Toss these message panties onstage at your favorite rock star or share a surprise message with someone special ... later."

Hmmm. Harry Reid thongs being tossed at a rock star? Impressing your boyfriend with the notion that you love Harry Reid and keep him in a very special place, not just in your heart? For goodness sakes, what is Mrs. Reid going to think?

Reid aides wouldn't dare go there. And none would admit whether she (or he) would be ordering a Harry Reid thong. But one aide, giggling as she asked that her name not be used, said, "We're just happy Sen. Reid's popularity stretches across all types."

HOH agrees with the other Reid aide: This is just bad!

Oui, ou Non? Will he, or won't he? We're talking about the newly appointed chairman of the House Administration Committee and the question, of course, is: Will he change freedom fries back to french fries?

Everyone is dying to know, but Rep. Vernon Ehlers (R-Mich.) is keeping tight-lipped about how he'll handle the trés, trés delicate issue, now that Rep. Bob Ney (R-Ohio), the creator of freedom fries, has been forced out as chairman of the panel that oversees Capitol Hill eateries.

It seems like ages ago that Ney banned the term "french" from the menus in response to France's opposition to the Iraq war. A masterful move that accomplished, well, absolutely nothing as far as we can tell. So now, with the drumbeat of reform resounding throughout the land, the torch is Ehlers' and fries, be they freedom or french, are his responsibility.

Speculation is running rampant, especially on the House side, where the Rayburn cafeteria may be the only place where fries are still listed on the menu as "freedom fries." One House GOP aide said "anyone named Vern is sure to know his way around a potato farm," so he'd be happy to defer to the new chairman. "If there is a change, I think that Vern's spud fries will now be readily available in all Hill cafeterias much to the disappointment of [Sen.] John Kerry (D-Mass.) and other French loyalists."

Ehlers spokesman Jon Brandt won't say which way his boss is tilting on the freedom/french spectrum. And HOH got the feeling that he didn't want to be bothered with such nonsense, though, let's face it, Ehlers' predecessor made it a serious issue.

"The bottom line is, it is not one of our top priorities ... and it's not anything we're going to be dealing with in the near future," Brandt told HOH. "We have many other items on the agenda that are going to need to be dealt with over the near course. This is not one of the things that's on our front burner."

No pun intended.

Still the One. Despite a recent spate of bad publicity, Vice President Cheney is still a big draw for GOP fundraising.

The vice president is slated to be the headline attraction this evening at a fundraiser for Sen. Mike DeWine (R-Ohio). Anyone can attend for a simple $1,000. But the most generous donors may have a picture snapped with the veep: Going for that "max out" opportunity before Ohio's primary in May, the DeWine re-election campaign is charging political action committees $5,000 per photo op.

The fun starts at 5 p.m. at the Capitol Hill Club.

Sen. Clinton: Bush Ignoring Needs Of US Cities (REU)

By John Whitesides

Reuters, January 26, 2006

Democratic Sen. Hillary Rodham Clinton accused the Bush administration on Wednesday of ignoring the needs of cities in its politically driven zeal for tax cuts and told U.S. mayors "you are on your own."

Clinton, a potential White House candidate in 2008 who is seeking Senate re-election this year in New York, said that since the September 11 attacks President George W. Bush had reneged on his obligation to states and cities to pay for crucial security and social programs.

"Across the board, federal budget cuts are leaving states and cities struggling to make up the difference," Clinton told a meeting of the U.S. Conference of Mayors.

"We know the money is going to tax cuts," she said, adding those cuts are desirable in the right political and economic climate but "it is hard to square with the challenges we face at this time of terrorist threat."

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At the federal level, "the sense of urgency that marked the months after the 9/11 attacks has largely given way to politics as usual," she said.

Bush's message in his State of the Union speech to the U.S. Congress next week "can be summed up in three words: on your own. We are shifting costs and we are shifting risks onto individuals and families and local governments," she said.

"Mayors, you are on your own to protect your cities," she added.

Clinton's comments were the latest in a series of blasts at Bush in recent weeks. She said earlier this month his presidency would "go down in history as one of the worst" and accused him last week of playing down the Iranian threat.

Talking to reporters after her speech, she criticized Bush's defense of the legality of his domestic surveillance plan, saying "their argument that it's rooted in the authority to go after al Qaeda is far-fetched."

In an indirect reference to her husband, former President Bill Clinton, she told the mayors Bush had squandered the federal budget surpluses of five years ago.

She said Bush had slashed community development block grants, school improvement funds, Medicaid and foster care while not delivering the money to hire, train and equip local emergency and security personnel.

"There is hardly a program that is part of the social safety net that hasn't been slashed," Clinton said.

Hillary Has A Wobble Over Wal-Mart Days (Daily News)

By Michael McAuliff

Daily News, January 26, 2006

WASHINGTON - Sen. Hillary Clinton easily pointed at Wal-Mart yesterday as not doing enough about health care but found it a little tougher when asked if she had ever suggested the retailer do more when she was on its board of directors.

"Well, you know, I, that was a long time ago, I have to remember," she stammered, before pointing to her work on health care while First Lady.

She sat on the Wal-Mart board from 1986 to 1992. Her spokesman insisted it's "a very different company now."

Many Faces Of Hillary -- None A Winner (LAT)

By Jonah Goldberg

The Los Angeles Times, January 26, 2006

LIBERALS ARE sizing up Hillary Clinton for the umpteenth time, and they don't like what they see.

To be honest, I never understood what they saw in her in the first place. The amazing thing about Clinton is that she's so unappealing. She isn't a particularly gifted speaker. She's smart, but in a conventional and lawyerly way. She doesn't connect well with audiences. Her idea of improvisation seems to be leaping from the prepared text to prepared note cards.

However, she has defied the rules of nature and gotten better looking over the years, which, along with her soap-opera marriage, probably explains some of her success with supermarket checkout-aisle publications.

Indeed, her greatest success has been at exploiting expectations others have for her. For some fans, she was the struggling career woman who could bring home the bacon. For some detractors, she was "Lady MacBeth," cold and calculating in an obviously political marriage. She was also the apotheosis of the 1960s, for friends and foes alike. For the Children's Defense Fund crowd, she was the baby boomer idealist who worked her way through the system. For the American Spectator gang, she was the former Black Panther sympathizer and acolyte of Chicago radical Saul Alinsky who finally achieved power. After the Monica Lewinsky scandal, Hillary — who was no stranger to her husband's weaknesses — suddenly became the victim in a culture with a fetish for victims.

At every turn, Hillary Clinton's Zelig-like public persona has been a fabrication — either by her fans, her enemies or herself. One telling episode came when she published her massively successful autobiography, "Living History." The book tour was nothing short of a coronation, confirming her gravitas and commitment to "the issues." She portrayed herself as resigned to the fact that she'd have to answer Barbara Walters' questions about her personal life, but she always made it seem like she'd rather wrestle with the hard issues of public policy. But when the Washington Post actually tried to ask her about something other than how she cried over her husband's sexcapades with an intern, the senator from New York "declined to be interviewed about the political content of her book."

Hillary Clinton's latest reinvention paints her as a moderate, even an Iraq war hawk. Few people buy it. Reporters regularly assume her motives are opportunistic rather than sincere, focusing on how every pronouncement will position her for the 2008 presidential race. National Public Radio's Mara Liasson, for example, recently observed, "She certainly sees it in her interest to get to the right of the president on many issues, especially in the area of national security."

Whatever the reason, some liberals have had enough. "I will not support Hillary Clinton for president," wrote Molly Ivins, the voice of conventional thinking on the left. "Enough. Enough triangulation, calculation and equivocation. Enough clever straddling,

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enough not offending anyone." The segment of Democrats who sanctified Cindy Sheehan can hardly countenance a presidential candidate who unapologetically voted for the war and positioned herself to the right of President Bush on foreign policy.

The New Republic offers perhaps an even more devastating critique of Clinton for Democratic pragmatists: She can't win. Marisa Katz dismantled the myth that Clinton can appeal to "red state" voters because she won in upstate New York. Turns out former Vice President Al Gore and Sen. John Kerry each did better in upstate New York than she did. And Gore, a Southerner, couldn't even win his home state of Tennessee. Meanwhile, a recent Gallup poll showed that 51% of Americans won't even consider voting for Clinton.

All of this could change. But there's a great irony here. Hillary Clinton's success over the last decade and a half has been in pretending to be her own woman while really playing one part or another for the benefit of the media, her husband or various feminist constituencies desperate for a role model to confirm all of their comfortable stereotypes.

That's why there's something oddly satisfying in the possibility that Clinton being herself is politically disastrous. And, if she's really just playing one more role according to some classically Clintonian political triangulation, there's something equally satisfying to the prospect that even her fans aren't falling for it anymore.

Obey Seeks Public Financing Debate (RC)

By Steve Kornacki

Roll Call, January 26, 2006

For the record, Rep. David Obey (D-Wis.) doesn't have anything nice to say about Jack Abramoff: "He's a leech and a parasite on the system, and for the life of me I don't even know what he delivered for anyone."

But Obey, a Capitol Hill veteran who's played a prominent role in four decades worth of debates over Congressional ethics, thinks the legislative response to the Abramoff scandal is missing the point entirely.

"Right now, this is going to come down to who's got the tighter limits on trips, or who's got the tighter limits on meals. With all due respect, I don't care what happens with either one of those," he said.

The real issue, Obey says, is the source of campaign funds.

"In general elections, there should not be a dime of private money," he said.

To that end, Obey is joining with Rep. Barney Frank (D-Mass.) to propose full public financing of all House elections. They announced Wednesday that they will introduce the plan, which would bar all candidates from fundraising and self-financing in their campaigns, when the House reconvenes next week.

"Instead of dialing for dollars, Members could actually be in their committees, learning what their bills would actually do," Obey said. "You could actually have a Congress that's 50-50 between politics and legislating. Right now it's 90 percent politics and 10 percent legislating."

Many Congressional Democrats have long embraced the principle of public financing — House Minority Leader Nancy Pelosi (D-Calif.), for instance, is a longtime backer of the idea — and Obey has pushed similar plans in the past. But concern that the public would be uneasy with the idea of taxpayer money going to political campaigns, lampooned as "welfare for politicians" by Republicans in the past, consistently undercut Democratic efforts to push such plans in the years before they lost their House majority. And it seems unlikely that even many of Obey's Democratic colleagues will be cheering his new proposal.

While freeing Members from the pressures of raising money, Obey's plan would radically curtail the financial advantage most incumbents now enjoy, even making it difficult for some of them to pay for television ads. And even if Democrats were to unite behind it, the prospect on a vote in the GOP-controlled House is less than remote.

"I didn't offer this because people would flock to it and swoon," Obey, the ranking member on the Appropriations Committee, said. "I'm introducing it so we can expand the discussion."

Beyond that, the plan also faces an almost certain constitutional hurdle, in the form of the Supreme Court's 1976 Buckley v. Valeo decision that equated campaign spending with free speech.

Under the Obey-Frank plan, citizens would voluntarily contribute to the "Grassroots Good Citizenship Fund" through a "check-up" — as opposed to the current check-off that helps fund the presidential public financing system — on their federal tax return. The Federal Election Commission would then allocate funds to each of the 435 Congressional districts, based on median family income. The wealthiest districts would be allocated about $1.5 million, and the poorest about $750,000. Within each district, the money would then be distributed to general election candidates in direct relation to each party's showing in the previous two elections; if the Democrats have averaged 60 percent, their candidate would get 60 percent of the money.

The program would be mandatory for all candidates, and spending by any outside groups would be barred. Candidates would also be prohibited from opting out and dipping into their own wallets to finance their races. State and national parties could only contribute money, goods and services equal to 5 percent of their candidate's expenditure cap.

The rules would apply to general elections only, and not primaries.

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Far from protecting incumbents, a criticism leveled at some of his past public financing efforts, Obey notes that the plan would increase the bankrolls of challengers in more than 80 percent of districts. He said it's more than enough money for candidates to run credible campaigns, but Members who equate a strong campaign with television saturation might not agree.

For instance, the 5th and 13th districts in New Jersey both sit in the New York media market, where airtime is pricier than anywhere else in the country. The wealthy, suburban 5th (median income: $72,781) would likely be eligible for the full $1.5 million. Once divvied up, that could be enough for both candidates to finance modest television campaigns. But that might not be the case in the gritty 13th (median income: $37,129). By the same token, the cash allocated to Nebraska's impoverished 3rd district, home of the poorest county in America, might be enough to flood the comparatively cheap airwaves there.

And limiting the program to the general election could produce an unbalanced playing field, not to mention some significant loopholes. Incumbents in safe Democratic or Republican districts might not find much relief from the pressures of fundraising, since the main threat to their re-election is usually the primary — not the November election. And multimillionaires would be able to indirectly pay their way into office, if their money was enough to win a primary, especially in a district where their party is the favorite in the fall.

Obey warned against nit-picking, stressing that his goal is to launch a debate about real reform, saying, "I've been doing this a long time and I've heard every doggone argument against everything that everyone's said."

He also has an answer to the constitutional questions about the plan. In its 1976 ruling, he said, the court left the door open for the kind of regulation he's proposing — if it was necessary in order for Congress to protect itself. As such, Obey is including in the legislation a Congressional finding that brands the current campaign finance system "a fundamental threat to the integrity of the national election process."

That, he said, might be enough for the court to reconsider Buckley v. Valeo. And if it doesn't, the legislation also calls for "expedited consideration" of a constitutional amendment.

"I don't anticipate anyone's action," Obey said. "This comes from my gut and Barney's gut. Both of us have some goals. We're trying to get people to focus on the fundamentals."

House Republicans To Get Presentation On 'Suburban Agenda' (RC)

By Morton M. Kondracke

Roll Call, January 26, 2006

A different kind of agenda — different from the president's State of the Union address and the anticipated Democratic election year document — is scheduled to be unveiled early next month to House Republicans: "The Suburban Agenda."

It's the work of a group of 22 GOP Members from across the party's ideological spectrum and led by moderate Rep. Mark Kirk (Ill.), who's also tried to sell it to President Bush's top political adviser, Karl Rove.

Instead of a laundry-list policy agenda, Kirk told me in an interview, this agenda is designed to answer the problems faced by a suburban family as it moves through its day.

Kirk represents Chicago's northern suburbs, and other members of the "suburban strategy caucus" represent the suburbs of such cities as New York, Philadelphia, Seattle, Cleveland, Atlanta and Denver.

There's clearly strategic political intent behind trying to build the 2006 GOP legislative strategy around the suburbs: More than half of U.S. voters live in the 'burbs, and these places, formerly Republican strongholds, have been trending Democratic in recent years.

As Fred Barnes pointed out in the Weekly Standard earlier this month, what Kirk calls the "inburbs" of major cities — as opposed to the more-distant exurbs — are increasingly Democratic.

Kirk's district was represented in the 1960s by current Defense Secretary Donald Rumsfeld and for two decades by GOP Rep. John Porter. Kirk carried it with 64 percent of the vote in 2004 — far better than the 47 percent President Bush won in the district.

In the 2005 Virginia gubernatorial race, Democrat Tim Kaine won the close-in Washington, D.C., suburbs of Arlington, Alexandria and Fairfax by huge margins.

Of the 14 districts held by GOP representatives but carried by Democratic nominee John Kerry (Mass.) in 2004, virtually all are suburban. At the same time, there are 12 suburban districts held by Democrats that Bush carried. So it's not a stretch to say that suburban voters will decide who controls the House after this year's elections.

Kirk and others in the suburban caucus are scheduled to make the case for their agenda at the House GOP Members' retreat Feb. 9, which follows leadership elections Feb. 1.

Kirk had 20 issues of concern to suburbanites tested in his district and rated by GOP pollster John McLaughlin. McLaughlin is currently in the field with a more sophisticated poll of other suburbs to determine, for example, whether voters are willing to pay for proposals in the package.

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At the end of the day, there is a "laundry list" of proposals — "20 defining issues to win the suburbs and keep our Republican majority," Kirk calls it. But he insists that he got there simply by tracing a day in suburbia.

"You wake up in the morning and you might turn on the radio and hear about Iraq and the war on terror and you want it solved, but then you think, 'OK, I've got to get to work,'" Kirk said.

"'How long does it take to get there? Am I going to drive by strip malls the whole way? Can't we have more open space?'" McLaughlin found that 83 percent of Kirk's constituents support limits on the lawsuits that delay Superfund environmental cleanups. Rep. Jim Gerlach (R-Pa.) is the caucus' open spaces presenter.

"I get to work," Kirk continued. "The average American has five jobs in a working life. If I switch, I don't want to be left high and dry without health insurance. Current COBRA regs allow me to pay for only 18 months of coverage? Why not indefinite?"

Portability of health insurance and expansion of health savings accounts got overwhelming support in McLaughlin's poll. Rep. Nancy Johnson (R-Conn.) is the caucus expert in that area.

"Meanwhile, my kids went to school. My wife has probably looked up to see whether there's a pedophile in our neighborhood, but why shouldn't our school district be able to pay the federal government $50 to background check on new teachers and coaches?

"Also, the suburbs have an increased presence of youth gangs. In my district, Lake County, the 16th wealthiest in the country, has identified 3,000 members of international gangs. Why shouldn't the federal Bureau of Alchohol, Tobacco and Firearms not also be the Bureau of Gangs to help localities?

"We also need to clarify the 4th Amendment, so that privacy rights do not extend to school lockers, to make sure there are no weapons or drugs in school." Rep. Dave Reichert (Wash.), former sheriff of King County (Seattle), is the caucus' lead advocate on youth crime, which is also a theme of first lady Laura Bush.

Other items on the suburban agenda include a federal requirement that all medical records be made electronic by a certain date and a "401-Kids" tax-benefited savings plan allowing parents to set up accounts that children could use for purposes other than college tuition, which is now covered by 529 plans.

Kirk's poll found strong support for several kinds of tax credits — for first-time homebuyers, for computers and tutors for children and for new-career training for adults. Respondents also favored eliminating the estate tax.

Significantly, the entire suburban agenda has not been costed-out and matched against the Republicans' stated goal of closing the federal budget deficit.

The agenda is designed to keep Republicans in power, but many of the items — electronic health records and anti-gang measures, for sure — ought to be bipartisan. It wouldn't be surprising if there's a bidding war for the support of the suburbs.

Postal Service Goes On Offensive In Fight With Senators Over System To Set Mail Rates (WP)

By Stephen Barr

The Washington Post, January 26, 2006

The U.S. Postal Service headquarters launched a blitz yesterday to block a Senate bill, contending that the legislation, in combination with White House demands, could trigger a 20 percent increase in stamp prices in the near future.

The bill's sponsors, Sens. Susan Collins (R-Maine) and Thomas R. Carper (D-Del.), said they were "outraged that the Postal Service would mislead senators." In a statement, they said, "Nothing in the bill would lead to rate increases."

Government agencies rarely risk incurring the wrath of committee chairmen who oversee their operations, as is the case with Collins. As head of the Homeland Security and Governmental Affairs Committee, she has made the overhaul of postal operations one of her priorities.

Her bill would create a system of setting mail rates that she believes would give the post office greater pricing flexibility and would prevent it from raising rates each year in excess of inflation as measured by the consumer price index.

The Postal Service faces a bleak future if e-mail and Internet services continue to expand and erode first-class mail volume. Although the post office has stabilized its finances in recent years, efforts continue to reduce labor costs and consolidate operations.

As the word spread this week that Collins planned to bring her bill to the Senate floor, postal officials distributed a letter from the postal Board of Governors reaffirming the board's objections to the proposed overhaul, the first in more than 30 years.

Yesterday, postal officials stepped up their effort to block the bill, contacting Senate staff members and providing each Senate office with a copy of the board's objections.

"We need meaningful reform, and this is not it," Tom Day , senior vice president for government relations, said in a telephone interview.

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Senate leaders plan to bring the Collins bill to the floor for speedy approval, called unanimous consent, that does not require a roll-call vote. Postal lobbyists were on the hunt for a senator who would object to the maneuver and put a hold on the bill.

The House has approved a postal overhaul, and once the Senate clears the Collins bill, it will go to a House-Senate committee that will reconcile differences between the two versions. The White House has announced opposition to any compromise that would increase the federal deficit.

Postal officials fear that a compromise bill could leave it on the hook for two major financial obligations and would allow postal regulators to intrude on internal operations and override business decisions.

Day said mail rates could soar by as much as 20 percent if Congress and the White House agreed to extend a 2003 law that requires the post office to pay for military retirement benefits earned by employees before their postal careers, and if the post office also is ordered to prepay health benefits for employees in the Civil Service Retirement System. Such costs are usually covered by the Treasury Department, using taxpayer dollars.

In the worst scenario, he said, the post office would have no choice but to keep raising postal rates, which would set off a "death spiral."

Although the Postal Service has worked with Congress and the White House on proposals to overhaul operations, Day said postal concerns over accountability and management control have been in contention since 1996.

Collins and Carper, however, said, "We are extremely troubled and disappointed that at the very last minute, the Postal Service is attempting to block action on our bill."

They added, "It is ironic that the Postal Service -- which has been forced to raise rates four times in five years because of its inability to control its costs and respond to the new economic landscape -- is accusing us of putting the health of the postal system at risk."Helping Enrollees

Two House members wrote the Office of Personnel Management yesterday to "strongly urge . . . seamless health care coverage" for enrollees in the discontinued Postmasters Benefit Plan.

OPM dropped the plan Monday from the federal health insurance program because of concerns about its financial solvency and management.

Reps. Thomas M. Davis III (R-Va.) and Jon Porter (R-Nev.), who oversee civil service matters, asked OPM to provide information on whether benefit counselors will be made available to affected employees and what steps will be taken to ensure that the enrollees do not experience a break in coverage.

OPM has said it will move enrollees into the Blue Cross and Blue Shield standard option unless individuals opt for a different plan.

Inside Politics (WT)

By Greg Pierce

The Washington Times, January 26, 2006

'Nightline' accused

The Federalist Society yesterday called on ABC to investigate a report by its news show "Nightline" that suggested Supreme Court Justice Antonin Scalia had done something unethical by participating in a legal seminar sponsored by the group.

"The report grossly misled viewers about a recent trip Supreme Court Justice Antonin Scalia took to teach a 10-hour course on the Constitution and separation of powers. 'Nightline' suggested that Justice Scalia's trip was a 'judicial junket,' and even strained to manufacture a link with disgraced lobbyist Jack Abramoff," Federalist Society President Eugene B. Meyer said in a letter yesterday to ABC News President David Westin.

The program, which aired Monday, emphasized that Justice Scalia had missed the September swearing-in of Chief Justice John G. Roberts Jr. because of his commitment to attend the legal seminar at a Colorado resort, suggesting that the jurist spent most of his time playing tennis and engaging in other frivolous pursuits.

"Rather than taking a recreational trip with hours of tennis and going fly-fishing, as ABC would have its viewers believe, Justice Scalia was honoring an agreement made nearly a year in advance with the Federalist Society to teach a serious scholarly program to more than 100 lawyers from 38 states that required considerable work and advance preparation," Mr. Meyer said in his letter.

"Prior to the course, Justice Scalia produced a 481-page course book that attendees were expected to review in advance. The course was approved by at least 30 state bars for most of the attending lawyers' continuing education requirements. Justice Scalia was there to share his knowledge and experience and received only reimbursement for travel and lodging."

As reported in this column yesterday, the ABC program strained to link Justice Scalia to disgraced lobbyist Abramoff, saying the jurist attended a cocktail reception partly funded by a legal and lobbying firm where Mr. Abramoff once worked.

"We call on ABC to launch an independent investigation into the circumstances surrounding the development and production of this story," Mr. Meyer said.

Ney seeks re-election

Undaunted by speculation within his own party that he may have to quit Congress because of a corruption probe, Rep. Bob Ney announced yesterday he's running for re-election.

"2006 promises to be a vigorous campaign, and I am ready for the fight," said Mr. Ney, Ohio Republican. He planned to hold his first formal campaign event today.

Mr. Ney's popularity has hardly dimmed in his expansive rural district even after he was identified in disgraced lobbyist Jack Abramoff's guilty plea as the central figure in Abramoff's scheme to bribe members of Congress, the Associated Press reports.

Spanish response

Los Angeles Mayor Antonio Villaraigosa will give the Spanish-language response to President Bush's State of the Union address on Tuesday, Democratic congressional leaders announced.

Mr. Villaraigosa has been seen as a rising Democratic star since his election in May as the first Hispanic in 133 years to lead Los Angeles, the country's second-largest city. He will deliver his remarks from his Los Angeles office, said Senate Minority Leader Harry Reid, Nevada Democrat, and House Minority Leader Nancy Pelosi, California Democrat.

The Democrats' English-language response will be given by newly inaugurated Virginia Gov. Timothy M. Kaine.

New name, game

An advocacy group that fought President Bush's Social Security reforms and Republican efforts to cut entitlement spending is now changing its name and going after Republicans on corruption charges.

Americans United to Protect Social Security -- an umbrella organization for about 200 liberal advocacy groups -- is retooling as Americans United. "We are shortening our name and expanding our scope," the group said yesterday in announcing a $1 million ad campaign focusing on the legal troubles of various Republicans, including Rep. Tom DeLay and lobbyist Jack Abramoff.

The National Republican Congressional Committee noted the change and said Democrats are outsourcing their agenda. "National Democrats are at it again," read an NRCC statement. "Before Thanksgiving, they punted on presenting voters with their agenda for 2006. Now, they are hiding behind a shadow group that can accept unlimited donations to advance Democrat ideals, whatever those are."

Gloomy prognosis

Pennsylvania Gov. Ed Rendell says the United States is losing its edge in the global economy and needs to spend $100 billion to recover its advantage, reports Donald Lambro of The Washington Times.

Mr. Rendell, the Democratic Governors' Association's finance chairman, presented a lengthy list of economic reforms on trade, education, health care and energy at a National Press Club news conference Tuesday. On behalf of the DGA, Mr. Rendell hoped President Bush will consider including the reforms in his State of the Union proposals next week.

"Sadly, America is losing its competitive edge," Mr. Rendell said, pointing to U.S. dependence on foreign oil, a declining number of engineers and science graduates, skyrocketing health care costs and a mushrooming trade deficit.

DGA proposals call for increased spending for higher teacher salaries, alternative sources of energy, a health care tax credit for businesses who offer worker health care coverage, and a "level playing field" in global trade.

But when a reporter asked how the United States could be losing its edge when it has stronger scores in technology development, employment, incomes, economic growth and trade exports than the rest of the major industrialized nations, Mr. Rendell dismissed those factors. "The trend line is getting worse," he said.

Hillary's numbers

Only 16 percent of voters say they would vote for Sen. Hillary Rodham Clinton for president in 2008, while 51 percent said they definitely would vote against the New York Democrat, according to a CNN-Gallup poll.

Thirty-two percent said they might consider voting for Mrs. Clinton.

However, the poll offered Mrs. Clinton little encouragement in seeking crossover votes: 90 percent of Republicans said there was no chance they would support her.

Bennett to CNN

William J. Bennett, radio talk-show host and former secretary of education, will join CNN as an analyst and commentator for various programs, the network announced yesterday.

CNN-U.S. President Jon Klein said Mr. Bennett will be one of CNN's political commentators as part of the network's continuing effort to bring a broad range of perspectives to its viewers. The network in recent days also hired former Rep. J.C. Watts, Oklahoma Republican, to do analysis and commentary.

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Dead To The World (NYT)

By Felix G. Rohatyn

The New York Times, January 26, 2006

DURING my four years as the American ambassador to France, I discovered that no single issue was viewed with as much hostility as our support for the death penalty. Outlawed by every member of the European Union, the death penalty was, and is, viewed in Europe as a throwback to the Middle Ages. When we require European support on security issues — Iran's nuclear program; the war in Iraq; North Korea's bomb; relations with China and Russia; the Middle East peace process — our job is made more difficult by the intensity of popular opposition in Europe to our policy.

Several years ago, Justice Anthony Kennedy spoke to the senior staff of our embassy in Paris on this issue to help them explain our position to a very hostile French audience. I was agreeably surprised when he indicated his belief that sooner or later, we would have to take into account the views of Europeans in determining what constitutes "cruel and unusual punishment."

Last March, the Supreme Court, in a 5 to 4 decision, abolished capital punishment for juvenile offenders, concluding that the death penalty for minors is indeed cruel and unusual punishment. "Our determination," Justice Kennedy wrote in the majority decision, "finds confirmation in the stark reality that the United States is the only country in the world that continues to give official sanction to the juvenile death penalty."

While, unsurprisingly, Justices Antonin Scalia and Clarence Thomas dissented, it is notable that Justice Sandra Day O'Connor agreed with Justice Kennedy that international trends affect the meaning of "cruel and unusual punishment." Justices Scalia and Thomas, on the other hand, took the majority to task for taking "guidance from the views of foreign courts and legislators."

This attitude, reflecting a narrow and parochial view of the issue, is also found in Judge Samuel Alito's testimony before the Senate Judiciary Committee on his nomination to the Supreme Court: "I don't think it appropriate or useful to look to foreign law in interpreting the provisions of our Constitution. I think the framers would be stunned by the idea that the Bill of Rights is to be interpreted by taking a poll of countries of the world."

To the contrary, globalization has made it not only "appropriate or useful" but vital to look at foreign laws. It is in our interest to be aware of their impact whether they concern antitrust, food safety or the death penalty. Contempt for the laws of our allies is a major factor in our increasing isolation in the world; our present posture in Iraq reflects that reality. That is why is it is deeply troubling that the next member of the Supreme Court will most likely share Justice Scalia and Justice Thomas's point of view.

The Supreme Court is our most respected institution. Whether it is conservative or liberal is important; but it is even more important that it be enlightened. It must show understanding, if not respect, for other peoples' beliefs and laws, and occasionally be willing to support reasonable changes. Our Constitution, itself, was an extension of Enlightenment ideas that were incubated on the Continent. It certainly did not spring up in a vacuum, but was affected by strains of political thinking in Europe.

"That our understanding of the Constitution does change from time to time has been settled since John Marshall breathed life into its text," Justice John Paul Stevens wrote last year, concurring with Justice Kennedy. Taking the views of 450 million Europeans into account is not a sign of weakness on our part, nor is it a commitment to change our views. It is simply recognition that the laws of our most important allies, our biggest foreign investors, foreign employers, foreign customers and trading partners are worthy of our attention. That is a sign of enlighten- ment.

OTHER NEWS:

Home Sales Drop 3rd Month In Row Market Cooling Off Faster Than Expected (USAT)

By Noelle Knox

USA Today, January 26, 2006

WASHINGTON — Sales of existing homes fell in December for the third-consecutive month, in a surprisingly sharp drop that signaled the housing market is cooling off faster than expected.

Home resales declined 5.7% from November to a seasonally adjusted annual pace of 6.6 million, the slowest since March 2004, the National Association of Realtors said Wednesday. Western states, notably California, suffered the worst, with home sales in the region skidding 11.4% from November and from December 2004.

“We got to 6.6 sooner than I expected. I hadn't expected that for two or three months,” said David Lereah, chief economist for the NAR, who conceded that his forecast for 2006 might now be too optimistic. He had predicted sales of existing homes would drop 5% this year, from a record 7.07 million in 2005. The rise in home prices, meanwhile, will slow to 6% this year from 12.7% in 2005, he projected.

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Home buyers shelled out $211,000 for a median-priced home in December, an increase of 10.5% from the year before. But rising mortgage rates are pricing many would-be buyers out of the market, Lereah said.

The average rate on a 30-year fixed mortgage was 6.27% in December, up from last year's low of 5.53% in July. The Mortgage Bankers Association predicted Wednesday that the average 30-year fixed loan would hit a high of 6.4% in the second half of this year and stay there until the end of 2007.

That's bad news, in particular, for buyers in California, where prices have skyrocketed. The median price there for a single-family home was $548,430 last month, up 15.6% over a year earlier. Many buyers can afford to buy a home only with a riskier adjustable-rate or interest-only mortgage.

Leslie Appleton-Young, chief economist for the California Association of Realtors, had been projecting over the past 18 months that the market would slow. Now that it has, the drop is deeper than she expected.

In addition to higher mortgage rates, Appleton-Young blamed high oil prices and weak consumer confidence for the cooling of California's housing market.

But after the feeding frenzy in the California market for most of last year, the recent trend has restored sanity to the home-buying process, said Lisa Strong, an agent for Lyon Real Estate in Sacramento. “There are no fights anymore” among competing buyers and their agents, she said.

In the South, sales of existing homes dropped 7.2%, and sales slipped 2.6% in the Midwest, from November levels. Sales were flat in the Northeast.

“They were disappointing, clearly, but not a catastrophe,” said Phillip Neuhart, an analyst for Wachovia. “You have to put this into perspective: 6.6 million is historically a high level. We're expecting a soft landing. We're not expecting a crash.”

Homes Sales Fell In December; A Record Still Set (WSJ)

By Joi Preciphs

The Wall Street Journal, January 26, 2006

Sales of existing homes fell in December to their lowest level in three months, but they still set a record for the year.

The National Association of Realtors said nationwide sales of previously owned homes fell 5.7% to an annual rate of 6.60 million last month from November's revised annual rate of 7.0 million. Analysts had projected a 6.87 million sales rate in the existing-home market, which includes single-family residences, condominiums, townhomes and co-ops.

The national median price for existing homes of all types in December was $211,000, down from an unrevised $215,000 in November, but up 10.5% from December 2004. The inventory of homes on the market increased slightly to a 5.1 months' supply last month, compared with 5.0 months in November.

The pattern was mixed regionally, with sales falling 11.4% in the West, 7.2% in the South, and 2.6% in the Midwest. Sales in the Northeast were unchanged.

Patrick Newport, U.S. economist at consulting firm Global Insight in Waltham, Mass., said in a statement that the movement of interest rates is cooling the housing market and will continue to do so in 2006.

Read the complete text1 of the National Association of Realtors report on December existing-home sales and analysis2 from Briefing.com.

"Interest rates have eased in recent weeks, but we are expecting them to drift back up over the first half of 2006," he said, adding that if the Federal Reserve raises interest rates two more times before pausing, the increases "will cool off the housing market and deflate many local housing bubbles."

Mr. Newport doesn't expect the market to collapse anytime soon. The first casualties might come in places like the condo market, where the inventory of unsold homes jumped 8% last month. Sales of existing condominiums and co-ops increased a modest 1.6% in December, according to the NAR report.

Financial institutions have been keeping a watchful eye on the condo market and in some cases have scaled back lending for new condo developments. "We see risk of a substantial condo-price decline in certain frothy markets, based on record high inventory levels and the recent rapid price appreciation in condos," said Banc of America Securities analyst Daniel Oppenheim.

Despite the apparent slowing, existing-home sales for the year reached 7.072 million units, setting their fifth successive annual record, the NAR said. Home prices still remain strong, despite some softening. Given these factors, NAR Chief Economist David Lereah said in a statement that there is a "soft landing in sight for the housing sector."

"The level of home-sales activity is now at a sustainable level, and is likely to pick up a bit in the months ahead," Mr. Lereah said, adding that he expects the 2006 housing market to "remain historically high but lower" than 2005.

The recent boost in mortgage applications might suggest a "partial rebound in sales is directly ahead," Banc of America Securities economist Gary Bigg said. Mortgage giant Freddie Mac said the average 30-year fixed-rate mortgage was 6.27% last month, down from November's 6.33%.

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Write to Joi Preciphs at joi.preciphs@dowjones.com3

Home Sales Fell Again In December (NYT)

By Vikas Bajaj

The New York Times, January 26, 2006

Sales of existing homes fell in December for the third consecutive month, a trade group reported yesterday, even as the housing market registered a fifth consecutive year of increased sales.

The data appear to suggest that the era of rapidly increasing sales may be coming to a close. Sales in December fell 5.7 percent, to an annual pace of 6.6 million homes, after a 1.3 percent dip in November and a 2.7 percent drop in October. It was the lowest level of sales since March 2004.

Sales of existing homes fell or stayed flat in all four regions of the country, while the total inventory of homes for sale dipped slightly, the National Association of Realtors reported. Median prices — half the homes sold for less, half for more — were up 10.5 percent, to $211,000, from a year earlier.

For the year, home sales grew 4.2 percent, to 7.07 million, setting another record. The nation's long housing boom is almost a decade old, with the exception of 2000, when sales fell by 0.4 percent.

"The housing boom in the United States is over," said Lynn Reaser, the chief economist for Bank of America's investment strategies group. "It at this point appears to be on the soft-landing plane, with sales slowing, some growth of inventory and sellers not receiving their full asking price."

The economy has become increasingly dependent on the growth generated by home sales, mortgage refinancings and related spending. A housing slowdown is figuring prominently into many analysts' forecasts for slower economic growth in 2006.

But forecasters have pronounced an end to the boom before and were proved wrong. Mortgage interest rates, though higher than a year ago, remain near historical lows, making home ownership more affordable for many. The average interest rate on a 30-year fixed mortgage was 6.1 percent last week, up from 5.71 percent in January 2005, according to Freddie Mac.

Economists say the sharpness of the current slowdown, and whether it will become more severe, will not become clear until the peak spring and summer home-buying season.

Prices in markets on the coasts that have experienced sharp increases will be an important barometer for the housing market this year, along with mortgage delinquencies and foreclosures, said Dean Baker, co-director of the Center for Economic and Policy Research. Prices, though still higher than a year ago, did not rise as fast in December as they did earlier in 2005.

Officials with the Realtors' group said a fundamentally strong economy and housing demand would help keep home sales generally steady, but even they acknowledged that the market had changed. "Clearly the air is coming out of the balloon," David A. Lereah, chief economist for the Realtors association, said, according to Bloomberg News. "We're transferring from a sellers' market to a buyers' market." The association expects sales to drop 4.4 percent in 2006.

December sales dropped the most in the West, 11.4 percent, followed by the South at 7.2 percent and the Midwest at 2.6 percent. Sales activity in the Northeast was unchanged from November.

Nationwide, the number of homes available for sale dropped to 2.8 million at the end of December, from 2.9 million, but because of the slower pace of sales, that represented 5.1-month supply of homes, up from a five-month supply in November.

Weaker Outlook For Homes And Oil Profits End A Rally (NYT)

By Bloomberg News

The New York Times, January 26, 2006

By Bloomberg News

Stocks ended a two-day rally yesterday as a worsening profit outlook for oil companies and homebuilders, two of the market's best performers during the last 12 months, sent prices lower.

The Standard & Poor's 500-stock index fell 2.18 points, or 0.2 percent, to close at 1,264.68, its first drop this week. The Nasdaq composite index lost 4.60 points, or 0.2 percent, to 2,260.65. The Dow Jones industrial average dropped 2.48 points, or less than 0.1 percent, to 10,709.74, helped by a gain in General Motors.

Some 1.93 billion shares changed hands on the New York Stock Exchange, 20 percent more than the three-month average, as investors dealt with a flurry of earnings reports. About six stocks fell for every five that rose on the Big Board.

About 37 percent of the companies that have reported earnings so far have failed to surpass analysts' estimates. For the same quarter last year, 34 percent missed or met forecasts, according to a Bloomberg analysis of Thomson Financial data.

"Earnings are not bad, but they're just not as good as they have been," said Robert C. Doll, who oversees $539 billion as president and chief investment officer of Merrill Lynch Investment Managers in Plainsboro, N.J. "We've gotten so used to them being better than expected, and now that they've returned to normal, the market is struggling with that."

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More than 140 companies in the S.& P. 500 release results this week, the busiest period for fourth-quarter earnings. The S.& P. 500 is down 2.3 percent from a four-year high reached on Jan. 11, just before the bulk of the index's members began reporting.

United States Treasuries fell the most since November after the government's $22 billion two-year note sale drew the weakest demand in nine months. By late in the day, the price of the benchmark 10-year note fell 21/32, to 1006/32. The yield, which moves in the opposite direction of the price, rose to 4.48 percent, from 4.39 percent on Tuesday.

Crude oil for March delivery lost 1.2 percent, to $65.85 a barrel, after an Energy Department report showed that supplies of gasoline and distillate fuel rose for a fourth consecutive week.

Shares of the oil company ConocoPhillips fell 94 cents, to $63.54, even after the company reported that its profit last quarter jumped 51 percent, to $3.68 billion, or $2.61 a share.

Amerada Hess, another oil company, gained $1.86, to $148.47. The company said fourth-quarter profit increased 97 percent, to $452 million, or $4.31 a share.

Exxon Mobil, which is set to report earnings on Jan. 30, fell 75 cents, to $60.21. The S.& P. 500 Energy Index lost 1.8 percent, cutting its 12-month advance to 41 percent.

Sales of previously owned homes declined for a third consecutive month in December, sliding 5.7 percent to a 6.60 million annual rate, the National Association of Realtors said.

"The housing news was the big setback," said Jack A. Ablin, chief investment officer at Harris Private Bank, which manages $44 billion in Chicago. "While we suspect that housing is likely to slow and thereby take the primary catalyst away from consumer spending, the number came in worse than expected and forced investors to face reality much sooner."

A gauge of homebuilding stocks in S.& P. indexes dropped 2.4 percent, paring its 12-month rise to 15 percent.

Toll Brothers, the nation's largest builder of luxury homes, lost 59 cents, to $34.02. D. R. Horton, the country's No. 1 homebuilder over all, fell 78 cents, to $37.20.

Here are the results of yesterday's auction of two-year Treasure notes:

Concerns Of Slowdown (WSJ)

The Wall Street Journal, January 26, 2006

Lower oil prices and signs of a softening housing market battled for control of the market Wednesday, sending stocks on a string of sharp jumps and sudden drops that left the major indexes where they began the day.

The Dow Jones Industrial Average, which at times was up as much as 48.45 points and down as much as 39.62, finished off just 2.48 at 10709.74. The Standard & Poor's 500-stock index slipped 2.18 to 1264.68 and the Nasdaq Composite Index fell 4.60 to 2260.65.

Also worrying equity investors: A steep jump in bond yields after a weak reception to an auction of two-year Treasury notes. Analysts said buyers were shying away from bonds ahead of next Tuesday's meeting by the Federal Reserve. The jump in yields came as especially unsettling news on a day that investors were jittery about the housing market.

At first, it appeared stocks would rack up a third-consecutive day of gains since last Friday's 200-point gut check in the Dow. But a report by the National Association of Realtors said existing home sales fell a steeper-than-expected 5.7%, the third straight decline in a row. That took the wind out of stocks, since the housing market has been a big driver of the economy, said Jay Suskind, director of trading at Ryan Beck. The Philadelphia Housing Sector Index fell 1.6%, led by steep declines by components Centex and Hovnanian Enterprises.

The market righted itself after a government report showed a build in inventories of distillate fuels, including heating oil used to warm many homes in the Northeast U.S. Light, sweet crude-oil prices tumbled $1.21 to $65.85 on the New York Mercantile Exchange, on top of yesterday's $1.04 slide. Housing versus oil "caused the market to rollercoaster," Mr. Suskind said.

There could be a bright side to housing news, though. The Fed, which has had the housing market on its radar, could be encouraged by coolness in housing sales, said Stuart Freeman, chief investment officer of A.G. Edwards. "It's good to see a little weakness in housing here," he said. "It makes it more likely that the Fed will stop raising rates soon."

Policy markers meet Tuesday to decide whether to raise rates from their current level of 4.25%. It will be the last meeting chaired by Alan Greenspan, who's set to be replaced by Ben Bernanke.

Among major stock movers: Boston Scientific slumped 1.5% on news that its $27 billion bid for Guidant won out over Johnson & Johnson's $24.2 billion offer. J&J's shares finished down by 1.5% and Guidant fell 2%. Walt Disney fell 2.1% on news it sealed a deal to buy Pixar for $7.4 billion, though the stock ran up gains of 6.2% this year on previous reports of the deal. Pixar's shares, which were flat Wednesday, have gained about 10% this year on the deal talk.

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Bristol-Myers Squibb shares rose 2.6% after reporting earnings that, excluding items, topped Wall Street's expectations. Xerox slid 1% after it posted net income of 32 cents a share for the fourth quarter, meeting analyst expectations, but revenue of $4.25 billion fell short of the $4.42 million Wall Street expected.

In major market action:

Stocks were mixed8. On the Big Board, where 1.9 billion shares traded, 1,555 stocks rose and 1,814 fell. On the Nasdaq Stock Market, where 2.1 billion shares traded, 1,262 rose and 1,762 declined.

Bonds declined9. The benchmark 10-year Treasury note lost 22/32 point, or $6.88 for every $1,000 invested, to yield 4.477%. The 30-year bond fell 1 11/32 to yield 4.656%. Yields move inversely to prices.

The dollar gained.10 It traded at 114.71 yen, up from 114.59 yen late Tuesday, while the euro fell to $1.2245 from $1.2282.

Weak Earnings Reports Soften Stocks (USAT)

USA Today, January 26, 2006

NEW YORK — U.S. stocks ended slightly lower Wednesday, hurt by signs of slackening corporate profit growth and a slowdown in existing home sales.

Shares of copier company Xerox and candymaker Hershey both declined after the companies each reported revenue that fell short of Wall Street estimates, overshadowing gains in profit.

"The market has focused on disappointing earnings or disappointing guidance about future earnings of just a handful of companies," says Brian Gendreau, strategist at ING Investment Management. "When there's any hint that we're at the peak of earnings growth, the market gets pummeled."

The Dow Jones industrial average was down 2.48 points at 10,709.74. The Standard & Poor's 500 fell 2.18 points to 1264.68. The Nasdaq composite was down 4.60 points at 2260.65.

The market has struggled since last Friday, when U.S. stocks suffered their biggest loss in nearly three years after several earnings reports missed estimates and crude oil prices surged.

Data showing softer-than-expected U.S. existing home sales also sparked some caution and dimmed hopes of a strong market rebound after U.S. stocks' slide last week. U.S. Treasury bond prices fell for the second-consecutive day on unusually heavy volume, driving the yield of the benchmark 10-year Treasury note up to 4.48% in its biggest one-day gain in six months.

Shares of Xerox fell 15 cents to $14.31, while Hershey lost $1.80 to $52.30 as investors focused on their disappointing revenue. They followed other big companies, including Johnson & Johnson, IBM, Motorola and General Electric, that have delivered sour sales news in their earnings reports.

Norfolk Southern jumped $1.84 to $47.64 after it became the latest railroad to deliver stellar results with a 37% gain in fourth-quarter earnings. U.S. railroads have seen demand and revenue soar in the past two years and last year significantly raised prices for the first time since rail freight was deregulated in 1980. Among other rallying railroads, Burlington Northern Santa Fe rose 88 cents to $75.68, and CSX gained $1.65 to $52.40.

·CNF skidded $5.41, or 10%, to $50.51 after the trucking company posted weaker-than-expected results and forecast a disappointing quarter.

·Colgate-Palmolive climbed $1.90 to $55.65. The consumer products company reported 26% higher fourth-quarter profit — the first time in two years it has topped expectations.

·St. Jude Medical fell $3.27 to $50.03. The medical device maker said fourth-quarter sales of its devices to treat irregular heartbeats were lower than expected.

Greenspan To Set Up A Consulting Firm (WSJ)

The Wall Street Journal, January 26, 2006

WASHINGTON -- Federal Reserve Chairman Alan Greenspan plans to set up a consulting firm, Greenspan Associates, in Washington, D.C., after he leaves the Fed at the end of the month, according to people familiar with the matter.

In addition to consulting, Mr. Greenspan plans to give speeches and write a book, these people say.

One of his first hires will be Michelle Smith, who the Fed said yesterday will leave her job as director of its office of board members to join Mr. Greenspan's new firm. Ms. Smith joined the Fed as communications director in 2001 after serving as press secretary to Clinton Treasury Secretary Lawrence Summers. She served in effect as Mr. Greenspan's chief of staff, advising him on relations with the public, politicians and the media, Fed insiders say. She has also advised Fed policy makers on monetary-policy communications, such as the postmeeting statement and meeting minutes, though not on the formulation of monetary policy itself.

In addition, the Fed said David W. Skidmore, Ms. Smith's deputy, would become the board's chief spokesman and Rose Pianalto Cameron will oversee other public information activities.

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Greenspan Opposes Bank Loophole (WSJ)

By Bernard Wysocki Jr.

The Wall Street Journal, January 26, 2006

Federal Reserve Chairman Alan Greenspan is opposing a regulatory loophole that allows corporations to own banks, thrusting himself into the middle of an effort by Wal-Mart Stores Inc. to establish a bank.

Mr. Greenspan's salvo, outlined in a 12-page letter to Congress that was reviewed by The Wall Street Journal, is the latest in a controversy over the separation of commerce and banking. Wal-Mart, the Bentonville, Ark., retailer, is trying to obtain a state banking charter in Utah, using precisely the exemption in the banking laws opposed by Mr. Greenspan.

His remarks, reiterating and expanding on previous comments, could be Mr. Greenspan's last major statement to Congress as Fed chairman. The 79-year-old Mr. Greenspan, who took office in 1987, is scheduled to step down Jan. 31.

Wal-Mart officials say the Utah bank would be a back-office processing center, handling debit-card, credit-card and electronic check-transfer payments by customers at its stores. A third party currently processes the transactions -- estimated at 140 million a month -- and bringing the work in-house would save Wal-Mart money. Company officials repeatedly have said they don't plan to establish bank branches. Under current law, these state-chartered banks, many incorporated in Utah, may open branches in more than 20 states and the District of Columbia.

The Federal Deposit Insurance Corporation must rule on Wal-Mart's application for deposit insurance for the proposed bank. In the past six months, more than 1,500 comments have been filed with the FDIC about Wal-Mart's application. Last week, in a letter to members of Congress, the FDIC said it would wait for a full board, including a new chairman, before voting, and would probably hold hearings beforehand.

THE FULL LETTER

Read Greenspan's letter1 to Congress. (Adobe Acrobat required2.)

In his letter, sent Jan. 20 in response to questions from Rep. Jim Leach, an Iowa Republican and member of the House Financial Services Committee, Mr. Greenspan doesn't single out Wal-Mart's application for criticism but mentions it along with the names of other big companies that have established industrial-loan corporations -- or industrial banks, as these state-chartered financial institutions are sometimes called.

General Electric Co., Volkswagen AG, General Motors Corp., Merrill Lynch & Co. and Pitney Bowes Inc. all own industrial-loan corporations. Mr. Greenspan cited in his letter the sharp growth in such corporations, known as ILCs, noting that assets have grown to $140 billion in 2004 from $3.8 billion in 1987 when the current law created the industrial-loan exemption.

"The ILC exemption is now the primary means by which commercial firms may control an FDIC-insured bank engaged in broad lending and deposit-taking activities and thereby breach the general separation of banking and commerce," Mr. Greenspan's letter said. He warned that the growing use of the loophole is "undermining the prudential framework that Congress has carefully crafted and developed" to oversee financial institutions.

Mr. Greenspan's letter noted that the parent companies of these industrial-loan entities escape the regulatory scrutiny of bank holding companies, which must operate under the supervisory authority of the Fed. In uncharacteristically blunt language, Mr. Greenspan urged Congress to close the loophole, which he said "provides the corporate owners of exempt ILCs a significant competitive advantage over other types of banking institutions, and creates an unlevel competitive playing field among banking organizations."

In an interview, Mr. Leach, the former chairman of the House banking committee, said he considered Mr. Greenspan's letter significant.

"It's very comprehensive. It is a very considered Federal Reserve position on the issue. And it is a stark warning to the Congress" about the need to separate commerce and banking, Mr. Leach said. "This is not primarily a Wal-Mart issue. It is a 'nature of the American economy' issue."

Mr. Leach, the co-author of landmark 1999 banking legislation breaking down Depression-era laws separating securities and banking, has long warned against emulating Japan, where the lax lending of bank-centered industrial groups, called "keiretsu," contributed to the 1980s economic bubble and the sharp economic downturn of the past 15 years. The 1999 Gramm-Leach-Bliley law allowed linkups among banking, securities and insurance but largely ruled out combinations involving nonfinancial institutions' ownership of banks.

In coming out against the ILC loophole, and by implication against Wal-Mart's bid for a bank, Mr. Greenspan has parted company with some free-market advocates who believe that a Wal-Mart bank, if it did turn into a retail-banking powerhouse, would encourage competition in the financial-services field, and would ultimately lower costs to consumers.

To some experts, Mr. Greenspan's opposition to the industrial banks is largely based on maintaining the Fed's power amid constant inside-the-Beltway turf battles.

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The FDIC, which regulates the industrial banks, says it has all the tools it needs to supervise these entities for safety and soundness. The Fed, which oversees bank holding companies, says that loophole leaves the banking system exposed to risk since no financial regulators have oversight of the parent company.

"If Wal-Mart acquired an Industrial Loan Company, its primary prudential banking regulator would be the FDIC, not the Fed," Charles Calomiris, a professor at Columbia University's business school, wrote in a recent paper. "This could lead to a major incursion on the Fed's regulatory turf if nonfinancial firms entered in significant number and were regulated by the FDIC, a form of regulatory competition that would be welcomed by historians of bank regulation, but not by the Fed."

A spokesman for the Fed said it couldn't comment on whether incoming Fed Chairman Ben Bernanke would endorse every word of Mr. Greenspan's comments. However, the spokesman said other Fed officials have made similar comments, as official Fed positions, during the time Mr. Bernanke was a Fed official.

Many banking organizations oppose Wal-Mart because they fear its strength, and believe it would compete unfairly. "The Wal-Mart bank would have no incentive -- in fact it would have a disincentive -- to lend to businesses that compete with its parent company," said David Hayes, president of a small bank in Dyersburg, Tenn., and chairman of the Independent Community Bankers of America, in testimony before a congressional committee in October.

Wal-Mart has made numerous efforts to get into banking. In 1999, the company tried to buy a savings and loan in Oklahoma, but failed. Four years ago, the retailer struck a partnership with a Canadian bank to open branches in 100 U.S. Wal-Mart stores. The U.S. Office of Thrift Supervision rejected the application, claiming it crossed the line between banking and commerce. Two years ago, Wal-Mart tried to buy the Franklin Bank, an industrial bank in California, only to be thwarted when the state passed a law barring bank purchases by nonfinancial companies.

Skepticism Greeted Greenspan, Too Bernanke's Fed Chief Tenure Begins Similarly To Predecessor's (USAT)

By Barbara Hagenbaugh

USA Today, January 26, 2006

WASHINGTON — Investors jittery about how incoming Federal Reserve chairman Ben Bernanke will pan out can take some solace — folks weren't sure some guy named Alan Greenspan was up to snuff either.

Investors didn't take the news so well on the day in June 1987 when Paul Volcker announced he was leaving the Fed after eight years and Greenspan was named to his position. Bond markets took their worst one-day beating in more than five years, and the dollar fell.

“The new chairman cannot just pick up Mr. Volcker's wealth of experience or his worldwide network of trust and respect,” The New York Times said in an editorial at the time.

“Mr. Greenspan faces a daunting challenge in proving to the financial markets that he is a worthy replacement for the outgoing Fed chief,” The Wall Street Journal said in an article.

“Greenspan … will soon get his turn on the monetary tightrope,” an article in U.S. News and World Report said. “If he keeps his cool, it could be a great act. But the risks of a nasty spill are also considerable.”

Bernanke, a former Fed governor and current head of the White House Council of Economic Advisers, will take over at the Fed next week after Greenspan presides over his last policymaking meeting on Tuesday.

In many ways, Bernanke — although widely respected in economic circles — is more of an unknown to the public than Greenspan was in 1987. Greenspan in the early 1980s was chairman of a widely watched panel on reforming Social Security. He also served as chairman of the CEA for 21/2 years in the mid-1970s during President Ford's public “Whip Inflation Now” campaign. Greenspan also did numerous media interviews as head of a successful economic consulting firm.

Bernanke has served as chairman of the CEA only since June. Before that, he was a Fed governor for nearly three years and head of Princeton University's economics department. His only other public service was on a local school board.

But no matter how well they knew Greenspan, people in 1987 were still nervous about him taking over the Fed. The concerns:

·International. Although Greenspan had a solid reputation as an economist, some worried that he lacked experience on the international stage. Although calling Greenspan an “excellent choice,” BusinessWeek magazine in an editorial said he “lacks Volcker's worldwide stature.”

·Political. Still others questioned whether Greenspan was too political. He, like Bernanke, had served as CEA chairman. With an election a little more than a year away, some commentators in 1987 questioned if Greenspan would not take the necessary steps to squeeze out inflation in an attempt to juice up the economy to keep a Republican in the White House.

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·Mythical. And some questioned if Greenspan could fill the shoes of Volcker, who had become so revered and trusted that one economist in a Wall Street Journal article referred to him as a “financial demigod.”

“We were nervous for all the reasons we're probably nervous about Bernanke,” says Hugh Johnson, chairman of Johnson Illington Advisors, a money management company in Albany, N.Y.

“Paul Volcker was something of an icon for the financial markets,” Johnson recalls. “The financial markets are always uncomfortable with change. … Just as we were nervous about moving beyond Volcker, we're nervous about moving beyond Greenspan.”

Several economists even warned Greenspan's appointment raised the risk a recession would hit the U.S. economy. As an economic consultant, Greenspan himself had predicted just a few months before his appointment to the chairmanship that a recession was likely coming in the not-so-distant future.

Marshall Vest was one of the economists who was quoted as saying Greenspan's arrival raised the chances of a recession in a USA TODAY article. Eighteen years later, Vest, now director of economic and business research at the Eller College of Management at the University of Arizona, says it's hard to imagine being worried about Greenspan's talents.

“I would give him very high marks,” he says. “The economy has been much less volatile and much more predictable under his watch.”

Former San Francisco Fed president Robert Parry says it's quite possible Bernanke, like Greenspan, will develop the larger-than-life reputation enjoyed by the two chairmen before him.

“I don't know if I would have said in August of '87 that Greenspan would have developed this aura as well,” Parry says. “You just didn't know that at the time. … In some respects, if you were to base it on training and area of expertise, experience … you'd have to say Bernanke has a real shot of continuing to receive that kind of aura.”

Said Princeton University economists Alan Blinder and Ricardo Reis in a paper delivered at a conference on Greenspan's legacy in August: “Back in 1987, the financial markets viewed the impending retirement of Paul Volcker as tantamount to the end of civilization as they knew it. But they got over it, as they will in 2006.”

Dow Chemical Is Ordered To Pay In 'Janitors' Case (WSJ)

By Robert Guy Matthews

The Wall Street Journal, January 26, 2006

A federal appeals court ruled Dow Chemical Co. is liable for $22.2 million in back taxes and interest for claiming tax-income losses on thousands of life-insurance policies it took out on its employees.

The decision Monday by the U.S. Court of Appeals for the Sixth Circuit, in Cincinnati, reverses a district-court ruling in 2003 that Dow Chemical's company-owned life-insurance plans were legitimate business transactions. The ruling is a victory for the Internal Revenue Service, which for the past decade has been cracking down on companies that take out life-insurance policies on their executives and employees, often without their knowledge, in order to reduce their corporate-tax bill. Of employers contesting the IRS stance, only Dow Chemical had prevailed in court, and a spokeswoman said the Midland, Mich., chemicals manufacturer continues to weigh its options for a possible appeal.

With such company-owned life insurance -- known as "janitors insurance" because it covered everyone including the janitors -- employers aimed to generate tax deductions with minimal cash outlay. They did this by taking a tax deduction for the interest they paid on loans taken out against the insurance policies, while allowing the policy to build value tax-free. The tactic was the subject of a series of articles in The Wall Street Journal in 2002.

Several companies using janitors insurance have settled or lost cases brought by the IRS, including Winn-Dixie Stores Inc., CM Holdings Inc. and American Electric Power Co. In these cases, the courts ruled that the company-owned life-insurance policies had no other economic value other than creating a tax loss.

The IRS disallows these types of tax shelters in part because it wouldn't make financial sense to engage in them without the tax implications.

Dow Chemical's plan worked much like the others, but the company chose not to settle with the IRS.

"We believe that Corporate Owned Life Insurance policies had economic substance, as the District Court held. We are currently reviewing the opinion with our legal counsel," said Terri F. McNeill, a Dow Chemical spokeswoman. "Once we better understand the basis of the decision and have gauged its implications, we will decide on the most appropriate course of action going forward."

Dow Chemical could appeal this decision to the U.S. Supreme Court.

From 1988 to 1991, Dow Chemical purchased life insurance on 21,112 employees. The company was both the owner and beneficiary of these policies. It paid the premiums using a complicated system of loans that used the policies as collateral, taking cash withdrawals from some of the policies.

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In the tax years 1988-1991, the chemical company claimed deductions totaling $33 million for interest paid on the loans used to pay the janitors-insurance-plan premiums and for fees related to the administration of the policies.

The IRS, arguing that the policies were a sham and purchased explicitly to create income-tax losses, disallowed the deduction. It assessed back taxes and interests totaling $22.2 million.

Many large companies throughout the 1980s and 1990s purchased janitors insurance policies. Congress started to phase out the interest deduction on many of the janitors-insurance policy plans beginning in 1996.

Embattled Rep. Ney To Seek Re-Election (AP-Y2)

By David Hammer

AP2, January 26, 2006

Undaunted by speculation within his own party that he may have to quit Congress because of a corruption probe, Rep. Bob Ney (news, bio, voting record) announced Wednesday he's running for re-election.

"2006 promises to be a vigorous campaign and I am ready for the fight," said Ney, R-Ohio. He planned to hold his first formal campaign event Thursday.

Ney's popularity has hardly dimmed in his expansive rural district, even after he was identified in disgraced lobbyist Jack Abramoff's guilty plea as the central figure in Abramoff's scheme to bribe members of Congress.

Supporters of Ney have been unfazed by Ohio party chairman Bob Bennett's pronouncement last week that Ney should resign if he's indicted.

Bennett attempted to soften his nationally televised comments Friday by noting Ney hadn't been charged with a crime, but he later reiterated that Ney should leave Congress if the Justice Department files criminal charges against him.

Rep. Tom DeLay, R-Texas, who also had ties to Abramoff, stepped down temporarily as majority leader last year when he was indicted on unrelated charges in Texas, then made it permanent after the Abramoff guilty plea. But he has not relinquished his House seat.

Earlier this month, Ney temporarily stepped down as chairman of the House Administration Committee. He acknowledged that his ties to Abramoff were a distraction from his duties, particularly as Republicans push an ethics reform agenda — part of which must be implemented by the Administration Committee.

But Ney spokesman Brian Walsh said no such distraction has affected Ney's work for his district, where he's known for hands-on constituent service and independence from GOP trade and labor policies.

Two Republican members of Congress have moved early to dissociate themselves from Ney. Sen. Mel Martinez of Florida gave away $2,500 he had received from Ney and Rep. Charles Boustany of Louisiana shed $10,000 Ney gave him. Ney's political action committee gave money to both lawmakers shortly before the 2004 elections.

Congressman Tied To Lobbying Inquiry To Seek Re-election (NYT)

By Christine Hauser

The New York Times, January 26, 2006

Representative Bob Ney, a lawmaker from Ohio who became a target of the broad Justice Department inquiry into corruption and influence-peddling in Washington, said today that he will seek re-election.

A spokesman said Mr. Ney planned to make an official announcement on Thursday when he kicks off his campaign.

"He is filing the petitions to be on the ballot tomorrow and holding an event with a few hundred supporters tomorrow evening," a spokesman for Mr. Ney, Brian J. Walsh, said by telephone.

Mr. Ney said in a statement today that the campaign this year promises to be a "vigorous" one "and I am ready for the fight."

"I look forward to joining my friends and supporters, including the many state and local officials backing my re-election bid, as we kick off the 2006 campaign this Thursday and Friday," he said.

Mr. Ney is referred to as "Representative No. 1" in court documents filed in connection with the corruption scandal surrounding the lobbyist Jack Abramoff. Democrats have attacked Mr. Ney over accusations that he assisted Mr. Abramoff in exchange for gifts and travel.

Mr. Ney temporarily relinquished his chairmanship of the House Administration Committee, acknowledging that his association with Mr. Abramoff was becoming a distraction for the Republican Party. As chairman, he would also be at the center of efforts to revise Congressional ethics rules, which members of both parties are proposing.

Mr. Ney and his lawyers say they will offer evidence to counter the accusations by Mr. Abramoff, who agreed to testify in the corruption case in exchange for a reduced sentence.

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His supporters have been unfazed by the pronouncement by the Ohio party chairman, Bob Bennett, last week that Mr. Ney should resign if he is indicted, The Associated Press reported today.

Mr. Ney represents the mainly blue-collar district in eastern Ohio.

The statement from his office said he would announce his re-election bid at a campaign rally in Dover tomorrow evening and then travel to the southern part of the district for a second rally in Chillicothe on Friday at noon.

West Virginia: Late Senate Race Entry For GOP Media Mogul (RC)

Roll Call, January 26, 2006

With the filing deadline for federal candidates set to pass Saturday, Senate Republicans finally have lured a potentially top-tier challenger into the race against Sen. Robert Byrd (D).

Millionaire media mogul John Raese (R) filed candidacy papers Wednesday and will announce today that he is trying to unseat Byrd, who is set to become the longest-serving Senator in history later this spring.

Raese, who splits his time between homes in Palm Beach, Fla. and Morgantown, W.Va., is a former West Virginia Republican Party chairman.

He currently serves as chairman of West Virginia Radio Corp., president and CEO of Greer Industries Inc., which produces steel and limestone, and vice president of West Virginia Newspaper Publishing Co. He is expected to spend personal resources in the contest.

"John has a great opportunity to become the next Senator from West Virginia," National Republican Senatorial Committee Chairman Elizabeth Dole (N.C.) said in a statement. "He will represent the state's mainstream values and bring fresh leadership to the United States Senate."

He is also no stranger to campaigning.

Raese ran for Senate in 1984, losing an open-seat contest to now-Sen. Jay Rockefeller (D) 52 percent to 48 percent. Raese was outspent by a 12-1 margin in that contest.

He later challenged then-Gov. Arch Moore (R) in the 1988 GOP primary, losing to the incumbent 53 percent to 47 percent.

Since the beginning of the cycle National Republicans have been desperately trying to generate a competitive race for Byrd, suffering several recruiting setbacks in the process.

— Lauren W. Whittington

MINNESOTA

All Eyes on Ciresi, Who Is Expected to Enter Race

A wealthy trial attorney may be about to pick the lock that Hennepin County Attorney Amy Klobuchar appears to have on the Democratic Senate primary.

Mike Ciresi, who sought the 2000 nomination, said he will announce whether he will try again next week, The Associated Press reported.

Minnesota political observers believe that Ciresi, who has been mulling a Senate bid for a year, will pull the trigger this time.

If he was disinclined to run, he would have just said so, they reason. Instead he told the AP: "I'm very close to announcing what those plans may be."

Ciresi would be wise to enter the race now, as child safety advocate Patty Wetterling dropped her bid last week and is likely to run for lieutenant governor instead. That leaves only under-funded veterinarian Ford Bell to challenge Klobuchar, who seems assured of the Democratic nod unless another heavy-hitter jumps in and mixes things up.

Wetterling endorsed Klobuchar, as did Rep. Betty McCollum (D), after Wetterling withdrew.

Ciresi also said that he "learned the last time around that you don't need to get in too early."

In 2000, now-Sen. Mark Dayton (D) waited until April to decide that he wanted to challenge then-Sen. Rod Grams (R).

Spending lavishly from his personal fortune, Dayton bypassed the state party's nominating process and forced the state party-backed candidate into a primary.

Dayton, who is retiring, will not be in the mix, but Ciresi has the ability to finance a campaign largely from his own wallet. He was the lead lawyer in Minnesota's successful $6.6 billion 1998 settlement with the nation's largest tobacco companies.

No one is seriously challenging Rep. Mark Kennedy for the Republican nomination.

— Nicole Duran

FLORIDA

Castor Has Wide Lead Over Miller in New Poll

A new poll released this week by the campaign of Hillsborough County Commissioner Kathy Castor showed her well-positioned to win the Democratic nomination in the 11th district race to succeed Rep. Jim Davis (D).

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The poll, conducted by The Feldman Group Inc., found that Castor led state Sen. Les Miller (D) 46 percent to 29 percent. The contest also features three lesser-known candidates, who registered a combined 8 percent in the poll.

The survey of 606 likely Democratic primary voters was taken Jan. 10-12. It had a 4 percent margin of error.

Castor, the daughter of 2004 Democratic Senate nominee Betty Castor, has raised $465,000 for the race so far.

"Castor is a popular member of the Hillsborough County Commission with a strong base of her own and also benefits from her mother, Betty Castor's, widespread popularity," pollster Diane Feldman wrote in a polling memo.

The poll also showed that Miller, who has a base in the black community, enjoys some crossover support, as does Castor.

The primary winner is almost certain to win the general election in the Democratic stronghold.

— L.W.W.

OHIO

Ney to Start Re-election Bid With Rally Today

Embattled Rep. Bob Ney (R) will formally kickoff his re-election campaign today at a rally in his district.

"2006 promises to be a vigorous campaign and I am ready for the fight," Ney said in a statement.

Ney has faced increased scrutiny in recent months for his involvement in the scandal surrounding disgraced lobbyist Jack Abramoff. His office has acknowledged that he is the "Representative #1" cited in Abramoff's plea bargain agreement.

Under pressure from party leaders, he recently temporarily relinquished the chairmanship of the House Administration Committee. Ney has said repeatedly that he has done nothing improper.

Chillicothe Mayor Joe Sulzer and Dover Law Director Zack Space are vying in the May 2 Democratic primary for the chance to face Ney, who has held the expansive 18th district seat since 1994.

— L.W.W.

MAINE

Key Unions Back Snowe, Who Has No Major Foe

In a move that could dissuade any big-name Democrat from entering the race, Sen. Olympia Snowe (R) secured the endorsement of two major labor groups Wednesday.

The AFL-CIO and the International Federation of Professional & Technical Engineers announced that they would back Snowe in her bid for a third term.

Snowe's work to save the Portsmouth Naval Shipyard during the most recent round of base closings went a long way to help her win the endorsements. Kirk Miller, president of the local engineers union, called Snowe an effective leader on workers' issues.

"Her around-the-clock efforts ... to successfully protect the shipyard from closure last year will never be forgotten," Miller said in a news release.

The moderate Snowe is already a tough target for Democrats, but the AFL-CIO's decision could make it even harder for a top-tier Democrat to raise money.

Snowe had more than $1.6 million in the bank as of Sept. 30.

So far only Bangor lawyer Eric Mehnert and local activist Jean Hay Bright are vying for the Democratic nomination.

State Senate Majority Leader Michael Brennan (D) is still mulling the race.

One Republican, retired high school teacher S. Charles Tamboia is challenging Snowe in the Republican primary.

— N.D.

MICHIGAN

State Right to Life Group Backs Walberg Challenge

Tim Walberg (R) finally got the Michigan Right to Life endorsement he wanted so badly in the 7th district race — he just got it two years late.

In the previous cycle, six Republicans vied for the open 7th district seat. Five, including Walberg, a former state Representative, were social conservatives who desperately wanted the Michigan Right to Life endorsement. Then-state Rep. Clark Bisbee secured the endorsement instead.

Joe Schwarz, then a former state Senator, went on to win the GOP primary and the seat.

Now Walberg is the only Republican challenging Schwarz. With the backing of the Club for Growth and now Michigan Right to Life, Walberg hopes to merge the conservative primary vote, which splintered in 2004 across the five other GOP candidates and take Schwarz down in the primary.

The district is heavily Republican.

— N.D.

PENNSYLVANIA

GOP Hopes Alito Stance Hurts Casey With Base

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State Treasurer Bob Casey Jr. (D) announced late Tuesday that he supports the confirmation of Judge Samuel Alito to the Supreme Court, after weeks of calls from Republicans to take a position on the controversial nominee.

Casey, who is trying to unseat Sen. Rick Santorum (R) in November, is the first Democratic Senate challenger to come out in support of Alito's confirmation.

The announcement came on the heels of Pennsylvania Gov. Ed Rendell's (D) announcement that he, too, is supportive of Alito, who serves on the Philadelphia-based 3rd Circuit Court of Appeals with Rendell's wife.

Casey's position puts him at odds with abortion-rights advocates, who strongly oppose Alito. Casey does not favor abortion rights and Republicans are hopeful that his Alito position could hamper his fundraising within the party's base.

"It will make his job more difficult in the state of Pennsylvania as he tries to appeal to progressive voters, and it should make his job harder," Kate Michelman, former president of NARAL Pro-Choice America, told the Harrisburg Patriot-News this week.

Meanwhile, a new GOP poll out this week showed Casey with a 10-point lead over Santorum. The Strategic Vision survey of 1,200 likely voters found Casey ahead of Santorum 50 percent to 40 percent. It had a 3 percent margin of error.

— L.W.W.

TEXAS

Dallas Paper Endorses Anderson Over Taylor

Van Taylor (R) might have the money and tacit backing of the Washington GOP establishment in his bid to take on Rep. Chet Edwards (D), but former Congressional aide Tucker Anderson (R) has the support of the 17th district's biggest newspaper.

The Dallas Morning News endorsed Anderson, who used to work for Rep. Pete Sessions (R), over Taylor, a wealthy businessman and Iraq war combat veteran, in their Republican primary fight to determine who gets to take on Edwards this November.

"His opponent, Van Taylor, is a Harvard-educated Marine-turned-businessman. The 33-year-old served courageously in Iraq, volunteering for the military after college. And we greatly respect that commitment," the Morning News staff editorial, published Wednesday, said.

"But when it comes to representing the 17th District, the recent transplant to West, Texas, doesn't have the same history as Mr. Anderson. And the private equity investor wouldn't know Capitol Hill as well as his opponent."

Taylor has already begun running television ads in advance of the March 7 primary.

— David M. Drucker

ARIZONA

Ex-State GOP Chief Joins Race in Kolbe's District

The 8th district Republican primary plot has thickened, with former state GOP Chairman Mike Hellon entering the race to replace retiring Rep. Jim Kolbe (R), the Arizona Daily Star reported this week.

Hellon, 63, who like Kolbe is considered a moderate Republican, describes himself as a "moderate conservative," and told the Daily Star he has what it takes to keep the Tucson-area seat in GOP hands.

"A vote for Randy Graf (R) in the primary is a vote for [Minority Leader] Nancy Pelosi (D-Calif.) as Speaker of the House," Hellon said.

Graf, a conservative former state Representative, received 43 percent of the vote when he challenged Kolbe in the 2004 8th district Republican primary and was running before the Congressman announced his retirement plans in the fall.

Mike Jenkins (R), a Marine Corps veteran and small business owner, is also running in the primary. Hellon dismissed his candidacy as lacking the broad support needed to win.

The leading candidates in the Democratic primary are former state Sen. Gabrielle Giffords, who per Arizona law was forced to resign her Senate seat in order to run for Congress, and longtime Tucson television news anchor Patty Weiss.

— D.M.D.

Ehrlich Alters Landscape Of Stem Cell Funding Debate (WP)

By John Wagner

The Washington Post, January 26, 2006

Yesterday's hearings on stem cell research in Maryland had a familiar ring: Advocates touted the potential for treating Parkinson's disease, juvenile diabetes and other conditions, and opponents raised the same ethical objections they made a year ago when lawmakers proposed spending $25 million a year on the emerging science.

But it was a voice legislators did not hear, neither yesterday nor a year ago, that could alter this year's debate -- that of Gov. Robert L. Ehrlich Jr.

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After remaining mostly silent on a bill that was killed last year by a Republican-led filibuster threat, Ehrlich (R) is pushing a plan to spend $20 million next year on stem cell research.

But Ehrlich is not committing himself on the question that has stirred the most controversy: whether the money should be used primarily for work on stem cells derived from human embryos or from less controversial adult stem cells.

Although the move has drawn some criticism, Ehrlich argued in an interview that he is acting prudently, given the evolving nature of the science.

"I wasn't that good of a biology student. I'm not going to make that decision," Ehrlich said. "The point here is that the decision should be a function of the science. These are fundamentally science questions, not political questions."

The governor would leave it to a state-founded technology corporation to decide whether to provide grants for work on adult stem cells or work on embryonic stems cells, which many scientists say holds greater promise but some in his party consider tantamount to abortion.

Ehrlich, who has supported stem cell research since his days in Congress, said that his public silence last year masked a behind-the-scenes effort to develop an alternate approach that would both bolster the state's biotechnology sector and depoliticize a difficult issue for Republicans.

"The strong pro-life members know the administration does not share their views on this issue, but we wanted to try to lower the temperature on the politics," he said. "I wanted to try to keep everyone's eye on the ball, and I believe this approach accomplishes that goal."

Ehrlich's involvement has scrambled the politics surrounding the issue, making it all but certain Maryland will join the growing number of states subsidizing the research, either with the legislation considered at yesterday's hearings or a provision Ehrlich has inserted into his budget.

Ehrlich said his budget-based approach makes additional legislation unnecessary.

Some advocates of the research say Ehrlich's plan has merit and view it as more likely to withstand opposition in the Senate.

"As long as there's no preference for adult, that's fine," said Robert Johnson, a lobbyist for Maryland Families for Stem Cell Research, a coalition formed during last year's debate that has primarily supported embryonic work.

But the governor's posture drew criticism yesterday from sponsors of the stem cell bills.

In an interview, Sen. Paula C. Hollinger (D-Baltimore County) was adamant that money be spent on work on embryonic stem cells, which is controversial because it involves the destruction of human embryos. Hollinger's bill would restrict research funded with state money to embryos discarded at fertility clinics and establish other rules for funding the science.

"The only reason we're doing this bill is that the president has refused to allow the research to be done," Hollinger said, referring to a 2001 executive order by President Bush that set limits on the embryonic stem cell research that can be funded with federal money.

Her view was echoed by Del. Samuel I. Rosenberg (D-Baltimore), the lead sponsor of the House bill, which passed similar legislation last year earmarking $23 million for embryonic work.

Other lawmakers questioned why a compromise could not have been worked out last session. "We wasted a year, and people still suffer," said Sen. James Brochin (D-Baltimore County).

Some advocates have questioned whether there are enough university and private-sector researchers geared up to spend $25 million on embryonic stem cell research. But that view was rebutted yesterday by Curt Civin, a stem cell researcher from Johns Hopkins University, who was among several scientists to testify at yesterday's hearing.

"Yeah, we can spend this tomorrow," Civin said. "We would be all over this."

Republican leaders signaled this week that they would put up a vigorous fight against any bill that steers money only to embryonic work, which they consider "killing unborn babies," said Senate Minority Leader J. Lowell Stoltzfus (R-Somerset).

"We're going to be opposed to the bill," he said. "We're going to be as aggressive as we can to kill it."

Under the governor's approach, grants would be made by the Maryland Technology Development Corporation, overseen by a 15-member board appointed by the governor. Although money could still go to embryonic stem cell projects, Stoltzfus said Republicans are more comfortable with the approach.

Supporters of the Democratic bill say they fell two votes short last year of gathering enough to end the threatened filibuster, which kept the bill from the Senate floor the final day of the session. Lobbying this year will focus on two Republicans who voted for the bill in committee last year but agreed to stick with their party in a filibuster effort.

In interviews this week, both Sen. Sandra B. Schrader (R-Howard) and Sen. Allan H. Kittleman (R-Howard) said they support the governor's approach but declined to say whether they would back a filibuster of Hollinger's bill.

Because Ehrlich's plan is included in the budget bill, debate over the measure will play out among a different set of lawmakers.

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Some members of both parties have suggested they might attempt to use the budget process to limit the type of stem cell work permitted -- a move Ehrlich said he would oppose.

"I would discourage both sides from impacting this thoughtful approach that we've developed," he said.

Republicans Pledge Bipartisan Filibuster Of Stem-cell Bill (WT)

By Jon Ward

The Washington Times, January 26, 2006

The Maryland Senate is facing a showdown over stem-cell research, with Republicans and a few Democrats vowing yesterday to stop a bill that would promote the creation of embryos for research.

"If [Senate President Thomas V. Mike] Miller wants to do this extraordinary thing, he will get a filibuster that lasts as long as he wants it to last," said Senate Minority Whip Andrew P. Harris, Baltimore County Republican.

Senate Minority Leader J. Lowell Stoltzfus said he had more than the minimum 19 votes to filibuster.

"We think we have 20," said Mr. Stoltzfus, an Eastern Shore Republican. "We support stem-cell research. We just don't support embryonic. We don't believe in killing a baby, and that's what we believe embryos are."

There are 14 Republicans in the 47-member Senate, which means six Democrats have agreed to filibuster.

Sen. Paula C. Hollinger, Baltimore County Democrat, is sponsoring the Senate bill in support of embryonic stem-cell research for the second year and supports the House version, sponsored by Delegate Samuel I. Rosenberg, a Baltimore City Democrat.

Mrs. Hollinger wants a Senate vote as early as next week -- the fourth week of the 90-day General Assembly session.

"I'm sure they will filibuster, and I'm sure we will round up the votes," she said.

Mrs. Hollinger also said she would fight for the bill and against the filibuster for "as long as it takes."

Her bill would give $25 million a year for five years, starting in fiscal 2008, to embryonic stem-cell research.

The bill also allows the legislature to appoint a committee of scientists and representatives from business and biotechnology industries to award grants through the state's Department of Health and Mental Hygiene.

Some scientists hope embryonic stem cells will eventually produce cures and treatments for such chronic and degenerative illnesses as Parkinson's disease and diabetes.

Opponents of the research say there have been no proven results that embryos can yield positive results, while adult and umbilical cord stem cells are now used to treat 65 medical conditions.

Gov. Robert L. Ehrlich Jr., a Republican, announced his proposal to fund stem-cell research on Jan. 11, the second day of the session.

President Bush in 2001 restricted the use of embryos for federal stem-cell research. So scientists who want to conduct such research are looking to state governments for funding.

Mr. Ehrlich's plan would provide $20 million for one year toward stem-cell research, with no specifics on whether the money would fund embryonic stem-cell research or only research using adult stem cells and stem cells from umbilical cords.

Mr. Ehrlich's plan also would allow a committee of scientists, business representatives and biotechnology representatives to make the decisions on where the funding goes.

However, the committee in the governor's proposal would be selected by the Maryland Technology Development Corporation, created in 1998 by the state legislature.

The committee is governed by a 15-member board, appointed by the governor with advice and consent of the Senate, according to its Web site.

"Mr. Ehrlich's proposal depoliticizes the situation," said Henry Fawell, a spokesman for the governor. He also said Democratic lawmakers are publicly saying what are the best scientific decisions, but "they need to stay out of that and let the scientists decide."

Gerald Ford Returns Home From Hospital (LAT)

By Susannah Rosenblatt

The Los Angeles Times, January 26, 2006

Former President Gerald R. Ford returned home from the hospital Wednesday morning after a 12-day stay while being treated for pneumonia, his spokeswoman said.

"He is doing well," Penny Circle, Ford's chief of staff, said in a brief statement Wednesday.

Ford, 92, originally had been scheduled to leave Eisenhower Medical Center in Rancho Mirage on Jan. 19, but doctors kept him for additional treatment.

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"Obviously, we're delighted that he's doing well," said Ford's son, Mike, director of student development at Wake Forest University in Winston-Salem, N.C.

Circle has described Ford during the last week as out of bed, reading the newspaper and eating well.

The 38th president was hospitalized briefly last month for a bad cold when undergoing routine medical tests. Ford suffered two small strokes in 2000 and a dizzy spell on a golf course in 2003.

The former chief executive served in the White House from 1974 to 1977, taking the oath of office after Richard M. Nixon resigned during the Watergate scandal. Nixon had appointed Ford as vice president in 1973 when Spiro T. Agnew resigned.

Ford has lived in Rancho Mirage with his wife, Betty, for nearly three decades.

Hard Line State (WSJ)

By Steve H. Hanke And Stephen J.k. Walters

The Wall Street Journal, January 26, 2006

BALTIMORE -- In Big Labor's war against Wal-Mart, "collateral damage" -- in the form of lost jobs and income for the poor -- is starting to add up. Of course, since the unions and their legislative allies claim that their motive is to liberate people from exploitation by Wal-Mart, these unintended effects are often ignored.

Here in Maryland, however, that's getting hard to do. The consequences of our legislature's override of Republican Gov. Robert Ehrlich's veto of their "Fair Share Health Care Act" on Jan. 12 will be tragic for some of the state's neediest residents. The law will force companies that employ over 10,000 to spend at least 8% of their payroll on health care or kick any shortfall into a special state fund. Wal-Mart would be the only employer in the state to be affected.

Almost surely, therefore, the company will pull the plug on plans to build a distribution center that would have employed 800 in Somerset County, on Maryland's picturesque Eastern Shore. As a Wal-Mart spokesman has put it, "you have to take a step back and call into question how business-friendly is a state like Maryland when they pass a bill that . . . takes a swipe at one company that provides 15,000 jobs."

Unfortunately, in Somerset, the new law looks more like a body blow than a "swipe." The rural county is Maryland's poorest, with per capita personal income 46% below the state average and a poverty rate 130% above it. Somerset's enduring problem is weak labor demand that greatly limits its 25,250 residents' economic opportunities.

There are just 0.8 jobs per household in Somerset, barely half the 1.5 figure that applies to the rest of the state. Somerset's top-10 list of employers features sectors like food services (average annual compensation per employee: $9,637), poultry and egg production ($14,320) and seafood preparation and packaging ($19,190).

It is hard to exaggerate how much the planned distribution center might have meant to Somerset's economy. Using an input/output model, we forecast the "ripple effects" of the new income and spending which could have emanated from Wal-Mart's facility as follows:

· The center's 800 employees would have created an additional 282 jobs among "upstream" suppliers and "downstream" retailers and service establishments; all told, the center would have boosted county employment by 14% and private-sector employment by 20%.

· Total annual employee compensation in Somerset would have risen by $46.5 million, or 19%.

· Annual output (or "gross county product") would have risen by $128.3 million, or 19%.

· State and local tax receipts would have increased by $19.2 million annually; this would include $8.5 million in property taxes, $5.6 million in sales taxes and $1.4 million in personal income taxes.

Those losses, though dramatic, probably understate the full extent of the damage in this case. They do not include foregone employment and income from construction of the facility and related infrastructure improvements. What is more, Wal-Mart's tentative plans for a second distribution center in Garrett County, in mountainous western Maryland, also appear dead. Garrett, with a poverty rate that is 70% above the state's, is only slightly better off than Somerset.

How could our legislators turn a blind eye to such areas? Partly, of course, they are simply eager for Big Labor's votes and money and therefore subservient to its interests. The Service Employees International Union actually helped draft what became known as the "Wal-Mart bill." Unable -- so far -- to organize workers at the company, the union's immediate national strategy is to limit Wal-Mart's competitive reach by raising its costs. Maryland was a shrewdly chosen place to kick off this campaign.

Some estimate that as much as a third of the state's economic activity stems from federal employment and purchases. Over 150,000 Marylanders -- six times the population of tiny Somerset -- are on the federal (non-military) payroll; they are concentrated in central Maryland, near the nation's capital. Nearly 268,000 more Marylanders draw checks from state and local government.

With so many workers in a sector where revenues appear to arrive automatically and inefficiency never leads to bankruptcy, our state's resulting political culture is quite predictable. Many Marylanders are simply unmindful of the necessities of

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survival in the private sector: pleasing customers, controlling costs and satisfying shareholders. Thanks to the federal tax dollars collected from the rest of the country and spent in Maryland, the prevailing view of economic reality is inverted: The public sector is seen as the engine of prosperity, with the private one along for the ride.

Reflecting this culture, our legislators often behave as if business is a problem to be solved. On Jan. 17, they also overrode a gubernatorial veto of a $1-per-hour increase in the state's minimum wage. Like the health-care mandate, the hike is a job-killer -- though not in affluent areas of the state, where strong labor demand long ago pushed the going wage above the minimum. In those areas, the law is largely symbolic and enables well-meaning voters and legislators to conclude that they are "doing something for working families." Safely out of their view, however, at Maryland's impoverished margins, already-weak labor demand will be further diminished.

What remains to be seen is whether Maryland will be a leading political indicator or an anomaly, for Wal-Mart bills have been drafted in 33 other states. Emboldened by success here, lawmakers in some states have set the threshold for companies to be hit with mandated health benefits as low as 1,000 workers.

In these upcoming battles, legislators should be mindful that companies like Wal-Mart are not the enemy but rather front-line soldiers in a real war on poverty. The profit motive leads them to seek out areas where there is much idle labor and put it to work. Where they are prevented or discouraged from doing so, the alternative job prospect is rarely a cushy spot in the bureaucracy. Rather, it is continued idleness and hardship.

Mr. Hanke, a professor of applied economics at Johns Hopkins University, served as a member of the Governor's Council of Economic Advisers in Maryland (1976-77). Mr. Walters is a professor of economics at Loyola College in Maryland.

Palestinian Premier, Cabinet Resigns (AP)

By Sarah El Deeb, Associated Press Writer

AP, January 26, 2006

Palestinian Prime Minister Ahmed Qureia and his Cabinet ministers submitted their resignations Thursday as the Islamic militant group Hamas appeared to have captured a large majority of seats in the Palestinian elections — a shocking upset sure to throw Mideast peacemaking into turmoil.

"This is the choice of the people. It should be respected," Qureia said. "If it's true (the results), then the president should ask Hamas to form a new government. For me, personally, I sent my resignation."

Under the law, Abbas must ask the largest party in the new parliament — presumably Hamas — to form the next government. Abbas was elected separately a year ago and remains president.

Hamas said before the election it does not want to govern alone, and would prefer to bring Fatah into a coalition. Hamas leader Mahmoud Zahar said Thursday that the group will declare its intentions after official results are announced later in the day.

Israel and the United States have said they would not deal with a Hamas-led Palestinian government. Palestinian leader Mahmoud Abbas has said he would step down if he could no longer pursue his peace agenda with Israel.

Palestinian election officials said on condition of anonymity that Hamas had won a large majority of the 66 seats up for grabs in electoral districts in the West Bank and Gaza. Half the seats in Wednesday's parliament vote were chosen on a national list and the other half by districts.

The Central Election Commission said the vote count had not been completed and that it would make an official announcement at 7 p.m. Thursday.

Hamas' top candidate Ismail Haniyeh earlier said the group had won about 70 total seats in the 132-seat parliament, based on reporting by Hamas activists who observed the counting in the polling stations. Later in the day, another Hamas official, speaking on condition of anonymity, said the number had risen to at least 75.

Officials with Fatah conceded that Hamas had won about 70 total seats. They also spoke on condition of anonymity because counting in some districts was continuing.

Initial exit polls on Wednesday night had forecast a slight edge for Fatah, with Hamas coming in a strong second. The polls predicted that neither Hamas nor Fatah would have enough seats to form a government alone, and would have to rely on smaller parties to form a coalition.

The discrepancy between the exit polls and the results provided by officials on Thursday was apparently due to voting in districts, where Hamas was apparently able to capitalize on divisions within Fatah.

A senior Fatah member, Saeb Erekat, said he could not confirm the unofficial results, but blamed Israel's refusal to resume peace talks with a Fatah-led government for the party's poor showing.

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"Israel has declared us non-partners about four years ago and they were not speaking to our elected president," he told Israel Army Radio. "Everybody was blaming Fatah for every mistake in the world. Everybody was tying our hands and our legs and throwing us into the sea. And now I think all these things, including our mistakes in Fatah, led to this result."

Acting Israeli Prime Minister Ehud Olmert said Wednesday, before Hamas claimed victory, that Israel cannot trust a Palestinian leadership in which the Islamic group has a role, according to a statement by his office.

"Israel can't accept a situation in which Hamas, in its present form as a terror group calling for the destruction of Israel, will be part of the Palestinian Authority without disarming," Olmert told U.S. Sen. Joseph Biden (news, bio, voting record) in a meeting, according to Olmert's office. "I won't hold negotiations with a government that does not stick to its most basic obligation of fighting terror."

Israel is willing to help the Palestinians and Palestinian leader Mahmoud Abbas "a great deal" but only if they crack down on militants, Olmert said.

Israel has repeatedly asked Abbas to force Hamas and other militant groups to disarm but Abbas has refused, warning such an act could cause civil war. Hamas has committed dozens of suicide bombings against Israel.

President Bush told The Wall Street Journal in an interview Wednesday that the United States will not deal with Hamas until it renounces its position calling for the destruction of Israel.

The election Wednesday was the Palestinians' first truly competitive vote, with Hamas contesting a parliamentary vote for the first time and winning considerable clout. Hundreds of thousands of Palestinians flooded polling stations throughout the West Bank and Gaza Strip for a vote that would determine how Palestinians wanted to be governed and whether they would pursue negotiations or confrontation with Israel.

Long lines formed at polling stations, and 77.7 percent of 1.3 million eligible voters cast ballots. Under a compromise with Israel, some Arabs in east Jerusalem were allowed to cast absentee ballots at post offices in the disputed city, and voting was extended there by two hours because postal workers were slow.

Routine power cuts in the Gaza Strip town of Khan Younis forced election workers to count ballots by candlelight.

"Whoever is the winner, it's a great victory for the Palestinians in general because partnership starts from this minute," said Samer Lulu, 29, a merchant who voted in Gaza City.

Hamas' success has alarmed Israel and the West, but Abbas has argued that luring the group, which has been behind dozens of deadly attacks on Israel, into politics would tame it and increase the chances for peace. The election will usher in a new parliament and Cabinet, but Abbas, who was elected president last year, will remain head of the Palestinian Authority regardless of the results.

"We are coming into a new phase. In this phase, we are calling for the international community to help us return to the negotiating table with the Israelis, conclude the peace process and implement it," Abbas said after the voting ended.

Palestinians were given the day off to vote, and the election was held in a celebratory atmosphere that was rare in the recent years of fighting with Israel. Some activists covered their cars with red carnations and others blasted campaign songs from car stereos and storefront speakers.

Campaign posters hung on nearly every wall, dangled from electric lines over the street and were plastered to the hoods of cars. Some children ran through the streets wearing the green flag of Hamas as a cape. Others wore the black-and-white checkered scarf of Fatah.

Some 13,500 police officers guarded the 1,008 polling stations to prevent gunmen from disrupting the vote, and there were no reports of major violence. In the West Bank's Balata refugee camp, militants who had threatened to burn down polling stations checked their assault rifles at the door with a flourish and peacefully voted.

Hoping to harness a wave of discontent with Fatah, Hamas ran an anti-corruption campaign, calling its party Reform and Change.

"We've reached the worst. The most important thing now is change," said Raed Abu Hamam, 35, a construction worker in Gaza's Beach camp who said he has lost faith in Fatah.

Fatah appealed for another chance to clean up the government and expand an economy shattered by nearly five years of fighting with Israel. Many Fatah voters said they were grudgingly supporting the party out of old loyalties.

"The Palestinian Authority did nothing for us. People here have no jobs, while people in the PA got millions of dollars," said Ali Taha, 35, a laborer in the Amari refugee camp in Ramallah, who voted for Fatah anyway.

Though the election appeared likely to turn on internal issues, the results will have deep implications for future peace efforts with Israel.

Abbas said Wednesday he is prepared to resume peace talks, even if Hamas joins his government. Hamas is expected to ask for service ministries — health, education and welfare — and to leave diplomacy to others.

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"We are ready to negotiate," Abbas said. "We are partners with the Israelis. They don't have the right to choose their partner."

Israel says it will not deal with Hamas until it disarms. But Haniyeh said the group had no intention of laying down its arms after the elections. Another candidate, Mahmoud Zahar, said his group is "not going to change a single word" in its covenant calling for Israel's destruction.

Palestinian Government Resigns In Wake Of Hamas Win (CNN)

CNN.com, January 26, 2006

RAMALLAH, West Bank (CNN) -- In a stunning development ahead of official election results, Palestinian Prime Minister Ahmed Qorie said he and the rest of the Palestinian Authority government will resign in the wake of militant group Hamas' apparent victory in historic elections.

The announcement was an acknowledgment that election results showed Hamas had won a majority of seats in the 132-seat Palestinian Legislative Council, supplanting the ruling Fatah party.

Qorie's office said it will be up to Hamas to form a new government.

"It's the choice of the people and it should be respected," Qorie said. "I think, if the majority is approved and has been reached, I think Hamas should form a new government, it's true. The president should ask Hamas to form a new government.

"For me personally, I sent my resignation to the president to enable him to choose a new prime minister," Qorie said.

Initial election results are scheduled to be released Thursday at 7 p.m. (noon ET).

Exit polls earlier had shown Hamas thrusting itself into the center of Palestinian politics but had not indicated an outright majority win by the group.

The exit poll from Bir Zeit University, a respected Palestinian school, showed Fatah garnered 46.4 percent of the vote and Hamas won 39.8 percent in the 132-seat Palestinian Legislative Council. That translates into 63 seats for Fatah and 58 for Hamas, according to the exit poll.

But other polls showed Hamas claiming a slim majority, a claim echoed by some Hamas officials, prompting a warning from Jerusalem.

Acting Israeli Prime Minister Ehud Olmert said Israel could not accept a situation in which Hamas in its current configuration -- committed to the destruction of Israel -- was a part of the Palestinian Authority.

"I will not negotiate with a government that does not meet its most basic obligations -- to fight terrorism. We are prepared to assist the Palestinians and Abu Mazen (Palestinian President Mahmoud Abbas) very much but they must meet their commitments," Olmert said, according to a statement released by his office.

The European Union, meanwhile, said it was prepared to work with any government -- to a point.

"We are prepared to work with any Palestinian government, if this government seeks peace, using peaceful means," said Benita Ferrero-Waldner, EU external relations commissioner.

Hamas, which boycotted the last election in 1996, capitalized on widespread dissatisfaction with what is seen as corruption within the Palestinian Authority and Fatah, and a perceived inability by the authority to manage the affairs of the Palestinians.

Fatah was formed in 1965 by longtime Palestinian leader Yasser Arafat, who died in November 2004, and dominated Palestinian politics for decades as the mainstream Palestinian nationalist movement.

"Mostly, they were voting for opposition and voting against Fatah -- against corruption, against nepotism, against the failure of the peace process, and against the lack of leadership," said Mustafa Barghouti with the Palestinian National Initiative, a democratic opposition movement.

He added: "Today (Wednesday) was a great day for Palestine. This is the best democratic practice ever in the Arab world." (Watch Gaza residents talk about why election day is so important -- 2:32)

Hamas has called for the destruction of Israel and carried out numerous terrorists attacks that have killed scores of Israelis over the years. The group is listed as a terrorist group by the U.S. State Department.Turnout near 78 percent

Election officials estimated about 77.7 percent of the eligible 1.3 million voters turned out to cast their ballots at more than 1,000 polling stations. Voting closed around 7 p.m. (noon ET) in Gaza and the West Bank, and it was extended in predominantly Arab east Jerusalem for two hours to accommodate heavy turnout. (Watch how preliminary results divide up seats -- 3:05)

Among those who joined the voters were Abbas and Mahmoud Zahar, the leader of Hamas. Militant Palestinian groups had agreed to a cease-fire during the voting, and there were no reports of major violence.

"We are embarking on a new era, and we call on the international community to help us return to the negotiating table with the Israelis, to conclude a peace agreement and implement it," Abbas said at the end of the election.

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Palestinian Foreign Minister Nasser al-Kidwa told CNN: "It's a happy day. There is no doubt about that. And I think that the Palestinian people are generally happy because of this." (Read how the vote demonstrates Palestinians' will to flex their political muscle)'Monopoly ... is finished'

At polling sites in Gaza, many voters jubilantly waved the green flag of Hamas and expressed anger at Fatah.

"Fatah hasn't done anything for us, for our children," said one Hamas voter at a polling site in Gaza.

Another said: "Fatah only helps itself. We want to see what Hamas can do for us."

Naila Ayesh and her husband, Jamal, said they are worried about the message Hamas is sending to Palestinians. Naila said Hamas told women if they didn't vote for the militant group that "at the end, God will punish you."

The couple voted for Third Way, a secular, pro-reform party. Jamal said the days when Fatah called the shots are over.

"Monopoly of the political system is finished," he said.

The results of the election were being closely monitored by the United States and European Union, both of which have threatened to cut aid if Hamas becomes part of the government.

The U.S. State Department was blunt.

"We view Hamas as a terrorist organization. We don't deal with Hamas. And under the current circumstances, I don't see that changing," State Department spokesman Sean McCormack said.

White House spokesman Scott McClellan was more cautious: "We'll see what the election results are. I'm not going to play a what-if scenario here."Impact on the peace process?

There have been talks about a power-sharing coalition, in which Fatah maintains the more political posts and Hamas has lower-level ministry positions.

Asked how Palestinians could move forward with peacemaking with Israel, al-Kidwa told CNN, "Maybe this is one of the reasons why we prefer not to have it in the government at this stage."

He added: "We have to maintain making peace with Israel as a priority. Actually, this is in our interest, in the interests of the Palestinian people. We need to reach final settlement with Israelis."

Zahar, the head of Hamas, earlier in the day left open the possibility of forming a coalition with Fatah, as well as the possibility of future negotiations with Israel, under certain conditions. (Watch Hamas attempt to redefine its image -- 2:51)

Zahar said his goals include reconstruction of areas he said have been destroyed by years of Israeli occupation and corruption, and the rebuilding of the Palestinian infrastructure.

He said he would be open to negotiations with Israel, but only if the Israelis enter into talks with good will and respect for the rights of Palestinians.

"We are not going to meet them just for meeting," Zahar told a throng of reporters after casting his own ballot. Previously, he said, many meetings have been held but "ended with nothing."

Asked if Hamas would ever recognize Israel, Zahar replied: "Never."

On the eve of the voting, Israel's Olmert had this message for Palestinians: "Do not choose extremists who have led them from tragedy to tragedy and to misery."

No Clear Victor In Palestinian Vote (WSJ)

By Karby Leggett, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, January 26, 2006

JERUSALEM -- After a strong showing by the militant Islamic group Hamas in yesterday's Palestinian legislative election, the U.S. and Israel vowed again to have no contact with any of its members who are blacklisted as terrorists.

The reality on the ground suggests a more nuanced -- and pragmatic -- policy may loom, though.

Yesterday's vote by more than 70% of the 1.4 million eligible voters proceeded without violence or other major disruptions. According to Beir Zeit University's exit poll, the ruling Fatah party emerged victorious with 46% of the vote and Hamas captured about 40%, making its Reform and Change party the second-most popular among voters. Independent parties accounted for the difference. Final results are expected today.

The balloting marks a watershed for Palestinians, Israel and the U.S. -- and a pivotal moment in a conflict that has roiled the Middle East for decades. The legislative election was the first for Palestinians since 1996 and opens a new era of multiparty politics. Palestinian Authority President Mahmoud Abbas now has the opportunity to appoint a new prime minister and government cabinet. The effort is expected to be marked by intense coalition negotiations among his Fatah party, Hamas and the scattering of independent parties.

If Hamas joins Mr. Abbas's new government, it will have an enormous impact on the future contours of the Israeli-Palestinian conflict and any resolution of it. The group's official manifesto calls for the destruction of Israel and the creation of an

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Islamic state in its place. Yesterday, Hamas's top two leaders repeated their strident positions, saying the group has no intention of laying down its weapons after the vote and that its core goals remained unchanged.

Though the U.S. and Israel acquiesced in Hamas's participation in the election, their response to its possible role in Palestinian government has been far chillier. Yesterday, President Bush said in an interview with The Wall Street Journal that he won't deal with any Hamas leaders until the organization renounces its call for the elimination of Israel. Similarly, Israeli officials have vowed to have no official contact with Hamas members. For the U.S., the situation is complicated by a law banning U.S. individuals from providing any form of material support to terrorist groups and their members.

Even so, Israel, and to a lesser degree the U.S., may find the no-contact policy difficult to maintain. In addition to the Palestinian legislature, many West Bank cities are now managed by Hamas officials voted in over the past year. Because Israel supplies many of these cities with electricity and sewage, informal and low-level ties already exist in many areas.

Consider the case of Hisham al-Masri, the new deputy mayor of Qalqilya, a city of 45,000 Palestinians just a short drive from Tel Aviv. A devout Islamist who says Israel has no right to exist, Mr. al-Masri was elected on a platform of clean and efficient government. When he took office last year, he inherited some $4 million of debt owed to Israel's state-owned electricity company. In the months that followed, Mr. al-Masri met regularly with executives from the power company to discuss repayment.

"There is no choice but to speak with them. Our city needs electricity, and we have to pay for it," Mr. al-Masri says. To facilitate the delicate process, Mr. al-Masri and his counterparts hold most of their meetings at the city's edge near an Israeli liaison office staffed by Israel Defense Force personnel.

Though purely administrative, such encounters could become a model for extended contacts in the future. Ehud Yaari, a prominent Israeli political commentator, argues that such contacts could presage a broad policy shift down the road. "Maybe it will be called the political Hamas or Hamas inside the parliament, but the day is approaching when Israeli representatives will sit and talk with Hamas representatives," he said in a recent TV commentary.

Mr. Yaari and other political analysts say the need for an eventual dialogue with Hamas reflects a less-noticed reality. Amid the stark chaos that has enveloped the Palestinian Authority and Fatah in recent years, Hamas emerged as a model of discipline and order on the street, able to mobilize and corral its supporters in ways Fatah no longer can match. That discipline, many analysts say, means Hamas could prove more useful than Fatah in upholding any future cease fire that both sides have been gently speculating about in recent weeks.

The emphasis on internal discipline was reflected across the West Bank yesterday. At polling stations, Hamas supporters set up tents with computers and offered training to voters on how to check the ballots. In the run-up to the election, some Hamas members had talked about their possible ambitions in government, saying they would like to focus their efforts on revamping and improving aspects of government, such as welfare and education, that have the maximum impact on daily Palestinian life and little to no contact with Israel.

Write to Karby Leggett at karby.leggett@wsj.com1

About 1 Million People Vote For Palestinian Parliament Terror Group Hamas Takes On Ruling Fatah Party In Elections (USAT)

By Matthew Gutman

USA Today, January 26, 2006

RAMALLAH, West Bank — About 1 million Palestinians voted Wednesday in parliamentary elections that threaten to end the ruling Fatah Party's decade-long monopoly over Palestinian politics.

The elections for 132 seats in the Palestinian Legislative Council pitted the terrorist Islamic Hamas group against Fatah, founded by Yasser Arafat and President Mahmoud Abbas.

About 78% of the 1.3 million eligible Palestinians cast their ballots for one of 11 parties, according to the Palestinian Central Elections Commission.

Participation was higher than the 75% turnout in the last parliamentary elections in 1996. Hamas boycotted that vote.

Hamas, which rejects the existence of Israel and is on the U.S. State Department's list of terrorist organizations, wants to get members into parliament to press the Palestinian Authority to take a tougher stance against Israel.

In an interview Wednesday with Al-Jazeera, the Arabic satellite network, top Hamas candidate Ismail Hania hailed the dawn of “a new reality after five years of (a Palestinian uprising).”

Hania said “Oslo was killed,” referring the accord reached in that city in 1993 that led to peace talks with Israel and created the Palestinian Authority.

But Hamas' No. 2 candidate, Mohammad Abu Teir, said last week his group does not “rule out negotiations” with Israel.

Hamas focused its campaign less on fighting Israel than on Palestinian issues, such as government corruption.

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Last week, the European Commission announced it would suspend half of its aid to the Fatah-dominated Palestinian Authority, citing a lack of budgetary discipline. Abbas' party, in control for 12 years, also has failed to stem increasing lawlessness in Gaza and the West Bank.

Former U.S. president Jimmy Carter, who was among a team of international observers monitoring the vote, warned that "if Hamas becomes part of the executive branch with government portfolios … then it precludes us doing business with the Palestinian Authority."

In a reference to Hamas after the polls closed, President Bush told The Wall Street Journal, "Not until you renounce your desire to destroy Israel will we deal with you."

Speaking to reporters in Ramallah in the West Bank, Abbas tried to assuage concerns about a politically empowered Hamas.

"We are ready to negotiate" with Israel, the Palestinian president said.

Whatever the outcome, Abbas — elected a year ago — will remain president. However, the composition of the parliament and Cabinet could change dramatically.

Lines of voters curled outside polling stations in the West Bank and Gaza. In East Jerusalem, voters cast absentee ballots at six post offices that served as polling centers.

After voting at the an-Najah Girls School in Ramallah, which served as a polling station, Muntasser Hamdan, 23, said, "We must vote Fatah because this is the party that has led this people for 40 years."

A few feet away, clad in the emerald green that symbolizes Islam and Hamas, Fadi Ahmad, 28, said he voted for Hamas because "it gives us everything: religion and truth."

Undaunted by his party's historic antagonism toward Israel, Ahmad said, "If Israel doesn't bother us, we won't bother it."

Hamas Makes Strong Showing In Vote (WP)

By Scott Wilson

The Washington Post, January 26, 2006

RAMALLAH, West Bank, Jan. 25 -- Hamas won a large share of the vote Wednesday as Palestinians selected their first new parliament in a decade, but appeared to fall short of deposing the governing Fatah movement as the leading party in the legislature, according to an exit poll conducted in coordination with the Palestinian election commission.

The poll showed that neither Fatah nor Hamas achieved a majority in the 132-seat legislature, meaning that the next Palestinian cabinet will be made up of a coalition of parties. But by gaining near-parity with Fatah in the parliament, Hamas -- formally known as the Islamic Resistance Movement -- will have a major role in the Palestinian Authority and complicate efforts to revive a dormant U.S.-backed peace plan that runs counter to the party's campaign platform in key respects.

The poll, conducted by Bir Zeit University, projected Fatah winning 63 seats and Hamas 58 seats, leaving the Popular Front for the Liberation of Palestine and an assortment of leftist and independent parties far behind.

A second poll, by the Palestinian Center for Policy and Survey Research, also conducted in coordination with the election commission, showed Fatah winning 58 seats to Hamas's 53. But the poll said that at least eight seats remained too close to call. Official results were expected Thursday.

"We knew that Hamas had this strength," said Ghassan Khatib, the Palestinian Authority's planning minister, who does not belong to either party. "Having them inside the council, abiding by its laws and regulations, hopefully will be better than having them outside. Now competition will be based on legal politics, rather than outside the law in the streets."

Election officials and observers reported no serious problems from either Israeli security measures or Palestinian factional rivalry that had threatened to disrupt voting in several cities in the West Bank and Gaza Strip. The officials said 77 percent of the 1.3 million registered Palestinian voters cast ballots on a brisk day, far surpassing the turnout in last year's presidential race.

In an initial assessment, a member of one international observer mission described the voting as "a generally smooth process with only sporadic violence and a robust turnout." The observer from the National Democratic Institute/Carter Center delegation, who declined to be named because of the preliminary nature of his evaluation, said his team had received only isolated reports of problems with voting materials.

The only apparent violation, the observer said, was the active campaigning that occurred throughout the day despite a Palestinian election law that requires campaigning to end 24 hours before the start of voting. But because all parties appeared to be violating the rule, the observer said, "at this point it doesn't appear to be a serious impediment to the election."

The atmosphere was celebratory here in Ramallah, where cars bearing the green banners of Hamas or the black-and-white kaffiyehs of Fatah jammed the streets. Each party appeared to have well-organized efforts to ensure its supporters made it to the polls.

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The last parliamentary voting, in 1996, led to a Fatah-dominated legislature, which has now been expanded by 50 percent. Mahmoud Abbas, the president of the Palestinian Authority and leader of Fatah, postponed the elections in July to secure an election law more favorable to his party.

At the El Bireh Girls Secondary School, Hamas supporters set up a card table with a bound voter-registration list and laptop computer loaded with a database of all voters and their assigned polling stations. Hamas activists said they were helping anyone who had questions, not just those who supported their movement.

"I saw Hamas closer to the people, closer to the feelings and problems of the people," said Hassan Hamudah, 44, a Hamas supporter who works for the Palestinian Water Authority. "They are honest men. The others have made many promises, but we have only seen corruption."

Hamas has built its popularity over the years through patient political organizing, charity work and an unyielding position regarding Israel. The party's charter calls for Israel's destruction, and Hamas's armed wing has carried out numerous deadly attacks on Israeli civilians, police and soldiers.

The secular Fatah movement is suffering from generational divisions and a reputation for corrupt, ineffective government.

Abbas, who has threatened to resign as president if he is unable to carry out his program after the elections, will now appoint a prime minister who must form a cabinet approved by the parliament. Although it is theoretically possible that Hamas could form the next government, it is expected that Fatah would be invited to do so and join with the nationalist and leftist parties to forge a parliamentary majority.

As the main faction in the Palestine Liberation Organization, Fatah joined with Israel to endorse the 1993 Oslo accords and the U.S.-backed peace plan known as the "road map," signed in 2003. The plan has been frozen because of the Palestinian uprising, but each side has pledged to return to its phased framework for creation of an independent Palestinian state.

Hamas, on the other hand, has pledged to maintain its military wing, which Israel says must be dismantled before new peace talks take place under the road map. It is unclear how much influence Hamas could exert over a future peace process since it is not a member of the PLO, although its strong showing could hasten talks to bring the group inside the organization.

Hamas supporters say the party, which Israel, the United States and Europe classify as a terrorist organization, will concentrate on political and educational reform before moving on to issues of peace and diplomacy. Israeli and U.S. officials have warned that its presence in government could undermine diplomatic initiatives and imperil foreign aid.

President Bush, in an interview Wednesday with the Wall Street Journal, lauded the democratic trend that produced the Palestinian elections but said Hamas would not be a suitable partner for diplomacy until it renounced its call for the destruction of Israel.

"A political party, in order to be viable, is one that professes peace, in my judgment, in order that it will keep the peace," Bush said. "And so you're getting a sense of how I'm going to deal with Hamas if they end up in positions of responsibility. And the answer is: Not until you renounce your desire to destroy Israel will we deal with you."

In a school adjacent to the al-Amari refugee camp, Ahmad Safi not only cast his vote for Fatah but draped the movement's black-and-white kaffiyeh across his shoulders against the cold.

"Historically, this is the movement that has given the most to the Palestinian cause," said Safi, 42, who works for the Fatah-run Interior Ministry and spent a dozen years in Israeli prisons.

Cars decked with banners and posters of Hamas green, Fatah yellow and the red of the Popular Front for the Liberation of Palestine clogged the street in front of him. Many of the parties rented collective taxis to ferry their supporters to the polls.

"They are secular and democratic," he said of Fatah. "The proof of this is that we are now in pluralistic elections."

The Israeli police presence was heavy in Arab East Jerusalem, where roughly 6,000 of the 120,000 Palestinians eligible to vote in the city were expected to cast ballots. Israel's acting prime minister, Ehud Olmert, agreed to allow voting to proceed in Jerusalem, which both Israelis and Palestinians claim as their capital, but prohibited the participation of Hamas.

Palestinian election officials extended voting in East Jerusalem for two hours, saying long lines caused by Israeli security measures prevented many from casting ballots on time.

In a statement issued after polls closed, Hamas officials accused Fatah of rigging the vote in the city.

At the post office on Salahudeen Street near the Old City's Damascus Gate, members of the governing party's youth movement chanted "Your blood is Fatah" from the steps and passed out lists with the names of the party's local and national candidates.

"It's good that all factions are participating in this," said Omar Bazian, 56, a Fatah supporter from the Old City. "Never mind losing some power -- this is a vote for the future."

On the other side of the separation barrier erected by the Israeli government, a cluster of Hamas flags flew from the dome of a mosque along the wide, worn avenue into the West Bank town of Abu Dis. The 24-foot-high wall, sealing what was once the main road from Jerusalem to Jericho, is covered with candidate posters and graffiti, including "This Wall Must Fall" in English.

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"We're telling people Islam is the solution," said Radi Johar, 29, who was passing out Hamas candidate pamphlets in the dirt street outside a crowded polling station. "We are victorious, whether we win or not, since we are raising the flag of Islam."

Fatah Edges Hamas In Polls (WT)

By Joshua Mitnick, The Washington Times

The Washington Times, January 26, 2006

GAZA CITY, Gaza Strip -- Palestinian Authority President Mahmoud Abbas' Fatah party eked out a narrow victory over the militant movement Hamas in parliamentary elections yesterday but will be unable to govern alone, exit polls showed.

The news sent carloads of Fatah faithful streaming into Gaza City's central square to celebrate, firing guns and honking horns in a deafening display. Hamas followers were strangely absent from the streets, even in their political stronghold.

Nevertheless, Hamas' strong challenge to the long-ruling party of Yasser Arafat in its first attempt at parliamentary politics is bound to change the face of Palestinian politics and the Middle East peace process.

To achieve a legislative majority, Mr. Abbas will have to choose between forming an unstable coalition government with smaller independent parties or forming a broad coalition with Hamas -- which has transformed itself from a small militant underground group dedicated to Israel's destruction.

Both Israel and the United States have refused to deal with a government that includes Hamas until it renounces violence and abandons a constitution that calls for Israel's destruction.

"You're getting a sense of how I'm going to deal with Hamas if they end up in positions of responsibility," President Bush said in an interview with the Wall Street Journal published yesterday. "And the answer is: Not until you renounce your desire to destroy Israel will we deal with you."

Hamas in recent days had hinted at a willingness to consider a negotiated settlement with the Jewish state. But the Associated Press last night quoted Hamas' top parliamentary candidate, Ismail Haniyeh, saying the group had no intention of laying down its arms. And another leading candidate, Mahmoud Zahar, said Hamas was "not going to change a single word" in its charter.

An exit poll by Birzeit University in Ramallah showed Fatah winning 63 seats in the 132-member parliament and Hamas taking 58 seats, the AP reported. A second survey showed Fatah beating Hamas by 58 seats to 53.

The Palestinian election commission said yesterday's turnout was about 78 percent, compared to the 52 percent of registered voters who turned out in the 2002 U.S. congressional elections.

For Fatah and Mr. Abbas, heirs of the political movement that served as the foundation of modern Palestinian nationalism, the disappointing results are likely to deepen a crisis triggered by the death of Mr. Arafat.

"It's not pleasant news for Fatah, and it's encouraging news for Hamas," said Birzeit political science professor Basem Ezbidi.

"It's an indication that the Palestinian Liberation Organization has failed historically. This project of the PLO since 1965 did not work, and the people have chosen Hamas."

The vote was proclaimed a "milestone" in Palestinian history by Hamas leader Ismail Haniyeh, whose party boycotted the first parliamentary vote in 1995 because it was a direct result of the Oslo peace negotiations with Israel. The party decided not to challenge Mr. Abbas in a presidential ballot last year.

Mr. Abbas, for his part, hailed the peaceful conduct of the election, which saw largely celebratory crowds enjoying fair weather and a holiday atmosphere in which shops and offices were shut.

"We are so happy with this election festival," said Mr. Abbas, who added that the Palestinian Authority remains a partner for peace negotiations with Israel.

In a pointed reference to Israel's refusal to negotiate with any government that included Hamas, Mr. Abbas said it was not for the Jewish state to dictate who its counterparts are.

The hundreds of foreign election monitors who observed the voting reported few irregularities.

"People are voting in peace," said Cypriot monitor Eleni Theochapous.

"I was monitoring elections in Minneapolis, Minnesota. Compared with the Palestinians, I don't think there is that much of a difference. I saw homeless people voting three times. Here you can't do that because of the ink on your hands."

Palestinians Cast Historic Vote (CSM)

By Ilene R. Prusher And Joshua Mitnick

The Christian Science Monitor, January 26, 2006

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BETHLEHEM AND RAMALLAH, WEST BANK; KHAN YOUNIS, GAZA STRIP - Palestinians streamed into more than 1,000 polling stations Wednesday in the first parliamentary election in a decade, one that will determine the shape of future prospects for returning to peace talks with Israel.

The ballot itself is largely viewed as a reality check over who Palestinians want steering them into that future: secular Fatah Party, the ruling faction that brought the Palestinian Authority (PA) into being through its willingness to negotiate with Israel, or Islamic Hamas, which stands by suicide bombings and other attacks as its way of facing off with the Jewish state.

Three hours after the polls closed, different organizations released varying figures. Al Arabiyeh, the Arab satellite channel, estimated that of the 132 seats, Fatah won 65 and Hamas won 48. But Al Jazeera, quoting an exit poll carried out by Bir Zeit University near Ramallah, showed Fatah winning 63 seats and Hamas winning 58.

Exit polls suggest that small parties and independent candidates attracted more supporters than expected, and many of these would be natural coalition partners of Fatah.

These potential allies of Fatah include the Third Way Party, led by former finance minister Salaam Fayyad and Palestinian spokeswoman Hanan Ashrawi, as well as a liberal, progressive party led by Dr. Mustafa Barghouti.

Official results were expected to be released Thursday. Divided between militant, moderate

Given recent unrest in the West Bank and Gaza, the elections were carried out without any major incidents of violence or disruptions at polling stations.

Still, many campaign activists bent the rules, ignoring a prohibition on any electioneering outside the voting places. Hadija Jadour and Samah Jarah passed out campaign cards to voters who made their way up the dirt road into a girls' school in Obediyeh, a West Bank municipality east of Bethlehem.

The women describe themselves as friends, but the black-and-white keffiyeh-style sash that Ms. Jadour wears stands in contrast to the green one around Ms. Jarah's veil. That seems to say it all: Palestinians are deeply divided over who should lead and how.

The keffiyah marks Jadour's support for Fatah, while Jarah's green ribbon shows the world, as she puts it, "I love Hamas."

Explains Jarah: "Hamas has always been the center of the resistance, and they are working on giving assistance to people and developing our society."

"It's not true," argues Jadour, smiling wryly at her friend's comment. "Fatah is the one who established the Palestinian Authority in the first place. Fatah wants to solve things in a diplomatic way, not by violence."

Asked if they discuss these issues often, the women grin and look in different directions. "We don't go into politics," says Jarah, "or it might ruin the good relationship we have."

That dynamic, pitting friend against friend, and even brother against brother, was repeated throughout the Palestinian territories. Among the more famed divisions, one of the senior-most members of the Fatah, Jibril Rajoub, who long served as the West Bank security czar for the PA, was running against his own brother, Naif Rajoub, an Islamic religious figure who is high on the list of candidates for Hamas.

"Let's remember that the decision to hold new elections was made by us in Fatah, to reestablish the legitimacy of the regime. But I'm sure both of us will win," Jibril Rajoub says, speaking of his brother. "There's nothing wrong with having him, as part of Hamas, in the government. I'm proud of that."

But Hamas isn't sure that it's actually prepared to be part of a government led by Fatah - particularly one with plans to carve out peace with Israel.

One top candidate in Hamas, interviewed in Ramallah, says that Hamas is keeping its options open. It may decide to join Fatah and be a partner in the PA, or it may decide to instead play the role of a feisty opposition party, blocking attempts to make concessions in negotiations with Israel. Equally interesting, however, may be what Hamas plans to do domestically with its bolstered muscle and putative legitimacy.

"We want to clean the internal Palestinian house, to put an end to corruption in the Palestinian Authority, and to bring to justice those who have stolen from the people," says Ahmad Abdel-Aziz Mubarek, a Ramallah candidate for Hamas. "The Authority sometimes banned Hamas people from getting jobs and harassed them. We will put an end to that." The Gaza situation

Driving much of the dissatisfaction with the PA is the lawlessness that has gripped Gaza since Israeli disengagement last year. At a polling station there, a spurt of machine-gun fire rang out. Voters and election workers barely flinched as sporadic gunfire has become all too common in the coastal strip.

There was plenty else to fuel the anxiety. Hamas leader Mahmoud az-Zahar predicted there would be voter fraud, and last month a Fatah primary in Gaza was cancelled because of attacks on voting booths. But voting Wednesday was festive nonetheless. Banners of Fatah yellow and Hamas green fluttered from taxis and minivans ferrying groups of voters to the polls.

"Congratulations, Palestine for the day of democracy, the day of freedom," crooned a singer on a radio station.

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In the southern Gaza town of Rafah, voters cast ballots at a school surrounded by bullet-ravaged buildings, a grim reminder of the five-year Israeli war against the Palestinians.

Atidal Hafagah says the outer wall of her house was once destroyed by the Israelis, but life has improved since the September withdrawal of Israeli settlers from Gaza. A black hijab covering her face, Hafagah says she voted for Hamas, which she thought would rid the PA of corruption and institute Islamic rule. Hamas to promote Islamic law

Indeed, Mr. Mubarek says that Hamas gradually will change Palestinian society so that it conforms with Islamic law, or sharia. For example, he says, Hamas will see to it that the casino in Jericho will be closed down, since gambling is forbidden in Islam.

He says that it should be mandatory that people give zakkat, or charity, which is one of a Muslim's five major religious duties. "Christians will pay a different kind of tax," he adds, "and we will consider Christians as full citizens. We will deal with the minorities in Palestine according to Islamic rules."

Campaign pledges like these may have attracted some voters, but they quickly turn others off - including other Muslims.

At the Deheishe Refugee Camp in Bethlehem, secular Palestinians were trying to round up support for a leftist party, the Popular Front for the Liberation of Palestine, one of 11 lists in the race.

"Hamas wants an Islamic state, not a Palestinian state," says Mohammed Ramadan, a schoolteacher who was dismayed by growing support for Hamas. "We believe we need to build our state with a political and social program, without imposing Islam on people." US, Israel refuse to deal with Hamas

Outside the polling station in Dar Salah, a large village southeast of Jerusalem, Hamas certainly seemed the most palpable presence.

Although members of Fatah were elected last year to lead the local council, posters of Hamas carpeted the ramshackle town overlooking the desert. Most of the posters featured Sheikh Ahmed Yassin and Abdul Aziz Rantissi, two top Hamas leaders assassinated by Israel in 2004.

A white four-wheel drive vehicle, festooned with Hamas flags, sat parked at the entrance to the school where voters entered.

"We will cooperate with anyone who has clean hands, who safeguards the Palestinian people, and who opposes the occupation," says Nidal Huzeibi, the man with the keys. "But I totally reject recognition of Israel because they don't give us our rights," he says. "I'm 100 percent sure that Hamas will soon be the largest force on the Palestinian street."

Palestinian President Mahmoud Abbas, whose seat is not up for reelection, said Wednesday that the PA will renew negotiations with Israel even if Hamas is a partner in the government. But the US and Israel have made clear that they will not deal with Hamas, which they consider a terrorist group.

Former President Jimmy Carter, heading a 900-member observer mission to the elections, told reporters Wednesday that the US would distinguish being Hamas in the legislative branch and Hamas at the helm: "The US government is prepared to continue to deal with the Palestinian Authority with Hamas members in the government. But if Hamas members become part of the executive branch, US law would preclude dealing with them."

After The Election, Hamas Must Learn To Govern (LAT)

By Laura King

The Los Angeles Times, January 26, 2006

GAZA CITY — With its capture of at least a third of the vote in Wednesday's parliamentary election, the Islamist group Hamas has cemented its place in the heart of the Palestinian political establishment and fundamentally altered it.

But the group now faces dilemmas it has never confronted before. Hamas will have to decide whether to enter into a parliamentary alliance with its archrival, Fatah, and whether to take Cabinet positions in a new government controlled by Fatah.

Most important, it must decide whether to formally renounce its stated goal of Israel's destruction and open the way for negotiations with the Jewish state.

With roots in the rubble-strewn streets and teeming mosques of Gaza Strip refugee camps, Hamas has always harbored deep mistrust of the secular-minded ruling Fatah movement. The group's very name, an Arabic acronym for Islamic Resistance Movement, was a deliberate rebuke to all who sought accommodation of any kind with Israel.

At times during the last decade, Hamas' enmity toward Fatah has rivaled its hatred of Israel. Many rank-and-file Hamas activists, along with the organization's senior leaders, have served time not only in Israeli jails, but in Palestinian Authority prisons.

Hamas by no means speaks with one voice on these crucial questions, even when the same person is doing the talking. In recent days, views aired by Hamas candidates and officials have ranged from conciliatory to studiedly vague to utterly unyielding.

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"Never!" snapped Mahmoud Zahar, a senior figure in the group, when asked Wednesday whether Hamas would recognize Israel. But Zahar, one of the few members of Hamas' upper echelon to escape assassination by Israeli forces over the last 2 1/2 years, also said this week that negotiations with Israel were not "taboo," especially if conducted through a third party.

Those who have closely observed Hamas through the years note its tendency to scrap any strategy the group believes has run its course, without necessarily trumpeting the fact that it is doing so.

Hamas did not carry out any suicide bombings inside Israel in 2005, a period that coincided with its first entry into the political arena. That strategic shift paid off with victories in municipal elections that gave Hamas control of dozens of cities, towns and villages across the West Bank and Gaza.

Over the last two decades, Hamas built a formidable following by trading on its perceived standing as an outsider, even an underdog. Being part of the Palestinian power structure will inevitably change that dynamic.

"It's good that the people are with us," Imad Afana, a Hamas election observer, said as he watched his refugee-camp neighbors waiting patiently to cast ballots Wednesday. "But we cannot pretend that the result will not be complicated for us — very, very complicated."

Governance of the West Bank and Gaza Strip, as the Palestinian Authority has long since discovered, is a messy affair. Hamas honed a reputation for fiscal integrity while administering its far-flung network of schools, clinics and charities, but playing any significant role in the sprawling, ineffectual Palestinian bureaucracy carries the risk of taint.

"You are about to enter the Authority; we warmly greet you," senior Fatah candidate Mohammed Dahlan rather sardonically told Zahar during a televised debate this week. Then came the zinger: "It's time for you to become acquainted with the suffering of being in government."

The Palestinian election campaign bared fault lines within not only Hamas, but Israel. Impassioned debate has broken out over whether the Jewish state can possibly have any political dealings with a group whose suicide bombings wrought carnage on commuter buses and in crowded cafes and markets.

"It is important to understand that the participation of terror elements in democratic elections ... is a Trojan horse that will destroy democracy from within," Ron Prosor, director-general of Israel's Foreign Ministry, told an academic conference this week.

But former Prime Minister Shimon Peres, a senior figure in the centrist Kadima Party that is expected to win Israel's March 28 general election, argued that Israel should realize that pragmatic self-interest may have changed Hamas' agenda.

"We are not fighting against a name — we are fighting against a situation," Peres told Israel Radio this week. "If the situation changes, then what difference does a name make?"

Already, Israel is starting to draw a distinction between dealing with a Palestinian government in which Hamas takes part and one controlled by Hamas.

The Bush administration, too, appeared to be giving itself room to maneuver. Though the United States considers Hamas a terrorist organization and refuses any direct dealings with it, State Department spokesman Sean McCormack on Tuesday refused to rule out negotiations with a Palestinian government that included Hamas ministers.

Some observers point out that a Hamas role in government would give Israel the advantage of dealing with a ruling body that better represents the spectrum of Palestinian political views, perhaps making for more realistic talks.

"This time around, everything that was hidden during years of negotiations will finally be on the table," Nasser Laham, editor-in-chief of the Palestinian news agency Maan, wrote in a commentary for the Israeli newspaper Maariv.

A premier Israeli political commentator, Nahum Barnea, warned that with Hamas as a player in government, the fractious Fatah would have to pull itself together or risk being outflanked.

"In the new Palestinian parliament, a cohesive and disciplined Hamas faction will contend with a disintegrated and conflicted Fatah," Barnea wrote in the Yediot Aharonot daily.

In historical terms, any Israeli decision to engage Hamas would be reminiscent of its policy shift toward the Palestine Liberation Organization after it recognized Israel's existence, opening the path to negotiations.

"The entire process calls to mind what happened to the PLO," said Shaul Mishal, a Tel Aviv University professor whose specialty is Hamas. "I understand that this is a long, rough road, but these are the new Palestinian politics, and this could be the light at the end of the tunnel."

Although Fatah cannot help but be stung by Hamas' latest showing of electoral strength, its senior officials may sense a fresh opportunity to co-opt the Islamist group rather than try to defeat it in a head-on military confrontation. That has been Palestinian Authority President Mahmoud Abbas' wish all along.

"What we see is that Hamas may change its views," Abbas told the satellite TV channel Al Arabiya this week.

Hamas is reluctant to tip its hand about disarming, and for now, the group plainly intends to have it both ways.

"The Europeans and Americans are telling Hamas to choose between having weapons and being in government," said Ismail Haniya, the top Hamas candidate. "But we say we will go for arms — and parliament."

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WASHINGTON WIRE (WSJ)

The Wall Street Journal, January 26, 2006

President Bush, in an Oval Office interview, declared that he isn't ready yet to deal with the radical Palestinian Islamist group Hamas no matter how well it does in Wednesday's Palestinian elections.

Speaking to The Wall Street Journal as Palestinians were electing a new parliament, Bush lauded the Middle Eastern trend toward democracy that produced Palestinian elections, but he said that Hamas isn't a suitable partner for diplomacy until it renounces its position calling for the destruction of Israel. "A political party, in order to be viable, is one that professes peace, in my judgment, in order that it will keep the peace," the president said. "And so you're getting a sense of how I'm going to deal with Hamas if they end up in positions of responsibility. And the answer is: Not until you renounce your desire to destroy Israel will we deal with you." (Read a transcript of the interview1.)

On other international subjects, Bush said "it's important for us to exhaust all diplomacy" in dealing with Iran's nuclear program. And he said his principal hope for resolving the impasse is a plan in which Russia would enrich uranium on behalf of the Iranians, and then ship the material to civilian nuclear plants in Iran, negating Iran's need to develop its own enrichment abilities. If such efforts don't work, Bush said, "clearly, there's a set of different options available through the [United Nations] Security Council, and now we're working with our friends to review those options."

The president also said his administration's controversial plan for warrantless wiretaps of phone conversations was designed by experts at the National Security Agency to improve on a process laid out by Congress in the 1970s for eavesdropping on U.S. citizens under the Foreign Intelligence Surveillance Act. Mr. Bush said he didn't use the provisions of that law allowing for court approvals of wiretaps, even after they have been instituted, because "we require a different response to an enemy" in the age of terrorism. --Gerald F. Seib

* * *

Private-Sector Growth: When Alan Greenspan leaves the Fed at the end of the day Jan. 31, he will set up a consulting firm called Greenspan Associates based in Washington, D.C.

Greenspan plans to consult, give speeches, and write a book. One of his first hires will be Michelle Smith, who the Fed said Wednesday will quit as director of its office of board members to join Mr. Greenspan's new firm. Ms. Smith joined the Fed as communications director in 2001 after serving as press secretary to Clinton Treasury Secretary Lawrence Summers. Ms. Smith's responsibilities went well beyond public affairs: she served in effect as Mr. Greenspan's chief of staff, advising him on relations with the public, politicians, and the media, Fed insiders say. She has also advised Fed policy makers on monetary policy communications, such as the post-meeting statement and meeting minutes, though not on the formulation of monetary policy itself.

Also assisting Mr. Greenspan in his new business, at least initially, is Anne Nielsen, who has been his office and research assistant since his days at Townsend-Greenspan, the advisory service he ran before joining the Fed in 1987. The Fed said effective Feb. 1, David W. Skidmore, Ms. Smith's deputy, would become the board's chief spokesperson and Rose Pianalto Cameron will oversee other public information activities. The elevation of Mr. Skidmore was made after consultation with Ben Bernanke, scheduled to take over as chairman on Feb. 1. Mr. Skidmore worked closely with Mr. Bernanke during his term as governor from 2002 to 2005. The promotion suggests that the transition will not trigger any major turnover among senior staff or the appointment of outsiders to key advisory positions, as has occurred at some other federal agencies like the CIA and SEC. --Greg Ip * * *

Medicaid Requirement: Millions of low-income U.S. citizens would have trouble meeting Medicaid's new proof-of-citizenship requirements that are poised for passage in Congress, a new survey finds.

Under the new rules, part of the budget-reconciliation agreement scheduled for a final House vote next month, Medicaid recipients would have to document their citizenship in order to get health benefits from the federal-state program for the poor. In effect, that means producing a birth certificate or passport.

But one in 12 U.S.-born adults with annual incomes below $25,000 reported not having either of those documents, according to a survey of about 2,000 people commissioned by the liberal-leaning Center on Budget and Policy Priorities. More than one in 10 adults said they didn't have a birth certificate or passport for at least one of their children. The center said that indicates as many as 4.6 million low-income citizens would have trouble meeting the new requirements, which were pushed by some Republicans as a way to ensure that illegal immigrants aren't getting Medicaid coverage. That means those needing Medicaid -- or trying to requalify for it, which often is required every six months -- might be excluded from coverage or would have to wait while they obtain proper documentation.

"It's going to cause problems for a lot of people," said Leighton Ku, a co-author of the paper. Many other groups unlikely to have the documents -- such as Katrina survivors and people in nursing homes -- weren't represented in the survey, he said. The

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survey showed a high percentage of elderly people -- particularly African-Americans -- lack birth certificates and passports, he added. --Sarah Lueck * * *

Top to Bottom: U.S. Trade Representative Rob Portman aims to conclude his "top-to-bottom review" of trade policy toward China soon.

Results of the administration-wide initiative are being closely held, but aides mull making it public in mid-February after the Bush administration moves beyond releasing the president's fiscal 2007 budget.

A top Portman aide, Deputy U.S. Trade Representative Karan Bhatia, said the China initiative is in the final stages. "This has been a valuable effort and one that bears repeating from time to time to make sure that our trade policy with respect to China remains on course," Mr. Bhatia told the U.S.-China Business Council Wednesday. Mr. Portman promised to conduct the review last year, amid rising fears on Capitol Hill about the economic threat posed by Beijing.

Insisting that "China's apprentice period must now come to a close," Mr. Bhatia urged Beijing to shoulder more responsibility as a leader in the rules-based global trading system. He warned that the Bush administration "will not hesitate, when appropriate, to use all tools at its disposal to ensure that China lives up to its commitments, including dispute settlement at the WTO or the use of trade remedies within our legal system." --Greg Hitt * * *

McCain

Remembering Rehnquist: Arizona Republican Sens. John McCain and Jon Kyl propose spending $10 million to set up a judicial research center in honor the late Chief Justice William Rehnquist. Their bill would authorize $2 million annually through 2011 for a William H. Rehnquist Center on Constitutional Structures and Judicial Independence at the University of Arizona law school. The bill says the center "would advance nonpartisan scholarship about the judicial branch," particularly in areas the chief justice "held dearest" -- "constitutional federalism, judicial independence and the separation of powers." Although born in Milwaukee and educated at Stanford University, Chief Justice Rehnquist rose to prominence as a practicing attorney and Republican activist in Phoenix. President Nixon appointed him a Supreme Court associate justice in 1971, and in 1986 President Reagan elevated him to chief justice. He died in September at age 80 and was succeeded by his former clerk, John Roberts. --Jess Bravin * * *

Tuesday, Jan. 24

With the Feb. 3 deadline on renewing Patriot Act provisions looming, Senate Democrats predict a deal can be reached soon. To speed it along, Sen. Patrick Leahy of Vermont is trying to tap First Lady Laura Bush's sympathies as a former school librarian.

"The time is fast approaching when we have to extend it or change it," said Senate Democratic Leader Harry Reid of Nevada, who hinted that House Judiciary Committee Chairman James Sensenbrenner (R., Wis.) will find it harder to block an extension next week. "Sensenbrenner doesn't run the House. There will be 434 other people over there," Reid said. "I think everyone agrees that with a little bit of time alone, Leahy and [Senate Judiciary Chairman Arlen] Specter can work out the problems."

Majority Leader Bill Frist predicts that "ultimately if we do an extension for six to eight weeks, I think we'll be able to work it out." But any Senate deal must also be sold to the House, where Republican turmoil over leadership races could be an obstacle. "We have to work through it here," Frist said. "Then I've got to shop that over there, which -- until they get through and things settle down -- will be hard. So we need just another six weeks."

Leahy, the Judiciary Committee's ranking Democrat, recalled a Jan. 6 conversation with top players and President Bush, who had gathered at the White House for a signing ceremony for an unrelated bill. "I raised the fact that we could easily do that, work out the few remaining differences," said Leahy, who played to the first lady on the issue of searches involving libraries. "I said, `Why don't we work out that problem with the librarians?' I mentioned librarians twice and Mrs. Bush caught my drift." --David Rogers * * *

Information, Please: The U.S. dialogue with China is intensifying on the important issue of enforcing intellectual-property rights.

The two camps have sparred in recent weeks over the legal basis of a U.S. move, launched through the Geneva-based World Trade Organization last October, to compel China to provide detailed descriptions of intellectual-property rights cases it has pursued as well as the penalties imposed on infringers. But a senior U.S. trade official said Tuesday that Beijing and Washington have set aside the dispute over whether the U.S. has the right to the information and, for now, are focusing on ways to allow an exchange of the disputed information.

"They have expressed an openness to work with us," the official said. "They've agreed to talk with us." The U.S. official said filing a piracy complaint against China at the WTO "remains a possibility," but stressed the U.S. is working through a number of channels, including bilateral talks, to encourage China to step up its enforcement. --Greg Hitt * * *

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Lost Millions: Another Pentagon audit of Iraq reconstruction work found that a variety of jobs were never done and millions of dollars are missing. The report of the Special Inspector General for Iraq Reconstruction4 examined 907 contracts and "micro-purchases" totaling about $88 million that were awarded by U.S. officials using Iraqi funds in 2003 and 2004.

The audit found that 17% of the work, totaling $16.3 million, was not competitively bid, that $87,000 in cash was somehow lost, and that $6.3 million was transferred to "unauthorized persons" without any trace of work being done in return. The report said that $471,000 was paid to install Internet service in the city of Ramadi, but quotes an internal memo saying, "There is no way to verify this project was ever completed, because we don't even know where exactly in Ramadi it was supposed to take place." Another 11 contracts were overpaid to the tune of $571,000.

The Justice Department has charged some U.S. officials and contractors with fraud in connection with similar work in southern Iraq, and more prosecutions are expected. --Neil King Jr. * * *

With an eye toward the oldest members of the Supreme Court, the White House is trying to scratch out a filibuster-proof 60 votes for Judge Samuel Alito to set a conservative standard that gives Bush some maneuvering room in the event of another opening.

Insiders say the odds of achieving that goal aren't good. But Bush allies take heart that the Democrats' vigorous opposition to Judge Alito irritated enough of the Republican members of the Gang of 14 -- the bipartisan group of senators who neutralized Democrats' threat to block Bush judicial nominees and Republicans' threat to change Senate rules to ban filibusters -- to edge them closer to voting for a judicial filibuster ban down the road.

After announcing the Judiciary Committee's 10-8 party-line vote for Judge Alito, Vermont Sen. Patrick Leahy, the panel's ranking Democrat, and Republican Committee Chairman Arlen Specter wrap it up: "OK, Arlen," said Sen. Leahy as he grabbed his papers. "OK, Patrick," the chairman replied. --Jeanne Cummings

· Read excerpts5 from the Senate Judiciary Committee's meeting to vote on Alito, and see a chart of the nominees6 to the Supreme Court since the start of the Nixon administration.

* * *

Frist

Asbestos Warning: With the Senate beginning hearings on lobbying overhaul Wednesday, Frist warned Democrats against trying to use the issue to delay action on the asbestos bill.

In a letter Tuesday to Reid, Frist predicted passage of the lobbying bill early this year -- "done right and well, not fast and foolish." But the Tennessean said asbestos action has waited long enough. "This problem is devastating and it requires leadership and action," he wrote to Reid. "To postpone debate on this issue is to blatantly ignore a very real problem." --David Rogers * * *

Frustration, continued: White House officials have been frustrated for months that President Bush gets so little credit from the public for an economy that's moving along reasonably well. They will have to continue to be frustrated, it appears. A new poll7 from the Pew Research Center for the People and the Press shows that only about a third of Americans (34%) rate economic conditions as excellent or good. Almost twice as many -- 64% -- call conditions only fair or poor. Overall, attitudes are darker than they were a year ago.

The poll's authors note that on this front, as on so many, views have grown more divided along partisan lines. More than half of Republicans see an economy that's excellent or good. Just 28% of independents and 23% of Democrats agree the economy is doing well. One of the goals of Bush's State of the Union speech next week is to improve public perceptions of the economy overall. The telephone survey of 1,503 adults nationwide has a three percentage point margin of error. --Jerry Seib * * *

Bernanke

Speech Pattern: Kevin Hassett, economist at the American Enterprise Institute offers a bit of advice to Ben Bernanke, Bush's choice to head the Federal Reserve: In the early days on the job, sound as much like Chairman Alan Greenspan as possible. "Take an Alan Greenspan speech, run it through Google into Spanish then translate it back. It's still basically a Greenspan speech." --Greg Ip * * *

Flood Watch: Overhauling the National Flood Insurance Program is a prominent item on the Senate's agenda. The program has been thrust deeply in the red by Hurricanes Katrina and Rita, with damage from the two storms expected to reach $23 billion -- almost all on the taxpayers' tab.

The Senate Banking Committee will kick off the debate Wednesday at a hearing on how to fix the system, "which is clearly broken," said a committee spokesman. Some lawmakers, including Committee Chairman Richard Shelby of Alabama, suggest that the insurance program should be restructured to operate more like a private insurance company.

A first step may be for Congress to direct the program to deny coverage to properties that are repeatedly flooded, they say. Also to be considered is an idea being pushed by Republican Rep. Richard Baker of Louisiana to form a new government

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agency to oversee redevelopment of storm-battered Louisiana. The House Financial Services Committee passed a flood insurance bill late last year, but it hasn't come up for a floor vote. --Michael Schroeder

Vote Complicates Area's Diplomacy (WP)

By Glenn Kessler

The Washington Post, January 26, 2006

The Bush administration has strongly urged Palestinian leaders not to permit any Hamas members into the Palestinian cabinet, but yesterday's better-than-expected electoral showing by a group labeled a terrorist organization by the United States greatly complicates the administration's diplomacy in the region, U.S. officials said yesterday.

Hamas, which is dedicated to the destruction of Israel, appears to have ridden a wave of popular disgust at the perceived corruption and incompetence of the ruling Fatah Party. Exit polls indicate Fatah will have only a slim edge over Hamas in the Palestinian Legislative Council, giving Hamas a strong claim to a role in the government.

Fatah in theory may still be able to form a government that excludes Hamas -- formally the Islamic Resistance Movement -- but Palestinian President Mahmoud Abbas has expressed hope that by bringing Hamas into the political process, it will become a partner in seeking a peace accord with Israel.

The results also suggested the risks inherent in the Bush administration's campaign to bring democracy to the Middle East. Administration spokesmen officially celebrated the "historic moment" for the Palestinians while officials privately reeled at the outcome.

Bush administration officials had hoped Hamas would get as little as 20 percent of the vote. The Washington Post reported Sunday that the United States had spent $2 million in recent weeks to promote the Palestinian Authority, and by extension Fatah, in a campaign that kept U.S. involvement hidden. Before yesterday, officials were bracing for Hamas to receive 30 to 40 percent of the vote; exit polls indicated that Hamas topped 40 percent of the seats.

U.S. officials, from President Bush on down, reiterated that the United States will not deal with Hamas as long as it does not renounce violence.

"A political party, in order to be viable, is one that professes peace, in my judgment, in order that it will keep the peace," Bush said in an interview with the Wall Street Journal yesterday. "And so you're getting a sense of how I'm going to deal with Hamas if they end up in positions of responsibility. And the answer is: not until you renounce your desire to destroy Israel will we deal with you."

Bush's statement left open the possibility that the United States would not reject a Palestinian government that includes Hamas, but instead that the United States would not work directly with cabinet ministers who have Hamas connections. There is a precedent for this approach: The Bush administration already works with the Lebanese government, even though one cabinet member is a member of Hezbollah, also labeled a terrorist group.

The U.S. ambassador to Israel, Dick Jones, was quoted this week in the Israeli newspaper Haaretz as saying the Lebanese model might serve as a guide for dealing with the Palestinian Authority if Hamas joins the government. Jones has told officials in Washington the remarks were made at a dinner party and were taken out of context.

One major issue is that the United States has much more extensive dealings with the Palestinian Authority than it does with Lebanon. Hamas has indicated it would like to obtain ministerial portfolios that touch on social services, raising questions about whether some of the hundreds of millions of dollars in annual U.S. aid could continue to flow to certain public works projects if they are overseen by a Hamas cabinet member.

Moreover, with Israel facing critical elections in March, the administration must deal carefully with the emerging Palestinian government.

The administration must also hold together its allies in the peace process, particularly the European Union. Last late year, the sponsors of the "road map" peace plan, known as the Quartet, issued a statement saying that "a future Palestinian Authority cabinet should include no member who has not committed to the principles of Israel's right to exist in peace and security and an unequivocal end to violence and terrorism."

But that statement was not categorical, and some European officials have indicated in recent days that instead of the black-and-white view expressed by the United States, perhaps Hamas needed greater encouragement to make a break with its past, much like the Irish Republican Army. One U.S. official sighed that the European Union was like the "International House of Pancakes -- there are a ton of waffles there."

Secretary of State Condoleezza Rice will meet in London next week with her counterparts from the European Union, Russia and the United Nations to try to reach an agreement. "There will be a very healthy debate about how to encourage Hamas to eschew violence and get into the political process," one diplomat involved in the discussions said.

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Hamas Presses Fatah In Palestinian Vote, Surveys Say (NYT)

By Steven Erlanger And Greg Myre

The New York Times, January 26, 2006

RAMALLAH, West Bank, Jan. 25 — Hamas, the militant Islamic party sworn to the destruction of Israel, won a large share of votes in the first Palestinian legislative elections in a decade, depriving the more secular Fatah party of its longstanding monopoly on power, surveys of voters leaving the polls indicated Wednesday.

While those surveys showed Fatah with a narrow lead, the vote marked the first entry of Hamas into representative Palestinian politics, a fundamental change, and its strong showing raised questions about the near-term future of any peace talks with Israel.

The acting prime minister of Israel, Ehud Olmert, said his country could not accept a situation in which Hamas would be part of the Palestinian Authority if the group remained armed with unchanged goals.

Detailed results for the parliament's 132 seats are not expected until Thursday. Numerous Fatah candidates are competing against one another, which could allow Hamas candidates to win in some constituencies with a minority of the votes.

But judging from the polls, Fatah, though battered, should be able to form a working majority in coalition with other independent or secular parties like that of Salam Fayyad, the former finance minister who is considered a likely choice for prime minister. But Mahmoud Abbas, the Palestinian president, who will choose a prime minister, is thought to favor the inclusion of at least a few Hamas ministers to draw the party into the duties and responsibilities of government.

As voter surveys indicated that Fatah may have fended off the Hamas challenge, celebratory gunfire echoed through Ramallah's streets. The election itself went off remarkably smoothly, with little trouble at any of the more than 1,000 polling stations or in East Jerusalem, where Israel allowed Palestinians to cast "absentee ballots" in post offices. About 900 foreign observers, including former President Jimmy Carter and the former Swedish prime minister, Carl Bildt, monitored the voting. In a preliminary assessment, an official from a United States delegation called the voting "generally smooth, with sporadic violence and a robust turnout."

An exit poll from the Palestinian Center for Policy and Survey Research, headed by Khalil Shikaki, showed Fatah winning 42 percent of the national vote and Hamas 35 percent, with a margin of sampling error of 2 percentage points.

Another such survey from Birzeit University indicated that Fatah would get 46 percent of the vote to Hamas's 39 percent. That would mean Fatah would be short of a majority of the legislature's 132 seats. The leftist Popular Front for the Liberation of Palestine could get several seats, Mr. Fayyad's list would get a couple, as would another independent one and the leftist Badil list. The director, Nader Said, cautioned that the poll should be treated as indicative, not final.

Palestinian voters, candidates and analysts said they expected Hamas to take some cabinet positions in service or welfare ministries, thus joining the government, but in jobs that would not necessarily require contact with Israel. But Hamas could stay out of the government and remain a parliamentary opposition, telling its voters that its job is to keep Fatah honest and to protect those who fight against Israeli occupation.

Ahmed Mubarak, a Hamas candidate in Ramallah and an Islamic jurist, said that "I personally see no problem with being in the government if we were confident it will be for the sake of the people."

The Palestinian Authority is committed, under the internationally backed peace plan known as the road map, to dismantling armed militias and "terrorist capabilities and infrastructure."

Inside the government or out, then, Hamas is considered likely to keep the Palestinian president, Mr. Abbas — known as Abu Mazen — and the new government from pursuing serious negotiations with Israel on any basis that Israel is likely to accept.

In a meeting with Sen. Joseph R. Biden, Democrat of Delaware, Israel's acting prime minister, Mr. Olmert, said: "I will not negotiate with a government that does not meet its most basic obligations — to fight terrorism. We are prepared to assist the Palestinians and Abu Mazen very much but they must meet their commitments."

Israel, the United States and Europe all label Hamas a terrorist organization, and while American and European officials say they will not meet or deal with any Hamas officials, they will continue to have close relations with Mr. Abbas and a new Palestinian prime minister, much as they do in Lebanon, where Hezbollah, a radical Islamic party, has cabinet representation.

Mr. Abbas pressed for these elections against considerable opposition from inside Fatah, convinced that the only way to tame Hamas and turn it from an armed militia to a political party was through representative democracy. A normally stiff and shy man, Mr. Abbas looked positively happy on Wednesday morning as he voted with his wife and then posed for the television cameras.

"We are so happy with this election festival," he said. Palestinians were festive, too, coming out in large numbers to vote in an election they understood to be a vital moment for their own history. Turnout was estimated by officials at nearly 78 percent of the 1.3 million eligible voters.

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Mr. Abbas also had words of calm for Israel. "The Israelis should have no reason to be fearful but rather pleased as we are building a democracy which can serve as a base for peace between us," he said. "I am always ready for negotiations with the Israelis although they must want them on their side."

Israel is engaged in its own election campaign and with Prime Minister Ariel Sharon still comatose after a massive stroke, it is not likely any time soon to talk to any government containing Hamas representatives. The Hamas showing and what should now be done will be a major issue in the Israeli campaign, which ends March 28.

Although Mr. Abbas has promised Washington that he will move to disarm Hamas after these elections, there is considerable skepticism that he will be able to do so.

Voting himself on Wednesday, the head of Hamas's candidate list, Ismail Haniya, said: "The Americans and the Europeans say to Hamas: either you have weapons or you enter the legislative council. We say weapons and the legislative council. There is no contradiction between the two."

The comments point up the awkwardness of any Fatah-Hamas coalition. Fatah, a secular, nationalist movement, wants to restart negotiations with Israel based on the road map, the dormant peace plan that was introduced in 2003, and Mr. Abbas has often suggested parallel secret talks with Israel on a final agreement.

Hamas has waged a suicide bombing campaign and always rejected negotiations with Israel. During the campaign, some Hamas leaders toned down their rhetoric, and the group has largely abided by a truce announced early last year, and is expected to continue to do so, focusing on an internal agenda and keeping its promise to voters of "change and reform." Still, Hamas leaders say the group will not lay down its weapons.

The polling stations here in Ramallah were vivid with the yellow flags of Fatah and the green of Hamas and the colorful posters of individual candidates and others of the 11 party lists running, as candidates and party workers handed out election material and lobbied voters up until the entrance of the stations.

Voters were anxious but talkative, pleased with the process of democracy but worried about the results.

Mai Alami, a mother of three girls and one boy, said the election was vital and would bring some needed "fresh faces" to a stagnant politics in the wake of the death of Yasir Arafat more than a year ago. "But we're afraid of the Islamic party," she said, "not because we are against them, but because of their prejudice and their policies."

Fatah was being punished by voters for the misrule and corruption of the last 12 years, Ms. Alami said outside the busy polling station at the elegant stone Friends Boys School.

Her husband, Ali Khashen, a constitutional lawyer, said the election also gave legitimacy to independent candidates like Mr. Fayyad and Mustafa Barghouti. "But now with Hamas we may have more obstacles for the peace process just as Israel was becoming more receptive," he said. "We all formed our agenda around Fatah, and now we need a new strategy."

In East Jerusalem, Fida Abdellatif, an architect, said: "This election is different because there is a full spectrum of parties, which wasn't the case before. We hope this will produce a strong leadership that everyone can support."

Mr. Abbas hopes so, too. He met on Wednesday with Senator Biden, the ranking Democrat on the Senate Foreign Relations Committee, and suggested that he was considering ways to press Hamas to disarm, the senator said. "He said they'd have to choose in the end, that they can't be part of a government and have a militia," Senator Biden said. Mr. Abbas also asked the United States not to react too quickly to the Hamas vote and to continue to help him improve, reform and equip the Palestinian security services.

But the election also marked a fundamental change in Palestinian politics and a political earthquake rare in Arab countries.

"Fatah has decided to share power, that's the point," said Nader Said of Birzeit University here. "It's not easy for them, but in no Arab country I can think of has any ruling party wittingly shared power in a democratic process."

Mr. Said says that the transition will be difficult, and Fatah's own divisions will resurface. "But things will never be the same," he said. "Hamas has accepted to be a part of the political game, and it will never be able to be as militant or hard-line as it used to be, no matter its rhetoric."

Fatah, though its campaign finally came to life in the last 10 days, suffered from "tremendous disappointment in Fatah and the Palestinian Authority and Abu Mazen," said the pollster Khalil Shikaki. "There was anger about corruption, chaos, lack of law and order and a lot of disillusionment." Despite Hamas's participation and support, he said, the election "was not really about the peace process — in fact three-quarters of Palestinians support the peace process and negotiations" and are more moderate on final-status issues like Jerusalem and refugees than ever before.

"Fatah will get more votes than Hamas today," Mr. Shikaki said. "But this is the last opportunity Fatah will have to get its act together." And if Mr. Abbas does not choose a candidate for prime minister that can get the support of Fatah's younger generation, Mr. Shikaki said, "you could see Fatah split."

Mr. Shikaki said he believed that Hamas wanted to join the cabinet in some role, and that Mr. Abbas also wanted it to do so, but would not predicate participation on disarmament.

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"Abu Mazen wants to disarm Hamas, but through consensus, not confrontation," he said. "Hamas won't agree to disarm as a precondition, but could agree to hand over weapons voluntarily."

Iran Says It Is Open To Russian Plan On Nuclear Program (WP)

By Peter Finn

The Washington Post, January 26, 2006

MOSCOW, Jan. 25 -- Iran's leading negotiator on nuclear issues said here Wednesday that his country was open to a compromise proposal from Russia that it enrich uranium for Iran on Russian soil to guarantee it would be used only for peaceful purposes, not to create nuclear weapons. But he said the idea needed fine-tuning in advance of further talks scheduled for the middle of next month.

"Our attitude to the proposal is positive," said Ali Larijani, head of Iran's Supreme National Security Council, after talks here with the secretary of the Russian Security Council, Igor Ivanov. "The project won't have the full potential to resolve all problems. It should be fine-tuned, together with other measures."

The foreign ministers of the five permanent members of the U.N. Security Council -- the United States, China, Russia, France and Britain -- plus Germany plan to meet Monday in London in advance of a Feb. 2 emergency session of the board of the U.N. International Atomic Energy Agency.

The United States, France and Britain are pushing for a vote at the IAEA to refer Iran to the Security Council, which can impose sanctions. They fear that Iran is attempting to develop nuclear weapons, and enrichment is a key step in that process. Iranian officials say their nuclear program is solely for the purpose of generating electricity but that Iran has the right to control of the entire nuclear fuel cycle.

The positions of Russia and China on referring Iran to the Security Council remain unclear. Russia, which has expressed doubts about the idea, is helping Iran build a nuclear power plant. Iran is a major supplier of energy to China, which needs power for its rapid industrialization.

Deputy Secretary of State Robert B. Zoellick said Wednesday in Beijing that he told Chinese Premier Wen Jiabao that it would be "extremely dangerous" to allow the proliferation of nuclear weapons in the Middle East and that it would damage China's interest in energy security. Larijani is scheduled to arrive in China for talks Thursday.

Larijani said Wednesday that if the Feb. 2 meeting referred Iran to the Security Council, the country would begin enrichment. "In this case," he said, "our activities will not be limited to research and we'll begin industrial enrichment of uranium."

Some Western officials fear that the Iranians are appearing to consider the Russian offer in order to buy time and prevent any Russian vote to send the matter to the council.

Iran Open To Nuclear Venture With Russia (NYT)

By Steven Lee Myers

The New York Times, January 26, 2006

MOSCOW, Jan. 25 — Iran's top nuclear negotiator, Ali Larijani, said here today that he welcomed a Russian proposal to defuse the confrontation between Iran and the West over its nuclear programs by establishing a joint venture to enrich uranium in Russia. But he indicated that no agreement had been reached and that significant details remained to be negotiated.

"Our attitude to the proposal is positive," Mr. Larijani, the secretary of the Supreme National Security Council, said after meeting with his Russian counterpart, Igor S. Ivanov, Russian news agencies reported. "We tried to bring the positions of the two sides closer."

At the same time, he warned that Iran would begin enriching uranium on an industrial scale if Iran's nuclear program was referred to the United Nations Security Council. His remarks came a day after he and Mr. Ivanov said the confrontation should be resolved at the International Atomic Energy Agency, whose governors are to meet next week.

Although the Russian proposal has been seen as a possible compromise, Mr. Larijani's remarks made it clear that further discussions on it would not take place until later in February, after the meeting at the atomic energy agency's headquarters in Vienna.

Russia has publicized few details of the proposal, including whether Iran's involvement in a joint venture would simply be financial or whether it would be scientific as well. Russia had previously offered to produce uranium for a nuclear power plant it is building in Iran on condition that the spent fuel be returned to Russia for reprocessing.

"The big issue for the Russians will be how much the Iranians demand technical access to the processes," said Rose Gottemoeller, director of the Moscow Carnegie Center and a former nonproliferation official during the Clinton administration.

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President Vladimir V. Putin of Russia expanded on the idea of a joint enrichment facility today by expressing support for establishing an international center for providing nuclear fuel to nations that seek to develop civilian nuclear power plants. He said that Russia "was prepared to set up an international center of this kind on its territory."

The idea of international enrichment centers, which has been endorsed by the atomic energy agency's director general, Mohamed ElBaradei, and others, would be to provide fuel under strict international supervision, negating the need for countries to develop their own enrichment capabilities and lowering the risk that civilian work could be used to support weapons programs.

Mr. Putin said that he would make the proposal a part of negotiations with leaders of the Group of Eight industrial nations later this year.

"Further development of peaceful uses of nuclear energy ranks among our priorities," he said, Interfax reported, at a meeting in St. Petersburg with leaders of former Soviet republics.

Iran Wants More Work On Nuke Deal (AJC/AP)

By Steve Gutterman, Associated Press Writer

The Atlanta Journal-Constitution, January 26, 2006

MOSCOW — Iran's top nuclear negotiator said Wednesday that a Russian proposal to enrich uranium for the Islamic republic needs more work, and renewed a threat that, if the issue is referred to the U.N. Security Council, Tehran will forge ahead with technology that can make nuclear arms.

Ali Larijani's comments came amid quickening diplomatic negotiations ahead of a crucial Feb. 2 meeting of the U.N.'s International Atomic Energy Agency, which could refer the issue to the Security Council. The 15-member council has the power to impose sanctions on Iran.

Larijani suggested it would take time to work out details of Russia's proposal — a Western-backed compromise that could provide more oversight and ease fears that Tehran is using its pursuit of atomic power as a front for a nuclear weapons program.

In Washington, President Bush said Russia's proposal offered the best chance for resolving the impasse, adding "it's important for us to exhaust all diplomacy" in dealing with Iran.

If such efforts do not work, Bush said, "clearly, there's a set of different options available through the Security Council, and now we're working with our friends to review those options." He made his remarks in an interview with The Wall Street Journal.

Iran, which insists its program is peaceful, has welcomed Moscow's suggestion that uranium could be enriched in Russia, then returned to Iran for use in the country's reactors. But haggling has continued over the specifics.

Uranium enrichment can produce fuel for nuclear reactors to generate electricity or, if sufficiently processed, the material for nuclear warheads.

"Our view of this offer is positive, and we tried to bring the positions of the sides closer," Larijani told reporters Wednesday, a day after talks with Russian security council chief Igor Ivanov. "This plan can be perfected in the future, during further talks that will be held in February."

"There are lots of details surrounding this offer that must be must be decided — the location of the plant, the form of participation, technical cooperation," Larijani said.

Speaking to Iranian state television after returning to Tehran, Larijani said the "minds of Iran and Russia are getting closer" but more effort was needed.

Russian officials have said further talks on the proposal would be held in Russia around Feb. 16 — two weeks after the emergency IAEA board meeting in Vienna, Austria.

Larijani also said Tehran would welcome talks with European countries — though an Iranian proposal to renew talks with the European Union was recently rejected.

State television quoted Larijani as saying Iran was ready to negotiate with all countries except Israel. Iranian officials normally reject negotiations with both Israel and the United States and it was not clear whether his comments signaled a shift in position.

Larijani reiterated that any attempt to refer Iran to the Security Council would lead the country to move forward with a full-scale uranium enrichment program.

"If they use political pressure, if our dossier is handed over or opened in an unofficial way by the Security Council, then according to a parliament decision we are obligated to revoke the fulfillment of all moratoriums," he said. "In this situation, our actions will not be limited to research. Then we will begin industrial enrichment."

He said Tehran also would be obliged to forsake a 2003 agreement with the IAEA that gave the agency more power to inspect Iranian nuclear sites and warned of unspecified additional actions to be revealed "in due time."

Iran removed IAEA seals from equipment Jan. 10, ending a 15-month moratorium, and announced it would restart research on nuclear fuel including what it described as small-scale enrichment.

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European countries believe they will have enough votes at the emergency IAEA board session next week to haul Iran before the Security Council — a move also favored by the United States — but they want broad support, especially from Russia and China. Moscow and Beijing, which have close commercial ties with Iran and wield veto power in the Security Council, are not eager to see the issue come before the powerful U.N. body.

The issue also was expected to come up Monday on the sidelines of a donors conference on Afghanistan in London, with the State Department saying Secretary of State Condoleezza Rice would use the forum to discuss Iran's nuclear program with key nations.

In Vienna, a diplomat accredited to the IAEA — who demanded anonymity because he is not authorized to discuss the planned meeting with the media — said Washington and the Europeans would use the meeting to try to persuade reluctant Russia and China to support referral.

Larijani, meanwhile, was expected to meet with top Chinese officials in Beijing Thursday.

On Wednesday, U.S. Deputy Secretary of State Robert Zoellick said he had warned Chinese officials that allowing Iran to develop nuclear weapons could threaten Beijing's crucial supplies of Middle Eastern oil.

The Russian enrichment plan presents President Vladimir Putin with an opportunity to please the West without sacrificing ties with Iran. Russia is building a reactor for Iran's first nuclear power plant.

Putin called for the creation of an international system of facilities to provide enrichment and other nuclear-cycle services to nations that want nuclear power. In televised comments Wednesday, he said Russia could establish the prototype facility on its territory.

Iran, Russia Fail To Reach Deal On Uranium Enrichment (WSJ/AP)

The Wall Street Journal, January 26, 2006

MOSCOW -- Iran's top nuclear negotiator said Wednesday that Tehran saw Moscow's offer to have Iran's uranium enriched in Russia as a positive development but no agreement has been reached.

Chief negotiator Ali Larijani also reiterated Iran's threat to renew enrichment activities if it is referred to the United Nations Security Council.

After talks with Russian Security Council Chief Igor Ivanov, which included discussion of the plan to enrich uranium in Russia, Mr. Larijani told a news conference: "Our view of this offer is positive, and we tried to bring the positions of the sides closer." He added, "This plan can be perfected in the future, during further talks that will be held in February," speaking through a translator.

Mr. Larijani suggested that it would take some time to work out details of Russia's proposal. Some critics allege that the Iranians are using the proposal to stall for time as diplomatic pressure on Tehran mounts over its alleged nuclear-weapons program. "There are lots of details surrounding this offer that must be examined," Mr. Larijani said.

On Tuesday, Mr. Larijani and Mr. Ivanov said in a joint statement that Tehran's nuclear standoff must be resolved through the U.N. atomic watchdog agency's diplomatic efforts. The statement reflected Russia's efforts to delay Iran's referral to the U.N. Security Council and Moscow's opposition to international sanctions against Tehran.

"Both sides expressed their desire to solve the issue in a diplomatic way within the framework of the International Atomic Energy Agency," Russia's Security Council said after the two met.

Iran has warned that IAEA referral to the U.N. Security Council over its nuclear ambitions would lead it to move forward with a full-scale uranium-enrichment program, a possible precursor to making atomic weapons.

High-level diplomacy has intensified with little more than a week to go until the Feb. 2 meeting of the IAEA's 35-nation board.

Prior to that session, U.S. Secretary of State Condoleezza Rice will attend an international conference in London on Jan. 31 focusing on Afghanistan, but department spokesman Sean McCormack said Ms. Rice is expected to use the meeting to have discussions with key nations on Iran's nuclear program.

The New York Times reported the foreign ministers of the five permanent members of the U.N. Security Council -- Britain, France, Russia and China, in addition to the U.S. -- as well as Germany would attend the meeting.

Moscow has proposed having Iran's uranium enriched in Russia, then returned to Iran for use in the country's reactors -- a compromise that could provide more oversight and ease tensions. Haggling has continued over the specifics of the proposal, including Tehran's proposal to have China involved in the Russian enrichment process.

British Foreign Secretary Jack Straw urged Tehran on Tuesday to seriously consider Russia's offer to enrich Iran's uranium in an effort to end the standoff. Mr. Straw also said in an interview with the Associated Press that he hoped the IAEA would refer the matter to the Security Council.

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The West fears Iran wants to develop a nuclear bomb, but Tehran says its intentions are peaceful and that it wants only civilian nuclear energy. Iran removed IAEA seals from equipment Jan. 10, ending a 15-month moratorium, and announced it would restart experiments including what it described as small-scale enrichment. The move led lead negotiators Germany, Britain and France to call for the Feb. 2 emergency board session.

European countries believe they have enough votes to haul Iran before the Security Council, but they want broad support including Russia, China and key developing nations.

In Washington, Ms. Rice said that "referral absolutely has to be made" on Feb. 2, while remaining vague on what action she thought the Security Council should take, and when.

Tehran Holds Up Russian Nuke Deal (WT/AP)

By Steve Gutterman

The Washington Times, January 26, 2006

MOSCOW -- Iran's top nuclear negotiator said yesterday that a Russian proposal to enrich uranium for the Islamic republic needs more work and renewed a threat that Tehran will forge ahead with the technology that can make nuclear arms if the issue is referred to the U.N. Security Council.

Ali Larijani's comments came amid quickening diplomatic negotiations ahead of a crucial meeting next Thursday of the International Atomic Energy Agency (IAEA), the U.N. nuclear watchdog that could refer the issue to the 15-nation council, which could impose sanctions.

Mr. Larijani suggested that it would take time to work out details of Russia's proposal -- a Western-backed compromise that could provide more oversight and ease fears that Tehran is pursuing a nuclear weapons program.

Iran has welcomed Moscow's proposal that uranium could be enriched in Russia, then returned to Iran for use in the country's reactors. But haggling has continued over the specifics.

"Our view of this offer is positive, and we tried to bring the positions of the sides closer," Mr. Larijani told reporters yesterday, a day after talks with Russian security council chief Igor Ivanov. "This plan can be perfected in the future, during further talks that will be held in February."

Russian officials have said further talks on the proposal would be held in Russia around Feb. 16 -- two weeks after the emergency IAEA board meeting in Vienna, Austria.

Hans Blix, a former IAEA director and chief U.N. weapons inspector in Iraq, said yesterday that Tehran could be offered a package of incentives to wean it away from a nuclear program.

Mr. Blix, chairman of the Weapons of Mass Destruction Commission in Sweden, said the package could be similar to that offered to North Korea, with a focus on security.

"We promised not to attack North Korea, and we opened diplomatic relations," Mr. Blix said in an address to the Arms Control Association in Washington. "If it's done for North Korea, I don't see why it couldn't be done for Iran."

Mr. Larijani said Tehran would welcome talks with European countries. But he reiterated that any attempt to refer Iran to the Security Council would lead the country to move forward with a full-scale uranium-enrichment program.

"If they use political pressure, if our dossier is handed over or opened in an unofficial way by the Security Council, then according to a parliament decision, we are obligated to revoke the fulfillment of all moratoriums," he said. "In this situation, our actions will not be limited to research. Then we will begin industrial enrichment."

European countries think they will have enough votes at the IAEA board session next week to haul Iran before the Security Council, but Russia and China, which have close commercial ties with Iran.

Iran Welcomes Russia's Offer To Enrich Uranium Jointly; Details Remain (NYT)

By Steven Lee Myers

The New York Times, January 26, 2006

MOSCOW, Jan. 25 — Iran's top nuclear negotiator, Ali Larijani, said here on Wednesday that he welcomed a Russian proposal to defuse the confrontation between Iran and the West over its nuclear programs by establishing a joint venture to enrich uranium in Russia. But he indicated that no agreement had been reached and that significant details remained to be negotiated.

"Our attitude to the proposal is positive," Mr. Larijani, the secretary of the Supreme National Security Council, said after meeting with his Russian counterpart, Igor S. Ivanov, Russian news agencies reported. "We tried to bring the positions of the two sides closer."

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At the same time, he warned that Iran would begin enriching uranium on an industrial scale if its nuclear program was referred to the United Nations Security Council. His remarks came a day after Mr. Larijani and Mr. Ivanov said the confrontation should be resolved at the International Atomic Energy Agency, whose governors are scheduled to meet next week.

Although the Russian proposal has been seen as a possible compromise, Mr. Larijani's remarks made it clear that further discussions of it would not take place until later in February, after the meeting at the atomic energy agency's headquarters in Vienna.

Russia has publicized few details of the proposal. It has not addressed, for example, whether Iran's involvement in a joint venture would simply be financial or whether it would be scientific as well. Russia had previously offered to produce uranium for a nuclear power plant it is building in Iran on condition that the spent fuel be returned to Russia for reprocessing.

"The big issue for the Russians will be how much the Iranians demand technical access to the processes," said Rose Gottemoeller, director of the Moscow Carnegie Center and a former nonproliferation official during the Clinton administration.

Iran's Stonewalling At Heart Of Crisis (KRT)

By Jonathan S. Landay

Knight Ridder, January 26, 2006

WASHINGTON - U.N. International Atomic Energy Agency inspectors were anxious to learn if the military-run physics research center on the edge of Tehran was part of the uranium enrichment program that Iran had admitted hiding for 18 years.

But wrecking crews got in first.

Even as the inspectors waited in late 2003 for permission to enter, the top-secret Lavizan-Shian Technical Research Center was bulldozed flat and the tons of rubble and earth trucked into the desert and scattered, obliterating evidence that the IAEA had hoped to gather.

Iran's failure since then to fully explain activities at the site and its obfuscation, conflicting answers and stonewalling on other aspects of the enrichment program are at the heart of the crisis over its nuclear program.

The IAEA has been trying to determine whether Iran is developing nuclear arms behind the facade of a civilian nuclear project. Iran claims it has no weapons program.

Only by reconstructing the complete history and extent of Iran's nuclear work can the IAEA determine the truth. So far, that's been impossible.

"Even after three years (of investigation), I am not yet in a position to make a judgment on the peaceful nature of the program," IAEA Director General Mohamed ElBaradei lamented earlier this month to Newsweek magazine.

The dispute became a full-blown crisis on Jan. 10 when Iran ended a 26-month freeze on work on uranium enrichment, a method that produces fuel for both civilian power plants and warheads, depending on the duration of the process.

Iran claims the right to enrichment for peaceful purposes as a signer of the Non-Proliferation Treaty, the key international safeguard against the spread of nuclear arms.

But the IAEA board of governors in September declared Tehran in breach of its treaty obligations to disclose all aspects of its program to the IAEA. This includes complete information on Iran's deals with the Pakistani-led smuggling ring that also supplied the know-how and technology to develop nuclear weapons to Libya.

The United States, Britain, France and Germany are pushing to have the IAEA board ask the U.N. Security Council to step up pressure on Iran to answer the IAEA's questions.

In October 2003, Iran gave the IAEA what it declared was a full accounting of its nuclear program. Agency experts quickly began finding holes.

Iran has filled some gaps and is promising to fill the rest. But in a Nov. 18 report to the IAEA board, ElBaradei complained that "there still remain issues to be resolved" and Iran's "full transparency is ... long overdue."

The agency's most pressing questions concern Iran's work on the equipment used to enrich uranium, whether it got blueprints for a Chinese nuclear weapon, and more about what was going on at the razed Lavizan-Shian research center.

Here's what Iran has done in each of these areas and why the IAEA is concerned:

CENTRIFUGES: These are devices that are linked together in the thousands to separate uranium 235, the isotope used to fuel power plants and weapons, from uranium hexafluoride gas.

Tehran asserts that it's working only on the P1, an older centrifuge whose design it admitted buying as part of a 1987 deal with the smuggling network led by A.Q. Khan, the father of Pakistan's nuclear arsenal.

But IAEA experts who studied materials and documents that the Khan ring supplied to Libya concluded that, like Libya, Iran also received the design of the P2, a device twice as efficient as the P1.

Confronted by the IAEA, Iran admitted omitting from its 2003 declaration a 1995 purchase of P2 blueprints from the Khan network.

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Iranian officials insisted that they did nothing with the blueprints until they were given to an engineering firm for limited research in 2002.

When IAEA inspectors visited the firm, they discovered that it had fabricated a P2 component from a specialized metal, maraging steel. They later determined that the firm had ties to the Iranian military.

Iran has dragged its feet on providing additional data on its P2 work.

"We have a deep and wide body of intelligence that Iran has a parallel clandestine centrifuge program, but we have never been able to get coordinates," said a U.S. official, who requested anonymity because of the sensitivity of the issue. "We assume it is a P2 capacity they are focusing on."

Those suspicions grew after Iran told the IAEA that it broke the seals on a stock of maraging steel when it resumed enrichment work at Natanz, a key research facility, he said.

While the metal has limited applications in the P1 program centered at Natanz, "it is basically a necessity in the P2," said the U.S. official.

U.S. experts, he said, believe that Iranian officials may have resumed work at Natanz so they could use P1 machines to investigate and resolve technical hurdles in the suspected P2 program.

"It doesn't seem credible that they got P2 design information and it sat on a shelf," said Corey Hinderstein of the Institute for Science and International Security, a private research group that monitors the Iranian program.

Another unanswered question related to the P2 work "is the level of the involvement of military or military organs," she said.

OTHER KHAN RING DOCUMENTS: The IAEA has outstanding questions about the 1987 deal in which Iran admitted purchasing P1 blueprints and components and related documents from the Khan ring.

ElBaradei revealed in November that one document Iran provided contained specifications for casting and milling enriched uranium metal into hemispheres - which have no application in civilian power plants, but form the explosive core of nuclear warheads.

Iran said it didn't ask for the document and did nothing with it.

But an official close to the IAEA, who asked not to be identified further, said the issue is a serious one and agency investigators are interviewing former members of the Khan network to assess Iran's claim.

Another pressing question is whether Iran bought blueprints for a Chinese-designed nuclear warhead in 1987 from the Khan ring.

Documents provided to Iran by the Khan network were identical to papers that Khan sold to Libya, which received a Chinese nuclear warhead design.

"This is a fairly new concern that opens up a new avenue of investigation ... that Iran is blocking," said the U.S. official. "This to us is one of the key indicators of weapons intent by Iran."

WARHEAD RESEARCH: The IAEA opened an inquiry earlier this month into whether Iran has been secretly developing a nuclear warhead for its medium-range missiles.

The official close to the agency said that the Bush administration has turned over to the agency thousands of pages of computer simulations and studies that appeared to indicate that Iranian missile experts have been working on such a program.

The data came from a laptop computer obtained by U.S. intelligence officials in 2004 reportedly from a source in Iran, the official said.

Iranian officials deny that such materials exist.

THE BULLDOZED PLANT: The IAEA also is still investigating activities that took place at the Lavizan-Shian site.

Iran told the agency that research there involved the treatment of casualties of a nuclear attack and that the Tehran municipal government razed the facility after it prevailed over the military in an ownership dispute.

Environmental samples taken by IAEA inspectors when they were finally allowed into the site last summer found no traces of radioactivity.

Iran has been refusing to allow agency experts to interview senior officers who ran the center or to inspect equipment removed from it that had both civilian purposes and applications for centrifuge development.

"The IAEA has hard evidence of dual-use equipment ordered for Lavizan that almost certainly was used in a centrifuge research and development program," said the U.S. official.

US Moves To Delink Indian Nuclear Deal With Iran Vote (AFP)

AFP, January 26, 2006

Washington moved to unlink a landmark US-India civilian nuclear deal with how New Delhi votes on the Iranian nuclear question at a key meeting of the UN atomic watchdog agency.

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"Well, we deal with the Indian Government on these two issues as separate issues," State Department spokesman Sean McCormack told reporters on Wednesday. "Certainly, they come up in the same conversations, I'll tell you that," he said.

US Ambassador to India David Mulford had warned Wednesday that a historic deal giving American nuclear technology to India might fall through if New Delhi did not vote against Iran at the February 2-3 meeting of the International Atomic Energy Agency (IAEA).

The West wants to refer Iran to the UN Security Council amid concerns over its nuclear program heightened earlier this month when Tehran announced it was suspending a voluntary moratorium and resuming sensitive nuclear research work.

Western countries suspect Iran wants to build nuclear weapons under the guise of a civilian nuclear power program, a charge Tehran denies.

Mulford had said that a prospective deal for the United States to transfer civilian nuclear technology to India would "die" in the US Congress if India voted against a resolution on Iran.

If India decides not to back the resolution, "the effect on members of the US Congress with regard to (India-US) civil nuclear initiative will be devastating," Mulford told the Press Trust of India (PTI) news agency.

India, which carried out a string of nuclear tests in 1998 and declared itself to be a nuclear-armed state, bristled at Mulford's comments, saying New Delhi would be guided by its own national interest.

McCormack said Washington encouraged the Indian Government to vote for Iran's referral to the UN Security Council but "ultimately, that is going to be their decision."

But he recalled that last September, India voted along with the United States when Iran came up before the global atomic agency, a part of the United Nations.

Under the Indo-US nuclear deal, signed by US President George W. Bush and Indian Prime Minister Manmohan Singh last July, India would get advanced nuclear technology which it has been denied for 30 years for conducting nuclear tests and refusing to sign on to the nuclear Non-Proliferation Treaty (NPT).

For the deal to be approved, the United States wants India to separate its civilian and military nuclear programs under a plan that would place its civilian nuclear reactors under IAEA inspection.

Mulford said Washington felt the ideas put forth by India on nuclear programme separation had not met the "test of credibility".

US Says India Nuclear Deal May Depend On Iran Vote (WP/REU)

By Reuters

The Washington Post, January 26, 2006

NEW DELHI (Reuters) - The United States said on Wednesday a nuclear cooperation deal with India may stall unless New Delhi votes against Iran next month at the U.N. nuclear energy watchdog.

The International Atomic Energy Agency (IAEA) meets on February 2 to discuss whether to refer Iran to the U.N. Security Council over a nuclear program the West says is aimed at developing weapons, which Tehran denies.

The U.S. ambassador to India, David Mulford, told the Press Trust of India news agency that if India decided not to vote against Iran, "the effect on members of the U.S. Congress with regard to the civil nuclear initiative will be devastating."

The agency quoted Mulford as saying the deal would "die," but the government said it would vote based on its "own independent judgment."

U.N. chief Kofi Annan said on Wednesday the IAEA was unlikely to decide at that meeting what to do about Iran.

U.S. President George Bush and Indian Prime Minister Manmohan Singh agreed in July an accord on civil nuclear energy that would reverse a nearly 30-year-old ban on atomic cooperation with New Delhi, which has tested nuclear arms.

The deal has yet to be fully worked out, especially the key requirement of a separation plan for India's civil and military nuclear facilities, and must then pass a final test in the U.S. Congress and be agreed by the 44-nation Nuclear Suppliers Group.

India surprised its historic ally Iran in September by siding with the West when the IAEA declared Iran had failed to comply with its international obligations.

Its role at next week's IAEA meeting is being keenly watched.

"The position India will take on this issue at the IAEA will be based on India's own independent judgment," the Foreign Ministry said in a statement.

"We categorically reject any attempt to link this to the proposed India-U.S. agreement on civil nuclear energy cooperation."

The first sign of trouble with the deal came last week when after talks with Indian officials U.S. Undersecretary of State Nicholas Burns said there were "difficulties" in finalizing it but that he remained hopeful.

The two sides were hoping to finish the pact before Bush visits the subcontinent in March.

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U.S. Envoy Says India Nuke Deal Could Die (AP)

By Matthew Rosenberg

AP, January 26, 2006

The U.S. ambassador to India said Wednesday that a nuclear deal between India and the United States could "die" if New Delhi supports Iran during a U.N. atomic watchdog agency meeting. The State Department said the envoy was speaking for himself.

A week before the International Atomic Energy Agency meets to discuss Iran's nuclear program, Ambassador David Mulford said that if India does not vote to refer Tehran to the U.N. Security Council, it would be "devastating" to the deal currently before the U.S. Congress.

"I think the Congress will simply stop considering the matter," Mulford told the Press Trust of India news agency.

The deal, seen as a cornerstone of the emerging alliance between India and the United States, "will die in the Congress," he said.

The U.S. Embassy confirmed that Mulford was accurately quoted. The State Department in Washington said later that Mulford wasn't speaking for the U.S. government.

"The Ambassador was expressing his personal opinions about what the potential political outcome might be. He was giving his personal assessment of how the Congress might react to such an action by India," State Department spokesman Sean McCormack said.

Mulford's frank comments were the first time a senior U.S. official has made a direct link between India's stance on the Iran issue and the nuclear deal.

After Mulford's comments, India reiterated that the two issues should remain separate.

"We categorically reject any attempt to link (Iran) to the proposed Indo-U.S. agreement on civil nuclear energy cooperation, which stands on its own merits," Indian Foreign Ministry spokesman Navtej Sarna said in a statement.

"The position that India will take on this issue at the IAEA will be based on India's own independent judgment."

Under the deal, Washington is to share civilian nuclear technology and supply nuclear fuel to India in return for New Delhi separating its civilian and military nuclear programs and allowing international inspections of its atomic facilities.

The separation is necessary because the United States has only agreed to recognize India as having a civilian nuclear program — not as a legitimate nuclear weapons state.

The deal was signed in July when Indian Prime Minister Manmohan Singh visited Washington, and marked a major policy shift for the United States, which imposed sanctions on India in 1998 after it conducted nuclear tests. The restrictions have been lifted.

IAEA referral of Iran to the Security Council could lead to economic and political sanctions against Tehran, which the United States and European powers fear could use its nuclear program to develop weapons. Tehran insists its program is for generating electricity.

European countries believe they have enough votes at the IAEA, which will hold an emergency board session on Feb. 2, to haul Iran before the Security Council. But they are seeking support from Russia, China and key developing nations, such as India.

New Delhi voted in September with the U.S. and European powers on an earlier IAEA resolution that could have led to Iran's referral to the council.

But the Indian government faced fierce domestic criticism over the move from its left-wing political allies, who accused it of selling out a longtime ally to curry favor with Washington. New Delhi has, in recent weeks, appeared hesitant to repeat the vote, instead urging negotiations with Tehran.

India, which has few domestic sources of fuel, also plans to build a 1,750-mile gas pipeline from Iran through Pakistan, a project that has raised concerns in Washington.

"We have made it known to (India) that we would very much like India's support because India has arrived on the world stage and is a very important player in the world," Mulford said.

Iran, Russia Closer To Uranium Deal (REU)

By Parisa Hafezi

Reuters, January 26, 2006

TEHRAN (Reuters) - Iran again threatened on Wednesday to start full-scale uranium enrichment if reported to the U.N. Security Council, while signalling interest in a Russian proposal aimed at calming its nuclear row with the West.

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The council's five veto-wielding permanent members plus Germany plan to meet in London on Monday to try to resolve differences over whether to send Iran to the council at a crisis meeting of the U.N. nuclear watchdog on February 2, diplomats said.

They said foreign ministers of Britain, China, France, Russia, the United States and Germany would seek a consensus before the 35-nation board of the International Atomic Energy Agency (IAEA) gathers in Vienna to weigh what to do about Iran.

The United States and its European Union allies say it is time for the IAEA to turn Iran's nuclear dossier over to the Security Council. China and Russia have urged caution.

U.S. ambassador to India, David Mulford, suggested to the Press Trust of India news agency that a nuclear cooperation deal with India could collapse unless New Delhi voted against Iran next month at the IAEA. So far India has been non-committal.

But U.S. State Department spokesman Sean McCormack said how India voted was solely a decision for the Indian government.

"We deal with the Indian government on these two issues as separate issues," he said of the Iran vote and the U.S.-Indian nuclear agreement sealed last July.

U.N. Secretary-General Kofi Annan said he doubted any decision on referral could be reached at the February 2 meeting.

Iranian Foreign Minister Manouchehr Mottaki said his country would immediately halt voluntary dealings with the IAEA, which include snap checks on its atomic sites, if sent to the council.

Iran, going beyond its Non-Proliferation Treaty obligations, allows impromptu inspections by the U.N. nuclear watchdog.

Mottaki urged the Britain, France and Germany to renew talks they halted this month when Iran removed U.N. seals on uranium enrichment equipment and resumed nuclear fuel research.

RUSSIAN PROPOSAL

Iran's top nuclear negotiator Ali Larijani said after talks in Moscow he was positive about the idea of setting up a joint venture with Russia to purify uranium on Russian soil.

He said the plan could be "perfected" at talks in Moscow set for February 16 -- two weeks after the IAEA board meeting.

The proposal aims to prevent Iran gaining technology that could be used for military purposes. Iran says it does not want atomic bombs, but has the right to enrich uranium at home.

Foreign Secretary Jack Straw reiterated that the Russian proposal was welcome if it enabled Iran to receive nuclear fuel that was processed safely outside its borders.

"That may provide a solution," he told a news conference in Cyprus. "But what the world is also looking for is for Iran to stop the beginnings of running its centrifuges. That's essential if it is to avoid reference to the Security Council."

Annan said it was encouraging to hear the Iranians say they were considering the Russian offer seriously. "It is a solution that the international community is ready to accept," he told Reuters on the sidelines of the World Economic Forum in Davos.

He said he was not sure any decision on referring Iran to the council could be taken before the IAEA board gets a report that the agency's chief Mohamed ElBaradei aims to deliver at the end of February for a regular board meeting in March.

ElBaradei has already rejected Western pressure to provide a full report for the emergency meeting.

IAEA safeguards investigators led by deputy agency director general Olli Heinonen flew to Tehran on Tuesday to try to get Iran to reveal more about its past nuclear activities.

Larijani, who begins a visit to China on Thursday, warned that referral would prompt Iran to begin large-scale enrichment.

Mottaki said there was no way Iran would suspend its atomic fuel research programme, a step the EU trio has made a condition for any renewal of talks that began in 2003.

Russia and China are reluctant to see Iran hauled before the council, which has the power to impose sanctions, and do not back a draft EU resolution asking the IAEA for referral.

An EU diplomat said Moscow wanted the IAEA only to "inform" the council about Iran. He said China had told the EU it had its own proposal, but had not submitted it in writing.

(Additional reporting by Mark Heinrich in Vienna, Oliver Bullough in Moscow and Madeline Chambers in London)

Annan Doubts West Can Make Iran Decision In Feb (REU)

By Evelyn Leopold

Reuters, January 26, 2006

DAVOS, Switzerland, Jan 25 (Reuters) - U.N. chief Kofi Annan said on Wednesday he doubted that a U.N. nuclear watchdog would be able to come to a decision by early February on referring Iran to the Security Council over its nuclear programme.

Annan told Reuters that Mohamed ElBaradei, the director-general of the Vienna-based International Atomic Energy Agency, did not expect to have a report on Iran ready until the end of February, for the IAEA's regular board meeting in March.

"I am not sure that they will be ready to refer (Iran) to the Security Council if the official report of the board has not been released and deliberated upon by the board and a decision taken," Annan said on the sidelines of the World Economic Forum.

The IAEA is scheduled to discuss the crisis on Feb. 2.

The United States and its European Union allies say it is time for the IAEA to turn Iran's nuclear dossier over to the Security Council. Russia and China are urging caution.

The United States, Britain, France, Russia and China, the five veto-wielding powers of the 15-member Security Council, plus Germany plan to meet in London on Monday to try to resolve differences over whether to send Iran to the council. Both Russia and China to date have opposed a formal referral.

Annan said he was encouraged by comments from Iran's top nuclear negotiator Ali Larijani, who said after talks in Moscow, he was positive about the idea of setting up a joint venture with Russia to purify uranium on Russian soil.

Larijani said the plan could be "perfected" during talks in Moscow scheduled for Feb. 16 -- two weeks after the IAEA board meeting.

Annan previously appealed to Iran to scrap its decision to stop nuclear research and return to negotiations with France, Britain and Germany. He has said a Security Council referral, which could lead to sanctions, should be a last resort.

On Wednesday, he said: "As you know, I have appealed to the Iranians not to escalate, maintain the situation as it is today in order to create the right environment and confidence that negotiations are serious and lead to concrete results that would be mutually acceptable.

"It is also encouraging to hear the Iranians say they are considering the Russian offer very seriously. It is a solution that the international community is ready to accept."

Iranians Accuse British Military Of Aiding Bombers (WP/REU)

By Reuters

The Washington Post, January 26, 2006

TEHRAN, Jan. 25 -- Iran accused the British military on Wednesday of cooperating with bombers who killed eight people in southwest Iran, an allegation Britain described as ludicrous.

A little-known group campaigning for independence for Iran's Arab minority asserted responsibility in a Web statement for Tuesday's attacks on a bank and government building in the oil city of Ahvaz.

Foreign Minister Manouchehr Mottaki said that London's involvement was clear and that Tehran would make strong protests. He said the attackers "enjoy the cooperation of British army commanders and use their facilities in Basra," the oil city in southern Iraq.

A spokesman in British Prime Minister Tony Blair's office said Iran's allegation "deserves to be treated with scorn by the whole international community."

U.N. Council Backs Monitors In Lebanon (REU)

By Reuters

Reuters, January 26, 2006

UNITED NATIONS, Jan. 25 — (Reuters) — The members of the United Nations Security Council have agreed that United Nations peacekeepers should keep monitoring the Israeli-Lebanese border for six more months, the current Council president said on Wednesday.

Lebanon had asked for a renewal of the mandate of the United Nations' peacekeeping mission for the border area for a year, until Jan. 31, 2007.

But the 15 Security Council members instead reached a consensus on an extension until July 31, said Augustine Mahiga, the United Nations ambassador from Tanzania, which holds the Council presidency for January.

The mandate of the 2,000-member United Nations Interim Force in Lebanon will expire on Jan. 31 unless renewed by the Council. A vote on a resolution prolonging the mission is expected on Monday or Tuesday, Council diplomats said.

While the mission has been in place since March 1978, a draft resolution circulated by France on Wednesday would emphasize "the interim nature" of the mission and emphasize that the Council was "looking forward to the early fulfillment of its mandate."

The draft would also urge Israel and Lebanon to put an end to violations of their shared border and would renew appeals to Lebanon's government to extend its authority across the south, to prevent attacks on Israel from its side of the border.

The Security Council and the United Nations secretary general, Kofi Annan, have regularly pressed the Lebanese government to assert control over the south since Israel pulled out of the region in May 2000, ending 22 years of occupation.

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The militant group Hezbollah dominates the southern part of the country, profiting from a power vacuum there. Hezbollah guerrillas have sporadically clashed with Israeli forces.

The Council and Mr. Annan have been urging the Lebanese government to disarm Hezbollah, in line with a September 2004 Council resolution demanding that all foreign militias on Lebanese soil be disbanded.

But Hezbollah has refused to disarm, and last year it joined the Lebanese government after its candidates did well in June parliamentary elections.

White House Slams Mexico For Aid Maps (WT)

By Nicholas Kralev And Jerry Seper, The Washington Times

The Washington Times, January 26, 2006

The Bush administration yesterday accused the Mexican government of facilitating illegal entry into the United States after Mexican officials said they would distribute maps of dangerous border areas and posters with safety instructions and other tips.

Mexico's National Human Rights Commission (NHRC) said the maps, which would provide details of the terrain, cell-phone coverage and water stations set up by the U.S. charity Humane Borders, would help to save lives.

"We oppose in the strongest terms the publication of maps to aid those who wish to enter the United States illegally," said Homeland Security Secretary Michael Chertoff. "It is a bad idea to encourage migrants to undertake this highly dangerous and ultimately futile effort.

"This effort will entice more people to cross, leading to more migrant deaths and the further enrichment of the criminal human trafficking rings that prey on the suffering of others," he said.

State Department spokesman Sean McCormack said the United States would "take whatever steps it deems necessary to protect its own borders."

"No government, including the government of Mexico, should facilitate or encourage its citizens to try to enter the United States outside established legal procedures," he said.

Rafael Laveaga, spokesman for the Mexican Embassy in Washington, said the NHRC is an independent body and receives no government funds. He said the commission is working with Humane Borders in distributing the maps.

Hundreds of Mexicans die every year while crossing the southern U.S. border illegally in search of a better life in the United States. They sometimes walk in temperatures that exceed 110 degrees.

The NHRC said it would distribute about 70,000 posters beginning in March, mostly in border towns and villages, as well as bars and restaurants frequented by emigrants.

The commission also said the posters show the estimated time it takes to walk or drive to nearby cities, note with red dots where migrants have died in the past and mark the location of water stations and emergency beacons set up by U.S. authorities.

"This is going to give people a false sense of security," said Shannon Stevens, a spokeswoman for the U.S. Border Patrol in Tucson, Ariz. "This is going to give them the idea that they are better educated so they can cross the border easier."

But Mexican officials disagreed, saying that illegal border crossing by thousands of people each year is a fact of life and that they are simply trying to prevent tragedies.

"Without a doubt, these maps will enable many lives to be saved," Mauricio Farah, an inspector with the NHRC said in Mexico City. "We are not trying in any way to encourage or promote migration. The only thing we are trying to do is warn them of the risks they face and where to get water, so they don't die."

Mexican officials also said that the posters would warn potential emigrants not to believe promises of an easy journey from smugglers. "Don't Do It," the posters say. "It's Hard. There's Not Enough Water."

At the same time, they advise migrants to travel with someone they trust and bring enough water and food, phone numbers of relatives, identification, and shoes adequate for a long and difficult journey.

Last year, the Mexican government issued a comic-style book as a guide to migrants on how to cross the border and avoid detection. It included "practical advice" on when and where to enter and what to wear and other instructions, including a tip to avoid sending children with strangers.

Illegal migration has become a thorny issue in the U.S.-Mexico relationship.

Mexican President Vicente Fox has called for a "status of regularization" for Mexicans illegally in the United States, which would allow them to remain as long as they were employed. He also has criticized recently approved legislation in the House authorizing the construction of 700 miles of fence on the U.S.-Mexico border and the designation of illegal entry as a felony.

"What is not resolved by intelligent policies and by leaders is resolved by citizens. That is how the Berlin Wall fell and that is how this wall will fall," he told Reuters news agency Tuesday. "I hope it isn't even built because, if it is, it will fall."

Migrants working in the United States are a huge source of revenue for Mexico, sending home an estimated $16 billion a year -- Mexico's second largest source of foreign currency after oil exports.

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The Mexican government has vigorously lobbied U.S. lawmakers and civic leaders for a guest-worker status for millions of illegal aliens in the United States, working through a coalition of U.S.-based immigration rights groups.

Part of the Fox administration's effort to assist Mexican nationals in this country has included a move to adopt the consular or "matricula" identification cards issued to its citizens in the United States. The cards assist Mexican nationals in sending money home.

·This article is based in part on wire service reports.

Sheriff Demands Probe Of Incursions (WT)

By Jerry Seper, The Washington Times

The Washington Times, January 26, 2006

A Texas border sheriff yesterday demanded that the U.S. and Mexican governments investigate incursions into the United States by heavily armed drug escorts dressed in Mexican military uniforms "before someone gets killed."

Zapata County Sheriff Sigifredo Gonzalez Jr., who heads the Texas Sheriff's Border Coalition, said a growing number of suspected incursions and violence aimed at the area's law-enforcement officers is making the border "a pretty dangerous place."

"We have tried everything we know to make the federal government aware of the problems at the border and how they have affected us," said Sheriff Gonzalez, who has fewer than two dozen deputies to patrol 1,000 square miles, including 60 miles of Texas-Mexico border.

"It appears our government is covering this thing up because it just doesn't want to admit there is a problem," he said. "Trade between the United States and Mexico may be more important to Washington than human lives."

His comments come in the wake of an incident Monday in which U.S. law-enforcement authorities in Hudspeth County, Texas, confronted several men in Mexican military uniforms who were accompanying drug smugglers. The "soldiers" were in a camouflaged Humvee with a mounted .50-caliber machine gun, said Hudspeth County Sheriff Arvin West.

Yesterday, Sen. Kay Bailey Hutchison, Texas Republican, said she was "deeply concerned" about the possible incursions and asked Homeland Security Secretary Michael Chertoff to "fully investigate this matter and report to Congress the details and confirm whether or not Mexican military officials were involved.

"But make no mistake -- this is only a symptom of a much larger problem," she said. "Even after September 11, our nation's borders remain porous. We must take bold action in securing our borders."

The Mexican government has denied that the men in any of the incidents were soldiers, saying that some drug smugglers dress in military-style uniforms, carry automatic weapons and drive military-style vehicles.

Sheriff Gonzalez said he could not confirm that the men were soldiers, but said he was skeptical of the denials by the Mexican government. He described the suspected soldiers as "very military looking, clean cut and in good physical condition -- not your average drug smuggler."

"When you spot a Humvee with military paint on it and a .50 caliber machine gun, this leads you to suspect that it's not a vehicle being used by drug lords," Sheriff Gonzalez said.

In Monday's incident, Hudspeth sheriff's deputies pursued three SUVs back to Mexico after spotting them driving north from the Rio Grande. Sheriff West said the pursuit ended on the U.S. side of the border when the deputies -- joined by Texas state troopers -- encountered at least 10 heavily armed men in what he described as battle dress uniforms.

Sheriff West said deputies found 1,400 pounds of marijuana in one of the vehicles abandoned after it blew a tire early in the pursuit. Another made it into Mexico and a third got stuck in the Rio Grande and was burned by the "soldiers" after it was unloaded, said Sheriff West, who is a Border Coalition member.

No shots were fired and no injuries were reported.

U.S. Customs and Border Protection spokeswoman Kristi M. Clemens said the Hudspeth County incident is under investigation and CBP is "coordinating closely" with the federal, state and local authorities. She said the government also has discussed the matter with Mexico and is asking for a thorough investigation and response.

California Republican Reps. David Dreier and Duncan Hunter have asked three House committees and the Department of Homeland Security to investigate suspected incursions by the Mexican military. Sen. Jon Kyl, Arizona Republican, also asked Secretary of State Condoleezza Rice to "initiate an official investigation" and "open a dialogue with Mexico to prevent any future incursions."

In November, Sheriff Gonzalez said Hudspeth deputies chased a dump truck, which also fled and got stuck in the Rio Grande. He said men dressed in uniforms showed up and threatened the deputies with machine guns. He said the men then bulldozed the truck back into Mexico.

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On the border in Zapata County in September, he said, three of his deputies spotted 25 men dressed in military uniforms in the U.S. during a late-night patrol. He said that the men marched two abreast and carried duffel bags and automatic weapons, and that his outmanned and outgunned deputies retreated.

"The only thing you can do in that kind of situation is seek cover," Sheriff Gonzalez said. "I'm not going to lose someone in an unfair fight."

Reports Cite Incursions On U.S. Border (LAT)

By Richard Marosi, Robert J. Lopez And Rich Connell, Times Staff Writers

The Los Angeles Times, January 26, 2006

Armed Mexican government personnel made unauthorized incursions into the United States five times in the last three months of 2005, including one incident last month in Southern California, according to confidential Department of Homeland Security records.

The crossings involved police officers or soldiers in military vehicles and were among 231 such incidents recorded by the U.S. Border Patrol in the last 10 years.

The records obtained by The Times provide new details on more than a dozen incursions into the U.S., including the five most recent ones.

Details of the incidents emerged as authorities on both sides of the border scrambled to investigate a dangerous confrontation Monday in Texas.

Heavily armed personnel in a military-style Humvee from Mexico helped drug smugglers fleeing police to escape back across the border, according to authorities. An internal Border Patrol summary of the incident said the Humvee was equipped with a .50-caliber machine gun.

It was the second such incident in three months in the same rural county southeast of El Paso.

"It's clear you're dealing with a large number of incursions by bona-fide Mexican military units, based on the tactics and the equipment being used," said T.J. Bonner, a Border Patrol veteran and president of the agents union.

Reports of incursions into the U.S. by gun-toting groups of men dressed in what appeared to be military or police uniforms along the Mexican frontier have become a powerful rallying point for advocates of illegal immigration crackdowns and tighter border security.

The incursions have also intensified a long-running debate over the merits of fencing the 2,000-mile Mexican border, now a patchwork of metal barriers, rusted and broken barbed wire and expanses of rugged terrain where the divide is difficult to identify. In Texas, the Rio Grande separates the two nations.

U.S. Border Patrol Chief David V. Aguilar said that incursions by Mexican government personnel were nothing new, and that U.S. agents on occasion have crossed accidentally into Mexico. He noted that incursions have declined by more than 50% since 2002. Still, with assault rates against agents at record highs, any incursion is taken "very seriously."

"These are not taken lightly at any level within the Border Patrol … and it is an ongoing concern," Aguilar said.

U.S. Sen. Jon Kyl (R-Ariz.) said in an interview Wednesday that this week's incident in Texas was "about as serious as it gets" and noted that dozens of reported incursions have occurred in his state.

The encounters seriously undermine efforts to stop the flow of drugs coming across the U.S. border and suggest possible cooperation among Mexican authorities and traffickers, he said.

"You do not want to get into a fight with guys carrying machine guns," said Kyl, chairman of the Senate Judiciary Subcommittee on Terrorism, Technology and Homeland Security.

He has asked the State Department to investigate the incursions and said that he plans to hold a hearing on the issue in March. Rep. Tom Tancredo (R-Colo.), a leading anti-illegal immigration lawmaker, called this week for U.S. troops to be deployed along the border to counter armed incursions.

Mexican officials on Wednesday denied that their police and military have been involved in illicit crossings but said they are investigating Monday's incident.

In recent interviews, local and federal law enforcement officials in south Texas and the San Diego area said a long pattern of encounters with Mexican government units along the border have bolstered suspicions that their counterparts work with smugglers. In Laredo, Texas, authorities said they have repeatedly seen Mexican military units clearing people from brushy areas along the south banks of the Rio Grande shortly before loads of migrants and drugs are brought across.

Several of the incidents described in the Department of Homeland Security reports appeared to involve Mexican officials getting lost or pursuing suspects. For example, five Tijuana police officers pursued two men across the border in 2004. Some of the officers fired at the suspects while on U.S. soil, according to a Border Patrol report. The police returned to Mexico after arresting the men.

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Other encounters were more suspicious and add to concerns among many U.S. law enforcement officials that corruption in Mexico is eroding efforts to gain control of the border and combat trafficking in humans and drugs.

In October, Border Patrol agents in the El Cajon area east of San Diego reported seeing Humvees on the south side of the border fence. Minutes later, they saw two men in Mexican military uniforms carrying rifles in a creek bed north of the border, according to the records. When an agent approached, the two men ran south and drove off in the Humvees. Agents found footprints indicating three or four individuals had come north of the border and then returned.

Other incidents included Mexican helicopters flying north into U.S. airspace near El Paso for about 15 minutes, five Mexican officials armed with assault rifles entering the country near El Centro and returning without incident, and two Mexican police officers observed wandering along the U.S. side of the border near Yuma, Ariz.

Witnesses in El Paso reported in 2004 that a Mexican military-style helicopter landed just south of the border and armed men in federal police uniforms crossed into the U.S. and questioned them about vehicles before returning to Mexico, according to a Border Patrol report.

A spokesman for the Mexican Embassy in Washington, Rafael Laveaga, said Wednesday that he had not seen the report and declined to comment.

He said there have been accidental entries across the border in recent years by both U.S. and Mexican law enforcement personnel. As a result of those incidents, Mexican military units are prohibited from coming within a mile of the U.S. border unless they receive authorization from commanders to pursue criminals, Laveaga said.

Many U.S. law enforcement authorities paint a different picture.

"Every time traffickers come across, the military is close by," said Sheriff Arvin West of Hudspeth County, Texas, where Monday's standoff occurred. He said military crossings occur weekly in his county and are so common that "people don't even report it anymore."

Monday's incident is being investigated by U.S., Texas and Mexican authorities. But initial accounts appear to make it one of the clearest examples yet of either private militia or government troops aiding traffickers.

A confidential Border Patrol summary of the incident said it began when county sheriff's deputies and state troopers tried to stop three vehicles on an interstate highway southeast of El Paso. All three vehicles made a run for the border, the report said.

One vehicle, a black 2006 Cadillac Escalade loaded with nearly 1,500 pounds of marijuana in plastic-wrapped bales, was abandoned near the border, West said.

As deputies approached the river they saw a Mexican military Humvee on the U.S. side, West said. A second vehicle bogged down in ankle-deep water in the Rio Grande, while the other made it back to Mexico.

"The Humvee attempted to push and pull [the stuck vehicle] toward Mexico to no avail," the Border Patrol summary said.

At that point, West said, Mexican soldiers and civilians began unloading marijuana from the stranded vehicle. About 20 Mexican personnel in military uniforms, with insignias on their caps, took up positions on the south side of the river and pointed automatic rifles at about half a dozen sheriff's deputies and state troopers.

"They were daring my guys to make a move," West said.

As deputies took photos, the uniformed men burned the vehicle after it had been unloaded, then retreated into Mexico.

Laveaga, the Mexican embassy spokesman, said his country's military units in the area do not use Humvees or the types of weapons described by U.S. authorities. He noted that Mexican drug-smuggling rings have been known to use military uniforms and weapons.

Bonner, of the border agents union, questioned how anyone "can move around in a Humvee with a 50-cal on it unless they have the permission of the government."

West said the confrontation was similar to an incident in mid-November in the same area. In that incident, sheriff's deputies and Border Patrol agents who intercepted a disabled dump truck filled with several tons of marijuana were backed off by heavily armed, uniformed men described by West as military personnel.

A bulldozer appeared on the Mexican side, West said, and towed the truck back across the border.

Texas has launched its own investigation of this week's incident, said Rachael Novier, a spokeswoman for Gov. Rick Perry. Regardless of who was involved on the Mexican side, she said, "it was unacceptable."

Why Mexico Helps US Fight Terror (CSM)

By Faye Bowers

The Christian Science Monitor, January 26, 2006

TUCSON, ARIZ. - A top priority of the United States government is to prevent a determined terrorist from crossing the US-Mexico border. It is also becoming a primary mission for Mexico - and the first place it's focusing on is the 375-mile, desolate stretch of land that abuts Arizona.

In addition to sharing intelligence and cooperating on investigations with its US counterparts in Arizona, Mexico last year set up three checkpoints along known human-smuggling routes on its side of the border and plans to add two more.

Between August, when the checkpoints became operational, and December, Mexican officials stopped 1,277 non-Mexicans (OTMs, for "other than Mexicans") from crossing into Arizona, according to a Mexican government report obtained by the Monitor. The report shows that most of the OTMs came from Central and South America, but seven are listed as Iraqis.

FBI officials decline to say if they know what became of the Iraqis detained in Mexico. The seven - believed to have been apprehended simultaneously at one checkpoint - could be members of a single family or unrelated individuals simply trying to find a better life in the US. But they also could have been trying to illegally cross the southern border for nefarious purposes.

That's where the additional checkpoints could prove crucial.

The Mexican government has "an immense interest in making sure terrorists don't cross from Mexico into the US," says Ben Peres of the FBI office in Tucson, the bureau's liaison here with Mexico on cross-border issues. "If something were to harm the US, it would harm them, too."

Government officials and terror experts have long fretted about the porous border between the US and Mexico. With the onset of the Iraq war in 2003, they worried that teams of Iraqis might cross the border to set off terror attacks inside the US, and they say they know that people tied to Al Qaeda have entered the US through Mexico using false identities. One they cite is Mahmoud Youssef Kourani, who paid to be smuggled across the US-Mexico border in 2001 and later was convicted and imprisoned for providing material support to Hizbullah, which is on the US list of terror groups.

Last March, US officials intercepted a letter purportedly written by Abu Musab al-Zarqawi, the Al Qaeda leader in Iraq, who suggested to his acolytes that it would be easy to infiltrate the US through the southern border.

For its part, the US government is apprehending record numbers of illegal immigrants on the Arizona side of the border. In 2005, Border Patrol officials nabbed 577,418 illegals. Of those, 14,323 were non-Mexicans - up from 9,974 in 2004. Most OTMs came from Central and South America. But 407 came from elsewhere, some from nations designated as "countries of interest," meaning those that are known to harbor terrorists.

US Customs and Border Patrol officials say the number of OTMs from "countries of interest" is small. But they don't divulge these because of "national security and law-enforcement sensitivity issues," says Michael Gramley, Border Patrol spokesman in Yuma, Ariz.

"Borders inherently are dangerous places where the state has the least amount of control and supervision," says Adrian Pantoja, a political scientist at Arizona State University in Tempe. Measures that have been put into place to secure the border so far, he says, are largely symbolic.

"If the US wanted to seal the border with Mexico it could. Look at the demilitarized zone between South Korea and North Korea," Dr. Pantoja says. "The dilemma is really between political will and economic necessity. How do you protect the nation's security while ensuring its economic well-being?"

Still, cooperation between Mexico and the US is steadily improving on the issue of illegal entry of OTMs, FBI officials say. Although they cannot discuss the Iraqis' case specifically, the officials explain how the current system works.

OTMs detained on the Mexican side of the border are screened by Mexican officials for possible criminal or potential terror activities. If evidence of wrongdoing surfaces, Mexican intelligence officials, in turn, share that information with US Immigration and Customs Enforcement (ICE).

ICE officials then pass that information to the Joint Terrorism Task Force, in a weekly meeting. In Tucson, the JTTF is made up of an FBI official, who leads the effort, and representatives from Border Patrol, ICE, the Drug Enforcement Administration, the Arizona state police, and two county sheriff's departments.

"It would be our job to corroborate that information and act appropriately, or debunk it," says the FBI's director of the JTTF in Tucson.

FBI agents in Tucson describe a successful operation in which they have worked with their Mexican counterparts to stop a cross-border people-smuggling ring, one with potential terrorism risks. A joint sting operation led to the arrest last May of Iranian-born Zeayadali Malhamdary, a legal permanent resident of the US. Mr. Malhamdary is now in Arizona awaiting trial on charges of smuggling illegal immigrants into the US. Officials say he smuggled in about 60 Iranians via Mexico - and provided high-quality fraudulent documents for entry into the US. The FBI says it is tracking down the 60 Iranians.

States Weigh Immigration Controls Congress Moving Too Slow For Some (USAT)

By Dennis Cauchon

USA Today, January 26, 2006

Frustrated by slow action in Congress, state legislatures are debating whether to increase border enforcement at their own expense, fine employers who use undocumented workers and get local police involved in deporting them.

It's unclear how far the proposals would go because, like Congress, legislatures are divided on what to do about the estimated 11 million undocumented immigrants who provide a low-wage workforce in the USA. Federal law may limit state power on actions such as penalizing employers, says Ann Morse, an analyst at the National Conference of State Legislatures.

Immigration policy is one of the hottest issues as 37 legislatures convene this month. Last year, states considered 300 immigration laws and approved 40. That number is expected to rise this year, Morse says.

The immigration proposals are part of a larger trend of states getting involved in traditionally federal issues ranging from pollution control to prescription drug prices. Congress is considering changes to immigration policies — a border fence, a guest worker program — but it's uncertain whether action will be taken this year.

Among the state proposals:

·Arizona is debating installing a radar system and video cameras along the state's 340-mile border with Mexico. The proposed $50 million system would alert law enforcement when crossings occur.

·About a dozen states are considering employer sanctions, Morse says. Kentucky's proposal, for example, would fine employers up to $5,000 for knowingly hiring undocumented workers.

·Border states and a few others are ready to spend their own money on immigration enforcement. State and local police would be asked to check the residency status of people arrested or given traffic tickets under some proposals.

Away from the Mexican border, Minnesota Gov. Tim Pawlenty wants to create a team of 10 state agents to police undocumented immigrants, charging them with state crimes such as identity theft or turning them over to federal authorities. “The federal government hasn't been doing a good job, so states have to play a role,” says Pawlenty, a Republican.

Flavia Jimenez, a policy analyst at the National Council of La Raza, a Latino civil rights group, says the legislative activity “reflects real concern about the failure of Congress to pass real immigration reform.” She says the job is best left to the federal government, and states will face a costly task if police get involved in determining people's immigration status.

'Keep America, America' (WSJ)

By Andrew S. Grove

The Wall Street Journal, January 26, 2006

Recently the House of Representatives passed an immigration bill -- the Sensenbrenner-King bill -- by a vote of 233 to 189. It is now on its way to the Senate.

This bill scares me.

It's not likely to affect me directly. I'm no longer in day-to-day business, nor do I have regular contact with immigrants. But it scares me because it has the potential of turning neighbor against neighbor -- and of changing our country into a place of fear and mistrust.

Let me illustrate. The bill contains a provision punishing anyone who "assists, [or] encourages . . . a person who . . . lacks lawful authority to remain in the United States" to remain here. Punishment: three to 20 years in prison, the same punishment meted out to professional smugglers who profit from transporting illegal aliens across the border.

This could change the nature of our society in a way that I have seen firsthand. As a Jewish child hiding from the Nazis in Hungary, I saw how the persecution of non-Jewish Hungarians who hid their Jewish friends or neighbors cast a wide blanket of fear over everyone. This fear led to mistrust, and mistrust led to hostility, until neighbors turned upon neighbors in order to protect themselves. Is this what we want?

Consider the potential effect of this bill. Victims of the hurricane that devastated New Orleans more often than not did not have proof of their immigration status. Relief workers who helped them -- for example, by providing schooling to their children -- could have been charged under this bill with assisting undocumented aliens. Volunteers who save the lives of individuals who are left to die by smugglers -- by providing water or food, or by taking them to a hospital -- could face arrest and prosecution. An immigration worker who encourages a refugee from political persecution to seek asylum in the United States could be charged with a felony; so could a manager who forgets to check the papers of a job applicant.

Prosecution of these well-intentioned people will lead to a growing schism. We will be forced to become a nation of identity-checkers; anyone who looked "foreign" would likely have to endure a lifetime of proving their status even if they were native-born American citizens. People will be deterred from helping anyone suspected of foreign origin. The events of World War II, the civil wars in Africa, the strife in the Middle East, ethnic cleansing in the Balkans, the decades-long civil disturbances in Ireland and the recent riots in France, all provide wrenching examples of fractured societies.

This bill forces us to answer the question: What kind of country do we want? Our country has promoted tolerance and diversity through most of its history, providing an outstanding and attractive example to others. Coming to this country and enjoying its openness has taught me how wonderful it is.

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Church groups, relief organizations and legal scholars have spoken out against this bill. Business groups have not. Perhaps they consider this bill of little concern to them. I disagree. This is a time when we face increasing competition from well-educated and highly motivated workers from many corners of the world. The stability and diversity of our society are two key competitive differentiators we enjoy. We must hang on to them.

Let's keep America, America.

Mr. Grove, former chairman of the Intel Corporation, is a member of the board of overseers of the International Rescue Committee.

Mexican Candidate Tries To Emerge From Fox's Shadow (NYT)

By James C. Mckinley Jr.

The New York Times, January 26, 2006

MEXICO CITY, Jan. 25 — Francisco Rendón twirled a blue and white party flag in his weathered hands on a recent evening in a square in Querétaro, more than 100 miles northwest of the capital, waiting patiently for the man his party had nominated for the unenviable job of trying to succeed President Vicente Fox and keep the National Action Party in power.

"Fox promised a lot, and we want to see those things completed," Mr. Rendón said, echoing a widespread feeling. "About Felipe Calderón we don't really know anything except that he's a politician."

Mr. Rendón is not alone. During a bitter primary fight last year, Mr. Calderón transformed himself from a little-known former energy commissioner into the best hope for the president's right-of-center party. He is running a strong second in most opinion polls to the leftist former mayor of Mexico City, Andrés Manuel López Obrador, and many political strategists say he has a chance to win the election on July 2.

But outside the capital's opinion-makers and party insiders, surveys show that one in five Mexican voters still do not know who Mr. Calderón is, and as the presidential campaign officially kicked off last week, he made his first tour to try to change that.

Mr. Calderón, 43, opened a sunny, optimistic campaign, presenting himself as a principled, honest and incorruptible man, the only candidate "with clean hands," a young candidate of the future.

He portrays his adversaries as old-fashioned politicians stuck in the past. He depicts Roberto Madrazo of the Institutional Revolutionary Party as a political boss from the old ruling party, the sort who used to buy votes with everything from cash to free roofing and then, once in office, enrich themselves and their friends.

Mr. López Obrador, candidate of the Party of the Democratic Revolution, he says, is a throwback to the ruinous economic policies of the 1970's, a closed economy with enormous public spending financed by foreign debt.

"In 2006 we have to have an election about the course of the country," Mr. Calderón said Saturday evening at a rally in Aguascalientes, in north central Mexico. "We have to choose between the past and the future."

But perhaps his biggest challenge is President Fox himself. The president remains popular for breaking more than 70 years of one-party rule in 2000 but is seen as having promised much more than he could ever deliver without a majority in Congress. Mr. Fox's image as a reformer has also been tarnished by allegations that his wife's sons have become rich businessmen through influence-peddling.

So every day on the campaign trail Mr. Calderón walks a fine line, praising Mr. Fox for creating economic stability and trying at the same time to distance himself from the many failures of a president who is seen as an ineffectual leader.

"Fox has been a transition president," he said in an interview, speaking slowly and choosing his words with care. "He has the indubitable merit of having been the leader of the transition and the peaceful change of power in Mexico."

But in the same breath Mr. Calderón said he did not plan to suffer from the same congressional deadlock that stymied most of Mr. Fox's reform proposals. "If you don't have a majority, you have to construct it," he said.

For the United States, a Calderón presidency would promise continuity. Like Mr. Fox and most other Mexican politicians, he has railed against a bill in Washington that would build a longer border fence and make illegal migration a felony. Also like Mr. Fox, he wants a guest worker program.

In another north central city, San Luis Potosí, he said: "I'm going to act as president not only with the government of the United States but with the legislators from both parties, Republicans and Democrats, to persuade them that Mexicans are not criminals and that it would be good for the economy of the United States to legally regularize migratory labor. The economy of America cannot advance, would not have been able to advance, at the same rate as it has without Mexican labor."

With such statements Mr. Calderón has tried to tap a wellspring of national pride and feelings of inferiority in Mexico, pledging to make it competitive in everything from industry to sports and to shed its history of corruption and backwardness.

Again and again he says he wants to make Mexico "a winning country," one that "not only competes with the world but beats it."

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"My whole life I have dreamed of this country," he told a crowd in Querétaro. "I don't accept that our country will be condemned forever to be behind in development."

To get there he favors a flat tax on businesses and personal income to encourage foreign investment. He wants to continue the free-trade policies of Mr. Fox, arguing that the only way to create jobs and curb migration is to attract investment. He even favors a limited amount of private investment and competition with the state-owned energy companies, a proposal that has long been politically taboo in this country.

Mr. Calderón has also zeroed in on the main preoccupation of middle-class and upper-class Mexicans: organized crime and kidnappings. Calling the current law enforcement agencies "a cancer," he has proposed setting up a single federal police force to replace the myriad, sometimes corrupt, forces that now exist. He also wants to give the local police the power to investigate crimes, something they now lack.

"It's clear to me the potential Mexico has lost because it is not completely law-abiding," he said in an interview. "The potential of Mexico is enormous if we can manage to be a country of judicial certainty. I want to be a president who complies with the law and makes everyone comply with the law."

A short man with a paunch and gray, receding hair, Mr. Calderón lacks the stage presence of President Fox, a barrel-chested man with a baritone voice. When Mr. Calderón arrived at a campaign event for truckers driving a tractor-trailer on Friday in San Juan del Río, not far from Querétaro, the effect was almost comical. He was barely visible behind the wheel.

He is also one of those speakers who seem to confuse shouting with passion, giving speeches that have all the dynamics of a Nascar race, starting loud and getting louder. In private, though, he is serious and analytical, a soft-spoken intellectual who often sounds like the Harvard-trained economist that he is.

The son of one of his party's founders from Morelia, capital of the west central state of Michoacán, Mr. Calderón received advanced degrees in law and economics and spent only a short time in the private sector before running for office at 26 and gaining a seat in Mexico City's assembly. He went on to a seat in Congress in the early 1990's, but lost a race for governor in his home state in 1995.

After that he became national president of his party and engineered gubernatorial victories in three states, as well as victories in more than a dozen mayoral races. In 2000 he supported Mr. Fox but was not close to him. Then the president reached out for him in 2003 to head an agency that builds toll roads and later made him energy secretary.

Mr. Fox asked him to step down in May 2004 when Mr. Calderón made it plain that he would run for president.

Now it remains to be seen whether he can generate the passion for his campaign that he says he feels for Mexico. First he must somehow erase the disappointment and apathy that many in his party feel after Mr. Fox's tenure. And he acknowledges that he needs to pull votes from the two other major parties and from independent voters to put together enough of the popular vote to win.

Asked why he is running, his answer is simple: "I don't want Mexico to go backward."

OPEC Is Expected To Maintain Output Levels (WSJ)

By Bhushan Bahree

The Wall Street Journal, January 26, 2006

The Organization of Petroleum Exporting Countries is widely expected to refrain from trimming output levels when its oil ministers meet in Vienna next week, but Iran remains a wild card.

With the price of oil nearing records recently, an OPEC decision to continue pumping oil at close to capacity should reassure markets of plentiful supply, something Saudi Arabia appears to favor and the U.S. seems to be counting on. In short, there is no economic incentive for OPEC to trim output when market forces have sent billions of extra dollars pouring into the coffers of oil-rich countries anyway.

ENERGY DIARY

See a graphic1 on the rising cost of shipping oil. Plus, world production and consumption data.

Still, Iran -- an OPEC founding member and the No. 4 oil producer in the world -- is feuding with the West over its nuclear ambitions, and it could use the OPEC meeting to send a warning to Western Europe and the U.S., both big oil importers.

"Iran is going to make a political point" at the meeting, predicts Roger Diwan, an analyst at PFC Energy, a Washington consulting company. The nuclear dispute has helped push up oil prices recently, and no early resolution is seen, at least for now. "This Iran thing has legs," he said.

Iran appears poised to propose a reduction in OPEC quotas, with Iranian officials citing a buildup of excess supply ahead of a seasonal dip in demand in spring. Venezuela has said it would back such a cut. Still, these two countries are unlikely to carry the day at OPEC, if Saudi Arabia and its allies in the cartel hold firm against reducing the group's quotas totaling 28 million barrels a day for 10 members, excluding Iraq.

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Saudi Arabia's oil minister, Ali Naimi, the de facto leader of OPEC, and Nigerian Oil Minister Edmund Daukoru, who is OPEC's president, already have said they see no reason to cut production at next week's meeting. Oil prices are on the "high side," Mr. Naimi told an Indian TV network this week. He added: "Unless the market changes significantly between now and the meeting, there is probably no real reason to do anything different."

Yesterday, the benchmark light, sweet crude-oil futures for March delivery fell $1.21, to settle at $65.85 a barrel on the New York Mercantile Exchange. Based on that price, this year the U.S. benchmark price is up $4.81 from the settlement price of $61.04 recorded Dec. 30, the last trading day of 2005.

Many in the industry, including the U.S. Energy Department, see prices rising this year. Some see them skyrocketing.

"We'll see a price well above $100 a barrel before the end of the year," predicts Philip Verleger Jr., an oil analyst and senior fellow at the Institute for International Economics in Washington. Mr. Verleger cites international uncertainties, strong world economic growth, lack of interest by central banks in the price of oil and changes in oil-product specifications. He also cited investor interest. "Oil is a tremendous investment and $3 billion have already gone into the [U.S. benchmark] contract" on the Nymex this year, Mr. Verleger said.

Many other analysts are far less bullish on oil prices. But, by all accounts, demand for oil continues to rise as the world economy flourishes. The International Energy Agency in Paris expects world oil demand to increase by 1.8 million barrels a day this year to 85.1 million barrels a day.

U.S. Energy Secretary Samuel Bodman says he has been in regular contact with oil producers. "By and large, they seem to be understanding that we have a situation where there needs to be more oil rather than less oil in the world," Mr. Bodman said this week.

The question is if Iran shares in that understanding. The OPEC meeting is scheduled to take place two days before the International Atomic Energy Agency meets, also in Vienna, to consider what to do to dissuade Iran from moving toward enriching uranium.

Iran has drawn a link between any move by the West to seek United Nations approval for sanctions and the price of oil. Iran produces nearly four million barrels of oil a day, exporting 2.5 million. The spare oil-pumping capacity of the rest of the world is currently estimated at less than two million barrels a day.

Sanctions against Iran aren't considered imminent, and Iran isn't seen as being close to halting oil exports. Still, the dispute could provoke Iran into using the OPEC meeting to grandstand ahead of the nuclear meeting. "They don't have many big venues to bluster," says Yasser Elguindi, a managing director at Medley Global Advisors.

Roh Opposes U.S. On Regime Change Plans For NorthWarns Of 'Difference Of Opinion' (WT)

By Andrew Salmon, The Washington Times

The Washington Times, January 26, 2006

SEOUL -- A day after the United States urged South Korea to take an active stance against what it contends are North Korea's illicit financial activities, Seoul refused to say whether it would take action and made clear it opposed any attempt at regime change in Pyongyang.

"When it comes to the North Korean regime, raising issues about it or pressuring it or sometimes wishing for its collapse, on that position of some Americans, we do not agree," South Korean President Roh Moo-hyun said in a press conference yesterday.

"If the U.S. government tried to solve the situation through that process, there might be a rift or a difference of opinion between the two governments."

He added that whereas both governments had officially agreed to resolve the North Korean nuclear issue through dialogue, there was, however, no dispute.

Mr. Roh's comments came one day after the U.S. Embassy released a statement in which U.S. officials requested Seoul join action against what it says are illicit financial activities by the North Korean government.

Some here think the U.S. move is part of a strategy to squeeze Pyongyang by cutting off its funding sources.

By "some Americans," Mr. Roh appeared to be referring to hard-liners in the Bush administration who favor toppling North Korean strongman Kim Jong-il.

Mr. Roh refused to respond to the U.S. accusations on North Korea.

"A detailed review needs to take place ... fact-finding and consultation between the two governments is necessary," he said. "I don't think it is now time for the Korean president to express an opinion on this issue. It is quite risky for the [Korean] president to get into this directly and draw a conclusion."

Also yesterday, the South Korean Foreign Ministry released a statement in which it said that the U.S. Embassy's press release on Tuesday was "inappropriate," and did not accurately represent the results of talks between U.S. and Korean officials.

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In its release, the U.S. Embassy said it had "urged" South Korea to take action against the North Korean transactions. The ministry denied being asked to take any concrete steps.

Analysts think that the reason for a U.S. Treasury team's 10-day Asian tour was to present Asian capitals with evidence of North Korea's financial crimes, pressuring them to act.

But given that there has been evidence of Pyongyang's activities for years, the chances of Beijing or Seoul exerting pressure at the insistence of a frustrated Washington appears minimal at present.

"South Koreans feel that quiet diplomacy is the way to go with North Korea," said Michael Breen, the Seoul-based author of a biography of Mr. Kim. "The Americans believe that if you are nice to the North Koreans, they will abuse you, but if you are tough, you might make progress. It's a classic carrot-and-stick dispute."

There have been cracks in the Seoul-Washington "blood-forged alliance" since President Bush was inaugurated in 2000: His administration's North Korean policies have contravened the engagement policies promoted by South Korean President Kim Dae-jung from 1997-2002, and by Mr. Roh currently.

U.S., South Korea Near Free-Trade Talks (WP)

By Paul Blustein

The Washington Post, January 26, 2006

The United States and South Korea are very close to launching negotiations for a free-trade agreement, which would be the most economically significant free-trade pact for Washington since the North American Free Trade Agreement, according to people familiar with the matter.

Officials in Washington and Seoul have been discussing the idea of a trade accord for more than a year, fueled by a mutual desire to deepen an already extensive commercial relationship. Two-way trade was $72 billion in 2004, making South Korea the United States' seventh-largest trading partner. The United States is the second-largest market for Korean exports.

But both sides have been reluctant to start formal talks until they are reasonably confident that the negotiations would end in agreement. South Korea's farmers are bitterly opposed to opening their country's agricultural markets, and their political clout could scuttle a deal.

Most of the other countries the United States has free-trade pacts with have much smaller economies than South Korea and are thus much less important markets for U.S. products. They include Chile, Singapore, Jordan, Israel, Australia, Morocco, Bahrain, and the six countries in the Central America-Dominican Republic Free Trade Agreement, which squeaked through Congress in July. For example, combined U.S. exports to the six CAFTA-DR countries were $15 billion in 2004, whereas exports to South Korea reached $26 billion.

Only the NAFTA countries -- Canada and Mexico -- surpass South Korea among current and likely free-trade partners as a market for U.S. exports. Canada bought $190 billion in U.S. products in 2004, and Mexico bought $110 billion.

Free-trade agreements have proliferated in recent years and involve a variety of provisions. The United States has generally insisted on eliminating or phasing out all tariffs and other impediments to bilateral trade, including agriculture, though it has sometimes allowed exceptions or long phase-out periods for a handful of products. Korea would certainly insist on maintaining some protections for its rice market, said Jeffrey J. Schott, a scholar at the Institute for International Economics who has written a book about the benefits of a U.S.-Korea deal.

A 2001 study by the U.S. International Trade Commission estimated that a U.S.-Korea free-trade agreement could increase U.S. exports to Korea by $19 billion and U.S. imports from Korea by $10 billion. As large as those numbers are, they would not have an appreciable impact on U.S. gross domestic product, which is in the $11 trillion range.

Although plans to launch the U.S.-Korea talks could still founder, officials and other sources who have spoken recently with negotiators said an announcement is likely to materialize before long. Asked about the prospects, one administration official replied, "How do you say 'soon' in Korean?" The source spoke on condition of anonymity because the final decision has not yet been made.

Rob Portman, the U.S. trade representative, heightened the speculation Friday when he told reporters, "We'll be announcing some additional [free-trade agreement] partners soon. As I think you will notice, they will not be with small economies because I do think we need to move on to some larger economies."

Yesterday, Neena Moorjani, a spokeswoman for Portman, said it was "premature" to say whether the formal talks with Korea would be launched.

Moscow-Kiev Gas Spat Heats Up As Supplies, Temperatures Drop (WSJ)

By Gregory L. White And David Crawford

The Wall Street Journal, January 26, 2006

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Bickering over natural-gas shipments intensified between Moscow and Kiev as reduced supplies of Russian gas to Europe led to shortages in several countries and fueled energy-security anxieties across a continent gripped by an arctic cold snap.

Russia, which provides a quarter of Europe's gas, blamed Ukraine for taking too much of the fuel from pipelines carrying Moscow's exports to Europe. Kiev insisted it was entitled to the extra volume amid the winter freeze, though officials pledged drastic measures to rein in record gas consumption.

Alexei Miller, chief executive of Russian gas monopoly OAO Gazprom, said Ukraine's consumption has been rising in the past few days, swamping Gazprom's efforts to increase supplies to its frost-stricken European customers. "We boosted supply again today," he said.

Few analysts expect a repeat of Russia's New Year's gas cutoff to Ukraine, which led to sharp drops in supplies to European customers and triggered harsh criticism of Moscow for using energy as a political weapon. But as details of the Jan. 4 deal have emerged, doubts have grown about whether it sets the stable foundation for supplies and exports to Europe that its backers claim.

"It's not at all a compromise. It's more of a time bomb that could lead to future conflicts," said Vladimir Milov, president of the Institute for Energy Policy in Moscow and a former deputy energy minister.

Facing steady shortfalls in supplies, Italian officials called on the public to lower thermostats and take other steps to reduce energy use. Italy's industry minister will meet today in Moscow with Russian officials to seek assurances that supply contracts would be observed. Romania, facing temperatures as low as 22 degrees below zero Fahrenheit, appealed to Russia to boost supplies as shortages developed and led to school and other closings.

"For most of the last 15 years, there really haven't been any concerns about security of supply," said Ben Hollins, a gas specialist at consultants Wood Mackenzie. "The reality is that Europe is dependent on Russia and will remain so."

The gas troubles have fueled debate about alternatives. "We want Europe to take common responsibility for energy security -- all for one and one for all. This is a brand new initiative: joint reaction to any individual country's problems, joint investments in energy security," Polish Prime Minister Kazimierz Marcinkiewicz announced in Warsaw.

Russia has sought to reassure its customers of its reliability, and Ukrainian officials have vowed to ensure that shipments to Europe are delivered. Still, the two sides yesterday failed to reach agreement on the details of implementing the Jan. 4 compromise, intended to halt what is known as the "gas war" in the region.

Officials said the agreements, which would finalize the terms for shipments to Ukraine as well as transit of Russian gas to Europe, will be signed in the next few days. Opposition politicians in Ukraine have attacked the deal, which calls for gas prices to jump to $95 a thousand cubic meters from about $50 last year. That price is for gas from Turkmenistan and other Central Asian producers.

"The gas conflict isn't over," said Vladimir Saprykin of the Ukrainian Center for Political and Economic Studies in Kiev.

A key element of the pact, the $95 price for Ukraine, is fixed only through the first half of this year, and analysts warn that the rate could rise sharply after that, dealing a brutal blow to Ukraine's fuel-guzzling economy.

Rosukrenergo AG, the Swiss-registered trading company at the heart of the Russian-Ukrainian deal, has drawn increased scrutiny. Half-owned by a unit of Gazprom, the identities of the owners of the rest, held by a unit of Austria's Raiffeisen Bank, remain secret.

"My clients say their names can't be released at this time for political reasons," said Wolfgang Putschek, the Raiffeisen official representing the unidentified shareholders. He said they have been instrumental in mediating compromises between Moscow, Kiev and the Central Asian suppliers.

In an interview, he said Rosukrenergo could earn as much as $1.3 billion in profit this year thanks to the agreement, which substantially increases the volumes it handles and opens the way for more sales of gas to high-paying customers in Europe. The group earned about $500 million last year supplying Turkmen gas to Ukraine through Russia. Details of its financials remain secret.

Yesterday, Ukrainian Prime Minister Yuri Yekhanurov rejected calls for his government to buy the 50% stake in Rosukrenergo not owned by Gazprom. Gazprom officials have defended Rosukrenergo's role in the Ukrainian trade as critical to reaching the compromise deal with Kiev. Antitrust regulators in Kiev are investigating its ownership structure.

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Putin Links Espionage To NGO Funding (WP)

By Peter Finn

The Washington Post, January 26, 2006

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MOSCOW, Jan. 25 -- In his first comments on the discovery of alleged British spies in Moscow, Russian President Vladimir Putin on Wednesday linked the scandal to foreign financing of nongovernmental organizations in Russia, a connection that grass-roots activists say is tangential and being used to smear their work.

"The situation is regrettable, as we have seen, when attempts are made to use secret services to work with nongovernmental organizations and when financing is carried out through secret services' channels," Putin told journalists in St. Petersburg. "No one can then say the money does not smell. Beneficial aims cannot be attained with unsuitable means."

The FSB, Russia's domestic security service, announced Monday that it had found British electronic equipment hidden in a fake rock in a Moscow park and that a Russian, allegedly recruited by the British, was using it to upload information and receive instructions. Four people said to be British diplomats were videotaped downloading data from the device.

One of the accused spies, Marc Doe, a second secretary in the British Embassy, has been involved in the British government's dispersal of grants to Russian human rights organizations. The British government has refused to comment on the espionage charges, but has denied it was doing anything illegal with nongovernmental organizations.

The Russian authorities have so far presented no evidence that the alleged spy ring recruited human rights activists. An unidentified Russian citizen has been arrested, but what kind of information the British may have been attempting to obtain or who the Russian is remain unknown.

Still, Doe's work with nongovernmental organizations has been seized on by many Russian politicians. The lower house of parliament, by a vote of 401 to 6, passed a resolution Wednesday condemning the involvement of foreign intelligence services with the private groups. "Such actions undermine trust in NGOs as a universally recognized institution of civil society," the resolution said.

The Moscow Bureau for Human Rights, a private group, said in a statement Wednesday that "the idea is being imposed on society that public organizations are involved with espionage activity. This injures their reputation and defames the name of NGOs in public opinion."

Privately, a number of activists expressed dismay that Doe, if he was indeed a spy, would have used his work with the groups as public cover, particularly given the current climate in which grass-roots organizations believe they are under attack from the state.

Putin this month signed into law a controversial bill regulating nongovernmental groups. Some of its authors argued that it was necessary to prevent foreign money from corrupting Russia's political process. On Wednesday, Putin again defended the law.

"It is aimed at preventing the intrusion of foreign states into Russia's interior political life and to create favorable and transparent conditions for the financing of nongovernmental organizations," he said.

Putin went on to say that he was still supportive of the work of the groups. "Society needs activity of this kind so that close control over the state's activity is put in place," he said.

Putin said it was up to the Russian Foreign Ministry, in conjunction with the FSB, to decide whether to expel the four diplomats. It is unclear if they're still in Moscow.

"My opinion is that if these intelligence agents are expelled, they will send new ones," Putin said. "These people may prove to be smart. In this case, we will have to go to a lot of trouble spotting them. Think about it."

Putin Says Foreigners Use Private Groups To Meddle In Russia (NYT)

By Steven Lee Myers

The New York Times, January 26, 2006

MOSCOW, Jan. 25 — President Vladimir V. Putin accused foreign intelligence operatives on Wednesday of using private groups to interfere in Russia's internal affairs, saying that accusations that four British diplomats were spies justified new government curbs on the groups.

Mr. Putin has previously criticized foreign support for groups involved in politics here, but on Wednesday he linked the groups to intelligence agencies more explicitly than before.

His remarks intensified a furor that erupted after the disclosure of what officials said was a British espionage operation that used a device concealed in a fake rock to exchange information with a Russian agent.

"We see that there are attempts to work with nongovernmental organizations with the help of special services and that there is financing of nongovernmental organizations through the channels of foreign secret services," Mr. Putin said in televised remarks from St. Petersburg, where he was meeting with leaders of other former Soviet republics.

"I think that nobody has the right, in the given situation, to claim that money has no smell," he added.

One of the accused British diplomats, identified as Marc Doe, oversaw British grants to private organizations, including some prominent groups that promote democracy and human rights. While intelligence officials acknowledged there was no direct

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connection between those grants and the espionage that has been alleged, the distinction has largely evaporated in the fury of Russian reaction to the spy scandal.

Parliament's lower house adopted a statement Wednesday denouncing support for private groups by foreign spies. "Such actions undermine trust in noncommercial nongovernmental organizations," it read.

British officials have declined to discuss Russia's accusations, though the Foreign Office denied that any of its grants to Russian groups were improper. The groups Russia has linked to the affair — without specifying illegalities — include the Moscow Helsinki Group and the Center for Democracy and Human Rights. The scandal could worsen relations with Britain and other countries as Russia presses its assault on European and American financial support of groups that criticize the Kremlin.

This month Mr. Putin signed into law new controls over private groups, requiring them to reregister and prohibiting foreign financing of activities deemed political. Foreign leaders and Russian representatives of the groups called the curbs a bid to stifle political discourse.

Ulrich Fischer, the president of the International Helsinki Federation for Human Rights called the accusations against its Moscow branch and other groups slanderous and "part of an official Russian policy to silence criticism and strengthen ever further a centralized state power."

Mr. Putin, in his remarks, said Russia was still considering whether to expel the four diplomats, all mid-ranking secretaries in the British Embassy, indicating for the first time that they had not yet been expelled or withdrawn, though the espionage that was alleged was reported to have been uncovered last fall.

Kyrgyzstan to Investigate Groups

By The New York Times

BISHKEK, Kyrgyzstan, Jan. 25 — Following the lead of Russia, Uzbekistan and Belarus, Kyrgyzstan on Wednesday ordered investigations into private groups that get foreign money, including from the United States, which has continued to support pro-democracy groups since the popular uprising here last year.

US Congressman Takes Google To Task On China (FT)

By Stephanie Kirchgaessner

Financial Times, January 26, 2006

Google will be called to task in Washington next month following a controversial decision by the internet search engine to launch a China-based version of its website that will censor results to avoid angering the country's Communist government.

The decision by Chris Smith, a Republican congressman from New Jersey who chairs a House subcommittee on Human Rights, to call for a February 16 hearing to examine the operating procedures of US internet companies in China, represents the first signs of what could become a serious backlash against Google and other internet companies in Washington that are perceived as capitulating to the Chinese government.

Mr Smith on Wednesday accused Google of "collaborating .. with persecutors" who imprison and torture Chinese citizens "in the service of truth".

"It is astounding that Google, whose corporate philosophy is 'don't be evil' would enable evil by cooperating with China's censorship policies just to make a buck," he said.

The hearing will also include testimony from Yahoo, Microsoft, Cisco and senior State Department officials who advise on China.

Mr Smith on Wednesday in a statement drew comparisons between Google and Radio Free Europe and Asia, reflecting on the capacity the radio stations had on empowering the "voices of freedom throughout Communist countries".

News about the congressional hearing came just hours after another lawmaker, Democratic senator Patrick Leahy, spoke out on another issue that has enveloped Google in recent days: the company's refusal to comply with a subpeona by the Justice Department that would require it to hand over toe the government extensive records about the way people use the company's search engine.

In a letter to attorney general Alberto Gonzales, Mr Leahy demanded more information about four subpoenas to major internet companies, including how the DOJ intended to use the information while protecting privacy rights, and whether the DOJ planned to request further information from the companies.

Mr Leahy, the leading Democrat on the judiciary committee, said the collection of data on law-abiding Americans posed "unique concers".

U.S. Envoy Engages In Panda Diplomacy (WP)

By Edward Cody

The Washington Post, January 26, 2006

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CHENGDU, China, Jan. 25 -- Diplomacy is in large part symbolism, and the symbol was unmistakable. There was Robert B. Zoellick, the deputy secretary of state assigned to manage U.S. relations with China, hugging a baby panda.

Zoellick, who was formerly a member of the advisory council of the World Wildlife Fund, had a natural interest in visiting the Giant Panda Breeding Research Base here in Chengdu, capital of Sichuan province in central China. The appealing creatures, he pointed out during a two-hour tour Wednesday, have long been a symbol of joint U.S.-Chinese efforts to preserve the environment and protect wild animals.

But ever since President Richard M. Nixon opened contacts with the Communist government in 1972, pandas also have been a symbol of political cooperation between Beijing and Washington. The Chinese program of sending pandas as gifts, but more frequently on lease and loan, to zoos in Washington, Atlanta, San Diego and Memphis, has played a large role in de-icing diplomatic, commercial and public relations over the past 30 years.

In that context, Zoellick's pose with Jing Jing, a female cub born at the Chengdu facility in August, was seen at least in part as a signal to China about where he wants to steer U.S.-Chinese relations. The official New China News Agency received his message 10-4. It immediately transmitted a happy photo of Zoellick and Jing Jing around the country, illustrating the government's view that good U.S.-China relations are essential and, in fact, getting better and better.

Zoellick's gesture, in another reading, could also be seen as a signal of where he stands in the Washington debate about China. Interpreted that way, becoming a public panda-hugger was an eloquent endorsement of the view that engagement with Beijing is the best path for the United States and that China's emergence as an Asian power does not have to mean conflict in the Pacific.

"You want to know how the panda felt?" he asked. "Very soft."

Zoellick, in a meeting with reporters, joked that he had discussed the various readings of his panda poses with his staff before agreeing to take Jing Jing on his lap. Some aides had questioned whether the image was the right one to convey, he acknowledged, but he decided to go ahead because his wife wanted a photo of him with a panda. "At my age, I listen to my wife," he said.

Zoellick, who left Chengdu for a panel discussion on China at the annual economic forum in Davos, Switzerland, was named point man for U.S.-China policy by Secretary of State Condoleezza Rice at the start of the second Bush administration. In particular, he has become the main U.S. interlocutor in a strategic dialogue set up last year in response to Chinese requests for sustained discussions on long-term issues between Washington and Beijing.

This visit to China, which came in addition to that twice-yearly schedule, was partly to maintain contacts with Chinese leaders and show interest in keeping up a close relationship, Zoellick said. He met Tuesday with Premier Wen Jiabao, Foreign Minister Li Zhaoxing and his own counterpart in the Chinese Foreign Ministry, Dai Bingguo.

But the two-day stay here, after stops in Japan and at U.S. Pacific Command headquarters in Hawaii, also included specific talks on issues that could be seen as a test of the U.S.-Chinese engagement his panda photo was meant to symbolize. These, he said, included China's stand on the effort to prevent Iran from acquiring nuclear weapons, China's role in diplomacy to persuade North Korea to eliminate its nuclear weapons program and China's currency policies at a time of soaring U.S. trade deficits.

Chinese officials made clear they shared the U.S. and European goal of demonstrating to Iran's rulers that they should not proceed with a program that could lead to nuclear weapons production, Zoellick said.

The Foreign Ministry spokesman, Kong Quan, said Tuesday, however, that China believed more time should be allowed for diplomacy before resorting to sanctions or other pressures from the U.N. Security Council.

Reporting on his talks, Zoellick said he emphasized to Chinese officials that their own oft-repeated goal of energy security argued for joining in the effort. A government such as Iran's armed with nuclear missiles would be a destabilizing force in the Middle East, China's main source of imported oil, even though China has signed a long-term oil and gas deal with Tehran, he said.

The argument, Zoellick explained, flowed from the idea of making China more of a "responsible stakeholder," a major state with worldwide interests to preserve through cooperation with other governments. The approach was laid out in a speech in September outlining the administration's underlying policy toward China.

Zoellick also received a report from Chinese officials on last week's tour by the North Korean leader, Kim Jong Il. In addition to meetings with President Hu Jintao, Wen and other senior Chinese Communist Party officials, Kim visited ports and factories in the booming Pearl River Delta, just north of Hong Kong and a showcase for China's economic reforms.

The question was whether what Kim saw would inspire him to enact similar changes in his own country, which some officials believe would open North Korea to the world and help with a long-term solution to the nuclear standoff. Zoellick suggested the response from Chinese officials who hosted Kim was: "We'll see."

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Too Fast In China? (WP)

By Peter S. Goodman

The Washington Post, January 26, 2006

SHANGHAI, Jan. 25 Led by surging exports, China's economy grew by 9.9 percent last year, the government announced Wednesday, underscoring the swiftness by which this once insular communist country has remade itself into a global trading power.

The rapid expansion appears to move China's economy ahead of those of Great Britain, France and Italy to become the world's fourth-largest, although many countries have yet to report their final 2005 economic data. Over the past decade, China's output has more than doubled in size as the country's transition toward capitalism has progressed, turning farmers into factory workers and linking the fortunes of its people to the appetites of shoppers in the United States, Europe and Japan.

Yet the news also increased concern that China could be growing too fast, despite measures aimed at cooling the hottest parts of the economy. Aggressive investment has produced too many factories, heightening trade tensions with the United States as China exports surplus wares such as steel, depressing prices globally. Chinese officials worry that unneeded plants could deliver a crippling era of deflation -- falling prices -- which hurts profits and reduces incentives for companies to invest. Such a syndrome kept Japan mired in recession and unemployment for much of the past 16 years.

"Overcapacity is dangerous," said China's leading statistician, Li DeShui, speaking at a media briefing in Beijing, according to a transcript on the Web site of the official New China News Agency. "It will cause huge waste, and will especially generate huge bad loans for banks. For some businesses, it will cause losses and even closures, which will lead to rising unemployment."

Li emphasized that China is not yet facing this problem, with inflation still at a healthy 1 percent. He pronounced himself "cautiously optimistic" about China's economic prospects this year.

State data paint a troubling picture. Steel capacity already outstrips domestic demand by 120 million tons a year, and new mills that would add an additional 70 million tons are under construction, according to the National Development and Reform Commission, a unit of China's governing State Council. Chinese automakers saw profit margins plummet last year as ultra-low-priced vehicles came on the market, and as dramatic expansion brought production capacity to 2 million more than China's annual sales.

Still, some say fears of overcapacity are overblown: Even as the supply of everything from aluminum to motorcycles swells, the underlying demand for the trappings of modern life within this land of 1.3 billion people should not be underestimated. China's appetite for new housing, roads and vehicles will eventually put the extra plants to work, some economists say.

"There's no question that there's demand," said Jonathan Anderson, chief economist for Asia at UBS Investment Research in Hong Kong. "Local governments want to build science parks and subways, and people want to build houses. And now [Chinese authorities] are actually letting stuff get built again."

Anderson argues that the growth of manufacturing capacity is slowing -- a sign that it will eventually disappear.

He cites the Chinese steel industry, which saw capacity grow by nearly 40 percent in 2004 and 2005. This year, he said, capacity will continue to grow, but by only 10 percent. At the same time, growth in demand for steel will bounce back to about 18 percent this year, after decelerating to about 7 percent last year as the government clamped down on development.

"You've got spending going on," Anderson said. "Overcapacity is actually going to be going away."

China's economic data is notoriously unreliable, and many say the data fail to capture the true magnitude of the economy. Last year, the government restated several years' worth of economic data when a nationwide census discovered that millions of mostly private service companies had previously been left out of the calculation. In one shot, the government declared that China's economy was 17 percent bigger than it had previously realized -- the statistical equivalent of finding an Austria lying around uncounted.

On Wednesday, speaking at the World Economic Forum in Davos, Switzerland, Zhu Min, an executive at one of China's largest state banks, said the economy remains underestimated.

"There's another 15 percent to 20 percent space for China to grow," Zhu said, according to Bloomberg.

Whatever the real rate of growth, the ceaseless clatter of machinery that has become the national soundtrack and the construction cranes hovering over every urban skyline attest to the dramatic expansion, one that has refashioned China and its relationship with the rest of the world.

Last year's growth was propelled largely by exports, which leapt 28 percent, leaving China with a $102 billion global trade surplus. Manufacturing trade groups in the United States, Europe and developing countries argue that much of this success is a result of China's maintaining its currency, the yuan, at an artificially low value, making its goods unfairly cheap on world markets. Congress is considering a bill that would slap across-the-board punitive tariffs on Chinese goods if Beijing does not significantly raise the value of the yuan. China counters that it is being made the scapegoat for the loss of factory jobs elsewhere.

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China's growth has prompted Beijing to dispatch state oil firms around the globe in search of new energy supplies. This has stoked a historic rivalry with Japan for access to Russia's Siberian oil fields. It has sent Chinese investment into Africa, Latin America and Indonesia, and has provoked accusations in Washington that China's thirst for energy threatens U.S. interests. Chinese demand is a key factor behind the recent spike in world oil prices.

Within China, years of rapid growth have sown concern that new wealth is not being shared equally, with much being stolen from the poor via corrupt land acquisitions by Communist Party officials. Recent years have seen sometimes-violent protests around the country as farmers complain they are being pushed off land without just compensation. Last week, Premier Wen Jiabao pledged that more investment had to be directed into poor, rural areas to address the growing income gap.

Growth last year brought China's overall economic output to $2.26 trillion, according to state data. But its rapid growth still leaves China's economy at less than one-fifth the size of the world's largest -- that of the United States, whose output reached $11.7 trillion in 2004.

New Estimate In China Finds Fewer AIDS Cases (NYT)

By Jim Yardley

The New York Times, January 26, 2006

BEIJING, Jan. 25 — China countered the long-held suspicion that it has undercounted the number of people with H.I.V. and AIDS by releasing a new, more extensive estimate on Wednesday that found the opposite: that the country had actually overestimated its number of cases.

The new estimate, conducted with the World Health Organization and the United Nations AIDS program, lowered the country's estimated number of H.I.V. and AIDS cases to 650,000 from the official figure of 840,000 released by the government in 2003. Many experts and AIDS workers have long believed that China has at least 1.5 million cases, possibly far more, and some expressed skepticism that the new figure was any more reliable than past estimates.

At a news conference on Wednesday morning, Chinese and international health officials endorsed the new findings but also warned that while the overall number of cases is less than previously believed, the rate of infection is still rising, with 70,000 new cases in 2005. Drug users and prostitutes are transmitting H.I.V., the virus that causes AIDS, in most of the new cases, but the report also found that the disease is now spreading from such high-risk groups into the general population, raising the risk of broader infection.

"Almost 200 people are infected every day in China," said Wang Longde, a vice minister of health. "The situation is grave."

With AIDS and H.I.V. having already devastated large swaths of Africa, experts have feared that China and India, the world's two most populous countries, may become the next epicenters of major outbreaks.

The lower estimate in China, if accurate, would place it in a far more enviable position than India, which is estimated to have more than five million people living with H.I.V. The Indian government has been criticized for failing to respond swiftly and effectively to the disease.

China is still trying to regain its credibility on AIDS. Not too many years ago, top leaders denied that the country had an AIDS problem and tried to cover up an outbreak in central China caused by a tainted, government-sponsored blood selling program. Since late 2003, China has mounted an aggressive nationwide campaign against AIDS and introduced pilot programs that provide free condoms, free methadone and even free antiretroviral drugs.

The joint effort by China, the World Health Organization and the United Nations AIDS program, Unaids, in drafting the new study reflected the improved openness of Chinese health officials on AIDS. But that collaboration also underscores the fact that the outside world would most likely be skeptical of any study conducted solely by China. Some Chinese health officials had privately fretted that the study would be regarded as a whitewash.

Henk Bekedam, head of the W.H.O.'s office in Beijing, warned that China still faced a major AIDS problem and needed to raise public awareness about H.I.V. while expanding prevention and treatment programs. But he endorsed the new estimate "as a more accurate portrait of the epidemic" and described China's H.I.V. status as "low prevalence."

Ray Yip, the Beijing representative of the United States Centers for Disease Control and Prevention, did not attend the news conference on Wednesday but said his office had provided technical assistance for the new study. He said the new figure represented a far broader sampling from across China. "It's a more robust and more complete number," Mr. Yip said in a telephone interview. "But by all means, it is an estimate."

Some AIDS experts in China expressed doubts about the lowered estimate. Chung To, chairman of the Chi Heng Foundation, which helps AIDS orphans in central China, questioned the reliability of the raw data used in the estimate. He noted that local officials often hid the true prevalence of the disease, while many H.I.V.-positive people lied about their condition to avoid social stigma.

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"To me it is hard to believe they are revising downward," he said. "It is certainly not what I see as a front-line, grass-roots AIDS worker."

Another advocate, Odilon Couzin, also was skeptical about how accurately officials were able to count infected people among groups like prostitutes, drug users and gay men, all of whom are loath to reveal their H.I.V. status in China.

"Frankly, in all of my experience, the quality of the data and the accuracy of the information here is not high enough to have confidence in this new estimate," said Mr. Couzin, who runs China AIDS Info, an AIDS information and advocacy group based in Hong Kong.

Officials involved in the study say improved methodology and a bigger sampling of data have made it more accurate than the earlier one. The 2003 study estimated 840,000 cases, based on samples drawn from 194 "surveillance" sites around the country. By comparison, the new study used 329 national sites and several hundred other sites operated by provincial governments.

A key difference between the two studies is the revised estimate of the number of people infected by the tainted blood selling operation in the 1990's. Some doctors in Henan Province, a center of the blood selling operation, estimated that more than a million people had been infected in that province alone. The 2003 study estimated that the blood program had infected 199,000 people. By comparison, the new study estimates that only 55,000 former blood donors are infected with H.I.V.

To some degree the lower number of infected blood donors may be partly because many of them have died. The study found that nationally, 25,000 people died of AIDS last year. Of that figure, 10,000 were former blood and plasma donors, the estimate found. Over all, Chinese health officials estimate that fewer than 100,000 people have died of AIDS in the country.

The study found infection rates varied greatly in different regions of the country and could be broken down into six major groups: drug users, prostitutes and their clients, former blood and plasma donors, gay men, partners of H.I.V.-positive people, and infants infected in the womb by H.I.V.-positive mothers.

Drug users living with H.I.V. or AIDS accounted for 288,000 people, or 44.3 percent of the estimated total. Nearly all of them live in seven southern provinces. Prostitutes and their clients accounted for 127,000 cases, or 19.5 percent.

A large majority of those infected in China still do not know it. The estimate found that only 141,000 of the estimated 650,000 cases have been detected through testing.

China still faces enormous challenges on AIDS. Efforts to distribute anti-retroviral drugs have created a host of problems, while local officials in some regions still try to deny the presence of H.I.V. Some public security bureaus continue to arrest infected drug users rather than steer them to treatment.

Joel Rehnstrom, the coordinator in China for Unaids, said the new figures provide "a better picture" of the problem in China but should not be interpreted as meaning the situation is improving.

"This is good news, but there is still a long way to go," he said.

European Economic Plan Seeks Nordic-style Approach (WSJ)

By William Echikson

The Wall Street Journal, January 26, 2006

BRUSSELS -- The European Commission presented a new plan to reinvigorate Europe's economies, calling for a Nordic-style, seemingly social-democratic approach rather than an Anglo-Saxon free-market model.

European leaders are scheduled to discuss the plan at their spring summit.

In the 247-page report, Commission President José Manuel Barroso gave the most praise to northern European countries that are increasing spending on research and development universities and pursuing interventionist jobs policies. He also called for the creation of a competitive, continent-wide energy program, and support for small and medium-size businesses.

He also singled out previously Communist Eastern European countries that joined the bloc in 2004 "for doing some amazing things" in turning around their formerly state-run economies.

The announcement represents Mr. Barroso's attempt to recover the initiative after a tough first year in office. Many of his previous plans for jump-starting Europe's economies have faltered. Both European governments and the European Parliament, for example, rejected his plan to free up the services market, allowing plumbers, hairdressers and other small-business people to work more easily outside their homelands.

The report includes evaluations of the 25 national reform programs drawn up by EU members. While commission officials insist the process doesn't amount to naming and shaming, it does go out of its way to praise many Nordic initiatives. The Nordics are saluted for setting up "an integrating market for buying and selling electricity," for putting their public finances in order and improving the financial health of their pension systems.

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Some countries come in for gentle criticism. Italy, for example, is chided for not setting "targets, timetables and details" in its program. Rome is urged to control its public finances, take action to increase the competitiveness of traditional industries that face stiff Asian competition, and raise its employment level.

Warring Factions In Sri Lanka Agree To Resume Peace Talks (NYT)

By Shimali Senanayake And Somini Sengupta

The New York Times, January 26, 2006

COLOMBO, Sri Lanka, Jan. 25 — In a measure of how intractable this country's ethnic conflict is, the warring parties agreed Wednesday to begin talking to each other again, after more than 18 months of deadlock over a site for peace talks and with scores of killings in the meantime.

The talks would focus on strengthening an all-but-ineffectual four-year-old cease-fire agreement. They are scheduled to take place in Geneva, starting as early as February.

The agreement, though modest in scope, represents a major breakthrough in the decade-long war between the ethnic-Sinhalese-dominated government and the Liberation Tigers of Tamil Eelam, the separatist guerrilla outfit that effectively runs a swath of the country's north and east. It is better known as the L.T.T.E.

The cease-fire, brokered by Norway in February 2002, remains in place, but has frayed so much recently that the country appears to be at war in all but name.

There were 100 killings in December alone. Sailors and soldiers have repeatedly been the targets of bombs and land mines. A pro-rebel politician was gunned down during Christmas Eve Mass. Even the compound of the Nordic peace monitors, in the eastern town of Batticaloa, was bombed, on Jan. 13.

"Both sides have agreed on the need to meet and decide how the cease-fire can be implemented better," Erik Solheim, the chief Norwegian mediator, said after talks with the leader of the Tamil Tigers, Velupillai Prabhakaran, in the rebel capital, Kilinochchi. Talks would focus on "strengthening the 2002 cease-fire," he said.

Mr. Solheim said it was imperative to halt the tide of violence for the talks to be productive. "There is a need to create a climate that is conducive to peace," he added. "The violence has to stop."

The choice of Geneva marks a significant concession for the government, which had long insisted that negotiations take place only inside Sri Lanka, or at best, in another Asian country.

The European Union has barred Tamil Tiger delegations from traveling to its territory. But the restriction does not apply to Switzerland, which is not part of the European Union.

The government of President Mahinda Rajapakse, a Sinhalese hard-liner, has also made a concession on the subject of the talks. Mr. Rajapakse had insisted that the cease-fire agreement be renegotiated. The Tamil Tigers had insisted that the terms of the agreement could not be tampered with.

Even so, the talks are not going to be easy. The Tamil Tigers are particularly exercised about a breakaway faction operating in government-held territory, led by a prominent former Tiger leader called Karuna. The rebels will press the government to enforce an existing clause in the agreement: to disarm paramilitary forces operating in its area.

The government, meanwhile, will point to numerous cease-fire violations for which it blames the Tigers.

"On our part we have given our assurance there will be no act of violence by the L.T.T.E. against government forces," said Anton Balasingham, the chief negotiator for the Tigers, according to Tamilnet, a Web-based news service.

Then there is the bigger gulf that fuels the war in the first place. Mr. Rajapakse insists that he wants a unified state, while the rebels demand greater autonomy for the Tamil-majority areas.

In Africa, Islam And Christianity Are Growing - And Blending (CSM)

By Abraham McLaughlin

The Christian Science Monitor, January 26, 2006

LAGOS, NIGERIA - At first, it seems a surprising sight: inside a two-story mosque in sub-Saharan Africa's largest metropolis hangs a life-size portrait of Jesus Christ.

Yet worshipers at "The True Message of God Mission" say it's entirely natural for Christianity and Islam to cexist, even overlap. They begin their worship by praying at the Jesus alcove and then "running their deliverance" - sprinting laps around the mosque's mosaic-tiled courtyard, praying to the one God for forgiveness and help. They say it's akin to Israelites circling the walls of Jericho - and Muslims swirling around the Ka'ba shrine in Mecca.

This group - originally called "Chris-lam-herb" for its mix-and-match approach to Christianity, Islam, and traditional medicine - is a window on an ongoing religious ferment in Africa. It's still up for debate whether this group, and others like it, could become

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models for Muslim-Christian unity worldwide or whether they're uniquely African. But either way, they are "part of a trend," says Dana Robert, a Boston University religion professor.

Amid intense sectarian violence in this half- Muslim, half-Christian country, these groups serve as tolerant peacemakers. Also, with widespread poverty and health concerns here, people are seeking practical, profitable religion more than rigid doctrine.

Before Islam and Christianity arrived in Africa, people here "believed in deities being close" - in gods who resided in trees or rivers and helped or hurt locals daily, explains Kamaldeen Balogun, an Islamic studies professor at Olabisi Onabanjo University in southeastern Nigeria.

"You in the West are satisfied with one hour of church on Sunday," says Mr. Balogun. But for people in Africa, who he says need so many solutions, "This is about a practical way of life," about a willingness to combine Christianity or Islam with their own traditions to "see if they can make something new" - something that will help.

Worshipers at the "True Message" mission say unifying the two theologies has made a major difference in their lives.

A slight woman with a quick smile, Kuburat Hamzat says she came here in 1998 with a severe menstruation problem. She was embraced by the mission's "man of God," a soft-spoken, bald man named Samusideen Saka. He told her, "Dancing will not kill you" and prescribed 91 laps of "running deliverance" each day. He also explained the commonalities of the great faiths to Ms. Hamzat who had grown up in Islam. That understanding, she says, changed her. "Because I understood that in my mind, I got healed," she says. Her problem hasn't recurred, she says. Others say they've been cured of barrenness, mental illness, and other troubles.

Pastor Saka explains that his father was an herbalist and that both Muslims and Christians would come to him for healing. Although he grew up Muslim, and has been to Mecca on pilgrimage several times, he couldn't comprehend Nigeria's sectarian strife. He now considers himself a Christian, "but that doesn't mean Islam is bad."

Quite the opposite. Next to his mosque is a televangelist's dream - an auditorium with 1,500 seats, banks of speakers, a live band, and klieg lights. On Sundays the choir switches easily between Muslim and Christian songs, and Pastor Saka preaches from both the Bible and the Koran. His sermons are often broadcast on local TV.

The broader context here is Africa's dramatic shift in recent decades to Christianity and Islam. During the 20th century, fully 40 percent of Africa's population moved from traditional religions to "different shades of Christianity," says Philip Jenkins, a history and religion professor at the University of Pennsylvania. It is, he adds, "the largest religious change that has ever occurred in history." There are debates about whether Christianity or Islam is spreading faster in Africa, but clearly they're both on the rise - and sometimes are the source of tension.

In Nigeria's religious city of Jos (short for "Jesus Our Savior") the government says 50,000 people died between 1999 and 2004 in sectarian clashes. Until a peace deal last year, Sudan's northern Muslims and southern Christians were at war for two decades.

Clearly, the religious revolution is still shaking out. "People are converting rapidly, but they don't necessarily have instruction" in the details of their faiths, says Boston University's Professor Robert. Nor have they had "time for their belief system to solidify." It is, she says, "still shifting." She argues that eventually the faithful will choose one religion or another, and the hybrids will fade away.

But the ferment is quite evident on the chaotic streets of Lagos, which is home to some 10 million people. Hundreds of church-sponsored banners scream out, "It's your day of RECOVERY @ LAST where life's pains are healed" or "Jesus Christ: A friend indeed! Even in times of need!!"

Healing is a regularly promised feature of churches across Africa. It's symbolic of a key element of the continent's religious explorations - fusing faith and rationality, Professor Balogun says. According to Western thought, with its emphasis on rationality, "Everything that goes up must come down," he says. But a more African approach is that, "By divine intervention it may not come down." In fact, his university is initiating a degree focusing on the religion-science nexus.

Meanwhile, it's not just Saka who's exploring the common ground between Christianity and Islam. Sitting in a wrought-iron throne, swathed in silky white fabric, the founder of "Chrislam" has these words for followers of the two great faiths: "The same sun that dries the clothes of Muslims also dries the clothes of Christians." Stroking his beard, the man named Tela Tella says, "I don't believe God loves Christians any more than Muslims."

His followers calls him His Royal Holiness, The Messenger, Ifeoluwa or "The Will of God." Since the religion's founding two decades ago, this small band has been gathering almost daily to hear his message of inclusiveness - that Christians and Muslims, "who are sons of Abraham, can be one."

Delta Villages Fear Troops In Nigeria (NYT/REU)

By Reuters

The New York Times, January 26, 2006

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WARRI, Nigeria, Jan. 25 (Reuters) — Villagers fled Nigeria's lawless delta on Wednesday amid fears of military reprisals after a wave of attacks on foreign oil companies by ethnic Ijaw militiamen.

The army deployed more troops to major installations, and oil companies tightened security around offices a day after heavily armed men stormed the headquarters of the Italian oil firm Agip, robbing a bank on the premises and killing eight policemen and a civilian.

"There are soldiers everywhere, and I don't want my three girls in the firing line," said Return Powei, who lives in the remote village of Ogbotobo. "Our youths run into the forest when they hear the soldiers are coming. Everyone is moving out of Ogbotobo."

It was not clear if the attack on Agip, a unit of ENI of Italy, was the work of the Movement for the Emancipation of the Niger Delta, whose five-week campaign of sabotage and kidnapping has contributed to an increase in oil prices.

The group said it would make Royal Dutch Shell suffer unless it paid $1.5 billion to delta villages in compensation for decades of oil pollution, which is one of its demands for releasing four foreign hostages.

The government has set up a committee to negotiate the release of four oil workers kidnapped Jan. 11.

U.N. Chief's Son Agrees To Pay Duties On SUV (LAT)

By Maggie Farley, Times Staff Writer

The Los Angeles Times, January 26, 2006

UNITED NATIONS — The son of U.N. Secretary-General Kofi Annan has announced that he intends to pay Ghana's government $14,301 in import duties on a Mercedes SUV that he had avoided paying by misusing his father's name.

Kojo Annan had obtained diplomatic discounts and tax exemptions on the luxury vehicle when he bought it in his father's name seven years ago. He does not intend to reimburse a German Mercedes dealership that gave him a $6,541 diplomatic discount, his lawyer said this week.

"The automobile was not for the secretary-general's own personal use and therefore the [import duties] exemption was not justified," William Taylor III, Kojo Annan's lawyer, said in a letter to Ghanaian officials last Thursday. "I write to inform you that Mr. Kojo Annan wishes to make full payment of the amount due to the government of Ghana."

A probe of the United Nations oil-for-food program revealed in September the false statements involving the car. Investigators initially suspected that the Mercedes was a payoff to Kofi Annan for awarding a U.N. contract to his son's employer, Cotecna Inspection. The investigators found a memo on the computer of an assistant to Annan that relayed Kojo Annan's request to approve the use of his name to obtain a diplomatic discount.

The secretary-general said that he gave his son $15,000 toward the purchase but that he did not realize that his name had been used to receive diplomatic discounts and tax exemptions.

On Wednesday, he welcomed news of his son's move. "It was the right thing to do," Annan told Reuters at the World Economic Forum in Davos, Switzerland. "He knew I wanted him to sort it out, clean it up. It was between him, his lawyer and the government."

Asked whether he, as secretary-general, secured the tax break for his son, Annan said, "Absolutely not. It was done behind my back."

The investigative panel, led by former U.S. Federal Reserve Chairman Paul A. Volcker, found no evidence of wrongdoing by the secretary-general. But journalists' persistent requests to the secretary-general's office for more information about the car roiled the elder Annan, who considered the matter closed and refused to address it.

At a news conference last month, Annan called a Times of London reporter "an embarrassment to his profession."

On Tuesday, Taylor announced that Kojo Annan would reimburse Ghana's government. The lawyer also said that the car was no longer in the secretary-general's name and that it had been totaled in a crash.

Ghanaian customs officials told the Times of London on Wednesday that they had received Kojo Annan's offer but that the attorney general had not decided whether to press charges.

Pinochet Daughter Detained At Dulles (WP)

By Monte Reel And Pamela Constable

The Washington Post, January 26, 2006

BUENOS AIRES, Jan. 25 -- The oldest daughter of the former Chilean dictator Gen. Augusto Pinochet was detained Wednesday at Dulles International Airport outside Washington, where she requested political asylum, a Chilean official said.

Lucia Pinochet, 60, arrived at about 7 a.m. on a United Airlines flight from Buenos Aires, and customs officials stopped her for questioning. She had been served with a subpoena over the weekend in Chile, along with her mother and three siblings.

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They had been ordered to appear in court on Monday in Santiago, the Chilean capital, on tax fraud charges connected to a probe of her father's illegal bank accounts.

A spokesman for the Department of Homeland Security said she was in U.S. custody at the airport in Virginia "pending resolution of her immigration status."

Chile's Interior Minister, Francisco Vidal, said U.S. Ambassador Craig Kelly informed his government that Pinochet, sought on an international arrest warrant, had requested asylum. U.S. officials said they could not comment on that issue.

Vidal said the Chilean government, as a democracy, rejects the basis for such a claim.

"Political asylum . . . is when there is no system of law, when there is no due process," he said.

Pinochet's father, 90, faces charges for financial crimes and human rights abuses committed during his 17-year rule, from 1973 to 1990. His wife, Lucia Hiriart, and three of their other children obeyed the summons, but Lucia was not present in court, according to Chilean news reports.

Lucia Pinochet's son, Rodrigo Garcia, told Chile's Radio Agricultura that he had traveled by car with his mother Sunday across the Chilean border into Argentina.

Diplomatic sources said she then took a domestic flight from the city of Mendoza to Buenos Aires, where she boarded a U.S.-bound flight. Garcia stayed behind.

"I want to make it clear that the journey we made to Argentina had been planned beforehand and she was never running away from anything," Garcia said in the radio interview.

He also sent a statement by his mother to a Santiago newspaper, in which she rejected the charges against her family.

"I am sorry that the instruments of the state are being used with the purpose of defaming and discrediting the honor of the people," the statement said. "They don't seek to clarify the source of my father's funds, but instead some seek the total defamation of each and every member of my family."

Lucia Pinochet is accused of evading almost $1 million in taxes. A Chilean prosecutor said Wednesday that the minimum punishment for a conviction of the charges would be three years in prison.

A U.S. customs service spokeswoman, Suzanne Trevino, said she did not know why Pinochet had been stopped at the airport. In general, she said, travelers would be referred by airport inspectors for additional interviews "if there were a problem with the documents or something suspicious."

Along with her mother and three siblings, Pinochet was charged with filing false tax declarations and helping her father hide nearly $27 million in more than 125 bank accounts outside Chile, including an account at the now-defunct Riggs National Bank in Washington, where he kept about $8 million.

Court officials in Santiago said the family members had been charged with filing "maliciously incomplete" and false tax declarations.

Chilean Foreign Minister Ignacio Walker told reporters that Pinochet could be sent back to Argentina by U.S. authorities, could voluntarily return to Argentina where Chile would submit an extradition request, or could decide to return to Chile and appear in court.

In Santiago, President Ricardo Lagos told reporters that talks were underway to arrange for her voluntary return.

"All of this has an effect on the country -- it's sad," said Lagos, a moderate socialist and longtime critic of the former dictator.

Augusto Pinochet has been charged with financial fraud, and faces prosecution related to the murder and torture of thousands of people after the 1973 military coup that brought him to power. He has avoided standing trial on the human rights charges by claiming health problems, including dementia.

A U.S. Senate report last year revealed that nine banks had allowed Pinochet to use false account names and offshore companies to hide millions of dollars from tax authorities and international prosecutors seeking to seize assets stolen from Chile. Riggs pleaded guilty last year to a criminal felony charge for failing to report suspicious transactions, and agreed to pay $41 million in civil and criminal fines to the U.S. government.

On Tuesday, a Santiago court approved bail for Pinochet's wife and their other children; Marco Antonio, Jacqueline and Veronica. Pinochet's eldest son, Augusto, was not arrested. He has been charged with falsifying passports but not with tax evasion.

Constable reported from Washington. Staff writer Spencer S. Hsu in Washington and special correspondent Jonathan Franklin in Santiago contributed to this report.

An Act Of Political Hygiene (WSJ)

By Mark Steyn

The Wall Street Journal, January 26, 2006

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QUEBEC CITY -- Remember the conventional wisdom of 2004? Back then, you'll recall, it was the many members of George Bush's "unilateral" coalition who were supposed to be in trouble, not least the three doughty warriors of the Anglosphere -- the president, Tony Blair and John Howard -- who would all be paying a terrible electoral price for lying their way into war in Iraq. The Democrats' position was that Mr. Bush's rinky-dink nickel-&-dime allies didn't count: The president has "alienated almost everyone," said Jimmy Carter, "and now we have just a handful of little tiny countries supposedly helping us in Iraq." (That would be Britain, Australia, Poland, Japan . . .) Instead of those nobodies, John Kerry pledged that, under his leadership, "America will rejoin the community of nations" -- by which he meant Jacques Chirac, Gerhard Schröder, the Belgian guy . . .

Two years on, Messrs. Bush, Blair, Howard and Koizumi are all re-elected, while Mr. Chirac is the lamest of lame ducks, and his ingrate citizenry have tossed out his big legacy, the European Constitution; Mr. Schröder's government was defeated and he's now shilling for Russia's state-owned Gazprom ("It's all about Gaz!"); and the latest member of the coalition of the unwilling to hit the skids is Canada's Liberal Party, which fell from office on Monday. John Kerry may have wanted to "rejoin the community of nations." Instead, "the community of nations" has joined John Kerry, windsurfing off Nantucket in electric-yellow buttock-hugging Lycra, or whatever he's doing these days. * * *

It would be a stretch to argue that Mr. Chirac, Mr. Schröder and now Paul Martin in Ottawa ran into trouble because of their anti-Americanism. Au contraire, cheap demonization of the Great Satan is almost as popular in the streets of Toronto as in the streets of Islamabad. But these days anti-Americanism is the first refuge of the scoundrel, and it's usually a reliable indicator that you're not up to the challenges of the modern world or of your own country. In the final two weeks of the Canadian election, Mr. Martin's Liberals unleashed a barrage of anti-Conservative attack ads whose ferocity was matched only by their stupidity: They warned that Stephen Harper, the Conservatives' leader, would be "George Bush's new best friend"! They dug up damaging quotes from a shocking 1997 speech in which he'd praised America as "a light and inspiration"! Another week and they'd have had pictures from that summer in the late '80s he spent as Dick Cheney's pool boy.

Mr. Harper, the incoming prime minister, will not be "George Bush's new best friend" -- that's a more competitive field than John Kerry and Jimmy Carter think. But at the very least a Harper government won't rely on reflexive anti-Americanism as the defining element of Canadian identity. No cheery right-wingers south of the border should exaggerate what happened on Monday. It was an act of political hygiene: The Liberal Party was mired in a swamp of scandals, the most surreal of which was a racket to shore up the anti-separatist cause in Quebec by handing out millions of free Canadian flags, a project which so overburdened the domestic flag industry the project had to be outsourced to overseas companies, who at a cost of $45 each sent back a gazillion flags that can't fly. That's to say, they had no eyelets, no sleeve, no halyard line for your rope and toggle and whatnot. You have to lean a ladder up against the pole and nail it into position, which on a January morning at Lac St-Jean hardly seems likely to endear nationalist Quebecers to the virtues of the Canadian state. Millions of dollars were transferred to "advertising agencies" and "consultancies" run by the party's pals and in return they came up with a quintessentially Liberal wheeze: Even if you wanted to salute it, you can't run it up the flagpole. As a forlorn emblem of Trudeaupian nationalism, that's hard to beat.

And yet and yet . . . in throwing the bums out, Canadian voters declined to subject them to full-scale humiliation. Even with viable alternatives for all tastes -- conservative, socialist and Quebec separatist -- it seems one can never underestimate the appeal of a party of floundering discredited kleptocrat incompetents led by a vindictive empty suit who fought one of the most inept campaigns in modern political history. They clung on to over 100 seats and the votes of Canada's three biggest cities. Truly, the Liberals are one of the most amazingly resilient parties this side of Kim Jong-Il's.

Stephen Harper has to live with that political reality, but, as he's done with his party, he'll move the country incrementally. On the environment, his views are compatible with Mr. Bush, John Howard and now Tony Blair: That's to say, if "climate change" is a problem, Kyoto's not the answer to it. On missile defense, the Conservatives will string along with Washington because it's the easy option and we'll be covered by it anyway: Even Canadians aren't prepared to argue that, if there's something headed toward Winnipeg or Montreal, we'd rather the Americans minded their own bloody business and didn't tell us about it. But it's a good gauge of the deterioration in U.S.-Canadian relations that a quintessential piece of postmodern, humbug multilateralism -- an issue that required Canada to be minimally supportive without being helpful, at no political cost and in return for some lucrative contracts for northern defense contractors -- was whooped up by the Liberals into a big scare about Washington's plans for the "weaponization of space." On missile defense, Mr. Harper will be more down to earth in every sense.

But will there be Canadian troops in Iraq or wherever's next? No, not in any meaningful sense. The sad fact is, even if we'd wanted to liberate Baghdad, we have an emaciated military worn to the bone. But it goes beyond the lack of equipment and lack of transport that now afflict what was, 60 years ago, the world's fourth largest military. In April 2002, the Pentagon wished to confer the Bronze Star on five snipers from the Princess Patricia's Canadian Light Infantry in Afghanistan for their service in . . . killing the enemy. Ottawa put the request on hold, relenting grudgingly only after the matter was made public. It seems the Canadian government's main objection was a reluctance to let it be known that our military still, er, shoots people, and extremely

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accurately. The backs of our five-dollar bills celebrate the armed forces, but they're all unarmed -- peacekeepers, elderly veterans, etc.

Like much of the European Union, we're so heavily invested in the idea that we've found a kinder gentler way we can scarce bear to contemplate the reality. At the Washington state/British Columbia border this week, two guys on the lam were hightailing it through Blaine heading for the 49th parallel with the cops in hot pursuit. Alerted to what was coming their way, Canada's (unarmed) border guards walked off the job. For a country whose national anthem lyrics are mostly endless reprises of the line "we stand on guard for thee," we could at least stand on guard. A few years back, I was chatting with a border guard at the Derby Line, Vt./Rock Island, Quebec crossing. A beat-up sedan came hurtling northward and we jumped out of the way. She sounded a klaxon. By then the driver was halfway up the Trans-Quebecoise autoroute and, if he ever heard her stern warning, he declined to brake and reverse back to the post to show his papers. "Oh, well," she said to me, "it's probably nothing."

Canadians have been reluctant in the last four years to accept that we no longer live in an "it's probably nothing" world. Many Continentals feel the same way. Unlike his hollow predecessor, Stephen Harper is a thoughtful man who understands the gulf between self-mythologizing and the harder realities. You can't change a free country unless you persuade free people to change their minds, and he will at least start that tough job. He doesn't have to be George Bush's best friend, and he may even be more effective at opposing him on trade and agriculture disputes. But he could try being Tony Blair's and John Howard's best friend and reconnecting us with other traditional pals from whom Canada's become increasingly estranged. He could honor our small but brave contribution to Afghanistan by flying out and meeting them on the ground. But, even if he does nothing else, he'll bring to an end a decade of self-defeating sneering. The ayatollahs at least flatter America as a seducer -- the Great Satan -- which is a more accurate and sophisticated construct than deriding her as the Great Moron. The difference between sniping at the Taliban and sniping at Washington is that in the latter case we're firing blanks.

Mr. Steyn is a columnist for Canada's Western Standard and Maclean's magazine, as well as for National Review and the Atlantic Monthly.

Freedom's Unsung Hero (WSJ)

The Wall Street Journal, January 26, 2006

Hong Kong's prosperity since World War II is sometimes referred to as a "miracle." But miracles require the intervention of a deity, whereas Hong Kong's remarkable economic growth between 1945 and its handover to China in 1997 owes a great deal to the nonintervention of a mortal man, John James Cowperthwaite, who died over the weekend at the age of 90.

Cowperthwaite arrived in Hong Kong in 1945 and served as Financial Secretary of the then-British colony from 1961-1971. Perhaps more than any other single figure, he was the architect and guardian of the greatest natural experiment in free-market capitalism in the postwar world. It is all the more remarkable that he kept the colonial government small and out of the business of business at a time when socialism was ascendant in Britain.

In 1997, Milton Friedman noted that since 1945 Hong Kong's GDP per capita had gone from a fraction to substantially more than that of Israel and Britain, and had caught up with that of the U.S., even as the colony's population increased tenfold. That astonishing performance became a policy beacon first to the nearby small nations of Asia (the "tigers") and eventually to Mainland China itself.

One of the better known stories about the undeservedly obscure Cowperthwaite was his refusal to collect economic statistics about Hong Kong during his tenure as Financial Secretary, lest they produce an impulse toward central planning among the bureaucrats. "I did very little," Sir John once said. "All I did was to try to prevent some of the things that might undo it." Other would-be central planners could learn a lot from what John Cowperthwaite didn't do.

The African Union Gets It Half-Right (NYT)

The New York Times, January 26, 2006

The African Union did the right thing in rejecting Sudan's bid for the rotating presidency of the organization. Allowing President Omar Hassan al-Bashir of Sudan to become Africa's face to the world would have sent just about every wrong message imaginable. Mr. Bashir has presided over the genocide perpetrated by Sudanese solders and allied militias in Darfur since 2003. He's not exactly the person anyone would want in nominal command of the 7,000-strong African Union force that is trying to protect civilians in Darfur. His ascension would have mocked the group's declared goal of promoting democracy, human rights and development.

The only question is why the African leaders in Khartoum for the sixth African Union summit meeting even wasted so much time on the issue, given the really pressing problems on their agenda. While the African Union usually passes the presidency on to the host of its regular summit meeting, the main purpose in founding the organization in 2002 was to avoid the pitfalls of its predecessor, the Organization of African Unity, which came to be derisively known as a dictators' club because of its consistent

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failure to sanction any member. The African Union, loosely modeled on the European Union, was meant to confront the continent's failings and problems head-on, and to find African solutions for them. So accepting Mr. Bashir's bid for the presidency would have been a serious blow to the union's credibility.

Unfortunately, that credibility is still on probation. Though rebuffed for now, Mr. Bashir was promised the group's presidency in 2007, and for now the chair will go to the Congo Republic, hardly a model of human rights. Giving Sudan the African Union presidency next year will be just as unacceptable as it was this year.

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Miller, Charles S

From: Miller, Charles S
Sent: Thursday, January 26, 2006 11:09 AM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 1/26/06 Civil Division News

ACLU says government using Patriot Act to censor, exclude Muslim scholar from U.S.

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Op-Ed: BUSH'S EDUCATION GAP

AP

January 26, 2006

ACLU says government using Patriot Act to censor, exclude Muslim scholar from U.S.

By LARRY NEUMEISTER

Associated Press Writer

NEW YORK_A leading Muslim scholar who opposes the war in Iraq has sued\l "l" the U.S\l "l". government, claiming officials used anti-terrorism laws to stop him from accepting speaking invitations from organizations.

In a federal lawsuit filed Wednesday, Tariq Ramadan accuses the government of manipulating the Patriot Act to muzzle him. In a phone interview with The Associated Press, the Swiss intellectual and Muslim scholar denied that he supports terrorism.

"I have no connections to terrorism," Ramadan said from Oxford, England, where he is a visiting fellow. "This is all about my political thoughts. And my political thoughts are known to everyone."

Ramadan was blocked from accepting a tenured teaching position at the University of Notre Dame when his visa was revoked in August 2004 under a provision of the Patriot Act, said Jameel Jaffer, an ACLU staff attorney.

Jaffer said the provision denies entry into the U.S. by any prominent foreigner who has used his status to endorse or espouse terrorism or to persuade others to do so.

Ramadan, 43, said he opposed the U.S. invasion of Iraq, and sympathizes with the resistance there and in Palestine. But he said he also opposes Islamic extremism, and promotes peaceful solutions.

"I want to build bridges," he said. "But I'm not blindly supportive of U.S. or European policies."

Ramadan's lawyer said his exclusion reflected an effort by the U.S. government to discourage academic debate about the war and other issues.

"The government should not be using the immigration laws as instruments of censorship," Jaffer said.

Named as defendants in the lawsuit are Secretary of State Condoleezza Rice and Secretary of Homeland Security Michael Chertoff.

The suit seeks a declaration that the Patriot Act provision at issue is unconstitutional. It also seeks a court order preventing the government from relying on the provision to exclude Ramadan or any other foreign national.

Besides Ramadan, plaintiffs in the lawsuit include the American Academy of Religion, the American Association of University Professors and the PEN American Center, organizations which had invited Ramadan to speak in the U.S.

"The exclusion of Professor Ramadan illustrates that the Patriot Act and other post 9/11 laws and policies may be serving to increase American isolation at a time when international dialogue is more critical than ever," Salman Rushdie, president of the PEN American Center, said in a statement. The center had invited Ramadan to speak in New York in April at its World Voices Festival.

The ACLU said Ramadan, a visiting fellow at St. Anthony's College at the University of Oxford, in August accepted British Prime Minister Tony Blair's invitation to join a government task force to examine the roots of extremism in Britain.

Megan Gaffney, a spokeswoman for government lawyers in Manhattan, said they had no immediate comment on the lawsuit.

END

New York Times (NY)

January 26, 2006

In Case About Google's Secrets, Yours Are Safe

ADAM LIPTAK

The Justice Department went to court last week to try to force Google\l "I", by far the world's largest Internet search engine, to turn over an entire week's worth of searches. The move, which Google\l "I" is fighting, has alarmed its users, enraged privacy advocates, changed some people's Internet search habits and set off a debate about how much privacy one can expect on the Web.

But the case itself, according to people involved in it and scholars who are following it, has almost nothing to do with privacy. It will turn, instead, on serious but relatively routine questions about trade secrets and civil procedure.

The privacy debate prompted by the case may thus be an instance of the right answer to the wrong question. As recently demonstrated by disclosures of surveillance by the National Security Agency and secret inquiries under the USA Patriot Act, the government is aggressively collecting information to combat terror. And even in ordinary criminal prosecutions and in civil lawsuits, Internet companies including Google\l "I" routinely turn over authentically private information in response to focused warrants and subpoenas from prosecutors and litigants.

But "this particular subpoena does not raise serious privacy issues," said Timothy Wu, a law professor at Columbia. "These records are completely disconnected. They're just strings of words."

In its only extended discussion of its reasons for fighting the subpoena, a Google\l "I" lawyer told the Justice Department in October that complying would be bad for business. "Google\l "I" objects," the lawyer, Ashok Ramani, wrote, "because to comply with the request could endanger its crown-jewel trade secrets."

Mr. Ramani's five-page letter mentioned privacy only once, at the bottom of the fourth page, and then primarily in the context of perception rather than reality.

"Google's\l "I" acceding to the request would suggest that it is willing to reveal information about those who use its services," he wrote. "This is not a perception that Google\l "I" can accept."

Even Google's\l "I" allies are shying away from legal arguments based on privacy. The American Civil Liberties Union, for instance, said it planned to file papers supporting Google\l "I". But not on privacy grounds. "We will probably not be making that argument," said Aden J. Fine, a lawyer with the civil liberties union.

The issues raised by the new subpoena, while substantial, are fairly technical, according to Professor Wu. "The legal point here is what is the relevancy standard for subpoenas?" he said. "That is interesting to procedure scholars but to no one else."

Other Internet search engine companies, including Yahoo, America Online and MSN, have complied with the same Justice Department subpoena, which also sought a random sample of a million Web addresses. The companies all said there were no privacy issues involved.

A Justice Department spokesman, Brian Roehrkasse, agreed. "We specifically stated in our requests," he said, "that we did not want the names, or any other information, regarding the users of Google\l "I"."

None of this is to say that subpoenas for search records linked to individuals are inconceivable. Google\l

"I" maintains information that could be used that way, and a subpoena could ask for it. But the recent subpoena does not.

The problem with the subpoena, Mr. Fine said, is more general. "This is another instance of government overreaching," he said.

The government says it needs Google's\l "I" information to defend a challenge from the civil liberties union to a 1998 law, the Child Online Protection Act, which makes it a crime to make "material that is harmful to minors" commercially available on the Web. The law was enjoined by a federal court in Philadelphia before it became effective, and it has never been enforced.

In 2004, the United States Supreme Court affirmed the injunction, ruling that filtering devices may work as well or better than criminal prosecutions in achieving the law's aims of keeping some offensive materials away from children, and it sent the case back for a trial to explore that question.

At a trial scheduled to start in October, the government will try to prove that filters are ineffective. Philip B. Stark, an expert retained by the government and a statistics professor at the University of California, Berkeley, said in a court filing that the Web addresses and search terms sought from Google\l "I" and other Internet companies would help him "to measure the effectiveness of content filters."

The government apparently wants to show that real-world searches will pull up offensive materials that filters will not catch. Why it needs Google\l "I" to do that is unclear, and Professor Stark declined a request for an interview, citing the pending litigation.

Google\l "I" has not yet filed a response in court, and it has not discussed the case publicly beyond a brief statement citing government overreaching. Its fullest explanation of its position was in Mr. Ramani's letter in October.

Google\l "I" objected, Mr. Ramani said, because the fit between what the government seeks and what it seeks to prove is poor. He also said that collecting and providing the information was burdensome and that the government could find it elsewhere.

Mr. Ramani did say that "one could envision scenarios" where Internet searches alone could reveal private information, but he provided no examples. But Google's\l "I" main argument was that its "highly proprietary" trade secrets could be jeopardized.

Marc Rotenberg, the executive director of the Electronic Privacy Information Center, a civil liberties group that has frequently been critical of Google\l "I", said the trade-secrets argument was a serious one.

In other contexts, Google\l "I" and other Internet companies say they are serious about protecting privacy. But their privacy policies acknowledge that they will comply with valid requests from the government and private litigants. Google's\l "I" policy, for instance, says it may share users' personal information if it has "a good faith belief" that disclosure "is reasonably necessary to satisfy any applicable law, regulation, legal process or enforceable government request." Nicole Wong, Google's\l "I" associate general counsel, said in an interview that the company "complies with valid legal process."

According to a 2004 decision of a federal court in Virginia, America Online alone responds to about 1,000 criminal warrants each month. AOL, Google\l "I" and other Internet companies also receive subpoenas in divorce, libel, fraud and other types of civil cases. With limited exceptions, they are required by law to comply.

Ms. Wong said Google\l "I" tried to notify users so they could object in court before the company turned over information about them. But the law forbids such notification in some criminal cases.

Even notification can be small comfort. It means a user must quickly and often at considerable expense find a lawyer and try to persuade a court to quash the subpoena. But the law often offers very limited

protection for personal information held by third parties.

That approach no longer makes sense, said Daniel J. Solove, a law professor at George Washington University. "In the information age," he said, "so much of our information is in the hands of third parties."

Mr. Rotenberg said Internet search records, if collected and linked to individuals, could give rise to a particularly profound invasion of privacy. "It's kind of the shadow of the thoughts within your head -- your interests, your desires, your hobbies, your fears," he said.

The situation is more complicated outside the United States. Internet companies have complied with local laws, as they must to do business abroad. Yahoo, for instance, provided information that helped China send a journalist there to prison for 10 years on charges of leaking state secrets to a foreign Web site.

Still, the current subpoena to Google\l "l", legal experts said, has given rise to an important debate, whether the facts of the case are apt or not.

"It allows us to have a national dialogue about whether current privacy protections are adequate," said Susan P. Crawford, a specialist in Internet law at the Cardozo Law School. Even if the Justice Department is not seeking private information now, she said, "the next subpoena could ask for that kind of data."

END

Indianz.Com.

Thursday, January 26, 2006

Commentary: Swimmer still not telling the truth on trust

"Why should the Indian people, Congress and the public believe Interior now?

Interior deserves to have its point of view on Trust reform acknowledged by the media. The press has reported on it, but not to the exclusion of the positions of the Cobell plaintiffs

As Interior's spokesman on the Cobell v. Interior saga, Ross Swimmer surely knows that no press representatives are going to be as one-sided in their coverage as Interior may prefer. Still, Interior may be dismayed with editorial boards that have addressed the case, most of whom have called upon Interior to pay up and clean up.

The editorials have largely focused on the poverty in Indian Country. Although Mr. Swimmer has suggested elsewhere that poverty is the result of socio-economic factors beyond Interior's control, squandering valuable Indian land assets cannot be overlooked as a cause. From my perspective, even Indians in the top 1% deserve a full Trust Accounting, which is not what Interior is providing.

My earlier article, which Mr. Swimmer responded to, was aimed at giving the media more information than has been provided by Interior and the Cobell plaintiffs. Getting "underneath" the litigation is key to evaluating whether Interior's efforts are adequate or misdirected. It also aids evaluation of the judicial response and the effectiveness of the lawsuit as a means of providing full reparations for Interior's neglect.

A string of sound bites should be met with skepticism by journalists. Parsing requires putting them in fuller context. It means, in short, taking a trip down the rabbit hole to Blunderland."

END

Fort Worth Star-Telegram (Fort Worth) (KRT)

January 26, 2006

Patent ruling on BlackBerrys expected soon

Aman Batheja

Fort Worth Star-Telegram, Texas

Jan. 26--Fort Worth architect David Campbell has just one thing to say to U.S. District Judge James Spencer.

"Don't take my CrackBerry."

Campbell is one of the nearly 4 million Americans who owns a BlackBerry, those ubiquitous mobile communications devices that are so cherished by users that a nickname compares them to a highly addictive drug.

The closely watched duel between BlackBerry's maker -- Research In Motion -- and the patent-holding firm NTP is expected to come to a head next month. In the meantime, members from a wide group of industries are all wondering how they will function if Spencer forces RIM to shut down service to their BlackBerrys.

"It's my phone. It's my calendar. It's my e-mail. It's my everything I need," Campbell said.

BlackBerrys have been growing in popularity since they were introduced by RIM in 1999. First adopted primarily by Wall Street types who relished sending and receiving e-mails while on the go, the device has since found favor among other groups, including politicians, lawyers and emergency workers.

With more than 50 percent of the market share for wireless e-mail devices, RIM is expected to reach 5 million BlackBerry subscribers worldwide by the end of February, according to the technology research firm Gartner.

"Professionals who use the BlackBerry, while they bemoan the loss of being able to leave the office, they really embrace the convenience of having the office so close," said Hal Degenhardt, a lawyer in Dallas who received his first BlackBerry in the late 1990s while heading the Securities and Exchange Commission's Fort Worth office. He's been hooked ever since.

"Probably on a conservative estimate, I check it 20 times a day," Degenhardt said.

The grudge match at the heart of the dispute involves NTP's contention that RIM has infringed on its wireless e-mail patent. Many have debated whether NTP has a valid claim or is just a so-called patent troll, turning the exploitation of the patent system into a full-fledged profession. Courts have mostly sided with NTP since the company sued\l "l" RIM four years ago in U.S\l "l". District Court in Richmond, Va.

The U.S\l "l". Patent & Trademark Office is reviewing the patents involved in the case. How the re-examination process pans out could transform the case, but Spencer could rule before the patent review process is complete.

RIM "has been hoping the court case would drag out long enough that the patent office would invalidate all the patents," said Todd Kort, an Austin analyst for Gartner. "It looks like RIM is going to run out of time."

The lengthiness of the case makes it an abnormality in patent cases, the vast majority of which are settled out of court. Regardless of whether they're in the right, many have criticized RIM's decision to fight the suit.

"The cost of patent litigation is so expensive, you're putting large companies in a very difficult situation," said David Munck, a senior partner with Davis Munck Butrus, an intellectual-property firm in Dallas that focuses on technology patents. "I just think RIM miscalculated their position."

Attention in the case reached its zenith last week, when the Supreme Court refused to hear RIM's appeal. The case has now been tossed back to the District Court. Spencer on Wednesday called a Feb. 24 hearing on the case.

Although many BlackBerry users are scared by the possibility the judge will halt service to their BlackBerrys, what's more likely to happen will be far less dramatic.

"It's not like we're all going to wake up one morning and our BlackBerrys won't work anymore," said Kort, adding that the judge will likely give RIM at least 30 days to comply with the injunction or settle with NTP.

Few business analysts expect the nation's BlackBerrys to go dark.

"We think the chances of an actual shutdown are probably less than 10 percent," Kort said.

Assuming that a shutdown is avoided, two alternative scenarios loom large.

Recent reports from financial firms Canaccord Adams and Goldman Sachs say a settlement between the two companies is the most likely outcome. The thinking goes that even after a significant payment to NTP, the BlackBerry line still has enough potential to make money.

The other option is for RIM to release a software upgrade to the BlackBerry software, called a work-around solution, that keeps BlackBerry e-mail service functioning without violating NTP's patents. RIM has given few details about such a solution but has said it has one ready.

"My strong hunch is they will introduce a turnaround solution," said Randy Eisenman, president and founder of Handango, a Hurst-based company that handles online software sales for mobile devices including BlackBerry.

Last year, Handango dramatically increased the number of BlackBerry applications it offered, which helped sales of BlackBerry content to grow by about 320 percent from 2003, Eisenman said.

"We're seeing real great growth across all the major device types, but we're actually seeing the fastest growth in BlackBerry," he said.

Handango also has partnerships with most of BlackBerry's competitors, including Palm and HP, but Eisenman doesn't expect RIM to lose its leading position because of the patent dispute. "Without a doubt, this has presented an opportunity for RIM's competitors to make themselves more visible to customers," Eisenman said. "That being said, BlackBerry has such a stellar product and a loyal customer base, I don't see them losing momentum."

Despite the optimistic predictions, many remain worried about abruptly losing service. "Contingency plan" has become the buzzword among IT departments as various outfits decide how to handle a potential shutdown.

RIM competitor Intellisync has launched pilot programs with more than 40 financial services firms and government organizations interested in BlackBerry alternatives.

In the federal government, where BlackBerrys have become pervasive, there is less concern. Any injunction is not likely to include the federal government's 200,000 BlackBerry users, because of public-safety issues.

The city of Fort Worth began issuing BlackBerrys to a small number of employees in December 2004 through a contract with Sprint Nextel. James Burris, the city's BlackBerry administrator, now keeps track of 302 of the devices, which go mostly to department directors and upper management. Some emergency workers also use the devices, he said.

In recent months, the city's IT department has had meetings with Nextel representatives as well as with RIM to keep abreast of the lawsuit and its possible ramifications, Burris said.

RIM has "assured us that they will have some kind of work-around solution if an injunction were to be in place, and we were to be included," Burris said, adding that the city is likely to be exempt from any injunction.

And if a shutdown were to affect city employees?

"We would just go back to our cellphone solution we have now and would begin to review other devices," he said.

As for those defenseless BlackBerry addicts in the private sector, many are hesitant to switch to a competitor right now.

"You don't see many Mac users switching to IBM," Campbell said.

END

The Associated Press
01-26-2006

Lawyer Indicted for Alleged Role in Illegal Internet Pharmacy Case

A lawyer has been indicted on federal charges alleging he helped an Internet pharmacy illegally obtain narcotics and helped its founder hide assets.

Daniel Adkins, who was general counsel for Xpress Pharmacy Direct, helped deceive legitimate pharmacies into supplying the narcotics that Xpress hawked over the Internet and by telephone, according to the indictment issued Tuesday.

Federal authorities say Xpress filled about 72,000 illegal prescriptions for pain killers and other controlled substances, generating sales of about $20 million. Authorities shut down Xpress last May, and company founder Christopher Smith, his accountant and a doctor who issued prescriptions were indicted in August.

The indictment alleges that Adkins helped Smith hide assets after they learned about the investigation. It also alleges that Adkins wrote to legitimate pharmacies from which Xpress ordered drugs, assuring them that Xpress was "both legal and authorized by federal and state statutes."

Adkins was charged with conspiracy to distribute and dispense controlled substances, wire fraud, unlawful distribution and dispensing of controlled substances and misbranding drugs. If convicted of wire fraud he could face up to 20 years in prison and a $250,000 fine, the U.S. Attorney's office said.

Adkins, from St. Paul, Minn., refused to comment and referred calls to his own attorney, Earl Gray. Gray said Wednesday that the allegations "are simply not true."

Smith's bail was revoked for violating the terms of his release, and he remains in custody.

END

Cox News Service
Thursday, January 26, 2006

Doctor in botox case gets 3 year sentence

By LARRY KELLER

FORT LAUDERDALE, Fla. — U.S. District Judge James Cohn said he had gotten more letters on behalf of Bach McComb, the South Florida doctor charged with injecting people with bogus Botox shots "than practically any defendant I've sentenced."

Nine of those supporters testified Wednesday to McComb's virtues as a doctor and a person.

But Cohn sentenced McComb to the maximum penalty sought by prosecutors — three years in federal prison. That will be followed by one year of supervised release.

McComb's attorney asked if his client could voluntarily surrender later. Cohn said no. And so, McComb, 48, took a final sip of water. He removed his necktie. Then he placed his wallet on the table. Next came his belt and his suit coat. Finally, he placed his hands behind him and a marshal placed them in cuffs.

"We love you, Bach," one supporter shouted as he was led away.

"We'll be praying for you," yelled another.

Thus ended 8 1/2-hours of testimony and legal arguments in federal court here. The hearing included riveting testimony from Palm Beach Gardens chiropractor Eric Kaplan and Alma "A.J." Hall, who had been McComb's girlfriend. Kaplan and Hall were left temporarily paralyzed after McComb injected them one day before Thanksgiving 2004 with fake Botox shots that were actually a far more potent botulinum concentration obtained from a California company.

Kaplan's wife, Bonnie, and McComb himself, also suffered debilitating reactions from the injections.

"He practiced medicine in a way that Dr. Frankenstein would have practiced medicine," Eric Kaplan, 53, testified. He sounded and walked normally, but said he has recurring health problems now. "I'm not the person I used to be," he said.

During the sentencing, a frequently sobbing Hall was seen in a videotaped statement she made Tuesday in Alabama, because she was physically unable to travel to Florida for the sentencing.

"All I know is what Dr. McComb did to me was deplorable. I had to suffer the humiliation of wearing diapers," Hall, 35, said. "By the time I left the hospital, my body had wasted away to almost nothing. I was unrecognizable, even to myself."

Hall's family and the Kaplans have civil lawsuits pending against McComb.

McComb also testified. "I wish I could turn back the clock and undo this nightmare, but I can't," he said, voice choking with emotion. "I clearly made an error," he said, adding that it was an accident. Like Kaplan, there were no outward signs that McComb had once been critically ill from the fake Botox.

McComb was charged nearly a year ago with 23 felony counts that included conspiracy, mail fraud and wire fraud. He pleaded guilty in November to a single count of deliberately mislabeling botulinum toxin

type A that was injected into patients at Advanced Integrated Medical Center in Oakland Park, where he practiced medicine without a valid license. The other charges were dropped. McComb faced up to 28 years in prison before the plea deal. His attorney, Jose Hererra, said sentencing guidelines called for 10 to 18 months in prison. Assistant U.S. Attorney Robin Rosenbaum urged Judge Cohn to go above the guidelines, arguing that doing so would serve as a deterrent to other doctors tempted to buy and inject fake Botox.

A federal agent testified Wednesday that 217 doctors across the nation bought botulinum toxin from Toxin Research International Inc. in Tucson, Arizona. Some of those doctors admitted injecting the TRI product in their patients, and it was clear that others did, too, said Susan Leeds, a special agent with the Food and Drug Administration's criminal investigations unit.

TRI was run by husband and wife naturopaths Chad Livdahl and Zarah Karim. They pleaded guilty in November to one count of conspiracy to commit fraud through mail and wire transactions and one count each of fraud for selling two vials of "Mimic Botox" to a North Miami clinic, then illegally shipping the toxin by UPS. The government dropped 38 other charges against the couple. Livdahl faces a guidelines sentence of nine to 11 years; Karim, a six-year term. They are scheduled to be sentenced today.

Another defendant, Robert Baker, an ophthalmology professor in Kentucky, also is set for sentencing today. McComb's medical license was suspended in 2003 for overprescribing prescription drugs that led to five overdose deaths in the Sarasota area. Criminal charges against McComb there were dismissed.

At the Oakland Park clinic, he bought and injected patients with bona fide Botox, a name brand copyrighted by Allergan Inc. that is the only FDA-approved cosmetic to use botulinum neurotoxin for erasing facial wrinkles. It was a small part of his practice, McComb said.

Prosecutors said he also bought botulinum toxin from Tuscon-based TRI, and an even more potent concentration from TRI's source, List Biological Laboratories in Campbell, Calif. It was the latter product that caused severe reactions in some patients.

In her videotaped testimony, Hall — who worked with McComb at the Oakland Park clinic — said he refused to take her to a hospital when she became severely ill from the injections, choosing instead to fly with her to New Jersey, where his mother and sister lived. His sister called for an ambulance as Hall lay on a bathroom floor, she said.

What followed was seven months in a hospital, Hall said. For the first four months, she was completely incapacitated, unable even to close her eyes or speak. "I could not express this agony ... or ask for relief," Hall said. "I felt trapped in my own body."

As Hall's anguished words tumbled out, several of McComb's supporters in the courtroom grumbled and snickered, saying she was a liar trying to bolster her civil case.

After prompting from his attorney, McComb said he loved Hall and has been depressed because he was unable to help her.

In imposing what he called a severe sentence, Judge Cohn cited the fact that McComb continued practicing medicine without a valid license, coupled with the fact that he knew the botulinum toxin was not supposed to be used on humans. McComb had to be punished in order to "protect the public and to deter similar conduct," he said.

END

UPI

January 26, 2006

Court orders damages over Agent Orange

A Seoul court ruled Thursday that the U.S. maker of Agent Orange should compensate South Korean soldiers injured by the defoliant during the Vietnam War.

The High Court said that two companies, Dow Chemical and Monsanto, should pay $62 million in medical compensation to 6,800 people who were affected by excessive dioxin contained in Agent Orange, which U.S. forces used to clear forests and undergrowth, the BBC reported.

More than 300,000 South Korean troops fought in Vietnam during the 1965-73 conflict. They were the largest foreign contingent supporting the U.S\l "l". war effort.

The ruling overturned a lower court's decision in a long-running case, in which more than 20,000 South Korean veterans originally sued\l "l" for damages.

A U.S\l "l". court last year rejected a claim for damages from a group of Vietnamese who reported health problems they attributed to the defoliant.

In 1984, however, several chemical companies paid $180 million to settle a lawsuit brought by U.S. war veterans with a similar claim.

END

Star-Tribune

January 26, 2006

Are gas producers underpaying?

By DUSTIN BLEIZEFFER
Star-Tribune energy reporter

A New York Times report suggesting natural gas companies have underpaid the federal government billions of dollars in royalties is closely related to a case before U.S. District Judge William Downes in Casper.

The case originally included 75 gas-royalty lawsuits. It landed in the Casper court several years ago when a federal judiciary board assigned the lawsuits under administrative provisions meant to conserve judicial resources and streamline pretrial procedures.

Several Wyoming lawyers are involved in the voluminous case, including Wheatland attorney Ray Hunkins, a Republican who announced his candidacy for governor on Tuesday.

Hunkins wasn't available for comment Wednesday. His client, Jack Grynberg of Denver, said he initiated the case nearly 11 years ago when he filed a complaint under the False Claims Act, a Civil War-era whistleblower law. It allows private citizens to sue on behalf of the government and recover triple damages in cases where defendants underpaid or overcharged the United States.http://adsys.townnews.com/34633188314405/creative/casperstartribune.net/news+rtcontophorsize.

Grynberg told the Star-Tribune this week that the court may soon make a decision about whether the case will proceed to trial. Seventy-three individual lawsuits remain, and many of those involve federal oil and gas in Wyoming, according to Grynberg.

The general complaint is that natural gas reporting differs based on a mixed set of federal regulations. Companies report a particular sales price from the wellhead to their shareholders, but report a lower sales figure to the Department of Interior after deducting some processing and transportation costs.

The result, according to Grynberg, is that spiking prices for oil and gas in 2005 created huge earnings for producers, but Americans didn't see the same spike in royalties for their oil and natural gas.

The New York Times reported that its three-month investigation suggests this type of discrepancy might have short-changed Americans by $700 million during 2005, a year in which energy companies extracted some $60 billion in oil and gas on publicly owned lands.

But the U.S. Minerals Management Service disputes the basis of the argument made in the Times article.

"The problem with the article is it compared wholesale and retail. That's like comparing a shirt on the rack to the cotton bole as it's harvested in the field. That's a big difference," said Susan Weaver, spokeswoman for the Minerals Management Service.

Arguments center on the physical point of valuation of the minerals and which costs can be deducted to determine the value that mineral royalties are based upon.

Grynberg said he believes the federal government misinterprets the reporting rules and allows too many deductions.

"The rules are very clear: You pay royalties as based on the value at the wellhead, period," he said.

Weaver said the Minerals Management Service has conducted two reviews of its royalty and audit procedures in recent years, and both reviews found no problems with the system.

The New York Times article prompted the chairman of the House Resources Committee, Rep. Richard Pombo, R-Calif., to ask the Interior Department to provide information to the committee so it can review the matter.

Sen. Craig Thomas, R-Wyo., spoke with Minerals Management Service Director Johnnie Burton this week about the mineral royalty underpayment allegations. Thomas' spokesman, Cameron Hardy, said the senator would like to review the royalty audit process in the Senate energy and finance committees.

"The key is making sure the laws we have in place are keeping current with the times," Hardy said.

NewsTracker

* Last we knew: The federal government received in excess of $10 billion in royalty payments in 2005 for minerals produced from federally owned lands.

* The latest: Debate about whether energy companies are paying the correct amount of federal mineral royalties centers on a whistleblower case before U.S. District Court in Casper.

* What's next: U.S. District Judge William Downes is expected to decide whether the case will go to trial.

END

Boston Globe (MA)

January 25, 2006

Op-Ed: BUSH'S EDUCATION GAP

DERRICK Z. JACKSON

OUR COMMANDER-in-certitude went Monday to Kansas State University. The publicized reason was to defend ultra-secret domestic spying. For much of his speech and question-and-answer period, President Bush served juicy red meat in a red state where he slammed John Kerry in the 2004 election, 62 to 37 percent. He said:

"This enemy cannot beat us. They cannot defeat us militarily. There's no chance."

"In the short term, we'll stay on the offense."

"Congress gave me the authority to use necessary force to protect the American people."

"We're using all assets at our disposal to protect you."

In the question-and-answer period, there was a moment when Bush was caught confused about his assets in another arena. Someone asked Bush, "Recently, $12.7 billion was cut from education . . . How is that supposed to help our futures?"

There was applause from the crowd.

Bush stumbled. "Education budget was cut? Say it again. What was cut?"

The person said, "$12.7 billion was cut from education. And I was just wanting to know: How is that supposed to help our futures?"

Bush said, "At the federal level?"

The person said, "Yes."

Bush said, "I don't think we've actually for higher education?"

The person said, "Student loans."

Bush said, "Student loans?"

The person said, "Yes, student loans."

Bush said, "Actually I think what we did was reform the student loan program. We are not cutting money out of it. In other words, people aren't going to be cut off the program. We're just making sure . . . it functions better. In other words, we are not taking people off student loans. We are saving money in the student loan program because it's inefficient."

Bush continued, "And secondly, . . . we're actually expanding the number of Pell grants through our budget."

Karl Rove should have told Bush that if you visit a university and offer a question-and-answer session, you might get asked about education. The question came two weeks after Bush gave an address at an elementary school in Glen Burnie, Md., to tout the fourth anniversary of No Child Left Behind. In that address, Bush said, "We have a moral obligation to make sure every child gets a good education . . . It's not right to have a system that quits on kids. I mean, some schools may not think they're quitting on kids, but when you shuffle kids through the schools without determining whether or not they can read and write and add and subtract, I view that as quitting on kids."

It is stunningly clear that Bush and the Republican Congress have quit on the kids. The questioner at Kansas State was correct. In December, the Senate passed a $12.7 billion cut in loan aid, which would force college students and their families to pay much higher interest rates on their loans. Pell grants would remain capped at $4,050 for the fourth straight year, further depressing a purchasing power which has declined, according to the American Council on Education, from covering 84 percent of the cost of a public four-year college in 1972 to 34 percent today.

On the K-12 front, despite the immense budgetary authority originally granted by Congress to make No\l "l" Child\l "l" Left\l "l" Behind\l "l" work, Bush and the Republicans took the assets at their disposal and shuffled them over to what is becoming a needless, trillion-dollar war in Iraq. They shuffled them over to the needless, trillion-dollar tax cuts for the wealthy, cuts they still want to make permanent.

Because of those decisions, the gap between what Congress budgets for No\l "l" Child\l "l" Left\l "l" Behind\l "l" and what states and localities have to pay to meet its rules have sparked nationwide complaints from both red and blue states. The White House and its Department of Education beat back one lawsuit last year brought by the National Education Association, but it faces another from the State of Connecticut\l "l", one endorsed by 109 of the state's 169 school boards, according to last week's Hartford Courant.

Connecticut\l "l" Attorney General Richard Blumenthal called the goals of No\l "l" Child\l "l" Left\l "l" Behind\l "l" "worthy," but said "the federal government must be held accountable for its education promises." Evasion of such accountability was abundantly evident in Bush's bumbling answer at Kansas State University. For all his certitude about tax cuts, war, and holding terrorists accountable, Bush never did say how the $12.7 billion cut in student loans was supposed to help our future.

END

USDOJ- Office of Public Affairs

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, JANUARY 27, 2006 7:45 AM EST

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TERRORISM NEWS:

Bush Sees No Need For Law To Approve Eavesdropping (NYT)

By Elisabeth Bumiller

DOJ_NMG_0012323

The New York Times, January 27, 2006

WASHINGTON, Jan. 26 — President Bush declared again on Thursday that his administration's program for eavesdropping without warrants was well within existing law, and said that efforts in Congress to write legislation expressly giving him authority for such a program were unnecessary and dangerous.

"My concern has always been that in an attempt to try to pass a law on something that's already legal, we'll show the enemy what we're doing," Mr. Bush said in a wide-ranging morning news conference in the White House press briefing room. The president added that if the effort to write a new law "is likely to expose the nature of the program, I'll resist it."

Mr. Bush's 46-minute news conference, announced less than an hour and a half ahead of time, was an effort by the White House to frame the debate on an array of foreign and domestic issues only five days before his State of the Union address. The topics included the Hamas landslide in the Palestinian elections; photographs of Mr. Bush with Jack Abramoff, the disgraced Republican lobbyist; and the Congressional investigation into the administration's response to Hurricane Katrina.

Mr. Bush appeared relaxed in the briefing room, which his aides say he prefers for news conferences instead of the more formal East Room. He appeared apprehensive at first, but loosened up when he saw a camera dangling precariously from a cord in the ceiling, threatening to crash down on the heads of reporters. "Are you wearing your helmets?" Mr. Bush asked.

He said he welcomed traveling for the 2006 midterm elections in November. "I've got one more off-year campaign in me as a sitting president, and I'm looking forward to it," he said. "As you know, I like to get out and tell people what's on my mind."

The eavesdropping program dominated the domestic policy questions at the news conference, which Mr. Bush used as another volley in his weeklong campaign to push back against both Democrats and Republicans who question the program's legality. Senate Judiciary Committee hearings into the program are to begin next month.

"There's no doubt in my mind it is legal," Mr. Bush said.

He reiterated that the program, which intercepts international phone calls and e-mail messages of people in the United States suspected by the government of having links to Al Qaeda, was crucial to national security, and declared that he had the constitutional authority in wartime to order it. He said that after the Sept. 11 attacks he had asked people like Lt. Gen. Michael V. Hayden, then the director of the National Security Agency and now the principal deputy director of national intelligence, to come up with plans to protect against terrorist attacks.

"And so he came forward with this program," Mr. Bush said. "In other words, it wasn't designed in the White House; it was designed where you expect it to be designed, in the N.S.A."

Mr. Bush took issue with a questioner who asked why he felt the need to circumvent the 1978 Foreign Intelligence Surveillance Act, which requires court warrants for wiretaps.

"Wait a minute," Mr. Bush said. "That's a — there's something — it's like saying, you know, 'You're breaking the law.' I'm not." He said that the surveillance act "was written in 1978" and that now "it's a different world."

Mr. Bush sidestepped a question on whether the eavesdropping program was part of an effort by the White House to reassert executive power.

"I would say that there has been a historical debate between the executive branch and the legislative branch as to who's got what power," he said. "And I don't view it as a contest with the legislative branch. Maybe they view it as a contest with the executive. I just don't."

Bush Reasserts Presidential Prerogatives (WP)

By Jim Vandehei

The Washington Post, January 27, 2006

President Bush set limits yesterday on White House cooperation in three political disputes, saying he is determined to assert presidential prerogatives on such matters as domestic eavesdropping and congressional inquiries into Hurricane Katrina.

In a mid-morning news conference, Bush told reporters he is skeptical of a proposed law imposing new oversights on his use of the National Security Agency to listen in on electronic communications. He also said that he will block White House aides from testifying about the slow federal response to Hurricane Katrina, and that he will not release official White House photos of himself with former Republican lobbyist Jack Abramoff.

Facing repeated questions, Bush distanced himself from Abramoff, who is at the center of the biggest political corruption and bribery scandal in a generation. Bush said he does not recall having his picture taken with Abramoff or ever meeting him. Abramoff was a member of the exclusive club of Bush's $100,000 fundraisers known as Pioneers.

"Having my picture taken with someone doesn't mean that I'm a friend with him or know him very well," Bush told reporters.

According to three people who reviewed half a dozen photos of the men, Bush is pictured at official gatherings and fundraisers with Abramoff and his children. He also attended a White House meeting with some of Abramoff's clients, including tribal leaders and the then-speaker of the House for the Northern Mariana Islands, the sources said. Abramoff has pictures from the event, they said.

If prosecutors "believe something was done inappropriately in the White House, they'll come and look and they're welcome to do so," Bush said. The White House has also refused to detail meetings between Abramoff and top White House aides.

The president was similarly adamant about not allowing top aides to testify about Hurricane Katrina. Bush, who has moved on several fronts over the past five years to strengthen the power of the presidency, said it would be damaging to him and future presidents if aides feared providing candid advice.

Sen. Joseph I. Lieberman (D-Conn.), a staunch supporter of Bush on foreign policy, has accused the White House of undermining the probe by refusing to detail the role of White House officials. "If people give me advice and they're forced to disclose that advice, it means the next time an issue comes up I might not be able to get unvarnished advice from my advisers," Bush said. "And that's just the way it works."

On the issue of NSA eavesdropping on overseas communications to or from U.S. citizens, Bush said he is concerned about Congress writing a new spying law because it could force the government to provide details and clues about a top-secret program used to hunt down terrorists.

"There's no doubt in my mind it is legal," Bush said. Democrats have accused Bush of breaking the law by authorizing the spying program without approval from Congress or the courts. The debate is expected to dominate hearings, scheduled to begin Feb. 6, on the highly classified NSA program.

"But it's important for people to understand that this program is so sensitive and so important that if information gets out to how we run it or how we operate it, it'll help the enemy," he said. "Why tell the enemy what we're doing?"

In his 10th news conference since winning reelection, Bush talked at length about presidential power but also previewed next week's State of the Union speech and weighed in on several foreign policy issues, including the Hamas victory in the Palestinian elections.

The performance was quintessential Bush: He joked and sparred with reporters, and betrayed no sense of second-guessing his decisions. When pressed about the election victory of Hamas, which the United States and other countries have called a terrorist group, Bush initially portrayed the vote as a triumph of the democratic process and a wake-up call to the current Palestinian leadership. Later, he conceded the results could set back the Middle East peace process, a top Bush priority.

Bush was often blunt, at one point taking a reporter's challenge to declare with "Texas straight talk" that the United States will never torture prisoners. "No American will be allowed to torture another human being anywhere in the world," Bush shot back. He said that is why the White House supported the law sponsored by Sen. John McCain (R-Ariz.) that outlawed cruel, inhuman and degrading treatment of detainees. A statement released by the White House when Bush signed the law, however, left vague whether the administration is asserting that a loophole exists.

Bush endorsed a plan to allow Russia to help produce nuclear energy for Iran as a way to keep the anti-American regime from building nuclear weapons. But he mischaracterized Iran's public position by saying, "The Iranians have said, 'We want a weapon.' " Publicly, the Iranian government has insisted the opposite is true, though Tehran is widely believed to be actively seeking nuclear weapons.

Although he has not vetoed a spending bill since taking office, Bush warned he is "fully prepared to use the veto" if lawmakers overspend. The government is more than 25 percent larger today in total spending than it was the day Bush took office, and conservatives are calling on the president and Congress to reduce the size of the federal budget.

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Bush is expected to talk about new spending restraint during his State of the Union address Tuesday night. The speech will be the official start of a legislative year that will be confined by high budget deficits and a tight legislative schedule. As Bush was speaking, the Congressional Budget Office estimated the 2006 deficit at $337 billion, up from 2005.

Bush will forgo expensive new programs in his speech, aides said, though he will call for new tax breaks to mitigate the cost of health insurance, which has skyrocketed in recent years. With the House and Senate up for grabs in November, politics, not policy, will likely drive much of the congressional agenda.

Bush said he is excited to be campaigning for GOP candidates in the midterm elections, which he predicted will be about "peace and prosperity."

At hearings on the NSA spying, Democrats plan to press administration officials to explain why Bush did not consult Congress more broadly about the program, why he does not believe Congress should write a new law governing eavesdropping programs such as the NSA operation, and why he believes the super-secret Federal Intelligence Surveillance Act courts should not be consulted before eavesdropping on communications to and from the United States. In his news conference, Bush emphasized that FISA was enacted in 1978 -- "a different world," he said.

Sen. Edward M. Kennedy (D-Mass.) said Bush's explanation that the Constitution and the war resolution passed after the Sept. 11, 2001, attacks provide the president with extraordinary wartime power is wrong. "Congress can't roll over in the face of these outrageous claims," Kennedy said. "No president is above the law."

Bush Claims Authority On War, Eavesdropping (WT)

By Joseph Curl

The Washington Times, January 27, 2006

President Bush yesterday said he has exclusive authority over a broad range of issues -- including forbidding White House officials to testify before Congress about the government's Hurricane Katrina response and ordering warrantless electronic surveillance within the United States.

"Conducting war is a responsibility in the executive branch, not the legislative branch," the president said at a 46-minute press conference. "Most presidents believe that during a time of war that we can use our authorities under the Constitution to make decisions necessary to protect us."

Democrats have accused the president of breaking the law by ordering the National Security Agency in 2002 to eavesdrop on international communications between suspected terrorists and people in the United States. Senate hearings on the once-secret program are scheduled for Feb. 6.

Mr. Bush acknowledged that "there will be a legal debate about whether or not I have the authority to do this," but added, "I'm absolutely convinced I do. And I'm going to continue using my authority."

In response to a question from The Washington Times, Mr. Bush said: "We're going to do what is necessary, within the Constitution and within the law, and at the same time guaranteeing people's civil liberties, to protect the people."

Asked whether he would support efforts in Congress to spell out his authority to continue the eavesdropping program, Mr. Bush cited what he said was the extreme secrecy of the operation, first revealed by the New York Times last month.

"It's important for people to understand that this program is so sensitive and so important that if information gets out to how we run it or how we operate it, it'll help the enemy," he said.

Asked why his administration has refused to allow senior staff, including his former FEMA director, Michael Brown, "to testify, to interview or talk with congressional leaders" about the federal government's response to Hurricane Katrina, Mr. Bush cited his executive authority.

"If people give me advice and they're forced to disclose that advice, it means the next time an issue comes up I might not be able to get unvarnished advice from my advisers," he said. "It will have a chilling effect on future advisers if the precedent is such that when they give me advice that it's going to be subject to scrutiny."

The president opened with a preview of his State of the Union address, which he will deliver Tuesday to a joint session of Congress. He said he believes Democrats and Republicans can accomplish something together even though this is a

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congressional election year. Responding to a question later, he said he was eager to get out and help Republicans win in November.

"I've got one more off-year campaign in me as a sitting president, and I'm looking forward to it," he said.

Bush Calls Warrantless Wiretaps Legal (AP-Y2)

By Terence Hunt

AP2, January 27, 2006

President Bush again defended his program of warrantless surveillance Thursday, saying "there's no doubt in my mind it is legal." He suggested that he might resist congressional efforts to change or expressly endorse it.

"The program's legal, it's designed to protect civil liberties, and it's necessary," Bush told a White House news conference.

Democrats have accused the president of breaking the law in allowing eavesdropping on overseas communications to and from U.S. residents, and even some members of his own party have questioned the practice.

It was the president's first full-scale news conference of the new year, and the 10th since he was re-elected in 2004. He previewed his upcoming State of the Union address and fielded questions on former lobbyist Jack Abramoff, the stunning victory of the radical group Hamas in Palestinian elections and the administration's cooperation with Congress on its investigation of Hurricane Katrina.

Asked if he would support efforts in Congress to spell out his authority to continue the eavesdropping program, Bush cited what he said was the extreme delicacy of the operation.

"But it's important for people to understand that this program is so sensitive and so important that if information gets out to how we run it or how we operate it, it'll help the enemy," he said. "Why tell the enemy what we're doing?"

"We'll listen to ideas. But I want to make sure that people understand that if the attempt to write law makes this program -- is likely to expose the nature of the program, I'll resist it," he said.

On the Middle East, Bush expressed concern that Palestinian elections had given a majority to the radical party Hamas, which has called for the elimination of Israel, although he noted that democratic elections sometimes produce unwelcome results.

He made it clear that any organization that has an armed wing and which advocates violence against Israel "is a party with which we will not deal."

Bush called the election results a "wake-up call" to the old guard Palestinian leadership, many of whom are holdovers from the days of the late PLO Chairman Yasser Arafat.

Questioned about a controversy swirling about disgraced lobbyist Jack Abramoff, Bush said he would cooperate with federal prosecutors investigating Abramoff and his alleged influence peddling activities, if necessary. Otherwise, the president said he saw no reason to release pictures that he acknowledged were taken of him and Abramoff.

"There is a serious investigation going on by federal prosecutors — that's their job," the president said. "If they believe something was done inappropriately in the White House, they'll come and look and they're welcome to do so."

Otherwise, Bush said, "I've had my picture taken with a lot of people. Having my picture taken with someone doesn't mean that I'm a friend with him or know him very well. "

"I've had my picture taken with you," Bush said to the reporter who asked the question.

Pressed further on his relationship with Abramoff, who has pleaded guilty to federal charges stemming from his lobbying practices and has pledged to cooperate with investigators, Bush said, "I frankly don't even remember having my picture taken with the guy. I don't know him."

He said that federal investigators should pursue all leads and "look into all aspects of his influence on Capitol Hill," and that if the path also leads to the White House, he was sure they would "come knock on the door."

He was asked if he meets with lobbyists. "I try not to," Bush replied.

Asked about assertions by some Democrats that they will take back control of Congress in this year's midterm elections, Bush said he wasn't surprised they were talking that way, but shrugged it off.

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He said he was ready to hit the campaign trail one more time, not for himself, but to stump for Republican congressional candidates this year. "We've got a record and a good one, and that's what I intend to campaign on," Bush said.

The president defended his administration's level of cooperation with congressional investigations into the government's slow response to the Hurricane Katrina devastation, citing the thousands of documents the White House has provided.

Questioned on congressional complaints that more could be done, Bush said that it would have a "chilling effect" on the ability of presidential advisers to speak freely.

Bush also said that his nominee for Supreme Court, Samuel Alito, deserves to be confirmed in the Senate, where he clearly has the votes but where minority-party Democrats were speaking out against him at length.

"The Senate needs to give him an up or down vote as soon as possible," Bush said in opening remarks that also previewed the themes of his State of the Union address next Tuesday.

Bush shrugged off a recent Pentagon-contracted report which concluded the Army was overextended and the United States cannot sustain the pace of troop deployments to Iraq long enough to break the back of the insurgency there.

The president predicted victory in Iraq and said, "Our commanders will have the troops necessary to do that."

He said the military was focused on transforming itself to ensure the armed forces could meet its goals in the 21st century.

"After five years of war, there is a need to make sure that our troops are balanced properly, that threats are met with capability. And that's why we're transforming our military," Bush said.

Trying To Maintain Control Of The State, In A State Of Confusion (WP)

By Dana Milbank

The Washington Post, January 27, 2006

The best-laid plans for President Bush's news conference went awry just 30 seconds into the event. An Associated Press camera and tripod broke free from their bracket on the ceiling and, in view of the TV cameras, dangled menacingly over reporters from Bloomberg News and the New York Daily News.

"First, I recognize . . ." Bush said, looking up and noticing the twirling piece of metal. "We live in a momentous time . . ." he tried again, then looked back at the unmoored object, which was blocking the MSNBC camera's shot of him. "For those of you watching, we seem to have a mechanical flaw," he felt obliged to explain.

The most powerful man in the world spent the next couple of minutes laboring through his opening statement yesterday in the White House briefing room while a large, bald technician walked into the picture and attempted, in a series of acrobatic gestures, to unscrew the tripod.

For the president, it was a timely reminder that events are not always within his control -- as if he needed another reminder. Earlier in the morning, the world learned that Palestinian voters had just handed their government to the terrorist group Hamas. Bush, trying to explain this reversal, suggested the defeated (U.S.-backed) leadership was crooked.

"If there is corruption, I'm not surprised that people say, 'Let's get rid of corruption,' " he reasoned -- inviting an unwelcome comparison to Jack Abramoff and the 2006 elections.

In all, Bush uttered nearly 7,000 words in his 45-minute Q&A. But his message could be summed up with a brief phrase in his least-favorite language: L'Etat c'est moi (I am the state).

His approval of a program to eavesdrop without warrants: "As I stand here right now, I can tell the American people the program is legal," he certified.

His refusal to release photos of him with Abramoff: "They're not relevant to the investigation."

His view on congressional anti-torture legislation: "Conducting war is a responsibility in the executive branch, not the legislative branch."

His refusal to provide Congress with testimony about the federal response to Hurricane Katrina: "That's just the way it works."

Midway through this Bourbonic performance, the Los Angeles Times's James Gerstenzang offered an observation on Bush's surveillance policy: "This seems to sound like something President Nixon once said, which was: 'When the president

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does it, then that means that it's not illegal.' " Whispered "oohs" could be heard in the room. Bush gave a look indicating he wished the dangling camera had fallen on Gerstenzang.

"Most presidents believe that during a time of war that we can use our authorities under the Constitution to make decisions necessary to protect us," he answered, then offered his reading of legislation passed after the 2001 terrorist attacks: "Go ahead and conduct the war. We're not going to tell you how to do it."

Bush seemed distracted even before the camera dislodged. "I do want to give you some thoughts about what I'm thinking about," he began.

The Hamas news may have been weighing on his mind. But he spoke as though the terrorist group's landslide had been a balloting triumph. "So the Palestinians had an election yesterday, the results of which remind me about the power of democracy," he said, later adding: "I like the competition of ideas."

When CBS's John Roberts steered questioning toward the National Security Agency's surveillance, Bush dismissed the notion of a law that legitimized it. "My concern has always been that, in an attempt to try to pass a law on something that's already legal, we'll show the enemy what we're doing," he said. "If the attempt to write a law is likely to expose the nature of the program, I'll resist it."

Even the Washington Times pressed Bush to answer charges that he has abused his power. But the president declined to be drawn into constitutional nuance. "I'm going to leave that to the lawyers," he said. "I believe I've been hired by the people to do my job, and that's to protect the people."

Another questioner wondered what it was about the 1978 law governing domestic wiretapping "that you feel you have to circumvent it."

The president's lip curled upward. He held up his hand, then leaned on the lectern and pointed his finger. "It's like saying, 'You know, you're breaking the law.' I'm not," he protested. Still, Bush explained why he disregarded the 1978 law. "I said, 'Look, is it possible to conduct this program under the old law?' And people said, 'It doesn't work.' "

The questions about the Abramoff photos heightened Bush's irritation. "Having my picture taken with someone doesn't mean that I'm a friend with him or know him very well," he replied to one questioner. "I've had my picture taken with you."

A few questions later, Bush made the distance between Abramoff and himself even longer. "I, frankly, don't even remember having my picture taken with the guy," he declared. "I don't know him."

Still, the president seemed to realize the questions about the photos were not going away. CBS Radio's Mark Knoller tried another approach. "Never mind about the photographs, but can you say whether . . . "

Bush cut him off. "Easy," he noted, "for a radio guy to say."

Bush To Resist Wiretap Legislation (WSJ)

By Christopher Cooper

The Wall Street Journal, January 27, 2006

WASHINGTON -- President Bush suggested he will resist any congressional attempts to modify the administration's practice of conducting warrantless wiretaps, saying the program is already legal and would lose effectiveness if subjected to a protracted public debate.

In his first news conference of the year, Mr. Bush said yesterday that while he will consider congressional suggestions to modify the program, he won't support public debate that divulges how it works -- even if lawmakers' intent is to preserve the program.

Asking, "why tell the enemy what we're doing if the program is necessary to protect us from the enemy?" Mr. Bush said if congressional debate should expose "the nature of the program, I'll resist it."

Some recent national polls have shown the issue isn't hurting the president politically.

Critics, including some Republicans, say the program, which is conducted by the National Security Agency under authorization by the president, tramples the Constitution and represents an overreach of executive authority. The Bush administration says the program is legal and that some lawmakers have been briefed regularly on it since it was initiated shortly after the Sept. 11, 2001, attacks.

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It is uncertain how far the administration will go to cut off debate on the issue, even if there is a drive to give the White House authority to continue the practice. Congress has scheduled a Feb. 6 hearing on the program.

President Bush holds a press conference2 to answer questions about the Hamas Islamist party, the economy and the domestic-surveillance program, among other topics. • Read the transcript of the news briefing3.

What Mr. Bush hasn't resisted are opportunities to discuss the program himself, which he has been doing since its existence was revealed last month. In an interview with The Wall Street Journal on Wednesday, Mr. Bush said that while he was "sorry" the program was revealed, he now believed it necessary to explain its importance to the public. "We have to be able to describe to the people the principles of the program without giving to the enemy what's happening," Mr. Bush said.

Mr. Bush's news conference included a variety of subjects but concentrated on the NSA program, the White House's contacts with disgraced lobbyist Jack Abramoff and the surprise sweep of the extremist Hamas organization in Wednesday's parliamentary elections in the Palestinian territories.

Mr. Abramoff, who pleaded guilty earlier this year to federal charges related to his lobbying activities, had visited the White House and contributed to Mr. Bush's campaign. Recently a handful of pictures surfaced showing Mr. Bush and Mr. Abramoff at various events.

Reporters have pressed the White House to release the photographs of the president and Mr. Abramoff but have been rebuffed. The administration also has refused to say whether Mr. Abramoff ever met with Mr. Bush's senior staff. Yesterday, Mr. Bush declined to disclose whether Mr. Abramoff had ever met with his senior advisers, saying the matter remained under federal investigation and that he would cooperate with that probe if asked. He also declined to release the photographs, saying they were "grip and grin" shots that would be used for "pure political purposes" if made public.

"I've had my picture taken with a lot of people," Mr. Bush said, adding that he had no relationship with Mr. Abramoff. "I don't know him," Mr. Bush said.

The president reiterated his vow not to deal with Hamas. Mr. Bush urged the current Palestinian president, Mahmoud Abbas, to stay on so Washington can maintain a diplomatic channel with the territorial government. The landslide for Hamas, which refuses to recognize Israel's right to exist, is all but certain to bog down the U.S.-backed peace process in the region. But Mr. Bush said he remains optimistic. "Peace is never dead, because people want peace," he said.

Bush Resists Changing Law On Spying (REU-Y2)

By Tabassum Zakaria

Reuters, January 27, 2006

President George W. Bush on Thursday insisted his decision to allow spying on Americans' international telephone calls was legal and said he would resist changing laws governing such action if it meant revealing secrets to an enemy.

Democrats and some Republicans question the legality of Bush's decision, taken after the September 11 attacks, to authorize eavesdropping without court approval if one of the parties on the call was suspected of links to terrorism.

Former Vice President Al Gore, the Democrat who lost the 2000 presidential election to Bush, has called for a special counsel to investigate whether the president broke the law, and Congress is to hold hearings on the issue.

The 1978 Foreign Intelligence Surveillance Act makes it illegal to spy on U.S. citizens inside the United States without approval from the special FISA court.

Bush said he acted to allow the National Security Agency to move more quickly in monitoring suspect communications to head off possible further attacks.

He said a measure passed by Congress after the September 11 attacks gave him authority to use whatever force was necessary against the enemy in his declared "war against terrorism."

Bush dismissed critics who say he should have worked with Congress to change the 1978 law, passed to halt intrusive domestic spying under President Richard Nixon.

"My concern has always been that, in an attempt to try to pass a law on something that's already legal, we'll show the enemy what we're doing," Bush said at a press conference.

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He said the spying program was "so sensitive and so important" that if information was revealed about how it operated, it would help the enemy.

SECRET PROGRAM

"And so, of course, we'll listen to ideas. But I want to make sure that people understand that if the attempt to write law makes this program -- is likely to expose the nature of the program, I'll resist it," Bush said.

Sen. Dianne Feinstein (news, bio, voting record), a California Democrat, said: "I have been deeply troubled by the fact that the administration, if it believed it needed additional authorities related to domestic electronic surveillance, did not seek legislation granting them that authority."

The White House has been on a public campaign to reassure Americans that this is a limited program and the government is not engaged in a mass spying operation.

In that effort, the White House says the program should not be referred to as "domestic spying" because one end of the link being monitored is overseas. The White House is calling it "the terrorist surveillance program."

Bush said Gen. Michael Hayden, the former director of the National Security Agency, came forward with the program as a tool for fighting terrorism after the September 11 attack.

"It wasn't designed in the White House. It was designed where you expect it to be designed, in the NSA," Bush said.

Government lawyers looked at the program before it was implemented and there were safeguards to make sure it focused on calls in which someone suspected of links to al Qaeda was involved, Bush said.

"And so, as I stand here right now, I can tell the American people the program's legal, it's designed to protect civil liberties and it's necessary," he said.

Bush, who visited the NSA on Wednesday, said he takes the threats from al Qaeda leader Osama bin Laden seriously. In an audiotape aired last week bin Laden said al Qaeda was preparing attacks inside the United States.

Varied Rationales Muddle Issue Of NSA Eavesdropping (WP)

By Dan Eggen And Walter Pincus

The Washington Post, January 27, 2006

President Bush said yesterday that he didn't seek congressional approval for a warrantless domestic eavesdropping program for one simple reason: He didn't need it.

"We believe there's a constitutional power granted to presidents as well as, this case, a statutory power," Bush said. "And I'm intending to use that power."

It is one of several explanations on the topic from Bush and his aides, who have provided at least two separate rationales for why they did not ask for statutory authority for the program. Attorney General Alberto R. Gonzales said the administration had considered seeking legislation but determined it would be impossible to get, adding later in the same news conference that authorities did not want to expose the program's existence. White House spokesman Scott McClellan has echoed the latter point, saying the administration feared that details of the classified program would be exposed publicly.

The subject is one of several elements in the NSA spying debate that have been clouded by apparent contradictions and mixed messages from the government since the program was revealed last month. The confusion has cleared up little in recent days, as the White House has embarked on a multi-pronged campaign to defend the legality of the controversial program.

Gonzales and other officials, for example, have repeatedly said that the Foreign Intelligence Surveillance Act (FISA), which governs secret surveillance in the United States, is too cumbersome to be applied to the NSA eavesdropping program. Yet the Justice Department raised concerns about a 2002 bill to loosen FISA requirements.

Before the program's existence was revealed, several administration officials also emphasized in testimony and public statements that the NSA was prohibited from engaging in domestic surveillance -- even as the agency was clearly doing so under the authority of Bush's secret order that established the program.

Many Democratic lawmakers and legal experts have seized on these and other issues in recent days to argue that the Bush administration has been misleading in its explanations of the NSA program.

Sen. Edward M. Kennedy (D-Mass.) said that the "after-the-fact spin we're hearing now is worthless." Senate Minority Leader Harry M. Reid (D-Nev.) issued a statement yesterday criticizing the administration for claiming that Congress had been fully briefed on the NSA program and for opposing the 2002 measure to loosen FISA standards.

The latter issue attracted particular criticism yesterday, as lawmakers and national security experts opposed to the program cast doubts on the administration's current legal rationale.

An amendment to FISA proposed by Sen. Mike DeWine (R-Ohio) would have lowered the standard to be met for authorizing surveillance of non-U.S. citizens, from "probable cause" to "reasonable suspicion" that the target was an agent of a terrorist group. The Justice Department did not offer support for DeWine's amendment because of "significant legal and practical issues," according to department statements.

Confusion over the issue deepened further yesterday after officials discovered two versions of a Justice statement on the legislation. One, which was posted on the Federation of American Scientists Web site and quoted in media reports, noted possible constitutional concerns. The other, held by the Senate intelligence committee, did not include that issue. Officials could not explain the disparity.

A Justice spokeswoman said this week that the previous opinion did not conflict with current legal justifications for the NSA spying because "probable cause" required under FISA is "essentially the same" as the standard used in the NSA program: "a reasonable basis to believe" that a target is linked to al Qaeda or an affiliate.

But Timothy H. Edgar, a national security lawyer at the American Civil Liberties Union, also said the NSA program clearly operates under a lower legal standard allowed only in limited circumstances, such as when police to frisk suspicious people on the street.

"That's never been considered acceptable for searching someone or listening to their telephone," Edgar said.

Bush and his top aides have repeatedly stressed that "Congress" had been briefed on the program over the past four years, but have often neglected to mention that the briefings were limited to the "Gang of Eight": the speaker and minority leader of the House; the majority and minority leaders of the Senate; and the chairmen and ranking Democrats on the two intelligence committees. And they were barred from taking notes or discussing what they heard with other lawmakers or their staffs.

Sen. John D. "Jay" Rockefeller IV (D-W.Va.), who as vice chairman of the Senate intelligence panel was briefed in 2003, took the unusual step of sending Vice President Cheney a classified letter voicing his concerns about the program and the lack of oversight on how it was being carried out. Several other prominent Democrats have also questioned the program's legality since it was made public, including Reid, House Minority Leader Nancy Pelosi (D-Calif.) and Rep. Jane Harman (D-Calif.), ranking minority member of the House intelligence committee.

Yet Dan Bartlett, counselor to Bush and White House communications director, said Monday that the lawmakers who had been briefed "believed we are doing the right thing" and that Democratic leaders "briefed on these programs would be screaming from the mountaintops" if they thought the program was illegally eavesdropping on Americans.

Some critics, including a group of relatives of victims of the Sept. 11, 2001, attacks, have also focused on previous statements by Gen. Michael V. Hayden -- the deputy intelligence director who formerly headed the NSA -- that now appear to be, at best, incomplete.

For example, Hayden and other NSA staff members told the House-Senate inquiry into the attacks that "they do not want to be perceived as focusing NSA capabilities against U.S. persons in the United States," said the panel's report. "The Director and his staff were unanimous that lessons NSA learned as a result of Congressional investigations during the 1970's should not be forgotten."

Hayden suggested similar limitations in an appearance before the House intelligence committee in October 2002, telling Porter J. Goss, then the committee chairman, that the NSA "would have no authorities" to pursue Osama bin Laden if he entered the United States. The NSA program was at least a year old by that time, and Goss -- now the CIA director -- was one of the few members of Congress briefed on it. Experts also say Hayden was wrong to suggest that bin Laden would enjoy the same legal protections as U.S. citizens or residents.

Staff writers Carol D. Leonnig and Dafna Linzer and researcher Julie Tate contributed to this report.

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New Poll Finds Mixed Support For Wiretaps (NYT)

By Adam Nagourney And Janet Elder

The New York Times, January 27, 2006

Americans are willing to tolerate eavesdropping without warrants to fight terrorism, but are concerned that the aggressive antiterrorism programs championed by the Bush administration are encroaching on civil liberties, according to the latest New York Times/CBS News poll.

In a sign that public opinion about the trade-offs between national security and individual rights is nuanced and remains highly unresolved, responses to questions about the administration's eavesdropping program varied significantly depending on how the questions were worded, underlining the importance of the effort by the White House this week to define the issue on its terms.

The poll, conducted as President Bush defended his surveillance program in the face of criticism from Democrats and some Republicans that it is illegal, found that Americans were willing to give the administration some latitude for its surveillance program if they believed it was intended to protect them. Fifty-three percent of the respondents said they supported eavesdropping without warrants "in order to reduce the threat of terrorism."

The results suggest that Americans' view of the program depends in large part on whether they perceive it as a bulwark in the fight against terrorism, as Mr. Bush has sought to cast it, or as an unnecessary and unwarranted infringement on civil liberties, as critics have said.

In one striking finding, respondents overwhelmingly supported e-mail and telephone monitoring directed at "Americans that the government is suspicious of;" they overwhelmingly opposed the same kind of surveillance if it was aimed at "ordinary Americans."

Mr. Bush, at a White House press conference yesterday, twice used the phrase "terrorist surveillance program" to describe an operation in which the administration has eavesdropped on telephone calls and other communications like e-mail that it says could involve operatives of Al Qaeda overseas talking to Americans. Critics say the administration could conduct such surveillance while still getting prior court approval, as spelled out in a 1978 law intended to guard against governmental abuses.

The findings came in a poll conducted as Mr. Bush prepares to deliver his fifth State of the Union address on Tuesday. It found that Mr. Bush will face a nation that has grown sour on Washington and skeptical that he will be able to achieve significant progress in health care, the economy, the Iraq war and the cost of prescription drugs for older patients before he leaves office in three years.

The poll also signaled concern for Republicans as they prepare to defend their control of the House and the Senate in midterm elections this November. Investigations into Congressional corruption are taking a toll as the elections approach: 61 percent of Americans now hold an unfavorable view of Congress, the highest in 10 years.

This finding holds particular peril for Republicans as the party that has been in charge. More than half of the respondents said they believed that most members of Congress would exchange votes for money or favors.

Republicans were seen as more likely to be unduly influenced by lobbyists. And the Republican Party is now viewed unfavorably by 51 percent of the nation, its worst rating since Mr. Bush took office. By contrast, 53 percent said they held a favorable view of Democrats.

The telephone poll was conducted with 1,229 adults, starting Friday and ending Wednesday. Its margin of sampling error was plus or minus three percentage points.

The poll found that Americans were to a large extent perplexed as they weighed conflicting forces: the need presented by Mr. Bush to take extraordinary action to fight terrorism, and a historical aversion to an overly intrusive government.

The poll found that 53 percent of Americans approved of Mr. Bush's authorizing eavesdropping without prior court approval "in order to reduce the threat of terrorism"; 46 percent disapproved. When the question was asked stripped of any mention of terrorism, 46 percent of those respondents approved, and 50 percent said they disapproved.

At the same time, 64 percent said they were very or somewhat concerned about losing civil liberties as a result of antiterrorism measures put in place by Mr. Bush since the attacks of Sept. 11. And respondents were more likely to be concerned

that the government would enact strong antiterrorism laws that excessively restrict civil liberties than they were that the government would fail to enact antiterrorism laws.

The poll was conducted just as the White House commenced an elaborate campaign to defend the surveillance program, and thus may have been too early to offer a full measure of that campaign's effectiveness. There were no measurable changes in the poll findings from one day to the next.

The findings, and follow-up interviews with some participants, clearly suggest that Mr. Bush has an opportunity to make the dispute over the program play to his political advantage. He has been pointing to the threat of another terrorist attack to justify the eavesdropping program and is trying, for the third election in a row, to suggest that he and his party are more aggressive about protecting the nation than are Democrats.

"Say they're targeting someone in Al Qaeda outside the country, and that person then calls someone in the United States about a plot or something really bad: I don't have a problem with that phone being monitored," Debbie Viebranz, 51, a Republican from Ohio, said in a follow-up interview. "But I don't think they should do it for no reason."

Donnis Wells, 69, a Republican from Florence, Miss., said: "I don't think civil liberties are the more important thing we need to handle right now. I think we need to protect our people."

Still, interviews reflected clear apprehension about the program. "If there is a warrant and done by the courts, I would agree," said Robert Ray, 54, an independent from Kentucky. "But they're trying to do it without using the courts. I just don't trust them."

In the poll, 70 percent of respondents said they would not be willing to support governmental monitoring of the communications of "ordinary Americans"; 68 percent said they would be willing to support such monitoring of "Americans the government is suspicious of."

Beyond surveillance, the poll found that Americans hold unfavorable views of the president and the Republican-controlled Congress as Mr. Bush prepares to give his State of the Union speech. Americans, while declaring themselves generally optimistic about the next three years under Mr. Bush, do not expect him to accomplish very much in that time.

When Mr. Bush leaves office, respondents said, the deficit will be larger than it is today, the elderly will be being paying more for prescription drugs, and the economy and the health care system will be the same as today, or worse.

Mr. Bush is viewed favorably by 42 percent of the respondents, statistically the same as in the last Times/CBS News poll, in early December, a lackluster rating that could hamper his ability to rally public opinion behind his agenda and push legislation through a divided Congress. Beyond that, nearly two-thirds of the country thinks the nation is on the wrong track, a level that has historically proved to be a matter of concern for a party in power.

A majority said they were dissatisfied with the way Mr. Bush was managing the economy and the war in Iraq. Public approval for his handling of the campaign against terrorism, once one of his greatest political strengths, has rebounded somewhat from last fall, but remains well below where it was for the first two years after the Sept. 11 attacks.

Most strikingly, the poll found abundant evidence of public unhappiness with Congress. While it is risky to draw conclusions about Congressional elections from national measurements of discontent — for example, more than half of all Americans said they were satisfied with the job their member of Congress was doing — the findings underscored the tough electoral environment that has led some analysts to predict significant Republican losses this fall.

The corruption investigations appear to account for a lot of the dissatisfaction. Nearly 80 percent of respondents said that the kind of influence-peddling revelations that have emerged in the investigation of the lobbyist Jack Abramoff reflected the "way things work in Congress" and were not isolated incidents. More than 50 percent said most members of Congress "accept bribes or gifts that affect their votes."

"It seems like the integrity of Congress members in the last few years has just gone to pot," said Donald Pertuis, 54, an independent voter from Hot Springs, Ark. Mr. Pertuis added: "In the last 20 years, greed has accelerated. People expect more, I suppose, and want to work less."

A Discredit To The GOP (WP)

The Washington Post, January 27, 2006

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THE BUSH administration's distortion, for political purposes, of the Democratic position on warrantless surveillance is loathsome. Despite the best efforts of Karl Rove, the White House deputy chief of staff, and Ken Mehlman, the Republican National Committee chairman, to make it seem otherwise, Democrats are not opposed to vigorous, effective surveillance that could uncover terrorist activity. Nor are the concerns that they are expressing unique to their party. Republican Sens. John McCain (Ariz.), Arlen Specter (Pa.), Chuck Hagel (Neb.), Lindsey O. Graham (S.C.) and Sam Brownback (Kan.) have expressed legal doubts about the surveillance program. Do they, too, have a "pre-9/11 worldview," as Mr. Rove said of the Democrats?

Believing there should be constraints on unchecked executive power is not the same as being weak-kneed about the war against terrorism. Critics are suggesting that President Bush should have gone through normal procedures for conducting such surveillance or asked Congress to provide clear legal authority for the National Security Agency activity. They are not contending that such surveillance shouldn't be conducted at all. No leading Democrat has argued for barring this kind of potentially useful technique.

But you wouldn't know that to listen to the GOP spin. "Let me be as clear as I can be -- President Bush believes if al Qaeda is calling somebody in America, it is in our national security interest to know who they're calling and why," Mr. Rove said at the Republican National Committee winter meeting last week. "Some important Democrats clearly disagree." Mr. Mehlman named names. "Do Nancy Pelosi and Howard Dean really think that when the NSA is listening in on terrorists planning attacks on America, they need to hang up when those terrorists dial their sleeper cells inside the United States?" he asked.

Maybe, as a matter of crass political calculation, Mr. Rove and Mr. Mehlman are correct that Democrats criticizing warrantless wiretaps will pay a price in the November elections. We don't pretend to know. What we do know is that the country is in the midst of an important debate about the reach of presidential power and the scope of civil liberties in wartime. For Rove & Co. to try to turn this into just another partisan political skewer discredits their administration and their party.

Using Our Fear (WP)

By Eugene Robinson

The Washington Post, January 27, 2006

Once upon a time we had a great wartime president who told Americans they had nothing to fear but fear itself. Now we have George W. Bush, who uses fear as a tool of executive power and as a political weapon against his opponents.

Franklin D. Roosevelt tried his best to allay his nation's fears in the midst of an epic struggle against fascism. Bush, as he leads the country in a war whose nature he is constantly redefining, keeps fear alive because it has been so useful. His political grand vizier, Karl Rove, was perfectly transparent the other day when he emerged from wherever he's been hiding the past few months -- consulting omens, reading entrails -- and gave the Republican National Committee its positioning statement for the fall elections: Vote for us or die.

Democrats "have a pre-9/11 worldview" of national security that is "deeply and profoundly and consistently wrong," Rove said. The clear subtext was that Americans would court mortal danger by electing Democrats. Go forth and scare the bejesus out of them, Rove was telling his party, because the more frightened they are, the better our chances.

To cultivate fear for partisan gain is never a political tactic to be proud of, but Rove's prescription of naked fearmongering is just plain reprehensible when the nation faces a shifting array of genuine, serious threats. This is a moment for ethical politicians -- and, yes, these days that seems like an oxymoron -- to speak honestly about what dangers have receded, what new dangers have emerged, and how the imperatives of liberty and security can be balanced.

From the likes of Rove, I guess, we shouldn't expect anything more noble than win-at-all-costs. But we do have the right to expect more from the president of the United States, and while Bush gives off none of Rove's Sith-lord menace, he has made the cultivation of fear a hallmark of his governance.

At his news conference yesterday, Bush was asked again about the domestic surveillance he has ordered the National Security Agency to conduct without seeking warrants -- a program that seems to violate the law. In his meandering answer, the president kept throwing in the phrase "to protect the American people." I suspect that's a line that tests well in focus groups, but it doesn't really say anything. The fact that we expect any president to protect us does not obviate the fact that we expect any president to obey the law.

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Bush mentioned the new tape from Osama bin Laden that surfaced the other day, calling it a reminder that we face "an enemy that wants to hit us again." That's certainly true, but the warning would carry more gravitas if Bush and his administration didn't brag so much about how thoroughly al Qaeda has been routed and decimated. Is anybody keeping track of how many "No. 3" or "No. 4" al Qaeda lieutenants U.S. forces claim to have eliminated?

And Americans would be better able to measure the threat from bin Laden if Bush and the rest of his administration didn't argue -- when it gives them an edge -- that Iraq is the "central front in the war on terrorism." If Iraq is the main event, then bin Laden, huddled in some cave in northern Pakistan, must be just a sideshow, right? But of course he's not a sideshow, he's the author of the Sept. 11 attacks, so what does that make Iraq? The answer seems to depend on whether, at any given time, Bush believes that cultivating fear of bin Laden or stoking fear of a terrorist spawning ground in Iraq would better help his administration achieve its ends.

The thing is, fear works. The administration successfully invoked the fear of "mushroom clouds" to win support, or at least acquiescence, for the invasion of Iraq. By the time it was clear there were no weapons of mass destruction, the fear of losing to terrorists on the "central front" had been given primacy. We stopped hearing the name bin Laden so often -- no need to bring attention to the fact that he remained at large -- until reports emerged of secret CIA prisons, torture and domestic spying.

Bin Laden does remain a threat. He would hit the United States again if he could. We do expect the president to protect us. But a great wartime leader rallies his citizens by informing them and inspiring them. He certainly doesn't use threats to our national security for political gain. He doesn't just point at a map and say "Boo."

Beware The Tipping Point (ERG)

Eugene (OR) Register-Guard, January 26, 2006

A tipping point is defined as the critical point in an evolving situation that leads to a new and irreversible development.

Based on a powder-keg footnote in a recent memo by U.S. Attorney General Alberto Gonzales, the United States may be nearing a tipping point on civil liberties in its amorphous, open-ended "war against terror."

Gonzales' 42-page memo argues unconvincingly that Congress gave President Bush the power to investigate terror suspects using any tactics he chooses when it authorized him to use "all necessary and appropriate force" against al-Qaeda one week after the terrorist attacks on Sept. 11, 2001.

The memo, and Gonzales' underlying contention that the president has nearly unlimited powers in wartime, are affronts to America's system of checks and balances and the Constitution that protects the privacy of its citizens. The memo also runs starkly counter to the recent findings of the nonpartisan Congressional Research Service, which cast serious doubt on the legality of the president's decision to order the domestic eavesdropping program.

As Congress prepares to open hearings on the program next month, lawmakers must not overlook a footnote in Gonzales' memo suggesting that the administration does not need Congress to extend the USA Patriot Act in order to keep using the law's investigative powers against al-Qaeda terror suspects.

Using the same argument that Congress already has given Bush the authority to take whatever steps he deems necessary to pursue terrorists, the footnote suggests that Bush was authorized to employ the Patriot Act's sweeping surveillance powers before the law was even approved for the first time. By extension, this presumptuous logic suggests that Bush now doesn't need Congress to reauthorize the Patriot Act in order to continue wielding the same powers.

Notwithstanding subsequent qualifications by the Justice Department, that footnote, as well as Gonzales' entire memo, should clear the collective sinuses of lawmakers as they prepare to open their investigation into the eavesdropping program.

Perhaps the most remarkable aspect of Gonzales' audacious treatise is the suggestion that wartime presidents are essentially free to ignore laws put in place by Congress.

It's one thing to argue, as have a number of Bush's predecessors, that the Constitution authorizes presidents to order warrantless searches. It's quite another to imply that Bush, as a wartime president, can blithely ignore the Foreign Intelligence Surveillance Act of 1978, which outlines detailed requirements for domestic surveillance.

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Now, the administration seems to be suggesting that it doesn't matter whether Congress reauthorizes the Patriot Act's full array of investigative powers because the president already has authority to wield those powers even if lawmakers let the law expire.

Since 9/11, lawmakers have cowered in the face of an overbearing and overreaching executive branch. Now, Congress must exercise its constitutionally mandated oversight role, and protect the checks and balances and civil liberties that make us a free and democratic nation. If it fails to do so, the tipping point may be at hand.

Presidential Power: Without Warrant (SEAPI)

By SEATTLE POST-INTELLIGENCER EDITORIAL BOARD

Seattle Post-Intelligencer, January 27, 2006

President Bush, Karl Rove and Attorney General Alberto Gonzales have tackled a big job. They are trying to scare people into believing the administration has the authority to spy on Americans' telecommunications.

This is one of the administration's patented media blitzes. The repetition of themes of terror, fear and security may once again swing opinion.

Throughout its handling of the National Security Agency's programs since Sept. 11, 2001, the administration has had options. It could ask a special court for permission to intercept communications involving Americans. It could invoke its powers to act first and then seek court approval. As Sen. John McCain, R-Ariz., said on Fox News over the weekend, the administration could and should go to Congress to change the 1978 law if it thinks the law is too confining.

Even now, the administration has offered no explanation of why it can't or won't make use of the options already available. It's hard to imagine a more flexible law than the 1978 Foreign Intelligence Surveillance Act.

The administration argues that a congressional authorization to use force against terrorists means it's OK to conduct warrantless wiretaps. Court precedents suggest the vague authorization can't be stretched to overwrite existing law. Just saying the White House respects the Constitution's limits on searches doesn't mean the Fourth Amendment is actually being upheld. But maybe Rove can whip up gratitude for the president's defiance of accepted notions of law, privacy and a constitutionally limited executive. That's scary.

FBI Chief Cites Worldwide Intel (WP)

By Edith M. Lederer

The Washington Post, January 27, 2006

DAVOS, Switzerland -- FBI director Robert Mueller said Thursday the United States now acts on intelligence from any place in the world to fight terrorism but has not sacrificed individuals' rights to privacy in that effort.

However, during an interview with The Associated Press, Mueller would not discuss renditions, the practice of covertly moving imprisoned terrorist suspects between countries outside normal legal processes.

He also would not elaborate on the National Security Agency's listening without a warrant to telephone calls in the United States that Bush administration officials believe involve al-Qaida terrorists.

Lawmakers from both parties have questioned whether it is legal for the government to listen to conversations in the United States without a warrant that the administration could get through the Foreign Intelligence Surveillance Court.

But Mueller said the goal of gathering intelligence in the war against terrorism was to prevent attacks and not just prosecute cases.

"For us, it is not just having a terrorist event happening and then gathering the evidence to put it in a courtroom to convict somebody after we're able to identify him, detain him and extradite him," Mueller said.

Since the Sept. 11 attacks, the FBI chief said, U.S. officials have recognized the importance of using all information to determine "who intends to hurt the United States or the United States' interests around the world."

"We are doing a much better job at integrating that intelligence and acting on that intelligence any place in the world," he said.

The FBI is now working closely with the CIA and exchanging information with the National Security Agency, the Defense Intelligence Agency and counterparts in other countries.

"For us, it's taking the information domestically, integrating it with what we know from the other intelligence agencies in the U.S., and integrating it with intelligence from our counterparts from overseas to get a fuller picture of what the enemy intends, in this case al-Qaida," he said.

Mueller vehemently denied that the United States was giving up the right to privacy in exchange for security.

"In no way, shape, or form do I think we've given up our rights," he said. "But I do think there's an appropriate balance with the threat that we have."

While not mentioning renditions or electronic eavesdropping, the FBI chief said "there are a number of programs _ I'm not going to talk about specific programs _ that have been helpful to securing the United States."

Four leading Democratic senators sent President Bush a letter Wednesday saying the NSA program is an "apparent violation of federal law" _ namely getting a warrant from the surveillance court to eavesdrop domestically.

The letter said that if Bush or his administration believed the law "does not give you enough authority to combat terrorism, you should propose changes in the law to Congress. You may not disregard the law."

The letter was written Sens. Harry Reid of Nevada, Edward Kennedy of Massachusetts, Richard Durbin of Illinois and Russ Feingold of Wisconsin.

Terrorist Nuclear Bids Concern Leaders At Forum (AP)

AP, January 27, 2006

DAVOS, Switzerland (AP) - Terrorist attempts to attain nuclear weapons and a new twist in rock star Bono's campaign to help Africa topped discussions Thursday at the World Economic Forum.

"We know that terrorists are highly sophisticated and are interested in acquiring nuclear weapons," said Mohamed ElBaradei, head of the United Nations' nuclear watchdog agency.

"We are running in a race against time."

Security experts need to share information and "do our very best to make sure we protect ourselves and protect our people," ElBaradei said.

U.S. Homeland Security Secretary Michael Chertoff said his department is inundated with suggestions about combatting terrorist threats and has placed its priority on stopping the worst disasters.

"If you look at things like a nuclear bomb in terms of consequence that's probably at the very top of the scale," Chertoff said.

He said the United States is working with other countries to make sure radioactive material terrorists could use to make weapons never enters the United States.

FBI Director Robert Mueller said in an interview on the sidelines of the forum the United States is doing a much better job of integrating domestic and foreign intelligence and acting on it to fight terrorism around the world than it was before the Sept. 11, 2001, attacks on New York City and Washington.

But the U.S. law-enforcement official cautioned: "Nothing is perfect and nothing is certain."

"We are safer but not totally safe," Mueller said.

Bono, the U2 front man who brought his campaign for Africa to last year's forum, was back this year to announce a new Red brand of products aimed at combatting the spread of HIV and AIDS in Africa. Corporations have designated red-coloured sneakers, T-shirts and a charge card to generate money and provide work for Africans.

Suspicions Iran is trying to develop nuclear weapons were a source of concern. ElBaradei said a Russian offer to move Iran's uranium-enrichment program to Russia could help find a solution to the standoff.

ElBaradei said he was also encouraged all parties were still talking about a diplomatic solution to meet western demands for assurances Iran's nuclear program is entirely peaceful.

Pervez Musharraf, president of Iran's neighbour Pakistan, said he was intent on pursuing a deal with Iran to buy natural gas but he sidestepped the question of whether the threat of UN economic sanctions over Iran's nuclear program would scuttle the deal.

Iran should not be allowed to develop nuclear weapons, he said, "their security is not threatened."

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The forum released a joint study by a panel of experts that rated the likelihood as "very high" that five million people would be newly infected this year by tuberculosis and HIV, the virus that causes AIDS.

U.S. trade chief Rob Portman, who is meeting with other trade ministers in Davos, said he was encouraged by new German Chancellor Angela Merkel's willingness to become involved in global trade issues. He said he hoped she could help advance stalled global trade talks by offsetting the protective mind-set of French officials in EU policy.

Sepp Blatter, president of world soccer's governing body FIFA, said he was planning to step up attempts to end racism in the sport.

"It is a shame for football that in the year 2006, you still have racism," Blatter told a news conference at the forum.

Former soccer star Pele said the problem of racism on soccer grounds appears worse than when he was playing because top-class teams contain more non-white players now.

"When I started to play, we didn't see black people in other national teams, only in Brazil," Pele said.

"Today, you have black players all over the world."

'We are nobodies now'

In Davos, Part II (NRO)

National Review Online, January 27, 2006

Welcome to the second installment of these notes from Davos — from the Annual Meeting of the World Economic Forum. The first installment appeared yesterday, and you'll find those notes here.

Every year, the Annual Meeting has a theme or two, and this year the main theme is "The Creative Imperative." I believe that Klaus Schwab is relating these words to the elements of a free economy, and a free society. (Dr. Schwab is the founder and executive chairman of the World Economic Forum.) I'm talking about deregulation, sensible taxation, growth, trade, innovation, flexibility — this is an anti-rigidity theme. It has to do with giving people space to create, to make things happen.

Dr. Schwab hasn't said all this explicitly — that I have heard — but you can sense it. And the poster girl for this anti-rigidity, anti-ossification theme, so far, has been Angela Merkel, the new chancellor of Germany. She gave an absolutely sensational speech yesterday afternoon — but more on that later.

The meeting has sub-themes, too — and two of them are the emergence of China and the emergence of India. The place is crawling with Indians, and there is a healthy Chinese presence (only a PRC presence — would that Taiwanese were here, in part to be living, walking examples). After 9/11, Davos became pronouncedly Arab. You go through the directory, and a great many names begin with "al-." Dr. Schwab pretty much goes where the action is, or has the action come to him. Hence these themes.

There are hundreds of panel sessions, and other sessions, and I'll give you a little taste of them. A quirky one is on "video gaming" — does it "drive social evolution"? Hmm. And then there's "Can Aging Economies Grow?" Hmm again. We have "Quelling Nationalistic Flames" (good luck), and "Towards a Nanny State" (boo, hiss). "Does an Economy Need Morals?" That's a question another panel asks.

And "Should We Despair of Disparities?" I believe this panel'll answer yes. Barney Frank is on it, incidentally. For all I know, he'll be the most conservative person in the room. It's happened before.

One panel is provocatively titled "Could a Nuclear Bomb Go Off in Your City?" On it sit both Mohamed ElBaradei and Peter Sellars (the opera director). That should be a different sort of discussion.

A psychologist gives us "All You Ever Wanted to Know About Relationships but Were Afraid to Ask." I have a feeling there's not much fear of asking — not in my country, certainly.

A panel titled "Islam's Challenge to Eradicate Extremism" includes H.R.H. Prince Turki al-Faisal of Saudi Arabia. Well, I guess someone has to stick up for non-eradication. (I may be misjudging the prince . . . but I doubt it.)

An attractive panel on "Global Risks 2006: What Keeps You Up at Night?" features Michael Chertoff (Homeland Security) and Robert Mueller (FBI), along with ElBaradei. The American presence is more robust than last year. (I should have said, the administration presence is — and that translates into a more conservative coloration.)

"A New Mindset for the U.N." is introduced by Kofi Annan. If you think that's, let us say, paradoxical . . . you're not alone.

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I could go on and on in this vein, friends, and I've only given samples through Thursday — the Annual Meeting is four full days, ending Saturday. But you get the idea.

In many ways, the Davos menu is like a college curriculum — there may be two classes you want to take that meet at the same time, and that's a bummer. There may be three classes. I'll give you a Davosian example — has to do with today, Thursday. At 4:15, you have an hour with Jane Goodall, providing "A Doer's Guide to Conservation." Also at 4:15 you have that Islamic-extremism panel I mentioned. (Joe Biden will join Turki, and others.) And at 4:15 you have that "What Keeps You Up at Night?" deal. I wish I could go to all three of them.

I'll go to the one that seems most journalistically useful. I'm not yet sure which one that is.

Ah, wanted to mention the theme of one dinner, a theme that I thought interesting: "Why I Bring My Office to the Beach." It's about workaholism. It's chaired by the editor-in-chief of Wired magazine. I thought that was appropriate: wired.

I attend a lunch, whose theme is sports: This is an Olympic year, and Dr. Schwab and other WEF-ers are fairly sports-minded. When I get to the designated hotel, there's a big hold-up — lots of people waiting to go through security and get in. Why are we not being checked through? Oh, yes, now it comes clear: Because Kofi Annan and his entourage are arriving. It's a quite large entourage, too. Annan sweeps in like an emperor, preceded and trailed by many.

In all my years at Davos, I've never seen this: a big group held up by the arrival or departure of a VIP (I mean, a VVIP — a very, very important person). And lots of heads of state have been around.

This brings up an old theme of mine: Does the secretary general of the U.N. have all too much power, or all too high a profile? I mean, is he not the bureaucratic servant of an international organization — albeit a very large and important international organization? Were secretaries general this big in the past?

Annan has been dubbed "President of the World." It can seem that way, at Davos.

I remember when the bombs went off in London last July. All those Western leaders were up at Gleneagles, in Scotland. Tony Blair made a statement — these heads of state stood behind him (Bush, Chirac, and so on). And there was Kofi Annan.

Why?

Anyway . . .

We all have to stand outside — including David Stern, emperor, or secretary general, of the NBA — so that's okay.

But I will confess something: Being delayed by Kofi Annan makes me slightly annoyed. Would I be as annoyed if the secretary general of the U.N. were a favorite of mine? I like to think so — but I don't know.

I miss the bulk of Annan's speech to the lunch group — because I, along with dozens of others, have been held up by the SecGen's arrival. But I hear some of the speech, as Annan reads in a soft, kind of lulling voice. He says something about how the General Assembly provides a model of a new way of peacemaking. Yeah, whatever.

Next to speak — by this time I'm sitting down, you'll be relieved to know — is Jacques Rogge, president of the International Olympic Committee. (A dream job of mine, by the way.) He issues the usual platitudes about sports — but they're all true. He sounds every single note, including how athletic competition empowers women. He observes that, at the Beijing Olympics in 2008, the ratio will be about even — male athletes to female athletes. It still strikes me as creepy that the Olympic Games will be held in a dictatorship's capital — just like in 1980 and in 1936.

As Rogge is speaking, someone passes around the Olympic torch — I mean, really passes it around. It's a very cool object, and I hold it for a bit. (It's not lit, in case you were wondering.) The torch is surprisingly heavy — must be kind of a mother to run around with over an extended period of time. It's blue, and stylistically attractive. Rogge mentions that it has been designed by an Italian, name of Farina, I believe.

And that, friends, is as close as I'll ever come to really, truly carrying the Olympic torch. Unless they make a new event out of Impromptus-izing or something.

Also speaking at this affair is Joseph Blatter, president of the International Federation of Football, whose (French) acronym is FIFA. He talks about the popularity and importance of soccer — of "football" — all over the world. They play it everywhere! he says. "They play football in Iraq," they play it in this country, they play it in that country. He names a good number of the hot spots. I wish he had said, "They play it in Afghanistan" — because, of course, after the imperial invasion, Afghans could. But not before. Not under the Taliban.

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Still another speaker is Adolf Ogi, former head of the Swiss Skiing Federation, now an adviser to Annan on matters sportive. Did I tell you the story of my moderating a sports panel? I'm sure I did. The year was 2003. On the panel were Phil Knight (of Nike) and David Stern and some Olympians and that lovely, brilliant woman who would run the Athens Games (can't remember her name right this second). Prince Albert of Monaco — the bobsledder — was supposed to be there, but didn't show.

I had merely glanced at Ogi's bio, and said to him, "So, you're a skier, I understand." "Yes, I am," he said — and someone else pointed out that he had actually been president of Switzerland.

That reminded me of one of my favorite stories, all-time: Mayor Marion Barry meets Greg Norman — the Great White Shark — at some party in D.C. Barry says to Norman, "So, what do you do?" Norman answers, "I play golf." Barry says, "That's great — I play tennis."

I have always loved, loved that story. So innocent, pure, fun — democratic. It's not required to know who Greg Norman is, or who anyone else is.

You may recall, dear readers, that Sharon Stone was the guest star at one of these lunches last year. Is she here this year? I don't think so. But Angelina Jolie is, again. Several of my friends have asked me whether I've seen her. The answer is . . . no, sorry.

But when I think of her name, I think of that great Louis Prima song. (I'm not sure that Louis wrote it — but he certainly popularized it.) "I eat antipasto twice, just because she is so nice, Angelina. Angelina — the waitress at the pizzeria." (Incidentally, Prima pronounced the first syllable of "pizzeria" "pitz" — "pitzeria." Kind of interesting.)

Also, I had a much-loved family member, Angelina. So I tend to think of those two things when I hear "Angelina" — and Ms. Jolie last, if at all.

I am out of time, guys, so I will save the amazing Angela (not Angelina) Merkel till tomorrow. But before I leave, I need to issue a few corrections from yesterday. I'm a bit behind the times, and I should have known that Silvan Shalom is no longer Israel's foreign minister — it is Tzipi Livni. The Israeli government is necessarily in flux.

Also, as it happens, Michael Leavitt — the U.S. health and human services secretary — is not coming here. But Carlos Gutierrez, the commerce secretary, is.

In listing some names yesterday, I referred to Rick Warren — author of The Purpose-Driven Life — as a "quasi-religious figure." A great many readers wrote to inform me that he is, in fact, a religious leader: the pastor of a major church and so on. Forgive me — I had confused him with someone else. I thought he was more self-helpy than religious. I should have checked before scribbling, but I'm sort of going on the fly, here in Davos. (No excuse, huh, Nordlinger? What kind of journalism is that?) (Scribbly web journalism, that's what kind.)

Last, some readers objected to my calling Bartholomew — just one name, please: Bartholomew — "Ecumenical Patriarch of Turkey." They had other titles for him (and those titles slightly disagreed). All I was doing, folks, was copying the title as given in the Davos directory.

And I'm out of here, for now. Oh, let me tell you one more thing — just a soft item: You haven't lived until you've seen tiny Swiss kids pulled around by their parents on a little sleigh. Enough to melt the frozen Alps around here.

FBI Chief Urges Sharing Of Information To Combat Hackers (FT)

By Peter Thal Larsen In Davos

Financial Times, January 27, 2006

The director of the FBI, Robert Mueller, yesterday urged the world's law enforcement agencies to introduce a rapid system of exchanging information to battle computer security breaches and fraud that are the biggest concern of business.

A survey by Swiss Re, the world's largest reinsurance group, showed that companies across the developed world rank computer-based risks as their main concern, well ahead of other worries such as the rising burden of corporate governance and natural disasters.

The issue of computer fraud has gained increasing prominence in recent years following a series of hacking attacks on large companies and several high-profile security breaches at companies that keep sensitive information about their customers.

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However, law enforcement agencies across the world struggle to track down and punish criminals whose use of the internet means they often have a global reach.

Yet card operators are proving increasingly successful at limiting the amount of fraudulent activity. Christopher Rodrigues, chief executive of Visa International, said the amounts lost to fraud on Visa's network had fallen to 7 cents out of every $1,000 spent, down from 14 cents in the past several years. However, the growth in credit card transactions had prompted the absolute level of losses to increase.

Mr Rodrigues said sfraud and identity theft had been exacerbated by the growth of electronic commerce, which meant consumers relied on banks and retailers to keep their information safe.

Most banks have a regulatory obligation to look after data, but these regulations do not extend to retailers.

Mr Rodrigues emphasised the consumers' sense that anybody could be affected. "Card security is about personal relevance. Disasters such as the tsunami are terrible, but people think it isn't going to happen to them."

Colombia Busts Fake Passport Ring; U.S. Disputes Terror Link (USAT/AP)

USA Today, January 27, 2006

BOGOTA, Colombia (AP) — Colombia has dismantled a false passport ring with links to al-Qaeda and Hamas militants, the acting attorney general said Thursday after authorities led dozens of simultaneous raids across five cities in collaboration with U.S. officials.

In Washington, however, Justice and Homeland Security officials were surprised by the announcement of the investigation, which they said involved people posing as members of Colombia's largest rebel army, the Revolutionary Armed Forces of Colombia, or FARC — not al-Qaeda or Hamas.

Colombian officials said the gang allegedly supplied an unknown number of citizens from Pakistan, Jordan, Iraq, Egypt and other countries with false passports and Colombian nationality without them ever setting foot in the country.

An undisclosed number of those arrested are wanted for working with the al-Qaeda terror network and the militant Palestinian group Hamas, said acting Attorney General Jorge Armando Otalora.

The counterfeit Colombian, Spanish, Portugese and German passports were used to enter the United States and Europe, he said.

But Justice Department spokesman Bryan Sierra said an indictment unsealed Wednesday in Miami charges 10 foreign nationals with smuggling "people that they thought were members of FARC into the United States."

"We are not alleging any connections to any terror organization other than the FARC," said Justice Department spokesman Bryan Sierra.

He said the U.S. will seek to extradite the 10 alleged smugglers, of whom eight have been arrested.

"The operation was, in fact, a sting operation led by U.S. Immigration and Customs Enforcement," he said, adding that Colombian law enforcement were "an active and critical part" of the investigation

The Colombian attorney general's office said 19 people were arrested in Thursday's raids, adding they were carried out in collaboration with U.S. authorities.

Four Jordanian citizens were among those arrested, Manuel Saenz, head of foreign immigration for the DAS secret police, said on Caracol television. Eight people are being sought inside the United States for extradition to Colombia, Otalora said.

Colombian authorities began to covertly trail and film suspects to unveil a criminal network with the help of their U.S. counterparts.

The eight wanted by federal authorities in Florida on charges of abetting illegal immigration rings and collaborating with terrorist groups include a Jordanian national and a DAS detective, Colombian authorities said.

Colombian officials didn't say if they believed any Colombian terrorist groups were involved in the scheme.

U.S. officials have long feared al-Qaeda could take advantage of corrupt government officials and weak institutions to launch an attack from south of the border.

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Judge To Remain In Terrorism Trial (NYT)

By Julia Preston

The New York Times, January 27, 2006

A federal appeals court yesterday rejected an attempt by prosecutors to oust a judge from a terrorism case, dismissing the government's argument that the judge, Shira A. Scheindlin, was biased in favor of the defendant.

The ruling came in the case of Osama Awadallah, a Jordanian college student who was charged in October 2001 with lying before a grand jury to conceal his ties with two hijackers in the Sept. 11 attacks.

According to court documents, Mr. Awadallah was arrested in California as a material witness and held in solitary confinement for 20 days before he went before the Manhattan grand jury. His convoluted case has become a test of the government's prolonged detention of people without charges as material witnesses in terrorism cases.

A panel of three judges from the Court of Appeals for the Second Circuit found that Judge Scheindlin, of Federal District Court in Manhattan, had not erred in several rulings she made about evidence in the case, and they praised her "intellectual flexibility" in resolving some thorny legal matters. The appeals judges noted that in several cases in which Judge Scheindlin had initially antagonized the prosecutors by questioning their procedures, she ultimately ruled in their favor.

This case is the first since 1973 in which federal prosecutors in Manhattan have sought the ouster of a judge. They were denied in that case as well.

Mr. Awadallah, now 25, has not been accused of any direct role in the 9/11 attacks. A jury was selected, and his trial was set to begin in May, but Judge Scheindlin postponed it because of the prosecutors' appeals.

Rabbi, Priest Back Muslim Cleric In Court (REU)

Reuters, January 27, 2006

LONDON (Reuters) - A rabbi and a Christian priest testified on Thursday in support of a Muslim preacher accused of inciting murder and stirring up racial hatred, telling a court he was friendly and hospitable.

Egyptian-born Abu Hamza, a hate figure for the tabloid press, faces nine counts of soliciting to murder and three of trying to stir up racial hatred, mainly against Jews.

But Rabbi Joseph Goldstein told the Old Bailey Central Criminal Court in London that he had been favourably impressed when he met Hamza at the Finsbury Park mosque in north London to talk about a mixed-faith married couple.

"I met him in the office of the mosque and we spoke on the telephone twice afterwards," Goldstein said.

"He was very pleasant. It was a friendly and cordial relationship. He was very open and very cordial."

Hamza, 47, was raised in Egypt but has British citizenship. The cleric, who has lost both hands and one eye and often wears a hook in place of one hand, is the highest profile figure to go on trial in recent years in Britain on the charges he faces.

Stephen Coles, an Anglican priest also based in north London, told the court he had met Hamza soon after the September 11, 2001 attacks on the United States.

"He was very hospitable. We got on extremely well," Coles said. "Sometimes we agreed about some things, sometimes we disagreed. It wasn't at any point aggressive or angry."

He said he had tried to continue dialogue with Hamza even after the cleric was arrested in 2004.

"After he was imprisoned we had in fact tried to have other meetings but it became very difficult to arrange," he said.

"I didn't want the conversation to come to an end."

Hamza also faces a charge of possessing an item of potential use in terrorism for having an "Encyclopaedia of the Afghan Jihad", which prosecutors call a terrorist handbook.

Hamza's lawyer has acknowledged the cleric gave sermons in support of Jihad, or holy war. But Hamza told the court last week he had never incited followers to kill in England and had urged killings abroad only in the context of battles.

He also denied encouraging people to hate Jews "not as individuals, not as a race, not as a colour."

PATRIOT ACT:

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Could Patriot Act Have Prevented 9/11? (SHNS)

By Deroy Murdock, Scripps Howard News Service

Scripps Howard News Service, January 27, 2006

As the Senate prepares for a showdown vote to reauthorize the Patriot Act, members of the World's Greatest Deliberative Body should deliberate on this: Had it existed, could the Patriot Act have prevented the Sept. 11 massacre?

"I think if the Patriot Act were in place in the summer of 2001 ... connecting the dots would have been so basic and easy and fundamental," says Debra Burlingame, co-founder of 9/11 Families for a Safe and Strong America (911familiesforamerica.org). Her brother, Charles Burlingame, piloted American Airlines Flight 77 until al Qaeda hijackers murdered him, grabbed the controls, and smashed his Boeing 757 into the Pentagon, killing all 58 passengers and six crew members aboard and another 120 people at the Defense Department.

How might the Patriot Act have snared Mohamed Atta and his band of mass murderers?

First, Patriot Act Section 218 would have eliminated "The Wall" that prevented intelligence agents and law-enforcement officials from sharing information. Seemingly fueled by theoretical fears of Big Brother more than the actual dangers of terrorism, President Bill Clinton's Attorney General, Janet Reno, issued restrictions in 1995 that hindered communications between spies and gumshoes. Frustrated New York FBI agents reportedly placed signs on their desks that read, "You may not talk to me."

Indeed, in August 2001, FBI headquarters barred a New York intelligence agent, who sought hijackers Nawaf al-Hazmi and Khalid Al-Mihdhar, from consulting colleagues on the bureau's criminal side. "If al-Midhar is located, the interview must be conducted by an intel agent," FBI brass explained by e-mail. "A criminal agent CANNOT be present at the interview." As former National Security Agency general counsel Stewart Baker noted in a column in the online magazine Slate, the New York agent replied that "some day someone will die - and wall or not - the public will not understand why we were not more effective" against terrorists.

Were the Patriot Act in place, "The Wall" would not have prevented Minneapolis FBI agents from getting permission to examine the laptop and possessions of "20th hijacker" Zacarias Moussaoui. Had they done so, they might have discovered leads to 9/11 conspirator Ramzi Binalshibh and Atta's Hamburg, Germany, terrorist cell that hatched this atrocity.

Second, Patriot Act Section 215, the so-called "library provision," might have led officials to seven of the 19 hijackers who used government libraries for Internet access. Using Section 215, FBI agents might have visited New Jersey's William Patterson University. They might have learned, as the Associated Press' Wayne Parry did last year, that al-Hazmi and al-Mihdhar used that state institution's computers to buy tickets online for the flight they plowed into the Pentagon.

Lies to the contrary notwithstanding, the "library provision" does not let President Bush's "secret police" round up readers of Annie Proulx's short story, "Brokeback Mountain." Section 215 prevents libraries, and other institutions, from becoming safe havens where Muslim fanatics can plot mass murder in peace.

Third, Patriot Act Section 806 might have allowed federal officials to seize the financial assets of Atta and fellow pilot Marwan al-Shehhi if they suspected terrorist intent. According to the 9/11 Commission report, Ali Abdul Aziz Ali, a nephew of al-Qaeda bigwig Khalid Sheik Mohammed, sent Atta and al-Shehhi five wire transfers from Dubai totaling $114,500. The Patriot Act might have defunded the hijackers before they were airborne.

"The Patriot Act would have saved 3,000 lives, and what's scary about that is once they start tinkering with it, it could cost not just 3,000, but tens of thousands of lives," says Debra Burlingame. "September 11 whetted the terrorists' appetites ... There's nothing like success to motivate people."

Whatever the Patriot Act might have achieved before 9/11, it has accomplished plenty since. It has helped prosecutors charge some 401 suspected terrorists, the Justice Department reports, of whom 212 have been convicted or pleaded guilty. Despite this track record, the Patriot Act soon could be consumed in a partisan bonfire.

After successfully spearheading a Dec. 16 anti-reauthorization filibuster, Senate Democratic leader Harry Reid of Nevada bragged, "We killed the Patriot Act." If it prevails, this blindly Bushophobic attitude will return America to the way we were on Sept. 10, 2001: Fat, happy, and naked to whatever morning might bring.

New York commentator Deroy Murdock is a columnist with the Scripps Howard News Service and a senior fellow with the Atlas Economic Research Foundation in Arlington, Va.

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HOMELAND RESPONSE:

Federal Appeals Court Upholds Airport IDs (AP)

By DAVID KRAVETS, Associated Press Writer

AP, January 27, 2006

SAN FRANCISCO — An appeals court on Thursday dismissed a legal challenge to federal airport regulations requiring passengers to show identification before they board planes.

The 9th U.S. Circuit Court of Appeals rejected claims by Libertarian activist and millionaire John Gilmore that the policy constituted an illegal search and violated his right to travel freely.

After reviewing the government's identification policy in private, a unanimous three-judge panel said the policy was not overly intrusive. The review was done in private for security reasons.

The court said Gilmore could leave the airport if he didn't want to show his ID and had other ways to get around besides air travel. It also rejected assertions that the act of showing identification was an illegal search of Gilmore, who made his millions as a founding employee of Sun Microsystems.

Gilmore's lawyer, William Simpich, said he is weighing whether to appeal.

He said government regulations should be disclosed in writing to the public. While millions of passengers willingly show their IDs at airports, Simpich said there is no way to know whether the regulations call for impermissible searches because the government, and the court, won't make them public.

The court rejected the argument, saying airport signs and airline workers give adequate notice that an ID is required.

The court noted that the secret regulations allow passengers to fly without providing an ID if they submit to searches. The court dismissed assertions that such searches are unreasonable.

Justice Department lawyer Joshua Waldman argued that demanding identification "promotes the right to travel by protecting everyone's safety."

News From The San Francisco Bay Area (MERCN)

The San Jose Mercury News, January 27, 2006

OAKLAND, Calif. - Oakland police are on schedule to meet a Feb. 17 deadline to redraft a policy on when force against suspects is warranted, members with the department told the City Council's Public Safety Committee.

The department, which faces sanctions if it does not meet the deadline, is likely to present officers with a "buffet" of options in a tiered system, with levels corresponding to the severity of the situation, Capt. Paul Figueroa said.

The new policy, which must be approved by a federal judge, would also require that a sergeant document any incident and immediately report it to the department's command staff. Investigations into police actions would be required in more cases.

The department was required to revise the policy under a settlement that charged a group officers dubbed the "Riders" with misconduct. U.S. District Court Judge Thelton Henderson must approve the changes and the department would have until May 18 to train 95 percent of officers to follow the guidelines.

The department has yet to complete 45 of the 52 tasks laid out by the agreement, which settled a class-action suit in which 119 people claimed a rogue group of officers beat them and framed them using planted evidence including drugs. Oakland officials earlier had promised Henderson they would be in "substantial" compliance with the agreement by the end of 2005.

Terror Bucks Blown (NYPOST)

By geoff Earle

The New York Post, January 27, 2006

WASHINGTON — Hundreds of thousands of taxpayer dollars sent to protect the nation's heartland have been squandered in Indiana alone, a stunning new audit reveals — more evidence the cash could have been better spent in New York.

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A team of investigators examined Indiana's books to see how the state spent $48 million it got in federal homeland-security aid, finding widespread instances of mismanagement, according to the report set for release today, which was obtained by The Post.

New York lawmakers were fuming over the shocking findings of waste at a time when the Big Apple could use more anti-terror dollars.

In one instance, the auditors discovered a county emergency-management official using a special $30,000 government hazardous-materials truck to commute to work.

They found the truck — purchased to pull a haz-mat disposal trailer — parked at the home of the Lake County official while he was away on vacation.

The truck wasn't even painted or marked as an emergency vehicle.

In another example, the investigators found that the state spent $4.5 million on special counter-terrorism response kits, but "very few" of the kits were assembled or distributed.

"This kind of thing confirms what we all suspected, which is when you throw money at problems, places like Indiana literally can't spend it efficiently, and it winds up becoming just a source of waste," said Rep. Anthony Weiner (D-N.Y.).

The claims of waste are the latest in a string of revelations of how dollars meant to protect the homeland have been squandered.

A series of reports in The Post found that more than $20 million in Small Business Administration funds meant to help business owners hurt by the 9/11 attacks instead went to refurbish more than two dozen Dunkin' Donuts shops across the country.

The Department of Homeland Security has been criticized for sending disproportionate dollars to states like Indiana, where the terrorist threat is considered low, at the expense of high-threat states like New York and California.

Homeland Security Secretary Michael Chertoff has called for making more funds threat-based, although powerful members of Congress from small states have beaten back permanent changes.

No Power But Persuasion For The Rebuilding Of Ground Zero (NYT)

By Charles V. Bagli

The New York Times, January 27, 2006

By making the World Trade Center redevelopment a central focus of his State of the City speech yesterday, Mayor Michael R. Bloomberg was promoting a plan that has been the subject of intense but secret negotiations between the developer Larry A. Silverstein and the Port Authority of New York and New Jersey over the future of the site.

Mr. Bloomberg, who has little actual power over decisions at ground zero, is using his bully pulpit to pressure Mr. Silverstein to accede to the authority's demands that he relinquish control of a major part of the 16-acre parcel in return for a reduction in rent, so that the rebuilding effort can proceed more swiftly.

Under that proposal, Mr. Silverstein would still proceed with building the huge and symbolic Freedom Tower, while the Port Authority, which owns the land and leased it to Mr. Silverstein in July 2001, would construct a second tower on Church Street and occupy part of it. The authority would also build a multistory shopping mall and sell a third site to a developer for a hotel, office space, and, in the mayor's vision, apartments.

The Bloomberg administration and the Port Authority contend that the new arrangement would enable all the projects, in the mayor's words yesterday, "to proceed simultaneously at the same, quick pace." Under the current schedule, the site would not be finished until 2015.

Mr. Bloomberg has been critical of Mr. Silverstein, but in his most barbed comments to date, he called on the developer to "do the right thing" and "push aside individual financial interests and focus on what's best for the city."

The developer disagrees, blaming government for any delays. Janno Lieber, director of the development for the Silverstein Properties, said yesterday that the company would build all the towers "just as soon as the government delivers the physical sites."

Even if Mr. Silverstein's role were diminished, all that construction work could not begin tomorrow. A slurry wall and foundation must be built at the eastern end of the property, which could take a year or more. And it may be impossible to do all the

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work at once because of environmental restrictions. But the Port Authority proposal would resolve a number of issues that have been roiling beneath the surface for years.

At one time or another, the city, the state, the authority and Mr. Silverstein have been at odds over retail space on the site, the developer's share of infrastructure costs, insurance money, and the pace of construction. In November, the developer disregarded a proposal from Anthony R. Coscia, the chairman of the Port Authority, that he give back a major portion of the site in return for a reduction in rent, which is now more than $120 million a year.

The authority and the city contend that Mr. Silverstein does not have enough money to build all the towers. They say that the Freedom Tower alone will cost more than $2 billion and take five years to build, but that Mr. Silverstein has only $2.85 billion of the insurance proceeds left. About $200 million a year has been spent on rent, architects, lawyers and Mr. Silverstein's development fee.

In December, Gov. George E. Pataki provided the developer with $1.76 billion in tax-free bonds to build the Freedom Tower, and gave him 90 days to work out his differences with the authority.

All parties are prevented from talking publicly about the negotiations. But state officials cheerily say that talks are proceeding apace, while the Silverstein camp says the bargaining has yet to begin in earnest. A senior official at the Port Authority contends that Mr. Silverstein has not only refused to relinquish his hold on the property, but has also offered a counterproposal that is even more onerous than the current arrangement.

Yesterday, Mr. Bloomberg added his explicit support for what is essentially the Port Authority's position, and a note of urgency. "Renegotiations between the Port Authority and Silverstein Properties must not wait," he said.

That does not mean that the city, the state and the Port Authority are in lock step. For one thing, state officials and Mr. Silverstein oppose the mayor's push to build housing on the trade center site. The authority is willing to consider that, but for only a small section of one tower. For another, the governor may be reluctant to alienate Mr. Silverstein and delay the April groundbreaking for the Freedom Tower, which is expected to draw national attention, helping his presidential aspirations.

"We have always been looking for ways to expedite the rebuilding of the remainder of the site," said Joanna Rose, a spokeswoman for the governor, "while simultaneously protecting the business and residential community in Lower Manhattan and ensuring that it remains the financial capital of the world."

President Explains Baker Bill Rejection (BRA)

By gerard shields

Baton Rouge Advocate, January 27, 2006

WASHINGTON — President Bush said Thursday he rejected a home buyout plan for Louisiana hurricane victims because he doesn't want more bureaucracy and because the federal government already gave $85 billion to the storm-wracked Gulf Coast.

Gov. Kathleen Blanco said she felt "kicked in the teeth" by Bush's remarks, including assertions that Louisiana failed to produce a plan for recovering from hurricanes Katrina and Rita.

Blanco said the state has a plan: U.S. Rep. Richard Baker's 4-month-old bill to create a $30 billion revolving fund to buy out owners of heavily damaged homes, pay off their mortgages and redevelop communities.

State officials say the bill is crucial to get Louisiana recovering and to head off an avalanche of foreclosures against storm victims in the next few months.

"This plan brings us all the way home," the governor said.

Bush aides declared opposition to the bill this week, saying the state should use another pot of cash to help 20,000 households flooded by the storms.

Blanco said Bush is asking Louisiana to abandon the 180,000 other affected households.

"We're all American citizens," Blanco told news reporters in Baton Rouge. "There should be equal treatment here."

Bush personally explained his stance against the Baker bill for the first time at a news conference Thursday in Washington.

"We were concerned about creating additional federal bureaucracies, which might make it harder to get money to the people," Bush said.

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A better method to help homeowners is allocating money through Community Development Block Grants, Bush said. On Wednesday, the federal government officially awarded $6.2 billion to Louisiana.

"Monies can actually go directly to the individual families that need help," Bush said.

Blanco said the CDBG money is far less than the state needs to address housing, schools, businesses, infrastructure and other assets damaged by the most expensive natural disaster in U.S. history.

Bush said the federal government has committed $85 billion to Gulf Coast recovery.

"I want to remind the people in that part of the world, $85 billion is a lot," Bush said.

He did not detail the figure, but it would include all kinds of aid, from clearing debris and feeding displaced victims just after the storm to rebuilding levees and other redevelopment projects in all the states affected by the hurricanes.

Bush contended Louisiana has yet to come up with a redevelopment plan.

Baker took exception to that comment.

"I really viewed (the bill) as the plan," Baker said. "We felt like this was the request."

By calling for the state to use the CDBG money to help homeowners with damage outside of flood plains, The White House has restricted redevelopment for houses inside the flood zone that were underinsured, Baker said.

"They have made the decision of where we develop by telling us to focus on the 20,000 homes outside the flood plain," Baker said.

Gov. Blanco challenged Bush to deliver on the promise he made in Jackson Square, shortly after Hurricane Katrina flooded most of New Orleans, to help storm victims rebuild their communities and their lives.

Asked why Bush would reject the Baker plan, the governor said the president is being led astray by his spin doctors.

Baker's bill would create a Louisiana Recovery Corp. that would use up to $30 billion in U.S. Treasury bonds to buy hurricane-damaged homes. The program would be voluntary and would guarantee homeowners receive at least 60 percent of the equity in their homes.

"If they don't like it, they need to tell us what plan they do like," Blanco said.

An alternative would be for Washington to give the state an additional $6 billion to $8 billion in Community Block Development Grants, she said Thursday. That way, Blanco said, the state can implement Baker's plan on its own.

Blanco said the White House didn't even try to work with Baker on a compromise plan despite the state bending over backward to please Bush.

"Much of this was negotiable," she said. "They dismissed it out of hand."

On Thursday, the National Mortgage Bankers Association said it would make changing the White House's stance on the Baker measure its chief priority this year.

The Sierra Club also expressed disappointment at the president's stance.

Baker said the Louisiana delegation will continue to lobby the president.

"We not running up the white flag yet," Baker said.

Meanwhile, first lady Laura Bush visited one of the first New Orleans public schools to open after Hurricane Katrina hit, then traveled to another school in St. Bernard Parish.

"One thing that will bring people back to their communities is if they know there's a good school for their children to go to and there's safe places for them to play," Laura Bush said.

First Lady Visits Schools In Louisiana, Mississippi (AP)

The AP, January 26, 2006

CHALMETTE, La. (AP) — First Lady Laura Bush visited one of the first New Orleans public schools to open after Hurricane Katrina hit then traveled to another school here in St. Bernard Parish, where devastation was so great that students from 20 different public and private schools are attending classes in one partially repaired building.

Advertisement

Later, she visited a Kiln, Miss., playground with Green Bay Packers quarterback Brett Favre.

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In Chalmette, sitting in chairs on bare concrete floors in a classroom with no doors, Bush listened Wednesday as students who talked about the events of the past five months. One talked about being stuck in traffic for 12 hours trying to evacuate the day before Katrina hit on Aug. 29. Another said for three weeks she didn't know where her father was, whether he survived the massive flood.

"You all are very resilient," Bush told the students at Chalmette High School, now known as the St. Bernard Unified School, where students from pre-kindergarten through 12th grade attend. "It's tough and I'm really proud of you."

Bush also posed with workers from the school cafeteria, which reopened Tuesday, and she looked at pictures of damage at the school and other parts of the parish.

The parish served 8,500 students among 14 public schools before Katrina. Now there are just over 1,500 students from throughout the parish attending the one unified school.

Bush and Secretary of Education Margaret Spellings assured school officials that federal aid will be available for them to continue operating and make needed repairs.

Earlier, Bush and Spellings visited Alice Harte Elementary, a public school in the relatively unscathed Algiers neighborhood of New Orleans. It was one of a handful of public schools that opened in December as a charter school, run independently of the troubled New Orleans school board.

From Chalmette, Bush and Spellings headed to Mississippi where they were joined by Brett Favre of the NFL's Green Bay Packers in the dedication of a Kiln, Miss., elementary school playground where Favre played as a child.

The new playground, built to replace one destroyed by Katrina, was one of 100 a nonprofit group has committed to build on the Gulf Coast.

"Play is really important for children," Bush said. "One thing that will bring people back to their communities is if they know there's a good school for their children to go to and there's safe places for them to play."

Louisiana Tires Of Its Rogues (LAT)

By Miguel Bustillo

The Los Angeles Times, January 27, 2006

NEW ORLEANS — Joseph Impastato conceded he took the two cashier's checks worth $85,000. The whole thing was captured on tape by the FBI, so it would have been difficult to deny.

But it was no kickback, the councilman from St. Tammany Parish said. It was business.

When he cut a deal to receive half the money from a government contract to haul away hurricane debris, Impastato said, he was acting as a private businessman, not a public official.

Federal prosecutors are not buying it — and neither apparently is the Louisiana public. After a federal grand jury indicted Impastato on felony extortion charges last month, making him the first Louisiana politician accused of Hurricane Katrina corruption, citizens condemned him in newspapers and on talk radio and the Internet as an embarrassment to his home state.

"He's got to be a real lowlife to do something like that at a time like this," Frank White, a 62-year-old retired fire captain from the suburb of Chalmette, said in an interview. "It's the Louisiana way of doing business, I guess. But there is a quiet majority now that's sick and tired of this. People are fed up with these crooks."

In Louisiana, which has a history of political shenanigans so rich and colorful that it has become a part of American folklore, people long have laughed off misbehaving politicians as a fact of life, every bit as inevitable as death and taxes.

But as the state lobbies Washington for more money to rebuild ravaged towns and cities, citizens are realizing that Louisiana's well-earned penchant for dirty politics has exacted a steep price: It has badly damaged the credibility of the recovery effort.

"Frankly, the reputation in Washington is, if we send money down there, it will just get stolen," said political handicapper Charles E. Cook, a Louisiana native who has worked in the nation's capital for more than three decades. "It is a caricature of Louisiana politics that is not entirely undeserved but is grossly exaggerated. No one cared about it much before Katrina. But right now, it's hurting the state enormously."

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A major turning point in public attitude came in 2001 when Edwin Edwards, the former four-term Democratic governor, received a 10-year sentence for taking bribes for riverboat gambling licenses. In the last governor's race, both candidates — Democrat Kathleen Babineaux Blanco beat Republican Bobby Jindal — were considered squeaky clean, and promised government reforms. The distaste for dirty government has really picked up momentum since last summer.

"What was tolerated before Katrina is not necessarily tolerated now," said pollster Silas Lee III, a professor at Xavier University here. "Nerves are raw. People have lost their sense of security and direction. They are living a day-to-day existence, and they have little patience for any politician who is perceived as being corrupt."

In addition to Edwards, in the last decade Louisiana has seen an attorney general, a congressman, a state Senate president, a federal judge and countless local officials convicted of corruption. Louisiana's last three state insurance commissioners wound up in prison for offenses that include lying to the FBI, accepting $2 million in illegal campaign contributions and taking bribes — prompting jokes that future candidates should make sure they look good in stripes.

Jim Letten, the U.S. attorney for eastern Louisiana and the lead prosecutor in the Edwards case, sees the convictions as a sign of progress. Wherever he goes, he said, he is greeted by people — black, white, Latino, Asian — who tell him Louisiana needs to clean up its act.

"I am not sure that Louisiana has measurably more corruption than other [regions], but surely we have a reputation for being tolerant of it," said Letten, a member of the Hurricane Katrina Fraud Task Force, a team of federal, state and local law enforcement officials investigating scams and corruption.

Until recently, Louisiana politicians proved that charisma trumped scruples. Their repeated election victories, despite corruption allegations in many instances, showed that Louisiana voters viewed the ethical transgressions of their elected officials as an amusing spectacle.

T. Wayne Parent, a political science professor at Louisiana State University and author of "Inside the Carnival: Unmasking Louisiana Politics," said citizens accepted corrupt politicians because they were effective in providing government services, and the cash they were pocketing was not believed to be taxpayer money.

"Maybe some politician was making a deal with the devil, but that was money from some oil and gas company, or so people thought. By the late 1980s, people realized, maybe it was our money," said Parent, who believes the change in attitude has been slowly building over the last quarter-century.

Huey Long, the Depression-era demagogue who dominated every level of Louisiana government by bullying or buying off anyone who got in his way, joked that "one of these days the people of Louisiana are going to get good government — and they aren't going to like it."

Known as the Kingfish, Long was impeached as governor in 1929 on charges of bribery and gross misconduct but narrowly avoided punishment — reportedly by bribing several state senators. Elected a U.S. senator in 1930, he was assassinated in 1935 in Baton Rouge by the son of a judge who was about to be gerrymandered out of a job.

Earl Long, his eccentric brother, kept the family's Democratic political machine running into the 1960s. He once remarked that Louisiana voters "don't want good government; they want good entertainment."

He served three terms as governor, spending some of the last term in a mental hospital, where his wife had him committed after he took up with Blaze Starr, a stripper.

Edwards, who survived two trials and 22 grand jury investigations in his four terms as governor, boasted that the only way he could lose was if he were "caught in bed with a dead girl or a live boy."

When he ran against former Ku Klux Klan leader David Duke, the Republican candidate, in 1991, Edwards supporters printed bumper stickers saying: "Vote for the crook. It's important."

The "crook" handily won. But he was eventually sent to prison for taking bribes after Eddie DeBartolo Jr., former owner of the San Francisco 49ers, testified that he had paid Edwards $400,000 to land a casino license.

Even now, during the state's ultimate hour of need, some Louisiana citizens say they could stomach a crooked politician — as long as he was competent.

"I'll tell you what, I'd take Edwin Edwards in a minute to get us out of this mess," said Gid Brill, 65, a tool salesman from Belle Chasse. "He might skim off $10 million for himself, but he'd know what to do with the rest of the money."

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Such attitudes do not go over well in Washington, where some Republican lawmakers speak of Louisiana as if it were a banana republic.

Sen. Larry E. Craig (R-Idaho), who sits on the pivotal appropriations committee which oversees all major spending bills, compared fraud in Louisiana to fraud in Iraq. During town hall meetings in his home state last year, he repeatedly said that Louisiana and New Orleans had "the most corrupt governments in our country."

State lawmakers last year sought $250 billion from Congress for recovery and reconstruction in a proposal criticized as a grab-bag of pork-barrel projects. President Bush said Thursday the federal government had approved $85 billion in aid to the Gulf Coast. Louisiana's congressional delegation has contended that is not nearly enough, and continues to press for more.

Sen. Mary L. Landrieu (D-La.) said that the corruption, while historically accurate, has been magnified by Republicans in Washington who do not want to help Louisiana. "I don't want to discount that the image carries the scars of our past. But we have emphatically turned the corner," Landrieu said.

Citing the corruption scandal in the nation's capital centering on GOP lobbyist Jack Abramoff, Landrieu added, "Republicans in Washington should clean up their own house before using Louisiana's past reputation an excuse for not wanting to rebuild the Gulf Coast."

Not surprisingly, Sen. David Vitter (R-La.) sized up the situation differently.

"It's not fiction — we have had some real corruption issues here in the past, and to some extent we still do today," Vitter said. "My colleagues in Washington want assurances that money is going to be spent wisely, given those issues, and I don't think it's too much to ask."

Government statistics indicate that Louisiana is one of the most corrupt states in the country. From 1995 to 2004, federal prosecutors won 310 corruption convictions involving public servants and citizens in Louisiana, said a report by the Public Integrity Section of the Justice Department. That was far from the highest total: California prosecutors logged 871. But California is a state of 36 million people, nine times the population of Louisiana.

In the last month alone, federal prosecutors have been busy bringing corruption charges against Louisiana public servants. Two sheriffs deputies who worked at a Gretna jail were sentenced last week after confessing to taking bribes — part of an ongoing federal probe dubbed "Operation Wrinkled Robe," which seeks to ferret out jail and courthouse corruption. The investigation already has resulted in the conviction of a former state judge.

Last Friday, a federal grand jury indicted a former New Orleans police officer caught driving a stolen pickup, one of about 200 Cadillacs and Chevys looted from a dealership after Katrina. Witnesses reported seeing officers drive away in the vehicles. A state grand jury is also investigating the case, along with other allegations of looting by law enforcement officers.

Brett Pfeffer, a former aide to Rep. William Jefferson, a New Orleans Democrat, pleaded guilty two weeks ago to bribing an unnamed congressman on behalf of a small telecommunications company. Jefferson has not been charged and has denied wrongdoing.

Impastato's trial is scheduled to begin next month. He pleaded not guilty Jan. 10 to federal charges that he extorted money from a businessman after helping him land a contract to remove debris. If convicted of the charge, as well as related counts of conspiracy and money laundering, he could face up to 20 years in prison.

The indictment said Impastato arranged with Lee Paul Mauberret of the Pontchartrain Chipping Yard to split the $200,000 contract. A relative of Mauberret's balked at paying the kickback, and Mauberret called the FBI, which set up the sting.

Impastato, 33, continues to serve his second term on the council in St. Tammany Parish, next to New Orleans on the north shore of Lake Pontchartrain. He declined to discuss the case when reached at Sal & Judy's, his family's Italian restaurant, where he makes a living running a business selling tomato sauces and olive oil.

His lawyer, Karl Koch, said Impastato did not "use his official capacity in any way" to enrich himself, and witnesses would testify that Impastato did a fair amount of the hurricane cleanup work himself. Impastato's critics said his actions — legal or not — set back the state's efforts to repair its reputation.

"Impastato should have avoided this at all costs. Especially given the current climate and attitude in Washington toward Louisiana," St. Tammany resident Dana Deris wrote on a blog carried on the New Orleans Times-Picayune website. "He IS guilty of furthering the negative image of Louisiana."

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Outside a grocery store a few blocks from Sal & Judy's, Robert Keys, 72, shook his head.

"I'd love to be the judge on that one," said Keys, a 41-year resident of St. Tammany Parish. "A snake is going to take advantage of this opportunity right now, because there's a lot of money flying around loose. I guess the question is whether it was a legal shakedown or not. But either way, he's still a snake."

Study Says 80% Of New Orleans Blacks May Not Return (NYT)

By James Dao

The New York Times, January 27, 2006

WASHINGTON, Jan. 26 — New Orleans could lose as much as 80 percent of its black population if its most damaged neighborhoods are not rebuilt and if there is not significant government assistance to help poor people return, a detailed analysis by Brown University has concluded.

Combining data from the 2000 census with federal damage assessment maps, the study provides a new level of specificity about Hurricane Katrina's effect on the city's worst-flooded areas, which were heavily populated by low-income black people.

Of the 354,000 people who lived in New Orleans neighborhoods where the subsequent damage was moderate to severe, 75 percent were black, 29 percent lived below the poverty line, more than 10 percent were unemployed, and more than half were renters, the study found.

The report's author, John R. Logan, concluded that as much as 80 percent of the city's black population might not return for several reasons: their neighborhoods would not be rebuilt, they would be unable to afford the relocation costs, or they would put down roots in other cities.

For similar reasons, as much as half of the city's white population might not return, Dr. Logan concluded.

"The continuing question about the hurricane is this: Whose city will be rebuilt?" Dr. Logan, a professor of sociology, writes in the report.

If the projections are realized, the New Orleans population will shrink to about 140,000 from its prehurricane level of 484,000, and the city, nearly 70 percent black before the storm, will become majority white.

The study, financed by a grant from the National Science Foundation, was released Thursday, 10 days after the mayor of New Orleans, C. Ray Nagin, who is black, told an audience that "this city will be a majority African-American city; it's the way God wants it to be."

Mr. Nagin's remark was widely viewed as an effort to address criticism of a proposal by his own rebuilding panel, the Bring New Orleans Back Commission, that calls for a four-month building moratorium in heavily damaged areas. He said later that he had not meant to suggest that white people would not be encouraged to return.

"Certainly Mayor Nagin's comments reflected a concern on the ground about the future of the city," Dr. Logan said. "My report shows that there is a basis for that concern."

The study coincides with growing uncertainty about what government assistance will be available for property owners and renters. Louisiana will receive $6.2 billion in federal block grants under an aid package approved by Congress in December, part of which will be used to help homeowners. But that will not be enough money to help all property owners in storm-damaged areas, Louisiana officials say.

Those officials have urged Congress to enact legislation proposed by Representative Richard H. Baker, Republican of Louisiana, creating a corporation that would use bond proceeds to reimburse property owners for part of their mortgages, then redevelop the property. But the Bush administration has said it opposes the bill, out of concerns that it would be too expensive and would create a new government bureaucracy.

Asked Thursday about his opposition to the measure, President Bush told reporters that the $85 billion already allocated for Gulf Coast restoration was "a good start." He added that he was concerned that Louisiana did not have a clear recovery plan in place.

But Gov. Kathleen Babineaux Blanco of Louisiana, a Democrat who has clashed frequently with the White House, said Mr. Baker's bill provided a clear plan.

"Administration officials do not understand the suffering of the people of Louisiana," Ms. Blanco said in a statement.

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Demographers are divided over the likelihood of a drastic shift in New Orleans's population. William H. Frey, a demographer at the Brookings Institution who has studied the hurricane's impact on the city, called Dr. Logan's projections "a worst-case scenario that will come about only if these evacuees see that they have no voice in what is going on."

But Dr. Frey also said low-income evacuees might indeed begin to put down roots in cities like Houston or Dallas if they did not see movement toward reconstruction in the next six months.

Elliott B. Stonecipher, a political consultant and demographer from Shreveport, La., said that unless New Orleans built housing in flood-protected areas for low-income residents, and also provided support for poor people to relocate, chances were good that many low-income blacks would not return.

"If they didn't have enough resources to get out before the storm," Mr. Stonecipher said, "how can we expect them to have the wherewithal to return?"

WAR NEWS:

U.S. Military Releases Half Of Iraqi Women In Its Prisons (NYT)

By Sabrina Tavernise

The New York Times, January 27, 2006

BAGHDAD, Iraq, Jan. 26 — The American military said Thursday that it had released half the Iraqi women held in its prisons, but it said the release had been previously scheduled and was unrelated to demands made by the kidnappers of the American journalist Jill Carroll.

The military freed 5 of the 10 Iraqi women in its custody late Thursday afternoon as part of a regular prisoner release that included more than 400 Iraqis, said Lt. Col. Barry Johnson, a military spokesman.

The release drew attention because advance news of it came after Ms. Carroll's captors made their demands last week, saying in a videotape that they would kill her if the United States did not release all Iraqi women from its jails in 72 hours.

But the military said the review of the Iraqi prisoners' cases came long before the kidnappers set their deadline, which expired last Friday.

"We do not negotiate or bend to demands of terrorists," Colonel Johnson said.

It was not clear Thursday night whether the release of the five women had swayed Ms. Carroll's kidnappers, or whether they were even aware it had happened. Nothing has been heard from them since their videotape was broadcast by the Arabic network Al Jazeera on Jan. 17.

Ms. Carroll, a 28-year-old freelance journalist, was on assignment for The Christian Science Monitor when gunmen seized her on her way to an interview in Baghdad on Jan. 7. Her interpreter was shot dead as he tried to make a phone call.

David Cook, The Monitor's Washington bureau chief, said in an e-mail message that the paper had not had news of Ms. Carroll since the video broadcast.

Scattered violence on Thursday left at least 11 Iraqis dead.

A bomb planted on a road north of Baghdad struck the convoy of the minister of industry and minerals, Osama Abdul Aziz al-Najafi, killing three guards and seriously wounding a fourth. Mr. Najafi was not harmed. The attack was the sixth attempt made on his life, said Hanan Jassim, a spokeswoman for the ministry.

In Baghdad, police officers and insurgents fought a gun battle in the Adel neighborhood, where Ms. Carroll was kidnapped, leaving one police officer dead and six wounded, an Interior Ministry official said.

Two Iraqis were shot to death and a third was wounded when gunmen opened fire on their car in the Saidiya district in southern Baghdad about 1 p.m., the official said.

The authorities found 10 bodies, handcuffed and blindfolded, in water filtration pools in southeastern Baghdad on the road to Madaen, the Interior Ministry official said.

In the northern city of Kirkuk, insurgents killed two city officials in drive-by shootings. Jumaa Haji Rasheed, deputy director of the city's trade department, was gunned down as he was dropping his daughters off at school, said Capt. Farhad Talabani of the

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Kirkuk police department. Uthman Muhammad Mahmood, part of the city's anticorruption commission, was shot to death while driving in the Askari neighborhood.

Gunmen also killed an engineer and an off-duty police officer in Kirkuk, said Sarhad Qadir, a police official there.

Insurgents attacked a fuel convoy on the highway from Kirkuk to Baghdad, killing one driver and wounding four, Mr. Qadir said.

Three American service members were killed in combat on Tuesday and Wednesday, the American military said. One died in a bomb blast in Baghdad, one in a rocket attack near the western city of Ramadi, and a third in Karma, just outside Falluja, west of Baghdad.

The military also announced that it had transferred authority to the Iraqi Army in the provinces of Diwaniya and Wasit in southern Iraq. Soldiers and Iraqi commanders from the Eighth Iraqi Army Division took control of the two provinces on Thursday.

U.S. Releases Five Iraqi Women (WP)

By Jonathan Finer

The Washington Post, January 27, 2006

BAGHDAD, Jan. 26 -- The U.S. military freed five female Iraqi detainees Thursday, a move it said was unrelated to demands made by a group that abducted the American journalist Jill Carroll this month.

Carroll, 28, a freelance reporter working for the Christian Science Monitor, was taken on Jan. 7 in western Baghdad. In a video aired on the Arab satellite television network al-Jazeera 10 days later, her captors said she would be killed within 72 hours if U.S. authorities did not release all female Iraqis in their custody.

U.S. forces still hold at least four women, according to Lt. Col. Guy Rudisill, a spokesman for detainee operations. In a separate statement Thursday, the military announced the detention of two more women Wednesday in the northern city of Mosul.

There was no immediate public response from Carroll's kidnappers, who call themselves the Vengeance Brigade. The five women who were released were among 420 prisoners scheduled to be freed Thursday and Friday, the military said.

"They were determined not to be a security threat," Maj. Gen Rick Lynch, a military spokesman, told reporters Thursday. "Those female detainees were released as part of our normal process, and not as a result of demands by terrorists and criminals. We don't negotiate with terrorists and criminals."

A U.S. official in Baghdad, who spoke on condition of anonymity because of the sensitivity of the situation, said there was no indication that the women's release would lead to Carroll being freed.

"If the people holding her wish to interpret this in some way to do the right thing and let her go, then more power to them," he said. "There is no reason to believe they will and no reason to believe they won't."

Insurgents and criminal gangs have carried out a wave of kidnappings against foreigners in recent months, including two German engineers seized Tuesday. Some of those seized have been killed, others released unharmed. The status of several captives remains unknown, including four members of a U.S.- and Canadian-based Christian aid group.

Also Thursday, the U.S. military announced the death of a soldier whose vehicle came under rocket attack Wednesday near the western city of Ramadi.

Lynch pointed to growing signs of conflict between Iraqi insurgents and foreign fighters from the group al Qaeda in Iraq, which is led by the Jordanian Abu Musab Zarqawi. Iraqi insurgents have killed six senior al Qaeda leaders in recent weeks, Lynch said, referring to the local insurgency as "a colleague in this operation against Zarqawi."

U.S. officials have long said they hoped to separate local insurgents from foreigners and incorporate the Iraqis into the country's political process.

Lynch said the military and diplomats had been "reaching out" to some Iraqi insurgents, but he called negotiations with those known to be conducting attacks on U.S. forces a "red line that we refuse to cross."

"The idea of driving a wedge between the terrorists and foreign fighters and the Iraqis that support them, and the Iraqi population, is taking place," he said. "And the local insurgents have become part of the solution."

Iraqi insurgent leaders, while acknowledging friction with Zarqawi's fighters, rejected the notion that they were working in concert with the Americans.

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"There are disagreements over the car bombs that killed Shiites and innocent people in markets. But we cannot cooperate with U.S. forces to fight our brothers in al Qaeda," said Sheik Fadhil Falluji, a leader in the Islamic Army insurgent group in Karmah, east of the city of Fallujah. "They want to create strife among the resistance."

Also Thursday, three assassinations took place in the restive northern city of Kirkuk. In separate incidents, police said, gunmen killed an official with the city's Integrity Commission and the brother of a senior member of the Patriotic Union of Kurdistan. Police also recovered the bullet-riddled body of a butcher who supplied the Iraqi army.

Special correspondents Omar Fekeiki and Bassam Sebti contributed to this report.

Five Iraqi Women Are Released From US Custody (CSM)

The Christian Science Monitor, January 27, 2006

BAGHDAD - The mother of one of five Iraqi female detainees released Thursday expressed confidence that American journalist Jill Carroll will be released soon.

"She'll be fine and she will come out very soon because she loves Iraq and she loves Iraqis, so God will never forget her," says Siham Faraj, the mother of Hala Khalid Wahid who was detained by US forces in Iraq four months ago.

But she added, "I don't think Jill Carroll's situation has anything to do with the release of my daughter, but we definitely feel her pain....

"And to her mother, I say: I know how painful it is when a daughter is detained. But don't worry, madam. Your daughter is a great woman and she will be fine."

Mrs. Faraj's 28-year-old daughter was arrested along with her son on Sept. 24 during a dawn raid by US forces on their Baghdad home.

In a video message aired on Arabic satellite channel Al Jazeera last week, Ms. Carroll's captors threatened to kill her within 72 hours unless all female detainees in Iraqi prisons were released.

The US military confirmed last week it was holding nine Iraqi women. On Thursday, however, the military said it had detained two more women and three men for alleged insurgent activities in the northern city of Mosul. Detainees are regularly freed in Iraq following reviews of their cases, a process that can take months. US officials say that Thursday's release of five women and 414 men was part of the routine procedure and not linked to Carroll's case.

Separately, the widow of an Al Jazeera staff correspondent killed in Iraq also called for Carroll's release. "Kidnapping journalists or civilians harms the good image of the [Iraqi] resistance," Dima Tahboub told Al Ghad, a Arab-language newspaper in Amman, Jordan.

Her Jordanian husband, Tareq Ayoub, was killed in April 2003 during a US air raid that struck the generator outside Al Jazeera's Baghdad bureau. She added, "The resistance has to adopt legal methods that spare civilians.... Journalists who play an objective professional role and serve their societies should be spared also."

A group of 37 Jordanian politicians, academics, and journalists also released a statement Thursday calling "the kidnapping of Carroll ... a kidnapping of one of the witnesses of the suffering of the Iraqi people."

In Iraq, two German engineers were kidnapped Tuesday, just two days after arriving in the country. Iraqi police say they were seized by men wearing Iraqi Army uniforms who slipped into the German company's complex.

Germany's Foreign Minister Frank-Walter Steinmeier said there had been no contact with the kidnappers.

• Staff writer Dan Murphy in Baghdad and The Associated Press contributed to this report.

U.S. Rebuilding In Iraq Found To Fall Short (NYT)

By James Glanz

The New York Times, January 27, 2006

Because of unforeseen security costs, haphazard planning and shifting priorities, the American-financed reconstruction program in Iraq will not complete scores of projects that were promised to help rebuild the country, a federal oversight agency reported yesterday.

Only 49 of the 136 projects that were originally pledged to improve Iraq's water and sanitation will be finished, with about 300 of an initial 425 projects to provide electricity, the report says.

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The planners of the rebuilding effort did not take into account hundreds of millions of dollars in administrative costs, and mostly did not realize that the United States would have to spend money to keep things like power plants and sewage treatment plants running once they had been built, the report says. That ultimately forced the United States to pare the list of projects to cover such expenses.

Beyond the huge cost of protecting reconstruction projects, which the report says the planners did not foresee, billions of dollars were shifted from the rebuilding effort to things like training Iraqi police and guarding Iraq's borders. The report, by the office of the Special Inspector General for Iraq Reconstruction, adds that the overall rebuilding plan was also devised without a clear understanding of the decrepit state of Iraq's infrastructure after decades of war, United Nations-imposed penalties and sheer neglect.

The figures are the first quantitative measure of what Stuart W. Bowen Jr., the inspector general in the office that issued the report, has called the "reconstruction gap," the difference between what the United States originally promised to build and what it will actually complete. The inspector general is charged with oversight of the entire $25 billion rebuilding effort in Iraq, although the latest report focuses on projects financed by $18.4 billion appropriated by Congress for the program in 2004.

"We have gone beyond just the concept of the reconstruction gap and identified the specific impacts of how many projects in the electrical sector and the water sector will not be completed and the reasons why," said Jim Mitchell a spokesman for the office. "We point out that the dramatic increase in security spending is a part of this as well," Mr. Mitchell said. "Those who planned the reconstruction did not understand at the time the hostile environment in which reconstruction would be taking place."

Rick Barton, co-director of the post-conflict reconstruction project at the Center for Strategic and International Studies in Washington, said that the effectiveness of the rebuilding program had previously been obscured by the fog of war in Iraq, and that what appear to be some of the first solid measures of success and failure were bound to carry important lessons.

"We've had such a range of commentary, from pretty much everything going as well as it could to outright disaster," Mr. Barton said. "This brings definition to the whole discussion, and in doing that it highlights many of the poor choices that have been made. It has that potential longer-term therapeutic benefit."

Reconstruction officials and some specialists outside the government have said that the full extent of Iraq's insurgency and lawlessness would have been difficult or impossible to anticipate when much of the planning for the rebuilding effort took place under the Coalition Provisional Authority in 2003.

The report says that the authority planners "envisioned a much more permissive security environment," but does not take a stand on whether the possibility of such problems should have been considered. The security problems that developed increased the cost of projects and materials, causing delays, the report says.

But security costs alone do not account for the drop in the number of projects that the United States will be able to finish.

"Other unforeseen problems, such as initial plans that were hurriedly put together with little knowledge of actual conditions at proposed projects sites," as well as the need to continue financing the projects once they are up and running, also played a role, the report says. As a result, some $425 million was shifted to support the operation of the plants and the Iraqis who were expected to carry them out.

The report adds that planners were also obliged to take $400 million from the reconstruction money to cover unforeseen administrative costs, probably involving the Western staff members who worked on the effort in heavily guarded hotels and in the fortified green zone in the heart of Baghdad. "The use of these funds has reduced the level of funding that can be provided for specific relief and reconstruction activities in Iraq, and altered U.S. plans," the report says.

The biggest change in priorities in the rebuilding program came when John D. Negroponte, then the American ambassador to Iraq, shifted $3.46 billion from the reconstruction fund to support projects involving the training of Iraqi security forces, building democratic institutions and developing the private sector in fall 2004. But the report notes that month after month, new shifts took place, amounting to $2.12 billion in additional spending changes through October 2005.

No fewer than 185 programs endured changes during that period, the report says. And reconstruction teams were also forced to improvise plans constantly because planners had not taken into account the decayed state of Iraq's infrastructure. As

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examples, the report cites a port rehabilitation project in Umm Qasr, in the south, where dredging operations were held up as workers shored up crumbling piers and berths for the ships.

The report was released only days after a separate audit of American financial practices in Iraq uncovered irregularities including millions of reconstruction dollars stuffed casually into footlockers and filing cabinets, an American soldier in the Philippines who gambled away cash belonging to Iraq, and three Iraqis who plunged to their deaths in a rebuilt hospital elevator that had been improperly certified as safe.

But in contrast to that earlier audit, which focused on rebuilding projects financed by money from Iraqi oil proceeds and assets seized from Saddam Hussein's regime, the latest report covers projects underwritten with American taxpayer money.

Audit Finds Fund Shortage For U.S. Projects In Iraq (WT)

By Rowan Scarborough

The Washington Times, January 27, 2006

The Bush administration got bad news yesterday about its plans for rebuilding Iraq with U.S. taxpayer money when a special audit showed there are not enough funds for more than half of the water resource improvements and for a quarter of electrical projects.

"Although significant progress has been made in developing Iraq's infrastructure, the United States will not complete all of the projects it originally planned to construct," Stuart Bowen Jr., the special inspector general for Iraq's reconstruction, said in the audit. He called the problem a "reconstruction gap," the difference between projects planned in 2003 and what is now actually possible in 2006.

The assessment is a setback for the Bush administration, which counted on more robust rebuilding across Iraq to help deliver the country from a harsh dictatorship to a prosperous democracy. Officials in Mr. Bowen's office say that if the projects are to be completed, Iraq will have to receive more money from donor nations, which have pledged but not fully delivered $13 billion; from the World Bank; and from oil proceeds. The problem is insurgents repeatedly attack Iraq's oil facilities and pipelines, especially one leading to Turkey, depriving Iraq of huge streams of revenue.

Mr. Bowen blamed five setbacks, or shifts in policy, that have caused some of the $24 billion Congress approved in U.S. reconstruction funds to be diverted elsewhere.

The audit cited "plans made without a clear understanding of actual situational conditions" -- a reference to the fact that the Bush administration did not predict the rise of a large insurgency and foreign terror cells when it planned for Iraq after the ouster of Saddam Hussein.

For example, the State Department diverted $5.6 billion from reconstruction to beef up security in the face of the burgeoning insurgency, which threatened to send Iraq into chaos in 2004.

The audit said that $4.3 billion budgeted for water and sanitation in 2003 was decreased to $2.1 billion in 2005. And $5.5 billion for the electricity budget was slashed to $4.3 billion.

The result: Of 136 projects in water sources and sanitation, only 49 will be completed. Of 425 electrical projects, about 300 will be completed with U.S. funds.

The report said the disbanded Coalition Provisional Authority, which ran Iraq in 2003 and 2004, "had significantly underestimated the damage done to the basic infrastructure from decades of neglect and warfare and, as a result, more time and resources are required to stand up and maintain systems than originally thought. The state of Iraq's infrastructure was further degraded by looting and sabotage following the war."

In 2003, Congress authorized $18.6 billion for reconstruction and also added smaller appropriations to bring the total to $24 billion.

Five Female Detainees In Iraq Set Free (LAT)

By Chris Kraul, Times Staff Writer

The Los Angeles Times, January 27, 2006

BAGHDAD — Iraq's minister of industry narrowly escaped an assassination attempt Thursday, and the release of five female prisoners by U.S. authorities raised hopes that kidnapped American reporter Jill Carroll would soon be set free.

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Also Thursday, the U.S. military reported the deaths of a soldier and a Marine, and Army Gen. George W. Casey, the top U.S. commander in Iraq, acknowledged in Diwaniya that U.S. forces overall were "stretched," Associated Press reported. He was responding to journalists' questions about an unreleased Pentagon study that found the military was overextended in Iraq and Afghanistan.

The Iraqi minister, Usama Abdulaziz Najafi, was in a convoy on a main highway about 65 miles north of Baghdad when a roadside bomb exploded. The blast engulfed one of the cars in flames, killing three bodyguards and injuring one. The minister was unhurt.

The Iraq insurgency has targeted officials at all levels in its attempt to weaken Iraq's emerging democratic government.

Hopes rose Thursday that Carroll, who was kidnapped Jan. 7 in Baghdad, might be released. On Jan. 17, her captors issued a videotape of the reporter and threatened to kill her unless all female prisoners held by American forces were released by Jan 20. Since then, there has been no word on the 28-year-old freelancer, who was working for the Christian Science Monitor.

The five female detainees freed Thursday were among 424 prisoners released by U.S. authorities. At a news briefing, Army Maj. Gen. Rick Lynch said the move was part of a "normal process and not as a result of demands by terrorists and criminals."

An estimated 14,000 Iraqis, including four women, remain in U.S. military jails.

Local media quoted Iraqi officials as saying they were hopeful that the detainees' release might persuade Carroll's abductors to set her free. In a telephone interview, David Cook, the Christian Science Monitor's Washington bureau chief, was guarded in his reaction to the U.S. move.

"We are aware of the release and watching carefully for positive developments," he said.

Gen. Casey spoke to reporters during a trip to witness the hand-over of two provinces in south-central Iraq to the 8th Division of the Iraqi army. He said that although the U.S. military in Iraq was under stress, he thought the mission could be accomplished as staffed. He said he would order withdrawals only as Iraqi forces became capable of taking over operations.

On Wednesday, Secretary of Defense Donald H. Rumsfeld disputed reports that the U.S. military was stretched thin in Iraq and Afghanistan. "This armed force is enormously capable," he told reporters. "It's battle-hardened."

In other developments in Iraq, Baghdad police sources said the bodies of 10 blindfolded men had been found in water-holding tanks at a sewage treatment facility in a Baghdad suburb. All had been shot to death.

Meanwhile, cameraman Mahmoud Zaal of Baghdad TV was killed Wednesday while filming U.S. troops fighting insurgents in Ramadi. Sources said he initially was detained by American forces and later released, before being killed by gunfire.

At his regular Thursday briefing for reporters, military spokesman Lynch said insurgent attacks and other incidents had risen 26% across the country last week to 433, but that overall, violence was in decline.

As a result of "outreach," he said, coalition forces are getting better cooperation from some Iraqi insurgents who are neither loyalists to former President Saddam Hussein nor linked to Al Qaeda, but are "rejectionists" alienated from the current government.

"By talking with them, explaining the business of being part of the solution and not part of the problem, many of them turn out to be individuals we can rely on to help make progress here in Iraq," Lynch said. "There is indeed dialogue taking place."

There were few details on the two slain U.S. troops, whose identities were being withheld pending notification of their families. The Marine was killed Tuesday by small-arms fire east of Fallouja. He was assigned to the 2nd Marine Division, 2nd Marine Expeditionary Force.

The other was described as a soldier with the Multinational Division Baghdad who was killed Wednesday by a roadside bomb near the capital.

According to an Associated Press tally, at least 2,238 American service members have been killed since the U.S.-led invasion in March 2003.

Planted Articles May Be Violation (LAT)

By Mark Mazzetti

The Los Angeles Times, January 27, 2006

DOJ_NMG_0012358

WASHINGTON — A secret U.S. military program that pays Iraqi newspapers to publish articles favorable to the American mission appears to violate a 2003 Pentagon directive, according to a newly declassified document released Thursday.

The information campaign run by U.S. troops in Baghdad and a Washington-based private contractor is the subject of a high-level military investigation. Last month, the top U.S. general in Iraq said a preliminary investigation into the program had found it did not violate U.S. law or Pentagon regulations.

"We concluded that we were operating within our authorities and the appropriate legal procedures. And so we have not suspended any of the processes up to now," Army Gen. George W. Casey told reporters then.

A secret directive on the Pentagon's information operations policy released Thursday, however, appears to prohibit U.S. troops from conducting psychological operations, or psy-ops, targeting the media.

"Psy-op is restricted by both DoD [Department of Defense] policy and executive order from targeting American audiences, our military personnel and news agencies or outlets," says the directive, dated Oct. 30, 2003, and signed by Defense Secretary Donald H. Rumsfeld.

The document, titled "Information Operations Roadmap," was released by the National Security Archive, a research institution based at George Washington University that obtained it under the Freedom of Information Act.

A Pentagon spokesman did not return calls seeking comment.

But one senior Pentagon official said that based on the wording in the directive, the operation seemed to violate Pentagon policy.

"It's clearly a violation based on the language used in the Rumsfeld document," said the official, who spoke on condition of anonymity because he was not authorized to talk publicly on the issue.

Since early last year, the military's Information Operations Task Force in Baghdad has used private contractor Lincoln Group to plant stories in Iraqi media about U.S. and Iraqi military and rebuilding efforts.

It also has placed reports indicating that anti-insurgent sentiment is rising among Iraqi citizens.

American troops write articles, called storyboards, which are then delivered to the Iraqi staff of Lincoln Group. The staffers then translate the storyboards into Arabic and pay newspaper editors in Baghdad to run the articles.

A military investigation of the operation led by Navy Rear Adm. Scott Van Buskirk should be completed soon, Pentagon officials say.

U.S. law forbids the Pentagon from conducting propaganda efforts that target U.S. audiences. Yet many in the military say that the globalization of media, driven by the Internet and the 24-hour news cycle, makes it likely that information campaigns targeting foreign audiences find their way into U.S. media coverage.

That much is acknowledged in the 78-page document released Thursday, which says that "information for foreign audiences, including public diplomacy and psy-op, increasingly is consumed by our domestic audience."

The directive recommends that boundaries be established to ensure that U.S. military information operations don't target U.S. audiences directly. It does not say what the boundaries should be.

The document was written to set out policy guidelines and establish the Pentagon's reasoning for elevating information operations to a "core" mission for the U.S. military, Pentagon officials say.

"Information, always important in warfare, is now critical to military success and will only become more so in the foreseeable future," the document says.

U.S. Forces Strained But Will Finish Mission, General Says Military Releasing Hundreds Of Detainees From Custody (USAT/AP)

By Nick Wadhams

USA Today, January 27, 2006

DIWANIYAH, Iraq — The top U.S. commander in Iraq acknowledged Thursday that the U.S. Army was stretched, but he insisted forces here were capable of accomplishing their mission.

Gen. George Casey said any recommendation to reduce troops further would be dictated by the situation on the battlefield.

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"The forces are stretched … and I don't think there's any question of that," Casey told reporters. "But the Army has been for the last several years going through a modernization strategy that will produce more units and more ready units."

Casey said he had discussed manpower strains with Gen. Peter Schoomaker and that the Army chief of staff feels he can sustain missions around the world.

"So, yep, folks are stretched here, but they certainly accomplish their mission," Casey said.

In Washington, President Bush brushed aside talk that the United States could not prevail in Iraq.

"If the question is whether or not we can win victory in Iraq, our commanders will have the troops necessary to do that," Bush told reporters at a news conference.

Also Thursday:

•The military released five Iraqi female detainees, part of a group of about 420 Iraqis to be released Thursday and today. The kidnappers of American reporter Jill Carroll had demanded the release of all female detainees being held by the U.S. military, and some women are still in custody. Iraqi Maj. Gen. Hussein Ali Kamal said intensive efforts were underway to free Carroll, who was on assignment for The Christian Science Monitor.

•U.S. Central Command announced that two more American soldiers died Wednesday — one in a bombing south of Baghdad and a second of wounds suffered in a rocket attack in Ramadi.

•At least 11 Iraqis were killed Thursday in attacks around the country.

Casey spoke after attending a ceremony in which Polish troops transferred leadership of the south-central region of Iraq to Iraqi forces, the first such large-scale hand-over since the conflict began in 2003.

In a study for the Pentagon, Andrew Krepinevich, a retired Army officer, concluded the Army cannot sustain the pace of troop deployments to Iraq long enough to crush the insurgency. He suggested the Pentagon's decision to begin reducing the force in Iraq this year was driven in part by a realization that the Army was overextended. The United States has about 136,000 troops in Iraq.

Defense Secretary Donald Rumsfeld said Wednesday that talk of an overburdened force was "either out of date or just misdirected."

General Says Force Can Do Its Job (WT/AP)

By Nick Wadhams

The Washington Times, January 27, 2006

DIWANIYAH, Iraq -- The top U.S. commander in Iraq acknowledged yesterday that the U.S. Army was stretched, but he insisted forces were capable of accomplishing their mission and any recommendation to reduce troops further would be dictated by the situation on the battlefield.

U.S. officials said Gen. George Casey was speaking about the Army in general and not specifically about the 136,000-strong force in Iraq.

"The forces are stretched ... and I don't think there's any question of that," Gen. Casey told reporters. "But the Army has been for the last several years going through a modernization strategy that will produce more units and more ready units."

Gen. Casey said he had discussed manpower strains with Gen. Peter J. Schoomaker on Wednesday and that the Army chief of staff thinks he can sustain missions around the world. Gen. Casey insisted the troops in Iraq are getting the job done.

"So, yep, folks are stretched here but they certainly accomplish their mission, and the forces that you've seen on the ground are absolutely magnificent," he added.

In Washington, President Bush brushed aside talk that the United States could not prevail in Iraq.

"If the question is whether or not we can win victory in Iraq, our commanders will have the troops necessary to do that. If the question is: Can we help keep the peace in a place like the Far East? Absolutely," Mr. Bush told reporters.

"And let me use the Far East as an example of what I'm talking about," the president continued. "There were some 30,000 on the South Korean Peninsula. As you might remember, we reduced the amount of manpower and replaced it with technology."

Meanwhile, the U.S. command announced that two more American soldiers died Wednesday -- one in a bombing south of Baghdad and a second of wounds suffered in a rocket attack in Ramadi.

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The military yesterday released five female Iraqi detainees, a move demanded by the kidnappers of American reporter Jill Carroll. Officials said the women were part of a group of 420 Iraqis to be released yesterday and today and that their freedom was not connected to efforts to free Miss Carroll, who was seized in Baghdad on Jan. 7.

Gen. Casey spoke after attending a ceremony in which Polish troops transferred leadership of the south-central region of Iraq to Iraqi forces, the first such large-scale transfer since the conflict began in 2003.

The transfer of authority for the sector, which includes about 25 percent of the country, was part of a larger strategy by the U.S.-led coalition to build up Iraqi forces and give them greater role in security.

In a study for the Pentagon, Andrew Krepinevich, a retired Army officer, concluded that the Army cannot sustain the pace of troop deployments to Iraq long enough to crush the insurgency. He also suggested that the Pentagon's decision, announced in December, to begin reducing the force in Iraq this year was driven in part by a realization that the Army was overextended.

Defense Secretary Donald H. Rumsfeld on Wednesday discounted the report as "either out of date or just misdirected."

Is The US Army Prepared To Fight Another Iraq-style War? (CSM)

By Mark Sappenfield

The Christian Science Monitor, January 27, 2006

WASHINGTON - When two major studies released this week questioned whether the US Army is being stretched too thin, they raised a much- repeated concern: that America does not have enough troops to win the war in Iraq.

At a deeper level, though, they raise the question of whether today's military is prepared for the threats that could lie ahead in the war on terror.

The Pentagon's answer is a categorical "yes," insisting that the military is well suited for whatever the future holds. But with the department's four-year plan for spending and strategy to be presented to Congress next month, critics say that America's experience in Iraq suggests that the US may not be ready for another long, slow Iraq-style war.

"What are the countries we could not afford to walk away from" if they collapsed? asks Andrew Krepinevich, author of one of the studies and an analyst at the Center for Strategic and Budgetary Assessments here. Suggesting that Iran, Pakistan, and Indonesia would be among the candidates, he adds, "Even if you thought the approach in Iraq was the right one, it's very difficult to see how you scale up the Army to deal with [those conflicts]."

The question is purely one of structure, not skill. Reports such as those released this week - one by Mr. Krepinevich; the other by former Defense Secretary William Perry - have suggested that the force is simply not large enough to do what the Defense Department has asked of it. The debate has played out at times publicly - in Congress and the media - and at times privately, as when former Iraq administrator Paul Bremer requested more troops in 2003 and was ignored, he says.

But only rarely has attention left Iraq and focused on what that conflict says about future threats. Now is one of those times. The Pentagon is scheduled to submit the Quadrennial Defense Review (QDR) to Congress Feb. 6. The QDR will set the Pentagon's priorities for the next four years by laying out a vision of what military leaders expect future threats to be, and then aligning the department's budgets and doctrine.

The Army of today is in many ways a reflection of the 2001 QDR. To react to flashpoints around the globe in a post-cold-war world, it suggested, the Army needed to be smaller but quicker - able to deploy to the far corners of the globe at a moment's notice. In Iraq and Afghanistan, a "transforming" Army deployed to devastating effect. But now, an Army designed for lightning strikes is being asked to keep the lid on a country where many neighborhoods are seething with anti-American sentiment.

To Krepinevich, that difficult task serves as a warning about the types of challenges US forces could face in future conflicts. In countries prone to Islamic radicalism - such as Iran, Pakistan, and Indonesia - any military venture would probably involve a lengthy peacekeeping after the war is won. Moreover, since these countries are far larger than Iraq in both size and population, it would take a far larger force to control them.

If a country such as Pakistan collapses, he says, there is the possibility that Muslim radicals could seize a state with nuclear weapons - something the United States would not tolerate. Unless the US could get major help from its allies, it is unprepared for such a scenario, he adds.

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The Pentagon disagrees. Defense officials insist that the size of the force in Iraq is what the generals want, and as the Army transforms, the process will free more soldiers to fight - creating the more-agile Brigade Combat Teams, moving troops out of jobs that can be done by civilians, and rebalancing Army and reserve duties.

"Does the force still need more rebalancing? You bet," said Defense Secretary Donald Rumsfeld in a briefing Wednesday. "You know, an awful lot of things are happening and there are a lot of moving parts." But in the end, he and other officials say, this is the Army they want.

"Out of the QDR, this force structure we think is appropriate to the threat," said Secretary of the Army Francis Harvey in a briefing this month.

Not surprisingly, critics are skeptical. Some who are familiar with drafts of the coming QDR suggest that the lessons learned from Iraq have simply heaped more duties - including peacekeeping - on a force already struggling to meet the ones it has.

"Given how stretched our ground forces are, how can you set that standard without recommending that we substantially grow our ground forces over time?" asks Michèle Flournoy, an analyst at the Center for Strategic and International Studies here. "Many people may want to avoid a war like Iraq in the future, but most wars that we fight are not wars of choice," she adds.

Strategy Targets Terror WMDs (WT)

By Bill Gertz

The Washington Times, January 27, 2006

The Pentagon's latest four-year strategy report calls for setting up a special military task force to prevent weapons of mass destruction from being transferred to terrorist groups, The Washington Times has learned.

The task force will employ special operations forces, other troops and intelligence personnel to prevent states such as North Korea and Iran from supplying nuclear, chemical and biological weapons to terror groups.

The call for the new unit, which would have several hundred troops along with aircraft and other arms, comes as tensions heighten over North Korea's nuclear program and Iran's refusal to abide by international controls on its uranium-enrichment program.

The proposal is contained in the report of the legally mandated Quadrennial Defense Review. The report will be sent to Congress on Feb. 6, but portions of an unclassified summary were made available to The Times.

Pentagon spokesman Larry Di Rita declined to comment on the report, which has not been made public.

"We have over the past few years focused on ways of having a standing and rapidly deployable task force," Mr. Di Rita said. "It's something that can respond quickly to a tough problem."

A section of the report on combating weapons of mass destruction (WMD) said future U.S. military forces will have the capability to interdict and "render safe" weapons of mass destruction before terrorists can use them.

To counter the threat, the Defense Department will "develop new defensive capabilities in anticipation of the continued evolution of WMD threats," the report said.

Evolving WMD threats include electromagnetic pulse weapons, portable nuclear devices, genetically engineered pathogens and new chemical arms, the report said. The report states that the four-star general in charge of the Omaha, Neb.-based U.S. Strategic Command has the lead role in countering WMD threats.

"The United States will have increased efforts to locate, track and tag shipments of WMD," the report said. One key recommendation of the report is that "there shall be a joint task force for the elimination of WMD," the report said.

A core element of the new joint task force will be the Army's 20th Support Command, which will become a rapid deployment unit "to command and control WMD elimination missions by 2007," the report stated.

The report also recommends that general-purpose military forces take over the job of foreign military training that special operations forces have done "so that special operations forces can increase their capacity to perform more demanding and specialized tasks."

"They will possess an expanded ability to locate, tag and track dangerous individuals and other high value targets, globally," the report said.

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Special operations forces "will also have greater capacity to detect, locate, and render safe WMD."

The unit will have its own intelligence component and be led by a two-star general or admiral, who defense officials said they hope will be a special operations veteran.

In addition to the WMD military unit, other key recommendations of the report include increasing special operations forces by 15 percent, creating a Marine Corps special operations command, setting up an Air Force unmanned aerial vehicle squadron, boosting the number of Navy SEAL commando teams and increasing Army psychological operations by 33 percent.

For homeland security, the report calls for spending $1.5 billion over the next five years for medical countermeasures against genetically engineered biological warfare agents.

Geographically, the report also contains a section on "countries at strategic crossroads" that examines the threats posed by China and Russia.

The recommendation for the WMD task force grew out a 2003 memorandum to senior Pentagon leaders by defense consultant Michael Pillsbury.

The plan called for setting up two standing units of special operations forces, one in Asia and one in Europe, to stop WMD transfers as deals are detected. Defense officials said Mr. Pillsbury has promoted the plan since in speeches to Army officials at Fort Bragg, N.C.

Most Reservists At War Saw Incomes Grow (WP)

The Washington Post, January 27, 2006

Contradicting conventional notions, most military reservists who left their civilian jobs to fight in Iraq or Afghanistan made more money there than in their regular jobs.

That is the conclusion of a study by Rand Corp.'s National Defense Research Institute, which found that 72 percent of the troops surveyed made more while on war duty in 2002 or 2003 than they did in their civilian jobs in 2001. More than half made at least $10,000 more.

On average, the reservists made $850 more per month while on duty than in their civilian jobs, the report said.

Nevertheless, the study said, a sizable proportion of the reservists -- 28 percent -- lost money, including some who saw their earnings drop by more than 10 percent.

Higher salaries, combat pay supplements, family-separation allowances and tax-free earnings have combined to boost troops' pay on the front lines. But Rand senior economist Jacob Alex Klerman said researchers are working to understand why this study differs dramatically from earlier surveys and anecdotal reports about families struggling to get by when a primary wage earner went to war.

Klerman said the study used earnings data supplied by the Social Security Administration, and therefore is likely to be more accurate than earlier surveys, which often relied on information volunteered by soldiers. Also, he said, those surveys did not reflect the fact that reservists serving in combat zones do not pay federal income taxes on their pay.

"You should not interpret this as saying no one has losses," Klerman said. "We need to think carefully about what is the appropriate response for those people with losses."

Still, he said, since earnings losses are less of a problem than earlier surveys suggested, legislative efforts to supplement reservists' pay may not be as necessary or require as much funding as previously thought.

Klerman said the study does not imply that reserve pay is adequate. Those troops, he emphasized, are still getting shot at, sleeping in tents and spending months away from their families.

Noting that some reservists are in school, and have no jobs or very low-paying jobs, Klerman said the study also looked at the earnings of those who made at least $10,000 or more in their civilian jobs. Even in those cases, he said, reservists made an average of nearly $7,000 more while on duty.

Overall, the study looked at 212,500 reservists and compared their civilian pay in 2001 with the amount they made while on duty in either 2002 or 2003.

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To get a good idea of the impact on a full year's pay, it provided statistics for the 51,200 reservists who were at their regular jobs for most if not all of 2001, and then on duty for more than 271 days in either 2002 or 2003. For those reservists, the study found:

· The average civilian pay was $39,300, compared with $56,400 while on combat duty.

· Eighty-three percent made more on duty than at their civilian jobs.

· Sixty-six percent saw their pay increase more than $10,000 while on duty.

· Seven percent lost more than $10,000 while on duty.

CORPORATE SCANDALS:

Key Enron Trial Nears, But Climate Has Changed (CSM)

By Kris Axtman

The Christian Science Monitor, January 27, 2006

HOUSTON - Enron is America's best-known corporate scandal, the first in a string of high-profile debacles that rocked Wall Street, wiped out the retirement savings of thousands of workers, and sparked the most sweeping changes in business regulation since the Depression.

So when the company's two powerful leaders go on trial here Monday, the proceedings are likely to attract inordinate attention.

But the trial comes at a time when business and industry groups are mounting a campaign to roll back some of the reforms that the Enron scandal inaugurated. Thus, the lessons of the nation's second-biggest bankruptcy remain in flux and may be determined, in part, by the outcome of the legal drama set to begin.

"There are those who are trying to roll back [a key section] of the law less than two years after it took effect," says Jacob Zamansky, a securities fraud lawyer in New York who will attend the trial. "But these rules were put in place to protect us after Enron."

For a scandal that brought the language of bizarre accounting practices into America's living rooms (remember "off balance sheet partnerships?"), courtroom drama may be in short supply.

"I think people are going to be surprised at how boring most parts of the trial will be," says Nancy Rapoport, a bankruptcy expert and dean of the University of Houston law school. "Watching grass grow and paint dry will have more excitement. There will be some good stuff, but the good stuff will be punctuated by a lot of monotonous stuff."

Still, the details of the lives and business practices of the two men on trial - Enron founder Kenneth Lay and former chief executive Jeffrey Skilling - could provide an inside view of how the nation's second-biggest bankruptcy unfolded.

"We are going to be hearing for the first time what was happening at the highest levels of the corporation, what was happening inside the boardrooms, at all those expensive dinners and exotic trips all over the world," says Thomas Ajamie, a Houston securities fraud lawyer who has followed the case. "We are going to be learning how these high rollers lived and what they did with their shareholders' money."

To date, 16 former Enron employees have pleaded guilty and five have been convicted by jury. But Monday's trial is considered the main event - the real test of just how deep the deception went. A four-month trial expected

After the jury is selected by the judge, it is expected to last four months and include many key witnesses, such as Enron's former chief financial officer, Andrew Fastow, its former treasurer, Ben Glisan Jr., and possibly Richard Causey, the former chief accounting officer who pleaded guilty in December. Messrs. Lay and Skilling have also said they will testify.

Both sides have some of the best attorneys in America, court-watchers say. But because the accounting practices were so convoluted and cryptic even to those investigating the company's collapse, explaining it to a jury is going to be a challenge, experts say. The first criminal case of the Enron debacle, involving the suspicious purchase of a Nigerian barge, is a good example.

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"The government better go to school and learn how confusing all that was for the jury," says Gerald Treece, assistant dean at the South Texas College of Law in Houston. Although five of the six defendants were ultimately convicted (four of them with Merrill Lynch), the case was widely seen as confusing. And it was child's play compared with the upcoming Enron case, he adds.

"If that was math, this is algebra, and the government is going to lose this case if it doesn't make it simple," he says. "I can assure you that the defense attorneys are going to be creating confusion, arguing that the people at the top didn't know about the misdeeds."

In fact, both defendants will argue that they did nothing wrong and did not know of any illegal activity at the company.

Lay has been charged with seven counts, including securities fraud and wire fraud. Skilling has been charged with 31 counts, including securities fraud, wire fraud, making false statements to auditors, and insider trading. Lay, Skilling go separate ways

As for the way they have handled themselves since the company collapsed, Lay and Skilling have "taken completely opposite approaches," says Philip Hilder, the lawyer who represents Sherron Watkins, Enron's internal whistleblower.

Lay, for instance, invoked the Fifth Amendment in front of Congress during initial hearings, but since his indictment has been very open with the public. Skilling testified defiantly in front of Congress, but has not spoken publicly since that time.

"At the end of the trial, we will see which tack worked - if either," says Mr. Hilder.

As for what has been learned in Enron's wake, there is growing debate. Some groups are saying that Congress went too far when it enacted the Sarbanes-Oxley Act, a major piece of accounting reform that requires CEOs to vouch for corporate earnings.

The US Chamber of Commerce, the largest business lobby group, has been campaigning aggressively for changes in the act's Section 404, which requires company auditors to thoroughly document their procedures. The chamber argues that the section is so cumbersome and costly that it is driving companies offshore.

There's No E In Houston (NYT)

By Simon Romero

The New York Times, January 27, 2006

HOUSTON, Jan. 26 — A big trial starts in federal court here on Monday, involving some very prominent executives who used to work for a very prominent company. Across the country, people will be following the case with great interest.

But in Houston, many residents prefer to focus on other things, like the resurgent economy, and city leaders wish outsiders would, too. The company, of course, is Enron, and the men who will be on trial are its former top executives, Kenneth L. Lay and Jeffrey K. Skilling, who face various charges in the scandal that led to the company's collapse and tarred this city's reputation four years ago.

"As of today, it's as if Enron had never happened," said Joan Johnson, president of the Hotel and Lodging Association of Greater Houston, echoing the sentiment of many Houstonians. Ms. Johnson said hotel occupancy was high, even though about 3,000 hotel rooms had been added downtown since Enron's collapse.

But as jury selection starts on Monday, residents here will have to relive the Enron debacle, with the possibility that the trial will drag on over several months. Already, hotels near the federal courthouse have been receiving a flow of out-of-town journalists, perhaps adding to the strength of the city's lodging industry.

In preparation for the trial, city officials are trying to accentuate the positive. The Greater Houston Partnership, a business association, raised the idea of coaching bellhops and other hotel workers on how to put Houston's best face forward in the downtown hotels, where many journalists will be staying. It rejected the proposal and instead backed a plan to post media contacts and Internet links in hotel lobbies, with the aim of planting ideas for positive stories.

Have you heard, for example, that Bakersfield, Calif., has unhealthier air quality than Houston, or that Houston has 82 foreign consulates, the nation's third-largest consular corps? The partnership puts those tidbits and more at the disposal of visiting news media.

"It was devastating for Houston to have its image portrayed as a bunch of corporate gunslingers during the first Enron go-around," said John F. Thrash, chief executive of eCorp, a family-owned energy concern, and the husband of Becca Cason Thrash, the hostess of Houston's most extravagant high-society gatherings. "That is something we're striving to overcome."

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It isn't just Enron. Some residents get the jitters over even the slightest negative publicity about Houston, its wildcatting business ethic, its no-zoning sprawl or its continuing battles with industrial pollution. This week there was an outcry over an oil-laden, caramel-colored fog that blanketed a poor neighborhood in the shadow of the city's largest refinery.

Of course, Houston has taken numerous additional hits since Enron's collapse in late 2001, when the symbol of outrage became a question at a company meeting from an anonymous Enron employee to Mr. Lay, the company's embattled chairman: "Are you on crack?"

Thousands of well-paid Enron employees lost jobs, and the city's name was associated with schemes to hide losses from investors and destabilize the flow of electricity in California.

Back then, Houston was also criticized for its freewheeling approach to business. That shows few signs of fading. While not experiencing a boom as incandescent as past expansions, Houston's economy is still growing steadily, driven by inexpensive real estate, climbing energy prices and a fast-growing population.

"We're fine now, but the impact at the time was huge," said John Flowers, who owns Kenneally's Irish Pub near the exclusive River Oaks neighborhood. He recalls the Enron executives who used to drop by his smoky establishment for pints of Guinness as "free-spending individuals who made more money than God."

The city's economy has grown for 35 consecutive months, according to a monthly survey of purchasing executives conducted by the National Association of Purchasing Management-Houston. November, the most recent month for which statistics are available, was one of the strongest months in a decade, as demand rose for goods like plastic pipes and refined petroleum products.

Houston's status as an inland transportation hub with a ship channel to the Gulf of Mexico has also provided a buffer against the demise of Enron. Aided in part by the diversion of cargo from New Orleans after Hurricane Katrina, revenue at the Port of Houston increased 13 percent last year and total tonnage grew by 9 percent, said H. Thomas Kornegay, executive director of the Port of Houston Authority.

Furthermore, jobs are being created in the Houston economy. Employers added 42,500 jobs in 2005 and 24,100 in 2004, according to the Texas Workforce Commission. This follows heavy job losses in 2002 and 2003.

Much of the job creation has been fueled by a growing service industry and a robust construction market expected to expand further this year, even as housing in other parts of the country loses steam amid deflation of the real estate bubble.

"If any other city lost the seventh-largest corporation in America, it would have had more impact," said Tilman J. Fertitta, chief executive of Landry's Restaurants, and one of a handful of Houston businessmen who have filled the void left by Mr. Lay's exit from the city's social scene.

"It's just a whole hell of a lot cheaper here than other cities," Mr. Fertitta, one of the largest holders of real estate in Houston and nearby Galveston, said in an interview. "This is still an energy town but our prices have allowed us to become more diverse than in the 80's."

Relatively low home prices, with three-bedroom homes still widely available for less than $200,000, are luring developers to erect entirely new cities on the prairies and rice fields that make up much of Houston's outer fringe. Cheap land pushed housing starts to a record high in 2005, when they climbed 18 percent, to 48,000, according to Metrostudy, a real estate consulting firm.

One new real estate venture, a planned community called Bridgeland that is being developed by General Growth Properties of Chicago, is projected to consist of 21,000 new homes over 10,000 acres, an area larger than Houston's entire existing inner core of skyscrapers, subdivisions and shopping districts.

This project and others are a bet that Houston's population will continue to climb. The Houston-Galveston Area Council, which represents the eight-county Houston area, forecasts an increase to 8.8 million residents by 2035, from 5.3 million today. Much of the growth is driven by immigrants from Latin America, Africa and Asia, who come here legally or illegally and stay for the same reason that 150,000 survivors of Hurricanes Katrina and Rita relocated to Houston last year: a warm welcome.

In contrast to other communities that have experienced successful movements against illegal immigrants, calls by anti-immigrant groups last year to start questioning residents about their citizenship status drew a chilly response from Mayor Bill White and police officials, who perceived such a measure as a diversion from preventing crime.

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And in a decision that raised eyebrows throughout Texas, The Dallas Morning News on Jan. 1 named Houston its "2005 Texan of the Year." The city beat out the filmmaker Robert Rodriguez, the cyclist Lance Armstrong and Ronnie Earle, the prosecutor who helped engineer the indictment of Representative Tom DeLay, the Republican who represents Houston's southern suburbs.

In an editorial that seemed a veiled criticism of political divisiveness in its hometown, The Morning News cited Houston's "resilience, resourcefulness and good old Texas neighborliness on a scale that did the whole state proud."

"The mountain came to Mohammed when Dallas tipped its hat at us that way," said Richard W. Murray, an influential pollster and political scientist at the University of Houston. "We've come a long way since the boom 25 years ago, when people were raising cash with projections of $100 oil. No one's doing that now."

Instead, Mr. Murray pointed out, there is a new sobriety and even, perhaps, the beginning of a sense that the benefits from the city's modest economic expansion need to spread out more equitably. For instance, the Service Employees International Union last month unionized 4,700 janitors in Houston, in one of the most successful unionization drives in the South in recent decades.

Not surprisingly, the most vibrant area of Houston's economy these days is energy, which is starting to hire after years of job cuts; oil and gas companies account for roughly 50 percent of economic activity here, down from higher levels as other industry grows more prominent.

So it may be fitting, as Houston tries to put to rest its association with Enron's hard-charging chiefs, that the last of the city's larger-than-life wildcatters are fading away or facing their own legal problems. Red Adair, the oil well firefighter, and Michel T. Halbouty, the geologist who cut his teeth in the east Texas oil fields, both died recently. And federal agents arrested the oilman Oscar S. Wyatt, 81, at his home several weeks ago on charges of paying millions of dollars in kickbacks to Saddam Hussein's regime.

Baggage Check: Next Trial True Test For Enron Task Force (LAW)

By Miriam Rozen, Texas Lawyer

Texas Lawyer, January 27, 2006

When Enron Task Force prosecutors enter U.S. District Judge Sim Lake's courtroom in Houston on Monday for the long-awaited trial of former Enron Corp. Chairman Kenneth Lay and former Chief Executive Officer Jeffrey Skilling, the government lawyers will be toting baggage -- both literal and figurative.

In the literal sense, the big criminal trial is document-intensive. In the figurative sense, the government lawyers have stumbled more than once in their four-year pursuit of Enron employees, and that track record follows them into Lake's courtroom.

Inarguably, the government lawyers have scored some notable successes by persuading 16 former Enron employees, including former Chief Financial Officer Andrew Fastow, to plead guilty to charges related to the downward financial and stock-price spiral that led to Enron's bankruptcy in December 2001. Most recently, on Dec. 28, 2005, Richard Causey, Enron's former chief accounting officer and Skilling's and Lay's co-defendant, pleaded guilty to one count of securities fraud and agreed to cooperate with prosecutors. [See Causey's plea agreement.]

In an earlier success in November 2004, in United States v. Daniel Bayly, et al., the so-called Nigerian Barge trial, prosecutors persuaded a jury to convict four former Merrill Lynch & Co. bankers and one former Enron executive on charges related to conspiracy to commit wire fraud.

But the government lawyers have also faced setbacks in the courtroom. At the Nigerian Barge trial, one former Enron executive, Sheila Kahanek, was acquitted. Six months later, in May 2005, the U.S. Supreme Court overturned the 2002 conviction of Arthur Andersen, Enron's accounting firm, for obstruction of justice, in United States v. Arthur Andersen LLP. In July 2005, in the so-called Enron Broadband trial, a jury deadlocked in the trial of five former Enron executives, and the proceedings ended in a mistrial. Two months later, U.S. District Judge Vanessa Gilmore blamed the government lawyers trying that case, United States v. Joseph Hirko, et al., for confusion at the trial, and she subsequently acquitted some of the defendants of some of the government's charges.

Skilling and Lay have pleaded not guilty.

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The task force's success has been a "mixed bag" in the view of Rusty Hardin, who represented Andersen at the 2002 obstruction of justice trial.

"You have to give them, I think, credit for a very thorough and largely successful investigation in terms of the pleas," says Hardin, of Rusty Hardin & Associates of Houston. "One doesn't know whether the results would have been the same if just everybody had chosen to go to trial."

At the same time the task force has endured disappointments in the courtroom, its leadership has changed, and several prosecutors left the task force. In the most recent significant change, Sean Berkowitz became the task force's third leader in four years. He succeeded Andrew Weissmann, who resigned from the task force in July 2005 -- which happened to be a time the defense lawyers in the Lay and Skilling case made it clear they were going to file a motion alleging prosecutorial misconduct.

Weissmann now is special counsel to the director of the Federal Bureau of Investigation.

But this month, when task force prosecutors kick off the trial against Lay and Skilling, they will have an opportunity to make history if they rack up a conviction of the two businessmen who at one time symbolized corporate success in Houston.

"If they are successful at the Lay and Skilling trial, some of that baggage will disappear," says Charles Blau, a white-collar criminal defense lawyer about the task force. "But if they aren't successful, that baggage will be hung around their neck and the whole task force will look like a failure from a historical standpoint." Blau, a former federal prosecutor who now is a partner in Dallas' Meadows, Owens, Collier, Reed, Cousins & Blau, represents a witness in another Enron-related criminal case.

Houston lawyer Dan Cogdell offers an equally equivocal assessment of the task force's success. "You can look at their glass as half full or half empty," he says. Cogdell, a white-collar criminal defense lawyer and member of the Cogdell Law Group in Houston, represented Kahanek, the former Enron accountant and senior director who was acquitted of conspiracy and fraud charges in 2004 in the Nigerian Barge trial.

Bryan Sierra, a spokesman for the U.S. Department of Justice, says Berkowitz is preparing for trial and cannot comment for this article. Rich Kolko, a spokesman for the FBI, says Berkowitz's predecessor, Weissmann, is not available for comment.

But Bill Mateja, who once supervised the Enron Task Force, sees its glass as half full. Mateja, now a partner in the Dallas and Washington, D.C., offices of Fish & Richardson, served as senior counsel to former Deputy Attorneys General Larry Thompson and James Comey at the U.S. Department of Justice in Washington, D.C. During that time, from 2003 to 2004, Mateja was the point person for President George W. Bush's Corporate Fraud Task Force, and he oversaw the DOJ's corporate fraud efforts.

Mateja downplays the effect of the turnover at the top of the task force.

"I haven't seen the changes in the task force leadership as being detrimental to the efforts," he says.

Moreover, Mateja contends that the U.S. Supreme Court's decision to overturn the Andersen conviction reflects a weakness in the applicable statutes that make it a crime to "corruptly persuade" a witness to withhold evidence, a point specifically cited in the high court's unanimous opinion. It does not represent any fault on the prosecutors' part, Mateja says. Common sense dictated that the government would not retry the case against Andersen, which now only exists as a shell of its former self, he says.

Hardin, however, contends that Andersen would not have been indicted if the task force had not rushed to seek an indictment in the weeks after Enron filed for bankruptcy.

Samuel Buell, a prosecutor in Andersen who left the task force in 2004, disputes the notion that the task force is in trouble because of the turnover among prosecutors or because of the reversal in Andersen, a ruling he characterizes as "disappointing."

"The prosecution is institutional, and the lawyers are somewhat fungible," says Buell, who now teaches criminal law and seminars on corporate crime and prosecutorial powers at the University of Texas School of Law in Austin.

Buell notes the Enron Task Force demands grueling hours, and people get tired. He says he left the task force because he ran out of gas, and he suspects that's why Weissmann and his predecessor as director of the task force, Leslie Caldwell, moved on.

But clearly, the outcome of Andersen scarcely ranks as a success for the task force.

The Supreme Court's decision was a big break for David Duncan, the former lead Andersen accountant for Enron who pleaded guilty in 2002 to obstruction of justice and testified for the prosecution at the trial. While Duncan's plea deal was among the task force's first success stories, in December 2005, U.S. District Judge Melinda Harmon of Houston allowed Duncan to

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withdraw his plea on the ground that he didn't admit to having criminal intent when he entered it. Task force prosecutors have the option to indict him again, although they did not oppose Duncan's motion withdrawing his earlier plea. Under the circumstances, Mateja says, "It wouldn't have been very fair if they had pursued him."

But it's the outcome of the so-called Enron Broadband trial, Hirko, that is perhaps the most prominent setback for the task force. At the July 2005 conclusion of the trial, jurors deadlocked on many of the charges against five former Enron Broadband Services executives, convicting them of none and even acquitting three of them of some charges.

In September 2005, Judge Gilmore laid the blame for the deadlocked panel squarely at the Enron Task Force prosecutors' feet.

According to a transcript of a conference among the defense and government lawyers before the judge, Gilmore admonished the prosecutors: Throughout the trial I think the government was guilty of only seeing the evidence from the prosecution's point of view, every piece of evidence they saw, no matter what, as inculpatory and never could view any evidence at all as possibly exculpatory information or exculpatory evidence. The defense I think did a good job during the trial of viewing the evidence from both the government's and the defense point of view and not just from the defendants' point of view. . . .

The judge complained that the defense lawyers had filed post-trial motions that also looked at the evidence in a one-sided manner. But at trial Gilmore said the defense had shown more balance than the prosecutors.

Edwin J. Tomko, a partner in Dallas' McManemin & Smith who represented a defendant in the Enron Broadband trial, says the task force's trial record is simply not good.

"They haven't had many trials, and those that they've had have not been too successful. It's mediocre," says Tomko, whose client, Rex Shelby, a former senior vice president of engineering and operations at Enron Broadband Services, was acquitted of four of the 20 charges against him. Gilmore subsequently dismissed some of the charges against Shelby, and he now faces one count of conspiracy, one count of securities fraud and four counts of insider trading in a retrial scheduled for later this year.

SHOOT FOR THE TOP

The jury was out in the Broadband case in July 2005 when Weissmann, head of the task force since 2004, announced he would leave the task force. His announcement came a few months before the hearing where Gilmore scolded the prosecutors and a few days before the jury announced its deadlock in the Enron Broadband case. Weissmann is a former Assistant U.S. Attorney from the Eastern District of New York who had worked on the task force since its inception. His predecessor, Caldwell, now a partner in Morgan Lewis, did not return two telephone calls seeking comment for this article.

But defense lawyer Cogdell, who represented Kahanek and some witnesses in Enron criminal cases who have cooperated with the government, believes the timing of Weissmann's departure is related to the government's mistakes in the Enron Broadband trial and to a motion subsequently filed by Lay and Skilling alleging prosecutorial misconduct.

Before Weissmann announced he was leaving, three defense lawyers say, Weissmann became aware that the defendants in the Lay and Skilling case -- known as United States v. Jeffreys K. Skilling, et al. since Causey's plea -- were going to file a motion and include as an exhibit an e-mail sent by Weissmann to "a critical cooperating witness." In the e-mail, which was included as an exhibit in a Sept. 2, 2005, motion, Weissmann told the witness to bar his attorney from talking to Skilling's lawyer or else "get rid" of the lawyer.

Cogdell finds it curious that Weissmann would leave the task force before the "biggest trial" against Lay and Skilling.

But Buell says Weissmann's departure wasn't related to any allegations of prosecutorial misconduct or that e-mail. He says Weissmann's departure was simply a question of a lawyer wanting to move on and end a grueling Washington-to-Houston commute.

More than one lawyer involved with Lay and Skilling's defense and involved in the Enron Broadband trial has complained about the allegedly intimidating tactics employed by the task force and its assigned FBI agents when Weissmann was in charge.

"In my 30 years in practice I've never had agents be that aggressive," says Blau, who represents a client who testified for the defense in the Enron Broadband trial, despite, he says, numerous telephone calls from the prosecution suggesting it would not be in his client's best interest to do so.

Blau was among the defense attorneys whom Lay, Skilling and Causey -- who had not yet entered his guilty plea -- included by name in the motion they filed in September 2005 seeking to dismiss the charges against them based on prosecutorial

misconduct. In that filing, the defendants argued that the case against them should be dismissed because the "actions of the Enron Task Force have deprived them of their constitutional rights both to secure and confront witnesses. ... "

The defendants argued that prosecutors attempted to intimidate witnesses and prevent them from assisting the defendants. Using Weissmann's e-mail as an example, the defendants alleged that the prosecutors employed aggressive tactics to stop witnesses from helping the defense and to induce them into helping the prosecutors.

At a hearing on the motion in December 2005, Lake ruled that he heard no evidence of prosecutorial misconduct in the testimony of two Houston lawyers -- Robert Sussman, a partner in Hinton, Sussman, Bailey & Davidson, and Wendell Odom, a solo practitioner. Lake, however, did not formally rule on the defendants' motion to dismiss. Sussman and Odom each did not return a telephone call seeking comment before press time on Jan. 5.

On Jan. 23, Lake denied Lay and Skilling's last-minute request seeking a change of venue for the trial due to prejudicial pre-trial publicity. In the motion, they alleged that a "staggering" 80 percent of 283 prospective veniremembers who returned juror questionnaires have "strongly biased views" against them. They quoted from questionnaires in which prospective jurors characterize Skilling as "the devil," a "thief," a "cheater" and a "high-class crook" and Lay as a "low down scumbag," "crooked," "a selfish, greedy man" and "the biggest lying crook of all."

Lay and Skilling will go to trial facing the likely prospect that Causey will testify against them. Causey faces a possible sentence of five to seven years in a federal prison.

If the government prevails, perhaps many of the task force's past missteps will be forgotten. As Blau notes, "The emphasis has always been to work up the chain to get the two top guys."

Additional reporting by The Associated Press.

Reps Oxley, Frank Ask Fannie Board For Rudman And His Report (DOWJONES)

Dow Jones, January 26, 2006

WASHINGTON -(Dow Jones)- House Financial Services Chairman Michael Oxley, R- Ohio, and ranking Democrat Barney Frank want former Sen. Warren Rudman to testify before the panel on the results of his 16-month probe of Fannie Mae's (FNM) (FNM) accounting troubles, the lawmakers said in a recent letter released Thursday.

Fannie's board of directors hired Rudman, who is expected to complete his report next month, to help the board with its own internal investigation after the Office of Federal Housing Enterprise Oversight accused executives in September 2004 of manipulating accounting rules to massage Fannie's earnings.

In a letter sent last week, Oxley and Massachusetts Rep. Frank asked Fannie Chairman Stephen Ashley for a copy of the much-anticipated report once it's finished, as well as for Rudman's testimony at a hearing they plan to conduct shortly thereafter.

"The purpose of this hearing will be to fully inform the committee about the findings, conclusions and any recommendations contained in the Rudman report," the letter said.

The Office of Federal Housing Enterprise Oversight, which oversees Fannie and fellow government-sponsored enterprise Freddie Mac (FRE) (FRE), is expected to issue its own report on Fannie's accounting practices by the end of March.

Rudman, who could not be reached for comment Thursday, recently told Dow Jones Newswires that regulators and law enforcement agencies that are also investigating Fannie will likely receive copies of his report before its public release. In addition to OFHEO, the Securities and Exchange Commission, Justice Department and others have launched their own probes into alleged misconduct at Fannie.

Fannie, which hasn't filed its earnings statements since the second quarter of 2004, received a break from the SEC last week, when it approved a controversial rule change that reduces the chances it could soon be delisted by the New York Stock Exchange.

The news of the SEC's decision, which was posted on its Web site Wednesday, drove Fannie's stock 5.27%, or $2.85, higher to close Thursday at $56.95 a share.

Over the objections of the Nasdaq Stock Market, the SEC approved the amendment that was proposed last fall, giving the NYSE the power to hold off delisting companies that, like Fannie Mae (FNM), may fall more than a year behind in filing annual reports.

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Under the old rule, companies go on watch if they fail to file an annual report within nine months of the due date and are subject to delisting if the delay stretches past 12 months.

Fannie Mae (FNM) hit the nine-month overdue mark Dec. 16. Under prior NYSE rules, delisting proceedings would have begun three months later. In a Nov. 10 update, Fannie Mae (FNM) said its annual report for the 2004 fiscal year, which will include restated results, isn't likely to be filed before the second half of 2006, so it expects to miss that deadline. A spokesman said Thursday that the timetable hasn't changed but declined further comment.

The rule change provides the NYSE with "appropriately limited flexibility" to allow a company more than a year late in filing with the commission to remain listed, the SEC said in its order.

Though Fannie Mae (FNM) isn't explicitly named in the filing, the giant mortgage finance agency is the only company to which the rule currently applies. In proposing the amendment, the NYSE wanted discretion in "certain unique circumstances" in which a company "may have a position in the market (relating to both the nature of its business and its very large publicly held market capitalization) such that its delisting from the exchange would be significantly contrary to the national interest and the interests of public investors."

The amendment takes effect immediately. The NYSE already has a new explanatory posting on its site on Fannie Mae's (FNM) information page that the company will be reassessed "every three months." Fannie Mae (FNM) is listed in a special section of the site devoted to late filers and has an "LF" attached to its symbol.

-By Dawn Kopecki and Phyllis Plitch, Dow Jones Newswires; 202-862-6637; Dawn.Kopecki@dowjones.com, Phyllis.Plitch@dowjones.com.

A Misguided Exemption (WSJ)

By Arthur Levitt, Jr

The Wall Street Journal, January 27, 2006

I began my Wall Street career more than 40 years ago sharing an 800-square-foot office with 10 other brokers. Since then, I have been involved in a number of small businesses -- from newspapers to high-tech companies -- and no matter the industry, the focus of every one of these has been growth. Unlike in a large company, stagnancy in a small business can lead not only to a diminished paycheck, but to extinction.

Small businesses employ a majority of private-sector workers and create 60% to 80% of net new jobs annually. This economic might, combined with the sector's political muscle, has kept policymakers vigilant in spotting impediments to small-business growth. Currently, the focus of many small-business advocates is the perceived burden placed on them by Section 404 of the Sarbanes-Oxley Act, which requires companies to assess and report the status of their internal controls. They worry that the cost of compliance is onerous, inhibiting their ability to access capital markets and grow.

In response, the Securities and Exchange Commission's advisory committee on smaller public companies has recommended that microcap and smaller public companies be exempted from the main parts of 404. Under their plan, public companies with a market cap of less than $100 million and revenue of no more than $125 million would be exempt completely from 404 requirements. Slightly larger companies -- those with a market cap of less than $700 million and revenues of no more than $250 million -- would not be required to have an independent, outside auditor test their internal controls.

While the advisory committee is well-intentioned, I fear that these proposed changes will harm, not help, small companies. I can appreciate the political pressure the SEC may be facing; the small-business lobby is almost unrivaled in the fear it instills in policymakers. But political pressure often leads people down the path of least resistance and toward superficial, even counterproductive, fixes. Indeed, if these recommendations were implemented, they would make it more difficult for smaller companies to attract capital needed for growth and undermine confidence in the markets. Instead of searching for exemptions to the rule, we need to step back and help small businesses improve financial controls, attract capital, and strengthen the very markets critical to their ability to flourish.

Thankfully, the market downturn of the immediate post-Enron years is behind us. As seen in the significant increases in IPO and mergers-and-acquisitions activity, there is a renewed vigor in our markets. Driving this has been a resurgence in investor confidence, fueled by the implementation of SOX reforms, including those enumerated in Section 404.

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Exempting smaller and microcap companies -- 80% of all public companies -- from the requirements of 404 would undermine this renewed trust in our markets. Consider that these companies are the ones most likely to have internal control problems, and least likely to have analysts, institutional investors and the media watching them. In the five years before 2004, nearly three-quarters of financial restatements were reported by companies with annual revenues of less than $500 million. Already, many institutional investors do not invest in smaller companies because of risks associated with them. If one increases that risk by setting a lower bar for internal controls, it will burden these companies with a risk premium that will drive up their cost of capital. Creating a different standard would relegate small businesses to a "second-class" in the marketplace, and hinder their growth as much as any onerous regulation.

The debate until now has centered on who should be exempted, not on how to ensure that companies have the internal controls needed to prepare reliable financial statements. This focus is unproductive since it is clear from a reading of SOX that Congress wanted all public companies to assess internal controls and have an outside auditor test them. Instead of defying Congress and provoking costly litigation, we need to work within the law to find ways to make compliance easier and less expensive for small businesses.

To start, we need to recognize the difficulties in compliance that turned up in the first year of 404-compliance. Many companies were ill-prepared for an audit: Their internal controls either were not in place or not documented, and many lacked accounting and finance staff able to do this work. At the same time, many of the audit firms lacked the tools, expertise and training to assess the internal controls of smaller companies. They were using audit tools created for large multinationals, the financial equivalent of using an MRI to diagnose a cold. Many audit firms failed to integrate their findings from the internal control testing into the financial statement, as required by SOX, and as a result performed two separate audits. As the SEC and Public Company Accounting Oversight Board have noted, auditing firms needlessly repeated management and internal auditors' tests of internal controls, creating more work for themselves and higher bills for small businesses.

• Moving forward, we need, first, to redefine what constitutes a small business. The current debate has been skewed by a definition so broad as to include a vast majority of the market. A company's complexity is not dependent on its market cap. Some very large companies -- such as many of the airlines -- have market caps that pale in comparison to their complexity. Conversely, there are tech companies that have few employees and office sites, but huge market caps based on expected revenues. The current definition of a small business issuer should be updated to include companies with up to $50 million in revenues and fewer than 250 employees. If they have been able to attract more than $100 million in public capital, they should be ineligible for small business filer status.

• Second, the SEC and PCAOB should urge accounting and financial executive trade groups, as well as the software industry, to work together to develop reasonably priced tools tailored specifically for small companies and the small accounting firms who mainly audit them. These should permit a company to document internal controls so that auditors do not need to duplicate the documentation, and include control testing programs integrated with that documentation and the work performed on the year-end balance sheet and income statement. The tools must be made available before 2007 when small companies are required to comply with 404.

• Third, the SEC must reconfigure itself to provide more readily accessible assistance to small companies. In 1997, I reorganized the SEC so that the enforcement function was centralized in Washington. An unintended consequences of this was to close off a local avenue for accounting assistance for small businesses. Many small companies do not have good technical accountants and cannot afford them. If the SEC placed those that review small business filings closer to the businesses and supplemented its staff with a small group of accountants that can answer questions small companies might have, it would help avoid restatements and reduce costs.

• Fourth, while the SEC and PCAOB have issued some helpful guidance on how to streamline the auditing of internal controls, they should go further in easing requirements while stepping up enforcement. If a company has documented monitoring controls, and the monitoring process has not discovered any problems except for isolated cases, then no further internal examination by the company should be required. Re-examining controls when monitoring controls are working has layered on unnecessary work that has driven up costs for businesses. Companies should be given credit for doing the right thing,

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and not have to pay to recheck what they are doing right. However, if the auditor finds that monitoring controls have not been working and financials need to be restated, then a company should expect a swift SEC enforcement action.

These steps should help small companies update internal controls cost-effectively, without gutting the financial reporting regime that undergirds our capital markets. In light of the importance of small businesses to the economy, the last thing we need is regulation that stifles their entrepreneurship -- or deregulation that makes it more difficult for them to succeed in the public capital markets.

Mr. Levitt, former chairman of the SEC, was the chairman of the first White House Conference on Small Business.

CRIMINAL LAW:

'I Don't Know' Abramoff, Bush Says President Won't Release Photos Of Two Together (USAT)

By Richard Benedetto And David Jackson

USA Today, January 27, 2006

WASHINGTON — President Bush fended off questions Thursday about White House links to convicted lobbyist Jack Abramoff and refused to release photos that show the two men together. "I don't know him," Bush said.

"I had my picture taken with him, evidently," Bush said at a White House news conference. "I've had my picture taken with a lot of people. Having my picture taken with someone doesn't mean that I'm a friend with them or know them very well."

"It's part of the job of the president to shake hands … with people and smile," he said.

Speaking in a wide-ranging, 46-minute news conference, Bush also renewed his defense of a program he approved to eavesdrop without a court order on terrorism suspects' international calls into or out of the USA.

"As I stand here right now, I can tell the American people the program is legal, it's designed to protect civil liberties, and it's necessary," he said.

Bush said he would help Republicans fight to keep control of Congress in elections this year.

He said he's got "one more off-year campaign in me as a sitting president" and that he is looking forward to hitting the trail on behalf of GOP congressional candidates.

"We've got a record and a good one, and that's what I intend to campaign on," Bush said.

Bush acknowledged that photographs of him with Abramoff were taken either at White House parties or political fundraisers, but he said he would not make them public because he feared they would be used for partisan attacks. "We live in a world in which those pictures will be used for pure political purposes, and they're not relevant to the investigation," he said.

Abramoff has pleaded guilty to fraud, tax evasion and conspiracy to bribe public officials and has pledged to cooperate with investigators.

"If they believe something was done inappropriately in the White House, they'll come and look, and they're welcome to do so," Bush said.

Asked if he meets with lobbyists, Bush said, "I try not to." He said that lobbyists sometimes come to the White House, and he has met and thanked them for their help in pushing his agenda.

Some Senate Democrats continued calls Thursday for a special counsel investigation of Abramoff. Sen. Ken Salazar, D-Colo., said there is evidence of "a strong connection between Jack Abramoff and the executive branch of government."

In other news, Bush said:

• "It is not in the world's interest" for Iran to have a nuclear weapon, an outcome he called "unacceptable." He said he would back a plan to have Iran obtain nuclear power plant fuel from Russia for a civilian energy program.

•Any suggestion by human rights groups that U.S. interrogators have tortured terrorist suspects is "wrong." He vowed, "No American will be allowed to torture another human being anywhere in the world."

•Morale, retention and recruitment remain high in the armed services, despite a Pentagon report that U.S. forces are overextended by service in Iraq and Afghanistan.

Bush Refuses To Release Abramoff Pictures (REU-Y2)

By Steve Holland

Reuters, January 27, 2006

President George W. Bush sought to distance himself from disgraced lobbyist Jack Abramoff on Thursday, saying "I don't know him," and refused to release photographs in which he appeared with Abramoff.

At a news conference, Bush said release of photographs that show him and Abramoff together would be used for "pure political purposes" by Democrats seeking to tie the lobbyist to the White House.

"I, frankly, don't even remember having my picture taken with the guy. I don't know him," Bush said at his first solo news conference since December 19.

Early this month Abramoff pleaded guilty to fraud charges and agreed to help U.S. prosecutors in a corruption probe that has generated calls for reform of the Washington practice of lobbying lawmakers with donations and favors to try to influence legislation.

"This investigation needs to look into all aspects of his influence on Capitol Hill. And if there are some in the White House, I'm sure they're going to come knock on the doors," Bush said.

Abramoff was a major fund-raiser for Bush's re-election campaign in 2004 and the White House has acknowledged that Abramoff participated in a few staff-level meetings at the White House and two Hanukkah receptions.

But whether Abramoff attempted to influence any White House policy has not been made clear.

Democrats seeking to regain control of the U.S. Congress in November mid-term elections are hoping the Abramoff scandal will taint Republicans with a "culture of corruption."

Democratic Sens. Charles Schumer of New York and Ken Salazar of Colorado sent a letter to Attorney General Alberto Gonzales calling on him to appoint a special counsel to investigate the Abramoff case "without favor or fear of reprisal within the administration.

"A special counsel will ensure the public's confidence in the investigation and prosecution and help to restore its faith in our government," they wrote.

A CNN/USA Today/Gallup poll said that Democrats would do a better job of dealing with corruption in government by a 40 to 31 percent margin.

At the Hanukkah and other receptions, Bush and his wife Laura stand in a receiving line and shake hands and have photographs taken with thousands of guests.

Bush noted reporters have been to holiday receptions as well.

"I can't say I didn't ever meet him, but I meet a lot of people. And, you know, evidently he was, just like you were the other day, at the holiday party: came in, put the grip-and-grin, they clicked the picture and off he goes," he said.

Abramoff and his clients contributed to both Republicans and Democrats but appeared to send more money to Bush's party.

The Bush-Cheney re-election campaign said in the wake of the scandal that it would give to charity $6,000 in contributions made by Abramoff or his clients, but not the tens of thousands of dollars Abramoff helped raise.

Bush said he had never had a discussion with Abramoff and that as a general practice he does not meet with lobbyists.

But he said it was possible that lobbyists might be in a "room full of people" during an event staged to celebrate the success of a policy or passage of legislation such as a foreign-trade agreement.

A former White House procurement official, David Safavian, was indicted last October on charges of lying to investigators looking into a golf trip he took with Abramoff while serving in an earlier job as chief of staff for the General Services Administration.

Bush Opposes Release Of Photos With Abramoff (WP)

By William Branigin

The Washington Post, January 27, 2006

President Bush today dismissed the significance of photographs showing him with disgraced Republican lobbyist Jack Abramoff and indicated that the White House would continue to oppose releasing the photos, which he said are irrelevant to a federal investigation.

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"I've had my picture taken with him, evidently," Bush said in response to a question at a White House news conference. "I've had my picture taken with a lot of people. Having my picture taken with someone doesn't mean that I'm a friend with him or know him very well." He said that "it's part of the job of the president to shake hands with people and smile."

Bush said the photos, if released, "will be used for pure political purposes, and they're not relevant to the investigation." He referred to a continuing federal probe of illegal lobbying activities directed by Abramoff, who pleaded guilty this month to felony conspiracy and fraud charges. A plea agreement said Abramoff bribed public officials, including a member of Congress.

The president said he has no idea how many photos were taken of him and Abramoff, and he declined to discuss reported meetings that the lobbyist attended with White House staffers. Federal prosecutors are "welcome" to look into those meetings if they believe they involved improprieties, Bush said.

Abramoff "contributed to my campaigns, but he contributed, either directly or through his clients, to a lot of people in Washington," he said.

Asked whether he personally has ever been lobbied by Abramoff or other lobbyists, Bush said: "I, frankly, don't even remember having my picture taken with the guy. I don't know him. . . . But I can't say I didn't ever meet him, but I meet a lot of people. And, you know, evidently he was . . . at the holiday party: Came in, put the grip-and-grin, they clicked the picture and off he goes."

Bush said that "obviously, we went to fund-raisers, but I've never sat down with him and had a discussion with the guy."

As for whether he meets with lobbyists, Bush said, "I try not to." However, he said he could not attest to "never having met with one." He made an exception for meetings in which "people are helping on issues" such as promoting trade or tax relief.

"If you consider that a meeting, the answer is yes, I'm sure I have, in a room full of people, as we either thank people for success in policy or thank people for going out of their way to help get a piece of legislation passed on the Hill," Bush said.

Bush was also questioned at the news conference about a controversial eavesdropping program that he authorized after the Sept. 11, 2001, terrorist attacks and that critics have charged violates U.S. law. Asked if he would resist efforts in Congress to modify the law or write a new one to specifically allow the program, Bush said he is convinced he is already on firm legal ground.

"As I stand here right now, I can tell the American people the program's legal, it's designed to protect civil liberties, and it's necessary," he said.

"Now, my concern has always been that, in an attempt to try to pass a law on something that's already legal, we'll show the enemy what we're doing," Bush said. The program "is so sensitive and so important that if information gets out to how we run it or how we operate it, it'll help the enemy. And so, of course, we'll listen to ideas. But I want to make sure that people understand that if the attempt to write law . . . is likely to expose the nature of the program, I'll resist it."

Bush denied trying to "circumvent" the nearly 28-year-old Foreign Intelligence Surveillance Act (FISA), which requires intelligence agencies to obtain a warrant from a special court to eavesdrop on communications in the United States.

"I am upholding my duty and at the same time doing so under the law and with the Constitution behind me," Bush said. But he added: "The FISA law was written in 1978. We're having the discussion in 2006. It's a different world."

While FISA remains "an important tool," he said, intelligence experts had informed him that it did not fully meet today's requirements.

"I said, 'Look, is it possible to conduct this program under the old law?' And people said it doesn't work in order to be able do the job we expect us to do," Bush said.

Bush was also asked to clarify his stand on the torture of terrorist suspects by delivering some "Texas straight talk" on the subject in view of criticism by human rights groups.

"No American will be allowed to torture another human being anywhere in the world," he said, repeating the statement a reporter asked him to make.

Bush Says He Doesn't Know Abramoff, Remember Photos Being Taken (MERCN)

By William Douglas

The San Jose Mercury News, January 27, 2006

DOJ_NMG_0012375

WASHINGTON - President Bush tried to distance himself Thursday from disgraced lobbyist Jack Abramoff while refusing to release White House pictures taken of him with Abramoff.

"I, frankly, don't even remember having my picture taken with the guy. I don't know him," Bush said. "But I can't say I didn't ever meet him."

The president's remarks came during a wide-ranging, impromptu White House news conference in which he continued to defend his domestic spying program, embraced a Russian proposal to end the stalemate over Iran's nuclear activities and carefully interpreted a militant Islamic group's stunning victory Wednesday in Palestinian parliamentary elections.

Bush's recollection of Abramoff was fuzzy, but the high-flying lobbyist was well known in political fundraising circles, including the Bush-Cheney campaign, which received a $6,000 contribution from him. The campaign donated the money to the American Heart Association earlier this month after Abramoff pleaded guilty to fraud charges and agreed to help federal prosecutors in their investigation of possible corruption in Congress and the White House.

Since Abramoff's plea, administration officials have acknowledged that he met with some White House staffers but won't say whom or about what. White House Press Secretary Scott McClellan has said Abramoff was in the White House at least twice for Hanukkah parties, where he may have had pictures taken with Bush.

Administration officials want to keep any Bush-Abramoff pictures from becoming public to avoid giving political opponents ammunition that could hurt Republicans in November's congressional elections.

"Having my picture taken with someone doesn't mean that I'm a friend with them or know them very well. I've had my picture taken with you at holiday parties," the president reminded reporters. He estimated that he'd posed for about 9,000 photos at receptions this past holiday season alone.

"I'm also mindful that we live in a world in which those pictures will be used for pure political purposes, and they're not relevant to the investigation," Bush said.

Regarding the spying program, the president reiterated his contention that he was within his constitutional rights to authorize electronic eavesdropping without getting a warrant from a court or specific approval from Congress.

Bush's critics charge that he violated the 1978 Federal Intelligence Surveillance Act, which requires warrants from a secret U.S. court for such eavesdropping.

"We're having this discussion in 2006. It's a different world," the president said.

Turning his attention to the Middle East, Bush called Hamas' surprising victory in Palestinian elections a "wake-up call" to Palestinian leaders who followed the late Yasser Arafat. "Obviously, people were not happy with the status quo. The people are demanding honest government. The people want services."

Bush didn't entirely rule out dealing with elected Hamas leaders, but said, "If your platform is the destruction of Israel, it means you're not a partner in peace. And we're interested in peace."

On Iran, the president called a proposal by Russia to enrich Iran's uranium and return it to the Islamic nation for use in fueling nuclear reactors for electricity "a good plan." Iran maintains that it wants nuclear-powered electricity, but the United States and the European Union fear that it's pursuing nuclear weapons.

On other matters:

_Bush said he hadn't seen a Human Rights Watch report this week that says the administration has a strategy of abusing terrorism suspects during interrogations. "No American will be allowed to torture another human being anywhere in the world," he said.

In December he signed into law a measure by Sen. John McCain, R-Ariz., that bans torture of detainees in U.S. custody, but he added a qualifying statement that he'd interpret the law in keeping with his expansive view of presidential power.

"One reason why presidents put qualifiers in is to protect the prerogative of the executive branch," Bush said Thursday.

_The president was cool to a homeowner-bailout plan for Hurricane Katrina victims in Louisiana. He said Congress had appropriated $85 billion so far to help rebuild the Gulf Coast.

"I want to remind the people in that part of the world, $85 billion is a lot, and secondly, we were concerned about creating additional federal bureaucracies, which might make it harder to get money to the people," he said.

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Bush Says Photos With Abramoff 'Not Relevant' (LAT)

By Edwin Chen

The Los Angeles Times, January 27, 2006

WASHINGTON — President Bush today acknowledged that he met former lobbyist Jack Abramoff, who has pleaded guilty to federal corruption charges, but the president characterized the brief encounter as a "grip and grin" photo session during a holiday party.

"But I've never sat down with him and had a discussion with the guy," Bush said. "I frankly don't even remember having my picture taken with the guy. I don't know him."

Bush also rejected the notion of detailing possible contacts between Abramoff and members of the senior White House staff, saying he preferred to let federal prosecutors conduct their own investigation.

The president made his most extensive remarks to date on the Abramoff scandal during a mid-morning press conference at the White House.

Abramoff pleaded guilty last month to federal fraud and conspiracy charges stemming from his dispersal of gifts, travel and campaign contributions to lawmakers, mostly Republicans. In exchange, the lobbyist has agreed to help prosecutors who are investigating his relationships with an array of members of Congress and perhaps White House aides.

The scandal has rocked Washington and promises to be a key theme in November's elections, when Republican control of the House and Senate will be at stake.

During the wide-ranging 46-minute session, Bush also said the U.S. would not deal with members of Hamas, the radical Islamic movement whose members won a sweeping victory in the Palestinian parliamentary elections, unless they renounce violence and abandon their goal of seeking Israel's destruction.

In addition, the president previewed some themes from the annual State of the Union address that he will deliver Tuesday night and defended his controversial post-9/11 directive allowing the National Security Agency to conduct surveillance on U.S. citizens.

He said he relished campaigning for Republicans in this year's elections but said that next week he would call on members of both parties to "set aside the partisanship that inevitably will come with an election year and get some stuff done."

Bush said his message, both on Tuesday night and in the upcoming election campaign, would strike an optimistic note, focusing on a strong and growing economy, coupled with new initiatives on healthcare, education and energy. He said that the election campaign would be about "peace and prosperity."

The president sounded particularly defensive when reporters pressed him about his contacts with Abramoff. Both Time and Washingtonian magazines this week reported the existence of White House photographs of Bush with Abramoff.

The president said he would not release them because he was "mindful that we live in a world in which those pictures will be used for pure political purposes, and they are not relevant to the investigation."

He added: "I've had my picture taken with a lot of people. Having my picture taken with someone doesn't mean that I'm a friend with him or know him very well."

Gesturing to the roomful of assembled reporters, Bush continued, provoking some laughter: "I've had my picture taken with you at holiday parties. My point is, I mean, there's thousands of people that come through and get their pictures taken."

He said some 9,000 holiday guests had come to the White House and had their photographs taken with him, adding: "It's part of the job of the president to shake hands with people and smile. And I do."

But Bush said the Abramoff scandal needed to be "cleared up, so the people have confidence in the system."

On the NSA domestic spying controversy, he reiterated his contention that he had acted within the law and bristled when a reporter asked why he felt a need to "circumvent" the law.

"Circumventing is a loaded word. And I refuse to accept it because I believe what I'm doing is legally right," the president said. "I am upholding my duty and at the same time doing so under the law and with the Constitution behind me."

On another matter, Bush restated his opposition to making senior staff available to lawmakers at hearings examining the administration's faltering response to Hurricane Katrina. He said the White House already has sent to investigators 600,000 pages of internal documents. To go any further, he said, would create "a chilling effect on future [presidential] advisors."

Bush also dismissed suggestions that the 5-year-old global war on terrorism was overextending U.S. troops.

"The things I look for are the following: morale, retention and recruitment. And retention's high, recruitment is meeting goals, and people are feeling strong about the mission," he said.

Photos With Lobbyist Are 'Not Relevant,' Bush Says (NYT)

By David Stout

The New York Times, January 27, 2006

WASHINGTON, Jan. 26 — President Bush deflected questions today about photographs of him with Jack Abramoff, the disgraced Republican lobbyist, saying the photos are irrelevant.

"I mean, there's thousands of people that come through and get their pictures taken," Mr. Bush said. "I'm also mindful that we live in a world in which those pictures will be used for pure political purposes, and they're not relevant to the investigation."

The president, speaking at a hastily called news conference, responded somewhat indirectly when asked if he was afraid to release the pictures of himself and the once-powerful Mr. Abramoff, who has pleaded guilty to conspiracy, fraud and tax evasion and who prosecutors say tried to influence lawmakers and their aides with campaign contributions, lavish trips and meals.

"Having my picture taken with someone doesn't mean that, you know, I'm a friend with them or know them very well," Mr. Bush said. "I've had my picture taken with you at holiday parties." In fact, presidents are often photographed with people whom they know only casually, or hardly at all, including reporters at White House Christmas parties.

Mr. Bush also used the news conference, which appeared to have been called to react to the victory of Hamas in the Palestinian elections, as an opportunity to defend his policies and lay out his goals in advance of his State of the Union address on Tuesday. He insisted again that the National Security Agency's eavesdropping program was legal and necessary and did not trample on civil rights, that Congress should renew the Patriot Act that expanded government surveillance powers, and that Congress should make permanent the "temporary" tax cuts enacted during his White House tenure.

Meanwhile, Democrats sought to deepen Republican embarrassment and to deflate the effect of Mr. Bush's State of the Union address in advance. "Republicans are doing the bidding of special-interest lobbyists who have purchased access to the legislative process," Representative Nancy Pelosi of California, the House minority leader, said in an appearance at the National Press Club.

Mr. Bush parried the queries about Mr. Abramoff with equanimity and touches of humor.

White House officials have said that Mr. Abramoff also attended some "staff level" meetings at the White House, as well as White House Hanukkah receptions in 2001 and 2002. Perhaps, one questioner suggested today, the White House should disclose the details of those sessions and prevent any hint of "guilt by association."

"There is a serious investigation going on by federal prosecutors," Mr. Bush replied with a chuckle. "That's their job."

He added, "If they believe something was done inappropriately in the White House, they'll come and look, and they're welcome to do so."

At one point, Mr. Bush seemed to imply that Mr. Abramoff had been bipartisan in contributing to political campaigns. "He contributed either directly or through his clients to a lot of people in Washington," he said. "This needs to be cleared up, so the people have confidence in the system."

So far, most of those embarrassed by the still-unfolding scandal have been Republicans, like Representative Tom DeLay of Texas, the former House majority leader, who were befriended by Mr. Abramoff. But Mr. Bush said he did not even know Mr. Abramoff, despite his appearance with him in photographs. "I've never sat down with him and had a discussion with the guy," Mr. Bush said.

As for the National Security Agency's surveillance program, which many Democrats have said was of dubious constitutionality and legality at best, Mr. Bush said it had been vetted by lawyers and was essential. "And so as I stand here right now," he said, "I can tell the American people the program's legal, it's designed to protect civil liberties, and it's necessary."

The president dismissed any suggestion that the N.S.A. program is part of a broader effort to expand presidential power, as some Congressional Democrats have asserted. "I would say that there has been a historical debate between the executive

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branch and the legislative branch as to who's got the power," he said. "And I don't view it as a contest with the legislative branch. Maybe they view it as a contest with the executive. I just don't."

Representative Pelosi and Senator Richard J. Durbin of Illinois, the Senate Democratic whip, assailed the Bush administration in an attempt to diminish the luster of the president's State of the Union appearance before Congress and the American people. Ms. Pelosi said the president's proposed budget would damage vital programs while "heaping mountains of debt on our children." "Why, the American people ask us, are we considering a budget that is so out of step with our values and our priorities?" Ms. Pelosi asked. "The answer is, the Republican culture of corruption that has permeated the White House and the Capitol." That culture, she went on, spawns legislation "loaded up with special interest earmarks and bridges to nowhere that increase the deficit."

Mr. Durbin scoffed at Mr. Bush's assertion that his policies had made the nation more secure. "On national security, Osama bin Laden sadly is still at large, and his deadly franchise is moving across the world," Mr. Durbin said. "There was no Iraq-Al Qaeda connection before our invasion. Sadly, there is one now. Iraq has become a training ground for a new generation of terrorists."

Inside Politics (WT)

By Greg Pierce

The Washington Times, January 27, 2006

Hatch vs. Leahy

Although the much-anticipated Supreme Court nomination fight over Judge Samuel A. Alito Jr. has turned out to be something of a dud, there have been a few feisty exchanges. Among the snippiest was the floor spat Wednesday between Sen. Patrick J. Leahy, Vermont Democrat, and Sen. Orrin G. Hatch, Utah Republican.

Mr. Hatch had dismissed Mr. Leahy's hyperbole about the threat to American liberties posed by Judge Alito. Speaking later, Mr. Leahy angrily chided Mr. Hatch.

"On several occasions, both publicly and privately, I've asked the distinguished senior senator from Utah if he purports to quote me to try to at least get within the ballpark of accuracy," Mr. Leahy said. At this, Mr. Hatch asked to respond, but Mr. Leahy refused to surrender the microphone.

"I would like to find the quote where I said Judge Alito all by himself would do away with the liberties of Americans," Mr. Leahy said.

Well, by the next morning, Mr. Hatch found the following prepared statement from Mr. Leahy: "This is a nomination that I fear threatens the fundamental rights and liberties of all Americans now and in generations to come."

Mr. Hatch said: "I was not only in the ballpark, I was standing on home plate."

A confident Romney

Massachusetts Gov. Mitt Romney, edging ever closer to a presidential run, says he isn't afraid that evangelical and born-again Christian voters will stiff-arm him in the 2008 GOP primaries just because he's a Mormon.

The Republican also told reporters yesterday that his views on abortion have changed, because of research into stem cells, and as a result, he now thinks "life begins at conception."

"I am firmly pro-life. Each state should able to adopt its own policies with regard to abortion and choice," Mr. Romney said at a press luncheon at the Capital Hilton.

He said most voters in his state are Catholics, but they could not care less about his religion.

Mr. Romney had a busy day in Washington, speaking first to a Medicaid reform commission, then a Christian Science Monitor luncheon for the press and finally at the Heritage Foundation, reports Ralph Z. Hallow of The Washington Times.

Senatorial request

Two Senate Democrats called yesterday for the appointment of a special counsel to take over the investigation of the corruption scandal spawned by former lobbyist Jack Abramoff.

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The switch "would ensure that the investigation and prosecution will proceed without fear or favor and provide the public with full confidence that no one in this country is above the law," Sens. Charles E. Schumer of New York and Ken Salazar of Colorado wrote Attorney General Alberto R. Gonzales.

The two Democrats said that so far, the public-integrity section of the Justice Department, which is in charge of the probe, has "pursued this case appropriately."

Mr. Schumer and Mr. Salazar sent their letter several days after Democrats pressed the White House for information on contacts between the president, or other top officials, and Abramoff.

Foot in mouth

A Pennsylvania gubernatorial candidate challenging Pro Football Hall of Fame member Lynn Swann in the Republican primary fired his campaign manager after the man told a televised call-in show: "The rich white guy in this campaign is Lynn Swann."

Bill Scranton, a former lieutenant governor who is white and comes from a wealthy family, also issued an apology to Mr. Swann, who is black, after his campaign manager's comments Wednesday, the Associated Press reports.

The remarks by James Seif "in no way whatsoever reflect my views or those of my campaign," Mr. Scranton said. "I want to apologize to Lynn Swann, his family, supporters and PCN [Pennsylvania Cable Network] viewers for the offensive and disturbing comments made on my behalf."

Thanks, Ralph

The expected confirmation of Judge Samuel A. Alito Jr. to the Supreme Court, after the confirmation of Judge John G. Roberts Jr. as chief justice, "represents a notable, and greatly satisfying, rebuke for the legal left and its 'borking' strategy," the Wall Street Journal says.

"Sen. Chuck Schumer declared in 2001 that he wanted to turn judicial confirmations into battles over 'ideology.' The New York Democrat succeeded in doing so, but he ended up losing in a self-knockout. One reason Democrats couldn't defeat Chief Justice Roberts or Judge Alito, despite near party-line opposition, is that their filibuster strategy had made judges a top-line election issue in both 2002 and 2004.

"The battle over their unprecedented filibuster of 10 appeals-court nominees helped to sweep Democrats out of the Senate in Bush-leaning states and give Republicans a larger majority. The Democrats who remain in red states — five of whom are up for re-election in November — saw all this and had no appetite for a repeat in 2006. The liberal interest groups that devised the filibuster strategy and wrote the anti-Alito talking points for Sens. Ted Kennedy and Patrick Leahy thus contributed as much as anyone to Judge Alito's confirmation. Congratulations, Ralph Neas. It's your finest hour."

Still out

Edward Cox, a son-in-law of the late President Richard Nixon, said yesterday he will not resume his campaign for the Republican nomination to challenge Sen. Hillary Rodham Clinton's re-election bid this year, the Associated Press reports.

The Manhattan lawyer suspended his campaign in October after Republican Gov. George E. Pataki endorsed then-Westchester County District Attorney Jeanine Pirro's bid for the Senate nomination. Mrs. Pirro's campaign subsequently collapsed, and Mrs. Pirro heeded the call of state GOP leaders to run instead for state attorney general.

Worse now

The head of the FBI's counterintelligence division, retiring after 33 years at the agency, warns that "the counterintelligence threat is worse now than it was in the Cold War."

David Szady, assistant director for counterintelligence, said the threat is "broader, it's more expansive, it's huge."

In an interview with Bill Gertz of The Washington Times yesterday, a day before retiring to join the private sector, Mr. Szady said: "We really think we've come a long way, but more needs to be done."

Mr. Szady also said that FBI counterintelligence training is increasing and that more agents are choosing to become counterspies.

Since 2002, the bureau has set up squads of counterspies in all its 56 field offices and has begun better training and private-sector outreach programs, he said.

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"If nothing else, you can be proud of the FBI because almost every other free-world intelligence service has not been able to do in counterintelligence what we've done. We've sustained it, and we've increased it," Mr. Szady said.

Sens. Want Independent Corruption Probe (AP)

By David Espo

AP, January 27, 2006

WASHINGTON - Two Senate Democrats called Thursday for the appointment of a special counsel to take over investigation of the corruption scandal spawned by lobbyist Jack Abramoff.

The switch "would ensure that the investigation and prosecution will proceed without fear or favor and provide the public with full confidence that no one in this country is above the law," Sens. Chuck Schumer of New York and Ken Salazar of Colorado wrote Attorney General Alberto Gonzales.

The two Democrats said that so far, the public integrity section of the Justice Department, which is in charge of the probe, has "pursued this case appropriately."

A Justice Department spokesman declined immediate comment.

Abramoff pleaded guilty earlier this year to several felony charges, some of them involving his dealings with members of Congress and their aides. His one-time business partner, former congressional aide Michael Scanlon, pleaded guilty last year as part of the same investigation.

Officials have said numerous former congressional aides remain under scrutiny, as does Rep. Bob Ney, R-Ohio, who recently stepped down temporarily as chairman of a House committee.

Politicians of both parties moved quickly to shed campaign donations from Abramoff or his former clients.

The scandal also has thrust congressional reform toward the top of the legislative and political agenda in the opening days of an election-year Congress.

Schumer and Salazar sent their letter several days after Democrats pressed the White House for information on contacts between the president or other top officials and Abramoff. So far, the White House has refused to release any photographs of the president and the lobbyist together.

Asked about the issue at a news conference Thursday, Bush said, "There's thousands of people that come through and get their pictures taken.

In their letter, Schumer and Salazar cited news reports that said that in addition to the presidential photographs, Abramoff organized at least one meeting with White House aides for his clients.

"These meetings with the president and the White House staff occurred while you were serving as White House counsel," they wrote Gonzales, who became attorney general a year ago. "Given the possible ties between Mr. Abramoff and senior government officials, we believe the appointment of a special counsel is not only justified, but necessary."

Salazar: Abramoff Prosecutor Needed (DENP)

By Anne C. Mulkern, Denver Post Staff Writer

Denver Post, January 27, 2006

U.S. Sens. Ken Salazar (D-Colo.) (left) and Charles Schumer (D-N.Y.) speak at a news conference Thursday at the U.S. Capitol where they called for the appointment of an independent council to investigate the corruption scandal involving lobbyist Jack Abramoff. (Getty Images)

Washington - Colorado Sen. Ken Salazar on Thursday joined New York Democrat Sen. Charles E. Schumer in calling for a special counsel to investigate political corruption involving lobbyist Jack Ambramoff.

Ambramoff has pleaded guilty to bribery and fraud and is cooperating with prosecutors looking in to his dealings with Congress.

Salazar, a Democrat, and Schumer sent a letter to U.S. Attorney General Alberto Gonzales asking for the special counsel.

If such an investigation were granted, it would be similar to that conducted by special counsel Patrick Fitzgerald, who probed the leak of a covert CIA operative's name.

The senators said an independent investigation is necessary because a special counsel could act without either favor from or fear of reprisal from the White House.

"As a former (state) attorney general, I believe in upholding the law and rooting out corruption," Salazar said in a statement. "The American people deserve an open, unbiased investigation into this matter. Appointing a special counsel will begin the process of restoring America's faith in government."

Added Schumer: "With public trust in government at very low levels, it is crucial that we remove any appearance of impropriety from the investigation of the Abramoff scandal by appointing a special counsel who is independent of the Bush Administration and the current Justice Department."

Ethics In Congress (NYT)

The New York Times, January 27, 2006

To the Editor:

Re "If You Give a Congressman a Cookie," by Norman Ornstein and Thomas E. Mann (Op-Ed, Jan. 19):

I am surprised that these Congressional scholars would assert that House roll-call votes are "frequently" stretched beyond an hour. This happens, on average, less than once per two-year Congressional session.

They say that Speaker J. Dennis Hastert "fired" the chairman of the House ethics committee last year. Under House rules, there was a term limit for all members, including the chairman. Speaker Hastert followed the regular order that these writers claim to cherish in naming a new chairman.

They also assert that I and a colleague, who had donated to Representative Tom DeLay's defense fund, were named to the ethics committee "when the main matter pending before the committee involved" Mr. DeLay. In fact, the committee had publicly announced, in keeping with its normal practice, that it was deferring its one pending DeLay-related matter until the conclusion of the Texas criminal investigation, which continues to this day.

Moreover, my colleague and I long ago announced that we will recuse ourselves from any matter related to Mr. DeLay.

(Rep.) Lamar Smith

Washington, Jan. 23, 2006

Prosecutor Will Step Down From Lobbyist Case (NYT)

By Philip Shenon And Elisabeth Bumiller

The New York Times, January 27, 2006

WASHINGTON, Jan. 26 — The investigation of Jack Abramoff, the disgraced Republican lobbyist, took a surprising new turn on Thursday when the Justice Department said the chief prosecutor in the inquiry would step down next week because he had been nominated to a federal judgeship by President Bush.

The prosecutor, Noel L. Hillman, is chief of the department's public integrity division, and the move ends his involvement in an inquiry that has reached into the administration as well as the top ranks of the Republican leadership on Capitol Hill.

The administration said that the appointment was routine and that it would not affect the investigation, but Democrats swiftly questioned the timing of the move and called for a special prosecutor.

The announcement came as Mr. Bush faced a barrage of questions about why he would not make public "grip-and-grin" photographs of him with Mr. Abramoff. The photographs apparently show Mr. Bush and Mr. Abramoff smiling at White House Hanukkah parties and Republican fund-raising receptions.

Mr. Bush's position, which he offered at a news conference on Thursday morning that was peppered with questions about Mr. Abramoff, was that the photographs were so common as to be almost meaningless and that it was part of his job "to shake hands with people and smile." He said he could not remember posing for the pictures, or, for that matter, even meeting Mr. Abramoff.

"I had my picture taken with him, evidently," Mr. Bush said. "I've had my picture taken with a lot of people. Having my picture taken with someone doesn't mean that I'm a friend with them or know them very well."

He said, "I'm also mindful that we live in a world in which those pictures will be used for pure political purposes, and they're not relevant to the investigation."

The White House, which announced Mr. Bush's selection of Mr. Hillman for the court in a routine e-mail message on Wednesday that included 15 other nominations to judgeships and federal jobs, dismissed the calls for a special prosecutor.

"It's nothing but pure politics," said Scott McClellan, the White House press secretary. "The Justice Department is holding Mr. Abramoff to account, and the career Justice prosecutors are continuing to fully investigate the matter."

A special prosecutor would not be especially welcome at the White House. Patrick J. Fitzgerald, the special counsel in the C.I.A. leak case, is more than two years into an investigation that has resulted in the indictment of a top vice-presidential aide, I. Lewis Libby Jr., and has left Karl Rove, the president's chief political adviser, under investigation.

Mr. Hillman's departure from the Justice Department creates a vacancy at the top of the Abramoff inquiry only three weeks after Mr. Abramoff, once one of the city's most powerful Republican lobbyists and a major fund-raiser for Mr. Bush, announced his guilty plea and agreed to testify against others, possibly including members of Congress.

A former senior White House budget official, David H. Safavian, has been indicted in the case on charges of lying about his contacts with Mr. Abramoff, a former lobbying partner. The Justice Department's plea agreement with Mr. Abramoff makes clear that prosecutors are investigating several members of Congress and other public officials who are suspected of having accepted gifts from the lobbyist in exchange for official acts.

Colleagues at the Justice Department say Mr. Hillman has been involved in day-to-day management of the Abramoff investigation since it began almost two year ago. The inquiry, which initially focused on accusations that Mr. Abramoff defrauded Indian tribes out of tens of millions of dollars in lobbying fees, is being described within the department as the most important federal corruption investigation in a generation.

Mr. Hillman's nomination for a judgeship was among the factors cited Thursday by four Democratic lawmakers, two senators and two representatives, in calling on Attorney General Alberto R. Gonzales to name a special prosecutor to oversee the corruption investigation.

The timing of Mr. Hillman's nomination "jaundices this whole process," Senator Charles E. Schumer, Democrat of New York, said in an interview. "They have to appoint a special counsel. I think there will be broad support for one."

Representative George Miller, Democrat of California, called the timing "startling" and said, "You have one of the chief prosecutors removed from a case that has tentacles throughout the Republican leadership of Congress, throughout the various agencies and into the White House."

White House officials have said that Mr. Abramoff had no improper dealings with the White House. They have said he attended "staff level" meetings at the White House, but have declined to say with whom. One of his chief connections to the White House was through Susan Ralston, an assistant who worked for him before she worked for Mr. Rove. Ms. Ralston continues to work for Mr. Rove as a top aide.

A Justice Department spokesman, Bryan Sierra, said he had no comment on the Democratic request for a special prosecutor because the department had not received their letter making the request.

Mr. Sierra said in an interview that there was nothing unusual about the timing of Mr. Hillman's nomination and that it would not affect the Abramoff inquiry. "The team that Noel put together is going to remain together," he said. "The investigation should not be impacted." He said Mr. Hillman would be temporarily succeeded as head of the public integrity office by Andrew Lourie, a career prosecutor in Florida.

The White House had been poised to nominate Mr. Hillman for the bench last year. Mr. Sierra said he did not know why the nomination had been delayed until this week, but he said he believed it had nothing to do with the Abramoff investigation.

In a letter sent to the attorney general on Thursday asking for an independent counsel, Senator Schumer and Senator Ken Salazar, Democrat of Colorado, praised Mr. Hillman's office for the investigation that led to the guilty plea by Mr. Abramoff and his former lobbying partner, Michael Scanlon, a former press secretary to Representative Tom DeLay.

"We applaud its pursuit of Mr. Abramoff and his colleagues," they said. "We have no doubt that if the investigation is left to the career prosecutors in that section, the case would reach its appropriate conclusion. Unfortunately, the highly political context of the allegations and charges may lead some to surmise that political influence may compromise the investigation."

Defense Lawyers Seek Prosecution Data On Reporters In Leak Case (NYT)

By David Johnston

The New York Times, January 27, 2006

WASHINGTON, Jan 26 — Lawyers for Vice President Dick Cheney's former chief of staff asked a federal judge on Thursday to order the prosecutor in the C.I.A. leak case to turn over all documents in his possession related to what journalists knew from any source about the intelligence officer at the heart of the case.

The lawyers for the former chief of staff, I. Lewis Libby Jr., said in their motion that the prosecutor, Patrick J. Fitzgerald, had refused to turn over to the defense documents that would shed light on whether any reporter knew about the C.I.A. officer, Valerie Wilson, before her name was first disclosed in a newspaper column on July 14, 2003.

Mr. Libby's lawyers said in their motion that "the prosecution invoked an extraordinarily narrow conception of its disclosure obligations." The prosecutor turned over, the defense said, only documents related to Mr. Libby's contacts with reporters, refusing to turn over documents about what these and other reporters had learned about Ms. Wilson from other sources.

The defense team said that such documents were highly relevant as Mr. Libby's lawyers sought to find out "the identity of all reporters who knew that Ms. Wilson worked for the C.I.A., and to discover when they learned such information, from whom they learned it and whether they disclosed it further after learning it."

Mr. Libby was charged in a five-count perjury and obstruction of justice indictment last October with misleading investigators about how he had learned of Ms. Wilson. The indictment said he had concealed that he had learned about her from other government officials, telling investigators that his information had come from journalists. Mr. Libby has pleaded not guilty to the charges. No trial date has been set.

The defense request strongly suggested that Mr. Libby's defense could turn on the testimony of reporters, who are expected to be called as witnesses in the trial, including those who testified during the grand jury investigation about their conversations with confidential sources and perhaps others who have not yet been identified.

Some reporters who are likely to be caught in the dispute over evidence are known. Mr. Libby's conversations with some journalists, like Tim Russert of NBC News, were cited in the indictment. Another reporter, Matthew Cooper of Time magazine, said after he testified in the investigation that he had learned about Ms. Wilson, although not her name, from Karl Rove, the senior White House adviser. Mr. Cooper said Mr. Libby was a confirming source of information about her.

In addition, Bob Woodward, the Washington Post reporter, has said he told Mr. Fitzgerald in a deposition that he learned about Ms. Wilson from a government official other than Mr. Libby in June 2003, several weeks before her name became public. Mr. Woodward's source has not been identified.

Other journalists have also appeared as witnesses before the grand jury in the case, including Judith Miller, then a reporter for The New York Times.

The prosecutor has not yet responded to Thursday's request, but Mr. Libby's lawyers said Mr. Fitzgerald had used a "narrow and overly restrictive" standard in interpreting rules that require prosecutors to supply defense lawyers with materials gathered in an investigation that could help the defense.

Libby Defense Demands News Media Materials (AP)

By Pete Yost

AP, January 27, 2006

Lawyers for a former top White House aide charged in the CIA leak investigation said Thursday the prosecutor should surrender a wide range of information about news organizations and their reporters, including The Washington Post's Bob Woodward.

Special Counsel Patrick Fitzgerald has failed to disclose information that would enable the vice president's former chief of staff, I. Lewis "Scooter" Libby, to properly defend himself, his attorneys argued in papers filed with U.S. District Judge Reggie Walton.

Libby is charged with five counts of obstruction, perjury and lying to the FBI about disclosing the identity of covert CIA officer Valerie Plame, who is married to former U.S. Ambassador Joseph Wilson, a Bush administration critic.

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A federal grand jury accused Libby of lying when he said he learned about Ms. Wilson's identity from reporters. The indictment contends Libby found out about her identity from the CIA, the State Department and his boss, Vice President Dick Cheney.

"The government should not be allowed to charge Mr. Libby with lying about statements concerning what reporters knew about Ms. Wilson's identity, and at the same time deny him information that may establish one of these possible defenses," Libby's lawyers argued in a 23-page brief.

"The government has refused to produce information in its possession about what reporters learned from sources other than Mr. Libby about Ms. Wilson's employment status," Libby's legal team argued.

The prosecutor has asserted that "such documents are not relevant to a perjury and obstruction case."

After Libby's Oct. 28 indictment, Woodward disclosed that he had learned of Ms. Wilson's identity in mid-June 2003, some three weeks before her name was first published by conservative columnist Robert Novak.

The indictment says Libby lied when he told investigators he learned of Ms. Wilson's identity from NBC correspondent Tim Russert; when he told Time magazine reporter Matt Cooper that reporters were telling the Bush administration that Ms. Wilson worked for the CIA; and when Libby told investigators he did not discuss Wilson's wife with New York Times reporter Judith Miller.

Libby would have the right to produce testimony that tended to show many reporters knew about Ms. Wilson's CIA employment and that Russert did make the statement Libby allegedly attributed to him, but that Russert had forgotten about it, the court filing stated.

The defense says it also has a right to show whether other reporters knew about Ms. Wilson's CIA employment and were discussing that fact with government officials, "some of whom in turn may have shared such information with Mr. Libby," his lawyers said.

Libby Wants What Reporters Knew In CIA Leak Case (REU-Y2)

By James Vicini

Reuters, January 27, 2006

Attorneys for a former top aide to Vice President Dick Cheney sought on Thursday to force federal prosecutors to turn over information about what journalists knew before the leak of a CIA operative's name.

Lewis "Scooter" Libby's lawyers filed a motion asking the federal judge presiding over the case to require that they be given documents on what the reporters knew about CIA operative Valerie Plame before her name was disclosed.

Libby, Cheney's former chief of staff, has pleaded not guilty to five counts of obstructing justice, perjury and lying in the two-year investigation by prosecutor Patrick Fitzgerald into the leak to the news media of Plame's identity.

Her identity was disclosed by conservative columnist Robert Novak on July 14, 2003, after her diplomat husband, Joseph Wilson, accused the Bush administration of twisting intelligence on weapons of mass destruction to justify the war in Iraq.

The attorneys said the motion concerned their request for documents and information on three important issues: "What did the press know prior to July 14, 2003, about whether Valerie Plame Wilson worked at the CIA, from whom did they learn it and with whom did they discuss it."

They said turning over the information would enable them to decide the necessity and scope of pretrial subpoenas for journalists and news organizations.

The motion made clear that what the reporters knew will be an important part of the defense strategy.

"It is necessary for the defense to determine and investigate which individuals served as sources for journalists who learned about Ms. Wilson's employment status prior to July 14, 2003," they said.

"Once we learn the names of the reporters' sources, we will attempt to interview them, investigate whether they discussed information about Ms. Wilson with anyone else and evaluate whether to subpoena them for testimony at trial," they said.

Libby's lawyers also sought copies of subpoenas issued to reporters and news organizations during the prosecutor's grand jury investigation into the leak, and any agreements to limit the scope of information provided by the reporters.

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The defense lawyers said prosecutors have refused to produce information about what reporters learned from sources other than Libby about Wilson's employment at the CIA because it was not relevant to the perjury and obstruction of justice charges.

Reporters' Information Sought (WP)

By Carol D. Leonnig

The Washington Post, January 27, 2006

Attorneys for Vice President Cheney's former top aide urged a court yesterday to force prosecutors to turn over all the information they obtained from reporters about their confidential conversations with Bush administration sources in the course of a two-year CIA leak investigation.

Attorneys for I. Lewis "Scooter" Libby said they must cast a wide net to learn about any conversations regarding CIA operative Valerie Plame, and that the information could be crucial to Libby's defense against perjury and obstruction charges. In court papers, the lawyers said they will probably subpoena reporters and officials later to thoroughly investigate how widely Plame's identity was known before her name appeared in the news media in July 2003.

Libby was indicted by Special Counsel Patrick J. Fitzgerald on five felony counts of lying to the FBI and a grand jury. The indictment asserted that Libby leaked information about Plame's CIA role to two reporters but pretended he had learned the information from Tim Russert, the Washington bureau chief of NBC News, and that he passed it along as unverified reporter chatter.

The defense's goal is to show that Libby was not intentionally lying when he testified that many journalists had known about Plame during the spring and summer of 2003, and that he believed he had learned about her from Russert. "There can be no information more material to the defense of a perjury case than information tending to show that the alleged false statements are, in fact, true or that they could be the result of mistake or confusion," the lawyers argued in their filing. "Libby is entitled to know what the government knows."

Fitzgerald began investigating in early 2004 whether administration officials broke the law and leaked information about Plame as retaliation. Her name and CIA role appeared in a July 2003 syndicated column by Robert D. Novak -- eight days after Plame's husband, former ambassador Joseph C. Wilson IV, publicly criticized the Bush administration's justification for waging war with Iraq.

The defense effort to delve deeper into Fitzgerald's investigation, if successful, could divulge the identities of some anonymous, high-level government sources whom reporters and news organizations have spent years and millions of dollars in legal fees protecting from public view. The defense strategy is expected to pull several high-profile Washington journalists into a legal battle over the First Amendment, many of them for a second time.

The court papers specifically asked U.S. District Judge Reggie B. Walton to have Fitzgerald turn over all documents showing knowledge by other reporters of Plame's CIA role or her husband's mission to investigate claims that Iraq was trying to obtain from Niger materials for a nuclear program, and any subpoenas or agreements with other reporters who provided information to the investigation. Fitzgerald has asserted that Libby is not entitled to information about all the reporters questioned in the investigation if the government does not expect to use their information or call them as witnesses in Libby's trial, the filings said.

But the court papers filed by Libby's team highlighted Bob Woodward, a Washington Post reporter and assistant managing editor, as a crucial witness who could provide exculpatory information that might help Libby avoid a conviction. Woodward revealed in November, a few weeks after Libby was indicted, that another administration source -- not Libby -- had told him in a "casual" and "offhand" way about Plame's CIA role. Woodward testified that this conversation took place before Libby is believed to have first provided information about Plame to Judith Miller, then a New York Times reporter.

Woodward, who has repeatedly said he has not been released to identify his source, declined to comment yesterday. Washington Post attorney Mary Ann Werner said the newspaper continues to consider its promises of anonymity to sources sacred -- and vital to some kinds of newsgathering.

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"Protecting our confidential sources has been our highest priority throughout this investigation, and it remains our highest priority today," Werner said.

The court papers also mentioned an interest in questioning NBC News reporter Andrea Mitchell, who suggested in an October 2003 news program that it was "common knowledge" among some intelligence reporters that Plame worked at the CIA, and Washington Post reporter Walter Pincus, who allegedly learned about Plame from another unidentified source in 2003.

Charles Tobin, a media lawyer in Washington, said the move by Libby's defense was expected and is the result of Fitzgerald's aggressive insistence on deposing journalists and forcing them under threat of jail to reveal confidential sources.

"I think we could have expected that, when the prosecutor went on a fishing expedition, that the fish he caught would want to look back in the pail," Tobin said. "The more this case develops, the further we seem to be getting from the core issues of the indictment -- and more into the business of journalism and how news gets put out in this town."

Libby Defense Requests Media Data In Leak Case (WSJ)

By Anne Marie Squeo

The Wall Street Journal, January 27, 2006

WASHINGTON -- Attorneys for I. Lewis Libby, the vice president's former chief of staff, asked a federal judge to compel prosecutors to turn over all information obtained from journalists and news organizations about former Central Intelligence Agency operative Valerie Plame.

While the Justice Department has agreed to turn over information related to reporters' contacts with Mr. Libby, Special Counsel Patrick Fitzgerald has refused to provide material about what reporters might have learned from other sources about Ms. Plame's employment at the CIA, the court filing says. Included in the request is information that may have been shared among reporters or with government officials.

The fight is expected to be bruising for the news media. In their indictment, prosecutors cited the testimony of three reporters to discredit Mr. Libby's statements. Media advocates have feared the defense would seek to put the reporters on trial, and yesterday's filings underscored those concerns by suggesting statements made by Time magazine reporter Matthew Cooper, among those cited in the indictment, could indicate he is "biased against Mr. Libby." Mr. Cooper couldn't be reached. "The nightmare we predicted appears to be coming true," said Lucy Dalglish, executive director of the Reporters Committee for Freedom of the Press.

In October, Mr. Libby was indicted for lying to federal investigators and a grand jury, as well as obstructing justice, in a federal investigation into whether a Bush administration official blew the cover of Ms. Plame in retaliation for her husband's public criticism of the war in Iraq. The investigation continues, though no one besides Mr. Libby has been indicted.

"There can be no information more material to the defense of a perjury case than information tending to show that the alleged false statements are, in fact, true or that they could be the result of mistake or confusion," the filing said. A spokesman for Mr. Fitzgerald declined to comment.

Attorneys for Mr. Libby signaled earlier this month that they would seek this information. As yesterday's filing notes, seeking additional information from news organizations may be "unavoidable" since the government may not have all of what the defense requests. A federal judge likely will take up the matter at a hearing scheduled for Feb. 3.

Mr. Libby's defense team is seeking documents and other information prior to July 14, 2003 -- the date Ms. Plame's CIA identity was revealed in a newspaper column -- reflecting knowledge of Ms. Plame's job by a reporter or an employee of a news organization, communications between reporters and government officials, colleagues or anyone else discussing Ms. Plame, and copies of the subpoenas issued to reporters and news organizations by the grand jury as well as agreements by Mr. Fitzgerald to limit the scope of questioning.

Ex-Pakistan PM Shrugs Off Interpol Arrest Notices (AFP)

Agence France-Presse, January 27, 2006

WASHINGTON (AFP) - Pakistan's former Prime Minister Benazir Bhutto has shrugged off Interpol notices for her arrest and said she is prepared to return to her country to face any charges if compelled by a court.

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Interpol had issued the international notices following a request by the Pakistan government for the arrest of Bhutto and her husband on corruption charges, according to officials in Islamabad.

The police body said the so-called "red notices" were not arrest warrants and that member countries could decide whether to take any action.

"As far as the red notices are concerned, I learned it from the press, and my lawyers have written to the (Pakistan) Ministry of Interior as well as to Interpol, asking them to confirm whether the news is accurate and if so, on what grounds," Bhutto told a news conference in Washington.

"As far as I am concerned, if any court wants me in Pakistan, I am prepared to catch the next plane to Pakistan," said Bhutto, 53, who led the country twice in the 1980s and 1990s as its first female premier.

Bhutto, who has lived in self-imposed exile in Dubai and London for the past seven years, said the allegations were politically motivated and intended to divert the attention of the Pakistan media from current government problems.

The US Justice Department refused to comment specifically on Bhutto's case but said it generally considered Interpol requests on a case-by-case basis.

"I wouldn't comment on the specifics of Ms Bhutto's case but generally, the government handles requests from other governments on a case-by-case basis and we make our decisions based on the unique circumstance on any case," department spokesman Bryan Sierra told AFP.

"We don't necessarily automatically have to act on them," he said.

Pakistani Interior Minister Aftab Sherpao said the country's corruption watchdog had asked his ministry to send the request to Interpol.

"It is not an issue of my evading presence in a court but no court in Pakistan to my knowledge has asked for me to be present and I believe that the Interpol has not been given the correct facts by the military regime in Pakistan," Bhutto said.

Her second term in office ended in 1996 amid a string of corruption claims and six court cases are still pending against her. Last year she pledged to return to Pakistan to face the charges.

In 2004 Swiss authorities also charged Bhutto with alleged money-laundering of 11.7 million dollars in purported bribes paid by companies seeking customs inspection contracts.

"Yes, my husband and I have faced these scurrilous, baseless and malicious and politically motivated charges for the last nine years and by the grace of God, there is not a single conviction against either my husband or myself for fraud or for corruption," she said.

Bhutto said the charges levelled against her were part of Musharraf's campaign to divert the attention of the Pakistani media from local problems, especially recent US missile strikes targeted at terrorists in a remote tribal area bordering Afghanistan but which left civilians dead.

"Lot of questions are being asked (by the public)," she said. "To divert the attention of domestic press over the strikes, they (called for) the red notices."

"(Musharraf's) regime does not like me to speak about democracy and it does not like me to expose their policies about ambiguity," she said.

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9th Circuit Panel: Overseas Sex With Minor Subject To Regulation (LAW)

By Justin Scheck, The Recorder

California Recorder, January 27, 2006

Applying the Constitution's commerce clause to international trade can be a difficult task, 9th U.S. Circuit Court of Appeals Judge Margaret McKeown wrote in an opinion Wednesday.

So in deciding that a 2003 law prohibiting U.S. citizens from paying minors for sex while overseas is constitutional, McKeown wrote that the court was taking a big-picture look.

"Instead of slavishly marching down the path of grafting the interstate commerce framework onto foreign commerce, we step back and take a global, commonsense approach," she wrote.

The conclusion? Sex with a minor "might be immoral and criminal, but it is also commercial" -- and therefore subject to regulation.

McKeown's opinion -- which was joined by 9th Circuit Senior Judge Procter Hug -- didn't sit well with Senior Judge Warren Ferguson.

He said the majority upheld the 2003 law known by the convenient acronym PROTECT (Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today) with logic that could give the U.S. government jurisdiction over your croque monsieur.

"Under the interpretation of the majority," he wrote, "the purchase of a lunch in France by an American citizen who traveled there by airplane would constitute a constitutional act of engaging in foreign commerce."

Under that scenario, nearly anything a U.S. citizen did in a foreign country could be subject to U.S. regulation, Ferguson continued. "This observation may seem slightly absurd, but so is the task of trying to show how sexual abuse of a minor overseas by a U.S. citizen constitutes an act of 'commerce with foreign nations,'" he said.

Rory Little, a professor at Hastings College of the Law, said the question isn't quite so simple.

"It's a very substantial opinion on both sides," he said, referring to the majority decision and the dissent. "It's hard to say that one side is right."

That's because the commerce clause is a notoriously difficult piece of the Constitution, with controls over interstate and foreign commerce that are constantly being reinterpreted by the courts.

The majority opinion is based on last year's Supreme Court opinion Gonzales v. Raich, 125 S.Ct. 2195, which said the commerce clause allows the federal government to prohibit marijuana use in states that have legalized it for medical use.

With that opinion, McKeown wrote, "the court took a more generous view of Congress's power over interstate commerce."

That seems like a solid foundation for a more generous view of foreign commerce, Little said. Yet, he added, Ferguson has a good point in arguing that paying a minor for sex doesn't clearly constitute foreign trade.

The case originated when Michael Clark, an elderly U.S. citizen who lived in Cambodia from 1998 to 2003, was arrested by Cambodian police for having sex with young boys.

The Cambodian authorities turned Clark over to U.S. agents, and he eventually admitted to paying minors for sex, pleading guilty after returning to the United States. His case was the first successful prosecution under the PROTECT law, and is the first to make it to the appeals courts.

Clark's lawyer, Seattle Assistant Federal Public Defender Michael Filipovic, was predictably unhappy with the 9th Circuit's opinion. "We're disappointed in the result, and we will be seeking rehearing en banc," he said.

U.S. jurisdiction over its citizens who are abroad "is an issue upon which there's very little law that's right on point," Filipovic said.

Assistant U.S. Attorney Helen Brunner, a Seattle-based appeals specialist who argued the case for the government, agreed, though she felt better about the result.

"It's a complex issue," she said. "It certainly was an interesting issue, and I think the majority's opinion certainly is a significant victory, and we can rely on it for the pending cases." Those include another case handled by Filipovic in which the 9th Circuit has already heard arguments.

Whether the 9th Circuit takes up the case en banc -- or whether it ends up before the Supreme Court -- is probably a decision that will cross ideological lines, Little said, since liberal and conservative judges often rule unpredictably on issues of personal freedom and increased prosecutorial powers.

"This doesn't have a political tilt," Little said. "Nobody's in favor of sex with minors."

Convicted Rapist, Cleared By DNA, Freed From Custody (FINDLAW/AP)

AP, January 27, 2006

(AP) - CONROE, Texas-A man who spent 18 years in prison for sexual assault was freed Thursday after DNA evidence exonerated him, and his brother admitted responsibility for the attack.

DNA testing was not available at Arthur Mumphrey's 1986 trial for the rape of a 13-year-old girl, but recent tests requested by his attorney showed Mumphrey's blood and saliva samples did not match stains on the victim and her clothes.

"Because of technology we have now, justice was not done 20 years ago," State District Judge Kathleen Hamilton said.

Mumphrey, 42, had been sentenced to 35 years in prison.

Prosecutor Marc Brumberger apologized to Mumphrey. "We feel terrible about what happened to you," he said.

Mumphrey's brother, Charles, confessed to the rape this week while serving time in jail for unauthorized use of a motor vehicle.

He is unlikely to face charges in the sexual assault because the statute of limitations has expired, but the information could be used against him in sentencing if he is convicted of another crime and if DNA results support the confession.

Ex-Prosecutors In Trenton Respond To U.S. Scolding (NYT)

By David Kocieniewski

The New York Times, January 27, 2006

TRENTON, Jan. 26 — Two former New Jersey attorneys general on Thursday defended their office's investigation into the political dealings of George E. Norcross III, the Democratic power broker, and said they were bewildered that federal prosecutors had accused them of botching the case.

In a scathing letter dated Tuesday, Christopher J. Christie, the United States attorney for New Jersey, wrote that his office would be unable to bring charges against Mr. Norcross because lawyers for the state attorney general had mishandled their investigation under two administrations before turning it over to his office in 2004.

Mr. Christie's pointed critique startled many in the legal community because prosecutors rarely publicly criticize other law enforcement officials or explain their decisions not to prosecute.

While Mr. Christie did not release the letter to the press, his office did give it to two witnesses whose complaints against Mr. Norcross led to the investigation, and who have been aggressive in seeking news coverage about the case.

In his six-page letter, Mr. Christie chastised state officials for failing to use rudimentary investigative techniques like wiretaps and telephone records to corroborate their suspicions that Mr. Norcross and his political allies were engaged in a plot to deprive two political rivals of jobs and government contracts.

His letter also harshly criticized state prosecutors for deciding not to secretly tape conversations at a Camden County Democratic fund-raiser in 2001, where Mr. Norcross and his associates were expected to discuss a wide variety of political deals. Mr. Christie said that that decision was so inexplicable that it raised the possibility that state investigators were trying to shield political figures.

But John J. Farmer Jr., who was attorney general in 2001, called that suggestion "utter nonsense." Mr. Farmer said he was not personally involved in the tactical decisions, but asserted that the two assistant attorneys general who led the case were "professional and 100 percent nonpolitical."

"I totally reject any suggestion that any political figure was being protected by anyone in my office," said Mr. Farmer, a political independent who worked for Govs. Christine Todd Whitman and Donald T. DiFrancesco, both Republicans.

Mr. Christie also said that former Attorney General Peter C. Harvey erred in 2003 when he agreed to allow two figures in the investigation to plead guilty to tax evasion charges, a deal Mr. Christie said was too lenient to yield meaningful cooperation.

But Mr. Harvey said the agreements were fair and helpful. "These plea agreements were negotiated by experienced former federal prosecutors and helped lead to other convictions in this case," he said.

The investigation and secret recordings of Mr. Norcross, a bank executive whose prowess as a fund-raiser has given him vast statewide influence, has offered a rare view of the inner workings of New Jersey's tough, money-driven politics.

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The case began in 2000, when John Gural, now the mayor of Palmyra but then a councilman, told the authorities that he had been pressured to fire the town solicitor, Ted Rosenberg, who had opposed one of Mr. Norcross's allies in a local political race.

Investigators from the state attorney general's office asked Mr. Gural to wear a concealed recording device. He ended up taping more than 330 hours of conversations, many of them with local officials allied with Mr. Norcross. In some of those conversations, they threatened to withhold government contracts from Mr. Gural's employer, a local engineering firm, unless he acquiesced.

Mr. Norcross was also caught on tape boasting about his influence with then-Gov. James E. McGreevey and then United States Senator Jon S. Corzine.

Mr. Norcross's lawyer dismissed his client's taped comments as idle boasts, and said that Mr. Christie's letter was proof that no crime had been committed.

Mr. Rosenberg said on Thursday that Mr. Christie, who has been mentioned as a candidate for governor himself, might have released the letter to protect his image as an ardent corruption buster.

"Chris Christie is first and foremost a political animal," Mr. Rosenberg said. "He gave us the letter and didn't say anything about keeping it private, so of course we gave it to the media. The way he handled this he was freed of any responsibility for letting George Norcross get off of the hook."

But in an interview on Thursday, Mr. Christie said he was proud of his record. Since being appointed United States attorney in 2002, he said he had brought public corruption charges against nearly 100 people. He said he felt that the attorney general's office deserved a detailed explanation of why he was not pursing charges, since Mr. Harvey publicly referred the case to him in 2003.

Barry Unable To Identify 2 As Robbers (WP)

By Del Quentin Wilber

The Washington Post, January 27, 2006

Police investigating the armed robbery of D.C. Council member Marion Barry recently showed him photographs of two potential suspects, but he was unable to identify the men as his assailants, law enforcement officials said.

Last week, detectives showed Barry (D-Ward 8) collections that included photographs of two people they viewed as suspects in the Jan. 2 robbery, officials said. The arrays also included pictures of other people who are similar in appearance but not connected to the crime, the officials said.

Barry did not select anyone in the pictures. The two potential suspects were believed to have committed other robberies in the area and resembled the description that Barry provided of his attackers, the officials said.

Investigators are looking for others who might be responsible for the holdup, police officials said. The officials, who spoke on condition of anonymity because they are not permitted to discuss active investigations, said Barry has been cooperating.

Barry, 69, has told police that he was held up in his kitchen about 9:30 p.m. Jan. 2. He has said that two young men -- one whose name he believed was Marcus -- helped him carry groceries into his apartment in Southeast Washington and that he paid them several dollars. Several minutes later, they returned with a gun and stole his wallet and $600, Barry said. The billfold was found the next day on the street, police said.

Barry had said he believed that Marcus lived across the street. Police declined to say whether any of their suspects are named Marcus.

The former mayor, who became a council member last year, declined this week to discuss specifics of the investigation, based on the advice of his attorney and requests by police. But he addressed speculation that there could be more to the story than he is letting on.

"The thing that [makes me angry] is that some people say that this was a drug deal gone bad," Barry said in an interview at his council office Wednesday. "Why would I report that? That is just crazy. If it is a drug deal gone bad, you don't call the cops."

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Barry is awaiting sentencing Feb. 8 after pleading guilty in the fall to misdemeanor tax charges in U.S. District Court. Soon after the guilty plea, he tested positive for cocaine use in a court-ordered drug test. Barry has battled drug addiction for years and spent six months in federal prison after he was convicted of a misdemeanor drug charge in 1990.

Echoing comments he made during a news conference a day after the robbery, Barry said he hoped his attackers turn themselves in. But, he said, he still does not want to see them prosecuted.

"Robbers and drug dealers are in trouble," Barry said. "Families and the institutions failed them. They need help. I want them helped."

Prosecutors and police -- not Barry -- will decide whether to bring charges. D.C. Police Chief Charles H. Ramsey said that he could not address Barry's case but that getting the cooperation of victims is critical to law enforcement.

"People who commit crimes should be prosecuted," Ramsey said. "If victims don't cooperate, there won't be trials. . . . If that is the case, these guys will do harm to other people."

Last year, police were unable to solve another crime reported by Barry. He told authorities that a woman had taken his wallet off his dresser early Jan. 2, 2005, police reports show. His automated teller machine card was used to withdraw $300 from an ATM, police said.

It was the third time that the ATM card was used without Barry's permission the previous year, bank officials told investigators, police said.

Police said detectives obtained a photograph from an ATM surveillance camera that showed a woman using the card. But they were unable to identify her and suspended the investigation.

Five Indicted In Investigation Of Scandal Over City Trucking Program (AP)

By Mike Robinson

AP, January 27, 2006

CHICAGO - Chicago's city clerk and four other men were charged Thursday in an eight-count corruption indictment as federal prosecutors pushed ahead with their investigation of payoffs and patronage hiring fraud in the city's government.

Those indicted included city Clerk James J. Laski, his political aide, Sam Gammicchia, and John Briatta, a former water department employee who is a brother-in-law of Cook County Commissioner John Daley. John Daley is Mayor Richard M. Daley's brother.

The inclusion of a Daley relative in the indictment brought the scandal deeper into the heart of the political organization that has dominated city government in Chicago for years - the inheritors of the once mighty Chicago Democratic Machine.

Laski and Gammicchia were charged last week in a complaint filed by federal prosecutors in U.S. District Court. Such a complaint is the usual forerunner of an indictment.

The indictment added the names of Briatta, 46, Randy Aderman, 50, another former water department employee, and Michael Jones, 48, an employee of the city clerk's office who helped in running Get Plowed Inc., a company that got six years of payments from the Hired Truck Program.

The program has been described as designed to save taxpayer dollars by outsourcing city hauling work to private truckers. At its peak, it cost $38 million a year.

The program has been awash in corruption. Truckers have admitted paying city officials and contributing to the campaigns of their favored candidates to get work through the program.

Some of the firms that participated in the program have ties to organized crime.

In recent months, the investigation has expanded to include allegations that city officials defied a court order and fraudulently hired employees based on clout instead of merit.

The mayor's former patronage chief is among those under indictment. He is a member of a Democratic organization based on the 11th Ward southwest of downtown, the historic base of the Daley family, where John Daley remains the committeeman.

Neither John Daley nor the mayor has been accused of wrongdoing in the investigation.

Gammicchia attorney Alexander Salerno did not immediately return messages seeking comment.

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Through his office, Aderman attorney Ronald Belmonte declined to comment. Briatta attorney Theodore Poulos said he would have no comment. Jones attorney Michael Ettinger sent word through law partner Mark Besbekos that he would have no immediate comment.

Laski attorney Anthony Pinelli said when the complaint was filed last week that Laski denies asking for or taking payoffs.

According to the indictment, Jones paid bribes to Laski and Jones and Aderman paid bribes to Briatta. It said Laski and Briatta accepted bribes to influence the awarding of Hired Truck Program business to Get Plowed Inc. It also said Laski and Gammicchia obstructed justice by seeking to influence a witness to testify falsely and mislead a federal grand jury.

The indictment said Laski solicited and accepted bribes from Jones in 2001, 2002 and 2003 and that in each of those years Get Plowed Inc. received more than $100,000 in city business.

The mayor fired the city's water commissioner and nine water department employees including Briatta last June when it was discovered that they had been recorded as being on duty at the city's Jardine Water Filitration Plant when they were not there.

The new indictment brings to 42 the number of those charged in the investigation thus far.

City Clerk, 4 Others Indicted For Corruption (CHIT)

By Todd Lighty And Matt O'connor, Tribune Staff Reporters

Chicago Tribune, January 27, 2006

City Clerk James Laski was formally charged Thursday along with a brother-in-law of Cook County Commissioner John Daley and two other city employees in the latest corruption indictment involving the city's Hired Truck Program.

Laski, who was first charged in a criminal complaint unsealed two weeks ago, solicited $50,000 in bribes for steering city trucking business to a lifelong friend who was charged Thursday for the first time, the indictment alleged.

The friend, Michael "Mick" Jones, and his wife, Traci, who wasn't charged, secretly recorded Laski while cooperating in the federal probe, according to court records. The Joneses both work for Laski in the clerk's office.

John Briatta, Daley's brother-in-law, who held a key dispatching post at the city's Jardine water filtration plant, pocketed $8,000 in bribes in 2003 for obtaining additional city business for Get Plowed Inc., which was once operated by Jones, the charges alleged.

Another former city employee, Randy Aderman, introduced Laski to Donald Tomczak, then the No. 2 official in the city's Water Management Department, who awarded Hired Truck work to Get Plowed at Laski's request, authorities charged.

Tomczak has been convicted in the probe and is cooperating with authorities.

Also named in Thursday's indictment was Salvatore "Sam" Gammicchia, a coordinator of Laski's campaign workers and a foreman of Cook County ironworkers. He had been charged with Laski two weeks ago.

Truck scandal keeps growing

The indictment brings to 42 the number of defendants charged in the probe of the scandal-scarred Hired Truck Program. More than half of them worked for the city.

Laski, 52, who has also been charged with obstruction of justice for influencing Jones' wife to mislead a grand jury, has publicly vowed to remain in office as he fights the charges.

Laski's lawyer, Anthony Pinelli, said Thursday that he planned to meet with Laski to decide what legal avenue to pursue. Laski was considering the indictment's impact on his family and his office, Pinelli said, but he hadn't made a decision about resigning his post, which he has held since 1995.

"He has to decide whether he can deal with this indictment and continue to effectively do his job," Pinelli said.

The indictment seeks the forfeiture of $50,000, the alleged bribery proceeds, from Laski, or his Chicago house if he can't come up with the money.

About three weeks ago, Laski and his wife borrowed $97,035 using their residence as collateral, according to records filed with the Cook County recorder of deeds.

"It was not done for purposes of dealing with these criminal charges but for his own personal finances," Pinelli said.

Attorney Theodore Poulos, who represents Briatta, and Ronald Belmonte, Aderman's lawyer, declined to comment on the indictment. Jones' lawyer, Michael Ettinger, was ill and unavailable for comment.

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Gammicchia's lawyer, Alex Salerno, said his client, accused of warning Jones not to cooperate with federal agents, would fight the charges.

"He's a perfectly wonderful guy, and I can't imagine him threatening anyone," Salerno said.

John Daley was unavailable for comment, an aide said.

11th Ward is shaken

The federal investigation has shaken the 11th Ward political operation—home base for Mayor Richard Daley—that John Daley has run since he was appointed Democratic committeeman in 1980.

Bribe money from the Hired Truck scandal was directed to John Daley's ward organization, and the owner of a trucking outfit who bought his insurance from him has pleaded guilty in the bribes-for-work scheme.

Mayor Daley was out of town, but Jacquelyn Heard, his press secretary, called the indictment "regrettable at the very least."

"Unfortunately, no one can vouch for someone else's integrity, whether it is a trusted employee or your brother's brother-in-law," she said in a reference to Briatta, an acquaintance of the mayor.

Briatta, a former chief equipment dispatcher at the Department of Water Management's Jardine plant, was fired following an internal city investigation last year that uncovered a payroll scheme in the department. He and eight other workers falsified their pay records by having other people punch in for duty for them when they weren't present, officials alleged.

Secret recordings

The government's criminal case involves secret video and audio recordings. Jones recorded several conversations with Laski in 2005 while wearing an FBI wire during a meeting in the basement of Laski's home and during a late summer car trip to a Wisconsin resort the two took at Jones' suggestion, a source close to Laski said.

Jones sought Laski's help in about 1997 to get trucks into the Hired Truck Program, the charges alleged, and Laski in turn sought assistance for Get Plowed from an undisclosed "influential alderman."

A source close to the investigation said the alderman was Patrick Huels, Mayor Daley's City Council floor leader until he resigned in 1997 after admitting he borrowed $1.25 million from another Daley friend and contractor, Michael Tadin. Huels could not be reached for comment.

Jones allegedly paid Laski $500 in cash a month, later boosted to $1,000. The bribes took place for six years until the federal probe became public, authorities alleged.

In the criminal complaint filed two weeks ago, prosecutors spelled out in greater detail the alleged involvement of Jones, Aderman and Briatta, though none was identified by name at the time.

According to the complaint and sources, Aderman told Jones that he could get even more business for Get Plowed if he would pay $750 a month to Briatta.

Aderman told authorities that he believed Briatta met with Tomczak to get additional trucking business for Jones' company. Jones made inconsistent payments to Aderman, but Aderman told authorities that he regularly paid Briatta, according to the sources and court records.

Aderman also has cooperated in the government's investigation, court records show.

Laski, believing that Traci Jones was going to testify before a federal jury about the bribes, allegedly suggested Oct. 12 that she "might be too ill" to appear before the grand jury, the charges alleged.

Tribune staff reporter Ray Gibson contributed to this report.

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John Daley In-law Indicted (CHIST)

By STEVE WARMBIR, TIM NOVAK AND FRAN SPIELMAN, Staff Reporters

Chicago Sun-Times, January 26, 2006

Briatta — a brother-in-law to Cook County Commissioner John Daley — was charged Thursday with taking $8,000 in bribes from a trucking company that got Hired Truck work at the Water Department where Briatta was a top official.

The charge comes eight months after Briatta was fired from his job as chief equipment dispatcher for his alleged involvement in another scam. Briatta, who was paid nearly $100,000 a year, was accused with eight others of falsifying payroll records by swiping each other in and out.

Briatta was one of three new defendants added to the criminal case against City Clerk James Laski.

Laski and his political aide Sam Gammicchia were formally indicted Thursday, along with Briatta and two close friends of Laski, Michael Jones and Randy Aderman.

Aderman and Jones have been cooperating for months with investigators. Briatta is not.

Jones and Jones' wife work for Laski in the clerk's office and both secretly wore recording devices that captured Laski allegedly trying to cover up bribes he took to help Jones' trucking company between 1998 and 2003.

Laski and Gammicchia were charged in a criminal complaint, prosecutors announced earlier this month. The indictment released Thursday provided few new details of their alleged scheme. For the first time, though, prosecutors put a dollar figure on the amount of bribes Laski allegedly pocketed — $50,000 from Jones' company, Get Plowed Inc.

Laski is accused of taking $500 a month for each one of Jones' trucks he got into the Hired Truck Program. At some point, Laski allegedly got $1,000 a month in total.

Laski had no comment Thursday but has said he's innocent.

Jones also allegedly paid Aderman money to get Hired Truck business. Aderman worked in the water department and passed along money to John Briatta.

On Thursday, the mayor was out of town, but his press secretary Jacquelyn Heard said: "Unfortunately, you can't vouch for someone else's integrity. Whether it's a trusted employee or your brother's brother-in-law.

"It's certainly regrettable and hurtful at the very least, as it would be for anyone," Heard said.

John Briatta's attorney, Ted Poulos, had no comment on the case. Neither did Michael Ettinger, the attorney for Jones, or Ronald Belmonte, the lawyer for Aderman, who was first to cooperate in the Laski investigation.

Briatta, 46, lives a few blocks away from his brother-in-law, John Daley, in the Bridgeport neighborhood. Briatta, a resident of the 11th Ward, is politically active and a member of the mayor's controversial Hispanic Democratic Organization.

Briatta has been a city employee for decades, landing the job soon after his sister, Mary Lou, married John Daley in 1975. The wedding sparked controversy because Mayor Richard J. Daley's son was marrying the daughter of Louis Briatta, described in press accounts at the time as a Loop gambling boss for the mob.

Dentist In Court To Face Prostitution Charges (CBS2CHI)

CBS 2 Chicago, January 27, 2006

(CBS) CHICAGO A Chicago dentist was in court Thursday fighting accusations that are spicy enough to make your teeth rattle.

Apparently, Dr. Gary Kimmel is not rattled by federal prosecutors, who charge that he was padding his pockets in a prostitution scheme.

CBS 2's Mike Parker reports on the denials and the attorney who can't figure out what the big deal is.

There was a minor mob scene at the federal courthouse as Chicago dentist Gary Kimmel and his wife were surrounded by reporters and photographers.

"Why this case has garnered so much publicity is beyond me, but I guess it's an interesting and salacious story and its a juicy allegation," said defense attorney Joe Lopez.

The FBI is accusing Kimmel of providing Marina City condos and a fleet of expensive cars for an interstate prostitution ring.

Prosecutors also say Kimmel used his Streeterville office to provide dental care for prostitutes working for the operation.

In court Thursday, the judge released the dentist on an unsecured $100,000 bond after the dentist pled not guilty to all the charges.

"If it was going on, it was without his knowledge, without his consent and it was behind his back," Lopez said.

Kimmel has not been working at his office since he was charged. A receptionist said was taking time off for conferences and meetings he's attending.

The defense lawyer concedes that secretly recorded FBI audio tapes may be a problem for Kimmel. In one of them, the dentist seems to endorse an alleged pimp's plan to injure one of his hookers.

Dentist Charged In Prostitution Case 'outstanding Person,' Lawyer Says (AP)

AP, January 27, 2006

CHICAGO A Chicago dentist accused of supplying luxury cars to an interstate prostitution ring has been allowed to remain free on a 100-thousand dollar unsecured bond.Gary Kimmel appeared briefly today before a U-S magistrate judge, who set the bond.Defense attorney Joseph Lopez told the court that Kimmel was an "outstanding person" who hadn't realized at first he was involved in an interstate prostitution ring.A January 18th indictment charged that Kimmel accepted more than 400-thousand dollars from two pimps to buy, finance, insure and maintain eleven cars.The case was part of a national investigation dubbed "Innocence Lost" by prosecutors that resulted in charges in December against alleged ring members in Michigan and Hawaii.

Ryan Trial On Hold As Witness Takes Personal Leave (CHIT/AP)

By Mike Robinson, The Associated Press

Chicago Tribune, January 27, 2006

George Ryan's racketeering and fraud trial was put on hold Thursday as the prosecution's last major witness took an emergency personal leave.

Jurors were told to take a four-day weekend and be ready for the former governor's trial to resume Monday, but prosecutors said it was unclear whether that could happen.

One major government witness remains to go on the stand -- FBI agent Raymond Ruebenson, the case agent who has long been at the heart of the government's seven-year Operation Safe Road.

Operation Safe Road began as an inquiry into bribes paid for drivers licenses and expanded into a full-scale investigation of political corruption in state government under Ryan.

Ryan, 71, and longtime friend Larry Warner, 67, are charged in a 22-count federal indictment with racketeering, mail fraud and other offenses.

Prosecutors say Ryan steered big-money state leases and contracts to Warner and other friends and got free vacations and gifts in return. Ryan and Warner deny any wrongdoing.

Ruebenson, who has been at the marathon trail almost every day for the last 17 weeks, took personal leave Thursday over a family matter.

Federal prosecutors had hoped to rest their case last Thursday. But that objective has been pushed back daily and now the government is hoping to rest next week if there are no more snags.

One or two more prosecution witnesses besides Ruebenson might have to be called for such technical purposes as identifying canceled checks being placed in evidence, prosecutors said.

With the jurors away, both sides bickered good naturedly Thursday over whether to admit into evidence a batch of canceled checks from Warner-owned companies and whether to show jurors a chart pinpointing times when Warner withdrew money from his accounts.

Ryan and Warner didn't attend, not much was decided and the hearing recessed for the weekend well before the noon hour.

Defense Assails U.S. Witness Who Forgets Key Dates (AJC)

By Ernie Suggs , Bill Torpy, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, January 27, 2006

Former Atlanta Mayor Bill Campbell's defense team warned it would be "loaded for bear" in cross-examining key prosecution witnesses, and the assault began Thursday.

Michael Sullivan, called by prosecutors as a member of Campbell's "inner circle," was the first target.

Sullivan, a former contract compliance director, testified that a contractor friend of Campbell's indicated to him that he had "bought" the former mayor.

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Sullivan was later pounded relentlessly by defense attorney Jerry Froelich, who suggested federal authorities had "bought" Sullivan's testimony in exchange for not prosecuting him.

Unlike when he was questioned by the prosecution, Sullivan at time seemed stricken by amnesia. He did not remember when he got married, divorced or how much he made when employed by the city.

Such memory lapses drew snickers from the packed courtroom.

Campbell, 52, is charged with seven criminal counts, including racketeering, bribery and income tax evasion. He has pleaded not guilty.

The prosecution is trying to use Sullivan's testimony to show Campbell frequently was involved in awarding of contracts in exchange for favors.

Sullivan earlier testified how contractor Ricky Rowe, a close friend of the mayor, once described his relationship with Campbell.

"[Rowe] used the term when he referred to the mayor as 'That's my ho,' Sullivan said. When prosecutor Russell Vineyard asked what Rowe meant, Sullivan responded, "I took it that he meant he had bought the mayor — he owned the mayor."

Sullivan, fired by Campbell in 1996 because of sexual harassment accusations, said Rowe, who died in 2004, told him he often gave the mayor cash while on gambling trips.

Under cross-examination, Froelich reminded Sullivan that during a 1998 interview with the FBI, Sullivan said the "ho" reference meant Rowe had access to Campbell — not to having bought him off.

Froelich used much of the afternoon to assail Sullivan's character, indicating that after he left the city he was on "the fix" in procuring certain contracts. He earned $7,500 as a "consultant" in helping a third party earn a $20,000 city contract.

Sullivan also became a consultant to United Water, a firm that in 1998 garnered a $21 million annual contract to run the city's water system.

He earned about $75,000 for a yearlong contract but said he had to give 35 percent to a female friend of Kevin Ross, who ran Campbell's mayoral campaigns. He said Ross, who testified earlier in the week, referred the company to him.

Sometimes, Sullivan testified, he funneled some of his cash payments to Herbert McCall, Campbell's former commissioner of the administrative services. "It wasn't the best judgment," Sullivan said. "In hindsight, I realized that." McCall was found guilty in 2003 of perjury and obstruction of justice.

Staff writer Jeffry Scott contributed to this article.

Campbell Lawyers Fight Witness (WXIA-TV)

By Jerry Carnes

WXIA-TV, January 27, 2006

Government prosecutors in the corruption trial of former Atlanta Mayor Bill Campbell continued their work on Thursday to prove an illegal relationship existed between Campbell and a city contractor.

During a combative morning at the federal courthouse in Downtown Atlanta, Campbell's defense team contended the evidence being used by the prosecution is flawed and fought to keep it from the jury. At issue was the testimony of former city employee Michael Sullivan, who worked as the city's contract compliance director.

Lawyers on each side argued over the validity of Sullivan's testimony that questioned the legality of Campbell's relationship with former city contractor Rickey Rowe. Rowe died during the federal investigation. Campbell's lawyers said that all testimony about Rowe should be kept out of court because Rowe isn't here to verify conversations that he may or may not have had.

In the end, U.S. District Judge Richard Story ruled that the testimony would be allowed.

On the witness stand, Sullivan testified that Rowe once bragged that he had financed gambling trips for Campbell, Atlanta's mayor from 1994 to 2002.

"He told me that he'd give the mayor cash on those gambling trips," Sullivan testified. Sullivan claimed Rowe even referred to the mayor as "my whore." Sullivan said, "I took it to mean that he owns the mayor." Other city employees said they felt pressured by Campbell to give city contracts to Rowe.

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Campbell's defense attorneys hammered away at Sullivan's credibility, saying that he changed his story many times. They also pointed to Sullivan's own admission that he accepted money from a city contractor for himself.

Louisiana Tires Of Its Rogues (LAT)

By Miguel Bustillo, Times Staff Writer

The Los Angeles Times, January 27, 2006

NEW ORLEANS — Joseph Impastato conceded he took the two cashier's checks worth $85,000. The whole thing was captured on tape by the FBI, so it would have been difficult to deny.

But it was no kickback, the councilman from St. Tammany Parish said. It was business.

When he cut a deal to receive half the money from a government contract to haul away hurricane debris, Impastato said, he was acting as a private businessman, not a public official.

Federal prosecutors are not buying it — and neither apparently is the Louisiana public. After a federal grand jury indicted Impastato on felony extortion charges last month, making him the first Louisiana politician accused of Hurricane Katrina corruption, citizens condemned him in newspapers and on talk radio and the Internet as an embarrassment to his home state.

"He's got to be a real lowlife to do something like that at a time like this," Frank White, a 62-year-old retired fire captain from the suburb of Chalmette, said in an interview. "It's the Louisiana way of doing business, I guess. But there is a quiet majority now that's sick and tired of this. People are fed up with these crooks."

In Louisiana, which has a history of political shenanigans so rich and colorful that it has become a part of American folklore, people long have laughed off misbehaving politicians as a fact of life, every bit as inevitable as death and taxes.

But as the state lobbies Washington for more money to rebuild ravaged towns and cities, citizens are realizing that Louisiana's well-earned penchant for dirty politics has exacted a steep price: It has badly damaged the credibility of the recovery effort.

"Frankly, the reputation in Washington is, if we send money down there, it will just get stolen," said political handicapper Charles E. Cook, a Louisiana native who has worked in the nation's capital for more than three decades. "It is a caricature of Louisiana politics that is not entirely undeserved but is grossly exaggerated. No one cared about it much before Katrina. But right now, it's hurting the state enormously."

A major turning point in public attitude came in 2001 when Edwin Edwards, the former four-term Democratic governor, received a 10-year sentence for taking bribes for riverboat gambling licenses. In the last governor's race, both candidates — Democrat Kathleen Babineaux Blanco beat Republican Bobby Jindal — were considered squeaky clean, and promised government reforms. The distaste for dirty government has really picked up momentum since last summer.

"What was tolerated before Katrina is not necessarily tolerated now," said pollster Silas Lee III, a professor at Xavier University here. "Nerves are raw. People have lost their sense of security and direction. They are living a day-to-day existence, and they have little patience for any politician who is perceived as being corrupt."

In addition to Edwards, in the last decade Louisiana has seen an attorney general, a congressman, a state Senate president, a federal judge and countless local officials convicted of corruption. Louisiana's last three state insurance commissioners wound up in prison for offenses that include lying to the FBI, accepting $2 million in illegal campaign contributions and taking bribes — prompting jokes that future candidates should make sure they look good in stripes.

Jim Letten, the U.S. attorney for eastern Louisiana and the lead prosecutor in the Edwards case, sees the convictions as a sign of progress. Wherever he goes, he said, he is greeted by people — black, white, Latino, Asian — who tell him Louisiana needs to clean up its act.

"I am not sure that Louisiana has measurably more corruption than other [regions], but surely we have a reputation for being tolerant of it," said Letten, a member of the Hurricane Katrina Fraud Task Force, a team of federal, state and local law enforcement officials investigating scams and corruption.

Until recently, Louisiana politicians proved that charisma trumped scruples. Their repeated election victories, despite corruption allegations in many instances, showed that Louisiana voters viewed the ethical transgressions of their elected officials as an amusing spectacle.

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T. Wayne Parent, a political science professor at Louisiana State University and author of "Inside the Carnival: Unmasking Louisiana Politics," said citizens accepted corrupt politicians because they were effective in providing government services, and the cash they were pocketing was not believed to be taxpayer money.

"Maybe some politician was making a deal with the devil, but that was money from some oil and gas company, or so people thought. By the late 1980s, people realized, maybe it was our money," said Parent, who believes the change in attitude has been slowly building over the last quarter-century.

Huey Long, the Depression-era demagogue who dominated every level of Louisiana government by bullying or buying off anyone who got in his way, joked that "one of these days the people of Louisiana are going to get good government — and they aren't going to like it."

Known as the Kingfish, Long was impeached as governor in 1929 on charges of bribery and gross misconduct but narrowly avoided punishment — reportedly by bribing several state senators. Elected a U.S. senator in 1930, he was assassinated in 1935 in Baton Rouge by the son of a judge who was about to be gerrymandered out of a job.

Earl Long, his eccentric brother, kept the family's Democratic political machine running into the 1960s. He once remarked that Louisiana voters "don't want good government; they want good entertainment."

He served three terms as governor, spending some of the last term in a mental hospital, where his wife had him committed after he took up with Blaze Starr, a stripper.

Edwards, who survived two trials and 22 grand jury investigations in his four terms as governor, boasted that the only way he could lose was if he were "caught in bed with a dead girl or a live boy."

When he ran against former Ku Klux Klan leader David Duke, the Republican candidate, in 1991, Edwards supporters printed bumper stickers saying: "Vote for the crook. It's important."

The "crook" handily won. But he was eventually sent to prison for taking bribes after Eddie DeBartolo Jr., former owner of the San Francisco 49ers, testified that he had paid Edwards $400,000 to land a casino license.

Even now, during the state's ultimate hour of need, some Louisiana citizens say they could stomach a crooked politician — as long as he was competent.

"I'll tell you what, I'd take Edwin Edwards in a minute to get us out of this mess," said Gid Brill, 65, a tool salesman from Belle Chasse. "He might skim off $10 million for himself, but he'd know what to do with the rest of the money."

Such attitudes do not go over well in Washington, where some Republican lawmakers speak of Louisiana as if it were a banana republic.

Sen. Larry E. Craig (R-Idaho), who sits on the pivotal appropriations committee which oversees all major spending bills, compared fraud in Louisiana to fraud in Iraq. During town hall meetings in his home state last year, he repeatedly said that Louisiana and New Orleans had "the most corrupt governments in our country."

State lawmakers last year sought $250 billion from Congress for recovery and reconstruction in a proposal criticized as a grab-bag of pork-barrel projects. President Bush said Thursday the federal government had approved $85 billion in aid to the Gulf Coast. Louisiana's congressional delegation has contended that is not nearly enough, and continues to press for more.

Sen. Mary L. Landrieu (D-La.) said that the corruption, while historically accurate, has been magnified by Republicans in Washington who do not want to help Louisiana. "I don't want to discount that the image carries the scars of our past. But we have emphatically turned the corner," Landrieu said.

Citing the corruption scandal in the nation's capital centering on GOP lobbyist Jack Abramoff, Landrieu added, "Republicans in Washington should clean up their own house before using Louisiana's past reputation an excuse for not wanting to rebuild the Gulf Coast."

Not surprisingly, Sen. David Vitter (R-La.) sized up the situation differently.

"It's not fiction — we have had some real corruption issues here in the past, and to some extent we still do today," Vitter said. "My colleagues in Washington want assurances that money is going to be spent wisely, given those issues, and I don't think it's too much to ask."

Government statistics indicate that Louisiana is one of the most corrupt states in the country. From 1995 to 2004, federal prosecutors won 310 corruption convictions involving public servants and citizens in Louisiana, said a report by the Public

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Integrity Section of the Justice Department. That was far from the highest total: California prosecutors logged 871. But California is a state of 36 million people, nine times the population of Louisiana.

In the last month alone, federal prosecutors have been busy bringing corruption charges against Louisiana public servants. Two sheriffs deputies who worked at a Gretna jail were sentenced last week after confessing to taking bribes — part of an ongoing federal probe dubbed "Operation Wrinkled Robe," which seeks to ferret out jail and courthouse corruption. The investigation already has resulted in the conviction of a former state judge.

Last Friday, a federal grand jury indicted a former New Orleans police officer caught driving a stolen pickup, one of about 200 Cadillacs and Chevys looted from a dealership after Katrina. Witnesses reported seeing officers drive away in the vehicles. A state grand jury is also investigating the case, along with other allegations of looting by law enforcement officers.

Brett Pfeffer, a former aide to Rep. William Jefferson, a New Orleans Democrat, pleaded guilty two weeks ago to bribing an unnamed congressman on behalf of a small telecommunications company. Jefferson has not been charged and has denied wrongdoing.

Impastato's trial is scheduled to begin next month. He pleaded not guilty Jan. 10 to federal charges that he extorted money from a businessman after helping him land a contract to remove debris. If convicted of the charge, as well as related counts of conspiracy and money laundering, he could face up to 20 years in prison.

The indictment said Impastato arranged with Lee Paul Mauberret of the Pontchartrain Chipping Yard to split the $200,000 contract. A relative of Mauberret's balked at paying the kickback, and Mauberret called the FBI, which set up the sting.

Impastato, 33, continues to serve his second term on the council in St. Tammany Parish, next to New Orleans on the north shore of Lake Pontchartrain. He declined to discuss the case when reached at Sal & Judy's, his family's Italian restaurant, where he makes a living running a business selling tomato sauces and olive oil.

His lawyer, Karl Koch, said Impastato did not "use his official capacity in any way" to enrich himself, and witnesses would testify that Impastato did a fair amount of the hurricane cleanup work himself. Impastato's critics said his actions — legal or not — set back the state's efforts to repair its reputation.

"Impastato should have avoided this at all costs. Especially given the current climate and attitude in Washington toward Louisiana," St. Tammany resident Dana Deris wrote on a blog carried on the New Orleans Times-Picayune website. "He IS guilty of furthering the negative image of Louisiana."

Outside a grocery store a few blocks from Sal & Judy's, Robert Keys, 72, shook his head.

"I'd love to be the judge on that one," said Keys, a 41-year resident of St. Tammany Parish. "A snake is going to take advantage of this opportunity right now, because there's a lot of money flying around loose. I guess the question is whether it was a legal shakedown or not. But either way, he's still a snake."

Who Stole Jackson Pollock? Painting's Owner Gives FBI A Name (PHI)

By Michael Rubinkam

The Philadelphia Inquirer, January 27, 2006

ALLENTOWN, Pa. - The owner of a Jackson Pollock painting stolen from Scranton's Everhart Museum two months ago said he has forwarded the name of his No. 1 suspect to the FBI, and that the person has a connection to the museum.

The Pollock's owner is an artist formerly from northeastern Pennsylvania, whose paintings are featured in museums and private collections around the country. He spoke on condition of anonymity because he does not want to draw attention to himself, or to his own art collection.

The thief or thieves who broke into the Everhart on Nov. 18 swiped two artworks: an oil by Pollock that could be worth millions of dollars and a less valuable silkscreen by Andy Warhol.

Everhart spokesman Joe Palumbo said Thursday that museum officials don't believe the theft was perpetrated by anyone affiliated with the museum. "But then, to clarify that, they have no idea" who did it, he said.

The owner declined to say why he suspects the person whose name he gave the FBI, but said his information is based on official accounts of what happened and his knowledge of the museum's security.

An FBI spokeswoman confirmed the agency is investigating but declined to provide details.

The painting's owner said Thursday that he purchased the painting, created in 1949, from Pollock himself for about $1,000. The painting remained part of his personal collection for decades before he decided to lend it to the Everhart Museum more than two years ago.

Authorities have previously referred to the painting as "Springs Winter," but the owner said the correct name is "Winter in Springs."

"Winter in Springs" is not included in the catalogue of Pollock's known work, but Helen Harrison, director of the Pollock-Krasner House & Study Center, said that previously unheard-of works by the famed abstract expressionist have occasionally come to light.

The painting's owner said that for security reasons, he would never reveal the existence of a painting until he was ready to sell it or lend it. He said he owns other works by Pollock.

Although the 40-inch-by-32-inch painting has never changed hands, a similar work by Pollock sold at auction for $11.6 million in May 2004. Experts have said the Warhol, a 1984 silkscreen called "Le Grande Passion," is worth $10,000 to $15,000. The Warhol was part of the Everhart's permanent collection.

"Winter in Springs" wasn't insured, according to the owner and the museum. The owner said insurance on art is prohibitively expensive and that he doesn't know a private collector who has it.

Authorities have said that the thieves shattered a glass door at the rear of the Everhart to gain entry. They tripped motion sensors, but were gone by the time police arrived.

Surveillance cameras were not working. Even if they had been, the cameras are not set up to record images, Palumbo said.

The owner said he was recently summoned to testify at a grand jury session that was subsequently canceled. Palumbo said that to his knowledge, a grand jury has not been convened to investigate the theft. Grand jury proceedings are secret in Pennsylvania.

The Everhart never established the Pollock's provenance when it accepted the painting from its owner, but the FBI is going on the assumption that the painting is genuine, FBI spokeswoman Jerri Williams said. The FBI investigates stolen art only when it is worth $100,000 or more, or if it is at least 100 years old and worth $5,000 or more.

"We are pursuing it and attempting to identify who is responsible and, if possible, recover the artwork," Williams said.

Pollock, who created his abstract art by dripping and pouring paint on large canvasses spread on the floor, died in a drunken-driving crash in 1956 at the age of 44.

The Everhart, which specializes in natural history, science and fine arts, was founded nearly 100 years ago. It draws 15,000 to 20,000 visitors annually.

ON THE NET

Everhart Museum: http://www.everhart-museum.org

Former Beef Plant Operator Indicted In Federal Investigation (AP)

AP, January 27, 2006

OXFORD, Miss. -- Former beef plant operator Richard Hall has agreed to plead guilty to charges of mail fraud and money laundering related to the failure of the state-backed facility in north Mississippi.

The FBI and the U.S. attorney's office announced the agreement on Thursday.

In federal court in Oxford and state court in Yalobusha County, where the plant was located, Hall pleaded guilty Wednesday to federal and state charges of mail and wire fraud as well as money laundering. No sentencing date has been announced.

Prosecutors said a plea agreement would bring Hall two concurrent eight-year prison terms.

Hall is the former operator of the Mississippi Beef Processors plant in Oakland. He admitted to converting $751,000 in public and corporate funds for private use.

The $43.5 million processing plant opened in August 2004 with 400 workers but closed three months later because of equipment failure.

Hall defaulted on a $35 million state-guaranteed loan.

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Prosecutors said Hall also agreed to cooperate in the continuing investigation of the beef plant.

Hall's was the only indictment announced on Thursday by prosecutors.

Former Library Director Sentenced For Stealing Funds (MACT)

By Wayne Crenshaw

The Macon Telegraph, January 27, 2006

DUBLIN - The former director of the Ocmulgee Regional Library System was sentenced to four years in federal prison Thursday on charges that he stole library funds.

David C. Wilson must also pay $264,298 in restitution to the library system and a $75,000 fine, U.S. District Court Judge Dudley Bowen ruled at the end of a half-day hearing.

Wilson was library system director from 1982 until 1994, when the FBI and GBI began investigating suspicious expenses. He was convicted in October of five counts of theft and one count of witness tampering.

He routinely wrote checks of $250 and higher to himself for travel without anything to substantiate the payments, according to testimony in the trial. He also wrote salary supplements to himself into the budget without notifying the individual library boards.

Wilson was allowed to remain free on bond until notified of the date he is to report to prison, Bowen said.

The Ocmulgee Regional Library includes branches in Eastman, Cochran, Abbeville, Alamo, Hawkinsville and McRae.

In May 2004, the GBI executed search warrants on Wilson's home, the Eastman branch of the library and a farm Wilson owned in Dodge County. The investigation stemmed from a request by the Cochran Police Department.

For more on this story, see Friday's Telegraph.

Newton Man Sentenced To Prison In Fraud Case (BOS)

The Boston Globe, January 27, 2006

A Newton investment adviser was sentenced to 17 years in prison after pleading guilty to fraud charges, federal prosecutors said. T. Gene Gilman, 63, also was sentenced to two years of supervised release and ordered to pay unspecified restitution. According to the Justice Department, Gilman illegally diverted about $12 million of clients' money between 1998 and 2003 to two ventures he operated that eventually failed: a specialty eyewear marketer and a software design firm. Prosecutors said he sent false monthly statements to roughly 55 investors that misrepresented their money was in domestic securities. A Justice Department spokeswoman said a court proceeding will be held within 30 days to determine what assets of Gilman's might be available to compensate victims. (Ross Kerber)

Bloomington Man Gets 100 Years For Child Porn (INDYSTAR)

By Diana Penner

The Indianapolis Star, January 27, 2006

A Bloomington man who used two girls to create pornography that he sold on the Internet has been sentenced to 100 years in prison.

David Andrew Turner, 41, also collected at least 5,000 sexual photos and videos of other children.

Susan W. Brooks, U.S. attorney for the Southern District, which includes two-thirds of the state, said prosecutors wanted to ensure that Turner would never be free to prey upon children again.

"This is one of the most egregious cases that our office has ever seen," she said.

The sentence was the longest ever meted out for such a crime in the Southern District. Turner must serve at least 85 years of that sentence under federal guidelines.

The two assistant U.S. attorneys who prepared the case, Gayle L. Helart and Steven D. DeBrota, have prosecuted about 125 child exploitation cases. Turner was sentenced Tuesday after a 2½-hour hearing in Indianapolis. He is being held at the Marion County Jail until the federal Bureau of Prisons determines where he will serve his sentence.

Turner pleaded guilty in August, but only after both victims had testified at his trial. The girls, identified only as Jane Doe and Mary Doe in court documents, were 12 to 15 years old during the three years Turner used them to create pornography -- from September 2001 to November 2004.

In sentencing Turner, prosecutors said U.S. District Judge David F. Hamilton considered that the defendant had put his victims through the ordeal of testifying before pleading guilty.

One of the girls is a close relative of Turner's, Brooks said, and the other was essentially homeless and viewed Turner as a father figure.

"He got them drunk. He got them high," Brooks said. On some occasions, the girls were so affected by drugs and alcohol when Turner photographed or videotaped them, DeBrota said, that they had no recollection of the events.

The investigation was started by the Bloomington Police Department, which collaborated with the FBI because Turner posted -- and sold -- pornographic images via the Internet. Investigators quit counting when they found 5,000 images. They believe Turner had several thousand more.

Brooks said the investigation showed that Turner, who was unemployed, was receiving about $1,000 a month from people who paid to get pornography from him.

In addition, local authorities are continuing to investigate a man photographed having sexual contact with the two girls. He is identified only as "John Doe, a friend and drinking buddy," in court documents. Brooks declined to elaborate on that investigation.

In court documents asking for the maximum penalty for Turner, prosecutors said one of the girls "has suffered from substantial drug and alcohol dependency problems" and "has been robbed of the right to grow up free from the malicious interference of adults in her adolescent development."

However, Brooks said, both girls now are in safe environments and doing better.

There's no question about the message the sentence sends, Brooks said.

"People who possess this type of trash," she said, "ought to think about spending the rest of their lives behind bars."

Getty Museum To Hold Talks In Rome On Disputed Art, Lawyer Says (BLOOM)

By Vernon Silver

Bloomberg, January 27, 2006

(The opinions expressed do not necessarily reflect those of Bloomberg.)

By Vernon Silver

Jan. 26 (Bloomberg) -- The J. Paul Getty Museum's new director, Michael Brand, will hold talks in Rome tomorrow with Italian Culture Ministry officials who are demanding the world's richest art institution return 42 allegedly looted antiquities in its collection, ministry lawyer Maurizio Fiorilli said.

The meeting will take place the day before the Getty reopens its Roman-style villa in Malibu, California, after a nine-year, $275 million renovation. The museum's former antiquities curator, Marion True, 57, is on trial in Rome on charges she acquired illegally excavated ancient art for the Getty.

Brand, who was named to the post last year as the Getty began an internal review of its antiquities-acquisition practices, will lead a delegation at the meeting, said Fiorilli, who said there is no room for compromise.

``They should return all the objects," he said, including 2,500-year-old vases and marble statues. ``The new director is taking a good initiative."

True, who denies the charges against her, says she acquired the objects in good faith. True obtained many of the disputed objects for the Getty in 1996 in a combined sale and gift by New York collectors Barbara Fleischman and her late husband, Lawrence.

Barbara Fleischman resigned from the Getty board yesterday, the Associated Press and Los Angeles Times reported today. Fleischman, who joined the board in 2000, didn't respond to earlier requests for comment on her collection and the Getty.

Neither the museum nor Fleischman is charged with any wrongdoing. Getty officials couldn't immediately be reached for comment on the Rome meeting.

Aphrodite, Hercules

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True resigned in October after the museum determined she violated Getty policy by failing to disclose that an art dealer who supplied the museum helped her get a loan to buy a house in Greece. The Fleischmans also lent True money, the Los Angeles Times reported.

Works disputed by the Italian government include Greek vases, marble sculptures, such as one of the goddess Aphrodite, and a Roman fresco depicting a mask of Hercules. The museum returned three disputed works to Italy last year.

The Greek government is seeking the return of four works from the Getty.

The Getty Villa was inspired by the Villa dei Papiri, an aristocratic Roman country house in Herculaneum destroyed in 79 A.D. by the same volcano that buried Pompeii. The villa was closed in 1997, shortly before the debut of the $2 billion Getty Center designed by Richard Meier in nearby Brentwood, which now houses the Getty's flagship museum as well as art-conservation and scholarly institutes.

The villa was revamped to show ancient art only, and enlarged with a series of new buildings. The museum's parent, the J. Paul Getty Trust, has an endowment of more than $7 billion.

Getty Director, Italian Officials To Discuss Antiquities Dispute (MERCN)

By John Rogers

The San Jose Mercury News, January 27, 2006

LOS ANGELES - The director of the J. Paul Getty museum was scheduled to meet Friday in Rome with Italian officials who have demanded the California museum return dozens of treasures Italian officials believe were stolen from their country.

Getty spokesman Ron Hartwig said Thursday the museum's director, Michael Brand, was leading a team of experts that would meet with "high-ranking officials from the Italian Ministry of Culture."

The Italian government has demanded the return of 42 items it believes were stolen, including a statue of Aphrodite that the Getty bought for $18 million in 1988.

"The Getty's objective is to develop a fuller sense of all the evidence available regarding the objects in question," Brand said in a statement released by Getty officials. "We want to be in a better position to continue our dialogue with the Italian government."

Hartwig said it was too early to speculate about what, if any, treasures the Getty might return.

"We're looking forward to working cooperatively with the Italian government to find solutions that satisfy both sides," he said.

He said the meeting was arranged through an exchange of letters with Italy's minister of culture that Brand began in mid-December, soon after he was appointed the museum's director.

The Getty Trust operates two museums, the Getty Center in Los Angeles and the Getty Villa in Malibu. The latter houses the 44,000 pieces that make up the museum's heralded antiquities collection. It is scheduled to reopen Saturday after eight years of renovations.

It has come under fire on the eve of its reopening amid allegations that dozens of its holdings may have been stolen. The museum's former antiquities director, Marion True, is on trial in Rome on charges of trafficking in looted artifacts.

Brand said during a pre-opening tour of the villa on Tuesday that the museum would hand over any objects determined to be the rightful property of someone else.

"Like any other museum, we've always returned works of art when they've come into question," he said.

ON THE NET

J. Paul Getty Trust: http://www.getty.edu/

2 Charges Tossed For 'Mafia Cops' (NYDN)

By JOHN MARZULLI

New York Daily News, January 26, 2006

The feds have quietly dropped two murder charges against reputed Mafia cops Louis Eppolito and Stephen Caracappa, the Daily News has learned.

Sources familiar with the government's strategy insist the evidence against the ex-NYPD detectives in those gangland killings is solid.

But a decision was made to streamline the indictment after Brooklyn Federal Judge Jack Weinstein warned prosecutors last June that he would not allow them to call 100 witnesses to testify as they had planned.

"Obviously a decision had to be made," one source said.

Deleted from the racketeering indictment is the May 1990 slaying of James Bishop, the former leader of Painters Union Local 37, whose cooperation with the Manhattan district attorney's office allegedly was leaked to the mob by Eppolito and Caracappa. He was found riddled with bullets in his car in Queens.

Also dropped from the case is the 1991 slaying of the late John Gotti's former bodyguard, Bartolomeo (Bobby) Borriello, who was gunned down in front of his Brooklyn home. His address allegedly was given to the mob by the cops.

Sources said prosecutors will still ask the judge to allow evidence of the Bishop and Borriello murders into the case as uncharged crimes.

The feds contend Eppolito, 57, and Caracappa, 64, were kept on a monthly retainer for years by Luchese gangster Anthony (Gaspipe) Casso.

They are charged with leaking confidential information to the Mafia and participating in murders, as well.

With jury selection in their trial set to begin next month, Eppolito now stands charged with eight murders and Caracappa seven.

Eppolito's defense lawyer, Bruce Cutler, could not be reached for comment.

Attorney Edward Hayes, who is defending Caracappa said: "It doesn't make any real difference. Steve Caracappa's position is he didn't kill anyone."

'Mafia Cops' Prosecutors Drop Two Murders (NYNSDY)

By Anthony M. Destefano, Staff Writer

New York Newsday, January 27, 2006

With less than a month before trial, Brooklyn federal prosecutors slimmed down the indictment against the "Mafia Cops" by dropping two murders that were part of the racketeering conspiracy charged against the ex-cops.

A new indictment unsealed Thursday showed that prosecutors, seeking to simplify the trial, have decided to weed out the 1990 murder of union official James Bishop and the 1991 killing of one-time John Gotti crony Bartolomeo "Bobby" Boriello.

Former NYPD detectives Louis Eppolito, 57, and Stephen Caracappa, 64, have been charged with playing roles in as many as 10 homicides, including some while they were police officers, for members of the Luchese crime family. Some of the murders were believed to have been part of a scheme by former Luchese boss Anthony "Gaspipe" Casso to avenge a foiled assassination plot against him.

Bishop, an official of Painters Union Local 37, was killed because he was believed by the mob to have been an informant, said prosecutors. Investigators said Boriello was killed after Eppolito and Caracappa provided information to Casso that the Gambino soldier had threatened him.

Eppolito and Caracappa, who have denied the charges against them, are slated to go to trial Feb. 21 before Judge Jack B. Weinstein in Brooklyn federal district court.

The Bishop and Boriello homicides were dropped from the case to streamline the prosecution witness list. Last year Weinstein expressed doubts that he would allow prosecutors Mitra Hormozi and Robert Henoch to call as many as 100 witnesses.

As many as 10 potential witnesses now don't have to be called, said the source, who added that prosecutors will try to introduce evidence of the two killings as uncharged crimes if Weinstein allows it.

"Our defense is that Steve Caracappa is a hero, not a criminal," defense attorney Edward Hayes said Thursday.

Bruce Cutler, who is defending Eppolito, couldn't be reached for comment.

A Death Row Blogger's Advice For Life (WP)

By Eric Rich

The Washington Post, January 27, 2006

As Vernon Evans sat in his cell on Maryland's death row last spring, he had more to ponder than his own execution.

There was the lonely Brazilian who needed his advice, and a fellow from the District whose question deserved a reply, and a global audience tuned in to the wisdom of a man whose life was on the wane.

Evans was blogging from behind bars.

Vernon Lee Evans Jr. -- amateur advice columnist and convicted murderer -- is scheduled to die next month by lethal injection. He is one of the very few death row inmates to have a blog and, activists say, perhaps the only condemned man worldwide to use a blog to take questions from readers.

Activist Ginny Simmons started the blog in March and relayed the questions to Evans, who does not have Internet access. She stopped posting exchanges on the site in June out of concern that the exchanges could inadvertently harm his legal prospects. With his execution fast approaching, Simmons forwarded a backlog of questions to him last week and plans to post the fresh exchanges once she receives his replies.

Though defense attorneys in capital cases have long strived to remind judges and juries that their clients are human beings with lives beyond the crimes they are accused of, Evans's blog is the leading edge of a strategy by death penalty opponents to use new technologies to make the same point to the wider public.

A coalition of activists in Canada maintains Web pages for about 500 death row inmates. Another group, Campaign to End the Death Penalty, began holding events in 1998 in which condemned inmates are patched through by speaker phone. The blogs are the latest experiment, and the activists say Evans's blog is the most novel and daring because readers can post questions.

"Part of the reason the death penalty is allowed to exist is that people don't acknowledge the fact that the people on death row are human beings," Simmons said.

Evans, 56, of Baltimore, was first sentenced to death more than two decades ago for the contract killings of potential witnesses in a federal drug case. He was convicted in the murders of David Scott Piechowicz, 27, and that man's sister-in-law, Susan Kennedy, 19, in 1983 at a hotel that Piechowicz managed in Pikesville.

Though she did not see the shooting, Evans's girlfriend testified at his trial that she saw him carry the gun into the lobby and saw it again -- still smoking -- when he came out. At a resentencing in 1992, Evans said, "It's not hard for me to say I am truly sorry for having been that type of individual that would take two innocent lives."

"His guilt is crystal clear, and I can't think of a more appropriate case for the death penalty," John Cox, one of the Baltimore County prosecutors handling the case, said in an interview.

On the blog, at http://www.meetvernon.blogspot.com , Evans in April assured Laura from Washington state that he was not the gunman, that he did not get a fair trial and that a lawyer told him before his resentencing in 1992 that his only shot at getting off death row was to show remorse. "Laura, I did not kill these people," Evans wrote.

In an exchange with Jay from New Hampshire, Evans reflected on prison life. "A man must find even in the worst things something good or positive to focus on," he wrote. "Sometimes if the forces are with you, blessing will come your way."

To the despairing Brazilian, a musician who had moved to Canada, Evans responded: "Listen to me, I am not always right, but listen to me anyway, and you might get something out of what I have to say. . . . You are young, and you should not have such fear when you are a talented young man."

Confronted with a question from Robert Trouts, who asked that he take his punishment "like a man," Evans wrote that "I have an education on how meaningful life is" and then seemed to strike a note of anger.

"Society dresses up and hires the justice system to kill for its revenge," he wrote in a portion of the response that was removed from the site yesterday. "I bet you are one of those people who would have been for slavery too."

A death warrant signed two weeks ago orders that Evans be executed during the five-day period beginning Feb. 6. Barring intervention by the courts or Gov. Robert L. Ehrlich Jr. (R), Evans will be put to death almost exactly two months after Maryland's last execution.

Some supporters of the death penalty say they find little of value in Evans's blog or in the larger effort to focus on the humanity of the condemned. "People can exchange notes with him if they want, but I don't think it really adds anything," said Kent Scheidegger, legal director at the Criminal Justice Legal Foundation, a group that supports legal execution. "The question is whether he deserves the punishment he was sentenced to, and I don't find much enlightening in these discussions."

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In a world awash in personal narratives, where millions tune in to watch ordinary people do ordinary things on reality shows, the blogosphere has deemed an exchange with a man sentenced to die to be of limited interest. Fewer than 7,000 people have visited the site.

One of Evans's lawyers, Julie Dietrich, relayed this information to Evans by telephone yesterday. According to Dietrich, he responded: "I don't want to be judgmental about why people do things. In America, people have a comfort zone and try not to deal with anything that's too stressful."

Grandfather Grateful Carjackers Freed Girl (WP)

By Allison Klein

The Washington Post, January 27, 2006

Timothy Anderson carefully placed his granddaughter's lunchbox in the back seat of his Ford Expedition yesterday and buckled in the 3-year-old for their early morning trip to day care. He turned on the ignition, then realized that the door inside the garage of his Clinton home was not secured.

As he pulled the house door closed, he heard the engine in his Expedition rev. Then he saw a set of thieves making off with the vehicle, with granddaughter Sydney in the back seat.

Anderson, 46, ran after them, one thought in his head: "I've got to get my granddaughter back."

He sprinted after the truck as it raced out of the garage and driveway of his house in the 6300 block of Danner Drive and kept going about 150 yards east on Brandywine Road.

The truck then stopped, the back door opened and Sydney hopped out. She ran toward her panicked grandfather.

The whole episode took less than 30 seconds.

"I don't think she realized she was in any danger; she wasn't crying," Anderson said yesterday afternoon. "She was wondering what I was so upset about."

Later, Sydney told him that one of the thieves unbuckled her, opened the door and ordered, "Get out."

Anderson's truck was one of four vehicles stolen between 6 and 7 a.m. yesterday in the Clinton-Brandywine area. His car was stolen at 6:30 a.m.

Prince George's County police say they believe a set of brazen thieves is targeting people who leave their cars running, a habit that police say is a serious problem in the county.

More cars are stolen in Prince George's than in any other jurisdiction in the state. Last year, police dedicated more officers to tackling the problem and educating the public. In 2005, about 14,300 cars were stolen, a drop of 8.3 percent from the previous year.

Now, if police see a car running with nobody in it, they will issue a $60 ticket.

The three other cars stolen early yesterday in the Clinton area had been left running and unattended as their owners warmed them up. Police spokeswoman Diane Richardson said that was not the case with Anderson.

"We don't believe the man with the child was being careless at all," Richardson said. "He was in his garage and went to pull the door shut. All he did was walk away from the car for a second."

The other cars stolen were a 2000 Chevy Malibu from the 5600 block of Symposium Way, an Oldsmobile from the 11200 block of Brandywine Road and a Honda Pilot from the 12400 block of Morano Drive.

The thieves left the Chevy Malibu on Morano Drive when they stole the Honda Pilot, Richardson said, a sign that they probably were stealing the vehicles for joy riding.

Anderson's charcoal-gray Expedition, with Virginia plates JGS-9685, has not been found, and the thieves have not been apprehended, Richardson said. Anderson said he did not get a good look at the people who stole his truck.

Anderson and his wife recently moved to Prince George's from Dumfries. He said he moved because it was easier for him to get to his job as a technician for Lockheed Martin at the Pentagon.

He was feeling lucky yesterday afternoon that he had Sydney back. He and his wife were babysitting for her and her 2-month-old brother while their parents were out of town on business. He immediately called and told them what had happened.

"They were happy to hear their baby is okay," Anderson said.

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He said the near miss will have an effect on him for a long time.

"It could have been prevented," Anderson said.

"I'll do things a lot differently. I will not leave my granddaughter unattended for a split second."

Scene Set In Day-Care Shooting (WP)

By Ernesto Londoño

The Washington Post, January 27, 2006

Moments before an 8-year-old boy shot another child at their day-care center this week, he told her to "give me your money," a prosecutor said yesterday.

"What do you want? Nickels, dimes or pennies? I'm broke," the 7-year-old girl responded, according to the prosecutor. Then a bullet from a .38-caliber revolver pierced her upper right arm.

Montgomery County Assistant State's Attorney Karyn McAuliffe provided that account of Tuesday's day-care center shooting in Germantown during an afternoon bond hearing for the boy's father. Prosecutors said the account was based on the police investigation, but they would not elaborate.

The father, John Linwood Hall, 56, insisted in court that he did not teach his son how to use the revolver. "That is not true. That it not true. That is not true. That is not true," Hall blurted out during the hearing in Rockville as McAuliffe argued that the boy has been "dangerously influenced" by his father.

Hall, 56, a maintenance worker at the National Institutes of Health, was charged with five weapons offenses after his son shot the girl shortly before 7 a.m. in a room where they and four other children were watching a movie on television. The incident occurred at the For Kids We Care day-care center at the Northlake apartments in the 12600 block of Grey Eagle Court.

The boy, a third-grader at Cedar Grove Elementary, has been charged as a juvenile with assault, assault while in possession of a firearm and reckless endangerment, among other counts.

The boy shot the Taurus revolver while it was still in his backpack. One of the five bullets in the gun tore through the backpack and penetrated the girl's arm. The victim, who has not been identified by police, was released Wednesday night from Children's Hospital in the District.

Prosecutors said they do not believe that the girl, a second-grader at S. Christa McAuliffe Elementary School, was targeted. They said it remains unclear to what extent the shooting was accidental.

Law enforcement sources said the boy told classmates last Friday after a fight that he had easy access to guns. But they said they are not sure what he planned to do with the gun that day. The two children involved in the shooting were dropped off at the day-care center before the start of school.

Based on the police investigation, McAuliffe said the boy has made profane and threatening statements in the past.

"[Expletive] the police," McAuliffe quoted the boy as saying. "What the [expletive] can they do to a kid, anyway? I'll shoot 'em."

According to McAuliffe, the boy said another time: "Phase 1: Get weapons. Phase 2: Kill the hillbilly."

McAuliffe did provide more context for those statements. She argued that Hall, a felon with a lengthy criminal history, was aware of his son's violent nature and should not have left a revolver at his disposal in the bedroom they shared. Hall denied that the weapon was kept there.

The prosecutor also said investigators found photographs of guns in the apartment and learned that the boy had access to "very violent video games." According to a police source, two of those video games are "50 Cent Bulletproof" and "187: Ride or Die." The Washington Post agreed not to identify the source because the case remains open.

"Bulletproof," released last fall, depicts rapper 50 Cent in a bloody New York underworld overrun with gangs and crime syndicates. Survival in the game requires shooting nearly anyone who gets in his way. The game costs about $50. "Ride and Die," an older game with a similar premise, is based in Los Angeles.

Darlene Hall, the boy's aunt, said her brother has been a positive influence on the boy, who she described as deeply troubled. She said the boy denied that his father taught him how to use guns.

"He beat on the desk and said: 'No, my father didn't do that. I learned it from 50 Cent,' " Darlene Hall said, describing how the child acted during a hearing on Wednesday that was closed to the public. She was present at the hearing.

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John Hall asked Montgomery County District Judge Louis D. Harrington for a personal recognizance bond during yesterday's hearing.

"I need a personal bond so I won't lose my child," he told the judge. "I need my child."

Harrington set bond at $50,000 for the two charges before the court yesterday. Hall is also being held on $75,000 bond for three other weapons charges police filed this week.

Harrington barred Hall from having contact with his son as part of the terms of his release if he managed to post bond.

Hall told Harrington that he would show up for court. He has been employed for almost 15 years and has not been convicted of a crime in about 17 years.

"So, when do you pay your debt to society?" Hall asked rhetorically. "I've served my time."

Abuse Sentence Raised (WT)

The Washington Times, January 27, 2006

BURLINGTON, Vt. (AP) -- A judge vilified as soft on crime by Web loggers, TV commentators and politicians for giving a child molester just 60 days in jail increased the sentence yesterday to three to 10 years behind bars.

Vermont District Judge Edward Cashman said he decided to impose the longer sentence because state officials reversed course and agreed to provide sex-offender treatment to Mark Hulett in prison.

When the judge imposed the original sentence on Jan. 4, Hulett had been ruled ineligible for treatment until he got out of prison. Judge Cashman said the lighter sentence was the only way to ensure that Hulett got prompt treatment.

Hulett, 34, pleaded guilty to charges that he had sexual contact with a girl during a four-year period, beginning when she was 6.

After handing out the original sentence, Judge Cashman was attacked by commentators on TV and the Internet. On Fox News, Bill O'Reilly told viewers as video of Judge Cashman rolled, "You may be looking at the worst judge in the USA."

Vermont Gov. Jim Douglas called on the judge to resign, and several lawmakers demanded his impeachment.

A Zogby International poll taken after the first sentence was imposed showed that 92 percent of American voters opposed it.

In his latest order, Judge Cashman remained firm in his belief that sentences must be concerned with more than just punishment.

"The court agrees a punitive response -- punishment -- is a valuable and necessary component of society's response to criminal conduct," he said. "It is a tool that the court has routinely used for the past 24 years on the trial bench. As stated during the sentencing hearing, however, punishment is not enough of a response in some cases."

The governor said he considered the new sentence still too lenient.

"It's 18 times 60 days, so it's certainly an improvement," Mr. Douglas said. "Personally I think it's inadequate for a crime of that magnitude, but it is certainly better than the first decision."

Attorney General William Sorrell said he had wished for more than three years "as a message to other would-be offenders." But he praised the judge for being "big enough to change course."

Hulett will have to serve at least three years behind bars. Once he gets out, he will spend the rest of his life on probation or parole.

"I think it is fair," said his lawyer, Mark Kaplan. "I think it makes sense under the circumstances."

The families of Hulett and the victim left the courtroom without comment.

State Rep. Peg Flory, the House Republican leader, said it is too early to say whether Republicans will drop their resolution calling on the judge to resign.

"I want to read what the decision is before I say," she said.

The Corrections Department initially decided not to offer Hulett treatment behind bars because it concluded that he was unlikely to commit another sex offense. After the furor, however, Vermont's human services secretary ordered the department to change its policy to allow low-risk sex offenders to receive treatment in prison.

Inmate Wounds Guard In Hospital (WT/AP)

By David Dishneau

DOJ_NMG_0012409

The Washington Times, January 27, 2006

HAGERSTOWN, Md. -- A hospitalized state prison inmate shot and critically wounded the correctional officer guarding his room yesterday, then used the officer's gun to force a cabbie to drive him on a chase that ended with the inmate's arrest, state police and prison officials said.

The 44-year-old officer was in critical condition at Washington County hospital, where the attack occurred at about 5 a.m., authorities said. They said he was shot in the face but gave no other information about his injuries.

"He's fighting for his life," Maj. Priscilla Doggett, a state Division of Correction spokeswoman, said.

Prison officials said the officer is from Martinsburg, W.Va., but they declined to name him, citing his family's request for privacy. He is a four-year veteran of the Maryland prison system, married with four children and a stepson, prison officials said.

Corrections Commissioner Frank C. Sizer Jr. identified the inmate as Brandon Morris, 20, who was serving an eight-year sentence at the nearby, medium-security Roxbury Correctional Institution for assault, robbery and handgun violations in Baltimore.

Morris was being moved yesterday afternoon from the state police barrack in Hagerstown to a prison and has not yet been charged in the attack, Maryland State Police Sgt. Thornnie Rouse said.

Mr. Sizer said Morris was admitted to the hospital Wednesday for an undisclosed medical condition.

Department policy in such situations requires that an inmate wear either handcuffs or leg restraints and be secured to the bed, Maj. Doggett said. She said she thinks the policy was being followed in Morris' case.

"The normal procedure is that he is attached to the hospital bed with the restraint device," Mr. Sizer said.

He said he didn't know how Morris got free from the bed and obtained the officer's gun.

The officer was working the 11 p.m. to 7 a.m. shift, Mr. Sizer said.

The officer had reported at the start of his shift and again at 2:55 a.m. that everything was in order. The shooting was reported by a hospital employee, Mr. Sizer said.

Sgt. Rouse said police were alerted by a 911 call at about 5:15 a.m. They learned that the inmate had carjacked a taxi cab outside the hospital emergency room after failing to get car keys from a woman visiting another patient.

Police pursued the cab at about 40 mph on U.S. 11 to State Line, Pa., about 5 miles north of Hagerstown, where the vehicle crashed and Morris fled on foot back into Maryland, Sgt. Rouse said.

Police arrested Morris in an industrial park north of Hagerstown, he said.

"We credit the taxi cab driver with maintaining an open mike, if you will, and allowed officers to hear the chase route," Sgt. Rouse said.

The cabdriver wasn't hurt in the crash, Sgt. Rouse said.

Hospital spokeswoman Maureen Theriault said patient care wasn't affected by the incident.

The attack came three weeks after 17 inmates assaulted three officers with chairs and the guards' pepper spray at the maximum-security North Branch Correctional Institution near Cumberland.

One of those officers is recovering from a head injury that required surgery and a hospital stay.

The Roxbury Correctional Institution is a 721-bed medium-security prison for men that opened in 1983. It is near two other state prisons in Hagerstown, the Maryland Correctional Institution-Hagerstown and the Maryland Correctional Training Center.

CIVIL LAW:

ChoicePoint To Pay $15 Million To Settle Consumer-Privacy Case (WSJ)

By Christopher Conkey And Ann Carrns

The Wall Street Journal, January 27, 2006

Commercial data broker ChoicePoint Inc. agreed to pay $15 million to settle charges it violated consumer privacy rights, resolving one of two federal probes stemming from the company's disclosure last year that it inadvertently sold sensitive personal information on 163,000 people to criminals.

Under terms of its settlement with the Federal Trade Commission, ChoicePoint will pay a $10 million penalty to the government and $5 million to compensate roughly 800 individuals who the FTC says became identity-theft victims as a result of the lapse. The $10 million fine is the highest ever levied by the FTC.

ChoicePoint, based in Alpharetta, Ga., also must revamp the way it screens customers, implement new information-handling procedures and obtain independent security audits every other year until 2026. FTC Chairman Deborah Platt Majoras said the agreement provides "an opportunity for ChoicePoint to get data security right." She also said that to reduce fraudulent access to its vast database, company representatives will visit most subscribers to check who is using its services.

ChoicePoint didn't admit to any wrongdoing in the FTC investigation, but said it reached agreement because it wanted to avoid prolonged litigation and move forward. "I'm confident the settlement is the right thing to do," said ChoicePoint President Douglas Curling.

The settlement and fallout from the security breach hurt the company's bottom line. ChoicePoint yesterday said fourth-quarter net income fell 29% to $27.7 million, or 30 cents a share, from $39.2 million, or 43 cents a share, a year earlier. The company took an $8 million pretax charge for the FTC settlement and another $5.3 million in charges for other costs, including legal expenses related to the breach, which overall crimped profit by 14 cents a share. For the full year, ChoicePoint said net income fell 4.9% to $140.7 million, or $1.53 a share, from $148 million, or $1.62 a share, the prior year.

In 4 p.m. New York Stock Exchange composite trading yesterday, ChoicePoint shares sagged $3.35, or 7.2%, to $42.95.

The probe stemmed from a September 2004 incident in which the company failed to verify the identity of a client it provided with personal information, which the FTC says included credit histories, on roughly 163,000 individuals. The client provided fake company names, phone numbers and mailing addresses in California, and was in fact a Nigerian national involved in an extensive fraud ring. When the security breach was discovered, the company notified authorities as required by law, but didn't inform affected consumers until February 2005.

The announcement, which was quickly followed by breach notices from fellow data broker LexisNexis and Bank of America Corp., prompted an outcry for stronger consumer protections. About 25 states have passed laws forcing companies to disclose breaches to consumers, while 12 allow certain consumers to freeze access to their credit reports, and Congress is weighing a variety of federal remedies.

Despite ChoicePoint's desire to put the breach behind it, the FTC settlement doesn't remove all the clouds hanging over it. Aside from legal costs, the company still faces an investigation by the Securities and Exchange Commission into trading in ChoicePoint stock by Mr. Curling and Chief Executive Derek Smith prior to the company's disclosure of the breach. The two realized a combined profit of $16.6 million from selling company shares in the months after it learned of the breach. The company has said the sales were proper and part of a pre-approved plan. A ChoicePoint spokesman said that neither Mr. Smith nor Mr. Curling was available late yesterday to comment on the SEC inquiry. The spokesman noted that Mr. Smith has said he expects the outcome of the inquiry to be "favorable" to himself and ChoicePoint.

ChoicePoint To Pay $15 Million To Settle Charges Fine Stems From Consumer Identification Data Breach (USAT)

By Jon Swartz

USA Today, January 27, 2006

SAN FRANCISCO — In the largest civil fine levied by the Federal Trade Commission, data broker ChoicePoint has agreed to pay $15 million to settle charges it did not properly protect consumers' personal financial information, the FTC said Thursday.

The FTC fined the company $10 million and said ChoicePoint would pay an additional $5 million to compensate consumers. The FTC says about 800 people have been victimized by identity theft stemming from the breach, but more would be eligible for compensation as cases arise. The FTC says it is establishing a fund and will develop a plan to get compensation to victims. ChoicePoint, citing the Los Angeles County district attorney, says there have been only 16 known instances of ID theft.

The hefty fine sends a strong message to companies that handle the data of millions of Americans, privacy experts say. In the first of several high-profile data breaches disclosed last year, ChoicePoint — which stores about 19 billion records for

insurance companies, financial institutions and others — acknowledged that more than 163,000 personal records had been compromised.

At least 130 reported breaches exposed more than 55 million Americans to ID theft last year, sparking consumer advocates' calls for federal oversight of loosely regulated data-brokers.

The settlement requires ChoicePoint to install new procedures so consumer reports are used only by legitimate businesses for lawful purposes. It also must create an information-security program, to be audited by an independent security professional every other year until 2026.

“Consumers' private data must be protected from thieves,” FTC Chairman Deborah Platt Majoras said.

ChoicePoint revealed in February that its massive database of consumer information was accessed by thieves posing as small-business customers. ChoicePoint collects such data as Social Security numbers, birth dates and addresses.

“It wasn't the largest breach, but it showed a stunningly sloppy business model,” consumer advocate Ed Mierzwinski says.

The company, also the subject of a pending Securities and Exchange Commission probe, did not admit to wrongdoing in the FTC investigation. It says it is has hired an independent privacy officer and taken other steps.

The SEC is examining stock trades by ChoicePoint CEO Derek Smith and Doug Curling, chief operating officer, that netted them $16.6 million after the company learned of the breach but before it was made public. ChoicePoint says it was asked by law enforcement to delay its announcement while the matter was investigated. It says the trades were prearranged and approved by its board, and it is cooperating with the SEC.

Record Fine For Data Breach (WP)

By Arshad Mohammed

The Washington Post, January 27, 2006

Data broker ChoicePoint Inc. yesterday agreed to pay a $10 million federal fine over security breaches that exposed more than 160,000 people to possible identity theft. Privacy experts praised the settlement as a warning to companies to get more serious about protecting sensitive information.

The Alpharetta, Ga.-based company, one of the nation's largest buyers and sellers of personal information such as Social Security numbers, birth dates and addresses, also agreed to pay $5 million into a fund to compensate people who suffered as a result of the breaches.

The Federal Trade Commission, which said the fine was the largest civil penalty it had ever imposed, said ChoicePoint violated consumers' privacy and breaking federal laws by mishandling the information and misleading people about its privacy policy.

ChoicePoint said it did not admit to any of the FTC's charges but was happy to have resolved the matter.

The ChoicePoint case has galvanized public concerns both about the ease with which personal information can be bought and sold and about the lax security procedures at data brokers that last year alone led to security breaches affecting tens of millions of people.

ChoicePoint told about 145,000 people in February that their personal information was obtained from the company by suspected criminals who masqueraded as legitimate businesspeople. Later in the year, it told another 17,000 people that information such as their names, addresses, dates of birth, Social Security numbers and summary credit information had been compromised.

The FTC said the incidents led to at least 800 cases of identity theft, which has been the top type of consumer complaint logged by the agency for the past six years.

Privacy experts said the FTC settlement, which required ChoicePoint to tighten its security procedures and to submit to outside security audits for the next 20 years, was designed to remind companies in the growing business of selling personal information that they must do more to protect consumers.

"It sends a big signal," said Peter Swire, a law professor at Ohio State University who was the Office of Management and Budget's chief counselor for privacy during the Clinton administration. "All major companies that handle personal information will see that the bar is being raised."

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Consumer advocates say the prevalence of identity theft in part reflects the failure of many information brokers, retailers and credit issuers to adequately protect records or to do enough to stop criminals who seek them by verifying their identities.

As a part of the settlement, ChoicePoint agreed to take steps to ensure that it provides consumer reports only to legitimate businesses, and it will create an "information security program" to protect the personal information it collects on people.

"The message to ChoicePoint and others should be clear: consumers' private data must be protected from thieves," FTC Chairman Deborah Platt Majoras said in a statement.

"I am gratified we were able to work with the FTC and reach an agreement that protects all parties and am even more pleased that we can now put this chapter behind us," ChoicePoint chief executive Derek V. Smith said in a statement, adding that the company had already begun carrying out nearly all the policy changes demanded by the FTC.

The settlement was announced as ChoicePoint released its fourth-quarter profit, which fell to $27.7 million (30 cents a share), from $39.2 million (43 cents) a year earlier. Revenue rose to $257.9 million from $232.5 million. The company took a charge of about $8.8 million in the quarter because of the settlement with the FTC.

U.S. Settles With Company On Leak Of Consumers' Data (NYT)

By Tom Zeller Jr.

The New York Times, January 27, 2006

The Federal Trade Commission announced yesterday that it had reached a $15 million settlement with ChoicePoint Inc., the commercial data broker that disclosed last February that thieves had duped the company into turning over private data on more than 145,000 people.

That revelation touched off a year of national debate over data privacy and security and generated a raft of tough new state laws on data security as well as several bills in Congress.

The settlement includes $10 million in fines — the largest civil penalty ever imposed by the agency — as well as $5 million in consumer compensation, stemming from accusations that its handling of consumer data and its inadequate security procedures amounted to violations of consumer privacy rights and federal law.

The company, based in Alpharetta, Ga., will also be required to overhaul its security program — something already well under way, the company said yesterday — and submit to independent audits of its procedures every two years for the next 20 years.

The settlement does not constitute an admission of wrongdoing.

"We think this is an important settlement," said Lydia B. Parnes, director of the Bureau of Consumer Protection at the F.T.C.

"The No. 1 point of this case is that companies that maintain sensitive personal information must employ reasonable safeguards," Ms. Parnes said. "That should be fundamental in this day and age."

Chris Jay Hoofnagle, senior counsel with the Electronic Privacy Information Center, a Washington-based digital rights group, who has testified before Congress on the issue of data security, was more optimistic. "Certainly, from our view we think it's an important settlement, and it makes it clear that companies have to take information security more seriously," Mr. Hoofnagle said, "but the commercial data broker problem isn't solved."

The F.T.C. ultimately said that records of more than 160,000 consumers were compromised in 2004 when con artists masquerading as legitimate businesses were granted access to ChoicePoint's vast troves of consumer information — including names, Social Security numbers, address histories and dates of birth.

The company's revelation generated what seemed an avalanche of subsequent disclosures at companies, universities, hospitals and other institutions that handle personal data.

It also shed a spotlight on a data-broker industry that until recently had gone largely unnoticed and unregulated.

In its complaint against ChoicePoint, the F.T.C. claimed that the company did not have "reasonable procedures" in place to screen would-be subscribers to its databases and that in this case, the applications for access made by the fake businesses should have raised "obvious red flags."

The company did not, for instance, raise questions when an apartment number or a commercial mail drop was given as a business address, or when cellphone numbers were provided as a "business's sole telephone number," according to the

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agency's complaint. Multiple applications from nominally different businesses arriving from the same commercial fax number also did not prevent the applications from the fake companies from being approved, the commission charged.

The sloppiness ultimately allowed the most highly regulated data that ChoicePoint holds — credit histories — to fall into the hands of the fraudulent businesses. That put the company in violation of the Fair Credit Reporting Act, which more typically governs the financial and consumer credit reporting industries, and opened it up to record-setting penalties.

"We certainly support the settlement, and we believe its provisions are the right things to do and in the spirit of the changes we've already been making over the last year," said James Lee, the chief marketing officer of ChoicePoint. "We also believe it's in the best interests of everyone to put this behind us."

The company has already drastically scaled back the roster of clients to whom the most highly confidential data are marketed and it has bolstered its scrutiny of prospective subscribers seeking access to personal consumer information. That includes sending ChoicePoint representatives to visit any new business subscriber wanting access above a certain level, Mr. Lee said, to verify that the "business" is not simply a fax machine at Kinko's.

"If it's going to involve any kind of sensitive personal information, you're going to get a site visit," Mr. Lee said.

Mr. Lee added that ChoicePoint has "a different view of the facts and the conclusions" arrived at by the Federal Trade Commission. "But at the end of the day that doesn't really matter," he said.

Asked where the company and the agency differed, he offered as an example the F.T.C.'s assertion in its announcement that at least 800 consumers had become victims of identity theft as a direct result of the ChoicePoint data breach. Mr. Lee said he was aware of only 16 confirmed cases.

Ms. Parnes of the commission said the $5 million for consumer compensation would be held in an account and distributed to people who can demonstrate real damages suffered as a result of the ChoicePoint breach.

She expected that more than 16 would qualify.

"Maybe the bigger point here is we'll all soon see," she said.

Senator Charles E. Schumer, a Democrat from New York, who, along with Senator Bill Nelson, a Democrat from Florida, introduced one of the most comprehensive data security bills last year, thought the settlement was not punitive enough.

"While ChoicePoint has made efforts to atone for its wrongdoing, a light penalty like this says to other wrongdoers that acts like this are just the cost of doing business," Mr. Schumer said, "and we can't tolerate that kind of attitude."

CIVIL RIGHTS:

SIU Fellowships May Be Changed (CHIT)

By Jodi S. Cohen, Tribune Higher Education Reporter. Tribune Staff Reporter Rudolph Bush Contributed To This Report

Chicago Tribune, January 27, 2006

Facing pressure from the U.S. Justice Department, Southern Illinois University officials are considering changes to three minority and female fellowships that the government has charged discriminate against white and male graduate students.

University administrators discussed the possible changes, proposed by the government last week, with student and faculty leaders at closed-door meetings Wednesday.

Though negotiations are continuing, a university Web site already says that the fellowships have been "extensively revised" and are open to a broader group of students. University officials said the Web site changes weren't authorized.

The board of trustees will likely decide whether to accept the government's proposals within the next few weeks, a move that would delay a threatened lawsuit.

"The board will soon be arriving at a decision based on these meetings and feedback as well as advice and direction from the general counsel," said David Gross, SIU's executive assistant for government, media and external affairs.

The possible changes would not affect students already in the programs but could make all students eligible for the fellowships, which have historically been offered only to racial minorities and women.

In a Nov. 4 letter to the university, the Justice Department threatened to sue the university if the programs weren't changed within a week. A lawsuit has not been filed, and the two sides instead have been negotiating a settlement.

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The government has charged that the three graduate student fellowships, which include stipends to work in academic departments, violate Title VII of the Civil Rights Act of 1964. The act bars employment discrimination based on race, religion, sex or national origin.

"The department is currently in settlement negotiations with the university, and we hope to resolve our differences without resorting to contested litigation," said Justice Department spokesman Eric Holland.

The lawsuit threat came more than two years after the U.S. Supreme Court ruled that universities can consider race in college admissions, but only among other factors. The court didn't specifically address whether race could be considered in scholarships and fellowships, many college officials around the country decided to remove restrictions on programs previously reserved for African-American, Latino and other minority students.

At SIU, the three contested fellowships are being challenged under federal employment law because they include money for graduate students to work in academic departments.

One of the programs, the Bridge to the Doctorate Fellowship, funded by the National Science Foundation, rotates among universities and will not be offered at SIU next year, Gross said.

The Proactive Recruitment of Minority Professionals for Tomorrow fellowship, or PROMPT, had been intended to "increase the number of minorities receiving advanced degrees" in areas of study they haven't historically pursued, according to a description of the program. The Graduate Dean's Fellowship has traditionally been for women and other underrepresented students.

Since 2000, 78 PROMPT fellowships and 27 Graduate Dean's fellowships have been awarded, Gross said. No white men have participated, according to the Justice Department.

But a university Web site about the fellowships, revised in recent days, said that they "are now open to individuals whose personal or family background, life, cultural, and/or ethnic experiences could contribute to a more reflective responsive environment."

The Web site also said the application deadline had been extended to Feb. 17 to "allow interested students to apply under the new guidelines."

"The Web site change was not authorized. We believe an administrator may have made an assumption," Gross said. "The language on the Web site does not reflect the proposal from the Justice Department."

Several people who attended Wednesday's meetings said they were told not to talk about the possible changes.

"It is disappointing to me that I am not allowed to talk about something that is so important," said professor Robert Benford, the Faculty Senate president. "It is ironic to invite heads of constituencies and tell them they can't talk about it with anybody."

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jscohen@tribune.com

SIU Shows Minority Fellowship Plan To Faculty (CHIST)

By DAVE NEWBART, Staff Reporter

Chicago Sun-Times, January 26, 2006

Officials at Southern Illinois University presented a proposed consent decree to faculty and student leaders Wednesday, seeking to ward off a proposed federal lawsuit that would charge the school with discriminating against whites and others.

Officials would not say just what was being proposed in the consent decree, which came after two months of negotiations with the U.S. Justice Department. The department had threatened to sue the school on grounds that three of its minority fellowship programs discriminated against whites, males and non-preferred minorities.

However, changes in the descriptions of those fellowships had been removed from the school's Web site Wednesday.

The changes omitted any reference to "minorities" in describing who could apply for the fellowships. The site noted that applications to two of the fellowships "have been extensively revised."

But Wednesday, the Web site reverted back to the original language describing the programs.

SIU spokesman David Gross said the school's lawyers recommended the site be changed back until negotiations had concluded.

The school's meetings Wednesday with faculty and student leaders were "positive and informative," Gross said.

"The general consensus is a negotiated settlement would be in the best interest of the university," Gross said.

A 'reasonable compromise'

Robert Benford, president of the faculty senate and a fellowship supporter, met with the administration Wednesday but said he could not discuss them because they were confidential. Earlier, Benford had said the new descriptions were a "reasonable compromise."

Professor Jonathan Bean, a critic of the programs, also liked the language that was temporarily online. "That is the type of language that I and others recommended two and a half years ago," he said.

Men Accused Of Putting Mercury On Interracial Couple's Porch (FINDLAW/AP)

AP, January 27, 2006

(AP) - CLEVELAND-Two men accused of putting poisonous mercury on an interracial couple's porch have been charged with a hate crime, according to a media report.

Joseph Kuzlik, 56, and David Fredericy, 49, were each charged with conspiracy to violate civil rights, making false statements and criminal interference with housing rights. Both men pleaded innocent Wednesday in U.S. District Court in Cleveland, The Plain Dealer newspaper reported.

"Allegations of hate crime strike at the heart of our community and cannot be tolerated," Greg White, the U.S. attorney in Cleveland, said, according to the report.

Lawyers for Kuzlik and Fredericy, who are white, declined comment, the paper said.

Kuzlik is accused of acting as a lookout in February while Fredericy put an undisclosed amount of mercury on and around the porch of the unidentified couple's home in Cleveland's Slavic Village neighborhood, where the men also live.

The men are accused of lying when they told Environmental Protection Agency employees who cleaned up the mercury that they did not know how the mercury got on their neighbors' porch.

Mercury can damage the nervous system if swallowed or inhaled in large doses.

Male Student Sees Gender Bias In School (WT)

By Cheryl Wetzstein

The Washington Times, January 27, 2006

Female high school students are treated more leniently and are less likely to be punished than their male peers, a 17-year-old Massachusetts senior says in a federal complaint about gender bias at his school.

"The system is designed to the disadvantage of males," Doug Anglin, a student at Milton High School in Milton, Mass., told the Boston Globe this week. "From the elementary level, they establish a philosophy that if you sit down, follow orders and listen to what they say, you'll do well and get good grades. Men naturally rebel against this."

Gerald Anglin, Doug's father and a Boston lawyer, helped write the complaint, which was filed last month with the Department of Education's Office for Civil Rights.

The complaint cites "statistical anomalies" in males' grades and standardized testing performance, as well as "a generalized perception" that male and female students are treated differently by the mostly white, female teaching staff, Gerald Anglin said yesterday.

"There's been a request that the Department of Education use its expertise to suggest some remedies ... to correct the situation," he said.

The complaint recommends "altering the work force," "injecting flexibility" into course selections, using "pass-fail" grading and correcting negative impressions of male students.

Milton school officials disputed claims that girls are treated more leniently than boys but said they would revisit the issue and reinstitute a mentoring program for lagging students.

A Department of Education spokesman said the agency received the complaint but had no further comment.

This month, The Washington Times examined the issue of male "academic underachievers."

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"Boys are suffering," Harvard Medical School psychologist and author William Pollack told The Times. "They are sitting in classrooms where they can't perform at the same level as girls and so cannot compete with girls," he said. "The bottom line is that they are suffering both academically and emotionally."

Studies show that boys receive most of the "D" and "F" grades, create 80 percent of classroom discipline problems, account for 80 percent of high school dropouts and make up less than 44 percent of the college population.

Suggested solutions include making classrooms smaller and more action-oriented, and teaching boys and girls separately.

About 200 public schools already offer single-sex classrooms and this week, officials at an Arkansas high school said they will start teaching ninth-grade core subjects in single-sex classrooms this fall.

If boys and girls are taught in separate rooms, a lot of the distractions are eliminated, Renee Parker, assistant principal of Hope High School, told a Little Rock television station.

Inside The Ring (WT)

By Bill Gertz And Rowan Scarborough

The Washington Times, January 27, 2006

Sniper punished

The Army has cleared a sniper in Iraq of violating operational security rules in helping to educate a judge advocate general (military lawyer) about the legality of open-tip bullets used by snipers to shoot insurgents who are killing American and allied troops.

However, the sniper, Sgt. Arthur J. Hushen, is continuing to face retaliation for blowing the whistle on an improper order for snipers to stop using the highly-effective M118LR ammunition in Iraq because it was thought to be an illegal hollow-point bullet. He was recently forced to move to a tent for "outcasts," said his wife, Sherry.

Sgt. Hushen recounted in a statement how he challenged the 4th Infantry Division lawyer, a woman identified only as "Maj. Card," after he obtained information from an Internet sniper forum showing that the bullets had been judged legal for use for years.

"Maj. Card stated that the hollow-point ammo was illegal," Sgt. Hushen wrote. "I informed her that there was a memo put out ... several years ago stating that hollow-tip had been deemed legal."

Maj. Card replied that she had never heard of the memo, but after documentation was presented to her, she reversed course.

"Maj. Card informed me that I was not a lawyer and she did not work for me," Sgt. Hushen said, noting that the lawyer then agreed that in her legal opinion the M118LR was legal and said she would send out an e-mail to the executive officers.

It was after the exchange that Sgt. Hushen was accused of violating security rules for identifying his 4th Infantry Division unit on the Internet. However, he was cleared of that accusation after his statement.

But he is continuing to be punished by senior enlisted and officers for raising the legal issues, we are told.

"I needed the ammo to accomplish my sniper missions," he said. "I didn't quit when I was told the ammo was illegal because I knew it was not."

Sgt. Hushen said he was punished by his platoon leader by being relieved from his sniper duties and removed as a team leader.

"I no longer have anyone to lead and train. I believe that this is the worst punishment that could have happened," he said.

Forced out

What to do with the pathfinding Office of Force Transformation within the office of Defense Secretary Donald H. Rumsfeld? Defense officials have several ideas. A few want to abolish it. Others propose taking away its stand-alone status and making it an arm of the undersecretary of defense for acquisition or for policy.

The reason: A culture of transformation has taken hold in the Pentagon since the office's birth in October 2001. And, a merged office would free up some of its 18 employees to work elsewhere. "We have a billet cap at the Pentagon," said a senior official. "We are always looking for more billets."

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The office has issued a number of futuristic reports on how the military can adjust to new threats. Retired Vice Adm. Arthur K. Cebrowski, the founding director of Force Transformation, died in November of cancer. The acting director is Terry J. Pudas.

Back in vogue

Army Gen. George Casey, the top U.S. commander in Iraq, stopped using the word "substantial" to describe future troop withdrawals. He had used it last year but quit this fall, he said, after he had doubts that Sunnis would join the new government in the right numbers.

Well, the word is back in vogue, principally because the Sunni Muslims won 51 assembly seats in the Dec. 15 elections. As a community, the Sunnis seem more willing to try democracy. Army Gen. John Abizaid, the top commander in the region, told radio host Laura Ingraham on Wednesday that "substantial" troop reduction could occur later this year if the military and political winds blow the right way.

Dirty language

The U.S. Navy-Marine Corps Court of Criminal Appeals has ordered a delay in the court-martial of a Naval Academy teacher who used salty language in front of a female midshipman.

The trial at the Washington Navy Yard had been scheduled to begin next week for Lt. Bryan D. Black. But his attorney, Charles Gittins, filed an appeal after the trial judge rejected his argument that the school's superintendent, Vice Adm. Rodney P. Rempt, should be removed as the officer overseeing the case.

Adm. Rempt, who is in the midst of a "no tolerance" campaign against sexual harassment at the Annapolis campus, ordered Lt. Black's court-martial, overruling an investigative officer who recommended counseling, not criminal charges.

Mr. Gittins says Adm. Rempt has too much of a stake in seeing Lt. Black punished. He says a new admiral should be named as the convening authority.

The appeals court will entertain written arguments from the defense and prosecution, and then likely hand down a ruling next month.

Lt. Black acknowledges making a crude remark about how a battleship sexually arouses him, during an oceanographic cruise in the Chesapeake Bay in August. He later apologized to the female student present. She did not file a complaint or request an investigation. But a female lieutenant commander onboard did her own investigation and reported the incident to the school's administration, which ordered a one-person investigation.

Democrats In 2 Southern States Push Bills On Bible Study (NYT)

By David D. Kirkpatrick

The New York Times, January 27, 2006

WASHINGTON, Jan. 26 — Democrats in Georgia and Alabama, borrowing an idea usually advanced by conservative Republicans, are promoting Bible classes in the public schools. Their Republican opponents are in turn denouncing them as "pharisees," a favorite term of liberals for politicians who exploit religion.

Democrats in both states have introduced bills authorizing school districts to teach courses modeled after a new textbook, "The Bible and Its Influence." It was produced by the nonpartisan, ecumenical Bible Literacy Project and provides an assessment of the Bible's impact on history, literature and art that is academic and detached, if largely laudatory.

The Democrats who introduced the bills said they hoped to compete with Republicans for conservative Christian voters. "Rather than sitting back on our heels and then being knocked in our face, we are going to respond in a thoughtful way," said Kasim Reed, a Georgia state senator from Atlanta and one of the sponsors of the bill. "We are not going to give away the South anymore because we are unwilling to talk about our faith."

In Georgia, the proposal marked a new course for the Democratic Party. The state's Democrats, including some sponsors of the bill, opposed a Republican proposal a few years ago to authorize the teaching of a different Bible course, which used a translation of the Scriptures as its text, calling it an inappropriate endorsement of religion. The sponsors say they are introducing their Bible measure now partly to pre-empt a potential Republican proposal seeking to display the Ten Commandments in schools.

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In Alabama, a deeply religious state where Democrats support prayer in the schools and a Democratic candidate for governor recently introduced her campaign with the hymn "Give Me That Old Time Religion," the Bible class bills reflect Democrats' efforts to distance themselves from the national party.

"We have always had to somewhat defend ourselves from the national Democratic Party's secular image, and this is part of that," said Ken Guin, a representative from Carbon Hill, leader of the Democratic majority in the State House and a sponsor of the measure.

Democrats in other states are moving in the same direction, jumping into a conversation about religion and values that some party leaders began after the 2004 election, when President Bush and the Republicans rode those themes to victory.

In Indiana, Democratic legislators are among the leaders of a bipartisan effort to preserve the recitation of specifically Christian prayers in the Statehouse. In Virginia, Gov. Timothy M. Kaine relied heavily on religious themes and advertised on evangelical radio stations to win election last fall; Democratic Party leaders have called his campaign a national model.

In an interview, Howard Dean, chairman of the Democratic National Committee, promised that Democrats would do a better job talking about values to religious voters. "We have done it in a secular way, and we don't have to," he said, adding, "I think teaching the Bible as literature is a good thing."

Christian conservatives, however, say they have been pushing public schools to offer courses on the Bible for decades, and Republicans in both Alabama and Georgia say some schools already offer such electives.

"Their proposal makes them modern-day pharisees," State Senator Eric Johnson of Georgia, the Republican leader from Savannah, said in a statement. "This is election-year pandering using voters' deepest beliefs as a tool."

Saying he found "a little irony" in the fact that the Democratic sponsors had voted against a Republican proposal for a Bible course six years ago, Mr. Johnson added, "It should also be noted that the so-called Bible bill doesn't use the Bible as the textbook, and would allow teachers with no belief at all in the Bible to teach the course."

Betty Peters, a Republican on the Alabama school board who opposed the initiative in that state, also dismissed the initiative as "pandering." Democrats, she argued, had adopted a new strategy: "Let's just wrap ourselves in Jesus."

For the last dozen years, most efforts to promote teaching the Bible in public schools have come from the National Council on Bible Curriculum in Public Schools, a conservative Christian group based in Greensboro, N.C., that advocates using the Bible as the primary textbook. The group says about 320 school districts in 37 states offer its curriculum.

But its curriculum often draws attacks from civil liberties groups. Democratic sponsors of the Bible class bills say their efforts would help shield local school districts from First Amendment lawsuits, in part by recommending a more neutral approach.

The textbook they endorse was the brainchild of Chuck Stetson, a New York investment manager and theologically conservative Episcopalian who says he was concerned about public ignorance of the Bible.

Mr. Stetson helped produce "The Bible and Its Influence" as the centerpiece of a course that seeks to teach about the Bible and its legacy without endorsing or offending any specific faith.

The textbook came to the attention of Democratic legislators in Alabama and Georgia through the advocacy of R. Randolph Brinson, a Republican and founder of the evangelical voter-registration group Redeem the Vote.

Mr. Brinson, who said he was working with legislators in other states as well, described his pitch to Democrats as, "Introducing this bill will show the evangelical world that they are not hostile to faith."

Some liberals are unhappy, however. Barry W. Lynn, executive director of Americans United for Separation of Church and State, argued that "The Bible and Its Influence" was "problematic" because it omitted "the bad and the ugly uses of the Bible," like the invocation of Scripture to justify racial segregation.

Conservative Christian groups have been skeptical, too. "This appears to be a calculated effort by the Democrats to try to out-conservative the conservatives," said Stephen M. Crampton, a lawyer for the American Family Association, a conservative Christian group that supports the National Council on Bible Curriculum in Public Schools.

"To mention any curriculum by name is suggestive of some back-room deal cut with the publishers," Mr. Crampton said.

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For his part, Mr. Stetson, founder of the group that produced the textbook, said a political fight was not what he wanted. "We are the first English-speaking generation to have lost the biblical story," he said, lamenting that studying the Bible had become "a political football."

ANTITRUST:

AMC Closes Acquisition Of Loews Cineplex (AP)

By David Twiddy, AP Business Writer

AP, January 27, 2006

KANSAS CITY, Mo. (AP) -- AMC Entertainment Inc. on Thursday said it had completed its purchase of Loews Cineplex Entertainment Corp., strengthening its position as the nation's second-largest theater operator.

The Kansas City-based company now will operate 415 theaters with 5,672 screens in 29 states and the District of Columbia and 11 foreign countries. Annual revenues for the privately held company are expected to be around $2.4 billion.

Financial terms for the deal were not released.

"What I'm most excited about is the potential to continue the innovation and lead our industry the way both of these companies have been doing," said Peter Brown, AMC's chairman and chief executive officer, who will remain head of the company. "I think the innovation potential and the growth potential are enormous."

Travis Reid, Loews' president and CEO, will serve as a board member for AMC's parent company, Marquee Holdings Inc.

In an interview, Brown said he didn't foresee the company changing the overall number of theaters, although he said it will continue to replace older theaters with newer, stadium-style ones. He also didn't predict any changes to its worldwide work force of 24,000.

AMC and Loews agreed last year to sell 10 theaters with 120 screens to resolve consolidation concerns by the Justice Department and attorneys general in California, Illinois, Massachusetts, New York, Washington state and the District of Columbia. The theaters are in Chicago, New York City, Boston, San Francisco, Seattle, Dallas and Washington, D.C.

Before the acquisition, AMC operated 226 theaters with 3,522 screens, while Loews, based in New York City, operated 198 theaters with 2,235 screens.

Combined, they still remain behind Knoxville, Tenn.-based Regal Entertainment Group, which controls 6,605 screens at 579 theaters in 40 states.

Bear Stearns analyst Glen Reid said he doubted the combination will have much of an impact on the industry, as most consumers go to the theaters closest to them and aren't loyal to a brand.

"It gives those two companies the opportunity for overhead synergies," Reid said. "It remains to be seen whether greater concentration of theaters leads to more bargaining power with the studios, such as better rental terms for films."

The combination follows a year in which U.S. ticket sales were at the lowest level since 1997, a problem the industry blamed on bad films as well as stiff competition for consumers' entertainment dollars.

It also comes a day before the debut of "Bubble," a film by award-winning director Steven Soderbergh, that has many in Hollywood predicting it could change the marketing and distribution of movies. "Bubble" is being released on the same day both in a limited number of theaters and on pay-per-view television. The DVD is being released Tuesday.

AMC is among the major theater circuits not carrying the film, and Brown said moviegoers should be concerned if other movies follow suit.

"I think at the end of the day what would happen with that economic model is that the quality would be lowered when we're living with each picture being a direct-to-video picture," he said. "We just don't think that's a good thing to happen at all."

Media companies, however, have defended the so-called "day and date" release strategy as a way to serve consumers becoming more accustomed to getting content immediately, as shown by the popularity of iTunes and cell phone companies selling snippets of television shows for portable devices.

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AMC and Loews discussed merger plans in the past, calling off discussions in January 2004, just before a group of private investors purchased the publicly traded AMC for about $2 billion. Bain Capital, Carlyle Group and Spectrum Equity Investors also acquired Loews Cineplex from Onex Corp. and Oaktree Capital Management for $1.5 billion in 2004.

EU: Microsoft May Still Face Fine Threat (AP)

By Paul Ames, Associated Press Writer

AP, January 27, 2006

BRUSSELS, Belgium (AP) -- Microsoft Corp.'s new offer to let competitors examine some of the blueprints to its Windows operating system may not end the threat of daily $2.36 million fines in the European Union's antitrust case, an EU spokesman said Thursday.

"It would be premature to conclude that offering access to source codes would necessarily resolve the problem of compliance," said EU antitrust spokesman Jonathan Todd.

Todd said EU antitrust officials await details from Microsoft before making a decision.

"So far all we have received is the press release," he said.

Responding to a 2004 EU antitrust ruling, Microsoft in December offered rivals thousands of pages of documentation and free technical support to help competitors make their software compatible with Windows-based servers, which power Web sites and other Internet services.

But an independent monitor called the documents "totally unfit." The European Commission then threatened to fine Microsoft up to $2.36 million a day, retroactive to Dec. 15, saying the software giant was proving intransigent about sharing data with competitors.

Microsoft, which has until Feb. 15 to make a formal response, insisted Wednesday it was in compliance but said it was licensing the Windows source code as well to remove any lingering doubts. The company likened the move to now offering the cake rather than simply the recipe for it.

Microsoft said Thursday it was pleased that the EU Commission will consider the new offer.

"We have made every change the Commission has asked us to make to the technical documentation, and we are prepared to do more if they request it," Horacio Gutierrez, associate general counsel, Microsoft Europe, said in a statement. "Yesterday's announcement underscores Microsoft's commitment to meeting the Commission's demands."

Nonetheless, Todd said the source code alone may not do the trick.

"It's the quality and not the quantity that counts," Todd said in a phone interview. "You can give half-a-million pages, but if it's not the right information for competitors to be able to make compatible work group server products then it doesn't resolve the compliance issue."

In March 2004, the EU levied a record $613 million fine against Microsoft. It also ordered the company to share code with rivals and offer a version of Windows without the Media Player software for what the court saw as an abuse of the company's dominant position in the industry.

Microsoft is appealing the ruling and the case will be heard in late April by the European Court of First Instance, the EU's second-highest court.

Microsoft already has launched a number of efforts to give governments and certain private groups access to some source code. Wednesday's announcement extends this for the first time to more than 20 companies who currently license Microsoft software protocols under an EU program.

Microsoft will now share what it says is a "pretty significant" chunk of its Windows workgroup server operating system and desktop software code governing communications between servers. Smith said there were no plans to publish every line of the entire Windows source code.

ENVIRONMENT/INDIAN AFFAIRS:

Three Deny Charges Of Plotting Against Forest Service Lab (AP)

DOJ_NMG_0012421

By Don Thompson, ASSOCIATED PRESS

AP, January 27, 2006

SACRAMENTO – Three environmental activists pleaded not guilty Thursday to conspiring to attack government targets on behalf of an extremist group, and bail was set for one of the suspects.

Eric McDavid, 28, of Foresthill, Calif., Zachary Jensen, 20, of Monroe, Wash., and Lauren Weiner, 20, of Philadelphia, were indicted Wednesday by a federal grand jury. They face five to 20 years in federal prison if they are convicted of conspiring to use fire or explosives to damage property.

Prosecutors say they scouted targets and were buying materials to build homemade plastic explosives when they were arrested Jan. 13 outside a Kmart in Auburn, east of Sacramento.

On behalf of the shadowy Earth Liberation Front they allegedly planned to attack the Nimbus Dam and nearby fish hatchery on the American River near Sacramento, and the U.S. Forest Service's Institute of Forest Genetics in Placerville, in the foothills east of Sacramento.

All three denied the allegations at their arraignment Thursday. A status hearing was scheduled for Feb. 14 before U.S. District Judge Morrison C. England.

Prosecutors said all three should be held as flight risks and dangers to the community. U.S. Magistrate Judge Gregory Hollows ordered McDavid and Jensen held in Sacramento County Jail without bond.

But he ruled that Weiner can be released on $1.2 million bail, secured mostly by property her parents own in New York state.

Hollows noted that the government has audio and video surveillance, notes, an anarchists' cookbook seized from the suspects, and the account of a paid FBI informant who lived with the group in a cabin rented and wired by the FBI.

"While this group of defendants may not have possessed a polished expertise in explosives and their use in blowing up targets, there is no doubt from the evidence presented thus far that defendants were deadly serious in their intent to wreak destruction on some type of target which they believed would make a statement in favor of their anti-government, anti-corporate, allegedly pro-environment cause," Hollows wrote in his 12-page order.

But Hollows found little evidence supporting prosecutors' contention that the three were affiliated with either ELF or the similarly shadowy Animal Liberation Front, though he said they may have shared the same goals.

U.S. Attorney McGregor Scott on Wednesday said there is no known connection between the trio and 11 alleged ecoterrorists indicted in Oregon last week. The FBI says groups like ALF and ELF have claimed 1,200 criminal acts causing more than $100 million in damage in the last 15 years.

The three were visited in jail by members of a "support group" perhaps loosely affiliated with ELF, Hollows wrote, though he said there is no evidence the group would help the three flee if they were released.

Weiner was attending college in Philadelphia and had a clean record and close ties to her parents before she set off cross-country to join the other suspects in California after the Christmas holiday, Hollows said. He ruled she could live with her mother in Pound Ridge, N.Y., but restricted her movements and ordered her to attend school or perform community service while she awaits trial.

Eco-terrorist Suspects Plead Not Guilty (SACBEE)

By Denny Walsh, Bee Staff Writer

The Sacramento Bee, January 27, 2006

Three people alleged to be part of an eco-terrorism movement pleaded not guilty Thursday in Sacramento federal court to a charge of conspiring to damage and destroy property by fire and an explosive.

Eric Taylor McDavid, 28; Zachary O. Jenson, 20; and Lauren Weiner, 20, are accused in a one-count grand jury indictment of plotting to blow up a U. S. Forest Service genetics lab in Placerville, the Nimbus Dam and nearby fish hatchery in Rancho Cordova, and cellular telephone towers and electric power stations in unspecified locations.

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While it is not in the indictment, other court papers filed by the government say the trio planned to publicly proclaim after the arson campaign that it was carried out in the name of the Earth Liberation Front, a movement advocating violent criminal acts against what its followers believe are symbols of the destruction and exploitation of the environment.

Also Thursday, U. S. Magistrate Judge Gregory G. Hollows ordered McDavid and Jenson held without bail. On the other hand, Hollows indicated a willingness to release Weiner on $1.2 million bail pending a decision by prosecutors on whether to appeal Weiner's release to U. S. District Judge Morrison C. England Jr.

BP Faces Charges In Texas Refinery Blast - Sources (REU)

By Chris Baltimore

Reuters, January 27, 2006

WASHINGTON (Reuters) - The U.S. government is pursuing charges against BP <BP.L> related to an explosion last year that killed 15 workers at its giant Texas refinery, sources familiar with the matter said on Thursday.

The case could result in civil or criminal charges against BP, and the company could face millions of dollars in fines, one source said.

The Environmental Protection Agency and Justice Department are pressing an enforcement case against BP related to the March 23 blast at the Texas City, Texas refinery, said the sources, who spoke on condition of anonymity.

The blast at the 460,000 barrel per day facility also injured 170 people and rattled buildings as far as five miles away.

An EPA spokeswoman referred queries to the Justice Department, where a spokeswoman declined to comment.

Ronnie Chappell, spokesman for London-based BP, declined to comment on any possible investigations.

"From the very beginning we have promised government agencies charged with investigating the tragedy at Texas City our full cooperation," Chappell said. "We are meeting that commitment and we will continue to deliver on it."

BP has said it will spend $1 billion (562 million pounds) over the next five years to improve and maintain the Texas City refinery, and it set aside $700 million to settle lawsuits related to the explosion.

An internal report released by BP late last year found that no one intentionally put workers at risk, but that some policies and procedures were not followed.

According to a BP report, the explosion was caused when a hydrocarbon vapour cloud released by an octane-enhancing unit being restarted at the refinery was ignited, possibly by an idling pick-up truck.

Last year the U.S. Department of Labour said it had asked the Justice Department to consider bringing criminal charges against BP.

A spokesman for the Labour Department, Alan Belsky, said the department did not know if the Justice Department was pursuing its request.

The Labour Department referral was the result of a U.S. Occupational Health and Safety Administration investigation into the explosion, which found more than 300 wilful violations of health and safety standards at the refinery.

Wilful violations are defined as those committed with an intentional disregard or indifference to OSHA regulations.

BP last year agreed to pay a fine of $21.3 million to OSHA.

West Virginia Governor Signs Mine Safety Bill (NYT/AP)

By The Associated Press

The New York Times, January 27, 2006

Filed at 5:31 p.m. ET

CHARLESTON, W.Va. (AP) -- Gov. Joe Manchin signed new mine safety rules into law Thursday, saying the requirements for better communications, underground oxygen supplies and faster emergency responses would help prevent tragedies like the two that killed 14 miners this month.

"We want to be the benchmark everyone looks to when they mine," Manchin said during the signing ceremony, attended by some of the miners' relatives. "The sacrifice you all have made will change mining in this country."

State lawmakers passed the legislation unanimously just days after a Jan. 19 mine fire killed two men, and about three weeks after an explosion at the Sago Mine across the state resulted in the deaths of 12 miners.

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The only survivor among the trapped Sago miners, Randal McCloy Jr., 26, emerged from a light coma Wednesday but still cannot speak.

The state's new mine safety law mandates that miners be provided with emergency communicators and tracking devices. It also requires mine operators to store extra air supplies underground, and sets up a new Mine and Industrial Accident Rapid Response System and statewide all-hours hot line to trigger rescue efforts more quickly.

"It eases our hearts and our pain knowing that maybe this will help save other miners some day," said Delorice Bragg, whose husband died in the mine fire last week.

Federal and state investigators were expected to finally get into the Sago Mine late Thursday to start determining what sparked the explosion that led to the 12 deaths, most of them from carbon monoxide poisoning.

The investigation had been held up, first by the dangerous gases and then over a dispute between the United Mine Workers and the mine's owner involving the union's demand to accompany investigators. The company challenged the union's right to enter the non-union mine after the UMW would not disclose the names of the two miners it is representing. A federal judge ruled Thursday that the UMW could participate.

The Sago disaster and Manchin's calls for reform have spurred several coal mining states to re-examine their mine safety laws.

Kentucky legislators started drafting similar legislation to strengthen coal mine safety laws and expect to file them in the House and Senate by early next week.

In Tennessee, Gov. Phil Bredesen called for a review of state mining laws to see if changes are needed in that state's nine underground coal mines, saying: "Let's learn from these things, and not wait until they happen to us."

A bill pending in the Virginia General Assembly would require underground mines to have wireless communications available so miners could call for help in an emergency.

The new West Virginia law also addresses communications, requiring companies to install wireless systems to connect miners to the surface through a series of transponders and requiring tracking devices for miners. Most U.S. mines still rely on hard-wired communication systems. At Sago, rescuers were unable to communicate with the trapped miners because the system was damaged.

Industry officials have raised questions about the reliability of the technology, but they have said they will support the changes.

In addition to better communication, the new law requires extra air supplies are inside mines, and says miners would be directed to them by strobe lights, reflective signs and guide ropes. Some companies already provide extra air supplies, but in most cases, miners only carry canisters that provide up to an hour's worth of oxygen.

The law also threatens coal companies that fail to report an emergency within 15 minutes with $100,000 fines. At Sago, company officials placed the first calls to state and federal safety officials more than an hour after the explosion.

State mine officials must now write the rules necessary to carry out the new law. A deadline for coal companies to comply with its provisions has not yet been announced.

West Virginia's congressional delegation is also pushing for tougher federal mine safety regulations and demanding more aggressive enforcement.

New Rules Govern Use Of Data From Testing Pesticides On People (WP)

By Juliet Eilperin

The Washington Post, January 27, 2006

The Bush administration issued yesterday the first-ever federal rules governing the use of information collected in tests that expose human subjects to toxic pesticides.

The new regulations -- which drew praise from pesticide manufacturers and criticism from environmentalists and congressional Democrats -- would prohibit the intentional dosing of pregnant women and children with such poisons, and would establish an independent board to screen proposed studies.

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"This rule provides far-reaching protections for all Americans and bans pesticide testing on pregnant women and children," said Susan B. Hazen, acting assistant administrator of the Environmental Protection Agency's Office of Prevention, Pesticides and Toxic Substances.

Officials have been struggling for close to a decade with how best to deal with data from tests that deliberately expose people to toxic chemicals.

Until President Bill Clinton imposed a moratorium in 1998, federal officials allowed manufacturers to conduct pesticide experiments on human beings on the grounds that such tests provided a clearer picture than animal experiments could of how pesticides might affect the environment and public health.

President Bush initially backed the moratorium, but his administration abandoned it in 2003 after a court ruling in favor of pesticide makers. The firms had argued that the government had not fully involved the public before banning the use of the information.

Erik D. Olson, a senior attorney at the advocacy group Natural Resources Defense Council, said the new rules may lead to more pesticide testing on people because they will allow manufacturers to conduct "observational tests" that monitor individuals' everyday exposure to toxic chemicals.

"We're going to have weaker public health protections, more pesticides on people's foods, and a huge increase in the number of unethical and unscientific studies using human beings as guinea pigs," Olson said.

But Jay Vroom, who represents major pesticide manufacturers as president of CropLife America, said the administration has ensured that "these studies, while limited in number, can be conducted safely at the highest ethical standards."

Nearly 50,000 Americans commented on the proposal over the past three months, most as part of an organized campaign opposing it.

In A Nimby World, Alaskans Woo Project To Their Backyard (WSJ)

By Russell Gold

The Wall Street Journal, January 27, 2006

ANCHORAGE, Alaska -- Jeff Lowenfels has dispensed weekly advice about gardening in Alaska on the radio and in a newspaper column he has written for 30 years. When asked what he can grow in the frigid soil, he always answers: "Iceberg lettuce, snow peas and snowball cauliflower."

For much of this time, he has also worked to put something else in the state's soil: a natural-gas pipeline.

The 56-year-old former energy lawyer is a behind-the-scenes guru to an increasingly committed crop of activists and politicians who are ticked off by the endless delays in Big Oil's plans for a multibillion-dollar pipeline. In recent weeks, Mr. Lowenfels's disciples have launched a ballot initiative, an antitrust lawsuit and television commercials -- all designed to push the oil companies and Gov. Frank Murkowski to speed up development of the North Slope's gigantic natural-gas reserves.

In many parts of the U.S., community leaders and local politicians are fighting to halt energy projects or at least put them in someone else's neighborhood. What's occurring in Alaska is the polar opposite. The majority of Alaskans are great enthusiasts of energy development.

The federal government estimates there may be 100 trillion cubic feet of gas in the North Slope, where Alaska meets the Beaufort Sea nearly 300 miles north of the Arctic Circle. That is enough to keep the U.S. in natural gas for nearly five years. But no gas is leaving the North Slope, even though natural gas prices in the last year have been higher than ever. Exxon Mobil Corp., BP PLC and ConocoPhillips, which have leased drilling rights in Alaska for decades, haven't been in a hurry to get that gas to market. They're currently negotiating to build a pipeline through Canada to the American Midwest but construction on that massive project isn't likely to start for years.

Meanwhile, Alaskans are running out of natural gas. Home-heating bills are rising and gas-intensive industry is shutting down. Instead of the longer pipeline being pondered by the giant oil companies, Mr. Lowenfels and others are pushing for the immediate construction of an 800-mile natural-gas pipeline to the Alaskan port of Valdez. A small portion of the gas would stay in Alaska and the rest would be liquefied and exported to either Asia or the West Coast.

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Faced with a vigorous campaign to jump-start the pipeline, the oil companies are in the unusual position of counseling patience. Moving too quickly on their preferred $25 billion pipeline through Canada, one of the largest construction projects in the history of North America, would be disastrous, they say. Steve Marshall, president of BP's Alaska operations, says he is worried that if they act too quickly, the project will be poorly conceived, be prone to cost overruns and not deliver much economic benefit.

The pipeline spat has national implications. Prudhoe Bay and other nearby North Slope fields are collectively the largest deposit of oil and natural gas ever discovered in the U.S. Since 1977, crude oil from the field has flowed through an 800-mile pipeline to Valdez, where it is loaded onto tankers and delivered to West Coast refineries.

Prudhoe Bay's gas has a different fate. Since it can't be sent through the oil pipeline, the gas extracted along with oil is muscled back underground. In the middle of the Arctic tundra, about 8.4 billion cubic feet of natural gas a day passes through an eight-story building where jet engines jam it back into the reservoir through 32 wells. BP, the facility operator, says putting the gas back has yielded dividends: The reinjected gas has helped maintain reservoir pressure and allowed an additional three billion barrels of crude to be pulled from the field.

Mr. Lowenfels got bit by the gas bug soon after moving to Anchorage from Boston in 1975. He took a job as an assistant attorney general representing several state agencies involved in energy development. In 1981, he started working for the Yukon Pacific Corp. -- a company set up to build a gas pipeline to Valdez that has come to be such a big part of his professional life.

Over several years, with the backing of its parent company, CSX Corp., Yukon Pacific acquired most of the required permits for the pipeline. But Mr. Lowenfels says the energy companies refused to enter into a long-term contract to supply gas. That prompted Mr. Lowenfels to study why the companies wouldn't sell. His conclusion: They were delaying the Alaska pipeline to avoid competing with their own projects in Indonesia, Australia and the Middle East that were developing gas to send to the U.S. Unlike Alaska, where it can sit on the gas, Big Oil often has to extract gas expeditiously overseas or it loses its extraction rights.

The companies vigorously deny that they are warehousing the gas to keep overseas projects profitable. They say the pipeline into Canada is the only economically viable option for getting the gas out of Alaska and point out they have spent $ 125 million studying the route.

Mr. Lowenfels began holding "guerrilla sessions" beginning in the early 1990s in his downtown Anchorage office to spread the message that the oil companies were dragging their feet. Around a conference table piled high with permits and other documents, Mr. Lowenfels pitched Yukon Pacific's vision for a pipeline to Valdez. Eventually, the guest would ask some variant of the question: If it's such a good idea, why aren't the oil companies pursuing it? In a dramatic flourish, repeated hundreds of times, Mr. Lowenfels would pull back a curtain to reveal a map of the world with corporate logos marking where Exxon and BP have competing gas projects.

"We are sick and tired of having the oil companies control our destiny," he says.

Many of the Alaskans pressuring the state government and oil companies to build a gas pipeline through Alaska are graduates of these sessions. The two-hour session "changed my life," says William M. Walker, a former mayor of Valdez. Mr. Walker helped create the Alaska Gasline Port Authority. Last month, the authority filed an antitrust lawsuit in federal court in Fairbanks against Exxon and BP for conspiring to withhold gas from U.S. markets and effectively warehousing Alaska's vast gas reserves. The oil companies call the suit without merit, saying they plan to contest it vigorously.

Lori Backes, a former Republican political aide, also says her outlook changed after attending one of Mr. Lowenfels's sessions. "When you see you are in competition with the very people who are supposed to be on your side...you begin to look at things very differently," she says. Now Ms. Backes heads an advocacy group of labor and environmental groups favoring an "all-Alaska" pipeline. Her group is running TV ads mocking Big Oil's proposed pipeline as something good for beer-swilling Canadians, but not for Alaskans.

Eric Croft, another Lowenfels convert, is leading a ballot initiative, widely expected to pass in November , to tax the oil companies $1 billion a year until they develop the gas deposits.

Meanwhile, the oil companies say they are proceeding with plans for the Canadian route. ConocoPhillips reached an agreement on financial terms with the state of Alaska on such a pipeline in October, but BP and Exxon are still negotiating. A state spokesman said he is hopeful talks will be concluded in the spring, but several key issues remain unresolved.

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Even if a contract is signed, lawsuits and fighting over the financial terms of the deal as well as the Canadian portion of the pipeline could continue for years, keeping Mr. Lowenfels and his seminar graduates busy. Until then, Mr. Lowenfels, a convert to organic gardening, plans to spend some time tending to his two-story greenhouse at his home overlooking the Cook Inlet near Anchorage. He is planting artichokes this week.

Write to Russell Gold at russell.gold@wsj.com1

E-Waste@Large (NYT)

By Elizabeth Royte

The New York Times, January 27, 2006

LAST week, Maine became the first state to require manufacturers of computer monitors and televisions to pay for their recycling and disposal. Washington, with a pending bill, may be next. That's progress, right?

Computer recycling sounds like an unmitigated good: it keeps hazardous components out of incinerators and landfills, which researchers at Carnegie Mellon University estimate already hold more than 60 million computers. And by reusing glass, plastic, aluminum and heavy metals (like lead, copper and mercury), recycling averts the energy use and pollution linked with mining and drilling for new materials.

But because recycling in the United States is expensive, hazardous and encumbered with environmental and safety regulations, many companies that collect e-waste simply ship it to underdeveloped nations. According to the Silicon Valley Toxics Coalition and the Basel Action Network, up to 80 percent of the material dropped off by well-meaning Americans at community recycling events ends up bundled for export.

Most of the stuff that goes overseas can't or won't be fixed and sold. Computer dealers in Lagos, Nigeria, for example, complain that up to 75 percent of the 400,000 units they receive each month from recyclers are junk. A 2002 documentary showed Chinese workers, including children, using hammers and chisels to pry copper and aluminum from computers, burning PVC-coated wires to get at copper and swirling acids in buckets to extract gold.

After stripping what they can, workers dump the computer carcasses and waste sludge in nearby fields or streams. Soil and water tests in the e-waste processing town of Guiyu, China, for instance, revealed levels of chromium, tin and barium hundreds of times higher than allowable in the United States.

It's easy to find American companies that call themselves computer recyclers, but it's hard to trace what they actually do. The government doesn't regulate these businesses, and the Environmental Protection Agency has no certification process for recyclers. There are dozens of e-waste bills being considered across the country, including one in New York City. Five states and 15 counties ban computer and television monitors from landfills. California, Maine, Maryland and Massachusetts have e-waste recycling programs in place, all financed by different mechanisms.

Even the electronics industry doesn't like this patchwork approach, but so far, no one has come up with anything better. Four e-waste bills are floating around the House and Senate: the biggest difference between them is whether consumers or manufacturers would pay for the programs. A strong argument holds that when producers must manage their own discards, they have a strong incentive to design equipment that's nontoxic and easy to recycle.

The sooner Congress gets it together, the better. Electronic waste is now considered the fastest-growing segment of the municipal waste stream in the United States. The National Safety Council estimated in 2004 that by 2009, 250 million computers will have become obsolete. As awareness of the hazards of e-waste rises, more states will ban it from landfills. But keeping toxic trash from our dumps won't mean a thing if we don't forbid the export of hazardous material to countries without enforceable environmental regulations.

To halt this environmental injustice, in which we're all complicit, the federal government needs to restrict the use of hazardous materials in computers, require manufacturers to put in place recycling programs (it will be a lot cheaper and safer to recycle this stuff once the toxics are out) and ban hazardous waste exports. That may sound like a tall order, but that's no reason not to proceed: the European Union has already passed every one of these laws.

FBI/DEA/ATF/USMS:

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Two Tons Of Pot Found In Border Tunnel (NYT/AP)

By The Associated Press

The New York Times, January 27, 2006

SAN DIEGO (AP) -- Authorities said they discovered more than two tons of marijuana in a cross-border tunnel that began near the Tijuana airport and ended inside a warehouse on the U.S. side.

The 2,400-foot long passageway is longer than most of the 21 cross-border tunnels that have been discovered since authorities began keeping track after the Sept. 11 attacks, U.S. Immigration and Customs Enforcement officials said.

"It was like being in a cavern or a cave," said Michael Unzueta, customs special agent in charge in San Diego.

John Fernandes, special agent in charge of the Drug Enforcement Administration's San Diego office, said he suspected the tunnel was the work of Tijuana's Arellano-Felix drug smuggling syndicate or another well-known drug cartel. He said tougher enforcement aboveground had forced smugglers to dig below.

The tunnel's discovery prompted the U.S. Attorney's office in San Diego to open a criminal investigation, said Lauren Mack, a spokeswoman for U.S. Immigration and Customs Enforcement.

The tunnel exited into a large, two-story white cinderblock warehouse in an industrial San Diego neighborhood near the border.

A green sign over the door said V&F Distributors LLC. County records listed the building's owner as Helen Park of Long Beach. The phone rang unanswered Thursday at her home.

Mexican authorities found the entrance about 100 yards south of the border on Tuesday, and officers on the U.S. side found the exit Wednesday. Mexican officials allowed reporters and photographers, including an Associated Press photographer, into the tunnel late Wednesday.

The tunnel was about five feet wide and high enough for an adult to stand inside, had a cement floor, and lights mounted on one of the hard soil walls. It was equipped with a pulley system on the Mexican side.

Four tunnels have been discovered this month in the Tijuana-San Diego area, including more primitive tunnel that was also found Wednesday when a U.S. Border Patrol vehicle struck a sinkhole.

Agents Studying Massive US - Mexico Tunnel (NYT/REU)

By Reuters

The New York Times, January 26, 2006

LOS ANGELES (Reuters) - Federal authorities were trying to determine on Thursday what was smuggled through a sophisticated tunnel into the United States from Mexico they call one of the longest ever found.

``Whether the tunnel was used for smuggling aliens, smuggling narcotics or a worst case scenario, some sort of weapon, we don't know," Michael Unzueta, special agent in charge of Immigration and Customs Enforcement (ICE) in San Diego, said at a news conference.

Federal authorities, who uncovered the 2,400-foot (731 meter) tunnel on Wednesday, brought in a forensic team to look for fingerprints and DNA, and to sample the air and walls, so they can determine how long the tunnel has been in use and what it was used for, Unzueta said.

The tunnel has cement walls and supporting planks, is no less than five feet (1.2 meter) tall and wide, and runs as far as 60 feet underground, Unzueta said. It has lighting and ventilation, and a pumping system to drain groundwater.

The U.S. entrance has a cement ramp with a washboard pattern for better footing. ``We believe this tunnel is, in fact, the largest tunnel ever found on the Southwest border," he said.

The passageway links a warehouse in Otay Mesa, California, with a warehouse near Tijuana international airport in Mexico, officials said.

The U.S. Drug Enforcement Administration (DEA) found 200 pounds (90 kg) of marijuana on the U.S. side, while Mexican authorities said they discovered 2 tons of the drug on that side of the border.

Because of the sophistication of the tunnel, the DEA is investigating major drug cartels.

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``We know it's been used for drug traffic but this really illustrates the dangers and risks of security to Americans," said John Fernandez, special agent at the DEA in San Diego.

The tunnel was the forth underground passage found between Tijuana and the San Diego region in two weeks, but far surpasses the other three, and most of the tunnels ever found, in size, Unzueta said. Most tunnels are little more than crawl spaces.

Two Tons Of Pot Found Inside Mexico-U.S. Border Tunnel (SDUT)

By Onell R. Soto And Leslie Berestein

The San Diego Union-Tribune, January 26, 2006

Investigators discovered a sophisticated cross-border tunnel yesterday extending about a half-mile and found about 2 tons of marijuana on the Mexican end.

The tunnel begins about 85 feet below a small warehouse about 175 yards south of the U.S. border. The other end is in an apparently vacant industrial building in Otay Mesa.

Late last night, authorities were still pulling marijuana out of the tunnel, which is outfitted with electricity and a ventilation system. The building is in an industrial neighborhood near Tijuana's airport.

The concrete-lined shaft is 6 feet by 12 feet with a metal ladder that leads to the packed-earth tunnel, which is tall enough for a person to stand in.

A gurney hanging from a pulley system attached to one of the building's beams allowed items to be moved into and out of the tunnel. Two trucks and a van were parked inside the warehouse.

Authorities said the elaborate tunnel bore the hallmarks of Mexican drug cartels, which have spent millions of dollars in the last 15 years to find a way to move contraband across the border.

When Mexican officials allowed the media into the small warehouse shortly before 9 p.m., reporters saw about 300 bundles of marijuana stacked more than 5 feet high.

In the United States, the warehouse where the tunnel ended – north of Siempre Viva Road – was surrounded by law enforcement agents last night.

Authorities did not estimate how long the tunnel might have been in use or provide information about who might own the properties where the tunnel's entrance and exit were found.

In Tijuana, after spending most of yesterday waiting for a search warrant from Mexico City, dozens of Mexican police and federal agents swarmed around the metal building and surrounding truck yard late in the afternoon.

While Mexican agents awaited approval for a thorough search of the shaft, their U.S. counterparts resumed digging with heavy equipment in an area between two border fences.

That digging stopped about 4:15 p.m. when word came back that Mexican agents had found the tunnel at the bottom of the shaft.

"We have a tunnel and it's massive," said Lauren Mack, a spokeswoman with U.S. Immigration and Customs Enforcement, which was investigating the tunnel with agents from the Border Patrol and the Drug Enforcement Administration.

The U.S. Attorney's Office in San Diego and Mexican federal, state and local officials are also part of the investigation.

Based on tips, U.S. officials began investigating the possibility of a tunnel in the area in 2004.

The investigation included searches using high-tech equipment capable of providing rough images of objects underground.

Monday evening, U.S. agents notified their Mexican counterparts of the possibility of a tunnel.

California National Guard troops who work with the Border Patrol began digging Tuesday morning with a bulldozer and a backhoe.

In Tijuana, Mexican military trucks rolled in and out of the yard yesterday.

At a billboard-making business next door, worker José Javier Ramirez Velasquez, 24, said the large shed "appeared abandoned."

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Since moving from Guadalajara two months ago, he has been staying on a trailer nearby and said he had heard no noise or any digging.

"It caught me by surprise learning there was a narcotunnel here," he said. Meanwhile, several miles away yesterday morning, a U.S. Border Patrol agent found another tunnel a short distance west of the San Ysidro border crossing.

This tunnel, far from sophisticated, is the kind that agents call a "gopher hole." It was dug in an area just south of the fence in Mexico and extended about 30 feet in the United States, officials from Immigration and Customs Enforcement and the Border Patrol said.

The tunnel, just 2 feet underground and about 2 feet square, was discovered after an agent investigating some people standing near the fence north of the border found an area where it had caved in, Border Patrol spokesman Richard Kite said.

"It was not a complete tunnel and was of no use to any criminal enterprise," he said. "There were several people who were coming north of the fence. One of them was able to make it back across to Mexico."

That tunnel was about 50 yards west of where a similar tunnel was found Jan. 9.

A fourth tunnel under construction, with electric lights but with its entrance covered by a board, was discovered near the Otay Mesa border crossing Friday.

This month's discoveries bring to 21 the number of tunnels found in Arizona and California since Sept. 11, 2001, when inspections at the border crossings were beefed up. Between 1990 and 2001, 15 tunnels were found.

The increased number of tunnels is a good sign, said John Fernandes, the special agent in charge of the DEA's San Diego office.

"It is an indication, as far as I'm concerned, about their frustration with our success," he said.

Drug seizures at California border crossings were up 24 percent last fiscal year over the year before, customs officials announced this week. In the year ending Sept. 30, more than 127 tons of drugs were seized, the vast majority of that marijuana.

Tunnels provide a way to avoid inspectors altogether, and that's why drug cartels will spend millions of dollars building them, said lawyer John Kirby, who specialized in drug prosecutions before leaving the U.S. Attorney's Office last year.

"You don't have to play Russian roulette with the border," he said.

The Arellano-Felix cartel was behind a 1,000-foot tunnel between a Mexican ranch house east of Tecate and a house in East County.

It has been battling rival cartels headed by accused drug traffickers Ismael "El Mayo" Zambada and Joaquín "El Chapo" Guzman.

Guzman has tried underground routes before, prosecutors said.

In 1993, people working for him tried to dig a tunnel 1,450 feet north from an industrial building in Tijuana to a factory building under construction in Otay Mesa. They came up in a field about 120 feet short of their target.

That tunnel was discovered after officials found a map in a Tijuana safe house while investigating the killings of Cardinal Juan José Posadas Ocampo and six others in Guadalajara.

Guzman was caught, but escaped from a Mexican jail in 2001. He was indicted in San Diego on drug-trafficking charges. U.S. authorities have offered a $5 million reward for information relating to his arrest.

"Chapo was known," Kirby said. "He could get drugs over quickly."

Officials Find Drug Tunnel With Surprising Amenities (NYT)

By Randal C. Archibold

The New York Times, January 27, 2006

LOS ANGELES, Jan. 26 — Drug smugglers have dug one of the longest, most sophisticated tunnels discovered in recent years along the Mexican border, and the American and Mexican authorities have hauled nearly two tons of marijuana out of it since they entered it on Wednesday, officials said.

The tunnel is 60 feet below ground at some points, five feet high, and nearly half a mile long, extending from a warehouse near the international airport in Tijuana, Mexico, to a vacant industrial building in Otay Mesa, Calif., about 20 miles southeast of

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downtown San Diego. The sophistication of the tunnel surprised officials, who found it outfitted with a concrete floor, electricity, lights and ventilation and groundwater pumping systems.

The authorities said a tip led to the discovery.

"The tunnel is absolutely amazing," said Michael Unzueta, special agent in charge for the federal Immigration and Customs Enforcement agency's San Diego office. "It is probably the biggest tunnel on the southern border so far."

On the American side, agents found about 200 pounds of marijuana in the building in Otay Mesa, which had several bays for tractor-trailers. On the Mexican side, drug agents found a pulley system at the entrance to the shaft and several thousand pounds of marijuana and hauled it out for several hours Wednesday. Mexican authorities also found seven cellphones, two trucks, a van and various documents in the warehouse, according to a statement from the Mexican attorney general's office.

The customs enforcement agency, the Drug Enforcement Administration and the Border Patrol are sending a forensics team from Los Angeles to determine how long the tunnel has been in use.

The tunnel is one of the latest to be found along the border. Most are attributed to Mexican drug cartels searching for ways to move contraband into the United States, but some appear to be the work of smugglers of illegal immigrants.

Since Sept. 11, 2001, when border security was tightened, agents have uncovered 21 tunnels of varying degrees of length and sophistication, from "gopher holes" to engineered marvels like Wednesday's discovery, Mr. Unzueta said.

The builders, he said, "had to have access to money and somebody with a strong construction and engineering background."

"Our quick assumption is it's the drug cartels," he said.

The tunnel, Mr. Unzueta added after touring it, " is almost like a mineshaft."

Wednesday's discovery was the result of a tip investigated by a task force of federal agents devoted to tunnels. On Monday, they narrowed their search to the area in Otay Mesa and notified Mexican agents about what they suspected was the opening of the tunnel near the airport.

Both sides began digging. Mexican agents discovered a concrete-lined, 85-foot-deep shaft in a warehouse, descended, walked through the tunnel and popped up on the American side, Mr. Unzueta said. Officials on each side are searching records to determine who owns the buildings.

Also on Wednesday, several miles west of the big tunnel, the authorities found a smaller one — about two feet underground and extending 30 feet across the border near a storm drain — after a United States Border Patrol vehicle hit a sinkhole.

Probe Underway After Exit To Border Tunnel Is Found (LAT)

By Richard Marosi

The Los Angeles Times, January 26, 2006

SAN DIEGO — Federal authorities have launched a criminal investigation after finding a long, cross-border tunnel that began in a warehouse in Tijuana, Mexico, and was apparently used for smuggling drugs or people, authorities said Wednesday.

Federal agents discovered the U.S. exit to the tunnel Wednesday in an undisclosed location near the Otay Mesa Port of Entry, said Lauren Mack, a spokeswoman for Immigration and Customs Enforcement.

Mack could not disclose more details, but said the tunnel appears to be longer than most of the 21 cross-border tunnels found in Arizona and California since Sept. 11, 2001.

"We've located a massive, spectacular tunnel," she said.

Four tunnels have been discovered in the San Diego area this month. Also Wednesday, a crudely built, unfinished tunnel was discovered when a border patrol agent ran over a sinkhole near the San Ysidro Port of Entry.

"It was a gopher hole tunnel … very primitive," Mack said.

Another unfinished tunnel was discovered last week a few miles east. That tunnel extended about 30 yards into the United States and appeared to be headed to a storm drain system.

Smugglers in recent years have tapped into storm drain systems in San Diego to bring migrants into the country.

Massive Drugs Tunnel Found Under Mexico-US Border (AFP)

AFP, January 27, 2006

DOJ_NMG_0012431

United States authorities say they have discovered the largest and most sophisticated tunnel detected under their border with Mexico, one that was used by drug trafficking gangs.

The tunnel, lined with concrete and equipped with ventilation and lights, is one kilometre long, according to Mexican officials, but their US counterparts say it was only about 727 metres.

The secret route is cut 26 metres below ground, directly under a heavily protected sector of the frontier and is much larger than the 21 others detected under the border since the September 11, 2001 terror attacks on US soil, US officials said.

"We believe this tunnel is, in fact, the largest tunnel ever found on the south-west border," said Michael Unzueta, special agent in charge for US Immigration and Customs Enforcement in San Diego.

The tunnel, discovered late on Wednesday by US Border Patrol agents who tipped off Mexican authorities, begins beneath a warehouse in the Mexican border town of Tijuana and stretches to Otay, near the California city of San Diego.

The length and well-built structure of the tunnel, which was 1.5 metres wide, make it unusual.

Authorities found more than two tons of marijuana in the tunnel that US officials fear could also be used by people smugglers and even terrorists trying to circumvent the porous border.

"We're very concerned," said Mr Unzueta. "When we find these tunnels, we see that as a vulnerability to our national security."Sophisticated operation

Mexican police raided the warehouse in Tijuana and discovered a 1.8- by 3.6-metre concrete-lined shaft equipped with a ladder that drops down to the tunnel below.

A gurney hanging from a pulley system attached to one of the warehouse's beams allowed items to be moved into and out of the tunnel.

Portions of the tunnel are 15-18 metres deep, Mr Unzueta said.

The tunnel has a lighting, ventilation and pumping system to keep seeping water out.

John Fernandes of the US Drug Enforcement Administration in San Diego said the sheer scale and construction of the tunnel indicated that it was likely built by Mexico's drug trafficking cartels.

"It's a vast and sophisticated tunnel. We know it's used for drug trafficking, obviously, but ... this tunnel truly illustrates the dangers, the risks of the security and safety concerns of the American public."

The Mexican drug cartels have spent millions of dollars in the last 15 years to find ways of moving contraband across the border into the lucrative US market.

A number of tunnels have been detected under the border in recent months by a special ICE tunnel task force, including four in the San Diego area this month alone.

Feds Smoke Out Largest Drug Tunnel Yet (CNN)

By Kevin Bohn

CNN.com, January 26, 2006

WASHINGTON (CNN) -- Authorities have found what they call the largest and most sophisticated tunnel running into the United States along the Mexican border.

The tunnel contained 2 tons of marijuana, stacked in bales, according to a statement issued by the Justice Department.

DEA and U.S. Immigration and Customs Enforcement agents discovered the tunnel Wednesday night. It runs from Tijuana, Mexico, to Otay Mesa, California. (Watch scenes from the Tijuana pot tunnel -- 1:40)

Officials said the tunnel is about seven-tenths of a mile (1,148 meters) or more than 1,200 yards long. Initial reports said it is 5 feet high and 3.5 feet wide.

Authorities said they believe the passageway originates under a warehouse about 150 yards south of the border and surfaces about a half-mile north of the border in another warehouse.

Made of concrete, the passageway had lighting, electricity, ventilation and a pump to remove water, said Lauren Mack, a spokeswoman for Immigration and Customs Enforcement.

Most of the marijuana was uncovered on the Mexican side, but some of it was in the United States, Mack said.

"It's definitely expected to be related to a major drug cartel in Mexico," she said. No arrests have been made.

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An investigation is under way to determine who built the passageway.

Mack said human intelligence led to the discovery of the underground structure. Agents then used ground-penetrating radar technology from the military to find anomalies in the soil, she said.

Earlier this month, U.S. border patrol agents investigating a caved-in road discovered another tunnel between Mexico and the United States, west of the San Ysidro, California, port of entry.

It was the third such tunnel found in three years near the San Ysidro port, Mack said. Others were discovered in 2003 and 2004, she said.

"We found trash and other evidence indicating people had been inside recently," Mack said in a phone interview January 11, describing the passage as "primitive." (Full story)

Tightened border security since the September 11, 2001, attacks is the likely cause for the increase in the tunneling, Mack said.

More than 20 cross-border tunnels have been uncovered in California and Arizona since 9/11, she added.

"We've now got a dedicated tunnel task force, which works with the DEA and border patrol to proactively look for tunnels," Mack said.

Tunnel Found Under Mexican Border (UPI)

UPI, January 26, 2006

SAN DIEGO, Jan. 26 (UPI) -- Federal agents report finding 2 tons of marijuana inside a tunnel that runs for nearly three-quarters of a mile between Mexico and California.

The tunnel is the largest of the 15 discovered under the border in California and Arizona since the Sept. 11, 2001, terrorist attacks, CNN reported. The Customs Service and Drug Enforcement Administration agents found it Wednesday night.

Agents described the tunnel as 1,200 yards long or about 0.7 of a mile, connecting Tijuana, Mexico, with Otay Mesa, Calif. It is reportedly 5 feet high and 3.5 feet wide with lighting and concrete walls and floor.

Lauren Mack, a spokeswoman for the Customs Service, told CNN tunneling under the border appears to be a reaction to the increase in security that followed the terrorist attacks. Earlier this month, the collapse of a road surface led agents to a tunnel west of the port of San Ysidro in California.

Tunnel Found On Mexican Border (WP)

By John Pomfret

The Washington Post, January 27, 2006

LOS ANGELES, Jan. 26 -- U.S. and Mexican authorities have discovered an elaborate tunnel that stretches the length of eight football fields connecting Mexico and the United States and was apparently used for drug trafficking, authorities said Thursday.

The tunnel, unearthed Wednesday, runs from a warehouse in Tijuana and surfaces in the United States under an abandoned warehouse west of the Otay Mesa port of entry. Mexican authorities announced that they had seized about two tons of marijuana on the Mexican end, and experts said the passageway bore all the hallmarks of an operation by a major drug cartel.

"This is a very, very sophisticated tunnel," Michael Unzueta, special agent in charge for U.S. Immigration and Customs Enforcement in San Diego, said in a telephone interview. "Whether they are designed to smuggle drugs, people, weapons or other contraband, these tunnels pose a threat to our nation's security."

Unzueta said investigators were tipped off to the existence of the tunnel on the Mexican side and passed the information to Mexican law enforcement, which obtained a search warrant for the warehouse in Tijuana on Wednesday. Mexican authorities allowed reporters into the warehouse that night; they reported that they saw about 300 bundles of marijuana stacked more than five feet high.

Unzueta described the shaft as technically advanced, with electricity, a ventilation system, pumps to remove groundwater, cement flooring for traction in steep areas, and wood roofing to bolster the walls and ceiling. It had a clearance, he said, of nearly six feet and was about five feet wide.

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At 2,400 feet, the tunnel is the longest and most sophisticated of the 21 underground passageways linking the United States and Mexico that have been discovered since the Sept. 11, 2001, attacks, when investigations and enforcement were beefed up in the region. Unzueta said most of the tunnels have been located in the San Diego area because the composite soil of that region is ideal for such work. From 1990 to 2001, 15 tunnels were unearthed.

Unzueta said that a year ago, agents from his agency, the Drug Enforcement Administration and U.S. Customs and Border Protection's Border Patrol unit formed the San Diego Tunnel Task Force, with the aim of unearthing the networks.

Federal agents have concluded that drug traffickers and smugglers of illegal immigrants have been heading underground to escape tighter enforcement along the border. Customs officials announced this week that drug seizures at California border crossings rose 24 percent in the past fiscal year. More than 127 tons of drugs were seized, the vast majority of that marijuana, in the year ending Sept. 30.

Since Jan. 9, authorities in the region have uncovered three other tunnels. Those were far from sophisticated -- the kind that agents call "gopher holes," being essentially shallow tubes connecting Mexico and the United States. In one discovery of a 30-foot-long tunnel with an opening of two feet square, federal agents found prospective illegal immigrants were still inside, although they succeeded in turning around and inching back into Mexico.

Law enforcement cooperation between the United States and Mexico has not always been good. Earlier this week, Texas state police were stopped along the border from seizing three sport-utility vehicles by men in military-style uniforms, who were armed with automatic weapons and driving a Humvee. The SUVs were apparently carrying marijuana.

Texas law enforcement officials speculated that the men were Mexican soldiers. On Wednesday, U.S. Ambassador Tony Garza issued a statement asking the Mexican government to "fully investigate" the border incident. Mexico's top diplomat, Foreign Secretary Luis Ernesto Derbez, countered Thursday that the men could just as easily have been U.S. troops.

Agents Find Pot-filled Mexico-U.S. Tunnel (WT)

By Jerry Seper

The Washington Times, January 27, 2006

Federal agents have located a 2,400-foot tunnel, filled with marijuana, that connects warehouses in Tijuana, Mexico, to San Diego -- the largest and most sophisticated illegal cross-border underpass authorities said they've ever found.

Equipped with a pulley and ventilation system, the tunnel is six feet wide and 8 to 12 feet high. It has a cement floor and lights on its walls, said U.S. Drug Enforcement Administration (DEA) spokesman Garrison K. Courtney.

"Whether they are designed to smuggle drugs, people, weapons or other contraband, these tunnels pose a threat to our nation's security," said Michael Unzueta, special agent in charge of U.S. Immigration and Customs Enforcement (ICE) investigations in San Diego.

The tunnel's discovery Wednesday prompted the U.S. Attorney's office in San Diego to open a criminal investigation, said Lauren Mack, an ICE spokeswoman. ICE is a member of the San Diego Tunnel Task Force with the DEA and U.S. Customs and Border Protection (CBP).

Since the September 11 attacks, federal authorities have discovered more than 20 cross-border tunnels along the U.S.-Mexico border in California and Arizona. Authorities said they were unsure how long the tunnel had been in operation. They also said they did not know what drug organization might have used it.

Mr. Courtney said the tunnel originates 85 feet under a warehouse about 150 yards south of the border in Mexico, near the Tijuana airport, and surfaces about a half-mile north of the border in an abandoned warehouse in Otay Mesa.

Otay Mesa, a community within the City of San Diego that was developed as an industrial area in 1985 as a result of the creation of the Otay Mesa port of entry, has become California's largest commercial land border port and is one of the busiest commercial land border crossings in the United States.

Based on leads provided by the task force, Mr. Courtney said federal police in Mexico found the tunnel after obtaining a warrant Wednesday night to search the Tijuana warehouse. Mexican authorities said the two tons of marijuana were stacked in nearly 300 bales.

Mexican authorities said a metal ladder was used to gain entry to the packed-earth tunnel.

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In July 2003, members of the Tijuana-based Arellano-Felix Organization were indicted for conducting an illegal enterprise through a pattern of racketeering activity, conspiracy to import and distribute cocaine and marijuana, and money laundering.

After a request by the DEA, the State Department issued rewards totaling $16 million for information leading to the arrest of five leaders of the organization who remain at large: Javier Arellano-Felix, Eduardo Arellano-Felix, Manuel Aguirre-Galindo, Gustavo Rivera-Martinez and Gilberto Higuera-Guerrero.

In May 1993, a 1,450-foot tunnel was located in the same area of Otay Mesa, although authorities said at the time that it was unfinished.

The tunnel task force uses an array of high-tech equipment and intelligence information to pinpoint the locations of underground passageways along the border.

Five More Soldiers, Three Others Admit To Drug Smuggling (AP)

AP, January 27, 2006

Five more members of the U.S. military and three other suspects have agreed to plead guilty in a drug smuggling sting case targeting military members who believed they were smuggling cocaine through Arizona.

The pleas bring the total number of people admitting guilt in the case to 44, most of whom were members of the regular Army or Air Force or the Arizona National Guard.

The U.S. Attorney's Office said the five, four Army National guard soldiers and one airman, pleaded guilty to conspiracy to accept cash bribes from people they believed to be narcotics traffickers. In addition, two civilians and an officer with the Arizona Department of Corrections.

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In fact, the traffickers were FBI agents working a sting operation called "Lively Green." The defendants face up to five years in federal prison and $250,000 fines.

All eight defendants escorted at least one shipment of cocaine from locations in southern Arizona to Phoenix or Las Vegas, federal officials said. In one instance, a convoy of U.S. military Humvees met a small private plane at a clandestine airstrip near Benson and the soldiers helped the undercover-agent pilots unload 60 pounds of cocaine. They then drove it to Phoenix, where another agent paid them off in cash.

More Guilty Pleas In "Lively Green" (KOLD-TV)

KOLD-TV, January 27, 2006

Eight more people are pleading guilty in the Operation Lively Green case.

Six are current or former soldiers, and law enforcement officers.

Two are civilians.

This brings to 48 the number of defendants who have pleaded guilty to taking bribes from drug traffickers.

The FBI investigated the operation for two years.

All of the defendants escorted at least one shipment of cocaine from Nogales and Tucson, to Phoenix and Las Vegas.

Mexico Suggests U.S. Military Could Be Behind Border Incident (AP)

By Mark Stevenson, ASSOCIATED PRESS

AP, January 27, 2006

MEXICO CITY – Mexico's foreign secretary suggested Thursday that uniformed men using a military-style Humvee to help drug traffickers on the border could have been U.S. soldiers or criminals disguised as Mexican troops.

The comments by Luis Ernesto Derbez came a day after U.S. Ambassador Tony Garza issued a strongly worded statement asking the Mexican government to "fully investigate" Monday's border incident.

Derbez called Garza's comments out of line and said his office is sending a diplomatic note asking the ambassador to tone down his rhetoric.

The U.S. Embassy in Mexico made no immediate comment.

Derbez also said that men photographed by Texas law enforcement officers as they helped marijuana traffickers flee to Mexico on Monday could have been Americans, but he offered no evidence.

He did refer, however, to an FBI drug sting dubbed Operation Lively Green, in which more than a dozen U.S. military and civilian government workers were arrested in southern Arizona. Some pled guilty to transporting drugs in official vehciles, including Humvees.

"Members of the U.S. Army have helped protect people who were processing and transporting drugs," Derbez told a news conference. "And just as that has happened ... it is very probable that something like that could have happened, that in reality they (the uniformed men at the border) were members of some of their groups disguised as Mexican soldiers with Humvees."

Texas law enforcement officials originally said Mexican soldiers were involved in Monday's incident.

Mexican officials earlier have said the uniformed men were drug traffickers disguised as Mexican soldiers. Derbez said Thursday there was no proof that they were even Mexicans.

"There is a supposition here that this involved Mexican citizens, and that is absolutely incorrect," Derbez said. "There would have to have been racial descriptions, and that would imply a certain element of racial discrimination on the part of the American sheriffs."

Derbez said his diplomatic note to U.S. Secretary of State Condoleezza Rice would demand that U.S. officials tone down their comments on Mexico's security and immigration problems, and would request quick results of an investigation into the December shooting of a Mexican migrant.

He complained that Garza should have made his complaints through diplomatic channels.

"We should not convert this, as (Garza) apparently did by publishing his article, into a public relations issue," Derbez said, adding that Garza's comments were "not only wrong, but also don't correspond to reality."

A series of earlier spats have raised tensions between the two nations that largely disagree on the best way to thwart illegal immigration and drug smuggling along the 2,000-mile (3,200-kilometer) border.

Derbez said Mexico's official position on immigration is now to push not just for legalization and temporary work permits for Mexicans, but for migrants from Central America and other countries as well.

"In any immigration reform, there should be a clause that allows the regularization of all citizens ... not just Mexicans, but other nationalities," Derbez said.

The U.S. Congress has refused to approve any amnesty. Instead it is considering the possibility of extending walls along the border – an idea that Mexico bitterly opposes.

Monday's confrontation began 50 miles (80 kilometers) east of El Paso, Texas, when state police tried to stop three sport utility vehicles on Interstate 10. The vehicles made a quick U-turn and headed south toward the border, a few miles away.

Crossing the border, one SUV got stuck in the river, and the men with the Humvee tried in vain to tow it out. Then a group of men in civilian clothes began unloading what appeared to be bundles of marijuana, and set the SUV on fire before fleeing.

Federal Officials Arrest 2 In Plot To Kill DEA Agent (WT)

By Jerry Seper

The Washington Times, January 27, 2006

Federal authorities have arrested two Louisiana men, including an inmate in the Tangipahoa Parish Prison near New Orleans, in a $15,000 assassination plot to kill a U.S. Drug Enforcement Administration agent.

Johnnie Sims was arrested Wednesday night as he attempted to hire a hit man to kill DEA Agent Chad Scott, said William J. Renton Jr., special agent in charge of the DEA's New Orleans field office. Chris Walker, 30, also was charged but already was in custody from his Oct. 13 arrest for possession with the intent to distribute crack cocaine.

"This arrest and the swift federal response to the vicious plot to murder a career DEA special agent should serve as compelling evidence of our absolute commitment to take any steps necessary to protect the lives of law-enforcement officers and citizens alike from those dangerous criminals who prey upon society with no regard for human life," said U.S. Attorney Jim Letten.

According to a criminal complaint filed in U.S. District Court, federal agents learned of the purported assassination plot from cooperating inmates who said Mr. Walker was seeking to hire someone to kill Mr. Scott.

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Mr. Renton said federal agents set up a sting operation, during which the cooperating witnesses provided to Mr. Walker the telephone number of an undercover agent who was posing as the killer. He said Mr. Walker then contacted Mr. Sims, a cousin and drug trafficking associate, to pay the undercover agent to kill Mr. Scott.

Mr. Sims, 25, contacted the undercover agent and, according to Mr. Renton, had two meetings with him concerning the desire of Mr. Walker to kill the agent. He said Mr. Sims agreed to pay the undercover agent $15,000 for the murder.

During the second meeting, Mr. Renton said Mr. Sims identified a picture of Mr. Scott, stating he wanted him killed as soon as possible. He also paid the undercover agent $1,000 as a down payment for the killing. Shortly after the meeting, agents arrested Mr. Sims at a shopping center in Metairie, La.

Mr. Renton said Mr. Sims was in possession of a semiautomatic pistol at the time of his arrest.

Mr. Sims has since agreed to cooperate with authorities and confessed to his role in the plot to kill the agent, Mr. Renton said. Mr. Walker remains in jail on the federal drug trafficking charges and has been detained without bond pending trial.

The investigation is ongoing and, Mr. Renton said, additional suspects are expected to be arrested.

"As we move forward in rebuilding our ravaged region, the people we serve should take comfort in the knowledge that the men and women of federal law enforcement will employ every weapon in our arsenal to hunt down and bring to justice anyone who poses a threat to the lives and safety of our law-enforcement professionals or to those brave citizens who come forward as witnesses."

Inmate Accused Of Seeking Hit Man (NOTP)

By Michael Perlstein

New Orleans Times-Picayune, January 26, 2006

It started as Southeast Louisiana's first federal drug case since Hurricane Katrina. It evolved into a murder-for-hire plot targeting the Drug Enforcement Administration agent who made the bust, federal authorities announced Wednesday.

As a result, a Tangipahoa Parish Prison inmate, and a go-between who allegedly tried to hire a hit man on the inmate's behalf, face possible life sentences if convicted of conspiring to kill a federal officer. The case against federal drug defendant Chris Walker and Johnnie Sims, Walker's cousin and an alleged drug-trafficking underling, will be presented to a grand jury in the coming weeks, U.S. Attorney Jim Letten said.

William Renton, the DEA's top agent for the New Orleans area, said the scheme unraveled when Walker, 30, started asking fellow inmates at Tangipahoa Parish Prison for the names of potential hit men.

Two inmates took the information straight to DEA Agent Chad Scott, who had busted Walker on Oct. 18 and booked him with possessing more than a kilo of cocaine, equipment used in making crack and a gun with an obliterated serial number, according to Renton and court records.

The informants told the agent that Walker had asked Sims, 25, to line up an assassin to murder Scott, according to criminal affidavit filed in the case. The DEA wasted no time launching a sting operation using an undercover New Orleans police officer to pose as a drug-dealing hit man, the affidavit states.

"I was angry," Renton said. "I was personally offended that somebody would target a federal agent simply for doing his job and serving the citizens of the United States. We decided we'd leave no stone unturned in pursuing this investigation."

Agents used the informants to give the undercover officer's telephone number to Walker in prison, who promptly passed the number to Sims. After a few preliminary phone conversations, Sims met with the undercover officer Monday at Lakeside Shopping Center in Metairie, the affidavit states.

At the meeting, the two men arrived at a price of $15,000 for "knocking off" Scott. The pair met again at Lakeside on Tuesday, when Sims allegedly gave the undercover officer, Ricky Jackson, a $1,000 down payment.

"Walker's thinking that if Chad Scott dies, he's got no more problems. Once we heard about this, we put on a full-court press," Renton said.

With the exchange of money, agents pounced on Sims and arrested him. A search of his vehicle netted a loaded .40-caliber handgun and small amounts of cocaine and marijuana, authorities said. After his arrest, Sims began spilling his guts

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about the plot, revealing that Walker also wanted to kill the confidential informants who he believed landed him behind bars in the first place, the affidavit states.

Renton and Letten said the case was helped by cooperation among several police agencies, including the DEA, New Orleans Police Department, Hammond Police Department, Louisiana State Police and the Tangipahoa and Jefferson Parish sheriff's offices.

"I'm extremely proud of the swift and efficient actions of the DEA agents and everyone else involved," Letten said. "We will always do everything in our power to protect those people who dedicate their lives to protecting citizens. It's plots like this that galvanize our resolve to more aggressively go after these corrupt individuals."

While it is rare for a defendant in such cases to receive the maximum life sentence, Walker and Sims face lengthy prison terms based on prior and pending cases against them. At the time of his arrest, Sims was on probation for two felony cocaine convictions. Walker, in addition to the pending federal cocaine case, also has two prior drug convictions, court records show.

County May Join Medical Pot Suit (PR-ENT)

By Duane W. Gang And Kimberly Trone

Press-Enterprise (CA), January 27, 2006

Riverside County will consider joining San Bernardino and San Diego counties in a federal lawsuit seeking to overturn California's medical-marijuana law, a Riverside County supervisor said Thursday.

Supervisor Jeff Stone, a pharmacist, said he intends to ask his colleagues in closed session Tuesday to add the county to the short list of challengers to the state's Compassionate Use Act approved by Californians in 1996.

The law allows patients with a physician's recommendation to transport and use marijuana to treat the symptoms of illnesses such as cancer, glaucoma, chronic pain and AIDS.

State law also requires counties to issue optional identification cards to medical-marijuana users. So far, 15 counties -- including Riverside -- have issued almost 800 cards, which help users avoid arrest.

San Bernardino County, which was set to begin issuing the cards this month, will not issue them until the legal dispute is resolved. Riverside County began issuing the cards in December.

Stone, along with his counterparts in San Bernardino County, said the state law conflicts with federal drug provisions, leaving law enforcement in a bind over which measures to enforce.

In addition, the U.S. Supreme Court ruled last year that those in states with compassionate-use laws still could face arrest on federal drug charges.

"It is clear through pharmacy law that whatever law is stricter -- federal or state law -- that is the law we have to uphold," Stone said. "The more counties that sign on to the suit, the more clout we are going to have."

Counties need clarification from the courts on the conflicting laws, Stone said.

San Bernardino County supervisors voted unanimously in closed session this week to join San Diego County in its federal lawsuit against the state.

Ruth Stringer, an assistant San Bernardino County counsel, said the county has not filed its lawsuit yet but hopes to do so soon. Once filed, it is expected to be combined with San Diego County's lawsuit, officials said.

Chris Laue, 55, of Twentynine Palms, meets monthly with people in San Bernardino County who rely on medical marijuana to ease chronic pain. He said the group likely will go before the supervisors to protest their actions.

"They swear to uphold the constitution of the state of California," said Laue, whose wife uses medical marijuana.

San Diego County contends that the U.S. Constitution's supremacy clause preempts California medical-marijuana laws because they conflict with federal drug law and an international narcotics treaty the United States signed in 1961.

"Under federal law, we can't go along with what the state wants us to do," San Bernardino County Sheriff Gary Penrod said Thursday.

Penrod wrote a December memo to the San Bernardino County supervisors encouraging them to join with San Diego County.

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In the memo, he said that while voters statewide approved the 1996 ballot initiative, San Bernardino County voters rejected it.

He urged the county to "resist engaging in a program that issues cards that sanction participation in a federal crime."

Penrod said he expects to be a named plaintiff in San Bernardino County's lawsuit and hopes that adds weight to the counties' case. He said he wants to go before a judge and explain the problem that medical marijuana poses to law enforcement agencies.

But the counties could be facing an uphill legal battle, even if Riverside County joins the lawsuit, said David B. Cruz, a constitutional law expert at the University of Southern California Law School.

It is pretty clear a county cannot sue its state for an alleged constitutional violation, Cruz said.

"There also is precedent that physicians recommending marijuana, which is what these ID cards are all about, does not amount to a violation of federal law," Cruz said.

It is unclear whether Stone will gain support from his fellow supervisors to add Riverside County's name to the suit. Supervisors Marion Ashley, Bob Buster and Roy Wilson said this week that as long as there is a state law allowing the use of medical marijuana, they intend to uphold it.

"I would hope we would move forward in making sure the law is followed," Wilson said.

Riverside County Supervisor John Tavaglione said Thursday he was not prepared to weigh in on whether the county should join the lawsuit, but he said he wants a ban on medical-marijuana dispensaries.

Riverside County planners are preparing to roll out a proposal this spring detailing where and how medical-marijuana dispensaries may operate.

Stone said joining the lawsuit would not mean Riverside County would stop issuing medical-marijuana cards.

"We are going to continue to do what the state tells us until a judge tells us the measure is unconstitutional or not legally viable," Stone said.

U.S. And Mexico Trade Complaints Over Border Security Issues (NYT)

By James C. McKinley Jr.

The New York Times, January 27, 2006

MEXICO CITY, Jan. 26 — The United States and Mexico exchanged diplomatic broadsides on Thursday over border security and drug-related violence in another sign of their deteriorating relationship.

The American ambassador, Antonio O. Garza Jr., sent a formal note to the Mexican government demanding an investigation of an episode on Monday in which men dressed as Mexican soldiers helped drug smugglers escape American law enforcement officers near El Paso.

The ambassador took the unusual step of not only announcing the note, but promising to send a second one to express concern about a rise in drug-related violence in border towns and recent attacks on American Border Patrol agents.

"I am urging the Mexican government to take this elevated violence seriously," said Mr. Garza, a Texas Republican. "In the past there has been a tendency to focus on public relations instead of public security."

Hours later the Mexican foreign minister, Luis Ernesto Derbez, suggested that it was Mr. Garza who appeared to be playing to a crowd for political reasons. "What he says is that one should not feed this discourse in the media, but find a real solution," Mr. Derbez said. "I would hope that he would apply his own recommendation." Not to be outdone, Mr. Derbez announced that Mexico would send its own diplomatic note responding to Mr. Garza's criticisms. He also said Mexico would demand an explanation for the lack of progress in an investigation of the fatal shooting of a Mexican immigrant, Guillermo Martínez, by a Border Patrol agent on Dec. 30 near San Diego.

Mr. Derbez went on to suggest that the uniformed men in the incident on Monday, who used a military Humvee with a mounted machine gun to help drug traffickers cross the Rio Grande, might have been American soldiers in disguise.

The diplomatic quarrel comes amid strained relations between the two countries. Mexican officials are furious about a bill before the United States Senate that would make it a felony to enter the country illegally and would order construction of 700 miles of fence along the border.

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The bill is coming up for a vote as efforts to establish a guest worker program that would legalize the status of millions of Mexicans in the United States have stalled.

For their part, law enforcement officials in Texas and Arizona are up in arms about what they say are intrusions into their states by Mexican police and military units, sometimes in league with drug dealers. This week, Senator Jon Kyl, an Arizona Republican, sent a letter to Secretary of State Condoleezza Rice demanding an investigation into the alleged incursions, of which he said there had been more than 200 since 1996. American officials were also angered this week when the Mexican government announced that it would distribute maps of the Arizona desert to migrants, showing where water stations and other aid could be found.

The homeland security secretary, Michael Chertoff, strongly condemned the idea, saying it was "a bad idea to encourage migrants to undertake this highly dangerous and ultimately futile effort."

The Mexican National Human Rights Commission said Thursday that it had suspended the program, whose purpose was to reduce deaths from thirst and exhaustion. A record 464 immigrants died crossing the 2,000-mile border last year.

Mexico Suggests Gls Aided Pot Smugglers (AJC)

The Atlanta Journal-Constitution, January 27, 2006

MEXICO CITY — Mexico's top diplomat suggested Thursday that American soldiers disguised as Mexican troops may have been in the military-style Humvee filmed earlier this week protecting a marijuana shipment on the border.

Foreign Secretary Luis Ernesto Derbez also told a news conference that U.S. soldiers had helped drug smugglers before. However, he offered no evidence.

The U.S. Embassy in Mexico made no immediate comment on Derbez's claims.

His comments came a day after U.S. Ambassador Tony Garza issued a statement asking the Mexican government to "fully investigate" the border incident.

Monday's armed standoff began 50 miles east of El Paso, Texas, when Texas state police tried to stop three sport utility vehicles on Interstate 10. The vehicles made a quick U-turn and headed south toward the border, a few miles away.

Crossing the border, one SUV got stuck in the Rio Grande River, and men in a Humvee tried in vain to tow it out. Then a group of men in civilian clothes began unloading what appeared to be bundles of marijuana and torched the SUV before fleeing.

Mexico insisted Wednesday that the men in military-style uniforms were drug smugglers, not soldiers. In Mexico, kidnappers and drug smugglers regularly wear police gear, which is sold at street stands.

Derbez said Thursday that the men photographed by Texas law enforcement could have been Americans.

"Members of the U.S. Army have helped protect people who were processing and transporting drugs," Derbez said. "And just as that has happened ... it is very probable that something like that could have happened, that in reality they were members of some of their groups disguised as Mexican soldiers with Humvees."

Three U.S. soldiers have pleaded guilty to running a cocaine smuggling ring from a U.S. base in Colombia, and a fourth is being tried in Texas this week.

Derbez said there was no proof that the men seen in the incident were Mexicans.

Derbez also said his country will send a diplomatic note to Secretary of State Condoleezza Rice demanding that U.S. officials tone down their comments on Mexico's security and immigration problems.

Mexican Border Incursions Redux: In 1916, Wilson Sent In The Army (WT)

By Robert Stacy Mccain

The Washington Times, January 27, 2006

Reports of armed Mexican outlaws crossing the border to clash with U.S. forces led to demands that the president send troops to protect American lives.

It sounds like a story ripped from this week's headlines, when Texas sheriff's deputies pursued marijuana smugglers protected by machine-gun wielding men in Mexican military uniforms.

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So far, the White House is speaking of its "concern about the reports" of Monday's border crossing, which a spokesman described as "an incident that is under investigation." Yet in 1916, when Pancho Villa's bandits raided Columbus, N.M., a Democratic president didn't hesitate.

President Woodrow Wilson sent Gen. John "Black Jack" Pershing to lead an expedition into Mexico. A $5,000 bounty was offered for Villa's capture, and Army posters invoked "The Flag, Old Glory" in calling for 25,000 recruits: "Come on, boys, be ready to shoulder the trusty Springfield."

There are important differences between the border situation that Wilson faced in 1916 and the situation facing President Bush this year, said Philip E. Koerper, professor of history at Jacksonville State University in Alabama.

"Pancho Villa -- it was in the midst of a revolution," he said. "This is just plain old smuggling."

Though he sees no comparison to the 1916 Villa raid, Mr. Koerper said, that doesn't mean the current border situation is not a threat to U.S. security.

"As long as you can have smugglers and refugees both crossing your border illegally, anybody could cross illegally, including al Qaeda," he said.

Concerns about terrorists' crossing the border indicate one parallel between this year and 1916 when, during World War I, many Americans suspected Mexico of harboring German agents and saboteurs. Indeed, an intercepted German message, the infamous "Zimmerman telegram," proposing a German-Mexican alliance helped prompt Wilson to take the United States into war in 1917 -- with its Army commanded by the general who had led the pursuit of Villa.

Yet the historic situation during Villa's day was much different, said James Carafano, a senior fellow at the Heritage Foundation.

"Mexico back then didn't have a strong central government," said Mr. Carafano, who specializes in defense and homeland-security issues. "There was no rule of law. I don't think you can compare that to Mexico today.

"There are security issues on the border ... and there's transnational criminal issues, whether you're talking about drugs or guns or people. But I don't think it's analogous to" 1916.

A brilliant militia commander, Villa played a key role in the 1911 overthrow of the dictatorship of Porfirio Diaz. But in 1915, Wilson sided with Villa's rival Venustiano Carranza -- infuriating Villa, who retaliated against U.S. citizens in Mexico. Sixteen American mining engineers were slain in the Santa Isabel Massacre of January 1916.

Shortly before dawn on March 9, 1916, about 600 of Villa's men swept down on Columbus. They soon were met by about 350 troops of the U.S. 13th Cavalry. Driven back by U.S. machine-gun fire, Villa lost more than 75 men in the raid, which left 17 Americans dead.

As in the current year -- when reports of this week's clash near El Paso focused press attention on a problem that long had concerned border residents -- the press in 1916 reacted sharply to news of the Columbus raid.

The reaction was especially swift in the Los Angeles Times, historian Clayton E. Cramer has noted. Before Villa's New Mexico incursion, the newspaper had described Villa as a "rebel leader." After the Columbus raid, an editorial denounced him as an "outlawed Mexican bandit" and "the vilest kind of ruffian."

The Wilson administration also acted swiftly. Thousands of U.S. troops poured into Columbus, and Gen. Pershing arrived from Fort Bliss, Texas, to take command.

The Mexican government at first was favorable to the U.S. attack on its enemy, Villa, but Carranza came to resent the U.S. presence, and soon Pershing's troops were fighting both Villa's rebels and regular Mexican troops.

The expedition "was a fiasco," said Old West historian Roger McGrath.

Mexico offered "perfect defensive positions for Pancho Villa -- he knew the country like the back of his hand," Mr. McGrath said. The American campaign "was a logistical nightmare -- no roads, no maps, no water."

Villa eluded capture, and in early 1917 -- as war loomed between the United States and Germany -- Wilson recalled the Army.

Mr. Carafano, the Heritage analyst, said the outcome of Pershing's 11-month expedition points to the problem of deploying the military to deal with the border issue -- as many have called on Mr. Bush to do.

"After the Army left the border [in 1917], the problems came back and continued into the 1920s," he said.

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Cleveland Man Who Kept Machine Guns Buried Pleads Guilty (CHATT)

Chattanooga (TN) Chattanoogan, January 27, 2006

A Cleveland, Tn., man who authorities say kept machine guns buried in his yard pleaded guilty Thursday to firearms and meth charges.

Donald Pippenger, 50, appeared before Judge Allan Edgar.

Prosecutor Gary Humble said Bradley County Sheriff officers on Aug. 9, 2004, found working components of a meth lab at Pippenger's home. He said they went back on March 10, 2005, and found he again was outfitted to cook meth.

Pippenger sold a sub-machine gun to an undercover officer on May 11, 2005, the prosecutor said.

He is facing up to 20 years in prison and a fine up to $1 million on the meth cases and up to 10 years and a fine up to $250,000 in the firearms case.

Sentencing is April 19 at 1 p.m.

ATF Agt. Carl Maskew said an informant told him he learned Pippenger was trying to sell guns. The informant went to the Pippenger home at 105 Hughes Road and Pippenger offered to sell him a semi-automatic Uzi. He said Pippenger said he should consider buying a fully automatic Uzi instead. He said Pippenger told him he had several automatic Uzis and an automatic AK-47 that he would sell.

The informant said Pippenger told him he keeps the assault weapons buried because "the law was after him."

He said Pippenger told him about being arrested for meth and said he "was not going to jail and that he was going to sit outside the courthouse, take some poison and while it was taking effect he was going to kill everyone with a bade that he saw, including judges and lawyers."

The informant said Pippenger told him "that if the law came to his house, he was going to barricade himself in his home and shoot as many cops as he could and then poison himself."

The informant said he "became concerned for the safety of the officers and judges and felt that he needed to tell law enforcement about the threats."

Agt. Maskew said on May 11, 2005, that an undercover ATF agent bought three firearms from Pippenger. He said Pippenger said he had to go to another location on Hughes Road and dig up two of the guns at a prior residence. He said Pippenger returned with two machine guns that "were caked with dirt, indicating that they had been buried."

The agent said a check of the guns showed that at least two of them would fire fully automatic and the third "would probably fire two rounds with one pull of the trigger."

Pippenger advised that he had "a truckload" of weapons he could sale.

Federal Grand Jury Indicts Couple On Charges Of Defrauding Museum (AP)

By DYLAN T. LOVAN

AP, January 27, 2006

LOUISVILLE, Ky. - An Alabama man who headed a Louisville historical weapons museum has been charged with bilking the museum's founder out of millions by lying about the cost of some antique firearms.

Michael K. Salisbury, 50, inflated the prices of weapons bought by the museum's founder and primary financial backer, Owsley Brown Frazier, prosecutors said. He was indicted on two counts of money laundering, three counts of wire fraud and four counts of tax evasion.

Salisbury's wife, Karen Cruse Salisbury, 46, faces money laundering and wire fraud charges. The couple, of Huntsville, Ala., were taken into custody Thursday morning in Louisville, Assistant U.S. Attorney Eric Long said.

The Salisburys pleaded not guilty and were each released on $25,000 bonds, Long said. They were ordered to surrender their passports.

Federal prosecutors estimate that the Salisburys turned a profit of at least $1.75 million from 1997 to 2002 by giving false appraisals of antique weapons to Frazier, a well-known local philanthropist. Some of the markups were twice the value of the original purchase price, prosecutors said.

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The indictments, issued on Wednesday, said Frazier started a business deal with Michael Salisbury in which Salisbury would locate and buy antique firearms, report the price to Frazier and then Frazier would pay the purchase price for the item.

Frazier did not respond to a request for an interview on Thursday. He spent millions from his own pocket to found the museum, which opened in 2004.

The indictment alleged that in one instance in 1999, Salisbury bought a pair of Colt Model 1861 revolvers believed to have belonged to Gen. George Custer for $235,000, but told Frazier that the guns were worth $300,000.

Salisbury was named president of the museum's foundation in April 2001 and put in charge of an annual $2.5 million budget, the indictment said. He resigned in September 2002.

Long said Karen Salisbury controlled an account where the fraudulent proceeds were deposited.

The indictments alleged that the Salisburys concealed the profits and failed to report them on their federal taxes.

Michael Salisbury faces a maximum of 95 years in prison and a $2.5 million fine, and Karen Salisbury faces 35 years and a $1 million fine if they are found guilty of all the charges, prosecutors said.

Frazier, a retired vice chairman of liquor giant Brown-Forman Corp., sued the couple along with two antique firearms dealers and a California man in April 2004, making similar allegations of fraud.

The suit said that Frazier met the Salisburys in 1997 and eventually "grew to view them as close personal friends." It was not until 2002 that Frazier and the museum's foundation "began to comprehend the wrongdoing by Salisbury." The suit also named John and Belinda Jones, antique dealers from Virginia and Robert L. Wilson, a San Francisco author.

The indictments alleged Salisbury misrepresented the prices on a Colt revolver that was believed to have belonged to former FBI director J. Edgar Hoover; a Winchester rifle owned by William F. "Buffalo Bill" Cody; and a bow, quiver and six arrows believed to have belonged to the Apache Indian Geronimo.

The 100,000 square-foot museum in downtown Louisville houses several ancient artifacts that detail the history of human conflict. It also houses a collection from the Royal Armouries, Britain's national repository for arms and armor. The Royal Armouries chose the Frazier museum for its first permanent U.S. location to showcase about 300 artifacts that date from 1066 to the early 1900s.

Yuman, Mexican Cop Indicted In Gun Smuggling (YUMAS)

By Jeffrey Gautreaux

Yuma (AZ) Sun, January 26, 2006

Jan. 26--A Mexican police officer and a Yuma man have been federally indicted for allegedly attempting to cross the border with three weapons purchased at a Yuma gun show.

Omar Ignacio Alvarez, 20, of Yuma assisted Pedro Rios-Perez, 41, an officer for the Baja California State Police, in buying two handguns and an assault rifle Jan. 7 at a gun show at the Yuma County Fairgrounds, according to the indictment and a criminal complaint filed in U.S. District Court in Phoenix. The two allegedly attempted to drive the guns into Mexico in a police vehicle.

The arrests are part of an overall increase in enforcement by the federal government in cooperation with local agencies to curb weapons trafficking in this area, according to Tom Mangan, special agent for the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

"We recognize Yuma as being a firearms source for guns going to Mexico," Mangan said. "Arizona is a source state for firearms to Mexico."

With strict firearms laws in Mexico, buying weapons in the United States and smuggling them south has been a longtime practice. Mangan said people from Mexico involved in narcotics and other crime have been coming to Yuma retailers to purchase weapons or having them bought for them through straw purchases.

During Murphy's Gun Show in Yuma, agents from ATF and Immigration and Customs Enforcement (ICE) were conducting surveillance and saw Rios-Perez and Alvarez purchase the weapons, according to the complaint. Alvarez worked as a translator and, in one instance, a buyer, the complaint said.

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The two were followed to the Andrade Port of Entry where they were detained and interviewed. Both were later arrested. The complaint charges each with alien in possession of firearms and exportation of munitions without a license.

Alvarez has since been released on a personal recognizance bond, but Rios-Perez remains in jail. Each could face up to five years in prison, according to Mangan.

"As a police officer, (Rios-Perez) should be well aware of firearms laws," Mangan said.

According to Mangan, Rios-Perez told investigators that the weapons were bought for his personal use and he was simply bringing them home. Mangan did not comment on whether Rios-Perez may have been making the purchases to funnel them to people in Mexico.

"We're looking into that," he said.

According to the complaint and indictment, federal agents observed the two men leave the gun show carrying a small backpack and an AR-15 assault rifle. They got into a red truck with Mexican license plates and a Mexican Police logo on the side.

The two were observed placing a cover over the police logo to obscure it from view. Agents followed the truck to Sprague's Sports, where the two purchased leg irons. They then drove to a fast food restaurant and then to a home in Yuma, according to the complaint.

While the vehicle was parked near the house, the hood of the truck was opened and activity could be seen occurring near the front of the vehicle, the complaint said.

After closing the hood, the men got into the vehicle and left the residence. The truck was followed to the U.S. Port of Entry at Andrade where it was stopped. Rios-Perez identified himself as a Mexican national and a police officer.

A search revealed the two Smith and Wesson 9mm handguns and the assault rifle. "The ammunition and handguns were hidden in the truck's air filter and the rifle was hidden behind the truck's front seat," the indictment said. The complaint said the two spent about $1,700 making the purchases.

The Mexican law enforcement decals on the vehicle were covered up because officials on the Mexican side would want to know why a police vehicle from Baja California was crossing at that location, according to the complaint.

Mangan, who is based in Phoenix, did not comment on how Alvarez and Rios-Perez may have become connected with each other.

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Gun-Toting Delegate Misfires In Richmond (WP)

By Chris L. Jenkins And Rosalind S. Helderman

The Washington Post, January 27, 2006

RICHMOND, Jan. 26 -- Del. John S. "Jack" Reid had gone through this morning routine dozens of times. He'd reach into his pocket, pull out his small semiautomatic .380 handgun, release the clip and store the weapon safely in the desk drawer of his office on the seventh floor of the Virginia General Assembly Building.

But something went wrong Thursday. Reid's pistol, which he said he carries for protection, fired as he popped the clip from the handle, sending a single bullet into the cushion of a bulletproof vest that was hanging from the back of his closed office door.

No one was injured, although Reid said he suffered a laceration on his hand from the friction of the gun's slide snapping back.

The incident prompted an unexpected debate about gun control and also something uncommon in Virginia political circles: contrition from a state legislator. Reid, a Henrico County Republican, rose from his seat on the floor of the House of Delegates, asked to be heard, explained what had happened and said: "I want to apologize to the members of this body and to the greater body. . . . I'm just thankful that nobody was hurt."

Even a few hours after the incident, Reid -- a 16-year veteran and one of the House of Delegates' most popular and free-spirited members -- was at a loss to explain how an experienced gun owner found himself discharging a firearm during one of the busiest parts of the business day at the state Capitol complex.

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"If you asked me if I ever put a finger on a trigger when I wasn't at the shooting range, I'd say no," Reid said at a news conference after his apology. "Whether that's what happened, I can't tell you. I really don't know."

The incident immediately reopened the debate among lawmakers and lobbyists about whether firearms should be allowed at the Capitol, a discussion that has been held for several years. Although Maryland law generally prohibits the carrying of unconcealed or concealed firearms in government buildings, including the State House, anyone in Virginia until recently could carry firearms openly into the legislators' office building and the nearby Capitol.

Then, last year, a committee of delegates and senators passed a rule requiring residents to have a concealed weapon permit to bring a firearm into the complex, even if the gun is carried openly. Some senators proposed barring guns from the buildings altogether. But many gun rights groups opposed the move.

Several lawmakers said they were stunned to find out that Reid carried a gun and even more surprised to hear that it had gone off in the busy building.

"He had no business bringing it into the General Assembly," said Senate Minority Leader Richard L. Saslaw (D-Fairfax), a supporter of gun control laws. "I think guns should be banned for all these government buildings."

But others said the freedom to carry a firearm responsibly was a necessity.

"Richmond is a dangerous place," said Del. Charles W. Carrico Sr. (R-Grayson), a former state trooper who spent a year as an undercover police officer in Richmond and carries his gun in the lawmakers' office building. "I carry to protect myself and my family."

Reid, a school administrator in Chesterfield County, said he has a valid permit to carry a concealed weapon and regularly brings his gun to the legislative session to protect himself. He is the sponsor of several controversial bills this year, including efforts to crack down on illegal immigration. But he said he usually ejects the cartridge and carries the bullets in his pocket.

"All of us occasionally get some phone calls that concern us, so during the session I have been carrying it," Reid said. He has had a permit to carry a concealed weapon for two years and has one other gun.

The Henrico County sheriff gave him the bulletproof vest several years ago "as a joke," he said.

Word of the incident spread quickly through the gossipy galaxy of Richmond lawmakers, lobbyists, advocates and reporters. According to one lobbyist, a list was going around with key words that should not be said in front of the General Laws Committee, which Reid chairs. Example: Take your best shot.

Others, including Gov. Timothy M. Kaine (D), couldn't help but rib Reid by marveling at what appeared to be the freak coincidence of the single round striking Reid's bulletproof vest.

"It was good if he was shooting at that coat rack and that it was wearing a bulletproof vest," Kaine said.

But Reid, who is known for a biting sense of humor, appeared humbled by the experience.

"It's at least causing me to evaluate myself," said Reid, 63. "I'm just thankful this turned out as it did."

Staff writers Ann E. Marimow and Michael D. Shear contributed to this report.

CONGRESS-ADMINISTRATION:

2 More Democrats Say They'll Back Alito (USAT)

By Kathy Kiely

USA Today, January 27, 2006

WASHINGTON — Two more Democratic senators, Robert Byrd of West Virginia and Tim Johnson of South Dakota, said Thursday that they will vote in favor of Supreme Court nominee Samuel Alito.

Byrd and Johnson join Sen. Ben Nelson of Nebraska as Alito's only announced Democratic supporters. All three are from states won by President Bush in 2004. “Like most of my constituents, I prefer conservative judges,” Byrd said.

The Senate is likely to confirm Alito on Tuesday by a narrower margin than Bush's first Supreme Court pick, John Roberts, who was confirmed, 78-22, as chief justice. All but four of the Senate's 55 Republicans have said they will vote for Alito, a federal appeals court judge. Republicans Olympia Snowe and Susan Collins of Maine, Lincoln Chafee of Rhode Island and Ted Stevens of Alaska have not announced how they will vote.

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Massachusetts Democrats Edward Kennedy and John Kerry called for a filibuster, a parliamentary tactic to block a vote that requires support from at least 40 senators. But Sen. Dick Durbin of Illinois, the deputy Democratic leader, said opponents of Alito's confirmation would not succeed in a filibuster. Sen. Barack Obama, D-Ill., told a group of constituents that some Democrats who oppose Alito would also oppose a filibuster. "There are a number of Democratic senators who believe it's one thing to vote no but it's another thing to prevent the vote from coming up," he said.

Democrats Blanche Lincoln of Arkansas, Daniel Inouye of Hawaii and Joe Lieberman of Connecticut, who were previously undecided, said Thursday that they will vote against Alito.

Lieberman Against Alito Confirmation (HARTC)

By david lightman

The Hartford Courant, January 27, 2006

WASHINGTON -- Sen. Joseph I. Lieberman, D-Conn., saying he was "left with just too many doubts," announced today he will vote against confirming Judge Samuel A. Alito Jr. to the U.S. Supreme Court.

Lieberman became the 29th Democrat to announce his opposition to President Bush's nominee. But because 52 Republicans and three Democrats, including Nebraska Sen. Ben Nelson, West Virginia Sen. Robert Byrd and South Dakota Sen. Tim Johnson, have said they will back Alito, his confirmation is assured.

Lieberman, who joins the state's senior senator, Sen. Christopher J. Dodd, D-Conn., in opposition, said in a Senate floor speech that he was disturbed by Alito's record on privacy and civil rights issues.

"When asked at confirmation hearings about questions of personal privacy, Judge Alito accepted the 1965 decision in the [Griswold v. Connecticut] case as settled law," Lieberman said. That Supreme Court case overturned a state law barring married couples from using contraception, and was important for focusing on the right of married couples' privacy. Privacy became crucial in later cases, notably the 1973 Roe v. Wade case, which established a woman's right to an abortion.

But, Lieberman said today, "When asked over and over again" about Roe, Alito refused during his hearing to call that case settled law.

"I personally believe Roe achieved a … balance of rights and reflected a societal consensus that has continued and deepened in our country for more than three decades," Lieberman said. "I was left with serious concerns that Judge Alito would not uphold the basic tenets of Roe, and that is a very troubling conclusion."

In September, Lieberman and Dodd both voted for Bush's other Supreme Court choice, Chief Justice John G. Roberts Jr.

Lieberman explained that Alito met three of the four tests he applies before judging a nominee. Alilto has "shown he is a person of considerable intellect and ability," the senator said, and had an impressive legal background. And Lieberman had no doubts about his character -- "I thought he emerged with his honesty and integrity intact," he said.

But on the fourth standard, judicial philosophy, Lieberman thought Alito's record raised concerns.

"This is not about a single issue," the senator said, "but an accumulation of his opinions that leads me to a preponderance of doubts."

On civil rights, for instance, Lieberman was concerned that Alito too often barred legal remedies for people who thought they had been hurt by discriminatory practices. He looked at the hundreds of opinions Alito has written as a federal judge, and "together these opinions leave me with profound doubts about whether Judge Alito would protect and advance the special role" that the nation's founders gave it -- to judge issues "freed forever from political passions."

Senate Showdown Vote On Alito Set For Next Week (REU)

Reuters, January 27, 2006

WASHINGTON (Reuters) - Two more Senate Democrats broke ranks on Thursday and said they would vote to confirm Samuel Alito to the U.S. Supreme Court -- while two others made an all-but-certain futile bid to stop President George W. Bush's conservative nominee with a filibuster.

Alito, 55, a federal appeals court judge since 1990, appears headed for confirmation by the full Republican-led 100-member Senate early next week on a mostly party-line vote.

If approved, Alito would replace retiring Justice Sandra Day O'Connor, a moderate conservative, and could move the

nine-member court to the right on abortion, civil rights and other social issues.

Near the close of a second day of debate, Senate Majority Leader Bill Frist, a Tennessee Republican, moved to force a confirmation vote on Tuesday. A test vote on ending debate is set for Monday, and a number of Democrats conceded they probably cannot stop Frist from mustering the needed 60 votes to do so. There are 44 Senate Democrats.

Sen. Edward Kennedy said he and fellow Democrat John Kerry, both of Massachusetts, were taking the lead in pushing for a filibuster, a procedural roadblock that permits for unlimited debate to stop a nominee.

"It's a battle, but it's achievable," Kennedy told reporters.

However about a half-dozen moderate Democrats, including some opposed to Alito, have said they would not support a filibuster. And assistant Senate Democratic leader Dick Durbin of Illinois said: "I've come to the conclusion that it is highly unlikely that a filibuster would succeed."

Earlier on Thursday, Democratic Sens. Robert Byrd of West Virginia and Tim Johnson of South Dakota declared their support of Alito. They joined Democrat Ben Nelson of Nebraska, who had announced last week that he would vote for him.

Byrd, Johnson and Nelson represent states that voted for Bush, who promised in his campaign to nominate conservatives to the nation's highest court.

Democratic critics have argued that Alito poses a threat on such fronts as civil rights and abortion, and would not be an effective check on presidential powers.

Byrd said that no one could know exactly what kind of justice Alito would prove to be.

"But my considered judgment from his record, from his answers to my questions, and from his obvious intelligence and sincerity, leads me to believe him to be an honorable man, who loves his country, loves his Constitution and will give of his best," Byrd said. "Can we really ask for more?"

NOT A RADICAL

Johnson said while he had concerns about Alito's "narrow interpretation" of certain civil rights laws, "I cannot accept an argument that his views are so radical that the Senate is justified in denying his confirmation."

At a White House news conference, Bush urged the Senate to wrap up its debate as soon as possible and confirm Alito.

"He understands that the role of a judge is to interpret the law," Bush said. "He understands the role of a judge is not to advance a personal or political agenda."

Kennedy said, "This is a vote of a generation and a test of conscience. Judge Alito does not share the values of equality and justice that make this country strong. He does not deserve a place on the highest court of the land."

The Senate confirmation vote on Alito is expected to be far closer than the 78-22 for John Roberts, Bush's first nomination to the high court.

Alito Supported By Two More Democrats (WT)

By Charles Hurt

The Washington Times, January 27, 2006

Federal Judge Samuel A. Alito Jr. picked up two more Democratic endorsements yesterday, guaranteeing that he will be confirmed as the 110th associate justice of the U.S. Supreme Court next week.

Democratic Sens. Robert C. Byrd of West Virginia and Tim Johnson of South Dakota said they will support the nomination, even as Sen. John Kerry of Massachusetts phoned in for a filibuster from the Swiss Alps.

Mr. Kerry made calls yesterday while attending the World Economic Forum in Davos, Switzerland, urging colleagues to join a last-ditch effort to thwart Judge Alito's confirmation. Sen. Edward M. Kennedy, Massachusetts Democrat, joined in Mr. Kerry's call for a filibuster.

Republicans -- eager to relive the days during the 2004 presidential campaign when they called Mr. Kerry "an international man of mystery" -- delighted in his choice of venue.

"He shouldn't be wasting taxpayers' hard-earned money on long-distance phone charges calling for such obstruction," said Sen. George Allen, Virginia Republican.

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"I hope it doesn't interrupt his snowboarding plans," added Joseph Cella, president of the conservative Catholic group Fidelis. He noted that American voters support Judge Alito's confirmation by a nearly 2-to-1 margin.

"While I'm sure Senator Kerry feels right at home at the plush resort, he has only further marginalized himself as a very liberal senator who is completely out of touch with middle American values," Mr. Cella said.

The effort comes after the New York Times yesterday called for a filibuster in an editorial titled "Senators in Need of a Spine." It also came shortly after the National Abortion Federation called for a filibuster.

Mr. Kennedy said he thinks Minority Leader Harry Reid of Nevada, Minority Whip Richard J. Durbin of Illinois and Sen. Debbie Stabenow of Michigan will join the filibuster effort. That vote will take place Monday. If Republicans round up 60 votes -- which many Democrats concede will happen -- it will be followed by a final vote on confirmation on Tuesday.

Mr. Reid said earlier on the Senate floor, however, that more debate time -- the primary reason for filibusters -- would not be needed.

"No one can complain on this matter that there hasn't been sufficient time to talk about Judge Alito, pro or con," he said.

No matter how Mr. Reid votes, there won't be enough Democrats to block the nomination. The 55 Senate Republicans already had at least five Democrats joining them in opposition to a filibuster, and got three more yesterday.

Mr. Johnson was joined by Sens. Ken Salazar of Colorado and Mary L. Landrieu of Louisiana in opposing a filibuster, though Mr. Salazar and Mrs. Landrieu said they will vote against Judge Alito's confirmation.

Mr. Byrd, who drew a Republican challenger this week in his Republican-leaning state, delivered a stinging rebuke of his colleagues for the treatment of Judge Alito during the hearing.

"Was it really necessary to subject Mrs. Alito to the harsh glare of television klieg lights as she fled the hearing room in tears, fighting to maintain her dignity in response to others with precious little of their own?" he asked on the Senate floor.

Mr. Johnson, whose state President Bush won with 60 percent of the vote in 2004, said Judge Alito would not have been his pick for the Supreme Court.

"Nonetheless, I must conclude that Judge Alito possesses a high level of legal skill, is a man of solid personal integrity, and that his views fall within the mainstream of contemporary conservative jurisprudential thinking," he said.

Kerry Urges Alito Filibuster, But His Reception Is Cool (NYT)

By David D. Kirkpatrick

The New York Times, January 27, 2006

WASHINGTON, Jan 26 — Senator John Kerry of Massachusetts could not attend the Senate debate on the Supreme Court nomination of Judge Samuel A. Alito Jr. on Thursday. He was in Davos, Switzerland, mingling with international business and political leaders at the World Economic Forum.

But late Thursday afternoon, Mr. Kerry began calling fellow Democratic senators in a quixotic, last-minute effort for a filibuster to stop the nomination.

Democrats cringed and Republicans jeered at the awkwardness of his gesture, which almost no one in the Senate expects to succeed.

"God bless John Kerry," said Don Stewart, a spokesman for Senator John Cornyn, a Texas Republican on the Judiciary Committee. "He just cinched this whole nomination. With Senator Kerry, it is Christmas every day."

Steve Schmidt, a White House spokesman working on the nomination, said Mr. Kerry's move "says a lot less about Alito than it does about the Iowa primary in 2008," suggesting that Mr. Kerry, who lost the presidential race in 2004, was playing to his party's liberal base in a bid to recapture its nomination.

Senator Harry Reid, the Democratic leader, sounded almost apologetic about Mr. Kerry's statements.

"No one can complain on this matter that there hasn't been sufficient time to talk about Judge Alito, pro and con," Mr. Reid said on the Senate floor. "I hope that this matter will be resolved without too much more talking."

Mr. Kerry's call for a filibuster, an effort to stop confirmation by refusing to close debate and hold a vote, was joined by his fellow Democratic senator from Massachusetts, Edward M. Kennedy.

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Under Senate procedures, their objections blocked the Senate Democratic and Republican leaders from setting Tuesday as the date for a vote on confirmation.

Instead, the Senate will vote Monday on whether to close debate. Sixty votes are required for a full Senate vote on Judge Alito. More than 60 senators have already pledged to support him, and the leaders of both parties said they expected to hold the full vote on Tuesday.

Mr. Kerry offered an explanation for his position in a post on a liberal blog, the Daily Kos.

"People can say all they want that 'elections have consequences,' " he wrote. "Trust me, more than anyone I understand that. But that seems like an awfully convoluted rationale for me to stay silent about Judge Alito's nomination."

Mr. Kerry was celebrated by leaders of the coalition of liberal groups opposing Judge Alito's nomination.

"Senator John Kerry has called for a filibuster of the Alito nomination, heeding your calls to do everything possible to defeat it," People for the American Way cheered in an e-mail message to its supporters.

Mr. Kennedy said a filibuster might help focus attention on the nomination and give its opponents a last chance to sway the public and the Senate.

He acknowledged some "divisions in the caucus" over the advisability of a filibuster, but he said the effort had the support of a few others, including Senator Richard J. Durbin of Illinois, the Democratic whip.

A spokesman for Mr. Durbin confirmed that he would vote against closing debate.

"It is an uphill climb at this point," Mr. Kennedy said of a filibuster. "But it is achievable."

Asked if Mr. Kerry's absence from the Senate would hinder their efforts, Mr. Kennedy said, "We'll do the best we can and make a good fight of it."

Mr. Kerry has been rallying his supporters against the nomination for weeks in mass e-mail messages and on his Web site.

And when the Democratic caucus met Wednesday to discuss the nomination, he gave an impassioned plea that the party should try to stage a filibuster even if it failed, people present said, speaking only if granted anonymity because the meeting was private. Some senators at the meeting said an unsuccessful filibuster would leave the party weakened for future battles.

Some said a messy and unsuccessful filibuster fight would distract from the Democratic focus on other issues like corruption in government and wiretapping by the Bush administration.

In the end the party leaders were not persuaded by Mr. Kerry's appeal.

Judge Alito's confirmation was looking increasingly certain Thursday. Two more Democrats, Senator Tim Johnson of South Dakota and Senator Robert C. Byrd of West Virginia, said they would break party ranks to vote for confirmation.

Mr. Byrd said his constituents had told him they were "appalled" by the harsh questioning Judge Alito received from the Senate Judiciary Committee at his confirmation hearings, calling them "an outrage and a disgrace."

With Senator Ben Nelson of Nebraska, Mr. Johnson and Mr. Byrd bring the number of Democrats pledging support for Judge Alito to three. The vote on confirmation is expected to hew closely to party lines. No Republicans have said they will vote against him.

Two Republican supporters of abortion rights, Senators Olympia J. Snowe of Maine and Lincoln Chafee of Rhode Island, have not declared how they will vote.

Shortly after 7 p.m., Mr. Kerry issued a statement saying, "Judge Alito's confirmation would be an ideological coup on the Supreme Court."

"The president has every right to nominate Samuel Alito to the Supreme Court," Mr. Kerry said. "It's our right and our responsibility to oppose him vigorously."

A few moments later, April Boyd, a spokeswoman for Mr. Kerry, sent a postscript saying that "as things played out over the course of the day today" he had decided to fly home. "Kerry will be back in Washington tomorrow," Ms. Boyd said.

Senate GOP Seeks To Force Vote On Alito (KCS)

By Jesse J. Holland

The Kansas City Star, January 27, 2006

DOJ_NMG_0012449

WASHINGTON - Die-hard Democratic critics of Supreme Court nominee Samuel Alito threatened on Thursday to block a vote on his confirmation, and Republicans countered with a move designed to force his approval by early next week.

"It is time to establish an end point" in the debate over President Bush's selection to replace Justice Sandra Day O'Connor, said Senate Majority Leader Bill Frist, R-Tenn.

Sen. Edward M. Kennedy, D-Mass., said he and other Democrats had refused to agree to a timetable for ending debate. "There's some division in our caucus," he conceded.

Democratic leader Harry Reid signaled as much in remarks on the Senate floor. He offered no support for Kennedy, John Kerry and others who are trying to block the vote with a filibuster in a last stand against Alito's confirmation.

"There's been adequate time for people to debate," Reid said.

Alito, 55 and a 15-year veteran of the federal appeals court, has well over 50 votes for confirmation. He gained the support of Democrats Tim Johnson of South Dakota and Robert C. Byrd of West Virginia during the day, and has the backing of at least 52 of the Senate's 55 Republicans.

The Senate will vote Monday on cutting off debate. If Alito's supporters get 60 votes in the 100-member body, the confirmation vote will follow on Tuesday.

"The president has every right to nominate Samuel Alito to the Supreme Court," Kerry said. "Its our right and our responsibility to oppose him vigorously and to fight against this radical upending of the Supreme Court."

White House spokesman Stephen Schmidt predicted the Republicans would easily win. "More than 60 senators have signaled their intentions to vote against the filibuster and give Judge Alito the up-or-down vote that he deserves," he said.

Frist said he had been unable to win a commitment from all senators on a time for a final vote. Instead, he set the stage for cutting off debate Monday with what is known as a cloture vote.

Democrats' concern over Alito's nomination has been heightened because he would replace O'Connor, who has been the swing vote on 5-4 rulings that maintained abortion rights, preserved affirmative action and limited the application of the death penalty.

Conservatives agree that Alito could push the court to the right, but they welcome the prospect.

Kennedy said, "The nominee is deficient in his commitment ... to individual rights, individual liberties, women's rights and racial equality."

The senator conceded he faced an "uphill climb" in the effort to block confirmation but said it was possible.

Asked to name other Democrats siding with him, he cited Dick Durbin of Illinois, the second-ranking Senate Democrat, as well as Paul Sarbanes of Maryland and Debbie Stabenow of Michigan.

Patrick Leahy of Vermont, the senior Democrat on the Judiciary Committee, opposes Alito's confirmation but has not yet decided whether to support the filibuster, an aide said.

President Bush earlier in the day called for the Senate to confirm his nominee.

Alito "understands the role of a judge is not to advance a personal and political agenda," Bush said at the White House. "He is a decent man."

Democrats contended anew that Alito's confirmation would put individual rights and liberties in danger. Dianne Feinstein of California, the only woman on the Senate Judiciary Committee, said he would join justices Clarence Thomas and Antonin Scalia in the court's conservative wing and apply "originalist" interpretations to court decisions.

"If an originalist analysis was applied to the Fourteenth Amendment, women would not be provided equal protection under the Constitution, interracial marriages could be outlawed, schools could still be segregated and the principle of one man, one vote would not govern the way we elect our representatives," Feinstein said.

Nelson, Byrd and Johnson are the only Democrats to express support for Alito so far.

Thirty-two senators - all Democrats except for independent Jim Jeffords of Vermont - are on record against Alito. Twenty-two of the Senate's 44 Democrats voted against John Roberts' confirmation as chief justice last year.

Alito may be on his way to the most partisan Senate victory for a Supreme Court nominee in years. The closest vote in modern history is Thomas' 52-48 victory in 1991, when 11 Democrats broke with their party and voted for President George H.W. Bush's nominee.

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Democrats Split Over Filibuster On Alito (WP)

By Charles Babington

The Washington Post, January 27, 2006

Several prominent Democratic senators called for a filibuster of Samuel A. Alito Jr.'s Supreme Court nomination yesterday, exposing a deep divide in the party even as they delighted the party's liberal base.

The filibuster's supporters -- including Sens. John F. Kerry and Edward M. Kennedy of Massachusetts -- acknowledged that the bid is likely to fail and that Alito is virtually certain to be confirmed Tuesday. But they said extended debate may draw more Americans' attention to Alito's conservative stands on abortion, civil rights, presidential powers and other matters.

"Judge Alito will take America backward, especially when it comes to civil rights and discrimination laws," Kerry said in a statement issued by his office. He added: "It's our right and our responsibility to oppose him vigorously and to fight against this radical upending of the Supreme Court."

Kennedy said that Alito, 55, "does not share the values of equality and justice that make this country strong," adding: "He does not deserve a place on the highest court of the land."

Liberal groups such as People for the American Way have implored Democratic senators to filibuster Alito's nomination, even if it means nothing more than staking their principles and showing that Democrats will fight against a party that controls the House, Senate and White House. But many Republicans have relished the idea of a Democratic-led filibuster, saying it helps them portray the minority party as obstructionist and beholden to left-leaning groups.

"Continuing to threaten a filibuster, even after it is crystal clear that Democrats don't have the necessary votes to sustain their obstruction, is needless, strange and at odds with many of their fellow Democrats," Sen. John Cornyn (R-Tex.) said in a statement. Some Republicans poked fun at Kerry -- the 2004 Democratic presidential nominee, who may make another White House bid -- for allowing others to announce the filibuster plan earlier in the day while he was attending an economic conference in Davos, Switzerland.

A filibuster involves endless debate intended to keep a measure -- such as a judicial nomination -- from reaching a vote. Sixty votes in the 100-member Senate are needed to end a filibuster. Republicans hold 55 seats, and enough Democratic senators will join them to end debate and hold a vote next week with votes to spare, Alito supporters said. If Alito supporters failed to get the 60 votes, a filibuster officially would begin and debate would continue.

Bitter disputes over judicial filibusters nearly brought the Senate to a standstill last year. After Democrats used the stalling tactic to block several of President Bush's appellate court nominees, Republicans threatened to change Senate rules to ban judicial filibusters. A bipartisan accord, which excluded both parties' leaders, averted the showdown and made a successful filibuster effort considerably more difficult. GOP leaders say they will revive their "nuclear option" threat if a Democratic filibuster endangers confirmation of a Bush nominee.

Majority Leader Bill Frist (R-Tenn.) said the Senate will vote Monday afternoon to end debate and vote Tuesday morning on whether to confirm Alito to succeed retiring Justice Sandra Day O'Connor. At least three Democratic senators -- Ben Nelson (Neb.), Robert C. Byrd Jr. (W.Va.) and Tim Johnson (S.D.) -- have said they will vote for Alito. Others have said they would not support a filibuster, regardless how they vote on confirmation.

Senate Democratic Leader Harry M. Reid (Nev.) repeatedly told colleagues this week that he wanted to avoid a filibuster, party members said. He looked frustrated in the Senate chamber yesterday as he told Frist he could not avert the parliamentary tactic. Shrugging his shoulders, Reid said he hoped "this matter will be resolved without too much more talking, but . . . everyone has the right to talk."

Party sources said Reid and others worry that a filibuster, while likely to fail, will nonetheless detract voters' attention from issues that Democratic leaders consider more promising. They include Bush's controversial domestic surveillance program, the indictments of a top White House official and a congressional leader, and the unfolding scandal centered on former lobbyist Jack Abramoff.

Party leaders especially worry about forcing a filibuster decision on Democrats seeking reelection this fall in GOP-leaning states, including Nelson and Kent Conrad (N.D.).

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While Reid hoped to avoid a filibuster, Democratic Whip Richard J. Durbin (Ill.) supports it. But at a midday session with reporters, Durbin acknowledged the likely futility.

"Having made a count," he said, "I have come to the conclusion it is highly unlikely that a filibuster would succeed."

Bring It On (WSJ)

The Wall Street Journal, January 27, 2006

According to CNN, Senator John Kerry announced yesterday that he will attempt to rally his fellow Democrats to stage a filibuster to stop the confirmation of Samuel Alito to the Supreme Court. Apparently, this is not a parody.

Mr. Kerry made this dramatic political intervention from the World Economic Forum in Davos, Switzerland, where he was communing with his political base. He wants his Democratic colleagues to revisit the filibuster strategy that they used to such brilliant effect during President Bush's first term. Republicans assailed Democrats for this obstructionism in 2002 and 2004, and the issue helped them win a mere seven or eight seats in red states.

And this was after filibusters on obscure appellate nominees. Imagine the political gain for Republicans after a Supreme Court filibuster -- with all of its 24/7 publicity -- by blue-state liberals against a modest Italian-American with impeccable legal credentials and stainless ethics. Mr. Kerry really seems to believe that the country will rise up in fury when it discovers that Judge Alito believes that the Constitution gives a President wide powers to defend America.

Back on planet Earth, at least three red-state Democrats have now said they'll vote for Judge Alito. Two of them -- Robert Byrd of West Virginia and Ben Nelson of Nebraska -- happen to be up for re-election this year. Mr. Kerry may not care much about the Senate because his real goal is winning the Democratic nomination for President again in 2008. Republicans should be so lucky.

Bush To Embrace A 'competitiveness' Agenda (FT)

By Caroline Daniel And Edward Alden In Washington

Financial Times, January 27, 2006

George W. Bush, US president, is to embrace a "competitiveness" agenda advocated by big US technology companies in his State of the Union address next week.

Amid growing concerns that the US is lagging behind in cutting-edge research and has fallen behind China and India in training science and technology graduates, he is expected to highlight the need for measures to improve US industry's competitiveness.

In a press conference in Washington on Thursday, Mr Bush said: "We live in a competitive world, and so policies must be put in place to recognise the competition of the global economy and prepare our people to be able to continue to compete so America can continue to lead."

Business groups have been urging the administration to support higher spending on research and development, expanded education in science and engineering and liberalised immigration laws to bring more foreign scientists and engineers to the US.

The issue is one on which the White House could benefit from bipartisan co-operation.

Three Democrats and one Republican senator introduced bills on Wednesday to implement the recommendations of a National Academy of Sciences report last year.

It warned that America's competitive edge was eroding, and the bills call for $9bn (€7.4bn) in new spending, including a doubling of the funding available for basic research, scholarships for future mathematics and science teachers and reform of US visa laws that deter foreign students.

Bruce Josten, executive vice-president at the US Chamber of Commerce, said he expected the president to address the competitiveness issue in Tuesday's state of the union address, and played down the impact on the budget at a time when the White House wants to rein in domestic spending. "When you are talking about a budget for 2007 of $2,400bn, I don't want to sound crass, but $9bn is a rounding error."

Top US executives – including Ed Zander at Motorola and Jeffrey Immelt, chief executive of General Electric – have focused on the issue of US competitiveness in recent speeches.

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Last week, Mr Immelt told the Economic Club of Washington, “If you want good manufacturing jobs, one thing you could do is graduate more engineers. We had more sports exercise majors graduate than electrical engineering graduates last year. If you want to be the massage capital of the world, you’re well on your way.”

At the instigation of US technology and manufacturing companies, the commerce department hosted a national summit on competitiveness last month, attended not just by business and university leaders but also by four cabinet secretaries as well as business and university leaders.

In the closing statement, summit participants warned: “If trends in US research and education continue, our nation will squander its economic leadership, and the result will be a lower standard of living for the American people.”

Tight Budget Limits Bush's Options (WSJ)

By John Harwood

The Wall Street Journal, January 27, 2006

BUSH PLANS emphasis on broad themes as red ink thins policy options.

Advisers say budget squeeze will curb initiatives in Tuesday's State of the Union. Bush's track record suggests little polling benefit; his ratings dropped after two of four earlier addresses.

Historians shrug; a ranking of top 100 American speeches in 20th century includes just one State of the Union, Franklin Roosevelt's Four Freedoms speech. Many tune in to see guests sitting with first lady, says University of Wisconsin professor Stephen Lucas.

"Like watching the Super Bowl for the advertisements," he notes.

DEFICIT REDUCTION TOPS congressional agenda.

White House and Republican leaders hope to reassemble narrow 2005 majority for budget bill; Senate Democrats used procedural maneuver to force repeat vote. House Republicans also plan to pass one-month Patriot Act extension before turning to election of DeLay's successor.

Senate Leader Frist wants confirmations by Wednesday of Alito to Supreme Court and Bernanke to Federal Reserve. Senate also will begin resolving tax-cut difference with House. Though strategist Rove rips Democrats on national security, Bush says in Wall Street Journal interview he'll be "calling upon the better nature of those of us in Washington" toward bipartisan compromises.

PARTIES BATTLE TO define 2006 playing field.

With most partisan outcomes predictable due to election district gerrymandering, Democratic hopes of regaining House majority depend on expanding number of competitive seats. House Democrats, who need net gain of 15, say outcome remains in doubt in as many as 50 districts.

"Maybe 30 at most," responds Carl Forti of House Republicans' campaign committee. Nonpartisan analyst Stu Rothenberg says 42 seats, three-fourths held by Republicans, are "in play." In paper for National Bureau of Economic Research, Yale's Ebonya Washington finds African-American Democratic nominees boost general election turnout by two to three percentage points among blacks and whites alike.

Democrats bank on black candidate Angie Paccione in uphill fight against Colorado Rep. Musgrave, a gay-marriage foe.

MAGIC NUMBER? With 2008 White House hopeful Kerry exploring a filibuster, Senate Democrats brace for expected defections of North Dakota's Conrad and Dorgan on Alito vote. Combined with Nelson of Nebraska, Johnson of South Dakota, and Byrd of West Virginia, who announced support for Bush's choice, that would give Republicans 60 votes if their party stays unified. Amid talk of longshot Kerry filibuster try, Republicans will try to rally that number in Monday vote to cut off debate.

OPEN SPIGOT: Money pours into both parties despite scandal headlines. By outraising Democrats $102 million to $51 million last year, Republican National Committee regains traditional edge lost during 2004 campaign. Dean dents DNC's bottom line by paying for new staffers hired by state parties. ImpeachPAC, backing Democrats committed to forcing Bush from office, raises $47,000 in first two months.

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COLD WAR RESTRICTIONS will fall if Bush administration persuades Congress to clear the way for Russia's entry into World Trade Organization. But some conservatives, questioning Putin's commitment to democracy and free-market forces, still resist. Trade Representative Portman also seeks election-year WTO membership for Ukraine, Vietnam and Kazakhstan.

PRIORITY SHIFT: Hamas victory in Palestinian elections alters Rice's coming London talks with foreign ministers of Russia, France, Britain, China and Germany. The secretary of state wants allies in Europe -- major donors of aid to Palestinians -- to join in demanding that Hamas renounce terror tactics.

EX-ADMINISTRATION LAWYER becomes tool for both sides in wiretap debate.

Democratic Sen. Schumer asks Judiciary Chairman Specter to call former Justice Department official James Comey to testify on warrantless surveillance. Comey, now general counsel of Lockheed Martin, had forced changes in the program as deputy attorney general in spring 2004.

But the White House, which earlier chided Comey as too much of a stickler, turned to him as liaison with New York Times in trying to head off disclosure of the program in 2004 and 2005. Bush has said the leak "damages our national security," but declined in the interview to say how.

"A relevant question," Bush said, but "I'm not going to answer it."

MINOR MEMOS: President cites audience comment at Kansas State forum as evidence of continued interest in Social Security overhaul, then adds, "It's a random sample of one, admittedly." ... Not waiting for interviewers, Bush says, "I can ask my own questions -- 'What about Iran, Mr. President?' "

Speech Protesters Granted Spot (WP)

By Karlyn Barker

The Washington Post, January 27, 2006

Organizers of a planned protest during President Bush's State of the Union address next week reached an agreement yesterday with law enforcement officials and will now be allowed to use the area around the U.S. Capitol Reflecting Pool for their demonstration.

The demonstrators had initially been offered the Reflecting Pool area on the west side of the Capitol as a protest site but then were told that the site had been reclassified as part of the security perimeter for the day of Bush's speech.

Organizers of the Tuesday protest, called "World Can't Wait -- Drive Out the Bush Regime," filed a federal lawsuit Wednesday seeking a court order to let them hold the gathering at the Reflecting Pool. They met yesterday with police and government representatives to resolve the issue.

"The Capitol Police reassessed its security concerns regarding the area around the Capitol Reflecting Pool and withdrew its request to the U.S. Park Service to close that area during President Bush's State of the Union address," said Channing Phillips, a spokesman for the U.S. attorney's office, which participated in discussions to settle the dispute.

Phillips said the nearby grassy areas on the Capitol grounds are fenced off because of turf renovation. But he said the amended permit, which will be issued by the National Park Service, will be sufficient for the group's needs.

James R. Klimaski, an attorney for the demonstrators, said the lawsuit will be withdrawn as soon as the group receives the amended permit. A hearing was held before U.S. District Judge Ricardo M. Urbina yesterday to tell him that the matter had been resolved.

The protest group said it was told Jan. 10 that it could use the area around the Capitol Reflecting Pool for a demonstration timed to coincide with Bush's 9 p.m. address to Congress. But on Jan. 19, organizers were told that the U.S. Capitol Police had expanded the security area to include the Reflecting Pool and that they would have to confine the demonstration to the gravel walkways between Third and Fourth streets on the Mall. The other option was to gather at Seventh Street, about a mile from the Capitol.

"A protest not seen and a protest not heard is not a protest," said Travis Morales, one of the organizers of the demonstration, who accused the Bush administration of trying to keep demonstrators far from the Capitol. He said yesterday that the Reflecting Pool area "will hold thousands more people" than the gravel walkways.

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Sgt. Kimberly Schneider, a spokeswoman for the U.S. Capitol Police, gave no explanation yesterday for the change of position. The department, she said, "constantly re-evaluates security requirements leading up to large events."

L.A. Mayor, Key Democrats Discuss Reply To Bush's Address (LAT)

By Patrick Mcgreevy

The Los Angeles Times, January 27, 2006

WASHINGTON — Los Angeles Mayor Antonio Villaraigosa huddled Thursday with Democratic leaders from Congress to discuss his Spanish-language response to the president's State of the Union address next week, and there were signs of some disagreement over how to present their case.

Villaraigosa, in Washington this week to attend a meeting of the United States Conference of Mayors, also made the rounds of national media outlets, appearing on C-SPAN, National Public Radio and MSNBC to talk about the task of rebutting President Bush and the mayor's new role as chairman of a poverty task force for the mayors' group.

On C-SPAN's live show "Washington Journal," the mayor complained about federal cuts in anti-poverty money, but without naming Bush.

"The federal government cannot afford to cut the safety net as they have for so many years," Villaraigosa said.

He planned meetings with mayors from Atlanta and other cities late into the night and planned to take a 6 a.m. flight back to L.A. today.

At times on Thursday, his energy seemed to flag, despite standing out in the crowd in his pressed, dark suit.

Between broadcast interviews, Villaraigosa met with Senate Democratic Leader Harry Reid, Senate Minority Whip Richard J. Durbin and House Democratic Leader Nancy Pelosi to discuss the party's response to the State of the Union speech.

The mayor emerged from a meeting with Durbin and Pelosi saying that he did not want to be too negative about the president, on whom his city depends for federal financial help.

"My remarks depend, in part, on what the president has to say, but I think my focus will be more an alternative vision, as opposed to one that spends a lot of time criticizing the administration," Villaraigosa told The Times.

"It will be one that focuses on opportunity and hope."

The mayor's comments were in contrast to speeches by Pelosi and Durbin at a luncheon attended by Villaraigosa at the National Press Club on Thursday. Pelosi said that on key issues the policies we have seen from Republicans in power do not match the priorities of the American people."

Later, after meeting with Reid at the Capitol, Villaraigosa was pressed on his plans by Chris Matthews, the host of MSNBC's "Hardball."

Asked if his speech in Spanish would be different from the Democratic rebuttal in English, to be delivered by Gov. Tim Kaine of Virginia, Villaraigosa said he agreed to speak to the nation only if he could retain editorial control.

He repeated that the key words of his speech will be "hope" and "opportunity."

The mayor, who was national co-chairman of John Kerry's presidential campaign, said the Republicans have in recent years "been able to speak to America's heart … better than Democrats have. We are good at speaking to her head. They speak to her heart. They speak to America's values in a way that I think has resonated in the last two elections. That's clear to me."

The mayor's office is a nonpartisan post, and Villaraigosa said issues such as poverty are not owned by any party.

"It's an American tragedy," he said. "We have to speak to America's heart, to her values."

The mayor got a firsthand look at the different values held by some Americans as he was peppered with questions about immigration from callers on C-SPAN's "Washington Journal."

After saying that Los Angeles is not going to follow the lead of Costa Mesa and involve police officers more in identifying illegal immigrants, a caller from Arkansas said not enough was being done to counter illegal immigration.

The woman declared: "It's only after the influx of illegals that you were elected, sir. How is this possible?"

Clearly stunned, Villaraigosa responded, "Are you kidding?" After a long silence, he added, "I was born in the United States."

State Of The Union (NYT)

By Thomas L. Friedman

DOJ_NMG_0012455

The New York Times, January 27, 2006

On Tuesday President Bush will deliver his State of the Union address and map out priorities for his last three years. The direction in which America needs to go is obvious: toward energy independence. If Mr. Bush steps up to that challenge, this speech could be a new beginning for his presidency. If he doesn't, you can stick a fork in this administration. It will be done — because it will have abdicated leadership on the biggest issue of our day. Here's the speech I'll be listening for:

My fellow Americans, on May 25, 1961, President Kennedy gave an extraordinary State of the Union address in which he called on the nation to marshal all of its resources to put a man on the Moon. By setting that lofty goal, Kennedy was trying to summon all of our industrial and scientific talent, and a willingness to sacrifice financially, to catch up with the Soviet Union, which had overtaken America in the field of large rocket engines.

"While we cannot guarantee that we shall one day be first," Kennedy said, "we can guarantee that any failure to make this effort will make us last."

I come to you this evening with a similar challenge. President Kennedy was worried about the threat that communism posed to our way of life. I am here to tell you that if we don't move away from our dependence on oil and shift to renewable fuels, it will change our way of life for the worse — and soon — much, much more than communism ever could have. Making this transition is the calling of our era.

Why? First, we are in a war with a violent strain of Middle East Islam that is indirectly financed by our consumption of oil. Second, with millions of Indians and Chinese buying cars and homes as they join the great global middle class, we must quickly move away from burning fossil fuels or we're going to create enough global warming to melt the North Pole. Because of that, green cars, homes, offices, appliances, designs and renewable energies will be the biggest growth industry of the 21st century. If we don't dominate that industry, China, India, Japan or Europe surely will.

But to lead, we must impose the highest energy-efficiency standards on our own automakers and other industries so we force them to be the most innovative. I want to inspire girls and boys across America to study math, science and engineering to help our nation achieve green energy independence. President Kennedy said, Let's put a man on the Moon. I say, Let's make oil obsolete.

Finally, my call for spreading democracy will never be achieved if some of the worst regimes on the planet — Iran, Sudan, Venezuela — have so much oil money they can misbehave and ignore the world, and if the rest of us — Europe, America, China and India — are forever coddling them to get access to their crude.

With all of this in mind, I am sending Congress the Bush Energy Freedom Act. It is based on ideas first offered by the energy expert Philip Verleger and it argues the following:

Transportation accounts for most of our oil consumption. And many Americans have purchased big cars and S.U.V.'s, expecting gasoline to remain cheap. That is no longer the case. Therefore, I propose creating a government agency that will buy up any gas-guzzling car or truck in America at the original new or used price, and crush it. This national buy-back program will be financed by a $2-a-gallon gasoline tax that will be phased in by 10 cents a month beginning in 2008 — so people know what is coming and start buying fuel-efficient cars right now.

By removing so many gas guzzlers, we will quickly reduce our oil consumption and create a huge demand for new energy-efficient cars from Detroit, which will rescue our auto industry. We have to do something drastic. The Harley-Davidson motorcycle company is worth more today than General Motors! But by sharply raising the gasoline tax, we'll also make sure that Detroit shifts its fleet to energy-saving plug-in hybrids and hydrogen- and ethanol-fueled vehicles, which will force Detroit to out-innovate Toyota. And by generating so much income from a gasoline tax, we will be able to give gas-tax rebates to lower-income folks and have plenty left over to pay for new investment in education and scientific research.

Impossible? Read my lips: Nothing is impossible when Americans put their hearts and minds to it.

One last thing: I have accepted the resignation of Vice President Dick Cheney, who felt he could not be a salesman for the Energy Freedom Act. I am nominating Jeffrey Immelt — the C.E.O. of General Electric, who has focused G.E.'s innovation around "eco-imagination" — as Mr. Cheney's replacement.

Good night, and God bless America.

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How Bush Would Tame Healthcare Costs (CSM)

By Alexandra Marks

The Christian Science Monitor, January 27, 2006

NEW YORK - President Bush is moving to put healthcare at the top of America's political agenda. In his State of the Union speech next Tuesday, he is expected to propose a series of initiatives that are designed to rein in the spiraling cost of healthcare and increase the number of Americans with insurance. To do this, he is hoping to encourage a market-oriented, consumer-driven system. Key components of his plan include the expansion of health savings accounts, additional tax breaks for individuals who buy insurance on their own, and provisions that would improve public access to information on healthcare pricing.

Supporters contend the proposals are crucial to making American more of an "ownership" society, allowing individuals to have more control over their healthcare choices. Critics warn they'll shift more risk onto individuals and undermine the nation's already strained health-insurance system.

These initiatives are outlined below, followed by arguments for and against: Health savings accounts

Health savings accounts are tax-free accounts that individuals or businesses can set up at banks or credit unions, in conjunction with the purchase of high-deductible, so-called catastrophic health insurance. Individuals can now contribute as much as $2,600, and families as much as $5,150 each year. Bush is expected to propose increasing these limits. The accounts are to be used for routine medical expenses, such as checkups and pharmaceutical costs. The insurance is there as a backup in case of a health emergency.

In the past year, the number of individuals with such policies tripled to 3 million, according to America's Health Insurance Plans (AHIP), a medical lobbying group in Washington. That accounts for about 1 percent of the insured population.

Pros

• Is designed to give consumers more choice of providers and services.

• May encourage medical-services shoppers to be more cost-conscious because they will be spending their own money.

• Makes insurance more affordable to some of the working uninsured, since the premiums for catastrophic insurance are lower than traditional premiums.

"About one-third of the individuals who were purchasing [the catastrophic insurance in conjunction with setting up an HSA] didn't have health insurance prior to the offering of these policies," says Karen Ignani, president and CEO of AHIP. "Clearly these policies are reaching out to a segment of the population that heretofore found coverage too expensive."

Cons

• Because of very high deductibles, could discourage the purchase of preventive or other care that is deemed necessary, which could lead to higher overall medical costs.

• Does not address the real drivers of healthcare inflation: advances in expensive medical technology and the growing cases of chronic illness. (Eighty percent of healthcare spending in the US is for individuals diagnosed with chronic problems, like diabetes.)

• Will be attractive to healthier, wealthier people, draining them from the insurance risk pool and leaving only higher-risk people with traditional insurance, which would drive up the cost.

"It takes us back to the equity question of whether we want to be spreading the costs out through society so that people who get sick don't bear the full cost of their own illness," says Mark Schlesinger, a health policy expert at Yale University. "This is basically saying once you're sick, you can plan to spend more for the rest of your life as opposed to saying we'll help share that burden with you." Tax breaks for those buying their own insurance

When businesses buy employees' health insurance, they receive a tax break, which is essentially a taxpayer subsidy worth about $120 billion annually. Individuals who buy health insurance on their own currently receive no tax break. They must spend more than 7.5 percent of their income on medical expenses before qualifying for an income-tax deduction. Of the 45 million uninsured, 80 percent are estimated to be working at low-wage jobs, many of which don't include health insurance.

Bush is expected to call for individuals to be able to take deductions similar to those taken by businesses.

Pros

• Could create incentives for more uninsured individuals to buy insurance.

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• Levels the playing field between businesses and individuals.

"We're throwing a tremendous amount of dollars at people like me. I have a nice job and a nice salary," says Joseph Antos, a healthcare expert with the American Enterprise Institute. "I'm appreciative, but in truth I don't need it nearly as much as someone who is working at the minimum wage who isn't getting that tax break."

Cons

• Might encourage some businesses to cut back on the health insurance they provide.

• Is estimated to cost in the tens of millions of dollars, and with increasing deficits, Congress may balk.

• May not help the working poor, unless the tax advantage is given as a credit.

"Only a refundable tax credit will help people [with little income] who have little or no tax liability," says Mr. Antos. More transparency in pricing

Currently, no national standard exists by which consumers can judge the quality and cost of varying healthcare services. By creating such a set of standards - which an alliance of healthcare providers is currently attempting to do - and encouraging hospitals and doctors to comply, consumers would have the tools to shop for the best care at the best bargain. Even the staunchest advocates of HSAs agree that without such data, consumer-driven healthcare won't work as advertised.

Pros

• Helps consumers make more informed choices.

• Helps improve quality of care.

"You will get a lot more pressure to understand the comparative effectiveness of technologies and medical procedures," says Gail Wilensky, a health policy expert at Project Hope in Washington. "That can help payers, providers, and even the patient community to understand if there is either not much known or a lot of dispute about how effective a new technology or procedure may be. For some people in some circumstances it can make all of the difference in the world."

Cons

• Is expensive to implement because of the database technology required.

• Could take years to accomplish because medical culture is slow to change.

• Is based on cost, when some consumers don't make medical decisions on that basis.

• Could be difficult for consumers to understand.

"It's right now such a complex pricing mechanism that even experts on the inside have trouble deciphering it. How in the world is an individual consumer going to?" says Dr. Henry Simmons, president of the National Coalition on Health Care in Washington.

Savings Accounts For Health Costs Attract Wall St. (NYT)

By Eric Dash

The New York Times, January 27, 2006

When it comes to medical benefits, millions of Americans already have a health insurer. Soon, many will also have a debit card and a bank tied to their medical plan.

Banks, credit unions and money management firms are now quietly positioning themselves to become central players in the business of health care, offering 401(k)-type accounts to cover future medical expenses.

Bank of America, J. P. Morgan Chase, Fidelity Investments and hundreds of others are hoping to capitalize on the latest wrinkle in medical care paid by consumers: health savings accounts, which have been around since 2003 but are moving to the fore of the national agenda in anticipation of the State of the Union address on Tuesday.

These supercharged checking accounts, which must be linked to a high-deductible health insurance plan, allow consumers to invest their own money for current and future medical expenses and have it grow tax-free.

They are the centerpiece of President Bush's plans on health care, just as private accounts were offered as a Social Security fix.

Currently, only about three million Americans have signed up for the high-deductible insurance policy required for such accounts, up from slightly more than one million last March, according to findings released yesterday by America's Health

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Insurance Plans, an industry group. It is not clear how many of those people have actually opened a linked account. Still, the number is expected to rise sharply over the next five years.

By 2010, more than 15 million Americans, or about 10 percent of all those insured, will have a health savings account, according to an estimate by DiamondCluster International, a management consulting firm.

The average individual's account balance, it projects, will grow from $1,500 today to about $3,500 in 2010. Even if people pull out some or all of their money to pay their medical bills, the ballooning balances may mean that $75 billion or so in new money to manage will soon be at stake.

Banks and others are drawn by the promise of lucrative fees they can generate by offering consumers mutual funds and other investment vehicles as their account balances grow. Most also charge $50 to $75 to set up a health savings account, and they collect perhaps $40 or more each year in maintenance charges and service fees.

Not since the creation of the individual retirement account in the mid-1970's has such a potentially huge mountain of money landed in the lap of the financial services industry.

"Billions of dollars that used to be written in the form of checks with insurance companies' names on them would instead go to credit unions, banks, and long-term investment houses," said Dan Perrin, the publisher of H.S.A. Insider and executive director of the H.S.A. Coalition, a lobbying group backed by 70 small-business and medical industry groups as well as the American Bankers Association. "You know America: you see a financial opportunity and it sets off a gold rush."

Two years ago, not a single major bank offered a health savings account. Only seven small banks had any sort of plan. Today, more than 300 financial services companies, including big banks, are taking deposits or will be soon. About 150 more are on the way. Some of the country's biggest health insurance providers have started their own banks.

To be sure, health savings accounts will make up only a small fraction of earnings at a financial giant like Citigroup. But at a time when deposit growth has slowed and higher interest rates have hurt profits, they represent a steady stream of new income that is increasingly hard to find. Banks are betting that what the administration calls consumer-directed health care catches on.

Supporters say that the discipline and marketing might of financial services giants could spur the adoption of consumer-directed care. Critics argue that the banking industry's involvement only bolsters their case: the accounts are more about wealth than health.

"We already have a large number of retirement savings vehicles in the United States," said Jonathan Gruber, an economist and Treasury Department official in the Clinton administration. "It is not clear why we need yet another tax break for savings for rich guys."

Corporations, of course, want relief from soaring health care costs, and have been steadily shifting more of the burden to their employees. Small businesses were among the first to offer health savings accounts to their employees. But over the last year or so, a number of big companies — from Guidant to Wal-Mart Stores — have started signing up.

Health savings accounts are akin to the private accounts that were proposed to help overhaul Social Security. Much of Wall Street liked private retirement accounts, but their support was guarded because they feared a potential negative reaction.

Banking lobbyists have met with White House officials at least three times over the last year to discuss the rules governing health savings vehicles. But until recently, most have been shy about their interest in such plans. Now, they have established a lobbying group, the H.S.A. Council, and are spending millions of dollars to roll the plans out.

The idea behind the accounts is simple: forced to pay out of pocket for medical care, Americans workers will spend health care dollars more wisely. The way it works is more complex. Americans under the age of 65 with a high-deductible health care plan can contribute tax-free to the new 401(k)-like account as much as $2,700 this year for individuals and $5,450 for families, or the amount of their deductible if it is less. Unlike health reimbursement plans, which were controlled by the employer, health savings accounts belong to employees even if they change jobs.

The money can be used to pay for medical, dental and vision expenses as well as a portion of qualified premiums for long-term-care insurance.

The rest can be invested in stocks, bonds and mutual funds — and grow tax-free. That money would be available to pay for a broad range of health care expenses in the future, and would remain untaxed as long as it was spent on health care. At any time after age 65, money can be withdrawn for any reason without penalty, but the entire amount taken out would be taxed.

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For wealthier people, the tax break could provide a generous incentive to build a nest egg for future health care; poorer people with smaller annual contributions could wind up spending all the money they put away during the year.

Geoff Dougall's accounting firm in Beaverton, Ore., is among the thousands of employers that have switched from a conventional health insurance plan to offering health savings account.

"We are very much talking about it as a savings vehicle," said Mr. Dougall, who is giving each of his employees $2,500 this year to cover the deductibles of their health insurance policies.

The savings accounts, in effect, give financial institutions a vital, but behind-the-scenes role in shaping the nation's health care system.

Banks hope to use their close ties with their customers to enter the health insurance market. For now, they collaborate with insurance providers as much as they compete. Health savings accounts must be opened in conjunction with a high-deductible health insurance plan. After choosing an insurance policy, the consumer must pick a bank.

Even though the health plan and savings account are separate products, big banks and insurance companies pitch them together as an "integrated solution" and split the fees. Health insurers keep the premiums; banks retain the investment management fees and the debit card transaction fees. The two split the money earned for opening and maintaining the accounts.

Health insurers, said David Josephs, J. P. Morgan's vice president for health care business development, "are good at explaining benefits."

"They are good at eligibility. They are good at enrollment. Managing risk. Contracting with doctors and hospitals. Banks are good at managing transactions. Managing deposits. Making investments."

"As you look at consumer-directed health care," he added, "it really requires both of those skill sets."

Even without the lucrative investment management fees, bank executives like Daniel Kelly, manager of H.S.A. services at U.S. Bancorp, say health savings accounts are attractive. Banks make money each time a customer swipes his debit card at a doctor's office. Payment processing alone could generate some $2.3 billion over the next five years, the DiamondCluster study estimates.

Some big medical plans have already entered the health saving account arena by starting their own bank.

Four years ago, United Healthcare started Exante Financial Services, a Utah-based bank that allowed it to become the first company to offer its customers the high-deductible health insurance policies as well as savings accounts. In December, the Blue Cross Blue Shield Association said it was planning to charter a similar institution, Blue Healthcare Bank, an online bank.

Executives at both companies say they are not being lured into the banking business by the prospects of wealth management; nor do they plan to offer traditional banking services and loans.

Instead, they say having both products under one roof will allow them to provide better customer service, like more smoothly processing transactions at doctors' offices or quickly resolving billing disputes.

"This has nothing to do with an assets-under-management play," said John M. Prince, chief executive of Exante Financial Services. "There will be huge falloff in people who are trying to play that role. Eighty percent of the money are assets that go right in and go right out."

Just a few years ago, the idea that the titans of health care and banking would be battling for business would have been nearly impossible to imagine.

Even after the Bush administration began pushing for the creation of health savings accounts with the Medicare Modernization Act of 2003, the banking industry mainly stayed on the sidelines. The American Banking Association lent its name to the H.S.A. Coalition lobbying group but did not contribute any money.

Industry lobbyists viewed the idea as a health care issue; they raised questions about its prospects of passing as the 2004 presidential race heated up. Banking executives did not see the profit potential after an experiment with Medical Savings Accounts, aimed at small businesses, failed.

"Put it this way, the impact of this law did not really become clear to them until after it passed," said Mr. Perrin, the H.S.A. Coalition director. Once they understood how the accounts worked, however, the big banks realized the next I.R.A. had landed at their feet.

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Now, some financial institutions are urging the Bush administration and Congress to raise the tax-deductible contribution limit to encourage consumers to put more money in their accounts — a proposal that President Bush is expected to endorse in his State of the Union speech.

Banks are already champing at the bit. "We happen to be in the camp that the H.S.A. is a second retirement account to be used for medical expenses," said Nancy Todor, an executive who will oversee health savings accounts when Citigroup introduces them this year.

Enrollment Triples In Plans Offering Health Savings Accounts (LAT)

By Joel Havemann

The Los Angeles Times, January 27, 2006

WASHINGTON — Enrollment in high-deductible insurance plans that qualify for contributions to tax-sheltered health savings accounts — the Bush administration's way of adding market forces to the health business — tripled to 3 million people in the last 10 months, the health insurance industry reported Thursday.

"This is a very significant success story," said Karen Ignagni, president and chief executive of America's Health Insurance Plans, the trade association for companies that underwrite virtually all such plans.

But the 3 million enrollees in plans that qualify for the accounts represent a small percentage of the 198 million Americans who, as of 2004, were covered by private insurance — or even of the 46 million who have no insurance at all.

"Is it a success story? Yes and no," said Paul Fronstin, a health economist with the Employee Benefit Research Institute. "Three years ago, the market didn't exist. But it still amounts to only a fraction of Americans who have private insurance."

President Bush has signaled that in his State of the Union address Tuesday, he will ask Congress to expand health savings accounts, which are designed to shift responsibility for buying health insurance from employers to individuals.

Bush has said that those with comprehensive health insurance would benefit from the accounts because they would make more cost-effective healthcare choices if they knew that they would be responsible for much of the expenses. For those who are uninsured, the accounts could make insurance affordable because they are linked to low-cost policies with high deductibles.

Most Democrats have a different perspective. Sen. Edward M. Kennedy of Massachusetts wrote that health savings accounts worked only for the healthy and put at risk the health and resources of the poor.

Contributions to health savings accounts, which were authorized by the 2003 law that added a prescription drug benefit to Medicare, are tax-deductible, and withdrawals used for medical expenses are tax-free. Balances at year's end can be rolled over into the next year.

Individuals qualify to establish health savings accounts only if they are covered by insurance with annual deductibles of at least $1,050 for individuals or $2,100 for families. The cost of such insurance is typically far less than the price of traditional comprehensive coverage; the administration's thinking is that the difference would be contributed to the accounts.

Those contributions are limited to the amount of the deductible, with maximums of $2,700 for individuals and $5,450 for families. Ignagni said the high-deductible policies would become more attractive if the tax breaks for the accounts were expanded.

Grace-Marie Turner, president of the Galen Institute, a health and tax policy center in Alexandria, Va., found the incidence of high-deductible insurance policies impressive. "They're new," said Turner, whose organization backs increased use of the accounts. "It takes people a while to get used to them."

Although Ignagni could not say how many of the 3 million had opened and contributed to the tax-favored accounts, other research suggests that it is a small percentage.

An October survey of insured people by the Employee Benefit Research Institute and the Commonwealth Fund found that 1 in 10 people with private insurance had high-deductible plans; of them, 1 in 10 had set up either health savings accounts or health reimbursement accounts, to which only employers may contribute.

The survey also found that those with high-deductible plans were less satisfied with their insurance than those with comprehensive plans and were more likely to delay or avoid healthcare because of costs. But it found that enrollees in high-deductible plans were more aware of healthcare costs than those with comprehensive coverage.

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Democrats: Bush Should Outline Medicare Fix (REU-Y2)

By Joanne Kenen

Reuters, January 27, 2006

Congressional Democrats on Thursday challenged President George W. Bush to outline in his State of the Union speech how he will fix what they consider a disastrous start to the Medicare drug benefit.

"In his State of the Union next week, the president needs to come clean and join Democrats in offering a real solution to this disastrous program," Senate Democratic leader Harry Reid of Nevada told reporters.

Medicare provides health insurance for all Americans from age 65 and some disabled people. Congress in 2003 added a prescription drug benefit which became available this month.

In his annual address to the nation next week, Bush is expected to discuss health care costs and coverage, but White House officials have not said whether he will address any of the problems the new drug benefit has encountered.

Many senior citizens have said they are confused by the program, and many of the poorest older Americans ended up without any coverage or unable to get their usual drugs amid a flawed transition from state-based Medicaid to the new Medicare plan.

Democrats have long criticized the Medicare law but have stepped up their attacks in a congressional election year amid widespread reports of problems.

Democrats also tried to link the Medicare law to lobbying scandals, saying the Republicans wrote legislation that helped drug companies and insurers more than older Americans.

"The American people paid the price of corruption," House Democratic leader Nancy Pelosi of California said.

Administration officials and congressional Republicans have acknowledged flaws, but say they are working to fix them. They also say they delivered on a promise to provide a drug benefit to millions of Americans who have not had any help in paying for their prescriptions in the past.

"I'm not trying to make excuses. Some of our nation's frailest, neediest beneficiaries have had difficulties in getting their drugs. That clearly can't go on, and we're not letting it go on," Senate Finance Committee Chairman Charles Grassley of Iowa said in a statement Thursday.

"But to suggest that neither the president nor the Republican majority recognizes that there are issues with the implementation is absolutely ludicrous," added Grassley, who said that administrative solutions would be faster than legislation the Democrats have sought.

Democrats have called for both short-term fixes to the program, such as helping the poor or extending enrollment deadlines, and long-term changes to the plan's overall structure. Reid and Max Baucus of Montana, the top Democrat on Grassley's Finance Committee, wrote to Bush with a list of specific legislative suggestions on Thursday.

Some moderate Republicans hearing complaints from constituents and state officials have endorsed some of the short-term solutions, but there is less enthusiasm for revisiting the overall program.

Drugmakers To Cut Off Some Free Prescriptions (WP)

By Ceci Connolly

The Washington Post, January 27, 2006

Several of the nation's largest drug manufacturers say they will no longer provide free or discounted medications to low-income elderly and disabled patients because they should be covered by the new Medicare drug benefit.

But for about 1 million Americans with serious illnesses such as AIDS and cancer -- patients who last year relied on the pharmaceutical industry's giveaways -- that means Medicare coverage could cost them more than $3,600 this year.

Hardest hit will be patients such as James Hayes. Suffering from AIDS, the 45-year-old North Carolina man takes an average of 10 drugs each month at a cost of $3,700. In recent years, he has relied on several drug company patient assistance programs for his lifesaving medications. Because he is on disability, receiving $1,900 a month, Hayes qualifies for the new Medicare drug benefit.

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But in the past few weeks, drugmakers such as GlaxoSmithKline have sent Hayes and others letters saying that as of Jan. 1, anyone eligible for Medicare would be dropped from its program. The cheapest Medicare drug plan he can find is expected to cost him $6,000 out of pocket.

"I can't afford that. I am struggling to make ends meet right now without going into bankruptcy," he said yesterday. "I'm scared I'm going to have to go off of my drugs."

Less than four weeks after the drug benefit went into effect, some of the neediest seniors have found themselves worse off. Although the new program, projected to cost $700 billion in the first 10 years, was intended to shield retirees from burdensome drug costs, several quirks in the law have had the opposite effect for some.

"These are individuals who did have something before; they had patient assistance programs," said John Coburn, senior policy analyst for the Chicago-based Health & Disability Advocates. "We are seeing the unintended consequences of this law."

Drugmakers blamed the Bush administration for issuing a legal opinion that suggests companies could run afoul of anti-kickback laws if they provide free drugs to Medicare beneficiaries. That guidance, from the Health and Human Services Inspector General's office, warned that providing free medicine to someone enrolled in a Medicare plan could be viewed as an effort to keep the patient on that particular product, rather than a generic or cheaper version sold by a competitor.

Administration officials, already racing to fix other glitches in the new drug program, yesterday pointed the finger back at drugmakers, saying there are a variety of legal ways to assist low-income patients. If a drug company's patient assistance program ends, "that's the manufacturer's decision," said Mark McClellan, administrator of the Centers for Medicare and Medicaid Services. He said drugmakers could continue their patient assistance programs as long as they remain separate from Medicare or contribute money to charities that help poor patients.

However, that would mean those free medications would not count toward a patient's spending total. The total is especially important for an individual taking numerous expensive medications because once that person has used $5,100 worth of drugs (or about $3,200 out of pocket) the Medicare plan's catastrophic coverage kicks in, paying all but 10 percent of the remaining drug costs.

"That much money could well be a quarter of someone's income," said Robert Hayes, president of the nonprofit Medicare Rights Center, which assists seniors. Even after the person reaches that threshold, the 10 percent co-payments could be unaffordable, he added.

For decades, drugmakers have offered discounted or free medications to uninsured Americans or people who could not afford critical therapies. In 2004, the 37 companies in the industry donated 22 million prescriptions worth $4.1 billion, said Ken Johnson, senior vice president for the Pharmaceutical Research and Manufacturers of America.

"The current manufacturer's patient assistance programs work very well," he said. "They are already helping patients without any middlemen or additional overhead. It seems a lot more efficient to allow these programs to continue to help Medicare beneficiaries."

Only one company, Merck, said it will continue its program, stressing that the company will evaluate applications from Medicare beneficiaries on a case-by-case basis. "Like anyone with insurance, they can come to Merck at any time," said Ian Spatz, Merck's vice president for public policy.

Administration officials said this week that the early glitches in the drug benefit are being resolved, but states continued to report difficulties.

More than two dozen governors, noting that former Medicaid clients have been incorrectly denied coverage or overcharged at the pharmacy, have declared public health emergencies and announced they would cover the cost for any senior caught in the mix-ups.

Yesterday, Florida Gov. Jeb Bush (R) joined that list, while California Gov. Arnold Schwarzenegger (R) extended his state's program. So far, California has spent $9.2 million filling 110,000 prescriptions that should have been covered by Medicare plans, officials said.

Medicare Drug Plan Leaves Out Supplies (LAT)

By Ricardo Alonso-zaldivar

The Los Angeles Times, January 27, 2006

WASHINGTON — The new Medicare drug program is denying supplies that seriously ill patients need to administer intravenous antibiotics and other medications at home. As a result, some patients are being referred to nursing homes, and others have had to go into hospitals.

Although no national estimates are available, the number of patients affected — including some with life-threatening diseases such as cancer and multiple sclerosis — could run into the thousands. One Anaheim pharmacy says 200 of its patients are having trouble.

Medicare officials say they are aggressively addressing the problem, which they attribute to restrictions in the law that created the prescription benefit and to difficulty communicating with states, pharmacies and medical providers.

Essentially, the prescription program allows coverage of the drugs but does not pay for the medical supplies and nursing help needed for the home infusion treatments to be safe and effective — a policy that effectively shuts down such treatment for some patients, even though it is substantially cheaper than the alternatives. Two GOP senators warned the Medicare agency last fall that the gap in coverage "may limit access to home infusion therapy."

Home infusion pharmacies say they are overwhelmed trying to help patients deal with the problem. "It's like I'm doing triage in a MASH unit," said pharmacist Michael Rigas, vice president for clinical affairs with Crescent Healthcare in Anaheim.

For Kathleen Senna, 68, a retired cannery worker living in West Sacramento, the policy has meant she can't get intravenous medications at home to fight a lung infection. Instead, Senna said, she is taking Cipro, an oral antibiotic that was ineffective for her in the past. Hospital doctors recommended she go into a nursing home for treatment, but Senna said she was afraid.

"You feel like they are putting you in there because they expect you to die," she said. "Me going to a convalescent hospital is going to cost a lot more than bringing antibiotics to my house."

Paulette Bryson of Escondido said she had to take her daughter, Kimberly Tyler, back to the hospital after Tyler was unable to get intravenous medications to treat a blood and spinal infection.

Disabled with severe osteoporosis, Tyler, 32, had been released from the hospital last week after extensive back surgery. Her mother said she returned to the hospital after two days because she could not get the IV medications, which are considered more effective than pills.

"I truly feel that if the president, the governor and all the legislators had to stand in line and wait for their prescriptions and find out they weren't covered, they would make some major changes," Bryson said. "Unfortunately, it's the small person who does not have pull, and they have to beg for their medicine."

Senna and Tyler previously were covered for intravenous medications at home under Medi-Cal, the California healthcare program for low-income seniors and disabled people. But despite emergency help ordered by Gov. Arnold Schwarzenegger for Medi-Cal patients whose prescription coverage was switched to Medicare on Jan. 1, Senna and Tyler were not able to get their medications.

The problem mainly appears to be affecting the poor. But pharmacists say many middle-class Medicare beneficiaries also could run into trouble, because they would have to pay to cover support services for their medications or find other insurance. On average, the medicines represent a little less than half the cost of treatment, which can run thousands of dollars a month, according to a pharmacy industry group.

Republican Sens. Arlen Specter and Rick Santorum, both of Pennsylvania, wrote to the Medicare agency in October, saying it "has opted to define the coverage of home infusion therapy in a manner that does not include financial coverage for … professional services, supplies and equipment that are required for the safe and effective provision of therapy."

In a response dated Dec. 27, Mark McClellan, administrator for the Centers for Medicare and Medicaid Services, said the agency lacked specific legal authority to broaden the coverage policy, in effect, handing the problem back to Congress.

"If we could pay for it, we would," said Dr. Jeff Kelman, chief medical officer for the division of Medicare that handles the drug benefit. "Read the act yourself …. It's a drug benefit, not a medical benefit."

Kelman suggested that states could pay for the support services for low-income seniors and disabled people. However, it is unclear how many states would do that.

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Pharmacists say other seniors may be able to get coverage by joining a managed care plan, such as a health maintenance organization. Additionally, a small number of IV medications are covered through Medicare's Part B benefit.

Most private insurers take a comprehensive approach to covering home infusion drugs, so Medicare's policy is hard to fathom, said Dr. Edward Ratner, a professor at the University of Minnesota medical school.

"The proof that it isn't sensible is that commercial insurance companies and health maintenance organizations don't do it this way," said Ratner, who is also the medical director for a private company that provides support services for patients receiving intravenous treatments at home.

Until the mid-1980s, intravenous medications normally were given only in hospitals and nursing homes. But technological advances enabled the treatments to be administered safely at home, albeit with some supervision. Concern over rising healthcare costs accelerated the trend.

Most at-home patients are being treated with antibiotics for serious infections, according to industry statistics. Others are receiving painkillers, and some are undergoing chemotherapy for cancer.

Saving money by making hospitalization unnecessary was part of the rationale for creating the Medicare prescription benefit, which has an estimated price tag of $700 billion over 10 years. But the most far-reaching Medicare change in a generation failed to adequately provide for this kind of at-home drug therapy, critics say.

Specialized pharmacies that handle home infusion will not provide the service unless they are paid.

Some patients discovered their Medicare drug plans did not cover the specific medications they were getting and had to switch insurers. But even when the drugs were covered, things didn't always go smoothly.

Rigas, the Anaheim pharmacist, said one patient called and told him a substance had been delivered to the patient's house. "I've got the powder on my doorstep, now what do I do with it?" Rigas recalled the patient asking.

"They had no bags, no tubing … but this is what they've been stuck with," Rigas said. "It's really bothersome to me, what patients are suffering. The carpet that they were standing on has been ripped out from under them."

Some say an obvious solution would be for Congress to step in and craft a comprehensive benefit.

But congressional leaders are loath to make any legislative changes to the drug benefit, fearing that political support for the plan could unravel.

That leaves patients in limbo.

"I'm worried about it," said Senna, the West Sacramento patient with chronic lung disease, saying that an oral antibiotic may not be effective in treating her periodic infections.

"I'm not going to let them put me in a convalescent hospital as long as I can take care of it at home," she said. "If I start running a temperature, they can take me back to the regular hospital, although that's not great."

Bush Plans $250M For Nuclear Waste Project (AP)

AP, January 26, 2006

WASHINGTON -- The Bush administration is making plans to revive nuclear fuel reprocessing, including a long-term proposal to provide reactor fuel to foreign countries if they return it to the United States to be recycled.

President Bush will include a request for $250 million in his budget to be released next week as a first step toward reversing a decades long U.S. policy against nuclear reprocessing, congressional and administration officials said Thursday.

The plan is part of an effort to take a fresh look at how to deal with the thousands of tons of used reactor fuel piling up at U.S. commercial power plants, while also gaining control over future nuclear materials in developing countries where the demand for nuclear energy is expected to grow.

The United States halted all reprocessing in the late 1970s because it produces pure plutonium that could be used in a nuclear weapon if obtained by terrorists or rogue states.

The Bush plan, expected to be unveiled as part of the Energy Department's budget, calls for stepped up research into a "more proliferation resistant" type of reprocessing that proponents say will reduce dramatically the likelihood of theft or diversion.

The process would not produce pure plutonium, but a mixture of plutonium and neptunium that would make the separated elements more difficult to handle and, therefore, more secure.

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But nonproliferation advocates contend the new process represents little more than - as one described it - a "fig leaf" over the reprocessing the U.S. has rejected since 1979 when President Carter banned reprocessing because of proliferation worries.

"The tweaking of this process would only provide a minor additional deterrent," said Edwin Lyman, a nuclear specialist at the Union of Concerned Scientists. It would not prevent a suicidal terrorist from handling the material, he said.

The Bush proposal, called the Global Nuclear Energy Partnership, envisions that U.S. companies eventually will sell reactors and fuel to developing countries with the stipulation that the fuel would be returned to the United States for reprocessing.

Nuclear scientists who have been working on the reprocessing technology for the Energy Department say that up to 90 percent of spent fuel can be recycled for reuse, reducing dramatically the need for geological disposal.

The initial $250 million is expected to go to stepped up research and initial work on a reprocessing facility, probably at the Savannah River nuclear complex in South Carolina, according to private and government sources familiar with the discussions.

The sources spoke on condition of anonymity because the plan has yet to be announced.

President Bush has been briefed on the plan, and Energy Secretary Samuel Bodman hinted at the broad outline of the reprocessing initiative and its potential global aspects in a November speech at the Carnegie Endowment for International Peace.

Countries around the world will demand use of nuclear energy in the coming decades, Bodman said, and "the challenge that confronts us" is providing nuclear fuel and addressing reactor waste globally without increasing proliferation risks.

He said the U.S. might be one of the countries that could offer "cradle to grave fuel cycle services, leasing fuel for power reactors and then taking it back for reprocessing and disposition."

Bodman said the administration remained committed to completing the Yucca Mountain nuclear waste site in Nevada. But experts say it will not be able to hold all of the country's reactor waste if nuclear energy expands with new reactors.

"Reprocessing could help avoid or delay the need for a second repository," Marvin Fertel, a senior vice president of the Nuclear Energy Institute, the industry's lobbying group, told a congressional hearing last March.

But Fertel emphasized that the nuclear industry views fuel reprocessing as a technology that is still decades away from being economical - and won't be as long as fresh uranium is plentiful and relatively cheap.

State Of The Union? Not So Good, Most Say (USAT)

By Susan Page

USA Today, January 27, 2006

A USA TODAY/CNN/Gallup Poll taken last weekend and interviews across the country this week found most Americans pessimistic about the economy, divided on the war and doubtful that Bush has the best plan to address the issues that matter most to them — among them health care and corruption. (Related: Poll results)

By more than 2-to-1, those surveyed say things have gotten worse in the United States over the past five years. "I love my country, but we're going the wrong way for sure," says Faye Sherer, 59, of Salinas, Calif., who helps run a family produce company and was among those polled. "I don't see the point in Iraq, when there were other countries going through worse atrocities and we did nothing to help them."

Bush has strong defenders, to be sure, and views of the country's course divide on partisan lines. Chris DeCaro, 20, of Farmington, Mich., praises the president, particularly for his handling of terrorism. "He runs this country not as a politician but as a businessman who does things that need to be done," DeCaro says. He says public opinion has been swayed by a "liberal media" that are "defeatist" on the war and antagonist toward Bush.

Still, even conservatives divide 47%-44% on whether things have gotten better or worse.

The country's downbeat mood poses a challenge for the president as he tries to command support for the legislative agenda he'll unveil for his sixth year in office. With a 43% approval rating, he is in "a weakened position trying to convince Congress to do whatever it is in the State of the Union that he wants them to do," says Charles Franklin of the University of Wisconsin.

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Bush doesn't seem to be getting much credit for positive economic reports on unemployment and inflation. "This is a presidency whose ratings are less influenced by the economy" than his modern predecessors, says Richard Eichenberg of Tufts University. "The war in Iraq has defined his presidency."

Those surveyed:

• Said the country has gotten off track. By 62%-35%, they were dissatisfied with the way things are going in the USA. That's the most pessimistic view at the start of a year since Bush took office.

• Rated the economy as faltering. Six in 10 said the current economy was only fair or poor, and 54% said economic conditions were getting worse. Views differed by party: 68% of Republicans but just 16% of Democrats called the economy excellent or good.

• Questioned Bush's leadership. By 64%-34%, they said Bush didn't have a clear plan for solving the country's problems. The president received his strongest approval rating, 52%, on fighting terrorism. But on health care — ranked as an issue equal to the economy — congressional Democrats were more trusted, 54%-35%.

The poll of 1,006 adults Jan. 20-22 has a margin of error of +/-3 percentage points.

"I'm too old to be worrying about much," said Bernice Tabor, 76, of Cleveland. But she frets about casualties in Iraq and layoffs at Ford Motor Co. "We're going backward instead of forward."

Majority In U.S. Say Bush Presidency Is A Failure, Poll Finds (BLOOM)

By Nicholas Johnston

Bloomberg, January 27, 2006

Jan. 26 (Bloomberg) -- A majority of Americans said the presidency of George W. Bush has been a failure and that they would be more likely to vote for congressional candidates who oppose him, according to a CNN/USA Today/Gallup poll.

Fifty-two percent of adults said Bush's administration since 2001 has been a failure, down from 55 percent in October. Fifty-eight percent described his second term as a failure. At the same point in former President Bill Clinton's presidency, 70 percent of those surveyed by Gallup said they considered it a success and 20 percent a failure.

In a poll conducted in January of 2002, after Bush was president for one year, 83 percent of those surveyed said his presidency was a success.

In the new poll, conducted Jan. 20-22, fifty-one percent of those surveyed said they would be more likely to vote for congressional candidates who do not support Bush's policies.

The percentage of Americans who called Bush ``honest and trustworthy'' fell 7 percentage points in the last year to 49 percent, the poll found.

The new poll also found that 62 percent of Americans said they are ``dissatisfied'' with ``the way things are going'' in the U.S., unchanged from a December survey. The percentage of ``dissatisfied'' Americans reached its peak in October of 2005 when 68 percent of those surveyed agreed.

The survey interviewed 1,006 U.S. adults and has a margin of error of 4.5 percentage points. For the questions about whether Bush's presidency is a success, about 500 U.S. adults were surveyed and the margin for error is plus or minus 5 percentage points.

Bush Vows To Be Tough On Spending, Using Veto (REU-Y2)

By Caren Bohan

Reuters, January 27, 2006

President George W. Bush, who has faced heat from conservative Republicans over high budget deficits, pledged on Thursday to take a tougher stance toward Congress over spending, including vetoing bills if necessary.

He also backed changes to the appropriations process to curb "earmarks," or targeted spending that lawmakers often use for pet projects in their districts. Earmarks are frequently added in secret to spending bills and their use has soared under the Republican-led Congress, although Democratic lawmakers use them as well.

"That's going to be an interesting discussion on Capitol Hill -- this business about earmarks and people making a special deal in the budget," Bush told a news conference. "And there needs to be earmark reform."

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Pressed on whether lawmakers were doing enough to cut the budget, Bush said they are meeting "targets" but added that he is ready, if needed, to wield his veto pen -- something he has never done in five years as president.

"I'm fully prepared to use the veto if they overspend," he said.

Congressional Budget Office figures released on Thursday pegged the budget deficit for fiscal year 2006 at $337 billion. That was below the deficit of more than $400 billion forecast by the White House.

SHIFT TO DEFICITS

Democrats blame Bush's tax cuts for the dramatic shift on his watch from record surpluses to record deficits.

Some fiscal conservatives worry the red ink may jeopardize Bush's drive to make his tax cuts permanent, and have voiced frustration that he has not done enough to contain spending.

Conservatives view a huge transportation bill passed last year that Bush initially threatened to veto but eventually signed, as an egregious example of earmarked spending.

Calls within Congress for limiting earmarks have gained traction as the Jack Abramoff lobbying scandal has spurred calls for congressional reform.

Oklahoma Sen. Tom Coburn, a vocal Republican critic of deficits, is among several lawmakers who have urged the abolition of earmarks. But some in Congress would permit them with limits, more disclosure and accountability.

In an opinion piece in Roll Call, a Capitol Hill newspaper, California Republican Rep. Jerry Lewis (news, bio, voting record) said getting rid of all earmarks would cede too much power to the executive branch.

"The president's budget contains numerous earmarks inserted by nameless, faceless bureaucrats within each government agency," Lewis said.

But Lewis, chairman of the House Appropriations Committee, said lawmakers should be required to submit requests for spending on special projects in writing, and all such requests should be audited.

Bush said he would call for fiscal restraint in his State of the Union address on Tuesday, when he will also unveil initiatives on healthcare, energy and education.

Bush cited a deficit-cutting package aimed at finding $39.7 billion in savings from social welfare programs over five years as a sign Congress was making progress on curbing spending. The Senate has passed the bill and the House of Representatives appears poised to approve it as well.

House Democratic Whip Steny Hoyer of Maryland said calls by Bush and the Republicans for fiscal discipline amounted to little more than rhetoric.

"There is only one person in the entire United States government who can stop federal spending in its tracks, and that person is the president of the United States," Hoyer said. "Yet, during his five years in office, President Bush has refused to exercise the power of the veto once -- not once."

Report: Budget Deficit Will Turn To Surplus If Bush's Tax Cuts Expire (USAT)

By Richard Wolf

USA Today, January 27, 2006

WASHINGTON — Making President Bush's tax cuts permanent will prolong big budget deficits into the next decade, the Congressional Budget Office projected Thursday.

But if those tax cuts are allowed to expire after 2010 — effectively a tax increase Bush has sworn to oppose — the budget would begin showing a surplus in 2012, the CBO's budget projections showed. Bush wants Congress to make the tax cuts permanent before he leaves office in 2009.

In its annual budget and economic report, the agency estimated that this year's deficit will be $337 billion, up $19 billion from 2005. It said the deficit will be about $360 billion if extra anticipated costs for Iraq, Afghanistan and the hurricane-ravaged Gulf Coast are added.

The White House has pegged this year's projected deficit at more than $400 billion, citing the costs of the war in Iraq and Hurricane Katrina. The White House budget office has overestimated the size of the deficit in the past two years by using what it says are “cautious” economic and revenue projections.

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The CBO projected that this year's deficit will be about 2.8% of the economy, using a measure that allows comparisons over time by factoring out the effect of inflation. That exceeds the 2.3% average since 1965 but is below the 6% record set in 1983.

The long-term budget forecast is gloomier, particularly if Bush and Congress agree to extend the tax cuts. In 2016, the deficit would be nearly $400 billion. Beyond that, the costs of Medicare, Medicaid and Social Security are projected to rise to a level that "economic growth alone is unlikely to alleviate," the report says. "A substantial reduction in the growth of spending, and perhaps a sizable increase in taxes as a share of the economy, will be necessary for fiscal stability to be at all likely in the coming decades."

The non-partisan budget office also said the new Medicare prescription-drug benefit could cost $979 billion in the 10 years from 2007 through 2016. Last year, the administration put the figure at $720 billion for the years 2006 to 2015. The increase is mostly due to projections that more people will use the subsidized program.

CBO Sees Wider Deficit This Year And In 2016 If Tax Cuts Don't End (WSJ)

By Jackie Calmes

The Wall Street Journal, January 27, 2006

WASHINGTON -- The Congressional Budget Office projects that war and hurricane-relief costs will widen the annual deficit to about $360 billion after it had narrowed last year.

But a decade out, the nonpartisan office sees either a small surplus or a nearly $400 billion deficit in 2016 if President Bush's tax cuts are extended.

In its annual 10-year Budget and Economic Outlook released yesterday, the CBO calculates that if the numerous tax cuts of Mr. Bush's first term don't expire as they are scheduled to in coming years, federal revenue would be sliced more than $2.6 trillion. While the administration argues that tax cuts bring economic growth and, in turn, increased revenue, the budget office said that on balance any such "macroeconomic feedbacks would be too small to have a substantial effect on the estimates." The analysts' finding is sure to stoke the debate this year -- and probably for the rest of Mr. Bush's presidency -- over extending those tax cuts.

"This president and this Congress have been the most fiscally irresponsible in our nation's history," said North Dakota Sen. Kent Conrad, the senior Democrat on the Senate Budget Committee, and "at the worst possible time -- just before the baby boomers retire," and costs for Medicare, Medicaid and Social Security start exploding.

DEFICIT GROWTH

See a graphic showing the projected effect of tax cuts on the deficit.

His Republican counterpart, Senate Budget Committee Chairman Judd Gregg of New Hampshire, focused on the growth of entitlement programs in his reaction to the CBO report. He warned in a written statement of an impending "financial crisis because the federal government has made commitments to America's retirees that threaten to overwhelm our economy."

In an interview, Mr. Gregg indicated he will use his budget-writing post to press Congress to reduce the benefit programs' costs. But the political difficulty is illustrated by the fact that the House and Senate still haven't finished a deficit-reduction bill left over from last year amid disagreements on cutting spending $5 billion this year and a total $40 billion over five years. A final vote is set for next week.

The CBO projected that the deficit for this year, which ends Sept. 30, will be about $360 billion, or the equivalent of 2.8% of gross domestic product. That compares to last year's $318 billion deficit, or 2.6% of GDP, which marked the first decline in the deficit since Mr. Bush took office. This year's deficit would be $181 billion greater -- or about $540 billion -- if the Social Security surplus isn't counted.

The budget office sees declining deficits through fiscal 2011 and then small surpluses annually through 2016. But that is only if Mr. Bush's tax cuts expire, and it is based on spending-growth projections for defense and domestic programs that are lower than what is likely to be spent. Moreover, as a separate CBO report last year demonstrated, after 2016 annual deficits would take off again as Social Security's annual surpluses turn to deficits and entitlement programs' costs balloon further.

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The CBO said the annual growth rate for Medicare is projected to reach 8.9% in 2016, from 7.4% in 2008. Medicaid's growth is forecast to average 8.3% annually over the decade, and Social Security's annual increase will rise to 6.5% in 2016 from 4.8% in 2008.

Beyond 2016, the office reported, the three programs "will exert pressures on the budget that economic growth alone is unlikely to alleviate.

Congressional Panel Expects $337B Deficit (BRAH)

By Andrew Taylor

The Bradenton Herald, January 27, 2006

WASHINGTON - The budget deficit will rise to at least $337 billion this year and may well approach or exceed $400 billion because of tax cuts and new spending for hurricane relief and the war in Iraq, congressional budget analysts said Thursday.

The latest Congressional Budget Office data also suggest President Bush is unlikely to be able to keep his promise to cut the federal deficit in half by the end of his term.

Even assuming a phasing down of the war in Iraq and the costs of hurricane relief, implementing tax cuts sought by Bush and Congress would produce deficits exceeding $300 billion through the end of the decade, the nonpartisan CBO says.

The report and Bush's annual budget submission kick off a predictably partisan election-year debate over the budget, which will play out against the backdrop of rising deficits, record spending and renewed concern about lawmakers' penchant for homestate pet projects.

Bush promised in 2004 to close the deficit from a then-estimate of $521 billion to $260 billion by 2009, and he promised again Thursday to meet that goal when he sends an austere fiscal 2007 budget to Congress on Feb. 6.

"We can cut our deficit in half by 2009 and make sure the American people still get their tax relief," Bush told reporters.

Bush critics say he routinely plays games with the budget by leaving out the long-term costs of the war in Iraq and redrawing the tax code so more and more middle-class taxpayers won't get hit by the alternative minimum tax. Congress typically rejects most of his proposals for benefit cuts and new fees.

Even though CBO must follow rules that mean its official estimate is flawed - by reflecting current law even when future changes to the budget are virtually certain to be passed - its data are respected for impartiality.

CBO's official baseline shows the deficit dropping to $241 billion by 2009 and $114 billion by 2011. But those estimates assume Bush's tax cuts expire and the alternative minimum tax is left alone. That tax, designed to stop the wealthy from avoiding all taxation, threatens more middle class taxpayers every year because of inflation.

Under a more realistic scenario, extending tax relief, drawing down troop levels in Iraq, and phasing out hurricane relief, CBO predicts a $332 billion deficit for 2009, the last fiscal year for which Bush is responsible.

For its part, the White House reiterated Thursday that it thinks the 2006 deficit would actually top $400 billion because of the costs of tax cuts, the war in Iraq and new hurricane relief.

"This administration is driving us over the cliff into deeper and deeper debt," said Kent Conrad of North Dakota, the Senate Budget Committee's top Democrat.

According to the CBO report, the expiration of Bush's tax cuts would return the budget to a surplus of $38 billion by 2012. Keeping his tax cuts in place would put the government into a $289 billion deficit that year, but Bush rejected any talk of letting his tax cuts lapse at the end of the decade as currently scheduled.

"We don't need to be running up the taxes right now," Bush said Thursday. "You know, people say, 'Well, let's raise the taxes and balance the budget' - that's not how it works; they're going to raise your taxes, and they're going to continue to expand the government."

The government recorded a $319 billion deficit for 2005. The record deficit in dollar terms of $413 billion was registered in fiscal 2004.

Economists say the more significant measure is against the size of the economy. In those terms, CBO's 2006 deficit prediction would equal 2.6 percent of gross domestic product and would be significantly better than deficits witnessed in the mid-1980s and early 1990s. Then, deficits of 4 percent to 6 percent of GDP were common.

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On the economy, CBO predicts continued robust growth of 3.6 percent this year and 3.4 percent next year, slowing to an average of 3.1 percent over 2009-2011.

With near-term deficit predictions going up, Republicans in Congress are feeling political heat from their core supporters, who say the party's record of fiscal discipline is slipping.

Republicans are particularly upset about the proliferation of lawmakers' pet projects under GOP control of Congress. For instance, total spending on such "earmarks" hit $17 billion in the latest round of congressional appropriations bills, House Appropriations Committee tally says.

When Bush took office in 2001, both White House and congressional forecasters projected cumulative surpluses of $5.6 trillion over the subsequent decade.

But a revenue bubble burst, a recession and the Sept. 11, 2001, terrorist assaults adversely affected the books. Several rounds of tax cuts, including Bush's signature $1.35 trillion 2001 tax cut, also contributed to the return to deficits in 2002 after four years of budget surpluses.

Congress Agency Sees $337 Bln 2006 Budget Gap (REU-Y2)

By Richard Cowan

Reuters, January 27, 2006

A congressional report released on Thursday said the U.S. budget deficit will hit $337 billion this year, a figure that is up $23 billion from an August estimate and excludes additional funds needed for the Iraq and Afghanistan wars.

The Congressional Budget Office, Congress' nonpartisan fiscal watchdog, said the deficit in fiscal 2006 is more likely to reach $360 billion once additional war costs and some Hurricane Katrina-related expenses are counted.

The Bush administration has been more pessimistic, saying this year's budget deficit will top $400 billion.

For the fiscal year starting October 1, CBO estimated the deficit would drop to $270 billion.

But CBO estimates do not include some big-ticket items not yet enacted by Congress, such as upcoming war costs and tax policy changes, which would significantly add to the flow of red ink.

Capital Economics, a London-based research firm, estimated a $351 billion U.S. budget deficit next year when taking into account the probable extension of some tax breaks and reforming other tax policies, as well as war costs.

The new budget deficit numbers prompted criticism from across the political spectrum.

The conservative Cato Institute praised the performance of a humming American economy and low taxes. But Stephen Slivinski, Cato's director of budget studies, said rapidly-growing government spending demonstrated that "there has yet to be any sign that Republicans are willing to really do what it takes to get the budget under control."

"MOUNTAIN OF DEBT"

Congressional Democrats said the CBO report challenges Bush administration claims that it is making progress in cutting the deficit, which began in fiscal 2001 with a $128 billion shortfall on the heels of a $236 billion surplus in fiscal 2000, the year before President George W. Bush took office.

Largely because of six consecutive years of budget deficits, Bush has had to ask Congress to increase U.S. borrowing authority by about $3 trillion.

"The Bush administration is accumulating a mountain of debt," said Rep. John Spratt (news, bio, voting record) of South Carolina, the senior Democrat on the House Budget Committee.

House Budget Committee Chairman Jim Nussle, an Iowa Republican, said the CBO report underscored the strength of the U.S. economy, but "also reminds us that controlling the budget is a long-term, step-by-step commitment."

Congress is bracing for a new White House request for Iraq and Afghanistan war funds, which is likely to be in the range of $80 billion to $100 billion. But only about $20 billion of that will be spent in this fiscal year, experts estimated.

The administration also noted that congressional plans to extend a tax provision keeping millions of middle-class families from paying the alternative minimum tax will add billions of dollars to the deficit.

Seeing continued strong U.S. economic growth, the CBO forecast real GDP growth of 3.6 percent this year and 3.4 percent in fiscal 2007. In 2008-2011, GDP will grow at an average rate of 3.1 percent, it estimated.

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Despite the revenue rush generated by economic growth, the new budget deficit estimate for this year is up from CBO's August forecast of $314 billion and up from the actual fiscal 2005 deficit of $318.62 billion.

Over five years, 2006 to 2010, CBO sees a cumulative budget deficit totaling $1.329 trillion, according to the report.

Further darkening the fiscal picture, CBO said, is the likely explosion of government outlays in coming years as the baby boom generation begins to reach retirement age and draws government benefits. Congress is looking at ways to control the growth of these programs.

Bush Uses Humor To Deflect The Heat (AP-Y2)

By Nedra Pickler

AP2, January 27, 2006

President Bush's first news conference of the year was just a camera strap away from becoming hazardous to reporters.

As the president began his opening statement, a camera that the news service AFP had hung from the ceiling dropped and nearly fell on the heads below. It was caught by its strap, and Bush stopped and looked at it dangling precariously.

"Are you wearing your helmets?" he joked to reporters sitting in the White House briefing room.

Bush was full of quips during the 45-minute news conference, poking fun at the media and deflecting some of the heat when questioning got intense.

Yes, Bush acknowledged, he had his picture taken with admitted criminal Jack Abramoff.

"Having my picture taken with someone doesn't mean that I'm a friend with him or know him very well," he said. "I've had my picture taken with you at holiday parties."

Another reporter pointed out that allegations of Abramoff's influence went beyond the photographs to questions of why he met with the president's top aides. The White House has refused to disclose just how often or why Abramoff was there, and Bush wasn't about to, either. He returned to jokes about the pictures.

"I mean, people, it's part of the job of the president to shake hands with people and smile," he said. He said he'd turn over records about Abramoff's meetings at the White House only to federal prosecutors if they suspected something inappropriate.

When a radio reporter asked the president again to never mind the photographs, just talk about lobbyists' influence on the White House, Bush interrupted: "Easy for a radio guy to say."

Financial Aid Growing Role For Lobbyists: Raising Funds For Lawmakers (WSJ)

By Brody Mullins, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, January 27, 2006

WASHINGTON -- Nearly three years ago, Gregg Hartley left his job as a top aide to Republican Rep. Roy Blunt of Missouri to become a lobbyist. Mr. Hartley began helping companies like BellSouth Corp., Wal-Mart Stores Inc. and Viacom Inc. get audiences with Mr. Blunt and other top House Republicans and win some important legislative battles.

At the same time, Mr. Hartley was helping his old Capitol Hill boss raise campaign money and offering him political advice. Mr. Hartley is now assisting Mr. Blunt in his bid to succeed Rep. Tom DeLay as House majority leader. For the last three weeks, the lobbyist has offered strategic advice during regular visits to Mr. Blunt's office in the U.S. Capitol, according to people familiar with the meetings.

Mr. Hartley's dual roles highlight a practice that is becoming more common in Washington: Lobbyists are serving as principal fund-raisers for lawmakers they're trying to sway. Bruce Gates, the top political strategist for Mr. Blunt's main rival to become Majority Leader, Rep. John Boehner of Ohio, also is a lobbyist for private clients. William Oldaker, a lobbyist with numerous health-care clients, oversees fund raising for two dozen Democratic lawmakers, including Senate Minority Leader Harry Reid of Nevada and Sen. Ted Kennedy of Massachusetts.

The Justice Department public-corruption and bribery case against lobbyist Jack Abramoff and a half-dozen members of Congress has refocused attention on the financial ties between lawmakers and lobbyists. While Mr. Abramoff's lobbying activities crossed the line into illegality, the practice of lobbyists raising large amounts of money for lawmakers is both legal and commonplace in Washington today.

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Federal Election Commission records show that 71 lawmakers now list lobbyists as treasurers of their re-election or political action committees. In 1998, the number was just 15, according to a review of FEC reports by the Center for Public Integrity. Lawmakers attribute the change to the sharply rising costs of running campaigns.

In the long-running debate about whether lobbying money corrupts politics, Mr. Hartley's relationship with Mr. Blunt shows how deeply the financial ties run between Capitol Hill and the lobbyists on K Street. Advocates of change argue that lawmakers who rely on lobbyists become unduly beholden to them, and thus more willing to help their clients.

"By putting a lobbyist in charge of your political operations, you are conflicted from the start," argues Alex Knott of the nonpartisan Center for Public Integrity, which favors reducing the role of money in politics.

A spokeswoman for Mr. Blunt says there's nothing wrong with the congressman's close relationship with the lobbyist. In the leadership race, says his spokeswoman, Jessica Boulanger, the only involvement of Mr. Hartley "has been in the capacity of an old friend." Mr. Hartley hasn't called other members of Congress on Mr. Blunt's behalf, she notes. Mr. Blunt declines to comment. Mr. Hartley declines to discuss his fund-raising activities.

In the wake of the current lobbying scandal, lawmakers from both parties have been scrambling to introduce bills to reform the lobbying industry. But none of the leading proposals would ban lobbyists from continuing their fund-raising activities for members of Congress. House Speaker Dennis Hastert wants to ban lawmakers from accepting privately financed trips. Senate Majority Leader Bill Frist would prohibit lawmakers' spouses and children from lobbying.

"We are carping on trifles here," said Sen. Richard J. Durbin, a Democrat from Illinois, during a Senate hearing on lobbying reform Wednesday. "Why is it that we warm up to all these lobbyists? It isn't for a meal.... We know when it comes time to finance our campaigns, we're going to be knocking on those same doors."

The lobbying reform legislation proposed by Sen. John McCain, the Arizona Republican, wouldn't ban lobbyists from raising money for members of Congress. But it would require them to disclose when they host fund-raisers for politicians. Rick Davis, the Republican lobbyist who helps run Mr. McCain's political operations, notes: "You would be hard pressed to find a single important lobbyist who is not involved in fund raising."

Lobbyists say they aren't violating any rules by moonlighting as fund-raisers. "I'm not a rule maker, I'm a game player," says David Girard-diCarlo, a managing partner at Philadelphia-based law firm Blank Rome who serves as national finance director for Republican Sen. Rick Santorum of Pennsylvania. Blank Rome has numerous lobbying clients. Mr. Girard-diCarlo oversees a group of more than 40 Washington lobbyists who hope to raise $4 million for Mr. Santorum's re-election bid. "The senator is most appreciative" of such fund-raising help, says Mr. Santorum's spokesman, Robert Traynham.

In addition to providing help with direct fund raising, Mr. Hartley is one of many lobbyists also helping members of Congress to raise money for specialized funding organizations called leadership PACs. Mr. Blunt and hundreds of other lawmakers in both parties have formed such PACs in order to help fellow party members facing close re-election races. Under federal election rules, lawmakers cannot donate more than $4,200 per election cycle from their own re-election coffers to the campaign of any colleague. But they can funnel as much as $10,000 per election cycle from leadership PACs to another campaign.

Reciprocal Support

In practice, such financial support from politically secure lawmakers for the re-election efforts of vulnerable colleagues often translates to reciprocal support down the road. Lawmakers draw on such support when angling for leadership positions within Congress.

"Leadership PACs originated as a way for one member to garner support from other members when seeking a leadership position in the House or Senate," Mr. Blunt wrote to the FEC in 2003. "More recently, leadership PACs have enabled the Republican party to maintain its majority in the House of Representatives."

When Republicans took over Congress in 1994, about 90 lawmakers operated such leadership PACs, which together raised a total of $28 million, according to the FEC. In the last election cycle, more than 300 leadership PACs took in $127 million.

Corporations represented by Mr. Hartley have donated more than $150,000 to Mr. Blunt's leadership PAC, the Rely On Your Beliefs Fund, known as the ROYB. Fund. Mr. Gates, the lobbyist with ties to Mr. Boehner, is treasurer of Mr. Boehner's leadership PAC, The Freedom Project. Mr. Boehner is Mr. Blunt's main rival for the majority leader post.

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Both lawmakers are now recruiting congressional supporters for their majority-leader campaigns. Of the roughly 150 House Republicans who have announced who they will vote for, most have endorsed the candidate who has given them the most campaign money. Of Mr. Blunt's 91 publicly announced supporters, 68 have received money totalling $690,000 from Mr. Blunt's PAC, according to the Campaign for a Cleaner Congress, a congressional watchdog group.

Mr. Hartley, a 52-year-old fan of muscle cars and rock 'n' roll, was running a legal aid organization in his native Missouri when he met Mr. Blunt, who then worked as a country clerk. In 1992, Mr. Hartley raised money for Mr. Blunt's unsuccessful campaign for governor.

Four years later, Mr. Hartley helped Mr. Blunt, who is now 56, win a seat in Congress. Mr. Blunt, an ideological conservative, rose fast on Capitol Hill, winning the respect of moderate Republicans for his nonconfrontational approach. In 1999, when Rep. Dennis Hastert of Illinois was named speaker of the House, Rep. Tom DeLay tapped Mr. Blunt to replace Mr. Hastert as chief deputy whip.

Several years after arriving in Washington, Mr. Blunt married Abigail Pearlman, a lobbyist for the tobacco and food giant Altria Group Inc. Mr. Blunt's son, Andrew, is a lobbyist in Missouri whose clients include Altria, United Parcel Service Inc. and the former SBC Communications. Another son, Matt, is the current governor of Missouri.

When Mr. DeLay became majority leader in 2003, Mr. Blunt rose to Republican whip, the party's top House vote-counter. A few months later, Mr. Hartley left Capitol Hill to become a lobbyist with Cassidy & Associates, one of Washington's oldest and most successful lobbying firms.

Mr. Hartley's first clients were companies that had contributed money to Mr. Blunt and received legislative support from him. For example, Mr. Blunt had backed the Baby Bell phone companies in their battles with long-distance carriers and cable TV operators, and the Baby Bells had backed him with donations. They became Mr. Hartley's clients.

In July 2003, Mr. Hartley was hired by a coalition of major television networks -- General Electric Co.'s NBC, Viacom Inc.'s CBS, News Corp.'s FOX and Walt Disney Co.'s ABC. The networks were seeking to loosen rules governing their ownership of local TV stations.

Fierce Opposition

The Federal Communications Commission had proposed allowing the networks to own local stations covering 45% of U.S. households, up from the previous limit of 35%. By the time Mr. Hartley was hired, local broadcasters had mounted fierce opposition to the change, and more than two-thirds of Congress had announced their opposition to the move.

Mr. Blunt, however, joined other House Republican leaders in blocking the measure from reaching a floor vote. The standoff ended with a compromise: the network ownership limit was lifted to 39%. Mr. Hartley's network clients considered it a victory.

During this lobbying battle, Mr. Hartley was helping Mr. Blunt raise campaign money. Cassidy & Associates made available its skybox at Washington's MCI Center for a fund-raiser at a Simon and Garfunkel concert. Mr. Blunt reimbursed Cassidy for the cost of the seats. Last fall, Mr. Blunt rented the skybox again for a fund-raiser during a U2 concert.

At Cassidy, Mr. Hartley hired two former aides of Mr. Blunt and the husband of a third. After Mr. Blunt launched his campaign to replace Mr. DeLay as majority leader three weeks ago, Mr. Hartley began advising Mr. Blunt and his staff on the race, according to Republican aides involved in the matter.

"Roy has the trust and confidence in him that he had when Gregg was his chief of staff," says Drew Maloney, a lobbyist and former aide of Mr. DeLay who backs Mr. Blunt's campaign for majority leader. Dan Mattoon, a close adviser to House Speaker Dennis Hastert, calls Mr. Hartley "a very important part of Roy's outside operation."

Mr. Hartley joined a small group of lobbyists who have helped plot strategy and raise money for other Republican leaders, such as Messrs. DeLay and Hastert. In January 2004, Mr. Hartley attended a dinner meeting hosted by Republican lobbyist Jack Abramoff at Signatures, Mr. Abramoff's now-defunct Pennsylvania Avenue restaurant, to discuss ways to persuade Republican lobbyists and their clients to give more campaign contributions to Republicans.

During the 2003-04 election cycle, Mr. Hartley himself donated $74,500 to Mr. Hastert, Mr. DeLay and other congressional Republicans. He is on pace to match that level of giving once again in the 2006 election season.

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McCain, Coburn To Force Votes On Pork Spending (WT)

By Stephen Dinan

The Washington Times, January 27, 2006

Two Republican senators say they will force their colleagues to vote on the Senate floor on each so-called pork-barrel spending project this year, and President Bush also called for reforms to rein in the projects.

The battle over earmarks -- the line-item projects that members of Congress insert into spending bills to benefit their districts -- has ballooned as Republicans debate congressional reforms and budget deficits.

Republican Sens. John McCain of Arizona and Tom Coburn of Oklahoma sent a letter Wednesday night to their colleagues announcing they will use Senate rules to force members to vote on each project.

"American taxpayers are entitled to a more thorough debate and disclosure about how their money is being spent," the senators wrote.

The spending debate has risen to the top of the House Republican leadership contest, and is exposing a split in the party, as many conservatives say Republican congressional leaders and the White House have not taken a hard enough line on deficits.

Mr. Bush said at his press conference yesterday he is "fully prepared to use the veto" if Congress overspends, but he said that hasn't been necessary because Congress has actually met his spending targets.

The Congressional Budget Office yesterday said its fiscal 2006 deficit estimate is $337 billion, a figure that war costs could raise to about $360 billion. Fiscal 2005 ended on Sept. 30 with a $318 billion deficit.

The long-term outlook showed the deficit gone by 2012, but that assumes Mr. Bush's tax cuts expire in 2011. If the tax cuts are extended, the deficit would be more than $500 billion.

Democrats laid the blame directly at Mr. Bush's feet.

"Simply put, the Bush administration's deficit figures are a disgrace," said Rep. Charles B. Rangel of New York, the top Democrat on the Ways and Means Committee.

Meanwhile House Minority Leader Nancy Pelosi, California Democrat, said the deficit is big in part because of "special-interest earmarks."

Mr. Bush yesterday weighed in on that debate, saying Congress will have to address earmarks and "special deals in the budget."

White House press secretary Scott McClellan said Mr. Bush wants budget reforms such as a line-item veto, which would allow him to strike earmarks, and a sunset commission to review federal programs.

Some members have proposed a ban on earmarks, but top Republican leaders such as House Speaker J. Dennis Hastert of Illinois have defended the practice.

"Who knows best where to put a bridge or a highway or a red light in their district," he said in a radio interview with Michael Reagan this week. "We need to change how we do earmarks, we need to do it in the light of day and not the last minute type of situation, but I think we can do some reform on that and still serve what's in the best interest of the American people."

In a column yesterday in Roll Call, a newspaper covering Capitol Hill, House Appropriations Committee Chairman Jerry Lewis, California Republican, said giving up earmarks would end the congressional power of the purse.

He has proposed putting a cap on the number of earmarks allowed per member, and requiring that the requester submit a letter that would be printed in the Congressional Record.

But earmark opponents like Rep. Jeff Flake, Arizona Republican, said capping the total number of earmarks would just mean lawmakers ask for bigger-ticket items.

The Congressional Research Service said earmarks have grown from 4,126 in 1994, the year before Republicans gained control of Congress, to 15,268 in 2005.

Some lawmakers say earmarks are a red herring in the fight to cut the deficit, but Mr. Coburn argues it's a mind-set and if Congress takes care of the small items, it will also take care of the big items.

Mr. Coburn had a mixed record with the spending floor votes he did force last year.

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He was unable to cut funding for the Defense Travel System and he lost, 82-15, a vote to strike money for the so-called "bridge to nowhere" in Alaska. But the public fight over the bridge led Republican leaders to drop the earmark a few weeks later.

K Street's New Ways Spawn More Pork (WP)

By Jonathan Weisman And Charles R. Babcock

The Washington Post, January 27, 2006

An explosion of special interest funding engineered in part by lawmakers with close ties to lobbyists is drawing increased scrutiny as Congress moves to address concern about corruption that already has led to the conviction of a Republican House member and former GOP lobbyist Jack Abramoff.

At issue is a symbiotic relationship between lawmakers well positioned to slip special-interest projects into legislation, and wealthy lobbying groups that raise large sums of campaign funds or provide trips and other benefits to those lawmakers.

In the latest example of these backstage dealings, Rep. John T. Doolittle (R-Calif.) told The Washington Post that he helped steer defense funding, totaling $37 million, to a California company, whose officials and lobbyists helped raise at least $85,000 for Doolittle and his leadership political action committee from 2002 to 2005.

Brent Wilkes, a director of the company, PerfectWave Technologies LLC, and a major contributor to House Republican leaders, was identified as "Coconspirator No. 1" in criminal charges brought against Rep. Randy "Duke" Cunningham (R-Calif.) late last year. Cunningham pleaded guilty in November and resigned from Congress after admitting he conspired to take $2.4 million in bribes in return for using his office to help Wilkes and another defense contractor, in part by placing earmarks in defense appropriations bills.

Doolittle said in a statement this week that as one of three California Republicans on the House Appropriations Committee, he frequently supports "well deserving projects throughout the state." The statement added that his support of PerfectWave Technology "was no exception and based completely on the project's merits and the written support of the military."

The link between special interests and members of Congress has grown so tight that nearly a dozen House and Senate members who control federal spending have retained lobbying veterans to raise campaign funds for them, and those lobbyists have secured lucrative favors in spending bills.

These relationships have coincided with the rapid growth in the volume of home-state pork-barrel projects, commonly called earmarks, that have swelled appropriations bills in recent years, according to congressional experts and watchdog groups.

"It's the currency of corruption," Rep. Jeff Flake (R-Ariz.) said of appropriations earmarks.

Since the Republicans took control of Congress in 1994, the number of home-district earmarks jumped from 4,155 valued at about $29 billion in 1994 to 14,211 worth nearly $53 billion 10 years later, according to the Congressional Research Service.

Once a backwater for boutique lobbying shops, the House and Senate Appropriations committees are fueling a lobbying boom in Washington. The hunt for earmarks has become so consuming that lawmakers are neglecting other duties, said Scott Lilly, who recently retired as chief Democratic aide on the House Appropriations Committee. Last year, the committee received 10,000 requests for home-district projects on one spending bill alone -- 25.4 projects per lawmaker, said committee spokesman John Scofield.

"It has become an obsession of the Congress," Lilly said. "That's all they do."

Traditionally, Congress has provided large pots of money to federal, state and local agencies, such as housing authorities and transportation departments, which then funded specific programs based on merit and local need. The Appropriations committees funded specific projects only when they had been vetted and approved by authorizing committees, such as the Armed Services Committee.

But increasingly, lawmakers have gone around authorizers and agency officials to finance pet projects in their home districts. House Speaker J. Dennis Hastert (R-Ill.) secured $207 million for the "Prairie Parkway" through Kane and Kendall counties in Illinois in last year's major highway law, although the Illinois Department of Transportation is only two years into a five-year study of the project and has not yet determined whether a highway is needed or whether improvements to existing roads would suffice.

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The hunt for earmarks on Capitol Hill and on K Street has opened up new avenues for lobbyists and lawmakers to come together. Seven members of the House Appropriations Committee -- Chairman Jerry Lewis (R-Calif.), Ernest J. Istook Jr. (R-Okla.), Kay Granger (R-Tex.), Dennis Rehberg (R-Mont.), John E. Sweeney (R-N.Y.), Rosa L. DeLauro (D-Conn.) and Ed Pastor (D-Ariz.) -- have political action committees headed by registered lobbyists or former registered lobbyists with business before the committee, according to the Center for Public Integrity and campaign records.

David A. Metzner, treasurer of Sweeney's Freshmen PAC, has represented the Association of American Railroads; it is a frequent petitioner of the House Appropriations subcommittee for the departments of Transportation, the Treasury, and Housing and Urban Development, on which the New York Republican sits. Leon G. Billings, DeLauro's treasurer and longtime friend, has represented groups such as the American Lung Association and the Lincoln Pulp and Paper Co. His lobbying registration for the Industry Urban Development Agency targets the Appropriations energy and water development subcommittee's bill.

In the Senate, Appropriations Committee members Larry E. Craig (R-Idaho), Byron L. Dorgan (D-N.D.), Harry M. Reid (D-Nev.) and Ted Stevens (R-Alaska) have retained PAC treasurers who have served as Appropriations lobbyists. Richard B. Ladd, treasurer of Stevens's Northern Lights PAC, has lobbied the Appropriations defense subcommittee on the behalf of defense contractors. William C. Oldaker, who heads the PACs of Reid and Dorgan, has lobbied multiple Appropriations subcommittees for the universities, science centers and municipal water districts he has represented, according to Senate lobbying records.

"It's completely out of control, and we are not going to reform a system, as far as lobbying is concerned, if we have a process that lends itself to one influential lobbyist with a relationship with one member," Sen. John McCain (R-Ariz.) told reporters this month.

Chairman Lewis strongly defended his committee, saying that after years of unchecked growth, the value of home-district earmarks retreated in the spending bills for this fiscal year by nearly $3 billion. One bill, funding labor, health and education programs, was voted down by the House the first time it went to the floor, in part because Lewis stripped it of every earmark. The problem, Lewis said, is with the campaign finance system. Lobbyists, such as his friend Bill Lowery, are helping to raise money to keep Republicans in the majority, and Lewis would not apologize for that.

"If you're going to impact public policy, you have to be in the majority," he said. "I don't back off that responsibility at all. Mr. Lowery is only one piece of that, and frankly a relatively small piece of it."

In a series of articles last month, Copley News Service laid out the relationship between the two that included Lowery raising campaign funds for Lewis, the exchange of longtime staff members and the channeling of millions of dollars to Lowery's California clients.

Lowery, the partners at his firm -- Copeland, Lowery, Jacquez, Denton & White -- and their clients have donated more than a third of the $1.3 million that Lewis's political action committee has raised in the past six years. One longtime member of Lewis's staff, Jeff S. Shockey, left Capitol Hill to join Lowery's firm, then returned recently as the House Appropriations Committee's deputy staff director. Letitia H. White, a Lewis staffer for 21 years, began lobbying for Lowery in 2003.

Wilkes, the California businessman linked to the Cunningham corruption case, began tapping federal spending sources in the mid-1990s, after Cunningham helped him win at least $80 million in Pentagon earmarks for a company he ran that converted paper documents to digital images.

In mid-2002, Wilkes became involved with a new company, PerfectWave Technologies LLC. He then retained the Alexander Strategy Group, a high-powered firm operated by former aides to then-House Majority Leader Tom DeLay (R-Tex.), to lobby for defense appropriations. Wilkes was seeking funding for the development of an "automated speech recognition technology."

Shortly thereafter, individuals related to Wilkes and PerfectWave made large campaign donations to members of the GOP leadership, Doolittle and Lewis, who was then chairman of the Appropriations defense subcommittee. PerfectWave is housed in Wilkes's office building in Poway, Calif.

Doolittle and his leadership PAC received at least $85,000 from 2002 to 2005 from Wilkes, PerfectWave associates and their wives, and from Alexander Strategy lobbyists Edwin A. Buckham and Tony C. Rudy and their wives.

Wilkes was successful. Congress approved the first earmark for PerfectWave as part of the fiscal 2003 defense bill, which was passed in October 2002. That $1 million earmark was followed by an installment of $18 million in 2003 and another $18

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million in 2004. Doolittle, whose district is in Northern California, was a guest at a fundraising dinner at Wilkes's office in San Diego in the fall of 2003.

Doolittle's office released a letter from a Marine Corps official dated last Feb. 25 that praised the PerfectWave technology. A spokesman for the House Appropriations Committee said there are no additional funds for the project in the fiscal 2006 budget because the Marines have not spent all the money that was earmarked.

Capital's New Four-Letter Word (WP)

By Shailagh Murray

The Washington Post, January 27, 2006

These are dark days for earmarks.

Packing bills with special provisions has long been an honored tradition in Congress, but now a pall has fallen over the practice. Bolstered by a budget crisis and a series of scandals involving legislative favors, an increasingly prolific government watchdog movement is turning "pork" into a four-letter word.

These scrappy outfits are run by small corps of veteran staffers whose offices look more like dorm rooms than the posh K Street suites occupied by their archnemeses: lobbyists. Taxpayers for Common Sense elevated an obscure Alaska highway project into the now-infamous "Bridge to Nowhere." Citizens Against Government Waste started battling runaway Hurricane Katrina spending three days after the storm hit the Gulf Coast.

The two groups joined forces this month with the National Taxpayers Union, a conservative, low-tax organization, to combat the rising cost of the new D.C. baseball stadium. Other watchdog targets include indicted former representative Randy "Duke" Cunningham (R-Calif.), the Pentagon and the U.S. Postal Service.

The watchdogs work closely with friendly lawmakers, such as Sen. Tom Coburn (R-Okla.), who tried to redirect funding for the "Bridge to Nowhere" to a New Orleans bridge ruined by Hurricane Katrina. The informal investigative alliance also includes Internet bloggers, including a "porkbusters" campaign on the site truthlaidbear.com, an online effort to mobilize against wasteful federal spending.

"It's a $2.4 trillion budget," said Steve Ellis, vice president of Taxpayers for Common Sense. "There's work for everybody."

Congress is embarrassed enough by the Cunningham and Jack Abramoff scandals, both involving huge sums of cash for legislative favors, that lawmakers are considering ways to crack down on earmarks, which typically show up in bills at the last minute, after little or no scrutiny. The watchdog groups are wary that Congress will wind up focusing on lobbying-related activities, rather than cleaning up the legislative process.

"We hope that there's a recognition that it's not just lobbying," said Thomas A. Schatz, president of Citizens Against Government Waste. "It's more a matter of how the whole process works."

Although Republicans claim to be the party of small government and fiscal restraint, Schatz's group found that total earmarks rose to 13,997 in 2005, a huge increase from the 1995 total of 1,349. The process appears to have slowed with the fiscal 2006 appropriations bills, with the exception of the defense measure, which preliminary analysis by the groups suggests is the usual earmark treasure trove.

Coburn, one of the Senate's toughest earmark critics, attributed the watchdog movement's growing influence to a decline in congressional oversight. What he calls "an army of citizen investigators" is "filling an oversight gap created by Congress's refusal to perform one of its core responsibilities," Coburn said.

Appropriations Chairman Thad Cochran (R-Miss.) noted that Senate rules already allow senators to attempt to strike provisions from bills -- as Coburn tried with his "Bridge to Nowhere" amendment. And while there may be earmarking excesses, Cochran added, the practice is entwined with one of the most sacrosanct of Congress's duties: deciding how federal money is spent.

"It serves a useful purpose for people to point out things," said Cochran, referring to the watchdog groups. But he added, "I think senators would be reluctant to approve a law that says you can't have any specific project appropriated in a bill."

The movement's ideological roots range from liberal to libertarian. Taxpayers for Common Sense, created 10 years ago, regards the late former senator William Proxmire (D-Wis.) as its spiritual leader and has taken over his Golden Fleece Award,

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created in 1975 to highlight wasteful projects. Proxmire gave the National Science Foundation the first Golden Fleece, for spending $84,000 to study why people fall in love.

Citizens Against Government Waste was founded in 1984 by the industrialist J. Peter Grace and the syndicated columnist Jack Anderson, now both deceased. It is also the legacy of President Ronald Reagan's "Private Sector Survey on Cost Control," directed in 1982 to "work like tireless bloodhounds to root out government inefficiency and waste of tax dollars." Other groups include the National Taxpayers Union, founded in 1969, which has already set its sights on the farm bill that expires in 2007.

The groups' bread and butter are the vast databases they compile that break down earmarks by state or individual lawmaker. They also rely on tips.

About five years ago, an Alaska environmentalist contacted Keith Ashdown at Taxpayers for Common Sense about a proposal for a massive bridge that would have linked the town of Ketchikan to the more sparsely populated Gravina Island. The group spent more than a year examining the project and awarded it a Golden Fleece on June 12, 2003.

Even Ashdown was surprised when the final highway authorization bill emerged last summer with a whopping $223 million for the Ketchikan bridge. At most, he had expected a few million dollars.

The bridge attracted a blizzard of adverse publicity, and later last year, Congress redirected the money to allow Alaska to spend it on other transportation projects. Ashdown, meanwhile, has moved on to a new project.

He heard about this one from a Gulf Coast resident. According to the e-mail he received, Mississippi wants to spend more than $200 million to repair the U.S. 90 Biloxi Bay Bridge, which was damaged last summer by Hurricane Katrina.

But the bridge could be obsolete before it is finished, the tipster warned, pending the outcome of a debate over relocating the highway. Ashdown is looking into the project and already has a name for it: the "Bridge Over Troubled Waters."

Spend-and-Collect Beltway Party Really Knows Jack (WSJ)

By Daniel Henninger

The Wall Street Journal, January 27, 2006

Jack Abramoff. Jack Abramoff. Jack Abramoff. Once the hunt's on, some names sound to the scandal born. Tongsun Park, Charles Keating, Elizabeth Ray, Fannie Fox, Susan McDougal. Now comes Jack, the central figure in what Beltway Democrats are trying to build into a bonfire that will burn down Republican control of Congress. Every time someone tells Senate Minority Leader Harry Reid that he, too, took money from Jack's clients, he starts jumping up and down like Rumpelstiltskin yelling, "This is a Republican scandal!" Harry Reid, Harry Reid. One could get used to that.

Poll after poll says the public thinks both parties are equally corrupt. It depends, of course, on what the meaning of corruption is. If by corrupt you mean lobbyist sleaze, quid pro quo, the pork barrel, earmarks to nowhere and grossing out even the public's generally low expectations, then yes, both parties are equally corrupt.

But it gets worse. Congress legislated the system that now exists. Congress planted the seeds back in the '70s for what is revolting you now with two enactments -- the Budget and Impoundment Control Act of 1974 and the 1974 amendments to the Federal Election Campaign Act of 1971. Both were marketed as reforms.

The first law turned political Washington into a trillion-dollar industry camouflaged as the federal budget. The second ensured that sitting members of Congress and K Street lobbyists would become the entrenched management of that industry. Compared to this, Enron is a kindergarten game.

This is a history worth knowing and retelling. It all came to life amid another famous scandal, Watergate, and the most famous such name of all, Richard Nixon.

Nixon's impeachment is wholly linked in history to the Watergate scandal. But, in fact, his battles with the Democratically controlled Congress over spending authority also greased his fall. As had Presidents Truman, Kennedy and Johnson, Nixon tried to control Congress's spending by "impounding" -- refusing to spend -- specific appropriations.

Congress itself had tried various gimmicks to stanch the Great Society's costs, such as "spending ceilings." None worked, as indeed no gaggle of legislators will discipline themselves. Nixon resorted to the blunt club of impoundments. Congress went bananas. This battle, fought inside the partisan cauldron of the Vietnam War, led to the oddly named 1974 Budget Control Act,

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which purposely eviscerated presidential control over individual spending items, such as an earmark. To kill a "bridge to nowhere," a president has to veto the entire highway bill. Ditto defense pork and so on.

The 1974 Act did give the president "rescission" authority -- a request not to spend money on a project. But the law also said that if Congress never took a vote to affirm the rescission, the money went out the door. Absurd, but that's current law. Congressional Quarterly, in a 1982 study of the struggle over spending control, quoted a budget official then predicting the future: "What we're talking about here is congressional government -- and chaos."

But they weren't done. In 1974 -- the start the Long Era of Chaos in our politics -- Congress claimed it was curing the abuses of Watergate by mandating that no individual could contribute more than $1,000 to a candidate per election. So of course candidates were going to need a lot of "individual" contributions to finance a modern campaign. Thus was born the current co-dependency between members of Congress who hold the power to confer federal spending and Washington lobbyists who have the power to bundle campaign contributions in PACs and such for incumbent earmarkers.

A friend who was part of this world back then described it for me recently: "If you lived in Washington in those years, the change was dramatic. We moved to California in 1973. Returning to visit in 1976, the evening landscape had changed completely. There were fundraisers everywhere. Friends who were Congressmen were stopping at two or three cocktail parties an evening, touching base with single-subject organizations who had established PACs in reply to the 1974 reforms. We knew a caterer; her life had changed." Her business today is probably a publicly traded company, so vast has the industry of Beltway spending and campaign-contribution collecting become. Washington today is enervated by it. * * *

Fixes are possible. Put simply, reverse the "reforms" of 1974.

Abolish the individual limits on campaign contributions but require public disclosure on the Web. Democrats James Carville and Paul Begala recently proposed making this the basis of creating a new campaign-finance system. But beyond this lies the question of whether Democrats and Republicans want to fix Washington. Are they really separate parties, or just one entity -- the Beltway Party?

I don't see how the Democrats have any practical or ideological incentive to stop the federal government's inexorable 70-year-long growth. This is what they want -- more. For them, the Abramoffs of the world are reindeer pulling Santa's sleigh. By contrast, the Blunt-Boehner-Shadegg fight for the House leadership is an ideological argument over what Republicans should be amid a federal establishment that metastasized after the 1974 changes.

The failed 1974 Budget Act, which released the earmark and spending ghouls, makes clear that some workable form of presidential spending control has to be in the game. Presidential line-item veto power would require a constitutional amendment. Real rescission authority would help, but that has to pass through Congress and maybe a court challenge. Oh gosh, I almost forgot. Unlike from 1960 to 1994, the Republicans control Congress, and arguably all three branches of government. Does that matter? We'll find out this November and in 2008, when Republicans will either vote or sit.

I wish President Bush would put this issue of what Washington has become into his State of the Union speech Tuesday. My guess is he won't, recalling what happened when Richard Nixon tried to fight both a major war and the party that controls Congress, which for the foreseeable future looks like it will be the Beltway Spend-and-Collect Party.

For Blunt, Pressure Grows For Q&A With Rivals (WSJ)

By David Rogers

The Wall Street Journal, January 27, 2006

WASHINGTON -- As the House Republican leader's race goes into its final week, Majority Whip Roy Blunt faces growing pressure to appear with his two rivals before the caucus and answer questions on where he wants to take the party after the spate of recent scandals.

Mr. Blunt is widely seen as the frontrunner for the post vacated by Texas Rep. Tom DeLay. But the Missourian also has seemed insecure, refusing to give up his whip's position and avoiding any joint television appearances where he can be questioned with the two other candidates, Reps. John Boehner of Ohio and John Shadegg of Arizona.

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The latest episode surrounds a closed-door party meeting Wednesday, before the Feb. 2 leadership vote. Aides to Rep. Deborah Pryce (R., Ohio), who chairs the House Republican Conference, had discussed a proposed format that allowed each candidate to speak for two minutes, after which there would be 10 minutes for questions.

A spokeswoman for Mr. Blunt said that he would "be more than willing absolutely" to agree to a question-and-answer session "if that's what Ms. Pryce decided." But behind the scenes, Republicans said there was resistance from the Blunt camp, which felt caught by surprise by the suggested format. And in a letter announcing the meeting, Ms. Pryce doesn't mention questions, writing only that "Any potential candidate will be given an opportunity to speak briefly to the Conference."

Sean Spicer, communications director for the Conference, dismissed inquiries about the matter, saying ideas were floated by staff but were of no consequence if not in Ms. Pryce's letter. But he was among those who had promoted the 10-minute Q&A format within Ms. Pryce's operation, and spokesmen for both Reps. Boehner and Shadegg said they hoped it would be restored.

The absence of more open debate is striking given the context of the leadership contest. Mr. DeLay agreed to vacate the leadership post after being indicted in Texas in October on alleged campaign finance violations and then watching his ally, Republican lobbyist Jack Abramoff, plead guilty to three felonies in federal court this month. Heading into November's elections, the contest is particularly important, and both Reps. Boehner and Blunt have an eye to positioning themselves to become speaker after Speaker Dennis Hastert (R., Ill.) steps down in 2008.

"This race is very different" Mr. Shadegg said. "The conference is under a magnifying glass as a result of the climate we're in and I think a lot of people are looking at what we do."

Mr. Blunt claims he has already more than the 116 votes needed to win, but only about 92 of his supporters have been willing to make their names public. Meanwhile, Reps. Boehner and Shadegg are fighting to get past one another into a second ballot face-off with the frontrunner.

"We're working very hard to get to the second ballot and we think our numbers are very close," Mr. Shadegg said. Rep. Ray LaHood (R., Ill.), a Boehner backer predicts the Ohio lawmaker, who chairs the House Education and Workforce Committee, will survive and then pick up enough of the Shadegg camp to prevail over Mr. Blunt. "I think it would be decided by five votes or fewer," he said.

House Whip Race Indicates Trend To Conservatism (WT)

By Stephen Dinan

The Washington Times, January 27, 2006

The House majority whip's race is an indication of just how conservative the House Republican Conference has become.

Two 1994 Republican revolutionaries and two fast-rising Republican stars face off in a contest they all say is about making the party refocus on basic conservative principles.

"Sometimes old institutions tend to drift away from their original intention. I thought I could be that breath of fresh air and just provide some direction of why we do what we do," said Rep. Mike Rogers, Michigan Republican and one of the candidates.

He is running against Rep. Eric Cantor of Virginia, Rep. Todd Tiahrt of Kansas and Rep. Zach Wamp of Tennessee. Mr. Tiahrt and Mr. Wamp were part of the Class of 1994, while Mr. Rogers and Mr. Cantor were elected in 2000.

All four rank among the most conservative members of the House: They earned "A" or "A+" grades from the National Rifle Association, had strong marks from the National Taxpayers Union and have lifetime ratings of 90 percent or better from the American Conservative Union.

The whip, the No. 3 position in the Republican hierarchy, is supposed to assess where House Republicans are on issues and build support for Republican priorities.

As of now, it's not clear the position will even be open. The current whip, Rep. Roy Blunt of Missouri, is running for majority leader but has not relinquished his seat.

For that reason the whip's race has been far less public. Mr. Rogers has been the most active publicly, giving a series of speeches this week on issues such as intelligence and economic competitiveness.

The former FBI agent says he has experience winning close races -- he won his congressional seat by 111 votes in 2000 and, before that, won a Michigan Senate leadership election by one vote -- that will serve him well as whip.

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He said Republicans are right on the issues, but they need to do a better job of communicating them.

"If we are going to be relevant for Americans, we have to be able to sit around any kitchen table in this country with our principles, our conservative principles about smaller, efficient government, about a helping hand, not a handout," he said.

Unlike the majority leader's race, those in the whip's race are not releasing lists of publicly committed members.

Mr. Wamp is positioning himself as the person willing to challenge the conference.

"This is a real challenge for us to hold our majority and who's willing to push the reforms that are needed," he said.

He said he's the only one of the four who is not part of the current whip's team, and therefore the only one outside of the political team Rep. Tom DeLay of Texas built.

Mr. Tiahrt said being on the whip's team is a key benefit. "I've got the most experience of people in this race."

He has taken a major role in pushing American economic competitiveness and said as whip he would push for the House to do more by doing less.

He said they often step on their own toes, passing good bills but drowning out that message by doing too much.

"It's important that we have a firm, focused voice on our leadership team that brings us back to a smarter schedule that brings legislation to the floor that reflects who we are and why we're in Washington," he said.

Mr. Cantor said reform means more than just the scandals -- it means returning to balanced budgets, changing the spending process and reforming the tax system.

"My goal is 10 months from now when we have an election, not for voters to be going to the polls with the choice of how do we clean up Congress," he said.

On spending reforms, Mr. Cantor said he will lead by example and reduce the number of earmarks he submits.

"At the end of the day we will be well-led, and it will be a conservative. There probably isn't a hair's-breadth difference between Cantor, Rogers, Wamp and Tiahrt in voting [records]," Mr. Rogers said.

Senate Questioning Bush Policies, But Administration Fighting Back (KRT)

By James Kuhnhenn

Knight Ridder, January 27, 2006

WASHINGTON - After years of deferring to the Bush White House, the Republican-controlled Senate has begun pushing back, holding oversight hearings on topics ranging from President Bush's response to Hurricane Katrina to his administration's mine-safety record and the president's secret domestic-surveillance program.

Administration officials are fighting back.

An administration mine-safety official walked out of a Senate hearing this week, angering its powerful Republican chairman. The White House refused to give another Senate committee documents it sought about Katrina. The administration is trying to dismiss critics of its eavesdropping program as clueless partisans, though many of them are Republicans.

White House officials and their allies maintain that their stance protects inherent executive power. Critics say the administration's reaction to the Senate's inquiries is an assault on Congress' constitutional role as a coequal branch of government that checks and balances the executive.

"There is always a tension between Congress and the executive on information-sharing," said Sen. Joseph Lieberman of Connecticut, a Democrat who's generally friendly to Bush but has accused the White House of stonewalling over Katrina information.

"This administration, certainly among the three that I've served under," he said, "is the most restrictive and protective about sharing information."

The Bush administration has never been shy about testing the limits of its executive power. Vice President Dick Cheney refused to divulge the identities of energy executives who advised him on energy policy. The administration wouldn't give Congress up-to-date cost estimates of its prescription-drug legislation. The Pentagon is often stingy about data related to the war in Iraq.

The current clash is significant because, unlike during Bush's first term, the Senate is demanding answers:

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-A Senate Appropriations subcommittee had sharp words Monday for federal mining safety officials, blaming improper enforcement of regulations for the recent deaths of 14 miners in West Virginia. Two hours into the hearing, the acting head of the Mine Safety and Health Administration, David Dye, left despite requests from subcommittee Chairman Sen. Arlen Specter, R-Pa., that he stay and answer further questions.

-Federal agencies have refused to turn over documents about their communications with the White House related to Hurricane Katrina to two congressional committees that are investigating the federal response to the disaster.

-Specter has scheduled hearings for Feb. 6 on whether the president was legally permitted to authorize wiretaps in the United States without court warrants. The administration has mounted an effort to portray those who question the legitimacy of the program as out of touch with the realities of post-Sept. 11 counterterrorism.

Such challenging examinations of the administration were virtually unheard-of during Bush's first term, when Congress wanted to cooperate with the president in the aftermath of the Sept. 11 terrorist attacks and he was highly popular with the public.

Since then, Bush's standing has plummeted. His response to Katrina, the continuing bad news from Iraq and other controversies have eroded his popularity.

In addition, with congressional elections in November, Republicans aren't as concerned about advancing the president's agenda as they are in advancing themselves. Both Republicans and Democrats have decided to resist Bush's expansion of presidential authority.

Congress watchers say hearings into Katrina, mine safety and wiretaps represent the least of what a muscular Congress should be doing to fulfill its oversight responsibilities.

"Congress is showing some tendons; it hasn't reached the level of a muscle yet," Specter said.

"Oversight is an ongoing process by which Congress keeps an eye on the executive branch agencies," said Gary Bass, the executive director of OMB-Watch, a nonpartisan group that keeps tabs on federal policy-making. "That is not what I see happening."

Norman Ornstein, a veteran congressional scholar at the American Enterprise Institute, a conservative research center, said today's rare display of oversight broke a five-year pattern of almost undeviating loyalty to the president.

He said House Speaker Dennis Hastert, R-Ill., and Senate Republican leader Bill Frist, R-Tenn., "don't see themselves as heads of an independent branch.

"They see themselves as field generals in the army of the president."

But some, such as Specter and Sen. Susan Collins, R-Maine, now are leading inquiries into administration actions. Collins, who's chairing the Katrina investigation, has objected to the White House's refusal to turn over some documents and its instructions to agency officials not to reveal their communications with the White House about the hurricane.

"There are legitimate privileges that the president can cite," she said. "But what is unacceptable for me is for the White House to tell officials in other agencies that they can't even tell us who they called in the White House. That is a real stretch, and that is not a legitimate privilege that the White House has a right to exercise."

Specter simply raises an eyebrow at Bush's claims that those who seek to investigate his spying program are partisans living in a "pre-9/11 world."

"There are lots of fellows with `R' (Republican) after their name who are pretty sensible people who think this ought to be done," he said.

Article One of the Constitution gives Congress its powers. Among the powers that permit the Senate to check and balance the executive branch are:

-The power, shared with the House of Representatives, to enact laws.

-The power to try all impeachment cases brought by the House.

-The power to advise and consent to executive and judicial nominations or to reject them.

-The power, shared with the House, to declare war.

-The power, shared with the House, to determine federal taxes, spending and borrowing.

-The power, shared with the House, to override presidential vetoes.

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-The power, shared with the House, to regulate interstate commerce.

Air Traffic Controllers Make Alliance With Senators In Dispute With FAA (WP)

By Stephen Barr

The Washington Post, January 27, 2006

The union representing air traffic controllers is looking to Capitol Hill for help in contentious contract negotiations with the Federal Aviation Administration.

Four Democratic senators introduced a bill yesterday that would permit labor disputes at the FAA to be settled through binding arbitration, John S. Carr , president of the National Air Traffic Controllers Association, announced.

The unusual move by NATCA -- to seek congressional support for changes in FAA labor procedures while at the bargaining table -- came a day after FAA officials held a news conference to say they had regained control of a New York radar center and brought an end to abusive overtime, sick leave and workers' compensation practices by controllers there.

In recent weeks, both sides have accused the other of making false claims, engaging in publicity stunts and twisting numbers on controller compensation in an effort to shape public perceptions about the negotiations. The FAA is one of the rare places in government where unions can bargain over pay.

Contract talks are scheduled to run through the first full week of March, and union officials contend that the FAA does not intend to bargain in good faith and will run out the clock on the talks. The agency denies the charge, arguing that a voluntary settlement is best for both parties.

If contract talks break down, the FAA might send its last offer to Congress for a 60-day review. If Congress takes no action, the FAA may impose its version of the contract on the union.

Sen. Barack Obama (D-Ill.) said he and colleagues proposed arbitration "to help defuse the growing management-labor tension at the FAA."

Under the Obama bill, if the FAA and one of its unions failed to reach a voluntary agreement, the Federal Mediation and Conciliation Service would be called on to try again for a settlement. If mediation failed, Congress could impose the FAA's last, best offer on employees by approving it in legislation. If Congress did not act, the impasse would go to binding arbitration.

Joining Obama in introducing the bill were Sens. Daniel K. Inouye (D-Hawaii), Patty Murray (D-Wash.) and Frank Lautenberg (D-N.J.).

Carr called the bill "a matter of fundamental fairness" and said the union would seek to win Republican support. Although it seems unlikely that Republican leaders will move the bill fast enough to affect current contract talks, Carr expressed optimism, saying, "I really believe it has got legs."

The head of the FAA, Marion C. Blakey , ruled out "changing the rules of the game during halftime" in a letter to Carr this month.

She said the labor rules are "part of a carefully balanced approach" that gives the union the right to bargain over pay and benefits and gives Congress "the final say in any pay dispute." Turning impasses over to an arbitrator would take away authority that belongs to the president and Congress, Blakey said.

She added that the current approach has allowed NATCA "to enjoy unprecedented wage gains" that have made air traffic controllers among the highest paid federal employees.Postal Blitz, Day 2

Postal officials continued their efforts to kill a Senate bill that would overhaul operations at the U.S. Postal Service, holding a news conference to list objections and to note that they have the support of the American Postal Workers Union.

Richard Strasser , the Postal Service's chief financial officer, said the bill, in combination with White House policy requirements, "will cause us to get into an immediate rate case that will be larger than it has ever been" and drive up stamp prices by 18 to 20 percent.

Sens. Susan Collins (R-Maine) and Thomas R. Carper (D-Del.), the bill's sponsors, said postal officials were "distorting our position and blatantly misleading our colleagues and the public." In a statement, they said, "The Postal Service appears to have sunk to a new low."

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Leaders of the National Association of Letter Carriers and the National Rural Letter Carriers Association issued a statement in support of the bill.Talk Show

Steven L. Katz , author of "Lion Taming: Working Successfully With Leaders, Bosses and Other Tough Customers," will be the guest on "FEDtalk" at 11 a.m. today on http://federalnewsradio.com and WFED radio (1050 AM).

E-mail:barrs@washpost.com

Justice And Junkets (NYT)

The New York Times, January 27, 2006

Justice Antonin Scalia certainly has poor judgment when it comes to vacations.

Justice Scalia was apparently unchastened by the criticism of his 2004 duck-hunting excursion with Vice President Dick Cheney, one of that term's most prominent Supreme Court litigants. Last September, he skipped the swearing-in of Chief Justice John Roberts Jr. because of another ethically dubious trip, this time to the posh Ritz-Carlton at the Beaver Creek ski resort in Colorado.

He was there to teach a 10-hour seminar over a couple of days for a conservative group, the Federalist Society. "Nightline" recently reported that the gig had left Justice Scalia plenty of time for tennis, fly-fishing and socializing with seminar participants, some of whom may have business before the Supreme Court. One Federalist Society cocktail reception was sponsored in part by the lobbying and law firm that used to employ Jack Abramoff, Tom DeLay's convicted pal and benefactor for golf trips.

Justice Scalia's travel is part of a broader affliction on the federal bench. The Los Angeles Times reported in 2004, for example, that Justice Clarence Thomas had accepted thousands of dollars in gifts in recent years, including an $800 leather jacket, a $1,200 set of tires from Nascar and an extravagant vacation from a conservative activist. Federal judges below the Supreme Court level accept dozens of free vacations each year from well-heeled special interests under the guise of "judicial education."

The judicial lobbying problem is more serious in one respect than the scandal enveloping Congress. Lawmakers operate in an overtly political environment, but the decision-making process of judges is supposed to be impermeable to clever efforts by special interests to buy access and favor.

Three Democratic senators with a longstanding concern about this problem — Patrick Leahy of Vermont, Russell Feingold of Wisconsin and John Kerry of Massachusetts — are readying provisions to ban junkets and other compromising gifts for judges, which they hope to make part of their party's lobbying reform proposal. For Congress to pass a lobbying reform bill that curbs inappropriate perks for lawmakers but not for federal judges would be a scandal in itself.

OTHER NEWS:

Hamas Win Shatters Status Quo (CSM)

By Ilene R. Prusher

The Christian Science Monitor, January 27, 2006

JERUSALEM - The Islamic group Hamas staged a stunning upset of the ruling Fatah faction in Palestinian parliamentary polls Wednesday, winning a solid outright majority of the total 132 seats and making the strongest ever showing of an Islamist movement in the Arab world.

With such a decisive win, Hamas is unlikely to need a coalition partner, sidelining the Palestine Liberation Organization's Fatah Party and promising to redefine the troubled Middle East peace process.

Hamas, which rejected the 1993 Oslo Accords that founded the Palestinian Authority (PA), was ebullient over its mandate, but said it would not change its fundamental stance: It will not disarm its military wing and will not revise its charter calling for Israel's destruction.

The surprise victory of Hamas presents a radical about-face for Palestinian relations with Israel, has reverberations for Muslim countries through the Middle East, and raises questions for the international community at large.

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According to results released Thursday based on 95 percent of the vote, Hamas won 76 seats to Fatah's 43 seats. Smaller and independent parties took the remaining 13 seats.

Both the US and the European Union have stated that they would not deal with Hamas because they deem it a terrorist organization. But the PA, badly in need of financial aid and actively seeking intervention from world powers in its conflict with Israel, will now be led by an organization that came into the world's consciousness through suicide bombings in Israel.

But what Hamas has lacked in international legitimacy, it clearly has secured in domestic esteem. "Hamas's key was to position itself not in terms of ideology, but as the address of choice for those seeking to cast a protest vote," says Mouin Rabbani, a Middle East analyst with the International Crisis Group and an expert on the Israeli-Arab conflict, and a contributing editor of Middle East Report.

"Unlike Fatah, the next government will enjoy a lot of popular support and legitimacy," he says. "I don't think even Hamas was expecting anything like this result, and this means they are faced with strategic issues that they didn't mean to deal with as of yet."

Indeed, the questions that have suddenly been thrust upon Palestinians and Israelis are intricate and endless. In a Hamas-run PA, what happens to crucial cooperation that goes on with Israel? Even in the worst of times, Israeli and Palestinian officials cooperate on security issues, border crossings, information sharing, commercial relations, and basic utilities.

Shocked Israeli leaders, still struggling for stability amid the power vacuum left by Prime Minister Ariel Sharon's massive stroke have been reticent to react, waiting instead for more definitive results.

But Benjamin Netanyahu, the Likud party candidate in the Israeli elections scheduled for March, compared the Hamas win to putting the equivalent of Iran or the Taliban within 1,000 meters of the Israeli capital.

On the streets of Gaza, where the organization was founded in 1987, the mood was triumphant. At the home of Said Siam, a Hamas leader who won a seat, supporters crowded his courtyard to offer congratulations. Mr. Siam says Hamas wants to find common ground with all the Palestinian factions to form an inclusive government. He left open the possibility of negotiating with Israel and continuing violent resistance.

"When Fatah was in power, they had resistance groups and negotiations at the same time," Siam says. "As of now, it is not on Hamas's agenda to negotiate with Israel. "Israel is an occupying state. When Israel agrees to give the Palestinians full rights, after that Hamas will decide" whether to negotiate.

Whether Hamas wants to place one of its officials as prime minister, and whether its militant Qassam Brigade disarms or merges with the PA security forces, were all matters up for discussion, he says.

Meanwhile, Fatah supporters lamented their stunning defeat. "It's so sad, we don't know what the future of our country will be," says taxi driver Kamal Abu Foz. "The international community and Israel won't deal with Hamas, and Hamas can't deliver us a state."

In Jerusalem, former President Jimmy Carter, head of an multinational observer mission for the Palestinian vote, urged the US and Europe not to abandon the PA's financial needs. He said that according to the World Bank's most current figures, the Palestinian government will run out of funds by the end of February, and already faces a $900 million shortfall.

"There are some legal loopholes that can be utilized to help the Palestinians that don't have to go through the Palestinian Authority," Mr. Carter said, in response to questions over whether his call for international assistance - including from Washington - contradicts longstanding US policy about not working with any group it deems a terrorist organization.

In the West Bank city of Ramallah, many expect that Islamic Hamas will soften its positions. Much of Ramallah's cosmopolitan population won't accept passage of Islamic sharia law.

At Almonds pub, one of many Ramallah restaurants that give the city its reputation as the center of Palestinian nightlife, a TV glowed with images of children wearing Hamas headbands. Owner Bishara Kaoud says he expected the bar to be especially full Thursday night with regulars anxious about the possibility of Hamas planning to impose Islamic law, which forbids consumption of alcohol. "I have a lot of people coming in tonight just in case tomorrow there won't be any booze in this place."

• Rafael D. Frankel contributed from Gaza City and Joshua Mitnick contributed from Ramallah, West Bank.

Leader Likely To Cut Ties To Israel (WT)

DOJ_NMG_0012486

By Paul Martin And Betsy Pisik

The Washington Times, January 27, 2006

GAZA CITY, Gaza Strip -- Hamas leader Mahmoud Zahar has proposed a dramatic shift of Palestinian policy -- ending security cooperation with Israel, cutting most trade links with the Jewish state and refusing to engage with the "Christian-Zionist" U.S. administration.

"We have to go away from Israel and move toward all possible linkages with our Arab and Islamic brothers," he told The Washington Times just days before his militant movement's stunning election victory.

"Cooperation [with Israel] on the security and economic fields was a disaster for the Palestinians," he said

Although he promised last night to invite Fatah and independent candidates to participate in a broad-based government, Mr. Zahar -- the highest-ranking Hamas official in the Palestinian territories -- gave no indication that the electoral success had softened his views.

"Resistance is a legitimate right of the Palestinian people, and we will not abandon it. There is no contraction between resistance and entering the legislative council," he told reporters at his party's Gaza City headquarters.

Mr. Zahar said Hamas would extend its year-old truce if Israel reciprocates.

"If not, then I think we will have no option but to protect our people and our land," he said.

Another Hamas official, speaking to The Washington Times on the third floor of the group's eerily unfinished offices in central Gaza City last night, warned that the group's year-old cease-fire with Israel would not last forever.

"We have declared a cease-fire, but the occupation didn't appreciate it," he said. "A one-sided cease-fire is not useful."

During the earlier interview, Mr. Zahar -- who was nearly killed when an Israeli bombing raid destroyed his home two years ago -- spoke in firm, quiet tones in strongly accented but clear English.

Noting Israel's plan to "disengage" from the Palestinians, he proposed his own form of disengagement in which the Gaza Strip and "any part of Palestine that can be liberated" would seek to link themselves economically with their Arab and Islamic neighbors.

He said the 1993 Oslo accords and the 1994 Paris agreement that followed had given Israel economic advantages at the Palestinians' expense.

"Our economic status was destroyed by the linkage of our economy with Israel," he said.

He charged that Palestinian agricultural exports had been restricted while oil and electricity purchased through Israel cost many times more than they would if purchased from Egypt.

"In 2004, we paid $186 million for electricity, and if we had taken it from Egypt, it would have been $20 million," he said, apparently assuming the oil and electricity could be purchased at the highly subsidized rates provided to Egyptian consumers.

"We are not speaking about a fanatical process, not saying we are going to kill the Jews -- we are talking about how to address the destruction of our economy," he said.

Mr. Zahar seemed unconcerned about the prospect of a cutoff in foreign aid, saying a Hamas government would not renounce the right to armed resistance to keep the money flowing from Europe and the United States.

"How could we justify taking the money?" he asked.

Mr. Zahar said he thinks European countries would soon "change their mind" and continue to do business with the new Palestinian Authority, but he said he could foresee no relationship with the Bush administration, which he accused of supporting Christian sectarianism in Egypt and interfering in the affairs of Lebanon, Syria and Saudi Arabia.

"President Bush is introducing hysteria into the region," he said. "He used the term 'a new Crusade' and clearly is pushing the Christian-Zionist agenda -- which is why we cannot deal with him."

Mr. Zahar said that a continuing security understanding with Israel was "not impossible" while the Palestinians build new institutions.

But, within the next five decades, "I'm sure Israel will disappear as the Crusaders and other empires disappeared," he said.

"All of Palestine will become part of the Arab and Islamic land -- as the Koran promised."

Bush Is Conciliatory In Accepting Victory Of Hamas (WP)

DOJ_NMG_0012487

By Glenn Kessler

The Washington Post, January 27, 2006

President Bush accepted the stunning election results in the Palestinian territories yesterday with a conciliatory tone, saying the landslide victory of the militant Islamic group Hamas was rejection of the "status quo" and a repudiation of the "old guard" that had failed to provide honest government and services.

"There's something healthy about a system that does that," Bush said at a news conference. He reiterated that he will not work with Hamas, formally known at the Islamic Resistance Movement, as a "partner of peace" until it renounces its goal of destroying Israel and disarms its militias. But he left unsaid what a Hamas-led government will mean for the distribution of U.S. financial assistance and for American involvement in trying to reach a peace deal.

Secretary of State Condoleezza Rice also put on a brave face, saying "we still have every reason for hope and for optimism" because voter turnout was high and free from violence. She said the Palestinian people were "expressing their desire for change," because they "have endured governance that was, by all accounts, not meeting their needs."

The upbeat rhetoric belied the fact that the election outcome was the opposite of what the administration had hoped would happen. Behind the scenes, U.S. officials scrambled to survey the wreckage of their Middle East policy.

The Bush administration has spent nearly $500 million in the past year to bolster the Palestinian Authority and the ruling Fatah party, which was nonetheless crushed by Hamas at the polls. Against the advice of Israeli officials, the administration had pushed Palestinian President Mahmoud Abbas to hold the elections without delay, believing that the voting would strengthen his hand in disarming militia groups. Instead, the plan backfired, and an organization that has claimed credit for dozens of suicide bombings -- some resulting in the deaths of Americans -- is poised to take power.

Officials had no easy answers about their next step. Rice spoke with other sponsors of a U.S.-backed peace plan -- the European Union, the United Nations and Russia -- and will meet with her counterparts in the group the Quartet next week in London. In a statement, the group noted that the Palestinians "voted for change" but have not given up "their aspirations for peace and statehood." The Quartet reiterated that "there is a fundamental contradiction between armed group and militia activities and the building of a democratic state."

Rice also spoke to Abbas and urged him to remain as president. Abbas, who was elected last year after the death of longtime Palestinian leader Yasser Arafat, said last night that he will continue to pursue peace negotiations with Israel. But Abbas has resigned from other positions when his authority was challenged. Edward G. Abington Jr., a consultant to the Palestinian Authority, said many in the Fatah inner circle question whether he will do so in the coming months.

U.S. officials went to bed Wednesday night thinking that Fatah had edged out a narrow victory, which might have increased pressure on the Palestinian cabinet to include some Hamas members. That in turn might have split the United States from some European allies, who have wondered if a Hamas political wing could, perhaps, be separated from the militia.

But, under one emerging theory, the clear victory by Hamas is a bracing event, or as one U.S. official put it, there is a "certain benefit of clarity in the results." European officials yesterday had little choice but to express surprise and consternation at the outcome.

Hamas, by most accounts, had expected to serve as the opposition, without the responsibility of power. Now, Hamas will face an "existential moment," forced to decide whether it will be a peaceful force for change, the U.S. official said, speaking on the condition of anonymity to comment more candidly.

Terje Roed-Larsen, a former U.N. envoy for the Middle East who is president of the International Peace Academy, agreed that Hamas now faces a "political moment of truth" that provides an opportunity for creative diplomacy. He said that unless Hamas reforms itself and renounces terrorism, the flow of donor money from Europe and the United States will stop. As the government, Hamas will be responsible for the political, social and security collapse if Western governments refuse to continue to aid the Palestinians, he said.

Hamas "cannot postpone making a choice," Larsen said. The United States and its allies need "to point out the dilemma, step back and see how they handle it."

Martin S. Indyk, a Clinton administration official and the director of the Saban Center for Middle East Policy at the Brookings Institution, agreed that Hamas will find that it can no longer be an obstacle, but said he does not foresee an immediate change in

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its platform. He said the result might be an "ironic situation in which it is in their interest to maintain peace, but not make peace with Israel."

Indyk cautioned that any sudden moves from the United States and Europe to reduce aid -- or a decision by Israel to withhold the tax revenue it shares with the Palestinian Authority -- could drive Hamas to seek funding from Iran, long one of its chief sponsors. Iran has tried to increase its influence in the Palestinian territories.

One complicating factor will be the mood in Congress, which has been reluctant to allow direct aid to the Palestinian Authority unless the money went to pay the utility bills owed to Israel. Many key lawmakers yesterday issued statements denouncing the Hamas victory.

Abington said the Bush administration shares responsibility for the outcome because U.S. officials did little to help Abbas or to push the Israeli government to end settlement expansion, limit roadblocks, release prisoners or stop other activities that undermined his authority in the eyes of the Palestinian people. He said the result is a "huge blow to Bush's advocacy of democracy in the Middle East" because Arab leaders fearful of Islamic victories in their countries will "push back very hard."

David Makovsky, director of a project on the Middle East peace process at the Washington Institute for Near East Policy, said "there was a lot of blame to go around here," with the primary onus falling on Fatah. But he said U.S. involvement could have been more robust after the death of Arafat and the election of Abbas.

"There needs to be some soul-searching in Washington on this," Makovsky said. "Late in the game, the United States was pressing for an election, while the work in creating liberal institutions had not materialized."

Bush Rules Out Contacts Unless Hamas Backs Peace (REU-Y2)

By Saul Hudson

Reuters, January 27, 2006

U.S. President George W. Bush refused on Thursday to deal with Hamas unless it backs peace with Israel, a decision that could sideline Washington from brokering a settlement after the militant group's Palestinian election win.

Bush also urged President Mahmoud Abbas, whose Cabinet resigned after his Fatah party lost to the Islamist group, to stay in office so the United States could keep open a diplomatic channel with the Palestinian government.

"I have made it very clear, however, that a political party that articulates the destruction of Israel as part of a platform is a party with which we will not deal," Bush told a White House news conference, referring to the group Washington considers a terrorist organization.

Bush, who has made promoting democracy in the Middle East a priority for his second term, had pressed Abbas to hold Wednesday's parliamentary election despite polls showing Hamas would do well.

Hamas had not been expected to win. Its victory could bury any hope of reviving peace talks with Israel soon and stop Bush from achieving his goal of brokering a settlement that creates two states within the next few years.

"Peace is never dead, because people want peace," Bush said.

Bush stepped up U.S. involvement in brokering Palestinian-Israeli accords after Abbas became president last year and sought peace talks with Israel.

With Hamas in power, Bush could revert to the hands-off style that marked his first term, when he believed then-Palestinian President Yasser Arafat was an obstacle to peace.

UNITED FRONT

The United States is perceived by many in the Arab world as pro-Israel and has often been at odds with its Western allies for taking a tougher line toward Palestinian militant groups.

But major mediating powers delivered a unified message to Hamas that it should choose peace with Israel.

"We reaffirmed the view that ... you can't have one foot in terror and the other in politics," U.S. Secretary of State Condoleezza Rice told Reuters after a telephone call between top diplomats from the so-called Quartet -- Russia, the United Nations, the European Union and the United States.

In a statement, the mediators demanded Hamas, which has launched suicide bombings against Israel, renounce violence, accept the Jewish state's right to exist, and disarm.

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The major powers did not back up their demands with any threats, such as cutting back aid.

But Rice warned that Hamas will receive no assistance from a Bush administration that has given directly to the Palestinian Authority since Arafat's death.

Hamas is unlikely to overturn its anti-Israel ideology quickly. But it could soften its stance if Western countries cut aid to a government that needs foreign funds to provide basic services for its electorate, political analysts said.

"Everybody understands that the Palestinian people have humanitarian needs. It's a very poor population," Rice said, suggesting U.S. such aid would be funneled through non-governmental organizations.

"We are obviously not going to give aid to a terrorist organization," she added.

David Makovsky of the Washington Institute for Near East Policy said that although Bush pushed for elections, he had failed to bolster democratic institutions that could have helped Abbas' standing.

He doubted the Palestinian leader, who is expected to ask Hamas to form a government, could stay in power long.

Hamas Routs Ruling Faction, Casting Pall On Peace Process (NYT)

By Steven Erlanger

The New York Times, January 27, 2006

RAMALLAH, West Bank, Jan. 26 — The radical Islamic party Hamas scored an overwhelming victory in Wednesday's Palestinian legislative elections, taking 76 out of 132 seats, deposing the former governing Fatah party, which won only 43 seats.

The results, announced Thursday night, which give Hamas the right to form the next government, were likened by Palestinians to an earthquake or a tsunami. They ended more than 40 years of domination by Fatah, the political faction built by Yasir Arafat, which along with the Palestinian Authority was widely viewed by Palestinians as corrupt and ineffective.

The shocking outcome put Hamas, considered a terrorist group by Israel, the United States and the European Union, in charge of the Palestinian political future, and put at least a temporary halt to efforts to restart peace talks. The balloting also made a mockery of the voter surveys released Wednesday night that indicated that Fatah would have the most seats and could retain control of the legislature and the cabinet.

In a televised speech on Thursday night, the Palestinian president, Mahmoud Abbas, said he remained committed to negotiations with Israel. Mr. Abbas, who heads Fatah, but whose official status was not affected by the vote, suggested that future talks would be conducted through the Palestine Liberation Organization, which could bypass a Hamas-led government.

"I am committed to implementing the program on which you elected me a year ago," he said. "It is a program based on negotiations and peaceful settlement with Israel."

But Ehud Olmert, the acting prime minister of Israel, issued a statement saying that talks were not possible now. "The state of Israel will not negotiate with a Palestinian administration if even part of it is an armed terrorist organization calling for the destruction of the state of Israel," he said after an evening cabinet discussion of the election results.

Even before the results were announced, the Fatah prime minister, Ahmed Qurei, who had warned Mr. Abbas against holding these elections, resigned, and cheering Hamas supporters raised their green flag over the parliament building. They celebrated throughout Gaza and the West Bank, holding victory marches in major cities. In Nablus, they hung enormous green banners on public buildings, while members of the group's military arm, the Qassam brigades, marched in uniforms with weapons, but did not wear their customary masks.

In Ramallah, Ali Abu Shusha, 31, with a bright green Hamas banner on his taxi, exulted in the victory. "Hamas was created by the people and belongs to the people," he said. "I want Hamas to run the government — it has clean hands, puts the poor before the rich and will resist the occupier."

In Gaza City, however, Kamilia Barghouti, 26, a waitress, said she was in shock. "I'm worried about the way this victory will affect how I can dress in public, and even if it will affect where I can work," she said.

The victory of Hamas represents an enormous test for the Palestinians, for the Western nations who pressed for this election and who provide millions of dollars in aid to the Palestinians and for the Arab world, which is likely to be shaken by the victory of a militant Islamic party in the symbolic heart of the Muslim world.

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But the results, seen more as a repudiation of Fatah than a declaration of war against Israel, will be a test for Hamas, which had seemed to want a more gradual entry into politics. The leader of Hamas, Mahmoud Zahar, said proudly in Gaza, "We are going to change every aspect, as regards the economy, industry, agriculture, as regards social aid, health, administration, education." But it will not be an easy transformation, and it will provoke political resistance from a largely secular society.

While Hamas politicians said they would invite other parties, including Fatah, to join them in a government of national unity, key Fatah members like Jibril Rajoub and Mahmoud Dahlan made it clear that Fatah should not take part in a government dominated by Hamas. They argued that doing so would help Hamas by providing cover for the group as it struggles with the reality of governing. Fatah, they suggested, should go into opposition and let Hamas make its own mistakes and deal as best it can with the facts of Palestinian life and the Israeli occupation. The Fatah Central Committee voted Thursday night not to join a Hamas-led government.

But it is also possible that some Fatah members with good relations with Hamas, like the Gazan legislator Ziad Abu Amr, who ran as an independent with Hamas support, and a former minister of national economy, Mazen Sinokrot, will agree to join Hamas in a cabinet that probably will be led by a non-Hamas prime minister.

"My advice to Abu Mazen and to Hamas is to think of serious power-sharing," Mr. Amr said, referring to Mr. Abbas. "A partnership between Fatah and Hamas is necessary," he said. "Hamas is going to be put to the test of being a practitioner and not simply an opposition. Politics will have to be taken into account at the expense of ideology."

While Mr. Abbas won praise for pressing ahead with these elections, the result is not what he wanted and is bound to weaken his position. He gambled, but with a smashing Hamas victory he is perceived to have lost and to bear some responsibility for failing to reform Fatah and the Palestinian Authority. Mr. Abbas has said that if he cannot carry out his policies, which include negotiations with Israel, he will quit.

Israelis warned the world not to give in to wishful thinking and presume that Hamas will suddenly alter its goals. Israel and the world did not negotiate with Mr. Arafat and the Palestine Liberation Organization until it agreed to recognize the state of Israel in the late 1980's and disavow terrorism. Israeli politicians suggested that the process would have to begin all over again with Hamas.

"For Israelis, this is the definitive end of the illusion of a comprehensive peace," said Yossi Klein Halevi, a senior fellow at the Shalem Center, a policy research organization in Jerusalem. "There is no more credible hope of Palestinian moderation. For Israelis, it will only confirm what the last five years of terror have taught them: that the war is not about settlements, but about Israel's right to exist."

The Palestinian Authority as a serious negotiating partner no longer exists for Israel, Mr. Halevi said. "Now the era of the pretend peace process is also over," he said, and Israel will continue to act unilaterally to set its own borders, build the separation barrier between itself and the Palestinians and, in time, continue the process of unilateral withdrawal from more West Bank settlements — so long as it can ensure that a Hamas-dominated Palestinian Authority will not use that territory to launch rocket or other attacks on Israel.

"There is now a broad consensus, that Israel will go ahead and build our borders to preserve Israel as a democratic Jewish state," said Ami Ayalon, a former director of Shin Bet now running for a seat with the Labor Party.

The Hamas victory brings the group's support for armed attacks on Israel to the fore. Hamas said it entered politics "to protect the resistance" to Israeli occupation of Muslim land, so it is unlikely to heed Western appeals to disarm and recognize Israel, which Hamas in its charter promised to destroy.

The most that successful Hamas candidates like Ahmad Mubarak would say Thursday is that if Israel pulled back to its 1967 boundaries, Hamas would consider "a long-term truce."

Fadel Saleh, a Hamas politician from Ramallah, said that Hamas would concentrate "on restoring our Palestinian home and rebuilding Palestinian society," leaving international relations to Mr. Abbas and the Palestine Liberation Organization, which does not include Hamas. But, he said, "we want to remake the P.L.O. too based on this vote," he said. "Hamas wants cooperation with all Palestinian parties and a national agreement on policy."

The death of Mr. Arafat took the lid off seething resentments of Fatah and the men Mr. Arafat brought back to the Palestinian territories from exile after the 1993 Oslo accords with Israel. Those accords set up the Palestinian Authority, and in

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the 10 years since the last legislative elections, in which Hamas refused to participate, one-party rule proved to be as corrupting among Palestinians as anywhere else.

"Corrupt authorities who have been in power for a long time are usually thrown out in free elections," said Daoud Kuttab, a Palestinian analyst who teaches at Jerusalem's Al Quds University. "After 40 years, it's almost natural. I hoped Fatah would get away with it, but didn't. That the opposition came from a radical Islamic group is unfortunate, but there was no other serious opposition."

Mr. Kuttab said that those who had preached democracy, from the Bush administration to the Israeli right, would have to decide if their values trumped their interests. "If Hamas respects the rules of the democratic game, we have to let the winners win," he said. "But now Hamas will have to face reality, and part of reality means dealing with Israel."

But even this process could take many months or years, he said, and the potential pitfalls were underscored Thursday when Palestinian security officials said a 9-year-old Palestinian girl was killed by Israeli gunfire near the southern Gaza town of Khan Yunis, Agence France-Presse reported. The Israeli military said soldiers fired at a "suspicious figure" who was near Gaza's perimeter fence in the area. The military said it had no information that a young girl was hit, but were checking the report.

Hamas is not likely to move against the security forces, at least for now. They are made up almost entirely of Fatah loyalists, and voted overwhelmingly for Fatah. Any Hamas effort to try to take over the security forces would almost certainly lead to clashes.

Hisham Ahmed, a political scientist at Birzeit University who has written books about Hamas, called the vote "an historic moment in every sense," but he emphasized that "these results don't reflect the real size of Fatah and Hamas in the society," because they are distorted by anger at Fatah, preoccupation with internal issues and a complicated voting system.

If Mr. Abbas and the world handle the situation intelligently, Mr. Ahmed said, "it could mark the beginning of the end of Hamas as an ideologically pure force and a beginning of a reformed Fatah." But if it is handled badly, he said, "the radicalization of Palestinian society will continue."

According to the results, the Hamas list won 30 of 66 seats at the national level and 46 of 66 seats in constituencies. It did especially well in Gaza, but polled well throughout the West Bank, too. Fatah won 27 seats on the national level and only 16 in the constituencies. The leftist Popular Front for the Liberation of Palestine won three seats while another leftist list, Badil, won two seats. The Independent Palestine list, led by the presidential election runner-up, Mustafa Barghouti, won two seats, as did the Third Way list of the departing finance minister, Salam Fayyad and Hanan Ashrawi. Four other independents won in constituencies, including Mr. Amr. Among the Fatah casualties was Mr. Rajoub.

Bush Defends His Goal Of Spreading Democracy To The Mideast (NYT)

By Steven R. Weisman

The New York Times, January 27, 2006

WASHINGTON, Jan. 26 — The sweeping victory of Hamas in the Palestinian elections threw President Bush and his aides on the defensive on Thursday, complicating the administration's policy of trying to promote democracy as an antidote to the spread of terrorism.

Reacting uneasily to the Hamas triumph, Mr. Bush said the results spoke to the failures of President Mahmoud Abbas and the "old guard" of his Fatah faction to root out corruption and mismanagement, not to any flaws in the administration's policy of advocating democracy.

"There was a peaceful process as people went to the polls, and that's positive," Mr. Bush said. "But what's also positive is that it's a wake-up call to the leadership. Obviously people were not happy with the status quo. The people are demanding honest government. The people want services."

But without criticizing the Palestinian people for choosing leaders who advocate the destruction of Israel, a tenet at the very core of Hamas's creed, he said that the United States would never tolerate such a policy. In the same fashion, Secretary of State Condoleezza Rice noted that Palestinians want a negotiated peace settlement with Israel, according to opinion polls, but she repeated that this goal remained possible only if Hamas renounced its violent ways.

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Mr. Bush joined a chorus of world leaders — including the so-called quartet of principal parties in the moribund peace process — in calling on Hamas to renounce terrorism, disarm its militias and recognize the legitimacy of Israel now that it has won the elections. But his tone was less confrontational than invitational — in effect, inviting Hamas to embrace reconciliation.

For now, Mr. Bush called on President Abbas to stay in office and steer the Palestinian government on a moderate course.

The Hamas victory was the fifth case recently of militants' winning significant gains through elections. They included the Muslim Brotherhood in Egypt, Hezbollah in Lebanon, a radical president in Iran, and Shiites backed by militias in Iraq.

As these elections unfolded, there has been increasing criticism in some quarters — notably among the self-described "realists" in foreign policy, many of them veterans of past Republican administrations — that President Bush has naively pushed for democracy in countries without the civil society components to support it.

"The Hamas victory is a disillusioning result showing that democracy and American interests don't always coincide," said Nikolas K. Gvosdev, a Russia expert who is editor of The National Interest, a publication that echoes with debate about this subject.

"Given the weakness of Palestinian society, people should not have been surprised that this was the outcome," Mr. Gvosdev added.

Other critics, too, including some Arab leaders, say that the United States failed to do its part to shore up Mr. Abbas by wringing more concessions from Israel and doing more to revitalize the economy in the West Bank and Gaza.

A senior State Department official said recently that the Bush administration, five years ago, inherited what he called the old model: that economic growth, the development of a middle class and the spread of education needed to come before democracy could take hold in troubled countries.

"But that's a story that we can no longer accept," he said, speaking on condition of anonymity because of rules prohibiting him from publicly explaining administration policy. "First of all you're not getting economic growth in a lot of places. We now understand that getting greater political openness and democracy in the Arab world is essential to our security."

The problem faced by the administration on Thursday was how to coax Hamas into the mainstream.

The West has more tools than mere diplomatic pressure to influence Hamas and the Palestinian Authority. The authority, described by many as nearly bankrupt, has begun tapping its trust funds to pay daily expenses and is running a deficit that Israel calculates at more than $700 million a year.

Europe and the United States provide most of the $1 billion in foreign assistance that goes to the Palestinians. But some of this money has already been cut back in protest of the Palestinian leadership's raising salaries and welfare benefits, which make up a major part of the Palestinian economy.

American and European officials said they could not imagine outside aid continuing if there is a Hamas-led government that has not renounced violence or Hamas's commitment to destroying Israel.

Many of the reactions from Western diplomats took on dramatic tones, characterizing Hamas as now facing a trial of identity.

"What Hamas faces is not only a political but an existential dilemma," said Terje Roed-Larsen, the former United Nations envoy in the Middle East, in an interview. "They have built their identity on opposing elections and the institutions of the Palestinian Authority. Now they're the masters of the institutions they have been against."

Diplomats involved in the Middle East peace process known as the road map, the document that calls for reciprocal steps between Israelis and Palestinians toward creation of a Palestinian state, say that any immediate chances of reviving the Israeli-Palestinian dialogue are daunting if not impossible.

The immediate question before the administration is not whether negotiations can be revived but whether Israel can be encouraged to carry out more unilateral withdrawals from the West Bank.

As for dealing with Hamas, the Europeans are considered likely to see the problem differently, many diplomats say. Regarding both Hamas and Hezbollah, the Europeans have called for the West to use the template of Sinn Fein, the political wing of the Irish Republican Army, when dealing with them.

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In other words, they say, talking to Hamas may help coax it toward eventual partnership in a peace negotiation. The problem, many diplomats and experts say, is that no one even pretends that there are truly separate wings of Hamas. Its armed forces and its political leaders are married to each other inextricably.

Hamas Voters Fed Up With Fatah Election More About Corruption Than Terrorism, Some Indicate (USAT)

By Matthew Gutman

USA Today, January 27, 2006

RAMALLAH, West Bank — The U.S. government views Hamas as a terrorist organization. Fatem Nimr, a 58-year old Palestinian homemaker, sees it as a symbol of hope.

"Hamas will educate our children," she said as she stopped by a sweet shop Thursday, a day after Hamas' sweeping victory in Palestinian elections. "They will bring us religion. They will feed the poor."

Hamas' victory in Palestinian elections seemed less an endorsement of terrorism than a vote for an organization that supporters hope will improve government, according to some voters and election analysts. Hamas supporters say they were fed up with the ruling Fatah Party, which many accused of corruption and general incompetence.

Palestinian gross domestic product declined by 35% between 2000 and 2005, during the Palestinian uprising known as the intifada, according to the World Bank.

"Fatah has done nothing but make us poor," Nimr said.

With 95% of the vote counted, Hamas won 76 seats to Fatah's 43 in the 132-member parliament, according to Hanna Nasser, a Palestinian election official.

"Voters wanted to punish Fatah for its dismal performance," said Khalil Shikaki, director of the Center for Policy and Survey Research in Ramallah. "People were fed up with its corruption and incompetence."

In Ramallah, the seat of Palestinian government and one of the most secular West Bank towns, there was little celebration Thursday. A few Hamas activists muscled battered sedans through traffic, blasting Hamas jingles on their car stereos. In the town's bustling vegetable market, several vendors planted Hamas' green flag with the "God is Great" insignia among mounds of tangerines and pomegranates.

Hamas' religious overtones appealed to some voters who believe Hamas leaders will be less susceptible to corruption.

"You can't have a monopoly of power forever," said Hamza Awadallah, 22. He said the time had come for "unbelievers" to leave government. "Hamas officials pray, they fast, they give alms," he said. "Finally, Palestinians got smart, and voted for religious, the true, law."

Awadallah said he condemned suicide bombings.

"I think negotiation is a better way to get back our land," he said.

Even so, Hamas' militancy is credited with pushing Israel to withdraw settlers and troops from Gaza and parts of the West Bank in September. "People … got the impression that violence pays while diplomacy doesn't," Shikaki said.

Israel says Hamas is responsible for launching 425 terrorist attacks since Sept. 2000, killing 377 Israelis and injuring more than 2,000.

Founded in 1987 in Gaza, Hamas — the Arabic acronym for Islamic Resistance Movement — focused on two main tasks: eliminating the state of Israel and filling the social and educational needs of impoverished Palestinians.

In 1989, Hamas took up arms, killing several Israelis in shooting attacks. Israel responded by banning the group. By 1994, the group had graduated to bombing attacks.

The conflict escalated after the start of the Palestinian uprising in September 2000. Hamas' founder, Sheik Ahmed Yassin, was assassinated by Israel in March 2004.

Hamas made its first foray into Palestinian politics when it competed for a handful of offices in the December 2004 municipal elections.

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In Thursday's vote, Hamas capitalized on the reputation it earned for incorruptibility and good governance in the towns and cities it controlled after winning municipal elections last year. Hamas has also run a network of hospitals and social servic es for Palestinians.

Even some Fatah supporters admit their party governed poorly in recent years.

"We all knew Hamas is going to win," said Taha Morar, 24, who wore a checkered scarf made famous by Fatah's founder Yasser Arafat. "They do things for the people and lately Fatah didn't."

Omar Fattah, 55, who owns a downtown sporting goods store said, "I don't support Hamas, but we have to respect our own democracy."

Bush Says Hamas Must Renounce Violence (LAT)

By Edwin Chen

The Los Angeles Times, January 27, 2006

WASHINGTON — President Bush said today that the radical movement Hamas, whose members won a sweeping victory in this week's Palestinian parliamentary elections, must renounce violence it they are to become partners in the Middle East peace process.

In a further admonition directed at Hamas, the president declared that the United States will not deal with Palestinian leaders who continue to seek the destruction of Israel.

Bush made his remarks at a surprise morning press conference at the White House that lasted three-quarters of an hour, during which he again defended the post-9/11 domestic spying program and his refusal to disclose details of any contacts between senior White house staff and discredited lobbyist Jack Abramoff, who pleaded guilty to corruption charges this month.

The strong showing by Hamas promises to significantly transform Palestinian politics by giving the militant Islamic movement a formal place in the government structural since the Palestinian authority was formed in 1994.

That election victory, however, put Bush in a difficult spot because he has made his campaign to spread democracy around the world a cornerstone of his presidency. Now, in the face of a victory by a group whose policies he abhors, Bush is having to impose conditions before fully accepting the results of that show of democracy.

"Peace is never dead," he said when asked about Hamas' "big victory."

"On the other hand, I don't see how you can be a partner in peace if you advocate the destruction of a country as a part of your platform," Bush added. "And I know you can't be a partner in peace if you have a , if your party has got an armed wing." The president was able to buy some time, however, since the election has just taken place and now a new government must be formed.

"We will watch very carefully about the formation of the government," Bush said. "But the government hasn't formed yet. They're beginning to talk about how to form the government." In the meantime, the president urged Palestinian Leader Mahmoud Abbas to remain in office.

"We'd like him to stay in power. I mean, we'd like him to stay in office. He is in power' we'd like him to stay in office," Bush said.

"And so it was an interesting day yesterday...as we're watching liberty begin to spread across the Middle East."

Europeans Insist Hamas Must Disavow Terrorism (NYT)

By Alan Cowell

The New York Times, January 27, 2006

LONDON, Jan. 26 — European leaders, whose countries are major financial donors to the Palestinian Authority, on Thursday registered disquiet verging on hostility toward the Hamas triumph in the Palestinian elections.

Yet, confronted with a Middle East that seems once again to have redrawn its political contours, they held back from publicly threatening to cut off the hundreds of millions of dollars they provide each year to Palestinian institutions.

Furthermore, none of them criticized the Palestinian democracy that appeared to yield the opposite of the moderation they had sought to nurture.

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"It is obvious that the European Union would never countenance funding a regime that continued an armed fight against Israel," said Ignasi Guardans, a Spanish member of the European Parliament. "But we cannot push for democracy and then deny the result of free and fair elections."

Like the United States, the European Union regards Hamas as a terrorist organization and insists that it cannot work with an institution that supports the violent overthrow of Israel. Such a stance would contradict Europe's commitment to a two-state solution, with Israel and a Palestinian state living side by side.

Unless Hamas changes its position, European leaders said Thursday, they see no prospect of reviving the stalled peace efforts for which Europe has been a sponsor.

"It is a very, very, very bad result," said Prime Minister Silvio Berlusconi of Italy, adding that peace efforts had "been put back until who knows when."

Equally, though, European leaders shied away from threatening punitive action that would leave them with no influence among Palestinians and might undermine Mahmoud Abbas, the moderate president of the Palestinian Authority, whose party, Fatah apparently lost the legislative elections on Wednesday.

The first practical test for European diplomacy is expected within the next few days.

Chancellor Angela Merkel of Germany is to visit Palestinian areas on Monday to meet Mr. Abbas, and a spokesman for her government said she had no plan to change her trip. European foreign ministers are to meet the same day to weigh their response to the outcome of the vote.

The German foreign minister, Frank-Walter Steinmeier, said his country should have no immediate contact with Hamas. "Those taking part in government must foreswear violence" and recognize Israel's right to exist, he told Bavarian Radio. "This appears to be still a long way off for Hamas."

Both Prime Minister Tony Blair and Foreign Secretary Jack Straw said Britain would not deal with those who supported or practiced terrorism.

With different shadings, a similar view came from Prime Minister Dominique de Villepin of France.

The conditions for negotiating with any Palestinian government, he said, are: "First, the renunciation of violence, to accept to move forward according to the peace goals that have been set. Secondly, the recognition of the state of Israel and the recognition of international accords, notably the Oslo accords."

The European Union's foreign policy chief, Javier Solana, said the elections "may confront us with an entirely new situation," which foreign ministers would discuss on Monday. Last weekend Mr. Solana said it would be "very difficult" for the union to continue financial support to the Palestinian Authority if Hamas won.

European aid to Palestinian institutions totaled around $330 million last year, not counting contributions from individual European countries. From 1994 to the end of 2002, according to European Union figures, the union contributed $1.2 billion in grants and loans, in addition to about $600 million donated to the United Nations agency that supports Palestinian refugees.

Kofi Annan, the secretary general of the United Nations, said Thursday in Davos, Switzerland, that any group wishing to take part in a democracy should lay down its weapons.

Is Democracy Empowering Islamists? (CSM)

By Howard Lafranchi

The Christian Science Monitor, January 27, 2006

WASHINGTON - Palestinian voters availed themselves of the time- honored democratic right to "throw the bums out" in their first legislative elections in a decade Wednesday - exactly the kind of action implicit in President Bush's push for democracy in the Middle East.

But by snubbing the Fatah Party of US-supported Palestinian President Mahmoud Abbas in favor of the radical Islamist group Hamas, Palestinians also put the Bush administration in a difficult spot.

The US might now seem hypocritical to many Arabs - encouraging democracy in the Middle East, while rejecting the choices that result from its exercise. At the same time, questions mount over whether Mr. Bush's campaign for democracy is encouraging the empowerment of Islamist militants across the region.

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"This [election result] is really going to scare ... other governments in the region, and the Egyptians in particular are going to tell the US, 'We told you so,' " says Arthur Hughes, a former deputy assistant secretary of State for Near East affairs. "They'll see this as more evidence of what comes from our pressure to open up their societies, but they won't acknowledge that their hard-line tactics are what are leading to the growth" of Islamic extremism.

The Palestinian results, which give an organization on the US list of terrorist groups a majority in the 132-seat Legislative Council, are part of a trend across Muslim countries, experts say.

"The victory of Hamas cannot be seen in isolation from the major accomplishments of Islamists across Muslim lands," says Fawaz Gerges, a Middle East expert at Sarah Lawrence College in Bronxville, N.Y. "There's a pattern here of Arab and Muslim electorates fed up with the secular governments that have failed to deliver the goods, both in economic terms and protecting the security of the homeland."

The "irony," Mr. Gerges adds, is that the Bush administration's championing of the Middle East's democratization has allowed the radical Islamists to "flex their political muscle" - from Egypt and Saudi Arabia to Lebanon and Iraq.

Some historians argue that radical groups' entry into mainstream politics has led them to moderate their stances: The Irish Republican Army or former guerrilla groups in Central America are often cited as examples.

Others, though, say this moderating process, if undertaken at all, takes time - and does not happen in a vacuum. The US, they add, is going to have to decide how to deal with the Palestinians and the Middle East peace process in a period of deep uncertainty for the region.

Bush reiterated this week that the US will not work with Hamas unless it dramatically modifies its behavior and removes from its platform a call for the destruction of the state of Israel. At a news conference Thursday, he said a political force like Hamas, one with an armed wing that advocates violence against Israel, "is a party with which we will not deal."

Soon after the election results became known, Secretary of State Condoleezza Rice called Palestinian President Abbas and, according to Palestinian sources, praised Palestinian democracy and pledged US support for Mr. Abbas and his policies.

Few analysts expect the Bush administration to make bold moves with so much on the ground in flux. Not only are the Palestinians embarking on the hard task of forming a government from outside the president's political circle, but Israel - still digesting the departure of Ariel Sharon from the leadership scene - is heading for elections on March 18.

The US could simply suspend contact with - and financial assistance to - the Palestinian Authority over the rise of Hamas to the government. But "the stakes are too high on the ground to simply walk away," says Haim Malka, a Middle East expert at the Center for Strategic and International Studies in Washington. The alternative, he says, is for the US to work exclusively with the office of the president - provided Abbas remains in office.

Bush "left the window open" for the US to work with Hamas - provided Hamas renounces violence and reverses its stance toward Israel, Mr. Malka notes. But that kind of fundamental shift takes time, he says - and events are not apt to wait.

Some analysts worry that turmoil among Palestinians - and a radical government at the helm - will prompt Israel to shift toward more radical policies itself. A unilateral decision to include blocks of West Bank settlements inside its final borders is the kind of action Israel might take in response to Hamas's rise but which would inflame the situation, experts say. Certain actions "would virtually rule out ... arriving at a two-state solution, and if that disappears you just have conflict without end," says Mr. Hughes, now a scholar at the Middle East Institute here.

At Thursday's press conference, Bush said the election is a "wake-up call" to the old guard Palestinian leadership. Others say it also blew a whistle in Washington. "We're seeing that, for now, the only alternative to secular regimes in the Middle East are the Islamists," says Malka. "They're the only ones who have legitimacy among the people."

Joyful Arabs Voice Concern At How Hamas Will Swim In The Mainstream (NYT)

By Hassan M. Fattah

The New York Times, January 27, 2006

DUBAI, United Arab Emirates, Jan. 26 — Hamas's overwhelming victory in the Palestinian elections on Thursday was met with a mixture of jubilation and consternation in much of the Arab world. For some, it raised the concern that, in winning, the Islamic group will almost certainly have to lose something.

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The mixed reaction was evident at the Husseini refugee camp in Amman, Jordan, a stronghold of support for Hamas. News of the early returns sparked instant celebrations, but it also brought expressions of concern that in governing, Hamas may be forced to make concessions in its drive to fight Israel.

Eyad al-Dibeiy, 18, who sells shoes in a small stall in the camp, was clearly elated by the result.

"A Hamas victory gives the government wider representation," he said. "Hamas is an Islamic movement, and it is only natural for Islamists to gain strength. Their victory will give them more leverage, power and freedom."

Elsewhere in the camp, the Islamic Action Front hailed Hamas's victory as "a major breakthrough and swing towards achieving the Palestinian rights."

"We have to differentiate between a march to peace and the capitulation that began with the Oslo Accords in 1993," said Sheik Hamzah Mansour, secretary general of the front. "The results support the argument for resistance and forces of resistance in the Arab world that stands against capitulation."

Yet many at the camp sought to temper expectations, warning that the hard work was still ahead.

"Having Hamas in power and assuming such a position is bad," said Ayesh Hussein, 35, as he discussed the results with the store's owners. "We're accustomed to Hamas being fighters, a party that pressures Israel. But now it will join politics and will become politicized."

Muhammad Abdul Ghani, an employee at a dry cleaning shop nodded in agreement. "This is only the beginning of concessions on the part of the Palestinians," he said in dismay. Still, he said, there was some promise in the Hamas victory of cleaning up the endemic corruption in Palestinian institutions.

Arab and Muslim leaders attending the World Economic Summit in Davos, Switzerland, issued a statement urging other nations to respect the Hamas victory and give the group time to prove whether it is ready to work for peace.

"It is an example of when people are frustrated and have no hope for the future they tend to go for the extreme end of the spectrum," Queen Rania of Jordan said in the statement. Although the result was a vote for Hamas, she said, it was also a vote against the conditions in which Palestinians have been forced to live under Israeli occupation.

In Lebanon, where Hezbollah has gone through many of the same changes Hamas is likely to face, many saw the result as a direct challenge to the United States as well as to Israel.

"Because Hamas and Hezbollah are going through such similar experiences, as armed groups that are democratizing, if the U.S. wants to pressure Hamas further to disarm, it's going to make their democracy agenda look very weak and lacking credibility," Amal Saad-Ghorayeb, a political science professor at the Lebanese American University, said by telephone. "These people voted overwhelmingly for Hamas, and did so partly as a referendum for resistance, saying that resistance will pay greater dividends than negotiation."

She said that the group's biggest backers, Iran and Syria, may also stand to win some political capital simply by having backed the winners.

For some, the win raised the possibility that a new age of Islamist politics could be dawning, especially if Western governments eventually engage Hamas.

"Many in the Arab world were expecting something like this, but nobody expected it to this degree," said Hussein Shobok, a columnist with the Arabic-language daily Sharq al-Awsat. "This is certainly going to encourage other Islamists elsewhere to do the same."

Mohammad al-Ameer, the political editor at the Saudi Arabian daily Al Riyadh, said, "Islamists are present in our societies because they are conservative, but more importantly because they are tired of the nationalism and the military men who have ruled for so long."

"Arab societies have become weary of the nationalism and the sloganeering and are therefore embracing the Islamist platform as a response," he said. "The West must therefore see the Islamists as people they can deal with in order to deal with our societies."

U.S. Won't Deal With Hamas (WT)

By Bill Sammon

DOJ_NMG_0012498

The Washington Times, January 27, 2006

President Bush yesterday said the U.S. will not deal with Hamas, the terrorist group that won Wednesday's Palestinian elections, unless it renounces its goal of destroying Israel.

"A political party that articulates the destruction of Israel as part of its platform is a party with which we will not deal," the president said in a press conference. "People must renounce that part of their platform."

He added, "You can't be a partner in peace if your party has got an armed wing."

The stunning victory by Hamas prompted the resignation of Palestinian Prime Minister Ahmed Qureia, a member of the Fatah party. Palestinian Authority President Mahmoud Abbas, also a Fatah member, was asked by Mr. Bush to remain in office.

"We would hope he would stay in office and work to move the process forward," the president told reporters in the James S. Brady press briefing room.

Mr. Abbas said he would not be deterred from implementing a U.S.-sponsored peace plan, known as the "road map," which entails negotiations with Israel.

"I remain committed to implement the platform on which you voted for me one year ago," he told Palestinians in a televised address. "The basis of this platform is negotiations and a peace settlement with Israel."

The victory by Hamas, which won 76 of 132 seats in the parliament, was a setback to Mr. Bush's stated goal of brokering a comprehensive peace agreement between Palestinians and Israelis in his second term. Nonetheless, the president was philosophical about the election results, suggesting that voters were more interested in getting rid of the existing corruption than embracing terrorism.

"It's a wake-up call to the leadership," Mr. Bush said. "People were not happy with the status quo. The people are demanding honest government. The people want services. They want to be able to raise their children in an environment in which they can get a decent education and they can find health care."

Secretary of State Condoleezza Rice issued a stern warning to Hamas, which has carried out scores of suicide bombings against Israelis.

"You cannot have one foot in politics and another in terror," Miss Rice said at the World Economic Forum in Davos, Switzerland. "Our position on Hamas has therefore not changed."

She added, "Palestinian people have apparently voted for change, but we believe their aspirations for peace and a peaceful life remain unchanged."

Last year, Miss Rice told The Washington Times in an interview that participation in the political process could force terrorist groups like Hamas to moderate their policies.

"When people start getting elected and have to start worrying about constituencies and ... not about whether their fire-breathing rhetoric against Israel is being heard, but about whether or not that person's child down the street is able to go to a good school or that road has been fixed ... then things start to change," she said.

Yesterday, Mr. Bush sounded similarly optimistic.

"Peace is never dead, because people want peace," he said. "The best hope for peace in the Middle East is two democracies living side by side."

The Hamas win led Rep. Vito J. Fossella, New York Republican, to say he will introduce legislation to end all U.S. aid to a Palestinian Authority led by Hamas. Last year, the U.S. sent $275 million to Gaza and the West Bank, including $50 million directly to the Palestinian Authority.

"Not one dollar of taxpayer money should go to this terrorist organization," Mr. Fossella said of Hamas. "The Palestinian people have every right to elect a terrorist organization to control their government -- and the United States has every right to eliminate any financial assistance for it."

Ehud Olmert, Israel's acting prime minister, vowed not to work with Hamas.

"Should a government be established in the Palestinian Authority with Hamas leading or participating, the Palestinian Authority will become a sponsor of terror," he said in an emergency meeting of the security Cabinet in Jerusalem.

"The world and Israel will ignore it, and it will become irrelevant," he said.

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Palestinians Choose Avowed Enemy Of Israel (USAT)

By Matthew Gutman

USA Today, January 27, 2006

RAMALLAH, West Bank — Hamas, the militant Islamic group that the U.S. State Department has designated a terrorist organization, won an overwhelming majority in Palestinian parliamentary elections. The election results announced Thursday put the future of the Middle East peace process in question.

The election shocker ended a 40-year political reign by Fatah, the party of the late Yasser Arafat. It also heightens the danger of civil war between Palestinian factions, and such violence could spread to Israel, said Edward Abington, a former U.S. diplomat in the region who now advises the Palestinian Authority.

"This is not a good result for Israel, and it's a huge setback for the United States," Abington said.

Hanna Nasser, a Palestinian elections official, said Thursday that with 95% of the vote counted, Hamas had won 76 seats in the 132-member parliament, compared with 43 for Fatah.

President Bush and other world leaders called for Hamas to renounce violence and its long-held rejection of Israel's existence.

"If your platform is the destruction of Israel, it means you're not a partner in peace, and we're interested in peace," Bush said. He reiterated his view that the United States will not deal with Palestinian leaders who do not recognize Israel's right to exist.

Members of Congress signaled that U.S. financial aid for Palestinians — about $350 million per year — might cease. "If Hamas is now the ruling power, I do not foresee any U.S. funds going to the Palestinian territories," said Rep. Ileana Ros-Lehtinen, R-Fla., chairwoman of a House subcommittee on the Middle East.

Mahmoud Zahar, a top Hamas official, said the group would extend a year-old truce if Israel reciprocates. He said that if Israel doesn't agree, "I think we will have no option but to protect our people and our land."

Israeli leaders said there could be no relations with a group that has killed hundreds of Israelis in terrorist attacks and that seeks the destruction of Israel.

"Israel will continue to fight terrorism with a heavy hand, everywhere," said a statement from acting Prime Minister Ehud Olmert.

Some likened Hamas' election victory to the former domination of Afghanistan by the Islamic Taliban regime and al-Qaeda. "Today, Hamastan was formed," said Benjamin Netanyahu, leader of Israel's opposition Likud Party.

Hamas' win comes amid political uncertainty in Israel. Prime Minister Ariel Sharon had a stroke this month and is in a coma. Olmert has assumed Sharon's powers until elections March 28.

Hamas has an extensive network of charities and social services. Its candidates swept to wins in West Bank municipal elections last month.

Hamas' parliamentary campaign focused on ridding the Palestinian Authority of Fatah corruption and boosting living standards. Its platform made no mention of suicide bombers or the destruction of Israel, but the group's charter calls for Israel to be made an Islamic state for Palestinians.

On Thursday, Palestinian Authority Prime Minister Ahmed Qureia and his Cabinet resigned before final results were released. Hamas leader Khaled Mashal, based in Syria, asked Palestinian President Mahmoud Abbas, Arafat's successor, to join a Hamas-led government. Under Palestinian law, the biggest party can shape the Cabinet.

Abbas, elected separately a year ago, remains president. He said Thursday that he is committed to peace talks but sidestepped questions about how closely he would work with Hamas.

In the West Bank, the Hamas victory prompted celebrations. Mazen Abdel Hadi, 29, a construction worker, showed off his green Hamas cap at a Ramallah sandwich shop.

"We finally elected a party that cares more for us than (for) the Israelis," he said. "Let America sever relations with us. We haven't benefited anyway."

Others were less joyful. "I am worried," said Ali Barakat, 28. "They want Islam," he said, referring to those who voted for Hamas, "but we need the outside world."

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Hamas Victory Roils Middle East Peace Process (WSJ)

By Karby Leggett And Neil King Jr.

The Wall Street Journal, January 27, 2006

The surprisingly strong victory of militant group Hamas in Palestinian legislative elections leaves the Palestinian Authority in the hands of a radical Islamist leadership deemed terrorists by Israel, the U.S. and Europe, further complicating the already tortuous Middle East peace process.

How Hamas chooses to lead the Palestinians could reshape the Middle East political landscape in ways not seen since Israel began its occupation of the West Bank and Gaza in 1967. Hamas officials said they are committed to pursuing the government and economic reforms promised during the campaign -- pledges that helped secure their victory over the long-ruling Fatah movement, widely viewed as corrupt and inept. Other than confirming their refusal to acknowledge Israel's right to exist, they have yet to indicate the approach their government will take in foreign policy.

Yet, in an early sign of pragmatism, Mahmoud Zahar, a top Hamas official, said the group would extend its year-old truce -- agreed before Israel's withdrawal from Gaza -- if Israel reciprocates. "Don't be afraid," added another senior Hamas official, Ismail Hanyyeh, in an interview with the British Broadcasting Corp.

Israel, the U.S. and the European Union will have to decide how much support, if any, to offer a Palestinian government that has come to depend heavily on Western aid, but that will be led by a group they have always shunned. The early signs suggested a hard line.

Acting Israeli Prime Minister Ehud Olmert yesterday convened his top security officials to discuss the results. Late in the day, his office issued a statement saying: "The State of Israel will not negotiate with a Palestinian administration if its members include an armed terrorist organization that calls for the destruction of the State of Israel. In any case, Israel will continue to fight terrorism with a heavy hand, everywhere."

The Hamas victory carries a particularly ironic sting for President Bush, who made Palestinian elections a cornerstone of plans to encourage democracy in the Middle East. In an interview with The Wall Street Journal the day of the elections, Mr. Bush reiterated that he wouldn't deal with Hamas as long as it espouses the destruction of Israel. Yet, while Mr. Bush and European leaders yesterday urged Hamas to renounce violence, they stopped short of withdrawing support for a Hamas-led government.

British Foreign Secretary Jack Straw said of the victory: "Hamas has a clear responsibility to understand that with democracy goes a rejection of violence."

Pressure on Hamas to embrace diplomacy came from Arab leaders, too. Ahmed Nazif, Egypt's prime minister, said Hamas would have to respect "the reality of what the world has set as the framework for peace in the Middle East." That framework encompasses prospective negotiations aimed at Palestinian recognition of Israel and the creation of a Palestinian state.

Acceptance of those goals would mark a profound change for a group formed in the 1980s with the stated aim of destroying Israel and replacing it with an Islamic state. Once a fringe organization, Hamas's popularity soared in the past decade as dissatisfaction with President Yasser Arafat and corrupt Fatah officials deepened. When Mr. Arafat died in November 2004, his successor, Mahmoud Abbas, called new elections. Hamas saw a chance to test its popularity -- and gain real political power.

It was a good bet. Hamas's election victory underscored the extent of dissatisfaction with Fatah -- a theme President Bush and Secretary of State Condoleezza Rice emphasized in comments yesterday. "It's a wakeup call to the leadership," Mr. Bush said, referring to the Palestinian Authority. "Obviously people were not happy with the status quo." (See related article10.)

Despite exit polls Wednesday suggesting that Fatah would retain its majority, Hamas ended up with a strong legislative majority, securing 76 seats out of 132. Fatah finished second with 43 seats. The rest were taken by a handful of independent parties. About one million voters cast ballots, or nearly 78% of those eligible. Some isolated cases of violence and illegal campaign activity were reported, but voting was deemed free and fair by local and international observers, including former U.S. President Jimmy Carter.

News of Hamas's victory sparked frenzied celebrations among supporters in the West Bank and Gaza. Many took to the streets waving the green flags of Hamas and chanting slogans of support. In one instance, Hamas supporters tried to raise their flag over the legislative building in Ramallah. A Fatah supporter pulled it down, and it was trampled.

11 BUSH TRANSCRIPT

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Read an edited transcript12 of the interview with President Bush.

Hamas leaders had expected a strong showing, but before the election, they tended to speak of assuming an opposition role in the new government. Allowing Fatah officials to retain overall control, they said, would allow Hamas to deliver on its pledge to reduce corruption and improve government services while not endangering the nearly $1 billion in annual aid the Palestinian Authority receives from foreign governments.

Without that money, the Palestinian Authority would be unable to pay its estimated 140,000 civil servants and would likely cease functioning within months. Nearly half of those civil servants are in the security forces, most of them with ties to Fatah and access to weapons -- a potentially explosive mix if relations between the two groups should sour.

"Hamas from the beginning feared winning too big," said Shalom Harari, an Israeli analyst and former intelligence official. "They made it clear that they wanted to use Fatah as their outside cover."

As the ruling party, the group still may choose to move cautiously, some observers said, tapping independent cabinet ministers with experience dealing effectively with Israel and the international community, according to observers. And Mr. Abbas, a Fatah member, will remain as president, the highest-profile position in the Palestinian government.

According to some Hamas members and other people familiar with the political situation, Hamas may consider appointing Salam Fayyad as prime minister. A former International Monetary Fund executive, Mr. Fayyad won a seat in the vote as a member of the Third Way party and until recently was finance minister. He earned a doctorate in the U.S. and is well-liked by Western leaders for his aggressive efforts to reform the government's opaque financial system.

As prime minister, Mr. Fayyad might also oversee the finance portfolio. Hamas could also strike a deal with Mohammad Dahlan, another veteran Fatah official once trained by the U.S. Central Intelligence Agency, to take the job of interior minister. That position is especially sensitive for Israel and the West because it handles all security issues for the Palestinian government -- including dealing with militants.

But regardless of who ends up in the Hamas-formed government, the U.S. and Europe, as well as Israel, will have problems working with a Hamas-led Palestinian Authority. The Bush administration has sketched out how Hamas must change to be seen as legitimate: renounce terror, accept Israel's right to exist, endorse an eventual two-state solution, and lay down its arms.

The EU, along with Russia and the United Nations, endorsed a similar list of demands last year. As sponsors of the now dormant "road map" peace plan, the so-called Quartet, which also includes the U.S., also stipulated that any future Palestinian cabinet not include any members of organizations that refuse to recognize Israel or renounce violence.

Hamas Victory Ushers In New Era (BSUN)

By John Murphy

The Baltimore Sun, January 27, 2006

RAMALLAH, West Bank -- The overwhelming victory in Palestinian elections by the radical Islamic group Hamas ushered in an era of uncertainty and anxiety Thursday, as Palestinians and Israelis wondered what kind of government to expect from an organization best known for suicide attacks, not its politics.

Hamas won 76 seats in the Palestinians' 132-seat parliament, an outright majority, ending decades of dominance by Fatah, which won 43 seats, according to preliminary results released Thursday night.

For many Palestinians, Hamas' landslide win in Wednesday's election promises an end to an era of Fatah corruption and inefficiency. But the party's victory also reduced hopes of restarting the peace process. Israel, along with the United States and European Union, considers Hamas a terrorist organization. The Hamas charter calls for the destruction of Israel.

Hamas leaders issued mixed messages Thursday about their intentions. One senior official, Mushir al-Masri of Gaza, said recognizing and negotiating with Israel are "not on our agenda."

Mahmoud Zahar, another senior official, said Hamas is willing to extend its year-old truce if Israel does not attack its members.

"If not, then I think we will have no option but to protect our people and our land," Zahar told Associated Press Television News.

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Israel's acting prime minister, Ehud Olmert, said Israel will not negotiate with a Palestinian government that includes Hamas.

"Israel will not negotiate with a Palestinian administration if even part of it is an armed terrorist organization calling for the destruction of the state of Israel," he said in a statement after a three-hour emergency Cabinet meeting.

Defense Minister Shaul Mofaz said Israel would insist that Palestinian leader Mahmoud Abbas abide by his commitment to disarm militants.

"Israel needs to act judiciously and responsibly," Mofaz said.

Negotiations backed

Abbas reiterated his commitment to negotiations with Israel.

"I am committed to implementing the program on which you elected me a year ago," Abbas said in a televised speech. "It is a program based on negotiations and peaceful settlement with Israel."

Abbas proposed that negotiations with Israel be conducted by the Palestine Liberation Organization, a possible way for Israel to avoid direct contact with a Hamas-controlled government.

Another prominent Fatah member, Saeb Erekat, said his party has decided not to join a Hamas government.

"We will be a loyal opposition and rebuild the party," Erekat said.

Palestinians were stunned by the news of Hamas' victory. Exit polls released Wednesday night had indicated that Fatah had a narrow lead.

By midmorning Thursday, the Palestinian prime minister, Ahmed Qureia of Fatah, had announced that he and his Cabinet ministers had resigned, making way for a Hamas-led government.

Hundreds of Hamas supporters wearing green hats and scarves poured into downtown Ramallah, dancing, singing and waving flags to celebrate their victory.

There was a brief clash between Fatah loyalists and supporters of Hamas. The two sides began throwing stones at each other after Hamas members raised a green flag above the parliament building in the West Bank city.

Hamas will inherit a poorly managed government that is deeply in debt and facing a possible cutoff of financial aid from the United States and European Union.

Unease about change

"People wanted a change, and Hamas offered a change," Palestinian Hadil Budeiri said as she watched Hamas members parade in Ramallah. Like many Palestinians, she expressed unease about the kind of change that Hamas might bring.

"Things are unknown," she said, "It worries all of us."

Some Palestinians are concerned that Hamas might try to remake society according to a strict interpretation of Islam.

"We don't want the Palestinian people and cause to be isolated. We don't want a theocracy," independent lawmaker Hanan Ashrawi told wire services. "Hamas promises reform. Sure, they will do that. I would like to see reform. But what worries me is things like legislation on education, culture, social welfare, the ramifications for peace in the future."

Many voters said Hamas' victory was fueled more by anger with Fatah than by enthusiastic support for Hamas and Islam.

Whatever the reason, the victory marked a turning point in the organization's 30-year history and might prompt it to abandon its campaign of suicide bombings in favor of order and stability, some analysts said.

"Nobody will tolerate a situation where the Palestinian Authority becomes 'Hamastan,'" said Mordechai Kedar, an analyst at Bar-Ilan University's Begin-Sadat Center for Strategic Studies. "Although they would like to cover all the girls and close all the pubs, nobody will let them be the state during the day and terrorists at night."

Hamas has long advocated creating an Islamic state from the Jordan River to the Mediterranean in place of Israel. Some secular Palestinians have been concerned that Hamas' growing influence might lead to clashes with secular members of society.

But secular Palestinians who have worked with Hamas often admire the group's professionalism and dedication.

Hamas receives high marks from Janet Michael, a Christian who is the new mayor of Ramallah and who formed an alliance between the independent members of the city council and Hamas in December. They have cooperated without problems, she said.

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"Working with Hamas is not bad," she said. "They are normal people. They are disciplined. They are hard workers and well organized."

"Most of the world is still thinking about Hamas like the Taliban," said Mahmoud Abdullah, Ramallah's deputy mayor. Its members may be fundamentalist Muslims, he said, but they are pragmatic and willing to compromise and allow for other points of view. "Hamas is more liberal than you think."

For many Israelis, Hamas' emergence as the dominant Palestinian political force confirmed their worst fears about Palestinian society and about the prospects for peaceful co-existence.

"Today, 'Hamastan' was formed," said Benjamin Netanyahu, leader of Israel's opposition Likud Party.

Gershon Baskin, co-director of the Israel-Palestine Center for Research and Information, said Hamas would not be worried if the United States cut off financial aid.

"The Hamas government of the Palestinian Authority will not be intimidated by U.S. and EU threats to stop financial support," he wrote in a report released Thursday. "Iran's millions of barrels of oil every day being pumped and sold all over the world will provide the Palestinian Authority with the ability to withstand any international boycott."

Hamas Sweeps Palestinian Elections, Complicating Peace Efforts In Mideast (WP)

By Scott Wilson

The Washington Post, January 27, 2006

RAMALLAH, West Bank, Jan. 26 -- The radical Islamic movement Hamas won a large majority in the new Palestinian parliament, according to official election results announced Thursday, trouncing the governing Fatah party in a contest that could dramatically reshape the Palestinians' relations with Israel and the rest of the world.

In Wednesday's voting, Hamas claimed 76 of the 132 parliamentary seats, giving the party at war with Israel the right to form the next cabinet under the Palestinian Authority's president, Mahmoud Abbas, the leader of Fatah.

Fatah, which has dominated the legislature since the previous elections a decade ago and the Palestinian cause for far longer, won 43 seats. A collection of nationalist, leftist and independent parties claimed the rest.

Prime Minister Ahmed Qureia, another Fatah leader, resigned his post along with his cabinet early Thursday, as reports of Hamas's victory began to circulate. Although the cabinet would have been required to step aside even if Fatah had retained its majority, Qureia acknowledged in submitting his resignation that Hamas had earned the right to form the next cabinet.

"This is the choice of the people," Qureia, a member of the party's discredited old guard who did not run for reelection, told reporters here. "It should be respected."

Abbas, on the other hand, will continue to serve the four-year presidential term he won in an election a year ago, shortly after the death of his predecessor, Yasser Arafat, the founder of Fatah. Abbas will maintain the broad power to create national policy and control the security services, though he needs parliamentary approval for his budget and legislative proposals. He will also shape peace policy with Israel as head of the Palestine Liberation Organization, which does not include Hamas.

The arrival of Hamas, formally known as the Islamic Resistance Movement, in the Palestinian Authority as a nearly equal partner will severely complicate Abbas's efforts to begin negotiations with Israel under the U.S.-backed peace plan known as the "road map." Hamas, which emerged in 1987 during the first Palestinian uprising as an offshoot of Egypt's Muslim Brotherhood, favors the creation of a Palestinian nation on land that now includes Israel rather than the road map's two-state solution.

The election results stunned U.S. and Israeli officials, who have repeatedly stated that they would not work with a Palestinian Authority that included Hamas, which both countries and the European Union have designated as a terrorist organization. In Washington, Secretary of State Condoleezza Rice said that a party could not "have one foot in politics and the other in terror. Our position on Hamas has therefore not changed."

Javier Solana, the European Union's foreign policy chief, said in a statement that the Palestinian people had "voted democratically and peacefully." But, he added, "these results may confront us with an entirely new situation which will need to be analyzed" at a meeting of European foreign ministers next week.

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Jubilant Hamas leaders reiterated Thursday that they had no plans to pursue peace talks or disarm the party's armed wing, a condition Israel has set for beginning negotiations under the road map. The plan, which calls for the creation of an independent Palestinian state by the end of 2005, has been frozen during recent years of violence.

Here in Ramallah, a Fatah stronghold where Hamas won every parliamentary seat except the one reserved for a Christian, dozens of activists from both parties clashed in front of the Palestinian Legislative Council, as the parliament is formally known.

The dispute started when a Hamas supporter hung the party's emerald-green banner above the entrance in place of the national flag. Fatah activists arrived and tore down the banner, which bears the Islamic axiom, "There is no God but God, and Muhammad is his prophet." The fight that ensued was broken up by police officers, who fired warning shots into the air.

"What they did offended not only Hamas but the Islamic nation," said Saleh Mikdad, 40, a print shop employee from the Amari refugee camp here. "But now we are all brothers."

In the past, the Fatah-dominated parliament approved the initiatives of Abbas and Arafat without much debate. But that could change with Hamas controlling the legislature, which will have the power to bring down cabinets if it does not agree with policy and would likely have to approve the terms of a final peace agreement with Israel.

In proceeding with elections despite Hamas's strong showing in last year's municipal races, Abbas gambled that it would be easier to disarm the group and modulate its policies, which include adopting Islamic law in the territories, with its members inside the Palestinian Authority. But Hamas's showing was far stronger than predicted by anyone in Fatah -- or by Palestinian pollsters who severely underestimated the movement's performance in its first national elections.

Hamas leaders must now decide how to form a cabinet whose ministers will run a Palestinian Authority bureaucracy dominated by Fatah supporters. Several Fatah officials said the party would probably decline any invitation to join the next cabinet so that Hamas, its sharpest critic for years, would get a sense of the difficulties involved in governing an angry electorate living under military occupation.

"They want to see how Hamas will act once it's responsible for running the government," said Bassem Barhum, a spokesman for the Palestinian Legislative Council. "They want to show the public that this is what they got. This is Hamas."

Barhum said rules required Abbas, who has threatened to resign if Hamas blocks his political program, to invite the largest party in parliament to form the next cabinet. Although it has the votes in parliament to name any cabinet it chooses, Hamas could be hampered by its lack of experience if it chooses to govern without a partner.

Party leaders chose candidates with backgrounds in medicine, education, computer sciences and other fields so that Hamas would have the expertise to run the various ministries. But Mahmoud Zahar, a victorious Hamas candidate from Gaza, said before the vote that the party favored a coalition government if it won.

One possibility is that Hamas will choose the leader of a third party to be prime minister while its own members grow accustomed to their new roles. One likely candidate for the job is Salam Fayyad, a former finance minister who won a parliamentary seat as the head of the anti-corruption Third Way party.

"My hunch is that they do not want to form a government on their own and would prefer a coalition with Fatah," said Ali Jarbawi, a political science professor at Bir Zeit University in the West Bank. "If this is not possible, I think they'll support a government of technocrats."

The Fatah Central Committee convened Thursday evening to begin discussing whether to join a Hamas-led cabinet, if invited to do so. Abbas Zaki, a committee member, said the decision would "depend on the program."

"If it is only Hamas, then it will be very hard to join," Zaki said. "And it is also necessary for us to understand what happened. We need to study this so we can make a recovery."

Some angry Fatah activists called for Abbas, who is commonly known as Abu Mazen, to step down.

"Abu Mazen led us to this catastrophe," said Shukri Radaideh, a Fatah leader in the Bethlehem district. "He must now resign."

Abbas postponed these parliamentary elections last July to secure a new election law beneficial to Fatah's prospects. One of the law's chief provisions allowed more members of parliament to be elected from parties' national candidate lists rather than from the district level, where Hamas's organization is strongest.

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The results announced Thursday, however, showed Hamas winning three more seats from the national list than Fatah and nearly three times as many in district races. In addition to its sweep here in Ramallah, Hamas won all seats except those reserved for Christian candidates in such traditional Fatah territory as Bethlehem and Jerusalem, where the Israeli cabinet had prohibited Hamas candidates from campaigning.

Hamas Victory Met With Alarm In The West (FT)

By Sharmila Devi And Harvey Morris

Financial Times, January 27, 2006

Hamas raised its Islamic green banner on the roof of the Palestinian parliament in Ramallah, celebrating a stunning election victory that has cast a new shadow over the quest for Middle East peace.

Hamas's victory was met with alarm in the west. But for Islamist groups across the Middle East, its defeat of the mainstream Fatah movement represents the first real opportunity to assert the power of political Islam.

The result heralds an uncertain era for the region as the militant movement – listed by both the US and European Union as a terrorist organisation – looked set to form a majority government. Prominent Hamas leaders including Ismail Haniya were celebrating even before officials announced the final results of Wednesday's legislative election.

The verdict of just over a million Palestinian voters will shake the region's mostly autocratic rulers and threaten hopes of a resumption of Palestinian-Israeli peace talks.

In preliminary results last night from the Palestinian Elections Commission, Hamas had won 76 seats in the 132-seat legislature against 43 for Fatah.

President George W. Bush said the US would not deal with Palestinian leaders who do not recognise Israel's right to exist, and urged Mahmoud Abbas, Palestinian president, to stay in office.

European politicians also called on Hamas to recognise Israel's right to exist. Officials said the EU was preparing to continue its annual aid of €500m to the Palestinian Authority if Hamas observed its ceasefire.

Saeb Erikat, the PA's chief negotiator, said Fatah would serve as a loyal opposition.

"Many people expected an earthquake, but not this tsunami," said a Palestinian official.

Israel and the US have always ruled out contacts with Hamas, which is responsible for dozens of suicide bombings, unless it disarmed.

Ehud Olmert, Israeli acting prime minister, told his officials to refrain from comment on the Hamas victory while the government assessed its effect.

With Fatah apparently unwilling to agree to Hamas overtures to join a unity government, the Islamists looked set to govern alone, with the possible inclusion in the administration of sympathetic independents more acceptable to Israel. But forming a government could take weeks.

Mr Qurei, whose ministers will remain in office as a temporary caretaker administration, said: "This is the choice of the people. It should be respected. Commenting before official results were through, he said: "If it's true, then the president should ask Hamas to form a new government."

The PA government is charged with implementing parliamentary legislation and administering financial and other policies. Foreign affairs and security are greyer areas, subject – in the era of the late Yassir Arafat, the former Fatah leader – to presidential control. Khaled Meshal, the top Hamas leader in exile in Damascus, said the group was open to political partnerships and would extend a truce if Israel reciprocated.

In an election universally judged to be democratic and fair, voters rejected Fatah and its associations with corruption and failure to achieve tangible improvements for the Palestinian people. Almost 78 per cent of 1.3m eligible voters turned out in a poll international observers said was well-run.

Additional reporting by Roula Khalaf in Tehran and Daniel Dombey in London

Prime Minister Resigns After Hamas' Victory (WT)

By Joshua Mitnick

The Washington Times, January 27, 2006

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RAMALLAH, West Bank -- Palestinian Prime Minister Ahmed Qureia tendered his resignation yesterday after Hamas scored a landslide victory over his Fatah party in parliamentary elections, marking a historic shift in the Middle East that empowers an Islamist party branded a terrorist organization by Israel, the United States, and Europe.

Hamas won 76 of 132 seats in the parliament, compared with 43 seats for Fatah, a stunning electoral performance that flew in the face of every pre-election survey as well exit polls Wednesday that forecast a slim advantage for the ruling Fatah party.

With Islamic militant politicians in a position to form a government without any partners, a crisis in relations with Israel and the international community seemed almost certain. The dramatic upheaval left governments in Israel and the United States scrambling to formulate a coherent response.

"Recognition of Israel and negotiations isn't on the agenda of Hamas," said Mushir al-Masri, a newly elected Hamas parliamentarian. Hamas leaders said they would not comply with international demands to disarm after the elections.

The vote means a split government for the Palestinians, whose system of government divides power between the parliament and the president, as in France.

Palestinian Authority President Mahmoud Abbas, who was not up for re-election, remains in charge of foreign and national security policy as head of state, responsible for peace talks with Israel.

But with a Cabinet of Hamas ministers likely to take charge of the Palestinian executive branch, the electoral mandate Mr. Abbas earned a year ago seems to have dissipated.

In a televised address following the publication of the results, Mr. Abbas, also known as Abu Mazen, reiterated his commitment to the U.S.-sponsored road map and to negotiations with Israel.

"I remain committed to implement the platform on which you voted for me one year ago," he said. "The basis of this platform is negotiations and a peace settlement with Israel."

After huddling with his security aides, Israeli acting Prime Minister Ehud Olmert released a statement that threatened to boycott peace talks if Hamas joins the government without annulling its call for the destruction of Israel and its support of terrorism.

"There is no doubt that -- from Israel's point of view -- a new situation has been created," the statement said.

The new situation could not have come at a worse time for Israel, with the dominant hand of Ariel Sharon removed by illness, the Likud party marginalized and new elections awaited in March.

Israel reminded Mr. Abbas of the Palestinian Authority's commitment to disarming Hamas' military wing as part of the party's joining the political system.

"We demand that the PA and its chairman honor this commitment in the shortest time frame," the statement said.

"Israel will demand that the entire international community compel the PA and its chairman to implement the commitment to eliminate Hamas as a terrorist organization that calls for Israel's destruction."

Hamas invited Fatah to join the Islamists in a unity coalition, but the party, which dominated Palestinian politics under Yasser Arafat, turned down the offer.

"We won't join them," said peace negotiator Saeb Erekat. "We'll be a faithful opposition and we'll resuscitate the party."

The Hamas victory was seen as more of a protest vote against corruption and mismanagement by the ruling Fatah party than a vote against accommodation with Israel. Many Hamas supporters said they expect Hamas to engage Israel in talks eventually and to refrain from instituting Islamic law.

In central Ramallah's el-Manara Square, hundreds of elated Hamas supporters paraded with the militant movement's green banners to celebratory Middle East drums and chanting, "To the parliament Hamas!" A scuffle broke out at the parliament building when Hamas supporters hung up a party flag.

"I expected more than 50 percent, but not this many" members of parliament, said Rabiyeh Hussein, a Hamas supporter as he hugged the party's campaign manager. "It's a coup d'etat. It's a new era."

The prospect of a Hamas government left a cloud hanging over the future of Israel's relations with the Palestinian Authority.

Even though peace talks have been on hiatus for years, the two governments interact on a daily basis, coordinating security, customs payments and humanitarian issues -- making a total break in ties nearly impossible.

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Hamas Is Stunned By Its Success (LAT)

By Laura King

The Los Angeles Times, January 27, 2006

GAZA CITY, Gaza Strip -- Of all those shocked by Hamas' landslide win in Palestinian elections, few were more stunned than the militant Islamist group itself.

In taking the reins of power after participating in its first parliamentary vote, Hamas leaders face a predicament: If they attempt to please their most radical adherents by continuing to call for Israel's destruction, they jeopardize hard-won international support for a Palestinian state.But if they moderate their stance and reject their founding principle, they risk alienating their militant base.

The group had wrestled with the question of whether it should even participate in the parliament, because such a step implied acceptance of the 1993 interim peace accords with Israel under which the ruling Palestinian Authority was created.

Having won a majority of seats in the new parliament, Hamas has the responsibility of forming a new government to work alongside Palestinian Authority President Mahmoud Abbas. Elected a year ago, Abbas will remain in office unless he carries through on threats to resign if he cannot pursue his goal of peace with Israel.

A key question hanging over Wednesday's election results is which Hamas people voted for -- the radical group that professes eagerness to continue the armed struggle against Israel, or the Hamas that toned down its rhetoric during the political campaign and emphasized its social service programs. The latter symbolizes, for many Palestinians, the hope for a less corrupt government and a better life after years of conflict.

With trademark discipline, Hamas' senior figures quickly closed ranks Thursday, proclaiming readiness to take on the daunting task at hand. "We will put the Palestinian house in order," said Ismail Haniyeh, a self-possessed former university dean who was the top candidate on the Hamas slate.

But Hamas in many ways appears ill-equipped to meet this challenge. Its political experience is strictly local -- running the cities and towns where it won municipal elections over the last year. Much of its senior leadership is dead, assassinated by Israel in response to the group's campaign of suicide bombings, in hiatus for the past year.

Complicating matters, international donors are poised to shun a Hamas-led government. And its military wing, the Izzedine al-Qassam Brigades, shows no inclination to disarm.

In other respects, however, Hamas may be better suited to govern than the Palestinian Authority, which was riddled with graft and largely ineffectual under the long reign of the late Yasser Arafat.

Hamas has for years administered a large, efficient network of charities, schools and health clinics, winning a reputation for fiscal integrity along the way. Many of the candidates it fielded are well-educated professionals, and not all are ardently religious. Also, Hamas' military wing is thought to be much more accountable to the group's overall leadership than are the roving gangs of gunmen who claim allegiance to Fatah.

Hamas, as it is prone to do, sent mixed signals Thursday about its intentions.

"The Israeli occupiers should recognize Palestinian rights first," Haniyeh said when asked whether the group would be willing to talk to Israel.

But almost in the same breath, he seemed eager to convey a message of conciliation. Asked what he would say to the United States and other nations that have expressed alarm at the group's ascent to power, he said: "Don't be afraid ... Hamas is an open movement" -- suggesting, apparently, that its stance on matters including Israel could change.

Hamas, by dint of its formidable organizational skills, was probably the first to recognize the political earthquake that had occurred with Wednesday's vote. After the polls closed, it posted observers at each locale where votes were being counted.

The tallying was slow and painstaking, carried out in some cases by candlelight due to power outages, not unusual in Gaza. But by 3 a.m., Haniyeh, huddling with aides, receiving reports from the field, talking nonstop on his mobile phone, was beginning to put out the shocking word: We won.

Amid the rejoicing, there was a distinct air of nervousness, even outright apprehension, in Hamas-dominated districts of Gaza. A few people wondered aloud: had Hamas bitten off more than it could chew?

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"You know, I was very happy when I went to sleep, when I thought we did well, but not win," said Gaza City resident Ashraf Kholi. Like many Palestinians, he tuned into late-night exit polls that gave Hamas perhaps one-third of the vote.

"Then I woke up," continued Kholi, who runs a shop in the city's Zeitun district, home to many Hamas leaders. "And I realized everything had changed."

To avoid governing alone, and the direct contacts with Israel and the United States that could entail, the group's leaders are trying to woo Fatah into some kind of alliance -- an offer that has thus far been spurned.

"It is better to be in the opposition," said senior Fatah leader Jibril Rajoub, a former security chief. As to the prospect of Hamas presiding over the sprawling and notoriously inefficient Palestinian Authority bureaucracy, he snorted: "Let them try."

Outcome Likely To Alter Vote In Israel (WT)

By Hazel Ward

The Washington Times, January 27, 2006

JERUSALEM -- Hamas' shocking election victory is likely to radically alter the course of Israel's own election at the end of March, as an outraged right wing flexes its muscles and the centrist government plots its response.

As Palestinian officials announced the results, acting Israeli Prime Minister Ehud Olmert convened top-level talks with senior political and defense officials to formulate how to manage the crisis.

Foreign Minister Tzipi Livni, among those at the emergency powwow, earlier urged the European Union, the Palestinians' biggest aid donor, to speak out against the creation of a Palestinian "government of terror."

"It is up to the European Union to speak out clearly and unequivocally and clarify that there will not be any European understanding shown towards a process which would mean the establishment of a government of terror," he said.

Mr. Olmert, who heads the newly formed centrist Kadima party, is eager to define the permanent borders of the State of Israel and even make further territorial concessions in the West Bank. He faces a critical challenge, which could have a dramatic effect on his party's hitherto positive ratings in the polls.

Any perceived leniency toward Hamas could play directly into the hands of Benjamin Netanyahu, the hawkish leader of the right-wing Likud Party, who last year warned that Israel's pullout from Gaza was a prize for Hamas violence.

But intransigence toward a Hamas-led government would likely bring about international pressure on Israel to comply with earlier commitments reached with the Palestinian Authority.

Hamas' victory prompted a flurry of negative reactions from across the political spectrum in Israel, with the right wing heaping scorn on the government for failing to prevent the Islamists from contesting the polls.

The vote has created "the State of Hamasistan just 1,000 meters away from the citizens of Israel," army radio quoted Mr. Netanyahu as saying.

Yuval Steinitz, Likud member of parliament and head of the parliamentary committee on foreign affairs and defense, likened the Hamas victory to "an earthquake" and a "tragic defeat for Israel in the war against terrorism."

Ultranationalist lawmaker Efi Eitam called on Israel's domestic spy agency Shin Bet to kill each and every Hamas lawmaker.

"We must turn Hamas' parliamentary list into a hit list for the Shin Bet," he told army radio.

Israeli forces have assassinated dozens of Hamas leaders in recent years.

Even on the left, Labor Chairman Amir Peretz insisted he had "no intention" of conducting negotiations with Hamas as long as it was dedicated to Israel's destruction, despite his running an election campaign urging peace efforts.

"The Palestinians have given their support to extremist elements and it is up to the government to take the necessary action to ensure [Israel's] security," he said.

Elder statesman Shimon Peres, Mr. Olmert's No. 2 in Kadima, cast doubt over Hamas' ability to govern effectively given its international pariah status.

"Hamas will not be able to control the Palestinian Authority and pay the salaries [of more than 100,000 civil servants] without international aid, which will apparently cease," he told army radio.

The Palestinian elections of 1996, which were not contested by Hamas, were calm on the ground as on Wednesday.

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But immediately afterward, Hamas began a series of devastating attacks, drastically weakening the Labor-led government of Mr. Peres, who was prime minister, and paving the way for Mr. Netanyahu's election.

Hamas Victory Now A Major Issue In Israeli Election Campaign (WP)

By Scott Wilson

The Washington Post, January 27, 2006

JERUSALEM, Jan. 26 -- The Hamas parliamentary election victory became a focal point of Israel's election campaign Thursday as opposition politicians criticized the government for failing to stop the radical Islamic movement from rising to prominence within the Palestinian Authority.

With Prime Minister Ariel Sharon unconscious from a stroke this month, Ehud Olmert, his deputy and now the acting prime minister, faced criticism in the wake of the Hamas defeat of the governing Fatah party, Israel's main partner in past peace agreements.

Olmert recently reversed Sharon's decision barring Palestinians in East Jerusalem from voting in the election. He said at the time that he did not want to give the Palestinian leader, Mahmoud Abbas, an excuse to cancel the first parliamentary elections in a decade.

"We are talking about an earthquake that has sent us back 50 years and will lead the entire region into chaos," said Silvan Shalom, a member of Israel's parliament from the hawkish Likud Party, who recently resigned as foreign minister in anticipation of the March 28 elections.

Public opinion polls have shown Likud suffering a significant drop in popularity since Sharon and Olmert left last year to form Kadima, which polls now show to be the prohibitive favorite in the coming elections.

"I warned Olmert in our first meeting after he took office" that Hamas must not be allowed to participate in the voting, Shalom said in his comments to the Ynet news Web site. "Now we have no one to blame but ourselves."

Olmert ordered his ministers Thursday not to comment on the Palestinian returns. He told visiting Sen. Joseph R. Biden Jr. (D-Del.) Wednesday evening that he would not "negotiate with a government that does not meet its most basic obligations -- to fight terrorism."

Israel, the United States and the European Union classify Hamas as a terrorist organization. The group, known formally as the Islamic Resistance Movement, calls for the creation of a Palestinian state on land that now includes Israel.

The leader of the dovish Labor Party, Amir Peretz, said at a special meeting of party leaders that "we have no intention to allow negotiations to take place with an organization that declares its intention to destroy Israel."

"Hamas," he said, "is not a partner."

But Dan Schueftan, a senior fellow at the Shalem Center in Jerusalem, said, "We are assigning much too much significance to these elections."

He said Israel already faced a fading partner in Abbas, whose leadership has been undermined by party militias, internal corruption and the popularity of Hamas. Palestinians say he has also been hurt by Israel's reluctance to reduce checkpoints and military operations in the West Bank.

The Hamas victory, Schueftan said, could allow the Israeli government to proceed with another unilateral withdrawal from land in the West Bank, which Palestinians envision as part of their future state. Last year, Sharon ordered the withdrawal of all Israeli settlers and troops from the Gaza Strip, the other part of a prospective Palestinian state. Schueftan said a withdrawal from parts of the West Bank was already "the tacit platform of Kadima."

"The choices were between terrorists, impotents and hooligans," said Schueftan, who is also deputy director of the National Security Studies Center at the University of Haifa. "From an Israeli point of view, will this make things worse? No. Will this make things better? No. Would a different result have made a difference? No."

Gabriel Sheffer, a political science professor at Hebrew University of Jerusalem, said: "We should wait and see what happens inside the Palestinian government. But in any event, Olmert, his advisers and his followers face a big dilemma."

"The questions begin with: Do you talk to Hamas and, if so, what do you talk to them about?" Sheffer said. "I think Olmert will try to restrain the military, and try to find ways, probably not directly, to talk to Hamas."

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Yossi Klein Halevi, another senior fellow at the Shalem Center, which holds mostly hawkish views on security matters, said, "Israel will now hold political Hamas directly responsible for the actions of military Hamas."

"There will now be one address at the Palestinian Authority where Israel can respond," Halevi said.

Dore Gold, president of the Jerusalem Center for Public Affairs, who advised Sharon, said Israel would now have to maintain control of the Jordan Valley in any final peace agreement to ensure that Hamas does not allow other groups Israel considers terrorist organizations to arrive from Jordan or Iraq.

"Hamas cannot be seen as just another Palestinian political party with an Islamic orientation," Gold said. "It must be linked to the larger sources of terror that threaten Israel and the West."

After Hamas Victory, Israel's Likely Course (NYT)

By Greg Myre

The New York Times, January 27, 2006

JERUSALEM, Jan. 26 — The Hamas landslide in Palestinian elections has stunned Israelis, but it may also have brought them a rare moment of clarity: with peace talks off the table, Israel will most likely pursue unilateral actions, drawing its own borders and separating itself from the Palestinians.

Ehud Olmert, the acting prime minister, made it clear after an emergency cabinet meeting that talks with Hamas, a Palestinian party sworn to Israel's destruction, were out of the question, while experts said Israel was now freer to establish its future on its own.

They said Israel — whose own elections in two months could be heavily influenced by the Palestinian results — was likely to focus on speeding up construction of the separation barrier, which runs along and through parts of the West Bank. After more than three years of building, it remains less than half finished, but Israeli officials say it has contributed enormously to the reduction of suicide bombings and other attacks. Palestinians, on the other hand, say the barrier takes land they want for a future state.

"The differences between the sides are now much deeper, and the chances for negotiations are much more remote," said Shlomo Avineri, a liberal political scientist at Hebrew University. "The only realistic steps may be Israeli unilateral steps."

Unilateralism was the approach taken by Ariel Sharon, the prime minister for the last five years, who now lies in a coma. He withdrew Israeli settlers and soldiers from Gaza last summer without negotiating the move with the Palestinians, and left open the possibility of more such moves in the West Bank.

Since on-and-off peace talks began more than a decade ago, Israelis have been deeply divided over what sorts of concessions to make, how much territory to keep and whether the talks would lead to an end to the decades-old conflict. On Thursday, it seemed there were few such doubts.

From Israeli hawks who oppose concessions to doves who constantly pressed for renewed peace talks, Israelis said there could be no negotiations with Hamas.

Ami Ayalon, the former head of Israel's Shin Bet security service and now a parliamentary candidate for the left-leaning Labor Party, said the absence of a negotiating partner should not halt Israeli actions aimed at separating from the Palestinians.

Israel, he said, should seek "to create a situation where Israel disengages from the Palestinians and preserves the character of Israel as a Jewish democracy." Israel should continue, he said, "to move fast and independently to our goal."

Mr. Olmert hopes to become prime minister in elections on March 28 as head of the centrist Kadima Party started by Mr. Sharon.

But Benjamin Netanyahu, leader of the right-wing Likud Party, made clear that the Palestinian results offered an opportunity for his more hawkish message to be heard. He said the Hamas victory was a result of the unilateral withdrawal from Gaza and proved that no more withdrawals should occur.

Yuval Steinitz, a member of Parliament from Likud, said Israel should have prevented or canceled the Palestinian elections. He cited the 1993 Oslo accords, an interim peace agreement that bars the participation of armed groups and those that do not recognize Israel.

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Mr. Steinitz noted that Palestinian terror attacks against Israel had gone down in recent years, but that Hamas's popularity had gone up. "This is a major loss in our war against terror despite all our tactical successes," he said.

Since the Oslo accords, the Israeli and Palestinian leaderships have maintained a dialogue at some level.

But Israel and Hamas have never had contact with each other, aside from exchanging bullets and bombs. Their relationship is similar to the one that existed in the 1980's and earlier between Israel and the Palestine Liberation Organization, with their refusal to recognize each other.

Hamas's electoral triumph comes at a time when Israel is going through its own political upheavals, and the government is unlikely to make any major moves until after the Israeli election.

"Election time means time out," Mr. Avineri said. "There is a strong argument for refraining from doing dramatic things right now."

The campaign may also mean that Mr. Olmert and his party will have to take a tougher tone to ensure that they are not outflanked on the security issue by Likud.

Israelis are beginning to debate whether the reality of being in power will tame or moderate Hamas. Mr. Avineri suggested a Hamas-led government might not be as threatening as some Israelis feared. He cited the Lebanese guerrilla group Hezbollah, which battled Israeli troops for years in southern Lebanon and now takes part in Lebanese politics.

"Hamas may behave like Hezbollah," Mr. Avineri said. "The rhetoric will be harsh, and they will still be armed, but they will be part of the political system, and their actions may be more restrained."

Others, like Mr. Steinitz, argue that Hamas wants Jews pushed into the sea, and did not enter politics to change its goals but to advance them.

Still, the Hamas victory injects uncertainty into the Israeli election. In previous Israeli campaigns, Hamas and other Palestinian factions have staged deadly attacks that pushed the Israeli electorate to the right.

In 1996, the Labor Party, led by the dovish Shimon Peres, seemed headed for victory after the assassination of Yitzhak Rabin by an ultranationalist Israeli. But after a series of Palestinian suicide bombings during the Israeli campaign, Mr. Netanyahu, of Likud, won a narrow victory.

The Palestinians started an uprising in September 2000, and in a February 2001 election for prime minister, Mr. Sharon trounced Ehud Barak, the Labor Party leader, who had tried but failed to reach a comprehensive accord with the Palestinians.

A Shift Of Biblical Proportion? (WSJ)

By Karby Leggett

The Wall Street Journal, January 27, 2006

AMONA, West Bank -- The fate of nine newly built concrete homes at the edge of this Jewish community may soon provide clues to one of the Middle East's most pressing questions: Is Israel preparing to withdraw from parts of the occupied West Bank?

The answer increasingly appears to be yes. Following extended legal wrangling, the Israeli government is completing a plan to demolish Amona's nine concrete homes -- all uninhabited -- because they were constructed illegally on privately owned Palestinian land. With the militant Hamas party winning control1 of the Palestinian Parliament on Wednesday, it is possible Israel would delay the demolition, but several thousand Israeli security personnel are scheduled to carry out the order as early as next week, police and military officials say. The large force reflects concern that pro-settlement activists will resist.

Though small in scale, the Amona operation could have far-reaching implications. Coming on the heels of Israel's withdrawal from the Gaza Strip in August, it would signal a further rollback of a decades-long policy of encouraging Jewish settlement in Palestinian areas, particularly the West Bank, which is now home to some 250,000 Israeli citizens. The move likely would resonate positively among Palestinians as they reorganize their own government through popular elections. More broadly, it could mark the beginning of a gradual regional shift away from armed confrontation and toward accommodation based on territorial compromise.

Amona is one of more than 100 illegal Jewish communities, known as outposts, that have sprouted across the West Bank over the past decade. Unlike the 120-odd official West Bank settlements, which were established with government blessing and financial backing and in many cases have grown into sprawling neighborhoods, the outposts never received official approval and

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consist largely of decrepit mobile homes and other makeshift structures. Many were built without legal ownership of the land they sit on, according to a report on the outposts commissioned by the government last year.

Amona's case was first detailed in a page-one story of The Wall Street Journal in July. It is unique in that the government's decision to demolish the nine homes is the result of a lawsuit brought by Peace Now. After focusing for years on the politics of the settlement enterprise, the left-wing organization last year initiated legal proceedings aimed at compelling the government to enforce laws it had long ignored. The case ended up in the Supreme Court, which sided with Peace Now in declaring the homes illegal.

The precedent could reverberate for years -- and deepen a chasm between Israel's secular majority, which sees the settlements as a security and financial burden, and the religious-nationalist minority committed to expanding them. Dror Etkes, a Peace Now employee who spearheaded the legal effort against Amona, says he is preparing similar cases over other outposts and even a handful of authorized settlements located on Palestinian-owned land. About 30 illegal outposts are now building homes similar to those in Amona.

"Our success is not in knocking down nine houses in Amona but in the crisis we have created between the government and settlers," Mr. Etkes says.

That sense of foreboding is now on display in Amona, where residents -- now living in mobile homes -- have begun filling in dirt access roads and erecting barriers to thwart the arrival of military and police forces. On the day of the operation, they plan to bring up to 10,000 pro-settlement activists here to protest the action. Orit Caspi, Amona's manager, says resistance will be "stronger" than in Gaza this summer. Complicating the mission for all parties is a plan by Israeli forces to dismantle another outpost in Hebron around the same time.

Set in the heart of the West Bank, Amona was founded in 1995, as peace talks between the Israelis and Palestinians were unfolding. Amona residents are deeply religious and say they are entitled to live in the West Bank, whatever laws the modern state of Israel, because it is part of the biblical Land of Israel.

The government decision to tear down the nine houses marks a reversal of policy that until recently had actively accommodated outposts. Although Amona is illegal, it enjoys full access to the state electricity and water grids. Residents are guarded by the Israeli military. In a sign of change, however, Acting Prime Minister Ehud Olmert recently instructed security forces to deal harshly with Jewish settlers who break Israeli laws.

Residents of Amona say they fear they could be the first in a long line of West Bank demolitions and evacuations. Yair Frank, Amona's rabbi, says residents plan stiff resistance not only to save their homes, but to show the government the response to a wider withdrawal.

"This land was given to us by God," he says. "It is our land today and will be our land forever."

Write to Karby Leggett at karby.leggett@wsj.com2

In The Mideast, A Giant Step Back (NYT)

The New York Times, January 27, 2006

For 20 years Ariel Sharon and other Israeli hard-liners have claimed that they had no negotiating partner interested in or capable of securing peace between Israelis and Palestinians. That always seemed a debatable point, until now.

There are many reasons to explain why Palestinians voted to hand over their government to Hamas, an organization that revels in terrorism and is sworn to destroy Israel. The inability of President Mahmoud Abbas's party, Fatah, to run its affairs is first on the list, if pre-election polls of Palestinians were accurate. Fatah has been corrupt and inept, and it represented the status quo, not a happy position given the lawlessness in Gaza, the unemployment rate in Nablus and the despair among young people in Jericho. Mr. Abbas didn't help matters much, proving weak and incapable of imposing control over the battered Palestinian Authority.

Israeli hard-liners can blame themselves as well. Even though most reasonable people have recognized Mr. Abbas as a far more pragmatic negotiating partner than Yasir Arafat was, Prime Minister Sharon failed to give Mr. Abbas any concession that he could point to as an achievement. Instead, Israel has busied itself with carrying out Mr. Sharon's doctrine of unilateral separation from the Palestinians, a doctrine that is sure to gain more favor now that the Palestinians have chosen Hamas.

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But all of this is peripheral to two central facts. Hamas grew out of a terrorist organization that has undermined every small step toward peace with mass murder. And on Wednesday, Palestinians voted almost two to one to put Hamas in charge of running their government. For there to be any hope of getting out of the impasse in the Middle East, one of those two things must change.

It would be nice to believe that Hamas, now that it is assuming the reins of power and the burden of actually having to govern, will renounce its call for the destruction of a sovereign state, disarm its private army, get into the business of making life better for Palestinians and try to negotiate the creation of a real Palestinian state. While we're not hopeful, we are reminded that the Palestine Liberation Organization of the late Mr. Arafat, of which Mr. Abbas was once second in command, was born in terrorism. For many years Mr. Arafat and his gunmen were hunted by Israel, much as Hamas has been in recent years.

President Bush was absolutely right when he urged Mr. Abbas to remain in office as a sign of stability and set Secretary of State Condoleezza Rice the task of seeing whether the shards of the peace process could be reassembled. But he was also absolutely right when he said, "A political party that articulates the destruction of Israel as part of its platform is a party with which we will not deal."

Hamas has a choice between governing and terror. Is the party more interested in making sure that the electricity and water stay on, that Palestinian boys and girls make it to school, and that these battered people finally get a state of their own? Or is it more interested in continuing its campaign to destroy Israel? If Hamas chooses the latter, it's more than likely that it will not be around for long, and rightly so.

Hamas Rules (WSJ)

The Wall Street Journal, January 27, 2006

The sweeping victory of the Islamist Hamas party in Wednesday's Palestinian legislative elections can hardly be considered good news. But neither is it surprising, and it may even have the long-run benefit of educating Palestinians about the terrible cost of their political choices.

The ruling Fatah faction of Palestinian President Mahmoud Abbas governed corruptly, ineffectually, and until the death in 2004 of founder Yasser Arafat, dictatorially. So it is understandable that Palestinians wanted an alternative. That they went for the only other major choice on offer is not necessarily an indication that they share Hamas's goal of destroying Israel and all its citizens. The vote might even turn out to be clarifying -- in the sense of showing the world that no Israeli-Palestinian peace is possible until the Palestinians have leaders who really want to live in peace with Israel.

Of course, there's no sugar-coating what this vote for the party of suicide bombers and social welfare says about the state of Palestinian politics. Partly this is the fault of the losing Fatah faction itself. Ever since its return to the Palestinian territories in the mid-1990s following the Oslo "Peace" Accords, Fatah has fed Palestinians on a diet of extremist, anti-Semitic propaganda. Its military wing assassinated "moderate" Palestinians, while allowing Hamas to flourish as a terror weapon -- both to kill Israelis, and to scare Fatah's American and European patrons about the possible alternatives to its rule.

It should never be forgotten that in 2002 -- under Arafat's iron fist -- Palestinian terrorists were allowed to murder 452 Israelis. That figure later dropped not because of any change of heart on Fatah's part but because Israel and the United States finally gave up on Arafat as a credible peace partner and turned to a strategy of unilateral separation (the infamous "wall") and military strikes.

Partly, too, Israel and the West must own up to their culpability for Wednesday's outcome. Foreign policy critics of the so-called "realist" school will no doubt be tempted to trumpet the vote as a setback for President Bush's strategy of democratizing the Middle East. But it's more accurate to say that Hamas's win only highlights the damage done by decades of realist support for "strongmen" and "stability."

The calculation at the heart of Oslo was that Arafat and Fatah would impose a dictatorial order on Palestinians that outsiders never could. The late Yitzhak Rabin put it most clearly when he said the point of recognizing Arafat in 1993 was not to give the Palestinians their freedom. It was because Arafat could deal with Hamas and other troublemakers without interference from "the Supreme Court and [the human rights organization] B'Tselem."

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Rabin was right that Arafat would have scant regard for the rights of Palestinians. But he was wrong that Arafat would crack down on Hamas. Like every other strongman, Arafat didn't crack down on extremists but used them to his advantage where he could. Palestinians could see that the U.S. was coddling a man who oppressed them, breeding cynicism about U.S. motives and making it hard for democratic movements to flourish. The Bush Administration is working hard to change those perceptions and build a Palestinian civil society, but this will take years.

So far the White House -- which pushed the Palestinian Authority to hold these elections -- has struck the right notes in response to the Hamas victory. Secretary of State Condoleezza Rice praised the vote for being peaceful and "by all accounts fair." At the same time she stated that "you cannot have one foot in politics and another in terror." President Bush rightly said Hamas should expect no relations with the United States until it stops calling for Israel's destruction.

The White House will have to resist the temptation, no doubt encouraged by Europe, to pressure Israel to deal with Hamas as it once was pressed to deal with Arafat. But given Hamas's history and declared goals, the onus is on its leaders to show that they have an agenda beyond terror. If Hamas begins to use Gaza as a base to import weapons and attack Israel, the Jewish state will have every right to strike back in self-defense. And the U.S. should support it in doing so.

It's always possible that the burden of responsibility will over time make Hamas a less radical movement. If it remains rejectionist and bent only on war with Israel, then the Palestinians will sour on its rule in any case. Perhaps then average Palestinians will conclude they have no choice but to co-exist with Israel if they want a better life. The obligation of the U.S. is to make it clear to Hamas, and to all Palestinians, that there is no future in terror.

Hamas's Choice (WP)

The Washington Post, January 27, 2006

THE VICTORY of Hamas in the Palestinian elections creates fresh opportunities as well as dangers in the Middle East. The Islamic fundamentalist movement will now come under extraordinary pressure to cease all acts of terrorism, help restore order in the turbulent Gaza Strip and moderate its rejection of Israel. The pressure will come not only from Western governments and aid donors but from its own constituents. Hamas's leaders had hoped to use a minority position in the Palestinian legislature to exercise a veto over peace talks with Israel while avoiding disarmament and wider responsibility. As leader of the cabinet that will be formed under President Mahmoud Abbas, the Islamists will find their straddle of democracy and terrorism far more difficult to maintain.

Many Palestinians who voted for Hamas don't support the Islamists' fundamentalist agenda: Polls show that large majorities want an end to violence and a resumption of peace talks with Israel. Wednesday's vote was not an embrace of extremism, but -- as President Bush suggested yesterday -- a rejection of the corrupt and incompetent clique of leaders left behind by Yasser Arafat. Since Arafat's death more than a year ago, his Fatah movement had been unable to reform itself or control its violent elements, despite the good intentions of Mr. Abbas. Now, perhaps, a new generation of secular leaders will be able to purge Fatah and prepare to offer Palestinians a better alternative, while crooks and armed thugs are cut from the government's payroll. Mr. Abbas himself should remain in office, as Mr. Bush urged yesterday, and will retain considerable power to check a Hamas-led government.

Israel, which has its own elections March 28, will have to guard against any upsurge in violence, including acts by Palestinian groups unhappy with the election results. But Hamas's victory will simply reinforce the policy of the current Israeli government, which is based on unilateralist measures such as last summer's withdrawal from Gaza and the ongoing construction of a borderlike system of fences and walls in the West Bank. If it avoids provocations, such as the assassination of Hamas leaders, Israel may benefit from the pressure that others will bring to bear on the Islamic movement. In the short term, too, Israel is likely to escape any further prodding from Washington to make concessions it has resisted, such as the relaxation of security checkpoints in the West Bank or the release of prisoners.

Hamas's eagerness to avoid hard choices was evident in the swiftness with which its leaders proposed yesterday to form a "unity" government with Fatah despite the Islamists' control of 76 of the 132 seats in the legislature. The two parties will have to forge some agreement on security, since each effectively controls its own armed forces, with those of Fatah now funded by the government; war between the two is a danger. The Islamists no doubt will seek to construct a coalition that could continue to

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attract international aid -- without which the Palestinian Authority would collapse -- while evading compromises on Hamas's militia or ideology.

Even if Fatah consents to this strategy, Western governments should not. Instead, they should stick to the principle already articulated by the so-called Quartet of peace process sponsors, which includes the European Union, the United Nations and Russia, as well as the Bush administration: that "a future Palestinian Authority cabinet should include no member who has not committed to the principles of Israel's right to exist in peace and security and an unequivocal end to violence and terrorism." If Hamas will not meet that condition, then it should be condemned to governing Gaza and the West Bank in diplomatic isolation, without European, U.S. or World Bank aid. The Islamists must be forced to choose between democracy and terrorism; between their ideology and the yearning of Palestinians for security, good government and a state of their own.

Mideast Uncertainty, Again (LAT)

The Los Angeles Times, January 27, 2006

THE OUTCOME OF WEDNESDAY'S Palestinian parliamentary election surprised even its victors. No one expected Hamas, which is dedicated to the destruction of Israel, to win an outright majority, but it took 76 of 132 seats in parliament. Its victory will set back an already stumbling peace process in the Middle East unless Hamas renounces violence and recognizes the Jewish state's right to exist.

Although the United States, Israel and the European Union brand Hamas a terrorist organization, Palestinians admire it for the schools and hospitals it runs. And the organization that once routinely dispatched suicide bombers into Israel has mostly refrained from such attacks for about the last year.

Yet even after gaining a clear majority in parliament, its leaders have refused to heed renewed calls from Washington and from European capitals to disarm and renounce violence. May the Hamas officials who want a government that will focus on bread-and-butter issues such as healthcare, education and agriculture prevail over the preachers of hate.

If the new government builds classrooms and feeds the hungry, it will give Israel breathing room before its own election in two months. Palestinian President Mahmoud Abbas, leader of the defeated Fatah party, is the man designated to discuss with Israel the outlines of a future state no matter who has the parliamentary majority. Before the vote, Abbas threatened to resign if Hamas did well, but President Bush struck the right notes Thursday in urging Abbas to stay — while ruling out direct contacts with Hamas until it renounces violence.

Hamas may find that the obligations of governing leave no room for violence. Or it may not. What it will quickly learn, however, is that any Palestinian government needs the hundreds of millions of dollars annually from the United States, Europe and Japan to function and mitigate the desperate poverty in the fetid slums of Gaza and the occupied West Bank. Maintaining a truce might prevent a shut-off of the money. Recognizing Israel's right to exist, of course, would bring in still more.

The elections for the Legislative Council were the first in a decade, and Hamas boycotted those; former Palestinian Authority President Yasser Arafat never bothered to hold another round before he died more than a year ago. When Abbas succeeded him, he gambled that bringing Hamas into the political sphere would put it on the path to a renunciation of terrorism and recognition of the goal of the independent states of Palestine and Israel living side by side in peace.

It is not clear Hamas will do so, but that should be the pressure point for other nations. Most Palestinians, like most Israelis, want peace. Israeli leaders and Abbas recognize that desire; Hamas needs to heed it as well. The Bush administration rightly has promoted democracy in the Middle East, but now the United States has to deal with the results of a free vote. So does Israel, closer and in greater danger. Islamists also have racked up successes at the polls in Iraq, Egypt and Lebanon, again proving the double-edged sword of a free ballot.

The sky isn't yet falling in the Middle East. But Wednesday's election results complicate a situation that desperately needed stability, and they will make it more difficult for the Palestinians to achieve a state of their own anytime soon.

Two Elections And A Lesson (WP)

By E. J. Dionne Jr.

The Washington Post, January 27, 2006

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In two elections this week, voters tossed incumbents out of power. One election made barely a ripple internationally. The other broke like a tsunami over the entire world. The response to each vote should teach us the danger of pretending that elections alone can make democracy happen.

In Canada's quiet election, Stephen Harper ended more than a decade of Liberal Party rule. It was a significant achievement for the Conservative Party. The Canadian right had, until recently, been badly split. Harper reunited the right, moderated its program and took advantage of public impatience with Liberal scandals.

But Canadians, devoted as always to subtlety and prudence, refused to give Harper a majority. Diane Ablonczy, a Conservative parliamentarian from Alberta, offered a perceptive take on the voters' verdict. She said they "want to test-drive the Conservative Party" before allowing it to govern without help. In stable democracies, voters can take test-drives.

In the elections for the Palestinian Authority, the voters also rose up against the incumbents. But in the process, they gave a majority to Hamas, a party that has embraced terrorism and would obliterate Israel.

In responding yesterday to Hamas's victory, President Bush, a man who prides himself on clarity and disdains nuance, was, if I may coin a word, nuancing all over the place.

On the one hand, he praised democratic elections for letting voters send a message. "If they're unhappy with the status quo," Bush said at a news conference, "they'll let you know." Indeed.

But he also seemed to rule out dealing with Hamas if the militant group didn't change itself radically -- particularly its attitude toward Israel and terrorism. "I know you can't be a partner in peace . . . if your party has got an armed wing," he said. That's a good point about Hamas, though it raises interesting questions about Iraqi political parties that have links to armed militias.

From this tale of two elections, it's possible to take the wrong lesson, which would be to walk away from America's long if inconsistent quest to promote free elections and human rights. You don't have to agree with Bush's decisions to believe that an important goal of American foreign policy should be to expand the number of nations that live under democratic rule.

But since the invasion of Iraq, administration spokesmen and supporters have offered a utopian and decidedly unconservative view of how American power could be used to change the world -- and quickly.

It was said that the way to peace in Jerusalem passed through Baghdad. It was said that by ridding Iraq of Saddam Hussein's wretched regime, the United States would unleash a democratic revolution in the Arab world. Go back and look at the broad claims Bush's defenders made for his policy after the election in Iraq just a year ago. Everything, it was said, was falling into place.

But the world is a complicated place. Of course free elections in Iraq are hugely better than dictatorship. But when free elections become more a census to count members of warring ethnic and religious factions than a way of settling underlying disputes, they do not necessarily pave the way for enduring democracy. They do not provide voters with ways of test-driving the various alternatives.

In the Palestinian case, Hamas's victory was not widely predicted, but its strong showing was predictable. Every serious analyst understood the frustration of the majority of Palestinians with those who have led them. Everyone knew that Hamas had created a new civil society -- a network of health and social service organizations -- within the old Palestinian structure that brought a wide base of grass-roots support.

The polls suggest that Hamas did not win because a majority of Palestinians bought into its terrorist program. Hamas won, precisely as Bush said, because voters were so unhappy with the status quo. But shouldn't Washington ask itself why it didn't take more dramatic steps, over a much longer period, to change the Palestinian status quo? Taking action in Iraq was not going to do the job.

A working democracy north of our border requires a degree of hope for the future now lacking among Palestinians. The Bush administration once thought it could take a holiday from complexity and remake the world through a few bold strokes. But democratization is hard, complicated and frustrating. It requires the patient building of institutions and attention to detail. There are no short cuts. You wonder if the president will come to terms with the flaws in his own status quo.

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Living With Hamas's Victory (WP)

By Jim Hoagland

The Washington Post, January 27, 2006

The politics of pain fed the surprisingly lopsided victory by Hamas radicals in this week's Palestinian legislative elections. The antidote to the poisons that run through Hamas may eventually flow from the politics of pain as well.

The Palestinian vote is a spasm of self-inflicted shock therapy that will unsettle the world, because Hamas accords a low-to-nonexistent priority to making peace with Israel.

But it is pointless to bemoan this setback or try to minimize its significance, as President Bush seemed to do yesterday in a White House news conference. Israel, the United States and Europe should instead adjust their policies to recognize and influence the volatile situation created by the unexpected and distinctly unwelcome Hamas victory.

They can best do that by not launching immediate efforts to cajole, bribe or intimidate a new Hamas-led government into adopting more peaceful-sounding rhetoric to clear the way for reviving negotiations with Israel. And there should be no attempt to paper over the crushing defeat inflicted on Mahmoud Abbas and the Palestinian Authority he headed.

Instead, the immediate test for Hamas must be its ability to bring social order and significant calm to the chaotic Gaza Strip and West Bank territories. That is the urgent priority set for the Islamic-based movement by voters upset with the turmoil, corruption and indirection that Abbas's Fatah party allowed to flourish. And that is the priority that Washington and its partners must acknowledge and underline by carefully chosen words and deeds.

In their pain, the Palestinians have lashed out against Fatah and entrusted their fate to a movement that exists in large part to inflict pain on their Israeli and American enemies. The psychic rewards of revenge, which are much esteemed in the Arab world, outweigh, right now, material and other rewards that were supposed to flow to Palestinians from peace accords or Israeli unilateral disengagement.

Washington and other capitals will be tempted to focus exclusively on the international dimensions of this lashing out. It brings setbacks not only for the "road map" outline for Israeli and Palestinian states living in peace but also for international efforts to contain Iran. Having Hamas form or control a Palestinian regime gives the extremist forces of Iranian President Mahmoud Ahmadinejad another card to play.

Even after Hamas's victory became clear, Bush urged President Abbas to "stay in office and work to move the process forward." The president seemed to be proposing that Abbas seek a political blessing from Hamas and a power-of-attorney to continue talks that the radicals denounce as worthless.

That is precisely the wrong direction to take. The Bush administration and other governments should do nothing to obscure for the Palestinians the consequences of their actions at the ballot boxes on Wednesday. It would not be effective diplomacy or politics to cushion the Palestinians from those consequences.

The world should not move backward 20 years, to the time when diplomats moved heaven and earth to coax grudging and obscure statements from Yasser Arafat acknowledging Israel's right to exist. That effort led to Israel's 1993 decision to install Fatah in command of the Palestinian territories in return for Arafat's unfulfilled installment-plan promise to make peace.

That history suggests there is little to be gained now from trying to induce Hamas into reasonable-sounding rhetoric or from trying to keep afloat an Abbas administration that has just been repudiated. Clarity counts in this election's aftermath.

The United States, Israel and the European Union should deal with any government that emerges from fair and free elections, including one led by Hamas. Not to do so would, among other things, make a mockery of Bush's campaign to stabilize the Middle East by spreading democracy there.

But those dealings should be carefully circumscribed. They should be conditioned on the ability of foreign powers to channel most of their economic aid to nongovernmental Palestinian organizations that contribute to democratic reform and improved security in Palestinian society. Fatah's going into opposition, rather than joining a faux coalition with Hamas, would facilitate this.

The administration has succeeded in making Iran's actions -- not U.S. policy -- the issue in the conflict over that country's nuclear ambitions. Washington should strive to do the same with Hamas.

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The pain of enduring refugee status, of occupation and of betrayal by their own has left many Palestinians believing they have nothing more to lose. Hamas deserves the chance to show them how wrong they could be.

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Hamas At The Helm (NYT)

By Fotini Christia And Sreemati Mitter

The New York Times, January 27, 2006

Nablus, West Bank

THE crescent has risen. The militant Islamic group Hamas won an astonishing 76 of 132 seats in the Palestinian legislative elections this week. The United States and the European Union must finally recognize Hamas's ascendance as a fait accompli.

Until now, these key third parties have equivocated: they pressed Israel to allow Hamas to participate in the elections but threatened to cut aid and ties to a Hamas-dominated Palestinian Authority. The practical reality, however, is that Hamas is a pivotal player in Palestinian politics, and no peace process can succeed without at least the tacit acceptance of its leaders. Moreover, Hamas's participation in Palestinian politics is not necessarily a bad thing, and resisting it will very likely do more harm than good.

As a political party, Hamas revealed itself to be disciplined, pragmatic and surprisingly flexible. It fielded well-regarded candidates, including doctors and academics. In some cases, Hamas aligned itself with independents once affiliated with the secular Fatah party. And although the Hamas charter calls for the destruction of Israel and the liberation of Palestine "from the river to the sea," the party's campaign manifesto made no mention of these goals.

Instead, when asked about making peace with Israel, Hamas representatives offered nuanced, if evasive, answers. As Ziad Daiah, a Hamas representative in Ramallah, told us: "We are not interested in the Oslo-type peace process that went on for 10 years and wasted time. But if Israel will start new negotiations, with direct benefits for Palestinians in a useful time frame, we will accept that."

Judging from the thousands of green posters plastered around the West Bank and Gaza, external matters like the peace process were not central to Hamas's electoral agenda. Rather, its campaign focused on popular concerns like fighting corruption, establishing good governance and restoring the rule of law. Hamas's victory speeches have emphasized the need to revamp public services.

To be sure, we should be careful not to read too much into Hamas's electioneering. The Hamas charter retains poisonous language toward Israel, and the group has yet to renounce its views on the place of violence in the Palestinian resistance. And Hamas's Islamist agenda continues to alarm many secular Palestinians, even those who welcome its entry into politics.

Still, Hamas statements indicate that these attitudes are not set in stone. As Mohammed Ghazel, a Hamas leader in Nablus, told the Israeli newspaper Ha'aretz, "The charter is not the Koran." And Hamas has done more than any other armed faction to honor the truce that President Mahmoud Abbas brokered in February. Although Israel continues to arrest its members, Hamas has done little to retaliate. Such restraint might have been an electoral strategy, but it still proves that if the incentives are right, Hamas can hold its fire.

In any case, the United States and Europe cannot trumpet democratic ideals abroad and then ignore the popular will of Palestinian voters, 78 percent of whom turned out for this election. Refusing to engage with Hamas, however skeptical one may be of its intentions, will only further legitimize the party; it could even give rise to violence. Moreover, cutting off aid to the Palestinian Authority, which is already in a fiscal crisis and enormously dependent on foreign aid, could bankrupt it, further destabilizing the region.

Hamas has indisputably become the force to be reckoned with in Palestinian politics. Even Israel seems to have awakened to this reality. A radio reporter recently asked Shimon Peres, the former Israeli prime minister, about negotiating with Hamas. "We are not fighting against a name," he said. "We are fighting against a situation. If the situation changes, then what difference does a name make?"

If the Israelis are contemplating engagement, it's time the Americans and Europeans did, too.

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Growth Is Shown In Durable Goods; Jobs Look Positive (WSJ)

By Jeff Bater

The Wall Street Journal, January 27, 2006

WASHINGTON -- Orders to the nation's factories for big-ticket goods finished 2005 strongly, while jobless claims rose last week but remained at a level indicating healthy job growth.

Durable-goods orders climbed 1.3% in December to a seasonally adjusted $228.14 billion, the third straight increase, the Commerce Department said. Demand was higher for airplanes, machinery, cars and capital goods.

"The durable-goods report for December was extremely strong," said Stephen Stanley, an economist at RBS Greenwich Capital Markets. "The headline rise of 1.3% was decent, but some of the underlying statistics were even more impressive."

Orders for nondefense capital goods excluding aircraft, for instance, went up 3.5%. November demand climbed 0.2%; a previous estimate had orders that month falling by 2.1%. The category is an important gauge of business spending.

Read the complete text of Thursday's economic reports and analysis from Briefing.com: • Durable-goods orders -- Commerce Department1; Briefing.com2

• Initial jobless claims -- Labor Department3; Briefing.com4

Transportation orders advanced 1.9%. Machinery demand rose 6.5%. Commercial-plane orders sank 8.1%; however, the mild drop followed a 139% surge in November. December orders for military aircraft jumped 30.8%. Demand for motor vehicles and parts rose 6.6% last month. Orders fell 1.1% for computers and electronics, 2.2% for primary metals, and 2.8% for electrical equipment.

Separately, the Labor Department reported that the number of workers filing new claims for unemployment benefits climbed by 11,000 to a seasonally adjusted 283,000 in the week ended Jan. 21.

The four-week moving average of initial jobless claims fell 10,750 to 288,750 from 299,500 the previous week. The moving average is at its lowest level since an identical average in the week ended July 1, 2000.

With three jobless-claims numbers below 300,000 in the past four weeks, "it is beginning to look as though there has been a real improvement in the labor market at the start of this year, though we still have reservations about the reliability of the seasonal adjustments at this time of year," said Ian Shepherdson, chief U.S. economist at High Frequency Economics in Valhalla, N.Y.

Nonfarm-payroll employment rose by 108,000 jobs last month and 305,000 jobs in November. That is an average of more than 200,000 a month, a pace seen as quite healthy.

Rising Profit Forecasts Send Shares Sharply Higher (NYT)

By Bloomberg News

The New York Times, January 27, 2006

Stocks rose the most in three weeks as Caterpillar, Honeywell International and Lockheed Martin increased profit forecasts.

The Dow Jones Industrial Average and the Standard & Poor's 500-stock index had their biggest gains since fourth-quarter earnings reports began. A government report showing that orders for durable goods rose more than forecast contributed to their advance. Phone companies rallied as sales at AT&T and Verizon Communications beat analysts' estimates.

The S.& P. 500 rallied 9.15 points, or 0.7 percent, to 1,273.83 for its biggest advance since Jan. 6 and third gain in the last four days. The Dow industrials climbed 99.73 points, or 0.9 percent, to 10,809.47, the biggest rise since Jan. 3. The Nasdaq composite index rose 22.35 points, or 1 percent, to 2,283.

Some disappointing earnings reports pressured stocks earlier this month when the reporting period began, but that concern subsided this week as the picture began to brighten with reports from Dow members like United Technologies and McDonald's.

Not all results yesterday were stellar.

Stock in General Motors dropped after the company reported its first annual loss since 1992. Juniper Networks suffered its worst drop in five years after a sales forecast disappointed and analysts downgraded the shares.

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Caterpillar and Honeywell were the two biggest gainers in the Dow average. Caterpillar, the world's No. 1 maker of earth-moving equipment, rose $3.10, to $65.17. The company raised its 2006 per-share profit forecast to $4.65 to $5, from an earlier estimate of $4.52 to $4.91.

Shares of Honeywell, the world's largest maker of aircraft cockpit controls, added $1.35, to $37.41, after the company said it expected 2006 per-share earnings of $2.40 to $2.50 on greater demand for commercial aircraft. It had previously forecast profit of $2.35 to $2.50 a share.

Lockheed gained $1.98, to $66.99. The company increased its forecast for 2006 earnings to $4.50 to $4.75 a share, from $4 to $4.25.

The Commerce Department said orders for durable goods, items made to last at least several years, increased 1.3 percent, to $228 billion, in December. Economists expected an increase of 1 percent. The results were led by the biggest increase in business equipment demand since August.

AT&T, reporting its first results since the company was created by the combination of SBC Communications and AT&T, said revenue expanded 25 percent, to $21.6 billion, including its wireless unit. Net income more than doubled.

AT&T added 30 cents, to $25.51, and Verizon climbed 30 cents, to $31.68.

Microsoft said after the close that revenue this quarter would be $10.9 billion to $11.2 billion and per-share earnings would be 32 cents to 33 cents. Shares of Microsoft, which said fiscal second-quarter profit rose 5.5 percent, added as much as 40 cents, to $26.90, in extended trading.

Chipotle surged to $44 from its offering price of $22. Chipotle and McDonald's together sold 7.88 million shares. Chipotle has 489 stores that sell burritos, tacos and salads and was acquired by McDonald's in 1998. McDonald's lost 22 cents, to $34.94.

G.M. fell 80 cents, or 3.4 percent, to $23.05, the worst performance by companies in the Dow industrials. The company had a fourth-quarter loss of $4.78 billion and was unprofitable on an annual basis for the first time in 13 years amid rising health care costs and the lowest market share in the United States since 1925.

Bond prices fell, with the 10-year Treasury bill falling 11/32, to 9927/32, and the yield, which moves in the opposite direction from the price, rising to 4.52 percent, from 4.48 percent late Wednesday.

Dow Surges 99.73 As Strong Reports Push Stock Investors To Think Positive (WSJ)

By E.s. Browning

The Wall Street Journal, January 27, 2006

Stocks resumed their rebound after last week's swoon, as strong profit reports and upbeat economic news spurred hopes for corporate performance this year.

The Dow Jones Industrial Average surged 99.73 points, or 0.93%, to 10809.47. That's up almost 1% for 2006, but the blue-chip average still isn't back to 10880.71, where it stood before last Friday's 213-point decline. Trading activity again was heavy.

"The market really is bouncing around," said Andy Brooks, head of stock trading at Baltimore investment-management firm T. Rowe Price. "This was a day when the market chose to focus on the good news and not worry about some of the negatives -- like the situation in Iran or Nigeria," or how many more times the Federal Reserve will raise interest rates.

Caterpillar and Lockheed Martin turned in strong quarterly profits and raised their forecasts. December orders for durable goods were strong, and last week's new unemployment claims came in lower than expected.

In news that could affect trading today, Microsoft released quarterly results after regular trading hours, including a slightly improved forecast for sales and profits. Microsoft rose 1.9% in after-hours trading.

During regular hours, the economic news helped small stocks and transportation stocks, which are especially susceptible to the economy's health. The Russell 2000 small-stock index surged 1.68% to a record close of 728.48, up 8% this year.

News that China's economy surpassed France and Britain to become the world's fourth-largest encouraged the talk of strong growth.

The gains came despite oil's 41-cent rise to $66.26 a barrel, and a 3% drop in General Motors, which reported a large quarterly loss.

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Treasury-bond prices fell again on worries that the government budget deficit will force the issuance of more bonds, and that the strong economy will induce the Fed to raise rates more than had been expected.

The Standard & Poor's 500-stock index rose 0.72%, or 9.15 points, to 1273.83, up 2.1% for 2006. The Nasdaq Composite Index advanced 0.99%, or 22.35 points, to 2283, up 3.5% this year.

In major U.S. market action:

Stocks rose; bonds fell. The 10-year Treasury note fell 10/32, or $3.13 for each $1,000 invested, pushing the yield up to 4.515%. The 30-year bond was down 20/32 to yield 4.695%.

The dollar strengthened. The currency rose to 116.41 yen from 115.71 yen, while the euro fell against the dollar to $1.2213 from $1.2245.

Chairman Moved A Nation (WP)

By Nell Henderson

The Washington Post, January 27, 2006

Government leaders, Wall Street analysts and academics have heaped accolades on Alan Greenspan as he prepares to step down as Federal Reserve chairman Tuesday, leaving behind a strong economic expansion, tame inflation and low unemployment after more than 18 years of adjusting the nation's interest rates.

But Greenspan, 79, also leaves a remarkable political legacy, say Republican and Democratic policymakers who have worked with him in Washington over nearly four decades.

From his days working on Richard Nixon's 1968 presidential campaign to his congressional testimonies last year, Greenspan has helped candidates, presidents and lawmakers devise and sell policies on countless social and economic issues. An avowed "free-enterpriser," Greenspan consistently pushed for less government regulation, smaller federal budget deficits and freer trade, these observers said. Early on, he helped move the federal government to play a smaller role in the U.S. economy than was commonly accepted in the 1960s and 1970s.

However, as Greenspan has indicated in public and private comments, his years in political life also taught him that compromise is necessary to preserve both capitalism and democracy. Over time, Greenspan helped forge several deals that strengthened the government's hand or extended its reach.

"Alan has had, mostly behind the scenes, a tremendous impact on government policy" over the last 40 years, said former president Gerald R. Ford in a December interview. Ford appointed Greenspan chairman of the Council of Economic Advisers in 1974.

Long before becoming Fed chairman in 1987, Greenspan played key roles in ending the nation's military draft, rescuing New York City from near-bankruptcy and temporarily saving Social Security from insolvency. Since taking the helm of the central bank, he helped persuade Congress to approve President Bill Clinton's 1993 budget and President George W. Bush's 2001 tax cut. He urged Congress last year to create private Social Security accounts, reduce the deficit and resist calls to erect new trade barriers.

"Alan Greenspan has probably been a key player in more Republican presidential campaigns and Republican party platforms and Republican administrations than any other economist in the country," said Martin Anderson, a senior fellow at the Hoover Institution who worked in the Nixon and Reagan administrations. "He's a wonderful politician."

Greenspan thrived in the Republican Party because it housed so many like-minded individuals. But Democrats, including President Jimmy Carter, also embraced deregulation in the 1970s; Clinton, in the 1990s, supported free trade and deficit reduction, declaring the era of big government over.

In the process, "the political impact of [Greenspan's influence] has probably been to push the Democrats more to the center on fiscal policy," said investment banker Felix G. Rohatyn, a Democrat who served as Clinton's ambassador to France.

The Fed chairman declined to comment for this article.

Greenspan took his first steps into politics in 1968 when Anderson asked him to join Nixon's presidential campaign. Greenspan helped coordinate domestic policy research and analyze poll data, writing computer programs to project the electoral vote count.

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Greenspan had met Anderson years earlier when both formed part of the intellectual circle of novelist Ayn Rand, a Russian emigre whose writings celebrated laissez-faire capitalism. Three of the essays in Rand's 1967 book "Capitalism: The Unknown Ideal" were authored by Greenspan, then the 41-year-old president of an economic consulting firm in New York City.

"Chronic deficit spending [is] the hallmark of the welfare state," the future Fed chairman wrote. "The welfare state is nothing more than a mechanism by which governments confiscate the wealth of the productive members of a society to support a wide variety of welfare schemes."

For Greenspan, the Nixon campaign offered a chance to influence the candidate's policies. Early on, though, Greenspan could be politically naive as he promoted his libertarian ideals: Nixon ignored his advice to end farm subsidies, for example. But he also scored some successes: Candidate Nixon called for the end of the military draft, as Anderson and Greenspan had recommended.

After Nixon was elected in 1968, Greenspan served on the president's Gates Commission, convened to study the possibility of creating all-volunteer armed forces. Greenspan considered the draft a form of involuntary servitude and voted along with the rest of the panel to end it, contributing to its demise in 1973.

By the summer of 1974, when the Watergate scandal was at full boil, the president needed a new chairman of the Council of Economic Advisers. Greenspan accepted the nomination but had not been confirmed by the Senate when Nixon resigned in August. But President Ford quickly resubmitted the nomination, and Greenspan moved full time to Washington for three years.

From the start, Ford recalled, "Alan was at the forefront" of his administration's efforts to free the economy from government interference by deregulating the airline, trucking and railroad industries and dismantling wage and price controls imposed during the Nixon administration.

Ford said he valued Greenspan's technical expertise but also his "feeling for the country as a human being," which the former president credited to the economist's experience touring the country in his youth as a musician in a swing band.

"That background was invaluable in his judgment on the economy," Ford said. "It wasn't all just academic theory. He understood the practicality of the economy."

When New York City verged on bankruptcy in 1975, Ford's cabinet was divided over the city's request for financial assistance, the former president remembered: Some officials wanted to give the city money and others opposed any government bailout. Ford said Greenspan and Fed Chairman Arthur F. Burns solved the impasse by proposing a compromise -- a package of federal loans that would be fully repaid over time -- that helped stabilize the city's finances.

Greenspan could be politically tone-deaf on occasion when speaking to the public. At a conference in September 1974, the new CEA chairman was jeered when he said Wall Street brokers were being hurt the most by high inflation, in terms of the percentage of income eroded. He later apologized.

But his advice was well received by presidents and other policymakers because they valued his cool analysis, discretion and refusal to candy-coat bad news, said Justin Martin, the author of a Greenspan biography. "He has a gravitas about him . . . that has made people in power very comfortable with him."

Greenspan served as an economic adviser to Ronald Reagan's 1980 presidential campaign. After his election, Reagan asked Greenspan to co-chair a commission to develop proposals for rescuing Social Security. Greenspan's panel hammered out a bipartisan deal to raise payroll taxes and gradually lift the retirement age.

On the commission, Greenspan displayed his instincts for compromise and a canny grasp of politics. In congressional testimony last year, he recalled how closely he worked with Robert M. Ball, a Social Security expert appointed to the commission by the Democratic House Speaker Thomas P. "Tip" O'Neill Jr. As the panel worked on each issue involved, Greenspan would run the various options by Reagan and his Chief of Staff James A. Baker III, while Ball would float them through his own back-channel to O'Neill. In that way, the panel knew, step-by-step, which proposals would be acceptable to both sides.

"What came out was essentially the commission report pre-agreed to by the speaker of the house and . . . President Reagan," Greenspan said during his testimony.

He and Ball also crafted a pact on how to handle the House Ways and Means Committee's hearing on the report. "I said to Ball, 'When the Republicans ask you a question, I will answer it, and I hope you will answer the questions that the Democrats ask me.' And it worked remarkably well."

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It was during the Nixon, Ford and Reagan years that Greenspan worked with the officials who later would elevate him to become Fed chairman in 1987, replacing Paul A. Volcker.

The Fed's main job is to keep inflation and unemployment low by adjusting interest rates -- acting independently of the White House or Congress.

During the administration of President George H.W. Bush, from 1989 through 1992, Greenspan resisted White House pressure to keep interest rates lower than he thought necessary. Bush later blamed Greenspan for his electoral loss to Clinton in 1992.

Greenspan had smoother relations with Bush's Democratic successor. In early 1993, the Fed chairman lent critical support to Clinton's deficit-reduction plan -- even though it included tax increases -- describing it on Capitol Hill as "a very positive force for the American economy." The package passed with no Republican votes, but Greenspan's public backing helped win some dearly needed Democratic ones, recalled Rep. Barney Frank (D-Mass.).

During the mid-1990s, Greenspan worked closely with Clinton's economic team in crafting responses to financial crises in Mexico, Asia, Russia and elsewhere -- even when those efforts occasionally required government influence on the markets -- and drumming up support for them on Capitol Hill and elsewhere.

By early 1995, Greenspan's political influence was so great that House Majority Leader Newt Gingrich asked him to call conservative talk show host Rush Limbaugh to explain the Clinton administration's plan to rescue Mexico, which was close to defaulting on its debts. Gingrich supported the plan, which the Fed chairman had helped design, but congressional Republicans were balking.

"I was looking for ways to get the conservative community to understand. . . . Rush is a leading communicator to 14 to 15 million conservatives," Gingrich recalled in an interview. Greenspan "is the leading economic policy analyst in the U.S. and arguably the world."

The Fed chief reluctantly made the call. Even so, Congress refused to back the plan, forcing the administration to take a different approach that didn't require lawmakers' approval.

Meanwhile, as the economy boomed in the late 1990s, unemployment fell, stock prices soared and the federal budget deficits turned into surpluses.

"The Clinton administration had huge successes carrying out the economic policies essentially fathered by Alan Greenspan and [Clinton Treasury Secretary Robert E.] Rubin, and they see that as an enormous feather in their hat," Rohatyn said.

Greenspan then argued for several years that the White House and Congress should "let the surpluses run" to pay down the government's debt rather than cut taxes or raise spending.

So many Democrats were outraged in January 2001, when Greenspan urged Congress to cut taxes, lending a key political boost to President George W. Bush's tax cut proposal. Critics charged that Greenspan had become too partisan for a Fed chief; others saw him simply reverting to his anti-government ideology.

But Greenspan believed the surpluses would continue and suggested that policymakers design "triggers" to scale back the tax cuts if deficits reemerged. Congress later passed a reduced form of Bush's tax cut without such provisions.

After the budget swung back into deficit in 2001 and more tax cuts followed, Greenspan repeatedly supported making the temporary tax cuts permanent -- one of the Bush administration's top policy goals -- while cutting spending.

Greenspan's influence on Capitol Hill has waned since 2001, as the political parties have grown bitterly divided over economic policy, leaving them less open to compromise. Lawmakers did not follow his advice last year to create Social Security private accounts, or to cut Social Security and Medicare commitments to future retirees -- positions that Democrats adamantly oppose. Nor did they heed him and adopt stricter budget controls -- which the White House and congressional Republicans reject.

But lawmakers of both parties continue to quote his ideas and arguments and seek his support for their positions. And he plans to offer his opinions after he leaves the Fed by giving speeches, writing a book and creating a new Washington-based consulting firm, Greenspan Associates, friends say.

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And as Greenspan said in a speech earlier this year, "In the broad sweep of history, it is ideas that matter. Indeed the world is ruled by little else."

Democrats Ride Momentum Into Mid-term Election (WP/REU)

By John Whitesides, Political Correspondent

The Washington Post, January 27, 2006

WASHINGTON (Reuters) - Democrats are riding a wave of momentum into November's high-stakes battle for the U.S. Congress, with high hopes for significant gains that could threaten Republican control of the House and Senate.

Republicans enter the campaign after the toughest stretch of President George W. Bush's presidency, fueled by an unpopular war in Iraq, economic uncertainty, political scandals and Bush's low approval ratings.

But despite the favorable political mood for Democrats, analysts say the party faces major hurdles to gaining the six Senate and 15 House seats needed to reclaim control of Congress.

To win majorities, Democrats need to capture most of a small pool of competitive seats in the House while bumping off at least five Republican Senate incumbents -- tough tasks in any political climate, but not impossible.

"It looks like the Democrats will gain seats in the House and Senate, but the question is how many. Is it going to be a Democratic tide or a Democratic tsunami?" asked Larry Sabato, a political analyst at the University of Virginia.

"It is going to be hard for Democrats, but if the situation continues to deteriorate for Republicans this year anything is possible," he said.

Democratic majorities in Congress would allow them to control the legislative agenda and put the brakes on many of Bush's policy initiatives, while even small gains would increase their clout in Capitol Hill battles over issues like judges, taxes and national security.

The best chance for a Democratic breakthrough could be the Senate, where 33 of 100 seats are on the ballot. Republicans hold 15 of those seats and Democrats 18, but five of the most endangered incumbents at this stage are Republicans.

Republicans Mike DeWine of Ohio, Rick Santorum of Pennsylvania, Lincoln Chafee of Rhode Island, Jim Talent of Missouri and Conrad Burns of Montana all face tough re-election races.

The open Tennessee seat of retiring Republican Bill Frist is also on the Republican endangered list, while Democrats face a battle defending the open Minnesota seat of retiring Mark Dayton.

Democrats also must defend open seats in Maryland and the Vermont seat of retiring and Democratic-leaning independent Jim Jeffords, along with incumbents Bill Nelson in Florida, Ben Nelson in Nebraska, Maria Cantwell in Washington, Robert Byrd in West Virginia and Debbie Stabenow in Michigan.

"Before they go after our incumbents they are going to have to defend their own. These open seats certainly offer an opportunity," said Sen. Elizabeth Dole of North Carolina, head of the Senate Republican campaign committee.

The toughest and highest-profile race of the year could be in Pennsylvania, where Santorum, the third-ranking Republican in the Senate, badly trails Democratic challenger Bob Casey Jr.

DEMOCRATS NEED SWEEP

"The Democrats have to sweep the competitive Republican races to take power, while holding all of their own. That's tough," said Jennifer Duffy, an analyst for the nonpartisan Cook Political Report.

"That means they have to win the open seat in Tennessee and beat five Republican incumbents. The last time five incumbents lost was 1986," she said.

Burns has become ensnared in the growing corruption investigation involving Republican lobbyist Jack Abramoff, which Democrats use as a prime example of the Republican "culture of corruption" in Washington.

Also caught up in the explosion of scandals is former House Republican Leader Tom DeLay of Texas and former House Administration Committee Chairman Bob Ney of Ohio, who both face tough re-election races.

The public so far is not blaming either party for the scandals, polls show, but they crave a change in Washington and favor Democrats on most issues, with the major exception of national security and the war on terrorism.

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"There is an anti-incumbent mood out there and Republicans are the ones who will bear the brunt of it," said Senate Democratic campaign committee spokesman Phil Singer.

On the House side, redistricting after the 2000 census safeguarded incumbents across the country and reduced the number of competitive districts to a few dozen. The Cook Report lists only 28 House districts that are toss-ups or somewhat competitive, with Republicans defending 18 and Democrats 10.

Republicans say that will force Democrats to score a near sweep of competitive districts if they want to reclaim power. They are counting on the races turning on local issues rather than national trends.

"People don't go into a voting booth and pull the Bush lever or the anti-Bush lever or the Republican lever, they vote for a person," said House Republican campaign spokesman Carl Forti.

"So you have to make a case to the constituents of a district why their incumbent needs to be fired, and being from the same party as Tom DeLay or George Bush isn't enough."

Mass. Gov. Mitt Romney Speaks About 2008 Election (LEXHL)

By Steven Thomma

Lexington Herald-Leader (KY), January 27, 2006

WASHINGTON - Massachusetts Gov. Mitt Romney, a possible candidate for the 2008 Republican presidential nomination, said Thursday that his Mormon faith would not matter to the vast majority of voters, including the evangelical Christians who influence his party's politics greatly.

``Americans want people of faith to lead their country,'' he said during a lunch interview with reporters in Washington. ``Republicans aren't going to be putting a litmus test against people of my faith,'' he added.

Romney also said that his views on abortion have evolved since he refused to take either a pro-choice or pro-life label during his 1994 campaign against Sen. Edward Kennedy, R-Mass.

``I'm in a different place today than I was 12 years ago,'' he said.

He said personal research about embryonic stem cells convinced him that life begins at conception. He said the Supreme Court should send the power over abortion back to the states by overturning the 1973 Roe v. Wade decision that legalized it nationwide.

Still, he said, he would support legalized abortion in his state if his state so chose.

Romney, a first-term governor who has announced that he will not seek a second term, refused to say whether he will seek his party's nomination in 2008. But his appearance before the Washington press corps gave him a chance to address some of the potential problems that would face his campaign, the same venue that Bill and Hillary Clinton used in 1991 to introduce themselves to the national political press corps.

Romney appeared before the group years earlier with his father, who died in 1995. Former Michigan Gov. George Romney was a leading contender for the 1968 Republican nomination until he said he had been ``brainwashed'' by the Pentagon into supporting the Vietnam War. Richard Nixon won the nomination and the presidency.

Some excerpts from Romney's interview Thursday:

On how Americans will respond to his Mormon faith:

``First of all is the great majority of Americans and the great majority of people in my own party who frankly couldn't care less what someone's religion is. I mean I'm from a state, Massachusetts, that's what, 50-55 percent Catholic, and frankly couldn't care less what religion I am. And that's the overwhelming majority of people in the country.

``Then there's a small group that, frankly, all things being equal, they'd just as soon not vote for a Mormon. There have been some polls that show that ranges between 11 and 17 percent or some numbers like that. But it's a small slice of people who'd just as soon not vote for a Mormon, all things being equal. .

``All things aren't equal though. People are different. When my dad ran for president in 1968, people looked at him, they looked at his record, they looked at his vision, they looked at his beliefs. Americans want people of faith to lead their country.

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``And they took the whole package and they said, well, all things being equal I wouldn't vote for a Mormon…but all things aren't equal and I like that guy George Romney. And that's why he was so popular and why he led in the polls until he got brainwashed.

On how his faith will be greeted by Evangelical Christians, who have great influence in Republican politics:

``The great majority of Evangelicals look to see a person…is a person of faith.

``Members of my faith vote Republican more than any other faith in America. Republicans aren't going to be putting a litmus test against people of my faith.''

On his view of abortion since he ran for the Senate in 1994 and refused to say he was either pro-choice or pro-life:

``I'm in a different place today than I was 12 years ago.

``Then came the stem-cell research debate in Massachusetts. And I got more involved in the issue of when human life begins. I'm not talking about from the religious standpoint. I'm talking about from the medical and scientific standpoint. …

``Where do I draw the line? …The line is at conception. Life, a scientific point, begins at conception. I don't know when the soul, if you're religious, when the soul enters the body. My religion doesn't teach that, doesn't have an opinion on it.

``I know when you take a sperm and an egg and put them together…it is alive and it is human. …So it's human life.''

< On the Supreme Court overturning Roe v. Wade:

``My preference would have been and would be today for the court to say each state could be able to adopt its own policy with regards to abortion and choice.

``We would have been better off had each state been able to develop their own policy.

``That way a state like mine, Massachusetts, would be overwhelmingly pro-choice and I as governor would do exactly as I have committed. I'm not going to change the laws. You've chosen pro-choice, it's a democratic society, you've chosen it, I'll keep it in place.

On President Bush's order to conduct warrantless wiretaps of calls between Americans and suspected terrorists overseas

"I expect the president to live by the law and I presume that he has."

Romney Says Clinton Likely 2008 Nominee (AP-Y2)

By Andrew Miga

AP2, January 27, 2006

Massachusetts Gov. Mitt Romney, a Republican considering a run for the White House, says he expects New York Sen. Hillary Rodham Clinton to be the 2008 Democratic presidential nominee.

"I think the most likely to get the nomination, of course, is Hillary Clinton," he said during a Christian Science Monitor-sponsored luncheon with reporters on Thursday.

As for his own prospects, Romney brushed aside suggestions his Mormon faith could be a handicap if he seeks the GOP nomination.

"The great majority of Americans ... couldn't care less what my religion is," he said. He noted he has won support in Massachusetts, a state with many Catholic voters, and said religion did not hamper his father George Romney's 1968 presidential candidacy.

The governor predicted the Jack Abramoff corruption scandal would not cripple Republicans as they try to keep control of the House and Senate in next fall's midterm elections.

"The idea that money has influence in politics is not a headline story in major parts of the country," he said.

Romney has made recent trips to key presidential caucus and primary states such as Iowa and New Hampshire.

Mitt Romney (CSM)

By David T. Cook

The Christian Science Monitor, January 27, 2006

Massachusetts Gov. Mitt Romney appeared at a Monitor-sponsored lunch Thursday and opened some distance between himself and the Bush administration on the war in Iraq and the Medicare prescription drug benefit.

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Romney announced last month that he is not running for reelection, a move widely analyzed as a preliminary step toward a bid for the 2008 Republican presidential nomination.

"There are plenty of places where I would separate from the administration," Romney told a roomful of reporters, "where I might have chosen another course ... certainly with regard to the war in Iraq or the front in Iraq - were there mistakes made there? Absolutely. Would I have done it differently? Of course. Would the president have done it differently based on what he knows today? Of course, in some measure."

For example, Romney said he would not have rested the whole case for the war in Iraq on finding weapons of mass destruction. He added, " There will certainly be occasions to recognize that no administration is omniscient and that there are places where we will disagree on policy."

Romney was also critical of the process by which the Republican-controlled Congress and President Bush produced a precription drug benefit under Medicare, the so-called Part D of the program. "The final product on Medicare Part D, that final bill was sort of sausage squared, the idea you don't want to see how sausage is made," Romney said.

The issue of Medicare Part D "is a complicated one," Romney said. He noted that President Bush "wanted to bring prescription coverage to seniors. He got that done, that's huge.... It has with it a financial burden which is very large. I don't imagine that that was what he was aiming for when he thought about this during his campaign."

Romney said, "I would have hoped to do it differently, I would have hoped to include within the additional prescription benefits certain reforms to Medicaid, Medicare, and our entire healthcare system to be able to pay for a very helpful prescription drug benefit."

Romney downplayed the impact his Mormon faith would have on evangelical Republican voters. "First of all the great majority of Americans and the great majority of the people in my own party ... frankly couldn't care less what someone's religion is," he said. The Bay State governor said there was "a small group," which he placed at 11 to 17 percent of the voters, "would just as soon not vote for a Mormon" but would if they liked an individual candidate. "Those two groups together are 98 or 99 percent of the electorate and then there is this very small slice, and boy, they will not vote for a Mormon no matter what," he said.

Stuart Rothenberg, editor of the Rothenberg Politcal Report, wrote in the current issue of the newspaper Roll Call that Romney's membership in the Church of Latter-day Saints "is certain to raise questions (and concerns) that will give many Republican caucus attendees and primary voters a reason not to support the governor. That would be a considerable handicap for a politician who begins with other liabilities."

Romney displayed flashes of self-deprecating humor, which is not always politicians' favorite variety. He said he had asked his wife if in her wildest dreams she had thought he would be addressing prominent groups. He said her response was, "Mitt, you were not in my wildest dreams."

Governor Romney's life story is an inspiring riches-to-riches tale. The son of auto executive and Michigan Gov. George Romney, Mitt attended the Cranbrook School in Bloomfield Hills, Mich. He graduated near the top of his class at Brigham Young University, and then picked up diplomas from both Harvard Law and Business Schools.

After Harvard, Romney pursued a business career. He founded Bain Capital, gave Ted Kennedy a scare during the 1994 Senate race, and in 1999 took over as head of the winter Olympic Games in Salt Lake City. Mr. Romney ran for governor of the Bay State in 2002. Last month, he announced he would not be a candidate for reelection, freeing him to learn more about the wonders of ethanol in Iowa and to articulate a passionate defense of New Hampshire's innate right to have the first primary in the nation.

A Romney-Kerry Rivalry? Not The Stuff Dreams Are Made Of. (WP)

By Dan Balz And Chris Cillizza

The Washington Post, January 27, 2006

Massachusetts Gov. Mitt Romney (R) put some distance yesterday between himself and the Bush administration on the issue of health care, criticizing the White House for failing to demand significant reforms in Medicare and Medicaid when Congress enacted a prescription drug benefit for senior citizens.

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With an eye on a 2008 presidential campaign, Romney spent an hour over lunch with reporters in Washington talking about his evolution on the issue of abortion (from once eschewing labels to now calling himself "pro-life"), whether his Mormon religion will hurt him if he runs for president (only with a tiny percentage of the electorate, he said), his management style (heavy on analysis) and health care for all citizens, which is a top priority of his back home.

The new prescription drug plan has gotten off to a rocky start, with many states having to step in to pay for drugs for seniors who have been denied coverage because of bureaucratic bungling. Romney said the benefit is well deserved -- but so is the criticism. His complaint is that the administration created a new and costly entitlement program without exacting changes aimed at holding down costs.

"I would have hoped to do it differently," he said at the media gathering, sponsored by the Christian Science Monitor. "I would have hoped to include within the additional prescription benefit certain reforms to Medicaid, Medicare and our entire health care system to be able to pay for a very helpful prescription benefit. . . . It's a new entitlement program, and I would have wanted to finance that entitlement with reforms and changes and adjustments in the overall program."

Romney also dealt with some Washington controversies. On the debate over President Bush's warrantless surveillance program: "I expect the president to live by the law, and I presume he has." On whether the lobbying scandal will damage Republicans in November: "The idea that money has influence on politics is not a headline story in major parts of the country."

Toward the end he was asked about 2008, Iraq, and the possibility that he and Sen. John F. Kerry (D-Mass.) might end up as rivals. "Do you fantasize about that?" he was asked.

"Not about that, no," he replied to laughter. Referring to his wife, he said: "I told Ann that I was coming here to speak to you today, and I said 'Sweetheart, in your wildest dreams, did you ever see me coming here and speaking to this group?' and she said 'Mitt, you weren't in my wildest dreams.' " That sounded like a line GOP audiences are likely to hear repeatedly over the next few years.Ney Doesn't Shy From Reelection Bid

If there was any doubt that Rep. Robert W. Ney (R-Ohio) would allow certain inconvenient subjects in the news to force him from a reelection bid, it is over: He made a formal announcement last night in Dover, Ohio. He is expected to make a similar pronouncement today in Chillicothe -- not coincidentally, the home town of his likely Democratic foe in November.

"2006 promises to be a vigorous campaign, and I am ready for the fight," Ney told a local newspaper Wednesday.

He will almost certainly get it, given the barrage of recent disclosures that federal prosecutors are targeting Ney for his suspected role in doing favors for disgraced lobbyist Jack Abramoff in exchange for lavish trips and campaign contributions.

In Abramoff's plea agreement, Ney was the lone member of Congress mentioned. Ney has repeatedly denied any wrongdoing. He temporarily stepped aside as chairman of the House Administration Committee earlier this month at the urging of House Speaker J. Dennis Hastert (R-Ill.). Despite the Republican tilt of Ney's sprawling east-central 18th District, Democrats believe his Abramoff woes have handed them a golden takeover opportunity. Chillicothe Mayor Joseph P. Sulzer and lawyer Zack Space are seeking the Democratic nomination and will face off in May 2 primary.Candidate Fires Staffer for Comment

Foot-in-mouth disease has claimed another victim -- this time in Pennsylvania's Republican gubernatorial primary.

Former lieutenant governor Bill Scranton (R) fired his campaign manager Wednesday after the man accused former Pittsburgh Steeler Lynn Swann (R), who is black, of being the "rich white guy" in the race.

Scranton said the remarks by James Seif "in no way whatsoever reflect my views or those of my campaign." Both Scranton and Seif are white.

Public polling shows Swann, a Hall of Fame wide receiver for the Black and Yellow from 1974 to 1983, with a lead over Scranton in the primary. Swann is also running even or ahead of Gov. Edward G. Rendell (D). If elected, Swann would be the Pennsylvania's first black governor.

Republican Cox Won't Re-enter N.Y. Race (PHI)

By Marc Humbert

The Philadelphia Inquirer, January 27, 2006

ALBANY, N.Y. - Edward Cox, a son-in-law of the late President Richard Nixon, said Thursday he would not resume his campaign for the Republican nomination to challenge Sen. Hillary Rodham Clinton's re-election bid this year.

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The Manhattan lawyer suspended his campaign in October after Republican Gov. George Pataki endorsed then-Westchester County District Attorney Jeanine Pirro's bid for the Senate nomination. Her campaign subsequently collapsed and Pirro heeded the call of state GOP leaders to run instead for state attorney general.

That left former Yonkers Mayor John Spencer, little-known statewide, as the leading contender for the GOP nomination. Some GOP leaders pressed Cox to consider getting back in the race.

However, Cox said in a statement issued Thursday that "after careful consideration of the circumstances and conditions as they exist surrounding the race, including the now shortened time frame available to run an aggressive and effective campaign , I will not seek my party's nomination."

Last week, in an impromptu interview with The Associated Press, Cox said one condition for re-entering the race was a solid endorsement from Pataki. The governor subsequently made it clear no such endorsement would be forthcoming in the near future.

Advisers said the October suspension of the campaign left Cox at a disadvantage for fundraising and becoming well known across the state to credibly take on an opponent of Clinton's celebrity.

Polls have shown the former first lady, a potential candidate for the 2008 Democratic presidential candidate, far ahead of her potential GOP competition in her bid for a second, six-year Senate term.

In addition to Spencer, the GOP Senate nomination is being sought by William Brenner, an even less well-known tax attorney from Sullivan County.

Spencer, calling Cox "a good guy," said Thursday he now expected GOP leaders to rally behind his candidacy, although Spencer also said he had not asked Pataki for his backing and didn't know if he would get it.

"He's not really shown an interest in this race as far as I'm concerned, except when he popped his head up there briefly for Jeanine Pirro and even that wasn't that strong an endorsement," Spencer said. "I would like to have everybody's endorsement, including the governor's, but whether I get it or not doesn't alter my plans."

Meanwhile, Democrats teased Republicans about the situation, noting that a whole host of well-known GOP politicians, including former New York City Mayor Rudolph Giuliani and Pataki, had refused to run against Clinton.

"Note to the New York state Republican Party: Don't despair, you may not have to settle for John Spencer just yet," said a statement issued by Democratic Party spokesman Blake Zeff. "There are still about a dozen registered Republicans left in New York who you haven't asked yet."

Lawyer Says He Won't Run For Clinton's Seat (NYT)

By Jennifer Medina

The New York Times, January 27, 2006

ALBANY, Jan 26 — Edward F. Cox, a Manhattan lawyer and a son-in-law of President Richard M. Nixon, declared Thursday that he would not run for the Senate this year, even though Republicans had been courting him anew to challenge Hillary Rodham Clinton.

The announcement from Mr. Cox ended the prospect of a dynastic clash pitting Mrs. Clinton, a former first lady, against Mr. Cox, who is married to Mr. Nixon's daughter, Tricia.

In a statement, Mr. Cox said that "after careful consideration of the circumstances and conditions as they exist surrounding the race, including the now shortened time frame available to run an aggressive and effective campaign, I will not seek my party's nomination."

Mr. Cox's exit is yet another blow to Republican efforts to mount a credible challenge to Mrs. Clinton, whom many expect to run for president in 2008. His decision seemed to leave John Spencer, a former mayor of Yonkers, as the party's most likely challenger. Mr. Spencer entered the race in the summer, and he has never backed off his bid, despite reports that Republican leaders were looking for other candidates.

Mr. Cox's decision ended a tortured series of deliberations that had him first telling friends early last year that he intended to challenge Mrs. Clinton. In October he pulled out after Gov. George E. Pataki said he would endorse Jeanine F. Pirro's bid to

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unseat Mrs. Clinton. After Ms. Pirro left the race last month to run for attorney general, some state Republican leaders asked Mr. Cox to reconsider challenging Mrs. Clinton.

The Democrats, perhaps emboldened by Mrs. Clinton's hefty campaign war chest and large lead in the polls, were quick to poke fun at the opposition on Thursday. In a press release, they called Mr. Spencer the "eighth choice" and listed several other Republicans who had been pressed to run for office, including former Mayor Rudolph W. Giuliani.

"Note to the New York State Republican Party: Don't despair, you may not have to settle for John Spencer just yet," said the statement by Blake Zeff, the state Democratic Party spokesman. "There are still about a dozen registered Republicans left in New York who you haven't asked yet."

The chairman of the state Republicans, Stephen J. Minarik III, said that the party "had numerous candidates go through the system, and it looks to be that we're headed to John Spencer being the candidate."

Kevin Collins, a campaign manager for Mr. Spencer, characterized the campaign by paraphrasing Gandhi.

"First they ignore you, then they laugh at you, then they fight you, then you beat them," Mr. Collins said. "They won't be underestimating John Spencer for long."

Episcopalians Weigh Sainthood For Marshall (WP)

By Caryle Murphy

The Washington Post, January 27, 2006

When Thurgood Marshall died 13 years ago this week, he left behind a life of historic accomplishments: Intrepid warrior against Jim Crow. Architect of the landmark Brown v. Board of Education desegregation case. First black Supreme Court justice.

Now, some of Marshall's fellow Episcopalians are saying that the spiritual hallmark of his life -- his Christian commitment to racial justice -- qualifies him for special recognition. They think the Episcopal Church should name him a saint.

Delegates to the annual convention of the Episcopal Diocese of Washington will vote today on the proposal, the first step in a long process. If Marshall is added to the church's roster of saints, May 17 -- the date of the 1954 Supreme Court ruling that segregated schools are unconstitutional -- would be observed as Marshall Feast Day.

Church officials say they expect the 300 or so delegates to approve the resolution, which was drawn up by members of St. Augustine's Church in Southwest Washington, where Marshall worshiped.

"I haven't heard anyone say it's a bad idea," said Jim Naughton, spokesman for Bishop John Bryson Chane, who will preside at today's assembly at Washington National Cathedral.

When it comes to sainthood, Episcopalians follow a looser procedure than the Roman Catholic Church, which conducts a rigorous investigation into the life of any saint-to-be and requires proof that he or she performed at least two miracles. Candidates for Episcopal sainthood should be figures who displayed traits such as "heroic faith," "joyousness" and "service to others for Christ's sake," according to church guidelines.

Although Marshall did not speak publicly about his faith, it meant a great deal to him, said his widow, Cecilia Marshall, 78, who plans to be present when the resolution comes up for a vote.

"I believe if it weren't for his faith, he wouldn't have accomplished as much as he has," she said.

Marshall, who died of heart failure on Jan. 24, 1993, at the age of 84, was a lifelong Episcopalian. Born in Baltimore to a Pullman car porter and a schoolteacher, he graduated from Howard University's law school in 1933.

The great-grandson of a slave, he spent 30 years traveling the South, filing lawsuits on behalf of the NAACP's Legal Defense and Educational Fund. On at least three occasions, he was threatened with lynching.

In 1938, Marshall joined St. Philip's Church in Harlem while living in New York. After President Lyndon B. Johnson named him solicitor general in 1965, he and Cecilia moved to the District and joined St. Augustine's.

In written testimonies accompanying the resolution, Episcopalians say Marshall revealed his faith in his work.

"The Spirit working through this man gave him an intuitive sense of justice in which he saw all of life as sacred and all persons equal before God," wrote the Rev. William S. Pregnall, former rector of St. Augustine's.

If the Washington delegates vote to make Marshall a saint, the resolution will need to be approved by two consecutive national conventions. The next national convention will be in June, and the one after that, in 2009.

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The names of such saints are entered in a liturgical text called the Book of Lesser Feasts and Fasts -- "lesser" because these are not the primary feast days of the liturgical year, such as those dedicated to the Apostles.

"We're declaring [as saints] people who've given great Christian witness and played a unique role in the life of the church," said the Rev. Bruce Eberhardt, who wrote the resolution with his wife, Janet. "We don't pray to them. . . . It's very different from the Roman Catholic Church."

As far as miracles, Eberhardt added, "we think the miracle of Thurgood was turning this country around, changing the way we are."

One possible obstacle is that the national convention is considering a resolution stating that people should not be considered for sainthood until 50 years after their death.

"We're hoping we can argue that just as Martin Luther King Jr. has been in this book for some time now, Marshall deserves equal ranking," Eberhardt said.

Eberhardt, a retired priest and a member of St. Augustine's, said that a former rector of that parish, the Rev. John Talbott, tried to have Marshall named a saint in 1994, but "people thought it was too early [after his death] to make this move."

Talbott urged Eberhardt to try again, and the vestry at St. Augustine's approved the effort in May.

Cecilia Marshall said she felt "humbled and honored" by the proposal to name her husband a saint. She added that she had no role in the effort, "except to give my approval."

Her husband "never thought of himself as a saint," she said, noting that he declined several times to see the stained-glass window dedicated to him in San Francisco's Grace Cathedral. "He never went to look at it. He felt he just wasn't worthy of it."

She added: "I used to kid my husband. I said, you better go and look at it; that's the closest you'll ever get to heaven."

Bush And China Endorse Russia's Nuclear Plan For Iran (NYT)

By David E. Sanger And Elaine Sciolino

The New York Times, January 27, 2006

WASHINGTON, Jan. 26 — President Bush and the Chinese government both declared their full support on Thursday for a Russian proposal to allow Iran to operate civilian nuclear facilities as long as Russia and international nuclear inspectors are in full control of the fuel.

Mr. Bush's explicit public endorsement puts all of the major powers on record supporting the proposal, even as most acknowledge that it is a significant concession to Iran and runs the risk that the country will drag out the negotiations while continuing to produce nuclear material. Yet officials say they believe it is the best face-saving strategy to pursue a negotiated settlement with Iran.

European and American officials familiar with the details of the offer that Russia made to Iran say that Iran would continue to be allowed to operate its nuclear plant at Isfahan, which converts raw uranium into a form that is ready to be enriched. That is a step that both Europe and the United States said last year that they could not allow — and that was explicitly barred under the agreement between Iran and Europe in late 2004, because Iran could divert the uranium to secret enrichment facilities. Iran began operating the Isfahan plant again in August.

Mr. Bush did not discuss the details of the Russian offer. But American, European and Russian officials, who like others discussing the issue spoke on the condition of anonymity because they did not want to be seen as interfering in the negotiations, said the offer would allow Iran to continue operations at the plant that turns yellowcake, a concentrated form of uranium ore, into uranium hexafluoride, a toxic material that centrifuges spin into fuel for reactors or bombs.

Critics of that concession say that it could send a signal to Iran that it no longer has to comply with all provisions of its November 2004 agreement with Europe.

"A red line was crossed" when Iran began producing the uranium last fall, said David Albright, president of the Institute for Science and International Security, a nonpartisan research group that follows developments in Iran. "The Iranians got away with reopening the conversion facility, and now people have accepted it's never going to be shut again and have taken it off the table."

Mr. Bush made his statement embracing the Russian idea at a news conference on Thursday. He said, "The Iranians have said, 'We want a weapon.' "

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In fact, Iran has denied that it is pursuing a weapon, and in the afternoon, the White House spokesman, Scott McClellan, acknowledged that Mr. Bush had misspoken.

"He was referring to their behavior," Mr. McClellan said by telephone later. "Our concern is their intention is to develop a nuclear weapon under the guise of a civilian program."

Nonetheless, Mr. Bush's slip may cement the perception among some members of the board of the International Atomic Energy Agency that he has decided, at least in his own mind, that Iran is intent on building a weapon as fast as it can, a situation he has said repeatedly that he will not tolerate. Mr. Bush gave no hint on Thursday that he was thinking of military action, instead saying that "we are working hard to continue the diplomacy necessary to send a focused message to the Iranian government, and that is: 'Your desires for a weapon are unacceptable.' "

Mr. Bush's statement came at a moment of heightened concern in Vienna, home of the agency, that if its board votes next week to send Iran's case to the United Nations Security Council, Iran might make good on its threat to limit cooperation with inspectors and begin full scale enrichment of uranium. North Korea threw out inspectors three years ago, and one senior American official said recently that "the Iranians have looked closely at that model."

The Russian proposal lays out a complicated plan in which Iran would supply the uranium hexafluoride from Isfahan, shipping it to Russia for enrichment. Once enriched, the uranium would be shipped back to Iran's nuclear plant in Bushehr, which is being built by the Russians.

But huge questions remain, including the scale of the program, the degree of involvement of Iranian engineers and program's commercial viability. Moreover, just working out a deal this complex would take months or longer, experts say, at a time the administration fears the Iranians could surge ahead.

In interviews, Russian and European officials said they believed the arrangements, while face-saving, made no economic or technological sense for Iran. Iran would have to pay for the enrichment, but its own scientists would not be allowed to work on the site.

Moreover, there are technical problems. Russian officials, who spoke on the condition of anonymity because they were in the middle of negotiations, said that the uranium gas produced at Isfahan was of inferior quality to what was produced in Russia. As a result, the Russians have no interest, they say, in buying any of its for their own use.

In an interview in Vienna on Wednesday, Gregory L. Schulte, the American ambassador to the atomic agency, said, "There are those who would argue that conversion is not proliferation-significant because it does not produce weapons grade material, but from our perspective, conversion is another step forward to acquire enrichment capability. It has no economic purpose."

While China favored the Russian proposal, it also firmly opposed the use of sanctions. That comes as a disappointment to Washington, which this week sent a top official to persuade China's leaders that they should do far more.

During a visit to Beijing by Ali Larijani, Iran's top nuclear negotiator, Kong Quan, China's Foreign Ministry spokesman, praised Moscow's offer to enrich Iran's uranium in Russia and made clear that China will not support sanctions. "We think the Russian proposal is a good attempt to break this stalemate," Mr. Kong said, adding, "We oppose impulsively using sanctions or threats of sanctions to solve problems."

The Bush administration has not allowed its stated opposition to Iran's uranium conversion at Isfahan to block the Russian offer. "This is dangerous, but it is minimally acceptable as long as they are not enriching," said Mark Fitzpatrick, a senior fellow at the International Institute for Strategic Studies in London. "The Russian proposal is the last best chance of resolving this without an escalation."

U.S. Comments on India Clarified

India responded testily yesterday to American suggestions of a quid pro quo in its blossoming relations with the United States, with the Indian foreign secretary calling in the United States ambassador over his reported remarks about how India should vote next week on whether to refer the case of Iran's nuclear ambitions to the United Nations Security Council.

David C. Mulford, the American ambassador to India, had been quoted by the Press Trust of India news agency as saying that if India did not vote to refer Iran to the Security Council, it would be "devastating" to its chances of securing the nuclear deal with the United States.

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The American Embassy later said that the comments had been taken "out of context" and released a full transcript. In it, Mr. Mulford first said that India would be expected to vote "based on India's judgment of its own national interest."

He went on to say, "that if they decide that they don't want to vote for this, our view is that the effect on members of Congress with regard to this civil nuclear initiative will be devastating."

Rice Says Iran Is 'feeling Heat' (REU)

Reuters, January 27, 2006

WASHINGTON (Reuters) -- Iran is "feeling the heat" of international pressure over its nuclear program and Washington will insist the issue be formally referred to the U.N. Security Council, U.S. Secretary of State Condoleezza Rice said on Thursday.

In an interview with Reuters, Rice showed little patience with Iran's belated interest in a Russian compromise proposal that would keep the case out of the Security Council.

"I think that says something about the role of (international) pressure in this process. It shows the Iranians are feeling the heat," she said.

The Iranians are "doing nothing but trying to throw up chaff so that they are not referred to the Security Council and people shouldn't let them get away with it ... The time (for a formal referral) has come," she added.

Iran and China expressed support on Thursday for a Russian compromise proposal to resolve Tehran's standoff with Western governments which suspect it of secretly planning to build a nuclear bomb (Full story).

Tehran has previously shown little interest in the idea, intended to ensure it does not covertly divert enriched fuel toward a weapons program. It has repeatedly insisted it has no plans to build bombs but has the right to enrich uranium fuel on its territory for nuclear power generation.

Iran's apparent change of heart, coupled with backing from major power China, raised the possibility that a Feb. 2 meeting of the U.N. nuclear watchdog -- the International Atomic Energy Agency -- could once again delay a decision on referral to the Security Council, which could impose sanctions.

Many countries are reluctant to push a confrontation with Iran, a major oil producing state which has threatened to stop cooperating with IAEA inspectors if the referral goes forward.

Separately, the U.S. ambassador to the United Nations, John Bolton, said on CNN: "The Iranians have been very effective in using their oil and natural gas to persuade China, India and other countries to their side. We have to correct that."Emergency meeting

The IAEA board of governors is to discuss Iran at an emergency meeting Feb. 2-3 in Vienna.

Aiming to avoid a showdown, Russia has suggested that instead of a formal referral to the Security Council, the IAEA board could just ask the council to discuss the Iran issue and then send it back to the IAEA.

But this informal move carries less legal weight and would mean the council could not consider sanctions.

The IAEA board had previously found Iran in non-compliance with its non-proliferation obligations but delayed sending the issue to the Security Council, while giving more time for European-led negotiations to proceed.

Since then, negotiations collapsed, Iran broke seals on nuclear facilities under IAEA monitoring and declared it would resume sensitive nuclear enrichment activities, which could give it fuel for a bomb.

"The time for talking outside the Security Council is over," Rice said.

She indicated the first step in the Security Council would be a president's statement showing united international support for Iran to resume a freeze on enrichment.

Rice refused to predict how quickly the United Nations might move to sanctions, saying "we'll take this one step at a time."

But she stressed that great care would be taken to avoid sanctions that target the Iranian people, as opposed to government leaders. As an example, she said Iranian soccer players should not be banned from the 2006 World Cup in Germany.

Even officials and experts who support Security Council referral worry that opposition by veto-wielding Russia and China could ultimately thwart any council action, undermining non-proliferation beyond Iran.

But Rice said she was unable to say Russia and China would not ultimately back punitive action against Iran because both consider Iran's nuclear ambitions a "very serious issue."

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China Backs Talks In Iranian Standoff (WP)

By Edward Cody

The Washington Post, January 27, 2006

BEIJING, Jan. 26 -- China endorsed a Russian compromise proposal for breaking the stalemate over Iran's nuclear program Thursday and joined Iran's visiting nuclear negotiator in calling for patience and more discussions on the Russian idea.

The Chinese stand, issued during talks with Ali Larijani, secretary of Iran's Supreme National Security Council, suggested that the idea of having Iran send uranium to Russia for enrichment might become the common denominator of an agreement on preventing the Iranian government from developing nuclear weapons, rather than the sanctions envisioned by the Bush administration.

"We oppose impulsively using sanctions or threats of sanctions to solve problems," the Chinese Foreign Ministry spokesman, Kong Quan, told reporters at a regular briefing.

Deputy Secretary of State Robert B. Zoellick had urged the Chinese leadership on Tuesday to join the United States and other nations in taking urgent steps to make sure Iran does not expand its nuclear research program into weapons production. China agrees that Iran should not have nuclear weapons, he said afterward, but differs with Washington over how to prevent it and how fast a solution has to be found.

Without mentioning the United States or its European allies directly, Quan urged other countries to pursue a solution to the crisis through more negotiations, and said China's leaders view the Russian suggestions as a good place to start. Larijani, at a news conference later, said that, in this regard, the views of China and Iran were "very close."

"The Russian idea is fruitful, but it needs to be discussed more, and we are in the process of this negotiation," he said, adding that another round of talks had been scheduled with Russia for mid-February.

"It needs to be considered in a broader package," he added. "There are different aspects around this idea. . . . So we need to be patient."

The United States, France and Britain have said they are running out of patience. They have urged the International Atomic Energy Agency, at an emergency session scheduled Feb. 2, to refer the Iranian nuclear standoff to the U.N. Security Council, which could impose sanctions or some other form of warning.

Since then, however, President Bush has hailed the Russian suggestion as a promising compromise. And on Thursday at the World Economic Forum in Davos, Switzerland, the head of the IAEA, Mohamed ElBaradei, said Moscow's plan could offer "the beginning of a solution," according to the Reuters news agency.

In Washington on Thursday, Secretary of State Condoleezza Rice said the time for referral had come. "The Iranians are doing nothing but trying to throw up chaff . . . and people shouldn't let them get away with it," she said in an interview with Reuters.

The foreign ministers of the five permanent Security Council members -- the United States, Britain, Russia, China and France -- plan to gather Monday in London, along with Germany, to lay groundwork for the IAEA decision.

The crisis atmosphere swelled this month when Iran removed U.N. seals on equipment that can be used to enrich uranium. The Iranian leadership repeatedly has said it has no intention of making weapons but retains the right under international conventions to enrich uranium for nuclear energy production.

Larijani has said that if the IAEA does refer Iran to the Security Council, Iran will take the next step and begin enriching uranium, in effect moving from research to making what could become weapons material. Foreign Minister Manouchehr Mottaki has warned that such a step would prompt Iran to halt cooperation with the IAEA, including its surprise checks at nuclear research sites.

Against that background, Russia offered its compromise proposal, saying Iran could send its uranium to Russian facilities for enrichment to make sure none is diverted into weapons production.

China, which has veto power in the Security Council, traditionally has shied from the use of sanctions in international disputes. But Chinese analysts predicted that China would likely abstain in a vote on sanctions, seeking to maintain its good relations with Washington.

57% Back A Hit On Iran If Defiance Persists (LAT)

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By Greg Miller

The Los Angeles Times, January 27, 2006

WASHINGTON — Despite persistent disillusionment with the war in Iraq, a majority of Americans supports taking military action against Iran if that country continues to produce material that can be used to develop nuclear weapons, a Los Angeles Times/Bloomberg poll has found.

The poll, conducted Sunday through Wednesday, found that 57% of Americans favor military intervention if Iran's Islamic government pursues a program that could enable it to build nuclear arms.

Support for military action against Tehran has increased over the last year, the poll found, even though public sentiment is running against the war in neighboring Iraq: 53% said they believe the situation there was not worth going to war.

The poll results suggest that the difficulties the United States has encountered in Iraq have not turned the public against the possibility of military actions elsewhere in the Middle East.

Support for a potential military confrontation with Iran was strongest among Republican respondents, among whom 76% endorsed the idea. But even among Democrats, who overwhelmingly oppose the war in Iraq, 49% supported such action.

In follow-up interviews, some respondents said they believed Iran posed a more serious threat than Saddam Hussein's Iraq did.

"I really don't think Saddam had anything to do with terrorism, but Iran, I believe, does," said Edward Wtulich, of Goshen, N.Y. He was among the 1,555 adults who participated in this week's survey, which has a margin of sampling error of plus or minus 3 percentage points. "Iran has been a problem, I think, for years," Wtulich said, "and we've known about it."

Wtulich, a registered Democrat and retired manager for the New York City Housing Authority, said he supported taking a hard line with Iran despite the strain of the Iraq war on the U.S. military.

"It makes me scared," he said, "but we may not have a choice."

Experts said the public's views on Iran appeared to have hardened in part because of the more aggressive anti-Western posture of Iran President Mahmoud Ahmadinejad. Elected last year, he has riled the international community with remarks denying the Holocaust and with declarations that Iran will defy European and U.S. pressure and continue to pursue efforts to enrich uranium.

His comments have fostered an impression of him as "very reckless, a real rogue, as opposed to simply a populist," said political science professor John Mueller of Ohio State University, who is an authority on wartime public opinion.

Mueller said that Americans' rising support for confronting Iran was "impressive," especially considering their misgivings about the war in Iraq, and that their support suggested "concerns about the new president." But he added that poll respondents are often more inclined to voice support for military intervention when the question is framed broadly and the potential for casualties is unclear.

"You always get higher support for things like 'military action,' because that could just mean bombing, as opposed to sending troops or going to war," Mueller said.

Poll respondents expressed a strong preference for the United States working with allies to fight international law violations or global aggression.

Iran has insisted its nuclear program is solely for energy production. But the United States and other Western governments suspect Iran's program is aimed at developing weapons.

European nations that have negotiated with Iran over its program want the matter referred to the United Nations Security Council. Iran has indicated it might be open to a compromise in which Russia would provide enriched uranium to Iran, for use exclusively in energy reactors.

The American public's position on Iran appears to have hardened over the last year, a period marked by an increasing international focus on Iran's nuclear program. When a similar question was asked in a Times poll last January, 50% favored military action against Iran.

Regarding Iraq, the latest poll shows that although most Americans remain disenchanted with the war, opinions have stabilized, at least for now. The percentage saying they believe the situation in Iraq was not worth going to war over dipped slightly, to 53%, compared with 56% in a survey a year earlier.

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When asked who was winning the war in Iraq, 33% said the United States, 7% said the insurgents, and 55% said neither side was winning.

Americans remain divided over how long U.S. forces should stay in Iraq: 40% believe the United States should remain in Iraq for "as long as it takes," 36% want U.S. troops withdrawn within a year, and 14% support immediate withdrawal.

Respondents were also divided, largely along party lines, over whether the Iraq war is really part of Washington's war on terrorism; 51% say it is, 46% say it is not. President Bush has repeatedly cast Iraq as the central front in the war on terrorism. But many of his administration's prewar claims about Iraq's ties to Al Qaeda have turned out to have been overstated or based on unreliable intelligence sources.

The poll also found that 32% of Americans believed that terrorism around the world had increased because of the Iraq situation, 17% believed it had decreased, and 47% believed the problem was about the same.

U.N. Official Hopeful For Iran Nuke Plan (AP)

By Edith M. Lederer

The Associated Press, January 27, 2006

DAVOS, Switzerland — U.N. nuclear chief Mohamed ElBaradei said Thursday he was hopeful that a Russian proposal could help break the standoff over Iran's nuclear research and enrichment plans.

Speaking at the World Economic Forum's annual meeting, ElBaradei said he was happy that earlier in the day Iran's top nuclear negotiator, Ali Larijani, said Russia's proposal to move Iran's enrichment program to Russian territory was "a positive one."

ElBaradei said he also was encouraged that all parties still were discussing a diplomatic solution. His comments came amid quickening diplomatic negotiations ahead of a crucial Feb. 2 meeting of his International Atomic Energy Agency, which could refer the issue to the Security Council.

Britain, France and Germany have been leading efforts to get Iran to abandon uranium conversion and enrichment activities, which it refuses to do. The three countries declared that negotiations had reached a dead end two days after Iran broke U.N. seals at a uranium enrichment plant Jan. 10 and said it was resuming nuclear research after a two-year freeze.

"We need Iran to use maximum transparency because there are a lot of question marks about its program," ElBaradei said. "They need to be assured that they can use nuclear power for electricity, but the international community needs to be assured that the Iran program is exclusively for peaceful purposes."

Pakistan President Gen. Pervez Musharraf said at the forum Thursday that Iran should not be allowed develop nuclear weapons, but he did not say if the country should face economic sanctions.

"Their security is not threatened," Musharraf said of Iran during a discussion on Islam. He said his own country had nuclear weapons because it maintained a balance of power with neighboring India.

"When a nuclear threat was posed to us we had to set the balance right again," he said. "Every country has a right to defend its security if its security is threatened."

As for Iran developing nuclear weapons, he said that if the country felt its security was threatened, "they would have the right to go nuclear."

The European Union on Thursday urged Iran to accept the Russian offer as a way to defuse the standoff with the international community.

"The Russians have made a very reasonable suggestion," Austrian Chancellor Wolfgang Schuessel said at a joint press conference with French Prime Minister Dominique de Villepin.

Because of concerns about Iran's nuclear intentions, ElBaradei said Thursday, "Iran probably needs to go through a rehabilitation period by which it will accept that it will not engage in enrichment on Iran territory while at the same time make sure that they get what they need for their own peaceful purpose."

"And that's why the Russian proposal is a very attractive proposal," he said.

At the moment, many people are trying to use "the maximum of diplomacy," he said.

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The question being debated right now is whether to go to the Security Council at the beginning or end of February or this month, he said.

But even the Europeans and Americans, who want Iran referred to the council now, want the Security Council "to do a new phase of diplomacy," he said.

"Everybody's still talking about diplomacy and I'm very hopeful that as long as we talk about diplomacy, as long as we're not talking about enforcement measures, sanctions, et cetera, we are on the right track. But we need to accelerate the process," ElBaradei said.

Iran alleged Thursday it had information that the United States, Britain and Israel had a role in two deadly military plane crashes in the last two months.

It was the latest accusation by Tehran against the West in their sharpening confrontation. A day earlier, Iran blamed the United States and Britain for two bombings this week that killed at least nine people in southwestern Iran.

Interior Minister Mostafa Pourmohammadi said the crashes of a C-130 and a Falcon plane were "done by their design, or maybe electronic interference."

Pourmohammadi did not elaborate and did not offer any evidence.

Not Exactly 20/20 (WP)

By Al Kamen

The Washington Post, January 27, 2006

Rep. John A. Boehner (R-Ohio) recently unveiled his campaign for House majority leader with a 37-page manifesto -- "For a Majority That Matters" -- to rally GOP members to his candidacy.

"We've taken our lumps over the last year," he began, according to his House Web site. "Morale is low within our Conference and among our strongest supporters," he said. "It's time to bounce back," Boehner exhorted them, saying, "We need to identify a vision."

"That vision doesn't have to be achievable in the foreseeable future," he explained. But if it's "powerful enough and the commitment to it great enough, it might even come true."

For example, Boehner says, " President Reagan left the White House with America much as he hoped it would be in that first inaugural address. The Nazis were defeated. And in August 1989, Poland became free."

Boehner's eloquent appeal echoes Bluto Blutarski 's historic 1978 speech rallying his disconsolate frat brothers in "Animal House." John Belushi , playing the legendary Blutarski, urged the Deltas to stand up against rich preppie tyranny:

"Over? Did you say 'over'?" Belushi shouts. "Nothing is over until we decide it is! Was it over when the Germans bombed Pearl Harbor? Hell, no!"U.S., Iran Not Poles Apart

Administration officials scrambled yesterday to come to grips with the radical Hamas's stunning election victory in Palestinian elections. President Bush rejected dealing with a party that has an armed wing and vows the destruction of Israel .

But there's precedent for a more optimistic view in the long run. Take, for example, U.S. relations with Iran's President Mahmoud Ahmadinejad . He advocates nuking Israel and is allegedly developing his own bombs.

Even so, Washington has discovered there are always ways to work together, to find common ground. For example, human rights groups Monday condemned a U.S. move "back[ing] an Iranian initiative to deny United Nations consultative status" in the Economic and Social Council to gay rights organizations.

Well, gotta start somewhere.Afta NAFTA

News yesterday was that Washington and Seoul were on the verge of closing a free trade agreement and, if they could do so, the South Korean trade minister would come here Sunday to make plans for an official ceremony Thursday. If it happened, we were told, it would be the biggest free trade deal since NAFTA.

But why the "ifs"? We thought this was all locked up. After all, a noon announcement on Wednesday from Brown Lloyd James, the Korean PR folks in New York, said, "U.S.-Korea Free Trade Agreement Reached."

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Four hours later, a "correction statement" came by: "The information sent regarding the . . . agreement was written in preparation and sent in error. It was NOT authorized by the Korean Embassy, and any discussion at this stage about the U.S.-Korea Free Trade Agreement is premature."

We really mean it, they said in a follow-up "correction statement" about an hour later. "The information . . . was not correct."

Fugghedaboudit. Don't even think about it. Not only is "discussion unwarranted," the new release said, but "any speculation . . . is premature."Warrantless Redactors

Government censors are deeply worried about ensuring that they black out "sensitive" information from official documents. This is information that could harm national security or, much worse, could embarrass administration officials by showing preposterous stupidity or mis-, mal- and nonfeasance.

Not to worry. The National Security Agency has put out the equivalent of a "Dummies Guide to Censorship" to make sure voters never find out your boss's misdeeds. It's "Redacting with Confidence: How to Safely Publish Sanitized Reports Converted from Word to PDF."

NSA warns that you've got to be careful about scrubbing data that might be hidden. For example, hidden data in the White House's "Strategy for Victory in Iraq" in December showed it was written by a Duke political science professor who had concluded that people would support the war, despite fairly heavy casualties, as long as they believe it will ultimately succeed.

The NSA report, according to Government Computer News, gives step-by-step instructions to make sure the public never sees such highly classified information.

Mexico Nixes Border Maps For Migrants (WT)

By Jerry Seper

The Washington Times, January 27, 2006

Mexico canceled plans yesterday to distribute 70,000 border maps with safety instructions and tips to migrants aiming to cross illegally into the United States, but denied that the decision was a reaction to criticism by Bush-administration officials.

The National Human Rights Commission (NHRC) in Mexico City said it "rethought" the decision after human rights organizations in several border states said the maps would show anti-immigration groups -- and watchdogs such as the Minutemen volunteers -- where the migrants were likely to travel.

The NHRC maps would have provided details to migrants about the terrain, cell-phone coverage and the location of water stations set up by the U.S. charity Humane Borders.

"This would be practically like telling the Minutemen where the migrants are going to be," said NHRC spokesman Miguel Angel Paredes. "We are going to rethink this, so that we wouldn't almost be handing them over to groups that attack migrants."

Much of the Mexican media have accused the Minutemen of attacking illegal aliens on the border, accusations that have not been substantiated and have been denied by Minutemen organizers. The Mexican government has described the volunteers as vigilantes, as has President Bush.

Mr. Paredes said the commission's decision was not a response to U.S. pressure, adding, "We have not taken that into account."

On Wednesday, Homeland Security Secretary Michael Chertoff said the department opposed "in the strongest terms" the publications of maps "to aid those who wish to enter the United States illegally. ... It is a bad idea to encourage migrants to undertake this highly dangerous and ultimately futile effort."

State Department spokesman Sean McCormack also said the United States would "take whatever steps it deems necessary to protect its own borders."

The NHRC had planned to distribute 70,000 maps beginning in March, mostly in border towns and villages, as well as bars and restaurants frequented by migrants. The commission said they were intended to save lives by noting the estimated time it would take to walk or drive to nearby cities, places where migrants have died in the past and the location of water stations and emergency beacons.

Hundreds of migrants, mostly Mexican nationals, die every year trying to cross the desert illegally into the United States, mostly through Arizona.

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The NHRC cited the Minutemen as a sign that anti-immigrant extremism was on the rise in the United States. The civilian Minutemen group set up observation posts in Arizona in April and from California to Texas in October to report illegal aliens to the U.S. Border Patrol.

Minuteman co-founder Chris Simcox said the NHRC's decision demonstrated the effectiveness of the "peaceful, law-abiding actions by Minuteman volunteers" to secure the nation's borders.

"The Mexican government ought to be ashamed that their policies drive their citizens to risk death in the Arizona desert trying to escape their country," he said. "Rather than giving away maps to help their citizens flee, the government of Mexico should dedicate itself to making Mexico a country their citizens can be proud of and want to live in."

Mr. Simcox denied accusations that Minutemen had attacked anyone, instead pointing to life-saving rescues by the group of nearly 200 aliens abandoned in the desert by human traffickers.

"The maps the Mexican government released will still be used by the Minutemen to determine where we set up our observation posts along the southern U.S. border," he said. "Those maps are not just aids for illegal aliens simply seeking to escape Mexico; they are also road maps for terrorists who seek to enter the United States to murder Americans."

The NHRC was created 17 years ago by the Mexican Interior Ministry as the General Human Rights Department. The name was changed a year later and in 1999, the NHRC became fully independent of the government.

Piracy Fight Strains U.S.-China Ties (WSJ)

By Murray Hiebert

The Wall Street Journal, January 27, 2006

BEIJING, China -- China and the U.S. traded barbs over Beijing's failure to respond to Washington's request for details about Chinese efforts to combat piracy, in a development that could exacerbate already testy bilateral trade relations.

U.S. trade officials said China missed a Jan. 23 deadline set by Washington to get information on how Beijing has sought to rein in rampant piracy, including any penalties it has imposed on violators. Chinese authorities, for their part, have challenged Washington's right to make such a request under World Trade Organization rules.

The tiff could prompt the U.S. Congress to press the administration of President George W. Bush to take its case against China to the global trade body, and it cast a cloud over the planned visit to America by Chinese President Hu Jintao in April, U.S. businessmen in Beijing said.

"It is critical for China to prepare a meaningful response to avoid creating unnecessary tension" with the U.S., said James Zimmerman, vice chairman of the American Chamber of Commerce in Beijing.

China's alleged failure to crack down on widespread counterfeiting and violations of intellectual-property rights by its companies are major irritants in Sino-U.S. trade relations. U.S. industry associations say such practices cost foreign software and movie companies and other copyright holders billions of dollars each year.

The U.S. Trade Representative's Office had requested details about China's crackdown efforts in the autumn under pressure from Congress that it get Beijing to toughen up on its enforcement of what is called IPR. Under WTO rules, a member may ask other members about their IPR policies if the requesting country has reason to believe that the others' policies are affecting its rights under the global body's IPR regulations.

On Tuesday, U.S. officials said in Washington that China responded by challenging Washington's right under WTO rules to demand this information from Beijing. In a Dec. 22 letter from the Chinese ambassador to the WTO that American officials made public, China said it was still willing to cooperate with the U.S. on its WTO commitments. When Beijing joined the WTO in December 2001, it committed to try to stamp out IPR violations.

Reuters quoted one U.S. official as saying that if Washington doesn't get "a substantive response [from China] in short order," it was "running out of options, short of WTO litigation."

Chinese Commerce Ministry officials Thursday declined to comment on the dispute. Mei Xinyu, a researcher at the Academy of International Trade and Economic Cooperation, a ministry think tank, said WTO regulations "only allow a member country to request such information, but there is no legal obligation on other countries [to answer], not to mention [to respond by] a deadline."

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Courts in China have recently made several high-profile rulings against IPR violators. Last month, a judge in Shanghai ruled against a Chinese company that had adopted the Chinese name of U.S. coffee chain Starbucks and a similar logo. This month, another court ruled against a Chinese company selling candies resembling Ferrero Rocher's gold foil-wrapped chocolates.

Still, Chinese authorities admit they have a long way to go in winning the war against piracy. Pirated DVDs as well as luxury-brand clothing and accessories are widely on sale from street vendors and in shopping centers in Beijing.

Chinese officials say one problem is that many state agencies are responsible for overseeing intellectual-property laws, complicating enforcement efforts. In addition, local governments often resist efforts to shut factories making counterfeit goods in their jurisdiction because of the jobs those generate.

Bush Vows Crackdown On N.Korea On Fake Dollars (REU)

Reuters, January 27, 2006

President George W. Bush vowed on Thursday to uphold U.S. law and continue a crackdown on North Korea for counterfeiting American dollar bills.

"There is no compromise ... We are going to uphold the law and protect the currency of the American people," he told a White House news conference.

The United States in recent months has cracked down on several firms and a Macau-based bank suspected of involvement in counterfeiting, money laundering and drug trafficking by North Korea.

Pyongyang is believed to earn as much as $1 billion annually from these activities, which U.S. officials say benefit the elite at the expense of an impoverished population.

The communist state has said it would be unthinkable to return to six-country nuclear talks, led by China and stalled since November, when Washington is trying to bring down its rulers with "financial sanctions."

While Bush showed no give on the crackdown on the North's suspected illicit activities, he reaffirmed that "we want the six party talks to continue ... I think the framework is a framework that can eventually yield to a political settlement of the issue."

Rice Says US Ready To Resume Six-party Talks (REU)

By Sue Pleming

Reuters, January 27, 2006

In an interview with Reuters, Rice said North Korea must address U.S. concerns over illicit financial dealings and that this issue must not be tied to the resumption of talks, which have been stalled since last November.

North Korea has said it would be unthinkable to return to talks aimed at getting Pyongyang to drop its nuclear programs while Washington imposed what amounted to "financial sanctions."

Asked if there was a way to resolve this impasse, Rice said the North Koreans should start "living up to the law."

The suspected illegal activities by the North Koreans, including the counterfeiting of American $100 bills, had to be addressed by the United States, she said. "He (SEARCH

News | News Photos | Images | Web" /> President George W. Bush) has to defend the currency," Rice said.

In a news conference on Thursday, Bush vowed to continue a crackdown on North Korea for counterfeiting American currency. "There is no compromise," he said.

The United States has in recent months acted against several firms and a Macau-based bank suspected of involvement in counterfeiting, money laundering and drug trafficking by North Korea.

Pyongyang is believed to earn as much as $1 billion a year from these activities, which U.S. officials say benefit the elite at the expense of North Korea's poor.

CLEAR TALK

Rice said the United States chief negotiator in the talks had made it very clear during meetings in Beijing this month that Washington wanted the six-party talks to continue.

"No conditions. We will do it immediately," Rice said.

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Assistant Secretary of State Christopher Hill returned from Beijing last week where he met his North Korean counterpart and Chinese officials in an effort to restart stalled talks. The six-party talks also involve Japan, SEARCH

News | News Photos | Images | Web" /> South Korea and Russia.

"These talks can get back on track but the North Koreans have got to make a choice that they are ready to come back and they have to come back unconditionally," Rice added.

Hill told Reuters in an interview on Wednesday that North Korea had hinted it might observe international standards on money laundering but he declined to provide any details.

North Korea agreed in principle in September to end its nuclear arms in exchange for aid and security guarantees, but there has been no progress since then. A date has not been set for the resumption of the discussions.

Rice said the goal was to get back to the statement of principles agreed in September as soon possible.

Kim Sung-han, head of North America studies at the Institute of Foreign Affairs and National Security in Seoul, said some policymakers in Seoul would see Rice's comments as meaning a compromise solution was not in the cards now.

"It is going to be somewhat hard to expect the six-party talks will resume early next month, as some had hoped for," Kim said by telephone.

Asked whether she thought increased Chinese and Japanese assistance to North Korea during the U.S. crackdown was interfering with the bid to get Pyongyang back to talks, Rice said both of these countries had been very professional in their handling of North Korea.

"They have been successful in getting the North Koreans to engage in the talks," she said.

Tobacco Firms Trace Fakes To North Korea (WSJ)

By Gordon Fairclough

The Wall Street Journal, January 27, 2006

In Philip Morris USA's ongoing war against counterfeiters, it was a fairly simple operation: Buy a pack of Marlboros from a corner bodega on Manhattan's Upper East Side to follow up on a tip about contraband cigarettes.

But it took until 2005, the year after the pack was purchased, company officials say, before they could trace the artfully counterfeited smokes to one of the world's most isolated countries, North Korea.

The communist nation has become a leading source of counterfeit cigarettes -- with the capacity to churn out more than two billion packs a year, tobacco companies say. Philip Morris, a unit of New York-based Altria Group Inc., says over the past several years it has discovered North Korean-made knockoffs of its Marlboro brand in more than 1,300 places, from New York to Oklahoma City, Seattle and Los Angeles.

Big cigarette companies, facing billions of dollars in lost revenue, have hired former intelligence and law-enforcement officials, recruited informants inside Asian crime syndicates and even sent agents into North Korea in an effort to stem what they say is a flood of illicit exports.

Andre Reiman, a senior vice president of Philip Morris International whose oversees antismuggling programs, said his company is "very concerned to find organized counterfeiting of our products in the Democratic People's Republic of Korea."

The scale of the distribution network -- believed to include fleets of ships owned by global organized-crime groups -- has the U.S. government taking a more active role after years of industry pleas to crack down on counterfeit cigarettes.

U.S. authorities seized more than a billion fake smokes, many allegedly from North Korea, in California last year as part of an undercover operation targeting Asian smugglers. Millions more packs of bogus Marlboros, Mild Sevens and other cigarettes made in North Korea have been confiscated in Taiwan, the Philippines, Vietnam and Belize.

In a little-publicized 2004 case, three Asian men pleaded guilty to conspiring to smuggle counterfeit goods and currency, in connection with a scheme to send fake cigarettes, forged $100 bills and knockoff Cialis, an erectile-dysfunction drug made by Lilly ICOS LLC, into the U.S. The cigarettes, a U.S. official says, were made in North Korea.

The case started when an undercover investigator working for Philip Morris posed as a buyer looking for counterfeit cigarettes, according to papers filed by the government in federal court in Washington last year. The men took the investigator to a cigarette-making plant on the east coast of North Korea. They also offered to sell the investigator forged U.S. currency,

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prompting Philip Morris to alert the U.S. Secret Service. In all, the men accepted payments of more than $400,000 for counterfeit cigarettes and currency, prosecutors say.

Supplying counterfeit cigarettes has cemented North Korea's ties to crime organizations, giving the country access to a vast smuggling network that could allow it to move almost anything -- from forged U.S. banknotes to weapons -- in or out of the country, U.S. officials say.

"Much more dangerous things than cigarettes can flow along these same routes," warns a senior Bush administration official. "The North Koreans could import technology and export strategic goods and weapons. It's a big deal."

North Korea has long been accused of counterfeiting U.S. currency. In a press conference yesterday, President Bush said the U.S. was moving aggressively to halt Pyongyang's forgers. "When somebody's counterfeiting our money, we want to stop them from doing that," Mr. Bush said.

Washington's efforts, however, have drawn criticism from other capitals, which worry that U.S. moves will keep North Korea from rejoining multilateral talks aimed at ending its nuclear-weapons programs.

North Korea denies it engages in counterfeiting or other illicit acts. Its official news agency said last month that "such illegal activities are unimaginable in the DPRK."

In a report prepared by a consortium of tobacco companies that includes Altria, Japan Tobacco Inc. and

British American Tobacco

PLC, and presented to U.S. authorities last year, investigators said that the North Korean regime could be earning $80 million to $160 million in annual payoffs from smugglers alone.

Those estimates are equal to roughly 8% to 16% of the total value of annual exports of legitimate goods from North Korea, whose economy collapsed after the fall of the Soviet Union. Profits from suspected state-run counterfeiting operations would likely push that number even higher, say tobacco-company executives.

"Counterfeit cigarettes are probably becoming one of their biggest sources of illicit income," says Raphael Perl, an expert on North Korean finances at the Congressional Research Service.

Two developments have helped North Korea establish itself in the fake-smokes business. First, major cigarette manufacturers, sued by the European Union and others for allegedly supplying smugglers with cigarettes in an effort to circumvent taxes, have moved to keep their products out of criminals' hands.

Second, China has moved aggressively to clamp down on cigarette counterfeiting. Rather than engage in a high-stakes game of cat-and-mouse with the Chinese authorities, makers of high-end counterfeits have instead sought refuge in North Korea.

"North Korea is the perfect place," says one tobacco executive. "There's very little scrutiny from outside, and there's no risk of law-enforcement action because it's all sanctioned by the state."

One of the main hubs of counterfeiting activity, the tobacco companies say, is Rajin, a run-down port city on North Korea's east coast. More than a decade ago, Pyongyang decided to turn the area into a free-trade zone as part of a United Nations-backed effort to spur economic development in the impoverished communist country and its neighbors.

Many of the cigarette factories in Rajin, which use tobacco from China and Vietnam, are owned or financed by Taiwanese and Chinese criminal groups, which smuggle the cigarettes they produce into countries around Asia as well as into the U.S. and Europe, say tobacco executives.

North Korean state-owned enterprises, mostly located in or near Pyongyang, the country's capital, also make knockoff cigarettes, the tobacco companies say. The companies say one of these factories is controlled by the internal security service; another is owned by a group with close links to the Communist Party leadership.

Some of the smuggling organizations that move the North Korean cigarettes use their own fleets of freighters, tankers and fishing vessels, tobacco-company executives say. Cargos are often shifted to other vessels at sea, in international waters, to mask their origin. In other cases, cigarettes move via a series of small ports.

The look of the counterfeits and their packages is also very good, say tobacco executives. Packs of Marlboro seized in Miami even included forged pamphlets urging smokers to visit a Web site to find information about the health dangers of cigarettes and the admonition "Don't Litter" on the side of the box.

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Executives say packaging is the key to determining which cigarettes are fakes and where they come from. They compare suspect cigarettes to examples from prior raids that have been conclusively tied to a particular source. For example, counterfeiters often don't change the tracking numbers on counterfeit packages. Sometimes, printing flaws give them away.

India Has Hard Choices On US Nuclear Deal: Rice (REU-Y2)

Reuters, January 27, 2006

India has "difficult choices" to make on a controversial civil nuclear cooperation agreement with the United States before the deal can be completed, U.S. Secretary of State Condoleezza Rice said on Thursday.

The landmark accord, agreed in principle in July but still to be negotiated in detail, would grant New Delhi access to civil nuclear technology it has been denied for three decades, provided it puts its civilian facilities under international inspections.

Senior-level talks in New Delhi last week failed to close the gap on major issues, including which Indian facilities would be designated as civilian and military. The military plants would still be off-limits to U.N. monitors.

"In order to move on to a new phase in which civil nuclear power would be available to India, India has to make some difficult choices," Rice told Reuters in an interview.

She refused to provide any details but insisted, "I think we're making progress."

Although announced with great fanfare, the deal has run into criticism from nuclear experts and some members of the U.S. Congress who say it undermines global nonproliferation goals.

A related issue is whether India will side with the United States when the International Atomic Energy Agency board of governors debates Iran's nuclear program at a February 2 meeting.

Washington and major European powers say Iran is developing a bomb and wants the case referred to the U.N. Security Council for possible sanctions. Tehran denies the charge and is fighting referral.

The U.S. ambassador to India said on Wednesday if India did not back the U.S. position, the nuclear agreement could be in trouble.

The United States and India are trying to resolve differences before President George W. Bush visits New Delhi in March.

Rice did not speak directly of the Iran vote in the IAEA.

She said the nuclear agreement presented "a difficult set of issues."

"But it's very important to understand that in order to satisfy the concerns of the American Congress and our laws and the concerns of the (44-nation) Nuclear Suppliers Group, that there will have to be some steps taken to make sure that the proliferation risks are not enhanced by this deal," she said.

Both the U.S. Congress and the Nuclear Suppliers Group, which sets rules for nuclear-related commerce, must approve the agreement.

For 30 years, the United States led the effort to deny India nuclear technology because it tested and developed nuclear weapons in contravention of international norms. Both India and its neighbor and nuclear-armed rival Pakistan have refused to sign the nuclear Non-Proliferation Treaty.

Bush now views India, a rising democratic and economic power on China's border, as an evolving U.S. ally and the new nuclear deal -- allowing India to purchase nuclear reactors and fuel -- is central to that vision.

Restructuring Of U.N. Agency 'Likely' This Year (WT)

By David R. Sands

The Washington Times, January 27, 2006

A major overhaul of the United Nations' discredited human rights agency is "quite likely" this year, the State Department's lead negotiator said yesterday, but he also said the United States would insist on real reforms before agreeing to a deal.

The United States backs a plan to scrap the current 53-member U.N. Human Rights Commission, which critics say has been co-opted by some of the world's worst human rights abusers, including Sudan, Zimbabwe and China.

"I think it is quite likely we can get a new human rights council, although it is not certain," Mark Lagon, deputy assistant secretary of state for international organization affairs, said at a Washington roundtable on U.N. reform.

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U.N. officials have pushed for the overhaul to be completed before the old human rights panel's scheduled March meeting in Geneva, but Mr. Lagon said it was more important to do things right than to do them quickly.

"The U.S. is not hung up on artificial deadlines," he said. "We feel it is important that any replacement body must be definitely better."

The debate over the human rights agency has become a flash point in the larger debate over reforming the world body itself, which has been rocked by scandals such as the Iraq oil-for-food program.

Critics say the current commission essentially has been taken over by the worst abusers, with countries such as China and Sudan seeking seats on the panel specifically to block scrutiny of their human rights records.

The United States and other leading democracies want to end the automatic rotation of members on the commission, setting up a leaner Human Rights Council that blackballs countries with poor records and has real powers to investigate and spotlight abuses.

At a summit of world leaders in New York in September, U.N. Secretary-General Kofi Annan endorsed the reform effort and called for a doubling of the budget of the office of the U.N. High Commissioner for Human Rights.

A small group of states -- including Zimbabwe, Belarus and Cuba -- has opposed the more-stringent membership idea. Negotiations on the shape of the new council began Jan. 11, and some private human rights activists say the U.S. government has been slow to press its case.

Mr. Lagon said the United States wants the bulk of the new council's workload to be helping fledgling democratic states move toward greater political freedom, civil liberties and the rule of law.

The emphasis, he said, "should be on operations in the field. We don't want to have just another think tank in Geneva."

With its new credibility, it "can then speak more effectively in the face of horrendous violations," he said.

Mr. Lagon said the new council should not mean the end of special expert missions approved by the current commission. U.N. "rapporteurs" have won praise from human rights groups in recent months with missions critical of abuses in countries such as Belarus, Iran and Uzbekistan.

Bhutto Dismisses Interpol Notices (WT)

By Xin Li

The Washington Times, January 27, 2006

Former Pakistani Prime Minister Benazir Bhutto said yesterday that "red notices" issued by Interpol for her and her husband, Asif Ali Zardari, are groundless and politically motivated.

"I can catch the next airplane and return to Pakistan if necessary," Mrs. Bhutto said at a press conference organized by the Voice of America in Washington. "Interpol might not be given the right information."

The notices are not arrest warrants, Interpol officials told Agence France-Presse yesterday. They are notifications that "bona fide" arrest warrants exist in one of the International Criminal Police Organization's 184 member states. The decision to act upon them is up to member countries, they said.

Akram Shaheedi, a spokesman for the Pakistani Embassy in Washington, said Islamabad has not asked the State Department for any action regarding the notices.

Mrs. Bhutto said her attorney is contacting Interpol to confirm the warrants, and if they exist, to ask on what grounds they were issued.

Mrs. Bhutto was elected as the prime minister of Pakistan in 1988 and 1993. She and her husband are charged with corruption during her regime, including one case in Switzerland in which she is accused of taking commissions from a Swiss firm. She is under self-imposed exile and lives in Britain and Dubai in the United Arab Emirates.

"For nine years, I've been under state-sponsored prosecution, but there hasn't been a single conviction" on the corruption charges, Mrs. Bhutto said.

She was convicted in one case and sentenced to three years in absentia, but Mrs. Bhutto said she is appealing that ruling.

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The reason for the Interpol notices, Mrs. Bhutto said, was that the government of President Pervez Musharraf wants to "divert the attention" of the Pakistani people from the recent U.S. missile strike in a region bordering Afghanistan that killed at least 13 civilians.

The raid, which is thought to have killed some al Qaeda terror leaders, triggered protests from Islamist political parties.

Mrs. Bhutto said the Musharraf government cooperates with the United States only because the "military needs the war of terror in Pakistan to justify its position in the office."

She said it is in the interest of the international community to build a pluralistic, democratic and secular Pakistan.

Meanwhile, it was announced yesterday that former Pakistani Prime Minister Nawaz Sharif was to end five years of exile in Saudi Arabia by traveling to Britain on Sunday.

Pakistani Information Minister Shaikh Rashid Ahmad announced in November that Mr. Sharif would be issued a passport so he can travel to London with his sick son.

Mr. Sharif was ousted by Gen. Musharraf in a bloodless coup in October 1999. Mr. Sharif was sentenced to life in prison on tax evasion and treason charges. Pakistani officials say he will not be allowed to return home.

Canada's Next Leader Clashes With U.S. Over Arctic Waterways (NYT)

By Clifford Krauss

The New York Times, January 27, 2006

TORONTO, Jan. 26 — Stephen Harper, Canada's prime minister-designate, reproached the American ambassador on Thursday over an old difference of opinion about the control of Arctic waters claimed by Canada.

Mr. Harper, the leader of the Conservative Party, which won a narrow victory in Monday's elections, is widely expected to usher in warmer relations with the Bush administration after years of squabbles between Canada and the United States over trade and the war in Iraq.

But the honeymoon took at least a temporary break when Mr. Harper reacted to a news report about comments made by the United States ambassador, David H. Wilkins, taking issue with Canada's assertion of sovereignty in northern Arctic water passages.

"It is the Canadian people we get our mandate from, not the ambassador of the United States," Mr. Harper said. "The United States defends its sovereignty, and the Canadian government will defend our sovereignty."

The United States for decades has opposed Canada's claims to Arctic passageways near the North Pole, as have the European Union and other countries. Canadian military scholars say that the United States, Russia, Britain and France sent submarines under the Arctic ice in waters claimed by Canada during the cold war without Canada's permission, and may still be doing so.

Canada does not currently have the naval ability to stop such intrusions into those areas, which it claims as internal waters, although it is now modernizing satellite surveillance and upgrading its Arctic land and water patrols.

"There's no reason to create a problem that doesn't exist," Mr. Wilkins was quoted as saying at a forum on American-Canadian relations on Wednesday at the University of Western Ontario, according to the CBC News Web site. "We don't recognize Canada's claims to those waters."

Mr. Wilkins seemed to be trying not to kindle a dispute, though. "We have agreed to disagree," he said.

But on Thursday, in his first news conference since the election, Mr. Harper took issue with Mr. Wilkins, perhaps in part to show Canadians that he would not veer far from Canada's traditional foreign policy of pointed independence from the United States.

American diplomats said that Mr. Wilkins had stated nothing more than an old policy in answering a student's question. They said he did not criticize a plan Mr. Harper announced during the campaign to build and deploy three new armed heavy icebreaking ships and construct a deep-water port in the Arctic territorial capital, Iqaluit.

Differences between Canada and the United States over the Arctic have rarely surfaced in a public dispute, and leaders of both countries have preferred to cooperate on Arctic research and defense.

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But recently, the Arctic has become increasingly important because of climate change. With Arctic ice rapidly thinning, commercial navigation and tourism boats are making northern passages with increasing frequency. That has obliged Canada to begin planning security measures to protect waterways from smugglers and to prepare for the possibility of accidents and oil spills.

The United States and Canada also have conflicting claims in the Beaufort Sea, in an area that is thought to have oil and natural gas reserves. Denmark and Canada have conflicting claims over another site, Hans Island, off Greenland's coast, in an area with a rich fishery.

Harper Tells U.S. To Drop Arctic Claim (WP)

By Doug Struck

The Washington Post, January 27, 2006

TORONTO, Jan. 26 -- Stephen Harper, elected Monday as prime minister, warned the United States on Thursday to back off from its challenge of Canadian sovereignty in Arctic waters that are fast thawing from global warming.

In the first news conference since his election, Harper upbraided the U.S. ambassador for asserting that the icy polar regions, including the legendary Northwest Passage, are international waters.

Canada claims that its archipelago of some 16,000 islands makes that region Canadian territory.

"The United States defends its sovereignty. The Canadian government will defend our sovereignty," Harper said. "It's the Canadian people we get our mandate from, not the ambassador of the United States."

The two countries -- as well as Russia -- have had conflicting claims in the Arctic for at least three decades. Harper's Conservative Party has proposed expanding Canada's military presence, building new icebreakers and creating an early warning system to detect other ships, all to enforce its claim of sovereignty.

The Liberal government Harper will replace has made similar claims and proposals. But it was unexpected that Harper would launch a sharp verbal attack against the United States on this subject so quickly, and he extended a press conference announcing his Feb. 6 inauguration to bring it up.

"The changing ice conditions are driving this issue to the top of the political agenda," said Michael Byers, an international law expert at the University of British Columbia.

"We've essentially been able to avoid problems over this in the past because the ice has been too thick and too hard to make it a commercially viable route," Byers said. "But, of course, the ice is melting."

He said that "within the next decade or two, there will be a major international shipping route around the northern side of North America." That will shorten the route for Europe-Asia shippers by 4,000 miles, Byers said, adding that it also presents security concerns as a "backdoor to North America that is wide open."

David Wilkins, the U.S. ambassador to Canada, was quoted Wednesday at a discussion in Ontario as saying, "We don't recognize Canada's claims to those waters."

Firms Beat Path To ... Libya (CSM)

By Simon Martelli

The Christian Science Monitor, January 27, 2006

TRIPOLI, LIBYA - It's not unusual for the five-star Corinthia Bab Africa Hotel which towers above this city's waterfront to be completely booked, many of its 299 rooms filled with foreign oil tycoons eager to tap into the country's untold reserves.

After more than 20 years as a global pariah, Libya is coming out of isolation. Most international sanctions have been lifted since its enigmatic leader, Col. Muammar Qaddafi, abandoned his weapons program, renounced terrorism, and accepted responsibility for the 1988 bombing of Pan Am Flight 103, compensating the victims' families.

"With the end of the Lockerbie issue, relations returned to normal and there were many delegations of Congress who visited Libya. I think all efforts are heading towards ending animosity," Colonel Qaddafi said in an interview with the United States-funded Arabic TV channel Al-Hurra last week.

Now, the companies that helped create Libya's oil industry in the 1970s are returning as Qaddafi rebuilds bridges to the West that he burned long ago, and this may help to precipitate political, as well as economic, change.

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In a major step, ExxonMobil, the world's largest publicly traded oil company, signed an exploration and production deal with Libya last month. Marathon, Amerada Hess, and ConocoPhilips who together form the Oasis group also negotiated their return at the end of December since being forced out by sanctions in the mid-1980s, while Occidental returned in August last year. The Oasis group was producing 400,000 barrels of oil per day before it pulled out.

Indeed, the country suffered severely from the economic sanctions that were imposed by the US in 1986 after Libya was blamed for the bombing of a Berlin disco that killed two American servicemen. The consequence included a sharp decline in oil production, which fell to around 1.4 million barrels per day in the 1990s, from peak production of 3.3 million barrels per day in 1979. Output at the country's dilapidated liquefied natural gas plant, built by ExxonMobil in the late 1960s, has fallen to just 15 percent of capacity. Unemployment rose to about 30 percent.

In Tripoli's commercial center, a short walk from the shiny new Corinthia Hotel, which houses existing foreign oil firms, signs on the office doors clearly directed at locals in search of work state in both English and Arabic that there are no vacancies.

While Libya remains on the US State Department's list of states that support terrorism, and certain limited sanctions have yet to be lifted, it is pursuing a return to full normal relations with the US. Tarek Hassan-Beck of Libya's National Oil Company (NOC) told Reuters Wednesday that he expected the newly returned Oasis group "to put the right message across to the US government" to remove Libya from the hit list. Qaddafi has made this possible by publicly condemning 9/11 and agreeing to a three-phase disarmament program, as well as paying compensation to the families of the 270 victims killed on Pan Am Flight 103 over Lockerbie, Scotland.

But Qaddafi remains an autocratic leader, and genuine economic and political reform is nowhere on the horizon, according to many Libyans. "Whatever he says, the people must do it without question," says Ibrahim, a young Libyan who runs a small tour group in Tripoli.

Meanwhile, endemic corruption and high unemployment persist, and the lack of real economic incentives is driving skilled professionals out of the country, says Ezzedin Dibashi, an oil consultant based in London who used to work at NOC. "Doctors, engineers, and economists are going elsewhere, rather than subsist on 600 Libyan dinars ($450) per month."

Other issues seriously obstructing Libya's political and economic development include the state ownership of banks, a government controlled media and the ban on political opposition parties.

"This is a country that has responded to international criticism," says the Chairman of business consultancy group MEC International and former British Ambassador to Libya Oliver Miles. "But how and how far is where it gets difficult."

With oil prices on the rise, none of these difficulties are deterring foreign oil companies from aggressively competing to win exploration rights and investment opportunities in Libya.

"It has become a very attractive place for oil firms to do business," says Mr. Miles. "There are opportunities in Libya that do not exist in other Middle Eastern countries."

One encouraging sign of change recently was the agreement by British ministers in October to send terror suspects back to Libya on the condition of 'no torture, no death penalty.'

But foreign energy companies are not the only ones enjoying newfound access to Libya. Nongovernmental organizations like Amnesty International, which was allowed access for the first time in 15 years in 2004, have expressed serious reservations about the Qaddafi regime's human rights record. Torture and suspicious prison deaths, said an Amnesty International report, continue in Libya.

Despite Libya's recent prisoner releases, judicial reforms and efforts to overhaul its image, some NGOs are asking Western governments to proceed with human rights standards in mind.

"[Qaddafi] and his inner circle appear unwilling to implement genuine reform," says a Human Rights Watch report released this week, "especially in the areas of free expression and association, which might weaken their three-decade grip on power."

Georgia, Short Of Gas, Is Hit With A Blackout (NYT)

By C. J. Chivers

The New York Times, January 27, 2006

DOJ_NMG_0012548

MOSCOW, Jan. 26 — Energy shortages struck Georgia anew on Thursday as a wind storm toppled a major power transmission line and Russia's gas monopoly failed to restore the flow of natural gas to the country after pipelines were sabotaged last weekend, energy officials said.

The latest problem appeared about 1 a.m., when high winds severed a high-voltage transmission line that carries electricity between east and west Georgia, plunging the snow-covered capital, Tbilisi, into darkness. The blackout occurred as temperatures in the normally balmy nation fell below 20 degrees, and most of the population remained without natural gas for heat. Weather forecasts predicted unusually cold weather into next week.

Georgia has been without its Russian gas, and with limited electricity, for five days. Officials in both countries initially hoped that the supplies could be swiftly restored. But after a respite from the shortages on Monday, the problems have worsened, bringing fresh hardships to Georgia and further tarnishing Russia's image as an energy supplier.

Mikheil Saakashvili, Georgia's president, cut short a visit to Davos, Switzerland, to return to Tbilisi as the crisis intensified. Nika Gelauri, Georgia's energy minister, said in a telephone interview that technicians were examining the damaged power wire and tower, but it was too soon to know how long repairs would take.

In Russia, where on Sunday saboteurs destroyed two gas pipelines that had provided Georgia with all of its gas, energy officials said work crews were laboring nonstop to repair the damaged sections of pipe.

Gazprom, Russia's gas monopoly, told Georgia that the work, behind schedule, could be completed by Friday night, Mr. Gelauri said. Russian officials had said that the pipe could be repaired by Tuesday, but the efforts have been hampered by delays. Georgian energy officials have said that even if gas flow were restored, it could take a week for the gas to be switched back on to all customers. Georgia has been receiving a supply of gas, roughly half its normal needs, in shipments through a recently repaired pipeline that connects the Georgian network to Azerbaijan.

But Azerbaijan, which also relies on Russia for its gas, has not been receiving an increased flow from Russia to pass on to Georgia, said Aydylbek Amonov, a supervisor in the Azerbaijan gas network's control center. Russia says a struggling compressor station near the Azerbaijan border is unable to provide increased pressure.

Mr. Gelauri said he was suspicious of Russia's chain of problems: first sabotage, then repair delays, then a compressor problem. "If we had this additional gas from Gazprom through Azerbaijan it would solve all the problems," he said.

Georgian officials have said they do not believe Russian explanations for either the sabotage or the technical difficulties that have followed, and claim that Russia is withholding its energy during a cold spell to punish Georgia for its pro-Western policies. There has been no public evidence to support that claim, and Russia has characterized Georgia's position as irrational and immature.

EU's Hard Line Going Into Trade Talks Draws Fire (WSJ)

By Scott Miller In Brussels And Marc Champion In Davos, Switzerland

The Wall Street Journal, January 27, 2006

Major trading nations are hardening their positions as they head into the first round of trade talks since the recent Hong Kong sessions faltered, renewing the possibility of a watered-down result of four years of negotiations.

As top trade negotiators from about two dozen countries prepared to meet in Davos, Switzerland, on Friday, the European Union's trade commissioner, Peter Mandelson, said Europe stood to lose "next to nothing" if talks failed and repeated strongly that he would make no further offers unless other countries make concessions. Earlier this week, he told the European Parliament that Europe could settle for "a minimalist outcome, if that is what the rest of the world wants."

That position has been drawing fire from other countries who blame the EU for doing the most to cause the standstill. Brazil, refusing to make fresh concessions, has said it fears the EU is trying to wiggle out of the commitments it already made to lower farm tariffs. Indian Trade Minister Kamil Nath rejected the idea of lowering ambitions as Mr. Mandelson has suggested. "There is no common ambition, and I am not willing to lower my ambitions," he said in an interview in Davos. "Europe has decided the best defense is to go on the offensive, but they should be more substantive and try and correct structural flaws."

Trade negotiators are meeting to try to lay out a road map for what they hope will be the rough draft of a deal by the end of April, after their plan to achieve that in Hong Kong last month failed.

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Many diplomats and trade experts say the current round of talks, known as the Doha Development Round, is fundamentally an all-or-nothing proposition that requires dramatic cuts in trade barriers in all sectors and regions to get done at all, because of the need to provide some victories for all the 149 countries involved in the negotiations.

U.S. Trade Representative Rob Portman said Thursday that he needs an ambitious round to sell a trade package to Congress. U.S. legislators, he said, won't approve a deal to cut politically important farm subsidies unless they can show their constituents that U.S. farmers will benefit from lower global farm tariffs and greater opportunities to sell industrial goods and services. "From a U.S. perspective, Doha light doesn't work," said Mr. Portman, talking to reporters in Davos. "We need enough reduction in tariffs to demonstrate that there will be new trade flows."

Still, the idea of rolling back Doha's aims is an attractive fallback position for those who fear a full collapse of the talks. That in turn could lead countries to forsake such long-running, world-wide trade negotiations for individual deals among smaller groups of countries.

"When the time comes in a few weeks, we might accept a lower-ambition agreement. If the choice is between failure and a lesser agreement, I'll take the lower ambition," said Rachid M. Rachid, Egypt's trade minister and head of the African group of countries at the WTO talks. A minimalist agreement would retain commitment and momentum, whereas failure could put trade liberalization efforts back five years, he said.

World Trade Organization Director-General Pascal Lamy has called the Doha talks, named after the city in Qatar where they started in 2002, just 60% complete, with little progress lately. Trade negotiators are nearly unanimous in their belief that the talks must end, one way or the other, by the end of this year, before a U.S. law runs out that prevents Congress from essentially renegotiating the agreement point by point.

But some trade diplomats note privately that the outlines of a lower-ambition round are already on the table and with a little improvement might not even look that bad compared with previous trade rounds.

Mr. Lamy, while not advocating rolling back Doha's objectives, notes that, for example, negotiators have already agreed on a 20% cut in farm subsidies that encourage overproduction. That is far less than the U.S. proposal, but similar to the level of cuts achieved for agriculture supports overall in the previous round, which began in Uruguay and ended in 1994. The U.S. has proposed that developed countries cut farm tariffs by up to 90%, and that for farm subsidies that encourage overproduction, the U.S. cut back by 52% and the EU by 75%.

Proposed cuts to industrial tariffs so far are harder to quantify under Doha, but Mr. Lamy notes a large number of WTO members have embraced the idea of cutting the highest tariffs the most. That is important, he says, because so-called peak tariffs are often used to protect markets like shoes and textiles that developing countries most want to access.

Dan Ikenson of the Cato Institute in Washington says the U.S. and Europe may have to cut farm supports no matter what the outcome of Doha, because of domestic budget problems and fear of WTO legal challenges. That could make them more willing to accept a watered-down Doha if collapse was the alternative -- to get something in return for their cuts.

A big part of the problem, a growing number of trade analysts are concluding, is that Doha lacked a clear set of goals, in contrast to other trade rounds aimed at particular sectors. Naotaka Matsukata, a former U.S. trade negotiator now with law firm Hunton & Williams in Washington, says when Doha was launched two months after the Sept. 11, 2001, terrorist attacks on the U.S., the main idea was to use trade to help developing countries, which might breed future terrorists.

But WTO members never agreed specifically on how that was to be done. Industry groups didn't play their usual role as the driving force. "There was never a consensus on what the round was supposed to be," Mr. Matsukata said. "People are asking themselves what we are doing the round for."

US Signals New Approach To Doha Round Of Trade Talks (FT)

By Alan Beattie

Financial Times, January 27, 2006

Rob Portman, the US trade representative, said on Thursday that the Doha round of trade talks had to move forward on all fronts, as the European Union said it would lose “next to nothing” if the talks failed.

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The shift of emphasis in the US's position ahead of a meeting of trade ministers pm Saturday came amid accusations that the tough negotiating tactics of big farm exporters like Brazil were holding up progress.

While continuing to argue that the EU should improve its initial offer to cut farm tariffs, a position it shares with Brazil, Mr Portman also stressed that "in an ideal world", big developing countries would simultaneously open their goods markets.

"That would be a lot to ask because it involves a lot of risks on the part of all the parties but I think that's what's needed now," he said.

Peter Mandelson, the EU trade commissioner, raised the stakes by saying that the EU would lose "next to nothing" if the talks failed. "The alliance between the US and Brazil has led to stalemate in these talks," he said. "It has now become self-defeating."

Brazil, one of the world's most efficient agricultural exporters, leads the Group of 20 developing countries that negotiates on agriculture. EU officials have accused Brazil of negotiating in its own interests by prioritising lower farm tariffs. Other members, such as India, have many small-scale farmers who will lose from reduced agricultural tariffs across the world.

Kamal Nath, the Indian trade minister, told the FT: "The question is not who is more or less of a delinquent. We have to look at all parts of the negotiation."

He added that the US could not expect lower tariffs without cutting subsidies. "The US keeps looking for market access with distorted prices," he said.

Rachid Mohammed Rachid, the Egyptian trade minister who chairs the Africa Group of nations in the trade talks and is also in the G20, told the FT: "The US and the G20 are expecting the EU to come forward with more agricultural market access. I think we need to come forward with offers on . . . [industrial goods] and services. The idea that everyone has to wait for the EU is not Egypt's view and it is not the Africa Group's view."

But Celso Amorim, the Brazilian foreign minister, denied the suggestion that Brazil was merely following its own interests, saying that he was in complete agreement with India.

"The G20 is a microcosm of the developing world," Mr Amorim said. He added that the grouping had formed a common position with the wider G90 group of developing countries during last month's World Trade Organisation ministerial meeting in Hong Kong.

"Two years ago people said the G20 wouldn't last three months, and now they say that the new entente with the G90 won't last three months," he said. "Wait and see."

Saturday's meeting of trade ministers will focus on setting a timetable for negotiations in coming months rather than making any decisions, ministers said.

Merkel Can Help Advance Talks (AP)

The Associated Press, January 27, 2006

New German Chancellor Angela Merkel could help advance stalled global trade talks by offsetting the protective mindset of French officials in EU policy, U.S. trade chief Rob Portman said Thursday.

A key issue holding up talks has been access to European Union farm markets, with Brussels refusing to give more ground until other countries cut import tariffs on industrial goods and services.

Portman, speaking while attending the World Economic Forum annual meeting, said Germany could act as a counterweight to France, which has been particularly defensive in wanting to protect its agriculture markets.

"I was very impressed with her willingness to engage," Portman said of Merkel. "I'm hopeful that she can help us to come together with an agreement this year."

But EU trade chief Peter Mandelson insisted later Thursday that Europe is "united" and that Brussels would not make any more concessions on agriculture until its trading partners first offer to cut trade barriers in industrial goods and services.

"We can't be expected to make a further offer in agriculture in order to pay to keep others at the negotiating table," Mandelson said. "Europe is willing to give more than it has offered, but it is not prepared to ask for nothing in return."

Mandelson suggested that the EU is prepared to risk the round of trade talks breaking down.

"If the talks stopped, we would lose next to nothing," Mandelson said.

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The United States, as well as key developing countries such as Brazil and India, are demanding easier access to EU farm markets as part of the Doha round of trade talks.

With just more than three months left before a self-imposed deadline for setting precise formulas for cutting trade barriers, major players at the 149-member WTO appear as far apart as ever on the vexing subject of farm trade, as well as market access for industrial goods and liberalizing service industries.

Little seems to have changed since before December's meeting in Hong Kong, where members failed to agree on those formulas and only agreed on a new, April 30 deadline for reaching that point. That leaves little time before a year-end deadline for concluding the Doha negotiations.

Brazil's Foreign Minister Celso Amorim said he "was not impressed" with Mandelson restating that the EU was unable to make any more concessions on farm trade.

"Reopening the battles that we had prior to Hong Kong certainly is not a constructive way to start," Amorim said.

Portman, though, held out hope that Merkel could be "a positive force" in bringing the opposing sides together.

Trade negotiations usually take place at ministerial level rather than heads of state, yet Merkel is "engaging directly," Portman said.

"The German position is obviously going to be part of an overall EU position, in that they negotiate through the commission and not the member states, but it will take into account their own economic interests and Germany is the second largest exporter of manufactured products in the world," Portman explained.

Germany has "a strong interest in a successful outcome" to the Doha round, he said, adding: "Global economic growth, for all the major economies, is extremely important."

Boycott Call Creates Fracas At Davos Forum (NYT)

By Mark Landler And John Markoff

The New York Times, January 27, 2006

DAVOS, Switzerland, Jan. 26 — A magazine article calling on nations to boycott Israel because of its treatment of Palestinians has provoked a tempest at the World Economic Forum's annual meeting here, prompting the organizers to pull the magazines from the forum's shelves here and issue an apology.

The article, which appeared in Global Agenda, a magazine published by the forum and distributed to participants, carried the headline "Boycott Israel." The author, Mazin Qumsiyeh, equated Israel's policies toward Palestinians with apartheid and said that countries should withdraw their investments and boycott Israel.

After a member raised questions about the article, the organizers removed the magazines from shelves at the conference center in this Alpine resort. The forum's executive director, Klaus Schwab, said the article should not have been published and had slipped through the editing process.

"There was an unacceptable failure in the editorial process, specifically an insufficiently short period for review of content, for which there is no excuse," Mr. Schwab said in a statement. "The article is totally in contradiction to my own, and the forum's, mission and values."

The timing of the contretemps — on the day that Hamas won a landslide victory in Palestinian elections — was not lost on people here. The future of Israeli and Palestinian relations was high on the agenda on Thursday at this meeting of about 2,300 political figures, private groups and corporate executives.

The article on Israel had drawn no response until Wednesday, when an American technology executive raised questions about its tone.

"I was shocked," said Rabbi Awraham S. Soetendorp, of the Jewish Institute for Human Values in the Netherlands, who was attending the forum. "The issue that Zionism was equated with racism was so outrageous."

The publication of the article was a keen embarrassment for Mr. Schwab, who prides himself on fostering dialogue in troubled parts of the world.

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Mr. Schwab had hoped to organize a panel discussion this year between Israeli and Palestinian leaders. But the acting prime minister of Israel, Ehud Olmert, and the Palestinian president, Mahmoud Abbas, declined invitations to come to Davos because of events at home.

Secretary of State Condoleezza Rice spoke via satellite during a panel here, reaffirming the position of the United States that Hamas must renounce violence and recognize Israel's right to exist.

Mr. Qumsiyeh, the author of the article, is an American citizen of Palestinian descent who frequently writes in support of Palestinian causes. In a telephone interview from New Jersey, he said he had been asked to submit the article by a staff writer at the magazine.

"Why is free speech not allowed?" said Mr. Qumsiyeh, a geneticist. He said his article called for a nonviolent response to Israeli policy.

Economics And The Inevitable (WP)

By David Ignatius

The Washington Post, January 27, 2006

DAVOS, Switzerland -- As the throngs of ebullient Indian and Chinese executives make their way through the salons of the World Economic Forum this week, it's hard for an American not to reflect ruefully on what life must feel like for autoworkers in Detroit -- stuck in the slow lane of the global economy.

The global titans would doubtless give autoworkers in Michigan the same advice they would offer to workers in an outmoded Chinese steel mill or an unprofitable European textile plant: Get over it. Learn new skills and find new jobs in more productive sectors. The flat world, as my colleague Tom Friedman likes to call it, is ruthlessly fair in that respect. Everybody must live on the knife edge of the global marketplace.

If it were my job at Ford being cut, I would find such bromides infuriating. They sound like a 21st-century version of utilitarianism: an insistence that the free market produces the greatest good for the greatest number, which does you no good at all if you're among the unlucky lesser number. But the fact that the Davos ethic is galling doesn't mean it's wrong.

Davos has come to symbolize the dominant force of our time -- the wealth-creating, job-destroying whirlwind of the global economy. Each year I come here I marvel at the reach and leveling power of this economic hurricane. There are more Chinese, Indians and Arabs every year, and less of an American presence. U.S. investment banks, technologists and venture capitalists may have spawned the globalization movement, but it has now floated free. The dealmakers come from all over the world. The one thing they seem to have in common is that nearly all were educated in the United States. That may not be much comfort if you work at an assembly plant in Dearborn, but at least America still does one thing well: running universities.

My superstars at Davos this year are the university presidents. Larry Summers at Harvard, Rick Levin at Yale, Lee Bollinger at Columbia and a half-dozen more are transforming their universities into global institutions -- seeking the best students from around the world and sending them to far-flung places to learn the skills that will secure them places among the global elite.

"We want the brilliant mathematician whose mother is a chambermaid in Romania," says Summers. That's the most attractive face of globalization -- the idea that the great universities are creating a colorblind meritocracy that doesn't care where you're from as long as you did well on the SAT. But in this global empire of knowledge, there is an echo of Dickens's parody of utilitarian thinking, Mr. Gradgrind, who in the novel "Hard Times" famously admonished his students: "Facts alone are wanted in life. Plant nothing else, and root out everything else." Mr. Gradgrind's students were productive, but quite miserable.

The impresario of Davos, Klaus Schwab, has tried hard over the years to humanize the free market his forum celebrates. I spent time yesterday meeting with some of his "social entrepreneurs," people who are building pay toilets in Nigeria, teaching sustainable agriculture in Paraguay, training rape victims in Cambodia how to run a catering business. Inspiring stories, and there is something marvelous, too, about a conference attended by people who are so eager to invest in the booming, free-market economies of India and China.

The change machine is relentless, as I discovered at a session here for technologists and venture capitalists. The group selected hot technologies for the next few years -- sensors that can operate without batteries, stem cells for cardiac patients that can regrow heart tissue; solar technology that can produce energy at half the cost; microbial factories that can make molecules

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for drugs in the laboratory, for a tenth of the cost of finding them in nature. It was a dazzling discussion -- not least because these life-giving technologies will make the people in the room even richer.

"I'm a technology optimist," a prominent venture capitalist named Vinod Khosla explained. He argues that innovative, bottom-up methods will solve problems that seem intractable, from energy to poverty to disease. "Every problem is an opportunity to a technology pioneer," he said.

Business today is the leading agent of social change. That's really the message of Davos. It can be a pitiless process, and its seamless efficiency is in frightening contrast to the incompetence and mismanagement of the public sector. Globalization can be tamed, but it can't be stopped -- nor should it be. I just wish other things in the world worked as well.

Win-Win? Tell It To The Losers (NYT)

By Floyd Norris

The New York Times, January 27, 2006

DAVOS, Switzerland

AMONG the business and political leaders who gather here each year for the World Economic Forum, there has long been broad agreement that globalization is good.

But this year there is a growing doubt — not in the validity of the message, but in whether it is losing believers among the broad populace of the world.

The organizers of the conference focused a large part of it on China and India, but in the corridors a much smaller country kept coming up. That was Bolivia, whose new president, Evo Morales, promised to "end the colonial and neoliberal model." His election continued a recent leftist trend in Latin America.

"Populism is sexy in many countries," said Ghassan Salamé, a Lebanese political scientist who teaches at the Institut d'Études Politiques de Paris. "It somehow gives credibility back to politics, saying that politicians can change things. Otherwise, globalization is ruling the world."

Backers of globalization have long argued that it was "win-win," with developed and developing economies both gaining from the process, even if there were some local losers whose jobs vanished.

They still think that. But they worry that there are more losers than expected. "On a microbasis, it is very difficult to feel the win-win," said Ben Verwaayen, the chief executive of BT, the former British Telecom, at a session on jobs.

"There is a reason why polls show declining trust in politicians, journalists and business leaders. They are the opinion leaders who have lost credibility," Mr. Verwaayen continued. "Society feels very intuitively that something has changed, and we do not have the answer to it."

In a way, it is remarkable that these resentments are growing now, when world economic growth is strong. The growth of China, India and other Asian economies has not kept the United States from growing at a good rate.

But the growth is uneven, and many who felt successful in developed countries now feel threatened as pension plans are cut back and companies demand reductions in pay or benefits to avoid layoffs.

"Those who cannot participate in the economic wealth have fears," the German chancellor, Angela Merkel, said in a speech here. She warned of troubles ahead if a framework could not be found to allow all to profit.

A set of polls released by the forum showed that nearly two-thirds of Davos attendees believe that the next generation will live in a more prosperous world, while fewer than half of the people interviewed around the world share that opinion. The general public was, however, more optimistic than the Davos crowd that the world would become safer.

Perhaps those who resent globalization will remain powerless. But their ranks could swell if the world economy weakens.

Lawrence H. Summers, the president of Harvard University and a co-chairman of the World Economic Forum, asserts that globalization will not be derailed.

"The tide of history continues to move toward more market organization," he told me. But, he added, "For this to work out well, there must be more attention to local disintegration even as we work toward global integration."

Or people could just accept a world in which some are very wealthy and others provide services to them. Elaine L. Chao, the United States labor secretary, said the job outlook in the United States was bright for plumbers and electricians.

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And, speaking at the same section on jobs, David Arkless, a senior vice president of Manpower Inc., said that one profession likely to offer high pay in coming years is that of personal trainer.

Don't Look For Me At Davos . . . (WSJ)

By John C. Bogle

The Wall Street Journal, January 27, 2006

This year I've decided not to call the pilot, pop on to Vanguard's G-4 and jet to Davos. Partly because we don't "do" corporate airplanes. Partly because I've never been important enough to receive an invitation to the perennial World Economic Conference. But mostly because what was once truly a global economic conference has become a "happening," a magnet for the rich and famous -- including business stars and Hollywood starlets -- to see and be seen, sort of like walking on that red carpet to the Oscars.

I confess I looked at this year's program before I made my decision. I'm only truly sorry to miss Morgan Stanley's Steve Roach, whose persistent gloomy warnings about the global economy have yet to come home to roost. And I'm kinda sorry to miss the apparently impassioned defense of speculating in today's financial markets ("Beyond Short-Termism: Not on My Watch"), which I hope -- but doubt -- is an attack on my attack on the folly of short-term speculation in my new book. To say nothing of "Hedge Fund Fairy Tales," although that can hardly be covered adequately in the allotted hour. The sessions "Happiness is . . . ," "The Trust Deficit," and "Transforming Neurotic Corporations" may also have been interesting.

Confession being good for the soul, the session I'll really be sorry to miss is "All You Ever Wanted to Know about Relationships -- But Were Afraid to Ask," a rare three-hour session that vastly exceeds the customary one hour-limit. Here, psychologist Dagmar O'Connor will tell what I'm certain will be a capacity audience why "relationships and sexuality may be the only truly universal part of human life," and give us "tools to overcome old problems and keep desire flowing." We can all learn, can't we? (Even though I'll soon be 77, I'll celebrate my 10th anniversary as a heart-transplant recipient on Feb. 21. The heart is actually now 35.)

Speaking of CEOs, the Forum exults that among its select horde of 2,340 participants are a record 735 chief executives, chairmen and CFOs, "the highest figure of corporate leaders ever." With all due respect, I won't miss glad-handing most of them. They get paid as if they're solely responsible for their firms' success, and even if they fail, they get handsome rewards. In 2004, their compensation rose another 39% to 475 times that of the average worker -- the guys and gals who get out of bed every morning and do their jobs, with never a ride on the corporate jet whose cost is paid 60% by shareholders and 40% by taxpayers. Truth be told, most CEOs I've met are greatly overrated. But I don't complain; I may have been the most overrated of all.

So sorry, Bono, I can't be with you for lunch. Sorry, other Michael Jordan, that I won't hear the latest on EDS. Sorry, David Stern, that I can't shoot some hoops with you. Sorry, Jacques Rogge, that I won't learn more about "the impact of sports in the world." And sorry, Jean Claude and Christo, but please know that I took my whole family to "The Gates" and loved it.

But I already knew, as I suspect everyone there knew, that "China, India [are] Key to the Future," CNN's headline about Chancellor Merkel's speech. And I didn't need to fly to Davos to learn that "plumbers, construction workers, and electricians" will still be needed in the global economy of the future. With 226 sessions, I would have had to miss at least 200 anyway.

Deep down, however, I may just be jealous. Perhaps if I call President Clinton I can hitch a ride on his jet, arriving late tomorrow afternoon for a closing panel with Forum founder Klaus Schwab. Then I'd have avoided all the foolish, self-righteous show-biz baloney, but be able to assure my pals: "Yes, I was at Davos, 2006."

Mr. Bogle, founder and former CEO of the Vanguard Group, is the author of "The Battle for the Soul of Capitalism" (Yale, 2005).

French 'protectionism' Draws EU Ire (FT)

By Tobias Buck In Brussels

Financial Times, January 27, 2006

France has been given a one-month deadline to justify its contentious decree protecting a large number of domestic firms from foreign takeovers or face legal action from Brussels.

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Charlie McCreevy, the European Union internal market commissioner, has rounded on the French government's action, dismissing key provisions of the decree – issued on December 31 – as "discriminatory" and "protectionist".

The commissioner's criticism of the takeover decree is detailed in a four-page letter sent to the French government and signed by Mr McCreevy's top civil servant. "The Commission services have examined the law and have raised a number of concerns with the French authorities," a spokesman for Mr McCreevy said on Thursday.

Brussels' intervention underlines the Commission's deep concerns about the rise of protectionist measures in the 25 EU member states. Mr McCreevy is already embroiled in a battle with the Polish government over its attempt to block a banking merger involving UniCredit, the Italian financial services group. He has also taken action against Italy for an attempt by the country's central bank to block two foreign banking takeovers.

A confrontation with France would, however, be more serious, because the Commission is questioning measures which are designed to protect entire sectors from foreign takeovers – and not just individual companies.

Under the decree, the French government has the right to veto or impose conditions on foreign takeovers in as many as 11 sensitive sectors. Paris said the decree had been drafted in close collaboration with the Commission, but Brussels insists it never gave its approval to the text.

Mr McCreevy's spokesman said the Commission's concerns referred, among other things, to "the fact that the authorisation procedure applies only to foreign firms and not to French firms", adding that the requirement "appears discriminatory and could be viewed as protectionist". The Commission was also questioning a provision that requires government approval for buyers wanting to take over only parts of a French firm – a measure that "seems to be disproportionate", the spokesman added. Other potential problems identified in the Commission letter relate to "unclear criteria in the law for defining national interest".

France had hoped to avoid Commission criticism of the decree by distinguishing between foreign firms from inside and outside the EU. As a result, potential bidders from other EU countries face much lighter requirements than companies from, say, the US or China.

Kosovo Albanians Mourn Pro-Independence Leader (NYT)

By Nicholas Wood

The New York Times, January 27, 2006

PRISTINA, Kosovo, Jan. 26 — Kosovo's Albanian majority gathered by the tens of thousands on Thursday to bid farewell to their president in a proud and somber funeral ceremony that seemed to underscore their aspirations for independence.

After 16 years as the ethnic Albanian leader in the province, Ibrahim Rugova — a veteran pacifist who struggled to gain independence for this disputed region but died of lung cancer last Saturday — was given every honor the region could muster.

For six hours this city, the regional capital, was brought to a halt for a ceremony attended by four presidents and representatives from more than 40 countries. Stores and schools were closed, and the regional government announced a holiday.

Kosovo is still officially part of Serbia but has been administered by the United Nations since June 1999, when Serbian security forces, accused of committing atrocities against the Albanians, were forced to leave the province. Mr. Rugova died just as talks on the province's future status were about to begin.

But for many here on Thursday, there was little in the ceremony to suggest that it was taking place in a disputed province. There were few signs of the 17,000 or so peacekeepers who usually patrol the region. Instead, Kosovo's Protection Corps, defined by the United Nations as a civil disaster response unit but widely viewed by Albanians as the province's fledgling defense force, led the cortege. The armed guards, recruited from the ranks of Kosovo's now dispersed guerrilla army that fought the Serbian security forces during the conflict here from 1997 to 1999, walked slowly alongside the president's coffin as it was borne on a gun carriage, draped in flags.

"He was the president of our state," said Zymer Kastrati, 80, who traveled by bus with 10 members of his family from Pec in eastern Kosovo. Mr. Rugova twice won the presidency of Kosovo's regional government, elected by the provincial legislature in 2002 and 2004.

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While the United Nations has final authority here, the regional government has substantial say in areas like the economy, health, education and other social affairs.

Many Albanians traveled across Kosovo in freezing temperatures to attend the ceremony after four and half days of official mourning. Many were members of the Democratic League of Kosovo, the movement Mr. Rugova helped to form in the late 1980's as a counterweight to the rise of Serbian nationalism. Members of Kosovo's extensive exile communities flew in from as far as way as Australia and the United States.

Some said they came out of duty to the man they described as the father of their nation.

"He was a very patient and peaceful man — ideal qualities, since we Kosovars are a hot-blooded people," said Gresa Rexhepi, 16, a Pristina high school student. "I'm sure his goal will be achieved very soon."

Dignitaries paid tribute to the president before he was laid to rest at a memorial site for former members of the Kosovo Liberation Army. The head of the United Nations mission in the province, Soren JessenPetersen, said President Rugova had "remained dedicated exclusively to peaceful means."

"His death is a great loss," Javier Solana, the European Union's foreign policy chief, said at the ceremony. "It is one of the cruel ironies of history that he left at the moment he was most needed, the very moment he expected to provide leadership in helping to settle the future status of Kosovo."

Mr. Jessen-Petersen suggested that Mr. Rugova's desire for independence might yet become a reality, a suggestion echoed by diplomats who say negotiations are likely to lead to some kind of independent state.

"President Rugova has left a void behind him, but he has also left a vision to guide Kosovo forward," Mr. Jessen-Petersen said. "It is a vision whose fulfillment he did not live to see, but whose realization will be achieved through the unity and commitment of those who follow him."

But while the ceremony appeared to suggest that this region is on the verge of statehood, the underlying divisions were thinly disguised. Members of Kosovo's Serbian population were notably absent, as were representatives of the Serbian government.

A request by Serbia's president, Boris Tadic, to attend the funeral was rejected by Mr. Rugova's office because it reasserted Serbia's claim to the province.

President Tadic asked to be able to go to "Kosovo, which is a part of Serbia's territorial integrity," and pay his respects. Subsequently, all but one of Kosovo's Serbian representatives declined to join the ceremony.

There were also reminders of the deep divisions running though Kosovo's Albanian population. Some war veterans, long critical of Mr. Rugova's advocacy of nonviolence during repression at the hands of Serbian security forces in Kosovo in the 1990's, condemned the government's decision to bury him at the Kosovo Liberation Army memorial site.

Axis Of Evo (WSJ)

By Mary Anastasia O'grady

The Wall Street Journal, January 27, 2006

There was a time when Evo Morales deserved a chance to show his democratic bonafides as Bolivia's new head of state. But 96 hours into the presidency, time's up. Anyone still wondering what Evo has in mind for his country qualifies for permanent disability -- or a job at the Organization of American States -- on grounds of terminal naiveté.

In just a few short days, the great Aymara hope has built a cabinet of radical and Marxist militants, purged the Bolivian military and signed a pile of "agreements" with his Venezuelan mentor Hugo Chávez. There are reports that Cuban security agents are already working for the new president much as they do for Chávez. If imitation is the sincerest form of flattery, Evo is buttering Hugo up big time.

The most tragic aspect of Evo's decision to let Cuba and Venezuela annex his country is where this all leads for the majority Indian population in one of the region's poorest countries. Their hopes soared on Sunday as they watched one of their own, from humble beginnings, sworn into the highest office in the land. They no doubt think that Evo -- who rose to power by leading coca growers against crop eradication pushed by U.S. drug warriors -- will care for his own in ways that the white, upper-class leadership never did. But Fidel long ago destroyed underclass hopes for a better life and Hugo is doing the same.

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After six years of Chávez, Venezuelans, once ecstatic about their Bolivarian Revolution, are sinking deeper into poverty. Fidel's largely Afro-Cuban population is destitute after almost 50 years of El Máximo Lider.

Most of the world has greeted the Morales presidency with romantic optimism. His lack of experience and formal education, his fiery rhetoric laced with old fashion Latin populism, his violent background and his hard-line friends abroad -- all have been played down in favor of a "give-him-a-chance" attitude. A Miami Herald editorial Wednesday noted a few of Mr. Morales' more moderate statements as "a sign of political maturity."

It's hard to find anyone not hoping that an Evo-led Bolivia, built on equality under the law, property rights and healthy competition will emerge. Sadly, though, white guilt is not likely to get off so easily. The reality is that the Cuban model of totalitarian "equality" is now the dominant force shaping the Morales government.

One reason this has been slow to dawn is that observers have been assigning far too much importance to the question of whether foreign investors will be allowed into Bolivia's rich natural gas industry, or if, instead, Bolivia will go forward with full blown nationalization. The answer is probably the former, but so what? As both Venezuela and Cuba illustrate, such a policy does nothing to ensure development and reveals very little about whether democracy and liberty will survive.

Spain's socialist prime minister, José Luis Rodríguez Zapatero, is already trying to elbow his way into Mr. Morales's Bolivia on behalf of Spanish energy interests, as is Brazil's Luiz Inácio "Lula" da Silva on behalf of Petrobras. Yet the presence of foreign business interests in a dictatorship does little for the locals. Both Castro and Chávez host foreign investors, recognizing them as perfect business partners because they are politically indifferent as long as they get their cut. The key to a dictator's control is ensuring that local interests do not have economic power to challenge the political status quo.

Mr. Morales has been riding an anti-foreigner wave of populism but is suddenly warming up to the old Bolivian nemesis, Chile. Undoubtedly, someone has explained to him that as long as Bolivia relies exclusively on Brazil and Argentina as markets for its natural gas, it has weak pricing power. It would not be surprising to see the angry Bolivian nationalist make a deal with Chile so he could reach the coast and tap into the rich market for liquefied natural gas up north.

If that happens it should not be understood as moderation. It would merely be a calculation about how to secure power. It explains the first-ever attendance of a Chilean president at a Bolivian inauguration and Evo's plans to travel to Chile for its inauguration of Michelle Bachelet.

Better relations between Chile and Bolivia are much to be desired. But as Venezuela and Iran have made clear, energy income in the hands of the state does not make citizens better off. We'd be more encouraged if Evo said something about changing Bolivian property laws to permit Indians to sell their rural land or if he promised to change the country's "capitalization" structure of privatized companies so that shares held in trust for Bolivians by the state would be distributed to the people.

The other facet of Bolivian reality that some observers expected as a counterbalance to a presidential power grab is the opposition. Yet, with a majority in the lower house and solid support in the senate, Evo may be able to consolidate power "legally" à la Chávez. A constituent assembly later this year will rewrite the constitution and if Venezuela is any guide, the concept of limited government will not be included in the document.

Finally, there is the matter of the military, an institution near and dear to the heart of an "elected" president who has no intention of leaving office when his term is up. Again, Chávez's Venezuela provides the template. To this day, a number of Venezuelan experts believe that the so-called "coup" of April 11, 2002 was a staged event, designed expressly for the purpose of identifying high-ranking Chávez opponents in uniform so they could be relieved of duty and replaced by less-qualified, loyal soldiers.

On Tuesday, Evo fired 28 Bolivian generals -- essentially the entire high command -- on charges of treason for allowing the U.S. to destroy some two dozen Chinese missiles held by the Bolivian military. He didn't mention that the missiles were obsolete and that both parties acted within OAS conventions. He then reportedly passed over the next generation of officers to replace the generals with a young group of soldiers. There can be little doubt that these new generals understand well that the president deserves credit for their accelerated career success.

There are of course differences between Bolivia and Venezuela, the biggest one being that Evo doesn't have the resources to purchase influence the way Hugo has done. But that may also explain why he's moving much faster to neutralize the military and protect his power against future challengers.

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TERRORISM NEWS:

Bush Sees No Need For Law To Approve Eavesdropping (NYT)

By Elisabeth Bumiller

The New York Times, January 27, 2006

WASHINGTON, Jan. 26 — President Bush declared again on Thursday that his administration's program for eavesdropping without warrants was well within existing law, and said that efforts in Congress to write legislation expressly giving him authority for such a program were unnecessary and dangerous.

"My concern has always been that in an attempt to try to pass a law on something that's already legal, we'll show the enemy what we're doing," Mr. Bush said in a wide-ranging morning news conference in the White House press briefing room. The president added that if the effort to write a new law "is likely to expose the nature of the program, I'll resist it."

Mr. Bush's 46-minute news conference, announced less than an hour and a half ahead of time, was an effort by the White House to frame the debate on an array of foreign and domestic issues only five days before his State of the Union address. The topics included the Hamas landslide in the Palestinian elections; photographs of Mr. Bush with Jack Abramoff, the disgraced Republican lobbyist; and the Congressional investigation into the administration's response to Hurricane Katrina.

Mr. Bush appeared relaxed in the briefing room, which his aides say he prefers for news conferences instead of the more formal East Room. He appeared apprehensive at first, but loosened up when he saw a camera dangling precariously from a cord in the ceiling, threatening to crash down on the heads of reporters. "Are you wearing your helmets?" Mr. Bush asked.

He said he welcomed traveling for the 2006 midterm elections in November. "I've got one more off-year campaign in me as a sitting president, and I'm looking forward to it," he said. "As you know, I like to get out and tell people what's on my mind."

The eavesdropping program dominated the domestic policy questions at the news conference, which Mr. Bush used as another volley in his weeklong campaign to push back against both Democrats and Republicans who question the program's legality. Senate Judiciary Committee hearings into the program are to begin next month.

"There's no doubt in my mind it is legal," Mr. Bush said.

He reiterated that the program, which intercepts international phone calls and e-mail messages of people in the United States suspected by the government of having links to Al Qaeda, was crucial to national security, and declared that he had the constitutional authority in wartime to order it. He said that after the Sept. 11 attacks he had asked people like Lt. Gen. Michael V. Hayden, then the director of the National Security Agency and now the principal deputy director of national intelligence, to come up with plans to protect against terrorist attacks.

"And so he came forward with this program," Mr. Bush said. "In other words, it wasn't designed in the White House; it was designed where you expect it to be designed, in the N.S.A."

Mr. Bush took issue with a questioner who asked why he felt the need to circumvent the 1978 Foreign Intelligence Surveillance Act, which requires court warrants for wiretaps.

"Wait a minute," Mr. Bush said. "That's a — there's something — it's like saying, you know, 'You're breaking the law.' I'm not." He said that the surveillance act "was written in 1978" and that now "it's a different world."

Mr. Bush sidestepped a question on whether the eavesdropping program was part of an effort by the White House to reassert executive power.

"I would say that there has been a historical debate between the executive branch and the legislative branch as to who's got what power," he said. "And I don't view it as a contest with the legislative branch. Maybe they view it as a contest with the executive. I just don't."

Bush Reasserts Presidential Prerogatives (WP)

By Jim Vandehei

DOJ_NMG_0012563

The Washington Post, January 27, 2006

President Bush set limits yesterday on White House cooperation in three political disputes, saying he is determined to assert presidential prerogatives on such matters as domestic eavesdropping and congressional inquiries into Hurricane Katrina.

In a mid-morning news conference, Bush told reporters he is skeptical of a proposed law imposing new oversights on his use of the National Security Agency to listen in on electronic communications. He also said that he will block White House aides from testifying about the slow federal response to Hurricane Katrina, and that he will not release official White House photos of himself with former Republican lobbyist Jack Abramoff.

Facing repeated questions, Bush distanced himself from Abramoff, who is at the center of the biggest political corruption and bribery scandal in a generation. Bush said he does not recall having his picture taken with Abramoff or ever meeting him. Abramoff was a member of the exclusive club of Bush's $100,000 fundraisers known as Pioneers.

"Having my picture taken with someone doesn't mean that I'm a friend with him or know him very well," Bush told reporters.

According to three people who reviewed half a dozen photos of the men, Bush is pictured at official gatherings and fundraisers with Abramoff and his children. He also attended a White House meeting with some of Abramoff's clients, including tribal leaders and the then-speaker of the House for the Northern Mariana Islands, the sources said. Abramoff has pictures from the event, they said.

If prosecutors "believe something was done inappropriately in the White House, they'll come and look and they're welcome to do so," Bush said. The White House has also refused to detail meetings between Abramoff and top White House aides.

The president was similarly adamant about not allowing top aides to testify about Hurricane Katrina. Bush, who has moved on several fronts over the past five years to strengthen the power of the presidency, said it would be damaging to him and future presidents if aides feared providing candid advice.

Sen. Joseph I. Lieberman (D-Conn.), a staunch supporter of Bush on foreign policy, has accused the White House of undermining the probe by refusing to detail the role of White House officials. "If people give me advice and they're forced to disclose that advice, it means the next time an issue comes up I might not be able to get unvarnished advice from my advisers," Bush said. "And that's just the way it works."

On the issue of NSA eavesdropping on overseas communications to or from U.S. citizens, Bush said he is concerned about Congress writing a new spying law because it could force the government to provide details and clues about a top-secret program used to hunt down terrorists.

"There's no doubt in my mind it is legal," Bush said. Democrats have accused Bush of breaking the law by authorizing the spying program without approval from Congress or the courts. The debate is expected to dominate hearings, scheduled to begin Feb. 6, on the highly classified NSA program.

"But it's important for people to understand that this program is so sensitive and so important that if information gets out to how we run it or how we operate it, it'll help the enemy," he said. "Why tell the enemy what we're doing?"

In his 10th news conference since winning reelection, Bush talked at length about presidential power but also previewed next week's State of the Union speech and weighed in on several foreign policy issues, including the Hamas victory in the Palestinian elections.

The performance was quintessential Bush: He joked and sparred with reporters, and betrayed no sense of second-guessing his decisions. When pressed about the election victory of Hamas, which the United States and other countries have called a terrorist group, Bush initially portrayed the vote as a triumph of the democratic process and a wake-up call to the current Palestinian leadership. Later, he conceded the results could set back the Middle East peace process, a top Bush priority.

Bush was often blunt, at one point taking a reporter's challenge to declare with "Texas straight talk" that the United States will never torture prisoners. "No American will be allowed to torture another human being anywhere in the world," Bush shot back. He said that is why the White House supported the law sponsored by Sen. John McCain (R-Ariz.) that outlawed cruel, inhuman and degrading treatment of detainees. A statement released by the White House when Bush signed the law, however, left vague whether the administration is asserting that a loophole exists.

Bush endorsed a plan to allow Russia to help produce nuclear energy for Iran as a way to keep the anti-American regime from building nuclear weapons. But he mischaracterized Iran's public position by saying, "The Iranians have said, 'We want a weapon.' " Publicly, the Iranian government has insisted the opposite is true, though Tehran is widely believed to be actively seeking nuclear weapons.

Although he has not vetoed a spending bill since taking office, Bush warned he is "fully prepared to use the veto" if lawmakers overspend. The government is more than 25 percent larger today in total spending than it was the day Bush took office, and conservatives are calling on the president and Congress to reduce the size of the federal budget.

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Bush is expected to talk about new spending restraint during his State of the Union address Tuesday night. The speech will be the official start of a legislative year that will be confined by high budget deficits and a tight legislative schedule. As Bush was speaking, the Congressional Budget Office estimated the 2006 deficit at $337 billion, up from 2005.

Bush will forgo expensive new programs in his speech, aides said, though he will call for new tax breaks to mitigate the cost of health insurance, which has skyrocketed in recent years. With the House and Senate up for grabs in November, politics, not policy, will likely drive much of the congressional agenda.

Bush said he is excited to be campaigning for GOP candidates in the midterm elections, which he predicted will be about "peace and prosperity."

At hearings on the NSA spying, Democrats plan to press administration officials to explain why Bush did not consult Congress more broadly about the program, why he does not believe Congress should write a new law governing eavesdropping programs such as the NSA operation, and why he believes the super-secret Federal Intelligence Surveillance Act courts should not be consulted before eavesdropping on communications to and from the United States. In his news conference, Bush emphasized that FISA was enacted in 1978 -- "a different world," he said.

Sen. Edward M. Kennedy (D-Mass.) said Bush's explanation that the Constitution and the war resolution passed after the Sept. 11, 2001, attacks provide the president with extraordinary wartime power is wrong. "Congress can't roll over in the face of these outrageous claims," Kennedy said. "No president is above the law."

Bush Claims Authority On War, Eavesdropping (WT)

By Joseph Curl

The Washington Times, January 27, 2006

President Bush yesterday said he has exclusive authority over a broad range of issues -- including forbidding White House officials to testify before Congress about the government's Hurricane Katrina response and ordering warrantless electronic surveillance within the United States.

"Conducting war is a responsibility in the executive branch, not the legislative branch," the president said at a 46-minute press conference. "Most presidents believe that during a time of war that we can use our authorities under the Constitution to make decisions necessary to protect us."

Democrats have accused the president of breaking the law by ordering the National Security Agency in 2002 to eavesdrop on international communications between suspected terrorists and people in the United States. Senate hearings on the once-secret program are scheduled for Feb. 6.

Mr. Bush acknowledged that "there will be a legal debate about whether or not I have the authority to do this," but added, "I'm absolutely convinced I do. And I'm going to continue using my authority."

In response to a question from The Washington Times, Mr. Bush said: "We're going to do what is necessary, within the Constitution and within the law, and at the same time guaranteeing people's civil liberties, to protect the people."

Asked whether he would support efforts in Congress to spell out his authority to continue the eavesdropping program, Mr. Bush cited what he said was the extreme secrecy of the operation, first revealed by the New York Times last month.

"It's important for people to understand that this program is so sensitive and so important that if information gets out to how we run it or how we operate it, it'll help the enemy," he said.

Asked why his administration has refused to allow senior staff, including his former FEMA director, Michael Brown, "to testify, to interview or talk with congressional leaders" about the federal government's response to Hurricane Katrina, Mr. Bush cited his executive authority.

"If people give me advice and they're forced to disclose that advice, it means the next time an issue comes up I might not be able to get unvarnished advice from my advisers," he said. "It will have a chilling effect on future advisers if the precedent is such that when they give me advice that it's going to be subject to scrutiny."

The president opened with a preview of his State of the Union address, which he will deliver Tuesday to a joint session of Congress. He said he believes Democrats and Republicans can accomplish something together even though this is a congressional election year. Responding to a question later, he said he was eager to get out and help Republicans win in November.

"I've got one more off-year campaign in me as a sitting president, and I'm looking forward to it," he said.

Bush Calls Warrantless Wiretaps Legal (AP-Y2)

By Terence Hunt

AP2, January 27, 2006

DOJ_NMG_0012565

President Bush again defended his program of warrantless surveillance Thursday, saying "there's no doubt in my mind it is legal." He suggested that he might resist congressional efforts to change or expressly endorse it.

"The program's legal, it's designed to protect civil liberties, and it's necessary," Bush told a White House news conference.

Democrats have accused the president of breaking the law in allowing eavesdropping on overseas communications to and from U.S. residents, and even some members of his own party have questioned the practice.

It was the president's first full-scale news conference of the new year, and the 10th since he was re-elected in 2004. He previewed his upcoming State of the Union address and fielded questions on former lobbyist Jack Abramoff, the stunning victory of the radical group Hamas in Palestinian elections and the administration's cooperation with Congress on its investigation of Hurricane Katrina.

Asked if he would support efforts in Congress to spell out his authority to continue the eavesdropping program, Bush cited what he said was the extreme delicacy of the operation.

"But it's important for people to understand that this program is so sensitive and so important that if information gets out to how we run it or how we operate it, it'll help the enemy," he said. "Why tell the enemy what we're doing?"

"We'll listen to ideas. But I want to make sure that people understand that if the attempt to write law makes this program -- is likely to expose the nature of the program, I'll resist it," he said.

On the Middle East, Bush expressed concern that Palestinian elections had given a majority to the radical party Hamas, which has called for the elimination of Israel, although he noted that democratic elections sometimes produce unwelcome results.

He made it clear that any organization that has an armed wing and which advocates violence against Israel "is a party with which we will not deal."

Bush called the election results a "wake-up call" to the old guard Palestinian leadership, many of whom are holdovers from the days of the late PLO ChairmanYasser Arafat.

Questioned about a controversy swirling about disgraced lobbyist Jack Abramoff, Bush said he would cooperate with federal prosecutors investigating Abramoff and his alleged influence peddling activities, if necessary. Otherwise, the president said he saw no reason to release pictures that he acknowledged were taken of him and Abramoff.

"There is a serious investigation going on by federal prosecutors — that's their job," the president said. "If they believe something was done inappropriately in the White House, they'll come and look and they're welcome to do so."

Otherwise, Bush said, "I've had my picture taken with a lot of people. Having my picture taken with someone doesn't mean that I'm a friend with him or know him very well. "

"I've had my picture taken with you," Bush said to the reporter who asked the question.

Pressed further on his relationship with Abramoff, who has pleaded guilty to federal charges stemming from his lobbying practices and has pledged to cooperate with investigators, Bush said, "I frankly don't even remember having my picture taken with the guy. I don't know him."

He said that federal investigators should pursue all leads and "look into all aspects of his influence on Capitol Hill," and that if the path also leads to the White House, he was sure they would "come knock on the door."

He was asked if he meets with lobbyists. "I try not to," Bush replied.

Asked about assertions by some Democrats that they will take back control of Congress in this year's midterm elections, Bush said he wasn't surprised they were talking that way, but shrugged it off.

He said he was ready to hit the campaign trail one more time, not for himself, but to stump for Republican congressional candidates this year. "We've got a record and a good one, and that's what I intend to campaign on," Bush said.

The president defended his administration's level of cooperation with congressional investigations into the government's slow response to the Hurricane Katrina devastation, citing the thousands of documents the White House has provided.

Questioned on congressional complaints that more could be done, Bush said that it would have a "chilling effect" on the ability of presidential advisers to speak freely.

Bush also said that his nominee for Supreme Court, Samuel Alito, deserves to be confirmed in the Senate, where he clearly has the votes but where minority-party Democrats were speaking out against him at length.

"The Senate needs to give him an up or down vote as soon as possible," Bush said in opening remarks that also previewed the themes of his State of the Union address next Tuesday.

Bush shrugged off a recent Pentagon-contracted report which concluded the Army was overextended and the United States cannot sustain the pace of troop deployments to Iraq long enough to break the back of the insurgency there.

The president predicted victory in Iraq and said, "Our commanders will have the troops necessary to do that."

He said the military was focused on transforming itself to ensure the armed forces could meet its goals in the 21st century.

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"After five years of war, there is a need to make sure that our troops are balanced properly, that threats are met with capability. And that's why we're transforming our military," Bush said.

Trying To Maintain Control Of The State, In A State Of Confusion (WP)

By Dana Milbank

The Washington Post, January 27, 2006

The best-laid plans for President Bush's news conference went awry just 30 seconds into the event. An Associated Press camera and tripod broke free from their bracket on the ceiling and, in view of the TV cameras, dangled menacingly over reporters from Bloomberg News and the New York Daily News.

"First, I recognize . . ." Bush said, looking up and noticing the twirling piece of metal. "We live in a momentous time . . ." he tried again, then looked back at the unmoored object, which was blocking the MSNBC camera's shot of him. "For those of you watching, we seem to have a mechanical flaw," he felt obliged to explain.

The most powerful man in the world spent the next couple of minutes laboring through his opening statement yesterday in the White House briefing room while a large, bald technician walked into the picture and attempted, in a series of acrobatic gestures, to unscrew the tripod.

For the president, it was a timely reminder that events are not always within his control -- as if he needed another reminder. Earlier in the morning, the world learned that Palestinian voters had just handed their government to the terrorist group Hamas. Bush, trying to explain this reversal, suggested the defeated (U.S.-backed) leadership was crooked.

"If there is corruption, I'm not surprised that people say, 'Let's get rid of corruption,' " he reasoned -- inviting an unwelcome comparison to Jack Abramoff and the 2006 elections.

In all, Bush uttered nearly 7,000 words in his 45-minute Q&A. But his message could be summed up with a brief phrase in his least-favorite language: L'Etat c'est moi (I am the state).

His approval of a program to eavesdrop without warrants: "As I stand here right now, I can tell the American people the program is legal," he certified.

His refusal to release photos of him with Abramoff: "They're not relevant to the investigation."

His view on congressional anti-torture legislation: "Conducting war is a responsibility in the executive branch, not the legislative branch."

His refusal to provide Congress with testimony about the federal response to Hurricane Katrina: "That's just the way it works."

Midway through this Bourbonic performance, the Los Angeles Times's James Gerstenzang offered an observation on Bush's surveillance policy: "This seems to sound like something President Nixon once said, which was: 'When the president does it, then that means that it's not illegal.' " Whispered "oohs" could be heard in the room. Bush gave a look indicating he wished the dangling camera had fallen on Gerstenzang.

"Most presidents believe that during a time of war that we can use our authorities under the Constitution to make decisions necessary to protect us," he answered, then offered his reading of legislation passed after the 2001 terrorist attacks: "Go ahead and conduct the war. We're not going to tell you how to do it."

Bush seemed distracted even before the camera dislodged. "I do want to give you some thoughts about what I'm thinking about," he began.

The Hamas news may have been weighing on his mind. But he spoke as though the terrorist group's landslide had been a balloting triumph. "So the Palestinians had an election yesterday, the results of which remind me about the power of democracy," he said, later adding: "I like the competition of ideas."

When CBS's John Roberts steered questioning toward the National Security Agency's surveillance, Bush dismissed the notion of a law that legitimized it. "My concern has always been that, in an attempt to try to pass a law on something that's already legal, we'll show the enemy what we're doing," he said. "If the attempt to write a law is likely to expose the nature of the program, I'll resist it."

Even the Washington Times pressed Bush to answer charges that he has abused his power. But the president declined to be drawn into constitutional nuance. "I'm going to leave that to the lawyers," he said. "I believe I've been hired by the people to do my job, and that's to protect the people."

Another questioner wondered what it was about the 1978 law governing domestic wiretapping "that you feel you have to circumvent it."

The president's lip curled upward. He held up his hand, then leaned on the lectern and pointed his finger. "It's like saying, 'You know, you're breaking the law.' I'm not," he protested. Still, Bush explained why he disregarded the 1978 law. "I said, 'Look, is it possible to conduct this program under the old law?' And people said, 'It doesn't work.' "

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The questions about the Abramoff photos heightened Bush's irritation. "Having my picture taken with someone doesn't mean that I'm a friend with him or know him very well," he replied to one questioner. "I've had my picture taken with you."

A few questions later, Bush made the distance between Abramoff and himself even longer. "I, frankly, don't even remember having my picture taken with the guy," he declared. "I don't know him."

Still, the president seemed to realize the questions about the photos were not going away. CBS Radio's Mark Knoller tried another approach. "Never mind about the photographs, but can you say whether . . . "

Bush cut him off. "Easy," he noted, "for a radio guy to say."

Bush To Resist Wiretap Legislation (WSJ)

By Christopher Cooper

The Wall Street Journal, January 27, 2006

WASHINGTON -- President Bush suggested he will resist any congressional attempts to modify the administration's practice of conducting warrantless wiretaps, saying the program is already legal and would lose effectiveness if subjected to a protracted public debate.

In his first news conference of the year, Mr. Bush said yesterday that while he will consider congressional suggestions to modify the program, he won't support public debate that divulges how it works -- even if lawmakers' intent is to preserve the program.

Asking, "why tell the enemy what we're doing if the program is necessary to protect us from the enemy?" Mr. Bush said if congressional debate should expose "the nature of the program, I'll resist it."

Some recent national polls have shown the issue isn't hurting the president politically.

Critics, including some Republicans, say the program, which is conducted by the National Security Agency under authorization by the president, tramples the Constitution and represents an overreach of executive authority. The Bush administration says the program is legal and that some lawmakers have been briefed regularly on it since it was initiated shortly after the Sept. 11, 2001, attacks.

It is uncertain how far the administration will go to cut off debate on the issue, even if there is a drive to give the White House authority to continue the practice. Congress has scheduled a Feb. 6 hearing on the program.

President Bush holds a press conference2 to answer questions about the Hamas Islamist party, the economy and the domestic-surveillance program, among other topics. · Read the transcript of the news briefing3.

What Mr. Bush hasn't resisted are opportunities to discuss the program himself, which he has been doing since its existence was revealed last month. In an interview with The Wall Street Journal on Wednesday, Mr. Bush said that while he was "sorry" the program was revealed, he now believed it necessary to explain its importance to the public. "We have to be able to describe to the people the principles of the program without giving to the enemy what's happening," Mr. Bush said.

Mr. Bush's news conference included a variety of subjects but concentrated on the NSA program, the White House's contacts with disgraced lobbyist Jack Abramoff and the surprise sweep of the extremist Hamas organization in Wednesday's parliamentary elections in the Palestinian territories.

Mr. Abramoff, who pleaded guilty earlier this year to federal charges related to his lobbying activities, had visited the White House and contributed to Mr. Bush's campaign. Recently a handful of pictures surfaced showing Mr. Bush and Mr. Abramoff at various events.

Reporters have pressed the White House to release the photographs of the president and Mr. Abramoff but have been rebuffed. The administration also has refused to say whether Mr. Abramoff ever met with Mr. Bush's senior staff. Yesterday, Mr. Bush declined to disclose whether Mr. Abramoff had ever met with his senior advisers, saying the matter remained under federal investigation and that he would cooperate with that probe if asked. He also declined to release the photographs, saying they were "grip and grin" shots that would be used for "pure political purposes" if made public.

"I've had my picture taken with a lot of people," Mr. Bush said, adding that he had no relationship with Mr. Abramoff. "I don't know him," Mr. Bush said.

The president reiterated his vow not to deal with Hamas. Mr. Bush urged the current Palestinian president, Mahmoud Abbas, to stay on so Washington can maintain a diplomatic channel with the territorial government. The landslide for Hamas, which refuses to recognize Israel's right to exist, is all but certain to bog down the U.S.-backed peace process in the region. But Mr. Bush said he remains optimistic. "Peace is never dead, because people want peace," he said.

Bush Resists Changing Law On Spying (REU-Y2)

By Tabassum Zakaria

Reuters, January 27, 2006

DOJ_NMG_0012568

President George W. Bush on Thursday insisted his decision to allow spying on Americans' international telephone calls was legal and said he would resist changing laws governing such action if it meant revealing secrets to an enemy.

Democrats and some Republicans question the legality of Bush's decision, taken after the September 11 attacks, to authorize eavesdropping without court approval if one of the parties on the call was suspected of links to terrorism.

Former Vice President Al Gore, the Democrat who lost the 2000 presidential election to Bush, has called for a special counsel to investigate whether the president broke the law, and Congress is to hold hearings on the issue.

The 1978 Foreign Intelligence Surveillance Act makes it illegal to spy on U.S. citizens inside the United States without approval from the special FISA court.

Bush said he acted to allow the National Security Agency to move more quickly in monitoring suspect communications to head off possible further attacks.

He said a measure passed by Congress after the September 11 attacks gave him authority to use whatever force was necessary against the enemy in his declared "war against terrorism."

Bush dismissed critics who say he should have worked with Congress to change the 1978 law, passed to halt intrusive domestic spying under President Richard Nixon.

"My concern has always been that, in an attempt to try to pass a law on something that's already legal, we'll show the enemy what we're doing," Bush said at a press conference.

He said the spying program was "so sensitive and so important" that if information was revealed about how it operated, it would help the enemy.

SECRET PROGRAM

"And so, of course, we'll listen to ideas. But I want to make sure that people understand that if the attempt to write law makes this program -- is likely to expose the nature of the program, I'll resist it," Bush said.

Sen. Dianne Feinstein (news, bio, voting record), a California Democrat, said: "I have been deeply troubled by the fact that the administration, if it believed it needed additional authorities related to domestic electronic surveillance, did not seek legislation granting them that authority."

The White House has been on a public campaign to reassure Americans that this is a limited program and the government is not engaged in a mass spying operation.

In that effort, the White House says the program should not be referred to as "domestic spying" because one end of the link being monitored is overseas. The White House is calling it "the terrorist surveillance program."

Bush said Gen. Michael Hayden, the former director of the National Security Agency, came forward with the program as a tool for fighting terrorism after the September 11 attack.

"It wasn't designed in the White House. It was designed where you expect it to be designed, in the NSA," Bush said.

Government lawyers looked at the program before it was implemented and there were safeguards to make sure it focused on calls in which someone suspected of links to al Qaeda was involved, Bush said.

"And so, as I stand here right now, I can tell the American people the program's legal, it's designed to protect civil liberties and it's necessary," he said.

Bush, who visited the NSA on Wednesday, said he takes the threats from al Qaeda leader Osama bin Laden seriously. In an audiotape aired last week bin Laden said al Qaeda was preparing attacks inside the United States.

Varied Rationales Muddle Issue Of NSA Eavesdropping (WP)

By Dan Eggen And Walter Pincus

The Washington Post, January 27, 2006

President Bush said yesterday that he didn't seek congressional approval for a warrantless domestic eavesdropping program for one simple reason: He didn't need it.

"We believe there's a constitutional power granted to presidents as well as, this case, a statutory power," Bush said. "And I'm intending to use that power."

It is one of several explanations on the topic from Bush and his aides, who have provided at least two separate rationales for why they did not ask for statutory authority for the program. Attorney General Alberto R. Gonzales said the administration had considered seeking legislation but determined it would be impossible to get, adding later in the same news conference that authorities did not want to expose the program's existence. White House spokesman Scott McClellan has echoed the latter point, saying the administration feared that details of the classified program would be exposed publicly.

The subject is one of several elements in the NSA spying debate that have been clouded by apparent contradictions and mixed messages from the government since the program was revealed last month. The confusion has cleared up little in recent days, as the White House has embarked on a multi-pronged campaign to defend the legality of the controversial program.

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Gonzales and other officials, for example, have repeatedly said that the Foreign Intelligence Surveillance Act (FISA), which governs secret surveillance in the United States, is too cumbersome to be applied to the NSA eavesdropping program. Yet the Justice Department raised concerns about a 2002 bill to loosen FISA requirements.

Before the program's existence was revealed, several administration officials also emphasized in testimony and public statements that the NSA was prohibited from engaging in domestic surveillance -- even as the agency was clearly doing so under the authority of Bush's secret order that established the program.

Many Democratic lawmakers and legal experts have seized on these and other issues in recent days to argue that the Bush administration has been misleading in its explanations of the NSA program.

Sen. Edward M. Kennedy (D-Mass.) said that the "after-the-fact spin we're hearing now is worthless." Senate Minority Leader Harry M. Reid (D-Nev.) issued a statement yesterday criticizing the administration for claiming that Congress had been fully briefed on the NSA program and for opposing the 2002 measure to loosen FISA standards.

The latter issue attracted particular criticism yesterday, as lawmakers and national security experts opposed to the program cast doubts on the administration's current legal rationale.

An amendment to FISA proposed by Sen. Mike DeWine (R-Ohio) would have lowered the standard to be met for authorizing surveillance of non-U.S. citizens, from "probable cause" to "reasonable suspicion" that the target was an agent of a terrorist group. The Justice Department did not offer support for DeWine's amendment because of "significant legal and practical issues," according to department statements.

Confusion over the issue deepened further yesterday after officials discovered two versions of a Justice statement on the legislation. One, which was posted on the Federation of American Scientists Web site and quoted in media reports, noted possible constitutional concerns. The other, held by the Senate intelligence committee, did not include that issue. Officials could not explain the disparity.

A Justice spokeswoman said this week that the previous opinion did not conflict with current legal justifications for the NSA spying because "probable cause" required under FISA is "essentially the same" as the standard used in the NSA program: "a reasonable basis to believe" that a target is linked to al Qaeda or an affiliate.

But Timothy H. Edgar, a national security lawyer at the American Civil Liberties Union, also said the NSA program clearly operates under a lower legal standard allowed only in limited circumstances, such as when police to frisk suspicious people on the street.

"That's never been considered acceptable for searching someone or listening to their telephone," Edgar said.

Bush and his top aides have repeatedly stressed that "Congress" had been briefed on the program over the past four years, but have often neglected to mention that the briefings were limited to the "Gang of Eight": the speaker and minority leader of the House; the majority and minority leaders of the Senate; and the chairmen and ranking Democrats on the two intelligence committees. And they were barred from taking notes or discussing what they heard with other lawmakers or their staffs.

Sen. John D. "Jay" Rockefeller IV (D-W.Va.), who as vice chairman of the Senate intelligence panel was briefed in 2003, took the unusual step of sending Vice President Cheney a classified letter voicing his concerns about the program and the lack of oversight on how it was being carried out. Several other prominent Democrats have also questioned the program's legality since it was made public, including Reid, House Minority Leader Nancy Pelosi (D-Calif.) and Rep. Jane Harman (D-Calif.), ranking minority member of the House intelligence committee.

Yet Dan Bartlett, counselor to Bush and White House communications director, said Monday that the lawmakers who had been briefed "believed we are doing the right thing" and that Democratic leaders "briefed on these programs would be screaming from the mountaintops" if they thought the program was illegally eavesdropping on Americans.

Some critics, including a group of relatives of victims of the Sept. 11, 2001, attacks, have also focused on previous statements by Gen. Michael V. Hayden -- the deputy intelligence director who formerly headed the NSA -- that now appear to be, at best, incomplete.

For example, Hayden and other NSA staff members told the House-Senate inquiry into the attacks that "they do not want to be perceived as focusing NSA capabilities against U.S. persons in the United States," said the panel's report. "The Director and his staff were unanimous that lessons NSA learned as a result of Congressional investigations during the 1970's should not be forgotten."

Hayden suggested similar limitations in an appearance before the House intelligence committee in October 2002, telling Porter J. Goss, then the committee chairman, that the NSA "would have no authorities" to pursue Osama bin Laden if he entered the United States. The NSA program was at least a year old by that time, and Goss -- now the CIA director -- was one of the few members of Congress briefed on it. Experts also say Hayden was wrong to suggest that bin Laden would enjoy the same legal protections as U.S. citizens or residents.

Staff writers Carol D. Leonnig and Dafna Linzer and researcher Julie Tate contributed to this report.

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New Poll Finds Mixed Support For Wiretaps (NYT)

By Adam Nagourney And Janet Elder

The New York Times, January 27, 2006

Americans are willing to tolerate eavesdropping without warrants to fight terrorism, but are concerned that the aggressive antiterrorism programs championed by the Bush administration are encroaching on civil liberties, according to the latest New York Times/CBS News poll.

In a sign that public opinion about the trade-offs between national security and individual rights is nuanced and remains highly unresolved, responses to questions about the administration's eavesdropping program varied significantly depending on how the questions were worded, underlining the importance of the effort by the White House this week to define the issue on its terms.

The poll, conducted as President Bush defended his surveillance program in the face of criticism from Democrats and some Republicans that it is illegal, found that Americans were willing to give the administration some latitude for its surveillance program if they believed it was intended to protect them. Fifty-three percent of the respondents said they supported eavesdropping without warrants "in order to reduce the threat of terrorism."

The results suggest that Americans' view of the program depends in large part on whether they perceive it as a bulwark in the fight against terrorism, as Mr. Bush has sought to cast it, or as an unnecessary and unwarranted infringement on civil liberties, as critics have said.

In one striking finding, respondents overwhelmingly supported e-mail and telephone monitoring directed at "Americans that the government is suspicious of;" they overwhelmingly opposed the same kind of surveillance if it was aimed at "ordinary Americans."

Mr. Bush, at a White House press conference yesterday, twice used the phrase "terrorist surveillance program" to describe an operation in which the administration has eavesdropped on telephone calls and other communications like e-mail that it says could involve operatives of Al Qaeda overseas talking to Americans. Critics say the administration could conduct such surveillance while still getting prior court approval, as spelled out in a 1978 law intended to guard against governmental abuses.

The findings came in a poll conducted as Mr. Bush prepares to deliver his fifth State of the Union address on Tuesday. It found that Mr. Bush will face a nation that has grown sour on Washington and skeptical that he will be able to achieve significant progress in health care, the economy, the Iraq war and the cost of prescription drugs for older patients before he leaves office in three years.

The poll also signaled concern for Republicans as they prepare to defend their control of the House and the Senate in midterm elections this November. Investigations into Congressional corruption are taking a toll as the elections approach: 61 percent of Americans now hold an unfavorable view of Congress, the highest in 10 years.

This finding holds particular peril for Republicans as the party that has been in charge. More than half of the respondents said they believed that most members of Congress would exchange votes for money or favors.

Republicans were seen as more likely to be unduly influenced by lobbyists. And the Republican Party is now viewed unfavorably by 51 percent of the nation, its worst rating since Mr. Bush took office. By contrast, 53 percent said they held a favorable view of Democrats.

The telephone poll was conducted with 1,229 adults, starting Friday and ending Wednesday. Its margin of sampling error was plus or minus three percentage points.

The poll found that Americans were to a large extent perplexed as they weighed conflicting forces: the need presented by Mr. Bush to take extraordinary action to fight terrorism, and a historical aversion to an overly intrusive government.

The poll found that 53 percent of Americans approved of Mr. Bush's authorizing eavesdropping without prior court approval "in order to reduce the threat of terrorism"; 46 percent disapproved. When the question was asked stripped of any mention of terrorism, 46 percent of those respondents approved, and 50 percent said they disapproved.

At the same time, 64 percent said they were very or somewhat concerned about losing civil liberties as a result of antiterrorism measures put in place by Mr. Bush since the attacks of Sept. 11. And respondents were more likely to be concerned that the government would enact strong antiterrorism laws that excessively restrict civil liberties than they were that the government would fail to enact antiterrorism laws.

The poll was conducted just as the White House commenced an elaborate campaign to defend the surveillance program, and thus may have been too early to offer a full measure of that campaign's effectiveness. There were no measurable changes in the poll findings from one day to the next.

The findings, and follow-up interviews with some participants, clearly suggest that Mr. Bush has an opportunity to make the dispute over the program play to his political advantage. He has been pointing to the threat of another terrorist attack to justify the

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eavesdropping program and is trying, for the third election in a row, to suggest that he and his party are more aggressive about protecting the nation than are Democrats.

"Say they're targeting someone in Al Qaeda outside the country, and that person then calls someone in the United States about a plot or something really bad: I don't have a problem with that phone being monitored," Debbie Viebranz, 51, a Republican from Ohio, said in a follow-up interview. "But I don't think they should do it for no reason."

Donnis Wells, 69, a Republican from Florence, Miss., said: "I don't think civil liberties are the more important thing we need to handle right now. I think we need to protect our people."

Still, interviews reflected clear apprehension about the program. "If there is a warrant and done by the courts, I would agree," said Robert Ray, 54, an independent from Kentucky. "But they're trying to do it without using the courts. I just don't trust them."

In the poll, 70 percent of respondents said they would not be willing to support governmental monitoring of the communications of "ordinary Americans"; 68 percent said they would be willing to support such monitoring of "Americans the government is suspicious of."

Beyond surveillance, the poll found that Americans hold unfavorable views of the president and the Republican-controlled Congress as Mr. Bush prepares to give his State of the Union speech. Americans, while declaring themselves generally optimistic about the next three years under Mr. Bush, do not expect him to accomplish very much in that time.

When Mr. Bush leaves office, respondents said, the deficit will be larger than it is today, the elderly will be being paying more for prescription drugs, and the economy and the health care system will be the same as today, or worse.

Mr. Bush is viewed favorably by 42 percent of the respondents, statistically the same as in the last Times/CBS News poll, in early December, a lackluster rating that could hamper his ability to rally public opinion behind his agenda and push legislation through a divided Congress. Beyond that, nearly two-thirds of the country thinks the nation is on the wrong track, a level that has historically proved to be a matter of concern for a party in power.

A majority said they were dissatisfied with the way Mr. Bush was managing the economy and the war in Iraq. Public approval for his handling of the campaign against terrorism, once one of his greatest political strengths, has rebounded somewhat from last fall, but remains well below where it was for the first two years after the Sept. 11 attacks.

Most strikingly, the poll found abundant evidence of public unhappiness with Congress. While it is risky to draw conclusions about Congressional elections from national measurements of discontent — for example, more than half of all Americans said they were satisfied with the job their member of Congress was doing — the findings underscored the tough electoral environment that has led some analysts to predict significant Republican losses this fall.

The corruption investigations appear to account for a lot of the dissatisfaction. Nearly 80 percent of respondents said that the kind of influence-peddling revelations that have emerged in the investigation of the lobbyist Jack Abramoff reflected the "way things work in Congress" and were not isolated incidents. More than 50 percent said most members of Congress "accept bribes or gifts that affect their votes."

"It seems like the integrity of Congress members in the last few years has just gone to pot," said Donald Pertuis, 54, an independent voter from Hot Springs, Ark. Mr. Pertuis added: "In the last 20 years, greed has accelerated. People expect more, I suppose, and want to work less."

A Discredit To The GOP (WP)

The Washington Post, January 27, 2006

THE BUSH administration's distortion, for political purposes, of the Democratic position on warrantless surveillance is loathsome. Despite the best efforts of Karl Rove, the White House deputy chief of staff, and Ken Mehlman, the Republican National Committee chairman, to make it seem otherwise, Democrats are not opposed to vigorous, effective surveillance that could uncover terrorist activity. Nor are the concerns that they are expressing unique to their party. Republican Sens. John McCain (Ariz.), Arlen Specter (Pa.), Chuck Hagel (Neb.), Lindsey O. Graham (S.C.) and Sam Brownback (Kan.) have expressed legal doubts about the surveillance program. Do they, too, have a "pre-9/11 worldview," as Mr. Rove said of the Democrats?

Believing there should be constraints on unchecked executive power is not the same as being weak-kneed about the war against terrorism. Critics are suggesting that President Bush should have gone through normal procedures for conducting such surveillance or asked Congress to provide clear legal authority for the National Security Agency activity. They are not contending that such surveillance shouldn't be conducted at all. No leading Democrat has argued for barring this kind of potentially useful technique.

But you wouldn't know that to listen to the GOP spin. "Let me be as clear as I can be -- President Bush believes if al Qaeda is calling somebody in America, it is in our national security interest to know who they're calling and why," Mr. Rove said at the Republican National Committee winter meeting last week. "Some important Democrats clearly disagree." Mr. Mehlman named

names. "Do Nancy Pelosi and Howard Dean really think that when the NSA is listening in on terrorists planning attacks on America, they need to hang up when those terrorists dial their sleeper cells inside the United States?" he asked.

Maybe, as a matter of crass political calculation, Mr. Rove and Mr. Mehlman are correct that Democrats criticizing warrantless wiretaps will pay a price in the November elections. We don't pretend to know. What we do know is that the country is in the midst of an important debate about the reach of presidential power and the scope of civil liberties in wartime. For Rove & Co. to try to turn this into just another partisan political skewer discredits their administration and their party.

Using Our Fear (WP)

By Eugene Robinson

The Washington Post, January 27, 2006

Once upon a time we had a great wartime president who told Americans they had nothing to fear but fear itself. Now we have George W. Bush, who uses fear as a tool of executive power and as a political weapon against his opponents.

Franklin D. Roosevelt tried his best to allay his nation's fears in the midst of an epic struggle against fascism. Bush, as he leads the country in a war whose nature he is constantly redefining, keeps fear alive because it has been so useful. His political grand vizier, Karl Rove, was perfectly transparent the other day when he emerged from wherever he's been hiding the past few months -- consulting omens, reading entrails -- and gave the Republican National Committee its positioning statement for the fall elections: Vote for us or die.

Democrats "have a pre-9/11 worldview" of national security that is "deeply and profoundly and consistently wrong," Rove said. The clear subtext was that Americans would court mortal danger by electing Democrats. Go forth and scare the bejesus out of them, Rove was telling his party, because the more frightened they are, the better our chances.

To cultivate fear for partisan gain is never a political tactic to be proud of, but Rove's prescription of naked fearmongering is just plain reprehensible when the nation faces a shifting array of genuine, serious threats. This is a moment for ethical politicians -- and, yes, these days that seems like an oxymoron -- to speak honestly about what dangers have receded, what new dangers have emerged, and how the imperatives of liberty and security can be balanced.

From the likes of Rove, I guess, we shouldn't expect anything more noble than win-at-all-costs. But we do have the right to expect more from the president of the United States, and while Bush gives off none of Rove's Sith-lord menace, he has made the cultivation of fear a hallmark of his governance.

At his news conference yesterday, Bush was asked again about the domestic surveillance he has ordered the National Security Agency to conduct without seeking warrants -- a program that seems to violate the law. In his meandering answer, the president kept throwing in the phrase "to protect the American people." I suspect that's a line that tests well in focus groups, but it doesn't really say anything. The fact that we expect any president to protect us does not obviate the fact that we expect any president to obey the law.

Bush mentioned the new tape from Osama bin Laden that surfaced the other day, calling it a reminder that we face "an enemy that wants to hit us again." That's certainly true, but the warning would carry more gravitas if Bush and his administration didn't brag so much about how thoroughly al Qaeda has been routed and decimated. Is anybody keeping track of how many "No. 3" or "No. 4" al Qaeda lieutenants U.S. forces claim to have eliminated?

And Americans would be better able to measure the threat from bin Laden if Bush and the rest of his administration didn't argue -- when it gives them an edge -- that Iraq is the "central front in the war on terrorism." If Iraq is the main event, then bin Laden, huddled in some cave in northern Pakistan, must be just a sideshow, right? But of course he's not a sideshow, he's the author of the Sept. 11 attacks, so what does that make Iraq? The answer seems to depend on whether, at any given time, Bush believes that cultivating fear of bin Laden or stoking fear of a terrorist spawning ground in Iraq would better help his administration achieve its ends.

The thing is, fear works. The administration successfully invoked the fear of "mushroom clouds" to win support, or at least acquiescence, for the invasion of Iraq. By the time it was clear there were no weapons of mass destruction, the fear of losing to terrorists on the "central front" had been given primacy. We stopped hearing the name bin Laden so often -- no need to bring attention to the fact that he remained at large -- until reports emerged of secret CIA prisons, torture and domestic spying.

Bin Laden does remain a threat. He would hit the United States again if he could. We do expect the president to protect us. But a great wartime leader rallies his citizens by informing them and inspiring them. He certainly doesn't use threats to our national security for political gain. He doesn't just point at a map and say "Boo."

Beware The Tipping Point (ERG)

Eugene (OR) Register-Guard, January 26, 2006

A tipping point is defined as the critical point in an evolving situation that leads to a new and irreversible development.

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Based on a powder-keg footnote in a recent memo by U.S. Attorney General Alberto Gonzales, the United States may be nearing a tipping point on civil liberties in its amorphous, open-ended "war against terror."

Gonzales' 42-page memo argues unconvincingly that Congress gave President Bush the power to investigate terror suspects using any tactics he chooses when it authorized him to use "all necessary and appropriate force" against al-Qaeda one week after the terrorist attacks on Sept. 11, 2001.

The memo, and Gonzales' underlying contention that the president has nearly unlimited powers in wartime, are affronts to America's system of checks and balances and the Constitution that protects the privacy of its citizens. The memo also runs starkly counter to the recent findings of the nonpartisan Congressional Research Service, which cast serious doubt on the legality of the president's decision to order the domestic eavesdropping program.

As Congress prepares to open hearings on the program next month, lawmakers must not overlook a footnote in Gonzales' memo suggesting that the administration does not need Congress to extend the USA Patriot Act in order to keep using the law's investigative powers against al-Qaeda terror suspects.

Using the same argument that Congress already has given Bush the authority to take whatever steps he deems necessary to pursue terrorists, the footnote suggests that Bush was authorized to employ the Patriot Act's sweeping surveillance powers before the law was even approved for the first time. By extension, this presumptuous logic suggests that Bush now doesn't need Congress to reauthorize the Patriot Act in order to continue wielding the same powers.

Notwithstanding subsequent qualifications by the Justice Department, that footnote, as well as Gonzales' entire memo, should clear the collective sinuses of lawmakers as they prepare to open their investigation into the eavesdropping program.

Perhaps the most remarkable aspect of Gonzales' audacious treatise is the suggestion that wartime presidents are essentially free to ignore laws put in place by Congress.

It's one thing to argue, as have a number of Bush's predecessors, that the Constitution authorizes presidents to order warrantless searches. It's quite another to imply that Bush, as a wartime president, can blithely ignore the Foreign Intelligence Surveillance Act of 1978, which outlines detailed requirements for domestic surveillance.

Now, the administration seems to be suggesting that it doesn't matter whether Congress reauthorizes the Patriot Act's full array of investigative powers because the president already has authority to wield those powers even if lawmakers let the law expire.

Since 9/11, lawmakers have cowered in the face of an overbearing and overreaching executive branch. Now, Congress must exercise its constitutionally mandated oversight role, and protect the checks and balances and civil liberties that make us a free and democratic nation. If it fails to do so, the tipping point may be at hand.

Presidential Power: Without Warrant (SEAPI)

By SEATTLE POST-INTELLIGENCER EDITORIAL BOARD

Seattle Post-Intelligencer, January 27, 2006

President Bush, Karl Rove and Attorney General Alberto Gonzales have tackled a big job. They are trying to scare people into believing the administration has the authority to spy on Americans' telecommunications.

This is one of the administration's patented media blitzes. The repetition of themes of terror, fear and security may once again swing opinion.

Throughout its handling of the National Security Agency's programs since Sept. 11, 2001, the administration has had options. It could ask a special court for permission to intercept communications involving Americans. It could invoke its powers to act first and then seek court approval. As Sen. John McCain, R-Ariz., said on Fox News over the weekend, the administration could and should go to Congress to change the 1978 law if it thinks the law is too confining.

Even now, the administration has offered no explanation of why it can't or won't make use of the options already available. It's hard to imagine a more flexible law than the 1978 Foreign Intelligence Surveillance Act.

The administration argues that a congressional authorization to use force against terrorists means it's OK to conduct warrantless wiretaps. Court precedents suggest the vague authorization can't be stretched to overwrite existing law. Just saying the White House respects the Constitution's limits on searches doesn't mean the Fourth Amendment is actually being upheld. But maybe Rove can whip up gratitude for the president's defiance of accepted notions of law, privacy and a constitutionally limited executive. That's scary.

FBI Chief Cites Worldwide Intel (WP)

By Edith M. Lederer

The Washington Post, January 27, 2006

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DAVOS, Switzerland -- FBI director Robert Mueller said Thursday the United States now acts on intelligence from any place in the world to fight terrorism but has not sacrificed individuals' rights to privacy in that effort.

However, during an interview with The Associated Press, Mueller would not discuss renditions, the practice of covertly moving imprisoned terrorist suspects between countries outside normal legal processes.

He also would not elaborate on the National Security Agency's listening without a warrant to telephone calls in the United States that Bush administration officials believe involve al-Qaida terrorists.

Lawmakers from both parties have questioned whether it is legal for the government to listen to conversations in the United States without a warrant that the administration could get through the Foreign Intelligence Surveillance Court.

But Mueller said the goal of gathering intelligence in the war against terrorism was to prevent attacks and not just prosecute cases.

"For us, it is not just having a terrorist event happening and then gathering the evidence to put it in a courtroom to convict somebody after we're able to identify him, detain him and extradite him," Mueller said.

Since the Sept. 11 attacks, the FBI chief said, U.S. officials have recognized the importance of using all information to determine "who intends to hurt the United States or the United States' interests around the world."

"We are doing a much better job at integrating that intelligence and acting on that intelligence any place in the world," he said.

The FBI is now working closely with the CIA and exchanging information with the National Security Agency, the Defense Intelligence Agency and counterparts in other countries.

"For us, it's taking the information domestically, integrating it with what we know from the other intelligence agencies in the U.S., and integrating it with intelligence from our counterparts from overseas to get a fuller picture of what the enemy intends, in this case al-Qaida," he said.

Mueller vehemently denied that the United States was giving up the right to privacy in exchange for security.

"In no way, shape, or form do I think we've given up our rights," he said. "But I do think there's an appropriate balance with the threat that we have."

While not mentioning renditions or electronic eavesdropping, the FBI chief said "there are a number of programs _ I'm not going to talk about specific programs _ that have been helpful to securing the United States."

Four leading Democratic senators sent President Bush a letter Wednesday saying the NSA program is an "apparent violation of federal law" _ namely getting a warrant from the surveillance court to eavesdrop domestically.

The letter said that if Bush or his administration believed the law "does not give you enough authority to combat terrorism, you should propose changes in the law to Congress. You may not disregard the law."

The letter was written Sens. Harry Reid of Nevada, Edward Kennedy of Massachusetts, Richard Durbin of Illinois and Russ Feingold of Wisconsin.

Terrorist Nuclear Bids Concern Leaders At Forum (AP)

AP, January 27, 2006

DAVOS, Switzerland (AP) - Terrorist attempts to attain nuclear weapons and a new twist in rock star Bono's campaign to help Africa topped discussions Thursday at the World Economic Forum.

"We know that terrorists are highly sophisticated and are interested in acquiring nuclear weapons," said Mohamed ElBaradei, head of the United Nations' nuclear watchdog agency.

"We are running in a race against time."

Security experts need to share information and "do our very best to make sure we protect ourselves and protect our people," ElBaradei said.

U.S. Homeland Security Secretary Michael Chertoff said his department is inundated with suggestions about combatting terrorist threats and has placed its priority on stopping the worst disasters.

"If you look at things like a nuclear bomb in terms of consequence that's probably at the very top of the scale," Chertoff said.

He said the United States is working with other countries to make sure radioactive material terrorists could use to make weapons never enters the United States.

FBI Director Robert Mueller said in an interview on the sidelines of the forum the United States is doing a much better job of integrating domestic and foreign intelligence and acting on it to fight terrorism around the world than it was before the Sept. 11, 2001, attacks on New York City and Washington.

But the U.S. law-enforcement official cautioned: "Nothing is perfect and nothing is certain."

"We are safer but not totally safe," Mueller said.

Bono, the U2 front man who brought his campaign for Africa to last year's forum, was back this year to announce a new Red brand of products aimed at combatting the spread of HIV and AIDS in Africa. Corporations have designated red-coloured sneakers, T-shirts and a charge card to generate money and provide work for Africans.

Suspicions Iran is trying to develop nuclear weapons were a source of concern. ElBaradei said a Russian offer to move Iran's uranium-enrichment program to Russia could help find a solution to the standoff.

ElBaradei said he was also encouraged all parties were still talking about a diplomatic solution to meet western demands for assurances Iran's nuclear program is entirely peaceful.

Pervez Musharraf, president of Iran's neighbour Pakistan, said he was intent on pursuing a deal with Iran to buy natural gas but he sidestepped the question of whether the threat of UN economic sanctions over Iran's nuclear program would scuttle the deal.

Iran should not be allowed to develop nuclear weapons, he said, "their security is not threatened."

The forum released a joint study by a panel of experts that rated the likelihood as "very high" that five million people would be newly infected this year by tuberculosis and HIV, the virus that causes AIDS.

U.S. trade chief Rob Portman, who is meeting with other trade ministers in Davos, said he was encouraged by new German Chancellor Angela Merkel's willingness to become involved in global trade issues. He said he hoped she could help advance stalled global trade talks by offsetting the protective mind-set of French officials in EU policy.

Sepp Blatter, president of world soccer's governing body FIFA, said he was planning to step up attempts to end racism in the sport.

"It is a shame for football that in the year 2006, you still have racism," Blatter told a news conference at the forum.

Former soccer star Pele said the problem of racism on soccer grounds appears worse than when he was playing because top-class teams contain more non-white players now.

"When I started to play, we didn't see black people in other national teams, only in Brazil," Pele said.

"Today, you have black players all over the world."

'We are nobodies now'

In Davos, Part II (NRO)

National Review Online, January 27, 2006

Welcome to the second installment of these notes from Davos — from the Annual Meeting of the World Economic Forum. The first installment appeared yesterday, and you'll find those notes here.

Every year, the Annual Meeting has a theme or two, and this year the main theme is "The Creative Imperative." I believe that Klaus Schwab is relating these words to the elements of a free economy, and a free society. (Dr. Schwab is the founder and executive chairman of the World Economic Forum.) I'm talking about deregulation, sensible taxation, growth, trade, innovation, flexibility — this is an anti-rigidity theme. It has to do with giving people space to create, to make things happen.

Dr. Schwab hasn't said all this explicitly — that I have heard — but you can sense it. And the poster girl for this anti-rigidity, anti-ossification theme, so far, has been Angela Merkel, the new chancellor of Germany. She gave an absolutely sensational speech yesterday afternoon — but more on that later.

The meeting has sub-themes, too — and two of them are the emergence of China and the emergence of India. The place is crawling with Indians, and there is a healthy Chinese presence (only a PRC presence — would that Taiwanese were here, in part to be living, walking examples). After 9/11, Davos became pronouncedly Arab. You go through the directory, and a great many names begin with "al-." Dr. Schwab pretty much goes where the action is, or has the action come to him. Hence these themes.

There are hundreds of panel sessions, and other sessions, and I'll give you a little taste of them. A quirky one is on "video gaming" — does it "drive social evolution"? Hmm. And then there's "Can Aging Economies Grow?" Hmm again. We have "Quelling Nationalistic Flames" (good luck), and "Towards a Nanny State" (boo, hiss). "Does an Economy Need Morals?" That's a question another panel asks.

And "Should We Despair of Disparities?" I believe this panel'll answer yes. Barney Frank is on it, incidentally. For all I know, he'll be the most conservative person in the room. It's happened before.

One panel is provocatively titled "Could a Nuclear Bomb Go Off in Your City?" On it sit both Mohamed ElBaradei and Peter Sellars (the opera director). That should be a different sort of discussion.

A psychologist gives us "All You Ever Wanted to Know About Relationships but Were Afraid to Ask." I have a feeling there's not much fear of asking — not in my country, certainly.

A panel titled "Islam's Challenge to Eradicate Extremism" includes H.R.H. Prince Turki al-Faisal of Saudi Arabia. Well, I guess someone has to stick up for non-eradication. (I may be misjudging the prince . . . but I doubt it.)

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An attractive panel on "Global Risks 2006: What Keeps You Up at Night?" features Michael Chertoff (Homeland Security) and Robert Mueller (FBI), along with ElBaradei. The American presence is more robust than last year. (I should have said, the administration presence is — and that translates into a more conservative coloration.)

"A New Mindset for the U.N." is introduced by Kofi Annan. If you think that's, let us say, paradoxical . . . you're not alone.

I could go on and on in this vein, friends, and I've only given samples through Thursday — the Annual Meeting is four full days, ending Saturday. But you get the idea.

In many ways, the Davos menu is like a college curriculum — there may be two classes you want to take that meet at the same time, and that's a bummer. There may be three classes. I'll give you a Davosian example — has to do with today, Thursday. At 4:15, you have an hour with Jane Goodall, providing "A Doer's Guide to Conservation." Also at 4:15 you have that Islamic-extremism panel I mentioned. (Joe Biden will join Turki, and others.) And at 4:15 you have that "What Keeps You Up at Night?" deal. I wish I could go to all three of them.

I'll go to the one that seems most journalistically useful. I'm not yet sure which one that is.

Ah, wanted to mention the theme of one dinner, a theme that I thought interesting: "Why I Bring My Office to the Beach." It's about workaholism. It's chaired by the editor-in-chief of Wired magazine. I thought that was appropriate: wired.

I attend a lunch, whose theme is sports: This is an Olympic year, and Dr. Schwab and other WEF-ers are fairly sports-minded. When I get to the designated hotel, there's a big hold-up — lots of people waiting to go through security and get in. Why are we not being checked through? Oh, yes, now it comes clear: Because Kofi Annan and his entourage are arriving. It's a quite large entourage, too. Annan sweeps in like an emperor, preceded and trailed by many.

In all my years at Davos, I've never seen this: a big group held up by the arrival or departure of a VIP (I mean, a VVIP — a very, very important person). And lots of heads of state have been around.

This brings up an old theme of mine: Does the secretary general of the U.N. have all too much power, or all too high a profile? I mean, is he not the bureaucratic servant of an international organization — albeit a very large and important international organization? Were secretaries general this big in the past?

Annan has been dubbed "President of the World." It can seem that way, at Davos.

I remember when the bombs went off in London last July. All those Western leaders were up at Gleneagles, in Scotland. Tony Blair made a statement — these heads of state stood behind him (Bush, Chirac, and so on). And there was Kofi Annan.

Why?

Anyway . . .

We all have to stand outside — including David Stern, emperor, or secretary general, of the NBA — so that's okay.

But I will confess something: Being delayed by Kofi Annan makes me slightly annoyed. Would I be as annoyed if the secretary general of the U.N. were a favorite of mine? I like to think so — but I don't know.

I miss the bulk of Annan's speech to the lunch group — because I, along with dozens of others, have been held up by the SecGen's arrival. But I hear some of the speech, as Annan reads in a soft, kind of lulling voice. He says something about how the General Assembly provides a model of a new way of peacemaking. Yeah, whatever.

Next to speak — by this time I'm sitting down, you'll be relieved to know — is Jacques Rogge, president of the International Olympic Committee. (A dream job of mine, by the way.) He issues the usual platitudes about sports — but they're all true. He sounds every single note, including how athletic competition empowers women. He observes that, at the Beijing Olympics in 2008, the ratio will be about even — male athletes to female athletes. It still strikes me as creepy that the Olympic Games will be held in a dictatorship's capital — just like in 1980 and in 1936.

As Rogge is speaking, someone passes around the Olympic torch — I mean, really passes it around. It's a very cool object, and I hold it for a bit. (It's not lit, in case you were wondering.) The torch is surprisingly heavy — must be kind of a mother to run around with over an extended period of time. It's blue, and stylistically attractive. Rogge mentions that it has been designed by an Italian, name of Farina, I believe.

And that, friends, is as close as I'll ever come to really, truly carrying the Olympic torch. Unless they make a new event out of Impromptus-izing or something.

Also speaking at this affair is Joseph Blatter, president of the International Federation of Football, whose (French) acronym is FIFA. He talks about the popularity and importance of soccer — of "football" — all over the world. They play it everywhere! he says. "They play football in Iraq," they play it in this country, they play it in that country. He names a good number of the hot spots. I wish he had said, "They play it in Afghanistan" — because, of course, after the imperial invasion, Afghans could. But not before. Not under the Taliban.

Still another speaker is Adolf Ogi, former head of the Swiss Skiing Federation, now an adviser to Annan on matters sportive. Did I tell you the story of my moderating a sports panel? I'm sure I did. The year was 2003. On the panel were Phil

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Knight (of Nike) and David Stern and some Olympians and that lovely, brilliant woman who would run the Athens Games (can't remember her name right this second). Prince Albert of Monaco — the bobsledder — was supposed to be there, but didn't show.

I had merely glanced at Ogi's bio, and said to him, "So, you're a skier, I understand." "Yes, I am," he said — and someone else pointed out that he had actually been president of Switzerland.

That reminded me of one of my favorite stories, all-time: Mayor Marion Barry meets Greg Norman — the Great White Shark — at some party in D.C. Barry says to Norman, "So, what do you do?" Norman answers, "I play golf." Barry says, "That's great — I play tennis."

I have always loved, loved that story. So innocent, pure, fun — democratic. It's not required to know who Greg Norman is, or who anyone else is.

You may recall, dear readers, that Sharon Stone was the guest star at one of these lunches last year. Is she here this year? I don't think so. But Angelina Jolie is, again. Several of my friends have asked me whether I've seen her. The answer is . . . no, sorry.

But when I think of her name, I think of that great Louis Prima song. (I'm not sure that Louis wrote it — but he certainly popularized it.) "I eat antipasto twice, just because she is so nice, Angelina. Angelina — the waitress at the pizzeria." (Incidentally, Prima pronounced the first syllable of "pizzeria" "pitz" — "pitzeria." Kind of interesting.)

Also, I had a much-loved family member, Angelina. So I tend to think of those two things when I hear "Angelina" — and Ms. Jolie last, if at all.

I am out of time, guys, so I will save the amazing Angela (not Angelina) Merkel till tomorrow. But before I leave, I need to issue a few corrections from yesterday. I'm a bit behind the times, and I should have known that Silvan Shalom is no longer Israel's foreign minister — it is Tzipi Livni. The Israeli government is necessarily in flux.

Also, as it happens, Michael Leavitt — the U.S. health and human services secretary — is not coming here. But Carlos Gutierrez, the commerce secretary, is.

In listing some names yesterday, I referred to Rick Warren — author of The Purpose-Driven Life — as a "quasi-religious figure." A great many readers wrote to inform me that he is, in fact, a religious leader: the pastor of a major church and so on. Forgive me — I had confused him with someone else. I thought he was more self-helpy than religious. I should have checked before scribbling, but I'm sort of going on the fly, here in Davos. (No excuse, huh, Nordlinger? What kind of journalism is that?) (Scribbly web journalism, that's what kind.)

Last, some readers objected to my calling Bartholomew — just one name, please: Bartholomew — "Ecumenical Patriarch of Turkey." They had other titles for him (and those titles slightly disagreed). All I was doing, folks, was copying the title as given in the Davos directory.

And I'm out of here, for now. Oh, let me tell you one more thing — just a soft item: You haven't lived until you've seen tiny Swiss kids pulled around by their parents on a little sleigh. Enough to melt the frozen Alps around here.

FBI Chief Urges Sharing Of Information To Combat Hackers (FT)

By Peter Thal Larsen In Davos

Financial Times, January 27, 2006

The director of the FBI, Robert Mueller, yesterday urged the world's law enforcement agencies to introduce a rapid system of exchanging information to battle computer security breaches and fraud that are the biggest concern of business.

A survey by Swiss Re, the world's largest reinsurance group, showed that companies across the developed world rank computer-based risks as their main concern, well ahead of other worries such as the rising burden of corporate governance and natural disasters.

The issue of computer fraud has gained increasing prominence in recent years following a series of hacking attacks on large companies and several high-profile security breaches at companies that keep sensitive information about their customers.

However, law enforcement agencies across the world struggle to track down and punish criminals whose use of the internet means they often have a global reach.

Yet card operators are proving increasingly successful at limiting the amount of fraudulent activity. Christopher Rodrigues, chief executive of Visa International, said the amounts lost to fraud on Visa's network had fallen to 7 cents out of every $1,000 spent, down from 14 cents in the past several years. However, the growth in credit card transactions had prompted the absolute level of losses to increase.

Mr Rodrigues said sfraud and identity theft had been exacerbated by the growth of electronic commerce, which meant consumers relied on banks and retailers to keep their information safe.

Most banks have a regulatory obligation to look after data, but these regulations do not extend to retailers.

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Mr Rodrigues emphasised the consumers' sense that anybody could be affected. "Card security is about personal relevance. Disasters such as the tsunami are terrible, but people think it isn't going to happen to them."

Colombia Busts Fake Passport Ring; U.S. Disputes Terror Link (USAT/AP)

USA Today, January 27, 2006

BOGOTA, Colombia (AP) — Colombia has dismantled a false passport ring with links to al-Qaeda and Hamas militants, the acting attorney general said Thursday after authorities led dozens of simultaneous raids across five cities in collaboration with U.S. officials.

In Washington, however, Justice and Homeland Security officials were surprised by the announcement of the investigation, which they said involved people posing as members of Colombia's largest rebel army, the Revolutionary Armed Forces of Colombia, or FARC — not al-Qaeda or Hamas.

Colombian officials said the gang allegedly supplied an unknown number of citizens from Pakistan, Jordan, Iraq, Egypt and other countries with false passports and Colombian nationality without them ever setting foot in the country.

An undisclosed number of those arrested are wanted for working with the al-Qaeda terror network and the militant Palestinian group Hamas, said acting Attorney General Jorge Armando Otalora.

The counterfeit Colombian, Spanish, Portugese and German passports were used to enter the United States and Europe, he said.

But Justice Department spokesman Bryan Sierra said an indictment unsealed Wednesday in Miami charges 10 foreign nationals with smuggling "people that they thought were members of FARC into the United States."

"We are not alleging any connections to any terror organization other than the FARC," said Justice Department spokesman Bryan Sierra.

He said the U.S. will seek to extradite the 10 alleged smugglers, of whom eight have been arrested.

"The operation was, in fact, a sting operation led by U.S. Immigration and Customs Enforcement," he said, adding that Colombian law enforcement were "an active and critical part" of the investigation

The Colombian attorney general's office said 19 people were arrested in Thursday's raids, adding they were carried out in collaboration with U.S. authorities.

Four Jordanian citizens were among those arrested, Manuel Saenz, head of foreign immigration for the DAS secret police, said on Caracol television. Eight people are being sought inside the United States for extradition to Colombia, Otalora said.

Colombian authorities began to covertly trail and film suspects to unveil a criminal network with the help of their U.S. counterparts.

The eight wanted by federal authorities in Florida on charges of abetting illegal immigration rings and collaborating with terrorist groups include a Jordanian national and a DAS detective, Colombian authorities said.

Colombian officials didn't say if they believed any Colombian terrorist groups were involved in the scheme.

U.S. officials have long feared al-Qaeda could take advantage of corrupt government officials and weak institutions to launch an attack from south of the border.

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Judge To Remain In Terrorism Trial (NYT)

By Julia Preston

The New York Times, January 27, 2006

A federal appeals court yesterday rejected an attempt by prosecutors to oust a judge from a terrorism case, dismissing the government's argument that the judge, Shira A. Scheindlin, was biased in favor of the defendant.

The ruling came in the case of Osama Awadallah, a Jordanian college student who was charged in October 2001 with lying before a grand jury to conceal his ties with two hijackers in the Sept. 11 attacks.

According to court documents, Mr. Awadallah was arrested in California as a material witness and held in solitary confinement for 20 days before he went before the Manhattan grand jury. His convoluted case has become a test of the government's prolonged detention of people without charges as material witnesses in terrorism cases.

A panel of three judges from the Court of Appeals for the Second Circuit found that Judge Scheindlin, of Federal District Court in Manhattan, had not erred in several rulings she made about evidence in the case, and they praised her "intellectual flexibility" in resolving some thorny legal matters. The appeals judges noted that in several cases in which Judge Scheindlin had initially antagonized the prosecutors by questioning their procedures, she ultimately ruled in their favor.

This case is the first since 1973 in which federal prosecutors in Manhattan have sought the ouster of a judge. They were denied in that case as well.

Mr. Awadallah, now 25, has not been accused of any direct role in the 9/11 attacks. A jury was selected, and his trial was set to begin in May, but Judge Scheindlin postponed it because of the prosecutors' appeals.

Rabbi, Priest Back Muslim Cleric In Court (REU)

Reuters, January 27, 2006

LONDON (Reuters) - A rabbi and a Christian priest testified on Thursday in support of a Muslim preacher accused of inciting murder and stirring up racial hatred, telling a court he was friendly and hospitable.

Egyptian-born Abu Hamza, a hate figure for the tabloid press, faces nine counts of soliciting to murder and three of trying to stir up racial hatred, mainly against Jews.

But Rabbi Joseph Goldstein told the Old Bailey Central Criminal Court in London that he had been favourably impressed when he met Hamza at the Finsbury Park mosque in north London to talk about a mixed-faith married couple.

"I met him in the office of the mosque and we spoke on the telephone twice afterwards," Goldstein said.

"He was very pleasant. It was a friendly and cordial relationship. He was very open and very cordial."

Hamza, 47, was raised in Egypt but has British citizenship. The cleric, who has lost both hands and one eye and often wears a hook in place of one hand, is the highest profile figure to go on trial in recent years in Britain on the charges he faces.

Stephen Coles, an Anglican priest also based in north London, told the court he had met Hamza soon after the September 11, 2001 attacks on the United States.

"He was very hospitable. We got on extremely well," Coles said. "Sometimes we agreed about some things, sometimes we disagreed. It wasn't at any point aggressive or angry."

He said he had tried to continue dialogue with Hamza even after the cleric was arrested in 2004.

"After he was imprisoned we had in fact tried to have other meetings but it became very difficult to arrange," he said.

"I didn't want the conversation to come to an end."

Hamza also faces a charge of possessing an item of potential use in terrorism for having an "Encyclopaedia of the Afghan Jihad", which prosecutors call a terrorist handbook.

Hamza's lawyer has acknowledged the cleric gave sermons in support of Jihad, or holy war. But Hamza told the court last week he had never incited followers to kill in England and had urged killings abroad only in the context of battles.

He also denied encouraging people to hate Jews "not as individuals, not as a race, not as a colour."

PATRIOT ACT:

Could Patriot Act Have Prevented 9/11? (SHNS)

By Deroy Murdock, Scripps Howard News Service

Scripps Howard News Service, January 27, 2006

As the Senate prepares for a showdown vote to reauthorize the Patriot Act, members of the World's Greatest Deliberative Body should deliberate on this: Had it existed, could the Patriot Act have prevented the Sept. 11 massacre?

"I think if the Patriot Act were in place in the summer of 2001 ... connecting the dots would have been so basic and easy and fundamental," says Debra Burlingame, co-founder of 9/11 Families for a Safe and Strong America (911familiesforamerica.org). Her brother, Charles Burlingame, piloted American Airlines Flight 77 until al Qaeda hijackers murdered him, grabbed the controls, and smashed his Boeing 757 into the Pentagon, killing all 58 passengers and six crew members aboard and another 120 people at the Defense Department.

How might the Patriot Act have snared Mohamed Atta and his band of mass murderers?

First, Patriot Act Section 218 would have eliminated "The Wall" that prevented intelligence agents and law-enforcement officials from sharing information. Seemingly fueled by theoretical fears of Big Brother more than the actual dangers of terrorism, President Bill Clinton's Attorney General, Janet Reno, issued restrictions in 1995 that hindered communications between spies and gumshoes. Frustrated New York FBI agents reportedly placed signs on their desks that read, "You may not talk to me."

Indeed, in August 2001, FBI headquarters barred a New York intelligence agent, who sought hijackers Nawaf al-Hazmi and Khalid Al-Mihdhar, from consulting colleagues on the bureau's criminal side. "If al-Midhar is located, the interview must be conducted by an intel agent," FBI brass explained by e-mail. "A criminal agent CANNOT be present at the interview." As former National Security Agency general counsel Stewart Baker noted in a column in the online magazine Slate, the New York agent

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replied that "some day someone will die - and wall or not - the public will not understand why we were not more effective" against terrorists.

Were the Patriot Act in place, "The Wall" would not have prevented Minneapolis FBI agents from getting permission to examine the laptop and possessions of "20th hijacker" Zacarias Moussaoui. Had they done so, they might have discovered leads to 9/11 conspirator Ramzi Binalshibh and Atta's Hamburg, Germany, terrorist cell that hatched this atrocity.

Second, Patriot Act Section 215, the so-called "library provision," might have led officials to seven of the 19 hijackers who used government libraries for Internet access. Using Section 215, FBI agents might have visited New Jersey's William Patterson University. They might have learned, as the Associated Press' Wayne Parry did last year, that al-Hazmi and al-Mihdhar used that state institution's computers to buy tickets online for the flight they plowed into the Pentagon.

Lies to the contrary notwithstanding, the "library provision" does not let President Bush's "secret police" round up readers of Annie Proulx's short story, "Brokeback Mountain." Section 215 prevents libraries, and other institutions, from becoming safe havens where Muslim fanatics can plot mass murder in peace.

Third, Patriot Act Section 806 might have allowed federal officials to seize the financial assets of Atta and fellow pilot Marwan al-Shehhi if they suspected terrorist intent. According to the 9/11 Commission report, Ali Abdul Aziz Ali, a nephew of al-Qaeda bigwig Khalid Sheik Mohammed, sent Atta and al-Shehhi five wire transfers from Dubai totaling $114,500. The Patriot Act might have defunded the hijackers before they were airborne.

"The Patriot Act would have saved 3,000 lives, and what's scary about that is once they start tinkering with it, it could cost not just 3,000, but tens of thousands of lives," says Debra Burlingame. "September 11 whetted the terrorists' appetites ... There's nothing like success to motivate people."

Whatever the Patriot Act might have achieved before 9/11, it has accomplished plenty since. It has helped prosecutors charge some 401 suspected terrorists, the Justice Department reports, of whom 212 have been convicted or pleaded guilty. Despite this track record, the Patriot Act soon could be consumed in a partisan bonfire.

After successfully spearheading a Dec. 16 anti-reauthorization filibuster, Senate Democratic leader Harry Reid of Nevada bragged, "We killed the Patriot Act." If it prevails, this blindly Bushophobic attitude will return America to the way we were on Sept. 10, 2001: Fat, happy, and naked to whatever morning might bring.

New York commentator Deroy Murdock is a columnist with the Scripps Howard News Service and a senior fellow with the Atlas Economic Research Foundation in Arlington, Va.

HOMELAND RESPONSE:

Federal Appeals Court Upholds Airport IDs (AP)

By DAVID KRAVETS, Associated Press Writer

AP, January 27, 2006

SAN FRANCISCO — An appeals court on Thursday dismissed a legal challenge to federal airport regulations requiring passengers to show identification before they board planes.

The 9th U.S. Circuit Court of Appeals rejected claims by Libertarian activist and millionaire John Gilmore that the policy constituted an illegal search and violated his right to travel freely.

After reviewing the government's identification policy in private, a unanimous three-judge panel said the policy was not overly intrusive. The review was done in private for security reasons.

The court said Gilmore could leave the airport if he didn't want to show his ID and had other ways to get around besides air travel. It also rejected assertions that the act of showing identification was an illegal search of Gilmore, who made his millions as a founding employee of Sun Microsystems.

Gilmore's lawyer, William Simpich, said he is weighing whether to appeal.

He said government regulations should be disclosed in writing to the public. While millions of passengers willingly show their IDs at airports, Simpich said there is no way to know whether the regulations call for impermissible searches because the government, and the court, won't make them public.

The court rejected the argument, saying airport signs and airline workers give adequate notice that an ID is required.

The court noted that the secret regulations allow passengers to fly without providing an ID if they submit to searches. The court dismissed assertions that such searches are unreasonable.

Justice Department lawyer Joshua Waldman argued that demanding identification "promotes the right to travel by protecting everyone's safety."

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News From The San Francisco Bay Area (MERCN)

The San Jose Mercury News, January 27, 2006

OAKLAND, Calif. - Oakland police are on schedule to meet a Feb. 17 deadline to redraft a policy on when force against suspects is warranted, members with the department told the City Council's Public Safety Committee.

The department, which faces sanctions if it does not meet the deadline, is likely to present officers with a "buffet" of options in a tiered system, with levels corresponding to the severity of the situation, Capt. Paul Figueroa said.

The new policy, which must be approved by a federal judge, would also require that a sergeant document any incident and immediately report it to the department's command staff. Investigations into police actions would be required in more cases.

The department was required to revise the policy under a settlement that charged a group officers dubbed the "Riders" with misconduct. U.S. District Court Judge Thelton Henderson must approve the changes and the department would have until May 18 to train 95 percent of officers to follow the guidelines.

The department has yet to complete 45 of the 52 tasks laid out by the agreement, which settled a class-action suit in which 119 people claimed a rogue group of officers beat them and framed them using planted evidence including drugs. Oakland officials earlier had promised Henderson they would be in "substantial" compliance with the agreement by the end of 2005.

Terror Bucks Blown (NYPOST)

By geoff Earle

The New York Post, January 27, 2006

WASHINGTON — Hundreds of thousands of taxpayer dollars sent to protect the nation's heartland have been squandered in Indiana alone, a stunning new audit reveals — more evidence the cash could have been better spent in New York.

A team of investigators examined Indiana's books to see how the state spent $48 million it got in federal homeland-security aid, finding widespread instances of mismanagement, according to the report set for release today, which was obtained by The Post.

New York lawmakers were fuming over the shocking findings of waste at a time when the Big Apple could use more anti-terror dollars.

In one instance, the auditors discovered a county emergency-management official using a special $30,000 government hazardous-materials truck to commute to work.

They found the truck — purchased to pull a haz-mat disposal trailer — parked at the home of the Lake County official while he was away on vacation.

The truck wasn't even painted or marked as an emergency vehicle.

In another example, the investigators found that the state spent $4.5 million on special counter-terrorism response kits, but "very few" of the kits were assembled or distributed.

"This kind of thing confirms what we all suspected, which is when you throw money at problems, places like Indiana literally can't spend it efficiently, and it winds up becoming just a source of waste," said Rep. Anthony Weiner (D-N.Y.).

The claims of waste are the latest in a string of revelations of how dollars meant to protect the homeland have been squandered.

A series of reports in The Post found that more than $20 million in Small Business Administration funds meant to help business owners hurt by the 9/11 attacks instead went to refurbish more than two dozen Dunkin' Donuts shops across the country.

The Department of Homeland Security has been criticized for sending disproportionate dollars to states like Indiana, where the terrorist threat is considered low, at the expense of high-threat states like New York and California.

Homeland Security Secretary Michael Chertoff has called for making more funds threat-based, although powerful members of Congress from small states have beaten back permanent changes.

No Power But Persuasion For The Rebuilding Of Ground Zero (NYT)

By Charles V. Bagli

The New York Times, January 27, 2006

By making the World Trade Center redevelopment a central focus of his State of the City speech yesterday, Mayor Michael R. Bloomberg was promoting a plan that has been the subject of intense but secret negotiations between the developer Larry A. Silverstein and the Port Authority of New York and New Jersey over the future of the site.

Mr. Bloomberg, who has little actual power over decisions at ground zero, is using his bully pulpit to pressure Mr. Silverstein to accede to the authority's demands that he relinquish control of a major part of the 16-acre parcel in return for a reduction in rent, so that the rebuilding effort can proceed more swiftly.

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Under that proposal, Mr. Silverstein would still proceed with building the huge and symbolic Freedom Tower, while the Port Authority, which owns the land and leased it to Mr. Silverstein in July 2001, would construct a second tower on Church Street and occupy part of it. The authority would also build a multistory shopping mall and sell a third site to a developer for a hotel, office space, and, in the mayor's vision, apartments.

The Bloomberg administration and the Port Authority contend that the new arrangement would enable all the projects, in the mayor's words yesterday, "to proceed simultaneously at the same, quick pace." Under the current schedule, the site would not be finished until 2015.

Mr. Bloomberg has been critical of Mr. Silverstein, but in his most barbed comments to date, he called on the developer to "do the right thing" and "push aside individual financial interests and focus on what's best for the city."

The developer disagrees, blaming government for any delays. Janno Lieber, director of the development for the Silverstein Properties, said yesterday that the company would build all the towers "just as soon as the government delivers the physical sites."

Even if Mr. Silverstein's role were diminished, all that construction work could not begin tomorrow. A slurry wall and foundation must be built at the eastern end of the property, which could take a year or more. And it may be impossible to do all the work at once because of environmental restrictions. But the Port Authority proposal would resolve a number of issues that have been roiling beneath the surface for years.

At one time or another, the city, the state, the authority and Mr. Silverstein have been at odds over retail space on the site, the developer's share of infrastructure costs, insurance money, and the pace of construction. In November, the developer disregarded a proposal from Anthony R. Coscia, the chairman of the Port Authority, that he give back a major portion of the site in return for a reduction in rent, which is now more than $120 million a year.

The authority and the city contend that Mr. Silverstein does not have enough money to build all the towers. They say that the Freedom Tower alone will cost more than $2 billion and take five years to build, but that Mr. Silverstein has only $2.85 billion of the insurance proceeds left. About $200 million a year has been spent on rent, architects, lawyers and Mr. Silverstein's development fee.

In December, Gov. George E. Pataki provided the developer with $1.76 billion in tax-free bonds to build the Freedom Tower, and gave him 90 days to work out his differences with the authority.

All parties are prevented from talking publicly about the negotiations. But state officials cheerily say that talks are proceeding apace, while the Silverstein camp says the bargaining has yet to begin in earnest. A senior official at the Port Authority contends that Mr. Silverstein has not only refused to relinquish his hold on the property, but has also offered a counterproposal that is even more onerous than the current arrangement.

Yesterday, Mr. Bloomberg added his explicit support for what is essentially the Port Authority's position, and a note of urgency. "Renegotiations between the Port Authority and Silverstein Properties must not wait," he said.

That does not mean that the city, the state and the Port Authority are in lock step. For one thing, state officials and Mr. Silverstein oppose the mayor's push to build housing on the trade center site. The authority is willing to consider that, but for only a small section of one tower. For another, the governor may be reluctant to alienate Mr. Silverstein and delay the April groundbreaking for the Freedom Tower, which is expected to draw national attention, helping his presidential aspirations.

"We have always been looking for ways to expedite the rebuilding of the remainder of the site," said Joanna Rose, a spokeswoman for the governor, "while simultaneously protecting the business and residential community in Lower Manhattan and ensuring that it remains the financial capital of the world."

President Explains Baker Bill Rejection (BRA)

By gerard shields

Baton Rouge Advocate, January 27, 2006

WASHINGTON — President Bush said Thursday he rejected a home buyout plan for Louisiana hurricane victims because he doesn't want more bureaucracy and because the federal government already gave $85 billion to the storm-wracked Gulf Coast.

Gov. Kathleen Blanco said she felt "kicked in the teeth" by Bush's remarks, including assertions that Louisiana failed to produce a plan for recovering from hurricanes Katrina and Rita.

Blanco said the state has a plan: U.S. Rep. Richard Baker's 4-month-old bill to create a $30 billion revolving fund to buy out owners of heavily damaged homes, pay off their mortgages and redevelop communities.

State officials say the bill is crucial to get Louisiana recovering and to head off an avalanche of foreclosures against storm victims in the next few months.

"This plan brings us all the way home," the governor said.

Bush aides declared opposition to the bill this week, saying the state should use another pot of cash to help 20,000 households flooded by the storms.

Blanco said Bush is asking Louisiana to abandon the 180,000 other affected households.

"We're all American citizens," Blanco told news reporters in Baton Rouge. "There should be equal treatment here."

Bush personally explained his stance against the Baker bill for the first time at a news conference Thursday in Washington.

"We were concerned about creating additional federal bureaucracies, which might make it harder to get money to the people," Bush said.

A better method to help homeowners is allocating money through Community Development Block Grants, Bush said. On Wednesday, the federal government officially awarded $6.2 billion to Louisiana.

"Monies can actually go directly to the individual families that need help," Bush said.

Blanco said the CDBG money is far less than the state needs to address housing, schools, businesses, infrastructure and other assets damaged by the most expensive natural disaster in U.S. history.

Bush said the federal government has committed $85 billion to Gulf Coast recovery.

"I want to remind the people in that part of the world, $85 billion is a lot," Bush said.

He did not detail the figure, but it would include all kinds of aid, from clearing debris and feeding displaced victims just after the storm to rebuilding levees and other redevelopment projects in all the states affected by the hurricanes.

Bush contended Louisiana has yet to come up with a redevelopment plan.

Baker took exception to that comment.

"I really viewed (the bill) as the plan," Baker said. "We felt like this was the request."

By calling for the state to use the CDBG money to help homeowners with damage outside of flood plains, The White House has restricted redevelopment for houses inside the flood zone that were underinsured, Baker said.

"They have made the decision of where we develop by telling us to focus on the 20,000 homes outside the flood plain," Baker said.

Gov. Blanco challenged Bush to deliver on the promise he made in Jackson Square, shortly after Hurricane Katrina flooded most of New Orleans, to help storm victims rebuild their communities and their lives.

Asked why Bush would reject the Baker plan, the governor said the president is being led astray by his spin doctors.

Baker's bill would create a Louisiana Recovery Corp. that would use up to $30 billion in U.S. Treasury bonds to buy hurricane-damaged homes. The program would be voluntary and would guarantee homeowners receive at least 60 percent of the equity in their homes.

"If they don't like it, they need to tell us what plan they do like," Blanco said.

An alternative would be for Washington to give the state an additional $6 billion to $8 billion in Community Block Development Grants, she said Thursday. That way, Blanco said, the state can implement Baker's plan on its own.

Blanco said the White House didn't even try to work with Baker on a compromise plan despite the state bending over backward to please Bush.

"Much of this was negotiable," she said. "They dismissed it out of hand."

On Thursday, the National Mortgage Bankers Association said it would make changing the White House's stance on the Baker measure its chief priority this year.

The Sierra Club also expressed disappointment at the president's stance.

Baker said the Louisiana delegation will continue to lobby the president.

"We not running up the white flag yet," Baker said.

Meanwhile, first lady Laura Bush visited one of the first New Orleans public schools to open after Hurricane Katrina hit, then traveled to another school in St. Bernard Parish.

"One thing that will bring people back to their communities is if they know there's a good school for their children to go to and there's safe places for them to play," Laura Bush said.

First Lady Visits Schools In Louisiana, Mississippi (AP)

The AP, January 26, 2006

CHALMETTE, La. (AP) — First Lady Laura Bush visited one of the first New Orleans public schools to open after Hurricane Katrina hit then traveled to another school here in St. Bernard Parish, where devastation was so great that students from 20 different public and private schools are attending classes in one partially repaired building.

Advertisement

Later, she visited a Kiln, Miss., playground with Green Bay Packers quarterback Brett Favre.

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In Chalmette, sitting in chairs on bare concrete floors in a classroom with no doors, Bush listened Wednesday as students who talked about the events of the past five months. One talked about being stuck in traffic for 12 hours trying to evacuate the day before Katrina hit on Aug. 29. Another said for three weeks she didn't know where her father was, whether he survived the massive flood.

"You all are very resilient," Bush told the students at Chalmette High School, now known as the St. Bernard Unified School, where students from pre-kindergarten through 12th grade attend. "It's tough and I'm really proud of you."

Bush also posed with workers from the school cafeteria, which reopened Tuesday, and she looked at pictures of damage at the school and other parts of the parish.

The parish served 8,500 students among 14 public schools before Katrina. Now there are just over 1,500 students from throughout the parish attending the one unified school.

Bush and Secretary of Education Margaret Spellings assured school officials that federal aid will be available for them to continue operating and make needed repairs.

Earlier, Bush and Spellings visited Alice Harte Elementary, a public school in the relatively unscathed Algiers neighborhood of New Orleans. It was one of a handful of public schools that opened in December as a charter school, run independently of the troubled New Orleans school board.

From Chalmette, Bush and Spellings headed to Mississippi where they were joined by Brett Favre of the NFL's Green Bay Packers in the dedication of a Kiln, Miss., elementary school playground where Favre played as a child.

The new playground, built to replace one destroyed by Katrina, was one of 100 a nonprofit group has committed to build on the Gulf Coast.

"Play is really important for children," Bush said. "One thing that will bring people back to their communities is if they know there's a good school for their children to go to and there's safe places for them to play."

Louisiana Tires Of Its Rogues (LAT)

By Miguel Bustillo

The Los Angeles Times, January 27, 2006

NEW ORLEANS — Joseph Impastato conceded he took the two cashier's checks worth $85,000. The whole thing was captured on tape by the FBI, so it would have been difficult to deny.

But it was no kickback, the councilman from St. Tammany Parish said. It was business.

When he cut a deal to receive half the money from a government contract to haul away hurricane debris, Impastato said, he was acting as a private businessman, not a public official.

Federal prosecutors are not buying it — and neither apparently is the Louisiana public. After a federal grand jury indicted Impastato on felony extortion charges last month, making him the first Louisiana politician accused of Hurricane Katrina corruption, citizens condemned him in newspapers and on talk radio and the Internet as an embarrassment to his home state.

"He's got to be a real lowlife to do something like that at a time like this," Frank White, a 62-year-old retired fire captain from the suburb of Chalmette, said in an interview. "It's the Louisiana way of doing business, I guess. But there is a quiet majority now that's sick and tired of this. People are fed up with these crooks."

In Louisiana, which has a history of political shenanigans so rich and colorful that it has become a part of American folklore, people long have laughed off misbehaving politicians as a fact of life, every bit as inevitable as death and taxes.

But as the state lobbies Washington for more money to rebuild ravaged towns and cities, citizens are realizing that Louisiana's well-earned penchant for dirty politics has exacted a steep price: It has badly damaged the credibility of the recovery effort.

"Frankly, the reputation in Washington is, if we send money down there, it will just get stolen," said political handicapper Charles E. Cook, a Louisiana native who has worked in the nation's capital for more than three decades. "It is a caricature of Louisiana politics that is not entirely undeserved but is grossly exaggerated. No one cared about it much before Katrina. But right now, it's hurting the state enormously."

A major turning point in public attitude came in 2001 when Edwin Edwards, the former four-term Democratic governor, received a 10-year sentence for taking bribes for riverboat gambling licenses. In the last governor's race, both candidates — Democrat Kathleen Babineaux Blanco beat Republican Bobby Jindal — were considered squeaky clean, and promised government reforms. The distaste for dirty government has really picked up momentum since last summer.

"What was tolerated before Katrina is not necessarily tolerated now," said pollster Silas Lee III, a professor at Xavier University here. "Nerves are raw. People have lost their sense of security and direction. They are living a day-to-day existence, and they have little patience for any politician who is perceived as being corrupt."

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In addition to Edwards, in the last decade Louisiana has seen an attorney general, a congressman, a state Senate president, a federal judge and countless local officials convicted of corruption. Louisiana's last three state insurance commissioners wound up in prison for offenses that include lying to the FBI, accepting $2 million in illegal campaign contributions and taking bribes — prompting jokes that future candidates should make sure they look good in stripes.

Jim Letten, the U.S. attorney for eastern Louisiana and the lead prosecutor in the Edwards case, sees the convictions as a sign of progress. Wherever he goes, he said, he is greeted by people — black, white, Latino, Asian — who tell him Louisiana needs to clean up its act.

"I am not sure that Louisiana has measurably more corruption than other [regions], but surely we have a reputation for being tolerant of it," said Letten, a member of the Hurricane Katrina Fraud Task Force, a team of federal, state and local law enforcement officials investigating scams and corruption.

Until recently, Louisiana politicians proved that charisma trumped scruples. Their repeated election victories, despite corruption allegations in many instances, showed that Louisiana voters viewed the ethical transgressions of their elected officials as an amusing spectacle.

T. Wayne Parent, a political science professor at Louisiana State University and author of "Inside the Carnival: Unmasking Louisiana Politics," said citizens accepted corrupt politicians because they were effective in providing government services, and the cash they were pocketing was not believed to be taxpayer money.

"Maybe some politician was making a deal with the devil, but that was money from some oil and gas company, or so people thought. By the late 1980s, people realized, maybe it was our money," said Parent, who believes the change in attitude has been slowly building over the last quarter-century.

Huey Long, the Depression-era demagogue who dominated every level of Louisiana government by bullying or buying off anyone who got in his way, joked that "one of these days the people of Louisiana are going to get good government — and they aren't going to like it."

Known as the Kingfish, Long was impeached as governor in 1929 on charges of bribery and gross misconduct but narrowly avoided punishment — reportedly by bribing several state senators. Elected a U.S. senator in 1930, he was assassinated in 1935 in Baton Rouge by the son of a judge who was about to be gerrymandered out of a job.

Earl Long, his eccentric brother, kept the family's Democratic political machine running into the 1960s. He once remarked that Louisiana voters "don't want good government; they want good entertainment."

He served three terms as governor, spending some of the last term in a mental hospital, where his wife had him committed after he took up with Blaze Starr, a stripper.

Edwards, who survived two trials and 22 grand jury investigations in his four terms as governor, boasted that the only way he could lose was if he were "caught in bed with a dead girl or a live boy."

When he ran against former Ku Klux Klan leader David Duke, the Republican candidate, in 1991, Edwards supporters printed bumper stickers saying: "Vote for the crook. It's important."

The "crook" handily won. But he was eventually sent to prison for taking bribes after Eddie DeBartolo Jr., former owner of the San Francisco 49ers, testified that he had paid Edwards $400,000 to land a casino license.

Even now, during the state's ultimate hour of need, some Louisiana citizens say they could stomach a crooked politician — as long as he was competent.

"I'll tell you what, I'd take Edwin Edwards in a minute to get us out of this mess," said Gid Brill, 65, a tool salesman from Belle Chasse. "He might skim off $10 million for himself, but he'd know what to do with the rest of the money."

Such attitudes do not go over well in Washington, where some Republican lawmakers speak of Louisiana as if it were a banana republic.

Sen. Larry E. Craig (R-Idaho), who sits on the pivotal appropriations committee which oversees all major spending bills, compared fraud in Louisiana to fraud in Iraq. During town hall meetings in his home state last year, he repeatedly said that Louisiana and New Orleans had "the most corrupt governments in our country."

State lawmakers last year sought $250 billion from Congress for recovery and reconstruction in a proposal criticized as a grab-bag of pork-barrel projects. President Bush said Thursday the federal government had approved $85 billion in aid to the Gulf Coast. Louisiana's congressional delegation has contended that is not nearly enough, and continues to press for more.

Sen. Mary L. Landrieu (D-La.) said that the corruption, while historically accurate, has been magnified by Republicans in Washington who do not want to help Louisiana. "I don't want to discount that the image carries the scars of our past. But we have emphatically turned the corner," Landrieu said.

Citing the corruption scandal in the nation's capital centering on GOP lobbyist Jack Abramoff, Landrieu added, "Republicans in Washington should clean up their own house before using Louisiana's past reputation an excuse for not wanting to rebuild the Gulf Coast."

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Not surprisingly, Sen. David Vitter (R-La.) sized up the situation differently.

"It's not fiction — we have had some real corruption issues here in the past, and to some extent we still do today," Vitter said. "My colleagues in Washington want assurances that money is going to be spent wisely, given those issues, and I don't think it's too much to ask."

Government statistics indicate that Louisiana is one of the most corrupt states in the country. From 1995 to 2004, federal prosecutors won 310 corruption convictions involving public servants and citizens in Louisiana, said a report by the Public Integrity Section of the Justice Department. That was far from the highest total: California prosecutors logged 871. But California is a state of 36 million people, nine times the population of Louisiana.

In the last month alone, federal prosecutors have been busy bringing corruption charges against Louisiana public servants. Two sheriffs deputies who worked at a Gretna jail were sentenced last week after confessing to taking bribes — part of an ongoing federal probe dubbed "Operation Wrinkled Robe," which seeks to ferret out jail and courthouse corruption. The investigation already has resulted in the conviction of a former state judge.

Last Friday, a federal grand jury indicted a former New Orleans police officer caught driving a stolen pickup, one of about 200 Cadillacs and Chevys looted from a dealership after Katrina. Witnesses reported seeing officers drive away in the vehicles. A state grand jury is also investigating the case, along with other allegations of looting by law enforcement officers.

Brett Pfeffer, a former aide to Rep. William Jefferson, a New Orleans Democrat, pleaded guilty two weeks ago to bribing an unnamed congressman on behalf of a small telecommunications company. Jefferson has not been charged and has denied wrongdoing.

Impastato's trial is scheduled to begin next month. He pleaded not guilty Jan. 10 to federal charges that he extorted money from a businessman after helping him land a contract to remove debris. If convicted of the charge, as well as related counts of conspiracy and money laundering, he could face up to 20 years in prison.

The indictment said Impastato arranged with Lee Paul Mauberret of the Pontchartrain Chipping Yard to split the $200,000 contract. A relative of Mauberret's balked at paying the kickback, and Mauberret called the FBI, which set up the sting.

Impastato, 33, continues to serve his second term on the council in St. Tammany Parish, next to New Orleans on the north shore of Lake Pontchartrain. He declined to discuss the case when reached at Sal & Judy's, his family's Italian restaurant, where he makes a living running a business selling tomato sauces and olive oil.

His lawyer, Karl Koch, said Impastato did not "use his official capacity in any way" to enrich himself, and witnesses would testify that Impastato did a fair amount of the hurricane cleanup work himself. Impastato's critics said his actions — legal or not — set back the state's efforts to repair its reputation.

"Impastato should have avoided this at all costs. Especially given the current climate and attitude in Washington toward Louisiana," St. Tammany resident Dana Deris wrote on a blog carried on the New Orleans Times-Picayune website. "He IS guilty of furthering the negative image of Louisiana."

Outside a grocery store a few blocks from Sal & Judy's, Robert Keys, 72, shook his head.

"I'd love to be the judge on that one," said Keys, a 41-year resident of St. Tammany Parish. "A snake is going to take advantage of this opportunity right now, because there's a lot of money flying around loose. I guess the question is whether it was a legal shakedown or not. But either way, he's still a snake."

Study Says 80% Of New Orleans Blacks May Not Return (NYT)

By James Dao

The New York Times, January 27, 2006

WASHINGTON, Jan. 26 — New Orleans could lose as much as 80 percent of its black population if its most damaged neighborhoods are not rebuilt and if there is not significant government assistance to help poor people return, a detailed analysis by Brown University has concluded.

Combining data from the 2000 census with federal damage assessment maps, the study provides a new level of specificity about Hurricane Katrina's effect on the city's worst-flooded areas, which were heavily populated by low-income black people.

Of the 354,000 people who lived in New Orleans neighborhoods where the subsequent damage was moderate to severe, 75 percent were black, 29 percent lived below the poverty line, more than 10 percent were unemployed, and more than half were renters, the study found.

The report's author, John R. Logan, concluded that as much as 80 percent of the city's black population might not return for several reasons: their neighborhoods would not be rebuilt, they would be unable to afford the relocation costs, or they would put down roots in other cities.

For similar reasons, as much as half of the city's white population might not return, Dr. Logan concluded.

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"The continuing question about the hurricane is this: Whose city will be rebuilt?" Dr. Logan, a professor of sociology, writes in the report.

If the projections are realized, the New Orleans population will shrink to about 140,000 from its prehurricane level of 484,000, and the city, nearly 70 percent black before the storm, will become majority white.

The study, financed by a grant from the National Science Foundation, was released Thursday, 10 days after the mayor of New Orleans, C. Ray Nagin, who is black, told an audience that "this city will be a majority African-American city; it's the way God wants it to be."

Mr. Nagin's remark was widely viewed as an effort to address criticism of a proposal by his own rebuilding panel, the Bring New Orleans Back Commission, that calls for a four-month building moratorium in heavily damaged areas. He said later that he had not meant to suggest that white people would not be encouraged to return.

"Certainly Mayor Nagin's comments reflected a concern on the ground about the future of the city," Dr. Logan said. "My report shows that there is a basis for that concern."

The study coincides with growing uncertainty about what government assistance will be available for property owners and renters. Louisiana will receive $6.2 billion in federal block grants under an aid package approved by Congress in December, part of which will be used to help homeowners. But that will not be enough money to help all property owners in storm-damaged areas, Louisiana officials say.

Those officials have urged Congress to enact legislation proposed by Representative Richard H. Baker, Republican of Louisiana, creating a corporation that would use bond proceeds to reimburse property owners for part of their mortgages, then redevelop the property. But the Bush administration has said it opposes the bill, out of concerns that it would be too expensive and would create a new government bureaucracy.

Asked Thursday about his opposition to the measure, President Bush told reporters that the $85 billion already allocated for Gulf Coast restoration was "a good start." He added that he was concerned that Louisiana did not have a clear recovery plan in place.

But Gov. Kathleen Babineaux Blanco of Louisiana, a Democrat who has clashed frequently with the White House, said Mr. Baker's bill provided a clear plan.

"Administration officials do not understand the suffering of the people of Louisiana," Ms. Blanco said in a statement.

Demographers are divided over the likelihood of a drastic shift in New Orleans's population. William H. Frey, a demographer at the Brookings Institution who has studied the hurricane's impact on the city, called Dr. Logan's projections "a worst-case scenario that will come about only if these evacuees see that they have no voice in what is going on."

But Dr. Frey also said low-income evacuees might indeed begin to put down roots in cities like Houston or Dallas if they did not see movement toward reconstruction in the next six months.

Elliott B. Stonecipher, a political consultant and demographer from Shreveport, La., said that unless New Orleans built housing in flood-protected areas for low-income residents, and also provided support for poor people to relocate, chances were good that many low-income blacks would not return.

"If they didn't have enough resources to get out before the storm," Mr. Stonecipher said, "how can we expect them to have the wherewithal to return?"

WAR NEWS:

U.S. Military Releases Half Of Iraqi Women In Its Prisons (NYT)

By Sabrina Tavernise

The New York Times, January 27, 2006

BAGHDAD, Iraq, Jan. 26 — The American military said Thursday that it had released half the Iraqi women held in its prisons, but it said the release had been previously scheduled and was unrelated to demands made by the kidnappers of the American journalist Jill Carroll.

The military freed 5 of the 10 Iraqi women in its custody late Thursday afternoon as part of a regular prisoner release that included more than 400 Iraqis, said Lt. Col. Barry Johnson, a military spokesman.

The release drew attention because advance news of it came after Ms. Carroll's captors made their demands last week, saying in a videotape that they would kill her if the United States did not release all Iraqi women from its jails in 72 hours.

But the military said the review of the Iraqi prisoners' cases came long before the kidnappers set their deadline, which expired last Friday.

"We do not negotiate or bend to demands of terrorists," Colonel Johnson said.

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It was not clear Thursday night whether the release of the five women had swayed Ms. Carroll's kidnappers, or whether they were even aware it had happened. Nothing has been heard from them since their videotape was broadcast by the Arabic network Al Jazeera on Jan. 17.

Ms. Carroll, a 28-year-old freelance journalist, was on assignment for The Christian Science Monitor when gunmen seized her on her way to an interview in Baghdad on Jan. 7. Her interpreter was shot dead as he tried to make a phone call.

David Cook, The Monitor's Washington bureau chief, said in an e-mail message that the paper had not had news of Ms. Carroll since the video broadcast.

Scattered violence on Thursday left at least 11 Iraqis dead.

A bomb planted on a road north of Baghdad struck the convoy of the minister of industry and minerals, Osama Abdul Aziz al-Najafi, killing three guards and seriously wounding a fourth. Mr. Najafi was not harmed. The attack was the sixth attempt made on his life, said Hanan Jassim, a spokeswoman for the ministry.

In Baghdad, police officers and insurgents fought a gun battle in the Adel neighborhood, where Ms. Carroll was kidnapped, leaving one police officer dead and six wounded, an Interior Ministry official said.

Two Iraqis were shot to death and a third was wounded when gunmen opened fire on their car in the Saidiya district in southern Baghdad about 1 p.m., the official said.

The authorities found 10 bodies, handcuffed and blindfolded, in water filtration pools in southeastern Baghdad on the road to Madaen, the Interior Ministry official said.

In the northern city of Kirkuk, insurgents killed two city officials in drive-by shootings. Jumaa Haji Rasheed, deputy director of the city's trade department, was gunned down as he was dropping his daughters off at school, said Capt. Farhad Talabani of the Kirkuk police department. Uthman Muhammad Mahmood, part of the city's anticorruption commission, was shot to death while driving in the Askari neighborhood.

Gunmen also killed an engineer and an off-duty police officer in Kirkuk, said Sarhad Qadir, a police official there.

Insurgents attacked a fuel convoy on the highway from Kirkuk to Baghdad, killing one driver and wounding four, Mr. Qadir said.

Three American service members were killed in combat on Tuesday and Wednesday, the American military said. One died in a bomb blast in Baghdad, one in a rocket attack near the western city of Ramadi, and a third in Karma, just outside Falluja, west of Baghdad.

The military also announced that it had transferred authority to the Iraqi Army in the provinces of Diwaniya and Wasit in southern Iraq. Soldiers and Iraqi commanders from the Eighth Iraqi Army Division took control of the two provinces on Thursday.

U.S. Releases Five Iraqi Women (WP)

By Jonathan Finer

The Washington Post, January 27, 2006

BAGHDAD, Jan. 26 -- The U.S. military freed five female Iraqi detainees Thursday, a move it said was unrelated to demands made by a group that abducted the American journalist Jill Carroll this month.

Carroll, 28, a freelance reporter working for the Christian Science Monitor, was taken on Jan. 7 in western Baghdad. In a video aired on the Arab satellite television network al-Jazeera 10 days later, her captors said she would be killed within 72 hours if U.S. authorities did not release all female Iraqis in their custody.

U.S. forces still hold at least four women, according to Lt. Col. Guy Rudisill, a spokesman for detainee operations. In a separate statement Thursday, the military announced the detention of two more women Wednesday in the northern city of Mosul.

There was no immediate public response from Carroll's kidnappers, who call themselves the Vengeance Brigade. The five women who were released were among 420 prisoners scheduled to be freed Thursday and Friday, the military said.

"They were determined not to be a security threat," Maj. Gen Rick Lynch, a military spokesman, told reporters Thursday. "Those female detainees were released as part of our normal process, and not as a result of demands by terrorists and criminals. We don't negotiate with terrorists and criminals."

A U.S. official in Baghdad, who spoke on condition of anonymity because of the sensitivity of the situation, said there was no indication that the women's release would lead to Carroll being freed.

"If the people holding her wish to interpret this in some way to do the right thing and let her go, then more power to them," he said. "There is no reason to believe they will and no reason to believe they won't."

Insurgents and criminal gangs have carried out a wave of kidnappings against foreigners in recent months, including two German engineers seized Tuesday. Some of those seized have been killed, others released unharmed. The status of several captives remains unknown, including four members of a U.S.- and Canadian-based Christian aid group.

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Also Thursday, the U.S. military announced the death of a soldier whose vehicle came under rocket attack Wednesday near the western city of Ramadi.

Lynch pointed to growing signs of conflict between Iraqi insurgents and foreign fighters from the group al Qaeda in Iraq, which is led by the Jordanian Abu Musab Zarqawi. Iraqi insurgents have killed six senior al Qaeda leaders in recent weeks, Lynch said, referring to the local insurgency as "a colleague in this operation against Zarqawi."

U.S. officials have long said they hoped to separate local insurgents from foreigners and incorporate the Iraqis into the country's political process.

Lynch said the military and diplomats had been "reaching out" to some Iraqi insurgents, but he called negotiations with those known to be conducting attacks on U.S. forces a "red line that we refuse to cross."

"The idea of driving a wedge between the terrorists and foreign fighters and the Iraqis that support them, and the Iraqi population, is taking place," he said. "And the local insurgents have become part of the solution."

Iraqi insurgent leaders, while acknowledging friction with Zarqawi's fighters, rejected the notion that they were working in concert with the Americans.

"There are disagreements over the car bombs that killed Shiites and innocent people in markets. But we cannot cooperate with U.S. forces to fight our brothers in al Qaeda," said Sheik Fadhil Falluji, a leader in the Islamic Army insurgent group in Karmah, east of the city of Fallujah. "They want to create strife among the resistance."

Also Thursday, three assassinations took place in the restive northern city of Kirkuk. In separate incidents, police said, gunmen killed an official with the city's Integrity Commission and the brother of a senior member of the Patriotic Union of Kurdistan. Police also recovered the bullet-riddled body of a butcher who supplied the Iraqi army.

Special correspondents Omar Fekeiki and Bassam Sebti contributed to this report.

Five Iraqi Women Are Released From US Custody (CSM)

The Christian Science Monitor, January 27, 2006

BAGHDAD - The mother of one of five Iraqi female detainees released Thursday expressed confidence that American journalist Jill Carroll will be released soon.

"She'll be fine and she will come out very soon because she loves Iraq and she loves Iraqis, so God will never forget her," says Siham Faraj, the mother of Hala Khalid Wahid who was detained by US forces in Iraq four months ago.

But she added, "I don't think Jill Carroll's situation has anything to do with the release of my daughter, but we definitely feel her pain....

"And to her mother, I say: I know how painful it is when a daughter is detained. But don't worry, madam. Your daughter is a great woman and she will be fine."

Mrs. Faraj's 28-year-old daughter was arrested along with her son on Sept. 24 during a dawn raid by US forces on their Baghdad home.

In a video message aired on Arabic satellite channel Al Jazeera last week, Ms. Carroll's captors threatened to kill her within 72 hours unless all female detainees in Iraqi prisons were released.

The US military confirmed last week it was holding nine Iraqi women. On Thursday, however, the military said it had detained two more women and three men for alleged insurgent activities in the northern city of Mosul. Detainees are regularly freed in Iraq following reviews of their cases, a process that can take months. US officials say that Thursday's release of five women and 414 men was part of the routine procedure and not linked to Carroll's case.

Separately, the widow of an Al Jazeera staff correspondent killed in Iraq also called for Carroll's release. "Kidnapping journalists or civilians harms the good image of the [Iraqi] resistance," Dima Tahboub told Al Ghad, a Arab-language newspaper in Amman, Jordan.

Her Jordanian husband, Tareq Ayoub, was killed in April 2003 during a US air raid that struck the generator outside Al Jazeera's Baghdad bureau. She added, "The resistance has to adopt legal methods that spare civilians.... Journalists who play an objective professional role and serve their societies should be spared also."

A group of 37 Jordanian politicians, academics, and journalists also released a statement Thursday calling "the kidnapping of Carroll ... a kidnapping of one of the witnesses of the suffering of the Iraqi people."

In Iraq, two German engineers were kidnapped Tuesday, just two days after arriving in the country. Iraqi police say they were seized by men wearing Iraqi Army uniforms who slipped into the German company's complex.

Germany's Foreign Minister Frank-Walter Steinmeier said there had been no contact with the kidnappers.

· Staff writer Dan Murphy in Baghdad and The Associated Press contributed to this report.

U.S. Rebuilding In Iraq Found To Fall Short (NYT)

DOJ_NMG_0012590

By James Glanz

The New York Times, January 27, 2006

Because of unforeseen security costs, haphazard planning and shifting priorities, the American-financed reconstruction program in Iraq will not complete scores of projects that were promised to help rebuild the country, a federal oversight agency reported yesterday.

Only 49 of the 136 projects that were originally pledged to improve Iraq's water and sanitation will be finished, with about 300 of an initial 425 projects to provide electricity, the report says.

The planners of the rebuilding effort did not take into account hundreds of millions of dollars in administrative costs, and mostly did not realize that the United States would have to spend money to keep things like power plants and sewage treatment plants running once they had been built, the report says. That ultimately forced the United States to pare the list of projects to cover such expenses.

Beyond the huge cost of protecting reconstruction projects, which the report says the planners did not foresee, billions of dollars were shifted from the rebuilding effort to things like training Iraqi police and guarding Iraq's borders. The report, by the office of the Special Inspector General for Iraq Reconstruction, adds that the overall rebuilding plan was also devised without a clear understanding of the decrepit state of Iraq's infrastructure after decades of war, United Nations-imposed penalties and sheer neglect.

The figures are the first quantitative measure of what Stuart W. Bowen Jr., the inspector general in the office that issued the report, has called the "reconstruction gap," the difference between what the United States originally promised to build and what it will actually complete. The inspector general is charged with oversight of the entire $25 billion rebuilding effort in Iraq, although the latest report focuses on projects financed by $18.4 billion appropriated by Congress for the program in 2004.

"We have gone beyond just the concept of the reconstruction gap and identified the specific impacts of how many projects in the electrical sector and the water sector will not be completed and the reasons why," said Jim Mitchell a spokesman for the office. "We point out that the dramatic increase in security spending is a part of this as well," Mr. Mitchell said. "Those who planned the reconstruction did not understand at the time the hostile environment in which reconstruction would be taking place."

Rick Barton, co-director of the post-conflict reconstruction project at the Center for Strategic and International Studies in Washington, said that the effectiveness of the rebuilding program had previously been obscured by the fog of war in Iraq, and that what appear to be some of the first solid measures of success and failure were bound to carry important lessons.

"We've had such a range of commentary, from pretty much everything going as well as it could to outright disaster," Mr. Barton said. "This brings definition to the whole discussion, and in doing that it highlights many of the poor choices that have been made. It has that potential longer-term therapeutic benefit."

Reconstruction officials and some specialists outside the government have said that the full extent of Iraq's insurgency and lawlessness would have been difficult or impossible to anticipate when much of the planning for the rebuilding effort took place under the Coalition Provisional Authority in 2003.

The report says that the authority planners "envisioned a much more permissive security environment," but does not take a stand on whether the possibility of such problems should have been considered. The security problems that developed increased the cost of projects and materials, causing delays, the report says.

But security costs alone do not account for the drop in the number of projects that the United States will be able to finish.

"Other unforeseen problems, such as initial plans that were hurriedly put together with little knowledge of actual conditions at proposed projects sites," as well as the need to continue financing the projects once they are up and running, also played a role, the report says. As a result, some $425 million was shifted to support the operation of the plants and the Iraqis who were expected to carry them out.

The report adds that planners were also obliged to take $400 million from the reconstruction money to cover unforeseen administrative costs, probably involving the Western staff members who worked on the effort in heavily guarded hotels and in the fortified green zone in the heart of Baghdad. "The use of these funds has reduced the level of funding that can be provided for specific relief and reconstruction activities in Iraq, and altered U.S. plans," the report says.

The biggest change in priorities in the rebuilding program came when John D. Negroponte, then the American ambassador to Iraq, shifted $3.46 billion from the reconstruction fund to support projects involving the training of Iraqi security forces, building democratic institutions and developing the private sector in fall 2004. But the report notes that month after month, new shifts took place, amounting to $2.12 billion in additional spending changes through October 2005.

No fewer than 185 programs endured changes during that period, the report says. And reconstruction teams were also forced to improvise plans constantly because planners had not taken into account the decayed state of Iraq's infrastructure. As examples, the report cites a port rehabilitation project in Umm Qasr, in the south, where dredging operations were held up as workers shored up crumbling piers and berths for the ships.

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The report was released only days after a separate audit of American financial practices in Iraq uncovered irregularities including millions of reconstruction dollars stuffed casually into footlockers and filing cabinets, an American soldier in the Philippines who gambled away cash belonging to Iraq, and three Iraqis who plunged to their deaths in a rebuilt hospital elevator that had been improperly certified as safe.

But in contrast to that earlier audit, which focused on rebuilding projects financed by money from Iraqi oil proceeds and assets seized from Saddam Hussein's regime, the latest report covers projects underwritten with American taxpayer money.

Audit Finds Fund Shortage For U.S. Projects In Iraq (WT)

By Rowan Scarborough

The Washington Times, January 27, 2006

The Bush administration got bad news yesterday about its plans for rebuilding Iraq with U.S. taxpayer money when a special audit showed there are not enough funds for more than half of the water resource improvements and for a quarter of electrical projects.

"Although significant progress has been made in developing Iraq's infrastructure, the United States will not complete all of the projects it originally planned to construct," Stuart Bowen Jr., the special inspector general for Iraq's reconstruction, said in the audit. He called the problem a "reconstruction gap," the difference between projects planned in 2003 and what is now actually possible in 2006.

The assessment is a setback for the Bush administration, which counted on more robust rebuilding across Iraq to help deliver the country from a harsh dictatorship to a prosperous democracy. Officials in Mr. Bowen's office say that if the projects are to be completed, Iraq will have to receive more money from donor nations, which have pledged but not fully delivered $13 billion; from the World Bank; and from oil proceeds. The problem is insurgents repeatedly attack Iraq's oil facilities and pipelines, especially one leading to Turkey, depriving Iraq of huge streams of revenue.

Mr. Bowen blamed five setbacks, or shifts in policy, that have caused some of the $24 billion Congress approved in U.S. reconstruction funds to be diverted elsewhere.

The audit cited "plans made without a clear understanding of actual situational conditions" -- a reference to the fact that the Bush administration did not predict the rise of a large insurgency and foreign terror cells when it planned for Iraq after the ouster of Saddam Hussein.

For example, the State Department diverted $5.6 billion from reconstruction to beef up security in the face of the burgeoning insurgency, which threatened to send Iraq into chaos in 2004.

The audit said that $4.3 billion budgeted for water and sanitation in 2003 was decreased to $2.1 billion in 2005. And $5.5 billion for the electricity budget was slashed to $4.3 billion.

The result: Of 136 projects in water sources and sanitation, only 49 will be completed. Of 425 electrical projects, about 300 will be completed with U.S. funds.

The report said the disbanded Coalition Provisional Authority, which ran Iraq in 2003 and 2004, "had significantly underestimated the damage done to the basic infrastructure from decades of neglect and warfare and, as a result, more time and resources are required to stand up and maintain systems than originally thought. The state of Iraq's infrastructure was further degraded by looting and sabotage following the war."

In 2003, Congress authorized $18.6 billion for reconstruction and also added smaller appropriations to bring the total to $24 billion.

Five Female Detainees In Iraq Set Free (LAT)

By Chris Kraul, Times Staff Writer

The Los Angeles Times, January 27, 2006

BAGHDAD — Iraq's minister of industry narrowly escaped an assassination attempt Thursday, and the release of five female prisoners by U.S. authorities raised hopes that kidnapped American reporter Jill Carroll would soon be set free.

Also Thursday, the U.S. military reported the deaths of a soldier and a Marine, and Army Gen. George W. Casey, the top U.S. commander in Iraq, acknowledged in Diwaniya that U.S. forces overall were "stretched," Associated Press reported. He was responding to journalists' questions about an unreleased Pentagon study that found the military was overextended in Iraq and Afghanistan.

The Iraqi minister, Usama Abdulaziz Najafi, was in a convoy on a main highway about 65 miles north of Baghdad when a roadside bomb exploded. The blast engulfed one of the cars in flames, killing three bodyguards and injuring one. The minister was unhurt.

The Iraq insurgency has targeted officials at all levels in its attempt to weaken Iraq's emerging democratic government.

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Hopes rose Thursday that Carroll, who was kidnapped Jan. 7 in Baghdad, might be released. On Jan. 17, her captors issued a videotape of the reporter and threatened to kill her unless all female prisoners held by American forces were released by Jan 20. Since then, there has been no word on the 28-year-old freelancer, who was working for the Christian Science Monitor.

The five female detainees freed Thursday were among 424 prisoners released by U.S. authorities. At a news briefing, Army Maj. Gen. Rick Lynch said the move was part of a "normal process and not as a result of demands by terrorists and criminals."

An estimated 14,000 Iraqis, including four women, remain in U.S. military jails.

Local media quoted Iraqi officials as saying they were hopeful that the detainees' release might persuade Carroll's abductors to set her free. In a telephone interview, David Cook, the Christian Science Monitor's Washington bureau chief, was guarded in his reaction to the U.S. move.

"We are aware of the release and watching carefully for positive developments," he said.

Gen. Casey spoke to reporters during a trip to witness the hand-over of two provinces in south-central Iraq to the 8th Division of the Iraqi army. He said that although the U.S. military in Iraq was under stress, he thought the mission could be accomplished as staffed. He said he would order withdrawals only as Iraqi forces became capable of taking over operations.

On Wednesday, Secretary of Defense Donald H. Rumsfeld disputed reports that the U.S. military was stretched thin in Iraq and Afghanistan. "This armed force is enormously capable," he told reporters. "It's battle-hardened."

In other developments in Iraq, Baghdad police sources said the bodies of 10 blindfolded men had been found in water-holding tanks at a sewage treatment facility in a Baghdad suburb. All had been shot to death.

Meanwhile, cameraman Mahmoud Zaal of Baghdad TV was killed Wednesday while filming U.S. troops fighting insurgents in Ramadi. Sources said he initially was detained by American forces and later released, before being killed by gunfire.

At his regular Thursday briefing for reporters, military spokesman Lynch said insurgent attacks and other incidents had risen 26% across the country last week to 433, but that overall, violence was in decline.

As a result of "outreach," he said, coalition forces are getting better cooperation from some Iraqi insurgents who are neither loyalists to former President Saddam Hussein nor linked to Al Qaeda, but are "rejectionists" alienated from the current government.

"By talking with them, explaining the business of being part of the solution and not part of the problem, many of them turn out to be individuals we can rely on to help make progress here in Iraq," Lynch said. "There is indeed dialogue taking place."

There were few details on the two slain U.S. troops, whose identities were being withheld pending notification of their families. The Marine was killed Tuesday by small-arms fire east of Fallouja. He was assigned to the 2nd Marine Division, 2nd Marine Expeditionary Force.

The other was described as a soldier with the Multinational Division Baghdad who was killed Wednesday by a roadside bomb near the capital.

According to an Associated Press tally, at least 2,238 American service members have been killed since the U.S.-led invasion in March 2003.

Planted Articles May Be Violation (LAT)

By Mark Mazzetti

The Los Angeles Times, January 27, 2006

WASHINGTON — A secret U.S. military program that pays Iraqi newspapers to publish articles favorable to the American mission appears to violate a 2003 Pentagon directive, according to a newly declassified document released Thursday.

The information campaign run by U.S. troops in Baghdad and a Washington-based private contractor is the subject of a high-level military investigation. Last month, the top U.S. general in Iraq said a preliminary investigation into the program had found it did not violate U.S. law or Pentagon regulations.

"We concluded that we were operating within our authorities and the appropriate legal procedures. And so we have not suspended any of the processes up to now," Army Gen. George W. Casey told reporters then.

A secret directive on the Pentagon's information operations policy released Thursday, however, appears to prohibit U.S. troops from conducting psychological operations, or psy-ops, targeting the media.

"Psy-op is restricted by both DoD [Department of Defense] policy and executive order from targeting American audiences, our military personnel and news agencies or outlets," says the directive, dated Oct. 30, 2003, and signed by Defense Secretary Donald H. Rumsfeld.

The document, titled "Information Operations Roadmap," was released by the National Security Archive, a research institution based at George Washington University that obtained it under the Freedom of Information Act.

A Pentagon spokesman did not return calls seeking comment.

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But one senior Pentagon official said that based on the wording in the directive, the operation seemed to violate Pentagon policy.

"It's clearly a violation based on the language used in the Rumsfeld document," said the official, who spoke on condition of anonymity because he was not authorized to talk publicly on the issue.

Since early last year, the military's Information Operations Task Force in Baghdad has used private contractor Lincoln Group to plant stories in Iraqi media about U.S. and Iraqi military and rebuilding efforts.

It also has placed reports indicating that anti-insurgent sentiment is rising among Iraqi citizens.

American troops write articles, called storyboards, which are then delivered to the Iraqi staff of Lincoln Group. The staffers then translate the storyboards into Arabic and pay newspaper editors in Baghdad to run the articles.

A military investigation of the operation led by Navy Rear Adm. Scott Van Buskirk should be completed soon, Pentagon officials say.

U.S. law forbids the Pentagon from conducting propaganda efforts that target U.S. audiences. Yet many in the military say that the globalization of media, driven by the Internet and the 24-hour news cycle, makes it likely that information campaigns targeting foreign audiences find their way into U.S. media coverage.

That much is acknowledged in the 78-page document released Thursday, which says that "information for foreign audiences, including public diplomacy and psy-op, increasingly is consumed by our domestic audience."

The directive recommends that boundaries be established to ensure that U.S. military information operations don't target U.S. audiences directly. It does not say what the boundaries should be.

The document was written to set out policy guidelines and establish the Pentagon's reasoning for elevating information operations to a "core" mission for the U.S. military, Pentagon officials say.

"Information, always important in warfare, is now critical to military success and will only become more so in the foreseeable future," the document says.

U.S. Forces Strained But Will Finish Mission, General Says Military Releasing Hundreds Of Detainees From Custody (USAT/AP)

By Nick Wadhams

USA Today, January 27, 2006

DIWANIYAH, Iraq — The top U.S. commander in Iraq acknowledged Thursday that the U.S. Army was stretched, but he insisted forces here were capable of accomplishing their mission.

Gen. George Casey said any recommendation to reduce troops further would be dictated by the situation on the battlefield.

“The forces are stretched … and I don't think there's any question of that,” Casey told reporters. “But the Army has been for the last several years going through a modernization strategy that will produce more units and more ready units.”

Casey said he had discussed manpower strains with Gen. Peter Schoomaker and that the Army chief of staff feels he can sustain missions around the world.

“So, yep, folks are stretched here, but they certainly accomplish their mission,” Casey said.

In Washington, President Bush brushed aside talk that the United States could not prevail in Iraq.

“If the question is whether or not we can win victory in Iraq, our commanders will have the troops necessary to do that,” Bush told reporters at a news conference.

Also Thursday:

·The military released five Iraqi female detainees, part of a group of about 420 Iraqis to be released Thursday and today. The kidnappers of American reporter Jill Carroll had demanded the release of all female detainees being held by the U.S. military, and some women are still in custody. Iraqi Maj. Gen. Hussein Ali Kamal said intensive efforts were underway to free Carroll, who was on assignment for The Christian Science Monitor.

·U.S. Central Command announced that two more American soldiers died Wednesday — one in a bombing south of Baghdad and a second of wounds suffered in a rocket attack in Ramadi.

·At least 11 Iraqis were killed Thursday in attacks around the country.

Casey spoke after attending a ceremony in which Polish troops transferred leadership of the south-central region of Iraq to Iraqi forces, the first such large-scale hand-over since the conflict began in 2003.

In a study for the Pentagon, Andrew Krepinevich, a retired Army officer, concluded the Army cannot sustain the pace of troop deployments to Iraq long enough to crush the insurgency. He suggested the Pentagon's decision to begin reducing the force in Iraq this year was driven in part by a realization that the Army was overextended. The United States has about 136,000 troops in Iraq.

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Defense Secretary Donald Rumsfeld said Wednesday that talk of an overburdened force was “either out of date or just misdirected.”

General Says Force Can Do Its Job (WT/AP)

By Nick Wadhams

The Washington Times, January 27, 2006

DIWANIYAH, Iraq -- The top U.S. commander in Iraq acknowledged yesterday that the U.S. Army was stretched, but he insisted forces were capable of accomplishing their mission and any recommendation to reduce troops further would be dictated by the situation on the battlefield.

U.S. officials said Gen. George Casey was speaking about the Army in general and not specifically about the 136,000-strong force in Iraq.

"The forces are stretched ... and I don't think there's any question of that," Gen. Casey told reporters. "But the Army has been for the last several years going through a modernization strategy that will produce more units and more ready units."

Gen. Casey said he had discussed manpower strains with Gen. Peter J. Schoomaker on Wednesday and that the Army chief of staff thinks he can sustain missions around the world. Gen. Casey insisted the troops in Iraq are getting the job done.

"So, yep, folks are stretched here but they certainly accomplish their mission, and the forces that you've seen on the ground are absolutely magnificent," he added.

In Washington, President Bush brushed aside talk that the United States could not prevail in Iraq.

"If the question is whether or not we can win victory in Iraq, our commanders will have the troops necessary to do that. If the question is: Can we help keep the peace in a place like the Far East? Absolutely," Mr. Bush told reporters.

"And let me use the Far East as an example of what I'm talking about," the president continued. "There were some 30,000 on the South Korean Peninsula. As you might remember, we reduced the amount of manpower and replaced it with technology."

Meanwhile, the U.S. command announced that two more American soldiers died Wednesday -- one in a bombing south of Baghdad and a second of wounds suffered in a rocket attack in Ramadi.

The military yesterday released five female Iraqi detainees, a move demanded by the kidnappers of American reporter Jill Carroll. Officials said the women were part of a group of 420 Iraqis to be released yesterday and today and that their freedom was not connected to efforts to free Miss Carroll, who was seized in Baghdad on Jan. 7.

Gen. Casey spoke after attending a ceremony in which Polish troops transferred leadership of the south-central region of Iraq to Iraqi forces, the first such large-scale transfer since the conflict began in 2003.

The transfer of authority for the sector, which includes about 25 percent of the country, was part of a larger strategy by the U.S.-led coalition to build up Iraqi forces and give them greater role in security.

In a study for the Pentagon, Andrew Krepinevich, a retired Army officer, concluded that the Army cannot sustain the pace of troop deployments to Iraq long enough to crush the insurgency. He also suggested that the Pentagon's decision, announced in December, to begin reducing the force in Iraq this year was driven in part by a realization that the Army was overextended.

Defense Secretary Donald H. Rumsfeld on Wednesday discounted the report as "either out of date or just misdirected."

Is The US Army Prepared To Fight Another Iraq-style War? (CSM)

By Mark Sappenfield

The Christian Science Monitor, January 27, 2006

WASHINGTON - When two major studies released this week questioned whether the US Army is being stretched too thin, they raised a much- repeated concern: that America does not have enough troops to win the war in Iraq.

At a deeper level, though, they raise the question of whether today's military is prepared for the threats that could lie ahead in the war on terror.

The Pentagon's answer is a categorical "yes," insisting that the military is well suited for whatever the future holds. But with the department's four-year plan for spending and strategy to be presented to Congress next month, critics say that America's experience in Iraq suggests that the US may not be ready for another long, slow Iraq-style war.

"What are the countries we could not afford to walk away from" if they collapsed? asks Andrew Krepinevich, author of one of the studies and an analyst at the Center for Strategic and Budgetary Assessments here. Suggesting that Iran, Pakistan, and Indonesia would be among the candidates, he adds, "Even if you thought the approach in Iraq was the right one, it's very difficult to see how you scale up the Army to deal with [those conflicts]."

The question is purely one of structure, not skill. Reports such as those released this week - one by Mr. Krepinevich; the other by former Defense Secretary William Perry - have suggested that the force is simply not large enough to do what the

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Defense Department has asked of it. The debate has played out at times publicly - in Congress and the media - and at times privately, as when former Iraq administrator Paul Bremer requested more troops in 2003 and was ignored, he says.

But only rarely has attention left Iraq and focused on what that conflict says about future threats. Now is one of those times. The Pentagon is scheduled to submit the Quadrennial Defense Review (QDR) to Congress Feb. 6. The QDR will set the Pentagon's priorities for the next four years by laying out a vision of what military leaders expect future threats to be, and then aligning the department's budgets and doctrine.

The Army of today is in many ways a reflection of the 2001 QDR. To react to flashpoints around the globe in a post-cold-war world, it suggested, the Army needed to be smaller but quicker - able to deploy to the far corners of the globe at a moment's notice. In Iraq and Afghanistan, a "transforming" Army deployed to devastating effect. But now, an Army designed for lightning strikes is being asked to keep the lid on a country where many neighborhoods are seething with anti-American sentiment.

To Krepinevich, that difficult task serves as a warning about the types of challenges US forces could face in future conflicts. In countries prone to Islamic radicalism - such as Iran, Pakistan, and Indonesia - any military venture would probably involve a lengthy peacekeeping after the war is won. Moreover, since these countries are far larger than Iraq in both size and population, it would take a far larger force to control them.

If a country such as Pakistan collapses, he says, there is the possibility that Muslim radicals could seize a state with nuclear weapons - something the United States would not tolerate. Unless the US could get major help from its allies, it is unprepared for such a scenario, he adds.

The Pentagon disagrees. Defense officials insist that the size of the force in Iraq is what the generals want, and as the Army transforms, the process will free more soldiers to fight - creating the more-agile Brigade Combat Teams, moving troops out of jobs that can be done by civilians, and rebalancing Army and reserve duties.

"Does the force still need more rebalancing? You bet," said Defense Secretary Donald Rumsfeld in a briefing Wednesday. "You know, an awful lot of things are happening and there are a lot of moving parts." But in the end, he and other officials say, this is the Army they want.

"Out of the QDR, this force structure we think is appropriate to the threat," said Secretary of the Army Francis Harvey in a briefing this month.

Not surprisingly, critics are skeptical. Some who are familiar with drafts of the coming QDR suggest that the lessons learned from Iraq have simply heaped more duties - including peacekeeping - on a force already struggling to meet the ones it has.

"Given how stretched our ground forces are, how can you set that standard without recommending that we substantially grow our ground forces over time?" asks Michèle Flournoy, an analyst at the Center for Strategic and International Studies here. "Many people may want to avoid a war like Iraq in the future, but most wars that we fight are not wars of choice," she adds.

Strategy Targets Terror WMDs (WT)

By Bill Gertz

The Washington Times, January 27, 2006

The Pentagon's latest four-year strategy report calls for setting up a special military task force to prevent weapons of mass destruction from being transferred to terrorist groups, The Washington Times has learned.

The task force will employ special operations forces, other troops and intelligence personnel to prevent states such as North Korea and Iran from supplying nuclear, chemical and biological weapons to terror groups.

The call for the new unit, which would have several hundred troops along with aircraft and other arms, comes as tensions heighten over North Korea's nuclear program and Iran's refusal to abide by international controls on its uranium-enrichment program.

The proposal is contained in the report of the legally mandated Quadrennial Defense Review. The report will be sent to Congress on Feb. 6, but portions of an unclassified summary were made available to The Times.

Pentagon spokesman Larry Di Rita declined to comment on the report, which has not been made public.

"We have over the past few years focused on ways of having a standing and rapidly deployable task force," Mr. Di Rita said. "It's something that can respond quickly to a tough problem."

A section of the report on combating weapons of mass destruction (WMD) said future U.S. military forces will have the capability to interdict and "render safe" weapons of mass destruction before terrorists can use them.

To counter the threat, the Defense Department will "develop new defensive capabilities in anticipation of the continued evolution of WMD threats," the report said.

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Evolving WMD threats include electromagnetic pulse weapons, portable nuclear devices, genetically engineered pathogens and new chemical arms, the report said. The report states that the four-star general in charge of the Omaha, Neb.-based U.S. Strategic Command has the lead role in countering WMD threats.

"The United States will have increased efforts to locate, track and tag shipments of WMD," the report said. One key recommendation of the report is that "there shall be a joint task force for the elimination of WMD," the report said.

A core element of the new joint task force will be the Army's 20th Support Command, which will become a rapid deployment unit "to command and control WMD elimination missions by 2007," the report stated.

The report also recommends that general-purpose military forces take over the job of foreign military training that special operations forces have done "so that special operations forces can increase their capacity to perform more demanding and specialized tasks."

"They will possess an expanded ability to locate, tag and track dangerous individuals and other high value targets, globally," the report said.

Special operations forces "will also have greater capacity to detect, locate, and render safe WMD."

The unit will have its own intelligence component and be led by a two-star general or admiral, who defense officials said they hope will be a special operations veteran.

In addition to the WMD military unit, other key recommendations of the report include increasing special operations forces by 15 percent, creating a Marine Corps special operations command, setting up an Air Force unmanned aerial vehicle squadron, boosting the number of Navy SEAL commando teams and increasing Army psychological operations by 33 percent.

For homeland security, the report calls for spending $1.5 billion over the next five years for medical countermeasures against genetically engineered biological warfare agents.

Geographically, the report also contains a section on "countries at strategic crossroads" that examines the threats posed by China and Russia.

The recommendation for the WMD task force grew out a 2003 memorandum to senior Pentagon leaders by defense consultant Michael Pillsbury.

The plan called for setting up two standing units of special operations forces, one in Asia and one in Europe, to stop WMD transfers as deals are detected. Defense officials said Mr. Pillsbury has promoted the plan since in speeches to Army officials at Fort Bragg, N.C.

Most Reservists At War Saw Incomes Grow (WP)

The Washington Post, January 27, 2006

Contradicting conventional notions, most military reservists who left their civilian jobs to fight in Iraq or Afghanistan made more money there than in their regular jobs.

That is the conclusion of a study by Rand Corp.'s National Defense Research Institute, which found that 72 percent of the troops surveyed made more while on war duty in 2002 or 2003 than they did in their civilian jobs in 2001. More than half made at least $10,000 more.

On average, the reservists made $850 more per month while on duty than in their civilian jobs, the report said.

Nevertheless, the study said, a sizable proportion of the reservists -- 28 percent -- lost money, including some who saw their earnings drop by more than 10 percent.

Higher salaries, combat pay supplements, family-separation allowances and tax-free earnings have combined to boost troops' pay on the front lines. But Rand senior economist Jacob Alex Klerman said researchers are working to understand why this study differs dramatically from earlier surveys and anecdotal reports about families struggling to get by when a primary wage earner went to war.

Klerman said the study used earnings data supplied by the Social Security Administration, and therefore is likely to be more accurate than earlier surveys, which often relied on information volunteered by soldiers. Also, he said, those surveys did not reflect the fact that reservists serving in combat zones do not pay federal income taxes on their pay.

"You should not interpret this as saying no one has losses," Klerman said. "We need to think carefully about what is the appropriate response for those people with losses."

Still, he said, since earnings losses are less of a problem than earlier surveys suggested, legislative efforts to supplement reservists' pay may not be as necessary or require as much funding as previously thought.

Klerman said the study does not imply that reserve pay is adequate. Those troops, he emphasized, are still getting shot at, sleeping in tents and spending months away from their families.

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Noting that some reservists are in school, and have no jobs or very low-paying jobs, Klerman said the study also looked at the earnings of those who made at least $10,000 or more in their civilian jobs. Even in those cases, he said, reservists made an average of nearly $7,000 more while on duty.

Overall, the study looked at 212,500 reservists and compared their civilian pay in 2001 with the amount they made while on duty in either 2002 or 2003.

To get a good idea of the impact on a full year's pay, it provided statistics for the 51,200 reservists who were at their regular jobs for most if not all of 2001, and then on duty for more than 271 days in either 2002 or 2003. For those reservists, the study found:

· The average civilian pay was $39,300, compared with $56,400 while on combat duty.
· Eighty-three percent made more on duty than at their civilian jobs.
· Sixty-six percent saw their pay increase more than $10,000 while on duty.
· Seven percent lost more than $10,000 while on duty.

CORPORATE SCANDALS:

Key Enron Trial Nears, But Climate Has Changed (CSM)

By Kris Axtman

The Christian Science Monitor, January 27, 2006

HOUSTON - Enron is America's best-known corporate scandal, the first in a string of high-profile debacles that rocked Wall Street, wiped out the retirement savings of thousands of workers, and sparked the most sweeping changes in business regulation since the Depression.

So when the company's two powerful leaders go on trial here Monday, the proceedings are likely to attract inordinate attention.

But the trial comes at a time when business and industry groups are mounting a campaign to roll back some of the reforms that the Enron scandal inaugurated. Thus, the lessons of the nation's second-biggest bankruptcy remain in flux and may be determined, in part, by the outcome of the legal drama set to begin.

"There are those who are trying to roll back [a key section] of the law less than two years after it took effect," says Jacob Zamansky, a securities fraud lawyer in New York who will attend the trial. "But these rules were put in place to protect us after Enron."

For a scandal that brought the language of bizarre accounting practices into America's living rooms (remember "off balance sheet partnerships?"), courtroom drama may be in short supply.

"I think people are going to be surprised at how boring most parts of the trial will be," says Nancy Rapoport, a bankruptcy expert and dean of the University of Houston law school. "Watching grass grow and paint dry will have more excitement. There will be some good stuff, but the good stuff will be punctuated by a lot of monotonous stuff."

Still, the details of the lives and business practices of the two men on trial - Enron founder Kenneth Lay and former chief executive Jeffrey Skilling - could provide an inside view of how the nation's second-biggest bankruptcy unfolded.

"We are going to be hearing for the first time what was happening at the highest levels of the corporation, what was happening inside the boardrooms, at all those expensive dinners and exotic trips all over the world," says Thomas Ajamie, a Houston securities fraud lawyer who has followed the case. "We are going to be learning how these high rollers lived and what they did with their shareholders' money."

To date, 16 former Enron employees have pleaded guilty and five have been convicted by jury. But Monday's trial is considered the main event - the real test of just how deep the deception went. A four-month trial expected

After the jury is selected by the judge, it is expected to last four months and include many key witnesses, such as Enron's former chief financial officer, Andrew Fastow, its former treasurer, Ben Glisan Jr., and possibly Richard Causey, the former chief accounting officer who pleaded guilty in December. Messrs. Lay and Skilling have also said they will testify.

Both sides have some of the best attorneys in America, court-watchers say. But because the accounting practices were so convoluted and cryptic even to those investigating the company's collapse, explaining it to a jury is going to be a challenge, experts say. The first criminal case of the Enron debacle, involving the suspicious purchase of a Nigerian barge, is a good example.

"The government better go to school and learn how confusing all that was for the jury," says Gerald Treece, assistant dean at the South Texas College of Law in Houston. Although five of the six defendants were ultimately convicted (four of them with Merrill Lynch), the case was widely seen as confusing. And it was child's play compared with the upcoming Enron case, he adds.

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"If that was math, this is algebra, and the government is going to lose this case if it doesn't make it simple," he says. "I can assure you that the defense attorneys are going to be creating confusion, arguing that the people at the top didn't know about the misdeeds."

In fact, both defendants will argue that they did nothing wrong and did not know of any illegal activity at the company.

Lay has been charged with seven counts, including securities fraud and wire fraud. Skilling has been charged with 31 counts, including securities fraud, wire fraud, making false statements to auditors, and insider trading. Lay, Skilling go separate ways

As for the way they have handled themselves since the company collapsed, Lay and Skilling have "taken completely opposite approaches," says Philip Hilder, the lawyer who represents Sherron Watkins, Enron's internal whistleblower.

Lay, for instance, invoked the Fifth Amendment in front of Congress during initial hearings, but since his indictment has been very open with the public. Skilling testified defiantly in front of Congress, but has not spoken publicly since that time.

"At the end of the trial, we will see which tack worked - if either," says Mr. Hilder.

As for what has been learned in Enron's wake, there is growing debate. Some groups are saying that Congress went too far when it enacted the Sarbanes-Oxley Act, a major piece of accounting reform that requires CEOs to vouch for corporate earnings.

The US Chamber of Commerce, the largest business lobby group, has been campaigning aggressively for changes in the act's Section 404, which requires company auditors to thoroughly document their procedures. The chamber argues that the section is so cumbersome and costly that it is driving companies offshore.

There's No E In Houston (NYT)

By Simon Romero

The New York Times, January 27, 2006

HOUSTON, Jan. 26 — A big trial starts in federal court here on Monday, involving some very prominent executives who used to work for a very prominent company. Across the country, people will be following the case with great interest.

But in Houston, many residents prefer to focus on other things, like the resurgent economy, and city leaders wish outsiders would, too. The company, of course, is Enron, and the men who will be on trial are its former top executives, Kenneth L. Lay and Jeffrey K. Skilling, who face various charges in the scandal that led to the company's collapse and tarred this city's reputation four years ago.

"As of today, it's as if Enron had never happened," said Joan Johnson, president of the Hotel and Lodging Association of Greater Houston, echoing the sentiment of many Houstonians. Ms. Johnson said hotel occupancy was high, even though about 3,000 hotel rooms had been added downtown since Enron's collapse.

But as jury selection starts on Monday, residents here will have to relive the Enron debacle, with the possibility that the trial will drag on over several months. Already, hotels near the federal courthouse have been receiving a flow of out-of-town journalists, perhaps adding to the strength of the city's lodging industry.

In preparation for the trial, city officials are trying to accentuate the positive. The Greater Houston Partnership, a business association, raised the idea of coaching bellhops and other hotel workers on how to put Houston's best face forward in the downtown hotels, where many journalists will be staying. It rejected the proposal and instead backed a plan to post media contacts and Internet links in hotel lobbies, with the aim of planting ideas for positive stories.

Have you heard, for example, that Bakersfield, Calif., has unhealthier air quality than Houston, or that Houston has 82 foreign consulates, the nation's third-largest consular corps? The partnership puts those tidbits and more at the disposal of visiting news media.

"It was devastating for Houston to have its image portrayed as a bunch of corporate gunslingers during the first Enron go-around," said John F. Thrash, chief executive of eCorp, a family-owned energy concern, and the husband of Becca Cason Thrash, the hostess of Houston's most extravagant high-society gatherings. "That is something we're striving to overcome."

It isn't just Enron. Some residents get the jitters over even the slightest negative publicity about Houston, its wildcatting business ethic, its no-zoning sprawl or its continuing battles with industrial pollution. This week there was an outcry over an oil-laden, caramel-colored fog that blanketed a poor neighborhood in the shadow of the city's largest refinery.

Of course, Houston has taken numerous additional hits since Enron's collapse in late 2001, when the symbol of outrage became a question at a company meeting from an anonymous Enron employee to Mr. Lay, the company's embattled chairman: "Are you on crack?"

Thousands of well-paid Enron employees lost jobs, and the city's name was associated with schemes to hide losses from investors and destabilize the flow of electricity in California.

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Back then, Houston was also criticized for its freewheeling approach to business. That shows few signs of fading. While not experiencing a boom as incandescent as past expansions, Houston's economy is still growing steadily, driven by inexpensive real estate, climbing energy prices and a fast-growing population.

"We're fine now, but the impact at the time was huge," said John Flowers, who owns Kenneally's Irish Pub near the exclusive River Oaks neighborhood. He recalls the Enron executives who used to drop by his smoky establishment for pints of Guinness as "free-spending individuals who made more money than God."

The city's economy has grown for 35 consecutive months, according to a monthly survey of purchasing executives conducted by the National Association of Purchasing Management-Houston. November, the most recent month for which statistics are available, was one of the strongest months in a decade, as demand rose for goods like plastic pipes and refined petroleum products.

Houston's status as an inland transportation hub with a ship channel to the Gulf of Mexico has also provided a buffer against the demise of Enron. Aided in part by the diversion of cargo from New Orleans after Hurricane Katrina, revenue at the Port of Houston increased 13 percent last year and total tonnage grew by 9 percent, said H. Thomas Kornegay, executive director of the Port of Houston Authority.

Furthermore, jobs are being created in the Houston economy. Employers added 42,500 jobs in 2005 and 24,100 in 2004, according to the Texas Workforce Commission. This follows heavy job losses in 2002 and 2003.

Much of the job creation has been fueled by a growing service industry and a robust construction market expected to expand further this year, even as housing in other parts of the country loses steam amid deflation of the real estate bubble.

"If any other city lost the seventh-largest corporation in America, it would have had more impact," said Tilman J. Fertitta, chief executive of Landry's Restaurants, and one of a handful of Houston businessmen who have filled the void left by Mr. Lay's exit from the city's social scene.

"It's just a whole hell of a lot cheaper here than other cities," Mr. Fertitta, one of the largest holders of real estate in Houston and nearby Galveston, said in an interview. "This is still an energy town but our prices have allowed us to become more diverse than in the 80's."

Relatively low home prices, with three-bedroom homes still widely available for less than $200,000, are luring developers to erect entirely new cities on the prairies and rice fields that make up much of Houston's outer fringe. Cheap land pushed housing starts to a record high in 2005, when they climbed 18 percent, to 48,000, according to Metrostudy, a real estate consulting firm.

One new real estate venture, a planned community called Bridgeland that is being developed by General Growth Properties of Chicago, is projected to consist of 21,000 new homes over 10,000 acres, an area larger than Houston's entire existing inner core of skyscrapers, subdivisions and shopping districts.

This project and others are a bet that Houston's population will continue to climb. The Houston-Galveston Area Council, which represents the eight-county Houston area, forecasts an increase to 8.8 million residents by 2035, from 5.3 million today. Much of the growth is driven by immigrants from Latin America, Africa and Asia, who come here legally or illegally and stay for the same reason that 150,000 survivors of Hurricanes Katrina and Rita relocated to Houston last year: a warm welcome.

In contrast to other communities that have experienced successful movements against illegal immigrants, calls by anti-immigrant groups last year to start questioning residents about their citizenship status drew a chilly response from Mayor Bill White and police officials, who perceived such a measure as a diversion from preventing crime.

And in a decision that raised eyebrows throughout Texas, The Dallas Morning News on Jan. 1 named Houston its "2005 Texan of the Year." The city beat out the filmmaker Robert Rodriguez, the cyclist Lance Armstrong and Ronnie Earle, the prosecutor who helped engineer the indictment of Representative Tom DeLay, the Republican who represents Houston's southern suburbs.

In an editorial that seemed a veiled criticism of political divisiveness in its hometown, The Morning News cited Houston's "resilience, resourcefulness and good old Texas neighborliness on a scale that did the whole state proud."

"The mountain came to Mohammed when Dallas tipped its hat at us that way," said Richard W. Murray, an influential pollster and political scientist at the University of Houston. "We've come a long way since the boom 25 years ago, when people were raising cash with projections of $100 oil. No one's doing that now."

Instead, Mr. Murray pointed out, there is a new sobriety and even, perhaps, the beginning of a sense that the benefits from the city's modest economic expansion need to spread out more equitably. For instance, the Service Employees International Union last month unionized 4,700 janitors in Houston, in one of the most successful unionization drives in the South in recent decades.

Not surprisingly, the most vibrant area of Houston's economy these days is energy, which is starting to hire after years of job cuts; oil and gas companies account for roughly 50 percent of economic activity here, down from higher levels as other industry grows more prominent.

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So it may be fitting, as Houston tries to put to rest its association with Enron's hard-charging chiefs, that the last of the city's larger-than-life wildcatters are fading away or facing their own legal problems. Red Adair, the oil well firefighter, and Michel T. Halbouty, the geologist who cut his teeth in the east Texas oil fields, both died recently. And federal agents arrested the oilman Oscar S. Wyatt, 81, at his home several weeks ago on charges of paying millions of dollars in kickbacks to Saddam Hussein's regime.

Baggage Check: Next Trial True Test For Enron Task Force (LAW)

By Miriam Rozen, Texas Lawyer

Texas Lawyer, January 27, 2006

When Enron Task Force prosecutors enter U.S. District Judge Sim Lake's courtroom in Houston on Monday for the long-awaited trial of former Enron Corp. Chairman Kenneth Lay and former Chief Executive Officer Jeffrey Skilling, the government lawyers will be toting baggage -- both literal and figurative.

In the literal sense, the big criminal trial is document-intensive. In the figurative sense, the government lawyers have stumbled more than once in their four-year pursuit of Enron employees, and that track record follows them into Lake's courtroom.

Inarguably, the government lawyers have scored some notable successes by persuading 16 former Enron employees, including former Chief Financial Officer Andrew Fastow, to plead guilty to charges related to the downward financial and stock-price spiral that led to Enron's bankruptcy in December 2001. Most recently, on Dec. 28, 2005, Richard Causey, Enron's former chief accounting officer and Skilling's and Lay's co-defendant, pleaded guilty to one count of securities fraud and agreed to cooperate with prosecutors. [See Causey's plea agreement.]

In an earlier success in November 2004, in United States v. Daniel Bayly, et al., the so-called Nigerian Barge trial, prosecutors persuaded a jury to convict four former Merrill Lynch & Co. bankers and one former Enron executive on charges related to conspiracy to commit wire fraud.

But the government lawyers have also faced setbacks in the courtroom. At the Nigerian Barge trial, one former Enron executive, Sheila Kahanek, was acquitted. Six months later, in May 2005, the U.S. Supreme Court overturned the 2002 conviction of Arthur Andersen, Enron's accounting firm, for obstruction of justice, in United States v. Arthur Andersen LLP. In July 2005, in the so-called Enron Broadband trial, a jury deadlocked in the trial of five former Enron executives, and the proceedings ended in a mistrial. Two months later, U.S. District Judge Vanessa Gilmore blamed the government lawyers trying that case, United States v. Joseph Hirko, et al., for confusion at the trial, and she subsequently acquitted some of the defendants of some of the government's charges.

Skilling and Lay have pleaded not guilty.

The task force's success has been a "mixed bag" in the view of Rusty Hardin, who represented Andersen at the 2002 obstruction of justice trial.

"You have to give them, I think, credit for a very thorough and largely successful investigation in terms of the pleas," says Hardin, of Rusty Hardin & Associates of Houston. "One doesn't know whether the results would have been the same if just everybody had chosen to go to trial."

At the same time the task force has endured disappointments in the courtroom, its leadership has changed, and several prosecutors left the task force. In the most recent significant change, Sean Berkowitz became the task force's third leader in four years. He succeeded Andrew Weissmann, who resigned from the task force in July 2005 -- which happened to be a time the defense lawyers in the Lay and Skilling case made it clear they were going to file a motion alleging prosecutorial misconduct.

Weissmann now is special counsel to the director of the Federal Bureau of Investigation.

But this month, when task force prosecutors kick off the trial against Lay and Skilling, they will have an opportunity to make history if they rack up a conviction of the two businessmen who at one time symbolized corporate success in Houston.

"If they are successful at the Lay and Skilling trial, some of that baggage will disappear," says Charles Blau, a white-collar criminal defense lawyer about the task force. "But if they aren't successful, that baggage will be hung around their neck and the whole task force will look like a failure from a historical standpoint." Blau, a former federal prosecutor who now is a partner in Dallas' Meadows, Owens, Collier, Reed, Cousins & Blau, represents a witness in another Enron-related criminal case.

Houston lawyer Dan Cogdell offers an equally equivocal assessment of the task force's success. "You can look at their glass as half full or half empty," he says. Cogdell, a white-collar criminal defense lawyer and member of the Cogdell Law Group in Houston, represented Kahanek, the former Enron accountant and senior director who was acquitted of conspiracy and fraud charges in 2004 in the Nigerian Barge trial.

Bryan Sierra, a spokesman for the U.S. Department of Justice, says Berkowitz is preparing for trial and cannot comment for this article. Rich Kolko, a spokesman for the FBI, says Berkowitz's predecessor, Weissmann, is not available for comment.

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But Bill Mateja, who once supervised the Enron Task Force, sees its glass as half full. Mateja, now a partner in the Dallas and Washington, D.C., offices of Fish & Richardson, served as senior counsel to former Deputy Attorneys General Larry Thompson and James Comey at the U.S. Department of Justice in Washington, D.C. During that time, from 2003 to 2004, Mateja was the point person for President George W. Bush's Corporate Fraud Task Force, and he oversaw the DOJ's corporate fraud efforts.

Mateja downplays the effect of the turnover at the top of the task force.

"I haven't seen the changes in the task force leadership as being detrimental to the efforts," he says.

Moreover, Mateja contends that the U.S. Supreme Court's decision to overturn the Andersen conviction reflects a weakness in the applicable statutes that make it a crime to "corruptly persuade" a witness to withhold evidence, a point specifically cited in the high court's unanimous opinion. It does not represent any fault on the prosecutors' part, Mateja says. Common sense dictated that the government would not retry the case against Andersen, which now only exists as a shell of its former self, he says.

Hardin, however, contends that Andersen would not have been indicted if the task force had not rushed to seek an indictment in the weeks after Enron filed for bankruptcy.

Samuel Buell, a prosecutor in Andersen who left the task force in 2004, disputes the notion that the task force is in trouble because of the turnover among prosecutors or because of the reversal in Andersen, a ruling he characterizes as "disappointing."

"The prosecution is institutional, and the lawyers are somewhat fungible," says Buell, who now teaches criminal law and seminars on corporate crime and prosecutorial powers at the University of Texas School of Law in Austin.

Buell notes the Enron Task Force demands grueling hours, and people get tired. He says he left the task force because he ran out of gas, and he suspects that's why Weissmann and his predecessor as director of the task force, Leslie Caldwell, moved on.

But clearly, the outcome of Andersen scarcely ranks as a success for the task force.

The Supreme Court's decision was a big break for David Duncan, the former lead Andersen accountant for Enron who pleaded guilty in 2002 to obstruction of justice and testified for the prosecution at the trial. While Duncan's plea deal was among the task force's first success stories, in December 2005, U.S. District Judge Melinda Harmon of Houston allowed Duncan to withdraw his plea on the ground that he didn't admit to having criminal intent when he entered it. Task force prosecutors have the option to indict him again, although they did not oppose Duncan's motion withdrawing his earlier plea. Under the circumstances, Mateja says, "It wouldn't have been very fair if they had pursued him."

But it's the outcome of the so-called Enron Broadband trial, Hirko, that is perhaps the most prominent setback for the task force. At the July 2005 conclusion of the trial, jurors deadlocked on many of the charges against five former Enron Broadband Services executives, convicting them of none and even acquitting three of them of some charges.

In September 2005, Judge Gilmore laid the blame for the deadlocked panel squarely at the Enron Task Force prosecutors' feet.

According to a transcript of a conference among the defense and government lawyers before the judge, Gilmore admonished the prosecutors: Throughout the trial I think the government was guilty of only seeing the evidence from the prosecution's point of view, every piece of evidence they saw, no matter what, as inculpatory and never could view any evidence at all as possibly exculpatory information or exculpatory evidence. The defense I think did a good job during the trial of viewing the evidence from both the government's and the defense point of view and not just from the defendants' point of view. . . .

The judge complained that the defense lawyers had filed post-trial motions that also looked at the evidence in a one-sided manner. But at trial Gilmore said the defense had shown more balance than the prosecutors.

Edwin J. Tomko, a partner in Dallas' McManemin & Smith who represented a defendant in the Enron Broadband trial, says the task force's trial record is simply not good.

"They haven't had many trials, and those that they've had have not been too successful. It's mediocre," says Tomko, whose client, Rex Shelby, a former senior vice president of engineering and operations at Enron Broadband Services, was acquitted of four of the 20 charges against him. Gilmore subsequently dismissed some of the charges against Shelby, and he now faces one count of conspiracy, one count of securities fraud and four counts of insider trading in a retrial scheduled for later this year.

SHOOT FOR THE TOP

The jury was out in the Broadband case in July 2005 when Weissmann, head of the task force since 2004, announced he would leave the task force. His announcement came a few months before the hearing where Gilmore scolded the prosecutors and a few days before the jury announced its deadlock in the Enron Broadband case. Weissmann is a former Assistant U.S. Attorney from the Eastern District of New York who had worked on the task force since its inception. His predecessor, Caldwell, now a partner in Morgan Lewis, did not return two telephone calls seeking comment for this article.

But defense lawyer Cogdell, who represented Kahanek and some witnesses in Enron criminal cases who have cooperated with the government, believes the timing of Weissmann's departure is related to the government's mistakes in the Enron Broadband trial and to a motion subsequently filed by Lay and Skilling alleging prosecutorial misconduct.

Before Weissmann announced he was leaving, three defense lawyers say, Weissmann became aware that the defendants in the Lay and Skilling case -- known as United States v. Jeffreys K. Skilling, et al. since Causey's plea -- were going to file a motion and include as an exhibit an e-mail sent by Weissmann to "a critical cooperating witness." In the e-mail, which was included as an exhibit in a Sept. 2, 2005, motion, Weissmann told the witness to bar his attorney from talking to Skilling's lawyer or else "get rid" of the lawyer.

Cogdell finds it curious that Weissmann would leave the task force before the "biggest trial" against Lay and Skilling.

But Buell says Weissmann's departure wasn't related to any allegations of prosecutorial misconduct or that e-mail. He says Weissmann's departure was simply a question of a lawyer wanting to move on and end a grueling Washington-to-Houston commute.

More than one lawyer involved with Lay and Skilling's defense and involved in the Enron Broadband trial has complained about the allegedly intimidating tactics employed by the task force and its assigned FBI agents when Weissmann was in charge.

"In my 30 years in practice I've never had agents be that aggressive," says Blau, who represents a client who testified for the defense in the Enron Broadband trial, despite, he says, numerous telephone calls from the prosecution suggesting it would not be in his client's best interest to do so.

Blau was among the defense attorneys whom Lay, Skilling and Causey -- who had not yet entered his guilty plea -- included by name in the motion they filed in September 2005 seeking to dismiss the charges against them based on prosecutorial misconduct. In that filing, the defendants argued that the case against them should be dismissed because the "actions of the Enron Task Force have deprived them of their constitutional rights both to secure and confront witnesses. ... "

The defendants argued that prosecutors attempted to intimidate witnesses and prevent them from assisting the defendants. Using Weissmann's e-mail as an example, the defendants alleged that the prosecutors employed aggressive tactics to stop witnesses from helping the defense and to induce them into helping the prosecutors.

At a hearing on the motion in December 2005, Lake ruled that he heard no evidence of prosecutorial misconduct in the testimony of two Houston lawyers -- Robert Sussman, a partner in Hinton, Sussman, Bailey & Davidson, and Wendell Odom, a solo practitioner. Lake, however, did not formally rule on the defendants' motion to dismiss. Sussman and Odom each did not return a telephone call seeking comment before press time on Jan. 5.

On Jan. 23, Lake denied Lay and Skilling's last-minute request seeking a change of venue for the trial due to prejudicial pre-trial publicity. In the motion, they alleged that a "staggering" 80 percent of 283 prospective veniremembers who returned juror questionnaires have "strongly biased views" against them. They quoted from questionnaires in which prospective jurors characterize Skilling as "the devil," a "thief," a "cheater" and a "high-class crook" and Lay as a "low down scumbag," "crooked," "a selfish, greedy man" and "the biggest lying crook of all."

Lay and Skilling will go to trial facing the likely prospect that Causey will testify against them. Causey faces a possible sentence of five to seven years in a federal prison.

If the government prevails, perhaps many of the task force's past missteps will be forgotten. As Blau notes, "The emphasis has always been to work up the chain to get the two top guys."

Additional reporting by The Associated Press.

Reps Oxley, Frank Ask Fannie Board For Rudman And His Report (DOWJONES)

Dow Jones, January 26, 2006

WASHINGTON -(Dow Jones)- House Financial Services Chairman Michael Oxley, R- Ohio, and ranking Democrat Barney Frank want former Sen. Warren Rudman to testify before the panel on the results of his 16-month probe of Fannie Mae's (FNM) (FNM) accounting troubles, the lawmakers said in a recent letter released Thursday.

Fannie's board of directors hired Rudman, who is expected to complete his report next month, to help the board with its own internal investigation after the Office of Federal Housing Enterprise Oversight accused executives in September 2004 of manipulating accounting rules to massage Fannie's earnings.

In a letter sent last week, Oxley and Massachusetts Rep. Frank asked Fannie Chairman Stephen Ashley for a copy of the much-anticipated report once it's finished, as well as for Rudman's testimony at a hearing they plan to conduct shortly thereafter.

"The purpose of this hearing will be to fully inform the committee about the findings, conclusions and any recommendations contained in the Rudman report," the letter said.

The Office of Federal Housing Enterprise Oversight, which oversees Fannie and fellow government-sponsored enterprise Freddie Mac (FRE) (FRE), is expected to issue its own report on Fannie's accounting practices by the end of March.

Rudman, who could not be reached for comment Thursday, recently told Dow Jones Newswires that regulators and law enforcement agencies that are also investigating Fannie will likely receive copies of his report before its public release. In addition to OFHEO, the Securities and Exchange Commission, Justice Department and others have launched their own probes into alleged misconduct at Fannie.

Fannie, which hasn't filed its earnings statements since the second quarter of 2004, received a break from the SEC last week, when it approved a controversial rule change that reduces the chances it could soon be delisted by the New York Stock Exchange.

The news of the SEC's decision, which was posted on its Web site Wednesday, drove Fannie's stock 5.27%, or $2.85, higher to close Thursday at $56.95 a share.

Over the objections of the Nasdaq Stock Market, the SEC approved the amendment that was proposed last fall, giving the NYSE the power to hold off delisting companies that, like Fannie Mae (FNM), may fall more than a year behind in filing annual reports.

Under the old rule, companies go on watch if they fail to file an annual report within nine months of the due date and are subject to delisting if the delay stretches past 12 months.

Fannie Mae (FNM) hit the nine-month overdue mark Dec. 16. Under prior NYSE rules, delisting proceedings would have begun three months later. In a Nov. 10 update, Fannie Mae (FNM) said its annual report for the 2004 fiscal year, which will include restated results, isn't likely to be filed before the second half of 2006, so it expects to miss that deadline. A spokesman said Thursday that the timetable hasn't changed but declined further comment.

The rule change provides the NYSE with "appropriately limited flexibility" to allow a company more than a year late in filing with the commission to remain listed, the SEC said in its order.

Though Fannie Mae (FNM) isn't explicitly named in the filing, the giant mortgage finance agency is the only company to which the rule currently applies. In proposing the amendment, the NYSE wanted discretion in "certain unique circumstances" in which a company "may have a position in the market (relating to both the nature of its business and its very large publicly held market capitalization) such that its delisting from the exchange would be significantly contrary to the national interest and the interests of public investors."

The amendment takes effect immediately. The NYSE already has a new explanatory posting on its site on Fannie Mae's (FNM) information page that the company will be reassessed "every three months." Fannie Mae (FNM) is listed in a special section of the site devoted to late filers and has an "LF" attached to its symbol.

-By Dawn Kopecki and Phyllis Plitch, Dow Jones Newswires; 202-862-6637; Dawn.Kopecki@dowjones.com, Phyllis.Plitch@dowjones.com.

A Misguided Exemption (WSJ)

By Arthur Levitt, Jr

The Wall Street Journal, January 27, 2006

I began my Wall Street career more than 40 years ago sharing an 800-square-foot office with 10 other brokers. Since then, I have been involved in a number of small businesses -- from newspapers to high-tech companies -- and no matter the industry, the focus of every one of these has been growth. Unlike in a large company, stagnancy in a small business can lead not only to a diminished paycheck, but to extinction.

Small businesses employ a majority of private-sector workers and create 60% to 80% of net new jobs annually. This economic might, combined with the sector's political muscle, has kept policymakers vigilant in spotting impediments to small-business growth. Currently, the focus of many small-business advocates is the perceived burden placed on them by Section 404 of the Sarbanes-Oxley Act, which requires companies to assess and report the status of their internal controls. They worry that the cost of compliance is onerous, inhibiting their ability to access capital markets and grow.

In response, the Securities and Exchange Commission's advisory committee on smaller public companies has recommended that microcap and smaller public companies be exempted from the main parts of 404. Under their plan, public companies with a market cap of less than $100 million and revenue of no more than $125 million would be exempt completely from 404 requirements. Slightly larger companies -- those with a market cap of less than $700 million and revenues of no more than $250 million -- would not be required to have an independent, outside auditor test their internal controls.

While the advisory committee is well-intentioned, I fear that these proposed changes will harm, not help, small companies. I can appreciate the political pressure the SEC may be facing; the small-business lobby is almost unrivaled in the fear it instills in policymakers. But political pressure often leads people down the path of least resistance and toward superficial, even counterproductive, fixes. Indeed, if these recommendations were implemented, they would make it more difficult for smaller companies to attract capital needed for growth and undermine confidence in the markets. Instead of searching for exemptions to

the rule, we need to step back and help small businesses improve financial controls, attract capital, and strengthen the very markets critical to their ability to flourish.

Thankfully, the market downturn of the immediate post-Enron years is behind us. As seen in the significant increases in IPO and mergers-and-acquisitions activity, there is a renewed vigor in our markets. Driving this has been a resurgence in investor confidence, fueled by the implementation of SOX reforms, including those enumerated in Section 404.

Exempting smaller and microcap companies -- 80% of all public companies -- from the requirements of 404 would undermine this renewed trust in our markets. Consider that these companies are the ones most likely to have internal control problems, and least likely to have analysts, institutional investors and the media watching them. In the five years before 2004, nearly three-quarters of financial restatements were reported by companies with annual revenues of less than $500 million. Already, many institutional investors do not invest in smaller companies because of risks associated with them. If one increases that risk by setting a lower bar for internal controls, it will burden these companies with a risk premium that will drive up their cost of capital. Creating a different standard would relegate small businesses to a "second-class" in the marketplace, and hinder their growth as much as any onerous regulation.

The debate until now has centered on who should be exempted, not on how to ensure that companies have the internal controls needed to prepare reliable financial statements. This focus is unproductive since it is clear from a reading of SOX that Congress wanted all public companies to assess internal controls and have an outside auditor test them. Instead of defying Congress and provoking costly litigation, we need to work within the law to find ways to make compliance easier and less expensive for small businesses.

To start, we need to recognize the difficulties in compliance that turned up in the first year of 404-compliance. Many companies were ill-prepared for an audit: Their internal controls either were not in place or not documented, and many lacked accounting and finance staff able to do this work. At the same time, many of the audit firms lacked the tools, expertise and training to assess the internal controls of smaller companies. They were using audit tools created for large multinationals, the financial equivalent of using an MRI to diagnose a cold. Many audit firms failed to integrate their findings from the internal control testing into the financial statement, as required by SOX, and as a result performed two separate audits. As the SEC and Public Company Accounting Oversight Board have noted, auditing firms needlessly repeated management and internal auditors' tests of internal controls, creating more work for themselves and higher bills for small businesses.

· Moving forward, we need, first, to redefine what constitutes a small business. The current debate has been skewed by a definition so broad as to include a vast majority of the market. A company's complexity is not dependent on its market cap. Some very large companies -- such as many of the airlines -- have market caps that pale in comparison to their complexity. Conversely, there are tech companies that have few employees and office sites, but huge market caps based on expected revenues. The current definition of a small business issuer should be updated to include companies with up to $50 million in revenues and fewer than 250 employees. If they have been able to attract more than $100 million in public capital, they should be ineligible for small business filer status.

· Second, the SEC and PCAOB should urge accounting and financial executive trade groups, as well as the software industry, to work together to develop reasonably priced tools tailored specifically for small companies and the small accounting firms who mainly audit them. These should permit a company to document internal controls so that auditors do not need to duplicate the documentation, and include control testing programs integrated with that documentation and the work performed on the year-end balance sheet and income statement. The tools must be made available before 2007 when small companies are required to comply with 404.

· Third, the SEC must reconfigure itself to provide more readily accessible assistance to small companies. In 1997, I reorganized the SEC so that the enforcement function was centralized in Washington. An unintended consequences of this was to close off a local avenue for accounting assistance for small businesses. Many small companies do not have good technical accountants and cannot afford them. If the SEC placed those that review small business filings closer to the businesses and supplemented its staff with a small group of accountants that can answer questions small companies might have, it would help avoid restatements and reduce costs.

· Fourth, while the SEC and PCAOB have issued some helpful guidance on how to streamline the auditing of internal controls, they should go further in easing requirements while stepping up enforcement. If a company has documented monitoring controls, and the monitoring process has not discovered any problems except for isolated cases, then no further internal examination by the company should be required. Re-examining controls when monitoring controls are working has layered on unnecessary work that has driven up costs for businesses. Companies should be given credit for doing the right thing, and not have to pay to recheck what they are doing right. However, if the auditor finds that monitoring controls have not been working and financials need to be restated, then a company should expect a swift SEC enforcement action.

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These steps should help small companies update internal controls cost-effectively, without gutting the financial reporting regime that undergirds our capital markets. In light of the importance of small businesses to the economy, the last thing we need is regulation that stifles their entrepreneurship -- or deregulation that makes it more difficult for them to succeed in the public capital markets.

Mr. Levitt, former chairman of the SEC, was the chairman of the first White House Conference on Small Business.

CRIMINAL LAW:

'I Don't Know' Abramoff, Bush Says President Won't Release Photos Of Two Together (USAT)

By Richard Benedetto And David Jackson

USA Today, January 27, 2006

WASHINGTON — President Bush fended off questions Thursday about White House links to convicted lobbyist Jack Abramoff and refused to release photos that show the two men together. "I don't know him," Bush said.

"I had my picture taken with him, evidently," Bush said at a White House news conference. "I've had my picture taken with a lot of people. Having my picture taken with someone doesn't mean that I'm a friend with them or know them very well."

"It's part of the job of the president to shake hands … with people and smile," he said.

Speaking in a wide-ranging, 46-minute news conference, Bush also renewed his defense of a program he approved to eavesdrop without a court order on terrorism suspects' international calls into or out of the USA.

"As I stand here right now, I can tell the American people the program is legal, it's designed to protect civil liberties, and it's necessary," he said.

Bush said he would help Republicans fight to keep control of Congress in elections this year.

He said he's got "one more off-year campaign in me as a sitting president" and that he is looking forward to hitting the trail on behalf of GOP congressional candidates.

"We've got a record and a good one, and that's what I intend to campaign on," Bush said.

Bush acknowledged that photographs of him with Abramoff were taken either at White House parties or political fundraisers, but he said he would not make them public because he feared they would be used for partisan attacks. "We live in a world in which those pictures will be used for pure political purposes, and they're not relevant to the investigation," he said.

Abramoff has pleaded guilty to fraud, tax evasion and conspiracy to bribe public officials and has pledged to cooperate with investigators.

"If they believe something was done inappropriately in the White House, they'll come and look, and they're welcome to do so," Bush said.

Asked if he meets with lobbyists, Bush said, "I try not to." He said that lobbyists sometimes come to the White House, and he has met and thanked them for their help in pushing his agenda.

Some Senate Democrats continued calls Thursday for a special counsel investigation of Abramoff. Sen. Ken Salazar, D-Colo., said there is evidence of "a strong connection between Jack Abramoff and the executive branch of government."

In other news, Bush said:

· "It is not in the world's interest" for Iran to have a nuclear weapon, an outcome he called "unacceptable." He said he would back a plan to have Iran obtain nuclear power plant fuel from Russia for a civilian energy program.

·Any suggestion by human rights groups that U.S. interrogators have tortured terrorist suspects is "wrong." He vowed, "No American will be allowed to torture another human being anywhere in the world."

·Morale, retention and recruitment remain high in the armed services, despite a Pentagon report that U.S. forces are overextended by service in Iraq and Afghanistan.

Bush Refuses To Release Abramoff Pictures (REU-Y2)

By Steve Holland

Reuters, January 27, 2006

President George W. Bush sought to distance himself from disgraced lobbyist Jack Abramoff on Thursday, saying "I don't know him," and refused to release photographs in which he appeared with Abramoff.

At a news conference, Bush said release of photographs that show him and Abramoff together would be used for "pure political purposes" by Democrats seeking to tie the lobbyist to the White House.

"I, frankly, don't even remember having my picture taken with the guy. I don't know him," Bush said at his first solo news conference since December 19.

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Early this month Abramoff pleaded guilty to fraud charges and agreed to help U.S. prosecutors in a corruption probe that has generated calls for reform of the Washington practice of lobbying lawmakers with donations and favors to try to influence legislation.

"This investigation needs to look into all aspects of his influence on Capitol Hill. And if there are some in the White House, I'm sure they're going to come knock on the doors," Bush said.

Abramoff was a major fund-raiser for Bush's re-election campaign in 2004 and the White House has acknowledged that Abramoff participated in a few staff-level meetings at the White House and two Hanukkah receptions.

But whether Abramoff attempted to influence any White House policy has not been made clear.

Democrats seeking to regain control of the U.S. Congress in November mid-term elections are hoping the Abramoff scandal will taint Republicans with a "culture of corruption."

Democratic Sens. Charles Schumer of New York and Ken Salazar of Colorado sent a letter to Attorney General Alberto Gonzales calling on him to appoint a special counsel to investigate the Abramoff case "without favor or fear of reprisal within the administration.

"A special counsel will ensure the public's confidence in the investigation and prosecution and help to restore its faith in our government," they wrote.

A CNN/USA Today/Gallup poll said that Democrats would do a better job of dealing with corruption in government by a 40 to 31 percent margin.

At the Hanukkah and other receptions, Bush and his wife Laura stand in a receiving line and shake hands and have photographs taken with thousands of guests.

Bush noted reporters have been to holiday receptions as well.

"I can't say I didn't ever meet him, but I meet a lot of people. And, you know, evidently he was, just like you were the other day, at the holiday party: came in, put the grip-and-grin, they clicked the picture and off he goes," he said.

Abramoff and his clients contributed to both Republicans and Democrats but appeared to send more money to Bush's party.

The Bush-Cheney re-election campaign said in the wake of the scandal that it would give to charity $6,000 in contributions made by Abramoff or his clients, but not the tens of thousands of dollars Abramoff helped raise.

Bush said he had never had a discussion with Abramoff and that as a general practice he does not meet with lobbyists.

But he said it was possible that lobbyists might be in a "room full of people" during an event staged to celebrate the success of a policy or passage of legislation such as a foreign-trade agreement.

A former White House procurement official, David Safavian, was indicted last October on charges of lying to investigators looking into a golf trip he took with Abramoff while serving in an earlier job as chief of staff for the General Services Administration.

Bush Opposes Release Of Photos With Abramoff (WP)

By William Branigin

The Washington Post, January 27, 2006

President Bush today dismissed the significance of photographs showing him with disgraced Republican lobbyist Jack Abramoff and indicated that the White House would continue to oppose releasing the photos, which he said are irrelevant to a federal investigation.

"I've had my picture taken with him, evidently," Bush said in response to a question at a White House news conference. "I've had my picture taken with a lot of people. Having my picture taken with someone doesn't mean that I'm a friend with him or know him very well." He said that "it's part of the job of the president to shake hands with people and smile."

Bush said the photos, if released, "will be used for pure political purposes, and they're not relevant to the investigation." He referred to a continuing federal probe of illegal lobbying activities directed by Abramoff, who pleaded guilty this month to felony conspiracy and fraud charges. A plea agreement said Abramoff bribed public officials, including a member of Congress.

The president said he has no idea how many photos were taken of him and Abramoff, and he declined to discuss reported meetings that the lobbyist attended with White House staffers. Federal prosecutors are "welcome" to look into those meetings if they believe they involved improprieties, Bush said.

Abramoff "contributed to my campaigns, but he contributed, either directly or through his clients, to a lot of people in Washington," he said.

Asked whether he personally has ever been lobbied by Abramoff or other lobbyists, Bush said: "I, frankly, don't even remember having my picture taken with the guy. I don't know him. . . . But I can't say I didn't ever meet him, but I meet a lot of

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people. And, you know, evidently he was . . . at the holiday party: Came in, put the grip-and-grin, they clicked the picture and off he goes."

Bush said that "obviously, we went to fund-raisers, but I've never sat down with him and had a discussion with the guy."

As for whether he meets with lobbyists, Bush said, "I try not to." However, he said he could not attest to "never having met with one." He made an exception for meetings in which "people are helping on issues" such as promoting trade or tax relief.

"If you consider that a meeting, the answer is yes, I'm sure I have, in a room full of people, as we either thank people for success in policy or thank people for going out of their way to help get a piece of legislation passed on the Hill," Bush said.

Bush was also questioned at the news conference about a controversial eavesdropping program that he authorized after the Sept. 11, 2001, terrorist attacks and that critics have charged violates U.S. law. Asked if he would resist efforts in Congress to modify the law or write a new one to specifically allow the program, Bush said he is convinced he is already on firm legal ground.

"As I stand here right now, I can tell the American people the program's legal, it's designed to protect civil liberties, and it's necessary," he said.

"Now, my concern has always been that, in an attempt to try to pass a law on something that's already legal, we'll show the enemy what we're doing," Bush said. The program "is so sensitive and so important that if information gets out to how we run it or how we operate it, it'll help the enemy. And so, of course, we'll listen to ideas. But I want to make sure that people understand that if the attempt to write law . . . is likely to expose the nature of the program, I'll resist it."

Bush denied trying to "circumvent" the nearly 28-year-old Foreign Intelligence Surveillance Act (FISA), which requires intelligence agencies to obtain a warrant from a special court to eavesdrop on communications in the United States.

"I am upholding my duty and at the same time doing so under the law and with the Constitution behind me," Bush said. But he added: "The FISA law was written in 1978. We're having the discussion in 2006. It's a different world."

While FISA remains "an important tool," he said, intelligence experts had informed him that it did not fully meet today's requirements.

"I said, 'Look, is it possible to conduct this program under the old law?' And people said it doesn't work in order to be able do the job we expect us to do," Bush said.

Bush was also asked to clarify his stand on the torture of terrorist suspects by delivering some "Texas straight talk" on the subject in view of criticism by human rights groups.

"No American will be allowed to torture another human being anywhere in the world," he said, repeating the statement a reporter asked him to make.

Bush Says He Doesn't Know Abramoff, Remember Photos Being Taken (MERCN)

By William Douglas

The San Jose Mercury News, January 27, 2006

WASHINGTON - President Bush tried to distance himself Thursday from disgraced lobbyist Jack Abramoff while refusing to release White House pictures taken of him with Abramoff.

"I, frankly, don't even remember having my picture taken with the guy. I don't know him," Bush said. "But I can't say I didn't ever meet him."

The president's remarks came during a wide-ranging, impromptu White House news conference in which he continued to defend his domestic spying program, embraced a Russian proposal to end the stalemate over Iran's nuclear activities and carefully interpreted a militant Islamic group's stunning victory Wednesday in Palestinian parliamentary elections.

Bush's recollection of Abramoff was fuzzy, but the high-flying lobbyist was well known in political fundraising circles, including the Bush-Cheney campaign, which received a $6,000 contribution from him. The campaign donated the money to the American Heart Association earlier this month after Abramoff pleaded guilty to fraud charges and agreed to help federal prosecutors in their investigation of possible corruption in Congress and the White House.

Since Abramoff's plea, administration officials have acknowledged that he met with some White House staffers but won't say whom or about what. White House Press Secretary Scott McClellan has said Abramoff was in the White House at least twice for Hanukkah parties, where he may have had pictures taken with Bush.

Administration officials want to keep any Bush-Abramoff pictures from becoming public to avoid giving political opponents ammunition that could hurt Republicans in November's congressional elections.

"Having my picture taken with someone doesn't mean that I'm a friend with them or know them very well. I've had my picture taken with you at holiday parties," the president reminded reporters. He estimated that he'd posed for about 9,000 photos at receptions this past holiday season alone.

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"I'm also mindful that we live in a world in which those pictures will be used for pure political purposes, and they're not relevant to the investigation," Bush said.

Regarding the spying program, the president reiterated his contention that he was within his constitutional rights to authorize electronic eavesdropping without getting a warrant from a court or specific approval from Congress.

Bush's critics charge that he violated the 1978 Federal Intelligence Surveillance Act, which requires warrants from a secret U.S. court for such eavesdropping.

"We're having this discussion in 2006. It's a different world," the president said.

Turning his attention to the Middle East, Bush called Hamas' surprising victory in Palestinian elections a "wake-up call" to Palestinian leaders who followed the late Yasser Arafat. "Obviously, people were not happy with the status quo. The people are demanding honest government. The people want services."

Bush didn't entirely rule out dealing with elected Hamas leaders, but said, "If your platform is the destruction of Israel, it means you're not a partner in peace. And we're interested in peace."

On Iran, the president called a proposal by Russia to enrich Iran's uranium and return it to the Islamic nation for use in fueling nuclear reactors for electricity "a good plan." Iran maintains that it wants nuclear-powered electricity, but the United States and the European Union fear that it's pursuing nuclear weapons.

On other matters:

_Bush said he hadn't seen a Human Rights Watch report this week that says the administration has a strategy of abusing terrorism suspects during interrogations. "No American will be allowed to torture another human being anywhere in the world," he said.

In December he signed into law a measure by Sen. John McCain, R-Ariz., that bans torture of detainees in U.S. custody, but he added a qualifying statement that he'd interpret the law in keeping with his expansive view of presidential power.

"One reason why presidents put qualifiers in is to protect the prerogative of the executive branch," Bush said Thursday.

_The president was cool to a homeowner-bailout plan for Hurricane Katrina victims in Louisiana. He said Congress had appropriated $85 billion so far to help rebuild the Gulf Coast.

"I want to remind the people in that part of the world, $85 billion is a lot, and secondly, we were concerned about creating additional federal bureaucracies, which might make it harder to get money to the people," he said.

Bush Says Photos With Abramoff 'Not Relevant' (LAT)

By Edwin Chen

The Los Angeles Times, January 27, 2006

WASHINGTON — President Bush today acknowledged that he met former lobbyist Jack Abramoff, who has pleaded guilty to federal corruption charges, but the president characterized the brief encounter as a "grip and grin" photo session during a holiday party.

"But I've never sat down with him and had a discussion with the guy," Bush said. "I frankly don't even remember having my picture taken with the guy. I don't know him."

Bush also rejected the notion of detailing possible contacts between Abramoff and members of the senior White House staff, saying he preferred to let federal prosecutors conduct their own investigation.

The president made his most extensive remarks to date on the Abramoff scandal during a mid-morning press conference at the White House.

Abramoff pleaded guilty last month to federal fraud and conspiracy charges stemming from his dispersal of gifts, travel and campaign contributions to lawmakers, mostly Republicans. In exchange, the lobbyist has agreed to help prosecutors who are investigating his relationships with an array of members of Congress and perhaps White House aides.

The scandal has rocked Washington and promises to be a key theme in November's elections, when Republican control of the House and Senate will be at stake.

During the wide-ranging 46-minute session, Bush also said the U.S. would not deal with members of Hamas, the radical Islamic movement whose members won a sweeping victory in the Palestinian parliamentary elections, unless they renounce violence and abandon their goal of seeking Israel's destruction.

In addition, the president previewed some themes from the annual State of the Union address that he will deliver Tuesday night and defended his controversial post-9/11 directive allowing the National Security Agency to conduct surveillance on U.S. citizens.

He said he relished campaigning for Republicans in this year's elections but said that next week he would call on members of both parties to "set aside the partisanship that inevitably will come with an election year and get some stuff done."

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Bush said his message, both on Tuesday night and in the upcoming election campaign, would strike an optimistic note, focusing on a strong and growing economy, coupled with new initiatives on healthcare, education and energy. He said that the election campaign would be about "peace and prosperity."

The president sounded particularly defensive when reporters pressed him about his contacts with Abramoff. Both Time and Washingtonian magazines this week reported the existence of White House photographs of Bush with Abramoff.

The president said he would not release them because he was "mindful that we live in a world in which those pictures will be used for pure political purposes, and they are not relevant to the investigation."

He added: "I've had my picture taken with a lot of people. Having my picture taken with someone doesn't mean that I'm a friend with him or know him very well."

Gesturing to the roomful of assembled reporters, Bush continued, provoking some laughter: "I've had my picture taken with you at holiday parties. My point is, I mean, there's thousands of people that come through and get their pictures taken."

He said some 9,000 holiday guests had come to the White House and had their photographs taken with him, adding: "It's part of the job of the president to shake hands with people and smile. And I do."

But Bush said the Abramoff scandal needed to be "cleared up, so the people have confidence in the system."

On the NSA domestic spying controversy, he reiterated his contention that he had acted within the law and bristled when a reporter asked why he felt a need to "circumvent" the law.

"Circumventing is a loaded word. And I refuse to accept it because I believe what I'm doing is legally right," the president said. "I am upholding my duty and at the same time doing so under the law and with the Constitution behind me."

On another matter, Bush restated his opposition to making senior staff available to lawmakers at hearings examining the administration's faltering response to Hurricane Katrina. He said the White House already has sent to investigators 600,000 pages of internal documents. To go any further, he said, would create "a chilling effect on future [presidential] advisors."

Bush also dismissed suggestions that the 5-year-old global war on terrorism was overextending U.S. troops.

"The things I look for are the following: morale, retention and recruitment. And retention's high, recruitment is meeting goals, and people are feeling strong about the mission," he said.

Photos With Lobbyist Are 'Not Relevant,' Bush Says (NYT)

By David Stout

The New York Times, January 27, 2006

WASHINGTON, Jan. 26 — President Bush deflected questions today about photographs of him with Jack Abramoff, the disgraced Republican lobbyist, saying the photos are irrelevant.

"I mean, there's thousands of people that come through and get their pictures taken," Mr. Bush said. "I'm also mindful that we live in a world in which those pictures will be used for pure political purposes, and they're not relevant to the investigation."

The president, speaking at a hastily called news conference, responded somewhat indirectly when asked if he was afraid to release the pictures of himself and the once-powerful Mr. Abramoff, who has pleaded guilty to conspiracy, fraud and tax evasion and who prosecutors say tried to influence lawmakers and their aides with campaign contributions, lavish trips and meals.

"Having my picture taken with someone doesn't mean that, you know, I'm a friend with them or know them very well," Mr. Bush said. "I've had my picture taken with you at holiday parties." In fact, presidents are often photographed with people whom they know only casually, or hardly at all, including reporters at White House Christmas parties.

Mr. Bush also used the news conference, which appeared to have been called to react to the victory of Hamas in the Palestinian elections, as an opportunity to defend his policies and lay out his goals in advance of his State of the Union address on Tuesday. He insisted again that the National Security Agency's eavesdropping program was legal and necessary and did not trample on civil rights, that Congress should renew the Patriot Act that expanded government surveillance powers, and that Congress should make permanent the "temporary" tax cuts enacted during his White House tenure.

Meanwhile, Democrats sought to deepen Republican embarrassment and to deflate the effect of Mr. Bush's State of the Union address in advance. "Republicans are doing the bidding of special-interest lobbyists who have purchased access to the legislative process," Representative Nancy Pelosi of California, the House minority leader, said in an appearance at the National Press Club.

Mr. Bush parried the queries about Mr. Abramoff with equanimity and touches of humor.

White House officials have said that Mr. Abramoff also attended some "staff level" meetings at the White House, as well as White House Hanukkah receptions in 2001 and 2002. Perhaps, one questioner suggested today, the White House should disclose the details of those sessions and prevent any hint of "guilt by association."

"There is a serious investigation going on by federal prosecutors," Mr. Bush replied with a chuckle. "That's their job."

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He added, "If they believe something was done inappropriately in the White House, they'll come and look, and they're welcome to do so."

At one point, Mr. Bush seemed to imply that Mr. Abramoff had been bipartisan in contributing to political campaigns. "He contributed either directly or through his clients to a lot of people in Washington," he said. "This needs to be cleared up, so the people have confidence in the system."

So far, most of those embarrassed by the still-unfolding scandal have been Republicans, like Representative Tom DeLay of Texas, the former House majority leader, who were befriended by Mr. Abramoff. But Mr. Bush said he did not even know Mr. Abramoff, despite his appearance with him in photographs. "I've never sat down with him and had a discussion with the guy," Mr. Bush said.

As for the National Security Agency's surveillance program, which many Democrats have said was of dubious constitutionality and legality at best, Mr. Bush said it had been vetted by lawyers and was essential. "And so as I stand here right now," he said, "I can tell the American people the program's legal, it's designed to protect civil liberties, and it's necessary."

The president dismissed any suggestion that the N.S.A. program is part of a broader effort to expand presidential power, as some Congressional Democrats have asserted. "I would say that there has been a historical debate between the executive branch and the legislative branch as to who's got the power," he said. "And I don't view it as a contest with the legislative branch. Maybe they view it as a contest with the executive. I just don't."

Representative Pelosi and Senator Richard J. Durbin of Illinois, the Senate Democratic whip, assailed the Bush administration in an attempt to diminish the luster of the president's State of the Union appearance before Congress and the American people. Ms. Pelosi said the president's proposed budget would damage vital programs while "heaping mountains of debt on our children." "Why, the American people ask us, are we considering a budget that is so out of step with our values and our priorities?" Ms. Pelosi asked. "The answer is, the Republican culture of corruption that has permeated the White House and the Capitol." That culture, she went on, spawns legislation "loaded up with special interest earmarks and bridges to nowhere that increase the deficit."

Mr. Durbin scoffed at Mr. Bush's assertion that his policies had made the nation more secure. "On national security, Osama bin Laden sadly is still at large, and his deadly franchise is moving across the world," Mr. Durbin said. "There was no Iraq-Al Qaeda connection before our invasion. Sadly, there is one now. Iraq has become a training ground for a new generation of terrorists."

Inside Politics (WT)

By Greg Pierce

The Washington Times, January 27, 2006

Hatch vs. Leahy

Although the much-anticipated Supreme Court nomination fight over Judge Samuel A. Alito Jr. has turned out to be something of a dud, there have been a few feisty exchanges. Among the snippiest was the floor spat Wednesday between Sen. Patrick J. Leahy, Vermont Democrat, and Sen. Orrin G. Hatch, Utah Republican.

Mr. Hatch had dismissed Mr. Leahy's hyperbole about the threat to American liberties posed by Judge Alito. Speaking later, Mr. Leahy angrily chided Mr. Hatch.

"On several occasions, both publicly and privately, I've asked the distinguished senior senator from Utah if he purports to quote me to try to at least get within the ballpark of accuracy," Mr. Leahy said. At this, Mr. Hatch asked to respond, but Mr. Leahy refused to surrender the microphone.

"I would like to find the quote where I said Judge Alito all by himself would do away with the liberties of Americans," Mr. Leahy said.

Well, by the next morning, Mr. Hatch found the following prepared statement from Mr. Leahy: "This is a nomination that I fear threatens the fundamental rights and liberties of all Americans now and in generations to come."

Mr. Hatch said: "I was not only in the ballpark, I was standing on home plate."

A confident Romney

Massachusetts Gov. Mitt Romney, edging ever closer to a presidential run, says he isn't afraid that evangelical and born-again Christian voters will stiff-arm him in the 2008 GOP primaries just because he's a Mormon.

The Republican also told reporters yesterday that his views on abortion have changed, because of research into stem cells, and as a result, he now thinks "life begins at conception."

"I am firmly pro-life. Each state should able to adopt its own policies with regard to abortion and choice," Mr. Romney said at a press luncheon at the Capital Hilton.

He said most voters in his state are Catholics, but they could not care less about his religion.

Mr. Romney had a busy day in Washington, speaking first to a Medicaid reform commission, then a Christian Science Monitor luncheon for the press and finally at the Heritage Foundation, reports Ralph Z. Hallow of The Washington Times.

Senatorial request

Two Senate Democrats called yesterday for the appointment of a special counsel to take over the investigation of the corruption scandal spawned by former lobbyist Jack Abramoff.

The switch "would ensure that the investigation and prosecution will proceed without fear or favor and provide the public with full confidence that no one in this country is above the law," Sens. Charles E. Schumer of New York and Ken Salazar of Colorado wrote Attorney General Alberto R. Gonzales.

The two Democrats said that so far, the public-integrity section of the Justice Department, which is in charge of the probe, has "pursued this case appropriately."

Mr. Schumer and Mr. Salazar sent their letter several days after Democrats pressed the White House for information on contacts between the president, or other top officials, and Abramoff.

Foot in mouth

A Pennsylvania gubernatorial candidate challenging Pro Football Hall of Fame member Lynn Swann in the Republican primary fired his campaign manager after the man told a televised call-in show: "The rich white guy in this campaign is Lynn Swann."

Bill Scranton, a former lieutenant governor who is white and comes from a wealthy family, also issued an apology to Mr. Swann, who is black, after his campaign manager's comments Wednesday, the Associated Press reports.

The remarks by James Seif "in no way whatsoever reflect my views or those of my campaign," Mr. Scranton said. "I want to apologize to Lynn Swann, his family, supporters and PCN [Pennsylvania Cable Network] viewers for the offensive and disturbing comments made on my behalf."

Thanks, Ralph

The expected confirmation of Judge Samuel A. Alito Jr. to the Supreme Court, after the confirmation of Judge John G. Roberts Jr. as chief justice, "represents a notable, and greatly satisfying, rebuke for the legal left and its 'borking' strategy," the Wall Street Journal says.

"Sen. Chuck Schumer declared in 2001 that he wanted to turn judicial confirmations into battles over 'ideology.' The New York Democrat succeeded in doing so, but he ended up losing in a self-knockout. One reason Democrats couldn't defeat Chief Justice Roberts or Judge Alito, despite near party-line opposition, is that their filibuster strategy had made judges a top-line election issue in both 2002 and 2004.

"The battle over their unprecedented filibuster of 10 appeals-court nominees helped to sweep Democrats out of the Senate in Bush-leaning states and give Republicans a larger majority. The Democrats who remain in red states — five of whom are up for re-election in November — saw all this and had no appetite for a repeat in 2006. The liberal interest groups that devised the filibuster strategy and wrote the anti-Alito talking points for Sens. Ted Kennedy and Patrick Leahy thus contributed as much as anyone to Judge Alito's confirmation. Congratulations, Ralph Neas. It's your finest hour."

Still out

Edward Cox, a son-in-law of the late President Richard Nixon, said yesterday he will not resume his campaign for the Republican nomination to challenge Sen. Hillary Rodham Clinton's re-election bid this year, the Associated Press reports.

The Manhattan lawyer suspended his campaign in October after Republican Gov. George E. Pataki endorsed then-Westchester County District Attorney Jeanine Pirro's bid for the Senate nomination. Mrs. Pirro's campaign subsequently collapsed, and Mrs. Pirro heeded the call of state GOP leaders to run instead for state attorney general.

Worse now

The head of the FBI's counterintelligence division, retiring after 33 years at the agency, warns that "the counterintelligence threat is worse now than it was in the Cold War."

David Szady, assistant director for counterintelligence, said the threat is "broader, it's more expansive, it's huge."

In an interview with Bill Gertz of The Washington Times yesterday, a day before retiring to join the private sector, Mr. Szady said: "We really think we've come a long way, but more needs to be done."

Mr. Szady also said that FBI counterintelligence training is increasing and that more agents are choosing to become counterspies.

Since 2002, the bureau has set up squads of counterspies in all its 56 field offices and has begun better training and private-sector outreach programs, he said.

"If nothing else, you can be proud of the FBI because almost every other free-world intelligence service has not been able to do in counterintelligence what we've done. We've sustained it, and we've increased it," Mr. Szady said.

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Sens. Want Independent Corruption Probe (AP)

By David Espo

AP, January 27, 2006

WASHINGTON - Two Senate Democrats called Thursday for the appointment of a special counsel to take over investigation of the corruption scandal spawned by lobbyist Jack Abramoff.

The switch "would ensure that the investigation and prosecution will proceed without fear or favor and provide the public with full confidence that no one in this country is above the law," Sens. Chuck Schumer of New York and Ken Salazar of Colorado wrote Attorney General Alberto Gonzales.

The two Democrats said that so far, the public integrity section of the Justice Department, which is in charge of the probe, has "pursued this case appropriately."

A Justice Department spokesman declined immediate comment.

Abramoff pleaded guilty earlier this year to several felony charges, some of them involving his dealings with members of Congress and their aides. His one-time business partner, former congressional aide Michael Scanlon, pleaded guilty last year as part of the same investigation.

Officials have said numerous former congressional aides remain under scrutiny, as does Rep. Bob Ney, R-Ohio, who recently stepped down temporarily as chairman of a House committee.

Politicians of both parties moved quickly to shed campaign donations from Abramoff or his former clients.

The scandal also has thrust congressional reform toward the top of the legislative and political agenda in the opening days of an election-year Congress.

Schumer and Salazar sent their letter several days after Democrats pressed the White House for information on contacts between the president or other top officials and Abramoff. So far, the White House has refused to release any photographs of the president and the lobbyist together.

Asked about the issue at a news conference Thursday, Bush said, "There's thousands of people that come through and get their pictures taken.

In their letter, Schumer and Salazar cited news reports that said that in addition to the presidential photographs, Abramoff organized at least one meeting with White House aides for his clients.

"These meetings with the president and the White House staff occurred while you were serving as White House counsel," they wrote Gonzales, who became attorney general a year ago. "Given the possible ties between Mr. Abramoff and senior government officials, we believe the appointment of a special counsel is not only justified, but necessary."

Salazar: Abramoff Prosecutor Needed (DENP)

By Anne C. Mulkern, Denver Post Staff Writer

Denver Post, January 27, 2006

U.S. Sens. Ken Salazar (D-Colo.) (left) and Charles Schumer (D-N.Y.) speak at a news conference Thursday at the U.S. Capitol where they called for the appointment of an independent council to investigate the corruption scandal involving lobbyist Jack Abramoff. (Getty Images)

Washington - Colorado Sen. Ken Salazar on Thursday joined New York Democrat Sen. Charles E. Schumer in calling for a special counsel to investigate political corruption involving lobbyist Jack Ambramoff.

Ambramoff has pleaded guilty to bribery and fraud and is cooperating with prosecutors looking in to his dealings with Congress.

Salazar, a Democrat, and Schumer sent a letter to U.S. Attorney General Alberto Gonzales asking for the special counsel.

If such an investigation were granted, it would be similar to that conducted by special counsel Patrick Fitzgerald, who probed the leak of a covert CIA operative's name.

The senators said an independent investigation is necessary because a special counsel could act without either favor from or fear of reprisal from the White House.

"As a former (state) attorney general, I believe in upholding the law and rooting out corruption," Salazar said in a statement. "The American people deserve an open, unbiased investigation into this matter. Appointing a special counsel will begin the process of restoring America's faith in government."

Added Schumer: "With public trust in government at very low levels, it is crucial that we remove any appearance of impropriety from the investigation of the Abramoff scandal by appointing a special counsel who is independent of the Bush Administration and the current Justice Department."

Ethics In Congress (NYT)

The New York Times, January 27, 2006

To the Editor:

Re "If You Give a Congressman a Cookie," by Norman Ornstein and Thomas E. Mann (Op-Ed, Jan. 19):

I am surprised that these Congressional scholars would assert that House roll-call votes are "frequently" stretched beyond an hour. This happens, on average, less than once per two-year Congressional session.

They say that Speaker J. Dennis Hastert "fired" the chairman of the House ethics committee last year. Under House rules, there was a term limit for all members, including the chairman. Speaker Hastert followed the regular order that these writers claim to cherish in naming a new chairman.

They also assert that I and a colleague, who had donated to Representative Tom DeLay's defense fund, were named to the ethics committee "when the main matter pending before the committee involved" Mr. DeLay. In fact, the committee had publicly announced, in keeping with its normal practice, that it was deferring its one pending DeLay-related matter until the conclusion of the Texas criminal investigation, which continues to this day.

Moreover, my colleague and I long ago announced that we will recuse ourselves from any matter related to Mr. DeLay.

(Rep.) Lamar Smith

Washington, Jan. 23, 2006

Prosecutor Will Step Down From Lobbyist Case (NYT)

By Philip Shenon And Elisabeth Bumiller

The New York Times, January 27, 2006

WASHINGTON, Jan. 26 — The investigation of Jack Abramoff, the disgraced Republican lobbyist, took a surprising new turn on Thursday when the Justice Department said the chief prosecutor in the inquiry would step down next week because he had been nominated to a federal judgeship by President Bush.

The prosecutor, Noel L. Hillman, is chief of the department's public integrity division, and the move ends his involvement in an inquiry that has reached into the administration as well as the top ranks of the Republican leadership on Capitol Hill.

The administration said that the appointment was routine and that it would not affect the investigation, but Democrats swiftly questioned the timing of the move and called for a special prosecutor.

The announcement came as Mr. Bush faced a barrage of questions about why he would not make public "grip-and-grin" photographs of him with Mr. Abramoff. The photographs apparently show Mr. Bush and Mr. Abramoff smiling at White House Hanukkah parties and Republican fund-raising receptions.

Mr. Bush's position, which he offered at a news conference on Thursday morning that was peppered with questions about Mr. Abramoff, was that the photographs were so common as to be almost meaningless and that it was part of his job "to shake hands with people and smile." He said he could not remember posing for the pictures, or, for that matter, even meeting Mr. Abramoff.

"I had my picture taken with him, evidently," Mr. Bush said. "I've had my picture taken with a lot of people. Having my picture taken with someone doesn't mean that I'm a friend with them or know them very well."

He said, "I'm also mindful that we live in a world in which those pictures will be used for pure political purposes, and they're not relevant to the investigation."

The White House, which announced Mr. Bush's selection of Mr. Hillman for the court in a routine e-mail message on Wednesday that included 15 other nominations to judgeships and federal jobs, dismissed the calls for a special prosecutor.

"It's nothing but pure politics," said Scott McClellan, the White House press secretary. "The Justice Department is holding Mr. Abramoff to account, and the career Justice prosecutors are continuing to fully investigate the matter."

A special prosecutor would not be especially welcome at the White House. Patrick J. Fitzgerald, the special counsel in the C.I.A. leak case, is more than two years into an investigation that has resulted in the indictment of a top vice-presidential aide, I. Lewis Libby Jr., and has left Karl Rove, the president's chief political adviser, under investigation.

Mr. Hillman's departure from the Justice Department creates a vacancy at the top of the Abramoff inquiry only three weeks after Mr. Abramoff, once one of the city's most powerful Republican lobbyists and a major fund-raiser for Mr. Bush, announced his guilty plea and agreed to testify against others, possibly including members of Congress.

A former senior White House budget official, David H. Safavian, has been indicted in the case on charges of lying about his contacts with Mr. Abramoff, a former lobbying partner. The Justice Department's plea agreement with Mr. Abramoff makes clear that prosecutors are investigating several members of Congress and other public officials who are suspected of having accepted gifts from the lobbyist in exchange for official acts.

Colleagues at the Justice Department say Mr. Hillman has been involved in day-to-day management of the Abramoff investigation since it began almost two year ago. The inquiry, which initially focused on accusations that Mr. Abramoff defrauded

Indian tribes out of tens of millions of dollars in lobbying fees, is being described within the department as the most important federal corruption investigation in a generation.

Mr. Hillman's nomination for a judgeship was among the factors cited Thursday by four Democratic lawmakers, two senators and two representatives, in calling on Attorney General Alberto R. Gonzales to name a special prosecutor to oversee the corruption investigation.

The timing of Mr. Hillman's nomination "jaundices this whole process," Senator Charles E. Schumer, Democrat of New York, said in an interview. "They have to appoint a special counsel. I think there will be broad support for one."

Representative George Miller, Democrat of California, called the timing "startling" and said, "You have one of the chief prosecutors removed from a case that has tentacles throughout the Republican leadership of Congress, throughout the various agencies and into the White House."

White House officials have said that Mr. Abramoff had no improper dealings with the White House. They have said he attended "staff level" meetings at the White House, but have declined to say with whom. One of his chief connections to the White House was through Susan Ralston, an assistant who worked for him before she worked for Mr. Rove. Ms. Ralston continues to work for Mr. Rove as a top aide.

A Justice Department spokesman, Bryan Sierra, said he had no comment on the Democratic request for a special prosecutor because the department had not received their letter making the request.

Mr. Sierra said in an interview that there was nothing unusual about the timing of Mr. Hillman's nomination and that it would not affect the Abramoff inquiry. "The team that Noel put together is going to remain together," he said. "The investigation should not be impacted." He said Mr. Hillman would be temporarily succeeded as head of the public integrity office by Andrew Lourie, a career prosecutor in Florida.

The White House had been poised to nominate Mr. Hillman for the bench last year. Mr. Sierra said he did not know why the nomination had been delayed until this week, but he said he believed it had nothing to do with the Abramoff investigation.

In a letter sent to the attorney general on Thursday asking for an independent counsel, Senator Schumer and Senator Ken Salazar, Democrat of Colorado, praised Mr. Hillman's office for the investigation that led to the guilty plea by Mr. Abramoff and his former lobbying partner, Michael Scanlon, a former press secretary to Representative Tom DeLay.

"We applaud its pursuit of Mr. Abramoff and his colleagues," they said. "We have no doubt that if the investigation is left to the career prosecutors in that section, the case would reach its appropriate conclusion. Unfortunately, the highly political context of the allegations and charges may lead some to surmise that political influence may compromise the investigation."

Defense Lawyers Seek Prosecution Data On Reporters In Leak Case (NYT)

By David Johnston

The New York Times, January 27, 2006

WASHINGTON, Jan 26 — Lawyers for Vice President Dick Cheney's former chief of staff asked a federal judge on Thursday to order the prosecutor in the C.I.A. leak case to turn over all documents in his possession related to what journalists knew from any source about the intelligence officer at the heart of the case.

The lawyers for the former chief of staff, I. Lewis Libby Jr., said in their motion that the prosecutor, Patrick J. Fitzgerald, had refused to turn over to the defense documents that would shed light on whether any reporter knew about the C.I.A. officer, Valerie Wilson, before her name was first disclosed in a newspaper column on July 14, 2003.

Mr. Libby's lawyers said in their motion that "the prosecution invoked an extraordinarily narrow conception of its disclosure obligations." The prosecutor turned over, the defense said, only documents related to Mr. Libby's contacts with reporters, refusing to turn over documents about what these and other reporters had learned about Ms. Wilson from other sources.

The defense team said that such documents were highly relevant as Mr. Libby's lawyers sought to find out "the identity of all reporters who knew that Ms. Wilson worked for the C.I.A., and to discover when they learned such information, from whom they learned it and whether they disclosed it further after learning it."

Mr. Libby was charged in a five-count perjury and obstruction of justice indictment last October with misleading investigators about how he had learned of Ms. Wilson. The indictment said he had concealed that he had learned about her from other government officials, telling investigators that his information had come from journalists. Mr. Libby has pleaded not guilty to the charges. No trial date has been set.

The defense request strongly suggested that Mr. Libby's defense could turn on the testimony of reporters, who are expected to be called as witnesses in the trial, including those who testified during the grand jury investigation about their conversations with confidential sources and perhaps others who have not yet been identified.

Some reporters who are likely to be caught in the dispute over evidence are known. Mr. Libby's conversations with some journalists, like Tim Russert of NBC News, were cited in the indictment. Another reporter, Matthew Cooper of Time magazine,

said after he testified in the investigation that he had learned about Ms. Wilson, although not her name, from Karl Rove, the senior White House adviser. Mr. Cooper said Mr. Libby was a confirming source of information about her.

In addition, Bob Woodward, the Washington Post reporter, has said he told Mr. Fitzgerald in a deposition that he learned about Ms. Wilson from a government official other than Mr. Libby in June 2003, several weeks before her name became public. Mr. Woodward's source has not been identified.

Other journalists have also appeared as witnesses before the grand jury in the case, including Judith Miller, then a reporter for The New York Times.

The prosecutor has not yet responded to Thursday's request, but Mr. Libby's lawyers said Mr. Fitzgerald had used a "narrow and overly restrictive" standard in interpreting rules that require prosecutors to supply defense lawyers with materials gathered in an investigation that could help the defense.

Libby Defense Demands News Media Materials (AP)

By Pete Yost

AP, January 27, 2006

Lawyers for a former top White House aide charged in the CIA leak investigation said Thursday the prosecutor should surrender a wide range of information about news organizations and their reporters, including The Washington Post's Bob Woodward.

Special Counsel Patrick Fitzgerald has failed to disclose information that would enable the vice president's former chief of staff, I. Lewis "Scooter" Libby, to properly defend himself, his attorneys argued in papers filed with U.S. District Judge Reggie Walton.

Libby is charged with five counts of obstruction, perjury and lying to the FBI about disclosing the identity of covert CIA officer Valerie Plame, who is married to former U.S. Ambassador Joseph Wilson, a Bush administration critic.

A federal grand jury accused Libby of lying when he said he learned about Ms. Wilson's identity from reporters. The indictment contends Libby found out about her identity from the CIA, the State Department and his boss, Vice President Dick Cheney.

"The government should not be allowed to charge Mr. Libby with lying about statements concerning what reporters knew about Ms. Wilson's identity, and at the same time deny him information that may establish one of these possible defenses," Libby's lawyers argued in a 23-page brief.

"The government has refused to produce information in its possession about what reporters learned from sources other than Mr. Libby about Ms. Wilson's employment status," Libby's legal team argued.

The prosecutor has asserted that "such documents are not relevant to a perjury and obstruction case."

After Libby's Oct. 28 indictment, Woodward disclosed that he had learned of Ms. Wilson's identity in mid-June 2003, some three weeks before her name was first published by conservative columnist Robert Novak.

The indictment says Libby lied when he told investigators he learned of Ms. Wilson's identity from NBC correspondent Tim Russert; when he told Time magazine reporter Matt Cooper that reporters were telling the Bush administration that Ms. Wilson worked for the CIA; and when Libby told investigators he did not discuss Wilson's wife with New York Times reporter Judith Miller.

Libby would have the right to produce testimony that tended to show many reporters knew about Ms. Wilson's CIA employment and that Russert did make the statement Libby allegedly attributed to him, but that Russert had forgotten about it, the court filing stated.

The defense says it also has a right to show whether other reporters knew about Ms. Wilson's CIA employment and were discussing that fact with government officials, "some of whom in turn may have shared such information with Mr. Libby," his lawyers said.

Libby Wants What Reporters Knew In CIA Leak Case (REU-Y2)

By James Vicini

Reuters, January 27, 2006

Attorneys for a former top aide to Vice President Dick Cheney sought on Thursday to force federal prosecutors to turn over information about what journalists knew before the leak of a CIA operative's name.

Lewis "Scooter" Libby's lawyers filed a motion asking the federal judge presiding over the case to require that they be given documents on what the reporters knew about CIA operative Valerie Plame before her name was disclosed.

Libby, Cheney's former chief of staff, has pleaded not guilty to five counts of obstructing justice, perjury and lying in the two-year investigation by prosecutor Patrick Fitzgerald into the leak to the news media of Plame's identity.

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Her identity was disclosed by conservative columnist Robert Novak on July 14, 2003, after her diplomat husband, Joseph Wilson, accused the Bush administration of twisting intelligence on weapons of mass destruction to justify the war in Iraq.

The attorneys said the motion concerned their request for documents and information on three important issues: "What did the press know prior to July 14, 2003, about whether Valerie Plame Wilson worked at the CIA, from whom did they learn it and with whom did they discuss it."

They said turning over the information would enable them to decide the necessity and scope of pretrial subpoenas for journalists and news organizations.

The motion made clear that what the reporters knew will be an important part of the defense strategy.

"It is necessary for the defense to determine and investigate which individuals served as sources for journalists who learned about Ms. Wilson's employment status prior to July 14, 2003," they said.

"Once we learn the names of the reporters' sources, we will attempt to interview them, investigate whether they discussed information about Ms. Wilson with anyone else and evaluate whether to subpoena them for testimony at trial," they said.

Libby's lawyers also sought copies of subpoenas issued to reporters and news organizations during the prosecutor's grand jury investigation into the leak, and any agreements to limit the scope of information provided by the reporters.

The defense lawyers said prosecutors have refused to produce information about what reporters learned from sources other than Libby about Wilson's employment at the CIA because it was not relevant to the perjury and obstruction of justice charges.

Reporters' Information Sought (WP)

By Carol D. Leonnig

The Washington Post, January 27, 2006

Attorneys for Vice President Cheney's former top aide urged a court yesterday to force prosecutors to turn over all the information they obtained from reporters about their confidential conversations with Bush administration sources in the course of a two-year CIA leak investigation.

Attorneys for I. Lewis "Scooter" Libby said they must cast a wide net to learn about any conversations regarding CIA operative Valerie Plame, and that the information could be crucial to Libby's defense against perjury and obstruction charges. In court papers, the lawyers said they will probably subpoena reporters and officials later to thoroughly investigate how widely Plame's identity was known before her name appeared in the news media in July 2003.

Libby was indicted by Special Counsel Patrick J. Fitzgerald on five felony counts of lying to the FBI and a grand jury. The indictment asserted that Libby leaked information about Plame's CIA role to two reporters but pretended he had learned the information from Tim Russert, the Washington bureau chief of NBC News, and that he passed it along as unverified reporter chatter.

The defense's goal is to show that Libby was not intentionally lying when he testified that many journalists had known about Plame during the spring and summer of 2003, and that he believed he had learned about her from Russert. "There can be no information more material to the defense of a perjury case than information tending to show that the alleged false statements are, in fact, true or that they could be the result of mistake or confusion," the lawyers argued in their filing. "Libby is entitled to know what the government knows."

Fitzgerald began investigating in early 2004 whether administration officials broke the law and leaked information about Plame as retaliation. Her name and CIA role appeared in a July 2003 syndicated column by Robert D. Novak -- eight days after Plame's husband, former ambassador Joseph C. Wilson IV, publicly criticized the Bush administration's justification for waging war with Iraq.

The defense effort to delve deeper into Fitzgerald's investigation, if successful, could divulge the identities of some anonymous, high-level government sources whom reporters and news organizations have spent years and millions of dollars in legal fees protecting from public view. The defense strategy is expected to pull several high-profile Washington journalists into a legal battle over the First Amendment, many of them for a second time.

The court papers specifically asked U.S. District Judge Reggie B. Walton to have Fitzgerald turn over all documents showing knowledge by other reporters of Plame's CIA role or her husband's mission to investigate claims that Iraq was trying to obtain from Niger materials for a nuclear program, and any subpoenas or agreements with other reporters who provided information to the investigation. Fitzgerald has asserted that Libby is not entitled to information about all the reporters questioned in the investigation if the government does not expect to use their information or call them as witnesses in Libby's trial, the filings said.

But the court papers filed by Libby's team highlighted Bob Woodward, a Washington Post reporter and assistant managing editor, as a crucial witness who could provide exculpatory information that might help Libby avoid a conviction. Woodward

revealed in November, a few weeks after Libby was indicted, that another administration source -- not Libby -- had told him in a "casual" and "offhand" way about Plame's CIA role. Woodward testified that this conversation took place before Libby is believed to have first provided information about Plame to Judith Miller, then a New York Times reporter.

Woodward, who has repeatedly said he has not been released to identify his source, declined to comment yesterday. Washington Post attorney Mary Ann Werner said the newspaper continues to consider its promises of anonymity to sources sacred -- and vital to some kinds of newsgathering.

"Protecting our confidential sources has been our highest priority throughout this investigation, and it remains our highest priority today," Werner said.

The court papers also mentioned an interest in questioning NBC News reporter Andrea Mitchell, who suggested in an October 2003 news program that it was "common knowledge" among some intelligence reporters that Plame worked at the CIA, and Washington Post reporter Walter Pincus, who allegedly learned about Plame from another unidentified source in 2003.

Charles Tobin, a media lawyer in Washington, said the move by Libby's defense was expected and is the result of Fitzgerald's aggressive insistence on deposing journalists and forcing them under threat of jail to reveal confidential sources.

"I think we could have expected that, when the prosecutor went on a fishing expedition, that the fish he caught would want to look back in the pail," Tobin said. "The more this case develops, the further we seem to be getting from the core issues of the indictment -- and more into the business of journalism and how news gets put out in this town."

Libby Defense Requests Media Data In Leak Case (WSJ)

By Anne Marie Squeo

The Wall Street Journal, January 27, 2006

WASHINGTON -- Attorneys for I. Lewis Libby, the vice president's former chief of staff, asked a federal judge to compel prosecutors to turn over all information obtained from journalists and news organizations about former Central Intelligence Agency operative Valerie Plame.

While the Justice Department has agreed to turn over information related to reporters' contacts with Mr. Libby, Special Counsel Patrick Fitzgerald has refused to provide material about what reporters might have learned from other sources about Ms. Plame's employment at the CIA, the court filing says. Included in the request is information that may have been shared among reporters or with government officials.

The fight is expected to be bruising for the news media. In their indictment, prosecutors cited the testimony of three reporters to discredit Mr. Libby's statements. Media advocates have feared the defense would seek to put the reporters on trial, and yesterday's filings underscored those concerns by suggesting statements made by Time magazine reporter Matthew Cooper, among those cited in the indictment, could indicate he is "biased against Mr. Libby." Mr. Cooper couldn't be reached. "The nightmare we predicted appears to be coming true," said Lucy Dalglish, executive director of the Reporters Committee for Freedom of the Press.

In October, Mr. Libby was indicted for lying to federal investigators and a grand jury, as well as obstructing justice, in a federal investigation into whether a Bush administration official blew the cover of Ms. Plame in retaliation for her husband's public criticism of the war in Iraq. The investigation continues, though no one besides Mr. Libby has been indicted.

"There can be no information more material to the defense of a perjury case than information tending to show that the alleged false statements are, in fact, true or that they could be the result of mistake or confusion," the filing said. A spokesman for Mr. Fitzgerald declined to comment.

Attorneys for Mr. Libby signaled earlier this month that they would seek this information. As yesterday's filing notes, seeking additional information from news organizations may be "unavoidable" since the government may not have all of what the defense requests. A federal judge likely will take up the matter at a hearing scheduled for Feb. 3.

Mr. Libby's defense team is seeking documents and other information prior to July 14, 2003 -- the date Ms. Plame's CIA identity was revealed in a newspaper column -- reflecting knowledge of Ms. Plame's job by a reporter or an employee of a news organization, communications between reporters and government officials, colleagues or anyone else discussing Ms. Plame, and copies of the subpoenas issued to reporters and news organizations by the grand jury as well as agreements by Mr. Fitzgerald to limit the scope of questioning.

Ex-Pakistan PM Shrugs Off Interpol Arrest Notices (AFP)

Agence France-Presse, January 27, 2006

WASHINGTON (AFP) - Pakistan's former Prime Minister Benazir Bhutto has shrugged off Interpol notices for her arrest and said she is prepared to return to her country to face any charges if compelled by a court.

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Interpol had issued the international notices following a request by the Pakistan government for the arrest of Bhutto and her husband on corruption charges, according to officials in Islamabad.

The police body said the so-called "red notices" were not arrest warrants and that member countries could decide whether to take any action.

"As far as the red notices are concerned, I learned it from the press, and my lawyers have written to the (Pakistan) Ministry of Interior as well as to Interpol, asking them to confirm whether the news is accurate and if so, on what grounds," Bhutto told a news conference in Washington.

"As far as I am concerned, if any court wants me in Pakistan, I am prepared to catch the next plane to Pakistan," said Bhutto, 53, who led the country twice in the 1980s and 1990s as its first female premier.

Bhutto, who has lived in self-imposed exile in Dubai and London for the past seven years, said the allegations were politically motivated and intended to divert the attention of the Pakistan media from current government problems.

The US Justice Department refused to comment specifically on Bhutto's case but said it generally considered Interpol requests on a case-by-case basis.

"I wouldn't comment on the specifics of Ms Bhutto's case but generally, the government handles requests from other governments on a case-by-case basis and we make our decisions based on the unique circumstance on any case," department spokesman Bryan Sierra told AFP.

"We don't necessarily automatically have to act on them," he said.

Pakistani Interior Minister Aftab Sherpao said the country's corruption watchdog had asked his ministry to send the request to Interpol.

"It is not an issue of my evading presence in a court but no court in Pakistan to my knowledge has asked for me to be present and I believe that the Interpol has not been given the correct facts by the military regime in Pakistan," Bhutto said.

Her second term in office ended in 1996 amid a string of corruption claims and six court cases are still pending against her. Last year she pledged to return to Pakistan to face the charges.

In 2004 Swiss authorities also charged Bhutto with alleged money-laundering of 11.7 million dollars in purported bribes paid by companies seeking customs inspection contracts.

"Yes, my husband and I have faced these scurrilous, baseless and malicious and politically motivated charges for the last nine years and by the grace of God, there is not a single conviction against either my husband or myself for fraud or for corruption," she said.

Bhutto said the charges levelled against her were part of Musharraf's campaign to divert the attention of the Pakistani media from local problems, especially recent US missile strikes targeted at terrorists in a remote tribal area bordering Afghanistan but which left civilians dead.

"Lot of questions are being asked (by the public)," she said. "To divert the attention of domestic press over the strikes, they (called for) the red notices."

"(Musharraf's) regime does not like me to speak about democracy and it does not like me to expose their policies about ambiguity," she said.

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9th Circuit Panel: Overseas Sex With Minor Subject To Regulation (LAW)

By Justin Scheck, The Recorder

California Recorder, January 27, 2006

Applying the Constitution's commerce clause to international trade can be a difficult task, 9th U.S. Circuit Court of Appeals Judge Margaret McKeown wrote in an opinion Wednesday.

So in deciding that a 2003 law prohibiting U.S. citizens from paying minors for sex while overseas is constitutional, McKeown wrote that the court was taking a big-picture look.

"Instead of slavishly marching down the path of grafting the interstate commerce framework onto foreign commerce, we step back and take a global, commonsense approach," she wrote.

The conclusion? Sex with a minor "might be immoral and criminal, but it is also commercial" -- and therefore subject to regulation.

McKeown's opinion -- which was joined by 9th Circuit Senior Judge Procter Hug -- didn't sit well with Senior Judge Warren Ferguson.

He said the majority upheld the 2003 law known by the convenient acronym PROTECT (Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today) with logic that could give the U.S. government jurisdiction over your croque monsieur.

"Under the interpretation of the majority," he wrote, "the purchase of a lunch in France by an American citizen who traveled there by airplane would constitute a constitutional act of engaging in foreign commerce."

Under that scenario, nearly anything a U.S. citizen did in a foreign country could be subject to U.S. regulation, Ferguson continued. "This observation may seem slightly absurd, but so is the task of trying to show how sexual abuse of a minor overseas by a U.S. citizen constitutes an act of 'commerce with foreign nations,'" he said.

Rory Little, a professor at Hastings College of the Law, said the question isn't quite so simple.

"It's a very substantial opinion on both sides," he said, referring to the majority decision and the dissent. "It's hard to say that one side is right."

That's because the commerce clause is a notoriously difficult piece of the Constitution, with controls over interstate and foreign commerce that are constantly being reinterpreted by the courts.

The majority opinion is based on last year's Supreme Court opinion Gonzales v. Raich, 125 S.Ct. 2195, which said the commerce clause allows the federal government to prohibit marijuana use in states that have legalized it for medical use.

With that opinion, McKeown wrote, "the court took a more generous view of Congress's power over interstate commerce."

That seems like a solid foundation for a more generous view of foreign commerce, Little said. Yet, he added, Ferguson has a good point in arguing that paying a minor for sex doesn't clearly constitute foreign trade.

The case originated when Michael Clark, an elderly U.S. citizen who lived in Cambodia from 1998 to 2003, was arrested by Cambodian police for having sex with young boys.

The Cambodian authorities turned Clark over to U.S. agents, and he eventually admitted to paying minors for sex, pleading guilty after returning to the United States. His case was the first successful prosecution under the PROTECT law, and is the first to make it to the appeals courts.

Clark's lawyer, Seattle Assistant Federal Public Defender Michael Filipovic, was predictably unhappy with the 9th Circuit's opinion. "We're disappointed in the result, and we will be seeking rehearing en banc," he said.

U.S. jurisdiction over its citizens who are abroad "is an issue upon which there's very little law that's right on point," Filipovic said.

Assistant U.S. Attorney Helen Brunner, a Seattle-based appeals specialist who argued the case for the government, agreed, though she felt better about the result.

"It's a complex issue," she said. "It certainly was an interesting issue, and I think the majority's opinion certainly is a significant victory, and we can rely on it for the pending cases." Those include another case handled by Filipovic in which the 9th Circuit has already heard arguments.

Whether the 9th Circuit takes up the case en banc -- or whether it ends up before the Supreme Court -- is probably a decision that will cross ideological lines, Little said, since liberal and conservative judges often rule unpredictably on issues of personal freedom and increased prosecutorial powers.

"This doesn't have a political tilt," Little said. "Nobody's in favor of sex with minors."

Convicted Rapist, Cleared By DNA, Freed From Custody (FINDLAW/AP)

AP, January 27, 2006

(AP) - CONROE, Texas-A man who spent 18 years in prison for sexual assault was freed Thursday after DNA evidence exonerated him, and his brother admitted responsibility for the attack.

DNA testing was not available at Arthur Mumphrey's 1986 trial for the rape of a 13-year-old girl, but recent tests requested by his attorney showed Mumphrey's blood and saliva samples did not match stains on the victim and her clothes.

"Because of technology we have now, justice was not done 20 years ago," State District Judge Kathleen Hamilton said.

Mumphrey, 42, had been sentenced to 35 years in prison.

Prosecutor Marc Brumberger apologized to Mumphrey. "We feel terrible about what happened to you," he said.

Mumphrey's brother, Charles, confessed to the rape this week while serving time in jail for unauthorized use of a motor vehicle.

He is unlikely to face charges in the sexual assault because the statute of limitations has expired, but the information could be used against him in sentencing if he is convicted of another crime and if DNA results support the confession.

Ex-Prosecutors In Trenton Respond To U.S. Scolding (NYT)

By David Kocieniewski

The New York Times, January 27, 2006

TRENTON, Jan. 26 — Two former New Jersey attorneys general on Thursday defended their office's investigation into the political dealings of George E. Norcross III, the Democratic power broker, and said they were bewildered that federal prosecutors had accused them of botching the case.

In a scathing letter dated Tuesday, Christopher J. Christie, the United States attorney for New Jersey, wrote that his office would be unable to bring charges against Mr. Norcross because lawyers for the state attorney general had mishandled their investigation under two administrations before turning it over to his office in 2004.

Mr. Christie's pointed critique startled many in the legal community because prosecutors rarely publicly criticize other law enforcement officials or explain their decisions not to prosecute.

While Mr. Christie did not release the letter to the press, his office did give it to two witnesses whose complaints against Mr. Norcross led to the investigation, and who have been aggressive in seeking news coverage about the case.

In his six-page letter, Mr. Christie chastised state officials for failing to use rudimentary investigative techniques like wiretaps and telephone records to corroborate their suspicions that Mr. Norcross and his political allies were engaged in a plot to deprive two political rivals of jobs and government contracts.

His letter also harshly criticized state prosecutors for deciding not to secretly tape conversations at a Camden County Democratic fund-raiser in 2001, where Mr. Norcross and his associates were expected to discuss a wide variety of political deals. Mr. Christie said that that decision was so inexplicable that it raised the possibility that state investigators were trying to shield political figures.

But John J. Farmer Jr., who was attorney general in 2001, called that suggestion "utter nonsense." Mr. Farmer said he was not personally involved in the tactical decisions, but asserted that the two assistant attorneys general who led the case were "professional and 100 percent nonpolitical."

"I totally reject any suggestion that any political figure was being protected by anyone in my office," said Mr. Farmer, a political independent who worked for Govs. Christine Todd Whitman and Donald T. DiFrancesco, both Republicans.

Mr. Christie also said that former Attorney General Peter C. Harvey erred in 2003 when he agreed to allow two figures in the investigation to plead guilty to tax evasion charges, a deal Mr. Christie said was too lenient to yield meaningful cooperation.

But Mr. Harvey said the agreements were fair and helpful. "These plea agreements were negotiated by experienced former federal prosecutors and helped lead to other convictions in this case," he said.

The investigation and secret recordings of Mr. Norcross, a bank executive whose prowess as a fund-raiser has given him vast statewide influence, has offered a rare view of the inner workings of New Jersey's tough, money-driven politics.

The case began in 2000, when John Gural, now the mayor of Palmyra but then a councilman, told the authorities that he had been pressured to fire the town solicitor, Ted Rosenberg, who had opposed one of Mr. Norcross's allies in a local political race.

Investigators from the state attorney general's office asked Mr. Gural to wear a concealed recording device. He ended up taping more than 330 hours of conversations, many of them with local officials allied with Mr. Norcross. In some of those conversations, they threatened to withhold government contracts from Mr. Gural's employer, a local engineering firm, unless he acquiesced.

Mr. Norcross was also caught on tape boasting about his influence with then-Gov. James E. McGreevey and then United States Senator Jon S. Corzine.

Mr. Norcross's lawyer dismissed his client's taped comments as idle boasts, and said that Mr. Christie's letter was proof that no crime had been committed.

Mr. Rosenberg said on Thursday that Mr. Christie, who has been mentioned as a candidate for governor himself, might have released the letter to protect his image as an ardent corruption buster.

"Chris Christie is first and foremost a political animal," Mr. Rosenberg said. "He gave us the letter and didn't say anything about keeping it private, so of course we gave it to the media. The way he handled this he was freed of any responsibility for letting George Norcross get off of the hook."

But in an interview on Thursday, Mr. Christie said he was proud of his record. Since being appointed United States attorney in 2002, he said he had brought public corruption charges against nearly 100 people. He said he felt that the attorney general's office deserved a detailed explanation of why he was not pursing charges, since Mr. Harvey publicly referred the case to him in 2003.

Barry Unable To Identify 2 As Robbers (WP)

By Del Quentin Wilber

The Washington Post, January 27, 2006

Police investigating the armed robbery of D.C. Council member Marion Barry recently showed him photographs of two potential suspects, but he was unable to identify the men as his assailants, law enforcement officials said.

Last week, detectives showed Barry (D-Ward 8) collections that included photographs of two people they viewed as suspects in the Jan. 2 robbery, officials said. The arrays also included pictures of other people who are similar in appearance but not connected to the crime, the officials said.

Barry did not select anyone in the pictures. The two potential suspects were believed to have committed other robberies in the area and resembled the description that Barry provided of his attackers, the officials said.

Investigators are looking for others who might be responsible for the holdup, police officials said. The officials, who spoke on condition of anonymity because they are not permitted to discuss active investigations, said Barry has been cooperating.

Barry, 69, has told police that he was held up in his kitchen about 9:30 p.m. Jan. 2. He has said that two young men -- one whose name he believed was Marcus -- helped him carry groceries into his apartment in Southeast Washington and that he paid them several dollars. Several minutes later, they returned with a gun and stole his wallet and $600, Barry said. The billfold was found the next day on the street, police said.

Barry had said he believed that Marcus lived across the street. Police declined to say whether any of their suspects are named Marcus.

The former mayor, who became a council member last year, declined this week to discuss specifics of the investigation, based on the advice of his attorney and requests by police. But he addressed speculation that there could be more to the story than he is letting on.

"The thing that [makes me angry] is that some people say that this was a drug deal gone bad," Barry said in an interview at his council office Wednesday. "Why would I report that? That is just crazy. If it is a drug deal gone bad, you don't call the cops."

Barry is awaiting sentencing Feb. 8 after pleading guilty in the fall to misdemeanor tax charges in U.S. District Court. Soon after the guilty plea, he tested positive for cocaine use in a court-ordered drug test. Barry has battled drug addiction for years and spent six months in federal prison after he was convicted of a misdemeanor drug charge in 1990.

Echoing comments he made during a news conference a day after the robbery, Barry said he hoped his attackers turn themselves in. But, he said, he still does not want to see them prosecuted.

"Robbers and drug dealers are in trouble," Barry said. "Families and the institutions failed them. They need help. I want them helped."

Prosecutors and police -- not Barry -- will decide whether to bring charges. D.C. Police Chief Charles H. Ramsey said that he could not address Barry's case but that getting the cooperation of victims is critical to law enforcement.

"People who commit crimes should be prosecuted," Ramsey said. "If victims don't cooperate, there won't be trials. . . . If that is the case, these guys will do harm to other people."

Last year, police were unable to solve another crime reported by Barry. He told authorities that a woman had taken his wallet off his dresser early Jan. 2, 2005, police reports show. His automated teller machine card was used to withdraw $300 from an ATM, police said.

It was the third time that the ATM card was used without Barry's permission the previous year, bank officials told investigators, police said.

Police said detectives obtained a photograph from an ATM surveillance camera that showed a woman using the card. But they were unable to identify her and suspended the investigation.

Five Indicted In Investigation Of Scandal Over City Trucking Program (AP)

By Mike Robinson

AP, January 27, 2006

CHICAGO - Chicago's city clerk and four other men were charged Thursday in an eight-count corruption indictment as federal prosecutors pushed ahead with their investigation of payoffs and patronage hiring fraud in the city's government.

Those indicted included city Clerk James J. Laski, his political aide, Sam Gammicchia, and John Briatta, a former water department employee who is a brother-in-law of Cook County Commissioner John Daley. John Daley is Mayor Richard M. Daley's brother.

The inclusion of a Daley relative in the indictment brought the scandal deeper into the heart of the political organization that has dominated city government in Chicago for years - the inheritors of the once mighty Chicago Democratic Machine.

Laski and Gammicchia were charged last week in a complaint filed by federal prosecutors in U.S. District Court. Such a complaint is the usual forerunner of an indictment.

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The indictment added the names of Briatta, 46, Randy Aderman, 50, another former water department employee, and Michael Jones, 48, an employee of the city clerk's office who helped in running Get Plowed Inc., a company that got six years of payments from the Hired Truck Program.

The program has been described as designed to save taxpayer dollars by outsourcing city hauling work to private truckers. At its peak, it cost $38 million a year.

The program has been awash in corruption. Truckers have admitted paying city officials and contributing to the campaigns of their favored candidates to get work through the program.

Some of the firms that participated in the program have ties to organized crime.

In recent months, the investigation has expanded to include allegations that city officials defied a court order and fraudulently hired employees based on clout instead of merit.

The mayor's former patronage chief is among those under indictment. He is a member of a Democratic organization based on the 11th Ward southwest of downtown, the historic base of the Daley family, where John Daley remains the committeeman.

Neither John Daley nor the mayor has been accused of wrongdoing in the investigation.

Gammicchia attorney Alexander Salerno did not immediately return messages seeking comment.

Through his office, Aderman attorney Ronald Belmonte declined to comment. Briatta attorney Theodore Poulos said he would have no comment. Jones attorney Michael Ettinger sent word through law partner Mark Besbekos that he would have no immediate comment.

Laski attorney Anthony Pinelli said when the complaint was filed last week that Laski denies asking for or taking payoffs.

According to the indictment, Jones paid bribes to Laski and Jones and Aderman paid bribes to Briatta. It said Laski and Briatta accepted bribes to influence the awarding of Hired Truck Program business to Get Plowed Inc. It also said Laski and Gammicchia obstructed justice by seeking to influence a witness to testify falsely and mislead a federal grand jury.

The indictment said Laski solicited and accepted bribes from Jones in 2001, 2002 and 2003 and that in each of those years Get Plowed Inc. received more than $100,000 in city business.

The mayor fired the city's water commissioner and nine water department employees including Briatta last June when it was discovered that they had been recorded as being on duty at the city's Jardine Water Filitration Plant when they were not there.

The new indictment brings to 42 the number of those charged in the investigation thus far.

City Clerk, 4 Others Indicted For Corruption (CHIT)

By Todd Lighty And Matt O'connor, Tribune Staff Reporters

Chicago Tribune, January 27, 2006

City Clerk James Laski was formally charged Thursday along with a brother-in-law of Cook County Commissioner John Daley and two other city employees in the latest corruption indictment involving the city's Hired Truck Program.

Laski, who was first charged in a criminal complaint unsealed two weeks ago, solicited $50,000 in bribes for steering city trucking business to a lifelong friend who was charged Thursday for the first time, the indictment alleged.

The friend, Michael "Mick" Jones, and his wife, Traci, who wasn't charged, secretly recorded Laski while cooperating in the federal probe, according to court records. The Joneses both work for Laski in the clerk's office.

John Briatta, Daley's brother-in-law, who held a key dispatching post at the city's Jardine water filtration plant, pocketed $8,000 in bribes in 2003 for obtaining additional city business for Get Plowed Inc., which was once operated by Jones, the charges alleged.

Another former city employee, Randy Aderman, introduced Laski to Donald Tomczak, then the No. 2 official in the city's Water Management Department, who awarded Hired Truck work to Get Plowed at Laski's request, authorities charged.

Tomczak has been convicted in the probe and is cooperating with authorities.

Also named in Thursday's indictment was Salvatore "Sam" Gammicchia, a coordinator of Laski's campaign workers and a foreman of Cook County ironworkers. He had been charged with Laski two weeks ago.

Truck scandal keeps growing

The indictment brings to 42 the number of defendants charged in the probe of the scandal-scarred Hired Truck Program. More than half of them worked for the city.

Laski, 52, who has also been charged with obstruction of justice for influencing Jones' wife to mislead a grand jury, has publicly vowed to remain in office as he fights the charges.

Laski's lawyer, Anthony Pinelli, said Thursday that he planned to meet with Laski to decide what legal avenue to pursue. Laski was considering the indictment's impact on his family and his office, Pinelli said, but he hadn't made a decision about resigning his post, which he has held since 1995.

"He has to decide whether he can deal with this indictment and continue to effectively do his job," Pinelli said.

The indictment seeks the forfeiture of $50,000, the alleged bribery proceeds, from Laski, or his Chicago house if he can't come up with the money.

About three weeks ago, Laski and his wife borrowed $97,035 using their residence as collateral, according to records filed with the Cook County recorder of deeds.

"It was not done for purposes of dealing with these criminal charges but for his own personal finances," Pinelli said.

Attorney Theodore Poulos, who represents Briatta, and Ronald Belmonte, Aderman's lawyer, declined to comment on the indictment. Jones' lawyer, Michael Ettinger, was ill and unavailable for comment.

Gammicchia's lawyer, Alex Salerno, said his client, accused of warning Jones not to cooperate with federal agents, would fight the charges.

"He's a perfectly wonderful guy, and I can't imagine him threatening anyone," Salerno said.

John Daley was unavailable for comment, an aide said.

11th Ward is shaken

The federal investigation has shaken the 11th Ward political operation—home base for Mayor Richard Daley—that John Daley has run since he was appointed Democratic committeeman in 1980.

Bribe money from the Hired Truck scandal was directed to John Daley's ward organization, and the owner of a trucking outfit who bought his insurance from him has pleaded guilty in the bribes-for-work scheme.

Mayor Daley was out of town, but Jacquelyn Heard, his press secretary, called the indictment "regrettable at the very least."

"Unfortunately, no one can vouch for someone else's integrity, whether it is a trusted employee or your brother's brother-in-law," she said in a reference to Briatta, an acquaintance of the mayor.

Briatta, a former chief equipment dispatcher at the Department of Water Management's Jardine plant, was fired following an internal city investigation last year that uncovered a payroll scheme in the department. He and eight other workers falsified their pay records by having other people punch in for duty for them when they weren't present, officials alleged.

Secret recordings

The government's criminal case involves secret video and audio recordings. Jones recorded several conversations with Laski in 2005 while wearing an FBI wire during a meeting in the basement of Laski's home and during a late summer car trip to a Wisconsin resort the two took at Jones' suggestion, a source close to Laski said.

Jones sought Laski's help in about 1997 to get trucks into the Hired Truck Program, the charges alleged, and Laski in turn sought assistance for Get Plowed from an undisclosed "influential alderman."

A source close to the investigation said the alderman was Patrick Huels, Mayor Daley's City Council floor leader until he resigned in 1997 after admitting he borrowed $1.25 million from another Daley friend and contractor, Michael Tadin. Huels could not be reached for comment.

Jones allegedly paid Laski $500 in cash a month, later boosted to $1,000. The bribes took place for six years until the federal probe became public, authorities alleged.

In the criminal complaint filed two weeks ago, prosecutors spelled out in greater detail the alleged involvement of Jones, Aderman and Briatta, though none was identified by name at the time.

According to the complaint and sources, Aderman told Jones that he could get even more business for Get Plowed if he would pay $750 a month to Briatta.

Aderman told authorities that he believed Briatta met with Tomczak to get additional trucking business for Jones' company. Jones made inconsistent payments to Aderman, but Aderman told authorities that he regularly paid Briatta, according to the sources and court records.

Aderman also has cooperated in the government's investigation, court records show.

Laski, believing that Traci Jones was going to testify before a federal jury about the bribes, allegedly suggested Oct. 12 that she "might be too ill" to appear before the grand jury, the charges alleged.

Tribune staff reporter Ray Gibson contributed to this report.

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John Daley In-law Indicted (CHIST)

By STEVE WARMBIR, TIM NOVAK AND FRAN SPIELMAN, Staff Reporters

Chicago Sun-Times, January 26, 2006

Briatta — a brother-in-law to Cook County Commissioner John Daley — was charged Thursday with taking $8,000 in bribes from a trucking company that got Hired Truck work at the Water Department where Briatta was a top official.

The charge comes eight months after Briatta was fired from his job as chief equipment dispatcher for his alleged involvement in another scam. Briatta, who was paid nearly $100,000 a year, was accused with eight others of falsifying payroll records by swiping each other in and out.

Briatta was one of three new defendants added to the criminal case against City Clerk James Laski.

Laski and his political aide Sam Gammicchia were formally indicted Thursday, along with Briatta and two close friends of Laski, Michael Jones and Randy Aderman.

Aderman and Jones have been cooperating for months with investigators. Briatta is not.

Jones and Jones' wife work for Laski in the clerk's office and both secretly wore recording devices that captured Laski allegedly trying to cover up bribes he took to help Jones' trucking company between 1998 and 2003.

Laski and Gammicchia were charged in a criminal complaint, prosecutors announced earlier this month. The indictment released Thursday provided few new details of their alleged scheme. For the first time, though, prosecutors put a dollar figure on the amount of bribes Laski allegedly pocketed — $50,000 from Jones' company, Get Plowed Inc.

Laski is accused of taking $500 a month for each one of Jones' trucks he got into the Hired Truck Program. At some point, Laski allegedly got $1,000 a month in total.

Laski had no comment Thursday but has said he's innocent.

Jones also allegedly paid Aderman money to get Hired Truck business. Aderman worked in the water department and passed along money to John Briatta.

On Thursday, the mayor was out of town, but his press secretary Jacquelyn Heard said: "Unfortunately, you can't vouch for someone else's integrity. Whether it's a trusted employee or your brother's brother-in-law.

"It's certainly regrettable and hurtful at the very least, as it would be for anyone," Heard said.

John Briatta's attorney, Ted Poulos, had no comment on the case. Neither did Michael Ettinger, the attorney for Jones, or Ronald Belmonte, the lawyer for Aderman, who was first to cooperate in the Laski investigation.

Briatta, 46, lives a few blocks away from his brother-in-law, John Daley, in the Bridgeport neighborhood. Briatta, a resident of the 11th Ward, is politically active and a member of the mayor's controversial Hispanic Democratic Organization.

Briatta has been a city employee for decades, landing the job soon after his sister, Mary Lou, married John Daley in 1975. The wedding sparked controversy because Mayor Richard J. Daley's son was marrying the daughter of Louis Briatta, described in press accounts at the time as a Loop gambling boss for the mob.

Dentist In Court To Face Prostitution Charges (CBS2CHI)

CBS 2 Chicago, January 27, 2006

(CBS) CHICAGO A Chicago dentist was in court Thursday fighting accusations that are spicy enough to make your teeth rattle.

Apparently, Dr. Gary Kimmel is not rattled by federal prosecutors, who charge that he was padding his pockets in a prostitution scheme.

CBS 2's Mike Parker reports on the denials and the attorney who can't figure out what the big deal is.

There was a minor mob scene at the federal courthouse as Chicago dentist Gary Kimmel and his wife were surrounded by reporters and photographers.

"Why this case has garnered so much publicity is beyond me, but I guess it's an interesting and salacious story and its a juicy allegation," said defense attorney Joe Lopez.

The FBI is accusing Kimmel of providing Marina City condos and a fleet of expensive cars for an interstate prostitution ring.

Prosecutors also say Kimmel used his Streeterville office to provide dental care for prostitutes working for the operation.

In court Thursday, the judge released the dentist on an unsecured $100,000 bond after the dentist pled not guilty to all the charges.

"If it was going on, it was without his knowledge, without his consent and it was behind his back," Lopez said.

Kimmel has not been working at his office since he was charged. A receptionist said was taking time off for conferences and meetings he's attending.

The defense lawyer concedes that secretly recorded FBI audio tapes may be a problem for Kimmel. In one of them, the dentist seems to endorse an alleged pimp's plan to injure one of his hookers.

Dentist Charged In Prostitution Case 'outstanding Person,' Lawyer Says (AP)

AP, January 27, 2006

CHICAGO A Chicago dentist accused of supplying luxury cars to an interstate prostitution ring has been allowed to remain free on a 100-thousand dollar unsecured bond.Gary Kimmel appeared briefly today before a U-S magistrate judge, who set the

bond.Defense attorney Joseph Lopez told the court that Kimmel was an "outstanding person" who hadn't realized at first he was involved in an interstate prostitution ring.A January 18th indictment charged that Kimmel accepted more than 400-thousand dollars from two pimps to buy, finance, insure and maintain eleven cars.The case was part of a national investigation dubbed "Innocence Lost" by prosecutors that resulted in charges in December against alleged ring members in Michigan and Hawaii.

Ryan Trial On Hold As Witness Takes Personal Leave (CHIT/AP)

By Mike Robinson, The Associated Press

Chicago Tribune, January 27, 2006

George Ryan's racketeering and fraud trial was put on hold Thursday as the prosecution's last major witness took an emergency personal leave.

Jurors were told to take a four-day weekend and be ready for the former governor's trial to resume Monday, but prosecutors said it was unclear whether that could happen.

One major government witness remains to go on the stand -- FBI agent Raymond Ruebenson, the case agent who has long been at the heart of the government's seven-year Operation Safe Road.

Operation Safe Road began as an inquiry into bribes paid for drivers licenses and expanded into a full-scale investigation of political corruption in state government under Ryan.

Ryan, 71, and longtime friend Larry Warner, 67, are charged in a 22-count federal indictment with racketeering, mail fraud and other offenses.

Prosecutors say Ryan steered big-money state leases and contracts to Warner and other friends and got free vacations and gifts in return. Ryan and Warner deny any wrongdoing.

Ruebenson, who has been at the marathon trail almost every day for the last 17 weeks, took personal leave Thursday over a family matter.

Federal prosecutors had hoped to rest their case last Thursday. But that objective has been pushed back daily and now the government is hoping to rest next week if there are no more snags.

One or two more prosecution witnesses besides Ruebenson might have to be called for such technical purposes as identifying canceled checks being placed in evidence, prosecutors said.

With the jurors away, both sides bickered good naturedly Thursday over whether to admit into evidence a batch of canceled checks from Warner-owned companies and whether to show jurors a chart pinpointing times when Warner withdrew money from his accounts.

Ryan and Warner didn't attend, not much was decided and the hearing recessed for the weekend well before the noon hour.

Defense Assails U.S. Witness Who Forgets Key Dates (AJC)

By Ernie Suggs , Bill Torpy, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, January 27, 2006

Former Atlanta Mayor Bill Campbell's defense team warned it would be "loaded for bear" in cross-examining key prosecution witnesses, and the assault began Thursday.

Michael Sullivan, called by prosecutors as a member of Campbell's "inner circle," was the first target.

Sullivan, a former contract compliance director, testified that a contractor friend of Campbell's indicated to him that he had "bought" the former mayor.

Sullivan was later pounded relentlessly by defense attorney Jerry Froelich, who suggested federal authorities had "bought" Sullivan's testimony in exchange for not prosecuting him.

Unlike when he was questioned by the prosecution, Sullivan at time seemed stricken by amnesia. He did not remember when he got married, divorced or how much he made when employed by the city.

Such memory lapses drew snickers from the packed courtroom.

Campbell, 52, is charged with seven criminal counts, including racketeering, bribery and income tax evasion. He has pleaded not guilty.

The prosecution is trying to use Sullivan's testimony to show Campbell frequently was involved in awarding of contracts in exchange for favors.

Sullivan earlier testified how contractor Ricky Rowe, a close friend of the mayor, once described his relationship with Campbell.

"[Rowe] used the term when he referred to the mayor as 'That's my ho,' Sullivan said. When prosecutor Russell Vineyard asked what Rowe meant, Sullivan responded, "I took it that he meant he had bought the mayor — he owned the mayor."

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Sullivan, fired by Campbell in 1996 because of sexual harassment accusations, said Rowe, who died in 2004, told him he often gave the mayor cash while on gambling trips.

Under cross-examination, Froelich reminded Sullivan that during a 1998 interview with the FBI, Sullivan said the "ho" reference meant Rowe had access to Campbell — not to having bought him off.

Froelich used much of the afternoon to assail Sullivan's character, indicating that after he left the city he was on "the fix" in procuring certain contracts. He earned $7,500 as a "consultant" in helping a third party earn a $20,000 city contract.

Sullivan also became a consultant to United Water, a firm that in 1998 garnered a $21 million annual contract to run the city's water system.

He earned about $75,000 for a yearlong contract but said he had to give 35 percent to a female friend of Kevin Ross, who ran Campbell's mayoral campaigns. He said Ross, who testified earlier in the week, referred the company to him.

Sometimes, Sullivan testified, he funneled some of his cash payments to Herbert McCall, Campbell's former commissioner of the administrative services. "It wasn't the best judgment," Sullivan said. "In hindsight, I realized that." McCall was found guilty in 2003 of perjury and obstruction of justice.

Staff writer Jeffry Scott contributed to this article.

Campbell Lawyers Fight Witness (WXIA-TV)

By Jerry Carnes

WXIA-TV, January 27, 2006

Government prosecutors in the corruption trial of former Atlanta Mayor Bill Campbell continued their work on Thursday to prove an illegal relationship existed between Campbell and a city contractor.

During a combative morning at the federal courthouse in Downtown Atlanta, Campbell's defense team contended the evidence being used by the prosecution is flawed and fought to keep it from the jury. At issue was the testimony of former city employee Michael Sullivan, who worked as the city's contract compliance director.

Lawyers on each side argued over the validity of Sullivan's testimony that questioned the legality of Campbell's relationship with former city contractor Rickey Rowe. Rowe died during the federal investigation. Campbell's lawyers said that all testimony about Rowe should be kept out of court because Rowe isn't here to verify conversations that he may or may not have had.

In the end, U.S. District Judge Richard Story ruled that the testimony would be allowed.

On the witness stand, Sullivan testified that Rowe once bragged that he had financed gambling trips for Campbell, Atlanta's mayor from 1994 to 2002.

"He told me that he'd give the mayor cash on those gambling trips," Sullivan testified. Sullivan claimed Rowe even referred to the mayor as "my whore." Sullivan said, "I took it to mean that he owns the mayor." Other city employees said they felt pressured by Campbell to give city contracts to Rowe.

Campbell's defense attorneys hammered away at Sullivan's credibility, saying that he changed his story many times. They also pointed to Sullivan's own admission that he accepted money from a city contractor for himself.

Louisiana Tires Of Its Rogues (LAT)

By Miguel Bustillo, Times Staff Writer

The Los Angeles Times, January 27, 2006

NEW ORLEANS — Joseph Impastato conceded he took the two cashier's checks worth $85,000. The whole thing was captured on tape by the FBI, so it would have been difficult to deny.

But it was no kickback, the councilman from St. Tammany Parish said. It was business.

When he cut a deal to receive half the money from a government contract to haul away hurricane debris, Impastato said, he was acting as a private businessman, not a public official.

Federal prosecutors are not buying it — and neither apparently is the Louisiana public. After a federal grand jury indicted Impastato on felony extortion charges last month, making him the first Louisiana politician accused of Hurricane Katrina corruption, citizens condemned him in newspapers and on talk radio and the Internet as an embarrassment to his home state.

"He's got to be a real lowlife to do something like that at a time like this," Frank White, a 62-year-old retired fire captain from the suburb of Chalmette, said in an interview. "It's the Louisiana way of doing business, I guess. But there is a quiet majority now that's sick and tired of this. People are fed up with these crooks."

In Louisiana, which has a history of political shenanigans so rich and colorful that it has become a part of American folklore, people long have laughed off misbehaving politicians as a fact of life, every bit as inevitable as death and taxes.

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But as the state lobbies Washington for more money to rebuild ravaged towns and cities, citizens are realizing that Louisiana's well-earned penchant for dirty politics has exacted a steep price: It has badly damaged the credibility of the recovery effort.

"Frankly, the reputation in Washington is, if we send money down there, it will just get stolen," said political handicapper Charles E. Cook, a Louisiana native who has worked in the nation's capital for more than three decades. "It is a caricature of Louisiana politics that is not entirely undeserved but is grossly exaggerated. No one cared about it much before Katrina. But right now, it's hurting the state enormously."

A major turning point in public attitude came in 2001 when Edwin Edwards, the former four-term Democratic governor, received a 10-year sentence for taking bribes for riverboat gambling licenses. In the last governor's race, both candidates — Democrat Kathleen Babineaux Blanco beat Republican Bobby Jindal — were considered squeaky clean, and promised government reforms. The distaste for dirty government has really picked up momentum since last summer.

"What was tolerated before Katrina is not necessarily tolerated now," said pollster Silas Lee III, a professor at Xavier University here. "Nerves are raw. People have lost their sense of security and direction. They are living a day-to-day existence, and they have little patience for any politician who is perceived as being corrupt."

In addition to Edwards, in the last decade Louisiana has seen an attorney general, a congressman, a state Senate president, a federal judge and countless local officials convicted of corruption. Louisiana's last three state insurance commissioners wound up in prison for offenses that include lying to the FBI, accepting $2 million in illegal campaign contributions and taking bribes — prompting jokes that future candidates should make sure they look good in stripes.

Jim Letten, the U.S. attorney for eastern Louisiana and the lead prosecutor in the Edwards case, sees the convictions as a sign of progress. Wherever he goes, he said, he is greeted by people — black, white, Latino, Asian — who tell him Louisiana needs to clean up its act.

"I am not sure that Louisiana has measurably more corruption than other [regions], but surely we have a reputation for being tolerant of it," said Letten, a member of the Hurricane Katrina Fraud Task Force, a team of federal, state and local law enforcement officials investigating scams and corruption.

Until recently, Louisiana politicians proved that charisma trumped scruples. Their repeated election victories, despite corruption allegations in many instances, showed that Louisiana voters viewed the ethical transgressions of their elected officials as an amusing spectacle.

T. Wayne Parent, a political science professor at Louisiana State University and author of "Inside the Carnival: Unmasking Louisiana Politics," said citizens accepted corrupt politicians because they were effective in providing government services, and the cash they were pocketing was not believed to be taxpayer money.

"Maybe some politician was making a deal with the devil, but that was money from some oil and gas company, or so people thought. By the late 1980s, people realized, maybe it was our money," said Parent, who believes the change in attitude has been slowly building over the last quarter-century.

Huey Long, the Depression-era demagogue who dominated every level of Louisiana government by bullying or buying off anyone who got in his way, joked that "one of these days the people of Louisiana are going to get good government — and they aren't going to like it."

Known as the Kingfish, Long was impeached as governor in 1929 on charges of bribery and gross misconduct but narrowly avoided punishment — reportedly by bribing several state senators. Elected a U.S. senator in 1930, he was assassinated in 1935 in Baton Rouge by the son of a judge who was about to be gerrymandered out of a job.

Earl Long, his eccentric brother, kept the family's Democratic political machine running into the 1960s. He once remarked that Louisiana voters "don't want good government; they want good entertainment."

He served three terms as governor, spending some of the last term in a mental hospital, where his wife had him committed after he took up with Blaze Starr, a stripper.

Edwards, who survived two trials and 22 grand jury investigations in his four terms as governor, boasted that the only way he could lose was if he were "caught in bed with a dead girl or a live boy."

When he ran against former Ku Klux Klan leader David Duke, the Republican candidate, in 1991, Edwards supporters printed bumper stickers saying: "Vote for the crook. It's important."

The "crook" handily won. But he was eventually sent to prison for taking bribes after Eddie DeBartolo Jr., former owner of the San Francisco 49ers, testified that he had paid Edwards $400,000 to land a casino license.

Even now, during the state's ultimate hour of need, some Louisiana citizens say they could stomach a crooked politician — as long as he was competent.

"I'll tell you what, I'd take Edwin Edwards in a minute to get us out of this mess," said Gid Brill, 65, a tool salesman from Belle Chasse. "He might skim off $10 million for himself, but he'd know what to do with the rest of the money."

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Such attitudes do not go over well in Washington, where some Republican lawmakers speak of Louisiana as if it were a banana republic.

Sen. Larry E. Craig (R-Idaho), who sits on the pivotal appropriations committee which oversees all major spending bills, compared fraud in Louisiana to fraud in Iraq. During town hall meetings in his home state last year, he repeatedly said that Louisiana and New Orleans had "the most corrupt governments in our country."

State lawmakers last year sought $250 billion from Congress for recovery and reconstruction in a proposal criticized as a grab-bag of pork-barrel projects. President Bush said Thursday the federal government had approved $85 billion in aid to the Gulf Coast. Louisiana's congressional delegation has contended that is not nearly enough, and continues to press for more.

Sen. Mary L. Landrieu (D-La.) said that the corruption, while historically accurate, has been magnified by Republicans in Washington who do not want to help Louisiana. "I don't want to discount that the image carries the scars of our past. But we have emphatically turned the corner," Landrieu said.

Citing the corruption scandal in the nation's capital centering on GOP lobbyist Jack Abramoff, Landrieu added, "Republicans in Washington should clean up their own house before using Louisiana's past reputation an excuse for not wanting to rebuild the Gulf Coast."

Not surprisingly, Sen. David Vitter (R-La.) sized up the situation differently.

"It's not fiction — we have had some real corruption issues here in the past, and to some extent we still do today," Vitter said. "My colleagues in Washington want assurances that money is going to be spent wisely, given those issues, and I don't think it's too much to ask."

Government statistics indicate that Louisiana is one of the most corrupt states in the country. From 1995 to 2004, federal prosecutors won 310 corruption convictions involving public servants and citizens in Louisiana, said a report by the Public Integrity Section of the Justice Department. That was far from the highest total: California prosecutors logged 871. But California is a state of 36 million people, nine times the population of Louisiana.

In the last month alone, federal prosecutors have been busy bringing corruption charges against Louisiana public servants. Two sheriffs deputies who worked at a Gretna jail were sentenced last week after confessing to taking bribes — part of an ongoing federal probe dubbed "Operation Wrinkled Robe," which seeks to ferret out jail and courthouse corruption. The investigation already has resulted in the conviction of a former state judge.

Last Friday, a federal grand jury indicted a former New Orleans police officer caught driving a stolen pickup, one of about 200 Cadillacs and Chevys looted from a dealership after Katrina. Witnesses reported seeing officers drive away in the vehicles. A state grand jury is also investigating the case, along with other allegations of looting by law enforcement officers.

Brett Pfeffer, a former aide to Rep. William Jefferson, a New Orleans Democrat, pleaded guilty two weeks ago to bribing an unnamed congressman on behalf of a small telecommunications company. Jefferson has not been charged and has denied wrongdoing.

Impastato's trial is scheduled to begin next month. He pleaded not guilty Jan. 10 to federal charges that he extorted money from a businessman after helping him land a contract to remove debris. If convicted of the charge, as well as related counts of conspiracy and money laundering, he could face up to 20 years in prison.

The indictment said Impastato arranged with Lee Paul Mauberret of the Pontchartrain Chipping Yard to split the $200,000 contract. A relative of Mauberret's balked at paying the kickback, and Mauberret called the FBI, which set up the sting.

Impastato, 33, continues to serve his second term on the council in St. Tammany Parish, next to New Orleans on the north shore of Lake Pontchartrain. He declined to discuss the case when reached at Sal & Judy's, his family's Italian restaurant, where he makes a living running a business selling tomato sauces and olive oil.

His lawyer, Karl Koch, said Impastato did not "use his official capacity in any way" to enrich himself, and witnesses would testify that Impastato did a fair amount of the hurricane cleanup work himself. Impastato's critics said his actions — legal or not — set back the state's efforts to repair its reputation.

"Impastato should have avoided this at all costs. Especially given the current climate and attitude in Washington toward Louisiana," St. Tammany resident Dana Deris wrote on a blog carried on the New Orleans Times-Picayune website. "He IS guilty of furthering the negative image of Louisiana."

Outside a grocery store a few blocks from Sal & Judy's, Robert Keys, 72, shook his head.

"I'd love to be the judge on that one," said Keys, a 41-year resident of St. Tammany Parish. "A snake is going to take advantage of this opportunity right now, because there's a lot of money flying around loose. I guess the question is whether it was a legal shakedown or not. But either way, he's still a snake."

Who Stole Jackson Pollock? Painting's Owner Gives FBI A Name (PHI)

By Michael Rubinkam

DOJ_NMG_0012629

The Philadelphia Inquirer, January 27, 2006

ALLENTOWN, Pa. - The owner of a Jackson Pollock painting stolen from Scranton's Everhart Museum two months ago said he has forwarded the name of his No. 1 suspect to the FBI, and that the person has a connection to the museum.

The Pollock's owner is an artist formerly from northeastern Pennsylvania, whose paintings are featured in museums and private collections around the country. He spoke on condition of anonymity because he does not want to draw attention to himself, or to his own art collection.

The thief or thieves who broke into the Everhart on Nov. 18 swiped two artworks: an oil by Pollock that could be worth millions of dollars and a less valuable silkscreen by Andy Warhol.

Everhart spokesman Joe Palumbo said Thursday that museum officials don't believe the theft was perpetrated by anyone affiliated with the museum. "But then, to clarify that, they have no idea" who did it, he said.

The owner declined to say why he suspects the person whose name he gave the FBI, but said his information is based on official accounts of what happened and his knowledge of the museum's security.

An FBI spokeswoman confirmed the agency is investigating but declined to provide details.

The painting's owner said Thursday that he purchased the painting, created in 1949, from Pollock himself for about $1,000. The painting remained part of his personal collection for decades before he decided to lend it to the Everhart Museum more than two years ago.

Authorities have previously referred to the painting as "Springs Winter," but the owner said the correct name is "Winter in Springs."

"Winter in Springs" is not included in the catalogue of Pollock's known work, but Helen Harrison, director of the Pollock-Krasner House & Study Center, said that previously unheard-of works by the famed abstract expressionist have occasionally come to light.

The painting's owner said that for security reasons, he would never reveal the existence of a painting until he was ready to sell it or lend it. He said he owns other works by Pollock.

Although the 40-inch-by-32-inch painting has never changed hands, a similar work by Pollock sold at auction for $11.6 million in May 2004. Experts have said the Warhol, a 1984 silkscreen called "Le Grande Passion," is worth $10,000 to $15,000. The Warhol was part of the Everhart's permanent collection.

"Winter in Springs" wasn't insured, according to the owner and the museum. The owner said insurance on art is prohibitively expensive and that he doesn't know a private collector who has it.

Authorities have said that the thieves shattered a glass door at the rear of the Everhart to gain entry. They tripped motion sensors, but were gone by the time police arrived.

Surveillance cameras were not working. Even if they had been, the cameras are not set up to record images, Palumbo said.

The owner said he was recently summoned to testify at a grand jury session that was subsequently canceled. Palumbo said that to his knowledge, a grand jury has not been convened to investigate the theft. Grand jury proceedings are secret in Pennsylvania.

The Everhart never established the Pollock's provenance when it accepted the painting from its owner, but the FBI is going on the assumption that the painting is genuine, FBI spokeswoman Jerri Williams said. The FBI investigates stolen art only when it is worth $100,000 or more, or if it is at least 100 years old and worth $5,000 or more.

"We are pursuing it and attempting to identify who is responsible and, if possible, recover the artwork," Williams said.

Pollock, who created his abstract art by dripping and pouring paint on large canvasses spread on the floor, died in a drunken-driving crash in 1956 at the age of 44.

The Everhart, which specializes in natural history, science and fine arts, was founded nearly 100 years ago. It draws 15,000 to 20,000 visitors annually.

ON THE NET

Everhart Museum: http://www.everhart-museum.org

Former Beef Plant Operator Indicted In Federal Investigation (AP)

AP, January 27, 2006

OXFORD, Miss. -- Former beef plant operator Richard Hall has agreed to plead guilty to charges of mail fraud and money laundering related to the failure of the state-backed facility in north Mississippi.

The FBI and the U.S. attorney's office announced the agreement on Thursday.

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In federal court in Oxford and state court in Yalobusha County, where the plant was located, Hall pleaded guilty Wednesday to federal and state charges of mail and wire fraud as well as money laundering. No sentencing date has been announced.

Prosecutors said a plea agreement would bring Hall two concurrent eight-year prison terms.

Hall is the former operator of the Mississippi Beef Processors plant in Oakland. He admitted to converting $751,000 in public and corporate funds for private use.

The $43.5 million processing plant opened in August 2004 with 400 workers but closed three months later because of equipment failure.

Hall defaulted on a $35 million state-guaranteed loan.

Prosecutors said Hall also agreed to cooperate in the continuing investigation of the beef plant.

Hall's was the only indictment announced on Thursday by prosecutors.

Former Library Director Sentenced For Stealing Funds (MACT)

By Wayne Crenshaw

The Macon Telegraph, January 27, 2006

DUBLIN - The former director of the Ocmulgee Regional Library System was sentenced to four years in federal prison Thursday on charges that he stole library funds.

David C. Wilson must also pay $264,298 in restitution to the library system and a $75,000 fine, U.S. District Court Judge Dudley Bowen ruled at the end of a half-day hearing.

Wilson was library system director from 1982 until 1994, when the FBI and GBI began investigating suspicious expenses. He was convicted in October of five counts of theft and one count of witness tampering.

He routinely wrote checks of $250 and higher to himself for travel without anything to substantiate the payments, according to testimony in the trial. He also wrote salary supplements to himself into the budget without notifying the individual library boards.

Wilson was allowed to remain free on bond until notified of the date he is to report to prison, Bowen said.

The Ocmulgee Regional Library includes branches in Eastman, Cochran, Abbeville, Alamo, Hawkinsville and McRae.

In May 2004, the GBI executed search warrants on Wilson's home, the Eastman branch of the library and a farm Wilson owned in Dodge County. The investigation stemmed from a request by the Cochran Police Department.

For more on this story, see Friday's Telegraph.

Newton Man Sentenced To Prison In Fraud Case (BOS)

The Boston Globe, January 27, 2006

A Newton investment adviser was sentenced to 17 years in prison after pleading guilty to fraud charges, federal prosecutors said. T. Gene Gilman, 63, also was sentenced to two years of supervised release and ordered to pay unspecified restitution. According to the Justice Department, Gilman illegally diverted about $12 million of clients' money between 1998 and 2003 to two ventures he operated that eventually failed: a specialty eyewear marketer and a software design firm. Prosecutors said he sent false monthly statements to roughly 55 investors that misrepresented their money was in domestic securities. A Justice Department spokeswoman said a court proceeding will be held within 30 days to determine what assets of Gilman's might be available to compensate victims. (Ross Kerber)

Bloomington Man Gets 100 Years For Child Porn (INDYSTAR)

By Diana Penner

The Indianapolis Star, January 27, 2006

A Bloomington man who used two girls to create pornography that he sold on the Internet has been sentenced to 100 years in prison.

David Andrew Turner, 41, also collected at least 5,000 sexual photos and videos of other children.

Susan W. Brooks, U.S. attorney for the Southern District, which includes two-thirds of the state, said prosecutors wanted to ensure that Turner would never be free to prey upon children again.

"This is one of the most egregious cases that our office has ever seen," she said.

The sentence was the longest ever meted out for such a crime in the Southern District. Turner must serve at least 85 years of that sentence under federal guidelines.

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The two assistant U.S. attorneys who prepared the case, Gayle L. Helart and Steven D. DeBrota, have prosecuted about 125 child exploitation cases. Turner was sentenced Tuesday after a 2½-hour hearing in Indianapolis. He is being held at the Marion County Jail until the federal Bureau of Prisons determines where he will serve his sentence.

Turner pleaded guilty in August, but only after both victims had testified at his trial. The girls, identified only as Jane Doe and Mary Doe in court documents, were 12 to 15 years old during the three years Turner used them to create pornography -- from September 2001 to November 2004.

In sentencing Turner, prosecutors said U.S. District Judge David F. Hamilton considered that the defendant had put his victims through the ordeal of testifying before pleading guilty.

One of the girls is a close relative of Turner's, Brooks said, and the other was essentially homeless and viewed Turner as a father figure.

"He got them drunk. He got them high," Brooks said. On some occasions, the girls were so affected by drugs and alcohol when Turner photographed or videotaped them, DeBrota said, that they had no recollection of the events.

The investigation was started by the Bloomington Police Department, which collaborated with the FBI because Turner posted -- and sold -- pornographic images via the Internet. Investigators quit counting when they found 5,000 images. They believe Turner had several thousand more.

Brooks said the investigation showed that Turner, who was unemployed, was receiving about $1,000 a month from people who paid to get pornography from him.

In addition, local authorities are continuing to investigate a man photographed having sexual contact with the two girls. He is identified only as "John Doe, a friend and drinking buddy," in court documents. Brooks declined to elaborate on that investigation.

In court documents asking for the maximum penalty for Turner, prosecutors said one of the girls "has suffered from substantial drug and alcohol dependency problems" and "has been robbed of the right to grow up free from the malicious interference of adults in her adolescent development."

However, Brooks said, both girls now are in safe environments and doing better.

There's no question about the message the sentence sends, Brooks said.

"People who possess this type of trash," she said, "ought to think about spending the rest of their lives behind bars."

Getty Museum To Hold Talks In Rome On Disputed Art, Lawyer Says (BLOOM)

By Vernon Silver

Bloomberg, January 27, 2006

(The opinions expressed do not necessarily reflect those of Bloomberg.)

By Vernon Silver

Jan. 26 (Bloomberg) -- The J. Paul Getty Museum's new director, Michael Brand, will hold talks in Rome tomorrow with Italian Culture Ministry officials who are demanding the world's richest art institution return 42 allegedly looted antiquities in its collection, ministry lawyer Maurizio Fiorilli said.

The meeting will take place the day before the Getty reopens its Roman-style villa in Malibu, California, after a nine-year, $275 million renovation. The museum's former antiquities curator, Marion True, 57, is on trial in Rome on charges she acquired illegally excavated ancient art for the Getty.

Brand, who was named to the post last year as the Getty began an internal review of its antiquities-acquisition practices, will lead a delegation at the meeting, said Fiorilli, who said there is no room for compromise.

``They should return all the objects," he said, including 2,500-year-old vases and marble statues. ``The new director is taking a good initiative."

True, who denies the charges against her, says she acquired the objects in good faith. True obtained many of the disputed objects for the Getty in 1996 in a combined sale and gift by New York collectors Barbara Fleischman and her late husband, Lawrence.

Barbara Fleischman resigned from the Getty board yesterday, the Associated Press and Los Angeles Times reported today. Fleischman, who joined the board in 2000, didn't respond to earlier requests for comment on her collection and the Getty.

Neither the museum nor Fleischman is charged with any wrongdoing. Getty officials couldn't immediately be reached for comment on the Rome meeting.

Aphrodite, Hercules

True resigned in October after the museum determined she violated Getty policy by failing to disclose that an art dealer who supplied the museum helped her get a loan to buy a house in Greece. The Fleischmans also lent True money, the Los Angeles Times reported.

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Works disputed by the Italian government include Greek vases, marble sculptures, such as one of the goddess Aphrodite, and a Roman fresco depicting a mask of Hercules. The museum returned three disputed works to Italy last year.

The Greek government is seeking the return of four works from the Getty.

The Getty Villa was inspired by the Villa dei Papiri, an aristocratic Roman country house in Herculaneum destroyed in 79 A.D. by the same volcano that buried Pompeii. The villa was closed in 1997, shortly before the debut of the $2 billion Getty Center designed by Richard Meier in nearby Brentwood, which now houses the Getty's flagship museum as well as art-conservation and scholarly institutes.

The villa was revamped to show ancient art only, and enlarged with a series of new buildings. The museum's parent, the J. Paul Getty Trust, has an endowment of more than $7 billion.

Getty Director, Italian Officials To Discuss Antiquities Dispute (MERCN)

By John Rogers

The San Jose Mercury News, January 27, 2006

LOS ANGELES - The director of the J. Paul Getty museum was scheduled to meet Friday in Rome with Italian officials who have demanded the California museum return dozens of treasures Italian officials believe were stolen from their country.

Getty spokesman Ron Hartwig said Thursday the museum's director, Michael Brand, was leading a team of experts that would meet with "high-ranking officials from the Italian Ministry of Culture."

The Italian government has demanded the return of 42 items it believes were stolen, including a statue of Aphrodite that the Getty bought for $18 million in 1988.

"The Getty's objective is to develop a fuller sense of all the evidence available regarding the objects in question," Brand said in a statement released by Getty officials. "We want to be in a better position to continue our dialogue with the Italian government."

Hartwig said it was too early to speculate about what, if any, treasures the Getty might return.

"We're looking forward to working cooperatively with the Italian government to find solutions that satisfy both sides," he said.

He said the meeting was arranged through an exchange of letters with Italy's minister of culture that Brand began in mid-December, soon after he was appointed the museum's director.

The Getty Trust operates two museums, the Getty Center in Los Angeles and the Getty Villa in Malibu. The latter houses the 44,000 pieces that make up the museum's heralded antiquities collection. It is scheduled to reopen Saturday after eight years of renovations.

It has come under fire on the eve of its reopening amid allegations that dozens of its holdings may have been stolen. The museum's former antiquities director, Marion True, is on trial in Rome on charges of trafficking in looted artifacts.

Brand said during a pre-opening tour of the villa on Tuesday that the museum would hand over any objects determined to be the rightful property of someone else.

"Like any other museum, we've always returned works of art when they've come into question," he said.

ON THE NET

J. Paul Getty Trust: http://www.getty.edu/

2 Charges Tossed For 'Mafia Cops' (NYDN)

By JOHN MARZULLI

New York Daily News, January 26, 2006

The feds have quietly dropped two murder charges against reputed Mafia cops Louis Eppolito and Stephen Caracappa, the Daily News has learned.

Sources familiar with the government's strategy insist the evidence against the ex-NYPD detectives in those gangland killings is solid.

But a decision was made to streamline the indictment after Brooklyn Federal Judge Jack Weinstein warned prosecutors last June that he would not allow them to call 100 witnesses to testify as they had planned.

"Obviously a decision had to be made," one source said.

Deleted from the racketeering indictment is the May 1990 slaying of James Bishop, the former leader of Painters Union Local 37, whose cooperation with the Manhattan district attorney's office allegedly was leaked to the mob by Eppolito and Caracappa. He was found riddled with bullets in his car in Queens.

Also dropped from the case is the 1991 slaying of the late John Gotti's former bodyguard, Bartolomeo (Bobby) Borriello, who was gunned down in front of his Brooklyn home. His address allegedly was given to the mob by the cops.

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Sources said prosecutors will still ask the judge to allow evidence of the Bishop and Borriello murders into the case as uncharged crimes.

The feds contend Eppolito, 57, and Caracappa, 64, were kept on a monthly retainer for years by Luchese gangster Anthony (Gaspipe) Casso.

They are charged with leaking confidential information to the Mafia and participating in murders, as well.

With jury selection in their trial set to begin next month, Eppolito now stands charged with eight murders and Caracappa seven.

Eppolito's defense lawyer, Bruce Cutler, could not be reached for comment.

Attorney Edward Hayes, who is defending Caracappa said: "It doesn't make any real difference. Steve Caracappa's position is he didn't kill anyone."

'Mafia Cops' Prosecutors Drop Two Murders (NYNSDY)

By Anthony M. Destefano, Staff Writer

New York Newsday, January 27, 2006

With less than a month before trial, Brooklyn federal prosecutors slimmed down the indictment against the "Mafia Cops" by dropping two murders that were part of the racketeering conspiracy charged against the ex-cops.

A new indictment unsealed Thursday showed that prosecutors, seeking to simplify the trial, have decided to weed out the 1990 murder of union official James Bishop and the 1991 killing of one-time John Gotti crony Bartolomeo "Bobby" Boriello.

Former NYPD detectives Louis Eppolito, 57, and Stephen Caracappa, 64, have been charged with playing roles in as many as 10 homicides, including some while they were police officers, for members of the Luchese crime family. Some of the murders were believed to have been part of a scheme by former Luchese boss Anthony "Gaspipe" Casso to avenge a foiled assassination plot against him.

Bishop, an official of Painters Union Local 37, was killed because he was believed by the mob to have been an informant, said prosecutors. Investigators said Boriello was killed after Eppolito and Caracappa provided information to Casso that the Gambino soldier had threatened him.

Eppolito and Caracappa, who have denied the charges against them, are slated to go to trial Feb. 21 before Judge Jack B. Weinstein in Brooklyn federal district court.

The Bishop and Boriello homicides were dropped from the case to streamline the prosecution witness list. Last year Weinstein expressed doubts that he would allow prosecutors Mitra Hormozi and Robert Henoch to call as many as 100 witnesses.

As many as 10 potential witnesses now don't have to be called, said the source, who added that prosecutors will try to introduce evidence of the two killings as uncharged crimes if Weinstein allows it.

"Our defense is that Steve Caracappa is a hero, not a criminal," defense attorney Edward Hayes said Thursday.

Bruce Cutler, who is defending Eppolito, couldn't be reached for comment.

A Death Row Blogger's Advice For Life (WP)

By Eric Rich

The Washington Post, January 27, 2006

As Vernon Evans sat in his cell on Maryland's death row last spring, he had more to ponder than his own execution.

There was the lonely Brazilian who needed his advice, and a fellow from the District whose question deserved a reply, and a global audience tuned in to the wisdom of a man whose life was on the wane.

Evans was blogging from behind bars.

Vernon Lee Evans Jr. -- amateur advice columnist and convicted murderer -- is scheduled to die next month by lethal injection. He is one of the very few death row inmates to have a blog and, activists say, perhaps the only condemned man worldwide to use a blog to take questions from readers.

Activist Ginny Simmons started the blog in March and relayed the questions to Evans, who does not have Internet access. She stopped posting exchanges on the site in June out of concern that the exchanges could inadvertently harm his legal prospects. With his execution fast approaching, Simmons forwarded a backlog of questions to him last week and plans to post the fresh exchanges once she receives his replies.

Though defense attorneys in capital cases have long strived to remind judges and juries that their clients are human beings with lives beyond the crimes they are accused of, Evans's blog is the leading edge of a strategy by death penalty opponents to use new technologies to make the same point to the wider public.

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A coalition of activists in Canada maintains Web pages for about 500 death row inmates. Another group, Campaign to End the Death Penalty, began holding events in 1998 in which condemned inmates are patched through by speaker phone. The blogs are the latest experiment, and the activists say Evans's blog is the most novel and daring because readers can post questions.

"Part of the reason the death penalty is allowed to exist is that people don't acknowledge the fact that the people on death row are human beings," Simmons said.

Evans, 56, of Baltimore, was first sentenced to death more than two decades ago for the contract killings of potential witnesses in a federal drug case. He was convicted in the murders of David Scott Piechowicz, 27, and that man's sister-in-law, Susan Kennedy, 19, in 1983 at a hotel that Piechowicz managed in Pikesville.

Though she did not see the shooting, Evans's girlfriend testified at his trial that she saw him carry the gun into the lobby and saw it again -- still smoking -- when he came out. At a resentencing in 1992, Evans said, "It's not hard for me to say I am truly sorry for having been that type of individual that would take two innocent lives."

"His guilt is crystal clear, and I can't think of a more appropriate case for the death penalty," John Cox, one of the Baltimore County prosecutors handling the case, said in an interview.

On the blog, at http://www.meetvernon.blogspot.com , Evans in April assured Laura from Washington state that he was not the gunman, that he did not get a fair trial and that a lawyer told him before his resentencing in 1992 that his only shot at getting off death row was to show remorse. "Laura, I did not kill these people," Evans wrote.

In an exchange with Jay from New Hampshire, Evans reflected on prison life. "A man must find even in the worst things something good or positive to focus on," he wrote. "Sometimes if the forces are with you, blessing will come your way."

To the despairing Brazilian, a musician who had moved to Canada, Evans responded: "Listen to me, I am not always right, but listen to me anyway, and you might get something out of what I have to say. . . . You are young, and you should not have such fear when you are a talented young man."

Confronted with a question from Robert Trouts, who asked that he take his punishment "like a man," Evans wrote that "I have an education on how meaningful life is" and then seemed to strike a note of anger.

"Society dresses up and hires the justice system to kill for its revenge," he wrote in a portion of the response that was removed from the site yesterday. "I bet you are one of those people who would have been for slavery too."

A death warrant signed two weeks ago orders that Evans be executed during the five-day period beginning Feb. 6. Barring intervention by the courts or Gov. Robert L. Ehrlich Jr. (R), Evans will be put to death almost exactly two months after Maryland's last execution.

Some supporters of the death penalty say they find little of value in Evans's blog or in the larger effort to focus on the humanity of the condemned. "People can exchange notes with him if they want, but I don't think it really adds anything," said Kent Scheidegger, legal director at the Criminal Justice Legal Foundation, a group that supports legal execution. "The question is whether he deserves the punishment he was sentenced to, and I don't find much enlightening in these discussions."

In a world awash in personal narratives, where millions tune in to watch ordinary people do ordinary things on reality shows, the blogosphere has deemed an exchange with a man sentenced to die to be of limited interest. Fewer than 7,000 people have visited the site.

One of Evans's lawyers, Julie Dietrich, relayed this information to Evans by telephone yesterday. According to Dietrich, he responded: "I don't want to be judgmental about why people do things. In America, people have a comfort zone and try not to deal with anything that's too stressful."

Grandfather Grateful Carjackers Freed Girl (WP)

By Allison Klein

The Washington Post, January 27, 2006

Timothy Anderson carefully placed his granddaughter's lunchbox in the back seat of his Ford Expedition yesterday and buckled in the 3-year-old for their early morning trip to day care. He turned on the ignition, then realized that the door inside the garage of his Clinton home was not secured.

As he pulled the house door closed, he heard the engine in his Expedition rev. Then he saw a set of thieves making off with the vehicle, with granddaughter Sydney in the back seat.

Anderson, 46, ran after them, one thought in his head: "I've got to get my granddaughter back."

He sprinted after the truck as it raced out of the garage and driveway of his house in the 6300 block of Danner Drive and kept going about 150 yards east on Brandywine Road.

The truck then stopped, the back door opened and Sydney hopped out. She ran toward her panicked grandfather.

The whole episode took less than 30 seconds.

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"I don't think she realized she was in any danger; she wasn't crying," Anderson said yesterday afternoon. "She was wondering what I was so upset about."

Later, Sydney told him that one of the thieves unbuckled her, opened the door and ordered, "Get out."

Anderson's truck was one of four vehicles stolen between 6 and 7 a.m. yesterday in the Clinton-Brandywine area. His car was stolen at 6:30 a.m.

Prince George's County police say they believe a set of brazen thieves is targeting people who leave their cars running, a habit that police say is a serious problem in the county.

More cars are stolen in Prince George's than in any other jurisdiction in the state. Last year, police dedicated more officers to tackling the problem and educating the public. In 2005, about 14,300 cars were stolen, a drop of 8.3 percent from the previous year.

Now, if police see a car running with nobody in it, they will issue a $60 ticket.

The three other cars stolen early yesterday in the Clinton area had been left running and unattended as their owners warmed them up. Police spokeswoman Diane Richardson said that was not the case with Anderson.

"We don't believe the man with the child was being careless at all," Richardson said. "He was in his garage and went to pull the door shut. All he did was walk away from the car for a second."

The other cars stolen were a 2000 Chevy Malibu from the 5600 block of Symposium Way, an Oldsmobile from the 11200 block of Brandywine Road and a Honda Pilot from the 12400 block of Morano Drive.

The thieves left the Chevy Malibu on Morano Drive when they stole the Honda Pilot, Richardson said, a sign that they probably were stealing the vehicles for joy riding.

Anderson's charcoal-gray Expedition, with Virginia plates JGS-9685, has not been found, and the thieves have not been apprehended, Richardson said. Anderson said he did not get a good look at the people who stole his truck.

Anderson and his wife recently moved to Prince George's from Dumfries. He said he moved because it was easier for him to get to his job as a technician for Lockheed Martin at the Pentagon.

He was feeling lucky yesterday afternoon that he had Sydney back. He and his wife were babysitting for her and her 2-month-old brother while their parents were out of town on business. He immediately called and told them what had happened.

"They were happy to hear their baby is okay," Anderson said.

He said the near miss will have an effect on him for a long time.

"It could have been prevented," Anderson said.

"I'll do things a lot differently. I will not leave my granddaughter unattended for a split second."

Scene Set In Day-Care Shooting (WP)

By Ernesto Londoño

The Washington Post, January 27, 2006

Moments before an 8-year-old boy shot another child at their day-care center this week, he told her to "give me your money," a prosecutor said yesterday.

"What do you want? Nickels, dimes or pennies? I'm broke," the 7-year-old girl responded, according to the prosecutor. Then a bullet from a .38-caliber revolver pierced her upper right arm.

Montgomery County Assistant State's Attorney Karyn McAuliffe provided that account of Tuesday's day-care center shooting in Germantown during an afternoon bond hearing for the boy's father. Prosecutors said the account was based on the police investigation, but they would not elaborate.

The father, John Linwood Hall, 56, insisted in court that he did not teach his son how to use the revolver. "That is not true. That it not true. That is not true. That is not true," Hall blurted out during the hearing in Rockville as McAuliffe argued that the boy has been "dangerously influenced" by his father.

Hall, 56, a maintenance worker at the National Institutes of Health, was charged with five weapons offenses after his son shot the girl shortly before 7 a.m. in a room where they and four other children were watching a movie on television. The incident occurred at the For Kids We Care day-care center at the Northlake apartments in the 12600 block of Grey Eagle Court.

The boy, a third-grader at Cedar Grove Elementary, has been charged as a juvenile with assault, assault while in possession of a firearm and reckless endangerment, among other counts.

The boy shot the Taurus revolver while it was still in his backpack. One of the five bullets in the gun tore through the backpack and penetrated the girl's arm. The victim, who has not been identified by police, was released Wednesday night from Children's Hospital in the District.

Prosecutors said they do not believe that the girl, a second-grader at S. Christa McAuliffe Elementary School, was targeted. They said it remains unclear to what extent the shooting was accidental.

Law enforcement sources said the boy told classmates last Friday after a fight that he had easy access to guns. But they said they are not sure what he planned to do with the gun that day. The two children involved in the shooting were dropped off at the day-care center before the start of school.

Based on the police investigation, McAuliffe said the boy has made profane and threatening statements in the past.

"[Expletive] the police," McAuliffe quoted the boy as saying. "What the [expletive] can they do to a kid, anyway? I'll shoot 'em."

According to McAuliffe, the boy said another time: "Phase 1: Get weapons. Phase 2: Kill the hillbilly."

McAuliffe did provide more context for those statements. She argued that Hall, a felon with a lengthy criminal history, was aware of his son's violent nature and should not have left a revolver at his disposal in the bedroom they shared. Hall denied that the weapon was kept there.

The prosecutor also said investigators found photographs of guns in the apartment and learned that the boy had access to "very violent video games." According to a police source, two of those video games are "50 Cent Bulletproof" and "187: Ride or Die." The Washington Post agreed not to identify the source because the case remains open.

"Bulletproof," released last fall, depicts rapper 50 Cent in a bloody New York underworld overrun with gangs and crime syndicates. Survival in the game requires shooting nearly anyone who gets in his way. The game costs about $50. "Ride and Die," an older game with a similar premise, is based in Los Angeles.

Darlene Hall, the boy's aunt, said her brother has been a positive influence on the boy, who she described as deeply troubled. She said the boy denied that his father taught him how to use guns.

"He beat on the desk and said: 'No, my father didn't do that. I learned it from 50 Cent,' " Darlene Hall said, describing how the child acted during a hearing on Wednesday that was closed to the public. She was present at the hearing.

John Hall asked Montgomery County District Judge Louis D. Harrington for a personal recognizance bond during yesterday's hearing.

"I need a personal bond so I won't lose my child," he told the judge. "I need my child."

Harrington set bond at $50,000 for the two charges before the court yesterday. Hall is also being held on $75,000 bond for three other weapons charges police filed this week.

Harrington barred Hall from having contact with his son as part of the terms of his release if he managed to post bond.

Hall told Harrington that he would show up for court. He has been employed for almost 15 years and has not been convicted of a crime in about 17 years.

"So, when do you pay your debt to society?" Hall asked rhetorically. "I've served my time."

Abuse Sentence Raised (WT)

The Washington Times, January 27, 2006

BURLINGTON, Vt. (AP) -- A judge vilified as soft on crime by Web loggers, TV commentators and politicians for giving a child molester just 60 days in jail increased the sentence yesterday to three to 10 years behind bars.

Vermont District Judge Edward Cashman said he decided to impose the longer sentence because state officials reversed course and agreed to provide sex-offender treatment to Mark Hulett in prison.

When the judge imposed the original sentence on Jan. 4, Hulett had been ruled ineligible for treatment until he got out of prison. Judge Cashman said the lighter sentence was the only way to ensure that Hulett got prompt treatment.

Hulett, 34, pleaded guilty to charges that he had sexual contact with a girl during a four-year period, beginning when she was 6.

After handing out the original sentence, Judge Cashman was attacked by commentators on TV and the Internet. On Fox News, Bill O'Reilly told viewers as video of Judge Cashman rolled, "You may be looking at the worst judge in the USA."

Vermont Gov. Jim Douglas called on the judge to resign, and several lawmakers demanded his impeachment.

A Zogby International poll taken after the first sentence was imposed showed that 92 percent of American voters opposed it.

In his latest order, Judge Cashman remained firm in his belief that sentences must be concerned with more than just punishment.

"The court agrees a punitive response -- punishment -- is a valuable and necessary component of society's response to criminal conduct," he said. "It is a tool that the court has routinely used for the past 24 years on the trial bench. As stated during the sentencing hearing, however, punishment is not enough of a response in some cases."

The governor said he considered the new sentence still too lenient.

"It's 18 times 60 days, so it's certainly an improvement," Mr. Douglas said. "Personally I think it's inadequate for a crime of that magnitude, but it is certainly better than the first decision."

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Attorney General William Sorrell said he had wished for more than three years "as a message to other would-be offenders." But he praised the judge for being "big enough to change course."

Hulett will have to serve at least three years behind bars. Once he gets out, he will spend the rest of his life on probation or parole.

"I think it is fair," said his lawyer, Mark Kaplan. "I think it makes sense under the circumstances."

The families of Hulett and the victim left the courtroom without comment.

State Rep. Peg Flory, the House Republican leader, said it is too early to say whether Republicans will drop their resolution calling on the judge to resign.

"I want to read what the decision is before I say," she said.

The Corrections Department initially decided not to offer Hulett treatment behind bars because it concluded that he was unlikely to commit another sex offense. After the furor, however, Vermont's human services secretary ordered the department to change its policy to allow low-risk sex offenders to receive treatment in prison.

Inmate Wounds Guard In Hospital (WT/AP)

By David Dishneau

The Washington Times, January 27, 2006

HAGERSTOWN, Md. -- A hospitalized state prison inmate shot and critically wounded the correctional officer guarding his room yesterday, then used the officer's gun to force a cabbie to drive him on a chase that ended with the inmate's arrest, state police and prison officials said.

The 44-year-old officer was in critical condition at Washington County hospital, where the attack occurred at about 5 a.m., authorities said. They said he was shot in the face but gave no other information about his injuries.

"He's fighting for his life," Maj. Priscilla Doggett, a state Division of Correction spokeswoman, said.

Prison officials said the officer is from Martinsburg, W.Va., but they declined to name him, citing his family's request for privacy. He is a four-year veteran of the Maryland prison system, married with four children and a stepson, prison officials said.

Corrections Commissioner Frank C. Sizer Jr. identified the inmate as Brandon Morris, 20, who was serving an eight-year sentence at the nearby, medium-security Roxbury Correctional Institution for assault, robbery and handgun violations in Baltimore.

Morris was being moved yesterday afternoon from the state police barrack in Hagerstown to a prison and has not yet been charged in the attack, Maryland State Police Sgt. Thornnie Rouse said.

Mr. Sizer said Morris was admitted to the hospital Wednesday for an undisclosed medical condition.

Department policy in such situations requires that an inmate wear either handcuffs or leg restraints and be secured to the bed, Maj. Doggett said. She said she thinks the policy was being followed in Morris' case.

"The normal procedure is that he is attached to the hospital bed with the restraint device," Mr. Sizer said.

He said he didn't know how Morris got free from the bed and obtained the officer's gun.

The officer was working the 11 p.m. to 7 a.m. shift, Mr. Sizer said.

The officer had reported at the start of his shift and again at 2:55 a.m. that everything was in order. The shooting was reported by a hospital employee, Mr. Sizer said.

Sgt. Rouse said police were alerted by a 911 call at about 5:15 a.m. They learned that the inmate had carjacked a taxi cab outside the hospital emergency room after failing to get car keys from a woman visiting another patient.

Police pursued the cab at about 40 mph on U.S. 11 to State Line, Pa., about 5 miles north of Hagerstown, where the vehicle crashed and Morris fled on foot back into Maryland, Sgt. Rouse said.

Police arrested Morris in an industrial park north of Hagerstown, he said.

"We credit the taxi cab driver with maintaining an open mike, if you will, and allowed officers to hear the chase route," Sgt. Rouse said.

The cabdriver wasn't hurt in the crash, Sgt. Rouse said.

Hospital spokeswoman Maureen Theriault said patient care wasn't affected by the incident.

The attack came three weeks after 17 inmates assaulted three officers with chairs and the guards' pepper spray at the maximum-security North Branch Correctional Institution near Cumberland.

One of those officers is recovering from a head injury that required surgery and a hospital stay.

The Roxbury Correctional Institution is a 721-bed medium-security prison for men that opened in 1983. It is near two other state prisons in Hagerstown, the Maryland Correctional Institution-Hagerstown and the Maryland Correctional Training Center.

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CIVIL LAW:

ChoicePoint To Pay $15 Million To Settle Consumer-Privacy Case (WSJ)

By Christopher Conkey And Ann Carrns

The Wall Street Journal, January 27, 2006

Commercial data broker ChoicePoint Inc. agreed to pay $15 million to settle charges it violated consumer privacy rights, resolving one of two federal probes stemming from the company's disclosure last year that it inadvertently sold sensitive personal information on 163,000 people to criminals.

Under terms of its settlement with the Federal Trade Commission, ChoicePoint will pay a $10 million penalty to the government and $5 million to compensate roughly 800 individuals who the FTC says became identity-theft victims as a result of the lapse. The $10 million fine is the highest ever levied by the FTC.

ChoicePoint, based in Alpharetta, Ga., also must revamp the way it screens customers, implement new information-handling procedures and obtain independent security audits every other year until 2026. FTC Chairman Deborah Platt Majoras said the agreement provides "an opportunity for ChoicePoint to get data security right." She also said that to reduce fraudulent access to its vast database, company representatives will visit most subscribers to check who is using its services.

ChoicePoint didn't admit to any wrongdoing in the FTC investigation, but said it reached agreement because it wanted to avoid prolonged litigation and move forward. "I'm confident the settlement is the right thing to do," said ChoicePoint President Douglas Curling.

The settlement and fallout from the security breach hurt the company's bottom line. ChoicePoint yesterday said fourth-quarter net income fell 29% to $27.7 million, or 30 cents a share, from $39.2 million, or 43 cents a share, a year earlier. The company took an $8 million pretax charge for the FTC settlement and another $5.3 million in charges for other costs, including legal expenses related to the breach, which overall crimped profit by 14 cents a share. For the full year, ChoicePoint said net income fell 4.9% to $140.7 million, or $1.53 a share, from $148 million, or $1.62 a share, the prior year.

In 4 p.m. New York Stock Exchange composite trading yesterday, ChoicePoint shares sagged $3.35, or 7.2%, to $42.95.

The probe stemmed from a September 2004 incident in which the company failed to verify the identity of a client it provided with personal information, which the FTC says included credit histories, on roughly 163,000 individuals. The client provided fake company names, phone numbers and mailing addresses in California, and was in fact a Nigerian national involved in an extensive fraud ring. When the security breach was discovered, the company notified authorities as required by law, but didn't inform affected consumers until February 2005.

The announcement, which was quickly followed by breach notices from fellow data broker LexisNexis and Bank of America Corp., prompted an outcry for stronger consumer protections. About 25 states have passed laws forcing companies to disclose breaches to consumers, while 12 allow certain consumers to freeze access to their credit reports, and Congress is weighing a variety of federal remedies.

Despite ChoicePoint's desire to put the breach behind it, the FTC settlement doesn't remove all the clouds hanging over it. Aside from legal costs, the company still faces an investigation by the Securities and Exchange Commission into trading in ChoicePoint stock by Mr. Curling and Chief Executive Derek Smith prior to the company's disclosure of the breach. The two realized a combined profit of $16.6 million from selling company shares in the months after it learned of the breach. The company has said the sales were proper and part of a pre-approved plan. A ChoicePoint spokesman said that neither Mr. Smith nor Mr. Curling was available late yesterday to comment on the SEC inquiry. The spokesman noted that Mr. Smith has said he expects the outcome of the inquiry to be "favorable" to himself and ChoicePoint.

ChoicePoint To Pay $15 Million To Settle Charges Fine Stems From Consumer Identification Data Breach (USAT)

By Jon Swartz

USA Today, January 27, 2006

SAN FRANCISCO — In the largest civil fine levied by the Federal Trade Commission, data broker ChoicePoint has agreed to pay $15 million to settle charges it did not properly protect consumers' personal financial information, the FTC said Thursday.

The FTC fined the company $10 million and said ChoicePoint would pay an additional $5 million to compensate consumers. The FTC says about 800 people have been victimized by identity theft stemming from the breach, but more would be eligible for compensation as cases arise. The FTC says it is establishing a fund and will develop a plan to get compensation

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to victims. ChoicePoint, citing the Los Angeles County district attorney, says there have been only 16 known instances of ID theft.

The hefty fine sends a strong message to companies that handle the data of millions of Americans, privacy experts say. In the first of several high-profile data breaches disclosed last year, ChoicePoint — which stores about 19 billion records for insurance companies, financial institutions and others — acknowledged that more than 163,000 personal records had been compromised.

At least 130 reported breaches exposed more than 55 million Americans to ID theft last year, sparking consumer advocates' calls for federal oversight of loosely regulated data-brokers.

The settlement requires ChoicePoint to install new procedures so consumer reports are used only by legitimate businesses for lawful purposes. It also must create an information-security program, to be audited by an independent security professional every other year until 2026.

“Consumers' private data must be protected from thieves,” FTC Chairman Deborah Platt Majoras said.

ChoicePoint revealed in February that its massive database of consumer information was accessed by thieves posing as small-business customers. ChoicePoint collects such data as Social Security numbers, birth dates and addresses.

“It wasn't the largest breach, but it showed a stunningly sloppy business model,” consumer advocate Ed Mierzwinski says.

The company, also the subject of a pending Securities and Exchange Commission probe, did not admit to wrongdoing in the FTC investigation. It says it is has hired an independent privacy officer and taken other steps.

The SEC is examining stock trades by ChoicePoint CEO Derek Smith and Doug Curling, chief operating officer, that netted them $16.6 million after the company learned of the breach but before it was made public. ChoicePoint says it was asked by law enforcement to delay its announcement while the matter was investigated. It says the trades were prearranged and approved by its board, and it is cooperating with the SEC.

Record Fine For Data Breach (WP)

By Arshad Mohammed

The Washington Post, January 27, 2006

Data broker ChoicePoint Inc. yesterday agreed to pay a $10 million federal fine over security breaches that exposed more than 160,000 people to possible identity theft. Privacy experts praised the settlement as a warning to companies to get more serious about protecting sensitive information.

The Alpharetta, Ga.-based company, one of the nation's largest buyers and sellers of personal information such as Social Security numbers, birth dates and addresses, also agreed to pay $5 million into a fund to compensate people who suffered as a result of the breaches.

The Federal Trade Commission, which said the fine was the largest civil penalty it had ever imposed, said ChoicePoint violated consumers' privacy and breaking federal laws by mishandling the information and misleading people about its privacy policy.

ChoicePoint said it did not admit to any of the FTC's charges but was happy to have resolved the matter.

The ChoicePoint case has galvanized public concerns both about the ease with which personal information can be bought and sold and about the lax security procedures at data brokers that last year alone led to security breaches affecting tens of millions of people.

ChoicePoint told about 145,000 people in February that their personal information was obtained from the company by suspected criminals who masqueraded as legitimate businesspeople. Later in the year, it told another 17,000 people that information such as their names, addresses, dates of birth, Social Security numbers and summary credit information had been compromised.

The FTC said the incidents led to at least 800 cases of identity theft, which has been the top type of consumer complaint logged by the agency for the past six years.

Privacy experts said the FTC settlement, which required ChoicePoint to tighten its security procedures and to submit to outside security audits for the next 20 years, was designed to remind companies in the growing business of selling personal information that they must do more to protect consumers.

"It sends a big signal," said Peter Swire, a law professor at Ohio State University who was the Office of Management and Budget's chief counselor for privacy during the Clinton administration. "All major companies that handle personal information will see that the bar is being raised."

Consumer advocates say the prevalence of identity theft in part reflects the failure of many information brokers, retailers and credit issuers to adequately protect records or to do enough to stop criminals who seek them by verifying their identities.

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As a part of the settlement, ChoicePoint agreed to take steps to ensure that it provides consumer reports only to legitimate businesses, and it will create an "information security program" to protect the personal information it collects on people.

"The message to ChoicePoint and others should be clear: consumers' private data must be protected from thieves," FTC Chairman Deborah Platt Majoras said in a statement.

"I am gratified we were able to work with the FTC and reach an agreement that protects all parties and am even more pleased that we can now put this chapter behind us," ChoicePoint chief executive Derek V. Smith said in a statement, adding that the company had already begun carrying out nearly all the policy changes demanded by the FTC.

The settlement was announced as ChoicePoint released its fourth-quarter profit, which fell to $27.7 million (30 cents a share), from $39.2 million (43 cents) a year earlier. Revenue rose to $257.9 million from $232.5 million. The company took a charge of about $8.8 million in the quarter because of the settlement with the FTC.

U.S. Settles With Company On Leak Of Consumers' Data (NYT)

By Tom Zeller Jr.

The New York Times, January 27, 2006

The Federal Trade Commission announced yesterday that it had reached a $15 million settlement with ChoicePoint Inc., the commercial data broker that disclosed last February that thieves had duped the company into turning over private data on more than 145,000 people.

That revelation touched off a year of national debate over data privacy and security and generated a raft of tough new state laws on data security as well as several bills in Congress.

The settlement includes $10 million in fines — the largest civil penalty ever imposed by the agency — as well as $5 million in consumer compensation, stemming from accusations that its handling of consumer data and its inadequate security procedures amounted to violations of consumer privacy rights and federal law.

The company, based in Alpharetta, Ga., will also be required to overhaul its security program — something already well under way, the company said yesterday — and submit to independent audits of its procedures every two years for the next 20 years.

The settlement does not constitute an admission of wrongdoing.

"We think this is an important settlement," said Lydia B. Parnes, director of the Bureau of Consumer Protection at the F.T.C.

"The No. 1 point of this case is that companies that maintain sensitive personal information must employ reasonable safeguards," Ms. Parnes said. "That should be fundamental in this day and age."

Chris Jay Hoofnagle, senior counsel with the Electronic Privacy Information Center, a Washington-based digital rights group, who has testified before Congress on the issue of data security, was more optimistic. "Certainly, from our view we think it's an important settlement, and it makes it clear that companies have to take information security more seriously," Mr. Hoofnagle said, "but the commercial data broker problem isn't solved."

The F.T.C. ultimately said that records of more than 160,000 consumers were compromised in 2004 when con artists masquerading as legitimate businesses were granted access to ChoicePoint's vast troves of consumer information — including names, Social Security numbers, address histories and dates of birth.

The company's revelation generated what seemed an avalanche of subsequent disclosures at companies, universities, hospitals and other institutions that handle personal data.

It also shed a spotlight on a data-broker industry that until recently had gone largely unnoticed and unregulated.

In its complaint against ChoicePoint, the F.T.C. claimed that the company did not have "reasonable procedures" in place to screen would-be subscribers to its databases and that in this case, the applications for access made by the fake businesses should have raised "obvious red flags."

The company did not, for instance, raise questions when an apartment number or a commercial mail drop was given as a business address, or when cellphone numbers were provided as a "business's sole telephone number," according to the agency's complaint. Multiple applications from nominally different businesses arriving from the same commercial fax number also did not prevent the applications from the fake companies from being approved, the commission charged.

The sloppiness ultimately allowed the most highly regulated data that ChoicePoint holds — credit histories — to fall into the hands of the fraudulent businesses. That put the company in violation of the Fair Credit Reporting Act, which more typically governs the financial and consumer credit reporting industries, and opened it up to record-setting penalties.

"We certainly support the settlement, and we believe its provisions are the right things to do and in the spirit of the changes we've already been making over the last year," said James Lee, the chief marketing officer of ChoicePoint. "We also believe it's in the best interests of everyone to put this behind us."

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The company has already drastically scaled back the roster of clients to whom the most highly confidential data are marketed and it has bolstered its scrutiny of prospective subscribers seeking access to personal consumer information. That includes sending ChoicePoint representatives to visit any new business subscriber wanting access above a certain level, Mr. Lee said, to verify that the "business" is not simply a fax machine at Kinko's.

"If it's going to involve any kind of sensitive personal information, you're going to get a site visit," Mr. Lee said.

Mr. Lee added that ChoicePoint has "a different view of the facts and the conclusions" arrived at by the Federal Trade Commission. "But at the end of the day that doesn't really matter," he said.

Asked where the company and the agency differed, he offered as an example the F.T.C.'s assertion in its announcement that at least 800 consumers had become victims of identity theft as a direct result of the ChoicePoint data breach. Mr. Lee said he was aware of only 16 confirmed cases.

Ms. Parnes of the commission said the $5 million for consumer compensation would be held in an account and distributed to people who can demonstrate real damages suffered as a result of the ChoicePoint breach.

She expected that more than 16 would qualify.

"Maybe the bigger point here is we'll all soon see," she said.

Senator Charles E. Schumer, a Democrat from New York, who, along with Senator Bill Nelson, a Democrat from Florida, introduced one of the most comprehensive data security bills last year, thought the settlement was not punitive enough.

"While ChoicePoint has made efforts to atone for its wrongdoing, a light penalty like this says to other wrongdoers that acts like this are just the cost of doing business," Mr. Schumer said, "and we can't tolerate that kind of attitude."

CIVIL RIGHTS:

SIU Fellowships May Be Changed (CHIT)

By Jodi S. Cohen, Tribune Higher Education Reporter. Tribune Staff Reporter Rudolph Bush Contributed To This Report

Chicago Tribune, January 27, 2006

Facing pressure from the U.S. Justice Department, Southern Illinois University officials are considering changes to three minority and female fellowships that the government has charged discriminate against white and male graduate students.

University administrators discussed the possible changes, proposed by the government last week, with student and faculty leaders at closed-door meetings Wednesday.

Though negotiations are continuing, a university Web site already says that the fellowships have been "extensively revised" and are open to a broader group of students. University officials said the Web site changes weren't authorized.

The board of trustees will likely decide whether to accept the government's proposals within the next few weeks, a move that would delay a threatened lawsuit.

"The board will soon be arriving at a decision based on these meetings and feedback as well as advice and direction from the general counsel," said David Gross, SIU's executive assistant for government, media and external affairs.

The possible changes would not affect students already in the programs but could make all students eligible for the fellowships, which have historically been offered only to racial minorities and women.

In a Nov. 4 letter to the university, the Justice Department threatened to sue the university if the programs weren't changed within a week. A lawsuit has not been filed, and the two sides instead have been negotiating a settlement.

The government has charged that the three graduate student fellowships, which include stipends to work in academic departments, violate Title VII of the Civil Rights Act of 1964. The act bars employment discrimination based on race, religion, sex or national origin.

"The department is currently in settlement negotiations with the university, and we hope to resolve our differences without resorting to contested litigation," said Justice Department spokesman Eric Holland.

The lawsuit threat came more than two years after the U.S. Supreme Court ruled that universities can consider race in college admissions, but only among other factors. The court didn't specifically address whether race could be considered in scholarships and fellowships, many college officials around the country decided to remove restrictions on programs previously reserved for African-American, Latino and other minority students.

At SIU, the three contested fellowships are being challenged under federal employment law because they include money for graduate students to work in academic departments.

One of the programs, the Bridge to the Doctorate Fellowship, funded by the National Science Foundation, rotates among universities and will not be offered at SIU next year, Gross said.

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The Proactive Recruitment of Minority Professionals for Tomorrow fellowship, or PROMPT, had been intended to "increase the number of minorities receiving advanced degrees" in areas of study they haven't historically pursued, according to a description of the program. The Graduate Dean's Fellowship has traditionally been for women and other underrepresented students.

Since 2000, 78 PROMPT fellowships and 27 Graduate Dean's fellowships have been awarded, Gross said. No white men have participated, according to the Justice Department.

But a university Web site about the fellowships, revised in recent days, said that they "are now open to individuals whose personal or family background, life, cultural, and/or ethnic experiences could contribute to a more reflective responsive environment."

The Web site also said the application deadline had been extended to Feb. 17 to "allow interested students to apply under the new guidelines."

"The Web site change was not authorized. We believe an administrator may have made an assumption," Gross said. "The language on the Web site does not reflect the proposal from the Justice Department."

Several people who attended Wednesday's meetings said they were told not to talk about the possible changes.

"It is disappointing to me that I am not allowed to talk about something that is so important," said professor Robert Benford, the Faculty Senate president. "It is ironic to invite heads of constituencies and tell them they can't talk about it with anybody."

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SIU Shows Minority Fellowship Plan To Faculty (CHIST)

By DAVE NEWBART, Staff Reporter

Chicago Sun-Times, January 26, 2006

Officials at Southern Illinois University presented a proposed consent decree to faculty and student leaders Wednesday, seeking to ward off a proposed federal lawsuit that would charge the school with discriminating against whites and others.

Officials would not say just what was being proposed in the consent decree, which came after two months of negotiations with the U.S. Justice Department. The department had threatened to sue the school on grounds that three of its minority fellowship programs discriminated against whites, males and non-preferred minorities.

However, changes in the descriptions of those fellowships had been removed from the school's Web site Wednesday.

The changes omitted any reference to "minorities" in describing who could apply for the fellowships. The site noted that applications to two of the fellowships "have been extensively revised."

But Wednesday, the Web site reverted back to the original language describing the programs.

SIU spokesman David Gross said the school's lawyers recommended the site be changed back until negotiations had concluded.

The school's meetings Wednesday with faculty and student leaders were "positive and informative," Gross said.

"The general consensus is a negotiated settlement would be in the best interest of the university," Gross said.

A 'reasonable compromise'

Robert Benford, president of the faculty senate and a fellowship supporter, met with the administration Wednesday but said he could not discuss them because they were confidential. Earlier, Benford had said the new descriptions were a "reasonable compromise."

Professor Jonathan Bean, a critic of the programs, also liked the language that was temporarily online. "That is the type of language that I and others recommended two and a half years ago," he said.

Men Accused Of Putting Mercury On Interracial Couple's Porch (FINDLAW/AP)

AP, January 27, 2006

(AP) - CLEVELAND-Two men accused of putting poisonous mercury on an interracial couple's porch have been charged with a hate crime, according to a media report.

Joseph Kuzlik, 56, and David Fredericy, 49, were each charged with conspiracy to violate civil rights, making false statements and criminal interference with housing rights. Both men pleaded innocent Wednesday in U.S. District Court in Cleveland, The Plain Dealer newspaper reported.

"Allegations of hate crime strike at the heart of our community and cannot be tolerated," Greg White, the U.S. attorney in Cleveland, said, according to the report.

Lawyers for Kuzlik and Fredericy, who are white, declined comment, the paper said.

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Kuzlik is accused of acting as a lookout in February while Fredericy put an undisclosed amount of mercury on and around the porch of the unidentified couple's home in Cleveland's Slavic Village neighborhood, where the men also live.

The men are accused of lying when they told Environmental Protection Agency employees who cleaned up the mercury that they did not know how the mercury got on their neighbors' porch.

Mercury can damage the nervous system if swallowed or inhaled in large doses.

Male Student Sees Gender Bias In School (WT)

By Cheryl Wetzstein

The Washington Times, January 27, 2006

Female high school students are treated more leniently and are less likely to be punished than their male peers, a 17-year-old Massachusetts senior says in a federal complaint about gender bias at his school.

"The system is designed to the disadvantage of males," Doug Anglin, a student at Milton High School in Milton, Mass., told the Boston Globe this week. "From the elementary level, they establish a philosophy that if you sit down, follow orders and listen to what they say, you'll do well and get good grades. Men naturally rebel against this."

Gerald Anglin, Doug's father and a Boston lawyer, helped write the complaint, which was filed last month with the Department of Education's Office for Civil Rights.

The complaint cites "statistical anomalies" in males' grades and standardized testing performance, as well as "a generalized perception" that male and female students are treated differently by the mostly white, female teaching staff, Gerald Anglin said yesterday.

"There's been a request that the Department of Education use its expertise to suggest some remedies ... to correct the situation," he said.

The complaint recommends "altering the work force," "injecting flexibility" into course selections, using "pass-fail" grading and correcting negative impressions of male students.

Milton school officials disputed claims that girls are treated more leniently than boys but said they would revisit the issue and reinstitute a mentoring program for lagging students.

A Department of Education spokesman said the agency received the complaint but had no further comment.

This month, The Washington Times examined the issue of male "academic underachievers."

"Boys are suffering," Harvard Medical School psychologist and author William Pollack told The Times. "They are sitting in classrooms where they can't perform at the same level as girls and so cannot compete with girls," he said. "The bottom line is that they are suffering both academically and emotionally."

Studies show that boys receive most of the "D" and "F" grades, create 80 percent of classroom discipline problems, account for 80 percent of high school dropouts and make up less than 44 percent of the college population.

Suggested solutions include making classrooms smaller and more action-oriented, and teaching boys and girls separately.

About 200 public schools already offer single-sex classrooms and this week, officials at an Arkansas high school said they will start teaching ninth-grade core subjects in single-sex classrooms this fall.

If boys and girls are taught in separate rooms, a lot of the distractions are eliminated, Renee Parker, assistant principal of Hope High School, told a Little Rock television station.

Inside The Ring (WT)

By Bill Gertz And Rowan Scarborough

The Washington Times, January 27, 2006

Sniper punished

The Army has cleared a sniper in Iraq of violating operational security rules in helping to educate a judge advocate general (military lawyer) about the legality of open-tip bullets used by snipers to shoot insurgents who are killing American and allied troops.

However, the sniper, Sgt. Arthur J. Hushen, is continuing to face retaliation for blowing the whistle on an improper order for snipers to stop using the highly-effective M118LR ammunition in Iraq because it was thought to be an illegal hollow-point bullet. He was recently forced to move to a tent for "outcasts," said his wife, Sherry.

Sgt. Hushen recounted in a statement how he challenged the 4th Infantry Division lawyer, a woman identified only as "Maj. Card," after he obtained information from an Internet sniper forum showing that the bullets had been judged legal for use for years.

"Maj. Card stated that the hollow-point ammo was illegal," Sgt. Hushen wrote. "I informed her that there was a memo put out ... several years ago stating that hollow-tip had been deemed legal."

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Maj. Card replied that she had never heard of the memo, but after documentation was presented to her, she reversed course.

"Maj. Card informed me that I was not a lawyer and she did not work for me," Sgt. Hushen said, noting that the lawyer then agreed that in her legal opinion the M118LR was legal and said she would send out an e-mail to the executive officers.

It was after the exchange that Sgt. Hushen was accused of violating security rules for identifying his 4th Infantry Division unit on the Internet. However, he was cleared of that accusation after his statement.

But he is continuing to be punished by senior enlisted and officers for raising the legal issues, we are told.

"I needed the ammo to accomplish my sniper missions," he said. "I didn't quit when I was told the ammo was illegal because I knew it was not."

Sgt. Hushen said he was punished by his platoon leader by being relieved from his sniper duties and removed as a team leader.

"I no longer have anyone to lead and train. I believe that this is the worst punishment that could have happened," he said.

Forced out

What to do with the pathfinding Office of Force Transformation within the office of Defense Secretary Donald H. Rumsfeld? Defense officials have several ideas. A few want to abolish it. Others propose taking away its stand-alone status and making it an arm of the undersecretary of defense for acquisition or for policy.

The reason: A culture of transformation has taken hold in the Pentagon since the office's birth in October 2001. And, a merged office would free up some of its 18 employees to work elsewhere. "We have a billet cap at the Pentagon," said a senior official. "We are always looking for more billets."

The office has issued a number of futuristic reports on how the military can adjust to new threats. Retired Vice Adm. Arthur K. Cebrowski, the founding director of Force Transformation, died in November of cancer. The acting director is Terry J. Pudas.

Back in vogue

Army Gen. George Casey, the top U.S. commander in Iraq, stopped using the word "substantial" to describe future troop withdrawals. He had used it last year but quit this fall, he said, after he had doubts that Sunnis would join the new government in the right numbers.

Well, the word is back in vogue, principally because the Sunni Muslims won 51 assembly seats in the Dec. 15 elections. As a community, the Sunnis seem more willing to try democracy. Army Gen. John Abizaid, the top commander in the region, told radio host Laura Ingraham on Wednesday that "substantial" troop reduction could occur later this year if the military and political winds blow the right way.

Dirty language

The U.S. Navy-Marine Corps Court of Criminal Appeals has ordered a delay in the court-martial of a Naval Academy teacher who used salty language in front of a female midshipman.

The trial at the Washington Navy Yard had been scheduled to begin next week for Lt. Bryan D. Black. But his attorney, Charles Gittins, filed an appeal after the trial judge rejected his argument that the school's superintendent, Vice Adm. Rodney P. Rempt, should be removed as the officer overseeing the case.

Adm. Rempt, who is in the midst of a "no tolerance" campaign against sexual harassment at the Annapolis campus, ordered Lt. Black's court-martial, overruling an investigative officer who recommended counseling, not criminal charges.

Mr. Gittins says Adm. Rempt has too much of a stake in seeing Lt. Black punished. He says a new admiral should be named as the convening authority.

The appeals court will entertain written arguments from the defense and prosecution, and then likely hand down a ruling next month.

Lt. Black acknowledges making a crude remark about how a battleship sexually arouses him, during an oceanographic cruise in the Chesapeake Bay in August. He later apologized to the female student present. She did not file a complaint or request an investigation. But a female lieutenant commander onboard did her own investigation and reported the incident to the school's administration, which ordered a one-person investigation.

Democrats In 2 Southern States Push Bills On Bible Study (NYT)

By David D. Kirkpatrick

The New York Times, January 27, 2006

WASHINGTON, Jan. 26 — Democrats in Georgia and Alabama, borrowing an idea usually advanced by conservative Republicans, are promoting Bible classes in the public schools. Their Republican opponents are in turn denouncing them as "pharisees," a favorite term of liberals for politicians who exploit religion.

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Democrats in both states have introduced bills authorizing school districts to teach courses modeled after a new textbook, "The Bible and Its Influence." It was produced by the nonpartisan, ecumenical Bible Literacy Project and provides an assessment of the Bible's impact on history, literature and art that is academic and detached, if largely laudatory.

The Democrats who introduced the bills said they hoped to compete with Republicans for conservative Christian voters. "Rather than sitting back on our heels and then being knocked in our face, we are going to respond in a thoughtful way," said Kasim Reed, a Georgia state senator from Atlanta and one of the sponsors of the bill. "We are not going to give away the South anymore because we are unwilling to talk about our faith."

In Georgia, the proposal marked a new course for the Democratic Party. The state's Democrats, including some sponsors of the bill, opposed a Republican proposal a few years ago to authorize the teaching of a different Bible course, which used a translation of the Scriptures as its text, calling it an inappropriate endorsement of religion. The sponsors say they are introducing their Bible measure now partly to pre-empt a potential Republican proposal seeking to display the Ten Commandments in schools.

In Alabama, a deeply religious state where Democrats support prayer in the schools and a Democratic candidate for governor recently introduced her campaign with the hymn "Give Me That Old Time Religion," the Bible class bills reflect Democrats' efforts to distance themselves from the national party.

"We have always had to somewhat defend ourselves from the national Democratic Party's secular image, and this is part of that," said Ken Guin, a representative from Carbon Hill, leader of the Democratic majority in the State House and a sponsor of the measure.

Democrats in other states are moving in the same direction, jumping into a conversation about religion and values that some party leaders began after the 2004 election, when President Bush and the Republicans rode those themes to victory.

In Indiana, Democratic legislators are among the leaders of a bipartisan effort to preserve the recitation of specifically Christian prayers in the Statehouse. In Virginia, Gov. Timothy M. Kaine relied heavily on religious themes and advertised on evangelical radio stations to win election last fall; Democratic Party leaders have called his campaign a national model.

In an interview, Howard Dean, chairman of the Democratic National Committee, promised that Democrats would do a better job talking about values to religious voters. "We have done it in a secular way, and we don't have to," he said, adding, "I think teaching the Bible as literature is a good thing."

Christian conservatives, however, say they have been pushing public schools to offer courses on the Bible for decades, and Republicans in both Alabama and Georgia say some schools already offer such electives.

"Their proposal makes them modern-day pharisees," State Senator Eric Johnson of Georgia, the Republican leader from Savannah, said in a statement. "This is election-year pandering using voters' deepest beliefs as a tool."

Saying he found "a little irony" in the fact that the Democratic sponsors had voted against a Republican proposal for a Bible course six years ago, Mr. Johnson added, "It should also be noted that the so-called Bible bill doesn't use the Bible as the textbook, and would allow teachers with no belief at all in the Bible to teach the course."

Betty Peters, a Republican on the Alabama school board who opposed the initiative in that state, also dismissed the initiative as "pandering." Democrats, she argued, had adopted a new strategy: "Let's just wrap ourselves in Jesus."

For the last dozen years, most efforts to promote teaching the Bible in public schools have come from the National Council on Bible Curriculum in Public Schools, a conservative Christian group based in Greensboro, N.C., that advocates using the Bible as the primary textbook. The group says about 320 school districts in 37 states offer its curriculum.

But its curriculum often draws attacks from civil liberties groups. Democratic sponsors of the Bible class bills say their efforts would help shield local school districts from First Amendment lawsuits, in part by recommending a more neutral approach.

The textbook they endorse was the brainchild of Chuck Stetson, a New York investment manager and theologically conservative Episcopalian who says he was concerned about public ignorance of the Bible.

Mr. Stetson helped produce "The Bible and Its Influence" as the centerpiece of a course that seeks to teach about the Bible and its legacy without endorsing or offending any specific faith.

The textbook came to the attention of Democratic legislators in Alabama and Georgia through the advocacy of R. Randolph Brinson, a Republican and founder of the evangelical voter-registration group Redeem the Vote.

Mr. Brinson, who said he was working with legislators in other states as well, described his pitch to Democrats as, "Introducing this bill will show the evangelical world that they are not hostile to faith."

Some liberals are unhappy, however. Barry W. Lynn, executive director of Americans United for Separation of Church and State, argued that "The Bible and Its Influence" was "problematic" because it omitted "the bad and the ugly uses of the Bible," like the invocation of Scripture to justify racial segregation.

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Conservative Christian groups have been skeptical, too. "This appears to be a calculated effort by the Democrats to try to out-conservative the conservatives," said Stephen M. Crampton, a lawyer for the American Family Association, a conservative Christian group that supports the National Council on Bible Curriculum in Public Schools.

"To mention any curriculum by name is suggestive of some back-room deal cut with the publishers," Mr. Crampton said.

For his part, Mr. Stetson, founder of the group that produced the textbook, said a political fight was not what he wanted. "We are the first English-speaking generation to have lost the biblical story," he said, lamenting that studying the Bible had become "a political football."

ANTITRUST:

AMC Closes Acquisition Of Loews Cineplex (AP)

By David Twiddy, AP Business Writer

AP, January 27, 2006

KANSAS CITY, Mo. (AP) -- AMC Entertainment Inc. on Thursday said it had completed its purchase of Loews Cineplex Entertainment Corp., strengthening its position as the nation's second-largest theater operator.

The Kansas City-based company now will operate 415 theaters with 5,672 screens in 29 states and the District of Columbia and 11 foreign countries. Annual revenues for the privately held company are expected to be around $2.4 billion.

Financial terms for the deal were not released.

"What I'm most excited about is the potential to continue the innovation and lead our industry the way both of these companies have been doing," said Peter Brown, AMC's chairman and chief executive officer, who will remain head of the company. "I think the innovation potential and the growth potential are enormous."

Travis Reid, Loews' president and CEO, will serve as a board member for AMC's parent company, Marquee Holdings Inc.

In an interview, Brown said he didn't foresee the company changing the overall number of theaters, although he said it will continue to replace older theaters with newer, stadium-style ones. He also didn't predict any changes to its worldwide work force of 24,000.

AMC and Loews agreed last year to sell 10 theaters with 120 screens to resolve consolidation concerns by the Justice Department and attorneys general in California, Illinois, Massachusetts, New York, Washington state and the District of Columbia. The theaters are in Chicago, New York City, Boston, San Francisco, Seattle, Dallas and Washington, D.C.

Before the acquisition, AMC operated 226 theaters with 3,522 screens, while Loews, based in New York City, operated 198 theaters with 2,235 screens.

Combined, they still remain behind Knoxville, Tenn.-based Regal Entertainment Group, which controls 6,605 screens at 579 theaters in 40 states.

Bear Stearns analyst Glen Reid said he doubted the combination will have much of an impact on the industry, as most consumers go to the theaters closest to them and aren't loyal to a brand.

"It gives those two companies the opportunity for overhead synergies," Reid said. "It remains to be seen whether greater concentration of theaters leads to more bargaining power with the studios, such as better rental terms for films."

The combination follows a year in which U.S. ticket sales were at the lowest level since 1997, a problem the industry blamed on bad films as well as stiff competition for consumers' entertainment dollars.

It also comes a day before the debut of "Bubble," a film by award-winning director Steven Soderbergh, that has many in Hollywood predicting it could change the marketing and distribution of movies. "Bubble" is being released on the same day both in a limited number of theaters and on pay-per-view television. The DVD is being released Tuesday.

AMC is among the major theater circuits not carrying the film, and Brown said moviegoers should be concerned if other movies follow suit.

"I think at the end of the day what would happen with that economic model is that the quality would be lowered when we're living with each picture being a direct-to-video picture," he said. "We just don't think that's a good thing to happen at all."

Media companies, however, have defended the so-called "day and date" release strategy as a way to serve consumers becoming more accustomed to getting content immediately, as shown by the popularity of iTunes and cell phone companies selling snippets of television shows for portable devices.

AMC and Loews discussed merger plans in the past, calling off discussions in January 2004, just before a group of private investors purchased the publicly traded AMC for about $2 billion. Bain Capital, Carlyle Group and Spectrum Equity Investors also acquired Loews Cineplex from Onex Corp. and Oaktree Capital Management for $1.5 billion in 2004.

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EU: Microsoft May Still Face Fine Threat (AP)

By Paul Ames, Associated Press Writer

AP, January 27, 2006

BRUSSELS, Belgium (AP) -- Microsoft Corp.'s new offer to let competitors examine some of the blueprints to its Windows operating system may not end the threat of daily $2.36 million fines in the European Union's antitrust case, an EU spokesman said Thursday.

"It would be premature to conclude that offering access to source codes would necessarily resolve the problem of compliance," said EU antitrust spokesman Jonathan Todd.

Todd said EU antitrust officials await details from Microsoft before making a decision.

"So far all we have received is the press release," he said.

Responding to a 2004 EU antitrust ruling, Microsoft in December offered rivals thousands of pages of documentation and free technical support to help competitors make their software compatible with Windows-based servers, which power Web sites and other Internet services.

But an independent monitor called the documents "totally unfit." The European Commission then threatened to fine Microsoft up to $2.36 million a day, retroactive to Dec. 15, saying the software giant was proving intransigent about sharing data with competitors.

Microsoft, which has until Feb. 15 to make a formal response, insisted Wednesday it was in compliance but said it was licensing the Windows source code as well to remove any lingering doubts. The company likened the move to now offering the cake rather than simply the recipe for it.

Microsoft said Thursday it was pleased that the EU Commission will consider the new offer.

"We have made every change the Commission has asked us to make to the technical documentation, and we are prepared to do more if they request it," Horacio Gutierrez, associate general counsel, Microsoft Europe, said in a statement. "Yesterday's announcement underscores Microsoft's commitment to meeting the Commission's demands."

Nonetheless, Todd said the source code alone may not do the trick.

"It's the quality and not the quantity that counts," Todd said in a phone interview. "You can give half-a-million pages, but if it's not the right information for competitors to be able to make compatible work group server products then it doesn't resolve the compliance issue."

In March 2004, the EU levied a record $613 million fine against Microsoft. It also ordered the company to share code with rivals and offer a version of Windows without the Media Player software for what the court saw as an abuse of the company's dominant position in the industry.

Microsoft is appealing the ruling and the case will be heard in late April by the European Court of First Instance, the EU's second-highest court.

Microsoft already has launched a number of efforts to give governments and certain private groups access to some source code. Wednesday's announcement extends this for the first time to more than 20 companies who currently license Microsoft software protocols under an EU program.

Microsoft will now share what it says is a "pretty significant" chunk of its Windows workgroup server operating system and desktop software code governing communications between servers. Smith said there were no plans to publish every line of the entire Windows source code.

ENVIRONMENT/INDIAN AFFAIRS:

Three Deny Charges Of Plotting Against Forest Service Lab (AP)

By Don Thompson, ASSOCIATED PRESS

AP, January 27, 2006

SACRAMENTO – Three environmental activists pleaded not guilty Thursday to conspiring to attack government targets on behalf of an extremist group, and bail was set for one of the suspects.

Eric McDavid, 28, of Foresthill, Calif., Zachary Jensen, 20, of Monroe, Wash., and Lauren Weiner, 20, of Philadelphia, were indicted Wednesday by a federal grand jury. They face five to 20 years in federal prison if they are convicted of conspiring to use fire or explosives to damage property.

Prosecutors say they scouted targets and were buying materials to build homemade plastic explosives when they were arrested Jan. 13 outside a Kmart in Auburn, east of Sacramento.

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On behalf of the shadowy Earth Liberation Front they allegedly planned to attack the Nimbus Dam and nearby fish hatchery on the American River near Sacramento, and the U.S. Forest Service's Institute of Forest Genetics in Placerville, in the foothills east of Sacramento.

All three denied the allegations at their arraignment Thursday. A status hearing was scheduled for Feb. 14 before U.S. District Judge Morrison C. England.

Prosecutors said all three should be held as flight risks and dangers to the community. U.S. Magistrate Judge Gregory Hollows ordered McDavid and Jensen held in Sacramento County Jail without bond.

But he ruled that Weiner can be released on $1.2 million bail, secured mostly by property her parents own in New York state.

Hollows noted that the government has audio and video surveillance, notes, an anarchists' cookbook seized from the suspects, and the account of a paid FBI informant who lived with the group in a cabin rented and wired by the FBI.

"While this group of defendants may not have possessed a polished expertise in explosives and their use in blowing up targets, there is no doubt from the evidence presented thus far that defendants were deadly serious in their intent to wreak destruction on some type of target which they believed would make a statement in favor of their anti-government, anti-corporate, allegedly pro-environment cause," Hollows wrote in his 12-page order.

But Hollows found little evidence supporting prosecutors' contention that the three were affiliated with either ELF or the similarly shadowy Animal Liberation Front, though he said they may have shared the same goals.

U.S. Attorney McGregor Scott on Wednesday said there is no known connection between the trio and 11 alleged ecoterrorists indicted in Oregon last week. The FBI says groups like ALF and ELF have claimed 1,200 criminal acts causing more than $100 million in damage in the last 15 years.

The three were visited in jail by members of a "support group" perhaps loosely affiliated with ELF, Hollows wrote, though he said there is no evidence the group would help the three flee if they were released.

Weiner was attending college in Philadelphia and had a clean record and close ties to her parents before she set off cross-country to join the other suspects in California after the Christmas holiday, Hollows said. He ruled she could live with her mother in Pound Ridge, N.Y., but restricted her movements and ordered her to attend school or perform community service while she awaits trial.

Eco-terrorist Suspects Plead Not Guilty (SACBEE)

By Denny Walsh, Bee Staff Writer

The Sacramento Bee, January 27, 2006

Three people alleged to be part of an eco-terrorism movement pleaded not guilty Thursday in Sacramento federal court to a charge of conspiring to damage and destroy property by fire and an explosive.

Eric Taylor McDavid, 28; Zachary O. Jenson, 20; and Lauren Weiner, 20, are accused in a one-count grand jury indictment of plotting to blow up a U. S. Forest Service genetics lab in Placerville, the Nimbus Dam and nearby fish hatchery in Rancho Cordova, and cellular telephone towers and electric power stations in unspecified locations.

While it is not in the indictment, other court papers filed by the government say the trio planned to publicly proclaim after the arson campaign that it was carried out in the name of the Earth Liberation Front, a movement advocating violent criminal acts against what its followers believe are symbols of the destruction and exploitation of the environment.

Also Thursday, U. S. Magistrate Judge Gregory G. Hollows ordered McDavid and Jenson held without bail. On the other hand, Hollows indicated a willingness to release Weiner on $1.2 million bail pending a decision by prosecutors on whether to appeal Weiner's release to U. S. District Judge Morrison C. England Jr.

BP Faces Charges In Texas Refinery Blast - Sources (REU)

By Chris Baltimore

Reuters, January 27, 2006

WASHINGTON (Reuters) - The U.S. government is pursuing charges against BP <BP.L> related to an explosion last year that killed 15 workers at its giant Texas refinery, sources familiar with the matter said on Thursday.

The case could result in civil or criminal charges against BP, and the company could face millions of dollars in fines, one source said.

The Environmental Protection Agency and Justice Department are pressing an enforcement case against BP related to the March 23 blast at the Texas City, Texas refinery, said the sources, who spoke on condition of anonymity.

The blast at the 460,000 barrel per day facility also injured 170 people and rattled buildings as far as five miles away.

An EPA spokeswoman referred queries to the Justice Department, where a spokeswoman declined to comment.

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Ronnie Chappell, spokesman for London-based BP, declined to comment on any possible investigations.

"From the very beginning we have promised government agencies charged with investigating the tragedy at Texas City our full cooperation," Chappell said. "We are meeting that commitment and we will continue to deliver on it."

BP has said it will spend $1 billion (562 million pounds) over the next five years to improve and maintain the Texas City refinery, and it set aside $700 million to settle lawsuits related to the explosion.

An internal report released by BP late last year found that no one intentionally put workers at risk, but that some policies and procedures were not followed.

According to a BP report, the explosion was caused when a hydrocarbon vapour cloud released by an octane-enhancing unit being restarted at the refinery was ignited, possibly by an idling pick-up truck.

Last year the U.S. Department of Labour said it had asked the Justice Department to consider bringing criminal charges against BP.

A spokesman for the Labour Department, Alan Belsky, said the department did not know if the Justice Department was pursuing its request.

The Labour Department referral was the result of a U.S. Occupational Health and Safety Administration investigation into the explosion, which found more than 300 wilful violations of health and safety standards at the refinery.

Wilful violations are defined as those committed with an intentional disregard or indifference to OSHA regulations.

BP last year agreed to pay a fine of $21.3 million to OSHA.

West Virginia Governor Signs Mine Safety Bill (NYT/AP)

By The Associated Press

The New York Times, January 27, 2006

Filed at 5:31 p.m. ET

CHARLESTON, W.Va. (AP) -- Gov. Joe Manchin signed new mine safety rules into law Thursday, saying the requirements for better communications, underground oxygen supplies and faster emergency responses would help prevent tragedies like the two that killed 14 miners this month.

"We want to be the benchmark everyone looks to when they mine," Manchin said during the signing ceremony, attended by some of the miners' relatives. "The sacrifice you all have made will change mining in this country."

State lawmakers passed the legislation unanimously just days after a Jan. 19 mine fire killed two men, and about three weeks after an explosion at the Sago Mine across the state resulted in the deaths of 12 miners.

The only survivor among the trapped Sago miners, Randal McCloy Jr., 26, emerged from a light coma Wednesday but still cannot speak.

The state's new mine safety law mandates that miners be provided with emergency communicators and tracking devices. It also requires mine operators to store extra air supplies underground, and sets up a new Mine and Industrial Accident Rapid Response System and statewide all-hours hot line to trigger rescue efforts more quickly.

"It eases our hearts and our pain knowing that maybe this will help save other miners some day," said Delorice Bragg, whose husband died in the mine fire last week.

Federal and state investigators were expected to finally get into the Sago Mine late Thursday to start determining what sparked the explosion that led to the 12 deaths, most of them from carbon monoxide poisoning.

The investigation had been held up, first by the dangerous gases and then over a dispute between the United Mine Workers and the mine's owner involving the union's demand to accompany investigators. The company challenged the union's right to enter the non-union mine after the UMW would not disclose the names of the two miners it is representing. A federal judge ruled Thursday that the UMW could participate.

The Sago disaster and Manchin's calls for reform have spurred several coal mining states to re-examine their mine safety laws.

Kentucky legislators started drafting similar legislation to strengthen coal mine safety laws and expect to file them in the House and Senate by early next week.

In Tennessee, Gov. Phil Bredesen called for a review of state mining laws to see if changes are needed in that state's nine underground coal mines, saying: "Let's learn from these things, and not wait until they happen to us."

A bill pending in the Virginia General Assembly would require underground mines to have wireless communications available so miners could call for help in an emergency.

The new West Virginia law also addresses communications, requiring companies to install wireless systems to connect miners to the surface through a series of transponders and requiring tracking devices for miners. Most U.S. mines still rely on

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hard-wired communication systems. At Sago, rescuers were unable to communicate with the trapped miners because the system was damaged.

Industry officials have raised questions about the reliability of the technology, but they have said they will support the changes.

In addition to better communication, the new law requires extra air supplies are inside mines, and says miners would be directed to them by strobe lights, reflective signs and guide ropes. Some companies already provide extra air supplies, but in most cases, miners only carry canisters that provide up to an hour's worth of oxygen.

The law also threatens coal companies that fail to report an emergency within 15 minutes with $100,000 fines. At Sago, company officials placed the first calls to state and federal safety officials more than an hour after the explosion.

State mine officials must now write the rules necessary to carry out the new law. A deadline for coal companies to comply with its provisions has not yet been announced.

West Virginia's congressional delegation is also pushing for tougher federal mine safety regulations and demanding more aggressive enforcement.

New Rules Govern Use Of Data From Testing Pesticides On People (WP)

By Juliet Eilperin

The Washington Post, January 27, 2006

The Bush administration issued yesterday the first-ever federal rules governing the use of information collected in tests that expose human subjects to toxic pesticides.

The new regulations -- which drew praise from pesticide manufacturers and criticism from environmentalists and congressional Democrats -- would prohibit the intentional dosing of pregnant women and children with such poisons, and would establish an independent board to screen proposed studies.

"This rule provides far-reaching protections for all Americans and bans pesticide testing on pregnant women and children," said Susan B. Hazen, acting assistant administrator of the Environmental Protection Agency's Office of Prevention, Pesticides and Toxic Substances.

Officials have been struggling for close to a decade with how best to deal with data from tests that deliberately expose people to toxic chemicals.

Until President Bill Clinton imposed a moratorium in 1998, federal officials allowed manufacturers to conduct pesticide experiments on human beings on the grounds that such tests provided a clearer picture than animal experiments could of how pesticides might affect the environment and public health.

President Bush initially backed the moratorium, but his administration abandoned it in 2003 after a court ruling in favor of pesticide makers. The firms had argued that the government had not fully involved the public before banning the use of the information.

Erik D. Olson, a senior attorney at the advocacy group Natural Resources Defense Council, said the new rules may lead to more pesticide testing on people because they will allow manufacturers to conduct "observational tests" that monitor individuals' everyday exposure to toxic chemicals.

"We're going to have weaker public health protections, more pesticides on people's foods, and a huge increase in the number of unethical and unscientific studies using human beings as guinea pigs," Olson said.

But Jay Vroom, who represents major pesticide manufacturers as president of CropLife America, said the administration has ensured that "these studies, while limited in number, can be conducted safely at the highest ethical standards."

Nearly 50,000 Americans commented on the proposal over the past three months, most as part of an organized campaign opposing it.

In A Nimby World, Alaskans Woo Project To Their Backyard (WSJ)

By Russell Gold

The Wall Street Journal, January 27, 2006

ANCHORAGE, Alaska -- Jeff Lowenfels has dispensed weekly advice about gardening in Alaska on the radio and in a newspaper column he has written for 30 years. When asked what he can grow in the frigid soil, he always answers: "Iceberg lettuce, snow peas and snowball cauliflower."

For much of this time, he has also worked to put something else in the state's soil: a natural-gas pipeline.

The 56-year-old former energy lawyer is a behind-the-scenes guru to an increasingly committed crop of activists and politicians who are ticked off by the endless delays in Big Oil's plans for a multibillion-dollar pipeline. In recent weeks, Mr.

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Lowenfels's disciples have launched a ballot initiative, an antitrust lawsuit and television commercials -- all designed to push the oil companies and Gov. Frank Murkowski to speed up development of the North Slope's gigantic natural-gas reserves.

In many parts of the U.S., community leaders and local politicians are fighting to halt energy projects or at least put them in someone else's neighborhood. What's occurring in Alaska is the polar opposite. The majority of Alaskans are great enthusiasts of energy development.

The federal government estimates there may be 100 trillion cubic feet of gas in the North Slope, where Alaska meets the Beaufort Sea nearly 300 miles north of the Arctic Circle. That is enough to keep the U.S. in natural gas for nearly five years. But no gas is leaving the North Slope, even though natural gas prices in the last year have been higher than ever. Exxon Mobil Corp., BP PLC and ConocoPhillips, which have leased drilling rights in Alaska for decades, haven't been in a hurry to get that gas to market. They're currently negotiating to build a pipeline through Canada to the American Midwest but construction on that massive project isn't likely to start for years.

Meanwhile, Alaskans are running out of natural gas. Home-heating bills are rising and gas-intensive industry is shutting down. Instead of the longer pipeline being pondered by the giant oil companies, Mr. Lowenfels and others are pushing for the immediate construction of an 800-mile natural-gas pipeline to the Alaskan port of Valdez. A small portion of the gas would stay in Alaska and the rest would be liquefied and exported to either Asia or the West Coast.

Faced with a vigorous campaign to jump-start the pipeline, the oil companies are in the unusual position of counseling patience. Moving too quickly on their preferred $25 billion pipeline through Canada, one of the largest construction projects in the history of North America, would be disastrous, they say. Steve Marshall, president of BP's Alaska operations, says he is worried that if they act too quickly, the project will be poorly conceived, be prone to cost overruns and not deliver much economic benefit.

The pipeline spat has national implications. Prudhoe Bay and other nearby North Slope fields are collectively the largest deposit of oil and natural gas ever discovered in the U.S. Since 1977, crude oil from the field has flowed through an 800-mile pipeline to Valdez, where it is loaded onto tankers and delivered to West Coast refineries.

Prudhoe Bay's gas has a different fate. Since it can't be sent through the oil pipeline, the gas extracted along with oil is muscled back underground. In the middle of the Arctic tundra, about 8.4 billion cubic feet of natural gas a day passes through an eight-story building where jet engines jam it back into the reservoir through 32 wells. BP, the facility operator, says putting the gas back has yielded dividends: The reinjected gas has helped maintain reservoir pressure and allowed an additional three billion barrels of crude to be pulled from the field.

Mr. Lowenfels got bit by the gas bug soon after moving to Anchorage from Boston in 1975. He took a job as an assistant attorney general representing several state agencies involved in energy development. In 1981, he started working for the Yukon Pacific Corp. -- a company set up to build a gas pipeline to Valdez that has come to be such a big part of his professional life.

Over several years, with the backing of its parent company, CSX Corp., Yukon Pacific acquired most of the required permits for the pipeline. But Mr. Lowenfels says the energy companies refused to enter into a long-term contract to supply gas. That prompted Mr. Lowenfels to study why the companies wouldn't sell. His conclusion: They were delaying the Alaska pipeline to avoid competing with their own projects in Indonesia, Australia and the Middle East that were developing gas to send to the U.S. Unlike Alaska, where it can sit on the gas, Big Oil often has to extract gas expeditiously overseas or it loses its extraction rights.

The companies vigorously deny that they are warehousing the gas to keep overseas projects profitable. They say the pipeline into Canada is the only economically viable option for getting the gas out of Alaska and point out they have spent $125 million studying the route.

Mr. Lowenfels began holding "guerrilla sessions" beginning in the early 1990s in his downtown Anchorage office to spread the message that the oil companies were dragging their feet. Around a conference table piled high with permits and other documents, Mr. Lowenfels pitched Yukon Pacific's vision for a pipeline to Valdez. Eventually, the guest would ask some variant of the question: If it's such a good idea, why aren't the oil companies pursuing it? In a dramatic flourish, repeated hundreds of times, Mr. Lowenfels would pull back a curtain to reveal a map of the world with corporate logos marking where Exxon and BP have competing gas projects.

"We are sick and tired of having the oil companies control our destiny," he says.

Many of the Alaskans pressuring the state government and oil companies to build a gas pipeline through Alaska are graduates of these sessions. The two-hour session "changed my life," says William M. Walker, a former mayor of Valdez. Mr. Walker helped create the Alaska Gasline Port Authority. Last month, the authority filed an antitrust lawsuit in federal court in Fairbanks against Exxon and BP for conspiring to withhold gas from U.S. markets and effectively warehousing Alaska's vast gas reserves. The oil companies call the suit without merit, saying they plan to contest it vigorously.

Lori Backes, a former Republican political aide, also says her outlook changed after attending one of Mr. Lowenfels's sessions. "When you see you are in competition with the very people who are supposed to be on your side...you begin to look at

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things very differently," she says. Now Ms. Backes heads an advocacy group of labor and environmental groups favoring an "all-Alaska" pipeline. Her group is running TV ads mocking Big Oil's proposed pipeline as something good for beer-swilling Canadians, but not for Alaskans.

Eric Croft, another Lowenfels convert, is leading a ballot initiative, widely expected to pass in November , to tax the oil companies $1 billion a year until they develop the gas deposits.

Meanwhile, the oil companies say they are proceeding with plans for the Canadian route. ConocoPhillips reached an agreement on financial terms with the state of Alaska on such a pipeline in October, but BP and Exxon are still negotiating. A state spokesman said he is hopeful talks will be concluded in the spring, but several key issues remain unresolved.

Even if a contract is signed, lawsuits and fighting over the financial terms of the deal as well as the Canadian portion of the pipeline could continue for years, keeping Mr. Lowenfels and his seminar graduates busy. Until then, Mr. Lowenfels, a convert to organic gardening, plans to spend some time tending to his two-story greenhouse at his home overlooking the Cook Inlet near Anchorage. He is planting artichokes this week.

Write to Russell Gold at russell.gold@wsj.com1

E-Waste@Large (NYT)

By Elizabeth Royte

The New York Times, January 27, 2006

LAST week, Maine became the first state to require manufacturers of computer monitors and televisions to pay for their recycling and disposal. Washington, with a pending bill, may be next. That's progress, right?

Computer recycling sounds like an unmitigated good: it keeps hazardous components out of incinerators and landfills, which researchers at Carnegie Mellon University estimate already hold more than 60 million computers. And by reusing glass, plastic, aluminum and heavy metals (like lead, copper and mercury), recycling averts the energy use and pollution linked with mining and drilling for new materials.

But because recycling in the United States is expensive, hazardous and encumbered with environmental and safety regulations, many companies that collect e-waste simply ship it to underdeveloped nations. According to the Silicon Valley Toxics Coalition and the Basel Action Network, up to 80 percent of the material dropped off by well-meaning Americans at community recycling events ends up bundled for export.

Most of the stuff that goes overseas can't or won't be fixed and sold. Computer dealers in Lagos, Nigeria, for example, complain that up to 75 percent of the 400,000 units they receive each month from recyclers are junk. A 2002 documentary showed Chinese workers, including children, using hammers and chisels to pry copper and aluminum from computers, burning PVC-coated wires to get at copper and swirling acids in buckets to extract gold.

After stripping what they can, workers dump the computer carcasses and waste sludge in nearby fields or streams. Soil and water tests in the e-waste processing town of Guiyu, China, for instance, revealed levels of chromium, tin and barium hundreds of times higher than allowable in the United States.

It's easy to find American companies that call themselves computer recyclers, but it's hard to trace what they actually do. The government doesn't regulate these businesses, and the Environmental Protection Agency has no certification process for recyclers. There are dozens of e-waste bills being considered across the country, including one in New York City. Five states and 15 counties ban computer and television monitors from landfills. California, Maine, Maryland and Massachusetts have e-waste recycling programs in place, all financed by different mechanisms.

Even the electronics industry doesn't like this patchwork approach, but so far, no one has come up with anything better. Four e-waste bills are floating around the House and Senate: the biggest difference between them is whether consumers or manufacturers would pay for the programs. A strong argument holds that when producers must manage their own discards, they have a strong incentive to design equipment that's nontoxic and easy to recycle.

The sooner Congress gets it together, the better. Electronic waste is now considered the fastest-growing segment of the municipal waste stream in the United States. The National Safety Council estimated in 2004 that by 2009, 250 million computers will have become obsolete. As awareness of the hazards of e-waste rises, more states will ban it from landfills. But keeping toxic trash from our dumps won't mean a thing if we don't forbid the export of hazardous material to countries without enforceable environmental regulations.

To halt this environmental injustice, in which we're all complicit, the federal government needs to restrict the use of hazardous materials in computers, require manufacturers to put in place recycling programs (it will be a lot cheaper and safer to recycle this stuff once the toxics are out) and ban hazardous waste exports. That may sound like a tall order, but that's no reason not to proceed: the European Union has already passed every one of these laws.

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FBI/DEA/ATF/USMS:

Two Tons Of Pot Found In Border Tunnel (NYT/AP)

By The Associated Press

The New York Times, January 27, 2006

SAN DIEGO (AP) -- Authorities said they discovered more than two tons of marijuana in a cross-border tunnel that began near the Tijuana airport and ended inside a warehouse on the U.S. side.

The 2,400-foot long passageway is longer than most of the 21 cross-border tunnels that have been discovered since authorities began keeping track after the Sept. 11 attacks, U.S. Immigration and Customs Enforcement officials said.

"It was like being in a cavern or a cave," said Michael Unzueta, customs special agent in charge in San Diego.

John Fernandes, special agent in charge of the Drug Enforcement Administration's San Diego office, said he suspected the tunnel was the work of Tijuana's Arellano-Felix drug smuggling syndicate or another well-known drug cartel. He said tougher enforcement aboveground had forced smugglers to dig below.

The tunnel's discovery prompted the U.S. Attorney's office in San Diego to open a criminal investigation, said Lauren Mack, a spokeswoman for U.S. Immigration and Customs Enforcement.

The tunnel exited into a large, two-story white cinderblock warehouse in an industrial San Diego neighborhood near the border.

A green sign over the door said V&F Distributors LLC. County records listed the building's owner as Helen Park of Long Beach. The phone rang unanswered Thursday at her home.

Mexican authorities found the entrance about 100 yards south of the border on Tuesday, and officers on the U.S. side found the exit Wednesday. Mexican officials allowed reporters and photographers, including an Associated Press photographer, into the tunnel late Wednesday.

The tunnel was about five feet wide and high enough for an adult to stand inside, had a cement floor, and lights mounted on one of the hard soil walls. It was equipped with a pulley system on the Mexican side.

Four tunnels have been discovered this month in the Tijuana-San Diego area, including more primitive tunnel that was also found Wednesday when a U.S. Border Patrol vehicle struck a sinkhole.

Agents Studying Massive US - Mexico Tunnel (NYT/REU)

By Reuters

The New York Times, January 26, 2006

LOS ANGELES (Reuters) - Federal authorities were trying to determine on Thursday what was smuggled through a sophisticated tunnel into the United States from Mexico they call one of the longest ever found.

``Whether the tunnel was used for smuggling aliens, smuggling narcotics or a worst case scenario, some sort of weapon, we don't know," Michael Unzueta, special agent in charge of Immigration and Customs Enforcement (ICE) in San Diego, said at a news conference.

Federal authorities, who uncovered the 2,400-foot (731 meter) tunnel on Wednesday, brought in a forensic team to look for fingerprints and DNA, and to sample the air and walls, so they can determine how long the tunnel has been in use and what it was used for, Unzueta said.

The tunnel has cement walls and supporting planks, is no less than five feet (1.2 meter) tall and wide, and runs as far as 60 feet underground, Unzueta said. It has lighting and ventilation, and a pumping system to drain groundwater.

The U.S. entrance has a cement ramp with a washboard pattern for better footing. ``We believe this tunnel is, in fact, the largest tunnel ever found on the Southwest border," he said.

The passageway links a warehouse in Otay Mesa, California, with a warehouse near Tijuana international airport in Mexico, officials said.

The U.S. Drug Enforcement Administration (DEA) found 200 pounds (90 kg) of marijuana on the U.S. side, while Mexican authorities said they discovered 2 tons of the drug on that side of the border.

Because of the sophistication of the tunnel, the DEA is investigating major drug cartels.

``We know it's been used for drug traffic but this really illustrates the dangers and risks of security to Americans," said John Fernandez, special agent at the DEA in San Diego.

The tunnel was the forth underground passage found between Tijuana and the San Diego region in two weeks, but far surpasses the other three, and most of the tunnels ever found, in size, Unzueta said. Most tunnels are little more than crawl spaces.

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Two Tons Of Pot Found Inside Mexico-U.S. Border Tunnel (SDUT)

By Onell R. Soto And Leslie Berestein

The San Diego Union-Tribune, January 26, 2006

Investigators discovered a sophisticated cross-border tunnel yesterday extending about a half-mile and found about 2 tons of marijuana on the Mexican end.

The tunnel begins about 85 feet below a small warehouse about 175 yards south of the U.S. border. The other end is in an apparently vacant industrial building in Otay Mesa.

Late last night, authorities were still pulling marijuana out of the tunnel, which is outfitted with electricity and a ventilation system. The building is in an industrial neighborhood near Tijuana's airport.

The concrete-lined shaft is 6 feet by 12 feet with a metal ladder that leads to the packed-earth tunnel, which is tall enough for a person to stand in.

A gurney hanging from a pulley system attached to one of the building's beams allowed items to be moved into and out of the tunnel. Two trucks and a van were parked inside the warehouse.

Authorities said the elaborate tunnel bore the hallmarks of Mexican drug cartels, which have spent millions of dollars in the last 15 years to find a way to move contraband across the border.

When Mexican officials allowed the media into the small warehouse shortly before 9 p.m., reporters saw about 300 bundles of marijuana stacked more than 5 feet high.

In the United States, the warehouse where the tunnel ended – north of Siempre Viva Road – was surrounded by law enforcement agents last night.

Authorities did not estimate how long the tunnel might have been in use or provide information about who might own the properties where the tunnel's entrance and exit were found.

In Tijuana, after spending most of yesterday waiting for a search warrant from Mexico City, dozens of Mexican police and federal agents swarmed around the metal building and surrounding truck yard late in the afternoon.

While Mexican agents awaited approval for a thorough search of the shaft, their U.S. counterparts resumed digging with heavy equipment in an area between two border fences.

That digging stopped about 4:15 p.m. when word came back that Mexican agents had found the tunnel at the bottom of the shaft.

"We have a tunnel and it's massive," said Lauren Mack, a spokeswoman with U.S. Immigration and Customs Enforcement, which was investigating the tunnel with agents from the Border Patrol and the Drug Enforcement Administration.

The U.S. Attorney's Office in San Diego and Mexican federal, state and local officials are also part of the investigation.

Based on tips, U.S. officials began investigating the possibility of a tunnel in the area in 2004.

The investigation included searches using high-tech equipment capable of providing rough images of objects underground.

Monday evening, U.S. agents notified their Mexican counterparts of the possibility of a tunnel.

California National Guard troops who work with the Border Patrol began digging Tuesday morning with a bulldozer and a backhoe.

In Tijuana, Mexican military trucks rolled in and out of the yard yesterday.

At a billboard-making business next door, worker José Javier Ramirez Velasquez, 24, said the large shed "appeared abandoned."

Since moving from Guadalajara two months ago, he has been staying on a trailer nearby and said he had heard no noise or any digging.

"It caught me by surprise learning there was a narcotunnel here," he said. Meanwhile, several miles away yesterday morning, a U.S. Border Patrol agent found another tunnel a short distance west of the San Ysidro border crossing.

This tunnel, far from sophisticated, is the kind that agents call a "gopher hole." It was dug in an area just south of the fence in Mexico and extended about 30 feet in the United States, officials from Immigration and Customs Enforcement and the Border Patrol said.

The tunnel, just 2 feet underground and about 2 feet square, was discovered after an agent investigating some people standing near the fence north of the border found an area where it had caved in, Border Patrol spokesman Richard Kite said.

"It was not a complete tunnel and was of no use to any criminal enterprise," he said. "There were several people who were coming north of the fence. One of them was able to make it back across to Mexico."

That tunnel was about 50 yards west of where a similar tunnel was found Jan. 9.

A fourth tunnel under construction, with electric lights but with its entrance covered by a board, was discovered near the Otay Mesa border crossing Friday.

This month's discoveries bring to 21 the number of tunnels found in Arizona and California since Sept. 11, 2001, when inspections at the border crossings were beefed up. Between 1990 and 2001, 15 tunnels were found.

The increased number of tunnels is a good sign, said John Fernandes, the special agent in charge of the DEA's San Diego office.

"It is an indication, as far as I'm concerned, about their frustration with our success," he said.

Drug seizures at California border crossings were up 24 percent last fiscal year over the year before, customs officials announced this week. In the year ending Sept. 30, more than 127 tons of drugs were seized, the vast majority of that marijuana.

Tunnels provide a way to avoid inspectors altogether, and that's why drug cartels will spend millions of dollars building them, said lawyer John Kirby, who specialized in drug prosecutions before leaving the U.S. Attorney's Office last year.

"You don't have to play Russian roulette with the border," he said.

The Arellano-Felix cartel was behind a 1,000-foot tunnel between a Mexican ranch house east of Tecate and a house in East County.

It has been battling rival cartels headed by accused drug traffickers Ismael "El Mayo" Zambada and Joaquín "El Chapo" Guzman.

Guzman has tried underground routes before, prosecutors said.

In 1993, people working for him tried to dig a tunnel 1,450 feet north from an industrial building in Tijuana to a factory building under construction in Otay Mesa. They came up in a field about 120 feet short of their target.

That tunnel was discovered after officials found a map in a Tijuana safe house while investigating the killings of Cardinal Juan José Posadas Ocampo and six others in Guadalajara.

Guzman was caught, but escaped from a Mexican jail in 2001. He was indicted in San Diego on drug-trafficking charges. U.S. authorities have offered a $5 million reward for information relating to his arrest.

"Chapo was known," Kirby said. "He could get drugs over quickly."

Officials Find Drug Tunnel With Surprising Amenities (NYT)

By Randal C. Archibold

The New York Times, January 27, 2006

LOS ANGELES, Jan. 26 — Drug smugglers have dug one of the longest, most sophisticated tunnels discovered in recent years along the Mexican border, and the American and Mexican authorities have hauled nearly two tons of marijuana out of it since they entered it on Wednesday, officials said.

The tunnel is 60 feet below ground at some points, five feet high, and nearly half a mile long, extending from a warehouse near the international airport in Tijuana, Mexico, to a vacant industrial building in Otay Mesa, Calif., about 20 miles southeast of downtown San Diego. The sophistication of the tunnel surprised officials, who found it outfitted with a concrete floor, electricity, lights and ventilation and groundwater pumping systems.

The authorities said a tip led to the discovery.

"The tunnel is absolutely amazing," said Michael Unzueta, special agent in charge for the federal Immigration and Customs Enforcement agency's San Diego office. "It is probably the biggest tunnel on the southern border so far."

On the American side, agents found about 200 pounds of marijuana in the building in Otay Mesa, which had several bays for tractor-trailers. On the Mexican side, drug agents found a pulley system at the entrance to the shaft and several thousand pounds of marijuana and hauled it out for several hours Wednesday. Mexican authorities also found seven cellphones, two trucks, a van and various documents in the warehouse, according to a statement from the Mexican attorney general's office.

The customs enforcement agency, the Drug Enforcement Administration and the Border Patrol are sending a forensics team from Los Angeles to determine how long the tunnel has been in use.

The tunnel is one of the latest to be found along the border. Most are attributed to Mexican drug cartels searching for ways to move contraband into the United States, but some appear to be the work of smugglers of illegal immigrants.

Since Sept. 11, 2001, when border security was tightened, agents have uncovered 21 tunnels of varying degrees of length and sophistication, from "gopher holes" to engineered marvels like Wednesday's discovery, Mr. Unzueta said.

The builders, he said, "had to have access to money and somebody with a strong construction and engineering background."

"Our quick assumption is it's the drug cartels," he said.

The tunnel, Mr. Unzueta added after touring it, " is almost like a mineshaft."

Wednesday's discovery was the result of a tip investigated by a task force of federal agents devoted to tunnels. On Monday, they narrowed their search to the area in Otay Mesa and notified Mexican agents about what they suspected was the opening of the tunnel near the airport.

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Both sides began digging. Mexican agents discovered a concrete-lined, 85-foot-deep shaft in a warehouse, descended, walked through the tunnel and popped up on the American side, Mr. Unzueta said. Officials on each side are searching records to determine who owns the buildings.

Also on Wednesday, several miles west of the big tunnel, the authorities found a smaller one — about two feet underground and extending 30 feet across the border near a storm drain — after a United States Border Patrol vehicle hit a sinkhole.

Probe Underway After Exit To Border Tunnel Is Found (LAT)

By Richard Marosi

The Los Angeles Times, January 26, 2006

SAN DIEGO — Federal authorities have launched a criminal investigation after finding a long, cross-border tunnel that began in a warehouse in Tijuana, Mexico, and was apparently used for smuggling drugs or people, authorities said Wednesday.

Federal agents discovered the U.S. exit to the tunnel Wednesday in an undisclosed location near the Otay Mesa Port of Entry, said Lauren Mack, a spokeswoman for Immigration and Customs Enforcement.

Mack could not disclose more details, but said the tunnel appears to be longer than most of the 21 cross-border tunnels found in Arizona and California since Sept. 11, 2001.

"We've located a massive, spectacular tunnel," she said.

Four tunnels have been discovered in the San Diego area this month. Also Wednesday, a crudely built, unfinished tunnel was discovered when a border patrol agent ran over a sinkhole near the San Ysidro Port of Entry.

"It was a gopher hole tunnel … very primitive," Mack said.

Another unfinished tunnel was discovered last week a few miles east. That tunnel extended about 30 yards into the United States and appeared to be headed to a storm drain system.

Smugglers in recent years have tapped into storm drain systems in San Diego to bring migrants into the country.

Massive Drugs Tunnel Found Under Mexico-US Border (AFP)

AFP, January 27, 2006

United States authorities say they have discovered the largest and most sophisticated tunnel detected under their border with Mexico, one that was used by drug trafficking gangs.

The tunnel, lined with concrete and equipped with ventilation and lights, is one kilometre long, according to Mexican officials, but their US counterparts say it was only about 727 metres.

The secret route is cut 26 metres below ground, directly under a heavily protected sector of the frontier and is much larger than the 21 others detected under the border since the September 11, 2001 terror attacks on US soil, US officials said.

"We believe this tunnel is, in fact, the largest tunnel ever found on the south-west border," said Michael Unzueta, special agent in charge for US Immigration and Customs Enforcement in San Diego.

The tunnel, discovered late on Wednesday by US Border Patrol agents who tipped off Mexican authorities, begins beneath a warehouse in the Mexican border town of Tijuana and stretches to Otay, near the California city of San Diego.

The length and well-built structure of the tunnel, which was 1.5 metres wide, make it unusual.

Authorities found more than two tons of marijuana in the tunnel that US officials fear could also be used by people smugglers and even terrorists trying to circumvent the porous border.

"We're very concerned," said Mr Unzueta. "When we find these tunnels, we see that as a vulnerability to our national security."Sophisticated operation

Mexican police raided the warehouse in Tijuana and discovered a 1.8- by 3.6-metre concrete-lined shaft equipped with a ladder that drops down to the tunnel below.

A gurney hanging from a pulley system attached to one of the warehouse's beams allowed items to be moved into and out of the tunnel.

Portions of the tunnel are 15-18 metres deep, Mr Unzueta said.

The tunnel has a lighting, ventilation and pumping system to keep seeping water out.

John Fernandes of the US Drug Enforcement Administration in San Diego said the sheer scale and construction of the tunnel indicated that it was likely built by Mexico's drug trafficking cartels.

"It's a vast and sophisticated tunnel. We know it's used for drug trafficking, obviously, but ... this tunnel truly illustrates the dangers, the risks of the security and safety concerns of the American public."

The Mexican drug cartels have spent millions of dollars in the last 15 years to find ways of moving contraband across the border into the lucrative US market.

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A number of tunnels have been detected under the border in recent months by a special ICE tunnel task force, including four in the San Diego area this month alone.

Feds Smoke Out Largest Drug Tunnel Yet (CNN)

By Kevin Bohn

CNN.com, January 26, 2006

WASHINGTON (CNN) -- Authorities have found what they call the largest and most sophisticated tunnel running into the United States along the Mexican border.

The tunnel contained 2 tons of marijuana, stacked in bales, according to a statement issued by the Justice Department.

DEA and U.S. Immigration and Customs Enforcement agents discovered the tunnel Wednesday night. It runs from Tijuana, Mexico, to Otay Mesa, California. (Watch scenes from the Tijuana pot tunnel -- 1:40)

Officials said the tunnel is about seven-tenths of a mile (1,148 meters) or more than 1,200 yards long. Initial reports said it is 5 feet high and 3.5 feet wide.

Authorities said they believe the passageway originates under a warehouse about 150 yards south of the border and surfaces about a half-mile north of the border in another warehouse.

Made of concrete, the passageway had lighting, electricity, ventilation and a pump to remove water, said Lauren Mack, a spokeswoman for Immigration and Customs Enforcement.

Most of the marijuana was uncovered on the Mexican side, but some of it was in the United States, Mack said.

"It's definitely expected to be related to a major drug cartel in Mexico," she said. No arrests have been made.

An investigation is under way to determine who built the passageway.

Mack said human intelligence led to the discovery of the underground structure. Agents then used ground-penetrating radar technology from the military to find anomalies in the soil, she said.

Earlier this month, U.S. border patrol agents investigating a caved-in road discovered another tunnel between Mexico and the United States, west of the San Ysidro, California, port of entry.

It was the third such tunnel found in three years near the San Ysidro port, Mack said. Others were discovered in 2003 and 2004, she said.

"We found trash and other evidence indicating people had been inside recently," Mack said in a phone interview January 11, describing the passage as "primitive." (Full story)

Tightened border security since the September 11, 2001, attacks is the likely cause for the increase in the tunneling, Mack said.

More than 20 cross-border tunnels have been uncovered in California and Arizona since 9/11, she added.

"We've now got a dedicated tunnel task force, which works with the DEA and border patrol to proactively look for tunnels," Mack said.

Tunnel Found Under Mexican Border (UPI)

UPI, January 26, 2006

SAN DIEGO, Jan. 26 (UPI) -- Federal agents report finding 2 tons of marijuana inside a tunnel that runs for nearly three-quarters of a mile between Mexico and California.

The tunnel is the largest of the 15 discovered under the border in California and Arizona since the Sept. 11, 2001, terrorist attacks, CNN reported. The Customs Service and Drug Enforcement Administration agents found it Wednesday night.

Agents described the tunnel as 1,200 yards long or about 0.7 of a mile, connecting Tijuana, Mexico, with Otay Mesa, Calif. It is reportedly 5 feet high and 3.5 feet wide with lighting and concrete walls and floor.

Lauren Mack, a spokeswoman for the Customs Service, told CNN tunneling under the border appears to be a reaction to the increase in security that followed the terrorist attacks. Earlier this month, the collapse of a road surface led agents to a tunnel west of the port of San Ysidro in California.

Tunnel Found On Mexican Border (WP)

By John Pomfret

The Washington Post, January 27, 2006

LOS ANGELES, Jan. 26 -- U.S. and Mexican authorities have discovered an elaborate tunnel that stretches the length of eight football fields connecting Mexico and the United States and was apparently used for drug trafficking, authorities said Thursday.

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The tunnel, unearthed Wednesday, runs from a warehouse in Tijuana and surfaces in the United States under an abandoned warehouse west of the Otay Mesa port of entry. Mexican authorities announced that they had seized about two tons of marijuana on the Mexican end, and experts said the passageway bore all the hallmarks of an operation by a major drug cartel.

"This is a very, very sophisticated tunnel," Michael Unzueta, special agent in charge for U.S. Immigration and Customs Enforcement in San Diego, said in a telephone interview. "Whether they are designed to smuggle drugs, people, weapons or other contraband, these tunnels pose a threat to our nation's security."

Unzueta said investigators were tipped off to the existence of the tunnel on the Mexican side and passed the information to Mexican law enforcement, which obtained a search warrant for the warehouse in Tijuana on Wednesday. Mexican authorities allowed reporters into the warehouse that night; they reported that they saw about 300 bundles of marijuana stacked more than five feet high.

Unzueta described the shaft as technically advanced, with electricity, a ventilation system, pumps to remove groundwater, cement flooring for traction in steep areas, and wood roofing to bolster the walls and ceiling. It had a clearance, he said, of nearly six feet and was about five feet wide.

At 2,400 feet, the tunnel is the longest and most sophisticated of the 21 underground passageways linking the United States and Mexico that have been discovered since the Sept. 11, 2001, attacks, when investigations and enforcement were beefed up in the region. Unzueta said most of the tunnels have been located in the San Diego area because the composite soil of that region is ideal for such work. From 1990 to 2001, 15 tunnels were unearthed.

Unzueta said that a year ago, agents from his agency, the Drug Enforcement Administration and U.S. Customs and Border Protection's Border Patrol unit formed the San Diego Tunnel Task Force, with the aim of unearthing the networks.

Federal agents have concluded that drug traffickers and smugglers of illegal immigrants have been heading underground to escape tighter enforcement along the border. Customs officials announced this week that drug seizures at California border crossings rose 24 percent in the past fiscal year. More than 127 tons of drugs were seized, the vast majority of that marijuana, in the year ending Sept. 30.

Since Jan. 9, authorities in the region have uncovered three other tunnels. Those were far from sophisticated -- the kind that agents call "gopher holes," being essentially shallow tubes connecting Mexico and the United States. In one discovery of a 30-foot-long tunnel with an opening of two feet square, federal agents found prospective illegal immigrants were still inside, although they succeeded in turning around and inching back into Mexico.

Law enforcement cooperation between the United States and Mexico has not always been good. Earlier this week, Texas state police were stopped along the border from seizing three sport-utility vehicles by men in military-style uniforms, who were armed with automatic weapons and driving a Humvee. The SUVs were apparently carrying marijuana.

Texas law enforcement officials speculated that the men were Mexican soldiers. On Wednesday, U.S. Ambassador Tony Garza issued a statement asking the Mexican government to "fully investigate" the border incident. Mexico's top diplomat, Foreign Secretary Luis Ernesto Derbez, countered Thursday that the men could just as easily have been U.S. troops.

Agents Find Pot-filled Mexico-U.S. Tunnel (WT)

By Jerry Seper

The Washington Times, January 27, 2006

Federal agents have located a 2,400-foot tunnel, filled with marijuana, that connects warehouses in Tijuana, Mexico, to San Diego -- the largest and most sophisticated illegal cross-border underpass authorities said they've ever found.

Equipped with a pulley and ventilation system, the tunnel is six feet wide and 8 to 12 feet high. It has a cement floor and lights on its walls, said U.S. Drug Enforcement Administration (DEA) spokesman Garrison K. Courtney.

"Whether they are designed to smuggle drugs, people, weapons or other contraband, these tunnels pose a threat to our nation's security," said Michael Unzueta, special agent in charge of U.S. Immigration and Customs Enforcement (ICE) investigations in San Diego.

The tunnel's discovery Wednesday prompted the U.S. Attorney's office in San Diego to open a criminal investigation, said Lauren Mack, an ICE spokeswoman. ICE is a member of the San Diego Tunnel Task Force with the DEA and U.S. Customs and Border Protection (CBP).

Since the September 11 attacks, federal authorities have discovered more than 20 cross-border tunnels along the U.S.-Mexico border in California and Arizona. Authorities said they were unsure how long the tunnel had been in operation. They also said they did not know what drug organization might have used it.

Mr. Courtney said the tunnel originates 85 feet under a warehouse about 150 yards south of the border in Mexico, near the Tijuana airport, and surfaces about a half-mile north of the border in an abandoned warehouse in Otay Mesa.

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Otay Mesa, a community within the City of San Diego that was developed as an industrial area in 1985 as a result of the creation of the Otay Mesa port of entry, has become California's largest commercial land border port and is one of the busiest commercial land border crossings in the United States.

Based on leads provided by the task force, Mr. Courtney said federal police in Mexico found the tunnel after obtaining a warrant Wednesday night to search the Tijuana warehouse. Mexican authorities said the two tons of marijuana were stacked in nearly 300 bales.

Mexican authorities said a metal ladder was used to gain entry to the packed-earth tunnel.

In July 2003, members of the Tijuana-based Arellano-Felix Organization were indicted for conducting an illegal enterprise through a pattern of racketeering activity, conspiracy to import and distribute cocaine and marijuana, and money laundering.

After a request by the DEA, the State Department issued rewards totaling $16 million for information leading to the arrest of five leaders of the organization who remain at large: Javier Arellano-Felix, Eduardo Arellano-Felix, Manuel Aguirre-Galindo, Gustavo Rivera-Martinez and Gilberto Higuera-Guerrero.

In May 1993, a 1,450-foot tunnel was located in the same area of Otay Mesa, although authorities said at the time that it was unfinished.

The tunnel task force uses an array of high-tech equipment and intelligence information to pinpoint the locations of underground passageways along the border.

Five More Soldiers, Three Others Admit To Drug Smuggling (AP)

AP, January 27, 2006

Five more members of the U.S. military and three other suspects have agreed to plead guilty in a drug smuggling sting case targeting military members who believed they were smuggling cocaine through Arizona.

The pleas bring the total number of people admitting guilt in the case to 44, most of whom were members of the regular Army or Air Force or the Arizona National Guard.

The U.S. Attorney's Office said the five, four Army National guard soldiers and one airman, pleaded guilty to conspiracy to accept cash bribes from people they believed to be narcotics traffickers. In addition, two civilians and an officer with the Arizona Department of Corrections.

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In fact, the traffickers were FBI agents working a sting operation called "Lively Green." The defendants face up to five years in federal prison and $250,000 fines.

All eight defendants escorted at least one shipment of cocaine from locations in southern Arizona to Phoenix or Las Vegas, federal officials said. In one instance, a convoy of U.S. military Humvees met a small private plane at a clandestine airstrip near Benson and the soldiers helped the undercover-agent pilots unload 60 pounds of cocaine. They then drove it to Phoenix, where another agent paid them off in cash.

More Guilty Pleas In "Lively Green" (KOLD-TV)

KOLD-TV, January 27, 2006

Eight more people are pleading guilty in the Operation Lively Green case.

Six are current or former soldiers, and law enforcement officers.

Two are civilians.

This brings to 48 the number of defendants who have pleaded guilty to taking bribes from drug traffickers.

The FBI investigated the operation for two years.

All of the defendants escorted at least one shipment of cocaine from Nogales and Tucson, to Phoenix and Las Vegas.

Mexico Suggests U.S. Military Could Be Behind Border Incident (AP)

By Mark Stevenson, ASSOCIATED PRESS

AP, January 27, 2006

MEXICO CITY – Mexico's foreign secretary suggested Thursday that uniformed men using a military-style Humvee to help drug traffickers on the border could have been U.S. soldiers or criminals disguised as Mexican troops.

The comments by Luis Ernesto Derbez came a day after U.S. Ambassador Tony Garza issued a strongly worded statement asking the Mexican government to "fully investigate" Monday's border incident.

Derbez called Garza's comments out of line and said his office is sending a diplomatic note asking the ambassador to tone down his rhetoric.

The U.S. Embassy in Mexico made no immediate comment.

Derbez also said that men photographed by Texas law enforcement officers as they helped marijuana traffickers flee to Mexico on Monday could have been Americans, but he offered no evidence.

He did refer, however, to an FBI drug sting dubbed Operation Lively Green, in which more than a dozen U.S. military and civilian government workers were arrested in southern Arizona. Some pled guilty to transporting drugs in official vehciles, including Humvees.

"Members of the U.S. Army have helped protect people who were processing and transporting drugs," Derbez told a news conference. "And just as that has happened ... it is very probable that something like that could have happened, that in reality they (the uniformed men at the border) were members of some of their groups disguised as Mexican soldiers with Humvees."

Texas law enforcement officials originally said Mexican soldiers were involved in Monday's incident.

Mexican officials earlier have said the uniformed men were drug traffickers disguised as Mexican soldiers. Derbez said Thursday there was no proof that they were even Mexicans.

"There is a supposition here that this involved Mexican citizens, and that is absolutely incorrect," Derbez said. "There would have to have been racial descriptions, and that would imply a certain element of racial discrimination on the part of the American sheriffs."

Derbez said his diplomatic note to U.S. Secretary of State Condoleezza Rice would demand that U.S. officials tone down their comments on Mexico's security and immigration problems, and would request quick results of an investigation into the December shooting of a Mexican migrant.

He complained that Garza should have made his complaints through diplomatic channels.

"We should not convert this, as (Garza) apparently did by publishing his article, into a public relations issue," Derbez said, adding that Garza's comments were "not only wrong, but also don't correspond to reality."

A series of earlier spats have raised tensions between the two nations that largely disagree on the best way to thwart illegal immigration and drug smuggling along the 2,000-mile (3,200-kilometer) border.

Derbez said Mexico's official position on immigration is now to push not just for legalization and temporary work permits for Mexicans, but for migrants from Central America and other countries as well.

"In any immigration reform, there should be a clause that allows the regularization of all citizens ... not just Mexicans, but other nationalities," Derbez said.

The U.S. Congress has refused to approve any amnesty. Instead it is considering the possibility of extending walls along the border – an idea that Mexico bitterly opposes.

Monday's confrontation began 50 miles (80 kilometers) east of El Paso, Texas, when state police tried to stop three sport utility vehicles on Interstate 10. The vehicles made a quick U-turn and headed south toward the border, a few miles away.

Crossing the border, one SUV got stuck in the river, and the men with the Humvee tried in vain to tow it out. Then a group of men in civilian clothes began unloading what appeared to be bundles of marijuana, and set the SUV on fire before fleeing.

Federal Officials Arrest 2 In Plot To Kill DEA Agent (WT)

By Jerry Seper

The Washington Times, January 27, 2006

Federal authorities have arrested two Louisiana men, including an inmate in the Tangipahoa Parish Prison near New Orleans, in a $15,000 assassination plot to kill a U.S. Drug Enforcement Administration agent.

Johnnie Sims was arrested Wednesday night as he attempted to hire a hit man to kill DEA Agent Chad Scott, said William J. Renton Jr., special agent in charge of the DEA's New Orleans field office. Chris Walker, 30, also was charged but already was in custody from his Oct. 13 arrest for possession with the intent to distribute crack cocaine.

"This arrest and the swift federal response to the vicious plot to murder a career DEA special agent should serve as compelling evidence of our absolute commitment to take any steps necessary to protect the lives of law-enforcement officers and citizens alike from those dangerous criminals who prey upon society with no regard for human life," said U.S. Attorney Jim Letten.

According to a criminal complaint filed in U.S. District Court, federal agents learned of the purported assassination plot from cooperating inmates who said Mr. Walker was seeking to hire someone to kill Mr. Scott.

Mr. Renton said federal agents set up a sting operation, during which the cooperating witnesses provided to Mr. Walker the telephone number of an undercover agent who was posing as the killer. He said Mr. Walker then contacted Mr. Sims, a cousin and drug trafficking associate, to pay the undercover agent to kill Mr. Scott.

Mr. Sims, 25, contacted the undercover agent and, according to Mr. Renton, had two meetings with him concerning the desire of Mr. Walker to kill the agent. He said Mr. Sims agreed to pay the undercover agent $15,000 for the murder.

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During the second meeting, Mr. Renton said Mr. Sims identified a picture of Mr. Scott, stating he wanted him killed as soon as possible. He also paid the undercover agent $1,000 as a down payment for the killing. Shortly after the meeting, agents arrested Mr. Sims at a shopping center in Metairie, La.

Mr. Renton said Mr. Sims was in possession of a semiautomatic pistol at the time of his arrest.

Mr. Sims has since agreed to cooperate with authorities and confessed to his role in the plot to kill the agent, Mr. Renton said. Mr. Walker remains in jail on the federal drug trafficking charges and has been detained without bond pending trial.

The investigation is ongoing and, Mr. Renton said, additional suspects are expected to be arrested.

"As we move forward in rebuilding our ravaged region, the people we serve should take comfort in the knowledge that the men and women of federal law enforcement will employ every weapon in our arsenal to hunt down and bring to justice anyone who poses a threat to the lives and safety of our law-enforcement professionals or to those brave citizens who come forward as witnesses."

Inmate Accused Of Seeking Hit Man (NOTP)

By Michael Perlstein

New Orleans Times-Picayune, January 26, 2006

It started as Southeast Louisiana's first federal drug case since Hurricane Katrina. It evolved into a murder-for-hire plot targeting the Drug Enforcement Administration agent who made the bust, federal authorities announced Wednesday.

As a result, a Tangipahoa Parish Prison inmate, and a go-between who allegedly tried to hire a hit man on the inmate's behalf, face possible life sentences if convicted of conspiring to kill a federal officer. The case against federal drug defendant Chris Walker and Johnnie Sims, Walker's cousin and an alleged drug-trafficking underling, will be presented to a grand jury in the coming weeks, U.S. Attorney Jim Letten said.

William Renton, the DEA's top agent for the New Orleans area, said the scheme unraveled when Walker, 30, started asking fellow inmates at Tangipahoa Parish Prison for the names of potential hit men.

Two inmates took the information straight to DEA Agent Chad Scott, who had busted Walker on Oct. 18 and booked him with possessing more than a kilo of cocaine, equipment used in making crack and a gun with an obliterated serial number, according to Renton and court records.

The informants told the agent that Walker had asked Sims, 25, to line up an assassin to murder Scott, according to criminal affidavit filed in the case. The DEA wasted no time launching a sting operation using an undercover New Orleans police officer to pose as a drug-dealing hit man, the affidavit states.

"I was angry," Renton said. "I was personally offended that somebody would target a federal agent simply for doing his job and serving the citizens of the United States. We decided we'd leave no stone unturned in pursuing this investigation."

Agents used the informants to give the undercover officer's telephone number to Walker in prison, who promptly passed the number to Sims. After a few preliminary phone conversations, Sims met with the undercover officer Monday at Lakeside Shopping Center in Metairie, the affidavit states.

At the meeting, the two men arrived at a price of $15,000 for "knocking off" Scott. The pair met again at Lakeside on Tuesday, when Sims allegedly gave the undercover officer, Ricky Jackson, a $1,000 down payment.

"Walker's thinking that if Chad Scott dies, he's got no more problems. Once we heard about this, we put on a full-court press," Renton said.

With the exchange of money, agents pounced on Sims and arrested him. A search of his vehicle netted a loaded .40-caliber handgun and small amounts of cocaine and marijuana, authorities said. After his arrest, Sims began spilling his guts about the plot, revealing that Walker also wanted to kill the confidential informants who he believed landed him behind bars in the first place, the affidavit states.

Renton and Letten said the case was helped by cooperation among several police agencies, including the DEA, New Orleans Police Department, Hammond Police Department, Louisiana State Police and the Tangipahoa and Jefferson Parish sheriff's offices.

"I'm extremely proud of the swift and efficient actions of the DEA agents and everyone else involved," Letten said. "We will always do everything in our power to protect those people who dedicate their lives to protecting citizens. It's plots like this that galvanize our resolve to more aggressively go after these corrupt individuals."

While it is rare for a defendant in such cases to receive the maximum life sentence, Walker and Sims face lengthy prison terms based on prior and pending cases against them. At the time of his arrest, Sims was on probation for two felony cocaine convictions. Walker, in addition to the pending federal cocaine case, also has two prior drug convictions, court records show.

County May Join Medical Pot Suit (PR-ENT)

DOJ_NMG_0012662

By Duane W. Gang And Kimberly Trone

Press-Enterprise (CA), January 27, 2006

Riverside County will consider joining San Bernardino and San Diego counties in a federal lawsuit seeking to overturn California's medical-marijuana law, a Riverside County supervisor said Thursday.

Supervisor Jeff Stone, a pharmacist, said he intends to ask his colleagues in closed session Tuesday to add the county to the short list of challengers to the state's Compassionate Use Act approved by Californians in 1996.

The law allows patients with a physician's recommendation to transport and use marijuana to treat the symptoms of illnesses such as cancer, glaucoma, chronic pain and AIDS.

State law also requires counties to issue optional identification cards to medical-marijuana users. So far, 15 counties -- including Riverside -- have issued almost 800 cards, which help users avoid arrest.

San Bernardino County, which was set to begin issuing the cards this month, will not issue them until the legal dispute is resolved. Riverside County began issuing the cards in December.

Stone, along with his counterparts in San Bernardino County, said the state law conflicts with federal drug provisions, leaving law enforcement in a bind over which measures to enforce.

In addition, the U.S. Supreme Court ruled last year that those in states with compassionate-use laws still could face arrest on federal drug charges.

"It is clear through pharmacy law that whatever law is stricter -- federal or state law -- that is the law we have to uphold," Stone said. "The more counties that sign on to the suit, the more clout we are going to have."

Counties need clarification from the courts on the conflicting laws, Stone said.

San Bernardino County supervisors voted unanimously in closed session this week to join San Diego County in its federal lawsuit against the state.

Ruth Stringer, an assistant San Bernardino County counsel, said the county has not filed its lawsuit yet but hopes to do so soon. Once filed, it is expected to be combined with San Diego County's lawsuit, officials said.

Chris Laue, 55, of Twentynine Palms, meets monthly with people in San Bernardino County who rely on medical marijuana to ease chronic pain. He said the group likely will go before the supervisors to protest their actions.

"They swear to uphold the constitution of the state of California," said Laue, whose wife uses medical marijuana.

San Diego County contends that the U.S. Constitution's supremacy clause preempts California medical-marijuana laws because they conflict with federal drug law and an international narcotics treaty the United States signed in 1961.

"Under federal law, we can't go along with what the state wants us to do," San Bernardino County Sheriff Gary Penrod said Thursday.

Penrod wrote a December memo to the San Bernardino County supervisors encouraging them to join with San Diego County.

In the memo, he said that while voters statewide approved the 1996 ballot initiative, San Bernardino County voters rejected it.

He urged the county to "resist engaging in a program that issues cards that sanction participation in a federal crime."

Penrod said he expects to be a named plaintiff in San Bernardino County's lawsuit and hopes that adds weight to the counties' case. He said he wants to go before a judge and explain the problem that medical marijuana poses to law enforcement agencies.

But the counties could be facing an uphill legal battle, even if Riverside County joins the lawsuit, said David B. Cruz, a constitutional law expert at the University of Southern California Law School.

It is pretty clear a county cannot sue its state for an alleged constitutional violation, Cruz said.

"There also is precedent that physicians recommending marijuana, which is what these ID cards are all about, does not amount to a violation of federal law," Cruz said.

It is unclear whether Stone will gain support from his fellow supervisors to add Riverside County's name to the suit. Supervisors Marion Ashley, Bob Buster and Roy Wilson said this week that as long as there is a state law allowing the use of medical marijuana, they intend to uphold it.

"I would hope we would move forward in making sure the law is followed," Wilson said.

Riverside County Supervisor John Tavaglione said Thursday he was not prepared to weigh in on whether the county should join the lawsuit, but he said he wants a ban on medical-marijuana dispensaries.

Riverside County planners are preparing to roll out a proposal this spring detailing where and how medical-marijuana dispensaries may operate.

Stone said joining the lawsuit would not mean Riverside County would stop issuing medical-marijuana cards.

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"We are going to continue to do what the state tells us until a judge tells us the measure is unconstitutional or not legally viable," Stone said.

U.S. And Mexico Trade Complaints Over Border Security Issues (NYT)

By James C. McKinley Jr.

The New York Times, January 27, 2006

MEXICO CITY, Jan. 26 — The United States and Mexico exchanged diplomatic broadsides on Thursday over border security and drug-related violence in another sign of their deteriorating relationship.

The American ambassador, Antonio O. Garza Jr., sent a formal note to the Mexican government demanding an investigation of an episode on Monday in which men dressed as Mexican soldiers helped drug smugglers escape American law enforcement officers near El Paso.

The ambassador took the unusual step of not only announcing the note, but promising to send a second one to express concern about a rise in drug-related violence in border towns and recent attacks on American Border Patrol agents.

"I am urging the Mexican government to take this elevated violence seriously," said Mr. Garza, a Texas Republican. "In the past there has been a tendency to focus on public relations instead of public security."

Hours later the Mexican foreign minister, Luis Ernesto Derbez, suggested that it was Mr. Garza who appeared to be playing to a crowd for political reasons. "What he says is that one should not feed this discourse in the media, but find a real solution," Mr. Derbez said. "I would hope that he would apply his own recommendation." Not to be outdone, Mr. Derbez announced that Mexico would send its own diplomatic note responding to Mr. Garza's criticisms. He also said Mexico would demand an explanation for the lack of progress in an investigation of the fatal shooting of a Mexican immigrant, Guillermo Martínez, by a Border Patrol agent on Dec. 30 near San Diego.

Mr. Derbez went on to suggest that the uniformed men in the incident on Monday, who used a military Humvee with a mounted machine gun to help drug traffickers cross the Rio Grande, might have been American soldiers in disguise.

The diplomatic quarrel comes amid strained relations between the two countries. Mexican officials are furious about a bill before the United States Senate that would make it a felony to enter the country illegally and would order construction of 700 miles of fence along the border.

The bill is coming up for a vote as efforts to establish a guest worker program that would legalize the status of millions of Mexicans in the United States have stalled.

For their part, law enforcement officials in Texas and Arizona are up in arms about what they say are intrusions into their states by Mexican police and military units, sometimes in league with drug dealers. This week, Senator Jon Kyl, an Arizona Republican, sent a letter to Secretary of State Condoleezza Rice demanding an investigation into the alleged incursions, of which he said there had been more than 200 since 1996. American officials were also angered this week when the Mexican government announced that it would distribute maps of the Arizona desert to migrants, showing where water stations and other aid could be found.

The homeland security secretary, Michael Chertoff, strongly condemned the idea, saying it was "a bad idea to encourage migrants to undertake this highly dangerous and ultimately futile effort."

The Mexican National Human Rights Commission said Thursday that it had suspended the program, whose purpose was to reduce deaths from thirst and exhaustion. A record 464 immigrants died crossing the 2,000-mile border last year.

Mexico Suggests GIs Aided Pot Smugglers (AJC)

The Atlanta Journal-Constitution, January 27, 2006

MEXICO CITY — Mexico's top diplomat suggested Thursday that American soldiers disguised as Mexican troops may have been in the military-style Humvee filmed earlier this week protecting a marijuana shipment on the border.

Foreign Secretary Luis Ernesto Derbez also told a news conference that U.S. soldiers had helped drug smugglers before. However, he offered no evidence.

The U.S. Embassy in Mexico made no immediate comment on Derbez's claims.

His comments came a day after U.S. Ambassador Tony Garza issued a statement asking the Mexican government to "fully investigate" the border incident.

Monday's armed standoff began 50 miles east of El Paso, Texas, when Texas state police tried to stop three sport utility vehicles on Interstate 10. The vehicles made a quick U-turn and headed south toward the border, a few miles away.

Crossing the border, one SUV got stuck in the Rio Grande River, and men in a Humvee tried in vain to tow it out. Then a group of men in civilian clothes began unloading what appeared to be bundles of marijuana and torched the SUV before fleeing.

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Mexico insisted Wednesday that the men in military-style uniforms were drug smugglers, not soldiers. In Mexico, kidnappers and drug smugglers regularly wear police gear, which is sold at street stands.

Derbez said Thursday that the men photographed by Texas law enforcement could have been Americans.

"Members of the U.S. Army have helped protect people who were processing and transporting drugs," Derbez said. "And just as that has happened ... it is very probable that something like that could have happened, that in reality they were members of some of their groups disguised as Mexican soldiers with Humvees."

Three U.S. soldiers have pleaded guilty to running a cocaine smuggling ring from a U.S. base in Colombia, and a fourth is being tried in Texas this week.

Derbez said there was no proof that the men seen in the incident were Mexicans.

Derbez also said his country will send a diplomatic note to Secretary of State Condoleezza Rice demanding that U.S. officials tone down their comments on Mexico's security and immigration problems.

Mexican Border Incursions Redux: In 1916, Wilson Sent In The Army (WT)

By Robert Stacy Mccain

The Washington Times, January 27, 2006

Reports of armed Mexican outlaws crossing the border to clash with U.S. forces led to demands that the president send troops to protect American lives.

It sounds like a story ripped from this week's headlines, when Texas sheriff's deputies pursued marijuana smugglers protected by machine-gun wielding men in Mexican military uniforms.

So far, the White House is speaking of its "concern about the reports" of Monday's border crossing, which a spokesman described as "an incident that is under investigation." Yet in 1916, when Pancho Villa's bandits raided Columbus, N.M., a Democratic president didn't hesitate.

President Woodrow Wilson sent Gen. John "Black Jack" Pershing to lead an expedition into Mexico. A $5,000 bounty was offered for Villa's capture, and Army posters invoked "The Flag, Old Glory" in calling for 25,000 recruits: "Come on, boys, be ready to shoulder the trusty Springfield."

There are important differences between the border situation that Wilson faced in 1916 and the situation facing President Bush this year, said Philip E. Koerper, professor of history at Jacksonville State University in Alabama.

"Pancho Villa -- it was in the midst of a revolution," he said. "This is just plain old smuggling."

Though he sees no comparison to the 1916 Villa raid, Mr. Koerper said, that doesn't mean the current border situation is not a threat to U.S. security.

"As long as you can have smugglers and refugees both crossing your border illegally, anybody could cross illegally, including al Qaeda," he said.

Concerns about terrorists' crossing the border indicate one parallel between this year and 1916 when, during World War I, many Americans suspected Mexico of harboring German agents and saboteurs. Indeed, an intercepted German message, the infamous "Zimmerman telegram," proposing a German-Mexican alliance helped prompt Wilson to take the United States into war in 1917 -- with its Army commanded by the general who had led the pursuit of Villa.

Yet the historic situation during Villa's day was much different, said James Carafano, a senior fellow at the Heritage Foundation.

"Mexico back then didn't have a strong central government," said Mr. Carafano, who specializes in defense and homeland-security issues. "There was no rule of law. I don't think you can compare that to Mexico today.

"There are security issues on the border ... and there's transnational criminal issues, whether you're talking about drugs or guns or people. But I don't think it's analogous to" 1916.

A brilliant militia commander, Villa played a key role in the 1911 overthrow of the dictatorship of Porfirio Diaz. But in 1915, Wilson sided with Villa's rival Venustiano Carranza -- infuriating Villa, who retaliated against U.S. citizens in Mexico. Sixteen American mining engineers were slain in the Santa Isabel Massacre of January 1916.

Shortly before dawn on March 9, 1916, about 600 of Villa's men swept down on Columbus. They soon were met by about 350 troops of the U.S. 13th Cavalry. Driven back by U.S. machine-gun fire, Villa lost more than 75 men in the raid, which left 17 Americans dead.

As in the current year -- when reports of this week's clash near El Paso focused press attention on a problem that long had concerned border residents -- the press in 1916 reacted sharply to news of the Columbus raid.

The reaction was especially swift in the Los Angeles Times, historian Clayton E. Cramer has noted. Before Villa's New Mexico incursion, the newspaper had described Villa as a "rebel leader." After the Columbus raid, an editorial denounced him as an "outlawed Mexican bandit" and "the vilest kind of ruffian."

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The Wilson administration also acted swiftly. Thousands of U.S. troops poured into Columbus, and Gen. Pershing arrived from Fort Bliss, Texas, to take command.

The Mexican government at first was favorable to the U.S. attack on its enemy, Villa, but Carranza came to resent the U.S. presence, and soon Pershing's troops were fighting both Villa's rebels and regular Mexican troops.

The expedition "was a fiasco," said Old West historian Roger McGrath.

Mexico offered "perfect defensive positions for Pancho Villa -- he knew the country like the back of his hand," Mr. McGrath said. The American campaign "was a logistical nightmare -- no roads, no maps, no water."

Villa eluded capture, and in early 1917 -- as war loomed between the United States and Germany -- Wilson recalled the Army.

Mr. Carafano, the Heritage analyst, said the outcome of Pershing's 11-month expedition points to the problem of deploying the military to deal with the border issue -- as many have called on Mr. Bush to do.

"After the Army left the border [in 1917], the problems came back and continued into the 1920s," he said.

Cleveland Man Who Kept Machine Guns Buried Pleads Guilty (CHATT)

Chattanooga (TN) Chattanoogan, January 27, 2006

A Cleveland, Tn., man who authorities say kept machine guns buried in his yard pleaded guilty Thursday to firearms and meth charges.

Donald Pippenger, 50, appeared before Judge Allan Edgar.

Prosecutor Gary Humble said Bradley County Sheriff officers on Aug. 9, 2004, found working components of a meth lab at Pippenger's home. He said they went back on March 10, 2005, and found he again was outfitted to cook meth.

Pippenger sold a sub-machine gun to an undercover officer on May 11, 2005, the prosecutor said.

He is facing up to 20 years in prison and a fine up to $1 million on the meth cases and up to 10 years and a fine up to $250,000 in the firearms case.

Sentencing is April 19 at 1 p.m.

ATF Agt. Carl Maskew said an informant told him he learned Pippenger was trying to sell guns. The informant went to the Pippenger home at 105 Hughes Road and Pippenger offered to sell him a semi-automatic Uzi. He said Pippenger said he should consider buying a fully automatic Uzi instead. He said Pippenger told him he had several automatic Uzis and an automatic AK-47 that he would sell.

The informant said Pippenger told him he keeps the assault weapons buried because "the law was after him."

He said Pippenger told him about being arrested for meth and said he "was not going to jail and that he was going to sit outside the courthouse, take some poison and while it was taking effect he was going to kill everyone with a bade that he saw, including judges and lawyers."

The informant said Pippenger told him "that if the law came to his house, he was going to barricade himself in his home and shoot as many cops as he could and then poison himself."

The informant said he "became concerned for the safety of the officers and judges and felt that he needed to tell law enforcement about the threats."

Agt. Maskew said on May 11, 2005, that an undercover ATF agent bought three firearms from Pippenger. He said Pippenger said he had to go to another location on Hughes Road and dig up two of the guns at a prior residence. He said Pippenger returned with two machine guns that "were caked with dirt, indicating that they had been buried."

The agent said a check of the guns showed that at least two of them would fire fully automatic and the third "would probably fire two rounds with one pull of the trigger."

Pippenger advised that he had "a truckload" of weapons he could sale.

Federal Grand Jury Indicts Couple On Charges Of Defrauding Museum (AP)

By DYLAN T. LOVAN

AP, January 27, 2006

LOUISVILLE, Ky. - An Alabama man who headed a Louisville historical weapons museum has been charged with bilking the museum's founder out of millions by lying about the cost of some antique firearms.

Michael K. Salisbury, 50, inflated the prices of weapons bought by the museum's founder and primary financial backer, Owsley Brown Frazier, prosecutors said. He was indicted on two counts of money laundering, three counts of wire fraud and four counts of tax evasion.

Salisbury's wife, Karen Cruse Salisbury, 46, faces money laundering and wire fraud charges. The couple, of Huntsville, Ala., were taken into custody Thursday morning in Louisville, Assistant U.S. Attorney Eric Long said.

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The Salisburys pleaded not guilty and were each released on $25,000 bonds, Long said. They were ordered to surrender their passports.

Federal prosecutors estimate that the Salisburys turned a profit of at least $1.75 million from 1997 to 2002 by giving false appraisals of antique weapons to Frazier, a well-known local philanthropist. Some of the markups were twice the value of the original purchase price, prosecutors said.

The indictments, issued on Wednesday, said Frazier started a business deal with Michael Salisbury in which Salisbury would locate and buy antique firearms, report the price to Frazier and then Frazier would pay the purchase price for the item.

Frazier did not respond to a request for an interview on Thursday. He spent millions from his own pocket to found the museum, which opened in 2004.

The indictment alleged that in one instance in 1999, Salisbury bought a pair of Colt Model 1861 revolvers believed to have belonged to Gen. George Custer for $235,000, but told Frazier that the guns were worth $300,000.

Salisbury was named president of the museum's foundation in April 2001 and put in charge of an annual $2.5 million budget, the indictment said. He resigned in September 2002.

Long said Karen Salisbury controlled an account where the fraudulent proceeds were deposited.

The indictments alleged that the Salisburys concealed the profits and failed to report them on their federal taxes.

Michael Salisbury faces a maximum of 95 years in prison and a $2.5 million fine, and Karen Salisbury faces 35 years and a $1 million fine if they are found guilty of all the charges, prosecutors said.

Frazier, a retired vice chairman of liquor giant Brown-Forman Corp., sued the couple along with two antique firearms dealers and a California man in April 2004, making similar allegations of fraud.

The suit said that Frazier met the Salisburys in 1997 and eventually "grew to view them as close personal friends." It was not until 2002 that Frazier and the museum's foundation "began to comprehend the wrongdoing by Salisbury." The suit also named John and Belinda Jones, antique dealers from Virginia and Robert L. Wilson, a San Francisco author.

The indictments alleged Salisbury misrepresented the prices on a Colt revolver that was believed to have belonged to former FBI director J. Edgar Hoover; a Winchester rifle owned by William F. "Buffalo Bill" Cody; and a bow, quiver and six arrows believed to have belonged to the Apache Indian Geronimo.

The 100,000 square-foot museum in downtown Louisville houses several ancient artifacts that detail the history of human conflict. It also houses a collection from the Royal Armouries, Britain's national repository for arms and armor. The Royal Armouries chose the Frazier museum for its first permanent U.S. location to showcase about 300 artifacts that date from 1066 to the early 1900s.

Yuman, Mexican Cop Indicted In Gun Smuggling (YUMAS)

By Jeffrey Gautreaux

Yuma (AZ) Sun, January 26, 2006

Jan. 26--A Mexican police officer and a Yuma man have been federally indicted for allegedly attempting to cross the border with three weapons purchased at a Yuma gun show.

Omar Ignacio Alvarez, 20, of Yuma assisted Pedro Rios-Perez, 41, an officer for the Baja California State Police, in buying two handguns and an assault rifle Jan. 7 at a gun show at the Yuma County Fairgrounds, according to the indictment and a criminal complaint filed in U.S. District Court in Phoenix. The two allegedly attempted to drive the guns into Mexico in a police vehicle.

The arrests are part of an overall increase in enforcement by the federal government in cooperation with local agencies to curb weapons trafficking in this area, according to Tom Mangan, special agent for the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

"We recognize Yuma as being a firearms source for guns going to Mexico," Mangan said. "Arizona is a source state for firearms to Mexico."

With strict firearms laws in Mexico, buying weapons in the United States and smuggling them south has been a longtime practice. Mangan said people from Mexico involved in narcotics and other crime have been coming to Yuma retailers to purchase weapons or having them bought for them through straw purchases.

During Murphy's Gun Show in Yuma, agents from ATF and Immigration and Customs Enforcement (ICE) were conducting surveillance and saw Rios-Perez and Alvarez purchase the weapons, according to the complaint. Alvarez worked as a translator and, in one instance, a buyer, the complaint said.

The two were followed to the Andrade Port of Entry where they were detained and interviewed. Both were later arrested. The complaint charges each with alien in possession of firearms and exportation of munitions without a license.

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Alvarez has since been released on a personal recognizance bond, but Rios-Perez remains in jail. Each could face up to five years in prison, according to Mangan.

"As a police officer, (Rios-Perez) should be well aware of firearms laws," Mangan said.

According to Mangan, Rios-Perez told investigators that the weapons were bought for his personal use and he was simply bringing them home. Mangan did not comment on whether Rios-Perez may have been making the purchases to funnel them to people in Mexico.

"We're looking into that," he said.

According to the complaint and indictment, federal agents observed the two men leave the gun show carrying a small backpack and an AR-15 assault rifle. They got into a red truck with Mexican license plates and a Mexican Police logo on the side.

The two were observed placing a cover over the police logo to obscure it from view. Agents followed the truck to Sprague's Sports, where the two purchased leg irons. They then drove to a fast food restaurant and then to a home in Yuma, according to the complaint.

While the vehicle was parked near the house, the hood of the truck was opened and activity could be seen occurring near the front of the vehicle, the complaint said.

After closing the hood, the men got into the vehicle and left the residence. The truck was followed to the U.S. Port of Entry at Andrade where it was stopped. Rios-Perez identified himself as a Mexican national and a police officer.

A search revealed the two Smith and Wesson 9mm handguns and the assault rifle. "The ammunition and handguns were hidden in the truck's air filter and the rifle was hidden behind the truck's front seat," the indictment said. The complaint said the two spent about $1,700 making the purchases.

The Mexican law enforcement decals on the vehicle were covered up because officials on the Mexican side would want to know why a police vehicle from Baja California was crossing at that location, according to the complaint.

Mangan, who is based in Phoenix, did not comment on how Alvarez and Rios-Perez may have become connected with each other.

Jeffrey Gautreaux can be reached at jgautreaux@yumasun.com or 539-6858.

Gun-Toting Delegate Misfires In Richmond (WP)

By Chris L. Jenkins And Rosalind S. Helderman

The Washington Post, January 27, 2006

RICHMOND, Jan. 26 -- Del. John S. "Jack" Reid had gone through this morning routine dozens of times. He'd reach into his pocket, pull out his small semiautomatic .380 handgun, release the clip and store the weapon safely in the desk drawer of his office on the seventh floor of the Virginia General Assembly Building.

But something went wrong Thursday. Reid's pistol, which he said he carries for protection, fired as he popped the clip from the handle, sending a single bullet into the cushion of a bulletproof vest that was hanging from the back of his closed office door.

No one was injured, although Reid said he suffered a laceration on his hand from the friction of the gun's slide snapping back.

The incident prompted an unexpected debate about gun control and also something uncommon in Virginia political circles: contrition from a state legislator. Reid, a Henrico County Republican, rose from his seat on the floor of the House of Delegates, asked to be heard, explained what had happened and said: "I want to apologize to the members of this body and to the greater body. . . . I'm just thankful that nobody was hurt."

Even a few hours after the incident, Reid -- a 16-year veteran and one of the House of Delegates' most popular and free-spirited members -- was at a loss to explain how an experienced gun owner found himself discharging a firearm during one of the busiest parts of the business day at the state Capitol complex.

"If you asked me if I ever put a finger on a trigger when I wasn't at the shooting range, I'd say no," Reid said at a news conference after his apology. "Whether that's what happened, I can't tell you. I really don't know."

The incident immediately reopened the debate among lawmakers and lobbyists about whether firearms should be allowed at the Capitol, a discussion that has been held for several years. Although Maryland law generally prohibits the carrying of unconcealed or concealed firearms in government buildings, including the State House, anyone in Virginia until recently could carry firearms openly into the legislators' office building and the nearby Capitol.

Then, last year, a committee of delegates and senators passed a rule requiring residents to have a concealed weapon permit to bring a firearm into the complex, even if the gun is carried openly. Some senators proposed barring guns from the buildings altogether. But many gun rights groups opposed the move.

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Several lawmakers said they were stunned to find out that Reid carried a gun and even more surprised to hear that it had gone off in the busy building.

"He had no business bringing it into the General Assembly," said Senate Minority Leader Richard L. Saslaw (D-Fairfax), a supporter of gun control laws. "I think guns should be banned for all these government buildings."

But others said the freedom to carry a firearm responsibly was a necessity.

"Richmond is a dangerous place," said Del. Charles W. Carrico Sr. (R-Grayson), a former state trooper who spent a year as an undercover police officer in Richmond and carries his gun in the lawmakers' office building. "I carry to protect myself and my family."

Reid, a school administrator in Chesterfield County, said he has a valid permit to carry a concealed weapon and regularly brings his gun to the legislative session to protect himself. He is the sponsor of several controversial bills this year, including efforts to crack down on illegal immigration. But he said he usually ejects the cartridge and carries the bullets in his pocket.

"All of us occasionally get some phone calls that concern us, so during the session I have been carrying it," Reid said. He has had a permit to carry a concealed weapon for two years and has one other gun.

The Henrico County sheriff gave him the bulletproof vest several years ago "as a joke," he said.

Word of the incident spread quickly through the gossipy galaxy of Richmond lawmakers, lobbyists, advocates and reporters. According to one lobbyist, a list was going around with key words that should not be said in front of the General Laws Committee, which Reid chairs. Example: Take your best shot.

Others, including Gov. Timothy M. Kaine (D), couldn't help but rib Reid by marveling at what appeared to be the freak coincidence of the single round striking Reid's bulletproof vest.

"It was good if he was shooting at that coat rack and that it was wearing a bulletproof vest," Kaine said.

But Reid, who is known for a biting sense of humor, appeared humbled by the experience.

"It's at least causing me to evaluate myself," said Reid, 63. "I'm just thankful this turned out as it did."

Staff writers Ann E. Marimow and Michael D. Shear contributed to this report.

CONGRESS-ADMINISTRATION:

2 More Democrats Say They'll Back Alito (USAT)

By Kathy Kiely

USA Today, January 27, 2006

WASHINGTON — Two more Democratic senators, Robert Byrd of West Virginia and Tim Johnson of South Dakota, said Thursday that they will vote in favor of Supreme Court nominee Samuel Alito.

Byrd and Johnson join Sen. Ben Nelson of Nebraska as Alito's only announced Democratic supporters. All three are from states won by President Bush in 2004. “Like most of my constituents, I prefer conservative judges,” Byrd said.

The Senate is likely to confirm Alito on Tuesday by a narrower margin than Bush's first Supreme Court pick, John Roberts, who was confirmed, 78-22, as chief justice. All but four of the Senate's 55 Republicans have said they will vote for Alito, a federal appeals court judge. Republicans Olympia Snowe and Susan Collins of Maine, Lincoln Chafee of Rhode Island and Ted Stevens of Alaska have not announced how they will vote.

Massachusetts Democrats Edward Kennedy and John Kerry called for a filibuster, a parliamentary tactic to block a vote that requires support from at least 40 senators. But Sen. Dick Durbin of Illinois, the deputy Democratic leader, said opponents of Alito's confirmation would not succeed in a filibuster. Sen. Barack Obama, D-Ill., told a group of constituents that some Democrats who oppose Alito would also oppose a filibuster. “There are a number of Democratic senators who believe it's one thing to vote no but it's another thing to prevent the vote from coming up,” he said.

Democrats Blanche Lincoln of Arkansas, Daniel Inouye of Hawaii and Joe Lieberman of Connecticut, who were previously undecided, said Thursday that they will vote against Alito.

Lieberman Against Alito Confirmation (HARTC)

By david lightman

The Hartford Courant, January 27, 2006

WASHINGTON -- Sen. Joseph I. Lieberman, D-Conn., saying he was "left with just too many doubts," announced today he will vote against confirming Judge Samuel A. Alito Jr. to the U.S. Supreme Court.

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Lieberman became the 29th Democrat to announce his opposition to President Bush's nominee. But because 52 Republicans and three Democrats, including Nebraska Sen. Ben Nelson, West Virginia Sen. Robert Byrd and South Dakota Sen. Tim Johnson, have said they will back Alito, his confirmation is assured.

Lieberman, who joins the state's senior senator, Sen. Christopher J. Dodd, D-Conn., in opposition, said in a Senate floor speech that he was disturbed by Alito's record on privacy and civil rights issues.

"When asked at confirmation hearings about questions of personal privacy, Judge Alito accepted the 1965 decision in the [Griswold v. Connecticut] case as settled law," Lieberman said. That Supreme Court case overturned a state law barring married couples from using contraception, and was important for focusing on the right of married couples' privacy. Privacy became crucial in later cases, notably the 1973 Roe v. Wade case, which established a woman's right to an abortion.

But, Lieberman said today, "When asked over and over again" about Roe, Alito refused during his hearing to call that case settled law.

"I personally believe Roe achieved a … balance of rights and reflected a societal consensus that has continued and deepened in our country for more than three decades," Lieberman said. "I was left with serious concerns that Judge Alito would not uphold the basic tenets of Roe, and that is a very troubling conclusion."

In September, Lieberman and Dodd both voted for Bush's other Supreme Court choice, Chief Justice John G. Roberts Jr.

Lieberman explained that Alito met three of the four tests he applies before judging a nominee. Alilto has "shown he is a person of considerable intellect and ability," the senator said, and had an impressive legal background. And Lieberman had no doubts about his character -- "I thought he emerged with his honesty and integrity intact," he said.

But on the fourth standard, judicial philosophy, Lieberman thought Alito's record raised concerns.

"This is not about a single issue," the senator said, "but an accumulation of his opinions that leads me to a preponderance of doubts."

On civil rights, for instance, Lieberman was concerned that Alito too often barred legal remedies for people who thought they had been hurt by discriminatory practices. He looked at the hundreds of opinions Alito has written as a federal judge, and "together these opinions leave me with profound doubts about whether Judge Alito would protect and advance the special role" that the nation's founders gave it -- to judge issues "freed forever from political passions."

Senate Showdown Vote On Alito Set For Next Week (REU)

Reuters, January 27, 2006

WASHINGTON (Reuters) - Two more Senate Democrats broke ranks on Thursday and said they would vote to confirm Samuel Alito to the U.S. Supreme Court -- while two others made an all-but-certain futile bid to stop President George W. Bush's conservative nominee with a filibuster.

Alito, 55, a federal appeals court judge since 1990, appears headed for confirmation by the full Republican-led 100-member Senate early next week on a mostly party-line vote.

If approved, Alito would replace retiring Justice Sandra Day O'Connor, a moderate conservative, and could move the nine-member court to the right on abortion, civil rights and other social issues.

Near the close of a second day of debate, Senate Majority Leader Bill Frist, a Tennessee Republican, moved to force a confirmation vote on Tuesday. A test vote on ending debate is set for Monday, and a number of Democrats conceded they probably cannot stop Frist from mustering the needed 60 votes to do so. There are 44 Senate Democrats.

Sen. Edward Kennedy said he and fellow Democrat John Kerry, both of Massachusetts, were taking the lead in pushing for a filibuster, a procedural roadblock that permits for unlimited debate to stop a nominee.

"It's a battle, but it's achievable," Kennedy told reporters.

However about a half-dozen moderate Democrats, including some opposed to Alito, have said they would not support a filibuster. And assistant Senate Democratic leader Dick Durbin of Illinois said: "I've come to the conclusion that it is highly unlikely that a filibuster would succeed."

Earlier on Thursday, Democratic Sens. Robert Byrd of West Virginia and Tim Johnson of South Dakota declared their support of Alito. They joined Democrat Ben Nelson of Nebraska, who had announced last week that he would vote for him.

Byrd, Johnson and Nelson represent states that voted for Bush, who promised in his campaign to nominate conservatives to the nation's highest court.

Democratic critics have argued that Alito poses a threat on such fronts as civil rights and abortion, and would not be an effective check on presidential powers.

Byrd said that no one could know exactly what kind of justice Alito would prove to be.

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"But my considered judgment from his record, from his answers to my questions, and from his obvious intelligence and sincerity, leads me to believe him to be an honorable man, who loves his country, loves his Constitution and will give of his best," Byrd said. "Can we really ask for more?"

NOT A RADICAL

Johnson said while he had concerns about Alito's "narrow interpretation" of certain civil rights laws, "I cannot accept an argument that his views are so radical that the Senate is justified in denying his confirmation."

At a White House news conference, Bush urged the Senate to wrap up its debate as soon as possible and confirm Alito.

"He understands that the role of a judge is to interpret the law," Bush said. "He understands the role of a judge is not to advance a personal or political agenda."

Kennedy said, "This is a vote of a generation and a test of conscience. Judge Alito does not share the values of equality and justice that make this country strong. He does not deserve a place on the highest court of the land."

The Senate confirmation vote on Alito is expected to be far closer than the 78-22 for John Roberts, Bush's first nomination to the high court.

Alito Supported By Two More Democrats (WT)

By Charles Hurt

The Washington Times, January 27, 2006

Federal Judge Samuel A. Alito Jr. picked up two more Democratic endorsements yesterday, guaranteeing that he will be confirmed as the 110th associate justice of the U.S. Supreme Court next week.

Democratic Sens. Robert C. Byrd of West Virginia and Tim Johnson of South Dakota said they will support the nomination, even as Sen. John Kerry of Massachusetts phoned in for a filibuster from the Swiss Alps.

Mr. Kerry made calls yesterday while attending the World Economic Forum in Davos, Switzerland, urging colleagues to join a last-ditch effort to thwart Judge Alito's confirmation. Sen. Edward M. Kennedy, Massachusetts Democrat, joined in Mr. Kerry's call for a filibuster.

Republicans -- eager to relive the days during the 2004 presidential campaign when they called Mr. Kerry "an international man of mystery" -- delighted in his choice of venue.

"He shouldn't be wasting taxpayers' hard-earned money on long-distance phone charges calling for such obstruction," said Sen. George Allen, Virginia Republican.

"I hope it doesn't interrupt his snowboarding plans," added Joseph Cella, president of the conservative Catholic group Fidelis. He noted that American voters support Judge Alito's confirmation by a nearly 2-to-1 margin.

"While I'm sure Senator Kerry feels right at home at the plush resort, he has only further marginalized himself as a very liberal senator who is completely out of touch with middle American values," Mr. Cella said.

The effort comes after the New York Times yesterday called for a filibuster in an editorial titled "Senators in Need of a Spine." It also came shortly after the National Abortion Federation called for a filibuster.

Mr. Kennedy said he thinks Minority Leader Harry Reid of Nevada, Minority Whip Richard J. Durbin of Illinois and Sen. Debbie Stabenow of Michigan will join the filibuster effort. That vote will take place Monday. If Republicans round up 60 votes -- which many Democrats concede will happen -- it will be followed by a final vote on confirmation on Tuesday.

Mr. Reid said earlier on the Senate floor, however, that more debate time -- the primary reason for filibusters -- would not be needed.

"No one can complain on this matter that there hasn't been sufficient time to talk about Judge Alito, pro or con," he said.

No matter how Mr. Reid votes, there won't be enough Democrats to block the nomination. The 55 Senate Republicans already had at least five Democrats joining them in opposition to a filibuster, and got three more yesterday.

Mr. Johnson was joined by Sens. Ken Salazar of Colorado and Mary L. Landrieu of Louisiana in opposing a filibuster, though Mr. Salazar and Mrs. Landrieu said they will vote against Judge Alito's confirmation.

Mr. Byrd, who drew a Republican challenger this week in his Republican-leaning state, delivered a stinging rebuke of his colleagues for the treatment of Judge Alito during the hearing.

"Was it really necessary to subject Mrs. Alito to the harsh glare of television klieg lights as she fled the hearing room in tears, fighting to maintain her dignity in response to others with precious little of their own?" he asked on the Senate floor.

Mr. Johnson, whose state President Bush won with 60 percent of the vote in 2004, said Judge Alito would not have been his pick for the Supreme Court.

"Nonetheless, I must conclude that Judge Alito possesses a high level of legal skill, is a man of solid personal integrity, and that his views fall within the mainstream of contemporary conservative jurisprudential thinking," he said.

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Kerry Urges Alito Filibuster, But His Reception Is Cool (NYT)

By David D. Kirkpatrick

The New York Times, January 27, 2006

WASHINGTON, Jan 26 — Senator John Kerry of Massachusetts could not attend the Senate debate on the Supreme Court nomination of Judge Samuel A. Alito Jr. on Thursday. He was in Davos, Switzerland, mingling with international business and political leaders at the World Economic Forum.

But late Thursday afternoon, Mr. Kerry began calling fellow Democratic senators in a quixotic, last-minute effort for a filibuster to stop the nomination.

Democrats cringed and Republicans jeered at the awkwardness of his gesture, which almost no one in the Senate expects to succeed.

"God bless John Kerry," said Don Stewart, a spokesman for Senator John Cornyn, a Texas Republican on the Judiciary Committee. "He just cinched this whole nomination. With Senator Kerry, it is Christmas every day."

Steve Schmidt, a White House spokesman working on the nomination, said Mr. Kerry's move "says a lot less about Alito than it does about the Iowa primary in 2008," suggesting that Mr. Kerry, who lost the presidential race in 2004, was playing to his party's liberal base in a bid to recapture its nomination.

Senator Harry Reid, the Democratic leader, sounded almost apologetic about Mr. Kerry's statements.

"No one can complain on this matter that there hasn't been sufficient time to talk about Judge Alito, pro and con," Mr. Reid said on the Senate floor. "I hope that this matter will be resolved without too much more talking."

Mr. Kerry's call for a filibuster, an effort to stop confirmation by refusing to close debate and hold a vote, was joined by his fellow Democratic senator from Massachusetts, Edward M. Kennedy.

Under Senate procedures, their objections blocked the Senate Democratic and Republican leaders from setting Tuesday as the date for a vote on confirmation.

Instead, the Senate will vote Monday on whether to close debate. Sixty votes are required for a full Senate vote on Judge Alito. More than 60 senators have already pledged to support him, and the leaders of both parties said they expected to hold the full vote on Tuesday.

Mr. Kerry offered an explanation for his position in a post on a liberal blog, the Daily Kos.

"People can say all they want that 'elections have consequences,' " he wrote. "Trust me, more than anyone I understand that. But that seems like an awfully convoluted rationale for me to stay silent about Judge Alito's nomination."

Mr. Kerry was celebrated by leaders of the coalition of liberal groups opposing Judge Alito's nomination.

"Senator John Kerry has called for a filibuster of the Alito nomination, heeding your calls to do everything possible to defeat it," People for the American Way cheered in an e-mail message to its supporters.

Mr. Kennedy said a filibuster might help focus attention on the nomination and give its opponents a last chance to sway the public and the Senate.

He acknowledged some "divisions in the caucus" over the advisability of a filibuster, but he said the effort had the support of a few others, including Senator Richard J. Durbin of Illinois, the Democratic whip.

A spokesman for Mr. Durbin confirmed that he would vote against closing debate.

"It is an uphill climb at this point," Mr. Kennedy said of a filibuster. "But it is achievable."

Asked if Mr. Kerry's absence from the Senate would hinder their efforts, Mr. Kennedy said, "We'll do the best we can and make a good fight of it."

Mr. Kerry has been rallying his supporters against the nomination for weeks in mass e-mail messages and on his Web site.

And when the Democratic caucus met Wednesday to discuss the nomination, he gave an impassioned plea that the party should try to stage a filibuster even if it failed, people present said, speaking only if granted anonymity because the meeting was private. Some senators at the meeting said an unsuccessful filibuster would leave the party weakened for future battles.

Some said a messy and unsuccessful filibuster fight would distract from the Democratic focus on other issues like corruption in government and wiretapping by the Bush administration.

In the end the party leaders were not persuaded by Mr. Kerry's appeal.

Judge Alito's confirmation was looking increasingly certain Thursday. Two more Democrats, Senator Tim Johnson of South Dakota and Senator Robert C. Byrd of West Virginia, said they would break party ranks to vote for confirmation.

Mr. Byrd said his constituents had told him they were "appalled" by the harsh questioning Judge Alito received from the Senate Judiciary Committee at his confirmation hearings, calling them "an outrage and a disgrace."

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With Senator Ben Nelson of Nebraska, Mr. Johnson and Mr. Byrd bring the number of Democrats pledging support for Judge Alito to three. The vote on confirmation is expected to hew closely to party lines. No Republicans have said they will vote against him.

Two Republican supporters of abortion rights, Senators Olympia J. Snowe of Maine and Lincoln Chafee of Rhode Island, have not declared how they will vote.

Shortly after 7 p.m., Mr. Kerry issued a statement saying, "Judge Alito's confirmation would be an ideological coup on the Supreme Court."

"The president has every right to nominate Samuel Alito to the Supreme Court," Mr. Kerry said. "It's our right and our responsibility to oppose him vigorously."

A few moments later, April Boyd, a spokeswoman for Mr. Kerry, sent a postscript saying that "as things played out over the course of the day today" he had decided to fly home. "Kerry will be back in Washington tomorrow," Ms. Boyd said.

Senate GOP Seeks To Force Vote On Alito (KCS)

By Jesse J. Holland

The Kansas City Star, January 27, 2006

WASHINGTON - Die-hard Democratic critics of Supreme Court nominee Samuel Alito threatened on Thursday to block a vote on his confirmation, and Republicans countered with a move designed to force his approval by early next week.

"It is time to establish an end point" in the debate over President Bush's selection to replace Justice Sandra Day O'Connor, said Senate Majority Leader Bill Frist, R-Tenn.

Sen. Edward M. Kennedy, D-Mass., said he and other Democrats had refused to agree to a timetable for ending debate. "There's some division in our caucus," he conceded.

Democratic leader Harry Reid signaled as much in remarks on the Senate floor. He offered no support for Kennedy, John Kerry and others who are trying to block the vote with a filibuster in a last stand against Alito's confirmation.

"There's been adequate time for people to debate," Reid said.

Alito, 55 and a 15-year veteran of the federal appeals court, has well over 50 votes for confirmation. He gained the support of Democrats Tim Johnson of South Dakota and Robert C. Byrd of West Virginia during the day, and has the backing of at least 52 of the Senate's 55 Republicans.

The Senate will vote Monday on cutting off debate. If Alito's supporters get 60 votes in the 100-member body, the confirmation vote will follow on Tuesday.

"The president has every right to nominate Samuel Alito to the Supreme Court," Kerry said. "Its our right and our responsibility to oppose him vigorously and to fight against this radical upending of the Supreme Court."

White House spokesman Stephen Schmidt predicted the Republicans would easily win. "More than 60 senators have signaled their intentions to vote against the filibuster and give Judge Alito the up-or-down vote that he deserves," he said.

Frist said he had been unable to win a commitment from all senators on a time for a final vote. Instead, he set the stage for cutting off debate Monday with what is known as a cloture vote.

Democrats' concern over Alito's nomination has been heightened because he would replace O'Connor, who has been the swing vote on 5-4 rulings that maintained abortion rights, preserved affirmative action and limited the application of the death penalty.

Conservatives agree that Alito could push the court to the right, but they welcome the prospect.

Kennedy said, "The nominee is deficient in his commitment ... to individual rights, individual liberties, women's rights and racial equality."

The senator conceded he faced an "uphill climb" in the effort to block confirmation but said it was possible.

Asked to name other Democrats siding with him, he cited Dick Durbin of Illinois, the second-ranking Senate Democrat, as well as Paul Sarbanes of Maryland and Debbie Stabenow of Michigan.

Patrick Leahy of Vermont, the senior Democrat on the Judiciary Committee, opposes Alito's confirmation but has not yet decided whether to support the filibuster, an aide said.

President Bush earlier in the day called for the Senate to confirm his nominee.

Alito "understands the role of a judge is not to advance a personal and political agenda," Bush said at the White House. "He is a decent man."

Democrats contended anew that Alito's confirmation would put individual rights and liberties in danger. Dianne Feinstein of California, the only woman on the Senate Judiciary Committee, said he would join justices Clarence Thomas and Antonin Scalia in the court's conservative wing and apply "originalist" interpretations to court decisions.

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"If an originalist analysis was applied to the Fourteenth Amendment, women would not be provided equal protection under the Constitution, interracial marriages could be outlawed, schools could still be segregated and the principle of one man, one vote would not govern the way we elect our representatives," Feinstein said.

Nelson, Byrd and Johnson are the only Democrats to express support for Alito so far.

Thirty-two senators - all Democrats except for independent Jim Jeffords of Vermont - are on record against Alito. Twenty-two of the Senate's 44 Democrats voted against John Roberts' confirmation as chief justice last year.

Alito may be on his way to the most partisan Senate victory for a Supreme Court nominee in years. The closest vote in modern history is Thomas' 52-48 victory in 1991, when 11 Democrats broke with their party and voted for President George H.W. Bush's nominee.

Democrats Split Over Filibuster On Alito (WP)

By Charles Babington

The Washington Post, January 27, 2006

Several prominent Democratic senators called for a filibuster of Samuel A. Alito Jr.'s Supreme Court nomination yesterday, exposing a deep divide in the party even as they delighted the party's liberal base.

The filibuster's supporters -- including Sens. John F. Kerry and Edward M. Kennedy of Massachusetts -- acknowledged that the bid is likely to fail and that Alito is virtually certain to be confirmed Tuesday. But they said extended debate may draw more Americans' attention to Alito's conservative stands on abortion, civil rights, presidential powers and other matters.

"Judge Alito will take America backward, especially when it comes to civil rights and discrimination laws," Kerry said in a statement issued by his office. He added: "It's our right and our responsibility to oppose him vigorously and to fight against this radical upending of the Supreme Court."

Kennedy said that Alito, 55, "does not share the values of equality and justice that make this country strong," adding: "He does not deserve a place on the highest court of the land."

Liberal groups such as People for the American Way have implored Democratic senators to filibuster Alito's nomination, even if it means nothing more than staking their principles and showing that Democrats will fight against a party that controls the House, Senate and White House. But many Republicans have relished the idea of a Democratic-led filibuster, saying it helps them portray the minority party as obstructionist and beholden to left-leaning groups.

"Continuing to threaten a filibuster, even after it is crystal clear that Democrats don't have the necessary votes to sustain their obstruction, is needless, strange and at odds with many of their fellow Democrats," Sen. John Cornyn (R-Tex.) said in a statement. Some Republicans poked fun at Kerry -- the 2004 Democratic presidential nominee, who may make another White House bid -- for allowing others to announce the filibuster plan earlier in the day while he was attending an economic conference in Davos, Switzerland.

A filibuster involves endless debate intended to keep a measure -- such as a judicial nomination -- from reaching a vote. Sixty votes in the 100-member Senate are needed to end a filibuster. Republicans hold 55 seats, and enough Democratic senators will join them to end debate and hold a vote next week with votes to spare, Alito supporters said. If Alito supporters failed to get the 60 votes, a filibuster officially would begin and debate would continue.

Bitter disputes over judicial filibusters nearly brought the Senate to a standstill last year. After Democrats used the stalling tactic to block several of President Bush's appellate court nominees, Republicans threatened to change Senate rules to ban judicial filibusters. A bipartisan accord, which excluded both parties' leaders, averted the showdown and made a successful filibuster effort considerably more difficult. GOP leaders say they will revive their "nuclear option" threat if a Democratic filibuster endangers confirmation of a Bush nominee.

Majority Leader Bill Frist (R-Tenn.) said the Senate will vote Monday afternoon to end debate and vote Tuesday morning on whether to confirm Alito to succeed retiring Justice Sandra Day O'Connor. At least three Democratic senators -- Ben Nelson (Neb.), Robert C. Byrd Jr. (W.Va.) and Tim Johnson (S.D.) -- have said they will vote for Alito. Others have said they would not support a filibuster, regardless how they vote on confirmation.

Senate Democratic Leader Harry M. Reid (Nev.) repeatedly told colleagues this week that he wanted to avoid a filibuster, party members said. He looked frustrated in the Senate chamber yesterday as he told Frist he could not avert the parliamentary tactic. Shrugging his shoulders, Reid said he hoped "this matter will be resolved without too much more talking, but . . . everyone has the right to talk."

Party sources said Reid and others worry that a filibuster, while likely to fail, will nonetheless detract voters' attention from issues that Democratic leaders consider more promising. They include Bush's controversial domestic surveillance program, the indictments of a top White House official and a congressional leader, and the unfolding scandal centered on former lobbyist Jack Abramoff.

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Party leaders especially worry about forcing a filibuster decision on Democrats seeking reelection this fall in GOP-leaning states, including Nelson and Kent Conrad (N.D.).

While Reid hoped to avoid a filibuster, Democratic Whip Richard J. Durbin (Ill.) supports it. But at a midday session with reporters, Durbin acknowledged the likely futility.

"Having made a count," he said, "I have come to the conclusion it is highly unlikely that a filibuster would succeed."

Bring It On (WSJ)

The Wall Street Journal, January 27, 2006

According to CNN, Senator John Kerry announced yesterday that he will attempt to rally his fellow Democrats to stage a filibuster to stop the confirmation of Samuel Alito to the Supreme Court. Apparently, this is not a parody.

Mr. Kerry made this dramatic political intervention from the World Economic Forum in Davos, Switzerland, where he was communing with his political base. He wants his Democratic colleagues to revisit the filibuster strategy that they used to such brilliant effect during President Bush's first term. Republicans assailed Democrats for this obstructionism in 2002 and 2004, and the issue helped them win a mere seven or eight seats in red states.

And this was after filibusters on obscure appellate nominees. Imagine the political gain for Republicans after a Supreme Court filibuster -- with all of its 24/7 publicity -- by blue-state liberals against a modest Italian-American with impeccable legal credentials and stainless ethics. Mr. Kerry really seems to believe that the country will rise up in fury when it discovers that Judge Alito believes that the Constitution gives a President wide powers to defend America.

Back on planet Earth, at least three red-state Democrats have now said they'll vote for Judge Alito. Two of them -- Robert Byrd of West Virginia and Ben Nelson of Nebraska -- happen to be up for re-election this year. Mr. Kerry may not care much about the Senate because his real goal is winning the Democratic nomination for President again in 2008. Republicans should be so lucky.

Bush To Embrace A 'competitiveness' Agenda (FT)

By Caroline Daniel And Edward Alden In Washington

Financial Times, January 27, 2006

George W. Bush, US president, is to embrace a "competitiveness" agenda advocated by big US technology companies in his State of the Union address next week.

Amid growing concerns that the US is lagging behind in cutting-edge research and has fallen behind China and India in training science and technology graduates, he is expected to highlight the need for measures to improve US industry's competitiveness.

In a press conference in Washington on Thursday, Mr Bush said: "We live in a competitive world, and so policies must be put in place to recognise the competition of the global economy and prepare our people to be able to continue to compete so America can continue to lead."

Business groups have been urging the administration to support higher spending on research and development, expanded education in science and engineering and liberalised immigration laws to bring more foreign scientists and engineers to the US.

The issue is one on which the White House could benefit from bipartisan co-operation.

Three Democrats and one Republican senator introduced bills on Wednesday to implement the recommendations of a National Academy of Sciences report last year.

It warned that America's competitive edge was eroding, and the bills call for $9bn (€7.4bn) in new spending, including a doubling of the funding available for basic research, scholarships for future mathematics and science teachers and reform of US visa laws that deter foreign students.

Bruce Josten, executive vice-president at the US Chamber of Commerce, said he expected the president to address the competitiveness issue in Tuesday's state of the union address, and played down the impact on the budget at a time when the White House wants to rein in domestic spending. "When you are talking about a budget for 2007 of $2,400bn, I don't want to sound crass, but $9bn is a rounding error."

Top US executives – including Ed Zander at Motorola and Jeffrey Immelt, chief executive of General Electric – have focused on the issue of US competitiveness in recent speeches.

Last week, Mr Immelt told the Economic Club of Washington, "If you want good manufacturing jobs, one thing you could do is graduate more engineers. We had more sports exercise majors graduate than electrical engineering graduates last year. If you want to be the massage capital of the world, you're well on your way."

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At the instigation of US technology and manufacturing companies, the commerce department hosted a national summit on competitiveness last month, attended not just by business and university leaders but also by four cabinet secretaries as well as business and university leaders.

In the closing statement, summit participants warned: “If trends in US research and education continue, our nation will squander its economic leadership, and the result will be a lower standard of living for the American people.”

Tight Budget Limits Bush's Options (WSJ)

By John Harwood

The Wall Street Journal, January 27, 2006

BUSH PLANS emphasis on broad themes as red ink thins policy options.

Advisers say budget squeeze will curb initiatives in Tuesday's State of the Union. Bush's track record suggests little polling benefit; his ratings dropped after two of four earlier addresses.

Historians shrug; a ranking of top 100 American speeches in 20th century includes just one State of the Union, Franklin Roosevelt's Four Freedoms speech. Many tune in to see guests sitting with first lady, says University of Wisconsin professor Stephen Lucas.

"Like watching the Super Bowl for the advertisements," he notes.

DEFICIT REDUCTION TOPS congressional agenda.

White House and Republican leaders hope to reassemble narrow 2005 majority for budget bill; Senate Democrats used procedural maneuver to force repeat vote. House Republicans also plan to pass one-month Patriot Act extension before turning to election of DeLay's successor.

Senate Leader Frist wants confirmations by Wednesday of Alito to Supreme Court and Bernanke to Federal Reserve. Senate also will begin resolving tax-cut difference with House. Though strategist Rove rips Democrats on national security, Bush says in Wall Street Journal interview he'll be "calling upon the better nature of those of us in Washington" toward bipartisan compromises.

PARTIES BATTLE TO define 2006 playing field.

With most partisan outcomes predictable due to election district gerrymandering, Democratic hopes of regaining House majority depend on expanding number of competitive seats. House Democrats, who need net gain of 15, say outcome remains in doubt in as many as 50 districts.

"Maybe 30 at most," responds Carl Forti of House Republicans' campaign committee. Nonpartisan analyst Stu Rothenberg says 42 seats, three-fourths held by Republicans, are "in play." In paper for National Bureau of Economic Research, Yale's Ebonya Washington finds African-American Democratic nominees boost general election turnout by two to three percentage points among blacks and whites alike.

Democrats bank on black candidate Angie Paccione in uphill fight against Colorado Rep. Musgrave, a gay-marriage foe.

MAGIC NUMBER? With 2008 White House hopeful Kerry exploring a filibuster, Senate Democrats brace for expected defections of North Dakota's Conrad and Dorgan on Alito vote. Combined with Nelson of Nebraska, Johnson of South Dakota, and Byrd of West Virginia, who announced support for Bush's choice, that would give Republicans 60 votes if their party stays unified. Amid talk of longshot Kerry filibuster try, Republicans will try to rally that number in Monday vote to cut off debate.

OPEN SPIGOT: Money pours into both parties despite scandal headlines. By outraising Democrats $102 million to $51 million last year, Republican National Committee regains traditional edge lost during 2004 campaign. Dean dents DNC's bottom line by paying for new staffers hired by state parties. ImpeachPAC, backing Democrats committed to forcing Bush from office, raises $47,000 in first two months.

COLD WAR RESTRICTIONS will fall if Bush administration persuades Congress to clear the way for Russia's entry into World Trade Organization. But some conservatives, questioning Putin's commitment to democracy and free-market forces, still resist. Trade Representative Portman also seeks election-year WTO membership for Ukraine, Vietnam and Kazakhstan.

PRIORITY SHIFT: Hamas victory in Palestinian elections alters Rice's coming London talks with foreign ministers of Russia, France, Britain, China and Germany. The secretary of state wants allies in Europe -- major donors of aid to Palestinians -- to join in demanding that Hamas renounce terror tactics.

EX-ADMINISTRATION LAWYER becomes tool for both sides in wiretap debate.

Democratic Sen. Schumer asks Judiciary Chairman Specter to call former Justice Department official James Comey to testify on warrantless surveillance. Comey, now general counsel of Lockheed Martin, had forced changes in the program as deputy attorney general in spring 2004.

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But the White House, which earlier chided Comey as too much of a stickler, turned to him as liaison with New York Times in trying to head off disclosure of the program in 2004 and 2005. Bush has said the leak "damages our national security," but declined in the interview to say how.

"A relevant question," Bush said, but "I'm not going to answer it."

MINOR MEMOS: President cites audience comment at Kansas State forum as evidence of continued interest in Social Security overhaul, then adds, "It's a random sample of one, admittedly." ... Not waiting for interviewers, Bush says, "I can ask my own questions -- 'What about Iran, Mr. President?' "

Speech Protesters Granted Spot (WP)

By Karlyn Barker

The Washington Post, January 27, 2006

Organizers of a planned protest during President Bush's State of the Union address next week reached an agreement yesterday with law enforcement officials and will now be allowed to use the area around the U.S. Capitol Reflecting Pool for their demonstration.

The demonstrators had initially been offered the Reflecting Pool area on the west side of the Capitol as a protest site but then were told that the site had been reclassified as part of the security perimeter for the day of Bush's speech.

Organizers of the Tuesday protest, called "World Can't Wait -- Drive Out the Bush Regime," filed a federal lawsuit Wednesday seeking a court order to let them hold the gathering at the Reflecting Pool. They met yesterday with police and government representatives to resolve the issue.

"The Capitol Police reassessed its security concerns regarding the area around the Capitol Reflecting Pool and withdrew its request to the U.S. Park Service to close that area during President Bush's State of the Union address," said Channing Phillips, a spokesman for the U.S. attorney's office, which participated in discussions to settle the dispute.

Phillips said the nearby grassy areas on the Capitol grounds are fenced off because of turf renovation. But he said the amended permit, which will be issued by the National Park Service, will be sufficient for the group's needs.

James R. Klimaski, an attorney for the demonstrators, said the lawsuit will be withdrawn as soon as the group receives the amended permit. A hearing was held before U.S. District Judge Ricardo M. Urbina yesterday to tell him that the matter had been resolved.

The protest group said it was told Jan. 10 that it could use the area around the Capitol Reflecting Pool for a demonstration timed to coincide with Bush's 9 p.m. address to Congress. But on Jan. 19, organizers were told that the U.S. Capitol Police had expanded the security area to include the Reflecting Pool and that they would have to confine the demonstration to the gravel walkways between Third and Fourth streets on the Mall. The other option was to gather at Seventh Street, about a mile from the Capitol.

"A protest not seen and a protest not heard is not a protest," said Travis Morales, one of the organizers of the demonstration, who accused the Bush administration of trying to keep demonstrators far from the Capitol. He said yesterday that the Reflecting Pool area "will hold thousands more people" than the gravel walkways.

Sgt. Kimberly Schneider, a spokeswoman for the U.S. Capitol Police, gave no explanation yesterday for the change of position. The department, she said, "constantly re-evaluates security requirements leading up to large events."

L.A. Mayor, Key Democrats Discuss Reply To Bush's Address (LAT)

By Patrick Mcgreevy

The Los Angeles Times, January 27, 2006

WASHINGTON — Los Angeles Mayor Antonio Villaraigosa huddled Thursday with Democratic leaders from Congress to discuss his Spanish-language response to the president's State of the Union address next week, and there were signs of some disagreement over how to present their case.

Villaraigosa, in Washington this week to attend a meeting of the United States Conference of Mayors, also made the rounds of national media outlets, appearing on C-SPAN, National Public Radio and MSNBC to talk about the task of rebutting President Bush and the mayor's new role as chairman of a poverty task force for the mayors' group.

On C-SPAN's live show "Washington Journal," the mayor complained about federal cuts in anti-poverty money, but without naming Bush.

"The federal government cannot afford to cut the safety net as they have for so many years," Villaraigosa said.

He planned meetings with mayors from Atlanta and other cities late into the night and planned to take a 6 a.m. flight back to L.A. today.

At times on Thursday, his energy seemed to flag, despite standing out in the crowd in his pressed, dark suit.

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Between broadcast interviews, Villaraigosa met with Senate Democratic Leader Harry Reid, Senate Minority Whip Richard J. Durbin and House Democratic Leader Nancy Pelosi to discuss the party's response to the State of the Union speech.

The mayor emerged from a meeting with Durbin and Pelosi saying that he did not want to be too negative about the president, on whom his city depends for federal financial help.

"My remarks depend, in part, on what the president has to say, but I think my focus will be more an alternative vision, as opposed to one that spends a lot of time criticizing the administration," Villaraigosa told The Times.

"It will be one that focuses on opportunity and hope."

The mayor's comments were in contrast to speeches by Pelosi and Durbin at a luncheon attended by Villaraigosa at the National Press Club on Thursday. Pelosi said that on key issues the policies we have seen from Republicans in power do not match the priorities of the American people."

Later, after meeting with Reid at the Capitol, Villaraigosa was pressed on his plans by Chris Matthews, the host of MSNBC's "Hardball."

Asked if his speech in Spanish would be different from the Democratic rebuttal in English, to be delivered by Gov. Tim Kaine of Virginia, Villaraigosa said he agreed to speak to the nation only if he could retain editorial control.

He repeated that the key words of his speech will be "hope" and "opportunity."

The mayor, who was national co-chairman of John Kerry's presidential campaign, said the Republicans have in recent years "been able to speak to America's heart … better than Democrats have. We are good at speaking to her head. They speak to her heart. They speak to America's values in a way that I think has resonated in the last two elections. That's clear to me."

The mayor's office is a nonpartisan post, and Villaraigosa said issues such as poverty are not owned by any party.

"It's an American tragedy," he said. "We have to speak to America's heart, to her values."

The mayor got a firsthand look at the different values held by some Americans as he was peppered with questions about immigration from callers on C-SPAN's "Washington Journal."

After saying that Los Angeles is not going to follow the lead of Costa Mesa and involve police officers more in identifying illegal immigrants, a caller from Arkansas said not enough was being done to counter illegal immigration.

The woman declared: "It's only after the influx of illegals that you were elected, sir. How is this possible?"

Clearly stunned, Villaraigosa responded, "Are you kidding?" After a long silence, he added, "I was born in the United States."

State Of The Union (NYT)

By Thomas L. Friedman

The New York Times, January 27, 2006

On Tuesday President Bush will deliver his State of the Union address and map out priorities for his last three years. The direction in which America needs to go is obvious: toward energy independence. If Mr. Bush steps up to that challenge, this speech could be a new beginning for his presidency. If he doesn't, you can stick a fork in this administration. It will be done — because it will have abdicated leadership on the biggest issue of our day. Here's the speech I'll be listening for:

My fellow Americans, on May 25, 1961, President Kennedy gave an extraordinary State of the Union address in which he called on the nation to marshal all of its resources to put a man on the Moon. By setting that lofty goal, Kennedy was trying to summon all of our industrial and scientific talent, and a willingness to sacrifice financially, to catch up with the Soviet Union, which had overtaken America in the field of large rocket engines.

"While we cannot guarantee that we shall one day be first," Kennedy said, "we can guarantee that any failure to make this effort will make us last."

I come to you this evening with a similar challenge. President Kennedy was worried about the threat that communism posed to our way of life. I am here to tell you that if we don't move away from our dependence on oil and shift to renewable fuels, it will change our way of life for the worse — and soon — much, much more than communism ever could have. Making this transition is the calling of our era.

Why? First, we are in a war with a violent strain of Middle East Islam that is indirectly financed by our consumption of oil. Second, with millions of Indians and Chinese buying cars and homes as they join the great global middle class, we must quickly move away from burning fossil fuels or we're going to create enough global warming to melt the North Pole. Because of that, green cars, homes, offices, appliances, designs and renewable energies will be the biggest growth industry of the 21st century. If we don't dominate that industry, China, India, Japan or Europe surely will.

But to lead, we must impose the highest energy-efficiency standards on our own automakers and other industries so we force them to be the most innovative. I want to inspire girls and boys across America to study math, science and engineering to

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help our nation achieve green energy independence. President Kennedy said, Let's put a man on the Moon. I say, Let's make oil obsolete.

Finally, my call for spreading democracy will never be achieved if some of the worst regimes on the planet — Iran, Sudan, Venezuela — have so much oil money they can misbehave and ignore the world, and if the rest of us — Europe, America, China and India — are forever coddling them to get access to their crude.

With all of this in mind, I am sending Congress the Bush Energy Freedom Act. It is based on ideas first offered by the energy expert Philip Verleger and it argues the following:

Transportation accounts for most of our oil consumption. And many Americans have purchased big cars and S.U.V.'s, expecting gasoline to remain cheap. That is no longer the case. Therefore, I propose creating a government agency that will buy up any gas-guzzling car or truck in America at the original new or used price, and crush it. This national buy-back program will be financed by a $2-a-gallon gasoline tax that will be phased in by 10 cents a month beginning in 2008 — so people know what is coming and start buying fuel-efficient cars right now.

By removing so many gas guzzlers, we will quickly reduce our oil consumption and create a huge demand for new energy-efficient cars from Detroit, which will rescue our auto industry. We have to do something drastic. The Harley-Davidson motorcycle company is worth more today than General Motors! But by sharply raising the gasoline tax, we'll also make sure that Detroit shifts its fleet to energy-saving plug-in hybrids and hydrogen- and ethanol-fueled vehicles, which will force Detroit to out-innovate Toyota. And by generating so much income from a gasoline tax, we will be able to give gas-tax rebates to lower-income folks and have plenty left over to pay for new investment in education and scientific research.

Impossible? Read my lips: Nothing is impossible when Americans put their hearts and minds to it.

One last thing: I have accepted the resignation of Vice President Dick Cheney, who felt he could not be a salesman for the Energy Freedom Act. I am nominating Jeffrey Immelt — the C.E.O. of General Electric, who has focused G.E.'s innovation around "eco-imagination" — as Mr. Cheney's replacement.

Good night, and God bless America.

How Bush Would Tame Healthcare Costs (CSM)

By Alexandra Marks

The Christian Science Monitor, January 27, 2006

NEW YORK - President Bush is moving to put healthcare at the top of America's political agenda. In his State of the Union speech next Tuesday, he is expected to propose a series of initiatives that are designed to rein in the spiraling cost of healthcare and increase the number of Americans with insurance. To do this, he is hoping to encourage a market-oriented, consumer-driven system. Key components of his plan include the expansion of health savings accounts, additional tax breaks for individuals who buy insurance on their own, and provisions that would improve public access to information on healthcare pricing.

Supporters contend the proposals are crucial to making American more of an "ownership" society, allowing individuals to have more control over their healthcare choices. Critics warn they'll shift more risk onto individuals and undermine the nation's already strained health-insurance system.

These initiatives are outlined below, followed by arguments for and against: Health savings accounts

Health savings accounts are tax-free accounts that individuals or businesses can set up at banks or credit unions, in conjunction with the purchase of high-deductible, so-called catastrophic health insurance. Individuals can now contribute as much as $2,600, and families as much as $5,150 each year. Bush is expected to propose increasing these limits. The accounts are to be used for routine medical expenses, such as checkups and pharmaceutical costs. The insurance is there as a backup in case of a health emergency.

In the past year, the number of individuals with such policies tripled to 3 million, according to America's Health Insurance Plans (AHIP), a medical lobbying group in Washington. That accounts for about 1 percent of the insured population.

Pros

· Is designed to give consumers more choice of providers and services.

· May encourage medical-services shoppers to be more cost-conscious because they will be spending their own money.

· Makes insurance more affordable to some of the working uninsured, since the premiums for catastrophic insurance are lower than traditional premiums.

"About one-third of the individuals who were purchasing [the catastrophic insurance in conjunction with setting up an HSA] didn't have health insurance prior to the offering of these policies," says Karen Ignani, president and CEO of AHIP. "Clearly these policies are reaching out to a segment of the population that heretofore found coverage too expensive."

Cons

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· Because of very high deductibles, could discourage the purchase of preventive or other care that is deemed necessary, which could lead to higher overall medical costs.

· Does not address the real drivers of healthcare inflation: advances in expensive medical technology and the growing cases of chronic illness. (Eighty percent of healthcare spending in the US is for individuals diagnosed with chronic problems, like diabetes.)

· Will be attractive to healthier, wealthier people, draining them from the insurance risk pool and leaving only higher-risk people with traditional insurance, which would drive up the cost.

"It takes us back to the equity question of whether we want to be spreading the costs out through society so that people who get sick don't bear the full cost of their own illness," says Mark Schlesinger, a health policy expert at Yale University. "This is basically saying once you're sick, you can plan to spend more for the rest of your life as opposed to saying we'll help share that burden with you." Tax breaks for those buying their own insurance

When businesses buy employees' health insurance, they receive a tax break, which is essentially a taxpayer subsidy worth about $120 billion annually. Individuals who buy health insurance on their own currently receive no tax break. They must spend more than 7.5 percent of their income on medical expenses before qualifying for an income-tax deduction. Of the 45 million uninsured, 80 percent are estimated to be working at low-wage jobs, many of which don't include health insurance.

Bush is expected to call for individuals to be able to take deductions similar to those taken by businesses.

Pros

· Could create incentives for more uninsured individuals to buy insurance.

· Levels the playing field between businesses and individuals.

"We're throwing a tremendous amount of dollars at people like me. I have a nice job and a nice salary," says Joseph Antos, a healthcare expert with the American Enterprise Institute. "I'm appreciative, but in truth I don't need it nearly as much as someone who is working at the minimum wage who isn't getting that tax break."

Cons

· Might encourage some businesses to cut back on the health insurance they provide.

· Is estimated to cost in the tens of millions of dollars, and with increasing deficits, Congress may balk.

· May not help the working poor, unless the tax advantage is given as a credit.

"Only a refundable tax credit will help people [with little income] who have little or no tax liability," says Mr. Antos. More transparency in pricing

Currently, no national standard exists by which consumers can judge the quality and cost of varying healthcare services. By creating such a set of standards - which an alliance of healthcare providers is currently attempting to do - and encouraging hospitals and doctors to comply, consumers would have the tools to shop for the best care at the best bargain. Even the staunchest advocates of HSAs agree that without such data, consumer-driven healthcare won't work as advertised.

Pros

· Helps consumers make more informed choices.

· Helps improve quality of care.

"You will get a lot more pressure to understand the comparative effectiveness of technologies and medical procedures," says Gail Wilensky, a health policy expert at Project Hope in Washington. "That can help payers, providers, and even the patient community to understand if there is either not much known or a lot of dispute about how effective a new technology or procedure may be. For some people in some circumstances it can make all of the difference in the world."

Cons

· Is expensive to implement because of the database technology required.

· Could take years to accomplish because medical culture is slow to change.

· Is based on cost, when some consumers don't make medical decisions on that basis.

· Could be difficult for consumers to understand.

"It's right now such a complex pricing mechanism that even experts on the inside have trouble deciphering it. How in the world is an individual consumer going to?" says Dr. Henry Simmons, president of the National Coalition on Health Care in Washington.

Savings Accounts For Health Costs Attract Wall St. (NYT)

By Eric Dash

The New York Times, January 27, 2006

When it comes to medical benefits, millions of Americans already have a health insurer. Soon, many will also have a debit card and a bank tied to their medical plan.

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Banks, credit unions and money management firms are now quietly positioning themselves to become central players in the business of health care, offering 401(k)-type accounts to cover future medical expenses.

Bank of America, J. P. Morgan Chase, Fidelity Investments and hundreds of others are hoping to capitalize on the latest wrinkle in medical care paid by consumers: health savings accounts, which have been around since 2003 but are moving to the fore of the national agenda in anticipation of the State of the Union address on Tuesday.

These supercharged checking accounts, which must be linked to a high-deductible health insurance plan, allow consumers to invest their own money for current and future medical expenses and have it grow tax-free.

They are the centerpiece of President Bush's plans on health care, just as private accounts were offered as a Social Security fix.

Currently, only about three million Americans have signed up for the high-deductible insurance policy required for such accounts, up from slightly more than one million last March, according to findings released yesterday by America's Health Insurance Plans, an industry group. It is not clear how many of those people have actually opened a linked account. Still, the number is expected to rise sharply over the next five years.

By 2010, more than 15 million Americans, or about 10 percent of all those insured, will have a health savings account, according to an estimate by DiamondCluster International, a management consulting firm.

The average individual's account balance, it projects, will grow from $1,500 today to about $3,500 in 2010. Even if people pull out some or all of their money to pay their medical bills, the ballooning balances may mean that $75 billion or so in new money to manage will soon be at stake.

Banks and others are drawn by the promise of lucrative fees they can generate by offering consumers mutual funds and other investment vehicles as their account balances grow. Most also charge $50 to $75 to set up a health savings account, and they collect perhaps $40 or more each year in maintenance charges and service fees.

Not since the creation of the individual retirement account in the mid-1970's has such a potentially huge mountain of money landed in the lap of the financial services industry.

"Billions of dollars that used to be written in the form of checks with insurance companies' names on them would instead go to credit unions, banks, and long-term investment houses," said Dan Perrin, the publisher of H.S.A. Insider and executive director of the H.S.A. Coalition, a lobbying group backed by 70 small-business and medical industry groups as well as the American Bankers Association. "You know America: you see a financial opportunity and it sets off a gold rush."

Two years ago, not a single major bank offered a health savings account. Only seven small banks had any sort of plan. Today, more than 300 financial services companies, including big banks, are taking deposits or will be soon. About 150 more are on the way. Some of the country's biggest health insurance providers have started their own banks.

To be sure, health savings accounts will make up only a small fraction of earnings at a financial giant like Citigroup. But at a time when deposit growth has slowed and higher interest rates have hurt profits, they represent a steady stream of new income that is increasingly hard to find. Banks are betting that what the administration calls consumer-directed health care catches on.

Supporters say that the discipline and marketing might of financial services giants could spur the adoption of consumer-directed care. Critics argue that the banking industry's involvement only bolsters their case: the accounts are more about wealth than health.

"We already have a large number of retirement savings vehicles in the United States," said Jonathan Gruber, an economist and Treasury Department official in the Clinton administration. "It is not clear why we need yet another tax break for savings for rich guys."

Corporations, of course, want relief from soaring health care costs, and have been steadily shifting more of the burden to their employees. Small businesses were among the first to offer health savings accounts to their employees. But over the last year or so, a number of big companies — from Guidant to Wal-Mart Stores — have started signing up.

Health savings accounts are akin to the private accounts that were proposed to help overhaul Social Security. Much of Wall Street liked private retirement accounts, but their support was guarded because they feared a potential negative reaction.

Banking lobbyists have met with White House officials at least three times over the last year to discuss the rules governing health savings vehicles. But until recently, most have been shy about their interest in such plans. Now, they have established a lobbying group, the H.S.A. Council, and are spending millions of dollars to roll the plans out.

The idea behind the accounts is simple: forced to pay out of pocket for medical care, Americans workers will spend health care dollars more wisely. The way it works is more complex. Americans under the age of 65 with a high-deductible health care plan can contribute tax-free to the new 401(k)-like account as much as $2,700 this year for individuals and $5,450 for families, or the amount of their deductible if it is less. Unlike health reimbursement plans, which were controlled by the employer, health savings accounts belong to employees even if they change jobs.

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The money can be used to pay for medical, dental and vision expenses as well as a portion of qualified premiums for long-term-care insurance.

The rest can be invested in stocks, bonds and mutual funds — and grow tax-free. That money would be available to pay for a broad range of health care expenses in the future, and would remain untaxed as long as it was spent on health care. At any time after age 65, money can be withdrawn for any reason without penalty, but the entire amount taken out would be taxed.

For wealthier people, the tax break could provide a generous incentive to build a nest egg for future health care; poorer people with smaller annual contributions could wind up spending all the money they put away during the year.

Geoff Dougall's accounting firm in Beaverton, Ore., is among the thousands of employers that have switched from a conventional health insurance plan to offering health savings account.

"We are very much talking about it as a savings vehicle," said Mr. Dougall, who is giving each of his employees $2,500 this year to cover the deductibles of their health insurance policies.

The savings accounts, in effect, give financial institutions a vital, but behind-the-scenes role in shaping the nation's health care system.

Banks hope to use their close ties with their customers to enter the health insurance market. For now, they collaborate with insurance providers as much as they compete. Health savings accounts must be opened in conjunction with a high-deductible health insurance plan. After choosing an insurance policy, the consumer must pick a bank.

Even though the health plan and savings account are separate products, big banks and insurance companies pitch them together as an "integrated solution" and split the fees. Health insurers keep the premiums; banks retain the investment management fees and the debit card transaction fees. The two split the money earned for opening and maintaining the accounts.

Health insurers, said David Josephs, J. P. Morgan's vice president for health care business development, "are good at explaining benefits."

"They are good at eligibility. They are good at enrollment. Managing risk. Contracting with doctors and hospitals. Banks are good at managing transactions. Managing deposits. Making investments."

"As you look at consumer-directed health care," he added, "it really requires both of those skill sets."

Even without the lucrative investment management fees, bank executives like Daniel Kelly, manager of H.S.A. services at U.S. Bancorp, say health savings accounts are attractive. Banks make money each time a customer swipes his debit card at a doctor's office. Payment processing alone could generate some $2.3 billion over the next five years, the DiamondCluster study estimates.

Some big medical plans have already entered the health saving account arena by starting their own bank.

Four years ago, United Healthcare started Exante Financial Services, a Utah-based bank that allowed it to become the first company to offer its customers the high-deductible health insurance policies as well as savings accounts. In December, the Blue Cross Blue Shield Association said it was planning to charter a similar institution, Blue Healthcare Bank, an online bank.

Executives at both companies say they are not being lured into the banking business by the prospects of wealth management; nor do they plan to offer traditional banking services and loans.

Instead, they say having both products under one roof will allow them to provide better customer service, like more smoothly processing transactions at doctors' offices or quickly resolving billing disputes.

"This has nothing to do with an assets-under-management play," said John M. Prince, chief executive of Exante Financial Services. "There will be huge falloff in people who are trying to play that role. Eighty percent of the money are assets that go right in and go right out."

Just a few years ago, the idea that the titans of health care and banking would be battling for business would have been nearly impossible to imagine.

Even after the Bush administration began pushing for the creation of health savings accounts with the Medicare Modernization Act of 2003, the banking industry mainly stayed on the sidelines. The American Banking Association lent its name to the H.S.A. Coalition lobbying group but did not contribute any money.

Industry lobbyists viewed the idea as a health care issue; they raised questions about its prospects of passing as the 2004 presidential race heated up. Banking executives did not see the profit potential after an experiment with Medical Savings Accounts, aimed at small businesses, failed.

"Put it this way, the impact of this law did not really become clear to them until after it passed," said Mr. Perrin, the H.S.A. Coalition director. Once they understood how the accounts worked, however, the big banks realized the next I.R.A. had landed at their feet.

Now, some financial institutions are urging the Bush administration and Congress to raise the tax-deductible contribution limit to encourage consumers to put more money in their accounts — a proposal that President Bush is expected to endorse in his State of the Union speech.

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Banks are already champing at the bit. "We happen to be in the camp that the H.S.A. is a second retirement account to be used for medical expenses," said Nancy Todor, an executive who will oversee health savings accounts when Citigroup introduces them this year.

Enrollment Triples In Plans Offering Health Savings Accounts (LAT)

By Joel Havemann

The Los Angeles Times, January 27, 2006

WASHINGTON — Enrollment in high-deductible insurance plans that qualify for contributions to tax-sheltered health savings accounts — the Bush administration's way of adding market forces to the health business — tripled to 3 million people in the last 10 months, the health insurance industry reported Thursday.

"This is a very significant success story," said Karen Ignagni, president and chief executive of America's Health Insurance Plans, the trade association for companies that underwrite virtually all such plans.

But the 3 million enrollees in plans that qualify for the accounts represent a small percentage of the 198 million Americans who, as of 2004, were covered by private insurance — or even of the 46 million who have no insurance at all.

"Is it a success story? Yes and no," said Paul Fronstin, a health economist with the Employee Benefit Research Institute. "Three years ago, the market didn't exist. But it still amounts to only a fraction of Americans who have private insurance."

President Bush has signaled that in his State of the Union address Tuesday, he will ask Congress to expand health savings accounts, which are designed to shift responsibility for buying health insurance from employers to individuals.

Bush has said that those with comprehensive health insurance would benefit from the accounts because they would make more cost-effective healthcare choices if they knew that they would be responsible for much of the expenses. For those who are uninsured, the accounts could make insurance affordable because they are linked to low-cost policies with high deductibles.

Most Democrats have a different perspective. Sen. Edward M. Kennedy of Massachusetts wrote that health savings accounts worked only for the healthy and put at risk the health and resources of the poor.

Contributions to health savings accounts, which were authorized by the 2003 law that added a prescription drug benefit to Medicare, are tax-deductible, and withdrawals used for medical expenses are tax-free. Balances at year's end can be rolled over into the next year.

Individuals qualify to establish health savings accounts only if they are covered by insurance with annual deductibles of at least $1,050 for individuals or $2,100 for families. The cost of such insurance is typically far less than the price of traditional comprehensive coverage; the administration's thinking is that the difference would be contributed to the accounts.

Those contributions are limited to the amount of the deductible, with maximums of $2,700 for individuals and $5,450 for families. Ignagni said the high-deductible policies would become more attractive if the tax breaks for the accounts were expanded.

Grace-Marie Turner, president of the Galen Institute, a health and tax policy center in Alexandria, Va., found the incidence of high-deductible insurance policies impressive. "They're new," said Turner, whose organization backs increased use of the accounts. "It takes people a while to get used to them."

Although Ignagni could not say how many of the 3 million had opened and contributed to the tax-favored accounts, other research suggests that it is a small percentage.

An October survey of insured people by the Employee Benefit Research Institute and the Commonwealth Fund found that 1 in 10 people with private insurance had high-deductible plans; of them, 1 in 10 had set up either health savings accounts or health reimbursement accounts, to which only employers may contribute.

The survey also found that those with high-deductible plans were less satisfied with their insurance than those with comprehensive plans and were more likely to delay or avoid healthcare because of costs. But it found that enrollees in high-deductible plans were more aware of healthcare costs than those with comprehensive coverage.

Democrats: Bush Should Outline Medicare Fix (REU-Y2)

By Joanne Kenen

Reuters, January 27, 2006

Congressional Democrats on Thursday challenged President George W. Bush to outline in his State of the Union speech how he will fix what they consider a disastrous start to the Medicare drug benefit.

"In his State of the Union next week, the president needs to come clean and join Democrats in offering a real solution to this disastrous program," Senate Democratic leader Harry Reid of Nevada told reporters.

Medicare provides health insurance for all Americans from age 65 and some disabled people. Congress in 2003 added a prescription drug benefit which became available this month.

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In his annual address to the nation next week, Bush is expected to discuss health care costs and coverage, but White House officials have not said whether he will address any of the problems the new drug benefit has encountered.

Many senior citizens have said they are confused by the program, and many of the poorest older Americans ended up without any coverage or unable to get their usual drugs amid a flawed transition from state-based Medicaid to the new Medicare plan.

Democrats have long criticized the Medicare law but have stepped up their attacks in a congressional election year amid widespread reports of problems.

Democrats also tried to link the Medicare law to lobbying scandals, saying the Republicans wrote legislation that helped drug companies and insurers more than older Americans.

"The American people paid the price of corruption," House Democratic leader Nancy Pelosi of California said.

Administration officials and congressional Republicans have acknowledged flaws, but say they are working to fix them. They also say they delivered on a promise to provide a drug benefit to millions of Americans who have not had any help in paying for their prescriptions in the past.

"I'm not trying to make excuses. Some of our nation's frailest, neediest beneficiaries have had difficulties in getting their drugs. That clearly can't go on, and we're not letting it go on," Senate Finance Committee Chairman Charles Grassley of Iowa said in a statement Thursday.

"But to suggest that neither the president nor the Republican majority recognizes that there are issues with the implementation is absolutely ludicrous," added Grassley, who said that administrative solutions would be faster than legislation the Democrats have sought.

Democrats have called for both short-term fixes to the program, such as helping the poor or extending enrollment deadlines, and long-term changes to the plan's overall structure. Reid and Max Baucus of Montana, the top Democrat on Grassley's Finance Committee, wrote to Bush with a list of specific legislative suggestions on Thursday.

Some moderate Republicans hearing complaints from constituents and state officials have endorsed some of the short-term solutions, but there is less enthusiasm for revisiting the overall program.

Drugmakers To Cut Off Some Free Prescriptions (WP)

By Ceci Connolly

The Washington Post, January 27, 2006

Several of the nation's largest drug manufacturers say they will no longer provide free or discounted medications to low-income elderly and disabled patients because they should be covered by the new Medicare drug benefit.

But for about 1 million Americans with serious illnesses such as AIDS and cancer -- patients who last year relied on the pharmaceutical industry's giveaways -- that means Medicare coverage could cost them more than $3,600 this year.

Hardest hit will be patients such as James Hayes. Suffering from AIDS, the 45-year-old North Carolina man takes an average of 10 drugs each month at a cost of $3,700. In recent years, he has relied on several drug company patient assistance programs for his lifesaving medications. Because he is on disability, receiving $1,900 a month, Hayes qualifies for the new Medicare drug benefit.

But in the past few weeks, drugmakers such as GlaxoSmithKline have sent Hayes and others letters saying that as of Jan. 1, anyone eligible for Medicare would be dropped from its program. The cheapest Medicare drug plan he can find is expected to cost him $6,000 out of pocket.

"I can't afford that. I am struggling to make ends meet right now without going into bankruptcy," he said yesterday. "I'm scared I'm going to have to go off of my drugs."

Less than four weeks after the drug benefit went into effect, some of the neediest seniors have found themselves worse off. Although the new program, projected to cost $700 billion in the first 10 years, was intended to shield retirees from burdensome drug costs, several quirks in the law have had the opposite effect for some.

"These are individuals who did have something before; they had patient assistance programs," said John Coburn, senior policy analyst for the Chicago-based Health & Disability Advocates. "We are seeing the unintended consequences of this law."

Drugmakers blamed the Bush administration for issuing a legal opinion that suggests companies could run afoul of anti-kickback laws if they provide free drugs to Medicare beneficiaries. That guidance, from the Health and Human Services Inspector General's office, warned that providing free medicine to someone enrolled in a Medicare plan could be viewed as an effort to keep the patient on that particular product, rather than a generic or cheaper version sold by a competitor.

Administration officials, already racing to fix other glitches in the new drug program, yesterday pointed the finger back at drugmakers, saying there are a variety of legal ways to assist low-income patients. If a drug company's patient assistance program ends, "that's the manufacturer's decision," said Mark McClellan, administrator of the Centers for Medicare and Medicaid

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Services. He said drugmakers could continue their patient assistance programs as long as they remain separate from Medicare or contribute money to charities that help poor patients.

However, that would mean those free medications would not count toward a patient's spending total. The total is especially important for an individual taking numerous expensive medications because once that person has used $5,100 worth of drugs (or about $3,200 out of pocket) the Medicare plan's catastrophic coverage kicks in, paying all but 10 percent of the remaining drug costs.

"That much money could well be a quarter of someone's income," said Robert Hayes, president of the nonprofit Medicare Rights Center, which assists seniors. Even after the person reaches that threshold, the 10 percent co-payments could be unaffordable, he added.

For decades, drugmakers have offered discounted or free medications to uninsured Americans or people who could not afford critical therapies. In 2004, the 37 companies in the industry donated 22 million prescriptions worth $4.1 billion, said Ken Johnson, senior vice president for the Pharmaceutical Research and Manufacturers of America.

"The current manufacturer's patient assistance programs work very well," he said. "They are already helping patients without any middlemen or additional overhead. It seems a lot more efficient to allow these programs to continue to help Medicare beneficiaries."

Only one company, Merck, said it will continue its program, stressing that the company will evaluate applications from Medicare beneficiaries on a case-by-case basis. "Like anyone with insurance, they can come to Merck at any time," said Ian Spatz, Merck's vice president for public policy.

Administration officials said this week that the early glitches in the drug benefit are being resolved, but states continued to report difficulties.

More than two dozen governors, noting that former Medicaid clients have been incorrectly denied coverage or overcharged at the pharmacy, have declared public health emergencies and announced they would cover the cost for any senior caught in the mix-ups.

Yesterday, Florida Gov. Jeb Bush (R) joined that list, while California Gov. Arnold Schwarzenegger (R) extended his state's program. So far, California has spent $9.2 million filling 110,000 prescriptions that should have been covered by Medicare plans, officials said.

Medicare Drug Plan Leaves Out Supplies (LAT)

By Ricardo Alonso-zaldivar

The Los Angeles Times, January 27, 2006

WASHINGTON — The new Medicare drug program is denying supplies that seriously ill patients need to administer intravenous antibiotics and other medications at home. As a result, some patients are being referred to nursing homes, and others have had to go into hospitals.

Although no national estimates are available, the number of patients affected — including some with life-threatening diseases such as cancer and multiple sclerosis — could run into the thousands. One Anaheim pharmacy says 200 of its patients are having trouble.

Medicare officials say they are aggressively addressing the problem, which they attribute to restrictions in the law that created the prescription benefit and to difficulty communicating with states, pharmacies and medical providers.

Essentially, the prescription program allows coverage of the drugs but does not pay for the medical supplies and nursing help needed for the home infusion treatments to be safe and effective — a policy that effectively shuts down such treatment for some patients, even though it is substantially cheaper than the alternatives. Two GOP senators warned the Medicare agency last fall that the gap in coverage "may limit access to home infusion therapy."

Home infusion pharmacies say they are overwhelmed trying to help patients deal with the problem. "It's like I'm doing triage in a MASH unit," said pharmacist Michael Rigas, vice president for clinical affairs with Crescent Healthcare in Anaheim.

For Kathleen Senna, 68, a retired cannery worker living in West Sacramento, the policy has meant she can't get intravenous medications at home to fight a lung infection. Instead, Senna said, she is taking Cipro, an oral antibiotic that was ineffective for her in the past. Hospital doctors recommended she go into a nursing home for treatment, but Senna said she was afraid.

"You feel like they are putting you in there because they expect you to die," she said. "Me going to a convalescent hospital is going to cost a lot more than bringing antibiotics to my house."

Paulette Bryson of Escondido said she had to take her daughter, Kimberly Tyler, back to the hospital after Tyler was unable to get intravenous medications to treat a blood and spinal infection.

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Disabled with severe osteoporosis, Tyler, 32, had been released from the hospital last week after extensive back surgery. Her mother said she returned to the hospital after two days because she could not get the IV medications, which are considered more effective than pills.

"I truly feel that if the president, the governor and all the legislators had to stand in line and wait for their prescriptions and find out they weren't covered, they would make some major changes," Bryson said. "Unfortunately, it's the small person who does not have pull, and they have to beg for their medicine."

Senna and Tyler previously were covered for intravenous medications at home under Medi-Cal, the California healthcare program for low-income seniors and disabled people. But despite emergency help ordered by Gov. Arnold Schwarzenegger for Medi-Cal patients whose prescription coverage was switched to Medicare on Jan. 1, Senna and Tyler were not able to get their medications.

The problem mainly appears to be affecting the poor. But pharmacists say many middle-class Medicare beneficiaries also could run into trouble, because they would have to pay to cover support services for their medications or find other insurance. On average, the medicines represent a little less than half the cost of treatment, which can run thousands of dollars a month, according to a pharmacy industry group.

Republican Sens. Arlen Specter and Rick Santorum, both of Pennsylvania, wrote to the Medicare agency in October, saying it "has opted to define the coverage of home infusion therapy in a manner that does not include financial coverage for … professional services, supplies and equipment that are required for the safe and effective provision of therapy."

In a response dated Dec. 27, Mark McClellan, administrator for the Centers for Medicare and Medicaid Services, said the agency lacked specific legal authority to broaden the coverage policy, in effect, handing the problem back to Congress.

"If we could pay for it, we would," said Dr. Jeff Kelman, chief medical officer for the division of Medicare that handles the drug benefit. "Read the act yourself …. It's a drug benefit, not a medical benefit."

Kelman suggested that states could pay for the support services for low-income seniors and disabled people. However, it is unclear how many states would do that.

Pharmacists say other seniors may be able to get coverage by joining a managed care plan, such as a health maintenance organization. Additionally, a small number of IV medications are covered through Medicare's Part B benefit.

Most private insurers take a comprehensive approach to covering home infusion drugs, so Medicare's policy is hard to fathom, said Dr. Edward Ratner, a professor at the University of Minnesota medical school.

"The proof that it isn't sensible is that commercial insurance companies and health maintenance organizations don't do it this way," said Ratner, who is also the medical director for a private company that provides support services for patients receiving intravenous treatments at home.

Until the mid-1980s, intravenous medications normally were given only in hospitals and nursing homes. But technological advances enabled the treatments to be administered safely at home, albeit with some supervision. Concern over rising healthcare costs accelerated the trend.

Most at-home patients are being treated with antibiotics for serious infections, according to industry statistics. Others are receiving painkillers, and some are undergoing chemotherapy for cancer.

Saving money by making hospitalization unnecessary was part of the rationale for creating the Medicare prescription benefit, which has an estimated price tag of $700 billion over 10 years. But the most far-reaching Medicare change in a generation failed to adequately provide for this kind of at-home drug therapy, critics say.

Specialized pharmacies that handle home infusion will not provide the service unless they are paid.

Some patients discovered their Medicare drug plans did not cover the specific medications they were getting and had to switch insurers. But even when the drugs were covered, things didn't always go smoothly.

Rigas, the Anaheim pharmacist, said one patient called and told him a substance had been delivered to the patient's house. "I've got the powder on my doorstep, now what do I do with it?" Rigas recalled the patient asking.

"They had no bags, no tubing … but this is what they've been stuck with," Rigas said. "It's really bothersome to me, what patients are suffering. The carpet that they were standing on has been ripped out from under them."

Some say an obvious solution would be for Congress to step in and craft a comprehensive benefit.

But congressional leaders are loath to make any legislative changes to the drug benefit, fearing that political support for the plan could unravel.

That leaves patients in limbo.

"I'm worried about it," said Senna, the West Sacramento patient with chronic lung disease, saying that an oral antibiotic may not be effective in treating her periodic infections.

"I'm not going to let them put me in a convalescent hospital as long as I can take care of it at home," she said. "If I start running a temperature, they can take me back to the regular hospital, although that's not great."

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Bush Plans $250M For Nuclear Waste Project (AP)

AP, January 26, 2006

WASHINGTON -- The Bush administration is making plans to revive nuclear fuel reprocessing, including a long-term proposal to provide reactor fuel to foreign countries if they return it to the United States to be recycled.

President Bush will include a request for $250 million in his budget to be released next week as a first step toward reversing a decades long U.S. policy against nuclear reprocessing, congressional and administration officials said Thursday.

The plan is part of an effort to take a fresh look at how to deal with the thousands of tons of used reactor fuel piling up at U.S. commercial power plants, while also gaining control over future nuclear materials in developing countries where the demand for nuclear energy is expected to grow.

The United States halted all reprocessing in the late 1970s because it produces pure plutonium that could be used in a nuclear weapon if obtained by terrorists or rogue states.

The Bush plan, expected to be unveiled as part of the Energy Department's budget, calls for stepped up research into a "more proliferation resistant" type of reprocessing that proponents say will reduce dramatically the likelihood of theft or diversion.

The process would not produce pure plutonium, but a mixture of plutonium and neptunium that would make the separated elements more difficult to handle and, therefore, more secure.

But nonproliferation advocates contend the new process represents little more than - as one described it - a "fig leaf" over the reprocessing the U.S. has rejected since 1979 when President Carter banned reprocessing because of proliferation worries.

"The tweaking of this process would only provide a minor additional deterrent," said Edwin Lyman, a nuclear specialist at the Union of Concerned Scientists. It would not prevent a suicidal terrorist from handling the material, he said.

The Bush proposal, called the Global Nuclear Energy Partnership, envisions that U.S. companies eventually will sell reactors and fuel to developing countries with the stipulation that the fuel would be returned to the United States for reprocessing.

Nuclear scientists who have been working on the reprocessing technology for the Energy Department say that up to 90 percent of spent fuel can be recycled for reuse, reducing dramatically the need for geological disposal.

The initial $250 million is expected to go to stepped up research and initial work on a reprocessing facility, probably at the Savannah River nuclear complex in South Carolina, according to private and government sources familiar with the discussions.

The sources spoke on condition of anonymity because the plan has yet to be announced.

President Bush has been briefed on the plan, and Energy Secretary Samuel Bodman hinted at the broad outline of the reprocessing initiative and its potential global aspects in a November speech at the Carnegie Endowment for International Peace.

Countries around the world will demand use of nuclear energy in the coming decades, Bodman said, and "the challenge that confronts us" is providing nuclear fuel and addressing reactor waste globally without increasing proliferation risks.

He said the U.S. might be one of the countries that could offer "cradle to grave fuel cycle services, leasing fuel for power reactors and then taking it back for reprocessing and disposition."

Bodman said the administration remained committed to completing the Yucca Mountain nuclear waste site in Nevada. But experts say it will not be able to hold all of the country's reactor waste if nuclear energy expands with new reactors.

"Reprocessing could help avoid or delay the need for a second repository," Marvin Fertel, a senior vice president of the Nuclear Energy Institute, the industry's lobbying group, told a congressional hearing last March.

But Fertel emphasized that the nuclear industry views fuel reprocessing as a technology that is still decades away from being economical - and won't be as long as fresh uranium is plentiful and relatively cheap.

State Of The Union? Not So Good, Most Say (USAT)

By Susan Page

USA Today, January 27, 2006

A USA TODAY/CNN/Gallup Poll taken last weekend and interviews across the country this week found most Americans pessimistic about the economy, divided on the war and doubtful that Bush has the best plan to address the issues that matter most to them — among them health care and corruption. (Related: Poll results)

By more than 2-to-1, those surveyed say things have gotten worse in the United States over the past five years. "I love my country, but we're going the wrong way for sure," says Faye Sherer, 59, of Salinas, Calif., who helps run a family produce company and was among those polled. "I don't see the point in Iraq, when there were other countries going through worse atrocities and we did nothing to help them."

Bush has strong defenders, to be sure, and views of the country's course divide on partisan lines. Chris DeCaro, 20, of Farmington, Mich., praises the president, particularly for his handling of terrorism. "He runs this country not as a politician but as

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a businessman who does things that need to be done," DeCaro says. He says public opinion has been swayed by a "liberal media" that are "defeatist" on the war and antagonist toward Bush.

Still, even conservatives divide 47%-44% on whether things have gotten better or worse.

The country's downbeat mood poses a challenge for the president as he tries to command support for the legislative agenda he'll unveil for his sixth year in office. With a 43% approval rating, he is in "a weakened position trying to convince Congress to do whatever it is in the State of the Union that he wants them to do," says Charles Franklin of the University of Wisconsin.

Bush doesn't seem to be getting much credit for positive economic reports on unemployment and inflation. "This is a presidency whose ratings are less influenced by the economy" than his modern predecessors, says Richard Eichenberg of Tufts University. "The war in Iraq has defined his presidency."

Those surveyed:

· Said the country has gotten off track. By 62%-35%, they were dissatisfied with the way things are going in the USA. That's the most pessimistic view at the start of a year since Bush took office.

· Rated the economy as faltering. Six in 10 said the current economy was only fair or poor, and 54% said economic conditions were getting worse. Views differed by party: 68% of Republicans but just 16% of Democrats called the economy excellent or good.

· Questioned Bush's leadership. By 64%-34%, they said Bush didn't have a clear plan for solving the country's problems. The president received his strongest approval rating, 52%, on fighting terrorism. But on health care — ranked as an issue equal to the economy — congressional Democrats were more trusted, 54%-35%.

The poll of 1,006 adults Jan. 20-22 has a margin of error of +/-3 percentage points.

"I'm too old to be worrying about much," said Bernice Tabor, 76, of Cleveland. But she frets about casualties in Iraq and layoffs at Ford Motor Co. "We're going backward instead of forward."

Majority In U.S. Say Bush Presidency Is A Failure, Poll Finds (BLOOM)

By Nicholas Johnston

Bloomberg, January 27, 2006

Jan. 26 (Bloomberg) -- A majority of Americans said the presidency of George W. Bush has been a failure and that they would be more likely to vote for congressional candidates who oppose him, according to a CNN/USA Today/Gallup poll.

Fifty-two percent of adults said Bush's administration since 2001 has been a failure, down from 55 percent in October. Fifty- eight percent described his second term as a failure. At the same point in former President Bill Clinton's presidency, 70 percent of those surveyed by Gallup said they considered it a success and 20 percent a failure.

In a poll conducted in January of 2002, after Bush was president for one year, 83 percent of those surveyed said his presidency was a success.

In the new poll, conducted Jan. 20-22, fifty-one percent of those surveyed said they would be more likely to vote for congressional candidates who do not support Bush's policies.

The percentage of Americans who called Bush ``honest and trustworthy'' fell 7 percentage points in the last year to 49 percent, the poll found.

The new poll also found that 62 percent of Americans said they are ``dissatisfied'' with ``the way things are going'' in the U.S., unchanged from a December survey. The percentage of ``dissatisfied'' Americans reached its peak in October of 2005 when 68 percent of those surveyed agreed.

The survey interviewed 1,006 U.S. adults and has a margin of error of 4.5 percentage points. For the questions about whether Bush's presidency is a success, about 500 U.S. adults were surveyed and the margin for error is plus or minus 5 percentage points.

Bush Vows To Be Tough On Spending, Using Veto (REU-Y2)

By Caren Bohan

Reuters, January 27, 2006

President George W. Bush, who has faced heat from conservative Republicans over high budget deficits, pledged on Thursday to take a tougher stance toward Congress over spending, including vetoing bills if necessary.

He also backed changes to the appropriations process to curb "earmarks," or targeted spending that lawmakers often use for pet projects in their districts. Earmarks are frequently added in secret to spending bills and their use has soared under the Republican-led Congress, although Democratic lawmakers use them as well.

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"That's going to be an interesting discussion on Capitol Hill -- this business about earmarks and people making a special deal in the budget," Bush told a news conference. "And there needs to be earmark reform."

Pressed on whether lawmakers were doing enough to cut the budget, Bush said they are meeting "targets" but added that he is ready, if needed, to wield his veto pen -- something he has never done in five years as president.

"I'm fully prepared to use the veto if they overspend," he said.

Congressional Budget Office figures released on Thursday pegged the budget deficit for fiscal year 2006 at $337 billion. That was below the deficit of more than $400 billion forecast by the White House.

SHIFT TO DEFICITS

Democrats blame Bush's tax cuts for the dramatic shift on his watch from record surpluses to record deficits.

Some fiscal conservatives worry the red ink may jeopardize Bush's drive to make his tax cuts permanent, and have voiced frustration that he has not done enough to contain spending.

Conservatives view a huge transportation bill passed last year that Bush initially threatened to veto but eventually signed, as an egregious example of earmarked spending.

Calls within Congress for limiting earmarks have gained traction as the Jack Abramoff lobbying scandal has spurred calls for congressional reform.

Oklahoma Sen. Tom Coburn, a vocal Republican critic of deficits, is among several lawmakers who have urged the abolition of earmarks. But some in Congress would permit them with limits, more disclosure and accountability.

In an opinion piece in Roll Call, a Capitol Hill newspaper, California Republican Rep. Jerry Lewis (news, bio, voting record) said getting rid of all earmarks would cede too much power to the executive branch.

"The president's budget contains numerous earmarks inserted by nameless, faceless bureaucrats within each government agency," Lewis said.

But Lewis, chairman of the House Appropriations Committee, said lawmakers should be required to submit requests for spending on special projects in writing, and all such requests should be audited.

Bush said he would call for fiscal restraint in his State of the Union address on Tuesday, when he will also unveil initiatives on healthcare, energy and education.

Bush cited a deficit-cutting package aimed at finding $39.7 billion in savings from social welfare programs over five years as a sign Congress was making progress on curbing spending. The Senate has passed the bill and the House of Representatives appears poised to approve it as well.

House Democratic Whip Steny Hoyer of Maryland said calls by Bush and the Republicans for fiscal discipline amounted to little more than rhetoric.

"There is only one person in the entire United States government who can stop federal spending in its tracks, and that person is the president of the United States," Hoyer said. "Yet, during his five years in office, President Bush has refused to exercise the power of the veto once -- not once."

Report: Budget Deficit Will Turn To Surplus If Bush's Tax Cuts Expire (USAT)

By Richard Wolf

USA Today, January 27, 2006

WASHINGTON — Making President Bush's tax cuts permanent will prolong big budget deficits into the next decade, the Congressional Budget Office projected Thursday.

But if those tax cuts are allowed to expire after 2010 — effectively a tax increase Bush has sworn to oppose — the budget would begin showing a surplus in 2012, the CBO's budget projections showed. Bush wants Congress to make the tax cuts permanent before he leaves office in 2009.

In its annual budget and economic report, the agency estimated that this year's deficit will be $337 billion, up $19 billion from 2005. It said the deficit will be about $360 billion if extra anticipated costs for Iraq, Afghanistan and the hurricane-ravaged Gulf Coast are added.

The White House has pegged this year's projected deficit at more than $400 billion, citing the costs of the war in Iraq and Hurricane Katrina. The White House budget office has overestimated the size of the deficit in the past two years by using what it says are “cautious” economic and revenue projections.

The CBO projected that this year's deficit will be about 2.8% of the economy, using a measure that allows comparisons over time by factoring out the effect of inflation. That exceeds the 2.3% average since 1965 but is below the 6% record set in 1983.

The long-term budget forecast is gloomier, particularly if Bush and Congress agree to extend the tax cuts. In 2016, the deficit would be nearly $400 billion. Beyond that, the costs of Medicare, Medicaid and Social Security are projected to rise to a

level that “economic growth alone is unlikely to alleviate,” the report says. “A substantial reduction in the growth of spending, and perhaps a sizable increase in taxes as a share of the economy, will be necessary for fiscal stability to be at all likely in the coming decades.”

The non-partisan budget office also said the new Medicare prescription-drug benefit could cost $979 billion in the 10 years from 2007 through 2016. Last year, the administration put the figure at $720 billion for the years 2006 to 2015. The increase is mostly due to projections that more people will use the subsidized program.

CBO Sees Wider Deficit This Year And In 2016 If Tax Cuts Don't End (WSJ)

By Jackie Calmes

The Wall Street Journal, January 27, 2006

WASHINGTON -- The Congressional Budget Office projects that war and hurricane-relief costs will widen the annual deficit to about $360 billion after it had narrowed last year.

But a decade out, the nonpartisan office sees either a small surplus or a nearly $400 billion deficit in 2016 if President Bush's tax cuts are extended.

In its annual 10-year Budget and Economic Outlook released yesterday, the CBO calculates that if the numerous tax cuts of Mr. Bush's first term don't expire as they are scheduled to in coming years, federal revenue would be sliced more than $2.6 trillion. While the administration argues that tax cuts bring economic growth and, in turn, increased revenue, the budget office said that on balance any such "macroeconomic feedbacks would be too small to have a substantial effect on the estimates." The analysts' finding is sure to stoke the debate this year -- and probably for the rest of Mr. Bush's presidency -- over extending those tax cuts.

"This president and this Congress have been the most fiscally irresponsible in our nation's history," said North Dakota Sen. Kent Conrad, the senior Democrat on the Senate Budget Committee, and "at the worst possible time -- just before the baby boomers retire," and costs for Medicare, Medicaid and Social Security start exploding.

DEFICIT GROWTH

See a graphic showing the projected effect of tax cuts on the deficit.

His Republican counterpart, Senate Budget Committee Chairman Judd Gregg of New Hampshire, focused on the growth of entitlement programs in his reaction to the CBO report. He warned in a written statement of an impending "financial crisis because the federal government has made commitments to America's retirees that threaten to overwhelm our economy."

In an interview, Mr. Gregg indicated he will use his budget-writing post to press Congress to reduce the benefit programs' costs. But the political difficulty is illustrated by the fact that the House and Senate still haven't finished a deficit-reduction bill left over from last year amid disagreements on cutting spending $5 billion this year and a total $40 billion over five years. A final vote is set for next week.

The CBO projected that the deficit for this year, which ends Sept. 30, will be about $360 billion, or the equivalent of 2.8% of gross domestic product. That compares to last year's $318 billion deficit, or 2.6% of GDP, which marked the first decline in the deficit since Mr. Bush took office. This year's deficit would be $181 billion greater -- or about $540 billion -- if the Social Security surplus isn't counted.

The budget office sees declining deficits through fiscal 2011 and then small surpluses annually through 2016. But that is only if Mr. Bush's tax cuts expire, and it is based on spending-growth projections for defense and domestic programs that are lower than what is likely to be spent. Moreover, as a separate CBO report last year demonstrated, after 2016 annual deficits would take off again as Social Security's annual surpluses turn to deficits and entitlement programs' costs balloon further.

The CBO said the annual growth rate for Medicare is projected to reach 8.9% in 2016, from 7.4% in 2008. Medicaid's growth is forecast to average 8.3% annually over the decade, and Social Security's annual increase will rise to 6.5% in 2016 from 4.8% in 2008.

Beyond 2016, the office reported, the three programs "will exert pressures on the budget that economic growth alone is unlikely to alleviate.

Congressional Panel Expects $337B Deficit (BRAH)

By Andrew Taylor

The Bradenton Herald, January 27, 2006

WASHINGTON - The budget deficit will rise to at least $337 billion this year and may well approach or exceed $400 billion because of tax cuts and new spending for hurricane relief and the war in Iraq, congressional budget analysts said Thursday.

The latest Congressional Budget Office data also suggest President Bush is unlikely to be able to keep his promise to cut the federal deficit in half by the end of his term.

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Even assuming a phasing down of the war in Iraq and the costs of hurricane relief, implementing tax cuts sought by Bush and Congress would produce deficits exceeding $300 billion through the end of the decade, the nonpartisan CBO says.

The report and Bush's annual budget submission kick off a predictably partisan election-year debate over the budget, which will play out against the backdrop of rising deficits, record spending and renewed concern about lawmakers' penchant for homestate pet projects.

Bush promised in 2004 to close the deficit from a then-estimate of $521 billion to $260 billion by 2009, and he promised again Thursday to meet that goal when he sends an austere fiscal 2007 budget to Congress on Feb. 6.

"We can cut our deficit in half by 2009 and make sure the American people still get their tax relief," Bush told reporters.

Bush critics say he routinely plays games with the budget by leaving out the long-term costs of the war in Iraq and redrawing the tax code so more and more middle-class taxpayers won't get hit by the alternative minimum tax. Congress typically rejects most of his proposals for benefit cuts and new fees.

Even though CBO must follow rules that mean its official estimate is flawed - by reflecting current law even when future changes to the budget are virtually certain to be passed - its data are respected for impartiality.

CBO's official baseline shows the deficit dropping to $241 billion by 2009 and $114 billion by 2011. But those estimates assume Bush's tax cuts expire and the alternative minimum tax is left alone. That tax, designed to stop the wealthy from avoiding all taxation, threatens more middle class taxpayers every year because of inflation.

Under a more realistic scenario, extending tax relief, drawing down troop levels in Iraq, and phasing out hurricane relief, CBO predicts a $332 billion deficit for 2009, the last fiscal year for which Bush is responsible.

For its part, the White House reiterated Thursday that it thinks the 2006 deficit would actually top $400 billion because of the costs of tax cuts, the war in Iraq and new hurricane relief.

"This administration is driving us over the cliff into deeper and deeper debt," said Kent Conrad of North Dakota, the Senate Budget Committee's top Democrat.

According to the CBO report, the expiration of Bush's tax cuts would return the budget to a surplus of $38 billion by 2012. Keeping his tax cuts in place would put the government into a $289 billion deficit that year, but Bush rejected any talk of letting his tax cuts lapse at the end of the decade as currently scheduled.

"We don't need to be running up the taxes right now," Bush said Thursday. "You know, people say, 'Well, let's raise the taxes and balance the budget' - that's not how it works; they're going to raise your taxes, and they're going to continue to expand the government."

The government recorded a $319 billion deficit for 2005. The record deficit in dollar terms of $413 billion was registered in fiscal 2004.

Economists say the more significant measure is against the size of the economy. In those terms, CBO's 2006 deficit prediction would equal 2.6 percent of gross domestic product and would be significantly better than deficits witnessed in the mid-1980s and early 1990s. Then, deficits of 4 percent to 6 percent of GDP were common.

On the economy, CBO predicts continued robust growth of 3.6 percent this year and 3.4 percent next year, slowing to an average of 3.1 percent over 2009-2011.

With near-term deficit predictions going up, Republicans in Congress are feeling political heat from their core supporters, who say the party's record of fiscal discipline is slipping.

Republicans are particularly upset about the proliferation of lawmakers' pet projects under GOP control of Congress. For instance, total spending on such "earmarks" hit $17 billion in the latest round of congressional appropriations bills, House Appropriations Committee tally says.

When Bush took office in 2001, both White House and congressional forecasters projected cumulative surpluses of $5.6 trillion over the subsequent decade.

But a revenue bubble burst, a recession and the Sept. 11, 2001, terrorist assaults adversely affected the books. Several rounds of tax cuts, including Bush's signature $1.35 trillion 2001 tax cut, also contributed to the return to deficits in 2002 after four years of budget surpluses.

Congress Agency Sees $337 Bln 2006 Budget Gap (REU-Y2)

By Richard Cowan

Reuters, January 27, 2006

A congressional report released on Thursday said the U.S. budget deficit will hit $337 billion this year, a figure that is up $23 billion from an August estimate and excludes additional funds needed for the Iraq and Afghanistan wars.

The Congressional Budget Office, Congress' nonpartisan fiscal watchdog, said the deficit in fiscal 2006 is more likely to reach $360 billion once additional war costs and some Hurricane Katrina-related expenses are counted.

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The Bush administration has been more pessimistic, saying this year's budget deficit will top $400 billion.

For the fiscal year starting October 1, CBO estimated the deficit would drop to $270 billion.

But CBO estimates do not include some big-ticket items not yet enacted by Congress, such as upcoming war costs and tax policy changes, which would significantly add to the flow of red ink.

Capital Economics, a London-based research firm, estimated a $351 billion U.S. budget deficit next year when taking into account the probable extension of some tax breaks and reforming other tax policies, as well as war costs.

The new budget deficit numbers prompted criticism from across the political spectrum.

The conservative Cato Institute praised the performance of a humming American economy and low taxes. But Stephen Slivinski, Cato's director of budget studies, said rapidly-growing government spending demonstrated that "there has yet to be any sign that Republicans are willing to really do what it takes to get the budget under control."

"MOUNTAIN OF DEBT"

Congressional Democrats said the CBO report challenges Bush administration claims that it is making progress in cutting the deficit, which began in fiscal 2001 with a $128 billion shortfall on the heels of a $236 billion surplus in fiscal 2000, the year before President George W. Bush took office.

Largely because of six consecutive years of budget deficits, Bush has had to ask Congress to increase U.S. borrowing authority by about $3 trillion.

"The Bush administration is accumulating a mountain of debt," said Rep. John Spratt (news, bio, voting record) of South Carolina, the senior Democrat on the House Budget Committee.

House Budget Committee Chairman Jim Nussle, an Iowa Republican, said the CBO report underscored the strength of the U.S. economy, but "also reminds us that controlling the budget is a long-term, step-by-step commitment."

Congress is bracing for a new White House request for Iraq and Afghanistan war funds, which is likely to be in the range of $80 billion to $100 billion. But only about $20 billion of that will be spent in this fiscal year, experts estimated.

The administration also noted that congressional plans to extend a tax provision keeping millions of middle-class families from paying the alternative minimum tax will add billions of dollars to the deficit.

Seeing continued strong U.S. economic growth, the CBO forecast real GDP growth of 3.6 percent this year and 3.4 percent in fiscal 2007. In 2008-2011, GDP will grow at an average rate of 3.1 percent, it estimated.

Despite the revenue rush generated by economic growth, the new budget deficit estimate for this year is up from CBO's August forecast of $314 billion and up from the actual fiscal 2005 deficit of $318.62 billion.

Over five years, 2006 to 2010, CBO sees a cumulative budget deficit totaling $1.329 trillion, according to the report.

Further darkening the fiscal picture, CBO said, is the likely explosion of government outlays in coming years as the baby boom generation begins to reach retirement age and draws government benefits. Congress is looking at ways to control the growth of these programs.

Bush Uses Humor To Deflect The Heat (AP-Y2)

By Nedra Pickler

AP2, January 27, 2006

President Bush's first news conference of the year was just a camera strap away from becoming hazardous to reporters.

As the president began his opening statement, a camera that the news service AFP had hung from the ceiling dropped and nearly fell on the heads below. It was caught by its strap, and Bush stopped and looked at it dangling precariously.

"Are you wearing your helmets?" he joked to reporters sitting in the White House briefing room.

Bush was full of quips during the 45-minute news conference, poking fun at the media and deflecting some of the heat when questioning got intense.

Yes, Bush acknowledged, he had his picture taken with admitted criminal Jack Abramoff.

"Having my picture taken with someone doesn't mean that I'm a friend with him or know him very well," he said. "I've had my picture taken with you at holiday parties."

Another reporter pointed out that allegations of Abramoff's influence went beyond the photographs to questions of why he met with the president's top aides. The White House has refused to disclose just how often or why Abramoff was there, and Bush wasn't about to, either. He returned to jokes about the pictures.

"I mean, people, it's part of the job of the president to shake hands with people and smile," he said. He said he'd turn over records about Abramoff's meetings at the White House only to federal prosecutors if they suspected something inappropriate.

When a radio reporter asked the president again to never mind the photographs, just talk about lobbyists' influence on the White House, Bush interrupted: "Easy for a radio guy to say."

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Financial Aid Growing Role For Lobbyists: Raising Funds For Lawmakers (WSJ)

By Brody Mullins, Staff Reporter Of The Wall Street Journal

The Wall Street Journal, January 27, 2006

WASHINGTON -- Nearly three years ago, Gregg Hartley left his job as a top aide to Republican Rep. Roy Blunt of Missouri to become a lobbyist. Mr. Hartley began helping companies like BellSouth Corp., Wal-Mart Stores Inc. and Viacom Inc. get audiences with Mr. Blunt and other top House Republicans and win some important legislative battles.

At the same time, Mr. Hartley was helping his old Capitol Hill boss raise campaign money and offering him political advice. Mr. Hartley is now assisting Mr. Blunt in his bid to succeed Rep. Tom DeLay as House majority leader. For the last three weeks, the lobbyist has offered strategic advice during regular visits to Mr. Blunt's office in the U.S. Capitol, according to people familiar with the meetings.

Mr. Hartley's dual roles highlight a practice that is becoming more common in Washington: Lobbyists are serving as principal fund-raisers for lawmakers they're trying to sway. Bruce Gates, the top political strategist for Mr. Blunt's main rival to become Majority Leader, Rep. John Boehner of Ohio, also is a lobbyist for private clients. William Oldaker, a lobbyist with numerous health-care clients, oversees fund raising for two dozen Democratic lawmakers, including Senate Minority Leader Harry Reid of Nevada and Sen. Ted Kennedy of Massachusetts.

The Justice Department public-corruption and bribery case against lobbyist Jack Abramoff and a half-dozen members of Congress has refocused attention on the financial ties between lawmakers and lobbyists. While Mr. Abramoff's lobbying activities crossed the line into illegality, the practice of lobbyists raising large amounts of money for lawmakers is both legal and commonplace in Washington today.

Federal Election Commission records show that 71 lawmakers now list lobbyists as treasurers of their re-election or political action committees. In 1998, the number was just 15, according to a review of FEC reports by the Center for Public Integrity. Lawmakers attribute the change to the sharply rising costs of running campaigns.

In the long-running debate about whether lobbying money corrupts politics, Mr. Hartley's relationship with Mr. Blunt shows how deeply the financial ties run between Capitol Hill and the lobbyists on K Street. Advocates of change argue that lawmakers who rely on lobbyists become unduly beholden to them, and thus more willing to help their clients.

"By putting a lobbyist in charge of your political operations, you are conflicted from the start," argues Alex Knott of the nonpartisan Center for Public Integrity, which favors reducing the role of money in politics.

A spokeswoman for Mr. Blunt says there's nothing wrong with the congressman's close relationship with the lobbyist. In the leadership race, says his spokeswoman, Jessica Boulanger, the only involvement of Mr. Hartley "has been in the capacity of an old friend." Mr. Hartley hasn't called other members of Congress on Mr. Blunt's behalf, she notes. Mr. Blunt declines to comment. Mr. Hartley declines to discuss his fund-raising activities.

In the wake of the current lobbying scandal, lawmakers from both parties have been scrambling to introduce bills to reform the lobbying industry. But none of the leading proposals would ban lobbyists from continuing their fund-raising activities for members of Congress. House Speaker Dennis Hastert wants to ban lawmakers from accepting privately financed trips. Senate Majority Leader Bill Frist would prohibit lawmakers' spouses and children from lobbying.

"We are carping on trifles here," said Sen. Richard J. Durbin, a Democrat from Illinois, during a Senate hearing on lobbying reform Wednesday. "Why is it that we warm up to all these lobbyists? It isn't for a meal.... We know when it comes time to finance our campaigns, we're going to be knocking on those same doors."

The lobbying reform legislation proposed by Sen. John McCain, the Arizona Republican, wouldn't ban lobbyists from raising money for members of Congress. But it would require them to disclose when they host fund-raisers for politicians. Rick Davis, the Republican lobbyist who helps run Mr. McCain's political operations, notes: "You would be hard pressed to find a single important lobbyist who is not involved in fund raising."

Lobbyists say they aren't violating any rules by moonlighting as fund-raisers. "I'm not a rule maker, I'm a game player," says David Girard-diCarlo, a managing partner at Philadelphia-based law firm Blank Rome who serves as national finance director for Republican Sen. Rick Santorum of Pennsylvania. Blank Rome has numerous lobbying clients. Mr. Girard-diCarlo oversees a group of more than 40 Washington lobbyists who hope to raise $4 million for Mr. Santorum's re-election bid. "The senator is most appreciative" of such fund-raising help, says Mr. Santorum's spokesman, Robert Traynham.

In addition to providing help with direct fund raising, Mr. Hartley is one of many lobbyists also helping members of Congress to raise money for specialized funding organizations called leadership PACs. Mr. Blunt and hundreds of other lawmakers in both parties have formed such PACs in order to help fellow party members facing close re-election races. Under federal election rules, lawmakers cannot donate more than $4,200 per election cycle from their own re-election coffers to the

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campaign of any colleague. But they can funnel as much as $10,000 per election cycle from leadership PACs to another campaign.

Reciprocal Support

In practice, such financial support from politically secure lawmakers for the re-election efforts of vulnerable colleagues often translates to reciprocal support down the road. Lawmakers draw on such support when angling for leadership positions within Congress.

"Leadership PACs originated as a way for one member to garner support from other members when seeking a leadership position in the House or Senate," Mr. Blunt wrote to the FEC in 2003. "More recently, leadership PACs have enabled the Republican party to maintain its majority in the House of Representatives."

When Republicans took over Congress in 1994, about 90 lawmakers operated such leadership PACs, which together raised a total of $28 million, according to the FEC. In the last election cycle, more than 300 leadership PACs took in $127 million.

Corporations represented by Mr. Hartley have donated more than $150,000 to Mr. Blunt's leadership PAC, the Rely On Your Beliefs Fund, known as the ROY B. Fund. Mr. Gates, the lobbyist with ties to Mr. Boehner, is treasurer of Mr. Boehner's leadership PAC, The Freedom Project. Mr. Boehner is Mr. Blunt's main rival for the majority leader post.

Both lawmakers are now recruiting congressional supporters for their majority-leader campaigns. Of the roughly 150 House Republicans who have announced who they will vote for, most have endorsed the candidate who has given them the most campaign money. Of Mr. Blunt's 91 publicly announced supporters, 68 have received money totalling $690,000 from Mr. Blunt's PAC, according to the Campaign for a Cleaner Congress, a congressional watchdog group.

Mr. Hartley, a 52-year-old fan of muscle cars and rock 'n' roll, was running a legal aid organization in his native Missouri when he met Mr. Blunt, who then worked as a country clerk. In 1992, Mr. Hartley raised money for Mr. Blunt's unsuccessful campaign for governor.

Four years later, Mr. Hartley helped Mr. Blunt, who is now 56, win a seat in Congress. Mr. Blunt, an ideological conservative, rose fast on Capitol Hill, winning the respect of moderate Republicans for his nonconfrontational approach. In 1999, when Rep. Dennis Hastert of Illinois was named speaker of the House, Rep. Tom DeLay tapped Mr. Blunt to replace Mr. Hastert as chief deputy whip.

Several years after arriving in Washington, Mr. Blunt married Abigail Pearlman, a lobbyist for the tobacco and food giant Altria Group Inc. Mr. Blunt's son, Andrew, is a lobbyist in Missouri whose clients include Altria, United Parcel Service Inc. and the former SBC Communications. Another son, Matt, is the current governor of Missouri.

When Mr. DeLay became majority leader in 2003, Mr. Blunt rose to Republican whip, the party's top House vote-counter. A few months later, Mr. Hartley left Capitol Hill to become a lobbyist with Cassidy & Associates, one of Washington's oldest and most successful lobbying firms.

Mr. Hartley's first clients were companies that had contributed money to Mr. Blunt and received legislative support from him. For example, Mr. Blunt had backed the Baby Bell phone companies in their battles with long-distance carriers and cable TV operators, and the Baby Bells had backed him with donations. They became Mr. Hartley's clients.

In July 2003, Mr. Hartley was hired by a coalition of major television networks -- General Electric Co.'s NBC, Viacom Inc.'s CBS, News Corp.'s FOX and Walt Disney Co.'s ABC. The networks were seeking to loosen rules governing their ownership of local TV stations.

Fierce Opposition

The Federal Communications Commission had proposed allowing the networks to own local stations covering 45% of U.S. households, up from the previous limit of 35%. By the time Mr. Hartley was hired, local broadcasters had mounted fierce opposition to the change, and more than two-thirds of Congress had announced their opposition to the move.

Mr. Blunt, however, joined other House Republican leaders in blocking the measure from reaching a floor vote. The standoff ended with a compromise: the network ownership limit was lifted to 39%. Mr. Hartley's network clients considered it a victory.

During this lobbying battle, Mr. Hartley was helping Mr. Blunt raise campaign money. Cassidy & Associates made available its skybox at Washington's MCI Center for a fund-raiser at a Simon and Garfunkel concert. Mr. Blunt reimbursed Cassidy for the cost of the seats. Last fall, Mr. Blunt rented the skybox again for a fund-raiser during a U2 concert.

At Cassidy, Mr. Hartley hired two former aides of Mr. Blunt and the husband of a third. After Mr. Blunt launched his campaign to replace Mr. DeLay as majority leader three weeks ago, Mr. Hartley began advising Mr. Blunt and his staff on the race, according to Republican aides involved in the matter.

"Roy has the trust and confidence in him that he had when Gregg was his chief of staff," says Drew Maloney, a lobbyist and former aide of Mr. DeLay who backs Mr. Blunt's campaign for majority leader. Dan Mattoon, a close adviser to House Speaker Dennis Hastert, calls Mr. Hartley "a very important part of Roy's outside operation."

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Mr. Hartley joined a small group of lobbyists who have helped plot strategy and raise money for other Republican leaders, such as Messrs. DeLay and Hastert. In January 2004, Mr. Hartley attended a dinner meeting hosted by Republican lobbyist Jack Abramoff at Signatures, Mr. Abramoff's now-defunct Pennsylvania Avenue restaurant, to discuss ways to persuade Republican lobbyists and their clients to give more campaign contributions to Republicans.

During the 2003-04 election cycle, Mr. Hartley himself donated $74,500 to Mr. Hastert, Mr. DeLay and other congressional Republicans. He is on pace to match that level of giving once again in the 2006 election season.

McCain, Coburn To Force Votes On Pork Spending (WT)

By Stephen Dinan

The Washington Times, January 27, 2006

Two Republican senators say they will force their colleagues to vote on the Senate floor on each so-called pork-barrel spending project this year, and President Bush also called for reforms to rein in the projects.

The battle over earmarks -- the line-item projects that members of Congress insert into spending bills to benefit their districts -- has ballooned as Republicans debate congressional reforms and budget deficits.

Republican Sens. John McCain of Arizona and Tom Coburn of Oklahoma sent a letter Wednesday night to their colleagues announcing they will use Senate rules to force members to vote on each project.

"American taxpayers are entitled to a more thorough debate and disclosure about how their money is being spent," the senators wrote.

The spending debate has risen to the top of the House Republican leadership contest, and is exposing a split in the party, as many conservatives say Republican congressional leaders and the White House have not taken a hard enough line on deficits.

Mr. Bush said at his press conference yesterday he is "fully prepared to use the veto" if Congress overspends, but he said that hasn't been necessary because Congress has actually met his spending targets.

The Congressional Budget Office yesterday said its fiscal 2006 deficit estimate is $337 billion, a figure that war costs could raise to about $360 billion. Fiscal 2005 ended on Sept. 30 with a $318 billion deficit.

The long-term outlook showed the deficit gone by 2012, but that assumes Mr. Bush's tax cuts expire in 2011. If the tax cuts are extended, the deficit would be more than $500 billion.

Democrats laid the blame directly at Mr. Bush's feet.

"Simply put, the Bush administration's deficit figures are a disgrace," said Rep. Charles B. Rangel of New York, the top Democrat on the Ways and Means Committee.

Meanwhile House Minority Leader Nancy Pelosi, California Democrat, said the deficit is big in part because of "special-interest earmarks."

Mr. Bush yesterday weighed in on that debate, saying Congress will have to address earmarks and "special deals in the budget."

White House press secretary Scott McClellan said Mr. Bush wants budget reforms such as a line-item veto, which would allow him to strike earmarks, and a sunset commission to review federal programs.

Some members have proposed a ban on earmarks, but top Republican leaders such as House Speaker J. Dennis Hastert of Illinois have defended the practice.

"Who knows best where to put a bridge or a highway or a red light in their district," he said in a radio interview with Michael Reagan this week. "We need to change how we do earmarks, we need to do it in the light of day and not the last minute type of situation, but I think we can do some reform on that and still serve what's in the best interest of the American people."

In a column yesterday in Roll Call, a newspaper covering Capitol Hill, House Appropriations Committee Chairman Jerry Lewis, California Republican, said giving up earmarks would end the congressional power of the purse.

He has proposed putting a cap on the number of earmarks allowed per member, and requiring that the requester submit a letter that would be printed in the Congressional Record.

But earmark opponents like Rep. Jeff Flake, Arizona Republican, said capping the total number of earmarks would just mean lawmakers ask for bigger-ticket items.

The Congressional Research Service said earmarks have grown from 4,126 in 1994, the year before Republicans gained control of Congress, to 15,268 in 2005.

Some lawmakers say earmarks are a red herring in the fight to cut the deficit, but Mr. Coburn argues it's a mind-set and if Congress takes care of the small items, it will also take care of the big items.

Mr. Coburn had a mixed record with the spending floor votes he did force last year.

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He was unable to cut funding for the Defense Travel System and he lost, 82-15, a vote to strike money for the so-called "bridge to nowhere" in Alaska. But the public fight over the bridge led Republican leaders to drop the earmark a few weeks later.

K Street's New Ways Spawn More Pork (WP)

By Jonathan Weisman And Charles R. Babcock

The Washington Post, January 27, 2006

An explosion of special interest funding engineered in part by lawmakers with close ties to lobbyists is drawing increased scrutiny as Congress moves to address concern about corruption that already has led to the conviction of a Republican House member and former GOP lobbyist Jack Abramoff.

At issue is a symbiotic relationship between lawmakers well positioned to slip special-interest projects into legislation, and wealthy lobbying groups that raise large sums of campaign funds or provide trips and other benefits to those lawmakers.

In the latest example of these backstage dealings, Rep. John T. Doolittle (R-Calif.) told The Washington Post that he helped steer defense funding, totaling $37 million, to a California company, whose officials and lobbyists helped raise at least $85,000 for Doolittle and his leadership political action committee from 2002 to 2005.

Brent Wilkes, a director of the company, PerfectWave Technologies LLC, and a major contributor to House Republican leaders, was identified as "Coconspirator No. 1" in criminal charges brought against Rep. Randy "Duke" Cunningham (R-Calif.) late last year. Cunningham pleaded guilty in November and resigned from Congress after admitting he conspired to take $2.4 million in bribes in return for using his office to help Wilkes and another defense contractor, in part by placing earmarks in defense appropriations bills.

Doolittle said in a statement this week that as one of three California Republicans on the House Appropriations Committee, he frequently supports "well deserving projects throughout the state." The statement added that his support of PerfectWave Technology "was no exception and based completely on the project's merits and the written support of the military."

The link between special interests and members of Congress has grown so tight that nearly a dozen House and Senate members who control federal spending have retained lobbying veterans to raise campaign funds for them, and those lobbyists have secured lucrative favors in spending bills.

These relationships have coincided with the rapid growth in the volume of home-state pork-barrel projects, commonly called earmarks, that have swelled appropriations bills in recent years, according to congressional experts and watchdog groups.

"It's the currency of corruption," Rep. Jeff Flake (R-Ariz.) said of appropriations earmarks.

Since the Republicans took control of Congress in 1994, the number of home-district earmarks jumped from 4,155 valued at about $29 billion in 1994 to 14,211 worth nearly $53 billion 10 years later, according to the Congressional Research Service.

Once a backwater for boutique lobbying shops, the House and Senate Appropriations committees are fueling a lobbying boom in Washington. The hunt for earmarks has become so consuming that lawmakers are neglecting other duties, said Scott Lilly, who recently retired as chief Democratic aide on the House Appropriations Committee. Last year, the committee received 10,000 requests for home-district projects on one spending bill alone -- 25.4 projects per lawmaker, said committee spokesman John Scofield.

"It has become an obsession of the Congress," Lilly said. "That's all they do."

Traditionally, Congress has provided large pots of money to federal, state and local agencies, such as housing authorities and transportation departments, which then funded specific programs based on merit and local need. The Appropriations committees funded specific projects only when they had been vetted and approved by authorizing committees, such as the Armed Services Committee.

But increasingly, lawmakers have gone around authorizers and agency officials to finance pet projects in their home districts. House Speaker J. Dennis Hastert (R-Ill.) secured $207 million for the "Prairie Parkway" through Kane and Kendall counties in Illinois in last year's major highway law, although the Illinois Department of Transportation is only two years into a five-year study of the project and has not yet determined whether a highway is needed or whether improvements to existing roads would suffice.

The hunt for earmarks on Capitol Hill and on K Street has opened up new avenues for lobbyists and lawmakers to come together. Seven members of the House Appropriations Committee -- Chairman Jerry Lewis (R-Calif.), Ernest J. Istook Jr. (R-Okla.), Kay Granger (R-Tex.), Dennis Rehberg (R-Mont.), John E. Sweeney (R-N.Y.), Rosa L. DeLauro (D-Conn.) and Ed Pastor (D-Ariz.) -- have political action committees headed by registered lobbyists or former registered lobbyists with business before the committee, according to the Center for Public Integrity and campaign records.

David A. Metzner, treasurer of Sweeney's Freshmen PAC, has represented the Association of American Railroads; it is a frequent petitioner of the House Appropriations subcommittee for the departments of Transportation, the Treasury, and Housing and Urban Development, on which the New York Republican sits. Leon G. Billings, DeLauro's treasurer and longtime friend, has

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represented groups such as the American Lung Association and the Lincoln Pulp and Paper Co. His lobbying registration for the Industry Urban Development Agency targets the Appropriations energy and water development subcommittee's bill.

In the Senate, Appropriations Committee members Larry E. Craig (R-Idaho), Byron L. Dorgan (D-N.D.), Harry M. Reid (D-Nev.) and Ted Stevens (R-Alaska) have retained PAC treasurers who have served as Appropriations lobbyists. Richard B. Ladd, treasurer of Stevens's Northern Lights PAC, has lobbied the Appropriations defense subcommittee on the behalf of defense contractors. William C. Oldaker, who heads the PACs of Reid and Dorgan, has lobbied multiple Appropriations subcommittees for the universities, science centers and municipal water districts he has represented, according to Senate lobbying records.

"It's completely out of control, and we are not going to reform a system, as far as lobbying is concerned, if we have a process that lends itself to one influential lobbyist with a relationship with one member," Sen. John McCain (R-Ariz.) told reporters this month.

Chairman Lewis strongly defended his committee, saying that after years of unchecked growth, the value of home-district earmarks retreated in the spending bills for this fiscal year by nearly $3 billion. One bill, funding labor, health and education programs, was voted down by the House the first time it went to the floor, in part because Lewis stripped it of every earmark. The problem, Lewis said, is with the campaign finance system. Lobbyists, such as his friend Bill Lowery, are helping to raise money to keep Republicans in the majority, and Lewis would not apologize for that.

"If you're going to impact public policy, you have to be in the majority," he said. "I don't back off that responsibility at all. Mr. Lowery is only one piece of that, and frankly a relatively small piece of it."

In a series of articles last month, Copley News Service laid out the relationship between the two that included Lowery raising campaign funds for Lewis, the exchange of longtime staff members and the channeling of millions of dollars to Lowery's California clients.

Lowery, the partners at his firm -- Copeland, Lowery, Jacquez, Denton & White -- and their clients have donated more than a third of the $1.3 million that Lewis's political action committee has raised in the past six years. One longtime member of Lewis's staff, Jeff S. Shockey, left Capitol Hill to join Lowery's firm, then returned recently as the House Appropriations Committee's deputy staff director. Letitia H. White, a Lewis staffer for 21 years, began lobbying for Lowery in 2003.

Wilkes, the California businessman linked to the Cunningham corruption case, began tapping federal spending sources in the mid-1990s, after Cunningham helped him win at least $80 million in Pentagon earmarks for a company he ran that converted paper documents to digital images.

In mid-2002, Wilkes became involved with a new company, PerfectWave Technologies LLC. He then retained the Alexander Strategy Group, a high-powered firm operated by former aides to then-House Majority Leader Tom DeLay (R-Tex.), to lobby for defense appropriations. Wilkes was seeking funding for the development of an "automated speech recognition technology."

Shortly thereafter, individuals related to Wilkes and PerfectWave made large campaign donations to members of the GOP leadership, Doolittle and Lewis, who was then chairman of the Appropriations defense subcommittee. PerfectWave is housed in Wilkes's office building in Poway, Calif.

Doolittle and his leadership PAC received at least $85,000 from 2002 to 2005 from Wilkes, PerfectWave associates and their wives, and from Alexander Strategy lobbyists Edwin A. Buckham and Tony C. Rudy and their wives.

Wilkes was successful. Congress approved the first earmark for PerfectWave as part of the fiscal 2003 defense bill, which was passed in October 2002. That $1 million earmark was followed by an installment of $18 million in 2003 and another $18 million in 2004. Doolittle, whose district is in Northern California, was a guest at a fundraising dinner at Wilkes's office in San Diego in the fall of 2003.

Doolittle's office released a letter from a Marine Corps official dated last Feb. 25 that praised the PerfectWave technology. A spokesman for the House Appropriations Committee said there are no additional funds for the project in the fiscal 2006 budget because the Marines have not spent all the money that was earmarked.

Capital's New Four-Letter Word (WP)

By Shailagh Murray

The Washington Post, January 27, 2006

These are dark days for earmarks.

Packing bills with special provisions has long been an honored tradition in Congress, but now a pall has fallen over the practice. Bolstered by a budget crisis and a series of scandals involving legislative favors, an increasingly prolific government watchdog movement is turning "pork" into a four-letter word.

These scrappy outfits are run by small corps of veteran staffers whose offices look more like dorm rooms than the posh K Street suites occupied by their archnemeses: lobbyists. Taxpayers for Common Sense elevated an obscure Alaska highway

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project into the now-infamous "Bridge to Nowhere." Citizens Against Government Waste started battling runaway Hurricane Katrina spending three days after the storm hit the Gulf Coast.

The two groups joined forces this month with the National Taxpayers Union, a conservative, low-tax organization, to combat the rising cost of the new D.C. baseball stadium. Other watchdog targets include indicted former representative Randy "Duke" Cunningham (R-Calif.), the Pentagon and the U.S. Postal Service.

The watchdogs work closely with friendly lawmakers, such as Sen. Tom Coburn (R-Okla.), who tried to redirect funding for the "Bridge to Nowhere" to a New Orleans bridge ruined by Hurricane Katrina. The informal investigative alliance also includes Internet bloggers, including a "porkbusters" campaign on the site truthlaidbear.com, an online effort to mobilize against wasteful federal spending.

"It's a $2.4 trillion budget," said Steve Ellis, vice president of Taxpayers for Common Sense. "There's work for everybody."

Congress is embarrassed enough by the Cunningham and Jack Abramoff scandals, both involving huge sums of cash for legislative favors, that lawmakers are considering ways to crack down on earmarks, which typically show up in bills at the last minute, after little or no scrutiny. The watchdog groups are wary that Congress will wind up focusing on lobbying-related activities, rather than cleaning up the legislative process.

"We hope that there's a recognition that it's not just lobbying," said Thomas A. Schatz, president of Citizens Against Government Waste. "It's more a matter of how the whole process works."

Although Republicans claim to be the party of small government and fiscal restraint, Schatz's group found that total earmarks rose to 13,997 in 2005, a huge increase from the 1995 total of 1,349. The process appears to have slowed with the fiscal 2006 appropriations bills, with the exception of the defense measure, which preliminary analysis by the groups suggests is the usual earmark treasure trove.

Coburn, one of the Senate's toughest earmark critics, attributed the watchdog movement's growing influence to a decline in congressional oversight. What he calls "an army of citizen investigators" is "filling an oversight gap created by Congress's refusal to perform one of its core responsibilities," Coburn said.

Appropriations Chairman Thad Cochran (R-Miss.) noted that Senate rules already allow senators to attempt to strike provisions from bills -- as Coburn tried with his "Bridge to Nowhere" amendment. And while there may be earmarking excesses, Cochran added, the practice is entwined with one of the most sacrosanct of Congress's duties: deciding how federal money is spent.

"It serves a useful purpose for people to point out things," said Cochran, referring to the watchdog groups. But he added, "I think senators would be reluctant to approve a law that says you can't have any specific project appropriated in a bill."

The movement's ideological roots range from liberal to libertarian. Taxpayers for Common Sense, created 10 years ago, regards the late former senator William Proxmire (D-Wis.) as its spiritual leader and has taken over his Golden Fleece Award, created in 1975 to highlight wasteful projects. Proxmire gave the National Science Foundation the first Golden Fleece, for spending $84,000 to study why people fall in love.

Citizens Against Government Waste was founded in 1984 by the industrialist J. Peter Grace and the syndicated columnist Jack Anderson, now both deceased. It is also the legacy of President Ronald Reagan's "Private Sector Survey on Cost Control," directed in 1982 to "work like tireless bloodhounds to root out government inefficiency and waste of tax dollars." Other groups include the National Taxpayers Union, founded in 1969, which has already set its sights on the farm bill that expires in 2007.

The groups' bread and butter are the vast databases they compile that break down earmarks by state or individual lawmaker. They also rely on tips.

About five years ago, an Alaska environmentalist contacted Keith Ashdown at Taxpayers for Common Sense about a proposal for a massive bridge that would have linked the town of Ketchikan to the more sparsely populated Gravina Island. The group spent more than a year examining the project and awarded it a Golden Fleece on June 12, 2003.

Even Ashdown was surprised when the final highway authorization bill emerged last summer with a whopping $223 million for the Ketchikan bridge. At most, he had expected a few million dollars.

The bridge attracted a blizzard of adverse publicity, and later last year, Congress redirected the money to allow Alaska to spend it on other transportation projects. Ashdown, meanwhile, has moved on to a new project.

He heard about this one from a Gulf Coast resident. According to the e-mail he received, Mississippi wants to spend more than $200 million to repair the U.S. 90 Biloxi Bay Bridge, which was damaged last summer by Hurricane Katrina.

But the bridge could be obsolete before it is finished, the tipster warned, pending the outcome of a debate over relocating the highway. Ashdown is looking into the project and already has a name for it: the "Bridge Over Troubled Waters."

Spend-and-Collect Beltway Party Really Knows Jack (WSJ)

By Daniel Henninger

The Wall Street Journal, January 27, 2006

Jack Abramoff. Jack Abramoff. Jack Abramoff. Once the hunt's on, some names sound to the scandal born. Tongsun Park, Charles Keating, Elizabeth Ray, Fannie Fox, Susan McDougal. Now comes Jack, the central figure in what Beltway Democrats are trying to build into a bonfire that will burn down Republican control of Congress. Every time someone tells Senate Minority Leader Harry Reid that he, too, took money from Jack's clients, he starts jumping up and down like Rumpelstiltskin yelling, "This is a Republican scandal!" Harry Reid, Harry Reid. One could get used to that.

Poll after poll says the public thinks both parties are equally corrupt. It depends, of course, on what the meaning of corruption is. If by corrupt you mean lobbyist sleaze, quid pro quo, the pork barrel, earmarks to nowhere and grossing out even the public's generally low expectations, then yes, both parties are equally corrupt.

But it gets worse. Congress legislated the system that now exists. Congress planted the seeds back in the '70s for what is revolting you now with two enactments -- the Budget and Impoundment Control Act of 1974 and the 1974 amendments to the Federal Election Campaign Act of 1971. Both were marketed as reforms.

The first law turned political Washington into a trillion-dollar industry camouflaged as the federal budget. The second ensured that sitting members of Congress and K Street lobbyists would become the entrenched management of that industry. Compared to this, Enron is a kindergarten game.

This is a history worth knowing and retelling. It all came to life amid another famous scandal, Watergate, and the most famous such name of all, Richard Nixon.

Nixon's impeachment is wholly linked in history to the Watergate scandal. But, in fact, his battles with the Democratically controlled Congress over spending authority also greased his fall. As had Presidents Truman, Kennedy and Johnson, Nixon tried to control Congress's spending by "impounding" -- refusing to spend -- specific appropriations.

Congress itself had tried various gimmicks to stanch the Great Society's costs, such as "spending ceilings." None worked, as indeed no gaggle of legislators will discipline themselves. Nixon resorted to the blunt club of impoundments. Congress went bananas. This battle, fought inside the partisan cauldron of the Vietnam War, led to the oddly named 1974 Budget Control Act, which purposely eviscerated presidential control over individual spending items, such as an earmark. To kill a "bridge to nowhere," a president has to veto the entire highway bill. Ditto defense pork and so on.

The 1974 Act did give the president "rescission" authority -- a request not to spend money on a project. But the law also said that if Congress never took a vote to affirm the rescission, the money went out the door. Absurd, but that's current law. Congressional Quarterly, in a 1982 study of the struggle over spending control, quoted a budget official then predicting the future: "What we're talking about here is congressional government -- and chaos."

But they weren't done. In 1974 -- the start the Long Era of Chaos in our politics -- Congress claimed it was curing the abuses of Watergate by mandating that no individual could contribute more than $1,000 to a candidate per election. So of course candidates were going to need a lot of "individual" contributions to finance a modern campaign. Thus was born the current co-dependency between members of Congress who hold the power to confer federal spending and Washington lobbyists who have the power to bundle campaign contributions in PACs and such for incumbent earmarkers.

A friend who was part of this world back then described it for me recently: "If you lived in Washington in those years, the change was dramatic. We moved to California in 1973. Returning to visit in 1976, the evening landscape had changed completely. There were fundraisers everywhere. Friends who were Congressmen were stopping at two or three cocktail parties an evening, touching base with single-subject organizations who had established PACs in reply to the 1974 reforms. We knew a caterer; her life had changed." Her business today is probably a publicly traded company, so vast has the industry of Beltway spending and campaign-contribution collecting become. Washington today is enervated by it. * * *

Fixes are possible. Put simply, reverse the "reforms" of 1974.

Abolish the individual limits on campaign contributions but require public disclosure on the Web. Democrats James Carville and Paul Begala recently proposed making this the basis of creating a new campaign-finance system. But beyond this lies the question of whether Democrats and Republicans want to fix Washington. Are they really separate parties, or just one entity -- the Beltway Party?

I don't see how the Democrats have any practical or ideological incentive to stop the federal government's inexorable 70-year-long growth. This is what they want -- more. For them, the Abramoffs of the world are reindeer pulling Santa's sleigh. By contrast, the Blunt-Boehner-Shadegg fight for the House leadership is an ideological argument over what Republicans should be amid a federal establishment that metastasized after the 1974 changes.

The failed 1974 Budget Act, which released the earmark and spending ghouls, makes clear that some workable form of presidential spending control has to be in the game. Presidential line-item veto power would require a constitutional amendment. Real rescission authority would help, but that has to pass through Congress and maybe a court challenge. Oh gosh, I almost

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forgot. Unlike from 1960 to 1994, the Republicans control Congress, and arguably all three branches of government. Does that matter? We'll find out this November and in 2008, when Republicans will either vote or sit.

I wish President Bush would put this issue of what Washington has become into his State of the Union speech Tuesday. My guess is he won't, recalling what happened when Richard Nixon tried to fight both a major war and the party that controls Congress, which for the foreseeable future looks like it will be the Beltway Spend-and-Collect Party.

For Blunt, Pressure Grows For Q&A With Rivals (WSJ)

By David Rogers

The Wall Street Journal, January 27, 2006

WASHINGTON -- As the House Republican leader's race goes into its final week, Majority Whip Roy Blunt faces growing pressure to appear with his two rivals before the caucus and answer questions on where he wants to take the party after the spate of recent scandals.

Mr. Blunt is widely seen as the frontrunner for the post vacated by Texas Rep. Tom DeLay. But the Missourian also has seemed insecure, refusing to give up his whip's position and avoiding any joint television appearances where he can be questioned with the two other candidates, Reps. John Boehner of Ohio and John Shadegg of Arizona.

The latest episode surrounds a closed-door party meeting Wednesday, before the Feb. 2 leadership vote. Aides to Rep. Deborah Pryce (R., Ohio), who chairs the House Republican Conference, had discussed a proposed format that allowed each candidate to speak for two minutes, after which there would be 10 minutes for questions.

A spokeswoman for Mr. Blunt said that he would "be more than willing absolutely" to agree to a question-and-answer session "if that's what Ms. Pryce decided." But behind the scenes, Republicans said there was resistance from the Blunt camp, which felt caught by surprise by the suggested format. And in a letter announcing the meeting, Ms. Pryce doesn't mention questions, writing only that "Any potential candidate will be given an opportunity to speak briefly to the Conference."

Sean Spicer, communications director for the Conference, dismissed inquiries about the matter, saying ideas were floated by staff but were of no consequence if not in Ms. Pryce's letter. But he was among those who had promoted the 10-minute Q&A format within Ms. Pryce's operation, and spokesmen for both Reps. Boehner and Shadegg said they hoped it would be restored.

The absence of more open debate is striking given the context of the leadership contest. Mr. DeLay agreed to vacate the leadership post after being indicted in Texas in October on alleged campaign finance violations and then watching his ally, Republican lobbyist Jack Abramoff, plead guilty to three felonies in federal court this month. Heading into November's elections, the contest is particularly important, and both Reps. Boehner and Blunt have an eye to positioning themselves to become speaker after Speaker Dennis Hastert (R., Ill.) steps down in 2008.

"This race is very different" Mr. Shadegg said. "The conference is under a magnifying glass as a result of the climate we're in and I think a lot of people are looking at what we do."

Mr. Blunt claims he has already more than the 116 votes needed to win, but only about 92 of his supporters have been willing to make their names public. Meanwhile, Reps. Boehner and Shadegg are fighting to get past one another into a second ballot face-off with the frontrunner.

"We're working very hard to get to the second ballot and we think our numbers are very close," Mr. Shadegg said. Rep. Ray LaHood (R., Ill.), a Boehner backer predicts the Ohio lawmaker, who chairs the House Education and Workforce Committee, will survive and then pick up enough of the Shadegg camp to prevail over Mr. Blunt. "I think it would be decided by five votes or fewer," he said.

House Whip Race Indicates Trend To Conservatism (WT)

By Stephen Dinan

The Washington Times, January 27, 2006

The House majority whip's race is an indication of just how conservative the House Republican Conference has become.

Two 1994 Republican revolutionaries and two fast-rising Republican stars face off in a contest they all say is about making the party refocus on basic conservative principles.

"Sometimes old institutions tend to drift away from their original intention. I thought I could be that breath of fresh air and just provide some direction of why we do what we do," said Rep. Mike Rogers, Michigan Republican and one of the candidates.

He is running against Rep. Eric Cantor of Virginia, Rep. Todd Tiahrt of Kansas and Rep. Zach Wamp of Tennessee. Mr. Tiahrt and Mr. Wamp were part of the Class of 1994, while Mr. Rogers and Mr. Cantor were elected in 2000.

All four rank among the most conservative members of the House: They earned "A" or "A+" grades from the National Rifle Association, had strong marks from the National Taxpayers Union and have lifetime ratings of 90 percent or better from the American Conservative Union.

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The whip, the No. 3 position in the Republican hierarchy, is supposed to assess where House Republicans are on issues and build support for Republican priorities.

As of now, it's not clear the position will even be open. The current whip, Rep. Roy Blunt of Missouri, is running for majority leader but has not relinquished his seat.

For that reason the whip's race has been far less public. Mr. Rogers has been the most active publicly, giving a series of speeches this week on issues such as intelligence and economic competitiveness.

The former FBI agent says he has experience winning close races -- he won his congressional seat by 111 votes in 2000 and, before that, won a Michigan Senate leadership election by one vote -- that will serve him well as whip.

He said Republicans are right on the issues, but they need to do a better job of communicating them.

"If we are going to be relevant for Americans, we have to be able to sit around any kitchen table in this country with our principles, our conservative principles about smaller, efficient government, about a helping hand, not a handout," he said.

Unlike the majority leader's race, those in the whip's race are not releasing lists of publicly committed members.

Mr. Wamp is positioning himself as the person willing to challenge the conference.

"This is a real challenge for us to hold our majority and who's willing to push the reforms that are needed," he said.

He said he's the only one of the four who is not part of the current whip's team, and therefore the only one outside of the political team Rep. Tom DeLay of Texas built.

Mr. Tiahrt said being on the whip's team is a key benefit. "I've got the most experience of people in this race."

He has taken a major role in pushing American economic competitiveness and said as whip he would push for the House to do more by doing less.

He said they often step on their own toes, passing good bills but drowning out that message by doing too much.

"It's important that we have a firm, focused voice on our leadership team that brings us back to a smarter schedule that brings legislation to the floor that reflects who we are and why we're in Washington," he said.

Mr. Cantor said reform means more than just the scandals -- it means returning to balanced budgets, changing the spending process and reforming the tax system.

"My goal is 10 months from now when we have an election, not for voters to be going to the polls with the choice of how do we clean up Congress," he said.

On spending reforms, Mr. Cantor said he will lead by example and reduce the number of earmarks he submits.

"At the end of the day we will be well-led, and it will be a conservative. There probably isn't a hair's-breadth difference between Cantor, Rogers, Wamp and Tiahrt in voting [records]," Mr. Rogers said.

Senate Questioning Bush Policies, But Administration Fighting Back (KRT)

By James Kuhnhenn

Knight Ridder, January 27, 2006

WASHINGTON - After years of deferring to the Bush White House, the Republican-controlled Senate has begun pushing back, holding oversight hearings on topics ranging from President Bush's response to Hurricane Katrina to his administration's mine-safety record and the president's secret domestic-surveillance program.

Administration officials are fighting back.

An administration mine-safety official walked out of a Senate hearing this week, angering its powerful Republican chairman. The White House refused to give another Senate committee documents it sought about Katrina. The administration is trying to dismiss critics of its eavesdropping program as clueless partisans, though many of them are Republicans.

White House officials and their allies maintain that their stance protects inherent executive power. Critics say the administration's reaction to the Senate's inquiries is an assault on Congress' constitutional role as a coequal branch of government that checks and balances the executive.

"There is always a tension between Congress and the executive on information-sharing," said Sen. Joseph Lieberman of Connecticut, a Democrat who's generally friendly to Bush but has accused the White House of stonewalling over Katrina information.

"This administration, certainly among the three that I've served under," he said, "is the most restrictive and protective about sharing information."

The Bush administration has never been shy about testing the limits of its executive power. Vice President Dick Cheney refused to divulge the identities of energy executives who advised him on energy policy. The administration wouldn't give Congress up-to-date cost estimates of its prescription-drug legislation. The Pentagon is often stingy about data related to the war in Iraq.

The current clash is significant because, unlike during Bush's first term, the Senate is demanding answers:

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-A Senate Appropriations subcommittee had sharp words Monday for federal mining safety officials, blaming improper enforcement of regulations for the recent deaths of 14 miners in West Virginia. Two hours into the hearing, the acting head of the Mine Safety and Health Administration, David Dye, left despite requests from subcommittee Chairman Sen. Arlen Specter, R-Pa., that he stay and answer further questions.

-Federal agencies have refused to turn over documents about their communications with the White House related to Hurricane Katrina to two congressional committees that are investigating the federal response to the disaster.

-Specter has scheduled hearings for Feb. 6 on whether the president was legally permitted to authorize wiretaps in the United States without court warrants. The administration has mounted an effort to portray those who question the legitimacy of the program as out of touch with the realities of post-Sept. 11 counterterrorism.

Such challenging examinations of the administration were virtually unheard-of during Bush's first term, when Congress wanted to cooperate with the president in the aftermath of the Sept. 11 terrorist attacks and he was highly popular with the public.

Since then, Bush's standing has plummeted. His response to Katrina, the continuing bad news from Iraq and other controversies have eroded his popularity.

In addition, with congressional elections in November, Republicans aren't as concerned about advancing the president's agenda as they are in advancing themselves. Both Republicans and Democrats have decided to resist Bush's expansion of presidential authority.

Congress watchers say hearings into Katrina, mine safety and wiretaps represent the least of what a muscular Congress should be doing to fulfill its oversight responsibilities.

"Congress is showing some tendons; it hasn't reached the level of a muscle yet," Specter said.

"Oversight is an ongoing process by which Congress keeps an eye on the executive branch agencies," said Gary Bass, the executive director of OMB-Watch, a nonpartisan group that keeps tabs on federal policy-making. "That is not what I see happening."

Norman Ornstein, a veteran congressional scholar at the American Enterprise Institute, a conservative research center, said today's rare display of oversight broke a five-year pattern of almost undeviating loyalty to the president.

He said House Speaker Dennis Hastert, R-Ill., and Senate Republican leader Bill Frist, R-Tenn., "don't see themselves as heads of an independent branch.

"They see themselves as field generals in the army of the president."

But some, such as Specter and Sen. Susan Collins, R-Maine, now are leading inquiries into administration actions. Collins, who's chairing the Katrina investigation, has objected to the White House's refusal to turn over some documents and its instructions to agency officials not to reveal their communications with the White House about the hurricane.

"There are legitimate privileges that the president can cite," she said. "But what is unacceptable for me is for the White House to tell officials in other agencies that they can't even tell us who they called in the White House. That is a real stretch, and that is not a legitimate privilege that the White House has a right to exercise."

Specter simply raises an eyebrow at Bush's claims that those who seek to investigate his spying program are partisans living in a "pre-9/11 world."

"There are lots of fellows with `R' (Republican) after their name who are pretty sensible people who think this ought to be done," he said.

Article One of the Constitution gives Congress its powers. Among the powers that permit the Senate to check and balance the executive branch are:

-The power, shared with the House of Representatives, to enact laws.

-The power to try all impeachment cases brought by the House.

-The power to advise and consent to executive and judicial nominations or to reject them.

-The power, shared with the House, to declare war.

-The power, shared with the House, to determine federal taxes, spending and borrowing.

-The power, shared with the House, to override presidential vetoes.

-The power, shared with the House, to regulate interstate commerce.

Air Traffic Controllers Make Alliance With Senators In Dispute With FAA (WP)

By Stephen Barr

The Washington Post, January 27, 2006

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The union representing air traffic controllers is looking to Capitol Hill for help in contentious contract negotiations with the Federal Aviation Administration.

Four Democratic senators introduced a bill yesterday that would permit labor disputes at the FAA to be settled through binding arbitration, John S. Carr , president of the National Air Traffic Controllers Association, announced.

The unusual move by NATCA -- to seek congressional support for changes in FAA labor procedures while at the bargaining table -- came a day after FAA officials held a news conference to say they had regained control of a New York radar center and brought an end to abusive overtime, sick leave and workers' compensation practices by controllers there.

In recent weeks, both sides have accused the other of making false claims, engaging in publicity stunts and twisting numbers on controller compensation in an effort to shape public perceptions about the negotiations. The FAA is one of the rare places in government where unions can bargain over pay.

Contract talks are scheduled to run through the first full week of March, and union officials contend that the FAA does not intend to bargain in good faith and will run out the clock on the talks. The agency denies the charge, arguing that a voluntary settlement is best for both parties.

If contract talks break down, the FAA might send its last offer to Congress for a 60-day review. If Congress takes no action, the FAA may impose its version of the contract on the union.

Sen. Barack Obama (D-Ill.) said he and colleagues proposed arbitration "to help defuse the growing management-labor tension at the FAA."

Under the Obama bill, if the FAA and one of its unions failed to reach a voluntary agreement, the Federal Mediation and Conciliation Service would be called on to try again for a settlement. If mediation failed, Congress could impose the FAA's last, best offer on employees by approving it in legislation. If Congress did not act, the impasse would go to binding arbitration.

Joining Obama in introducing the bill were Sens. Daniel K. Inouye (D-Hawaii), Patty Murray (D-Wash.) and Frank Lautenberg (D-N.J.).

Carr called the bill "a matter of fundamental fairness" and said the union would seek to win Republican support. Although it seems unlikely that Republican leaders will move the bill fast enough to affect current contract talks, Carr expressed optimism, saying, "I really believe it has got legs."

The head of the FAA, Marion C. Blakey , ruled out "changing the rules of the game during halftime" in a letter to Carr this month.

She said the labor rules are "part of a carefully balanced approach" that gives the union the right to bargain over pay and benefits and gives Congress "the final say in any pay dispute." Turning impasses over to an arbitrator would take away authority that belongs to the president and Congress, Blakey said.

She added that the current approach has allowed NATCA "to enjoy unprecedented wage gains" that have made air traffic controllers among the highest paid federal employees.Postal Blitz, Day 2

Postal officials continued their efforts to kill a Senate bill that would overhaul operations at the U.S. Postal Service, holding a news conference to list objections and to note that they have the support of the American Postal Workers Union.

Richard Strasser , the Postal Service's chief financial officer, said the bill, in combination with White House policy requirements, "will cause us to get into an immediate rate case that will be larger than it has ever been" and drive up stamp prices by 18 to 20 percent.

Sens. Susan Collins (R-Maine) and Thomas R. Carper (D-Del.), the bill's sponsors, said postal officials were "distorting our position and blatantly misleading our colleagues and the public." In a statement, they said, "The Postal Service appears to have sunk to a new low."

Leaders of the National Association of Letter Carriers and the National Rural Letter Carriers Association issued a statement in support of the bill.Talk Show

Steven L. Katz , author of "Lion Taming: Working Successfully With Leaders, Bosses and Other Tough Customers," will be the guest on "FEDtalk" at 11 a.m. today on http://federalnewsradio.com and WFED radio (1050 AM).

E-mail:barrs@washpost.com

Justice And Junkets (NYT)

The New York Times, January 27, 2006

Justice Antonin Scalia certainly has poor judgment when it comes to vacations.

Justice Scalia was apparently unchastened by the criticism of his 2004 duck-hunting excursion with Vice President Dick Cheney, one of that term's most prominent Supreme Court litigants. Last September, he skipped the swearing-in of Chief Justice John Roberts Jr. because of another ethically dubious trip, this time to the posh Ritz-Carlton at the Beaver Creek ski resort in Colorado.

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He was there to teach a 10-hour seminar over a couple of days for a conservative group, the Federalist Society. "Nightline" recently reported that the gig had left Justice Scalia plenty of time for tennis, fly-fishing and socializing with seminar participants, some of whom may have business before the Supreme Court. One Federalist Society cocktail reception was sponsored in part by the lobbying and law firm that used to employ Jack Abramoff, Tom DeLay's convicted pal and benefactor for golf trips.

Justice Scalia's travel is part of a broader affliction on the federal bench. The Los Angeles Times reported in 2004, for example, that Justice Clarence Thomas had accepted thousands of dollars in gifts in recent years, including an $800 leather jacket, a $1,200 set of tires from Nascar and an extravagant vacation from a conservative activist. Federal judges below the Supreme Court level accept dozens of free vacations each year from well-heeled special interests under the guise of "judicial education."

The judicial lobbying problem is more serious in one respect than the scandal enveloping Congress. Lawmakers operate in an overtly political environment, but the decision-making process of judges is supposed to be impermeable to clever efforts by special interests to buy access and favor.

Three Democratic senators with a longstanding concern about this problem — Patrick Leahy of Vermont, Russell Feingold of Wisconsin and John Kerry of Massachusetts — are readying provisions to ban junkets and other compromising gifts for judges, which they hope to make part of their party's lobbying reform proposal. For Congress to pass a lobbying reform bill that curbs inappropriate perks for lawmakers but not for federal judges would be a scandal in itself.

OTHER NEWS:

Hamas Win Shatters Status Quo (CSM)

By Ilene R. Prusher

The Christian Science Monitor, January 27, 2006

JERUSALEM - The Islamic group Hamas staged a stunning upset of the ruling Fatah faction in Palestinian parliamentary polls Wednesday, winning a solid outright majority of the total 132 seats and making the strongest ever showing of an Islamist movement in the Arab world.

With such a decisive win, Hamas is unlikely to need a coalition partner, sidelining the Palestine Liberation Organization's Fatah Party and promising to redefine the troubled Middle East peace process.

Hamas, which rejected the 1993 Oslo Accords that founded the Palestinian Authority (PA), was ebullient over its mandate, but said it would not change its fundamental stance: It will not disarm its military wing and will not revise its charter calling for Israel's destruction.

The surprise victory of Hamas presents a radical about-face for Palestinian relations with Israel, has reverberations for Muslim countries through the Middle East, and raises questions for the international community at large.

According to results released Thursday based on 95 percent of the vote, Hamas won 76 seats to Fatah's 43 seats. Smaller and independent parties took the remaining 13 seats.

Both the US and the European Union have stated that they would not deal with Hamas because they deem it a terrorist organization. But the PA, badly in need of financial aid and actively seeking intervention from world powers in its conflict with Israel, will now be led by an organization that came into the world's consciousness through suicide bombings in Israel.

But what Hamas has lacked in international legitimacy, it clearly has secured in domestic esteem. "Hamas's key was to position itself not in terms of ideology, but as the address of choice for those seeking to cast a protest vote," says Mouin Rabbani, a Middle East analyst with the International Crisis Group and an expert on the Israeli-Arab conflict, and a contributing editor of Middle East Report.

"Unlike Fatah, the next government will enjoy a lot of popular support and legitimacy," he says. "I don't think even Hamas was expecting anything like this result, and this means they are faced with strategic issues that they didn't mean to deal with as of yet."

Indeed, the questions that have suddenly been thrust upon Palestinians and Israelis are intricate and endless. In a Hamas-run PA, what happens to crucial cooperation that goes on with Israel? Even in the worst of times, Israeli and Palestinian officials cooperate on security issues, border crossings, information sharing, commercial relations, and basic utilities.

Shocked Israeli leaders, still struggling for stability amid the power vacuum left by Prime Minister Ariel Sharon's massive stroke have been reticent to react, waiting instead for more definitive results.

But Benjamin Netanyahu, the Likud party candidate in the Israeli elections scheduled for March, compared the Hamas win to putting the equivalent of Iran or the Taliban within 1,000 meters of the Israeli capital.

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On the streets of Gaza, where the organization was founded in 1987, the mood was triumphant. At the home of Said Siam, a Hamas leader who won a seat, supporters crowded his courtyard to offer congratulations. Mr. Siam says Hamas wants to find common ground with all the Palestinian factions to form an inclusive government. He left open the possibility of negotiating with Israel and continuing violent resistance.

"When Fatah was in power, they had resistance groups and negotiations at the same time," Siam says. "As of now, it is not on Hamas's agenda to negotiate with Israel. "Israel is an occupying state. When Israel agrees to give the Palestinians full rights, after that Hamas will decide" whether to negotiate.

Whether Hamas wants to place one of its officials as prime minister, and whether its militant Qassam Brigade disarms or merges with the PA security forces, were all matters up for discussion, he says.

Meanwhile, Fatah supporters lamented their stunning defeat. "It's so sad, we don't know what the future of our country will be," says taxi driver Kamal Abu Foz. "The international community and Israel won't deal with Hamas, and Hamas can't deliver us a state."

In Jerusalem, former President Jimmy Carter, head of an multinational observer mission for the Palestinian vote, urged the US and Europe not to abandon the PA's financial needs. He said that according to the World Bank's most current figures, the Palestinian government will run out of funds by the end of February, and already faces a $900 million shortfall.

"There are some legal loopholes that can be utilized to help the Palestinians that don't have to go through the Palestinian Authority," Mr. Carter said, in response to questions over whether his call for international assistance - including from Washington - contradicts longstanding US policy about not working with any group it deems a terrorist organization.

In the West Bank city of Ramallah, many expect that Islamic Hamas will soften its positions. Much of Ramallah's cosmopolitan population won't accept passage of Islamic sharia law.

At Almonds pub, one of many Ramallah restaurants that give the city its reputation as the center of Palestinian nightlife, a TV glowed with images of children wearing Hamas headbands. Owner Bishara Kaoud says he expected the bar to be especially full Thursday night with regulars anxious about the possibility of Hamas planning to impose Islamic law, which forbids consumption of alcohol. "I have a lot of people coming in tonight just in case tomorrow there won't be any booze in this place."

· Rafael D. Frankel contributed from Gaza City and Joshua Mitnick contributed from Ramallah, West Bank.

Leader Likely To Cut Ties To Israel (WT)

By Paul Martin And Betsy Pisik

The Washington Times, January 27, 2006

GAZA CITY, Gaza Strip -- Hamas leader Mahmoud Zahar has proposed a dramatic shift of Palestinian policy -- ending security cooperation with Israel, cutting most trade links with the Jewish state and refusing to engage with the "Christian-Zionist" U.S. administration.

"We have to go away from Israel and move toward all possible linkages with our Arab and Islamic brothers," he told The Washington Times just days before his militant movement's stunning election victory.

"Cooperation [with Israel] on the security and economic fields was a disaster for the Palestinians," he said

Although he promised last night to invite Fatah and independent candidates to participate in a broad-based government, Mr. Zahar -- the highest-ranking Hamas official in the Palestinian territories -- gave no indication that the electoral success had softened his views.

"Resistance is a legitimate right of the Palestinian people, and we will not abandon it. There is no contraction between resistance and entering the legislative council," he told reporters at his party's Gaza City headquarters.

Mr. Zahar said Hamas would extend its year-old truce if Israel reciprocates.

"If not, then I think we will have no option but to protect our people and our land," he said.

Another Hamas official, speaking to The Washington Times on the third floor of the group's eerily unfinished offices in central Gaza City last night, warned that the group's year-old cease-fire with Israel would not last forever.

"We have declared a cease-fire, but the occupation didn't appreciate it," he said. "A one-sided cease-fire is not useful."

During the earlier interview, Mr. Zahar -- who was nearly killed when an Israeli bombing raid destroyed his home two years ago -- spoke in firm, quiet tones in strongly accented but clear English.

Noting Israel's plan to "disengage" from the Palestinians, he proposed his own form of disengagement in which the Gaza Strip and "any part of Palestine that can be liberated" would seek to link themselves economically with their Arab and Islamic neighbors.

He said the 1993 Oslo accords and the 1994 Paris agreement that followed had given Israel economic advantages at the Palestinians' expense.

"Our economic status was destroyed by the linkage of our economy with Israel," he said.

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He charged that Palestinian agricultural exports had been restricted while oil and electricity purchased through Israel cost many times more than they would if purchased from Egypt.

"In 2004, we paid $186 million for electricity, and if we had taken it from Egypt, it would have been $20 million," he said, apparently assuming the oil and electricity could be purchased at the highly subsidized rates provided to Egyptian consumers.

"We are not speaking about a fanatical process, not saying we are going to kill the Jews -- we are talking about how to address the destruction of our economy," he said.

Mr. Zahar seemed unconcerned about the prospect of a cutoff in foreign aid, saying a Hamas government would not renounce the right to armed resistance to keep the money flowing from Europe and the United States.

"How could we justify taking the money?" he asked.

Mr. Zahar said he thinks European countries would soon "change their mind" and continue to do business with the new Palestinian Authority, but he said he could foresee no relationship with the Bush administration, which he accused of supporting Christian sectarianism in Egypt and interfering in the affairs of Lebanon, Syria and Saudi Arabia.

"President Bush is introducing hysteria into the region," he said. "He used the term 'a new Crusade' and clearly is pushing the Christian-Zionist agenda -- which is why we cannot deal with him."

Mr. Zahar said that a continuing security understanding with Israel was "not impossible" while the Palestinians build new institutions.

But, within the next five decades, "I'm sure Israel will disappear as the Crusaders and other empires disappeared," he said.

"All of Palestine will become part of the Arab and Islamic land -- as the Koran promised."

Bush Is Conciliatory In Accepting Victory Of Hamas (WP)

By Glenn Kessler

The Washington Post, January 27, 2006

President Bush accepted the stunning election results in the Palestinian territories yesterday with a conciliatory tone, saying the landslide victory of the militant Islamic group Hamas was rejection of the "status quo" and a repudiation of the "old guard" that had failed to provide honest government and services.

"There's something healthy about a system that does that," Bush said at a news conference. He reiterated that he will not work with Hamas, formally known at the Islamic Resistance Movement, as a "partner of peace" until it renounces its goal of destroying Israel and disarms its militias. But he left unsaid what a Hamas-led government will mean for the distribution of U.S. financial assistance and for American involvement in trying to reach a peace deal.

Secretary of State Condoleezza Rice also put on a brave face, saying "we still have every reason for hope and for optimism" because voter turnout was high and free from violence. She said the Palestinian people were "expressing their desire for change," because they "have endured governance that was, by all accounts, not meeting their needs."

The upbeat rhetoric belied the fact that the election outcome was the opposite of what the administration had hoped would happen. Behind the scenes, U.S. officials scrambled to survey the wreckage of their Middle East policy.

The Bush administration has spent nearly $500 million in the past year to bolster the Palestinian Authority and the ruling Fatah party, which was nonetheless crushed by Hamas at the polls. Against the advice of Israeli officials, the administration had pushed Palestinian President Mahmoud Abbas to hold the elections without delay, believing that the voting would strengthen his hand in disarming militia groups. Instead, the plan backfired, and an organization that has claimed credit for dozens of suicide bombings -- some resulting in the deaths of Americans -- is poised to take power.

Officials had no easy answers about their next step. Rice spoke with other sponsors of a U.S.-backed peace plan -- the European Union, the United Nations and Russia -- and will meet with her counterparts in the group the Quartet next week in London. In a statement, the group noted that the Palestinians "voted for change" but have not given up "their aspirations for peace and statehood." The Quartet reiterated that "there is a fundamental contradiction between armed group and militia activities and the building of a democratic state."

Rice also spoke to Abbas and urged him to remain as president. Abbas, who was elected last year after the death of longtime Palestinian leader Yasser Arafat, said last night that he will continue to pursue peace negotiations with Israel. But Abbas has resigned from other positions when his authority was challenged. Edward G. Abington Jr., a consultant to the Palestinian Authority, said many in the Fatah inner circle question whether he will do so in the coming months.

U.S. officials went to bed Wednesday night thinking that Fatah had edged out a narrow victory, which might have increased pressure on the Palestinian cabinet to include some Hamas members. That in turn might have split the United States from some European allies, who have wondered if a Hamas political wing could, perhaps, be separated from the militia.

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But, under one emerging theory, the clear victory by Hamas is a bracing event, or as one U.S. official put it, there is a "certain benefit of clarity in the results." European officials yesterday had little choice but to express surprise and consternation at the outcome.

Hamas, by most accounts, had expected to serve as the opposition, without the responsibility of power. Now, Hamas will face an "existential moment," forced to decide whether it will be a peaceful force for change, the U.S. official said, speaking on the condition of anonymity to comment more candidly.

Terje Roed-Larsen, a former U.N. envoy for the Middle East who is president of the International Peace Academy, agreed that Hamas now faces a "political moment of truth" that provides an opportunity for creative diplomacy. He said that unless Hamas reforms itself and renounces terrorism, the flow of donor money from Europe and the United States will stop. As the government, Hamas will be responsible for the political, social and security collapse if Western governments refuse to continue to aid the Palestinians, he said.

Hamas "cannot postpone making a choice," Larsen said. The United States and its allies need "to point out the dilemma, step back and see how they handle it."

Martin S. Indyk, a Clinton administration official and the director of the Saban Center for Middle East Policy at the Brookings Institution, agreed that Hamas will find that it can no longer be an obstacle, but said he does not foresee an immediate change in its platform. He said the result might be an "ironic situation in which it is in their interest to maintain peace, but not make peace with Israel."

Indyk cautioned that any sudden moves from the United States and Europe to reduce aid -- or a decision by Israel to withhold the tax revenue it shares with the Palestinian Authority -- could drive Hamas to seek funding from Iran, long one of its chief sponsors. Iran has tried to increase its influence in the Palestinian territories.

One complicating factor will be the mood in Congress, which has been reluctant to allow direct aid to the Palestinian Authority unless the money went to pay the utility bills owed to Israel. Many key lawmakers yesterday issued statements denouncing the Hamas victory.

Abington said the Bush administration shares responsibility for the outcome because U.S. officials did little to help Abbas or to push the Israeli government to end settlement expansion, limit roadblocks, release prisoners or stop other activities that undermined his authority in the eyes of the Palestinian people. He said the result is a "huge blow to Bush's advocacy of democracy in the Middle East" because Arab leaders fearful of Islamic victories in their countries will "push back very hard."

David Makovsky, director of a project on the Middle East peace process at the Washington Institute for Near East Policy, said "there was a lot of blame to go around here," with the primary onus falling on Fatah. But he said U.S. involvement could have been more robust after the death of Arafat and the election of Abbas.

"There needs to be some soul-searching in Washington on this," Makovsky said. "Late in the game, the United States was pressing for an election, while the work in creating liberal institutions had not materialized."

Bush Rules Out Contacts Unless Hamas Backs Peace (REU-Y2)

By Saul Hudson

Reuters, January 27, 2006

U.S. President George W. Bush refused on Thursday to deal with Hamas unless it backs peace with Israel, a decision that could sideline Washington from brokering a settlement after the militant group's Palestinian election win.

Bush also urged President Mahmoud Abbas, whose Cabinet resigned after his Fatah party lost to the Islamist group, to stay in office so the United States could keep open a diplomatic channel with the Palestinian government.

"I have made it very clear, however, that a political party that articulates the destruction of Israel as part of a platform is a party with which we will not deal," Bush told a White House news conference, referring to the group Washington considers a terrorist organization.

Bush, who has made promoting democracy in the Middle East a priority for his second term, had pressed Abbas to hold Wednesday's parliamentary election despite polls showing Hamas would do well.

Hamas had not been expected to win. Its victory could bury any hope of reviving peace talks with Israel soon and stop Bush from achieving his goal of brokering a settlement that creates two states within the next few years.

"Peace is never dead, because people want peace," Bush said.

Bush stepped up U.S. involvement in brokering Palestinian-Israeli accords after Abbas became president last year and sought peace talks with Israel.

With Hamas in power, Bush could revert to the hands-off style that marked his first term, when he believed then-Palestinian President Yasser Arafat was an obstacle to peace.

UNITED FRONT

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The United States is perceived by many in the Arab world as pro-Israel and has often been at odds with its Western allies for taking a tougher line toward Palestinian militant groups.

But major mediating powers delivered a unified message to Hamas that it should choose peace with Israel.

"We reaffirmed the view that ... you can't have one foot in terror and the other in politics," U.S. Secretary of State Condoleezza Rice told Reuters after a telephone call between top diplomats from the so-called Quartet -- Russia, the United Nations, the European Union and the United States.

In a statement, the mediators demanded Hamas, which has launched suicide bombings against Israel, renounce violence, accept the Jewish state's right to exist, and disarm.

The major powers did not back up their demands with any threats, such as cutting back aid.

But Rice warned that Hamas will receive no assistance from a Bush administration that has given directly to the Palestinian Authority since Arafat's death.

Hamas is unlikely to overturn its anti-Israel ideology quickly. But it could soften its stance if Western countries cut aid to a government that needs foreign funds to provide basic services for its electorate, political analysts said.

"Everybody understands that the Palestinian people have humanitarian needs. It's a very poor population," Rice said, suggesting U.S. such aid would be funneled through non-governmental organizations.

"We are obviously not going to give aid to a terrorist organization," she added.

David Makovsky of the Washington Institute for Near East Policy said that although Bush pushed for elections, he had failed to bolster democratic institutions that could have helped Abbas' standing.

He doubted the Palestinian leader, who is expected to ask Hamas to form a government, could stay in power long.

Hamas Routs Ruling Faction, Casting Pall On Peace Process (NYT)

By Steven Erlanger

The New York Times, January 27, 2006

RAMALLAH, West Bank, Jan. 26 — The radical Islamic party Hamas scored an overwhelming victory in Wednesday's Palestinian legislative elections, taking 76 out of 132 seats, deposing the former governing Fatah party, which won only 43 seats.

The results, announced Thursday night, which give Hamas the right to form the next government, were likened by Palestinians to an earthquake or a tsunami. They ended more than 40 years of domination by Fatah, the political faction built by Yasir Arafat, which along with the Palestinian Authority was widely viewed by Palestinians as corrupt and ineffective.

The shocking outcome put Hamas, considered a terrorist group by Israel, the United States and the European Union, in charge of the Palestinian political future, and put at least a temporary halt to efforts to restart peace talks. The balloting also made a mockery of the voter surveys released Wednesday night that indicated that Fatah would have the most seats and could retain control of the legislature and the cabinet.

In a televised speech on Thursday night, the Palestinian president, Mahmoud Abbas, said he remained committed to negotiations with Israel. Mr. Abbas, who heads Fatah, but whose official status was not affected by the vote, suggested that future talks would be conducted through the Palestine Liberation Organization, which could bypass a Hamas-led government.

"I am committed to implementing the program on which you elected me a year ago," he said. "It is a program based on negotiations and peaceful settlement with Israel."

But Ehud Olmert, the acting prime minister of Israel, issued a statement saying that talks were not possible now. "The state of Israel will not negotiate with a Palestinian administration if even part of it is an armed terrorist organization calling for the destruction of the state of Israel," he said after an evening cabinet discussion of the election results.

Even before the results were announced, the Fatah prime minister, Ahmed Qurei, who had warned Mr. Abbas against holding these elections, resigned, and cheering Hamas supporters raised their green flag over the parliament building. They celebrated throughout Gaza and the West Bank, holding victory marches in major cities. In Nablus, they hung enormous green banners on public buildings, while members of the group's military arm, the Qassam brigades, marched in uniforms with weapons, but did not wear their customary masks.

In Ramallah, Ali Abu Shusha, 31, with a bright green Hamas banner on his taxi, exulted in the victory. "Hamas was created by the people and belongs to the people," he said. "I want Hamas to run the government — it has clean hands, puts the poor before the rich and will resist the occupier."

In Gaza City, however, Kamilia Barghouti, 26, a waitress, said she was in shock. "I'm worried about the way this victory will affect how I can dress in public, and even if it will affect where I can work," she said.

The victory of Hamas represents an enormous test for the Palestinians, for the Western nations who pressed for this election and who provide millions of dollars in aid to the Palestinians and for the Arab world, which is likely to be shaken by the victory of a militant Islamic party in the symbolic heart of the Muslim world.

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But the results, seen more as a repudiation of Fatah than a declaration of war against Israel, will be a test for Hamas, which had seemed to want a more gradual entry into politics. The leader of Hamas, Mahmoud Zahar, said proudly in Gaza, "We are going to change every aspect, as regards the economy, industry, agriculture, as regards social aid, health, administration, education." But it will not be an easy transformation, and it will provoke political resistance from a largely secular society.

While Hamas politicians said they would invite other parties, including Fatah, to join them in a government of national unity, key Fatah members like Jibril Rajoub and Mahmoud Dahlan made it clear that Fatah should not take part in a government dominated by Hamas. They argued that doing so would help Hamas by providing cover for the group as it struggles with the reality of governing. Fatah, they suggested, should go into opposition and let Hamas make its own mistakes and deal as best it can with the facts of Palestinian life and the Israeli occupation. The Fatah Central Committee voted Thursday night not to join a Hamas-led government.

But it is also possible that some Fatah members with good relations with Hamas, like the Gazan legislator Ziad Abu Amr, who ran as an independent with Hamas support, and a former minister of national economy, Mazen Sinokrot, will agree to join Hamas in a cabinet that probably will be led by a non-Hamas prime minister.

"My advice to Abu Mazen and to Hamas is to think of serious power-sharing," Mr. Amr said, referring to Mr. Abbas. "A partnership between Fatah and Hamas is necessary," he said. "Hamas is going to be put to the test of being a practitioner and not simply an opposition. Politics will have to be taken into account at the expense of ideology."

While Mr. Abbas won praise for pressing ahead with these elections, the result is not what he wanted and is bound to weaken his position. He gambled, but with a smashing Hamas victory he is perceived to have lost and to bear some responsibility for failing to reform Fatah and the Palestinian Authority. Mr. Abbas has said that if he cannot carry out his policies, which include negotiations with Israel, he will quit.

Israelis warned the world not to give in to wishful thinking and presume that Hamas will suddenly alter its goals. Israel and the world did not negotiate with Mr. Arafat and the Palestine Liberation Organization until it agreed to recognize the state of Israel in the late 1980's and disavow terrorism. Israeli politicians suggested that the process would have to begin all over again with Hamas.

"For Israelis, this is the definitive end of the illusion of a comprehensive peace," said Yossi Klein Halevi, a senior fellow at the Shalem Center, a policy research organization in Jerusalem. "There is no more credible hope of Palestinian moderation. For Israelis, it will only confirm what the last five years of terror have taught them: that the war is not about settlements, but about Israel's right to exist."

The Palestinian Authority as a serious negotiating partner no longer exists for Israel, Mr. Halevi said. "Now the era of the pretend peace process is also over," he said, and Israel will continue to act unilaterally to set its own borders, build the separation barrier between itself and the Palestinians and, in time, continue the process of unilateral withdrawal from more West Bank settlements — so long as it can ensure that a Hamas-dominated Palestinian Authority will not use that territory to launch rocket or other attacks on Israel.

"There is now a broad consensus, that Israel will go ahead and build our borders to preserve Israel as a democratic Jewish state," said Ami Ayalon, a former director of Shin Bet now running for a seat with the Labor Party.

The Hamas victory brings the group's support for armed attacks on Israel to the fore. Hamas said it entered politics "to protect the resistance" to Israeli occupation of Muslim land, so it is unlikely to heed Western appeals to disarm and recognize Israel, which Hamas in its charter promised to destroy.

The most that successful Hamas candidates like Ahmad Mubarak would say Thursday is that if Israel pulled back to its 1967 boundaries, Hamas would consider "a long-term truce."

Fadel Saleh, a Hamas politician from Ramallah, said that Hamas would concentrate "on restoring our Palestinian home and rebuilding Palestinian society," leaving international relations to Mr. Abbas and the Palestine Liberation Organization, which does not include Hamas. But, he said, "we want to remake the P.L.O. too based on this vote," he said. "Hamas wants cooperation with all Palestinian parties and a national agreement on policy."

The death of Mr. Arafat took the lid off seething resentments of Fatah and the men Mr. Arafat brought back to the Palestinian territories from exile after the 1993 Oslo accords with Israel. Those accords set up the Palestinian Authority, and in the 10 years since the last legislative elections, in which Hamas refused to participate, one-party rule proved to be as corrupting among Palestinians as anywhere else.

"Corrupt authorities who have been in power for a long time are usually thrown out in free elections," said Daoud Kuttab, a Palestinian analyst who teaches at Jerusalem's Al Quds University. "After 40 years, it's almost natural. I hoped Fatah would get away with it, but didn't. That the opposition came from a radical Islamic group is unfortunate, but there was no other serious opposition."

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Mr. Kuttab said that those who had preached democracy, from the Bush administration to the Israeli right, would have to decide if their values trumped their interests. "If Hamas respects the rules of the democratic game, we have to let the winners win," he said. "But now Hamas will have to face reality, and part of reality means dealing with Israel."

But even this process could take many months or years, he said, and the potential pitfalls were underscored Thursday when Palestinian security officials said a 9-year-old Palestinian girl was killed by Israeli gunfire near the southern Gaza town of Khan Yunis, Agence France-Presse reported. The Israeli military said soldiers fired at a "suspicious figure" who was near Gaza's perimeter fence in the area. The military said it had no information that a young girl was hit, but were checking the report.

Hamas is not likely to move against the security forces, at least for now. They are made up almost entirely of Fatah loyalists, and voted overwhelmingly for Fatah. Any Hamas effort to try to take over the security forces would almost certainly lead to clashes.

Hisham Ahmed, a political scientist at Birzeit University who has written books about Hamas, called the vote "an historic moment in every sense," but he emphasized that "these results don't reflect the real size of Fatah and Hamas in the society," because they are distorted by anger at Fatah, preoccupation with internal issues and a complicated voting system.

If Mr. Abbas and the world handle the situation intelligently, Mr. Ahmed said, "it could mark the beginning of the end of Hamas as an ideologically pure force and a beginning of a reformed Fatah." But if it is handled badly, he said, "the radicalization of Palestinian society will continue."

According to the results, the Hamas list won 30 of 66 seats at the national level and 46 of 66 seats in constituencies. It did especially well in Gaza, but polled well throughout the West Bank, too. Fatah won 27 seats on the national level and only 16 in the constituencies. The leftist Popular Front for the Liberation of Palestine won three seats while another leftist list, Badil, won two seats. The Independent Palestine list, led by the presidential election runner-up, Mustafa Barghouti, won two seats, as did the Third Way list of the departing finance minister, Salam Fayyad and Hanan Ashrawi. Four other independents won in constituencies, including Mr. Amr. Among the Fatah casualties was Mr. Rajoub.

Bush Defends His Goal Of Spreading Democracy To The Mideast (NYT)

By Steven R. Weisman

The New York Times, January 27, 2006

WASHINGTON, Jan. 26 — The sweeping victory of Hamas in the Palestinian elections threw President Bush and his aides on the defensive on Thursday, complicating the administration's policy of trying to promote democracy as an antidote to the spread of terrorism.

Reacting uneasily to the Hamas triumph, Mr. Bush said the results spoke to the failures of President Mahmoud Abbas and the "old guard" of his Fatah faction to root out corruption and mismanagement, not to any flaws in the administration's policy of advocating democracy.

"There was a peaceful process as people went to the polls, and that's positive," Mr. Bush said. "But what's also positive is that it's a wake-up call to the leadership. Obviously people were not happy with the status quo. The people are demanding honest government. The people want services."

But without criticizing the Palestinian people for choosing leaders who advocate the destruction of Israel, a tenet at the very core of Hamas's creed, he said that the United States would never tolerate such a policy. In the same fashion, Secretary of State Condoleezza Rice noted that Palestinians want a negotiated peace settlement with Israel, according to opinion polls, but she repeated that this goal remained possible only if Hamas renounced its violent ways.

Mr. Bush joined a chorus of world leaders — including the so-called quartet of principal parties in the moribund peace process — in calling on Hamas to renounce terrorism, disarm its militias and recognize the legitimacy of Israel now that it has won the elections. But his tone was less confrontational than invitational — in effect, inviting Hamas to embrace reconciliation.

For now, Mr. Bush called on President Abbas to stay in office and steer the Palestinian government on a moderate course.

The Hamas victory was the fifth case recently of militants' winning significant gains through elections. They included the Muslim Brotherhood in Egypt, Hezbollah in Lebanon, a radical president in Iran, and Shiites backed by militias in Iraq.

As these elections unfolded, there has been increasing criticism in some quarters — notably among the self-described "realists" in foreign policy, many of them veterans of past Republican administrations — that President Bush has naively pushed for democracy in countries without the civil society components to support it.

"The Hamas victory is a disillusioning result showing that democracy and American interests don't always coincide," said Nikolas K. Gvosdev, a Russia expert who is editor of The National Interest, a publication that echoes with debate about this subject.

"Given the weakness of Palestinian society, people should not have been surprised that this was the outcome," Mr. Gvosdev added.

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Other critics, too, including some Arab leaders, say that the United States failed to do its part to shore up Mr. Abbas by wringing more concessions from Israel and doing more to revitalize the economy in the West Bank and Gaza.

A senior State Department official said recently that the Bush administration, five years ago, inherited what he called the old model: that economic growth, the development of a middle class and the spread of education needed to come before democracy could take hold in troubled countries.

"But that's a story that we can no longer accept," he said, speaking on condition of anonymity because of rules prohibiting him from publicly explaining administration policy. "First of all you're not getting economic growth in a lot of places. We now understand that getting greater political openness and democracy in the Arab world is essential to our security."

The problem faced by the administration on Thursday was how to coax Hamas into the mainstream.

The West has more tools than mere diplomatic pressure to influence Hamas and the Palestinian Authority. The authority, described by many as nearly bankrupt, has begun tapping its trust funds to pay daily expenses and is running a deficit that Israel calculates at more than $700 million a year.

Europe and the United States provide most of the $1 billion in foreign assistance that goes to the Palestinians. But some of this money has already been cut back in protest of the Palestinian leadership's raising salaries and welfare benefits, which make up a major part of the Palestinian economy.

American and European officials said they could not imagine outside aid continuing if there is a Hamas-led government that has not renounced violence or Hamas's commitment to destroying Israel.

Many of the reactions from Western diplomats took on dramatic tones, characterizing Hamas as now facing a trial of identity.

"What Hamas faces is not only a political but an existential dilemma," said Terje Roed-Larsen, the former United Nations envoy in the Middle East, in an interview. "They have built their identity on opposing elections and the institutions of the Palestinian Authority. Now they're the masters of the institutions they have been against."

Diplomats involved in the Middle East peace process known as the road map, the document that calls for reciprocal steps between Israelis and Palestinians toward creation of a Palestinian state, say that any immediate chances of reviving the Israeli-Palestinian dialogue are daunting if not impossible.

The immediate question before the administration is not whether negotiations can be revived but whether Israel can be encouraged to carry out more unilateral withdrawals from the West Bank.

As for dealing with Hamas, the Europeans are considered likely to see the problem differently, many diplomats say. Regarding both Hamas and Hezbollah, the Europeans have called for the West to use the template of Sinn Fein, the political wing of the Irish Republican Army, when dealing with them.

In other words, they say, talking to Hamas may help coax it toward eventual partnership in a peace negotiation. The problem, many diplomats and experts say, is that no one even pretends that there are truly separate wings of Hamas. Its armed forces and its political leaders are married to each other inextricably.

Hamas Voters Fed Up With Fatah Election More About Corruption Than Terrorism, Some Indicate (USAT)

By Matthew Gutman

USA Today, January 27, 2006

RAMALLAH, West Bank — The U.S. government views Hamas as a terrorist organization. Fatem Nimr, a 58-year old Palestinian homemaker, sees it as a symbol of hope.

“Hamas will educate our children,” she said as she stopped by a sweet shop Thursday, a day after Hamas' sweeping victory in Palestinian elections. “They will bring us religion. They will feed the poor.”

Hamas' victory in Palestinian elections seemed less an endorsement of terrorism than a vote for an organization that supporters hope will improve government, according to some voters and election analysts. Hamas supporters say they were fed up with the ruling Fatah Party, which many accused of corruption and general incompetence.

Palestinian gross domestic product declined by 35% between 2000 and 2005, during the Palestinian uprising known as the intifada, according to the World Bank.

“Fatah has done nothing but make us poor,” Nimr said.

With 95% of the vote counted, Hamas won 76 seats to Fatah's 43 in the 132-member parliament, according to Hanna Nasser, a Palestinian election official.

“Voters wanted to punish Fatah for its dismal performance,” said Khalil Shikaki, director of the Center for Policy and Survey Research in Ramallah. “People were fed up with its corruption and incompetence.”

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In Ramallah, the seat of Palestinian government and one of the most secular West Bank towns, there was little celebration Thursday. A few Hamas activists muscled battered sedans through traffic, blasting Hamas jingles on their car stereos. In the town's bustling vegetable market, several vendors planted Hamas' green flag with the "God is Great" insignia among mounds of tangerines and pomegranates.

Hamas' religious overtones appealed to some voters who believe Hamas leaders will be less susceptible to corruption.

"You can't have a monopoly of power forever," said Hamza Awadallah, 22. He said the time had come for "unbelievers" to leave government. "Hamas officials pray, they fast, they give alms," he said. "Finally, Palestinians got smart, and voted for religious, the true, law."

Awadallah said he condemned suicide bombings.

"I think negotiation is a better way to get back our land," he said.

Even so, Hamas' militancy is credited with pushing Israel to withdraw settlers and troops from Gaza and parts of the West Bank in September. "People … got the impression that violence pays while diplomacy doesn't," Shikaki said.

Israel says Hamas is responsible for launching 425 terrorist attacks since Sept. 2000, killing 377 Israelis and injuring more than 2,000.

Founded in 1987 in Gaza, Hamas — the Arabic acronym for Islamic Resistance Movement — focused on two main tasks: eliminating the state of Israel and filling the social and educational needs of impoverished Palestinians.

In 1989, Hamas took up arms, killing several Israelis in shooting attacks. Israel responded by banning the group. By 1994, the group had graduated to bombing attacks.

The conflict escalated after the start of the Palestinian uprising in September 2000. Hamas' founder, Sheik Ahmed Yassin, was assassinated by Israel in March 2004.

Hamas made its first foray into Palestinian politics when it competed for a handful of offices in the December 2004 municipal elections.

In Thursday's vote, Hamas capitalized on the reputation it earned for incorruptibility and good governance in the towns and cities it controlled after winning municipal elections last year. Hamas has also run a network of hospitals and social services for Palestinians.

Even some Fatah supporters admit their party governed poorly in recent years.

"We all knew Hamas is going to win," said Taha Morar, 24, who wore a checkered scarf made famous by Fatah's founder Yasser Arafat. "They do things for the people and lately Fatah didn't."

Omar Fattah, 55, who owns a downtown sporting goods store said, "I don't support Hamas, but we have to respect our own democracy."

Bush Says Hamas Must Renounce Violence (LAT)

By Edwin Chen

The Los Angeles Times, January 27, 2006

WASHINGTON — President Bush said today that the radical movement Hamas, whose members won a sweeping victory in this week's Palestinian parliamentary elections, must renounce violence it they are to become partners in the Middle East peace process.

In a further admonition directed at Hamas, the president declared that the United States will not deal with Palestinian leaders who continue to seek the destruction of Israel.

Bush made his remarks at a surprise morning press conference at the White House that lasted three-quarters of an hour, during which he again defended the post-9/11 domestic spying program and his refusal to disclose details of any contacts between senior White house staff and discredited lobbyist Jack Abramoff, who pleaded guilty to corruption charges this month.

The strong showing by Hamas promises to significantly transform Palestinian politics by giving the militant Islamic movement a formal place in the government structural since the Palestinian authority was formed in 1994.

That election victory, however, put Bush in a difficult spot because he has made his campaign to spread democracy around the world a cornerstone of his presidency. Now, in the face of a victory by a group whose policies he abhors, Bush is having to impose conditions before fully accepting the results of that show of democracy.

"Peace is never dead," he said when asked about Hamas' "big victory."

"On the other hand, I don't see how you can be a partner in peace if you advocate the destruction of a country as a part of your platform," Bush added. "And I know you can't be a partner in peace if you have a , if your party has got an armed wing." The president was able to buy some time, however, since the election has just taken place and now a new government must be formed.

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"We will watch very carefully about the formation of the government," Bush said. "But the government hasn't formed yet. They're beginning to talk about how to form the government." In the meantime, the president urged Palestinian Leader Mahmoud Abbas to remain in office.

"We'd like him to stay in power. I mean, we'd like him to stay in office. He is in power' we'd like him to stay in office," Bush said.

"And so it was an interesting day yesterday...as we're watching liberty begin to spread across the Middle East."

Europeans Insist Hamas Must Disavow Terrorism (NYT)

By Alan Cowell

The New York Times, January 27, 2006

LONDON, Jan. 26 — European leaders, whose countries are major financial donors to the Palestinian Authority, on Thursday registered disquiet verging on hostility toward the Hamas triumph in the Palestinian elections.

Yet, confronted with a Middle East that seems once again to have redrawn its political contours, they held back from publicly threatening to cut off the hundreds of millions of dollars they provide each year to Palestinian institutions.

Furthermore, none of them criticized the Palestinian democracy that appeared to yield the opposite of the moderation they had sought to nurture.

"It is obvious that the European Union would never countenance funding a regime that continued an armed fight against Israel," said Ignasi Guardans, a Spanish member of the European Parliament. "But we cannot push for democracy and then deny the result of free and fair elections."

Like the United States, the European Union regards Hamas as a terrorist organization and insists that it cannot work with an institution that supports the violent overthrow of Israel. Such a stance would contradict Europe's commitment to a two-state solution, with Israel and a Palestinian state living side by side.

Unless Hamas changes its position, European leaders said Thursday, they see no prospect of reviving the stalled peace efforts for which Europe has been a sponsor.

"It is a very, very, very bad result," said Prime Minister Silvio Berlusconi of Italy, adding that peace efforts had "been put back until who knows when."

Equally, though, European leaders shied away from threatening punitive action that would leave them with no influence among Palestinians and might undermine Mahmoud Abbas, the moderate president of the Palestinian Authority, whose party, Fatah apparently lost the legislative elections on Wednesday.

The first practical test for European diplomacy is expected within the next few days.

Chancellor Angela Merkel of Germany is to visit Palestinian areas on Monday to meet Mr. Abbas, and a spokesman for her government said she had no plan to change her trip. European foreign ministers are to meet the same day to weigh their response to the outcome of the vote.

The German foreign minister, Frank-Walter Steinmeier, said his country should have no immediate contact with Hamas. "Those taking part in government must foreswear violence" and recognize Israel's right to exist, he told Bavarian Radio. "This appears to be still a long way off for Hamas."

Both Prime Minister Tony Blair and Foreign Secretary Jack Straw said Britain would not deal with those who supported or practiced terrorism.

With different shadings, a similar view came from Prime Minister Dominique de Villepin of France.

The conditions for negotiating with any Palestinian government, he said, are: "First, the renunciation of violence, to accept to move forward according to the peace goals that have been set. Secondly, the recognition of the state of Israel and the recognition of international accords, notably the Oslo accords."

The European Union's foreign policy chief, Javier Solana, said the elections "may confront us with an entirely new situation," which foreign ministers would discuss on Monday. Last weekend Mr. Solana said it would be "very difficult" for the union to continue financial support to the Palestinian Authority if Hamas won.

European aid to Palestinian institutions totaled around $330 million last year, not counting contributions from individual European countries. From 1994 to the end of 2002, according to European Union figures, the union contributed $1.2 billion in grants and loans, in addition to about $600 million donated to the United Nations agency that supports Palestinian refugees.

Kofi Annan, the secretary general of the United Nations, said Thursday in Davos, Switzerland, that any group wishing to take part in a democracy should lay down its weapons.

Is Democracy Empowering Islamists? (CSM)

By Howard Lafranchi

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The Christian Science Monitor, January 27, 2006

WASHINGTON - Palestinian voters availed themselves of the time- honored democratic right to "throw the bums out" in their first legislative elections in a decade Wednesday - exactly the kind of action implicit in President Bush's push for democracy in the Middle East.

But by snubbing the Fatah Party of US-supported Palestinian President Mahmoud Abbas in favor of the radical Islamist group Hamas, Palestinians also put the Bush administration in a difficult spot.

The US might now seem hypocritical to many Arabs - encouraging democracy in the Middle East, while rejecting the choices that result from its exercise. At the same time, questions mount over whether Mr. Bush's campaign for democracy is encouraging the empowerment of Islamist militants across the region.

"This [election result] is really going to scare ... other governments in the region, and the Egyptians in particular are going to tell the US, 'We told you so,' " says Arthur Hughes, a former deputy assistant secretary of State for Near East affairs. "They'll see this as more evidence of what comes from our pressure to open up their societies, but they won't acknowledge that their hard-line tactics are what are leading to the growth" of Islamic extremism.

The Palestinian results, which give an organization on the US list of terrorist groups a majority in the 132-seat Legislative Council, are part of a trend across Muslim countries, experts say.

"The victory of Hamas cannot be seen in isolation from the major accomplishments of Islamists across Muslim lands," says Fawaz Gerges, a Middle East expert at Sarah Lawrence College in Bronxville, N.Y. "There's a pattern here of Arab and Muslim electorates fed up with the secular governments that have failed to deliver the goods, both in economic terms and protecting the security of the homeland."

The "irony," Mr. Gerges adds, is that the Bush administration's championing of the Middle East's democratization has allowed the radical Islamists to "flex their political muscle" - from Egypt and Saudi Arabia to Lebanon and Iraq.

Some historians argue that radical groups' entry into mainstream politics has led them to moderate their stances: The Irish Republican Army or former guerrilla groups in Central America are often cited as examples.

Others, though, say this moderating process, if undertaken at all, takes time - and does not happen in a vacuum. The US, they add, is going to have to decide how to deal with the Palestinians and the Middle East peace process in a period of deep uncertainty for the region.

Bush reiterated this week that the US will not work with Hamas unless it dramatically modifies its behavior and removes from its platform a call for the destruction of the state of Israel. At a news conference Thursday, he said a political force like Hamas, one with an armed wing that advocates violence against Israel, "is a party with which we will not deal."

Soon after the election results became known, Secretary of State Condoleezza Rice called Palestinian President Abbas and, according to Palestinian sources, praised Palestinian democracy and pledged US support for Mr. Abbas and his policies.

Few analysts expect the Bush administration to make bold moves with so much on the ground in flux. Not only are the Palestinians embarking on the hard task of forming a government from outside the president's political circle, but Israel - still digesting the departure of Ariel Sharon from the leadership scene - is heading for elections on March 18.

The US could simply suspend contact with - and financial assistance to - the Palestinian Authority over the rise of Hamas to the government. But "the stakes are too high on the ground to simply walk away," says Haim Malka, a Middle East expert at the Center for Strategic and International Studies in Washington. The alternative, he says, is for the US to work exclusively with the office of the president - provided Abbas remains in office.

Bush "left the window open" for the US to work with Hamas - provided Hamas renounces violence and reverses its stance toward Israel, Mr. Malka notes. But that kind of fundamental shift takes time, he says - and events are not apt to wait.

Some analysts worry that turmoil among Palestinians - and a radical government at the helm - will prompt Israel to shift toward more radical policies itself. A unilateral decision to include blocks of West Bank settlements inside its final borders is the kind of action Israel might take in response to Hamas's rise but which would inflame the situation, experts say. Certain actions "would virtually rule out ... arriving at a two-state solution, and if that disappears you just have conflict without end," says Mr. Hughes, now a scholar at the Middle East Institute here.

At Thursday's press conference, Bush said the election is a "wake-up call" to the old guard Palestinian leadership. Others say it also blew a whistle in Washington. "We're seeing that, for now, the only alternative to secular regimes in the Middle East are the Islamists," says Malka. "They're the only ones who have legitimacy among the people."

Joyful Arabs Voice Concern At How Hamas Will Swim In The Mainstream (NYT)

By Hassan M. Fattah

The New York Times, January 27, 2006

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DUBAI, United Arab Emirates, Jan. 26 — Hamas's overwhelming victory in the Palestinian elections on Thursday was met with a mixture of jubilation and consternation in much of the Arab world. For some, it raised the concern that, in winning, the Islamic group will almost certainly have to lose something.

The mixed reaction was evident at the Husseini refugee camp in Amman, Jordan, a stronghold of support for Hamas. News of the early returns sparked instant celebrations, but it also brought expressions of concern that in governing, Hamas may be forced to make concessions in its drive to fight Israel.

Eyad al-Dibeiy, 18, who sells shoes in a small stall in the camp, was clearly elated by the result.

"A Hamas victory gives the government wider representation," he said. "Hamas is an Islamic movement, and it is only natural for Islamists to gain strength. Their victory will give them more leverage, power and freedom."

Elsewhere in the camp, the Islamic Action Front hailed Hamas's victory as "a major breakthrough and swing towards achieving the Palestinian rights."

"We have to differentiate between a march to peace and the capitulation that began with the Oslo Accords in 1993," said Sheik Hamzah Mansour, secretary general of the front. "The results support the argument for resistance and forces of resistance in the Arab world that stands against capitulation."

Yet many at the camp sought to temper expectations, warning that the hard work was still ahead.

"Having Hamas in power and assuming such a position is bad," said Ayesh Hussein, 35, as he discussed the results with the store's owners. "We're accustomed to Hamas being fighters, a party that pressures Israel. But now it will join politics and will become politicized."

Muhammad Abdul Ghani, an employee at a dry cleaning shop nodded in agreement. "This is only the beginning of concessions on the part of the Palestinians," he said in dismay. Still, he said, there was some promise in the Hamas victory of cleaning up the endemic corruption in Palestinian institutions.

Arab and Muslim leaders attending the World Economic Summit in Davos, Switzerland, issued a statement urging other nations to respect the Hamas victory and give the group time to prove whether it is ready to work for peace.

"It is an example of when people are frustrated and have no hope for the future they tend to go for the extreme end of the spectrum," Queen Rania of Jordan said in the statement. Although the result was a vote for Hamas, she said, it was also a vote against the conditions in which Palestinians have been forced to live under Israeli occupation.

In Lebanon, where Hezbollah has gone through many of the same changes Hamas is likely to face, many saw the result as a direct challenge to the United States as well as to Israel.

"Because Hamas and Hezbollah are going through such similar experiences, as armed groups that are democratizing, if the U.S. wants to pressure Hamas further to disarm, it's going to make their democracy agenda look very weak and lacking credibility," Amal Saad-Ghorayeb, a political science professor at the Lebanese American University, said by telephone. "These people voted overwhelmingly for Hamas, and did so partly as a referendum for resistance, saying that resistance will pay greater dividends than negotiation."

She said that the group's biggest backers, Iran and Syria, may also stand to win some political capital simply by having backed the winners.

For some, the win raised the possibility that a new age of Islamist politics could be dawning, especially if Western governments eventually engage Hamas.

"Many in the Arab world were expecting something like this, but nobody expected it to this degree," said Hussein Shobok, a columnist with the Arabic-language daily Sharq al-Awsat. "This is certainly going to encourage other Islamists elsewhere to do the same."

Mohammad al-Ameer, the political editor at the Saudi Arabian daily Al Riyadh, said, "Islamists are present in our societies because they are conservative, but more importantly because they are tired of the nationalism and the military men who have ruled for so long."

"Arab societies have become weary of the nationalism and the sloganeering and are therefore embracing the Islamist platform as a response," he said. "The West must therefore see the Islamists as people they can deal with in order to deal with our societies."

U.S. Won't Deal With Hamas (WT)

By Bill Sammon

The Washington Times, January 27, 2006

President Bush yesterday said the U.S. will not deal with Hamas, the terrorist group that won Wednesday's Palestinian elections, unless it renounces its goal of destroying Israel.

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"A political party that articulates the destruction of Israel as part of its platform is a party with which we will not deal," the president said in a press conference. "People must renounce that part of their platform."

He added, "You can't be a partner in peace if your party has got an armed wing."

The stunning victory by Hamas prompted the resignation of Palestinian Prime Minister Ahmed Qureia, a member of the Fatah party. Palestinian Authority President Mahmoud Abbas, also a Fatah member, was asked by Mr. Bush to remain in office.

"We would hope he would stay in office and work to move the process forward," the president told reporters in the James S. Brady press briefing room.

Mr. Abbas said he would not be deterred from implementing a U.S.-sponsored peace plan, known as the "road map," which entails negotiations with Israel.

"I remain committed to implement the platform on which you voted for me one year ago," he told Palestinians in a televised address. "The basis of this platform is negotiations and a peace settlement with Israel."

The victory by Hamas, which won 76 of 132 seats in the parliament, was a setback to Mr. Bush's stated goal of brokering a comprehensive peace agreement between Palestinians and Israelis in his second term. Nonetheless, the president was philosophical about the election results, suggesting that voters were more interested in getting rid of the existing corruption than embracing terrorism.

"It's a wake-up call to the leadership," Mr. Bush said. "People were not happy with the status quo. The people are demanding honest government. The people want services. They want to be able to raise their children in an environment in which they can get a decent education and they can find health care."

Secretary of State Condoleezza Rice issued a stern warning to Hamas, which has carried out scores of suicide bombings against Israelis.

"You cannot have one foot in politics and another in terror," Miss Rice said at the World Economic Forum in Davos, Switzerland. "Our position on Hamas has therefore not changed."

She added, "Palestinian people have apparently voted for change, but we believe their aspirations for peace and a peaceful life remain unchanged."

Last year, Miss Rice told The Washington Times in an interview that participation in the political process could force terrorist groups like Hamas to moderate their policies.

"When people start getting elected and have to start worrying about constituencies and ... not about whether their fire-breathing rhetoric against Israel is being heard, but about whether or not that person's child down the street is able to go to a good school or that road has been fixed ... then things start to change," she said.

Yesterday, Mr. Bush sounded similarly optimistic.

"Peace is never dead, because people want peace," he said. "The best hope for peace in the Middle East is two democracies living side by side."

The Hamas win led Rep. Vito J. Fossella, New York Republican, to say he will introduce legislation to end all U.S. aid to a Palestinian Authority led by Hamas. Last year, the U.S. sent $275 million to Gaza and the West Bank, including $50 million directly to the Palestinian Authority.

"Not one dollar of taxpayer money should go to this terrorist organization," Mr. Fossella said of Hamas. "The Palestinian people have every right to elect a terrorist organization to control their government -- and the United States has every right to eliminate any financial assistance for it."

Ehud Olmert, Israel's acting prime minister, vowed not to work with Hamas.

"Should a government be established in the Palestinian Authority with Hamas leading or participating, the Palestinian Authority will become a sponsor of terror," he said in an emergency meeting of the security Cabinet in Jerusalem.

"The world and Israel will ignore it, and it will become irrelevant," he said.

Palestinians Choose Avowed Enemy Of Israel (USAT)

By Matthew Gutman

USA Today, January 27, 2006

RAMALLAH, West Bank — Hamas, the militant Islamic group that the U.S. State Department has designated a terrorist organization, won an overwhelming majority in Palestinian parliamentary elections. The election results announced Thursday put the future of the Middle East peace process in question.

The election shocker ended a 40-year political reign by Fatah, the party of the late Yasser Arafat. It also heightens the danger of civil war between Palestinian factions, and such violence could spread to Israel, said Edward Abington, a former U.S. diplomat in the region who now advises the Palestinian Authority.

“This is not a good result for Israel, and it's a huge setback for the United States,” Abington said.

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Hanna Nasser, a Palestinian elections official, said Thursday that with 95% of the vote counted, Hamas had won 76 seats in the 132-member parliament, compared with 43 for Fatah.

President Bush and other world leaders called for Hamas to renounce violence and its long-held rejection of Israel's existence.

"If your platform is the destruction of Israel, it means you're not a partner in peace, and we're interested in peace," Bush said. He reiterated his view that the United States will not deal with Palestinian leaders who do not recognize Israel's right to exist.

Members of Congress signaled that U.S. financial aid for Palestinians — about $350 million per year — might cease. "If Hamas is now the ruling power, I do not foresee any U.S. funds going to the Palestinian territories," said Rep. Ileana Ros-Lehtinen, R-Fla., chairwoman of a House subcommittee on the Middle East.

Mahmoud Zahar, a top Hamas official, said the group would extend a year-old truce if Israel reciprocates. He said that if Israel doesn't agree, "I think we will have no option but to protect our people and our land."

Israeli leaders said there could be no relations with a group that has killed hundreds of Israelis in terrorist attacks and that seeks the destruction of Israel.

"Israel will continue to fight terrorism with a heavy hand, everywhere," said a statement from acting Prime Minister Ehud Olmert.

Some likened Hamas' election victory to the former domination of Afghanistan by the Islamic Taliban regime and al-Qaeda. "Today, Hamastan was formed," said Benjamin Netanyahu, leader of Israel's opposition Likud Party.

Hamas' win comes amid political uncertainty in Israel. Prime Minister Ariel Sharon had a stroke this month and is in a coma. Olmert has assumed Sharon's powers until elections March 28.

Hamas has an extensive network of charities and social services. Its candidates swept to wins in West Bank municipal elections last month.

Hamas' parliamentary campaign focused on ridding the Palestinian Authority of Fatah corruption and boosting living standards. Its platform made no mention of suicide bombers or the destruction of Israel, but the group's charter calls for Israel to be made an Islamic state for Palestinians.

On Thursday, Palestinian Authority Prime Minister Ahmed Qureia and his Cabinet resigned before final results were released. Hamas leader Khaled Mashal, based in Syria, asked Palestinian President Mahmoud Abbas, Arafat's successor, to join a Hamas-led government. Under Palestinian law, the biggest party can shape the Cabinet.

Abbas, elected separately a year ago, remains president. He said Thursday that he is committed to peace talks but sidestepped questions about how closely he would work with Hamas.

In the West Bank, the Hamas victory prompted celebrations. Mazen Abdel Hadi, 29, a construction worker, showed off his green Hamas cap at a Ramallah sandwich shop.

"We finally elected a party that cares more for us than (for) the Israelis," he said. "Let America sever relations with us. We haven't benefited anyway."

Others were less joyful. "I am worried," said Ali Barakat, 28. "They want Islam," he said, referring to those who voted for Hamas, "but we need the outside world."

Hamas Victory Roils Middle East Peace Process (WSJ)

By Karby Leggett And Neil King Jr.

The Wall Street Journal, January 27, 2006

The surprisingly strong victory of militant group Hamas in Palestinian legislative elections leaves the Palestinian Authority in the hands of a radical Islamist leadership deemed terrorists by Israel, the U.S. and Europe, further complicating the already tortuous Middle East peace process.

How Hamas chooses to lead the Palestinians could reshape the Middle East political landscape in ways not seen since Israel began its occupation of the West Bank and Gaza in 1967. Hamas officials said they are committed to pursuing the government and economic reforms promised during the campaign -- pledges that helped secure their victory over the long-ruling Fatah movement, widely viewed as corrupt and inept. Other than confirming their refusal to acknowledge Israel's right to exist, they have yet to indicate the approach their government will take in foreign policy.

Yet, in an early sign of pragmatism, Mahmoud Zahar, a top Hamas official, said the group would extend its year-old truce -- agreed before Israel's withdrawal from Gaza -- if Israel reciprocates. "Don't be afraid," added another senior Hamas official, Ismail Hanyyeh, in an interview with the British Broadcasting Corp.

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Israel, the U.S. and the European Union will have to decide how much support, if any, to offer a Palestinian government that has come to depend heavily on Western aid, but that will be led by a group they have always shunned. The early signs suggested a hard line.

Acting Israeli Prime Minister Ehud Olmert yesterday convened his top security officials to discuss the results. Late in the day, his office issued a statement saying: "The State of Israel will not negotiate with a Palestinian administration if its members include an armed terrorist organization that calls for the destruction of the State of Israel. In any case, Israel will continue to fight terrorism with a heavy hand, everywhere."

The Hamas victory carries a particularly ironic sting for President Bush, who made Palestinian elections a cornerstone of plans to encourage democracy in the Middle East. In an interview with The Wall Street Journal the day of the elections, Mr. Bush reiterated that he wouldn't deal with Hamas as long as it espouses the destruction of Israel. Yet, while Mr. Bush and European leaders yesterday urged Hamas to renounce violence, they stopped short of withdrawing support for a Hamas-led government.

British Foreign Secretary Jack Straw said of the victory: "Hamas has a clear responsibility to understand that with democracy goes a rejection of violence."

Pressure on Hamas to embrace diplomacy came from Arab leaders, too. Ahmed Nazif, Egypt's prime minister, said Hamas would have to respect "the reality of what the world has set as the framework for peace in the Middle East." That framework encompasses prospective negotiations aimed at Palestinian recognition of Israel and the creation of a Palestinian state.

Acceptance of those goals would mark a profound change for a group formed in the 1980s with the stated aim of destroying Israel and replacing it with an Islamic state. Once a fringe organization, Hamas's popularity soared in the past decade as dissatisfaction with President Yasser Arafat and corrupt Fatah officials deepened. When Mr. Arafat died in November 2004, his successor, Mahmoud Abbas, called new elections. Hamas saw a chance to test its popularity -- and gain real political power.

It was a good bet. Hamas's election victory underscored the extent of dissatisfaction with Fatah -- a theme President Bush and Secretary of State Condoleezza Rice emphasized in comments yesterday. "It's a wakeup call to the leadership," Mr. Bush said, referring to the Palestinian Authority. "Obviously people were not happy with the status quo." (See related article10.)

Despite exit polls Wednesday suggesting that Fatah would retain its majority, Hamas ended up with a strong legislative majority, securing 76 seats out of 132. Fatah finished second with 43 seats. The rest were taken by a handful of independent parties. About one million voters cast ballots, or nearly 78% of those eligible. Some isolated cases of violence and illegal campaign activity were reported, but voting was deemed free and fair by local and international observers, including former U.S. President Jimmy Carter.

News of Hamas's victory sparked frenzied celebrations among supporters in the West Bank and Gaza. Many took to the streets waving the green flags of Hamas and chanting slogans of support. In one instance, Hamas supporters tried to raise their flag over the legislative building in Ramallah. A Fatah supporter pulled it down, and it was trampled.

11 BUSH TRANSCRIPT

Read an edited transcript12 of the interview with President Bush.

Hamas leaders had expected a strong showing, but before the election, they tended to speak of assuming an opposition role in the new government. Allowing Fatah officials to retain overall control, they said, would allow Hamas to deliver on its pledge to reduce corruption and improve government services while not endangering the nearly $1 billion in annual aid the Palestinian Authority receives from foreign governments.

Without that money, the Palestinian Authority would be unable to pay its estimated 140,000 civil servants and would likely cease functioning within months. Nearly half of those civil servants are in the security forces, most of them with ties to Fatah and access to weapons -- a potentially explosive mix if relations between the two groups should sour.

"Hamas from the beginning feared winning too big," said Shalom Harari, an Israeli analyst and former intelligence official. "They made it clear that they wanted to use Fatah as their outside cover."

As the ruling party, the group still may choose to move cautiously, some observers said, tapping independent cabinet ministers with experience dealing effectively with Israel and the international community, according to observers. And Mr. Abbas, a Fatah member, will remain as president, the highest-profile position in the Palestinian government.

According to some Hamas members and other people familiar with the political situation, Hamas may consider appointing Salam Fayyad as prime minister. A former International Monetary Fund executive, Mr. Fayyad won a seat in the vote as a member of the Third Way party and until recently was finance minister. He earned a doctorate in the U.S. and is well-liked by Western leaders for his aggressive efforts to reform the government's opaque financial system.

As prime minister, Mr. Fayyad might also oversee the finance portfolio. Hamas could also strike a deal with Mohammad Dahlan, another veteran Fatah official once trained by the U.S. Central Intelligence Agency, to take the job of interior minister. That position is especially sensitive for Israel and the West because it handles all security issues for the Palestinian government -- including dealing with militants.

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But regardless of who ends up in the Hamas-formed government, the U.S. and Europe, as well as Israel, will have problems working with a Hamas-led Palestinian Authority. The Bush administration has sketched out how Hamas must change to be seen as legitimate: renounce terror, accept Israel's right to exist, endorse an eventual two-state solution, and lay down its arms.

The EU, along with Russia and the United Nations, endorsed a similar list of demands last year. As sponsors of the now dormant "road map" peace plan, the so-called Quartet, which also includes the U.S., also stipulated that any future Palestinian cabinet not include any members of organizations that refuse to recognize Israel or renounce violence.

Hamas Victory Ushers In New Era (BSUN)

By John Murphy

The Baltimore Sun, January 27, 2006

RAMALLAH, West Bank -- The overwhelming victory in Palestinian elections by the radical Islamic group Hamas ushered in an era of uncertainty and anxiety Thursday, as Palestinians and Israelis wondered what kind of government to expect from an organization best known for suicide attacks, not its politics.

Hamas won 76 seats in the Palestinians' 132-seat parliament, an outright majority, ending decades of dominance by Fatah, which won 43 seats, according to preliminary results released Thursday night.

For many Palestinians, Hamas' landslide win in Wednesday's election promises an end to an era of Fatah corruption and inefficiency. But the party's victory also reduced hopes of restarting the peace process. Israel, along with the United States and European Union, considers Hamas a terrorist organization. The Hamas charter calls for the destruction of Israel.

Hamas leaders issued mixed messages Thursday about their intentions. One senior official, Mushir al- Masri of Gaza, said recognizing and negotiating with Israel are "not on our agenda."

Mahmoud Zahar, another senior official, said Hamas is willing to extend its year-old truce if Israel does not attack its members.

"If not, then I think we will have no option but to protect our people and our land," Zahar told Associated Press Television News.

Israel's acting prime minister, Ehud Olmert, said Israel will not negotiate with a Palestinian government that includes Hamas.

"Israel will not negotiate with a Palestinian administration if even part of it is an armed terrorist organization calling for the destruction of the state of Israel," he said in a statement after a three-hour emergency Cabinet meeting.

Defense Minister Shaul Mofaz said Israel would insist that Palestinian leader Mahmoud Abbas abide by his commitment to disarm militants.

"Israel needs to act judiciously and responsibly," Mofaz said.

Negotiations backed

Abbas reiterated his commitment to negotiations with Israel.

"I am committed to implementing the program on which you elected me a year ago," Abbas said in a televised speech. "It is a program based on negotiations and peaceful settlement with Is rael."

Abbas proposed that negotiations with Israel be conducted by the Palestine Liberation Organization, a possible way for Israel to avoid direct contact with a Hamas-controlled government.

Another prominent Fatah member, Saeb Erekat, said his party has decided not to join a Hamas government.

"We will be a loyal opposition and rebuild the party," Erekat said.

Palestinians were stunned by the news of Hamas' victory. Exit polls released Wednesday night had indicated that Fatah had a narrow lead.

By midmorning Thursday, the Palestinian prime minister, Ahmed Qureia of Fatah, had announced that he and his Cabinet ministers had resigned, making way for a Hamas-led government.

Hundreds of Hamas supporters wearing green hats and scarves poured into downtown Ramallah, dancing, singing and waving flags to celebrate their victory.

There was a brief clash between Fatah loyalists and supporters of Hamas. The two sides began throwing stones at each other after Hamas members raised a green flag above the parliament building in the West Bank city.

Hamas will inherit a poorly managed government that is deeply in debt and facing a possible cutoff of financial aid from the United States and European Union.

Unease about change

"People wanted a change, and Hamas offered a change," Palestinian Hadil Budeiri said as she watched Hamas members parade in Ramallah. Like many Palestinians, she expressed unease about the kind of change that Hamas might bring.

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"Things are unknown," she said, "It worries all of us."

Some Palestinians are concerned that Hamas might try to remake society according to a strict interpretation of Islam.

"We don't want the Palestinian people and cause to be isolated. We don't want a theocracy," independent lawmaker Hanan Ashrawi told wire services. "Hamas promises reform. Sure, they will do that. I would like to see reform. But what worries me is things like legislation on education, culture, social welfare, the ramifications for peace in the future."

Many voters said Hamas' victory was fueled more by anger with Fatah than by enthusiastic support for Hamas and Islam.

Whatever the reason, the victory marked a turning point in the organization's 30-year history and might prompt it to abandon its campaign of suicide bombings in favor of order and stability, some analysts said.

"Nobody will tolerate a situation where the Palestinian Authority becomes 'Hamastan,'" said Mordechai Kedar, an analyst at Bar-Ilan University's Begin-Sadat Center for Strategic Studies. "Although they would like to cover all the girls and close all the pubs, nobody will let them be the state during the day and terrorists at night."

Hamas has long advocated creating an Islamic state from the Jordan River to the Mediterranean in place of Israel. Some secular Palestinians have been concerned that Hamas' growing influence might lead to clashes with secular members of society.

But secular Palestinians who have worked with Hamas often admire the group's professionalism and dedication.

Hamas receives high marks from Janet Michael, a Christian who is the new mayor of Ramallah and who formed an alliance between the independent members of the city council and Hamas in December. They have cooperated without problems, she said.

"Working with Hamas is not bad," she said. "They are normal people. They are disciplined. They are hard workers and well organized."

"Most of the world is still thinking about Hamas like the Taliban," said Mahmoud Abdullah, Ramallah's deputy mayor. Its members may be fundamentalist Muslims, he said, but they are pragmatic and willing to compromise and allow for other points of view. "Hamas is more liberal than you think."

For many Israelis, Hamas' emergence as the dominant Palestinian political force confirmed their worst fears about Palestinian society and about the prospects for peaceful co-existence.

"Today, 'Hamastan' was formed," said Benjamin Netanyahu, leader of Israel's opposition Likud Party.

Gershon Baskin, co-director of the Israel-Palestine Center for Research and Information, said Hamas would not be worried if the United States cut off financial aid.

"The Hamas government of the Palestinian Authority will not be intimidated by U.S. and EU threats to stop financial support," he wrote in a report released Thursday. "Iran's millions of barrels of oil every day being pumped and sold all over the world will provide the Palestinian Authority with the ability to withstand any international boycott."

Hamas Sweeps Palestinian Elections, Complicating Peace Efforts In Mideast (WP)

By Scott Wilson

The Washington Post, January 27, 2006

RAMALLAH, West Bank, Jan. 26 -- The radical Islamic movement Hamas won a large majority in the new Palestinian parliament, according to official election results announced Thursday, trouncing the governing Fatah party in a contest that could dramatically reshape the Palestinians' relations with Israel and the rest of the world.

In Wednesday's voting, Hamas claimed 76 of the 132 parliamentary seats, giving the party at war with Israel the right to form the next cabinet under the Palestinian Authority's president, Mahmoud Abbas, the leader of Fatah.

Fatah, which has dominated the legislature since the previous elections a decade ago and the Palestinian cause for far longer, won 43 seats. A collection of nationalist, leftist and independent parties claimed the rest.

Prime Minister Ahmed Qureia, another Fatah leader, resigned his post along with his cabinet early Thursday, as reports of Hamas's victory began to circulate. Although the cabinet would have been required to step aside even if Fatah had retained its majority, Qureia acknowledged in submitting his resignation that Hamas had earned the right to form the next cabinet.

"This is the choice of the people," Qureia, a member of the party's discredited old guard who did not run for reelection, told reporters here. "It should be respected."

Abbas, on the other hand, will continue to serve the four-year presidential term he won in an election a year ago, shortly after the death of his predecessor, Yasser Arafat, the founder of Fatah. Abbas will maintain the broad power to create national policy and control the security services, though he needs parliamentary approval for his budget and legislative proposals. He will also shape peace policy with Israel as head of the Palestine Liberation Organization, which does not include Hamas.

The arrival of Hamas, formally known as the Islamic Resistance Movement, in the Palestinian Authority as a nearly equal partner will severely complicate Abbas's efforts to begin negotiations with Israel under the U.S.-backed peace plan known as the

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"road map." Hamas, which emerged in 1987 during the first Palestinian uprising as an offshoot of Egypt's Muslim Brotherhood, favors the creation of a Palestinian nation on land that now includes Israel rather than the road map's two-state solution.

The election results stunned U.S. and Israeli officials, who have repeatedly stated that they would not work with a Palestinian Authority that included Hamas, which both countries and the European Union have designated as a terrorist organization. In Washington, Secretary of State Condoleezza Rice said that a party could not "have one foot in politics and the other in terror. Our position on Hamas has therefore not changed."

Javier Solana, the European Union's foreign policy chief, said in a statement that the Palestinian people had "voted democratically and peacefully." But, he added, "these results may confront us with an entirely new situation which will need to be analyzed" at a meeting of European foreign ministers next week.

Jubilant Hamas leaders reiterated Thursday that they had no plans to pursue peace talks or disarm the party's armed wing, a condition Israel has set for beginning negotiations under the road map. The plan, which calls for the creation of an independent Palestinian state by the end of 2005, has been frozen during recent years of violence.

Here in Ramallah, a Fatah stronghold where Hamas won every parliamentary seat except the one reserved for a Christian, dozens of activists from both parties clashed in front of the Palestinian Legislative Council, as the parliament is formally known.

The dispute started when a Hamas supporter hung the party's emerald-green banner above the entrance in place of the national flag. Fatah activists arrived and tore down the banner, which bears the Islamic axiom, "There is no God but God, and Muhammad is his prophet." The fight that ensued was broken up by police officers, who fired warning shots into the air.

"What they did offended not only Hamas but the Islamic nation," said Saleh Mikdad, 40, a print shop employee from the Amari refugee camp here. "But now we are all brothers."

In the past, the Fatah-dominated parliament approved the initiatives of Abbas and Arafat without much debate. But that could change with Hamas controlling the legislature, which will have the power to bring down cabinets if it does not agree with policy and would likely have to approve the terms of a final peace agreement with Israel.

In proceeding with elections despite Hamas's strong showing in last year's municipal races, Abbas gambled that it would be easier to disarm the group and modulate its policies, which include adopting Islamic law in the territories, with its members inside the Palestinian Authority. But Hamas's showing was far stronger than predicted by anyone in Fatah -- or by Palestinian pollsters who severely underestimated the movement's performance in its first national elections.

Hamas leaders must now decide how to form a cabinet whose ministers will run a Palestinian Authority bureaucracy dominated by Fatah supporters. Several Fatah officials said the party would probably decline any invitation to join the next cabinet so that Hamas, its sharpest critic for years, would get a sense of the difficulties involved in governing an angry electorate living under military occupation.

"They want to see how Hamas will act once it's responsible for running the government," said Bassem Barhum, a spokesman for the Palestinian Legislative Council. "They want to show the public that this is what they got. This is Hamas."

Barhum said rules required Abbas, who has threatened to resign if Hamas blocks his political program, to invite the largest party in parliament to form the next cabinet. Although it has the votes in parliament to name any cabinet it chooses, Hamas could be hampered by its lack of experience if it chooses to govern without a partner.

Party leaders chose candidates with backgrounds in medicine, education, computer sciences and other fields so that Hamas would have the expertise to run the various ministries. But Mahmoud Zahar, a victorious Hamas candidate from Gaza, said before the vote that the party favored a coalition government if it won.

One possibility is that Hamas will choose the leader of a third party to be prime minister while its own members grow accustomed to their new roles. One likely candidate for the job is Salam Fayyad, a former finance minister who won a parliamentary seat as the head of the anti-corruption Third Way party.

"My hunch is that they do not want to form a government on their own and would prefer a coalition with Fatah," said Ali Jarbawi, a political science professor at Bir Zeit University in the West Bank. "If this is not possible, I think they'll support a government of technocrats."

The Fatah Central Committee convened Thursday evening to begin discussing whether to join a Hamas-led cabinet, if invited to do so. Abbas Zaki, a committee member, said the decision would "depend on the program."

"If it is only Hamas, then it will be very hard to join," Zaki said. "And it is also necessary for us to understand what happened. We need to study this so we can make a recovery."

Some angry Fatah activists called for Abbas, who is commonly known as Abu Mazen, to step down.

"Abu Mazen led us to this catastrophe," said Shukri Radaideh, a Fatah leader in the Bethlehem district. "He must now resign."

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Abbas postponed these parliamentary elections last July to secure a new election law beneficial to Fatah's prospects. One of the law's chief provisions allowed more members of parliament to be elected from parties' national candidate lists rather than from the district level, where Hamas's organization is strongest.

The results announced Thursday, however, showed Hamas winning three more seats from the national list than Fatah and nearly three times as many in district races. In addition to its sweep here in Ramallah, Hamas won all seats except those reserved for Christian candidates in such traditional Fatah territory as Bethlehem and Jerusalem, where the Israeli cabinet had prohibited Hamas candidates from campaigning.

Hamas Victory Met With Alarm In The West (FT)

By Sharmila Devi And Harvey Morris

Financial Times, January 27, 2006

Hamas raised its Islamic green banner on the roof of the Palestinian parliament in Ramallah, celebrating a stunning election victory that has cast a new shadow over the quest for Middle East peace.

Hamas's victory was met with alarm in the west. But for Islamist groups across the Middle East, its defeat of the mainstream Fatah movement represents the first real opportunity to assert the power of political Islam.

The result heralds an uncertain era for the region as the militant movement – listed by both the US and European Union as a terrorist organisation – looked set to form a majority government. Prominent Hamas leaders including Ismail Haniya were celebrating even before officials announced the final results of Wednesday's legislative election.

The verdict of just over a million Palestinian voters will shake the region's mostly autocratic rulers and threaten hopes of a resumption of Palestinian-Israeli peace talks.

In preliminary results last night from the Palestinian Elections Commission, Hamas had won 76 seats in the 132-seat legislature against 43 for Fatah.

President George W. Bush said the US would not deal with Palestinian leaders who do not recognise Israel's right to exist, and urged Mahmoud Abbas, Palestinian president, to stay in office.

European politicians also called on Hamas to recognise Israel's right to exist. Officials said the EU was preparing to continue its annual aid of €500m to the Palestinian Authority if Hamas observed its ceasefire.

Saeb Erikat, the PA's chief negotiator, said Fatah would serve as a loyal opposition.

"Many people expected an earthquake, but not this tsunami," said a Palestinian official.

Israel and the US have always ruled out contacts with Hamas, which is responsible for dozens of suicide bombings, unless it disarmed.

Ehud Olmert, Israeli acting prime minister, told his officials to refrain from comment on the Hamas victory while the government assessed its effect.

With Fatah apparently unwilling to agree to Hamas overtures to join a unity government, the Islamists looked set to govern alone, with the possible inclusion in the administration of sympathetic independents more acceptable to Israel. But forming a government could take weeks.

Mr Qurei, whose ministers will remain in office as a temporary caretaker administration, said: "This is the choice of the people. It should be respected. Commenting before official results were through, he said: "If it's true, then the president should ask Hamas to form a new government."

The PA government is charged with implementing parliamentary legislation and administering financial and other policies. Foreign affairs and security are greyer areas, subject – in the era of the late Yassir Arafat, the former Fatah leader – to presidential control. Khaled Meshal, the top Hamas leader in exile in Damascus, said the group was open to political partnerships and would extend a truce if Israel reciprocated.

In an election universally judged to be democratic and fair, voters rejected Fatah and its associations with corruption and failure to achieve tangible improvements for the Palestinian people. Almost 78 per cent of 1.3m eligible voters turned out in a poll international observers said was well-run.

Additional reporting by Roula Khalaf in Tehran and Daniel Dombey in London

Prime Minister Resigns After Hamas' Victory (WT)

By Joshua Mitnick

The Washington Times, January 27, 2006

RAMALLAH, West Bank -- Palestinian Prime Minister Ahmed Qureia tendered his resignation yesterday after Hamas scored a landslide victory over his Fatah party in parliamentary elections, marking a historic shift in the Middle East that empowers an Islamist party branded a terrorist organization by Israel, the United States, and Europe.

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Hamas won 76 of 132 seats in the parliament, compared with 43 seats for Fatah, a stunning electoral performance that flew in the face of every pre-election survey as well exit polls Wednesday that forecast a slim advantage for the ruling Fatah party.

With Islamic militant politicians in a position to form a government without any partners, a crisis in relations with Israel and the international community seemed almost certain. The dramatic upheaval left governments in Israel and the United States scrambling to formulate a coherent response.

"Recognition of Israel and negotiations isn't on the agenda of Hamas," said Mushir al-Masri, a newly elected Hamas parliamentarian. Hamas leaders said they would not comply with international demands to disarm after the elections.

The vote means a split government for the Palestinians, whose system of government divides power between the parliament and the president, as in France.

Palestinian Authority President Mahmoud Abbas, who was not up for re-election, remains in charge of foreign and national security policy as head of state, responsible for peace talks with Israel.

But with a Cabinet of Hamas ministers likely to take charge of the Palestinian executive branch, the electoral mandate Mr. Abbas earned a year ago seems to have dissipated.

In a televised address following the publication of the results, Mr. Abbas, also known as Abu Mazen, reiterated his commitment to the U.S.-sponsored road map and to negotiations with Israel.

"I remain committed to implement the platform on which you voted for me one year ago," he said. "The basis of this platform is negotiations and a peace settlement with Israel."

After huddling with his security aides, Israeli acting Prime Minister Ehud Olmert released a statement that threatened to boycott peace talks if Hamas joins the government without annulling its call for the destruction of Israel and its support of terrorism.

"There is no doubt that -- from Israel's point of view -- a new situation has been created," the statement said.

The new situation could not have come at a worse time for Israel, with the dominant hand of Ariel Sharon removed by illness, the Likud party marginalized and new elections awaited in March.

Israel reminded Mr. Abbas of the Palestinian Authority's commitment to disarming Hamas' military wing as part of the party's joining the political system.

"We demand that the PA and its chairman honor this commitment in the shortest time frame," the statement said.

"Israel will demand that the entire international community compel the PA and its chairman to implement the commitment to eliminate Hamas as a terrorist organization that calls for Israel's destruction."

Hamas invited Fatah to join the Islamists in a unity coalition, but the party, which dominated Palestinian politics under Yasser Arafat, turned down the offer.

"We won't join them," said peace negotiator Saeb Erekat. "We'll be a faithful opposition and we'll resuscitate the party."

The Hamas victory was seen as more of a protest vote against corruption and mismanagement by the ruling Fatah party than a vote against accommodation with Israel. Many Hamas supporters said they expect Hamas to engage Israel in talks eventually and to refrain from instituting Islamic law.

In central Ramallah's el-Manara Square, hundreds of elated Hamas supporters paraded with the militant movement's green banners to celebratory Middle East drums and chanting, "To the parliament Hamas!" A scuffle broke out at the parliament building when Hamas supporters hung up a party flag.

"I expected more than 50 percent, but not this many" members of parliament, said Rabiyeh Hussein, a Hamas supporter as he hugged the party's campaign manager. "It's a coup d'etat. It's a new era."

The prospect of a Hamas government left a cloud hanging over the future of Israel's relations with the Palestinian Authority.

Even though peace talks have been on hiatus for years, the two governments interact on a daily basis, coordinating security, customs payments and humanitarian issues -- making a total break in ties nearly impossible.

Hamas Is Stunned By Its Success (LAT)

By Laura King

The Los Angeles Times, January 27, 2006

GAZA CITY, Gaza Strip -- Of all those shocked by Hamas' landslide win in Palestinian elections, few were more stunned than the militant Islamist group itself.

In taking the reins of power after participating in its first parliamentary vote, Hamas leaders face a predicament: If they attempt to please their most radical adherents by continuing to call for Israel's destruction, they jeopardize hard-won international support for a Palestinian state.But if they moderate their stance and reject their founding principle, they risk alienating their militant base.

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The group had wrestled with the question of whether it should even participate in the parliament, because such a step implied acceptance of the 1993 interim peace accords with Israel under which the ruling Palestinian Authority was created.

Having won a majority of seats in the new parliament, Hamas has the responsibility of forming a new government to work alongside Palestinian Authority President Mahmoud Abbas. Elected a year ago, Abbas will remain in office unless he carries through on threats to resign if he cannot pursue his goal of peace with Israel.

A key question hanging over Wednesday's election results is which Hamas people voted for -- the radical group that professes eagerness to continue the armed struggle against Israel, or the Hamas that toned down its rhetoric during the political campaign and emphasized its social service programs. The latter symbolizes, for many Palestinians, the hope for a less corrupt government and a better life after years of conflict.

With trademark discipline, Hamas' senior figures quickly closed ranks Thursday, proclaiming readiness to take on the daunting task at hand. "We will put the Palestinian house in order," said Ismail Haniyeh, a self-possessed former university dean who was the top candidate on the Hamas slate.

But Hamas in many ways appears ill-equipped to meet this challenge. Its political experience is strictly local -- running the cities and towns where it won municipal elections over the last year. Much of its senior leadership is dead, assassinated by Israel in response to the group's campaign of suicide bombings, in hiatus for the past year.

Complicating matters, international donors are poised to shun a Hamas-led government. And its military wing, the Izzedine al-Qassam Brigades, shows no inclination to disarm.

In other respects, however, Hamas may be better suited to govern than the Palestinian Authority, which was riddled with graft and largely ineffectual under the long reign of the late Yasser Arafat.

Hamas has for years administered a large, efficient network of charities, schools and health clinics, winning a reputation for fiscal integrity along the way. Many of the candidates it fielded are well-educated professionals, and not all are ardently religious. Also, Hamas' military wing is thought to be much more accountable to the group's overall leadership than are the roving gangs of gunmen who claim allegiance to Fatah.

Hamas, as it is prone to do, sent mixed signals Thursday about its intentions.

"The Israeli occupiers should recognize Palestinian rights first," Haniyeh said when asked whether the group would be willing to talk to Israel.

But almost in the same breath, he seemed eager to convey a message of conciliation. Asked what he would say to the United States and other nations that have expressed alarm at the group's ascent to power, he said: "Don't be afraid ... Hamas is an open movement" -- suggesting, apparently, that its stance on matters including Israel could change.

Hamas, by dint of its formidable organizational skills, was probably the first to recognize the political earthquake that had occurred with Wednesday's vote. After the polls closed, it posted observers at each locale where votes were being counted.

The tallying was slow and painstaking, carried out in some cases by candlelight due to power outages, not unusual in Gaza. But by 3 a.m., Haniyeh, huddling with aides, receiving reports from the field, talking nonstop on his mobile phone, was beginning to put out the shocking word: We won.

Amid the rejoicing, there was a distinct air of nervousness, even outright apprehension, in Hamas-dominated districts of Gaza. A few people wondered aloud: had Hamas bitten off more than it could chew?

"You know, I was very happy when I went to sleep, when I thought we did well, but not win," said Gaza City resident Ashraf Kholi. Like many Palestinians, he tuned into late-night exit polls that gave Hamas perhaps one-third of the vote.

"Then I woke up," continued Kholi, who runs a shop in the city's Zeitun district, home to many Hamas leaders. "And I realized everything had changed."

To avoid governing alone, and the direct contacts with Israel and the United States that could entail, the group's leaders are trying to woo Fatah into some kind of alliance -- an offer that has thus far been spurned.

"It is better to be in the opposition," said senior Fatah leader Jibril Rajoub, a former security chief. As to the prospect of Hamas presiding over the sprawling and notoriously inefficient Palestinian Authority bureaucracy, he snorted: "Let them try."

Outcome Likely To Alter Vote In Israel (WT)

By Hazel Ward

The Washington Times, January 27, 2006

JERUSALEM -- Hamas' shocking election victory is likely to radically alter the course of Israel's own election at the end of March, as an outraged right wing flexes its muscles and the centrist government plots its response.

As Palestinian officials announced the results, acting Israeli Prime Minister Ehud Olmert convened top-level talks with senior political and defense officials to formulate how to manage the crisis.

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Foreign Minister Tzipi Livni, among those at the emergency powwow, earlier urged the European Union, the Palestinians' biggest aid donor, to speak out against the creation of a Palestinian "government of terror."

"It is up to the European Union to speak out clearly and unequivocally and clarify that there will not be any European understanding shown towards a process which would mean the establishment of a government of terror," he said.

Mr. Olmert, who heads the newly formed centrist Kadima party, is eager to define the permanent borders of the State of Israel and even make further territorial concessions in the West Bank. He faces a critical challenge, which could have a dramatic effect on his party's hitherto positive ratings in the polls.

Any perceived leniency toward Hamas could play directly into the hands of Benjamin Netanyahu, the hawkish leader of the right-wing Likud Party, who last year warned that Israel's pullout from Gaza was a prize for Hamas violence.

But intransigence toward a Hamas-led government would likely bring about international pressure on Israel to comply with earlier commitments reached with the Palestinian Authority.

Hamas' victory prompted a flurry of negative reactions from across the political spectrum in Israel, with the right wing heaping scorn on the government for failing to prevent the Islamists from contesting the polls.

The vote has created "the State of Hamasistan just 1,000 meters away from the citizens of Israel," army radio quoted Mr. Netanyahu as saying.

Yuval Steinitz, Likud member of parliament and head of the parliamentary committee on foreign affairs and defense, likened the Hamas victory to "an earthquake" and a "tragic defeat for Israel in the war against terrorism."

Ultranationalist lawmaker Efi Eitam called on Israel's domestic spy agency Shin Bet to kill each and every Hamas lawmaker.

"We must turn Hamas' parliamentary list into a hit list for the Shin Bet," he told army radio.

Israeli forces have assassinated dozens of Hamas leaders in recent years.

Even on the left, Labor Chairman Amir Peretz insisted he had "no intention" of conducting negotiations with Hamas as long as it was dedicated to Israel's destruction, despite his running an election campaign urging peace efforts.

"The Palestinians have given their support to extremist elements and it is up to the government to take the necessary action to ensure [Israel's] security," he said.

Elder statesman Shimon Peres, Mr. Olmert's No. 2 in Kadima, cast doubt over Hamas' ability to govern effectively given its international pariah status.

"Hamas will not be able to control the Palestinian Authority and pay the salaries [of more than 100,000 civil servants] without international aid, which will apparently cease," he told army radio.

The Palestinian elections of 1996, which were not contested by Hamas, were calm on the ground as on Wednesday.

But immediately afterward, Hamas began a series of devastating attacks, drastically weakening the Labor-led government of Mr. Peres, who was prime minister, and paving the way for Mr. Netanyahu's election.

Hamas Victory Now A Major Issue In Israeli Election Campaign (WP)

By Scott Wilson

The Washington Post, January 27, 2006

JERUSALEM, Jan. 26 -- The Hamas parliamentary election victory became a focal point of Israel's election campaign Thursday as opposition politicians criticized the government for failing to stop the radical Islamic movement from rising to prominence within the Palestinian Authority.

With Prime Minister Ariel Sharon unconscious from a stroke this month, Ehud Olmert, his deputy and now the acting prime minister, faced criticism in the wake of the Hamas defeat of the governing Fatah party, Israel's main partner in past peace agreements.

Olmert recently reversed Sharon's decision barring Palestinians in East Jerusalem from voting in the election. He said at the time that he did not want to give the Palestinian leader, Mahmoud Abbas, an excuse to cancel the first parliamentary elections in a decade.

"We are talking about an earthquake that has sent us back 50 years and will lead the entire region into chaos," said Silvan Shalom, a member of Israel's parliament from the hawkish Likud Party, who recently resigned as foreign minister in anticipation of the March 28 elections.

Public opinion polls have shown Likud suffering a significant drop in popularity since Sharon and Olmert left last year to form Kadima, which polls now show to be the prohibitive favorite in the coming elections.

"I warned Olmert in our first meeting after he took office" that Hamas must not be allowed to participate in the voting, Shalom said in his comments to the Ynet news Web site. "Now we have no one to blame but ourselves."

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Olmert ordered his ministers Thursday not to comment on the Palestinian returns. He told visiting Sen. Joseph R. Biden Jr. (D-Del.) Wednesday evening that he would not "negotiate with a government that does not meet its most basic obligations -- to fight terrorism."

Israel, the United States and the European Union classify Hamas as a terrorist organization. The group, known formally as the Islamic Resistance Movement, calls for the creation of a Palestinian state on land that now includes Israel.

The leader of the dovish Labor Party, Amir Peretz, said at a special meeting of party leaders that "we have no intention to allow negotiations to take place with an organization that declares its intention to destroy Israel."

"Hamas," he said, "is not a partner."

But Dan Schueftan, a senior fellow at the Shalem Center in Jerusalem, said, "We are assigning much too much significance to these elections."

He said Israel already faced a fading partner in Abbas, whose leadership has been undermined by party militias, internal corruption and the popularity of Hamas. Palestinians say he has also been hurt by Israel's reluctance to reduce checkpoints and military operations in the West Bank.

The Hamas victory, Schueftan said, could allow the Israeli government to proceed with another unilateral withdrawal from land in the West Bank, which Palestinians envision as part of their future state. Last year, Sharon ordered the withdrawal of all Israeli settlers and troops from the Gaza Strip, the other part of a prospective Palestinian state. Schueftan said a withdrawal from parts of the West Bank was already "the tacit platform of Kadima."

"The choices were between terrorists, impotents and hooligans," said Schueftan, who is also deputy director of the National Security Studies Center at the University of Haifa. "From an Israeli point of view, will this make things worse? No. Will this make things better? No. Would a different result have made a difference? No."

Gabriel Sheffer, a political science professor at Hebrew University of Jerusalem, said: "We should wait and see what happens inside the Palestinian government. But in any event, Olmert, his advisers and his followers face a big dilemma."

"The questions begin with: Do you talk to Hamas and, if so, what do you talk to them about?" Sheffer said. "I think Olmert will try to restrain the military, and try to find ways, probably not directly, to talk to Hamas."

Yossi Klein Halevi, another senior fellow at the Shalem Center, which holds mostly hawkish views on security matters, said, "Israel will now hold political Hamas directly responsible for the actions of military Hamas."

"There will now be one address at the Palestinian Authority where Israel can respond," Halevi said.

Dore Gold, president of the Jerusalem Center for Public Affairs, who advised Sharon, said Israel would now have to maintain control of the Jordan Valley in any final peace agreement to ensure that Hamas does not allow other groups Israel considers terrorist organizations to arrive from Jordan or Iraq.

"Hamas cannot be seen as just another Palestinian political party with an Islamic orientation," Gold said. "It must be linked to the larger sources of terror that threaten Israel and the West."

After Hamas Victory, Israel's Likely Course (NYT)

By Greg Myre

The New York Times, January 27, 2006

JERUSALEM, Jan. 26 — The Hamas landslide in Palestinian elections has stunned Israelis, but it may also have brought them a rare moment of clarity: with peace talks off the table, Israel will most likely pursue unilateral actions, drawing its own borders and separating itself from the Palestinians.

Ehud Olmert, the acting prime minister, made it clear after an emergency cabinet meeting that talks with Hamas, a Palestinian party sworn to Israel's destruction, were out of the question, while experts said Israel was now freer to establish its future on its own.

They said Israel — whose own elections in two months could be heavily influenced by the Palestinian results — was likely to focus on speeding up construction of the separation barrier, which runs along and through parts of the West Bank. After more than three years of building, it remains less than half finished, but Israeli officials say it has contributed enormously to the reduction of suicide bombings and other attacks. Palestinians, on the other hand, say the barrier takes land they want for a future state.

"The differences between the sides are now much deeper, and the chances for negotiations are much more remote," said Shlomo Avineri, a liberal political scientist at Hebrew University. "The only realistic steps may be Israeli unilateral steps."

Unilateralism was the approach taken by Ariel Sharon, the prime minister for the last five years, who now lies in a coma. He withdrew Israeli settlers and soldiers from Gaza last summer without negotiating the move with the Palestinians, and left open the possibility of more such moves in the West Bank.

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Since on-and-off peace talks began more than a decade ago, Israelis have been deeply divided over what sorts of concessions to make, how much territory to keep and whether the talks would lead to an end to the decades-old conflict. On Thursday, it seemed there were few such doubts.

From Israeli hawks who oppose concessions to doves who constantly pressed for renewed peace talks, Israelis said there could be no negotiations with Hamas.

Ami Ayalon, the former head of Israel's Shin Bet security service and now a parliamentary candidate for the left-leaning Labor Party, said the absence of a negotiating partner should not halt Israeli actions aimed at separating from the Palestinians.

Israel, he said, should seek "to create a situation where Israel disengages from the Palestinians and preserves the character of Israel as a Jewish democracy." Israel should continue, he said, "to move fast and independently to our goal."

Mr. Olmert hopes to become prime minister in elections on March 28 as head of the centrist Kadima Party started by Mr. Sharon.

But Benjamin Netanyahu, leader of the right-wing Likud Party, made clear that the Palestinian results offered an opportunity for his more hawkish message to be heard. He said the Hamas victory was a result of the unilateral withdrawal from Gaza and proved that no more withdrawals should occur.

Yuval Steinitz, a member of Parliament from Likud, said Israel should have prevented or canceled the Palestinian elections. He cited the 1993 Oslo accords, an interim peace agreement that bars the participation of armed groups and those that do not recognize Israel.

Mr. Steinitz noted that Palestinian terror attacks against Israel had gone down in recent years, but that Hamas's popularity had gone up. "This is a major loss in our war against terror despite all our tactical successes," he said.

Since the Oslo accords, the Israeli and Palestinian leaderships have maintained a dialogue at some level.

But Israel and Hamas have never had contact with each other, aside from exchanging bullets and bombs. Their relationship is similar to the one that existed in the 1980's and earlier between Israel and the Palestine Liberation Organization, with their refusal to recognize each other.

Hamas's electoral triumph comes at a time when Israel is going through its own political upheavals, and the government is unlikely to make any major moves until after the Israeli election.

"Election time means time out," Mr. Avineri said. "There is a strong argument for refraining from doing dramatic things right now."

The campaign may also mean that Mr. Olmert and his party will have to take a tougher tone to ensure that they are not outflanked on the security issue by Likud.

Israelis are beginning to debate whether the reality of being in power will tame or moderate Hamas. Mr. Avineri suggested a Hamas-led government might not be as threatening as some Israelis feared. He cited the Lebanese guerrilla group Hezbollah, which battled Israeli troops for years in southern Lebanon and now takes part in Lebanese politics.

"Hamas may behave like Hezbollah," Mr. Avineri said. "The rhetoric will be harsh, and they will still be armed, but they will be part of the political system, and their actions may be more restrained."

Others, like Mr. Steinitz, argue that Hamas wants Jews pushed into the sea, and did not enter politics to change its goals but to advance them.

Still, the Hamas victory injects uncertainty into the Israeli election. In previous Israeli campaigns, Hamas and other Palestinian factions have staged deadly attacks that pushed the Israeli electorate to the right.

In 1996, the Labor Party, led by the dovish Shimon Peres, seemed headed for victory after the assassination of Yitzhak Rabin by an ultranationalist Israeli. But after a series of Palestinian suicide bombings during the Israeli campaign, Mr. Netanyahu, of Likud, won a narrow victory.

The Palestinians started an uprising in September 2000, and in a February 2001 election for prime minister, Mr. Sharon trounced Ehud Barak, the Labor Party leader, who had tried but failed to reach a comprehensive accord with the Palestinians.

A Shift Of Biblical Proportion? (WSJ)

By Karby Leggett

The Wall Street Journal, January 27, 2006

AMONA, West Bank -- The fate of nine newly built concrete homes at the edge of this Jewish community may soon provide clues to one of the Middle East's most pressing questions: Is Israel preparing to withdraw from parts of the occupied West Bank?

The answer increasingly appears to be yes. Following extended legal wrangling, the Israeli government is completing a plan to demolish Amona's nine concrete homes -- all uninhabited -- because they were constructed illegally on privately owned Palestinian land. With the militant Hamas party winning control1 of the Palestinian Parliament on Wednesday, it is possible Israel

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would delay the demolition, but several thousand Israeli security personnel are scheduled to carry out the order as early as next week, police and military officials say. The large force reflects concern that pro-settlement activists will resist.

Though small in scale, the Amona operation could have far-reaching implications. Coming on the heels of Israel's withdrawal from the Gaza Strip in August, it would signal a further rollback of a decades-long policy of encouraging Jewish settlement in Palestinian areas, particularly the West Bank, which is now home to some 250,000 Israeli citizens. The move likely would resonate positively among Palestinians as they reorganize their own government through popular elections. More broadly, it could mark the beginning of a gradual regional shift away from armed confrontation and toward accommodation based on territorial compromise.

Amona is one of more than 100 illegal Jewish communities, known as outposts, that have sprouted across the West Bank over the past decade. Unlike the 120-odd official West Bank settlements, which were established with government blessing and financial backing and in many cases have grown into sprawling neighborhoods, the outposts never received official approval and consist largely of decrepit mobile homes and other makeshift structures. Many were built without legal ownership of the land they sit on, according to a report on the outposts commissioned by the government last year.

Amona's case was first detailed in a page-one story of The Wall Street Journal in July. It is unique in that the government's decision to demolish the nine homes is the result of a lawsuit brought by Peace Now. After focusing for years on the politics of the settlement enterprise, the left-wing organization last year initiated legal proceedings aimed at compelling the government to enforce laws it had long ignored. The case ended up in the Supreme Court, which sided with Peace Now in declaring the homes illegal.

The precedent could reverberate for years -- and deepen a chasm between Israel's secular majority, which sees the settlements as a security and financial burden, and the religious-nationalist minority committed to expanding them. Dror Etkes, a Peace Now employee who spearheaded the legal effort against Amona, says he is preparing similar cases over other outposts and even a handful of authorized settlements located on Palestinian-owned land. About 30 illegal outposts are now building homes similar to those in Amona.

"Our success is not in knocking down nine houses in Amona but in the crisis we have created between the government and settlers," Mr. Etkes says.

That sense of foreboding is now on display in Amona, where residents -- now living in mobile homes -- have begun filling in dirt access roads and erecting barriers to thwart the arrival of military and police forces. On the day of the operation, they plan to bring up to 10,000 pro-settlement activists here to protest the action. Orit Caspi, Amona's manager, says resistance will be "stronger" than in Gaza this summer. Complicating the mission for all parties is a plan by Israeli forces to dismantle another outpost in Hebron around the same time.

Set in the heart of the West Bank, Amona was founded in 1995, as peace talks between the Israelis and Palestinians were unfolding. Amona residents are deeply religious and say they are entitled to live in the West Bank, whatever laws the modern state of Israel, because it is part of the biblical Land of Israel.

The government decision to tear down the nine houses marks a reversal of policy that until recently had actively accommodated outposts. Although Amona is illegal, it enjoys full access to the state electricity and water grids. Residents are guarded by the Israeli military. In a sign of change, however, Acting Prime Minister Ehud Olmert recently instructed security forces to deal harshly with Jewish settlers who break Israeli laws.

Residents of Amona say they fear they could be the first in a long line of West Bank demolitions and evacuations. Yair Frank, Amona's rabbi, says residents plan stiff resistance not only to save their homes, but to show the government the response to a wider withdrawal.

"This land was given to us by God," he says. "It is our land today and will be our land forever."

Write to Karby Leggett at karby.leggett@wsj.com2

In The Mideast, A Giant Step Back (NYT)

The New York Times, January 27, 2006

For 20 years Ariel Sharon and other Israeli hard-liners have claimed that they had no negotiating partner interested in or capable of securing peace between Israelis and Palestinians. That always seemed a debatable point, until now.

There are many reasons to explain why Palestinians voted to hand over their government to Hamas, an organization that revels in terrorism and is sworn to destroy Israel. The inability of President Mahmoud Abbas's party, Fatah, to run its affairs is first on the list, if pre-election polls of Palestinians were accurate. Fatah has been corrupt and inept, and it represented the status quo, not a happy position given the lawlessness in Gaza, the unemployment rate in Nablus and the despair among young people in Jericho. Mr. Abbas didn't help matters much, proving weak and incapable of imposing control over the battered Palestinian Authority.

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Israeli hard-liners can blame themselves as well. Even though most reasonable people have recognized Mr. Abbas as a far more pragmatic negotiating partner than Yasir Arafat was, Prime Minister Sharon failed to give Mr. Abbas any concession that he could point to as an achievement. Instead, Israel has busied itself with carrying out Mr. Sharon's doctrine of unilateral separation from the Palestinians, a doctrine that is sure to gain more favor now that the Palestinians have chosen Hamas.

But all of this is peripheral to two central facts. Hamas grew out of a terrorist organization that has undermined every small step toward peace with mass murder. And on Wednesday, Palestinians voted almost two to one to put Hamas in charge of running their government. For there to be any hope of getting out of the impasse in the Middle East, one of those two things must change.

It would be nice to believe that Hamas, now that it is assuming the reins of power and the burden of actually having to govern, will renounce its call for the destruction of a sovereign state, disarm its private army, get into the business of making life better for Palestinians and try to negotiate the creation of a real Palestinian state. While we're not hopeful, we are reminded that the Palestine Liberation Organization of the late Mr. Arafat, of which Mr. Abbas was once second in command, was born in terrorism. For many years Mr. Arafat and his gunmen were hunted by Israel, much as Hamas has been in recent years.

President Bush was absolutely right when he urged Mr. Abbas to remain in office as a sign of stability and set Secretary of State Condoleezza Rice the task of seeing whether the shards of the peace process could be reassembled. But he was also absolutely right when he said, "A political party that articulates the destruction of Israel as part of its platform is a party with which we will not deal."

Hamas has a choice between governing and terror. Is the party more interested in making sure that the electricity and water stay on, that Palestinian boys and girls make it to school, and that these battered people finally get a state of their own? Or is it more interested in continuing its campaign to destroy Israel? If Hamas chooses the latter, it's more than likely that it will not be around for long, and rightly so.

Hamas Rules (WSJ)

The Wall Street Journal, January 27, 2006

The sweeping victory of the Islamist Hamas party in Wednesday's Palestinian legislative elections can hardly be considered good news. But neither is it surprising, and it may even have the long-run benefit of educating Palestinians about the terrible cost of their political choices.

The ruling Fatah faction of Palestinian President Mahmoud Abbas governed corruptly, ineffectually, and until the death in 2004 of founder Yasser Arafat, dictatorially. So it is understandable that Palestinians wanted an alternative. That they went for the only other major choice on offer is not necessarily an indication that they share Hamas's goal of destroying Israel and all its citizens. The vote might even turn out to be clarifying -- in the sense of showing the world that no Israeli-Palestinian peace is possible until the Palestinians have leaders who really want to live in peace with Israel.

Of course, there's no sugar-coating what this vote for the party of suicide bombers and social welfare says about the state of Palestinian politics. Partly this is the fault of the losing Fatah faction itself. Ever since its return to the Palestinian territories in the mid-1990s following the Oslo "Peace" Accords, Fatah has fed Palestinians on a diet of extremist, anti-Semitic propaganda. Its military wing assassinated "moderate" Palestinians, while allowing Hamas to flourish as a terror weapon -- both to kill Israelis, and to scare Fatah's American and European patrons about the possible alternatives to its rule.

It should never be forgotten that in 2002 -- under Arafat's iron fist -- Palestinian terrorists were allowed to murder 452 Israelis. That figure later dropped not because of any change of heart on Fatah's part but because Israel and the United States finally gave up on Arafat as a credible peace partner and turned to a strategy of unilateral separation (the infamous "wall") and military strikes.

Partly, too, Israel and the West must own up to their culpability for Wednesday's outcome. Foreign policy critics of the so-called "realist" school will no doubt be tempted to trumpet the vote as a setback for President Bush's strategy of democratizing the Middle East. But it's more accurate to say that Hamas's win only highlights the damage done by decades of realist support for "strongmen" and "stability."

The calculation at the heart of Oslo was that Arafat and Fatah would impose a dictatorial order on Palestinians that outsiders never could. The late Yitzhak Rabin put it most clearly when he said the point of recognizing Arafat in 1993 was not to give the Palestinians their freedom. It was because Arafat could deal with Hamas and other troublemakers without interference from "the Supreme Court and [the human rights organization] B'Tselem."

Rabin was right that Arafat would have scant regard for the rights of Palestinians. But he was wrong that Arafat would crack down on Hamas. Like every other strongman, Arafat didn't crack down on extremists but used them to his advantage where he could. Palestinians could see that the U.S. was coddling a man who oppressed them, breeding cynicism about U.S.

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motives and making it hard for democratic movements to flourish. The Bush Administration is working hard to change those perceptions and build a Palestinian civil society, but this will take years.

So far the White House -- which pushed the Palestinian Authority to hold these elections -- has struck the right notes in response to the Hamas victory. Secretary of State Condoleezza Rice praised the vote for being peaceful and "by all accounts fair." At the same time she stated that "you cannot have one foot in politics and another in terror." President Bush rightly said Hamas should expect no relations with the United States until it stops calling for Israel's destruction.

The White House will have to resist the temptation, no doubt encouraged by Europe, to pressure Israel to deal with Hamas as it once was pressed to deal with Arafat. But given Hamas's history and declared goals, the onus is on its leaders to show that they have an agenda beyond terror. If Hamas begins to use Gaza as a base to import weapons and attack Israel, the Jewish state will have every right to strike back in self-defense. And the U.S. should support it in doing so.

It's always possible that the burden of responsibility will over time make Hamas a less radical movement. If it remains rejectionist and bent only on war with Israel, then the Palestinians will sour on its rule in any case. Perhaps then average Palestinians will conclude they have no choice but to co-exist with Israel if they want a better life. The obligation of the U.S. is to make it clear to Hamas, and to all Palestinians, that there is no future in terror.

Hamas's Choice (WP)

The Washington Post, January 27, 2006

THE VICTORY of Hamas in the Palestinian elections creates fresh opportunities as well as dangers in the Middle East. The Islamic fundamentalist movement will now come under extraordinary pressure to cease all acts of terrorism, help restore order in the turbulent Gaza Strip and moderate its rejection of Israel. The pressure will come not only from Western governments and aid donors but from its own constituents. Hamas's leaders had hoped to use a minority position in the Palestinian legislature to exercise a veto over peace talks with Israel while avoiding disarmament and wider responsibility. As leader of the cabinet that will be formed under President Mahmoud Abbas, the Islamists will find their straddle of democracy and terrorism far more difficult to maintain.

Many Palestinians who voted for Hamas don't support the Islamists' fundamentalist agenda: Polls show that large majorities want an end to violence and a resumption of peace talks with Israel. Wednesday's vote was not an embrace of extremism, but -- as President Bush suggested yesterday -- a rejection of the corrupt and incompetent clique of leaders left behind by Yasser Arafat. Since Arafat's death more than a year ago, his Fatah movement had been unable to reform itself or control its violent elements, despite the good intentions of Mr. Abbas. Now, perhaps, a new generation of secular leaders will be able to purge Fatah and prepare to offer Palestinians a better alternative, while crooks and armed thugs are cut from the government's payroll. Mr. Abbas himself should remain in office, as Mr. Bush urged yesterday, and will retain considerable power to check a Hamas-led government.

Israel, which has its own elections March 28, will have to guard against any upsurge in violence, including acts by Palestinian groups unhappy with the election results. But Hamas's victory will simply reinforce the policy of the current Israeli government, which is based on unilateralist measures such as last summer's withdrawal from Gaza and the ongoing construction of a borderlike system of fences and walls in the West Bank. If it avoids provocations, such as the assassination of Hamas leaders, Israel may benefit from the pressure that others will bring to bear on the Islamic movement. In the short term, too, Israel is likely to escape any further prodding from Washington to make concessions it has resisted, such as the relaxation of security checkpoints in the West Bank or the release of prisoners.

Hamas's eagerness to avoid hard choices was evident in the swiftness with which its leaders proposed yesterday to form a "unity" government with Fatah despite the Islamists' control of 76 of the 132 seats in the legislature. The two parties will have to forge some agreement on security, since each effectively controls its own armed forces, with those of Fatah now funded by the government; war between the two is a danger. The Islamists no doubt will seek to construct a coalition that could continue to attract international aid -- without which the Palestinian Authority would collapse -- while evading compromises on Hamas's militia or ideology.

Even if Fatah consents to this strategy, Western governments should not. Instead, they should stick to the principle already articulated by the so-called Quartet of peace process sponsors, which includes the European Union, the United Nations and Russia, as well as the Bush administration: that "a future Palestinian Authority cabinet should include no member who has not committed to the principles of Israel's right to exist in peace and security and an unequivocal end to violence and terrorism." If Hamas will not meet that condition, then it should be condemned to governing Gaza and the West Bank in diplomatic isolation, without European, U.S. or World Bank aid. The Islamists must be forced to choose between democracy and terrorism; between their ideology and the yearning of Palestinians for security, good government and a state of their own.

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Mideast Uncertainty, Again (LAT)

The Los Angeles Times, January 27, 2006

THE OUTCOME OF WEDNESDAY'S Palestinian parliamentary election surprised even its victors. No one expected Hamas, which is dedicated to the destruction of Israel, to win an outright majority, but it took 76 of 132 seats in parliament. Its victory will set back an already stumbling peace process in the Middle East unless Hamas renounces violence and recognizes the Jewish state's right to exist.

Although the United States, Israel and the European Union brand Hamas a terrorist organization, Palestinians admire it for the schools and hospitals it runs. And the organization that once routinely dispatched suicide bombers into Israel has mostly refrained from such attacks for about the last year.

Yet even after gaining a clear majority in parliament, its leaders have refused to heed renewed calls from Washington and from European capitals to disarm and renounce violence. May the Hamas officials who want a government that will focus on bread-and-butter issues such as healthcare, education and agriculture prevail over the preachers of hate.

If the new government builds classrooms and feeds the hungry, it will give Israel breathing room before its own election in two months. Palestinian President Mahmoud Abbas, leader of the defeated Fatah party, is the man designated to discuss with Israel the outlines of a future state no matter who has the parliamentary majority. Before the vote, Abbas threatened to resign if Hamas did well, but President Bush struck the right notes Thursday in urging Abbas to stay — while ruling out direct contacts with Hamas until it renounces violence.

Hamas may find that the obligations of governing leave no room for violence. Or it may not. What it will quickly learn, however, is that any Palestinian government needs the hundreds of millions of dollars annually from the United States, Europe and Japan to function and mitigate the desperate poverty in the fetid slums of Gaza and the occupied West Bank. Maintaining a truce might prevent a shut-off of the money. Recognizing Israel's right to exist, of course, would bring in still more.

The elections for the Legislative Council were the first in a decade, and Hamas boycotted those; former Palestinian Authority President Yasser Arafat never bothered to hold another round before he died more than a year ago. When Abbas succeeded him, he gambled that bringing Hamas into the political sphere would put it on the path to a renunciation of terrorism and recognition of the goal of the independent states of Palestine and Israel living side by side in peace.

It is not clear Hamas will do so, but that should be the pressure point for other nations. Most Palestinians, like most Israelis, want peace. Israeli leaders and Abbas recognize that desire; Hamas needs to heed it as well. The Bush administration rightly has promoted democracy in the Middle East, but now the United States has to deal with the results of a free vote. So does Israel, closer and in greater danger. Islamists also have racked up successes at the polls in Iraq, Egypt and Lebanon, again proving the double-edged sword of a free ballot.

The sky isn't yet falling in the Middle East. But Wednesday's election results complicate a situation that desperately needed stability, and they will make it more difficult for the Palestinians to achieve a state of their own anytime soon.

Two Elections And A Lesson (WP)

By E. J. Dionne Jr.

The Washington Post, January 27, 2006

In two elections this week, voters tossed incumbents out of power. One election made barely a ripple internationally. The other broke like a tsunami over the entire world. The response to each vote should teach us the danger of pretending that elections alone can make democracy happen.

In Canada's quiet election, Stephen Harper ended more than a decade of Liberal Party rule. It was a significant achievement for the Conservative Party. The Canadian right had, until recently, been badly split. Harper reunited the right, moderated its program and took advantage of public impatience with Liberal scandals.

But Canadians, devoted as always to subtlety and prudence, refused to give Harper a majority. Diane Ablonczy, a Conservative parliamentarian from Alberta, offered a perceptive take on the voters' verdict. She said they "want to test-drive the Conservative Party" before allowing it to govern without help. In stable democracies, voters can take test-drives.

In the elections for the Palestinian Authority, the voters also rose up against the incumbents. But in the process, they gave a majority to Hamas, a party that has embraced terrorism and would obliterate Israel.

In responding yesterday to Hamas's victory, President Bush, a man who prides himself on clarity and disdains nuance, was, if I may coin a word, nuancing all over the place.

On the one hand, he praised democratic elections for letting voters send a message. "If they're unhappy with the status quo," Bush said at a news conference, "they'll let you know." Indeed.

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But he also seemed to rule out dealing with Hamas if the militant group didn't change itself radically -- particularly its attitude toward Israel and terrorism. "I know you can't be a partner in peace . . . if your party has got an armed wing," he said. That's a good point about Hamas, though it raises interesting questions about Iraqi political parties that have links to armed militias.

From this tale of two elections, it's possible to take the wrong lesson, which would be to walk away from America's long if inconsistent quest to promote free elections and human rights. You don't have to agree with Bush's decisions to believe that an important goal of American foreign policy should be to expand the number of nations that live under democratic rule.

But since the invasion of Iraq, administration spokesmen and supporters have offered a utopian and decidedly unconservative view of how American power could be used to change the world -- and quickly.

It was said that the way to peace in Jerusalem passed through Baghdad. It was said that by ridding Iraq of Saddam Hussein's wretched regime, the United States would unleash a democratic revolution in the Arab world. Go back and look at the broad claims Bush's defenders made for his policy after the election in Iraq just a year ago. Everything, it was said, was falling into place.

But the world is a complicated place. Of course free elections in Iraq are hugely better than dictatorship. But when free elections become more a census to count members of warring ethnic and religious factions than a way of settling underlying disputes, they do not necessarily pave the way for enduring democracy. They do not provide voters with ways of test-driving the various alternatives.

In the Palestinian case, Hamas's victory was not widely predicted, but its strong showing was predictable. Every serious analyst understood the frustration of the majority of Palestinians with those who have led them. Everyone knew that Hamas had created a new civil society -- a network of health and social service organizations -- within the old Palestinian structure that brought a wide base of grass-roots support.

The polls suggest that Hamas did not win because a majority of Palestinians bought into its terrorist program. Hamas won, precisely as Bush said, because voters were so unhappy with the status quo. But shouldn't Washington ask itself why it didn't take more dramatic steps, over a much longer period, to change the Palestinian status quo? Taking action in Iraq was not going to do the job.

A working democracy north of our border requires a degree of hope for the future now lacking among Palestinians. The Bush administration once thought it could take a holiday from complexity and remake the world through a few bold strokes. But democratization is hard, complicated and frustrating. It requires the patient building of institutions and attention to detail. There are no short cuts. You wonder if the president will come to terms with the flaws in his own status quo.

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Living With Hamas's Victory (WP)

By Jim Hoagland

The Washington Post, January 27, 2006

The politics of pain fed the surprisingly lopsided victory by Hamas radicals in this week's Palestinian legislative elections. The antidote to the poisons that run through Hamas may eventually flow from the politics of pain as well.

The Palestinian vote is a spasm of self-inflicted shock therapy that will unsettle the world, because Hamas accords a low-to-nonexistent priority to making peace with Israel.

But it is pointless to bemoan this setback or try to minimize its significance, as President Bush seemed to do yesterday in a White House news conference. Israel, the United States and Europe should instead adjust their policies to recognize and influence the volatile situation created by the unexpected and distinctly unwelcome Hamas victory.

They can best do that by not launching immediate efforts to cajole, bribe or intimidate a new Hamas-led government into adopting more peaceful-sounding rhetoric to clear the way for reviving negotiations with Israel. And there should be no attempt to paper over the crushing defeat inflicted on Mahmoud Abbas and the Palestinian Authority he headed.

Instead, the immediate test for Hamas must be its ability to bring social order and significant calm to the chaotic Gaza Strip and West Bank territories. That is the urgent priority set for the Islamic-based movement by voters upset with the turmoil, corruption and indirection that Abbas's Fatah party allowed to flourish. And that is the priority that Washington and its partners must acknowledge and underline by carefully chosen words and deeds.

In their pain, the Palestinians have lashed out against Fatah and entrusted their fate to a movement that exists in large part to inflict pain on their Israeli and American enemies. The psychic rewards of revenge, which are much esteemed in the Arab world, outweigh, right now, material and other rewards that were supposed to flow to Palestinians from peace accords or Israeli unilateral disengagement.

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Washington and other capitals will be tempted to focus exclusively on the international dimensions of this lashing out. It brings setbacks not only for the "road map" outline for Israeli and Palestinian states living in peace but also for international efforts to contain Iran. Having Hamas form or control a Palestinian regime gives the extremist forces of Iranian President Mahmoud Ahmadinejad another card to play.

Even after Hamas's victory became clear, Bush urged President Abbas to "stay in office and work to move the process forward." The president seemed to be proposing that Abbas seek a political blessing from Hamas and a power-of-attorney to continue talks that the radicals denounce as worthless.

That is precisely the wrong direction to take. The Bush administration and other governments should do nothing to obscure for the Palestinians the consequences of their actions at the ballot boxes on Wednesday. It would not be effective diplomacy or politics to cushion the Palestinians from those consequences.

The world should not move backward 20 years, to the time when diplomats moved heaven and earth to coax grudging and obscure statements from Yasser Arafat acknowledging Israel's right to exist. That effort led to Israel's 1993 decision to install Fatah in command of the Palestinian territories in return for Arafat's unfulfilled installment-plan promise to make peace.

That history suggests there is little to be gained now from trying to induce Hamas into reasonable-sounding rhetoric or from trying to keep afloat an Abbas administration that has just been repudiated. Clarity counts in this election's aftermath.

The United States, Israel and the European Union should deal with any government that emerges from fair and free elections, including one led by Hamas. Not to do so would, among other things, make a mockery of Bush's campaign to stabilize the Middle East by spreading democracy there.

But those dealings should be carefully circumscribed. They should be conditioned on the ability of foreign powers to channel most of their economic aid to nongovernmental Palestinian organizations that contribute to democratic reform and improved security in Palestinian society. Fatah's going into opposition, rather than joining a faux coalition with Hamas, would facilitate this.

The administration has succeeded in making Iran's actions -- not U.S. policy -- the issue in the conflict over that country's nuclear ambitions. Washington should strive to do the same with Hamas.

The pain of enduring refugee status, of occupation and of betrayal by their own has left many Palestinians believing they have nothing more to lose. Hamas deserves the chance to show them how wrong they could be.

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Hamas At The Helm (NYT)

By Fotini Christia And Sreemati Mitter

The New York Times, January 27, 2006

Nablus, West Bank

THE crescent has risen. The militant Islamic group Hamas won an astonishing 76 of 132 seats in the Palestinian legislative elections this week. The United States and the European Union must finally recognize Hamas's ascendance as a fait accompli.

Until now, these key third parties have equivocated: they pressed Israel to allow Hamas to participate in the elections but threatened to cut aid and ties to a Hamas-dominated Palestinian Authority. The practical reality, however, is that Hamas is a pivotal player in Palestinian politics, and no peace process can succeed without at least the tacit acceptance of its leaders. Moreover, Hamas's participation in Palestinian politics is not necessarily a bad thing, and resisting it will very likely do more harm than good.

As a political party, Hamas revealed itself to be disciplined, pragmatic and surprisingly flexible. It fielded well-regarded candidates, including doctors and academics. In some cases, Hamas aligned itself with independents once affiliated with the secular Fatah party. And although the Hamas charter calls for the destruction of Israel and the liberation of Palestine "from the river to the sea," the party's campaign manifesto made no mention of these goals.

Instead, when asked about making peace with Israel, Hamas representatives offered nuanced, if evasive, answers. As Ziad Daiah, a Hamas representative in Ramallah, told us: "We are not interested in the Oslo-type peace process that went on for 10 years and wasted time. But if Israel will start new negotiations, with direct benefits for Palestinians in a useful time frame, we will accept that."

Judging from the thousands of green posters plastered around the West Bank and Gaza, external matters like the peace process were not central to Hamas's electoral agenda. Rather, its campaign focused on popular concerns like fighting corruption, establishing good governance and restoring the rule of law. Hamas's victory speeches have emphasized the need to revamp public services.

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To be sure, we should be careful not to read too much into Hamas's electioneering. The Hamas charter retains poisonous language toward Israel, and the group has yet to renounce its views on the place of violence in the Palestinian resistance. And Hamas's Islamist agenda continues to alarm many secular Palestinians, even those who welcome its entry into politics.

Still, Hamas statements indicate that these attitudes are not set in stone. As Mohammed Ghazel, a Hamas leader in Nablus, told the Israeli newspaper Ha'aretz, "The charter is not the Koran." And Hamas has done more than any other armed faction to honor the truce that President Mahmoud Abbas brokered in February. Although Israel continues to arrest its members, Hamas has done little to retaliate. Such restraint might have been an electoral strategy, but it still proves that if the incentives are right, Hamas can hold its fire.

In any case, the United States and Europe cannot trumpet democratic ideals abroad and then ignore the popular will of Palestinian voters, 78 percent of whom turned out for this election. Refusing to engage with Hamas, however skeptical one may be of its intentions, will only further legitimize the party; it could even give rise to violence. Moreover, cutting off aid to the Palestinian Authority, which is already in a fiscal crisis and enormously dependent on foreign aid, could bankrupt it, further destabilizing the region.

Hamas has indisputably become the force to be reckoned with in Palestinian politics. Even Israel seems to have awakened to this reality. A radio reporter recently asked Shimon Peres, the former Israeli prime minister, about negotiating with Hamas. "We are not fighting against a name," he said. "We are fighting against a situation. If the situation changes, then what difference does a name make?"

If the Israelis are contemplating engagement, it's time the Americans and Europeans did, too.

Growth Is Shown In Durable Goods; Jobs Look Positive (WSJ)

By Jeff Bater

The Wall Street Journal, January 27, 2006

WASHINGTON -- Orders to the nation's factories for big-ticket goods finished 2005 strongly, while jobless claims rose last week but remained at a level indicating healthy job growth.

Durable-goods orders climbed 1.3% in December to a seasonally adjusted $228.14 billion, the third straight increase, the Commerce Department said. Demand was higher for airplanes, machinery, cars and capital goods.

"The durable-goods report for December was extremely strong," said Stephen Stanley, an economist at RBS Greenwich Capital Markets. "The headline rise of 1.3% was decent, but some of the underlying statistics were even more impressive."

Orders for nondefense capital goods excluding aircraft, for instance, went up 3.5%. November demand climbed 0.2%; a previous estimate had orders that month falling by 2.1%. The category is an important gauge of business spending.

Read the complete text of Thursday's economic reports and analysis from Briefing.com: · Durable-goods orders -- Commerce Department1; Briefing.com2

· Initial jobless claims -- Labor Department3; Briefing.com4

Transportation orders advanced 1.9%. Machinery demand rose 6.5%. Commercial-plane orders sank 8.1%; however, the mild drop followed a 139% surge in November. December orders for military aircraft jumped 30.8%. Demand for motor vehicles and parts rose 6.6% last month. Orders fell 1.1% for computers and electronics, 2.2% for primary metals, and 2.8% for electrical equipment.

Separately, the Labor Department reported that the number of workers filing new claims for unemployment benefits climbed by 11,000 to a seasonally adjusted 283,000 in the week ended Jan. 21.

The four-week moving average of initial jobless claims fell 10,750 to 288,750 from 299,500 the previous week. The moving average is at its lowest level since an identical average in the week ended July 1, 2000.

With three jobless-claims numbers below 300,000 in the past four weeks, "it is beginning to look as though there has been a real improvement in the labor market at the start of this year, though we still have reservations about the reliability of the seasonal adjustments at this time of year," said Ian Shepherdson, chief U.S. economist at High Frequency Economics in Valhalla, N.Y.

Nonfarm-payroll employment rose by 108,000 jobs last month and 305,000 jobs in November. That is an average of more than 200,000 a month, a pace seen as quite healthy.

Rising Profit Forecasts Send Shares Sharply Higher (NYT)

By Bloomberg News

The New York Times, January 27, 2006

Stocks rose the most in three weeks as Caterpillar, Honeywell International and Lockheed Martin increased profit forecasts.

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The Dow Jones Industrial Average and the Standard & Poor's 500-stock index had their biggest gains since fourth-quarter earnings reports began. A government report showing that orders for durable goods rose more than forecast contributed to their advance. Phone companies rallied as sales at AT&T and Verizon Communications beat analysts' estimates.

The S.& P. 500 rallied 9.15 points, or 0.7 percent, to 1,273.83 for its biggest advance since Jan. 6 and third gain in the last four days. The Dow industrials climbed 99.73 points, or 0.9 percent, to 10,809.47, the biggest rise since Jan. 3. The Nasdaq composite index rose 22.35 points, or 1 percent, to 2,283.

Some disappointing earnings reports pressured stocks earlier this month when the reporting period began, but that concern subsided this week as the picture began to brighten with reports from Dow members like United Technologies and McDonald's.

Not all results yesterday were stellar.

Stock in General Motors dropped after the company reported its first annual loss since 1992. Juniper Networks suffered its worst drop in five years after a sales forecast disappointed and analysts downgraded the shares.

Caterpillar and Honeywell were the two biggest gainers in the Dow average. Caterpillar, the world's No. 1 maker of earth-moving equipment, rose $3.10, to $65.17. The company raised its 2006 per-share profit forecast to $4.65 to $5, from an earlier estimate of $4.52 to $4.91.

Shares of Honeywell, the world's largest maker of aircraft cockpit controls, added $1.35, to $37.41, after the company said it expected 2006 per-share earnings of $2.40 to $2.50 on greater demand for commercial aircraft. It had previously forecast profit of $2.35 to $2.50 a share.

Lockheed gained $1.98, to $66.99. The company increased its forecast for 2006 earnings to $4.50 to $4.75 a share, from $4 to $4.25.

The Commerce Department said orders for durable goods, items made to last at least several years, increased 1.3 percent, to $228 billion, in December. Economists expected an increase of 1 percent. The results were led by the biggest increase in business equipment demand since August.

AT&T, reporting its first results since the company was created by the combination of SBC Communications and AT&T, said revenue expanded 25 percent, to $21.6 billion, including its wireless unit. Net income more than doubled.

AT&T added 30 cents, to $25.51, and Verizon climbed 30 cents, to $31.68.

Microsoft said after the close that revenue this quarter would be $10.9 billion to $11.2 billion and per-share earnings would be 32 cents to 33 cents. Shares of Microsoft, which said fiscal second-quarter profit rose 5.5 percent, added as much as 40 cents, to $26.90, in extended trading.

Chipotle surged to $44 from its offering price of $22. Chipotle and McDonald's together sold 7.88 million shares. Chipotle has 489 stores that sell burritos, tacos and salads and was acquired by McDonald's in 1998. McDonald's lost 22 cents, to $34.94.

G.M. fell 80 cents, or 3.4 percent, to $23.05, the worst performance by companies in the Dow industrials. The company had a fourth-quarter loss of $4.78 billion and was unprofitable on an annual basis for the first time in 13 years amid rising health care costs and the lowest market share in the United States since 1925.

Bond prices fell, with the 10-year Treasury bill falling 11/32, to 9927/32, and the yield, which moves in the opposite direction from the price, rising to 4.52 percent, from 4.48 percent late Wednesday.

Dow Surges 99.73 As Strong Reports Push Stock Investors To Think Positive (WSJ)

By E.s. Browning

The Wall Street Journal, January 27, 2006

Stocks resumed their rebound after last week's swoon, as strong profit reports and upbeat economic news spurred hopes for corporate performance this year.

The Dow Jones Industrial Average surged 99.73 points, or 0.93%, to 10809.47. That's up almost 1% for 2006, but the blue-chip average still isn't back to 10880.71, where it stood before last Friday's 213-point decline. Trading activity again was heavy.

"The market really is bouncing around," said Andy Brooks, head of stock trading at Baltimore investment-management firm T. Rowe Price. "This was a day when the market chose to focus on the good news and not worry about some of the negatives -- like the situation in Iran or Nigeria," or how many more times the Federal Reserve will raise interest rates.

Caterpillar and Lockheed Martin turned in strong quarterly profits and raised their forecasts. December orders for durable goods were strong, and last week's new unemployment claims came in lower than expected.

In news that could affect trading today, Microsoft released quarterly results after regular trading hours, including a slightly improved forecast for sales and profits. Microsoft rose 1.9% in after-hours trading.

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During regular hours, the economic news helped small stocks and transportation stocks, which are especially susceptible to the economy's health. The Russell 2000 small-stock index surged 1.68% to a record close of 728.48, up 8% this year.

News that China's economy surpassed France and Britain to become the world's fourth-largest encouraged the talk of strong growth.

The gains came despite oil's 41-cent rise to $66.26 a barrel, and a 3% drop in General Motors, which reported a large quarterly loss.

Treasury-bond prices fell again on worries that the government budget deficit will force the issuance of more bonds, and that the strong economy will induce the Fed to raise rates more than had been expected.

The Standard & Poor's 500-stock index rose 0.72%, or 9.15 points, to 1273.83, up 2.1% for 2006. The Nasdaq Composite Index advanced 0.99%, or 22.35 points, to 2283, up 3.5% this year.

In major U.S. market action:

Stocks rose; bonds fell. The 10-year Treasury note fell 10/32, or $3.13 for each $1,000 invested, pushing the yield up to 4.515%. The 30-year bond was down 20/32 to yield 4.695%.

The dollar strengthened. The currency rose to 116.41 yen from 115.71 yen, while the euro fell against the dollar to $1.2213 from $1.2245.

Chairman Moved A Nation (WP)

By Nell Henderson

The Washington Post, January 27, 2006

Government leaders, Wall Street analysts and academics have heaped accolades on Alan Greenspan as he prepares to step down as Federal Reserve chairman Tuesday, leaving behind a strong economic expansion, tame inflation and low unemployment after more than 18 years of adjusting the nation's interest rates.

But Greenspan, 79, also leaves a remarkable political legacy, say Republican and Democratic policymakers who have worked with him in Washington over nearly four decades.

From his days working on Richard Nixon's 1968 presidential campaign to his congressional testimonies last year, Greenspan has helped candidates, presidents and lawmakers devise and sell policies on countless social and economic issues. An avowed "free-enterpriser," Greenspan consistently pushed for less government regulation, smaller federal budget deficits and freer trade, these observers said. Early on, he helped move the federal government to play a smaller role in the U.S. economy than was commonly accepted in the 1960s and 1970s.

However, as Greenspan has indicated in public and private comments, his years in political life also taught him that compromise is necessary to preserve both capitalism and democracy. Over time, Greenspan helped forge several deals that strengthened the government's hand or extended its reach.

"Alan has had, mostly behind the scenes, a tremendous impact on government policy" over the last 40 years, said former president Gerald R. Ford in a December interview. Ford appointed Greenspan chairman of the Council of Economic Advisers in 1974.

Long before becoming Fed chairman in 1987, Greenspan played key roles in ending the nation's military draft, rescuing New York City from near-bankruptcy and temporarily saving Social Security from insolvency. Since taking the helm of the central bank, he helped persuade Congress to approve President Bill Clinton's 1993 budget and President George W. Bush's 2001 tax cut. He urged Congress last year to create private Social Security accounts, reduce the deficit and resist calls to erect new trade barriers.

"Alan Greenspan has probably been a key player in more Republican presidential campaigns and Republican party platforms and Republican administrations than any other economist in the country," said Martin Anderson, a senior fellow at the Hoover Institution who worked in the Nixon and Reagan administrations. "He's a wonderful politician."

Greenspan thrived in the Republican Party because it housed so many like-minded individuals. But Democrats, including President Jimmy Carter, also embraced deregulation in the 1970s; Clinton, in the 1990s, supported free trade and deficit reduction, declaring the era of big government over.

In the process, "the political impact of [Greenspan's influence] has probably been to push the Democrats more to the center on fiscal policy," said investment banker Felix G. Rohatyn, a Democrat who served as Clinton's ambassador to France.

The Fed chairman declined to comment for this article.

Greenspan took his first steps into politics in 1968 when Anderson asked him to join Nixon's presidential campaign. Greenspan helped coordinate domestic policy research and analyze poll data, writing computer programs to project the electoral vote count.

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Greenspan had met Anderson years earlier when both formed part of the intellectual circle of novelist Ayn Rand, a Russian emigre whose writings celebrated laissez-faire capitalism. Three of the essays in Rand's 1967 book "Capitalism: The Unknown Ideal" were authored by Greenspan, then the 41-year-old president of an economic consulting firm in New York City.

"Chronic deficit spending [is] the hallmark of the welfare state," the future Fed chairman wrote. "The welfare state is nothing more than a mechanism by which governments confiscate the wealth of the productive members of a society to support a wide variety of welfare schemes."

For Greenspan, the Nixon campaign offered a chance to influence the candidate's policies. Early on, though, Greenspan could be politically naive as he promoted his libertarian ideals: Nixon ignored his advice to end farm subsidies, for example. But he also scored some successes: Candidate Nixon called for the end of the military draft, as Anderson and Greenspan had recommended.

After Nixon was elected in 1968, Greenspan served on the president's Gates Commission, convened to study the possibility of creating all-volunteer armed forces. Greenspan considered the draft a form of involuntary servitude and voted along with the rest of the panel to end it, contributing to its demise in 1973.

By the summer of 1974, when the Watergate scandal was at full boil, the president needed a new chairman of the Council of Economic Advisers. Greenspan accepted the nomination but had not been confirmed by the Senate when Nixon resigned in August. But President Ford quickly resubmitted the nomination, and Greenspan moved full time to Washington for three years.

From the start, Ford recalled, "Alan was at the forefront" of his administration's efforts to free the economy from government interference by deregulating the airline, trucking and railroad industries and dismantling wage and price controls imposed during the Nixon administration.

Ford said he valued Greenspan's technical expertise but also his "feeling for the country as a human being," which the former president credited to the economist's experience touring the country in his youth as a musician in a swing band.

"That background was invaluable in his judgment on the economy," Ford said. "It wasn't all just academic theory. He understood the practicality of the economy."

When New York City verged on bankruptcy in 1975, Ford's cabinet was divided over the city's request for financial assistance, the former president remembered: Some officials wanted to give the city money and others opposed any government bailout. Ford said Greenspan and Fed Chairman Arthur F. Burns solved the impasse by proposing a compromise -- a package of federal loans that would be fully repaid over time -- that helped stabilize the city's finances.

Greenspan could be politically tone-deaf on occasion when speaking to the public. At a conference in September 1974, the new CEA chairman was jeered when he said Wall Street brokers were being hurt the most by high inflation, in terms of the percentage of income eroded. He later apologized.

But his advice was well received by presidents and other policymakers because they valued his cool analysis, discretion and refusal to candy-coat bad news, said Justin Martin, the author of a Greenspan biography. "He has a gravitas about him . . . that has made people in power very comfortable with him."

Greenspan served as an economic adviser to Ronald Reagan's 1980 presidential campaign. After his election, Reagan asked Greenspan to co-chair a commission to develop proposals for rescuing Social Security. Greenspan's panel hammered out a bipartisan deal to raise payroll taxes and gradually lift the retirement age.

On the commission, Greenspan displayed his instincts for compromise and a canny grasp of politics. In congressional testimony last year, he recalled how closely he worked with Robert M. Ball, a Social Security expert appointed to the commission by the Democratic House Speaker Thomas P. "Tip" O'Neill Jr. As the panel worked on each issue involved, Greenspan would run the various options by Reagan and his Chief of Staff James A. Baker III, while Ball would float them through his own back-channel to O'Neill. In that way, the panel knew, step-by-step, which proposals would be acceptable to both sides.

"What came out was essentially the commission report pre-agreed to by the speaker of the house and . . . President Reagan," Greenspan said during his testimony.

He and Ball also crafted a pact on how to handle the House Ways and Means Committee's hearing on the report. "I said to Ball, 'When the Republicans ask you a question, I will answer it, and I hope you will answer the questions that the Democrats ask me.' And it worked remarkably well."

It was during the Nixon, Ford and Reagan years that Greenspan worked with the officials who later would elevate him to become Fed chairman in 1987, replacing Paul A. Volcker.

The Fed's main job is to keep inflation and unemployment low by adjusting interest rates -- acting independently of the White House or Congress.

During the administration of President George H.W. Bush, from 1989 through 1992, Greenspan resisted White House pressure to keep interest rates lower than he thought necessary. Bush later blamed Greenspan for his electoral loss to Clinton in 1992.

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Greenspan had smoother relations with Bush's Democratic successor. In early 1993, the Fed chairman lent critical support to Clinton's deficit-reduction plan -- even though it included tax increases -- describing it on Capitol Hill as "a very positive force for the American economy." The package passed with no Republican votes, but Greenspan's public backing helped win some dearly needed Democratic ones, recalled Rep. Barney Frank (D-Mass.).

During the mid-1990s, Greenspan worked closely with Clinton's economic team in crafting responses to financial crises in Mexico, Asia, Russia and elsewhere -- even when those efforts occasionally required government influence on the markets -- and drumming up support for them on Capitol Hill and elsewhere.

By early 1995, Greenspan's political influence was so great that House Majority Leader Newt Gingrich asked him to call conservative talk show host Rush Limbaugh to explain the Clinton administration's plan to rescue Mexico, which was close to defaulting on its debts. Gingrich supported the plan, which the Fed chairman had helped design, but congressional Republicans were balking.

"I was looking for ways to get the conservative community to understand. . . . Rush is a leading communicator to 14 to 15 million conservatives," Gingrich recalled in an interview. Greenspan "is the leading economic policy analyst in the U.S. and arguably the world."

The Fed chief reluctantly made the call. Even so, Congress refused to back the plan, forcing the administration to take a different approach that didn't require lawmakers' approval.

Meanwhile, as the economy boomed in the late 1990s, unemployment fell, stock prices soared and the federal budget deficits turned into surpluses.

"The Clinton administration had huge successes carrying out the economic policies essentially fathered by Alan Greenspan and [Clinton Treasury Secretary Robert E.] Rubin, and they see that as an enormous feather in their hat," Rohatyn said.

Greenspan then argued for several years that the White House and Congress should "let the surpluses run" to pay down the government's debt rather than cut taxes or raise spending.

So many Democrats were outraged in January 2001, when Greenspan urged Congress to cut taxes, lending a key political boost to President George W. Bush's tax cut proposal. Critics charged that Greenspan had become too partisan for a Fed chief; others saw him simply reverting to his anti-government ideology.

But Greenspan believed the surpluses would continue and suggested that policymakers design "triggers" to scale back the tax cuts if deficits reemerged. Congress later passed a reduced form of Bush's tax cut without such provisions.

After the budget swung back into deficit in 2001 and more tax cuts followed, Greenspan repeatedly supported making the temporary tax cuts permanent -- one of the Bush administration's top policy goals -- while cutting spending.

Greenspan's influence on Capitol Hill has waned since 2001, as the political parties have grown bitterly divided over economic policy, leaving them less open to compromise. Lawmakers did not follow his advice last year to create Social Security private accounts, or to cut Social Security and Medicare commitments to future retirees -- positions that Democrats adamantly oppose. Nor did they heed him and adopt stricter budget controls -- which the White House and congressional Republicans reject.

But lawmakers of both parties continue to quote his ideas and arguments and seek his support for their positions. And he plans to offer his opinions after he leaves the Fed by giving speeches, writing a book and creating a new Washington-based consulting firm, Greenspan Associates, friends say.

And as Greenspan said in a speech earlier this year, "In the broad sweep of history, it is ideas that matter. Indeed the world is ruled by little else."

Democrats Ride Momentum Into Mid-term Election (WP/REU)

By John Whitesides, Political Correspondent

The Washington Post, January 27, 2006

WASHINGTON (Reuters) - Democrats are riding a wave of momentum into November's high-stakes battle for the U.S. Congress, with high hopes for significant gains that could threaten Republican control of the House and Senate.

Republicans enter the campaign after the toughest stretch of President George W. Bush's presidency, fueled by an unpopular war in Iraq, economic uncertainty, political scandals and Bush's low approval ratings.

But despite the favorable political mood for Democrats, analysts say the party faces major hurdles to gaining the six Senate and 15 House seats needed to reclaim control of Congress.

To win majorities, Democrats need to capture most of a small pool of competitive seats in the House while bumping off at least five Republican Senate incumbents -- tough tasks in any political climate, but not impossible.

"It looks like the Democrats will gain seats in the House and Senate, but the question is how many. Is it going to be a Democratic tide or a Democratic tsunami?" asked Larry Sabato, a political analyst at the University of Virginia.

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"It is going to be hard for Democrats, but if the situation continues to deteriorate for Republicans this year anything is possible," he said.

Democratic majorities in Congress would allow them to control the legislative agenda and put the brakes on many of Bush's policy initiatives, while even small gains would increase their clout in Capitol Hill battles over issues like judges, taxes and national security.

The best chance for a Democratic breakthrough could be the Senate, where 33 of 100 seats are on the ballot. Republicans hold 15 of those seats and Democrats 18, but five of the most endangered incumbents at this stage are Republicans.

Republicans Mike DeWine of Ohio, Rick Santorum of Pennsylvania, Lincoln Chafee of Rhode Island, Jim Talent of Missouri and Conrad Burns of Montana all face tough re-election races.

The open Tennessee seat of retiring Republican Bill Frist is also on the Republican endangered list, while Democrats face a battle defending the open Minnesota seat of retiring Mark Dayton.

Democrats also must defend open seats in Maryland and the Vermont seat of retiring and Democratic-leaning independent Jim Jeffords, along with incumbents Bill Nelson in Florida, Ben Nelson in Nebraska, Maria Cantwell in Washington, Robert Byrd in West Virginia and Debbie Stabenow in Michigan.

"Before they go after our incumbents they are going to have to defend their own. These open seats certainly offer an opportunity," said Sen. Elizabeth Dole of North Carolina, head of the Senate Republican campaign committee.

The toughest and highest-profile race of the year could be in Pennsylvania, where Santorum, the third-ranking Republican in the Senate, badly trails Democratic challenger Bob Casey Jr.

DEMOCRATS NEED SWEEP

"The Democrats have to sweep the competitive Republican races to take power, while holding all of their own. That's tough," said Jennifer Duffy, an analyst for the nonpartisan Cook Political Report.

"That means they have to win the open seat in Tennessee and beat five Republican incumbents. The last time five incumbents lost was 1986," she said.

Burns has become ensnared in the growing corruption investigation involving Republican lobbyist Jack Abramoff, which Democrats use as a prime example of the Republican "culture of corruption" in Washington.

Also caught up in the explosion of scandals is former House Republican Leader Tom DeLay of Texas and former House Administration Committee Chairman Bob Ney of Ohio, who both face tough re-election races.

The public so far is not blaming either party for the scandals, polls show, but they crave a change in Washington and favor Democrats on most issues, with the major exception of national security and the war on terrorism.

"There is an anti-incumbent mood out there and Republicans are the ones who will bear the brunt of it," said Senate Democratic campaign committee spokesman Phil Singer.

On the House side, redistricting after the 2000 census safeguarded incumbents across the country and reduced the number of competitive districts to a few dozen. The Cook Report lists only 28 House districts that are toss-ups or somewhat competitive, with Republicans defending 18 and Democrats 10.

Republicans say that will force Democrats to score a near sweep of competitive districts if they want to reclaim power. They are counting on the races turning on local issues rather than national trends.

"People don't go into a voting booth and pull the Bush lever or the anti-Bush lever or the Republican lever, they vote for a person," said House Republican campaign spokesman Carl Forti.

"So you have to make a case to the constituents of a district why their incumbent needs to be fired, and being from the same party as Tom DeLay or George Bush isn't enough."

Mass. Gov. Mitt Romney Speaks About 2008 Election (LEXHL)

By Steven Thomma

Lexington Herald-Leader (KY), January 27, 2006

WASHINGTON - Massachusetts Gov. Mitt Romney, a possible candidate for the 2008 Republican presidential nomination, said Thursday that his Mormon faith would not matter to the vast majority of voters, including the evangelical Christians who influence his party's politics greatly.

``Americans want people of faith to lead their country,'' he said during a lunch interview with reporters in Washington. ``Republicans aren't going to be putting a litmus test against people of my faith,'' he added.

Romney also said that his views on abortion have evolved since he refused to take either a pro-choice or pro-life label during his 1994 campaign against Sen. Edward Kennedy, R-Mass.

``I'm in a different place today than I was 12 years ago,'' he said.

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He said personal research about embryonic stem cells convinced him that life begins at conception. He said the Supreme Court should send the power over abortion back to the states by overturning the 1973 Roe v. Wade decision that legalized it nationwide.

Still, he said, he would support legalized abortion in his state if his state so chose.

Romney, a first-term governor who has announced that he will not seek a second term, refused to say whether he will seek his party's nomination in 2008. But his appearance before the Washington press corps gave him a chance to address some of the potential problems that would face his campaign, the same venue that Bill and Hillary Clinton used in 1991 to introduce themselves to the national political press corps.

Romney appeared before the group years earlier with his father, who died in 1995. Former Michigan Gov. George Romney was a leading contender for the 1968 Republican nomination until he said he had been ``brainwashed'' by the Pentagon into supporting the Vietnam War. Richard Nixon won the nomination and the presidency.

Some excerpts from Romney's interview Thursday:

On how Americans will respond to his Mormon faith:

``First of all is the great majority of Americans and the great majority of people in my own party who frankly couldn't care less what someone's religion is. I mean I'm from a state, Massachusetts, that's what, 50-55 percent Catholic, and frankly couldn't care less what religion I am. And that's the overwhelming majority of people in the country.

``Then there's a small group that, frankly, all things being equal, they'd just as soon not vote for a Mormon. There have been some polls that show that ranges between 11 and 17 percent or some numbers like that. But it's a small slice of people who'd just as soon not vote for a Mormon, all things being equal. .

``All things aren't equal though. People are different. When my dad ran for president in 1968, people looked at him, they looked at his record, they looked at his vision, they looked at his beliefs. Americans want people of faith to lead their country.

``And they took the whole package and they said, well, all things being equal I wouldn't vote for a Mormon…but all things aren't equal and I like that guy George Romney. And that's why he was so popular and why he led in the polls until he got brainwashed.

On how his faith will be greeted by Evangelical Christians, who have great influence in Republican politics:

``The great majority of Evangelicals look to see a person…is a person of faith.

``Members of my faith vote Republican more than any other faith in America. Republicans aren't going to be putting a litmus test against people of my faith.''

On his view of abortion since he ran for the Senate in 1994 and refused to say he was either pro-choice or pro-life:

``I'm in a different place today than I was 12 years ago.

``Then came the stem-cell research debate in Massachusetts. And I got more involved in the issue of when human life begins. I'm not talking about from the religious standpoint. I'm talking about from the medical and scientific standpoint. …

``Where do I draw the line? …The line is at conception. Life, a scientific point, begins at conception. I don't know when the soul, if you're religious, when the soul enters the body. My religion doesn't teach that, doesn't have an opinion on it.

``I know when you take a sperm and an egg and put them together…it is alive and it is human. …So it's human life.''

< On the Supreme Court overturning Roe v. Wade:

``My preference would have been and would be today for the court to say each state could be able to adopt its own policy with regards to abortion and choice.

``We would have been better off had each state been able to develop their own policy.

``That way a state like mine, Massachusetts, would be overwhelmingly pro-choice and I as governor would do exactly as I have committed. I'm not going to change the laws. You've chosen pro-choice, it's a democratic society, you've chosen it, I'll keep it in place.

On President Bush's order to conduct warrantless wiretaps of calls between Americans and suspected terrorists overseas

"I expect the president to live by the law and I presume that he has."

Romney Says Clinton Likely 2008 Nominee (AP-Y2)

By Andrew Miga

AP2, January 27, 2006

Massachusetts Gov. Mitt Romney, a Republican considering a run for the White House, says he expects New York Sen. Hillary Rodham Clinton to be the 2008 Democratic presidential nominee.

"I think the most likely to get the nomination, of course, is Hillary Clinton," he said during a Christian Science Monitor-sponsored luncheon with reporters on Thursday.

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As for his own prospects, Romney brushed aside suggestions his Mormon faith could be a handicap if he seeks the GOP nomination.

"The great majority of Americans ... couldn't care less what my religion is," he said. He noted he has won support in Massachusetts, a state with many Catholic voters, and said religion did not hamper his father George Romney's 1968 presidential candidacy.

The governor predicted the Jack Abramoff corruption scandal would not cripple Republicans as they try to keep control of the House and Senate in next fall's midterm elections.

"The idea that money has influence in politics is not a headline story in major parts of the country," he said.

Romney has made recent trips to key presidential caucus and primary states such as Iowa and New Hampshire.

Mitt Romney (CSM)

By David T. Cook

The Christian Science Monitor, January 27, 2006

Massachusetts Gov. Mitt Romney appeared at a Monitor-sponsored lunch Thursday and opened some distance between himself and the Bush administration on the war in Iraq and the Medicare prescription drug benefit.

Romney announced last month that he is not running for reelection, a move widely analyzed as a preliminary step toward a bid for the 2008 Republican presidential nomination.

"There are plenty of places where I would separate from the administration," Romney told a roomful of reporters, "where I might have chosen another course ... certainly with regard to the war in Iraq or the front in Iraq - were there mistakes made there? Absolutely. Would I have done it differently? Of course. Would the president have done it differently based on what he knows today? Of course, in some measure."

For example, Romney said he would not have rested the whole case for the war in Iraq on finding weapons of mass destruction. He added, " There will certainly be occasions to recognize that no administration is omniscient and that there are places where we will disagree on policy."

Romney was also critical of the process by which the Republican-controlled Congress and President Bush produced a precription drug benefit under Medicare, the so-called Part D of the program. "The final product on Medicare Part D, that final bill was sort of sausage squared, the idea you don't want to see how sausage is made," Romney said.

The issue of Medicare Part D "is a complicated one," Romney said. He noted that President Bush "wanted to bring prescription coverage to seniors. He got that done, that's huge.... It has with it a financial burden which is very large. I don't imagine that that was what he was aiming for when he thought about this during his campaign."

Romney said, "I would have hoped to do it differently, I would have hoped to include within the additional prescription benefits certain reforms to Medicaid, Medicare, and our entire healthcare system to be able to pay for a very helpful prescription drug benefit."

Romney downplayed the impact his Mormon faith would have on evangelical Republican voters. "First of all the great majority of Americans and the great majority of the people in my own party ... frankly couldn't care less what someone's religion is," he said. The Bay State governor said there was "a small group," which he placed at 11 to 17 percent of the voters, "would just as soon not vote for a Mormon" but would if they liked an individual candidate. "Those two groups together are 98 or 99 percent of the electorate and then there is this very small slice, and boy, they will not vote for a Mormon no matter what," he said.

Stuart Rothenberg, editor of the Rothenberg Politcal Report, wrote in the current issue of the newspaper Roll Call that Romney's membership in the Church of Latter-day Saints "is certain to raise questions (and concerns) that will give many Republican caucus attendees and primary voters a reason not to support the governor. That would be a considerable handicap for a politician who begins with other liabilities."

Romney displayed flashes of self-deprecating humor, which is not always politicians' favorite variety. He said he had asked his wife if in her wildest dreams she had thought he would be addressing prominent groups. He said her response was, "Mitt, you were not in my wildest dreams."

Governor Romney's life story is an inspiring riches-to-riches tale. The son of auto executive and Michigan Gov. George Romney, Mitt attended the Cranbrook School in Bloomfield Hills, Mich. He graduated near the top of his class at Brigham Young University, and then picked up diplomas from both Harvard Law and Business Schools.

After Harvard, Romney pursued a business career. He founded Bain Capital, gave Ted Kennedy a scare during the 1994 Senate race, and in 1999 took over as head of the winter Olympic Games in Salt Lake City. Mr. Romney ran for governor of the Bay State in 2002. Last month, he announced he would not be a candidate for reelection, freeing him to learn more about the wonders of ethanol in Iowa and to articulate a passionate defense of New Hampshire's innate right to have the first primary in the nation.

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A Romney-Kerry Rivalry? Not The Stuff Dreams Are Made Of. (WP)

By Dan Balz And Chris Cillizza

The Washington Post, January 27, 2006

Massachusetts Gov. Mitt Romney (R) put some distance yesterday between himself and the Bush administration on the issue of health care, criticizing the White House for failing to demand significant reforms in Medicare and Medicaid when Congress enacted a prescription drug benefit for senior citizens.

With an eye on a 2008 presidential campaign, Romney spent an hour over lunch with reporters in Washington talking about his evolution on the issue of abortion (from once eschewing labels to now calling himself "pro-life"), whether his Mormon religion will hurt him if he runs for president (only with a tiny percentage of the electorate, he said), his management style (heavy on analysis) and health care for all citizens, which is a top priority of his back home.

The new prescription drug plan has gotten off to a rocky start, with many states having to step in to pay for drugs for seniors who have been denied coverage because of bureaucratic bungling. Romney said the benefit is well deserved -- but so is the criticism. His complaint is that the administration created a new and costly entitlement program without exacting changes aimed at holding down costs.

"I would have hoped to do it differently," he said at the media gathering, sponsored by the Christian Science Monitor. "I would have hoped to include within the additional prescription benefit certain reforms to Medicaid, Medicare and our entire health care system to be able to pay for a very helpful prescription benefit. . . . It's a new entitlement program, and I would have wanted to finance that entitlement with reforms and changes and adjustments in the overall program."

Romney also dealt with some Washington controversies. On the debate over President Bush's warrantless surveillance program: "I expect the president to live by the law, and I presume he has." On whether the lobbying scandal will damage Republicans in November: "The idea that money has influence on politics is not a headline story in major parts of the country."

Toward the end he was asked about 2008, Iraq, and the possibility that he and Sen. John F. Kerry (D-Mass.) might end up as rivals. "Do you fantasize about that?" he was asked.

"Not about that, no," he replied to laughter. Referring to his wife, he said: "I told Ann that I was coming here to speak to you today, and I said 'Sweetheart, in your wildest dreams, did you ever see me coming here and speaking to this group?' and she said 'Mitt, you weren't in my wildest dreams.' " That sounded like a line GOP audiences are likely to hear repeatedly over the next few years.Ney Doesn't Shy From Reelection Bid

If there was any doubt that Rep. Robert W. Ney (R-Ohio) would allow certain inconvenient subjects in the news to force him from a reelection bid, it is over: He made a formal announcement last night in Dover, Ohio. He is expected to make a similar pronouncement today in Chillicothe -- not coincidentally, the home town of his likely Democratic foe in November.

"2006 promises to be a vigorous campaign, and I am ready for the fight," Ney told a local newspaper Wednesday.

He will almost certainly get it, given the barrage of recent disclosures that federal prosecutors are targeting Ney for his suspected role in doing favors for disgraced lobbyist Jack Abramoff in exchange for lavish trips and campaign contributions.

In Abramoff's plea agreement, Ney was the lone member of Congress mentioned. Ney has repeatedly denied any wrongdoing. He temporarily stepped aside as chairman of the House Administration Committee earlier this month at the urging of House Speaker J. Dennis Hastert (R-Ill.). Despite the Republican tilt of Ney's sprawling east-central 18th District, Democrats believe his Abramoff woes have handed them a golden takeover opportunity. Chillicothe Mayor Joseph P. Sulzer and lawyer Zack Space are seeking the Democratic nomination and will face off in May 2 primary.Candidate Fires Staffer for Comment

Foot-in-mouth disease has claimed another victim -- this time in Pennsylvania's Republican gubernatorial primary.

Former lieutenant governor Bill Scranton (R) fired his campaign manager Wednesday after the man accused former Pittsburgh Steeler Lynn Swann (R), who is black, of being the "rich white guy" in the race.

Scranton said the remarks by James Seif "in no way whatsoever reflect my views or those of my campaign." Both Scranton and Seif are white.

Public polling shows Swann, a Hall of Fame wide receiver for the Black and Yellow from 1974 to 1983, with a lead over Scranton in the primary. Swann is also running even or ahead of Gov. Edward G. Rendell (D). If elected, Swann would be the Pennsylvania's first black governor.

Republican Cox Won't Re-enter N.Y. Race (PHI)

By Marc Humbert

The Philadelphia Inquirer, January 27, 2006

ALBANY, N.Y. - Edward Cox, a son-in-law of the late President Richard Nixon, said Thursday he would not resume his campaign for the Republican nomination to challenge Sen. Hillary Rodham Clinton's re-election bid this year.

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The Manhattan lawyer suspended his campaign in October after Republican Gov. George Pataki endorsed then-Westchester County District Attorney Jeanine Pirro's bid for the Senate nomination. Her campaign subsequently collapsed and Pirro heeded the call of state GOP leaders to run instead for state attorney general.

That left former Yonkers Mayor John Spencer, little-known statewide, as the leading contender for the GOP nomination. Some GOP leaders pressed Cox to consider getting back in the race.

However, Cox said in a statement issued Thursday that "after careful consideration of the circumstances and conditions as they exist surrounding the race, including the now shortened time frame available to run an aggressive and effective campaign, I will not seek my party's nomination."

Last week, in an impromptu interview with The Associated Press, Cox said one condition for re-entering the race was a solid endorsement from Pataki. The governor subsequently made it clear no such endorsement would be forthcoming in the near future.

Advisers said the October suspension of the campaign left Cox at a disadvantage for fundraising and becoming well known across the state to credibly take on an opponent of Clinton's celebrity.

Polls have shown the former first lady, a potential candidate for the 2008 Democratic presidential candidate, far ahead of her potential GOP competition in her bid for a second, six-year Senate term.

In addition to Spencer, the GOP Senate nomination is being sought by William Brenner, an even less well-known tax attorney from Sullivan County.

Spencer, calling Cox "a good guy," said Thursday he now expected GOP leaders to rally behind his candidacy, although Spencer also said he had not asked Pataki for his backing and didn't know if he would get it.

"He's not really shown an interest in this race as far as I'm concerned, except when he popped his head up there briefly for Jeanine Pirro and even that wasn't that strong an endorsement," Spencer said. "I would like to have everybody's endorsement, including the governor's, but whether I get it or not doesn't alter my plans."

Meanwhile, Democrats teased Republicans about the situation, noting that a whole host of well-known GOP politicians, including former New York City Mayor Rudolph Giuliani and Pataki, had refused to run against Clinton.

"Note to the New York state Republican Party: Don't despair, you may not have to settle for John Spencer just yet," said a statement issued by Democratic Party spokesman Blake Zeff. "There are still about a dozen registered Republicans left in New York who you haven't asked yet."

Lawyer Says He Won't Run For Clinton's Seat (NYT)

By Jennifer Medina

The New York Times, January 27, 2006

ALBANY, Jan 26 — Edward F. Cox, a Manhattan lawyer and a son-in-law of President Richard M. Nixon, declared Thursday that he would not run for the Senate this year, even though Republicans had been courting him anew to challenge Hillary Rodham Clinton.

The announcement from Mr. Cox ended the prospect of a dynastic clash pitting Mrs. Clinton, a former first lady, against Mr. Cox, who is married to Mr. Nixon's daughter, Tricia.

In a statement, Mr. Cox said that "after careful consideration of the circumstances and conditions as they exist surrounding the race, including the now shortened time frame available to run an aggressive and effective campaign, I will not seek my party's nomination."

Mr. Cox's exit is yet another blow to Republican efforts to mount a credible challenge to Mrs. Clinton, whom many expect to run for president in 2008. His decision seemed to leave John Spencer, a former mayor of Yonkers, as the party's most likely challenger. Mr. Spencer entered the race in the summer, and he has never backed off his bid, despite reports that Republican leaders were looking for other candidates.

Mr. Cox's decision ended a tortured series of deliberations that had him first telling friends early last year that he intended to challenge Mrs. Clinton. In October he pulled out after Gov. George E. Pataki said he would endorse Jeanine F. Pirro's bid to unseat Mrs. Clinton. After Ms. Pirro left the race last month to run for attorney general, some state Republican leaders asked Mr. Cox to reconsider challenging Mrs. Clinton.

The Democrats, perhaps emboldened by Mrs. Clinton's hefty campaign war chest and large lead in the polls, were quick to poke fun at the opposition on Thursday. In a press release, they called Mr. Spencer the "eighth choice" and listed several other Republicans who had been pressed to run for office, including former Mayor Rudolph W. Giuliani.

"Note to the New York State Republican Party: Don't despair, you may not have to settle for John Spencer just yet," said the statement by Blake Zeff, the state Democratic Party spokesman. "There are still about a dozen registered Republicans left in New York who you haven't asked yet."

The chairman of the state Republicans, Stephen J. Minarik III, said that the party "had numerous candidates go through the system, and it looks to be that we're headed to John Spencer being the candidate."

Kevin Collins, a campaign manager for Mr. Spencer, characterized the campaign by paraphrasing Gandhi.

"First they ignore you, then they laugh at you, then they fight you, then you beat them," Mr. Collins said. "They won't be underestimating John Spencer for long."

Episcopalians Weigh Sainthood For Marshall (WP)

By Caryle Murphy

The Washington Post, January 27, 2006

When Thurgood Marshall died 13 years ago this week, he left behind a life of historic accomplishments: Intrepid warrior against Jim Crow. Architect of the landmark Brown v. Board of Education desegregation case. First black Supreme Court justice.

Now, some of Marshall's fellow Episcopalians are saying that the spiritual hallmark of his life -- his Christian commitment to racial justice -- qualifies him for special recognition. They think the Episcopal Church should name him a saint.

Delegates to the annual convention of the Episcopal Diocese of Washington will vote today on the proposal, the first step in a long process. If Marshall is added to the church's roster of saints, May 17 -- the date of the 1954 Supreme Court ruling that segregated schools are unconstitutional -- would be observed as Marshall Feast Day.

Church officials say they expect the 300 or so delegates to approve the resolution, which was drawn up by members of St. Augustine's Church in Southwest Washington, where Marshall worshiped.

"I haven't heard anyone say it's a bad idea," said Jim Naughton, spokesman for Bishop John Bryson Chane, who will preside at today's assembly at Washington National Cathedral.

When it comes to sainthood, Episcopalians follow a looser procedure than the Roman Catholic Church, which conducts a rigorous investigation into the life of any saint-to-be and requires proof that he or she performed at least two miracles. Candidates for Episcopal sainthood should be figures who displayed traits such as "heroic faith," "joyousness" and "service to others for Christ's sake," according to church guidelines.

Although Marshall did not speak publicly about his faith, it meant a great deal to him, said his widow, Cecilia Marshall, 78, who plans to be present when the resolution comes up for a vote.

"I believe if it weren't for his faith, he wouldn't have accomplished as much as he has," she said.

Marshall, who died of heart failure on Jan. 24, 1993, at the age of 84, was a lifelong Episcopalian. Born in Baltimore to a Pullman car porter and a schoolteacher, he graduated from Howard University's law school in 1933.

The great-grandson of a slave, he spent 30 years traveling the South, filing lawsuits on behalf of the NAACP's Legal Defense and Educational Fund. On at least three occasions, he was threatened with lynching.

In 1938, Marshall joined St. Philip's Church in Harlem while living in New York. After President Lyndon B. Johnson named him solicitor general in 1965, he and Cecilia moved to the District and joined St. Augustine's.

In written testimonies accompanying the resolution, Episcopalians say Marshall revealed his faith in his work.

"The Spirit working through this man gave him an intuitive sense of justice in which he saw all of life as sacred and all persons equal before God," wrote the Rev. William S. Pregnall, former rector of St. Augustine's.

If the Washington delegates vote to make Marshall a saint, the resolution will need to be approved by two consecutive national conventions. The next national convention will be in June, and the one after that, in 2009.

The names of such saints are entered in a liturgical text called the Book of Lesser Feasts and Fasts -- "lesser" because these are not the primary feast days of the liturgical year, such as those dedicated to the Apostles.

"We're declaring [as saints] people who've given great Christian witness and played a unique role in the life of the church," said the Rev. Bruce Eberhardt, who wrote the resolution with his wife, Janet. "We don't pray to them. . . . It's very different from the Roman Catholic Church."

As far as miracles, Eberhardt added, "we think the miracle of Thurgood was turning this country around, changing the way we are."

One possible obstacle is that the national convention is considering a resolution stating that people should not be considered for sainthood until 50 years after their death.

"We're hoping we can argue that just as Martin Luther King Jr. has been in this book for some time now, Marshall deserves equal ranking," Eberhardt said.

Eberhardt, a retired priest and a member of St. Augustine's, said that a former rector of that parish, the Rev. John Talbott, tried to have Marshall named a saint in 1994, but "people thought it was too early [after his death] to make this move."

Talbott urged Eberhardt to try again, and the vestry at St. Augustine's approved the effort in May.

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Cecilia Marshall said she felt "humbled and honored" by the proposal to name her husband a saint. She added that she had no role in the effort, "except to give my approval."

Her husband "never thought of himself as a saint," she said, noting that he declined several times to see the stained-glass window dedicated to him in San Francisco's Grace Cathedral. "He never went to look at it. He felt he just wasn't worthy of it."

She added: "I used to kid my husband. I said, you better go and look at it; that's the closest you'll ever get to heaven."

Bush And China Endorse Russia's Nuclear Plan For Iran (NYT)

By David E. Sanger And Elaine Sciolino

The New York Times, January 27, 2006

WASHINGTON, Jan. 26 — President Bush and the Chinese government both declared their full support on Thursday for a Russian proposal to allow Iran to operate civilian nuclear facilities as long as Russia and international nuclear inspectors are in full control of the fuel.

Mr. Bush's explicit public endorsement puts all of the major powers on record supporting the proposal, even as most acknowledge that it is a significant concession to Iran and runs the risk that the country will drag out the negotiations while continuing to produce nuclear material. Yet officials say they believe it is the best face-saving strategy to pursue a negotiated settlement with Iran.

European and American officials familiar with the details of the offer that Russia made to Iran say that Iran would continue to be allowed to operate its nuclear plant at Isfahan, which converts raw uranium into a form that is ready to be enriched. That is a step that both Europe and the United States said last year that they could not allow — and that was explicitly barred under the agreement between Iran and Europe in late 2004, because Iran could divert the uranium to secret enrichment facilities. Iran began operating the Isfahan plant again in August.

Mr. Bush did not discuss the details of the Russian offer. But American, European and Russian officials, who like others discussing the issue spoke on the condition of anonymity because they did not want to be seen as interfering in the negotiations, said the offer would allow Iran to continue operations at the plant that turns yellowcake, a concentrated form of uranium ore, into uranium hexafluoride, a toxic material that centrifuges spin into fuel for reactors or bombs.

Critics of that concession say that it could send a signal to Iran that it no longer has to comply with all provisions of its November 2004 agreement with Europe.

"A red line was crossed" when Iran began producing the uranium last fall, said David Albright, president of the Institute for Science and International Security, a nonpartisan research group that follows developments in Iran. "The Iranians got away with reopening the conversion facility, and now people have accepted it's never going to be shut again and have taken it off the table."

Mr. Bush made his statement embracing the Russian idea at a news conference on Thursday. He said, "The Iranians have said, 'We want a weapon.' "

In fact, Iran has denied that it is pursuing a weapon, and in the afternoon, the White House spokesman, Scott McClellan, acknowledged that Mr. Bush had misspoken.

"He was referring to their behavior," Mr. McClellan said by telephone later. "Our concern is their intention is to develop a nuclear weapon under the guise of a civilian program."

Nonetheless, Mr. Bush's slip may cement the perception among some members of the board of the International Atomic Energy Agency that he has decided, at least in his own mind, that Iran is intent on building a weapon as fast as it can, a situation he has said repeatedly that he will not tolerate. Mr. Bush gave no hint on Thursday that he was thinking of military action, instead saying that "we are working hard to continue the diplomacy necessary to send a focused message to the Iranian government, and that is: 'Your desires for a weapon are unacceptable.' "

Mr. Bush's statement came at a moment of heightened concern in Vienna, home of the agency, that if its board votes next week to send Iran's case to the United Nations Security Council, Iran might make good on its threat to limit cooperation with inspectors and begin full scale enrichment of uranium. North Korea threw out inspectors three years ago, and one senior American official said recently that "the Iranians have looked closely at that model."

The Russian proposal lays out a complicated plan in which Iran would supply the uranium hexafluoride from Isfahan, shipping it to Russia for enrichment. Once enriched, the uranium would be shipped back to Iran's nuclear plant in Bushehr, which is being built by the Russians.

But huge questions remain, including the scale of the program, the degree of involvement of Iranian engineers and program's commercial viability. Moreover, just working out a deal this complex would take months or longer, experts say, at a time the administration fears the Iranians could surge ahead.

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In interviews, Russian and European officials said they believed the arrangements, while face-saving, made no economic or technological sense for Iran. Iran would have to pay for the enrichment, but its own scientists would not be allowed to work on the site.

Moreover, there are technical problems. Russian officials, who spoke on the condition of anonymity because they were in the middle of negotiations, said that the uranium gas produced at Isfahan was of inferior quality to what was produced in Russia. As a result, the Russians have no interest, they say, in buying any of its for their own use.

In an interview in Vienna on Wednesday, Gregory L. Schulte, the American ambassador to the atomic agency, said, "There are those who would argue that conversion is not proliferation-significant because it does not produce weapons grade material, but from our perspective, conversion is another step forward to acquire enrichment capability. It has no economic purpose."

While China favored the Russian proposal, it also firmly opposed the use of sanctions. That comes as a disappointment to Washington, which this week sent a top official to persuade China's leaders that they should do far more.

During a visit to Beijing by Ali Larijani, Iran's top nuclear negotiator, Kong Quan, China's Foreign Ministry spokesman, praised Moscow's offer to enrich Iran's uranium in Russia and made clear that China will not support sanctions. "We think the Russian proposal is a good attempt to break this stalemate," Mr. Kong said, adding, "We oppose impulsively using sanctions or threats of sanctions to solve problems."

The Bush administration has not allowed its stated opposition to Iran's uranium conversion at Isfahan to block the Russian offer. "This is dangerous, but it is minimally acceptable as long as they are not enriching," said Mark Fitzpatrick, a senior fellow at the International Institute for Strategic Studies in London. "The Russian proposal is the last best chance of resolving this without an escalation."

U.S. Comments on India Clarified

India responded testily yesterday to American suggestions of a quid pro quo in its blossoming relations with the United States, with the Indian foreign secretary calling in the United States ambassador over his reported remarks about how India should vote next week on whether to refer the case of Iran's nuclear ambitions to the United Nations Security Council.

David C. Mulford, the American ambassador to India, had been quoted by the Press Trust of India news agency as saying that if India did not vote to refer Iran to the Security Council, it would be "devastating" to its chances of securing the nuclear deal with the United States.

The American Embassy later said that the comments had been taken "out of context" and released a full transcript. In it, Mr. Mulford first said that India would be expected to vote "based on India's judgment of its own national interest."

He went on to say, "that if they decide that they don't want to vote for this, our view is that the effect on members of Congress with regard to this civil nuclear initiative will be devastating."

Rice Says Iran Is 'feeling Heat' (REU)

Reuters, January 27, 2006

WASHINGTON (Reuters) -- Iran is "feeling the heat" of international pressure over its nuclear program and Washington will insist the issue be formally referred to the U.N. Security Council, U.S. Secretary of State Condoleezza Rice said on Thursday.

In an interview with Reuters, Rice showed little patience with Iran's belated interest in a Russian compromise proposal that would keep the case out of the Security Council.

"I think that says something about the role of (international) pressure in this process. It shows the Iranians are feeling the heat," she said.

The Iranians are "doing nothing but trying to throw up chaff so that they are not referred to the Security Council and people shouldn't let them get away with it ... The time (for a formal referral) has come," she added.

Iran and China expressed support on Thursday for a Russian compromise proposal to resolve Tehran's standoff with Western governments which suspect it of secretly planning to build a nuclear bomb (Full story).

Tehran has previously shown little interest in the idea, intended to ensure it does not covertly divert enriched fuel toward a weapons program. It has repeatedly insisted it has no plans to build bombs but has the right to enrich uranium fuel on its territory for nuclear power generation.

Iran's apparent change of heart, coupled with backing from major power China, raised the possibility that a Feb. 2 meeting of the U.N. nuclear watchdog -- the International Atomic Energy Agency -- could once again delay a decision on referral to the Security Council, which could impose sanctions.

Many countries are reluctant to push a confrontation with Iran, a major oil producing state which has threatened to stop cooperating with IAEA inspectors if the referral goes forward.

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Separately, the U.S. ambassador to the United Nations, John Bolton, said on CNN: "The Iranians have been very effective in using their oil and natural gas to persuade China, India and other countries to their side. We have to correct that."Emergency meeting

The IAEA board of governors is to discuss Iran at an emergency meeting Feb. 2-3 in Vienna.

Aiming to avoid a showdown, Russia has suggested that instead of a formal referral to the Security Council, the IAEA board could just ask the council to discuss the Iran issue and then send it back to the IAEA.

But this informal move carries less legal weight and would mean the council could not consider sanctions.

The IAEA board had previously found Iran in non-compliance with its non-proliferation obligations but delayed sending the issue to the Security Council, while giving more time for European-led negotiations to proceed.

Since then, negotiations collapsed, Iran broke seals on nuclear facilities under IAEA monitoring and declared it would resume sensitive nuclear enrichment activities, which could give it fuel for a bomb.

"The time for talking outside the Security Council is over," Rice said.

She indicated the first step in the Security Council would be a president's statement showing united international support for Iran to resume a freeze on enrichment.

Rice refused to predict how quickly the United Nations might move to sanctions, saying "we'll take this one step at a time."

But she stressed that great care would be taken to avoid sanctions that target the Iranian people, as opposed to government leaders. As an example, she said Iranian soccer players should not be banned from the 2006 World Cup in Germany.

Even officials and experts who support Security Council referral worry that opposition by veto-wielding Russia and China could ultimately thwart any council action, undermining non-proliferation beyond Iran.

But Rice said she was unable to say Russia and China would not ultimately back punitive action against Iran because both consider Iran's nuclear ambitions a "very serious issue."

China Backs Talks In Iranian Standoff (WP)

By Edward Cody

The Washington Post, January 27, 2006

BEIJING, Jan. 26 -- China endorsed a Russian compromise proposal for breaking the stalemate over Iran's nuclear program Thursday and joined Iran's visiting nuclear negotiator in calling for patience and more discussions on the Russian idea.

The Chinese stand, issued during talks with Ali Larijani, secretary of Iran's Supreme National Security Council, suggested that the idea of having Iran send uranium to Russia for enrichment might become the common denominator of an agreement on preventing the Iranian government from developing nuclear weapons, rather than the sanctions envisioned by the Bush administration.

"We oppose impulsively using sanctions or threats of sanctions to solve problems," the Chinese Foreign Ministry spokesman, Kong Quan, told reporters at a regular briefing.

Deputy Secretary of State Robert B. Zoellick had urged the Chinese leadership on Tuesday to join the United States and other nations in taking urgent steps to make sure Iran does not expand its nuclear research program into weapons production. China agrees that Iran should not have nuclear weapons, he said afterward, but differs with Washington over how to prevent it and how fast a solution has to be found.

Without mentioning the United States or its European allies directly, Quan urged other countries to pursue a solution to the crisis through more negotiations, and said China's leaders view the Russian suggestions as a good place to start. Larijani, at a news conference later, said that, in this regard, the views of China and Iran were "very close."

"The Russian idea is fruitful, but it needs to be discussed more, and we are in the process of this negotiation," he said, adding that another round of talks had been scheduled with Russia for mid-February.

"It needs to be considered in a broader package," he added. "There are different aspects around this idea. . . . So we need to be patient."

The United States, France and Britain have said they are running out of patience. They have urged the International Atomic Energy Agency, at an emergency session scheduled Feb. 2, to refer the Iranian nuclear standoff to the U.N. Security Council, which could impose sanctions or some other form of warning.

Since then, however, President Bush has hailed the Russian suggestion as a promising compromise. And on Thursday at the World Economic Forum in Davos, Switzerland, the head of the IAEA, Mohamed ElBaradei, said Moscow's plan could offer "the beginning of a solution," according to the Reuters news agency.

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In Washington on Thursday, Secretary of State Condoleezza Rice said the time for referral had come. "The Iranians are doing nothing but trying to throw up chaff . . . and people shouldn't let them get away with it," she said in an interview with Reuters.

The foreign ministers of the five permanent Security Council members -- the United States, Britain, Russia, China and France -- plan to gather Monday in London, along with Germany, to lay groundwork for the IAEA decision.

The crisis atmosphere swelled this month when Iran removed U.N. seals on equipment that can be used to enrich uranium. The Iranian leadership repeatedly has said it has no intention of making weapons but retains the right under international conventions to enrich uranium for nuclear energy production.

Larijani has said that if the IAEA does refer Iran to the Security Council, Iran will take the next step and begin enriching uranium, in effect moving from research to making what could become weapons material. Foreign Minister Manouchehr Mottaki has warned that such a step would prompt Iran to halt cooperation with the IAEA, including its surprise checks at nuclear research sites.

Against that background, Russia offered its compromise proposal, saying Iran could send its uranium to Russian facilities for enrichment to make sure none is diverted into weapons production.

China, which has veto power in the Security Council, traditionally has shied from the use of sanctions in international disputes. But Chinese analysts predicted that China would likely abstain in a vote on sanctions, seeking to maintain its good relations with Washington.

57% Back A Hit On Iran If Defiance Persists (LAT)

By Greg Miller

The Los Angeles Times, January 27, 2006

WASHINGTON — Despite persistent disillusionment with the war in Iraq, a majority of Americans supports taking military action against Iran if that country continues to produce material that can be used to develop nuclear weapons, a Los Angeles Times/Bloomberg poll has found.

The poll, conducted Sunday through Wednesday, found that 57% of Americans favor military intervention if Iran's Islamic government pursues a program that could enable it to build nuclear arms.

Support for military action against Tehran has increased over the last year, the poll found, even though public sentiment is running against the war in neighboring Iraq: 53% said they believe the situation there was not worth going to war.

The poll results suggest that the difficulties the United States has encountered in Iraq have not turned the public against the possibility of military actions elsewhere in the Middle East.

Support for a potential military confrontation with Iran was strongest among Republican respondents, among whom 76% endorsed the idea. But even among Democrats, who overwhelmingly oppose the war in Iraq, 49% supported such action.

In follow-up interviews, some respondents said they believed Iran posed a more serious threat than Saddam Hussein's Iraq did.

"I really don't think Saddam had anything to do with terrorism, but Iran, I believe, does," said Edward Wtulich, of Goshen, N.Y. He was among the 1,555 adults who participated in this week's survey, which has a margin of sampling error of plus or minus 3 percentage points. "Iran has been a problem, I think, for years," Wtulich said, "and we've known about it."

Wtulich, a registered Democrat and retired manager for the New York City Housing Authority, said he supported taking a hard line with Iran despite the strain of the Iraq war on the U.S. military.

"It makes me scared," he said, "but we may not have a choice."

Experts said the public's views on Iran appeared to have hardened in part because of the more aggressive anti-Western posture of Iran President Mahmoud Ahmadinejad. Elected last year, he has riled the international community with remarks denying the Holocaust and with declarations that Iran will defy European and U.S. pressure and continue to pursue efforts to enrich uranium.

His comments have fostered an impression of him as "very reckless, a real rogue, as opposed to simply a populist," said political science professor John Mueller of Ohio State University, who is an authority on wartime public opinion.

Mueller said that Americans' rising support for confronting Iran was "impressive," especially considering their misgivings about the war in Iraq, and that their support suggested "concerns about the new president." But he added that poll respondents are often more inclined to voice support for military intervention when the question is framed broadly and the potential for casualties is unclear.

"You always get higher support for things like 'military action,' because that could just mean bombing, as opposed to sending troops or going to war," Mueller said.

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Poll respondents expressed a strong preference for the United States working with allies to fight international law violations or global aggression.

Iran has insisted its nuclear program is solely for energy production. But the United States and other Western governments suspect Iran's program is aimed at developing weapons.

European nations that have negotiated with Iran over its program want the matter referred to the United Nations Security Council. Iran has indicated it might be open to a compromise in which Russia would provide enriched uranium to Iran, for use exclusively in energy reactors.

The American public's position on Iran appears to have hardened over the last year, a period marked by an increasing international focus on Iran's nuclear program. When a similar question was asked in a Times poll last January, 50% favored military action against Iran.

Regarding Iraq, the latest poll shows that although most Americans remain disenchanted with the war, opinions have stabilized, at least for now. The percentage saying they believe the situation in Iraq was not worth going to war over dipped slightly, to 53%, compared with 56% in a survey a year earlier.

When asked who was winning the war in Iraq, 33% said the United States, 7% said the insurgents, and 55% said neither side was winning.

Americans remain divided over how long U.S. forces should stay in Iraq: 40% believe the United States should remain in Iraq for "as long as it takes," 36% want U.S. troops withdrawn within a year, and 14% support immediate withdrawal.

Respondents were also divided, largely along party lines, over whether the Iraq war is really part of Washington's war on terrorism; 51% say it is, 46% say it is not. President Bush has repeatedly cast Iraq as the central front in the war on terrorism. But many of his administration's prewar claims about Iraq's ties to Al Qaeda have turned out to have been overstated or based on unreliable intelligence sources.

The poll also found that 32% of Americans believed that terrorism around the world had increased because of the Iraq situation, 17% believed it had decreased, and 47% believed the problem was about the same.

U.N. Official Hopeful For Iran Nuke Plan (AP)

By Edith M. Lederer

The Associated Press, January 27, 2006

DAVOS, Switzerland — U.N. nuclear chief Mohamed ElBaradei said Thursday he was hopeful that a Russian proposal could help break the standoff over Iran's nuclear research and enrichment plans.

Speaking at the World Economic Forum's annual meeting, ElBaradei said he was happy that earlier in the day Iran's top nuclear negotiator, Ali Larijani, said Russia's proposal to move Iran's enrichment program to Russian territory was "a positive one."

ElBaradei said he also was encouraged that all parties still were discussing a diplomatic solution. His comments came amid quickening diplomatic negotiations ahead of a crucial Feb. 2 meeting of his International Atomic Energy Agency, which could refer the issue to the Security Council.

Britain, France and Germany have been leading efforts to get Iran to abandon uranium conversion and enrichment activities, which it refuses to do. The three countries declared that negotiations had reached a dead end two days after Iran broke U.N. seals at a uranium enrichment plant Jan. 10 and said it was resuming nuclear research after a two-year freeze.

"We need Iran to use maximum transparency because there are a lot of question marks about its program," ElBaradei said. "They need to be assured that they can use nuclear power for electricity, but the international community needs to be assured that the Iran program is exclusively for peaceful purposes."

Pakistan President Gen. Pervez Musharraf said at the forum Thursday that Iran should not be allowed develop nuclear weapons, but he did not say if the country should face economic sanctions.

"Their security is not threatened," Musharraf said of Iran during a discussion on Islam. He said his own country had nuclear weapons because it maintained a balance of power with neighboring India.

"When a nuclear threat was posed to us we had to set the balance right again," he said. "Every country has a right to defend its security if its security is threatened."

As for Iran developing nuclear weapons, he said that if the country felt its security was threatened, "they would have the right to go nuclear."

The European Union on Thursday urged Iran to accept the Russian offer as a way to defuse the standoff with the international community.

"The Russians have made a very reasonable suggestion," Austrian Chancellor Wolfgang Schuessel said at a joint press conference with French Prime Minister Dominique de Villepin.

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Because of concerns about Iran's nuclear intentions, ElBaradei said Thursday, "Iran probably needs to go through a rehabilitation period by which it will accept that it will not engage in enrichment on Iran territory while at the same time make sure that they get what they need for their own peaceful purpose."

"And that's why the Russian proposal is a very attractive proposal," he said.

At the moment, many people are trying to use "the maximum of diplomacy," he said.

The question being debated right now is whether to go to the Security Council at the beginning or end of February or this month, he said.

But even the Europeans and Americans, who want Iran referred to the council now, want the Security Council "to do a new phase of diplomacy," he said.

"Everybody's still talking about diplomacy and I'm very hopeful that as long as we talk about diplomacy, as long as we're not talking about enforcement measures, sanctions, et cetera, we are on the right track. But we need to accelerate the process," ElBaradei said.

Iran alleged Thursday it had information that the United States, Britain and Israel had a role in two deadly military plane crashes in the last two months.

It was the latest accusation by Tehran against the West in their sharpening confrontation. A day earlier, Iran blamed the United States and Britain for two bombings this week that killed at least nine people in southwestern Iran.

Interior Minister Mostafa Pourmohammadi said the crashes of a C-130 and a Falcon plane were "done by their design, or maybe electronic interference."

Pourmohammadi did not elaborate and did not offer any evidence.

Not Exactly 20/20 (WP)

By Al Kamen

The Washington Post, January 27, 2006

Rep. John A. Boehner (R-Ohio) recently unveiled his campaign for House majority leader with a 37-page manifesto -- "For a Majority That Matters" -- to rally GOP members to his candidacy.

"We've taken our lumps over the last year," he began, according to his House Web site. "Morale is low within our Conference and among our strongest supporters," he said. "It's time to bounce back," Boehner exhorted them, saying, "We need to identify a vision."

"That vision doesn't have to be achievable in the foreseeable future," he explained. But if it's "powerful enough and the commitment to it great enough, it might even come true."

For example, Boehner says, " President Reagan left the White House with America much as he hoped it would be in that first inaugural address. The Nazis were defeated. And in August 1989, Poland became free."

Boehner's eloquent appeal echoes Bluto Blutarski 's historic 1978 speech rallying his disconsolate frat brothers in "Animal House." John Belushi , playing the legendary Blutarski, urged the Deltas to stand up against rich preppie tyranny:

"Over? Did you say 'over'?" Belushi shouts. "Nothing is over until we decide it is! Was it over when the Germans bombed Pearl Harbor? Hell, no!"U.S., Iran Not Poles Apart

Administration officials scrambled yesterday to come to grips with the radical Hamas's stunning election victory in Palestinian elections. President Bush rejected dealing with a party that has an armed wing and vows the destruction of Israel.

But there's precedent for a more optimistic view in the long run. Take, for example, U.S. relations with Iran's President Mahmoud Ahmadinejad . He advocates nuking Israel and is allegedly developing his own bombs.

Even so, Washington has discovered there are always ways to work together, to find common ground. For example, human rights groups Monday condemned a U.S. move "back[ing] an Iranian initiative to deny United Nations consultative status" in the Economic and Social Council to gay rights organizations.

Well, gotta start somewhere.Afta NAFTA

News yesterday was that Washington and Seoul were on the verge of closing a free trade agreement and, if they could do so, the South Korean trade minister would come here Sunday to make plans for an official ceremony Thursday. If it happened, we were told, it would be the biggest free trade deal since NAFTA.

But why the "ifs"? We thought this was all locked up. After all, a noon announcement on Wednesday from Brown Lloyd James, the Korean PR folks in New York, said, "U.S.-Korea Free Trade Agreement Reached."

Four hours later, a "correction statement" came by: "The information sent regarding the . . . agreement was written in preparation and sent in error. It was NOT authorized by the Korean Embassy, and any discussion at this stage about the U.S.-Korea Free Trade Agreement is premature."

We really mean it, they said in a follow-up "correction statement" about an hour later. "The information . . . was not correct."

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Fugghedaboudit. Don't even think about it. Not only is "discussion unwarranted," the new release said, but "any speculation . . . is premature."Warrantless Redactors

Government censors are deeply worried about ensuring that they black out "sensitive" information from official documents. This is information that could harm national security or, much worse, could embarrass administration officials by showing preposterous stupidity or mis-, mal- and nonfeasance.

Not to worry. The National Security Agency has put out the equivalent of a "Dummies Guide to Censorship" to make sure voters never find out your boss's misdeeds. It's "Redacting with Confidence: How to Safely Publish Sanitized Reports Converted from Word to PDF."

NSA warns that you've got to be careful about scrubbing data that might be hidden. For example, hidden data in the White House's "Strategy for Victory in Iraq" in December showed it was written by a Duke political science professor who had concluded that people would support the war, despite fairly heavy casualties, as long as they believe it will ultimately succeed.

The NSA report, according to Government Computer News, gives step-by-step instructions to make sure the public never sees such highly classified information.

Mexico Nixes Border Maps For Migrants (WT)

By Jerry Seper

The Washington Times, January 27, 2006

Mexico canceled plans yesterday to distribute 70,000 border maps with safety instructions and tips to migrants aiming to cross illegally into the United States, but denied that the decision was a reaction to criticism by Bush-administration officials.

The National Human Rights Commission (NHRC) in Mexico City said it "rethought" the decision after human rights organizations in several border states said the maps would show anti-immigration groups -- and watchdogs such as the Minutemen volunteers -- where the migrants were likely to travel.

The NHRC maps would have provided details to migrants about the terrain, cell-phone coverage and the location of water stations set up by the U.S. charity Humane Borders.

"This would be practically like telling the Minutemen where the migrants are going to be," said NHRC spokesman Miguel Angel Paredes. "We are going to rethink this, so that we wouldn't almost be handing them over to groups that attack migrants."

Much of the Mexican media have accused the Minutemen of attacking illegal aliens on the border, accusations that have not been substantiated and have been denied by Minutemen organizers. The Mexican government has described the volunteers as vigilantes, as has President Bush.

Mr. Paredes said the commission's decision was not a response to U.S. pressure, adding, "We have not taken that into account."

On Wednesday, Homeland Security Secretary Michael Chertoff said the department opposed "in the strongest terms" the publications of maps "to aid those who wish to enter the United States illegally. ... It is a bad idea to encourage migrants to undertake this highly dangerous and ultimately futile effort."

State Department spokesman Sean McCormack also said the United States would "take whatever steps it deems necessary to protect its own borders."

The NHRC had planned to distribute 70,000 maps beginning in March, mostly in border towns and villages, as well as bars and restaurants frequented by migrants. The commission said they were intended to save lives by noting the estimated time it would take to walk or drive to nearby cities, places where migrants have died in the past and the location of water stations and emergency beacons.

Hundreds of migrants, mostly Mexican nationals, die every year trying to cross the desert illegally into the United States, mostly through Arizona.

The NHRC cited the Minutemen as a sign that anti-immigrant extremism was on the rise in the United States. The civilian Minutemen group set up observation posts in Arizona in April and from California to Texas in October to report illegal aliens to the U.S. Border Patrol.

Minuteman co-founder Chris Simcox said the NHRC's decision demonstrated the effectiveness of the "peaceful, law-abiding actions by Minuteman volunteers" to secure the nation's borders.

"The Mexican government ought to be ashamed that their policies drive their citizens to risk death in the Arizona desert trying to escape their country," he said. "Rather than giving away maps to help their citizens flee, the government of Mexico should dedicate itself to making Mexico a country their citizens can be proud of and want to live in."

Mr. Simcox denied accusations that Minutemen had attacked anyone, instead pointing to life-saving rescues by the group of nearly 200 aliens abandoned in the desert by human traffickers.

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"The maps the Mexican government released will still be used by the Minutemen to determine where we set up our observation posts along the southern U.S. border," he said. "Those maps are not just aids for illegal aliens simply seeking to escape Mexico; they are also road maps for terrorists who seek to enter the United States to murder Americans."

The NHRC was created 17 years ago by the Mexican Interior Ministry as the General Human Rights Department. The name was changed a year later and in 1999, the NHRC became fully independent of the government.

Piracy Fight Strains U.S.-China Ties (WSJ)

By Murray Hiebert

The Wall Street Journal, January 27, 2006

BEIJING, China -- China and the U.S. traded barbs over Beijing's failure to respond to Washington's request for details about Chinese efforts to combat piracy, in a development that could exacerbate already testy bilateral trade relations.

U.S. trade officials said China missed a Jan. 23 deadline set by Washington to get information on how Beijing has sought to rein in rampant piracy, including any penalties it has imposed on violators. Chinese authorities, for their part, have challenged Washington's right to make such a request under World Trade Organization rules.

The tiff could prompt the U.S. Congress to press the administration of President George W. Bush to take its case against China to the global trade body, and it cast a cloud over the planned visit to America by Chinese President Hu Jintao in April, U.S. businessmen in Beijing said.

"It is critical for China to prepare a meaningful response to avoid creating unnecessary tension" with the U.S., said James Zimmerman, vice chairman of the American Chamber of Commerce in Beijing.

China's alleged failure to crack down on widespread counterfeiting and violations of intellectual-property rights by its companies are major irritants in Sino-U.S. trade relations. U.S. industry associations say such practices cost foreign software and movie companies and other copyright holders billions of dollars each year.

The U.S. Trade Representative's Office had requested details about China's crackdown efforts in the autumn under pressure from Congress that it get Beijing to toughen up on its enforcement of what is called IPR. Under WTO rules, a member may ask other members about their IPR policies if the requesting country has reason to believe that the others' policies are affecting its rights under the global body's IPR regulations.

On Tuesday, U.S. officials said in Washington that China responded by challenging Washington's right under WTO rules to demand this information from Beijing. In a Dec. 22 letter from the Chinese ambassador to the WTO that American officials made public, China said it was still willing to cooperate with the U.S. on its WTO commitments. When Beijing joined the WTO in December 2001, it committed to try to stamp out IPR violations.

Reuters quoted one U.S. official as saying that if Washington doesn't get "a substantive response [from China] in short order," it was "running out of options, short of WTO litigation."

Chinese Commerce Ministry officials Thursday declined to comment on the dispute. Mei Xinyu, a researcher at the Academy of International Trade and Economic Cooperation, a ministry think tank, said WTO regulations "only allow a member country to request such information, but there is no legal obligation on other countries [to answer], not to mention [to respond by] a deadline."

Courts in China have recently made several high-profile rulings against IPR violators. Last month, a judge in Shanghai ruled against a Chinese company that had adopted the Chinese name of U.S. coffee chain Starbucks and a similar logo. This month, another court ruled against a Chinese company selling candies resembling Ferrero Rocher's gold foil-wrapped chocolates.

Still, Chinese authorities admit they have a long way to go in winning the war against piracy. Pirated DVDs as well as luxury-brand clothing and accessories are widely on sale from street vendors and in shopping centers in Beijing.

Chinese officials say one problem is that many state agencies are responsible for overseeing intellectual-property laws, complicating enforcement efforts. In addition, local governments often resist efforts to shut factories making counterfeit goods in their jurisdiction because of the jobs those generate.

Bush Vows Crackdown On N.Korea On Fake Dollars (REU)

Reuters, January 27, 2006

President George W. Bush vowed on Thursday to uphold U.S. law and continue a crackdown on North Korea for counterfeiting American dollar bills.

"There is no compromise ... We are going to uphold the law and protect the currency of the American people," he told a White House news conference.

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The United States in recent months has cracked down on several firms and a Macau-based bank suspected of involvement in counterfeiting, money laundering and drug trafficking by North Korea.

Pyongyang is believed to earn as much as $1 billion annually from these activities, which U.S. officials say benefit the elite at the expense of an impoverished population.

The communist state has said it would be unthinkable to return to six-country nuclear talks, led by China and stalled since November, when Washington is trying to bring down its rulers with "financial sanctions."

While Bush showed no give on the crackdown on the North's suspected illicit activities, he reaffirmed that "we want the six party talks to continue ... I think the framework is a framework that can eventually yield to a political settlement of the issue."

Rice Says US Ready To Resume Six-party Talks (REU)

By Sue Pleming

Reuters, January 27, 2006

In an interview with Reuters, Rice said North Korea must address U.S. concerns over illicit financial dealings and that this issue must not be tied to the resumption of talks, which have been stalled since last November.

North Korea has said it would be unthinkable to return to talks aimed at getting Pyongyang to drop its nuclear programs while Washington imposed what amounted to "financial sanctions."

Asked if there was a way to resolve this impasse, Rice said the North Koreans should start "living up to the law."

The suspected illegal activities by the North Koreans, including the counterfeiting of American $100 bills, had to be addressed by the United States, she said. "He (SEARCH

News | News Photos | Images | Web" />> President George W. Bush) has to defend the currency," Rice said.

In a news conference on Thursday, Bush vowed to continue a crackdown on North Korea for counterfeiting American currency. "There is no compromise," he said.

The United States has in recent months acted against several firms and a Macau-based bank suspected of involvement in counterfeiting, money laundering and drug trafficking by North Korea.

Pyongyang is believed to earn as much as $1 billion a year from these activities, which U.S. officials say benefit the elite at the expense of North Korea's poor.

CLEAR TALK

Rice said the United States chief negotiator in the talks had made it very clear during meetings in Beijing this month that Washington wanted the six-party talks to continue.

"No conditions. We will do it immediately," Rice said.

Assistant Secretary of State Christopher Hill returned from Beijing last week where he met his North Korean counterpart and Chinese officials in an effort to restart stalled talks. The six-party talks also involve Japan, SEARCH

News | News Photos | Images | Web" />> South Korea and Russia.

"These talks can get back on track but the North Koreans have got to make a choice that they are ready to come back and they have to come back unconditionally," Rice added.

Hill told Reuters in an interview on Wednesday that North Korea had hinted it might observe international standards on money laundering but he declined to provide any details.

North Korea agreed in principle in September to end its nuclear arms in exchange for aid and security guarantees, but there has been no progress since then. A date has not been set for the resumption of the discussions.

Rice said the goal was to get back to the statement of principles agreed in September as soon possible.

Kim Sung-han, head of North America studies at the Institute of Foreign Affairs and National Security in Seoul, said some policymakers in Seoul would see Rice's comments as meaning a compromise solution was not in the cards now.

"It is going to be somewhat hard to expect the six-party talks will resume early next month, as some had hoped for," Kim said by telephone.

Asked whether she thought increased Chinese and Japanese assistance to North Korea during the U.S. crackdown was interfering with the bid to get Pyongyang back to talks, Rice said both of these countries had been very professional in their handling of North Korea.

"They have been successful in getting the North Koreans to engage in the talks," she said.

Tobacco Firms Trace Fakes To North Korea (WSJ)

By Gordon Fairclough

The Wall Street Journal, January 27, 2006

DOJ_NMG_0012753

In Philip Morris USA's ongoing war against counterfeiters, it was a fairly simple operation: Buy a pack of Marlboros from a corner bodega on Manhattan's Upper East Side to follow up on a tip about contraband cigarettes.

But it took until 2005, the year after the pack was purchased, company officials say, before they could trace the artfully counterfeited smokes to one of the world's most isolated countries, North Korea.

The communist nation has become a leading source of counterfeit cigarettes -- with the capacity to churn out more than two billion packs a year, tobacco companies say. Philip Morris, a unit of New York-based Altria Group Inc., says over the past several years it has discovered North Korean-made knockoffs of its Marlboro brand in more than 1,300 places, from New York to Oklahoma City, Seattle and Los Angeles.

Big cigarette companies, facing billions of dollars in lost revenue, have hired former intelligence and law-enforcement officials, recruited informants inside Asian crime syndicates and even sent agents into North Korea in an effort to stem what they say is a flood of illicit exports.

Andre Reiman, a senior vice president of Philip Morris International whose oversees antismuggling programs, said his company is "very concerned to find organized counterfeiting of our products in the Democratic People's Republic of Korea."

The scale of the distribution network -- believed to include fleets of ships owned by global organized-crime groups -- has the U.S. government taking a more active role after years of industry pleas to crack down on counterfeit cigarettes.

U.S. authorities seized more than a billion fake smokes, many allegedly from North Korea, in California last year as part of an undercover operation targeting Asian smugglers. Millions more packs of bogus Marlboros, Mild Sevens and other cigarettes made in North Korea have been confiscated in Taiwan, the Philippines, Vietnam and Belize.

In a little-publicized 2004 case, three Asian men pleaded guilty to conspiring to smuggle counterfeit goods and currency, in connection with a scheme to send fake cigarettes, forged $100 bills and knockoff Cialis, an erectile-dysfunction drug made by Lilly ICOS LLC, into the U.S. The cigarettes, a U.S. official says, were made in North Korea.

The case started when an undercover investigator working for Philip Morris posed as a buyer looking for counterfeit cigarettes, according to papers filed by the government in federal court in Washington last year. The men took the investigator to a cigarette-making plant on the east coast of North Korea. They also offered to sell the investigator forged U.S. currency, prompting Philip Morris to alert the U.S. Secret Service. In all, the men accepted payments of more than $400,000 for counterfeit cigarettes and currency, prosecutors say.

Supplying counterfeit cigarettes has cemented North Korea's ties to crime organizations, giving the country access to a vast smuggling network that could allow it to move almost anything -- from forged U.S. banknotes to weapons -- in or out of the country, U.S. officials say.

"Much more dangerous things than cigarettes can flow along these same routes," warns a senior Bush administration official. "The North Koreans could import technology and export strategic goods and weapons. It's a big deal."

North Korea has long been accused of counterfeiting U.S. currency. In a press conference yesterday, President Bush said the U.S. was moving aggressively to halt Pyongyang's forgers. "When somebody's counterfeiting our money, we want to stop them from doing that," Mr. Bush said.

Washington's efforts, however, have drawn criticism from other capitals, which worry that U.S. moves will keep North Korea from rejoining multilateral talks aimed at ending its nuclear-weapons programs.

North Korea denies it engages in counterfeiting or other illicit acts. Its official news agency said last month that "such illegal activities are unimaginable in the DPRK."

In a report prepared by a consortium of tobacco companies that includes Altria, Japan Tobacco Inc. and

British American Tobacco

PLC, and presented to U.S. authorities last year, investigators said that the North Korean regime could be earning $80 million to $160 million in annual payoffs from smugglers alone.

Those estimates are equal to roughly 8% to 16% of the total value of annual exports of legitimate goods from North Korea, whose economy collapsed after the fall of the Soviet Union. Profits from suspected state-run counterfeiting operations would likely push that number even higher, say tobacco-company executives.

"Counterfeit cigarettes are probably becoming one of their biggest sources of illicit income," says Raphael Perl, an expert on North Korean finances at the Congressional Research Service.

Two developments have helped North Korea establish itself in the fake-smokes business. First, major cigarette manufacturers, sued by the European Union and others for allegedly supplying smugglers with cigarettes in an effort to circumvent taxes, have moved to keep their products out of criminals' hands.

Second, China has moved aggressively to clamp down on cigarette counterfeiting. Rather than engage in a high-stakes game of cat-and-mouse with the Chinese authorities, makers of high-end counterfeits have instead sought refuge in North Korea.

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"North Korea is the perfect place," says one tobacco executive. "There's very little scrutiny from outside, and there's no risk of law-enforcement action because it's all sanctioned by the state."

One of the main hubs of counterfeiting activity, the tobacco companies say, is Rajin, a run-down port city on North Korea's east coast. More than a decade ago, Pyongyang decided to turn the area into a free-trade zone as part of a United Nations-backed effort to spur economic development in the impoverished communist country and its neighbors.

Many of the cigarette factories in Rajin, which use tobacco from China and Vietnam, are owned or financed by Taiwanese and Chinese criminal groups, which smuggle the cigarettes they produce into countries around Asia as well as into the U.S. and Europe, say tobacco executives.

North Korean state-owned enterprises, mostly located in or near Pyongyang, the country's capital, also make knockoff cigarettes, the tobacco companies say. The companies say one of these factories is controlled by the internal security service; another is owned by a group with close links to the Communist Party leadership.

Some of the smuggling organizations that move the North Korean cigarettes use their own fleets of freighters, tankers and fishing vessels, tobacco-company executives say. Cargos are often shifted to other vessels at sea, in international waters, to mask their origin. In other cases, cigarettes move via a series of small ports.

The look of the counterfeits and their packages is also very good, say tobacco executives. Packs of Marlboro seized in Miami even included forged pamphlets urging smokers to visit a Web site to find information about the health dangers of cigarettes and the admonition "Don't Litter" on the side of the box.

Executives say packaging is the key to determining which cigarettes are fakes and where they come from. They compare suspect cigarettes to examples from prior raids that have been conclusively tied to a particular source. For example, counterfeiters often don't change the tracking numbers on counterfeit packages. Sometimes, printing flaws give them away.

India Has Hard Choices On US Nuclear Deal: Rice (REU-Y2)

Reuters, January 27, 2006

India has "difficult choices" to make on a controversial civil nuclear cooperation agreement with the United States before the deal can be completed, U.S. Secretary of State Condoleezza Rice said on Thursday.

The landmark accord, agreed in principle in July but still to be negotiated in detail, would grant New Delhi access to civil nuclear technology it has been denied for three decades, provided it puts its civilian facilities under international inspections.

Senior-level talks in New Delhi last week failed to close the gap on major issues, including which Indian facilities would be designated as civilian and military. The military plants would still be off-limits to U.N. monitors.

"In order to move on to a new phase in which civil nuclear power would be available to India, India has to make some difficult choices," Rice told Reuters in an interview.

She refused to provide any details but insisted, "I think we're making progress."

Although announced with great fanfare, the deal has run into criticism from nuclear experts and some members of the U.S. Congress who say it undermines global nonproliferation goals.

A related issue is whether India will side with the United States when the International Atomic Energy Agency board of governors debates Iran's nuclear program at a February 2 meeting.

Washington and major European powers say Iran is developing a bomb and wants the case referred to the U.N. Security Council for possible sanctions. Tehran denies the charge and is fighting referral.

The U.S. ambassador to India said on Wednesday if India did not back the U.S. position, the nuclear agreement could be in trouble.

The United States and India are trying to resolve differences before President George W. Bush visits New Delhi in March.

Rice did not speak directly of the Iran vote in the IAEA.

She said the nuclear agreement presented "a difficult set of issues."

"But it's very important to understand that in order to satisfy the concerns of the American Congress and our laws and the concerns of the (44-nation) Nuclear Suppliers Group, that there will have to be some steps taken to make sure that the proliferation risks are not enhanced by this deal," she said.

Both the U.S. Congress and the Nuclear Suppliers Group, which sets rules for nuclear-related commerce, must approve the agreement.

For 30 years, the United States led the effort to deny India nuclear technology because it tested and developed nuclear weapons in contravention of international norms. Both India and its neighbor and nuclear-armed rival Pakistan have refused to sign the nuclear Non-Proliferation Treaty.

Bush now views India, a rising democratic and economic power on China's border, as an evolving U.S. ally and the new nuclear deal -- allowing India to purchase nuclear reactors and fuel -- is central to that vision.

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Restructuring Of U.N. Agency 'Likely' This Year (WT)

By David R. Sands

The Washington Times, January 27, 2006

A major overhaul of the United Nations' discredited human rights agency is "quite likely" this year, the State Department's lead negotiator said yesterday, but he also said the United States would insist on real reforms before agreeing to a deal.

The United States backs a plan to scrap the current 53-member U.N. Human Rights Commission, which critics say has been co-opted by some of the world's worst human rights abusers, including Sudan, Zimbabwe and China.

"I think it is quite likely we can get a new human rights council, although it is not certain," Mark Lagon, deputy assistant secretary of state for international organization affairs, said at a Washington roundtable on U.N. reform.

U.N. officials have pushed for the overhaul to be completed before the old human rights panel's scheduled March meeting in Geneva, but Mr. Lagon said it was more important to do things right than to do them quickly.

"The U.S. is not hung up on artificial deadlines," he said. "We feel it is important that any replacement body must be definitely better."

The debate over the human rights agency has become a flash point in the larger debate over reforming the world body itself, which has been rocked by scandals such as the Iraq oil-for-food program.

Critics say the current commission essentially has been taken over by the worst abusers, with countries such as China and Sudan seeking seats on the panel specifically to block scrutiny of their human rights records.

The United States and other leading democracies want to end the automatic rotation of members on the commission, setting up a leaner Human Rights Council that blackballs countries with poor records and has real powers to investigate and spotlight abuses.

At a summit of world leaders in New York in September, U.N. Secretary-General Kofi Annan endorsed the reform effort and called for a doubling of the budget of the office of the U.N. High Commissioner for Human Rights.

A small group of states -- including Zimbabwe, Belarus and Cuba -- has opposed the more-stringent membership idea. Negotiations on the shape of the new council began Jan. 11, and some private human rights activists say the U.S. government has been slow to press its case.

Mr. Lagon said the United States wants the bulk of the new council's workload to be helping fledgling democratic states move toward greater political freedom, civil liberties and the rule of law.

The emphasis, he said, "should be on operations in the field. We don't want to have just another think tank in Geneva."

With its new credibility, it "can then speak more effectively in the face of horrendous violations," he said.

Mr. Lagon said the new council should not mean the end of special expert missions approved by the current commission. U.N. "rapporteurs" have won praise from human rights groups in recent months with missions critical of abuses in countries such as Belarus, Iran and Uzbekistan.

Bhutto Dismisses Interpol Notices (WT)

By Xin Li

The Washington Times, January 27, 2006

Former Pakistani Prime Minister Benazir Bhutto said yesterday that "red notices" issued by Interpol for her and her husband, Asif Ali Zardari, are groundless and politically motivated.

"I can catch the next airplane and return to Pakistan if necessary," Mrs. Bhutto said at a press conference organized by the Voice of America in Washington. "Interpol might not be given the right information."

The notices are not arrest warrants, Interpol officials told Agence France-Presse yesterday. They are notifications that "bona fide" arrest warrants exist in one of the International Criminal Police Organization's 184 member states. The decision to act upon them is up to member countries, they said.

Akram Shaheedi, a spokesman for the Pakistani Embassy in Washington, said Islamabad has not asked the State Department for any action regarding the notices.

Mrs. Bhutto said her attorney is contacting Interpol to confirm the warrants, and if they exist, to ask on what grounds they were issued.

Mrs. Bhutto was elected as the prime minister of Pakistan in 1988 and 1993. She and her husband are charged with corruption during her regime, including one case in Switzerland in which she is accused of taking commissions from a Swiss firm. She is under self-imposed exile and lives in Britain and Dubai in the United Arab Emirates.

"For nine years, I've been under state-sponsored prosecution, but there hasn't been a single conviction" on the corruption charges, Mrs. Bhutto said.

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She was convicted in one case and sentenced to three years in absentia, but Mrs. Bhutto said she is appealing that ruling.

The reason for the Interpol notices, Mrs. Bhutto said, was that the government of President Pervez Musharraf wants to "divert the attention" of the Pakistani people from the recent U.S. missile strike in a region bordering Afghanistan that killed at least 13 civilians.

The raid, which is thought to have killed some al Qaeda terror leaders, triggered protests from Islamist political parties.

Mrs. Bhutto said the Musharraf government cooperates with the United States only because the "military needs the war of terror in Pakistan to justify its position in the office."

She said it is in the interest of the international community to build a pluralistic, democratic and secular Pakistan.

Meanwhile, it was announced yesterday that former Pakistani Prime Minister Nawaz Sharif was to end five years of exile in Saudi Arabia by traveling to Britain on Sunday.

Pakistani Information Minister Shaikh Rashid Ahmad announced in November that Mr. Sharif would be issued a passport so he can travel to London with his sick son.

Mr. Sharif was ousted by Gen. Musharraf in a bloodless coup in October 1999. Mr. Sharif was sentenced to life in prison on tax evasion and treason charges. Pakistani officials say he will not be allowed to return home.

Canada's Next Leader Clashes With U.S. Over Arctic Waterways (NYT)

By Clifford Krauss

The New York Times, January 27, 2006

TORONTO, Jan. 26 — Stephen Harper, Canada's prime minister-designate, reproached the American ambassador on Thursday over an old difference of opinion about the control of Arctic waters claimed by Canada.

Mr. Harper, the leader of the Conservative Party, which won a narrow victory in Monday's elections, is widely expected to usher in warmer relations with the Bush administration after years of squabbles between Canada and the United States over trade and the war in Iraq.

But the honeymoon took at least a temporary break when Mr. Harper reacted to a news report about comments made by the United States ambassador, David H. Wilkins, taking issue with Canada's assertion of sovereignty in northern Arctic water passages.

"It is the Canadian people we get our mandate from, not the ambassador of the United States," Mr. Harper said. "The United States defends its sovereignty, and the Canadian government will defend our sovereignty."

The United States for decades has opposed Canada's claims to Arctic passageways near the North Pole, as have the European Union and other countries. Canadian military scholars say that the United States, Russia, Britain and France sent submarines under the Arctic ice in waters claimed by Canada during the cold war without Canada's permission, and may still be doing so.

Canada does not currently have the naval ability to stop such intrusions into those areas, which it claims as internal waters, although it is now modernizing satellite surveillance and upgrading its Arctic land and water patrols.

"There's no reason to create a problem that doesn't exist," Mr. Wilkins was quoted as saying at a forum on American-Canadian relations on Wednesday at the University of Western Ontario, according to the CBC News Web site. "We don't recognize Canada's claims to those waters."

Mr. Wilkins seemed to be trying not to kindle a dispute, though. "We have agreed to disagree," he said.

But on Thursday, in his first news conference since the election, Mr. Harper took issue with Mr. Wilkins, perhaps in part to show Canadians that he would not veer far from Canada's traditional foreign policy of pointed independence from the United States.

American diplomats said that Mr. Wilkins had stated nothing more than an old policy in answering a student's question. They said he did not criticize a plan Mr. Harper announced during the campaign to build and deploy three new armed heavy icebreaking ships and construct a deep-water port in the Arctic territorial capital, Iqaluit.

Differences between Canada and the United States over the Arctic have rarely surfaced in a public dispute, and leaders of both countries have preferred to cooperate on Arctic research and defense.

But recently, the Arctic has become increasingly important because of climate change. With Arctic ice rapidly thinning, commercial navigation and tourism boats are making northern passages with increasing frequency. That has obliged Canada to begin planning security measures to protect waterways from smugglers and to prepare for the possibility of accidents and oil spills.

The United States and Canada also have conflicting claims in the Beaufort Sea, in an area that is thought to have oil and natural gas reserves. Denmark and Canada have conflicting claims over another site, Hans Island, off Greenland's coast, in an area with a rich fishery.

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Harper Tells U.S. To Drop Arctic Claim (WP)

By Doug Struck

The Washington Post, January 27, 2006

TORONTO, Jan. 26 -- Stephen Harper, elected Monday as prime minister, warned the United States on Thursday to back off from its challenge of Canadian sovereignty in Arctic waters that are fast thawing from global warming.

In the first news conference since his election, Harper upbraided the U.S. ambassador for asserting that the icy polar regions, including the legendary Northwest Passage, are international waters.

Canada claims that its archipelago of some 16,000 islands makes that region Canadian territory.

"The United States defends its sovereignty. The Canadian government will defend our sovereignty," Harper said. "It's the Canadian people we get our mandate from, not the ambassador of the United States."

The two countries -- as well as Russia -- have had conflicting claims in the Arctic for at least three decades. Harper's Conservative Party has proposed expanding Canada's military presence, building new icebreakers and creating an early warning system to detect other ships, all to enforce its claim of sovereignty.

The Liberal government Harper will replace has made similar claims and proposals. But it was unexpected that Harper would launch a sharp verbal attack against the United States on this subject so quickly, and he extended a press conference announcing his Feb. 6 inauguration to bring it up.

"The changing ice conditions are driving this issue to the top of the political agenda," said Michael Byers, an international law expert at the University of British Columbia.

"We've essentially been able to avoid problems over this in the past because the ice has been too thick and too hard to make it a commercially viable route," Byers said. "But, of course, the ice is melting."

He said that "within the next decade or two, there will be a major international shipping route around the northern side of North America." That will shorten the route for Europe-Asia shippers by 4,000 miles, Byers said, adding that it also presents security concerns as a "backdoor to North America that is wide open."

David Wilkins, the U.S. ambassador to Canada, was quoted Wednesday at a discussion in Ontario as saying, "We don't recognize Canada's claims to those waters."

Firms Beat Path To ... Libya (CSM)

By Simon Martelli

The Christian Science Monitor, January 27, 2006

TRIPOLI, LIBYA - It's not unusual for the five-star Corinthia Bab Africa Hotel which towers above this city's waterfront to be completely booked, many of its 299 rooms filled with foreign oil tycoons eager to tap into the country's untold reserves.

After more than 20 years as a global pariah, Libya is coming out of isolation. Most international sanctions have been lifted since its enigmatic leader, Col. Muammar Qaddafi, abandoned his weapons program, renounced terrorism, and accepted responsibility for the 1988 bombing of Pan Am Flight 103, compensating the victims' families.

"With the end of the Lockerbie issue, relations returned to normal and there were many delegations of Congress who visited Libya. I think all efforts are heading towards ending animosity," Colonel Qaddafi said in an interview with the United States-funded Arabic TV channel Al-Hurra last week.

Now, the companies that helped create Libya's oil industry in the 1970s are returning as Qaddafi rebuilds bridges to the West that he burned long ago, and this may help to precipitate political, as well as economic, change.

In a major step, ExxonMobil, the world's largest publicly traded oil company, signed an exploration and production deal with Libya last month. Marathon, Amerada Hess, and ConocoPhilips who together form the Oasis group also negotiated their return at the end of December since being forced out by sanctions in the mid-1980s, while Occidental returned in August last year. The Oasis group was producing 400,000 barrels of oil per day before it pulled out.

Indeed, the country suffered severely from the economic sanctions that were imposed by the US in 1986 after Libya was blamed for the bombing of a Berlin disco that killed two American servicemen. The consequence included a sharp decline in oil production, which fell to around 1.4 million barrels per day in the 1990s, from peak production of 3.3 million barrels per day in 1979. Output at the country's dilapidated liquefied natural gas plant, built by ExxonMobil in the late 1960s, has fallen to just 15 percent of capacity. Unemployment rose to about 30 percent.

In Tripoli's commercial center, a short walk from the shiny new Corinthia Hotel, which houses existing foreign oil firms, signs on the office doors clearly directed at locals in search of work state in both English and Arabic that there are no vacancies.

While Libya remains on the US State Department's list of states that support terrorism, and certain limited sanctions have yet to be lifted, it is pursuing a return to full normal relations with the US. Tarek Hassan-Beck of Libya's National Oil Company

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(NOC) told Reuters Wednesday that he expected the newly returned Oasis group "to put the right message across to the US government" to remove Libya from the hit list. Qaddafi has made this possible by publicly condemning 9/11 and agreeing to a three-phase disarmament program, as well as paying compensation to the families of the 270 victims killed on Pan Am Flight 103 over Lockerbie, Scotland.

But Qaddafi remains an autocratic leader, and genuine economic and political reform is nowhere on the horizon, according to many Libyans. "Whatever he says, the people must do it without question," says Ibrahim, a young Libyan who runs a small tour group in Tripoli.

Meanwhile, endemic corruption and high unemployment persist, and the lack of real economic incentives is driving skilled professionals out of the country, says Ezzedin Dibashi, an oil consultant based in London who used to work at NOC. "Doctors, engineers, and economists are going elsewhere, rather than subsist on 600 Libyan dinars ($450) per month."

Other issues seriously obstructing Libya's political and economic development include the state ownership of banks, a government controlled media and the ban on political opposition parties.

"This is a country that has responded to international criticism," says the Chairman of business consultancy group MEC International and former British Ambassador to Libya Oliver Miles. "But how and how far is where it gets difficult."

With oil prices on the rise, none of these difficulties are deterring foreign oil companies from aggressively competing to win exploration rights and investment opportunities in Libya.

"It has become a very attractive place for oil firms to do business," says Mr. Miles. "There are opportunities in Libya that do not exist in other Middle Eastern countries."

One encouraging sign of change recently was the agreement by British ministers in October to send terror suspects back to Libya on the condition of 'no torture, no death penalty.'

But foreign energy companies are not the only ones enjoying newfound access to Libya. Nongovernmental organizations like Amnesty International, which was allowed access for the first time in 15 years in 2004, have expressed serious reservations about the Qaddafi regime's human rights record. Torture and suspicious prison deaths, said an Amnesty International report, continue in Libya.

Despite Libya's recent prisoner releases, judicial reforms and efforts to overhaul its image, some NGOs are asking Western governments to proceed with human rights standards in mind.

"[Qaddafi] and his inner circle appear unwilling to implement genuine reform," says a Human Rights Watch report released this week, "especially in the areas of free expression and association, which might weaken their three-decade grip on power."

Georgia, Short Of Gas, Is Hit With A Blackout (NYT)

By C. J. Chivers

The New York Times, January 27, 2006

MOSCOW, Jan. 26 — Energy shortages struck Georgia anew on Thursday as a wind storm toppled a major power transmission line and Russia's gas monopoly failed to restore the flow of natural gas to the country after pipelines were sabotaged last weekend, energy officials said.

The latest problem appeared about 1 a.m., when high winds severed a high-voltage transmission line that carries electricity between east and west Georgia, plunging the snow-covered capital, Tbilisi, into darkness. The blackout occurred as temperatures in the normally balmy nation fell below 20 degrees, and most of the population remained without natural gas for heat. Weather forecasts predicted unusually cold weather into next week.

Georgia has been without its Russian gas, and with limited electricity, for five days. Officials in both countries initially hoped that the supplies could be swiftly restored. But after a respite from the shortages on Monday, the problems have worsened, bringing fresh hardships to Georgia and further tarnishing Russia's image as an energy supplier.

Mikheil Saakashvili, Georgia's president, cut short a visit to Davos, Switzerland, to return to Tbilisi as the crisis intensified. Nika Gelauri, Georgia's energy minister, said in a telephone interview that technicians were examining the damaged power wire and tower, but it was too soon to know how long repairs would take.

In Russia, where on Sunday saboteurs destroyed two gas pipelines that had provided Georgia with all of its gas, energy officials said work crews were laboring nonstop to repair the damaged sections of pipe.

Gazprom, Russia's gas monopoly, told Georgia that the work, behind schedule, could be completed by Friday night, Mr. Gelauri said. Russian officials had said that the pipe could be repaired by Tuesday, but the efforts have been hampered by delays. Georgian energy officials have said that even if gas flow were restored, it could take a week for the gas to be switched back on to all customers. Georgia has been receiving a supply of gas, roughly half its normal needs, in shipments through a recently repaired pipeline that connects the Georgian network to Azerbaijan.

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But Azerbaijan, which also relies on Russia for its gas, has not been receiving an increased flow from Russia to pass on to Georgia, said Aydylbek Amonov, a supervisor in the Azerbaijan gas network's control center. Russia says a struggling compressor station near the Azerbaijan border is unable to provide increased pressure.

Mr. Gelauri said he was suspicious of Russia's chain of problems: first sabotage, then repair delays, then a compressor problem. "If we had this additional gas from Gazprom through Azerbaijan it would solve all the problems," he said.

Georgian officials have said they do not believe Russian explanations for either the sabotage or the technical difficulties that have followed, and claim that Russia is withholding its energy during a cold spell to punish Georgia for its pro-Western policies. There has been no public evidence to support that claim, and Russia has characterized Georgia's position as irrational and immature.

EU's Hard Line Going Into Trade Talks Draws Fire (WSJ)

By Scott Miller In Brussels And Marc Champion In Davos, Switzerland

The Wall Street Journal, January 27, 2006

Major trading nations are hardening their positions as they head into the first round of trade talks since the recent Hong Kong sessions faltered, renewing the possibility of a watered-down result of four years of negotiations.

As top trade negotiators from about two dozen countries prepared to meet in Davos, Switzerland, on Friday, the European Union's trade commissioner, Peter Mandelson, said Europe stood to lose "next to nothing" if talks failed and repeated strongly that he would make no further offers unless other countries make concessions. Earlier this week, he told the European Parliament that Europe could settle for "a minimalist outcome, if that is what the rest of the world wants."

That position has been drawing fire from other countries who blame the EU for doing the most to cause the standstill. Brazil, refusing to make fresh concessions, has said it fears the EU is trying to wiggle out of the commitments it already made to lower farm tariffs. Indian Trade Minister Kamil Nath rejected the idea of lowering ambitions as Mr. Mandelson has suggested. "There is no common ambition, and I am not willing to lower my ambitions," he said in an interview in Davos. "Europe has decided the best defense is to go on the offensive, but they should be more substantive and try and correct structural flaws."

Trade negotiators are meeting to try to lay out a road map for what they hope will be the rough draft of a deal by the end of April, after their plan to achieve that in Hong Kong last month failed.

Many diplomats and trade experts say the current round of talks, known as the Doha Development Round, is fundamentally an all-or-nothing proposition that requires dramatic cuts in trade barriers in all sectors and regions to get done at all, because of the need to provide some victories for all the 149 countries involved in the negotiations.

U.S. Trade Representative Rob Portman said Thursday that he needs an ambitious round to sell a trade package to Congress. U.S. legislators, he said, won't approve a deal to cut politically important farm subsidies unless they can show their constituents that U.S. farmers will benefit from lower global farm tariffs and greater opportunities to sell industrial goods and services. "From a U.S. perspective, Doha light doesn't work," said Mr. Portman, talking to reporters in Davos. "We need enough reduction in tariffs to demonstrate that there will be new trade flows."

Still, the idea of rolling back Doha's aims is an attractive fallback position for those who fear a full collapse of the talks. That in turn could lead countries to forsake such long-running, world-wide trade negotiations for individual deals among smaller groups of countries.

"When the time comes in a few weeks, we might accept a lower-ambition agreement. If the choice is between failure and a lesser agreement, I'll take the lower ambition," said Rachid M. Rachid, Egypt's trade minister and head of the African group of countries at the WTO talks. A minimalist agreement would retain commitment and momentum, whereas failure could put trade liberalization efforts back five years, he said.

World Trade Organization Director-General Pascal Lamy has called the Doha talks, named after the city in Qatar where they started in 2002, just 60% complete, with little progress lately. Trade negotiators are nearly unanimous in their belief that the talks must end, one way or the other, by the end of this year, before a U.S. law runs out that prevents Congress from essentially renegotiating the agreement point by point.

But some trade diplomats note privately that the outlines of a lower-ambition round are already on the table and with a little improvement might not even look that bad compared with previous trade rounds.

Mr. Lamy, while not advocating rolling back Doha's objectives, notes that, for example, negotiators have already agreed on a 20% cut in farm subsidies that encourage overproduction. That is far less than the U.S. proposal, but similar to the level of cuts achieved for agriculture supports overall in the previous round, which began in Uruguay and ended in 1994. The U.S. has proposed that developed countries cut farm tariffs by up to 90%, and that for farm subsidies that encourage overproduction, the U.S. cut back by 52% and the EU by 75%.

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Proposed cuts to industrial tariffs so far are harder to quantify under Doha, but Mr. Lamy notes a large number of WTO members have embraced the idea of cutting the highest tariffs the most. That is important, he says, because so-called peak tariffs are often used to protect markets like shoes and textiles that developing countries most want to access.

Dan Ikenson of the Cato Institute in Washington says the U.S. and Europe may have to cut farm supports no matter what the outcome of Doha, because of domestic budget problems and fear of WTO legal challenges. That could make them more willing to accept a watered-down Doha if collapse was the alternative -- to get something in return for their cuts.

A big part of the problem, a growing number of trade analysts are concluding, is that Doha lacked a clear set of goals, in contrast to other trade rounds aimed at particular sectors. Naotaka Matsukata, a former U.S. trade negotiator now with law firm Hunton & Williams in Washington, says when Doha was launched two months after the Sept. 11, 2001, terrorist attacks on the U.S., the main idea was to use trade to help developing countries, which might breed future terrorists.

But WTO members never agreed specifically on how that was to be done. Industry groups didn't play their usual role as the driving force. "There was never a consensus on what the round was supposed to be," Mr. Matsukata said. "People are asking themselves what we are doing the round for."

US Signals New Approach To Doha Round Of Trade Talks (FT)

By Alan Beattie

Financial Times, January 27, 2006

Rob Portman, the US trade representative, said on Thursday that the Doha round of trade talks had to move forward on all fronts, as the European Union said it would lose “next to nothing” if the talks failed.

The shift of emphasis in the US’s position ahead of a meeting of trade ministers pm Saturday came amid accusations that the tough negotiating tactics of big farm exporters like Brazil were holding up progress.

While continuing to argue that the EU should improve its initial offer to cut farm tariffs, a position it shares with Brazil, Mr Portman also stressed that “in an ideal world”, big developing countries would simultaneously open their goods markets.

“That would be a lot to ask because it involves a lot of risks on the part of all the parties but I think that’s what’s needed now,” he said.

Peter Mandelson, the EU trade commissioner, raised the stakes by saying that the EU would lose “next to nothing” if the talks failed. “The alliance between the US and Brazil has led to stalemate in these talks,” he said. “It has now become self-defeating.”

Brazil, one of the world’s most efficient agricultural exporters, leads the Group of 20 developing countries that negotiates on agriculture. EU officials have accused Brazil of negotiating in its own interests by prioritising lower farm tariffs. Other members, such as India, have many small-scale farmers who will lose from reduced agricultural tariffs across the world.

Kamal Nath, the Indian trade minister, told the FT: “The question is not who is more or less of a delinquent. We have to look at all parts of the negotiation.”

He added that the US could not expect lower tariffs without cutting subsidies. “The US keeps looking for market access with distorted prices,” he said.

Rachid Mohammed Rachid, the Egyptian trade minister who chairs the Africa Group of nations in the trade talks and is also in the G20, told the FT: “The US and the G20 are expecting the EU to come forward with more agricultural market access. I think we need to come forward with offers on . . . [industrial goods] and services. The idea that everyone has to wait for the EU is not Egypt’s view and it is not the Africa Group’s view.”

But Celso Amorim, the Brazilian foreign minister, denied the suggestion that Brazil was merely following its own interests, saying that he was in complete agreement with India.

“The G20 is a microcosm of the developing world,” Mr Amorim said. He added that the grouping had formed a common position with the wider G90 group of developing countries during last month’s World Trade Organisation ministerial meeting in Hong Kong.

“Two years ago people said the G20 wouldn’t last three months, and now they say that the new entente with the G90 won’t last three months,” he said. “Wait and see.”

Saturday’s meeting of trade ministers will focus on setting a timetable for negotiations in coming months rather than making any decisions, ministers said.

Merkel Can Help Advance Talks (AP)

The Associated Press, January 27, 2006

New German Chancellor Angela Merkel could help advance stalled global trade talks by offsetting the protective mindset of French officials in EU policy, U.S. trade chief Rob Portman said Thursday.

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A key issue holding up talks has been access to European Union farm markets, with Brussels refusing to give more ground until other countries cut import tariffs on industrial goods and services.

Portman, speaking while attending the World Economic Forum annual meeting, said Germany could act as a counterweight to France, which has been particularly defensive in wanting to protect its agriculture markets.

"I was very impressed with her willingness to engage," Portman said of Merkel. "I'm hopeful that she can help us to come together with an agreement this year."

But EU trade chief Peter Mandelson insisted later Thursday that Europe is "united" and that Brussels would not make any more concessions on agriculture until its trading partners first offer to cut trade barriers in industrial goods and services.

"We can't be expected to make a further offer in agriculture in order to pay to keep others at the negotiating table," Mandelson said. "Europe is willing to give more than it has offered, but it is not prepared to ask for nothing in return."

Mandelson suggested that the EU is prepared to risk the round of trade talks breaking down.

"If the talks stopped, we would lose next to nothing," Mandelson said.

The United States, as well as key developing countries such as Brazil and India, are demanding easier access to EU farm markets as part of the Doha round of trade talks.

With just more than three months left before a self-imposed deadline for setting precise formulas for cutting trade barriers, major players at the 149-member WTO appear as far apart as ever on the vexing subject of farm trade, as well as market access for industrial goods and liberalizing service industries.

Little seems to have changed since before December's meeting in Hong Kong, where members failed to agree on those formulas and only agreed on a new, April 30 deadline for reaching that point. That leaves little time before a year-end deadline for concluding the Doha negotiations.

Brazil's Foreign Minister Celso Amorim said he "was not impressed" with Mandelson restating that the EU was unable to make any more concessions on farm trade.

"Reopening the battles that we had prior to Hong Kong certainly is not a constructive way to start," Amorim said.

Portman, though, held out hope that Merkel could be "a positive force" in bringing the opposing sides together.

Trade negotiations usually take place at ministerial level rather than heads of state, yet Merkel is "engaging directly," Portman said.

"The German position is obviously going to be part of an overall EU position, in that they negotiate through the commission and not the member states, but it will take into account their own economic interests and Germany is the second largest exporter of manufactured products in the world," Portman explained.

Germany has "a strong interest in a successful outcome" to the Doha round, he said, adding: "Global economic growth, for all the major economies, is extremely important."

Boycott Call Creates Fracas At Davos Forum (NYT)

By Mark Landler And John Markoff

The New York Times, January 27, 2006

DAVOS, Switzerland, Jan. 26 — A magazine article calling on nations to boycott Israel because of its treatment of Palestinians has provoked a tempest at the World Economic Forum's annual meeting here, prompting the organizers to pull the magazines from the forum's shelves here and issue an apology.

The article, which appeared in Global Agenda, a magazine published by the forum and distributed to participants, carried the headline "Boycott Israel." The author, Mazin Qumsiyeh, equated Israel's policies toward Palestinians with apartheid and said that countries should withdraw their investments and boycott Israel.

After a member raised questions about the article, the organizers removed the magazines from shelves at the conference center in this Alpine resort. The forum's executive director, Klaus Schwab, said the article should not have been published and had slipped through the editing process.

"There was an unacceptable failure in the editorial process, specifically an insufficiently short period for review of content, for which there is no excuse," Mr. Schwab said in a statement. "The article is totally in contradiction to my own, and the forum's, mission and values."

The timing of the contretemps — on the day that Hamas won a landslide victory in Palestinian elections — was not lost on people here. The future of Israeli and Palestinian relations was high on the agenda on Thursday at this meeting of about 2,300 political figures, private groups and corporate executives.

The article on Israel had drawn no response until Wednesday, when an American technology executive raised questions about its tone.

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"I was shocked," said Rabbi Awraham S. Soetendorp, of the Jewish Institute for Human Values in the Netherlands, who was attending the forum. "The issue that Zionism was equated with racism was so outrageous."

The publication of the article was a keen embarrassment for Mr. Schwab, who prides himself on fostering dialogue in troubled parts of the world.

Mr. Schwab had hoped to organize a panel discussion this year between Israeli and Palestinian leaders. But the acting prime minister of Israel, Ehud Olmert, and the Palestinian president, Mahmoud Abbas, declined invitations to come to Davos because of events at home.

Secretary of State Condoleezza Rice spoke via satellite during a panel here, reaffirming the position of the United States that Hamas must renounce violence and recognize Israel's right to exist.

Mr. Qumsiyeh, the author of the article, is an American citizen of Palestinian descent who frequently writes in support of Palestinian causes. In a telephone interview from New Jersey, he said he had been asked to submit the article by a staff writer at the magazine.

"Why is free speech not allowed?" said Mr. Qumsiyeh, a geneticist. He said his article called for a nonviolent response to Israeli policy.

Economics And The Inevitable (WP)

By David Ignatius

The Washington Post, January 27, 2006

DAVOS, Switzerland -- As the throngs of ebullient Indian and Chinese executives make their way through the salons of the World Economic Forum this week, it's hard for an American not to reflect ruefully on what life must feel like for autoworkers in Detroit -- stuck in the slow lane of the global economy.

The global titans would doubtless give autoworkers in Michigan the same advice they would offer to workers in an outmoded Chinese steel mill or an unprofitable European textile plant: Get over it. Learn new skills and find new jobs in more productive sectors. The flat world, as my colleague Tom Friedman likes to call it, is ruthlessly fair in that respect. Everybody must live on the knife edge of the global marketplace.

If it were my job at Ford being cut, I would find such bromides infuriating. They sound like a 21st-century version of utilitarianism: an insistence that the free market produces the greatest good for the greatest number, which does you no good at all if you're among the unlucky lesser number. But the fact that the Davos ethic is galling doesn't mean it's wrong.

Davos has come to symbolize the dominant force of our time -- the wealth-creating, job-destroying whirlwind of the global economy. Each year I come here I marvel at the reach and leveling power of this economic hurricane. There are more Chinese, Indians and Arabs every year, and less of an American presence. U.S. investment banks, technologists and venture capitalists may have spawned the globalization movement, but it has now floated free. The dealmakers come from all over the world. The one thing they seem to have in common is that nearly all were educated in the United States. That may not be much comfort if you work at an assembly plant in Dearborn, but at least America still does one thing well: running universities.

My superstars at Davos this year are the university presidents. Larry Summers at Harvard, Rick Levin at Yale, Lee Bollinger at Columbia and a half-dozen more are transforming their universities into global institutions -- seeking the best students from around the world and sending them to far-flung places to learn the skills that will secure them places among the global elite.

"We want the brilliant mathematician whose mother is a chambermaid in Romania," says Summers. That's the most attractive face of globalization -- the idea that the great universities are creating a colorblind meritocracy that doesn't care where you're from as long as you did well on the SAT. But in this global empire of knowledge, there is an echo of Dickens's parody of utilitarian thinking, Mr. Gradgrind, who in the novel "Hard Times" famously admonished his students: "Facts alone are wanted in life. Plant nothing else, and root out everything else." Mr. Gradgrind's students were productive, but quite miserable.

The impresario of Davos, Klaus Schwab, has tried hard over the years to humanize the free market his forum celebrates. I spent time yesterday meeting with some of his "social entrepreneurs," people who are building pay toilets in Nigeria, teaching sustainable agriculture in Paraguay, training rape victims in Cambodia how to run a catering business. Inspiring stories, and there is something marvelous, too, about a conference attended by people who are so eager to invest in the booming, free-market economies of India and China.

The change machine is relentless, as I discovered at a session here for technologists and venture capitalists. The group selected hot technologies for the next few years -- sensors that can operate without batteries, stem cells for cardiac patients that can regrow heart tissue; solar technology that can produce energy at half the cost; microbial factories that can make molecules for drugs in the laboratory, for a tenth of the cost of finding them in nature. It was a dazzling discussion -- not least because these life-giving technologies will make the people in the room even richer.

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"I'm a technology optimist," a prominent venture capitalist named Vinod Khosla explained. He argues that innovative, bottom-up methods will solve problems that seem intractable, from energy to poverty to disease. "Every problem is an opportunity to a technology pioneer," he said.

Business today is the leading agent of social change. That's really the message of Davos. It can be a pitiless process, and its seamless efficiency is in frightening contrast to the incompetence and mismanagement of the public sector. Globalization can be tamed, but it can't be stopped -- nor should it be. I just wish other things in the world worked as well.

Win-Win? Tell It To The Losers (NYT)

By Floyd Norris

The New York Times, January 27, 2006

DAVOS, Switzerland

AMONG the business and political leaders who gather here each year for the World Economic Forum, there has long been broad agreement that globalization is good.

But this year there is a growing doubt — not in the validity of the message, but in whether it is losing believers among the broad populace of the world.

The organizers of the conference focused a large part of it on China and India, but in the corridors a much smaller country kept coming up. That was Bolivia, whose new president, Evo Morales, promised to "end the colonial and neoliberal model." His election continued a recent leftist trend in Latin America.

"Populism is sexy in many countries," said Ghassan Salamé, a Lebanese political scientist who teaches at the Institut d'Études Politiques de Paris. "It somehow gives credibility back to politics, saying that politicians can change things. Otherwise, globalization is ruling the world."

Backers of globalization have long argued that it was "win-win," with developed and developing economies both gaining from the process, even if there were some local losers whose jobs vanished.

They still think that. But they worry that there are more losers than expected. "On a microbasis, it is very difficult to feel the win-win," said Ben Verwaayen, the chief executive of BT, the former British Telecom, at a session on jobs.

"There is a reason why polls show declining trust in politicians, journalists and business leaders. They are the opinion leaders who have lost credibility," Mr. Verwaayen continued. "Society feels very intuitively that something has changed, and we do not have the answer to it."

In a way, it is remarkable that these resentments are growing now, when world economic growth is strong. The growth of China, India and other Asian economies has not kept the United States from growing at a good rate.

But the growth is uneven, and many who felt successful in developed countries now feel threatened as pension plans are cut back and companies demand reductions in pay or benefits to avoid layoffs.

"Those who cannot participate in the economic wealth have fears," the German chancellor, Angela Merkel, said in a speech here. She warned of troubles ahead if a framework could not be found to allow all to profit.

A set of polls released by the forum showed that nearly two-thirds of Davos attendees believe that the next generation will live in a more prosperous world, while fewer than half of the people interviewed around the world share that opinion. The general public was, however, more optimistic than the Davos crowd that the world would become safer.

Perhaps those who resent globalization will remain powerless. But their ranks could swell if the world economy weakens.

Lawrence H. Summers, the president of Harvard University and a co-chairman of the World Economic Forum, asserts that globalization will not be derailed.

"The tide of history continues to move toward more market organization," he told me. But, he added, "For this to work out well, there must be more attention to local disintegration even as we work toward global integration."

Or people could just accept a world in which some are very wealthy and others provide services to them. Elaine L. Chao, the United States labor secretary, said the job outlook in the United States was bright for plumbers and electricians.

And, speaking at the same section on jobs, David Arkless, a senior vice president of Manpower Inc., said that one profession likely to offer high pay in coming years is that of personal trainer.

Don't Look For Me At Davos . . . (WSJ)

By John C. Bogle

The Wall Street Journal, January 27, 2006

This year I've decided not to call the pilot, pop on to Vanguard's G-4 and jet to Davos. Partly because we don't "do" corporate airplanes. Partly because I've never been important enough to receive an invitation to the perennial World Economic Conference. But mostly because what was once truly a global economic conference has become a "happening," a magnet for

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the rich and famous -- including business stars and Hollywood starlets -- to see and be seen, sort of like walking on that red carpet to the Oscars.

I confess I looked at this year's program before I made my decision. I'm only truly sorry to miss Morgan Stanley's Steve Roach, whose persistent gloomy warnings about the global economy have yet to come home to roost. And I'm kinda sorry to miss the apparently impassioned defense of speculating in today's financial markets ("Beyond Short-Termism: Not on My Watch"), which I hope -- but doubt -- is an attack on my attack on the folly of short-term speculation in my new book. To say nothing of "Hedge Fund Fairy Tales," although that can hardly be covered adequately in the allotted hour. The sessions "Happiness is . . . ," "The Trust Deficit," and "Transforming Neurotic Corporations" may also have been interesting.

Confession being good for the soul, the session I'll really be sorry to miss is "All You Ever Wanted to Know about Relationships -- But Were Afraid to Ask," a rare three-hour session that vastly exceeds the customary one hour-limit. Here, psychologist Dagmar O'Connor will tell what I'm certain will be a capacity audience why "relationships and sexuality may be the only truly universal part of human life," and give us "tools to overcome old problems and keep desire flowing." We can all learn, can't we? (Even though I'll soon be 77, I'll celebrate my 10th anniversary as a heart-transplant recipient on Feb. 21. The heart is actually now 35.)

Speaking of CEOs, the Forum exults that among its select horde of 2,340 participants are a record 735 chief executives, chairmen and CFOs, "the highest figure of corporate leaders ever." With all due respect, I won't miss glad-handing most of them. They get paid as if they're solely responsible for their firms' success, and even if they fail, they get handsome rewards. In 2004, their compensation rose another 39% to 475 times that of the average worker -- the guys and gals who get out of bed every morning and do their jobs, with never a ride on the corporate jet whose cost is paid 60% by shareholders and 40% by taxpayers. Truth be told, most CEOs I've met are greatly overrated. But I don't complain; I may have been the most overrated of all.

So sorry, Bono, I can't be with you for lunch. Sorry, other Michael Jordan, that I won't hear the latest on EDS. Sorry, David Stern, that I can't shoot some hoops with you. Sorry, Jacques Rogge, that I won't learn more about "the impact of sports in the world." And sorry, Jean Claude and Christo, but please know that I took my whole family to "The Gates" and loved it.

But I already knew, as I suspect everyone there knew, that "China, India [are] Key to the Future," CNN's headline about Chancellor Merkel's speech. And I didn't need to fly to Davos to learn that "plumbers, construction workers, and electricians" will still be needed in the global economy of the future. With 226 sessions, I would have had to miss at least 200 anyway.

Deep down, however, I may just be jealous. Perhaps if I call President Clinton I can hitch a ride on his jet, arriving late tomorrow afternoon for a closing panel with Forum founder Klaus Schwab. Then I'd have avoided all the foolish, self-righteous show-biz baloney, but be able to assure my pals: "Yes, I was at Davos, 2006."

Mr. Bogle, founder and former CEO of the Vanguard Group, is the author of "The Battle for the Soul of Capitalism" (Yale, 2005).

French 'protectionism' Draws EU Ire (FT)

By Tobias Buck In Brussels

Financial Times, January 27, 2006

France has been given a one-month deadline to justify its contentious decree protecting a large number of domestic firms from foreign takeovers or face legal action from Brussels.

Charlie McCreevy, the European Union internal market commissioner, has rounded on the French government's action, dismissing key provisions of the decree – issued on December 31 – as "discriminatory" and "protectionist".

The commissioner's criticism of the takeover decree is detailed in a four-page letter sent to the French government and signed by Mr McCreevy's top civil servant. "The Commission services have examined the law and have raised a number of concerns with the French authorities," a spokesman for Mr McCreevy said on Thursday.

Brussels' intervention underlines the Commission's deep concerns about the rise of protectionist measures in the 25 EU member states. Mr McCreevy is already embroiled in a battle with the Polish government over its attempt to block a banking merger involving UniCredit, the Italian financial services group. He has also taken action against Italy for an attempt by the country's central bank to block two foreign banking takeovers.

A confrontation with France would, however, be more serious, because the Commission is questioning measures which are designed to protect entire sectors from foreign takeovers – and not just individual companies.

Under the decree, the French government has the right to veto or impose conditions on foreign takeovers in as many as 11 sensitive sectors. Paris said the decree had been drafted in close collaboration with the Commission, but Brussels insists it never gave its approval to the text.

Mr McCreevy's spokesman said the Commission's concerns referred, among other things, to "the fact that the authorisation procedure applies only to foreign firms and not to French firms", adding that the requirement "appears

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discriminatory and could be viewed as protectionist". The Commission was also questioning a provision that requires government approval for buyers wanting to take over only parts of a French firm – a measure that "seems to be disproportionate", the spokesman added. Other potential problems identified in the Commission letter relate to "unclear criteria in the law for defining national interest".

France had hoped to avoid Commission criticism of the decree by distinguishing between foreign firms from inside and outside the EU. As a result, potential bidders from other EU countries face much lighter requirements than companies from, say, the US or China.

Kosovo Albanians Mourn Pro-Independence Leader (NYT)

By Nicholas Wood

The New York Times, January 27, 2006

PRISTINA, Kosovo, Jan. 26 — Kosovo's Albanian majority gathered by the tens of thousands on Thursday to bid farewell to their president in a proud and somber funeral ceremony that seemed to underscore their aspirations for independence.

After 16 years as the ethnic Albanian leader in the province, Ibrahim Rugova — a veteran pacifist who struggled to gain independence for this disputed region but died of lung cancer last Saturday — was given every honor the region could muster.

For six hours this city, the regional capital, was brought to a halt for a ceremony attended by four presidents and representatives from more than 40 countries. Stores and schools were closed, and the regional government announced a holiday.

Kosovo is still officially part of Serbia but has been administered by the United Nations since June 1999, when Serbian security forces, accused of committing atrocities against the Albanians, were forced to leave the province. Mr. Rugova died just as talks on the province's future status were about to begin.

But for many here on Thursday, there was little in the ceremony to suggest that it was taking place in a disputed province. There were few signs of the 17,000 or so peacekeepers who usually patrol the region. Instead, Kosovo's Protection Corps, defined by the United Nations as a civil disaster response unit but widely viewed by Albanians as the province's fledgling defense force, led the cortege. The armed guards, recruited from the ranks of Kosovo's now dispersed guerrilla army that fought the Serbian security forces during the conflict here from 1997 to 1999, walked slowly alongside the president's coffin as it was borne on a gun carriage, draped in flags.

"He was the president of our state," said Zymer Kastrati, 80, who traveled by bus with 10 members of his family from Pec in eastern Kosovo. Mr. Rugova twice won the presidency of Kosovo's regional government, elected by the provincial legislature in 2002 and 2004.

While the United Nations has final authority here, the regional government has substantial say in areas like the economy, health, education and other social affairs.

Many Albanians traveled across Kosovo in freezing temperatures to attend the ceremony after four and half days of official mourning. Many were members of the Democratic League of Kosovo, the movement Mr. Rugova helped to form in the late 1980's as a counterweight to the rise of Serbian nationalism. Members of Kosovo's extensive exile communities flew in from as far as way as Australia and the United States.

Some said they came out of duty to the man they described as the father of their nation.

"He was a very patient and peaceful man — ideal qualities, since we Kosovars are a hot-blooded people," said Gresa Rexhepi, 16, a Pristina high school student. "I'm sure his goal will be achieved very soon."

Dignitaries paid tribute to the president before he was laid to rest at a memorial site for former members of the Kosovo Liberation Army. The head of the United Nations mission in the province, Soren JessenPetersen, said President Rugova had "remained dedicated exclusively to peaceful means."

"His death is a great loss," Javier Solana, the European Union's foreign policy chief, said at the ceremony. "It is one of the cruel ironies of history that he left at the moment he was most needed, the very moment he expected to provide leadership in helping to settle the future status of Kosovo."

Mr. Jessen-Petersen suggested that Mr. Rugova's desire for independence might yet become a reality, a suggestion echoed by diplomats who say negotiations are likely to lead to some kind of independent state.

"President Rugova has left a void behind him, but he has also left a vision to guide Kosovo forward," Mr. Jessen-Petersen said. "It is a vision whose fulfillment he did not live to see, but whose realization will be achieved through the unity and commitment of those who follow him."

But while the ceremony appeared to suggest that this region is on the verge of statehood, the underlying divisions were thinly disguised. Members of Kosovo's Serbian population were notably absent, as were representatives of the Serbian government.

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A request by Serbia's president, Boris Tadic, to attend the funeral was rejected by Mr. Rugova's office because it reasserted Serbia's claim to the province.

President Tadic asked to be able to go to "Kosovo, which is a part of Serbia's territorial integrity," and pay his respects. Subsequently, all but one of Kosovo's Serbian representatives declined to join the ceremony.

There were also reminders of the deep divisions running though Kosovo's Albanian population. Some war veterans, long critical of Mr. Rugova's advocacy of nonviolence during repression at the hands of Serbian security forces in Kosovo in the 1990's, condemned the government's decision to bury him at the Kosovo Liberation Army memorial site.

Axis Of Evo (WSJ)

By Mary Anastasia O'grady

The Wall Street Journal, January 27, 2006

There was a time when Evo Morales deserved a chance to show his democratic bonafides as Bolivia's new head of state. But 96 hours into the presidency, time's up. Anyone still wondering what Evo has in mind for his country qualifies for permanent disability -- or a job at the Organization of American States -- on grounds of terminal naiveté.

In just a few short days, the great Aymara hope has built a cabinet of radical and Marxist militants, purged the Bolivian military and signed a pile of "agreements" with his Venezuelan mentor Hugo Chávez. There are reports that Cuban security agents are already working for the new president much as they do for Chávez. If imitation is the sincerest form of flattery, Evo is buttering Hugo up big time.

The most tragic aspect of Evo's decision to let Cuba and Venezuela annex his country is where this all leads for the majority Indian population in one of the region's poorest countries. Their hopes soared on Sunday as they watched one of their own, from humble beginnings, sworn into the highest office in the land. They no doubt think that Evo -- who rose to power by leading coca growers against crop eradication pushed by U.S. drug warriors -- will care for his own in ways that the white, upper-class leadership never did. But Fidel long ago destroyed underclass hopes for a better life and Hugo is doing the same.

After six years of Chávez, Venezuelans, once ecstatic about their Bolivarian Revolution, are sinking deeper into poverty. Fidel's largely Afro-Cuban population is destitute after almost 50 years of El Máximo Lider.

Most of the world has greeted the Morales presidency with romantic optimism. His lack of experience and formal education, his fiery rhetoric laced with old fashion Latin populism, his violent background and his hard-line friends abroad -- all have been played down in favor of a "give-him-a-chance" attitude. A Miami Herald editorial Wednesday noted a few of Mr. Morales' more moderate statements as "a sign of political maturity."

It's hard to find anyone not hoping that an Evo-led Bolivia, built on equality under the law, property rights and healthy competition will emerge. Sadly, though, white guilt is not likely to get off so easily. The reality is that the Cuban model of totalitarian "equality" is now the dominant force shaping the Morales government.

One reason this has been slow to dawn is that observers have been assigning far too much importance to the question of whether foreign investors will be allowed into Bolivia's rich natural gas industry, or if, instead, Bolivia will go forward with full blown nationalization. The answer is probably the former, but so what? As both Venezuela and Cuba illustrate, such a policy does nothing to ensure development and reveals very little about whether democracy and liberty will survive.

Spain's socialist prime minister, José Luis Rodríguez Zapatero, is already trying to elbow his way into Mr. Morales's Bolivia on behalf of Spanish energy interests, as is Brazil's Luiz Inácio "Lula" da Silva on behalf of Petrobras. Yet the presence of foreign business interests in a dictatorship does little for the locals. Both Castro and Chávez host foreign investors, recognizing them as perfect business partners because they are politically indifferent as long as they get their cut. The key to a dictator's control is ensuring that local interests do not have economic power to challenge the political status quo.

Mr. Morales has been riding an anti-foreigner wave of populism but is suddenly warming up to the old Bolivian nemesis, Chile. Undoubtedly, someone has explained to him that as long as Bolivia relies exclusively on Brazil and Argentina as markets for its natural gas, it has weak pricing power. It would not be surprising to see the angry Bolivian nationalist make a deal with Chile so he could reach the coast and tap into the rich market for liquefied natural gas up north.

If that happens it should not be understood as moderation. It would merely be a calculation about how to secure power. It explains the first-ever attendance of a Chilean president at a Bolivian inauguration and Evo's plans to travel to Chile for its inauguration of Michelle Bachelet.

Better relations between Chile and Bolivia are much to be desired. But as Venezuela and Iran have made clear, energy income in the hands of the state does not make citizens better off. We'd be more encouraged if Evo said something about changing Bolivian property laws to permit Indians to sell their rural land or if he promised to change the country's "capitalization" structure of privatized companies so that shares held in trust for Bolivians by the state would be distributed to the people.

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The other facet of Bolivian reality that some observers expected as a counterbalance to a presidential power grab is the opposition. Yet, with a majority in the lower house and solid support in the senate, Evo may be able to consolidate power "legally" à la Chávez. A constituent assembly later this year will rewrite the constitution and if Venezuela is any guide, the concept of limited government will not be included in the document.

Finally, there is the matter of the military, an institution near and dear to the heart of an "elected" president who has no intention of leaving office when his term is up. Again, Chávez's Venezuela provides the template. To this day, a number of Venezuelan experts believe that the so-called "coup" of April 11, 2002 was a staged event, designed expressly for the purpose of identifying high-ranking Chávez opponents in uniform so they could be relieved of duty and replaced by less-qualified, loyal soldiers.

On Tuesday, Evo fired 28 Bolivian generals -- essentially the entire high command -- on charges of treason for allowing the U.S. to destroy some two dozen Chinese missiles held by the Bolivian military. He didn't mention that the missiles were obsolete and that both parties acted within OAS conventions. He then reportedly passed over the next generation of officers to replace the generals with a young group of soldiers. There can be little doubt that these new generals understand well that the president deserves credit for their accelerated career success.

There are of course differences between Bolivia and Venezuela, the biggest one being that Evo doesn't have the resources to purchase influence the way Hugo has done. But that may also explain why he's moving much faster to neutralize the military and protect his power against future challengers.

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Sent:	Friday, January 27, 2006 7:57 AM
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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, JANUARY 27, 2006 7:45 AM EST

TODAY'S EDITION

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TERRORISM NEWS:

Bush Defends Domestic Wiretapping Program.

President Bush yesterday defended the NSA's domestic surveillance program during a wide-ranging press conference. While Bush's reaction to the Palestinian election grabbed most headlines, his comments on the NSA issue were covered by all three network news programs, and are receiving some attention from most major newspapers this morning. The CBS Evening News (1/26, story 2, 3:30, Roberts) noted, "The President insisted again today he's on solid legal ground and was skeptical about increasing talk in Congress to write new laws covering the program." The New York Times (1/27, Bumiller, 1.19M) adds the President "said that efforts in Congress to write legislation expressly giving him authority for such a program were unnecessary and dangerous." Bush's "46-minute news conference, announced less than an hour and a half ahead of time, was an effort by the White House to frame the debate on an array of foreign and domestic issues only five days before his State of the Union address." Bush "appeared relaxed in the briefing room, which his aides say he prefers for news conferences instead of the more formal East Room. He appeared apprehensive at first, but loosened up when he saw a camera dangling precariously from a cord in the ceiling, threatening to crash down on the heads of reporters."

The Washington Post (1/27, A6, VandeHei, 744K) headlines its story "Bush Reasserts Presidential Prerogatives," and says that comments by Bush on hurricane Katrina, the Abramoff scandal and the NSA program show "he is determined to assert presidential prerogatives." Bush "said he is concerned about Congress writing a new spying law because it could force the government to provide details and clues about a top-secret program used to hunt down terrorists." Bush is quoted saying of the program, "There's no doubt in my mind it is legal."

In a similar story, the Washington Times (1/27, Curl, 90K) reports Bush "yesterday said he has exclusive authority over a broad range of issues -- including forbidding White House officials to testify before Congress about the government's Hurricane Katrina response and ordering warrantless electronic surveillance within the United States." Said Bush, "Conducting war is a responsibility in the executive branch, not the legislative branch." The AP (1/27, Hunt) quotes Bush saying, "The program's legal, it's designed to protect civil liberties, and it's necessary."

ABC's World News Tonight (1/26, story 4, 1:50, Vargas) reported that at the White House "they think" the issue "is a political winner." Bush "he didn't seem to get too rattled when one reporter compared him to Richard Nixon." The Washington Post (1/27, A7, Milbank, 744K) reports that "the Los Angeles Times's James Gerstenzang offered an observation on Bush's surveillance policy: 'This seems to sound like something President Nixon once said, which was: "When the president does it, then that means that it's not illegal." Whispered 'oohs' could be heard in the room." Bush "gave a look indicating he wished the dangling camera had fallen on Gerstenzang." Answered Bush, "Most presidents believe that during a time of war that we can use our authorities under the Constitution to make decisions necessary to protect us."

NBC Nightly News (1/26, story 2, 2:00, Fletcher) reported that in addition to dismissing the need for lawmakers to change the NSA terrorist monitoring program, Bush also "provided new ammunition for his critics by calling the 1978 Foreign Intelligence Surveillance Act, FISA, the law Congress passed to restrict domestic spying, outdated." Bush: "The FISA law was written in 1978. We're having this discussion in 2006. It's a different world. I said, look, is it possible to conduct this program under the old law? And people said, it doesn't work in order to be able to do the job we expect us to do."

Fox News' Special Report (1/26, Angle) reported, "The President explained once again that the communications intercepts done without warrants are always aimed at suspected terrorists overseas. … The President insists they do not tap calls made entirely within the US. Everyone agrees eavesdropping on purely domestic communications would require warrants. So when one reporter suggested the President is circumventing FISA, the President strenuously objected."

Under the headline "Bush To Resist Wiretap Legislation," the Wall Street Journal (1/27, Cooper, 2.11M) reports Bush "suggested he will resist any congressional attempts to modify the administration's practice of conducting warrantless wiretaps, saying the program is already legal and would lose effectiveness if subjected to a protracted public debate." The President "said yesterday that while he will consider congressional suggestions to modify the program," but "he won't support public debate that divulges how it works -- even if lawmakers' intent is to preserve the program." Reuters (1/27, Zakaria) also says Bush "said he would resist changing laws governing such action if it meant revealing secrets to an enemy."

Administration Has Given At Least Two Rationales For Domestic Surveillance. The Washington Post (1/27, A5, Eggen, Pincus, 744K) reports that President Bush's claim that he did not seek congressional approval for the

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warranteless domestic eavesdropping program because he did not need it is "one of several explanations on the topic from Bush and his aides, who have provided at least two separate rationales for why they did not ask for statutory authority for the program. Attorney General Alberto R. Gonzales said the administration had considered seeking legislation but determined it would be impossible to get, adding later in the same news conference that authorities did not want to expose the program's existence. White House spokesman Scott McClellan has echoed the latter point, saying the administration feared that details of the classified program would be exposed publicly." The Post adds, "The subject is one of several elements in the NSA spying debate that have been clouded by apparent contradictions and mixed messages from the government since the program was revealed last month. … Before the program's existence was revealed, several administration officials also emphasized in testimony and public statements that the NSA was prohibited from engaging in domestic surveillance -- even as the agency was clearly doing so under the authority of Bush's secret order that established the program."

Poll Shows Support For NSA Surveillance Program. The CBS Evening News (1/26, story 2, 3:30, Roberts) noted, "On the NSA spying program, President Bush went into today's press conference with a boost. A new CBS news 'New York Times' poll found 61% of Americans believe the eavesdropping is meant to fight terror and the majority support that." CBS anchor Bob Schieffer later noted, "It looks to me as if the President has decided to make this a political issue to show that he is strong in the fight against terrorism and perhaps the Democrats are weak. And I must say looking al that poll, he may be succeeding." Roberts: "A political issue and a national security issue which history would show President does very well on. You take a look at that poll, the majority of Americans think if it's directed at terrorism it's the right thing to do."

The New York Times (1/27, Nagourney, Elder, 1.19M), however, headlines its story "New Poll Finds Mixed Support For Wiretaps," and says Americans "are concerned that the aggressive antiterrorism programs championed by the Bush administration are encroaching on civil liberties, according to the latest New York Times/CBS News poll." The Times adds, "In a sign that public opinion about the trade-offs between national security and individual rights is nuanced and remains highly unresolved, responses to questions about the administration's eavesdropping program varied significantly depending on how the questions were worded, underlining the importance of the effort by the White House this week to define the issue on its terms. … In one striking finding, respondents overwhelmingly supported e-mail and telephone monitoring directed at 'Americans that the government is suspicious of;' they overwhelmingly opposed the same kind of surveillance if it was aimed at 'ordinary Americans.'"

FBI Begins Interviews In NSA Surveillance Program Leak Probe. Fox News' Special Report (1/26, Angle) reported, "Law enforcement sources tell Fox News that in the past few weeks, FBI agents have begun their investigation into who leaked details of the highly classified program to The New York Times. Agents began close to home, interviewing officials from the Justice Department and the FBI at the outset of their investigation."

Rove Comments Blasted. Under the headline "A Discredit To The GOP," the Washington Post (1/27, A22, 744K) editorializes, "The Bush administration's distortion, for political purposes, of the Democratic position on warrantless surveillance is loathsome. Despite the best efforts of Karl Rove, the White House deputy chief of staff, and Ken Mehlman, the Republican National Committee chairman, to make it seem otherwise, Democrats are not opposed to vigorous, effective surveillance that could uncover terrorist activity. Nor are the concerns that they are expressing unique to their party. Republican Sens. John McCain (Ariz.), Arlen Specter (Pa.), Chuck Hagel (Neb.), Lindsey O. Graham (S.C.) and Sam Brownback (Kan.) have expressed legal doubts about the surveillance program." The Post adds, "Maybe, as a matter of crass political calculation, Mr. Rove and Mr. Mehlman are correct that Democrats criticizing warrantless wiretaps will pay a price in the November elections. We don't pretend to know. What we do know is that the country is in the midst of an important debate about the reach of presidential power and the scope of civil liberties in wartime. For Rove & Co. to try to turn this into just another partisan political skewer discredits their administration and their party."

Columnist Eugene Robinson writes in the Washington Post (1/27, A23, 744K), "Once upon a time we had a great wartime president who told Americans they had nothing to fear but fear itself. Now we have…Bush, who uses fear as a tool of executive power and as a political weapon against his opponents. … To cultivate fear for partisan gain is never a political tactic to be proud of, but Rove's prescription of naked fearmongering is just plain reprehensible when the nation faces a shifting array of genuine, serious threats. This is a moment for ethical politicians -- and, yes, these days that seems like an oxymoron -- to speak honestly about what dangers have receded, what new dangers have emerged, and how the imperatives of liberty and security can be balanced. From the likes of Rove, I guess, we shouldn't expect anything more noble than win-at-all-costs." But "we do have the right to expect more from the president of the United States, and while Bush gives off none of Rove's Sith-lord menace, he has made the cultivation of fear a hallmark of his governance."

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More Commentary. The Eugene (OR) Register-Guard (1/26) editorializes, "Based on a powder-keg footnote in a recent memo by U.S. Attorney General Alberto Gonzales, the United States may be nearing a tipping point on civil liberties in its amorphous, open-ended 'war against terror.' … Gonzales' 42-page memo argues unconvincingly that Congress gave President Bush the power to investigate terror suspects using any tactics he chooses when it authorized him to use 'all necessary and appropriate force' against al-Qaeda one week after the terrorist attacks on Sept. 11, 2001. … The memo, and Gonzales' underlying contention that the president has nearly unlimited powers in wartime, are affronts to America's system of checks and balances and the Constitution that protects the privacy of its citizens. The memo also runs starkly counter to the recent findings of the nonpartisan Congressional Research Service, which cast serious doubt on the legality of the president's decision to order the domestic eavesdropping program. … Since 9/11, lawmakers have cowered in the face of an overbearing and overreaching executive branch. Now, Congress must exercise its constitutionally mandated oversight role, and protect the checks and balances and civil liberties that make us a free and democratic nation. If it fails to do so, the tipping point may be at hand."

The Seattle Post-Intelligencer (1/27) editorializes, "President Bush, Karl Rove and Attorney General Alberto Gonzales have tackled a big job. They are trying to scare people into believing the administration has the authority to spy on Americans' telecommunications. … This is one of the administration's patented media blitzes. The repetition of themes of terror, fear and security may once again swing opinion. … The administration argues that a congressional authorization to use force against terrorists means it's OK to conduct warrantless wiretaps. Court precedents suggest the vague authorization can't be stretched to overwrite existing law. Just saying the White House respects the Constitution's limits on searches doesn't mean the Fourth Amendment is actually being upheld. But maybe Rove can whip up gratitude for the president's defiance of accepted notions of law, privacy and a constitutionally limited executive. That's scary."

Mueller Says US Utilizing Global Intelligence In Terror War, But Preserving Privacy Rights. In a widely-distributed story, the AP (1/27, Lederer) reports, "FBI director Robert Mueller said Thursday the United States now acts on intelligence from any place in the world to fight terrorism but has not sacrificed individuals' rights to privacy in that effort. However, during an interview with The Associated Press, Mueller would not discuss renditions," nor would he "elaborate on the National Security Agency's listening without a warrant to telephone calls in the United States that Bush administration officials believe involve al-Qaida terrorists. … But Mueller said the goal of gathering intelligence in the war against terrorism was to prevent attacks and not just prosecute cases. 'For us, it is not just having a terrorist event happening and then gathering the evidence to put it in a courtroom to convict somebody after we're able to identify him, detain him and extradite him,' Mueller said." Mueller added that since 9/11, "U.S. officials have recognized the importance of using all information to determine 'who intends to hurt the United States or the United States' interests around the world.' 'We are doing a much better job at integrating that intelligence and acting on that intelligence any place in the world,' he said." The AP adds, "Mueller vehemently denied that the United States was giving up the right to privacy in exchange for security. 'In no way, shape, or form do I think we've given up our rights,' he said. 'But I do think there's an appropriate balance with the threat that we have.'"

Terrorist Pursuit Of Nuclear Weapons Dominates WEF Discussions. In a separate story about today's discussions at Davos, the AP (1/27) reports, "Terrorist attempts to attain nuclear weapons and a new twist in rock star Bono's campaign to help Africa topped discussions Thursday at the World Economic Forum. IAEA chief Mohamed ElBaradei said, "We know that terrorists are highly sophisticated and are interested in acquiring nuclear weapons. We are running in a race against time." DHS Secretary Michael Chertoff said that the department "has placed its priority on stopping the worst disasters. … He said the United States is working with other countries to make sure radioactive material terrorists could use to make weapons never enters the United States. FBI Director Robert Mueller said in an interview on the sidelines of the forum the United States is doing a much better job of integrating domestic and foreign intelligence and acting on it to fight terrorism around the world than it was before the Sept. 11, 2001, attacks on New York City and Washington. But the U.S. law-enforcement official cautioned: 'Nothing is perfect and nothing is certain.' 'We are safer but not totally safe,' Mueller said."

In his National Review Online (1/26) column, Jay Nordlinger notes, "An attractive panel on 'Global Risks 2006: What Keeps You Up at Night?' features Michael Chertoff (Homeland Security) and Robert Mueller (FBI), along with ElBaradei. The American presence is more robust than last year. (I should have said, the administration presence is -- and that translates into a more conservative coloration.)"

Mueller Calls For International Rapid Response System To Computer Hackers. The Financial Times (1/27, Larsen) reports FBI Director Robert Mueller "yesterday urged the world's law enforcement agencies to introduce a rapid system of exchanging information to battle computer security breaches and fraud that are the biggest concern of business. … The issue of computer fraud has gained increasing

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prominence in recent years following a series of hacking attacks on large companies and several high-profile security breaches at companies that keep sensitive information about their customers."

DOJ Disputes Colombian Claim Busted Passport Ring Aided Terrorists. The AP (1/27) reports, "Colombia has dismantled a false passport ring with links to al-Qaeda and Hamas militants, the acting attorney general said Thursday after authorities led dozens of simultaneous raids across five cities in collaboration with U.S. officials. In Washington, however, Justice and Homeland Security officials were surprised by the announcement of the investigation, which they said involved people posing as members" of FARC, "not al-Qaeda or Hamas." Acting Colombian Attorney General Jorge Armando Otalora said that "the counterfeit Colombian, Spanish, Portugese and German passports were used to enter the United States and Europe," but DOJ spokesman Bryan Sierra "said an indictment unsealed Wednesday in Miami charges 10 foreign nationals with smuggling 'people that they thought were members of FARC into the United States.' 'We are not alleging any connections to any terror organization other than the FARC,' said Justice Department spokesman Bryan Sierra. He said the U.S. will seek to extradite the 10 alleged smugglers, of whom eight have been arrested."

2nd Circuit Panel Rejects US Motion To Remove Judge From Terrorism Case. The New York Times (1/27, Preston, 1.19M) reports a three-judge panel of the 2nd US Circuit "yesterday rejected an attempt by prosecutors to oust a judge from a terrorism case, dismissing the government's argument that the judge, Shira A. Scheindlin, was biased in favor of the defendant. The ruling came in the case of Osama Awadallah, a Jordanian college student who was charged in October 2001 with lying before a grand jury to conceal his ties with two hijackers in the Sept. 11 attacks. … His convoluted case has become a test of the government's prolonged detention of people without charges as material witnesses in terrorism cases." The Times adds, "The appeals judges noted that in several cases in which Judge Scheindlin had initially antagonized the prosecutors by questioning their procedures, she ultimately ruled in their favor."

CIA Posted Wrong Photo Of Suspected Al Qaeda Terrorist. NBC Nightly News (1/26, story 4, 1:45, Williams) reported, "For a year and a half, the US government has been asking for the public's help in finding a dangerous al Qaeda operative, an expert in poisons and lethal chemicals. But until just recently, government did not know, until they were informed by NBC News, that the photo they were circulating was of the wrong man." NBC (Myers) added, "A US government website lists him as one of the world's most-wanted terrorists, Abu Khabab al Masri, allegedly al Qaeda's top expert on chemicals and poisons." But "the picture bore a striking resemblance to this man, Abu Hamza al Masri, a militant imam now on trial in London." Roger Cressey, NBC News terrorism expert: "It's embarrassing. It reflects a certain level of sloppiness and lack of attention to detail." Steve Emerson, NBC News terrorism analyst: "The CIA is supposed to check these things out. Somebody should be looking at it a second time and a third time before posting it worldwide."

Rabbi, Priest Testify On Al Masri's Behalf. Reuters (1/27) reports, "A rabbi and a Christian priest testified on Thursday in support of…radical Muslim preacher" Abu Hamza al Masri, "telling a court he was friendly and hospitable." Rabbi Joseph Goldstein testified "that he had been favourably impressed when he met Hamza at the Finsbury Park mosque in north London to talk about a mixed-faith married couple," and Anglican priest Stephen Coles "told the court he had met Hamza soon after the September 11, 2001 attacks on the United States. … 'Sometimes we agreed about some things, sometimes we disagreed. It wasn't at any point aggressive or angry.' He said he had tried to continue dialogue with Hamza even after the cleric was arrested in 2004."

PATRIOT ACT:

Columnist Says Patriot Act Could Have Prevented 9/11. In a column distributed by Scripps Howard News Service (1/27) New York commentator Deroy Murdock writes, "As the Senate prepares for a showdown vote to reauthorize the Patriot Act, members of the World's Greatest Deliberative Body should deliberate on this: Had it existed, could the Patriot Act have prevented the Sept. 11 massacre? … First, Patriot Act Section 218 would have eliminated 'The Wall' that prevented intelligence agents and law-enforcement officials from sharing information." Former Attorney General Janet Reno "issued restrictions in 1995 that hindered communications between spies and gumshoes. Frustrated New York FBI agents reportedly placed signs on their desks that read, 'You may not talk to me.' … Were the Patriot Act in place, 'The Wall' would not have prevented Minneapolis FBI agents from getting permission to examine the laptop and possessions of '20th hijacker' Zacarias Moussaoui." Murdock adds, "Second, Patriot Act Section 215, the so-called 'library provision,' might have led officials to seven of the 19 hijackers who used government libraries for Internet access.

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HOMELAND RESPONSE:

9th Circuit Upholds Airport ID Requirement. The AP (1/27, Kravets) reports, "An appeals court on Thursday dismissed a legal challenge to federal airport regulations requiring passengers to show identification before they board planes." The AP continues, "The 9th U.S. Circuit Court of Appeals rejected claims by Libertarian activist and millionaire John Gilmore that the policy constituted an illegal search and violated his right to travel freely. … After reviewing the government's identification policy in private, a unanimous three-judge panel said the policy was not overly intrusive. The review was done in private for security reasons." The AP adds, "The court said Gilmore could leave the airport if he didn't want to show his ID and had other ways to get around besides air travel. It also rejected assertions that the act of showing identification was an illegal search of Gilmore, who made his millions as a founding employee of Sun Microsystems. … Gilmore's lawyer, William Simpich, said he is weighing whether to appeal."

FBI Investigating Whether California Man Also Mailed New York Anthrax Hoax Letters. The AP (1/27) reports, "A Santa Cruz man indicted for sending three letters that appeared to be laced with anthrax may have sent four similar parcels, which were responsible for the partial evacuations of several buildings in New York, authorities said. Four letters delivered to New York addresses on Monday and Tuesday have 'obvious similarities' to three letters Paul Charles Steeves is under indictment for, said Christine Monaco, an FBI agent in New York. … The New York letters -- received at a United Nations family planning agency, a federal credit union, an Army recruitment center and an Army Corps of Engineers facility -- caused partial evacuations, Monaco said. Agents are looking into whether Steeves sent the letters received in New York, said FBI spokeswoman LaRae Quy."

Audit Finds States Squandered Much Anti-Terror Funding. The New York Post (1/27, Earle, 624K) reports on a "stunning audit" which reveals that hundreds of thousands of dollars "sent to protect the nation's heartland have been squandered in Indiana alone." The Post calls the audit "more evidence the cash could have been better spent in New York. A team of investigators examined Indiana's books to see how the state spent $48 million it got in federal homeland-security aid, finding widespread instances of mismanagement, according to the report set for release today, which was obtained by The Post. New York lawmakers were fuming over the shocking findings of waste at a time when the Big Apple could use more anti-terror dollars."

Bloomberg Presses WTC Developer To Accept Port Authority Deal. The New York Times (1/27, Bagli, 1.19M) reports that while New York City Mayor Michael Bloomberg "has little actual power over decisions at ground zero," he is "using his bully pulpit to pressure [developer Larry A.] Silverstein to accede to the authority's demands that he relinquish control of a major part of the 16-acre parcel in return for a reduction in rent, so that the rebuilding effort can proceed more swiftly." The Times reports that this proposal would include the "huge and symbolic Freedom Tower while the Port Authority … would construct a second tower on Church Street and occupy part of it. The authority would also build a multistory shopping mall and sell a third site to a developer for a hotel, office space, and, in the mayor's vision, apartments."

Bush Addresses Concerns About Federal Commitment To New Orleans. NBC Nightly News (1/26, story 3, 1:30, Williams) reported, "The topic of New Orleans came up at that news conference today because of the decision by the White House to say no to a proposed $30 billion bailout package for Louisiana. That news hit hard in New Orleans and it prompted this exchange between the President and our own David Gregory. He asked the President about the people who are possibly left out." Bush replied: "The Congress has appropriated $85 billion to help rebuild the Gulf Coast. And that's a good start. It's a strong start. It's a significant commitment to the people whose lives were turned upside down by that -- by that hurricane." Williams: "Now in their defense, aides to the President say they want the billions already approved by Congress to be spent first. They contend that money may well be enough and if not, they say they'll reassess in the Gulf."

First Lady Assures New Orleans Schools Aid Will Be Available. The Baton Rouge Advocate (1/17, Shields, Millhollon) notes that "first lady Laura Bush visited one of the first New Orleans public schools to open after Hurricane Katrina hit, then traveled to another school in St. Bernard Parish." Laura Bush said, "One thing that will bring people back to their communities is if they know there's a good school for their children to go to and there's safe places for them to play."

The AP (1/27) adds that she "listened Wednesday as students who talked about the events of the past five months. One talked about being stuck in traffic for 12 hours trying to evacuate the day before Katrina hit on Aug. 29. Another said for three weeks she didn't know where her father was, whether he survived the massive flood." The AP notes, "Bush and Secretary of Education Margaret Spellings assured

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school officials that federal aid will be available for them to continue operating and make needed repairs."

History Of Corruption Seen As Hurting Louisiana Recovery Effort. The Los Angeles Times (1/27, Bustillo, 958K) reports, "In Louisiana, which has a history of political shenanigans so rich and colorful that it has become a part of American folklore, people long have laughed off misbehaving politicians as a fact of life, every bit as inevitable as death and taxes. But as the state lobbies Washington for more money to rebuild ravaged towns and cities, citizens are realizing that Louisiana's well-earned penchant for dirty politics has exacted a steep price: It has badly damaged the credibility of the recovery effort." However, "Sen. Mary L. Landrieu (D-La.) said that the corruption, while historically accurate, has been magnified by Republicans in Washington who do not want to help Louisiana. … Citing the corruption scandal in the nation's capital centering on GOP lobbyist Jack Abramoff, Landrieu added, 'Republicans in Washington should clean up their own house before using Louisiana's past reputation an excuse for not wanting to rebuild the Gulf Coast.'"

Study Finds 80% Of Black New Orleans Residents May Not Return. The New York Times (1/27, Dao, 1.19M) reports, "New Orleans could lose as much as 80 percent of its black population if its most damaged neighborhoods are not rebuilt and if there is not significant government assistance to help poor people return, a detailed analysis by Brown University has concluded. … Of the 354,000 people who lived in New Orleans neighborhoods where the subsequent damage was moderate to severe, 75 percent were black, 29 percent lived below the poverty line, more than 10 percent were unemployed, and more than half were renters, the study found." If report author John R. Logan's "projections are realized, the New Orleans population will shrink to about 140,000 from its prehurricane level of 484,000, and the city, nearly 70 percent black before the storm, will become majority white."

WAR NEWS:

US Releases Some Iraqi Women Detainees. The CBS Evening News (1/26, story 3, 3:30, Schieffer) reported, "Now to Iraq where two more American soldiers were reported killed in action and hundreds of Iraqi prisoners were released by the US military today. Five women were among those freed, but US officials insist that is not a response to demands made by the kidnappers of the American reporter Jill Carroll." CBS (Palmer) added a "speech by Brigadier General Lynch emphasized the women were in no way bargaining chips." Brigadier General Lynch: "Those female detainees were released as part of our normal process and not as a result of demands by terrorists and criminals." Palmer: "Today, al Jazeera and the other Arab networks covered the news of the women prisoners being freed. But no word from Jill's captors, it's impossible to know whether they'll focus on the five women who were released today or the fact that there are several more remaining in US custody."

NBC Nightly News (1/26, story 3, :45, Williams) reported, "In Iraq, the US military has released five Iraqi women prisoners, among about 400 prisoners being released today and tomorrow. Some believe this release of female prisoners specifically could help secure the freedom of American hostage Jill Carroll, the reporter for the 'Christian Science Monitor' who was kidnapped in Baghdad. For the record, administration officials deny this prisoner release has anything to do with the demands of Carroll's kidnappers."

The New York Times (1/27, Tavernise, 1.19M) adds, "The American military said…the release had been previously scheduled and was unrelated to demands made by the kidnappers of the American journalist Jill Carroll" and that "the review of the Iraqi prisoners' cases came long before the kidnappers set their deadline." There has been no communications by the kidnappers "since their videotape was broadcast by the Arabic network Al Jazeera on Jan. 17."

The Washington Post (1/27, A14, Finer, 744K) adds, "A U.S. official in Baghdad, who spoke on condition of anonymity because of the sensitivity of the situation, said there was no indication that the women's release would lead to Carroll being freed."

Carroll's Mother Confident Of Imminent Release. The Christian Science Monitor (1/27, 61K) reports, "The mother of one of five Iraqi female detainees released Thursday expressed confidence that American journalist Jill Carroll will be released soon." Siham Faraj, the mother of Hala Khalid Wahid, also said, "I don't think Jill Carroll's situation has anything to do with the release of my daughter, but we definitely feel her pain."

Audit Finds Funds Won't Cover Cost Of Rebuilding Projects In Iraq. The New York Times (1/27, Glanz, 1.19M) reports that the office of the Special Inspector General for Iraq Reconstruction reported that "because of unforeseen security costs, haphazard planning and shifting priorities, the American-financed reconstruction program in Iraq will not complete scores of projects that were promised to help rebuild the country." Of "the 136 projects that were originally pledged to improve Iraq's water and sanitation," just "49…will be finished, with about 300 of an initial 425 projects to provide electricity." The reports concludes "that the overall rebuilding plan was...devised without a clear understanding of the decrepit state of Iraq's infrastructure after decades of war, United Nations-imposed penalties and sheer neglect," and adds that unexpected

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"security costs alone do not account for the drop in the number of projects that the United States will be able to finish."

The Washington Times (1/27, Scarborough, 90K) adds, "The assessment is a setback for the Bush administration, which counted on more robust rebuilding across Iraq to help deliver the country from a harsh dictatorship to a prosperous democracy."

Iraqi Minister Of Industry Attacked. The Los Angles Times (1/27, Kraul) "Iraq's minister of industry narrowly escaped an assassination attempt Thursday." Usama Abdulaziz Najafi "was in a convoy on a main highway about 65 miles north of Baghdad when a roadside bomb exploded. The blast engulfed one of the cars in flames, killing three bodyguards and injuring one. The minister was unhurt. The Iraq insurgency has targeted officials at all levels in its attempt to weaken Iraq's emerging democratic government."

Declassified Directive Appears To Prohibit Military From Paying For News Stories. The Los Angles Times (1/27, Mazzetti) reports, "A secret U.S. military program that pays Iraqi newspapers to publish articles favorable to the American mission appears to violate a 2003 Pentagon directive, according to a newly declassified document released Thursday." The top U.S. general in Iraq said "a preliminary investigation into the program," the subject of a high-level military investigation, "had found it did not violate U.S. law or Pentagon regulations." However, "a secret directive on the Pentagon's information operations policy released Thursday…appears to prohibit U.S. troops from conducting psychological operations, or psy-ops, targeting the media."

Top General In Iraq Says US Forces Are Strained But Can Accomplish Mission. USA Today/AP (1/27, Wadhams) reports that Gen. George Casey, the top U.S. commander in Iraq, "acknowledged Thursday that the U.S. Army was stretched, but he insisted forces here were capable of accomplishing their mission." He added that "he had discussed manpower strains with Gen. Peter Schoomaker and that the Army chief of staff feels he can sustain missions around the world." President Bush has "brushed aside talk that the United States could not prevail in Iraq."

The Washington Times/AP (1/27, Wadhams) also ran the AP story.

Reports Suggest Army Unprepared To Fight Another Iraq-Type War. The Christian Science Monitor (1/27, Sappenfield, 61K) reports, "When two major studies released this week questioned whether the US Army is being stretched too thin, they raised a much- repeated concern: that America does not have enough troops to win the war in Iraq. At a deeper level, though, they raise the question of whether today's military is prepared for the threats that could lie ahead in the war on terror." The reports "released this week - one by Mr. Krepinevich; the other by former Defense Secretary William Perry - have suggested that the force is simply not large enough to do what the Defense Department has asked of it," and "some who are familiar with drafts of the coming" Quadrennial Defense Review "suggest that the lessons learned from Iraq have simply heaped more duties - including peacekeeping - on a force already struggling to meet the ones it has."

QDR To Call For Special WMD Task Force. The Washington Times (1/27, Gertz, 90K) reports that part of the Pentagon's Quarterly Defense Review will call for "a special military task force to prevent weapons of mass destruction from being transferred to terrorist groups." According to the Times, "The task force will employ special operations forces, other troops and intelligence personnel to prevent states such as North Korea and Iran from supplying nuclear, chemical and biological weapons to terror groups. The call for the new unit, which would have several hundred troops along with aircraft and other arms, comes as tensions heighten over North Korea's nuclear program and Iran's refusal to abide by international controls on its uranium-enrichment program." The report also cites "evolving" WMD threats, including "electromagnetic pulse weapons, portable nuclear devices, genetically engineered pathogens and new chemical arms." The review is not yet public, the Times says. Additionally, the review advocates "that general-purpose military forces take over the job of foreign military training." Meanwhile, "other key recommendations of the report include increasing special operations forces by 15 percent, creating a Marine Corps special operations command, setting up an Air Force unmanned aerial vehicle squadron, boosting the number of Navy SEAL commando teams and increasing Army psychological operations by 33 percent."

Rand Study Says Most Reservists' Incomes Rose Upon Going To War. The Washington Post (1/27, A21, 744K) reports that a study by Rand Corp.'s National Defense Research Institute "found that 72 percent of the troops surveyed made more while on war duty in 2002 or 2003 than they did in their civilian jobs in 2001. More than half made at least $10,000 more." While "contradicting conventional notions," it also concluded that "a sizable proportion of the reservists -- 28 percent -- lost money, including some who saw their earnings drop by more than 10 percent." Some reasons for the results are "higher salaries, combat pay supplements, family-separation allowances and tax-free earnings." Still, "researchers are working to

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understand why this study differs dramatically from earlier surveys and anecdotal reports about families struggling to get by when a primary wage earner went to war."

CORPORATE SCANDALS:

Enron Trial To Begin Monday. The Christian Science Monitor (1/27, Axtman, 61K) reports that the trial of Enron's top two leaders will begin next week as "business and industry groups are mounting a campaign to roll back some of the reforms that the Enron scandal inaugurated. Thus, the lessons of the nation's second-biggest bankruptcy remain in flux and may be determined, in part, by the outcome of the legal drama set to begin." The "details of the lives and business practices of the two men on trial - Enron founder Kenneth Lay and former chief executive Jeffrey Skilling - could provide an inside view of how the nation's second-biggest bankruptcy unfolded."

The New York Times (1/27, Romero, 1.19M) adds that in Houston, "many residents prefer to focus on other things, like the resurgent economy, and city leaders wish outsiders would, too. … But as jury selection starts on Monday, residents here will have to relive the Enron debacle, with the possibility that the trial will drag on over several months." The Times adds, "In preparation for the trial, city officials are trying to accentuate the positive. … The city's economy has grown for 35 consecutive months, according to a monthly survey of purchasing executives conducted by the National Association of Purchasing Management-Houston. November, the most recent month for which statistics are available, was one of the strongest months in a decade, as demand rose for goods like plastic pipes and refined petroleum products."

Enron Task Force Faces Test In Skilling Trial. Texas Lawyer (1/27, Rozen) reports, "When Enron Task Force prosecutors enter U.S. District Judge Sim Lake's courtroom in Houston on Monday for the long-awaited trial of former Enron Corp. Chairman Kenneth Lay and former Chief Executive Officer Jeffrey Skilling, the government lawyers will be toting baggage -- both literal and figurative." Texas Lawyer continues, "In the literal sense, the big criminal trial is document-intensive. In the figurative sense, the government lawyers have stumbled more than once in their four-year pursuit of Enron employees, and that track record follows them into Lake's courtroom." Texas Lawyer adds, "Inarguably, the government lawyers have scored some notable successes by persuading 16 former Enron employees, including former Chief Financial Officer Andrew Fastow, to plead guilty to charges related to the downward financial and stock-price spiral that led to Enron's bankruptcy in December 2001. Most recently, on Dec. 28, 2005, Richard Causey, Enron's former chief accounting officer and Skilling's and Lay's co-defendant, pleaded guilty to one count of securities fraud and agreed to cooperate with prosecutors. [See Causey's plea agreement.] … In an earlier success in November 2004, in United States v. Daniel Bayly, et al., the so-called Nigerian Barge trial, prosecutors persuaded a jury to convict four former Merrill Lynch & Co. bankers and one former Enron executive on charges related to conspiracy to commit wire fraud. … But the government lawyers have also faced setbacks in the courtroom. At the Nigerian Barge trial, one former Enron executive, Sheila Kahanek, was acquitted. Six months later, in May 2005, the U.S. Supreme Court overturned the 2002 conviction of Arthur Andersen, Enron's accounting firm, for obstruction of justice, in United States v. Arthur Andersen LLP. In July 2005, in the so-called Enron Broadband trial, a jury deadlocked in the trial of five former Enron executives, and the proceedings ended in a mistrial. Two months later, U.S. District Judge Vanessa Gilmore blamed the government lawyers trying that case, United States v. Joseph Hirko, et al., for confusion at the trial, and she subsequently acquitted some of the defendants of some of the government's charges."

Oxley, Frank Ask Fannie Mae Board For Rudman Testimony, Report. Dow Jones (1/26) reports, "House Financial Services Chairman Michael Oxley, R- Ohio, and ranking Democrat Barney Frank want former Sen. Warren Rudman to testify before the panel on the results of his 16-month probe of Fannie Mae's accounting troubles, the lawmakers said in a recent letter released Thursday." Dow Jones continues, "Fannie's board of directors hired Rudman, who is expected to complete his report next month, to help the board with its own internal investigation after the Office of Federal Housing Enterprise Oversight accused executives in September 2004 of manipulating accounting rules to massage Fannie's earnings." Dow Jones adds, "In a letter sent last week, Oxley and Massachusetts Rep. Frank asked Fannie Chairman Stephen Ashley for a copy of the much-anticipated report once it's finished, as well as for Rudman's testimony at a hearing they plan to conduct shortly thereafter. … 'The purpose of this hearing will be to fully inform the committee about the findings, conclusions and any recommendations contained in the Rudman report,' the letter said. … The Office of Federal Housing Enterprise Oversight, which oversees Fannie and fellow government-sponsored enterprise Freddie Mac, is expected to issue its own report on Fannie's accounting practices by the end of March." Dow Jones notes, "Rudman, who could not be reached for comment Thursday, recently told Dow Jones Newswires that regulators and law enforcement agencies that are also investigating Fannie will likely receive copies of his report before its public release. In addition to OFHEO, the Securities and Exchange Commission, Justice Department

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and others have launched their own probes into alleged misconduct at Fannie."

Levitt Says Sarbanes-Oxley Exemption Will Harm Small Companies. Former SEC Chairman Arthur Levitt, who was the chairman of the first White House Conference on Small Business, writes in the Wall Street Journal (1/27, 2.11M), "Currently, the focus of many small-business advocates is the perceived burden placed on them by Section 404 of the Sarbanes-Oxley Act, which requires companies to assess and report the status of their internal controls. They worry that the cost of compliance is onerous, inhibiting their ability to access capital markets and grow. In response, the Securities and Exchange Commission's advisory committee on smaller public companies has recommended that microcap and smaller public companies be exempted from the main parts of 404. … While the advisory committee is well-intentioned, I fear that these proposed changes will harm, not help, small companies."

CRIMINAL LAW:

Bush Says He Does Not Know Abramoff, Won't Release Photos. President Bush fended off reporters' questions yesterday about his ties to Jack Abramoff, saying he does not know the lobbyist. ABC's World News Tonight (1/26, story 4, 1:50, Vargas) reported that Bush was "not so anxious to talk about the scandal surrounding lobbyist Jack Abramoff. And the White House is refusing to make public photos of the now-convicted felon with the President." ABC's chief Washington correspondent George Stephanopoulos: "They are hanging tough. Several news organizations have reported that the photos exist. The President says he'll answer any questions prosecutors ask. But he's not just going to hand over the photos or any other information to reporters."

NBC Nightly News (1/26, story 2, 2:00, Fletcher) also noted, "Mr. Bush was also pressed about why the White House has refused to release photographs showing the President and disgraced lobbyist Jack Abramoff together." President Bush: "Having my picture taken with someone doesn't mean that I'm a friend with them or know them very well. I've had my picture taken with you…at holiday parties."

USA Today (1/27, Benedetto, Jackson, 2.31M) reports that during a White House news conference, Bush said, "I had my picture taken with him, evidently," adding, "I've had my picture taken with a lot of people. Having my picture taken with someone doesn't mean that I'm a friend with them or know them very well. It's part of the job of the president to shake hands…with people and smile." Bush "acknowledged that photographs of him with Abramoff were taken either at White House parties or political fundraisers, but he said he would not make them public because he feared they would be used for partisan attacks."

Reuters (1/26, Holland) added that Bush said "release of photographs that show him and Abramoff together would be used for 'pure political purposes' by Democrats seeking to tie the lobbyist to the White House. … 'This investigation needs to look into all aspects of his influence on Capitol Hill. And if there are some in the White House, I'm sure they're going to come knock on the doors,' Bush said."

The Washington Post (1/26, Branigin, 744K) reported on its web site that Bush "dismissed the significance" of the photos and "indicated that the White House would continue to oppose releasing the photos, which he said are irrelevant to a federal investigation." Bush "said he has no idea how many photos were taken of him and Abramoff, and he declined to discuss reported meetings that the lobbyist attended with White House staffers. Federal prosecutors are 'welcome' to look into those meetings if they believe they involved improprieties, Bush said."

Knight Ridder (1/27, Douglas) adds, "Administration officials want to keep any Bush-Abramoff pictures from becoming public to avoid giving political opponents ammunition that could hurt Republicans in November's congressional elections. 'Having my picture taken with someone doesn't mean that I'm a friend with them or know them very well. I've had my picture taken with you at holiday parties,' the president reminded reporters. He estimated that he'd posed for about 9,000 photos at receptions this past holiday season alone. 'I'm also mindful that we live in a world in which those pictures will be used for pure political purposes, and they're not relevant to the investigation,' Bush said."

The Los Angeles Times (1/26, Chen, 958K) reported on its web sits, "Bush also rejected the notion of detailing possible contacts between Abramoff and members of the senior White House staff, saying he preferred to let federal prosecutors conduct their own investigation." Bush comments Thursday were "his most extensive remarks to date on the Abramoff scandal." The Times notes that Bush "sounded particularly defensive when reporters pressed him about his contacts with Abramoff."

The New York Times (1/27, Stout, 1.19M) adds that Bush "responded somewhat indirectly when asked if he was afraid to release the pictures of himself and the once-powerful Mr. Abramoff, who has pleaded guilty to conspiracy, fraud and tax evasion and who prosecutors say tried to influence lawmakers and their aides with campaign contributions, lavish trips and meals. 'Having my picture taken with someone doesn't mean that, you know, I'm a friend with them or know them very well,' Mr. Bush said. 'I've had my picture taken with you at holiday parties.' In fact, presidents are often

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photographed with people whom they know only casually, or hardly at all, including reporters at White House Christmas parties."

Senators Call For Special Counsel In Abramoff Probe. The Washington Times (1/27, Pierce, 90K) reports in its "Inside Politics" column that Sens. Chuck Schumer and Ken Salazar wrote to Attorney General Alberto Gonzales to call for the appointment of a special counsel to take over the investigation of the corruption scandal spawned by former lobbyist Jack Abramoff. The switch 'would ensure that the investigation and prosecution will proceed without fear or favor and provide the public with full confidence that no one in this country is above the law,'" they wrote.

The AP (1/27, Espo) reports, "Two Senate Democrats called Thursday for the appointment of a special counsel to take over investigation of the corruption scandal spawned by lobbyist Jack Abramoff. .. The switch 'would ensure that the investigation and prosecution will proceed without fear or favor and provide the public with full confidence that no one in this country is above the law,' Sens. Chuck Schumer of New York and Ken Salazar of Colorado wrote Attorney General Alberto Gonzales." The AP continues, "The two Democrats said that so far, the public integrity section of the Justice Department, which is in charge of the probe, has 'pursued this case appropriately.' … A Justice Department spokesman declined immediate comment." The AP adds, "Schumer and Salazar sent their letter several days after Democrats pressed the White House for information on contacts between the president or other top officials and Abramoff. So far, the White House has refused to release any photographs of the president and the lobbyist together. … In their letter, Schumer and Salazar cited news reports that said that in addition to the presidential photographs, Abramoff organized at least one meeting with White House aides for his clients. … 'These meetings with the president and the White House staff occurred while you were serving as White House counsel,' they wrote Gonzales, who became attorney general a year ago. 'Given the possible ties between Mr. Abramoff and senior government officials, we believe the appointment of a special counsel is not only justified, but necessary.'"

The Denver Post (1/27, Mulkern) reports, "The senators said an independent investigation is necessary because a special counsel could act without either favor from or fear of reprisal from the White House. … 'As a former (state) attorney general, I believe in upholding the law and rooting out corruption,' Salazar said in a statement. 'The American people deserve an open, unbiased investigation into this matter. Appointing a special counsel will begin the process of restoring America's faith in government.' … Added Schumer: 'With public trust in government at very low levels, it is crucial that we remove any appearance of impropriety from the investigation of the Abramoff scandal by appointing a special counsel who is independent of the Bush Administration and the current Justice Department.'"

Smith Disputes Assertions In NYTimes Op-Ed. In a letter to the New York Times (1/27, 1.19M), Rep. Lamar Smith writes, "Re 'If You Give a Congressman a Cookie,' by Norman Ornstein and Thomas E. Mann (Op-Ed, Jan. 19): I am surprised that these Congressional scholars would assert that House roll-call votes are 'frequently' stretched beyond an hour. This happens, on average, less than once per two-year Congressional session. They say that Speaker J. Dennis Hastert 'fired' the chairman of the House ethics committee last year. Under House rules, there was a term limit for all members, including the chairman. Speaker Hastert followed the regular order that these writers claim to cherish in naming a new chairman. They also assert that I and a colleague, who had donated to Representative Tom DeLay's defense fund, were named to the ethics committee 'when the main matter pending before the committee involved' Mr. DeLay. In fact, the committee had publicly announced, in keeping with its normal practice, that it was deferring its one pending DeLay-related matter until the conclusion of the Texas criminal investigation, which continues to this day. Moreover, my colleague and I long ago announced that we will recuse ourselves from any matter related to Mr. DeLay."

Prosecutor In Abramoff Case To Step Down. The New York Times (1/27, Shenon, Bumiller, 1.19M) reports that the Justice Department has announced that Noel L. Hillman, the prosecutor in the Abramoff case, will step down next week because he has been nominated to a federal judgeship by President Bush." The Bush Administration "said that the appointment was routine and that it would not affect the investigation, but Democrats swiftly questioned the timing of the move and called for a special prosecutor."

Libby Lawyers Seek Media Data From Prosecutors. Lawyers for Vice President Dick Cheney's former Chief of Staff Lewis Libby have asked a federal judge to order prosecutors in Libby's case to turn over all documents in his possession related too what journalists knew from any source about intelligence officer Valerie Plame. The New York Times (1/27, Johnston, 1.19M) reports that Libby's lawyers "said in their motion that the prosecutor, Patrick J. Fitzgerald, had refused to turn over to the defense documents that would shed light on whether any reporter knew about" Plame "before her name was first disclosed in a newspaper column on July 14, 2003."

The AP (1/27, Yost) reports that in their 23-page brief, Libby's lawyers argued, "The government should not be allowed to charge Mr. Libby with lying about statements concerning what reporters knew about Ms. Wilson's identity, and at the same time deny him information that may establish one of these possible defenses," adding, "The government

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has refused to produce information in its possession about what reporters learned from sources other than Mr. Libby about Ms. Wilson's employment status."

Reuters (1/26, Vicini) reported, "The attorneys said the motion concerned their request for documents and information on three important issues: 'What did the press know prior to July 14, 2003, about whether Valerie Plame Wilson worked at the CIA, from whom did they learn it and with whom did they discuss it.' They said turning over the information would enable them to decide the necessity and scope of pretrial subpoenas for journalists and news organizations. The motion made clear that what the reporters knew will be an important part of the defense strategy."

The Washington Post (1/27, A4, Leonnig, 744K) adds, "The defense's goal is to show that Libby was not intentionally lying when he testified that many journalists had known about Plame during the spring and summer of 2003, and that he believed he had learned about her from [Tim] Russert. 'There can be no information more material to the defense of a perjury case than information tending to show that the alleged false statements are, in fact, true or that they could be the result of mistake or confusion,' the lawyers argued in their filing. 'Libby is entitled to know what the government knows.'"

The Wall Street Journal (1/27, Squeo, 2.11M) adds, "While the Justice Department has agreed to turn over information related to reporters' contacts with Mr. Libby, Special Counsel Patrick Fitzgerald has refused to provide material about what reporters might have learned from other sources about Ms. Plame's employment at the CIA, the court filing says. Included in the request is information that may have been shared among reporters or with government officials."

Bhutto Says Arrests Notices Are Politically Motivated. Agence France-Presse (1/27) reports, "Pakistan's former Prime Minister Benazir Bhutto has shrugged off Interpol notices for her arrest and said she is prepared to return to her country to face any charges if compelled by a court." AFP continues, "Interpol had issued the international notices following a request by the Pakistan government for the arrest of Bhutto and her husband on corruption charges, according to officials in Islamabad. … The police body said the so-called 'red notices' were not arrest warrants and that member countries could decide whether to take any action. … 'As far as the red notices are concerned, I learned it from the press, and my lawyers have written to the (Pakistan) Ministry of Interior as well as to Interpol, asking them to confirm whether the news is accurate and if so, on what grounds,' Bhutto told a news conference in Washington. … 'As far as I am concerned, if any court wants me in Pakistan, I am prepared to catch the next plane to Pakistan,' said Bhutto, 53, who led the country twice in the 1980s and 1990s as its first female premier." AFP adds, "Bhutto, who has lived in self-imposed exile in Dubai and London for the past seven years, said the allegations were politically motivated and intended to divert the attention of the Pakistan media from current government problems. … The US Justice Department refused to comment specifically on Bhutto's case but said it generally considered Interpol requests on a case-by-case basis. … 'I wouldn't comment on the specifics of Ms Bhutto's case but generally, the government handles requests from other governments on a case-by-case basis and we make our decisions based on the unique circumstance on any case,' department spokesman Bryan Sierra told AFP. … 'We don't necessarily automatically have to act on them,' he said."

9th Circuit Panel Rules Overseas Sex With Minor Subject To US Regulation. The California Recorder (1/27, Scheck) reports, "Applying the Constitution's commerce clause to international trade can be a difficult task, 9th U.S. Circuit Court of Appeals Judge Margaret McKeown wrote in an opinion Wednesday." The Recorder continues, "So in deciding that a 2003 law prohibiting U.S. citizens from paying minors for sex while overseas is constitutional, McKeown wrote that the court was taking a big-picture look. … 'Instead of slavishly marching down the path of grafting the interstate commerce framework onto foreign commerce, we step back and take a global, commonsense approach,' she wrote." The Recorder adds, "The conclusion? Sex with a minor 'might be immoral and criminal, but it is also commercial' -- and therefore subject to regulation. … McKeown's opinion -- which was joined by 9th Circuit Senior Judge Procter Hug -- didn't sit well with Senior Judge Warren Ferguson. … He said the majority upheld the 2003 law known by the convenient acronym PROTECT (Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today) with logic that could give the U.S. government jurisdiction over your croque monsieur. … 'Under the interpretation of the majority,' he wrote, 'the purchase of a lunch in France by an American citizen who traveled there by airplane would constitute a constitutional act of engaging in foreign commerce.' … Under that scenario, nearly anything a U.S. citizen did in a foreign country could be subject to U.S. regulation, Ferguson continued. 'This observation may seem slightly absurd, but so is the task of trying to show how sexual abuse of a minor overseas by a U.S. citizen constitutes an act of "commerce with foreign nations,"' he said." … The majority opinion is based on last year's Supreme Court opinion Gonzales v. Raich, 125 S.Ct. 2195, which said the commerce clause allows the federal government to prohibit marijuana use in states that have legalized it for medical use."

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Convicted Texas Rapist Freed After DNA Exoneration. The AP (1/27) reports, "A man who spent 18 years in prison for sexual assault was freed Thursday after DNA evidence exonerated him, and his brother admitted responsibility for the attack." The AP continues, "DNA testing was not available at Arthur Mumphrey's 1986 trial for the rape of a 13-year-old girl, but recent tests requested by his attorney showed Mumphrey's blood and saliva samples did not match stains on the victim and her clothes. … 'Because of technology we have now, justice was not done 20 years ago,' State District Judge Kathleen Hamilton said." The AP adds, "Mumphrey, 42, had been sentenced to 35 years in prison. … Prosecutor Marc Brumberger apologized to Mumphrey. 'We feel terrible about what happened to you,' he said. … Mumphrey's brother, Charles, confessed to the rape this week while serving time in jail for unauthorized use of a motor vehicle."

Ex-New Jersey AGs Reject Criticism Related To Norcross Probe. The New York Times (1/27, Kocieniewski) reports, "Two former New Jersey attorneys general on Thursday defended their office's investigation into the political dealings of George E. Norcross III, the Democratic power broker. … In a scathing letter dated Tuesday, Christopher J. Christie, the United States attorney for New Jersey, wrote that his office would be unable to bring charges against Mr. Norcross because lawyers for the state attorney general had mishandled their investigation under two administrations before turning it over to his office in 2004." Christie "criticized state prosecutors for deciding not to secretly tape conversations at a Camden County Democratic fund-raiser in 2001, where Mr. Norcross and his associates were expected to discuss a wide variety of political deals. Mr. Christie said that that decision was so inexplicable that it raised the possibility that state investigators were trying to shield political figures. But John J. Farmer Jr., who was attorney general in 2001, called that suggestion 'utter nonsense,'" asserting "that the two assistant attorneys general who led the case were 'professional and 100 percent nonpolitical.'" Christie "also said that former Attorney General Peter C. Harvey erred in 2003 when he agreed to allow two figures in the investigation to plead guilty to tax evasion charges, a deal Mr. Christie said was too lenient to yield meaningful cooperation." But Harvey "said the agreements were fair and helpful. 'These plea agreements were negotiated by experienced former federal prosecutors and helped lead to other convictions in this case,' he said."

Police Say Barry Unable To ID Robbers From Group Of Photographs. The Washington Post (1/27, B8, Wilber) reports, " Police investigating the armed robbery of D.C. Council member Marion Barry recently showed him photographs of two potential suspects, but he was unable to identify the men as his assailants, law enforcement officials said. Last week, detectives showed Barry (D-Ward 8) collections that included photographs of two people they viewed as suspects in the Jan. 2 robbery, officials said. The arrays also included pictures of other people who are similar in appearance but not connected to the crime, the officials said. Barry did not select anyone in the pictures. The two potential suspects were believed to have committed other robberies in the area and resembled the description that Barry provided of his attackers, the officials said." Barry "declined this week to discuss specifics of the investigation, based on the advice of his attorney and requests by police. But he addressed speculation that there could be more to the story than he is letting on. 'The thing that [makes me angry] is that some people say that this was a drug deal gone bad,' Barry said in an interview at his council office Wednesday. 'Why would I report that? That is just crazy. If it is a drug deal gone bad, you don't call the cops.'"

Chicago City Clerk, Three Others Indicted In Hired Truck Probe. The AP (1/27, Robinson) reports, "Chicago's city clerk and four other men were charged Thursday in an eight-count corruption indictment as federal prosecutors pushed ahead with their investigation of payoffs and patronage hiring fraud in the city's government. Those indicted included city Clerk James J. Laski, his political aide, Sam Gammicchia, and John Briatta, a former water department employee who is a brother-in-law of Cook County Commissioner John Daley. John Daley is Mayor Richard M. Daley's brother. The inclusion of a Daley relative in the indictment brought the scandal deeper into the heart of the political organization that has dominated city government in Chicago for years." The Chicago Tribune (1/27, Lighty, O'Connor, 643K) adds that Laski "solicited $50,000 in bribes for steering city trucking business to a lifelong friend who was charged Thursday for the first time, the indictment alleged. The friend, Michael 'Mick' Jones, and his wife, Traci, who wasn't charged," are Laski employees. "Jones recorded several conversations with Laski in 2005 while wearing an FBI wire during a meeting in the basement of Laski's home and during a late summer car trip to a Wisconsin resort the two took at Jones' suggestion, a source close to Laski said." The Chicago Sun-Times (1/27, Warmbir, Novak, Spielman) notes, "Aderman and Jones have been cooperating for months with investigators. Briatta is not."

Chicago Dentist Pleads Not Guilty To Prostitution Ring Charges, Released On Bond. WBBM-TV Chicago (1/26, Parker) reports on its Web site from a story broadcast Thursday, Chicago dentist Dr. Gary Kimmel "was in court Thursday fighting accusations that are spicy enough to make your teeth rattle. … 'Why this case has garnered so much

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publicity is beyond me, but I guess it's an interesting and salacious story and its a juicy allegation,' said defense attorney Joe Lopez. The FBI is accusing Kimmel of providing Marina City condos and a fleet of expensive cars for an interstate prostitution ring. … In court Thursday, the judge released the dentist on an unsecured $100,000 bond after the dentist pled not guilty to all the charges." WBBM adds, "The defense lawyer concedes that secretly recorded FBI audio tapes may be a problem for Kimmel. In one of them, the dentist seems to endorse an alleged pimp's plan to injure one of his hookers." The AP (1/27) notes, "The case was part of a national investigation dubbed 'Innocence Lost' by prosecutors that resulted in charges in December against alleged ring members in Michigan and Hawaii."

Family Matter Delays FBI Agent's Testimony At Ryan Trial. The AP (1/27, Robinson) reports "George Ryan's racketeering and fraud trial was put on hold Thursday as the prosecution's last major witness," FBI Special Agent Raymond Ruebenson, "who has long been at the heart of the government's seven-year Operation Safe Road," took "personal leave Thursday over a family matter."

Defense Hammers Key Prosecution Witness At Campbell Trial. The Atlanta Journal-Constitution (1/27, Suggs, Torpy, 430K) reports, "Former Atlanta Mayor Bill Campbell's defense team warned it would be 'loaded for bear' in cross-examining key prosecution witnesses, and the assault began Thursday. Michael Sullivan, called by prosecutors as a member of Campbell's 'inner circle,' was the first target." Sullivan "testified that a contractor friend of Campbell's indicated to him that he had 'bought' the former mayor. Sullivan was later pounded relentlessly by defense attorney Jerry Froelich, who suggested federal authorities had 'bought' Sullivan's testimony in exchange for not prosecuting him. Unlike when he was questioned by the prosecution, Sullivan at time seemed stricken by amnesia. He did not remember when he got married, divorced or how much he made when employed by the city. Such memory lapses drew snickers from the packed courtroom."

WXIA-TV Atlanta (1/26, Carnes, Christensen) reports on its Web site from a story broadcast Thursday, "During a combative morning…Campbell's defense team contended the evidence being used by the prosecution is flawed and fought to keep it from the jury. … Lawyers on each side argued over the validity of Sullivan's testimony that questioned the legality of Campbell's relationship with former city contractor Rickey Rowe. Rowe died during the federal investigation. Campbell's lawyers said that all testimony about Rowe should be kept out of court because Rowe isn't here to verify conversations that he may or may not have had. In the end, U.S. District Judge Richard Story ruled that the testimony would be allowed."

Convictions Changing Louisianans' Attitudes About Public Corruption. The Los Angeles Times (1/27, Bustillo, 958K) reports, "Joseph Impastato conceded he took the two cashier's checks worth $85,000. The whole thing was captured on tape by the FBI, so it would have been difficult to deny. But it was no kickback, the councilman from St. Tammany Parish said. It was business. … Federal prosecutors are not buying it — and neither apparently is the Louisiana public." The Times adds that "as the state lobbies Washington for more money to rebuild ravaged towns and cities, citizens are realizing that Louisiana's well-earned penchant for dirty politics has exacted a steep price: It has badly damaged the credibility of the recovery effort." The bribery conviction of former Gov. Edwin Edwards was "a major turning point in public attitude." Additionally, "in the last decade Louisiana has seen an attorney general, a congressman, a state Senate president, a federal judge and countless local officials convicted of corruption. Louisiana's last three state insurance commissioners wound up in prison for offenses that include lying to the FBI, accepting $2 million in illegal campaign contributions and taking bribes." US Attorney Jim Letten "sees the convictions as a sign of progress. Wherever he goes, he said, he is greeted by people — black, white, Latino, Asian — who tell him Louisiana needs to clean up its act."

Owner Of Stolen Pollack Painting Gives FBI Name Of Suspect. The AP (1/27, Rubinkam) reports, "The owner of a Jackson Pollock painting stolen from Scranton's Everhart Museum two months ago said he has forwarded the name of his No. 1 suspect to the FBI, and that the person has a connection to the museum. … Everhart spokesman Joe Palumbo said Thursday that museum officials don't believe the theft was perpetrated by anyone affiliated with the museum. … The owner declined to say why he suspects the person whose name he gave the FBI, but said his information is based on official accounts of what happened and his knowledge of the museum's security. An FBI spokeswoman confirmed the agency is investigating but declined to provide details." The AP notes that the museum did not establish the provenance of "Winter in Springs," but "the FBI is going on the assumption that the painting is genuine, FBI spokeswoman Jerri Williams said. … 'We are pursuing it and attempting to identify who is responsible and, if possible, recover the artwork,' Williams said."

Former Mississippi Beef Plant Operator Pleads Guilty To Fraud. The AP (1/27) reports, "Former beef plant operator Richard Hall has agreed to plead guilty to

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charges of mail fraud and money laundering related to the failure of the state-backed facility in north Mississippi. The FBI and the U.S. attorney's office announced the agreement on Thursday. In federal court in Oxford and state court in Yalobusha County, where the plant was located, Hall pleaded guilty Wednesday to federal and state charges of mail and wire fraud as well as money laundering. No sentencing date has been announced." Hall "admitted to converting $751,000 in public and corporate funds for private use. … Prosecutors said Hall also agreed to cooperate in the continuing investigation of the beef plant."

Former Georgia Library Director Sentenced To Four Years For Embezzlement. The Macon Telegraph (1/27, Crenshaw, 67K) reports, "The former director of the Ocmulgee Regional Library System was sentenced to four years in federal prison Thursday on charges that he stole library funds. David C. Wilson must also pay $264,298 in restitution to the library system and a $75,000 fine, U.S. District Court Judge Dudley Bowen ruled at the end of a half-day hearing. Wilson was library system director from 1982 until 1994, when the FBI and GBI began investigating suspicious expenses. He was convicted in October of five counts of theft and one count of witness tampering."

Massachusetts Investment Adviser Sentenced To 17 Years For Fraud. The Boston Globe (1/25, Kerber, 484K) reports, "A Newton investment adviser was sentenced to 17 years in prison after pleading guilty to fraud charges, federal prosecutors said." T. Gene Gilman "also was sentenced to two years of supervised release and ordered to pay unspecified restitution. According to the Justice Department, Gilman illegally diverted about $12 million of clients' money between 1998 and 2003 to two ventures he operated that eventually failed: a specialty eyewear marketer and a software design firm. Prosecutors said he sent false monthly statements to roughly 55 investors that misrepresented their money was in domestic securities."

Indiana Man Sentenced To 100 Years In Prison For Child Porn Production. The Indianapolis Star (1/20, Penner, 267K) reports, "A Bloomington man who used two girls to create pornography that he sold on the Internet has been sentenced to 100 years in prison." David Andrew Turner "also collected at least 5,000 sexual photos and videos of other children. Susan W. Brooks, U.S. attorney for the Southern District…said prosecutors wanted to ensure that Turner would never be free to prey upon children again. … The sentence was the longest ever meted out for such a crime in the Southern District. Turner must serve at least 85 years of that sentence under federal guidelines." The Star notes, "The investigation was started by the Bloomington Police Department, which collaborated with the FBI because Turner posted -- and sold -- pornographic images via the Internet. Investigators quit counting when they found 5,000 images. They believe Turner had several thousand more."

Getty Museum Director To Meet With Italian Officials About Looted Antiquities. Bloomberg (1/27, Silver) reports, "The J. Paul Getty Museum's new director, Michael Brand, will hold talks in Rome" today "with Italian Culture Ministry officials who are demanding the world's richest art institution return 42 allegedly looted antiquities in its collection, ministry lawyer Maurizio Fiorilli said. … The museum's former antiquities curator, Marion True…is on trial in Rome on charges she acquired illegally excavated ancient art for the Getty. Brand, who was named to the post last year as the Getty began an internal review of its antiquities-acquisition practices, will lead a delegation at the meeting, said Fiorilli, who said there is no room for compromise. 'They should return all the objects,' he said, including 2,500-year-old vases and marble statues. 'The new director is taking a good initiative.'" The AP (1/27, Rogers) notes Band said in a statement yesterday, "The Getty's objective is to develop a fuller sense of all the evidence available regarding the objects in question. We want to be in a better position to continue our dialogue with the Italian government." But Getty spokesman Ron Hartwig "said it was too early to speculate about what, if any, treasures the Getty might return."

US Drops Two Murder Charges Against Alleged Mafia Cops. The New York Daily News (1/26, Marzulli) reports, "The feds have quietly dropped two murder charges against reputed Mafia cops Louis Eppolito and Stephen Caracappa, the Daily News has learned. Sources familiar with the government's strategy insist the evidence against the ex-NYPD detectives in those gangland killings is solid. But a decision was made to streamline the indictment after Brooklyn Federal Judge Jack Weinstein warned prosecutors last June that he would not allow them to call 100 witnesses to testify as they had planned." Newsday (1/27, DeStefano) notes, "A new indictment unsealed Thursday showed that prosecutors, seeking to simplify the trial, have decided to weed out the 1990 murder of union official James Bishop and the 1991 killing of one-time John Gotti crony Bartolomeo 'Bobby' Boriello." Bishop "was killed because he was believed by the mob to have been an informant, said prosecutors. Investigators said Boriello was killed after Eppolito and Caracappa provided information to" Luchese boss Anthony 'Gaspipe' Casso "that the Gambino soldier had threatened him."

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Aided By Activists, Inmate Blogs From Death Row. The Washington Post (1/27, B1, Rich) reports, "Vernon Lee Evans Jr. -- amateur advice columnist and convicted murderer -- is scheduled to die next month by lethal injection. He is one of the very few death row inmates to have a blog and, activists say, perhaps the only condemned man worldwide to use a blog to take questions from readers. Activist Ginny Simmons started the blog in March and relayed the questions to Evans, who does not have Internet access. … Though defense attorneys in capital cases have long strived to remind judges and juries that their clients are human beings with lives beyond the crimes they are accused of, Evans's blog is the leading edge of a strategy by death penalty opponents to use new technologies to make the same point to the wider public."

Carjackers Leave Behind Man's Granddaughter. The Washington Post (1/27, B4, Klein) reports that a carjacking victim is "grateful" that carjackers let his granddaughter go. Timothy Anderson left his granddaughter in his car, in the garage "then realized that the door inside the garage of his Clinton home was not secured. As he pulled the house door closed, he heard the engine in his Expedition rev. Then he saw a set of thieves making off with the vehicle, with granddaughter Sydney in the back seat." Anderson "sprinted" after the truck. The Post reports, "The truck then stopped, the back door opened and Sydney hopped out. She ran toward her panicked grandfather. The whole episode took less than 30 seconds." According to the Post report, "Prince George's County police say they believe a set of brazen thieves is targeting people who leave their cars running, a habit that police say is a serious problem in the county."

8-Year-Old Demanded Money Before Girl's Shooting. The Washington Post (1/27, B8, Londoño) reports, "Moments before an 8-year-old boy shot another child at their day-care center this week, he told her to "give me your money," a prosecutor said yesterday. Montgomery County Assistant State's Attorney Karyn McAuliffe provided that account of Tuesday's day-care center shooting in Germantown during an afternoon bond hearing for the boy's father. Prosecutors said the account was based on the police investigation, but they would not elaborate." The boy's father, Hall, "was charged with five weapons offenses," while the boy, "has been charged as a juvenile with assault, assault while in possession of a firearm and reckless endangerment, among other counts." According to the article, "The boy shot the Taurus revolver while it was still in his backpack. One of the five bullets in the gun tore through the backpack and penetrated the girl's arm. The victim, who has not been identified by police, was released Wednesday night from Children's Hospital in the District. Prosecutors said they do not believe that the girl, a second-grader at S. Christa McAuliffe Elementary School, was targeted. They said it remains unclear to what extent the shooting was accidental."

Judge Increases Child Molester's Sentence From 60 Days To 3-10 Years. The Washington Times (1/27) reports, "A judge vilified as soft on crime by Web loggers, TV commentators and politicians for giving a child molester just 60 days in jail increased the sentence yesterday to three to 10 years behind bars. Vermont District Judge Edward Cashman said he decided to impose the longer sentence because state officials reversed course and agreed to provide sex-offender treatment to Mark Hulett in prison. When the judge imposed the original sentence on Jan. 4, Hulett had been ruled ineligible for treatment until he got out of prison. Judge Cashman said the lighter sentence was the only way to ensure that Hulett got prompt treatment. Hulett, 34, pleaded guilty to charges that he had sexual contact with a girl during a four-year period, beginning when she was 6."

Guard Wounded in Hospitalized Inmate's Attempted Escape. The Washington Times/AP (1/27, Dishneau) reports, "A hospitalized state prison inmate shot and critically wounded the correctional officer guarding his room yesterday, then used the officer's gun to force a cabbie to drive him on a chase that ended with the inmate's arrest, state police and prison officials said. The 44-year-old officer was in critical condition at Washington County hospital, where the attack occurred at about 5 a.m., authorities said. They said he was shot in the face but gave no other information about his injuries. … Corrections Commissioner Frank C. Sizer Jr. identified the inmate as Brandon Morris, 20, who was serving an eight-year sentence at the nearby, medium-security Roxbury Correctional Institution for assault, robbery and handgun violations in Baltimore."

CIVIL LAW:

FTC Settles With ChoicePoint. Several media outlets report on ChoicePoint's settlement with the Federal Trade Commission over security breaches that exposed data to possible identity theft following its announcement of the breach in February.

ABC's World News Tonight (1/26, story 7, 0:10, Vargas) reported, "The US Government today reached a settlement with the data gathering company Choicepoint after thieves broke into its data bank. Choicepoint agreed to pay $15 million and put checks in place to prevent future breaches. Last year, thieves gained access to a data bank with the

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records of 160,000 consumers. The government says the identities of 800 people were stolen."

NBC Nightly News (1/26, story 5, :45, Williams) reported, "There's news on the continuing problem of identity theft in this country. The Federal Trade Commission announced the biggest fine ever against Choicepoint. That's the company that maintains the huge database of personal financial information and had a big security breach last year. They'll pay a $10 million fine plus $5 million in reparations to the 163,000 people whose personal information was compromised."

Several newspapers report that ChoicePoint will pay a $10 million federal fine and $5 million into a fund to compensate people who suffered damage because of the security breaches, in addition to setting up new procedures to prevent data theft. All also note that ChoicePoint did not admit any wrongdoing in the settlement. All articles quote privacy advocates, who generally approve of the settlement. All articles also touch on the larger issue of data privacy and data theft.

The Wall Street Journal (1/27, Conkey, Carrns) reports, "ChoicePoint, based in Alpharetta, Ga., also must revamp the way it screens customers, implement new information-handling procedures and obtain independent security audits every other year until 2026. FTC Chairman Deborah Platt Majoras said the agreement provides 'an opportunity for ChoicePoint to get data security right.' She also said that to reduce fraudulent access to its vast database, company representatives will visit most subscribers to check who is using its services."

USA Today (1/27, Swartz) reports, "The FTC says about 800 people have been victimized by identity theft stemming from the breach, but more would be eligible for compensation as cases arise. The FTC says it is establishing a fund and will develop a plan to get compensation to victims. ChoicePoint, citing the Los Angeles County district attorney, says there have been only 16 known instances of ID theft. The hefty fine sends a strong message to companies that handle the data of millions of Americans, privacy experts say." USA Today also offers background on the identity theft issue, saying, "At least 130 reported breaches exposed more than 55 million Americans to ID theft last year, sparking consumer advocates' calls for federal oversight of loosely regulated data-brokers."

Under the headline "Record Find For Data Breach," the Washington Post (1/27, D1, Mohammed) reports, "The Federal Trade Commission, which said the fine was the largest civil penalty it had ever imposed, said ChoicePoint violated consumers' privacy and breaking federal laws by mishandling the information and misleading people about its privacy policy. … The ChoicePoint case has galvanized public concerns both about the ease with which personal information can be bought and sold and about the lax security procedures at data brokers that last year alone led to security breaches affecting tens of millions of people." The Washington Post also says, "ChoicePoint told about 145,000 people in February that their personal information was obtained from the company by suspected criminals who masqueraded as legitimate businesspeople. Later in the year, it told another 17,000 people that information such as their names, addresses, dates of birth, Social Security numbers and summary credit information had been compromised. The FTC said the incidents led to at least 800 cases of identity theft, which has been the top type of consumer complaint logged by the agency for the past six years."

The New York Times (1/27, Zeller) carries reactions from players on several sides of the debate. Lydia Barnes, director of the FTC's Bureau of Consumer Protection, says, "The No. 1 point of this case is that companies that maintain sensitive personal information must employ reasonable safeguards. … That should be fundamental in this day and age.'" The Times also quotes Chris Jay Hoofnagle of the Electronic Privacy Information Center, who says it's an "important settlement" that "makes it clear that companies have to take information security more seriously." Meanwhile, James Lee, ChoicePoint's chief marketing officer, says, "We certainly support the settlement, and we believe its provisions are the right things to do and in the spirit of the changes we've already been making over the last year." The Times also reports that "Senator Charles E. Schumer, a Democrat from New York, who, along with Senator Bill Nelson, a Democrat from Florida, introduced one of the most comprehensive data security bills last year, thought the settlement was not punitive enough."

ChoicePoint Ignored "Obvious Red Flags.". The New York Times (1/27, Zeller) includes some background on the FTC's complaint against ChoicePoint. The Times reports, "In its complaint against ChoicePoint, the F.T.C. claimed that the company did not have 'reasonable procedures' in place to screen would-be subscribers to its databases and that in this case, the applications for access made by the fake businesses should have raised 'obvious red flags,'" such as "when an apartment number or a commercial mail drop was given as a business address, or when cellphone numbers were provided as a 'business's sole telephone number,' according to the agency's complaint" This "sloppiness" ultimately allowed credit histories "to fall into the hands of the fraudulent businesses," violating the Fair Credit Reporting Act, the New York Times says.

ChoicePoint Income, Stock Price Take Hits. The Wall Street Journal (1/27, Conkey, Carrns) reports, "ChoicePoint yesterday said fourth-quarter net income fell 29% to $27.7 million, or 30 cents a share, from $39.2 million, or 43 cents a share, a year earlier. The company took an $8

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million pretax charge for the FTC settlement and another $5.3 million in charges for other costs, including legal expenses related to the breach, which overall crimped profit by 14 cents a share. For the full year, ChoicePoint said net income fell 4.9% to $140.7 million, or $1.53 a share, from $148 million, or $1.62 a share, the prior year. In 4 p.m. New York Stock Exchange composite trading yesterday, ChoicePoint shares sagged $3.35, or 7.2%, to $42.95."

ChoicePoint Still Faces SEC Inquiry. The Wall Street Journal (1/27, Conkey, Carrns) says, "[T]he company still faces an investigation by the Securities and Exchange Commission into trading in ChoicePoint stock by Mr. Curling and Chief Executive Derek Smith prior to the company's disclosure of the breach. The two realized a combined profit of $16.6 million from selling company shares in the months after it learned of the breach. The company has said the sales were proper and part of a pre-approved plan. A ChoicePoint spokesman said that neither Mr. Smith nor Mr. Curling was available late yesterday to comment on the SEC inquiry. The spokesman noted that Mr. Smith has said he expects the outcome of the inquiry to be 'favorable' to himself and ChoicePoint." USA Today (1/27, Swartz) and the Washington Post (1/27, D1, Mohammed) also mentioned the SEC inquiry.

CIVIL RIGHTS:

Southern Illinois U Mulls Changes To Fellowships. The Chicago Tribune (1/26, Cohen, Report) reports, "Facing pressure from the U.S. Justice Department, Southern Illinois University officials are considering changes to three minority and female fellowships that the government has charged discriminate against white and male graduate students." The Tribune continues, "University administrators discussed the possible changes, proposed by the government last week, with student and faculty leaders at closed-door meetings Wednesday. … Though negotiations are continuing, a university Web site already says that the fellowships have been 'extensively revised' and are open to a broader group of students. University officials said the Web site changes weren't authorized. … The board of trustees will likely decide whether to accept the government's proposals within the next few weeks, a move that would delay a threatened lawsuit."

The Chicago Sun-Times (1/26, Newbart) reports, "Officials at Southern Illinois University presented a proposed consent decree to faculty and student leaders Wednesday, seeking to ward off a proposed federal lawsuit that would charge the school with discriminating against whites and others. … Officials would not say just what was being proposed in the consent decree, which came after two months of negotiations with the U.S. Justice Department. The department had threatened to sue the school on grounds that three of its minority fellowship programs discriminated against whites, males and non-preferred minorities. … However, changes in the descriptions of those fellowships had been removed from the school's Web site Wednesday."

Two Charged With Hate Crime With Mercury In Ohio. The AP (1/27) reports, "Two men accused of putting poisonous mercury on an interracial couple's porch have been charged with a hate crime, according to a media report." The AP continues, "Joseph Kuzlik, 56, and David Fredericy, 49, were each charged with conspiracy to violate civil rights, making false statements and criminal interference with housing rights. Both men pleaded innocent Wednesday in U.S. District Court in Cleveland, The Plain Dealer newspaper reported. … 'Allegations of hate crime strike at the heart of our community and cannot be tolerated,' Greg White, the U.S. attorney in Cleveland, said, according to the report." The AP adds, "Kuzlik is accused of acting as a lookout in February while Fredericy put an undisclosed amount of mercury on and around the porch of the unidentified couple's home in Cleveland's Slavic Village neighborhood, where the men also live. … The men are accused of lying when they told Environmental Protection Agency employees who cleaned up the mercury that they did not know how the mercury got on their neighbors' porch."

Student Claims Gender Bias In Complaint Against Massachusetts School. The Washington Times (1/27, Wetzstein) reports, "Female high school students are treated more leniently and are less likely to be punished than their male peers, a 17-year-old Massachusetts senior says in a federal complaint about gender bias at his school. 'The system is designed to the disadvantage of males,' Doug Anglin, a student at Milton High School in Milton, Mass., told the Boston Globe this week. 'From the elementary level, they establish a philosophy that if you sit down, follow orders and listen to what they say, you'll do well and get good grades. Men naturally rebel against this.' … The complaint cites 'statistical anomalies' in males' grades and standardized testing performance, as well as 'a generalized perception' that male and female students are treated differently by the mostly white, female teaching staff, Gerald Anglin said yesterday. … A Department of Education spokesman said the agency received the complaint but had no further comment." The Times also cited its own earlier report on "the issue of male 'academic underachievers.'" According to the Times, "Studies show that boys receive most of the "D" and "F" grades, create 80 percent of classroom discipline problems, account for 80 percent of high school dropouts and make up less than 44 percent of the college population. Suggested solutions include making classrooms

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smaller and more action-oriented, and teaching boys and girls separately."

Court-Martial Of Naval Academy Teacher Delayed. The Washington Times (1/27, Gertz, Scarborough, 90K) reports in its "Inside the Ring" column, "The U.S. Navy-Marine Corps Court of Criminal Appeals has ordered a delay in the court-martial of a Naval Academy teacher who used salty language in front of a female midshipman. The trial at the Washington Navy Yard had been scheduled to begin next week for Lt. Bryan D. Black. But his attorney, Charles Gittins, filed an appeal after the trial judge rejected his argument that the school's superintendent, Vice Adm. Rodney P. Rempt, should be removed as the officer overseeing the case. Adm. Rempt, who is in the midst of a 'no tolerance' campaign against sexual harassment at the Annapolis campus, ordered Lt. Black's court-martial, overruling an investigative officer who recommended counseling, not criminal charges. Mr. Gittins says Adm. Rempt has too much of a stake in seeing Lt. Black punished. He says a new admiral should be named as the convening authority. The appeals court will entertain written arguments from the defense and prosecution, and then likely hand down a ruling next month."

Alabama, Georgia Democrats Push Bible Classes In Public Schools. Democratic lawmakers in Georgia and Alabama are promoting Bible classes in the public schools, an idea usually pushed by conservative Republicans. The New York Times (1/27, Kirkpatrick, 1.19M) reports, 'Their Republican opponents are in turn denouncing them as 'pharisees,' a favorite term of liberals for politicians who exploit religion. Democrats in both states have introduced bills authorizing school districts to teach courses modeled after a new textbook, 'The Bible and Its Influence.' It was produced by the nonpartisan, ecumenical Bible Literacy Project and provides an assessment of the Bible's impact on history, literature and art that is academic and detached, if largely laudatory. The Democrats who introduced the bills said they hoped to compete with Republicans for conservative Christian voters." The Times adds, "Democrats in other states are moving in the same direction, jumping into a conversation about religion and values that some party leaders began after the 2004 election, when President Bush and the Republicans rode those themes to victory."

ANTITRUST:

AMC Closes Deal To Purchase Loews Cineplex. The AP (1/27, Twiddy) reports, "AMC Entertainment Inc. on Thursday said it had completed its purchase of Loews Cineplex Entertainment Corp., strengthening its position as the nation's second-largest theater operator." The AP continues, "The Kansas City-based company now will operate 415 theaters with 5,672 screens in 29 states and the District of Columbia and 11 foreign countries. Annual revenues for the privately held company are expected to be around $2.4 billion. … Financial terms for the deal were not released." The AP adds, "AMC and Loews agreed last year to sell 10 theaters with 120 screens to resolve consolidation concerns by the Justice Department and attorneys general in California, Illinois, Massachusetts, New York, Washington state and the District of Columbia. The theaters are in Chicago, New York City, Boston, San Francisco, Seattle, Dallas and Washington, D.C. … Before the acquisition, AMC operated 226 theaters with 3,522 screens, while Loews, based in New York City, operated 198 theaters with 2,235 screens."

EU Official Says Microsoft May Face Fine Despite Access Offer. The AP (1/27, Ames) reports, "Microsoft Corp.'s new offer to let competitors examine some of the blueprints to its Windows operating system may not end the threat of daily $2.36 million fines in the European Union's antitrust case, an EU spokesman said Thursday. … 'It would be premature to conclude that offering access to source codes would necessarily resolve the problem of compliance,' said EU antitrust spokesman Jonathan Todd." The AP continues, "Todd said EU antitrust officials await details from Microsoft before making a decision. … 'So far all we have received is the press release,' he said." The AP adds, "Responding to a 2004 EU antitrust ruling, Microsoft in December offered rivals thousands of pages of documentation and free technical support to help competitors make their software compatible with Windows-based servers, which power Web sites and other Internet services. … But an independent monitor called the documents 'totally unfit.' The European Commission then threatened to fine Microsoft up to $2.36 million a day, retroactive to Dec. 15, saying the software giant was proving intransigent about sharing data with competitors."

ENVIRONMENT/INDIAN AFFAIRS:

Three Alleged ELF Activists Plead Not Guilty To Ecoterror Charges. In a widely-distributed story, the AP (1/27, Thompson) reports alleged ELF activists Eric McDavid, Zachary Jensen and Lauren Weiner "pleaded not guilty Thursday to conspiring to attack government targets…and bail was set" at $1.2 million for Weiner. "Prosecutors said all three should be held as flight risks and dangers to the community. U.S. Magistrate Judge Gregory

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Hollows ordered McDavid and Jensen held in Sacramento County Jail without bond." The AP adds, "Hollows noted that the government has audio and video surveillance, notes, an anarchists' cookbook seized from the suspects, and the account of a paid FBI informant who lived with the group in a cabin rented and wired by the FBI. … But Hollows found little evidence supporting prosecutors' contention that the three were affiliated with either ELF or the similarly shadowy Animal Liberation Front, though he said they may have shared the same goals." The Sacramento Bee (1/27, Walsh, 301K) notes, "While it is not in the indictment, other court papers filed by the government say the trio planned to publicly proclaim after the arson campaign that it was carried out in the name of the Earth Liberation Front, a movement advocating violent criminal acts against what its followers believe are symbols of the destruction and exploitation of the environment."

BP Could Face Criminal Charges In Fatal Texas Refinery Explosion. Reuters (1/27, Baltimore) reports, "The U.S. government is pursuing charges against BP related to an explosion last year that killed 15 workers at its giant Texas refinery, sources familiar with the matter said on Thursday." Reuters continues, "The case could result in civil or criminal charges against BP, and the company could face millions of dollars in fines, one source said. … The Environmental Protection Agency and Justice Department are pressing an enforcement case against BP related to the March 23 blast at the Texas City, Texas refinery, said the sources, who spoke on condition of anonymity." Reuters adds, "The blast at the 460,000 barrel per day facility also injured 170 people and rattled buildings as far as five miles away. … An EPA spokeswoman referred queries to the Justice Department, where a spokeswoman declined to comment. … Last year the U.S. Department of Labour said it had asked the Justice Department to consider bringing criminal charges against BP."

West Virginia Governor Signs New Mine Safety Regulations. The AP (1/26) reported that West Virginia Gov. Joe Manchin has signed new mine safety regulations into law. The new regulations require better communications, underground oxygen supplies and faster emergency responses and Manchin says they will "help prevent tragedies like the two that killed 14 miners this month." The AP added, "The state's new mine safety law mandates that miners be provided with emergency communicators and tracking devices. It also requires mine operators to store extra air supplies underground, and sets up a new Mine and Industrial Accident Rapid Response System and statewide all-hours hot line to trigger rescue efforts more quickly."

Administration Offers Rules For Data Collected From Pesticide Tests On Humans. The Washington Post (1/27, A12, Eilperin, 744K) reports, "The Bush Administration issued yesterday the first-ever federal rules governing the use of information collected in tests that expose human subjects to toxic pesticides. The new regulations -- which drew praise from pesticide manufacturers and criticism from environmentalists and congressional Democrats -- would prohibit the intentional dosing of pregnant women and children with such poisons, and would establish an independent board to screen proposed studies."

Alaskans Push For Pipeline Construction. A front page story in the Wall Street Journal (1/27, Gold, 2.11M) reports, "In many parts of the U.S., community leaders and local politicians are fighting to halt energy projects or at least put them in someone else's neighborhood. What's occurring in Alaska is the polar opposite. The majority of Alaskans are great enthusiasts of energy development. The federal government estimates there may be 100 trillion cubic feet of gas in the North Slope, where Alaska meets the Beaufort Sea nearly 300 miles north of the Arctic Circle. … But no gas is leaving the North Slope, even though natural gas prices in the last year have been higher than ever. Exxon Mobil Corp., BP PLC and ConocoPhillips, which have leased drilling rights in Alaska for decades, haven't been in a hurry to get that gas to market. They're currently negotiating to build a pipeline through Canada to the American Midwest but construction on that massive project isn't likely to start for years. Meanwhile, Alaskans are running out of natural gas. … Faced with a vigorous campaign to jump-start the pipeline, the oil companies are in the unusual position of counseling patience. Moving too quickly on their preferred $25 billion pipeline through Canada, one of the largest construction projects in the history of North America, would be disastrous, they say."

Congress Urged To Take Action Against Exporting Electronics Waste. Author Elizabeth Royte in an op-ed in the New York Times (1/27, 1.19M) writes, "Electronic waste is now considered the fastest-growing segment of the municipal waste stream in the United States. … As awareness of the hazards of e-waste rises, more states will ban it from landfills. But keeping toxic trash from our dumps won't mean a thing if we don't forbid the export of hazardous material to countries without enforceable environmental regulations." Royte concludes, "To halt this environmental injustice…the federal government needs to restrict the use of hazardous materials in computers, require manufacturers to put in place recycling programs (it will be a lot cheaper and safer to recycle this stuff once the toxics are out) and ban hazardous waste exports."

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FBI/DEA/ATF/USMS:

Tunnel, Two Tons Of Marijuana Found In California; Cartel Suspected. There was widespread media coverage of the cross-border tunnel and marijuana found near the Tijuana, Mexico, airport. More than 300 news items related to the story turned up in various Internet searches. Prominent examples follow: The AP (1/27, Press) reports, "Authorities said they discovered more than two tons of marijuana in a cross-border tunnel that began near the Tijuana airport and ended inside a warehouse on the U.S. side. The 2,400-foot long passageway is longer than most of the 21 cross-border tunnels that have been discovered since authorities began keeping track after the Sept. 11 attacks, U.S. Immigration and Customs Enforcement officials said. … John Fernandes, special agent in charge of the Drug Enforcement Administration's San Diego office, said he suspected the tunnel was the work of Tijuana's Arellano-Felix drug smuggling syndicate or another well-known drug cartel. He said tougher enforcement aboveground had forced smugglers to dig below. … The tunnel exited into a large, two-story white cinderblock warehouse in an industrial San Diego neighborhood near the border." The AP story was widely posted on Web sites and/or published in newspapers of media outlets that include Forbes, the San Francisco Chronicle, San Luis Obispo Tribune, Arizona Daily Star, Kansas City Star, and the UK's Guardian.

Reuters (1/27) reports, "The U.S. Drug Enforcement Administration (DEA) found 200 pounds (90 kg) of marijuana on the U.S. side, while Mexican authorities said they discovered 2 tons of the drug on that side of the border. Because of the sophistication of the tunnel, the DEA is investigating major drug cartels. 'We know it's been used for drug traffic but this really illustrates the dangers and risks of security to Americans,' said John Fernandez, special agent at the DEA in San Diego."

The San Diego Union-Tribune (1/26, Soto, Berestein) reports, "Authorities said the elaborate tunnel bore the hallmarks of Mexican drug cartels, which have spent millions of dollars in the last 15 years to find a way to move contraband across the border. … 'We have a tunnel and it's massive,' said Lauren Mack, a spokeswoman with U.S. Immigration and Customs Enforcement, which was investigating the tunnel with agents from the Border Patrol and the Drug Enforcement Administration."

The New York Times (1/27, Archibold) reports, "Drug smugglers have dug one of the longest, most sophisticated tunnels discovered in recent years along the Mexican border, and the American and Mexican authorities have hauled nearly two tons of marijuana out of it since they entered it on Wednesday, officials said." Stretching from "a warehouse near the international airport in Tijuana, Mexico, to a vacant industrial building in Otay Mesa, Calif.," the tunnel's sophistication has "surprised officials, who found it outfitted with a concrete floor, electricity, lights and ventilation and groundwater pumping systems. … 'The tunnel is absolutely amazing,' said Michael Unzueta, special agent in charge for the federal Immigration and Customs Enforcement agency's San Diego office."

The Los Angeles Times (1/26, Marosi) writes, "Four tunnels have been discovered in the San Diego area this month. Also Wednesday, a crudely built, unfinished tunnel was discovered when a border patrol agent ran over a sinkhole near the San Ysidro Port of Entry."

AFP (1/27) reports, "The secret route is cut 26 metres below ground, directly under a heavily protected sector of the frontier and is much larger than the 21 others detected under the border since the September 11, 2001 terror attacks on US soil, US officials said."

CNN (1/26) reports on its Web site, "DEA and U.S. Immigration and Customs Enforcement agents discovered the tunnel Wednesday night. It runs from Tijuana, Mexico, to Otay Mesa, California. … Made of concrete, the passageway had lighting, electricity, ventilation and a pump to remove water, said Lauren Mack, a spokeswoman for Immigration and Customs Enforcement. … More than 20 cross-border tunnels have been uncovered in California and Arizona since 9/11, she added. 'We've now got a dedicated tunnel task force, which works with the DEA and border patrol to proactively look for tunnels,' Mack said."

UPI (1/27) cites the CNN story on the discovery of the tunnel and marijuana.

Proliferation Of Tunnels Seen As Result Of Increased Border Security. The Washington Post (1/27, A3, Pomfret) reports "experts said the passageway bore all the hallmarks of an operation by a major drug cartel." Unzueta said, "Whether they are designed to smuggle drugs, people, weapons or other contraband, these tunnels pose a threat to our nation's security." The Post continues, "Federal agents have concluded that drug traffickers and smugglers of illegal immigrants have been heading underground to escape tighter enforcement along the border. Customs officials announced this week that drug seizures at California border crossings rose 24 percent in the past fiscal year. More than 127 tons of drugs were seized, the vast majority of that marijuana, in the year ending Sept. 30." The Post also reports that Michael Unzueta, special agent in charge for U.S. Immigration and Customs Enforcement in San Diego "said most of the tunnels have been located in the San Diego area because the composite soil of that region is ideal for such work. From 1990 to 2001, 15 tunnels were unearthed. Unzueta said that a year ago, agents from his agency, the Drug Enforcement Administration and U.S. Customs and

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Border Protection's Border Patrol unit formed the San Diego Tunnel Task Force, with the aim of unearthing the networks."

The Washington Times (1/27, Seper) reports, "Since the September 11 attacks, federal authorities have discovered more than 20 cross-border tunnels along the US-Mexico border in California and Arizona. Authorities said they were unsure how long the tunnel had been in operation. They also said they did not know what drug organization might have used it. … In July 2003, members of the Tijuana-based Arellano-Felix Organization were indicted for conducting an illegal enterprise through a pattern of racketeering activity, conspiracy to import and distribute cocaine and marijuana, and money laundering. After a request by the DEA, the State Department issued rewards totaling $16 million for information leading to the arrest of five leaders of the organization who remain at large: Javier Arellano-Felix, Eduardo Arellano-Felix, Manuel Aguirre-Galindo, Gustavo Rivera-Martinez and Gilberto Higuera-Guerrero."

Network TV Coverage. ABC World News Tonight (1/26, story 6, 1:50, Vargas) reported, "In California, a secret tunnel used to smuggle drugs and people under the border has been uncovered. It's just one of many found in recent years. Officials say criminals are increasingly digging tunnels to bypass border patrols and move their contraband into the US." ABC (Thomas): "The DEA says it was a major gateway for illegal immigrants and drugs coming from Mexico." DEA Chief of Operations Michael Braun: "These tunnels are absolutely critical to these major drug-trafficking organizations and alien smuggling groups. Arms smuggling groups." Thomas: "US officials say the border has become ground zero for an explosion in illegal activity. Washington is now leaning heavily on Mexico to help put a stop to it." US Border Patrol Chief David Aguilar: "We have gotten a commitment to work with us on this. We have gotten a commitment to find out and get to the bottom of this." Thomas: "Before tons more illegal drugs find their way across the border."

CBS Evening News (1/26, 6:30, Schieffer) reported, "Imagine their amazement when U.S. agents discovered a tunnel almost a mile long and 60 feet deep below the U.S.-Mexico border. And that was not the only surprise -- inside the tunnel, more than two tons of marijuana. The tunnel stretches from near the Tijuana airport to a California warehouse, and it has a cement floor, lights, pulleys and a ventilation system."

NBC Nightly News (1/26, story9, :45, Williams) reported, "Out of California a big discovery to report a drug tunnel that authorities say runs the length of 12 football fields from Mexico into California, it's a tunnel so big the federal government says you can drive a car through it. The tunnel begins in a warehouse in Tijuana, ends in the San Diego area, it's used apparently for smuggling people and/or drugs. US officials say they found more than two tons of marijuana inside."

Cable TV Coverage. CNN's Lou Dobbs Tonight (1/26, Dobbs) reported, 'Tonight, homeland security officials say they have shut down the largest border tunnel ever discovered on the US-Mexican border. … Police were first tipped off to it…two years ago. They finally found it."

MSNBC's Abrams Report (1/26, 6:00 p.m.) reported, "A half-mile long tunnel under Mexico's border with California [was found]. [Authorities] found more than two tons of marijuana inside that tunnel."

Local TV Coverage. Local TV stations around the country devoted significant coverage to the tunnel. Most of the coverage provided details about what was found in the tunnel. Some examples: WRDW-TV Augusta, Georgia (1/26, 11:18 p.m.) showed John Fernandez of the DEA saying, "When we find these tunnels, we are very concerned about national security." The station continued, "Forensic experts are now combing the entire passageway to try to determine if humans and weapons were also transported through the shaft." The station then showed Fernandez saying. "It's the organization that we want to dismantle, to gut their infrastructure." The station added, "Investigators say they have a tough job ahead of them because the sophistication of the tunnel likely indicates how sophisticated the organization is that had it built."

KESQ-TV Palm Springs (1/26, 5:05 p.m.) reported that authorities don't know how long the tunnel has "been in operation, but [they] say it appears to be the work of the Mexican drug cartels." This station also showed John Fernandez of the DEA discussing the tunnel. Fernandez said, "The sophistication of the tunnel indicates the sophistication of the organization. So we can attribute it to the Arellano-Felix Organization and the other infamous usual suspects." The station added, "21 tunnels have been discovered in California and Arizona since September 11th."

KCNC-TV Denver (1/26, 4:33 p.m.) reported, "The Drug Enforcement Agency and Customs agents unearthed a tunnel" with drugs inside it that ran "almost a mile long."

WTVF-TV Nashville (1/26, 5:17 p.m.) reported, "The Drug Enforcement Agency Says the tunnel was discovered last night in Mexico."

KSTP-TV Minneapolis (1/26, 10:14 p.m.) said "drug enforcement agents uncovered an elaborate tunnel where two tons of marijuana was discovered. It stretches more than 2,400 feet between Mexico and the United States."

WAGA-TV Atlanta (1/26, 6:45 p.m.) reported, "More than two tons of marijuana were found inside a tunnel connecting the US and Mexico. Customs agents say the tunnel is concrete, about five feet wide and tall enough for an adult to stand in. They say smugglers use the tunnel to transport drugs and perhaps even people."

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KCAL-TV Los Angeles (1/26, 8:08 p.m.) said, "The tunnel has lights, ventilation, and a pumping system to get ground water out. Inside, Mexican investigators found two tons of marijuana worth millions on the street."

KCBS-TV Los Angeles (1/26, 6:01 p.m.) reported, "US law enforcement says it's the largest [tunnel] ever found on the border." The "Border Patrol spotted the tunnel and called Mexican police."

KGTV-TV San Diego (1/26, 6:32 p.m.) said, "You can see this building is still guarded by Border Patrol agents and members of the Drug Enforcement Agency."

KUSA-TV Denver (1/26, 10:09 p.m.) said the entrance to the tunnel "was found near the Tijuana airport, the exit in San Diego in an industrial neighborhood. … The tunnel has electricity, a pulley system and is wide enough to accommodate a small car."

KDFW-TV Dallas (1/269:24 p.m.) reported, "This is the fourth tunnel uncovered in that area this month and the longest one found so far."

KOMO-TV Seattle (1/26, 11:18 a.m.) added that no arrests have been made after the discovery of the tunnel.

KTVU-TV San Francisco (1/26, 6:06 p.m.) reported, "The discovery prompted the US Attorney's Office and San Diego to launch a criminal investigation."

Eight More "Lively Green" To Plead Guilty To Drug Trafficking Charges. The AP (1/27) reports, "Five more members of the U.S. military and three other suspects have agreed to plead guilty in a drug smuggling sting case targeting military members who believed they were smuggling cocaine through Arizona. The pleas bring the total number of people admitting guilt in the case to 44, most of whom were members of the regular Army or Air Force or the Arizona National Guard. The U.S. Attorney's Office said the five, four Army National guard soldiers and one airman, pleaded guilty to conspiracy to accept cash bribes from people they believed to be narcotics traffickers. In addition, two civilians and an officer with the Arizona Department of Corrections. In fact, the traffickers were FBI agents working a sting operation called 'Lively Green.'" KOLD-TV Tucson (1/26) also reports the plea agreements, noting, "The FBI investigated the operation for two years."

Mexican Official Suggests Border Incursion Was Lively Green-Style Operation. The AP (1/27, Stevenson) reports, "Mexico's foreign secretary suggested Thursday that uniformed men using a military-style Humvee to help drug traffickers on the border could have been U.S. soldiers or criminals disguised as Mexican troops." Luis Ernesto Derbez said that U.S. Ambassador Tony Garza's "strongly worded statement asking the Mexican government to 'fully investigate'" the incident were "out of line." Derbez referred "to an FBI drug sting dubbed Operation Lively Green, in which more than a dozen U.S. military and civilian government workers were arrested in southern Arizona. … 'Members of the U.S. Army have helped protect people who were processing and transporting drugs,' Derbez told a news conference. 'And just as that has happened ... it is very probable that something like that could have happened, that in reality they (the uniformed men at the border) were members of some of their groups disguised as Mexican soldiers with Humvees.'"

Reporting Continues On Plot To Kill DEA Agent. The Washington Times (1/27, Seper) reports, "Federal authorities have arrested two Louisiana men, including an inmate in the Tangipahoa Parish Prison near New Orleans, in a $15,000 assassination plot to kill a U.S. Drug Enforcement Administration agent. Johnnie Sims was arrested Wednesday night as he attempted to hire a hit man to kill DEA Agent Chad Scott, said William J. Renton Jr., special agent in charge of the DEA's New Orleans field office. Chris Walker, 30, also was charged but already was in custody from his Oct. 13 arrest for possession with the intent to distribute crack cocaine. 'This arrest and the swift federal response to the vicious plot to murder a career DEA special agent should serve as compelling evidence of our absolute commitment to take any steps necessary to protect the lives of law-enforcement officers and citizens alike from those dangerous criminals who prey upon society with no regard for human life,' said U.S. Attorney Jim Letten. According to a criminal complaint filed in U.S. District Court, federal agents learned of the purported assassination plot from cooperating inmates who said Mr. Walker was seeking to hire someone to kill Mr. Scott."

The New Orleans Times-Picayune (1/26, Perlstein) writes, "William Renton, the DEA's top agent for the New Orleans area, said the scheme unraveled when Walker, 30, started asking fellow inmates at Tangipahoa Parish Prison for the names of potential hit men. Two inmates took the information straight to DEA Agent Chad Scott, who had busted Walker on Oct. 18 and booked him with possessing more than a kilo of cocaine, equipment used in making crack and a gun with an obliterated serial number, according to Renton and court records. The informants told the agent that Walker had asked Sims, 25, to line up an assassin to murder Scott, according to criminal affidavit filed in the case. The DEA wasted no time launching a sting operation using an undercover New Orleans police officer to pose as a drug-dealing hit man, the affidavit states."

California County May Join Others In Medical Marijuana Lawsuit. Southern California's Press-Enterprise (1/27) reports, "Riverside County will consider joining San Bernardino and San Diego counties in a federal lawsuit seeking to overturn California's medical-marijuana

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law. Supervisor Jeff Stone, a pharmacist, said he intends to ask his colleagues in closed session Tuesday to add the county to the short list of challengers to the state's Compassionate Use Act approved by Californians in 1996. The law allows patients with a physician's recommendation to transport and use marijuana to treat the symptoms of illnesses such as cancer, glaucoma, chronic pain and AIDS."

US-Mexico Quarrels Over Border Said To Indicate "Deteriorating Relationship." The New York Times (1/27, McKinley) reports, "The United States and Mexico exchanged diplomatic broadsides on Thursday over border security and drug-related violence in another sign of their deteriorating relationship. The American ambassador, Antonio O. Garza Jr., sent a formal note to the Mexican government demanding an investigation of" Monday's smuggling incident in Texas. Garza "took the unusual step of not only announcing the note, but promising to send a second one to express concern about a rise in drug-related violence in border towns and recent attacks on American Border Patrol agents. … Hours later the Mexican foreign minister, Luis Ernesto Derbez, suggested that it was Mr. Garza who appeared to be playing to a crowd for political reasons."

Mexican Official Says American Soldiers May Have Aided Smugglers. The AP (1/26) reported Mexican Foreign Secretary Luis Ernesto Derbez "suggested Thursday that American soldiers disguised as Mexican troops may have been in the military-style Humvee filmed earlier this week protecting a marijuana shipment on the border." Derbez said at "a news conference that US soldiers had helped drug smugglers before. However, he offered no evidence." Derbez said, "And just as that has happened ... it is very probable that something like that could have happened, that in reality they were members of some of their groups disguised as Mexican soldiers with Humvees." He added that "there was no proof that the men seen in the incident were Mexicans. Derbez also said his country will send a diplomatic note to Secretary of State Condoleezza Rice demanding that US officials tone down their comments on Mexico's security and immigration problems."

Homeland Security Secretary Michael Chertoff's statements last week that reports of Mexican military incursions were overblown have been criticized frequently by the primetime cable news hosts. Senator Kay Bailey Hutchison appeared on Fox News' The Big Story (1/26) where she discussed the issue of Mexican military incursions. Host John Gibson: "Senator, you wrote a letter to the Secretary of the Department of Homeland Security, Michael Chertoff. He does not seem to be taking this very seriously. He calls these routine, accidental incursions. Texas authorities think they're much more serious than that. Have you been able to persuade the secretary to regard this as a serious matter and do something about it?" Hutchison: "Well, certainly we are encouraging the secretary to take action, to ask for an investigation, which the Mexican government has said they'll do."

On CNN's Lou Dobbs Tonight (1/26) host Lou Dobbs said, "The question has to be, why is the White House silent on this issue? Why is the man in charge of our homeland security, that is Homeland Security Department Secretary Michael Chertoff, so timid and so unconcerned or interested?"

Current Border Situation Compared To 1916. The Washington Times (1/27, Mccain) reports in a front page article that "the White House is speaking of its 'concern about the reports' of Monday's border crossing, which a spokesman described as 'an incident that is under investigation.' Yet in 1916, when Pancho Villa's bandits raided Columbus, NM, a Democratic president didn't hesitate. President Woodrow Wilson sent Gen. John 'Black Jack' Pershing to lead an expedition into Mexico. A $5,000 bounty was offered for Villa's capture, and Army posters invoked 'The Flag, Old Glory' in calling for 25,000 recruits: 'Come on, boys, be ready to shoulder the trusty Springfield.'" However, "the historic situation during Villa's day was much different, said James Carafano, a senior fellow at the Heritage Foundation. 'Mexico back then didn't have a strong central government,' said Mr. Carafano, who specializes in defense and homeland-security issues. 'There was no rule of law. I don't think you can compare that to Mexico today."

Ohio Man Pleads Guilty To Firearms, Meth Charges. The Chattanooga (TN) Chattanoogan (1/27) reports, "A Cleveland, Tn., man who authorities say kept machine guns buried in his yard pleaded guilty Thursday to firearms and meth charges." The Chattanoogan continues, "Donald Pippenger, 50, appeared before Judge Allan Edgar. … Prosecutor Gary Humble said Bradley County Sheriff officers on Aug. 9, 2004, found working components of a meth lab at Pippenger's home. He said they went back on March 10, 2005, and found he again was outfitted to cook meth. … Pippenger sold a sub-machine gun to an undercover officer on May 11, 2005, the prosecutor said." The Chattanoogan adds, "He is facing up to 20 years in prison and a fine up to $1 million on the meth cases and up to 10 years and a fine up to $250,000 in the firearms case. … ATF Agt. Carl Maskew said an informant told him he learned Pippenger was trying to sell guns. The informant went to the Pippenger home at 105 Hughes Road and Pippenger offered to sell him a semi-automatic Uzi. He said Pippenger said he should consider buying a fully automatic Uzi instead. He said Pippenger told him he had several automatic Uzis and an automatic AK-47 that he would sell."

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Alabama Couple Indicted For Alleged Fraudulent Antique Firearms Valuations. The AP (1/27, Lovan) reports, "An Alabama man who headed a Louisville historical weapons museum has been charged with bilking the museum's founder out of millions by lying about the cost of some antique firearms." Michael K. Salisbury "inflated the prices of weapons bought by the museum's founder and primary financial backer, Owsley Brown Frazier, prosecutors said. He was indicted on two counts of money laundering, three counts of wire fraud and four counts of tax evasion. Salisbury's wife, Karen Cruse Salisbury…faces money laundering and wire fraud charges. The couple, of Huntsville, Ala., were taken into custody Thursday morning in Louisville," pleaded not guilty and were released on bond. The AP notes, "The indictments alleged Salisbury misrepresented the prices on a Colt revolver that was believed to have belonged to former FBI director J. Edgar Hoover; a Winchester rifle owned by William F. 'Buffalo Bill' Cody; and a bow, quiver and six arrows believed to have belonged to the Apache Indian Geronimo."

Arizona Man, Mexican Officer Indicted For Gun Smuggling. The Yuma (AZ) Sun (1/26, Gautreaux) reports, "A Mexican police officer and a Yuma man have been federally indicted for allegedly attempting to cross the border with three weapons purchased at a Yuma gun show." The Sun continues, "Omar Ignacio Alvarez, 20, of Yuma assisted Pedro Rios-Perez, 41, an officer for the Baja California State Police, in buying two handguns and an assault rifle Jan. 7 at a gun show at the Yuma County Fairgrounds, according to the indictment and a criminal complaint filed in U.S. District Court in Phoenix. The two allegedly attempted to drive the guns into Mexico in a police vehicle." The Sun adds, "The arrests are part of an overall increase in enforcement by the federal government in cooperation with local agencies to curb weapons trafficking in this area, according to Tom Mangan, special agent for the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). … 'We recognize Yuma as being a firearms source for guns going to Mexico,' Mangan said. 'Arizona is a source state for firearms to Mexico.' … With strict firearms laws in Mexico, buying weapons in the United States and smuggling them south has been a longtime practice. Mangan said people from Mexico involved in narcotics and other crime have been coming to Yuma retailers to purchase weapons or having them bought for them through straw purchases."

Virginia Delegate Accidentally Discharges Handgun In His Office. A front page story in the Washington Post (1/27, Jenkins, Helderman, 744K) reports that Virginia Del. John S. "Jack" Reid accidentally discharged the small semiautomatic .380 handgun he carries for protection in his office Thursday. While no one was injured, the incident "prompted an unexpected debate about gun control and also something uncommon in Virginia political circles: contrition from a state legislator. Reid, a Henrico County Republican, rose from his seat on the floor of the House of Delegates, asked to be heard, explained what had happened and said: 'I want to apologize to the members of this body and to the greater body. . . . I'm just thankful that nobody was hurt.'" Reid "was at a loss to explain how an experienced gun owner found himself discharging a firearm during one of the busiest parts of the business day at the state Capitol complex."

CONGRESS-ADMINISTRATION:

Byrd, Johnson To Back Alito Confirmation. USA Today (1/27, Kiely, 2.31M) reports, "Two more Democratic senators, Robert Byrd of West Virginia and Tim Johnson of South Dakota, said Thursday that they will vote in favor of Supreme Court nominee Samuel Alito." Byrd and Johnson join Sen. Ben Nelson "as Alito's only announced Democratic supporters. All three are from states won by President Bush in 2004." Byrd said yesterday, "Like most of my constituents, I prefer conservative judges."

ABC's World News Tonight (1/26, story 5, :10, Vargas) in a brief story reported Byrd "broke party ranks to support" Alito. Byrd" called him 'an honorable man, who loves his country, lovers his constitution, and will give it his best.' He blasted the hearings calling them overly partisan saying his constituents called them an outrage and a disgrace."

Meanwhile, the Hartford Courant (1/27, Lightman, 206K) reports, "Sen. Joseph I. Lieberman, D-Conn., saying he was 'left with just too many doubts,' announced today he will vote against confirming Judge Samuel A. Alito Jr. to the U.S. Supreme Court."

Reuters (1/27) reports Senate Majority Leader Bill Frist "moved to force a confirmation vote on Tuesday. A test vote on ending debate is set for Monday, and a number of Democrats conceded they probably cannot stop Frist from mustering the needed 60 votes to do so. There are 44 Senate Democrats." Fox News' Special Report (1/26, Wilson) added "a final vote up or down on Alito is expected at 11:00 a.m. Tuesday morning and it does appear that by probably around noon he'll be sworn into the Supreme Court."

White House Says It Has 60 Firm Commitments In Favor Of Alito. CNN's The Situation Room (1/26, Bash) reported that a senior Bush Administration official "said that they think that this makes the Democrats, from their perspective, look worse than they think they did during the hearings, the Alito hearings." The official "said that they actually feel that they have 60 firm commitments, 60 firm

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commitments to vote in favor of Judge Alito. And that would block a filibuster."

Kerry, In Switzerland, Tries To Mount Last-Minute Filibuster. The CBS Evening News (1/26, story 4, :30, Schieffer) also noted, "As…Alito appears headed for confirmation by the Senate, some of his liberal Democratic opponents today threatened a last-ditch filibuster to try to prevent or at least delay a final vote. It does appear, however, that Alito has enough support to stop any filibuster and win confirmation." The Washington Times (1/27, Hurt, 90K) adds Sen. John Kerry "phoned in for a filibuster from the Swiss Alps." Kerry "made calls yesterday while attending the World Economic Forum in Davos, Switzerland, urging colleagues to join a last-ditch effort to thwart Judge Alito's confirmation." Sen. Edward M. Kennedy "joined in Mr. Kerry's call for a filibuster."

The New York Times (1/27, Kirkpatrick, 1.19M) reports on Kerry's "quixotic, last-minute effort for a filibuster." Democrats "cringed and Republicans jeered at the awkwardness of his gesture, which almost no one in the Senate expects to succeed. 'God bless John Kerry,' said Don Stewart, a spokesman for Senator John Cornyn, a Texas Republican on the Judiciary Committee. 'He just cinched this whole nomination. With Senator Kerry, it is Christmas every day.'" Steve Schmidt, a White House spokesman "working on the nomination," said Kerry's move "says a lot less about Alito than it does about the Iowa primary in 2008," suggesting "that Mr. Kerry, who lost the presidential race in 2004, was playing to his party's liberal base in a bid to recapture its nomination." Senator Harry Reid "sounded almost apologetic about Mr. Kerry's statements. 'No one can complain on this matter that there hasn't been sufficient time to talk about Judge Alito, pro and con,' Mr. Reid said on the Senate floor. ;'I hope that this matter will be resolved without too much more talking.'"

The AP (1/27, Holland) also says Reid "offered no support for Kennedy…and others who are trying to block the vote with a filibuster in a last stand against Alito's confirmation. 'There's been adequate time for people to debate,' Reid said."

CNN's The Situation Room (1/26, Henry) reported, "There could be a backlash against Kerry. There are some Democrats like Mary Landrieu, moderates like Landrieu, who have said that may vote against Alito, but they would be against the filibuster, that they want an up or down vote as…Bush has called for." Other "very senior Democrats here in Washington are saying this is a bad idea."

Under the headline "Democrats Split Over Filibuster On Alito," the Washington Post (1/27, A1, Babington, 744K) reports Kerry and Kennedy "acknowledged that the bid is likely to fail and that Alito is virtually certain to be confirmed Tuesday." But "they said extended debate may draw more Americans' attention to Alito's conservative stands on abortion, civil rights, presidential powers and other matters."

In an editorial titled "Bring It On," the Wall Street Journal (1/27, 2.11M) says, "Imagine the political gain for Republicans after a Supreme Court filibuster -- with all of its 24/7 publicity -- by blue-state liberals against a modest Italian-American with impeccable legal credentials and stainless ethics." Kerry "really seems to believe that the country will rise up in fury when it discovers that Judge Alito believes that the Constitution gives a President wide powers to defend America." Kerry "may not care much about the Senate because his real goal is winning the Democratic nomination for President again in 2008. Republicans should be so lucky."

Bush To Promote "Competitiveness" Agenda In State Of The Union. The Financial Times (1/27, Daniel, Alden) reports President Bush plans to "embrace a 'competitiveness' agenda advocated by big US technology companies in his State of the Union address next week." Bush is expected to "highlight the need for measures to improve US industry's competitiveness" as concerns grow that the US "is lagging behind in cutting-edge research and has fallen behind China and India in training science and technology graduates." At his Thursday press conference, Bush said, "We live in a competitive world, and so policies must be put in place to recognize the competition of the global economy and prepare our people to be able to continue to compete so America can continue to lead."

Budget Constraints Will Limit Initiatives. The Wall Street Journal (1/27, Harwood, 2.11M) reports in its "Washington Wire" column, "Bush plans emphasis on broad themes as red ink thins policy options. Advisers say budget squeeze will curb initiatives in Tuesday's State of the Union. Bush's track record suggests little polling benefit; his ratings dropped after two of four earlier addresses."

Site For Anti-Bush State Of The Union Protest Approved. The Washington Post (1/27, B2, Barker, 744K) reports that organizers of the "World Can't Wait -- Drive Out the Bush Regime" protest scheduled for Tuesday "reached an agreement yesterday with law enforcement officials and will now be allowed to use the area around the U.S. Capitol Reflecting Pool for their demonstration." They had "initially been offered the Reflecting Pool area on the west side of the Capitol as a protest site but then were told that the site had been reclassified as part of the security perimeter for the day of Bush's speech."

Villaraigosa Does Not Want To Be "Too Negative" In SOTU Response. The Los Angeles Times (1/27, McGreevy, 958K) reports Los Angeles Mayor Antonio Villaraigosa and Democratic congressional leaders "huddled" yesterday "to discuss his Spanish-language response to the president's State of the Union address next week, and there

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were signs of some disagreement over how to present their case." Villaraigosa came out of a meeting with Senate Minority Leader Harry Reid and House Minority Leader Nancy Pelosi "saying that he did not want to be too negative about the president, on whom his city depends for federal financial help."

Friedman Says Energy Independence Should Be Centerpiece Of State Of The Union. In his New York Times (1/27, 1.19M) column, Thomas Friedman writes, "The direction in which America needs to go is obvious: toward energy independence." If President Bush "steps up to that challenge" in his State of the Union, "this speech could be a new beginning for his presidency. If he doesn't, you can stick a fork in this administration. It will be done -- because it will have abdicated leadership on the biggest issue of our day." Friedman says Bush should call on President Kennedy's "extraordinary State of the Union address in which he called on the nation to marshal all of its resources to put a man on the Moon," and then say, "President Kennedy was worried about the threat that communism posed to our way of life. I am here to tell you that if we don't move away from our dependence on oil and shift to renewable fuels, it will change our way of life for the worse -- and soon -- much, much more than communism ever could have. Making this transition is the calling of our era."

Bush To Offer Market-Based Health Care Initiatives In State Of The Union. The Christian Science Monitor (1/27, Marks, 61K) reports that in his State of the Union speech, President Bush is expected to propose a series of health care initiatives that aim to "encourage a market-oriented, consumer-driven system. Key components of his plan include the expansion of health savings accounts, additional tax breaks for individuals who buy insurance on their own, and provisions that would improve public access to information on healthcare pricing." Supporters say the proposals "are crucial to making American more of an 'ownership' society," but critics "warn they'll shift more risk onto individuals and undermine the nation's already strained health-insurance system."

Financial Service Providers Rush Into Health Savings Account Market. The New York Times (1/27, Dash, 1.19M) reports, "Banks, credit unions and money management firms are now quietly positioning themselves to become central players in the business of health care, offering 401(k)-type accounts to cover future medical expenses." Many are rushing to get in the market for health savings accounts, "which have been around since 2003 but are moving to the fore of the national agenda." Right now, only about three million Americans "have signed up for the high-deductible insurance policy required for such accounts, up from slightly more than one million last March." But according to one estimate, that number will surpass 15 million by 2010. The Los Angeles Times (1/27, Havemann, 958K) reports that the tripling of the number of HSA members over the last 10 months is a "very significant success story," according to America's Health Insurance Plans President/CEO Karen Ignagni. But Employee Benefit Research Institute health economist Paul Fronstin said, "Is it a success story? Yes and no. Three years ago, the market didn't exist. But it still amounts to only a fraction of Americans who have private insurance."

CBS Poll Highlights Public's Concern About US Health Care. The CBS Evening News (1/26, story 7, :45, Schieffer) reported, "Americans overwhelmingly believe the health care system in this country is broken. Ninety percent told us the system needs a major change or a complete overhaul, but few think it is likely to get one. Only nine percent believe that health care will be better by the end of the President's second term; 40% say it will be worse."

Concerns Raised About Rising Senior Health Care Costs. NBC Nightly News (1/26, story 7, 2:00, Mullen) ran a story on the predicament baby boomers face in caring for both their elderly parents and children. American Geriatric Society President Dr. David Reuben: "This is going to be the Hurricane Katrina of 2020. The cost of caring for these older people is going to be enormous." Mullen: "Many med schools are pushing government to offer students financial incentives to pursue geriatrics. They say they're hoping policymakers grow wiser as the population grows older."

Democrats Want Bush To Discuss Medicare Drug Benefit Fix. Reuters (1/27, Kenen) reports Democrats in Congress are calling on President Bush to "outline in his State of the Union speech how he will fix what they consider a disastrous start to the Medicare drug benefit." Senate Minority Leader Harry Reid said, "The President needs to come clean and join Democrats in offering a real solution to this disastrous program."

Drug Makers Plan To Cut Back On Discount Medication Programs. Meanwhile, the Washington Post (1/27, A2, Connolly, 744K) reports that "several of the nation's largest drug manufacturers say they will no longer provide free or discounted medications to low-income elderly and disabled patients because they should be covered by the new Medicare drug benefit." For "about 1 million Americans with serious illnesses such as AIDS and cancer -- patients who last year relied on the pharmaceutical industry's giveaways -- that means Medicare coverage could cost them more than $3,600 this year."

Medicare Drug Program Denies Home IV Supplies. The Los Angeles Times (1/27, Alonso-Zaldivar, 958K) reports, "The new Medicare drug program is denying supplies that seriously ill patients need to administer intravenous antibiotics and other medications at home. As a result, some

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patients are being referred to nursing homes, and others have had to go into hospitals." While "no national estimates are available, the number of patients affected -- including some with life-threatening diseases such as cancer and multiple sclerosis -- could run into the thousands." Medicare officials "say they are aggressively addressing the problem, which they attribute to restrictions in the law that created the prescription benefit and to difficulty communicating with states, pharmacies and medical providers."

Bush Budget To Include Funding For Nuclear Fuel Reprocessing. The AP (1/26) reports President Bush's budget request will include $250 million for reviving nuclear fuel reprocessing, "including a long-term proposal to provide reactor fuel to foreign countries if they return it to the United States to be recycled." The request will be "a first step toward reversing a decades long U.S. policy against nuclear reprocessing." The proposal will call for "stepped up research into a 'more proliferation resistant' type of reprocessing that proponents say will reduce dramatically the likelihood of theft or diversion."

Majority See Bush Presidency As "A Failure" In Gallup Poll. Under the headline "State Of The Union? Not So Good, Most Say," USA Today (1/27, Page, 2.31M) reports that according to a new USA Today/CNN/Gallup poll, most Americans are "pessimistic about the economy, divided on the war and doubtful" that President Bush "has the best plan to address the issues that matter most to them -- among them health care and corruption." And by "more than 2-to-1, those surveyed say things have gotten worse in the United States over the past five years," with even self-described conservatives divided "47%-44% on whether things have gotten better or worse." Bloomberg (1/27, Johnston) reports that the same poll found 52% of adults saying "Bush's administration since 2001 has been a failure, down from 55 percent in October. Fifty- eight percent described his second term as a failure. At the same point in former President Bill Clinton's presidency, 70 percent of those surveyed by Gallup said they considered it a success and 20 percent a failure. In a poll conducted in January of 2002, after Bush was president for one year, 83 percent of those surveyed said his presidency was a success."

Bush Vows Tougher Stance On Congressional Spending. Reuters (1/27, Bohan) reports, "President George W. Bush, who has faced heat from conservative Republicans over high budget deficits, pledged on Thursday to take a tougher stance toward Congress over spending, including vetoing bills if necessary." He also "backed changes to the appropriations process to curb 'earmarks,' or targeted spending that lawmakers often use for pet projects in their districts." During a press conference, Bush said, "That's going to be an interesting discussion on Capitol Hill -- this business about earmarks and people making a special deal in the budget. … And there needs to be earmark reform." Bush also "said he would call for fiscal restraint in his State of the Union address on Tuesday, when he will also unveil initiatives on healthcare, energy and education. Bush cited a deficit-cutting package aimed at finding $39.7 billion in savings from social welfare programs over five years as a sign Congress was making progress on curbing spending."

CBO Says Deficit Would Turn Into Surplus If Bush Tax Cuts Allowed To Expire. USA Today (1/27, Wolf, 2.31M) reports, "Making…Bush's tax cuts permanent will prolong big budget deficits into the next decade, the Congressional Budget Office projected Thursday." But "if those tax cuts are allowed to expire after 2010 -- effectively a tax increase Bush has sworn to oppose -- the budget would begin showing a surplus in 2012, the CBO's budget projections showed. Bush wants Congress to make the tax cuts permanent before he leaves office in 2009." The Wall Street Journal (1/27, Calmes, 2.11M) adds CBO "projects that war and hurricane-relief costs will widen the annual deficit to about $360 billion after it had narrowed last year." But "a decade out, the nonpartisan office sees either a small surplus or a nearly $400 billion deficit in 2016 if President Bush's tax cuts are extended."

The AP (1/27, Taylor) reports, "The latest Congressional Budget Office data also suggest President Bush is unlikely to be able to keep his promise to cut the federal deficit in half by the end of his term," while Reuters (1/27, Cowan) says "congressional Democrats said the CBO report challenges Bush administration claims that it is making progress in cutting the deficit, which began in fiscal 2001 with a $128 billion shortfall on the heels of a $236 billion surplus in fiscal 2000, the year before…Bush took office."

Bush "Full Of Quips" During Yesterday's Press Conference. The AP (1/27, Pickler) reports, "President Bush's first news conference of the year was just a camera strap away from becoming hazardous to reporters. As the president began his opening statement, a camera that the news service AFP had hung from the ceiling dropped and nearly fell on the heads below. It was caught by its strap, and Bush stopped and looked at it dangling precariously. 'Are you wearing your helmets?' he joked to reporters sitting in the White House briefing room." Bush "was full of quips during the 45-minute news conference, poking fun at the media and deflecting some of the heat when questioning got intense."

Lobbyists Serve Dual Role As Fundraisers For Lawmakers. A front page story in the Wall Street Journal (1/27, Mullins, 2.11M) reports on a practice that is "becoming

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more common in Washington: Lobbyists are serving as principal fund-raisers for lawmakers they're trying to sway. … The Justice Department public-corruption and bribery case against lobbyist Jack Abramoff and a half-dozen members of Congress has refocused attention on the financial ties between lawmakers and lobbyists. While Mr. Abramoff's lobbying activities crossed the line into illegality, the practice of lobbyists raising large amounts of money for lawmakers is both legal and commonplace in Washington today." The Journal notes that Gregg Hartley, who left his job as a top aide to Republican Rep. Roy Blunt of Missouri to become a lobbyist, is helping Blunt ""was helping his old Capitol Hill boss raise campaign money and offering him political advice," and is now "assisting Mr. Blunt in his bid to succeed Rep. Tom DeLay as House majority leader." Bruce Gates, "the top political strategist for Mr. Blunt's main rival to become Majority Leader, Rep. John Boehner of Ohio, also is a lobbyist for private clients."

Poll Suggests Public More Suspicious Of GOP Lawmakers' Ethics. The CBS Evening News (1/26, story 6, 3:00, Schieffer) led its story on ethics reform loopholes noting, "If lobbyists have been bribing members of Congress, it would not surprise most Americans, it turns out. In that CBS News 'New York Times' poll we mentioned earlier 77% said that is just the way things work in Congress. And when asked who in Congress is more likely to take a bribe, a Republican or a Democrat, twice as many Americans pointed to the Republicans, 36% said the chances are about equal."

McCain Seeks To Close Loophole Allowing Lobbyists To Contribute To Lawmaker Charities. The CBS Evening News (1/26, story 6, 3:00, Schieffer) reported, "Republicans and Democrats alike are talking about all kinds of lobbying reform, but they do not want to change everything." CBS (Borger) noted that ethics reform "is all the rage on the campaign trail." But "there's a little-noticed loophole that's been conveniently left off the table because it's too good to give up. Members' personal charities. They're tax-exempt foundations created by members of Congress. Their donors? Lobbyists." For example, "the Tom DeLay Foundation for Kids which built a home for foster children in Texas. When DeLay was the powerful majority leader, lobbyists lined up to contribute to his foundation, raising millions." Although "Senator John McCain points out that not all charitable travel is bad, he wants to screen the charity outings paid for by lobbyists to curb the boondoggles." Sen. John McCain: "Part of the screening process would be exactly what takes place and how the money is spent." Borger: "Top lobbyists say donations to members' charities are a key lobbying strategy and will remain so as long as the charity loophole stays as wide open as a fairway."

Senators Threaten To Force Votes On Every Pork Barrel Spending Project. Sens. John McCain and Tom Coburn say they will force a vote on the Senate floor on each pork barrel spending project this year. The Washington Times (1/27, Dinan, 90K) reports that the Senators "sent a letter Wednesday night to their colleagues announcing they will use Senate rules to force members to vote on each project. 'American taxpayers are entitled to a more thorough debate and disclosure about how their money is being spent,' the senators wrote."

Lobbyist-Lawmaker Relationships Have Coincided With Growth Of Earmarks. The Washington Post (1/27, A1, Weisman, Babcock, 744K) reports, "The link between special interests and members of Congress has grown so tight that nearly a dozen House and Senate members who control federal spending have retained lobbying veterans to raise campaign funds for them, and those lobbyists have secured lucrative favors in spending bills. These relationships have coincided with the rapid growth in the volume of home-state pork-barrel projects, commonly called earmarks, that have swelled appropriations bills in recent years, according to congressional experts and watchdog groups." The Post adds, "The hunt for earmarks on Capitol Hill and on K Street has opened up new avenues for lobbyists and lawmakers to come together. Seven members of the House Appropriations Committee -- Chairman Jerry Lewis (R-Calif.), Ernest J. Istook Jr. (R-Okla.), Kay Granger (R-Tex.), Dennis Rehberg (R-Mont.), John E. Sweeney (R-N.Y.), Rosa L. DeLauro (D-Conn.) and Ed Pastor (D-Ariz.) -- have political action committees headed by registered lobbyists or former registered lobbyists with business before the committee, according to the Center for Public Integrity and campaign records."

Growing Watchdog Movement Mobilizing Against Pork. A separate story in the Washington Post (1/27, A21, Murray, 744K) says "an increasingly prolific government watchdog movement is turning 'pork' into a four-letter word. These scrappy outfits are run by small corps of veteran staffers whose offices look more like dorm rooms than the posh K Street suites occupied by their archnemeses: lobbyists. Taxpayers for Common Sense elevated an obscure Alaska highway project into the now-infamous 'Bridge to Nowhere.' Citizens Against Government Waste started battling runaway Hurricane Katrina spending three days after the storm hit the Gulf Coast. The two groups joined forces this month with the National Taxpayers Union, a conservative, low-tax organization, to combat the rising cost of the new D.C. baseball stadium. Other watchdog targets include indicted former representative Randy "Duke" Cunningham (R-Calif.), the Pentagon and the U.S. Postal Service."

Henninger Says 1974 Reforms Should Be Reversed. Daniel Henninger writes in the Wall Street Journal (1/27,

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2.11M) that Beltway Democrats are trying to build the Abramoff scandal "into a bonfire that will burn down Republican control of Congress. … Poll after poll says the public thinks both parties are equally corrupt. It depends, of course, on what the meaning of corruption is. If by corrupt you mean lobbyist sleaze, quid pro quo, the pork barrel, earmarks to nowhere and grossing out even the public's generally low expectations, then yes, both parties are equally corrupt. … Fixes are possible. Put simply, reverse the 'reforms' of 1974. Abolish the individual limits on campaign contributions but require public disclosure on the Web. Democrats James Carville and Paul Begala recently proposed making this the basis of creating a new campaign-finance system. But beyond this lies the question of whether Democrats and Republicans want to fix Washington. Are they really separate parties, or just one entity -- the Beltway Party? … I wish President Bush would put this issue of what Washington has become into his State of the Union speech Tuesday. My guess is he won't, recalling what happened when Richard Nixon tried to fight both a major war and the party that controls Congress, which for the foreseeable future looks like it will be the Beltway Spend-and-Collect Party."

Blunt Facing Pressure To Appear With Leadership Rivals. The Wall Street Journal (1/27, Rogers, 2.11M) reports that Rep. Roy Blunt s facing increasing pressure to appear with his two rivals for House Majority Leader before the GOP caucus to answer questions on where he wants to take the party in the wake of recent scandals. The Journal says that while Blunt is widely seen as the frontrunner, he has "seemed insecure, refusing to give up his whip's position and avoiding any joint television appearances where he can be questioned with the two other candidates, Reps. John Boehner of Ohio and John Shadegg of Arizona."

Majority Whip Race Seen As Sign Of GOP Conference's Conservatism. The Washington Times (1/27, Dinan, 90K) says the race for House Majority Whip is "an indication of just how conservative the House Republican Conference has become. Two 1994 Republican revolutionaries and two fast-rising Republican stars face off in a contest they all say is about making the party refocus on basic conservative principles.' Rep. Mike Rogers is running against Rep. Eric Cantor of Virginia, Rep. Todd Tiahrt of Kansas and Rep. Zach Wamp of Tennessee. Mr. Tiahrt and Mr. Wamp were part of the Class of 1994, while Mr. Rogers and Mr. Cantor were elected in 2000. All four rank among the most conservative members of the House." Currently it is "not clear the position will even be open. The current whip, Rep. Roy Blunt of Missouri, is running for majority leader but has not relinquished his seat. For that reason the whip's race has been far less public."

Administration Pushing Back Against Senate Oversight Questions. Knight Ridder (1/27, Kuhnhenn) reports, "After years of deferring to the Bush White House, the Republican-controlled Senate has begun pushing back, holding oversight hearings on topics ranging from President Bush's response to Hurricane Katrina to his administration's mine-safety record and the president's secret domestic-surveillance program. Administration officials are fighting back. … White House officials and their allies maintain that their stance protects inherent executive power. Critics say the administration's reaction to the Senate's inquiries is an assault on Congress' constitutional role as a coequal branch of government that checks and balances the executive." Knight Ridder notes, "The Bush administration has never been shy about testing the limits of its executive power. Vice President Dick Cheney refused to divulge the identities of energy executives who advised him on energy policy. The administration wouldn't give Congress up-to-date cost estimates of its prescription-drug legislation. The Pentagon is often stingy about data related to the war in Iraq."

Bill Would Allow Binding Arbitration For FAA Labor Disputes. The Washington Post (1/27, B2, Barr, 744K) reports in its "Federal Diary" column, "The union representing air traffic controllers is looking to Capitol Hill for help in contentious contract negotiations with the Federal Aviation Administration. Four Democratic senators introduced a bill yesterday that would permit labor disputes at the FAA to be settled through binding arbitration, John S. Carr , president of the National Air Traffic Controllers Association, announced." Sen. Barack Obama "said he and colleagues proposed arbitration 'to help defuse the growing management-labor tension at the FAA.' Under the Obama bill, if the FAA and one of its unions failed to reach a voluntary agreement, the Federal Mediation and Conciliation Service would be called on to try again for a settlement. If mediation failed, Congress could impose the FAA's last, best offer on employees by approving it in legislation. If Congress did not act, the impasse would go to binding arbitration. Joining Obama in introducing the bill were Sens. Daniel K. Inouye (D-Hawaii), Patty Murray (D-Wash.) and Frank Lautenberg (D-N.J.)."

NYTimes Says "Inappropriate Perks" For Federal Judges Should Be Banned. An editorial in the New York Times (1/27, 1.19M) says Supreme Court Justice Antonin Scalia "has poor judgment when it comes to vacations." Apparently "unchastened by the criticism of his 2004 duck-hunting excursion with Vice President Dick Cheney, one of that term's most prominent Supreme Court litigants," Scalia "skipped the swearing-in of Chief Justice John Roberts Jr. because of another ethically dubious trip,

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this time to the posh Ritz-Carlton at the Beaver Creek ski resort in Colorado." The Times adds, "Justice Scalia's travel is part of a broader affliction on the federal bench. … The judicial lobbying problem is more serious in one respect than the scandal enveloping Congress. Lawmakers operate in an overtly political environment, but the decision-making process of judges is supposed to be impermeable to clever efforts by special interests to buy access and favor." The Times also notes that three Democratic senators "are readying provisions to ban junkets and other compromising gifts for judges, which they hope to make part of their party's lobbying reform proposal. For Congress to pass a lobbying reform bill that curbs inappropriate perks for lawmakers but not for federal judges would be a scandal in itself."

OTHER NEWS:

Bush Urges Hamas To Renounce Violence. The Christian Science Monitor (1/27, Prusher, 61K) reports that according to results of the Palestinian election based on 95 percent of the vote, "Hamas won 76 seats to Fatah's 43 seats. Smaller and independent parties took the remaining 13 seats." The Washington Times (1/27, Martin, Pisik, 90K) adds Hamas leader Mahmoud Zahar "has proposed a dramatic shift of Palestinian policy -- ending security cooperation with Israel, cutting most trade links with the Jewish state and refusing to engage with the 'Christian-Zionist' US administration." Zahar told the Washington Times "just days before" the election, "We have to go away from Israel and move toward all possible linkages with our Arab and Islamic brothers. … Cooperation [with Israel] on the security and economic fields was a disaster for the Palestinians."

President Bush issued a two-pronged message to Palestinians after Hamas' election victory, warning Hamas against continuing violence against Israel and expressing support for the democratic process. Reflecting a common theme in the coverage, ABC World News Tonight (1/26, story 3, 2:20, Woodruff) reported "the White House response has been surprisingly measured." Bush, added ABC (Raddatz), "had to walk a very fine line. To the newly-elected members of Hamas, President Bush had a strong warning." Bush was shown saying, "If your platform is the destruction of Israel, it means you're not a partner in peace." Raddatz: "But to the more than 500,000 Palestinian voters who supported Hamas, the President struck an entirely different tone." Bush: "When you give people the vote, you give people a chance to express themselves at the polls, and if they are unhappy with the status quo, they'll let you know. That's the great thing about democracy."

NBC Nightly News (1/26, story 2, 2:00, Fletcher) said the President "put on a brave face," while The CBS Evening News (1/26, story 2, 3:30, Roberts) added Bush "did try to find some ray of light today, declaring the exercise of democracy, at least, a positive step." Bush: "It's a wakeup call to the leadership. Obviously people were not happy with the status quo." Fox News' Special Report (1/26, Cameron) also reported, "Acknowledging that its success is unwelcome news for peace, Mr. Bush nonetheless said the old guard Palestinian leadership should view it as a wake-up call."

CNN's The Situation Room (1/26, Bash) reported, "Spreading democracy is a key Bush goal, so he tried to put the best face on unwelcome results, deeming them 'a wake-up call to the Palestinian leadership.'"

The Washington Post (1/27, A15, Kessler, 744K) headlines its story "Bush Is Conciliatory In Accepting Victory Of Hamas," and reports Secretary of State Condoleezza Rice also "put on a brave face, saying 'we still have every reason for hope and for optimism' because voter turnout was high and free from violence." The "upbeat rhetoric belied the fact that the election outcome was the opposite of what the administration had hoped would happen. Behind the scenes, US officials scrambled to survey the wreckage of their Middle East policy."

Reuters (1/27, Hudson) reports Bush also "urged President Mahmoud Abbas, whose Cabinet resigned after his Fatah party lost to the Islamist group, to stay in office so the United States could keep open a diplomatic channel with the Palestinian government." The New York Times (1/27, Erlanger, 1.19M) adds that "in a televised speech on Thursday night, the Palestinian president, Mahmoud Abbas, said he remained committed to negotiations with Israel." Abbas, "whose official status was not affected by the vote, suggested that future talks would be conducted through the Palestine Liberation Organization, which could bypass a Hamas-led government."

Meanwhile, the New York Times (1/27, Weisman, 1.19M) reports Hamas' "sweeping victory…threw President Bush and his aides on the defensive…complicating the administration's policy of trying to promote democracy as an antidote to the spread of terrorism." The Times adds, "Reacting uneasily to the Hamas triumph, Mr. Bush said the results spoke to the failures of…Abbas and the 'old guard.'" USA Today (1/27, Gutman, 2.31M) says "Hamas' victory in Palestinian elections seemed less an endorsement of terrorism than a vote for an organization that supporters hope will improve government, according to some voters and election analysts." Hamas supporters "say they were fed up with the ruling Fatah Party, which many accused of corruption and general incompetence."

The Los Angeles Times (1/27, Chen, 958K) says Hamas' win "put Bush in a difficult spot because he has made

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his campaign to spread democracy around the world a cornerstone of his presidency. Now, in the face of a victory by a group whose policies he abhors, Bush is having to impose conditions before fully accepting the results of that show of democracy."

MSNBC's Hardball (1/26, Mitchell) reported that US officials "are in a state of shock. Now one official tonight was telling me that they're thinking that Hamas is also in a state of shock, because Hamas has worked best as an outsider. And that they thought they would get a major role in the new government, perhaps control some of the domestic social service cabinet ministries, but not have to run a government itself. So they're positing that perhaps today Hamas is in the position that Robert Redford was in The Candidate, 1972 movie where he said, Now what do we do?"

European allies echoed Bush's theme. The New York Times (1/27, Cowell, 1.19M) reports European countries are "major financial donors to the Palestinian Authority." Yesterday they "registered disquiet verging on hostility toward the Hamas triumph in the Palestinian elections." Yet, "confronted with a Middle East that seems once again to have redrawn its political contours, they held back from publicly threatening to cut off the hundreds of millions of dollars they provide each year to Palestinian institutions." Furthermore, "none of them criticized the Palestinian democracy that appeared to yield the opposite of the moderation they had sought to nurture."

All three networks led with stories on Hamas' election victory, describing it as historic but reflecting concerns about its impact on Mideast peace. ABC World News Tonight (1/26, lead story, 2:55, Woodruff) reported, "A sea change in the Middle East. Hamas, the militant Islamic group, that calls for the destruction of Israel, has won the Palestinian parliamentary elections in a landslide." The CBS Evening News (1/26, lead story, 3:00, Schieffer) said Hamas' success "will radically change the whole Middle East equation and the prospects for peace, and it puts the United States in an extremely awkward position."

CNN's The Situation Room (1/26, Koppel) reported that "some are saying this is classic case of be careful what you wish for." Hamas' "landslide victory was a stinging defeat the US and Israel." The US "has made spreading democracy the centerpiece of its foreign policy. The challenge now, how to treat the democratically-elected Hamas, radical Islamists behind so many suicide bombings against Israel, a group the U.S. considers terrorists." In "the short-term, the U.S. is threatening to cut off about $270 million in must-needed financial assistance to the Palestinians, and is looking to Europe, a much bigger donor, to do the same. The goal of this is try to force Hamas to moderate its views and to try to treat Israel and deal with Israel as a partner in peace." Meanwhile, the Christian Science Monitor (1/27, LaFranchi, 61K) asks in its headline "Is Democracy Empowering Islamists?"

The New York Times (1/27, Fattah, 1.19M) adds Hamas's "overwhelming victory…was met with a mixture of jubilation and consternation in much of the Arab world. For some, it raised the concern that, in winning, the Islamic group will almost certainly have to lose something."

Highlighting concerns over the continuation of Hamas attacks against Israel, ABC's World News Tonight (1/26, story 2, 1:45, Woodruff) reported, "Hamas in the past has used suicide bombings to devastating effect. And one of its most-celebrated figures is a mother, who sent her sons to their deaths. Tonight, she is an elected official." ABC (Dinnick): "Palestinians voted for Miriam Farahat because she's made astonishing sacrifices in her quest to destroy Israel. Farahat has sent three of her six sons on suicide missions." Now that she "has been elected to Palestinian parliament, the question is, will she end her violent campaign against Israel, a fight she has made so personal today she vowed to do whatever Hamas asked of her. 'I am ready to serve,' she says. And if that means sacrificing her three remaining sons, Um Nidal says she's willing."

The Washington Times (1/27, Sammon, 90K) headlines its story "US Won't Deal With Hamas," while USA Today (1/27, Gutman, 2.31M) says the election results "put the future of the Middle East peace process in question." Similar stories appear in today's Wall Street Journal (1/27, Leggett, King, 2.11M), which titles its front-page report "Hamas Victory Roils Middle East Peace Process," Baltimore Sun (1/27, Murphy, 296K), Washington Post (1/27, A1, Wilson, 744K), and Financial Times (1/27, Devi, Morris).

Fatah Declines Hamas Offer To Form Coalition Government. NBC Nightly News (1/26, lead story, 2:00, Fletcher) reported Even Hamas was stunned by its landslide victory. The Islamic militants won 76 out of 132 seats. It can form a majority government all on its own. But Hamas leaders quickly offered to share power with the defeated Fatah party. Fatah leaders said no. After 40 years of dominating Palestinian life, the party of Yasser Arafat is out." Saeb Erekat, Palestinian peace negotiator: "We will not be part of any national unity government." Fletcher: "And the future of President Mahmoud Abbas is in doubt." Meanwhile, says the Washington Times (1/27, Mitnick, 90K), Palestinian Prime Minister Ahmed Qureia "tendered his resignation."

Under the headline "Hamas Is Stunned By Its Success," the Los Angeles Times (1/27, King, 958K) reports, "Of all those shocked by Hamas' landslide win in Palestinian elections, few were more stunned than the militant Islamist group itself. In taking the reins of power after participating in its first parliamentary vote, Hamas leaders face a predicament: If they attempt to please their most radical

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adherents by continuing to call for Israel's destruction, they jeopardize hard-won international support for a Palestinian state. But if they moderate their stance and reject their founding principle, they risk alienating their militant base."

Hamas Win Could Affect Israeli Election. The Washington Times (1/27, Ward, 90K) reports, "Hamas' shocking election victory is likely to radically alter the course of Israel's own election at the end of March, as an outraged right wing flexes its muscles and the centrist government plots its response. As Palestinian officials announced the results, acting Israeli Prime Minister Ehud Olmert convened top-level talks with senior political and defense officials to formulate how to manage the crisis. … Any perceived leniency toward Hamas could play directly into the hands of Benjamin Netanyahu, the hawkish leader of the right-wing Likud Party, who last year warned that Israel's pullout from Gaza was a prize for Hamas violence." But "intransigence toward a Hamas-led government would likely bring about international pressure on Israel to comply with earlier commitments reached with the Palestinian Authority.

The Washington Post (1/27, A18, Wilson, 744K) reports that already yesterday, "opposition politicians criticized the government for failing to stop the radical Islamic movement from rising to prominence within the Palestinian Authority." Olmert "faced criticism in the wake of the Hamas defeat of the governing Fatah party, Israel's main partner in past peace agreements."

The New York Times (1/27, Myre, 1.19M) reports, "The Hamas landslide in Palestinian elections has stunned Israelis, but it may also have brought them a rare moment of clarity: with peace talks off the table, Israel will most likely pursue unilateral actions, drawing its own borders and separating itself from the Palestinians." Olmert "made it clear after an emergency cabinet meeting that talks with Hamas, a Palestinian party sworn to Israel's destruction, were out of the question, while experts said Israel was now freer to establish its future on its own." They "said Israel…was likely to focus on speeding up construction of the separation barrier, which runs along and through parts of the West Bank."

Netanyahu Raises Alarm. ABC's World News Tonight (1/26, lead story, 2:55, Woodruff) noted, "The Israeli government said today it would not negotiate with Hamas. Hard liner Benjamin Netanyahu who is running for prime minister again, seized the political moment to sound this alarm – 'in front of our eyes is being created Hamas-stan,' he said. 'Worse than Iran and in the image of the Taliban.'"

Netanyahu said on CNN's The Situation Room (1/26) that Hamas' election victory is "a great setback for peace," adding that Hamas "is committed to the destruction of Israel, and the pursuit of terror and it's effectively a subordinate regime of Iran. So I think that's a great blow to peace. I think we have to understand that in the face of the rise of the forces of terror, we have to change the policies that Israel has had of unilaterally withdrawing in the face of terror because all that does is put people like Hamas in power. It makes them the winners. They use terror, Israel retreats, and therefore they get all the credit in the Palestinian streets and in the Palestinian elections. For peace to be restored, we have to resume and restore the policy of standing up to terror, not fleeing from it."

Renewed Tensions Between Israelis, Palestinians Could Have Negative Effect On Iraq. ABC's World News Tonight (1/26, story 3, 2:20, Raddatz) reported, "And how might this affect the rest of the region? A document obtained by ABC News today and put together by US analysts says that if tensions mount, and there is a renewed confrontation between the Israelis and Palestinians, the result will ripple throughout the Muslim world. The document goes on to say that it would have a particularly negative impact in Iraq."

Destruction Of West Bank Houses Could Signal Israeli Shift Toward Accommodation. The Wall Street Journal (1/27, Leggett, 2.11M) reports that the fate of nine newly-built homes in the Jewish community of Amona on the West Bank "may soon provide clues to one of the Middle East's most pressing questions: Is Israel preparing to withdraw from parts of the occupied West Bank? The answer increasingly appears to be yes. Following extended legal wrangling, the Israeli government is completing a plan to demolish Amona's nine concrete homes -- all uninhabited -- because they were constructed illegally on privately owned Palestinian land. With the militant Hamas party winning control of the Palestinian Parliament on Wednesday, it is possible Israel would delay the demolition, but several thousand Israeli security personnel are scheduled to carry out the order as early as next week, police and military officials say." The Amona operation "could have far-reaching implications. Coming on the heels of Israel's withdrawal from the Gaza Strip in August, it would signal a further rollback of a decades-long policy of encouraging Jewish settlement in Palestinian areas, particularly the West Bank, which is now home to some 250,000 Israeli citizens." The move "likely would resonate positively among Palestinians," and could "mark the beginning of a gradual regional shift away from armed confrontation and toward accommodation based on territorial compromise."

More Commentary. Under the headline "In The Mideast, A Giant Step Back," the New York Times (1/27, 1.19M) editorializes, "Bush was absolutely right when he urged Mr. Abbas to remain in office as a sign of stability and set Secretary of State Condoleezza Rice the task of seeing whether the shards of the peace process could be reassembled." But "he was also absolutely right when he said, 'A political party that articulates the destruction of Israel as part of its platform is a party with which we will not deal.'"

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The Wall Street Journal (1/27, 2.11M) editorializes, "The White House will have to resist the temptation, no doubt encouraged by Europe, to pressure Israel to deal with Hamas as it once was pressed to deal with Arafat." But "given Hamas's history and declared goals, the onus is on its leaders to show that they have an agenda beyond terror. If Hamas begins to use Gaza as a base to import weapons and attack Israel, the Jewish state will have every right to strike back in self-defense. And the US should support it in doing so."

The Washington Post (1/27, A22, 744K) writes in an editorial that Hamas' win "creates fresh opportunities as well as dangers in the Middle East. The Islamic fundamentalist movement will now come under extraordinary pressure to cease all acts of terrorism, help restore order in the turbulent Gaza Strip and moderate its rejection of Israel. The pressure will come not only from Western governments and aid donors but from its own constituents. … Many Palestinians who voted for Hamas don't support the Islamists' fundamentalist agenda."

The Los Angeles Times (1/27, 958K) editorializes that the "election results complicate a situation that desperately needed stability, and they will make it more difficult for the Palestinians to achieve a state of their own anytime soon."

E.J. Dionne writes in the Washington Post (1/27, A23, 744K), "Bush, a man who prides himself on clarity and disdains nuance, was, if I may coin a word, nuancing all over the place. … You don't have to agree with Bush's decisions to believe that an important goal of American foreign policy should be to expand the number of nations that live under democratic rule." But "since the invasion of Iraq, administration spokesmen and supporters have offered a utopian and decidedly unconservative view of how American power could be used to change the world -- and quickly. It was said that the way to peace in Jerusalem passed through Baghdad. It was said that by ridding Iraq of Saddam Hussein's wretched regime, the United States would unleash a democratic revolution in the Arab world. Go back and look at the broad claims Bush's defenders made for his policy after the election in Iraq just a year ago. Everything, it was said, was falling into place." But "the world is a complicated place. Of course free elections in Iraq are hugely better than dictatorship. But when free elections become more a census to count members of warring ethnic and religious factions than a way of settling underlying disputes, they do not necessarily pave the way for enduring democracy. They do not provide voters with ways of test-driving the various alternatives."

Columnist Jim Hoagland writes in the Washington Post (1/27, A23, 744K) that "it is pointless to bemoan this setback or try to minimize its significance, as President Bush seemed to do yesterday in a White House news conference. Israel, the United States and Europe should instead adjust their policies to recognize and influence the volatile situation created by the unexpected and distinctly unwelcome Hamas victory." They "can best do that by not launching immediate efforts to cajole, bribe or intimidate a new Hamas-led government into adopting more peaceful-sounding rhetoric to clear the way for reviving negotiations with Israel. And there should be no attempt to paper over the crushing defeat inflicted on Mahmoud Abbas and the Palestinian Authority he headed."

Fotini Christia, a fellow at the Olin Institute for Strategic Studies at Harvard, and Sreemati Mitte, who works for the Palestinian Initiative for the Promotion of Global Dialogue and Democracy in Ramallah, West Bank, write in the New York Times (1/27, 1.19M), "The United States and the European Union must finally recognize Hamas's ascendance as a fait accompli. Until now, these key third parties have equivocated: they pressed Israel to allow Hamas to participate in the elections but threatened to cut aid and ties to a Hamas-dominated Palestinian Authority. The practical reality, however, is that Hamas is a pivotal player in Palestinian politics, and no peace process can succeed without at least the tacit acceptance of its leaders." The United States and Europe "cannot trumpet democratic ideals abroad and then ignore the popular will of Palestinian voters."

Reports On Factory Orders, Jobs Continue Positive Trend. The Wall Street Journal (1/27, Bater, 2.11M) reports, "Orders to the nation's factories for big-ticket goods finished 2005 strongly, while jobless claims rose last week but remained at a level indicating healthy job growth. Durable-goods orders climbed 1.3% in December to a seasonally adjusted $228.14 billion, the third straight increase, the Commerce Department said. Demand was higher for airplanes, machinery, cars and capital goods." Separately, the Labor Department "reported that the number of workers filing new claims for unemployment benefits climbed by 11,000 to a seasonally adjusted 283,000 in the week ended Jan. 21. The four-week moving average of initial jobless claims fell 10,750 to 288,750 from 299,500 the previous week. The moving average is at its lowest level since an identical average in the week ended July 1, 2000."

GM Losses Larger Than Expected. NBC Nightly News (1/26, story 6, :45, Williams) reported, "The bad news keeps on coming from the US auto industry. It hardly gets any worse than this. General Motors reported today it lost $4.8 billion in just the fourth quarter of last year and $8.6 billion in all of 2005. Those results were far worse than Wall Street expected, GM's slumping stock price dropped another 3 1/2% just today."

Stocks Up. NBC Nightly News (1/26, story 6, :45, Williams) noted, "The rest of Wall Street shook off GM's problems and closed higher. The Dow was up just under 100

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points [to 10809.47] and NASDAQ gained more than 22 points [to 2283.00]." The New York Times (1/27, 1.19M) adds the S.& P. 500 "rallied 9.15 points, or 0.7 percent, to 1,273.83 for its biggest advance since Jan. 6 and third gain in the last four days." The Wall Street Journal (1/27, Browning, 2.11M) also reports the stock numbers.

Greenspan Leaves "Remarkable" Political Legacy. The Washington Post (1/27, D1, Henderson, 744K) reports that retiring Federal Chairman Alan Greenspan "leaves a remarkable political legacy, say Republican and Democratic policymakers who have worked with him in Washington over nearly four decades.' Greenspan "has helped candidates, presidents and lawmakers devise and sell policies on countless social and economic issues. An avowed 'free-enterpriser,' Greenspan consistently pushed for less government regulation, smaller federal budget deficits and freer trade, these observers said."

Democrats Say Up To 50 House Seats Are Up For Grabs. The Wall Street Journal (1/27, Harwood, 2.11M) reports in its "Washington Wire" column, "Parties battle to define 2006 playing field. With most partisan outcomes predictable due to election district gerrymandering, Democratic hopes of regaining House majority depend on expanding number of competitive seats. House Democrats, who need net gain of 15, say outcome remains in doubt in as many as 50 districts."

Reuters (1/27, Whitesides) reports, "Democrats are riding a wave of momentum into November's high-stakes battle for the U.S. Congress, with high hopes for significant gains that could threaten" GOP control of Congress. But "despite the favorable political mood for Democrats, analysts say the party faces major hurdles to gaining the six Senate and 15 House seats needed to reclaim control of Congress. To win majorities, Democrats need to capture most of a small pool of competitive seats in the House while bumping off at least five Republican Senate incumbents -- tough tasks in any political climate, but not impossible. 'It looks like the Democrats will gain seats in the House and Senate, but the question is how many?'" said Larry Sabato, a political analyst at the University of Virginia, adding, "It is going to be hard for Democrats, but if the situation continues to deteriorate for Republicans this year anything is possible." Reuters adds, "The best chance for a Democratic breakthrough could be the Senate, where 33 of 100 seats are on the ballot. Republicans hold 15 of those seats and Democrats 18, but five of the most endangered incumbents at this stage are Republicans. … 'The Democrats have to sweep the competitive Republican races to take power, while holding all of their own. That's tough,' said Jennifer Duffy, an analyst for the nonpartisan Cook Political Report."

Romney Says High Court Should Return Power Over Abortion To States. Knight Ridder (1/27, Thomma) reports that Massachusetts Gov. Mitt Romney (R), "a possible candidate for the 2008 Republican presidential nomination, said Thursday that his Mormon faith would not matter to the vast majority of voters, including the evangelical Christians who influence his party's politics greatly. 'Americans want people of faith to lead their country,'" he said, adding, "Republicans aren't going to be putting a litmus test against people of my faith." Romney "also said that his views on abortion have evolved since he refused to take either a pro-choice or pro-life label during his 1994 campaign against Sen. Edward Kennedy, R-Mass." He "said personal research about embryonic stem cells convinced him that life begins at conception. He said the Supreme Court should send the power over abortion back to the states by overturning the 1973 Roe v. Wade decision that legalized it nationwide. Still, he said, he would support legalized abortion in his state if his state so chose."

Romney Sees Clinton As Likely To Be '08 Democratic Nominee. The AP (1/27, Miga) reports that Romney "says he expects New York Sen. Hillary Rodham Clinton to be the 2008 Democratic presidential nominee. 'I think the most likely to get the nomination, of course, is Hillary Clinton,' he said during a Christian Science Monitor-sponsored luncheon with reporters on Thursday." Romney also "predicted the Jack Abramoff corruption scandal would not cripple Republicans as they try to keep control of the House and Senate in next fall's midterm elections. 'The idea that money has influence in politics is not a headline story in major parts of the country,' he said."

Romney Offers Some Criticism Of Bush On Iraq, Drug Benefit. The Christian Science Monitor (1/27, Cook, 61K) reports that Romney "appeared at a Monitor-sponsored lunch Thursday and opened some distance between himself and the Bush administration on the war in Iraq and the Medicare prescription drug benefit. … 'There are plenty of places where I would separate from the administration…where I might have chosen another course…certainly with regard to the war in Iraq or the front in Iraq -- were there mistakes made there? Absolutely. Would I have done it differently? Of course. Would the president have done it differently based on what he knows today? Of course, in some measure.' For example, Romney said he would not have rested the whole case for the war in Iraq on finding weapons of mass destruction." Romney "was also critical of the process by which the Republican-controlled Congress and President Bush produced a prescription drug benefit under Medicare. … 'The final product on Medicare Part D, that final bill was sort of sausage squared, the idea you don't want to see how sausage is made,' Romney said." Romney "noted that President Bush 'wanted to bring

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prescription coverage to seniors. He got that done, that's huge. … It has with it a financial burden which is very large. I don't imagine that that was what he was aiming for when he thought about this during his campaign.'"

The Washington Post (1/27, A4, Balz, Cillizza, 744K) reports that Romney "put some distance yesterday between himself and the Bush administration on the issue of health care, criticizing the White House for failing to demand significant reforms in Medicare and Medicaid when Congress enacted a prescription drug benefit for senior citizens." Romney also discussed "his evolution on the issue of abortion (from once eschewing labels to now calling himself "pro-life"), whether his Mormon religion will hurt him if he runs for president (only with a tiny percentage of the electorate, he said), his management style (heavy on analysis) and health care for all citizens, which is a top priority of his back home." The Post adds, "Toward the end he was asked about 2008, Iraq, and the possibility that he and Sen. John F. Kerry (D-Mass.) might end up as rivals. 'Do you fantasize about that?' he was asked. 'Not about that, no,' he replied to laughter."

Romney Doubts His Religion Will Hurt Him With Evangelicals. The Washington Times (1/27, Pierce, 90K) reports in its "Inside Politics" column that Romney "says he isn't afraid that evangelical and born-again Christian voters will stiff-arm him in the 2008 GOP primaries just because he's a Mormon. … He said most voters in his state are Catholics, but they could not care less about his religion."

Scranton Fires Campaign Manager After Swann Comments. The Washington Post (1/27, ,A4, Balz, Cillizza, 744K) reports that former Pennsylvania lieutenant governor Bill Scranton fired his campaign manager Wednesday "after the man accused former Pittsburgh Steeler Lynn Swann (R), who is black, of being the 'rich white guy'" in the Pennsylvania GOP gubernatorial primary race. Scranton "said the remarks by James Seif 'in no way whatsoever reflect my views or those of my campaign.' Both Scranton and Seif are white."

Cox Decides Against Reentering New York Senate Contest. The AP (1/27, Humbert) reports that Manhattan lawyer Edward Cox (R), a son-in-law of the late President Richard Nixon, "said Thursday he would not resume his campaign for the Republican nomination to challenge Sen. Hillary Rodham Clinton's re-election bid this year." Cox "suspended his campaign in October after Republican Gov. George Pataki endorsed then-Westchester County District Attorney Jeanine Pirro's bid for the Senate nomination. Her campaign subsequently collapsed and Pirro heeded the call of state GOP leaders to run instead for state attorney general. That left former Yonkers Mayor John Spencer, little-known statewide, as the leading contender for the GOP nomination. Some GOP leaders pressed Cox to consider getting back in the race. However, Cox said in a statement issued Thursday that 'after careful consideration of the circumstances and conditions as they exist surrounding the race, including the now shortened time frame available to run an aggressive and effective campaign, I will not seek my party's nomination.'"

The New York Times (1/27, Medina, 1.19M) relates that Cox's "exit is yet another blow to Republican efforts to mount a credible challenge to Mrs. Clinton, whom many expect to run for president in 2008." Democrats "were quick to poke fun at the opposition on Thursday. In a press release, they called Mr. Spencer the 'eighth choice' and listed several other Republicans who had been pressed to run for office. … 'Note to the New York State Republican Party: Don't despair, you may not have to settle for John Spencer just yet,' said the statement by Blake Zeff, the state Democratic Party spokesman. 'There are still about a dozen registered Republicans left in New York who you haven't asked yet.'"

Episcopalians Weigh Sainthood For Thurgood Marshall. Delegates to the annual convention of the Episcopal diocese of Washington will vote today on a proposal that would designate the late Supreme Court Justice Thurgood Marshall as a saint. The Washington Post (1/27, B9, Murphy, 744K) reports, "If Marshall is added to the church's roster of saints, May 17 -- the date of the 1954 Supreme Court ruling that segregated schools are unconstitutional -- would be observed as Marshall Feast Day. Church officials say they expect the 300 or so delegates to approve the resolution, which was drawn up by members of St. Augustine's Church in Southwest Washington, where Marshall worshiped."

Administration Supports Russian Plan To Address Iran Nuclear Concerns. While President Bush praised the Russian plan to allow Iran to operate civilian nuclear plants with oversight by Russian and international observers, the Administration was seen as remaining split on pursuing action with the UN Security Council. The CBS Evening News (1/26, story 2, 3:30, Roberts) was the only network news program to note, "The President got what looked like a sliver of good news on the Iranian nuclear crisis today after initially rejecting a proposal to move its uranium enrichment program to Russia, officials in Tehran today said it's worth talking about." President Bush: "I think that's a good plan. The Russians came up with the idea and I support it. It is not in the world's interest that they have a weapon." Roberts: "But State Department officials tell CBS News tonight they don't see much reason to get excited, pointing out that Iran has misled Russia before and was likely to do so again." And the Administration is "going to keep up

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the pressure to get that referral from the atomic energy agency to get Iran hauled before the UN Security Council. But there is where there's a split in the Administration. Some diplomats think maybe the security council can put enough pressure on Iran that it would back down. Other diplomats told me today they don't think it would go anywhere at the Security Council because they'd never get a unified front against Iran."

The New York Times (1/27, Sanger, Sciolino, 1.19M) reports, "Bush's explicit public endorsement puts all of the major powers on record supporting the proposal, even as most acknowledge that it is a significant concession to Iran and runs the risk that the country will drag out the negotiations while continuing to produce nuclear material. Yet officials say they believe it is the best face-saving strategy to pursue a negotiated settlement with Iran." The President "did not discuss the details of the Russian offer. But American, European and Russian officials…said the offer would allow Iran to continue operations at the plant that turns yellowcake, a concentrated form of uranium ore, into uranium hexafluoride, a toxic material that centrifuges spin into fuel for reactors or bombs.

Reuters (1/27) adds that Secretary of State Condoleezza Rice "showed little patience with Iran's belated interest in" the Russian plan, saying it "shows the Iranians are feeling the heat."

The New York Times (1/27, Sanger, Sciolino, 1.19M) also reports that at the press conference Bush said, "The Iranians have said, 'We want a weapon.'" But, "Iran has denied that it is pursuing a weapon, and in the afternoon, the White House spokesman, Scott McClellan, acknowledged that Mr. Bush had misspoken." McClellan said, "He was referring to their behavior. … Our concern is their intention is to develop a nuclear weapon under the guise of a civilian program." But "Bush's slip may cement the perception among some members of the board of the International Atomic Energy Agency that he has decided, at least in his own mind, that Iran is intent on building a weapon as fast as it can, a situation he has said repeatedly that he will not tolerate. Mr. Bush gave no hint on Thursday that he was thinking of military action, instead saying that 'we are working hard to continue the diplomacy necessary to send a focused message to the Iranian government, and that is: "Your desires for a weapon are unacceptable."'"

The Washington Post (1/27, A14, Cody, 744K) reports China's endorsement of the Russian proposal "suggested that the idea of having Iran send uranium to Russia for enrichment might become the common denominator of an agreement on preventing the Iranian government from developing nuclear weapons, rather than the sanctions envisioned by the Bush administration." The Post notes, "Deputy Secretary of State Robert B. Zoellick had urged the Chinese leadership on Tuesday to join the United States and other nations in taking urgent steps to make sure Iran does not expand its nuclear research program into weapons production. China agrees that Iran should not have nuclear weapons, he said afterward, but differs with Washington over how to prevent it and how fast a solution has to be found." Chinese experts "predicted that China would likely abstain in a vote on sanctions, seeking to maintain its good relations with Washington.

The New York Times (1/27, Sanger, Sciolino, 1.19M) also notes, "While China favored the Russian proposal, it also firmly opposed the use of sanctions. That comes as a disappointment to Washington, which this week sent a top official to persuade China's leaders that they should do far more."

Poll Shows Majority Supports Military Action If Iran Pursues Nuclear Course. The Los Angeles Times (1/27, Miller, 958K) reports, "Despite persistent disillusionment with the war in Iraq, a majority of Americans supports taking military action against Iran if that country continues to produce material that can be used to develop nuclear weapons," a Los Angeles Times/Bloomberg poll of 1,555 adults conducted Sunday Jan. 22 through Wednesday Jan. 25 (+/-3%) shows The survey shows "that 57% of Americans favor military intervention if Iran's Islamic government pursues a program that could enable it to build nuclear arms." It suggests "that the difficulties the United States has encountered in Iraq have not turned the public against the possibility of military actions elsewhere in the Middle East."

ElBaradei Hopes Russian Proposal Will End Stand Off. The AP (1/27, Lederer) reports, "U.N. nuclear chief Mohamed ElBaradei said Thursday he was hopeful that a Russian proposal could help break the standoff over Iran's nuclear research and enrichment plans." He "said he was happy that earlier in the day Iran's top nuclear negotiator, Ali Larijani, said Russia's proposal to move Iran's enrichment program to Russian territory was 'a positive one.'"

US Backs Iranian Move On Gay Rights Organizations. The Washington Post (1/27, A21, Kamen, 744K) reports in its "In the Loop" column that Bush Administration officials "scrambled yesterday to come to grips with the radical Hamas's stunning election victory in Palestinian elections. President Bush rejected dealing with a party that has an armed wing and vows the destruction of Israel. But there's precedent for a more optimistic view in the long run. Take, for example, U.S. relations with Iran's President Mahmoud Ahmadinejad . He advocates nuking Israel and is allegedly developing his own bombs." The Post adds, "Even so, Washington has discovered there are always ways to work together, to find common ground. For example, human rights groups Monday condemned a U.S. move 'back[ing] an Iranian initiative to deny United Nations

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consultative status' in the Economic and Social Council to gay rights organizations."

Mexican Official Suggests Border Incursion Was Undercover US Drug Operation. The AP (1/26) reported Mexican Foreign Secretary Luis Ernesto Derbez "suggested Thursday that American soldiers disguised as Mexican troops may have been in the military-style Humvee filmed earlier this week protecting a marijuana shipment on the border." Derbez said at "a news conference that US soldiers had helped drug smugglers before. However, he offered no evidence." Derbez said, "And just as that has happened ... it is very probable that something like that could have happened, that in reality they were members of some of their groups disguised as Mexican soldiers with Humvees." He added that "there was no proof that the men seen in the incident were Mexicans. Derbez also said his country will send a diplomatic note to Secretary of State Condoleezza Rice demanding that US officials tone down their comments on Mexico's security and immigration problems."

Homeland Security Secretary Michael Chertoff's statements last week that reports of Mexican military incursions were overblown have been criticized frequently by the primetime cable news hosts. Senator Kay Bailey Hutchison appeared on Fox News' The Big Story (1/26) where she discussed the issue of Mexican military incursions. Host John Gibson: "Senator, you wrote a letter to the Secretary of the Department of Homeland Security, Michael Chertoff. He does not seem to be taking this very seriously. He calls these routine, accidental incursions. Texas authorities think they're much more serious than that. Have you been able to persuade the secretary to regard this as a serious matter and do something about it?" Hutchison: "Well, certainly we are encouraging the secretary to take action, to ask for an investigation, which the Mexican government has said they'll do."

On CNN's Lou Dobbs Tonight (1/26) host Lou Dobbs said, "The question has to be, why is the White House silent on this issue? Why is the man in charge of our homeland security, that is Homeland Security Department Secretary Michael Chertoff, so timid and so unconcerned or interested?"

US-Mexico Quarrels Over Border Said To Show "Deteriorating Relationship." The New York Times (1/27, McKinley, 1.19M) reports, "The United States and Mexico exchanged diplomatic broadsides on Thursday over border security and drug-related violence in another sign of their deteriorating relationship. The American ambassador, Antonio O. Garza Jr., sent a formal note to the Mexican government demanding an investigation of" Monday's smuggling incident in Texas. Garza "took the unusual step of not only announcing the note, but promising to send a second one to express concern about a rise in drug-related violence in border towns and recent attacks on American Border Patrol agents. … Hours later the Mexican foreign minister, Luis Ernesto Derbez, suggested that it was Mr. Garza who appeared to be playing to a crowd for political reasons."

Current Border Situation Compared To 1916. The Washington Times (1/27, McCain, 90K) reports in a front page article that "the White House is speaking of its 'concern about the reports' of Monday's border crossing, which a spokesman described as 'an incident that is under investigation.' Yet in 1916, when Pancho Villa's bandits raided Columbus, NM, a Democratic president didn't hesitate. President Woodrow Wilson sent Gen. John 'Black Jack' Pershing to lead an expedition into Mexico. A $5,000 bounty was offered for Villa's capture, and Army posters invoked 'The Flag, Old Glory' in calling for 25,000 recruits: 'Come on, boys, be ready to shoulder the trusty Springfield.'" However, "the historic situation during Villa's day was much different, said James Carafano, a senior fellow at the Heritage Foundation. 'Mexico back then didn't have a strong central government,' said Mr. Carafano, who specializes in defense and homeland-security issues. 'There was no rule of law. I don't think you can compare that to Mexico today."

DEA Finds Smuggling Tunnel Under Mexican Border Containing Nearly Two Tons Of Marijuana. ABC World News Tonight (1/26, story 6, 1:50, Vargas) reported, "In California, a secret tunnel used to smuggle drugs and people under the border has been uncovered. It's just one of many found in recent years. Officials say criminals are increasingly digging tunnels to bypass border patrols and move their contraband into the US." ABC (Thomas): "The DEA says it was a major gateway for illegal immigrants and drugs coming from Mexico." DEA Chief of Operations Michael Braun: "These tunnels are absolutely critical to these major drug-trafficking organizations and alien smuggling groups. Arms smuggling groups." Thomas: "US officials say the border has become ground zero for an explosion in illegal activity. Washington is now leaning heavily on Mexico to help put a stop to it." US Border Patrol Chief David Aguilar: "We have gotten a commitment to work with us on this. We have gotten a commitment to find out and get to the bottom of this." Thomas: "Before tons more illegal drugs find their way across the border."

NBC Nightly News (1/26, story9, :45, Williams) reported, "Out of California a big discovery to report a drug tunnel that authorities say runs the length of 12 football fields from Mexico into California, it's a tunnel so big the federal government says you can drive a car through it. The tunnel begins in a warehouse in Tijuana, ends in the San Diego area, it's used apparently for smuggling people and/or drugs. US officials say they found more than two tons of marijuana inside."

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The New York Times (1/27, Archibold, 1.19M) reports, "Drug smugglers have dug one of the longest, most sophisticated tunnels discovered in recent years along the Mexican border, and the American and Mexican authorities have hauled nearly two tons of marijuana out of it since they entered it on Wednesday, officials said." Stretching from "a warehouse near the international airport in Tijuana, Mexico, to a vacant industrial building in Otay Mesa, Calif.," the tunnel's sophistication has "surprised officials, who found it outfitted with a concrete floor, electricity, lights and ventilation and groundwater pumping systems. … 'The tunnel is absolutely amazing,' said Michael Unzueta, special agent in charge for the federal Immigration and Customs Enforcement agency's San Diego office." CNN's Lou Dobbs Tonight (1/26, Dobbs) reported, 'Tonight, homeland security officials say they have shut down the largest border tunnel ever discovered on the US-Mexican border. … Police were first tipped off to it…two years ago. They finally found it."

Proliferation Of Tunnels Seen As Result Of Increased Border Security. The Washington Post (1/27, A3, Pomfret, 744K) reports "experts said the passageway bore all the hallmarks of an operation by a major drug cartel." Unzueta said, "Whether they are designed to smuggle drugs, people, weapons or other contraband, these tunnels pose a threat to our nation's security." The Post continues, "Federal agents have concluded that drug traffickers and smugglers of illegal immigrants have been heading underground to escape tighter enforcement along the border. Customs officials announced this week that drug seizures at California border crossings rose 24 percent in the past fiscal year. More than 127 tons of drugs were seized, the vast majority of that marijuana, in the year ending Sept. 30." The Washington Times (1/27, Seper, 90K) reports, "Since the September 11 attacks, federal authorities have discovered more than 20 cross-border tunnels along the US-Mexico border in California and Arizona. Authorities said they were unsure how long the tunnel had been in operation. They also said they did not know what drug organization might have used it."

Mexican Human Rights Commission Cancels Plan To Distribute Border Maps. Though the Mexican government has sought to distance itself from a human rights commission's plan to distribute maps of the Arizona desert, the plan has generally been depicted in print and on TV as a Mexican initiative. Under the headline "Mexico Nixes Border Maps For Migrants," The Washington Times (1/27, Seper, 90K) reports in a front page article that following an announcement Tuesday that it would distribute 70,000 border maps with safety instructions and tips to migrants aiming to cross illegally into the United States, The National Human Rights Commission (NHRC) in Mexico City canceled its plans yesterday, while maintaining that the decision was not "a reaction to criticism by Bush-administration officials." The commission "said it 'rethought' the decision after human rights organizations in several border states said the maps would show anti-immigration groups -- and watchdogs such as the Minutemen volunteers -- where the migrants were likely to travel. … The NHRC cited the Minutemen as a sign that anti-immigrant extremism was on the rise in the United States." Meanwhile, "Minuteman co-founder Chris Simcox said the NHRC's decision demonstrated the effectiveness of the 'peaceful, law-abiding actions by Minuteman volunteers' to secure the nation's borders."

In a discussion about the NHRC's cancelled plans on Fox News' O'Reilly Factor (1/26, O'Reilly), host Bill O'Reilly suggested to Rep. Tom Tancredo that "somebody got to Vicente Fox on this." Tancredo said, "I think so, Bill. I think that they could not spin it anymore. They tried their best to spin it as something they were just doing to make sure that people were being safe, that it was not encouraging illegal immigration. But it was so blatantly encouraging illegal immigration that they couldn't spin it anymore, so they backed away from it." Later, discussing the issue of Mexican military incursions, Tancredo was asked whether he thought Monday's incident involve the Mexican military protecting "dope dealers." Tancredo said, "I absolutely believe that." O'Reilly: "It's not hard to believe. We know that's been going down. But the Mexican government flat out denies it." Tancredo: "Absolutely. And they're embarrassed by it. And we won't pursue it because we're embarrassed by it, I suppose. We're embarrassed by the fact that we won't protect our own borders."

US, China Remain Divided Over Piracy. The Wall Street Journal (1/27, Hiebert, 2.11M) reports, "China and the U.S. traded barbs over Beijing's failure to respond to Washington's request for details about Chinese efforts to combat piracy, in a development that could exacerbate already testy bilateral trade relations." The Journal notes, "U.S. trade officials said China missed a Jan. 23 deadline set by Washington to get information on how Beijing has sought to rein in rampant piracy, including any penalties it has imposed on violators. Chinese authorities, for their part, have challenged Washington's right to make such a request under World Trade Organization rules." The dispute "could prompt the U.S. Congress to press the administration of President George W. Bush to take its case against China to the global trade body, and it cast a cloud over the planned visit to America by Chinese President Hu Jintao in April, U.S. businessmen in Beijing said.

Bush, Rice Call On North Korea To Stop Counterfeiting US Currency. Reuters (1/27) reports, "President George W. Bush vowed on Thursday to uphold U.S. law and continue a crackdown on North Korea for

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counterfeiting American dollar bills." At a press conference Bush said, "There is no compromise ... We are going to uphold the law and protect the currency of the American people." North Korea "has said it would be unthinkable to return to six-country nuclear talks…when Washington is trying to bring down its rulers with 'financial sanctions.'" Although "Bush showed no give on the crackdown on the North's suspected illicit activities, he reaffirmed that 'we want the six party talks to continue ... I think the framework is a framework that can eventually yield to a political settlement of the issue.'"

Reuters (1/26, Pleming) reported Secretary Rice said the US "is ready to resume six-party nuclear talks with North Korea 'immediately' as long as Pyongyang does not impose any conditions." Reuters said Pyongyang has said "it would be unthinkable to return to talks" while counterfeiting-related penalties are in place. Rice said the situation could be resolved when North Korea begins "living up to the law." According to Reuters, Rice "said the United States chief negotiator in the talks had made it very clear during meetings in Beijing this month that Washington wanted the six-party talks to continue. 'No conditions. We will do it immediately,' Rice said."

North Korea Leading Source Of Counterfeit Cigarettes. The Wall Street Journal (1/27, Fairclough, 2.11M) reports that North Korea "has become a leading source of counterfeit cigarettes -- with the capacity to churn out more than two billion packs a year, tobacco companies say. Philip Morris, a unit of New York-based Altria Group Inc., says over the past several years it has discovered North Korean-made knockoffs of its Marlboro brand in more than 1,300 places." U.S. officials "seized more than a billion fake smokes, many allegedly from North Korea, in California last year as part of an undercover operation targeting Asian smugglers. Millions more packs of bogus Marlboros, Mild Sevens and other cigarettes made in North Korea have been confiscated in Taiwan, the Philippines, Vietnam and Belize." And a senior Administration official said, "Much more dangerous things than cigarettes can flow along these same routes."

Rice Says India Has "Difficult Choices" In Nuclear Deal. Reuters (1/27) reports Secretary Rice said "India has 'difficult choices' to make on a controversial civil nuclear cooperation agreement with the United States before the deal can be completed." Senior-level talks have "failed to close the gap on major issues, including which Indian facilities would be designated as civilian and military." The latter "would still be off-limits to U.N. monitors."

US Embassy Corrects Report Of Ambassador's Comments. The New York Times (1/27, Sanger, Sciolino, 1.19M) at the end of an article on the Russian proposal to solve the nuclear dispute with Iran also notes, "India responded testily yesterday to American suggestions of a quid pro quo in its blossoming relations with the United States, with the Indian foreign secretary calling in the United States ambassador over his reported remarks about how India should vote next week on whether to refer the case of Iran's nuclear ambitions to the United Nations Security Council." US ambassador to India David Mulford "had been quoted by the Press Trust of India news agency as saying that if India did not vote to refer Iran to the Security Council, it would be 'devastating' to its chances of securing the nuclear deal with the United States." The US embassy "later said that the comments had been taken 'out of context' and released a full transcript. In it, Mr. Mulford first said that India would be expected to vote 'based on India's judgment of its own national interest.'"

US Seeks Overhaul Of UN Human Rights Commission. The Washington Times (1/27, Sands, 90K) reports, "A major overhaul of the United Nations' discredited human rights agency is 'quite likely' this year, the State Department's lead negotiator said yesterday, but he also said the United States would insist on real reforms before agreeing to a deal." Deputy assistant secretary of state for international organization affairs Mark Lagon said, "I think it is quite likely we can get a new human rights council, although it is not certain."

Former Pakistani Leader Dismisses Interpol Notices. The Washington Times (1/27, Li, 90K) reports, "Former Pakistani Prime Minister Benazir Bhutto said yesterday that 'red notices' issued by Interpol for her and her husband, Asif Ali Zardari, are groundless and politically motivated." She "said her attorney is contacting Interpol to confirm the warrants, and if they exist, to ask on what grounds they were issued." She said the notices were issued because "the government of President Pervez Musharraf wants to 'divert the attention' of the Pakistani people from the recent U.S. missile strike in a region bordering Afghanistan that killed at least 13 civilians."

New Canadian Leader Challenges US Over Control Of Arctic Waters. The New York Times (1/27, Krauss, 1.19M) reports, "Stephen Harper, Canada's prime minister-designate, reproached the American ambassador on Thursday over an old difference of opinion about the control of Arctic waters claimed by Canada." He "is widely expected to usher in warmer relations with the Bush administration," yet "the honeymoon took at least a temporary break when Mr. Harper reacted to a news report about comments made by the United States ambassador, David H. Wilkins, taking issue with Canada's assertion of sovereignty in northern Arctic water passages." US diplomats "said that Mr. Wilkins had

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stated nothing more than an old policy in answering a student's question. They said he did not criticize a plan Mr. Harper announced during the campaign to build and deploy three new armed heavy icebreaking ships and construct a deep-water port in the Arctic territorial capital, Iqaluit."

The Washington Post (1/27, A19, Struck, 744K) adds, "The Liberal government Harper will replace has made similar claims and proposals. But it was unexpected that Harper would launch a sharp verbal attack against the United States on this subject so quickly, and he extended a press conference announcing his Feb. 6 inauguration to bring it up."

Return Of Oil Companies To Libya May Prompt Reform. The Christian Science Monitor (1/27, Martelli, 61K) reports that "the companies that helped create Libya's oil industry in the 1970s are returning as Qaddafi rebuilds bridges to the West that he burned long ago, and this may help to precipitate political, as well as economic, change." Yet "Qaddafi remains an autocratic leader, and genuine economic and political reform is nowhere on the horizon, according to many Libyans." And "endemic corruption and high unemployment persist, and the lack of real economic incentives is driving skilled professionals out of the country, says Ezzedin Dibashi, an oil consultant based in London who used to work at NOC. 'Doctors, engineers, and economists are going elsewhere, rather than subsist on 600 Libyan dinars ($450) per month.'"

Georgia Experiences Blackouts After Energy Sources Disrupted. The New York Times (1/27, Chivers, 1.19M) reports, "Energy shortages struck Georgia anew on Thursday as a wind storm toppled a major power transmission line and Russia's gas monopoly failed to restore the flow of natural gas to the country after pipelines were sabotaged last weekend, energy officials said." The country "has been without its Russian gas, and with limited electricity, for five days. Officials in both countries initially hoped that the supplies could be swiftly restored. But after a respite from the shortages on Monday, the problems have worsened, bringing fresh hardships to Georgia and further tarnishing Russia's image as an energy supplier."

Prospects For Resolution Of Doha Trade Talks Dim. The Wall Street Journal (1/27, Miller, Champion, Switzerland, 2.11M) reports, "Major trading nations are hardening their positions as they head into the first round of trade talks since the recent Hong Kong sessions faltered, renewing the possibility of a watered-down result of four years of negotiations." During the World Economic Summit in Davos EU trade commissioner Peter Mandelson "said Europe stood to lose 'next to nothing' if talks failed and repeated strongly that he would make no further offers unless other countries make concessions. Earlier this week, he told the European Parliament that Europe could settle for 'a minimalist outcome, if that is what the rest of the world wants.'" Meanwhile, "U.S. Trade Representative Rob Portman said Thursday that he needs an ambitious round to sell a trade package to Congress. U.S. legislators, he said, won't approve a deal to cut politically important farm subsidies unless they can show their constituents that U.S. farmers will benefit from lower global farm tariffs and greater opportunities to sell industrial goods and services."

Meanwhile, the Financial Times (1/27, Beattie) reports under the headline "US Signals New Approach To Doha Round Of Trade Talks," Portman said Thursday that the Doha round of trade talks "had to move forward on all fronts, as the European Union said it would lose 'next to nothing' if the talks failed." According to the Times, the "shift of emphasis in the US's position ahead of a meeting of trade ministers on Saturday came amid accusations that the tough negotiating tactics of big farm exporters like Brazil were holding up progress." For his part, EU trade commissioner Peter Mandelson "raised the stakes" by saying that the EU would lose "next to nothing" if the talks failed. "The alliance between the US and Brazil has led to stalemate in these talks," he said. "It has now become self-defeating," he continued.

Portman Says Germany's Merkel Can Help Advance Talks. The AP (1/27) reports, "New German Chancellor Angela Merkel could help advance stalled global trade talks by offsetting the protective mindset of French officials in EU policy," US trade chief Rob Portman said Thursday. Noting that a "key issue holding up talks has been access to European Union farm markets," Portman "said Germany could act as a counterweight to France, which has been particularly defensive in wanting to protect its agriculture markets." Portman said, "I'm hopeful that she [Merkel] can help us to come together with an agreement this year."

Call For Boycott Of Israel Causes Stir At World Economic Forum. The New York Times (1/27, Landler, Markoff, 1.19M) reports, "A magazine article calling on nations to boycott Israel because of its treatment of Palestinians has provoked a tempest at the World Economic Forum's annual meeting here, prompting the organizers to pull the magazines from the forum's shelves here and issue an apology." The timing, following the Hamas election victory, "was not lost on people here. The future of Israeli and Palestinian relations was high on the agenda on Thursday at this meeting of about 2,300 political figures, private groups and corporate executives." Meanwhile, "Secretary of State Condoleezza Rice spoke via satellite during a panel here, reaffirming the position of the United States that Hamas must renounce violence and recognize Israel's right to exist."

Globalization Seen As Leading Agent Of International Reform. David Ignatius in his column in the

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Washington Post (1/27, A23, 744K) writes, "Davos has come to symbolize the dominant force of our time -- the wealth-creating, job-destroying whirlwind of the global economy. Each year I come here I marvel at the reach and leveling power of this economic hurricane. There are more Chinese, Indians and Arabs every year, and less of an American presence. … The one thing they seem to have in common is that nearly all were educated in the United States." Ignatius concludes, "Business today is the leading agent of social change. That's really the message of Davos. It can be a pitiless process, and its seamless efficiency is in frightening contrast to the incompetence and mismanagement of the public sector. Globalization can be tamed, but it can't be stopped -- nor should it be. I just wish other things in the world worked as well."

Growing Populism May Challenge Globalization. In contrast to Ignatius, Floyd Norris in his column in the New York Times (1/27, 1.19M) writes, "Among the business and political leaders who gather here each year for the World Economic Forum, there has long been broad agreement that globalization is good." Yet "this year there is a growing doubt -- not in the validity of the message, but in whether it is losing believers among the broad populace of the world." One example is the election of Bolivian president Evo Morales which "continued a recent leftist trend in Latin America." Norris notes, "Perhaps those who resent globalization will remain powerless. But their ranks could swell if the world economy weakens." Harvard University president Lawrence Summers "asserts that globalization will not be derailed." And "people could just accept a world in which some are very wealthy and others provide services to them. Elaine L. Chao, the United States labor secretary, said the job outlook in the United States was bright for plumbers and electricians."

Businessman Downplays Importance Of World Economic Forum. Former Vanguard Group CEO John Bogle, author of "The Battle for the Soul of Capitalism" in an op-ed in the Wall Street Journal (1/27, 2.11M) writes, "I already knew, as I suspect everyone there knew, that 'China, India [are] Key to the Future,' CNN's headline about Chancellor Merkel's speech. And I didn't need to fly to Davos to learn that 'plumbers, construction workers, and electricians' will still be needed in the global economy of the future. With 226 sessions, I would have had to miss at least 200 anyway." Yet "I may just be jealous. Perhaps if I call President Clinton I can hitch a ride on his jet, arriving late tomorrow afternoon for a closing panel with Forum founder Klaus Schwab. Then I'd have avoided all the foolish, self-righteous show-biz baloney, but be able to assure my pals: 'Yes, I was at Davos, 2006.'"

EU Issues Deadline For France To End Protectionism. The Financial Times (1/27, Buck) reports, "France has been given a one-month deadline to justify its contentious decree protecting a large number of domestic firms from foreign takeovers or face legal action from Brussels." EU internal market commissioner Charlie McCreevy "has rounded on the French government's action, dismissing key provisions of the decree – issued on December 31 – as 'discriminatory' and 'protectionist'." The "intervention underlines the Commission's deep concerns about the rise of protectionist measures in the 25 EU member states."

Former Kosovo Leader Mourned. The New York Times (1/27, Wood, 1.19M) reports, "Kosovo's Albanian majority gathered by the tens of thousands on Thursday to bid farewell to their" former president Ibrahim Rugova "in a proud and somber funeral ceremony that seemed to underscore their aspirations for independence." He "was given every honor the region could muster."

Columnist Warns Bolivian Poor Will Suffer Under Morales Rule. Mary Anastasia O'Grady in her "the Americas" column in the Wall Street Journal (1/27, 2.11M) writes, "In just a few short days," new Bolivian president Evo Morales "has built a cabinet of radical and Marxist militants, purged the Bolivian military and signed a pile of 'agreements' with his Venezuelan mentor Hugo Chávez. There are reports that Cuban security agents are already working for the new president much as they do for Chávez." O'Grady continues, "The most tragic aspect of Evo's decision to let Cuba and Venezuela annex his country is where this all leads for the majority Indian population in one of the region's poorest countries. … They no doubt think that Evo…will care for his own in ways that the white, upper-class leadership never did. But Fidel long ago destroyed underclass hopes for a better life and Hugo is doing the same."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Bush's Ratings Sink, But Trust Remains."
"Vote Puts Hamas In Control."
"Can The Gunmen Now Govern?"
"Medicare Drug Plan Leaves Out Supplies."
"Louisiana Tires Of Its Rogues."
"Homeless Drift In Hollywood's Rising Tide."
"Mayor Maps Plans To Run L.A. Unified."

USA Today:
"State Of The Union? 'Going The Wrong Way.'"
"Palestinians Choose Avowed Enemy Of Israel"

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"2 More Democrats Say They'll Back Alito."

New York Times:
"Hamas Routs Ruling Faction, Casting Pall On Peace Process."
"Mayor, In Speech, Urges Swift Pace At Ground Zero."
"New Poll Finds Mixed Support For Wiretaps."
"Wall Street Senses Opportunities In Health Care Savings Accounts."
"Live On 'Oprah,' A Memoirist Is Kicked Out Of The Book Club."

Washington Post:
"Hamas Sweeps Palestinian Elections, Complicating Peace Efforts In Mideast."
"K Street's New Ways Spawn More Pork."
"Gun-Toting Delegate Misfires At Va. Capitol."
"Democrats Split Over Filibuster On Alito."
"The Last Handshake Deal."
"Oprah Throws The Book At Herself."

Washington Times:
"US Won't Deal With Hamas."
"Leader Likely To Cut Ties To Israel."
"Strategy Targets Terror WMDs."
"McCain, Coburn To Force Votes On Pork Spending."
"Local Shop Plots Sweet Resurgence."
"Mexico Nixes Border Maps For Migrants."
"Mexican Border Incursions Redux: In 1916, Wilson Sent In The Army."

Detroit Free Press:
"GM: Brace For More Cuts."
"Criminals? Or Just Having Some Fun?"
"Mother Questions Why Son Had To Die."
"Amid Flap, Van Gogh Back On Display At The DIA."

Atlanta Journal-Constitution:
"ChoicePoint's Fine Sets Record."
"A Million Little Lies."
"Palestinian Vote Affirms Power Shift To Islamists."
"How Safe Is That Restaurant? New System Spells It Out."

Dallas Morning News:
"6th Grade Moves Up In DISD."
"Bold New Film Strategy A Thriller ."
"After Hamas Win, Hopes For Peace Dim."

Houston Chronicle:
"Cleared Man Is Finally Freed, Criticizes Police For Ordeal."
"Scandal Derails Junket To Houston."
"Shock Waves In Mideast."
"Europe May Halt Aid Unless Hamas Changes."
"Only Two Defendants, But Many Accused."
"Hispanics Earning Degrees In Record Numbers."

Story Lineup From Last Night's Network News:
ABC: Hamas Wins Election; Newly Elected Palestinian Woman; Bush Hamas Response; Bush NSA/Abramoff; Byrd Alito Support; Mexican Drug Smuggling; US-Choicepoint Settlement; Children Cancer Education; Oprah Lying Author; Hamas Future Moderation.
CBS: Hamas Wins Election; Bush-News Conference; Iraqi Prisoners Released; Alito Confirmation; Lobbyist-Charity Loophole; Poll: Health Care; FL Bus Accident.
NBC: Hamas Wins Election; Bush-News Conference; Bush-Rebuilding New Orleans; Iraq Prisoner Release; CIA-Wrong Photo; US-Choicepoint Settlement; US Economy; Geriatrician Shortage; AL Child Abuse; Mexican Drug Smuggling; Oprah Lying Author.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Hamas election victory; Audit-Iraq reconstruction projects; Phoenix-car accident.
CBS: Hamas election victory; Bush-Abramoff; Senate-Alito; US-Mexico border tunnel; CA-clean air rules.
NPR: Hamas election victory; Bush-Hamas; US military hands over territory to Iraqi army; Audit-Iraq reconstruction projects; FTC-ChoicePoint penalty.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH – Meets with Saad Hariri, member of the Lebanese Parliament. Oval Office.

VICE PRESIDENT CHENEY -- No schedule available.

US Senate: -- No events scheduled.

US House: -- No events scheduled.

Other. Jan. 24 - 29. WASHINGTON AUTO SHOW _ The Washington Area New Automobile Dealers Association holds the 2006 Washington Auto Show, featuring new vehicles and 37 manufacturers. Car hands-on contests, giveaways, live music, celebrity appearances, educational displays and 'flip my whip' customization contest. Location: Washington Convention Center, Mt. Vernon Square. Contacts: Barbara Pomerance, 800-697-7575 On the Net: http://www.washingtonautoshow.com

Jan. 25 - 27. MAYORS _ The U.S. Conference of Mayors holds its 75th Winner Meeting. Highlights: 8 a.m. Session on funding first responders, with DHS representatives, others. 9:30 a.m. Plenary session with release of the 2005 Metro Economics Report, with Sen. Harry Reid, Rep. Nancy Pelosi (11 a.m.), Seattle Mayor Greg Nickels and Detroit Mayor Kwame Kilpatrick. Location:

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Capital Hilton, 16th and K Sts. NW. Contacts: Elena Temple, 202-861-6719

Jan. 27 - 28. SECURITY-ETHICS _ Two day international meeting on questions of ethics and intelligence. Topics will include military and political intelligence, surveillance, ethics guidelines and legal principles. Academic and working group presentations, case histories and testimonies. Highlights: 3 p.m. - 8:30 p.m. Meetings at Springfield Hilton, 6550 Loisdale Rd., Springfield. Contacts: Jan Goldman, 540-220-1737

Jan. 27 - 28. VOTING-RACIAL PROFILING _ American University Washington College of Law sponsors the Mid-Atlantic People of Color Conference, dealing with voting, racial profiling, economic justice and education. Location: 4400 Massachusetts Ave. NW. Contacts: Kathy Thompson, 202-274-4279

Jan. 27 - Feb. 2. STATE OF THE UNION-RELATED EVENTS _ State of the Union related events. Highlights: 1 p.m. - 2:30 p.m. Conservative groups hold a ``Conservative State of teh Union Event," with Family Research Council Tony Perkins; Free Congress Foundation Chairman Paul Weyrich; National Association of Manufacturers president John Engler; and Frank Gaffney, founder, Center for Security Policy. Free Congress Foundation, Krieble Center, 717 Second St. NE. Please RSVP with Anna Oliver, 202-546-3000.

8:30 a.m. AARP-2006 AGENDA _ AARP holds a briefing to outline its 2006 legislative agenda. Location: AARP offices, 601 E St. NW. Contacts: n/a, 202-434-2560 Notes: RSVP requested.

9 a.m. - 10 a.m. MENTAL HEALTH-IRAQ _ Discussion on how the conflicts in Iraq have affected mental health and substance abuse among Iraqis and U.S. soldiers. With Dr. Sabah Sadik, national advisor for mental health, Iraq Ministry of Health; Dr. Hasam Alathari, medical director, INOVA Addiction Treatment Services; Dr. Antonette Zeiss, U.S. Veterans Affairs; and Dr. Keith Humphreys, professor of psychiatry, Stanford University. Location: National Press Club, 14th and F Sts. NW Contacts: J.P. Fielder, 202-746-6352 Notes: Open to credentialed media.

9 a.m. - 11 a.m. CANADIAN ELECTIONS _ The Canadian Institute and the Canadian American Business Council host a discussion on what to expect following the elections in Canada. With Hon. Jason Kenney, MP, Calgary Southeast (Conservative Party); Hon. Gordon Giffin, McKenna Long & Aldridge; John Wright, Ipsos-Reid; and Andrew Cohen, Carleton University. Location: Woodrow Wilson International Center for Scholars, Ronald Reagan Building and International Trade Center; 1300 Pennsylvania Ave., NW Contacts: ., 202-691-4000

10 a.m. PROGRESSIVES-TAX REFORM _ Sen. Ron Wyden, D-Ore.; Rep. Rahm Emanuel, D-Ill.; and Chicago Mayor Richard M. Daley discuss what they say are fiscally responsible, pro-middle class ideas for tax reform at a Friday Forum hosted by the Progressive Policy Institute. Location: Room 226, Dirksen Senate Office Building. Contacts: Tammy Sun, 202-547-0001

10 a.m. - 11 a.m. BIRD FLU _ The U.S. Geological Survey, the U.S. Fish and Wildlife Service, and the USDA's Animal and Plant Health Inspection Service discuss scientific surveillance programs designed to provide early detection of bird flu in North America. With Mark Limbaugh, Assistant Secretary, Water and Science, Interior Dept.; Sue Haseltine, Associate Director for Biology, USGS; Ron DeHaven, Administrator, APHIS; and Dale Hall, Director, U.S.F.W.S. Location: Room 2325, Rayburn Bldg. Contacts: Catherine Puckett, 352-264-3532

10 a.m. - 11:30 a.m. TAX REFORM _ Sen. Ron Wyden, D-Ore., Rep. Rahm Emanuel, D-Ill., and Chicago Mayor Richard Daley discuss ideas for tax code reform at a forum hosted by the Progressive Policy Institute. With John Talisman, former Assistant Secretary of the Treasury for Tax Policy, and Will Marshall, president, PPI. Location: Room 226, Dirksen Bldg. Contacts: Tammy Sun, 202-547-0001

10:30 a.m. DOD-IRAQ BRIEFING _ Col. H.R. McMaster, commander of the 3rd Armored Cavalry Regiment, will brief live from Iraq to provide an update on ongoing security operations in the Multinational Force-Northwest area of operations. Location: DOD Briefing Studio, Pentagon 2E579. Notes: Journalists without a Pentagon building pass will be picked up at the North Parking Entrance only. Plan to arrive no later than 45 minutes prior to the event; have proof of affiliation and two forms of photo identification. Please call 703-697-5131 for escort into the building.

12:30 p.m. HAITI _ The School of Advanced International Studies holds a session on the upcoming elections in Haiti, with Mark Schneider of the International Crisis Group. Location: Room 200, 1619 Massachusetts Ave. NW. Contacts: Felisa Klubes, 202-663-5626

12:30 p.m. - 2 p.m. IRAN-AHMADINEJAD _ The Woodrow Wilson Center hosts a discussion on Iram's relations with other Persain Gulf nations under President Ahmadinejad. With Hossein Hafezian, Senior Research Fellow, Center for Scientific Research and Middle East Strategic Studies, Tehran; and Hadi Semati, Public Policy Scholar, Woodrow Wilson Center, and Professor of Political Science, Faculty of Law and Political Science, Tehran University. Location: Woodrow Wilson International Center for Scholars, Ronald Reagan Building and International Trade Center; 1300 Pennsylvania Ave., NW Contacts: ., 202-691-4000

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is drawn from thousands of newspapers, national magazines, national and local television programs, and radio broadcasts. The Attorney General's News Briefing is published five days a week for the Office of Public Affairs by BulletinNews, which creates custom news briefings for government and corporate leaders and also publishes the White House Bulletin, Frontrunner and Washington Morning Update. We can be found on the Web at BulletinNews.com, or called at (703) 749-0040.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, JANUARY 27, 2006 7:45 AM EST

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TERRORISM NEWS:

Bush Defends Domestic Wiretapping Program.

President Bush yesterday defended the NSA's domestic surveillance program during a wide-ranging press conference. While Bush's reaction to the Palestinian election grabbed most headlines, his comments on the NSA issue were covered by all three network news programs, and are receiving some attention from most major newspapers this morning. The CBS Evening News (1/26, story 2, 3:30, Roberts) noted, "The President insisted again today he's on solid legal ground and was skeptical about increasing talk in Congress to write new laws covering the program." The New York Times (1/27, Bumiller, 1.19M) adds the President "said that efforts in Congress to write legislation expressly giving him authority for such a program were unnecessary and dangerous." Bush's "46-minute news conference, announced less than an hour and a half ahead of time, was an effort by the White House to frame the debate on an array of foreign and domestic issues only five days before his State of the Union address." Bush "appeared relaxed in the briefing room, which his aides say he prefers for news conferences instead of the more formal East Room. He appeared apprehensive at first, but loosened up when he saw a camera dangling precariously from a cord in the ceiling, threatening to crash down on the heads of reporters."

The Washington Post (1/27, A6, VandeHei, 744K) headlines its story "Bush Reasserts Presidential Prerogatives," and says that comments by Bush on hurricane Katrina, the Abramoff scandal and the NSA program show "he is determined to assert presidential prerogatives." Bush "said he is concerned about Congress writing a new spying law because it could force the government to provide details and clues about a top-secret program used to hunt down terrorists." Bush is quoted saying of the program, "There's no doubt in my mind it is legal."

In a similar story, the Washington Times (1/27, Curl, 90K) reports Bush "yesterday said he has exclusive authority over a broad range of issues -- including forbidding White House officials to testify before Congress about the government's Hurricane Katrina response and ordering warrantless electronic surveillance within the United States." Said Bush, "Conducting war is a responsibility in the executive branch, not the legislative branch." The AP (1/27, Hunt) quotes Bush saying, "The program's legal, it's designed to protect civil liberties, and it's necessary."

ABC's World News Tonight (1/26, story 4, 1:50, Vargas) reported that at the White House "they think" the issue "is a political winner." Bush "he didn't seem to get too rattled when one reporter compared him to Richard Nixon." The Washington Post (1/27, A7, Milbank, 744K) reports that "the Los Angeles Times's James Gerstenzang offered an observation on Bush's surveillance policy: 'This seems to sound like something President Nixon once said, which was: "When the president does it, then that means that it's not illegal." Whispered 'oohs' could be heard in the room." Bush "gave a look indicating he wished the dangling camera had fallen on Gerstenzang." Answered Bush, "Most presidents believe that during a time of war that we can use our authorities under the Constitution to make decisions necessary to protect us."

NBC Nightly News (1/26, story 2, 2:00, Fletcher) reported that in addition to dismissing the need for lawmakers to change the NSA terrorist monitoring program, Bush also "provided new ammunition for his critics by calling the 1978 Foreign Intelligence Surveillance Act, FISA, the law Congress passed to restrict domestic spying, outdated." Bush: "The FISA law was written in 1978. We're having this discussion in 2006. It's a different world. I said, look, is it possible to conduct this program under the old law? And people said, it doesn't work in order to be able to do the job we expect us to do."

Fox News' Special Report (1/26, Angle) reported, "The President explained once again that the communications intercepts done without warrants are always aimed at suspected terrorists overseas. … The President insists they do not tap calls made entirely within the US. Everyone agrees eavesdropping on purely domestic communications would require warrants. So when one reporter suggested the President is circumventing FISA, the President strenuously objected."

Under the headline "Bush To Resist Wiretap Legislation," the Wall Street Journal (1/27, Cooper, 2.11M) reports Bush "suggested he will resist any congressional attempts to modify the administration's practice of conducting warrantless wiretaps, saying the program is already legal and would lose effectiveness if subjected to a protracted public debate." The President "said yesterday that while he will consider congressional suggestions to modify the program," but "he won't support public debate that divulges how it works -- even if lawmakers' intent is to preserve the program." Reuters (1/27, Zakaria) also says Bush "said he would resist changing laws governing such action if it meant revealing secrets to an enemy."

Administration Has Given At Least Two Rationales For Domestic Surveillance. The Washington Post (1/27, A5, Eggen, Pincus, 744K) reports that President Bush's claim that he did not seek congressional approval for the warranteless domestic eavesdropping program because he did not need it is "one of several explanations on the topic

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from Bush and his aides, who have provided at least two separate rationales for why they did not ask for statutory authority for the program. Attorney General Alberto R. Gonzales said the administration had considered seeking legislation but determined it would be impossible to get, adding later in the same news conference that authorities did not want to expose the program's existence. White House spokesman Scott McClellan has echoed the latter point, saying the administration feared that details of the classified program would be exposed publicly." The Post adds, "The subject is one of several elements in the NSA spying debate that have been clouded by apparent contradictions and mixed messages from the government since the program was revealed last month. … Before the program's existence was revealed, several administration officials also emphasized in testimony and public statements that the NSA was prohibited from engaging in domestic surveillance -- even as the agency was clearly doing so under the authority of Bush's secret order that established the program."

Poll Shows Support For NSA Surveillance Program. The CBS Evening News (1/26, story 2, 3:30, Roberts) noted, "On the NSA spying program, President Bush went into today's press conference with a boost. A new CBS news 'New York Times' poll found 61% of Americans believe the eavesdropping is meant to fight terror and the majority support that." CBS anchor Bob Schieffer later noted, "It looks to me as if the President has decided to make this a political issue to show that he is strong in the fight against terrorism and perhaps the Democrats are weak. And I must say looking al that poll, he may be succeeding." Roberts: "A political issue and a national security issue which history would show President does very well on. You take a look at that poll, the majority of Americans think if it's directed at terrorism it's the right thing to do."

The New York Times (1/27, Nagourney, Elder, 1.19M), however, headlines its story "New Poll Finds Mixed Support For Wiretaps," and says Americans "are concerned that the aggressive antiterrorism programs championed by the Bush administration are encroaching on civil liberties, according to the latest New York Times/CBS News poll." The Times adds, "In a sign that public opinion about the trade-offs between national security and individual rights is nuanced and remains highly unresolved, responses to questions about the administration's eavesdropping program varied significantly depending on how the questions were worded, underlining the importance of the effort by the White House this week to define the issue on its terms. … In one striking finding, respondents overwhelmingly supported e-mail and telephone monitoring directed at 'Americans that the government is suspicious of;' they overwhelmingly opposed the same kind of surveillance if it was aimed at 'ordinary Americans.'"

FBI Begins Interviews In NSA Surveillance Program Leak Probe. Fox News' Special Report (1/26, Angle) reported, "Law enforcement sources tell Fox News that in the past few weeks, FBI agents have begun their investigation into who leaked details of the highly classified program to The New York Times. Agents began close to home, interviewing officials from the Justice Department and the FBI at the outset of their investigation."

Rove Comments Blasted. Under the headline "A Discredit To The GOP," the Washington Post (1/27, A22, 744K) editorializes, "The Bush administration's distortion, for political purposes, of the Democratic position on warrantless surveillance is loathsome. Despite the best efforts of Karl Rove, the White House deputy chief of staff, and Ken Mehlman, the Republican National Committee chairman, to make it seem otherwise, Democrats are not opposed to vigorous, effective surveillance that could uncover terrorist activity. Nor are the concerns that they are expressing unique to their party. Republican Sens. John McCain (Ariz.), Arlen Specter (Pa.), Chuck Hagel (Neb.), Lindsey O. Graham (S.C.) and Sam Brownback (Kan.) have expressed legal doubts about the surveillance program." The Post adds, "Maybe, as a matter of crass political calculation, Mr. Rove and Mr. Mehlman are correct that Democrats criticizing warrantless wiretaps will pay a price in the November elections. We don't pretend to know. What we do know is that the country is in the midst of an important debate about the reach of presidential power and the scope of civil liberties in wartime. For Rove & Co. to try to turn this into just another partisan political skewer discredits their administration and their party."

Columnist Eugene Robinson writes in the Washington Post (1/27, A23, 744K), "Once upon a time we had a great wartime president who told Americans they had nothing to fear but fear itself. Now we have…Bush, who uses fear as a tool of executive power and as a political weapon against his opponents. … To cultivate fear for partisan gain is never a political tactic to be proud of, but Rove's prescription of naked fearmongering is just plain reprehensible when the nation faces a shifting array of genuine, serious threats. This is a moment for ethical politicians -- and, yes, these days that seems like an oxymoron -- to speak honestly about what dangers have receded, what new dangers have emerged, and how the imperatives of liberty and security can be balanced. From the likes of Rove, I guess, we shouldn't expect anything more noble than win-at-all-costs." But "we do have the right to expect more from the president of the United States, and while Bush gives off none of Rove's Sith-lord menace, he has made the cultivation of fear a hallmark of his governance."

More Commentary. The Eugene (OR) Register-Guard (1/26) editorializes, "Based on a powder-keg footnote in a recent memo by U.S. Attorney General Alberto Gonzales, the United States may be nearing a tipping point on civil liberties in its amorphous, open-ended 'war against terror.' … Gonzales' 42-page memo argues unconvincingly that

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Congress gave President Bush the power to investigate terror suspects using any tactics he chooses when it authorized him to use 'all necessary and appropriate force' against al-Qaeda one week after the terrorist attacks on Sept. 11, 2001. … The memo, and Gonzales' underlying contention that the president has nearly unlimited powers in wartime, are affronts to America's system of checks and balances and the Constitution that protects the privacy of its citizens. The memo also runs starkly counter to the recent findings of the nonpartisan Congressional Research Service, which cast serious doubt on the legality of the president's decision to order the domestic eavesdropping program. … Since 9/11, lawmakers have cowered in the face of an overbearing and overreaching executive branch. Now, Congress must exercise its constitutionally mandated oversight role, and protect the checks and balances and civil liberties that make us a free and democratic nation. If it fails to do so, the tipping point may be at hand."

The Seattle Post-Intelligencer (1/27) editorializes, "President Bush, Karl Rove and Attorney General Alberto Gonzales have tackled a big job. They are trying to scare people into believing the administration has the authority to spy on Americans' telecommunications. … This is one of the administration's patented media blitzes. The repetition of themes of terror, fear and security may once again swing opinion. … The administration argues that a congressional authorization to use force against terrorists means it's OK to conduct warrantless wiretaps. Court precedents suggest the vague authorization can't be stretched to overwrite existing law. Just saying the White House respects the Constitution's limits on searches doesn't mean the Fourth Amendment is actually being upheld. But maybe Rove can whip up gratitude for the president's defiance of accepted notions of law, privacy and a constitutionally limited executive. That's scary."

Mueller Says US Utilizing Global Intelligence In Terror War, But Preserving Privacy Rights. In a widely-distributed story, the AP (1/27, Lederer) reports, "FBI director Robert Mueller said Thursday the United States now acts on intelligence from any place in the world to fight terrorism but has not sacrificed individuals' rights to privacy in that effort. However, during an interview with The Associated Press, Mueller would not discuss renditions," nor would he "elaborate on the National Security Agency's listening without a warrant to telephone calls in the United States that Bush administration officials believe involve al-Qaida terrorists. … But Mueller said the goal of gathering intelligence in the war against terrorism was to prevent attacks and not just prosecute cases. 'For us, it is not just having a terrorist event happening and then gathering the evidence to put it in a courtroom to convict somebody after we're able to identify him, detain him and extradite him,' Mueller said." Mueller added that since 9/11, "U.S. officials have recognized the importance of using all information to determine 'who intends to hurt the United States or the United States' interests around the world.' 'We are doing a much better job at integrating that intelligence and acting on that intelligence any place in the world,' he said." The AP adds, "Mueller vehemently denied that the United States was giving up the right to privacy in exchange for security. 'In no way, shape, or form do I think we've given up our rights,' he said. 'But I do think there's an appropriate balance with the threat that we have.'"

Terrorist Pursuit Of Nuclear Weapons Dominates WEF Discussions. In a separate story about today's discussions at Davos, the AP (1/27) reports, "Terrorist attempts to attain nuclear weapons and a new twist in rock star Bono's campaign to help Africa topped discussions Thursday at the World Economic Forum. IAEA chief Mohamed ElBaradei said, "We know that terrorists are highly sophisticated and are interested in acquiring nuclear weapons. We are running in a race against time." DHS Secretary Michael Chertoff said that the department "has placed its priority on stopping the worst disasters. … He said the United States is working with other countries to make sure radioactive material terrorists could use to make weapons never enters the United States. FBI Director Robert Mueller said in an interview on the sidelines of the forum the United States is doing a much better job of integrating domestic and foreign intelligence and acting on it to fight terrorism around the world than it was before the Sept. 11, 2001, attacks on New York City and Washington. But the U.S. law-enforcement official cautioned: 'Nothing is perfect and nothing is certain.' 'We are safer but not totally safe,' Mueller said."

In his National Review Online (1/26) column, Jay Nordlinger notes, "An attractive panel on 'Global Risks 2006: What Keeps You Up at Night?' features Michael Chertoff (Homeland Security) and Robert Mueller (FBI), along with ElBaradei. The American presence is more robust than last year. (I should have said, the administration presence is -- and that translates into a more conservative coloration.)"

Mueller Calls For International Rapid Response System To Computer Hackers. The Financial Times (1/27, Larsen) reports FBI Director Robert Mueller "yesterday urged the world's law enforcement agencies to introduce a rapid system of exchanging information to battle computer security breaches and fraud that are the biggest concern of business. … The issue of computer fraud has gained increasing prominence in recent years following a series of hacking attacks on large companies and several high-profile security breaches at companies that keep sensitive information about their customers."

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DOJ Disputes Colombian Claim Busted Passport Ring Aided Terrorists. The AP (1/27) reports, "Colombia has dismantled a false passport ring with links to al-Qaeda and Hamas militants, the acting attorney general said Thursday after authorities led dozens of simultaneous raids across five cities in collaboration with U.S. officials. In Washington, however, Justice and Homeland Security officials were surprised by the announcement of the investigation, which they said involved people posing as members" of FARC, "not al-Qaeda or Hamas." Acting Colombian Attorney General Jorge Armando Otalora said that "the counterfeit Colombian, Spanish, Portugese and German passports were used to enter the United States and Europe," but DOJ spokesman Bryan Sierra "said an indictment unsealed Wednesday in Miami charges 10 foreign nationals with smuggling 'people that they thought were members of FARC into the United States.' 'We are not alleging any connections to any terror organization other than the FARC,' said Justice Department spokesman Bryan Sierra. He said the U.S. will seek to extradite the 10 alleged smugglers, of whom eight have been arrested."

2nd Circuit Panel Rejects US Motion To Remove Judge From Terrorism Case. The New York Times (1/27, Preston, 1.19M) reports a three-judge panel of the 2nd US Circuit "yesterday rejected an attempt by prosecutors to oust a judge from a terrorism case, dismissing the government's argument that the judge, Shira A. Scheindlin, was biased in favor of the defendant. The ruling came in the case of Osama Awadallah, a Jordanian college student who was charged in October 2001 with lying before a grand jury to conceal his ties with two hijackers in the Sept. 11 attacks. … His convoluted case has become a test of the government's prolonged detention of people without charges as material witnesses in terrorism cases." The Times adds, "The appeals judges noted that in several cases in which Judge Scheindlin had initially antagonized the prosecutors by questioning their procedures, she ultimately ruled in their favor."

CIA Posted Wrong Photo Of Suspected Al Qaeda Terrorist. NBC Nightly News (1/26, story 4, 1:45, Williams) reported, "For a year and a half, the US government has been asking for the public's help in finding a dangerous al Qaeda operative, an expert in poisons and lethal chemicals. But until just recently, government did not know, until they were informed by NBC News, that the photo they were circulating was of the wrong man." NBC (Myers) added, "A US government website lists him as one of the world's most-wanted terrorists, Abu Khabab al Masri, allegedly al Qaeda's top expert on chemicals and poisons." But "the picture bore a striking resemblance to this man, Abu Hamza al Masri, a militant imam now on trial in London." Roger Cressey, NBC News terrorism expert: "It's embarrassing. It reflects a certain level of sloppiness and lack of attention to detail." Steve Emerson, NBC News terrorism analyst: "The CIA is supposed to check these things out. Somebody should be looking at it a second time and a third time before posting it worldwide."

Rabbi, Priest Testify On Al Masri's Behalf. Reuters (1/27) reports, "A rabbi and a Christian priest testified on Thursday in support of…radical Muslim preacher" Abu Hamza al Masri, "telling a court he was friendly and hospitable." Rabbi Joseph Goldstein testified "that he had been favourably impressed when he met Hamza at the Finsbury Park mosque in north London to talk about a mixed-faith married couple," and Anglican priest Stephen Coles "told the court he had met Hamza soon after the September 11, 2001 attacks on the United States. … 'Sometimes we agreed about some things, sometimes we disagreed. It wasn't at any point aggressive or angry.' He said he had tried to continue dialogue with Hamza even after the cleric was arrested in 2004."

PATRIOT ACT:

Columnist Says Patriot Act Could Have Prevented 9/11. In a column distributed by Scripps Howard News Service (1/27) New York commentator Deroy Murdock writes, "As the Senate prepares for a showdown vote to reauthorize the Patriot Act, members of the World's Greatest Deliberative Body should deliberate on this: Had it existed, could the Patriot Act have prevented the Sept. 11 massacre? … First, Patriot Act Section 218 would have eliminated 'The Wall' that prevented intelligence agents and law-enforcement officials from sharing information." Former Attorney General Janet Reno "issued restrictions in 1995 that hindered communications between spies and gumshoes. Frustrated New York FBI agents reportedly placed signs on their desks that read, 'You may not talk to me.' … Were the Patriot Act in place, 'The Wall' would not have prevented Minneapolis FBI agents from getting permission to examine the laptop and possessions of '20th hijacker' Zacarias Moussaoui." Murdock adds, "Second, Patriot Act Section 215, the so-called 'library provision,' might have led officials to seven of the 19 hijackers who used government libraries for Internet access.

HOMELAND RESPONSE:

9th Circuit Upholds Airport ID Requirement. The AP (1/27, Kravets) reports, "An appeals court on

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Thursday dismissed a legal challenge to federal airport regulations requiring passengers to show identification before they board planes." The AP continues, "The 9th U.S. Circuit Court of Appeals rejected claims by Libertarian activist and millionaire John Gilmore that the policy constituted an illegal search and violated his right to travel freely. … After reviewing the government's identification policy in private, a unanimous three-judge panel said the policy was not overly intrusive. The review was done in private for security reasons." The AP adds, "The court said Gilmore could leave the airport if he didn't want to show his ID and had other ways to get around besides air travel. It also rejected assertions that the act of showing identification was an illegal search of Gilmore, who made his millions as a founding employee of Sun Microsystems. … Gilmore's lawyer, William Simpich, said he is weighing whether to appeal."

FBI Investigating Whether California Man Also Mailed New York Anthrax Hoax Letters. The AP (1/27) reports, "A Santa Cruz man indicted for sending three letters that appeared to be laced with anthrax may have sent four similar parcels, which were responsible for the partial evacuations of several buildings in New York, authorities said. Four letters delivered to New York addresses on Monday and Tuesday have 'obvious similarities' to three letters Paul Charles Steeves is under indictment for, said Christine Monaco, an FBI agent in New York. … The New York letters -- received at a United Nations family planning agency, a federal credit union, an Army recruitment center and an Army Corps of Engineers facility -- caused partial evacuations, Monaco said. Agents are looking into whether Steeves sent the letters received in New York, said FBI spokeswoman LaRae Quy."

Audit Finds States Squandered Much Anti-Terror Funding. The New York Post (1/27, Earle, 624K) reports on a "stunning audit" which reveals that hundreds of thousands of dollars "sent to protect the nation's heartland have been squandered in Indiana alone." The Post calls the audit "more evidence the cash could have been better spent in New York. A team of investigators examined Indiana's books to see how the state spent $48 million it got in federal homeland-security aid, finding widespread instances of mismanagement, according to the report set for release today, which was obtained by The Post. New York lawmakers were fuming over the shocking findings of waste at a time when the Big Apple could use more anti-terror dollars."

Bloomberg Presses WTC Developer To Accept Port Authority Deal. The New York Times (1/27, Bagli, 1.19M) reports that while New York City Mayor Michael Bloomberg "has little actual power over decisions at ground zero," he is "using his bully pulpit to pressure [developer Larry A.] Silverstein to accede to the authority's demands that he relinquish control of a major part of the 16-acre parcel in return for a reduction in rent, so that the rebuilding effort can proceed more swiftly." The Times reports that this proposal would include the "huge and symbolic Freedom Tower while the Port Authority … would construct a second tower on Church Street and occupy part of it. The authority would also build a multistory shopping mall and sell a third site to a developer for a hotel, office space, and, in the mayor's vision, apartments."

Bush Addresses Concerns About Federal Commitment To New Orleans. NBC Nightly News (1/26, story 3, 1:30, Williams) reported, "The topic of New Orleans came up at that news conference today because of the decision by the White House to say no to a proposed $30 billion bailout package for Louisiana. That news hit hard in New Orleans and it prompted this exchange between the President and our own David Gregory. He asked the President about the people who are possibly left out." Bush replied: "The Congress has appropriated $85 billion to help rebuild the Gulf Coast. And that's a good start. It's a strong start. It's a significant commitment to the people whose lives were turned upside down by that -- by that hurricane." Williams: "Now in their defense, aides to the President say they want the billions already approved by Congress to be spent first. They contend that money may well be enough and if not, they say they'll reassess in the Gulf."

First Lady Assures New Orleans Schools Aid Will Be Available. The Baton Rouge Advocate (1/17, Shields, Millhollon) notes that "first lady Laura Bush visited one of the first New Orleans public schools to open after Hurricane Katrina hit, then traveled to another school in St. Bernard Parish." Laura Bush said, "One thing that will bring people back to their communities is if they know there's a good school for their children to go to and there's safe places for them to play."

The AP (1/27) adds that she "listened Wednesday as students who talked about the events of the past five months. One talked about being stuck in traffic for 12 hours trying to evacuate the day before Katrina hit on Aug. 29. Another said for three weeks she didn't know where her father was, whether he survived the massive flood." The AP notes, "Bush and Secretary of Education Margaret Spellings assured school officials that federal aid will be available for them to continue operating and make needed repairs."

History Of Corruption Seen As Hurting Louisiana Recovery Effort. The Los Angeles Times (1/27, Bustillo, 958K) reports, "In Louisiana, which has a history of political shenanigans so rich and colorful that it has become a part of American folklore, people long have laughed off misbehaving

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politicians as a fact of life, every bit as inevitable as death and taxes. But as the state lobbies Washington for more money to rebuild ravaged towns and cities, citizens are realizing that Louisiana's well-earned penchant for dirty politics has exacted a steep price: It has badly damaged the credibility of the recovery effort." However, "Sen. Mary L. Landrieu (D-La.) said that the corruption, while historically accurate, has been magnified by Republicans in Washington who do not want to help Louisiana. … Citing the corruption scandal in the nation's capital centering on GOP lobbyist Jack Abramoff, Landrieu added, 'Republicans in Washington should clean up their own house before using Louisiana's past reputation an excuse for not wanting to rebuild the Gulf Coast.'"

Study Finds 80% Of Black New Orleans Residents May Not Return. The New York Times (1/27, Dao, 1.19M) reports, "New Orleans could lose as much as 80 percent of its black population if its most damaged neighborhoods are not rebuilt and if there is not significant government assistance to help poor people return, a detailed analysis by Brown University has concluded. … Of the 354,000 people who lived in New Orleans neighborhoods where the subsequent damage was moderate to severe, 75 percent were black, 29 percent lived below the poverty line, more than 10 percent were unemployed, and more than half were renters, the study found." If report author John R. Logan's "projections are realized, the New Orleans population will shrink to about 140,000 from its prehurricane level of 484,000, and the city, nearly 70 percent black before the storm, will become majority white."

WAR NEWS:

US Releases Some Iraqi Women Detainees. The CBS Evening News (1/26, story 3, 3:30, Schieffer) reported, "Now to Iraq where two more American soldiers were reported killed in action and hundreds of Iraqi prisoners were released by the US military today. Five women were among those freed, but US officials insist that is not a response to demands made by the kidnappers of the American reporter Jill Carroll." CBS (Palmer) added a "speech by Brigadier General Lynch emphasized the women were in no way bargaining chips." Brigadier General Lynch: "Those female detainees were released as part of our normal process and not as a result of demands by terrorists and criminals." Palmer: "Today, al Jazeera and the other Arab networks covered the news of the women prisoners being freed. But no word from Jill's captors, it's impossible to know whether they'll focus on the five women who were released today or the fact that there are several more remaining in US custody."

NBC Nightly News (1/26, story 3, :45, Williams) reported, "In Iraq, the US military has released five Iraqi women prisoners, among about 400 prisoners being released today and tomorrow. Some believe this release of female prisoners specifically could help secure the freedom of American hostage Jill Carroll, the reporter for the 'Christian Science Monitor' who was kidnapped in Baghdad. For the record, administration officials deny this prisoner release has anything to do with the demands of Carroll's kidnappers."

The New York Times (1/27, Tavernise, 1.19M) adds, "The American military said…the release had been previously scheduled and was unrelated to demands made by the kidnappers of the American journalist Jill Carroll" and that "the review of the Iraqi prisoners' cases came long before the kidnappers set their deadline." There has been no communications by the kidnappers "since their videotape was broadcast by the Arabic network Al Jazeera on Jan. 17."

The Washington Post (1/27, A14, Finer, 744K) adds, "A U.S. official in Baghdad, who spoke on condition of anonymity because of the sensitivity of the situation, said there was no indication that the women's release would lead to Carroll being freed."

Carroll's Mother Confident Of Imminent Release. The Christian Science Monitor (1/27, 61K) reports, "The mother of one of five Iraqi female detainees released Thursday expressed confidence that American journalist Jill Carroll will be released soon." Siham Faraj, the mother of Hala Khalid Wahid, also said, "I don't think Jill Carroll's situation has anything to do with the release of my daughter, but we definitely feel her pain."

Audit Finds Funds Won't Cover Cost Of Rebuilding Projects In Iraq. The New York Times (1/27, Glanz, 1.19M) reports that the office of the Special Inspector General for Iraq Reconstruction reported that "because of unforeseen security costs, haphazard planning and shifting priorities, the American-financed reconstruction program in Iraq will not complete scores of projects that were promised to help rebuild the country." Of "the 136 projects that were originally pledged to improve Iraq's water and sanitation," just "49…will be finished, with about 300 of an initial 425 projects to provide electricity." The reports concludes "that the overall rebuilding plan was...devised without a clear understanding of the decrepit state of Iraq's infrastructure after decades of war, United Nations-imposed penalties and sheer neglect," and adds that unexpected "security costs alone do not account for the drop in the number of projects that the United States will be able to finish."

The Washington Times (1/27, Scarborough, 90K) adds, "The assessment is a setback for the Bush administration, which counted on more robust rebuilding across Iraq to help deliver the country from a harsh dictatorship to a prosperous democracy."

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Iraqi Minister Of Industry Attacked. The Los Angles Times (1/27, Kraul) "Iraq's minister of industry narrowly escaped an assassination attempt Thursday." Usama Abdulaziz Najafi "was in a convoy on a main highway about 65 miles north of Baghdad when a roadside bomb exploded. The blast engulfed one of the cars in flames, killing three bodyguards and injuring one. The minister was unhurt. The Iraq insurgency has targeted officials at all levels in its attempt to weaken Iraq's emerging democratic government."

Declassified Directive Appears To Prohibit Military From Paying For News Stories. The Los Angles Times (1/27, Mazzetti) reports, "A secret U.S. military program that pays Iraqi newspapers to publish articles favorable to the American mission appears to violate a 2003 Pentagon directive, according to a newly declassified document released Thursday." The top U.S. general in Iraq said "a preliminary investigation into the program," the subject of a high-level military investigation, "had found it did not violate U.S. law or Pentagon regulations." However, "a secret directive on the Pentagon's information operations policy released Thursday…appears to prohibit U.S. troops from conducting psychological operations, or psy-ops, targeting the media."

Top General In Iraq Says US Forces Are Strained But Can Accomplish Mission. USA Today/AP (1/27, Wadhams) reports that Gen. George Casey, the top U.S. commander in Iraq, "acknowledged Thursday that the U.S. Army was stretched, but he insisted forces here were capable of accomplishing their mission." He added that "he had discussed manpower strains with Gen. Peter Schoomaker and that the Army chief of staff feels he can sustain missions around the world." President Bush has "brushed aside talk that the United States could not prevail in Iraq."

The Washington Times/AP (1/27, Wadhams) also ran the AP story.

Reports Suggest Army Unprepared To Fight Another Iraq-Type War. The Christian Science Monitor (1/27, Sappenfield, 61K) reports, "When two major studies released this week questioned whether the US Army is being stretched too thin, they raised a much- repeated concern: that America does not have enough troops to win the war in Iraq. At a deeper level, though, they raise the question of whether today's military is prepared for the threats that could lie ahead in the war on terror." The reports "released this week - one by Mr. Krepinevich; the other by former Defense Secretary William Perry - have suggested that the force is simply not large enough to do what the Defense Department has asked of it," and "some who are familiar with drafts of the coming" Quadrennial Defense Review "suggest that the lessons learned from Iraq have simply heaped more duties - including peacekeeping - on a force already struggling to meet the ones it has."

QDR To Call For Special WMD Task Force. The Washington Times (1/27, Gertz, 90K) reports that part of the Pentagon's Quarterly Defense Review will call for "a special military task force to prevent weapons of mass destruction from being transferred to terrorist groups." According to the Times, "The task force will employ special operations forces, other troops and intelligence personnel to prevent states such as North Korea and Iran from supplying nuclear, chemical and biological weapons to terror groups. The call for the new unit, which would have several hundred troops along with aircraft and other arms, comes as tensions heighten over North Korea's nuclear program and Iran's refusal to abide by international controls on its uranium-enrichment program." The report also cites "evolving" WMD threats, including "electromagnetic pulse weapons, portable nuclear devices, genetically engineered pathogens and new chemical arms." The review is not yet public, the Times says. Additionally, the review advocates "that general-purpose military forces take over the job of foreign military training." Meanwhile, "other key recommendations of the report include increasing special operations forces by 15 percent, creating a Marine Corps special operations command, setting up an Air Force unmanned aerial vehicle squadron, boosting the number of Navy SEAL commando teams and increasing Army psychological operations by 33 percent."

Rand Study Says Most Reservists' Incomes Rose Upon Going To War. The Washington Post (1/27, A21, 744K) reports that a study by Rand Corp.'s National Defense Research Institute "found that 72 percent of the troops surveyed made more while on war duty in 2002 or 2003 than they did in their civilian jobs in 2001. More than half made at least $10,000 more." While "contradicting conventional notions," it also concluded that "a sizable proportion of the reservists -- 28 percent -- lost money, including some who saw their earnings drop by more than 10 percent." Some reasons for the results are "higher salaries, combat pay supplements, family-separation allowances and tax-free earnings." Still, "researchers are working to understand why this study differs dramatically from earlier surveys and anecdotal reports about families struggling to get by when a primary wage earner went to war."

CORPORATE SCANDALS:

Enron Trial To Begin Monday. The Christian Science Monitor (1/27, Axtman, 61K) reports that the trial of Enron's top two leaders will begin next week as "business

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and industry groups are mounting a campaign to roll back some of the reforms that the Enron scandal inaugurated. Thus, the lessons of the nation's second-biggest bankruptcy remain in flux and may be determined, in part, by the outcome of the legal drama set to begin." The "details of the lives and business practices of the two men on trial - Enron founder Kenneth Lay and former chief executive Jeffrey Skilling - could provide an inside view of how the nation's second-biggest bankruptcy unfolded."

The New York Times (1/27, Romero, 1.19M) adds that in Houston, "many residents prefer to focus on other things, like the resurgent economy, and city leaders wish outsiders would, too. … But as jury selection starts on Monday, residents here will have to relive the Enron debacle, with the possibility that the trial will drag on over several months." The Times adds, "In preparation for the trial, city officials are trying to accentuate the positive. … The city's economy has grown for 35 consecutive months, according to a monthly survey of purchasing executives conducted by the National Association of Purchasing Management-Houston. November, the most recent month for which statistics are available, was one of the strongest months in a decade, as demand rose for goods like plastic pipes and refined petroleum products."

Enron Task Force Faces Test In Skilling Trial. Texas Lawyer (1/27, Rozen) reports, "When Enron Task Force prosecutors enter U.S. District Judge Sim Lake's courtroom in Houston on Monday for the long-awaited trial of former Enron Corp. Chairman Kenneth Lay and former Chief Executive Officer Jeffrey Skilling, the government lawyers will be toting baggage -- both literal and figurative." Texas Lawyer continues, "In the literal sense, the big criminal trial is document-intensive. In the figurative sense, the government lawyers have stumbled more than once in their four-year pursuit of Enron employees, and that track record follows them into Lake's courtroom." Texas Lawyer adds, "Inarguably, the government lawyers have scored some notable successes by persuading 16 former Enron employees, including former Chief Financial Officer Andrew Fastow, to plead guilty to charges related to the downward financial and stock-price spiral that led to Enron's bankruptcy in December 2001. Most recently, on Dec. 28, 2005, Richard Causey, Enron's former chief accounting officer and Skilling's and Lay's co-defendant, pleaded guilty to one count of securities fraud and agreed to cooperate with prosecutors. [See Causey's plea agreement.] … In an earlier success in November 2004, in United States v. Daniel Bayly, et al., the so-called Nigerian Barge trial, prosecutors persuaded a jury to convict four former Merrill Lynch & Co. bankers and one former Enron executive on charges related to conspiracy to commit wire fraud. … But the government lawyers have also faced setbacks in the courtroom. At the Nigerian Barge trial, one former Enron executive, Sheila Kahanek, was acquitted. Six months later, in May 2005, the U.S. Supreme Court overturned the 2002 conviction of Arthur Andersen, Enron's accounting firm, for obstruction of justice, in United States v. Arthur Andersen LLP. In July 2005, in the so-called Enron Broadband trial, a jury deadlocked in the trial of five former Enron executives, and the proceedings ended in a mistrial. Two months later, U.S. District Judge Vanessa Gilmore blamed the government lawyers trying that case, United States v. Joseph Hirko, et al., for confusion at the trial, and she subsequently acquitted some of the defendants of some of the government's charges."

Oxley, Frank Ask Fannie Mae Board For Rudman Testimony, Report. Dow Jones (1/26) reports, "House Financial Services Chairman Michael Oxley, R- Ohio, and ranking Democrat Barney Frank want former Sen. Warren Rudman to testify before the panel on the results of his 16-month probe of Fannie Mae's accounting troubles, the lawmakers said in a recent letter released Thursday." Dow Jones continues, "Fannie's board of directors hired Rudman, who is expected to complete his report next month, to help the board with its own internal investigation after the Office of Federal Housing Enterprise Oversight accused executives in September 2004 of manipulating accounting rules to massage Fannie's earnings." Dow Jones adds, "In a letter sent last week, Oxley and Massachusetts Rep. Frank asked Fannie Chairman Stephen Ashley for a copy of the much-anticipated report once it's finished, as well as for Rudman's testimony at a hearing they plan to conduct shortly thereafter. … 'The purpose of this hearing will be to fully inform the committee about the findings, conclusions and any recommendations contained in the Rudman report,' the letter said. … The Office of Federal Housing Enterprise Oversight, which oversees Fannie and fellow government-sponsored enterprise Freddie Mac, is expected to issue its own report on Fannie's accounting practices by the end of March." Dow Jones notes, "Rudman, who could not be reached for comment Thursday, recently told Dow Jones Newswires that regulators and law enforcement agencies that are also investigating Fannie will likely receive copies of his report before its public release. In addition to OFHEO, the Securities and Exchange Commission, Justice Department and others have launched their own probes into alleged misconduct at Fannie."

Levitt Says Sarbanes-Oxley Exemption Will Harm Small Companies. Former SEC Chairman Arthur Levitt, who was the chairman of the first White House Conference on Small Business, writes in the Wall Street Journal (1/27, 2.11M), "Currently, the focus of many small-business advocates is the perceived burden placed on them by Section 404 of the Sarbanes-Oxley Act, which requires companies to assess and report the status of their internal

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controls. They worry that the cost of compliance is onerous, inhibiting their ability to access capital markets and grow. In response, the Securities and Exchange Commission's advisory committee on smaller public companies has recommended that microcap and smaller public companies be exempted from the main parts of 404. … While the advisory committee is well-intentioned, I fear that these proposed changes will harm, not help, small companies."

CRIMINAL LAW:

Bush Says He Does Not Know Abramoff, Won't Release Photos. President Bush fended off reporters' questions yesterday about his ties to Jack Abramoff, saying he does not know the lobbyist. ABC's World News Tonight (1/26, story 4, 1:50, Vargas) reported that Bush was "not so anxious to talk about the scandal surrounding lobbyist Jack Abramoff. And the White House is refusing to make public photos of the now-convicted felon with the President." ABC's chief Washington correspondent George Stephanopoulos: "They are hanging tough. Several news organizations have reported that the photos exist. The President says he'll answer any questions prosecutors ask. But he's not just going to hand over the photos or any other information to reporters."

NBC Nightly News (1/26, story 2, 2:00, Fletcher) also noted, "Mr. Bush was also pressed about why the White House has refused to release photographs showing the President and disgraced lobbyist Jack Abramoff together." President Bush: "Having my picture taken with someone doesn't mean that I'm a friend with them or know them very well. I've had my picture taken with you…at holiday parties."

USA Today (1/27, Benedetto, Jackson, 2.31M) reports that during a White House news conference, Bush said, "I had my picture taken with him, evidently," adding, "I've had my picture taken with a lot of people. Having my picture taken with someone doesn't mean that I'm a friend with them or know them very well. It's part of the job of the president to shake hands…with people and smile." Bush "acknowledged that photographs of him with Abramoff were taken either at White House parties or political fundraisers, but he said he would not make them public because he feared they would be used for partisan attacks."

Reuters (1/26, Holland) added that Bush said "release of photographs that show him and Abramoff together would be used for 'pure political purposes' by Democrats seeking to tie the lobbyist to the White House. … 'This investigation needs to look into all aspects of his influence on Capitol Hill. And if there are some in the White House, I'm sure they're going to come knock on the doors,' Bush said."

The Washington Post (1/26, Branigin, 744K) reported on its web site that Bush "dismissed the significance" of the photos and "indicated that the White House would continue to oppose releasing the photos, which he said are irrelevant to a federal investigation." Bush "said he has no idea how many photos were taken of him and Abramoff, and he declined to discuss reported meetings that the lobbyist attended with White House staffers. Federal prosecutors are 'welcome' to look into those meetings if they believe they involved improprieties, Bush said."

Knight Ridder (1/27, Douglas) adds, "Administration officials want to keep any Bush-Abramoff pictures from becoming public to avoid giving political opponents ammunition that could hurt Republicans in November's congressional elections. 'Having my picture taken with someone doesn't mean that I'm a friend with them or know them very well. I've had my picture taken with you at holiday parties,' the president reminded reporters. He estimated that he'd posed for about 9,000 photos at receptions this past holiday season alone. 'I'm also mindful that we live in a world in which those pictures will be used for pure political purposes, and they're not relevant to the investigation,' Bush said."

The Los Angeles Times (1/26, Chen, 958K) reported on its web sits, "Bush also rejected the notion of detailing possible contacts between Abramoff and members of the senior White House staff, saying he preferred to let federal prosecutors conduct their own investigation." Bush comments Thursday were "his most extensive remarks to date on the Abramoff scandal." The Times notes that Bush "sounded particularly defensive when reporters pressed him about his contacts with Abramoff."

The New York Times (1/27, Stout, 1.19M) adds that Bush "responded somewhat indirectly when asked if he was afraid to release the pictures of himself and the once-powerful Mr. Abramoff, who has pleaded guilty to conspiracy, fraud and tax evasion and who prosecutors say tried to influence lawmakers and their aides with campaign contributions, lavish trips and meals. 'Having my picture taken with someone doesn't mean that, you know, I'm a friend with them or know them very well,' Mr. Bush said. 'I've had my picture taken with you at holiday parties.' In fact, presidents are often photographed with people whom they know only casually, or hardly at all, including reporters at White House Christmas parties."

Senators Call For Special Counsel In Abramoff Probe. The Washington Times (1/27, Pierce, 90K) reports in its "Inside Politics" column that Sens. Chuck Schumer and Ken Salazar wrote to Attorney General Alberto Gonzales to call for the appointment of a special counsel to take over the investigation of the corruption scandal spawned by former lobbyist Jack Abramoff. The switch 'would ensure that the investigation and prosecution will proceed without fear or favor and provide the public with full confidence that no one in this country is above the law,'" they wrote.

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The AP (1/27, Espo) reports, "Two Senate Democrats called Thursday for the appointment of a special counsel to take over investigation of the corruption scandal spawned by lobbyist Jack Abramoff. .. The switch 'would ensure that the investigation and prosecution will proceed without fear or favor and provide the public with full confidence that no one in this country is above the law,' Sens. Chuck Schumer of New York and Ken Salazar of Colorado wrote Attorney General Alberto Gonzales." The AP continues, "The two Democrats said that so far, the public integrity section of the Justice Department, which is in charge of the probe, has 'pursued this case appropriately.' … A Justice Department spokesman declined immediate comment." The AP adds, "Schumer and Salazar sent their letter several days after Democrats pressed the White House for information on contacts between the president or other top officials and Abramoff. So far, the White House has refused to release any photographs of the president and the lobbyist together. … In their letter, Schumer and Salazar cited news reports that said that in addition to the presidential photographs, Abramoff organized at least one meeting with White House aides for his clients. … 'These meetings with the president and the White House staff occurred while you were serving as White House counsel,' they wrote Gonzales, who became attorney general a year ago. 'Given the possible ties between Mr. Abramoff and senior government officials, we believe the appointment of a special counsel is not only justified, but necessary.'"

The Denver Post (1/27, Mulkern) reports, "The senators said an independent investigation is necessary because a special counsel could act without either favor from or fear of reprisal from the White House. … 'As a former (state) attorney general, I believe in upholding the law and rooting out corruption,' Salazar said in a statement. 'The American people deserve an open, unbiased investigation into this matter. Appointing a special counsel will begin the process of restoring America's faith in government.' … Added Schumer: 'With public trust in government at very low levels, it is crucial that we remove any appearance of impropriety from the investigation of the Abramoff scandal by appointing a special counsel who is independent of the Bush Administration and the current Justice Department.'"

Smith Disputes Assertions In NYTimes Op-Ed. In a letter to the New York Times (1/27, 1.19M), Rep. Lamar Smith writes, "Re 'If You Give a Congressman a Cookie,' by Norman Ornstein and Thomas E. Mann (Op-Ed, Jan. 19): I am surprised that these Congressional scholars would assert that House roll-call votes are 'frequently' stretched beyond an hour. This happens, on average, less than once per two-year Congressional session. They say that Speaker J. Dennis Hastert 'fired' the chairman of the House ethics committee last year. Under House rules, there was a term limit for all members, including the chairman. Speaker Hastert followed the regular order that these writers claim to cherish in naming a new chairman. They also assert that I and a colleague, who had donated to Representative Tom DeLay's defense fund, were named to the ethics committee 'when the main matter pending before the committee involved' Mr. DeLay. In fact, the committee had publicly announced, in keeping with its normal practice, that it was deferring its one pending DeLay-related matter until the conclusion of the Texas criminal investigation, which continues to this day. Moreover, my colleague and I long ago announced that we will recuse ourselves from any matter related to Mr. DeLay."

Prosecutor In Abramoff Case To Step Down. The New York Times (1/27, Shenon, Bumiller, 1.19M) reports that the Justice Department has announced that Noel L. Hillman, the prosecutor in the Abramoff case, will step down next week because he has been nominated to a federal judgeship by President Bush." The Bush Administration "said that the appointment was routine and that it would not affect the investigation, but Democrats swiftly questioned the timing of the move and called for a special prosecutor."

Libby Lawyers Seek Media Data From Prosecutors. Lawyers for Vice President Dick Cheney's former Chief of Staff Lewis Libby have asked a federal judge to order prosecutors in Libby's case to turn over all documents in his possession related too what journalists knew from any source about intelligence officer Valerie Plame. The New York Times (1/27, Johnston, 1.19M) reports that Libby's lawyers "said in their motion that the prosecutor, Patrick J. Fitzgerald, had refused to turn over to the defense documents that would shed light on whether any reporter knew about" Plame "before her name was first disclosed in a newspaper column on July 14, 2003."

The AP (1/27, Yost) reports that in their 23-page brief, Libby's lawyers argued, "The government should not be allowed to charge Mr. Libby with lying about statements concerning what reporters knew about Ms. Wilson's identity, and at the same time deny him information that may establish one of these possible defenses," adding, "The government has refused to produce information in its possession about what reporters learned from sources other than Mr. Libby about Ms. Wilson's employment status."

Reuters (1/26, Vicini) reported, "The attorneys said the motion concerned their request for documents and information on three important issues: 'What did the press know prior to July 14, 2003, about whether Valerie Plame Wilson worked at the CIA, from whom did they learn it and with whom did they discuss it.' They said turning over the information would enable them to decide the necessity and scope of pretrial subpoenas for journalists and news organizations. The motion made clear that what the reporters knew will be an important part of the defense strategy."

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The Washington Post (1/27, A4, Leonnig, 744K) adds, "The defense's goal is to show that Libby was not intentionally lying when he testified that many journalists had known about Plame during the spring and summer of 2003, and that he believed he had learned about her from [Tim] Russert. 'There can be no information more material to the defense of a perjury case than information tending to show that the alleged false statements are, in fact, true or that they could be the result of mistake or confusion,' the lawyers argued in their filing. 'Libby is entitled to know what the government knows.'"

The Wall Street Journal (1/27, Squeo, 2.11M) adds, "While the Justice Department has agreed to turn over information related to reporters' contacts with Mr. Libby, Special Counsel Patrick Fitzgerald has refused to provide material about what reporters might have learned from other sources about Ms. Plame's employment at the CIA, the court filing says. Included in the request is information that may have been shared among reporters or with government officials."

Bhutto Says Arrests Notices Are Politically Motivated. Agence France-Presse (1/27) reports, "Pakistan's former Prime Minister Benazir Bhutto has shrugged off Interpol notices for her arrest and said she is prepared to return to her country to face any charges if compelled by a court." AFP continues, "Interpol had issued the international notices following a request by the Pakistan government for the arrest of Bhutto and her husband on corruption charges, according to officials in Islamabad. … The police body said the so-called 'red notices' were not arrest warrants and that member countries could decide whether to take any action. … 'As far as the red notices are concerned, I learned it from the press, and my lawyers have written to the (Pakistan) Ministry of Interior as well as to Interpol, asking them to confirm whether the news is accurate and if so, on what grounds,' Bhutto told a news conference in Washington. … 'As far as I am concerned, if any court wants me in Pakistan, I am prepared to catch the next plane to Pakistan,' said Bhutto, 53, who led the country twice in the 1980s and 1990s as its first female premier." AFP adds, "Bhutto, who has lived in self-imposed exile in Dubai and London for the past seven years, said the allegations were politically motivated and intended to divert the attention of the Pakistan media from current government problems. … The US Justice Department refused to comment specifically on Bhutto's case but said it generally considered Interpol requests on a case-by-case basis. … 'I wouldn't comment on the specifics of Ms Bhutto's case but generally, the government handles requests from other governments on a case-by-case basis and we make our decisions based on the unique circumstance on any case,' department spokesman Bryan Sierra told AFP. … 'We don't necessarily automatically have to act on them,' he said."

9th Circuit Panel Rules Overseas Sex With Minor Subject To US Regulation. The California Recorder (1/27, Scheck) reports, "Applying the Constitution's commerce clause to international trade can be a difficult task, 9th U.S. Circuit Court of Appeals Judge Margaret McKeown wrote in an opinion Wednesday." The Recorder continues, "So in deciding that a 2003 law prohibiting U.S. citizens from paying minors for sex while overseas is constitutional, McKeown wrote that the court was taking a big-picture look. … 'Instead of slavishly marching down the path of grafting the interstate commerce framework onto foreign commerce, we step back and take a global, commonsense approach,' she wrote." The Recorder adds, "The conclusion? Sex with a minor 'might be immoral and criminal, but it is also commercial' -- and therefore subject to regulation. … McKeown's opinion -- which was joined by 9th Circuit Senior Judge Procter Hug -- didn't sit well with Senior Judge Warren Ferguson. … He said the majority upheld the 2003 law known by the convenient acronym PROTECT (Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today) with logic that could give the U.S. government jurisdiction over your croque monsieur. … 'Under the interpretation of the majority,' he wrote, 'the purchase of a lunch in France by an American citizen who traveled there by airplane would constitute a constitutional act of engaging in foreign commerce.' … Under that scenario, nearly anything a U.S. citizen did in a foreign country could be subject to U.S. regulation, Ferguson continued. 'This observation may seem slightly absurd, but so is the task of trying to show how sexual abuse of a minor overseas by a U.S. citizen constitutes an act of "commerce with foreign nations,"' he said." … The majority opinion is based on last year's Supreme Court opinion Gonzales v. Raich, 125 S.Ct. 2195, which said the commerce clause allows the federal government to prohibit marijuana use in states that have legalized it for medical use."

Convicted Texas Rapist Freed After DNA Exoneration. The AP (1/27) reports, "A man who spent 18 years in prison for sexual assault was freed Thursday after DNA evidence exonerated him, and his brother admitted responsibility for the attack." The AP continues, "DNA testing was not available at Arthur Mumphrey's 1986 trial for the rape of a 13-year-old girl, but recent tests requested by his attorney showed Mumphrey's blood and saliva samples did not match stains on the victim and her clothes. … 'Because of technology we have now, justice was not done 20 years ago,' State District Judge Kathleen Hamilton said." The AP adds, "Mumphrey, 42, had been sentenced to 35 years in

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prison. … Prosecutor Marc Brumberger apologized to Mumphrey. 'We feel terrible about what happened to you,' he said. … Mumphrey's brother, Charles, confessed to the rape this week while serving time in jail for unauthorized use of a motor vehicle."

Ex-New Jersey AGs Reject Criticism Related To Norcross Probe. The New York Times (1/27, Kocieniewski) reports, "Two former New Jersey attorneys general on Thursday defended their office's investigation into the political dealings of George E. Norcross III, the Democratic power broker. … In a scathing letter dated Tuesday, Christopher J. Christie, the United States attorney for New Jersey, wrote that his office would be unable to bring charges against Mr. Norcross because lawyers for the state attorney general had mishandled their investigation under two administrations before turning it over to his office in 2004." Christie "criticized state prosecutors for deciding not to secretly tape conversations at a Camden County Democratic fund-raiser in 2001, where Mr. Norcross and his associates were expected to discuss a wide variety of political deals. Mr. Christie said that that decision was so inexplicable that it raised the possibility that state investigators were trying to shield political figures. But John J. Farmer Jr., who was attorney general in 2001, called that suggestion 'utter nonsense,'" asserting "that the two assistant attorneys general who led the case were 'professional and 100 percent nonpolitical.'" Christie "also said that former Attorney General Peter C. Harvey erred in 2003 when he agreed to allow two figures in the investigation to plead guilty to tax evasion charges, a deal Mr. Christie said was too lenient to yield meaningful cooperation." But Harvey "said the agreements were fair and helpful. 'These plea agreements were negotiated by experienced former federal prosecutors and helped lead to other convictions in this case,' he said."

Police Say Barry Unable To ID Robbers From Group Of Photographs. The Washington Post (1/27, B8, Wilber) reports, " Police investigating the armed robbery of D.C. Council member Marion Barry recently showed him photographs of two potential suspects, but he was unable to identify the men as his assailants, law enforcement officials said. Last week, detectives showed Barry (D-Ward 8) collections that included photographs of two people they viewed as suspects in the Jan. 2 robbery, officials said. The arrays also included pictures of other people who are similar in appearance but not connected to the crime, the officials said. Barry did not select anyone in the pictures. The two potential suspects were believed to have committed other robberies in the area and resembled the description that Barry provided of his attackers, the officials said." Barry "declined this week to discuss specifics of the investigation, based on the advice of his attorney and requests by police. But he addressed speculation that there could be more to the story than he is letting on. 'The thing that [makes me angry] is that some people say that this was a drug deal gone bad,' Barry said in an interview at his council office Wednesday. 'Why would I report that? That is just crazy. If it is a drug deal gone bad, you don't call the cops.'"

Chicago City Clerk, Three Others Indicted In Hired Truck Probe. The AP (1/27, Robinson) reports, "Chicago's city clerk and four other men were charged Thursday in an eight-count corruption indictment as federal prosecutors pushed ahead with their investigation of payoffs and patronage hiring fraud in the city's government. Those indicted included city Clerk James J. Laski, his political aide, Sam Gammicchia, and John Briatta, a former water department employee who is a brother-in-law of Cook County Commissioner John Daley. John Daley is Mayor Richard M. Daley's brother. The inclusion of a Daley relative in the indictment brought the scandal deeper into the heart of the political organization that has dominated city government in Chicago for years." The Chicago Tribune (1/27, Lighty, O'Connor, 643K) adds that Laski "solicited $50,000 in bribes for steering city trucking business to a lifelong friend who was charged Thursday for the first time, the indictment alleged. The friend, Michael 'Mick' Jones, and his wife, Traci, who wasn't charged," are Laski employees. "Jones recorded several conversations with Laski in 2005 while wearing an FBI wire during a meeting in the basement of Laski's home and during a late summer car trip to a Wisconsin resort the two took at Jones' suggestion, a source close to Laski said." The Chicago Sun-Times (1/27, Warmbir, Novak, Spielman) notes, "Aderman and Jones have been cooperating for months with investigators. Briatta is not."

Chicago Dentist Pleads Not Guilty To Prostitution Ring Charges, Released On Bond. WBBM-TV Chicago (1/26, Parker) reports on its Web site from a story broadcast Thursday, Chicago dentist Dr. Gary Kimmel "was in court Thursday fighting accusations that are spicy enough to make your teeth rattle. … 'Why this case has garnered so much publicity is beyond me, but I guess it's an interesting and salacious story and its a juicy allegation,' said defense attorney Joe Lopez. The FBI is accusing Kimmel of providing Marina City condos and a fleet of expensive cars for an interstate prostitution ring. … In court Thursday, the judge released the dentist on an unsecured $100,000 bond after the dentist pled not guilty to all the charges." WBBM adds, "The defense lawyer concedes that secretly recorded FBI audio tapes may be a problem for Kimmel. In one of them, the dentist seems to endorse an alleged pimp's plan to injure one of his hookers." The AP (1/27) notes, "The case was part of a national investigation dubbed 'Innocence Lost' by

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prosecutors that resulted in charges in December against alleged ring members in Michigan and Hawaii."

Family Matter Delays FBI Agent's Testimony At Ryan Trial. The AP (1/27, Robinson) reports "George Ryan's racketeering and fraud trial was put on hold Thursday as the prosecution's last major witness," FBI Special Agent Raymond Ruebenson, "who has long been at the heart of the government's seven-year Operation Safe Road," took "personal leave Thursday over a family matter."

Defense Hammers Key Prosecution Witness At Campbell Trial. The Atlanta Journal-Constitution (1/27, Suggs, Torpy, 430K) reports, "Former Atlanta Mayor Bill Campbell's defense team warned it would be 'loaded for bear' in cross-examining key prosecution witnesses, and the assault began Thursday. Michael Sullivan, called by prosecutors as a member of Campbell's 'inner circle,' was the first target." Sullivan "testified that a contractor friend of Campbell's indicated to him that he had 'bought' the former mayor. Sullivan was later pounded relentlessly by defense attorney Jerry Froelich, who suggested federal authorities had 'bought' Sullivan's testimony in exchange for not prosecuting him. Unlike when he was questioned by the prosecution, Sullivan at time seemed stricken by amnesia. He did not remember when he got married, divorced or how much he made when employed by the city. Such memory lapses drew snickers from the packed courtroom."

WXIA-TV Atlanta (1/26, Carnes, Christensen) reports on its Web site from a story broadcast Thursday, "During a combative morning…Campbell's defense team contended the evidence being used by the prosecution is flawed and fought to keep it from the jury. … Lawyers on each side argued over the validity of Sullivan's testimony that questioned the legality of Campbell's relationship with former city contractor Rickey Rowe. Rowe died during the federal investigation. Campbell's lawyers said that all testimony about Rowe should be kept out of court because Rowe isn't here to verify conversations that he may or may not have had. In the end, U.S. District Judge Richard Story ruled that the testimony would be allowed."

Convictions Changing Louisianans' Attitudes About Public Corruption. The Los Angeles Times (1/27, Bustillo, 958K) reports, "Joseph Impastato conceded he took the two cashier's checks worth $85,000. The whole thing was captured on tape by the FBI, so it would have been difficult to deny. But it was no kickback, the councilman from St. Tammany Parish said. It was business. … Federal prosecutors are not buying it — and neither apparently is the Louisiana public." The Times adds that "as the state lobbies Washington for more money to rebuild ravaged towns and cities, citizens are realizing that Louisiana's well-earned penchant for dirty politics has exacted a steep price: It has badly damaged the credibility of the recovery effort." The bribery conviction of former Gov. Edwin Edwards was "a major turning point in public attitude." Additionally, "in the last decade Louisiana has seen an attorney general, a congressman, a state Senate president, a federal judge and countless local officials convicted of corruption. Louisiana's last three state insurance commissioners wound up in prison for offenses that include lying to the FBI, accepting $2 million in illegal campaign contributions and taking bribes." US Attorney Jim Letten "sees the convictions as a sign of progress. Wherever he goes, he said, he is greeted by people — black, white, Latino, Asian — who tell him Louisiana needs to clean up its act."

Owner Of Stolen Pollack Painting Gives FBI Name Of Suspect. The AP (1/27, Rubinkam) reports, "The owner of a Jackson Pollock painting stolen from Scranton's Everhart Museum two months ago said he has forwarded the name of his No. 1 suspect to the FBI, and that the person has a connection to the museum. … Everhart spokesman Joe Palumbo said Thursday that museum officials don't believe the theft was perpetrated by anyone affiliated with the museum. … The owner declined to say why he suspects the person whose name he gave the FBI, but said his information is based on official accounts of what happened and his knowledge of the museum's security. An FBI spokeswoman confirmed the agency is investigating but declined to provide details." The AP notes that the museum did not establish the provenance of "Winter in Springs," but "the FBI is going on the assumption that the painting is genuine, FBI spokeswoman Jerri Williams said. … 'We are pursuing it and attempting to identify who is responsible and, if possible, recover the artwork,' Williams said."

Former Mississippi Beef Plant Operator Pleads Guilty To Fraud. The AP (1/27) reports, "Former beef plant operator Richard Hall has agreed to plead guilty to charges of mail fraud and money laundering related to the failure of the state-backed facility in north Mississippi. The FBI and the U.S. attorney's office announced the agreement on Thursday. In federal court in Oxford and state court in Yalobusha County, where the plant was located, Hall pleaded guilty Wednesday to federal and state charges of mail and wire fraud as well as money laundering. No sentencing date has been announced." Hall "admitted to converting $751,000 in public and corporate funds for private use. … Prosecutors said Hall also agreed to cooperate in the continuing investigation of the beef plant."

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Former Georgia Library Director Sentenced To Four Years For Embezzlement. The Macon Telegraph (1/27, Crenshaw, 67K) reports, "The former director of the Ocmulgee Regional Library System was sentenced to four years in federal prison Thursday on charges that he stole library funds. David C. Wilson must also pay $264,298 in restitution to the library system and a $75,000 fine, U.S. District Court Judge Dudley Bowen ruled at the end of a half-day hearing. Wilson was library system director from 1982 until 1994, when the FBI and GBI began investigating suspicious expenses. He was convicted in October of five counts of theft and one count of witness tampering."

Massachusetts Investment Adviser Sentenced To 17 Years For Fraud. The Boston Globe (1/25, Kerber, 484K) reports, "A Newton investment adviser was sentenced to 17 years in prison after pleading guilty to fraud charges, federal prosecutors said." T. Gene Gilman "also was sentenced to two years of supervised release and ordered to pay unspecified restitution. According to the Justice Department, Gilman illegally diverted about $12 million of clients' money between 1998 and 2003 to two ventures he operated that eventually failed: a specialty eyewear marketer and a software design firm. Prosecutors said he sent false monthly statements to roughly 55 investors that misrepresented their money was in domestic securities."

Indiana Man Sentenced To 100 Years In Prison For Child Porn Production. The Indianapolis Star (1/20, Penner, 267K) reports, "A Bloomington man who used two girls to create pornography that he sold on the Internet has been sentenced to 100 years in prison." David Andrew Turner "also collected at least 5,000 sexual photos and videos of other children. Susan W. Brooks, U.S. attorney for the Southern District…said prosecutors wanted to ensure that Turner would never be free to prey upon children again. … The sentence was the longest ever meted out for such a crime in the Southern District. Turner must serve at least 85 years of that sentence under federal guidelines." The Star notes, "The investigation was started by the Bloomington Police Department, which collaborated with the FBI because Turner posted -- and sold -- pornographic images via the Internet. Investigators quit counting when they found 5,000 images. They believe Turner had several thousand more."

Getty Museum Director To Meet With Italian Officials About Looted Antiquities. Bloomberg (1/27, Silver) reports, "The J. Paul Getty Museum's new director, Michael Brand, will hold talks in Rome" today "with Italian Culture Ministry officials who are demanding the world's richest art institution return 42 allegedly looted antiquities in its collection, ministry lawyer Maurizio Fiorilli said. … The museum's former antiquities curator, Marion True…is on trial in Rome on charges she acquired illegally excavated ancient art for the Getty. Brand, who was named to the post last year as the Getty began an internal review of its antiquities-acquisition practices, will lead a delegation at the meeting, said Fiorilli, who said there is no room for compromise. 'They should return all the objects,' he said, including 2,500-year-old vases and marble statues. 'The new director is taking a good initiative.'" The AP (1/27, Rogers) notes Band said in a statement yesterday, "The Getty's objective is to develop a fuller sense of all the evidence available regarding the objects in question. We want to be in a better position to continue our dialogue with the Italian government." But Getty spokesman Ron Hartwig "said it was too early to speculate about what, if any, treasures the Getty might return."

US Drops Two Murder Charges Against Alleged Mafia Cops. The New York Daily News (1/26, Marzulli) reports, "The feds have quietly dropped two murder charges against reputed Mafia cops Louis Eppolito and Stephen Caracappa, the Daily News has learned. Sources familiar with the government's strategy insist the evidence against the ex-NYPD detectives in those gangland killings is solid. But a decision was made to streamline the indictment after Brooklyn Federal Judge Jack Weinstein warned prosecutors last June that he would not allow them to call 100 witnesses to testify as they had planned." Newsday (1/27, DeStefano) notes, "A new indictment unsealed Thursday showed that prosecutors, seeking to simplify the trial, have decided to weed out the 1990 murder of union official James Bishop and the 1991 killing of one-time John Gotti crony Bartolomeo 'Bobby' Boriello." Bishop "was killed because he was believed by the mob to have been an informant, said prosecutors. Investigators said Boriello was killed after Eppolito and Caracappa provided information to" Luchese boss Anthony 'Gaspipe' Casso "that the Gambino soldier had threatened him."

Aided By Activists, Inmate Blogs From Death Row. The Washington Post (1/27, B1, Rich) reports, "Vernon Lee Evans Jr. -- amateur advice columnist and convicted murderer -- is scheduled to die next month by lethal injection. He is one of the very few death row inmates to have a blog and, activists say, perhaps the only condemned man worldwide to use a blog to take questions from readers. Activist Ginny Simmons started the blog in March and relayed the questions to Evans, who does not have Internet access. … Though defense attorneys in capital cases have long strived to remind judges and juries that their clients are human beings with lives beyond the crimes they are accused

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of, Evans's blog is the leading edge of a strategy by death penalty opponents to use new technologies to make the same point to the wider public."

Carjackers Leave Behind Man's Granddaughter. The Washington Post (1/27, B4, Klein) reports that a carjacking victim is "grateful" that carjackers let his granddaughter go. Timothy Anderson left his granddaughter in his car, in the garage "then realized that the door inside the garage of his Clinton home was not secured. As he pulled the house door closed, he heard the engine in his Expedition rev. Then he saw a set of thieves making off with the vehicle, with granddaughter Sydney in the back seat." Anderson "sprinted" after the truck. The Post reports, "The truck then stopped, the back door opened and Sydney hopped out. She ran toward her panicked grandfather. The whole episode took less than 30 seconds." According to the Post report, "Prince George's County police say they believe a set of brazen thieves is targeting people who leave their cars running, a habit that police say is a serious problem in the county."

8-Year-Old Demanded Money Before Girl's Shooting. The Washington Post (1/27, B8, Londoño) reports, "Moments before an 8-year-old boy shot another child at their day-care center this week, he told her to "give me your money," a prosecutor said yesterday. Montgomery County Assistant State's Attorney Karyn McAuliffe provided that account of Tuesday's day-care center shooting in Germantown during an afternoon bond hearing for the boy's father. Prosecutors said the account was based on the police investigation, but they would not elaborate." The boy's father, Hall, "was charged with five weapons offenses," while the boy, "has been charged as a juvenile with assault, assault while in possession of a firearm and reckless endangerment, among other counts." According to the article, "The boy shot the Taurus revolver while it was still in his backpack. One of the five bullets in the gun tore through the backpack and penetrated the girl's arm. The victim, who has not been identified by police, was released Wednesday night from Children's Hospital in the District. Prosecutors said they do not believe that the girl, a second-grader at S. Christa McAuliffe Elementary School, was targeted. They said it remains unclear to what extent the shooting was accidental."

Judge Increases Child Molester's Sentence From 60 Days To 3-10 Years. The Washington Times (1/27) reports, "A judge vilified as soft on crime by Web loggers, TV commentators and politicians for giving a child molester just 60 days in jail increased the sentence yesterday to three to 10 years behind bars. Vermont District Judge Edward Cashman said he decided to impose the longer sentence because state officials reversed course and agreed to provide sex-offender treatment to Mark Hulett in prison. When the judge imposed the original sentence on Jan. 4, Hulett had been ruled ineligible for treatment until he got out of prison. Judge Cashman said the lighter sentence was the only way to ensure that Hulett got prompt treatment. Hulett, 34, pleaded guilty to charges that he had sexual contact with a girl during a four-year period, beginning when she was 6."

Guard Wounded in Hospitalized Inmate's Attempted Escape. The Washington Times/AP (1/27, Dishneau) reports, "A hospitalized state prison inmate shot and critically wounded the correctional officer guarding his room yesterday, then used the officer's gun to force a cabbie to drive him on a chase that ended with the inmate's arrest, state police and prison officials said. The 44-year-old officer was in critical condition at Washington County hospital, where the attack occurred at about 5 a.m., authorities said. They said he was shot in the face but gave no other information about his injuries. … Corrections Commissioner Frank C. Sizer Jr. identified the inmate as Brandon Morris, 20, who was serving an eight-year sentence at the nearby, medium-security Roxbury Correctional Institution for assault, robbery and handgun violations in Baltimore."

CIVIL LAW:

FTC Settles With ChoicePoint. Several media outlets report on ChoicePoint's settlement with the Federal Trade Commission over security breaches that exposed data to possible identity theft following its announcement of the breach in February.

ABC's World News Tonight (1/26, story 7, 0:10, Vargas) reported, "The US Government today reached a settlement with the data gathering company Choicepoint after thieves broke into its data bank. Choicepoint agreed to pay $15 million and put checks in place to prevent future breaches. Last year, thieves gained access to a data bank with the records of 160,000 consumers. The government says the identities of 800 people were stolen."

NBC Nightly News (1/26, story 5, :45, Williams) reported, "There's news on the continuing problem of identity theft in this country. The Federal Trade Commission announced the biggest fine ever against Choicepoint. That's the company that maintains the huge database of personal financial information and had a big security breach last year. They'll pay a $10 million fine plus $5 million in reparations to the 163,000 people whose personal information was compromised."

Several newspapers report that ChoicePoint will pay a $10 million federal fine and $5 million into a fund to compensate people who suffered damage because of the

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security breaches, in addition to setting up new procedures to prevent data theft. All also note that ChoicePoint did not admit any wrongdoing in the settlement. All articles quote privacy advocates, who generally approve of the settlement. All articles also touch on the larger issue of data privacy and data theft.

The Wall Street Journal (1/27, Conkey, Carrns) reports, "ChoicePoint, based in Alpharetta, Ga., also must revamp the way it screens customers, implement new information-handling procedures and obtain independent security audits every other year until 2026. FTC Chairman Deborah Platt Majoras said the agreement provides 'an opportunity for ChoicePoint to get data security right.' She also said that to reduce fraudulent access to its vast database, company representatives will visit most subscribers to check who is using its services."

USA Today (1/27, Swartz) reports, "The FTC says about 800 people have been victimized by identity theft stemming from the breach, but more would be eligible for compensation as cases arise. The FTC says it is establishing a fund and will develop a plan to get compensation to victims. ChoicePoint, citing the Los Angeles County district attorney, says there have been only 16 known instances of ID theft. The hefty fine sends a strong message to companies that handle the data of millions of Americans, privacy experts say." USA Today also offers background on the identity theft issue, saying, "At least 130 reported breaches exposed more than 55 million Americans to ID theft last year, sparking consumer advocates' calls for federal oversight of loosely regulated data-brokers."

Under the headline "Record Find For Data Breach," the Washington Post (1/27, D1, Mohammed) reports, "The Federal Trade Commission, which said the fine was the largest civil penalty it had ever imposed, said ChoicePoint violated consumers' privacy and breaking federal laws by mishandling the information and misleading people about its privacy policy. … The ChoicePoint case has galvanized public concerns both about the ease with which personal information can be bought and sold and about the lax security procedures at data brokers that last year alone led to security breaches affecting tens of millions of people." The Washington Post also says, "ChoicePoint told about 145,000 people in February that their personal information was obtained from the company by suspected criminals who masqueraded as legitimate businesspeople. Later in the year, it told another 17,000 people that information such as their names, addresses, dates of birth, Social Security numbers and summary credit information had been compromised. The FTC said the incidents led to at least 800 cases of identity theft, which has been the top type of consumer complaint logged by the agency for the past six years."

The New York Times (1/27, Zeller) carries reactions from players on several sides of the debate. Lydia Barnes, director of the FTC's Bureau of Consumer Protection, says, "The No. 1 point of this case is that companies that maintain sensitive personal information must employ reasonable safeguards. … That should be fundamental in this day and age.'" The Times also quotes Chris Jay Hoofnagle of the Electronic Privacy Information Center, who says it's an "important settlement" that "makes it clear that companies have to take information security more seriously." Meanwhile, James Lee, ChoicePoint's chief marketing officer, says, "We certainly support the settlement, and we believe its provisions are the right things to do and in the spirit of the changes we've already been making over the last year." The Times also reports that "Senator Charles E. Schumer, a Democrat from New York, who, along with Senator Bill Nelson, a Democrat from Florida, introduced one of the most comprehensive data security bills last year, thought the settlement was not punitive enough."

ChoicePoint Ignored "Obvious Red Flags.". The New York Times (1/27, Zeller) includes some background on the FTC's complaint against ChoicePoint. The Times reports, "In its complaint against ChoicePoint, the F.T.C. claimed that the company did not have 'reasonable procedures' in place to screen would-be subscribers to its databases and that in this case, the applications for access made by the fake businesses should have raised 'obvious red flags,'" such as "when an apartment number or a commercial mail drop was given as a business address, or when cellphone numbers were provided as a 'business's sole telephone number,' according to the agency's complaint" This "sloppiness" ultimately allowed credit histories "to fall into the hands of the fraudulent businesses," violating the Fair Credit Reporting Act, the New York Times says.

ChoicePoint Income, Stock Price Take Hits. The Wall Street Journal (1/27, Conkey, Carrns) reports, "ChoicePoint yesterday said fourth-quarter net income fell 29% to $27.7 million, or 30 cents a share, from $39.2 million, or 43 cents a share, a year earlier. The company took an $8 million pretax charge for the FTC settlement and another $5.3 million in charges for other costs, including legal expenses related to the breach, which overall crimped profit by 14 cents a share. For the full year, ChoicePoint said net income fell 4.9% to $140.7 million, or $1.53 a share, from $148 million, or $1.62 a share, the prior year. In 4 p.m. New York Stock Exchange composite trading yesterday, ChoicePoint shares sagged $3.35, or 7.2%, to $42.95."

ChoicePoint Still Faces SEC Inquiry. The Wall Street Journal (1/27, Conkey, Carrns) says, "[T]he company still faces an investigation by the Securities and Exchange Commission into trading in ChoicePoint stock by Mr. Curling and Chief Executive Derek Smith prior to the company's disclosure of the breach. The two realized a combined profit of $16.6 million from selling company shares in the months after it learned of the breach. The company has said the

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sales were proper and part of a pre-approved plan. A ChoicePoint spokesman said that neither Mr. Smith nor Mr. Curling was available late yesterday to comment on the SEC inquiry. The spokesman noted that Mr. Smith has said he expects the outcome of the inquiry to be 'favorable' to himself and ChoicePoint." USA Today (1/27, Swartz) and the Washington Post (1/27, D1, Mohammed) also mentioned the SEC inquiry.

CIVIL RIGHTS:

Southern Illinois U Mulls Changes To Fellowships. The Chicago Tribune (1/26, Cohen, Report) reports, "Facing pressure from the U.S. Justice Department, Southern Illinois University officials are considering changes to three minority and female fellowships that the government has charged discriminate against white and male graduate students." The Tribune continues, "University administrators discussed the possible changes, proposed by the government last week, with student and faculty leaders at closed-door meetings Wednesday. … Though negotiations are continuing, a university Web site already says that the fellowships have been 'extensively revised' and are open to a broader group of students. University officials said the Web site changes weren't authorized. … The board of trustees will likely decide whether to accept the government's proposals within the next few weeks, a move that would delay a threatened lawsuit."

The Chicago Sun-Times (1/26, Newbart) reports, "Officials at Southern Illinois University presented a proposed consent decree to faculty and student leaders Wednesday, seeking to ward off a proposed federal lawsuit that would charge the school with discriminating against whites and others. … Officials would not say just what was being proposed in the consent decree, which came after two months of negotiations with the U.S. Justice Department. The department had threatened to sue the school on grounds that three of its minority fellowship programs discriminated against whites, males and non-preferred minorities. … However, changes in the descriptions of those fellowships had been removed from the school's Web site Wednesday."

Two Charged With Hate Crime With Mercury In Ohio. The AP (1/27) reports, "Two men accused of putting poisonous mercury on an interracial couple's porch have been charged with a hate crime, according to a media report." The AP continues, "Joseph Kuzlik, 56, and David Fredericy, 49, were each charged with conspiracy to violate civil rights, making false statements and criminal interference with housing rights. Both men pleaded innocent Wednesday in U.S. District Court in Cleveland, The Plain Dealer newspaper reported. … 'Allegations of hate crime strike at the heart of our community and cannot be tolerated,' Greg White, the U.S. attorney in Cleveland, said, according to the report." The AP adds, "Kuzlik is accused of acting as a lookout in February while Fredericy put an undisclosed amount of mercury on and around the porch of the unidentified couple's home in Cleveland's Slavic Village neighborhood, where the men also live. … The men are accused of lying when they told Environmental Protection Agency employees who cleaned up the mercury that they did not know how the mercury got on their neighbors' porch."

Student Claims Gender Bias In Complaint Against Massachusetts School. The Washington Times (1/27, Wetzstein) reports, "Female high school students are treated more leniently and are less likely to be punished than their male peers, a 17-year-old Massachusetts senior says in a federal complaint about gender bias at his school. 'The system is designed to the disadvantage of males,' Doug Anglin, a student at Milton High School in Milton, Mass., told the Boston Globe this week. 'From the elementary level, they establish a philosophy that if you sit down, follow orders and listen to what they say, you'll do well and get good grades. Men naturally rebel against this.' … The complaint cites 'statistical anomalies' in males' grades and standardized testing performance, as well as 'a generalized perception' that male and female students are treated differently by the mostly white, female teaching staff, Gerald Anglin said yesterday. … A Department of Education spokesman said the agency received the complaint but had no further comment." The Times also cited its own earlier report on "the issue of male 'academic underachievers.'" According to the Times, "Studies show that boys receive most of the "D" and "F" grades, create 80 percent of classroom discipline problems, account for 80 percent of high school dropouts and make up less than 44 percent of the college population. Suggested solutions include making classrooms smaller and more action-oriented, and teaching boys and girls separately."

Court-Martial Of Naval Academy Teacher Delayed. The Washington Times (1/27, Gertz, Scarborough, 90K) reports in its "Inside the Ring" column, "The U.S. Navy-Marine Corps Court of Criminal Appeals has ordered a delay in the court-martial of a Naval Academy teacher who used salty language in front of a female midshipman. The trial at the Washington Navy Yard had been scheduled to begin next week for Lt. Bryan D. Black. But his attorney, Charles Gittins, filed an appeal after the trial judge rejected his argument that the school's superintendent, Vice Adm. Rodney P. Rempt, should be removed as the officer overseeing the case. Adm. Rempt, who is in the midst of a 'no tolerance' campaign against sexual harassment at

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the Annapolis campus, ordered Lt. Black's court-martial, overruling an investigative officer who recommended counseling, not criminal charges. Mr. Gittins says Adm. Rempt has too much of a stake in seeing Lt. Black punished. He says a new admiral should be named as the convening authority. The appeals court will entertain written arguments from the defense and prosecution, and then likely hand down a ruling next month."

Alabama, Georgia Democrats Push Bible Classes In Public Schools. Democratic lawmakers in Georgia and Alabama are promoting Bible classes in the public schools, an idea usually pushed by conservative Republicans. The New York Times (1/27, Kirkpatrick, 1.19M) reports, 'Their Republican opponents are in turn denouncing them as 'pharisees,' a favorite term of liberals for politicians who exploit religion. Democrats in both states have introduced bills authorizing school districts to teach courses modeled after a new textbook, 'The Bible and Its Influence.' It was produced by the nonpartisan, ecumenical Bible Literacy Project and provides an assessment of the Bible's impact on history, literature and art that is academic and detached, if largely laudatory. The Democrats who introduced the bills said they hoped to compete with Republicans for conservative Christian voters." The Times adds, "Democrats in other states are moving in the same direction, jumping into a conversation about religion and values that some party leaders began after the 2004 election, when President Bush and the Republicans rode those themes to victory."

ANTITRUST:

AMC Closes Deal To Purchase Loews Cineplex. The AP (1/27, Twiddy) reports, "AMC Entertainment Inc. on Thursday said it had completed its purchase of Loews Cineplex Entertainment Corp., strengthening its position as the nation's second-largest theater operator." The AP continues, "The Kansas City-based company now will operate 415 theaters with 5,672 screens in 29 states and the District of Columbia and 11 foreign countries. Annual revenues for the privately held company are expected to be around $2.4 billion. … Financial terms for the deal were not released." The AP adds, "AMC and Loews agreed last year to sell 10 theaters with 120 screens to resolve consolidation concerns by the Justice Department and attorneys general in California, Illinois, Massachusetts, New York, Washington state and the District of Columbia. The theaters are in Chicago, New York City, Boston, San Francisco, Seattle, Dallas and Washington, D.C. … Before the acquisition, AMC operated 226 theaters with 3,522 screens, while Loews, based in New York City, operated 198 theaters with 2,235 screens."

EU Official Says Microsoft May Face Fine Despite Access Offer. The AP (1/27, Ames) reports, "Microsoft Corp.'s new offer to let competitors examine some of the blueprints to its Windows operating system may not end the threat of daily $2.36 million fines in the European Union's antitrust case, an EU spokesman said Thursday. … 'It would be premature to conclude that offering access to source codes would necessarily resolve the problem of compliance,' said EU antitrust spokesman Jonathan Todd." The AP continues, "Todd said EU antitrust officials await details from Microsoft before making a decision. … 'So far all we have received is the press release,' he said." The AP adds, "Responding to a 2004 EU antitrust ruling, Microsoft in December offered rivals thousands of pages of documentation and free technical support to help competitors make their software compatible with Windows-based servers, which power Web sites and other Internet services. … But an independent monitor called the documents 'totally unfit.' The European Commission then threatened to fine Microsoft up to $2.36 million a day, retroactive to Dec. 15, saying the software giant was proving intransigent about sharing data with competitors."

ENVIRONMENT/INDIAN AFFAIRS:

Three Alleged ELF Activists Plead Not Guilty To Ecoterror Charges. In a widely-distributed story, the AP (1/27, Thompson) reports alleged ELF activists Eric McDavid, Zachary Jensen and Lauren Weiner "pleaded not guilty Thursday to conspiring to attack government targets…and bail was set" at $1.2 million for Weiner. "Prosecutors said all three should be held as flight risks and dangers to the community. U.S. Magistrate Judge Gregory Hollows ordered McDavid and Jensen held in Sacramento County Jail without bond." The AP adds, "Hollows noted that the government has audio and video surveillance, notes, an anarchists' cookbook seized from the suspects, and the account of a paid FBI informant who lived with the group in a cabin rented and wired by the FBI. … But Hollows found little evidence supporting prosecutors' contention that the three were affiliated with either ELF or the similarly shadowy Animal Liberation Front, though he said they may have shared the same goals." The Sacramento Bee (1/27, Walsh, 301K) notes, "While it is not in the indictment, other court papers filed by the government say the trio planned to publicly proclaim after the arson campaign that it was carried out in the name of the Earth Liberation Front, a movement advocating violent criminal acts against what its followers believe are symbols of the destruction and exploitation of the environment."

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BP Could Face Criminal Charges In Fatal Texas Refinery Explosion. Reuters (1/27, Baltimore) reports, "The U.S. government is pursuing charges against BP related to an explosion last year that killed 15 workers at its giant Texas refinery, sources familiar with the matter said on Thursday." Reuters continues, "The case could result in civil or criminal charges against BP, and the company could face millions of dollars in fines, one source said. … The Environmental Protection Agency and Justice Department are pressing an enforcement case against BP related to the March 23 blast at the Texas City, Texas refinery, said the sources, who spoke on condition of anonymity." Reuters adds, "The blast at the 460,000 barrel per day facility also injured 170 people and rattled buildings as far as five miles away. … An EPA spokeswoman referred queries to the Justice Department, where a spokeswoman declined to comment. … Last year the U.S. Department of Labour said it had asked the Justice Department to consider bringing criminal charges against BP."

West Virginia Governor Signs New Mine Safety Regulations. The AP (1/26) reported that West Virginia Gov. Joe Manchin has signed new mine safety regulations into law. The new regulations require better communications, underground oxygen supplies and faster emergency responses and Manchin says they will "help prevent tragedies like the two that killed 14 miners this month." The AP added, "The state's new mine safety law mandates that miners be provided with emergency communicators and tracking devices. It also requires mine operators to store extra air supplies underground, and sets up a new Mine and Industrial Accident Rapid Response System and statewide all-hours hot line to trigger rescue efforts more quickly."

Administration Offers Rules For Data Collected From Pesticide Tests On Humans. The Washington Post (1/27, A12, Eilperin, 744K) reports, "The Bush Administration issued yesterday the first-ever federal rules governing the use of information collected in tests that expose human subjects to toxic pesticides. The new regulations -- which drew praise from pesticide manufacturers and criticism from environmentalists and congressional Democrats -- would prohibit the intentional dosing of pregnant women and children with such poisons, and would establish an independent board to screen proposed studies."

Alaskans Push For Pipeline Construction. A front page story in the Wall Street Journal (1/27, Gold, 2.11M) reports, "In many parts of the U.S., community leaders and local politicians are fighting to halt energy projects or at least put them in someone else's neighborhood. What's occurring in Alaska is the polar opposite. The majority of Alaskans are great enthusiasts of energy development. The federal government estimates there may be 100 trillion cubic feet of gas in the North Slope, where Alaska meets the Beaufort Sea nearly 300 miles north of the Arctic Circle. … But no gas is leaving the North Slope, even though natural gas prices in the last year have been higher than ever. Exxon Mobil Corp., BP PLC and ConocoPhillips, which have leased drilling rights in Alaska for decades, haven't been in a hurry to get that gas to market. They're currently negotiating to build a pipeline through Canada to the American Midwest but construction on that massive project isn't likely to start for years. Meanwhile, Alaskans are running out of natural gas. … Faced with a vigorous campaign to jump-start the pipeline, the oil companies are in the unusual position of counseling patience. Moving too quickly on their preferred $25 billion pipeline through Canada, one of the largest construction projects in the history of North America, would be disastrous, they say."

Congress Urged To Take Action Against Exporting Electronics Waste. Author Elizabeth Royte in an op-ed in the New York Times (1/27, 1.19M) writes, "Electronic waste is now considered the fastest-growing segment of the municipal waste stream in the United States. … As awareness of the hazards of e-waste rises, more states will ban it from landfills. But keeping toxic trash from our dumps won't mean a thing if we don't forbid the export of hazardous material to countries without enforceable environmental regulations." Royte concludes, "To halt this environmental injustice…the federal government needs to restrict the use of hazardous materials in computers, require manufacturers to put in place recycling programs (it will be a lot cheaper and safer to recycle this stuff once the toxics are out) and ban hazardous waste exports."

FBI/DEA/ATF/USMS:

Tunnel, Two Tons Of Marijuana Found In California; Cartel Suspected. There was widespread media coverage of the cross-border tunnel and marijuana found near the Tijuana, Mexico, airport. More than 300 news items related to the story turned up in various Internet searches. Prominent examples follow: The AP (1/27, Press) reports, "Authorities said they discovered more than two tons of marijuana in a cross-border tunnel that began near the Tijuana airport and ended inside a warehouse on the U.S. side. The 2,400-foot long passageway is longer than most of the 21 cross-border tunnels that have been discovered since authorities began keeping track after the Sept. 11 attacks, U.S. Immigration and Customs Enforcement officials said. … John Fernandes, special agent in charge of the Drug Enforcement Administration's San Diego office, said he

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suspected the tunnel was the work of Tijuana's Arellano-Felix drug smuggling syndicate or another well-known drug cartel. He said tougher enforcement aboveground had forced smugglers to dig below. … The tunnel exited into a large, two-story white cinderblock warehouse in an industrial San Diego neighborhood near the border." The AP story was widely posted on Web sites and/or published in newspapers of media outlets that include Forbes, the San Francisco Chronicle, San Luis Obispo Tribune, Arizona Daily Star, Kansas City Star, and the UK's Guardian.

Reuters (1/27) reports, "The U.S. Drug Enforcement Administration (DEA) found 200 pounds (90 kg) of marijuana on the U.S. side, while Mexican authorities said they discovered 2 tons of the drug on that side of the border. Because of the sophistication of the tunnel, the DEA is investigating major drug cartels. 'We know it's been used for drug traffic but this really illustrates the dangers and risks of security to Americans,' said John Fernandez, special agent at the DEA in San Diego."

The San Diego Union-Tribune (1/26, Soto, Berestein) reports, "Authorities said the elaborate tunnel bore the hallmarks of Mexican drug cartels, which have spent millions of dollars in the last 15 years to find a way to move contraband across the border. … 'We have a tunnel and it's massive,' said Lauren Mack, a spokeswoman with U.S. Immigration and Customs Enforcement, which was investigating the tunnel with agents from the Border Patrol and the Drug Enforcement Administration."

The New York Times (1/27, Archibold) reports, "Drug smugglers have dug one of the longest, most sophisticated tunnels discovered in recent years along the Mexican border, and the American and Mexican authorities have hauled nearly two tons of marijuana out of it since they entered it on Wednesday, officials said." Stretching from "a warehouse near the international airport in Tijuana, Mexico, to a vacant industrial building in Otay Mesa, Calif.," the tunnel's sophistication has "surprised officials, who found it outfitted with a concrete floor, electricity, lights and ventilation and groundwater pumping systems. … 'The tunnel is absolutely amazing,' said Michael Unzueta, special agent in charge for the federal Immigration and Customs Enforcement agency's San Diego office."

The Los Angeles Times (1/26, Marosi) writes, "Four tunnels have been discovered in the San Diego area this month. Also Wednesday, a crudely built, unfinished tunnel was discovered when a border patrol agent ran over a sinkhole near the San Ysidro Port of Entry."

AFP (1/27) reports, "The secret route is cut 26 metres below ground, directly under a heavily protected sector of the frontier and is much larger than the 21 others detected under the border since the September 11, 2001 terror attacks on US soil, US officials said."

CNN (1/26) reports on its Web site, "DEA and U.S. Immigration and Customs Enforcement agents discovered the tunnel Wednesday night. It runs from Tijuana, Mexico, to Otay Mesa, California. … Made of concrete, the passageway had lighting, electricity, ventilation and a pump to remove water, said Lauren Mack, a spokeswoman for Immigration and Customs Enforcement. … More than 20 cross-border tunnels have been uncovered in California and Arizona since 9/11, she added. 'We've now got a dedicated tunnel task force, which works with the DEA and border patrol to proactively look for tunnels,' Mack said."

UPI (1/27) cites the CNN story on the discovery of the tunnel and marijuana.

Proliferation Of Tunnels Seen As Result Of Increased Border Security. The Washington Post (1/27, A3, Pomfret) reports "experts said the passageway bore all the hallmarks of an operation by a major drug cartel." Unzueta said, "Whether they are designed to smuggle drugs, people, weapons or other contraband, these tunnels pose a threat to our nation's security." The Post continues, "Federal agents have concluded that drug traffickers and smugglers of illegal immigrants have been heading underground to escape tighter enforcement along the border. Customs officials announced this week that drug seizures at California border crossings rose 24 percent in the past fiscal year. More than 127 tons of drugs were seized, the vast majority of that marijuana, in the year ending Sept. 30." The Post also reports that Michael Unzueta, special agent in charge for U.S. Immigration and Customs Enforcement in San Diego "said most of the tunnels have been located in the San Diego area because the composite soil of that region is ideal for such work. From 1990 to 2001, 15 tunnels were unearthed. Unzueta said that a year ago, agents from his agency, the Drug Enforcement Administration and U.S. Customs and Border Protection's Border Patrol unit formed the San Diego Tunnel Task Force, with the aim of unearthing the networks."

The Washington Times (1/27, Seper) reports, "Since the September 11 attacks, federal authorities have discovered more than 20 cross-border tunnels along the US-Mexico border in California and Arizona. Authorities said they were unsure how long the tunnel had been in operation. They also said they did not know what drug organization might have used it. … In July 2003, members of the Tijuana-based Arellano-Felix Organization were indicted for conducting an illegal enterprise through a pattern of racketeering activity, conspiracy to import and distribute cocaine and marijuana, and money laundering. After a request by the DEA, the State Department issued rewards totaling $16 million for information leading to the arrest of five leaders of the organization who remain at large: Javier Arellano-Felix, Eduardo Arellano-Felix, Manuel Aguirre-Galindo, Gustavo Rivera-Martinez and Gilberto Higuera-Guerrero."

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Network TV Coverage. ABC World News Tonight (1/26, story 6, 1:50, Vargas) reported, "In California, a secret tunnel used to smuggle drugs and people under the border has been uncovered. It's just one of many found in recent years. Officials say criminals are increasingly digging tunnels to bypass border patrols and move their contraband into the US." ABC (Thomas): "The DEA says it was a major gateway for illegal immigrants and drugs coming from Mexico." DEA Chief of Operations Michael Braun: "These tunnels are absolutely critical to these major drug-trafficking organizations and alien smuggling groups. Arms smuggling groups." Thomas: "US officials say the border has become ground zero for an explosion in illegal activity. Washington is now leaning heavily on Mexico to help put a stop to it." US Border Patrol Chief David Aguilar: "We have gotten a commitment to work with us on this. We have gotten a commitment to find out and get to the bottom of this." Thomas: "Before tons more illegal drugs find their way across the border."

CBS Evening News (1/26, 6:30, Schieffer) reported, "Imagine their amazement when U.S. agents discovered a tunnel almost a mile long and 60 feet deep below the U.S.-Mexico border. And that was not the only surprise -- inside the tunnel, more than two tons of marijuana. The tunnel stretches from near the Tijuana airport to a California warehouse, and it has a cement floor, lights, pulleys and a ventilation system."

NBC Nightly News (1/26, story9, :45, Williams) reported, "Out of California a big discovery to report a drug tunnel that authorities say runs the length of 12 football fields from Mexico into California, it's a tunnel so big the federal government says you can drive a car through it. The tunnel begins in a warehouse in Tijuana, ends in the San Diego area, it's used apparently for smuggling people and/or drugs. US officials say they found more than two tons of marijuana inside."

Cable TV Coverage. CNN's Lou Dobbs Tonight (1/26, Dobbs) reported, 'Tonight, homeland security officials say they have shut down the largest border tunnel ever discovered on the US-Mexican border. … Police were first tipped off to it…two years ago. They finally found it."

MSNBC's Abrams Report (1/26, 6:00 p.m.) reported, "A half-mile long tunnel under Mexico's border with California [was found]. [Authorities] found more than two tons of marijuana inside that tunnel."

Local TV Coverage. Local TV stations around the country devoted significant coverage to the tunnel. Most of the coverage provided details about what was found in the tunnel. Some examples: WRDW-TV Augusta, Georgia (1/26, 11:18 p.m.) showed John Fernandez of the DEA saying, "When we find these tunnels, we are very concerned about national security." The station continued, "Forensic experts are now combing the entire passageway to try to determine if humans and weapons were also transported through the shaft." The station then showed Fernandez saying. "It's the organization that we want to dismantle, to gut their infrastructure." The station added, "Investigators say they have a tough job ahead of them because the sophistication of the tunnel likely indicates how sophisticated the organization is that had it built."

KESQ-TV Palm Springs (1/26, 5:05 p.m.) reported that authorities don't know how long the tunnel has "been in operation, but [they] say it appears to be the work of the Mexican drug cartels." This station also showed John Fernandez of the DEA discussing the tunnel. Fernandez said, "The sophistication of the tunnel indicates the sophistication of the organization. So we can attribute it to the Arellano-Felix Organization and the other infamous usual suspects." The station added, "21 tunnels have been discovered in California and Arizona since September 11th."

KCNC-TV Denver (1/26, 4:33 p.m.) reported, "The Drug Enforcement Agency and Customs agents unearthed a tunnel" with drugs inside it that ran "almost a mile long."

WTVF-TV Nashville (1/26, 5:17 p.m.) reported, "The Drug Enforcement Agency Says the tunnel was discovered last night in Mexico."

KSTP-TV Minneapolis (1/26, 10:14 p.m.) said "drug enforcement agents uncovered an elaborate tunnel where two tons of marijuana was discovered. It stretches more than 2,400 feet between Mexico and the United States."

WAGA-TV Atlanta (1/26, 6:45 p.m.) reported, "More than two tons of marijuana were found inside a tunnel connecting the US and Mexico. Customs agents say the tunnel is concrete, about five feet wide and tall enough for an adult to stand in. They say smugglers use the tunnel to transport drugs and perhaps even people."

KCAL-TV Los Angeles (1/26, 8:08 p.m.) said, "The tunnel has lights, ventilation, and a pumping system to get ground water out. Inside, Mexican investigators found two tons of marijuana worth millions on the street."

KCBS-TV Los Angeles (1/26, 6:01 p.m.) reported, "US law enforcement says it's the largest [tunnel] ever found on the border." The "Border Patrol spotted the tunnel and called Mexican police."

KGTV-TV San Diego (1/26, 6:32 p.m.) said, "You can see this building is still guarded by Border Patrol agents and members of the Drug Enforcement Agency."

KUSA-TV Denver (1/26, 10:09 p.m.) said the entrance to the tunnel "was found near the Tijuana airport, the exit in San Diego in an industrial neighborhood. … The tunnel has electricity, a pulley system and is wide enough to accommodate a small car."

KDFW-TV Dallas (1/269:24 p.m.) reported, "This is the fourth tunnel uncovered in that area this month and the longest one found so far."

KOMO-TV Seattle (1/26, 11:18 a.m.) added that no arrests have been made after the discovery of the tunnel.

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KTVU-TV San Francisco (1/26, 6:06 p.m.) reported, "The discovery prompted the US Attorney's Office and San Diego to launch a criminal investigation."

Eight More "Lively Green" To Plead Guilty To Drug Trafficking Charges. The AP (1/27) reports, "Five more members of the U.S. military and three other suspects have agreed to plead guilty in a drug smuggling sting case targeting military members who believed they were smuggling cocaine through Arizona. The pleas bring the total number of people admitting guilt in the case to 44, most of whom were members of the regular Army or Air Force or the Arizona National Guard. The U.S. Attorney's Office said the five, four Army National guard soldiers and one airman, pleaded guilty to conspiracy to accept cash bribes from people they believed to be narcotics traffickers. In addition, two civilians and an officer with the Arizona Department of Corrections. In fact, the traffickers were FBI agents working a sting operation called 'Lively Green.'" KOLD-TV Tucson (1/26) also reports the plea agreements, noting, "The FBI investigated the operation for two years."

Mexican Official Suggests Border Incursion Was Lively Green-Style Operation. The AP (1/27, Stevenson) reports, "Mexico's foreign secretary suggested Thursday that uniformed men using a military-style Humvee to help drug traffickers on the border could have been U.S. soldiers or criminals disguised as Mexican troops." Luis Ernesto Derbez said that U.S. Ambassador Tony Garza's "strongly worded statement asking the Mexican government to 'fully investigate'" the incident were "out of line." Derbez referred "to an FBI drug sting dubbed Operation Lively Green, in which more than a dozen U.S. military and civilian government workers were arrested in southern Arizona. … 'Members of the U.S. Army have helped protect people who were processing and transporting drugs,' Derbez told a news conference. 'And just as that has happened ... it is very probable that something like that could have happened, that in reality they (the uniformed men at the border) were members of some of their groups disguised as Mexican soldiers with Humvees.'"

Reporting Continues On Plot To Kill DEA Agent. The Washington Times (1/27, Seper) reports, "Federal authorities have arrested two Louisiana men, including an inmate in the Tangipahoa Parish Prison near New Orleans, in a $15,000 assassination plot to kill a U.S. Drug Enforcement Administration agent. Johnnie Sims was arrested Wednesday night as he attempted to hire a hit man to kill DEA Agent Chad Scott, said William J. Renton Jr., special agent in charge of the DEA's New Orleans field office. Chris Walker, 30, also was charged but already was in custody from his Oct. 13 arrest for possession with the intent to distribute crack cocaine. 'This arrest and the swift federal response to the vicious plot to murder a career DEA special agent should serve as compelling evidence of our absolute commitment to take any steps necessary to protect the lives of law-enforcement officers and citizens alike from those dangerous criminals who prey upon society with no regard for human life,' said U.S. Attorney Jim Letten. According to a criminal complaint filed in U.S. District Court, federal agents learned of the purported assassination plot from cooperating inmates who said Mr. Walker was seeking to hire someone to kill Mr. Scott."

The New Orleans Times-Picayune (1/26, Perlstein) writes, "William Renton, the DEA's top agent for the New Orleans area, said the scheme unraveled when Walker, 30, started asking fellow inmates at Tangipahoa Parish Prison for the names of potential hit men. Two inmates took the information straight to DEA Agent Chad Scott, who had busted Walker on Oct. 18 and booked him with possessing more than a kilo of cocaine, equipment used in making crack and a gun with an obliterated serial number, according to Renton and court records. The informants told the agent that Walker had asked Sims, 25, to line up an assassin to murder Scott, according to criminal affidavit filed in the case. The DEA wasted no time launching a sting operation using an undercover New Orleans police officer to pose as a drug-dealing hit man, the affidavit states."

California County May Join Others In Medical Marijuana Lawsuit. Southern California's Press-Enterprise (1/27) reports, "Riverside County will consider joining San Bernardino and San Diego counties in a federal lawsuit seeking to overturn California's medical-marijuana law. Supervisor Jeff Stone, a pharmacist, said he intends to ask his colleagues in closed session Tuesday to add the county to the short list of challengers to the state's Compassionate Use Act approved by Californians in 1996. The law allows patients with a physician's recommendation to transport and use marijuana to treat the symptoms of illnesses such as cancer, glaucoma, chronic pain and AIDS."

US-Mexico Quarrels Over Border Said To Indicate "Deteriorating Relationship." The New York Times (1/27, McKinley) reports, "The United States and Mexico exchanged diplomatic broadsides on Thursday over border security and drug-related violence in another sign of their deteriorating relationship. The American ambassador, Antonio O. Garza Jr., sent a formal note to the Mexican government demanding an investigation of" Monday's smuggling incident in Texas. Garza "took the unusual step of not only announcing the note, but promising to send a second one to express concern about a rise in drug-related violence in border towns and recent attacks on American Border Patrol agents. … Hours later the Mexican foreign minister, Luis

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Ernesto Derbez, suggested that it was Mr. Garza who appeared to be playing to a crowd for political reasons."

Mexican Official Says American Soldiers May Have Aided Smugglers. The AP (1/26) reported Mexican Foreign Secretary Luis Ernesto Derbez "suggested Thursday that American soldiers disguised as Mexican troops may have been in the military-style Humvee filmed earlier this week protecting a marijuana shipment on the border." Derbez said at "a news conference that US soldiers had helped drug smugglers before. However, he offered no evidence." Derbez said, "And just as that has happened ... it is very probable that something like that could have happened, that in reality they were members of some of their groups disguised as Mexican soldiers with Humvees." He added that "there was no proof that the men seen in the incident were Mexicans. Derbez also said his country will send a diplomatic note to Secretary of State Condoleezza Rice demanding that US officials tone down their comments on Mexico's security and immigration problems."

Homeland Security Secretary Michael Chertoff's statements last week that reports of Mexican military incursions were overblown have been criticized frequently by the primetime cable news hosts. Senator Kay Bailey Hutchison appeared on Fox News' The Big Story (1/26) where she discussed the issue of Mexican military incursions. Host John Gibson: "Senator, you wrote a letter to the Secretary of the Department of Homeland Security, Michael Chertoff. He does not seem to be taking this very seriously. He calls these routine, accidental incursions. Texas authorities think they're much more serious than that. Have you been able to persuade the secretary to regard this as a serious matter and do something about it?" Hutchison: "Well, certainly we are encouraging the secretary to take action, to ask for an investigation, which the Mexican government has said they'll do."

On CNN's Lou Dobbs Tonight (1/26) host Lou Dobbs said, "The question has to be, why is the White House silent on this issue? Why is the man in charge of our homeland security, that is Homeland Security Department Secretary Michael Chertoff, so timid and so unconcerned or interested?"

Current Border Situation Compared To 1916. The Washington Times (1/27, Mccain) reports in a front page article that "the White House is speaking of its 'concern about the reports' of Monday's border crossing, which a spokesman described as 'an incident that is under investigation.' Yet in 1916, when Pancho Villa's bandits raided Columbus, NM, a Democratic president didn't hesitate. President Woodrow Wilson sent Gen. John 'Black Jack' Pershing to lead an expedition into Mexico. A $5,000 bounty was offered for Villa's capture, and Army posters invoked 'The Flag, Old Glory' in calling for 25,000 recruits: 'Come on, boys, be ready to shoulder the trusty Springfield.'" However, "the historic situation during Villa's day was much different, said James Carafano, a senior fellow at the Heritage Foundation. 'Mexico back then didn't have a strong central government,' said Mr. Carafano, who specializes in defense and homeland-security issues. 'There was no rule of law. I don't think you can compare that to Mexico today."

Ohio Man Pleads Guilty To Firearms, Meth Charges. The Chattanooga (TN) Chattanoogan (1/27) reports, "A Cleveland, Tn., man who authorities say kept machine guns buried in his yard pleaded guilty Thursday to firearms and meth charges." The Chattanoogan continues, "Donald Pippenger, 50, appeared before Judge Allan Edgar. … Prosecutor Gary Humble said Bradley County Sheriff officers on Aug. 9, 2004, found working components of a meth lab at Pippenger's home. He said they went back on March 10, 2005, and found he again was outfitted to cook meth. … Pippenger sold a sub-machine gun to an undercover officer on May 11, 2005, the prosecutor said." The Chattanoogan adds, "He is facing up to 20 years in prison and a fine up to $1 million on the meth cases and up to 10 years and a fine up to $250,000 in the firearms case. … ATF Agt. Carl Maskew said an informant told him he learned Pippenger was trying to sell guns. The informant went to the Pippenger home at 105 Hughes Road and Pippenger offered to sell him a semi-automatic Uzi. He said Pippenger said he should consider buying a fully automatic Uzi instead. He said Pippenger told him he had several automatic Uzis and an automatic AK-47 that he would sell."

Alabama Couple Indicted For Alleged Fraudulent Antique Firearms Valuations. The AP (1/27, Lovan) reports, "An Alabama man who headed a Louisville historical weapons museum has been charged with bilking the museum's founder out of millions by lying about the cost of some antique firearms." Michael K. Salisbury "inflated the prices of weapons bought by the museum's founder and primary financial backer, Owsley Brown Frazier, prosecutors said. He was indicted on two counts of money laundering, three counts of wire fraud and four counts of tax evasion. Salisbury's wife, Karen Cruse Salisbury…faces money laundering and wire fraud charges. The couple, of Huntsville, Ala., were taken into custody Thursday morning in Louisville," pleaded not guilty and were released on bond. The AP notes, "The indictments alleged Salisbury misrepresented the prices on a Colt revolver that was believed to have belonged to former FBI director J. Edgar Hoover; a Winchester rifle owned by William F. 'Buffalo Bill' Cody; and a bow, quiver and six arrows believed to have belonged to the Apache Indian Geronimo."

Arizona Man, Mexican Officer Indicted For Gun Smuggling. The Yuma (AZ) Sun (1/26, Gautreaux)

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reports, "A Mexican police officer and a Yuma man have been federally indicted for allegedly attempting to cross the border with three weapons purchased at a Yuma gun show." The Sun continues, "Omar Ignacio Alvarez, 20, of Yuma assisted Pedro Rios-Perez, 41, an officer for the Baja California State Police, in buying two handguns and an assault rifle Jan. 7 at a gun show at the Yuma County Fairgrounds, according to the indictment and a criminal complaint filed in U.S. District Court in Phoenix. The two allegedly attempted to drive the guns into Mexico in a police vehicle." The Sun adds, "The arrests are part of an overall increase in enforcement by the federal government in cooperation with local agencies to curb weapons trafficking in this area, according to Tom Mangan, special agent for the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). … 'We recognize Yuma as being a firearms source for guns going to Mexico,' Mangan said. 'Arizona is a source state for firearms to Mexico.' … With strict firearms laws in Mexico, buying weapons in the United States and smuggling them south has been a longtime practice. Mangan said people from Mexico involved in narcotics and other crime have been coming to Yuma retailers to purchase weapons or having them bought for them through straw purchases."

Virginia Delegate Accidentally Discharges Handgun In His Office. A front page story in the Washington Post (1/27, Jenkins, Helderman, 744K) reports that Virginia Del. John S. "Jack" Reid accidentally discharged the small semiautomatic .380 handgun he carries for protection in his office Thursday. While no one was injured, the incident "prompted an unexpected debate about gun control and also something uncommon in Virginia political circles: contrition from a state legislator. Reid, a Henrico County Republican, rose from his seat on the floor of the House of Delegates, asked to be heard, explained what had happened and said: 'I want to apologize to the members of this body and to the greater body. . . . I'm just thankful that nobody was hurt.'" Reid "was at a loss to explain how an experienced gun owner found himself discharging a firearm during one of the busiest parts of the business day at the state Capitol complex."

CONGRESS-ADMINISTRATION:

Byrd, Johnson To Back Alito Confirmation. USA Today (1/27, Kiely, 2.31M) reports, "Two more Democratic senators, Robert Byrd of West Virginia and Tim Johnson of South Dakota, said Thursday that they will vote in favor of Supreme Court nominee Samuel Alito." Byrd and Johnson join Sen. Ben Nelson "as Alito's only announced Democratic supporters. All three are from states won by President Bush in 2004." Byrd said yesterday, "Like most of my constituents, I prefer conservative judges."

ABC's World News Tonight (1/26, story 5, :10, Vargas) in a brief story reported Byrd "broke party ranks to support" Alito. Byrd" called him 'an honorable man, who loves his country, lovers his constitution, and will give it his best.' He blasted the hearings calling them overly partisan saying his constituents called them an outrage and a disgrace."

Meanwhile, the Hartford Courant (1/27, Lightman, 206K) reports, "Sen. Joseph I. Lieberman, D-Conn., saying he was 'left with just too many doubts,' announced today he will vote against confirming Judge Samuel A. Alito Jr. to the U.S. Supreme Court."

Reuters (1/27) reports Senate Majority Leader Bill Frist "moved to force a confirmation vote on Tuesday. A test vote on ending debate is set for Monday, and a number of Democrats conceded they probably cannot stop Frist from mustering the needed 60 votes to do so. There are 44 Senate Democrats." Fox News' Special Report (1/26, Wilson) added "a final vote up or down on Alito is expected at 11:00 a.m. Tuesday morning and it does appear that by probably around noon he'll be sworn into the Supreme Court."

White House Says It Has 60 Firm Commitments In Favor Of Alito. CNN's The Situation Room (1/26, Bash) reported that a senior Bush Administration official "said that they think that this makes the Democrats, from their perspective, look worse than they think they did during the hearings, the Alito hearings." The official "said that they actually feel that they have 60 firm commitments, 60 firm commitments to vote in favor of Judge Alito. And that would block a filibuster."

Kerry, In Switzerland, Tries To Mount Last-Minute Filibuster. The CBS Evening News (1/26, story 4, :30, Schieffer) also noted, "As…Alito appears headed for confirmation by the Senate, some of his liberal Democratic opponents today threatened a last-ditch filibuster to try to prevent or at least delay a final vote. It does appear, however, that Alito has enough support to stop any filibuster and win confirmation." The Washington Times (1/27, Hurt, 90K) adds Sen. John Kerry "phoned in for a filibuster from the Swiss Alps." Kerry "made calls yesterday while attending the World Economic Forum in Davos, Switzerland, urging colleagues to join a last-ditch effort to thwart Judge Alito's confirmation." Sen. Edward M. Kennedy "joined in Mr. Kerry's call for a filibuster."

The New York Times (1/27, Kirkpatrick, 1.19M) reports on Kerry's "quixotic, last-minute effort for a filibuster." Democrats "cringed and Republicans jeered at the awkwardness of his gesture, which almost no one in the Senate expects to succeed. 'God bless John Kerry,' said Don Stewart, a spokesman for Senator John Cornyn, a Texas Republican on the Judiciary Committee. 'He just cinched this whole nomination. With Senator Kerry, it is Christmas every

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day.'" Steve Schmidt, a White House spokesman "working on the nomination," said Kerry's move "says a lot less about Alito than it does about the Iowa primary in 2008," suggesting "that Mr. Kerry, who lost the presidential race in 2004, was playing to his party's liberal base in a bid to recapture its nomination." Senator Harry Reid "sounded almost apologetic about Mr. Kerry's statements. 'No one can complain on this matter that there hasn't been sufficient time to talk about Judge Alito, pro and con,' Mr. Reid said on the Senate floor. ;'I hope that this matter will be resolved without too much more talking.'"

The AP (1/27, Holland) also says Reid "offered no support for Kennedy…and others who are trying to block the vote with a filibuster in a last stand against Alito's confirmation. 'There's been adequate time for people to debate,' Reid said."

CNN's The Situation Room (1/26, Henry) reported, "There could be a backlash against Kerry. There are some Democrats like Mary Landrieu, moderates like Landrieu, who have said that may vote against Alito, but they would be against the filibuster, that they want an up or down vote as…Bush has called for." Other "very senior Democrats here in Washington are saying this is a bad idea."

Under the headline "Democrats Split Over Filibuster On Alito," the Washington Post (1/27, A1, Babington, 744K) reports Kerry and Kennedy "acknowledged that the bid is likely to fail and that Alito is virtually certain to be confirmed Tuesday." But "they said extended debate may draw more Americans' attention to Alito's conservative stands on abortion, civil rights, presidential powers and other matters."

In an editorial titled "Bring It On," the Wall Street Journal (1/27, 2.11M) says, "Imagine the political gain for Republicans after a Supreme Court filibuster -- with all of its 24/7 publicity -- by blue-state liberals against a modest Italian-American with impeccable legal credentials and stainless ethics." Kerry "really seems to believe that the country will rise up in fury when it discovers that Judge Alito believes that the Constitution gives a President wide powers to defend America." Kerry "may not care much about the Senate because his real goal is winning the Democratic nomination for President again in 2008. Republicans should be so lucky."

Bush To Promote "Competitiveness" Agenda In State Of The Union. The Financial Times (1/27, Daniel, Alden) reports President Bush plans to "embrace a 'competitiveness' agenda advocated by big US technology companies in his State of the Union address next week." Bush is expected to "highlight the need for measures to improve US industry's competitiveness" as concerns grow that the US "is lagging behind in cutting-edge research and has fallen behind China and India in training science and technology graduates." At his Thursday press conference, Bush said, "We live in a competitive world, and so policies must be put in place to recognize the competition of the global economy and prepare our people to be able to continue to compete so America can continue to lead."

Budget Constraints Will Limit Initiatives. The Wall Street Journal (1/27, Harwood, 2.11M) reports in its "Washington Wire" column, "Bush plans emphasis on broad themes as red ink thins policy options. Advisers say budget squeeze will curb initiatives in Tuesday's State of the Union. Bush's track record suggests little polling benefit; his ratings dropped after two of four earlier addresses."

Site For Anti-Bush State Of The Union Protest Approved. The Washington Post (1/27, B2, Barker, 744K) reports that organizers of the "World Can't Wait -- Drive Out the Bush Regime" protest scheduled for Tuesday "reached an agreement yesterday with law enforcement officials and will now be allowed to use the area around the U.S. Capitol Reflecting Pool for their demonstration." They had "initially been offered the Reflecting Pool area on the west side of the Capitol as a protest site but then were told that the site had been reclassified as part of the security perimeter for the day of Bush's speech."

Villaraigosa Does Not Want To Be "Too Negative" In SOTU Response. The Los Angeles Times (1/27, McGreevy, 958K) reports Los Angeles Mayor Antonio Villaraigosa and Democratic congressional leaders "huddled" yesterday "to discuss his Spanish-language response to the president's State of the Union address next week, and there were signs of some disagreement over how to present their case." Villaraigosa came out of a meeting with Senate Minority Leader Harry Reid and House Minority Leader Nancy Pelosi "saying that he did not want to be too negative about the president, on whom his city depends for federal financial help."

Friedman Says Energy Independence Should Be Centerpiece Of State Of The Union. In his New York Times (1/27, 1.19M) column, Thomas Friedman writes, "The direction in which America needs to go is obvious: toward energy independence." If President Bush "steps up to that challenge" in his State of the Union, "this speech could be a new beginning for his presidency. If he doesn't, you can stick a fork in this administration. It will be done -- because it will have abdicated leadership on the biggest issue of our day." Friedman says Bush should call on President Kennedy's "extraordinary State of the Union address in which he called on the nation to marshal all of its resources to put a man on the Moon," and then say, "President Kennedy was worried about the threat that communism posed to our way of life. I am here to tell you that if we don't move away from our dependence on oil and shift to renewable fuels, it will change our way of life for the worse -- and soon -- much, much more

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than communism ever could have. Making this transition is the calling of our era."

Bush To Offer Market-Based Health Care Initiatives In State Of The Union. The Christian Science Monitor (1/27, Marks, 61K) reports that in his State of the Union speech, President Bush is expected to propose a series of health care initiatives that aim to "encourage a market-oriented, consumer-driven system. Key components of his plan include the expansion of health savings accounts, additional tax breaks for individuals who buy insurance on their own, and provisions that would improve public access to information on healthcare pricing." Supporters say the proposals "are crucial to making American more of an 'ownership' society," but critics "warn they'll shift more risk onto individuals and undermine the nation's already strained health-insurance system."

Financial Service Providers Rush Into Health Savings Account Market. The New York Times (1/27, Dash, 1.19M) reports, "Banks, credit unions and money management firms are now quietly positioning themselves to become central players in the business of health care, offering 401(k)-type accounts to cover future medical expenses." Many are rushing to get in the market for health savings accounts, "which have been around since 2003 but are moving to the fore of the national agenda." Right now, only about three million Americans "have signed up for the high-deductible insurance policy required for such accounts, up from slightly more than one million last March." But according to one estimate, that number will surpass 15 million by 2010. The Los Angeles Times (1/27, Havemann, 958K) reports that the tripling of the number of HSA members over the last 10 months is a "very significant success story," according to America's Health Insurance Plans President/CEO Karen Ignagni. But Employee Benefit Research Institute health economist Paul Fronstin said, "Is it a success story? Yes and no. Three years ago, the market didn't exist. But it still amounts to only a fraction of Americans who have private insurance."

CBS Poll Highlights Public's Concern About US Health Care. The CBS Evening News (1/26, story 7, :45, Schieffer) reported, "Americans overwhelmingly believe the health care system in this country is broken. Ninety percent told us the system needs a major change or a complete overhaul, but few think it is likely to get one. Only nine percent believe that health care will be better by the end of the President's second term; 40% say it will be worse."

Concerns Raised About Rising Senior Health Care Costs. NBC Nightly News (1/26, story 7, 2:00, Mullen) ran a story on the predicament baby boomers face in caring for both their elderly parents and children. American Geriatric Society President Dr. David Reuben: "This is going to be the Hurricane Katrina of 2020. The cost of caring for these older people is going to be enormous." Mullen: "Many med schools are pushing government to offer students financial incentives to pursue geriatrics. They say they're hoping policymakers grow wiser as the population grows older."

Democrats Want Bush To Discuss Medicare Drug Benefit Fix. Reuters (1/27, Kenen) reports Democrats in Congress are calling on President Bush to "outline in his State of the Union speech how he will fix what they consider a disastrous start to the Medicare drug benefit." Senate Minority Leader Harry Reid said, "The President needs to come clean and join Democrats in offering a real solution to this disastrous program."

Drug Makers Plan To Cut Back On Discount Medication Programs. Meanwhile, the Washington Post (1/27, A2, Connolly, 744K) reports that "several of the nation's largest drug manufacturers say they will no longer provide free or discounted medications to low-income elderly and disabled patients because they should be covered by the new Medicare drug benefit." For "about 1 million Americans with serious illnesses such as AIDS and cancer -- patients who last year relied on the pharmaceutical industry's giveaways -- that means Medicare coverage could cost them more than $3,600 this year."

Medicare Drug Program Denies Home IV Supplies. The Los Angeles Times (1/27, Alonso-Zaldivar, 958K) reports, "The new Medicare drug program is denying supplies that seriously ill patients need to administer intravenous antibiotics and other medications at home. As a result, some patients are being referred to nursing homes, and others have had to go into hospitals." While "no national estimates are available, the number of patients affected -- including some with life-threatening diseases such as cancer and multiple sclerosis -- could run into the thousands." Medicare officials "say they are aggressively addressing the problem, which they attribute to restrictions in the law that created the prescription benefit and to difficulty communicating with states, pharmacies and medical providers."

Bush Budget To Include Funding For Nuclear Fuel Reprocessing. The AP (1/26) reports President Bush's budget request will include $250 million for reviving nuclear fuel reprocessing, "including a long-term proposal to provide reactor fuel to foreign countries if they return it to the United States to be recycled." The request will be "a first step toward reversing a decades long U.S. policy against nuclear reprocessing." The proposal will call for "stepped up research into a 'more proliferation resistant' type of reprocessing that proponents say will reduce dramatically the likelihood of theft or diversion."

Majority See Bush Presidency As "A Failure" In Gallup Poll. Under the headline "State Of The Union? Not

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So Good, Most Say," USA Today (1/27, Page, 2.31M) reports that according to a new USA Today/CNN/Gallup poll, most Americans are "pessimistic about the economy, divided on the war and doubtful" that President Bush "has the best plan to address the issues that matter most to them -- among them health care and corruption." And by "more than 2-to-1, those surveyed say things have gotten worse in the United States over the past five years," with even self-described conservatives divided "47%-44% on whether things have gotten better or worse." Bloomberg (1/27, Johnston) reports that the same poll found 52% of adults saying "Bush's administration since 2001 has been a failure, down from 55 percent in October. Fifty- eight percent described his second term as a failure. At the same point in former President Bill Clinton's presidency, 70 percent of those surveyed by Gallup said they considered it a success and 20 percent a failure. In a poll conducted in January of 2002, after Bush was president for one year, 83 percent of those surveyed said his presidency was a success."

Bush Vows Tougher Stance On Congressional Spending. Reuters (1/27, Bohan) reports, "President George W. Bush, who has faced heat from conservative Republicans over high budget deficits, pledged on Thursday to take a tougher stance toward Congress over spending, including vetoing bills if necessary." He also "backed changes to the appropriations process to curb 'earmarks,' or targeted spending that lawmakers often use for pet projects in their districts." During a press conference, Bush said, "That's going to be an interesting discussion on Capitol Hill -- this business about earmarks and people making a special deal in the budget. … And there needs to be earmark reform." Bush also "said he would call for fiscal restraint in his State of the Union address on Tuesday, when he will also unveil initiatives on healthcare, energy and education. Bush cited a deficit-cutting package aimed at finding $39.7 billion in savings from social welfare programs over five years as a sign Congress was making progress on curbing spending."

CBO Says Deficit Would Turn Into Surplus If Bush Tax Cuts Allowed To Expire. USA Today (1/27, Wolf, 2.31M) reports, "Making…Bush's tax cuts permanent will prolong big budget deficits into the next decade, the Congressional Budget Office projected Thursday." But "if those tax cuts are allowed to expire after 2010 -- effectively a tax increase Bush has sworn to oppose -- the budget would begin showing a surplus in 2012, the CBO's budget projections showed. Bush wants Congress to make the tax cuts permanent before he leaves office in 2009." The Wall Street Journal (1/27, Calmes, 2.11M) adds CBO "projects that war and hurricane-relief costs will widen the annual deficit to about $360 billion after it had narrowed last year." But "a decade out, the nonpartisan office sees either a small surplus or a nearly $400 billion deficit in 2016 if President Bush's tax cuts are extended."

The AP (1/27, Taylor) reports, "The latest Congressional Budget Office data also suggest President Bush is unlikely to be able to keep his promise to cut the federal deficit in half by the end of his term," while Reuters (1/27, Cowan) says "congressional Democrats said the CBO report challenges Bush administration claims that it is making progress in cutting the deficit, which began in fiscal 2001 with a $128 billion shortfall on the heels of a $236 billion surplus in fiscal 2000, the year before…Bush took office."

Bush "Full Of Quips" During Yesterday's Press Conference. The AP (1/27, Pickler) reports, "President Bush's first news conference of the year was just a camera strap away from becoming hazardous to reporters. As the president began his opening statement, a camera that the news service AFP had hung from the ceiling dropped and nearly fell on the heads below. It was caught by its strap, and Bush stopped and looked at it dangling precariously. 'Are you wearing your helmets?' he joked to reporters sitting in the White House briefing room." Bush "was full of quips during the 45-minute news conference, poking fun at the media and deflecting some of the heat when questioning got intense."

Lobbyists Serve Dual Role As Fundraisers For Lawmakers. A front page story in the Wall Street Journal (1/27, Mullins, 2.11M) reports on a practice that is "becoming more common in Washington: Lobbyists are serving as principal fund-raisers for lawmakers they're trying to sway. … The Justice Department public-corruption and bribery case against lobbyist Jack Abramoff and a half-dozen members of Congress has refocused attention on the financial ties between lawmakers and lobbyists. While Mr. Abramoff's lobbying activities crossed the line into illegality, the practice of lobbyists raising large amounts of money for lawmakers is both legal and commonplace in Washington today." The Journal notes that Gregg Hartley, who left his job as a top aide to Republican Rep. Roy Blunt of Missouri to become a lobbyist, is helping Blunt ""was helping his old Capitol Hill boss raise campaign money and offering him political advice," and is now "assisting Mr. Blunt in his bid to succeed Rep. Tom DeLay as House majority leader." Bruce Gates, "the top political strategist for Mr. Blunt's main rival to become Majority Leader, Rep. John Boehner of Ohio, also is a lobbyist for private clients."

Poll Suggests Public More Suspicious Of GOP Lawmakers' Ethics. The CBS Evening News (1/26, story 6, 3:00, Schieffer) led its story on ethics reform loopholes noting, "If lobbyists have been bribing members of Congress, it would not surprise most Americans, it turns out. In that CBS News 'New York Times' poll we mentioned earlier 77% said that is

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just the way things work in Congress. And when asked who in Congress is more likely to take a bribe, a Republican or a Democrat, twice as many Americans pointed to the Republicans, 36% said the chances are about equal."

McCain Seeks To Close Loophole Allowing Lobbyists To Contribute To Lawmaker Charities. The CBS Evening News (1/26, story 6, 3:00, Schieffer) reported, "Republicans and Democrats alike are talking about all kinds of lobbying reform, but they do not want to change everything." CBS (Borger) noted that ethics reform "is all the rage on the campaign trail." But "there's a little-noticed loophole that's been conveniently left off the table because it's too good to give up. Members' personal charities. They're tax-exempt foundations created by members of Congress. Their donors? Lobbyists." For example, "the Tom DeLay Foundation for Kids which built a home for foster children in Texas. When DeLay was the powerful majority leader, lobbyists lined up to contribute to his foundation, raising millions." Although "Senator John McCain points out that not all charitable travel is bad, he wants to screen the charity outings paid for by lobbyists to curb the boondoggles." Sen. John McCain: "Part of the screening process would be exactly what takes place and how the money is spent." Borger: "Top lobbyists say donations to members' charities are a key lobbying strategy and will remain so as long as the charity loophole stays as wide open as a fairway."

Senators Threaten To Force Votes On Every Pork Barrel Spending Project. Sens. John McCain and Tom Coburn say they will force a vote on the Senate floor on each pork barrel spending project this year. The Washington Times (1/27, Dinan, 90K) reports that the Senators "sent a letter Wednesday night to their colleagues announcing they will use Senate rules to force members to vote on each project. 'American taxpayers are entitled to a more thorough debate and disclosure about how their money is being spent,' the senators wrote."

Lobbyist-Lawmaker Relationships Have Coincided With Growth Of Earmarks. The Washington Post (1/27, A1, Weisman, Babcock, 744K) reports, "The link between special interests and members of Congress has grown so tight that nearly a dozen House and Senate members who control federal spending have retained lobbying veterans to raise campaign funds for them, and those lobbyists have secured lucrative favors in spending bills. These relationships have coincided with the rapid growth in the volume of home-state pork-barrel projects, commonly called earmarks, that have swelled appropriations bills in recent years, according to congressional experts and watchdog groups." The Post adds, "The hunt for earmarks on Capitol Hill and on K Street has opened up new avenues for lobbyists and lawmakers to come together. Seven members of the House Appropriations Committee -- Chairman Jerry Lewis (R-Calif.), Ernest J. Istook Jr. (R-Okla.), Kay Granger (R-Tex.), Dennis Rehberg (R-Mont.), John E. Sweeney (R-N.Y.), Rosa L. DeLauro (D-Conn.) and Ed Pastor (D-Ariz.) -- have political action committees headed by registered lobbyists or former registered lobbyists with business before the committee, according to the Center for Public Integrity and campaign records."

Growing Watchdog Movement Mobilizing Against Pork. A separate story in the Washington Post (1/27, A21, Murray, 744K) says "an increasingly prolific government watchdog movement is turning 'pork' into a four-letter word. These scrappy outfits are run by small corps of veteran staffers whose offices look more like dorm rooms than the posh K Street suites occupied by their archnemeses: lobbyists. Taxpayers for Common Sense elevated an obscure Alaska highway project into the now-infamous 'Bridge to Nowhere.' Citizens Against Government Waste started battling runaway Hurricane Katrina spending three days after the storm hit the Gulf Coast. The two groups joined forces this month with the National Taxpayers Union, a conservative, low-tax organization, to combat the rising cost of the new D.C. baseball stadium. Other watchdog targets include indicted former representative Randy "Duke" Cunningham (R-Calif.), the Pentagon and the U.S. Postal Service."

Henninger Says 1974 Reforms Should Be Reversed. Daniel Henninger writes in the Wall Street Journal (1/27, 2.11M) that Beltway Democrats are trying to build the Abramoff scandal "into a bonfire that will burn down Republican control of Congress. … Poll after poll says the public thinks both parties are equally corrupt. It depends, of course, on what the meaning of corruption is. If by corrupt you mean lobbyist sleaze, quid pro quo, the pork barrel, earmarks to nowhere and grossing out even the public's generally low expectations, then yes, both parties are equally corrupt. … Fixes are possible. Put simply, reverse the 'reforms' of 1974. Abolish the individual limits on campaign contributions but require public disclosure on the Web. Democrats James Carville and Paul Begala recently proposed making this the basis of creating a new campaign-finance system. But beyond this lies the question of whether Democrats and Republicans want to fix Washington. Are they really separate parties, or just one entity -- the Beltway Party? … I wish President Bush would put this issue of what Washington has become into his State of the Union speech Tuesday. My guess is he won't, recalling what happened when Richard Nixon tried to fight both a major war and the party that controls Congress, which for the foreseeable future looks like it will be the Beltway Spend-and-Collect Party."

Blunt Facing Pressure To Appear With Leadership Rivals. The Wall Street Journal (1/27, Rogers, 2.11M) reports that Rep. Roy Blunt s facing

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increasing pressure to appear with his two rivals for House Majority Leader before the GOP caucus to answer questions on where he wants to take the party in the wake of recent scandals. The Journal says that while Blunt is widely seen as the frontrunner, he has "seemed insecure, refusing to give up his whip's position and avoiding any joint television appearances where he can be questioned with the two other candidates, Reps. John Boehner of Ohio and John Shadegg of Arizona."

Majority Whip Race Seen As Sign Of GOP Conference's Conservatism. The Washington Times (1/27, Dinan, 90K) says the race for House Majority Whip is "an indication of just how conservative the House Republican Conference has become. Two 1994 Republican revolutionaries and two fast-rising Republican stars face off in a contest they all say is about making the party refocus on basic conservative principles.' Rep. Mike Rogers is running against Rep. Eric Cantor of Virginia, Rep. Todd Tiahrt of Kansas and Rep. Zach Wamp of Tennessee. Mr. Tiahrt and Mr. Wamp were part of the Class of 1994, while Mr. Rogers and Mr. Cantor were elected in 2000. All four rank among the most conservative members of the House." Currently it is "not clear the position will even be open. The current whip, Rep. Roy Blunt of Missouri, is running for majority leader but has not relinquished his seat. For that reason the whip's race has been far less public."

Administration Pushing Back Against Senate Oversight Questions. Knight Ridder (1/27, Kuhnhenn) reports, "After years of deferring to the Bush White House, the Republican-controlled Senate has begun pushing back, holding oversight hearings on topics ranging from President Bush's response to Hurricane Katrina to his administration's mine-safety record and the president's secret domestic-surveillance program. Administration officials are fighting back. … White House officials and their allies maintain that their stance protects inherent executive power. Critics say the administration's reaction to the Senate's inquiries is an assault on Congress' constitutional role as a coequal branch of government that checks and balances the executive." Knight Ridder notes, "The Bush administration has never been shy about testing the limits of its executive power. Vice President Dick Cheney refused to divulge the identities of energy executives who advised him on energy policy. The administration wouldn't give Congress up-to-date cost estimates of its prescription-drug legislation. The Pentagon is often stingy about data related to the war in Iraq."

Bill Would Allow Binding Arbitration For FAA Labor Disputes. The Washington Post (1/27, B2, Barr, 744K) reports in its "Federal Diary" column, "The union representing air traffic controllers is looking to Capitol Hill for help in contentious contract negotiations with the Federal Aviation Administration. Four Democratic senators introduced a bill yesterday that would permit labor disputes at the FAA to be settled through binding arbitration, John S. Carr , president of the National Air Traffic Controllers Association, announced." Sen. Barack Obama "said he and colleagues proposed arbitration 'to help defuse the growing management-labor tension at the FAA.' Under the Obama bill, if the FAA and one of its unions failed to reach a voluntary agreement, the Federal Mediation and Conciliation Service would be called on to try again for a settlement. If mediation failed, Congress could impose the FAA's last, best offer on employees by approving it in legislation. If Congress did not act, the impasse would go to binding arbitration. Joining Obama in introducing the bill were Sens. Daniel K. Inouye (D-Hawaii), Patty Murray (D-Wash.) and Frank Lautenberg (D-N.J.)."

NYTimes Says "Inappropriate Perks" For Federal Judges Should Be Banned. An editorial in the New York Times (1/27, 1.19M) says Supreme Court Justice Antonin Scalia "has poor judgment when it comes to vacations." Apparently "unchastened by the criticism of his 2004 duck-hunting excursion with Vice President Dick Cheney, one of that term's most prominent Supreme Court litigants," Scalia "skipped the swearing-in of Chief Justice John Roberts Jr. because of another ethically dubious trip, this time to the posh Ritz-Carlton at the Beaver Creek ski resort in Colorado." The Times adds, "Justice Scalia's travel is part of a broader affliction on the federal bench. … The judicial lobbying problem is more serious in one respect than the scandal enveloping Congress. Lawmakers operate in an overtly political environment, but the decision-making process of judges is supposed to be impermeable to clever efforts by special interests to buy access and favor." The Times also notes that three Democratic senators "are readying provisions to ban junkets and other compromising gifts for judges, which they hope to make part of their party's lobbying reform proposal. For Congress to pass a lobbying reform bill that curbs inappropriate perks for lawmakers but not for federal judges would be a scandal in itself."

OTHER NEWS:

Bush Urges Hamas To Renounce Violence. The Christian Science Monitor (1/27, Prusher, 61K) reports that according to results of the Palestinian election based on 95 percent of the vote, "Hamas won 76 seats to Fatah's 43 seats. Smaller and independent parties took the remaining 13 seats." The Washington Times (1/27, Martin, Pisik, 90K) adds Hamas leader Mahmoud Zahar "has proposed a dramatic shift of Palestinian policy -- ending security

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cooperation with Israel, cutting most trade links with the Jewish state and refusing to engage with the 'Christian-Zionist' US administration." Zahar told the Washington Times "just days before" the election, "We have to go away from Israel and move toward all possible linkages with our Arab and Islamic brothers. … Cooperation [with Israel] on the security and economic fields was a disaster for the Palestinians."

President Bush issued a two-pronged message to Palestinians after Hamas' election victory, warning Hamas against continuing violence against Israel and expressing support for the democratic process. Reflecting a common theme in the coverage, ABC World News Tonight (1/26, story 3, 2:20, Woodruff) reported "the White House response has been surprisingly measured." Bush, added ABC (Raddatz), "had to walk a very fine line. To the newly-elected members of Hamas, President Bush had a strong warning." Bush was shown saying, "If your platform is the destruction of Israel, it means you're not a partner in peace." Raddatz: "But to the more than 500,000 Palestinian voters who supported Hamas, the President struck an entirely different tone." Bush: "When you give people the vote, you give people a chance to express themselves at the polls, and if they are unhappy with the status quo, they'll let you know. That's the great thing about democracy."

NBC Nightly News (1/26, story 2, 2:00, Fletcher) said the President "put on a brave face," while The CBS Evening News (1/26, story 2, 3:30, Roberts) added Bush "did try to find some ray of light today, declaring the exercise of democracy, at least, a positive step." Bush: "It's a wakeup call to the leadership. Obviously people were not happy with the status quo." Fox News' Special Report (1/26, Cameron) also reported, "Acknowledging that its success is unwelcome news for peace, Mr. Bush nonetheless said the old guard Palestinian leadership should view it as a wake-up call."

CNN's The Situation Room (1/26, Bash) reported, "Spreading democracy is a key Bush goal, so he tried to put the best face on unwelcome results, deeming them 'a wake-up call to the Palestinian leadership.'"

The Washington Post (1/27, A15, Kessler, 744K) headlines its story "Bush Is Conciliatory In Accepting Victory Of Hamas," and reports Secretary of State Condoleezza Rice also "put on a brave face, saying 'we still have every reason for hope and for optimism' because voter turnout was high and free from violence." The "upbeat rhetoric belied the fact that the election outcome was the opposite of what the administration had hoped would happen. Behind the scenes, US officials scrambled to survey the wreckage of their Middle East policy."

Reuters (1/27, Hudson) reports Bush also "urged President Mahmoud Abbas, whose Cabinet resigned after his Fatah party lost to the Islamist group, to stay in office so the United States could keep open a diplomatic channel with the Palestinian government." The New York Times (1/27, Erlanger, 1.19M) adds that "in a televised speech on Thursday night, the Palestinian president, Mahmoud Abbas, said he remained committed to negotiations with Israel." Abbas, "whose official status was not affected by the vote, suggested that future talks would be conducted through the Palestine Liberation Organization, which could bypass a Hamas-led government."

Meanwhile, the New York Times (1/27, Weisman, 1.19M) reports Hamas' "sweeping victory…threw President Bush and his aides on the defensive…complicating the administration's policy of trying to promote democracy as an antidote to the spread of terrorism." The Times adds, "Reacting uneasily to the Hamas triumph, Mr. Bush said the results spoke to the failures of…Abbas and the 'old guard.'" USA Today (1/27, Gutman, 2.31M) says "Hamas' victory in Palestinian elections seemed less an endorsement of terrorism than a vote for an organization that supporters hope will improve government, according to some voters and election analysts." Hamas supporters "say they were fed up with the ruling Fatah Party, which many accused of corruption and general incompetence."

The Los Angeles Times (1/27, Chen, 958K) says Hamas' win "put Bush in a difficult spot because he has made his campaign to spread democracy around the world a cornerstone of his presidency. Now, in the face of a victory by a group whose policies he abhors, Bush is having to impose conditions before fully accepting the results of that show of democracy."

MSNBC's Hardball (1/26, Mitchell) reported that US officials "are in a state of shock. Now one official tonight was telling me that they're thinking that Hamas is also in a state of shock, because Hamas has worked best as an outsider. And that they thought they would get a major role in the new government, perhaps control some of the domestic social service cabinet ministries, but not have to run a government itself. So they're positing that perhaps today Hamas is in the position that Robert Redford was in The Candidate, 1972 movie where he said, Now what do we do?"

European allies echoed Bush's theme. The New York Times (1/27, Cowell, 1.19M) reports European countries are "major financial donors to the Palestinian Authority." Yesterday they "registered disquiet verging on hostility toward the Hamas triumph in the Palestinian elections." Yet, "confronted with a Middle East that seems once again to have redrawn its political contours, they held back from publicly threatening to cut off the hundreds of millions of dollars they provide each year to Palestinian institutions." Furthermore, "none of them criticized the Palestinian democracy that appeared to yield the opposite of the moderation they had sought to nurture."

All three networks led with stories on Hamas' election victory, describing it as historic but reflecting concerns about

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its impact on Mideast peace. ABC World News Tonight (1/26, lead story, 2:55, Woodruff) reported, "A sea change in the Middle East. Hamas, the militant Islamic group, that calls for the destruction of Israel, has won the Palestinian parliamentary elections in a landslide." The CBS Evening News (1/26, lead story, 3:00, Schieffer) said Hamas' success "will radically change the whole Middle East equation and the prospects for peace, and it puts the United States in an extremely awkward position."

CNN's The Situation Room (1/26, Koppel) reported that "some are saying this is classic case of be careful what you wish for." Hamas' "landslide victory was a stinging defeat the US and Israel." The US "has made spreading democracy the centerpiece of its foreign policy. The challenge now, how to treat the democratically-elected Hamas, radical Islamists behind so many suicide bombings against Israel, a group the U.S. considers terrorists." In "the short-term, the U.S. is threatening to cut off about $270 million in must-needed financial assistance to the Palestinians, and is looking to Europe, a much bigger donor, to do the same. The goal of this is try to force Hamas to moderate its views and to try to treat Israel and deal with Israel as a partner in peace." Meanwhile, the Christian Science Monitor (1/27, LaFranchi, 61K) asks in its headline "Is Democracy Empowering Islamists?"

The New York Times (1/27, Fattah, 1.19M) adds Hamas's "overwhelming victory…was met with a mixture of jubilation and consternation in much of the Arab world. For some, it raised the concern that, in winning, the Islamic group will almost certainly have to lose something."

Highlighting concerns over the continuation of Hamas attacks against Israel, ABC's World News Tonight (1/26, story 2, 1:45, Woodruff) reported, "Hamas in the past has used suicide bombings to devastating effect. And one of its most-celebrated figures is a mother, who sent her sons to their deaths. Tonight, she is an elected official." ABC (Dinnick): "Palestinians voted for Miriam Farahat because she's made astonishing sacrifices in her quest to destroy Israel. Farahat has sent three of her six sons on suicide missions." Now that she "has been elected to Palestinian parliament, the question is, will she end her violent campaign against Israel, a fight she has made so personal today she vowed to do whatever Hamas asked of her. 'I am ready to serve,' she says. And if that means sacrificing her three remaining sons, Um Nidal says she's willing."

The Washington Times (1/27, Sammon, 90K) headlines its story "US Won't Deal With Hamas," while USA Today (1/27, Gutman, 2.31M) says the election results "put the future of the Middle East peace process in question." Similar stories appear in today's Wall Street Journal (1/27, Leggett, King, 2.11M), which titles its front-page report "Hamas Victory Roils Middle East Peace Process," Baltimore Sun (1/27, Murphy, 296K), Washington Post (1/27, A1, Wilson, 744K), and Financial Times (1/27, Devi, Morris).

Fatah Declines Hamas Offer To Form Coalition Government. NBC Nightly News (1/26, lead story, 2:00, Fletcher) reported Even Hamas was stunned by its landslide victory. The Islamic militants won 76 out of 132 seats. It can form a majority government all on its own. But Hamas leaders quickly offered to share power with the defeated Fatah party. Fatah leaders said no. After 40 years of dominating Palestinian life, the party of Yasser Arafat is out." Saeb Erekat, Palestinian peace negotiator: "We will not be part of any national unity government." Fletcher: "And the future of President Mahmoud Abbas is in doubt." Meanwhile, says the Washington Times (1/27, Mitnick, 90K), Palestinian Prime Minister Ahmed Qureia "tendered his resignation."

Under the headline "Hamas Is Stunned By Its Success," the Los Angeles Times (1/27, King, 958K) reports, "Of all those shocked by Hamas' landslide win in Palestinian elections, few were more stunned than the militant Islamist group itself. In taking the reins of power after participating in its first parliamentary vote, Hamas leaders face a predicament: If they attempt to please their most radical adherents by continuing to call for Israel's destruction, they jeopardize hard-won international support for a Palestinian state. But if they moderate their stance and reject their founding principle, they risk alienating their militant base."

Hamas Win Could Affect Israeli Election. The Washington Times (1/27, Ward, 90K) reports, "Hamas' shocking election victory is likely to radically alter the course of Israel's own election at the end of March, as an outraged right wing flexes its muscles and the centrist government plots its response. As Palestinian officials announced the results, acting Israeli Prime Minister Ehud Olmert convened top-level talks with senior political and defense officials to formulate how to manage the crisis. … Any perceived leniency toward Hamas could play directly into the hands of Benjamin Netanyahu, the hawkish leader of the right-wing Likud Party, who last year warned that Israel's pullout from Gaza was a prize for Hamas violence." But "intransigence toward a Hamas-led government would likely bring about international pressure on Israel to comply with earlier commitments reached with the Palestinian Authority.

The Washington Post (1/27, A18, Wilson, 744K) reports that already yesterday, "opposition politicians criticized the government for failing to stop the radical Islamic movement from rising to prominence within the Palestinian Authority." Olmert "faced criticism in the wake of the Hamas defeat of the governing Fatah party, Israel's main partner in past peace agreements."

The New York Times (1/27, Myre, 1.19M) reports, "The Hamas landslide in Palestinian elections has stunned Israelis, but it may also have brought them a rare moment of clarity:

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with peace talks off the table, Israel will most likely pursue unilateral actions, drawing its own borders and separating itself from the Palestinians." Olmert "made it clear after an emergency cabinet meeting that talks with Hamas, a Palestinian party sworn to Israel's destruction, were out of the question, while experts said Israel was now freer to establish its future on its own." They "said Israel…was likely to focus on speeding up construction of the separation barrier, which runs along and through parts of the West Bank."

Netanyahu Raises Alarm. ABC's World News Tonight (1/26, lead story, 2:55, Woodruff) noted, "The Israeli government said today it would not negotiate with Hamas. Hard liner Benjamin Netanyahu who is running for prime minister again, seized the political moment to sound this alarm – 'in front of our eyes is being created Hamas-stan,' he said. 'Worse than Iran and in the image of the Taliban.'"

Netanyahu said on CNN's The Situation Room (1/26) that Hamas' election victory is "a great setback for peace," adding that Hamas "is committed to the destruction of Israel, and the pursuit of terror and it's effectively a subordinate regime of Iran. So I think that's a great blow to peace. I think we have to understand that in the face of the rise of the forces of terror, we have to change the policies that Israel has had of unilaterally withdrawing in the face of terror because all that does is put people like Hamas in power. It makes them the winners. They use terror, Israel retreats, and therefore they get all the credit in the Palestinian streets and in the Palestinian elections. For peace to be restored, we have to resume and restore the policy of standing up to terror, not fleeing from it."

Renewed Tensions Between Israelis, Palestinians Could Have Negative Effect On Iraq. ABC's World News Tonight (1/26, story 3, 2:20, Raddatz) reported, "And how might this affect the rest of the region? A document obtained by ABC News today and put together by US analysts says that if tensions mount, and there is a renewed confrontation between the Israelis and Palestinians, the result will ripple throughout the Muslim world. The document goes on to say that it would have a particularly negative impact in Iraq."

Destruction Of West Bank Houses Could Signal Israeli Shift Toward Accommodation. The Wall Street Journal (1/27, Leggett, 2.11M) reports that the fate of nine newly-built homes in the Jewish community of Amona on the West Bank "may soon provide clues to one of the Middle East's most pressing questions: Is Israel preparing to withdraw from parts of the occupied West Bank? The answer increasingly appears to be yes. Following extended legal wrangling, the Israeli government is completing a plan to demolish Amona's nine concrete homes -- all uninhabited -- because they were constructed illegally on privately owned Palestinian land. With the militant Hamas party winning control of the Palestinian Parliament on Wednesday, it is possible Israel would delay the demolition, but several thousand Israeli security personnel are scheduled to carry out the order as early as next week, police and military officials say." The Amona operation "could have far-reaching implications. Coming on the heels of Israel's withdrawal from the Gaza Strip in August, it would signal a further rollback of a decades-long policy of encouraging Jewish settlement in Palestinian areas, particularly the West Bank, which is now home to some 250,000 Israeli citizens." The move "likely would resonate positively among Palestinians," and could "mark the beginning of a gradual regional shift away from armed confrontation and toward accommodation based on territorial compromise."

More Commentary. Under the headline "In The Mideast, A Giant Step Back," the New York Times (1/27, 1.19M) editorializes, "Bush was absolutely right when he urged Mr. Abbas to remain in office as a sign of stability and set Secretary of State Condoleezza Rice the task of seeing whether the shards of the peace process could be reassembled." But "he was also absolutely right when he said, 'A political party that articulates the destruction of Israel as part of its platform is a party with which we will not deal.'"

The Wall Street Journal (1/27, 2.11M) editorializes, "The White House will have to resist the temptation, no doubt encouraged by Europe, to pressure Israel to deal with Hamas as it once was pressed to deal with Arafat." But "given Hamas's history and declared goals, the onus is on its leaders to show that they have an agenda beyond terror. If Hamas begins to use Gaza as a base to import weapons and attack Israel, the Jewish state will have every right to strike back in self-defense. And the US should support it in doing so."

The Washington Post (1/27, A22, 744K) writes in an editorial that Hamas' win "creates fresh opportunities as well as dangers in the Middle East. The Islamic fundamentalist movement will now come under extraordinary pressure to cease all acts of terrorism, help restore order in the turbulent Gaza Strip and moderate its rejection of Israel. The pressure will come not only from Western governments and aid donors but from its own constituents. … Many Palestinians who voted for Hamas don't support the Islamists' fundamentalist agenda."

The Los Angeles Times (1/27, 958K) editorializes that the "election results complicate a situation that desperately needed stability, and they will make it more difficult for the Palestinians to achieve a state of their own anytime soon."

E.J. Dionne writes in the Washington Post (1/27, A23, 744K), "Bush, a man who prides himself on clarity and disdains nuance, was, if I may coin a word, nuancing all over the place. … You don't have to agree with Bush's decisions to believe that an important goal of American foreign policy should be to expand the number of nations that live under democratic rule." But "since the invasion of Iraq, administration spokesmen and supporters have offered a

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utopian and decidedly unconservative view of how American power could be used to change the world -- and quickly. It was said that the way to peace in Jerusalem passed through Baghdad. It was said that by ridding Iraq of Saddam Hussein's wretched regime, the United States would unleash a democratic revolution in the Arab world. Go back and look at the broad claims Bush's defenders made for his policy after the election in Iraq just a year ago. Everything, it was said, was falling into place." But "the world is a complicated place. Of course free elections in Iraq are hugely better than dictatorship. But when free elections become more a census to count members of warring ethnic and religious factions than a way of settling underlying disputes, they do not necessarily pave the way for enduring democracy. They do not provide voters with ways of test-driving the various alternatives."

Columnist Jim Hoagland writes in the Washington Post (1/27, A23, 744K) that "it is pointless to bemoan this setback or try to minimize its significance, as President Bush seemed to do yesterday in a White House news conference. Israel, the United States and Europe should instead adjust their policies to recognize and influence the volatile situation created by the unexpected and distinctly unwelcome Hamas victory." They "can best do that by not launching immediate efforts to cajole, bribe or intimidate a new Hamas-led government into adopting more peaceful-sounding rhetoric to clear the way for reviving negotiations with Israel. And there should be no attempt to paper over the crushing defeat inflicted on Mahmoud Abbas and the Palestinian Authority he headed."

Fotini Christia, a fellow at the Olin Institute for Strategic Studies at Harvard, and Sreemati Mitte, who works for the Palestinian Initiative for the Promotion of Global Dialogue and Democracy in Ramallah, West Bank, write in the New York Times (1/27, 1.19M), "The United States and the European Union must finally recognize Hamas's ascendance as a fait accompli. Until now, these key third parties have equivocated: they pressed Israel to allow Hamas to participate in the elections but threatened to cut aid and ties to a Hamas-dominated Palestinian Authority. The practical reality, however, is that Hamas is a pivotal player in Palestinian politics, and no peace process can succeed without at least the tacit acceptance of its leaders." The United States and Europe "cannot trumpet democratic ideals abroad and then ignore the popular will of Palestinian voters."

Reports On Factory Orders, Jobs Continue Positive Trend. The Wall Street Journal (1/27, Bater, 2.11M) reports, "Orders to the nation's factories for big-ticket goods finished 2005 strongly, while jobless claims rose last week but remained at a level indicating healthy job growth. Durable-goods orders climbed 1.3% in December to a seasonally adjusted $228.14 billion, the third straight increase, the Commerce Department said. Demand was higher for airplanes, machinery, cars and capital goods." Separately, the Labor Department "reported that the number of workers filing new claims for unemployment benefits climbed by 11,000 to a seasonally adjusted 283,000 in the week ended Jan. 21. The four-week moving average of initial jobless claims fell 10,750 to 288,750 from 299,500 the previous week. The moving average is at its lowest level since an identical average in the week ended July 1, 2000."

GM Losses Larger Than Expected. NBC Nightly News (1/26, story 6, :45, Williams) reported, "The bad news keeps on coming from the US auto industry. It hardly gets any worse than this. General Motors reported today it lost $4.8 billion in just the fourth quarter of last year and $8.6 billion in all of 2005. Those results were far worse than Wall Street expected, GM's slumping stock price dropped another 3 1/2% just today."

Stocks Up. NBC Nightly News (1/26, story 6, :45, Williams) noted, "The rest of Wall Street shook off GM's problems and closed higher. The Dow was up just under 100 points [to 10809.47] and NASDAQ gained more than 22 points [to 2283.00]." The New York Times (1/27, 1.19M) adds the S.& P. 500 "rallied 9.15 points, or 0.7 percent, to 1,273.83 for its biggest advance since Jan. 6 and third gain in the last four days." The Wall Street Journal (1/27, Browning, 2.11M) also reports the stock numbers.

Greenspan Leaves "Remarkable" Political Legacy. The Washington Post (1/27, D1, Henderson, 744K) reports that retiring Federal Chairman Alan Greenspan "leaves a remarkable political legacy, say Republican and Democratic policymakers who have worked with him in Washington over nearly four decades.' Greenspan "has helped candidates, presidents and lawmakers devise and sell policies on countless social and economic issues. An avowed 'free-enterpriser,' Greenspan consistently pushed for less government regulation, smaller federal budget deficits and freer trade, these observers said."

Democrats Say Up To 50 House Seats Are Up For Grabs. The Wall Street Journal (1/27, Harwood, 2.11M) reports in its "Washington Wire" column, "Parties battle to define 2006 playing field. With most partisan outcomes predictable due to election district gerrymandering, Democratic hopes of regaining House majority depend on expanding number of competitive seats. House Democrats, who need net gain of 15, say outcome remains in doubt in as many as 50 districts."

Reuters (1/27, Whitesides) reports, "Democrats are riding a wave of momentum into November's high-stakes battle for the U.S. Congress, with high hopes for significant

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gains that could threaten" GOP control of Congress. But "despite the favorable political mood for Democrats, analysts say the party faces major hurdles to gaining the six Senate and 15 House seats needed to reclaim control of Congress. To win majorities, Democrats need to capture most of a small pool of competitive seats in the House while bumping off at least five Republican Senate incumbents -- tough tasks in any political climate, but not impossible. 'It looks like the Democrats will gain seats in the House and Senate, but the question is how many?'" said Larry Sabato, a political analyst at the University of Virginia, adding, "It is going to be hard for Democrats, but if the situation continues to deteriorate for Republicans this year anything is possible." Reuters adds, "The best chance for a Democratic breakthrough could be the Senate, where 33 of 100 seats are on the ballot. Republicans hold 15 of those seats and Democrats 18, but five of the most endangered incumbents at this stage are Republicans. … 'The Democrats have to sweep the competitive Republican races to take power, while holding all of their own. That's tough,' said Jennifer Duffy, an analyst for the nonpartisan Cook Political Report."

Romney Says High Court Should Return Power Over Abortion To States. Knight Ridder (1/27, Thomma) reports that Massachusetts Gov. Mitt Romney (R), "a possible candidate for the 2008 Republican presidential nomination, said Thursday that his Mormon faith would not matter to the vast majority of voters, including the evangelical Christians who influence his party's politics greatly. 'Americans want people of faith to lead their country,'" he said, adding, "Republicans aren't going to be putting a litmus test against people of my faith." Romney "also said that his views on abortion have evolved since he refused to take either a pro-choice or pro-life label during his 1994 campaign against Sen. Edward Kennedy, R-Mass." He "said personal research about embryonic stem cells convinced him that life begins at conception. He said the Supreme Court should send the power over abortion back to the states by overturning the 1973 Roe v. Wade decision that legalized it nationwide. Still, he said, he would support legalized abortion in his state if his state so chose."

Romney Sees Clinton As Likely To Be '08 Democratic Nominee. The AP (1/27, Miga) reports that Romney "says he expects New York Sen. Hillary Rodham Clinton to be the 2008 Democratic presidential nominee. 'I think the most likely to get the nomination, of course, is Hillary Clinton,' he said during a Christian Science Monitor-sponsored luncheon with reporters on Thursday." Romney also "predicted the Jack Abramoff corruption scandal would not cripple Republicans as they try to keep control of the House and Senate in next fall's midterm elections. 'The idea that money has influence in politics is not a headline story in major parts of the country,' he said."

Romney Offers Some Criticism Of Bush On Iraq, Drug Benefit. The Christian Science Monitor (1/27, Cook, 61K) reports that Romney "appeared at a Monitor-sponsored lunch Thursday and opened some distance between himself and the Bush administration on the war in Iraq and the Medicare prescription drug benefit. … 'There are plenty of places where I would separate from the administration…where I might have chosen another course…certainly with regard to the war in Iraq or the front in Iraq -- were there mistakes made there? Absolutely. Would I have done it differently? Of course. Would the president have done it differently based on what he knows today? Of course, in some measure.' For example, Romney said he would not have rested the whole case for the war in Iraq on finding weapons of mass destruction." Romney "was also critical of the process by which the Republican-controlled Congress and President Bush produced a prescription drug benefit under Medicare. … 'The final product on Medicare Part D, that final bill was sort of sausage squared, the idea you don't want to see how sausage is made,' Romney said." Romney "noted that President Bush 'wanted to bring prescription coverage to seniors. He got that done, that's huge. … It has with it a financial burden which is very large. I don't imagine that that was what he was aiming for when he thought about this during his campaign.'"

The Washington Post (1/27, A4, Balz, Cillizza, 744K) reports that Romney "put some distance yesterday between himself and the Bush administration on the issue of health care, criticizing the White House for failing to demand significant reforms in Medicare and Medicaid when Congress enacted a prescription drug benefit for senior citizens." Romney also discussed "his evolution on the issue of abortion (from once eschewing labels to now calling himself "pro-life"), whether his Mormon religion will hurt him if he runs for president (only with a tiny percentage of the electorate, he said), his management style (heavy on analysis) and health care for all citizens, which is a top priority of his back home." The Post adds, "Toward the end he was asked about 2008, Iraq, and the possibility that he and Sen. John F. Kerry (D-Mass.) might end up as rivals. 'Do you fantasize about that?' he was asked. 'Not about that, no,' he replied to laughter."

Romney Doubts His Religion Will Hurt Him With Evangelicals. The Washington Times (1/27, Pierce, 90K) reports in its "Inside Politics" column that Romney "says he isn't afraid that evangelical and born-again Christian voters will stiff-arm him in the 2008 GOP primaries just because he's a Mormon. … He said most voters in his state are Catholics, but they could not care less about his religion."

Scranton Fires Campaign Manager After Swann Comments. The Washington Post (1/27, ,A4, Balz,

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Cillizza, 744K) reports that former Pennsylvania lieutenant governor Bill Scranton fired his campaign manager Wednesday "after the man accused former Pittsburgh Steeler Lynn Swann (R), who is black, of being the 'rich white guy'" in the Pennsylvania GOP gubernatorial primary race. Scranton "said the remarks by James Seif 'in no way whatsoever reflect my views or those of my campaign.' Both Scranton and Seif are white."

Cox Decides Against Reentering New York Senate Contest. The AP (1/27, Humbert) reports that Manhattan lawyer Edward Cox (R), a son-in-law of the late President Richard Nixon, "said Thursday he would not resume his campaign for the Republican nomination to challenge Sen. Hillary Rodham Clinton's re-election bid this year." Cox "suspended his campaign in October after Republican Gov. George Pataki endorsed then-Westchester County District Attorney Jeanine Pirro's bid for the Senate nomination. Her campaign subsequently collapsed and Pirro heeded the call of state GOP leaders to run instead for state attorney general. That left former Yonkers Mayor John Spencer, little-known statewide, as the leading contender for the GOP nomination. Some GOP leaders pressed Cox to consider getting back in the race. However, Cox said in a statement issued Thursday that 'after careful consideration of the circumstances and conditions as they exist surrounding the race, including the now shortened time frame available to run an aggressive and effective campaign, I will not seek my party's nomination.'"

The New York Times (1/27, Medina, 1.19M) relates that Cox's "exit is yet another blow to Republican efforts to mount a credible challenge to Mrs. Clinton, whom many expect to run for president in 2008." Democrats "were quick to poke fun at the opposition on Thursday. In a press release, they called Mr. Spencer the 'eighth choice' and listed several other Republicans who had been pressed to run for office. … 'Note to the New York State Republican Party: Don't despair, you may not have to settle for John Spencer just yet,' said the statement by Blake Zeff, the state Democratic Party spokesman. 'There are still about a dozen registered Republicans left in New York who you haven't asked yet.'"

Episcopalians Weigh Sainthood For Thurgood Marshall. Delegates to the annual convention of the Episcopal diocese of Washington will vote today on a proposal that would designate the late Supreme Court Justice Thurgood Marshall as a saint. The Washington Post (1/27, B9, Murphy, 744K) reports, "If Marshall is added to the church's roster of saints, May 17 -- the date of the 1954 Supreme Court ruling that segregated schools are unconstitutional -- would be observed as Marshall Feast Day. Church officials say they expect the 300 or so delegates to approve the resolution, which was drawn up by members of St. Augustine's Church in Southwest Washington, where Marshall worshiped."

Administration Supports Russian Plan To Address Iran Nuclear Concerns. While President Bush praised the Russian plan to allow Iran to operate civilian nuclear plants with oversight by Russian and international observers, the Administration was seen as remaining split on pursuing action with the UN Security Council. The CBS Evening News (1/26, story 2, 3:30, Roberts) was the only network news program to note, "The President got what looked like a sliver of good news on the Iranian nuclear crisis today after initially rejecting a proposal to move its uranium enrichment program to Russia, officials in Tehran today said it's worth talking about." President Bush: "I think that's a good plan. The Russians came up with the idea and I support it. It is not in the world's interest that they have a weapon." Roberts: "But State Department officials tell CBS News tonight they don't see much reason to get excited, pointing out that Iran has misled Russia before and was likely to do so again." And the Administration is "going to keep up the pressure to get that referral from the atomic energy agency to get Iran hauled before the UN Security Council. But there is where there's a split in the Administration. Some diplomats think maybe the security council can put enough pressure on Iran that it would back down. Other diplomats told me today they don't think it would go anywhere at the Security Council because they'd never get a unified front against Iran."

The New York Times (1/27, Sanger, Sciolino, 1.19M) reports, "Bush's explicit public endorsement puts all of the major powers on record supporting the proposal, even as most acknowledge that it is a significant concession to Iran and runs the risk that the country will drag out the negotiations while continuing to produce nuclear material. Yet officials say they believe it is the best face-saving strategy to pursue a negotiated settlement with Iran." The President "did not discuss the details of the Russian offer. But American, European and Russian officials…said the offer would allow Iran to continue operations at the plant that turns yellowcake, a concentrated form of uranium ore, into uranium hexafluoride, a toxic material that centrifuges spin into fuel for reactors or bombs.

Reuters (1/27) adds that Secretary of State Condoleezza Rice "showed little patience with Iran's belated interest in" the Russian plan, saying it "shows the Iranians are feeling the heat."

The New York Times (1/27, Sanger, Sciolino, 1.19M) also reports that at the press conference Bush said, "The Iranians have said, 'We want a weapon.'" But, "Iran has denied that it is pursuing a weapon, and in the afternoon, the

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White House spokesman, Scott McClellan, acknowledged that Mr. Bush had misspoken." McClellan said, "He was referring to their behavior. … Our concern is their intention is to develop a nuclear weapon under the guise of a civilian program." But "Bush's slip may cement the perception among some members of the board of the International Atomic Energy Agency that he has decided, at least in his own mind, that Iran is intent on building a weapon as fast as it can, a situation he has said repeatedly that he will not tolerate. Mr. Bush gave no hint on Thursday that he was thinking of military action, instead saying that 'we are working hard to continue the diplomacy necessary to send a focused message to the Iranian government, and that is: "Your desires for a weapon are unacceptable."'"

The Washington Post (1/27, A14, Cody, 744K) reports China's endorsement of the Russian proposal "suggested that the idea of having Iran send uranium to Russia for enrichment might become the common denominator of an agreement on preventing the Iranian government from developing nuclear weapons, rather than the sanctions envisioned by the Bush administration." The Post notes, "Deputy Secretary of State Robert B. Zoellick had urged the Chinese leadership on Tuesday to join the United States and other nations in taking urgent steps to make sure Iran does not expand its nuclear research program into weapons production. China agrees that Iran should not have nuclear weapons, he said afterward, but differs with Washington over how to prevent it and how fast a solution has to be found." Chinese experts "predicted that China would likely abstain in a vote on sanctions, seeking to maintain its good relations with Washington.

The New York Times (1/27, Sanger, Sciolino, 1.19M) also notes, "While China favored the Russian proposal, it also firmly opposed the use of sanctions. That comes as a disappointment to Washington, which this week sent a top official to persuade China's leaders that they should do far more."

Poll Shows Majority Supports Military Action If Iran Pursues Nuclear Course. The Los Angeles Times (1/27, Miller, 958K) reports, "Despite persistent disillusionment with the war in Iraq, a majority of Americans supports taking military action against Iran if that country continues to produce material that can be used to develop nuclear weapons," a Los Angeles Times/Bloomberg poll of 1,555 adults conducted Sunday Jan. 22 through Wednesday Jan. 25 (+/-3%) shows The survey shows "that 57% of Americans favor military intervention if Iran's Islamic government pursues a program that could enable it to build nuclear arms." It suggests "that the difficulties the United States has encountered in Iraq have not turned the public against the possibility of military actions elsewhere in the Middle East."

ElBaradei Hopes Russian Proposal Will End Stand Off. The AP (1/27, Lederer) reports, "U.N. nuclear chief Mohamed ElBaradei said Thursday he was hopeful that a Russian proposal could help break the standoff over Iran's nuclear research and enrichment plans." He "said he was happy that earlier in the day Iran's top nuclear negotiator, Ali Larijani, said Russia's proposal to move Iran's enrichment program to Russian territory was 'a positive one.'"

US Backs Iranian Move On Gay Rights Organizations. The Washington Post (1/27, A21, Kamen, 744K) reports in its "In the Loop" column that Bush Administration officials "scrambled yesterday to come to grips with the radical Hamas's stunning election victory in Palestinian elections. President Bush rejected dealing with a party that has an armed wing and vows the destruction of Israel. But there's precedent for a more optimistic view in the long run. Take, for example, U.S. relations with Iran's President Mahmoud Ahmadinejad . He advocates nuking Israel and is allegedly developing his own bombs." The Post adds, "Even so, Washington has discovered there are always ways to work together, to find common ground. For example, human rights groups Monday condemned a U.S. move 'back[ing] an Iranian initiative to deny United Nations consultative status' in the Economic and Social Council to gay rights organizations."

Mexican Official Suggests Border Incursion Was Undercover US Drug Operation. The AP (1/26) reported Mexican Foreign Secretary Luis Ernesto Derbez "suggested Thursday that American soldiers disguised as Mexican troops may have been in the military-style Humvee filmed earlier this week protecting a marijuana shipment on the border." Derbez said at "a news conference that US soldiers had helped drug smugglers before. However, he offered no evidence." Derbez said, "And just as that has happened ... it is very probable that something like that could have happened, that in reality they were members of some of their groups disguised as Mexican soldiers with Humvees." He added that "there was no proof that the men seen in the incident were Mexicans. Derbez also said his country will send a diplomatic note to Secretary of State Condoleezza Rice demanding that US officials tone down their comments on Mexico's security and immigration problems."

Homeland Security Secretary Michael Chertoff's statements last week that reports of Mexican military incursions were overblown have been criticized frequently by the primetime cable news hosts. Senator Kay Bailey Hutchison appeared on Fox News' The Big Story (1/26) where she discussed the issue of Mexican military incursions. Host John Gibson: "Senator, you wrote a letter to the Secretary of the Department of Homeland Security, Michael Chertoff. He does not seem to be taking this very seriously. He calls these routine, accidental incursions. Texas

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authorities think they're much more serious than that. Have you been able to persuade the secretary to regard this as a serious matter and do something about it?" Hutchison: "Well, certainly we are encouraging the secretary to take action, to ask for an investigation, which the Mexican government has said they'll do."

On CNN's Lou Dobbs Tonight (1/26) host Lou Dobbs said, "The question has to be, why is the White House silent on this issue? Why is the man in charge of our homeland security, that is Homeland Security Department Secretary Michael Chertoff, so timid and so unconcerned or interested?"

US-Mexico Quarrels Over Border Said To Show "Deteriorating Relationship." The New York Times (1/27, McKinley, 1.19M) reports, "The United States and Mexico exchanged diplomatic broadsides on Thursday over border security and drug-related violence in another sign of their deteriorating relationship. The American ambassador, Antonio O. Garza Jr., sent a formal note to the Mexican government demanding an investigation of" Monday's smuggling incident in Texas. Garza "took the unusual step of not only announcing the note, but promising to send a second one to express concern about a rise in drug-related violence in border towns and recent attacks on American Border Patrol agents. … Hours later the Mexican foreign minister, Luis Ernesto Derbez, suggested that it was Mr. Garza who appeared to be playing to a crowd for political reasons."

Current Border Situation Compared To 1916. The Washington Times (1/27, McCain, 90K) reports in a front page article that "the White House is speaking of its 'concern about the reports' of Monday's border crossing, which a spokesman described as 'an incident that is under investigation.' Yet in 1916, when Pancho Villa's bandits raided Columbus, NM, a Democratic president didn't hesitate. President Woodrow Wilson sent Gen. John 'Black Jack' Pershing to lead an expedition into Mexico. A $5,000 bounty was offered for Villa's capture, and Army posters invoked 'The Flag, Old Glory' in calling for 25,000 recruits: 'Come on, boys, be ready to shoulder the trusty Springfield.'" However, "the historic situation during Villa's day was much different, said James Carafano, a senior fellow at the Heritage Foundation. 'Mexico back then didn't have a strong central government,' said Mr. Carafano, who specializes in defense and homeland-security issues. 'There was no rule of law. I don't think you can compare that to Mexico today."

DEA Finds Smuggling Tunnel Under Mexican Border Containing Nearly Two Tons Of Marijuana. ABC World News Tonight (1/26, story 6, 1:50, Vargas) reported, "In California, a secret tunnel used to smuggle drugs and people under the border has been uncovered. It's just one of many found in recent years. Officials say criminals are increasingly digging tunnels to bypass border patrols and move their contraband into the US." ABC (Thomas): "The DEA says it was a major gateway for illegal immigrants and drugs coming from Mexico." DEA Chief of Operations Michael Braun: "These tunnels are absolutely critical to these major drug-trafficking organizations and alien smuggling groups. Arms smuggling groups." Thomas: "US officials say the border has become ground zero for an explosion in illegal activity. Washington is now leaning heavily on Mexico to help put a stop to it." US Border Patrol Chief David Aguilar: "We have gotten a commitment to work with us on this. We have gotten a commitment to find out and get to the bottom of this." Thomas: "Before tons more illegal drugs find their way across the border."

NBC Nightly News (1/26, story9, :45, Williams) reported, "Out of California a big discovery to report a drug tunnel that authorities say runs the length of 12 football fields from Mexico into California, it's a tunnel so big the federal government says you can drive a car through it. The tunnel begins in a warehouse in Tijuana, ends in the San Diego area, it's used apparently for smuggling people and/or drugs. US officials say they found more than two tons of marijuana inside."

The New York Times (1/27, Archibold, 1.19M) reports, "Drug smugglers have dug one of the longest, most sophisticated tunnels discovered in recent years along the Mexican border, and the American and Mexican authorities have hauled nearly two tons of marijuana out of it since they entered it on Wednesday, officials said." Stretching from "a warehouse near the international airport in Tijuana, Mexico, to a vacant industrial building in Otay Mesa, Calif.," the tunnel's sophistication has "surprised officials, who found it outfitted with a concrete floor, electricity, lights and ventilation and groundwater pumping systems. … 'The tunnel is absolutely amazing,' said Michael Unzueta, special agent in charge for the federal Immigration and Customs Enforcement agency's San Diego office." CNN's Lou Dobbs Tonight (1/26, Dobbs) reported, 'Tonight, homeland security officials say they have shut down the largest border tunnel ever discovered on the US-Mexican border. … Police were first tipped off to it…two years ago. They finally found it."

Proliferation Of Tunnels Seen As Result Of Increased Border Security. The Washington Post (1/27, A3, Pomfret, 744K) reports "experts said the passageway bore all the hallmarks of an operation by a major drug cartel." Unzueta said, "Whether they are designed to smuggle drugs, people, weapons or other contraband, these tunnels pose a threat to our nation's security." The Post continues, "Federal agents have concluded that drug traffickers and smugglers of illegal immigrants have been heading underground to escape tighter enforcement along the border. Customs officials announced this week that drug seizures at California border crossings rose 24 percent in the past fiscal year. More than 127 tons of drugs were seized, the vast majority of that marijuana, in the year ending Sept. 30." The Washington Times (1/27, Seper, 90K) reports, "Since the September 11

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attacks, federal authorities have discovered more than 20 cross-border tunnels along the US-Mexico border in California and Arizona. Authorities said they were unsure how long the tunnel had been in operation. They also said they did not know what drug organization might have used it."

Mexican Human Rights Commission Cancels Plan To Distribute Border Maps. Though the Mexican government has sought to distance itself from a human rights commission's plan to distribute maps of the Arizona desert, the plan has generally been depicted in print and on TV as a Mexican initiative. Under the headline "Mexico Nixes Border Maps For Migrants," The Washington Times (1/27, Seper, 90K) reports in a front page article that following an announcement Tuesday that it would distribute 70,000 border maps with safety instructions and tips to migrants aiming to cross illegally into the United States, The National Human Rights Commission (NHRC) in Mexico City canceled its plans yesterday, while maintaining that the decision was not "a reaction to criticism by Bush-administration officials." The commission "said it 'rethought' the decision after human rights organizations in several border states said the maps would show anti-immigration groups -- and watchdogs such as the Minutemen volunteers -- where the migrants were likely to travel. … The NHRC cited the Minutemen as a sign that anti-immigrant extremism was on the rise in the United States." Meanwhile, "Minuteman co-founder Chris Simcox said the NHRC's decision demonstrated the effectiveness of the 'peaceful, law-abiding actions by Minuteman volunteers' to secure the nation's borders."

In a discussion about the NHRC's cancelled plans on Fox News' O'Reilly Factor (1/26, O'Reilly), host Bill O'Reilly suggested to Rep. Tom Tancredo that "somebody got to Vicente Fox on this." Tancredo said, "I think so, Bill. I think that they could not spin it anymore. They tried their best to spin it as something they were just doing to make sure that people were being safe, that it was not encouraging illegal immigration. But it was so blatantly encouraging illegal immigration that they couldn't spin it anymore, so they backed away from it." Later, discussing the issue of Mexican military incursions, Tancredo was asked whether he thought Monday's incident involve the Mexican military protecting "dope dealers." Tancredo said, "I absolutely believe that." O'Reilly: "It's not hard to believe. We know that's been going down. But the Mexican government flat out denies it." Tancredo: "Absolutely. And they're embarrassed by it. And we won't pursue it because we're embarrassed by it, I suppose. We're embarrassed by the fact that we won't protect our own borders."

US, China Remain Divided Over Piracy. The Wall Street Journal (1/27, Hiebert, 2.11M) reports, "China and the U.S. traded barbs over Beijing's failure to respond to Washington's request for details about Chinese efforts to combat piracy, in a development that could exacerbate already testy bilateral trade relations." The Journal notes, "U.S. trade officials said China missed a Jan. 23 deadline set by Washington to get information on how Beijing has sought to rein in rampant piracy, including any penalties it has imposed on violators. Chinese authorities, for their part, have challenged Washington's right to make such a request under World Trade Organization rules." The dispute "could prompt the U.S. Congress to press the administration of President George W. Bush to take its case against China to the global trade body, and it cast a cloud over the planned visit to America by Chinese President Hu Jintao in April, U.S. businessmen in Beijing said.

Bush, Rice Call On North Korea To Stop Counterfeiting US Currency. Reuters (1/27) reports, "President George W. Bush vowed on Thursday to uphold U.S. law and continue a crackdown on North Korea for counterfeiting American dollar bills." At a press conference Bush said, "There is no compromise ... We are going to uphold the law and protect the currency of the American people." North Korea "has said it would be unthinkable to return to six-country nuclear talks…when Washington is trying to bring down its rulers with 'financial sanctions.'" Although "Bush showed no give on the crackdown on the North's suspected illicit activities, he reaffirmed that 'we want the six party talks to continue ... I think the framework is a framework that can eventually yield to a political settlement of the issue.'"

Reuters (1/26, Pleming) reported Secretary Rice said the US "is ready to resume six-party nuclear talks with North Korea 'immediately' as long as Pyongyang does not impose any conditions." Reuters said Pyongyang has said "it would be unthinkable to return to talks" while counterfeiting-related penalties are in place. Rice said the situation could be resolved when North Korea begins "living up to the law." According to Reuters, Rice "said the United States chief negotiator in the talks had made it very clear during meetings in Beijing this month that Washington wanted the six-party talks to continue. 'No conditions. We will do it immediately,' Rice said."

North Korea Leading Source Of Counterfeit Cigarettes. The Wall Street Journal (1/27, Fairclough, 2.11M) reports that North Korea "has become a leading source of counterfeit cigarettes -- with the capacity to churn out more than two billion packs a year, tobacco companies say. Philip Morris, a unit of New York-based Altria Group Inc., says over the past several years it has discovered North Korean-made knockoffs of its Marlboro brand in more than 1,300 places." U.S. officials "seized more than a billion fake smokes, many allegedly from North Korea, in California last year as part of an undercover operation targeting Asian

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smugglers. Millions more packs of bogus Marlboros, Mild Sevens and other cigarettes made in North Korea have been confiscated in Taiwan, the Philippines, Vietnam and Belize." And a senior Administration official said, "Much more dangerous things than cigarettes can flow along these same routes."

Rice Says India Has "Difficult Choices" In Nuclear Deal. Reuters (1/27) reports Secretary Rice said "India has 'difficult choices' to make on a controversial civil nuclear cooperation agreement with the United States before the deal can be completed." Senior-level talks have "failed to close the gap on major issues, including which Indian facilities would be designated as civilian and military." The latter "would still be off-limits to U.N. monitors."

US Embassy Corrects Report Of Ambassador's Comments. The New York Times (1/27, Sanger, Sciolino, 1.19M) at the end of an article on the Russian proposal to solve the nuclear dispute with Iran also notes, "India responded testily yesterday to American suggestions of a quid pro quo in its blossoming relations with the United States, with the Indian foreign secretary calling in the United States ambassador over his reported remarks about how India should vote next week on whether to refer the case of Iran's nuclear ambitions to the United Nations Security Council." US ambassador to India David Mulford "had been quoted by the Press Trust of India news agency as saying that if India did not vote to refer Iran to the Security Council, it would be 'devastating' to its chances of securing the nuclear deal with the United States." The US embassy "later said that the comments had been taken 'out of context' and released a full transcript. In it, Mr. Mulford first said that India would be expected to vote 'based on India's judgment of its own national interest.'"

US Seeks Overhaul Of UN Human Rights Commission. The Washington Times (1/27, Sands, 90K) reports, "A major overhaul of the United Nations' discredited human rights agency is 'quite likely' this year, the State Department's lead negotiator said yesterday, but he also said the United States would insist on real reforms before agreeing to a deal." Deputy assistant secretary of state for international organization affairs Mark Lagon said, "I think it is quite likely we can get a new human rights council, although it is not certain."

Former Pakistani Leader Dismisses Interpol Notices. The Washington Times (1/27, Li, 90K) reports, "Former Pakistani Prime Minister Benazir Bhutto said yesterday that 'red notices' issued by Interpol for her and her husband, Asif Ali Zardari, are groundless and politically motivated." She "said her attorney is contacting Interpol to confirm the warrants, and if they exist, to ask on what grounds they were issued." She said the notices were issued because "the government of President Pervez Musharraf wants to 'divert the attention' of the Pakistani people from the recent U.S. missile strike in a region bordering Afghanistan that killed at least 13 civilians."

New Canadian Leader Challenges US Over Control Of Arctic Waters. The New York Times (1/27, Krauss, 1.19M) reports, "Stephen Harper, Canada's prime minister-designate, reproached the American ambassador on Thursday over an old difference of opinion about the control of Arctic waters claimed by Canada." He "is widely expected to usher in warmer relations with the Bush administration," yet "the honeymoon took at least a temporary break when Mr. Harper reacted to a news report about comments made by the United States ambassador, David H. Wilkins, taking issue with Canada's assertion of sovereignty in northern Arctic water passages." US diplomats "said that Mr. Wilkins had stated nothing more than an old policy in answering a student's question. They said he did not criticize a plan Mr. Harper announced during the campaign to build and deploy three new armed heavy icebreaking ships and construct a deep-water port in the Arctic territorial capital, Iqaluit."

The Washington Post (1/27, A19, Struck, 744K) adds, "The Liberal government Harper will replace has made similar claims and proposals. But it was unexpected that Harper would launch a sharp verbal attack against the United States on this subject so quickly, and he extended a press conference announcing his Feb. 6 inauguration to bring it up."

Return Of Oil Companies To Libya May Prompt Reform. The Christian Science Monitor (1/27, Martelli, 61K) reports that "the companies that helped create Libya's oil industry in the 1970s are returning as Qaddafi rebuilds bridges to the West that he burned long ago, and this may help to precipitate political, as well as economic, change." Yet "Qaddafi remains an autocratic leader, and genuine economic and political reform is nowhere on the horizon, according to many Libyans." And "endemic corruption and high unemployment persist, and the lack of real economic incentives is driving skilled professionals out of the country, says Ezzedin Dibashi, an oil consultant based in London who used to work at NOC. 'Doctors, engineers, and economists are going elsewhere, rather than subsist on 600 Libyan dinars ($450) per month.'"

Georgia Experiences Blackouts After Energy Sources Disrupted. The New York Times (1/27, Chivers, 1.19M) reports, "Energy shortages struck Georgia anew on Thursday as a wind storm toppled a major power transmission line and Russia's gas monopoly failed to restore

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the flow of natural gas to the country after pipelines were sabotaged last weekend, energy officials said." The country "has been without its Russian gas, and with limited electricity, for five days. Officials in both countries initially hoped that the supplies could be swiftly restored. But after a respite from the shortages on Monday, the problems have worsened, bringing fresh hardships to Georgia and further tarnishing Russia's image as an energy supplier."

Prospects For Resolution Of Doha Trade Talks Dim. The Wall Street Journal (1/27, Miller, Champion, Switzerland, 2.11M) reports, "Major trading nations are hardening their positions as they head into the first round of trade talks since the recent Hong Kong sessions faltered, renewing the possibility of a watered-down result of four years of negotiations." During the World Economic Summit in Davos EU trade commissioner Peter Mandelson "said Europe stood to lose 'next to nothing' if talks failed and repeated strongly that he would make no further offers unless other countries make concessions. Earlier this week, he told the European Parliament that Europe could settle for 'a minimalist outcome, if that is what the rest of the world wants.'" Meanwhile, "U.S. Trade Representative Rob Portman said Thursday that he needs an ambitious round to sell a trade package to Congress. U.S. legislators, he said, won't approve a deal to cut politically important farm subsidies unless they can show their constituents that U.S. farmers will benefit from lower global farm tariffs and greater opportunities to sell industrial goods and services."

Meanwhile, the Financial Times (1/27, Beattie) reports under the headline "US Signals New Approach To Doha Round Of Trade Talks," Portman said Thursday that the Doha round of trade talks "had to move forward on all fronts, as the European Union said it would lose 'next to nothing' if the talks failed." According to the Times, the "shift of emphasis in the US's position ahead of a meeting of trade ministers on Saturday came amid accusations that the tough negotiating tactics of big farm exporters like Brazil were holding up progress." For his part, EU trade commissioner Peter Mandelson "raised the stakes" by saying that the EU would lose "next to nothing" if the talks failed. "The alliance between the US and Brazil has led to stalemate in these talks," he said. "It has now become self-defeating," he continued.

Portman Says Germany's Merkel Can Help Advance Talks. The AP (1/27) reports, "New German Chancellor Angela Merkel could help advance stalled global trade talks by offsetting the protective mindset of French officials in EU policy," US trade chief Rob Portman said Thursday. Noting that a "key issue holding up talks has been access to European Union farm markets," Portman "said Germany could act as a counterweight to France, which has been particularly defensive in wanting to protect its agriculture markets." Portman said, "I'm hopeful that she [Merkel] can help us to come together with an agreement this year."

Call For Boycott Of Israel Causes Stir At World Economic Forum. The New York Times (1/27, Landler, Markoff, 1.19M) reports, "A magazine article calling on nations to boycott Israel because of its treatment of Palestinians has provoked a tempest at the World Economic Forum's annual meeting here, prompting the organizers to pull the magazines from the forum's shelves here and issue an apology." The timing, following the Hamas election victory, "was not lost on people here. The future of Israeli and Palestinian relations was high on the agenda on Thursday at this meeting of about 2,300 political figures, private groups and corporate executives." Meanwhile, "Secretary of State Condoleezza Rice spoke via satellite during a panel here, reaffirming the position of the United States that Hamas must renounce violence and recognize Israel's right to exist."

Globalization Seen As Leading Agent Of International Reform. David Ignatius in his column in the Washington Post (1/27, A23, 744K) writes, "Davos has come to symbolize the dominant force of our time -- the wealth-creating, job-destroying whirlwind of the global economy. Each year I come here I marvel at the reach and leveling power of this economic hurricane. There are more Chinese, Indians and Arabs every year, and less of an American presence. … The one thing they seem to have in common is that nearly all were educated in the United States." Ignatius concludes, "Business today is the leading agent of social change. That's really the message of Davos. It can be a pitiless process, and its seamless efficiency is in frightening contrast to the incompetence and mismanagement of the public sector. Globalization can be tamed, but it can't be stopped -- nor should it be. I just wish other things in the world worked as well."

Growing Populism May Challenge Globalization. In contrast to Ignatius, Floyd Norris in his column in the New York Times (1/27, 1.19M) writes, "Among the business and political leaders who gather here each year for the World Economic Forum, there has long been broad agreement that globalization is good." Yet "this year there is a growing doubt -- not in the validity of the message, but in whether it is losing believers among the broad populace of the world." One example is the election of Bolivian president Evo Morales which "continued a recent leftist trend in Latin America." Norris notes, "Perhaps those who resent globalization will remain powerless. But their ranks could swell if the world economy weakens." Harvard University president Lawrence Summers "asserts that globalization will not be derailed." And "people could just accept a world in which some are very wealthy and others provide services to them. Elaine L. Chao,

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the United States labor secretary, said the job outlook in the United States was bright for plumbers and electricians."

Businessman Downplays Importance Of World Economic Forum. Former Vanguard Group CEO John Bogle, author of "The Battle for the Soul of Capitalism" in an op-ed in the Wall Street Journal (1/27, 2.11M) writes, "I already knew, as I suspect everyone there knew, that 'China, India [are] Key to the Future,' CNN's headline about Chancellor Merkel's speech. And I didn't need to fly to Davos to learn that 'plumbers, construction workers, and electricians' will still be needed in the global economy of the future. With 226 sessions, I would have had to miss at least 200 anyway." Yet "I may just be jealous. Perhaps if I call President Clinton I can hitch a ride on his jet, arriving late tomorrow afternoon for a closing panel with Forum founder Klaus Schwab. Then I'd have avoided all the foolish, self-righteous show-biz baloney, but be able to assure my pals: 'Yes, I was at Davos, 2006.'"

EU Issues Deadline For France To End Protectionism. The Financial Times (1/27, Buck) reports, "France has been given a one-month deadline to justify its contentious decree protecting a large number of domestic firms from foreign takeovers or face legal action from Brussels." EU internal market commissioner Charlie McCreevy "has rounded on the French government's action, dismissing key provisions of the decree – issued on December 31 – as 'discriminatory' and 'protectionist'." The "intervention underlines the Commission's deep concerns about the rise of protectionist measures in the 25 EU member states."

Former Kosovo Leader Mourned. The New York Times (1/27, Wood, 1.19M) reports, "Kosovo's Albanian majority gathered by the tens of thousands on Thursday to bid farewell to their" former president Ibrahim Rugova "in a proud and somber funeral ceremony that seemed to underscore their aspirations for independence." He "was given every honor the region could muster."

Columnist Warns Bolivian Poor Will Suffer Under Morales Rule. Mary Anastasia O'Grady in her "the Americas" column in the Wall Street Journal (1/27, 2.11M) writes, "In just a few short days," new Bolivian president Evo Morales "has built a cabinet of radical and Marxist militants, purged the Bolivian military and signed a pile of 'agreements' with his Venezuelan mentor Hugo Chávez. There are reports that Cuban security agents are already working for the new president much as they do for Chávez." O'Grady continues, "The most tragic aspect of Evo's decision to let Cuba and Venezuela annex his country is where this all leads for the majority Indian population in one of the region's poorest countries. … They no doubt think that Evo…will care for his own in ways that the white, upper-class leadership never did. But Fidel long ago destroyed underclass hopes for a better life and Hugo is doing the same."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Bush's Ratings Sink, But Trust Remains."
"Vote Puts Hamas In Control."
"Can The Gunmen Now Govern?"
"Medicare Drug Plan Leaves Out Supplies."
"Louisiana Tires Of Its Rogues."
"Homeless Drift In Hollywood's Rising Tide."
"Mayor Maps Plans To Run L.A. Unified."

USA Today:
"State Of The Union? 'Going The Wrong Way.'"
"Palestinians Choose Avowed Enemy Of Israel"
"2 More Democrats Say They'll Back Alito."

New York Times:
"Hamas Routs Ruling Faction, Casting Pall On Peace Process."
"Mayor, In Speech, Urges Swift Pace At Ground Zero."
"New Poll Finds Mixed Support For Wiretaps."
"Wall Street Senses Opportunities In Health Care Savings Accounts."
"Live On 'Oprah,' A Memoirist Is Kicked Out Of The Book Club."

Washington Post:
"Hamas Sweeps Palestinian Elections, Complicating Peace Efforts In Mideast."
"K Street's New Ways Spawn More Pork."
"Gun-Toting Delegate Misfires At Va. Capitol."
"Democrats Split Over Filibuster On Alito."
"The Last Handshake Deal."
"Oprah Throws The Book At Herself."

Washington Times:
"US Won't Deal With Hamas."
"Leader Likely To Cut Ties To Israel."
"Strategy Targets Terror WMDs."
"McCain, Coburn To Force Votes On Pork Spending."
"Local Shop Plots Sweet Resurgence."
"Mexico Nixes Border Maps For Migrants."
"Mexican Border Incursions Redux: In 1916, Wilson Sent In The Army."

Detroit Free Press:
"GM: Brace For More Cuts."
"Criminals? Or Just Having Some Fun?"
"Mother Questions Why Son Had To Die."

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"Amid Flap, Van Gogh Back On Display At The DIA."

Atlanta Journal-Constitution:
"ChoicePoint's Fine Sets Record."
"A Million Little Lies."
"Palestinian Vote Affirms Power Shift To Islamists."
"How Safe Is That Restaurant? New System Spells It Out."

Dallas Morning News:
"6th Grade Moves Up In DISD."
"Bold New Film Strategy A Thriller ."
"After Hamas Win, Hopes For Peace Dim."

Houston Chronicle:
"Cleared Man Is Finally Freed, Criticizes Police For Ordeal."
"Scandal Derails Junket To Houston."
"Shock Waves In Mideast."
"Europe May Halt Aid Unless Hamas Changes."
"Only Two Defendants, But Many Accused."
"Hispanics Earning Degrees In Record Numbers."

Story Lineup From Last Night's Network News:
ABC: Hamas Wins Election; Newly Elected Palestinian Woman; Bush Hamas Response; Bush NSA/Abramoff; Byrd Alito Support; Mexican Drug Smuggling; US-Choicepoint Settlement; Children Cancer Education; Oprah Lying Author; Hamas Future Moderation.
CBS: Hamas Wins Election; Bush-News Conference; Iraqi Prisoners Released; Alito Confirmation; Lobbyist-Charity Loophole; Poll: Health Care; FL Bus Accident.
NBC: Hamas Wins Election; Bush-News Conference; Bush-Rebuilding New Orleans; Iraq Prisoner Release; CIA-Wrong Photo; US-Choicepoint Settlement; US Economy; Geriatrician Shortage; AL Child Abuse; Mexican Drug Smuggling; Oprah Lying Author.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Hamas election victory; Audit-Iraq reconstruction projects; Phoenix-car accident.
CBS: Hamas election victory; Bush-Abramoff; Senate-Alito; US-Mexico border tunnel; CA-clean air rules.
NPR: Hamas election victory; Bush-Hamas; US military hands over territory to Iraqi army; Audit-Iraq reconstruction projects; FTC-ChoicePoint penalty.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH – Meets with Saad Hariri, member of the Lebanese Parliament. Oval Office.

VICE PRESIDENT CHENEY -- No schedule available.

US Senate: -- No events scheduled.

US House: -- No events scheduled.

Other. Jan. 24 - 29. WASHINGTON AUTO SHOW _ The Washington Area New Automobile Dealers Association holds the 2006 Washington Auto Show, featuring new vehicles and 37 manufacturers. Car hands-on contests, giveaways, live music, celebrity appearances, educational displays and 'flip my whip' customization contest. Location: Washington Convention Center, Mt. Vernon Square. Contacts: Barbara Pomerance, 800-697-7575 On the Net: http://www.washingtonautoshow.com

Jan. 25 - 27. MAYORS _ The U.S. Conference of Mayors holds its 75th Winner Meeting. Highlights: 8 a.m. Session on funding first responders, with DHS representatives, others. 9:30 a.m. Plenary session with release of the 2005 Metro Economics Report, with Sen. Harry Reid, Rep. Nancy Pelosi (11 a.m.), Seattle Mayor Greg Nickels and Detroit Mayor Kwame Kilpatrick. Location: Capital Hilton, 16th and K Sts. NW. Contacts: Elena Temple, 202-861-6719

Jan. 27 - 28. SECURITY-ETHICS _ Two day international meeting on questions of ethics and intelligence. Topics will include military and political intelligence, surveillance, ethics guidelines and legal principles. Academic and working group presentations, case histories and testimonies. Highlights: 3 p.m. - 8:30 p.m. Meetings at Springfield Hilton, 6550 Loisdale Rd., Springfield. Contacts: Jan Goldman, 540-220-1737

Jan. 27 - 28. VOTING-RACIAL PROFILING _ American University Washington College of Law sponsors the Mid-Atlantic People of Color Conference, dealing with voting, racial profiling, economic justice and education. Location: 4400 Massachusetts Ave. NW. Contacts: Kathy Thompson, 202-274-4279

Jan. 27 - Feb. 2. STATE OF THE UNION-RELATED EVENTS _ State of the Union related events. Highlights: 1 p.m. - 2:30 p.m. Conservative groups hold a ``Conservative State of teh Union Event," with Family Research Council Tony Perkins; Free Congress Foundation Chairman Paul Weyrich; National Association of Manufacturers president John Engler; and Frank Gaffney, founder, Center for Security Policy. Free Congress Foundation, Krieble Center, 717 Second St. NE. Please RSVP with Anna Oliver, 202-546-3000.

8:30 a.m. AARP-2006 AGENDA _ AARP holds a briefing to outline its 2006 legislative agenda. Location: AARP offices, 601 E St. NW. Contacts: n/a, 202-434-2560 Notes: RSVP requested.

9 a.m. - 10 a.m. MENTAL HEALTH-IRAQ _ Discussion on how the conflicts in Iraq have affected mental health and substance abuse among Iraqis and U.S. soldiers. With Dr. Sabah Sadik, national advisor for mental health, Iraq Ministry of Health; Dr. Hasam Alathari, medical director, INOVA

DOJ_NMG_0012859

Addiction Treatment Services; Dr. Antonette Zeiss, U.S. Veterans Affairs; and Dr. Keith Humphreys, professor of psychiatry, Stanford University. Location: National Press Club, 14th and F Sts. NW Contacts: J.P. Fielder, 202-746-6352 Notes: Open to credentialed media.

9 a.m. - 11 a.m. CANADIAN ELECTIONS _ The Canadian Institute and the Canadian American Business Council host a discussion on what to expect following the elections in Canada. With Hon. Jason Kenney, MP, Calgary Southeast (Conservative Party); Hon. Gordon Giffin, McKenna Long & Aldridge; John Wright, Ipsos-Reid; and Andrew Cohen, Carleton University. Location: Woodrow Wilson International Center for Scholars, Ronald Reagan Building and International Trade Center; 1300 Pennsylvania Ave., NW Contacts: ., 202-691-4000

10 a.m. PROGRESSIVES-TAX REFORM _ Sen. Ron Wyden, D-Ore.; Rep. Rahm Emanuel, D-Ill.; and Chicago Mayor Richard M. Daley discuss what they say are fiscally responsible, pro-middle class ideas for tax reform at a Friday Forum hosted by the Progressive Policy Institute. Location: Room 226, Dirksen Senate Office Building. Contacts: Tammy Sun, 202-547-0001

10 a.m. - 11 a.m. BIRD FLU _ The U.S. Geological Survey, the U.S. Fish and Wildlife Service, and the USDA's Animal and Plant Health Inspection Service discuss scientific surveillance programs designed to provide early detection of bird flu in North America. With Mark Limbaugh, Assistant Secretary, Water and Science, Interior Dept.; Sue Haseltine, Associate Director for Biology, USGS; Ron DeHaven, Administrator, APHIS; and Dale Hall, Director, U.S.F.W.S. Location: Room 2325, Rayburn Bldg. Contacts: Catherine Puckett, 352-264-3532

10 a.m. - 11:30 a.m. TAX REFORM _ Sen. Ron Wyden, D-Ore., Rep. Rahm Emanuel, D-Ill., and Chicago Mayor Richard Daley discuss ideas for tax code reform at a forum hosted by the Progressive Policy Institute. With John Talisman, former Assistant Secretary of the Treasury for Tax Policy, and Will Marshall, president, PPI. Location: Room 226, Dirksen Bldg. Contacts: Tammy Sun, 202-547-0001

10:30 a.m. DOD-IRAQ BRIEFING _ Col. H.R. McMaster, commander of the 3rd Armored Cavalry Regiment, will brief live from Iraq to provide an update on ongoing security operations in the Multinational Force-Northwest area of operations. Location: DOD Briefing Studio, Pentagon 2E579. Notes: Journalists without a Pentagon building pass will be picked up at the North Parking Entrance only. Plan to arrive no later than 45 minutes prior to the event; have proof of affiliation and two forms of photo identification. Please call 703-697-5131 for escort into the building.

12:30 p.m. HAITI _ The School of Advanced International Studies holds a session on the upcoming elections in Haiti, with Mark Schneider of the International Crisis Group. Location: Room 200, 1619 Massachusetts Ave. NW. Contacts: Felisa Klubes, 202-663-5626

12:30 p.m. - 2 p.m. IRAN-AHMADINEJAD _ The Woodrow Wilson Center hosts a discussion on Iram's relations with other Persain Gulf nations under President Ahmadinejad. With Hossein Hafezian, Senior Research Fellow, Center for Scientific Research and Middle East Strategic Studies, Tehran; and Hadi Semati, Public Policy Scholar, Woodrow Wilson Center, and Professor of Political Science, Faculty of Law and Political Science, Tehran University. Location: Woodrow Wilson International Center for Scholars, Ronald Reagan Building and International Trade Center; 1300 Pennsylvania Ave., NW Contacts: ., 202-691-4000

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Williams, Jan

From: Williams, Jan

Sent: Friday, January 27, 2006 9:22 AM

To: Nelson, Carrie; /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bradbury, Steve; Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff,
William; /o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford

Subject: White House Morning Update: 1/27/06

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Attachments: tmp.htm

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At Press Conference, President Bush Reaffirms The Necessity Of The NSA Terrorist Surveillance Program. "President Bush again defended his program of warrantless surveillance Thursday, saying 'there's no doubt in my mind it is legal.' He suggested that he might resist congressional efforts to change or expressly endorse it. 'The program's legal, it's designed to protect civil liberties, and it's necessary,' <http://news.yahoo.com/s/ap/20060127/ap_on_go_pr_wh/bush;_ylt=AgopKVTtVKSvcJGs5_Y5KwNI2ocA;_ylu=X3oDMTBiMW04NW9mBHNlYwMlJVRPUCUl> Bush told a White House news conference. ... It was the president's first full-scale news conference of the new year, and the 10th since he was re-elected in 2004." (Terence Hunt, "Bush Calls Warrantless Wiretaps Legal," The Associated Press, 1/27/06)

FBI Director Robert Mueller Discusses The Importance of Intelligence In Winning The War On Terror. "FBI director Robert Mueller said Thursday the United States now acts on intelligence from any place in the world to fight terrorism but has not sacrificed individuals' rights to privacy in that effort. ... 'For us, it is not just having a terrorist event happening and then gathering the evidence to put it in a courtroom to convict somebody after we're able to identify him, detain him and extradite him,' Mueller said. Since the Sept. 11 attacks, the FBI chief said, U.S. officials have recognized the importance of using all information to determine 'who intends to hurt the United States or the United States' interests around the world.' 'We are doing a much better job at integrating that intelligence and

acting on that intelligence any place in the world,' <http://www.washingtonpost.com/wp-dyn/content/article/2006/01/26/AR20060
12601325.html> he said." (Edith M. Lederer, "FBI Chief Cites Worldwide Intel," The Associated Press, 1/26/06)

Iraqi And American Forces Launch Operation In Baghdad. "Iraqi special forces backed by U.S. troops raided houses in Baghdad on Friday and detained at least 35 suspected insurgents, police said. The operation began at about 6 a.m. and was being conducted in several southwestern Baghdad neighborhoods, <http://news.yahoo.com/s/ap/20060127/ap_on_re_mi_ea/iraq_arrests_1;_ylt=
AnY01IpUkcjOyRJ3dfbsnfxX6GMA;_ylu=X3oDMTBiMW04NW9mBHNlYwMlJVRPUCUl>
with security forces searching homes, stopping cars at checkpoints and frisking people, said Maj. Falah al-Mohammedawi. There have been many ambushes and drive-by killings in this sector of Baghdad during the past week." ("35 Detained In Joint Iraqi-U.S. Operations," The Associated Press, 1/27/06)

Britain Expands Commitment To Afghanistan. "Britain will send at least another 4,000 troops - four times its current deployment <http://news.yahoo.com/s/ap/20060126/ap_on_re_mi_ea/britain_afghanistan_
2;_ylt=ApymDy4dZR6Rc7P4XZq1E53OVooA;_ylu=X3oDMTBiMW04NW9mBHNlYwMlJVRPUCU
l> - to Afghanistan in coming months as a NATO mission expands into a dangerous region rife with Taliban and al-Qaida insurgents, the government said Thursday. Britain now has about 1,000 troops in Afghanistan. That would peak at about 5,700 but drop to less than 4,700 after engineers complete building a base for troops by July, Defense Secretary John Reid said. ... The Afghanistan deployment comes as NATO expands its peacekeeping mission there from 9,000 to about 16,000 troops. The alliance will be responsible for security in about three-quarters of the country, while the separate U.S.-led combat force hunts down Taliban insurgents." (Ed Johnson, "Britain Boosting Afghan Troop Levels," The Associated Press, 1/26/06)

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Secretary Chao Addresses The Administration's Commitment To Helping Americans Get Training Needed To Access Good Paying Jobs. SEC. CHAO:
"And the United States in relation to the major industrialized nations actually has done a much, much better job of creating new jobs. ... What we are seeing in our country is a skills gap. We have workers looking for work. We also have employers looking for workers. And so the skills gap is what we've got to address. Now for workers who are out of work because of some termination by one particular company's business decisions or business problems, we're very concerned about that. We're concerned about every single worker who has lost their job. And we have a great deal of assistance available. We want people to know that there are training programs available, assistance programs. There are SWAT teams that will be on site to help workers figure out what to do about, you know, their pensions and how to find new jobs and more importantly, how to get the training that they need to access the good paying jobs that are being created." (Bloomberg's "Morning Call," 1/25/06)

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Byrd and Johnson join Sen. Ben Nelson of Nebraska as Alito's only announced Democratic supporters. All three are from states won by President Bush in 2004. 'Like most of my constituents, I prefer conservative judges,' Byrd said." (Kathy Kiely, "2 More Democrats Say They'll Back Alito," USA Today, 1/27/06)

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Press Conference Of The President

<http://www.whitehouse.gov/news/releases/2006/01/20060126.html>

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To: Nelson, Carrie; /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; [redacted] USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bradbury, Steve; Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; [redacted] (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; [redacted] (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; [redacted] (USMS); Garre, Gregory G; [redacted] (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; [redacted] (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; [redacted] (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); [redacted] (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); [redacted] (USAEO); Warren, Julie; Williams, Jan; Woodruff,
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Subject: FW: NSA Myth/Fact

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Attachments: NSA Myth-Reality Final.pdf
Importance: Low

Attached is a myth/fact document compiled by the Department of Justice on the NSA Terrorist Surveillance Program.

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Office of Public Affairs
U.S. Department of Justice
Washington, DC 20530

Justice Department

THE NSA PROGRAM TO DETECT AND PREVENT TERRORIST ATTACKS
MYTH V. REALITY
January 27, 2006

Myth: The NSA program is illegal.

Reality: The President's authority to authorize the terrorist surveillance program is firmly based both in his constitutional authority as Commander-in-Chief, and in the Authorization for Use of Military Force (AUMF) passed by Congress after the September 11 attacks.

- As Commander-in-Chief and Chief Executive, the President has legal authority under the Constitution to authorize the NSA terrorist surveillance program.
  - The Constitution makes protecting our Nation from foreign attack the President's most solemn duty and provides him with the legal authority to keep America safe.
  - It has long been recognized that the President has inherent authority to conduct warrantless surveillance to gather foreign intelligence even in peacetime. Every federal appellate court to rule on the question has concluded that the President has this authority and that it is consistent with the Constitution.
  - Since the Civil War, wiretaps aimed at collecting foreign intelligence have been authorized by Presidents, and the authority to conduct warrantless surveillance for foreign intelligence purposes has been consistently cited and used when necessary.
- Congress confirmed and supplemented the President's constitutional authority to authorize this program when it passed the AUMF.
  - The AUMF authorized the President to use "all necessary and appropriate military force against those nations, organizations, or persons he determines planned, authorized, committed, or aided in the terrorist attacks that occurred on September 11, 2001."
  - In its *Hamdi* decision, the Supreme Court ruled that the AUMF also authorizes the "fundamental incident[s] of waging war." The history of warfare makes clear that electronic surveillance of the enemy is a fundamental incident to the use of military force.
- A crucial responsibility of the President—charged by the AUMF and the Constitution—is to identify enemies who attacked us, especially if they are in the United States ready to strike against our Nation.

DOJ_NMG_0012872

- We are at war, and al Qaeda is not a conventional enemy. Since the September 11 attacks, it has promised again and again to deliver another, even more devastating attack on America. In the meantime, it has killed hundreds of innocent people around the world through large-scale attacks in Indonesia, Madrid, and London.

- Al Qaeda's plans include infiltrating our cities and communities and plotting with affiliates abroad to kill innocent Americans.

- The United States must use every tool available, consistent with the Constitution, to prevent and deter another al Qaeda attack, and the President has indicated his intent to do just that.

Myth: The NSA program is a domestic eavesdropping program used to spy on innocent Americans.

Reality: The NSA program is narrowly focused, aimed only at international calls and targeted at al Qaeda and related groups. Safeguards are in place to protect the civil liberties of ordinary Americans.

- The program only applies to communications where one party is located outside of the United States.
- The NSA terrorist surveillance program described by the President is only focused on members of Al Qaeda and affiliated groups. Communications are only intercepted if there is a reasonable basis to believe that one party to the communication is a member of al Qaeda, affiliated with al Qaeda, or a member of an organization affiliated with al Qaeda.

- The program is designed to target a key tactic of al Qaeda: infiltrating foreign agents into the United States and controlling their movements through electronic communications, just as it did leading up to the September 11 attacks.

- The NSA activities are reviewed and reauthorized approximately every 45 days. In addition, the General Counsel and Inspector General of the NSA monitor the program to ensure that it is operating properly and that civil liberties are protected, and the intelligence agents involved receive extensive training.

Myth: The NSA activities violate the Fourth Amendment.

Reality: The NSA program is consistent with the Constitution's protections of civil liberties, including the protections of the Fourth Amendment.

- The Supreme Court has long held that the Fourth Amendment allows warrantless searches where "special needs, beyond the normal need for law enforcement," exist. Foreign intelligence collection, especially in a time of war when catastrophic attacks have already been launched inside the United States, falls within the special needs context.

DOJ_NMG_0012873

- As the Foreign Intelligence Surveillance Court of Review has observed, the nature of the "emergency" posed by al Qaeda "takes the matter out of the realm of ordinary crime control."

- The program easily meets the Court's reasonableness test for whether a warrant is required. The NSA activities described by the President are narrow in scope and aim, and the government has an overwhelming interest in detecting and preventing further catastrophic attacks on American soil.

Myth: The NSA program violates the Foreign Intelligence Surveillance Act (FISA).

Reality: The NSA activities described by the President are consistent with FISA.

- FISA expressly envisions a need for the President to conduct electronic surveillance outside of its provisions when a later statute authorizes that surveillance. The AUMF is such a statute.

- The NSA activities come from the very center of the Commander-in-Chief power, and it would raise serious constitutional issues if FISA were read to allow Congress to interfere with the President's well-recognized, inherent constitutional authority. FISA can and should be read to avoid this.

Myth: The Administration could have used FISA but simply chose not to.

Reality: In the war on terrorism, it is sometimes imperative to detect—reliably, immediately, and without delay—whether an al Qaeda member or affiliate is in contact with someone in the United States. FISA is an extremely valuable tool in the war on terrorism, but it was passed in 1978 and there have been tremendous advances in technology since then.

- The NSA program is an "early warning system" with only one purpose: to detect and prevent the next attack on the United States from foreign agents hiding in our midst. It is a program with a military nature that requires speed and agility.

- The FISA process, by design, moves more slowly. It requires numerous lawyers, the preparation of legal briefs, approval from a Cabinet-level officer, certification from the National Security Advisor or another Senate-confirmed officer, and finally, the approval of an Article III judge. This is a good process for traditional domestic foreign intelligence monitoring, but when even 24 hours can make the difference between success and failure in preventing a terrorist attack, a faster process is needed.

Myth: FISA has "emergency authorizations" to allow 72-hour surveillance without a court order that the Administration could easily utilize.

DOJ_NMG_0012874

<u>Reality</u>: There is a serious misconception about so-called "emergency authorizations" under FISA, which allow 72 hours of surveillance without a court order. FISA requires the Attorney General to determine in advance that a FISA application for that particular intercept will be fully supported and will be approved by the court before an emergency authorization can be granted, and the review process itself can and does take precious time.

- The Justice Department does not approve emergency authorizations without knowing it will receive court approval within 72 hours.

- To initiate surveillance under a FISA emergency authorization, it is not enough to rely on the best judgment of our intelligence officers alone. Those intelligence officers would have to get the sign-off of lawyers at the NSA that all provisions of FISA have been satisfied, then lawyers in the Department of Justice would have to be similarly satisfied, and finally, the Attorney General would have to be satisfied that the search meets the requirements of FISA. The government would have to be prepared to follow up with a full FISA application within 72 hours.

- A typical FISA application involves a substantial process in its own right: The work of several lawyers; the preparation of a legal brief and supporting declarations; the approval of a Cabinet-level officer; a certification from the National Security Advisor, the Director of the FBI, or another designated Senate-confirmed officer; and, finally the approval of an Article III judge.

- The FISA process makes perfect sense in almost all cases of foreign-intelligence monitoring in the United States. Although technology has changed dramatically since FISA was enacted, FISA remains a vital tool in the war on terrorism -- one that we are using to its fullest and will continue to use against al Qaeda and other foreign threats.

- But the terrorist surveillance program operated by the NSA requires maximum speed and agility to achieve early warning, and even a very brief delay may make the difference between success and failure in detecting and preventing the next attack.

Throughout this document, the "terrorist surveillance program" and "the NSA program" refer to the NSA activities described by the President.

DOJ_NMG_0012875

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, January 27, 2006 5:54 PM
To: Comisac, Rena (CRT)
Subject: FW: Trafficking Report

I am very sorry if I didn't forward this sooner. I thought I had done so, but with Lu gone and Robert out I admit things are a little less than optimal in our office at the moment. Happily, the process sounds like a simple one but if your folks encounter any problems just let me know. Thanks for all your excellent work on this and the housing issues. We are getting very close! Have a great weekend, NMG

-----Original Message-----
From: Allyson_N._Ho@who.eop.gov [mailto:Allyson_N._Ho@who.eop.gov]
Sent: Friday, January 20, 2006 6:29 PM
To: Gorsuch, Neil M
Subject: RE: Trafficking Report

I now have a CD from Omar Vargas that I assume contains the report you're referencing. As for the photo, I'm told that you will need to get sign off from the WH Photo Office, but that shouldn't be a problem.
Please have someone involved in the production call the Photo Office (456-6709) and put in the request. The office can also email over a high resolution version (or whatever you need) of a certain photo.

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From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Friday, January 20, 2006 5:51 PM
To: Ho, Allyson N.
Subject: Trafficking Report

Rena Comisac hopefully will have transferred the report to you sometime today. Would appreciate your input on its substance and, somewhat pressingly but less importantly, whether we have the green light to use a POTUS photo. Document will have to be sent to the printer's next week and for some reason photos need to be set in place even before the text is finalized! Many thanks. NMG

Comisac, Rena (CRT)

From: Comisac, Rena (CRT)
Sent: Friday, January 27, 2006 6:05 PM
To: Gorsuch, Neil M
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Sent: Friday, January 27, 2006 6:06 PM
To: Comisac, Rena (CRT)
Subject: RE: Trafficking Report

Please do feel free to call Allyson on this, and I just hope some of our collective feedback was helpful, though I'm not entirely sure!

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Miller, Charles S

From: Miller, Charles S
Sent: Monday, January 30, 2006 11:35 AM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 1/30/06 Civil Division News

Justice Department subpoenas attorney for Guidant documents

Drug Maker's Efforts to Compete in Lucrative Insulin Market Are Under Scrutiny

Ulster pilot off us no-fly suspect list; Lisburn man was grounded by Homeland Security

Date set for hearing on Google data-sharing

Is a BlackBerry blackout likely? Most experts say no; patent fight over e-mail device is at key phase here next month

Victories for prosecutors; A former official at a key maker of submarine valves is sent to prison for his role in the fraud.

Idaho Downwinders Hold Vigil On Statehouse Steps

Black Farmers Urged To Join Suit

Commentary: The Supreme Court's Surprisingly Unanimous Abortion Decision: A Parting Gift for Justice O'Connor?

Press Release: Holocaust Survivors to Receive Assistance from 'Hungarian Gold Train Funds Distributed by Claims Conference

AP

January 30, 2006

Justice Department subpoenas attorney for Guidant documents

By ASHLEY M. HEHER

AP Business Writer

INDIANAPOLIS_The Justice\l "l" Department\l "l" has ordered an attorney to turn over documents indicating Guidant Corp. continued selling some of its heart defibrillator models after knowing the devices could malfunction.

The subpoena, part of the federal government's investigation into the Indianapolis-based company, requires Texas attorney Bob Hilliard to turn over handwritten notes and PowerPoint slides. He obtained them from the company during preparations for a product liability case in Texas state court.

The 10 pages include notes from Fred McCoy, president of Guidant's cardiac rhythm management division, that show a decision was made to sell inventory the executive described as having sporadic "life-threatening" defects.

"It's consistent, bad decisions based on profit, not patient health," Hilliard told The Associated Press. "The documents I received from Guidant showed they were basically making the equivalent of the Ford Pinto."

Guidant spokesman Steve Tragash declined to comment.

Assistant U.S\l "l". Attorney\l "l" Robert Lewis did not return a phone call seeking comment on the subpoena, which was issued Tuesday.

Hilliard represents about 70 patients who are suing Guidant for providing them with faulty heart devices. The jury trial, scheduled to begin Feb. 20 in Corpus Christi, Texas, involves two patients with faulty defibrillators. It is the first of what could be several trials stemming from Guidant recalls over the last seven months.

Since June, Guidant has recalled or issued safety advisories for about 88,000 defibrillators and more than 200,000 pacemakers. At least seven deaths have been linked to the faulty devices.

The company faces regulatory investigations as well as multiple lawsuits from the recalls.

Analysts have predicted Guidant's liability from all the actions could reach as high as $2 billion.

Hilliard obtained the documents _ part of 600,000 pages of Guidant records _ during trial preparations.

Government officials also asked Hilliard to keep all the records from Guidant, including those not covered in the subpoena.

Guidant agreed Wednesday to a $27.2 billion acquisition by Natick, Mass.-based Boston Scientific Corp., ending a two-month-long bidding war with health products giant Johnson & Johnson. The takeover must still be approved by shareholders and regulators in the U.S. and Europe.

The company announced Friday that net income fell to $78.9 million, or 23 cents per share, for the three months ended Dec. 31 from $104.5 million, or 32 cents per share, a year ago, as sales declined and product recalls and merger expenses continued.

END

New York Times

January 28, 2006

Drug Maker's Efforts to Compete in Lucrative Insulin Market Are Under Scrutiny

By GARDINER HARRIS and ROBERT PEAR

WASHINGTON — For years, Novo Nordisk, a Danish company and one of the earliest makers of insulin, has raced behind Eli Lilly to capture the lucrative insulin market in the United States.

When in 1996 Lilly started selling Humalog, a synthetic insulin with speedier blood-sugar control, Novo needed four more years to get approval to market a similar product.

When Lilly's huge sales force put Novo at a disadvantage, Novo fought back. The company hired hundreds of sales representatives. When Lilly struck a marketing deal with the Eckerd pharmacy chain, Novo responded with a partnership with Rite Aid.

But in its race, several former Novo sales representatives say, Novo may have crossed the line. Sales representatives paid at least one Rite Aid pharmacist to encourage switches from Lilly products or Novo's own lower-priced versions to higher-priced ones, according to documents and former and present company officials. Novo also paid doctors' assistants when prescriptions were switched, according to two former sales representatives.

Several former sales representatives said they were told by pharmacists and doctors' assistants that some patients first became aware of the switches when they picked up the new medicines at a pharmacy.

Officials from Novo and Rite Aid said that their activities were intended primarily to educate patients or improve care and that similar programs were common in the industry.

Karen A. Rugen, a spokeswoman for Rite Aid, said, "Our alliance with Novo Nordisk is standard industry practice." Ms. Rugen said, however, that Novo had paid one of Rite Aid's pharmacists directly, although she said that top Rite Aid executives had been unaware of the practice.

Susan Jackson, a spokeswoman for Novo Nordisk, said that the overall agreement between Novo Nordisk and Rite Aid "has benefited many people with diabetes."

Ms. Jackson would not address questions about payments made to doctors' assistants or a Rite Aid pharmacist, nor would she say how much Novo paid Rite Aid. But she said the partnership "is not unlike other agreements common in the industry that provide 'preferred status' for branded drugs."

But prosecutors are now investigating possible criminal violations. On Dec. 20, Novo said it had received a subpoena from the United States attorney for the Eastern District of New York for documents relating to its marketing practices.

The company said that it "believes that the investigation is limited to its insulin products." The subpoena indicated that "the documents are necessary for the investigation of potential criminal offenses," the company said.

Drug companies may pay for consulting or educational services, but federal anti-kickback statutes prohibit them from offering financial incentives to doctors or pharmacists to encourage or reward the prescribing of particular drugs, according to a 2003 guidance from the Department of Health and Human Services.

"In short, practices that may be common or longstanding in other businesses are not necessarily acceptable or lawful" in health care, the guidance states.

A Marketing Battle

The rivalry between Novo and Lilly illustrates the efforts companies will undertake to become No. 1 in a drug market, especially for chronic diseases like diabetes, which in the United States is a $3.3 billion

market annually, according to IMS Health, a pharmaceutical information and consulting company.

From a business perspective, Novo's efforts were a great success. From December 2001 through November 2005, Novo's insulin sales rose 364 percent to $963 million while Lilly's insulin sales rose only 13 percent to $1.43 billion, according to figures provided by IMS Health.

The marketing programs were detailed in dozens of internal Novo and Rite Aid documents obtained by The New York Times. Three former Novo sales representatives described the programs. These people, some of whom spoke to The Times separately from one another, do not wish their names to be used because all still work in the industry and fear retribution. Parts of the programs were also confirmed by company officials and another sales representative who allowed their names to be used. The former sales representatives would not comment on whether they had filed whistle-blower lawsuits against Novo.

In its marketing battle with Lilly, Novo's sales representatives undertook a variety of efforts to persuade doctors to prescribe Novo's insulin products, one of which was known as the "anchor in the office" program.

Under this program, Novo sales representatives established contacts in some medical offices that served many diabetics, three former sales representatives said. The contacts were generally nurses or medical assistants responsible for monitoring diabetic patients. Officially, Novo paid these "anchors" to educate patients about Novo's products.

But two of the three former sales representatives who participated in the program said that Novo paid anchors as much as $25 for each prescription they helped switch to higher-priced insulin products.

Vikki Tolbert, a Novo district sales manager, said in an interview that "people are up in arms for no reason."

"Novo, like other companies, used to have a program to reimburse nurses and medical assistants," Ms. Tolbert said. "The purpose was not to switch patients, but to educate them and train them on insulin and insulin devices."

The formal program and the payments ended several years ago, Ms. Tolbert said, but some sales representatives still wanted to have trainers, or "anchors in the office."

"We would never tell a sales rep to pay anyone," Ms. Tolbert said. "That's crazy. But some reps do things of their own volition. They are out in the field by themselves every day. Managers are not with them. A pharmaceutical company cannot know what each individual sales rep is doing."

Deals Becoming Routine

A number of drug companies are running afoul of the anti-kickback law. In October, Serono Laboratories pleaded guilty to two counts of conspiracy and agreed to pay $704 million to settle criminal charges that it engaged in an elaborate kickback scheme to encourage sales of its AIDS drug, Serostim. In 2004, prosecutors accused Pfizer of paying doctors to prescribe its epilepsy drug Neurontin, and the company pleaded guilty to two criminal charges and paid $430 million.

State and federal prosecutors are investigating scores of other criminal and civil cases of marketing abuse, all of which are under seal. The possible health consequences for patients are rarely emphasized, however. For instance, physicians say aggressive marketing of insulin products can hurt patients.

Dr. David M. Nathan, director of the diabetes center at Massachusetts General Hospital and professor at Harvard Medical School, said that switching insulin prescriptions without providing thorough counseling to patients can be dangerous.

Newer, more expensive rapid-acting insulins begin working within five minutes. Older, cheaper insulins take 30 to 40 minutes to lower blood-sugar levels. Patients who are switched from older to newer insulins without their knowledge may wait too long to eat, Dr. Nathan said.

"If their blood-sugar levels drop too low, they can become confused, lose coordination, lose consciousness and have seizures," Dr. Nathan said. "This can result in accidents and even death."

Drug makers routinely provide financial incentives to managed-care firms for greater sales, but providing similar incentives to pharmacy chains can raise legal and ethical questions in part because pharmacists' advice to patients, like that of doctors', is supposed to be based on the best interests of patients, not pharmacists.

Still, deals between drug makers and pharmacy chains are now routine. As part of these deals, drug companies pay pharmacy chains for drug promotions that can range from simple refill reminders to efforts to switch patients to higher-priced drugs. If sales then rise, payments can increase, said Jeffrey Krinsk, a lawyer in San Diego who specializes in suing over the deals.

The companies say that these arrangements benefit patients, but some pharmacy regulators disagree, saying the partnerships may result in prescriptions being switched inappropriately, hurting patients.

David R. Work, executive director of the North Carolina Board of Pharmacy, said that his board had tried unsuccessfully to restrict such deals, one of the few boards to make such an effort. The practice of pharmacy, like that of medicine, is regulated by state boards.

"These switches have nothing to do with patient interest, they're all about money," Mr. Work said.

Novo's marketing campaigns also highlight the conflicting loyalties of many health care professionals. Doctors and their staff often consult for or receive gifts from drug makers, which may affect prescribing decisions. Pharmacists sometimes suggest one drug over another to patients for financial, not medical, reasons, pharmacy regulators say.

In April 2004, Novo Nordisk sent information to its field managers and sales representatives about marketing guidelines issued by the federal government and by a trade association for the pharmaceutical industry.

After reviewing the guidelines, a Novo sales representative sent an e-mail message to Ms. Tolbert, the Novo district manager, asking, "Are we allowed to do the anchors in the office then?" Ms. Tolbert replied, "As far as I know, and in discussing it with other managers, we are allowed to compensate for patient education."

In March 2004, Ms. Tolbert sent an e-mail message to sales representatives describing the purpose of Novo's marketing efforts.

"Our goal is 50 or more scripts per week for each territory," Ms. Tolbert wrote, according to a copy of the message provided to The Times. "If you are not achieving this goal, ask yourself if those doctors that you have such great relationships with are being fair to you. Hold them accountable for all of the time, samples, lunches, dinners, programs and past preceptorships that you have provided or paid for and get the business!! You can do it!!""

Preceptorships are consulting arrangements with doctors.

After Novo announced its partnership with Rite Aid in March 2002, Ms. Jackson, the Novo spokeswoman, was quoted in Diabetes Health magazine explaining that Rite Aid pharmacists "will actively intervene to introduce Novo Nordisk products."

Novo Nordisk produces a variety of insulin products, including preloaded syringes and synthetic versions. These products are often more convenient to use but are also more expensive than standard insulin. Since diabetes is a difficult disease to manage, convenience is important. But some doctors question whether the convenience of the new products is worth the premium prices.

One Pharmacist's Role

Lawrence M. Schultz, a Rite Aid pharmacist in Maryland, was paid by Novo to identify diabetics from databases in Rite Aid pharmacies, according to the three former Novo sales representatives.

Mr. Schultz or a pharmacy technician then contacted doctors to persuade them to switch their patients to higher-priced insulin products, according to the three former sales representatives. It is not known why doctors agreed to the changes, but the sales representatives say that they may have assumed the switch was required under the patient's insurance policy.

Two former sales representatives who contracted with Mr. Schultz and hired "anchors" say that Mr. Schultz, doctors' assistants and others told them that patients often only became aware that their prescriptions had been switched to a different insulin when they arrived at the pharmacy to pick up their medicines. The sales representatives said they knew of no patients who were directly harmed by these surprise switches.

Ms. Rugen of Rite Aid acknowledged that Rite Aid has a partnership with Novo but says that "no official at Rite Aid knew that Larry Schultz," the Rite Aid pharmacist, "was being paid by Novo Nordisk."

Mr. Schultz confirmed that he had "pushed Novo Nordisk" products. He refused to give details, but said: "Everything I did was done completely ethically. The one thing I would never do is put my job, or Rite Aid, in jeopardy."

Three Novo sales representatives who described Mr. Schultz's efforts on their behalf said they knew of no other Rite Aid pharmacist who received payments directly from Novo. But internal documents from Rite Aid provided to The Times show that Rite Aid executives urged pharmacists throughout the chain to dispense Novo products.

Rite Aid encouraged pharmacists to run computerized "drug utilization reports" to identify patients who could be switched, documents show.

Rite Aid had powerful financial incentives, documents show. In a letter to Rite Aid pharmacists in February 2005, top Rite Aid executives said, "Each Novo Nordisk product we dispense brings us 20 to 40 percent better profit margin." Moreover, they said, such sales add millions of dollars to Rite Aid's "bottom line."

Ms. Jackson, the Novo spokeswoman, said the company was "pursuing this matter with great urgency" and intended "to take remedial action in the event we find violations of our policies."

Carmen Catizone, executive director of the National Association of Boards of Pharmacy, said marketing deals between drug companies and pharmacy chains had often misled doctors and hurt patients. .

"We are opposed to plans where the financial interest of the manufacturer takes precedence over the patient's health," Mr. Catizone said. "To call a physician and say that we're changing a patient's medication and make it seem as if it's on behalf of the patient when it's actually part of this marketing deal is not right."

END

Belfast Telegraph

January 28, 2006

Ulster pilot off us no-fly suspect list; Lisburn man was grounded by Homeland Security

By Sean O'Driscoll in New Yorknewsdesk@belfasttelegraph.co.uk

A NORTHERN Ireland pilot who was banned from flying or sitting as a passenger on US planes has had his name lifted from the Department of Homeland Security's terrorist no-fly list.

Robert Gray (34) from Lisburn, had been unable to travel back to Northern Ireland to visit his seriously ill mother, Valerie, despite having previously piloted planes that carried Senator Ted Kennedy, Congressman William Delahunt and other US politicians.

Mr Gray was expected to start flying again this week after completing a medical exam.

The Police Service of Northern Ireland accept that he has never had links to paramilitary groups and he previously passed a US airline background check.

Mr Gray, a pilot with Massachusetts airline Cape Air went to court last July to fight his exclusion. The American Council for Civil Liberties took up the case, arguing that Gray was a victim of mistaken identity and that his constitutional rights were being violated.

His Boston-based ACLU\l "I" lawyer, Sarah Wunsch, said yesterday that the case had not been officially settled but it was a "very good sign" that he was being allowed to work again.

"They told his employers before they told us, but if he's allowed to fly I think that's a good indication that he is not a threat to national security," Ms Wunsch added.

Mr Gray's legal nightmare began in January of last year when he applied for a licence to fly a larger plane.

However, the Department of Homeland Security's Transport Security Authority replied in writing that it believed his was "a threat to aviation or national security."

Mr Gray had wanted to return to Northern Ireland to visit his mother, Valerie, who is in very poor health.

He has lived in the US since 1993 and has permanent legal resident status.

A heavily edited copy of his Transport Security Administration files lists his ethnicity as Hispanic, which the ACLU\l "I" said was a clear indication that the Government has confused Gray with a terror suspect.

When he launched his legal suit\l "I" in September, his fiancee, Joy Valante, cried as she told reporters at the courtroom that the couple were planning to get married but Mr Gray was not allowed to fly to their honeymoon in Tuscany, Italy.

Mr Gray said at the time that the case was "like something from the McCarthy era", referring to the anti-communist witch hunt by Senator Joe McCarthy in America in the 1950s.

Ironically, Mr Gray's former passenger, Senator Ted Kennedy, has also complained that he spent months on the no-fly suspect list after his name was confused with an Irish republican who travelled under a similar name.

While Senator Kennedy faced long delays while his name was on the list, Mr Gray was unable to work or fly as a passenger.

In an affidavit filed at the Federal District Court in Boston, he said that he would not have been able to return to Belfast before his mother died.

Mr Gray had sued both the Transportation Security Administration and the Department of Homeland Security, claiming that his constitutional rights had been violated.

Mr Gray's legal case was backed by the American Council for Civil Liberties.

END

San Jose Mercury News (CA)

January 28, 2006

Date set for hearing on Google data-sharing

Mercury News Wire Services

A federal judge in San Jose has scheduled a Feb. 27 hearing to examine Google's decision to withhold online search records from the U.S. Justice Department.

The hearing, to be held in U.S. District Court, will be the first in the high-profile case. The Justice Department is seeking to force the Mountain View company to comply with a subpoena seeking 1 million Web site addresses reached from Google and one week of search queries.

In an interview this week with Bloomberg News, Google co-founder Sergey Brin said the Mountain View Internet company will fight the U.S. government for as long as it takes to avoid handing over information on user searches.

"It's our obligation to use the law to the farthest possible means to protect our users' privacy," Brin said Thursday at the World Economic Forum in Davos, Switzerland. "It's just a legal and ethical principle."

The Justice Department is seeking to use the information to defend the federal Child Online Protection Act, designed to keep children from sexually explicit material on the Internet. The law has been challenged by the American Civil Liberties Union as a violation of free-speech rights in the First Amendment to the U.S. Constitution.

Yahoo, Microsoft and America Online have already turned over information sought by the government, at least in part.

"I don't think we like the precedent of it, and so we're fighting it," Brin said. "I think we're right."

U.S. Attorney General Alberto Gonzales said Jan. 20 that the government will continue to press Google to turn over the information. He said the request isn't an invasion of privacy and will help fight Internet pornography.

"We're not asking for any personal information," said Charles\l "l" Miller\l "l", a Justice\l "l" Department\l "l" spokesman, adding that the department is pressing ahead with its case.

In the Bloomberg interview, Brin also said Google's decision to release a censored search engine in China came after years of consideration.

"This was a decision we reached after a number of years speaking to the human rights groups, and specifically people who really cared about China on human rights," Brin said. "I understand why other people might have other views."

Google this week said it planned to release a version of its Internet search engine in China that excludes some sites restricted by the Chinese government.

END

Richmond Times-Dispatch

1/29/06

Is a BlackBerry blackout likely? Most experts say no; patent fight over e-mail device is at key phase here next month

BY JEFFREY KELLEY

TIMES-DISPATCH STAFF WRITER

Inside the stone walls of the federal courthouse in downtown Richmond rests the threat, though perhaps a small one, of a blackout on the BlackBerry wireless e-mail gadgets.

The East Main Street building has taken the national spotlight with a patent-infringement case that could affect the fate of the popular hand-held device.

"Our initial reaction was there was some concern about service going down because we are dependent on [the BlackBerry] at this point," said David Fratkin, president of Richmond-based Dominion Payroll Services LLC. But he said he is not worried.

Nor is Todd Whitlock, principal at the small Richmond IT support firm The HelpDesk Co., who uses the BlackBerry to keep in touch with clients. Or Craig Robinson, a Chesterfield County resident who uses the device to keep in touch with friends and family.

Research In Motion Ltd., the Canadian-based maker of BlackBerry, has said it has a workaround should the company be forced to shut down its U.S. service. Still, U.S. corporations, governments and regular users of the BlackBerry are watching the case closely.

The duel between RIM and NTP Inc., a patent-holding firm based in Arlington County, could come to a head next month. A Feb. 24 hearing before U.S. District Judge James R. Spencer, who is overseeing the case, could influence BlackBerry's destiny -- or at least the way the fight will be settled.

Though the judge could decide to cut off service to about 3 million U.S. BlackBerry users, experts do not think that will happen.

"The likelihood of the BlackBerry getting shut down is very slim, certainly less than a 10 percent chance," said Todd Kort, principal analyst at research firm Gartner Inc.

"Hopefully it won't come to that, but maybe [BlackBerry users] should be mildly concerned," said Carl Tobias, a University of Richmond law professor specializing in patent litigation.

He said a decision won't necessarily be made on Feb. 24, and the judge has some time to consider the case before writing an opinion. Spencer also could ask the two sides to continue trying to find a solution.

RIM and NTP have been battling since 2001. The Virginia company says the BlackBerry maker infringed on several patents related to wireless messaging. In late 2002, a federal jury in Richmond agreed with NTP, and the companies have been tied up in appeals since.

RIM tried to get its case heard by the U.S. Supreme Court, which this month denied its petition. The Waterloo, Ontario-based company wanted a review to determine whether U.S. patent laws extend beyond national borders.

The BlackBerry was introduced in early 1999 as a way to access e-mail and keep the day's tasks in line while on the go. The palm-size device has been a hit not only with New York's Wall Street types but Richmond's James Center ones. And don't count out the folks who hang around Capitol Square.

"The BlackBerry better organizes me, better prepares me for my day-to-day work," said Judith G. Napier, Virginia's assistant secretary of technology, who has used the device for nearly four years. Before then, "I was just sort of [an] office paper person."

There are roughly 1,000 BlackBerrys being used across the Virginia government's executive branch and by key officials within the state higher education system, said Lemuel C. Stewart Jr., the state's chief information officer and head of the Virginia Information Technologies Agency.

He handles about 250 e-mails a day and attempts to monitor his use "because your thumbs get a little numbish" typing on the tiny keyboard.

In court filings, NTP has said an injunction would not apply to members of federal, state and local governments or emergency workers.

But RIM has said it has no way of creating a "white list" to ensure that BlackBerry service for the roughly 1 million government officials and first-responders in the United States would continue. It said NTP's theory that an exception can be made for the group "is both unsupported and contrary to reality," according to court documents.

NTP has said it would ask the court to give BlackBerry users 30 days to find alternatives.

But they are by far the most popular of the wireless e-mail devices, holding more than half the U.S. market and still growing, Gartner's Kort said. Behind BlackBerry is chief rival Palm Inc.'s Treo.

Many other RIM competitors have been touting their products and services as worthy alternatives in the event of a blackout.

The Richmond suit is playing out against the backdrop of a case before the U.S. Patent and Trademark Office, which is re-examining the disputed patents and could rule in favor of the BlackBerry maker, according to court documents and published reports.

But a conclusion from the patent office could come around the end of the year, and Spencer is unlikely to wait for a response from the patent office, Kort said.

Royalty payments are the likely outcome of the dispute between RIM and NTP, said Don Murtaugh, senior business consultant at Richmond-based Core Consulting.

"If the patent office does not overturn the patents, then Research In Motion will pay royalties as a percentage of U.S.-based revenues, and users will be unaffected for the most part," Murtaugh said as a likely outcome. "It will be the shareholders in Research In Motion who will see the drop in earnings."

But he did note that payments could push service fees higher for BlackBerry users.

Sam Young, chief operating officer at Richmond tech consultancy Astyra Corp., notes that the BlackBerry case should serve as a lesson for firms to keep contingency plans in place for essential business tech gear.

"Companies should be prepared to educate [BlackBerry] users on alternative methods to get their e-mail, or even have other devices available to the users in the event that there's some sort of shutdown of service," he said.

END

Virginia Daily Press

1/28/06

Victories for prosecutors; A former official at a key maker of submarine valves is sent to prison for his role in the fraud.

BY PETER DUJARDIN

A former high-ranking official at a supplier of valves for nuclear-powered Navy submarines has been sentenced to two years in prison for falsifying quality-control documents about the valves'

January 28, 2006 Larry Kelly, once the vice president at Hunt Valve, of Salem, Ohio, was also ordered to three additional years of supervised release and ordered to pay $4.2 million, the Justice Department said.

Kelly, 52, who now lives in Arlington, Tenn., had pleaded guilty in April as part of an agreement with the government: He admitted to one count of conspiring to defraud the government and obtaining money illegally by providing false certifications on the valves.

Hunt Valve has supplied thousands of critical valves over the years for submarines built at Northrop Grumman Newport News, including Los Angeles-class and Virginia-class submarines. It also supplies some valves for aircraft carriers.

The charge against Kelly pertained to a wide-ranging fraud conspiracy. One accuses him of participating in a scheme in which Hunt workers scanned documents into a computer and altered them - to make it look as if steel components were heat-tested even though they never were.

"The falsified certificate was printed out and inserted into Hunt Valve's certification package for that valve, which was delivered to the Navy," a grand jury indictment had said.

A press release issued by the U.S. Attorney's Office for the Northern District of Ohio adds that on some tests some of the fraudulent certificates were "faxed from one fax machine to another in the same building to make the document appear fuzzy in an attempt to conceal the falsification."

Kelly did not return a phone call seeking comment.

In a plea agreement, Kelly agreed to cooperate in the continuing case in exchange for a recommendation for a lesser sentence, said Richard H. Blake, the U.S. Attorney handing the case.

"Had he gone to trial and been convicted, he would have likely faced four to five years under the (sentencing) guidelines," Blake said. "Kelly has agreed to cooperate with the government's ongoing investigation and will testify if need be."

Blake said the Justice Department's case is continuing to build against other officials.

In another plea agreement in June, Wayne Aldrich, a former quality assurance manager at Hunt Valve, was sentenced to 33 months in prison.

Like Kelly, he was also ordered to pay $4.2 million, the cost of the government's investigation into the case.

Though Kelly and Aldrich will likely never pay close to those amounts, they will likely have to pay at least 10 percent of their income to the government for many years. The criminal investigation began in early 2001, when a whistleblower complained about practices at Hunt, and a government investigation ensued.

The case is related to a separate civil lawsuit that was brought against Hunt Valve, General Dynamics

Electric Boat and Northrop Grumman Newport News, among others.

Electric Boat, Newport News shipyard and the other defendants agreed in October to a $13.2 million settlement of a lawsuit brought by the whistleblower, brought under the False Claims Act.

The suit had accused the two shipyards of failing in their duty to uncover - and stop - obvious quality and fraud problems at Hunt. Under the terms of the deal, Electric Boat paid $7.7 million and forgave $630,000 in expected bills to the government. The Newport News shipyard paid $3 million and gave up on $1.2 million it once planned to charge the government for work investigating complaints into the valves.

END

KBCI-TV (Boise, Idaho)

January 27, 2006

Idaho Downwinders Hold Vigil On Statehouse Steps

By Sarah Dallof

Boise -A vigil was held Friday night on the steps of the Idaho Statehouse to mark the 55th anniversary of the first nuclear test conducted at the Nevada Test Site.

About 30 members of the group Idaho Downwinders and their supporters attended the vigil. They carried signs and photographs of loved ones who have passed away from illnesses they say were caused by nuclear fallout from the tests

Since the testing, four Idaho counties have reported unusually high cases of thyroid cancer. However, the area doesn't fall within guidelines for the Radiation Exposure Compensation Act.

Emmett native Dave Vahlberg who fought testicular cancer several years ago says time is running out for his loved ones and it's time to change RECA guidelines.

"The tragedy is terrible to behold, terrible to watch," he tells Local 2 News. "There are so many people that need assistance, health clinics, something to help.We need help."

Idaho senators Mike Crapo and Larry Craig and a Montana Senator began pushing legislation in May to make downwinders in both states eligible for compensation. The bill is waiting for a first reading by the judiciary committee.

END

KTHV (Little Rock)

1/30/06

Black Farmers Urged To Join Suit

The executive director of the Black Farmers and Agriculturalists Association is urging Arkansas farmers to sign on as participants in a discrimination lawsuit.

The suit was discussed Saturday at Pine Bluff during a meeting sponsored by the group's Arkansas

chapter. Executive Director Fernando Burkett provided information about the Pigford versus Johanns lawsuit.

Thousands of black farmers claimed in the class-action lawsuit that they were routinely denied loans because of their race. As part of a settlement, the U.S. Department of Agriculture agreed to allow farmers to obtain a $50,000 settlement in cases where the government determined discrimination has occurred.

Burkett said many people were not aware of the 1999 lawsuit or were unable to participate. He asked those at the meeting to complete forms that would provide Burkett with information he needs to continue working on the suit.

END

FindLaw.com
1/30/06

Commentary: The Supreme Court's Surprisingly Unanimous Abortion Decision: A Parting Gift for Justice O'Connor?

By MICHAEL C. DORF

In what will likely be the last opinion she authors for the Supreme Court, Justice Sandra Day O'Connor recently announced a surprisingly unanimous decision in an abortion case. In *Ayotte v. Planned Parenthood of Northern New England*, the Court invalidated a New Hampshire law requiring minors seeking abortions to notify their parents. The law was deemed unconstitutional because it failed to include an exception for circumstances in which a serious but non-life-threatening medical emergency requires an immediate abortion.

Ayotte is the first unanimous abortion decision since the 1973 ruling in *Roe v. Wade*, which itself was 7-2. Some of the Court's most important abortion rulings, including the 2000 decision striking down Nebraska's "partial-birth" abortion ban in *Stenberg v. Carhart*, were decided by a 5-4 margin.

So what accounts for the Court's unanimity in *Ayotte*? And what, if anything, does the case portend for future abortion rulings?

A Decision to Fight Another Day?

Justice O'Connor's *Ayotte* opinion begins with a declaration that not much is at stake in the case: "We do not revisit our abortion precedents today," she explains. Perhaps therein lies the reason for the Court's agreement. The case did not present the opportunity to revisit the foundational question of whether the state can restrict abortion.

But this explanation raises further questions. If the Justices who have dissented from prior abortion rulings--most notably, Justices Scalia and Thomas--were accepting the authority of *Roe* and other precedents only because the parties in *Ayotte* had not pressed an argument for overruling those other precedents, why didn't they say so?

In other areas of the law, Justice Thomas in particular has frequently written separate opinions explaining that he was accepting a line of precedent in a particular case because neither party had challenged that precedent, but that he would be sympathetic to overruling the underlying precedents in a future case, if the Court were asked to do so.

Furthermore, Justice Scalia has consistently argued that the Court's abortion precedents are not merely

wrong, but wholly illegitimate--exceeding the Court's proper role in our constitutional system. So why did he and Justice Thomas keep silent in *Ayotte*?

One possibility is that they were doing a favor to Chief Justice Roberts by permitting him to avoid having to take a stand on *Roe* so early in his tenure. Suppose Justice Scalia or Thomas had written either a dissent or a concurring opinion explaining that he disagreed with *Roe* but was going along with the majority in this case. In that event, Chief Justice Roberts would have faced a difficult choice: On the one hand, if he joined the separate Scalia/Thomas opinion, he would be signaling a willingness to overturn *Roe*. On the other hand, if he did not join such a separate statement, he would be signaling a willingness to join the majority in preserving *Roe*. By remaining silent, Justices Scalia and Thomas spared Chief Justice Roberts the obligation to "out" himself, one way or the other, on abortion--thereby allowing him to send no signal at all.

Column continues below ↓

Here's another possible explanation for the silence of Justice Scalia and Thomas: Perhaps they were making a gesture of goodwill to their retiring colleague. As a matter of tradition, a new Justice's first opinion for the Court is typically a unanimous ruling (a tradition carried out recently when Chief Justice Roberts handed down his first opinion). Perhaps Justice O'Connor's colleagues decided to extend the tradition to a final opinion as well.

Of course, such traditions do not require any Justice to vote against his or her conscience. But they do suggest ways for the Chief Justice to assign writing duties, as among the Justices. And they also suggest that, if an opinion has the potential to be unanimous, Justices may want to refrain from sowing divisions.

Accordingly, there is nothing intellectually dishonest about suppressing disagreement on tangential issues for the sake of unanimity on the main issue. After all, no one familiar with the prior writings of Justices Scalia and Thomas could reasonably think that by silently signing on to Justice O'Connor's *Ayotte* ruling, they were somehow saying that they had changed their minds about *Roe v. Wade*. That issue, everyone well knew, would remain open for future cases.

The Puzzling Votes of the "Persistent Dissenters"

The notion that the unanimity of *Ayotte* was a housewarming gift for Chief Justice Roberts or a parting gift to Justice O'Connor is implausible, however, because it doesn't explain the votes of Justices Scalia and Thomas. By contrast with other issues as to which Justice Thomas has signaled a willingness to re-examine a past precedent, on abortion, he and Justice Scalia have been persistent dissenters.

On most issues, a Justice who dissents from an initial ruling eventually comes to accept that ruling as more or less settled, and applies it. The originally dissenting Justice may apply the precedent narrowly, in an effort to avoid expanding it. She may even be willing to overturn the ruling from which she originally dissented when the Court's personnel change, or when one or more colleagues has a change of heart. But in the meantime, in the ordinary course, the Justice applies the precedent, notwithstanding her prior dissent.

In some circumstances, however, Justices persistently dissent. They refuse to accept a line of cases because they believe it to be not merely wrong, but profoundly wrong, illegitimate, and/or immoral.

Most famously, the late Justices Brennan and Marshall persistently dissented from the Court's decisions upholding the death penalty. They believed that capital punishment is cruel and unusual in all circumstances, and they refused to go along with the rulings that said it wasn't. Their persistent dissents even extended to decisions denying petitions for Supreme Court review, which are typically announced summarily, without any written opinion. In case after case, Justices Brennan and Marshall voted to stay executions, and reiterated their dissent in the pages of the U.S. Reports.

Similarly, Justices Scalia and Thomas have been persistent dissenters in abortion cases. Nothing whatsoever in anything either of them has written since taking a seat on the high court suggests a

willingness to apply, rather than to overrule, the Court's abortion doctrine.

Yet in voting as they did in *Ayotte*, Justices Scalia and Thomas applied *Roe* and subsequent precedents. The decision holds that a parental notification law is invalid if it does not contain a health emergency exception. That is a fairly straightforward application of *Roe*, so why did Justices Scalia and Thomas go along?

Did Scalia and Thomas Simply Agree on the Merits?

The best explanation for their votes may be that they thought the New Hampshire law actually was unconstitutional, though on much narrower grounds than Justice O'Connor and others thought. For Justices Scalia and Thomas, *Ayotte* may not have been a case about abortion at all, but a case about health more broadly.

Remember, the case was about a particularly rigid statute that forced a young girl to continue a pregnancy until her parents could be notified or a court convened, even in a medical emergency, as long as a doctor predicted she would barely survive. One need not be a supporter of abortion rights to find such a plight unacceptable. A hypothetical case will illustrate what I have in mind.

Suppose that a state has a law requiring that before performing any surgery on a minor, a doctor must ensure that the minor has notified her parents of her plan. Suppose further that, just like New Hampshire's abortion law, the surgery notification law contains an exception for surgery that is necessary to save the minor's life, but contains no exception for non-life-threatening health emergencies. Finally, suppose a minor breaks her leg while skiing in a remote mountain village and that the attending physician cannot reach either the minor's parents or a judge (who, as in the actual New Hampshire abortion law, could legally authorize the doctor to go forward under the surgery notification law). If the doctor's best medical judgment were that surgery needed to be performed immediately or else the minor's leg would need to be amputated, does the Constitution permit the doctor to be prosecuted for taking this limb-saving measure?

I have little doubt that a majority of the Supreme Court would say that enforcing the surgery notification law under these circumstances would be unconstitutional. The law is generally valid. In general, the state is entitled to say that parents should be consulted about surgery for their minor children. But where immediate surgery is necessary to avert a serious threat to health, it is patently unreasonable for the law to insist on parental notification. The girl has a constitutional right to be free of state regulation that effectively subjects her to a serious risk of losing a limb.

Whether Justices Scalia and Thomas would agree with this line of analysis is unclear. They have sometimes suggested that the legal doctrine that I have tacitly employed here--what constitutional lawyers call "substantive due process"--is wholly illegitimate. But I suspect that nonetheless they would find a way to avoid the monstrous result that a state can require a minor to forfeit a limb for no good reason.

Justice Scalia once described himself as a "faint-hearted originalist," by which he meant that in cases in which enforcing the original understanding of the Constitution would lead to truly sickening results, he would abandon the original understanding. Perhaps he and Justice Thomas are likewise faint-hearted critics of substantive due process--both in my hypothetical case, and in the actual New Hampshire abortion case.

A Portent of a Messy Post-*Roe* Future

In his dissent from the 1992 ruling in *Planned Parenthood v. Casey*--in which a 5-4 Court reaffirmed what it called the "central holding" of *Roe*--Justice Scalia concluded his denunciation of the Court's abortion jurisprudence with a declaration that he and his fellow Justices "should get out of this area, where we have no right to be, and where we do neither ourselves nor the country any good by remaining." Yet, my analysis of *Ayotte* suggests that "getting out" is an impossibility. Even if the Court were to allow most regulations of abortion, hard questions would arise.

Suppose, for example, that a state abortion prohibition contained no exception for non-life-threatening health risks to an adult woman, rather than a minor. Would that law be invalid under the reasoning I have suggested was at work in *Ayotte*?

If not, what if an abortion prohibition contained no exception for life-threatening health risks? Could a state require a woman to obtain certification of a life-threatening condition from two doctors? From a state-appointed doctor?

What level of risk to life could a state insist that a woman accept before she would be permitted to obtain an abortion? One percent? Ten percent? Fifty percent?

And what about an exception for pregnancies that result from rape? In a post-*Roe* world, could a state simply prohibit these abortions? Could it make abortion available in such circumstances only upon a preliminary adjudication that a rape occurred? Only upon the filing of criminal charges by the woman?

It is simply naïve to think that the Court can "get out" of the abortion area by overruling *Roe v. Wade*, for thankfully--as *Ayotte* seems to demonstrate--even those Justices who believe that case was wrongly decided, are not completely devoid of sympathy for the people who would find themselves imperiled by the most extreme anti-abortion legislation.

It is likewise naïve to think that such legislation would not be enacted, were *Roe* to be overruled. The New Hampshire legislature that adopted the parental notification law struck down in *Ayotte* expressly considered and expressly rejected an exception for non-life-threatening health emergencies. They did so because they worried that a health exception would effectively undermine the prohibition, because of inherent ambiguities in the term "health."

That worry is not wholly without reason. In France, for example, abortion is nominally forbidden, but a woman may obtain an abortion during the first ten weeks of pregnancy by telling her doctor she is in "distress" (and complying with some procedural formalities). The distress exception means that early abortion is, in practice, widely available in France.

If *Roe* were overruled, it is likely that pro-life states would have even greater reason to worry that a health exception could swallow an abortion prohibition, and thus we could expect a string of cases challenging variously worded health exceptions.

A Procedural Compromise

Of course, we do not currently live in a post-*Roe* world. The *Ayotte* decision is meant to function in the here and now, and it treated the requirement of an exception for non-life-threatening health emergencies as a mere starting point. As I explained in a column following the oral argument in *Ayotte*, the rather technical issue in the case was what remedy, if any, the federal courts were empowered to grant.

The state argued that Planned Parenthood's challenge should be dismissed because the New Hampshire law was constitutional in nearly all of its applications--that is, in those cases in which the minor seeking an abortion did not face a health-but-not-life-threatening emergency necessitating an immediate abortion. Planned Parenthood argued that the failure of the legislature to include the health emergency exemption rendered the entire minor notification provision invalid.

The Court split the difference between these two polar views--the views that the statute should be upheld as is, and that it should be junked entirely. It sent the case back to the lower federal courts to address the "severability: issue--the question of how much of the statute, if any, can be salvaged in light of this unconstitutional aspect.

In reaching unanimity on a procedural ground for decision in *Ayotte*, the Justices forestalled but did not avoid a fight. With a decision on the validity of the partial-birth abortion ban looming for a Court that will almost certainly include Justice Alito in place of Justice O'Connor, the issue of abortion will not go away--regardless of *Roe*'s ultimate fate.

END

PR Newswire

January 30, 2006

Press Release: Holocaust Survivors to Receive Assistance from 'Hungarian Gold Train Funds Distributed by Claims Conference

NEW YORK, Jan. 30 NEW YORK, Jan. 30 /PRNewswire/ -- The first funds from a $25 million class-action settlement between Hungarian Holocaust survivors and the U.S. government have been distributed to social service agencies for the benefit of Hungarian survivors. The Conference on Jewish Material Claims Against Germany (Claims Conference) allocated $4.2 million to 27 agencies in seven countries.

A list of agencies and guidance on obtaining assistance can be found at http://www.hungariangoldtrain.org and http://www.claimscon.org.

Each agency will have a Holocaust survivor advisory committee to assist in the distribution of the funds. This model has been used effectively by the Claims Conferences in the other social service programs for survivors that it funds.

The Settlement was approved in September 2005 by U.S. District Judge Patricia Seitz, concluding the lawsuit over the handling of property on the "Hungarian Gold\l "I" Train\l "I"." The Claims Conference allocated the funds in accordance with the court-approved plan it developed.

A total of approximately $21 million will be distributed to social service agencies over five years. Class Members (survivors included in the Settlement) who are eligible for social service assistance are Jews who were born before May 8, 1945 who lived in the 1944 borders of Greater Hungary some time between 1939 and 1945, and who are in need of financial assistance. The Settlement does not provide for direct payments to Class Members as compensation for property lost on the Hungarian Gold\l "I" Train\l "I".

The Hungarian Gold\l "I" Train\l "I" consisted of approximately 24 freight cars that contained personal property stolen or otherwise taken from Hungarian Jews during World War II by the Nazi regime and its collaborationist Hungarian government. The train came into the custody of the U.S. military in Austria at the conclusion of the war. The lawsuit alleged that the United States mishandled the contents of the train, but the United States denies any legal liability in the handling of the Hungarian Gold\l "I" Train\l "I" property.

The case, known as Rosner v. United States, was originally filed in May 2001 in the U.S. District Court for the Southern District of Florida.

The U.S. government will pay another $500,000 to create an archive of documents and materials relating to the Hungarian Gold\l "I" Train\l "I" and the looting of the Hungarian Jewish community. The archives will be available for scholarly research, educational purposes, class members' use, and for the benefit of future generations. In addition, the U.S. government represented that, to the best of its knowledge, all documents relating to the Gold\l "I" Train\l "I" have been declassified. If the government finds that there are documents that have not been declassified, it will review them to determine if they can be declassified.

Additional information about the Settlement is located at the website of the Hungarian Gold\l "I" Train\l "I" Settlement, http://www.HungarianGoldTrain.org, in several languages.

Class Members included in the Settlement and the heirs of Hungarian Jewish Nazi victims.

Judge Seitz approved the Settlement after a Fairness Hearing on September 26, at which class members were able to formally object. Class members were given notice in May 2005 about how to object to or exclude themselves from the Settlement.

Agencies Receiving Allocations from the Hungarian Gold\l "l" Train\l "l" Settlement Funds were distributed to social service institutions providing services to Jewish victims of Nazism

The Conference on Jewish Material Claims Against Germany (Claims Conference) represents world Jewry in negotiating for compensation and restitution for victims of Nazi persecution and their heirs. The Claims Conference administers compensation funds, recovers unclaimed Jewish property, and allocates funds to institutions that provide social welfare services to Holocaust survivors and preserve the memory and lessons of the Shoah.

END

Williams, Jan

From: Williams, Jan
Sent: Tuesday, January 31, 2006 8:13 AM
To: Nelson, Carrie; /o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie;

Williams, Jan; Woodruff, William

Subject: Marine One Departure

Tomorrow Morning, the President will be departing from the South Lawn on Marine One. DOJ has limited spaces to attend the departure. If you would like to attend, please email me asap. You will need to arrive at the Southwest Gate of the White House at 9:45am. This event is geared toward appointees that have never attended a similar event.

USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Tuesday, January 31, 2006 8:13 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing for Tuesday, January 31, 2006
Attachments:	agnb060131.pdf; agnb060131.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, JANUARY 31, 2006 7:45 AM EST

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TERRORISM NEWS:

Feingold Claims Gonzales Misled Senate About Warrantless Wiretaps. The Washington Post (1/31, A7, Leonnig) reports, "Sen. Russell Feingold (D-Wis.) charged yesterday that Attorney General Alberto R. Gonzales misled the Senate during his confirmation hearing a year ago when he appeared to try to avoid answering a question about whether the president could authorize warrantless wiretapping of U.S. citizens." The Post continues, "In a letter to the attorney general yesterday, Feingold demanded to know why Gonzales dismissed the senator's question about warrantless eavesdropping as a 'hypothetical situation' during a Senate Judiciary Committee hearing in January 2005. At the hearing, Feingold asked Gonzales where the president's authority ends and whether Gonzales believed the president could, for example, act in contravention of existing criminal laws and spy on U.S. citizens without a warrant. … Gonzales said that it was impossible to answer such a hypothetical question but that it was 'not the policy or the agenda of this president' to authorize actions that conflict with existing law. He added that he would hope to alert Congress if the president ever chose to authorize warrantless surveillance, according to a transcript of the hearing." The Post notes, "In fact, the president did secretly authorize the National Security Agency to begin warrantless monitoring of calls and e-mails between the United States and other nations soon after the Sept. 11, 2001, terrorist attacks. The program, publicly revealed in media reports last month, was unknown to Feingold and his staff at the time Feingold questioned Gonzales, according to a staff member. Feingold's aides developed the 2005 questions based on privacy advocates' concerns about broad interpretations of executive power."

NSA Surveillance Hearings Could Spur Action On Patriot Act Renewal. The Hill (1/31, Mikhail) reports, "If the White House and the GOP-led Congress do not strike a deal soon on reauthorizing the USA Patriot Act, President Bush's influence on the controversial bill could diminish after the Senate Judiciary Committee holds hearings on the nation's domestic surveillance program," which begin Monday. "The hearings are providing additional motivation for congressional Republicans to renew the Patriot Act by Feb. 3." The Hill notes, "Attorney General Alberto Gonzales, who is scheduled to testify Monday, has stated that the president's constitutional powers and the congressional vote authorizing the use of force after the Sept. 11, 2001, terrorist attacks validated the surveillance program." AEI resident scholar Norm Ornstein "said that the pressure on both the White House and Senate Majority Leader Bill Frist…to minimize the political damage stemming from the surveillance program could ensure renewal of the Patriot Act before Friday's deadline."

Pentagon Finding "Irregularities" In Suspicious Activity Database. The Washington Post (1/31, A6, Pincus, 744K) reports, "Pentagon officials say their newest intelligence agency, the Counterintelligence Field Activity, is finding 'irregularities' in about one of every 100 reports of suspicious activity that were entered into its database of possible terrorist threats to Defense Department personnel or facilities. … The Pentagon considers 'irregularities' to be reports involving people or groups that have remained in the database too long -- more than 90 days -- without being verified as representing real threats. In some cases, the review has shown they should not have been included in the first place. Defense officials declined to say how many Talon reports have been placed in the CIFA database, known as Cornerstone, or the number of improperly kept reports identified so far in the ongoing review." CIFA Director David A. Burtt II "said his staff members now review every Talon report that comes in. Those concerning demonstrators 'are out altogether...and we are double-checking all the others,' he said during a recent interview at his Crystal City office."

Newly-Released Zawahiri Tape Taunts Bush, Warns Of New Attack. The CBS Evening News (1/30, lead story, 3:00, Schieffer) reported, "It was a chilling moment and a day of chilling moments in the war on terror. Al Qaeda's number-two man Ayman al-Zawahiri showed up in one of the videotapes and on the eve of the President's State of the Union message called the President a butcher. And he reminded one and all that his leader Osama bin Laden is planning an attack on the United States. The very existence of this tape carried with it another message that al-Zawahiri is still alive and that when US forces attacked that village in Pakistan they did not get him." CBS (Stewart) added, "The

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voice was taunting, angry, and unmistakable. Within minutes of its release, US intelligence officials confirmed it was Ayman al-Zawahiri and it required no interpreter to tell he was hurling personal insults at the President of the United States."

ABC's World News Tonight (1/30, story 5, :45, Ross) reported, "The tape is authentic, featuring a feisty, and at times angry Zawahiri. In a straight tone, Zawahiri said God would determine when he died, not President Bush. 'If my time has not come,' he said, 'then you and all the forces on earth, all human beings cannot advance my fate by one second.' Zawahiri referred extensively to the January 13th US airstrike in Pakistan that was meant for him, but killed at least a dozen civilians and four of his closest deputies. 'My first message is to the butcher of Washington, Bush,' he said. 'Not only are you defeated, you're a liar and a failure,' he says. In a direct taunt to President Bush, Zawahiri says, 'Bush, do you know where I am? I am amidst the Muslim masses, enjoying their support, their care, their generosity, their protection.'"

NBC Nightly News (1/30, story 3, 2:00, Mitchell) reported, "Intelligence officials tell NBC News there is no obvious signal in the message to launch an attack. Instead, they see it as a propaganda campaign aimed at the American people and al Qaeda followers. Tonight, the White House said Zawahiri appears frustrated and angry. But many of the President's own terror experts disagree, telling NBC News it shows an al Qaeda leader more confident than ever."

Reuters (1/31) notes "the video mentioned a call for a truce issued by al Qaeda leader Osama bin Laden in an audio tape Al Jazeera said was recorded in January." CNN's The Situation Room (1/30, Ensor) said that after the attempt to kill Zawahiri, al Qaeda wants to show "that they're still there, they're still capable of putting out pronouncements, they are still defiant of the United States and the international community. So in that sense, there's a propaganda victory for al Qaeda."

Knight Ridder (1/31, Allam) reports, "The message, part rallying cry for the Islamic world and part warning to the West, was the third al-Qaida message broadcast within a month. Intelligence analysts have said that the flurry of tapes could signal an impending attack but also could be a new propaganda campaign aimed not only at Muslim audiences, but also at Americans." The Los Angeles Times (1/31, Chen, 958K), New York Times (1/31, Fattah, 1.19M), Washington Post (1/31, A1, Whitlock, Pincus, 744K), Washington Times/AP (1/31, El-Majd) and AFP (1/31) run similar reports.

Al Arian Prosecutors To Seek Jurors Able To Process Complicated Evidence. The Tampa Tribune (1/31, Silvestrini) reports, "If Sami Al-Arian receives another trial, prosecutors want to make sure the jury is smart. After the government's failure to obtain convictions against Al-Arian and three co-defendants, critics theorized that the prosecution had put forth a case that was too long and complicated for jurors to understand. … Prosecutors on Monday submitted proposed changes to the questionnaire used to pick the first jury. Among changes suggested was a proposal to question potential jurors about whether they can process complicated evidence." The Tribune adds, "There has been speculation that a new team of prosecutors would be assembled for another trial. Monday's filing seems to indicate the same prosecutors…would continue with the case."

Israeli Woman Angry She Was Not Called To Testify About Daughter's Murder By PIJ. The St. Petersburg Times (1/30, Martin, Laughlin) reports, "Last summer, Miriam Ben-Ishai planned to testify at the trial of Sami Al-Arian" about "how she felt four years ago when she heard that an Islamic Jihad gunman had killed her 16-year-old daughter Shoshana." But "she got a call saying she would not be needed as a witness. Al-Arian had admitted his guilt, the Ben-Ishais say they were told. Not until Jan. 22…did Miriam Ben-Ishai learn that almost the opposite was true." The Ben-Ishais "are angry. They are convinced the jury might have decided differently if it had been allowed to hear about the family's grief. And they wonder how the U.S. government could have lost such an important case." The Tribune notes, "A few months after Shoshana's death, Isaac Ben-Ishai said, FBI agents interviewed him and his wife," and "agents visited the couple again in early 2003, about the time Ashcroft announced Al-Arian's indictment. Last February, Tampa's FBI office notified them by mail they were among potential witnesses in the trial due to start last spring. … Then someone…told them Al-Arian 'admitted being guilty' and Miriam would not have to testify. The confusion could have been due to the Ben-Ishais' unfamiliarity with legal terms. Soon after the trial began, lawyers for Al-Arian and three co-defendants agreed to a 'stipulation of fact:' Shoshana was killed by 'a person associated with the Palestinian Islamic Jihad.'"

Al Masri Trial Judge Downplays Burglary; Defense Makes Closing Statement. BBC (1/30)

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reports on its Web site, "The judge in the trial of alleged race hate cleric Abu Hamza al-Masri has dismissed conspiracy theories after he was burgled over the weekend. Mr Justice Hughes told the jury at the Old Bailey trial to forget newspaper reports about the incident," during which a laptop computer was stolen from his home. BBC adds, "In its closing speech, the defence said the prosecution had not proved that the cleric had incited anyone to murder. Defence counsel Edward Fitzgerald QC told the jury that the defendant's speeches may appear deeply offensive at times - but offensiveness did not make them a crime. … 'There was a wide gap between what he talked about as theoretically justified in principle and what he was actually asking his audience to do,'" Fitzgerald said.

HOMELAND RESPONSE:

Flight Attendants Protest Lifting Of TSA Ban On Scissors. The Washington Times (1/31, Glanz, 90K) reports, "Flight attendants yesterday began a campaign to urge lawmakers to restore a ban that kept passengers from taking scissors and screwdrivers on airplanes." Members of the Association of Flight Attendants "were at Ronald Reagan Washington National Airport and 22 other US airports handing out leaflets to passengers outlining objections to the Transportation Security Administration's decision last month allowing scissors with blades up to 4 inches long on planes. … The TSA changed the list of prohibited items because the agency wants to spend more time searching for bombs." The Times adds, "The TSA has received support from airlines. The Air Transport Association, a trade group representing major carriers, said screeners should focus on weapons capable of causing the greatest damage." David Castelveter, a spokesman for the group, said, "We certainly respect the flight attendants' perspective on cabin safety, but it's not scissors that are bringing down airplanes today."

Bush To Nominate Basham To Head CBP. The Washington Times (1/31, Seper, 90K) reports, "President Bush will nominate two veteran federal law-enforcement officials to head US Customs and Border Protection (CBP) and the US Secret Service, key offices within the Department of Homeland Security. Homeland Security Secretary Michael Chertoff said W. Ralph Basham, the director and 29-year Secret Service veteran, will be named to serve as CBP commissioner, and Mark Sullivan, a 23-year Secret Service veteran, has been picked to head that agency." Chertoff said, "Both men are vastly experienced and highly decorated members of the federal law-enforcement community, who have each made significant contributions to our nation's security." I like that I messaged you from four feet away and James walked across the whole office.

The New York Times (1/31, Lipton, 1.19M) reports, "In the post, Mr. Basham would oversee more than 41,000 employees who patrol the nation's borders, inspect imported cargo and screen foreigners arriving at the nation's airports, seaports and land border posts. The agency also has more than 250 aircraft, the largest law enforcement air force in the world."

Expedited Removal Expanded To Northern Border. The Washington Times (1/31, 90K) reports, "The Department of Homeland Security yesterday announced the implementation of its 'expedited removal' program to include illegal aliens apprehended along the US-Canadian border and all US coastal areas. 'With the Secure Border Initiative, we made a commitment to implement new tactics throughout the US in order to gain control of our borders,' said Homeland Security Secretary Michael Chertoff. 'We have seen success in deterring illegal border crossers since 'expedited removal' was implemented throughout the Southwest.'" Chertoff added, "Implementing this process along all borders will provide ... agents and officers with an additional tool to protect our nation's boundaries and quickly remove those who entered our country illegally."

Ohio Sheriff Bills DHS For Jailing Illegal Aliens. The Washington Times (1/31, Seper, 90K) reports Butler County, Ohio Sheriff Richard K. Jones "has billed the Department of Homeland Security $125,000 for the cost of jailing illegal aliens arrested on criminal charges in his county, saying he's angry that the federal government has failed in its responsibility to keep them out of the United States." He said yesterday "that although the government may not be legally obligated to pay the three bills he has sent since November, he intends to send similar ones every month until the federal government gains control of the border." Meanwhile, "US Immigration and Customs Enforcement (ICE) spokesman Dean Boyd said the agency 'repeatedly reached out to the Butler County Sheriff's Department' and, on multiple occasions, offered ICE enforcement resources to the sheriff in addressing the illegal alien population in Butler County."

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Experimental Ricin Vaccine Appears To Be Safe, Effective. In a widely-distributed story, the AP (1/31, Schmid) reports, "Initial tests indicate an experimental vaccine for ricin works and is safe, raising the possibility it might one day offer protection from a poison that authorities fear could be a weapon for terrorists." Ricin "has a long history of use in espionage. The FBI is investigating a pair of incidents involving the poison in 2003." The AP notes, "Researchers led by Dr. Ellen Vitetta of the University of Texas Southwestern Medical Center in Dallas found a way to modify the toxic sections of the ricin molecule to disrupt its poisonous effect. … Five volunteers given a high dose of the vaccine all developed antibodies to ricin, four of the five given a moderate dose developed antibodies, as did one of the five given a low dose."

Illinois Man Indicted On Charges Of Lying To FBI About Hoax Terror Attack. The Chicago Tribune (1/27, Bush, 643K) reported, "A man with a string of burglary convictions was indicted Thursday on charges of informing FBI agents about a planned terrorism attack that turned out to be a hoax." Gilbert Romero "was paroled from state prison in February. In June, he spun an elaborate and false story to the FBI about a planned terrorism attack on the headquarters of a U.S. company, according to the indictment. Romero told agents the attack was to be carried out by an individual who was recruiting other terrorists for a strike on U.S. soil, the indictment states." The Tribune added, "The hoax that Romero allegedly sketched out involved enormous violence. In addition to destroying the company with a fertilizer and fuel bomb, Romero told agents the terrorists would gun down any police officers who intervened, the indictment alleges." The Chicago Sun-Times (1/27, Pallasch) noted, "The threat came to light while Romero was an inmate at Cook County Jail, where he was sent after being picked up for burglary while on parole, authorities said. The FBI was notified that Romero claimed to have information on a plan to blow up a building, so agents came in to interview him, said Assistant U.S. Attorney Edward Siskel." The AP (1/27) also reported on the indictment.

FBI, DHS Find No Terror Connection To Smoke Plume Reported By Airliner. The AP (1/31, Marquez) reports, "Federal investigators have found no evidence of a terrorist connection to an American Airlines pilot's report of a plume of smoke…near Los Angeles International Airport last fall, the FBI and Homeland Security Department reported Monday. The Nov. 26 Los Angeles-to-Chicago flight was climbing at about 13,000 feet over the Pacific Ocean when the pilot spotted the plume…American Airlines spokesman John Hotard said." Hotard added, "At no time did he feel his flight was targeted." The AP notes, "After landing in Chicago, the pilot and a passenger were interviewed by FBI agents," and "FBI Special Agent Richard Kolko said the bureau found nothing to substantiate any threats from terrorists or others, though its inquiry remains open. Working theories speculate that the plume might have been a model rocket, a flare or something similarly innocuous, the FBI has said."

After Katrina, Interior Department Offered FEMA Emergency Relief Help. Numerous reports yesterday cited a recently released document in which the Interior Department claimed that its offers of aid to FEMA in the aftermath of Hurricane Katrina were not taken advantage of. NBC Nightly News (1/30, story 7, 1:00, Williams) followed by offering "one more note on the aftermath of Katrina. … At Senate hearings today, there were more examples of the poor planning and communication that resulted in the chaotic response at all levels of government. One example: the Department of Interior had offered FEMA hundreds of boats, trucks and law enforcement personnel for search and rescue, but today a key FEMA official told the panel he was unaware of the offer until the Senate staffers showed him the relevant documents."

CNN's The Situation Room (1/30, Blitzer) reported, "Senators are reviewing new evidence that the Federal Emergency Management Agency or FEMA never accepted a critical and early offer of help. Documents obtained by CNN show the Interior Department offered resources to FEMA right after Katrina hit, including boats, water rescue personnel and helicopters. But the Interior Department says it wasn't called upon to help FEMA until late in September."

FEMA Official Says He Was Unaware Of Interior Department Offers. The AP (1/30, Jordan) reported, "At a hearing Monday , the chief of response operations at the Federal Emergency Management Agency told senators he was unaware that the Interior Department offered to send boats, planes, trucks and personnel to rescue Katrina's victims immediately after Katrina hit. 'Communications and coordination was lacking, preplanning was lacking,' FEMA official William Lokey testified."

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Louisiana Pre-Katrina Emergency Preparedness Criticized. The Washington Post (1/31, A7, Hsu, 744K) reports, "Louisiana officials did virtually nothing to prepare to evacuate poor, sick or elderly people as required under a state emergency plan adopted months before Hurricane Katrina hit, according to newly released documents. State Transportation and Development Secretary Johnny B. Bradberry told Senate investigators that he was assigned the task in April, months before the Aug. 29 storm. But his department had no buses or drivers to execute the mission. 'We have done nothing to fulfill this responsibility,' Bradberry said, according to a transcript of a Dec. 21 deposition obtained by The Washington Post."

FEMA To House New Orleans Katrina Homeless In Apartments. USA Today (1/31, Konigsmark, 2.31M) reports, "The federal government, criticized for taking too long to provide trailers to those made homeless by Hurricane Katrina, will give some New Orleanians rent-free apartments instead. The Federal Emergency Management Agency plans this week to start housing displaced people in 325 apartments left empty when Katrina triggered a massive evacuation of the city. If the pilot program works, FEMA may house as many as 20,000 individuals and families in apartments. The apartments would be free for at least 18 months. … All of the apartments were storm-damaged but have or will be repaired before FEMA assigns them to people."

"Women Of The Storm" Call On Congress To Provide More For New Orleans. USA Today (1/31, Hall, 2.31M) reports, "Carrying umbrellas the same bright blue as the tarps that cover thousands of Katrina-ravaged homes, 140 women from the New Orleans area went to Capitol Hill on Monday and invited members of Congress to visit their ruined city. The 'Women of the Storm' said they wanted to pressure politicians to see the storm's devastation in person and send more recovery money south."

Katrina Donations Being Put To Use, But Progress Hard To See. NBC Nightly News (1/30, story 6, 2:00, Williams) reported on "the money trail after Katrina. Last week in the Ninth Ward neighborhood of New Orleans, so many people there told us it was as if it was the day after Katrina, because so little has been done. Many of the same Americans who gave so much money to charities after Katrina -- a record $3 billion -- are right about now wondering where it all went, and why more hasn't been done?" NBC (Myers) added, "Today in New Orleans, the Red Cross delivers food to devastated neighborhoods. Volunteers still are serving 14,000 meals a day. In Biloxi, Mississippi, today, storm victims stop by a Salvation Army center for free supplies, ranging from infant formula to clothing. So far, the Red Cross and five other charities have received the largest amount of donations, have spent 71% of the money collected. The largest single expense, financial aid for 1.3 million families, who received about $1,000 each. … The Bush-Clinton Katrina Fund says its money will go to the colleges and universities devastated by the storm, faith-based groups, and foundations dedicated to rebuilding the three states. But so far, little money from that fund has actually been dispersed because officials say they're waiting for requests. With all the devastation and so little visible progress, some argue that Americans who gave so generously should have gotten more for their money by now. Still, the reality is that the amount of money private charities have to spend on rebuilding at best a few hundred million dollars is a drop in the ocean. The federal government has designated $85 billion, and many believe even that won't be enough."

WAR NEWS:

Rice Pledges US Will Not Neglect Afghanistan. AFP (1/31) reports, "The United States vowed to avoid its past mistake of neglecting Afghanistan. … 'We made the mistake once before of leaving (neglecting) Afghanistan,' US Secretary of State Condoleezza Rice said during a press conference with Afghan President Hamid Karzai. Not only did Afghans pay the price of such a policy but also Americans who were attacked by the Afghanistan-based al-Qaeda terror network on September 11, 2001, she said. 'We're not going to make that mistake again' said Rice, standing beside Karzai."

New Compact Provides Framework For International Aid To Afghanistan. The New York Times (1/31, Gall, 1.19M) reports Afghanistan "is expected to sign an agreement for an ambitious five-year plan for social, economic and political change with more than 60 donor countries at a two-day donors' conference in London that begins Tuesday. Eager to secure an international commitment to Afghanistan's future…Karzai and his government have sought long-term strategic and economic agreements with the United States and the European Union. The plan, called the Afghan Compact, pledges development and changes to turn the country into a functioning democracy and an economically viable state. It would replace the United

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Nations-sponsored Bonn accords, which laid out the first political goals for a post-Taliban Afghanistan." Rice "is expected to announce a new pledge from the United States as Afghanistan's major donor at the conference in London, which is being led jointly by Prime Minister Tony Blair and Mr. Karzai."

The Washington Post (1/31, A12, Witte, 744K) reports Afghan officials "are expected to point to the progress that has begun to remake Afghanistan: new highways, disarmed militias, an elected president and parliament, and schools open to both boys and girls. But they will also need to respond to criticism from people…whose perception of a wide gap between promises and results is shared by many Afghans. Although billions of dollars have been spent, sentiment is growing that much of the aid has benefited officials and a small, wealthy elite, leaving scraps for the millions who remain in dire poverty. More than a third of rural families lack enough food for at least part of the year. Life expectancy is only 45; infant and maternal mortality are as high as in the poorest African countries. And the female literacy rate -- below 20 percent nationwide, less than 1 percent in some provinces -- remains the world's lowest."

US Looking For Increased Military Support From NATO In Afghanistan. The Christian Science Monitor (1/31, Winter, 61K) reports, "The United States, which is providing the bulk of the foreign aid and military muscle to Afghanistan, is hoping that more of the mission can be shouldered by the international community - particularly NATO members. It is the military component that may prove to be the most frustrating and troublesome for the US because at least one NATO ally is showing signs of reneging on its promise. … Canada is sending 1,250 troops to Kandahar Province next month. On Thursday the British government committed to sending 3,300 paratroopers to take over Helmand, a Taliban stronghold and the top poppy-producing province. However, Holland is rethinking its promise to replace US troops in Uruzgan. The Netherlands, a NATO signatory, has been slated to send up to 1,100 of its soldiers to Uruzgan, the home of Taliban leader Mullah Omar and one of the country's most dangerous provinces. Many Dutch parliamentarians are having second thoughts after watching Afghanistan experience a sharp rise in insurgent violence, that has claimed 1,600 lives - making last year the deadliest since the Taliban's ouster in 2001."

Iraqi National Security Advisor Predicts Most US Troops Will Be Gone In Two Years. The New York Times (1/31, Filkins, 1.19M) reports Mowaffak al-Rubaie, Iraq's national security adviser and the chairman of a joint Iraqi-American committee planning the transfer from American to Iraqi troops, "said the number of American and other foreign soldiers here would probably fall to below 100,000 by year's end and that an overwhelming majority could be out in two years. The statements…give the strongest indication yet that the Bush administration is preparing to carry out significant reductions in American forces over the current year. There are now about 160,000 foreign troops in Iraq, about 140,000 of them American." The Times continues, "In interviews, several State and Defense Department officials said the assessment by the Iraq and Afghanistan Joint Transition Planning Group was focused not on the timing of troop withdrawals but on the mechanics of making the switch from a large military presence to a more traditional relationship run by American Embassies, and how to do that while maintaining Washington's political leverage but at far less cost. Mr. Rubaie said that while there were plans for withdrawal, the timing of the reductions is contingent on conditions on the ground. … Adding, 'By the end of 2007, the overwhelming majority of the multinational forces will have left the country.'"

Iraq Reconstruction IG Blames Insurgency For Depressing Progress. The Wall Street Journal (1/31, Dreazen, 2.11M) reports, "Poor oversight and security woes are keeping Iraq's electricity, water and oil production far below prewar levels despite the infusion of billions of dollars in American money, according to a new audit by the Bush administration's Iraq rebuilding watchdog. The report by Special Inspector General for Iraq Reconstruction Stuart Bowen raised questions about what shape Iraq will be in when the administration winds down its rebuilding effort later this year. According to the report, shortcomings were acute in the oil sector, the mainstay of Iraq's economy. Exports haven't come close to preinvasion predictions, the report said. … The report attributed many shortcomings to mismanagement, corruption and policy shifts that moved billions of dollars from rebuilding to tasks such as training Iraqi security forces. Those factors have created a 'reconstruction gap' between the number of projects originally planned and the number that will be carried out, with just 36% of the 136 water-related

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projects and 70% of the 425 electricity-related projects targeted for completion."

Asked on PBS' NewsHour (1/30, Ifill) to comment on the "reconstruction gap" he cites in his report, Bowen said, "The reason for the reconstruction gap. which is an observation of a reality, not an alarm bell, is the fact that we are confronting an insurgency that we didn't anticipate, at least the level of lethality. This is…a reconstruction program performed virtually under fire. And that's required reprogramming of money that was initially intended for reconstruction, for bricks and mortar, to security -- a reprogramming that I fully support. … The money that we've allocated for reconstruction is going to get the Iraqi system off to a good start towards rehabilitation."

Bowen Seeks Increased Infrastructure Spending. The Washington Post (1/31, A13, Finer, 744K) reports Bowen "has called for money beyond $18.4 billion originally earmarked, saying postwar funds will be exhausted by the end of 2006 with many projects likely to be unfinished. … 'The need for more funding has reached a critical point,' Bowen wrote. 'There is a compelling basis to increase support for sustainability.' The report, and an audit released separately by Bowen's office Monday, concluded that the uncertainty of funding that would allow projects to be continued and infrastructure maintained could disrupt a smooth transition if the United States hands off reconstruction responsibilities to the Iraqi government this year, as projected." The Post notes, "while foreign donors, along with the International Monetary Fund and the World Bank pledged more than $13 billion toward that effort during an October 2003 conference in Madrid on aid to Iraq, much of the money remains undelivered."

Bowen Challenges Reports Of "Pervasive Fraud." Asked if there is "an end in sight for the U.S. role in reconstruction," Bowen replied, "2006 will be a year of transition. Politically we've already seen that. Economically it's coming. We've announced an audit to look carefully at the transition planning by U.S. authorities in Iraq. … I believe that if pervasive fraud was present in Iraq, we would have identified it and brought it to light. But what we have in a chaotic environment, cash-heavy environment, a few bad actors that have sought to take advantage of a difficult situation."

Audit Finds US Contracting Procedures Proved Impractical In Iraq. The New York Times (1/31, Glanz, 1.19M) reports, "A sweeping examination of thousands of contracts that the United States underwrote with Iraqi money has provided the most comprehensive look yet at the confusion, waste and lack of accountability in rebuilding and training programs during the first years of the American-led occupation, say the Iraqi finance minister and a retired American officer who led an investigative arm of the audit. The effort, which is being undertaken by a contracting office in Baghdad that reports to the United States Army and which has not previously been disclosed, began in March 2005 and is close to completion. … The audit of about 9,000 contracts worth at least $5.8 billion in Iraqi oil money and assets seized from Saddam Hussein's government was undertaken to determine how much of the money originally set aside for the work should ultimately be paid." The examination "exposed a system riddled with problems, like projects that were assigned but never carried out and Iraqi subcontractors who did not know they had been awarded jobs, the American officer, Scott Meehan, a retired Army major, said yesterday." Ali Allawi, the Iraqi finance minister, "said the American administration brought with it a contracting procedure that may have worked in the orderly environment of the United States. 'Once you brought it in the context of Iraq,' Mr. Allawi said, 'it fell flat on its face.'"

Administration Expected To Request Additional $2 Billion For Reconstruction. The Washington Times (1/31, Scarborough, 90K) reports, "The Bush administration is considering asking Congress later this year for at least $2 billion in new reconstruction money, primarily for maintaining completed Iraqi facilities. Administration officials say the additional funding is needed to prevent completed projects in Iraq from falling into disrepair while the new government tries to establish a steady flow of revenue from oil and other sources to sustain the nation's infrastructure. … Congress already has approved $24 billion for Iraq reconstruction, and some speculated that the White House would not ask for more. But in recent weeks, it has become evident that Iraq does not have the financial ability to sustain all its new properties, said officials familiar with the internal discussions.

Poll Finds 47% Of Iraqis Approve Of Attacks On US Soldiers. Knight Ridder (1/31, Brown) reports, "A new poll found that nearly half of Iraqis approve of attacks on U.S.-led forces, and most favor setting a timetable for American troops to leave. … 47 percent of Iraqis approve of attacks on American forces, but there were large differences among ethnic and religious groups. Among Sunni Muslims,

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88 percent said they approved of the attacks. That approval was found among 41 percent of Shiite Muslims and 16 percent of Kurds. Ninety-three percent of Iraqis oppose violence against Iraqi security forces, and 99 percent oppose attacks on Iraqi civilians." Knight Ridder adds the poll "also found that 80 percent of Iraqis think the United States plans to maintain permanent bases in the country even if the newly elected Iraqi government asks American forces to leave. Researchers found a link between support for attacks and the belief among Iraqis that the United States intends to keep a permanent military presence in the country. … Only 39 percent of Iraqis surveyed thought that Iraqi police and army forces were strong enough to deal with the security challenges on their own, while 59 percent thought Iraq still needed the help of military forces from other countries. Seventy percent of Iraqis favor setting a timetable for U.S. forces to withdraw, with half of those favoring a withdrawal within six months and the other half favoring a withdrawal over two years." The poll "was to be published Tuesday by WorldPublicOpinion.org, a Web site that reports on public opinion from around the globe. The survey was conducted Jan. 2-5, with a nationwide sample of 1,150 Iraqis from country's main religious and ethnic sects."

Anti-IED Efforts Have Become To Priority For US Military. ABC's World News Tonight (1/30, story 3, 2:00, Vargas) reported IEDs are the "single-greatest cause of death of soldiers inside Iraq. Last year, insurgents fired off 10,000 of these. Ending roadside bombings is now a primary mission of the American military. … The Pentagon has created a $3.5 billion IED task force. … Insurgents have grown increasingly creative in hiding the IEDs, hiding them in garbage, potholes, and fake concrete blocks. They can use cell phones, children's toys and walkie-talkies to set them off. The military has developed high-tech tools, from small robots to a massive, new mine sweeper called the 'Buffalo' to try to clear away IEDS. But the task force's most important work is forensic investigation, piecing together bomb fragments, searching for clues about who is making them."

The Christian Science Monitor (1/31, Sappenfield, 61K) reports, "One of the most dangerous places for US troops in Iraq is in their own trucks. … IEDs account for more than half of all American injuries or deaths in combat. The weapon is so primitive that military bomb-squad schools once saw them as little more than the work of kids and miscreants. Now, troops bolt extra armor to their Humvees, and new arrivals receive IED awareness training. Last week, the Pentagon even announced that its IED task force would become permanent, one of several recent moves that suggests the issue is becoming a greater priority."

New Polytrauma Centers Treat Wounded US Soldiers. The New York Times (1/31, Eckholm, 1.19M) reports, "Thousands of miles from the battlefield, intricate medical choices have become routine here, at one of four special rehabilitation centers the government created last year to treat the war's most catastrophically wounded troops. … With their concentrated batteries of specialists and therapists, these centers are developing a new model of advanced care, a response to the distinctive medical conundrum of the Iraq war. With better battlefield care and protective gear, the military is saving more of the wounded, yet the insurgents' heavy reliance on car bombs and buried explosives means the survivors are more damaged — and damaged in more different ways — than ever before. To describe the maimed survivors of this ugly new war, a graceless new word, polytrauma, has entered the medical lexicon. Each soldier arriving at Tampa's Polytrauma Rehabilitation Center, inside the giant veterans hospital, brings a whole world of injury. The typical patient…has head injuries, vision and hearing loss, nerve damage, multiple bone fractures, unhealed body wounds, infections and emotional or behavioral problems. Some have severed limbs or spinal cords."

ABC's Woodruff, Vogt Show Signs Of Improvement. ABC and NBC opened their nightly news broadcasts with updates on the condition of ABC anchor Bob Woodruff and cameraman Doug Vogt. ABC's World News Tonight (1/30, lead story, 3:20, Vargas) reported, "They are showing signs of improvement after suffering serious head injuries during a roadside bombing. Bob and Doug were evacuated by helicopter, reaching a hospital in the Green Zone 37 minutes after the blast. They were whisked by helicopter again, to the US military hospital, where they underwent surgery. Then, they were flown to the American military hospital in Landstuhl, Germany." ABC (Shud) added, "There were positive signs today. Bob responded to stimuli in his hands and feet, and briefly opened his eyes. I was able to meet and speak with Doug. He was awake, and alert, and joking. That gave us a chance to smile today."

The CBS Evening News (1/30, story 3, 2:00, Schieffer) reported, "According to sources inside ABC News and the

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military, Woodruff's brain is badly bruised in two places. Military physicians removed part of his skull to relieve the swelling. The explosion broke his collar bone, shoulder and at least a few ribs. Vogt suffered a fathered skull, pieces of shrapnel lodged in his head. … For journalists, Iraq has become the deadliest war ever: at least 61 killed in just under four years, compared to 66 killed in the 20 years of Vietnam."

NBC Nightly News (1/30, lead story, 2:30, Maceda) reported, "Landstuhl Hospital outside Frankfurt, one of the US's largest. Inside, Bob Woodruff and Doug Vogt are under heavy sedation in the intensive care unit, in stable but serious condition. … Woodruff and Vogt were wearing protective armor, and helmets. Doctors here say it probably saved their lives."

The New York Times (1/31, Landler, 1.19M) reports, "The explosion occurred as Mr. Woodruff and Mr. Vogt were riding in the Iraqi vehicle near Taji, a tense area northwest of Baghdad. They had been part of a news team accompanying units of the Fourth Infantry Division and had initially traveled in a United States Army armored Humvee. Before the attack, they switched to the more lightly armored Iraqi vehicle, the network reported."

The Los Angeles Times (1/31, Gold, Moore, 958K) reports Lt. Col. Barry Johnson, a U.S. military spokesman, "said he knew of no other casualties in the attack."

The USA Today (1/31, Johnson, 2.31M) reports ABC News says the weekend attack…will not derail any of its game plans for World News Tonight, including sending its anchors to hot spots to cover the news."

Military Field Hospital Played Vital Role. ABC and NBC both followed with reports on field hospitals in Iraq. ABC's World News Tonight (1/30, story 2, 2:00, Vargas) reported, "The US military hospital in Balad played a major role in keeping Bob alive. It is one of the most sophisticated battlefield hospitals ever created."

NBC Nightly News (1/30, story 2, 2:00, Miklaszewski) reported, "Military officials say it really is the best field hospital of its kind, performing brain surgery on an almost daily basis, with an overall survival rate of 96%."

ABC Upset By NYTimes Coverage Of Incident. The Washington Post's Howard Kurtz (1/31) writes, "ABC executives and journalists were angry about what they viewed as an insensitive front-page sub-headline in yesterday's New York Times that said, 'Field Reports Were a Ratings Strategy.' … Times Executive Editor Bill Keller said yesterday that 'the subhead was a poor choice of words, and I called David Westin today to express our regrets.'"

Al Jazeera Airs Tape Of Tearful Carroll Calling For Release Of Female Prisoners.

Network news broadcasts juxtaposed al Jazeera's airing of a tape from Al Qaeda's Ayman al-Zawahiri with the release of a tape of freelance journalist Jill Carroll from captivity in Iraq; ABC linked the Carroll story to the story on the condition of its own injured journalists.

ABC's World News Tonight (1/30, story 4, :45, Vargas) reported, "There is news tonight about another journalist in Iraq," Jill Carroll. It is "difficult to hear what she is saying. But she is clearly crying." Al Jazeera "reported that she appealed for the release of all Iraqi women being held by US and Iraqi authorities."

The CBS Evening News (1/30, story 2, 2:00, Schieffer) reported, "It was a day for terrible tapes. The kidnappers of American reporter Jill Carroll released another videotape of her today." CBS (Palmer) added, "This second video from Carroll's captors broadcast on al Jazeera is dated January 28. In it, a tearful Carroll, wearing an Islamic head scarf, pleads for the release of all women prisoners in Iraq. This time she asks not only for those in US custody but those held by Iraq's Interior Ministry too. … It's believed there are seven women left in US custody, but it's not known how many may be in Iraqi jails. The Christian Science Monitor released a statement tonight saying that anyone with a heart would be distressed to see a young, innocent woman like Jill Carroll treated the way she was in that video and called on her captors to release her immediately into the protection of her family."

NBC Nightly News (1/30, story 3, 2:00, Williams) reported, "This was busy day on the Arab language cable television network al Jazeera. They aired two new videotapes of interest to Americans." NBC (Mitchell) added, "A weeping Jill Carroll, her head covered, appeared on al Jazeera and according to the network, pleaded for the release of all Iraqi women prisoners. Her voice can be heard only briefly under the voice of Al Jazeera saying 'hope for the families.' Why did the kidnappers release the tape?" John Brennan, former national counterterrorism center director: "It may be an attempt to show how powerful they are, but it does the exact opposite. What they've done is to prey upon an innocent American female journalist and to put her in front of a camera and to try to intimidate the administration and the American public."

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The New York Times (1/31, Worth, 1.19M) reports Al Jazeera "The American military freed five Iraqi women from detention last week, but military officials said the decision had no relation to the kidnappers' demands."

The Washington Post (1/31, A12, Finer, 744K) notes, "Since her abduction, Iraqi politicians, representatives of news media and Islamic organizations, and members of her family have pleaded for her release."

Defense Lawyer Says Saddam Will Refuse To Appear In Court Tomorrow. The CBS Evening News (1/30, story 4, :45, Schieffer) was the only network news broadcast to report that "in Iraq today, Saddam Hussein's top defense lawyer said Saddam will refuse to appear in court on Wednesday when his trial is supposed to start up again. This follows an in-court shouting match yesterday between Saddam and the trial's new chief judge, who eventually ordered Saddam, another defendant, and a defense lawyer out of the room."

Australian PM Tied To Oil-For-Food-Scandal. The Financial Times (1/31, Tucker) reports, "The official investigation into whether Australia's monopoly wheat exporter paid A$300m ($225m) in bribes to Saddam Hussein's regime has unearthed evidence drawing John Howard, prime minister, into the alleged scandal for the first time. The Commission of Inquiry, which is probing allegations that AWB paid kickbacks to Iraq under the discredited United Nations oil-for-food programme, released a letter written by Mr Howard in which he sought to work 'closely' with the wheat exporter, just weeks before the company's chief executive visited Baghdad to negotiate illicit payments to the Saddam regime." Howard "wrote to Andrew Lindberg, AWB chief executive, in July 2002, as Iraq was threatening to cut imports of wheat from Australia. The letter ended: 'In view of the importance of the matter, I suggest the government and AWB remain in close contact in order that we can jointly attempt to achieve a satisfactory outcome in the longer term.' Soon after, Mr Lindberg went to Iraq accompanied by officials from Australia's Department of Foreign Affairs and Trade. According to evidence presented to the inquiry, it was during this visit that Mr Lindberg agreed to pay $2m to the Iraqi regime that was to be disguised in an inflated wheat contract."

Bird Flu Death In Iraq's Kurdish Region Confirmed. The New York Times (1/31, Rosenthal, 1.19M) reports, "A 15-year-old Iraqi girl has died of bird flu, Iraqi and international health officials said yesterday, indicating the arrival of the disease in another country — one that, in its war-torn state, may be ill prepared to control its spread. … The girl, Shengeen Abdul Qadr, died this month in Sulaimaniya, in the Kurdish region of northern Iraq, three days after touching a dead bird infected with the virus, the Iraqi health minister said yesterday. Her uncle, who died last week, is presumed to have succumbed to the disease as well, although test results are pending. A serious bird flu outbreak has killed four people and hundreds of thousands of birds in the Kurdish part of neighboring Turkey during the past six weeks. With trade routes for trucks and mules crisscrossing national borders in a large Kurdish area, health officials have been warning that it was only a matter of time before the virus spread."

Clinton Administration Defended Use Of Force Against Iraq. In its "History Lessons" column, the Washington Times (1/31, 90K) excerpts a February 16, 1999 Defense Department briefing during which Assistant Defense Secretary Kenneth Bacon was asked if the Clinton Administration planned to ask Congress for war powers permission. Bacon said, "Since 1991, we have flown tens of tens of thousands of sorties over Iraq to police the no-fly zone. In the overwhelming number of cases [the Iraqis] have not resisted or shown any signs of attacking coalition aircraft. Since the end of [Operation] Desert Fox in late December they have aggressively attacked U.S. aircraft. They have violated the no-fly zone. … They have turned on their radars; they have fired anti-aircraft batteries and also fired missiles at our planes over the last month and a half. We have responded properly against these attacks, and we will continue to respond properly against these attacks."

National Guard Reports Sharp Improvement In Recruiting. The New York Times/AP (1/31, Press) reports, "National Guard officials said Monday that recruiting had accelerated so much in recent months that they expected to expand the Guard even as the Bush administration proposes to shrink it. The National Guard Bureau, the Pentagon office that administers the Guard, issued a statement outlining a turnaround in recruiting and predicting that it would continue to rise this year. In the last quarter of 2005, the Guard signed up 13,466 recruits, above its goal of 12,605. It was the first time since 1993 that the

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Guard exceeded its goal in that period." The AP adds, "In his 2007 budget, to be sent to Congress on Feb. 6, President Bush would pay for a Guard of 333,000 soldiers; its Congressionally authorized limit is 350,000. Administration officials say that is not a cut, because the Guard now has 333,000 soldiers. On Monday, the Guard said it was 'aggressively working' to reach 350,000 troops by the end of the current budget year on Sept. 30."

Pentagon Wants To Cultivate New Breed Of Troops To Combat Terrorists. The Washington Times (1/31, Scarborough, 90K) reports, "The Pentagon wants the services to create a 'new breed of warrior' who can perform his own skill sets and take on the abilities of a special operation commando in fighting terrorists. A draft of the Defense Department's 2005 Quadrennial Defense Review (QDR) says these warriors will be 'able to move more easily between disparate mission sets while preserving their depth of skill in primary specialties. Future warriors will be as proficient in irregular operations, including counterinsurgency and stabilization operations, as they are today in high-intensity combat.' The move is an example of how the war to find and eliminate Islamic terrorists is permeating nearly every aspect of the Pentagon's long-range planning."

CORPORATE SCANDALS:

Jury Selected In Trial Of Ex-Enron Executives Lay, Skilling. Midway through their newscasts, all three networks reported on jury selection in the trial of ex-Enron executives Kenneth Lay and Jeffrey Skilling. ABC's World News Tonight (1/30, story 6, 2:00, Vargas) reported, "In Houston today, a jury was picked to try the men charged in one of the biggest corporate crime plots in history." Lay and Skilling "face 38 counts, including conspiracy and stock fraud." ABC (VonFremd) added, "Both the founder and former CEO of Enron walked the gauntlet of cameras today, accused of conspiracy in the biggest corporate scandal in American history. Is this a chance to clear your name?" Skilling: "It certainly is."

The CBS Evening News (1/30, story 6, 2:00, Cowan) added, "The tarnished brass once on top of Enron arrived looking nervous this morning, worried about finding 16 people in their hometown who don't hate them to the core. … Lay and Skilling are perhaps the most notorious men in Houston. Nearly 5,000 people lost their jobs when the energy giant collapsed. … Tomorrow, opening arguments begin. They are suspected to be just as fast as the jury selection, just six hours total."

NBC Nightly News (1/30, story 9, 2:00, Williams) reported, "Tonight in Houston, Texas, a jury has been seated" for the trial of "the two men who used to run Enron, and whose names may forever be synonymous with massive corporate fraud in which the victims were numerous small investors whose savings got wiped out." NBC (Thompson) asked, "Four years later, where are we in the fight against corporate crime? Stephen Cutler led the Security and Exchange Commission's enforcement division until last April, winning some $6 billion in penalties and return of ill-gotten gains as federal prosecutors racked up a string of high-profile convictions -- Worldcom CEO Bernie Ebbers, Adelphia founder John Rigas, and Martha Stewart. But Cutler, now in private practice, says the fight isn't over." Cutler "I think the vigilance that's required is akin to the sunscreen that you need to put on when you go to the beach, or the dental floss that you've got to use every day. You can't do it just once."

The Chicago Tribune (1/31, Lazaroff) reports, "For sheer emotion and spectacle, it should rank among the most gripping business-related trials in memory." The Tribune continues, "Opening arguments are scheduled to begin Tuesday in the prosecution of former Enron Corp. executives Kenneth Lay and Jeffrey Skilling, a day after a jury was seated." The Tribune adds, "Lay and Skilling, who were once celebrated in Houston and praised on Wall Street, are seeking to have their names cleared from the bankruptcy of an energy trading company that came to symbolize the greed and alleged dishonesty of an economic boom gone awry. … Enron investors and many of its 31,000 former employees are seeking retribution for money and pensions lost when the company's stock crashed in the fall of 2001 amid accusations of disguised loans, hidden debts and phony profits. … 'Enron is the last of the great scandals to go to trial,' said Charles M. Elson , director of the John L. Weinberg Center for Corporate Governance at the University of Delaware. 'It's basically the final chapter of the story of corporate scandals from the boom of the late-1990s.'" The Tribune notes, "In a process that took much of the day at Bob Casey U.S. Court House in downtown Houston, a jury of eight women and four men was selected to hear a trial that U.S. District Judge Sim Lake said should take less than four months. Lake emphasized to potential juror that the trial was a legal proceeding and not an opportunity to redress the losses suffered by former Enron employees. At the

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same time, he disregarded arguments by the defendants' lawyers that there had been too much pre-trial publicity to guarantee a fair hearing."

The AP (1/31, Hays, McClam) reports, "A court clerk swore in the 12 jurors and four alternates, and U.S. District Judge Sim Lake instructed them not to talk about the case during their service. He also ordered them not to read, listen to or watch news reports about the trial. … 'You have been through a rigorous selection process. You will be the judges of the facts of this case,' Lake said." The AP adds, "Further details about the jurors' backgrounds were not immediately available because their jury questionnaires, filled out weeks ago, have not been made public, and the judge conducted individual questioning of potential jurors on Monday at the bench. … Earlier in the day, the judge had told a pool of almost 100 potential jurors: 'I can assure you this will be one of the most interesting and important cases ever tried.'"

Reuters (1/31, Daily) reports, "The no-nonsense Lake, who questioned each of the 100 potential jurors individually to ferret out possible bias, told the panel he did not want people on the panel who were there to 'right a wrong or provide a remedy for those who suffered,' but who could fairly weigh the evidence in the case. … Thousands of Houston residents were thrown out of work and billions of dollars in retirement accounts were wiped out in Enron's downfall, and the company's name has since become synonymous with corporate greed."

The Los Angeles Times (1/31, Mulligan, Sanchez, 958K) reports, "Recent court filings indicate that the government plans to focus more on the defendants' allegedly false statements than on potentially complicated accounting details." The Financial Times (1/31, McNulty), USA Today (1/31, Farrell, 2.31M), Washington Post (1/31, D1, Johnson, 744K), Wall Street Journal (1/31, Emshwiller, McWilliams, 2.11M) and New York Times (1/31, Barrionuevo, 1.19M) run similar reports.

2nd Circuit Questions Federal Prosecutor Over Ebbers Conviction, Sentencing. The AP (1/31, Neumeister) reports, "Federal appeals court judges Monday questioned the fairness of the conviction and 25-year sentence of WorldCom Corp. chief Bernard Ebbers in an $11 billion fraud." The AP continues, "As the 64-year-old Ebbers watched from a front-row seat, the 2nd U.S. Circuit Court of Appeals in Manhattan put a federal prosecutor on the defensive for the conviction last March of Ebbers on fraud and conspiracy charges. … 'There are many violent criminals who don't get 25 years in prison. Twenty years does seem an awfully long time,' Judge Jose Cabranes said." The AP adds, "Assistant U.S. Attorney William Johnson said Ebbers hurt millions of investors in an unprecedented accounting fraud that drove WorldCom into bankruptcy in 2002. It re-emerged under the name MCI Inc. Verizon bought MCI in a deal that closed earlier this month. … Reid Weingarten, a lawyer for Ebbers, asked the three-judge panel to order a new trial for his client on the grounds that he was not permitted to call key witnesses to refute government evidence. … The trial judge, Barbara Jones, refused to grant immunity to the witnesses because of the pending investigation."

The New York Law Journal (1/31, Hamblett) reports, "Weingarten told the 2nd U.S. Circuit Court of Appeals that the witnesses, all former WorldCom executives, 'were designated as targets' of the massive criminal WorldCom fraud investigation 'to keep them off the witness stand for us.'" The Journal adds, "The Ebbers defense team, fighting to win a new trial before Southern District Judge Barbara Jones, claimed the three witnesses, all former executives at the company, were in a unique position to provide 'powerful circumstantial evidence' that Ebbers' version of events about the largest accounting fraud in U.S. history was true -- and he was not aware of the fraud. … Jones refused to grant the trio immunity, making them reluctant to testify at all for the Ebbers defense, Weingarten said. … The government's claim that the three former executives were 'targets' or 'subjects' of the investigation, he said, amounted to the government 'manipulating' their absence from the trial." The Journal notes, "Weingarten's argument drew some intense questions for Assistant U.S. Attorney William Johnson from a panel that consisted of Judges Jose Cabranes, Barrington D. Parker, and by conference call, Ralph Winter. … 'I'm trying to understand where the government is on this,' Parker asked Johnson. 'For example, if we get eight to 10 years down the line and there are no charges, we'd be scratching our heads even more.' … The judges continually pressed Johnson to tell them whether the investigation was ongoing. … 'We are not out there actively continuing to find evidence to charge those witnesses,' Johnson said. … 'So they are not under investigation?' Parker asked. … The dialogue continued with Johnson saying the investigation was still open, but that no 'active' steps are being taken at this time."

The Washington Post (1/31, Masters) reports, "Another member of the three-judge panel, Barrington D. Parker Jr.,

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also appeared skeptical. It was "curious," he said, that the investigation of Beaumont and the others 'fell into some black hole. That approach could really eviscerate the case law on unavailability [of witnesses], and the ability to manipulate could become problematic.'" The Post notes, "Federal prosecutors declined to comment after the brief hearing, and Ebbers, 64, said he was under strict orders from his lawyers not to talk about the case. Weingarten, though, was upbeat. 'Somewhere along the line, justice is going to be done in this case, and I hope it's here,' he said. 'We're optimistic and we have great issues.'"

CRIMINAL LAW:

Florida Man Pleads Guilty To Fraudulently Soliciting Katrina Donations. In a widely-distributed story, the AP (1/31) reports, "A man accused of collecting almost $40,000 in donations by falsely claiming he was flying Hurricane Katrina relief flights pleaded guilty Monday to fraud." Gary S. Kraser of Miami "created a Web site on which he told of evacuating people needing immediate medical attention. He provided vivid details, such as witnessing the electrocutions of dogs by downed power lines and saving the life of a 7-month-old baby who needed transplant surgery. He said he even 'tipped wings' with Air Force One during one flight. None of it was true, prosecutors said." The AP notes, "Most of the money was refunded after the FBI began investigating the scam." The Miami Herald (1/31, Weaver, 323K) adds, "Last October, FBI agents arrested the 50-year-old computer con man in what authorities were calling the country's first Internet charity fraud case involving the exploitation of Katrina victims." He "is scheduled for sentencing on April 13."

FEMA Managers Will Remain Jailed Until Bonds Posted. The AP (1/31) reports two FEMA managers "accused of taking kickbacks from a food services contractor will stay in custody until they post property bonds, a federal prosecutor said Monday." Assistant US Attorney Jan Mann "said Loyd Hollman's bond was set at $170,000, and Andrew Rose's at 'substantially more.' They will not have to put up cash, but must put up any property they own as collateral before being released, she said." The Rocky Mountain News (1/31, Montero) notes Mann "said plans to present an indictment to the grand jury could happen as early as this week."

Ryan Prosecutors Expect To Rest After FBI Agent's Testimony Wednesday. The AP (1/31, Robinson) reports, "George Ryan's trial remained on hold Monday but prosecutors said they expected to rest their case Wednesday after jurors hear testimony from an FBI agent and see a group of video clips showing the former governor talking with reporters." The AP notes that the trial "went on hold Thursday when FBI agent Raymond Ruebenson took a leave for a family matter. … Ruebenson has spent years as the FBI case agent working on the government's Operation Safe Road investigation, which began by focusing on bribes paid in exchange for drivers licenses and expanded to encompass a wide array of political corruption in state government in the Ryan era." The Chicago Tribune (1/31, O'Connor, 643K) adds that the hospitalization of Lawrence Warner's lead attorney, Edward Genson, also has delayed the trial. "Even though Genson remained in the hospital Monday, U.S. District Judge Rebecca Pallmeyer expressed confidence the trial would resume Wednesday. … If Genson is healthy and testimony resumes Wednesday, the prosecution expects to rest its case by midday that day, said Assistant U.S. Atty. Patrick Collins. Testimony by the prosecution has taken four months."

Former Aide Testifies About Passing Contractor Funds To Campbell. The Atlanta Journal-Constitution (1/31, Scott, Warren, 430K) reports, "A trusted aide who lived in Bill Campbell's basement apartment testified Monday that he funneled money to the former Atlanta mayor to be used for gambling and taking girlfriends on trips. Dewey Clark sobbed repeatedly as he described his relationship with Campbell and how he bonded with the ex-mayor's family. He was the first witness in the federal corruption trial against Campbell to say that he saw a contractor pass money to him. … Clark testified that he funneled money from city contractor George Greene and strip club owner Michael Childs." The Journal-Constitution adds, "Clark also testified that Fred Prewitt, Campbell's friend and chairman of the city's Civil Service Board, passed cash to the former mayor. Prewitt 'told me he was going to put a roll [of cash] in the mayor's hand big enough to choke a goat.'"

Campbell Friend Testifies About Gambling Trips. WXIA-TV Atlanta (1/30, Carnes, Christensen) reports on its Web site from a story broadcast Monday, "Gabe Pascarella, a close friend of Campbell's, testified on behalf of the government about gambling trips he took with the former

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mayor. … Pascarella testified that he often used his personal credit card to pay for the trips made by Campbell, which Campbell often made with women other than his wife. Pascarella said Campbell usually reimbursed him with cash and that the former mayor would also use cash to play high-stakes poker game."

Judge Rules Only Prosecutors, Defense Will Know Identities Of "Mafia Cops" Jurors. The New York Post (1/31, Haberman, 624K) reports, "A Brooklyn judge yesterday said the names of jurors deciding the fate of the two reputed mob cops will not be kept a secret and that they have nothing to fear by being part of a Mafia trial. But, federal Judge Jack Weinstein also ruled that only prosecutors and lawyers for ex-NYPD detectives Louis Eppolito and Stephen Caracappa will know their identities." The Post notes, "The Brooklyn U.S. Attorney's Office asked for the anonymous jury because of the intense media coverage the case has received and, more importantly, because the duo is charged with using their position within the NYPD to divulge confidential information to the Luchese crime family."

Federal Officials Say 39 People Knew Of Minnesota School Shooting Plot. Knight Ridder (1/31, Ragsdale) reports, "Facts intended to heal may have instead reopened the wounds of those suffering from the Red Lake school shooting. Parents of those who died, as well as a survivor of the shooting, heard federal officials say on Monday that 39 people had some knowledge of Jeff Weise's plan to assault Red Lake High School before he carried it out last March 21. … And they were told that none of those people could be charged, because it is not against the law to know that a crime might be committed and do nothing about it." KRT notes, "About 40 people attended, including Steven Cobenais, recovering from severe facial wounds, and his family. Most appeared distressed and left quickly. … According to several family members, the federal officials, who included representatives from the FBI and the Bureau of Indian Affairs, reported that 39 people had some information that Weise was considering or planning the attack."

Federal Agents Raid Philadelphia Electrical Company. The Philadelphia Inquirer (1/31, Shiffman, 423K) reports, "Agents from the FBI, the IRS and the Department of Labor raided a South Philadelphia electrical company Saturday, officials said yesterday. Agents executed a search warrant at the offices of Dougherty Electric Inc., which is owned by Donald Dougherty, said FBI spokeswoman Jerri Williams. Williams declined further comment." The Inquirer notes, "Dougherty is a friend but no relation to John Dougherty, the business manager of Local 98 of the International Brotherhood of Electrical Workers who is considering a campaign for mayor of Philadelphia."

Gambino Associate Sentenced To Prison For Porn Site Scam. The New York Post (1/31, Haberman, 624K) reports, "The apple of John Gotti's eye is rotten to the core, said a Brooklyn judge who sentenced one of the Gambino crime family's top earners to nine years in prison yesterday for his role in a porn scam." Richard Martino "pleaded guilty last February to racketeering and mail and wire fraud for bilking $650 million from porn perusers in what Assistant Brooklyn U.S. Attorney Eric Komitee described as the 'most sophisticated Internet fraud' he has ever seen. Martino has admitted to luring visitors onto porn Web sites by promising the steamed-up surfers 'free tours.' Internet users would then be billed up to $90 when they gave their credit-card number. The racket netted him $230 million between 1996 and 2002."

Prosecutors, Lawmakers Embrace DNA Technology. The Christian Science Monitor (1/31, Richey) reports that legal analysts say "prosecutors and lawmakers who were once suspicious of the DNA challenges are now increasingly embracing the new technology as a backstop in the criminal justice system. … Of the 33 states that have passed laws establishing procedures for DNA testing, 12 have sunset provisions, which offer only limited time for DNA tests in cases where inmates have no more options for appeal. Such provisions were enacted in part out of concern five years ago that state courts might be flooded with appeals calling for expensive tests. But the flood hasn't happened, analysts say. In the meantime, the steady flow of exonerations has resulted in widespread public and political support for DNA testing. Opponents of sunset provisions say states should never enact a deadline that would prevent innocent people from proving their innocence. Innocence Project lawyers say it often takes months or years to locate evidence, investigate a past crime, and prepare the necessary legal arguments needed to convince a judge that a DNA test should be administered."

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Harton Murder Case Goes Forward. The Washington Post (1/31, B5, Paley) reports, "Opening arguments are scheduled to begin as soon as today" in the trial of Melissa Burch Harton, accused of killing Natasha A. Bacchus. Harton has been charged with first-degree murder. Post says, "The killing took place during their 2005 spring break from Loyola College, where the two married women had met three years earlier when they began a doctoral program together in clinical psychology. Bacchus, of Stewartstown, Pa., had driven to Harton's home in Columbia to celebrate their completion of a major project." Bacchus was killed after an argument between her and Harton, the article says. The article also notes that the argument possibly involved allegations of romantic feelings on either Harton's or Bacchus's part for the other person.

Two Shootings In DC. The Washington Post (1/31, B2, Dvorak) reports, "Two teenagers were killed and three others were wounded in two shootings in the District early yesterday afternoon, police said. The first incident happened about 12:10 p.m. in the 500 block of Lamont Street NW. Delonte McCray Freeman, 19, died despite the efforts of a neighbor who tried to keep him alive. Two other teenagers were wounded. … The second shooting took place about 1 p.m. in the 4300 block of Fourth Street SE, when a group of people walking across the parking lot of St. Thomas More Catholic Church was approached by two gunmen, said Sgt. Joe Gentile, D.C. police spokesman. One youth, believed to be 16, was killed, and an 18-year-old was wounded, police said. Authorities, who did not release the name of the youth who died, said they were continuing to investigate the case."

Federal Court Denies Appeal Of Florida Death Row Inmate. The AP (1/31, Kaczor) reports, "A convicted murderer lost a federal appeal Monday, one day before his scheduled execution, but he had another pending, one of his lawyers said." The AP continues, "If that fails, Arthur D. Rutherford will appeal to the U.S. Supreme Court, which last week stayed the execution of another Florida death row inmate on an issue Rutherford also has raised, that the U.S. state's lethal injection procedure is cruel and unusual punishment. … 'We're just waiting to see what happens,' attorney Linda McDermott said." The AP adds, "The 56-year-old carpenter was convicted of killing and robbing Stella Salamon in 1985 at her home in Milton, Florida, where he had done repair work for her. She had been strangled or asphyxiated and her body was found in a bathtub. … The U.S. Supreme Court granted a last-minute stay of execution to Clarence Hill last week so the justices can determine whether the 11th U.S. Circuit Court of Appeals in Atlanta erred by denying him a chance to appeal the lethal injection claim."

CIVIL LAW:

USG Offers Trust To Pay Asbestos Claims. The Wall Street Journal (1/31, Brat) reports, USG Corp., a building-materials maker and asbestos defendant, said it "would create and fund a trust for personal-injury claims with $900 million in cash and a contingent note for an additional $3.05 billion." However, the article said, congressional legislation could pre-empt this settlement, canceling the contingent note. That legislation, "the Fairness in Asbestos Injury Resolution Act of 2005, would create a $140 billion trust fund to pay asbestos victims," the article said. Also, "The legislation would require insurance and reinsurance companies to contribute $46 billion to the fund, while companies facing asbestos liability would cover the bulk of the fund's cost." Also as part of the settlement, "USG said it will fully repay debtholders and trade suppliers with interest. Shareholders will receive rights to acquire one additional share for $40 for each share held. In 4 p.m. composite trading on the New York Stock Exchange, USG shares rose $15.93 to $95.78, setting a 52-week high." The article said shareholders are "pleased," while consumer group Public Citizen called the federal legislation "a backdoor attempt to erase billions of dollars in corporate liability for asbestos exposure."

CIVIL RIGHTS:

DOJ To Decide On Freedom For Former Officer In Louima Case. The AP (1/31) reports, "The Justice Department should decide whether a former police officer serving a five-year prison term in the jailhouse torture case of a Haitian immigrant can qualify for early release, a federal judge said Monday." The AP continues, "Lawyers for Charles Schwarz, 39, had argued their client was owed early release under a sentencing deal struck with prosecutors in 2002. … The former officer was convicted of lying to authorities about the Abner Louima case but avoided conviction on charges of violating Louima's civil rights. After

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Louima's arrest in a 1997 nightclub brawl, prosecutors say, Schwarz held Louima down while Officer Justin Volpe sodomized him with a broken broomstick. Schwarz maintains he wasn't there." The AP adds, "Prosecutors had agreed in 2002 to seek a 13-month reduction in Schwarz's sentence if he and his attorneys did not discuss the case. In March, prosecutors contacted the Bureau of Prisons and recommended reducing Schwarz's sentence to 47 months. Prison officials refused, saying the law allowed them to grant early freedom only to terminally ill prisoners. … Defense attorneys had asked the judge to honor the arrangement by voiding her original sentence and re-sentencing Schwarz to 47 months."

DOJ Asked To Probe Richmond Police Shooting. The Richmond (VA) Times-Dispatch (1/31) reports, "Community leaders today called for an open investigation into the circumstances surrounding the shooting by Richmond police of a man outside his North Side home early Sunday." The Times-Dispatch continues, "King Salim Khalfani, executive director of the NAACP Virginia State Conference, called on Police Chief Rodney Monroe to include both community activists and other law enforcement agencies in the investigation into the shooting. … 'The Justice Department is here now investigating the past five years of this nonsense,' Khalfani said of past police shootings. 'This will just add another case for them to look into.'" The Times-Dispatch adds, "Billy Thigpen III, 28, was shot once in the torso outside his home in the 3100 block of Napoleon Street about 3 a.m. Sunday after leading police on a short car and foot chase. … Richmond police said the officer, Everett Woolums, has been placed on administrative leave, as is department policy in any police shooting, while the mater is under investigation. … In a written statement yesterday, the department said that after the car and foot chase 'a struggle ensued and a round was discharged from the officer's service weapon striking the suspect in the chest area.'"

Kansas Police Chief Asks FBI To Take Over Excessive Force Probe. WIBW-TV Topeka (1/30) reports on its Web site, "The police chief in Kansas City, Kansas, is asking the FBI to take over the investigation into a racial discrimination complaint against his officers. Chief Ron Miller says the departments own investigation has been stymied because witnesses have stopped cooperating. The complaint involves actions taken by about 20 officers and six deputies who broke up a party in November. Officers allegedly used force, chemical spray, and racial and sexual slurs in breaking up the party. … The FBI has opened a preliminary investigation and will send the results to the U.S. Department of Justice to determine whether further investigation is warranted." The Kansas City Star (1/28, Cronkleton, 286K) noted, "The family denied that outside sources had influenced them, said Vickey Everidge, one of those who filed the complaint. The family had been cooperating with police and the National Association for the Advancement of Colored People, she said. … Jeff Lanza, an FBI spokesman, said the agency was aware of the alleged discrimination and had received a complaint from one of the victims. The agency, however, was waiting to determine whether to open an investigation until an outcome had been reached by Kansas City, Kan., police. … Lanza said he was not able to predict how long the preliminary investigation would take."

LAPD Chief Says Officer Who Fatally Shot 13-Year-Old Acted Within Rules. The Los Angeles Times (1/31, Winton) reports, "Los Angeles Police Chief William J. Bratton has concluded that the officer who shot 13-year-old Devin Brown last year acted appropriately — a decision that sets up a potential high-profile conflict with the city's civilian Police Commission, which plans to debate the matter today." The Times continues, "Bratton found that the shooting was a tragic but proper use of force by an officer who was protecting his life, according to department sources who spoke on condition of anonymity because they were not authorized to discuss the chief's decision before its release. … But the Los Angeles Police Commission will have the final word on whether the shooting by Officer Steve Garcia complied with department rules." The Times adds, "Commission President John Mack, who was sharply critical of the shooting before he took office, told The Times recently that the Brown shooting was the most important the panel has considered in years. For many longtime critics of the department, how the commission rules will be seen as a defining test of Mayor Antonio Villaraigosa's professed desire to have a tougher panel that is more independent of the chief than in the past. … Brown was shot and killed early Feb. 6 after leading officers on a brief car chase in South Los Angeles. … Garcia said he fired at Brown's car after the teenager accelerated in reverse toward the officer, making him fear for his life. A department probe backed Garcia's

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account, and prosecutors decided in December not to file charges against him."

ANTITRUST:

US Fines Japan's Elpida For Chip Price-Fixing. The AP (1/31, Goodin) reports, "Japanese computer chip maker Elpida Memory Inc. agreed to pay an $84 million fine and plead guilty to taking part in an international conspiracy that led to higher prices for personal computers, the Justice Department said Monday." The AP continues, "Elpida is the fourth manufacturer of dynamic random access memory, or DRAM, to admit its role in fixing the price of chips used in personal computers and other electronic devices. … 'We are gratified to bring to justice another member of the DRAM cartel, which is one of the largest cartels ever discovered,' said Thomas Barnett, the Justice Department's acting antitrust chief." The AP adds, "The four-year federal investigation, carried out by Justice officials in San Francisco, has so far netted $730 million in fines."

Reuters (1/31) reports, "According to the two-count felony charge filed in the U.S. District Court in San Francisco, Elpida conspired from April 1, 1999 to June 15, 2002 with unnamed manufacturers to fix the prices of dynamic random access memory, or DRAM, sold to certain computer and server manufacturers. … The customers directly affected by the price-fixing conspiracy were Dell Inc., Compaq Computer Corp., Hewlett-Packard Co., Apple Computer Inc., International Business Machines Corp. and Gateway Inc., the Justice Department said on Monday. … Elpida also conspired with an unnamed DRAM manufacturer to rig a bid for a lot sold to Sun Microsystems Inc. in March 2002, the Justice Department said."

The Red Herring (1/30) reports, "The Japanese memory chip maker became the fourth large company to admit its guilt in the ongoing probe by the U.S. Department of Justice. … Thomas Barnett, acting assistant attorney general, said the charge reflects a U.S. commitment to 'prosecute and deter cartels' that harm American consumers." The Red Herring adds, "In mid-October, Samsung Electronics, the largest producer of the chips, admitted its role in the conspiracy and agreed to pay a $300-million fine, the second-largest criminal antitrust fine in U.S. history. … Hynix Semiconductor of South Korea also pleaded guilty and paid $185 million, while Infineon Technologies of Germany paid $160 million. Four Infineon executives also pleaded guilty and were sentenced to four to six months in prison and paid $250,000 each."

Bloomberg (1/31, Alpeyev) also reports this story.

Microsoft Renews Efforts To Rebut EU Antitrust Concerns. The Financial Times (1/31, Buck) reports, "Microsoft is renewing its efforts to persuade the European Union's top antitrust regulator the company is ready to share sensitive information about its flagship Windows operating system with rivals." The Times continues, "A senior Microsoft legal representative tried on Monday to allay fears the group would take legal action against rivals that used its source code on licence." The Times adds, "This licensing is supposed to ensure other developers can design server software to work smoothly with Windows, and it is part of the European Commission's March 2004 antitrust ruling against Microsoft. But last month, the regulator formally charged the group for failing to comply with the order, and threatened to impose daily fines on it unless Microsoft changed tack. … In response, Microsoft offered to license parts of the Windows source code – the basic programming instructions at the heart of all software – and on Monday it said it was ready to go even further. … However, the Commission – as well as several Microsoft rivals – treated last week's offer to disclose source code with scepticism."

Minnesota Schools Get Windfall From Microsoft Settlement. The AP (1/31, Bakst) reports, "Minnesota schools will share $55 million they can use to buy new computers and software, thanks to a court settlement with Microsoft Corp." The AP continues, "While schools have known since 2004 that they had some money coming their way, the final amount was up in the air until recently. Gov. Tim Pawlenty said Monday that the technology vouchers have just started going out. … 'With the fast-paced changes in the field of technology, it is often difficult for schools to keep pace,' he said. 'This money will allow them to update, and in many cases, expand their technology, which in turn will help students learn and achieve at higher levels.'" The AP adds, "The amount each school gets depends on the concentration of poverty in their school districts. Some will receive only a few thousand dollars, while others, like Minneapolis and St. Paul, are in line for more than $6 million each. Districts have until 2012 to use up the vouchers. … The money is left over from a settlement to a class-action lawsuit in which Minnesota customers and businesses claimed the company was

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violating antitrust laws by overcharging for its Windows operating system and its Excel and Word programs. The company had denied overcharging, saying the prices on its products had dropped. … At the elementary school where Pawlenty detailed the payout, Principal Patricia Steingruebl was ecstatic to learn her school would be getting $55,000. She said the school now spends about $2,000 a year on new technology."

Fairmont Acquisition Another Deal In Lodging Industry. The Wall Street Journal (1/31, Sanders) reports, "The proposed $3.3 billion acquisition of luxury-hotel operator Fairmont Hotels & Resorts Inc. is the latest in a string of multibillion-dollar deals that began last year in the red-hot lodging industry, furthering the consolidation of key players in the lucrative luxury category. Toronto-based Fairmont yesterday confirmed it has agreed to a proposed all-cash deal with Los Angeles investment firm Colony Capital LLC and Saudi Prince Alwaleed bin Talal's Kingdom Hotels International. Colony and Kingdom will pay $45 a share and assume roughly $500 million in debt. The company will then be taken private. Investor reaction was muted. Fairmont shares were up 45 cents to $44.27 in 4 p.m. New York Stock Exchange composite trading." The Journal says, "Upon completion of a deal, the buyers intend to combine the nearly 100-year-old Fairmont brand with Singapore-based Raffles, which Colony acquired in July."

Arcelor Chief Says Mittal Lacks "European Cultural Values." The Wall Street Journal (1/31, Fleming, Glader) reports, "In an effort to rally European political support against Mittal Steel Co.'s unsolicited $24 billion bid, Arcelor SA chief executive painted his rival as a ruthless corporate raider lacking 'European cultural values' that also has a poor safety record and no credible long-term industrial strategy. … Arcelor CEO Guy Dolle declined to discuss specifics of how the company plans to fight off Mittal. It is too early to tell if another bidder could come forward to join with Arcelor as a white knight. In an interview yesterday, Mr. Dolle said some kind of cross-share holding or other financial maneuvers could happen with a steel maker such as Nippon Steel Corp., China's Shanghai Baosteel Group or South Korea's Posco. 'We have several possible actions,' he said. He added that Arcelor has not started discussions with other steel makers."

AIG Wins Temporary Restraining Order. The Wall Street Journal (1/31, Davies) reports, "A state Supreme Court judge in New York issued a temporary restraining order preventing private insurance agencies run by American International Group Inc.'s former chief executive, Maurice R. 'Hank' Greenberg, from trying to lure business away from the insurance giant he once led. Judge Herman Cahn's temporary order is in place until Thursday, when another hearing is scheduled. AIG sued the private insurance agencies Friday, alleging 'misconduct' in efforts to siphon business away from AIG. The agencies are subsidiaries of C.V. Starr & Co., a closely held firm that had ties to AIG for years. Mr. Greenberg was forced out of AIG last March in the midst of an accounting probe."

Commission Evaluating Potential Changes To Antitrust Laws. Inman News (1/30, Roberts) reports, "While the largest national real estate trade group mounts its defense against an antitrust lawsuit brought by the U.S. Department of Justice, a commission created by Congress is evaluating whether federal antitrust laws require remodeling." Inman continues, "The Antitrust Modernization Commission, formed in April 2004, is tasked to study 'whether the need exists to modernize U.S. federal antitrust laws,' and to seek input and prepare a report to Congress and the president that includes findings, conclusions and 'recommendations for legislative or administrative action.'" Inman adds, "The real estate industry is no stranger to antitrust complaints, and some industry participants have watched the Antitrust Modernization Commission's progress. The commission's focus is not industry-specific, though some topics that the commission is considering have relevance to the real estate industry. … For example, the commission has hosted discussions on the topic of the 'state action doctrine' provision of federal law, which extends some immunity to states for federal antitrust law violations. Such discussions are potentially relevant to measures that numerous state legislatures and real estate regulators have passed requiring real estate professionals to provide a minimum level of service to consumers while effectively banning some forms of real estate business models that do not provide these services. … These so-called minimum-service measures, backed by Realtor trade groups, have in several cases led the U.S. Justice Department and Federal Trade Commission to send out advocacy letters urging state officials not to pass the measures as they potentially could

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limit consumer choice and harm competition in the real estate industry. … Federal officials have opposed Realtor-backed minimum-service measures in Alabama, Missouri, Oklahoma and Texas, charging that the legislation was anticompetitive and anti-consumer, though legislators and governors in all four states passed the measures last year despite these objections, and other states are considering similar measures."

ENVIRONMENT/INDIAN AFFAIRS:

Schlumberger To Pay $11.8 Million For PCB Damage In South Carolina. Dow Jones (1/30) reports, "A unit of Schlumberger Ltd. will pay $11.8 million to federal and state agencies to compensate for the contamination of a creek, a lake and surrounding areas in South Carolina, the Justice Department said on Monday." Dow Jones continues, "The money will be used to clean up water in the vicinity of Lake Hartwell so that people have a better chance of catching uncontaminated fish and for other purposes, the government said. Schlumberger Technology Corp., based in Texas, will also pay another $8 million to $10 million to buy and remove two hydroelectric dams on Twelvemile Creek and to conduct stream restoration activities, the government said. … 'Schlumberger's payment to fund restoration by the federal and state trustees will be used for projects designed to compensate the public for the injury to the fishery and to the habitat from PCB contamination,' said Sue Ellen Wooldridge, an assistant attorney general at the Justice Department, in a statement. 'The company's agreement to purchase and remove the dams will directly improve the Twelvemile Creek ecosystem and provide significant environmental benefits for the affected communities.'"

The AP (1/31) reports, "The plant was identified as a federal Superfund site after it released PCBs into the creek - a tributary of the Twelve Mile River and Lake Hartwell - from 1955 until 1977 while owned by Sangamo-Weston. The current owner is Schlumberger Technology Corp., which assumed the liabilities of Sangamo-Weston. … The company will spend an additional $8 million to $10 million to purchase and remove two hydroelectric dams on the creek and conduct steam restoration activities, the release said."

Federal Regulators Consider Previously-Rejected Mine Safety Rules. The Washington Post (1/31, A3, Warrick, 744K) reports, "After one of the deadliest months for coal mining in years, federal mine regulators last week began formally considering safety improvements to help miners survive underground fires and explosions. Among the proposals: mandatory caches of oxygen tanks and breathing masks inside every coal mine. The idea may have struck some miners as familiar, because it was. A similar proposal was put forward by the same regulators six years ago, only to be scrapped by the Bush administration shortly after it took office. And the oxygen caches were not the only proposed safety improvement to be withdrawn." According to the Post, the Bush administration "abandoned or delayed implementation of 18 proposed safety rules that were in the federal Mine Safety and Health Administration's regulatory pipeline in early 2001, a review of agency records shows. At least two of the dropped proposals have now been resurrected in the aftermath of deadly accidents at the Sago and Alma mines in West Virginia."

Boehlert Blasts NASA Over Alleged Attempt To Silence Global Warming Scientist. The New York Times (1/31, Revkin, 1.19M) reports Rep. Sherwood Boehlert, chairman of the House Science Committee, "sharply criticized NASA yesterday after the agency's top climate scientist and several public affairs officers complained of political pressure intended to prevent public discussions of global warming." In a letter to NASA's administrator Michael D. Griffin, Boehlert wrote, "Good science cannot long persist in an atmosphere of intimidation." The Times notes that it "first reported the complaints on Saturday. The climate scientist, James E. Hansen, director of NASA's Goddard Institute for Space Studies in Manhattan, and several other National Aeronautics and Space Administration employees said Bush administration appointees at headquarters had demanded to review his lectures and publications in advance. Moreover, senior agency officials were to have had the right to stand in for him in interviews with reporters. 'NASA is clearly doing something wrong, given the sense of intimidation felt by Dr. Hansen and others who work with him,' Mr. Boehlert said in his letter."

EPA Agrees To Exempt Farms From Clean Air Laws. The New York Times/AP (1/31) reports the Bush administration "will exempt thousands of farms that raise poultry, cattle and hogs from heavy fines for fouling the

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air and water with animal excrement in exchange for data to help curb future pollution. The Environmental Protection Agency has signed agreements with 2,681 animal feeding operations in the egg, chicken, turkey, dairy and hog industries. They would be exempt from having to pay potential fines of up to $27,500 a day for violations either in the past or over the next four years." The EPA's Environmental Appeals Board "determined that the agreements were consistent with the Clean Air Act. Agency officials said the approvals set the stage for the remaining agreements to gain approval quickly. Jon Scholl, agriculture adviser to Stephen L. Johnson, the E.P.A. administrator, said the agreements were the most efficient way of obtaining the data needed to determine whether the animal-feeding operations were complying with federal air emission laws."

EPA Advisers Find Teflon Chemical "Likely" Carcinogen. The Wall Street Journal (1/31, Muñoz, 2.11M) reports, "The Environmental Protection Agency is pressuring eight companies to reduce the presence of a group of chemicals that are used in the manufacture of such things as nonstick cookware, microwave popcorn bags, fast-food containers, carpeting, nail polish and stain-resistant clothing. Yesterday, an EPA advisory group issued a statement, saying the majority of its members agree that the main chemical under review -- perfluorooctanoic acid, or PFOA -- is a 'likely' cancer-causing agent. However the group, made up of outside experts, failed to agree unanimously on this likelihood and recommended further study. The findings come after a lengthy review of EPA data on the chemical, including studies linking it to cancer in rats, and indicating that PFOA is found in many people's blood."

Dockworkers Call For Reductions In Toxic Emissions At Ports. The New York Times (1/31, Archibold, 1.19M) reports, "The effort to reduce smog stemming from seaports, among the biggest polluters in the nation, gained an ally on Monday when the union representing thousands of West Coast dockworkers promised to help significantly reduce toxic emissions. The union, the International Longshore and Warehouse Union, representing 60,000 dockworkers from San Diego to Seattle, called for a one-fifth reduction in emissions by 2010 and said it would push carriers to adopt less-polluting technology on their ships."

9th Circuit Searches For Punitive Remedy In Exxon Case. The California Recorder (1/31, Scheck) reports, "The dozens of Alaska fishermen sardined into a 9th U.S. Circuit Court of Appeals courtroom Friday seemed to only reluctantly accept Judge Andrew Kleinfeld's statement that the court views 'torturing and killing large numbers of people' as 'more reprehensible than putting a drunk in charge of a supertanker.' … Brian O'Neill, the lawyer for more than 30,000 people economically affected by the 1989 Exxon Valdez oil spill, didn't want to minimize the gas company's mistake. … 'Putting a drunk in front of a supertanker is still reprehensible,' he said." The Recorder continues, "Figuring out a way to translate that reprehensibility into dollars under ever-changing Supreme Court guidance is once again the problem for the 9th Circuit. … So, for the third time since an Alaska jury hit Exxon with $5 billion in punitive damages in 1994, the 9th Circuit panel is facing the question of whether that award is appropriate." The Recorder adds, "The judges have been uncomfortable with the $5 billion award in the past, but they didn't reveal much Friday; Kleinfeld was skeptical that a large punitive award was appropriate in light of Exxon's pretrial cleanup efforts, while Chief Judge Mary Schroeder seemed somewhat more inclined toward the plaintiffs. Senior Judge James Browning was silent through the arguments. … The class action brought by those who suffered economic damage from the spill has bounced repeatedly between the 9th Circuit and the Alaska courtroom of Judge H. Russel Holland, a result of Holland's reluctance to significantly lower the award. It's also due to the changing Supreme Court guidelines over how to award punitive damages. … Most recently, the Supreme Court said in 2003 that punitive damages should not exceed compensatory damages by more than a 9:1 ratio, and that compensatory damages may stand in for punitives as a deterrent in many cases."

Measure Would Close Loophole Allowing Tribes To Make Large Donations. USA Today (1/31, Drinkard, 2.31M) reports that House Republicans plan to propose closing a loophole that has allowed Indian tribes with casinos to give substantial donations lawmakers' campaigns. The change "is part of a bill being drafted by Rules Committee Chairman David Dreier, R-Calif., to restrict lobbyist influence in the wake of the Jack Abramoff lobbying scandal." USA adds, "The growth in tribal political giving has been helped by the status tribes enjoy under federal

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campaign-finance law. Tribes are 'persons' under the law, a category that also includes partnerships, corporations and associations. But tribes can give unlimited total amounts because they are not 'individuals,' whose legal definition excludes organized groups. … Dreier's proposal, developed at the behest of Speaker Dennis Hastert, R-Ill., would apply the individual limit on total giving to tribes."

In a separate story, USA Today (1/31, Drinkard, 2.31M) reports,, "Indian tribes defending their right to give unlimited political campaign contributions say they are treated differently for legitimate reasons dating back to George Washington. … Tribes' special status is based in part on the limited sovereignty they hold through treaties negotiated with the federal government as long ago as the 1700s. Like states or localities, they have a government-to-government relationship with Washington. But unlike local governments, they make political giving a lobbying tactic."

McCain Accelerates Timetable For Review Of Indian Gaming Act. Sen. John McCain has accelerated his timetable to review change to the 1988 Indian Gaming Regulatory Act and the way the FEC counts tribal donations. Roll Call (1/31, Bresnahan) reports, "McCain introduced new legislation in November (S. 2078) that would broaden the authority of the National Indian Gaming Commission to regulate Class III casinos, which offer activities such as slot machines, blackjack, craps and roulette. The agency's internal review procedures would also be overhauled. McCain wants to change how land is taken into trusts for the tribes, with an eye toward limiting the explosive growth in Indian casinos. … The Arizona Republican reportedly also wants to look at the way Indian tribes donate to federal lawmakers, according to lobbyists retained by tribal interests." McCain "has scheduled hearings for this week and next, and another hearing on Feb. 28, on these issues."

FBI/DEA/ATF/USMS:

Man Arrested In US-Mexico Border Tunnel Investigation. The AP (1/31) reports, "A Mexican citizen was arrested on drug charges in the investigation into the longest tunnel ever found underneath the U.S.-Mexico border. The suspect was taken into custody Saturday by U.S. Immigration and Customs Enforcement agents. He appeared in federal court Monday on charges of conspiracy to import more than a ton of marijuana, which carries a mandatory minimum of 10 years in prison. The 2,400-foot tunnel runs from a warehouse near the airport in Tijuana to a warehouse in San Diego. It was unclear how long it had been in operation, but more than two tons of marijuana were found inside. … The man under arrest, Carlos Cardenas Calvillo, worked at the U.S. warehouse, which had been leased for the stated purpose of distributing produce, authorities said. … The Drug Enforcement Administration has said it suspects Tijuana's ruthless Arellano-Felix drug syndicate or another well-known cartel was involved."

In a separate story the AP (1/31) reports, "Investigators said Cardenas Calvillo is connected to the San Diego side of the operation. Real estate documents show a company incorporated last year paid $2 million to lease the warehouse, supposedly for produce." More than 100 news outlets published in newspapers and/or posted on their Web sites the AP story, including ABC News, CNN, MSNBC, the New York Times, New York Post, Washington Post, Houston Chronicle, California's San Jose Mercury News, San Luis Obispo Tribune, and Contra Costa Times, along with the Fort Worth Texas Star Telegram, Myrtle Beach Sun News, Kansas City Star, and the UK's Guardian.

Reuters (1/31) writes, "Cardenas did not enter a plea during his appearance in San Diego federal court and was held without bail pending a midweek hearing. No other arrests have yet been announced."

The San Diego Union-Tribune (1/30, Soto) reports Cardenas Calvillo "pleaded not guilty Monday afternoon to conspiracy to smuggle drugs in connection with an elaborate cross-border tunnel that stretched half a mile from Tijuana to Otay Mesa. … Prosecutors asked Judge Leo S. Papas to order that Cardenas be held without bail. The judge said he will consider the request at a hearing Wednesday. Prosecutors told the judge the 44-year-old Cardenas is a risk to flee the country."

The Washington Times (1/31, Seper) writes, "Investigators said the charges stem from Mr. Cardenas-Calvillo's ties to the Otay Mesa warehouse that concealed the U.S. access point for the highly sophisticated, 2,400-foot- long passageway. The tunnel was described by authorities as the largest and most advanced illegal cross-border underpass ever found. The ongoing investigation is being carried out by the San Diego Tunnel Task Force made up of ICE, Drug Enforcement Administration and U.S. Border Patrol agents. … The arrest came less than 24 hours after ICE issued an alert, tersely warning that information indicated those who had been in the tunnel, or were responsible for its design or

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construction, could be in imminent danger. ICE urged those persons to come forward and contact the agency at any port of entry along the Mexican border."

The Los Angeles Times (1/30, Marosi) reported that on Saturday, authorities "arrested a Mexican man in connection with" the tunnel's operation. Authorities "said the man is allegedly tied to the Otay Mesa warehouse that concealed the tunnel's access on the US side."

Voice of America (1/30) reports on its Web site, "The U.S. Drug Enforcement Agency says the tunnel was a major gateway for illegal immigrants and drugs coming from Mexico into the U.S."

Tunnel Had A Secret Door. The San Diego Union-Tribune (1/30, Manolatos) reports the tunnel had a secret door that could be opened only from below. "It's this passageway that federal authorities said was the exit point for drug smugglers who built a massive underground tunnel to bring tons of marijuana into the United States from Tijuana. … Investigators called out-of-state miners to help them determine how the tunnel was built and how long it took. The miners are expected to arrive later this week. Authorities started receiving tips about the tunnel two years ago. When they discovered it last week, they found 2 tons of marijuana on the Mexican side and 200 pounds on the U.S. end. Once the marijuana was in the United States, it probably was loaded onto vehicles disguised as produce trucks," investigators said.

Human Intelligence Most Effective For Finding Tunnels. The AP (1/31) reports, "A U.S. government effort to find drug-smuggling tunnels underneath the Mexican border with ground-penetrating radar and other high-tech gear has had little success. Human intelligence has proven to be the most effective method of finding the passageways. A case in point: The longest tunnel ever found along the border was discovered last week after a tip. … 'The problem is the technology picks up some kind of anomaly or variation of soil,' said Lauren Mack, a spokeswoman for U.S. Immigration and Customs Enforcement. 'We go in with big backhoes and bulldozers, we spend all day doing it, and all we hit is rock or water tables.' That was what happened earlier this month when high-tech gear alerted authorities to a possible tunnel near…a hamlet about 60 miles east of San Diego along the Mexican border. A full day of digging turned up nothing."

US, Mexican Media Given Tour Of Tunnel. Los Angeles Times (1/31, Marosi) reports, "Federal officials gave US and Mexican media a rare look at a smuggling tunnel Monday as they announced the arrest of a man with alleged ties to a Mexican drug cartel that authorities suspect built the 2,400-foot-long passage." Frank Marwood, acting deputy special agent in charge for Immigration and Customs Enforcement, said, "The amount of time, money and technology it would take to make a tunnel like this is overwhelming. It's a complete engineering feat. … The half-hour tour covered an estimated 250 feet, about one-tenth of the tunnel's length."

Network TV Coverage. ABC's World News Tonight (1/30, story 8, 2:00, Vargas) reported, "In San Diego, today, US Officials charged a Mexican man with drug smuggling through the longest tunnel ever found along the U.S. - Mexican border. It is a remarkable facility." ABC added, "The tunnel surfaces in a nondescript office about a half-mile into the U.S. A secret door, a trap door, allowed an all-access pass to and from Mexico. The piping you see was used to ventilate the tunnel. Electric lighting, powered from the Mexico side, runs the entire length. And a system that used to keep water out has stopped working. So the tunnel has flooded. The walls have been chiseled by hand, for eight football fields in length. Officials say the tunnel was in operation since last November and they believe it took a drug cartel about two years to dig it, by hand, through hardened clay and sandstone. Two tons of marijuana were found in the tunnel. And one man has been arrested. Court documents reveal he was a worker in the warehouse run by a company called v & f distributors, which is under investigation." Homeland Security Agent: "Whenever we find a tunnel for department of homeland security, that's a vulnerability in terms of narcotics, in terms of people, in terms of weapons, that could be brought into the country. Once the investigation is complete, officials say, the enormous tunnel will be filled with concrete."

Cable TV Coverage. CNN Live From (1/30, 3:00 p.m.) reported, "An arrest in the case of the largest and most sophisticated tunnel ever found across the U.S.-Mexican border. A Mexican man was arraigned on charges of conspiracy to import substances. The tunnel runs from San Diego to Tijuana. Two tons of marijuana was found inside."

CNN's Anderson Cooper 360 (1/30, 10:00 p.m.) reported, "We are on the U.S.-Mexican border. Actually in sort of a no man's land. This is a U.S. Territory between two fences. … We're actually in the Otay Messa district of San Diego. We're north of Tijuana. Just a few feet beneath was a tunnel. It runs 2400 feet. It's the length of eight football fields. It goes from a warehouse in Otay Messa, crossing the border

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inside another warehouse in Tijuana. It is the longest tunnel U.S. authorities here, Immigration and Customs Enforcement agents have ever found underneath this border. They found more than two tons of marijuana in this tunnel. Who knows how many drugs were gone through. Since the attacks on 9/11 agents have uncovered 20 other tunnels. Twenty that we know of. But nothing, they say, nothing like this one. Take a look. ICE agents also [say] this is one of the most sophisticated tunnels underneath the Mexican border. It took years to build. You can see the pick marks used. It would take a long time to do. It's also got electricity. They wired the entire tunnel with these cables that have light bulbs on them. There's even a pipe that brings in fresh oxygen pumped in from Mexico."

Virginia Psychiatrist Pleads Guilty To Illegal Hydrocodone Distribution. The Norfolk Virginian-Pilot (1/31) reports, "A former Virginia Beach psychiatrist pleaded guilty in federal court Monday to charges of health care fraud and illegally dispensing narcotics. Dr. Jeremy A. Stowell, who surrendered his medical license in the middle of the federal investigation last year, admitted illegally prescribing hydrocodone and improperly billing insurance programs. The Drug Enforcement Administration has been investigating Stowell after reports by the state Board of Medicine that he had been prescribing narcotics to patients with drug addictions and some who admitted sharing their drugs with friends. During the DEA investigation, an undercover officer obtained narcotics from Stowell with only a cursory examination and an informant obtained drugs despite admitting having abused cocaine and other drugs, according to court papers filed by the government Monday."

Afghanistan Opium Production Called A Serious International Threat. UPI (1/30) reports, "Afghan Foreign Minister Abdullah Abdullah urged the international community Monday to endorse the Afghanistan Compact, a five-year blueprint for efforts to stabilize and reconstruct the country. … Habibullah Qaderi, the Afghan minister for counter-narcotics, said the country's opium production represented a 'serious threat' to the international community. Some 70 to 80 percent of the heroin on Britain's streets originated in Afghanistan, he noted. … A criminal justice task force was being trained and a special tribunal being set up to prosecute those in possession of over two kilos of opium, he said. Questioned about reports of high-level government complicity in the drugs trade, Qaderi said that where there was evidence against officials, they would also be prosecuted. Pressed on the issue by United Press International at a later briefing, Afghan Justice Minister Sarwar Danish acknowledged there were cases of complicity by some government officials. Counter-narcotics initiatives would be discussed at the conference, from which would hopefully emerge a clearer plan to tackle the problem, he said."

IMMIGRATION:

Concern About Overcrowded Housing Emerges As Part Of Immigration Debate. USA Today (1/31, Jones, 2.31M) reports, "Overcrowded housing is emerging as a battleground in the national debate over immigration as towns and counties crack down on landlords who permit many unrelated people to occupy single-family homes. Local officials in New York, Virginia, Massachusetts and Georgia have evicted residents, threatened landlords with fines or jail time or legally narrowed the definition of family to combat a problem they say disrupts neighborhoods. … Some activists say measures limiting the number of unrelated people or extended family members in a home target immigrants, particularly Hispanics, who often need to share a home to afford the rent."

Intel Chairman Says US Should Increase Visas For Highly Educated Foreigners. Intel Chairman Craig Barrett writes in the Financial Times (1/30), "America is experiencing a profound immigration crisis but it is not about the 11m illegal immigrants currently exciting the press and politicians in Washington. The real crisis is that the US is closing its doors to immigrants with degrees in science, maths and engineering – the 'best and brightest' from around the world who flock to the country for its educational and employment opportunities. These foreign-born knowledge workers are critically important to maintaining America's technological competitiveness." Barrett adds, "At a minimum the US should vastly increase the number of permanent visas for highly educated foreigners, streamline the process for those already working here and allow foreign students in the hard sciences and engineering to move directly to permanent resident status."

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CONGRESS-ADMINISTRATION:

Alito Confirmation All But Certain After Filibuster Attempt Fails. The CBS Evening News (1/30, story 7, :45, Schieffer) reported, "The way is clear for Samuel Alito to become the next Associate Justice of the Supreme Court. After a last- minute filibuster attempt by Democratic opponents, the Senate voted 72-25 today to cut off any further debate. Alito is expected to be confirmed tomorrow morning, giving President Bush a victory just hours before he delivers his State of the Union address." NBC Nightly News (1/30, story 4, 3:00, Williams) reported that "liberal Democrats led by Massachusetts Sens. John Kerry and Ted Kennedy went ahead today with a filibuster attempt, trying to block or at least slow down the nomination, but their effort didn't come close."

CNN's The Situation Room (1/30, Henry) reported that Republicans needed 60 votes to break the Democratic filibuster of Supreme Court nominee Samuel Alito's confirmation. They "got a lot more. They got 72 in the end. The final tally, 72-25. That means only 23 lawmakers, 23 Democrats, joined John Kerry and Ted Kennedy in supporting the filibuster, supporting continued debate."

CNN's Lou Dobbs Tonight (1/30, Dobbs) called the vote "a major defeat for Democrats" and "a political victory for President Bush." CNN added, "The Senate's decision is a severe blow to Democrats, such as Senators John Kerry, Ted Kennedy, and Hillary Clinton. A final confirmation vote for Judge Alito is expected tomorrow, just hours before President Bush delivers his State of the Union address."

The Los Angeles Times (1/31, Reynolds, 958K) adds that "several Democrats who supported the filibuster, notably Senate Minority Leader Harry Reid (D-Nev.) and Sen. Charles E. Schumer (D-N.Y.), did so with a noticeable lack of enthusiasm." Favoring the filibuster were "several Democrats believed to be considering a presidential run in 2008: Sens. Hillary Rodham Clinton of New York, Evan Bayh of Indiana and Kerry, the party's 2004 nominee." The Times adds, "Despite the split over the filibuster, Democrats are largely united in their opposition to Alito's confirmation. Only four Democrats -- Byrd, Nelson of Nebraska, Tim Johnson of South Dakota and Kent Conrad of North Dakota -- have announced their support for him." The Grand Forks Herald (1/31, Jalonick, 32K) reports Sen. Kent Conrad said Monday "he will vote to confirm Judge Samuel Alito to the Supreme Court. 'He has given me his word on important matters,' Conrad said."

The Washington Times (1/31, Hurt, 90K) reports, "Among those voting to filibuster the nomination were Democrat Sens. Frank R. Lautenberg and Robert Menendez, who represent Judge Alito's home state of New Jersey." USA Today (1/31, Kiely, 2.31M) reports Alito's "home-state senators" also "said they would vote against him. They fear that Alito, a judge on the Philadelphia-based 3rd U.S. Circuit Court of Appeals, will make the court more conservative. 'Home-state pride is not a sufficient reason for supporting a nominee,' Menendez said."

The Washington Post (1/31, A1, Babington, 744K) headlines its story "Senate To Vote On Alito Today," while the AP (1/31, Holland says the Senate "all but guaranteed Samuel Alito's confirmation." The New York Times (1/31, Stout, 1.19M) adds that "since only a simple majority is required for confirmation, Samuel Alito could be a member of the Supreme Court by Tuesday afternoon. … Three Democrats have come out in support of the nominee: Robert C. Byrd of West Virginia, Tim Johnson of South Dakota and Ben Nelson of Nebraska. Other Democrats are believed to be considering a vote in favor of the nominee." Reuters (1/31, Ferraro), Chicago Tribune (1/31, Zeleny, 643K) and Bloomberg (1/31, Rowley), among other sources, run similar stories this morning.

The Hill (1/31, Allen) says, "Bush and his Republican allies are on the verge of fulfilling campaign promises to stock the court with conservatives."

Chafee's Decision To Oppose Alito Could Hurt Him In Primary. The Washington Times (1/31, Fagan, Hurt, 90K) reports, "Republican Sen. Lincoln Chafee's decision to oppose Judge Samuel A. Alito Jr.'s nomination to the Supreme Court will hurt him in his primary campaign, party members say, and could kill the GOP's chance of holding a seat in liberal Rhode Island." Chafee "is the only Republican senator to come out publicly against the Alito nomination, a decision likely to fuel further criticism from both his political flanks. For example, Cranston Mayor Steve Laffey, a likely conservative Republican primary opponent, called Mr. Chafee's actions ineffectual and a disservice to the state. … Meanwhile, the anti-tax Club for Growth is running commercials blasting Mr. Chafee for not taking a harder line against big government and high taxes." Chafee "is being criticized just as much from the left. Rhode Island Secretary of State Matt Brown, one of the Democrats running against

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Mr. Chafee, said the senator made a wishy-washy decision on Judge Alito."

In an editorial titled "Party Of Lincoln?," the Wall Street Journal (1/31, 2.11M) says, "Chafee tried to split the difference. He announced yesterday that he would oppose Judge Alito's confirmation." But "he also voted against John Kerry's futile attempt to block a vote via filibuster -- which he was obliged to do as part of the 'gang of 14' whose compromise last May preserved the possibility of the filibuster but tried to downplay its use." The Journal adds, "Opposing the filibuster attempt may not prove sufficient to win over Republican primary voters."

White House, Democratic Strategic Assumptions Before Hearings Explored. The New York Times (1/31, Kirkpatrick, 1.19M) reports, "The week before his Supreme Court confirmation hearings," Alito "e-mailed the text of his opening statement to the White House. It included very little about his legal thinking, dwelled at length on his family and opened with a tired and rambling joke about courtroom banter between a lawyer and a judge. The response from the White House: 'Perfect, don't change a word,' according to an administration official who was granted anonymity because Judge Alito's preparation sessions were confidential." The Times adds, "As the last obstacles to confirmation faded away Monday, Democratic aides said their party had initially expected Judge Alito to live up to his reputation as 'Scalito,' suggesting a conservative firebrand in the mold of Justice Antonin Scalia. Failing to adjust to his meekness, Democratic aides admit they searched too hard for scandal in Judge Alito's past." The White House, meanwhile, "sought to take advantage of Judge Alito's low-key, almost shy demeanor to build sympathy for him. They say they succeeded beyond all expectations when Judge Alito's wife, Martha-Ann, walked out in tears from his confirmation hearings."

Fox News' Special Report (1/30, Wilson) reported that Democrats "simply could not find a formula to derail the Supreme Court nomination of Judge Samuel Alito. Any hope that they might drag out the debate with a filibuster evaporated shortly after a meeting of the so-called Gang of 14 moderate senators." Republicans "by and large spent the day complaining about what they felt was a nasty debate aimed at a well-qualified nominee."

Ford At Odds With Black Leaders Over Filibuster. The Hill (1/31, Savodnik) reports, "Rep. Harold Ford's opposition to filibustering Judge Samuel Alito's Supreme Court nomination is exacerbating tensions between the Tennessee Democrat and black political leaders, underscoring the fine line that the Senate hopeful must walk." Ford, running for the seat being vacated by Senate Majority Leader Bill Frist, "said Friday that Alito should get an up-or-down vote, which would more or less assure the nominee's approval." Ford's comments "came the same day that the National Association for the Advancement of Colored People (NAACP) announced its support for the filibuster spearheaded by Sens. Edward Kennedy and John Kerry, both Massachusetts Democrats." The comments also "follow attempts by the Congressional Black Caucus (CBC) to derail the nomination of Alito."

Alito's Confirmation May Usher In "Kennedy Court." The Washington Post (1/31, A4, Lane, 744K) says Alito's confirmation "will mark the beginning of a new Supreme Court era -- and, perhaps more important, the end of an old, familiar one. For much of the past 24 years, Justice Sandra Day O'Connor, whom Alito would replace, has wielded the swing vote on a split court, usually casting her lot with the court's four other conservative justices, but siding with liberals on such crucial issues as abortion, affirmative action and campaign finance reform." Alito's arrival, however, "may turn the O'Connor Court into the Kennedy Court. If, as many expect, Alito forms a four-vote conservative bloc with Chief Justice John G. Roberts Jr. and Justices Antonin Scalia and Clarence Thomas, that would leave Justice Anthony M. Kennedy -- a conservative who has occasionally voted with liberals on gay rights, the death penalty and abortion -- as the court's least predictable member."

Alito, Roberts Confirmations Seen As Culmination Of Reagan Revolution. The Los Angeles Times (1/31, Savage, 958K) reports, "Twenty-five years ago, President Reagan came to Washington with bold plans to move the Supreme Court to the right. He and his lawyers wanted a high court that would uphold state laws that impose the death penalty, restrict abortion and allow a greater role for religion in public life. They favored property rights over environmental regulation, states' rights over broad federal authority and executive power over Congress and the federal courts." The Times adds, "Now, with the Senate about to confirm Judge Samuel A. Alito Jr., a second generation of Reagan disciples stands ready to fulfill the former president's vision for the court." Alito, like Chief Justice John G. Roberts Jr., "was drawn to the conservative ethos of the Reagan administration in the 1980s. Both men worked in Reagan's Justice

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Department and as advocates for the administration before the Supreme Court."

Pickering Preparing Second Book On Judicial Confirmation Process. Roll Call (1/31, Hocking) reports Judge Charles Pickering "set out to write a book about the problems with the current judicial confirmation process and his own experience. … Pickering and his publisher rushed 'Supreme Chaos: The Politics of Judicial Confirmation and the Culture War,' released this month, to the printer — thus providing him with a platform to discuss Alito's confirmation process." According to Roll Call, "The juicy bits will come later, in a second book due out 'either this fall or the first part of next year'…Pickering says."

Bush Nominates Five To Federal Bench. The New Jersey Law Journal (1/31, Booth) reports, "President Bush last Wednesday acted to fill four vacancies on the U.S. District Court and one on the 3rd U.S. Circuit Court of Appeals." The Journal continues, "Assistant U.S. Attorney Renee Bumb was named for a seat in Camden, N.J., while U.S. Magistrate Judge Susan Wigenton, U.S. Department of Justice official Noel Hillman and Peter Sheridan, the former executive director of the Republican State Committee, were nominated for three district court seats in Newark, N.J. … For the 3rd Circuit, Bush nominated former federal prosecutor Michael Chagares, now with Hackensack, N.J.'s Cole, Schotz, Meisel, Forman & Leonard." The Journal adds, "The nominees must be considered by the Senate Judiciary Committee, which has not yet scheduled hearings, and voted on by the full Senate."

Bush To Deliver State Of The Union Amid Lagging Poll Numbers. President Bush will deliver his State of the Union speech tonight. The AP (1/30, Loven) reports that the "unspoken agenda underpinning the address" is the "rescue of his presidency from arguably its worst year. His poll numbers fell to the lowest point of his presidency under the weight of missteps following Hurricane Katrina, soaring energy costs, the withdrawal of a Supreme Court nominee, the failure of his high-profile effort to drive a Social Security overhaul, and increasing scrutiny from the public and Congress of the unpopular Iraq war. While Bush's approval rating has recovered slightly, it remains in the still-anemic low 40s. It is a matter of concern for Republicans as they worry about maintaining control of Congress in this fall's midterm elections."

CNN's The Situation Room (1/30, Bash) reported that Bush is "going to go before Congress and the American people at a time where more than six in 10 Americans do not think the country is heading in the right direction and actually think it has gotten worse since Mr. Bush has been in office. And that is a very, very dire thing for this president in terms of shaping his legacy and more immediately, for his party in this year's election." Bush is "going to try to be optimistic. The President himself said there in the Cabinet Room, he's going to try to be upbeat. But he does have one major new theme that Bush aides are telling us about, that is to talk about the idea of being competitive, still being a leader in the world economically and in terms of foreign policy."

Roll Call (1/31, Pierce) reports, "Rather than unveiling sweeping policy changes to Social Security or announcing future trips to Mars, it appears President Bush will largely be offering some old reruns a better time slot in tonight's State of the Union address. It's an agenda that should receive a lot of enthusiastic applause from the right side of the House chamber, considering most of the Congressional Republican agenda mirrors the items on Bush's 2006 to-do list." The Dallas Morning News (1/31) reports Bush "will try to turn the page and refocus the nation's attention on a handful of more narrowly drawn domestic issues that his strategists hope will be winning planks for his fellow Republicans in this fall's mid-term elections." Knight Ridder (1/31, Lambrecht) reports Republicans say they "hope that both in substance and tone, the president's State of the Union address can begin to shift the focus away from war, scandal and suspicion that failure has replaced the once-rosy promise of GOP control of Washington. Many in his party hope the president steers clear of the partisanship that has come to define Washington."

The Philadelphia Inquirer (1/31, Hutcheson, 423K) reports Bush "has been pushing big, bold ideas since he took office, but don't expect more of the same when he goes before Congress tonight for this year's State of the Union address. With plenty on his plate already, Bush is not looking to add much more. Instead of promoting new ideas for sweeping change, the President is expected to focus on relatively small, achievable goals. He will also spend a good bit of time trying to shore up support for work in progress, especially the Iraq war."

Knight Ridder (1/31, Thomma) reports Bush "faces one of the most daunting political challenges of his career Tuesday night when he kicks off a pivotal midterm-election

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year" with his speech. Bush "must frame the year's coming debate in a way that will lead Americans to stay the course with his Republican Party running the government, at a time when polls show that voters are in a sour mood and restless for change." Knight Ridder writes that Bush is "weaker than any sixth-year president since Richard Nixon in 1974, when the Watergate scandal forced him to resign, led to big Republican losses in Congress and set the stage for the party's loss of the White House two years later. Bush's standing rivals that of Democrat Harry Truman in 1950, when Democrats lost seats in Congress and went on to lose the presidency two years later."

USA Today (1/31, Benedetto, 2.31M) writes, "In a city renowned for its many speeches -- long and short, lofty and mundane, partisan and profound -- the State of the Union is The Big One. It is a chance for the president to try to rally citizens in times of internal strife or external peril, and to reassure them when times are good. It is also the president's best chance to lay out his agenda and shape the political debate for the next 12 months. It is an opportunity, as it will be for President Bush when he speaks at 9:01 ET tonight, for presidents to regain public confidence that has been lost or seems to be slipping. Bush's job approval in a USA TODAY/CNN/Gallup Poll on Jan. 20-22 is 43% and has not been above 50% for the past 10 months."

Reporting on a new NBC News/Wall Street Journal (1/31, Harwood) poll, the Journal writes, "A politically weakened President Bush addresses the nation tonight facing two clear demands from the American public: solve problems in the health-care system and bring U.S. troops home from Iraq." NBC Nightly News (1/30, story 4, 3:00, Williams) said, "We should start at the very beginning and that all-important approval number." NBC's Tim Russert: "The President hopes he had made some progress, but that's not the case. We only had 39% approval, and 54% disapproval. … These are the top priorities for the American people. First, Iraq, not surprising -- bringing the troops home, 35%. Health care, 20%. Stimulate the economy, 17%. The prescription drug program, 11%. Fix it. Cut the deficit, 8%. Cut taxes, 7%. And Iraq -- now two out of three Americans say it is their view that the troops should come home. … Only one in four Americans, 25%, say the President should set the policy. Congress, 49% of Americans say it should be them, and both equally, 16%. … Here's lobbying. Which party is more influenced by special interests? 22% of Americans say the Democrats, 36% say no, it's the Republicans. And 33%, one-third of Americans, say both parties equally. We talk about eavesdropping, it's very important. This is the President's position in effect: Should there be wiretaps without court order? 51% approve, 46% disapprove. That's the President's position in favor, but what about concerns? 56% say they have concerns about wiretaps without warrants, and 43% say they're not concerned." On MSNBC's Hardball (1/30), Russert said the President's approval numbers are "frozen in place."

The Christian Science Monitor (1/31, Feldmann, 61K) writes, "The question for President Bush is, will 'wooable' Americans be watching? And what can he say that will grab them and force a second look? In recent weeks, the White House has telegraphed the major elements of this year's speech: an initiative to make healthcare more affordable, ideas to reduce US dependence on foreign energy, a call to extend tax cuts. The defining issues of Mr. Bush's presidency -- the Iraq war and larger war on terror -- will also occupy center stage. But according to the Pew Research Center, the public has modest expectations for this year's address: Only 30 percent of Americans say it will be more important than past State of the Union messages, down from recent years."

Optimism, Ongoing War On Terror Among Likely Themes. USA Today (1/31, Raasch, 2.31M) outlines "broad themes" likely to appear in the address: "We are in the midst of a long, hard war against fundamentalist terrorism, but this president doesn't give up and neither should Americans"; Bush "will portray himself as 'optimist in chief' and, by implication, his political foes as pessimists and defeatists"; "Mistakes have been made, but they were not purposeful and Bush was not alone in making them"; "This is war and when it comes to your safety, the buck stops with the president."

Alternative Fuel, Nuclear Power To Figure In Speech. The New York Times (1/31, Bumiller, Sanger, 1.19M) reports Bush "will renew a call for the development of alternative fuel for automobiles and promote the construction of new nuclear power plants" in his speech. After "years of partisan arguments over the administration's efforts to open new parts of the country for oil and gas drilling, Mr. Bush will cast his discussion of nonoil sources of energy as an economic imperative for the United States and a national security necessity to reduce dependence on Middle Eastern oil." The Times says the "issues have been part of Mr. Bush's agenda for years, but never a top priority."

The New York Post (1/31, Johnson, 624K) writes, "If President Bush unveils strong environmentally conscious

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initiatives in tonight's State of the Union speech, credit (or blame) goes to Nora Maccoby. At the end of the year, Defense Secretary Donald Rumsfeld was seen at a holiday party in Georgetown genially locking horns" with the screenwriter. After a "half-hour of Maccoby lecturing Rummy that energy independence through renewable clean sources should be the heart of a national security strategy, a grinning Rumsfeld bleated to those nearby, 'I can't believe this -- this girl's kicking my ass, and she's right.' Then to Maccoby, 'Call the Secretary of Energy. You can use my name.'"

Bush Said To Have Mixed Track Record On Fulfilling SOTU Plans. The Wall Street Journal (1/31, 2.11M) examines Bush's track record on State of the Union promises. Last year, Bush "declared: 'We'll start on Social Security now.' But after a year of hard campaigning, the president has acknowledged that reform plans are dead for now, in what amounts to his biggest domestic defeat to date." In the Middle East, "the Bush administration has made strides, though some hot zones remain to be defused." On immigration, legislation "has been slow-moving, but as the topic is sure to be a hot-button issue in the 2006 congressional elections, the president has moved it up on his agenda." The Journal also traces the mixed results of Bush's State of the Union vows back to 2001.

Anti-Bush Protestors To Gather At Capitol Reflecting Pool Tonight. The Washington Times (1/31, Mansfield, 90K) reports, "Liberal activists -- among them graying leftovers from the Vietnam-era antiwar movement -- plan to gather near the Capitol tonight, banging pots and pans to drown out President Bush's State of the Union address." On Monday, "opponents of the Iraq war kicked off their latest round of demonstrations with an 'Impeachment Forum' held downtown in a private dining room at Busboys and Poets. Featured speakers were 78-year-old former U.S. Attorney General Ramsey Clark; longtime war protester Marcus Raskin, 71, who is head of the Institute for Policy Studies; and Cindy Sheehan, mother of an American soldier killed in Iraq. Sheehan "plans to speak tonight to protesters at the Capitol Reflecting Pool. Last week, the group 'World Can't Wait -- Drive Out the Bush Regime' was denied a permit to gather on the Mall for security reasons. The group won a federal lawsuit and has been given permission to bang away while Mr. Bush speaks to a joint session of Congress at 9 p.m." The Washington Post (1/31, A2, Milbank, 744K) writes that at the "Impeachment Forum" event, Sheehan, "just back from Caracas, where she praised Venezuela's anti-American president, Hugo Chavez, and called Bush a 'terrorist,' said she expects Democrats will 'seriously screw up' the midterm elections in November."

Utah Town's Support For Bush "Nearly Unanimous." The Washington Post (1/31, A1, Finkel, 744K) profiles the town of Randolph, Utah, a town of about 480 people "where Bush received 95.6 percent of the vote" in 2004 "and support for him continues to be nearly unanimous. … There have been no funerals here from Bush's war on terrorism. There are no unemployment lines, no homeless people sleeping in doorways, no sick people being turned away from a hospital because of a lack of insurance, no crime to speak of, no security fence needed around the reservoir, no metal detectors at the schools."

NYTimes, WPost Say Bush Should Not Take Too Much Credit For Economy. The New York Times (1/31, 1.19M) editorializes, "When President Bush gives his State of the Union address tonight, expect to hear a renewed call for setting the administration's first-term tax cuts in concrete, combined with warnings that letting the cuts expire would retard economic growth. Nothing could be further from the truth. As proof of tax cuts' ability to spur the economy, Mr. Bush generally cites productivity growth, job creation and the rise in personal income. Productivity has indeed been stellar, and supply-siders claim that is because tax cuts have led to investment, which led to higher productivity. But business investment has been flat for five years. Meanwhile, the benefits of productivity growth have been concentrated among the wealthy. … Tonight is Mr. Bush's night to speak. But it's the job of all of us to be critical listeners."

The Washington Post (1/31, A16, 744K) editorializes, "Bush will be tempted to take credit for the strength of the economy. The recovery that began four years ago has been robust, with gross domestic product growing 4.2 percent in 2004 and 3.5 percent in 2005 despite a slowdown in the last quarter. Productivity -- that is, the value of goods produced for each hour of labor -- has increased even faster than during the boom of the late 1990s and roughly twice as fast as during the previous two decades. But Mr. Bush should not crow too much. For one thing, U.S. prosperity is built on an alarming trade deficit, which symbolizes a broader fragility in the global economy. For another, economic progress is not showing up in higher wages for the typical worker. … On the trade deficit, the best response is to boost national saving, and the surest way for government to do that is to cut the federal deficit. On wage stagnation, it would be a mistake to intervene directly in

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labor markets, but growing inequality reaffirms the case for a progressive tax structure. Mr. Bush could show he understands that by rethinking his enthusiasm for tax cuts. If only."

USA Today Says Congress Should Assert Itself With Bush. USA Today (1/31, 2.31M) editorializes, "When President Bush goes to the Capitol tonight for his State of the Union address, he will undoubtedly receive a standing ovation from the assembled members of Congress. They might as well be on their knees with their foreheads bowed to the floor, prostrating themselves as a gesture of their fecklessness in exercising their constitutional role as a separate and equal branch of government. Among the recent examples of the administration's airy disregard of Congress: It dismissed questions about the legality of its warrantless spying; It stonewalled an inquiry into the response to Hurricane Katrina; Mine-safety officials walked out of a hearing on coal-mine tragedies; Bush opened his news conference last week by saying Congress 'must' reauthorize the USA Patriot Act and the Senate 'needs' to vote quickly on his nomination of Samuel Alito to the U.S. Supreme Court. That's not exactly what the Founders had in mind."

More Commentary On State Of The Union Address. In a Wall Street Journal (1/31, 2.11M) op-ed, Fred Barnes of the Weekly Standard writes, "When running for re-election in 2004, and again last year as he campaigned for Social Security reform, President Bush repeatedly advocated an 'ownership society.' It was a bold concept aimed at producing an historic shift in power from Washington bureaucrats to individual Americans. But 'ownership society' is not a phrase you're likely to hear from him tonight in his State of the Union address. … At best, there will be faint echoes. Injecting free-market incentives into the health-care system is a major part of the ownership society idea. And the president plans to propose new tax breaks to reduce out-of-pocket medical expenses, especially to help the uninsured. Expanding health savings accounts (HSAs), which allow individuals to decide on routine medical expenses, is a Bush priority. So is reducing the impact of the alternative minimum tax, a modest stab at tax reform. He also intends to note that Social Security is still headed toward bankruptcy. That's it -- all fairly tame stuff compared to the vast reach of his ownership society scheme."

In his Washington Post (1/31, A17, 744K) column, George Will writes, "The success of the terrorist organization Hamas in the Palestinian elections is but the latest proof of what happens when the forms of democracy are severed from what the president, with a cosmopolitan shrug, dismissively called 'our own Western standards of progress.' Now comes wishful thinking, and then cynicism. … Tonight, on the 1,050th day of the Iraq war (the 912th day of American participation in World War II was D-Day), the nation needs an adult hour, including a measured meditation on overreaching, from the Middle East to Medicare's prescription drug entitlement. But in State of the Union addresses, rarely is heard a discouraging word."

In his Wall Street Journal (1/31, 2.11M) column, George Melloan writes, "The president will say that the state of the union is good and cite supporting evidence. Unemployment is less than 5% of the work force. The economy grew well last year, despite a surprising fourth-quarter slowdown, and is expected to do so again this year. That America's ownership society is thriving can be seen in the burgeoning holdings of assets such as houses and securities. The president can claim, if he so wishes, that his first-term tax cuts fostered this expansion and broadening of national wealth. … The president has been thwarted on two major efforts to grant Americans greater choice in how they manage their personal affairs. A sensible idea for switching from the pay-as-you-go Social Security retirement system to private accounts that would build up during a working lifetime has been blocked by those rugged individualists he will address tonight. Tax reform and simplification is stalled as well. As will be evident even to a casual viewer, the men and women attending tonight's party enjoy their power. Dragging it out of their hands by granting Americans greater economic freedom is always a formidable task."

In a Financial Times (1/31) column, Caroline Daniel writes, "Bush likes to say that his job is to confront big problems, not leave them to those who follow. As he prepares to deliver the State of the Union address he has been forced to tackle the issues bequeathed him by the man who has occupied the White House for the past five years: himself. The sixth year of a two-term presidency is a critical time. It offers a last chance to shape the domestic political agenda and exploit the bully pulpit of moral leadership before attention is diverted to the succession battle." For Bush, "the chief constraints are managing the fall-out from his signature first-term policies."

In his Washington Post (1/31, A17, 744K) column, Eugene Robinson writes, "If there were justice in the world, George W. Bush would have to give his State of the Union

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address from Oprah's couch. Not when she's being the New Age, touchy-feely Oprah, though. Bush should have to face the wrathful, Old Testament Oprah who subjected author James Frey to that awful public smiting the other day. She could open with the same line she used on Frey, whose best-selling memoir, which Oprah had touted on her show, turned out to be a tissue of lies. 'I have to say it is -- it is difficult for me to talk to you, because I really feel duped. I feel duped,' Oprah could tell the president."

In his New York Times (1/31, 1.19M) column, Nicholas Kristof writes, "President Bush is slated to discuss health care in his State of the Union address tonight. It's about time: it's scandalous that babies born in the United States are less likely to survive their first year than babies born in Slovenia. But the solutions to the health crisis lie less in reorganizing medical treatment than in improving public health -- such as steering kids away from French fries. … Granted, a War on Sloth isn't as dramatic for the Bush administration as a War on Terrorism. And for Democrats, attacking junk food isn't as attention-grabbing as denouncing corruption in Congress. But there is perhaps no area of public policy where it would be easier to save the lives of countless Americans than in promoting public health."

In a Roll Call (1/31) column, David Winston of the Republican polling firm the Winston Group writes, "Tonight, the president gives his State of the Union address amid political uncertainty. … With the 2006 Congressional elections 10 months away, this one has more riding on it than any other SOTU since the Sept. 11, 2001, terrorist attacks -- in part because Republicans are facing a more difficult political environment. Nonetheless, despite of a handful tough races and poll numbers, Republicans would probably hold both the Senate and the House if the elections were held today. A few seats could shift to the Democrats, but this outlook is certainly an improvement over last September's prospects, when the Republican majority seemed vulnerable."

In a Washington Post (1/31, A17, 744K) op-ed, writer David Atkins writes in the voice of the President, "While State of the Union speeches belong to the genre of nonfiction, they are inevitably a personal, subjective recounting by the president. … Some errors appear to be innocent mistakes in copy-editing. Attorney General Alberto Gonzales has alerted me that the line, 'No person is above the law' should instead be 'One person is above the law.' My comment that 'we have carefully listened to critics of our domestic surveillance program' should have read 'listened in on…' … In the spirit of bipartisanship, I included the Clinton period in calculating the '24 million jobs we have created through the end of 2005.' … The statement that 'our administration has always respected the importance of checks and balances' is not, as has been implied, a reference to disgraced lobbyist Jack Abramoff. I have no recollection of ever meeting Abramoff…nor his lovely and charming wife, Pamela, and their cute and rambunctious twins."

In a New York Times (1/31, 1.19M) op-ed, Ted Widmer, a "speechwriter and senior adviser to President Clinton," writes about the use of the phrase, "The state of our union is strong!" in many such addresses, writing that while "the Constitution does not technically require that these seven words be spoken by the president," like a "clogged artery, the sentence has hardened into oratorical tradition. … Let's face it, no president wants to admit that things aren't going well. Over the years, our leaders have evaded frank discussion of their records through a variety of maneuvers, including obfuscation through statistics, the introduction of audience members and ringing references to the founders."

In a New York Times (1/31, 1.19M) op-ed, communications consultant Francis Wilkinson writes, "If there is a bandwagon in the works to eliminate the president's State of the Union address, I'm jumping aboard. There has always been something uncomfortably imperious about the speech. … Bill Clinton's final State of the Union expired after 9,000 words and more kitchen sinks than you'll find at Home Depot. The Gettysburg Address, by comparison, was 266 words. It's perhaps not too early to predict which of the two speeches the world will little note nor long remember. President Bush has been less fortunate. Not one but two of his addresses have produced entries for the books. The first was the over-greased 'axis of evil' in 2002 -- alluring alliteration made memorable by inadvertent inanity. The second, in 2003, consisted of those 16 words about Saddam Hussein's uranium safari -- and yes, even the 'has' and 'of' turned out to be false."

Bush To Visit Tennessee, Minnesota To Promote State Of The Union Initiatives. The Tennessean (1/31, De La Cruz) reports President Bush "will share his 2006 agenda with Republican activists from Middle Tennessee, as well as business and community leaders, in a Nashville speech tomorrow -- his first following tonight's State of the Union address. Hundreds of tickets were distributed to

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GOP officeholders, the state Republican Party and organizations to distribute. … The speech is scheduled for 11:50 a.m. at the Grand Ole Opry House."

The St. Paul Pioneer-Press (1/31, 200K) reports Bush will visit Maplewood, Minnesota, Thursday to "tout some of the initiatives he will outline" in his speech. White House spokesman Allen Abney said the appearance "will be 'part of him going out across the country to follow up on initiatives that he discusses' in his nationally televised speech." The visit "comes as Bush is slumping in public opinion polls in Minnesota. The most recent poll, conducted Jan. 13-15 by SurveyUSA, showed 56 percent of Minnesota disapproved of the president's job performance while 39 percent approved."

Kaine Plans To Speak Against Partisanship, Negativity In Politics. The AP (1/30, Fournier) reports Virginia Gov. Timothy Kaine, "tapped to deliver the State of the Union response for Democrats, has sharp words for both parties in Washington: Stop being so partisan, negative and irrelevant. 'There's a better way,' he said Monday." In an interview, Kaine said, "I want to contrast what I consider to be an administration that is super partisan and not really able to deliver results with a different model, a better way, which is what we've been doing in Virginia and other states." But he also "said Democrats in Washington also could learn from the success achieved by him and 11 other Democratic governors who run states that Bush carried in 2004."

The Boston Globe (1/31, Klein, 484K) reports the Democrats' selection of Kaine is part of the party's "intensifying efforts to reach out to Catholic voters." Kaine, "a devout Catholic who spoke openly about his faith during his election campaign last year, will speak about his work as a Jesuit missionary in Honduras, said Delacey Skinner, a Kaine spokeswoman. Kaine said that experience during his time as a Harvard Law School student inspired him to enter public service."

Democratic Leaders Will Not Bring Special Guests To State Of The Union. The Washington Times (1/31, Pierce, 90K) reports in its "Inside Politics" column, "Special folks -- usually connected to major news events or issues -- are always featured guests of President Bush for his State of the Union address, but Democrats are free to do the same to highlight their own priorities or make their own points. So far, neither Democratic leader plans to bring special, high-profile guests to the House chamber for the speech tonight. Senate Minority Leader Harry Reid of Nevada will not bring any newsmakers with him, an aide said, and House Minority Leader Nancy Pelosi of California will stick with family and friends for the big speech, an aide said."

Blanco To Attend State Of The Union. The AP (1/30) reports Louisiana Gov. Kathleen Blanco will attend the State of the Union speech. Blanco "has been at odds with the White House over government response to Hurricane Katrina, but was invited to sit in the gallery for Bush's speech on Tuesday night, Blanco's office said."

Two New Yorkers Bring 9/11 Messages To SOTU. The New York Daily News (1/31, McAuliff, 729K) reports, "President Bush won't be the only one making political points about 9/11 at tonight's State of the Union speech. At least two New Yorkers invited to the address by state lawmakers will be there to illustrate their own, very different points. 'Let's see if we get some truth,' said Monica Gabrielle, who lost her husband on Sept. 11, 2001, and will listen to Bush with Sen. Hillary Clinton (D-N.Y.)." And "Marvin Bethea, a paramedic sickened by his 9/11 exposure who is coming with Rep. Carolyn Maloney (D-Manhattan), has a message for Bush and the rest of the federal government." Bethea said, "I want every member of Congress to look at me and remember me when they go to bed at night."

Hinchey, Other Democrats Advise Bush To Be Accurate. The Binghamton (NY) Press & Sun Bulletin (1/31, Farmer) reports on Democratic Rep. Maurice Hinchey's advice to President Bush on his fifth State of the Union address, which echoed nine other Democrats who sent a letter to the President urging he "pay attention to the accuracy of the information in his speech." Such "attention to detail is crucial, given Bush has delivered incorrect information in past State of the Union addresses, Hinchey said. The most notable example, Hinchey said, came when the president said in his 2003 address, 'The British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa.' … 'He has never 'fessed up to that situation,' Hinchey said."

Congress To Begin Hearings On Medicare Drug Benefit Program. The Washington Post (1/31, A15, Murray, Babington, 744K) writes, "Is the Medicare drug benefit suffering from start-up pains, or is there something more serious going on? Lawmakers got an earful from seniors about the new program while they were home for the winter recess. Now that Congress is back in session, lawmakers will begin weighing whether to make legislative

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adjustments or wait and see whether the glitches work themselves out." Medicare officials will go before a Senate committee on Thursday to testify "about how the various problems are being addressed," and next week, the Senate Finance Committee will also take up the matter. While the benefit "took effect just a month ago," Democrats "are pressing Republicans to streamline the benefit, to make it easier for seniors to navigate, and to provide emergency relief for people who are having trouble getting their prescriptions filled."

Drug Industry Lobbyists Active In Every State. The New York Times (1/31, Saul, 1.19M) reports on the drug industry's lobbying efforts, noting that while it is best known for having the richest lobbying force in Washington, the industry "also protects its flanks — all 50 of them. Drug lobbyists are active all around the country at the state level, because even with bright political lines dividing the nation into red and blue, the industry knows that controlling drug costs is a subject with nearly universal popular appeal." The Times adds, "Many drug industry issues are on legislative agendas again this year. And this Friday in New York, an association of lawmakers from New York, West Virginia, eight other states and the District of Columbia plan to meet to discuss their plans for pursuing industry regulation."

Budget Bill Includes New Welfare Work Requirements. The Los Angeles Times (1/31, Havemann, 958K) reports that the bill "includes provisions toughening welfare regulations, including work requirements on two-parent welfare families that experts say is almost impossible to meet." The measure "would hold adults in two-parent families to a higher work standard than those in single-parent families. States that failed to meet the standard would lose some of their federal welfare money unless they chose to exclude two-parent families from assistance. .. The bill before the House provides that the adults in 90% of the two-parent welfare families must, between them, put in 35 hours a week either working, training for work, or participating in other job-related activities. States would face an easier work requirement for their single-parent families. Half of all parents would have to work 20 hours a week if they have a child under 6, or 30 hours if their children are older."

Dionne Says No One Who Supports GOP Budget Is A "Reformer." E.J. Dionne writes in the Washington Post (1/31, A17, 744K) that there is "an uncomfortable bit of business left over from the Republican disaster year of 2005 that will test the seriousness of the party's supposed commitment to change. The cut-the-poor, help-the-big-interests federal budget passed last year needs final ratification in the House. The vote could take place as soon as tomorrow. Let's be clear: Anyone who votes for this fiscal mess will be standing for the bad old ways of doing business in Washington. Those who do so will have no claim to being 'reformers.'"

House GOP Promises Stricter Oversight Of Executive Branch Spending. House Republicans said yesterday that President Bush should expect stricter congressional oversight on spending and executive branch agencies this year. The Washington Times (1/31, Dinan, 90K) reports that Majority Whip Roy Blunt "said House Republicans have not done well at oversight in the past 11 years, initially because they were learning how to be a majority party and then because they didn't know how to approach oversight of a Republican administration. He said they will have to 'get significantly better than we have been.'" Republican Study Committee Chairman Rep. Mike Pence "said spending is the top issue for House conservatives, followed by the sanctity of marriage and ethics reforms."

Congressional Club Asks Donors For $50,000 For Lunch With First Lady. The Congressional Club, an organization of lawmakers' spouses, is asking donors for $50,000 apiece for lunch, a reception with First Lady Laura Bush and a private reception with lawmakers and their spouses. The Hill (1/31, Kaplan) reports, "The blunt language of the fundraising letter and the fact that the sum sought is double what it was in previous years are drawing criticism that suggests the fallout from the scandal surrounding Jack Abramoff and former Rep. Randy 'Duke' Cunningham (R-Calif.) is tainting even the quaintest and most bipartisan of Washington social organizations. … In the club's Jan. 19 letter, which several sources read to The Hill, organizers tell potential donors that $50,000 buys 12 tickets to the lunch and admittance to the receptions with Bush and the lawmakers. 'The language and the amount of money they're asking for shows very poor judgment,' a source familiar with the letter said. 'In this day and age, the amount of money they're asking for is inappropriate.'"

Taylor Out Of Running For FDIC Post. The New York Post (1/31, Seifman, 624K) reports, "In a bombshell development, Diana Taylor — the state banking

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superintendent who's better known as Mayor Bloomberg's girlfriend — will not be tapped to head the Federal Deposit Insurance Corp. it was reported yesterday. The stunning news came after months of speculation that Taylor had been all but assured the job, even having already sailed through an FBI background check." The Post adds, "Last night, a source with close ties to the administration was asked if he had heard the latest news. 'I knew it weeks ago — she's going to get it,' the source said. When told that she was no longer in the running, the source responded with a stunned, 'What?!'"

Bush Appoints New Chair Of Council Of Economic Advisers. The Washington Post (1/31, A7, Henderson, 744K) reports, "President Bush plans to nominate Stanford University business professor Edward P. Lazear, a specialist in workplace issues, to become chairman of the Council of Economic Advisers, the White House announced yesterday." Lazear, 'if confirmed by the Senate, would become one of the administration's top officials responsible for advising, crafting and marketing the president's economic policies." The Wall Street Journal (1/31, 2.11M) says Lazear "was a member of Mr. Bush's advisory Tax Reform Panel, which submitted proposals for overhauling the tax code to the Treasury Department last year." He also is "a senior fellow at the Hoover Institution, Stanford's public-policy research center." The Journal adds, "The founder of a field known as personnel economics, Mr. Lazear has focused his research on employee incentives, promotions, compensation and productivity in companies. His expertise might help the White House better understand a troubling political phenomenon: why many workers give the administration relatively low marks on the economy, amid strong growth and low unemployment."

House Majority Leader Hopefuls Make Pitches To GOP Study Committee. Reps. Roy Blunt, John Boehner and John Shaddeg, the three candidates for House Majority Leader, pitched their candidacies at the annual retreat of the Republican Study Committee in Baltimore yesterday. The New York Times (1/31, Hulse, 1.19M) reports that the overture to the influential group of House conservatives, "along with a similar session set for Tuesday with House moderates, was part of the concentrated lawmaker-to-lawmaker campaigning typical of party elections, with members of the exclusive electorate trying to gauge how a candidate might do the job and, perhaps more important, calculate what might be in it for them. In recent weeks, there have been rumors of secret deals cut in exchange for votes: a chairmanship here, help with a jurisdictional dispute there. But each of the candidates denies any explicit offer of a quid pro quo, and lawmakers being wooed support that account."

Roll Call (1/31, Pershing) adds that "the dominant theme of Monday's session was the impending race for Majority Leader between GOP Reps. Roy Blunt (Mo.), John Boehner (Ohio) and John Shadegg (Ariz.) and how the conservatives who made the trip to Baltimore -- many of whom are publicly committed to one of the three candidates -- could force a second ballot Thursday and potentially decide the race."

Blunt Says He Has Majority Of Votes. The Washington Times (1/31, Dinan, 90K) notes, "Unlike recent coronations, this year's election is turning into a real race. Mr. Blunt yesterday said he continues to have a majority, but the list of those who are publicly supporting the Missourian is at least 20 votes short of the 117 votes needed to win a majority of the 232 members of the House Republican Conference. 'It's pretty clear Mr. Blunt does not have the votes to win it on a first ballot,' Mr. Shadegg said. 'There's a very vigorous debate going on about reform and about whether we can simply remain with the status quo.'"

The Hill (1/31, O'Connor) adds, "Boehner and Shadegg are trying to force a second ballot and to beat each other on the first. Supporters for both suggested an erosion of support, or 'buyer's remorse,' for Blunt." The Hill adds, "Without offering specific examples, Boehner suggested that Blunt had made explicit promises to members during the elections, but Blunt dismissed that suggestion outright."

Tomorrow's Budget Vote Seen As Critical For Blunt. The House's consideration of a $39 billion package of spending cuts tomorrow is seen as a critical moment for Blunt. The Hill (1/31, Allen) reports that the vote comes one day before GOP members will vote in the race for Majority Leader and a strong victory on the budget vote "would boost Blunt's campaign." A "loss, a delayed vote or any extension of the typical 15-minute vote, however, could be devastating. And the current political climate isn't helping Blunt's vote-gathering efforts."

White House May Disclose Abramoff's White House Meetings After State Of The Union. In its "Washington Wire" column on its web site, the Wall Street

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Journal (1/30, 2.11M) reported, "With ethics questions swirling and pressure building from Republican allies on Capitol Hill, some within the White House are pressing for full disclosure of disgraced Republican lobbyist Jack Abramoff's meetings with White House staff. One factor in the delay has been concern about diverting attention from Bush's message in Tuesday night's speech, according to a Republican close to the administration. A post-speech release appears increasingly likely, although no final decision has been made."

Reid Defends Efforts On Behalf Of Abramoff Clients. Fox News' Special Report (1/30, Garrett) reported, "In an exclusive interview with Fox Senate Democratic Leader Harry Reid defended his efforts to help Native American clients of disgraced lobbyist Jack Abramoff. … Reid also dodged Democratic Party Chairman Howard Dean's criticism on Fox News Sunday of any Democrat who helped an Abramoff tribal client." Reid "wrote a letter on March 5th, 2002 to Interior Secretary Gail Norton on behalf of a Louisiana Indian tribe, the Coushattas, who were trying to block federal approval of a casino sought by a rival tribe. The next day, a Reed political fund, the Searchlight Leadership Fund, received a $5,000 from the Coushattas, an Abramoff client."

Numerous Scandals Continue To Embroil Washington. The CBS Evening News (1/30, story 8, 2:00, Borger) surveyed the various scandals embroiling "official Washington" on the "eve of the President's State of the Union speech. … Start with this man, Jack Abramoff. Once a well connected Republican lobbyist, now singing to federal prosecutors in a congressional bribery scandal. His friend, former House Majority Leader Tom DeLay, forced to give up his leadership post after being indicted in Texas for money laundering. Ohio Republican Bob Ney, forced to give up his committee chairmanship after prosecutors tied him to Abramoff. And while Democrats haven't received any money from Abramoff's own checkbook, they did receive $1.5 million he directed to them through his clients. So when 100 members rushed to return Abramoff-tainted money to charity, it was a bipartisan stampede. Even the President joined in, sending $6,000 in Abramoff donations to charity. What the President won't reveal: the pictures taken of him with the lobbyist at White House functions. And although Abramoff was a top Bush money man, the President says he doesn't know him. … Don't forget that other Washington scandal that still haunts the White House, the CIA leak investigation. Federal prosecutors want to know who if anyone inside the White House knowingly leaked the identity of an undercover CIA agent to Washington journalists. That's a crime. And lying about it is a crime too. That's what Scooter Libby, Vice President Cheney's chief of staff, has been charged with. … Will Dick Cheney testify? Expect this case to drag on. Top presidential advisor Karl Rove is still under investigation for his role in the leaks. … And there's more: Republican Duke Cunningham resigned after admitting he took bribes. Democrat Bill Jefferson was the target in an FBI sting in which cash was found in his freezer. … The President is likely to support lobbying reform in his State of the Union speech. No doubt, everyone will applaud."

Democrats Try To Tie Sweeney To "Culture Of Corruption" In Washington. New York Democrats are questioning Rep. John Sweeney's ties to lobbyists in the hope of ousting from his upstate New York congressional seat. The New York Times (1/31, Hernandez, 1.19M) reports that Democrats are seizing on reports that Sweeney "recently organized a $2,000-a-person 'Skiing with Sweeney' weekend getaway attended by lobbyists at a ski resort in Park City, Utah, as well as a dinner at the home of Jeffrey Kimbell, a pharmaceutical industry lobbyist. The Democrats who have attacked Mr. Sweeney in newspaper interviews, news releases and a satirical Internet advertisement are arguing that Mr. Sweeney's actions reflect a larger culture of corruption that has enveloped Washington under Republican rule. The attacks notwithstanding, he has not been implicated in any of the troubles that have touched other Republicans. … The attacks on Mr. Sweeney come as New York Democrats say they plan to use the fallout over the lobbying scandal in Washington as an issue to mount vigorous challenges against Mr. Sweeney and other Republicans they say are too close to Republican leaders on the Hill."

Obey Says Leadership Has Repeatedly Bent, Broken House Rules. Rep. David Obey, ranking member of the House Appropriations Committee, writes in Roll Call (1/31), "I believe that the way the Republican-led Congress has handled Congressional earmarks has gotten way out of hand. The use of earmarks to reward Members who vote for questionable legislation has expanded hugely since Republicans took control. … There is no question that earmarking needs to be restrained. … But having said that, let's keep our eye on the real problem. The real problem with

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the appropriations process is not the occasional inappropriate earmark that slips through, as embarrassing as that might be. The real problem is that the rules of the House of Representatives — rules based on procedures recommended by Thomas Jefferson that have developed and matured through precedents established over the past 200 years — have been bent and broken by the House leadership in order to ram through legislation in an arbitrary and often anonymous fashion." The House "must recommit itself to fair and open House procedures."

Republicans Consider Adding 527 Limits To Lobbying Reform Bill. House Republicans are "leaning heavily' toward using the lobbying reform bill to put limits on donations to 527 political groups according to the Wall Street Journal (1/31, Rogers, Mullins, 2.11M). The Journal adds, "Melding the lobbying and campaign-finance issues could make it harder then to win Democratic support in the House. But combining the two issues could give Republicans greater leverage in persuading their members to accept new restrictions on travel and entertainment perks now arranged by lobbyists."

Meehan Warns Against Attaching 527 Crackdown To Lobbying Reform. However, Rep. Marty Meehan is warning against attaching his crack down on 527 groups to lobbying reform bills. The Hill (1/31, Schor) reports that Meehan said, "I don't want to see a poison pill that ends up being an excuse for members to vote against lobbying reform, because we need comprehensive lobbying reform," adding, "Adding 527s complicates passage…creates confusion, creates excuses." The Hill adds, "Even if the 527 language in tomorrow's GOP lobbying and ethics packages is identical to his, Meehan expects the debate to split lawmakers otherwise committed to reining in lobbying abuses."

Congress Seeks To Provide Workers With Advice On 401(k)s. The Wall Street Journal (1/31, Levitz, 2.11M) reports, "Congress wants to make it easier for financial professionals to advise employees on their investment choices in 401(k) plans -- but can't yet agree on how. With employers moving away from fixed-benefit pensions that give employees no investment choices toward fixed-contribution 401(k)s that sometimes give them dozens of choices -- usually mutual funds -- the fund industry has long argued that employees need help to make sound decisions. But federal labor laws designed to protect workers ban firms whose funds are among the employees' investment choices from also telling plan members which funds to choose. … Under the Pension Protection Act, which was passed by the House of Representatives in December, the conflict law would be overridden, permitting funds to give advice." Opponents "including AARP," "say the provision is a lousy idea, akin to a fox guarding the henhouse. The Senate, meanwhile, has approved a measure that would continue the ban on direct advice from fund firms, but would encourage companies to hire neutral third-party advisers to tell employees where they should put their money."

Administration Hopes To Abolish General Schedule Pay System. The Washington Post (1/31, B2, Barr, 744K) reports in its "Federal Diary" column, "The Bush administration hopes to garner congressional support this year for a proposal to abolish the decades-old General Schedule pay and job classification system by 2010 and move federal employees into pay systems that could vary by agency. … Prospects are uncertain for the administration's plan to replace the General Schedule with performance-based pay systems. Lawmakers face a number of difficult issues -- the conflict in Iraq, the rebuilding of New Orleans, possible growth in budgetary red ink -- and the Senate, in particular, does not seem inclined to take up such civil service changes. But the president's pay advisers have said they are encouraged by the debate over their plan."

Ensign Suffers Minor Injuries In Car Crash. The AP (1/31) reports Sen. John Ensign "was treated at a hospital Monday after his car was hit head-on by a driver who fell asleep at the wheel, police said. The Nevada Republican and an aide, who was driving, were taken to Sunrise Hospital with minor to moderate injuries, police said."

OTHER NEWS:

Greenspan To Retire Today, Bernanke To Take Over As Fed Chairman. The CBS Evening News (1/30, story 9, 2:00, Schieffer) offered a farewell to Alan Greenspan, for whom Tuesday is his "last day as Chairman of the Federal Reserve. For nearly two decades now he has defined US monetary policy and in the process become one of the most powerful and influential officials in Washington in recent memory." CBS (Mason) added, "The job had never been high-profile, but Greenspan has become an economic

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icon, serving four presidents as Fed Chairman. … Many are wondering if his successor will have the Greenspan touch. Behind the Fed's imposing columns, Alan Greenspan himself has become a Washington monument."

The New York Times (1/31, Stolberg, 1.19M) reports, "The important presidential nominee who is scheduled for a vote in the Senate on Tuesday is widely regarded as brilliant, has ties to Princeton University and, if confirmed as expected, will influence the lives of ordinary Americans for years to come. Judge Samuel A. Alito Jr. for the Supreme Court? No, this is the other important nominee -- Ben S. Bernanke for chairman of the Federal Reserve. … While lawmakers and the public have been focused on the nomination of Judge Alito, who is also scheduled for a vote on Tuesday, Mr. Bernanke has become a rarity in modern Washington: the noncontroversial nominee."

The Washington Post (1/31, D1, Henderson, 744K) reports "Fed officials and senior staffers, both in Washington and at the 12 regional Fed banks, will be a critical resource for the new chairman." Bernanke "steps into the job with academic expertise and experience in monetary policy." But "he has no experience in the business world or as a crisis manager, leaving analysts unsure how he would respond to financial shocks such as a stock market crash, dollar collapse, hedge-fund meltdown or another terrorist attack." He "was unavailable for comment."

USA Today (1/31, Hagenbaugh, 2.31M) reports, "When Alan Greenspan retires from the Federal Reserve today, the onetime jazz band musician will be going out on a high note." Greenspan "shepherded the economy through one of the most prosperous periods in US history. In the more than 18 years Greenspan held the reins of the Fed, the economy enjoyed a 10-year economic expansion, the longest in history, and had just two brief recessions that were the mildest since World War II."

The Wall Street Journal (1/31, lp, 2.11M) says Greenspan's "economic legacy seems secure: Inflation and unemployment are lower than when he took office, and during his tenure, the U.S. experienced just two mild recessions and its longest expansion on record." But "the intellectual foundation of that legacy is harder to pinpoint. If there is a single idea informing the success of his nearly two decades at the helm of the Fed, it is that single ideas are to be avoided. There isn't an identifiable Greenspanism or a Greenspan rule because the essence of Mr. Greenspan is his distrust of any 'ism' or rule."

Greenspan's retirement is triggering commentary in this morning's newspapers. In an editorial titled "The Chairman's Mystique," the Wall Street Journal (1/31, 2.11M) says, "The paradox of Alan Greenspan's achievement as he leaves office today after 18 years as Chairman of the Federal Reserve is that nearly everyone is praising his performance but no one seems to know exactly how he did it." He "bequeaths to successor Ben Bernanke a record but not a method -- which means we all have to see if the new guy has the same juggling skills."

USA Today (1/31, 2.31M) editorializes that "to the degree" Greenspan "deserves criticism, it's for supporting President Bush's 2001 tax cuts, which have dried up the federal budget surplus and helped produce record deficits. All in all, however, Greenspan makes an impressive case for himself -- even if no one can understand what he is saying."

Meanwhile, GOP Sen. Jim Bunning, a member of the banking and budget committees, writes in USA Today (1/31, 2.31M), "Greenspan has done an admirable job. However, he has always erred on the side of raising rates. I am not alone in this opinion. History is showing that he made mistakes in raising rates for too long. Aside from being addicted to rate increases, another one of my qualms with Chairman Greenspan was that he talked about everything under the sun — from trade deficits to budget deficits, tax policy to fiscal policy, and even the nation's oil patch. For dinner conversation, these would be fine topics to discuss." But "the Fed's jurisdiction is supposed to be purely monetary policy. Hopefully, his successor, Ben Bernanke, will be a different kind of chairman in these respects. He should stick to monetary policy and not interfere with fiscal issues, which rattle markets and get the bulls and bears into a tizzy."

Milton Friedman, the 1976 Nobel laureate in economics, writes in the Wall Street Journal (1/31, 2.11M), "Greenspan and I have generally found ourselves in accord on monetary theory and policy, with one major exception. I have long favored the use of strict rules to control the amount of money created. Alan says I am wrong and that discretion is preferable, indeed essential. Now that his 18-year stint as chairman of the Fed is finished, I must confess that his performance has persuaded me that he is right -- in his own case." His performance "has indeed been remarkable. There is no other period of comparable length in which the Federal Reserve System has performed so well."

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Consumer Spending Up As Savings Rate Hits Post-Depression Low. The Wall Street Journal (1/31, Preciphs, 2.11M) reports, "Consumers ended the year on a free-spending note, driving up car sales and other major purchases while sending the personal-savings rate to a 73-year low." Consumer spending, inflation adjusted, "rose 0.9% to $80.2 billion in December, after a revised 0.5% in November, the Commerce Department said. Increased spending on durable goods -- merchandise that lasts three years or longer and includes autos, appliances, computers and aircraft -- and services contributed to the boost."

Meanwhile, NBC Nightly News (1/30, story 8, 1:00, Williams) reported, "There is ominous news on the economy to report tonight. The Commerce Department reports that Americans' personal savings was negative last year. Clocking in at -0.5%. That means people not only spent all of their income for the year, but dipped into savings or went into debt for it. The last time the national savings rate was this low was 1933, after the bottom of the Great Depression." USA Today (1/31, Kirchhoff, Hagenbaugh, 2.31M) also runs a story headlined "Savings Enter Negative Territory First Time Since The Depression."

Gas Heating Costs Down, But Still Above 2004 Levels. USA Today (1/31, Chu, Hagenbaugh, 2.31M) reports, "Consumers are about to get a bit of relief from steep energy prices. Many utilities are lowering the cost of natural gas as a milder-than-expected winter has led to lower consumption and, thus, lower prices for energy. A majority of U.S. homes are heated with natural gas. For the average consumer, the lowered rates will translate into savings of $10 to $80 on a monthly heating bill, utilities estimate. Many customers will begin to see the lower gas prices in February." USA Today adds, "Don't rejoice too much, though. Gas prices are still sharply higher than they were a year ago." The Energy Department "has estimated that the average household heating bill for natural gas users will still come in 35% higher than last season, totaling $1,000 for October through March. (That estimate could be scaled back, though, if the winter continues to be mild.)"

OPEC Will Keep Production Unchanged. The Wall Street Journal (1/31, Bahree, 2.11M) reports, "With oil prices near record-high levels and the global economy sucking up almost all the crude that can be produced, OPEC's oil ministers have agreed to keep production unchanged for the time being, the cartel's de facto leader said." Saudi Arabia's "influential oil minister, Ali Naimi," told reporters yesterday that members of the Organization of Petroleum Exporting Countries "were 'in agreement' about keeping output steady at today's levels."

Kraft To Cut 8,000 Jobs, Close Up To 20 Plants. NBC Nightly News (1/30, story 5, 1:00, Williams) reported ExxonMobil "is reporting some jaw-dropping profits tonight," but "Kraft, America's largest food manufacturer, says it will cut 8,000 more jobs, and close up to 20 plants in an expansion of a restructuring plan that is already underway at the company."

ExxonMobil Reports Biggest Corporate Profit In US History. ABC's World News Tonight (1/30, story 7, 2:00, Vargas) reported, "There were more head-turning numbers from the oil industry today. ExxonMobil said it earned more than $10 billion in the last quarter of 2005, a record for any US company. For the year, profits hit $36 billion, another record." The CBS Evening News (1/30, story 5, :30, Schieffer) reported, "The world's largest publicly traded oil company put out some staggering numbers today," racking up "the biggest corporate profit in US history."

Stocks Mixed. The Wall Street Journal (1/31, Patterson, 2.11M) reports, "The Dow Jones Industrial Average fell 7.29 points to 10899.92 on light volume on the New York Stock Exchange." The Standard & Poor's 500-stock index gained 1.48 to 1285.20 and the Nasdaq Composite Index added 2.55 points to 2306.78.

Class-Action Suit Takes On Kansas Attorney General's Broad Teen-Sex Opinion. The New York Times (1/31, Rudoren) reports on a federal trial in Kansas over "whether a Kansas law prohibiting virtually all sexual activity by people under age 16 means health care professionals and educators must report such behavior to state authorities, which some say would stop many teenagers from seeking contraception or treatment for sexually transmitted diseases." According to the Times, the suit is fighting an opinion from Kansas Attorney General Phill Kline (R), whose "interpretation of the law … included a broad mandate for reporting whenever 'compelling evidence of sexual interaction is present.' Bonnie Scott Jones, a lawyer for the Center for Reproductive Rights in New York, which is representing the plaintiffs, said in her opening statement that Mr. Kline's 'dragnet approach' to amassing information on under-age sex violated minors' privacy rights and the Constitution's equal protection clause, and that it 'seriously endangers the health and well-being of adolescents.'" The Times adds, "Kansas is one of 12 states where sex under a

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certain age — 16, 17 or 18 — is illegal regardless of the age difference between partners, according to a 2004 report prepared by the Lewin Group, a consulting firm, for the federal Department of Health and Human Services."

Lobbying Business Said To Be Booming. The Hill (1/31, Snyder) reports, "As Congress looks to restrict lobbying activities in the wake of the Jack Abramoff scandal, there are seemingly few entities that wouldn't be affected by changes to the industry. Estimates vary widely on the number of registered lobbyists who make their living in Washington, from 30,000 to just more than 11,000. But one thing seems certain: K Street is booming. … Everyone from pornographers to court reporters to cell-phone tower erectors — in addition to legions of Fortune 500 companies that dominate K Street — have a presence in Washington." The Hill adds, "Experts point to a number of factors to explain the industry's rise, from an increase in federal appropriations earmarks to an increasingly complex tax code. But, broadly speaking, the growth on K Street and within corporate offices seems to be related to a general recognition in the value of having Washington representation, both to defend against the imposition of harmful policies and to seek out favorable earmarks or alterations in regulations, experts say."

Professor Says Richest, Best-Connected Lobbyists Dominate Policy. Ross K. Baker, a political science professor at Rutgers University, writes in USA Today (1/31, 2.31M), "The flaw in the Founding Fathers' benign view of interest groups is that while no single interest group dominates all areas of policies, the wealthiest groups and the lobbyists with the best inside connections or representing organizations with mass memberships do monopolize individual areas of national policy. This does not, by itself, promote illegal activity of the sort ascribed to Abramoff. Certainly, there are not many like him among Washington lobbyists. But it is the Abramoffs who are more likely to get the ear of lawmakers than are ordinary citizens who lack the means to buy tickets to their fundraisers."

Lobbyists Suggest Reforms. Al Swift and Bob Hines, lobbyists with the firm Colling Murphy Swift Hynes, write in Roll Call (1/31), "Members of Congress and their staffs are here for only one purpose -- to do the public's business. Therefore reforms should be based on that. Here are a few suggestions: Ban Entertainment, Gifts. … Travel Must Be Authorized. … Lift all rules pertaining to meals paid for by someone else. … But, in its place, demand transparency." Swift and Hines add, "Reforms will be passed. This time, why not do something simple, straightforward and effective? These suggestions can be a good place to start."

Anaheim, Angels Spar In Lawsuit Over Team Name. The USA Today (1/31, Kasindorf) reports, "Wounded pride in a community overshadowed by Los Angeles is at the center of a legal rhubarb at the courthouse here over whether the Anaheim Angels baseball team had the right to rename itself the Los Angeles Angels of Anaheim. … The city sued the owner, alleging that it's losing tax revenue from tourism because Anaheim is no longer publicized in box scores and sportscasts." USA Today notes that "a key issue" for Anaheim and Orange County baseball fans is "their thwarted dream of shaking the outmoded image of being Los Angeles suburbanites. USA Today reports that "Angels owner Arte Moreno … says that appealing to local chauvinism is "almost 100%" of Anaheim's strategy with the jury." The story also notes, "Beyond local pride, big money is at stake for Anaheim. The city is asking for more than $100 million in damages in addition to squelching a name it calls 'silly.'"

Growing Evangelical Movement Said To Look Beyond Abortion, Gay Marriage. The Los Angeles Times (1/31, Simon, 958K) reports on "a small but growing movement of evangelical Christians who no longer want to be defined by gay marriage and abortion. Plumbing the Bible for God's priorities, they are talking instead about global warming and affordable housing, about fewer tax cuts for the rich and more food stamps for the poor. … The National Assn. of Evangelicals, based in Colorado Springs, Colo., is urging its 30 million members to pursue a 'biblically balanced agenda' -- by fighting poverty as well as pornography, protecting the environment as well as embryos, promoting good government as well as the Gospel." The Times adds, "A decade ago, white evangelicals were fairly evenly divided between Democrats and Republicans. Today, the group leans heavily Republican. White evangelicals make up 23% of the electorate; in the last election, 78% backed Bush, according to the Pew Research Center for the People and the Press."

Clinton Seen As Trying To Salvage His Legacy By Making Peace With Bushes. Reuters (1/30, Wulfhorst) reports, "Former President Bill Clinton has been buddying up to both presidents Bush in what

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strategists right and left view as a bid to salvage his political legacy and boost the ambitions of his senator wife. … While making peace with rivals is a post-presidential tradition along with good deeds, Clinton stands to help himself and his wife, New York Sen. Hillary Clinton, say experts on both sides of the political aisle."

China, Russia Will Seek UN Referral For Iran.

The New York Times (1/31, Weisman, 1.19M) reports, "The United States and Europe, after hours of negotiations on Iran, won support from Russia and China early Tuesday to refer Iran's nuclear activities to the United Nations Security Council this week, but with a promise that the Council would not act on the question for at least a month." The Washington Post (1/31, Sullivan, Linzer, 744K) adds that the decision, "reached in London through a compromise with Russia and China, was a victory for the United States and its European allies, who had pressed for the matter to be sent to the council. But Russia and China were able to soften the agreement by stipulating that the Security Council not take up the matter until March." The Post continues, "A senior US official said the announcement reflected 'growing frustration' among all the parties over Iran's defiance of the International Atomic Energy Agency, the UN watchdog. 'I think Iran's on the defensive. Iran did not expect this,' said the official, speaking on the condition of anonymity.

USA Today (1/31, 2.31M) notes the IAEA has "already found Iran violated obligations under the Nuclear Non-Proliferation Treaty," while the Washington Times (1/31, Kralev, 90K) quotes "Senior State Department official" saying, "This is a significant step forward. … It means that Iran cannot depend on Russia and China to divide us any longer."

The Los Angeles Times (1/31, Daniszewski, Murphy, Magnier, 958K) says "the agreement appears to resolve, for now, a standoff in which Russia and China opposed any such action by the board of the International Atomic Energy Agency, a UN watchdog, which will meet Thursday. A vote to send Iran before the council appears all but certain, though there is some doubt whether it will be unanimous." The delay "provides a window for the Iranian government to reconsider its decision this month to reopen its nuclear facility at Natanz and resume research into enriching and reprocessing uranium. Iran says its program is for civilian nuclear power, but the U.S. and European Union believe the country is taking steps to develop material for nuclear weapons." The "compromise was hammered out at a four-hour dinner of foreign ministers here, hosted by Britain's Jack Straw ahead of a special meeting of the IAEA in Vienna."

The Financial Times (1/31, Hoyos, Dombey) adds "the agreement came hours after the Europeans and Iranian diplomats met at the request the Iranian government, in which Iran offered to slow down its controversial nuclear programme in a last-ditch attempt to avoid being reported to the Security Council. But European diplomats dismissed its proposal as containing nothing new." Javad Vaeedi," one of Iran's top nuclear negotiators, suggested to diplomats from France, the UK and Germany that Tehran could impose a moratorium on enriching uranium on an industrial scale - a process that can create weapons grade material."

Rice Stresses Diplomatic Option, Asking For "Robust" Talks With Iran. The AP (1/30, Stringer) reported Secretary Rice "said Monday that 'robust' negotiations with Iran are needed to deal with its resumed nuclear program, as European ministers' talks aimed at breaking the diplomatic deadlock appeared to fail." The AP quotes Rice saying, "We believe that there is a lot of life left in the diplomacy. ... After all, going to the Security Council is not the end of diplomacy. It's just diplomacy in a different, more robust context.'" AFP (1/30) also reported similar comments by President Bush: "The message is: Give up your nuclear weapons ambitions. ... We're united in our goal to keep the Iranians from having a weapon, and we're working on the tactics necessary to continue putting a united front out."

Poll Finds Most Favor Sanctions. The Washington Post (1/31, Deane, 744K) reports, "Seven in 10 Americans would support international economic sanctions as a way to prevent Iran from developing nuclear weapons, but there is considerable wariness about taking military action against Tehran, according to the latest Washington Post-ABC News poll." The Post continues, "A large majority of the public says Iran is a threat to the United States, albeit not an immediate one, according to a recent Gallup poll. And a Fox News survey suggests the public views Iran's official pronouncements on the nuclear research program with great skepticism: Eight in 10 voters believe the country plans to use uranium enrichment for military rather than for peaceful purposes."

Iranian "Crisis" To Test Nuclear Espionage Technology. The New York Times (1/31, Sanger, Broad, 1.19M) reports, "In March 2004, the science and technology directorate of the Central Intelligence Agency called a secret meeting of hundreds of the government's top experts in

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nuclear intelligence to address a problem that had bedeviled Washington for decades: how to know, with precision, when a country is about to cross the line and gain the ability to build an atomic bomb. The aim of the two-day conference was to reinvigorate the nation's atomic espionage efforts, not with spies on the ground or satellites in space but with a new generation of advanced technologies meant to detect the faintest clues of nuclear activity." The Times adds, "Nearly two years later, federal officials and scientists say that meeting and other secret actions have accelerated the government's efforts to develop new atomic espionage technologies. The research focuses on better detection of four basic, but inconspicuous, signatures that covert nuclear facilities and materials can emit: distinctive chemicals, sounds, electromagnetic waves and isotopes, or forms of the same element that have different numbers of neutrons, a subatomic building block." The Iranian crisis "could pose a big test of how far that technology has come. … At a minimum, the crisis is putting more pressure on intelligence agencies to find out if Iran harbors secret nuclear sites. And after Iraq, there is huge pressure to get it right."

Firms Sever Iran Links. In a related story, the Wall Street Journal (1/31, Simpson, Wilke, 2.11M) reports, "Some of the world's largest finance and energy companies are severing ties with Iran, amid US probes into their compliance with American sanctions and as the possibility of UN action grows closer. Banks UBS AG of Switzerland and ABN Amro Holding NV of the Netherlands disclosed in recent weeks that they have broken off work with Iran, following the lead of Houston energy-services company Halliburton Co. a year ago. All three are subjects of US Justice Department inquiries into whether they violated sanctions laws, lawyers and others familiar with the inquiries say. Also under investigation but still doing business with Iran are HSBC Holdings PLC, Standard Chartered PLC and BNP Paribas, those people say. Also pulling out of Iranian business in recent months, though not being investigated regarding compliance with sanctions, are Swiss bank Credit Suisse Group, energy firms Baker Hughes Inc., ConocoPhillips of Houston and BP PLC of London, Chicago insurance broker AON Corp. and industrial conglomerate General Electric Co. of Fairfield, Conn."

Bush, Rice Say Hamas Must Renounce Violence, Accept Israel. In separate stories, the AP echoes comments Monday by both President Bush and Secretary Rice that the US would oppose a Hamas-led government in the Palestinian territories. The AP (1/31, Pickler) quotes Bush as saying: "The Hamas party has made it clear that they do not support the right of Israel. ... And I have made it clear that so long as that's their policy, that we will not support a Palestinian government made up of Hamas." In a separate story, the AP (1/31, Gearan) cites comments Rice made in London: "Everybody is saying exactly the same thing. ... There has got to be a peaceful road ahead. ... You cannot be on one hand dedicated to peace and on the other dedicated to violence. Those two things are irreconcilable." The Washington Times (1/31, Sammon, 90K) quotes Bush saying, "We will not support a Palestinian government made up of Hamas."

In a related story, Bloomberg (1/31, Zacharia) reports, "The US, European Union, United Nations and Russia said Hamas officials must form a Palestinian government that accepts Israel's existence or risk a cutoff of international aid. The diplomatic group, known as the Quartet, threatened late yesterday in London to review all aid should Hamas maintain its violent opposition and refusal to endorse peace efforts." The Washington Post (1/31, A14, Sullivan, 744K) reports US "officials said they viewed the statement by the quartet as a clear international warning to Hamas a day before President Bush gives his State of the Union address. The statement also appeared to represent a compromise between U.S. officials and their European counterparts, who had been publicly skeptical of the hard-line approach advocated recently by Rice and Bush."

The Financial Times (1/31, Dombey, Morris, Khalaf) reports, "Monday night's declaration was the first attempt to present a united international front after Hamas's victory but there are likely to be differences between the US and the EU over funding and contacts with the new administration. European diplomats believe that, despite having set out basic principles for Hamas to meet, they can still find mechanisms for delivering funding, while the US maintains a tougher line." The Times adds, "Privately, EU officials said their freedom of manoeuvre was limited by the PA's deep financial problems and the risk that greater isolation would only further radicalise the militant group."

USA Today (1/31, Stinson, 2.31M) runs a similar report under the headline "Hamas Warned: Cash Could Be Cut Off," while the Wall Street Journal (1/31, King, 2.11M) headlines its story "Group Sets Conditions On Aid To Palestinians."

Meanwhile, the Washington Times (1/31, Martin, 90K) reports, "Hamas will not alter its charter calling for Israel's

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destruction despite US, European and UN demands." Hamas, "fresh from a dominating win in last week's Palestinian parliamentary vote, also said moves by Palestinian Authority President Mahmoud Abbas to seize authority over all four security services are illegal and will be tackled once a new government is formed."

The Christian Science Monitor (1/31, Prusher, 61K) runs a story titled "After Victory, Hamas Faces Money Crunch," saying Hamas "now faces a far more challenging campaign: a fight to keep the international donor community, which has kept the Palestinian Authority (PA) functioning since 1994, from cutting off funding." The Wall Street Journal (1/31, Leggett, 2.11M) also says that "for nearly a decade, the Palestinian Authority has leaned heavily on donations from Western governments to stay afloat." But "with that lifeline threatened by Hamas's electoral victory, it remains to be seen where its quasigovernment will get the money to survive."

PBS' NewsHour (1/30, Lehrer) reported Hamas "urged the world today not to cut off aid to the Palestinian Authority. … If by Wednesday the quartet hasn't paid $69 million, Palestinian civil servants won't be paid this month." PBS' Margaret Warner went on to report, "There is one point on which the rival players in Gaza and here in the West Bank seem to agree: The Palestinians' dependence on foreign aid does give the West a big stick against Hamas, but it would be counterproductive for the West to use it yet. The stick is large because of the intense economic crisis in the Palestinian territories, with debris-filled beaches and trash-filled empty lots, and legions of jobless men. The deficit-ridden Palestinian government desperately needs an injection of cash just to pay this month's salaries to 135,000 government workers and security forces. … Remarkably, even Israeli officials, as alarmed as they are by the election of a terrorist organization next door, are advising their global partners to go slow on aid cuts for now." Tzahi Hanegbi Israel's minister for strategic affairs, was shown saying, "We're talking about people. They need medicines, they need food; they need their ordinary life. So I would say that in order to emphasize the resolve of the international community, it has to be at the beginning with diplomatic issues, and not right away with financial sanctions."

Abbas Asks International Community Not To Cut Funds. In a related story, AFP (1/31) reports, "Palestinian leader Mahmud Abbas and Hamas both urged the international community not to cut off funding as part of efforts to force change on the Islamists after their election win. As European foreign ministers and the key players in the Middle East peace process insisted Hamas renounce violence, the moderate Palestinian Authority president and the hardliners of Hamas said a cessation of funding would only hurt the impoverished people of Gaza and the West Bank." The New York Times (1/31, Myre, 1.19M) adds Abbas "denied reports that he was considering resigning and said he remained committed to peace talks with Israel." But "it is not clear how he will pursue them when Hamas, which has always rejected talks, will control the government." The Washington Times (1/31, Kralev, 90K) also reports the story.

Fatah Resists Coalition Sought By Hamas, Israel. PBS' NewsHour (1/30, Warner) reported that Fatah's Saeb Erekat, the Palestinians' chief negotiator with Israel, "sounds eager to go into opposition to Hamas if it sticks with its vow to destroy Israel and create an Islamic state." Erekat said, "We will not be part of this government. We will be in opposition. And each week, we will demand from Hamas jobs, electricity, water, services, to expose corruption and the rule of law. We will have a demonstration each week to demand better services for our people." Tzahi Hanegbi, Israel's minister for strategic affairs, was shown saying, "Mahmoud Abbas cannot have relevancy if his government is going to be a Hamas government. This is the tragedy of the election results. Mahmoud Abbas was elected in another campaign as a president. And he has his authorities. But if the legislative council would elect a Hamas government, it would be the end of our dialogue with the Palestinian Authority." PBS added, "Hamas leaders are floating one idea to get unstuck. They suggest that the Palestinian Authority they're about to join concentrate on domestic matters, and return negotiations with Israel to the Palestine Liberation Organization, or PLO, an umbrella group to which Hamas does not belong."

Meanwhile, the Washington Times (1/31, Li, 90K) reports, "A leading Palestinian pollster says Hamas' victory in Palestinian elections last week had less to do with the militant group's hard-line posture toward Israel than with voter anger against the long-ruling Fatah party founded by Yasser Arafat. Voters 'didn't just want to hurt Fatah. They wanted to defeat it,' said Khalil Shikaki, director of the Palestinian Center for Policy and Survey Research." The pollster added, "The only group that can defeat Fatah is Hamas. So they voted for Hamas."

Hamas Official Appeals To "American People's Sense Of Fairness." Mousa Abu Marzook, deputy political bureau chief of the Islamic Resistance Movement (Hamas),

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writes in the Washington Post (1/31, A17, 744K), "A new era in the struggle for Palestinian liberation is upon us. Through historic fair and free elections, the Palestinian people have spoken. Accordingly, America's long-standing tradition of supporting the oppressed's rights to self-determination should not waver." The United States, the European Union "and the rest of the world should welcome the unfolding of the democratic process, and the commitment to aid should not falter. Last week's victory of the Change and Reform Party in the Palestinian legislative elections signals a new hope for an occupied people. The results of these elections reflect a need for change from the corruption and intransigence of the past government." Marzook adds, "We appeal to the American people's sense of fairness to judge this conflict in light of the great thoughts, principles and ideals you hold dear in the Declaration of Independence, the Constitution and the democracy you have built. … Meaningful democracy cannot flourish as long as an external force maintains the balance of power. It is the right of all people to pursue their own destiny."

Israeli Army Prepares To Evict Squatters In Hebron. The New York Times (1/31, Kraft, 1.19M) reports nine Jewish families "have been squatting illegally in a Palestinian fruit and vegetable market here [Hebron], embarrassing the government. So Acting Prime Minister Ehud Olmert, who has expressed impatience with the settlers, decided to try to put an end to the affair. In what was apparently a deal with the government and the army, according to Israeli news media, the families have agreed to leave voluntarily on Tuesday morning, in exchange for a promise by Israel to speed up legal proceedings that might allow the state to expropriate the market from the city of Hebron and its owners and then rent it to other Israeli settlers. But the army is preparing for the deal to fall apart and for violence, Gen. Yair Naveh said. His troops are scheduled to demolish nine houses in an illegal outpost, Amona, later this week, following a court ruling."

Arabs Boycott Danish Products In Response To Cartoons Of Mohammad. The New York Times (1/31, Fattah, 1.19M) reports, "A long-running controversy over the publication of caricatures of the Muslim prophet Muhammad by a Danish newspaper boiled over in the past few days as a boycott brought sales of some Danish products to a halt in Arab countries across the Middle East, while Danish interests came under attack. … In recent days, Saudi Arabia and Libya have recalled their ambassadors to Denmark, protests have been staged in places like Dubai, where they are virtually unheard of, and Arab and multinational companies have placed ads in Middle Eastern newspapers to deny any connection to Danish companies. On Monday, Denmark called for its citizens in the Middle East to exercise extra vigilance. The Danish manufacturer, Arla Foods, which normally sells $1.5 million worth of dairy products a day in the region, announced that its sales there had come to a halt. And two of its employees in Saudi Arabia were beaten by angry customers."

EU Office In Gaza Stormed By Gunmen. The Washington Times/AP (1/31, Abu-Nasr) reports, "Protests over Danish caricatures of the prophet Muhammad escalated yesterday as gunmen seized an EU office in Gaza and Muslims appealed for a trade boycott of Danish products. Denmark called for its citizens in the Middle East to exercise vigilance."

New Director Expected To Reinvigorate Millennium Challenge Program. The Washington Post (1/31, A15, Fletcher, Blustein, 744K) reports, "After getting off to a painfully slow start, President Bush's signature foreign aid program is poised to begin ramping up the amount of money it spends on development projects in poor countries, according to its new chief executive -- who vows that the impact will be 'transformative.' John J. Danilovich, the former ambassador whom Bush installed as head of the Millennium Challenge Corp. in November, said the agency is adopting a new strategy to fulfill its mission of providing aid to well-governed nations. It will winnow recipients to a short list but intends to give them significantly bigger grants than those bestowed in previous programs." According to the Post, "the program has fallen well short of Bush's stated ambition. He envisioned spending $1.7 billion in 2004, $3.3 billion in 2005 and $5 billion per year thereafter. But the administration took two years just to set up the corporation, and even then problems impeded its progress."

Canadian Politicians Avoided US Consultants. In its "Players" column, Roll Call (1/31, Duran) reports, "Republicans may be thrilled that a Conservative is set to become prime minister of Canada but you will not find any GOP operatives bragging that they helped make it happen. While big-name American consultants such as James Carville or Ed Rollins trot the globe in search of

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new campaign adventures, they are not working in Canada these days. In fact, it's as if Canada has hung a 'no Americans need apply' sign out when it comes to federal elections, consultants north of the border say. … Michael Scroccaro of Sterling Communication in Toronto, Canada said the explanation for the shut-out of American consultants this election goes beyond a dislike of all things American. 'It was more the case of having an embarrassment of local talent,' said Scroccaro, who worked for the Tories. 'We recently had two parties merge — one of which has a long history of winning — and some of the most talented people in the game were suddenly available and on our team.' Scroccaro said the Canadian electorate does not respond as well to American-styled campaigns either."

Blair's Son To Begin Congressional Internship Today. The Washington Times (1/31, Pierce, 90K) reports in its "Inside Politics" column, "Euan Blair, eldest son of British Prime Minister Tony Blair, is scheduled to start a six-month stint today as an intern in the U.S. Congress. Young Mr. Blair, 22, will begin as an unpaid intern for Rep. David Dreier, California Republican and chairman of the House Rules Committee, and three months later he will join the staff of Rep. Jane Harman, California Democrat and ranking member on the House Intelligence Committee."

Violence, Detentions Precede Nepalese Elections. The New York Times (1/31, Sengupta, 1.19M) reports Nepalese King Gyanendra, "the man who sacked the government a year ago, calls for elections but jails political party leaders. The main political parties demand the restoration of democratic rights, but call on voters to boycott the polls. At least one mayoral candidate has been assassinated by suspected Maoist guerrillas. … So goes the prelude to municipal elections in this ancient Himalayan kingdom on the violent cusp of change. The elections, scheduled for Feb. 8, will be held a year after Gyanendra, the world's sole Hindu monarch, seized power in what he described as an effort to defeat the Maoists."

Georgian Leader Criticizes Russian Use Of Military Force. Nino Burdjanadze, Speaker of the Georgian Parliament, writes in a letter to the editor of the Wall Street Journal (1/31, 2.11M), "The world has noticed Russia's use of energy as a political weapon to pressure neighboring Western-oriented states. Now it appears that Russia does not intend to confine itself to energy to tame 'intractable' neighbors but contemplates a far more conventional and well-tried weapon -- the use of military force." The letter alleges that Russia supports "illegitimate separatist puppet regimes of Abkhazia and South Ossetia. Under the guise of 'peacekeeping' and 'mediation,' Russia has de facto annexed the territories." The letter says Georgia is committed to a peaceful resolution of the Abkhazia and South Ossetia situations and paints a "different Russia" that "reserves a right to use military force against neighbors to prevent geopolitical changes, uses energy to blackmail its democratic neighbors, and provides aid and comfort to illegal separatists outside its borders."

WPost Sees Russian Repression With "Cold War Overtones." The Washington Post (1/31, 744K) editorializes, "A grainy video purporting to show the activities of British spies; ominous talk of foreigners undermining the state; protests from the Moscow Helsinki Group -- can this really be Russia in 2006?" The Post notes that Russia's current campaign against human-rights groups has "distinct Cold War overtones." The Post says Russia has passed a law restricting NGOs' activities and that Russian media have accused other groups of links to alleged British spies. The Post compares this to charges leveled in 1975 and 1985, and concludes, "It seems history really does repeat itself, and while the second time may have the feel of farce, Moscow's repression may end no less tragically for its victims.""

Sudan's Transformation "Harder" Than Imagined. The New York Times (1/31, Lacey, 1.19M) reports that the recent African Union meeting "was supposed to have been Sudan's chance to shine. Shut off from the rest of the world for so long, Sudan's leaders are eager to attract outside investors and shed their pariah image. But the transformation has proved harder than anyone here imagined.." The Times analogizes Sudan's plight to the recently purchased, luxurious presidential yacht, which was delivered too late for the summit meeting and has been derided in the Sudanese media for its excessive price.

Bacon Calls For US To Press Darfur Issue In Security Council. In an op-ed in The New York Times (1/31, 1.19M), Kenneth Bacon, president of Refugees International, writes that when it assumes the presidency of the Security Council, the United States "could start by devoting itself to ending the violence in the Darfur region of

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western Sudan. … The last time the United States assumed the rotating presidency of the 15-member Security Council, … John C. Danforth, then the ambassador to the United Nations, brought the entire Security Council to Kenya to pressure the government in Khartoum and the insurgents in the south to end their 21-year civil war. The tactic worked." Bacon calls on US Ambassador John Bolton to "demand the release of an unpublished United Nations study listing those countries that ship weapons to rebels and Khartoum-backed militias. Then the Council should use this information to punish sanctions scofflaws." Bacon concludes that while the United States "has a vexing and inconsistent record on Sudan," the UN Security Council presidency offers "a chance to show the world that we can do more than just talk about genocide."

CAIR Protests Skit Making Light Of Hajj Tragedy. The Los Angeles Times (1/31, Muskal, 958K) reports, "A local radio personality and a group that says it is fighting to empower American Muslims have squared off over a provocative skit that featured a make-believe traffic reporter covering the hajj, where hundreds of pilgrims were crushed to death." Bill Handel, a morning radio host, "set off the furor when he broadcast the skit about a traffic reporter in a helicopter hovering over the hajj, the Muslim pilgrimage to Mecca, Saudi Arabia, that attracts about 3 million faithful each year. On Jan. 12, 363 pilgrims were killed in an accident that Saudi authorities blamed on the dynamics of the crowd. Last week, the Southern California office of the Council on American-Islamic Relations called on Handel and the station to apologize for the skit, which the group said poked fun at Muslims."

Career FSOs Seen As Likely To Stymie Rice's Repositioning Initiative. In a Washington Times (1/31, 90K) op-ed titled "Change at Foggy Bottom," Fred Gedrich, a foreign policy and national security analyst who served in the State Department from 1988 to 1997, and Ret. US Army Maj. Gen. Paul E. Vallely write that Secretary Rice's global personnel repositioning initiative "will surely stir the hornet's nest. Career Foreign Service Officers…have a notorious record in resisting change and the legitimacy of presidential and congressional control and direction. Some have been accused of purposely undermining President George W. Bush's global war on terror and national-security strategy." The authors say the Department "must play a vital role in confronting the enormous diplomatic and national-security challenges facing America" and "is the perfect instrument to carry out the president's vision of making the world more secure, free and prosperous for the benefit of Americans and the international community." However, Rice's "plans will likely encounter difficulty. Presidents and secretaries of state since [FDR] have learned that FSOs and the American Foreign Service Association, the sole bargaining agent for the 23,000 active and retired FSOs, are more apt to reject, rather than embrace, reform plans and the legitimacy of foreign-policy direction received from elected and appointed officials." Rice will meet resistance to her plan, the authors predict, "because FSOs thrive under the current system and firmly control the department's foreign policy apparatus and personnel systems. Career diplomats currently occupy powerful slots including undersecretary for political affairs and director general of the Foreign Service. … It's apparent to many outsiders that the department must make fundamental changes to the institution and culture and implement new strategies to effectively cope with daunting 21st-century national-security and foreign-policy challenges. It's about time the folks at Foggy Bottom realized it too."

WSJournal Says Wide Majority Of Chinese Favor Capitalism. The Wall Street Journal (1/31, 2.11M) editorializes, "In a poll conducted for the University of Maryland's Program on International Policy Attitudes between June and August last year, fully 74% of Chinese citizens said they agreed with the statement 'the free enterprise system and free market economy is the best system on which to base the future of the world.' … Remarkable, isn't it, that residents of the Middle Kingdom have maintained their appreciation of the benefits of free enterprise through six decades of oppression and economic backwardness imposed by their Communist cadres? … Mao would probably turn over in his glass case if he realized that the Chinese have rejected his teachings. But the harsh consequences those teachings imposed on his countrymen have been an education like no other. Nothing creates eager young capitalists quite like living under Communism."

NYTimes Encourages EU, US To Support Turkish Reform Efforts. The New York Times (1/31, 1.19M) editorializes, "The judge in the free-speech trial of the Turkish author Orhan Pamuk dismissed all charges last week, sparing Turkey further international scorn. But the case was thrown out on a technicality. Turkey still needs to change

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the repressive law under which Mr. Pamuk was arrested and drop similar cases against dozens of other lesser-known Turks. The most powerful motivation for making such changes has always been Turkey's desire to join the European Union. But public support for joining is now waning, down from a high of 85 percent to 65 percent recently. In part, that reflects a lingering bitterness over 11th-hour issues that tainted the start of Turkey's membership talks. … Turkey's prime minister, Recep Tayyip Erdogan, must convince his people not to give up on the reforms that precede union membership. And Washington and Brussels need to help him make the case."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"U.N. Action Likely For Iran."
"Witty Voice Of Feminist Self-Doubt."
"Surf Art Catches A Break.'
"Markets Could Test New Fed Chairman."
"State Tax Break Benefits Companies, Not Workers."
"Alito Seen As Carrying The Torch Of Reagan."
"Chief Says Officer Who Killed Driver, 13, Acted Within Rules."

USA Today:
"Immigration Fuels Housing Battles."
"'Bigger-Than-Life' Fed Chairman Retires Today."
"Tribes' Political Giving Targeted."

New York Times:
"Alito Clears Final Hurdle For Confirmation To Court."
"At Exxon Mobil, A Record Profit But No Fanfare."
"Smithsonian Picks Notable Spot For Its Museum Of Black History."
"And In This Corner, Fed Choice Is Blip On Some Senators' Radar."
"Wendy Wasserstein Dies At 55; Her Plays Spoke To A Generation."
"A New Kind Of Care In A New Era Of Casualties."

Washington Post:
"US, Allies Set Terms For Aid To Palestinians."
"Senate To Vote On Alito Today."
"Mall Site Is Chosen For Black History Museum."
"Zawahiri Taunts Bush After Attack Misses Him."
"Utah Town Has Question About President: 'What's Not To Like?'"
"Va. Activist Pursues Idealistic Quest To Lead His Salvadoran Home City."

Washington Times:
"US, Allies Demand Hamas Changes."
"Senate Rejects Filibuster Of Alito."
"Exxon's Quarterly Profit Of $10.7 Billion A Record."
"We Knock It Down And Then We Come To Collect $98,000."
"Liberal Activists Promote A Ruckus To Silence Bush."
"Ohio Sheriff Bills US Government For Jailed Illegals."
"Museum Has 'A Home.'"

Detroit Free Press:
"Detroit Beams With Pride."
"A World Away, The Pain Is Clear."
"This Time Johnnie And Gladys Can Stay Home."

Atlanta Journal-Constitution:
"Alito All But A Lock For Court."
"Outrage Sizzles On Oil Profits."
"'Neutral Zone Fades, Danger Escalates For Journalists In Iraq."
"In The Gallery Tonight …"

Dallas Morning News:
"Jury Is Seated In Enron Trial."
"Exxon Mobil Posts $36.1 Billion Profit."
"Board Seeks Book Influence."
"Bush Aims To Make Up Lost Ground With Address."
"Envoys OK Referral Of Iran To U.N."

Houston Chronicle:
"One Day, One Jury."
"$100 Million Going To Baylor For Cancer Unit."
"Exxon Profit Hits Record $36 Billion."
"Less Flash, More Value In Openings."
"Abducted Journalist Pleads On Tape."

Story Lineup From Last Night's Network News:
ABC: Woodruff Update; Iraq Field Hospital; Iraq IEDs; Carroll Tape; Zawahiri Tape; Enron Trial; Exxon Profit; CA Smuggling Tunnel.
CBS: Zawahiri Tape; Carroll Tape; Woodruff Update; Hussein Trial; Exxon Profit; Enron Trial; Alito Confirmation; Senate Reform; Greenspan Retirement.
NBC: Woodruff Update; Iraq Hospitals; Al Jazeera Tapes; Wall Street Journal Poll; US Economy; Katrina Donation Spending; Katrina-Senate Hearings; Savings Lack; Enron Case; Snowstorm Rating Scale.

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Story Lineup From This Morning's Radio News Broadcasts:

ABC: Woodruff's condition; CA-post office shooting; Senate-Alito; Bush-State of the Union; UN-Iran nuclear program.

CBS: CA-post office shooting; Enron trial; Senate-Alito; Bush-State of the Union; UN-Iran nuclear program.

NPR: Senate-Alito; UN-Iran nuclear program; Iraq-kidnapped journalist; Zawahiri video; Enron trial; Wall Street; UN-Palestinian aid; Kraft-layoffs.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — 10:15 a.m. President and Mrs. Bush depart the United States Capitol en route The White House. 8:35 p.m. President and Mrs. Bush depart The White House en route United States Capitol. 8:40 p.m. President and Mrs. Bush arrives at the United States Capitol. 9 p.m. Delivers annual State of the Union address before a joint session of Congress, House floor, U.S. Capitol. 10:20 p.m. President and Mrs. Bush arrive at The White House.

VICE PRESIDENT CHENEY — 9 p.m. Attends the State of the Union Address, Capitol.

US Senate: FLOOR SCHEDULE _ The Senate convenes and proceeds to consideration of the nomination of Judge Samuel Alito to be an associate justice of the Supreme Court. The Senate holds a final vote on the Alito nomination at 11 a.m., following which it will turn to consideration of the nomination of Ben Bernanke to be chairman of the Federal Reserve Board.

APPROPRIATIONS _ 8:30 a.m. Labor, Health and Human Services, Education and Related Agencies Subcommittee. Hearing on preparations for a pandemic flu outbreak. Assistant HHS Secretary John Agwunobi; CDC Director Julie Gerberding; author John Barry; Richard Webby, St. Jude's Children's Hospital; George Abercrombie, CEO, Roche Pharmaceuticals; Daniel Soland, president of vaccines, Chiron Corp.; Chris Viehbacher, president, GlaxoSmithKline; Iowa Public Health Director Mary Mincer; Pennsylvania Health Director Calvin Johnson; Bruce W. Dixon, director, Allegheny County Department of Public Health; Joanne Godley, acting health commissioner, Philadelphia Department of Social Services. Location: Room 216, Hart.

HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ 10 a.m. Full Committee. Hearing on planning for the evacuation of New Orleans for Hurricane Katrina. Louisiana Transportation Secretary Johnny B. Bradberry; Col. Terry Ebbert, director, New Orleans Office of Homeland Security; Walter S. Maestri, director, Jefferson Parish Office of Emergency Management; Jimmy Guidry, medical director and state health officer, Louisiana Department of Health and Hospitals; Kevin U. Stephens, director, New Orleans Health Department; Joseph A. Donchess, executive director, Louisiana Nursing Home Association. Location: Room 342, Dirksen.

HEALTH, EDUCATION, LABOR AND PENSIONS _ 2 p.m. Full Committee. Confirmation hearing on pending nominations. Richard Stickler to be assistant secretary of Labor, Mine Safety and Health Administration; Edwin G. Foulke Jr. to be assistant secretary of Labor, Occupational Safety and Health Administration. Location: Room 106, Dirksen Bldg. Notes: Note room change.

COMMERCE, SCIENCE AND TRANSPORTATION _ 2:30 p.m. Full Committee. Hearing on Video Content. Ben Pyne, Disney; Matt Polka, American Cable Association; Robert Lee, WDBJ TV; Joseph Waz, Comcast; Dan Fawcett, DirecTV; Doron Gorshein, The America Channel. Location: Room 562, Dirksen. Contacts: Melanie Alvord, 202-224-8456

FOREIGN RELATIONS _ 2:30 p.m. Full Committee. Confirmation hearing on pending nominations. Location: Room 419, Dirksen.

US House: FLOOR SCHEDULE _ Meets for legislative business and immediately recesses until about 3:30 p.m. for a re-vote on the budget reconciliation conference report. At 5 p.m. recesses for the final security sweep. At 8:45 p.m., reconvenes for the State of the Union Address.

RULES _ 1 p.m. Full Committee. Meets to set rules for floor debate for S. 1932 - Deficit Reduction omnibus Reconciliation Act, H.R. 3199 - Patriot Act reauthorization, and a measure to limit access of former House members to the floor and other areas. Location: Room H-313, Capitol.

Other: EDUCATION ASSISTANCE _ The Coalition of Higher Education Assistance Organizations holds its 26th annual conference. Highlights: 9 a.m. Rep. Henry Cuellar. 10 a.m. Session on how student financial aid fits into one-stop centers, with Frank Claus of the University of Pennsylvania. 12 p.m. Luncheon address - Rep. John Spratt. 2:30 p.m. Session on financial literacy and student loans, with Rep. Earl Pomeroy. Location: Ritz-Carlton-Pentagon City, 1250 S.

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Hayes St., Arlington, unless otherwise noted. Contacts: Joan Coyle, 202-289-3903

MILITARY HEALTH SYSTEM _ The State of the Military Health System 2006 Annual Conference convenes. This year's conference will highlight Health Affairs, the TRICARE Management Activity (TMA), and the Services' Surgeons General's priorities. Location: Marriott Wardman Park Hotel, 2660 Woodley Road NW. Contacts: Reginald Wayne Humphries, 301-295-3166

INTERNATIONAL SCIENCE EXPEDITION _ The International Science Expedition convenes in Washington. The event features a telepresence technology that allows students around the globe to participate in "The Jason Project: Mysteries of Earth and Mars." Students in classrooms and educational institutions will participate in the project, founded by Titanic discoverer Robert Ballard, to encourage the next generation of scientists and explorers. Location: National Geographic, 1145 17th St. NW. Contacts: Jennifer Walsh, 703-276-2772 ext 13

FEDERAL WORKFORCE _ 8:30 a.m. OPM Director Linda Springer holds a discussion about the federal workforce of the future, sponsored by the Washington Post and the Council for Excellence. Location: 1150 16th St. NW. Contacts: Sarah Howe, 202-530-3270

STATE OF THE UNION-RELATED EVENT _ 9 a.m. The Congressional Progressive Caucus convenes a forum to propose an alternative to the president's State of the Union address and a new direction for the country. Democratic National Headquarters, 430 South Capitol St. SE. Note News conference at start. Contact: Joia Jefferson Nuri, 240-603-7905.

ALITO _ 9 a.m. The Christian Defense Coalition, others hold a news conference to call on the Senate to have a straight up and down vote on the Alito nomination, without a filibuster. Location: In front of the Supreme Court. Contacts: n/a, 202-547-1735

EDUCATION _ 9:30 a.m. - 11 a.m. The American Enterprise Institute hosts a discussion led by Frederick Hess, author and AEI's Director of Education Policy Studies, on school accountability and quality. With James Donnelly, 2004 National Principal of the Year; Jason Kamras, 2005 National Teacher of the Year; and Joe Williams, author, "Cheating Our Kids." Location: Wohlstetter Conference Center, 12th floor, AEI, 1150 17th St. NW. Contacts: Veronique Rodman, 202-862-4871

EDUCATION TESTING _ 9:30 a.m. - 11 a.m. Education Sector, a new, nonpartisan think tank formally launches what it says is a major report, "Margins of Error: The Education Testing Industry in the No Child Left Behind Era." The report concludes that the scale of testing required by No Child Left Behind, competitive pressures, tight regulatory deadlines, a dearth of testing experts, and lax state oversight are resulting in tests in many states that are failing to accurately measure students and school performance. Location: National Press Club, Holeman Lounge. Contacts: Molly Chapman Norton, 202-756-1996. Notes: A light breakfast will be served at 9 a.m.

IRAN _ 10 a.m. The Iran Policy Committee holds a news conference on Iran's nuclear weapons program. Location: National Press Club. Contacts: Raymond Tanger, 202-742-6517

IRAQ PUBLIC OPINION _ 10:30 a.m. The Saban Center for Middle East Policy holds a briefing on measuring Iraqi public opinion, with Martin Inkyk of the center, Steven Kull of the Program on International Policy Attitudes, and Kenneth Pollack of the center. Location: Falk Auditorium, 1775 Massachusetts Ave. NW. Contacts: n/a, 202-797-6105. Notes: RSVP requested.

STATE OF THE UNION-RELATED EVENT _ 11 a.m. The Center on Budget and Policy Priorities holds a telephone briefing on key issues likely to be discusses in the State of the Union Address. Call contact for details. Contact: Michelle Bazie, 202-408-1080. 11:30 a.m. Senate Republican Leadership and Judiciary Committee members will hold a press availability following the Supreme Court confirmation vote on Judge Samuel. Senate Radio/TV Gallery. Contact: Elizabeth Keys, 202-224-2928. Note: Time approximate.

HOYER _ 11:30 a.m. House Democratic Whip Rep. Steny Hoyer holds a pen and pad only briefing. Location: Room H-306, Capitol. Contacts: Liz Packard, 202-225-3130

MAURITANIA _ 12 p.m. The Middle East Institute holds a discussion with Ahmed Ould Sid' Ahmed, Foreign Minister of Mauritania, on the current situation in his nation. Location: 1761 N St. NW. Contacts: n/a, 202-785-5336. Notes: RSAVP required.

TERRORISM _ 12 p.m. Rohan Gunaratna, head of Terrorism Research at the Institute for Defence and Strategic Studies in Singapore, speaks at a Terrorism and Homeland Security Forum sponsored by the Wilson International Center for Scholars, others. Location: 5th floor conference room,

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Wilson Center, Reagan Building. Contacts: Sharon McCarter, 202-691-4016

DEMOCRATS _ 12:30 p.m. The Democratic Policy Committee holds a closed meeting. Location: Room S-211, Capitol. Notes: Stakeout note: Gallery escort for policy luncheons leaves at 11:30 a.m. Senate Democratic Leader Harry Reid will be in the Ohio Clock Corridor from approximately 12:15-12:30 p.m.

REPUBLICANS _ 12:30 p.m. The Republican Policy Committee holds a closed meeting. Location: Room S-207, Capitol. Notes: Stakeout note: Gallery escort for policy luncheons leaves between 12:15-12:30 p.m. from the Ohio Clock Corridor.

EDUCATION INITIATIVE _ 12:30 p.m. - 2:30 p.m. Assistant Secretary Henry L. Johnson, Office of Elementary and Secondary Education, U.S. Department of Education, will discuss new Department initiatives, NCLB reauthorization and high school reform at the first in a series of National Policy Briefings hosted by the National Association of Secondary School Principals. Location: National Press Club. Contacts: Jeanne Bliss, 202-457-8100. Notes: A light lunch will be provided. In addition to coverage at the National Press Club, reporters can participate via teleconference. An 800 number will be provided when you RSVP. RSVP: (for either in-person or via teleconference) Edith Sodolo, 202-457-8100.

STATE OF THE UNION-RELATED EVENT _ 2 p.m. Senate Democratic Leader Harry Reid and House Democratic Leader Nancy Pelosi will participate in a photo-op with Virginia Governor Tim Kaine and a pen and pad session with reporters in advance of President Bush's State of the Union Address that evening. Kaine is set to deliver the Democratic response to the President. Room S-224, Capitol. Contact: Jim Manley, 202-224-2939.

RELIGION-GAYS _ 2 p.m. The National Gay and Lesbian Task Force holds a teleconference on a report, David v. Goliath, concerning faith groups working for gay, bisexual and transgender equality. Contacts: Richard Lindsay, 646-358-1474. Notes: Call in number is 888-802-2266. Prompt code is 7448539.

VA POLICE-KATRINA _ 2 p.m. There will be a ceremony to honor VA police officers for their efforts to aid victims of Hurricane Katrina. Participants include honorees Jerome Simon and Alfred Pratt; Department of Veterans Affairs Secretary James Nicholson; and AFGE National Secretary-Treasurer Jim Davis. Location: Montgomery Auditorium, Room 230, Department of Veterans Affairs, 810 Vermont Ave. NW.

STATE OF THE UNION-RELATED EVENT _ 3 p.m. Cindy Sheehan, Reps. John Conyers and Lynn Woolsey, Hurricane Katrina survivor Malik Rahim, others speak at the Peoples State of the Union event. Mott House, 122 Maryland Ave. NE. Contact: Gael Murphy, 202-412-6700.

STATE OF THE UNION-RELATED EVENT _ 5 p.m. - 6:30 p.m. Ministers and church members of different denominations hold a march and rally from the Vice President's residence down Massachusetts Ave. to protest torture policies and practices of the administration. Contact: Linda Gustitus, 202-363-3928. 6 p.m. The National Journal, The Atlantic and Congress Daily hold their third annual State of the Union reception. Pre-SOU reception with House Speaker Hastert and Democratic leader Pelosi. Open to media, but must RSVP. Contact: Hannah Hirshfeld, 212-284-7635.

PHONE SPYING _ 5 p.m. - 7 p.m. The American Bar Association Standing Committee on Law and National Security, in collaboration with the International Law Program of the School of Advanced International Studies at Johns Hopkins University, hosts a program on the secret program to intercept communications with one end overseas and one end in the U.S., including personal communications in this country. Location: Rome Auditorium, School of Advanced International Studies Johns Hopkins University, 1619 Massachusetts Ave. NW. Notes: Please RSVP by email (hmcmahonstaff.abanet.org) or call 202-662-1035; registration is free, but an RSVP is requested.

INTELLIGENCE SURVEILLANCE _ 5 p.m. The School of Advanced International Studies and the American Bar Association's Standing Committee on Law and National Security hold a forum on foreign intelligence surveillance, with former House Intelligence Committee staffer Suzanne Spaulding; David Cole of Georgetown University Law School, Robert Turner of the University of Virginia, others. Location: Kenney Auditorium, 1740 Massachusetts Ave. NW. Contacts: Felisa Klubes, 202-663-5626 Notes: RSVP required to 202-662-1035.

SCOTUS-ABORTION _ 7 p.m. NARAL Pro-Choice America holds its annual dinner to celebrate the Roe v. Wade Supreme Court decision. Speakers include former Secretary of State Madeleine Albright, Rep. Gwen Moore, others. Location: Washington Hilton & Towers, 1919 Connecticut

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Ave. NW Contacts: Ted Miller, 202-973-3032 Notes: Media RSVP required. Setup recommended before 6 p.m.

STATE OF THE UNION-RELATED EVENT _ 8 p.m. Protest organized by The World Can't Wait-Drive Out the Bush Regime, during the State of the Union Address, with Cindy Sheehan, others. Capitol Reflecting Pool. Contact: Ariel Vegosen, 516-732-0579. 8 p.m. The Center for American Progress Action Fund holds a State of the Union watch party. 10th floor, 1333 H St. NW. Contact: Jay Heidbrink, 202-741-6273.

STATE OF THE UNION-RELATED EVENT _ 8 p.m. - 10 p.m. The Center for American Progress Action Fund presents: "The Progressive Take on the State of The Union" Watch Party. Center for American Progress Action Fund, 1333 H Street NW, 10th floor. Note: Pizza and beverages will be served beginning at 7:30 p.m. To RSVP, please call Jay Heidbrink at 202-741-6273.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, JANUARY 31, 2006 7:45 AM EST

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TERRORISM NEWS:

Feingold Claims Gonzales Misled Senate About Warrantless Wiretaps. The Washington Post (1/31, A7, Leonnig) reports, "Sen. Russell Feingold (D-Wis.) charged yesterday that Attorney General Alberto R. Gonzales misled the Senate during his confirmation hearing a year ago when he appeared to try to avoid answering a question about whether the president could authorize warrantless wiretapping of U.S. citizens." The Post continues, "In a letter to the attorney general yesterday, Feingold demanded to know why Gonzales dismissed the senator's question about warrantless eavesdropping as a 'hypothetical situation' during a Senate Judiciary Committee hearing in January 2005. At the hearing, Feingold asked Gonzales where the president's authority ends and whether Gonzales believed the president could, for example, act in contravention of existing criminal laws and spy on U.S. citizens without a warrant. … Gonzales said that it was impossible to answer such a hypothetical question but that it was 'not the policy or the agenda of this president' to authorize actions that conflict with existing law. He added that he would hope to alert Congress if the president ever chose to authorize warrantless surveillance, according to a transcript of the hearing." The Post notes, "In fact, the president did secretly authorize the National Security Agency to begin warrantless monitoring of calls and e-mails between the United States and other nations soon after the Sept. 11, 2001, terrorist attacks. The program, publicly revealed in media reports last month, was unknown to Feingold and his staff at the time Feingold questioned Gonzales, according to a staff member. Feingold's aides developed the 2005 questions based on privacy advocates' concerns about broad interpretations of executive power."

NSA Surveillance Hearings Could Spur Action On Patriot Act Renewal. The Hill (1/31, Mikhail) reports, "If the White House and the GOP-led Congress do not strike a deal soon on reauthorizing the USA Patriot Act, President Bush's influence on the controversial bill could diminish after the Senate Judiciary Committee holds hearings on the nation's domestic surveillance program," which begin Monday. "The hearings are providing additional motivation for congressional Republicans to renew the Patriot Act by Feb. 3." The Hill notes, "Attorney General Alberto Gonzales, who is scheduled to testify Monday, has stated that the president's constitutional powers and the congressional vote authorizing the use of force after the Sept. 11, 2001, terrorist attacks validated the surveillance program." AEI resident scholar Norm Ornstein "said that the pressure on both the White House and Senate Majority Leader Bill Frist…to minimize the political damage stemming from the surveillance program could ensure renewal of the Patriot Act before Friday's deadline."

Pentagon Finding "Irregularities" In Suspicious Activity Database. The Washington Post (1/31, A6, Pincus, 744K) reports, "Pentagon officials say their newest intelligence agency, the Counterintelligence Field Activity, is finding 'irregularities' in about one of every 100 reports of suspicious activity that were entered into its database of possible terrorist threats to Defense Department personnel or facilities. … The Pentagon considers 'irregularities' to be reports involving people or groups that have remained in the database too long -- more than 90 days -- without being verified as representing real threats. In some cases, the review has shown they should not have been included in the first place. Defense officials declined to say how many Talon reports have been placed in the CIFA database, known as Cornerstone, or the number of improperly kept reports identified so far in the ongoing review." CIFA Director David A. Burtt II "said his staff members now review every Talon report that comes in. Those concerning demonstrators 'are out altogether...and we are double-checking all the others,' he said during a recent interview at his Crystal City office."

Newly-Released Zawahiri Tape Taunts Bush, Warns Of New Attack. The CBS Evening News (1/30, lead story, 3:00, Schieffer) reported, "It was a chilling moment and a day of chilling moments in the war on terror. Al Qaeda's number-two man Ayman al-Zawahiri showed up in one of the videotapes and on the eve of the President's State of the Union message called the President a butcher. And he reminded one and all that his leader Osama bin Laden is planning an attack on the United States. The very existence of this tape carried with it another message that al-Zawahiri is still alive and that when US forces attacked that village in Pakistan they did not get him." CBS (Stewart) added, "The voice was taunting, angry, and unmistakable. Within minutes of its release, US intelligence officials confirmed it was Ayman al-Zawahiri and it required no interpreter to tell he was hurling personal insults at the President of the United States."

ABC's World News Tonight (1/30, story 5, :45, Ross) reported, "The tape is authentic, featuring a feisty, and at times angry Zawahiri. In a straight tone, Zawahiri said God would determine when he died, not President Bush. 'If my time has not come,' he said, 'then you and all the forces on earth, all human beings cannot advance my fate by one second.' Zawahiri referred extensively to the January 13th US airstrike in Pakistan that was meant for him, but killed at least a dozen civilians and four of his closest deputies. 'My first message is to the butcher of Washington, Bush,' he said.

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'Not only are you defeated, you're a liar and a failure,' he says. In a direct taunt to President Bush, Zawahiri says, 'Bush, do you know where I am? I am amidst the Muslim masses, enjoying their support, their care, their generosity, their protection.'"

NBC Nightly News (1/30, story 3, 2:00, Mitchell) reported, "Intelligence officials tell NBC News there is no obvious signal in the message to launch an attack. Instead, they see it as a propaganda campaign aimed at the American people and al Qaeda followers. Tonight, the White House said Zawahiri appears frustrated and angry. But many of the President's own terror experts disagree, telling NBC News it shows an al Qaeda leader more confident than ever."

Reuters (1/31) notes "the video mentioned a call for a truce issued by al Qaeda leader Osama bin Laden in an audio tape Al Jazeera said was recorded in January." CNN's The Situation Room (1/30, Ensor) said that after the attempt to kill Zawahiri, al Qaeda wants to show "that they're still there, they're still capable of putting out pronouncements, they are still defiant of the United States and the international community. So in that sense, there's a propaganda victory for al Qaeda."

Knight Ridder (1/31, Allam) reports, "The message, part rallying cry for the Islamic world and part warning to the West, was the third al-Qaida message broadcast within a month. Intelligence analysts have said that the flurry of tapes could signal an impending attack but also could be a new propaganda campaign aimed not only at Muslim audiences, but also at Americans." The Los Angeles Times (1/31, Chen, 958K), New York Times (1/31, Fattah, 1.19M), Washington Post (1/31, A1, Whitlock, Pincus, 744K), Washington Times/AP (1/31, El-Majd) and AFP (1/31) run similar reports.

Al Arian Prosecutors To Seek Jurors Able To Process Complicated Evidence. The Tampa Tribune (1/31, Silvestrini) reports, "If Sami Al-Arian receives another trial, prosecutors want to make sure the jury is smart. After the government's failure to obtain convictions against Al-Arian and three co-defendants, critics theorized that the prosecution had put forth a case that was too long and complicated for jurors to understand. … Prosecutors on Monday submitted proposed changes to the questionnaire used to pick the first jury. Among changes suggested was a proposal to question potential jurors about whether they can process complicated evidence." The Tribune adds, "There has been speculation that a new team of prosecutors would be assembled for another trial. Monday's filing seems to indicate the same prosecutors…would continue with the case."

Israeli Woman Angry She Was Not Called To Testify About Daughter's Murder By PIJ. The St. Petersburg Times (1/30, Martin, Laughlin) reports, "Last summer, Miriam Ben-Ishai planned to testify at the trial of Sami Al-Arian" about "how she felt four years ago when she heard that an Islamic Jihad gunman had killed her 16-year-old daughter Shoshana." But "she got a call saying she would not be needed as a witness. Al-Arian had admitted his guilt, the Ben-Ishais say they were told. Not until Jan. 22…did Miriam Ben-Ishai learn that almost the opposite was true." The Ben-Ishais "are angry. They are convinced the jury might have decided differently if it had been allowed to hear about the family's grief. And they wonder how the U.S. government could have lost such an important case." The Tribune notes, "A few months after Shoshana's death, Isaac Ben-Ishai said, FBI agents interviewed him and his wife," and "agents visited the couple again in early 2003, about the time Ashcroft announced Al-Arian's indictment. Last February, Tampa's FBI office notified them by mail they were among potential witnesses in the trial due to start last spring. … Then someone…told them Al-Arian 'admitted being guilty' and Miriam would not have to testify. The confusion could have been due to the Ben-Ishais' unfamiliarity with legal terms. Soon after the trial began, lawyers for Al-Arian and three co-defendants agreed to a 'stipulation of fact:' Shoshana was killed by 'a person associated with the Palestinian Islamic Jihad.'"

Al Masri Trial Judge Downplays Burglary; Defense Makes Closing Statement. BBC (1/30) reports on its Web site, "The judge in the trial of alleged race hate cleric Abu Hamza al-Masri has dismissed conspiracy theories after he was burgled over the weekend. Mr Justice Hughes told the jury at the Old Bailey trial to forget newspaper reports about the incident," during which a laptop computer was stolen from his home. BBC adds, "In its closing speech, the defence said the prosecution had not proved that the cleric had incited anyone to murder. Defence counsel Edward Fitzgerald QC told the jury that the defendant's speeches may appear deeply offensive at times - but offensiveness did not make them a crime. … 'There was a wide gap between what he talked about as theoretically justified in principle and what he was actually asking his audience to do,'" Fitzgerald said.

HOMELAND RESPONSE:

Flight Attendants Protest Lifting Of TSA Ban On Scissors. The Washington Times (1/31, Glanz, 90K) reports, "Flight attendants yesterday began a campaign to urge lawmakers to restore a ban that kept passengers from taking scissors and screwdrivers on airplanes." Members of the Association of Flight Attendants "were at Ronald Reagan Washington National Airport and 22 other US airports handing out leaflets to passengers outlining objections to the

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Transportation Security Administration's decision last month allowing scissors with blades up to 4 inches long on planes. … The TSA changed the list of prohibited items because the agency wants to spend more time searching for bombs." The Times adds, "The TSA has received support from airlines. The Air Transport Association, a trade group representing major carriers, said screeners should focus on weapons capable of causing the greatest damage." David Castelveter, a spokesman for the group, said, "We certainly respect the flight attendants' perspective on cabin safety, but it's not scissors that are bringing down airplanes today."

Bush To Nominate Basham To Head CBP. The Washington Times (1/31, Seper, 90K) reports, "President Bush will nominate two veteran federal law-enforcement officials to head US Customs and Border Protection (CBP) and the US Secret Service, key offices within the Department of Homeland Security. Homeland Security Secretary Michael Chertoff said W. Ralph Basham, the director and 29-year Secret Service veteran, will be named to serve as CBP commissioner, and Mark Sullivan, a 23-year Secret Service veteran, has been picked to head that agency." Chertoff said, "Both men are vastly experienced and highly decorated members of the federal law-enforcement community, who have each made significant contributions to our nation's security." I like that I messaged you from four feet away and James walked across the whole office.

The New York Times (1/31, Lipton, 1.19M) reports, "In the post, Mr. Basham would oversee more than 41,000 employees who patrol the nation's borders, inspect imported cargo and screen foreigners arriving at the nation's airports, seaports and land border posts. The agency also has more than 250 aircraft, the largest law enforcement air force in the world."

Expedited Removal Expanded To Northern Border. The Washington Times (1/31, 90K) reports, "The Department of Homeland Security yesterday announced the implementation of its 'expedited removal' program to include illegal aliens apprehended along the US-Canadian border and all US coastal areas. 'With the Secure Border Initiative, we made a commitment to implement new tactics throughout the US in order to gain control of our borders,' said Homeland Security Secretary Michael Chertoff. 'We have seen success in deterring illegal border crossers since 'expedited removal' was implemented throughout the Southwest.'" Chertoff added, "Implementing this process along all borders will provide ... agents and officers with an additional tool to protect our nation's boundaries and quickly remove those who entered our country illegally."

Ohio Sheriff Bills DHS For Jailing Illegal Aliens. The Washington Times (1/31, Seper, 90K) reports Butler County, Ohio Sheriff Richard K. Jones "has billed the Department of Homeland Security $125,000 for the cost of jailing illegal aliens arrested on criminal charges in his county, saying he's angry that the federal government has failed in its responsibility to keep them out of the United States." He said yesterday "that although the government may not be legally obligated to pay the three bills he has sent since November, he intends to send similar ones every month until the federal government gains control of the border." Meanwhile, "US Immigration and Customs Enforcement (ICE) spokesman Dean Boyd said the agency 'repeatedly reached out to the Butler County Sheriff's Department' and, on multiple occasions, offered ICE enforcement resources to the sheriff in addressing the illegal alien population in Butler County."

Experimental Ricin Vaccine Appears To Be Safe, Effective. In a widely-distributed story, the AP (1/31, Schmid) reports, "Initial tests indicate an experimental vaccine for ricin works and is safe, raising the possibility it might one day offer protection from a poison that authorities fear could be a weapon for terrorists." Ricin "has a long history of use in espionage. The FBI is investigating a pair of incidents involving the poison in 2003." The AP notes, "Researchers led by Dr. Ellen Vitetta of the University of Texas Southwestern Medical Center in Dallas found a way to modify the toxic sections of the ricin molecule to disrupt its poisonous effect. … Five volunteers given a high dose of the vaccine all developed antibodies to ricin, four of the five given a moderate dose developed antibodies, as did one of the five given a low dose."

Illinois Man Indicted On Charges Of Lying To FBI About Hoax Terror Attack. The Chicago Tribune (1/27, Bush, 643K) reported, "A man with a string of burglary convictions was indicted Thursday on charges of informing FBI agents about a planned terrorism attack that turned out to be a hoax." Gilbert Romero "was paroled from state prison in February. In June, he spun an elaborate and false story to the FBI about a planned terrorism attack on the headquarters of a U.S. company, according to the indictment. Romero told agents the attack was to be carried out by an individual who was recruiting other terrorists for a strike on U.S. soil, the indictment states." The Tribune added, "The hoax that Romero allegedly sketched out involved enormous violence. In addition to destroying the company with a fertilizer and fuel bomb, Romero told agents the terrorists would gun down any police officers who intervened, the indictment alleges." The Chicago Sun-Times (1/27, Pallasch) noted, "The threat came to light while Romero was an inmate at Cook County Jail, where he was sent after being picked up for burglary while on parole, authorities said. The FBI was notified that Romero claimed to have information on a plan to blow up a building, so agents came in to interview him, said Assistant U.S.

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Attorney Edward Siskel." The AP (1/27) also reported on the indictment.

FBI, DHS Find No Terror Connection To Smoke Plume Reported By Airliner. The AP (1/31, Marquez) reports, "Federal investigators have found no evidence of a terrorist connection to an American Airlines pilot's report of a plume of smoke…near Los Angeles International Airport last fall, the FBI and Homeland Security Department reported Monday. The Nov. 26 Los Angeles-to-Chicago flight was climbing at about 13,000 feet over the Pacific Ocean when the pilot spotted the plume…American Airlines spokesman John Hotard said." Hotard added, "At no time did he feel his flight was targeted." The AP notes, "After landing in Chicago, the pilot and a passenger were interviewed by FBI agents," and "FBI Special Agent Richard Kolko said the bureau found nothing to substantiate any threats from terrorists or others, though its inquiry remains open. Working theories speculate that the plume might have been a model rocket, a flare or something similarly innocuous, the FBI has said."

After Katrina, Interior Department Offered FEMA Emergency Relief Help. Numerous reports yesterday cited a recently released document in which the Interior Department claimed that its offers of aid to FEMA in the aftermath of Hurricane Katrina were not taken advantage of. NBC Nightly News (1/30, story 7, 1:00, Williams) followed by offering "one more note on the aftermath of Katrina. … At Senate hearings today, there were more examples of the poor planning and communication that resulted in the chaotic response at all levels of government. One example: the Department of Interior had offered FEMA hundreds of boats, trucks and law enforcement personnel for search and rescue, but today a key FEMA official told the panel he was unaware of the offer until the Senate staffers showed him the relevant documents."

CNN's The Situation Room (1/30, Blitzer) reported, "Senators are reviewing new evidence that the Federal Emergency Management Agency or FEMA never accepted a critical and early offer of help. Documents obtained by CNN show the Interior Department offered resources to FEMA right after Katrina hit, including boats, water rescue personnel and helicopters. But the Interior Department says it wasn't called upon to help FEMA until late in September."

FEMA Official Says He Was Unaware Of Interior Department Offers. The AP (1/30, Jordan) reported, "At a hearing Monday , the chief of response operations at the Federal Emergency Management Agency told senators he was unaware that the Interior Department offered to send boats, planes, trucks and personnel to rescue Katrina's victims immediately after Katrina hit. 'Communications and coordination was lacking, preplanning was lacking,' FEMA official William Lokey testified."

Louisiana Pre-Katrina Emergency Preparedness Criticized. The Washington Post (1/31, A7, Hsu, 744K) reports, "Louisiana officials did virtually nothing to prepare to evacuate poor, sick or elderly people as required under a state emergency plan adopted months before Hurricane Katrina hit, according to newly released documents. State Transportation and Development Secretary Johnny B. Bradberry told Senate investigators that he was assigned the task in April, months before the Aug. 29 storm. But his department had no buses or drivers to execute the mission. 'We have done nothing to fulfill this responsibility,' Bradberry said, according to a transcript of a Dec. 21 deposition obtained by The Washington Post."

FEMA To House New Orleans Katrina Homeless In Apartments. USA Today (1/31, Konigsmark, 2.31M) reports, "The federal government, criticized for taking too long to provide trailers to those made homeless by Hurricane Katrina, will give some New Orleanians rent-free apartments instead. The Federal Emergency Management Agency plans this week to start housing displaced people in 325 apartments left empty when Katrina triggered a massive evacuation of the city. If the pilot program works, FEMA may house as many as 20,000 individuals and families in apartments. The apartments would be free for at least 18 months. … All of the apartments were storm-damaged but have or will be repaired before FEMA assigns them to people."

"Women Of The Storm" Call On Congress To Provide More For New Orleans. USA Today (1/31, Hall, 2.31M) reports, "Carrying umbrellas the same bright blue as the tarps that cover thousands of Katrina-ravaged homes, 140 women from the New Orleans area went to Capitol Hill on Monday and invited members of Congress to visit their ruined city. The 'Women of the Storm' said they wanted to pressure politicians to see the storm's devastation in person and send more recovery money south."

Katrina Donations Being Put To Use, But Progress Hard To See. NBC Nightly News (1/30, story 6, 2:00, Williams) reported on "the money trail after Katrina. Last week in the Ninth Ward neighborhood of New Orleans, so many people there told us it was as if it was the day after Katrina, because so little has been done. Many of the same Americans who gave so much money to charities after Katrina -- a record $3 billion -- are right about now wondering where it all went, and why more hasn't been done?" NBC (Myers) added, "Today in New Orleans, the Red Cross delivers food to devastated neighborhoods. Volunteers still are serving 14,000 meals a day. In Biloxi, Mississippi, today, storm victims stop by a Salvation Army center for free supplies, ranging from infant formula to clothing. So far, the Red Cross and five other charities have received the largest

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amount of donations, have spent 71% of the money collected. The largest single expense, financial aid for 1.3 million families, who received about $1,000 each. … The Bush-Clinton Katrina Fund says its money will go to the colleges and universities devastated by the storm, faith-based groups, and foundations dedicated to rebuilding the three states. But so far, little money from that fund has actually been dispersed because officials say they're waiting for requests. With all the devastation and so little visible progress, some argue that Americans who gave so generously should have gotten more for their money by now. Still, the reality is that the amount of money private charities have to spend on rebuilding at best a few hundred million dollars is a drop in the ocean. The federal government has designated $85 billion, and many believe even that won't be enough."

WAR NEWS:

Rice Pledges US Will Not Neglect Afghanistan. AFP (1/31) reports, "The United States vowed to avoid its past mistake of neglecting Afghanistan. … 'We made the mistake once before of leaving (neglecting) Afghanistan,' US Secretary of State Condoleezza Rice said during a press conference with Afghan President Hamid Karzai. Not only did Afghans pay the price of such a policy but also Americans who were attacked by the Afghanistan-based al-Qaeda terror network on September 11, 2001, she said. 'We're not going to make that mistake again' said Rice, standing beside Karzai."

New Compact Provides Framework For International Aid To Afghanistan. The New York Times (1/31, Gall, 1.19M) reports Afghanistan "is expected to sign an agreement for an ambitious five-year plan for social, economic and political change with more than 60 donor countries at a two-day donors' conference in London that begins Tuesday. Eager to secure an international commitment to Afghanistan's future…Karzai and his government have sought long-term strategic and economic agreements with the United States and the European Union. The plan, called the Afghan Compact, pledges development and changes to turn the country into a functioning democracy and an economically viable state. It would replace the United Nations-sponsored Bonn accords, which laid out the first political goals for a post-Taliban Afghanistan." Rice "is expected to announce a new pledge from the United States as Afghanistan's major donor at the conference in London, which is being led jointly by Prime Minister Tony Blair and Mr. Karzai."

The Washington Post (1/31, A12, Witte, 744K) reports Afghan officials "are expected to point to the progress that has begun to remake Afghanistan: new highways, disarmed militias, an elected president and parliament, and schools open to both boys and girls. But they will also need to respond to criticism from people…whose perception of a wide gap between promises and results is shared by many Afghans. Although billions of dollars have been spent, sentiment is growing that much of the aid has benefited officials and a small, wealthy elite, leaving scraps for the millions who remain in dire poverty. More than a third of rural families lack enough food for at least part of the year. Life expectancy is only 45; infant and maternal mortality are as high as in the poorest African countries. And the female literacy rate -- below 20 percent nationwide, less than 1 percent in some provinces -- remains the world's lowest."

US Looking For Increased Military Support From NATO In Afghanistan. The Christian Science Monitor (1/31, Winter, 61K) reports, "The United States, which is providing the bulk of the foreign aid and military muscle to Afghanistan, is hoping that more of the mission can be shouldered by the international community - particularly NATO members. It is the military component that may prove to be the most frustrating and troublesome for the US because at least one NATO ally is showing signs of reneging on its promise. … Canada is sending 1,250 troops to Kandahar Province next month. On Thursday the British government committed to sending 3,300 paratroopers to take over Helmand, a Taliban stronghold and the top poppy-producing province. However, Holland is rethinking its promise to replace US troops in Uruzgan. The Netherlands, a NATO signatory, has been slated to send up to 1,100 of its soldiers to Uruzgan, the home of Taliban leader Mullah Omar and one of the country's most dangerous provinces. Many Dutch parliamentarians are having second thoughts after watching Afghanistan experience a sharp rise in insurgent violence, that has claimed 1,600 lives - making last year the deadliest since the Taliban's ouster in 2001."

Iraqi National Security Advisor Predicts Most US Troops Will Be Gone In Two Years. The New York Times (1/31, Filkins, 1.19M) reports Mowaffak al-Rubaie, Iraq's national security adviser and the chairman of a joint Iraqi-American committee planning the transfer from American to Iraqi troops, "said the number of American and other foreign soldiers here would probably fall to below 100,000 by year's end and that an overwhelming majority could be out in two years. The statements…give the strongest indication yet that the Bush administration is preparing to carry out significant reductions in American forces over the current year. There are now about 160,000 foreign troops in Iraq, about 140,000 of them American." The Times continues, "In interviews, several State and Defense Department officials said the assessment by the Iraq and Afghanistan Joint Transition Planning Group was focused not

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on the timing of troop withdrawals but on the mechanics of making the switch from a large military presence to a more traditional relationship run by American Embassies, and how to do that while maintaining Washington's political leverage but at far less cost. Mr. Rubaie said that while there were plans for withdrawal, the timing of the reductions is contingent on conditions on the ground. … Adding, 'By the end of 2007, the overwhelming majority of the multinational forces will have left the country.'"

Iraq Reconstruction IG Blames Insurgency For Depressing Progress. The Wall Street Journal (1/31, Dreazen, 2.11M) reports, "Poor oversight and security woes are keeping Iraq's electricity, water and oil production far below prewar levels despite the infusion of billions of dollars in American money, according to a new audit by the Bush administration's Iraq rebuilding watchdog. The report by Special Inspector General for Iraq Reconstruction Stuart Bowen raised questions about what shape Iraq will be in when the administration winds down its rebuilding effort later this year. According to the report, shortcomings were acute in the oil sector, the mainstay of Iraq's economy. Exports haven't come close to preinvasion predictions, the report said. … The report attributed many shortcomings to mismanagement, corruption and policy shifts that moved billions of dollars from rebuilding to tasks such as training Iraqi security forces. Those factors have created a 'reconstruction gap' between the number of projects originally planned and the number that will be carried out, with just 36% of the 136 water-related projects and 70% of the 425 electricity-related projects targeted for completion."

Asked on PBS' NewsHour (1/30, Ifill) to comment on the "reconstruction gap" he cites in his report, Bowen said, "The reason for the reconstruction gap. which is an observation of a reality, not an alarm bell, is the fact that we are confronting an insurgency that we didn't anticipate, at least the level of lethality. This is…a reconstruction program performed virtually under fire. And that's required reprogramming of money that was initially intended for reconstruction, for bricks and mortar, to security -- a reprogramming that I fully support. … The money that we've allocated for reconstruction is going to get the Iraqi system off to a good start towards rehabilitation."

Bowen Seeks Increased Infrastructure Spending. The Washington Post (1/31, A13, Finer, 744K) reports Bowen "has called for money beyond $18.4 billion originally earmarked, saying postwar funds will be exhausted by the end of 2006 with many projects likely to be unfinished. … 'The need for more funding has reached a critical point,' Bowen wrote. 'There is a compelling basis to increase support for sustainability.' The report, and an audit released separately by Bowen's office Monday, concluded that the uncertainty of funding that would allow projects to be continued and infrastructure maintained could disrupt a smooth transition if the United States hands off reconstruction responsibilities to the Iraqi government this year, as projected." The Post notes, "while foreign donors, along with the International Monetary Fund and the World Bank pledged more than $13 billion toward that effort during an October 2003 conference in Madrid on aid to Iraq, much of the money remains undelivered."

Bowen Challenges Reports Of "Pervasive Fraud." Asked if there is "an end in sight for the U.S. role in reconstruction," Bowen replied, "2006 will be a year of transition. Politically we've already seen that. Economically it's coming. We've announced an audit to look carefully at the transition planning by U.S. authorities in Iraq. … I believe that if pervasive fraud was present in Iraq, we would have identified it and brought it to light. But what we have in a chaotic environment, cash-heavy environment, a few bad actors that have sought to take advantage of a difficult situation."

Audit Finds US Contracting Procedures Proved Impractical In Iraq. The New York Times (1/31, Glanz, 1.19M) reports, "A sweeping examination of thousands of contracts that the United States underwrote with Iraqi money has provided the most comprehensive look yet at the confusion, waste and lack of accountability in rebuilding and training programs during the first years of the American-led occupation, say the Iraqi finance minister and a retired American officer who led an investigative arm of the audit. The effort, which is being undertaken by a contracting office in Baghdad that reports to the United States Army and which has not previously been disclosed, began in March 2005 and is close to completion. … The audit of about 9,000 contracts worth at least $5.8 billion in Iraqi oil money and assets seized from Saddam Hussein's government was undertaken to determine how much of the money originally set aside for the work should ultimately be paid." The examination "exposed a system riddled with problems, like projects that were assigned but never carried out and Iraqi subcontractors who did not know they had been awarded jobs, the American officer, Scott Meehan, a retired Army major, said yesterday." Ali Allawi, the Iraqi finance minister, "said the American administration brought with it a contracting procedure that may have worked in the orderly environment of the United States. 'Once you brought it in the context of Iraq,' Mr. Allawi said, 'it fell flat on its face.'"

Administration Expected To Request Additional $2 Billion For Reconstruction. The Washington Times (1/31, Scarborough, 90K) reports, "The Bush administration is considering asking Congress later this year for at least $2 billion in new reconstruction money, primarily for maintaining completed Iraqi facilities. Administration officials say the additional funding is needed to prevent completed projects in

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Iraq from falling into disrepair while the new government tries to establish a steady flow of revenue from oil and other sources to sustain the nation's infrastructure. … Congress already has approved $24 billion for Iraq reconstruction, and some speculated that the White House would not ask for more. But in recent weeks, it has become evident that Iraq does not have the financial ability to sustain all its new properties, said officials familiar with the internal discussions.

Poll Finds 47% Of Iraqis Approve Of Attacks On US Soldiers. Knight Ridder (1/31, Brown) reports, "A new poll found that nearly half of Iraqis approve of attacks on U.S.-led forces, and most favor setting a timetable for American troops to leave. … 47 percent of Iraqis approve of attacks on American forces, but there were large differences among ethnic and religious groups. Among Sunni Muslims, 88 percent said they approved of the attacks. That approval was found among 41 percent of Shiite Muslims and 16 percent of Kurds. Ninety-three percent of Iraqis oppose violence against Iraqi security forces, and 99 percent oppose attacks on Iraqi civilians." Knight Ridder adds the poll "also found that 80 percent of Iraqis think the United States plans to maintain permanent bases in the country even if the newly elected Iraqi government asks American forces to leave. Researchers found a link between support for attacks and the belief among Iraqis that the United States intends to keep a permanent military presence in the country. … Only 39 percent of Iraqis surveyed thought that Iraqi police and army forces were strong enough to deal with the security challenges on their own, while 59 percent thought Iraq still needed the help of military forces from other countries. Seventy percent of Iraqis favor setting a timetable for U.S. forces to withdraw, with half of those favoring a withdrawal within six months and the other half favoring a withdrawal over two years." The poll "was to be published Tuesday by WorldPublicOpinion.org, a Web site that reports on public opinion from around the globe. The survey was conducted Jan. 2-5, with a nationwide sample of 1,150 Iraqis from country's main religious and ethnic sects."

Anti-IED Efforts Have Become To Priority For US Military. ABC's World News Tonight (1/30, story 3, 2:00, Vargas) reported IEDs are the "single-greatest cause of death of soldiers inside Iraq. Last year, insurgents fired off 10,000 of these. Ending roadside bombings is now a primary mission of the American military. … The Pentagon has created a $3.5 billion IED task force. … Insurgents have grown increasingly creative in hiding the IEDs, hiding them in garbage, potholes, and fake concrete blocks. They can use cell phones, children's toys and walkie-talkies to set them off. The military has developed high-tech tools, from small robots to a massive, new mine sweeper called the 'Buffalo' to try to clear away IEDS. But the task force's most important work is forensic investigation, piecing together bomb fragments, searching for clues about who is making them."

The Christian Science Monitor (1/31, Sappenfield, 61K) reports, "One of the most dangerous places for US troops in Iraq is in their own trucks. … IEDs account for more than half of all American injuries or deaths in combat. The weapon is so primitive that military bomb-squad schools once saw them as little more than the work of kids and miscreants. Now, troops bolt extra armor to their Humvees, and new arrivals receive IED awareness training. Last week, the Pentagon even announced that its IED task force would become permanent, one of several recent moves that suggests the issue is becoming a greater priority."

New Polytrauma Centers Treat Wounded US Soldiers. The New York Times (1/31, Eckholm, 1.19M) reports, "Thousands of miles from the battlefield, intricate medical choices have become routine here, at one of four special rehabilitation centers the government created last year to treat the war's most catastrophically wounded troops. … With their concentrated batteries of specialists and therapists, these centers are developing a new model of advanced care, a response to the distinctive medical conundrum of the Iraq war. With better battlefield care and protective gear, the military is saving more of the wounded, yet the insurgents' heavy reliance on car bombs and buried explosives means the survivors are more damaged — and damaged in more different ways — than ever before. To describe the maimed survivors of this ugly new war, a graceless new word, polytrauma, has entered the medical lexicon. Each soldier arriving at Tampa's Polytrauma Rehabilitation Center, inside the giant veterans hospital, brings a whole world of injury. The typical patient…has head injuries, vision and hearing loss, nerve damage, multiple bone fractures, unhealed body wounds, infections and emotional or behavioral problems. Some have severed limbs or spinal cords."

ABC's Woodruff, Vogt Show Signs Of Improvement. ABC and NBC opened their nightly news broadcasts with updates on the condition of ABC anchor Bob Woodruff and cameraman Doug Vogt. ABC's World News Tonight (1/30, lead story, 3:20, Vargas) reported, "They are showing signs of improvement after suffering serious head injuries during a roadside bombing. Bob and Doug were evacuated by helicopter, reaching a hospital in the Green Zone 37 minutes after the blast. They were whisked by helicopter again, to the US military hospital, where they underwent surgery. Then, they were flown to the American military hospital in Landstuhl, Germany." ABC (Shud) added, "There were positive signs today. Bob responded to stimuli in his hands and feet, and briefly opened his eyes. I was able to

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meet and speak with Doug. He was awake, and alert, and joking. That gave us a chance to smile today."

The CBS Evening News (1/30, story 3, 2:00, Schieffer) reported, "According to sources inside ABC News and the military, Woodruff's brain is badly bruised in two places. Military physicians removed part of his skull to relieve the swelling. The explosion broke his collar bone, shoulder and at least a few ribs. Vogt suffered a fathered skull, pieces of shrapnel lodged in his head. … For journalists, Iraq has become the deadliest war ever: at least 61 killed in just under four years, compared to 66 killed in the 20 years of Vietnam."

NBC Nightly News (1/30, lead story, 2:30, Maceda) reported, "Landstuhl Hospital outside Frankfurt, one of the US's largest. Inside, Bob Woodruff and Doug Vogt are under heavy sedation in the intensive care unit, in stable but serious condition. … Woodruff and Vogt were wearing protective armor, and helmets. Doctors here say it probably saved their lives."

The New York Times (1/31, Landler, 1.19M) reports, "The explosion occurred as Mr. Woodruff and Mr. Vogt were riding in the Iraqi vehicle near Taji, a tense area northwest of Baghdad. They had been part of a news team accompanying units of the Fourth Infantry Division and had initially traveled in a United States Army armored Humvee. Before the attack, they switched to the more lightly armored Iraqi vehicle, the network reported."

The Los Angeles Times (1/31, Gold, Moore, 958K) reports Lt. Col. Barry Johnson, a U.S. military spokesman, "said he knew of no other casualties in the attack."

The USA Today (1/31, Johnson, 2.31M) reports ABC News says the weekend attack…will not derail any of its game plans for World News Tonight, including sending its anchors to hot spots to cover the news."

Military Field Hospital Played Vital Role. ABC and NBC both followed with reports on field hospitals in Iraq. ABC's World News Tonight (1/30, story 2, 2:00, Vargas) reported, "The US military hospital in Balad played a major role in keeping Bob alive. It is one of the most sophisticated battlefield hospitals ever created."

NBC Nightly News (1/30, story 2, 2:00, Miklaszewski) reported, "Military officials say it really is the best field hospital of its kind, performing brain surgery on an almost daily basis, with an overall survival rate of 96%."

ABC Upset By NYTimes Coverage Of Incident. The Washington Post's Howard Kurtz (1/31) writes, "ABC executives and journalists were angry about what they viewed as an insensitive front-page sub-headline in yesterday's New York Times that said, 'Field Reports Were a Ratings Strategy.' … Times Executive Editor Bill Keller said yesterday that 'the subhead was a poor choice of words, and I called David Westin today to express our regrets.'"

Al Jazeera Airs Tape Of Tearful Carroll Calling For Release Of Female Prisoners. Network news broadcasts juxtaposed al Jazeera's airing of a tape from Al Qaeda's Ayman al-Zawahiri with the release of a tape of freelance journalist Jill Carroll from captivity in Iraq; ABC linked the Carroll story to the story on the condition of its own injured journalists.

ABC's World News Tonight (1/30, story 4, :45, Vargas) reported, "There is news tonight about another journalist in Iraq," Jill Carroll. It is "difficult to hear what she is saying. But she is clearly crying." Al Jazeera "reported that she appealed for the release of all Iraqi women being held by US and Iraqi authorities."

The CBS Evening News (1/30, story 2, 2:00, Schieffer) reported, "It was a day for terrible tapes. The kidnappers of American reporter Jill Carroll released another videotape of her today." CBS (Palmer) added, "This second video from Carroll's captors broadcast on al Jazeera is dated January 28. In it, a tearful Carroll, wearing an Islamic head scarf, pleads for the release of all women prisoners in Iraq. This time she asks not only for those in US custody but those held by Iraq's Interior Ministry too. … It's believed there are seven women left in US custody, but it's not known how many may be in Iraqi jails. The Christian Science Monitor released a statement tonight saying that anyone with a heart would be distressed to see a young, innocent woman like Jill Carroll treated the way she was in that video and called on her captors to release her immediately into the protection of her family."

NBC Nightly News (1/30, story 3, 2:00, Williams) reported, "This was busy day on the Arab language cable television network al Jazeera. They aired two new videotapes of interest to Americans." NBC (Mitchell) added, "A weeping Jill Carroll, her head covered, appeared on al Jazeera and according to the network, pleaded for the release of all Iraqi women prisoners. Her voice can be heard only briefly under the voice of Al Jazeera saying 'hope for the families.' Why did the kidnappers release the tape?" John Brennan, former national counterterrorism center director: "It may be an attempt to show how powerful they are, but it does the exact opposite. What they've done is to prey upon an innocent American female journalist and to put her in front of a camera and to try to intimidate the administration and the American public."

The New York Times (1/31, Worth, 1.19M) reports Al Jazeera "The American military freed five Iraqi women from detention last week, but military officials said the decision had no relation to the kidnappers' demands."

The Washington Post (1/31, A12, Finer, 744K) notes, "Since her abduction, Iraqi politicians, representatives of news media and Islamic organizations, and members of her family have pleaded for her release."

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Defense Lawyer Says Saddam Will Refuse To Appear In Court Tomorrow. The CBS Evening News (1/30, story 4, :45, Schieffer) was the only network news broadcast to report that "in Iraq today, Saddam Hussein's top defense lawyer said Saddam will refuse to appear in court on Wednesday when his trial is supposed to start up again. This follows an in-court shouting match yesterday between Saddam and the trial's new chief judge, who eventually ordered Saddam, another defendant, and a defense lawyer out of the room."

Australian PM Tied To Oil-For-Food-Scandal. The Financial Times (1/31, Tucker) reports, "The official investigation into whether Australia's monopoly wheat exporter paid A$300m ($225m) in bribes to Saddam Hussein's regime has unearthed evidence drawing John Howard, prime minister, into the alleged scandal for the first time. The Commission of Inquiry, which is probing allegations that AWB paid kickbacks to Iraq under the discredited United Nations oil-for-food programme, released a letter written by Mr Howard in which he sought to work 'closely' with the wheat exporter, just weeks before the company's chief executive visited Baghdad to negotiate illicit payments to the Saddam regime." Howard "wrote to Andrew Lindberg, AWB chief executive, in July 2002, as Iraq was threatening to cut imports of wheat from Australia. The letter ended: 'In view of the importance of the matter, I suggest the government and AWB remain in close contact in order that we can jointly attempt to achieve a satisfactory outcome in the longer term.' Soon after, Mr Lindberg went to Iraq accompanied by officials from Australia's Department of Foreign Affairs and Trade. According to evidence presented to the inquiry, it was during this visit that Mr Lindberg agreed to pay $2m to the Iraqi regime that was to be disguised in an inflated wheat contract."

Bird Flu Death In Iraq's Kurdish Region Confirmed. The New York Times (1/31, Rosenthal, 1.19M) reports, "A 15-year-old Iraqi girl has died of bird flu, Iraqi and international health officials said yesterday, indicating the arrival of the disease in another country — one that, in its war-torn state, may be ill prepared to control its spread. … The girl, Shengeen Abdul Qadr, died this month in Sulaimaniya, in the Kurdish region of northern Iraq, three days after touching a dead bird infected with the virus, the Iraqi health minister said yesterday. Her uncle, who died last week, is presumed to have succumbed to the disease as well, although test results are pending. A serious bird flu outbreak has killed four people and hundreds of thousands of birds in the Kurdish part of neighboring Turkey during the past six weeks. With trade routes for trucks and mules crisscrossing national borders in a large Kurdish area, health officials have been warning that it was only a matter of time before the virus spread."

Clinton Administration Defended Use Of Force Against Iraq. In its "History Lessons" column, the Washington Times (1/31, 90K) excerpts a February 16, 1999 Defense Department briefing during which Assistant Defense Secretary Kenneth Bacon was asked if the Clinton Administration planned to ask Congress for war powers permission. Bacon said, "Since 1991, we have flown tens of tens of thousands of sorties over Iraq to police the no-fly zone. In the overwhelming number of cases [the Iraqis] have not resisted or shown any signs of attacking coalition aircraft. Since the end of [Operation] Desert Fox in late December they have aggressively attacked U.S. aircraft. They have violated the no-fly zone. … They have turned on their radars; they have fired anti-aircraft batteries and also fired missiles at our planes over the last month and a half. We have responded properly against these attacks, and we will continue to respond properly against these attacks."

National Guard Reports Sharp Improvement In Recruiting. The New York Times/AP (1/31, Press) reports, "National Guard officials said Monday that recruiting had accelerated so much in recent months that they expected to expand the Guard even as the Bush administration proposes to shrink it. The National Guard Bureau, the Pentagon office that administers the Guard, issued a statement outlining a turnaround in recruiting and predicting that it would continue to rise this year. In the last quarter of 2005, the Guard signed up 13,466 recruits, above its goal of 12,605. It was the first time since 1993 that the Guard exceeded its goal in that period." The AP adds, "In his 2007 budget, to be sent to Congress on Feb. 6, President Bush would pay for a Guard of 333,000 soldiers; its Congressionally authorized limit is 350,000. Administration officials say that is not a cut, because the Guard now has 333,000 soldiers. On Monday, the Guard said it was 'aggressively working' to reach 350,000 troops by the end of the current budget year on Sept. 30."

Pentagon Wants To Cultivate New Breed Of Troops To Combat Terrorists. The Washington Times (1/31, Scarborough, 90K) reports, "The Pentagon wants the services to create a 'new breed of warrior' who can perform his own skill sets and take on the abilities of a special operation commando in fighting terrorists. A draft of the Defense Department's 2005 Quadrennial Defense Review (QDR) says these warriors will be 'able to move more easily between disparate mission sets while preserving their depth of skill in primary specialties. Future warriors will be as proficient in irregular operations, including counterinsurgency

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and stabilization operations, as they are today in high-intensity combat.' The move is an example of how the war to find and eliminate Islamic terrorists is permeating nearly every aspect of the Pentagon's long-range planning."

CORPORATE SCANDALS:

Jury Selected In Trial Of Ex-Enron Executives Lay, Skilling. Midway through their newscasts, all three networks reported on jury selection in the trial of ex-Enron executives Kenneth Lay and Jeffrey Skilling. ABC's World News Tonight (1/30, story 6, 2:00, Vargas) reported, "In Houston today, a jury was picked to try the men charged in one of the biggest corporate crime plots in history." Lay and Skilling "face 38 counts, including conspiracy and stock fraud." ABC (VonFremd) added, "Both the founder and former CEO of Enron walked the gauntlet of cameras today, accused of conspiracy in the biggest corporate scandal in American history. Is this a chance to clear your name?" Skilling: "It certainly is."

The CBS Evening News (1/30, story 6, 2:00, Cowan) added, "The tarnished brass once on top of Enron arrived looking nervous this morning, worried about finding 16 people in their hometown who don't hate them to the core. … Lay and Skilling are perhaps the most notorious men in Houston. Nearly 5,000 people lost their jobs when the energy giant collapsed. … Tomorrow, opening arguments begin. They are suspected to be just as fast as the jury selection, just six hours total."

NBC Nightly News (1/30, story 9, 2:00, Williams) reported, "Tonight in Houston, Texas, a jury has been seated" for the trial of "the two men who used to run Enron, and whose names may forever be synonymous with massive corporate fraud in which the victims were numerous small investors whose savings got wiped out." NBC (Thompson) asked, "Four years later, where are we in the fight against corporate crime? Stephen Cutler led the Security and Exchange Commission's enforcement division until last April, winning some $6 billion in penalties and return of ill-gotten gains as federal prosecutors racked up a string of high-profile convictions -- Worldcom CEO Bernie Ebbers, Adelphia founder John Rigas, and Martha Stewart. But Cutler, now in private practice, says the fight isn't over." Cutler "I think the vigilance that's required is akin to the sunscreen that you need to put on when you go to the beach, or the dental floss that you've got to use every day. You can't do it just once."

The Chicago Tribune (1/31, Lazaroff) reports, "For sheer emotion and spectacle, it should rank among the most gripping business-related trials in memory." The Tribune continues, "Opening arguments are scheduled to begin Tuesday in the prosecution of former Enron Corp. executives Kenneth Lay and Jeffrey Skilling, a day after a jury was seated." The Tribune adds, "Lay and Skilling, who were once celebrated in Houston and praised on Wall Street, are seeking to have their names cleared from the bankruptcy of an energy trading company that came to symbolize the greed and alleged dishonesty of an economic boom gone awry. … Enron investors and many of its 31,000 former employees are seeking retribution for money and pensions lost when the company's stock crashed in the fall of 2001 amid accusations of disguised loans, hidden debts and phony profits. … 'Enron is the last of the great scandals to go to trial,' said Charles M. Elson , director of the John L. Weinberg Center for Corporate Governance at the University of Delaware. 'It's basically the final chapter of the story of corporate scandals from the boom of the late-1990s.'" The Tribune notes, "In a process that took much of the day at Bob Casey U.S. Court House in downtown Houston, a jury of eight women and four men was selected to hear a trial that U.S. District Judge Sim Lake said should take less than four months. Lake emphasized to potential juror that the trial was a legal proceeding and not an opportunity to redress the losses suffered by former Enron employees. At the same time, he disregarded arguments by the defendants' lawyers that there had been too much pre-trial publicity to guarantee a fair hearing."

The AP (1/31, Hays, McClam) reports, "A court clerk swore in the 12 jurors and four alternates, and U.S. District Judge Sim Lake instructed them not to talk about the case during their service. He also ordered them not to read, listen to or watch news reports about the trial. … 'You have been through a rigorous selection process. You will be the judges of the facts of this case,' Lake said." The AP adds, "Further details about the jurors' backgrounds were not immediately available because their jury questionnaires, filled out weeks ago, have not been made public, and the judge conducted individual questioning of potential jurors on Monday at the bench. … Earlier in the day, the judge had told a pool of almost 100 potential jurors: 'I can assure you this will be one of the most interesting and important cases ever tried.'"

Reuters (1/31, Daily) reports, "The no-nonsense Lake, who questioned each of the 100 potential jurors individually to ferret out possible bias, told the panel he did not want people on the panel who were there to 'right a wrong or provide a remedy for those who suffered,' but who could fairly weigh the evidence in the case. … Thousands of Houston residents were thrown out of work and billions of dollars in retirement accounts were wiped out in Enron's downfall, and the company's name has since become synonymous with corporate greed."

The Los Angeles Times (1/31, Mulligan, Sanchez, 958K) reports, "Recent court filings indicate that the government plans to focus more on the defendants' allegedly false statements than on potentially complicated accounting details." The Financial Times (1/31, McNulty), USA Today (1/31, Farrell, 2.31M), Washington Post (1/31, D1, Johnson,

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744K), Wall Street Journal (1/31, Emshwiller, McWilliams, 2.11M) and New York Times (1/31, Barrionuevo, 1.19M) run similar reports.

2nd Circuit Questions Federal Prosecutor Over Ebbers Conviction, Sentencing. The AP (1/31, Neumeister) reports, "Federal appeals court judges Monday questioned the fairness of the conviction and 25-year sentence of WorldCom Corp. chief Bernard Ebbers in an $11 billion fraud." The AP continues, "As the 64-year-old Ebbers watched from a front-row seat, the 2nd U.S. Circuit Court of Appeals in Manhattan put a federal prosecutor on the defensive for the conviction last March of Ebbers on fraud and conspiracy charges. … 'There are many violent criminals who don't get 25 years in prison. Twenty years does seem an awfully long time,' Judge Jose Cabranes said." The AP adds, "Assistant U.S. Attorney William Johnson said Ebbers hurt millions of investors in an unprecedented accounting fraud that drove WorldCom into bankruptcy in 2002. It re-emerged under the name MCI Inc. Verizon bought MCI in a deal that closed earlier this month. … Reid Weingarten, a lawyer for Ebbers, asked the three-judge panel to order a new trial for his client on the grounds that he was not permitted to call key witnesses to refute government evidence. … The trial judge, Barbara Jones, refused to grant immunity to the witnesses because of the pending investigation."

The New York Law Journal (1/31, Hamblett) reports, "Weingarten told the 2nd U.S. Circuit Court of Appeals that the witnesses, all former WorldCom executives, 'were designated as targets' of the massive criminal WorldCom fraud investigation 'to keep them off the witness stand for us.'" The Journal adds, "The Ebbers defense team, fighting to win a new trial before Southern District Judge Barbara Jones, claimed the three witnesses, all former executives at the company, were in a unique position to provide 'powerful circumstantial evidence' that Ebbers' version of events about the largest accounting fraud in U.S. history was true -- and he was not aware of the fraud. … Jones refused to grant the trio immunity, making them reluctant to testify at all for the Ebbers defense, Weingarten said. … The government's claim that the three former executives were 'targets' or 'subjects' of the investigation, he said, amounted to the government 'manipulating' their absence from the trial." The Journal notes, "Weingarten's argument drew some intense questions for Assistant U.S. Attorney William Johnson from a panel that consisted of Judges Jose Cabranes, Barrington D. Parker, and by conference call, Ralph Winter. … 'I'm trying to understand where the government is on this,' Parker asked Johnson. 'For example, if we get eight to 10 years down the line and there are no charges, we'd be scratching our heads even more.' … The judges continually pressed Johnson to tell them whether the investigation was ongoing. … 'We are not out there actively continuing to find evidence to charge those witnesses,' Johnson said. … 'So they are not under investigation?' Parker asked. … The dialogue continued with Johnson saying the investigation was still open, but that no 'active' steps are being taken at this time."

The Washington Post (1/31, Masters) reports, "Another member of the three-judge panel, Barrington D. Parker Jr., also appeared skeptical. It was "curious," he said, that the investigation of Beaumont and the others 'fell into some black hole. That approach could really eviscerate the case law on unavailability [of witnesses], and the ability to manipulate could become problematic.'" The Post notes, "Federal prosecutors declined to comment after the brief hearing, and Ebbers, 64, said he was under strict orders from his lawyers not to talk about the case. Weingarten, though, was upbeat. 'Somewhere along the line, justice is going to be done in this case, and I hope it's here,' he said. 'We're optimistic and we have great issues.'"

CRIMINAL LAW:

Florida Man Pleads Guilty To Fraudulently Soliciting Katrina Donations. In a widely-distributed story, the AP (1/31) reports, "A man accused of collecting almost $40,000 in donations by falsely claiming he was flying Hurricane Katrina relief flights pleaded guilty Monday to fraud." Gary S. Kraser of Miami "created a Web site on which he told of evacuating people needing immediate medical attention. He provided vivid details, such as witnessing the electrocutions of dogs by downed power lines and saving the life of a 7-month-old baby who needed transplant surgery. He said he even 'tipped wings' with Air Force One during one flight. None of it was true, prosecutors said." The AP notes, "Most of the money was refunded after the FBI began investigating the scam." The Miami Herald (1/31, Weaver, 323K) adds, "Last October, FBI agents arrested the 50-year-old computer con man in what authorities were calling the country's first Internet charity fraud case involving the exploitation of Katrina victims." He "is scheduled for sentencing on April 13."

FEMA Managers Will Remain Jailed Until Bonds Posted. The AP (1/31) reports two FEMA managers "accused of taking kickbacks from a food services contractor will stay in custody until they post property bonds, a federal prosecutor said Monday." Assistant US Attorney Jan Mann "said Loyd Hollman's bond was set at $170,000, and Andrew Rose's at 'substantially more.' They will not have to put up cash, but must put up any property they own as collateral before being released, she said." The Rocky Mountain News (1/31, Montero) notes Mann "said plans to present an indictment to the grand jury could happen as early as this week."

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Ryan Prosecutors Expect To Rest After FBI Agent's Testimony Wednesday. The AP (1/31, Robinson) reports, "George Ryan's trial remained on hold Monday but prosecutors said they expected to rest their case Wednesday after jurors hear testimony from an FBI agent and see a group of video clips showing the former governor talking with reporters." The AP notes that the trial "went on hold Thursday when FBI agent Raymond Ruebenson took a leave for a family matter. … Ruebenson has spent years as the FBI case agent working on the government's Operation Safe Road investigation, which began by focusing on bribes paid in exchange for drivers licenses and expanded to encompass a wide array of political corruption in state government in the Ryan era." The Chicago Tribune (1/31, O'Connor, 643K) adds that the hospitalization of Lawrence Warner's lead attorney, Edward Genson, also has delayed the trial. "Even though Genson remained in the hospital Monday, U.S. District Judge Rebecca Pallmeyer expressed confidence the trial would resume Wednesday. … If Genson is healthy and testimony resumes Wednesday, the prosecution expects to rest its case by midday that day, said Assistant U.S. Atty. Patrick Collins. Testimony by the prosecution has taken four months."

Former Aide Testifies About Passing Contractor Funds To Campbell. The Atlanta Journal-Constitution (1/31, Scott, Warren, 430K) reports, "A trusted aide who lived in Bill Campbell's basement apartment testified Monday that he funneled money to the former Atlanta mayor to be used for gambling and taking girlfriends on trips. Dewey Clark sobbed repeatedly as he described his relationship with Campbell and how he bonded with the ex-mayor's family. He was the first witness in the federal corruption trial against Campbell to say that he saw a contractor pass money to him. … Clark testified that he funneled money from city contractor George Greene and strip club owner Michael Childs." The Journal-Constitution adds, "Clark also testified that Fred Prewitt, Campbell's friend and chairman of the city's Civil Service Board, passed cash to the former mayor. Prewitt 'told me he was going to put a roll [of cash] in the mayor's hand big enough to choke a goat.'"

Campbell Friend Testifies About Gambling Trips. WXIA-TV Atlanta (1/30, Carnes, Christensen) reports on its Web site from a story broadcast Monday, "Gabe Pascarella, a close friend of Campbell's, testified on behalf of the government about gambling trips he took with the former mayor. … Pascarella testified that he often used his personal credit card to pay for the trips made by Campbell, which Campbell often made with women other than his wife. Pascarella said Campbell usually reimbursed him with cash and that the former mayor would also use cash to play high-stakes poker game."

Judge Rules Only Prosecutors, Defense Will Know Identities Of "Mafia Cops" Jurors. The New York Post (1/31, Haberman, 624K) reports, "A Brooklyn judge yesterday said the names of jurors deciding the fate of the two reputed mob cops will not be kept a secret and that they have nothing to fear by being part of a Mafia trial. But, federal Judge Jack Weinstein also ruled that only prosecutors and lawyers for ex-NYPD detectives Louis Eppolito and Stephen Caracappa will know their identities." The Post notes, "The Brooklyn U.S. Attorney's Office asked for the anonymous jury because of the intense media coverage the case has received and, more importantly, because the duo is charged with using their position within the NYPD to divulge confidential information to the Luchese crime family."

Federal Officials Say 39 People Knew Of Minnesota School Shooting Plot. Knight Ridder (1/31, Ragsdale) reports, "Facts intended to heal may have instead reopened the wounds of those suffering from the Red Lake school shooting. Parents of those who died, as well as a survivor of the shooting, heard federal officials say on Monday that 39 people had some knowledge of Jeff Weise's plan to assault Red Lake High School before he carried it out last March 21. … And they were told that none of those people could be charged, because it is not against the law to know that a crime might be committed and do nothing about it." KRT notes, "About 40 people attended, including Steven Cobenais, recovering from severe facial wounds, and his family. Most appeared distressed and left quickly. … According to several family members, the federal officials, who included representatives from the FBI and the Bureau of Indian Affairs, reported that 39 people had some information that Weise was considering or planning the attack."

Federal Agents Raid Philadelphia Electrical Company. The Philadelphia Inquirer (1/31, Shiffman, 423K) reports, "Agents from the FBI, the IRS and the Department of Labor raided a South Philadelphia electrical company Saturday, officials said yesterday. Agents executed a search warrant at the offices of Dougherty Electric Inc., which is owned by Donald Dougherty, said FBI spokeswoman Jerri Williams. Williams declined further comment." The Inquirer notes, "Dougherty is a friend but no relation to John Dougherty, the business manager of Local 98 of the International Brotherhood of Electrical Workers who is considering a campaign for mayor of Philadelphia."

Gambino Associate Sentenced To Prison For Porn Site Scam. The New York Post (1/31, Haberman, 624K) reports, "The apple of John Gotti's eye is rotten to the core, said a Brooklyn judge who sentenced one of the Gambino crime family's top earners to nine years in prison

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yesterday for his role in a porn scam." Richard Martino "pleaded guilty last February to racketeering and mail and wire fraud for bilking $650 million from porn perusers in what Assistant Brooklyn U.S. Attorney Eric Komitee described as the 'most sophisticated Internet fraud' he has ever seen. Martino has admitted to luring visitors onto porn Web sites by promising the steamed-up surfers 'free tours.' Internet users would then be billed up to $90 when they gave their credit-card number. The racket netted him $230 million between 1996 and 2002."

Prosecutors, Lawmakers Embrace DNA Technology. The Christian Science Monitor (1/31, Richey) reports that legal analysts say "prosecutors and lawmakers who were once suspicious of the DNA challenges are now increasingly embracing the new technology as a backstop in the criminal justice system. … Of the 33 states that have passed laws establishing procedures for DNA testing, 12 have sunset provisions, which offer only limited time for DNA tests in cases where inmates have no more options for appeal. Such provisions were enacted in part out of concern five years ago that state courts might be flooded with appeals calling for expensive tests. But the flood hasn't happened, analysts say. In the meantime, the steady flow of exonerations has resulted in widespread public and political support for DNA testing. Opponents of sunset provisions say states should never enact a deadline that would prevent innocent people from proving their innocence. Innocence Project lawyers say it often takes months or years to locate evidence, investigate a past crime, and prepare the necessary legal arguments needed to convince a judge that a DNA test should be administered."

Harton Murder Case Goes Forward. The Washington Post (1/31, B5, Paley) reports, "Opening arguments are scheduled to begin as soon as today" in the trial of Melissa Burch Harton, accused of killing Natasha A. Bacchus. Harton has been charged with first-degree murder. Post says, "The killing took place during their 2005 spring break from Loyola College, where the two married women had met three years earlier when they began a doctoral program together in clinical psychology. Bacchus, of Stewartstown, Pa., had driven to Harton's home in Columbia to celebrate their completion of a major project." Bacchus was killed after an argument between her and Harton, the article says. The article also notes that the argument possibly involved allegations of romantic feelings on either Harton's or Bacchus's part for the other person.

Two Shootings In DC. The Washington Post (1/31, B2, Dvorak) reports, "Two teenagers were killed and three others were wounded in two shootings in the District early yesterday afternoon, police said. The first incident happened about 12:10 p.m. in the 500 block of Lamont Street NW. Delonte McCray Freeman, 19, died despite the efforts of a neighbor who tried to keep him alive. Two other teenagers were wounded. … The second shooting took place about 1 p.m. in the 4300 block of Fourth Street SE, when a group of people walking across the parking lot of St. Thomas More Catholic Church was approached by two gunmen, said Sgt. Joe Gentile, D.C. police spokesman. One youth, believed to be 16, was killed, and an 18-year-old was wounded, police said. Authorities, who did not release the name of the youth who died, said they were continuing to investigate the case."

Federal Court Denies Appeal Of Florida Death Row Inmate. The AP (1/31, Kaczor) reports, "A convicted murderer lost a federal appeal Monday, one day before his scheduled execution, but he had another pending, one of his lawyers said." The AP continues, "If that fails, Arthur D. Rutherford will appeal to the U.S. Supreme Court, which last week stayed the execution of another Florida death row inmate on an issue Rutherford also has raised, that the U.S. state's lethal injection procedure is cruel and unusual punishment. … 'We're just waiting to see what happens,' attorney Linda McDermott said." The AP adds, "The 56-year-old carpenter was convicted of killing and robbing Stella Salamon in 1985 at her home in Milton, Florida, where he had done repair work for her. She had been strangled or asphyxiated and her body was found in a bathtub. … The U.S. Supreme Court granted a last-minute stay of execution to Clarence Hill last week so the justices can determine whether the 11th U.S. Circuit Court of Appeals in Atlanta erred by denying him a chance to appeal the lethal injection claim."

CIVIL LAW:

USG Offers Trust To Pay Asbestos Claims. The Wall Street Journal (1/31, Brat) reports, USG Corp., a building-materials maker and asbestos defendant, said it "would create and fund a trust for personal-injury claims with $900 million in cash and a contingent note for an additional $3.05 billion." However, the article said, congressional legislation could pre-empt this settlement, canceling the contingent note. That legislation, "the Fairness in Asbestos Injury Resolution Act of 2005, would create a $140 billion trust fund to pay asbestos victims," the article said. Also, "The legislation would require insurance and reinsurance companies to contribute $46 billion to the fund, while companies facing asbestos liability would cover the bulk of the fund's cost." Also as part of the settlement, "USG said it will fully repay debtholders and trade suppliers with interest. Shareholders will receive rights to acquire one additional share for $40 for each share held. In 4 p.m. composite trading

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on the New York Stock Exchange, USG shares rose $15.93 to $95.78, setting a 52-week high." The article said shareholders are "pleased," while consumer group Public Citizen called the federal legislation "a backdoor attempt to erase billions of dollars in corporate liability for asbestos exposure."

CIVIL RIGHTS:

DOJ To Decide On Freedom For Former Officer In Louima Case. The AP (1/31) reports, "The Justice Department should decide whether a former police officer serving a five-year prison term in the jailhouse torture case of a Haitian immigrant can qualify for early release, a federal judge said Monday." The AP continues, "Lawyers for Charles Schwarz, 39, had argued their client was owed early release under a sentencing deal struck with prosecutors in 2002. … The former officer was convicted of lying to authorities about the Abner Louima case but avoided conviction on charges of violating Louima's civil rights. After Louima's arrest in a 1997 nightclub brawl, prosecutors say, Schwarz held Louima down while Officer Justin Volpe sodomized him with a broken broomstick. Schwarz maintains he wasn't there." The AP adds, "Prosecutors had agreed in 2002 to seek a 13-month reduction in Schwarz's sentence if he and his attorneys did not discuss the case. In March, prosecutors contacted the Bureau of Prisons and recommended reducing Schwarz's sentence to 47 months. Prison officials refused, saying the law allowed them to grant early freedom only to terminally ill prisoners. … Defense attorneys had asked the judge to honor the arrangement by voiding her original sentence and re-sentencing Schwarz to 47 months."

DOJ Asked To Probe Richmond Police Shooting. The Richmond (VA) Times-Dispatch (1/31) reports, "Community leaders today called for an open investigation into the circumstances surrounding the shooting by Richmond police of a man outside his North Side home early Sunday." The Times-Dispatch continues, "King Salim Khalfani, executive director of the NAACP Virginia State Conference, called on Police Chief Rodney Monroe to include both community activists and other law enforcement agencies in the investigation into the shooting. … 'The Justice Department is here now investigating the past five years of this nonsense,' Khalfani said of past police shootings. 'This will just add another case for them to look into.'" The Times-Dispatch adds, "Billy Thigpen III, 28, was shot once in the torso outside his home in the 3100 block of Napoleon Street about 3 a.m. Sunday after leading police on a short car and foot chase. … Richmond police said the officer, Everett Woolums, has been placed on administrative leave, as is department policy in any police shooting, while the mater is under investigation. … In a written statement yesterday, the department said that after the car and foot chase 'a struggle ensued and a round was discharged from the officer's service weapon striking the suspect in the chest area.'"

Kansas Police Chief Asks FBI To Take Over Excessive Force Probe. WIBW-TV Topeka (1/30) reports on its Web site, "The police chief in Kansas City, Kansas, is asking the FBI to take over the investigation into a racial discrimination complaint against his officers. Chief Ron Miller says the departments own investigation has been stymied because witnesses have stopped cooperating. The complaint involves actions taken by about 20 officers and six deputies who broke up a party in November. Officers allegedly used force, chemical spray, and racial and sexual slurs in breaking up the party. … The FBI has opened a preliminary investigation and will send the results to the U.S. Department of Justice to determine whether further investigation is warranted." The Kansas City Star (1/28, Cronkleton, 286K) noted, "The family denied that outside sources had influenced them, said Vickey Everidge, one of those who filed the complaint. The family had been cooperating with police and the National Association for the Advancement of Colored People, she said. … Jeff Lanza, an FBI spokesman, said the agency was aware of the alleged discrimination and had received a complaint from one of the victims. The agency, however, was waiting to determine whether to open an investigation until an outcome had been reached by Kansas City, Kan., police. … Lanza said he was not able to predict how long the preliminary investigation would take."

LAPD Chief Says Officer Who Fatally Shot 13-Year-Old Acted Within Rules. The Los Angeles Times (1/31, Winton) reports, "Los Angeles Police Chief William J. Bratton has concluded that the officer who shot 13-year-old Devin Brown last year acted appropriately — a decision that sets up a potential high-profile conflict with the city's civilian Police Commission, which plans to debate the matter today." The Times continues, "Bratton found that the shooting was a tragic but proper use of force by an officer who was protecting his life, according to department sources who spoke on condition of anonymity because they were not authorized to discuss the chief's decision before its release. … But the Los Angeles Police Commission will have the final word on whether the shooting by Officer Steve Garcia complied with department rules." The Times adds, "Commission President John Mack, who was sharply critical of the shooting before he took office, told The Times recently that the Brown shooting was the most important the panel has considered in years. For many longtime critics of the department, how the commission rules will be seen as a

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defining test of Mayor Antonio Villaraigosa's professed desire to have a tougher panel that is more independent of the chief than in the past. … Brown was shot and killed early Feb. 6 after leading officers on a brief car chase in South Los Angeles. … Garcia said he fired at Brown's car after the teenager accelerated in reverse toward the officer, making him fear for his life. A department probe backed Garcia's account, and prosecutors decided in December not to file charges against him."

ANTITRUST:

US Fines Japan's Elpida For Chip Price-Fixing. The AP (1/31, Goodin) reports, "Japanese computer chip maker Elpida Memory Inc. agreed to pay an $84 million fine and plead guilty to taking part in an international conspiracy that led to higher prices for personal computers, the Justice Department said Monday." The AP continues, "Elpida is the fourth manufacturer of dynamic random access memory, or DRAM, to admit its role in fixing the price of chips used in personal computers and other electronic devices. … 'We are gratified to bring to justice another member of the DRAM cartel, which is one of the largest cartels ever discovered,' said Thomas Barnett, the Justice Department's acting antitrust chief." The AP adds, "The four-year federal investigation, carried out by Justice officials in San Francisco, has so far netted $730 million in fines."

Reuters (1/31) reports, "According to the two-count felony charge filed in the U.S. District Court in San Francisco, Elpida conspired from April 1, 1999 to June 15, 2002 with unnamed manufacturers to fix the prices of dynamic random access memory, or DRAM, sold to certain computer and server manufacturers. … The customers directly affected by the price-fixing conspiracy were Dell Inc., Compaq Computer Corp., Hewlett-Packard Co., Apple Computer Inc., International Business Machines Corp. and Gateway Inc., the Justice Department said on Monday. … Elpida also conspired with an unnamed DRAM manufacturer to rig a bid for a lot sold to Sun Microsystems Inc. in March 2002, the Justice Department said."

The Red Herring (1/30) reports, "The Japanese memory chip maker became the fourth large company to admit its guilt in the ongoing probe by the U.S. Department of Justice. … Thomas Barnett, acting assistant attorney general, said the charge reflects a U.S. commitment to 'prosecute and deter cartels' that harm American consumers." The Red Herring adds, "In mid-October, Samsung Electronics, the largest producer of the chips, admitted its role in the conspiracy and agreed to pay a $300-million fine, the second-largest criminal antitrust fine in U.S. history. … Hynix Semiconductor of South Korea also pleaded guilty and paid $185 million, while Infineon Technologies of Germany paid $160 million. Four Infineon executives also pleaded guilty and were sentenced to four to six months in prison and paid $250,000 each."

Bloomberg (1/31, Alpeyev) also reports this story.

Microsoft Renews Efforts To Rebut EU Antitrust Concerns. The Financial Times (1/31, Buck) reports, "Microsoft is renewing its efforts to persuade the European Union's top antitrust regulator the company is ready to share sensitive information about its flagship Windows operating system with rivals." The Times continues, "A senior Microsoft legal representative tried on Monday to allay fears the group would take legal action against rivals that used its source code on licence." The Times adds, "This licensing is supposed to ensure other developers can design server software to work smoothly with Windows, and it is part of the European Commission's March 2004 antitrust ruling against Microsoft. But last month, the regulator formally charged the group for failing to comply with the order, and threatened to impose daily fines on it unless Microsoft changed tack. … In response, Microsoft offered to license parts of the Windows source code – the basic programming instructions at the heart of all software – and on Monday it said it was ready to go even further. … However, the Commission – as well as several Microsoft rivals – treated last week's offer to disclose source code with scepticism."

Minnesota Schools Get Windfall From Microsoft Settlement. The AP (1/31, Bakst) reports, "Minnesota schools will share $55 million they can use to buy new computers and software, thanks to a court settlement with Microsoft Corp." The AP continues, "While schools have known since 2004 that they had some money coming their way, the final amount was up in the air until recently. Gov. Tim Pawlenty said Monday that the technology vouchers have just started going out. … 'With the fast-paced changes in the field of technology, it is often difficult for schools to keep pace,' he said. 'This money will allow them to update, and in many cases, expand their technology, which in turn will help students learn and achieve at higher levels.'" The AP adds, "The amount each school gets depends on the concentration of poverty in their school districts. Some will receive only a few thousand dollars, while others, like Minneapolis and St. Paul, are in line for more than $6 million each. Districts have until 2012 to use up the vouchers. … The money is left over from a settlement to a class-action lawsuit in which Minnesota customers and businesses claimed the company was violating antitrust laws by overcharging for its Windows operating system and its Excel and Word programs. The company had denied overcharging, saying the prices on its products had dropped. … At the elementary school where Pawlenty detailed the payout, Principal Patricia Steingruebl was ecstatic to learn her school would be getting $55,000.

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She said the school now spends about $2,000 a year on new technology."

Fairmont Acquisition Another Deal In Lodging Industry. The Wall Street Journal (1/31, Sanders) reports, "The proposed $3.3 billion acquisition of luxury-hotel operator Fairmont Hotels & Resorts Inc. is the latest in a string of multibillion-dollar deals that began last year in the red-hot lodging industry, furthering the consolidation of key players in the lucrative luxury category. Toronto-based Fairmont yesterday confirmed it has agreed to a proposed all-cash deal with Los Angeles investment firm Colony Capital LLC and Saudi Prince Alwaleed bin Talal's Kingdom Hotels International. Colony and Kingdom will pay $45 a share and assume roughly $500 million in debt. The company will then be taken private. Investor reaction was muted. Fairmont shares were up 45 cents to $44.27 in 4 p.m. New York Stock Exchange composite trading." The Journal says, "Upon completion of a deal, the buyers intend to combine the nearly 100-year-old Fairmont brand with Singapore-based Raffles, which Colony acquired in July."

Arcelor Chief Says Mittal Lacks "European Cultural Values." The Wall Street Journal (1/31, Fleming, Glader) reports, "In an effort to rally European political support against Mittal Steel Co.'s unsolicited $24 billion bid, Arcelor SA chief executive painted his rival as a ruthless corporate raider lacking 'European cultural values' that also has a poor safety record and no credible long-term industrial strategy. … Arcelor CEO Guy Dolle declined to discuss specifics of how the company plans to fight off Mittal. It is too early to tell if another bidder could come forward to join with Arcelor as a white knight. In an interview yesterday, Mr. Dolle said some kind of cross-share holding or other financial maneuvers could happen with a steel maker such as Nippon Steel Corp., China's Shanghai Baosteel Group or South Korea's Posco. 'We have several possible actions,' he said. He added that Arcelor has not started discussions with other steel makers."

AIG Wins Temporary Restraining Order. The Wall Street Journal (1/31, Davies) reports, "A state Supreme Court judge in New York issued a temporary restraining order preventing private insurance agencies run by American International Group Inc.'s former chief executive, Maurice R. 'Hank' Greenberg, from trying to lure business away from the insurance giant he once led. Judge Herman Cahn's temporary order is in place until Thursday, when another hearing is scheduled. AIG sued the private insurance agencies Friday, alleging 'misconduct' in efforts to siphon business away from AIG. The agencies are subsidiaries of C.V. Starr & Co., a closely held firm that had ties to AIG for years. Mr. Greenberg was forced out of AIG last March in the midst of an accounting probe."

Commission Evaluating Potential Changes To Antitrust Laws. Inman News (1/30, Roberts) reports, "While the largest national real estate trade group mounts its defense against an antitrust lawsuit brought by the U.S. Department of Justice, a commission created by Congress is evaluating whether federal antitrust laws require remodeling." Inman continues, "The Antitrust Modernization Commission, formed in April 2004, is tasked to study 'whether the need exists to modernize U.S. federal antitrust laws,' and to seek input and prepare a report to Congress and the president that includes findings, conclusions and 'recommendations for legislative or administrative action.'" Inman adds, "The real estate industry is no stranger to antitrust complaints, and some industry participants have watched the Antitrust Modernization Commission's progress. The commission's focus is not industry-specific, though some topics that the commission is considering have relevance to the real estate industry. … For example, the commission has hosted discussions on the topic of the 'state action doctrine' provision of federal law, which extends some immunity to states for federal antitrust law violations. Such discussions are potentially relevant to measures that numerous state legislatures and real estate regulators have passed requiring real estate professionals to provide a minimum level of service to consumers while effectively banning some forms of real estate business models that do not provide these services. … These so-called minimum-service measures, backed by Realtor trade groups, have in several cases led the U.S. Justice Department and Federal Trade Commission to send out advocacy letters urging state officials not to pass the measures as they potentially could limit consumer choice and harm competition in the real estate industry. … Federal officials have opposed Realtor-backed minimum-service measures in Alabama, Missouri, Oklahoma and Texas, charging that the legislation was anticompetitive and anti-consumer, though legislators and governors in all four states passed the measures last year despite these objections, and other states are considering similar measures."

ENVIRONMENT/INDIAN AFFAIRS:

Schlumberger To Pay $11.8 Million For PCB Damage In South Carolina. Dow Jones (1/30) reports, "A unit of Schlumberger Ltd. will pay $11.8 million to federal and state agencies to compensate for the contamination of a creek, a lake and surrounding areas in South Carolina, the Justice Department said on Monday." Dow Jones continues, "The money will be used to clean up water in the vicinity of Lake Hartwell so that people have a

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better chance of catching uncontaminated fish and for other purposes, the government said. Schlumberger Technology Corp., based in Texas, will also pay another $8 million to $10 million to buy and remove two hydroelectric dams on Twelvemile Creek and to conduct stream restoration activities, the government said. … 'Schlumberger's payment to fund restoration by the federal and state trustees will be used for projects designed to compensate the public for the injury to the fishery and to the habitat from PCB contamination,' said Sue Ellen Wooldridge, an assistant attorney general at the Justice Department, in a statement. 'The company's agreement to purchase and remove the dams will directly improve the Twelvemile Creek ecosystem and provide significant environmental benefits for the affected communities.'"

The AP (1/31) reports, "The plant was identified as a federal Superfund site after it released PCBs into the creek - a tributary of the Twelve Mile River and Lake Hartwell - from 1955 until 1977 while owned by Sangamo-Weston. The current owner is Schlumberger Technology Corp., which assumed the liabilities of Sangamo-Weston. … The company will spend an additional $8 million to $10 million to purchase and remove two hydroelectric dams on the creek and conduct steam restoration activities, the release said."

Federal Regulators Consider Previously-Rejected Mine Safety Rules. The Washington Post (1/31, A3, Warrick, 744K) reports, "After one of the deadliest months for coal mining in years, federal mine regulators last week began formally considering safety improvements to help miners survive underground fires and explosions. Among the proposals: mandatory caches of oxygen tanks and breathing masks inside every coal mine. The idea may have struck some miners as familiar, because it was. A similar proposal was put forward by the same regulators six years ago, only to be scrapped by the Bush administration shortly after it took office. And the oxygen caches were not the only proposed safety improvement to be withdrawn." According to the Post, the Bush administration "abandoned or delayed implementation of 18 proposed safety rules that were in the federal Mine Safety and Health Administration's regulatory pipeline in early 2001, a review of agency records shows. At least two of the dropped proposals have now been resurrected in the aftermath of deadly accidents at the Sago and Alma mines in West Virginia."

Boehlert Blasts NASA Over Alleged Attempt To Silence Global Warming Scientist. The New York Times (1/31, Revkin, 1.19M) reports Rep. Sherwood Boehlert, chairman of the House Science Committee, "sharply criticized NASA yesterday after the agency's top climate scientist and several public affairs officers complained of political pressure intended to prevent public discussions of global warming." In a letter to NASA's administrator Michael D. Griffin, Boehlert wrote, "Good science cannot long persist in an atmosphere of intimidation." The Times notes that it "first reported the complaints on Saturday. The climate scientist, James E. Hansen, director of NASA's Goddard Institute for Space Studies in Manhattan, and several other National Aeronautics and Space Administration employees said Bush administration appointees at headquarters had demanded to review his lectures and publications in advance. Moreover, senior agency officials were to have had the right to stand in for him in interviews with reporters. 'NASA is clearly doing something wrong, given the sense of intimidation felt by Dr. Hansen and others who work with him,' Mr. Boehlert said in his letter."

EPA Agrees To Exempt Farms From Clean Air Laws. The New York Times/AP (1/31) reports the Bush administration "will exempt thousands of farms that raise poultry, cattle and hogs from heavy fines for fouling the air and water with animal excrement in exchange for data to help curb future pollution. The Environmental Protection Agency has signed agreements with 2,681 animal feeding operations in the egg, chicken, turkey, dairy and hog industries. They would be exempt from having to pay potential fines of up to $27,500 a day for violations either in the past or over the next four years." The EPA's Environmental Appeals Board "determined that the agreements were consistent with the Clean Air Act. Agency officials said the approvals set the stage for the remaining agreements to gain approval quickly. Jon Scholl, agriculture adviser to Stephen L. Johnson, the E.P.A. administrator, said the agreements were the most efficient way of obtaining the data needed to determine whether the animal-feeding operations were complying with federal air emission laws."

EPA Advisers Find Teflon Chemical "Likely" Carcinogen. The Wall Street Journal (1/31, Muñoz, 2.11M) reports, "The Environmental Protection Agency is pressuring eight companies to reduce the presence of a group of chemicals that are used in the manufacture of such things as nonstick cookware, microwave popcorn bags, fast-food containers, carpeting, nail polish and stain-resistant clothing. Yesterday, an EPA advisory group issued a statement, saying the majority of its members agree that the main chemical under review -- perfluorooctanoic acid, or PFOA -- is a 'likely' cancer-causing agent. However the group, made up of outside experts, failed to agree unanimously on this likelihood and recommended further study. The findings come after a lengthy review of EPA data on the chemical, including studies linking it to cancer in rats, and indicating that PFOA is found in many people's blood."

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Dockworkers Call For Reductions In Toxic Emissions At Ports. The New York Times (1/31, Archibold, 1.19M) reports, "The effort to reduce smog stemming from seaports, among the biggest polluters in the nation, gained an ally on Monday when the union representing thousands of West Coast dockworkers promised to help significantly reduce toxic emissions. The union, the International Longshore and Warehouse Union, representing 60,000 dockworkers from San Diego to Seattle, called for a one-fifth reduction in emissions by 2010 and said it would push carriers to adopt less-polluting technology on their ships."

9th Circuit Searches For Punitive Remedy In Exxon Case. The California Recorder (1/31, Scheck) reports, "The dozens of Alaska fishermen sardined into a 9th U.S. Circuit Court of Appeals courtroom Friday seemed to only reluctantly accept Judge Andrew Kleinfeld's statement that the court views 'torturing and killing large numbers of people' as 'more reprehensible than putting a drunk in charge of a supertanker.' … Brian O'Neill, the lawyer for more than 30,000 people economically affected by the 1989 Exxon Valdez oil spill, didn't want to minimize the gas company's mistake. … 'Putting a drunk in front of a supertanker is still reprehensible,' he said." The Recorder continues, "Figuring out a way to translate that reprehensibility into dollars under ever-changing Supreme Court guidance is once again the problem for the 9th Circuit. … So, for the third time since an Alaska jury hit Exxon with $5 billion in punitive damages in 1994, the 9th Circuit panel is facing the question of whether that award is appropriate." The Recorder adds, "The judges have been uncomfortable with the $5 billion award in the past, but they didn't reveal much Friday; Kleinfeld was skeptical that a large punitive award was appropriate in light of Exxon's pretrial cleanup efforts, while Chief Judge Mary Schroeder seemed somewhat more inclined toward the plaintiffs. Senior Judge James Browning was silent through the arguments. … The class action brought by those who suffered economic damage from the spill has bounced repeatedly between the 9th Circuit and the Alaska courtroom of Judge H. Russel Holland, a result of Holland's reluctance to significantly lower the award. It's also due to the changing Supreme Court guidelines over how to award punitive damages. … Most recently, the Supreme Court said in 2003 that punitive damages should not exceed compensatory damages by more than a 9:1 ratio, and that compensatory damages may stand in for punitives as a deterrent in many cases."

Measure Would Close Loophole Allowing Tribes To Make Large Donations. USA Today (1/31, Drinkard, 2.31M) reports that House Republicans plan to propose closing a loophole that has allowed Indian tribes with casinos to give substantial donations lawmakers' campaigns. The change "is part of a bill being drafted by Rules Committee Chairman David Dreier, R-Calif., to restrict lobbyist influence in the wake of the Jack Abramoff lobbying scandal." USA adds, "The growth in tribal political giving has been helped by the status tribes enjoy under federal campaign-finance law. Tribes are 'persons' under the law, a category that also includes partnerships, corporations and associations. But tribes can give unlimited total amounts because they are not 'individuals,' whose legal definition excludes organized groups. … Dreier's proposal, developed at the behest of Speaker Dennis Hastert, R-Ill., would apply the individual limit on total giving to tribes."

In a separate story, USA Today (1/31, Drinkard, 2.31M) reports,, "Indian tribes defending their right to give unlimited political campaign contributions say they are treated differently for legitimate reasons dating back to George Washington. … Tribes' special status is based in part on the limited sovereignty they hold through treaties negotiated with the federal government as long ago as the 1700s. Like states or localities, they have a government-to-government relationship with Washington. But unlike local governments, they make political giving a lobbying tactic."

McCain Accelerates Timetable For Review Of Indian Gaming Act. Sen. John McCain has accelerated his timetable to review change to the 1988 Indian Gaming Regulatory Act and the way the FEC counts tribal donations. Roll Call (1/31, Bresnahan) reports, "McCain introduced new legislation in November (S. 2078) that would broaden the authority of the National Indian Gaming Commission to regulate Class III casinos, which offer activities such as slot machines, blackjack, craps and roulette. The agency's internal review procedures would also be overhauled. McCain wants to change how land is taken into trusts for the tribes, with an eye toward limiting the explosive growth in Indian casinos. … The Arizona Republican reportedly also wants to look at the way Indian tribes donate to federal lawmakers, according to lobbyists retained by tribal interests." McCain "has scheduled hearings for this week and next, and another hearing on Feb. 28, on these issues."

FBI/DEA/ATF/USMS:

Man Arrested In US-Mexico Border Tunnel Investigation. The AP (1/31) reports, "A Mexican citizen was arrested on drug charges in the investigation into the longest tunnel ever found underneath the U.S.-Mexico border. The suspect was taken into custody Saturday by U.S. Immigration and Customs Enforcement agents. He appeared in federal court Monday on charges of conspiracy to import more than a ton of marijuana, which carries a

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mandatory minimum of 10 years in prison. The 2,400-foot tunnel runs from a warehouse near the airport in Tijuana to a warehouse in San Diego. It was unclear how long it had been in operation, but more than two tons of marijuana were found inside. … The man under arrest, Carlos Cardenas Calvillo, worked at the U.S. warehouse, which had been leased for the stated purpose of distributing produce, authorities said. … The Drug Enforcement Administration has said it suspects Tijuana's ruthless Arellano-Felix drug syndicate or another well-known cartel was involved."

In a separate story the AP (1/31) reports, "Investigators said Cardenas Calvillo is connected to the San Diego side of the operation. Real estate documents show a company incorporated last year paid $2 million to lease the warehouse, supposedly for produce." More than 100 news outlets published in newspapers and/or posted on their Web sites the AP story, including ABC News, CNN, MSNBC, the New York Times, New York Post, Washington Post, Houston Chronicle, California's San Jose Mercury News, San Luis Obispo Tribune, and Contra Costa Times, along with the Fort Worth Texas Star Telegram, Myrtle Beach Sun News, Kansas City Star, and the UK's Guardian.

Reuters (1/31) writes, "Cardenas did not enter a plea during his appearance in San Diego federal court and was held without bail pending a midweek hearing. No other arrests have yet been announced."

The San Diego Union-Tribune (1/30, Soto) reports Cardenas Calvillo "pleaded not guilty Monday afternoon to conspiracy to smuggle drugs in connection with an elaborate cross-border tunnel that stretched half a mile from Tijuana to Otay Mesa. … Prosecutors asked Judge Leo S. Papas to order that Cardenas be held without bail. The judge said he will consider the request at a hearing Wednesday. Prosecutors told the judge the 44-year-old Cardenas is a risk to flee the country."

The Washington Times (1/31, Seper) writes, "Investigators said the charges stem from Mr. Cardenas-Calvillo's ties to the Otay Mesa warehouse that concealed the U.S. access point for the highly sophisticated, 2,400-foot-long passageway. The tunnel was described by authorities as the largest and most advanced illegal cross-border underpass ever found. The ongoing investigation is being carried out by the San Diego Tunnel Task Force made up of ICE, Drug Enforcement Administration and U.S. Border Patrol agents. … The arrest came less than 24 hours after ICE issued an alert, tersely warning that information indicated those who had been in the tunnel, or were responsible for its design or construction, could be in imminent danger. ICE urged those persons to come forward and contact the agency at any port of entry along the Mexican border."

The Los Angeles Times (1/30, Marosi) reported that on Saturday, authorities "arrested a Mexican man in connection with" the tunnel's operation. Authorities "said the man is allegedly tied to the Otay Mesa warehouse that concealed the tunnel's access on the US side."

Voice of America (1/30) reports on its Web site, "The U.S. Drug Enforcement Agency says the tunnel was a major gateway for illegal immigrants and drugs coming from Mexico into the U.S."

Tunnel Had A Secret Door. The San Diego Union-Tribune (1/30, Manolatos) reports the tunnel had a secret door that could be opened only from below. "It's this passageway that federal authorities said was the exit point for drug smugglers who built a massive underground tunnel to bring tons of marijuana into the United States from Tijuana. … Investigators called out-of-state miners to help them determine how the tunnel was built and how long it took. The miners are expected to arrive later this week. Authorities started receiving tips about the tunnel two years ago. When they discovered it last week, they found 2 tons of marijuana on the Mexican side and 200 pounds on the U.S. end. Once the marijuana was in the United States, it probably was loaded onto vehicles disguised as produce trucks," investigators said.

Human Intelligence Most Effective For Finding Tunnels. The AP (1/31) reports, "A U.S. government effort to find drug-smuggling tunnels underneath the Mexican border with ground-penetrating radar and other high-tech gear has had little success. Human intelligence has proven to be the most effective method of finding the passageways. A case in point: The longest tunnel ever found along the border was discovered last week after a tip. … 'The problem is the technology picks up some kind of anomaly or variation of soil,' said Lauren Mack, a spokeswoman for U.S. Immigration and Customs Enforcement. 'We go in with big backhoes and bulldozers, we spend all day doing it, and all we hit is rock or water tables.' That was what happened earlier this month when high-tech gear alerted authorities to a possible tunnel near…a hamlet about 60 miles east of San Diego along the Mexican border. A full day of digging turned up nothing."

US, Mexican Media Given Tour Of Tunnel. Los Angeles Times (1/31, Marosi) reports, "Federal officials gave US and Mexican media a rare look at a smuggling tunnel Monday as they announced the arrest of a man with alleged ties to a Mexican drug cartel that authorities suspect built the 2,400-foot-long passage." Frank Marwood, acting deputy special agent in charge for Immigration and Customs Enforcement, said, "The amount of time, money and technology it would take to make a tunnel like this is overwhelming. It's a complete engineering feat. … The half-hour tour covered an estimated 250 feet, about one-tenth of the tunnel's length."

Network TV Coverage. ABC's World News Tonight (1/30, story 8, 2:00, Vargas) reported, "In San Diego, today, US Officials charged a Mexican man with drug smuggling through the longest tunnel ever found along the U.S. -

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Mexican border. It is a remarkable facility." ABC added, "The tunnel surfaces in a nondescript office about a half-mile into the U.S. A secret door, a trap door, allowed an all-access pass to and from Mexico. The piping you see was used to ventilate the tunnel. Electric lighting, powered from the Mexico side, runs the entire length. And a system that used to keep water out has stopped working. So the tunnel has flooded. The walls have been chiseled by hand, for eight football fields in length. Officials say the tunnel was in operation since last November and they believe it took a drug cartel about two years to dig it, by hand, through hardened clay and sandstone. Two tons of marijuana were found in the tunnel. And one man has been arrested. Court documents reveal he was a worker in the warehouse run by a company called v & f distributors, which is under investigation." Homeland Security Agent: "Whenever we find a tunnel for department of homeland security, that's a vulnerability in terms of narcotics, in terms of people, in terms of weapons, that could be brought into the country. Once the investigation is complete, officials say, the enormous tunnel will be filled with concrete."

Cable TV Coverage. CNN Live From (1/30, 3:00 p.m.) reported, "An arrest in the case of the largest and most sophisticated tunnel ever found across the U.S.-Mexican border. A Mexican man was arraigned on charges of conspiracy to import substances. The tunnel runs from San Diego to Tijuana. Two tons of marijuana was found inside."

CNN's Anderson Cooper 360 (1/30, 10:00 p.m.) reported, "We are on the U.S.-Mexican border. Actually in sort of a no man's land. This is a U.S. Territory between two fences. … We're actually in the Otay Messa district of San Diego. We're north of Tijuana. Just a few feet beneath was a tunnel. It runs 2400 feet. It's the length of eight football fields. It goes from a warehouse in Otay Messa, crossing the border inside another warehouse in Tijuana. It is the longest tunnel U.S. authorities here, Immigration and Customs Enforcement agents have ever found underneath this border. They found more than two tons of marijuana in this tunnel. Who knows how many drugs were gone through. Since the attacks on 9/11 agents have uncovered 20 other tunnels. Twenty that we know of. But nothing, they say, nothing like this one. Take a look. ICE agents also [say] this is one of the most sophisticated tunnels underneath the Mexican border. It took years to build. You can see the pick marks used. It would take a long time to do. It's also got electricity. They wired the entire tunnel with these cables that have light bulbs on them. There's even a pipe that brings in fresh oxygen pumped in from Mexico."

Virginia Psychiatrist Pleads Guilty To Illegal Hydrocodone Distribution. The Norfolk Virginian-Pilot (1/31) reports, "A former Virginia Beach psychiatrist pleaded guilty in federal court Monday to charges of health care fraud and illegally dispensing narcotics. Dr. Jeremy A. Stowell, who surrendered his medical license in the middle of the federal investigation last year, admitted illegally prescribing hydrocodone and improperly billing insurance programs. The Drug Enforcement Administration has been investigating Stowell after reports by the state Board of Medicine that he had been prescribing narcotics to patients with drug addictions and some who admitted sharing their drugs with friends. During the DEA investigation, an undercover officer obtained narcotics from Stowell with only a cursory examination and an informant obtained drugs despite admitting having abused cocaine and other drugs, according to court papers filed by the government Monday."

Afghanistan Opium Production Called A Serious International Threat. UPI (1/30) reports, "Afghan Foreign Minister Abdullah Abdullah urged the international community Monday to endorse the Afghanistan Compact, a five-year blueprint for efforts to stabilize and reconstruct the country. … Habibullah Qaderi, the Afghan minister for counter-narcotics, said the country's opium production represented a 'serious threat' to the international community. Some 70 to 80 percent of the heroin on Britain's streets originated in Afghanistan, he noted. … A criminal justice task force was being trained and a special tribunal being set up to prosecute those in possession of over two kilos of opium, he said. Questioned about reports of high-level government complicity in the drugs trade, Qaderi said that where there was evidence against officials, they would also be prosecuted. Pressed on the issue by United Press International at a later briefing, Afghan Justice Minister Sarwar Danish acknowledged there were cases of complicity by some government officials. Counter-narcotics initiatives would be discussed at the conference, from which would hopefully emerge a clearer plan to tackle the problem, he said."

IMMIGRATION:

Concern About Overcrowded Housing Emerges As Part Of Immigration Debate. USA Today (1/31, Jones, 2.31M) reports, "Overcrowded housing is emerging as a battleground in the national debate over immigration as towns and counties crack down on landlords who permit many unrelated people to occupy single-family homes. Local officials in New York, Virginia, Massachusetts and Georgia have evicted residents, threatened landlords with fines or jail time or legally narrowed the definition of family to combat a problem they say disrupts neighborhoods. … Some activists say measures limiting the number of unrelated people or extended family members in a home

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target immigrants, particularly Hispanics, who often need to share a home to afford the rent."

Intel Chairman Says US Should Increase Visas For Highly Educated Foreigners. Intel Chairman Craig Barrett writes in the Financial Times (1/30), "America is experiencing a profound immigration crisis but it is not about the 11m illegal immigrants currently exciting the press and politicians in Washington. The real crisis is that the US is closing its doors to immigrants with degrees in science, maths and engineering – the 'best and brightest' from around the world who flock to the country for its educational and employment opportunities. These foreign-born knowledge workers are critically important to maintaining America's technological competitiveness." Barrett adds, "At a minimum the US should vastly increase the number of permanent visas for highly educated foreigners, streamline the process for those already working here and allow foreign students in the hard sciences and engineering to move directly to permanent resident status."

CONGRESS-ADMINISTRATION:

Alito Confirmation All But Certain After Filibuster Attempt Fails. The CBS Evening News (1/30, story 7, :45, Schieffer) reported, "The way is clear for Samuel Alito to become the next Associate Justice of the Supreme Court. After a last- minute filibuster attempt by Democratic opponents, the Senate voted 72-25 today to cut off any further debate. Alito is expected to be confirmed tomorrow morning, giving President Bush a victory just hours before he delivers his State of the Union address." NBC Nightly News (1/30, story 4, 3:00, Williams) reported that "liberal Democrats led by Massachusetts Sens. John Kerry and Ted Kennedy went ahead today with a filibuster attempt, trying to block or at least slow down the nomination, but their effort didn't come close."

CNN's The Situation Room (1/30, Henry) reported that Republicans needed 60 votes to break the Democratic filibuster of Supreme Court nominee Samuel Alito's confirmation. They "got a lot more. They got 72 in the end. The final tally, 72-25. That means only 23 lawmakers, 23 Democrats, joined John Kerry and Ted Kennedy in supporting the filibuster, supporting continued debate."

CNN's Lou Dobbs Tonight (1/30, Dobbs) called the vote "a major defeat for Democrats" and "a political victory for President Bush." CNN added, "The Senate's decision is a severe blow to Democrats, such as Senators John Kerry, Ted Kennedy, and Hillary Clinton. A final confirmation vote for Judge Alito is expected tomorrow, just hours before President Bush delivers his State of the Union address."

The Los Angeles Times (1/31, Reynolds, 958K) adds that "several Democrats who supported the filibuster, notably Senate Minority Leader Harry Reid (D-Nev.) and Sen. Charles E. Schumer (D-N.Y.), did so with a noticeable lack of enthusiasm." Favoring the filibuster were "several Democrats believed to be considering a presidential run in 2008: Sens. Hillary Rodham Clinton of New York, Evan Bayh of Indiana and Kerry, the party's 2004 nominee." The Times adds, "Despite the split over the filibuster, Democrats are largely united in their opposition to Alito's confirmation. Only four Democrats -- Byrd, Nelson of Nebraska, Tim Johnson of South Dakota and Kent Conrad of North Dakota -- have announced their support for him." The Grand Forks Herald (1/31, Jalonick, 32K) reports Sen. Kent Conrad said Monday "he will vote to confirm Judge Samuel Alito to the Supreme Court. 'He has given me his word on important matters,' Conrad said."

The Washington Times (1/31, Hurt, 90K) reports, "Among those voting to filibuster the nomination were Democrat Sens. Frank R. Lautenberg and Robert Menendez, who represent Judge Alito's home state of New Jersey." USA Today (1/31, Kiely, 2.31M) reports Alito's "home-state senators" also "said they would vote against him. They fear that Alito, a judge on the Philadelphia-based 3rd U.S. Circuit Court of Appeals, will make the court more conservative. 'Home-state pride is not a sufficient reason for supporting a nominee,' Menendez said."

The Washington Post (1/31, A1, Babington, 744K) headlines its story "Senate To Vote On Alito Today," while the AP (1/31, Holland says the Senate "all but guaranteed Samuel Alito's confirmation." The New York Times (1/31, Stout, 1.19M) adds that "since only a simple majority is required for confirmation, Samuel Alito could be a member of the Supreme Court by Tuesday afternoon. … Three Democrats have come out in support of the nominee: Robert C. Byrd of West Virginia, Tim Johnson of South Dakota and Ben Nelson of Nebraska. Other Democrats are believed to be considering a vote in favor of the nominee." Reuters (1/31, Ferraro), Chicago Tribune (1/31, Zeleny, 643K) and Bloomberg (1/31, Rowley), among other sources, run similar stories this morning.

The Hill (1/31, Allen) says, "Bush and his Republican allies are on the verge of fulfilling campaign promises to stock the court with conservatives."

Chafee's Decision To Oppose Alito Could Hurt Him In Primary. The Washington Times (1/31, Fagan, Hurt, 90K) reports, "Republican Sen. Lincoln Chafee's decision to oppose Judge Samuel A. Alito Jr.'s nomination to the Supreme Court will hurt him in his primary campaign, party members say, and could kill the GOP's chance of holding a seat in liberal Rhode Island." Chafee "is the only Republican senator to come out publicly against the Alito nomination, a decision likely to fuel further criticism from both his political

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flanks. For example, Cranston Mayor Steve Laffey, a likely conservative Republican primary opponent, called Mr. Chafee's actions ineffectual and a disservice to the state. … Meanwhile, the anti-tax Club for Growth is running commercials blasting Mr. Chafee for not taking a harder line against big government and high taxes." Chafee "is being criticized just as much from the left. Rhode Island Secretary of State Matt Brown, one of the Democrats running against Mr. Chafee, said the senator made a wishy-washy decision on Judge Alito."

In an editorial titled "Party Of Lincoln?," the Wall Street Journal (1/31, 2.11M) says, "Chafee tried to split the difference. He announced yesterday that he would oppose Judge Alito's confirmation." But "he also voted against John Kerry's futile attempt to block a vote via filibuster -- which he was obliged to do as part of the 'gang of 14' whose compromise last May preserved the possibility of the filibuster but tried to downplay its use." The Journal adds, "Opposing the filibuster attempt may not prove sufficient to win over Republican primary voters."

White House, Democratic Strategic Assumptions Before Hearings Explored. The New York Times (1/31, Kirkpatrick, 1.19M) reports, "The week before his Supreme Court confirmation hearings," Alito "e-mailed the text of his opening statement to the White House. It included very little about his legal thinking, dwelled at length on his family and opened with a tired and rambling joke about courtroom banter between a lawyer and a judge. The response from the White House: 'Perfect, don't change a word,' according to an administration official who was granted anonymity because Judge Alito's preparation sessions were confidential." The Times adds, "As the last obstacles to confirmation faded away Monday, Democratic aides said their party had initially expected Judge Alito to live up to his reputation as 'Scalito,' suggesting a conservative firebrand in the mold of Justice Antonin Scalia. Failing to adjust to his meekness, Democratic aides admit they searched too hard for scandal in Judge Alito's past." The White House, meanwhile, "sought to take advantage of Judge Alito's low-key, almost shy demeanor to build sympathy for him. They say they succeeded beyond all expectations when Judge Alito's wife, Martha-Ann, walked out in tears from his confirmation hearings."

Fox News' Special Report (1/30, Wilson) reported that Democrats "simply could not find a formula to derail the Supreme Court nomination of Judge Samuel Alito. Any hope that they might drag out the debate with a filibuster evaporated shortly after a meeting of the so-called Gang of 14 moderate senators." Republicans "by and large spent the day complaining about what they felt was a nasty debate aimed at a well-qualified nominee."

Ford At Odds With Black Leaders Over Filibuster. The Hill (1/31, Savodnik) reports, "Rep. Harold Ford's opposition to filibustering Judge Samuel Alito's Supreme Court nomination is exacerbating tensions between the Tennessee Democrat and black political leaders, underscoring the fine line that the Senate hopeful must walk." Ford, running for the seat being vacated by Senate Majority Leader Bill Frist, "said Friday that Alito should get an up-or-down vote, which would more or less assure the nominee's approval." Ford's comments "came the same day that the National Association for the Advancement of Colored People (NAACP) announced its support for the filibuster spearheaded by Sens. Edward Kennedy and John Kerry, both Massachusetts Democrats." The comments also "follow attempts by the Congressional Black Caucus (CBC) to derail the nomination of Alito."

Alito's Confirmation May Usher In "Kennedy Court." The Washington Post (1/31, A4, Lane, 744K) says Alito's confirmation "will mark the beginning of a new Supreme Court era -- and, perhaps more important, the end of an old, familiar one. For much of the past 24 years, Justice Sandra Day O'Connor, whom Alito would replace, has wielded the swing vote on a split court, usually casting her lot with the court's four other conservative justices, but siding with liberals on such crucial issues as abortion, affirmative action and campaign finance reform." Alito's arrival, however, "may turn the O'Connor Court into the Kennedy Court. If, as many expect, Alito forms a four-vote conservative bloc with Chief Justice John G. Roberts Jr. and Justices Antonin Scalia and Clarence Thomas, that would leave Justice Anthony M. Kennedy -- a conservative who has occasionally voted with liberals on gay rights, the death penalty and abortion -- as the court's least predictable member."

Alito, Roberts Confirmations Seen As Culmination Of Reagan Revolution. The Los Angeles Times (1/31, Savage, 958K) reports, "Twenty-five years ago, President Reagan came to Washington with bold plans to move the Supreme Court to the right. He and his lawyers wanted a high court that would uphold state laws that impose the death penalty, restrict abortion and allow a greater role for religion in public life. They favored property rights over environmental regulation, states' rights over broad federal authority and executive power over Congress and the federal courts." The Times adds, "Now, with the Senate about to confirm Judge Samuel A. Alito Jr., a second generation of Reagan disciples stands ready to fulfill the former president's vision for the court." Alito, like Chief Justice John G. Roberts Jr., "was drawn to the conservative ethos of the Reagan administration in the 1980s. Both men worked in Reagan's Justice Department and as advocates for the administration before the Supreme Court."

Pickering Preparing Second Book On Judicial Confirmation Process. Roll Call (1/31, Hocking) reports Judge Charles Pickering "set out to write a book about the problems with the current judicial confirmation process and his own experience. … Pickering and his publisher rushed

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'Supreme Chaos: The Politics of Judicial Confirmation and the Culture War,' released this month, to the printer — thus providing him with a platform to discuss Alito's confirmation process." According to Roll Call, "The juicy bits will come later, in a second book due out 'either this fall or the first part of next year'…Pickering says."

Bush Nominates Five To Federal Bench. The New Jersey Law Journal (1/31, Booth) reports, "President Bush last Wednesday acted to fill four vacancies on the U.S. District Court and one on the 3rd U.S. Circuit Court of Appeals." The Journal continues, "Assistant U.S. Attorney Renee Bumb was named for a seat in Camden, N.J., while U.S. Magistrate Judge Susan Wigenton, U.S. Department of Justice official Noel Hillman and Peter Sheridan, the former executive director of the Republican State Committee, were nominated for three district court seats in Newark, N.J. … For the 3rd Circuit, Bush nominated former federal prosecutor Michael Chagares, now with Hackensack, N.J.'s Cole, Schotz, Meisel, Forman & Leonard." The Journal adds, "The nominees must be considered by the Senate Judiciary Committee, which has not yet scheduled hearings, and voted on by the full Senate."

Bush To Deliver State Of The Union Amid Lagging Poll Numbers. President Bush will deliver his State of the Union speech tonight. The AP (1/30, Loven) reports that the "unspoken agenda underpinning the address" is the "rescue of his presidency from arguably its worst year. His poll numbers fell to the lowest point of his presidency under the weight of missteps following Hurricane Katrina, soaring energy costs, the withdrawal of a Supreme Court nominee, the failure of his high-profile effort to drive a Social Security overhaul, and increasing scrutiny from the public and Congress of the unpopular Iraq war. While Bush's approval rating has recovered slightly, it remains in the still-anemic low 40s. It is a matter of concern for Republicans as they worry about maintaining control of Congress in this fall's midterm elections."

CNN's The Situation Room (1/30, Bash) reported that Bush is "going to go before Congress and the American people at a time where more than six in 10 Americans do not think the country is heading in the right direction and actually think it has gotten worse since Mr. Bush has been in office. And that is a very, very dire thing for this president in terms of shaping his legacy and more immediately, for his party in this year's election." Bush is "going to try to be optimistic. The President himself said there in the Cabinet Room, he's going to try to be upbeat. But he does have one major new theme that Bush aides are telling us about, that is to talk about the idea of being competitive, still being a leader in the world economically and in terms of foreign policy."

Roll Call (1/31, Pierce) reports, "Rather than unveiling sweeping policy changes to Social Security or announcing future trips to Mars, it appears President Bush will largely be offering some old reruns a better time slot in tonight's State of the Union address. It's an agenda that should receive a lot of enthusiastic applause from the right side of the House chamber, considering most of the Congressional Republican agenda mirrors the items on Bush's 2006 to-do list." The Dallas Morning News (1/31) reports Bush "will try to turn the page and refocus the nation's attention on a handful of more narrowly drawn domestic issues that his strategists hope will be winning planks for his fellow Republicans in this fall's mid-term elections." Knight Ridder (1/31, Lambrecht) reports Republicans say they "hope that both in substance and tone, the president's State of the Union address can begin to shift the focus away from war, scandal and suspicion that failure has replaced the once-rosy promise of GOP control of Washington. Many in his party hope the president steers clear of the partisanship that has come to define Washington."

The Philadelphia Inquirer (1/31, Hutcheson, 423K) reports Bush "has been pushing big, bold ideas since he took office, but don't expect more of the same when he goes before Congress tonight for this year's State of the Union address. With plenty on his plate already, Bush is not looking to add much more. Instead of promoting new ideas for sweeping change, the President is expected to focus on relatively small, achievable goals. He will also spend a good bit of time trying to shore up support for work in progress, especially the Iraq war."

Knight Ridder (1/31, Thomma) reports Bush "faces one of the most daunting political challenges of his career Tuesday night when he kicks off a pivotal midterm-election year" with his speech. Bush "must frame the year's coming debate in a way that will lead Americans to stay the course with his Republican Party running the government, at a time when polls show that voters are in a sour mood and restless for change." Knight Ridder writes that Bush is "weaker than any sixth-year president since Richard Nixon in 1974, when the Watergate scandal forced him to resign, led to big Republican losses in Congress and set the stage for the party's loss of the White House two years later. Bush's standing rivals that of Democrat Harry Truman in 1950, when Democrats lost seats in Congress and went on to lose the presidency two years later."

USA Today (1/31, Benedetto, 2.31M) writes, "In a city renowned for its many speeches -- long and short, lofty and mundane, partisan and profound -- the State of the Union is The Big One. It is a chance for the president to try to rally citizens in times of internal strife or external peril, and to reassure them when times are good. It is also the president's best chance to lay out his agenda and shape the political debate for the next 12 months. It is an opportunity, as it will

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be for President Bush when he speaks at 9:01 ET tonight, for presidents to regain public confidence that has been lost or seems to be slipping. Bush's job approval in a USA TODAY/CNN/Gallup Poll on Jan. 20-22 is 43% and has not been above 50% for the past 10 months."

Reporting on a new NBC News/Wall Street Journal (1/31, Harwood) poll, the Journal writes, "A politically weakened President Bush addresses the nation tonight facing two clear demands from the American public: solve problems in the health-care system and bring U.S. troops home from Iraq." NBC Nightly News (1/30, story 4, 3:00, Williams) said, "We should start at the very beginning and that all-important approval number." NBC's Tim Russert: "The President hopes he had made some progress, but that's not the case. We only had 39% approval, and 54% disapproval. … These are the top priorities for the American people. First, Iraq, not surprising -- bringing the troops home, 35%. Health care, 20%. Stimulate the economy, 17%. The prescription drug program, 11%. Fix it. Cut the deficit, 8%. Cut taxes, 7%. And Iraq -- now two out of three Americans say it is their view that the troops should come home. … Only one in four Americans, 25%, say the President should set the policy. Congress, 49% of Americans say it should be them, and both equally, 16%. … Here's lobbying. Which party is more influenced by special interests? 22% of Americans say the Democrats, 36% say no, it's the Republicans. And 33%, one-third of Americans, say both parties equally. We talk about eavesdropping, it's very important. This is the President's position in effect: Should there be wiretaps without court order? 51% approve, 46% disapprove. That's the President's position in favor, but what about concerns? 56% say they have concerns about wiretaps without warrants, and 43% say they're not concerned." On MSNBC's Hardball (1/30), Russert said the President's approval numbers are "frozen in place."

The Christian Science Monitor (1/31, Feldmann, 61K) writes, "The question for President Bush is, will 'wooable' Americans be watching? And what can he say that will grab them and force a second look? In recent weeks, the White House has telegraphed the major elements of this year's speech: an initiative to make healthcare more affordable, ideas to reduce US dependence on foreign energy, a call to extend tax cuts. The defining issues of Mr. Bush's presidency -- the Iraq war and larger war on terror -- will also occupy center stage. But according to the Pew Research Center, the public has modest expectations for this year's address: Only 30 percent of Americans say it will be more important than past State of the Union messages, down from recent years."

Optimism, Ongoing War On Terror Among Likely Themes. USA Today (1/31, Raasch, 2.31M) outlines "broad themes" likely to appear in the address: "We are in the midst of a long, hard war against fundamentalist terrorism, but this president doesn't give up and neither should Americans"; Bush "will portray himself as 'optimist in chief' and, by implication, his political foes as pessimists and defeatists"; "Mistakes have been made, but they were not purposeful and Bush was not alone in making them"; "This is war and when it comes to your safety, the buck stops with the president."

Alternative Fuel, Nuclear Power To Figure In Speech. The New York Times (1/31, Bumiller, Sanger, 1.19M) reports Bush "will renew a call for the development of alternative fuel for automobiles and promote the construction of new nuclear power plants" in his speech. After "years of partisan arguments over the administration's efforts to open new parts of the country for oil and gas drilling, Mr. Bush will cast his discussion of nonoil sources of energy as an economic imperative for the United States and a national security necessity to reduce dependence on Middle Eastern oil." The Times says the "issues have been part of Mr. Bush's agenda for years, but never a top priority."

The New York Post (1/31, Johnson, 624K) writes, "If President Bush unveils strong environmentally conscious initiatives in tonight's State of the Union speech, credit (or blame) goes to Nora Maccoby. At the end of the year, Defense Secretary Donald Rumsfeld was seen at a holiday party in Georgetown genially locking horns" with the screenwriter. After a "half-hour of Maccoby lecturing Rummy that energy independence through renewable clean sources should be the heart of a national security strategy, a grinning Rumsfeld bleated to those nearby, 'I can't believe this -- this girl's kicking my ass, and she's right.' Then to Maccoby, 'Call the Secretary of Energy. You can use my name.'"

Bush Said To Have Mixed Track Record On Fulfilling SOTU Plans. The Wall Street Journal (1/31, 2.11M) examines Bush's track record on State of the Union promises. Last year, Bush "declared: 'We'll start on Social Security now.' But after a year of hard campaigning, the president has acknowledged that reform plans are dead for now, in what amounts to his biggest domestic defeat to date." In the Middle East, "the Bush administration has made strides, though some hot zones remain to be defused." On immigration, legislation "has been slow-moving, but as the topic is sure to be a hot-button issue in the 2006 congressional elections, the president has moved it up on his agenda." The Journal also traces the mixed results of Bush's State of the Union vows back to 2001.

Anti-Bush Protestors To Gather At Capitol Reflecting Pool Tonight. The Washington Times (1/31, Mansfield, 90K) reports, "Liberal activists -- among them graying leftovers from the Vietnam-era antiwar movement -- plan to gather near the Capitol tonight, banging pots and pans to drown out President Bush's State of the Union address." On Monday, "opponents of the Iraq war kicked off their latest round of demonstrations with an 'Impeachment Forum' held downtown in a private dining room at Busboys

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and Poets. Featured speakers were 78-year-old former U.S. Attorney General Ramsey Clark; longtime war protester Marcus Raskin, 71, who is head of the Institute for Policy Studies; and Cindy Sheehan, mother of an American soldier killed in Iraq. Sheehan "plans to speak tonight to protesters at the Capitol Reflecting Pool. Last week, the group 'World Can't Wait -- Drive Out the Bush Regime' was denied a permit to gather on the Mall for security reasons. The group won a federal lawsuit and has been given permission to bang away while Mr. Bush speaks to a joint session of Congress at 9 p.m." The Washington Post (1/31, A2, Milbank, 744K) writes that at the "Impeachment Forum" event, Sheehan, "just back from Caracas, where she praised Venezuela's anti-American president, Hugo Chavez, and called Bush a 'terrorist,' said she expects Democrats will 'seriously screw up' the midterm elections in November."

Utah Town's Support For Bush "Nearly Unanimous." The Washington Post (1/31, A1, Finkel, 744K) profiles the town of Randolph, Utah, a town of about 480 people "where Bush received 95.6 percent of the vote" in 2004 "and support for him continues to be nearly unanimous. … There have been no funerals here from Bush's war on terrorism. There are no unemployment lines, no homeless people sleeping in doorways, no sick people being turned away from a hospital because of a lack of insurance, no crime to speak of, no security fence needed around the reservoir, no metal detectors at the schools."

NYTimes, WPost Say Bush Should Not Take Too Much Credit For Economy. The New York Times (1/31, 1.19M) editorializes, "When President Bush gives his State of the Union address tonight, expect to hear a renewed call for setting the administration's first-term tax cuts in concrete, combined with warnings that letting the cuts expire would retard economic growth. Nothing could be further from the truth. As proof of tax cuts' ability to spur the economy, Mr. Bush generally cites productivity growth, job creation and the rise in personal income. Productivity has indeed been stellar, and supply-siders claim that is because tax cuts have led to investment, which led to higher productivity. But business investment has been flat for five years. Meanwhile, the benefits of productivity growth have been concentrated among the wealthy. … Tonight is Mr. Bush's night to speak. But it's the job of all of us to be critical listeners."

The Washington Post (1/31, A16, 744K) editorializes, "Bush will be tempted to take credit for the strength of the economy. The recovery that began four years ago has been robust, with gross domestic product growing 4.2 percent in 2004 and 3.5 percent in 2005 despite a slowdown in the last quarter. Productivity -- that is, the value of goods produced for each hour of labor -- has increased even faster than during the boom of the late 1990s and roughly twice as fast as during the previous two decades. But Mr. Bush should not crow too much. For one thing, U.S. prosperity is built on an alarming trade deficit, which symbolizes a broader fragility in the global economy. For another, economic progress is not showing up in higher wages for the typical worker. … On the trade deficit, the best response is to boost national saving, and the surest way for government to do that is to cut the federal deficit. On wage stagnation, it would be a mistake to intervene directly in labor markets, but growing inequality reaffirms the case for a progressive tax structure. Mr. Bush could show he understands that by rethinking his enthusiasm for tax cuts. If only."

USA Today Says Congress Should Assert Itself With Bush. USA Today (1/31, 2.31M) editorializes, "When President Bush goes to the Capitol tonight for his State of the Union address, he will undoubtedly receive a standing ovation from the assembled members of Congress. They might as well be on their knees with their foreheads bowed to the floor, prostrating themselves as a gesture of their fecklessness in exercising their constitutional role as a separate and equal branch of government. Among the recent examples of the administration's airy disregard of Congress: It dismissed questions about the legality of its warrantless spying; It stonewalled an inquiry into the response to Hurricane Katrina; Mine-safety officials walked out of a hearing on coal-mine tragedies; Bush opened his news conference last week by saying Congress 'must' reauthorize the USA Patriot Act and the Senate 'needs' to vote quickly on his nomination of Samuel Alito to the U.S. Supreme Court. That's not exactly what the Founders had in mind."

More Commentary On State Of The Union Address. In a Wall Street Journal (1/31, 2.11M) op-ed, Fred Barnes of the Weekly Standard writes, "When running for re-election in 2004, and again last year as he campaigned for Social Security reform, President Bush repeatedly advocated an 'ownership society.' It was a bold concept aimed at producing an historic shift in power from Washington bureaucrats to individual Americans. But 'ownership society' is not a phrase you're likely to hear from him tonight in his State of the Union address. … At best, there will be faint echoes. Injecting free-market incentives into the health-care system is a major part of the ownership society idea. And the president plans to propose new tax breaks to reduce out-of-pocket medical expenses, especially to help the uninsured. Expanding health savings accounts (HSAs), which allow individuals to decide on routine medical expenses, is a Bush priority. So is reducing the impact of the alternative minimum tax, a modest stab at tax reform. He also intends to note that Social Security is still headed toward bankruptcy. That's it -- all fairly tame stuff compared to the vast reach of his ownership society scheme."

In his Washington Post (1/31, A17, 744K) column, George Will writes, "The success of the terrorist organization Hamas in the Palestinian elections is but the latest proof of what happens when the forms of democracy are severed

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from what the president, with a cosmopolitan shrug, dismissively called 'our own Western standards of progress.' Now comes wishful thinking, and then cynicism. … Tonight, on the 1,050th day of the Iraq war (the 912th day of American participation in World War II was D-Day), the nation needs an adult hour, including a measured meditation on overreaching, from the Middle East to Medicare's prescription drug entitlement. But in State of the Union addresses, rarely is heard a discouraging word."

In his Wall Street Journal (1/31, 2.11M) column, George Melloan writes, "The president will say that the state of the union is good and cite supporting evidence. Unemployment is less than 5% of the work force. The economy grew well last year, despite a surprising fourth-quarter slowdown, and is expected to do so again this year. That America's ownership society is thriving can be seen in the burgeoning holdings of assets such as houses and securities. The president can claim, if he so wishes, that his first-term tax cuts fostered this expansion and broadening of national wealth. … The president has been thwarted on two major efforts to grant Americans greater choice in how they manage their personal affairs. A sensible idea for switching from the pay-as-you-go Social Security retirement system to private accounts that would build up during a working lifetime has been blocked by those rugged individualists he will address tonight. Tax reform and simplification is stalled as well. As will be evident even to a casual viewer, the men and women attending tonight's party enjoy their power. Dragging it out of their hands by granting Americans greater economic freedom is always a formidable task."

In a Financial Times (1/31) column, Caroline Daniel writes, "Bush likes to say that his job is to confront big problems, not leave them to those who follow. As he prepares to deliver the State of the Union address he has been forced to tackle the issues bequeathed him by the man who has occupied the White House for the past five years: himself. The sixth year of a two-term presidency is a critical time. It offers a last chance to shape the domestic political agenda and exploit the bully pulpit of moral leadership before attention is diverted to the succession battle." For Bush, "the chief constraints are managing the fall-out from his signature first-term policies."

In his Washington Post (1/31, A17, 744K) column, Eugene Robinson writes, "If there were justice in the world, George W. Bush would have to give his State of the Union address from Oprah's couch. Not when she's being the New Age, touchy-feely Oprah, though. Bush should have to face the wrathful, Old Testament Oprah who subjected author James Frey to that awful public smiting the other day. She could open with the same line she used on Frey, whose best-selling memoir, which Oprah had touted on her show, turned out to be a tissue of lies. 'I have to say it is -- it is difficult for me to talk to you, because I really feel duped. I feel duped,' Oprah could tell the president."

In his New York Times (1/31, 1.19M) column, Nicholas Kristof writes, "President Bush is slated to discuss health care in his State of the Union address tonight. It's about time: it's scandalous that babies born in the United States are less likely to survive their first year than babies born in Slovenia. But the solutions to the health crisis lie less in reorganizing medical treatment than in improving public health -- such as steering kids away from French fries. … Granted, a War on Sloth isn't as dramatic for the Bush administration as a War on Terrorism. And for Democrats, attacking junk food isn't as attention-grabbing as denouncing corruption in Congress. But there is perhaps no area of public policy where it would be easier to save the lives of countless Americans than in promoting public health."

In a Roll Call (1/31) column, David Winston of the Republican polling firm the Winston Group writes, "Tonight, the president gives his State of the Union address amid political uncertainty. … With the 2006 Congressional elections 10 months away, this one has more riding on it than any other SOTU since the Sept. 11, 2001, terrorist attacks -- in part because Republicans are facing a more difficult political environment. Nonetheless, despite of a handful tough races and poll numbers, Republicans would probably hold both the Senate and the House if the elections were held today. A few seats could shift to the Democrats, but this outlook is certainly an improvement over last September's prospects, when the Republican majority seemed vulnerable."

In a Washington Post (1/31, A17, 744K) op-ed, writer David Atkins writes in the voice of the President, "While State of the Union speeches belong to the genre of nonfiction, they are inevitably a personal, subjective recounting by the president. … Some errors appear to be innocent mistakes in copy-editing. Attorney General Alberto Gonzales has alerted me that the line, 'No person is above the law' should instead be 'One person is above the law.' My comment that 'we have carefully listened to critics of our domestic surveillance program' should have read 'listened in on…' … In the spirit of bipartisanship, I included the Clinton period in calculating the '24 million jobs we have created through the end of 2005.' … The statement that 'our administration has always respected the importance of checks and balances' is not, as has been implied, a reference to disgraced lobbyist Jack Abramoff. I have no recollection of ever meeting Abramoff…nor his lovely and charming wife, Pamela, and their cute and rambunctious twins."

In a New York Times (1/31, 1.19M) op-ed, Ted Widmer, a "speechwriter and senior adviser to President Clinton," writes about the use of the phrase, "The state of our union is strong!" in many such addresses, writing that while "the Constitution does not technically require that these seven

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words be spoken by the president," like a "clogged artery, the sentence has hardened into oratorical tradition. … Let's face it, no president wants to admit that things aren't going well. Over the years, our leaders have evaded frank discussion of their records through a variety of maneuvers, including obfuscation through statistics, the introduction of audience members and ringing references to the founders."

In a New York Times (1/31, 1.19M) op-ed, communications consultant Francis Wilkinson writes, "If there is a bandwagon in the works to eliminate the president's State of the Union address, I'm jumping aboard. There has always been something uncomfortably imperious about the speech. … Bill Clinton's final State of the Union expired after 9,000 words and more kitchen sinks than you'll find at Home Depot. The Gettysburg Address, by comparison, was 266 words. It's perhaps not too early to predict which of the two speeches the world will little note nor long remember. President Bush has been less fortunate. Not one but two of his addresses have produced entries for the books. The first was the over-greased 'axis of evil' in 2002 -- alluring alliteration made memorable by inadvertent inanity. The second, in 2003, consisted of those 16 words about Saddam Hussein's uranium safari -- and yes, even the 'has' and 'of' turned out to be false."

Bush To Visit Tennessee, Minnesota To Promote State Of The Union Initiatives. The Tennessean (1/31, De La Cruz) reports President Bush "will share his 2006 agenda with Republican activists from Middle Tennessee, as well as business and community leaders, in a Nashville speech tomorrow -- his first following tonight's State of the Union address. Hundreds of tickets were distributed to GOP officeholders, the state Republican Party and organizations to distribute. … The speech is scheduled for 11:50 a.m. at the Grand Ole Opry House."

The St. Paul Pioneer-Press (1/31, 200K) reports Bush will visit Maplewood, Minnesota, Thursday to "tout some of the initiatives he will outline" in his speech. White House spokesman Allen Abney said the appearance "will be 'part of him going out across the country to follow up on initiatives that he discusses' in his nationally televised speech." The visit "comes as Bush is slumping in public opinion polls in Minnesota. The most recent poll, conducted Jan. 13-15 by SurveyUSA, showed 56 percent of Minnesota disapproved of the president's job performance while 39 percent approved."

Kaine Plans To Speak Against Partisanship, Negativity In Politics. The AP (1/30, Fournier) reports Virginia Gov. Timothy Kaine, "tapped to deliver the State of the Union response for Democrats, has sharp words for both parties in Washington: Stop being so partisan, negative and irrelevant. 'There's a better way,' he said Monday." In an interview, Kaine said, "I want to contrast what I consider to be an administration that is super partisan and not really able to deliver results with a different model, a better way, which is what we've been doing in Virginia and other states." But he also "said Democrats in Washington also could learn from the success achieved by him and 11 other Democratic governors who run states that Bush carried in 2004."

The Boston Globe (1/31, Klein, 484K) reports the Democrats' selection of Kaine is part of the party's "intensifying efforts to reach out to Catholic voters." Kaine, "a devout Catholic who spoke openly about his faith during his election campaign last year, will speak about his work as a Jesuit missionary in Honduras, said Delacey Skinner, a Kaine spokeswoman. Kaine said that experience during his time as a Harvard Law School student inspired him to enter public service."

Democratic Leaders Will Not Bring Special Guests To State Of The Union. The Washington Times (1/31, Pierce, 90K) reports in its "Inside Politics" column, "Special folks -- usually connected to major news events or issues -- are always featured guests of President Bush for his State of the Union address, but Democrats are free to do the same to highlight their own priorities or make their own points. So far, neither Democratic leader plans to bring special, high-profile guests to the House chamber for the speech tonight. Senate Minority Leader Harry Reid of Nevada will not bring any newsmakers with him, an aide said, and House Minority Leader Nancy Pelosi of California will stick with family and friends for the big speech, an aide said."

Blanco To Attend State Of The Union. The AP (1/30) reports Louisiana Gov. Kathleen Blanco will attend the State of the Union speech. Blanco "has been at odds with the White House over government response to Hurricane Katrina, but was invited to sit in the gallery for Bush's speech on Tuesday night, Blanco's office said."

Two New Yorkers Bring 9/11 Messages To SOTU. The New York Daily News (1/31, McAuliff, 729K) reports, "President Bush won't be the only one making political points about 9/11 at tonight's State of the Union speech. At least two New Yorkers invited to the address by state lawmakers will be there to illustrate their own, very different points. 'Let's see if we get some truth,' said Monica Gabrielle, who lost her husband on Sept. 11, 2001, and will listen to Bush with Sen. Hillary Clinton (D-N.Y.)." And "Marvin Bethea, a paramedic sickened by his 9/11 exposure who is coming with Rep. Carolyn Maloney (D-Manhattan), has a message for Bush and the rest of the federal government." Bethea said, "I want every member of Congress to look at me and remember me when they go to bed at night."

Hinchey, Other Democrats Advise Bush To Be Accurate. The Binghamton (NY) Press & Sun Bulletin (1/31, Farmer) reports on Democratic Rep. Maurice Hinchey's advice to President Bush on his fifth State of the Union

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address, which echoed nine other Democrats who sent a letter to the President urging he "pay attention to the accuracy of the information in his speech." Such "attention to detail is crucial, given Bush has delivered incorrect information in past State of the Union addresses, Hinchey said. The most notable example, Hinchey said, came when the president said in his 2003 address, 'The British government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa.' … 'He has never 'fessed up to that situation,' Hinchey said."

Congress To Begin Hearings On Medicare Drug Benefit Program. The Washington Post (1/31, A15, Murray, Babington, 744K) writes, "Is the Medicare drug benefit suffering from start-up pains, or is there something more serious going on? Lawmakers got an earful from seniors about the new program while they were home for the winter recess. Now that Congress is back in session, lawmakers will begin weighing whether to make legislative adjustments or wait and see whether the glitches work themselves out." Medicare officials will go before a Senate committee on Thursday to testify "about how the various problems are being addressed," and next week, the Senate Finance Committee will also take up the matter. While the benefit "took effect just a month ago," Democrats "are pressing Republicans to streamline the benefit, to make it easier for seniors to navigate, and to provide emergency relief for people who are having trouble getting their prescriptions filled."

Drug Industry Lobbyists Active In Every State. The New York Times (1/31, Saul, 1.19M) reports on the drug industry's lobbying efforts, noting that while it is best known for having the richest lobbying force in Washington, the industry "also protects its flanks — all 50 of them. Drug lobbyists are active all around the country at the state level, because even with bright political lines dividing the nation into red and blue, the industry knows that controlling drug costs is a subject with nearly universal popular appeal." The Times adds, "Many drug industry issues are on legislative agendas again this year. And this Friday in New York, an association of lawmakers from New York, West Virginia, eight other states and the District of Columbia plan to meet to discuss their plans for pursuing industry regulation."

Budget Bill Includes New Welfare Work Requirements. The Los Angeles Times (1/31, Havemann, 958K) reports that the bill "includes provisions toughening welfare regulations, including work requirements on two-parent welfare families that experts say is almost impossible to meet." The measure "would hold adults in two-parent families to a higher work standard than those in single-parent families. States that failed to meet the standard would lose some of their federal welfare money unless they chose to exclude two-parent families from assistance. .. The bill before the House provides that the adults in 90% of the two-parent welfare families must, between them, put in 35 hours a week either working, training for work, or participating in other job-related activities. States would face an easier work requirement for their single-parent families. Half of all parents would have to work 20 hours a week if they have a child under 6, or 30 hours if their children are older."

Dionne Says No One Who Supports GOP Budget Is A "Reformer." E.J. Dionne writes in the Washington Post (1/31, A17, 744K) that there is "an uncomfortable bit of business left over from the Republican disaster year of 2005 that will test the seriousness of the party's supposed commitment to change. The cut-the-poor, help-the-big-interests federal budget passed last year needs final ratification in the House. The vote could take place as soon as tomorrow. Let's be clear: Anyone who votes for this fiscal mess will be standing for the bad old ways of doing business in Washington. Those who do so will have no claim to being 'reformers.'"

House GOP Promises Stricter Oversight Of Executive Branch Spending. House Republicans said yesterday that President Bush should expect stricter congressional oversight on spending and executive branch agencies this year. The Washington Times (1/31, Dinan, 90K) reports that Majority Whip Roy Blunt "said House Republicans have not done well at oversight in the past 11 years, initially because they were learning how to be a majority party and then because they didn't know how to approach oversight of a Republican administration. He said they will have to 'get significantly better than we have been.'" Republican Study Committee Chairman Rep. Mike Pence "said spending is the top issue for House conservatives, followed by the sanctity of marriage and ethics reforms."

Congressional Club Asks Donors For $50,000 For Lunch With First Lady. The Congressional Club, an organization of lawmakers' spouses, is asking donors for $50,000 apiece for lunch, a reception with First Lady Laura Bush and a private reception with lawmakers and their spouses. The Hill (1/31, Kaplan) reports, "The blunt language of the fundraising letter and the fact that the sum sought is double what it was in previous years are drawing criticism that suggests the fallout from the scandal surrounding Jack Abramoff and former Rep. Randy 'Duke' Cunningham (R-Calif.) is tainting even the quaintest and most bipartisan of Washington social organizations. … In the club's Jan. 19 letter, which several sources read to The Hill, organizers tell potential donors that $50,000 buys 12 tickets to the lunch and admittance to the receptions with Bush and the lawmakers.

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'The language and the amount of money they're asking for shows very poor judgment,' a source familiar with the letter said. 'In this day and age, the amount of money they're asking for is inappropriate.'"

Taylor Out Of Running For FDIC Post. The New York Post (1/31, Seifman, 624K) reports, "In a bombshell development, Diana Taylor — the state banking superintendent who's better known as Mayor Bloomberg's girlfriend — will not be tapped to head the Federal Deposit Insurance Corp. it was reported yesterday. The stunning news came after months of speculation that Taylor had been all but assured the job, even having already sailed through an FBI background check." The Post adds, "Last night, a source with close ties to the administration was asked if he had heard the latest news. 'I knew it weeks ago — she's going to get it,' the source said. When told that she was no longer in the running, the source responded with a stunned, 'What?!'"

Bush Appoints New Chair Of Council Of Economic Advisers. The Washington Post (1/31, A7, Henderson, 744K) reports, "President Bush plans to nominate Stanford University business professor Edward P. Lazear, a specialist in workplace issues, to become chairman of the Council of Economic Advisers, the White House announced yesterday." Lazear, 'if confirmed by the Senate, would become one of the administration's top officials responsible for advising, crafting and marketing the president's economic policies." The Wall Street Journal (1/31, 2.11M) says Lazear "was a member of Mr. Bush's advisory Tax Reform Panel, which submitted proposals for overhauling the tax code to the Treasury Department last year." He also is "a senior fellow at the Hoover Institution, Stanford's public-policy research center." The Journal adds, "The founder of a field known as personnel economics, Mr. Lazear has focused his research on employee incentives, promotions, compensation and productivity in companies. His expertise might help the White House better understand a troubling political phenomenon: why many workers give the administration relatively low marks on the economy, amid strong growth and low unemployment."

House Majority Leader Hopefuls Make Pitches To GOP Study Committee. Reps. Roy Blunt, John Boehner and John Shaddeg, the three candidates for House Majority Leader, pitched their candidacies at the annual retreat of the Republican Study Committee in Baltimore yesterday. The New York Times (1/31, Hulse, 1.19M) reports that the overture to the influential group of House conservatives, "along with a similar session set for Tuesday with House moderates, was part of the concentrated lawmaker-to-lawmaker campaigning typical of party elections, with members of the exclusive electorate trying to gauge how a candidate might do the job and, perhaps more important, calculate what might be in it for them. In recent weeks, there have been rumors of secret deals cut in exchange for votes: a chairmanship here, help with a jurisdictional dispute there. But each of the candidates denies any explicit offer of a quid pro quo, and lawmakers being wooed support that account."

Roll Call (1/31, Pershing) adds that "the dominant theme of Monday's session was the impending race for Majority Leader between GOP Reps. Roy Blunt (Mo.), John Boehner (Ohio) and John Shadegg (Ariz.) and how the conservatives who made the trip to Baltimore -- many of whom are publicly committed to one of the three candidates -- could force a second ballot Thursday and potentially decide the race."

Blunt Says He Has Majority Of Votes. The Washington Times (1/31, Dinan, 90K) notes, "Unlike recent coronations, this year's election is turning into a real race. Mr. Blunt yesterday said he continues to have a majority, but the list of those who are publicly supporting the Missourian is at least 20 votes short of the 117 votes needed to win a majority of the 232 members of the House Republican Conference. 'It's pretty clear Mr. Blunt does not have the votes to win it on a first ballot,' Mr. Shadegg said. 'There's a very vigorous debate going on about reform and about whether we can simply remain with the status quo.'"

The Hill (1/31, O'Connor) adds, "Boehner and Shadegg are trying to force a second ballot and to beat each other on the first. Supporters for both suggested an erosion of support, or 'buyer's remorse,' for Blunt." The Hill adds, "Without offering specific examples, Boehner suggested that Blunt had made explicit promises to members during the elections, but Blunt dismissed that suggestion outright."

Tomorrow's Budget Vote Seen As Critical For Blunt. The House's consideration of a $39 billion package of spending cuts tomorrow is seen as a critical moment for Blunt. The Hill (1/31, Allen) reports that the vote comes one day before GOP members will vote in the race for Majority Leader and a strong victory on the budget vote "would boost Blunt's campaign." A "loss, a delayed vote or any extension of the typical 15-minute vote, however, could be devastating. And the current political climate isn't helping Blunt's vote-gathering efforts."

White House May Disclose Abramoff's White House Meetings After State Of The Union. In its "Washington Wire" column on its web site, the Wall Street Journal (1/30, 2.11M) reported, "With ethics questions swirling and pressure building from Republican allies on Capitol Hill, some within the White House are pressing for full disclosure of disgraced Republican lobbyist Jack Abramoff's meetings with White House staff. One factor in the delay has been concern about diverting attention from Bush's message

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in Tuesday night's speech, according to a Republican close to the administration. A post-speech release appears increasingly likely, although no final decision has been made."

Reid Defends Efforts On Behalf Of Abramoff Clients. Fox News' Special Report (1/30, Garrett) reported, "In an exclusive interview with Fox Senate Democratic Leader Harry Reid defended his efforts to help Native American clients of disgraced lobbyist Jack Abramoff. … Reid also dodged Democratic Party Chairman Howard Dean's criticism on Fox News Sunday of any Democrat who helped an Abramoff tribal client." Reid "wrote a letter on March 5th, 2002 to Interior Secretary Gail Norton on behalf of a Louisiana Indian tribe, the Coushattas, who were trying to block federal approval of a casino sought by a rival tribe. The next day, a Reed political fund, the Searchlight Leadership Fund, received a $5,000 from the Coushattas, an Abramoff client."

Numerous Scandals Continue To Embroil Washington. The CBS Evening News (1/30, story 8, 2:00, Borger) surveyed the various scandals embroiling "official Washington" on the "eve of the President's State of the Union speech. … Start with this man, Jack Abramoff. Once a well connected Republican lobbyist, now singing to federal prosecutors in a congressional bribery scandal. His friend, former House Majority Leader Tom DeLay, forced to give up his leadership post after being indicted in Texas for money laundering. Ohio Republican Bob Ney, forced to give up his committee chairmanship after prosecutors tied him to Abramoff. And while Democrats haven't received any money from Abramoff's own checkbook, they did receive $1.5 million he directed to them through his clients. So when 100 members rushed to return Abramoff-tainted money to charity, it was a bipartisan stampede. Even the President joined in, sending $6,000 in Abramoff donations to charity. What the President won't reveal: the pictures taken of him with the lobbyist at White House functions. And although Abramoff was a top Bush money man, the President says he doesn't know him. … Don't forget that other Washington scandal that still haunts the White House, the CIA leak investigation. Federal prosecutors want to know who if anyone inside the White House knowingly leaked the identity of an undercover CIA agent to Washington journalists. That's a crime. And lying about it is a crime too. That's what Scooter Libby, Vice President Cheney's chief of staff, has been charged with. … Will Dick Cheney testify? Expect this case to drag on. Top presidential advisor Karl Rove is still under investigation for his role in the leaks. … And there's more: Republican Duke Cunningham resigned after admitting he took bribes. Democrat Bill Jefferson was the target in an FBI sting in which cash was found in his freezer. … The President is likely to support lobbying reform in his State of the Union speech. No doubt, everyone will applaud."

Democrats Try To Tie Sweeney To "Culture Of Corruption" In Washington. New York Democrats are questioning Rep. John Sweeney's ties to lobbyists in the hope of ousting from his upstate New York congressional seat. The New York Times (1/31, Hernandez, 1.19M) reports that Democrats are seizing on reports that Sweeney "recently organized a $2,000-a-person 'Skiing with Sweeney' weekend getaway attended by lobbyists at a ski resort in Park City, Utah, as well as a dinner at the home of Jeffrey Kimbell, a pharmaceutical industry lobbyist. The Democrats who have attacked Mr. Sweeney in newspaper interviews, news releases and a satirical Internet advertisement are arguing that Mr. Sweeney's actions reflect a larger culture of corruption that has enveloped Washington under Republican rule. The attacks notwithstanding, he has not been implicated in any of the troubles that have touched other Republicans. … The attacks on Mr. Sweeney come as New York Democrats say they plan to use the fallout over the lobbying scandal in Washington as an issue to mount vigorous challenges against Mr. Sweeney and other Republicans they say are too close to Republican leaders on the Hill."

Obey Says Leadership Has Repeatedly Bent, Broken House Rules. Rep. David Obey, ranking member of the House Appropriations Committee, writes in Roll Call (1/31), "I believe that the way the Republican-led Congress has handled Congressional earmarks has gotten way out of hand. The use of earmarks to reward Members who vote for questionable legislation has expanded hugely since Republicans took control. … There is no question that earmarking needs to be restrained. … But having said that, let's keep our eye on the real problem. The real problem with the appropriations process is not the occasional inappropriate earmark that slips through, as embarrassing as that might be. The real problem is that the rules of the House of Representatives — rules based on procedures recommended by Thomas Jefferson that have developed and matured through precedents established over the past 200 years — have been bent and broken by the House leadership in order to ram through legislation in an arbitrary and often anonymous fashion." The House "must recommit itself to fair and open House procedures."

Republicans Consider Adding 527 Limits To Lobbying Reform Bill. House Republicans are "leaning heavily' toward using the lobbying reform bill to put limits on donations to 527 political groups according to the Wall Street Journal (1/31, Rogers, Mullins, 2.11M). The Journal adds, "Melding the lobbying and campaign-finance issues could make it harder then to win Democratic support in the House. But combining the two issues could give Republicans greater

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leverage in persuading their members to accept new restrictions on travel and entertainment perks now arranged by lobbyists."

Meehan Warns Against Attaching 527 Crackdown To Lobbying Reform. However, Rep. Marty Meehan is warning against attaching his crack down on 527 groups to lobbying reform bills. The Hill (1/31, Schor) reports that Meehan said, "I don't want to see a poison pill that ends up being an excuse for members to vote against lobbying reform, because we need comprehensive lobbying reform," adding, "Adding 527s complicates passage…creates confusion, creates excuses." The Hill adds, "Even if the 527 language in tomorrow's GOP lobbying and ethics packages is identical to his, Meehan expects the debate to split lawmakers otherwise committed to reining in lobbying abuses."

Congress Seeks To Provide Workers With Advice On 401(k)s. The Wall Street Journal (1/31, Levitz, 2.11M) reports, "Congress wants to make it easier for financial professionals to advise employees on their investment choices in 401(k) plans -- but can't yet agree on how. With employers moving away from fixed-benefit pensions that give employees no investment choices toward fixed-contribution 401(k)s that sometimes give them dozens of choices -- usually mutual funds -- the fund industry has long argued that employees need help to make sound decisions. But federal labor laws designed to protect workers ban firms whose funds are among the employees' investment choices from also telling plan members which funds to choose. … Under the Pension Protection Act, which was passed by the House of Representatives in December, the conflict law would be overridden, permitting funds to give advice." Opponents "including AARP," "say the provision is a lousy idea, akin to a fox guarding the henhouse. The Senate, meanwhile, has approved a measure that would continue the ban on direct advice from fund firms, but would encourage companies to hire neutral third-party advisers to tell employees where they should put their money."

Administration Hopes To Abolish General Schedule Pay System. The Washington Post (1/31, B2, Barr, 744K) reports in its "Federal Diary" column, "The Bush administration hopes to garner congressional support this year for a proposal to abolish the decades-old General Schedule pay and job classification system by 2010 and move federal employees into pay systems that could vary by agency. … Prospects are uncertain for the administration's plan to replace the General Schedule with performance-based pay systems. Lawmakers face a number of difficult issues -- the conflict in Iraq, the rebuilding of New Orleans, possible growth in budgetary red ink -- and the Senate, in particular, does not seem inclined to take up such civil service changes. But the president's pay advisers have said they are encouraged by the debate over their plan."

Ensign Suffers Minor Injuries In Car Crash. The AP (1/31) reports Sen. John Ensign "was treated at a hospital Monday after his car was hit head-on by a driver who fell asleep at the wheel, police said. The Nevada Republican and an aide, who was driving, were taken to Sunrise Hospital with minor to moderate injuries, police said."

OTHER NEWS:

Greenspan To Retire Today, Bernanke To Take Over As Fed Chairman. The CBS Evening News (1/30, story 9, 2:00, Schieffer) offered a farewell to Alan Greenspan, for whom Tuesday is his "last day as Chairman of the Federal Reserve. For nearly two decades now he has defined US monetary policy and in the process become one of the most powerful and influential officials in Washington in recent memory." CBS (Mason) added, "The job had never been high-profile, but Greenspan has become an economic icon, serving four presidents as Fed Chairman. … Many are wondering if his successor will have the Greenspan touch. Behind the Fed's imposing columns, Alan Greenspan himself has become a Washington monument."

The New York Times (1/31, Stolberg, 1.19M) reports, "The important presidential nominee who is scheduled for a vote in the Senate on Tuesday is widely regarded as brilliant, has ties to Princeton University and, if confirmed as expected, will influence the lives of ordinary Americans for years to come. Judge Samuel A. Alito Jr. for the Supreme Court? No, this is the other important nominee -- Ben S. Bernanke for chairman of the Federal Reserve. … While lawmakers and the public have been focused on the nomination of Judge Alito, who is also scheduled for a vote on Tuesday, Mr. Bernanke has become a rarity in modern Washington: the noncontroversial nominee."

The Washington Post (1/31, D1, Henderson, 744K) reports "Fed officials and senior staffers, both in Washington and at the 12 regional Fed banks, will be a critical resource for the new chairman." Bernanke "steps into the job with academic expertise and experience in monetary policy." But "he has no experience in the business world or as a crisis manager, leaving analysts unsure how he would respond to financial shocks such as a stock market crash, dollar collapse, hedge-fund meltdown or another terrorist attack." He "was unavailable for comment."

USA Today (1/31, Hagenbaugh, 2.31M) reports, "When Alan Greenspan retires from the Federal Reserve today, the onetime jazz band musician will be going out on a high note." Greenspan "shepherded the economy through one of the

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most prosperous periods in US history. In the more than 18 years Greenspan held the reins of the Fed, the economy enjoyed a 10-year economic expansion, the longest in history, and had just two brief recessions that were the mildest since World War II."

The Wall Street Journal (1/31, lp, 2.11M) says Greenspan's "economic legacy seems secure: Inflation and unemployment are lower than when he took office, and during his tenure, the U.S. experienced just two mild recessions and its longest expansion on record." But "the intellectual foundation of that legacy is harder to pinpoint. If there is a single idea informing the success of his nearly two decades at the helm of the Fed, it is that single ideas are to be avoided. There isn't an identifiable Greenspanism or a Greenspan rule because the essence of Mr. Greenspan is his distrust of any 'ism' or rule."

Greenspan's retirement is triggering commentary in this morning's newspapers. In an editorial titled "The Chairman's Mystique," the Wall Street Journal (1/31, 2.11M) says, "The paradox of Alan Greenspan's achievement as he leaves office today after 18 years as Chairman of the Federal Reserve is that nearly everyone is praising his performance but no one seems to know exactly how he did it." He "bequeaths to successor Ben Bernanke a record but not a method -- which means we all have to see if the new guy has the same juggling skills."

USA Today (1/31, 2.31M) editorializes that "to the degree" Greenspan "deserves criticism, it's for supporting President Bush's 2001 tax cuts, which have dried up the federal budget surplus and helped produce record deficits. All in all, however, Greenspan makes an impressive case for himself -- even if no one can understand what he is saying."

Meanwhile, GOP Sen. Jim Bunning, a member of the banking and budget committees, writes in USA Today (1/31, 2.31M), "Greenspan has done an admirable job. However, he has always erred on the side of raising rates. I am not alone in this opinion. History is showing that he made mistakes in raising rates for too long. Aside from being addicted to rate increases, another one of my qualms with Chairman Greenspan was that he talked about everything under the sun — from trade deficits to budget deficits, tax policy to fiscal policy, and even the nation's oil patch. For dinner conversation, these would be fine topics to discuss." But "the Fed's jurisdiction is supposed to be purely monetary policy. Hopefully, his successor, Ben Bernanke, will be a different kind of chairman in these respects. He should stick to monetary policy and not interfere with fiscal issues, which rattle markets and get the bulls and bears into a tizzy."

Milton Friedman, the 1976 Nobel laureate in economics, writes in the Wall Street Journal (1/31, 2.11M), "Greenspan and I have generally found ourselves in accord on monetary theory and policy, with one major exception. I have long favored the use of strict rules to control the amount of money created. Alan says I am wrong and that discretion is preferable, indeed essential. Now that his 18-year stint as chairman of the Fed is finished, I must confess that his performance has persuaded me that he is right -- in his own case." His performance "has indeed been remarkable. There is no other period of comparable length in which the Federal Reserve System has performed so well."

Consumer Spending Up As Savings Rate Hits Post-Depression Low. The Wall Street Journal (1/31, Preciphs, 2.11M) reports, "Consumers ended the year on a free-spending note, driving up car sales and other major purchases while sending the personal-savings rate to a 73-year low." Consumer spending, inflation adjusted, "rose 0.9% to $80.2 billion in December, after a revised 0.5% in November, the Commerce Department said. Increased spending on durable goods -- merchandise that lasts three years or longer and includes autos, appliances, computers and aircraft -- and services contributed to the boost."

Meanwhile, NBC Nightly News (1/30, story 8, 1:00, Williams) reported, "There is ominous news on the economy to report tonight. The Commerce Department reports that Americans' personal savings was negative last year. Clocking in at -0.5%. That means people not only spent all of their income for the year, but dipped into savings or went into debt for it. The last time the national savings rate was this low was 1933, after the bottom of the Great Depression." USA Today (1/31, Kirchhoff, Hagenbaugh, 2.31M) also runs a story headlined "Savings Enter Negative Territory First Time Since The Depression."

Gas Heating Costs Down, But Still Above 2004 Levels. USA Today (1/31, Chu, Hagenbaugh, 2.31M) reports, "Consumers are about to get a bit of relief from steep energy prices. Many utilities are lowering the cost of natural gas as a milder-than-expected winter has led to lower consumption and, thus, lower prices for energy. A majority of U.S. homes are heated with natural gas. For the average consumer, the lowered rates will translate into savings of $10 to $80 on a monthly heating bill, utilities estimate. Many customers will begin to see the lower gas prices in February." USA Today adds, "Don't rejoice too much, though. Gas prices are still sharply higher than they were a year ago." The Energy Department "has estimated that the average household heating bill for natural gas users will still come in 35% higher than last season, totaling $1,000 for October through March. (That estimate could be scaled back, though, if the winter continues to be mild.)"

OPEC Will Keep Production Unchanged. The Wall Street Journal (1/31, Bahree, 2.11M) reports, "With oil prices near record-high levels and the global economy sucking up almost all the crude that can be produced, OPEC's oil ministers have agreed to keep production unchanged for the

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time being, the cartel's de facto leader said." Saudi Arabia's "influential oil minister, Ali Naimi," told reporters yesterday that members of the Organization of Petroleum Exporting Countries "were 'in agreement' about keeping output steady at today's levels."

Kraft To Cut 8,000 Jobs, Close Up To 20 Plants. NBC Nightly News (1/30, story 5, 1:00, Williams) reported ExxonMobil "is reporting some jaw-dropping profits tonight," but "Kraft, America's largest food manufacturer, says it will cut 8,000 more jobs, and close up to 20 plants in an expansion of a restructuring plan that is already underway at the company."

ExxonMobil Reports Biggest Corporate Profit In US History. ABC's World News Tonight (1/30, story 7, 2:00, Vargas) reported, "There were more head-turning numbers from the oil industry today. ExxonMobil said it earned more than $10 billion in the last quarter of 2005, a record for any US company. For the year, profits hit $36 billion, another record." The CBS Evening News (1/30, story 5, :30, Schieffer) reported, "The world's largest publicly traded oil company put out some staggering numbers today," racking up "the biggest corporate profit in US history."

Stocks Mixed. The Wall Street Journal (1/31, Patterson, 2.11M) reports, "The Dow Jones Industrial Average fell 7.29 points to 10899.92 on light volume on the New York Stock Exchange." The Standard & Poor's 500-stock index gained 1.48 to 1285.20 and the Nasdaq Composite Index added 2.55 points to 2306.78.

Class-Action Suit Takes On Kansas Attorney General's Broad Teen-Sex Opinion. The New York Times (1/31, Rudoren) reports on a federal trial in Kansas over "whether a Kansas law prohibiting virtually all sexual activity by people under age 16 means health care professionals and educators must report such behavior to state authorities, which some say would stop many teenagers from seeking contraception or treatment for sexually transmitted diseases." According to the Times, the suit is fighting an opinion from Kansas Attorney General Phill Kline (R), whose "interpretation of the law … included a broad mandate for reporting whenever 'compelling evidence of sexual interaction is present.' Bonnie Scott Jones, a lawyer for the Center for Reproductive Rights in New York, which is representing the plaintiffs, said in her opening statement that Mr. Kline's 'dragnet approach' to amassing information on under-age sex violated minors' privacy rights and the Constitution's equal protection clause, and that it 'seriously endangers the health and well-being of adolescents.'" The Times adds, "Kansas is one of 12 states where sex under a certain age — 16, 17 or 18 — is illegal regardless of the age difference between partners, according to a 2004 report prepared by the Lewin Group, a consulting firm, for the federal Department of Health and Human Services."

Lobbying Business Said To Be Booming. The Hill (1/31, Snyder) reports, "As Congress looks to restrict lobbying activities in the wake of the Jack Abramoff scandal, there are seemingly few entities that wouldn't be affected by changes to the industry. Estimates vary widely on the number of registered lobbyists who make their living in Washington, from 30,000 to just more than 11,000. But one thing seems certain: K Street is booming. … Everyone from pornographers to court reporters to cell-phone tower erectors — in addition to legions of Fortune 500 companies that dominate K Street — have a presence in Washington." The Hill adds, "Experts point to a number of factors to explain the industry's rise, from an increase in federal appropriations earmarks to an increasingly complex tax code. But, broadly speaking, the growth on K Street and within corporate offices seems to be related to a general recognition in the value of having Washington representation, both to defend against the imposition of harmful policies and to seek out favorable earmarks or alterations in regulations, experts say."

Professor Says Richest, Best-Connected Lobbyists Dominate Policy. Ross K. Baker, a political science professor at Rutgers University, writes in USA Today (1/31, 2.31M), "The flaw in the Founding Fathers' benign view of interest groups is that while no single interest group dominates all areas of policies, the wealthiest groups and the lobbyists with the best inside connections or representing organizations with mass memberships do monopolize individual areas of national policy. This does not, by itself, promote illegal activity of the sort ascribed to Abramoff. Certainly, there are not many like him among Washington lobbyists. But it is the Abramoffs who are more likely to get the ear of lawmakers than are ordinary citizens who lack the means to buy tickets to their fundraisers."

Lobbyists Suggest Reforms. Al Swift and Bob Hines, lobbyists with the firm Colling Murphy Swift Hynes, write in Roll Call (1/31), "Members of Congress and their staffs are here for only one purpose -- to do the public's business. Therefore reforms should be based on that. Here are a few suggestions: Ban Entertainment, Gifts. … Travel Must Be Authorized. … Lift all rules pertaining to meals paid for by someone else. … But, in its place, demand transparency." Swift and Hines add, "Reforms will be passed. This time, why not do something simple, straightforward and effective? These suggestions can be a good place to start."

Anaheim, Angels Spar In Lawsuit Over Team Name. The USA Today (1/31, Kasindorf) reports, "Wounded pride in a community overshadowed by Los Angeles is at the center of a legal rhubarb at the courthouse here over whether the Anaheim Angels baseball team had the right to rename itself the Los Angeles Angels of Anaheim. … The city sued the owner, alleging that it's losing tax

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revenue from tourism because Anaheim is no longer publicized in box scores and sportscasts." USA Today notes that "a key issue" for Anaheim and Orange County baseball fans is "their thwarted dream of shaking the outmoded image of being Los Angeles suburbanites. USA Today reports that "Angels owner Arte Moreno … says that appealing to local chauvinism is "almost 100%" of Anaheim's strategy with the jury." The story also notes, "Beyond local pride, big money is at stake for Anaheim. The city is asking for more than $100 million in damages in addition to squelching a name it calls 'silly.'"

Growing Evangelical Movement Said To Look Beyond Abortion, Gay Marriage. The Los Angeles Times (1/31, Simon, 958K) reports on "a small but growing movement of evangelical Christians who no longer want to be defined by gay marriage and abortion. Plumbing the Bible for God's priorities, they are talking instead about global warming and affordable housing, about fewer tax cuts for the rich and more food stamps for the poor. … The National Assn. of Evangelicals, based in Colorado Springs, Colo., is urging its 30 million members to pursue a 'biblically balanced agenda' -- by fighting poverty as well as pornography, protecting the environment as well as embryos, promoting good government as well as the Gospel." The Times adds, "A decade ago, white evangelicals were fairly evenly divided between Democrats and Republicans. Today, the group leans heavily Republican. White evangelicals make up 23% of the electorate; in the last election, 78% backed Bush, according to the Pew Research Center for the People and the Press."

Clinton Seen As Trying To Salvage His Legacy By Making Peace With Bushes. Reuters (1/30, Wulfhorst) reports, "Former President Bill Clinton has been buddying up to both presidents Bush in what strategists right and left view as a bid to salvage his political legacy and boost the ambitions of his senator wife. … While making peace with rivals is a post-presidential tradition along with good deeds, Clinton stands to help himself and his wife, New York Sen. Hillary Clinton, say experts on both sides of the political aisle."

China, Russia Will Seek UN Referral For Iran. The New York Times (1/31, Weisman, 1.19M) reports, "The United States and Europe, after hours of negotiations on Iran, won support from Russia and China early Tuesday to refer Iran's nuclear activities to the United Nations Security Council this week, but with a promise that the Council would not act on the question for at least a month." The Washington Post (1/31, Sullivan, Linzer, 744K) adds that the decision, "reached in London through a compromise with Russia and China, was a victory for the United States and its European allies, who had pressed for the matter to be sent to the council. But Russia and China were able to soften the agreement by stipulating that the Security Council not take up the matter until March." The Post continues, "A senior US official said the announcement reflected 'growing frustration' among all the parties over Iran's defiance of the International Atomic Energy Agency, the UN watchdog. 'I think Iran's on the defensive. Iran did not expect this,' said the official, speaking on the condition of anonymity.

USA Today (1/31, 2.31M) notes the IAEA has "already found Iran violated obligations under the Nuclear Non-Proliferation Treaty," while the Washington Times (1/31, Kralev, 90K) quotes "Senior State Department official" saying, "This is a significant step forward. … It means that Iran cannot depend on Russia and China to divide us any longer."

The Los Angeles Times (1/31, Daniszewski, Murphy, Magnier, 958K) says "the agreement appears to resolve, for now, a standoff in which Russia and China opposed any such action by the board of the International Atomic Energy Agency, a UN watchdog, which will meet Thursday. A vote to send Iran before the council appears all but certain, though there is some doubt whether it will be unanimous." The delay "provides a window for the Iranian government to reconsider its decision this month to reopen its nuclear facility at Natanz and resume research into enriching and reprocessing uranium. Iran says its program is for civilian nuclear power, but the U.S. and European Union believe the country is taking steps to develop material for nuclear weapons." The "compromise was hammered out at a four-hour dinner of foreign ministers here, hosted by Britain's Jack Straw ahead of a special meeting of the IAEA in Vienna."

The Financial Times (1/31, Hoyos, Dombey) adds "the agreement came hours after the Europeans and Iranian diplomats met at the request the Iranian government, in which Iran offered to slow down its controversial nuclear programme in a last-ditch attempt to avoid being reported to the Security Council. But European diplomats dismissed its proposal as containing nothing new." Javad Vaeedi," one of Iran's top nuclear negotiators, suggested to diplomats from France, the UK and Germany that Tehran could impose a moratorium on enriching uranium on an industrial scale - a process that can create weapons grade material."

Rice Stresses Diplomatic Option, Asking For "Robust" Talks With Iran. The AP (1/30, Stringer) reported Secretary Rice "said Monday that 'robust' negotiations with Iran are needed to deal with its resumed nuclear program, as European ministers' talks aimed at breaking the diplomatic deadlock appeared to fail." The AP quotes Rice saying, "We believe that there is a lot of life left in the diplomacy. ... After all, going to the Security Council is not the end of diplomacy. It's just diplomacy in a different, more robust context.'" AFP (1/30) also reported similar comments by President Bush: "The message is: Give up your nuclear weapons ambitions.

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... We're united in our goal to keep the Iranians from having a weapon, and we're working on the tactics necessary to continue putting a united front out."

Poll Finds Most Favor Sanctions. The Washington Post (1/31, Deane, 744K) reports, "Seven in 10 Americans would support international economic sanctions as a way to prevent Iran from developing nuclear weapons, but there is considerable wariness about taking military action against Tehran, according to the latest Washington Post-ABC News poll." The Post continues, "A large majority of the public says Iran is a threat to the United States, albeit not an immediate one, according to a recent Gallup poll. And a Fox News survey suggests the public views Iran's official pronouncements on the nuclear research program with great skepticism: Eight in 10 voters believe the country plans to use uranium enrichment for military rather than for peaceful purposes."

Iranian "Crisis" To Test Nuclear Espionage Technology. The New York Times (1/31, Sanger, Broad, 1.19M) reports, "In March 2004, the science and technology directorate of the Central Intelligence Agency called a secret meeting of hundreds of the government's top experts in nuclear intelligence to address a problem that had bedeviled Washington for decades: how to know, with precision, when a country is about to cross the line and gain the ability to build an atomic bomb. The aim of the two-day conference was to reinvigorate the nation's atomic espionage efforts, not with spies on the ground or satellites in space but with a new generation of advanced technologies meant to detect the faintest clues of nuclear activity." The Times adds, "Nearly two years later, federal officials and scientists say that meeting and other secret actions have accelerated the government's efforts to develop new atomic espionage technologies. The research focuses on better detection of four basic, but inconspicuous, signatures that covert nuclear facilities and materials can emit: distinctive chemicals, sounds, electromagnetic waves and isotopes, or forms of the same element that have different numbers of neutrons, a subatomic building block." The Iranian crisis "could pose a big test of how far that technology has come. … At a minimum, the crisis is putting more pressure on intelligence agencies to find out if Iran harbors secret nuclear sites. And after Iraq, there is huge pressure to get it right."

Firms Sever Iran Links. In a related story, the Wall Street Journal (1/31, Simpson, Wilke, 2.11M) reports, "Some of the world's largest finance and energy companies are severing ties with Iran, amid US probes into their compliance with American sanctions and as the possibility of UN action grows closer. Banks UBS AG of Switzerland and ABN Amro Holding NV of the Netherlands disclosed in recent weeks that they have broken off work with Iran, following the lead of Houston energy-services company Halliburton Co. a year ago. All three are subjects of US Justice Department inquiries into whether they violated sanctions laws, lawyers and others familiar with the inquiries say. Also under investigation but still doing business with Iran are HSBC Holdings PLC, Standard Chartered PLC and BNP Paribas, those people say. Also pulling out of Iranian business in recent months, though not being investigated regarding compliance with sanctions, are Swiss bank Credit Suisse Group, energy firms Baker Hughes Inc., ConocoPhillips of Houston and BP PLC of London, Chicago insurance broker AON Corp. and industrial conglomerate General Electric Co. of Fairfield, Conn."

Bush, Rice Say Hamas Must Renounce Violence, Accept Israel. In separate stories, the AP echoes comments Monday by both President Bush and Secretary Rice that the US would oppose a Hamas-led government in the Palestinian territories. The AP (1/31, Pickler) quotes Bush as saying: "The Hamas party has made it clear that they do not support the right of Israel. ... And I have made it clear that so long as that's their policy, that we will not support a Palestinian government made up of Hamas." In a separate story, the AP (1/31, Gearan) cites comments Rice made in London: "Everybody is saying exactly the same thing. ... There has got to be a peaceful road ahead. ... You cannot be on one hand dedicated to peace and on the other dedicated to violence. Those two things are irreconcilable." The Washington Times (1/31, Sammon, 90K) quotes Bush saying, "We will not support a Palestinian government made up of Hamas."

In a related story, Bloomberg (1/31, Zacharia) reports, "The US, European Union, United Nations and Russia said Hamas officials must form a Palestinian government that accepts Israel's existence or risk a cutoff of international aid. The diplomatic group, known as the Quartet, threatened late yesterday in London to review all aid should Hamas maintain its violent opposition and refusal to endorse peace efforts." The Washington Post (1/31, A14, Sullivan, 744K) reports US "officials said they viewed the statement by the quartet as a clear international warning to Hamas a day before President Bush gives his State of the Union address. The statement also appeared to represent a compromise between U.S. officials and their European counterparts, who had been publicly skeptical of the hard-line approach advocated recently by Rice and Bush."

The Financial Times (1/31, Dombey, Morris, Khalaf) reports, "Monday night's declaration was the first attempt to present a united international front after Hamas's victory but there are likely to be differences between the US and the EU over funding and contacts with the new administration. European diplomats believe that, despite having set out basic principles for Hamas to meet, they can still find mechanisms for delivering funding, while the US maintains a tougher line." The Times adds, "Privately, EU officials said their freedom of

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manoeuvre was limited by the PA's deep financial problems and the risk that greater isolation would only further radicalise the militant group."

USA Today (1/31, Stinson, 2.31M) runs a similar report under the headline "Hamas Warned: Cash Could Be Cut Off," while the Wall Street Journal (1/31, King, 2.11M) headlines its story "Group Sets Conditions On Aid To Palestinians."

Meanwhile, the Washington Times (1/31, Martin, 90K) reports, "Hamas will not alter its charter calling for Israel's destruction despite US, European and UN demands." Hamas, "fresh from a dominating win in last week's Palestinian parliamentary vote, also said moves by Palestinian Authority President Mahmoud Abbas to seize authority over all four security services are illegal and will be tackled once a new government is formed."

The Christian Science Monitor (1/31, Prusher, 61K) runs a story titled "After Victory, Hamas Faces Money Crunch," saying Hamas "now faces a far more challenging campaign: a fight to keep the international donor community, which has kept the Palestinian Authority (PA) functioning since 1994, from cutting off funding." The Wall Street Journal (1/31, Leggett, 2.11M) also says that "for nearly a decade, the Palestinian Authority has leaned heavily on donations from Western governments to stay afloat." But "with that lifeline threatened by Hamas's electoral victory, it remains to be seen where its quasigovernment will get the money to survive."

PBS' NewsHour (1/30, Lehrer) reported Hamas "urged the world today not to cut off aid to the Palestinian Authority. … If by Wednesday the quartet hasn't paid $69 million, Palestinian civil servants won't be paid this month." PBS' Margaret Warner went on to report, "There is one point on which the rival players in Gaza and here in the West Bank seem to agree: The Palestinians' dependence on foreign aid does give the West a big stick against Hamas, but it would be counterproductive for the West to use it yet. The stick is large because of the intense economic crisis in the Palestinian territories, with debris-filled beaches and trash-filled empty lots, and legions of jobless men. The deficit-ridden Palestinian government desperately needs an injection of cash just to pay this month's salaries to 135,000 government workers and security forces. … Remarkably, even Israeli officials, as alarmed as they are by the election of a terrorist organization next door, are advising their global partners to go slow on aid cuts for now." Tzahi Hanegbi Israel's minister for strategic affairs, was shown saying, "We're talking about people. They need medicines, they need food; they need their ordinary life. So I would say that in order to emphasize the resolve of the international community, it has to be at the beginning with diplomatic issues, and not right away with financial sanctions."

Abbas Asks International Community Not To Cut Funds. In a related story, AFP (1/31) reports, "Palestinian leader Mahmud Abbas and Hamas both urged the international community not to cut off funding as part of efforts to force change on the Islamists after their election win. As European foreign ministers and the key players in the Middle East peace process insisted Hamas renounce violence, the moderate Palestinian Authority president and the hardliners of Hamas said a cessation of funding would only hurt the impoverished people of Gaza and the West Bank." The New York Times (1/31, Myre, 1.19M) adds Abbas "denied reports that he was considering resigning and said he remained committed to peace talks with Israel." But "it is not clear how he will pursue them when Hamas, which has always rejected talks, will control the government." The Washington Times (1/31, Kralev, 90K) also reports the story.

Fatah Resists Coalition Sought By Hamas, Israel. PBS' NewsHour (1/30, Warner) reported that Fatah's Saeb Erekat, the Palestinians' chief negotiator with Israel, "sounds eager to go into opposition to Hamas if it sticks with its vow to destroy Israel and create an Islamic state." Erekat said, "We will not be part of this government. We will be in opposition. And each week, we will demand from Hamas jobs, electricity, water, services, to expose corruption and the rule of law. We will have a demonstration each week to demand better services for our people." Tzahi Hanegbi, Israel's minister for strategic affairs, was shown saying, "Mahmoud Abbas cannot have relevancy if his government is going to be a Hamas government. This is the tragedy of the election results. Mahmoud Abbas was elected in another campaign as a president. And he has his authorities. But if the legislative council would elect a Hamas government, it would be the end of our dialogue with the Palestinian Authority." PBS added, "Hamas leaders are floating one idea to get unstuck. They suggest that the Palestinian Authority they're about to join concentrate on domestic matters, and return negotiations with Israel to the Palestine Liberation Organization, or PLO, an umbrella group to which Hamas does not belong."

Meanwhile, the Washington Times (1/31, Li, 90K) reports, "A leading Palestinian pollster says Hamas' victory in Palestinian elections last week had less to do with the militant group's hard-line posture toward Israel than with voter anger against the long-ruling Fatah party founded by Yasser Arafat. Voters 'didn't just want to hurt Fatah. They wanted to defeat it,' said Khalil Shikaki, director of the Palestinian Center for Policy and Survey Research." The pollster added, "The only group that can defeat Fatah is Hamas. So they voted for Hamas."

Hamas Official Appeals To "American People's Sense Of Fairness." Mousa Abu Marzook, deputy political bureau chief of the Islamic Resistance Movement (Hamas), writes in the Washington Post (1/31, A17, 744K), "A new era in the struggle for Palestinian liberation is upon us. Through historic fair and free elections, the Palestinian people have spoken. Accordingly, America's long-standing tradition of supporting the oppressed's rights to self-determination should

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not waver." The United States, the European Union "and the rest of the world should welcome the unfolding of the democratic process, and the commitment to aid should not falter. Last week's victory of the Change and Reform Party in the Palestinian legislative elections signals a new hope for an occupied people. The results of these elections reflect a need for change from the corruption and intransigence of the past government." Marzook adds, "We appeal to the American people's sense of fairness to judge this conflict in light of the great thoughts, principles and ideals you hold dear in the Declaration of Independence, the Constitution and the democracy you have built. … Meaningful democracy cannot flourish as long as an external force maintains the balance of power. It is the right of all people to pursue their own destiny."

Israeli Army Prepares To Evict Squatters In Hebron. The New York Times (1/31, Kraft, 1.19M) reports nine Jewish families "have been squatting illegally in a Palestinian fruit and vegetable market here [Hebron], embarrassing the government. So Acting Prime Minister Ehud Olmert, who has expressed impatience with the settlers, decided to try to put an end to the affair. In what was apparently a deal with the government and the army, according to Israeli news media, the families have agreed to leave voluntarily on Tuesday morning, in exchange for a promise by Israel to speed up legal proceedings that might allow the state to expropriate the market from the city of Hebron and its owners and then rent it to other Israeli settlers. But the army is preparing for the deal to fall apart and for violence, Gen. Yair Naveh said. His troops are scheduled to demolish nine houses in an illegal outpost, Amona, later this week, following a court ruling."

Arabs Boycott Danish Products In Response To Cartoons Of Mohammad. The New York Times (1/31, Fattah, 1.19M) reports, "A long-running controversy over the publication of caricatures of the Muslim prophet Muhammad by a Danish newspaper boiled over in the past few days as a boycott brought sales of some Danish products to a halt in Arab countries across the Middle East, while Danish interests came under attack. … In recent days, Saudi Arabia and Libya have recalled their ambassadors to Denmark, protests have been staged in places like Dubai, where they are virtually unheard of, and Arab and multinational companies have placed ads in Middle Eastern newspapers to deny any connection to Danish companies. On Monday, Denmark called for its citizens in the Middle East to exercise extra vigilance. The Danish manufacturer, Arla Foods, which normally sells $1.5 million worth of dairy products a day in the region, announced that its sales there had come to a halt. And two of its employees in Saudi Arabia were beaten by angry customers."

EU Office In Gaza Stormed By Gunmen. The Washington Times/AP (1/31, Abu-Nasr) reports, "Protests over Danish caricatures of the prophet Muhammad escalated yesterday as gunmen seized an EU office in Gaza and Muslims appealed for a trade boycott of Danish products. Denmark called for its citizens in the Middle East to exercise vigilance."

New Director Expected To Reinvigorate Millennium Challenge Program. The Washington Post (1/31, A15, Fletcher, Blustein, 744K) reports, "After getting off to a painfully slow start, President Bush's signature foreign aid program is poised to begin ramping up the amount of money it spends on development projects in poor countries, according to its new chief executive -- who vows that the impact will be 'transformative.' John J. Danilovich, the former ambassador whom Bush installed as head of the Millennium Challenge Corp. in November, said the agency is adopting a new strategy to fulfill its mission of providing aid to well-governed nations. It will winnow recipients to a short list but intends to give them significantly bigger grants than those bestowed in previous programs." According to the Post, "the program has fallen well short of Bush's stated ambition. He envisioned spending $1.7 billion in 2004, $3.3 billion in 2005 and $5 billion per year thereafter. But the administration took two years just to set up the corporation, and even then problems impeded its progress."

Canadian Politicians Avoided US Consultants. In its "Players" column, Roll Call (1/31, Duran) reports, "Republicans may be thrilled that a Conservative is set to become prime minister of Canada but you will not find any GOP operatives bragging that they helped make it happen. While big-name American consultants such as James Carville or Ed Rollins trot the globe in search of new campaign adventures, they are not working in Canada these days. In fact, it's as if Canada has hung a 'no Americans need apply' sign out when it comes to federal elections, consultants north of the border say. … Michael Scroccaro of Sterling Communication in Toronto, Canada said the explanation for the shut-out of American consultants this election goes beyond a dislike of all things American. 'It was more the case of having an embarrassment of local talent,' said Scroccaro, who worked for the Tories. 'We recently had two parties merge — one of which has a long history of winning — and some of the most talented people in the game were suddenly available and on our team.' Scroccaro said the Canadian electorate does not respond as well to American-styled campaigns either."

Blair's Son To Begin Congressional Internship Today. The Washington Times (1/31, Pierce, 90K) reports in its "Inside Politics" column, "Euan Blair, eldest son of British

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Prime Minister Tony Blair, is scheduled to start a six-month stint today as an intern in the U.S. Congress. Young Mr. Blair, 22, will begin as an unpaid intern for Rep. David Dreier, California Republican and chairman of the House Rules Committee, and three months later he will join the staff of Rep. Jane Harman, California Democrat and ranking member on the House Intelligence Committee."

Violence, Detentions Precede Nepalese Elections. The New York Times (1/31, Sengupta, 1.19M) reports Nepalese King Gyanendra, "the man who sacked the government a year ago, calls for elections but jails political party leaders. The main political parties demand the restoration of democratic rights, but call on voters to boycott the polls. At least one mayoral candidate has been assassinated by suspected Maoist guerrillas. … So goes the prelude to municipal elections in this ancient Himalayan kingdom on the violent cusp of change. The elections, scheduled for Feb. 8, will be held a year after Gyanendra, the world's sole Hindu monarch, seized power in what he described as an effort to defeat the Maoists."

Georgian Leader Criticizes Russian Use Of Military Force. Nino Burdjanadze, Speaker of the Georgian Parliament, writes in a letter to the editor of the Wall Street Journal (1/31, 2.11M), "The world has noticed Russia's use of energy as a political weapon to pressure neighboring Western-oriented states. Now it appears that Russia does not intend to confine itself to energy to tame 'intractable' neighbors but contemplates a far more conventional and well-tried weapon -- the use of military force." The letter alleges that Russia supports "illegitimate separatist puppet regimes of Abkhazia and South Ossetia. Under the guise of 'peacekeeping' and 'mediation,' Russia has de facto annexed the territories." The letter says Georgia is committed to a peaceful resolution of the Abkhazia and South Ossetia situations and paints a "different Russia" that "reserves a right to use military force against neighbors to prevent geopolitical changes, uses energy to blackmail its democratic neighbors, and provides aid and comfort to illegal separatists outside its borders."

WPost Sees Russian Repression With "Cold War Overtones." The Washington Post (1/31, 744K) editorializes, "A grainy video purporting to show the activities of British spies; ominous talk of foreigners undermining the state; protests from the Moscow Helsinki Group -- can this really be Russia in 2006?" The Post notes that Russia's current campaign against human-rights groups has "distinct Cold War overtones." The Post says Russia has passed a law restricting NGOs' activities and that Russian media have accused other groups of links to alleged British spies. The Post compares this to charges leveled in 1975 and 1985, and concludes, "It seems history really does repeat itself, and while the second time may have the feel of farce, Moscow's repression may end no less tragically for its victims.""

Sudan's Transformation "Harder" Than Imagined. The New York Times (1/31, Lacey, 1.19M) reports that the recent African Union meeting "was supposed to have been Sudan's chance to shine. Shut off from the rest of the world for so long, Sudan's leaders are eager to attract outside investors and shed their pariah image. But the transformation has proved harder than anyone here imagined.." The Times analogizes Sudan's plight to the recently purchased, luxurious presidential yacht, which was delivered too late for the summit meeting and has been derided in the Sudanese media for its excessive price.

Bacon Calls For US To Press Darfur Issue In Security Council. In an op-ed in The New York Times (1/31, 1.19M), Kenneth Bacon, president of Refugees International, writes that when it assumes the presidency of the Security Council, the United States "could start by devoting itself to ending the violence in the Darfur region of western Sudan. … The last time the United States assumed the rotating presidency of the 15-member Security Council, … John C. Danforth, then the ambassador to the United Nations, brought the entire Security Council to Kenya to pressure the government in Khartoum and the insurgents in the south to end their 21-year civil war. The tactic worked." Bacon calls on US Ambassador John Bolton to "demand the release of an unpublished United Nations study listing those countries that ship weapons to rebels and Khartoum-backed militias. Then the Council should use this information to punish sanctions scofflaws." Bacon concludes that while the United States "has a vexing and inconsistent record on Sudan," the UN Security Council presidency offers "a chance to show the world that we can do more than just talk about genocide."

CAIR Protests Skit Making Light Of Hajj Tragedy. The Los Angeles Times (1/31, Muskal, 958K) reports, "A local radio personality and a group that says it is fighting to empower American Muslims have squared off over a provocative skit that featured a make-believe traffic reporter covering the hajj, where hundreds of pilgrims were crushed to death." Bill Handel, a morning radio host, "set off the furor when he broadcast the skit about a traffic reporter in a helicopter hovering over the hajj, the Muslim pilgrimage to Mecca, Saudi Arabia, that attracts about 3 million faithful each year. On Jan. 12, 363 pilgrims were killed in an accident that Saudi authorities blamed on the dynamics of the crowd. Last week, the Southern California office of the Council on American-Islamic Relations called on Handel and the station to apologize for the skit, which the group said poked fun at Muslims."

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Career FSOs Seen As Likely To Stymie Rice's Repositioning Initiative. In a Washington Times (1/31, 90K) op-ed titled "Change at Foggy Bottom," Fred Gedrich, a foreign policy and national security analyst who served in the State Department from 1988 to 1997, and Ret. US Army Maj. Gen. Paul E. Vallely write that Secretary Rice's global personnel repositioning initiative "will surely stir the hornet's nest. Career Foreign Service Officers…have a notorious record in resisting change and the legitimacy of presidential and congressional control and direction. Some have been accused of purposely undermining President George W. Bush's global war on terror and national-security strategy." The authors say the Department "must play a vital role in confronting the enormous diplomatic and national-security challenges facing America" and "is the perfect instrument to carry out the president's vision of making the world more secure, free and prosperous for the benefit of Americans and the international community." However, Rice's "plans will likely encounter difficulty. Presidents and secretaries of state since [FDR] have learned that FSOs and the American Foreign Service Association, the sole bargaining agent for the 23,000 active and retired FSOs, are more apt to reject, rather than embrace, reform plans and the legitimacy of foreign-policy direction received from elected and appointed officials." Rice will meet resistance to her plan, the authors predict, "because FSOs thrive under the current system and firmly control the department's foreign policy apparatus and personnel systems. Career diplomats currently occupy powerful slots including undersecretary for political affairs and director general of the Foreign Service. … It's apparent to many outsiders that the department must make fundamental changes to the institution and culture and implement new strategies to effectively cope with daunting 21st-century national-security and foreign-policy challenges. It's about time the folks at Foggy Bottom realized it too."

WSJournal Says Wide Majority Of Chinese Favor Capitalism. The Wall Street Journal (1/31, 2.11M) editorializes, "In a poll conducted for the University of Maryland's Program on International Policy Attitudes between June and August last year, fully 74% of Chinese citizens said they agreed with the statement 'the free enterprise system and free market economy is the best system on which to base the future of the world.' … Remarkable, isn't it, that residents of the Middle Kingdom have maintained their appreciation of the benefits of free enterprise through six decades of oppression and economic backwardness imposed by their Communist cadres? … Mao would probably turn over in his glass case if he realized that the Chinese have rejected his teachings. But the harsh consequences those teachings imposed on his countrymen have been an education like no other. Nothing creates eager young capitalists quite like living under Communism."

NYTimes Encourages EU, US To Support Turkish Reform Efforts. The New York Times (1/31, 1.19M) editorializes, "The judge in the free-speech trial of the Turkish author Orhan Pamuk dismissed all charges last week, sparing Turkey further international scorn. But the case was thrown out on a technicality. Turkey still needs to change the repressive law under which Mr. Pamuk was arrested and drop similar cases against dozens of other lesser-known Turks. The most powerful motivation for making such changes has always been Turkey's desire to join the European Union. But public support for joining is now waning, down from a high of 85 percent to 65 percent recently. In part, that reflects a lingering bitterness over 11th-hour issues that tainted the start of Turkey's membership talks. … Turkey's prime minister, Recep Tayyip Erdogan, must convince his people not to give up on the reforms that precede union membership. And Washington and Brussels need to help him make the case."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"U.N. Action Likely For Iran."
"Witty Voice Of Feminist Self-Doubt."
"Surf Art Catches A Break.'
"Markets Could Test New Fed Chairman."
"State Tax Break Benefits Companies, Not Workers."
"Alito Seen As Carrying The Torch Of Reagan."
"Chief Says Officer Who Killed Driver, 13, Acted Within Rules."

USA Today:
"Immigration Fuels Housing Battles."
"'Bigger-Than-Life' Fed Chairman Retires Today."
"Tribes' Political Giving Targeted."

New York Times:
"Alito Clears Final Hurdle For Confirmation To Court."
"At Exxon Mobil, A Record Profit But No Fanfare."
"Smithsonian Picks Notable Spot For Its Museum Of Black History."
"And In This Corner, Fed Choice Is Blip On Some Senators' Radar."
"Wendy Wasserstein Dies At 55; Her Plays Spoke To A Generation."
"A New Kind Of Care In A New Era Of Casualties."

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Washington Post:
"US, Allies Set Terms For Aid To Palestinians."
"Senate To Vote On Alito Today."
"Mall Site Is Chosen For Black History Museum."
"Zawahiri Taunts Bush After Attack Misses Him."
"Utah Town Has Question About President: 'What's Not To Like?'"
"Va. Activist Pursues Idealistic Quest To Lead His Salvadoran Home City."

Washington Times:
"US, Allies Demand Hamas Changes."
"Senate Rejects Filibuster Of Alito."
"Exxon's Quarterly Profit Of $10.7 Billion A Record."
"We Knock It Down And Then We Come To Collect $98,000."
"Liberal Activists Promote A Ruckus To Silence Bush."
"Ohio Sheriff Bills US Government For Jailed Illegals."
"Museum Has 'A Home.'"

Detroit Free Press:
"Detroit Beams With Pride."
"A World Away, The Pain Is Clear."
"This Time Johnnie And Gladys Can Stay Home."

Atlanta Journal-Constitution:
"Alito All But A Lock For Court."
"Outrage Sizzles On Oil Profits."
"'Neutral Zone Fades, Danger Escalates For Journalists In Iraq."
"In The Gallery Tonight …"

Dallas Morning News:
"Jury Is Seated In Enron Trial."
"Exxon Mobil Posts $36.1 Billion Profit."
"Board Seeks Book Influence."
"Bush Aims To Make Up Lost Ground With Address."
"Envoys OK Referral Of Iran To U.N."

Houston Chronicle:
"One Day, One Jury."
"$100 Million Going To Baylor For Cancer Unit."
"Exxon Profit Hits Record $36 Billion."
"Less Flash, More Value In Openings."
"Abducted Journalist Pleads On Tape."

Story Lineup From Last Night's Network News:
ABC: Woodruff Update; Iraq Field Hospital; Iraq IEDs; Carroll Tape; Zawahiri Tape; Enron Trial; Exxon Profit; CA Smuggling Tunnel.
CBS: Zawahiri Tape; Carroll Tape; Woodruff Update; Hussein Trial; Exxon Profit; Enron Trial; Alito Confirmation; Senate Reform; Greenspan Retirement.
NBC: Woodruff Update; Iraq Hospitals; Al Jazeera Tapes; Wall Street Journal Poll; US Economy; Katrina Donation Spending; Katrina-Senate Hearings; Savings Lack; Enron Case; Snowstorm Rating Scale.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Woodruff's condition; CA-post office shooting; Senate-Alito; Bush-State of the Union; UN-Iran nuclear program.
CBS: CA-post office shooting; Enron trial; Senate-Alito; Bush-State of the Union; UN-Iran nuclear program.
NPR: Senate-Alito; UN-Iran nuclear program; Iraq-kidnapped journalist; Zawahiri video; Enron trial; Wall Street; UN-Palestinian aid; Kraft-layoffs.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — 10:15 a.m. President and Mrs. Bush depart the United States Capitol en route The White House. 8:35 p.m. President and Mrs. Bush depart The White House en route United States Capitol. 8:40 p.m. President and Mrs. Bush arrives at the United States Capitol. 9 p.m. Delivers annual State of the Union address before a joint session of Congress, House floor, U.S. Capitol. 10:20 p.m. President and Mrs. Bush arrive at The White House.

VICE PRESIDENT CHENEY — 9 p.m. Attends the State of the Union Address, Capitol.

US Senate: FLOOR SCHEDULE _ The Senate convenes and proceeds to consideration of the nomination of Judge Samuel Alito to be an associate justice of the Supreme Court. The Senate holds a final vote on the Alito nomination at 11 a.m., following which it will turn to consideration of the nomination of Ben Bernanke to be chairman of the Federal Reserve Board.

APPROPRIATIONS _ 8:30 a.m. Labor, Health and Human Services, Education and Related Agencies Subcommittee. Hearing on preparations for a pandemic flu outbreak. Assistant HHS Secretary John Agwunobi; CDC Director Julie Gerberding; author John Barry; Richard Webby, St. Jude's Children's Hospital; George Abercrombie, CEO, Roche Pharmaceuticals; Daniel Soland, president of vaccines, Chiron Corp.; Chris Viehbacher, president, GlaxoSmithKline; Iowa Public Health Director Mary Mincer; Pennsylvania Health Director Calvin Johnson; Bruce W. Dixon, director, Allegheny County Department of Public Health; Joanne Godley, acting health commissioner, Philadelphia Department of Social Services. Location: Room 216, Hart.

HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ 10 a.m. Full Committee. Hearing on planning for the evacuation of New Orleans for Hurricane Katrina. Louisiana Transportation Secretary Johnny B. Bradberry; Col. Terry Ebbert, director, New Orleans Office of Homeland Security; Walter S. Maestri, director, Jefferson Parish Office

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of Emergency Management; Jimmy Guidry, medical director and state health officer, Louisiana Department of Health and Hospitals; Kevin U. Stephens, director, New Orleans Health Department; Joseph A. Donchess, executive director, Louisiana Nursing Home Association. Location: Room 342, Dirksen.

HEALTH, EDUCATION, LABOR AND PENSIONS _ 2 p.m. Full Committee. Confirmation hearing on pending nominations. Richard Stickler to be assistant secretary of Labor, Mine Safety and Health Administration; Edwin G. Foulke Jr. to be assistant secretary of Labor, Occupational Safety and Health Administration. Location: Room 106, Dirksen Bldg. Notes: Note room change.

COMMERCE, SCIENCE AND TRANSPORTATION _ 2:30 p.m. Full Committee. Hearing on Video Content. Ben Pyne, Disney; Matt Polka, American Cable Association; Robert Lee, WDBJ TV; Joseph Waz, Comcast; Dan Fawcett, DirecTV; Doron Gorshein, The America Channel. Location: Room 562, Dirksen. Contacts: Melanie Alvord, 202-224-8456

FOREIGN RELATIONS _ 2:30 p.m. Full Committee. Confirmation hearing on pending nominations. Location: Room 419, Dirksen.

US House: FLOOR SCHEDULE _ Meets for legislative business and immediately recesses until about 3:30 p.m. for a re-vote on the budget reconciliation conference report. At 5 p.m. recesses for the final security sweep. At 8:45 p.m., reconvenes for the State of the Union Address.

RULES _ 1 p.m. Full Committee. Meets to set rules for floor debate for S. 1932 - Deficit Reduction omnibus Reconciliation Act, H.R. 3199 - Patriot Act reauthorization, and a measure to limit access of former House members to the floor and other areas. Location: Room H-313, Capitol.

Other: EDUCATION ASSISTANCE _ The Coalition of Higher Education Assistance Organizations holds its 26th annual conference. Highlights: 9 a.m. Rep. Henry Cuellar. 10 a.m. Session on how student financial aid fits into one-stop centers, with Frank Claus of the University of Pennsylvania. 12 p.m. Luncheon address - Rep. John Spratt. 2:30 p.m. Session on financial literacy and student loans, with Rep. Earl Pomeroy. Location: Ritz-Carlton-Pentagon City, 1250 S. Hayes St., Arlington, unless otherwise noted. Contacts: Joan Coyle, 202-289-3903

MILITARY HEALTH SYSTEM _ The State of the Military Health System 2006 Annual Conference convenes. This year's conference will highlight Health Affairs, the TRICARE Management Activity (TMA), and the Services' Surgeons General's priorities. Location: Marriott Wardman Park Hotel, 2660 Woodley Road NW. Contacts: Reginald Wayne Humphries, 301-295-3166

INTERNATIONAL SCIENCE EXPEDITION _ The International Science Expedition convenes in Washington. The event features a telepresence technology that allows students around the globe to participate in "The Jason Project: Mysteries of Earth and Mars." Students in classrooms and educational institutions will participate in the project, founded by Titanic discoverer Robert Ballard, to encourage the next generation of scientists and explorers. Location: National Geographic, 1145 17th St. NW. Contacts: Jennifer Walsh, 703-276-2772 ext 13

FEDERAL WORKFORCE _ 8:30 a.m. OPM Director Linda Springer holds a discussion about the federal workforce of the future, sponsored by the Washington Post and the Council for Excellence. Location: 1150 16th St. NW. Contacts: Sarah Howe, 202-530-3270

STATE OF THE UNION-RELATED EVENT _ 9 a.m. The Congressional Progressive Caucus convenes a forum to propose an alternative to the president's State of the Union address and a new direction for the country. Democratic National Headquarters, 430 South Capitol St. SE. Note News conference at start. Contact: Joia Jefferson Nuri, 240-603-7905.

ALITO _ 9 a.m. The Christian Defense Coalition, others hold a news conference to call on the Senate to have a straight up and down vote on the Alito nomination, without a filibuster. Location: In front of the Supreme Court. Contacts: n/a, 202-547-1735

EDUCATION _ 9:30 a.m. - 11 a.m. The American Enterprise Institute hosts a discussion led by Frederick Hess, author and AEI's Director of Education Policy Studies, on school accountability and quality. With James Donnelly, 2004 National Principal of the Year; Jason Kamras, 2005 National Teacher of the Year; and Joe Williams, author, "Cheating Our Kids." Location: Wohlstetter Conference Center, 12th floor, AEI, 1150 17th St. NW. Contacts: Veronique Rodman, 202-862-4871

EDUCATION TESTING _ 9:30 a.m. - 11 a.m. Education Sector, a new, nonpartisan think tank formally launches what it says is a major report, "Margins of Error: The Education Testing Industry in the No Child Left Behind Era." The report concludes that the scale of testing required by No Child Left Behind, competitive pressures, tight regulatory deadlines, a dearth of testing experts, and lax state oversight are resulting in tests in many states that are failing to accurately measure students and school performance. Location: National Press Club, Holeman Lounge. Contacts: Molly Chapman Norton, 202-756-1996. Notes: A light breakfast will be served at 9 a.m.

IRAN _ 10 a.m. The Iran Policy Committee holds a news conference on Iran's nuclear weapons program. Location: National Press Club. Contacts: Raymond Tanger, 202-742-6517

IRAQ PUBLIC OPINION _ 10:30 a.m. The Saban Center for Middle East Policy holds a briefing on measuring Iraqi public opinion, with Martin Inkyk of the center, Steven Kull of the Program on International Policy Attitudes, and

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Kenneth Pollack of the center. Location: Falk Auditorium, 1775 Massachusetts Ave. NW. Contacts: n/a, 202-797-6105. Notes: RSVP requested.

STATE OF THE UNION-RELATED EVENT _ 11 a.m. The Center on Budget and Policy Priorities holds a telephone briefing on key issues likely to be discusses in the State of the Union Address. Call contact for details. Contact: Michelle Bazie, 202-408-1080. 11:30 a.m. Senate Republican Leadership and Judiciary Committee members will hold a press availability following the Supreme Court confirmation vote on Judge Samuel. Senate Radio/TV Gallery. Contact: Elizabeth Keys, 202-224-2928. Note: Time approximate.

HOYER _ 11:30 a.m. House Democratic Whip Rep. Steny Hoyer holds a pen and pad only briefing. Location: Room H-306, Capitol. Contacts: Liz Packard, 202-225-3130

MAURITANIA _ 12 p.m. The Middle East Institute holds a discussion with Ahmed Ould Sid' Ahmed, Foreign Minister of Mauritania, on the current situation in his nation. Location: 1761 N St. NW. Contacts: n/a, 202-785-5336. Notes: RSAVP required.

TERRORISM _ 12 p.m. Rohan Gunaratna, head of Terrorism Research at the Institute for Defence and Strategic Studies in Singapore, speaks at a Terrorism and Homeland Security Forum sponsored by the Wilson International Center for Scholars, others. Location: 5th floor conference room, Wilson Center, Reagan Building. Contacts: Sharon McCarter, 202-691-4016

DEMOCRATS _ 12:30 p.m. The Democratic Policy Committee holds a closed meeting. Location: Room S-211, Capitol. Notes: Stakeout note: Gallery escort for policy luncheons leaves at 11:30 a.m. Senate Democratic Leader Harry Reid will be in the Ohio Clock Corridor from approximately 12:15-12:30 p.m.

REPUBLICANS _ 12:30 p.m. The Republican Policy Committee holds a closed meeting. Location: Room S-207, Capitol. Notes: Stakeout note: Gallery escort for policy luncheons leaves between 12:15-12:30 p.m. from the Ohio Clock Corridor.

EDUCATION INITIATIVE _ 12:30 p.m. - 2:30 p.m. Assistant Secretary Henry L. Johnson, Office of Elementary and Secondary Education, U.S. Department of Education, will discuss new Department initiatives, NCLB reauthorization and high school reform at the first in a series of National Policy Briefings hosted by the National Association of Secondary School Principals. Location: National Press Club. Contacts: Jeanne Bliss, 202-457-8100. Notes: A light lunch will be provided. In addition to coverage at the National Press Club, reporters can participate via teleconference. An 800 number will be provided when you RSVP. RSVP: (for either in-person or via teleconference) Edith Sodolo, 202-457-8100.

STATE OF THE UNION-RELATED EVENT _ 2 p.m. Senate Democratic Leader Harry Reid and House Democratic Leader Nancy Pelosi will participate in a photo-op with Virginia Governor Tim Kaine and a pen and pad session with reporters in advance of President Bush's State of the Union Address that evening. Kaine is set to deliver the Democratic response to the President. Room S-224, Capitol. Contact: Jim Manley, 202-224-2939.

RELIGION-GAYS _ 2 p.m. The National Gay and Lesbian Task Force holds a teleconference on a report, David v. Goliath, concerning faith groups working for gay, bisexual and transgender equality. Contacts: Richard Lindsay, 646-358-1474. Notes: Call in number is 888-802-2266. Prompt code is 7448539.

VA POLICE-KATRINA _ 2 p.m. There will be a ceremony to honor VA police officers for their efforts to aid victims of Hurricane Katrina. Participants include honorees Jerome Simon and Alfred Pratt; Department of Veterans Affairs Secretary James Nicholson; and AFGE National Secretary-Treasurer Jim Davis. Location: Montgomery Auditorium, Room 230, Department of Veterans Affairs, 810 Vermont Ave. NW.

STATE OF THE UNION-RELATED EVENT _ 3 p.m. Cindy Sheehan, Reps. John Conyers and Lynn Woolsey, Hurricane Katrina survivor Malik Rahim, others speak at the Peoples State of the Union event. Mott House, 122 Maryland Ave. NE. Contact: Gael Murphy, 202-412-6700.

STATE OF THE UNION-RELATED EVENT _ 5 p.m. - 6:30 p.m. Ministers and church members of different denominations hold a march and rally from the Vice President's residence down Massachusetts Ave. to protest torture policies and practices of the administration. Contact: Linda Gustitus, 202-363-3928. 6 p.m. The National Journal, The Atlantic and Congress Daily hold their third annual State of the Union reception. Pre-SOU reception with House Speaker Hastert and Democratic leader Pelosi. Open to media, but must RSVP. Contact: Hannah Hirshfeld, 212-284-7635.

PHONE SPYING _ 5 p.m. - 7 p.m. The American Bar Association Standing Committee on Law and National Security, in collaboration with the International Law Program of the School of Advanced International Studies at Johns Hopkins University, hosts a program on the secret program to intercept communications with one end overseas and one end in the U.S., including personal communications in this country. Location: Rome Auditorium, School of Advanced International Studies Johns Hopkins University, 1619 Massachusetts Ave. NW. Notes: Please RSVP by email (hmcmahonstaff.abanet.org) or call 202-662-1035; registration is free, but an RSVP is requested.

INTELLIGENCE SURVEILLANCE _ 5 p.m. The School of Advanced International Studies and the American Bar Association's Standing Committee on Law and National Security hold a forum on foreign intelligence surveillance, with former House Intelligence Committee staffer Suzanne Spaulding; David Cole of Georgetown University Law School,

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Robert Turner of the University of Virginia, others. Location: Kenney Auditorium, 1740 Massachusetts Ave. NW. Contacts: Felisa Klubes, 202-663-5626 Notes: RSVP required to 202-662-1035.

SCOTUS-ABORTION _ 7 p.m. NARAL Pro-Choice America holds its annual dinner to celebrate the Roe v. Wade Supreme Court decision. Speakers include former Secretary of State Madeleine Albright, Rep. Gwen Moore, others. Location: Washington Hilton & Towers, 1919 Connecticut Ave. NW Contacts: Ted Miller, 202-973-3032 Notes: Media RSVP required. Setup recommended before 6 p.m.

STATE OF THE UNION-RELATED EVENT _ 8 p.m. Protest organized by The World Can't Wait-Drive Out the Bush Regime, during the State of the Union Address, with Cindy Sheehan, others. Capitol Reflecting Pool. Contact: Ariel Vegosen, 516-732-0579. 8 p.m. The Center for American Progress Action Fund holds a State of the Union watch party. 10th floor, 1333 H St. NW. Contact: Jay Heidbrink, 202-741-6273.

STATE OF THE UNION-RELATED EVENT _ 8 p.m. - 10 p.m. The Center for American Progress Action Fund presents: "The Progressive Take on the State of The Union" Watch Party. Center for American Progress Action Fund, 1333 H Street NW, 10th floor. Note: Pizza and beverages will be served beginning at 7:30 p.m. To RSVP, please call Jay Heidbrink at 202-741-6273.

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Williams, Jan

From: Williams, Jan

Sent: Tuesday, January 31, 2006 9:06 AM

To: Nelson, Carrie; /o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford

Subject: White House Morning Update: 1/31/06

Attachments: tmp.htm

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The President will discuss America's leadership in the world and share his vision to lead America forward. To seize opportunities here at home, the President will outline the policies needed for the American people to continue to compete in the global economy and for America to continue to lead.

9:01 pm: THE PRESIDENT delivers the State of the Union Address

EST United States Capitol | Washington, DC

From Today's Morning Headlines

Dan Bartlett Discusses The President's State Of The Union Address.
BARTLETT: "Well Harry, what the State of the Union provides is an opportunity to take a step back from the daily headlines and say what is the direction of our country, both here at home and abroad? No question about it, we're facing some big challenges, whether it be the fact that we're a Nation still at war, with an enemy determined to try to hurt the American people. And the fact that here at home we're dealing with some big issues, such as rising costs of energy and gas prices, as well as the cost of health care. And what President Bush is going to do is to really make a case that America always does best when America leads. And that means continuing taking the type of leadership role that is expected of us in the world that will mean more prosperity, more security for the American people. So, it's an optimistic agenda. No question there are challenges and he will address those challenges.
But, I think the public wants to see in their president is not somebody who looks at the challenges and becomes pessimistic but sees the opportunities and the potential that we have. So, it is an optimistic speech." (CBS' "The Early Show," 1/31/06)

Bipartisan Majority In Senate Reject Democratic-Led Filibuster Attempt.
"Republican senators, aided by 19 Democrats, cleared the path yesterday for Samuel A. Alito Jr. to join the Supreme Court and for President Bush to put his stamp firmly on the nine-member bench. The Senate voted 72 to 25 to end debate on Alito's nomination and to allow a roll call on his confirmation today, shortly before noon. Alito's supporters garnered a dozen more votes than the 60 they needed to choke off a Democratic filibuster effort, which would have allowed debate to continue indefinitely. ... 'I am pleased that a strong, bipartisan majority in the Senate decisively rejected attempts to obstruct and filibuster an up-or-down vote on Judge Sam Alito's nomination,' <http://www.washingtonpost.com/wp-dyn/content/article/2006/01/30/AR20060
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Pretax personal income rose 0.4% to $41.1 billion, matching a similar surge in November. <http://online.wsj.com/article/SB113862648695659891.html?mod=economy_lead_story_lsc> Wages and salaries, the largest component of personal income, grew 0.3% last month to $14.6 billion after a similar surge in November. Disposable or aftertax personal income increased 0.4% to $35.5 billion from the previous month's revised 0.4% increase." (Joi Preciphs, "Consumers Spent More In December As Savings Fell," The Wall Street Journal, 1/31/06)

Connecticut N.A.A.C.P. Sides With Bush Administration In Calling For End Of Lawsuit Against No Child Left Behind. "The Connecticut State N.A.A.C.P. wants to intervene in a lawsuit over the No Child Left Behind law on the side of the Bush administration. <http://www.nytimes.com/2006/01/31/nyregion/31schools.html> ... The civil rights organization, along with three students, filed a motion yesterday to intervene in a case that pits the State of Connecticut against the federal Department of Education. The state's lawsuit, filed last August, argues that the federal government has not sent Connecticut enough money to comply with the requirements in the education law. The Connecticut State Conference of N.A.A.C.P. Branches is requesting that the state's lawsuit be dismissed, describing it as a waste of state resources that could be used to reduce Connecticut's achievement gaps between white and minority students and between wealthy and poor students." (Avi Salzman, "N.A.A.C.P. Contests Connecticut Lawsuit," The New York Times, 1/31/06)

New U.S. Commander In Iraq Outlines His Strategy. "With a new general in charge, the U.S. military's plans to fight Iraq's insurgents are expected to emphasize improving Iraqis' quality of life, rather than killing or capturing guerrillas. Army Lt. Gen. Peter W. Chiarelli, who became commander of Multi-National Corps Iraq last week, said he would employ across Iraq many of the strategies he used to quell uprisings in Baghdad when he led the Army's 1st Cavalry Division in 2003 and 2004.
'It was not uncommon for the 1st Cavalry Division to be engaged in intense urban combat in one part of the city, while just a few blocks away we had units replacing damaged infrastructure, helping to foster small business growth, or facilitating the development of local government,' Chiarelli told The Associated Press in an e-mail. The goal, he said, is to 'deprive insurgents and terrorists of their support base'
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<http://www.whitehouse.gov/news/releases/2006/01/20060130.html>

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<http://www.whitehouse.gov/news/releases/2006/01/20060130-5.html>

Press Briefing By Scott McClellan
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Press Briefing By Scott McClellan

Williams, Jan

From: Williams, Jan

Sent: Tuesday, January 31, 2006 2:50 PM

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Subject: United States Supreme Court Justice Samuel A. Alito

Subject: United States Supreme Court Justice Samuel A. Alito

Attachments: tmp.htm; logo1-150.gif; 20060131-2_d-0117-2-250h.jpg; print.gif; nojavascript&WT.js=No

For Immediate Release
Office of the Press Secretary
January 31, 2006

President Congratulates Judge Alito on Senate Confirmation

I am pleased that the Senate has voted to confirm Judge Sam Alito as the 110th Justice of the Supreme Court. Sam Alito is a brilliant and fair-minded judge who strictly interprets the Constitution and laws and does not legislate from the bench. He is a man of deep character and integrity, and he will make all Americans proud as a Justice on our highest court. The son of an Italian immigrant, Judge Alito's appointment to the Supreme Court is the realization of the American dream for this good man and his family. I congratulate Judge Alito, his wife Martha, the Alito children, and Judge Alito's mother Rose on this historic achievement and momentous day in the life of our country.

<http://www.whitehouse.gov/news/releases/2006/01/images/20060131-2_d-011
7-2-515h.html> Judge Alito replaces Justice Sandra Day O'Connor.
Justice O'Connor was the first woman ever to sit on the Supreme Court, and she is one of the most admired Americans of our time, or any time.
Our Nation is grateful to Justice O'Connor for her extraordinary and dedicated public service, and Laura and I wish her and John all the best.

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the White House

President George W. Bush

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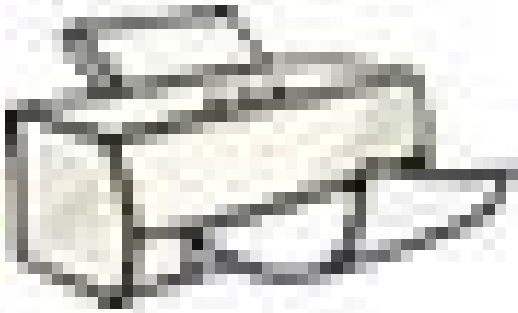

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Judge Alito replaces Justice Sandra Day O'Connor. Justice O'Connor was the first woman ever to sit on the Supreme Court, and she is one of the most admired Americans of our time, or any time. Our Nation is grateful to Justice O'Connor for her extraordinary and dedicated public service, and Laura and I wish her and John all the best.

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USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Wednesday, February 01, 2006 8:01 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing for Wednesday, February 01, 2006
Attachments:	agnb060201.pdf; agnb060201.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, FEBRUARY 1, 2006 7:45 AM EST

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TERRORISM NEWS:

Civil Liberties Group Sues AT&T For Cooperating With NSA Surveillance. The New York Times (2/1, 1.19M) reports, "The Electronic Frontier Foundation, a civil liberties organization, filed a class-action suit against AT&T on Tuesday in federal court…saying the company was violating the law and customers' privacy in cooperating with the National Security Agency on computerized surveillance. … In its suit, the foundation says the company has allowed the agency direct access to phone calls and Internet data moving over its network, as well as access to a vast database of call records." EFF attorney Kevin Bankston "said the group was not at liberty to say how it knew that the company and the spy agency were cooperating, but said it was confident that there was an illegal relationship."

The Los Angeles Times (2/1, Menn, 958K) adds, "The suit cites newspaper articles, including one by the New York Times, for disclosing the eavesdropping program aimed at terrorist communications with sympathizers and others inside the United States. Also cited was a Los Angeles Times report that the National Security Agency had access to an AT&T database tracking calling records."

CNN's The Situation Room (1/31, Tatton) noted that "everyone affected could receive $21,000 or more. … Now, we have seen lawsuits before from organizations like the ACLU, targeting the government on the NSA program. This one specifically looks at…AT&T on behalf of the customers."

Waters Calls For Bush Impeachment Over NSA Program. Fox News' Special Report (1/31, Garrett) reported, "Today eight-term California Democrat Maxine Waters said the President should be impeached for authorizing the warrantless surveillance of Americans."

Feingold Says Gonzales Misled Congress About Warrantless Wiretaps. CNN's The Situation Room (1/31, Arena) reported, "Sen. Russ Feingold is accusing the Attorney General of misleading Congress during his confirmation hearings last year, when he was asked about warrantless wiretaps. … Feingold, who wasn't briefed about the program, says he wants an explanation." Feingold: "The chief law enforcement officer of this country apparently told the committee under oath that something was merely hypothetical, when in fact he knew very well and was involved in it, actually being an ongoing practice.'" CNN added, "Justice Department officials say that there was nothing misleading about Gonzales' statement and that the President is on firm legal ground. Gonzales is scheduled to testify all day Monday."

Senate Seen As Pulling Back On Deference To Bush Over War Powers. The Christian Science Monitor (2/1, Chaddock, 61K) reports, "Since 9/11, the Bush White House has moved aggressively to expand presidential power in wartime, at the expense of Congress. Until recently, the Republican-controlled Congress went along. … But that deference may be ending." With the NSA surveillance program hearings and the Patriot Act renewal, "the Senate, especially, is gearing up to make the case that power between the executive and legislative branches is unbalanced." The Monitor notes, "The issue is looming so large that the White House devoted a full week in the run-up to this week's State of the Union Address to defuse the issue. Instead of 'domestic spying' -- the term used most often in the press -- the White House described the program as 'terrorist surveillance.' Recent communication from" Ayman al-Zawahiri "appeared to reinforce the threat."

Moussaoui's Mother Calls For Fair Sentencing. The AP (2/1, Devailly) reports, "The mother of Zacarias Moussaoui…said Tuesday she wants her son judged for his actions -- not because he is Arab or an Islamist. Aicha El Wafi's lawyer, Patrick Baudouin, appealed to the U.S. justice system not to 'make a martyr'" of Moussaoui. El Wafi "said she plans to go to the United States on March 6, when testimony is to start in the penalty phase of her son's trial." The AP notes, "Prosecutors will try to convince jurors that the FBI would have prevented the Sept. 11 attacks if Moussaoui had told federal agents what he knew about al-Qaida's desire to fly planes into U.S. buildings."

UK Judge Warns Jurors Al Masri Not On Trial For Political Views. BBC (1/31) reports on its Web site, "Alleged race hate cleric Abu Hamza al-Masri is not on trial for his political views, a judge has warned. Starting his summing up, Mr Justice Hughes said Mr Abu Hamza's views were only relevant in deciding if they led him to commit the charges he faced. He told the Old Bailey jury: 'It is not an

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offence to suggest western societies are corrupt or have no moral basis'. … He also told the jury to 'Keep an eye on the ball' regarding Mr Hamza's views. 'Exercise a similar restraint and caution about his views generally. Confine your inquiries to whether or not he has committed the offences on which he is charged,' he said."

PATRIOT ACT:

Congress Set To Extend Patriot Act Temporarily Until March. The AP (2/1, Kellman) reports, "Congress is poised to extend the USA Patriot Act into March to give the White House and conservative Senate Republicans time to strike a deal that would strengthen civil liberties without weakening the war on terror. When in March was still up in the air late Tuesday. The House is set to vote Wednesday on extending the law until March 14," but "Senate Majority Leader Bill Frist was pushing for a vote earlier in the month." The AP notes, "Objections to the compromise last fall centered on the degree to which people and institutions that receive National Security Letters…can appeal them in court." However, Sens. Larry Craig and John Sununu say that "six weeks might be enough to strike a deal on the matter with the White House." In its "Washington Wire" column on its web site, the Wall Street Journal (1/31, 2.11M) reported, "President Bush again pushes Congress to renew the Patriot Act, but only another short-term extension appears to be in sight."

The San Francisco Chronicle (1/31, A4, Epstein) reports that the controversy of the NSA surveillance program may complicate the Patriot Act renewal and notes, "The wrangling in the latest version has narrowed to disagreement over how to curb the FBI's access to Americans' library, bookstore, business or Internet records for terrorist investigations; what rights the targets of so-called national security letters have in appealing such orders for information; and how long after agents conduct secret searches must they notify their target."

Conference Report Contains Non-Terror Law-And-Order Provisions. Knight Ridder (2/1, Kuhnhenn) reports that "tucked away in the pending renewal of the Patriot Act -- the nation's controversial law to fight terrorism -- is a provision" inserted by Sen. Jon Kyl "that could make it harder for state death-row inmates to appeal their cases in federal court. The provision is one of a handful that neither the House of Representatives nor the Senate has voted on but which Republican lawmakers crafted during closed-door negotiations last year after Democrats had been excluded from the talks. Another obscure addition, never debated in Congress, would broaden existing laws that prohibit disturbances at any event -- such as those involving the president -- at which the Secret Service is providing protection. Civil libertarians say it could restrict free-speech rights in the name of security."

More Commentary. Investor's Business Daily (2/1) editorializes, "With the Feb. 3 deadline for renewing the Patriot Act looming, kicking the can down the road again is not an option. Had it been in place on Sept. 10, 2001, Sept. 11 might not have happened." IBD continues, "If your house were on fire, and firemen had to kick your door down and break a few windows to save you and your family, would you consider that an invasion of your privacy or a violation of your civil liberties? … Yet that is precisely the attitude Senate Democrats take regarding the Patriot Act despite evidence that it has infringed on no one's rights, except perhaps on the freedom of terrorists to plot mass murder undetected and unmolested." IBD adds, "When Sen. Harry Reid successfully led a Dec. 16 filibuster blocking reauthorization, he reportedly bragged: 'We killed the Patriot Act.' If he and his colleagues prevail in blocking its renewal, or succeed in gutting its effective provisions, that may be the epitaph on the tombstones of Americans killed in the next attack."

HOMELAND RESPONSE:

New Hampshire Stores Report "Middle Eastern-Looking Men" Seeking Trac Phones. The Portsmouth (NH) Herald (1/31, Dinan) reports Portsmouth police "are investigating two reports about 'Middle Eastern-looking men' buying quantities of 'trac phones' at city stores Saturday." At "unnamed Woodbury Avenue store," 15 of the phones were sold "to the men, according to the city's public police log. The purchase was made by credit card, and the information was forwarded by Portsmouth police to Newington and state police." Two hours later, "local police received information that the Boston office of the Federal Bureau of Investigation received a call from a Wal-Mart customer reporting 'two Middle-Eastern men' who reportedly approached the store manager, asking to buy 500 to 600 trac phones. When they were told the store did not have that many on hand, they left the store, then the

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area in a car with Massachusetts plates, says the city police log."

GAO Report Offers "Blunt" Criticism Of Federal Response To Katrina. Knight Ridder (2/1, Borenstein) reports, "Despite ample warning of an impending catastrophe, the federal government bungled its response to Hurricane Katrina because of a void of leadership and confusion about who was in charge, an independent investigation ordered by Congress has found. The Government Accountability Office, the investigatory arm of Congress, in a preliminary report to be released Wednesday faulted Homeland Security Secretary Michael Chertoff and his designee, former Federal Emergency Management Agency chief Michael Brown, for not filling a crucial 'leadership role during Hurricane Katrina.'" KRT adds that "the GAO's conclusion is striking for its bluntness. 'No one was designated in advance to lead the overall federal response in anticipation of the event despite clear warnings from the National Hurricane Center,' GAO Comptroller General David M. Walker's prepared remarks read. The speech faults the federal government, saying it 'did not act decisively or quickly enough.'"

Louisiana Officials Acknowledge Failures In Wake Of Katrina. The New York Times (2/1, Lipton, 1.19M) reports, "Government complacency, poor planning and dereliction of duty during Hurricane Katrina contributed to the deaths of dozens of the frail and sick in New Orleans, and to the suffering of many others who were stranded in area hospitals and nursing homes unable to care for them, Senate investigators said Tuesday. In the second day of Senate hearings on the hurricane response, the focus was on what investigators called perhaps the most outrageous chapter of the storm: the mistreatment of nursing home and hospital patients during the disaster." Officials from the State of Louisiana, the City of New Orleans and the state association of nursing homes "acknowledged a long list of failures that meant there was no coordinated or tested plan in place to evacuate the frail, sick or poor, though studies had warned for more than a decade that an estimated 100,000 New Orleans residents without transportation would need such help in a major hurricane."

USA Today (2/1, Hall, 2.31M) reports "Bradberry acknowledged that although the Louisiana Office of Homeland Security required him to develop evacuation plans, he didn't agree with the assignment. Among the reasons he cited for not drawing up plans was a lack of resources the state needed to carry out the evacuations. Senate Homeland Security Committee Chairwoman Susan Collins, R-Maine, called it 'inconceivable' that officials didn't make it a priority to save nursing home and hospital patients. At least 200 died." Sen. Joe Lieberman said, "I don't feel that you've acknowledged enough responsibility here."

The Los Angeles Times (2/1, Neuman, 958K) "In hearings before the Senate Homeland Security and Governmental Affairs Committee this week, witnesses offered instances in which good intentions went awry and bureaucratic inertia stymied recovery efforts in the aftermath of the storm." The Times adds, "Throughout the hearings, witnesses underscored the costly consequences of a lack of central command and breakdowns in communication." Meanwhile, "The Bush White House has refused to provide key documents or allow administration officials to testify, asserting executive privilege. Collins has accused the White House of crippling the inquiry."

Independent Investigators Granted Access To Site Of Levee Breach. The New York Times (2/1, Schwartz, 1.19M) reports, "It took a special agent of the Louisiana state attorney general's office and some bureaucratic sparring, but members of an independent team of engineering investigators won access on Tuesday to the site of a major levee breach from the Army Corps of Engineers. It is unusual for engineers to bring law enforcement agents to job sites, but the investigators said they wanted to ensure access to the levee at the 17th Street Canal in the face of what they contend is a pattern of resistance by the engineering corps." The investigators say the corps "has also refused to release information needed to fully understand the levee failures that left so much of New Orleans shattered and soaked." Meanwhile, "Corps officials have suggested that [the] group is eager to jump to conclusions about causes of the levee breaches, and complained that the teams sometimes show up at work sites unannounced."

WAR NEWS:

US Renews Commitment To Afghanistan Aid. The Financial Times (2/1, Morarjee) reports, "The US will lead the world in a renewed commitment to Afghanistan's battle against narcotics and a resurgent Taliban." US Secretary of State Condoleezza Rice said, "For us, it is a strategic partnership." British Prime Minister Tony Blair "also

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pledged $800m in aid in the next five years." The New York Times (2/1, Cowell, 1.19M) says the Administration "pledged Tuesday to seek Congressional approval for a further $1.1 billion in aid to help rebuild Afghanistan next year, roughly the same amount sought for 2006." A conference on future aid to Afghanistan "agreed on what it called the Afghanistan Compact, a five-year blueprint to restore the country's security, build a functioning economy and counter the rapidly expanding narcotics trade." It "is intended as a successor to an agreement reached in 2001 after the overthrow of the radical Islamic Taliban government."

The Washington Times (2/1, Kralev, 90K) quotes Rice saying, "In addition to our current commitment of nearly $6 billion, today, I'm proud to announce that President Bush will ask our Congress for $1.1 billion in new assistance to support the Afghan people in the next year."

Karzai Unveils Five-Year Plan To Strengthen Democracy. The Washington Post (2/1, A19, Sullivan, Witte, 744K) reports, "Diplomats from more than 60 countries began pledging aid and investment for Afghanistan at a conference here Tuesday, as President Hamid Karzai outlined a five-year plan," called the Afghan Compact, "to strengthen democratic institutions and combat terrorism and drug-trafficking in his struggling nation." Karzai "listed his country's successes," noting "that the country has a constitution and an elected president and parliament. He said that 6 million children are now attending schools in a system that was totally collapsed and that economic output has grown by 85 percent." Yet "Afghanistan remains a place of staggering illiteracy, with a massive gap between a comfortable elite and millions of poor. A flourishing illegal poppy trade supplies more than 87 percent of the world's opium. Karzai acknowledged that 'we have a long road ahead.'" And for "ordinary Afghans, there was little awareness Tuesday that the conference was taking place."

Dutch Lawmakers Question Military Commitment To Afghanistan. Lousewies van der Laan and Bert Bakker, members of the Democrats 66 party in the Dutch parliament, in an op-ed in the Financial Times (2/1) write, "On Thursday, the Dutch parliament will debate whether the Netherlands should expand its military presence in Afghanistan. The country currently participates in the Nato reconstruction mission in the north of the country with 368 troops and more than 250 Dutch special forces fight in Operation Enduring Freedom in Kandahar in the south. This makes the Netherlands the seventh largest contributor to Nato's International Security Assistance Force, ahead of 19 other Nato members." Yet the "tone of the debate is one of 'you are either with us or against us'. … A substantial debate on command structures, evacuation plans and respect for human rights should replace threats about the loss of credibility and influence. That will require a mature debate about the future of Nato, as well as the world's long-term commitment to Afghanistan. The time for that debate is now."

Afghan Ambassador To US Alleges Bias In DC Against His Compatriots. The Washington Times (2/1, McElhatton, 90K) reports, "Afghanistan's ambassador to the United States wants the Washington Metropolitan Airports Authority to investigate complaints from Washington Flyer cabdrivers about what he called 'racial and Muslim profiling.'" The Times adds, "Some Afghan-American drivers are upset about 'having been discriminated against' in dealings with the Washington Dulles International Airport taxi concessions operator, Ambassador Said Tayeb Jawad wrote in a letter Monday to airport officials"

Rice Says Everything Possible Being Done To Secure Release Of US Hostage In Iraq.

The AP (2/1, Reid) notes, "U.S. officials said they have ruled out meeting the kidnappers' demand to release all Iraqi women in detention." Secretary of State Condoleezza Rice said, "Everything is being done to work with those who might have influence, and there are an awful lot of people who are calling for her release."

Kidnappers Threaten To Kill German Hostages In Video. The AP (2/1, Reid) reports that "a new video from kidnappers threatened to kill two German hostages if Germany fails to stop cooperating with the Iraqi government." The AP continues, "Kidnappers threatened to kill Thomas Nitzschke and Rene Braeunlich if Germany does not close its embassy in Iraq, withdraw all the German companies from Iraq and stop cooperating with the Iraqi government within three days."

Reuters (2/1) adds, "A new tape of the hostages showed them next to masked individuals who pointed automatic rifles at them. It was dated January 29."

Eleven Men Found Tortured, Slain In Insurgent Stronghold In Iraq.

The New York Times (2/1, Worth, 1.19M) notes, "The bodies of 11 young men, some of them shot repeatedly and bearing marks of torture, were found in a minibus on Tuesday in western

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Baghdad, Interior Ministry officials said." They "were found near Ghazaliya, an insurgent stronghold where Iraqi security forces have been accused of detaining, torturing and killing groups of Sunni Arab men in the past. But the 11 bodies were not immediately identified, and no group stepped forward either to take responsibility for or to denounce the killings."

Local Officials Among Victims In Scattered Attacks Across Iraq. The New York Times (2/1, Worth, 1.19M) in its article on the latest violence in Iraq reports that "scattered attacks took place across central and southern Iraq. In the Dawra district of southern Baghdad, gunmen opened fire on a car carrying two members of the Dawra district council, killing them both, the local police and witnesses said." And in "western Baghdad, gunmen shot and killed Malik Razoki Abd, the leader of another district council." Local officials "in Mahmudiya, south of the capital, said an American aircraft fired a missile that damaged three houses and wounded three civilians. But American military officials said they had no report of an airstrike. The Iraqi Interior Ministry reported two different incidents in Mahmudiya: a roadside bombing and a mortar attack on a house. The attacks left four civilians wounded, the officials said."

The AP (2/1, Reid) reports, "On Wednesday, a bomb exploded alongside a group of Iraqi men waiting for work in eastern Baghdad on Wednesday, killing at least eight and wounding more than 50, police said." The AP notes, "Sunni Arab and Shiites extremists have been carrying out reprisal killings that have claimed hundreds of lives and sharpened sectarian tensions as Iraqi politicians try to form a new government after Dec. 15 national elections. The killings come at a time when U.S. officials are pushing the Iraqis to include more Sunni Arabs, who form the backbone of the insurgency."

Poll Shows Sunnis Reject New Government, Support Attacks Against US Soldiers. The Washington Times (2/1, Sands, 90K) reports a poll of 1,150 Iraqis conducted Jan. 2 to Jan. 5 (+/- 3%) shows, "Iraq's restive Sunni Arabs overwhelmingly reject the legitimacy of the new government in Baghdad, approve of attacks on U.S.-led forces and think the country is heading in the wrong direction." The "major new" poll, "conducted in the first week of January after the successful Dec. 15 parliamentary vote, found that Iraq's Shi'ite Arabs and ethnic Kurds remain far more optimistic about the country's future compared with the minority Sunnis, who dominated Iraq under Saddam Hussein." It "offered both good and bad news for the Bush administration. The Dec. 15 vote produced a spike of optimism among Iraqi Shi'ites and Kurds, while Sunnis continue to reject the legitimacy of the new government being formed in Baghdad."

Death Toll For British Soldiers In Iraq Reaches 100. The AP (2/1) reports, "A British soldier was killed in a roadside bombing Tuesday, the second member of the country's armed forces to die in Iraq in as many days and the 100th fatality since the conflict began nearly three years ago, officials said." The New York Times (2/1, Worth, 1.19M) in its article on the latest violence in Iraq notes, "Southern Iraq has generally been much more peaceful than other areas, but in recent months tensions have grown between the British and the Shiite militia members. A rising number of soldiers have been killed and wounded in roadside bombings, and Basra's provincial governor, Muhammad al-Waeli, has twice threatened to cease cooperating with British forces after they detained groups of Iraqis."

Bloomberg (2/1) adds, "A total of 77 members of the U.K. forces have been killed in action and 23 have died from illness, non-combat injuries, accidents or unknown causes, the ministry said on its Web site. About 230 soldiers were injured in combat, the spokesman said."

Foreign Minister Denies Report Japan Would Complete Troop Withdrawal In May. The AP (2/1, Reid) reports, "Japan's Kyodo News agency said Tokyo will begin withdrawing troops from Iraq in March and complete the pullout by May, ending its largest military mission since World War II. Japanese Foreign Minister Taro Aso denied the report, saying no specific timetable had been discussed." The AP adds, "Kyodo said an agreement on the timetable had been reached during a secret meeting among officials from Australia, Britain, Japan and the United States." But a British Ministry of Defense spokesman "said he was unaware of such a meeting but that London speaks to its coalition partners frequently."

Saddam Trial To Resume Despite Absence Of Defense Lawyers. The New York Times (2/1, Worth, 1.19M) in its article on the latest violence in Iraq notes, "Court officials announced Tuesday that the trial of Saddam Hussein would resume Wednesday, though it was not clear

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who would be in the courtroom. Mr. Hussein's chief lawyer, Khalil al-Dulaimi, said he and the rest of the defense team would not return after they walked out in protest on Sunday." But new chief judge Raouf Abdel-Rahman "may not allow them back in even if they want to return. Judge Abdel-Rahman ejected Mr. Hussein and the other three lead defendants from the courtroom on Sunday, and it will be up to him to bring them back or not."

Kurds Attempt To Block Spread Of Avian Flu. The New York Times (2/1, Oppel, 1.19M) reports, "Urging villagers in the border areas to cull their poultry was one tactic Kurdish authorities adopted to try to prevent bird flu from spreading south from Turkey, after an outbreak was reported there in December." Officials "also outlawed the sale of live chickens in many places and banned the import of poultry raised or processed in Turkey. Vehicles crossing the border are now sprayed with disinfectant in case they have traces of bird feces, while passengers and drivers are checked for symptoms." But "given the close commercial ties to Turkey and the prevalence of chickens in the villages, where eggs are a crucial source of food and income, public health experts had warned it was only a matter of time before the disease spread."

Australia Blocks US Inquiry Into Oil-For-Food Scandal. Bloomberg (2/1, Daley) reports, "Foreign Minister Alexander Downer said Australia opposed a U.S. congressional inquiry into allegations AWB Ltd., the nation's monopoly wheat exporter, paid kickbacks to Saddam Hussein's former Iraqi regime." Downer said, "We were concerned an American congressional or senate inquiry would be an inquiry driven substantially by American commercial interests. … The U.S. is our principal competitor on the international wheat trade."

ABC Reporters Wounded In Iraq Arrive In US For Treatment. The New York Times (2/1, Landler, 1.19M) reports, "The ABC News anchor and cameraman wounded in a roadside bombing in Iraq arrived Tuesday night at the National Naval Medical Center in Bethesda, Md., after a brief stay at a military hospital in Germany." One "doctor who treated both of them in Germany said Tuesday that the men had made 'remarkable' progress since being admitted there Monday. The anchor, Bob Woodruff, has been able to move his fingers and toes, said the doctor, Lt. Col. Guillermo Tellez, the chief of surgery at Landstuhl Regional Medical Center."

Wounded Veterans Face Lifetime Of Recovery. The CBS Evening News (1/31, story 9, 2:45, Schieffer) reported, "With the number of wounded in Iraq and Afghanistan now topping 16,000, we wanted to know how the government is treating these heroes when they return home." CBS (Martin) added, "Walk into the physical therapy room at Walter Reed Army Medical Center and you know this is a nation at war. No matter how many times you come here, there's no getting used to so many young Americans missing so many limbs." And "Whether they're in the VA system or at Walter Reed, the casualties of Iraq will be fighting this war for the rest of their lives."

50,000 US Troops Have Been Retained Under "Stop Loss" Policy. The Christian Science Monitor (2/1, Regan, 61K) reports in its "Terrorism and Security" column, "'Stop-loss,' a policy used by the Army to keep US soldiers and reservists in the military beyond the date when their service was supposed to end, has been used on more than 50,000 members of the armed forces since the war in Iraq began. Currently stop-loss is being used to extend the duty of 12,500 troops. Reuters reports that the measure applies to units about to deploy to Afghanistan or Iraq. Under the policy, soldiers who normally would leave when their commitments expire must remain in the Army, starting 90 days before their unit is scheduled to depart, through the end of their deployment and up to another 90 days after returning to their home base. With yearlong tours in Iraq and Afghanistan, some soldiers can be forced to stay in the Army an extra 18 months. The military argues that it is a necessary step to preserve the cohesive nature of a unit, especially one ready to fight, and courts have backed the military so far in any challenges against the policy. But critics say it is just another illustration of how stretched out the US Army and reserves have become, and that could undercut increased effort to attract new recruits."

Massachusetts National Guard Soldiers File Lawsuit To Recoup Costs. The Christian Science Monitor (2/1, Llana, 61K) reports, "After 9/11, hundreds of thousands of America's part-time soldiers answered the call to serve. Along the way, some have asked whether the costs they bear -- from insufficient body armor to mounting debt for

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their families at home -- is fair." But Massachusetts National Guard soldiers "have filed a class-action lawsuit claiming they are owed $73 million in food, lodging, and commuting expenses they paid out-of-pocket while activated under state orders to protect sites such as military bases and reservoirs from terrorist attacks." It "is believed to be the first of its kind nationally, and raises new questions about what the government owes its men and women in uniform."

Proposal To Disperse Special Ops Oversight Could Face Congressional Opposition. The Hill (2/1, Tiron) reports, "A Bush administration proposal to fold a civilian office tasked with oversight of the Pentagon's special-operations forces could face stiff resistance in Congress." According to Hill sources, "Secretary of Defense Donald Rumsfeld is considering a proposal to eliminate the office of the assistant secretary of defense for special operations and low-intensity conflict (ASD SO/LIC) and spreading its responsibilities across other Pentagon offices." If Rumsfeld "agrees to the idea, the Pentagon would face an uphill battle in getting the plan endorsed by Congress." The Hill notes, "Sources familiar with the dynamic in the office of the undersecretary for policy said that infighting and tension between" Ryan Henry, the principal deputy undersecretary of defense for policy, "and the assistant secretary's office could have led to the several proposals made so far to change or disenfranchise the office. However, others point out that the office is not without its own faults." One former government official said, "A lot of the SO/LIC problems are self-inflicted. … SO/LIC has missed opportunities to transform the special-operations forces."

In 1999, UN Report Noted Human Rights Abuses In Iraq. In its "History Lessons" column, the Washington Times (2/1, 90K) excerpts a March 31, 199 release from the UN Information Service which said, "Max van der Stoel, Special Rapporteur on the situation of human rights in Iraq, introducing his annual report, said that over the past eight years, he had submitted almost one thousand pages of reporting on this topic, and all the while serious human rights violations had continued without the slightest indication of any change in the Iraqi Government's policy or of any effort or intention to improve the situation. All the while, the Government had simply denied everything. Mr. van der Stoel said he now had the sad duty to tell the Commission [on Human Rights] once again that there were credible allegations of numerous and systematic arbitrary executions in Iraq; interferences with the independent religious practices of the Shi'ite community; continuing internal deportations of ethnic Kurds; violations of the rights to food and health; and violations of the rights of the child."

CORPORATE SCANDALS:

Defense Attorneys Says Fraud Not Responsible For Enron Collapse. The CBS Evening News (1/31, story 7, :45, Schieffer) reported, "In Houston today, opening statements in the trial of Enron founder Ken Lay and former CEO Jeff Skilling. The prosecution said Skilling and Lay dumped their Enron stock before a massive fraud was exposed and the stock tanked. But defense attorneys said fraud what fraud? They said no books were cooked and Enron's bankruptcy was caused by what they said was a temporary drain on its liquidity."

NBC Nightly News (1/31, story 8, :45, Williams) reported, "Prosecutors say the company was a ticking time bomb in its last months and Lay and Skilling covered it up. Skilling's lawyer said there was no fraud involved in the Enron collapse, saying the company fell victim to an unanticipated cash crisis."

The New York Times (2/1, Barrionuevo) adds, "Daniel Petrocelli, Mr. Skilling's lead lawyer, vowed to attack the government's case by defending the allegedly fraudulent accounting that the government now says it will not focus on," and Michael Ramsey, Mr. Lay's lead lawyer "laid out a case that will blame outsiders, including short-sellers, The Wall Street Journal and Enron's own over-reliance on trading to produce profits, for stoking the crisis of confidence that led to the company's descent to the largest bankruptcy filing in history at the time."

The Washington Post (2/1, A1, Johnson) adds, "Defense lawyers for both men adopted an aggressive, all-or-nothing approach. Either their clients are guilty of every charge or none of them, they said. Both men, their lawyers vowed, would take the witness stand in their own defense."

USA Today (2/1, Farrell) adds that Ramsey's statement was "a burst of bravado that bordered on trash talking," and he concluded "by telling jurors that 'on the major issues in this case, we're going to kill them.'"

The AP (2/1, Hays, McClam) reports, "Former Enron Corp. chiefs are seeking much more than a 'not guilty' in the government's premier criminal trial to emerge from the

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company's stunning collapse. They want to exonerate Enron, too." The AP continues, "Their lawyers steadfastly asserted Tuesday that the men have committed no crimes, nor did they look the other way while minions cooked the books because Enron was never rife with corruption and greed. … 'This is not a case of hear-no-evil, see-no-evil,' said former CEO Jeffrey Skilling's lead attorney, Daniel Petrocelli, at times punctuating his opening statement by jabbing his finger at jurors. 'This is a case of there was no evil.'"

The Wall Street Journal (2/1, McWilliams, Emshwiller) also reported on this story.

Prosecution Trying To Make Simple Case Based On False Statements. The Financial Times (2/1, McNulty, Ward) adds that "government prosecutors alleged" Enron "'told lie after lie' about its financial condition." Prosecutor John Hueston, "keeping his arguments simple and avoiding unfamiliar business terminology," said, "This is not about accounting. It is about lies and choices."

The New York Times (2/1, Barrionuevo) adds that Hueston "said the government would focus not on the Byzantine accounting that many have attributed to the criminal activity inside Enron, but on the purportedly misleading statements that Mr. Skilling and Mr. Lay gave to investors in 2000 and 2001." He "painted a picture of a company whose stunning rise in profits was accounting 'hocus pocus.'" The opening statements made "clear that Enron's sudden failure — and the reasons behind it — were as much on trial here as Mr. Skilling and Mr. Lay."

USA Today (2/1, Farrell) adds, "In contrast to Ramsey's all-out assault, the government's opening argument Tuesday morning seemed almost understated."

The Wall Street Journal (2/1, McWilliams, Emshwiller) adds, "The two sides did agree on one fundamental issue: Messrs. Lay and Skilling were in charge at Enron and knowledgeable about the company's operations. They disagreed about whether those operations involved illegal activities."

The Chicago Tribune (2/1, Lazaroff) reports, "Lay and Skilling, Enron's top two executives, lied to investors and employees about the company's mounting financial problems as they sold millions of dollars worth of Enron stock, a government prosecutor told a packed federal court Tuesday. .. 'The two men at the helm of this company told lie after lie,' said Asst. U.S. Atty. John Hueston. 'Lies that deceived shareholders and lies that misled the public.'"

Texas Lawyer (2/1, Jeffreys) reports, "During his opening statements, Hueston said several former Enron employees who earlier pleaded guilty to criminal charges will testify at the trial, including Andrew Fastow, who was the chief financial officer; Ben Glisan, former treasurer; Mark Koenig, former head of investor relations; and Ken Rice, former head of Enron Broadband Services. Fastow pleaded guilty to one count of conspiracy to commit wire fraud and one count of conspiracy to commit wire and securities fraud. He awaits sentencing. … Petrocelli, Skilling's defense attorney, told jurors his client will testify. … 'You could not keep him off this witness list. He is going to tell you in his own words,' Petrocelli, a partner in O'Melveny & Myers in Century City, Calif., told jurors on Tuesday."

Bloomberg (2/1, Calkins) reports, "U.S. District Judge Sim Lake is presiding over the trial, whose outcome will be determined by a jury of eight women and four men. Lay is charged with seven counts of fraud and conspiracy, plus four counts of bank fraud that will be tried separately after the first trial. Skilling faces 31 counts of fraud, conspiracy and insider trading. The two men are presenting a joint defense."

Former Citigroup Exec Settles Insider-Trading Charges With SEC. The Wall Street Journal (2/1, Scannell) reports, "The Securities and Exchange Commission charged a former Citigroup Inc. senior vice chairman, Victor Menezes, with insider trading and agreed to settle the allegations for $2.68 million. … According to the SEC complaint, Mr. Menezes sold almost $30 million of Citigroup stock ahead of an earnings shortfall related to those losses. By selling stock before the announcement, the SEC alleges, Mr. Menezes avoided losses of more than $1.5 million. … 'We're very pleased to have reached an agreement with the SEC and to put the matter behind him,' said Elkan Abramowitz, his attorney."

USA Today (2/1, Smith) reports, "SEC enforcement attorney Scott Friestad, who brought the case, said Menezes 'knew significant negative information that the market did not.'" When he sold his share. USA Today also reports, "It is the latest unflattering episode at Citigroup during the final years under Sanford Weill, who stepped down as CEO last year and will relinquish his chairman's title this year. Citigroup amassed unparalleled size and scope in global markets but was implicated in lapses ranging from the Enron fraud to the Wall Street research scandal. Menezes, who quit in December 2004, was the bank's chief liaison to regulators

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when the SEC notified him of its probe in 2004." The article also notes, "if the SEC had chosen to prosecute Menezes, it faced the burden of proving he knowingly violated federal securities laws because he cleared the sale through Citigroup's legal department."

Documents Highlight Oracle Exec's Debt, Lifestyle. The USA Today (2/1, Swartz) reports, "Software billionaire Larry Ellison, one of the world's most conspicuous consumers, was advised to go on a crash financial diet four years ago as his spending soared on yachts and mansions. It's unclear whether Ellison, 61, heeded the advice from Philip Simon, his personal financial adviser, which surfaced in newly disclosed public documents in a shareholder lawsuit in San Mateo County. They show Simon warning that Ellison faced a possible financial crisis in 2002 if he didn't slash his $1 billion in personal debt, curb hundreds of millions of dollars in spending, and diversify his portfolio by selling some of his Oracle stock. … The documents show that by 2001-02, Ellison had racked up more than $1 billion in debt in loans for which he had pledged Oracle shares as collateral." The article notes, "The lawsuit was settled in San Mateo County Superior Court in November. Without admitting wrongdoing, Ellison agreed to donate $100 million to charity and paid another $22 million to the lawyers who sued him. The settlement is being appealed by a shareholder."

CRIMINAL LAW:

Key Government Witness Against Campbell Stands Firm Under Cross-Examination. The Atlanta Journal-Constitution (2/1, Scott, Warren, 430K) reports, "A key government witness who broke down in uncontrollable sobs while testifying for the prosecution against former Atlanta Mayor Bill Campbell didn't crumble Tuesday as defense attorneys fought to shake his story. Dewey Clark, a former mayoral aide who lived for years in Campbell's basement, held his ground during about five hours of grilling by defense attorney Jerry Froelich during Campbell's public corruption trial." The Journal-Constitution notes, "Froelich lacerated prosecution witness Michael Sullivan on the stand last week, but he couldn't shake Clark's story that he took cash from a city contractor, George Greene, and a nightclub owner, Michael Childs, and gave it to Campbell. … Froelich questioned why Clark didn't initially tell the FBI about the alleged bribes from Childs to the mayor when investigators first knocked on his door in 1999. Clark said he only told on his buddy Childs in 2000 after reading in the newspaper that Childs, upset he couldn't get the liquor licenses, was planning to hire a thug to beat up Campbell to send a message to the next mayor."

Libby Defense Lawyers Outline Likely Defense. Lawyers for Vice President Dick Cheney's former chief of staff Lewis Libby outlined his likely defense to charges he lied about his role in exposing the identity of IA operative Valerie Plame Wilson. The New York Times (2/1, Lewis, 1.19M) reports, "In papers filed in federal court, the lawyers strongly suggested they would argue that if Mr. Libby's statements to investigators were untrue, it was a case of innocent confusion or faulty memory because of his preoccupation with weightier national security matters at the time. … The lawyers for Mr. Libby said that the conversations Mr. Libby had with reporters in the summer of 2003 in which he might have discussed Ms. Wilson's association with the Central Intelligence Agency 'occurred in the midst of an unending torrent of meetings, briefings and discussions of far more urgent and sensitive issues, including for example, the detection and prevention of terrorist attacks against the United States,' bringing stability to Iraq and the spread of nuclear weapons in North Korea and Iran."

The Wall Street Journal (2/1, Squeo, 2.11M) adds, "In asking a federal judge to order the special prosecutor in the case to turn over certain documents, Mr. Libby's attorneys suggested they want to demonstrate the breath of 'urgent and sensitive matters' that he handled. The defense team wants copies of Mr. Libby's own notes, which the prosecutor took as part of the investigation, as well as morning intelligence briefings dating from May 2003 through March 2004 -- the time between the leak of former Central Intelligence Agency official Valerie Plame's identity and Mr. Libby's discussions with Federal Bureau of Investigation agents and grand-jury testimony."

The Washington Post (2/1, A5, Leonnig, 744K) adds that Libby's attorneys "also asked that the court require Special Counsel Patrick J. Fitzgerald to turn over any informal assessments conducted by the CIA to determine whether the leak of Plame's identity in July 2003 damaged national security or agency operations. … Defense lawyers argued in court papers that it is crucial to determine whether Plame was not an undercover operative at the time Libby was discussing her with members of the media, and whether little

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or no damage was done to national security when her identity was publicly disclosed. If either is true, the defense argued, it will 'challenge the prosecution's contention that Mr. Libby has reason to lie to the FBI and the grand jury about his conversations with reporters in July 2003.'"

Suspected Murderer Recaptured After Mistaken Release. The Los Angeles Times (2/1, Blankstein) reports, "A violent ex-convict suspected of slashing a man to death in the first murder in Beverly Hills in years was at large for four days after he was released from the Los Angeles County jail last weekend, apparently by mistake, officials said today. Nathan Hall, 50, was recaptured this morning in the parking lot of the Beverly Hills Police Station, in which his impounded car was being stored, authorities said. Sheriff's deputies, already under criticism over their administration of the county's troubled jail system, said that Hall had been released after an order to hold him for violating parole on previous convictions was lifted, according to a preliminary investigation. The action was taken at the direction of the California Department of Parole, according to the sheriff's department, and Hall was released Saturday morning. Corrections officials could not immediately be reached for comment."

US Indicts Former Bank Of China Officials In $485 Million Theft. CNN.com (2/1) reports, "Two former Chinese bankers and their wives were indicted in Las Vegas in connection with a massive scheme to steal and launder nearly half a billion dollars from the Bank of China, Justice Department officials announced Tuesday." CNN continues, "The former managers of the state-owned Bank of China are alleged to have been engaged in an elaborate plot in which they stole $485 million by running funds through front companies and financial institutions in Hong Kong, Vancouver and Las Vegas, officials said. They allegedly planned to immigrate to the United States with their wives and gain citizenship through schemes involving phony documents and sham marriages." CNN adds, "A federal grand jury in Las Vegas brought the new charges against the defendants, who were first jailed in September 2004 on charges of violating immigration laws for trying to illegally gain U.S. citizenship. … A third Chinese banker involved in the alleged conspiracy has pleaded guilty in Las Vegas and returned to China, where he is being prosecuted for embezzlement and bribery." CNN notes, "In Washington, Assistant Attorney General Alice Fisher issued a statement commending prosecutors for untangling what she called a 'complex scheme of racketeering, money laundering and fraud'. … 'We will continue to work closely with our international partners to make sure that the United States is never seen as a haven for criminals to launder the proceeds of their illegal conduct,' Fisher said."

Reuters (2/1) also reports on the indictments.

Former Wal-Mart Exec Pleads Guilty To Wire Fraud, Tax Evasion. The Wall Street Journal (2/1, Zimmerman) reports, " Former Wal-Mart Stores Inc. Vice Chairman Thomas Coughlin, who left the company amid accusations he misappropriated as much as $500,000, pleaded guilty yesterday to federal wire-fraud and tax-evasion charges. A company icon who had worked closely with founder Sam Walton, Mr. Coughlin, 57 years old, is expected to spend at least two years in prison after a presentencing report is finished in about three months. Federal prosecutors made a sentence recommendation in their plea agreement with Mr. Coughlin. However, U.S. District Judge Robert Dawson sealed the plea agreement, saying he was concerned about pretrial publicity." The article notes that the former No. 2 Wal-Mart executive "took home millions of dollars in compensation," but "secretly had the retailer pay for a range of his personal expenses, including part of a hunting lease, handmade alligator boots and contact lenses."

The AP (2/1, Kabel) reports, "The judge ordered a presentencing report that will take up to four months to prepare. … Wal-Mart lawyers referred Coughlin to federal prosecutors after discovering Coughlin had embezzled money from the company and used expense vouchers to buy products as varied as snakeskin boots, hunting trips and Bloody Mary mix. They estimated losses at up to $500,000. … In federal court, Coughlin spoke only when he was asked questions by U.S. District Judge Robert Dawson. Afterward, defense lawyers issued a statement in which Coughlin accepted responsibility for 'serious personal mistakes in judgment.'"

Five Dead In Postal Facility Shooting. Several papers report on a former postal employee's shooting rampage in California on Monday, where a woman killed five former co-workers and critically wounded another. All of the papers mention that this may be the deadliest workplace shooting carried out by a woman. In addition to offering details of the shooting from witnesses, all include background

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both on the incident and on the woman's history at the Post Office. Additionally, all of the newspapers recall the spate of postal shootings of the late 1980s and early 1990s, which spawned the phrase "going postal." Of the papers, only the New York Times and USA Today identify the shooter.

The New York Times (2/1, Archibold) reports, "A woman who had left her Postal Service job because of psychological problems shot and killed five former colleagues and critically wounded another at a sorting plant here Monday night before fatally shooting herself, the authorities said Tuesday. The woman, identified as Jennifer Sanmarco, 44, of Grants, N.M., a former employee of the Santa Barbara Processing and Distribution Center, confronted employees with a 9-millimeter handgun, the authorities said. The 80 or so employees in the building fled as she fired, reloading at least once, said Sheriff Jim Anderson, of Santa Barbara County. The authorities had not determined if she was selecting the victims, all women except one, or shooting at random in what was one of the deadliest rampages at a Postal Service building. After working as a sorting clerk for six years, the woman went on medical disability for unspecified mental problems in June 2003 after co-workers reported her acting strangely and called sheriff's deputies, postal authorities said."

Coverage includes step-by-step accounts of the shooting, sourced to the local sheriff's department. For example, the Los Angeles Times (2/1, Chawkins, Muskal) reports, "According to the Sheriff's Department, the woman entered the facility by car, apparently scooting her compact behind another car to get into the parking lot past the barrier. … Once in the parking lot, she shot two women. One died and the other remained in critical condition today with a gunshot to the head, Anderson said. The shooter then went through the parking lot killing another person. She used a key card to enter the building, and another body was recovered just inside the door, authorities said. Farther inside the building she shot two more people before turning the 9-millimeter pistol on herself." The Los Angeles Times also names the victims.

Also typical of coverage is quotes from local officials. All of the papers included comments from Goleta Mayor Jonny Wallis. For example, the Washington Post (2/1, A3, Geis) reports, "Goleta Mayor Jonny Wallis expressed shock and sorrow at a news conference. 'An act of violence is always a shock to the soul, but especially in a small community such as ours, where our neighbors are our friends and where violence of any kind is extremely rare,' she said. 'A day at the office should not result in death.'"

USA Today (2/1, Kasindorf) leads with the shooter's gender. The article says, "The shooting deaths of five people by a former postal worker may have been the worst U.S. workplace murder ever committed by a woman, according to experts in on-the-job violence. … Northeastern University criminologist James Alan Fox said it was highly unusual for such an act to be committed by a woman. The incident was also the first fatal shooting at a postal installation since a letter carrier shot and killed a postal clerk in Dallas in 1998." The article also notes, "Postal installations were the sites of several high-profile shootings during the mid-'80s and early '90s. The Goleta incident was the worst since a 1986 rampage in Edmond, Okla., in which a letter carrier killed 14 people."

Report Recommends Moratorium On Death Penalty In Georgia. The Fulton County Daily Report (2/1, Pollak) reports, "Because Georgia cannot 'ensure fairness and accuracy in every capital case,' it should implement a moratorium on executions and death penalty prosecutions, an American Bar Association study states." The Report continues, "Anne S. Emanuel, a Georgia State University College of Law associate dean who chaired the 21-member ABA team, said the state government should stop working on capital cases until it can address problems with jurors' application of mitigation evidence and the lack of free habeas corpus lawyers for indigent death row inmates. … 'We're not saying a death penalty is never appropriate,' said Emanuel. 'We're saying you should dot the I's and cross the T's.'" The Report adds, "Russ Willard, a spokesman for Georgia Attorney General Thurbert Baker, said the state's top lawyer opposes the moratorium recommended by the ABA report. … 'Our office continues to review the ABA report, but this appears to be a lobbying packet put together in an effort to have the Legislature make changes to the state process,' said Willard." The Report notes, "The ABA report said that one of the 21 members of the team, Harry D. Dixon Jr., a former U.S. Attorney for the Southern District of Georgia, did not agree with the call for a moratorium. … Among the problems cited in the 325-page report are inadequate pattern jury instructions on mitigation. … The study said that Georgia capital jurors often misunderstand the applicable burden of proof for mitigation, as well as the scope of mitigating evidence. Approximately 40 percent of the jurors interviewed

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for the study did not understand that any evidence could be used in consideration of mitigation. In addition, 62 percent thought the defense had to prove mitigating factors beyond a reasonable doubt. …

The report also criticized Georgia for not appointing counsel for state habeas proceedings, noting that only Georgia and Alabama do not provide indigent death penalty defendants with attorneys in such proceedings."

Relatives Of Red Lake Shooting Victims Frustrated By Meeting With US Attorney. The AP (2/1, Forliti) reports, "After nearly a year of waiting for details on a student's shooting rampage in which 10 people died on the Red Lake Indian Reservation, many victims' relatives said they were frustrated and angry after a private meeting with a federal prosecutor Monday." The AP continues, "Much of the case has been handled in juvenile court, which has kept information about the worst U.S. school shooting since Columbine out of public view, including the victims' families. … The March 21 shootings started at the home of Jeff Weise's grandfather, where Weise killed the older man and his companion. Weise then killed five students, a teacher and a security guard before killing himself at Red Lake High School in northern Minnesota." The AP adds, "U.S. Attorney Tom Heffelfinger refused to disclose details about Monday's meeting. … But he said he told family members about a federal report on school shootings that had several points relevant to the incident at Red Lake High. … 'One of those points is that in most school shooting situations, other people knew about the shooter's plan,' Heffelfinger said." The AP notes, "Those who attended said they learned 39 people knew Weise had planned the shootings and that four or five had more specific knowledge. … Heffelfinger would not confirm that, but said it's not illegal for people to do nothing if they know a crime is going to be committed."

Rowland Testifies Before Federal Grand Jury In Continuing Corruption Probe. The New York Times (2/1) reports, "Former Gov. John G. Rowland of Connecticut appeared yesterday as a witness before a grand jury in Hartford in response to a subpoena from federal prosecutors, who continue to investigate corruption stemming from his time in office, according to Mr. Rowland's lawyers. … 'It was a full-day proceeding,' said R. Bartley Halloran, one member of Mr. Rowland's legal team." The Times continues, "Mr. Rowland, who pleaded guilty just over a year ago to conspiring to betray the public trust by taking improper gratuities, was taken to Hartford on Monday by federal agents from the federal prison in Loretto, Pa., according to his lawyers. He was allowed to change into a suit and tie before testifying, said Ray Levites, Mr. Halloran's co-counsel on the case. Mr. Rowland spoke without using notes, Mr. Halloran said. … 'He has testified and testified truthfully,' Mr. Halloran said yesterday. He declined to specify any of the topics under discussion, given the secrecy rules governing grand jury testimony."

The AP (2/1) reports, "Rowland was expected to be back at the Loretto Federal Correctional Institution Tuesday night and remain there to serve out his corruption sentence until his scheduled release on Feb. 12, said his attorney, R. Bartley Halloran. … 'Former Gov. Rowland appeared today pursuant to a lawfully issued subpoena and responded to questions,' Halloran told The Associated Press as he left the U.S. attorney's office at the federal building in Hartford Tuesday afternoon." The AP adds, "Rowland admitted accepting gifts from friends, employees and state contractors. He pleaded guilty on Dec. 23, 2004, to one count of conspiracy to steal honest services, a combination of mail and tax fraud. The plea stemmed from Rowland's acceptance of more than $100,000 in vacations and chartered trips to Las Vegas. … Last March, the former Republican governor was sentenced to one year and one day in federal prison, followed by four months of home confinement and three years of probation. Because of federal sentencing rules, Rowland is eligible to be released after approximately 10 months served." The AP notes, "Assistant U.S. Attorney Nora Dannehy, who led the Rowland probe, has said the public corruption investigation that ensnared Rowland and several others is not over. One outstanding matter includes millionaire businessman Robert V. Matthews, a longtime Rowland friend who prosecutors said purchased Rowland's Washington, D.C., condominium in 1997 through a straw buyer for twice its value."

Philadelphia FBI, Community Advocates Launch Crime Witness Outreach Program. The Philadelphia Daily News (1/31, DiFilippo) reports that many crime witnesses "are frightened by reports of witnesses who've been harmed, which is why local law-enforcement agencies and community advocates have united to launch an outreach program," Step Up, Speak Up "to encourage people to come forward." The program, announced Monday, "is a

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partnership involving the FBI-Philadelphia's community-relations unit, Mothers In Charge and Clear Channel Outdoors," and it "calls for town-hall meetings in high-crime areas…where law-enforcement officials will talk about crime-fighting efforts and the role of witnesses in thwarting thugs. … Community activists and cops also plan to hand out T-shirts emblazoned with the campaign's name and slogan: 'Step Up, Speak Up.' Supporters would like to see the…shirts replace the controversial 'Stop Snitchin' T-shirts that spurred the campaign. … 'Things are upside down if we allow that to take root in our community and allow it to be the mainstream,' said Jack Eckenrode, FBI agent in charge in Philadelphia. 'If you don't have a witness, you might as well just give it up. Not every case is built on wiretaps, and even the ones that are need witnesses.'" The News notes "campaign organizers speculate that some witnesses feel intimidated even when no actual danger exists. And they say many people have misconceptions about what cooperation entails. 'People think the FBI records and traces every phone call it receives,' FBI spokeswoman Jerri Williams said. 'We don't.'"

The Philadelphia Inquirer (1/31, Pompilio, 423K) reports, "Desperate to stem the problem of witness intimidation, local law enforcement officials are taking new steps to protect those who come forward, including working with the U.S. Justice Department to provide relocation services for witnesses in non-federal cases at no cost to the city. … The 'Step Up, Speak Up' campaign is more focused on education. … 'Soon, we hope we'll see our T-shirts being worn by the people who once wore the other T-shirts,' said Ron Hosko, assistant special agent in charge of the FBI's Philadelphia Office. Witness intimidation has been a continuing challenge for police and prosecutors nationwide and particularly in Philadelphia, where the widely held belief is, 'snitches get stitches.'"

Philadelphia Daily News Welcomes Program. The Philadelphia Daily News (1/31) editorializes, "Thanks to fear -- real and imagined -- and the mind-set of youths who value its gritty coolness rather than its pathetic message, the 'Stop Snitchin' slogan has resonated here and on T-shirts across the country. … Even by using billboards, brochures with snitching tips, community meetings and, of course, T-shirts, 'Step Up, Speak Up' will be a hard sell. … Nonetheless, we believe a vigorous and sustained campaign can entice reluctant witnesses and crime victims to step out of the shadows. And help make the city safer." The Daily News adds, "'Step Up, Speak Up' may not trigger a wave of cooperation at first, but over time we hope that it overtakes 'Stop Snitching' -- and that ratting out bad guys becomes the gritty, cool thing to do."

Missouri Insurance Executive Sentenced To Prison For Mortgage Fraud. The AP (1/25) reports former St. Louis title insurance executive Thomas Kurzenberger Jr. "was sentenced Tuesday to six years in prison on a fraud conviction involving a $5.7 million mortgage fraud scheme, the U.S. attorney's office said." Kurzenberger "used customers' escrow deposits to support his drug habit and spent roughly $162,000 of customers' escrow funds at an adult night club in Sauget, U.S. Attorney Catherine L. Hanaway said."

US Adds Embezzlement Charges Against New York Money Manager. The New York Post (2/1, Smith, 624K) reports, "The feds have turned up the heat on former philanthropist and money manager Alberto Vilar, hitting him with new charges that add more alleged victims to his criminal case and could force him to cough up nearly $20 million. In the new indictment made public yesterday, Vilar…is accused of skimming money from four victims who'd trusted him with their fortunes — in addition to his friend Lily Cates, the estranged mother of actress Phoebe Cates. An additional securities- fraud charge also dramatically increases the potential financial penalties faced by the once-wealthy opera buff to $19.7 million.

Six Oregon Residents Indicted On Katrina Relief Fraud Charges. The AP (1/28) reports, "Asking for $2,000 in Hurricane Katrina relief assistance could cost six people up to 10 years in prison and $250,000 in fines." Portland residents Chantel Curry, Dominique Andrew, Virger Garland, Jennifer Jones, Trina Wilson and Steven Brown "were indicted by a federal grand jury Wednesday, each accused of a single count of receipt of stolen government property. Investigators said the six made false statements to qualify for $2,000 in relief along with $2,358 for rental assistance from the Federal Emergency Management Agency. … 'Whether we're talking about a few thousand dollars or a few hundred thousand dollars, our message is the same -- the FBI and their partners in law enforcement will be there and we'll find you,' said Dan Nielsen, FBI assistant special agent in charge for Oregon."

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Builder Called To Testify Before Grand Jury About Work Done On Kerik Apartment. The New York Times (2/1, Rashbaum) reports, "A builder who helped renovate former Police Commissioner Bernard B. Kerik's Riverdale apartment has been called to testify before a Bronx grand jury about who paid for tens of thousands of dollars in work there, the builder's lawyer said yesterday." New Jersey authorities "said last November that Mr. Kerik had accepted more than $200,000 in work on the apartment from a construction company accused of having ties to organized crime while he helped the company pursue business with New York City." Kerik "was commissioner of the city's Department of Correction when the work was done in 1999 and 2000. … The builder who did the work, Woods Restoration Services, had told New Jersey authorities that he was paid more than $200,000 by" Interstate Industrial Corporation, "a large New Jersey construction company." New Jersey officials "have been trying to revoke the license of the construction company…to work at casinos in Atlantic City."

Washington State Ads On Sex Offender Sentencing Could Start Trend. Roll Call (2/1, Yachnin) reports that a television commercial in Washington state "almost looks like a second-coming of the infamous Willie Horton ads." The ads "warn residents about the state's 20,000 convicted sex offenders…then criticize the Democratic-led Legislature for refusing a vote on a GOP-proposed law on sentencing." When state Legislatures and Congress take up measures to strengthen punishment of sex offenders "in coming months, similar ads are likely to pop up elsewhere, as…will the inevitable game of political one-upmanship between the parties." Even now, "fights are…beginning to break out as lawmakers seek the mantel of 'tough on crime.'" The ad is being run by the Speaker's Roundtable, a political action committee tied to the state House GOP.

CIVIL LAW:

"Partial Birth Abortion" Law Declared Unconstitutional By Two Courts. The AP (2/1, Neumeister) reports, "Two federal appeals courts on opposite sides of the country declared the Partial Birth Abortion Ban Act unconstitutional Tuesday, saying the measure lacks an exception for cases in which a woman's health is at stake." The AP continues, "The first ruling came from a unanimous three-judge panel of the 9th U.S. Circuit Court of Appeals. Hours later, a three-judge panel of the 2nd U.S. Circuit Court of Appeals in Manhattan issued a similar decision in a 2-1 ruling."

The New York Times (2/1, Preston, 1.19M) adds, "Since the appeals court for the Eighth Circuit, in St. Louis, reached a similar conclusion last July, the three legal challenges nationwide to the abortion act have now been affirmed on appeal. This month the Supreme Court several times postponed deciding whether to hear the Eighth Circuit case."

Reuters (2/1) says the rulings "were setbacks to abortion foes. The decisions could be appealed to the Supreme Court, which has two new justices recently appointed by President Bush."

The Alameda (CA) Times-Star (2/1, Richman) reports, "The 8th Circuit appeals court in St. Louis issued a similar ruling - also based solely on the lack of a health exception - in July, and the U.S. Supreme Court had been expected to announce soon if it will review that case as the Justice Department has asked. That announcement could be delayed if it seems the government will appeal Tuesday's rulings as well; the Justice Department is reviewing the new rulings, spokesman John Nowacki said."

The San Francisco Chronicle (2/1, Egelko) reports, "Supporters of the law said it would ban only a narrowly defined, rarely performed procedure that is dangerous, causes pain to the fetus and is never necessary to protect a woman's health. Opponents, including doctors who testified at a three-week trial in San Francisco two years ago, said the law was so broad and vague that it could prohibit the most common and safest types of abortions in the second trimester of pregnancy, when 10 percent of all abortions are performed."

Alito Stance On "Partial Birth" Considered. The Los Angeles Times (2/1, Weinstein, 958K) notes, "In 2000, the Supreme Court in the case of Stenberg vs. Carhart struck down a Nebraska law that prohibited the second-trimester abortions because it did not contain any exception when the health of the woman was at issue." New Justice Samuel Alito, "as a judge on the U.S. 3rd Circuit Court of Appeals, joined a majority in striking down a similar New Jersey abortion law. He wrote in a separate concurrence that he was bound by the Stenberg precedent." But "Eve Gartner, the lawyer for

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Planned Parenthood who successfully argued the case in the 9th Circuit, said today she did not take 'any comfort' from Alito's earlier vote." Gartner said, "As a 3rd Circuit judge, he was obliged to follow the law as the Supreme Court laid it out in Stenberg. … Now, as a Supreme Court justice, it is highly unclear whether he will consider himself bound by that precedent."

Connecticut Challenge To Motion To Dismiss NCLB Case Heard. The AP (2/1, Apuzzo) reports, "Attorneys for the U.S. Department of Education asked a federal judge Tuesday to throw out Connecticut's challenge to the federal No Child Left Behind law, saying the state understood the law when it accepted hundreds of millions of dollars in education funding." Connecticut Attorney General Richard Blumenthal "argued that the law was unconstitutional, an unfunded federal mandate costing more than the state received in federal aid." Connecticut "wants to continue its program for testing every other year, in grades 4, 6, 8 and 10, a request that Education Secretary Margaret Spellings has refused. Officials have estimated that the state will be saddled with a $41.6 million shortfall through 2008 to pay for additional testing and other provisions the bill requires. Justice Department attorneys, who represent the Education Department, countered that Connecticut knew the testing requirements when it accepted the money and is now trying to escape obligations under the law. U.S. District Judge Mark Kravitz did not rule on the motion to dismiss Tuesday." But "he suggested that siding with Connecticut in the case could allow other states to pick and choose which elements of the federal law to follow." Also "federal attorneys argue that Connecticut jumped the gun by suing before its appeals and reviews within the Department of Education were exhausted. Blumenthal countered that the risks of appealing through the Department of Education are too great because Spellings could withhold millions of dollars in education funding while the issue is debated." Kravitz said that "Spellings could avoid the need for the lawsuit by agreeing not to withhold federal education money while Connecticut challenges the law within the agency. He encouraged Justice Department attorney Elizabeth Goitein to bring that request to Spellings."

Reuters (1/31, Szep) reports, "The Bush administration's 'No Child Left Behind' policy will lead to 'dumbing down' tests in public schools because Washington has not fully funded the policy, the state of Connecticut said in a court hearing on Tuesday to try to block the program." Blumenthal said that "federal funding was not enough for the state to test in a way that maintains its high standards." U.S. Justice Department attorney Elizabeth Goitein said that "Connecticut was avoiding its obligations and was aware of the law's demands when the state accepted education funding from Washington."

WTIC-Radio Hartford, Connecticut (1/31) reports Blumenthal "says he hopes the case is resolved quickly."

WTNH-TV Hartford, Connecticut (1/31, Cusato) reported, "The Bush Administration's No Child Left Behind Act is getting some help tonight from a large voice. The NAACP was in court today asking a judge to let them join the federal government in defending the law." Connecticut NAACP President Scot X. Esdaile said, "We want Connecticut to educate the poor and minority children, not go around and create loopholes to get out of it."

WNPR-Radio Hartford, Connecticut (1/31, Orson) reported, "A U.S. District Court judge in New Haven heard oral arguments on the federal government's motion to dismiss the state's lawsuit."

Nickles Says Asbestos Trust Funds Should Be Allowed To Opt Out Of National Fund. Former Sen. Don Nickles, the founder of the Nickles Group, a lobbying firm, and spokesman for the Common Interest Group, which represents the interests of existing asbestos settlement trusts, in an op-ed in The Hill (2/1) writes, "The Senate will soon consider S. 852, a massive piece of legislation designed to compensate victims of asbestos exposure by establishing of a $140 billion national fund. However, there's an enormous problem: The bill, as reported by the Judiciary Committee, violates the Constitution and must be fixed. If it is not, it should be defeated." 1994 Congress allowed the formation of 524(g) settlement trusts which "have provided in excess of $5 billion in compensation, but "S. 852, however, would confiscate these assets. More than $7 billion currently set aside to compensate 524(g) beneficiaries would be taken from the trusts and paid to the national fund created by S. 852." Senators "should amend S. 852 to permit existing asbestos settlement trusts to opt out of the national fund. The trusts that choose to opt out could then continue to compensate their beneficiaries, and the national fund would compensate certain asbestos exposure victims for asbestos injuries that are not covered by those trusts."

Firm Hires D'Amato To Lobby Against Asbestos Trust Fund. The Hill (2/1, Schor) reports, "Simmons

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Cooper, among the nation's biggest asbestos-plaintiff law firms and Democratic donors, has made a strange new bedfellow in Alfonse D'Amato, the former GOP senator and trial-bar critic turned superlobbyist. Trial lawyers have been perennial targets for Republicans since D'Amato came to the Senate in 1980, criticized for clogging the judicial system and swarming businesses with needless litigation." D'Amato "is an unlikely ally for Simmons Cooper as its lawyers, 28 of whom belong to the influential American Trial Lawyers Association (ATLA), seek to derail the asbestos trust fund and preserve victims' right to sue in court after exposure to the deadly substance. ATLA backed only three Senate challengers in the 1998 election. One of them, then-Rep. Charles Schumer (D-N.Y.), beat D'Amato and took his job."

CIVIL RIGHTS:

FBI Launches Probe Of California Police Shooting. The Los Angeles Times (2/1, Pugmire, Keller) reports, "The FBI today launched an investigation of the shooting of an apparently unarmed man by a San Bernardino County sheriff's deputy which was caught on videotape and broadcast. … 'At our direction, the FBI today is opening an investigation,' said Thom Mrozek, spokesman for U.S. Atty. Debra Wong Yang, the highest ranking federal criminal justice official in Los Angeles. The Justice Department, through the FBI, has investigated some of the most flagrant instances of police misconduct in the last 10 years. … 'All I can say about the investigation is that we are looking into potential civil rights violations. I cannot give any timetable for the investigation,' Mrozek said." The Times adds, "The man who was shot three times was an Air Force security officer who, according to the videotape and neighbors, told the deputy that he was in the military and 'on your side.' … The videotape of the incident, which was shot on a residential Chino street about 10:30 p.m., was of poor quality, showing only a silhouette of the deputy and the face of the man who was shot — illuminated by the deputy's flashlight. … But the tape appears to show the deputy opening fire as the man was trying to comply with the officer's apparent order to stand up."

FBI Investigating Allegations Of Suspect Abuse By Michigan Police. Under the headline "FBI Probes Suspects' Claims Of 'Hooding'," The Detroit News (1/31, Lynch) reports, "The Federal Bureau of Investigation is looking into allegations against local law enforcement agencies that officers used the tactic of hooding -- placing pillow cases over the heads of detained suspects, which critics say amounts to psychological torture. Officials with the Macomb County chapter of the NAACP brought the allegations to the Michigan Department of Civil Rights in December, which has since forwarded the complaints on to the Detroit office of the FBI. NAACP officials said they have received complaints about three separate incidents where one or more people had hoods placed over their heads while in custody." The News adds, "On Monday, FBI Spokeswoman Dawn Clenney said: 'We're looking into it to see if there was a civil rights violation.'" Michigan Department of Civil Rights spokesman Harold Core "said his office forwarded the complaints to the Detroit office of the FBI since the federal agency was the proper authority to conduct the investigation," but Core noted, "That is not a statement as to this office's opinion of their veracity."

Anti-Gay Union Bill Provokes "Fiery Debate" In Maryland Legislature. The Baltimore Sun (2/1, Brewington, 296K) reports, "With a fiery debate that invoked God and civil rights, supporters and opponents of a constitutional amendment banning same-sex unions in Maryland squared off Tuesday in what has become one of the most politicized issues of the General Assembly session," pitting "religious leaders and conservative organizations" that favor the bill against "civil rights advocates, other clergy and constitutional law professors." Each side has "an eye on the November elections." Political experts say that "if a constitutional amendment appears on the fall ballot, conservative voters who tend to favor Republican candidates could be motivated to come to the polls in greater numbers." However, "other observers believe that left-leaning voters could be similarly motivated to protect what they view as civil liberties."

The Washington Post (2/1, B1, Mosk, 744K) adds that "lawmakers on both sides of the debate" said Del. Donald H. Dwyer Jr. (R), "sponsor of the amendment, "undermined his cause by drafting a proposal that would also eliminate rights long afforded to gay men and lesbians" through "local laws in Montgomery County and Baltimore." Also, "a law professor later said Dwyer's proposal was 'so incoherent and sloppy' that it could inadvertently outlaw divorce." The crowd at the hearing "was so boisterous at times that extra troopers from the Maryland State Police were brought in to ensure calm."

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Coretta Scott King Remembered. All three network news broadcasts carried stories on the passing of Coretta Scott King and her impact on the civil rights movement in the US. NBC Nightly News (1/31, lead story, 2:30, Williams) reported, We begin tonight with an icon of the past several decades in this country, a woman who became a towering moral force and a symbol of the civil rights movement after the assassination of her husband. Coretta Scott king died today. She was 78 years old. She outlived her husband by 38 years, and in doing so became a major force in her own right."

ABC's World News Tonight (1/31, story 6, 2:50, Vargas) quoted Sen. Hillary Clinton saying, "She would often give you the feeling that we should keep out eyes on the prize. We should be committed to what is really important in our lives, our faith, our families."

The CBS Evening News (1/31, lead story, 2:00, Schieffer) reported, "Coretta Scott King was the matriarch of the civil rights movement, its symbol for many in the decades after Dr. King's death."

WPost Praises King. The Washington Post (2/1, A22, 744K) editorializes, "Mrs. King's death at 78, after a long illness, dims the lights in a movement that drew inspiration from the life's work of both her and her late husband. It would be a mistake to think of Coretta Scott King as mainly a minister's wife living in his shadow." Her "determination…marked her as someone special," and "the murder of her husband…only emboldened her to continue his work."

Brownback Says His "Fruits" Comment Was Misinterpreted. The Washington Post (2/1, C3, Argetsinger, Roberts, 744K) reports in its "The Reliable Source" column, "Several days have passed since we first called the office of Republican Sen. Sam Brownback of Kansas to ask just what he meant when he said in a Rolling Stone interview: 'You look at the social impact of the countries that have engaged in homosexual marriage. … You'll know 'em by their fruits.' Now he has an explanation: He was misinterpreted. The senator released a statement Monday saying he 'was in no way referring to sexual orientation.' His paraphrase of Matthew 7:16 was part of a conversation about faith and deeds, according to the statement, and not an attack on homosexuals."

ANTITRUST:

North Carolina Governor Seeks DOJ Probe Of Gas Company Profits. The AP (2/1) reports, "North Carolina's governor has asked President Bush to formally investigate gas companies' record profits in 2005." The AP continues, "In a letter sent Tuesday, Gov. Mike Easley also asked Bush to authorize Attorney General Alberto Gonzales to investigate gas companies and their record profits. … 'This is a problem that transcends state boundaries and requires action by the federal government,' Easley wrote. 'I am writing to urge you to take decisive action to investigate the sources of these record-breaking profits, punish any wrongdoing that may underlie them, and most important, take immediate steps to reverse this situation and lower the amount consumers pay to the oil companies.'" The AP adds, "Easley specifically mentioned Exxon Mobil's announcement this week that its 2005 profit was $36 billion, the largest profit any company has earned in the history of the United States. … Easley said an investigation should require oil industry executives to testify under oath, unlike in November, when they testified before Congress, but not under oath."

WSJournal Opposes Additionally Taxing Oil Companies Profits. The Wall Street Journal (2/1, 2.11M) editorializes, "Exxon is guilty only of responding to a market need, and its earnings are nothing to apologize for." While some "politicians and many of our friends in the press imply that Big Oil is somehow responsible for higher prices because of 'gouging' or somehow conspiring to withhold supply," each "time the Federal Trade Commission looks into these claims, it finds no evidence to support them." The high energy prices reflect "political uncertainty in some major oil-producing countries," and "the worst way to respond…is by robbing the profits that the companies need to diversify global oil supplies." As it is "an election year, we can expect this sort of political posturing to get worse. It's a special shame, however, that some in the media have decided to join the demagoguery in search of higher TV ratings."

FTC Approves Time Warner-Comcast Purchase Of Adelphia Assets. Dow Jones (2/1, Hughes) reports, "The Federal Trade Commission Tuesday cleared the acquisition of Adelphia Communications Corp. cable assets by Comcast Corp. and Time Warner Cable Inc.,

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amid objections that the purchase would raise the cost of sports programming. … 'The evidence obtained during the investigation does not suggest that the proposed transactions are likely to substantially lessen competition in any geographic region in the United States,' said FTC Chairman Deborah Platt Majoras. She and two fellow Republicans approved the purchase over the objections of two colleagues who argued the government should have imposed conditions." Dow Jones continues, "Comcast and Time Warner last April agreed to acquire Adelphia's assets after the company collapsed in an accounting scandal. As part of the transaction, the two cable giants would swap certain cable systems, giving both companies more clout by strengthening their geographic clusters of subscribers." Dow Jones adds, "The transaction still faces approval by the Federal Communications Commission. The two dissenting commissioners, Democrat Jon Leibowitz and Independent Pamela Jones Harbour, raised hope that the FCC may scrutinize the acquisition more carefully. … FTC Chairman Majoras joined Commissioners William Kovacic and J. Thomas Rosch in saying that the FTC would be 'vigilant' and 'take action under the antitrust laws' if evidence emerged that Comcast or Time Warner were engaging in anticompetitive conduct that harmed consumers. They also said that the FTC's investigation didn't show that the purchase of Adelphia's assets would harm competition and that as a result it wasn't 'appropriate' to impose conditions."

EU Antitrust Chief Says Microsoft Must Prove Innovation To Charge Fees. The AP (2/1) reports, "The European Union's antitrust chief says Microsoft cannot charge licensing fees for software blueprints that it is offering to share with competitors unless it can prove the computer code is innovative." The AP continues, "The official, Neelie Kroes, also told European lawmakers on Tuesday that she has not yet received all information on Microsoft's offer to share software code and comply with a 2004 EU antitrust ruling." The AP adds, "Microsoft Corp. has until Feb. 15 to meet European Commission demands from December that it provide complete and accurate information on code that would allow competitors' products to communicate smoothly with servers running Microsoft operating systesms. … EU antitrust regulators have threatened Microsoft with daily fines of 2 million euros ($2.36 million), retroactive to mid-December, if it fails to comply by the deadline."

Kroes Not Opposed To Mittal-Arcelor Merger. The AP (2/1, White) reports, "European Union antitrust chief Neelie Kroes said Tuesday she was not in principle opposed to large steel merger such as Mittal Steel Co.'s bid for Arcelor SA and would meet with steel magnate Lakshmi Mittal this week. … 'I am not shocked by big, little or small mergers,' she told the European Parliament's economic and monetary affairs committee." The AP continues, "The EU's Executive Commission had not yet received a formal request by either company to clear the merger and Kroes said she would look at it carefully in line with EU competition rules. … 'We have not received all the facts and figures. ... We will do the job properly, not with emotion,' she said." The AP adds, "Kroes will meet with Mittal chairman and CEO Lakshmi Mittal on Wednesday to discuss the unsolicited 18.6 billion euros ($22.5 billion) offer he made for Arcelor last week. … Arcelor, meanwhile, warned against its predator's 'irregular' profitability, pledging to consider 'all options' to foil the hostile bid."

Mobile Email Patent Battles Spread To Two More Companies. The USA Today (2/1, Kessler) reports, "Mobile e-mail addicts, already nervous about a lawsuit that threatens to shut down BlackBerry service in the USA, have another reason to fret: BlackBerry's biggest rival was hit with a similar lawsuit Tuesday. Visto, a maker of mobile e-mail systems for cellphone carriers, sued rival Good Technology in U.S. District Court. Visto claims Good has violated several patents dating to 1997. Good sells e-mail products for the Palm Treo, Hewlett-Packard iPaq and other handheld devices." However, according to the article, "Customers shouldn't rush out to replace e-mail gadgets just because they're jittery." The article includes background information on litigation between Research In Motion and NTP over patents involved with the BlackBerry. The article also says, "The lawsuits raise questions about whether U.S. courts make it too easy for companies to threaten to shut down rivals' businesses, says lawyer Jeffrey Berkowitz at Finnegan Henderson Farabow Garrett & Dunner in Washington, D.C."

Luxembourg Rejects Mittal Bid For Arcelor. The Wall Street Journal (2/1, Echikson) reports, "Luxembourg's prime minister said his country rejected Mittal Steel Co.'s €19.43 billion, or about $23.48 billion, hostile bid to acquire rival steelmaker Arcelor SA, citing worries over the

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fate of 6,000 Arcelor employees based in that country. But Prime Minister Jean-Claude Juncker conceded that his powers to block the deal were limited because Luxembourg owns only 5.6% of Arcelor's shares. Meanwhile, the European Union's antitrust chief said she wasn't in principle opposed to a large steel merger, giving Mittal bid's continued life. … The cash-and-stock bid, announced Friday, would create a new global steel giant. In Paris Tuesday, shares of Arcelor fell 85 European cents, or 2.9%, to €28.90 each. In Amsterdam, Mittal fell 49 European cents, or 1.7%, to €29.20." The article also notes that while French Finance Minister Thierry Breton "disparaged" the Mittal offer, the French government "owns no part of Arcelor and analysts say it will find it dangerous to intervene, and would risk undermining its credibility to block even more sensitive deals it dislikes."

Column Decries Anti-"Biopiracy" Proposals. In an op-ed in the Wall Street Journal (2/1) Alan Oxley raps India, Brazil, and African countries for trying to alter the World Trade Organization's rules on patents. Oxley writes, "Their complaint is that current patent law permits 'biopiracy.' Their scenario is that multinational companies, typically pharmaceutical manufacturers, secure local natural plants or substances in foreign countries for a pittance, convert them into profitable blockbuster drugs, protect them with patents and pile up the profits. The 'traditional owners,' often indigenous peoples, of these 'genetic resources' are allegedly left with little in return. … In the name of fighting biopiracy, India wants governments to have the right to authorize any use of a patented product based on or derived from a genetic resource found in their territory." As an example, Oxley cites India's neem tree, which contains a natural fungicide. Oxley writes, "If the WTO rules were amended as India wants, its approval would be necessary before another country could grant a patent on any product or process involving the neem tree. This clearly would produce a chilling effect on innovation." Oxley says no investor would risk his money under such laws, and advocates market agreements to compensate host governments when companies seek patentable matter while "bioprospecting." Oxley concludes, "Officials in countries that want to lock onto high-growth strategies and foster investment that will bring the latest and most productive technology should be wary about this anti-patent law campaign."

ENVIRONMENT/INDIAN AFFAIRS:

Davis-Besse Plant Worker Indicted For Falsifying Reports. The Milwaukee Journal Sentinel (2/1, Content) reports, "A nuclear power plant employee indicted on suspicion of misleading federal regulators about the condition of a troubled Ohio plant later moved to Wisconsin, where he worked for the past three years at the Kewaunee nuclear plant." The Sentinel continues, "David Geisen of De Pere is scheduled to be arraigned this afternoon in federal court in Toledo, Ohio, on five charges of falsifying reports to the Nuclear Regulatory Commission. He is one of three people who worked for the Davis-Besse nuclear plant who have been indicted on charges of filing reports that concealed problems at the plant outside Toledo." The Sentinel adds, "Geisen was part of a group of Davis-Besse workers who left FirstEnergy in fall 2002 as part of management changes that resulted from an intensive NRC investigation of problems at the plant. … The NRC and federal Justice Department indictment contend that Geisen, then Davis-Besse's engineering manager, and other workers at Davis-Besse gave incomplete, misleading and false information concerning the condition of the vessel head and the nozzles inside it, after NRC inspectors raised concerns that plants such as Davis-Besse might have leaks. … If that information had been disclosed earlier, the plant would have been shut down sooner, officials said."

Northwest Ecoterror Suspect Released On Bond. KMAX-TV Sacramento (1/31) reports on its Web site, "One of the three people accused of plotting to blow up cell phone towers and a power plant in Auburn is set to be released on bail. The parents of Lauren Wiener put up a $1.2 million bond on their home to get their daughter out of jail." Wiener "is the only one of the 3 eco-terror suspects arrested in the case to be allowed bail. The FBI says the arrests were based on evidence that the three were plotting to use explosives to blow up several sites. … Although, the FBI says they do not believe there was any immediate danger to the public."

MSHA Nominee Says Mine Safety Laws Are Adequate. USA Today (2/1, Frank, 2.31M) reports, "President Bush's choice to oversee coal mines said Tuesday that safety laws are 'adequate' and that problems result from mine operators that ignore safety regulations." During a

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confirmation hearing in the Senate, Richard Stickler said, "A small percentage of operators comply with the law when (inspectors) are at the job site, but that's the only time they try to comply with the law." Facing "sharp questioning from Democrats, Stickler, a former coal miner, declined to endorse new safety measures such as increasing the number of mine-rescue teams." Sen. Edward Kennedy "said that Stickler 'is not someone with an extensive background in safety and health issues' and that he will vote against the nomination." And Sen. Hillary Rodham Clinton "voiced frustration when Stickler told her that he'd 'do an in-depth analysis' of safety regulations that had been proposed when her husband was president but were dropped by the Bush administration. 'It's troubling…that once again we're going to be studying what's self-evident: We need improvements.'"

The New York Times (2/1, Urbina, 1.19M) adds that committee chairman Sen. Michael Enzi "endorsed the administration's preference that oversight agencies work in partnership with industry rather than act as taskmaster." Yet "Senator Patty Murray…pressed Mr. Stickler on whether he would be willing to push the agency, which has been criticized as lax in enforcing its own regulations, to play a tougher role. 'Are you going to move forward in an aggressive direction,' Ms. Murray asked, 'or are we going to hear more of the voluntary philosophy of they will do the right thing if we just sit back and let them?'"

Jenkins Says There Isn't Proof Global Warming Is Real. Holman W. Jenkins, Jr. writes in his column in the Wall Street Journal (2/1, 2.11M), "As used by the media, 'global warming' refers to the theory not only that the earth is warming, but doing so because of human industrial activity." However, "measuring average global temperature is not an easy matter," and "how do we know it's manmade?" Scientists have to use "elaborate computer models…before they can plausibly suggest…that the net effect of increased carbon dioxide is the observed increase in temperature." Any "diligent layperson is equipped to doubt any confident assertion that manmade warming is taking place." Therefore, ", inevitably and unfortunately, today's debate over global warming revolves almost exclusively around the status and motives of spokesmen for opposing viewpoints, rather than the science and its limits."

Michigan Tribe Joins DOJ In Asking Court To Dismiss Casino Suit. Indian Country Today (1/31, Toensing) reports, "The Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians joined the Justice Department Jan. 6 in asking a federal court to dismiss a lawsuit that seeks to block the Interior Department from taking land into trust for the tribe's proposed casino in southwestern Michigan." ICT continues, "The lawsuit was filed by MichGo, one of the dozens of anti-casino groups that have sprouted up around the country over the past several years. MichGo, which stands for Michigan Gambling Opposition, filed a lawsuit last year challenging Interior's final approval of the tribe's land-into-trust application." ICT adds, "The 300-member Match-E-Be-Nash-She-Wish Band, known as the Gun Lake Tribe, was federally acknowledged in 1999. The tribe plans to develop a casino and entertainment complex in Wayland Township on 147 acres of trust land. … 'We are very hopeful the court will concur with our position that MichGo's claims have no merit. We appreciate the help from the Department of Justice in defense of the tribe's federal rights. Gun Lake is trying to restore our reservation less than three miles from our homelands in Bradley,' said Tribal Chairman D.K. Sprague. … On the same day Gun Lake filed for a summary dismissal of MichGo's lawsuit, the Pokagon Band of Potawatomi - Gun Lake's cousins and neighbors - learned that the federal Court of Appeals in Washington, D.C., had tossed out an identical lawsuit that sought to delay its efforts to develop Four Winds Casino Resort on 675 acres in New Buffalo Township in southwestern Michigan."

FBI/DEA/ATF/USMS:

Four Accused In Mail-Order Drugs Case. The Knoxville (TN) News Sentinel (2/1, Satterfield) reports, "Richard Kato Robinson admitted he had shipped a half-ton of marijuana and a quarter-ton of cocaine from California to Knoxville in three years - all by mail. At a hearing in U.S. District Court on Tuesday prosecutors "unveiled an indictment against the man authorities allege not only put all those illegal goodies in Robinson's packages but had even more customers on his mailing list. Vicente Corona was nabbed Jan. 9 in California and is headed back to Knoxville to face charges in connection with a massive mail-order drug business. Also named in the indictment unsealed…Tuesday were two alleged Corona minions - Jermaine 'Pretty Boy' Hughes and Dennis 'Raggs' Richardson. … The case began in earnest nearly a year ago when California authorities found drugs inside packages addressed to a vacant house…in

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Knoxville. Investigators with the Knoxville Police Department's Organized Crime Unit and agents with the U.S. Drug Enforcement Administration wound up delivering the packages to that vacant house and then waited for someone to show up to collect them."

Convicted Arkansas Drug Ring Leader Gets 12-Year Prison Sentence. The Fort Smith (AR) Southwest Times Record (1/31) reports, "A Logan County man who authorities said was the leader of a drug ring that shipped large amounts of marijuana into Arkansas was sentenced Monday to 121/2 years in prison. … Bollinger and 10 other people were indicted in May as a result of an investigation by the federal Drug Enforcement Agency and several other agencies that began in 2001. Authorities said Bollinger was in charge of an operation that shipped marijuana from California to Arkansas and distributed the marijuana primarily in Logan County."

Drug Case Gets First Jury Trial In New Orleans Since Katrina. New Orleans Times-Picayune (2/1) reports, "In the first jury trial in U.S. District Court in New Orleans since Hurricane Katrina, a 40-year-old man was convicted Tuesday of selling crack cocaine to a Drug Enforcement Administration undercover agent at Lakeside Shopping Center in Metairie and in a Wal-Mart parking lot in Boutte in May 2004. The DEA seized more than 100 grams of crack cocaine from Mervin Spencer after the undercover operation, U.S. Attorney Jim Letten said. U.S. District Judge Helen Berrigan scheduled sentencing for April 12. Spencer faces a mandatory life sentence and fines amounting to $12 million, along with other penalties, in connection with Tuesday's guilty verdict."

Santa Cruz Seeks Federal Court's Approval Of Medical Marijuana Plan. The San Jose Mercury News (1/31, Mclaughlin) reports, "The city of Santa Cruz and a local medical marijuana collective on Tuesday asked a federal court in San Jose to approve the city's plan to provide marijuana directly to sick and dying patients. The amended complaint represents a renewed legal fight to force the U.S. government to honor medical marijuana laws passed by California and 11 other states. The American Civil Liberties Union, Drug Policy Alliance, the national law firm of Bingham McCutchen and a handful of private attorneys filed legal documents outlining new constitutional arguments based on an ordinance recently enacted by the Santa Cruz City Council creating the first medical marijuana department in the country. The department is known as the Office of Compassionate Use, but the city has made clear it has no intention of actually distributing marijuana unless it wins the legal battle."

Florida Doctor Convicted Of Patient Deaths From Painkiller Overdoses. The Lakeland (FL) Ledger (1/31) reports, "A federal jury convicted an Apalachicola doctor Monday of causing the deaths of five of his patients through overdoses of highly potent painkillers including morphine and oxycodone. Dr. Thomas G. Merrill was convicted on 98 of 100 counts, including illegally dispensing controlled substances, defrauding health care benefit programs and wire fraud. Merrill's lawyer, Jim Appleman, said he would appeal the conviction." The AP (1/31) notes, "Prosecutor Stephen Kunz told jurors that Merrill's practice became a destination for drug seekers throughout Florida. Kunz said Merrill wrote 33,000 prescriptions from January 2001 to May 2004 and 81 percent of those were for controlled substances."

California County Supervisors Delay Vote On Medical Marijuana Lawsuit. The Desert Sun (1/31) reports, "The Riverside County Board of Supervisors will not vote until next week on whether to join a federal lawsuit opposing California's medical marijuana law. Third District Supervisor Jeff Stone brought the proposal to the board that would have added Riverside County to the suit against the state law filed by San Diego County on Jan. 20. The San Bernardino County Board of Supervisors voted to file a similar suit Jan. 24. In 1996, California voters passed Proposition 215 - the law allows individuals with a doctor's recommendation to use medical marijuana. The law requires counties to issue IDs to qualified medical marijuana users. Riverside County began issuing the cards in December. San Bernardino had planned to start issuing the IDs, but has put the cards on hold until the suit is resolved."

Marijuana Activist Seeks To Use Pot While Serving Sentence. The Sacramento Bee (1/31) reports, "Medical marijuana activist Steve Kubby asked a Placer County judge [Tuesday] to let him use cannabis while he serves a 120-day jail sentence for a drug conviction in 2000. The Placer sheriff's department said it is opposed to

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the idea. Kubby has contended that he will die in jail if he is not allowed to use cannabis to treat his condition. Undersheriff Steve D'Arcy said his department's policy is that marijuana will not be furnished in any form to an inmate. The 59-year-old Kubby made the request through his attorney during a hearing in Placer Superior Court in which the lawyer also asked that his client be released from jail to serve the sentence at his new home in Marin County. The attorney, Bill McPike, said Kubby could wear an electronic device so that his movements could be monitored by authorities. … Kubby was in court today for arraignment on a charge that he violated probation by moving to Vancouver, Canada, in 2001 to avoid serving the 120-day sentence."

Tour Manager Pleads Guilty In Nightclub Fire. The Washington Post (2/1, A3, Fahrenthold) reports, "The former tour manager for the band Great White has agreed to plead guilty to 100 counts of involuntary manslaughter for his role in the deadly fire that roared through a Rhode Island nightclub in 2003, a judge announced Tuesday. Daniel Biechele, who allegedly started the blaze by setting off a pyrotechnic display near flammable sound insulation, could be sentenced to as many as 10 years in prison. … Biechele had been charged with 200 counts of involuntary manslaughter, two each for every one of the 100 people who died in one of the worst nightclub fires in U.S. history. The charges reflected two different legal strategies that prosecutors said they might use to prove his guilt: one involving 'misdemeanor manslaughter,' the other 'gross negligence.' … Tuesday's agreement points to an end for one of three legal cases associated with the Feb. 20, 2003, fire, which occurred during a Great White concert at the Station nightclub in the town of West Warwick."

Minneapolis Targets Guns With Buy-Back, Gun-Lock Efforts. The Minneapolis Star Tribune (2/1) reports, "Organizers hope to get about 200 handguns off the streets during a two-day buy-back program." The Tribune continues, "Terry Collins, Star TribuneTapping his finger repeatedly on a red X on a map, Shane Price wanted to make sure he had their attention. … Their strategy was for Project Cease Fire, a two-day gun buy-back program sponsored by Hennepin County's African American Men Project, several community organizations and the Minneapolis Police Department. Funding is provided by the Minneapolis Foundation." The Tribune adds, "Participants will get $50 for revolvers and $75 for semiautomatic pistols they turn in. No questions will be asked, no identification is required, and participants will not face prosecution for illegal possession or other gun-related violations. … The event will take place Friday and Saturday. … In another effort to reduce gun violence in Minneapolis, 5,000 cable-style gun locks will be available for free today on a first-come, first-served basis at any Minneapolis police precinct. The program is funded by a grant from the U.S. Justice Department. … The goal of the program is to remind gun owners to store their firearms safely at home so that they don't fall into the hands of a child."

ATF Probing Pennsylvania Arson. The Meadville (PA) Tribune (2/1, Johnson) reports, "Officials investigating the arson fire at Chipsco Mold & Design are confident it won't take long to solve the crime, but caution that it's tough to put a time frame on an arson probe." The Tribune continues, "On Friday, the federal Bureau of Alcohol, Tobacco, Firearms and Explosives announced the Jan. 23 fire at the 50,000-square-foot warehouse and manufacturing facility on Liberty Street Extension was an arson." The Tribune adds, "Officials have declined to offer details about the material used to start the fire, suspects or other evidence, but the supervisor of the ATF Pittsburgh field office said officials are following several leads. … ATF is the federal law enforcement agency with jurisdiction for investigating arson and explosives incidents. … 'Arsons are sometimes solved in a day and sometimes it takes years,' ATF Pittsburgh office director Jim Tanda said. 'We're confident in this case it's solvable soon. We're going to proceed with that optimism,' he said, adding, 'There's no way to put a time frame on it. … The ATF and state police have conducted a thorough investigation during the first week after the fire. We're not in a position to talk about evidence or suspects at this time. We've said it is arson and we'll be proceeding in the next couple of weeks with the leads we've developed.'"

TAX:

Many Taxpayers Not Using Sales-Tax Deduction. The Wall Street Journal (2/1, Herman) reports, "A recent Treasury Department report says numerous taxpayers who could have benefited from deducting state and local sales taxes didn't do so on their federal income-tax returns for 2004, which were filed last year. The provision allows millions of people to choose to deduct either their state

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and local income taxes or their sales taxes. This deduction is particularly important for people who live in states with no state income tax, such as Florida, Texas, Washington and Nevada. But it also can benefit many people in other states who pay relatively low state and local income taxes. To be eligible, taxpayers must itemize instead of taking the standard deduction. … When Congress approved it in 2004, it made it effective only for the 2004 and 2005 tax years. But now many lawmakers want to extend it."

Senate Budget Would Extend R&D Tax Credit. The Wall Street Journal (2/1, Rogers, 2.11M) reports, "House Republicans hope to send President Bush a long-delayed $39 billion deficit-reduction bill today, even as their Senate colleagues are preparing to use some of the savings to bulk up tax cuts. The immediate winner would be the high-tech industry, which is expected to get a longer, two-year extension of the research-and-development tax credit through 2007. And the Senate Finance Committee is proposing to stretch out a variety of lesser tax breaks to bring the net value of its tax package close to $70 billion over five years.' The Journal adds, "At one level, all the Senate adjustments are ephemeral and designed with an eye toward negotiations with the House. For example, the longer two-year R&D provision and other extensions proposed for the Senate bill will cost about $18 billion; the capital-gains and dividend extensions, approved by the House, would cost about $20 billion. By taking advantage of the added savings, Sen. Grassley puts himself in a better bargaining position with House Ways and Means Committee Chairman Bill Thomas (R., Calif.). But the maneuvering will reinforce complaints by Democrats that the whole $39 billion deficit-reduction bill is less about the deficit than paying for new tax cuts."

WPost Calls Budget Bill "Misguided." An editorial in the Washington Post (2/1, A22, 744K) says, "Members of the House of Representatives have the chance for a do-over, probably today, on one of its most unfortunate votes of last year: a supposed deficit-reduction measure that would achieve its cuts in ways that hurt the poor and reward the powerful. The House passed this misguided measure 212 to 206 in December; then it squeaked through the Senate, with Vice President Cheney racing back to Washington to cast a tie-breaking vote. But Senate Democrats invoked a procedural maneuver that stripped several minor provisions from the budget agreement, requiring the House to again vote on the measure. Hence, the opportunity for a do-over. The odds, we recognize, are against any change in the outcome. That's unfortunate. … Republican moderates prepared to hold their noses and vote for this stinker again ought to reconsider."

Senate To Take Up Tax Bill Today. In its "Washington Wire" column on its web site, the Wall Street Journal (1/31, 2.11M) reported that the Senate "is turning to a $70 billion, five-year tax bill left from last year. Senate Majority Leader Bill Frist of Tennessee announced Tuesday afternoon that the chamber will take up the bill Wednesday. Republican tax-writers say they hope to clear the legislation to extend President Bush's 15% rates of capital gains and dividends by the end of February."

CONGRESS-ADMINISTRATION:

Senate Approves Alito Nomination By 58-42 Margin. USA Today (2/1, Kiely, 2.31M) reports, "Samuel Alito, who once said the Constitution doesn't protect the right to an abortion, won a swing seat Tuesday on the Supreme Court. Alito, 55, was sworn in by Chief Justice John Roberts shortly after the Senate confirmed him on a mostly party-line, 58-42 vote." The Senate vote "reflected deep partisan divisions over President Bush's pick for the second Supreme Court vacancy of his presidency. It was the closest vote for a justice since 1991, when Clarence Thomas was confirmed 52-48." Alito "got less bipartisan support than Thomas, who received 11 Democratic votes. Roberts got 22 Democratic votes last year."

Fox News' Special Report (1/31, Wilson) added, "In the end, every Republican except moderate Rhode Island Senator Lincoln Chafee voted for Samuel Alito. They were joined by Democrats Robert Byrd, Kent Conrad, Tim Johnson of South Dakota, and Ben Nelson of Nebraska." Bush "proclaimed himself pleased that his nominee had been confirmed. A short time later Alito traveled up Pennsylvania Avenue to the Supreme Court where he was sworn in by Chief Justice John Roberts in a private ceremony."

The Washington Post (2/1, A1, Babington, 744K) reports, "Yesterday's Senate vote reflected the challenge that Democratic candidates face in states that are solidly Republican in presidential elections. The pro-Alito votes by Byrd, Conrad, Johnson and Nelson are best explained '"y the absence of liberal activists in the Democratic ranks' in those states, said Bruce E. Cain, a political scientist who directs the

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University of California's Washington Center." The Post adds, "In most other states -- even Arkansas and Louisiana -- enough hard-core liberals donate money and recruit voters in Democratic primaries to make a pro-Alito vote dangerous to senators such as Blanche Lincoln (Ark.) and Mary Landrieu (La.), Cain said." Chafee, meanwhile, "faces a double dilemma in Rhode Island: a stiff GOP primary challenge by Cranston Mayor Stephen Laffey, and a likely strong Democratic opponent if he survives. Chafee's anti-Alito vote may entice more independent voters to back him in the Republican primary (at which independents can legally vote), which is vital to the senator's reelection hopes, said Brown University political scientist Darrell West." The Chicago Tribune (2/1, Zeleny, 643K) notes the vote "came one day after an attempt to filibuster Alito failed, with only 25 Democrats signing onto the movement led by Sens. Edward Kennedy and John Kerry of Massachusetts."

NBC Nightly News (1/31, lead story, 2:30, Williams) called the vote "a major victory of the President's second term." NBC Nightly News (1/31, story 2, 2:00, P. Williams) reported, "The biggest period of turnover on the Supreme Court in more than a decade is over now but the change in the court's direction is just beginning. The intense debate kept going right up to the last minute." Sen. Richard Durbin, Illinois: "A chill wind blows, a chill wind which will snuff out the dying light of Sandra Day O'Connor's Supreme Court legacy." Sen. Arlen Specter, Pennsylvania: "He does not have an agenda, does not have a predetermined set of values he's going to try to foist upon the country." Williams: "The vote, 58-42, was one of the most deeply partisan ever for a Supreme Court nominee, with just four Democrats voting to confirm. By contrast, Clarence Thomas had 11 Democrats supporting him, even though he was confirmed with fewer votes overall." NBC notes that now "a new era, with a more conservative court, begins" and one of Justice Alito's "first acts will be to vote on whether to hear a case on a law banning partial birth abortions. Three federal court of appeals have found that unconstitutional, two of them acting just today."

The New York Times (2/1, Kirkpatrick, 1.19M) adds "Alito and his wife, Martha-Ann, watched the vote on television in the Roosevelt Room of the White House with President Bush and his wife, Laura, and aides who had worked on the nomination. A cheer went up in the room as the vote count passed 50." For Bush, "the confirmations of Justice Alito, 55, and Chief Justice Roberts, 51, mean that in four months he has named two members of the court who are young enough to influence its rulings for many years." In a statement, Bush "congratulated Justice Alito, the son of an Italian immigrant, saying his 'appointment to the Supreme Court is the realization of the American dream.'" The Los Angeles Times (2/1, Chen, 958K), Washington Times (2/1, Hurt, 90K) and Wall Street Journal (2/1, Cummings, 2.11M) run similar stories.

The New York Times (2/1, Liptak, 1.19M) says Alito "will have only one vote, of course, but it may be the decisive one in several of the marquee cases that will dominate the balance of the Supreme Court's term. By the end of the term in early summer, legal analysts said, the nation will most likely have a good sense of whether Justice Alito will affirm or veer away from the direction set by his predecessor, Justice Sandra Day O'Connor, in cases involving the treatment of terror suspects and campaign finance. … A first taste of how his legal views on abortion, a signature issue for Justice O'Connor, may differ from hers could come before the end of the year. And other issues on which Justice O'Connor was often the swing vote, including affirmative action and religion, are certain to reach the court in coming years." The Wall Street Journal (2/1, Bravin, 2.11M) reports, "In his first four months, the new chief justice, John Roberts, has voted with the court's conservative stalwarts, Justices Antonin Scalia and Clarence Thomas, except for the single case where the latter two split and the chief justice joined Justice Scalia." Alito," with a solid conservative record as a Reagan Justice Department official and circuit judge, may follow suit."

The Washington Post (2/1, A21, Lane, 744K) runs a story headlined "Shift On The Bench Has Already Begun," in which is says Alito "will shake up one aspect of court business that was unchanged for more than 11 years: the seating chart. As the junior associate justice, Alito will occupy the end of the bench farthest to the courtroom audience's right during oral arguments. Justice Stephen G. Breyer, who has sat there since October 1994, will move across to the audience's extreme left." The Post adds, "The other justices will shift according to seniority as well, except for John Paul Stevens, the senior associate justice, who will remain just to the left of Chief Justice John G. Roberts Jr. Justice Antonin Scalia will occupy the chair to Roberts's right, where retiring Justice Sandra Day O'Connor sat."

The Legal Times (2/1, Goldman) reports, "Monday's filibuster attempt was led by Massachusetts' two Democratic senators, John Kerry and Edward Kennedy. It was derided by Republicans as a transparent attempt to placate several

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influential liberal interest groups, which had spent hundreds of thousands of dollars in their campaign to defeat Alito. … 'The reason the filibuster was a flop, if they had done it and been successful, there would have been a wipeout in 2006,' said South Carolina Republican Sen. Lindsey Graham, reflecting a widely held belief among Republicans that a key factor in the 2004 defeat of former Senate Democratic leader Tom Daschle was his party's frequent use of judicial filibusters against conservative federal circuit court nominees. … 'The only thing that matters [to them] is the people driving the ads,' declared Graham, a member of the Judiciary Committee and the Gang of 14."

Kerry Complains Democrats Didn't Bring Out "The Knives" Against Alito. The Washington Times (2/1, McCaslin, 90K) reports in its "Inside the Beltway" column, "Immediately following one of the most partisan victories ever for a Supreme Court nominee, an obviously irate Massachusetts Sen. John Kerry, the unsuccessful 2004 Democratic presidential nominee, exited the Senate chamber yesterday and spouted that his Democratic colleagues 'didn't bring out the [expletive] knives!' … 'It was distasteful,' says one of three people Mr. Kerry addressed his remark to, among them Wade Henderson, executive director for the Leadership Conference on Civil Rights. 'Here he is supposedly a presidential hopeful, somebody who is supposed to have class and stature. I'm disappointed.'"

Obama Urges Alito To Exercise Job With "Great And Sober Judgment." Sen. Barack Obama in an interview before the State of the Union speech, said on The CBS Evening News (1/31, story 4, 2:00, Schieffer), "I don't think there's any doubt he's going to be more conservative than Sandra Day O'Connor. She was a moderate conservative and I hope Judge Alito recognized that he's got a role that is unique in America with the Supreme Court Justices with lifetime appointments the can change the landscape for this country and are not subject to democratic checks. And so hopefully we'll exercise his job with great and sober judgment."

Alito's "Balancing Act" During State Of The Union Examined. The Washington Post (2/1, A2, Milbank, 744K) reports, "Samuel A. Alito Jr., barely eight hours into his job as a Supreme Court justice, had to make a series of important rulings as he sat in the House chamber for last night's State of the Union address. For instance: How enthusiastically would he applaud for President Bush? (More vigorously than Justice Stephen G. Breyer but less than Justice Clarence Thomas and about the same as the chief, John G. Roberts Jr.) And: How would he react when Bush introduced him to Congress? (He would make a self-conscious grin.)" The Post adds, "For the four robed justices brave enough to attend the largely political event, and Alito in particular, it was a balancing act as challenging as any scales of justice. … If Alito and his peers were being extra cautious, that was understandable. Yesterday's rare overlap of a State of the Union address and a Supreme Court confirmation could have been a celebration of democracy. Instead, the anger from the confirmation process spread through the body politic, leaving a brittle, divided House."

Bush Lays Out Agenda In State Of The Union Address. President Bush outlines his domestic and international agenda last night in his State of the Union speech last night. The Los Angeles Times (2/1, McManus, 958K) reports Bush "warned Tuesday that the United States had become 'addicted to oil,' much of it coming from unstable parts of the world, and called for a 20-year national effort to develop new sources of energy to replace imported fuel." He also "delivered an unapologetic defense of his national security policies, from the continuing war in Iraq to increased electronic surveillance of communications at home." The Financial Times (2/1, Daniel, Alden) adds Bush also "addressed fears about the growing economic clout of China and India with a pledge to spend $50bn on research initiatives to boost US competitiveness over the next decade." The Baltimore Sun (2/1, Davis, 296K) adds Bush "held out hope for additional troop reductions in Iraq this year but rejected calls for a 'sudden withdrawal,' defending the war in a State of the Union message that drew stark contrasts with his opponents." The Sun adds, "While calling for bipartisanship on foreign and domestic issues, Bush portrayed his critics as willing to shrink in the face of difficulties." In addition, says the Washington Post (2/1, A1, Baker, Fletcher, 744K), the President "defended his vision for a robust US role in world affairs," and "appealed directly to the people of Iran just a day after winning an agreement to bring his dispute with the theocratic government's nuclear program to the United Nations."

Media coverage last night and this morning makes much of Bush's calls bipartisanship, and several analysts describe the President as "humble" and even "chastened." Bush's "olive branch" to Democrats was attributed to his "weakened political standing." Typical of the coverage was

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ABC correspondent Terry Moran (1/31), who said after the speech, " This is a chastened President Bush," adding that the President "really had a tough year" and "it showed not just in the substance of the speech tonight, which was much more small bore, but also in his tone." John King said on CNN (1/31) that Bush has "trimmed his sails," and "knows he has to play small ball. That's a baseball term. The President knows that's what he has to do because of his weaker political standing."

In an analysis piece, the Los Angeles Times (2/1, Brownstein, 958K) describes Bush as "chastened," "deferential" and "modest," while the New York Times (2/1, Bumiller, Nagourney, 1.19M) says he was "more tempered and less partisan than a year ago, evidence of his diminished political standing." The speech "was notable for what Mr. Bush did not mention. He offered no new ideas for rebuilding New Orleans in the wake of Hurricane Katrina, made no mention of his troubled Medicare prescription drug program and offered no proposal to clamp down on lobbying abuses in Congress that have led to the investigation of Jack Abramoff, a formerly powerful lobbyist and a major fund-raiser for Mr. Bush." Reuters (2/1, Holland) reports Bush was "hoping to lift his political fortunes and those of his Republican allies in an election year with control of Congress up for grabs." He "is coming off one of the toughest stretches of his presidency." The AP (2/1, Hunt, Correspondent) also says Bush "went before the nation as a politically weakened president after the toughest year of his administration." A similar Knight Ridder story (2/1, Hutcheson) reports, "Bowing to budget constraints and political realities, Bush laid out few ambitious goals." The Washington Times (2/1, Mansfield, 90K), meanwhile, describes Bush as "jaunty," "ebullient" and "beaming."

Time (2/1, Allen) says on its website the speech "consisted mostly of modest gestures aimed at major problems," in "a tacit acknowledgment" of the President's "limited political capital and fiscal flexibility." The Washington Post (2/1, A1, Balz, VandeHei, 744K) runs a front-page story titled "Lowered Expectations Reflect Political And Fiscal Realities," in which it says Bush "Bush begins this election year far weaker than he was a year ago." USA Today (2/1, Page, 2.31M) also reports "the substance of the proposals Bush outlined reflected the realities of his sixth year in office: the erosion of his job-approval rating, the constraints of a federal budget deficit that the Congressional Budget Office estimates at $337 billion this year, the limits of the time left in his term and the costs of the war that divides the nation."

The New York Times (2/1, Sanger, 1.19M) also reports, "Only a year after Mr. Bush stood in the House, describing in bold terms how he planned to spend the political capital he had amassed in the 2004 election, the president who addressed the nation on Tuesday evening was far less ambitious, his tone noticeably different." The Times adds, "The Texan who swept onto the national political scene six years ago talking about drilling for new energy supplies and preserving the American way of life vowed on Tuesday night to wean the nation from its reliance on oil. Instead of urging Congress to drill in the Arctic, the president who had waved off the critics who portrayed him and Vice President Dick Cheney as captives of the oil industry asked Congress to finance federal research into alternative fuels and lithium batteries."

ABC (1/31) political analyst George Stephanopoulos said, "When he got to the domestic issues, even though he did rhetorically reach out several times, he did not reach out with any new or big or ambitious policies that the Democrats might be attracted to, and I think that is really for two reasons: Number one, we're broke basically. The deficit is going up and he can't afford it; and two, the President doesn't have the political capital to power something like that through." Likewise, Nina Easton of the Boston Globe said on Fox News (1/31) "I think the speech reflects the reality that some 57% of the public thinks the country is on the wrong track and he is facing a difficult midterm election and has to make inroads to swing voters and so he has to look at bipartisan measures."

The Wall Street Journal (2/1, McKinnon, Cooper, 2.11M) says Bush faced "a public anxious about the Iraq war and the economy," and that "a big goal" for the speech was "reassuring Americans -- particularly lower-income workers who often have seen wage gains eaten up by higher fuel and health-care costs." The Washington Times (2/1, Lambro, 90K) adds, "White House strategists hope assured voters will re-elect a Republican majority in Congress and nudge up Mr. Bush's approval ratings from the mid-40s, offering the president a chance to be more ambitious in his final two years. A loss of either or both chambers of Congress would hasten his lame-duck status."

USA Today (2/1, Jackson, 2.31M) says Bush "spoke at a time when polls have shown Americans deeply worried about the war in Iraq, and discontented with the president, whose approval ratings have hovered below 50% for more than a year." That may explain why "the speech lacked the single ambitious focal point that Bush's proposal to overhaul Social

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Security gave it a year ago." Similarly, the Washington Times (2/1, Sammon, Curl, 90K) reports the speech "was markedly scaled down from last year's State of the Union." Knight Ridder (2/1) also says Bush is "hamstrung by a budget deficit that could surpass $400 billion this year. For the first time during his presidency, Bush delivered his annual message of the country's health with most Americans disapproving of the job he is doing."

ABC (1/31) anchor Elizabeth Vargas said Bush "reached out with an olive branch on many occasions," but "the question, of course, being whether or not Democrats will be able to embrace and accept the olive branch. It was remarkable how many times he did, in fact, reach out." Tim Russert sounded similar themes on MSNBC (1/31), saying, "I think there will be a lot of different headlines from this speech, through the prism of the viewer, based on their own ideology. The interesting thing for me was the President's acknowledgement that this is, in the words of one of his top advisors, an unsettled country. There's an awful lot of angst and anxiety, and he's aware of that. And he knows the war in Iraq plays a central part of that, as well as a lack of a response to Katrina. And it's put us now in a position where it's very difficult for either party to get their way." The President "suggested he wanted to reach across the aisle and do some things. And then he talked about the domestic eavesdropping program and says by the way, members of Congress, they all knew about this. So it's going to be a give and take, back and forth, and I don't think much is going to happen, other than lobby reform, because both parties need that." The New York Times (2/1, Toner, Schemo, Pear, 1.19M) also says, "With federal spending now tightly constrained, some of the plans Mr. Bush presented on Tuesday could prove difficult to enact despite broad support."

Bill Kristol said on Fox News (1/31), "I think conservatives will not be entirely happy with this speech. There was more attention given to big government energy initiatives than to defending the tax cuts. Only one call for making the tax cuts permanent. I thought the discussion of Iran did not make a commitment to prevent Iran, no matter what, from acquiring nuclear weapons. We are going to lead the rest of the world into dealing with Iran challenge. If you think back to the 2002 State of the Union. We hope the rest of the world will be with us, but we've got to do what we've got to do."

Fred Barnes, also on Fox News (1/31), said, "This was a fairly conventional State of the Union address. I think it's clear that the President's domestic agenda is fairly exhausted. He has gotten most of his things, except for Social Security; Medicare, drug benefit, tax cuts And he has already changed the Supreme Court. … So his proposals on energy and education and health care were fairly small, not in keeping with the big picture ideas that the President likes. The interesting stuff was on foreign policy."

In a story about Bush's energy proposals titled "Call To Cut Foreign Oil Is A Refrain 35 Years Old," the New York Times (2/1, Wald, Andrews, 1.19M) reports, "When President Bush vowed on Tuesday to reduce drastically American dependence on oil from the Middle East, he had plenty of company. President Richard M. Nixon promised in 1971 to make the United States self-sufficient in energy by 1980. President Jimmy Carter promised in 1979 that the nation would 'never again use more foreign oil than we did in 1977.'" And Bush "has called in each of his past four State of the Union addresses for a reduction in the dependence on foreign oil. Despite those promises in the past 35 years, United States dependence on oil imports is at a record level."

USA Today (2/1, Appleby, 2.31M) notes Bush's health care proposals, which it says are "similar to his ideas last year on revamping Social Security" in that they "reflect an effort to foster more individual responsibility for saving for health care." The Washington Times (2/1, Curl, Dinan, 90K), meanwhile, focuses on Bush's comments on immigration in a story headlined "Bush Deems Guest Workers Key For Economy," in which it notes "Rep. Lamar Smith, Texas Republican, said US workers would be hurt by a guest-worker program."

The Miami Herald (2/1, Clark, Rosenberg, 323K), meanwhile reports Bush "singled out a fallen Marine from Pensacola in his State of the Union address Tuesday night, using the words of Staff Sgt. Daniel J. Clay to bolster his case for staying the course in Iraq. Clay, who was killed by a roadside bomb in December, left behind a letter to his family, Bush said, 'but his words could just as well be addressed to every American.'" As Bush spoke, Clay's parents, Clarence and Sara, and his widow, Lisa, "were among First Lady Laura Bush's guests in the gallery, watching Bush deliver the address." Clay "was among 10 Marines killed in an insurgent explosion in the Iraqi city of Fallujah."

McCain Gives Bush Speech An "A." Sen. John McCain said on MSNBC that Bush gave an "excellent speech," giving him a grade of "A." McCain, on CBS (1/31) said, "I thought it was excellent. I thought his pitch for the much-needed oil independence, his statement by Iran I think

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was important. Of course I was one of those very pleased to hear him express his comments to earmarking. The pork barrel projects which have become an obscenity in Washington and a cause for much of the corruption we see."

Feinstein Gives Bush Speech A "B." Sen. Dianne Feinstein said on MSNBC (1/31) said she would grade Bush's speech a "B" adding, "I thought it got marks because it covered a number of subjects, but it wasn't quite what I had hoped he would say about the war in Iraq. I think it's time for the President to tell us how and when we're going to see some changes in American troop presence and we didn't have that. And there's a lot of speculation about, you know, troop reductions that are going to take place very shortly. And I thought he had an obligation to clear some of that up, and he didn't. I thought on health, you know, the Medicare prescription drug program is a mess. In California' creating all kind of problems. … And he could have, I think, had a big impact there. His proposals for HSAs have a problem, and the problem is we have 42 million uninsured Americans who can't save because they can't afford to save and they don't have health insurance. So how do they get some kind of coverage? This is part of what drives up, I think, the cost of health care."

Thune Says Bush Was "Very Forceful." Sen. John Thune said on Fox News (1/31), "The President was very forceful, had a lot of energy, but I thought that the identifying a couple of key issues that are important not only to the economy, but also to the way that we project ourselves abroad, lessening our dependence on foreign energy. That is something folks in the Midwest are happy to hear. The focus on health care is on big issue. The President wants to move an agenda that addresses the high cost of health care. Those are both issues that are going to strike a real chord." Thune added that Bush "extended an olive branch. He talked about things that Democrats and Republicans can take credit for that have happened in the past few years and things we need to work together going fort. It's hard. It's an election year and everybody knows that. But through the best interest of the country, we have to pull together."

Mehlman Says Bush Gave A Great Speech." RNC Chairman Ken Mehlman said on MSNBC (1/31) that Bush "gave a great speech tonight. I thought he laid out a whole series of initiatives. Whether it's reducing foreign reliance on energy or improving education, all of these are areas where I think Republicans and Democrats can work together. I hope the Democrats will join this president in working together on these things."

Instant Poll Shows Support For Bush Proposals, But Low Expectations He Will Reach Goals. CBS (1/31) anchor Bob Schieffer said, "We want to give you some idea how the President's speech went over with people watching at home. CBS News with the help of a company called Knowledge Networks chose at random 700 adults who told us they planned to watch the address tonight. We gave them Web TV so they could get on to the internet and answer our questions about the speech. Now remember, this is not necessarily reflect the feelings of the country because traditionally we found out in recent years more Republicans watch when a Republican makes the speech. More Democrats when a Democrat makes a speech. But here were the questions. Did our viewers tonight approve of President Bush's proposals? 77% approved. 23% did not. We asked them what affect the President's proposals would have on their lives. 59% said they would make their lives better. 9% said worse. 33% said the proposals would have no effect on them. On some issues our survey shows the impact of the speech tonight. 52% say the war in Iraq has been worth the cost. Just last week just 45% of the same group thought so. And finally, here is a disappointment. When asked if President Bush will be able to accomplish his goals, this will be a disappointment to the President, I should say, 32% said yes. And 68% said no. They did not think he would be able to accomplish his goals."

Harris Poll Shows US Support For Bush On Iraq Increasing. The Wall Street Journal (2/1, 2.11M) reports an on-line survey of 2,985 adults shows, "American support for President Bush's handling of Iraq remains low, a new Harris poll shows, but those rating his job as 'excellent' or 'pretty good' increased significantly since December." The number "of U.S. adults giving the president positive marks with regard to Iraq rose to 36% in January, up from 29% in a poll conducted before Iraqi elections in December. At the same time, public confidence in the situation in Iraq, including U.S. involvement, also improved slightly, according to the recent online survey of 2,985 adults." Yet, "61% of U.S. adults rated Mr. Bush's handling of Iraq over the last several months as 'only fair' or 'poor,' but that's fewer than the 68% who felt the same in a previous poll."

Bush Expected To Receive Boost In Polls After Speech. ABC (1/31) correspondent Charles Gibson said, "I was interested to note that polls done in eight of the last 11

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years after the state of the union address, at least 75% of the people who responded said they approved of what they heard. So with the President's polls as low as they are, with the President reaching out and trying to find cooperation in Washington, maybe he will get a pretty good sized boost in his polls from this speech." The CBS Evening News (1/31) correspondent Gloria Borger said, "Well, I you're going to see the poll numbers go up for the President, probably a bump."

First Lady Had 24 Guests In Her Box At State Of The Union. The Washington Post (2/1, C3, Argetsinger, Roberts, 744K) reports in its "The Reliable Source" column, "Twenty-four guests joined Laura Bush in her box during last night's State of the Union speech. … Among them: Fawzia Koofi, the 30-year-old second deputy speaker of the Afghan National Assembly, was on the first lady's right; Ja'Detrus Hamilton, a 16-year-old Katrina survivor and volunteer, was on her left. Local props went to Mayor Tony Williams and 2005 National Teacher of the Year Jason Kamras, a math teacher at John Philip Sousa Middle School."

Greenfield Says Discussion Of Warrrantless Wiretaps Was Strongest Part Of Speech. Jeff Greenfield said on CNN (1/31), "The strongest part of the President's speech was defending the controversial warrantless wiretaps where he used the same kind of approach he's used in this field before. I'm going to protect this country. I'm not going to let us sit back to get hit again. We've protected the country from future terrorist attacks. By implications, my critics will not be as strong on this issue. The other thing I'd mention is the other huge applause line from Republicans came when the President's cited the confirmation of Justices Roberts and Alito. That to me more than anything else was the most significant event today, the swearing in of Alito, because it told the conservative base that has been with him from the beginning, I really am your guy, forget Harriet Miers."

Bush Focus On Threat Of Radical Islam Noted. CBS (1/31) correspondent Lara Logan said, "He did two things that he doesn't normally do. He mentioned radical Islam twice. Since the last time when he made a speech saying that this was a crusade and it caused such outrage around the world because of the religious dimension that it evoked, he has stayed away from those kinds of references but speak to go the commanders on the ground they really feel like they are fighting radical Islam that no one has wanted to call it and say this publicly. So I thought that was very interesting. Then also the fact that he is talking about killing and capturing leaders was one throw-away line. Normally he's much more bold when he talks about that."

More Commentary. Media critic Tom Shales, in the Washington Post (2/1, C1, Shales, 744K), says that whether Bush is "at best, the worst president since Herbert Hoover -- as a seemingly sizable number of Americans appear to believe -- he acquitted himself fairly well and came off as basically competent when he delivered his fifth State of the Union speech last night." The speech was "capably presented, well organized and sometimes lofty in tone." But "it was also lackluster, ordinary and, most of all, generic. … 'Bush the Incompetent' was the headline on a lacerating op-ed column last week. If that's who he is, you wouldn't know it from the State of the Union speech he gave last night, but it hardly qualified him for the title of Bush the Brilliant, either."

The Washington Post (2/1, A22, 744K) says in an editorial Bush "sounded more subdued than triumphant, more realistic than grandiose. But if last night's State of the Union speech displayed a more cautious, less assertive President Bush than in previous years, his caution was not merely a contrast to the swashbuckling style of the past but an outgrowth of it. The president's future horizons are constrained by his past choices, budgetary and political."

The Los Angeles Times (2/1, 958K) editorializes, "It is not an unusual experience to listen to…Bush deliver a major speech and find yourself, regardless of your politics, nodding along in vigorous agreement. Tuesday night was no exception. The president hit the right notes, some of them even surprising, throughout his 52-minute State of the Union address," but he "often musters his laudable principles to avoid specifics or deflect unpleasant realities. … Confidence is an asset, but Bush needs to be more forthright about his setbacks." The Times adds, "By far the most cynical part of the address was the president's defense of the National Security Agency's warrantless wiretapping program, now rechristened, in Orwellian fashion, the 'terrorist surveillance program.'"

The New York Times (2/1, 1.19M) editorializes, "President Bush devoted two minutes and 15 seconds of his State of the Union speech to energy independence." The Times adds, "Hardly the bold signal we've been waiting for "last night's remarks were woefully insufficient." American "overdependence on oil has been a disaster for our foreign policy." The Times adds, "Mr. Bush told the people that 'the nations of the world must not permit the Iranian regime to gain nuclear weapons,' but he did not explain how that will

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happen when those same nations are so dependent on Tehran's oil." And while the UN "may wish to do something about genocide in Darfur or nuclear proliferation, [its] most powerful members are hamstrung by their oil alliances with some of the worst leaders on the planet." The Times adds, "Part of the answer, as Mr. Bush indicated last night, is the continued development of alternative fuels, especially for cars." When it "comes to cars, much of the research has already been done -- Brazil got to energy independence by figuring out how to get its citizens home from work in cars run without much gasoline." Simply "calling for more innovation is painless. The hard part is calling for anything that smacks of sacrifice -- on the part of consumers or special interests, and politicians who depend on their support."

USA Today (2/1, 2.31M) editorializes, "The president likes to characterize himself as a fighter for what he thinks is right. Achieving his goals and rebuilding confidence in his leadership will require him to be more of the uniter he once said he would be, rather than the divider he has too often become."

Thomas Friedman writes in the New York Times (2/1, 1.19M), "So far the democracy wave the Bush team has helped to unleash in the Arab-Muslim world since 9/11 has brought to power hard-line Islamic fundamentalists in Iraq, Palestine and Iran, and paved the way for a record showing by the Muslim Brotherhood in Egypt. If we keep this up, in a few years Muslim clerics will be in power from Morocco to the border of India. God bless America."

In the New York Times (2/1, 1.19M), guest columnist Sarah Wowell writes, "The state of our union is stunned. We democracy spreaders remain shocked, shocked, at the Hamas sweep in the recent Palestinian parliamentary election, never, ever, ever before having experienced a deficit of wisdom on the part of American voters. … For there are American citizens who used to think that there could be no greater blow for representative democracy than a president worming his way into the White House thanks to one Supreme Court vote. That is, until the day said president was actually elected to a second term by an electorate that overlooked the previous four years of galling, irrevocable policies with upbeat, intelligence-insulting slogans – 'Clear Skies,' anyone? -- to say nothing of entering into an ugly war based on lies that has made the world a more dangerous place when it wasn't exactly all Davenport, Iowa, to begin with."

Kaine, Villaraigosa Deliver Democratic Rebuttal. The Los Angeles Times (2/1, Simon, Fiore, 958K) reports, "The governor of a Republican-leaning state and the Latino mayor of Los Angeles delivered the Democratic rebuttal to President Bush's State of the Union speech Tuesday night, sounding themes the party hopes will help it take control of Congress in November's elections." In the official responses to the speech, Gov. Timothy M. Kaine of Virginia and Los Angeles Mayor Antonio Villaraigosa "assailed Bush on a number of fronts — including his handling of the war in Iraq, implementation of the Medicare prescription drug benefit and his failure to bring down energy prices." Kaine "argued repeatedly in his nationally televised remarks that 'there's a better way' to grapple with issues than Bush had chosen. He called for a greater emphasis on public service by Americans." Villaraigosa, who offered the Spanish-language response to Bush's speech, 'criticized the president for offering 'the same defense of the very policies that have divided this country over the last five years.'"

ABC (1/31) anchor Elizabeth Vargas also noted Kaine used "the expression 'a better way' nine times on a variety of issues, referring to the war on terrorism, he simply asked: 'Are the President's policies the best way?' He noted our greatest need is for America to heal its partisan wounds and become one people, echoing President Bush's state of the union address." The Washington Post (2/1, A1, Shear, 744K) says Keine "assailed the administration's performance in Iraq, its response to Hurricane Katrina and its management of the nation's health care system." He also "urged Bush to restore the competence Kaine said is lacking in government administration." Moreover, says the Financial Times (2/1, Yeager), Kaine, "a positive note, criticized what he said was 'too much of partisanship for its own sake.'"

The AP (2/1) reports Villaraigosa, in a nationally televised Spanish-language speech" made in response to President Bush's State of the Union address, "faulted the White House Tuesday for policies he said pushed more Americans into poverty and failed to address a crisis in education." Villaraigosa "was broadly critical of the White House on issues from the national debt to job training, but at the same time he appealed for unity to address those problems." The speech was "carried on the Univision network."

The Washington Times (2/1, Fagan, Dinan, 90K) runs a similar report under the headline "Democrats Decry 'Bad Management,'" while the Pittsburgh Post-Gazette (2/1,

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Reston, 261K) titles its report "Democrats Find Little To Praise In Bush's Address." The Chicago Tribune (2/1, Zeleny, 643K) adds that "judging by the bursts of applause during much of " Bush's "address Tuesday night, one might never guess the palpable level of animosity at the start of the election year."

Reid Says Whatever Bush Said, "Think Just The Opposite." The New York Times (2/1, Hulse, 1.19M) reports, "In their own comments before the address, Senator Harry Reid of Nevada and Representative Nancy Pelosi of California, the top Democrats in Congress, said the White House and Congressional Republicans had granted special interests too great a role in shaping legislation, including the new Medicare prescription drug plan." Pelosi and Reid also "said they had seen no sign in Mr. Bush's five years in office that he and Republican Congressional leaders were serious about easing the nation's reliance on foreign energy sources. They said energy legislation adopted by Congress last year was heavily influenced by the oil industry, which is earning record profits." Reid said, "This is Bush doublespeak. … Whatever he said, think just the opposite."

Reid Also Says Bush White House "Cradle Of Republican Corruption." The AP (2/1, Sidoti) quotes Reid saying, "There is no more important task in Washington than cleaning up the culture of corruption. Yet the president -- whose White House has become the cradle of Republican corruption -- is not taking responsibility for the costs of that corruption."

Dean Says He Has "Heard The Same Speech Three Or Four Years In A Row." DNC Chairman Howard Dean said on MSNBC (1/31), "I've heard this speech three or four years in a row now. He talked about clean energy, while he's putting toxic in the air. He's making it harder for seniors to get their drug prescriptions."

Obama Says Bush Didn't Offer Bold Domestic Proposals. Sen. Barack Obama on NBC (1/31) said, "Well, you know, two-thirds of the America people think that the country is moving in the wrong direction I think the President identified some of the issues people are concerned about. They don't feel comfortable with the healthcare system that doesn't provide enough coverage and costs too much. They're concerned about energy independence. They're concerned about educating their kids to compete in the 21st century. Unfortunately, although the President had some ideas that I think we can work together on a bipartisan basis, you didn't see the sort of bold approaches that would ask America to meet these challenges together. And so, in that sense, I think a lot of Americans watching are thinking can't we do better than what we heard from the President."

Nelson Says Bush Gave A "Strong Speech." Meanwhile, Sen. Ben Nelson said on Fox News (1/31), "I thought it was a very strong speech. The President touched on at least two of the initiatives that I have already got introduced, one for health care for small businesses to help and make sure that small businesses can continue to support and provide health care for their employees. The second, of course, is on border security, which is so important to homeland security, to make sure that terrorists are not coming across. Stop the inflow of illegal immigration. I have a bill with other senators that will do that."

Sheehan, Invited By Democratic Lawmaker, Arrested Before Speech. The Washington Post (2/1, A16, Williams, Lengel, 744K) reports, "Activist Cindy Sheehan was arrested last night after demonstrating in the spectators gallery of the House of Representatives as part of a larger war protest that was held outside the Capitol. Sheehan, who was apparently given a gallery ticket by a member of Congress, began to attract notice about 30 minutes to an hour before President Bush's State of the Union speech." The Post adds, "Sheehan, whose son was killed in Iraq, opened her jacket to reveal a T-shirt that, according to a supporter, gave the number of U.S. war dead and asked, 'How many more?'" She was also "vocal, said U.S. Capitol Police Chief Terrance W. Gainer, and after she ignored instructions to close her jacket and quiet down, she was led out and arrested." Sheehan's sister Dede Miller "told a reporter that Rep. Lynn C. Woolsey (D-Calif.) had invited Sheehan as her guest. Woolsey could not be reached immediately for comment." Late last night, "about 50 protesters marched to the Capitol Police station to demand Sheehan's release." The Washington Times (2/1, Doolittle, 90K) says Woolsey "gave Mrs. Sheehan a seat in the visitors gallery above the chamber. … 'I'm proud that Cindy is my guest tonight,' Mrs. Woolsey said before the speech. 'She has made a difference in the debate to bring our troops home from Iraq.'"

White House Renews Outreach To Senate Republicans. The Bush Administration is renewing efforts to reach out to Senate Republicans in the hope of better coordinating their messages. According to Roll Call (2/1, Billings), "Key Republican sources say the president has shown a heightened interest in working with Congressional

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Republicans in recent weeks, and last week Bush invited GOP Senators to the White House to articulate that desire. Senators and aides alike suggested the overtures were welcome as they look to securing, and possibly building, their House and Senate majorities this fall." The effort comes "at a time when House and Senate Democratic leaders are working closely to mount a coordinated campaign against the Republicans on ethics, corruption and mismanagement of the government." Roll Call adds, "Senators and aides alike say they expect to hear Republican Senators and the White House hitting the same themes more prominently in the coming weeks and months, particularly on major 2006 issues such as the war on terrorism, American economic competitiveness and values -- all key themes in the State of the Union address."

Lott Won't Rule Out Bid For Senate Majority Leader. Sen. Trent Lott was asked on Fox News' Your World with Neil Cavuto (1/31) if he would consider seeking the Senate Majority Leader position again. Lott said, "I made a decision to run for re-election. That was a decision that was different from what I had planned to do. But, a couple of cataclismic events that occurred in my life along the way including how much my state and my neighbors along the Mississippi gulf coast need help right now. They have invested 33 years in me and I just felt like I couldn't walk away from them at that moment. That's all that went on. I didn't run with the plans, to you know, get back into leadership. I don't know what will happen in that regard. But if the right opportunity came along, why would I not be willing to consider, at least, pursuing that." Lott said he "wouldn't rule it out. But it will depend on what happens. That's a year from now. Or 11 months from now. It depends on elections and what's happening with other people."

House GOP Voting Today On Whether To Hold Full Leadership Election. House Republicans will vote this morning on whether to put their leadership up for a vote on Thursday. Roll Call (2/1, Pershing) reports that the outcome of today's vote is uncertain, but most lawmakers and aides are "predicting that the move for a full slate of elections will fail." At a meeting this morning GOP lawmakers will "hear speeches from candidates for the two currently vacant posts: Majority Leader and Republican Policy chairman. Republican Reps. John Sweeney (N.Y.) and Dan Lungren (Calif.) plan to make a motion to 'vacate' every other elected leadership post below [House Speaker Dennis] Hastert, a call that requires the approval of 117 lawmakers on a secret ballot. … Lawmakers who oppose the idea say that they do not want to establish a precedent where the Conference starts putting its leaders up for a vote every time Members grow restless."

Uncertainty Of Majority Leader Race Seen As Result Of Push For Reforms. The Christian Science Monitor (2/1, Chaddock, 61K) reports, "The uncertainty about who will win Thursday's vote for House majority leader shows how thoroughly the rally cry for reform has altered leadership politics in the US Congress. Thursday's secret ballot was supposed to be a mere formality for Rep. Roy Blunt," but "after weeks of intense campaigning, it's not clear he has enough votes to secure victory. What's changing the race is a growing debate among Republicans about how far they must go to repair the damage caused by last fall's corruption scandals - and those yet to come. Members who say the party can ride out the ethics storm with current leadership are falling in behind Representative Blunt. Those who feel their party needs a change of face and a more collegial leadership style are supporting Rep. John Boehner of Ohio. And those convinced that the party needs a full-course correction are moving toward Rep. John Shadegg of Arizona."

Boehner Criticizes Hastert Ethics Reform Proposal. The Los Angeles Times (2/1, Curtius, 958K) says Boehner "offered rare public criticism Tuesday of House Speaker J. Dennis Hastert (R-Ill.), saying he disagreed with key elements of Hastert's plan to overhaul the chamber's ethics rules." Boehner "questioned Hastert's call for a ban on travel by House members and their staffs paid for by private groups, indicating he considered such a proposal 'childish.'" The Times notes, "It is unusual for any House Republican, particularly one fighting to join him in the leadership, to publicly question a move by Hastert. Later in the day, Boehner issued a statement modifying his remarks and saying he supported the travel ban. Still, his initial comments, made to reporters, reflected a sense among some Republicans that their leadership may have overreacted to the scandal surrounding lobbyist Jack Abramoff that has yet to result in the indictment of a single member of Congress."

Majority Leader Hopefuls Profiled. The Hill (2/1, O'Connor) adds that the three candidates have "remarkably varied personalities and résumés, and the winner's success in the post will be less about public rhetoric than how he moves bills, schedules the floor and interacts with members

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in pushing the Republican agenda." Blunt "is the most known quantity among all three candidates running for the post. … Blunt largely inherited DeLay's whip organization and has built off that success, particularly in creating large coalitions of outside lobbyists to pass controversial bills. Given that fact, Blunt's opponents have painted him as the candidate for the status quo, but that status quo has been hugely successful during the first five years of the Bush presidency." Boehner 'has made his ability to manage the conference a central theme of his campaign to succeed DeLay. … It remains to be seen how Boehner's open management style would jell with the Speaker. Hastert worked well with DeLay in large part because DeLay kept things moving quickly, freeing Hastert and his staff to focus on larger issues of relevance to the president and the party. Even Boehner's supporters suggest he would give members enough space to come up short occasionally." Shadegg "is the unquestioned conservative in this race, but he does not have Blunt's experience winning tough votes on the House floor or Boehner's experience moving bills through committee." Shadegg is "offering himself as a face for the party, something DeLay came to embody — for better or worse."

Boehner Has Largest Number Of Former Aides On K Street. The Hill (2/1, Bolton) reports, "Rep. John Boehner (R-Ohio) has had a significantly greater number of former staffers go on to work with lobbying and public-affairs shops around town than Reps. Roy Blunt (R-Mo.) and John Shadegg (R-Ariz.), according to congressional records reviewed by The Hill. This larger alumni network gives Boehner strong allies in the business community should he become House majority leader but also creates a potential liability because of the Jack Abramoff lobbying scandal, which has prompted critics to attempt to cast lobbyists in a negative light. At least 24 former aides to Boehner, chairman of the House Education and the Workforce Committee, have registered as lobbyists or proceeded to work in corporate public affairs and advocacy since leaving Capitol Hill. At least 11 former staffers to Majority Whip Roy Blunt (R-Mo.) have pursued careers at trade associations, public-affairs companies and law firms since working in the House. At least seven former staffers to Shadegg later registered as lobbyists or landed jobs as corporate advocates."

Budget Vote Seen As "Major Test" For Blunt. The Washington Post (2/1, A11, Weisman, 744K) calls today's House vote on final passage of the budget bill "a final major test" in Blunt's bid for Majority Leader. The Post reports "Supporters and opponents of Blunt say passage of the budget bill may not ensure his victory in the leadership vote on Thursday, but its failure could be a serious blow to his bid to succeed DeLay."

House GOP Lobbying Reform Package Will Be Broken Into Separate Bills. House Republican leaders plan to unveil to rank-and-file members its plan for overhauling lobbying rules. Roll Call (2/1, Newmyer) reports, "Acting House Majority Leader Roy Blunt (R-Mo.) said Tuesday that the package would be broken into separate bills. It was unclear, however, whether lobbying reform measures would be separated for the sake of committee consideration and then folded back into a single bill, or whether they would in fact be sent to the floor separately. The bill was widely expected to be introduced this week. But its architect, Rep. David Dreier (R-Calif.), indicated that the compressed time frame for the Republican Conference to consider the plan, as well as other distractions, may delay the party's effort to address the Jack Abramoff lobbying scandal with a legislative fix." The "pending shakeup" in the House GOP leadership is also delaying the effort. The "outcome of the leadership contest could affect the shape of the reform package."

Lawmakers Imposing Limits On Staff Contact With Lobbyists. Meanwhile, The Hill (2/1, Kaplan, Schor) reports, "A growing number of lawmakers aren't waiting around for new lobbying reforms to be enacted. Instead, they are imposing new limits on staffers' contacts with K Street, seeking to cleanse the sudden stain of scandal from once-routine gifts and lunches." House Energy and Commerce Committee aides "are avoiding not just lunches and dinners with lobbyists but any lobbyist-sponsored reception. The mindfulness came after a decree issued last week by the committee's staff director, Bud Albright. … Albright's underlings are not the only staffers struggling to adapt to the new order on the Hill, where lobbyists and lawmakers alike are stepping lightly and laying low. Reps. Pete Sessions (R-Texas), Loretta Sanchez (D-Calif.), Frank Pallone (D-N.J.), David Wu (D-Ore.) and Jerry Weller (R-Ill.) are among the House members imposing internal restrictions of varying intensity on their aides." The Hill also notes that "other members have not flinched since the lobbying scandal first erupted and are operating as usual, reflecting quiet resentment among those who fear that stricter rules would isolate them from the outside world."

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Proposal Would Lift Former Members' Access To House Floor, House Gym. The Washington Times (2/1, Dinan, 90K) says the House "is poised to ban former members of Congress who have become lobbyists from both the House floor and members' gym as the first step in what will be a months-long lobbying and ethics-reform debate. Democrats called the changes nearly inconsequential in the scope of serious corruption charges, and said it was a strange place to start. … The changes, which passed the House Rules Committee by voice vote yesterday and were sent to the full House for a vote today, would prohibit former members who are lobbyists from the House floor. Former members and their spouses who are lobbyists would not be allowed in the gym." House Rules Committee Chairman David Dreier "called the change a 'first step in the process' and said the House would address all concerns that Democrats have raised."

Senators Have Sign-Up Lists For Earmarks On Their Web Sites. The Washington Post (2/1, A21, Kamen, 744K) reports in its "In the Loop" column, "Several senators, we're told, have downloadable sign-up lists" for earmark projects "on their Web sites." On her web site, Sen. Lisa Murkowski "invites constituents to send in requests for projects so all Americans will have the chance to pay for things Alaskans don't want to pay for. 'Every federal fiscal year,' she says, 'Alaskans are welcome to submit requests for programs or projects to be funded by earmarks' in appropriations bills. Alaskans could, of course, submit them to their state and local officials, but since there's no state income tax or sales tax, there's only so much money available from the $1.2 billion state budget surplus. But hurry. 'These funding requests are due no later than March 1 of each calendar year,' she notes. You can download 'Senator Lisa Murkowski's Fiscal Year 2007 Project Request Form' and then e-mail it to her at: Funding_Request@murkowski.sen.gov or fax it in."

Burns Aide Says Birthday Fundraiser Was "Test Of Loyalty and Friendship." Roll Call (2/1, Akers) reports in its "Heard on the Hill" column, "That birthday fundraiser last Wednesday for Sen. Conrad Burns (R-Mont.) made the politically vulnerable 71-year-old Senator feel better about his standing with his colleagues, according to one Capitol Hill GOP aide. Without saying how much money was raised, the aide described the event as a 'test of loyalty and friendship,' a referendum on 'how do people feel? Are they gonna stick by him?' Burns' folks felt pretty good about nine Senators, including three committee chairmen, showing up at the fundraiser at the National Republican Senatorial Committee. They were: Sens. Ted Stevens (Alaska), Lisa Murkowski (Alaska), Kit Bond (Mo.), Mitch McConnell (Ky.), John Warner (Va.), Lamar Alexander (Tenn.), George Voinovich (Ohio), and Arlen Specter (Pa.). Voinovich personally offered to come to Montana and campaign for Burn's re-election effort."

OPM Director Says Government Faces "Retirement Tsunami." The Washington Post (2/1, B2, Barr, 744K) reports in its "Federal Diary" column that OPM Director Linda Springer warned that the government "will likely face a 'retirement tsunami' in the next few years and needs to begin taking steps now to expand employment opportunities for the next generation of public servants." Springer "said that 60 percent of the government's 1.6 million white-collar employees and 90 percent of about 6,000 federal executives will be eligible for retirement over the next 10 years. OPM projects that the high-water years will be 2008 through 2010, as baby boomers and others leave Uncle Sam." Springer said it is "imperative for OPM to come up with strategic plans for the federal workforce and how career patterns may change in the future, Springer said. The government cannot afford to be caught by surprise, assuming that it can easily recruit a new generation of employees interested in a federal career that spans decades, she said."

Tomorrow's Prayer Breakfast Called "Demonstration Of Interfaith Worship." The Washington Times (2/1, Duin, 90K) reports, "Tomorrow's National Prayer Breakfast, traditionally an evangelical Christian event, will be a demonstration of interfaith worship Sen. Norm Coleman, Minnesota Republican, is the first Jewish co-chairman, and Jordan's King Abdullah, a Muslim, will attend the breakfast and give a major luncheon speech a few hours later. Several persons close to the event organizers say the keynote speaker will be the rock star Bono, founder of the Irish band U2. A spokesman for Bono, an outspoken Christian and backer of humanitarian causes, did not return calls yesterday."

Taylor's Failure To Get FDIC Post Attributed To NRA Opposition. The New York Post (2/1, Earle), in a front-page article, reports New York state banking commissioner Diana Taylor, who is Mayor Michael

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Bloomberg's "girlfriend" had been "widely seen as a shoo-in as late as last week to head the Federal Deposit Insurance Corp., which oversees the nation's banks. But the NRA wound up maneuvering behind the scenes to block her nomination at the last minute, to send a message to her billionaire boyfriend, sources told The Post. 'It's obvious the NRA hasn't been pleased with the mayor's campaign against guns,' a Senate aide said." The Post notes, "The apparent revenge attack comes after Bloomberg made a 'war on guns' a top priority for his new term." However, Sen. Larry Craig, "who sits on the NRA board, hinted that there was another reason. … 'I think she has more baggage than a friend who's the mayor of New York [at battle with] the NRA,' he told The Post last night. 'That's what I've been told.'"

OTHER NEWS:

On Greenspan's Last Day, Fed Raises Interest Rate A Quarter Point. On Alan Greenspan's final day as Federal Reserve Chairman the Fed raised its benchmark short term interest rate a quarter point to 4.5%. ABC World News Tonight (1/31, story 5, 2:34, Vargas) called Greenspan's departure the "end of an era." ABC (Stark) added that Greenspan leaves the Fed "as he led it, a figure of mythic proportions. While 60% of Americans rate the national economy negatively, 72% approve of the job Alan Greenspan did managing it." President Bush in November 2005: "The era of Chairman Greenspan will always be known as one of phenomenal economic growth." Stark: "Mr. Greenspan will also be missed as a master in times of crisis and the new Fed chairman will have to prove himself a steady hand. Ironically, Elizabeth, that's just what people said 18 1/2 years ago, when Alan Greenspan, then a mere mortal, first took over." Vargas: "History repeats itself."

NBC Nightly News (1/31, story 9, 2:00, Thompson) quoted former Treasury Secretary Robert Rubin." It's not so much that he and his work, in terms of the job as Chairman of the Federal Reserve board, are one, but he and the substance of what he does and what's involved in and engaged in, I think are really one." Thompson: "His support of President Bush's tax cuts led the Senate's leading Democrat Harry Reid to call Greenspan one of the biggest political hacks in Washington. Sometimes knocked, one time knighted, the face of the Fed, rationally exuberant as he leaves."

The Los Angeles Times (2/1, Sing, 958K) reports that the Fed gave Greenspan's successor Ben Bernanke "some flexibility to wage his own battle against inflation." The central bank said "'some further policy firming may be needed.' But for the first time since it began its tightening program, the central bank dropped the word 'measured' — which had become Fed-speak for predictable quarter-point hikes. Dropping that word from the Fed's policy statement is seen as a step to give Bernanke some flexibility, making future rate decisions less predictable and more dependent on economic data."

USA Today (2/1, Kirchhoff, Hagenbaugh, 2.31M) says the Fed's language "was less emphatic than the prior statement that further rate increases were 'likely' to be necessary. Fed officials also removed reference to 'measured' interest rate increases. … Its omission suggests the Fed is that much closer to being done increasing rates, economists say."

The Financial Times (2/1, Balls) adds, "By changing the language in its statement, Fed policymakers were attempting to avoid the impression of committing Ben Bernanke, the new Fed chairman, to further increases, while signalling that further rate increases remained likely, depending on the economic data."

The Washington Post (2/1, D1, Henderson, 744K) adds, "The statement was the first in more than two years that did not indicate the Fed's likely next move, forcing financial markets to accept more uncertainty. … Major banks followed the Fed's action yesterday by lifting the prime rate on business loans to 7.5 percent from 7.25 percent. Many consumer rates, such as on credit cards and home equity loans linked to the prime rate, may rise as well."

The Wall Street Journal (2/1, Ip, 2.11M) adds, "The wording change suggests that prospects for an increase at the Fed's March 28 meeting and after depend on incoming economic data. The Fed expressed no alarm over a sharp slowdown in economic growth in the fourth quarter of 2005, but it remained wary of inflation. Though economic data have been 'uneven, the expansion in economic activity appears solid,' it said."

The New York Times (2/1, Andrews, 1.19M) says Greenspan "left his successor a wide berth to set his own policy but some major uncertainties about the future." Greenspan's signal that "the current series of rate rises was nearing an end" gave Bernanke "freedom to make his own mark on an economy that performed much better during most

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of the Greenspan era than many experts thought possible when he took over at the Fed in 1987. But the handoff also meant that Mr. Bernanke would face murkier choices at a time of substantial risks that increase the chances for serious missteps."

Greenspan Says Economy Solid, High Energy Prices May Cause Inflation. ABC World News Tonight (1/31, story 5, 2:34, Stark) reported, "The diagnosis today" from outgoing Fed Chairman Alan Greenspan, "an economy that appears solid but remains at risk for inflation pressures from high energy prices. Low inflation, low interest rates, and record prosperity have been hallmarks of the Greenspan tenure."

Forbes Says Greenspan Operated On "Hunches." Steve Forbes writes in the Wall Street Journal (2/1, 2.11M), "Never in history has a central banker received such a cacophony of hosannas as has Alan Greenspan, who officially stepped down yesterday. … Mr. Greenspan's record? Officially measured rates of inflation are lower today than when the Maestro took office." Forbes adds that Greenspan "has left no institutional legacy that can guide his successors, that can be a lasting model for other central bankers here and around the world. In short, Mr. Greenspan operated by his gut, on hunches. He was similar to a pilot who flies without instruments. His instincts are usually right on, but not always." Forbes continues, "Greenspan leaves his successor with another blunder -- the Fed is re-stoking the fires of inflation. … Alan Greenspan's failure to leave a gold-based legacy means poor Ben Bernanke won't be prepared for what will be hitting him -- the most serious resurgence of inflation in 25 years."

Bernanke To Be Sworn In As Fed Chairman This Morning. USA Today (2/1, Kirchhoff, 2.31M) reports that the Senate confirmed Ben Bernanke to replace Alan Greenspan as Federal Reserve Chairman. Bernanke who is scheduled to be sworn in this morning, "was cleared by the Senate on a voice vote with the sole dissent coming from Sen. Jim Bunning, R-Ky., a longtime Fed critic." USA Today adds, "The transition should continue to run smoothly on many levels. Bernanke inherits an economy that has been expanding since late 2001, with steady job growth and healthy business profits. He has pledged continuity with Greenspan's approach, emphasizing the importance of low and stable inflation, flexibility and greater openness. … Still, turbulence is possible. The transition comes at a pivotal time, with the Fed's Federal Open Market Committee deciding when, and how, to wind up its nearly two-year string of interest rate increases. The record housing market is losing steam, energy prices remain high, and the nation is saddled with huge trade and budget deficits. Bernanke is untested in a crisis and has called for more explicit inflation targets, a change in Fed operations."

The Christian Science Monitor (2/1, Trumbull, 61K) says Bernanke "does not arrive on the job with a long track record as a public figure - either in government or in the corner office. Alan Greenspan came to the Fed as a well-known Wall Street economist who had advised President Nixon. Paul Volcker headed the prestigious Federal Reserve Bank of New York. G. William Miller was CEO of Textron. By contrast, Dr. Bernanke is relatively new to the circles of the world's policymaking elite. His rise from Dillon, S.C. - a quiet town of 6,300 - has run along a largely academic track. That changed in 2002, when President Bush named him to one of seven slots on the Federal Reserve Board. Then, last June, he became chairman of the president's Council of Economic Advisers. But if he has spent little time in the limelight, Bernanke is hardly unprepared for the rigors of his new role. His recent post as a Fed governor has put him at Mr. Greenspan's side for three years, helping to shape the Fed's interest-rate policies."

Consumer Confidence Rose In January. The Conference Board said its consumer confidence index rose to 106.3 in January, the highest level since June 2002. The AP (2/1) attributes the rise in the index to growing optimism about the US job market. The AP adds, "A separate report from the Labor Department on employee compensation said wages and benefits paid to civilian workers rose 3.1 percent last year, the smallest amount in nine years. The department said the slowdown reflected a big drop in benefit costs — items like health insurance and pensions — which rose by 4.5 percent last year after jumping 6.9 percent in 2004."

Survey Finds Manufacturers Optimistic About Economy's Prospects. The Wall Street Journal (2/1, Golden, 2.11M) reports, "US manufacturers expect solid revenue growth, a higher level of new investment, more hiring, and an upturn in mergers and acquisitions activity during 2006, according to a PricewaterhouseCoopers survey. Some 76% of the 62 senior executives interviewed for the accounting and consulting firm's quarterly 'Manufacturing Barometer' survey during the fourth quarter of 2005 said they

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were optimistic about the U.S. economy's prospects over the next 12 months, up from 45% in the third quarter. Only 2% are pessimistic, according to PricewaterhouseCooper's and 22% have an uncertain outlook. Seventy-one percent are optimistic about the world economy, up from 54% of executives in the previous quarter. Also, 61% of those surveyed plan to increase their workforce over the next 12 months, up from 52% in the third quarter last year and 53% one year ago."

Paychecks Did Not Keep Pace With Inflation Last Year. The Labor Department said that employee paychecks failed to keep pace with inflation last year. The Wall Street Journal (2/1, Preciphs, 2.11M) reports, "Total compensation costs -- wages and benefits -- for civilian workers rose a seasonally adjusted 0.8% in the October-December period, following a similar increase in the third quarter. Benefit costs for the period rose 1.1%, while wages and salaries trailed with a 0.8% increase, the department said. Compensation costs rose 3.1% for all of 2005, down from a 3.7% increase the year before. Last year's increase was the smallest annual increase since 1996. Wages and salaries were up 2.6% for the year, not enough to compensate for inflation, which averaged 3.39%. Meanwhile, the costs of benefits such as health insurance rose 4.5% for the year, a marked slowdown from the 6.9% surge in 2004."

Foreign Auto Companies Creating New Jobs In US. A front page story in the Wall Street Journal (2/1, Shirouzu, 2.11M) say that "massive job cuts by Detroit have overshadowed an important change in U.S. manufacturing. Asian and European auto companies, looking for skilled workers to make complex products, have created nearly enough new jobs in the U.S. to make up the difference. … The new jobs buoying the U.S. manufacturing sector require that workers have a decent education. It is the towns that understand this new math that are winning the work. Employees need skills to operate and maintain complex, computer-controlled machinery. Top-tier automotive suppliers such as Denso, Robert Bosch GmbH and Delphi Corp. use similar equipment and techniques to make competing products. The difference between them, therefore, often comes down to whose workers can produce the most goods at the highest quality. … Denso's top executives say they expect to expand their work force to meet demand from Toyota and other Asian auto makers flocking to southern states. Currently at 380, Denso's work force in Osceola could increase to more than 3,000, company executives say. Denso executives know Osceola still faces big challenges in improving its education but say they were attracted by the town's commitment to tackling its problems.'

Stocks Declined Tuesday. Stocks finished the day down yesterday following a Federal Reserve decision to raise interest rates for 14th time in nearly two years. The AP (2/1, Martinez) says the Fed "failed to give Wall Street a clear signal on when those rate increases would end." The Dow Jones industrials fell 35.06 points to 10,864.86. The Standard & Poor's 500 index lost 5.12 points to 1280.08. The Nasdaq composite slipped 0.96 points to 2305.82. Reuters (2/1) also attributes the indexes' declines to "jitters about the outlook for interest rates."

Chicago Federal Court Opens Help-Desk For Pro Se Suits. The Washington Post (2/1, Lydersen) reports that "the U.S. District Court for the Northern District of Illinois in Chicago has launched a program to provide free legal assistance for people in filing pro se federal lawsuits." The Post continues, "Judges and lawyers here who advocated for the help-desk program -- which was launched early last month as the District Court Self-Help Assistance Desk -- describe it as a win-win situation for all. It serves as a filter, weeding out frivolous cases or cases that do not belong in federal court, while aiding people with legitimate complaints. … 'Lots of times we've had pro se complaints that are literally gibberish,' said District Judge William J. Hibbler, who was involved in founding the help desk. 'Trying to make heads or tails of their complaints was a big effort. There might be a kernel of a case there, but it's so poorly articulated that it gets dismissed. People need technical help to formulate complaints in such a fashion that we can deal with them.'" The Post adds, "The idea came about through conversations last fall between U.S. district judges here and the Chicago Bar Foundation, the charitable arm of the Chicago Bar Association. State and circuit courts and bankruptcy courts around the country have provided similar programs for people without attorneys, but this help desk is thought to be the first of its kind in federal court. … The Chicago Bar Foundation put up more than $100,000 to fund the program and hire the lawyer who staffs the desk full time. The lawyer, who has federal court experience, is employed by the Legal Assistance Foundation."

Spitzer Bars Leader Of Holocaust Fund For Fiscal Mismanagement. The New York Times (2/1, Strom, 1.19M) reports, "The New York attorney general's

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office found that the leader of the World Jewish Congress, Israel Singer, violated his fiduciary responsibilities and barred him and a former executive from any financial role in the organization, according to a settlement disclosed yesterday." AG Eliot Spitzer's office "also identified shortcomings in the organization's financial controls, record keeping and fund-raising, but said it found no evidence of criminal wrongdoing."

Putin Says Russia Will Not Support Aid Cutoffs To Palestinians. The Washington Post (2/1, A19, Finn, 744K) reports that though Russian President Vladimir Putin described the Hamas victory in the Palestinian elections "as 'a big blow to American efforts in the Middle East, a very serious blow,'" he said Russia "would not support any efforts to cut off financial assistance to the Palestinians." At his "annual news conference in the Kremlin," Putin said, "Our position on Hamas is different from that of the United States and Western Europe. The Russian Foreign Ministry has never regarded Hamas as a terrorist organization. But this does not mean that we totally approve and support everything that Hamas has done." The Washington Times (2/1, Borowiec, 90K) reports that Putin added, "A refusal to help the Palestinian people would be mistaken."

Wolfowitz Also Says World Bank Should Continue Aiding Palestinians. The Financial Times (2/1, Beattie) reports World Bank President Paul Wolfowitz also said the Bank "should continue delivering aid to the West Bank and Gaza in spite of last week's electoral victory" by Hamas. Wolfowitz said the Bank "was operating in Palestinian areas at the request of the 'quartet' of the US, the United Nations, Russia and the European Union. 'What we do now depends on what the quartet asks us to do,' he said. 'I hope they will ask us to stay.'"

Quartet's Urging Of Hamas To Reform Seen As Unrealistic. The New York Times (2/1, Erlanger, 1.19M) reports that the "quartet" nations "have lined up in solidarity with Israel in calling on Hamas…to modify its radical policies." In a Monday statement, the quartet said Hamas "'must be committed to nonviolence, recognize Israel and accept the previous agreements and commitments,' like the Oslo accords that set up the Palestinian Authority and the 'road map' peace plan, which calls for the dismantling of armed groups like Hamas. All that pleased Israel, its diplomats said Tuesday. But it is like asking Hamas to convert to Christianity, they concede."

Palestinians Debate Role Of Religion In Hamas Governance. The New York Times (2/1, Fisher, 1.19M) reports that Palestinians are debating to what extent, "by law or by social pressure, Hamas will "impose its strong religious beliefs." So far, Hamas leaders, "seeking to calm both Palestinians and an anxious outside world, have projected moderation. They say they will not impose on the Palestinians' diverse society any form of Islamic rule." But "given Hamas's roots in the wider Islamic movement, the pledge is not entirely convincing for many in the tiny and dwindling Christian population, or among secularists and observant Muslims who want a more secular state." Meanwhile, the Washington Times (2/1, Mitnick, 90K) profiles the West Bank town of Qalqilya, where Hamas "swept all 15 municipal council seats eight months ago, only to lose the area's two parliamentary seats in the face of voter disappointment."

Political Bureau Chief Says Hamas "Shall Never Recognize" Israel. Hamas Political Bureau leader Khaled Meshaal, in a Los Angeles Times (2/1, 958K) op-ed headlined 'We Shall Never Recognize…A Zionist State On Our Soil,' writes, "The day Hamas won the Palestinian elections, the world's leading democracies failed the test of democracy. Rather than recognize the legitimacy of Hamas as a freely elected representative of the Palestinian people, seize the opportunity created by the result to support the development of good governance in Palestine and search for a means of ending the bloodshed, the U.S. and the EU threatened the Palestinian people with collective punishment. We are being punished simply for resisting oppression and striving for justice. … Our message to the U.S. and EU is this: Your attempt to force us to give up our principles or our struggle is in vain. … Our message to the Israelis is this: We do not fight you because you belong to a certain faith or culture. Jews have lived in the Muslim world for 13 centuries in peace and harmony. … Our conflict with you is not religious but political. … We shall never recognize the legitimacy of a Zionist state created on our soil in order to atone for somebody else's sins or solve somebody else's problem."

Rice Confident Russia, China Will Support Iran Referral To Security Council. Reuters (1/31, Pleming) reports Secretary of State Condoleezza Rice said she "was confident of Russia and China's support for sending Iran's nuclear case to the U.N. Security Council, but expected

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differences over exactly what steps to take." Rice said, "There is a very strong consensus on what the problem is and that the problem has to be dealt with. I expect there will continue to be tactical differences about timing. There may even be tactical differences about precisely what is required but that's the hard work of the diplomacy." Russia and China are "now expected to vote 'yes' on Thursday instead of abstaining, a senior State Department official said." Knight Ridder (1/31, Landay) adds that the two nations, "which have huge financial stakes in Iran, had been resisting the vote. … Their about-face underscored the depths of their frustrations with the hard-line Iranian President Mahmoud Ahmadinejad's regime and made it likely that a majority of the 35-member IAEA board of governors would vote to haul the Islamic republic before the Security Council."

The Washington Post (2/1, A18, Kessler, Linzer, 744K) writes the IAEA's governing board "will meet in Vienna tomorrow to discuss whether to report the continuing impasse over Iran's nuclear ambitions to the U.N. Security Council. By coincidence, tomorrow is also Groundhog Day. In the four years since President Bush first cited the dangers of Iran's nuclear program in his 2002 State of the Union speech by labeling it part of the 'axis of evil,' the administration has struggled to galvanize other nations to take action against the potential threat of Iran obtaining nuclear weapons. For 2 1/2 years, the administration has pressed the IAEA to go to the Security Council. Yet, at IAEA board meeting after board meeting, a decision to formally report the matter to the Security Council has been put off."

White House "Very Pleased" By IAEA Report On Iranian Nuclear Efforts. The Wall Street Journal (2/1, Champion, Crawford, 2.11M) reports, "An interim report to be delivered by IAEA inspectors at the agency's emergency board meeting tomorrow will detail continuing gaps in Iran's compliance with the IAEA, including the agency's conclusion that a document Iran obtained on the nuclear black market serves no other purpose than to help make an atomic bomb. First mention of the documents was made late last year in a longer IAEA report, but the agency refused at that time to make a judgment on what possible uses such information would have." The CBS Evening News (1/31, story 2, 2:30, Roberts) reported, "On the Iran issue, White House officials…are very pleased with this IAEA report. While they felt they didn't need it and believed that Iran has plans to build all or part of the nuclear bomb, they say this is a reason to haul Iran before the UN Security Council." The New York Times (2/1, Sciolino, Broad, 1.19M) reports, "The four-page report, which officials say was based at least in part on intelligence provided by the United States, refers to a secretive Iranian entity called the Green Salt Project, which worked on uranium processing, high explosives and a missile warhead design."

Iran Refuses To Turn Over Black Market Weapons Document. Knight Ridder (2/1, Landay) reports, "Iran is refusing to turn over to U.N. investigators a copy of a black market document it could use to build nuclear weapons, according to a confidential U.N. report Tuesday. The document, which Iran received from an international nuclear smuggling ring, describes aspects of fabricating the explosive core of a nuclear bomb. The document is one more piece of evidence supporting concerns that Iran is pursuing a nuclear weapons program in the guise of peaceful nuclear power research." The Washington Times (2/1, Jahn, 90K) reports that the IAEA said the document "serves no other purpose than to make an atomic bomb." Agence France Presse (1/31) adds that the IAEA report "indicates several areas where Tehran is suspected of doing atomic work that could be military related."

Belgian Intelligence Chief Quits Over Exports To Iran. The Wall Street Journal (2/1, 2.11M) reports Belgian intelligence chief Koen Dassen "resigned after it emerged that warnings from the U.S. Central Intelligence Agency went unheeded and the country's state security agency failed to stop a Belgian company from exporting nuclear-sensitive equipment to Iran. A Belgian parliamentary committee revealed the Iranian export yesterday," a day after Dassen "quit over accusations the agency failed to inform the government about the CIA's warnings."

Persian Gulf States Increasingly Critical Of Iranian Nuclear Efforts. The New York Times (2/1, Fattah, 1.19M) reports, "After years of hesitating, Persian Gulf states are joining the call for tougher action on Iran's nuclear efforts, increasingly worried that a nuclear Iran could set off a regional arms race. In recent weeks, Saudi officials and other gulf leaders have called for Iran to abandon its nuclear research, without demanding that Israel disarm first. Separating those two demands is a major policy change, and many experts see the shift as a sign that Iran's Arab neighbors may even back United Nations sanctions against Iran."

Ahmadinejad Reaching Out To Latin American Populist Leaders. The Washington Post (2/1, Vick, 744K) reports, "On the afternoon of Jan. 4, Iranian President

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Mahmoud Ahmadinejad reached for the phone and got Latin America on the line. In quick succession, he chatted with President Fidel Castro of Cuba, rang up President Hugo Chavez of Venezuela and, sensing yet another kindred spirit, reached out to Evo Morales, the young firebrand who had just been elected president of Bolivia. Person-to-person and peer-to-peer, the transatlantic calls described on Ahmadinejad's presidential Web site linked self-styled populists who glory in defying the West. But for Iran, the exchanges carried significance reaching well beyond Ahmadinejad and the controversy enveloping him personally after questioning the Holocaust and saying Israel should be 'wiped off the map.' In its bid to proceed with a nuclear program opposed by Washington and Western Europe, Iran's leadership appears settled on a revived policy of confrontation with 'global arrogance,' as the country's rulers have referred to the foreign policy of United States for almost three decades. But the contest is now being framed as a David-vs.-Goliath battle, and Iran is seeking to attract relatively poor, disempowered nonaligned nations to its side, not simply the Muslim world it once saw itself as leading, Iranian officials and analysts say."

Nuclear Arms Control Experts Say Russian Deal Would Create New Problems. In a New York Times (2/1, 1.19M) op-ed, Valerie Lincy and Gary Milhollin of the Wisconsin Project on Nuclear Arms Control write, "Although the [IAEA] is now likely to report Iran to the Security Council, America and the Europeans agreed that the United Nations will wait at least a month before deciding on any punishment. There is little doubt what this cooling-off period is intended for: further negotiations on a proposal that would have Iran shift its large-scale, energy-related uranium enrichment work to Russia. … The Russian deal actually poses more problems than it solves. First, even if Russia took over Iran's nuclear energy work, the religious radicals in Tehran would be left with a huge amount of dangerous equipment. … Second, Iran draws a distinction between the energy-related work that would go to Russia and other enrichment activity that it likes to call 'research.' When Iran broke the international seals at three enrichment sites last month and resumed work, its Foreign Ministry said the move was done only for scientific interests and had nothing to do with weapons. Even with a Russian deal, Iran is likely to insist on its right to continue such research. … Last, the proposal, if accepted, would shatter the coalition of states that is finally working together to restrain Iran. Russia would certainly end its tepid support for Security Council action and would agree to let the Iranians continue their 'research.' The United States is equally certain to refuse such a concession."

OPEC Agreement, Iranian Pledge Lower Oil Tensions. The Wall Street Journal (2/1, Bahree, 2.11M) reports, "OPEC yesterday endorsed an agreement to keep pumping nearly all the oil it can." Meanwhile, "Iran's oil minister, Kazem Vaziri Hamaneh, said Tehran wasn't linking its oil exports to the dispute" over its nuclear research. "The Iranian stance provides a measure of reassurance that OPEC can continue to meet rising global oil needs, which have sent prices soaring toward $70 a barrel this year. Still, it isn't clear whether the Iranian oil minister's statement is Tehran's final word on the role the country's oil exports will play in the standoff."

Oil Producers Investing, Diversifying. The New York Times (2/1, Mouawad, Porter, 1.19M) reports, "oil producers…are experiencing a boom," and while "lavish projects are finding financing," the Arabian peninsula's "main oil producers, like Saudi Arabia, Kuwait, Qatar and the United Arab Emirates, have gotten wiser. Since the boom started three years ago, they have paid down their debt, saved more money than ever before and created more jobs in the private sector. And they are trying to diversify their economies away from oil and its increasingly volatile cycles."

As Muslims Boycott Danish Products, Danish PM Defends Journalistic Freedom. The New York Times (2/1, Cowell, 1.19M) reports, "As Islamic protests spread about cartoons of the Prophet Muhammad in a Danish newspaper, Anders Fogh Rasmussen, the Danish prime minister, defended press freedom in his country on Tuesday but distanced himself from the newspaper's decision to publish the drawings. His remarks fell far short of the apology demanded by an array of Islamic groups and countries which have imposed a remarkably successful boycott of Danish products," but "some Islamic leaders in Denmark said they were satisfied by the actions by the Danish newspaper and prime minister."

Mauritania Reaffirms Ties With Israel, Opposition To Terrorism. The Washington Times (2/1, Constantine, 90K) reports, "Mauritania, the sprawling Islamic nation on the northwest coast of Africa, this week reaffirmed its commitment to fight terrorism shoulder to

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shoulder with its Western allies and to continue its diplomatic relations with Israel." Mauritanian Foreign Minister Ahmed Ould Sid Ahmed "called Mauritania's ties with the United States 'of paramount importance' to the moderate Islamic republic," and added, "We have said no to terrorism and we shall not back away from our diplomatic ties with Israel."

Putin Seeks To Counter Criticism Of Russia. The New York Times (2/1, Myers, 1.19M) reports, "President Vladimir V. Putin on Tuesday defended Russia's handling of natural gas disputes with Ukraine and Georgia, boasted of a new strategic weapon and defended the country's contribution to the Group of 8 in response to suggestions from some critics at home and abroad that his policies have disqualified it from the club of elite democratic nations" with "only a hint of the temper that has flashed in previous public appearances." By "saying Russia had no intention of using gas or oil as an energy weapon," he tried to counter "some of the harshest foreign criticism the Russian government has faced" "also sought to reassure those worried about the state's growing role in the economy through its state-owned companies."

Ukraine Gas Deal Puts Spotlight On RosUkrEnergo. The New York Times (2/1, Kramer, 1.19M) reports, "Four weeks after Ukraine cut a deal to import natural gas through RosUkrEnergo, a shell entity based in Switzerland, the obscure company is facing an uncomfortable amount of attention. After becoming one of Europe's biggest energy traders overnight with the Ukraine deal, the company promised changes to become more open about its operations," but its "secretive nature has driven the Parliaments of both Ukraine and Russia to open investigations." Analysts who follow Gazprom say RosUkrEnergo's "role as a front for the unnamed owners has become an embarrassment for" the company.

Chavez Pressures Spain On Arms Deal. The Washington Times (2/1, Hearn, 90K) reports, "Venezuelan President Hugo Chavez pressed Spain yesterday to declare whether it plans to go ahead with a sale of military planes and patrol boats, despite objections from the United States," which "denied an export license for Spain to sell the transport and maritime surveillance planes, which contain American-made technology. For the same reasons, it has blocked plans by a Brazilian aerospace company to sell Caracas 36 military planes. U.S. leaders want to keep sensitive technologies away from Mr. Chavez," and "both countries have the option of replacing the U.S. parts and proceeding with the sale. But experts say that would require considerable time and money and could risk diplomatic tensions with Washington." Meanwhile, "Chavez is repeating threats to seek military equipment from Russia and China."

Bachelet Begins Chilean Presidency With Change. The Christian Science Monitor (2/1, Ross, 61K) reports that Michelle Bachelet, Chile's first female president," named "a cabinet of 10 female and 10 male ministers," marking "a significant change to the political status quo," which is "expected to be the first of many." However, "some experts question whether she'll sacrifice competence for image," although "the relative lack of public uproar over Bachelet's cabinet - and her very election - seems to reflect a profound socio-cultural change."

Ignatius Says US, French Cooperating Diplomatically. David Ignatius writes in his column in the Washington Post (2/1, A23, 744K), "The Elysee Palace has become one of the White House's most important and effective allies." The White House "is now working hard to conduct its foreign policy in tandem with international allies and, where possible, through the United Nations. America's key intermediary in this search for international consensus has been France," and "in framing policy on Syria and Iran, the French and Americans have consciously played a good cop-bad cop routine." While "Paris and Washington still disagree sharply on the substance of many issues," both "seem to have concluded that they'll get more of what they want if they collaborate rather than bicker. Indeed, the quiet partnership has probably benefited from the fact that the world still thinks France and America are enemies."

Dowd Assails "Ham-Handed Bush Foreign Policy Crew." In her column in the New York Times (2/1, 1.19M), Maureen Dowd says "clearly, the Bush foreign policy team doesn't understand any of the markets where it is barging around ineptly trying to sell America and democracy." Opinion of the US overseas "has been in steady decline. The state of the union is sour but the state of the world is chilling, thanks to a hideously ham-handed Bush foreign policy crew that was once billed as a seasoned 'dream team.'" Dowd goes on to say, "The more the White House tries to force-feed democracy to tempestuous parts of the world, the more it discovers that you may be able to spin and scare voters in the

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US, but the Middle East is not so easy to manipulate. W. believes in self-determination only if he's doing the determining. Fundamentalists in America like to vote for Mr. Bush, but elsewhere they're violently opposing him. It's stunning that nearly four decades after Vietnam, our government could be even more culturally illiterate and pigheaded. The Bushies are more obsessed with snooping on Americans than fathoming how other cultures think and react."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"She Built A Legacy By Preserving One."
"5 Films With Depth, If Not Breadth."
"Bush Calls For Cuts In Oil Reliance."
"Airman's Shooting Sparks FBI Inquiry."
"A Stark Division In Vote For Alito."
"LAPD Chief Overruled On Teen's Death."
"Standard Test May Miss Heart Disease In Women."

USA Today:
"Bush Lays Out His Agenda For 'Decisive Year.'"
"Google Drops $53.65 A Share."
"Civil Rights Icon Dies At 78."

New York Times:
"Bush, Resetting Agenda, Says US Must Cut Reliance On Oil."
"Atomic Agency Sees Possible Link Of Military To Iran Nuclear Work."
"Bold Visions Have Given Way To New Reality."
"Alito Vote May Be Decisive In Marquee Cases This Term."
"Coretta Scott King, A Civil Rights Icon, Dies At 78."
"Many Women Face Hidden Risk Of Heart Disease."

Washington Post:
"Bush Says Us Must Remain A World Leader."
"Alito Is Sworn In On High Court."
"A Full Partner In The Dream."
"Lowered Expectations Reflect Political And Fiscal Realities."
"Strategies Laid Out In Enron Trial."
"Va.'s Kaine Assails 'Poor Choices, Bad Management.'"

Washington Times:
"Bush Calls For An Optimistic America."
"It Was A Grand Night For Celebrating."
"Alito Sworn In As 110th Justice."
"Back Pay Owed To Millions In China."
"Coretta Scott King Dies."
"For Hamas, Honeymoon's Over In A West Bank Town."
"Putin Lobbies To Continue Aid To Palestinians; Syria Seeks Cash."

Detroit Free Press:
"Super Hoopla Revs Into Higher Gear."
"Bush: U.S. Must End Foreign Oil Addiction."
"King Touched Lives In Metro Detroit."

Atlanta Journal-Constitution:
"'She's At Peace Now.'"
"Matriarch Had Sought Treatment For Cancer."
"Bush Says US Must Escape Addiction To Mideast Oil."

Dallas Morning News:
"Alito Puts New Face On Court."
"Bush: We Can't Be Complacent."
"She Fought For Equality With Grace."
"Report Ties Iran Work To Nukes."
"A Natural High: January Temps Set Record."

Houston Chronicle:
"Coming Out Swinging."
"Witness Is Expected To Admit Conspiracy."
"Bush Says US Is In Iraq To Win."
"With Alito, High Court Could Set New Course."
"A Symbol Of Civil Rights, The Guardian Of A Dream."

Story Lineup From Last Night's Network News:
ABC: Bush SOTU; Bush Challenges; Wounded ABC Reporters; Senate Confirms Alito; Greenspan Legacy; Coretta Scott King Legacy; Deadly Postal Worker Shooting; Women's Heart Disease; Soldier Reunited With Dog.
CBS: Obit: Coretta Scott King; State Of The Union Preview; Bipartisan Problems; Obama Interview; Woodruff Update; Healthcare Concerns; Enron Trial; CA Office Killing; Wounded Veteran Care; Oscar Nominations.
NBC: Woodruff Update; Iraq Hospitals; Al Jazeera Tapes; Wall Street Journal Poll; US Economy; Katrina Donation Spending; Katrina-Senate Hearings; Savings Lack; Enron Case; Snowstorm Rating Scale.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Bush-State of the Union; AT&T lawsuit; Iraq-Saddam Hussein trial; Wounded journalists return to US; Iraq-suicide bombing; Alito confirmed; Wall Street.

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CBS: Bush-State of the Union; Iraq-suicide bombing; Iraq-Saddam Hussein trial; Israel-West Bank violence; CA-shooting spree
NPR: Bush-State of the Union; Iraq-bird flu cases; Iraq-suicide bombing; Iraq-Saddam Hussein trial; Israel-West Bank violence; King obit.; Enron trial.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH – Signs a proclamation in honor of American Heart Month. Oval Office. Gives speech in Nashville at the Grand Ole Opry.

VICE PRESIDENT CHENEY -- No schedule available.

US Senate: -- COMMITTEE MEETINGS

9:30 a.m. INDIAN AFFAIRS _ Full Committee. Hearing on the gaming application process for off-reservation casinos. Location: Room 106, Dirksen. Notes: Note location change.

9:30 a.m. JUDICIARY _ Full Committee. Hearing on rising gasoline prices. FTC Commissioner Bill Kovacic; Jim Wells, GAO; Connecticut Attorney General Richard Blumenthal; R. Preston McAfee, California Institute of Technology; Tyson Slocom, Public Citizen; Tim Hamilton, Automotive United Trades Organization. Location: Room 226, Dirksen.

10 a.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Full Committee. Hearing on the promotion and advancement of women in sports. Dominique Dawes, U.S. Olympian and President, Womens Sports Foundation; Donna de Varona, U.S. Olympian and sports commentator; Tara Erickson, head womens soccer coach, University of Oregon; Jennie Finch, U.S. Olympian; Dr. Christine H.B. Grant, University of Iowa; Lynette Mund, girls varsity basketball coach, West Fargo High School; Catherine ``Cat Reddick, U.S. Olympian; Dr. Dorothy ``Dot Richardson, U.S. Olympian and Vice Chair, Presidents Council on Physical Fitness and Sports; Judith Sweet, National Collegiate Athletic Association. Location: Room 216, Hart.

10 a.m. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ Full Committee. Hearing on the evacuation plans for the New Orleans Superdome and the evacuation of hospitals, nursing homes and individuals with special needs for Hurricane Katrina. New Orleans Mayor Ray Nagin; Brig. Gen. Mark Graham, 5th U.S. Army; Vince Pearce, U.S. DOT; Dwight Brashear, Capital Area Transit System, Baton Rouge. Location: Room 342, Dirksen.

1:30 p.m. JUDICIARY _ Constitution, Civil Rights and Property Rights Subcommittee. Hearing on the death penalty. Ann Scott, Tulsa, Okla.; Vicki Schieber, Chevy Chase, Md.; John McAdams, Marquette University; Stephen Bright, Southern Center for Human Rights; Paul Rubin, Emory University; Jeffrey Fagan, Columbia University. Location: Room 226, Dirksen. Notes: Note time change.

2:30 p.m. SELECT INTELLIGENCE _ Full Committee. Closed briefing on pending matters. Location: Room 219, Hart.

US House: -- FLOOR SCHEDULE

10 a.m. FLOOR SCHEDULE _ Meets for legislative business. Highlights: H.R. ___ - To eliminate floor privileges and access to member exercise facilities for registered lobbyists who are former House members or House officers. H.R. ___ - Agreeing to the Senate Amendments for S.1`932 - Deficit Reduction Act of 2005. H.R. ___ - To amend the Patriot Act to extend the sunset of certain provisions of such act.

COMMITTEE MEETINGS

9:15 a.m. SELECT KATRINA RESPONSE INVESTIGATION _ Full Committee. Briefing on the preliminary findings of the GAO on the federal response. Comptroller General David Walker. Location: Room 2154, Rayburn.

10 a.m. GOVERNMENT REFORM _ Full Committee. Markup of H.R 4054, to designate the facility of the United States Postal Service located at 6110 East 51st Place in Tulsa, Oklahoma, as the ``Dewey F. Bartlett Post Office.; H.R. 4346, to designate the facility of the United States Postal Service located at 122 South Bill Street in Francesville, Indiana, as the ``Malcolm Melville 'Mac Lawrence Post Office.; H.R. 4456, to designate the facility of the United States Postal Service located at 2404 Race Street in Jonesboro, Arkansas, as the ``Hattie Caraway Station.; H.R. 4509, to designate the facility of the United States Postal Service located at 1271 North King Street in Honolulu, Oahu, Hawaii, as the ``Hiram L. Fong Post Office Building.; H.Res. 629, Supporting the goals and ideals of a Day of Hearts, Congenital Heart Defect Day in order to increase awareness about congenital heart defects. Followed by hrng. on Federal Pension Forfeiture Act. Linda M. Springer, Director, Office of Personnel Management; Chellie Pingree, President and

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CEO, Common Cause; Joan Claybrook, President, Public Citizen. Location: Room 2154, Rayburn.

11 a.m. ARMED SERVICES _ Full Committee. Hearing on the nuclear threat from Iran. Michael Einstadt of the Washington Institute for Near East Policy, George Perkovich of the Carnegie Endowment for International Peace, and Ilan Berman of the American Foreign Policy Council. Location: Room 2118, Rayburn. Notes: Note time change.

2 p.m. ARMED SERVICES _ Readiness Subcommittee and Tactical Air and Land Forces Subcommittee. Joint hearing on Operation Iraqi Freedom and Operation Enduring Freedom, dealing with the interceptor body armor system, tactical wheeled vehicle armoring and rotorcraft safety. Maj. Gen. Jeffrey A. Sorenson, deputy for acquisition and systems management, Army; Maj. Gen. Stephen M. Speakes, director, Force Development, Army; Maj. Gen. William D. Catto, commanding general, Marine Corps Systems Command; Cmdr. Craig T. Mallak, Office of the Armed Forces Medical Examiner, Navy; Brig. Gen. Stephen D. Mundt - director, Army aviation; Brig. Gen. Martin Post, assistant deputy commandant for aviation, Marine Corps. Location: Room 2118, Rayburn.

2 p.m. ENERGY AND COMMERCE _ Full Committee. Hearing on the safety of phone records from pretexting. Panel 1: Kevin J. Martin, Chairman, Federal Communications Commission; Jon Leibowitz, Commissioner, Federal Trade Commission. Panel 2: Steve Largent, President and CEO, Cellular elecommunications and Internet Association, Washington D.C.; Edward Merlis, Senior Vice President, Law & Policy, United States Telecom Association, Washington, D.C. ; Marc Rotenberg, Executive Director, Electronic Privacy Information Center, Washington, D.C.; Robert Douglas, CEO, PrivacyToday.com, Steamboat Springs, Colo. Lisa Madigan, Attorney General, State of Illinois, Chicago. Location: Room 2123, Rayburn.

2:45 p.m. WAYS AND MEANS _ Full Committee. Markup of H.R. 1631 - Rail Infrastructure Development and Expansion Act for the 21st Century. Location: Room 1100, Longworth.

3 p.m. SMALL BUSINESS _ Subcommittee on Tax, Finance and Exports Subcommittee and Rural Enterprises, Agriculture and Technology Joint Hearing on Transforming the Tax Code: an examination of the president's Tax Reform Panel recommendations." Former Sen. John B. Breaux, D-La., vice-chairman, President's Advisory Panel on Federal Tax Reform; Todd McCracken, president, National Small Business Association; Daniel Mitchell, senior fellow on political economy, The Heritage Foundation; David Burton, Americans for Fair Taxation; Jim Hausman, president, Hausman Metal Works and Roofing Inc., St. Joseph, Mo.; Leonard Burman, senior fellow, Urban Institute; Andy Loftis, Keller Williams Realty, Athens, Ga., representing National Association of Realtors. Location: Room 2360, Rayburn.

US House: -- Jan. 30 - Feb. 2. STATE OF THE UNION-RELATED EVENTS _ State of the Union related events. Highlights: 8:15 a.m. - 10:30 a.m. Atlantic Media hosts a post-speech debate and briefing on the president's remarks. Participants are Charlie Cook, National Journal's Cook Political Report; Chuck Todd, Editor-in-Chief Hotline, Chuck Todd Chris Matthews, MSNBC Election anchor and Host of Hardball. Charlie Palmer's Restaurant, 101 Constitution Ave. NW. Contact: Katherine Birrow, 202-266-7356. 11 a.m. The National Center for Policy Analysis holds a briefing on health policy proposals in the State of the Union Address. Room 1310, Longworth. Contact: Richard Walker, 800-859-1154. 11:45 a.m. Former House Speaker Newt Gingrich speaks at a community forum sponsored by Generation Engage to discuss the State of the Union Address. NVCC, 4001 Wakefield Chapel Rd., Annandale. Contact: Ashley Philips, 202-465-4807.

8:45 a.m. - 4 p.m. U.S.-KOREAN RELATIONS _ The American Enterprise Institute hosts a day-long conference, ``Sustaining the Alliance: U.S.-Korean Relations in the New Asia." Highlights: 1 p.m. Keynote address by Christopher Hill, State Department 2 p.m. Panel on ``Securing Peace on the Korean Peninsula." With David Asher, Institute for Defense Analyses; Aaron Friedberg, Princeton University; Byungki Kim, Korea University; Jack Pritchard, Korea Economic Institute; Joun-Yung Sun, Kyungnam University; and Nicholas Eberstadt, AEI. Location: Wohlstetter Conference Center, 12th floor, AEI, 1150 17th St. NW. Contacts: Veronique Rodman, 202-862-4871

8:30 a.m. KLEIN-DEFENSE _ Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs Dale E. Klein delivers remarks to the CBRN Defense Conference. Location: Hilton Arlington and Towers, Arlington, Va.

9:30 a.m. U.S. MANUFACTURING _ Jerry Jasinowski of The Manufacturing institute and Robin Wiener of the Institute for Scrap Recycling Industries, others, release a report on the dangers of the downward U.S. manufacturing innovation

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cycle. Location: National Association of Manufacturers, Suite 600, 1331 Pennsylvania Ave. NW. Contacts: Laura Narvaiz, 202-637-3104

10 a.m. ETHIOPIA _ Ethiopian civic, political and religious organization members march in opposition to human rights abuses in that country. Location: March from Freedom Plaza, 14th St. and Pennsylvania Ave. Nw. to the Capitol, with a rally on thge Capitol West Lawn. Rally starts at about 11:30 a.m. Contacts: Ricardo Reyes, 202-828-5821

10 a.m. - 11:30 a.m. HUMAN RIGHTS-RUSSIA _ The United States Commission on International Religious Freedom hosts a roundtable discussion titled ``Assessing U.S. Human Rights Policy Towards Russia," which will review how the Commission feels the U.S. government should be responding to the rollback in human rights, including religious freedom, in Russia and increasing Russian nationalism. The event is also being held to prepare for upcoming Commission delegations to Russia. Location: Carnegie Endowment for International Peace, 1779 Massachusetts Ave. NW. Notes: Please RSVP by Monday, January 30, to Tina Ramirez at tramirezuscirf.gov or 202-523-3240, ext. 34.

10:30 a.m. DEMOCRATIC LEADERSHIP _ Democratic Leader Nancy Pelosi, Democratic Whip Steny Hoyer, Democratic Caucus Chair James E. Clyburn, and the newly elected Democratic Caucus Vice Chair will discuss their reaction to the President's State of the Union address immediately following the weekly Democratic Caucus meeting. Location: Outside Room 345, Cannon House Office Building. Contacts: Lindy Birch, 202-226-3210 Notes: Time approximate. The Caucus is not expected to adjourn before 10:30 a.m.

10:30 a.m. ENERGY ASSISTANCE _ Members of Congress and representatives of the National Fuel Funds Network hold a news conference to demand additional funding for the Low Income Home Energy Assistance Program. Location: Senate swamp site. Contacts: George Coling, 202-824-0660

10:30 a.m. HOLLY'S LAW _ House members and anti-abortion supporters hold a news conference to urge the House to vote for Holly's law. Location: Room 2212, Rayburn. Contacts: Lisa Lyons Wright, 202-225-2417

11 a.m. HEALTH CARE-DEMOCRATS _ Senate Democratic leader Harry Reid and House Democratic leader Nancy Pelosi, others, hold a rally for health care reform. Location: Senate Swamp, Delaware and Constitution Aves. NW. Contacts: Jim Manley, 202-224-2939

11 a.m. HOUSE REPUBLICANS _ The House Republican Conferennce holds an event, ``Celebrate the Strength of Our Nation and the Legislative Agenda." Location: Room HC-7, Capitol. Contacts: Betsy Andres, 202-226-9000 Notes: Time approximate.

12:30 p.m. DEMOCRATS-LOBBYING _ Sens. Joseph Lieberman, Russ Feingold and Barack Obama hold a news conferfence on lobbying reform. Location: Senate Radio-TV Gallery. Contacts: Jim Manley, 202-224-2939

12:30 p.m. - 2 p.m. INTERNET-CHINA _ The Congressional Human Rights Caucus holds a members' briefing on human rights and the Internet in China. Location: Room 2172, Rayburn House Office Building. Contacts: Daria Nashat, 202-225-3531 Notes: Note room change.

12:45 p.m. - 2 p.m. CLEAN COAL _ Resources for the Futur hosts a First Wednesday Seminar to explore issues associated with coal in the United States and internationally. Panelists will address the future of coal, including implications of forecasted higher oil and gas prices. Location: Resources for the Future, 1616 P St. NW, First Floor Conference Center. Notes: A light buffet lunch will be available at 12:30 p.m. To RSVP or for information on how to listen to this seminar live by telephone, please contact Janet Hodur at hodurrff.org or 202-328-5019.

6:30 p.m. GORDON ENGLAND-DEFENSE _ Deputy Secretary of Defense Gordon England delivers remarks to the Center for Strategic and International Studies. Location: St. Regis Hotel, 16th and K Sts. NW.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, FEBRUARY 1, 2006 7:45 AM EST

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TERRORISM NEWS:

Civil Liberties Group Sues AT&T For Cooperating With NSA Surveillance. The New York Times (2/1, 1.19M) reports, "The Electronic Frontier Foundation, a civil liberties organization, filed a class-action suit against AT&T on Tuesday in federal court…saying the company was violating the law and customers' privacy in cooperating with the National Security Agency on computerized surveillance. … In its suit, the foundation says the company has allowed the agency direct access to phone calls and Internet data moving over its network, as well as access to a vast database of call records." EFF attorney Kevin Bankston "said the group was not at liberty to say how it knew that the company and the spy agency were cooperating, but said it was confident that there was an illegal relationship."

The Los Angeles Times (2/1, Menn, 958K) adds, "The suit cites newspaper articles, including one by the New York Times, for disclosing the eavesdropping program aimed at terrorist communications with sympathizers and others inside the United States. Also cited was a Los Angeles Times report that the National Security Agency had access to an AT&T database tracking calling records."

CNN's The Situation Room (1/31, Tatton) noted that "everyone affected could receive $21,000 or more. … Now, we have seen lawsuits before from organizations like the ACLU, targeting the government on the NSA program. This one specifically looks at…AT&T on behalf of the customers."

Waters Calls For Bush Impeachment Over NSA Program. Fox News' Special Report (1/31, Garrett) reported, "Today eight-term California Democrat Maxine Waters said the President should be impeached for authorizing the warrantless surveillance of Americans."

Feingold Says Gonzales Misled Congress About Warrantless Wiretaps. CNN's The Situation Room (1/31, Arena) reported, "Sen. Russ Feingold is accusing the Attorney General of misleading Congress during his confirmation hearings last year, when he was asked about warrantless wiretaps. … Feingold, who wasn't briefed about the program, says he wants an explanation." Feingold: "The chief law enforcement officer of this country apparently told the committee under oath that something was merely hypothetical, when in fact he knew very well and was involved in it, actually being an ongoing practice.'" CNN added, "Justice Department officials say that there was nothing misleading about Gonzales' statement and that the President is on firm legal ground. Gonzales is scheduled to testify all day Monday."

Senate Seen As Pulling Back On Deference To Bush Over War Powers. The Christian Science Monitor (2/1, Chaddock, 61K) reports, "Since 9/11, the Bush White House has moved aggressively to expand presidential power in wartime, at the expense of Congress. Until recently, the Republican-controlled Congress went along. … But that deference may be ending." With the NSA surveillance program hearings and the Patriot Act renewal, "the Senate, especially, is gearing up to make the case that power between the executive and legislative branches is unbalanced." The Monitor notes, "The issue is looming so large that the White House devoted a full week in the run-up to this week's State of the Union Address to defuse the issue. Instead of 'domestic spying' -- the term used most often in the press -- the White House described the program as 'terrorist surveillance.' Recent communication from" Ayman al-Zawahiri "appeared to reinforce the threat."

Moussaoui's Mother Calls For Fair Sentencing. The AP (2/1, Devailly) reports, "The mother of Zacarias Moussaoui…said Tuesday she wants her son judged for his actions -- not because he is Arab or an Islamist. Aicha El Wafi's lawyer, Patrick Baudouin, appealed to the U.S. justice system not to 'make a martyr'" of Moussaoui. El Wafi "said she plans to go to the United States on March 6, when testimony is to start in the penalty phase of her son's trial." The AP notes, "Prosecutors will try to convince jurors that the FBI would have prevented the Sept. 11 attacks if Moussaoui had told federal agents what he knew about al-Qaida's desire to fly planes into U.S. buildings."

UK Judge Warns Jurors Al Masri Not On Trial For Political Views. BBC (1/31) reports on its Web site, "Alleged race hate cleric Abu Hamza al-Masri is not on trial for his political views, a judge has warned. Starting his summing up, Mr Justice Hughes said Mr Abu Hamza's views were only relevant in deciding if they led him to commit the charges he faced. He told the Old Bailey jury: 'It is not an offence to suggest western societies are corrupt or have no moral basis'. … He also told the jury to 'Keep an eye on the ball' regarding Mr Hamza's views. 'Exercise a similar restraint and caution about his views generally. Confine your inquiries to whether or not he has committed the offences on which he is charged,' he said."

PATRIOT ACT:

Congress Set To Extend Patriot Act Temporarily Until March. The AP (2/1, Kellman) reports, "Congress is poised to extend the USA Patriot Act

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into March to give the White House and conservative Senate Republicans time to strike a deal that would strengthen civil liberties without weakening the war on terror. When in March was still up in the air late Tuesday. The House is set to vote Wednesday on extending the law until March 14," but "Senate Majority Leader Bill Frist was pushing for a vote earlier in the month." The AP notes, "Objections to the compromise last fall centered on the degree to which people and institutions that receive National Security Letters…can appeal them in court." However, Sens. Larry Craig and John Sununu say that "six weeks might be enough to strike a deal on the matter with the White House." In its "Washington Wire" column on its web site, the Wall Street Journal (1/31, 2.11M) reported, "President Bush again pushes Congress to renew the Patriot Act, but only another short-term extension appears to be in sight."

The San Francisco Chronicle (1/31, A4, Epstein) reports that the controversy of the NSA surveillance program may complicate the Patriot Act renewal and notes, "The wrangling in the latest version has narrowed to disagreement over how to curb the FBI's access to Americans' library, bookstore, business or Internet records for terrorist investigations; what rights the targets of so-called national security letters have in appealing such orders for information; and how long after agents conduct secret searches must they notify their target."

Conference Report Contains Non-Terror Law-And-Order Provisions. Knight Ridder (2/1, Kuhnhenn) reports that "tucked away in the pending renewal of the Patriot Act -- the nation's controversial law to fight terrorism -- is a provision" inserted by Sen. Jon Kyl "that could make it harder for state death-row inmates to appeal their cases in federal court. The provision is one of a handful that neither the House of Representatives nor the Senate has voted on but which Republican lawmakers crafted during closed-door negotiations last year after Democrats had been excluded from the talks. Another obscure addition, never debated in Congress, would broaden existing laws that prohibit disturbances at any event -- such as those involving the president -- at which the Secret Service is providing protection. Civil libertarians say it could restrict free-speech rights in the name of security."

More Commentary. Investor's Business Daily (2/1) editorializes, "With the Feb. 3 deadline for renewing the Patriot Act looming, kicking the can down the road again is not an option. Had it been in place on Sept. 10, 2001, Sept. 11 might not have happened." IBD continues, "If your house were on fire, and firemen had to kick your door down and break a few windows to save you and your family, would you consider that an invasion of your privacy or a violation of your civil liberties? … Yet that is precisely the attitude Senate Democrats take regarding the Patriot Act despite evidence that it has infringed on no one's rights, except perhaps on the freedom of terrorists to plot mass murder undetected and unmolested." IBD adds, "When Sen. Harry Reid successfully led a Dec. 16 filibuster blocking reauthorization, he reportedly bragged: 'We killed the Patriot Act.' If he and his colleagues prevail in blocking its renewal, or succeed in gutting its effective provisions, that may be the epitaph on the tombstones of Americans killed in the next attack."

HOMELAND RESPONSE:

New Hampshire Stores Report "Middle Eastern-Looking Men" Seeking Trac Phones. The Portsmouth (NH) Herald (1/31, Dinan) reports Portsmouth police "are investigating two reports about 'Middle Eastern-looking men' buying quantities of 'trac phones' at city stores Saturday." At "unnamed Woodbury Avenue store," 15 of the phones were sold "to the men, according to the city's public police log. The purchase was made by credit card, and the information was forwarded by Portsmouth police to Newington and state police." Two hours later, "local police received information that the Boston office of the Federal Bureau of Investigation received a call from a Wal-Mart customer reporting 'two Middle-Eastern men' who reportedly approached the store manager, asking to buy 500 to 600 trac phones. When they were told the store did not have that many on hand, they left the store, then the area in a car with Massachusetts plates, says the city police log."

GAO Report Offers "Blunt" Criticism Of Federal Response To Katrina. Knight Ridder (2/1, Borenstein) reports, "Despite ample warning of an impending catastrophe, the federal government bungled its response to Hurricane Katrina because of a void of leadership and confusion about who was in charge, an independent investigation ordered by Congress has found. The Government Accountability Office, the investigatory arm of Congress, in a preliminary report to be released Wednesday faulted Homeland Security Secretary Michael Chertoff and his designee, former Federal Emergency Management Agency chief Michael Brown, for not filling a crucial 'leadership role during Hurricane Katrina.'" KRT adds that "the GAO's conclusion is striking for its bluntness. 'No one was designated in advance to lead the overall federal response in anticipation of the event despite clear warnings from the National Hurricane Center,' GAO Comptroller General David M. Walker's prepared remarks read. The speech faults the federal government, saying it 'did not act decisively or quickly enough.'"

Louisiana Officials Acknowledge Failures In Wake Of Katrina. The New York Times (2/1, Lipton, 1.19M) reports, "Government complacency, poor planning and dereliction of duty during Hurricane Katrina contributed to the

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deaths of dozens of the frail and sick in New Orleans, and to the suffering of many others who were stranded in area hospitals and nursing homes unable to care for them, Senate investigators said Tuesday. In the second day of Senate hearings on the hurricane response, the focus was on what investigators called perhaps the most outrageous chapter of the storm: the mistreatment of nursing home and hospital patients during the disaster." Officials from the State of Louisiana, the City of New Orleans and the state association of nursing homes "acknowledged a long list of failures that meant there was no coordinated or tested plan in place to evacuate the frail, sick or poor, though studies had warned for more than a decade that an estimated 100,000 New Orleans residents without transportation would need such help in a major hurricane."

USA Today (2/1, Hall, 2.31M) reports "Bradberry acknowledged that although the Louisiana Office of Homeland Security required him to develop evacuation plans, he didn't agree with the assignment. Among the reasons he cited for not drawing up plans was a lack of resources the state needed to carry out the evacuations. Senate Homeland Security Committee Chairwoman Susan Collins, R-Maine, called it 'inconceivable' that officials didn't make it a priority to save nursing home and hospital patients. At least 200 died." Sen. Joe Lieberman said, "I don't feel that you've acknowledged enough responsibility here."

The Los Angeles Times (2/1, Neuman, 958K) "In hearings before the Senate Homeland Security and Governmental Affairs Committee this week, witnesses offered instances in which good intentions went awry and bureaucratic inertia stymied recovery efforts in the aftermath of the storm." The Times adds, "Throughout the hearings, witnesses underscored the costly consequences of a lack of central command and breakdowns in communication." Meanwhile, "The Bush White House has refused to provide key documents or allow administration officials to testify, asserting executive privilege. Collins has accused the White House of crippling the inquiry."

Independent Investigators Granted Access To Site Of Levee Breach. The New York Times (2/1, Schwartz, 1.19M) reports, "It took a special agent of the Louisiana state attorney general's office and some bureaucratic sparring, but members of an independent team of engineering investigators won access on Tuesday to the site of a major levee breach from the Army Corps of Engineers. It is unusual for engineers to bring law enforcement agents to job sites, but the investigators said they wanted to ensure access to the levee at the 17th Street Canal in the face of what they contend is a pattern of resistance by the engineering corps." The investigators say the corps "has also refused to release information needed to fully understand the levee failures that left so much of New Orleans shattered and soaked." Meanwhile, "Corps officials have suggested that [the] group is eager to jump to conclusions about causes of the levee breaches, and complained that the teams sometimes show up at work sites unannounced."

WAR NEWS:

US Renews Commitment To Afghanistan Aid.

The Financial Times (2/1, Morarjee) reports, "The US will lead the world in a renewed commitment to Afghanistan's battle against narcotics and a resurgent Taliban." US Secretary of State Condoleezza Rice said, "For us, it is a strategic partnership." British Prime Minister Tony Blair "also pledged $800m in aid in the next five years." The New York Times (2/1, Cowell, 1.19M) says the Administration "pledged Tuesday to seek Congressional approval for a further $1.1 billion in aid to help rebuild Afghanistan next year, roughly the same amount sought for 2006." A conference on future aid to Afghanistan "agreed on what it called the Afghanistan Compact, a five-year blueprint to restore the country's security, build a functioning economy and counter the rapidly expanding narcotics trade." It "is intended as a successor to an agreement reached in 2001 after the overthrow of the radical Islamic Taliban government."

The Washington Times (2/1, Kralev, 90K) quotes Rice saying, "In addition to our current commitment of nearly $6 billion, today, I'm proud to announce that President Bush will ask our Congress for $1.1 billion in new assistance to support the Afghan people in the next year."

Karzai Unveils Five-Year Plan To Strengthen Democracy. The Washington Post (2/1, A19, Sullivan, Witte, 744K) reports, "Diplomats from more than 60 countries began pledging aid and investment for Afghanistan at a conference here Tuesday, as President Hamid Karzai outlined a five-year plan," called the Afghan Compact, "to strengthen democratic institutions and combat terrorism and drug-trafficking in his struggling nation." Karzai "listed his country's successes," noting "that the country has a constitution and an elected president and parliament. He said that 6 million children are now attending schools in a system that was totally collapsed and that economic output has grown by 85 percent." Yet "Afghanistan remains a place of staggering illiteracy, with a massive gap between a comfortable elite and millions of poor. A flourishing illegal poppy trade supplies more than 87 percent of the world's opium. Karzai acknowledged that 'we have a long road ahead.'" And for "ordinary Afghans, there was little awareness Tuesday that the conference was taking place."

Dutch Lawmakers Question Military Commitment To Afghanistan. Lousewies van der Laan and Bert Bakker, members of the Democrats 66 party in the Dutch parliament, in an op-ed in the Financial Times (2/1) write, "On Thursday, the Dutch parliament will debate whether the Netherlands

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should expand its military presence in Afghanistan. The country currently participates in the Nato reconstruction mission in the north of the country with 368 troops and more than 250 Dutch special forces fight in Operation Enduring Freedom in Kandahar in the south. This makes the Netherlands the seventh largest contributor to Nato's International Security Assistance Force, ahead of 19 other Nato members." Yet the "tone of the debate is one of 'you are either with us or against us'. … A substantial debate on command structures, evacuation plans and respect for human rights should replace threats about the loss of credibility and influence. That will require a mature debate about the future of Nato, as well as the world's long-term commitment to Afghanistan. The time for that debate is now."

Afghan Ambassador To US Alleges Bias In DC Against His Compatriots. The Washington Times (2/1, McElhatton, 90K) reports, "Afghanistan's ambassador to the United States wants the Washington Metropolitan Airports Authority to investigate complaints from Washington Flyer cabdrivers about what he called 'racial and Muslim profiling.'" The Times adds, "Some Afghan-American drivers are upset about 'having been discriminated against' in dealings with the Washington Dulles International Airport taxi concessions operator, Ambassador Said Tayeb Jawad wrote in a letter Monday to airport officials"

Rice Says Everything Possible Being Done To Secure Release Of US Hostage In Iraq. The AP (2/1, Reid) notes, "U.S. officials said they have ruled out meeting the kidnappers' demand to release all Iraqi women in detention." Secretary of State Condoleezza Rice said, "Everything is being done to work with those who might have influence, and there are an awful lot of people who are calling for her release."

Kidnappers Threaten To Kill German Hostages In Video. The AP (2/1, Reid) reports that "a new video from kidnappers threatened to kill two German hostages if Germany fails to stop cooperating with the Iraqi government." The AP continues, "Kidnappers threatened to kill Thomas Nitzschke and Rene Braeunlich if Germany does not close its embassy in Iraq, withdraw all the German companies from Iraq and stop cooperating with the Iraqi government within three days."

Reuters (2/1) adds, "A new tape of the hostages showed them next to masked individuals who pointed automatic rifles at them. It was dated January 29."

Eleven Men Found Tortured, Slain In Insurgent Stronghold In Iraq. The New York Times (2/1, Worth, 1.19M) notes, "The bodies of 11 young men, some of them shot repeatedly and bearing marks of torture, were found in a minibus on Tuesday in western Baghdad, Interior Ministry officials said." They "were found near Ghazaliya, an insurgent stronghold where Iraqi security forces have been accused of detaining, torturing and killing groups of Sunni Arab men in the past. But the 11 bodies were not immediately identified, and no group stepped forward either to take responsibility for or to denounce the killings."

Local Officials Among Victims In Scattered Attacks Across Iraq. The New York Times (2/1, Worth, 1.19M) in its article on the latest violence in Iraq reports that "scattered attacks took place across central and southern Iraq. In the Dawra district of southern Baghdad, gunmen opened fire on a car carrying two members of the Dawra district council, killing them both, the local police and witnesses said." And in "western Baghdad, gunmen shot and killed Malik Razoki Abd, the leader of another district council." Local officials "in Mahmudiya, south of the capital, said an American aircraft fired a missile that damaged three houses and wounded three civilians. But American military officials said they had no report of an airstrike. The Iraqi Interior Ministry reported two different incidents in Mahmudiya: a roadside bombing and a mortar attack on a house. The attacks left four civilians wounded, the officials said."

The AP (2/1, Reid) reports, "On Wednesday, a bomb exploded alongside a group of Iraqi men waiting for work in eastern Baghdad on Wednesday, killing at least eight and wounding more than 50, police said." The AP notes, "Sunni Arab and Shiites extremists have been carrying out reprisal killings that have claimed hundreds of lives and sharpened sectarian tensions as Iraqi politicians try to form a new government after Dec. 15 national elections. The killings come at a time when U.S. officials are pushing the Iraqis to include more Sunni Arabs, who form the backbone of the insurgency."

Poll Shows Sunnis Reject New Government, Support Attacks Against US Soldiers. The Washington Times (2/1, Sands, 90K) reports a poll of 1,150 Iraqis conducted Jan. 2 to Jan. 5 (+/- 3%) shows, "Iraq's restive Sunni Arabs overwhelmingly reject the legitimacy of the new government in Baghdad, approve of attacks on U.S.-led forces and think the country is heading in the wrong direction." The "major new" poll, "conducted in the first week of January after the successful Dec. 15 parliamentary vote, found that Iraq's Shi'ite Arabs and ethnic Kurds remain far more optimistic about the country's future compared with the minority Sunnis, who dominated Iraq under Saddam Hussein." It "offered both good and bad news for the Bush administration. The Dec. 15 vote produced a spike of optimism among Iraqi Shi'ites and Kurds, while Sunnis continue to reject the legitimacy of the new government being formed in Baghdad."

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Death Toll For British Soldiers In Iraq Reaches 100. The AP (2/1) reports, "A British soldier was killed in a roadside bombing Tuesday, the second member of the country's armed forces to die in Iraq in as many days and the 100th fatality since the conflict began nearly three years ago, officials said." The New York Times (2/1, Worth, 1.19M) in its article on the latest violence in Iraq notes, "Southern Iraq has generally been much more peaceful than other areas, but in recent months tensions have grown between the British and the Shiite militia members. A rising number of soldiers have been killed and wounded in roadside bombings, and Basra's provincial governor, Muhammad al-Waeli, has twice threatened to cease cooperating with British forces after they detained groups of Iraqis."

Bloomberg (2/1) adds, "A total of 77 members of the U.K. forces have been killed in action and 23 have died from illness, non-combat injuries, accidents or unknown causes, the ministry said on its Web site. About 230 soldiers were injured in combat, the spokesman said."

Foreign Minister Denies Report Japan Would Complete Troop Withdrawal In May. The AP (2/1, Reid) reports, "Japan's Kyodo News agency said Tokyo will begin withdrawing troops from Iraq in March and complete the pullout by May, ending its largest military mission since World War II. Japanese Foreign Minister Taro Aso denied the report, saying no specific timetable had been discussed." The AP adds, "Kyodo said an agreement on the timetable had been reached during a secret meeting among officials from Australia, Britain, Japan and the United States." But a British Ministry of Defense spokesman "said he was unaware of such a meeting but that London speaks to its coalition partners frequently."

Saddam Trial To Resume Despite Absence Of Defense Lawyers. The New York Times (2/1, Worth, 1.19M) in its article on the latest violence in Iraq notes, "Court officials announced Tuesday that the trial of Saddam Hussein would resume Wednesday, though it was not clear who would be in the courtroom. Mr. Hussein's chief lawyer, Khalil al-Dulaimi, said he and the rest of the defense team would not return after they walked out in protest on Sunday." But new chief judge Raouf Abdel-Rahman "may not allow them back in even if they want to return. Judge Abdel-Rahman ejected Mr. Hussein and the other three lead defendants from the courtroom on Sunday, and it will be up to him to bring them back or not."

Kurds Attempt To Block Spread Of Avian Flu. The New York Times (2/1, Oppel, 1.19M) reports, "Urging villagers in the border areas to cull their poultry was one tactic Kurdish authorities adopted to try to prevent bird flu from spreading south from Turkey, after an outbreak was reported there in December." Officials "also outlawed the sale of live chickens in many places and banned the import of poultry raised or processed in Turkey. Vehicles crossing the border are now sprayed with disinfectant in case they have traces of bird feces, while passengers and drivers are checked for symptoms." But "given the close commercial ties to Turkey and the prevalence of chickens in the villages, where eggs are a crucial source of food and income, public health experts had warned it was only a matter of time before the disease spread."

Australia Blocks US Inquiry Into Oil-For-Food Scandal. Bloomberg (2/1, Daley) reports, "Foreign Minister Alexander Downer said Australia opposed a U.S. congressional inquiry into allegations AWB Ltd., the nation's monopoly wheat exporter, paid kickbacks to Saddam Hussein's former Iraqi regime." Downer said, "We were concerned an American congressional or senate inquiry would be an inquiry driven substantially by American commercial interests. … The U.S. is our principal competitor on the international wheat trade."

ABC Reporters Wounded In Iraq Arrive In US For Treatment. The New York Times (2/1, Landler, 1.19M) reports, "The ABC News anchor and cameraman wounded in a roadside bombing in Iraq arrived Tuesday night at the National Naval Medical Center in Bethesda, Md., after a brief stay at a military hospital in Germany." One "doctor who treated both of them in Germany said Tuesday that the men had made 'remarkable' progress since being admitted there Monday. The anchor, Bob Woodruff, has been able to move his fingers and toes, said the doctor, Lt. Col. Guillermo Tellez, the chief of surgery at Landstuhl Regional Medical Center."

Wounded Veterans Face Lifetime Of Recovery. The CBS Evening News (1/31, story 9, 2:45, Schieffer) reported, "With the number of wounded in Iraq and Afghanistan now topping 16,000, we wanted to know how the government is treating these heroes when they return home." CBS (Martin) added, "Walk into the physical therapy room at Walter Reed Army Medical Center and you know this is a nation at war. No matter how many times you come here, there's no getting used to so many young Americans missing so many limbs." And "Whether they're in the VA system or at Walter Reed, the casualties of Iraq will be fighting this war for the rest of their lives."

50,000 US Troops Have Been Retained Under "Stop Loss" Policy. The Christian Science Monitor (2/1, Regan, 61K) reports in its "Terrorism and Security" column, "'Stop-loss,' a policy used by the Army to keep US

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soldiers and reservists in the military beyond the date when their service was supposed to end, has been used on more than 50,000 members of the armed forces since the war in Iraq began. Currently stop-loss is being used to extend the duty of 12,500 troops. Reuters reports that the measure applies to units about to deploy to Afghanistan or Iraq. Under the policy, soldiers who normally would leave when their commitments expire must remain in the Army, starting 90 days before their unit is scheduled to depart, through the end of their deployment and up to another 90 days after returning to their home base. With yearlong tours in Iraq and Afghanistan, some soldiers can be forced to stay in the Army an extra 18 months. The military argues that it is a necessary step to preserve the cohesive nature of a unit, especially one ready to fight, and courts have backed the military so far in any challenges against the policy. But critics say it is just another illustration of how stretched out the US Army and reserves have become, and that could undercut increased effort to attract new recruits."

Massachusetts National Guard Soldiers File Lawsuit To Recoup Costs. The Christian Science Monitor (2/1, Llana, 61K) reports, "After 9/11, hundreds of thousands of America's part-time soldiers answered the call to serve. Along the way, some have asked whether the costs they bear -- from insufficient body armor to mounting debt for their families at home -- is fair." But Massachusetts National Guard soldiers "have filed a class-action lawsuit claiming they are owed $73 million in food, lodging, and commuting expenses they paid out-of-pocket while activated under state orders to protect sites such as military bases and reservoirs from terrorist attacks." It "is believed to be the first of its kind nationally, and raises new questions about what the government owes its men and women in uniform."

Proposal To Disperse Special Ops Oversight Could Face Congressional Opposition. The Hill (2/1, Tiron) reports, "A Bush administration proposal to fold a civilian office tasked with oversight of the Pentagon's special-operations forces could face stiff resistance in Congress." According to Hill sources, "Secretary of Defense Donald Rumsfeld is considering a proposal to eliminate the office of the assistant secretary of defense for special operations and low-intensity conflict (ASD SO/LIC) and spreading its responsibilities across other Pentagon offices." If Rumsfeld "agrees to the idea, the Pentagon would face an uphill battle in getting the plan endorsed by Congress." The Hill notes, "Sources familiar with the dynamic in the office of the undersecretary for policy said that infighting and tension between" Ryan Henry, the principal deputy undersecretary of defense for policy, "and the assistant secretary's office could have led to the several proposals made so far to change or disenfranchise the office. However, others point out that the office is not without its own faults." One former government official said, "A lot of the SO/LIC problems are self-inflicted. … SO/LIC has missed opportunities to transform the special-operations forces."

In 1999, UN Report Noted Human Rights Abuses In Iraq. In its "History Lessons" column, the Washington Times (2/1, 90K) excerpts a March 31, 199 release from the UN Information Service which said, "Max van der Stoel, Special Rapporteur on the situation of human rights in Iraq, introducing his annual report, said that over the past eight years, he had submitted almost one thousand pages of reporting on this topic, and all the while serious human rights violations had continued without the slightest indication of any change in the Iraqi Government's policy or of any effort or intention to improve the situation. All the while, the Government had simply denied everything. Mr. van der Stoel said he now had the sad duty to tell the Commission [on Human Rights] once again that there were credible allegations of numerous and systematic arbitrary executions in Iraq; interferences with the independent religious practices of the Shi'ite community; continuing internal deportations of ethnic Kurds; violations of the rights to food and health; and violations of the rights of the child."

CORPORATE SCANDALS:

Defense Attorneys Says Fraud Not Responsible For Enron Collapse. The CBS Evening News (1/31, story 7, :45, Schieffer) reported, "In Houston today, opening statements in the trial of Enron founder Ken Lay and former CEO Jeff Skilling. The prosecution said Skilling and Lay dumped their Enron stock before a massive fraud was exposed and the stock tanked. But defense attorneys said fraud what fraud? They said no books were cooked and Enron's bankruptcy was caused by what they said was a temporary drain on its liquidity."

NBC Nightly News (1/31, story 8, :45, Williams) reported, "Prosecutors say the company was a ticking time bomb in its last months and Lay and Skilling covered it up. Skilling's lawyer said there was no fraud involved in the Enron collapse, saying the company fell victim to an unanticipated cash crisis."

The New York Times (2/1, Barrionuevo) adds, "Daniel Petrocelli, Mr. Skilling's lead lawyer, vowed to attack the government's case by defending the allegedly fraudulent accounting that the government now says it will not focus on," and Michael Ramsey, Mr. Lay's lead lawyer "laid out a case that will blame outsiders, including short-sellers, The Wall Street Journal and Enron's own over-reliance on trading to produce profits, for stoking the crisis of confidence that led to

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the company's descent to the largest bankruptcy filing in history at the time."

The Washington Post (2/1, A1, Johnson) adds, "Defense lawyers for both men adopted an aggressive, all-or-nothing approach. Either their clients are guilty of every charge or none of them, they said. Both men, their lawyers vowed, would take the witness stand in their own defense."

USA Today (2/1, Farrell) adds that Ramsey's statement was "a burst of bravado that bordered on trash talking," and he concluded "by telling jurors that 'on the major issues in this case, we're going to kill them.'"

The AP (2/1, Hays, McClam) reports, "Former Enron Corp. chiefs are seeking much more than a 'not guilty' in the government's premier criminal trial to emerge from the company's stunning collapse. They want to exonerate Enron, too." The AP continues, "Their lawyers steadfastly asserted Tuesday that the men have committed no crimes, nor did they look the other way while minions cooked the books because Enron was never rife with corruption and greed. … 'This is not a case of hear-no-evil, see-no-evil,' said former CEO Jeffrey Skilling's lead attorney, Daniel Petrocelli, at times punctuating his opening statement by jabbing his finger at jurors. 'This is a case of there was no evil.'"

The Wall Street Journal (2/1, McWilliams, Emshwiller) also reported on this story.

Prosecution Trying To Make Simple Case Based On False Statements. The Financial Times (2/1, McNulty, Ward) adds that "government prosecutors alleged" Enron "'told lie after lie' about its financial condition." Prosecutor John Hueston, "keeping his arguments simple and avoiding unfamiliar business terminology," said, "This is not about accounting. It is about lies and choices."

The New York Times (2/1, Barrionuevo) adds that Hueston "said the government would focus not on the Byzantine accounting that many have attributed to the criminal activity inside Enron, but on the purportedly misleading statements that Mr. Skilling and Mr. Lay gave to investors in 2000 and 2001." He "painted a picture of a company whose stunning rise in profits was accounting 'hocus pocus.'" The opening statements made "clear that Enron's sudden failure — and the reasons behind it — were as much on trial here as Mr. Skilling and Mr. Lay."

USA Today (2/1, Farrell) adds, "In contrast to Ramsey's all-out assault, the government's opening argument Tuesday morning seemed almost understated."

The Wall Street Journal (2/1, McWilliams, Emshwiller) adds, "The two sides did agree on one fundamental issue: Messrs. Lay and Skilling were in charge at Enron and knowledgeable about the company's operations. They disagreed about whether those operations involved illegal activities."

The Chicago Tribune (2/1, Lazaroff) reports, "Lay and Skilling, Enron's top two executives, lied to investors and employees about the company's mounting financial problems as they sold millions of dollars worth of Enron stock, a government prosecutor told a packed federal court Tuesday. .. 'The two men at the helm of this company told lie after lie,' said Asst. U.S. Atty. John Hueston. 'Lies that deceived shareholders and lies that misled the public.'"

Texas Lawyer (2/1, Jeffreys) reports, "During his opening statements, Hueston said several former Enron employees who earlier pleaded guilty to criminal charges will testify at the trial, including Andrew Fastow, who was the chief financial officer; Ben Glisan, former treasurer; Mark Koenig, former head of investor relations; and Ken Rice, former head of Enron Broadband Services. Fastow pleaded guilty to one count of conspiracy to commit wire fraud and one count of conspiracy to commit wire and securities fraud. He awaits sentencing. … Petrocelli, Skilling's defense attorney, told jurors his client will testify. … 'You could not keep him off this witness list. He is going to tell you in his own words,' Petrocelli, a partner in O'Melveny & Myers in Century City, Calif., told jurors on Tuesday."

Bloomberg (2/1, Calkins) reports, "U.S. District Judge Sim Lake is presiding over the trial, whose outcome will be determined by a jury of eight women and four men. Lay is charged with seven counts of fraud and conspiracy, plus four counts of bank fraud that will be tried separately after the first trial. Skilling faces 31 counts of fraud, conspiracy and insider trading. The two men are presenting a joint defense."

Former Citigroup Exec Settles Insider-Trading Charges With SEC. The Wall Street Journal (2/1, Scannell) reports, "The Securities and Exchange Commission charged a former Citigroup Inc. senior vice chairman, Victor Menezes, with insider trading and agreed to settle the allegations for $2.68 million. … According to the SEC complaint, Mr. Menezes sold almost $30 million of Citigroup stock ahead of an earnings shortfall related to those losses. By selling stock before the announcement, the SEC alleges, Mr. Menezes avoided losses of more than $1.5 million. … 'We're very pleased to have reached an agreement with the SEC and to put the matter behind him,' said Elkan Abramowitz, his attorney."

USA Today (2/1, Smith) reports, "SEC enforcement attorney Scott Friestad, who brought the case, said Menezes 'knew significant negative information that the market did not.'" When he sold his share. USA Today also reports, "It is the latest unflattering episode at Citigroup during the final years under Sanford Weill, who stepped down as CEO last year and will relinquish his chairman's title this year. Citigroup amassed unparalleled size and scope in global markets but was implicated in lapses ranging from the Enron fraud to the Wall Street research scandal. Menezes, who quit in December 2004, was the bank's chief liaison to regulators

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when the SEC notified him of its probe in 2004." The article also notes, "if the SEC had chosen to prosecute Menezes, it faced the burden of proving he knowingly violated federal securities laws because he cleared the sale through Citigroup's legal department."

Documents Highlight Oracle Exec's Debt, Lifestyle. The USA Today (2/1, Swartz) reports, "Software billionaire Larry Ellison, one of the world's most conspicuous consumers, was advised to go on a crash financial diet four years ago as his spending soared on yachts and mansions. It's unclear whether Ellison, 61, heeded the advice from Philip Simon, his personal financial adviser, which surfaced in newly disclosed public documents in a shareholder lawsuit in San Mateo County. They show Simon warning that Ellison faced a possible financial crisis in 2002 if he didn't slash his $1 billion in personal debt, curb hundreds of millions of dollars in spending, and diversify his portfolio by selling some of his Oracle stock. … The documents show that by 2001-02, Ellison had racked up more than $1 billion in debt in loans for which he had pledged Oracle shares as collateral." The article notes, "The lawsuit was settled in San Mateo County Superior Court in November. Without admitting wrongdoing, Ellison agreed to donate $100 million to charity and paid another $22 million to the lawyers who sued him. The settlement is being appealed by a shareholder."

CRIMINAL LAW:

Key Government Witness Against Campbell Stands Firm Under Cross-Examination. The Atlanta Journal-Constitution (2/1, Scott, Warren, 430K) reports, "A key government witness who broke down in uncontrollable sobs while testifying for the prosecution against former Atlanta Mayor Bill Campbell didn't crumble Tuesday as defense attorneys fought to shake his story. Dewey Clark, a former mayoral aide who lived for years in Campbell's basement, held his ground during about five hours of grilling by defense attorney Jerry Froelich during Campbell's public corruption trial." The Journal-Constitution notes, "Froelich lacerated prosecution witness Michael Sullivan on the stand last week, but he couldn't shake Clark's story that he took cash from a city contractor, George Greene, and a nightclub owner, Michael Childs, and gave it to Campbell. … Froelich questioned why Clark didn't initially tell the FBI about the alleged bribes from Childs to the mayor when investigators first knocked on his door in 1999. Clark said he only told on his buddy Childs in 2000 after reading in the newspaper that Childs, upset he couldn't get the liquor licenses, was planning to hire a thug to beat up Campbell to send a message to the next mayor."

Libby Defense Lawyers Outline Likely Defense. Lawyers for Vice President Dick Cheney's former chief of staff Lewis Libby outlined his likely defense to charges he lied about his role in exposing the identity of IA operative Valerie Plame Wilson. The New York Times (2/1, Lewis, 1.19M) reports, "In papers filed in federal court, the lawyers strongly suggested they would argue that if Mr. Libby's statements to investigators were untrue, it was a case of innocent confusion or faulty memory because of his preoccupation with weightier national security matters at the time. … The lawyers for Mr. Libby said that the conversations Mr. Libby had with reporters in the summer of 2003 in which he might have discussed Ms. Wilson's association with the Central Intelligence Agency 'occurred in the midst of an unending torrent of meetings, briefings and discussions of far more urgent and sensitive issues, including for example, the detection and prevention of terrorist attacks against the United States,' bringing stability to Iraq and the spread of nuclear weapons in North Korea and Iran."

The Wall Street Journal (2/1, Squeo, 2.11M) adds, "In asking a federal judge to order the special prosecutor in the case to turn over certain documents, Mr. Libby's attorneys suggested they want to demonstrate the breath of 'urgent and sensitive matters' that he handled. The defense team wants copies of Mr. Libby's own notes, which the prosecutor took as part of the investigation, as well as morning intelligence briefings dating from May 2003 through March 2004 -- the time between the leak of former Central Intelligence Agency official Valerie Plame's identity and Mr. Libby's discussions with Federal Bureau of Investigation agents and grand-jury testimony."

The Washington Post (2/1, A5, Leonnig, 744K) adds that Libby's attorneys "also asked that the court require Special Counsel Patrick J. Fitzgerald to turn over any informal assessments conducted by the CIA to determine whether the leak of Plame's identity in July 2003 damaged national security or agency operations. … Defense lawyers argued in court papers that it is crucial to determine whether Plame was not an undercover operative at the time Libby was discussing her with members of the media, and whether little or no damage was done to national security when her identity was publicly disclosed. If either is true, the defense argued, it will 'challenge the prosecution's contention that Mr. Libby has reason to lie to the FBI and the grand jury about his conversations with reporters in July 2003.'"

Suspected Murderer Recaptured After Mistaken Release. The Los Angeles Times (2/1, Blankstein) reports, "A violent ex-convict suspected of slashing a man to death in the first murder in Beverly Hills in years was at large for four days after he was released from the Los Angeles County jail last weekend, apparently by mistake, officials said today.

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Nathan Hall, 50, was recaptured this morning in the parking lot of the Beverly Hills Police Station, in which his impounded car was being stored, authorities said. Sheriff's deputies, already under criticism over their administration of the county's troubled jail system, said that Hall had been released after an order to hold him for violating parole on previous convictions was lifted, according to a preliminary investigation. The action was taken at the direction of the California Department of Parole, according to the sheriff's department, and Hall was released Saturday morning. Corrections officials could not immediately be reached for comment."

US Indicts Former Bank Of China Officials In $485 Million Theft. CNN.com (2/1) reports, "Two former Chinese bankers and their wives were indicted in Las Vegas in connection with a massive scheme to steal and launder nearly half a billion dollars from the Bank of China, Justice Department officials announced Tuesday." CNN continues, "The former managers of the state-owned Bank of China are alleged to have been engaged in an elaborate plot in which they stole $485 million by running funds through front companies and financial institutions in Hong Kong, Vancouver and Las Vegas, officials said. They allegedly planned to immigrate to the United States with their wives and gain citizenship through schemes involving phony documents and sham marriages." CNN adds, "A federal grand jury in Las Vegas brought the new charges against the defendants, who were first jailed in September 2004 on charges of violating immigration laws for trying to illegally gain U.S. citizenship. … A third Chinese banker involved in the alleged conspiracy has pleaded guilty in Las Vegas and returned to China, where he is being prosecuted for embezzlement and bribery." CNN notes, "In Washington, Assistant Attorney General Alice Fisher issued a statement commending prosecutors for untangling what she called a 'complex scheme of racketeering, money laundering and fraud'. … 'We will continue to work closely with our international partners to make sure that the United States is never seen as a haven for criminals to launder the proceeds of their illegal conduct,' Fisher said."

Reuters (2/1) also reports on the indictments.

Former Wal-Mart Exec Pleads Guilty To Wire Fraud, Tax Evasion. The Wall Street Journal (2/1, Zimmerman) reports, " Former Wal-Mart Stores Inc. Vice Chairman Thomas Coughlin, who left the company amid accusations he misappropriated as much as $500,000, pleaded guilty yesterday to federal wire-fraud and tax-evasion charges. A company icon who had worked closely with founder Sam Walton, Mr. Coughlin, 57 years old, is expected to spend at least two years in prison after a presentencing report is finished in about three months. Federal prosecutors made a sentence recommendation in their plea agreement with Mr. Coughlin. However, U.S. District Judge Robert Dawson sealed the plea agreement, saying he was concerned about pretrial publicity." The article notes that the former No. 2 Wal-Mart executive "took home millions of dollars in compensation," but "secretly had the retailer pay for a range of his personal expenses, including part of a hunting lease, handmade alligator boots and contact lenses."

The AP (2/1, Kabel) reports, "The judge ordered a presentencing report that will take up to four months to prepare. … Wal-Mart lawyers referred Coughlin to federal prosecutors after discovering Coughlin had embezzled money from the company and used expense vouchers to buy products as varied as snakeskin boots, hunting trips and Bloody Mary mix. They estimated losses at up to $500,000. … In federal court, Coughlin spoke only when he was asked questions by U.S. District Judge Robert Dawson. Afterward, defense lawyers issued a statement in which Coughlin accepted responsibility for 'serious personal mistakes in judgment.'"

Five Dead In Postal Facility Shooting. Several papers report on a former postal employee's shooting rampage in California on Monday, where a woman killed five former co-workers and critically wounded another. All of the papers mention that this may be the deadliest workplace shooting carried out by a woman. In addition to offering details of the shooting from witnesses, all include background both on the incident and on the woman's history at the Post Office. Additionally, all of the newspapers recall the spate of postal shootings of the late 1980s and early 1990s, which spawned the phrase "going postal." Of the papers, only the New York Times and USA Today identify the shooter.

The New York Times (2/1, Archibold) reports, "A woman who had left her Postal Service job because of psychological problems shot and killed five former colleagues and critically wounded another at a sorting plant here Monday night before fatally shooting herself, the authorities said Tuesday. The woman, identified as Jennifer Sanmarco, 44, of Grants, N.M., a former employee of the Santa Barbara Processing and Distribution Center, confronted employees with a 9-millimeter handgun, the authorities said. The 80 or so employees in the building fled as she fired, reloading at least once, said Sheriff Jim Anderson, of Santa Barbara County. The authorities had not determined if she was selecting the victims, all women except one, or shooting at random in what was one of the deadliest rampages at a Postal Service building. After working as a sorting clerk for six years, the woman went on medical disability for unspecified mental problems in June 2003 after co-workers reported her acting strangely and called sheriff's deputies, postal authorities said."

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Coverage includes step-by-step accounts of the shooting, sourced to the local sheriff's department. For example, the Los Angeles Times (2/1, Chawkins, Muskal) reports, "According to the Sheriff's Department, the woman entered the facility by car, apparently scooting her compact behind another car to get into the parking lot past the barrier. … Once in the parking lot, she shot two women. One died and the other remained in critical condition today with a gunshot to the head, Anderson said. The shooter then went through the parking lot killing another person. She used a key card to enter the building, and another body was recovered just inside the door, authorities said. Farther inside the building she shot two more people before turning the 9-millimeter pistol on herself." The Los Angeles Times also names the victims.

Also typical of coverage is quotes from local officials. All of the papers included comments from Goleta Mayor Jonny Wallis. For example, the Washington Post (2/1, A3, Geis) reports, "Goleta Mayor Jonny Wallis expressed shock and sorrow at a news conference. 'An act of violence is always a shock to the soul, but especially in a small community such as ours, where our neighbors are our friends and where violence of any kind is extremely rare,' she said. 'A day at the office should not result in death.'"

USA Today (2/1, Kasindorf) leads with the shooter's gender. The article says, "The shooting deaths of five people by a former postal worker may have been the worst U.S. workplace murder ever committed by a woman, according to experts in on-the-job violence. … Northeastern University criminologist James Alan Fox said it was highly unusual for such an act to be committed by a woman. The incident was also the first fatal shooting at a postal installation since a letter carrier shot and killed a postal clerk in Dallas in 1998." The article also notes, "Postal installations were the sites of several high-profile shootings during the mid-'80s and early '90s. The Goleta incident was the worst since a 1986 rampage in Edmond, Okla., in which a letter carrier killed 14 people."

Report Recommends Moratorium On Death Penalty In Georgia. The Fulton County Daily Report (2/1, Pollak) reports, "Because Georgia cannot 'ensure fairness and accuracy in every capital case,' it should implement a moratorium on executions and death penalty prosecutions, an American Bar Association study states." The Report continues, "Anne S. Emanuel, a Georgia State University College of Law associate dean who chaired the 21-member ABA team, said the state government should stop working on capital cases until it can address problems with jurors' application of mitigation evidence and the lack of free habeas corpus lawyers for indigent death row inmates. … 'We're not saying a death penalty is never appropriate,' said Emanuel. 'We're saying you should dot the I's and cross the T's.'" The Report adds, "Russ Willard, a spokesman for Georgia Attorney General Thurbert Baker, said the state's top lawyer opposes the moratorium recommended by the ABA report. … 'Our office continues to review the ABA report, but this appears to be a lobbying packet put together in an effort to have the Legislature make changes to the state process,' said Willard." The Report notes, "The ABA report said that one of the 21 members of the team, Harry D. Dixon Jr., a former U.S. Attorney for the Southern District of Georgia, did not agree with the call for a moratorium. … Among the problems cited in the 325-page report are inadequate pattern jury instructions on mitigation. … The study said that Georgia capital jurors often misunderstand the applicable burden of proof for mitigation, as well as the scope of mitigating evidence. Approximately 40 percent of the jurors interviewed for the study did not understand that any evidence could be used in consideration of mitigation. In addition, 62 percent thought the defense had to prove mitigating factors beyond a reasonable doubt. …

The report also criticized Georgia for not appointing counsel for state habeas proceedings, noting that only Georgia and Alabama do not provide indigent death penalty defendants with attorneys in such proceedings."

Relatives Of Red Lake Shooting Victims Frustrated By Meeting With US Attorney. The AP (2/1, Forliti) reports, "After nearly a year of waiting for details on a student's shooting rampage in which 10 people died on the Red Lake Indian Reservation, many victims' relatives said they were frustrated and angry after a private meeting with a federal prosecutor Monday." The AP continues, "Much of the case has been handled in juvenile court, which has kept information about the worst U.S. school shooting since Columbine out of public view, including the victims' families. … The March 21 shootings started at the home of Jeff Weise's grandfather, where Weise killed the older man and his companion. Weise then killed five students, a teacher and a security guard before killing himself at Red Lake High School in northern Minnesota." The AP adds, "U.S. Attorney Tom Heffelfinger refused to disclose details about Monday's meeting. … But he said he told family members about a federal report on school shootings that had several points relevant to the incident at Red Lake High. … 'One of those points is that in most school shooting situations, other people knew about the shooter's plan,' Heffelfinger said." The AP notes, "Those who attended said they learned 39 people knew Weise had planned the shootings and that four or five had more specific knowledge. … Heffelfinger would not confirm that, but said it's not illegal for people to do nothing if they know a crime is going to be committed."

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Rowland Testifies Before Federal Grand Jury In Continuing Corruption Probe. The New York Times (2/1) reports, "Former Gov. John G. Rowland of Connecticut appeared yesterday as a witness before a grand jury in Hartford in response to a subpoena from federal prosecutors, who continue to investigate corruption stemming from his time in office, according to Mr. Rowland's lawyers. … 'It was a full-day proceeding,' said R. Bartley Halloran, one member of Mr. Rowland's legal team." The Times continues, "Mr. Rowland, who pleaded guilty just over a year ago to conspiring to betray the public trust by taking improper gratuities, was taken to Hartford on Monday by federal agents from the federal prison in Loretto, Pa., according to his lawyers. He was allowed to change into a suit and tie before testifying, said Ray Levites, Mr. Halloran's co-counsel on the case. Mr. Rowland spoke without using notes, Mr. Halloran said. … 'He has testified and testified truthfully,' Mr. Halloran said yesterday. He declined to specify any of the topics under discussion, given the secrecy rules governing grand jury testimony."

The AP (2/1) reports, "Rowland was expected to be back at the Loretto Federal Correctional Institution Tuesday night and remain there to serve out his corruption sentence until his scheduled release on Feb. 12, said his attorney, R. Bartley Halloran. … 'Former Gov. Rowland appeared today pursuant to a lawfully issued subpoena and responded to questions,' Halloran told The Associated Press as he left the U.S. attorney's office at the federal building in Hartford Tuesday afternoon." The AP adds, "Rowland admitted accepting gifts from friends, employees and state contractors. He pleaded guilty on Dec. 23, 2004, to one count of conspiracy to steal honest services, a combination of mail and tax fraud. The plea stemmed from Rowland's acceptance of more than $100,000 in vacations and chartered trips to Las Vegas. … Last March, the former Republican governor was sentenced to one year and one day in federal prison, followed by four months of home confinement and three years of probation. Because of federal sentencing rules, Rowland is eligible to be released after approximately 10 months served." The AP notes, "Assistant U.S. Attorney Nora Dannehy, who led the Rowland probe, has said the public corruption investigation that ensnared Rowland and several others is not over. One outstanding matter includes millionaire businessman Robert V. Matthews, a longtime Rowland friend who prosecutors said purchased Rowland's Washington, D.C., condominium in 1997 through a straw buyer for twice its value."

Philadelphia FBI, Community Advocates Launch Crime Witness Outreach Program. The Philadelphia Daily News (1/31, DiFilippo) reports that many crime witnesses "are frightened by reports of witnesses who've been harmed, which is why local law-enforcement agencies and community advocates have united to launch an outreach program," Step Up, Speak Up "to encourage people to come forward." The program, announced Monday, "is a partnership involving the FBI-Philadelphia's community-relations unit, Mothers In Charge and Clear Channel Outdoors," and it "calls for town-hall meetings in high-crime areas…where law-enforcement officials will talk about crime-fighting efforts and the role of witnesses in thwarting thugs. … Community activists and cops also plan to hand out T-shirts emblazoned with the campaign's name and slogan: 'Step Up, Speak Up.' Supporters would like to see the…shirts replace the controversial 'Stop Snitchin' T-shirts that spurred the campaign. … 'Things are upside down if we allow that to take root in our community and allow it to be the mainstream,' said Jack Eckenrode, FBI agent in charge in Philadelphia. 'If you don't have a witness, you might as well just give it up. Not every case is built on wiretaps, and even the ones that are need witnesses.'" The News notes "campaign organizers speculate that some witnesses feel intimidated even when no actual danger exists. And they say many people have misconceptions about what cooperation entails. 'People think the FBI records and traces every phone call it receives,' FBI spokeswoman Jerri Williams said. 'We don't.'"

The Philadelphia Inquirer (1/31, Pompilio, 423K) reports, "Desperate to stem the problem of witness intimidation, local law enforcement officials are taking new steps to protect those who come forward, including working with the U.S. Justice Department to provide relocation services for witnesses in non-federal cases at no cost to the city. … The 'Step Up, Speak Up' campaign is more focused on education. … 'Soon, we hope we'll see our T-shirts being worn by the people who once wore the other T-shirts,' said Ron Hosko, assistant special agent in charge of the FBI's Philadelphia Office. Witness intimidation has been a continuing challenge for police and prosecutors nationwide and particularly in Philadelphia, where the widely held belief is, 'snitches get stitches.'"

Philadelphia Daily News Welcomes Program. The Philadelphia Daily News (1/31) editorializes, "Thanks to fear -- real and imagined -- and the mind-set of youths who value its gritty coolness rather than its pathetic message, the 'Stop Snitchin' slogan has resonated here and on T-shirts across the country. … Even by using billboards, brochures with snitching tips, community meetings and, of course, T-shirts, 'Step Up, Speak Up' will be a hard sell. … Nonetheless, we believe a vigorous and sustained campaign can entice reluctant witnesses and crime victims to step out of the shadows. And help make the city safer." The Daily News adds, "'Step Up, Speak Up' may not trigger a wave of cooperation at first, but over time we hope that it overtakes 'Stop Snitching' -- and that ratting out bad guys becomes the gritty, cool thing to do."

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Missouri Insurance Executive Sentenced To Prison For Mortgage Fraud. The AP (1/25) reports former St. Louis title insurance executive Thomas Kurzenberger Jr. "was sentenced Tuesday to six years in prison on a fraud conviction involving a $5.7 million mortgage fraud scheme, the U.S. attorney's office said." Kurzenberger "used customers' escrow deposits to support his drug habit and spent roughly $162,000 of customers' escrow funds at an adult night club in Sauget, U.S. Attorney Catherine L. Hanaway said."

US Adds Embezzlement Charges Against New York Money Manager. The New York Post (2/1, Smith, 624K) reports, "The feds have turned up the heat on former philanthropist and money manager Alberto Vilar, hitting him with new charges that add more alleged victims to his criminal case and could force him to cough up nearly $20 million. In the new indictment made public yesterday, Vilar…is accused of skimming money from four victims who'd trusted him with their fortunes — in addition to his friend Lily Cates, the estranged mother of actress Phoebe Cates. An additional securities- fraud charge also dramatically increases the potential financial penalties faced by the once-wealthy opera buff to $19.7 million.

Six Oregon Residents Indicted On Katrina Relief Fraud Charges. The AP (1/28) reports, "Asking for $2,000 in Hurricane Katrina relief assistance could cost six people up to 10 years in prison and $250,000 in fines." Portland residents Chantel Curry, Dominique Andrew, Virger Garland, Jennifer Jones, Trina Wilson and Steven Brown "were indicted by a federal grand jury Wednesday, each accused of a single count of receipt of stolen government property. Investigators said the six made false statements to qualify for $2,000 in relief along with $2,358 for rental assistance from the Federal Emergency Management Agency. … 'Whether we're talking about a few thousand dollars or a few hundred thousand dollars, our message is the same -- the FBI and their partners in law enforcement will be there and we'll find you,' said Dan Nielsen, FBI assistant special agent in charge for Oregon."

Builder Called To Testify Before Grand Jury About Work Done On Kerik Apartment. The New York Times (2/1, Rashbaum) reports, "A builder who helped renovate former Police Commissioner Bernard B. Kerik's Riverdale apartment has been called to testify before a Bronx grand jury about who paid for tens of thousands of dollars in work there, the builder's lawyer said yesterday." New Jersey authorities "said last November that Mr. Kerik had accepted more than $200,000 in work on the apartment from a construction company accused of having ties to organized crime while he helped the company pursue business with New York City." Kerik "was commissioner of the city's Department of Correction when the work was done in 1999 and 2000. … The builder who did the work, Woods Restoration Services, had told New Jersey authorities that he was paid more than $200,000 by" Interstate Industrial Corporation, "a large New Jersey construction company." New Jersey officials "have been trying to revoke the license of the construction company…to work at casinos in Atlantic City."

Washington State Ads On Sex Offender Sentencing Could Start Trend. Roll Call (2/1, Yachnin) reports that a television commercial in Washington state "almost looks like a second-coming of the infamous Willie Horton ads." The ads "warn residents about the state's 20,000 convicted sex offenders…then criticize the Democratic-led Legislature for refusing a vote on a GOP-proposed law on sentencing." When state Legislatures and Congress take up measures to strengthen punishment of sex offenders "in coming months, similar ads are likely to pop up elsewhere, as…will the inevitable game of political one-upmanship between the parties." Even now, "fights are…beginning to break out as lawmakers seek the mantel of 'tough on crime.'" The ad is being run by the Speaker's Roundtable, a political action committee tied to the state House GOP.

CIVIL LAW:

"Partial Birth Abortion" Law Declared Unconstitutional By Two Courts. The AP (2/1, Neumeister) reports, "Two federal appeals courts on opposite sides of the country declared the Partial Birth Abortion Ban Act unconstitutional Tuesday, saying the measure lacks an exception for cases in which a woman's health is at stake." The AP continues, "The first ruling came from a unanimous three-judge panel of the 9th U.S. Circuit Court of Appeals. Hours later, a three-judge panel of the 2nd U.S. Circuit Court of Appeals in Manhattan issued a similar decision in a 2-1 ruling."

The New York Times (2/1, Preston, 1.19M) adds, "Since the appeals court for the Eighth Circuit, in St. Louis, reached a similar conclusion last July, the three legal challenges nationwide to the abortion act have now been affirmed on appeal. This month the Supreme Court several times postponed deciding whether to hear the Eighth Circuit case."

Reuters (2/1) says the rulings "were setbacks to abortion foes. The decisions could be appealed to the Supreme Court, which has two new justices recently appointed by President Bush."

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The Alameda (CA) Times-Star (2/1, Richman) reports, "The 8th Circuit appeals court in St. Louis issued a similar ruling - also based solely on the lack of a health exception - in July, and the U.S. Supreme Court had been expected to announce soon if it will review that case as the Justice Department has asked. That announcement could be delayed if it seems the government will appeal Tuesday's rulings as well; the Justice Department is reviewing the new rulings, spokesman John Nowacki said."

The San Francisco Chronicle (2/1, Egelko) reports, "Supporters of the law said it would ban only a narrowly defined, rarely performed procedure that is dangerous, causes pain to the fetus and is never necessary to protect a woman's health. Opponents, including doctors who testified at a three-week trial in San Francisco two years ago, said the law was so broad and vague that it could prohibit the most common and safest types of abortions in the second trimester of pregnancy, when 10 percent of all abortions are performed."

Alito Stance On "Partial Birth" Considered. The Los Angeles Times (2/1, Weinstein, 958K) notes, "In 2000, the Supreme Court in the case of Stenberg vs. Carhart struck down a Nebraska law that prohibited the second-trimester abortions because it did not contain any exception when the health of the woman was at issue." New Justice Samuel Alito, "as a judge on the U.S. 3rd Circuit Court of Appeals, joined a majority in striking down a similar New Jersey abortion law. He wrote in a separate concurrence that he was bound by the Stenberg precedent." But "Eve Gartner, the lawyer for Planned Parenthood who successfully argued the case in the 9th Circuit, said today she did not take 'any comfort' from Alito's earlier vote." Gartner said, "As a 3rd Circuit judge, he was obliged to follow the law as the Supreme Court laid it out in Stenberg. … Now, as a Supreme Court justice, it is highly unclear whether he will consider himself bound by that precedent."

Connecticut Challenge To Motion To Dismiss NCLB Case Heard. The AP (2/1, Apuzzo) reports, "Attorneys for the U.S. Department of Education asked a federal judge Tuesday to throw out Connecticut's challenge to the federal No Child Left Behind law, saying the state understood the law when it accepted hundreds of millions of dollars in education funding." Connecticut Attorney General Richard Blumenthal "argued that the law was unconstitutional, an unfunded federal mandate costing more than the state received in federal aid." Connecticut "wants to continue its program for testing every other year, in grades 4, 6, 8 and 10, a request that Education Secretary Margaret Spellings has refused. Officials have estimated that the state will be saddled with a $41.6 million shortfall through 2008 to pay for additional testing and other provisions the bill requires. Justice Department attorneys, who represent the Education Department, countered that Connecticut knew the testing requirements when it accepted the money and is now trying to escape obligations under the law. U.S. District Judge Mark Kravitz did not rule on the motion to dismiss Tuesday." But "he suggested that siding with Connecticut in the case could allow other states to pick and choose which elements of the federal law to follow." Also "federal attorneys argue that Connecticut jumped the gun by suing before its appeals and reviews within the Department of Education were exhausted. Blumenthal countered that the risks of appealing through the Department of Education are too great because Spellings could withhold millions of dollars in education funding while the issue is debated." Kravitz said that "Spellings could avoid the need for the lawsuit by agreeing not to withhold federal education money while Connecticut challenges the law within the agency. He encouraged Justice Department attorney Elizabeth Goitein to bring that request to Spellings."

Reuters (1/31, Szep) reports, "The Bush administration's 'No Child Left Behind' policy will lead to 'dumbing down' tests in public schools because Washington has not fully funded the policy, the state of Connecticut said in a court hearing on Tuesday to try to block the program." Blumenthal said that "federal funding was not enough for the state to test in a way that maintains its high standards." U.S. Justice Department attorney Elizabeth Goitein said that "Connecticut was avoiding its obligations and was aware of the law's demands when the state accepted education funding from Washington."

WTIC-Radio Hartford, Connecticut (1/31) reports Blumenthal "says he hopes the case is resolved quickly."

WTNH-TV Hartford, Connecticut (1/31, Cusato) reported, "The Bush Administration's No Child Left Behind Act is getting some help tonight from a large voice. The NAACP was in court today asking a judge to let them join the federal government in defending the law." Connecticut NAACP President Scot X. Esdaile said, "We want Connecticut to educate the poor and minority children, not go around and create loopholes to get out of it."

WNPR-Radio Hartford, Connecticut (1/31, Orson) reported, "A U.S. District Court judge in New Haven heard oral arguments on the federal government's motion to dismiss the state's lawsuit."

Nickles Says Asbestos Trust Funds Should Be Allowed To Opt Out Of National Fund. Former Sen. Don Nickles, the founder of the Nickles Group, a lobbying firm, and spokesman for the Common Interest Group, which represents the interests of existing asbestos settlement trusts, in an op-ed in The Hill (2/1) writes, "The Senate will soon consider S. 852, a massive piece of

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legislation designed to compensate victims of asbestos exposure by establishing of a $140 billion national fund. However, there's an enormous problem: The bill, as reported by the Judiciary Committee, violates the Constitution and must be fixed. If it is not, it should be defeated." 1994 Congress allowed the formation of 524(g) settlement trusts which "have provided in excess of $5 billion in compensation, but "S. 852, however, would confiscate these assets. More than $7 billion currently set aside to compensate 524(g) beneficiaries would be taken from the trusts and paid to the national fund created by S. 852." Senators "should amend S. 852 to permit existing asbestos settlement trusts to opt out of the national fund. The trusts that choose to opt out could then continue to compensate their beneficiaries, and the national fund would compensate certain asbestos exposure victims for asbestos injuries that are not covered by those trusts."

Firm Hires D'Amato To Lobby Against Asbestos Trust Fund. The Hill (2/1, Schor) reports, "Simmons Cooper, among the nation's biggest asbestos-plaintiff law firms and Democratic donors, has made a strange new bedfellow in Alfonse D'Amato, the former GOP senator and trial-bar critic turned superlobbyist. Trial lawyers have been perennial targets for Republicans since D'Amato came to the Senate in 1980, criticized for clogging the judicial system and swarming businesses with needless litigation." D'Amato "is an unlikely ally for Simmons Cooper as its lawyers, 28 of whom belong to the influential American Trial Lawyers Association (ATLA), seek to derail the asbestos trust fund and preserve victims' right to sue in court after exposure to the deadly substance. ATLA backed only three Senate challengers in the 1998 election. One of them, then-Rep. Charles Schumer (D-N.Y.), beat D'Amato and took his job."

CIVIL RIGHTS:

FBI Launches Probe Of California Police Shooting. The Los Angeles Times (2/1, Pugmire, Keller) reports, "The FBI today launched an investigation of the shooting of an apparently unarmed man by a San Bernardino County sheriff's deputy which was caught on videotape and broadcast. … 'At our direction, the FBI today is opening an investigation,' said Thom Mrozek, spokesman for U.S. Atty. Debra Wong Yang, the highest ranking federal criminal justice official in Los Angeles. The Justice Department, through the FBI, has investigated some of the most flagrant instances of police misconduct in the last 10 years. … 'All I can say about the investigation is that we are looking into potential civil rights violations. I cannot give any timetable for the investigation,' Mrozek said." The Times adds, "The man who was shot three times was an Air Force security officer who, according to the videotape and neighbors, told the deputy that he was in the military and 'on your side.' … The videotape of the incident, which was shot on a residential Chino street about 10:30 p.m., was of poor quality, showing only a silhouette of the deputy and the face of the man who was shot — illuminated by the deputy's flashlight. … But the tape appears to show the deputy opening fire as the man was trying to comply with the officer's apparent order to stand up."

FBI Investigating Allegations Of Suspect Abuse By Michigan Police. Under the headline "FBI Probes Suspects' Claims Of 'Hooding'," The Detroit News (1/31, Lynch) reports, "The Federal Bureau of Investigation is looking into allegations against local law enforcement agencies that officers used the tactic of hooding -- placing pillow cases over the heads of detained suspects, which critics say amounts to psychological torture. Officials with the Macomb County chapter of the NAACP brought the allegations to the Michigan Department of Civil Rights in December, which has since forwarded the complaints on to the Detroit office of the FBI. NAACP officials said they have received complaints about three separate incidents where one or more people had hoods placed over their heads while in custody." The News adds, "On Monday, FBI Spokeswoman Dawn Clenney said: 'We're looking into it to see if there was a civil rights violation.'" Michigan Department of Civil Rights spokesman Harold Core "said his office forwarded the complaints to the Detroit office of the FBI since the federal agency was the proper authority to conduct the investigation," but Core noted, "That is not a statement as to this office's opinion of their veracity."

Anti-Gay Union Bill Provokes "Fiery Debate" In Maryland Legislature. The Baltimore Sun (2/1, Brewington, 296K) reports, "With a fiery debate that invoked God and civil rights, supporters and opponents of a constitutional amendment banning same-sex unions in Maryland squared off Tuesday in what has become one of the most politicized issues of the General Assembly session," pitting "religious leaders and conservative organizations" that favor the bill against "civil rights advocates, other clergy and constitutional law professors." Each side has "an eye on the November elections." Political experts say that "if a constitutional amendment appears on the fall ballot, conservative voters who tend to favor Republican candidates could be motivated to come to the polls in greater numbers." However, "other observers believe that left-leaning voters could be similarly motivated to protect what they view as civil liberties."

The Washington Post (2/1, B1, Mosk, 744K) adds that "lawmakers on both sides of the debate" said Del. Donald H. Dwyer Jr. (R), "sponsor of the amendment, "undermined his cause by drafting a proposal that would also eliminate rights

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long afforded to gay men and lesbians" through "local laws in Montgomery County and Baltimore." Also, "a law professor later said Dwyer's proposal was 'so incoherent and sloppy' that it could inadvertently outlaw divorce." The crowd at the hearing "was so boisterous at times that extra troopers from the Maryland State Police were brought in to ensure calm."

Coretta Scott King Remembered. All three network news broadcasts carried stories on the passing of Coretta Scott King and her impact on the civil rights movement in the US. NBC Nightly News (1/31, lead story, 2:30, Williams) reported, We begin tonight with an icon of the past several decades in this country, a woman who became a towering moral force and a symbol of the civil rights movement after the assassination of her husband. Coretta Scott king died today. She was 78 years old. She outlived her husband by 38 years, and in doing so became a major force in her own right."

ABC's World News Tonight (1/31, story 6, 2:50, Vargas) quoted Sen. Hillary Clinton saying, "She would often give you the feeling that we should keep out eyes on the prize. We should be committed to what is really important in our lives, our faith, our families."

The CBS Evening News (1/31, lead story, 2:00, Schieffer) reported, "Coretta Scott King was the matriarch of the civil rights movement, its symbol for many in the decades after Dr. King's death."

WPost Praises King. The Washington Post (2/1, A22, 744K) editorializes, "Mrs. King's death at 78, after a long illness, dims the lights in a movement that drew inspiration from the life's work of both her and her late husband. It would be a mistake to think of Coretta Scott King as mainly a minister's wife living in his shadow." Her "determination…marked her as someone special," and "the murder of her husband…only emboldened her to continue his work."

Brownback Says His "Fruits" Comment Was Misinterpreted. The Washington Post (2/1, C3, Argetsinger, Roberts, 744K) reports in its "The Reliable Source" column, "Several days have passed since we first called the office of Republican Sen. Sam Brownback of Kansas to ask just what he meant when he said in a Rolling Stone interview: 'You look at the social impact of the countries that have engaged in homosexual marriage. … You'll know 'em by their fruits.' Now he has an explanation: He was misinterpreted. The senator released a statement Monday saying he 'was in no way referring to sexual orientation.' His paraphrase of Matthew 7:16 was part of a conversation about faith and deeds, according to the statement, and not an attack on homosexuals."

ANTITRUST:

North Carolina Governor Seeks DOJ Probe Of Gas Company Profits. The AP (2/1) reports, "North Carolina's governor has asked President Bush to formally investigate gas companies' record profits in 2005." The AP continues, "In a letter sent Tuesday, Gov. Mike Easley also asked Bush to authorize Attorney General Alberto Gonzales to investigate gas companies and their record profits. … 'This is a problem that transcends state boundaries and requires action by the federal government,' Easley wrote. 'I am writing to urge you to take decisive action to investigate the sources of these record-breaking profits, punish any wrongdoing that may underlie them, and most important, take immediate steps to reverse this situation and lower the amount consumers pay to the oil companies.'" The AP adds, "Easley specifically mentioned Exxon Mobil's announcement this week that its 2005 profit was $36 billion, the largest profit any company has earned in the history of the United States. … Easley said an investigation should require oil industry executives to testify under oath, unlike in November, when they testified before Congress, but not under oath."

WSJournal Opposes Additionally Taxing Oil Companies Profits. The Wall Street Journal (2/1, 2.11M) editorializes, "Exxon is guilty only of responding to a market need, and its earnings are nothing to apologize for." While some "politicians and many of our friends in the press imply that Big Oil is somehow responsible for higher prices because of 'gouging' or somehow conspiring to withhold supply," each "time the Federal Trade Commission looks into these claims, it finds no evidence to support them." The high energy prices reflect "political uncertainty in some major oil-producing countries," and "the worst way to respond…is by robbing the profits that the companies need to diversify global oil supplies." As it is "an election year, we can expect this sort of political posturing to get worse. It's a special shame, however, that some in the media have decided to join the demagoguery in search of higher TV ratings."

FTC Approves Time Warner-Comcast Purchase Of Adelphia Assets. Dow Jones (2/1, Hughes) reports, "The Federal Trade Commission Tuesday cleared the acquisition of Adelphia Communications Corp. cable assets by Comcast Corp. and Time Warner Cable Inc., amid objections that the purchase would raise the cost of sports programming. … 'The evidence obtained during the investigation does not suggest that the proposed transactions are likely to substantially lessen competition in any geographic region in the United States,' said FTC Chairman Deborah Platt Majoras. She and two fellow Republicans approved the purchase over the objections of two colleagues

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who argued the government should have imposed conditions." Dow Jones continues, "Comcast and Time Warner last April agreed to acquire Adelphia's assets after the company collapsed in an accounting scandal. As part of the transaction, the two cable giants would swap certain cable systems, giving both companies more clout by strengthening their geographic clusters of subscribers." Dow Jones adds, "The transaction still faces approval by the Federal Communications Commission. The two dissenting commissioners, Democrat Jon Leibowitz and Independent Pamela Jones Harbour, raised hope that the FCC may scrutinize the acquisition more carefully. … FTC Chairman Majoras joined Commissioners William Kovacic and J. Thomas Rosch in saying that the FTC would be 'vigilant' and 'take action under the antitrust laws' if evidence emerged that Comcast or Time Warner were engaging in anticompetitive conduct that harmed consumers. They also said that the FTC's investigation didn't show that the purchase of Adelphia's assets would harm competition and that as a result it wasn't 'appropriate' to impose conditions."

EU Antitrust Chief Says Microsoft Must Prove Innovation To Charge Fees. The AP (2/1) reports, "The European Union's antitrust chief says Microsoft cannot charge licensing fees for software blueprints that it is offering to share with competitors unless it can prove the computer code is innovative." The AP continues, "The official, Neelie Kroes, also told European lawmakers on Tuesday that she has not yet received all information on Microsoft's offer to share software code and comply with a 2004 EU antitrust ruling." The AP adds, "Microsoft Corp. has until Feb. 15 to meet European Commission demands from December that it provide complete and accurate information on code that would allow competitors' products to communicate smoothly with servers running Microsoft operating systesms. … EU antitrust regulators have threatened Microsoft with daily fines of 2 million euros ($2.36 million), retroactive to mid-December, if it fails to comply by the deadline."

Kroes Not Opposed To Mittal-Arcelor Merger. The AP (2/1, White) reports, "European Union antitrust chief Neelie Kroes said Tuesday she was not in principle opposed to large steel merger such as Mittal Steel Co.'s bid for Arcelor SA and would meet with steel magnate Lakshmi Mittal this week. … 'I am not shocked by big, little or small mergers,' she told the European Parliament's economic and monetary affairs committee." The AP continues, "The EU's Executive Commission had not yet received a formal request by either company to clear the merger and Kroes said she would look at it carefully in line with EU competition rules. … 'We have not received all the facts and figures. ... We will do the job properly, not with emotion,' she said." The AP adds, "Kroes will meet with Mittal chairman and CEO Lakshmi Mittal on Wednesday to discuss the unsolicited 18.6 billion euros ($22.5 billion) offer he made for Arcelor last week. … Arcelor, meanwhile, warned against its predator's 'irregular' profitability, pledging to consider 'all options' to foil the hostile bid."

Mobile Email Patent Battles Spread To Two More Companies. The USA Today (2/1, Kessler) reports, "Mobile e-mail addicts, already nervous about a lawsuit that threatens to shut down BlackBerry service in the USA, have another reason to fret: BlackBerry's biggest rival was hit with a similar lawsuit Tuesday. Visto, a maker of mobile e-mail systems for cellphone carriers, sued rival Good Technology in U.S. District Court. Visto claims Good has violated several patents dating to 1997. Good sells e-mail products for the Palm Treo, Hewlett-Packard iPaq and other handheld devices." However, according to the article, "Customers shouldn't rush out to replace e-mail gadgets just because they're jittery." The article includes background information on litigation between Research In Motion and NTP over patents involved with the BlackBerry. The article also says, "The lawsuits raise questions about whether U.S. courts make it too easy for companies to threaten to shut down rivals' businesses, says lawyer Jeffrey Berkowitz at Finnegan Henderson Farabow Garrett & Dunner in Washington, D.C."

Luxembourg Rejects Mittal Bid For Arcelor. The Wall Street Journal (2/1, Echikson) reports, "Luxembourg's prime minister said his country rejected Mittal Steel Co.'s €19.43 billion, or about $23.48 billion, hostile bid to acquire rival steelmaker Arcelor SA, citing worries over the fate of 6,000 Arcelor employees based in that country. But Prime Minister Jean-Claude Juncker conceded that his powers to block the deal were limited because Luxembourg owns only 5.6% of Arcelor's shares. Meanwhile, the European Union's antitrust chief said she wasn't in principle opposed to a large steel merger, giving Mittal bid's continued life. … The cash-and-stock bid, announced Friday, would create a new global steel giant. In Paris Tuesday, shares of Arcelor fell 85 European cents, or 2.9%, to €28.90 each. In Amsterdam, Mittal fell 49 European cents, or 1.7%, to €29.20." The article also notes that while French Finance Minister Thierry Breton "disparaged" the Mittal offer, the French government "owns no part of Arcelor and analysts say it will find it dangerous to intervene, and would risk undermining its credibility to block even more sensitive deals it dislikes."

Column Decries Anti-"Biopiracy" Proposals. In an op-ed in the Wall Street Journal (2/1) Alan Oxley raps India, Brazil, and African countries for trying to alter the World Trade Organization's rules on patents. Oxley writes, "Their complaint is that current patent law permits 'biopiracy.' Their

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scenario is that multinational companies, typically pharmaceutical manufacturers, secure local natural plants or substances in foreign countries for a pittance, convert them into profitable blockbuster drugs, protect them with patents and pile up the profits. The 'traditional owners,' often indigenous peoples, of these 'genetic resources' are allegedly left with little in return. … In the name of fighting biopiracy, India wants governments to have the right to authorize any use of a patented product based on or derived from a genetic resource found in their territory." As an example, Oxley cites India's neem tree, which contains a natural fungicide. Oxley writes, "If the WTO rules were amended as India wants, its approval would be necessary before another country could grant a patent on any product or process involving the neem tree. This clearly would produce a chilling effect on innovation." Oxley says no investor would risk his money under such laws, and advocates market agreements to compensate host governments when companies seek patentable matter while "bioprospecting." Oxley concludes, "Officials in countries that want to lock onto high-growth strategies and foster investment that will bring the latest and most productive technology should be wary about this anti-patent law campaign."

ENVIRONMENT/INDIAN AFFAIRS:

Davis-Besse Plant Worker Indicted For Falsifying Reports. The Milwaukee Journal Sentinel (2/1, Content) reports, "A nuclear power plant employee indicted on suspicion of misleading federal regulators about the condition of a troubled Ohio plant later moved to Wisconsin, where he worked for the past three years at the Kewaunee nuclear plant." The Sentinel continues, "David Geisen of De Pere is scheduled to be arraigned this afternoon in federal court in Toledo, Ohio, on five charges of falsifying reports to the Nuclear Regulatory Commission. He is one of three people who worked for the Davis-Besse nuclear plant who have been indicted on charges of filing reports that concealed problems at the plant outside Toledo." The Sentinel adds, "Geisen was part of a group of Davis-Besse workers who left FirstEnergy in fall 2002 as part of management changes that resulted from an intensive NRC investigation of problems at the plant. … The NRC and federal Justice Department indictment contend that Geisen, then Davis-Besse's engineering manager, and other workers at Davis-Besse gave incomplete, misleading and false information concerning the condition of the vessel head and the nozzles inside it, after NRC inspectors raised concerns that plants such as Davis-Besse might have leaks. … If that information had been disclosed earlier, the plant would have been shut down sooner, officials said."

Northwest Ecoterror Suspect Released On Bond. KMAX-TV Sacramento (1/31) reports on its Web site, "One of the three people accused of plotting to blow up cell phone towers and a power plant in Auburn is set to be released on bail. The parents of Lauren Wiener put up a $1.2 million bond on their home to get their daughter out of jail." Wiener "is the only one of the 3 eco-terror suspects arrested in the case to be allowed bail. The FBI says the arrests were based on evidence that the three were plotting to use explosives to blow up several sites. … Although, the FBI says they do not believe there was any immediate danger to the public."

MSHA Nominee Says Mine Safety Laws Are Adequate. USA Today (2/1, Frank, 2.31M) reports, "President Bush's choice to oversee coal mines said Tuesday that safety laws are 'adequate' and that problems result from mine operators that ignore safety regulations." During a confirmation hearing in the Senate, Richard Stickler said, "A small percentage of operators comply with the law when (inspectors) are at the job site, but that's the only time they try to comply with the law." Facing "sharp questioning from Democrats, Stickler, a former coal miner, declined to endorse new safety measures such as increasing the number of mine-rescue teams." Sen. Edward Kennedy "said that Stickler 'is not someone with an extensive background in safety and health issues' and that he will vote against the nomination." And Sen. Hillary Rodham Clinton "voiced frustration when Stickler told her that he'd 'do an in-depth analysis' of safety regulations that had been proposed when her husband was president but were dropped by the Bush administration. 'It's troubling…that once again we're going to be studying what's self-evident: We need improvements.'"

The New York Times (2/1, Urbina, 1.19M) adds that committee chairman Sen. Michael Enzi "endorsed the administration's preference that oversight agencies work in partnership with industry rather than act as taskmaster." Yet "Senator Patty Murray…pressed Mr. Stickler on whether he would be willing to push the agency, which has been criticized as lax in enforcing its own regulations, to play a tougher role. 'Are you going to move forward in an aggressive direction,' Ms. Murray asked, 'or are we going to hear more of the voluntary philosophy of they will do the right thing if we just sit back and let them?'"

Jenkins Says There Isn't Proof Global Warming Is Real. Holman W. Jenkins, Jr. writes in his column in the Wall Street Journal (2/1, 2.11M), "As used by the media, 'global warming' refers to the theory not only that the earth is warming, but doing so because of human industrial activity." However, "measuring average global temperature is not an easy matter," and "how do we know it's manmade?"

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Scientists have to use "elaborate computer models…before they can plausibly suggest…that the net effect of increased carbon dioxide is the observed increase in temperature." Any "diligent layperson is equipped to doubt any confident assertion that manmade warming is taking place." Therefore, ", inevitably and unfortunately, today's debate over global warming revolves almost exclusively around the status and motives of spokesmen for opposing viewpoints, rather than the science and its limits."

Michigan Tribe Joins DOJ In Asking Court To Dismiss Casino Suit. Indian Country Today (1/31, Toensing) reports, "The Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians joined the Justice Department Jan. 6 in asking a federal court to dismiss a lawsuit that seeks to block the Interior Department from taking land into trust for the tribe's proposed casino in southwestern Michigan." ICT continues, "The lawsuit was filed by MichGo, one of the dozens of anti-casino groups that have sprouted up around the country over the past several years. MichGo, which stands for Michigan Gambling Opposition, filed a lawsuit last year challenging Interior's final approval of the tribe's land-into-trust application." ICT adds, "The 300-member Match-E-Be-Nash-She-Wish Band, known as the Gun Lake Tribe, was federally acknowledged in 1999. The tribe plans to develop a casino and entertainment complex in Wayland Township on 147 acres of trust land. … 'We are very hopeful the court will concur with our position that MichGo's claims have no merit. We appreciate the help from the Department of Justice in defense of the tribe's federal rights. Gun Lake is trying to restore our reservation less than three miles from our homelands in Bradley,' said Tribal Chairman D.K. Sprague. … On the same day Gun Lake filed for a summary dismissal of MichGo's lawsuit, the Pokagon Band of Potawatomi - Gun Lake's cousins and neighbors - learned that the federal Court of Appeals in Washington, D.C., had tossed out an identical lawsuit that sought to delay its efforts to develop Four Winds Casino Resort on 675 acres in New Buffalo Township in southwestern Michigan."

FBI/DEA/ATF/USMS:

Four Accused In Mail-Order Drugs Case. The Knoxville (TN) News Sentinel (2/1, Satterfield) reports, "Richard Kato Robinson admitted he had shipped a half-ton of marijuana and a quarter-ton of cocaine from California to Knoxville in three years - all by mail. At a hearing in U.S. District Court on Tuesday prosecutors "unveiled an indictment against the man authorities allege not only put all those illegal goodies in Robinson's packages but had even more customers on his mailing list. Vicente Corona was nabbed Jan. 9 in California and is headed back to Knoxville to face charges in connection with a massive mail-order drug business. Also named in the indictment unsealed…Tuesday were two alleged Corona minions - Jermaine 'Pretty Boy' Hughes and Dennis 'Raggs' Richardson. … The case began in earnest nearly a year ago when California authorities found drugs inside packages addressed to a vacant house…in Knoxville. Investigators with the Knoxville Police Department's Organized Crime Unit and agents with the U.S. Drug Enforcement Administration wound up delivering the packages to that vacant house and then waited for someone to show up to collect them."

Convicted Arkansas Drug Ring Leader Gets 12-Year Prison Sentence. The Fort Smith (AR) Southwest Times Record (1/31) reports, "A Logan County man who authorities said was the leader of a drug ring that shipped large amounts of marijuana into Arkansas was sentenced Monday to 121/2 years in prison. … Bollinger and 10 other people were indicted in May as a result of an investigation by the federal Drug Enforcement Agency and several other agencies that began in 2001. Authorities said Bollinger was in charge of an operation that shipped marijuana from California to Arkansas and distributed the marijuana primarily in Logan County."

Drug Case Gets First Jury Trial In New Orleans Since Katrina. New Orleans Times-Picayune (2/1) reports, "In the first jury trial in U.S. District Court in New Orleans since Hurricane Katrina, a 40-year-old man was convicted Tuesday of selling crack cocaine to a Drug Enforcement Administration undercover agent at Lakeside Shopping Center in Metairie and in a Wal-Mart parking lot in Boutte in May 2004. The DEA seized more than 100 grams of crack cocaine from Mervin Spencer after the undercover operation, U.S. Attorney Jim Letten said. U.S. District Judge Helen Berrigan scheduled sentencing for April 12. Spencer faces a mandatory life sentence and fines amounting to $12 million, along with other penalties, in connection with Tuesday's guilty verdict."

Santa Cruz Seeks Federal Court's Approval Of Medical Marijuana Plan. The San Jose Mercury News (1/31, Mclaughlin) reports, "The city of Santa Cruz and a local medical marijuana collective on Tuesday asked a federal court in San Jose to approve the city's plan to provide marijuana directly to sick and dying patients. The amended complaint represents a renewed legal fight to force the U.S. government to honor medical marijuana laws passed by California and 11 other states. The American Civil Liberties Union, Drug Policy Alliance, the national law firm of Bingham McCutchen and a handful of private attorneys filed legal documents outlining new constitutional arguments based on

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an ordinance recently enacted by the Santa Cruz City Council creating the first medical marijuana department in the country. The department is known as the Office of Compassionate Use, but the city has made clear it has no intention of actually distributing marijuana unless it wins the legal battle."

Florida Doctor Convicted Of Patient Deaths From Painkiller Overdoses. The Lakeland (FL) Ledger (1/31) reports, "A federal jury convicted an Apalachicola doctor Monday of causing the deaths of five of his patients through overdoses of highly potent painkillers including morphine and oxycodone. Dr. Thomas G. Merrill was convicted on 98 of 100 counts, including illegally dispensing controlled substances, defrauding health care benefit programs and wire fraud. Merrill's lawyer, Jim Appleman, said he would appeal the conviction." The AP (1/31) notes, "Prosecutor Stephen Kunz told jurors that Merrill's practice became a destination for drug seekers throughout Florida. Kunz said Merrill wrote 33,000 prescriptions from January 2001 to May 2004 and 81 percent of those were for controlled substances."

California County Supervisors Delay Vote On Medical Marijuana Lawsuit. The Desert Sun (1/31) reports, "The Riverside County Board of Supervisors will not vote until next week on whether to join a federal lawsuit opposing California's medical marijuana law. Third District Supervisor Jeff Stone brought the proposal to the board that would have added Riverside County to the suit against the state law filed by San Diego County on Jan. 20. The San Bernardino County Board of Supervisors voted to file a similar suit Jan. 24. In 1996, California voters passed Proposition 215 - the law allows individuals with a doctor's recommendation to use medical marijuana. The law requires counties to issue IDs to qualified medical marijuana users. Riverside County began issuing the cards in December. San Bernardino had planned to start issuing the IDs, but has put the cards on hold until the suit is resolved."

Marijuana Activist Seeks To Use Pot While Serving Sentence. The Sacramento Bee (1/31) reports, "Medical marijuana activist Steve Kubby asked a Placer County judge [Tuesday] to let him use cannabis while he serves a 120-day jail sentence for a drug conviction in 2000. The Placer sheriff's department said it is opposed to the idea. Kubby has contended that he will die in jail if he is not allowed to use cannabis to treat his condition. Undersheriff Steve D'Arcy said his department's policy is that marijuana will not be furnished in any form to an inmate. The 59-year-old Kubby made the request through his attorney during a hearing in Placer Superior Court in which the lawyer also asked that his client be released from jail to serve the sentence at his new home in Marin County. The attorney, Bill McPike, said Kubby could wear an electronic device so that his movements could be monitored by authorities. … Kubby was in court today for arraignment on a charge that he violated probation by moving to Vancouver, Canada, in 2001 to avoid serving the 120-day sentence."

Tour Manager Pleads Guilty In Nightclub Fire. The Washington Post (2/1, A3, Fahrenthold) reports, "The former tour manager for the band Great White has agreed to plead guilty to 100 counts of involuntary manslaughter for his role in the deadly fire that roared through a Rhode Island nightclub in 2003, a judge announced Tuesday. Daniel Biechele, who allegedly started the blaze by setting off a pyrotechnic display near flammable sound insulation, could be sentenced to as many as 10 years in prison. … Biechele had been charged with 200 counts of involuntary manslaughter, two each for every one of the 100 people who died in one of the worst nightclub fires in U.S. history. The charges reflected two different legal strategies that prosecutors said they might use to prove his guilt: one involving 'misdemeanor manslaughter,' the other 'gross negligence.' … Tuesday's agreement points to an end for one of three legal cases associated with the Feb. 20, 2003, fire, which occurred during a Great White concert at the Station nightclub in the town of West Warwick."

Minneapolis Targets Guns With Buy-Back, Gun-Lock Efforts. The Minneapolis Star Tribune (2/1) reports, "Organizers hope to get about 200 handguns off the streets during a two-day buy-back program." The Tribune continues, "Terry Collins, Star TribuneTapping his finger repeatedly on a red X on a map, Shane Price wanted to make sure he had their attention. … Their strategy was for Project Cease Fire, a two-day gun buy-back program sponsored by Hennepin County's African American Men Project, several community organizations and the Minneapolis Police Department. Funding is provided by the Minneapolis Foundation." The Tribune adds, "Participants will get $50 for revolvers and $75 for semiautomatic pistols they turn in. No questions will be asked, no identification is required, and participants will not face prosecution for illegal possession or other gun-related violations. … The event will take place Friday and Saturday. … In another effort to reduce gun violence in Minneapolis, 5,000 cable-style gun locks will be available for free today on a first-come, first-served basis at any Minneapolis police precinct. The program is funded by a grant from the U.S. Justice Department. … The goal of the program is to remind gun owners to store their firearms safely at home so that they don't fall into the hands of a child."

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ATF Probing Pennsylvania Arson. The Meadville (PA) Tribune (2/1, Johnson) reports, "Officials investigating the arson fire at Chipsco Mold & Design are confident it won't take long to solve the crime, but caution that it's tough to put a time frame on an arson probe." The Tribune continues, "On Friday, the federal Bureau of Alcohol, Tobacco, Firearms and Explosives announced the Jan. 23 fire at the 50,000-square-foot warehouse and manufacturing facility on Liberty Street Extension was an arson." The Tribune adds, "Officials have declined to offer details about the material used to start the fire, suspects or other evidence, but the supervisor of the ATF Pittsburgh field office said officials are following several leads. … ATF is the federal law enforcement agency with jurisdiction for investigating arson and explosives incidents. … 'Arsons are sometimes solved in a day and sometimes it takes years,' ATF Pittsburgh office director Jim Tanda said. 'We're confident in this case it's solvable soon. We're going to proceed with that optimism,' he said, adding, 'There's no way to put a time frame on it. … The ATF and state police have conducted a thorough investigation during the first week after the fire. We're not in a position to talk about evidence or suspects at this time. We've said it is arson and we'll be proceeding in the next couple of weeks with the leads we've developed.'"

TAX:

Many Taxpayers Not Using Sales-Tax Deduction. The Wall Street Journal (2/1, Herman) reports, "A recent Treasury Department report says numerous taxpayers who could have benefited from deducting state and local sales taxes didn't do so on their federal income-tax returns for 2004, which were filed last year. The provision allows millions of people to choose to deduct either their state and local income taxes or their sales taxes. This deduction is particularly important for people who live in states with no state income tax, such as Florida, Texas, Washington and Nevada. But it also can benefit many people in other states who pay relatively low state and local income taxes. To be eligible, taxpayers must itemize instead of taking the standard deduction. … When Congress approved it in 2004, it made it effective only for the 2004 and 2005 tax years. But now many lawmakers want to extend it."

Senate Budget Would Extend R&D Tax Credit. The Wall Street Journal (2/1, Rogers, 2.11M) reports, "House Republicans hope to send President Bush a long-delayed $39 billion deficit-reduction bill today, even as their Senate colleagues are preparing to use some of the savings to bulk up tax cuts. The immediate winner would be the high-tech industry, which is expected to get a longer, two-year extension of the research-and-development tax credit through 2007. And the Senate Finance Committee is proposing to stretch out a variety of lesser tax breaks to bring the net value of its tax package close to $70 billion over five years.' The Journal adds, "At one level, all the Senate adjustments are ephemeral and designed with an eye toward negotiations with the House. For example, the longer two-year R&D provision and other extensions proposed for the Senate bill will cost about $18 billion; the capital-gains and dividend extensions, approved by the House, would cost about $20 billion. By taking advantage of the added savings, Sen. Grassley puts himself in a better bargaining position with House Ways and Means Committee Chairman Bill Thomas (R., Calif.). But the maneuvering will reinforce complaints by Democrats that the whole $39 billion deficit-reduction bill is less about the deficit than paying for new tax cuts."

WPost Calls Budget Bill "Misguided." An editorial in the Washington Post (2/1, A22, 744K) says, "Members of the House of Representatives have the chance for a do-over, probably today, on one of its most unfortunate votes of last year: a supposed deficit-reduction measure that would achieve its cuts in ways that hurt the poor and reward the powerful. The House passed this misguided measure 212 to 206 in December; then it squeaked through the Senate, with Vice President Cheney racing back to Washington to cast a tie-breaking vote. But Senate Democrats invoked a procedural maneuver that stripped several minor provisions from the budget agreement, requiring the House to again vote on the measure. Hence, the opportunity for a do-over. The odds, we recognize, are against any change in the outcome. That's unfortunate. … Republican moderates prepared to hold their noses and vote for this stinker again ought to reconsider."

Senate To Take Up Tax Bill Today. In its "Washington Wire" column on its web site, the Wall Street Journal (1/31, 2.11M) reported that the Senate "is turning to a $70 billion, five-year tax bill left from last year. Senate Majority Leader Bill Frist of Tennessee announced Tuesday afternoon that the chamber will take up the bill Wednesday. Republican tax-writers say they hope to clear the legislation to extend President Bush's 15% rates of capital gains and dividends by the end of February."

CONGRESS-ADMINISTRATION:

Senate Approves Alito Nomination By 58-42 Margin. USA Today (2/1, Kiely, 2.31M) reports, "Samuel Alito, who once said the Constitution doesn't protect the right to an abortion, won a swing seat Tuesday on the Supreme Court. Alito, 55, was sworn in by Chief Justice John Roberts shortly after the Senate confirmed him on a mostly party-line, 58-42 vote." The Senate vote "reflected deep partisan

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divisions over President Bush's pick for the second Supreme Court vacancy of his presidency. It was the closest vote for a justice since 1991, when Clarence Thomas was confirmed 52-48." Alito "got less bipartisan support than Thomas, who received 11 Democratic votes. Roberts got 22 Democratic votes last year."

Fox News' Special Report (1/31, Wilson) added, "In the end, every Republican except moderate Rhode Island Senator Lincoln Chafee voted for Samuel Alito. They were joined by Democrats Robert Byrd, Kent Conrad, Tim Johnson of South Dakota, and Ben Nelson of Nebraska." Bush "proclaimed himself pleased that his nominee had been confirmed. A short time later Alito traveled up Pennsylvania Avenue to the Supreme Court where he was sworn in by Chief Justice John Roberts in a private ceremony."

The Washington Post (2/1, A1, Babington, 744K) reports, "Yesterday's Senate vote reflected the challenge that Democratic candidates face in states that are solidly Republican in presidential elections. The pro-Alito votes by Byrd, Conrad, Johnson and Nelson are best explained "'y the absence of liberal activists in the Democratic ranks' in those states, said Bruce E. Cain, a political scientist who directs the University of California's Washington Center." The Post adds, "In most other states -- even Arkansas and Louisiana -- enough hard-core liberals donate money and recruit voters in Democratic primaries to make a pro-Alito vote dangerous to senators such as Blanche Lincoln (Ark.) and Mary Landrieu (La.), Cain said." Chafee, meanwhile, "faces a double dilemma in Rhode Island: a stiff GOP primary challenge by Cranston Mayor Stephen Laffey, and a likely strong Democratic opponent if he survives. Chafee's anti-Alito vote may entice more independent voters to back him in the Republican primary (at which independents can legally vote), which is vital to the senator's reelection hopes, said Brown University political scientist Darrell West." The Chicago Tribune (2/1, Zeleny, 643K) notes the vote "came one day after an attempt to filibuster Alito failed, with only 25 Democrats signing onto the movement led by Sens. Edward Kennedy and John Kerry of Massachusetts."

NBC Nightly News (1/31, lead story, 2:30, Williams) called the vote "a major victory of the President's second term." NBC Nightly News (1/31, story 2, 2:00, P. Williams) reported, "The biggest period of turnover on the Supreme Court in more than a decade is over now but the change in the court's direction is just beginning. The intense debate kept going right up to the last minute." Sen. Richard Durbin, Illinois: "A chill wind blows, a chill wind which will snuff out the dying light of Sandra Day O'Connor's Supreme Court legacy." Sen. Arlen Specter, Pennsylvania: "He does not have an agenda, does not have a predetermined set of values he's going to try to foist upon the country." Williams: "The vote, 58-42, was one of the most deeply partisan ever for a Supreme Court nominee, with just four Democrats voting to confirm. By contrast, Clarence Thomas had 11 Democrats supporting him, even though he was confirmed with fewer votes overall." NBC notes that now "a new era, with a more conservative court, begins" and one of Justice Alito's "first acts will be to vote on whether to hear a case on a law banning partial birth abortions. Three federal court of appeals have found that unconstitutional, two of them acting just today."

The New York Times (2/1, Kirkpatrick, 1.19M) adds "Alito and his wife, Martha-Ann, watched the vote on television in the Roosevelt Room of the White House with President Bush and his wife, Laura, and aides who had worked on the nomination. A cheer went up in the room as the vote count passed 50." For Bush, "the confirmations of Justice Alito, 55, and Chief Justice Roberts, 51, mean that in four months he has named two members of the court who are young enough to influence its rulings for many years." In a statement, Bush "congratulated Justice Alito, the son of an Italian immigrant, saying his 'appointment to the Supreme Court is the realization of the American dream.'" The Los Angeles Times (2/1, Chen, 958K), Washington Times (2/1, Hurt, 90K) and Wall Street Journal (2/1, Cummings, 2.11M) run similar stories.

The New York Times (2/1, Liptak, 1.19M) says Alito "will have only one vote, of course, but it may be the decisive one in several of the marquee cases that will dominate the balance of the Supreme Court's term. By the end of the term in early summer, legal analysts said, the nation will most likely have a good sense of whether Justice Alito will affirm or veer away from the direction set by his predecessor, Justice Sandra Day O'Connor, in cases involving the treatment of terror suspects and campaign finance. … A first taste of how his legal views on abortion, a signature issue for Justice O'Connor, may differ from hers could come before the end of the year. And other issues on which Justice O'Connor was often the swing vote, including affirmative action and religion, are certain to reach the court in coming years." The Wall Street Journal (2/1, Bravin, 2.11M) reports, "In his first four months, the new chief justice, John Roberts, has voted with the court's conservative stalwarts, Justices Antonin Scalia and Clarence Thomas, except for the single case where the latter two split and the chief justice joined Justice Scalia." Alito," with a solid conservative record as a Reagan Justice Department official and circuit judge, may follow suit."

The Washington Post (2/1, A21, Lane, 744K) runs a story headlined "Shift On The Bench Has Already Begun," in which is says Alito "will shake up one aspect of court business that was unchanged for more than 11 years: the seating chart. As the junior associate justice, Alito will occupy the end of the bench farthest to the courtroom audience's right during oral arguments. Justice Stephen G. Breyer, who has sat there since October 1994, will move across to the audience's extreme left." The Post adds, "The other justices

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will shift according to seniority as well, except for John Paul Stevens, the senior associate justice, who will remain just to the left of Chief Justice John G. Roberts Jr. Justice Antonin Scalia will occupy the chair to Roberts's right, where retiring Justice Sandra Day O'Connor sat."

The Legal Times (2/1, Goldman) reports, "Monday's filibuster attempt was led by Massachusetts' two Democratic senators, John Kerry and Edward Kennedy. It was derided by Republicans as a transparent attempt to placate several influential liberal interest groups, which had spent hundreds of thousands of dollars in their campaign to defeat Alito. … 'The reason the filibuster was a flop, if they had done it and been successful, there would have been a wipeout in 2006,' said South Carolina Republican Sen. Lindsey Graham, reflecting a widely held belief among Republicans that a key factor in the 2004 defeat of former Senate Democratic leader Tom Daschle was his party's frequent use of judicial filibusters against conservative federal circuit court nominees. … 'The only thing that matters [to them] is the people driving the ads,' declared Graham, a member of the Judiciary Committee and the Gang of 14."

Kerry Complains Democrats Didn't Bring Out "The Knives" Against Alito. The Washington Times (2/1, McCaslin, 90K) reports in its "Inside the Beltway" column, "Immediately following one of the most partisan victories ever for a Supreme Court nominee, an obviously irate Massachusetts Sen. John Kerry, the unsuccessful 2004 Democratic presidential nominee, exited the Senate chamber yesterday and spouted that his Democratic colleagues 'didn't bring out the [expletive] knives!' … 'It was distasteful,' says one of three people Mr. Kerry addressed his remark to, among them Wade Henderson, executive director for the Leadership Conference on Civil Rights. 'Here he is supposedly a presidential hopeful, somebody who is supposed to have class and stature. I'm disappointed.'"

Obama Urges Alito To Exercise Job With "Great And Sober Judgment." Sen. Barack Obama in an interview before the State of the Union speech, said on The CBS Evening News (1/31, story 4, 2:00, Schieffer), "I don't think there's any doubt he's going to be more conservative than Sandra Day O'Connor. She was a moderate conservative and I hope Judge Alito recognized that he's got a role that is unique in America with the Supreme Court Justices with lifetime appointments the can change the landscape for this country and are not subject to democratic checks. And so hopefully we'll exercise his job with great and sober judgment."

Alito's "Balancing Act" During State Of The Union Examined. The Washington Post (2/1, A2, Milbank, 744K) reports, "Samuel A. Alito Jr., barely eight hours into his job as a Supreme Court justice, had to make a series of important rulings as he sat in the House chamber for last night's State of the Union address. For instance: How enthusiastically would he applaud for President Bush? (More vigorously than Justice Stephen G. Breyer but less than Justice Clarence Thomas and about the same as the chief, John G. Roberts Jr.) And: How would he react when Bush introduced him to Congress? (He would make a self-conscious grin.)" The Post adds, "For the four robed justices brave enough to attend the largely political event, and Alito in particular, it was a balancing act as challenging as any scales of justice. … If Alito and his peers were being extra cautious, that was understandable. Yesterday's rare overlap of a State of the Union address and a Supreme Court confirmation could have been a celebration of democracy. Instead, the anger from the confirmation process spread through the body politic, leaving a brittle, divided House."

Bush Lays Out Agenda In State Of The Union Address. President Bush outlines his domestic and international agenda last night in his State of the Union speech last night. The Los Angeles Times (2/1, McManus, 958K) reports Bush "warned Tuesday that the United States had become 'addicted to oil,' much of it coming from unstable parts of the world, and called for a 20-year national effort to develop new sources of energy to replace imported fuel." He also "delivered an unapologetic defense of his national security policies, from the continuing war in Iraq to increased electronic surveillance of communications at home." The Financial Times (2/1, Daniel, Alden) adds Bush also "addressed fears about the growing economic clout of China and India with a pledge to spend $50bn on research initiatives to boost US competitiveness over the next decade." The Baltimore Sun (2/1, Davis, 296K) adds Bush "held out hope for additional troop reductions in Iraq this year but rejected calls for a 'sudden withdrawal,' defending the war in a State of the Union message that drew stark contrasts with his opponents." The Sun adds, "While calling for bipartisanship on foreign and domestic issues, Bush portrayed his critics as willing to shrink in the face of difficulties." In addition, says the Washington Post (2/1, A1, Baker, Fletcher, 744K), the President "defended his vision for a robust US role in world affairs," and "appealed directly to the people of Iran just a day after winning an agreement to bring his dispute with the theocratic government's nuclear program to the United Nations."

Media coverage last night and this morning makes much of Bush's calls bipartisanship, and several analysts describe the President as "humble" and even "chastened." Bush's "olive branch" to Democrats was attributed to his "weakened political standing." Typical of the coverage was ABC correspondent Terry Moran (1/31), who said after the speech, " This is a chastened President Bush," adding that the President "really had a tough year" and "it showed not just in the substance of the speech tonight, which was much more

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small bore, but also in his tone." John King said on CNN (1/31) that Bush has "trimmed his sails," and "knows he has to play small ball. That's a baseball term. The President knows that's what he has to do because of his weaker political standing."

In an analysis piece, the Los Angeles Times (2/1, Brownstein, 958K) describes Bush as "chastened," "deferential" and "modest," while the New York Times (2/1, Bumiller, Nagourney, 1.19M) says he was "more tempered and less partisan than a year ago, evidence of his diminished political standing." The speech "was notable for what Mr. Bush did not mention. He offered no new ideas for rebuilding New Orleans in the wake of Hurricane Katrina, made no mention of his troubled Medicare prescription drug program and offered no proposal to clamp down on lobbying abuses in Congress that have led to the investigation of Jack Abramoff, a formerly powerful lobbyist and a major fund-raiser for Mr. Bush." Reuters (2/1, Holland) reports Bush was "hoping to lift his political fortunes and those of his Republican allies in an election year with control of Congress up for grabs." He "is coming off one of the toughest stretches of his presidency." The AP (2/1, Hunt, Correspondent) also says Bush "went before the nation as a politically weakened president after the toughest year of his administration." A similar Knight Ridder story (2/1, Hutcheson) reports, "Bowing to budget constraints and political realities, Bush laid out few ambitious goals." The Washington Times (2/1, Mansfield, 90K), meanwhile, describes Bush as "jaunty," "ebullient" and "beaming."

Time (2/1, Allen) says on its website the speech "consisted mostly of modest gestures aimed at major problems," in "a tacit acknowledgment" of the President's "limited political capital and fiscal flexibility." The Washington Post (2/1, A1, Balz, VandeHei, 744K) runs a front-page story titled "Lowered Expectations Reflect Political And Fiscal Realities," in which it says Bush "Bush begins this election year far weaker than he was a year ago." USA Today (2/1, Page, 2.31M) also reports "the substance of the proposals Bush outlined reflected the realities of his sixth year in office: the erosion of his job-approval rating, the constraints of a federal budget deficit that the Congressional Budget Office estimates at $337 billion this year, the limits of the time left in his term and the costs of the war that divides the nation."

The New York Times (2/1, Sanger, 1.19M) also reports, "Only a year after Mr. Bush stood in the House, describing in bold terms how he planned to spend the political capital he had amassed in the 2004 election, the president who addressed the nation on Tuesday evening was far less ambitious, his tone noticeably different." The Times adds, "The Texan who swept onto the national political scene six years ago talking about drilling for new energy supplies and preserving the American way of life vowed on Tuesday night to wean the nation from its reliance on oil. Instead of urging Congress to drill in the Arctic, the president who had waved off the critics who portrayed him and Vice President Dick Cheney as captives of the oil industry asked Congress to finance federal research into alternative fuels and lithium batteries."

ABC (1/31) political analyst George Stephanopoulos said, "When he got to the domestic issues, even though he did rhetorically reach out several times, he did not reach out with any new or big or ambitious policies that the Democrats might be attracted to, and I think that is really for two reasons: Number one, we're broke basically. The deficit is going up and he can't afford it; and two, the President doesn't have the political capital to power something like that through." Likewise, Nina Easton of the Boston Globe said on Fox News (1/31) "I think the speech reflects the reality that some 57% of the public thinks the country is on the wrong track and he is facing a difficult midterm election and has to make inroads to swing voters and so he has to look at bipartisan measures."

The Wall Street Journal (2/1, McKinnon, Cooper, 2.11M) says Bush faced "a public anxious about the Iraq war and the economy," and that "a big goal" for the speech was "reassuring Americans -- particularly lower-income workers who often have seen wage gains eaten up by higher fuel and health-care costs." The Washington Times (2/1, Lambro, 90K) adds, "White House strategists hope assured voters will re-elect a Republican majority in Congress and nudge up Mr. Bush's approval ratings from the mid-40s, offering the president a chance to be more ambitious in his final two years. A loss of either or both chambers of Congress would hasten his lame-duck status."

USA Today (2/1, Jackson, 2.31M) says Bush "spoke at a time when polls have shown Americans deeply worried about the war in Iraq, and discontented with the president, whose approval ratings have hovered below 50% for more than a year." That may explain why "the speech lacked the single ambitious focal point that Bush's proposal to overhaul Social Security gave it a year ago." Similarly, the Washington Times (2/1, Sammon, Curl, 90K) reports the speech "was markedly scaled down from last year's State of the Union." Knight Ridder (2/1) also says Bush is "hamstrung by a budget deficit that could surpass $400 billion this year. For the first time during his presidency, Bush delivered his annual message of the country's health with most Americans disapproving of the job he is doing."

ABC (1/31) anchor Elizabeth Vargas said Bush "reached out with an olive branch on many occasions," but "the question, of course, being whether or not Democrats will be able to embrace and accept the olive branch. It was remarkable how many times he did, in fact, reach out." Tim Russert sounded similar themes on MSNBC (1/31), saying, "I think there will be a lot of different headlines from this speech, through the prism of the viewer, based on their own ideology. The interesting thing for me was the President's acknowledgement that this is, in the words of one of his top

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advisors, an unsettled country. There's an awful lot of angst and anxiety, and he's aware of that. And he knows the war in Iraq plays a central part of that, as well as a lack of a response to Katrina. And it's put us now in a position where it's very difficult for either party to get their way." The President "suggested he wanted to reach across the aisle and do some things. And then he talked about the domestic eavesdropping program and says by the way, members of Congress, they all knew about this. So it's going to be a give and take, back and forth, and I don't think much is going to happen, other than lobby reform, because both parties need that." The New York Times (2/1, Toner, Schemo, Pear, 1.19M) also says, "With federal spending now tightly constrained, some of the plans Mr. Bush presented on Tuesday could prove difficult to enact despite broad support."

Bill Kristol said on Fox News (1/31), "I think conservatives will not be entirely happy with this speech. There was more attention given to big government energy initiatives than to defending the tax cuts. Only one call for making the tax cuts permanent. I thought the discussion of Iran did not make a commitment to prevent Iran, no matter what, from acquiring nuclear weapons. We are going to lead the rest of the world into dealing with Iran challenge. If you think back to the 2002 State of the Union. We hope the rest of the world will be with us, but we've got to do what we've got to do."

Fred Barnes, also on Fox News (1/31), said, "This was a fairly conventional State of the Union address. I think it's clear that the President's domestic agenda is fairly exhausted. He has gotten most of his things, except for Social Security; Medicare, drug benefit, tax cuts And he has already changed the Supreme Court. … So his proposals on energy and education and health care were fairly small, not in keeping with the big picture ideas that the President likes. The interesting stuff was on foreign policy."

In a story about Bush's energy proposals titled "Call To Cut Foreign Oil Is A Refrain 35 Years Old," the New York Times (2/1, Wald, Andrews, 1.19M) reports, "When President Bush vowed on Tuesday to reduce drastically American dependence on oil from the Middle East, he had plenty of company. President Richard M. Nixon promised in 1971 to make the United States self-sufficient in energy by 1980. President Jimmy Carter promised in 1979 that the nation would 'never again use more foreign oil than we did in 1977.'" And Bush "has called in each of his past four State of the Union addresses for a reduction in the dependence on foreign oil. Despite those promises in the past 35 years, United States dependence on oil imports is at a record level."

USA Today (2/1, Appleby, 2.31M) notes Bush's health care proposals, which it says are "similar to his ideas last year on revamping Social Security" in that they "reflect an effort to foster more individual responsibility for saving for health care." The Washington Times (2/1, Curl, Dinan, 90K), meanwhile, focuses on Bush's comments on immigration in a story headlined "Bush Deems Guest Workers Key For Economy," in which it notes "Rep. Lamar Smith, Texas Republican, said US workers would be hurt by a guest-worker program."

The Miami Herald (2/1, Clark, Rosenberg, 323K), meanwhile reports Bush "singled out a fallen Marine from Pensacola in his State of the Union address Tuesday night, using the words of Staff Sgt. Daniel J. Clay to bolster his case for staying the course in Iraq. Clay, who was killed by a roadside bomb in December, left behind a letter to his family, Bush said, 'but his words could just as well be addressed to every American.'" As Bush spoke, Clay's parents, Clarence and Sara, and his widow, Lisa, "were among First Lady Laura Bush's guests in the gallery, watching Bush deliver the address." Clay "was among 10 Marines killed in an insurgent explosion in the Iraqi city of Fallujah."

McCain Gives Bush Speech An "A." Sen. John McCain said on MSNBC that Bush gave an "excellent speech," giving him a grade of "A." McCain, on CBS (1/31) said, "I thought it was excellent. I thought his pitch for the much-needed oil independence, his statement by Iran I think was important. Of course I was one of those very pleased to hear him express his comments to earmarking. The pork barrel projects which have become an obscenity in Washington and a cause for much of the corruption we see."

Feinstein Gives Bush Speech A "B." Sen. Dianne Feinstein said on MSNBC (1/31) said she would grade Bush's speech a "B" adding, "I thought it got marks because it covered a number of subjects, but it wasn't quite what I had hoped he would say about the war in Iraq. I think it's time for the President to tell us how and when we're going to see some changes in American troop presence and we didn't have that. And there's a lot of speculation about, you know, troop reductions that are going to take place very shortly. And I thought he had an obligation to clear some of that up, and he didn't. I thought on health, you know, the Medicare prescription drug program is a mess. In California' creating all kind of problems. … And he could have, I think, had a big impact there. His proposals for HSAs have a problem, and the problem is we have 42 million uninsured Americans who can't save because they can't afford to save and they don't have health insurance. So how do they get some kind of coverage? This is part of what drives up, I think, the cost of health care."

Thune Says Bush Was "Very Forceful." Sen. John Thune said on Fox News (1/31), "The President was very forceful, had a lot of energy, but I thought that the identifying a couple of key issues that are important not only to the economy, but also to the way that we project ourselves abroad, lessening our dependence on foreign energy. That is something folks in the Midwest are happy to hear. The focus on health care is on big issue. The President wants to move

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an agenda that addresses the high cost of health care. Those are both issues that are going to strike a real chord." Thune added that Bush "extended an olive branch. He talked about things that Democrats and Republicans can take credit for that have happened in the past few years and things we need to work together going fort. It's hard. It's an election year and everybody knows that. But through the best interest of the country, we have to pull together."

Mehlman Says Bush Gave A Great Speech." RNC Chairman Ken Mehlman said on MSNBC (1/31) that Bush "gave a great speech tonight. I thought he laid out a whole series of initiatives. Whether it's reducing foreign reliance on energy or improving education, all of these are areas where I think Republicans and Democrats can work together. I hope the Democrats will join this president in working together on these things."

Instant Poll Shows Support For Bush Proposals, But Low Expectations He Will Reach Goals. CBS (1/31) anchor Bob Schieffer said, "We want to give you some idea how the President's speech went over with people watching at home. CBS News with the help of a company called Knowledge Networks chose at random 700 adults who told us they planned to watch the address tonight. We gave them Web TV so they could get on to the internet and answer our questions about the speech. Now remember, this is not necessarily reflect the feelings of the country because traditionally we found out in recent years more Republicans watch when a Republican makes the speech. More Democrats when a Democrat makes a speech. But here were the questions. Did our viewers tonight approve of President Bush's proposals? 77% approved. 23% did not. We asked them what affect the President's proposals would have on their lives. 59% said they would make their lives better. 9% said worse. 33% said the proposals would have no effect on them. On some issues our survey shows the impact of the speech tonight. 52% say the war in Iraq has been worth the cost. Just last week just 45% of the same group thought so. And finally, here is a disappointment. When asked if President Bush will be able to accomplish his goals, this will be a disappointment to the President, I should say, 32% said yes. And 68% said no. They did not think he would be able to accomplish his goals."

Harris Poll Shows US Support For Bush On Iraq Increasing. The Wall Street Journal (2/1, 2.11M) reports an on-line survey of 2,985 adults shows, "American support for President Bush's handling of Iraq remains low, a new Harris poll shows, but those rating his job as 'excellent' or 'pretty good' increased significantly since December." The number "of U.S. adults giving the president positive marks with regard to Iraq rose to 36% in January, up from 29% in a poll conducted before Iraqi elections in December. At the same time, public confidence in the situation in Iraq, including U.S. involvement, also improved slightly, according to the recent online survey of 2,985 adults." Yet, "61% of U.S. adults rated Mr. Bush's handling of Iraq over the last several months as 'only fair' or 'poor,' but that's fewer than the 68% who felt the same in a previous poll."

Bush Expected To Receive Boost In Polls After Speech. ABC (1/31) correspondent Charles Gibson said, "I was interested to note that polls done in eight of the last 11 years after the state of the union address, at least 75% of the people who responded said they approved of what they heard. So with the President's polls as low as they are, with the President reaching out and trying to find cooperation in Washington, maybe he will get a pretty good sized boost in his polls from this speech." The CBS Evening News (1/31) correspondent Gloria Borger said, "Well, I you're going to see the poll numbers go up for the President, probably a bump."

First Lady Had 24 Guests In Her Box At State Of The Union. The Washington Post (2/1, C3, Argetsinger, Roberts, 744K) reports in its "The Reliable Source" column, "Twenty-four guests joined Laura Bush in her box during last night's State of the Union speech. … Among them: Fawzia Koofi, the 30-year-old second deputy speaker of the Afghan National Assembly, was on the first lady's right; Ja'Detrus Hamilton, a 16-year-old Katrina survivor and volunteer, was on her left. Local props went to Mayor Tony Williams and 2005 National Teacher of the Year Jason Kamras, a math teacher at John Philip Sousa Middle School."

Greenfield Says Discussion Of Warrrantless Wiretaps Was Strongest Part Of Speech. Jeff Greenfield said on CNN (1/31), "The strongest part of the President's speech was defending the controversial warrantless wiretaps where he used the same kind of approach he's used in this field before. I'm going to protect this country. I'm not going to let us sit back to get hit again. We've protected the country from future terrorist attacks. By implications, my critics will not be as strong on this issue. The other thing I'd mention is the other huge applause line from Republicans came when the President's cited the confirmation of Justices Roberts and Alito. That to me more than anything else was the most significant event today, the swearing in of Alito, because it told the conservative base that has been with him from the beginning, I really am your guy, forget Harriet Miers."

Bush Focus On Threat Of Radical Islam Noted. CBS (1/31) correspondent Lara Logan said, "He did two things that he doesn't normally do. He mentioned radical Islam twice. Since the last time when he made a speech saying that this was a crusade and it caused such outrage around the world because of the religious dimension that it evoked, he has stayed away from those kinds of references but speak to go the commanders on the ground they really feel like they are fighting radical Islam that no one has wanted to call it and say this publicly. So I thought that was very interesting. Then also the fact that he is talking about killing

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and capturing leaders was one throw-away line. Normally he's much more bold when he talks about that."

More Commentary. Media critic Tom Shales, in the Washington Post (2/1, C1, Shales, 744K), says that whether Bush is "at best, the worst president since Herbert Hoover -- as a seemingly sizable number of Americans appear to believe -- he acquitted himself fairly well and came off as basically competent when he delivered his fifth State of the Union speech last night." The speech was "capably presented, well organized and sometimes lofty in tone." But "it was also lackluster, ordinary and, most of all, generic. … 'Bush the Incompetent' was the headline on a lacerating op-ed column last week. If that's who he is, you wouldn't know it from the State of the Union speech he gave last night, but it hardly qualified him for the title of Bush the Brilliant, either."

The Washington Post (2/1, A22, 744K) says in an editorial Bush "sounded more subdued than triumphant, more realistic than grandiose. But if last night's State of the Union speech displayed a more cautious, less assertive President Bush than in previous years, his caution was not merely a contrast to the swashbuckling style of the past but an outgrowth of it. The president's future horizons are constrained by his past choices, budgetary and political."

The Los Angeles Times (2/1, 958K) editorializes, "It is not an unusual experience to listen to…Bush deliver a major speech and find yourself, regardless of your politics, nodding along in vigorous agreement. Tuesday night was no exception. The president hit the right notes, some of them even surprising, throughout his 52-minute State of the Union address," but he "often musters his laudable principles to avoid specifics or deflect unpleasant realities. … Confidence is an asset, but Bush needs to be more forthright about his setbacks." The Times adds, "By far the most cynical part of the address was the president's defense of the National Security Agency's warrantless wiretapping program, now rechristened, in Orwellian fashion, the 'terrorist surveillance program.'"

The New York Times (2/1, 1.19M) editorializes, "President Bush devoted two minutes and 15 seconds of his State of the Union speech to energy independence." The Times adds, "Hardly the bold signal we've been waiting for "last night's remarks were woefully insufficient." American "overdependence on oil has been a disaster for our foreign policy." The Times adds, "Mr. Bush told the people that 'the nations of the world must not permit the Iranian regime to gain nuclear weapons,' but he did not explain how that will happen when those same nations are so dependent on Tehran's oil." And while the UN "may wish to do something about genocide in Darfur or nuclear proliferation, [its] most powerful members are hamstrung by their oil alliances with some of the worst leaders on the planet." The Times adds, "Part of the answer, as Mr. Bush indicated last night, is the continued development of alternative fuels, especially for cars." When it "comes to cars, much of the research has already been done -- Brazil got to energy independence by figuring out how to get its citizens home from work in cars run without much gasoline." Simply "calling for more innovation is painless. The hard part is calling for anything that smacks of sacrifice -- on the part of consumers or special interests, and politicians who depend on their support."

USA Today (2/1, 2.31M) editorializes, "The president likes to characterize himself as a fighter for what he thinks is right. Achieving his goals and rebuilding confidence in his leadership will require him to be more of the uniter he once said he would be, rather than the divider he has too often become."

Thomas Friedman writes in the New York Times (2/1, 1.19M), "So far the democracy wave the Bush team has helped to unleash in the Arab-Muslim world since 9/11 has brought to power hard-line Islamic fundamentalists in Iraq, Palestine and Iran, and paved the way for a record showing by the Muslim Brotherhood in Egypt. If we keep this up, in a few years Muslim clerics will be in power from Morocco to the border of India. God bless America."

In the New York Times (2/1, 1.19M), guest columnist Sarah Wowell writes, "The state of our union is stunned. We democracy spreaders remain shocked, shocked, at the Hamas sweep in the recent Palestinian parliamentary election, never, ever, ever before having experienced a deficit of wisdom on the part of American voters. … For there are American citizens who used to think that there could be no greater blow for representative democracy than a president worming his way into the White House thanks to one Supreme Court vote. That is, until the day said president was actually elected to a second term by an electorate that overlooked the previous four years of galling, irrevocable policies with upbeat, intelligence-insulting slogans – 'Clear Skies,' anyone? -- to say nothing of entering into an ugly war based on lies that has made the world a more dangerous place when it wasn't exactly all Davenport, Iowa, to begin with."

Kaine, Villaraigosa Deliver Democratic Rebuttal. The Los Angeles Times (2/1, Simon, Fiore, 958K) reports, "The governor of a Republican-leaning state and the Latino mayor of Los Angeles delivered the Democratic rebuttal to President Bush's State of the Union speech Tuesday night, sounding themes the party hopes will help it take control of Congress in November's elections." In the official responses to the speech, Gov. Timothy M. Kaine of Virginia and Los Angeles Mayor Antonio Villaraigosa "assailed Bush on a number of fronts — including his handling of the war in Iraq, implementation of the Medicare prescription drug benefit and his failure to bring down energy prices." Kaine "argued repeatedly in his nationally televised

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remarks that 'there's a better way' to grapple with issues than Bush had chosen. He called for a greater emphasis on public service by Americans." Villaraigosa, who offered the Spanish-language response to Bush's speech, 'criticized the president for offering 'the same defense of the very policies that have divided this country over the last five years.'"

ABC (1/31) anchor Elizabeth Vargas also noted Kaine used "the expression 'a better way' nine times on a variety of issues, referring to the war on terrorism, he simply asked: 'Are the President's policies the best way?' He noted our greatest need is for America to heal its partisan wounds and become one people, echoing President Bush's state of the union address." The Washington Post (2/1, A1, Shear, 744K) says Keine "assailed the administration's performance in Iraq, its response to Hurricane Katrina and its management of the nation's health care system." He also "urged Bush to restore the competence Kaine said is lacking in government administration." Moreover, says the Financial Times (2/1, Yeager), Kaine, "a positive note, criticized what he said was 'too much of partisanship for its own sake.'"

The AP (2/1) reports Villaraigosa, in a nationally televised Spanish-language speech" made in response to President Bush's State of the Union address, "faulted the White House Tuesday for policies he said pushed more Americans into poverty and failed to address a crisis in education." Villaraigosa "was broadly critical of the White House on issues from the national debt to job training, but at the same time he appealed for unity to address those problems." The speech was "carried on the Univision network."

The Washington Times (2/1, Fagan, Dinan, 90K) runs a similar report under the headline "Democrats Decry 'Bad Management,'" while the Pittsburgh Post-Gazette (2/1, Reston, 261K) titles its report "Democrats Find Little To Praise In Bush's Address." The Chicago Tribune (2/1, Zeleny, 643K) adds that "judging by the bursts of applause during much of " Bush's "address Tuesday night, one might never guess the palpable level of animosity at the start of the election year."

Reid Says Whatever Bush Said, "Think Just The Opposite." The New York Times (2/1, Hulse, 1.19M) reports, "In their own comments before the address, Senator Harry Reid of Nevada and Representative Nancy Pelosi of California, the top Democrats in Congress, said the White House and Congressional Republicans had granted special interests too great a role in shaping legislation, including the new Medicare prescription drug plan." Pelosi and Reid also "said they had seen no sign in Mr. Bush's five years in office that he and Republican Congressional leaders were serious about easing the nation's reliance on foreign energy sources. They said energy legislation adopted by Congress last year was heavily influenced by the oil industry, which is earning record profits." Reid said, "This is Bush doublespeak. … Whatever he said, think just the opposite."

Reid Also Says Bush White House "Cradle Of Republican Corruption." The AP (2/1, Sidoti) quotes Reid saying, "There is no more important task in Washington than cleaning up the culture of corruption. Yet the president -- whose White House has become the cradle of Republican corruption -- is not taking responsibility for the costs of that corruption."

Dean Says He Has "Heard The Same Speech Three Or Four Years In A Row." DNC Chairman Howard Dean said on MSNBC (1/31), "I've heard this speech three or four years in a row now. He talked about clean energy, while he's putting toxic in the air. He's making it harder for seniors to get their drug prescriptions."

Obama Says Bush Didn't Offer Bold Domestic Proposals. Sen. Barack Obama on NBC (1/31) said, "Well, you know, two-thirds of the America people think that the country is moving in the wrong direction I think the President identified some of the issues people are concerned about. They don't feel comfortable with the healthcare system that doesn't provide enough coverage and costs too much. They're concerned about energy independence. They're concerned about educating their kids to compete in the 21st century. Unfortunately, although the President had some ideas that I think we can work together on a bipartisan basis, you didn't see the sort of bold approaches that would ask America to meet these challenges together. And so, in that sense, I think a lot of Americans watching are thinking can't we do better than what we heard from the President."

Nelson Says Bush Gave A "Strong Speech." Meanwhile, Sen. Ben Nelson said on Fox News (1/31), "I thought it was a very strong speech. The President touched on at least two of the initiatives that I have already got introduced, one for health care for small businesses to help and make sure that small businesses can continue to support and provide health care for their employees. The second, of course, is on border security, which is so important to homeland security, to make sure that terrorists are not coming across. Stop the inflow of illegal immigration. I have a bill with other senators that will do that."

Sheehan, Invited By Democratic Lawmaker, Arrested Before Speech. The Washington Post (2/1, A16, Williams, Lengel, 744K) reports, "Activist Cindy Sheehan was arrested last night after demonstrating in the spectators gallery of the House of Representatives as part of a larger war protest that was held outside the Capitol. Sheehan, who was apparently given a gallery ticket by a member of Congress, began to attract notice about 30 minutes to an hour before President Bush's State of the Union speech." The Post adds, "Sheehan, whose son was killed in Iraq, opened her jacket to reveal a T-shirt that, according to a supporter, gave the number of U.S. war dead and asked,

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'How many more?'" She was also "vocal, said U.S. Capitol Police Chief Terrance W. Gainer, and after she ignored instructions to close her jacket and quiet down, she was led out and arrested." Sheehan's sister Dede Miller "told a reporter that Rep. Lynn C. Woolsey (D-Calif.) had invited Sheehan as her guest. Woolsey could not be reached immediately for comment." Late last night, "about 50 protesters marched to the Capitol Police station to demand Sheehan's release." The Washington Times (2/1, Doolittle, 90K) says Woolsey "gave Mrs. Sheehan a seat in the visitors gallery above the chamber. … 'I'm proud that Cindy is my guest tonight,' Mrs. Woolsey said before the speech. 'She has made a difference in the debate to bring our troops home from Iraq.'"

White House Renews Outreach To Senate Republicans. The Bush Administration is renewing efforts to reach out to Senate Republicans in the hope of better coordinating their messages. According to Roll Call (2/1, Billings), "Key Republican sources say the president has shown a heightened interest in working with Congressional Republicans in recent weeks, and last week Bush invited GOP Senators to the White House to articulate that desire. Senators and aides alike suggested the overtures were welcome as they look to securing, and possibly building, their House and Senate majorities this fall." The effort comes "at a time when House and Senate Democratic leaders are working closely to mount a coordinated campaign against the Republicans on ethics, corruption and mismanagement of the government." Roll Call adds, "Senators and aides alike say they expect to hear Republican Senators and the White House hitting the same themes more prominently in the coming weeks and months, particularly on major 2006 issues such as the war on terrorism, American economic competitiveness and values -- all key themes in the State of the Union address."

Lott Won't Rule Out Bid For Senate Majority Leader. Sen. Trent Lott was asked on Fox News' Your World with Neil Cavuto (1/31) if he would consider seeking the Senate Majority Leader position again. Lott said, "I made a decision to run for re-election. That was a decision that was different from what I had planned to do. But, a couple of cataclismic events that occurred in my life along the way including how much my state and my neighbors along the Mississippi gulf coast need help right now. They have invested 33 years in me and I just felt like I couldn't walk away from them at that moment. That's all that went on. I didn't run with the plans, to you know, get back into leadership. I don't know what will happen in that regard. But if the right opportunity came along, why would I not be willing to consider, at least, pursuing that." Lott said he "wouldn't rule it out. But it will depend on what happens. That's a year from now. Or 11 months from now. It depends on elections and what's happening with other people."

House GOP Voting Today On Whether To Hold Full Leadership Election. House Republicans will vote this morning on whether to put their leadership up for a vote on Thursday. Roll Call (2/1, Pershing) reports that the outcome of today's vote is uncertain, but most lawmakers and aides are "predicting that the move for a full slate of elections will fail." At a meeting this morning GOP lawmakers will "hear speeches from candidates for the two currently vacant posts: Majority Leader and Republican Policy chairman. Republican Reps. John Sweeney (N.Y.) and Dan Lungren (Calif.) plan to make a motion to 'vacate' every other elected leadership post below [House Speaker Dennis] Hastert, a call that requires the approval of 117 lawmakers on a secret ballot. … Lawmakers who oppose the idea say that they do not want to establish a precedent where the Conference starts putting its leaders up for a vote every time Members grow restless."

Uncertainty Of Majority Leader Race Seen As Result Of Push For Reforms. The Christian Science Monitor (2/1, Chaddock, 61K) reports, "The uncertainty about who will win Thursday's vote for House majority leader shows how thoroughly the rally cry for reform has altered leadership politics in the US Congress. Thursday's secret ballot was supposed to be a mere formality for Rep. Roy Blunt," but "after weeks of intense campaigning, it's not clear he has enough votes to secure victory. What's changing the race is a growing debate among Republicans about how far they must go to repair the damage caused by last fall's corruption scandals - and those yet to come. Members who say the party can ride out the ethics storm with current leadership are falling in behind Representative Blunt. Those who feel their party needs a change of face and a more collegial leadership style are supporting Rep. John Boehner of Ohio. And those convinced that the party needs a full-course correction are moving toward Rep. John Shadegg of Arizona."

Boehner Criticizes Hastert Ethics Reform Proposal. The Los Angeles Times (2/1, Curtius, 958K) says Boehner "offered rare public criticism Tuesday of House Speaker J. Dennis Hastert (R-Ill.), saying he disagreed with key elements of Hastert's plan to overhaul the chamber's ethics rules." Boehner "questioned Hastert's call for a ban on travel by House members and their staffs paid for by private groups, indicating he considered such a proposal 'childish.'" The Times notes, "It is unusual for any House Republican, particularly one fighting to join him in the leadership, to publicly question a move by Hastert. Later in the day, Boehner issued a statement modifying his remarks and saying he supported the travel ban. Still, his initial comments, made to reporters, reflected a sense among some

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Republicans that their leadership may have overreacted to the scandal surrounding lobbyist Jack Abramoff that has yet to result in the indictment of a single member of Congress."

Majority Leader Hopefuls Profiled. The Hill (2/1, O'Connor) adds that the three candidates have "remarkably varied personalities and résumés, and the winner's success in the post will be less about public rhetoric than how he moves bills, schedules the floor and interacts with members in pushing the Republican agenda." Blunt "is the most known quantity among all three candidates running for the post. … Blunt largely inherited DeLay's whip organization and has built off that success, particularly in creating large coalitions of outside lobbyists to pass controversial bills. Given that fact, Blunt's opponents have painted him as the candidate for the status quo, but that status quo has been hugely successful during the first five years of the Bush presidency." Boehner 'has made his ability to manage the conference a central theme of his campaign to succeed DeLay. … It remains to be seen how Boehner's open management style would jell with the Speaker. Hastert worked well with DeLay in large part because DeLay kept things moving quickly, freeing Hastert and his staff to focus on larger issues of relevance to the president and the party. Even Boehner's supporters suggest he would give members enough space to come up short occasionally." Shadegg "is the unquestioned conservative in this race, but he does not have Blunt's experience winning tough votes on the House floor or Boehner's experience moving bills through committee." Shadegg is "offering himself as a face for the party, something DeLay came to embody — for better or worse."

Boehner Has Largest Number Of Former Aides On K Street. The Hill (2/1, Bolton) reports, "Rep. John Boehner (R-Ohio) has had a significantly greater number of former staffers go on to work with lobbying and public-affairs shops around town than Reps. Roy Blunt (R-Mo.) and John Shadegg (R-Ariz.), according to congressional records reviewed by The Hill. This larger alumni network gives Boehner strong allies in the business community should he become House majority leader but also creates a potential liability because of the Jack Abramoff lobbying scandal, which has prompted critics to attempt to cast lobbyists in a negative light. At least 24 former aides to Boehner, chairman of the House Education and the Workforce Committee, have registered as lobbyists or proceeded to work in corporate public affairs and advocacy since leaving Capitol Hill. At least 11 former staffers to Majority Whip Roy Blunt (R-Mo.) have pursued careers at trade associations, public-affairs companies and law firms since working in the House. At least seven former staffers to Shadegg later registered as lobbyists or landed jobs as corporate advocates."

Budget Vote Seen As "Major Test" For Blunt. The Washington Post (2/1, A11, Weisman, 744K) calls today's House vote on final passage of the budget bill "a final major test" in Blunt's bid for Majority Leader. The Post reports "Supporters and opponents of Blunt say passage of the budget bill may not ensure his victory in the leadership vote on Thursday, but its failure could be a serious blow to his bid to succeed DeLay."

House GOP Lobbying Reform Package Will Be Broken Into Separate Bills. House Republican leaders plan to unveil to rank-and-file members its plan for overhauling lobbying rules. Roll Call (2/1, Newmyer) reports, "Acting House Majority Leader Roy Blunt (R-Mo.) said Tuesday that the package would be broken into separate bills. It was unclear, however, whether lobbying reform measures would be separated for the sake of committee consideration and then folded back into a single bill, or whether they would in fact be sent to the floor separately. The bill was widely expected to be introduced this week. But its architect, Rep. David Dreier (R-Calif.), indicated that the compressed time frame for the Republican Conference to consider the plan, as well as other distractions, may delay the party's effort to address the Jack Abramoff lobbying scandal with a legislative fix." The "pending shakeup" in the House GOP leadership is also delaying the effort. The "outcome of the leadership contest could affect the shape of the reform package."

Lawmakers Imposing Limits On Staff Contact With Lobbyists. Meanwhile, The Hill (2/1, Kaplan, Schor) reports, "A growing number of lawmakers aren't waiting around for new lobbying reforms to be enacted. Instead, they are imposing new limits on staffers' contacts with K Street, seeking to cleanse the sudden stain of scandal from once-routine gifts and lunches." House Energy and Commerce Committee aides "are avoiding not just lunches and dinners with lobbyists but any lobbyist-sponsored reception. The mindfulness came after a decree issued last week by the committee's staff director, Bud Albright. … Albright's underlings are not the only staffers struggling to adapt to the new order on the Hill, where lobbyists and lawmakers alike are stepping lightly and laying low. Reps. Pete Sessions (R-Texas), Loretta Sanchez (D-Calif.), Frank Pallone (D-N.J.), David Wu (D-Ore.) and Jerry Weller (R-Ill.) are among the House members imposing internal restrictions of varying intensity on their aides." The Hill also notes that "other members have not flinched since the lobbying scandal first erupted and are operating as usual, reflecting quiet resentment among those who fear that stricter rules would isolate them from the outside world."

Proposal Would Lift Former Members' Access To House Floor, House Gym. The Washington Times (2/1, Dinan, 90K) says the House "is poised to ban former members of Congress who have become lobbyists from both the House floor and members' gym as the first step in what will be a months-long lobbying and ethics-reform debate.

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Democrats called the changes nearly inconsequential in the scope of serious corruption charges, and said it was a strange place to start. … The changes, which passed the House Rules Committee by voice vote yesterday and were sent to the full House for a vote today, would prohibit former members who are lobbyists from the House floor. Former members and their spouses who are lobbyists would not be allowed in the gym." House Rules Committee Chairman David Dreier "called the change a 'first step in the process' and said the House would address all concerns that Democrats have raised."

Senators Have Sign-Up Lists For Earmarks On Their Web Sites. The Washington Post (2/1, A21, Kamen, 744K) reports in its "In the Loop" column, "Several senators, we're told, have downloadable sign-up lists" for earmark projects "on their Web sites." On her web site, Sen. Lisa Murkowski "invites constituents to send in requests for projects so all Americans will have the chance to pay for things Alaskans don't want to pay for. 'Every federal fiscal year,' she says, 'Alaskans are welcome to submit requests for programs or projects to be funded by earmarks' in appropriations bills. Alaskans could, of course, submit them to their state and local officials, but since there's no state income tax or sales tax, there's only so much money available from the $1.2 billion state budget surplus. But hurry. 'These funding requests are due no later than March 1 of each calendar year,' she notes. You can download 'Senator Lisa Murkowski's Fiscal Year 2007 Project Request Form' and then e-mail it to her at: Funding_Request@murkowski.sen.gov or fax it in."

Burns Aide Says Birthday Fundraiser Was "Test Of Loyalty and Friendship." Roll Call (2/1, Akers) reports in its "Heard on the Hill" column, "That birthday fundraiser last Wednesday for Sen. Conrad Burns (R-Mont.) made the politically vulnerable 71-year-old Senator feel better about his standing with his colleagues, according to one Capitol Hill GOP aide. Without saying how much money was raised, the aide described the event as a 'test of loyalty and friendship,' a referendum on 'how do people feel? Are they gonna stick by him?' Burns' folks felt pretty good about nine Senators, including three committee chairmen, showing up at the fundraiser at the National Republican Senatorial Committee. They were: Sens. Ted Stevens (Alaska), Lisa Murkowski (Alaska), Kit Bond (Mo.), Mitch McConnell (Ky.), John Warner (Va.), Lamar Alexander (Tenn.), George Voinovich (Ohio), and Arlen Specter (Pa.). Voinovich personally offered to come to Montana and campaign for Burn's re-election effort."

OPM Director Says Government Faces "Retirement Tsunami." The Washington Post (2/1, B2, Barr, 744K) reports in its "Federal Diary" column that OPM Director Linda Springer warned that the government "will likely face a 'retirement tsunami' in the next few years and needs to begin taking steps now to expand employment opportunities for the next generation of public servants." Springer "said that 60 percent of the government's 1.6 million white-collar employees and 90 percent of about 6,000 federal executives will be eligible for retirement over the next 10 years. OPM projects that the high-water years will be 2008 through 2010, as baby boomers and others leave Uncle Sam." Springer said it is "imperative for OPM to come up with strategic plans for the federal workforce and how career patterns may change in the future, Springer said. The government cannot afford to be caught by surprise, assuming that it can easily recruit a new generation of employees interested in a federal career that spans decades, she said."

Tomorrow's Prayer Breakfast Called "Demonstration Of Interfaith Worship." The Washington Times (2/1, Duin, 90K) reports, "Tomorrow's National Prayer Breakfast, traditionally an evangelical Christian event, will be a demonstration of interfaith worship Sen. Norm Coleman, Minnesota Republican, is the first Jewish co-chairman, and Jordan's King Abdullah, a Muslim, will attend the breakfast and give a major luncheon speech a few hours later. Several persons close to the event organizers say the keynote speaker will be the rock star Bono, founder of the Irish band U2. A spokesman for Bono, an outspoken Christian and backer of humanitarian causes, did not return calls yesterday."

Taylor's Failure To Get FDIC Post Attributed To NRA Opposition. The New York Post (2/1, Earle), in a front-page article, reports New York state banking commissioner Diana Taylor, who is Mayor Michael Bloomberg's "girlfriend" had been "widely seen as a shoo-in as late as last week to head the Federal Deposit Insurance Corp., which oversees the nation's banks. But the NRA wound up maneuvering behind the scenes to block her nomination at the last minute, to send a message to her billionaire boyfriend, sources told The Post. 'It's obvious the NRA hasn't been pleased with the mayor's campaign against guns,' a Senate aide said." The Post notes, "The apparent revenge attack comes after Bloomberg made a 'war on guns' a top priority for his new term." However, Sen. Larry Craig, "who sits on the NRA board, hinted that there was another reason. … 'I think she has more baggage than a friend who's the mayor of New York [at battle with] the NRA,' he told The Post last night. 'That's what I've been told.'"

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OTHER NEWS:

On Greenspan's Last Day, Fed Raises Interest Rate A Quarter Point. On Alan Greenspan's final day as Federal Reserve Chairman the Fed raised its benchmark short term interest rate a quarter point to 4.5%. ABC World News Tonight (1/31, story 5, 2:34, Vargas) called Greenspan's departure the "end of an era." ABC (Stark) added that Greenspan leaves the Fed "as he led it, a figure of mythic proportions. While 60% of Americans rate the national economy negatively, 72% approve of the job Alan Greenspan did managing it." President Bush in November 2005: "The era of Chairman Greenspan will always be known as one of phenomenal economic growth." Stark: "Mr. Greenspan will also be missed as a master in times of crisis and the new Fed chairman will have to prove himself a steady hand. Ironically, Elizabeth, that's just what people said 18 1/2 years ago, when Alan Greenspan, then a mere mortal, first took over." Vargas: "History repeats itself."

NBC Nightly News (1/31, story 9, 2:00, Thompson) quoted former Treasury Secretary Robert Rubin." It's not so much that he and his work, in terms of the job as Chairman of the Federal Reserve board, are one, but he and the substance of what he does and what's involved in and engaged in, I think are really one." Thompson: "His support of President Bush's tax cuts led the Senate's leading Democrat Harry Reid to call Greenspan one of the biggest political hacks in Washington. Sometimes knocked, one time knighted, the face of the Fed, rationally exuberant as he leaves."

The Los Angeles Times (2/1, Sing, 958K) reports that the Fed gave Greenspan's successor Ben Bernanke "some flexibility to wage his own battle against inflation." The central bank said "'some further policy firming may be needed.' But for the first time since it began its tightening program, the central bank dropped the word 'measured' — which had become Fed-speak for predictable quarter-point hikes. Dropping that word from the Fed's policy statement is seen as a step to give Bernanke some flexibility, making future rate decisions less predictable and more dependent on economic data."

USA Today (2/1, Kirchhoff, Hagenbaugh, 2.31M) says the Fed's language "was less emphatic than the prior statement that further rate increases were 'likely' to be necessary. Fed officials also removed reference to 'measured' interest rate increases. … Its omission suggests the Fed is that much closer to being done increasing rates, economists say."

The Financial Times (2/1, Balls) adds, "By changing the language in its statement, Fed policymakers were attempting to avoid the impression of committing Ben Bernanke, the new Fed chairman, to further increases, while signalling that further rate increases remained likely, depending on the economic data."

The Washington Post (2/1, D1, Henderson, 744K) adds, "The statement was the first in more than two years that did not indicate the Fed's likely next move, forcing financial markets to accept more uncertainty. … Major banks followed the Fed's action yesterday by lifting the prime rate on business loans to 7.5 percent from 7.25 percent. Many consumer rates, such as on credit cards and home equity loans linked to the prime rate, may rise as well."

The Wall Street Journal (2/1, Ip, 2.11M) adds, "The wording change suggests that prospects for an increase at the Fed's March 28 meeting and after depend on incoming economic data. The Fed expressed no alarm over a sharp slowdown in economic growth in the fourth quarter of 2005, but it remained wary of inflation. Though economic data have been 'uneven, the expansion in economic activity appears solid,' it said."

The New York Times (2/1, Andrews, 1.19M) says Greenspan "left his successor a wide berth to set his own policy but some major uncertainties about the future." Greenspan's signal that "the current series of rate rises was nearing an end" gave Bernanke "freedom to make his own mark on an economy that performed much better during most of the Greenspan era than many experts thought possible when he took over at the Fed in 1987. But the handoff also meant that Mr. Bernanke would face murkier choices at a time of substantial risks that increase the chances for serious missteps."

Greenspan Says Economy Solid, High Energy Prices May Cause Inflation. ABC World News Tonight (1/31, story 5, 2:34, Stark) reported, "The diagnosis today" from outgoing Fed Chairman Alan Greenspan, "an economy that appears solid but remains at risk for inflation pressures from high energy prices. Low inflation, low interest rates, and record prosperity have been hallmarks of the Greenspan tenure."

Forbes Says Greenspan Operated On "Hunches." Steve Forbes writes in the Wall Street Journal (2/1, 2.11M), "Never in history has a central banker received such a cacophony of hosannas as has Alan Greenspan, who officially stepped down yesterday. … Mr. Greenspan's record? Officially measured rates of inflation are lower today than when the Maestro took office." Forbes adds that Greenspan "has left no institutional legacy that can guide his successors, that can be a lasting model for other central bankers here and around the world. In short, Mr. Greenspan operated by his gut, on hunches. He was similar to a pilot who flies without instruments. His instincts are usually right on, but not always." Forbes continues, "Greenspan leaves his successor with another blunder -- the Fed is re-stoking the fires of inflation. … Alan Greenspan's failure to leave a gold-

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based legacy means poor Ben Bernanke won't be prepared for what will be hitting him -- the most serious resurgence of inflation in 25 years."

Bernanke To Be Sworn In As Fed Chairman This Morning. USA Today (2/1, Kirchhoff, 2.31M) reports that the Senate confirmed Ben Bernanke to replace Alan Greenspan as Federal Reserve Chairman. Bernanke who is scheduled to be sworn in this morning, "was cleared by the Senate on a voice vote with the sole dissent coming from Sen. Jim Bunning, R-Ky., a longtime Fed critic." USA Today adds, "The transition should continue to run smoothly on many levels. Bernanke inherits an economy that has been expanding since late 2001, with steady job growth and healthy business profits. He has pledged continuity with Greenspan's approach, emphasizing the importance of low and stable inflation, flexibility and greater openness. … Still, turbulence is possible. The transition comes at a pivotal time, with the Fed's Federal Open Market Committee deciding when, and how, to wind up its nearly two-year string of interest rate increases. The record housing market is losing steam, energy prices remain high, and the nation is saddled with huge trade and budget deficits. Bernanke is untested in a crisis and has called for more explicit inflation targets, a change in Fed operations."

The Christian Science Monitor (2/1, Trumbull, 61K) says Bernanke "does not arrive on the job with a long track record as a public figure - either in government or in the corner office. Alan Greenspan came to the Fed as a well-known Wall Street economist who had advised President Nixon. Paul Volcker headed the prestigious Federal Reserve Bank of New York. G. William Miller was CEO of Textron. By contrast, Dr. Bernanke is relatively new to the circles of the world's policymaking elite. His rise from Dillon, S.C. - a quiet town of 6,300 - has run along a largely academic track. That changed in 2002, when President Bush named him to one of seven slots on the Federal Reserve Board. Then, last June, he became chairman of the president's Council of Economic Advisers. But if he has spent little time in the limelight, Bernanke is hardly unprepared for the rigors of his new role. His recent post as a Fed governor has put him at Mr. Greenspan's side for three years, helping to shape the Fed's interest-rate policies."

Consumer Confidence Rose In January. The Conference Board said its consumer confidence index rose to 106.3 in January, the highest level since June 2002. The AP (2/1) attributes the rise in the index to growing optimism about the US job market. The AP adds, "A separate report from the Labor Department on employee compensation said wages and benefits paid to civilian workers rose 3.1 percent last year, the smallest amount in nine years. The department said the slowdown reflected a big drop in benefit costs — items like health insurance and pensions — which rose by 4.5 percent last year after jumping 6.9 percent in 2004."

Survey Finds Manufacturers Optimistic About Economy's Prospects. The Wall Street Journal (2/1, Golden, 2.11M) reports, "US manufacturers expect solid revenue growth, a higher level of new investment, more hiring, and an upturn in mergers and acquisitions activity during 2006, according to a PricewaterhouseCoopers survey. Some 76% of the 62 senior executives interviewed for the accounting and consulting firm's quarterly 'Manufacturing Barometer' survey during the fourth quarter of 2005 said they were optimistic about the U.S. economy's prospects over the next 12 months, up from 45% in the third quarter. Only 2% are pessimistic, according to PricewaterhouseCooper's and 22% have an uncertain outlook. Seventy-one percent are optimistic about the world economy, up from 54% of executives in the previous quarter. Also, 61% of those surveyed plan to increase their workforce over the next 12 months, up from 52% in the third quarter last year and 53% one year ago."

Paychecks Did Not Keep Pace With Inflation Last Year. The Labor Department said that employee paychecks failed to keep pace with inflation last year. The Wall Street Journal (2/1, Preciphs, 2.11M) reports, "Total compensation costs -- wages and benefits -- for civilian workers rose a seasonally adjusted 0.8% in the October-December period, following a similar increase in the third quarter. Benefit costs for the period rose 1.1%, while wages and salaries trailed with a 0.8% increase, the department said. Compensation costs rose 3.1% for all of 2005, down from a 3.7% increase the year before. Last year's increase was the smallest annual increase since 1996. Wages and salaries were up 2.6% for the year, not enough to compensate for inflation, which averaged 3.39%. Meanwhile, the costs of benefits such as health insurance rose 4.5% for the year, a marked slowdown from the 6.9% surge in 2004."

Foreign Auto Companies Creating New Jobs In US. A front page story in the Wall Street Journal (2/1, Shirouzu, 2.11M) say that "massive job cuts by Detroit have overshadowed an important change in U.S. manufacturing. Asian and European auto companies, looking for skilled workers to make complex products, have created nearly enough new jobs in the U.S. to make up the difference. … The new jobs buoying the U.S. manufacturing sector require that workers have a decent education. It is the towns that understand this new math that are winning the work. Employees need skills to operate and maintain complex, computer-controlled machinery. Top-tier automotive suppliers such as Denso, Robert Bosch GmbH and Delphi Corp. use similar equipment and techniques to make competing products. The difference between them, therefore, often comes down to whose workers can produce the most goods at the highest quality. … Denso's top executives say

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they expect to expand their work force to meet demand from Toyota and other Asian auto makers flocking to southern states. Currently at 380, Denso's work force in Osceola could increase to more than 3,000, company executives say. Denso executives know Osceola still faces big challenges in improving its education but say they were attracted by the town's commitment to tackling its problems.'

Stocks Declined Tuesday. Stocks finished the day down yesterday following a Federal Reserve decision to raise interest rates for 14th time in nearly two years. The AP (2/1, Martinez) says the Fed "failed to give Wall Street a clear signal on when those rate increases would end." The Dow Jones industrials fell 35.06 points to 10,864.86. The Standard & Poor's 500 index lost 5.12 points to 1280.08. The Nasdaq composite slipped 0.96 points to 2305.82. Reuters (2/1) also attributes the indexes' declines to "jitters about the outlook for interest rates."

Chicago Federal Court Opens Help-Desk For Pro Se Suits. The Washington Post (2/1, Lydersen) reports that "the U.S. District Court for the Northern District of Illinois in Chicago has launched a program to provide free legal assistance for people in filing pro se federal lawsuits." The Post continues, "Judges and lawyers here who advocated for the help-desk program -- which was launched early last month as the District Court Self-Help Assistance Desk -- describe it as a win-win situation for all. It serves as a filter, weeding out frivolous cases or cases that do not belong in federal court, while aiding people with legitimate complaints. … 'Lots of times we've had pro se complaints that are literally gibberish,' said District Judge William J. Hibbler, who was involved in founding the help desk. 'Trying to make heads or tails of their complaints was a big effort. There might be a kernel of a case there, but it's so poorly articulated that it gets dismissed. People need technical help to formulate complaints in such a fashion that we can deal with them.'" The Post adds, "The idea came about through conversations last fall between U.S. district judges here and the Chicago Bar Foundation, the charitable arm of the Chicago Bar Association. State and circuit courts and bankruptcy courts around the country have provided similar programs for people without attorneys, but this help desk is thought to be the first of its kind in federal court. … The Chicago Bar Foundation put up more than $100,000 to fund the program and hire the lawyer who staffs the desk full time. The lawyer, who has federal court experience, is employed by the Legal Assistance Foundation."

Spitzer Bars Leader Of Holocaust Fund For Fiscal Mismanagement. The New York Times (2/1, Strom, 1.19M) reports, "The New York attorney general's office found that the leader of the World Jewish Congress, Israel Singer, violated his fiduciary responsibilities and barred him and a former executive from any financial role in the organization, according to a settlement disclosed yesterday." AG Eliot Spitzer's office "also identified shortcomings in the organization's financial controls, record keeping and fund-raising, but said it found no evidence of criminal wrongdoing."

Putin Says Russia Will Not Support Aid Cutoffs To Palestinians. The Washington Post (2/1, A19, Finn, 744K) reports that though Russian President Vladimir Putin described the Hamas victory in the Palestinian elections "as 'a big blow to American efforts in the Middle East, a very serious blow,'" he said Russia "would not support any efforts to cut off financial assistance to the Palestinians." At his "annual news conference in the Kremlin," Putin said, "Our position on Hamas is different from that of the United States and Western Europe. The Russian Foreign Ministry has never regarded Hamas as a terrorist organization. But this does not mean that we totally approve and support everything that Hamas has done." The Washington Times (2/1, Borowiec, 90K) reports that Putin added, "A refusal to help the Palestinian people would be mistaken."

Wolfowitz Also Says World Bank Should Continue Aiding Palestinians. The Financial Times (2/1, Beattie) reports World Bank President Paul Wolfowitz also said the Bank "should continue delivering aid to the West Bank and Gaza in spite of last week's electoral victory" by Hamas. Wolfowitz said the Bank "was operating in Palestinian areas at the request of the 'quartet' of the US, the United Nations, Russia and the European Union. 'What we do now depends on what the quartet asks us to do,' he said. 'I hope they will ask us to stay.'"

Quartet's Urging Of Hamas To Reform Seen As Unrealistic. The New York Times (2/1, Erlanger, 1.19M) reports that the "quartet" nations "have lined up in solidarity with Israel in calling on Hamas…to modify its radical policies." In a Monday statement, the quartet said Hamas "'must be committed to nonviolence, recognize Israel and accept the previous agreements and commitments,' like the Oslo accords that set up the Palestinian Authority and the 'road map' peace plan, which calls for the dismantling of armed groups like Hamas. All that pleased Israel, its diplomats said Tuesday. But it is like asking Hamas to convert to Christianity, they concede."

Palestinians Debate Role Of Religion In Hamas Governance. The New York Times (2/1, Fisher, 1.19M) reports that Palestinians are debating to what extent, "by law or by social pressure, Hamas will "impose its strong religious beliefs." So far, Hamas leaders, "seeking to calm both Palestinians and an anxious outside world, have projected moderation. They say they will not impose on the Palestinians' diverse society any form of Islamic rule." But "given Hamas's roots in the wider Islamic movement, the

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pledge is not entirely convincing for many in the tiny and dwindling Christian population, or among secularists and observant Muslims who want a more secular state." Meanwhile, the Washington Times (2/1, Mitnick, 90K) profiles the West Bank town of Qalqilya, where Hamas "swept all 15 municipal council seats eight months ago, only to lose the area's two parliamentary seats in the face of voter disappointment."

Political Bureau Chief Says Hamas "Shall Never Recognize" Israel. Hamas Political Bureau leader Khaled Meshaal, in a Los Angeles Times (2/1, 958K) op-ed headlined 'We Shall Never Recognize…A Zionist State On Our Soil,' writes, "The day Hamas won the Palestinian elections, the world's leading democracies failed the test of democracy. Rather than recognize the legitimacy of Hamas as a freely elected representative of the Palestinian people, seize the opportunity created by the result to support the development of good governance in Palestine and search for a means of ending the bloodshed, the U.S. and the EU threatened the Palestinian people with collective punishment. We are being punished simply for resisting oppression and striving for justice. … Our message to the U.S. and EU is this: Your attempt to force us to give up our principles or our struggle is in vain. … Our message to the Israelis is this: We do not fight you because you belong to a certain faith or culture. Jews have lived in the Muslim world for 13 centuries in peace and harmony. … Our conflict with you is not religious but political. … We shall never recognize the legitimacy of a Zionist state created on our soil in order to atone for somebody else's sins or solve somebody else's problem."

Rice Confident Russia, China Will Support Iran Referral To Security Council. Reuters (1/31, Pleming) reports Secretary of State Condoleezza Rice said she "was confident of Russia and China's support for sending Iran's nuclear case to the U.N. Security Council, but expected differences over exactly what steps to take." Rice said, "There is a very strong consensus on what the problem is and that the problem has to be dealt with. I expect there will continue to be tactical differences about timing. There may even be tactical differences about precisely what is required but that's the hard work of the diplomacy." Russia and China are "now expected to vote 'yes' on Thursday instead of abstaining, a senior State Department official said." Knight Ridder (1/31, Landay) adds that the two nations, "which have huge financial stakes in Iran, had been resisting the vote. … Their about-face underscored the depths of their frustrations with the hard-line Iranian President Mahmoud Ahmadinejad's regime and made it likely that a majority of the 35-member IAEA board of governors would vote to haul the Islamic republic before the Security Council."

The Washington Post (2/1, A18, Kessler, Linzer, 744K) writes the IAEA's governing board "will meet in Vienna tomorrow to discuss whether to report the continuing impasse over Iran's nuclear ambitions to the U.N. Security Council. By coincidence, tomorrow is also Groundhog Day. In the four years since President Bush first cited the dangers of Iran's nuclear program in his 2002 State of the Union speech by labeling it part of the 'axis of evil,' the administration has struggled to galvanize other nations to take action against the potential threat of Iran obtaining nuclear weapons. For 2 1/2 years, the administration has pressed the IAEA to go to the Security Council. Yet, at IAEA board meeting after board meeting, a decision to formally report the matter to the Security Council has been put off."

White House "Very Pleased" By IAEA Report On Iranian Nuclear Efforts. The Wall Street Journal (2/1, Champion, Crawford, 2.11M) reports, "An interim report to be delivered by IAEA inspectors at the agency's emergency board meeting tomorrow will detail continuing gaps in Iran's compliance with the IAEA, including the agency's conclusion that a document Iran obtained on the nuclear black market serves no other purpose than to help make an atomic bomb. First mention of the documents was made late last year in a longer IAEA report, but the agency refused at that time to make a judgment on what possible uses such information would have." The CBS Evening News (1/31, story 2, 2:30, Roberts) reported, "On the Iran issue, White House officials…are very pleased with this IAEA report. While they felt they didn't need it and believed that Iran has plans to build all or part of the nuclear bomb, they say this is a reason to haul Iran before the UN Security Council." The New York Times (2/1, Sciolino, Broad, 1.19M) reports, "The four-page report, which officials say was based at least in part on intelligence provided by the United States, refers to a secretive Iranian entity called the Green Salt Project, which worked on uranium processing, high explosives and a missile warhead design."

Iran Refuses To Turn Over Black Market Weapons Document. Knight Ridder (2/1, Landay) reports, "Iran is refusing to turn over to U.N. investigators a copy of a black market document it could use to build nuclear weapons, according to a confidential U.N. report Tuesday. The document, which Iran received from an international nuclear smuggling ring, describes aspects of fabricating the explosive core of a nuclear bomb. The document is one more piece of evidence supporting concerns that Iran is pursuing a nuclear weapons program in the guise of peaceful nuclear power research." The Washington Times (2/1, Jahn, 90K) reports that the IAEA said the document "serves no other purpose than to make an atomic bomb." Agence France Presse (1/31) adds that the IAEA report "indicates several areas where Tehran is suspected of doing atomic work that could be military related."

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Belgian Intelligence Chief Quits Over Exports To Iran. The Wall Street Journal (2/1, 2.11M) reports Belgian intelligence chief Koen Dassen "resigned after it emerged that warnings from the U.S. Central Intelligence Agency went unheeded and the country's state security agency failed to stop a Belgian company from exporting nuclear-sensitive equipment to Iran. A Belgian parliamentary committee revealed the Iranian export yesterday," a day after Dassen "quit over accusations the agency failed to inform the government about the CIA's warnings."

Persian Gulf States Increasingly Critical Of Iranian Nuclear Efforts. The New York Times (2/1, Fattah, 1.19M) reports, "After years of hesitating, Persian Gulf states are joining the call for tougher action on Iran's nuclear efforts, increasingly worried that a nuclear Iran could set off a regional arms race. In recent weeks, Saudi officials and other gulf leaders have called for Iran to abandon its nuclear research, without demanding that Israel disarm first. Separating those two demands is a major policy change, and many experts see the shift as a sign that Iran's Arab neighbors may even back United Nations sanctions against Iran."

Ahmadinejad Reaching Out To Latin American Populist Leaders. The Washington Post (2/1, Vick, 744K) reports, "On the afternoon of Jan. 4, Iranian President Mahmoud Ahmadinejad reached for the phone and got Latin America on the line. In quick succession, he chatted with President Fidel Castro of Cuba, rang up President Hugo Chavez of Venezuela and, sensing yet another kindred spirit, reached out to Evo Morales, the young firebrand who had just been elected president of Bolivia. Person-to-person and peer-to-peer, the transatlantic calls described on Ahmadinejad's presidential Web site linked self-styled populists who glory in defying the West. But for Iran, the exchanges carried significance reaching well beyond Ahmadinejad and the controversy enveloping him personally after questioning the Holocaust and saying Israel should be 'wiped off the map.' In its bid to proceed with a nuclear program opposed by Washington and Western Europe, Iran's leadership appears settled on a revived policy of confrontation with 'global arrogance,' as the country's rulers have referred to the foreign policy of United States for almost three decades. But the contest is now being framed as a David-vs.-Goliath battle, and Iran is seeking to attract relatively poor, disempowered nonaligned nations to its side, not simply the Muslim world it once saw itself as leading, Iranian officials and analysts say."

Nuclear Arms Control Experts Say Russian Deal Would Create New Problems. In a New York Times (2/1, 1.19M) op-ed, Valerie Lincy and Gary Milhollin of the Wisconsin Project on Nuclear Arms Control write, "Although the [IAEA] is now likely to report Iran to the Security Council, America and the Europeans agreed that the United Nations will wait at least a month before deciding on any punishment. There is little doubt what this cooling-off period is intended for: further negotiations on a proposal that would have Iran shift its large-scale, energy-related uranium enrichment work to Russia. … The Russian deal actually poses more problems than it solves. First, even if Russia took over Iran's nuclear energy work, the religious radicals in Tehran would be left with a huge amount of dangerous equipment. … Second, Iran draws a distinction between the energy-related work that would go to Russia and other enrichment activity that it likes to call 'research.' When Iran broke the international seals at three enrichment sites last month and resumed work, its Foreign Ministry said the move was done only for scientific interests and had nothing to do with weapons. Even with a Russian deal, Iran is likely to insist on its right to continue such research. … Last, the proposal, if accepted, would shatter the coalition of states that is finally working together to restrain Iran. Russia would certainly end its tepid support for Security Council action and would agree to let the Iranians continue their 'research.' The United States is equally certain to refuse such a concession."

OPEC Agreement, Iranian Pledge Lower Oil Tensions. The Wall Street Journal (2/1, Bahree, 2.11M) reports, "OPEC yesterday endorsed an agreement to keep pumping nearly all the oil it can." Meanwhile, "Iran's oil minister, Kazem Vaziri Hamaneh, said Tehran wasn't linking its oil exports to the dispute" over its nuclear research. "The Iranian stance provides a measure of reassurance that OPEC can continue to meet rising global oil needs, which have sent prices soaring toward $70 a barrel this year. Still, it isn't clear whether the Iranian oil minister's statement is Tehran's final word on the role the country's oil exports will play in the standoff."

Oil Producers Investing, Diversifying. The New York Times (2/1, Mouawad, Porter, 1.19M) reports, "oil producers…are experiencing a boom," and while "lavish projects are finding financing," the Arabian peninsula's "main oil producers, like Saudi Arabia, Kuwait, Qatar and the United Arab Emirates, have gotten wiser. Since the boom started three years ago, they have paid down their debt, saved more money than ever before and created more jobs in the private sector. And they are trying to diversify their economies away from oil and its increasingly volatile cycles."

As Muslims Boycott Danish Products, Danish PM Defends Journalistic Freedom. The New York Times (2/1, Cowell, 1.19M) reports, "As Islamic protests spread about cartoons of the Prophet Muhammad in a Danish newspaper, Anders Fogh Rasmussen, the Danish prime minister, defended press freedom in his country on Tuesday but distanced himself from the newspaper's decision

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to publish the drawings. His remarks fell far short of the apology demanded by an array of Islamic groups and countries which have imposed a remarkably successful boycott of Danish products," but "some Islamic leaders in Denmark said they were satisfied by the actions by the Danish newspaper and prime minister."

Mauritania Reaffirms Ties With Israel, Opposition To Terrorism. The Washington Times (2/1, Constantine, 90K) reports, "Mauritania, the sprawling Islamic nation on the northwest coast of Africa, this week reaffirmed its commitment to fight terrorism shoulder to shoulder with its Western allies and to continue its diplomatic relations with Israel." Mauritanian Foreign Minister Ahmed Ould Sid Ahmed "called Mauritania's ties with the United States 'of paramount importance' to the moderate Islamic republic," and added, "We have said no to terrorism and we shall not back away from our diplomatic ties with Israel."

Putin Seeks To Counter Criticism Of Russia. The New York Times (2/1, Myers, 1.19M) reports, "President Vladimir V. Putin on Tuesday defended Russia's handling of natural gas disputes with Ukraine and Georgia, boasted of a new strategic weapon and defended the country's contribution to the Group of 8 in response to suggestions from some critics at home and abroad that his policies have disqualified it from the club of elite democratic nations" with "only a hint of the temper that has flashed in previous public appearances." By "saying Russia had no intention of using gas or oil as an energy weapon," he tried to counter "some of the harshest foreign criticism the Russian government has faced" "also sought to reassure those worried about the state's growing role in the economy through its state-owned companies."

Ukraine Gas Deal Puts Spotlight On RosUkrEnergo. The New York Times (2/1, Kramer, 1.19M) reports, "Four weeks after Ukraine cut a deal to import natural gas through RosUkrEnergo, a shell entity based in Switzerland, the obscure company is facing an uncomfortable amount of attention. After becoming one of Europe's biggest energy traders overnight with the Ukraine deal, the company promised changes to become more open about its operations," but its "secretive nature has driven the Parliaments of both Ukraine and Russia to open investigations." Analysts who follow Gazprom say RosUkrEnergo's "role as a front for the unnamed owners has become an embarrassment for" the company.

Chavez Pressures Spain On Arms Deal. The Washington Times (2/1, Hearn, 90K) reports, "Venezuelan President Hugo Chavez pressed Spain yesterday to declare whether it plans to go ahead with a sale of military planes and patrol boats, despite objections from the United States," which "denied an export license for Spain to sell the transport and maritime surveillance planes, which contain American-made technology. For the same reasons, it has blocked plans by a Brazilian aerospace company to sell Caracas 36 military planes. U.S. leaders want to keep sensitive technologies away from Mr. Chavez," and "both countries have the option of replacing the U.S. parts and proceeding with the sale. But experts say that would require considerable time and money and could risk diplomatic tensions with Washington." Meanwhile, "Chavez is repeating threats to seek military equipment from Russia and China."

Bachelet Begins Chilean Presidency With Change. The Christian Science Monitor (2/1, Ross, 61K) reports that Michelle Bachelet, Chile's first female president," named "a cabinet of 10 female and 10 male ministers," marking "a significant change to the political status quo," which is "expected to be the first of many." However, "some experts question whether she'll sacrifice competence for image," although "the relative lack of public uproar over Bachelet's cabinet - and her very election - seems to reflect a profound socio-cultural change."

Ignatius Says US, French Cooperating Diplomatically. David Ignatius writes in his column in the Washington Post (2/1, A23, 744K), "The Elysee Palace has become one of the White House's most important and effective allies." The White House "is now working hard to conduct its foreign policy in tandem with international allies and, where possible, through the United Nations. America's key intermediary in this search for international consensus has been France," and "in framing policy on Syria and Iran, the French and Americans have consciously played a good cop-bad cop routine." While "Paris and Washington still disagree sharply on the substance of many issues," both "seem to have concluded that they'll get more of what they want if they collaborate rather than bicker. Indeed, the quiet partnership has probably benefited from the fact that the world still thinks France and America are enemies."

Dowd Assails "Ham-Handed Bush Foreign Policy Crew." In her column in the New York Times (2/1, 1.19M), Maureen Dowd says "clearly, the Bush foreign policy team doesn't understand any of the markets where it is barging around ineptly trying to sell America and democracy." Opinion of the US overseas "has been in steady decline. The state of the union is sour but the state of the world is chilling, thanks to a hideously ham-handed Bush foreign policy crew that was once billed as a seasoned 'dream team.'" Dowd goes on to say, "The more the White House tries to force-feed democracy to tempestuous parts of the world, the more it discovers that you may be able to spin and scare voters in

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the US, but the Middle East is not so easy to manipulate. W. believes in self-determination only if he's doing the determining. Fundamentalists in America like to vote for Mr. Bush, but elsewhere they're violently opposing him. It's stunning that nearly four decades after Vietnam, our government could be even more culturally illiterate and pigheaded. The Bushies are more obsessed with snooping on Americans than fathoming how other cultures think and react."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"She Built A Legacy By Preserving One."
"5 Films With Depth, If Not Breadth."
"Bush Calls For Cuts In Oil Reliance."
"Airman's Shooting Sparks FBI Inquiry."
"A Stark Division In Vote For Alito."
"LAPD Chief Overruled On Teen's Death."
"Standard Test May Miss Heart Disease In Women."

USA Today:
"Bush Lays Out His Agenda For 'Decisive Year.'"
"Google Drops $53.65 A Share."
"Civil Rights Icon Dies At 78."

New York Times:
"Bush, Resetting Agenda, Says US Must Cut Reliance On Oil."
"Atomic Agency Sees Possible Link Of Military To Iran Nuclear Work."
"Bold Visions Have Given Way To New Reality."
"Alito Vote May Be Decisive In Marquee Cases This Term."
"Coretta Scott King, A Civil Rights Icon, Dies At 78."
"Many Women Face Hidden Risk Of Heart Disease."

Washington Post:
"Bush Says Us Must Remain A World Leader."
"Alito Is Sworn In On High Court."
"A Full Partner In The Dream."
"Lowered Expectations Reflect Political And Fiscal Realities."
"Strategies Laid Out In Enron Trial."
"Va.'s Kaine Assails 'Poor Choices, Bad Management.'"

Washington Times:
"Bush Calls For An Optimistic America."
"It Was A Grand Night For Celebrating."
"Alito Sworn In As 110th Justice."
"Back Pay Owed To Millions In China."
"Coretta Scott King Dies."
"For Hamas, Honeymoon's Over In A West Bank Town."
"Putin Lobbies To Continue Aid To Palestinians; Syria Seeks Cash."

Detroit Free Press:
"Super Hoopla Revs Into Higher Gear."
"Bush: U.S. Must End Foreign Oil Addiction."
"King Touched Lives In Metro Detroit."

Atlanta Journal-Constitution:
"'She's At Peace Now.'"
"Matriarch Had Sought Treatment For Cancer."
"Bush Says US Must Escape Addiction To Mideast Oil."

Dallas Morning News:
"Alito Puts New Face On Court."
"Bush: We Can't Be Complacent."
"She Fought For Equality With Grace."
"Report Ties Iran Work To Nukes."
"A Natural High: January Temps Set Record."

Houston Chronicle:
"Coming Out Swinging."
"Witness Is Expected To Admit Conspiracy."
"Bush Says US Is In Iraq To Win."
"With Alito, High Court Could Set New Course."
"A Symbol Of Civil Rights, The Guardian Of A Dream."

Story Lineup From Last Night's Network News:
ABC: Bush SOTU; Bush Challenges; Wounded ABC Reporters; Senate Confirms Alito; Greenspan Legacy; Coretta Scott King Legacy; Deadly Postal Worker Shooting; Women's Heart Disease; Soldier Reunited With Dog.
CBS: Obit: Coretta Scott King; State Of The Union Preview; Bipartisan Problems; Obama Interview; Woodruff Update; Healthcare Concerns; Enron Trial; CA Office Killing; Wounded Veteran Care; Oscar Nominations.
NBC: Woodruff Update; Iraq Hospitals; Al Jazeera Tapes; Wall Street Journal Poll; US Economy; Katrina Donation Spending; Katrina-Senate Hearings; Savings Lack; Enron Case; Snowstorm Rating Scale.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Bush-State of the Union; AT&T lawsuit; Iraq-Saddam Hussein trial; Wounded journalists return to US; Iraq-suicide bombing; Alito confirmed; Wall Street.
CBS: Bush-State of the Union; Iraq-suicide bombing; Iraq-Saddam Hussein trial; Israel-West Bank violence; CA-shooting spree
NPR: Bush-State of the Union; Iraq-bird flu cases; Iraq-suicide bombing; Iraq-Saddam Hussein trial; Israel-West Bank violence; King obit.; Enron trial.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

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White House:

PRESIDENT BUSH – Signs a proclamation in honor of American Heart Month. Oval Office. Gives speech in Nashville at the Grand Ole Opry.

VICE PRESIDENT CHENEY -- No schedule available.

US Senate: -- COMMITTEE MEETINGS

9:30 a.m. INDIAN AFFAIRS _ Full Committee. Hearing on the gaming application process for off-reservation casinos. Location: Room 106, Dirksen. Notes: Note location change.

9:30 a.m. JUDICIARY _ Full Committee. Hearing on rising gasoline prices. FTC Commissioner Bill Kovacic; Jim Wells, GAO; Connecticut Attorney General Richard Blumenthal; R. Preston McAfee, California Institute of Technology; Tyson Slocom, Public Citizen; Tim Hamilton, Automotive United Trades Organization. Location: Room 226, Dirksen.

10 a.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Full Committee. Hearing on the promotion and advancement of women in sports. Dominique Dawes, U.S. Olympian and President, Womens Sports Foundation; Donna de Varona, U.S. Olympian and sports commentator; Tara Erickson, head womens soccer coach, University of Oregon; Jennie Finch, U.S. Olympian; Dr. Christine H.B. Grant, University of Iowa; Lynette Mund, girls varsity basketball coach, West Fargo High School; Catherine ``Cat Reddick, U.S. Olympian; Dr. Dorothy ``Dot Richardson, U.S. Olympian and Vice Chair, Presidents Council on Physical Fitness and Sports; Judith Sweet, National Collegiate Athletic Association. Location: Room 216, Hart.

10 a.m. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ Full Committee. Hearing on the evacuation plans for the New Orleans Superdome and the evacuation of hospitals, nursing homes and individuals with special needs for Hurricane Katrina. New Orleans Mayor Ray Nagin; Brig. Gen. Mark Graham, 5th U.S. Army; Vince Pearce, U.S. DOT; Dwight Brashear, Capital Area Transit System, Baton Rouge. Location: Room 342, Dirksen.

1:30 p.m. JUDICIARY _ Constitution, Civil Rights and Property Rights Subcommittee. Hearing on the death penalty. Ann Scott, Tulsa, Okla.; Vicki Schieber, Chevy Chase, Md.; John McAdams, Marquette University; Stephen Bright, Southern Center for Human Rights; Paul Rubin, Emory University; Jeffrey Fagan, Columbia University. Location: Room 226, Dirksen. Notes: Note time change.

2:30 p.m. SELECT INTELLIGENCE _ Full Committee. Closed briefing on pending matters. Location: Room 219, Hart.

US House: -- FLOOR SCHEDULE

10 a.m. FLOOR SCHEDULE _ Meets for legislative business. Highlights: H.R. ___ - To eliminate floor privileges and access to member exercise facilities for registered lobbyists who are former House members or House officers. H.R. ___ - Agreeing to the Senate Amendments for S.1`932 - Deficit Reduction Act of 2005. H.R. ___ - To amend the Patriot Act to extend the sunset of certain provisions of such act.

COMMITTEE MEETINGS

9:15 a.m. SELECT KATRINA RESPONSE INVESTIGATION _ Full Committee. Briefing on the preliminary findings of the GAO on the federal response. Comptroller General David Walker. Location: Room 2154, Rayburn.

10 a.m. GOVERNMENT REFORM _ Full Committee. Markup of H.R 4054, to designate the facility of the United States Postal Service located at 6110 East 51st Place in Tulsa, Oklahoma, as the ``Dewey F. Bartlett Post Office.; H.R. 4346, to designate the facility of the United States Postal Service located at 122 South Bill Street in Francesville, Indiana, as the ``Malcolm Melville 'Mac Lawrence Post Office.; H.R. 4456, to designate the facility of the United States Postal Service located at 2404 Race Street in Jonesboro, Arkansas, as the ``Hattie Caraway Station.; H.R. 4509, to designate the facility of the United States Postal Service located at 1271 North King Street in Honolulu, Oahu, Hawaii, as the ``Hiram L. Fong Post Office Building.; H.Res. 629, Supporting the goals and ideals of a Day of Hearts, Congenital Heart Defect Day in order to increase awareness about congenital heart defects. Followed by hrng. on Federal Pension Forfeiture Act. Linda M. Springer, Director, Office of Personnel Management; Chellie Pingree, President and CEO, Common Cause; Joan Claybrook, President, Public Citizen. Location: Room 2154, Rayburn.

11 a.m. ARMED SERVICES _ Full Committee. Hearing on the nuclear threat from Iran. Michael Einstadt of the Washington Institute for Near East Policy, George Perkovich of the Carnegie Endowment for International Peace, and Ilan Berman of the American Foreign Policy Council. Location: Room 2118, Rayburn. Notes: Note time change.

2 p.m. ARMED SERVICES _ Readiness Subcommittee and Tactical Air and Land Forces Subcommittee. Joint hearing on Operation Iraqi Freedom and Operation Enduring Freedom, dealing with the interceptor body armor system, tactical wheeled vehicle armoring and rotorcraft safety. Maj. Gen. Jeffrey A. Sorenson, deputy for acquisition and systems management, Army; Maj. Gen. Stephen M. Speakes, director, Force Development, Army; Maj. Gen. William D. Catto, commanding general, Marine Corps Systems Command; Cmdr. Craig T. Mallak, Office of the Armed Forces Medical Examiner, Navy; Brig. Gen. Stephen D. Mundt - director, Army aviation; Brig. Gen. Martin Post, assistant deputy commandant for aviation, Marine Corps. Location: Room 2118, Rayburn.

2 p.m. ENERGY AND COMMERCE _ Full Committee. Hearing on the safety of phone records from pretexting. Panel 1: Kevin J. Martin, Chairman, Federal Communications

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Commission; Jon Leibowitz, Commissioner, Federal Trade Commission. Panel 2: Steve Largent, President and CEO, Cellular elecommunications and Internet Association, Washington D.C.; Edward Merlis, Senior Vice President, Law & Policy, United States Telecom Association, Washington, D.C. ; Marc Rotenberg, Executive Director, Electronic Privacy Information Center, Washington, D.C.; Robert Douglas, CEO, PrivacyToday.com, Steamboat Springs, Colo. Lisa Madigan, Attorney General, State of Illinois, Chicago. Location: Room 2123, Rayburn.

2:45 p.m. WAYS AND MEANS _ Full Committee. Markup of H.R. 1631 - Rail Infrastructure Development and Expansion Act for the 21st Century. Location: Room 1100, Longworth.

3 p.m. SMALL BUSINESS _ Subcommittee on Tax, Finance and Exports Subcommittee and Rural Enterprises, Agriculture and Technology Joint Hearing on Transforming the Tax Code: an examination of the president's Tax Reform Panel recommendations." Former Sen. John B. Breaux, D-La., vice-chairman, President's Advisory Panel on Federal Tax Reform; Todd McCracken, president, National Small Business Association; Daniel Mitchell, senior fellow on political economy, The Heritage Foundation; David Burton, Americans for Fair Taxation; Jim Hausman, president, Hausman Metal Works and Roofing Inc., St. Joseph, Mo.; Leonard Burman, senior fellow, Urban Institute; Andy Loftis, Keller Williams Realty, Athens, Ga., representing National Association of Realtors. Location: Room 2360, Rayburn.

US House: -- Jan. 30 - Feb. 2. STATE OF THE UNION-RELATED EVENTS _ State of the Union related events. Highlights: 8:15 a.m. - 10:30 a.m. Atlantic Media hosts a post-speech debate and briefing on the president's remarks. Participants are Charlie Cook, National Journal's Cook Political Report; Chuck Todd, Editor-in-Chief Hotline, Chuck Todd Chris Matthews, MSNBC Election anchor and Host of Hardball. Charlie Palmer's Restaurant, 101 Constitution Ave. NW. Contact: Katherine Birrow, 202-266-7356. 11 a.m. The National Center for Policy Analysis holds a briefing on health policy proposals in the State of the Union Address. Room 1310, Longworth. Contact: Richard Walker, 800-859-1154. 11:45 a.m. Former House Speaker Newt Gingrich speaks at a community forum sponsored by Generation Engage to discuss the State of the Union Address. NVCC, 4001 Wakefield Chapel Rd., Annandale. Contact: Ashley Philips, 202-465-4807.

8:45 a.m. - 4 p.m. U.S.-KOREAN RELATIONS _ The American Enterprise Institute hosts a day-long conference, ``Sustaining the Alliance: U.S.-Korean Relations in the New Asia." Highlights: 1 p.m. Keynote address by Christopher Hill, State Department 2 p.m. Panel on ``Securing Peace on the Korean Peninsula." With David Asher, Institute for Defense Analyses; Aaron Friedberg, Princeton University; Byungki Kim, Korea University; Jack Pritchard, Korea Economic Institute; Joun-Yung Sun, Kyungnam University; and Nicholas Eberstadt, AEI. Location: Wohlstetter Conference Center, 12th floor, AEI, 1150 17th St. NW. Contacts: Veronique Rodman, 202-862-4871

8:30 a.m. KLEIN-DEFENSE _ Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs Dale E. Klein delivers remarks to the CBRN Defense Conference. Location: Hilton Arlington and Towers, Arlington, Va.

9:30 a.m. U.S. MANUFACTURING _ Jerry Jasinowski of The Manufacturing institute and Robin Wiener of the Institute for Scrap Recycling Industries, others, release a report on the dangers of the downward U.S. manufacturing innovation cycle. Location: National Association of Manufacturers, Suite 600, 1331 Pennsylvania Ave. NW. Contacts: Laura Narvaiz, 202-637-3104

10 a.m. ETHIOPIA _ Ethiopian civic, political and religious organization members march in opposition to human rights abuses in that country. Location: March from Freedom Plaza, 14th St. and Pennsylvania Ave. Nw. to the Capitol, with a rally on thge Capitol West Lawn. Rally starts at about 11:30 a.m. Contacts: Ricardo Reyes, 202-828-5821

10 a.m. - 11:30 a.m. HUMAN RIGHTS-RUSSIA _ The United States Commission on International Religious Freedom hosts a roundtable discussion titled ``Assessing U.S. Human Rights Policy Towards Russia," which will review how the Commission feels the U.S. government should be responding to the rollback in human rights, including religious freedom, in Russia and increasing Russian nationalism. The event is also being held to prepare for upcoming Commission delegations to Russia. Location: Carnegie Endowment for International Peace, 1779 Massachusetts Ave. NW. Notes: Please RSVP by Monday, January 30, to Tina Ramirez at tramirezuscirf.gov or 202-523-3240, ext. 34.

10:30 a.m. DEMOCRATIC LEADERSHIP _ Democratic Leader Nancy Pelosi, Democratic Whip Steny Hoyer, Democratic Caucus Chair James E. Clyburn, and the newly elected Democratic Caucus Vice Chair will discuss their reaction to the President's State of the Union address immediately following the weekly Democratic Caucus meeting. Location: Outside Room 345, Cannon House Office Building. Contacts: Lindy Birch, 202-226-3210 Notes: Time approximate. The Caucus is not expected to adjourn before 10:30 a.m.

10:30 a.m. ENERGY ASSISTANCE _ Members of Congress and representatives of the National Fuel Funds Network hold a news conference to demand additional funding for the Low Income Home Energy Assistance Program. Location: Senate swamp site. Contacts: George Coling, 202-824-0660

10:30 a.m. HOLLY'S LAW _ House members and anti-abortion supporters hold a news conference to urge the

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House to vote for Holly's law. Location: Room 2212, Rayburn. Contacts: Lisa Lyons Wright, 202-225-2417

11 a.m. HEALTH CARE-DEMOCRATS _ Senate Democratic leader Harry Reid and House Democratic leader Nancy Pelosi, others, hold a rally for health care reform. Location: Senate Swamp, Delaware and Constitution Aves. NW. Contacts: Jim Manley, 202-224-2939

11 a.m. HOUSE REPUBLICANS _ The House Republican Conferennce holds an event, ``Celebrate the Strength of Our Nation and the Legislative Agenda.'' Location: Room HC-7, Capitol. Contacts: Betsy Andres, 202-226-9000 Notes: Time approximate.

12:30 p.m. DEMOCRATS-LOBBYING _ Sens. Joseph Lieberman, Russ Feingold and Barack Obama hold a news conferfence on lobbying reform. Location: Senate Radio-TV Gallery. Contacts: Jim Manley, 202-224-2939

12:30 p.m. - 2 p.m. INTERNET-CHINA _ The Congressional Human Rights Caucus holds a members' briefing on human rights and the Internet in China. Location: Room 2172, Rayburn House Office Building. Contacts: Daria Nashat, 202-225-3531 Notes: Note room change.

12:45 p.m. - 2 p.m. CLEAN COAL _ Resources for the Futur hosts a First Wednesday Seminar to explore issues associated with coal in the United States and internationally. Panelists will address the future of coal, including implications of forecasted higher oil and gas prices. Location: Resources for the Future, 1616 P St. NW, First Floor Conference Center. Notes: A light buffet lunch will be available at 12:30 p.m. To RSVP or for information on how to listen to this seminar live by telephone, please contact Janet Hodur at hodurrff.org or 202-328-5019.

6:30 p.m. GORDON ENGLAND-DEFENSE _ Deputy Secretary of Defense Gordon England delivers remarks to the Center for Strategic and International Studies. Location: St. Regis Hotel, 16th and K Sts. NW.

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Williams, Jan

From: Williams, Jan

Sent: Wednesday, February 1, 2006 8:08 AM

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Subject: THE STATE OF THE UNION: A Strong America Leading The World

Attachments: tmp.htm; 1-31-06 State Of The Union Fact Sheet.pdf

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Importance: Low

The State Of The Union: A Strong America Leading The World

In His State Of The Union Address, President Bush Discussed America's Leadership In The World And Shared His Vision To Lead America Forward. At a time of great consequence, the President laid out an agenda of leadership to act confidently in pursuing the enemies of freedom and to build our prosperity by leading the world economy. The President rejected the roads of isolationism and protectionism and called for cooperation and courage in confronting challenges. America will lead freedom's advance, compete and excel in the global economy, and renew the defining moral commitments of this land, confident of victory.

Leadership Toward Peace In The World

Every Step Toward Freedom In The World Makes Our Country Safer, And So America Will Act Boldly In Freedom's Cause. Today our Nation is committed to an historic, long-term goal: the end of tyranny in our world. On September 11th, 2001, America found that problems originating in a failed and oppressive state seven thousand miles away could bring murder and destruction to our country. Dictatorships shelter terrorists, feed resentment and radicalism, and seek weapons of mass destruction. Democracies replace resentment with hope, respect the rights of their citizens and their neighbors, and join the fight against terror. As we celebrate the spread of freedom in places like Afghanistan and Iraq, we do not forget people living in places like Syria, Burma, Zimbabwe, North Korea, and Iran - because the demands of justice, and the peace of this world, require their freedom as well.

Ø America Will Not Retreat From The World Or Surrender To Evil. In a time of testing, America cannot find security by abandoning commitments and retreating to isolation within our borders. If we were to leave the terrorists alone, they would not leave us alone. They would simply move the battlefield to our own shores. There is no peace or honor in retreat. America rejects the false comfort of isolationism. We accept the call of history to deliver the oppressed and move the world toward peace.

America Is On The Offensive In The War On Terror. America and its allies have killed or captured many of the leaders of the terror networks. For the others, their day will come.

Ø We Remain On The Offensive In Afghanistan. In that country, a fine president and National Assembly are fighting terror while building the institutions of a new democracy.

Ø America Is On The Offensive In Iraq, With A Clear Plan For Victory. First, the Coalition is helping Iraqis build an inclusive government, so that old resentments will be eased and the insurgency will be marginalized. Second, the Coalition is continuing reconstruction efforts and helping the Iraqi government fight corruption and build a modern economy. Third, Coalition forces are striking terrorist targets and training Iraqi forces. In less than three years, Iraq has gone from dictatorship, to liberation, to sovereignty, to a constitution, to national elections.

Ø The Brutality Of The Terrorists Cannot Stop The Dramatic Progress Of A New Democracy. The Coalition has been relentless in shutting off terrorist infiltration, clearing out insurgent strongholds, and turning over territory to Iraqi security forces. As we make progress on the ground, and Iraqi forces increasingly take the lead, we should be able to further decrease our troop levels, but those decisions will be made by our military commanders, not by politicians in Washington, D.C.

Ø Our Strategy For Victory In Iraq Benefits From Responsible Criticism And Counsel. The effort in Iraq has benefited from responsible criticism and counsel offered by Members of Congress of both parties. The President will continue to reach out and seek good advice. Yet there is a difference between responsible criticism that aims for success and defeatism that refuses to acknowledge anything but failure. However individuals feel about the decisions and debates of the past, our Nation has only one option: We must keep our word, defeat our enemies, and stand behind the men and women of America's military in their vital mission.

Progress Will Continue Across The Middle East As America Offers A Hopeful Alternative To Hatred And Fear. America's offensive against terror involves more than military action, and we are delivering a clear message across the broader Middle East. In parts of the Middle East, there have been steps taken toward reform, but there is more progress to be made. Elections are vital - but they are only the beginning. Raising up a democracy requires the rule of law, protection of minorities, and strong, accountable institutions that last longer than a single vote. The Palestinian people have voted in elections - now the leaders of Hamas must recognize Israel, disarm, reject terrorism and work for a lasting peace. Elsewhere in the Middle East, the repressive regime in Iran is defying the world with its nuclear ambitions, and the nations of the world must not permit the Iranian regime to gain nuclear weapons.

Ø As America Encourages The Spread Of Freedom, We Must Also Spread Prosperity. To overcome dangers in our world, America will encourage economic progress, fight disease, and spread hope in hopeless lands. Isolationism would not only tie our hands in fighting enemies, it would keep America from helping our friends in desperate need. America has taken unprecedented action to fight AIDS and malaria, expand the education of girls, and reward developing nations moving forward with economic and political reform. Short-changing these efforts would increase the suffering and chaos of the world, undercut America's long-term security, and dull the conscience of our country.

The Offensive Against Terrorism Must Continue At Home. The enemy has not lost the desire or capability to attack us. America has superb professionals in law enforcement, intelligence, the military, and homeland security who are protecting America. They deserve our thanks - and they deserve the same tools they already use to fight drug trafficking and organized crime, so the President called on Congress to reauthorize the Patriot Act.

Winning The War on Terror Requires Learning The Lessons of September 11th. To prevent another attack - based on authority given to the President by the Constitution and by statute - the President has authorized a terrorist surveillance program to aggressively pursue the international communications of suspected al-Qaida operatives and affiliates to and from America. Previous presidents have used the same constitutional authority the President has - and Federal courts have approved the use of that authority. Appropriate Members of Congress have been kept informed. This terrorist surveillance program has helped prevent terrorist attacks. It remains essential to the security of America. If there are people inside our country who are talking with al-Qaida, we want to know about it - because we will not sit back and wait to be hit again.

Leadership For Prosperity At Home And Abroad

America's Economic Strength Continues To Lead The World. The American economy is healthy and vigorous and growing faster than other major industrialized nations. In the last two and a half years, America has created 4.6 million new jobs - more than Japan and the European Union combined. Even in the face of higher energy prices and natural disasters, the American people have turned in an economic performance that is the envy of the world.

Our Nation Will Compete With Confidence And Extend Our Economic Leadership In The World. In a dynamic world economy, we are seeing new competitors. This creates uncertainty, which makes it easier to feed people's fears. Protectionists want to escape competition, while others want the government to take a larger role in directing the economy. The President set forth a better path that will raise standards of living and generate new jobs. Americans should not fear our economic future, because we intend to shape it.

Congress Needs To Make The Tax Cuts Permanent. Keeping America competitive begins with keeping our economy growing. Our economy grows when Americans have more of their own money to spend, save, and invest. In the last five years, tax relief has left $880 billion in the hands of American workers, investors, small businesses, and families, and they have used it to help produce more than four years of uninterrupted economic growth. Yet the tax relief is set to expire in the next few years. If Congress does not act, American families will face a massive tax increase.

The Growth Of Government Must Be Limited Through Fiscal Discipline. Every year since President Bush took office, the growth of non-security discretionary spending has been reduced, and last year this spending was cut. This year the President's budget will cut it again and will reduce or eliminate more than 140 programs that are performing poorly or not fulfilling essential priorities. By passing these reforms, we will save the American taxpayer another $14 billion next year and stay on track to cut the deficit in half by 2009. Congress must also move forward on earmark reform and pass the line-item veto to limit special interest projects.

Ø The Government Must Confront The Larger Challenge Of Entitlement Spending. The coming retirement of the Baby Boom generation will put unprecedented strains on the Federal government. By 2030, spending for Social Security, Medicare, and Medicaid alone will be almost 60 percent of the entire Federal budget. And that will present future Congresses with impossible choices: staggering tax increases, immense deficits, or deep cuts in every category of spending. The President proposed a bipartisan commission to examine the impact of this problem.

America Must Continue To Open Markets For American Goods. One out of every five factory jobs in America is related to global trade, and we want people everywhere to buy American. With open markets and a level playing field, no one can out-produce or out-compete the American worker.

Immigration Reform Must Be A Priority. America needs an immigration system that upholds our laws, reflects our values, and serves the interests of our economy. Our nation needs orderly and secure borders. To meet this goal, we must have stronger immigration enforcement and border protection. And we must have a rational, humane guest worker program that rejects amnesty, allows temporary jobs for people who seek them legally, and reduces smuggling and crime at the border.

Health Care Must Be Made Affordable And Accessible. Our government has a responsibility to help provide health care for the poor and the elderly, and it will meet that responsibility. For all Americans, we must confront the rising cost of care, strengthen the doctor-patient relationship, and help people afford the insurance coverage they need.

Ø Improved Health Savings Accounts Will Offer Lower Costs And Security Between Jobs. The President proposed strengthening Health Savings Accounts by making sure individuals and small business employees can buy insurance with the same tax advantages that people working for big businesses now get. We will do more to make this coverage portable, so workers can switch jobs without having to worry about losing their health insurance.

Ø Technology Offers The Possibility Of More Effective, Less Expensive Health Care. The President

called for wider use of electronic records and other health information technology to help control costs and reduce medical errors.

Ø Medical Liability Reform Will Help Retain Good Doctors. The President called on Congress to pass Medical Liability Reform this year. Lawsuits are driving many good doctors out of practice, leaving women in nearly 1500 American counties without a single OB-GYN.

The Advanced Energy Initiative Will Help Break America's Dependence On Foreign Sources Of Energy. The best way to break America's addiction to oil is through technology. The President set a goal of replacing more than 75 percent of oil imports from the Middle East by 2025. Since 2001, we have spent nearly $10 billion to develop cleaner, cheaper, more reliable alternative energy sources. The Advanced Energy Initiative will deliver a 22 percent increase in clean-energy research to push for breakthroughs in two vital areas:

Ø New Energy Sources For Homes And Businesses. To change how we power our homes and offices, we will invest more in zero-emission coal-fired plants; revolutionary solar and wind technologies; and clean, safe nuclear energy.

Ø New Energy Sources For Transportation. We must also change how we power our automobiles and move beyond a petroleum-based economy. We will increase our research in better batteries for hybrid and electric cars and in pollution-free cars that run on hydrogen. We will also fund additional research in cutting-edge methods of producing ethanol, not just from corn but from wood chips, stalks, or switch grass. The goal is to make this new kind of ethanol practical and competitive within six years.

The President's American Competitiveness Initiative Will Encourage Innovation Throughout The Economy. America must continue to lead the world in human talent and creativity. Our greatest advantage in the world has always been our educated, hard-working, ambitious people, and we are going to keep that edge.

Ø New Federal Funding For Research. The President proposed doubling the Federal commitment to the most critical basic research in the physical sciences over the next ten years. This will support the work of America's most creative minds as they explore promising areas such as nanotechnology, supercomputing, and alternative energy sources.

Ø Provide Tax Certainty For Research And Development. The President proposed making permanent the research and development tax credit to encourage bolder private-sector investment in technology. With more research in both the public and private sectors, we will improve our quality of life and

With more research in both the public and private sectors, we will improve our quality of life and ensure that America will lead the world in opportunity and innovation for decades to come.

Ø Strengthening Education In Math And Science. Building on the success of the No Child Left Behind Act, the President proposed training 70,000 high school teachers to lead advanced-placement courses in math and science; bringing 30,000 math and science professionals to teach in classrooms; and getting early help to students struggling with math so they have a better chance at good, high-wage jobs.

America Is Becoming A More Hopeful Nation. Violent crime rates have fallen to their lowest levels since the 1970s. Welfare cases have dropped by more than half over the past decade. Drug abuse among youth is down 19 percent since 2001. There are fewer abortions in America than at any point in the last three decades, and the number of children born to teenage mothers has been falling for a dozen years in a row. Government has played a role in this quiet transformation, and wise policies such as welfare reform, drug education, and support for abstinence and adoption have made a difference in the character of our country.

America Still Has More To Do To Strengthen Our Culture And Our Institutions. Many Americans, especially parents, still have deep concerns about the direction of our culture and the health of our most basic institutions. They are concerned about unethical conduct by public officials and discouraged by activist courts that try to redefine marriage. And they worry about children in need, fellow citizens still displaced by natural disaster, and suffering caused by treatable disease.

Ø Courts Must Deliver Equal Justice Under Law And Not Legislate From The Bench. The Senate has confirmed two superb new members of the Supreme Court, Chief Justice John Roberts and Justice Samuel Alito. The President will continue to nominate men and women who understand that judges must be servants of the law and not legislate from the bench.

Ø America Must Recognize The Value Of Every Life. The President called on Congress to pass legislation to prohibit the most egregious abuses of medical research: cloning human beings; creating or implanting embryos for experiments; creating human-animal hybrids; and buying, selling, or patenting human embryos. Human life is a gift from our Creator, and that gift should never be discarded, devalued, or put up for sale.

Ø Elected Officials Must Uphold The Public Trust. The President supports the efforts of honorable people in both parties who are working on reforms to strengthen the ethical standards of Washington. Public servants make a pledge to be worthy of public responsibility, and that is a pledge that must never be forgotten, dismissed, or betrayed.

Ø America Must Protect And Encourage Its Children. Through the Helping America's Youth initiative led by First Lady Laura Bush, America is encouraging caring adults to get involved in the life of a child. The President called for additional resources to encourage young people to stay in school so more of America's youth can raise their sights and achieve their dreams.

Ø A Continuing Commitment To Gulf Reconstruction. America will aid our fellow citizens in times of suffering and emergency and stay with them until they are back on their feet. So far the Federal government has committed $85 billion to the people of the Gulf Coast and New Orleans. We are removing debris, repairing highways, building stronger levees, and providing business loans and housing assistance. We must also address deeper challenges that existed before the storm arrived and must provide not only temporary relief, but also schools that teach every child, job skills that bring upward mobility, and more opportunities to own a home and start a business.

Ø Continuing The Fight To Prevent, Treat, And Defeat HIV/AIDS. The President called on Congress to reform and reauthorize the Ryan White Act and to provide new funding to states, so we end the waiting lists for AIDS medicine in America. More than one million Americans live with HIV, and half of all AIDS cases occur among African-Americans. The President called for a nationwide effort, working closely with African-American churches and faith-based groups, to deliver rapid HIV tests to millions, end the stigma of AIDS, and come closer to the day when there are no new infections in America.

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The State Of The Union: A Strong America Leading The World

In His State Of The Union Address, President Bush Discussed America's Leadership In The World And Shared His Vision To Lead America Forward. At a time of great consequence, the President laid out an agenda of leadership to act confidently in pursuing the enemies of freedom and to build our prosperity by leading the world economy. The President rejected the roads of isolationism and protectionism and called for cooperation and courage in confronting challenges. America will lead freedom's advance, compete and excel in the global economy, and renew the defining moral commitments of this land, confident of victory.

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broader Middle East. In parts of the Middle East, there have been steps taken toward reform, but there is more progress to be made. Elections are vital – but they are only the beginning. Raising up a democracy requires the rule of law, protection of minorities, and strong, accountable institutions that last longer than a single vote. The Palestinian people have voted in elections – now the leaders of Hamas must recognize Israel, disarm, reject terrorism and work for a lasting peace. Elsewhere in the Middle East, the repressive regime in Iran is defying the world with its nuclear ambitions, and the nations of the world must not permit the Iranian regime to gain nuclear weapons.

- **As America Encourages The Spread Of Freedom, We Must Also Spread Prosperity.** To overcome dangers in our world, America will encourage economic progress, fight disease, and spread hope in hopeless lands. Isolationism would not only tie our hands in fighting enemies, it would keep America from helping our friends in desperate need. America has taken unprecedented action to fight AIDS and malaria, expand the education of girls, and reward developing nations moving forward with economic and political reform. Short-changing these efforts would increase the suffering and chaos of the world, undercut America's long-term security, and dull the conscience of our country.

The Offensive Against Terrorism Must Continue At Home. The enemy has not lost the desire or capability to attack us. America has superb professionals in law enforcement, intelligence, the military, and homeland security who are protecting America. They deserve our thanks – and they deserve the same tools they already use to fight drug trafficking and organized crime, so the President called on Congress to reauthorize the Patriot Act.

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Our Nation Will Compete With Confidence And Extend Our Economic Leadership In The World. In a dynamic world economy, we are seeing new competitors. This creates uncertainty, which makes it easier to feed people's fears. Protectionists want to escape competition, while others want the government to take a larger role in directing the economy. The President set forth a better path that will raise standards of living and generate new jobs. Americans should not fear our economic future, because we intend to shape it.

Congress Needs To Make The Tax Cuts Permanent. Keeping America competitive begins with keeping our economy growing. Our economy grows when Americans have more of their own money to spend, save, and invest. In the last five years, tax relief has left $880 billion in the hands of American workers, investors, small businesses, and families, and they have used it to help produce more than four years of uninterrupted economic growth. Yet the tax relief is set to expire in the next few years. If Congress does not act, American families will face a massive tax increase.

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America Still Has More To Do To Strengthen Our Culture And Our Institutions. Many Americans, especially parents, still have deep concerns about the direction of our culture and the health of our most basic institutions. They are concerned about unethical conduct by public officials and discouraged by activist courts that try to redefine marriage. And they worry about children in need, fellow citizens still displaced by natural disaster, and suffering caused by treatable disease.

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The State Of The Union: A Strong America Leading The World

In His State Of The Union Address, President Bush Discussed America's Leadership In The World And Shared His Vision To Lead America Forward. At a time of great consequence, the President laid out an agenda of leadership to act confidently in pursuing the enemies of freedom and to build our prosperity by leading the world economy. The President rejected the roads of isolationism and protectionism and called for cooperation and courage in confronting challenges. America will lead freedom's advance, compete and excel in the global economy, and renew the defining moral commitments of this land, confident of victory.

Leadership Toward Peace In The World

Every Step Toward Freedom In The World Makes Our Country Safer, And So America Will Act Boldly In Freedom's Cause. Today our Nation is committed to an historic, long-term goal: the end of tyranny in our world. On September 11th, 2001, America found that problems originating in a failed and oppressive state seven thousand miles away could bring murder and destruction to our country. Dictatorships shelter terrorists, feed resentment and radicalism, and seek weapons of mass destruction. Democracies replace resentment with hope, respect the rights of their citizens and their neighbors, and join the fight against terror. As we celebrate the spread of freedom in places like Afghanistan and Iraq, we do not forget people living in places like Syria, Burma, Zimbabwe, North Korea, and Iran – because the demands of justice, and the peace of this world, require their freedom as well.

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Williams, Jan

From: Williams, Jan

Sent: Wednesday, February 1, 2006 8:10 AM

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Subject: FACT SHEETS: State Of The Union Specifics

Subject: FACT SHEETS: State Of The Union Speeches

Attachments: tmp.htm; 1 31 06 State Of The Union Fact Sheet.pdf; 1 31 06 Advanced Energy Initiative.pdf; 1 31 06 Health Care Agenda.pdf; 1 31 06 ACI Fact Sheet.pdf

Attached are four documents that contain more specific information on the President's vision to lead America forward-the Advanced Energy Initiative, Affordable and Accessible Health Care, and the American Competitiveness Initiative.

State Of The Union: American Competitiveness Initiative

In His State Of The Union Address, President Bush Announced The *American Competitiveness Initiative* (ACI) To Encourage American Innovation And Strengthen Our Nation's Ability To Compete In The Global Economy. This ambitious strategy will increase Federal investment in critical research, ensure that the United States continues to lead the world in opportunity and innovation, and provide American children with a strong foundation in math and science. The *American Competitiveness Initiative* commits $5.9 billion in FY 2007, and more than $136 billion over 10 years, to increase investments in research and development (R&D), strengthen education, and encourage entrepreneurship and innovation.

America's Economic Strength And Global Leadership Depend On Continued Technological Advances. Groundbreaking ideas generated by innovative minds have paid enormous dividends – improving the lives and livelihoods of generations of Americans. With more research in both the public and private sectors, we will improve our quality of life – and ensure that America will lead the world in opportunity and innovation for decades to come. The President's comprehensive strategy to strengthen America's competitiveness includes:

- ✓ Doubling the Federal commitment to the most critical basic research programs in the physical sciences over the next 10 years;
- ✓ Encouraging the expansion of a favorable environment for additional private-sector investment in innovation;
- ✓ Improving the quality of education to provide American children with a strong foundation in math and science;
- ✓ Supporting universities that provide world-class education and research opportunities;
- ✓ Providing job training that affords more workers and manufacturers the opportunity to improve their skills and better compete in the 21st century;
- ✓ Attracting and retaining the best and brightest to enhance entrepreneurship, competitiveness, and job creation in America by supporting comprehensive immigration reform; and
- ✓ Fostering a business environment that encourages entrepreneurship and protects intellectual property.

As The Global Economy Continues To Expand And Other Countries Become More Technologically Advanced, The United States Will Face New Challenges. To ensure our continued economic and technological leadership in the world, the *American Competitiveness Initiative* builds on the Administration's record of results with new investments, especially in the physical sciences and engineering. Investments in these areas will generate scientific and technological advances for decades to come and will help ensure that future generations have an even brighter future.

Leading The World In Innovation

Federal Investment In R&D Has Proven Critical To Keeping America's Economy Strong By Generating Knowledge And Tools Needed To Develop New Technologies. The centerpiece of the *American Competitiveness Initiative* is the President's strong commitment to double over 10 years investment in key Federal agencies that support basic research programs in the physical sciences and engineering – the National Science Foundation (NSF), the Department of Energy's Office of Science (DoE SC), and the Department of Commerce's National Institute of Standards and Technology (NIST).

- ➢ With about 5 percent of the world's population, the United States employs nearly one-third of all scientists and engineers and accounts for one-third of global R&D spending. As the global marketplace changes, we must focus on maintaining our leadership role.
- ➢ The President's FY07 Budget includes $137 billion for Federal research and development, an increase of more than 50 percent over 2001.
- ➢ The sum of the budgets of the National Science Foundation, the Department of Energy's Office of Science, and the Department of Commerce's National Institute of Standards and Technology will double over 10 years, a total commitment of $50 billion of new funding.
- ➢ Past Federally funded research has helped to spawn vital technologies such as personal computers, the Internet, medical imaging devices, balloon catheters, hearing aids, laser eye surgery, air bags, global positioning devices, and satellite telecommunications systems.

To Encourage Bolder Private-Sector Investment In Technology, The President Continues To Support Making The Research And Development (R&D) Tax Credit Permanent. A permanent R&D tax credit would enable companies to have certainty in their tax planning and therefore be bold in their R&D investment strategy.

- Making the credit permanent, which is estimated to cost $86 billion over ten years, will eliminate problems and uncertainty associated with its temporary nature.
- As part of the *American Competitiveness Initiative*, the President is also committed to working with Congress to modernize the credit to make it even more effective and efficient at encouraging private sector innovation.

Education Is The Gateway To Opportunity And The Foundation Of A Knowledge-Based, Innovation-Driven Economy. To prepare our citizens to compete more effectively in the global marketplace, the *American Competitiveness Initiative* proposes $380 million in new Federal support to improve the quality of math, science, and technological education in our K-12 schools and engage every child in rigorous courses that teach important analytical, technical, and problem-solving skills. Building on the successes of the No Child Left Behind Act, the *American Competitiveness Initiative* will raise student achievement in math and science through testing and accountability, providing grants for targeted interventions, and developing curricula based on proven methods of instruction. The *American Competitiveness Initiative* includes a number of new and expanded programs, including:

- *The Advanced Placement/International Baccalaureate (AP/IB) Program* to expand access of low-income students to AP/IB coursework by training 70,000 additional teachers over five years to lead AP/IB math and science courses.
- An *Adjunct Teacher Corps* to encourage up to 30,000 math and science professionals over eight years to become adjunct high school teachers.
- *Math Now for Elementary School Students and Math Now for Middle School Students* to promote promising and research-based practices in math instruction, prepare students for more rigorous math courses, and diagnose and remedy the deficiencies of students who lack math proficiency.

Education, Training, And Retraining Provide The Nation's Workforce With Better Career Options, Opportunities For Advancement, And The Ability To Compete In A Global Economy. As part of the *American Competitiveness Initiative*, the President's FY07 Budget introduces Career Advancement Accounts (CAA). CAAs will be self-managed accounts of up to $3,000 that workers and people looking for work can use to obtain training and other employment services. The CAA initiative will offer training opportunities to 800,000 workers annually, more than tripling the number trained under the current system, and give America's workers the resources they need to increase their skills and compete for the jobs of the 21st century economy.

Enabling The World's Most Talented Individuals To Put Their Skills To Work For America Will Increase Our Productivity, Improve Our International Competitiveness, And Create Many High-Paying Jobs For Americans. The President supports attracting and retaining the best and the brightest high-skilled workers from around the world by reforming the Nation's immigration system, while maintaining national security priorities. The President's comprehensive plan for immigration reform meets the needs of a growing economy, allows workers to provide for their families while respecting the law, and enhances homeland security by relieving pressure on the borders.

Pro-Growth Economic Policies Work Hand-In-Hand With Investments In Innovation. The *American Competitiveness Initiative* will help the United States remain a world leader in science and technology. Just as important, we must continue to pursue pro-growth economic policies and foster a culture of entrepreneurship. The President's economic agenda, including reducing taxes and overly burdensome regulations, will help create a business environment where innovators and entrepreneurs are rewarded. The *American Competitiveness Initiative* also supports an efficient system that leads the world in the protection of intellectual property resulting from public and private sector investments in research.

State Of The Union: The Advanced Energy Initiative

In His State Of The Union Address, President Bush Outlined The Advanced Energy Initiative To Help Break America's Dependence On Foreign Sources Of Energy. The President has set a national goal of replacing more than 75% of our oil imports from the Middle East by 2025. With America on the verge of breakthroughs in advanced energy technologies, the best way to break the addiction to foreign oil is through new technology. Since 2001, we have spent nearly $10 billion to develop cleaner, cheaper, and more reliable alternative energy sources. Tonight, the President announced the Advanced Energy Initiative, which provides for a 22% increase in clean-energy research at the Department of Energy (DOE). The Initiative will accelerate our breakthroughs in two vital areas; how we power our homes and businesses; and how we power our automobiles.

Changing The Way We Power Our Homes And Businesses

The Administration Will Work To Diversify Energy Sources For American Homes And Businesses. Accelerating research in clean coal technologies, clean and safe nuclear energy, and revolutionary solar and wind technologies will reduce overall demand for natural gas and lead to lower energy costs. The President's Advanced Energy Initiative proposes speeding up research in three promising areas:

- **The President's Coal Research Initiative.** Coal provides more than half of the Nation's electricity supply, and America has enough coal to last more than 200 years. As part of the National Energy Policy, the President committed $2 billion over 10 years to speed up research in the use of clean coal technologies to generate electricity while meeting environmental regulations at low cost. To tap the potential of America's enormous coal reserves, the President's 2007 Budget includes $281 million for development of clean coal technologies, nearly completing the President's commitment 4 years ahead of schedule.

  - **The President's 2007 Budget Includes $54 Million For The FutureGen Initiative.** The FutureGen initiative is a partnership between government and the private sector to develop innovative technologies for an emissions-free coal plant that captures the carbon dioxide it produces and stores it in deep geologic formations.

- **The President's Solar America Initiative.** The 2007 Budget will propose a new $148 million Solar America Initiative – an increase of $65 million over FY06 – to accelerate the development of semiconductor materials that convert sunlight directly to electricity. These solar photovoltaic "PV" cells can be used to deliver energy services to rural areas and can be incorporated directly into building materials, so that there can be future "zero energy" homes that produce more energy than they consume.

- **Expanding Clean Energy from Wind.** The 2007 Budget includes $44 million for wind energy research – a $5 million increase over FY06 levels. This will help improve the efficiency and lower the costs of new wind technologies for use in low-speed wind environments. Combined with ongoing efforts to expand access to Federal lands for wind energy development, this new funding will help dramatically increase the use of wind energy in the United States.

Changing The Way We Power Our Automobiles

We Are On The Verge Of Dramatic Improvements In How We Power Our Automobiles, And The President's Initiative Will Bring Those Improvements To The Forefront. The United States must move beyond a petroleum-based economy and develop new ways to power automobiles. The President wants to accelerate the development of domestic, renewable alternatives to gasoline and diesel fuels. The Administration will accelerate research in cutting-edge methods of producing "cellulosic ethanol" with the goal of making the use of such ethanol practical and competitive within 6 years. The Administration will also step up the Nation's research in better batteries for use in hybrid and electric cars and in pollution-free cars that run on hydrogen.

- **The Biorefinery Initiative.** To achieve greater use of "homegrown" renewable fuels in the United States, advanced technologies need to be perfected to make fuel ethanol from cellulosic (plant fiber) biomass, which is now discarded as

waste. The President's 2007 Budget will include $150 million – a $59 million increase over FY06 – to help develop bio-based transportation fuels from agricultural waste products, such as wood chips, stalks, or switch grass. Research scientists say that accelerating research into "cellulosic ethanol" can make it cost-competitive by 2012, offering the potential to displace up to 30% of the Nation's current fuel use.

- **Developing More Efficient Vehicles.** Current hybrids on the road run on a battery developed at the DOE. The President's plan would accelerate research in the next generation of battery technology for hybrid vehicles and "plug-in hybrids." Current hybrids can only use the gasoline engine to charge the on-board battery. A "plug-in" hybrid can run either on electricity or on gasoline and can be plugged into the wall at night to recharge its batteries. These vehicles will enable drivers to meet most of their urban commuting needs with virtually no gasoline use. Advanced battery technologies offer the potential to significantly reduce oil consumption in the near-term. The 2007 Budget includes $30 million – a $6.7 million increase over FY06 – to speed up the development of this battery technology and extend the range of these vehicles.

- **The Hydrogen Fuel Initiative.** In his 2003 State of the Union address, President Bush announced a $1.2 billion Hydrogen Fuel Initiative to develop technology for commercially viable hydrogen-powered fuel cells, which would power cars, trucks, homes, and businesses with no pollution or greenhouse gases. Through private-sector partnerships, the Initiative and related FreedomCAR programs will make it practical and cost-effective for Americans to use clean, hydrogen fuel cell vehicles by 2020. The President's 2007 Budget will provide $289 million – an increase of $53 million over FY06 – to accelerate the development of hydrogen fuel cells and affordable hydrogen-powered cars. Through the President's program, the cost of a hydrogen fuel cell has been cut by more than 50% in just four years.

- **America Must Act Now To Reduce Dependence On Foreign Sources Of Energy.** There are an estimated 250 million vehicles on America's highways, and Americans will purchase more than 17 million vehicles this year. It will take approximately 15 years to switch America's automobiles over to more fuel efficient technologies. The sooner breakthroughs are achieved, the better for America.

The President's Advanced Energy Initiative Will Build On The Progress Made Since 2001

Since 2001, The Administration Has Worked To Ensure Affordable, Reliable, Secure, And Clean Sources Of Energy. In 2001, the President put forward his National Energy Policy, which included over 100 recommendations to increase domestic energy supplies, encourage efficiency and conservation, invest in energy-related infrastructure, and develop alternative and renewable sources of energy. Over the past four years, the Administration has worked to implement these recommendations and improve the Nation's energy outlook.

Last Summer, The President Signed The First Comprehensive Energy Legislation In Over A Decade. The Energy Policy Act of 2005 is strengthening America's electrical infrastructure, reducing the country's dependence on foreign sources of energy, increasing conservation, and expanding the use of clean renewable energy.

State Of The Union: Affordable And Accessible Health Care

In His State Of The Union Address, President Bush Proposed A Comprehensive Agenda To Make Health Care In America More Affordable, Portable, Transparent, And Efficient. Americans enjoy the best health care facilities and medical professionals in the world, but our citizens are concerned about the cost of health care, losing their health insurance if they change jobs, and a lack of information about price and quality. The President believes that Americans deserve high-quality, reasonably priced, reliable health care, and the security of knowing they will have it when they need it.

- **The President's Reform Agenda Can Make The Health Care System More Efficient While Continuing To Lead The World In Cutting Edge Medicine.** Americans should be able to choose their health care based on individual needs and preferences and easily obtain understandable information about the price and quality of the care they receive. Insurance should be portable and affordable. The President proposes to improve health care through initiatives to provide increased stability and peace of mind for working families across the country. The President's health care agenda includes:

  - ✓ Expanding Health Savings Accounts (HSAs)
  - ✓ Making Health Insurance More Portable
  - ✓ Improving Information On Price And Quality To Make Health Care More Transparent
  - ✓ Leveling The Playing Field For Individuals And Small Business Employees
  - ✓ Passing Medical Liability Reform
  - ✓ Improving Access To Health Information Technology
  - ✓ Assisting Vulnerable Americans

Expanding Health Savings Accounts

HSAs Are Making Health Care More Affordable And Accessible. Established by the Medicare bill signed into law by President Bush in December 2003, HSAs allow Americans to save tax-free dollars in accounts to pay for their health care expenses. These accounts are accompanied by high-deductible comprehensive insurance policies that cover preventive care and larger medical bills. Since January 2004, more than 3 million Americans have enrolled in HSAs, which are helping make health insurance more affordable for individuals and companies while providing greater choices and flexibility in how workers and employers spend their health care dollars.

The President proposed to build on this success and expand HSAs by:

- **Giving Individuals That Purchase HSAs On Their Own The Same Tax Advantages As Those With Employer-Sponsored Insurance.** The President proposes making premiums for HSA-compatible insurance policies deductible from income taxes when purchased by individuals outside of work. In addition, an income tax credit would offset payroll taxes paid on premiums paid for their HSA policies. This will level the playing field for those who currently do not have access to employer health care plans, including the self-employed, unemployed, and workers for companies that don't offer health insurance. For Americans who are not working, especially early retirees, premiums for the purchase of non-group HSA plans would now be allowed tax-free from an HSA account.

- **Eliminating All Taxes On Out-Of-Pocket Spending Through HSAs.** The President proposed allowing Americans with HSAs and their employers to make annual contributions to their accounts to cover all out-of-pocket costs under their HSA policy, not just their deductible as provided under current law. This will allow patients to cover all their out-of-pocket expenses tax-free through their HSA. The new proposal would also provide a credit for payroll taxes paid on HSA contributions made by individuals. The President's HSA proposals are projected to increase the number of Americans with HSAs from the current 14 million to 21 million by 2010, a 50-percent rise.

Making Health Insurance More Portable

Americans Should Be Able To Take Their Health Insurance With Them When They Change Jobs, Move, Become

Self-Employed, Or Leave The Labor Force. Americans should not have to worry about changing doctors, learning a new insurance company bureaucracy, having their premiums go up if a family member is sick, losing their insurance tax advantage when leaving employment-based plans, or being subject to more costly mandates. The lack of portability can lead to "job lock" in which workers are hesitant to leave their job if anyone in the family is in less-than-perfect health.

- **Enabling Portable HSA Insurance Policies.** Employers would have the ability to offer workers a Portable HSA insurance policy that the employees would own, control, and be able to take wherever they went. Their premiums would be tax-free and would not increase based on their health status at the time that they changed jobs, left the labor force, or moved. Employers could contribute to new employees' Portable HSA insurance policies – no matter where the policy was originally purchased. Employers would have the ability to decide whether or how much to contribute to these plans, but whatever they contributed would be tax-free.

- **The President Supports Permitting The Purchase Of Health Insurance Across State Lines.** This would allow Americans to buy the best health insurance, based on their own circumstances, instead of being limited to only the policies available in their state. Allowing Americans to purchase health insurance policies issued in other states will provide much-needed choice and competition, while retaining the consumer protections of enforcement and licensing states currently provide.

Improving Information On Price And Quality To Make Health Care More Transparent

Americans Should Be Able To Easily Obtain Understandable Information About The Price And Quality Of Health Care. The President urges medical providers and insurance companies to make information about prices and quality readily available to all Americans prior to the time of service or treatment.

Leveling The Playing Field For Individuals And Small Business Employees

The Administration Will Work To Make It Easier For Small Businesses To Provide Health Care For Their Employees. Small businesses are at a real disadvantage in providing health benefits for workers. Because they buy coverage for only a handful of workers at a time, small businesses pay much higher costs than large employers or labor unions for similar health benefits. In part because costs go up over time and one sick worker can cause a large premium increase, small employers are less than half as likely to offer health benefits to their workers as large employers.

- **The President Calls On Congress To Allow Small Businesses To Form Association Health Plans (AHPs).** AHPs let small businesses join together to purchase health coverage, giving them the same advantages, administrative efficiencies, and negotiating clout enjoyed by big businesses and labor unions. By purchasing coverage for thousands of employees at a time, association members can pay lower premiums for better coverage.

Passing Medical Liability Reform

The President Calls On Congress To Make The Medical Liability System Fairer And More Predictable While Reducing Wasteful Costs. Frivolous lawsuits and excessive jury awards limit access to health care by driving health care providers out of many communities and increase costs by forcing doctors to practice defensive medicine. Because lawsuits are driving many good doctors out of practice, women in nearly 1,500 American counties are left without a single OB-GYN. Medical liability reforms would secure an injured patient's ability to get quicker compensation for economic losses, while reducing frivolous lawsuits against doctors that raise the cost of health care for all. The President has proposed proven, common-sense reforms that reserve punitive damages for egregious cases where they are justified, limit non-economic damages to reasonable amounts, ensure that old cases cannot be brought to court years after an event, and provide that defendants pay judgments in proportion to their fault.

Improving Health Information Technology (IT)

The Administration Is Working To Expand The Use Of Health IT To Lower Costs, Reduce Medical Errors, And Improve Quality Of Care. In 2004, the President launched an initiative to make electronic health records available to most

Americans within the next 10 years. We have already seen the Veterans Health Administration and private-sector health systems use information technology to increase quality, encourage savings, and reduce errors. With electronic health records, information needed to treat patients effectively will be a computer click away, no matter where the patient is receiving care. The Administration has taken steps towards improving health IT, including: establishing the position of the National Coordinator for Health Information Technology and providing $100 million to fund projects harmonizing standards for electronic information exchange; developing certification criteria to ensure health IT investments meet proper standards; addressing privacy and security issues; and developing models for a national Internet-based health information system. Through the American Health Information Community (AHIC), the Administration and the private sector are building a common framework for implementing a nationwide electronic health records system.

- **In 2006, The Administration Will Work To Develop Nationwide Health IT Standards To Accelerate Patient Access To Electronic Health Records.** This includes a "medical clipboard" that can only be accessed with the patient's consent, electronic medication history and lab results, and ways to utilize health information tools to monitor potential disease outbreaks such as pandemic influenza.

Assistance For Vulnerable Americans

The President Proposes Extending The Benefits Of HSAs To Low-Income Families And Individuals Through Refundable Tax Credits. A family of four making $25,000 or less will be able to get a refundable tax credit of $3,000 from the Federal government to help buy an HSA-compatible policy that covers them for major medical expenses. These families will have the flexibility to put up to $1,000 of the money directly into an HSA to pay for routine medical expenses. What the family does not spend can be saved in the account and carried over to the next year, earning interest tax-free.

The President Proposes Providing $500 Million Per Year To Encourage States To Test Innovative Methods For Covering Chronically Ill Residents. Americans who are chronically ill and are not part of an employer or public pool must pay the full burden of their care through high premiums or, in some cases, go without insurance at all. Some states have established high-risk pools to insure chronically ill patients otherwise denied coverage, but there are also other innovative approaches that could provide better coverage at lower costs. The President proposes grants, awarded by the HHS Secretary, that would help cover chronically ill patients by helping up to 10 states build on their existing high-risk pools or test other innovative approaches such as risk-adjusted subsidies or plans designed to manage chronic illnesses such as diabetes.

The President Supports Allowing Employers To Make Higher Contributions To The HSAs Of Chronically Ill Employees. Under current law, employers must contribute the same amount to each employee's HSA. This prevents employers from providing extra help to their chronically ill employees – employees who are more likely to use their HSAs to pay for their higher-than-average out-of-pocket expenses. Permitting employers to make higher contributions to HSAs of chronically ill employees will help those workers fund their HSAs and pay their out-of-pocket expenses tax-free through their accounts.

The President Proposes Expanding AHPs To Allow Civic, Community, And Religious Groups To Purchase Health Coverage For Their Members. This gives individuals and their families, including the most vulnerable Americans, the ability to pool together to buy health insurance outside of their workplace. Giving people more choices to buy insurance at group rates from organizations they already know and trust will help many Americans purchase quality, affordable, and portable health insurance.

The President Supports Increased Funding For Community Health Centers. It is vital to get care to poor communities, where access is often hardest to come by, and basic primary and preventative services could do an enormous amount to raise living standards and well being. The President has worked to expand the number and reach of Community Health Centers. In 2001, there were 3,317 sites serving some 10.3 million patients. The Administration has funded more than 800 new or expanded centers and will fund approximately 400 more in the next two years. This has allowed Community Health Centers to build the capacity to serve more than 3.5 million additional Americans, with nearly 2 million more to be served in the next two years.

- **The President Has Proposed Establishing Community Health Centers In Poor Communities.** To make health care available where it is needed most, the Administration has set out to establish a Community Health Center or rural clinic in every high-poverty county in America that can support one. The President's FY 2007 budget proposes to establish 80 such centers or clinics in poor counties not currently served.

The State Of The Union: A Strong America Leading The World

In His State Of The Union Address, President Bush Discussed America's Leadership In The World And Shared His Vision To Lead America Forward. At a time of great consequence, the President laid out an agenda of leadership to act confidently in pursuing the enemies of freedom and to build our prosperity by leading the world economy. The President rejected the roads of isolationism and protectionism and called for cooperation and courage in confronting challenges. America will lead freedom's advance, compete and excel in the global economy, and renew the defining moral commitments of this land, confident of victory.

Leadership Toward Peace In The World

Every Step Toward Freedom In The World Makes Our Country Safer, And So America Will Act Boldly In Freedom's Cause. Today our Nation is committed to an historic, long-term goal: the end of tyranny in our world. On September 11th, 2001, America found that problems originating in a failed and oppressive state seven thousand miles away could bring murder and destruction to our country. Dictatorships shelter terrorists, feed resentment and radicalism, and seek weapons of mass destruction. Democracies replace resentment with hope, respect the rights of their citizens and their neighbors, and join the fight against terror. As we celebrate the spread of freedom in places like Afghanistan and Iraq, we do not forget people living in places like Syria, Burma, Zimbabwe, North Korea, and Iran – because the demands of justice, and the peace of this world, require their freedom as well.

- **America Will Not Retreat From The World Or Surrender To Evil.** In a time of testing, America cannot find security by abandoning commitments and retreating to isolation within our borders. If we were to leave the terrorists alone, they would not leave us alone. They would simply move the battlefield to our own shores. There is no peace or honor in retreat. America rejects the false comfort of isolationism. We accept the call of history to deliver the oppressed and move the world toward peace.

America Is On The Offensive In The War On Terror. America and its allies have killed or captured many of the leaders of the terror networks. For the others, their day will come.

- **We Remain On The Offensive In Afghanistan.** In that country, a fine president and National Assembly are fighting terror while building the institutions of a new democracy.

- **America Is On The Offensive In Iraq, With A Clear Plan For Victory.** First, the Coalition is helping Iraqis build an inclusive government, so that old resentments will be eased and the insurgency will be marginalized. Second, the Coalition is continuing reconstruction efforts and helping the Iraqi government fight corruption and build a modern economy. Third, Coalition forces are striking terrorist targets and training Iraqi forces. In less than three years, Iraq has gone from dictatorship, to liberation, to sovereignty, to a constitution, to national elections.

- **The Brutality Of The Terrorists Cannot Stop The Dramatic Progress Of A New Democracy.** The Coalition has been relentless in shutting off terrorist infiltration, clearing out insurgent strongholds, and turning over territory to Iraqi security forces. As we make progress on the ground, and Iraqi forces increasingly take the lead, we should be able to further decrease our troop levels, but those decisions will be made by our military commanders, not by politicians in Washington, D.C.

- **Our Strategy For Victory In Iraq Benefits From Responsible Criticism And Counsel.** The effort in Iraq has benefited from responsible criticism and counsel offered by Members of Congress of both parties. The President will continue to reach out and seek good advice. Yet there is a difference between responsible criticism that aims for success and defeatism that refuses to acknowledge anything but failure. However individuals feel about the decisions and debates of the past, our Nation has only one option: We must keep our word, defeat our enemies, and stand behind the men and women of America's military in their vital mission.

Progress Will Continue Across The Middle East As America Offers A Hopeful Alternative To Hatred And Fear. America's offensive against terror involves more than military action, and we are delivering a clear message across the

broader Middle East. In parts of the Middle East, there have been steps taken toward reform, but there is more progress to be made. Elections are vital – but they are only the beginning. Raising up a democracy requires the rule of law, protection of minorities, and strong, accountable institutions that last longer than a single vote. The Palestinian people have voted in elections – now the leaders of Hamas must recognize Israel, disarm, reject terrorism and work for a lasting peace. Elsewhere in the Middle East, the repressive regime in Iran is defying the world with its nuclear ambitions, and the nations of the world must not permit the Iranian regime to gain nuclear weapons.

- **As America Encourages The Spread Of Freedom, We Must Also Spread Prosperity.** To overcome dangers in our world, America will encourage economic progress, fight disease, and spread hope in hopeless lands. Isolationism would not only tie our hands in fighting enemies, it would keep America from helping our friends in desperate need. America has taken unprecedented action to fight AIDS and malaria, expand the education of girls, and reward developing nations moving forward with economic and political reform. Short-changing these efforts would increase the suffering and chaos of the world, undercut America's long-term security, and dull the conscience of our country.

The Offensive Against Terrorism Must Continue At Home. The enemy has not lost the desire or capability to attack us. America has superb professionals in law enforcement, intelligence, the military, and homeland security who are protecting America. They deserve our thanks – and they deserve the same tools they already use to fight drug trafficking and organized crime, so the President called on Congress to reauthorize the Patriot Act.

Winning The War on Terror Requires Learning The Lessons of September 11th. To prevent another attack – based on authority given to the President by the Constitution and by statute – the President has authorized a terrorist surveillance program to aggressively pursue the international communications of suspected al-Qaida operatives and affiliates to and from America. Previous presidents have used the same constitutional authority the President has – and Federal courts have approved the use of that authority. Appropriate Members of Congress have been kept informed. This terrorist surveillance program has helped prevent terrorist attacks. It remains essential to the security of America. If there are people inside our country who are talking with al-Qaida, we want to know about it – because we will not sit back and wait to be hit again.

Leadership For Prosperity At Home And Abroad

America's Economic Strength Continues To Lead The World. The American economy is healthy and vigorous and growing faster than other major industrialized nations. In the last two and a half years, America has created 4.6 million new jobs – more than Japan and the European Union combined. Even in the face of higher energy prices and natural disasters, the American people have turned in an economic performance that is the envy of the world.

Our Nation Will Compete With Confidence And Extend Our Economic Leadership In The World. In a dynamic world economy, we are seeing new competitors. This creates uncertainty, which makes it easier to feed people's fears. Protectionists want to escape competition, while others want the government to take a larger role in directing the economy. The President set forth a better path that will raise standards of living and generate new jobs. Americans should not fear our economic future, because we intend to shape it.

Congress Needs To Make The Tax Cuts Permanent. Keeping America competitive begins with keeping our economy growing. Our economy grows when Americans have more of their own money to spend, save, and invest. In the last five years, tax relief has left $880 billion in the hands of American workers, investors, small businesses, and families, and they have used it to help produce more than four years of uninterrupted economic growth. Yet the tax relief is set to expire in the next few years. If Congress does not act, American families will face a massive tax increase.

The Growth Of Government Must Be Limited Through Fiscal Discipline. Every year since President Bush took office, the growth of non-security discretionary spending has been reduced, and last year this spending was cut. This year the President's budget will cut it again and will reduce or eliminate more than 140 programs that are performing poorly or not fulfilling essential priorities. By passing these reforms, we will save the American taxpayer another $14 billion next year and stay on track to cut the deficit in half by 2009. Congress must also move forward on earmark reform and pass the line-item veto to limit special interest projects.

- **The Government Must Confront The Larger Challenge Of Entitlement Spending.** The coming retirement of the Baby Boom generation will put unprecedented strains on the Federal government. By 2030, spending for Social Security, Medicare, and Medicaid alone will be almost 60 percent of the entire Federal budget. And that will present future Congresses with impossible choices: staggering tax increases, immense deficits, or deep cuts in every category of spending. The President proposed a bipartisan commission to examine the impact of this problem.

America Must Continue To Open Markets For American Goods. One out of every five factory jobs in America is related to global trade, and we want people everywhere to buy American. With open markets and a level playing field, no one can out-produce or out-compete the American worker.

Immigration Reform Must Be A Priority. America needs an immigration system that upholds our laws, reflects our values, and serves the interests of our economy. Our nation needs orderly and secure borders. To meet this goal, we must have stronger immigration enforcement and border protection. And we must have a rational, humane guest worker program that rejects amnesty, allows temporary jobs for people who seek them legally, and reduces smuggling and crime at the border.

Health Care Must Be Made Affordable And Accessible. Our government has a responsibility to help provide health care for the poor and the elderly, and it will meet that responsibility. For all Americans, we must confront the rising cost of care, strengthen the doctor-patient relationship, and help people afford the insurance coverage they need.

- **Improved Health Savings Accounts Will Offer Lower Costs And Security Between Jobs.** The President proposed strengthening Health Savings Accounts by making sure individuals and small business employees can buy insurance with the same tax advantages that people working for big businesses now get. We will do more to make this coverage portable, so workers can switch jobs without having to worry about losing their health insurance.

- **Technology Offers The Possibility Of More Effective, Less Expensive Health Care.** The President called for wider use of electronic records and other health information technology to help control costs and reduce medical errors.

- **Medical Liability Reform Will Help Retain Good Doctors.** The President called on Congress to pass Medical Liability Reform this year. Lawsuits are driving many good doctors out of practice, leaving women in nearly 1500 American counties without a single OB-GYN.

The Advanced Energy Initiative Will Help Break America's Dependence On Foreign Sources Of Energy. The best way to break America's addiction to oil is through technology. The President set a goal of replacing more than 75 percent of oil imports from the Middle East by 2025. Since 2001, we have spent nearly $10 billion to develop cleaner, cheaper, more reliable alternative energy sources. The Advanced Energy Initiative will deliver a 22 percent increase in clean-energy research to push for breakthroughs in two vital areas:

- **New Energy Sources For Homes And Businesses.** To change how we power our homes and offices, we will invest more in zero-emission coal-fired plants; revolutionary solar and wind technologies; and clean, safe nuclear energy.

- **New Energy Sources For Transportation.** We must also change how we power our automobiles and move beyond a petroleum-based economy. We will increase our research in better batteries for hybrid and electric cars and in pollution-free cars that run on hydrogen. We will also fund additional research in cutting-edge methods of producing ethanol, not just from corn but from wood chips, stalks, or switch grass. The goal is to make this new kind of ethanol practical and competitive within six years.

The President's American Competitiveness Initiative Will Encourage Innovation Throughout The Economy. America must continue to lead the world in human talent and creativity. Our greatest advantage in the world has always been our educated, hard-working, ambitious people, and we are going to keep that edge.

- **New Federal Funding For Research.** The President proposed doubling the Federal commitment to the most critical basic research in the physical sciences over the next ten years. This will support the work of America's most creative minds as they explore promising areas such as nanotechnology, supercomputing, and alternative energy sources.

- **Provide Tax Certainty For Research And Development.** The President proposed making permanent the research and development tax credit to encourage bolder private-sector investment in technology. With more research in both the public and private sectors, we will improve our quality of life and ensure that America will lead the world in opportunity and innovation for decades to come.

- **Strengthening Education In Math And Science.** Building on the success of the No Child Left Behind Act, the President proposed training 70,000 high school teachers to lead advanced-placement courses in math and science; bringing 30,000 math and science professionals to teach in classrooms; and getting early help to students struggling with math so they have a better chance at good, high-wage jobs.

America Is Becoming A More Hopeful Nation. Violent crime rates have fallen to their lowest levels since the 1970s. Welfare cases have dropped by more than half over the past decade. Drug abuse among youth is down 19 percent since 2001. There are fewer abortions in America than at any point in the last three decades, and the number of children born to teenage mothers has been falling for a dozen years in a row. Government has played a role in this quiet transformation, and wise policies such as welfare reform, drug education, and support for abstinence and adoption have made a difference in the character of our country.

America Still Has More To Do To Strengthen Our Culture And Our Institutions. Many Americans, especially parents, still have deep concerns about the direction of our culture and the health of our most basic institutions. They are concerned about unethical conduct by public officials and discouraged by activist courts that try to redefine marriage. And they worry about children in need, fellow citizens still displaced by natural disaster, and suffering caused by treatable disease.

- **Courts Must Deliver Equal Justice Under Law And Not Legislate From The Bench.** The Senate has confirmed two superb new members of the Supreme Court, Chief Justice John Roberts and Justice Samuel Alito. The President will continue to nominate men and women who understand that judges must be servants of the law and not legislate from the bench.

- **America Must Recognize The Value Of Every Life.** The President called on Congress to pass legislation to prohibit the most egregious abuses of medical research: cloning human beings; creating or implanting embryos for experiments; creating human-animal hybrids; and buying, selling, or patenting human embryos. Human life is a gift from our Creator, and that gift should never be discarded, devalued, or put up for sale.

- **Elected Officials Must Uphold The Public Trust.** The President supports the efforts of honorable people in both parties who are working on reforms to strengthen the ethical standards of Washington. Public servants make a pledge to be worthy of public responsibility, and that is a pledge that must never be forgotten, dismissed, or betrayed.

- **America Must Protect And Encourage Its Children.** Through the Helping America's Youth initiative led by First Lady Laura Bush, America is encouraging caring adults to get involved in the life of a child. The President called for additional resources to encourage young people to stay in school so more of America's youth can raise their sights and achieve their dreams.

- **A Continuing Commitment To Gulf Reconstruction.** America will aid our fellow citizens in times of suffering and emergency and stay with them until they are back on their feet. So far the Federal government has committed $85 billion to the people of the Gulf Coast and New Orleans. We are removing debris, repairing highways, building stronger levees, and providing business loans and housing assistance. We must also address deeper challenges that existed before the storm arrived and must provide not only temporary relief, but also schools that teach every child, job skills that bring upward mobility, and more opportunities to own a home and start a business.

- **Continuing The Fight To Prevent, Treat, And Defeat HIV/AIDS.** The President called on Congress to reform and reauthorize the Ryan White Act and to provide new funding to states, so we end the waiting lists for AIDS medicine in America. More than one million Americans live with HIV, and half of all AIDS cases occur among African-Americans. The President called for a nationwide effort, working closely with African-American churches and faith-based groups, to deliver rapid HIV tests to millions, end the stigma of AIDS, and come closer to the day when there are no new infections in America.

Attached are four documents that contain more specific information on the President's vision to lead America forward—the Advanced Energy Initiative, Affordable and Accessible Health Care, and the American Competitiveness Initiative.

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Subject: 2/1/06 Civil Division News

Partial Birth Abortion Act Ruled Unconstitutional by U.S. Courts

Two Courts Say Partial Birth Abortion Ban Is Illegal

Federal government asks judge to dismiss No Child suit

N.A.A.C.P. Is Bush Ally In School Suit Versus State

Lawmaker urges review of patent approval and re-examination processes

New York Times

February 1, 2006

Partial Birth Abortion Act Ruled Unconstitutional by U.S. Courts

By JULIA PRESTON

Two federal appeals courts yesterday upheld rulings that the Partial Birth Abortion Act, passed by Congress in 2003 but barred by the courts, is unconstitutional because it does not include an exception when the health of a pregnant woman is at risk.

The rulings, which came on the same day from three-judge panels in the Court of Appeals for the Second Circuit, in New York, and the Ninth Circuit, in San Francisco, were substantially based on a United States Supreme Court decision in a Nebraska case in 2000. In that case, the Supreme Court found that any abortion ban must include an exception allowing a procedure that involves a partly delivered fetus after the first trimester of pregnancy, known among opponents as partial birth abortion, when alternative methods could endanger the woman's health.

Since the appeals court for the Eighth Circuit, in St. Louis, reached a similar conclusion last July, the three legal challenges nationwide to the abortion act have now been affirmed on appeal. This month the Supreme Court several times postponed deciding whether to hear the Eighth Circuit case.

The Second Circuit upheld the challenge, brought by the National Abortion Federation, on the narrowest of grounds, and did not strike down the act. Instead, the appeals court gave both sides 30 days to offer recommendations on how to remedy the failings in the law.

One of the three judges, Chester J. Straub, dissented. He wrote that he does not believe a woman's right to end her pregnancy under Roe v. Wade in 1973 "extends to the destruction of a child that is substantially outside her body."

The Second Circuit chief judge, John M. Walker Jr., wrote in a concurring opinion that precedent forced him to rule against the act "no matter how personally distasteful the fulfillment of that duty may be." He found that the abortion method in the ban was one that "many Americans, probably most Americans, find exceedingly offensive on moral grounds."

He offered a critique of "the sweeping constitutionalization" of abortion law, writing that past Supreme Court rulings had transformed the federal courts into "a sort of super regulatory agency" and had marginalized "the reasonable policy judgments" of Congress.

END

Bloomberg

1/31/06

Two Courts Say Partial Birth Abortion Ban Is Illegal

(Bloomberg) -- Federal appeals courts in California and New York said today a federal law banning ``partial birth'' abortions is illegal because it doesn't have an exception to protect the health of pregnant women.

The Ninth U.S. Circuit Court of Appeals in San Francisco and the Second Circuit in New York said the 2003 Partial Birth Abortion Ban Act violates the Constitution. The courts ruled in light of a Jan. 18 U.S. Supreme Court finding that a New Hampshire law requiring parental notification for abortions may be blocked in cases of health emergencies.

``The act lacks the health exception required of all abortion regulations,'' the California court said.

The rulings help set the stage for what may become the first abortion case before the Supreme Court since the swearing-in of Justice Samuel A. Alito Jr. The court is deciding whether to hear a Bush administration appeal of a third ruling against the law.

The high court struck down a Nebraska ``partial birth'' law in 2000 on a 5-4 vote, saying it was too broad and lacked an adequate health exception.

Alito's vote might make a difference because he replaces retiring Judge Sandra Day O'Connor, who was in the majority in the 2000 case. Democratic lawmakers tried to block his confirmation, in part because of concern he will vote against abortion rights.

The Law

The partial birth abortion law, which has never taken effect, would be the first nationwide ban of an

abortion procedure since the landmark 1973 Roe v. Wade decision legalized abortion nationwide.

The law outlaws procedures in which a fetus is partially removed from the mother before being killed, including a procedure known as intact dilation and evacuation. Doctors who violate the law would be subject to criminal and civil penalties.

John Nowacki, a Justice Department spokesman, said the agency was reviewing today's rulings.

The Ninth Circuit Court ruling was unanimous. The court said it wouldn't defer to Congress' findings that the partial birth abortion procedure is never required to protect a women's health. Because there was disagreement among doctors about whether the procedure is necessary, the court said, a ``health exception'' is required.

The Second Circuit voted 2-1, with the majority saying the law was unconstitutional and stopping short of saying the entire law needed to be struck down. It asked the government and an abortion rights group that sued to file briefs discussing whether the statute might be narrowed to prevent it from violating the constitution.

Procedure Called `Offensive'

Judge John M. Walker Jr. in New York, concurring with the opinion, called the procedure a ``deeply disturbing -- and morally offensive -- destruction of the life of a partially born child.'' He said he nonetheless was bound by the 2000 Supreme Court Decision.

``We are pleased that both courts have recognized that this ban needs an exception to protect women's health,'' Vicki Saporta, president of the National Abortion Federation, said in a statement. ``Doctors and women should be able to make medical decision free from interference by politicians.''

A dissent in the New York case by Judge Chester J. Straub marks the first time that a federal judge has said that the act, signed into law by President George W. Bush in November 2003, is constitutional.

The cases are Planned Parenthood Federation of America Inc. v. Gonzales, 04-16621, Ninth U.S. Circuit Court of Appeals (San Francisco) and National Abortion Federation v. Gonzales, 04-5201- cv, Second U.S. Circuit Court of Appeals (New York).

END

AP

February 1, 2006

Federal government asks judge to dismiss No Child suit

By MATT APUZZO

Associated Press Writer

NEW HAVEN, Conn_Attorneys for the U.S. Department of Education asked a federal judge Tuesday to throw out Connecticut's challenge to the federal No Child Left Behind law, saying the state understood the law when it accepted hundreds of millions of dollars in education funding.

Connecticut became the first state to try to block the 2002 law when it filed the lawsuit in August. Attorney General Richard Blumenthal argued that the law was unconstitutional, an unfunded federal mandate costing more than the state received in federal aid.

No\l "l" Child\l "l" Left\l "l" Behind\l "l", the cornerstone of President Bush's education platform, requires that students be tested annually in grades 3 through 8. Connecticut\l "l" wants to continue its program for testing every other year, in grades 4, 6, 8 and 10, a request that Education Secretary Margaret Spellings has refused.

Officials have estimated that the state will be saddled with a $41.6 million shortfall through 2008 to pay for additional testing and other provisions the bill requires.

Justice Department attorneys, who represent the Education Department, countered that Connecticut\l "l" knew the testing requirements when it accepted the money and is now trying to escape obligations under the law.

U.S. District Judge Mark Kravitz did not rule on the motion to dismiss Tuesday. On several occasions, he suggested that siding with Connecticut\l "l" in the case could allow other states to pick and choose which elements of the federal law to follow.

Blumenthal compared the law to a hypothetical school lunch program in which Connecticut\l "l" serves filet mignon every other day but the federal government demands daily lunches _ and only spends enough to buy candy bars.

Kravitz, who quizzed attorneys on both sides, seemed skeptical.

"They're saying, 'We'll fund this. If you want to keep your system, you'll have to do it on your own,'" Kravitz said.

State Education Commissioner Betty J. Sternberg said students in every grade will receive the tests this year, as required by federal law. She said the cost, more than $3 million, will be paid for by the state.

Early morning arguments focused on whether Connecticut's\l "l" lawsuit should be permitted. Federal attorneys argue that Connecticut\l "l" jumped the gun by suing before its appeals and reviews within the Department of Education were exhausted.

Blumenthal countered that the risks of appealing through the Department of Education are too great because Spellings could withhold millions of dollars in education funding while the issue is debated.

Blumenthal also said it makes no sense to require Connecticut\l "l" to break the law to find out if it is constitutional. Though they disagree with the testing requirement, Connecticut\l "l" officials plan to test in all grades this year if they lose the lawsuit.

Kravitz said Spellings could avoid the need for the lawsuit by agreeing not to withhold federal education money while Connecticut\l "l" challenges the law within the agency. He encouraged Justice Department attorney Elizabeth Goitein to bring that request to Spellings.

Republican Gov. M. Jodi Rell, who signed a bill authorizing the lawsuit, has called the No\l "l" Child\l "l" Left\l "l" Behind\l "l" Law illegal because it requires testing and programs it does not pay for.

Kravitz asked Blumenthal and the federal government to file more legal documents in the case by the end of March.

END

New York Times

February 1, 2006

N.A.A.C.P. Is Bush Ally In School Suit Versus State

AVI SALZMAN

NEW HAVEN, Jan. 31 N.A.A.C.P. officials said on Tuesday that they were trying to intervene in a lawsuit over the No\l "l" Child\l "l" Left\l "l" Behind\l "l" Law on the side of the Bush administration and against the State of Connecticut\l "l" because of a core principle: that states do not have the right to ignore federal legislation that aims to help minorities.

"The issue goes beyond the specifics of No\l "l" Child\l "l" Left\l "l" Behind\l "l" to potentially affect other federal statutes designed to protect civil rights," said Victor L. Goode, assistant general counsel for the National Association for the Advancement of Colored People. "One can't help but remember back in the Dixiecrat period when certain Southern states asserted that they were not required to comply with certain federal civil rights laws designed to protect people's rights."

The Connecticut\l "l" State N.A.A.C.P. filed a motion on Monday to intervene in a lawsuit filed by the State of Connecticut\l "l" against Margaret Spellings, the secretary of education. The state contends that the federal government came up about $50 million short in funding for education and testing required under No\l "l" Child\l "l" Left\l "l" Behind\l "l", and that Connecticut\l "l" should not be asked to spend its own money to comply with the law.

Connecticut\l "l" especially objects to the United States Department of Education's repeated denials of its requests for waivers that would allow it to test students every other grade, instead of each grade, and to give modified tests to special education students and students learning basic English.

Federal officials contend that the state must test every year from third through eighth grade and that state officials were aware of that when they accepted federal money to create those tests.

On Tuesday, Judge Mark R. Kravitz heard arguments in the case in United States District Court in New Haven, and decided to give the state more time to hone its arguments about why its lawsuit should not be dismissed. The judge did not address the N.A.A.C.P.'s motions.

At the same time, N.A.A.C.P. representatives held a news conference outside the courthouse announcing the organization's decision to intervene. Scot X. Esdaile, the president of the Connecticut\l "l" branches of the N.A.A.C.P., said the organization was aligning itself with the Bush administration "on this particular issue and only this particular issue."

Mr. Esdaile said he had received approval to intervene from the N.A.A.C.P.'s national leadership.

Connecticut\l "l" consistently scores near the top on national assessments of student achievement, but it has been plagued for decades by gaps between minority and white students and poor and wealthy students.

Those discrepancies became fodder for a series of bitter exchanges between state and federal officials last year, with Ms. Spellings lashing out at the State of Connecticut\l "l" for its failure to address the gaps.

"And you know, I think it's un-American, I would call it," she said in an interview broadcast on PBS in April, "for us to take the attitude that African-American children in Connecticut\l "l" living in inner cities are not going to be able to compete, are not going to be prepared to compete in this world and are not going to be educated to high levels.

"That's the notion," she said, "the soft bigotry of low expectations, as the president calls it, that No\l "l" Child\l "l" Left\l "l" Behind\l "l" rejects."

The comment drew an angry response from Betty J. Sternberg, the state's education commissioner, who

likened the "un-American" remark to a return to the McCarthy era.

At that time, Richard Blumenthal, Connecticut's\l "l" attorney general, began pressing to file suit against the federal government over the rules and the funding for No\l "l" Child\l "l" Left\l "l" Behind\l "l", and in August, he received support from state officials. With the case still in limbo, Connecticut\l "l" will begin testing students in March in every grade from third through eighth using state money to cover shortfalls, Dr. Sternberg said.

The N.A.A.C.P. said in its filing that "Connecticut\l "l" is failing its most disempowered children," and included three minority students in the motion to intervene.

Civil rights lawyers are concerned about the precedent that a Connecticut\l "l" victory would set.

"We would not want states or other entities to not enforce laws like the 1964 Civil Rights Act or the 1968 Civil Rights Act on some notion that they don't have enough money to enforce it," said Mr. Goode, the N.A.A.C.P. lawyer. "We don't want the door to be opened to this sort of thing."

END

Government Executive Magazine

January 31, 2006

Lawmaker urges review of patent approval and re-examination processes

By Daniel Pulliam

The Patent and Trademark Office failed to move quickly enough or devote adequate resources to addressing the validity of the patents at the heart of a row that is jeopardizing BlackBerry service, the chairman of the House Government Reform Committee said last week.

If patent re-examination requests from the BlackBerry maker -- Canada-based Research In Motion -- had been addressed more expeditiously, the controversy could have been resolved before it threatened a service that is critical to the government, wrote Rep. Tom Davis, R-Va., in a Jan. 27 letter to Jon Dudas, director of PTO.

The Arlington, Va., patent holding company NTP Inc. sued RIM in 2002 for alleged illegal use of patented software, and RIM in 2003 asked the patent office to re-examine NTP's patents. A preliminary ruling from the office rejected the validity of all of NTP's patents, and NTP said it plans to appeal that ruling in federal court.

"If somebody moves onto your front lawn and refuses to pay you, you have no choice but to seek assistance in removing them from your property," said Kevin Anderson, one of NTP's lawyers.

NTP filed a seven-page request with the patent commissioner last week, asking for the re-examination to be dismissed and charging that the agency failed to treat the company as it has other companies in similar situations.

Davis asked in his letter if reforms were necessary to speed up and improve patent processing.

"In today's fast-moving world, America's economy and our ability to compete in a global marketplace are dependent on an efficient and competent system to bring new technological developments to the consumer market," Davis said in a statement. "We consistently challenge the developing world to match

our commitment to intellectual property rights. But are there refinements that we need to make, too?"

A PTO spokeswoman did not respond to requests for comment, and a RIM spokeswoman declined to comment for this article.

The agency's patent division has plans to hire about a thousand new employees a year through fiscal 2008 in order to reduce its backlog of patent applications.

Last week, the Supreme Court declined to hear the BlackBerry case after RIM asked the court to determine whether U.S. patent law could apply to devices operating partially outside of the United States, as the BlackBerry network does.

Both companies are expected to file briefs Wednesday with the Virginia Federal District Court presenting their case in anticipation of a Feb. 24 hearing when the companies will argue before U.S. District Judge James Spencer on whether he should issue an injunction shutting down BlackBerry service in the United States.

RIM said that in preparation for a potential injunction, it has prepared a software workaround. But if a shutdown is ordered, it would be impossible to implement an exemption for government users and others deemed essential users, RIM has stated.

According to Eric Stange, president of the Defense and Homeland Security practice at Accenture, a management and information technology consulting company, high-level government executives rely daily on the BlackBerry devices, and a shutdown of the system would cause significant upheaval.

"I've seen a three-star Army general on stage checking his BlackBerry," said Stange, who has worked on homeland security and defense issues for six years. "I can't say for sure if [Homeland Security Department Secretary Michael] Chertoff uses them, but people on his staff use them."

END

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From: Miller, Charles S
Sent: Thursday, February 02, 2006 10:56 AM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 2/2/06 Civil Division News

US has misgivings about BlackBerry shutdown plan

DOJ Sharpens Objections in Blackberry Case

Six states to sue U.S. over Medicare

Army reservist sues to be released from service

Bush punishes BIA budget to pay for Cobell

Expenses At Issue In `No Child' Lawsuit

Editorial: Privacy policy made in China

Reuters

Wed Feb 1, 2006 6:08 PM ET

US has misgivings about BlackBerry shutdown plan

By Peter Kaplan

WASHINGTON (Reuters) - The U.S. Justice Department urged a federal judge on Wednesday to refrain from any plans to shut BlackBerry portable e-mail service over patent infringement until the government gets more assurances its users will be exempted.

The department handed BlackBerry maker Research In Motion Ltd., <RIM.TO><RIMM.O> its second legal victory of the day, saying in a court filing that there had not been enough evidence submitted to

show that the plan would carve out government users "without substantial hardship."

"We believe that there are still a number of serious questions to be answered as to how an injunction can be implemented so as to continue BlackBerry service for governmental and other excepted groups," the Justice Department said in a legal brief filed in federal court.

Earlier in the day, the U.S. Patent and Trademark Office sided with the company by issuing a non-final rejection of a fifth patent at the center of its legal battle with patent holding company NTP Inc.

RIM is pursuing the patent office challenge as it tries to fend off the 2003 patent infringement ruling that NTP won against the company in federal court in Richmond, Va.

U.S. District Judge James Spencer is due to hear arguments February 24 on whether to grant NTP's request for a shutdown of most U.S. BlackBerry service.

RIM's lawyers have argued that Spencer should refrain from imposing any injunction for a number of reasons, including an "exceptional public interest" in maintaining uninterrupted BlackBerry service for national security officials and other government workers.

The patent office decision means the agency has now issued non-final rejections of all five patents at issue in a BlackBerry patent-infringement case before a federal judge.

But the final outcome of the challenge at the patent office is likely months away, while the potentially decisive court hearing in the infringement case is set for February 24.

RIM shares, which had closed up 9 percent to $73.61 on Nasdaq after the patent decision, added on as much as 1.9 percent to $75 a share on Inet in after-hours trading following the government's court filing.

END

AP

February 2, 2006

DOJ Sharpens Objections in Blackberry Case

RICHMOND, Va._The Justice\l "l" Department\l "l" sharpened its objections Wednesday to a threatened shutdown of the BlackBerry e-mail system, saying it would be difficult to close it without affecting government users.

NTP Inc., an Arlington, Va.-based company, has convinced a federal jury that its patents have been infringed by Research In Motion Ltd., the Canadian operator of the BlackBerry network, and is seeking a court ruling to turn off the network.

The judge in the case has indicated he could decide on NTP's request following a scheduled Feb. 24 hearing.

NTP has said such an injunction would not apply to government BlackBerry users, who may account for up to 200,000 of the company's 4.3 million customers.

In a court filing Wednesday, NTP said there were "readily administrable" ways to exclude government and emergency users from a shutdown.

The Justice\l "l" Department\l "l" has previously questioned that assertion, and in Wednesday's court filing said it could not find that NTP's plans "can be realistically implemented."

The government provided a list of 138 agencies and their related contractors that need to be excluded from a shutdown. The list includes the Central Intelligence Agency, the Army and the National Security Agency.

The government left the door open for an injunction that would leave the network in operation but stop sales of new BlackBerries to private users.

For its part, RIM has agreed with the Justice\l "l" Department\l "l" that it would be difficult to separate government from private BlackBerry users. In a filing Wednesday, it also argued that public interest in the network extends beyond government users. For example, it said, the financial services industry relies heavily on the devices.

In its filing, NTP replied that identifying government users is RIM's responsibility, and any difficulties doing so shouldn't prevent an injunction.

Separately, the U.S. Patent and Trademark Office took another step Wednesday toward invalidating a patent that is at the center of the bitter legal feud.

Stephen Maebius, a Washington patent attorney not involved in the case, said the action was not final but does bring the patent office closer to expected final rejections of the patents held by NTP.

On the news, shares RIM rose $6.08, or 9 percent, to close at $73.61 on the Nasdaq Stock Market.

The patent office has already preliminarily rejected all five patents at the heart of the NTP's lawsuit against RIM.

However, the trial judge hearing the case has indicated himself unwilling to await final word from the patent office.

Despite the threat of a BlackBerry blackout, many analysts think an actual shutdown is unlikely because putting RIM out of business would make it harder for NTP to collect a big settlement.

END

Sacramentp Bee

2/2/06

Six states to sue U.S. over Medicare

By Clea Benson

SACRAMENTO - California and as many as six other states will file a lawsuit this month challenging the federal government's plan to take back states' savings from the new Medicare Part D prescription drug plan, Attorney General Bill Lockyer said Wednesday.

Under Medicare Part D, which went into effect Jan. 1, the federal government is now buying prescription drugs for poor elderly and disabled people on Medicare. Those costs previously were covered by states.

But the federal government is requiring states to pay back the money they no longer have to spend on drugs for the needy. Lockyer and other attorneys general say that in the first few years of the plan, the amount the states are being asked to repay exceeds the amount they would have spent if they were still buying drugs for disabled seniors.

In California, under a formula written into the federal Medicare law approved by Congress last year, the state will lose $130 million over the next two years, Lockyer said.

He said in a statement that he and attorneys general in several other states believed the repayment requirement was unconstitutional. He said they would take the matter directly to the U.S. Supreme Court.

Gov. Arnold Schwarzenegger also released a statement saying the state was prepared to sue.

Gary Karr, spokesman for the federal Centers for Medicare and Medicaid Services, said he could not comment specifically on a lawsuit that had not been filed. Any change in the law would have to be approved by Congress, he said.

Karr said the Bush administration believes states will save money under the new plan in the long run, even after paying hundreds of millions of dollars to the federal treasury.

"Not only is the federal government picking up a large amount of expenses, but the plan also includes subsidies for state governments to pay for prescription drug coverage for their retirees," Karr said. "Moreover, costs are going down rather substantially because plans are doing a better job of negotiating good drug prices and overall the plan is turning out to be cheaper than expected."

The controversy over the repayments is unrelated to the problems many poor and disabled seniors are experiencing in getting their prescriptions under the new drug coverage plan.

Because of delays in putting information on beneficiaries into computer databases, many recipients have been turned away at pharmacies or overcharged for co-payments. California and other states are covering prescription costs for those beneficiaries on an emergency basis while the federal government sorts out the problems.

Tom Dresslar, a spokesman for Lockyer, said the repayment requirement "adds insult to injury."

"You've got seniors out there that can't get drugs, and you come to find out that the taxpayers are going to have to pay the federal government for this wonderful program," he said. "We think the constitutional issues are significant enough and the potential fiscal harm to the state is significant enough that action is warranted by the Supreme Court."

END

AP

February 2, 2006

Army reservist sues to be released from service

BOSTON_An Army reservist from Norton has sued\l "l" the military and Defense Secretary Donald Rumsfeld in U.S\l "l". District Court in Boston because he has not been allowed to resign.

Jonathan O'Reilly, 31, said in his suit that although he completed his obligation to the Army in May 2004, his commanders have repeatedly refused to let him resign.

O'Reilly enlisted in the Army Reserve at age 18 for an eight-year commitment in exchange for an ROTC scholarship that paid for most of his tuition at the University of Notre Dame.

"I feel I have done everything I agreed to do for the Army, and I wish they would live up to their agreement with me and let me continue with my life," said O'Reilly, who is currently a captain assigned to a unit based in Providence, R.I.

A spokesman for the Army Reserve said that while he was unable to comment on the specifics of O'Reilly's case, commissioned officers are not automatically allowed to resign, even if they have met their obligations.

The Reserve considers three factors when considering a resignation, said spokesman Steve Strumvall: personal hardship, previous deployments, and whether there's a shortage of people with a specific skill.

"If it was peacetime and we had plenty of people, then you wouldn't need criteria like previous deployment and shortage of specialties," Strumvall said.

O'Reilly, a supply officer for the 2nd Battalion, 385th Regiment, 1st Brigade, 98th Division, said he submitted his first resignation letter in June 2004. It was rejected. Four subsequent resignation letters have also been rejected.

He said he was told at first that he didn't have a compelling enough reason to resign. He was later told that the Army was short of personnel with his skills.

"I'm not sure how critical Jonathan O'Reilly is to the U.S. war effort," said O'Reilly's lawyer, Daniel M. Rich. O'Reilly hasn't been activated and his unit is in the process of being disbanded, Rich said.

The unit is also not under a "stop-loss" order, which allows the Pentagon to suspend the discharge of reservists who have either been deployed or are about to be deployed.

O'Reilly's commander, Col. Steve Ruscito, said he has no problem with O'Reilly's resignation. But he said that commissioned officers serve at the pleasure of the president, and the rules change during wartime.

"When we are at war, certain parts of our contract might be activated that would not be in place during peacetime," Ruscito said.

O'Reilly, a certified public accountant and a member of the Norton School Committee, said all he wants from the lawsuit is an honorable discharge from the Army.

"I never meant it to be a career," he said.

END

Indianz.Com.

Thursday, February 2, 2006

Bush punishes BIA budget to pay for Cobell

The Bush administration has made an across-the-board cut to the Bureau of Indian Affairs budget, blaming the reduction on the Cobell trust fund lawsuit.

In an unprecedented letter to tribal leaders, associate Interior deputy secretary Jim Cason announced a $3 million cut to the BIA budget. He said the administration failed to plan for attorney's fees awarded as part of the Cobell case even though the request for fees was pending for more than a year.

As a result, Cason said the BIA forked over $2 million from an account used to "reimburse tribal attorney's fees" and an additional $1 million came from an across-the-board rescission of tribal programs.

Additionally, the Office of Historical Trust Accounting and the Office of Special Trustee -- whose budgets

have exploded since the start of the administration while BIA funding has remained flat -- contributed, Cason said. But their share only amounted to $2.3 million, according to the January 26 letter.

Finally, the Department of Treasury -- a named defendant in the suit whose officials were found in contempt of court and whose actions violated the trust responsibility -- contributed about $1.8 million, leaving the BIA to bear the brunt of the administration's failure to plan for the attorney's fees, which totaled $7.1 million.

"As this interim fee was not a planned expense, the [Interior] Department considered a wide range of options," Cason, a a non-Indian political appointee who has been acting as the head of the BIA for nearly a year, told tribal leaders.

The decision to make the cut and send out the letter drew strong criticism from Keith Harper, a member of the Cherokee Nation and an attorney with the Native American Rights Fund, a non-profit organization that is co-counsel in the case. He accused the administration of employing "divide and conquer" tactics in order to generate backlash in Indian Country against the Cobell plaintiffs.

"This administration -- more than any other -- has shown by their actions in trust reform and their actions on sovereignty issues to be the most hostile administration in Indian affairs since termination," Harper said in an interview yesterday.

Harper said he has spoken to a handful of tribal leaders since the letter was sent out. "They see it as a political, transparent attempt to divide and conquer," he said.

Tribal leaders have repeatedly accused Bush officials of punishing Indian Country by bleeding the BIA budget while boosting funds for OST. "For fiscal years 2005 and 2006, funding cuts to BIA has reduced full time staff for law enforcement, education and other vital programs," said Tim Martin, the executive director of the United South and Eastern Tribes, at a Senate hearing last July.

"The Cobell litigation and DOI's interpretations of requirements to meet court orders has absorbed resources and limited the ability to implement already under-funded programs," he added.

A bill introduced by the leaders of the Senate Indian Affairs Committee and the House Resources Committee would ensure that funds used to settle the Cobell case and pay court and other fees would not come out of the BIA budget. Tribal leaders have endorsed this provision.

"Unquestionably, funds to settle the injustice against individual Indian money account holders cannot come from Indian programs," Jim Gray, the chief of the Osage Nation of Oklahoma and the chairman of the Inter-Tribal Monitoring Association, said in his testimony.

Key members of Congress have agreed with the tribal views. The House Interior Appropriations Committee has repeatedly reduced funding for OST in light of the administration's increasing requests for money.

"The committee does not agree to the large increase requested in historical accounting and has shifted this funding to help offset the reductions proposed in the administration's request to Indian education and health care," the committee said in a report for the 2006 budget.

Previously, Cason warned tribal leaders to expect cuts in the BIA budget due to spending on Hurricane Katrina and Hurricane Rita. At the National Congress of American Indians annual conference last November, he said the agency was "holding back" five percent of its funds in anticipation of an across-the-board cut.

The issues of budget and the resources for the Cobell case will considered in the upcoming weeks. On February 14, the Senate Indian Affairs Committee holds a hearing on President Bush's fiscal year 2007 budget request. On March 1, the Senate Indian Affairs Committee and the House Resources Committee will hold a joint hearing on the settlement of Cobell.

END

Hartford Courant

2/1/06

Expenses At Issue In `No Child' Lawsuit

NEW HAVEN -- Is the federal government going back on its promise to pay for the additional student testing required under President Bush's school reform law, or are Connecticut's tests simply more expensive than necessary?

That is a central question facing a federal judge who will decide whether to dismiss Connecticut's lawsuit against the federal No Child Left Behind Act or to let the case proceed.

U.S. District Judge Mark R. Kravitz grilled state officials Tuesday on whether the Connecticut's expansion of its multimillion-dollar annual Mastery Test program does more than the federal law actually requires. That is the federal government's claim in its motion to dismiss the lawsuit.

Kravitz asked state Attorney General Richard Blumenthal to amend the state's complaint to answer whether federal funding is adequate to meet at least minimum standards outlined by U.S. Secretary of Education Margaret Spellings.

Blumenthal filed the lawsuit against Spellings last summer, calling the federal law an unfunded mandate and contending that it will unfairly cost state and local taxpayers hundreds of millions of dollars.

Educators and politicians across the nation are watching the case closely to gauge its impact on the most sweeping federal education law in 30 years. The law calls for a broad expansion of testing and a shake-up of schools that fail to make progress with all students, including low-income children, special education students and members of minority groups.

Kravitz peppered lawyers for both sides with questions during a five-hour hearing Tuesday. He ordered the state to file its amended complaint by Feb. 28; then the federal government has until March 30 to reply.

For 20 years, Connecticut has tested children in grades four, six and eight, but No Child Left Behind also requires testing in grades three, five and seven - an expansion that state Education Commissioner Betty J. Sternberg contends will cost millions of dollars more with little additional benefit.

The federal government, however, says the additional expenses incurred by Connecticut are the result of the state's own decision to reject a less expensive form of testing.

State officials plan to include a section on writing in the new tests, as well as other questions requiring written answers, although the federal government only requires tests of reading and mathematics.

Kravitz asked, for example, whether the state claims it has insufficient federal funding if it were to administer only a simplified exam with multiple-choice answers for grades three, five and seven.

Federal officials say there is enough money to do that, but state education officials contend there is not. Blumenthal told the judge that state officials also believes simplifying the test, as suggested by Spellings, would interfere with school curriculum.

"There's always the option of dumbing down our tests to the point where we believe they would be

inadequate, and we're not willing to do that," Blumenthal said.

U.S. Justice Department lawyer Elizabeth Goitein asserted that Connecticut is giving a more expensive test than the law requires, and is using estimates of those expenses to escape its obligations under No Child Left Behind.

Like other states, Connecticut has seen a sharp increase in federal education funding under the Bush administration, but state officials contend the extra money does not cover the full cost of improvements required under No Child Left Behind.

The state will get about $178 million this school year in federal grants related to the law, about 25 percent more than the $142 million it received in 2002, the year the federal law was signed.

Even with that increased funding, a study by the state Department of Education estimates that the additional testing will cost Connecticut taxpayers another $8 million over the next two years.

END

Barre Montpelier Times Argus, VT

Feb. 1, 2006

Editorial: Privacy policy made in China

Google is coming into its own as a verb. The word is rapidly turning into the preferred nomenclature for "to do an Internet search" as much as it refers to the happy little four-color, one-word logo or the multibillion-dollar company its search engine grew into.

But the company may be marking a turning point this month. Founded in Stanford in 1997, Google's stated goal is "to organize the world's information and make it universally accessible and useful."

It seems to be straying from the last two items, however, by agreeing to censor its Chinese service, Google.cn, at the request of that country's repressive government.

That decision is at odds with the company's motto of "don't be evil" and also with its recent decision to fight a subpoena from the U.S. Department of Justice seeking a vast chunk of the information Google acquires.

The Justice Department wants a list of searches done in a given week and a random sample of 1 million Web addresses in the company's search engines, in order to defend the Child Online Protection Act from an ACLU lawsuit.

Google is resisting the Justice fishing expedition, although apparently Microsoft, AOL and Yahoo complied with similar requests. Google's decision may have to do with the company's commitment to open access to knowledge or, as many in the geek community have argued, it may be to protect the company's business practices. The algorithm Google uses to organize information would be worth a fortune, and not a small one, on the open market.

The refusal may also be to ensure Google's users feel comfortable using the search engine without worrying about who is looking over their search records. But the fact that the federal government wants those records, combined with the news that the White House has already been using secret and probably unconstitutional surveillance, is a worrying sign.

The government has also acknowledged that it engages in data mining, which is the process of extracting knowledge from large-scale comparative analyses of raw data. The idea of secret government snoops data mining the confluence of private-sector search engine data and federal records, including "private" information like Social Security numbers and drivers' licenses, should make anybody nervous.

Many people frightened by the possibility of another 9/11-type attack are willing to let the government stoop even to illegal wiretaps, but perhaps a Government Accountability Office report from August will wake them up. The GAO said that of the five federal data mining efforts it reviewed, none were fully in compliance with accepted practices and so none could guarantee the security of private information being analyzed.

The other unsettling implication of Google's split decision in favor of privacy rights is economic. None of the search engines had anything to gain financially by complying with or opposing the Justice Department subpoena.

But Google was the last of the major search engines to cave in to Chinese government pressure to censor the flow of information potentially critical of the Chinese government or of Web sites containing possibly counterrevolutionary thought, like beer ads, or information on AIDS, public health, or any of the other subjects that make Beijing nervous and that Google blocked last week.

Holding out put Google at a significant commercial disadvantage in the Chinese market, which made it inevitable that the company would surrender. As the watchdog organization Reporters Without Borders noted, the company's motto should be "Don't be evil unless the Chinese government asks you to and there's serious money in it."

But it also means that information, including private data, is now trading at the same level as furniture and sneakers: The standards are being set by the lowest bidder.

Google's privacy policies, which are as good as any major site on the Net, say in part that the company will share your personal information to "protect against imminent harm to the rights, property or safety of Google, its users or the public as required or permitted by law." It doesn't say whose laws, however.

END

benjaap@dni.gov

From:	benjaap@dni.gov
Sent:	Thursday, February 2, 2006 7:51 PM
Cc:	Gorsuch, Neil M; Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Brett_C._Gerry@who.eop.gov; Eisenberg, John; RYanes@omb.eop.gov; vtpoten@nsa.gov
Subject:	Today's Xcript (open Session, Unclassified)
Attachments:	tmp.htm

fyi:

ROBERTS:

Mr. Director, I asked you to make a very comprehensive statement covering all the threats that you think endanger our country, not only for the committee but for those listening, all the citizens of the United States. You have done that in a very comprehensive report.

ROBERTS:

It is my understanding, under the Geneva Convention, under the heading of "cruel and inhumane punishment for congressional hearings that last for more than two hours," and prior to questioning, that it would be the thing to do to declare a five-minute break, which we will do. And we will resume immediately at the five-minute mark to start our questions.

(RECESS)

ROBERTS:

Each member will be granted five minutes and we will do a second round, if necessary. And we have a closed session at 2:30.

Mr. Director, I asked last year the committee staff to be very proactive in trying to examine the intelligence community's capabilities to collect and analyze against very hard targets -- I'm talking about Iran, North Korea, China -- on the problem of terrorism and also proliferation.

They are very difficult -- I don't have to tell anybody on the panel about that -- and important intelligence targets, none so more than

terrorism.

We've been engaged on these problems, but I also think, as the DNI, you are the person most responsible for assessing and improving the I.C.'s intelligence capabilities.

I would like to hear briefly your impressions of our community's intelligence capabilities to target terrorists when you became the director of DNI, what you've done since, more especially those hard targets that are so hard to penetrate.

NEGROPONTE:

Thank you, Mr. Chairman.

In brief, the hard targets that you mentioned -- terrorism, proliferation, some of the countries that we were talking about during my testimony, Iran and North Korea -- have the highest collection priority throughout the intelligence community.

NEGROPONTE:

We're embarked on a vigorous plan, directed by the president a year or so ago, to increase our analytical and collection capability at the CIA and in other agencies.

And in addition to that, upon the recommendation of the Robb-Silberman report and the WMD commission, we have created mission managers for the hard-target areas. So we now have a mission manager for North Korea, we have a mission manager for Iran, and so forth. And those intelligence officials are empowered to bring together the entire intelligence community and work in a collaborative basis to give those difficult issues the attention they deserve.

Now, I don't want to leave you with the illusion that this is any easier a problem as a result of these efforts. But I want to reassure you that we are working very, very hard on this question of penetrating the hard targets. And I'm satisfied that we're making progress.

ROBERTS:

Especially in regard to the increase in reference to human intelligence?

NEGROPONTE:

Yes. That is a very important area of emphasis.

And I would say, yes, there's been a substantial effort in that area, both to increase the penetration of the targets and also to increase the base of our capabilities, increase recruitment into our human intelligence services.

ROBERTS:

All right.

Throwing great fear into my staff, and then I'm going to wing you a question as opposed to one that's prepared -- Ms. Rodley, you do a great job over there at INR. INR usually comes up with a little bit different viewpoint. That's healthy.

Mr. Allen, you are a veteran in the intelligence community and certainly have a great degree of expertise. You were over at Homeland Security, the newest of the agencies that has come under a lot of criticism.

My question is to both of you: Do you know what each other of you are doing in regard to an everyday kind of situation?

And I would apply that to General Maples with the DIA and General Hayden in regard to what you're doing, unless other factors shut you down, which I hope is not the case.

And then you have the DNI here with working groups that you're supposed to coordinate that. And Mr. Goss, who will be before the committee very quickly to go over his tenure at the CIA.

And we worry about loss of certain capabilities, as well as I worry about the loss of the capability that the former NSA director had.

And then, Mr. Mueller, if we pass the Patriot Act, if we don't re-erect these walls, I know that you want to basically state, as Ronald Reagan did, you know, "Congress, tear down these walls."

ROBERTS:

So we're going to try to do that.

But my question is, the information access, where all of you share this information, and then it is funneled into the National Counterterrorism Threat Center so we have a better analytical picture, if you will, the jigsaw puzzle or, say, connecting the dots, do you feel

in terms of information access that you are making progress?

We hear down at the center that's there's one computer on somebody's desk and then eight others underneath somebody else's desk. Where are we on that?

And I'll ask the director.

NEGROPONTE:

First of all, I do think that, to the extent that they need to know it and to the extent that we're all working against a common enemy here, I believe the effort is more integrated than it was before. And I think they do know what each other are doing in this core area of interest.

As far as the integration of information at the National Counterterrorism Center, I think that's working apace. And one of my significant priorities during the past year has been to build that center up, give it a permanent leadership, grow its staff, which we are doing, so that it can meet the responsibilities that it has to carry out.

We also have now got a senatorially confirmed chief information officer and also a information-sharing executive. And those officials are working together to improve the information-sharing environment across the intelligence community.

But I believe, Senator, that it's better than it was previously. And I think that the dots are being connected.

Can more be done? Yes, to be sure, but we're working on it.

ROBERTS:

So Charlie Allen's left hand knows what Ms. Rodley's right hand is doing.

NEGROPONTE:

Well, when it relates to a problem that they're both commonly concerned with. But I'd be happy to let them answer that.

ROBERTS:

That's terrorism. At any rate, thank you for that answer, and I'm glad we're making progress.

Senator Rockefeller?

ROCKEFELLER:

Thank you, Mr. Chairman.

Mr. Director, in Buffalo, New York, on April 20, 2004, I would say only two years ago, the president of the United States made the following statement.

He said, "Any time you hear the United States government talking about wiretaps it requires" -- then he paused -- "a wiretap requires a court order. Nothing has changed, by the way. When we're talking about chasing down terrorists, we're talking about getting a court order before we do so." That was the end of that phrase.

My question to you, sir: Was that statement factually accurate when the president made it?

NEGROPONTE:

Senator, as the chairman said earlier, there's going to be both a briefing by Judge Gonzales to the Judiciary Committee next week as well as a briefing in closed session by Judge Gonzales and General Hayden to the committee thereafter where I think that this question can be thoroughly discussed.

NEGROPONTE:

But let me say this about the terrorist surveillance program.

This is a program that was ordered by the president of the United States with respect to international telephone calls to or from suspected Al Qaida operatives and their affiliates. It was, therefore, ordered in the interest of protecting our nation against ongoing terrorist threat.

This was not about domestic surveillance. It was about dealing with the international terrorist threat in the most agile and effective way possible.

But I don't think I want to go into the question any further than that in an open hearing.

ROCKEFELLER:

Well, we may have more time to talk this afternoon, then

Well, we may have more time to talk this afternoon, then.

Mr. Director, the vice president has stated that the NSA domestic surveillance program has saved, quote, "thousands of lives." Do you agree with that statement? Are you prepared to explain the basis for this claim? Or if you feel that you cannot talk in public, would you be willing to talk in closed session this afternoon about that?

NEGROPONTE:

Certainly it's been an effective and important program in dealing with the terrorist threat, which, as I mentioned this morning in my testimony is the most important -- the international terrorist threat is the most important threat faced by the United States here in the homeland and to its interests abroad.

If I may, I might, with your permission, Senator, ask General Hayden to elaborate somewhat in reply to the question that you have just directed to me.

ROCKEFELLER:

General?

HAYDEN:

Thank you, Senator.

What I've said before is that the program has been successful; that we have learned information from this program that would not otherwise have been available. This information has helped detect and prevent terrorist attacks in the United States and abroad.

The underlying basis of your question, though, Senator is to put us in a position of proving a negative: proving that, if we hadn't done this, if we hadn't had this knowledge, if these steps hadn't been taken, if these actions had not taken place, that something else would not have happened. That's very difficult to prove in a strict linear sense.

ROCKEFELLER:

General, I don't want to interrupt, but I only have a little short time left.

It was the vice president that I was quoting, not myself.

This is to Director Mueller. And good morning to you, sir.

A January 17 New York Times article quotes former and current FBI officials as saying that the bureau was inundated with leads from the NSA domestic surveillance program that required hundreds of investigators to check out thousands of tips a month.

According to officials quoted in the article, the information from the NSA program had uncovered no active Al Qaida networks inside the United States planning attacks.

Now, the president, General Hayden and others have been very clear in their public statements that the NSA program collects information only against known Al Qaida terrorists and their associates.

Without getting into classified specifics, can you confirm to the committee that the investigative leads forwarded by the NSA to the FBI related only to known Al Qaida terrorists and their associates?

MUELLER:

Let me answer that part of the question I feel I can answer, Senator. And that relates to leads that come from the NSA.

We get a number of leads from the NSA from a number of programs, including the program that's under discussion today.

MUELLER:

And I can say that leads from that program have been valuable in identifying would-be terrorists in the United States, individuals who were providing material support to terrorists.

But we get any number of leads. Most leads that we get, whether it be from NSA or overseas, from the CIA, ultimately turn out not to be valid or worthwhile. But in our view, any lead from any source, any legitimate source, is a lead that has to be pursued, and we pursue each one and every one of them.

ROCKEFELLER:

My time is up, and I thank you.

ROBERTS:

Senator Wyden?

Senator Wyden?

WYDEN:

Thank you, Mr. Chairman.

Mr. Director, you didn't mention Vanuatu, an island nation in the South Pacific, but you seemed to cover everywhere else, and I welcome you.

To me, just because effective intelligence-gathering requires a high degree of secrecy, the Bush administration can't be excused from reasonable standards of accountability. So I have essentially two questions to start with with respect to accountability.

When it has been determined that an American monitored under the NSA eavesdropping program is no longer a threat, what is done with the information collected on that U.S. person, Mr. Director?

NEGROPONTE:

Sir, again, I don't think in this context...

WYDEN:

Are there restrictions on how that information is used?

NEGROPONTE:

Let me give you a general reply which I think goes to your question.

NEGROPONTE:

Whether you're talking about one program or another with respect to NSA, those programs are under the strictest possible oversight. They are reviewed legally with the greatest of care. There are very senior managers involved in their administration.

And as far as American persons or American individuals are concerned, protections are taken, should their names come up in various kinds of intelligence that is collected, to minimize and protect their identities.

This has been a standard procedure of the NSA for the many, many years that it's been in its existence.

General Hayden may want to amplify.

WYDEN:

Mr. Director, that answer isn't good enough for me. That answer is essentially: "Trust us. The Congress and the public just have to trust us."

And Ronald Reagan put it very well. He said, "Trust, but verify."

And we have no way to verify that citizens are being protected the way you have outlined today.

Now maybe, General Hayden, you want to add to that.

HAYDEN:

Sir, I'll just add very quickly: This is lawfully acquired signals intelligence. And the body of regulations under which NSA operates day in and day out, in terms of protecting U.S. privacy, in terms of protecting information to, from or about a U.S. person, apply to the use, retention and destruction of that data.

WYDEN:

General, there are virtually no rules on data-mining. You and I have gone into this. This has been documented by government auditors. We'll talk more about it privately.

Mr. Director, is it correct that when John Poindexter's program, Operation Total Information Awareness, was closed, that several of Mr. Poindexter's projects were moved to various intelligence agencies?

NEGROPONTE:

I don't know the answer to that question.

WYDEN:

Do any of the other panel members know?

The press has reported intelligence officials saying that those programs run by Mr. Poindexter, I and others on this panel led the effort to close it, we want to know if Mr. Poindexter's programs are going on somewhere else. Can anyone answer that?

Mr. Mueller?

Mr. Mueller?

MUELLER:

I have no knowledge of that, sir.

WYDEN:

Any other panel members?

(UNKNOWN)

Senator, I'd like to answer in closed session.

WYDEN:

All right. I will be asking that question in closed session.

The last question I wanted to ask on this round, Mr. Director, deals with Iran: very obviously a serious, serious threat.

Some frame this as a choice between either bombing the Iranians or essentially the kind of pitter-patter that goes on at the U.N. Some have set it up as those are the choices.

I'm wondering about whether there are other options, particularly economic sanctions. And the one that I would be interested in your thoughts on is the idea of freezing new foreign investment in Iran and whether you think freezing new foreign investment in Iran would cut off some of the money that they use for their dangerous weapons capability.

NEGROPONTE:

Sir, my focus is, of course, on -- our focus, the intelligence community, is on evaluating the threat, the military threat, the political threat and so forth.

So as far as recommendations of a particular option with respect to policy, I think you've really moved -- the question really goes more into the area of what policy-makers might wish to do.

NEGROPONTE:

But what I would say is, clearly, Iran is a part of the

international community.

It has important economic relationships, whether it's in the oil sector or through imports or through reliance, to a certain degree on foreign investment.

And, to the extent that its behavior might ultimately bring about some curtailment of those economic activities, that, presumably, is one of the factors that Iran has to consider as it goes about deciding its policies.

WYDEN:

Thank you, Mr. Chairman.

ROBERTS:

We will now go to Senator Warner with the exception that I would say that perhaps the members could direct their questions to threats faced by our nation other than the threats that some seem to think are posed by the members of the panel.

Senator Warner?

WARNER:

Mr. Chairman, thank you very much.

I would like to commend you, Mr. Negroponte, for your statement. It was very thorough and comprehensive.

And I've had the privilege of sitting here for many, many years listening to statements and I would rank yours at the very top. I think it reflects the conscious effort that you're making to fulfill this brand new challenge, and I hope that it is working to your satisfaction.

Is it likely that you will come before the Congress for any refinements in the existing law in this session?

NEGROPONTE:

I don't believe so, Senator, unless there's some technical amendment of some kind that we might seek.

But, as far as more substantive ones, my view, and I mentioned this to the committee earlier during my confirmation hearings, I think I ought to deal with the law as it has been passed, play the cards that

ought to deal with the law as it has been passed, play the cards that we've been dealt, so to speak, and see how it works out.

I haven't run into any significant roadblocks. I think we're working well together. General Hayden has pulled together a program managers council of all the 15 that meets twice a month. I think we're working through the various issues that the Congress directed us to work through.

But, obviously, if we run into issues that might require legislation in the future, I wouldn't hesitate to bring them up.

WARNER:

And I think you've forged a respectful and strong working relationship with the Central Intelligence Agency under its leadership, which we all admire.

NEGROPONTE:

Yes, sir.

WARNER:

Could we put this for the record? I see a lot of smiles and bowing of heads.

ROBERTS:

You can't record smiles on the record.

NEGROPONTE:

We have an excellent relationship, Mr. Chairman, and we meet frequently and speak over the phone even more frequently...

WARNER:

Mr. Goss, I think you should be on the record on that, also.

GOSS:

I'm pleased to be on the record, Senator, to echo exactly those remarks. We have a great working relationship.

WARNER:

Let me turn to General Maples. I've had a great deal of respect for you personally in your distinguished career, and now from the intelligence standpoint. You're primarily responsible for the security situation in Iraq and Afghanistan, and elsewhere in the world.

Just a historical reference: The actions taken by our government, together with coalition forces in Iraq initially were the defeat of Saddam Hussein's military forces, which was successfully done in a very short period. There followed this insurgency, which slowly evolved. And then it became a very, very significant situation that appears now to still be substantial, but contained and being handled by the coalition forces.

A third composition of problems is growing -- and it's of great concern to me -- and that is the combination of the criminal elements, which are growing -- the corruption, the payoffs, the graft. All of this is just, in a sense, overlaying the courageous work of coalition forces, together with the Iraqi forces and the people through their elections. It's almost like it's pushing Iraq down into a morass.

A lot of the activities of the coalition forces, particularly the U.S. forces now, is directly or indirectly dealing with these situations.

I've been told, through my sources, that if you were to quantify it, the criminal corruption problem is now -- equates to the seriousness of the insurgency problem.

WARNER:

Would you have a view on that?

MAPLES:

Thank you, Senator, for your question. I would -- directly responding, I'm not sure that the level of criminal engagement is at the level of the insurgency, but I think it's a very serious problem.

And I see that a great deal of the violence that we are experiencing in Iraq today does have a relation to a criminal element, as opposed to an insurgent element with a political purpose. I think that we see that in numerous attacks, particularly on contracting vehicles within the economy. We see individuals who are being paid very low sums of money to place, for instance, IEDs without a political purpose, but because they receive remuneration for doing that and becoming essentially a part of

receive remuneration for doing that and becoming essentially a part of the insurgency. So I do see...

WARNER:

Thank you. I want to get one further question in. You've documented the response.

Mr. Ambassador, you said a key to establishing effective governments and security over the next three to five years is enhanced Sunni Arab political participation and a growing perception among Sunnis that the political process is addressing their interests. In a sense, that's to try and bring about a unit government of the three principal factions, and it is essential to have that foundation in place.

We're now watching the new government begin to take the reins. It's a little early to make any judgments. But this is a critical time. And we have a very capable U.S. ambassador there, functioning in many ways.

What is the leverage we can have over a sovereign nation, like Iraq, to bring about this conclusion that you've put in here, which is essential to the future success of the coalition of nations that have expended so much life and blood and treasure to give the Iraqi people back their nation?

NEGROPONTE:

First, Senator, I think with respect to Sunni participation, I've been encouraged by recent developments. I was particularly encouraged last fall when one million more Sunnis registered to vote in the constitutional referendum than had been registered for the January 30 election last year.

So that to me was a sign of their increased participation; then the fact that they didn't boycott the election; and then, following that in the Al Anbar Province, which is the most predominantly Sunni province in the country, had a very high degree of participation in the elections that took place on December 15.

So I think all of that is a sign that some Sunnis, at least, are moving away from the course of violence to achieve their political aims and are opting for the pursuit of political solutions and outcomes.

So this is to the good. And I think now we have to find ways -- we, that is the Iraqi government and ourselves -- have to find ways of taking advantage of it.

What's the leverage that we got? Well, of course we're a good,

supportive friend of the government of Iraq. We have 130,000 troops there. And we have a massive economic reconstruction and assistance program.

So I think that, working in partnership with our Iraqi friends, I think we can dialogue effectively with them about their political process, although we have to recognize that, ultimately, the shape that their political process is going to take depends ultimately on their own decisions.

WARNER:

That's true. And our president, in the State of the Union, was absolutely consistent on message about our determination to see this through. But there has to be limitations. And that government, as it's coming in to being, has to recognize that there are some limitations.

NEGROPONTE:

I agree with that.

WARNER:

That's got to be made clear to them. They cannot sit there and dither away and put into those particular ministries -- homeland security, defense and otherwise -- persons who really don't measure up to the capabilities required for the functioning government that they need.

NEGROPONTE:

I agree, and I think our ambassador and our commander of our forces in Iraq are both very effective at conveying those kinds of messages.

WARNER:

Good.

Mr. Goss, do you have a view on that?

GOSS:

Senator, thank you. I do, and I certainly agree.

I will assure you that as much as I can say in open session -- I

I will assure you that as much as I can say in open session -- I would like to reinforce in closed session on that point -- and it's simply this: I agree with your observation that the security elements of that country are going to be vital to the opportunity for the institutions of democracy and freedom to flourish, and having the good people who can work in a non-politicized or a non-sectarian way is going to be essential. And I think you've put your finger on exactly a critical point.

WARNER:

I thank you.

Mr. Chairman, I believe my time is up.

ROBERTS:

That is correct.

Senator Levin?

LEVIN:

Thank you, Mr. Chairman.

General Hayden, you made a lengthy speech at the National Press Club about the program that the president authorized in terms that involved surveillance of communications of American citizens.

And this is what you said -- one of the things you said in your speech, "that there are no communications more important to the safety of this country than those affiliated with Al Qaida, with one end in the United States," and I agree with that statement.

LEVIN:

I don't think there is anything more important than that we know what is in those communications. It's important we know the extent of those communications as well.

Would you agree with that?

Can you give us an estimate as to the number of such communications which were tracked by NSA last year, just an estimate?

ROBERTS (?):

Can't do that.

HAYDEN:

Sorry. I'd be very uncomfortable doing it in open session. And I don't actually know that number.

ROBERTS:

I think that's a question, with all due respect, being the one of two here, Senator, that have been briefed, that would be better answered in a closed session.

LEVIN:

Well, Mr. Chairman, the president has said in very open session the NSA program is one that listens to a few numbers. That's what the president said. Now, we want to check on that.

ROBERTS:

It's highly minimized, I would tell the senator.

LEVIN:

No, excuse me. I would rather use these minutes, if I could, with our witnesses here.

ROBERTS:

I will grant you as much time as possible. I'm just trying to be helpful in terms of a clarification.

LEVIN:

Thank you. I would really prefer that the witnesses try to clarify this.

The president of the United States...

ROBERTS:

Well, then, I won't be helpful.

LEVIN:

May I continue, Mr. Chairman?

ROBERTS:

Certainly.

LEVIN:

Secretary Chertoff says, "If you're culling through literally thousands of phone numbers, you wind up with a huge problem managing the amount of paper."

Why is it all right for Secretary Chertoff to talk about thousands of numbers, but you can't give us, or won't give us, in open session an estimate of the number of those communications?

HAYDEN:

Senator, as I said, I'd be uncomfortable of doing it in open session, and I don't know the precise number. Your question was...

LEVIN:

I'm not saying precise number. I asked for an estimate.

HAYDEN:

I cannot give you an estimate of the number of communications intercepted.

LEVIN:

Is it a few or is it thousands?

HAYDEN:

Sir, I would be very uncomfortable talking about it in open session. I can't give you a precise...

LEVIN:

Do you know?

HAYDEN:

No, sir...

LEVIN:

I didn't ask for a precise one, General. You keep saying "precise" and I keep saying "estimate."

General Maples, do you know? Do you have an estimate?

MAPLES:

Sir, I do not.

LEVIN:

Do you know, Ambassador Negroponte? Do you have an estimate of the number of those communications?

NEGROPONTE:

No, sir, I do not.

LEVIN:

All right, now, do you have an estimate as to the number of persons who are members of Al Qaida or agents of Al Qaida or who are members of affiliated organizations to Al Qaida or their agents, because that's the test, whose communications have been intercepted, say, in the last year? Do you have an estimate of the number of persons?

NEGROPONTE:

Yes, sir, I do know that number, but I'm unable to give it in this kind of environment. sir.

LEVIN:

All right. And will you give us that, then, in closed session?

NEGROPONTE:

Sir, that's part of the briefing that I've given to the chairman and the vice chairman in great detail on multiple occasions.

LEVIN:

Will you give us that number in closed session, the rest of us that are on the Intelligence Committee?

NEGROPONTE:

I'm not at liberty to do that, sir.

LEVIN:

All right.

You know, I think the administration truly wants to have this both ways. They want to characterize the program in public -- the president says there are just a few messages that are intercepted; the head of Homeland Security says thousands of messages -- but we're not going to be given even an estimate in public.

These are the most important communications, in your words, General -- and I happen to agree with you. I happen to agree with you that there are no communications more important to the safety of this country than those affiliated with Al Qaida.

And yet the extent of those communications is denied this Congress, except for the four people that you've talked about. The estimate of the number of those communications is denied to the American people.

LEVIN:

I think that is a double standard.

I think this is another example of where the administration wants to

characterize some underlying information but doesn't want to be pressed to support those public characterizations.

And I think it is a denial of -- I think basically the administration wants to be unchecked, either by a court or by the Congress.

And that's my statement. And I'm not going to ask for an answer because I got three seconds left.

You gave us the estimate -- the vice president estimated that thousands of lives have been saved by this program. General, I just want to know: Can you estimate the number of lives that have been saved by this program?

HAYDEN:

I cannot personally estimate the number of lives.

Again, Senator, as I said, this is about proving a negative. I think I mentioned in another forum that if somebody had kicked in Mohammad Atta's door in Laurel, Maryland, in July of 2001, it would still be very difficult to estimate the number of lives saved.

LEVIN:

I agree with you, but yet the vice president did that in public, and apparently there's no way to support that estimate that I know of or that you know of.

And my time is up.

ROBERTS:

I think that Senator Bond is next.

I think, as to the number of lives that have been saved, it might have been how many were on the Brooklyn Bridge if it had blown up or, for that matter, other threats that...

LEVIN:

I agree with you.

ROBERTS:

... that, you know, have been thwarted.

I take with great seriousness the questions of the distinguished senator. But basically, certain members of Congress have been informed, including the leadership.

ROBERTS:

And I realize that that does not fit the concern of the senator and others. And we will discuss that at two business meetings and see where we go with that.

The other group that is not informed as to the specific figures are members of Al Qaida.

Senator Bond?

BOND:

Thank you, Mr. Chairman.

Ambassador Negroponte, it's good to have you here today as the director of national intelligence, along with your key leaders, to tell us about the threats worldwide.

Although I believe that the intelligence reform legislation that created your position in 2004 was weak, at best, I'm committed to working to strengthen your position so that we have one leader in charge of our intelligence community who will be accountable, responsible and have the authority to ensure that we are far less likely to have the unfortunate intelligence efforts that preceded the disaster of September 11.

We need a strong, active intelligence community in view of today's threats, and we need a strong, active leader for that intelligence community. And I have confidence that you will be up to the task.

Secretary Rumsfeld, last week, told a number of us that what he needs most in support for fighting the war on terror is good intelligence. And my colleagues and I are committed to helping you give that to them.

Recently, I traveled to two areas of the world that I consider to be the primary fronts in the war on terror: the Middle East, Southeast Asia and the Philippines, Indonesia, Thailand, Iraq, Afghanistan and Pakistan.

All our intelligence officials to whom I talked relayed to me their grave concerns over some recent and unfortunate developments that have

significantly effected their operations.

Specifically, newspaper articles concerning the alleged detention of individuals by intelligence officials, the debate and new legislative restrictions concerning interrogation techniques, and the disclosure of the NSA terrorist surveillance program have caused our leaders in the field to question the support that they believe they once had in Washington to act aggressively to pursue every lead that will defend ourselves against the next terrorist attack.

BOND:

Our leaders in the field relayed to me the difficulty they faced in assuring their intelligence sources that they and their families would be protected, particularly in view of the perception that has arisen that the United States as a nation that has little regard for classified information and leaked secrets with reckless abandon.

It's my belief that the recent developments have significantly degraded our intelligence capabilities and thus made America measurably less safe.

Furthermore, it is abhorrent to me that while we have men and women putting their lives on the line in the field -- and my son is a Marine intelligence officer in Iraq -- that some are content to play politics with our national security.

While some are thinking about scoring political points on matters of intelligence or about trying to make the current administration look bad, I believe we should be focusing on giving the best tools to our people in the field, to people like my son and others, so they can do their jobs and return home safely.

I believe we can ensure humane, effective intelligence operation consistent with our freedom-loving Americans without having to play the blame game and overreacting to isolated, aberrant incidents which should be and are being prosecuted vigorously by the government, instead handcuffing the vast majority of our honorable operators abroad.

I heard a lot of good things from our people in the field. We made tremendous progress, and Americans can be proud of what our intelligence people have done in the field.

Much of what they've done has been classified, so I hope the public will get to know about all of it. But make no mistake, the rampant leaking and uncertainty over detainees and intelligence techniques has shaken the confidence of our intelligence operators in the field.

They're forced to spend more time thinking about their own

professional liability insurance and how it comes down to watching their backs rather than how to exploit every possible lead.

So my question to you, Mr. Director, and to Director Goss is: Do you agree with the assessment that I have picked up in the field?

BOND:

And if you do, how can we as members of Congress, and how will you as intelligence leaders in Washington, take necessary, decisive steps to support our people in the field with the confidence that they need to lean forward in their intelligence efforts to face the dangerous threats and not to return to risk aversion that's proven so costly to us in the past?

NEGROPONTE:

Thank you, Senator.

First of all, I agree with you that any time sensitive sources and methods are revealed in the public domain, through press stories or otherwise, that this carries with it the grave danger of prejudicing, adversely affecting our intelligence operations, and in many instances lives can be directly at stake.

And I must say that in the nine months that I've been in this job, one of the greatest disappointments that I personally have had is experiencing the degree to which people are willing to talk about classified matters to the public media. And we've got to bring that kind of activity to a stop.

What are we doing? Of course, where there are violations of security practices that take place, we are seeking to investigate them as vigorously as possible and prosecute them, if necessary.

I'll certainly ask Mr. Goss to elaborate on this.

But I think you're right. It is an issue that affects both our effectiveness and the morale of our people.

In addition to investigating and penalizing those who do carry out these kinds of leaks, I think we also have a challenge to the leadership of the intelligence community as a whole to try and reinstill -- and we're working hard on that -- reinstill a spirit of keeping secret what has to be kept secret in our work in intelligence.

But I defer to Mr. Goss.

GOSS:

Senator, thank you very much for your complimentary remarks about the men and women of the intelligence committee overseas. I will pass those along. And I agree with you, they are fully deserved. I can take great pride in associating with those people.

Secondly, I would simply say that it would be inappropriate for me to comment on motivation of leaks except as to CIA aspects of that. And we, of course, have a vibrant counterintelligence capability, which, with the cooperation of Director Mueller and others, we utilize fully.

But I would say that the consequences of these leaks -- and I'm happy to have your question to respond, and I'm sorry to tell you that the damage has been very severe to our capabilities to carry out our mission.

GOSS:

I use the words "very severe" intentionally. That is my belief and I think the evidence will show that.

When I start talking about the disruption to our plans, things that we have under way that are being disrupted because of releases to the press or public discussion; when I talk about the risk to access, the sources or methods that are no longer viable or usable or less effective by a large degree; when I talk about the erosion of confidence in our working partners overseas, I'm stung to the quick when I get questions from my professional counterparts saying, "Mr. Goss, can't you Americans keep a secret?"

That is not the kind of thing that is helpful to building relationships, to doing some of this very delicate, hard work that we have to do overseas.

As to what we're doing about it, I can assure you we have a strong internal program at the Central Intelligence Agency under way -- has been for some time -- as the director of national intelligence, Ambassador Negroponte, has said, to remind all of our employees that we are the secret agency of the agencies, that we are entrusted with that responsibility uniquely, and that the men and women who come aboard are advised of that.

So we have a program of awareness but we also have an investigation of finding out what leakage, if any, is coming out of that building. And I'm afraid there is some coming out.

I also believe that there has been an erosion of the culture of secrecy. And we're trying to reinstill that.

On the external side, I've called in the FBI, the Department of Justice.

It is my aim, and it is my hope that we will witness a grand jury investigation with reporters present being asked to reveal who is leaking this information. I believe the safety of this nation and the people of this country deserve nothing less.

And I thank you for your question.

BOND:

I thank you, Mr. Director.

ROBERTS:

Senator Feingold?

And welcome to the committee.

FEINGOLD:

Mr. Chairman and Mr. Vice Chairman, again, I'm honored to join the committee.

I sought this position for one overriding reason: We were attacked on September 11, 2001, by terrorists whom we must defeat. And I agree with the ambassador: This fight is our top national priority. And it involves not only our military power, but also our diplomatic, economic and intelligence capabilities.

And I have serious concerns about whether this administration is fighting terrorism in an effective global and comprehensive manner. By focusing so extensively on Iraq, this administration seems to be pursuing a one- or two-country strategy, when Al Qaida is actually operating in some 60 countries around the world.

So I am concerned about the terrorist threat in places like Pakistan, Somalia, and other parts of Africa, Southeast Asia and elsewhere.

And I'm concerned that the president has taken the position that he can spy on Americans without a warrant despite a clear statutory ban.

To just respond a bit to what Senator Bond said, I couldn't have any

To just respond a bit to what Senator Bond said, I couldn't have any higher regard for the need for secrecy. And I agree that it must be dispiriting for our people in the intelligence community and the military to suffer from the possibility of leaks.

But these people who are so dedicated and so brave also have the right to know that there are clear rules, that we're still operating under the rule of law, under the Bill of Rights and the Constitution. And I bet if you asked them, they'd tell you that they care a great deal about that, as well.

Mr. Ambassador, without getting into what the specific programs might be, can you assure us today that there are not other intelligence collection -- and I emphasize "collection" -- programs that you are aware of and that you are keeping from the full Intelligence Committee?

NEGROPONTE:

Senator, I don't know if I can comment on that in an open session.

FEINGOLD:

Well, we'll pursue it later today.

Let me move onto the subject that Senator Wyden brought up and that he and I have worked on together, this issue of data mining.

I sent you a letter on January 23rd requesting information about the NSA's and the intelligence community's possible use of data mining technology to analyze telephone and computer communications inside the United States.

And as I'm sure you know, there have been news reports that part of the NSA's domestic surveillance program has involved large-scale data mining of domestic communications.

I don't expect that you have the detailed answers to that letter with you here today. I just want to ask you if you would commit to me today that you will respond promptly to that letter.

NEGROPONTE:

Yes, I will. And I believe we have a response in preparation, Senator. I was advised of that before I came up to the hearing.

FEINGOLD:

Thank you.

Turning to one of the areas that we were talking about or you were talking about in your statement. In your prepared opening statement, you included a passing reference to Somalia.

The 2004 State Department terrorism report states that Al Qaida operatives there pose a, quote, "serious threat," unquote, to American interests in the region and that a lack of functioning government and protracted state of violent instability contributes to making Somalia a potential launching point for terrorist operations elsewhere.

In your view, have we committed sufficient intelligence resources to fully understanding and addressing this threat as a political solution to Somalia's problems, a necessary component of our counterterrorism strategy in that region? And if so, what are we doing to support such a solution?

NEGROPONTE:

On the first part of your question, Senator, certainly Somalia is on our radar screen, not only in the intelligence community and our diplomatic establishment, but also in Central Command.

I think it's an issue of concern as a place where there are international terrorists and to which international terrorists might gravitate if they were to suffer severe setbacks in a place like Afghanistan or Iraq.

So we're very mindful of that threat. I think we're devoting important resources to it. Although...

FEINGOLD:

Are they sufficient intelligence resources?

NEGROPONTE:

Well, they certainly are significant. You can never quite do enough. But in the order of priorities that we've got, I think we probably have it about right.

On the question of governance and whether they got a government, they've had sort of an absence of governance for the past decade.

Sometimes you see some emerging signs that they might pull together some kind of a central government. But I wouldn't hold my breath

some kind of a central government. But I wouldn't hold my breath.

Obviously, if they could make improvements in their state of governance, that might make it easier to deal with the issue of international terrorism.

That, after all, is one of the theses of my testimony, that governance and these transnational threats can be related to each other.

FEINGOLD:

Thank you for your answers.

ROBERTS:

Has the senator concluded?

FEINGOLD:

My time's up. I'd be happy to keep going.

ROBERTS:

Oh, we give members at least 30 seconds.

FEINGOLD:

Great, I'll take another one.

(LAUGHTER)

The national intelligence strategy released by your office last October states -- I think, quite correctly -- that no nation can build a safer, better world alone.

FEINGOLD:

And the strategy involves, then, engaging and invigorating friendly foreign intelligence services. And you refer to that in your comments.

The strategy refers to a strategic plan for our foreign intelligence relationships, so that these relationships help us confront national security threats. I agree this is a critically important task, and it involves a broad range of policy considerations. Is this strategy being

coordinated with the State Department? And will you work closely with Congress as you develop this strategy?

NEGROPONTE:

It certainly is being coordinated with the State Department. And we'd be pleased to inform the committee of the steps we've taken thus far and consult with you on the way forward.

Whenever it comes to dealing with foreign countries and institutions in those countries, our intelligence agencies work closely with the United States ambassadors there.

In addition, to assure the best possible coordination and so that we don't have a dispersion, if you will, of our effort, one of my first acts as director of national intelligence was to designate the CIA station chiefs as my representatives in those countries so that we aren't stumbling over each other out there and that we have a focal point for the coordination of intelligence relationships with foreign countries in the CIA stations.

FEINGOLD:

Thank you again.

ROBERTS:

Senator Feinstein, welcome back.

FEINSTEIN:

Thank you very much, Mr. Chairman.

Mr. Negroponte, I just want to associate myself with the comments of our ranking member. I serve on both Judiciary as well as Intelligence, and what we have seen in the last few years is a defined and consistent stonewalling to prevent the oversight responsibilities of both committees from being carried out.

And I just want you to know that when the ranking member mentioned that part of the law creating your position also was to hold you above any political influence, I think that that is something that we feel very strongly. And I want personally to make that comment to you.

The National Security Act specifies that the executive branch shall, and I quote, "ensure that the congressional intelligence committees are kept fully and currently informed of the intelligence activities of the

kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activity."

The only statutory exemption to this is for especially sensitive covert actions, which may be briefed to only eight members of Congress.

FEINSTEIN:

The administration is increasing the use of these limited briefings.

My question to you is: Who determines what information will be briefed to only eight members of Congress?

NEGROPONTE:

Senator, I take very seriously my legal obligations under the National Security Act, which requires me to keep the congressional Intelligence Committees fully and currently informed of intelligence activities to the extent consistent with the protection of sensitive intelligence sources and methods or other exceptionally sensitive matters.

FEINSTEIN:

Respectfully, sir, could you answer my question, which was who makes the decision?

NEGROPONTE:

It's the president and the vice president, Senator.

FEINSTEIN:

Thank you very much. I just wanted to know who made the decision. Thank you.

If I could move on, the intelligence reform legislation that created your position also set up an effort to finally solve some of the information-sharing problems that predated September 11.

I understand that the person appointed by the president to lead this effort, John Russack, resigned last week. I'm very concerned that this resignation will end any momentum on information-sharing that had been built up and that the state and local law enforcement will continue to lack the information that they need to find and stop terrorists.

Will the information-sharing effort meet the statutory timelines? And will Mr. Russack's departure mean a change in direction for the program?

NEGROPONTE:

Senator, I think we are striving, to the best of our ability, to meet the timelines that have been set. An interim report was sent up to the Senate late last year.

We are taking steps to ensure that this information-sharing program continues to have momentum. And you can be certain that we will give it the highest attention at the leadership of the DNI.

General Hayden, my CIO and, eventually, when we get a new program manager on board, will continue to give this issue very, very high priority.

NEGROPONTE:

And I would expect and I would hope that progress on this front will accelerate.

FEINSTEIN:

How soon do you believe you'll have someone on board?

NEGROPONTE:

I've actually identified an individual, but it's the question of clearances and just the processes that we have to go through to be able to formally bring that individual on board.

FEINSTEIN:

And do I understand by your answer that this will mean that the program will be carried out in the same direction in which it was previously?

NEGROPONTE:

I don't think this is going to have any policy implications with respect to the direction in which we've been headed

respect to the direction in which we've been headed.

FEINSTEIN:

Thank you.

NEGROPONTE:

You're welcome.

FEINSTEIN:

The president has stated that the NSA warrantless electronic surveillance program has been restricted to cases where one of the members would reasonably be suspected to be an "Al Qaida link or affiliate." Those were the words that have been interchangeably used.

I have two questions on this: What does it mean to be an Al Qaida link or affiliate? How is that connection to Al Qaida defined?

And if I've been called by Osama bin Laden or somebody that we know is attached to him, I presume that NSA would call that a link to Al Qaida. But is anyone I then call linked to Al Qaida automatically, and therefore, electronically surveilled, and anyone they call then linked to Al Qaida and electronically surveilled?

NEGROPONTE:

If I may invite General Hayden...

FEINSTEIN:

Thank you, that would be fine.

General Hayden?

HAYDEN:

Yes, ma'am. Thank you.

The criteria that are used by the analysts -- and it is done by the analysts, those folks who are most knowledgeable about Al Qaida intent, behavior, communications and so on -- is that this analyst, with all the facts available to him or her at the time, OK, as a prudent person,

would have reason to believe that this communicant is affiliated with Al Qaida.

That's the standard that we use. And that's the standard that's drilled into the individuals who make those kinds of decisions.

FEINSTEIN:

Thank you.

The attorney general has asserted that the president has virtually unchecked authority to protect Americans, regardless of a clear, statutory record in opposition.

That legal position would allow the president to issue other orders in the name of counterterrorism.

Has any intelligence agency been authorized to or has any agency carried out the search of the home of any American suspected to be linked to Al Qaida without a court warrant?

NEGROPONTE:

I think I'd have to defer to our law enforcement authorities on this, Senator.

FEINSTEIN:

Thank you.

Mr. Mueller?

MUELLER:

Senator, I'm not aware of that happening.

FEINSTEIN:

OK.

Has any intelligence agency arrested, detained, rendered or otherwise held any American suspected to be linked to Al Qaida without a court warrant or sufficient cause for criminal prosecution?

MUELLER:

MUELLER:

I'm sorry, Senator. Can you repeat that question for me?

FEINSTEIN:

Sure.

Has any intelligence agency been authorized to or has any agency carried out an arrest, detention rendering or otherwise held any American suspected to be linked to Al Qaida without a court warrant or sufficient cause for criminal prosecution?

MUELLER:

Well, I mean I'll give a try at first response to that.

It's a very broad question. And looking at all the components, there are occasions where, whether it be in the criminal arena, the counterterrorism arena, we make arrests on probable cause without it going through a magistrate first. Then you file up on a complaint.

And my belief -- in the instances, certainly, that I'm aware of -- we followed the procedures that are appropriate.

FEINSTEIN:

May I ask for the DNI's response, since the question had to do with intelligence agencies?

NEGROPONTE:

Yes, except it has principally -- my concern, Senator, and I've been up here today, my principal concern is with the collection and analysis of national intelligence which is used for the protection of the homeland. And I'm not aware of any such instances, I really am not.

FEINSTEIN:

I'd like to just continue on. Has any intelligence agency been authorized to or carried out the killing of anyone on U.S. soil based on a link to Al Qaida?

NEGROPONTE:

I'm not aware of such a situation, Senator.

FEINSTEIN:

Mr. Mueller?

MUELLER:

If you're looking at me, Senator, I'm certainly not aware of such a situation, speaking for the FBI.

FEINSTEIN:

My time is up.

ROBERTS:

In a word, yes.

FEINSTEIN:

Thank you.

Thank you, Mr. Chairman.

ROBERTS:

Mr. Wyden?

WYDEN:

Thank you very much, Mr. Chairman.

In open session, Director Negroponte, I wanted to ask you about oil as it relates to terrorists. Here's my concern: You go to a gas station in the United States. You pay these huge prices. A portion of that eventually finds its way to foreign governments, particularly Saudi Arabia. The Saudis hand it over to charities and the charities back door it to terrorists who want to kill law abiding Americans.

What is being done to try to deal with this, and particularly to stiffen up the Saudi effort to deal with this problem, which I think everybody understand is going on?

We're seeing oil purchases in the United States; they're in effect the terror attacks. I'd like to know what is going on with respect to forcing the Saudis to crack down on how this oil money gets to terrorists who want to kill Americans?

NEGROPONTE:

I think first of all, Senator, since some of the egregious terrorist acts that were carried out in Saudi Arabia in recent years, I think starting with 2003 forward, I think there's a much greater awareness of the international terrorist threat on the part of Saudi authorities.

NEGROPONTE:

And I think I think we've seen a really strengthened effort to deal with that situation on their part.

And so I would say that cooperation has increased. It's getting better. And we have a lot of interchange at all levels, law enforcement, intelligence and so forth.

WYDEN:

You no longer think this is a problem?

NEGROPONTE:

That was going to be my second point.

I believe there are private Saudi citizens who still engage in these kinds of donations. And I think efforts and ways have to be found to discourage that kind of activity.

And I think there are also certain designated charities and organizations where we actually identify those as ones to whom monies should not be given.

So I think it has been a problem. It's getting better. But it continues to need work.

WYDEN:

I'm going to ask you about that in private session.

One other question for you, Mr. Director.

There have been news reports this week -- there was one in Newsweek magazine -- talking about American officials being in face- to-face talks with high-level Iraqi insurgents as part of an effort to look at possible ways to get peace in the region.

My question is: Will you confirm what was in the news reports this week?

And, if you will, I particularly want to know what is being done to address the concerns that I'm sure Shia would have about any such talks.

So, one, will you confirm what it's in Newsweek magazine? And second, if this ongoing -- and I will ask you about this also in closed session as well -- what is being done, at least for the public record, to deal with what are certain to be Shia concerns about any such talks?

NEGROPONTE:

Sir, I simply don't have any comment on that story.

But as far as the question of Sunni and Shia relationships in Iraq, this is a very delicate balance, if you will. I think that any efforts to move the political process forward have got to be based on a desire to take into account all elements, Sunni and Shia included, of the Iraqi body politick.

WYDEN:

Mr. Chairman, colleagues didn't even get one round, and I appreciate you giving me these extra questions.

ROBERTS:

Senator Rockefeller?

ROCKEFELLER:

Thank you, Mr. Chairman.

Director, last year at this hearing, Porter Goss made the statement -- and I think this is probably the subject which is the most scary in all of this area of intelligence and international security -- that he could not assure the American people that there weren't unaccounted-for nuclear weapons or derivatives thereof that are housed in Russia. Had

they been stolen? Had they been sold? It wasn't possible, really, to say. And I think this is a catastrophically important matter.

U.S. Department of Energy estimated that only 50 percent of the buildings that house fissile materials in Russia operate under the highest security standards.

And what I really just want to know, from either of you gentlemen, is whether you feel there has been any improvement in that area, and if we are working collaboratively -- not just Nunn-Lugar, but in other ways -- to try and decrease the number of available for purchase by terrorists, perhaps probably, these nuclear weapons or parts thereof.

NEGROPONTE:

If I could invite Director Goss to...

GOSS:

Thank you very much, Mr. Vice Chairman.

That is correct, last year you asked me if I could account for all of the unaccounted for nuclear weapons and be sure, therefore, that the terrorists did not access or could get one or had one. And I could not give you that assurance, and nor can I today.

But what I can tell you today is I'm a bit more comfortable than I was a year ago. I've had a chance to focus in on the efforts that we are making, and others are making, because this is a well- understood threat to the civilized world.

GOSS:

And I would dare say we're getting a good deal more cooperation on this subject than we were before that understanding was clear.

I would also say that this is an item that probably gets the loudest alarm bell any time our many collectors work.

So I am completely satisfied it is attended to. I am not satisfied that we have the answer that you and I both, we'd all like to have, that we are 100 percent sure, because we just aren't.

ROCKEFELLER:

But you think that the efforts not only within our own nation and its national security apparatus, but also other parts of the world, is stronger in effecting results towards diminishing that supply?

GOSS:

I believe that personally. You know, I represent a capabilities organization, but just one of 15.

From my perspective, we have got a proportionate number that is correct focused on that. And I think we are doing better.

I can't speak for the rest of the community, though.

ROCKEFELLER:

It's interesting, to do better makes me feel good, but it is until we get the whole thing solved. And, of course, that's going to take a lot of work and a lot of good faith and a lot of people.

GOSS:

If I could add, Senator, we have created an interagency effort to collect and analyze the whereabouts of fissile materials all over the world. That's ongoing on an urgent basis.

ROCKEFELLER:

And I'm glad to hear that.

Director, my final question will be to you. And that is: Do you agree with the statement that I made in my opening remarks that our committee members and our staff are routinely given access to the details of overseas signals intelligence programs that are carried out by the NSA?

GOSS:

Yes.

ROCKEFELLER:

Yes. And do you believe that it's appropriate for the committee to have a working understanding of these programs?

GOSS:

I do, yes.

ROCKEFELLER:

Why is it that -- you know, if I had to make my guess, and this is none of my business and I have no proof, and so just take it for what it's worth, that the leak which everybody is so properly concerned about probably came out of the executive branch of government. It certainly didn't come out of Chairman Roberts or Jay Rockefeller. And my guess would be somewhere in the Department of Justice. Just take that for what it's worth.

Do you really believe that fully briefing the NSA matters that we're discussing to 40 members of the Intelligence Committees in the Congress represents some kind of an unacceptable security risk?

GOSS:

Sir, we're talking about a decision that was made long before I arrived in this position.

And what I was trying to answer to Senator Feinstein earlier was that there is a history and a tradition of certain -- very small number, very limited number -- of select sensitive programs that the executive branch and president and the vice president over a period of 50 or 60 years have chosen to limit the briefings to a small select group in the Congress, such as the leadership of the Congress and the chairmanship and the vice chairman or ranking members of respective committees. And that is what has been done in this particular instance.

And that was the method that was chosen to deal with this issue. But there were extensive briefings over the lifetime of this program, I think more than 10. So I think that's how best I can answer that question.

ROCKEFELLER:

And I understand that. I'll just close with this thought: The top leadership doesn't usually go to these meetings. So you're really talking about Chairman Roberts and myself and Chairman Hoekstra and Ranking Member Harman.

ROCKEFELLER:

And there may be a long history of this. I'm not aware of that. But there is no history that comports in any way to the intensity it what's happened as a result of 9/11.

I just want to make the statement that I think so much could be worked out and so many people would probably agree if we felt we were being talked to as is required by law.

The chairman, when he gave his opening statement, talked about "lawful." And I really think that the executive branch needs to think about the fact that laws are laws and you were specifically placed under a certain law and others are placed under certain laws. And forming the committee of jurisdiction is one of those laws. And it simply isn't being done in an atmosphere where it needs to be done, I think, more than ever.

In which I would disagree with Senator Bond -- this is not fair to paraphrase him -- but to say that, if people are asking questions about this, that somehow they're taking their eye off what is deemed to be the ball.

ROCKEFELLER:

And I think part of the discussion and the history and the future of all of this is going to be that the executive branch and the legislative branch have to have a working relationship that is, in fact, that fits into what the laws require.

I think you have nothing to fear from us. You have nothing to fear from the House. I think it's almost certain that whatever leaks came, came from the executive branch. And that's always going to be a problem.

But I beg you to consider what I say in deep seriousness and deep sincerity.

ROBERTS:

I think that the director of the FBI would like to respond.

MUELLER:

Senator, if I might, being a component of the Department of Justice, I want to not leave that remark. I want it addressed in terms of...

ROCKEFELLER:

I can understand that.

MUELLER:

And I'm not certain you have a basis for pointing a finger. I'm not certain what leak you're talking about. And I don't think it's fair to point a finger as to the responsibility of the leak.

So I did not want to let that go unaddressed.

ROCKEFELLER:

I understand.

ROBERTS:

We have Senator Feingold on a second round.

FEINGOLD:

Thank you, Mr. Chairman.

Following up on Senator Feinstein's question to Mr. Negroponte...

ROBERTS:

Oh, sir, I beg your pardon.

For some reason, I have not recognized the first round appearance of the sheriff of the always powerful Senate Agriculture Committee, Senator Chambliss.

CHAMBLISS:

Thank you, Mr. Chairman.

It used to be powerful before you were chairman in the House, and we haven't recovered. But we're getting there.

(LAUGHTER)

I want to follow up on what Senator Rockefeller just said, ladies

and gentlemen. This issue relative to this leak coming out of the executive department or the administration: That's a pretty serious accusation.

CHAMBLISS:

And, in fact, the only known source of any communication from the inside has come from an individual, as I understand it, who used to work in the program and is not part of the executive department.

But I have been very hesitant to talk about the fact -- and I assume I'm directing this to either you, Director Mueller or Director Goss or Director Negroponte.

I've been hesitant to talk publicly about the fact that the position of gathering intelligence and utilizing very classified and sophisticated intelligence has been compromised by not only the leak, wherever it came from, but also by the continuing highlighting of this issue in the press. And that those folks who continue to question this program, those folks who continue to go out front and talk in a negative way about this program may be aiding and abetting the terrorists. And I am extremely concerned about that.

I understand, Director Goss, that you may have addressed this in an earlier response to a question from Senator Bond. And I apologize for not being here. But I would like to ask y'all to comment on that, if you will, as to whether or not our position has been compromised, if we have lost any of our capability relative to this program as a result of the publicity surrounding it.

GOSS:

Thank you, Senator, very much.

It would only be appropriate for me to comment about those areas that I have accountability, responsibility for. And I was referring to leaks that Senator Bond had referred to that went to that area and explained at some length how damaging they have been and the steps we are taking to deal with that. And I hope they'll be successful steps.

NSA is not, obviously, in our area, and so I would prefer to yield to either Director Mueller, who has the domestic side of the argument, or the director of national intelligence, or whoever he would like to appoint to deal with the NSA aspects.

CHAMBLISS:

Sure.

HAYDEN:

Senator, it's hard for me to characterize it in open session.

But I did make the comment earlier in another environment that some people claim that somehow or another our capabilities are immune to this kind of information going out into the public domain. And I can tell you in a broad sense that is certainly not true.

NEGROPONTE:

The bad guys tend to get information that comes out of Congress or out of the American press in real time. Is that a fair statement, General Hayden?

HAYDEN:

We have been impressed with their ability, with various Web sites that are generally available, at how agile they are in responding to events in this country.

CHAMBLISS:

Director Negroponte, the Secure Border Initiative was introduced by the Department of Homeland Security in November 2005. And this is a comprehensive, multiyear plan to secure America's borders and reduce illegal immigration, which includes an increase in the number of Border Patrol agents, as well as upgrading technology used in controlling the border, increasing manned aerial assets, expanded use of UAVs and next-generation detection technology.

CHAMBLISS:

Recent reports suggests that smugglers are either disguising themselves as Mexican soldiers or may actually be members of the Mexican military. How large of a problem is protecting our borders from infiltrators who may be receiving assistance from corrupt Mexican authorities.

What is our intelligence community doing to identify those collaborators?

NEGROPONTE:

With your permission, Senator, perhaps I could invite Mr. Allen from the Department of Homeland Security to respond to that question.

ALLEN:

Thank you, Ambassador Mr. Negroponte.

Senator, on the Strategic Border Initiative, as you know, Secretary Chertoff has a number of multi-functional ways to do this, and a number of actions are under way.

I, from an intelligence perspective, am looking at this on how to strengthen our intelligence collection on all of our borders, wherever they may be.

Getting into specifics relating to any reported incidents on the border, that was something I'd prefer to talk to in a closed session.

But I can say this, that our borders are being strengthened whether by land, sea or air and whether north or south, thanks to the procedures that are being rapidly put in place under the leadership of Secretary Chertoff. I think we can take comfort that we're well on our way to taking the kind of measures that the American public really wants to see.

CHAMBLISS:

Thank you.

Thank you, Mr. Chairman.

ROBERTS:

It would be the hope of the chair that we could at least allow the witnesses an hour for lunch before we go to the closed session.

With that in mind, on the second round I recognize Senator Feingold.

FEINGOLD:

Thank you, Mr. Chairman.

I'm pleased I went after my friend Senator Chambliss, because what I'd like to say is the greatest publicizing of this NSA program that I ever heard was when I sat in front of the president of the United States

the other night at the State of the Union and heard him discussing it in front of the whole world.

In fact, this is a larger effort to discuss this on a constant basis and to make it a political issue in front of the American people, so I take it his remarks would apply to that sort of conduct as well.

FEINGOLD:

Mr. Negroponte and General Hayden, following up on Senator Feinstein's question, have you defined "Al Qaida affiliate" for the purpose of warrantless NSA surveillance? Is it a term of art? How are the NSA officials guided on this?

HAYDEN:

It's a term of science, Senator. It is a specific list of affiliates. There is a burden of proof that must be met before an organization is deemed to be affiliated with Al Qaida.

And that work is overseen by the entire oversight structure that governs this program within NSA, by the I.G., the general counsel and by the Department of Justice.

FEINGOLD:

Thank you, General.

On Pakistan, Mr. Negroponte, the most recent State Department "Country Reports on Terrorism for 2004" states that Al Qaida continues to hide in Pakistan's federally administrated tribal areas of Pakistan.

Who wields power in these regions? And how has Al Qaida managed to stay there for so long? Is this region basically a terrorist sanctuary?

The report also states that Pakistan has pursued as strategy to win the support of tribes in the FATA, with a combination of negotiations and economic investments. Have the Pakistanis achieved any success in this regard?

MAPLES:

It's a tough area. It's a tough area, Senator. And it's an area that historically has sought to govern itself, if you will. It's not felt itself an integrated part of any country or nation. And a lot of people up there take the law into their own hands.

up there take the law into their own hands.

But I believe the Pakistani government has done a lot in recent times to establish a greater presence there. They've sent their military into the region, who operate with greater frequency and have taken a large number of casualties, substantial casualties, in their efforts to impose the writ of the central government.

So I think the situation there is gradually shifting, but it's proven to be a great challenge for the government of Pakistan.

But I don't doubt their commitment to fighting against international terrorists. And we've seen ample evidence of that over the past months and years.

FEINGOLD:

On Iraq, you state in your opening statement that Iraqi Sunni disaffection is the primary enabler of the insurgency. Can you just say a bit more about the range of motivations that inspire the insurgency and the extent to which it is motivated specifically by anti-coalition sentiment?

NEGROPONTE:

Well, I think the fundamental issue for those Sunnis who are not international terrorists, who are not part of Al Qaida or Zarqawi's group, has been a feeling of having been disempowered as a result of the fall of Saddam Hussein.

So I think that probably is the most significant motivation; the feeling on the part of many Sunnis that they no longer have the position of prominence in the governance of their society, of their country, that they used to have and their desire to recuperate some of that influence.

I think what we're seeing happening in Iraq is these different political forces and political groups finding the right balance between themselves that will permit their society to go forward in a peaceful manner.

And I think the electoral process and the political process that we're witnessing offers that opportunity.

FEINGOLD:

Thank you for all your answers.

And thank you, Mr. Chairman, for the addition time.

ROBERTS:

Yes, sir.

Senator Feinstein?

FEINSTEIN:

Thank you Mr. Chairman.

Mr. Negroponte, we have heard allegations that top officials in one of the technical intelligence agencies explicitly warned contractors not to talk to Congress about ongoing programs or refuse losing future contract competitions. I know this for a fact.

Are you aware of this? And does Congress have the right -- do we, as in my case, an appropriator as well as an authorizer, have the right -- to talk to the contractor of major technical programs?

NEGROPONTE:

Senator, I'm not aware of this particular situation. But if I may, I would like to know the details so that I can have a look at the matter.

FEINSTEIN:

I will be happy to give you the details. Thank you.

Last year, Admiral Loy -- who was present -- and I discussed border security, particularly the increasing problem of penetration of other than Mexicans across our borders, which are growing in numbers.

And I said at that time that I felt it was a major gateway for terrorists to access the United States.

Do you have ongoing intelligence efforts to prevent this from happening? And is there any evidence up to this point that it is, in fact, happening?

NEGROPONTE:

I'm going to invite Mr. Allen to elaborate.

But one thing I would like to say, Senator, is, of course, it's an issue that we're sensitive to.

And, secondly, my impression is that perhaps our border with Canada has, to some degree, been of a bit greater concern than that with Mexico. Although, obviously, we have to watch all of our borders very, very carefully.

But if I could ask Mr. Allen to elaborate.

ALLEN:

Yes, Senator Feinstein, we recognize this issue.

As you know, we have found a lot of individuals other than Mexicans attempting to cross our borders illegally. And under Secretary Chertoff's new policy, which is catch and return, or deport, this is having, I think, a salutary effect.

Now, this Strategic Border Initiative is new and it's only now getting fully under way. And we're very sensitive to the fact that people from other areas, from areas where we might expect to find members of Al Qaida -- we're very sensitive of that. We work extraordinarily hard on this issue.

I think terrorists are facing an increasingly challenging environment to enter our country, certainly, by air and by sea. We now need to secure our borders, and including, as Ambassador Negroponte, we need to work harder with the northern border.

FEINSTEIN:

If I might suggest to you, the numbers in the past two years have tripled. They have gone from FY '03, 49,545, to '05, 155,000. Now, these are other than Mexicans.

ALLEN:

These are other than Mexicans. We're aware of those figures.

FEINSTEIN:

So this indicates to me that whatever we're doing is not working because more are coming through than ever before.

ALLEN:

We believe we'll see a change in that in the coming months, because the catch-and-return policy, I think, will have salutary effects over time.

We really do have to work this issue a lot harder. And as was said earlier, when I answered Senator Chambliss, we're using significant new capabilities, including Border Patrolmen, but significant new advanced technologies to try to detect people entering our country, particularly in Texas and Arizona.

FEINSTEIN:

Well, thank you very much for that.

ALLEN:

Yes, ma'am.

FEINSTEIN:

Mr. Negroponte, recent media reports have spotlighted a number of activities that appear to be related to intelligence- collection or covert action, but that well may be outside of the official intelligence community's channels.

For example, military databases of suspicious activity reports, called Talons, by the counterintelligence field activity, or CIFA; and, secondly, a Pentagon program to secretly pay Iraqi newspapers to run pro-American articles.

Were these activities subject to your approval and oversight?

(UNKNOWN)

Ma'am, I don't believe that either of those activities would fall into Mr. Negroponte's area. They are Department of Defense programs, I believe.

FEINSTEIN:

Now, let me raise this problem then.

FEINSTEIN:

FEINSTEIN:

They should. We appointed you to be the person -- we didn't appoint you, but we created the legislation so that you were the person over all intelligence.

Now, I know how tough it is. But if you didn't know and you didn't give a go-ahead, it indicates to me that, for 85 percent of the budget, which is defense-related, that you're not going to have the controls that you should have.

You want to comment?

NEGROPONTE:

Well, CIFA is within the national intelligence program. But as far as specifically directing those activities, that has not risen to the level of my office and comes under the direction of the undersecretary of defense for intelligence.

My understanding, in light of the issues that have come up in the controversy and the press attention that has been given to CIFA, that Mr. Cambone has ordered a complete review of that program from top down.

FEINSTEIN:

But will you get the results of that review?

NEGROPONTE:

Yes, I will get those results.

FEINSTEIN:

Will you be able to play a decision-making role in that, or does Defense control it?

NEGROPONTE:

Well, to the extent that I have reporting to me a national counterintelligence executive and have a role in counterintelligence, yes.

FEINSTEIN:

Thank you.

Thank you, Mr. Chairman.

ROBERTS:

Excuse me. Let me just say that our staff has been briefed by the DOD and that I would encourage the senator to check with staff on both sides, and that we have looked at this very carefully. And I think some of the concerns that she has raised -- which, obviously, should be shared by everybody -- have been answered.

Let me just say this in closing.

ROBERTS:

First, I want to thank you for your patience. Second, we are going to welcome you to the closed session. Third, I hope you get to at least eat a sandwich.

Let me make an observation.

Since the enactment of the provision requiring the Intelligence Committees be kept fully and currently informed, that the committees and the presidents -- and I use "the presidents" in plural -- have always managed the delicate process of access to information to claim this situation is somehow different, ignores this committee's history and the text of our laws.

I know this happened under President Carter. I know this happened under President Reagan. I know this happened under President Bush One. I know this happened under President Clinton. And I know this happened under President Bush.

Basically, the law, at least in the way that I have read it, indicates that the executive has the prerogative and also has the responsibility of keeping the Congress informed. The practice, however, has been that there are certain programs that are so highly classified that they are limited to eight, i.e., the leadership of the House and Senate and also the ranking member and in this particular case the co-chair and the chair of the Intelligence Committees.

On some occasions, if it involves the military and some kind of a covert operation, the same thing applies to Armed Services and the Subcommittee on Armed Services in regard to the Subcommittee on Appropriations.

I know there is a great hue and cry that we make more people pregnant with the knowledge, and then, of course, if they're pregnant

pregnant with the knowledge, and then, of course, if they're pregnant with the knowledge, they will rock the baby, as opposed to throwing it out with the bath water. But let me say that we did that.

Immediately after 9/11 we felt it was our obligation on the Intelligence Committees -- under different leadership at that particular time -- to have a joint investigation, which we did.

ROBERTS:

We even had an independent staff forcing members to come to the meeting and act is as if they were studying for a chemistry test during a study hall because we never quite knew what to expect.

Now, that's, sort of, telling tales out of school, but I didn't think that was a very helpful operation.

It wasn't any time at all with the joint committees -- and I'm not trying to perjure anybody or the committees or the intent of Congress or the integrity of Congress -- before we had the leak. Now, the leak had nothing to do with 9/11 but, boy, it sure make the headlines.

And the executive made a decision at that particular time: "I'm not going to -- or we are not going to -- to share any information or send anybody down to testify further if we have leaks of this nature."

And so the leadership of that committee, the joint committee investigation on 9/11, made a decision or agreed to the executive that there would be an FBI investigation of the committee.

At the same time, the committee was investigating the FBI's role in 9/11. So here we were in a joint committee investigating the FBI and then the FBI investigating us and asking every member of the Intelligence Committee, both House and Senate, "Would you take a lie detector test?"

I can't think of anything more ridiculous or silly. I will say as chairman of this committee that if somebody asked me to do that, my answer is no.

The result was that -- what we really needed in that group -- and I'm not comparing that particular group because I was a member of it. And then, of course, everybody said it was staff. Members always say that it's staff and I said, "That's a lot of nonsense. What we ought to do is have members, when they walk out of room, put duct tape on and have a requirement that they at least wear the duct tape for 24 hours."

Now, that was the worry that happened under this administration and previous administrations when these briefings got to a larger group.

ROBERTS:

Now, I would agree with Vice Chairman Rockefeller. I don't know of anybody on our committee, I don't know of anybody on the House committee, that would willingly or wittingly repeat any information that would be so classified that it would endanger our country.

Now my question is, however, there's been a lot of comment about the president talking about this, vice president talking about this. It was only after the leak in the New York Times -- which contained a lot of misinformation, as far as I'm concerned, about domestic spying, when we really have a threat warning capability. And that's what we're talking about. It's more of a military mission than it is any kind of a criminal proceeding under FISA.

And FISA, by the way, is outdated in regards to its context with both the threat and the technology.

And were we to do that, we would lose not only minutes, but hours or days, when we have a threat that may happen immediately.

And it would be an amazing thing to me that, if we had another attack, the very people that are doing all the questioning now would be having you all back up and say, "How come you didn't know?"

My question is basically to General Hayden: What happens if you lose this capability, General?

HAYDEN:

It's proven to be a very valuable tool for that which it was intended: to detect and prevent attacks inside the United States, Senator.

And you're right about the firestorm of misinformation that seemed to follow day after day after the original leak was reported in the New York Times.

I've spoken to this committee -- I think it was in this room -- in October of 2002, talking about the line between liberty and security and how that had to be an informed debate by the American people so that we're all comfortable about that line.

And there was so inaccurate information, misinformation and misunderstanding out there that what was appearing in the press wasn't informing a debate; it was horribly misshaping it.

And I don't see how we as a free people can make a decision in that

And I don't see how we as a free people can make a decision in that way.

ROBERTS:

Well, I really regret that situation as happening, and I know that it is understandable both on the majority side and the minority side that we have differences of opinion and unfortunately the climate in the Congress today then is to ascribe politics as the reason for that.

I really think people have strong differences of opinion, but fortunately or unfortunately in regards of the number of people who are briefed, I think it's basically on the lack of information, and the lack of information in regard to exactly what this program is.

I cannot imagine how anybody who would be receiving a call from a terrorist cell, where we have reason to believe that they are going to attack the United States and that person happened to be in the United States, that they would think their civil liberty was being violated if some intelligence or law enforcement person was not monitoring that call. It would be indefensible if we did not.

And in addition, I would only point out that you really don't have any civil liberties if you are dead.

The only other thing that I would say is that I want to thank you again, all of you, for your dedication, your perseverance, for keeping this country safe, as opposed to some who obviously are more worried about you people, apparently, than some people who where we are at war and where we have a threat and where we have plots against the United States, and where with we have sleeper cells in the United States, and it could happen any moment. Thank God we have this capability.

This hearing is concluded.

ROCKEFELLER:

I need to respond, Mr. Chairman.

ROBERTS:

You may respond.

ROCKEFELLER:

Let me just ask a question first to the director.

Is the NSA program a covert action program as defined by the National Security Act?

NEGROPONTE:

I don't believe so, sir, no.

ROCKEFELLER:

That's what we were told yesterday by the Justice -- folks from Justice -- it is not.

Now, as to the horror of people wanting to do things both rigorously, aggressively, using intelligence as in every possible way that we can, it does not subtract, however, from two other concepts which have kept our nation viable for many, many, many years.

ROCKEFELLER:

And that is that we do things under the law. We do them under the law.

Secondly, I would make -- and I've made this point many time to the chairman; we've talked about it -- there is an instinct readily grabbed upon by some, that when we ask questions about the largest NSA program in history, that somehow we are attacking you gentlemen and ladies.

Nothing could be further from the truth because the instructions or whatever come from elsewhere. That's been stipulated.

It is simply important that, in a democracy, that we understand there are three branches of government.

I spend an enormous amount of my time -- the chairman is leaving -- an enormous amount of my time, well over three-quarters, working exclusively on this subject in great depth, with great intensity. I do a lot of traveling and meet the same intelligence folks that Senator Saxby Chambliss was talking about and Kit Bond, I guess it was.

But you cannot equate, and you should not equate, asking questions, where we are meant to be informed by law as Intelligence Committees and we are not, for pursuing that effort. Because to do otherwise is to say that there's no reason for these committees to exist and that we should disband the committees, which I'm not for doing.

But do not kid yourselves, gentlemen and ladies, that the so- called -- as is often said, that the chairman and the ranking member of each of

the committees are fully briefed and therefore everything is fine.

ROCKEFELLER:

That's not the way it works. That's not the way those meetings work. And General Hayden knows that. They don't last long enough, the flip charts are extensive, and everybody is in a hurry. The leadership usually doesn't come. Chairman Roberts and I do come, as well as the House members.

Four people out of 535, therefore, know about the most extensive and aggressive NSA effort in the history of this country.

I am strongly for the goals, but I want it to be done under the law. And so should you. That's what keeps our country together.

Thank you.

NEGROPONTE:

If I may just -- one sentence, Senator.

I know the attorney general will address this next week, but we believe that all these activities are being undertaken in full compliance with our Constitution and with the laws of our country. And that is an oath that each and every one of us at this table have undertaken.

CQ Transcriptions, Feb. 2, 2006

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U.S. SENATOR HARRY REID (D-NV) EX OFFICIO

WITNESSES:

JOHN NEGROPONTE, DIRECTOR OF NATIONAL INTELLIGENCE

PORTER GOSS, DIRECTOR OF CENTRAL INTELLIGENCE

ROBERT MUELLER, DIRECTOR, FBI

GEN. MICHAEL HAYDEN, PRINCIPAL DEPUTY DIRECTOR OF NATIONAL INTELLIGENCE

GEN. MICHAEL MAPLES, DIRECTOR, DEFENSE INTELLIGENCE AGENCY

CHARLES ALLEN, CHIEF INTELLIGENCE OFFICER, HOMELAND SECURITY DEPARTMENT

CAROL RODLEY, PRINCIPAL DEPUTY ASSISTANT SECRETARY OF STATE FOR INTELLIGENCE RESEARCH

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ROBERTS:

Mr. Director, I asked you to make a very comprehensive statement covering all the threats that you think endanger our country, not only for the committee but for those listening, all the citizens of the United States. You have done that in a very comprehensive report.

ROBERTS:

It is my understanding, under the Geneva Convention, under the heading of "cruel and inhumane punishment for congressional hearings that last for more than two hours," and prior to questioning, that it would be the thing to do to declare a five-minute break, which we will do. And we will resume immediately at the five-minute mark to start our questions.

(RECESS)

ROBERTS:

Each member will be granted five minutes and we will do a second round, if necessary. And we have a closed session at 2:30.

Mr. Director, I asked last year the committee staff to be very proactive in trying to examine the intelligence community's capabilities to collect and analyze against very hard targets -- I'm talking about Iran, North Korea, China -- on the problem of terrorism and also proliferation.

They are very difficult -- I don't have to tell anybody on the panel about that -- and important intelligence targets, none so more than terrorism.

We've been engaged on these problems, but I also think, as the DNI, you are the person most responsible for assessing and improving the I.C.'s intelligence capabilities.

I would like to hear briefly your impressions of our community's intelligence capabilities to target terrorists when you became the director of DNI, what you've done since, more especially those hard targets that are so hard to penetrate.

NEGROPONTE:

Thank you, Mr. Chairman.

In brief, the hard targets that you mentioned -- terrorism, proliferation, some of the countries that we were talking about during my testimony, Iran and North Korea --

have the highest collection priority throughout the intelligence community.

NEGROPONTE:

We're embarked on a vigorous plan, directed by the president a year or so ago, to increase our analytical and collection capability at the CIA and in other agencies.

And in addition to that, upon the recommendation of the Robb- Silberman report and the WMD commission, we have created mission managers for the hard-target areas. So we now have a mission manager for North Korea, we have a mission manager for Iran, and so forth. And those intelligence officials are empowered to bring together the entire intelligence community and work in a collaborative basis to give those difficult issues the attention they deserve.

Now, I don't want to leave you with the illusion that this is any easier a problem as a result of these efforts. But I want to reassure you that we are working very, very hard on this question of penetrating the hard targets. And I'm satisfied that we're making progress.

ROBERTS:

Especially in regard to the increase in reference to human intelligence?

NEGROPONTE:

Yes. That is a very important area of emphasis.

And I would say, yes, there's been a substantial effort in that area, both to increase the penetration of the targets and also to increase the base of our capabilities, increase recruitment into our human intelligence services.

ROBERTS:

All right.

Throwing great fear into my staff, and then I'm going to wing you a question as opposed to one that's prepared -- Ms. Rodley, you do a great job over there at INR. INR usually comes up with a little bit different viewpoint. That's healthy.

Mr. Allen, you are a veteran in the intelligence community and certainly have a great degree of expertise. You were over at Homeland Security, the newest of the agencies that has come under a lot of criticism.

My question is to both of you: Do you know what each other of you are doing in regard to an everyday kind of situation?

And I would apply that to General Maples with the DIA and General Hayden in regard to what you're doing, unless other factors shut you down, which I hope is not the case.

And then you have the DNI here with working groups that you're supposed to coordinate that. And Mr. Goss, who will be before the committee very quickly to go over his tenure at the CIA.

And we worry about loss of certain capabilities, as well as I worry about the loss of the capability that the former NSA director had.

And then, Mr. Mueller, if we pass the Patriot Act, if we don't re-erect these walls, I know that you want to basically state, as Ronald Reagan did, you know, "Congress, tear down these walls."

ROBERTS:

So we're going to try to do that.

But my question is, the information access, where all of you share this information, and then it is funneled into the National Counterterrorism Threat Center so we have a better analytical picture, if you will, the jigsaw puzzle or, say, connecting the dots, do you feel in terms of information access that you are making progress?

We hear down at the center that's there's one computer on somebody's desk and then eight others underneath somebody else's desk. Where are we on that?

And I'll ask the director.

NEGROPONTE:

First of all, I do think that, to the extent that they need to know it and to the extent that we're all working against a common enemy here, I believe the effort is more integrated than it was before. And I think they do know what each other are doing in this core area of interest.

As far as the integration of information at the National Counterterrorism Center, I think that's working apace. And one of my significant priorities during the past year has been to build that center up, give it a permanent leadership, grow its staff, which we are doing, so that it can meet the responsibilities that it has to carry out.

We also have now got a senatorially confirmed chief information officer and also a information-sharing executive. And those officials are working together to improve the information-sharing environment across the intelligence community.

But I believe, Senator, that it's better than it was previously. And I think that the dots are being connected.

Can more be done? Yes, to be sure, but we're working on it.

ROBERTS:

So Charlie Allen's left hand knows what Ms. Rodley's right hand is doing.

NEGROPONTE:

Well, when it relates to a problem that they're both commonly concerned with. But I'd be happy to let them answer that.

ROBERTS:

That's terrorism. At any rate, thank you for that answer, and I'm glad we're making progress.

Senator Rockefeller?

ROCKEFELLER:

Thank you, Mr. Chairman.

Mr. Director, in Buffalo, New York, on April 20, 2004, I would say only two years ago, the president of the United States made the following statement.

He said, "Any time you hear the United States government talking about wiretaps it requires" -- then he paused -- "a wiretap requires a court order. Nothing has changed, by the way. When we're talking about chasing down terrorists, we're talking about getting a court order before we do so." That was the end of that phrase.

My question to you, sir: Was that statement factually accurate when the president made it?

NEGROPONTE:

Senator, as the chairman said earlier, there's going to be both a briefing by Judge Gonzales to the Judiciary Committee next week as well as a briefing in closed session by Judge Gonzales and General Hayden to the committee thereafter where I think that this question can be thoroughly discussed.

NEGROPONTE:

But let me say this about the terrorist surveillance program.

This is a program that was ordered by the president of the United States with respect to international telephone calls to or from suspected Al Qaida operatives and their affiliates. It was, therefore, ordered in the interest of protecting our nation against ongoing terrorist threat.

This was not about domestic surveillance. It was about dealing with the international terrorist threat in the most agile and effective way possible.

But I don't think I want to go into the question any further than that in an open hearing.

ROCKEFELLER:

Well, we may have more time to talk this afternoon, then.

Mr. Director, the vice president has stated that the NSA domestic surveillance program has saved, quote, "thousands of lives." Do you agree with that statement? Are you prepared to explain the basis for this claim? Or if you feel that you cannot talk in public, would you be willing to talk in closed session this afternoon about that?

NEGROPONTE:

Certainly it's been an effective and important program in dealing with the terrorist threat, which, as I mentioned this morning in my testimony is the most important -- the international terrorist threat is the most important threat faced by the United States here in the homeland and to its interests abroad.

If I may, I might, with your permission, Senator, ask General Hayden to elaborate somewhat in reply to the question that you have just directed to me.

ROCKEFELLER:

General?

HAYDEN:

Thank you, Senator.

What I've said before is that the program has been successful; that we have learned information from this program that would not otherwise have been available. This information has helped detect and prevent terrorist attacks in the United States and abroad.

The underlying basis of your question, though, Senator is to put us in a position of

proving a negative: proving that, if we hadn't done this, if we hadn't had this knowledge, if these steps hadn't been taken, if these actions had not taken place, that something else would not have happened. That's very difficult to prove in a strict linear sense.

ROCKEFELLER:

General, I don't want to interrupt, but I only have a little short time left.

It was the vice president that I was quoting, not myself.

This is to Director Mueller. And good morning to you, sir.

A January 17 New York Times article quotes former and current FBI officials as saying that the bureau was inundated with leads from the NSA domestic surveillance program that required hundreds of investigators to check out thousands of tips a month.

According to officials quoted in the article, the information from the NSA program had uncovered no active Al Qaida networks inside the United States planning attacks.

Now, the president, General Hayden and others have been very clear in their public statements that the NSA program collects information only against known Al Qaida terrorists and their associates.

Without getting into classified specifics, can you confirm to the committee that the investigative leads forwarded by the NSA to the FBI related only to known Al Qaida terrorists and their associates?

MUELLER:

Let me answer that part of the question I feel I can answer, Senator. And that relates to leads that come from the NSA.

We get a number of leads from the NSA from a number of programs, including the program that's under discussion today.

MUELLER:

And I can say that leads from that program have been valuable in identifying would-be terrorists in the United States, individuals who were providing material support to terrorists.

But we get any number of leads. Most leads that we get, whether it be from NSA or overseas, from the CIA, ultimately turn out not to be valid or worthwhile. But in our view, any lead from any source, any legitimate source, is a lead that has to be pursued, and we pursue each one and every one of them.

ROCKEFELLER:

My time is up, and I thank you.

ROBERTS:

Senator Wyden?

WYDEN:

Thank you, Mr. Chairman.

Mr. Director, you didn't mention Vanuatu, an island nation in the South Pacific, but you seemed to cover everywhere else, and I welcome you.

To me, just because effective intelligence-gathering requires a high degree of secrecy, the Bush administration can't be excused from reasonable standards of accountability. So I have essentially two questions to start with with respect to accountability.

When it has been determined that an American monitored under the NSA eavesdropping program is no longer a threat, what is done with the information collected on that U.S. person, Mr. Director?

NEGROPONTE:

Sir, again, I don't think in this context...

WYDEN:

Are there restrictions on how that information is used?

NEGROPONTE:

Let me give you a general reply which I think goes to your question.

NEGROPONTE:

Whether you're talking about one program or another with respect to NSA, those programs are under the strictest possible oversight. They are reviewed legally with the greatest of care. There are very senior managers involved in their administration.

And as far as American persons or American individuals are concerned, protections are taken, should their names come up in various kinds of intelligence that is collected,

to minimize and protect their identities.

This has been a standard procedure of the NSA for the many, many years that it's been in its existence.

General Hayden may want to amplify.

WYDEN:

Mr. Director, that answer isn't good enough for me. That answer is essentially: "Trust us. The Congress and the public just have to trust us."

And Ronald Reagan put it very well. He said, "Trust, but verify."

And we have no way to verify that citizens are being protected the way you have outlined today.

Now maybe, General Hayden, you want to add to that.

HAYDEN:

Sir, I'll just add very quickly: This is lawfully acquired signals intelligence. And the body of regulations under which NSA operates day in and day out, in terms of protecting U.S. privacy, in terms of protecting information to, from or about a U.S. person, apply to the use, retention and destruction of that data.

WYDEN:

General, there are virtually no rules on data-mining. You and I have gone into this. This has been documented by government auditors. We'll talk more about it privately.

Mr. Director, is it correct that when John Poindexter's program, Operation Total Information Awareness, was closed, that several of Mr. Poindexter's projects were moved to various intelligence agencies?

NEGROPONTE:

I don't know the answer to that question.

WYDEN:

Do any of the other panel members know?

The press has reported intelligence officials saying that those programs run by Mr. Poindexter, I and others on this panel led the effort to close it, we want to know if Mr.

Poindexter's programs are going on somewhere else. Can anyone answer that?

Mr. Mueller?

MUELLER:

I have no knowledge of that, sir.

WYDEN:

Any other panel members?

(UNKNOWN)

Senator, I'd like to answer in closed session.

WYDEN:

All right. I will be asking that question in closed session.

The last question I wanted to ask on this round, Mr. Director, deals with Iran: very obviously a serious, serious threat.

Some frame this as a choice between either bombing the Iranians or essentially the kind of pitter-patter that goes on at the U.N. Some have set it up as those are the choices.

I'm wondering about whether there are other options, particularly economic sanctions. And the one that I would be interested in your thoughts on is the idea of freezing new foreign investment in Iran and whether you think freezing new foreign investment in Iran would cut off some of the money that they use for their dangerous weapons capability.

NEGROPONTE:

Sir, my focus is, of course, on -- our focus, the intelligence community, is on evaluating the threat, the military threat, the political threat and so forth.

So as far as recommendations of a particular option with respect to policy, I think you've really moved -- the question really goes more into the area of what policy-makers might wish to do.

NEGROPONTE:

But what I would say is, clearly, Iran is a part of the international community.

It has important economic relationships, whether it's in the oil sector or through imports or through reliance, to a certain degree on foreign investment.

And, to the extent that its behavior might ultimately bring about some curtailment of those economic activities, that, presumably, is one of the factors that Iran has to consider as it goes about deciding its policies.

WYDEN:

Thank you, Mr. Chairman.

ROBERTS:

We will now go to Senator Warner with the exception that I would say that perhaps the members could direct their questions to threats faced by our nation other than the threats that some seem to think are posed by the members of the panel.

Senator Warner?

WARNER:

Mr. Chairman, thank you very much.

I would like to commend you, Mr. Negroponte, for your statement. It was very thorough and comprehensive.

And I've had the privilege of sitting here for many, many years listening to statements and I would rank yours at the very top. I think it reflects the conscious effort that you're making to fulfill this brand new challenge, and I hope that it is working to your satisfaction.

Is it likely that you will come before the Congress for any refinements in the existing law in this session?

NEGROPONTE:

I don't believe so, Senator, unless there's some technical amendment of some kind that we might seek.

But, as far as more substantive ones, my view, and I mentioned this to the committee earlier during my confirmation hearings, I think I ought to deal with the law as it has been passed, play the cards that we've been dealt, so to speak, and see how it works out.

I haven't run into any significant roadblocks. I think we're working well together

I haven't run into any significant roadblocks. I think we're working well together. General Hayden has pulled together a program managers council of all the 15 that meets twice a month. I think we're working through the various issues that the Congress directed us to work through.

But, obviously, if we run into issues that might require legislation in the future, I wouldn't hesitate to bring them up.

WARNER:

And I think you've forged a respectful and strong working relationship with the Central Intelligence Agency under its leadership, which we all admire.

NEGROPONTE:

Yes, sir.

WARNER:

Could we put this for the record? I see a lot of smiles and bowing of heads.

ROBERTS:

You can't record smiles on the record.

NEGROPONTE:

We have an excellent relationship, Mr. Chairman, and we meet frequently and speak over the phone even more frequently...

WARNER:

Mr. Goss, I think you should be on the record on that, also.

GOSS:

I'm pleased to be on the record, Senator, to echo exactly those remarks. We have a great working relationship.

WARNER:

Let me turn to General Maples. I've had a great deal of respect for you personally in

your distinguished career, and now from the intelligence standpoint. You're primarily responsible for the security situation in Iraq and Afghanistan, and elsewhere in the world.

Just a historical reference: The actions taken by our government, together with coalition forces in Iraq initially were the defeat of Saddam Hussein's military forces, which was successfully done in a very short period. There followed this insurgency, which slowly evolved. And then it became a very, very significant situation that appears now to still be substantial, but contained and being handled by the coalition forces.

A third composition of problems is growing -- and it's of great concern to me -- and that is the combination of the criminal elements, which are growing -- the corruption, the payoffs, the graft. All of this is just, in a sense, overlaying the courageous work of coalition forces, together with the Iraqi forces and the people through their elections. It's almost like it's pushing Iraq down into a morass.

A lot of the activities of the coalition forces, particularly the U.S. forces now, is directly or indirectly dealing with these situations.

I've been told, through my sources, that if you were to quantify it, the criminal corruption problem is now -- equates to the seriousness of the insurgency problem.

WARNER:

Would you have a view on that?

MAPLES:

Thank you, Senator, for your question. I would -- directly responding, I'm not sure that the level of criminal engagement is at the level of the insurgency, but I think it's a very serious problem.

And I see that a great deal of the violence that we are experiencing in Iraq today does have a relation to a criminal element, as opposed to an insurgent element with a political purpose. I think that we see that in numerous attacks, particularly on contracting vehicles within the economy. We see individuals who are being paid very low sums of money to place, for instance, IEDs without a political purpose, but because they receive remuneration for doing that and becoming essentially a part of the insurgency. So I do see...

WARNER:

Thank you. I want to get one further question in. You've documented the response.

Mr. Ambassador, you said a key to establishing effective governments and security over the next three to five years is enhanced Sunni Arab political participation and a growing perception among Sunnis that the political process is addressing their interests

growing perception among Sunnis that the political process is addressing their interests. In a sense, that's to try and bring about a unit government of the three principal factions, and it is essential to have that foundation in place.

We're now watching the new government begin to take the reins. It's a little early to make any judgments. But this is a critical time. And we have a very capable U.S. ambassador there, functioning in many ways.

What is the leverage we can have over a sovereign nation, like Iraq, to bring about this conclusion that you've put in here, which is essential to the future success of the coalition of nations that have expended so much life and blood and treasure to give the Iraqi people back their nation?

NEGROPONTE:

First, Senator, I think with respect to Sunni participation, I've been encouraged by recent developments. I was particularly encouraged last fall when one million more Sunnis registered to vote in the constitutional referendum than had been registered for the January 30 election last year.

So that to me was a sign of their increased participation; then the fact that they didn't boycott the election; and then, following that in the Al Anbar Province, which is the most predominantly Sunni province in the country, had a very high degree of participation in the elections that took place on December 15.

So I think all of that is a sign that some Sunnis, at least, are moving away from the course of violence to achieve their political aims and are opting for the pursuit of political solutions and outcomes.

So this is to the good. And I think now we have to find ways -- we, that is the Iraqi government and ourselves -- have to find ways of taking advantage of it.

What's the leverage that we got? Well, of course we're a good, supportive friend of the government of Iraq. We have 130,000 troops there. And we have a massive economic reconstruction and assistance program.

So I think that, working in partnership with our Iraqi friends, I think we can dialogue effectively with them about their political process, although we have to recognize that, ultimately, the shape that their political process is going to take depends ultimately on their own decisions.

WARNER:

That's true. And our president, in the State of the Union, was absolutely consistent on message about our determination to see this through. But there has to be limitations. And that government, as it's coming in to being, has to recognize that there are some limitations.

NEGROPONTE:

I agree with that.

WARNER:

That's got to be made clear to them. They cannot sit there and dither away and put into those particular ministries -- homeland security, defense and otherwise -- persons who really don't measure up to the capabilities required for the functioning government that they need.

NEGROPONTE:

I agree, and I think our ambassador and our commander of our forces in Iraq are both very effective at conveying those kinds of messages.

WARNER:

Good.

Mr. Goss, do you have a view on that?

GOSS:

Senator, thank you. I do, and I certainly agree.

I will assure you that as much as I can say in open session -- I would like to reinforce in closed session on that point -- and it's simply this: I agree with your observation that the security elements of that country are going to be vital to the opportunity for the institutions of democracy and freedom to flourish, and having the good people who can work in a non-politicized or a non-sectarian way is going to be essential. And I think you've put your finger on exactly a critical point.

WARNER:

I thank you.

Mr. Chairman, I believe my time is up.

ROBERTS:

That is correct.

Senator Levin?

LEVIN:

Thank you, Mr. Chairman.

General Hayden, you made a lengthy speech at the National Press Club about the program that the president authorized in terms that involved surveillance of communications of American citizens.

And this is what you said -- one of the things you said in your speech, "that there are no communications more important to the safety of this country than those affiliated with Al Qaida, with one end in the United States," and I agree with that statement.

LEVIN:

I don't think there is anything more important than that we know what is in those communications. It's important we know the extent of those communications as well.

Would you agree with that?

Can you give us an estimate as to the number of such communications which were tracked by NSA last year, just an estimate?

ROBERTS (?):

Can't do that.

HAYDEN:

Sorry. I'd be very uncomfortable doing it in open session. And I don't actually know that number.

ROBERTS:

I think that's a question, with all due respect, being the one of two here, Senator, that have been briefed, that would be better answered in a closed session.

LEVIN:

Well, Mr. Chairman, the president has said in very open session the NSA program is one that listens to a few numbers. That's what the president said. Now, we want to check on that.

ROBERTS:

It's highly minimized, I would tell the senator.

LEVIN:

No, excuse me. I would rather use these minutes, if I could, with our witnesses here.

ROBERTS:

I will grant you as much time as possible. I'm just trying to be helpful in terms of a clarification.

LEVIN:

Thank you. I would really prefer that the witnesses try to clarify this.

The president of the United States...

ROBERTS:

Well, then, I won't be helpful.

LEVIN:

May I continue, Mr. Chairman?

ROBERTS:

Certainly.

LEVIN:

Secretary Chertoff says, "If you're culling through literally thousands of phone numbers, you wind up with a huge problem managing the amount of paper."

Why is it all right for Secretary Chertoff to talk about thousands of numbers, but you can't give us, or won't give us, in open session an estimate of the number of those communications?

HAYDEN:

HAYDEN:

Senator, as I said, I'd be uncomfortable of doing it in open session, and I don't know the precise number. Your question was...

LEVIN:

I'm not saying precise number. I asked for an estimate.

HAYDEN:

I cannot give you an estimate of the number of communications intercepted.

LEVIN:

Is it a few or is it thousands?

HAYDEN:

Sir, I would be very uncomfortable talking about it in open session. I can't give you a precise...

LEVIN:

Do you know?

HAYDEN:

No, sir...

LEVIN:

I didn't ask for a precise one, General. You keep saying "precise" and I keep saying "estimate."

General Maples, do you know? Do you have an estimate?

MAPLES:

Sir, I do not.

LEVIN:

Do you know, Ambassador Negroponte? Do you have an estimate of the number of those communications?

NEGROPONTE:

No, sir, I do not.

LEVIN:

All right, now, do you have an estimate as to the number of persons who are members of Al Qaida or agents of Al Qaida or who are members of affiliated organizations to Al Qaida or their agents, because that's the test, whose communications have been intercepted, say, in the last year? Do you have an estimate of the number of persons?

NEGROPONTE:

Yes, sir, I do know that number, but I'm unable to give it in this kind of environment, sir.

LEVIN:

All right. And will you give us that, then, in closed session?

NEGROPONTE:

Sir, that's part of the briefing that I've given to the chairman and the vice chairman in great detail on multiple occasions.

LEVIN:

Will you give us that number in closed session, the rest of us that are on the Intelligence Committee?

NEGROPONTE:

I'm not at liberty to do that, sir.

LEVIN:

All right

You know, I think the administration truly wants to have this both ways. They want to characterize the program in public -- the president says there are just a few messages that are intercepted; the head of Homeland Security says thousands of messages -- but we're not going to be given even an estimate in public.

These are the most important communications, in your words, General -- and I happen to agree with you. I happen to agree with you that there are no communications more important to the safety of this country than those affiliated with Al Qaida.

And yet the extent of those communications is denied this Congress, except for the four people that you've talked about. The estimate of the number of those communications is denied to the American people.

LEVIN:

I think that is a double standard.

I think this is another example of where the administration wants to characterize some underlying information but doesn't want to be pressed to support those public characterizations.

And I think it is a denial of -- I think basically the administration wants to be unchecked, either by a court or by the Congress.

And that's my statement. And I'm not going to ask for an answer because I got three seconds left.

You gave us the estimate -- the vice president estimated that thousands of lives have been saved by this program. General, I just want to know: Can you estimate the number of lives that have been saved by this program?

HAYDEN:

I cannot personally estimate the number of lives.

Again, Senator, as I said, this is about proving a negative. I think I mentioned in another forum that if somebody had kicked in Mohammad Atta's door in Laurel, Maryland, in July of 2001, it would still be very difficult to estimate the number of lives saved.

LEVIN:

I agree with you, but yet the vice president did that in public, and apparently there's no way to support that estimate that I know of or that you know of.

And my time is up.

ROBERTS:

I think that Senator Bond is next.

I think, as to the number of lives that have been saved, it might have been how many were on the Brooklyn Bridge if it had blown up or, for that matter, other threats that...

LEVIN:

I agree with you.

ROBERTS:

... that, you know, have been thwarted.

I take with great seriousness the questions of the distinguished senator. But basically, certain members of Congress have been informed, including the leadership.

ROBERTS:

And I realize that that does not fit the concern of the senator and others. And we will discuss that at two business meetings and see where we go with that.

The other group that is not informed as to the specific figures are members of Al Qaida.

Senator Bond?

BOND:

Thank you, Mr. Chairman.

Ambassador Negroponte, it's good to have you here today as the director of national intelligence, along with your key leaders, to tell us about the threats worldwide.

Although I believe that the intelligence reform legislation that created your position in 2004 was weak, at best, I'm committed to working to strengthen your position so that we have one leader in charge of our intelligence community who will be accountable, responsible and have the authority to ensure that we are far less likely to have the unfortunate intelligence efforts that preceded the disaster of September 11.

We need a strong, active intelligence community in view of today's threats, and we need a strong, active leader for that intelligence community. And I have confidence that

you will be up to the task.

Secretary Rumsfeld, last week, told a number of us that what he needs most in support for fighting the war on terror is good intelligence. And my colleagues and I are committed to helping you give that to them.

Recently, I traveled to two areas of the world that I consider to be the primary fronts in the war on terror: the Middle East, Southeast Asia and the Philippines, Indonesia, Thailand, Iraq, Afghanistan and Pakistan.

All our intelligence officials to whom I talked relayed to me their grave concerns over some recent and unfortunate developments that have significantly effected their operations.

Specifically, newspaper articles concerning the alleged detention of individuals by intelligence officials, the debate and new legislative restrictions concerning interrogation techniques, and the disclosure of the NSA terrorist surveillance program have caused our leaders in the field to question the support that they believe they once had in Washington to act aggressively to pursue every lead that will defend ourselves against the next terrorist attack.

BOND:

Our leaders in the field relayed to me the difficulty they faced in assuring their intelligence sources that they and their families would be protected, particularly in view of the perception that has arisen that the United States as a nation that has little regard for classified information and leaked secrets with reckless abandon.

It's my belief that the recent developments have significantly degraded our intelligence capabilities and thus made America measurably less safe.

Furthermore, it is abhorrent to me that while we have men and women putting their lives on the line in the field -- and my son is a Marine intelligence officer in Iraq -- that some are content to play politics with our national security.

While some are thinking about scoring political points on matters of intelligence or about trying to make the current administration look bad, I believe we should be focusing on giving the best tools to our people in the field, to people like my son and others, so they can do their jobs and return home safely.

I believe we can ensure humane, effective intelligence operation consistent with our freedom-loving Americans without having to play the blame game and overreacting to isolated, aberrant incidents which should be and are being prosecuted vigorously by the government, instead handcuffing the vast majority of our honorable operators abroad.

I heard a lot of good things from our people in the field. We made tremendous progress, and Americans can be proud of what our intelligence people have done in the field.

Much of what they've done has been classified, so I hope the public will get to know about all of it. But make no mistake, the rampant leaking and uncertainty over detainees and intelligence techniques has shaken the confidence of our intelligence operators in the field.

They're forced to spend more time thinking about their own professional liability insurance and how it comes down to watching their backs rather than how to exploit every possible lead.

So my question to you, Mr. Director, and to Director Goss is: Do you agree with the assessment that I have picked up in the field?

BOND:

And if you do, how can we as members of Congress, and how will you as intelligence leaders in Washington, take necessary, decisive steps to support our people in the field with the confidence that they need to lean forward in their intelligence efforts to face the dangerous threats and not to return to risk aversion that's proven so costly to us in the past?

NEGROPONTE:

Thank you, Senator.

First of all, I agree with you that any time sensitive sources and methods are revealed in the public domain, through press stories or otherwise, that this carries with it the grave danger of prejudicing, adversely affecting our intelligence operations, and in many instances lives can be directly at stake.

And I must say that in the nine months that I've been in this job, one of the greatest disappointments that I personally have had is experiencing the degree to which people are willing to talk about classified matters to the public media. And we've got to bring that kind of activity to a stop.

What are we doing? Of course, where there are violations of security practices that take place, we are seeking to investigate them as vigorously as possible and prosecute them, if necessary.

I'll certainly ask Mr. Goss to elaborate on this.

But I think you're right. It is an issue that affects both our effectiveness and the morale of our people.

In addition to investigating and penalizing those who do carry out these kinds of leaks, I think we also have a challenge to the leadership of the intelligence community as a whole to try and reinstill -- and we're working hard on that -- reinstill a spirit of keeping secret what has to be kept secret in our work in intelligence.

But I defer to Mr. Goss.

GOSS:

Senator, thank you very much for your complimentary remarks about the men and women of the intelligence committee overseas. I will pass those along. And I agree with you, they are fully deserved. I can take great pride in associating with those people.

Secondly, I would simply say that it would be inappropriate for me to comment on motivation of leaks except as to CIA aspects of that. And we, of course, have a vibrant counterintelligence capability, which, with the cooperation of Director Mueller and others, we utilize fully.

But I would say that the consequences of these leaks -- and I'm happy to have your question to respond, and I'm sorry to tell you that the damage has been very severe to our capabilities to carry out our mission.

GOSS:

I use the words "very severe" intentionally. That is my belief and I think the evidence will show that.

When I start talking about the disruption to our plans, things that we have under way that are being disrupted because of releases to the press or public discussion; when I talk about the risk to access, the sources or methods that are no longer viable or usable or less effective by a large degree; when I talk about the erosion of confidence in our working partners overseas, I'm stung to the quick when I get questions from my professional counterparts saying, "Mr. Goss, can't you Americans keep a secret?"

That is not the kind of thing that is helpful to building relationships, to doing some of this very delicate, hard work that we have to do overseas.

As to what we're doing about it, I can assure you we have a strong internal program at the Central Intelligence Agency under way -- has been for some time -- as the director of national intelligence, Ambassador Negroponte, has said, to remind all of our employees that we are the secret agency of the agencies, that we are entrusted with that responsibility uniquely, and that the men and women who come aboard are advised of that.

So we have a program of awareness but we also have an investigation of finding out what leakage, if any, is coming out of that building. And I'm afraid there is some coming out.

I also believe that there has been an erosion of the culture of secrecy. And we're trying to reinstill that.

On the external side, I've called in the FBI, the Department of Justice.

It is my aim, and it is my hope that we will witness a grand jury investigation with reporters present being asked to reveal who is leaking this information. I believe the safety of this nation and the people of this country deserve nothing less.

And I thank you for your question.

BOND:

I thank you, Mr. Director.

ROBERTS:

Senator Feingold?

And welcome to the committee.

FEINGOLD:

Mr. Chairman and Mr. Vice Chairman, again, I'm honored to join the committee.

I sought this position for one overriding reason: We were attacked on September 11, 2001, by terrorists whom we must defeat. And I agree with the ambassador: This fight is our top national priority. And it involves not only our military power, but also our diplomatic, economic and intelligence capabilities.

And I have serious concerns about whether this administration is fighting terrorism in an effective global and comprehensive manner. By focusing so extensively on Iraq, this administration seems to be pursuing a one- or two-country strategy, when Al Qaida is actually operating in some 60 countries around the world.

So I am concerned about the terrorist threat in places like Pakistan, Somalia, and other parts of Africa, Southeast Asia and elsewhere.

And I'm concerned that the president has taken the position that he can spy on Americans without a warrant despite a clear statutory ban.

To just respond a bit to what Senator Bond said, I couldn't have any higher regard for the need for secrecy. And I agree that it must be dispiriting for our people in the intelligence community and the military to suffer from the possibility of leaks.

But these people who are so dedicated and so brave also have the right to know that there are clear rules, that we're still operating under the rule of law, under the Bill of Rights and the Constitution. And I bet if you asked them, they'd tell you that they care a great deal about that, as well.

Mr. Ambassador, without getting into what the specific programs might be, can you assure us today that there are not other intelligence collection -- and I emphasize "collection" -- programs that you are aware of and that you are keeping from the full Intelligence Committee?

NEGROPONTE:

Senator, I don't know if I can comment on that in an open session.

FEINGOLD:

Well, we'll pursue it later today.

Let me move onto the subject that Senator Wyden brought up and that he and I have worked on together, this issue of data mining.

I sent you a letter on January 23rd requesting information about the NSA's and the intelligence community's possible use of data mining technology to analyze telephone and computer communications inside the United States.

And as I'm sure you know, there have been news reports that part of the NSA's domestic surveillance program has involved large-scale data mining of domestic communications.

I don't expect that you have the detailed answers to that letter with you here today. I just want to ask you if you would commit to me today that you will respond promptly to that letter.

NEGROPONTE:

Yes, I will. And I believe we have a response in preparation, Senator. I was advised of that before I came up to the hearing.

FEINGOLD:

Thank you.

Turning to one of the areas that we were talking about or you were talking about in your statement. In your prepared opening statement, you included a passing reference to Somalia.

The 2004 State Department terrorism report states that Al Qaida operatives there pose a, quote, "serious threat," unquote, to American interests in the region and that a lack of functioning government and protracted state of violent instability contributes to making Somalia a potential launching point for terrorist operations elsewhere.

In your view, have we committed sufficient intelligence resources to fully understanding and addressing this threat as a political solution to Somalia's problems, a necessary component of our counterterrorism strategy in that region? And if so, what are we doing to support such a solution?

NEGROPONTE:

On the first part of your question, Senator, certainly Somalia is on our radar screen, not only in the intelligence community and our diplomatic establishment, but also in Central Command.

I think it's an issue of concern as a place where there are international terrorists and to which international terrorists might gravitate if they were to suffer severe setbacks in a place like Afghanistan or Iraq.

So we're very mindful of that threat. I think we're devoting important resources to it. Although...

FEINGOLD:

Are they sufficient intelligence resources?

NEGROPONTE:

Well, they certainly are significant. You can never quite do enough. But in the order of priorities that we've got, I think we probably have it about right.

On the question of governance and whether they got a government, they've had sort of an absence of governance for the past decade.

Sometimes you see some emerging signs that they might pull together some kind of a central government. But I wouldn't hold my breath.

Obviously, if they could make improvements in their state of governance, that might make it easier to deal with the issue of international terrorism.

That, after all, is one of the theses of my testimony, that governance and these transnational threats can be related to each other.

FEINGOLD:

Thank you for your answers.

ROBERTS:

Has the senator concluded?

FEINGOLD:

My time's up. I'd be happy to keep going.

ROBERTS:

Oh, we give members at least 30 seconds.

FEINGOLD:

Great, I'll take another one.

(LAUGHTER)

The national intelligence strategy released by your office last October states -- I think, quite correctly -- that no nation can build a safer, better world alone.

FEINGOLD:

And the strategy involves, then, engaging and invigorating friendly foreign intelligence services. And you refer to that in your comments.

The strategy refers to a strategic plan for our foreign intelligence relationships, so that these relationships help us confront national security threats. I agree this is a critically important task, and it involves a broad range of policy considerations. Is this strategy being coordinated with the State Department? And will you work closely with Congress as you develop this strategy?

NEGROPONTE:

It certainly is being coordinated with the State Department. And we'd be pleased to inform the committee of the steps we've taken thus far and consult with you on the way forward.

Whenever it comes to dealing with foreign countries and institutions in those countries, our intelligence agencies work closely with the United States ambassadors there.

In addition, to assure the best possible coordination and so that we don't have a dispersion, if you will, of our effort, one of my first acts as director of national intelligence was to designate the CIA station chiefs as my representatives in those countries so that we aren't stumbling over each other out there and that we have a focal point for the coordination of intelligence relationships with foreign countries in the CIA

point for the coordination of intelligence relationships with foreign countries in the CIA stations.

FEINGOLD:

Thank you again.

ROBERTS:

Senator Feinstein, welcome back.

FEINSTEIN:

Thank you very much, Mr. Chairman.

Mr. Negroponte, I just want to associate myself with the comments of our ranking member. I serve on both Judiciary as well as Intelligence, and what we have seen in the last few years is a defined and consistent stonewalling to prevent the oversight responsibilities of both committees from being carried out.

And I just want you to know that when the ranking member mentioned that part of the law creating your position also was to hold you above any political influence, I think that that is something that we feel very strongly. And I want personally to make that comment to you.

The National Security Act specifies that the executive branch shall, and I quote, "ensure that the congressional intelligence committees are kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activity."

The only statutory exemption to this is for especially sensitive covert actions, which may be briefed to only eight members of Congress.

FEINSTEIN:

The administration is increasing the use of these limited briefings.

My question to you is: Who determines what information will be briefed to only eight members of Congress?

NEGROPONTE:

Senator, I take very seriously my legal obligations under the National Security Act, which requires me to keep the congressional Intelligence Committees fully and currently informed of intelligence activities to the extent consistent with the protection of sensitive

intelligence sources and methods or other exceptionally sensitive matters.

FEINSTEIN:

Respectfully, sir, could you answer my question, which was who makes the decision?

NEGROPONTE:

It's the president and the vice president, Senator.

FEINSTEIN:

Thank you very much. I just wanted to know who made the decision. Thank you.

If I could move on, the intelligence reform legislation that created your position also set up an effort to finally solve some of the information-sharing problems that predated September 11.

I understand that the person appointed by the president to lead this effort, John Russack, resigned last week. I'm very concerned that this resignation will end any momentum on information-sharing that had been built up and that the state and local law enforcement will continue to lack the information that they need to find and stop terrorists.

Will the information-sharing effort meet the statutory timelines? And will Mr. Russack's departure mean a change in direction for the program?

NEGROPONTE:

Senator, I think we are striving, to the best of our ability, to meet the timelines that have been set. An interim report was sent up to the Senate late last year.

We are taking steps to ensure that this information-sharing program continues to have momentum. And you can be certain that we will give it the highest attention at the leadership of the DNI.

General Hayden, my CIO and, eventually, when we get a new program manager on board, will continue to give this issue very, very high priority.

NEGROPONTE:

And I would expect and I would hope that progress on this front will accelerate.

FEINSTEIN:

FEINSTEIN:

How soon do you believe you'll have someone on board?

NEGROPONTE:

I've actually identified an individual, but it's the question of clearances and just the processes that we have to go through to be able to formally bring that individual on board.

FEINSTEIN:

And do I understand by your answer that this will mean that the program will be carried out in the same direction in which it was previously?

NEGROPONTE:

I don't think this is going to have any policy implications with respect to the direction in which we've been headed.

FEINSTEIN:

Thank you.

NEGROPONTE:

You're welcome.

FEINSTEIN:

The president has stated that the NSA warrantless electronic surveillance program has been restricted to cases where one of the members would reasonably be suspected to be an "Al Qaida link or affiliate." Those were the words that have been interchangeably used.

I have two questions on this: What does it mean to be an Al Qaida link or affiliate? How is that connection to Al Qaida defined?

And if I've been called by Osama bin Laden or somebody that we know is attached to him, I presume that NSA would call that a link to Al Qaida. But is anyone I then call linked to Al Qaida automatically, and therefore, electronically surveilled, and anyone they call then linked to Al Qaida and electronically surveilled?

NEGROPONTE:

If I may invite General Hayden...

FEINSTEIN:

Thank you, that would be fine.

General Hayden?

HAYDEN:

Yes, ma'am. Thank you.

The criteria that are used by the analysts -- and it is done by the analysts, those folks who are most knowledgeable about Al Qaida intent, behavior, communications and so on -- is that this analyst, with all the facts available to him or her at the time, OK, as a prudent person, would have reason to believe that this communicant is affiliated with Al Qaida.

That's the standard that we use. And that's the standard that's drilled into the individuals who make those kinds of decisions.

FEINSTEIN:

Thank you.

The attorney general has asserted that the president has virtually unchecked authority to protect Americans, regardless of a clear, statutory record in opposition.

That legal position would allow the president to issue other orders in the name of counterterrorism.

Has any intelligence agency been authorized to or has any agency carried out the search of the home of any American suspected to be linked to Al Qaida without a court warrant?

NEGROPONTE:

I think I'd have to defer to our law enforcement authorities on this, Senator.

FEINSTEIN:

Thank you.

Mr. Mueller?

Mr. Mueller?

MUELLER:

Senator, I'm not aware of that happening.

FEINSTEIN:

OK.

Has any intelligence agency arrested, detained, rendered or otherwise held any American suspected to be linked to Al Qaida without a court warrant or sufficient cause for criminal prosecution?

MUELLER:

I'm sorry, Senator. Can you repeat that question for me?

FEINSTEIN:

Sure.

Has any intelligence agency been authorized to or has any agency carried out an arrest, detention rendering or otherwise held any American suspected to be linked to Al Qaida without a court warrant or sufficient cause for criminal prosecution?

MUELLER:

Well, I mean I'll give a try at first response to that.

It's a very broad question. And looking at all the components, there are occasions where, whether it be in the criminal arena, the counterterrorism arena, we make arrests on probable cause without it going through a magistrate first. Then you file up on a complaint.

And my belief -- in the instances, certainly, that I'm aware of -- we followed the procedures that are appropriate.

FEINSTEIN:

May I ask for the DNI's response, since the question had to do with intelligence agencies?

NEGROPONTE:

Yes, except it has principally -- my concern, Senator, and I've been up here today, my principal concern is with the collection and analysis of national intelligence which is used for the protection of the homeland. And I'm not aware of any such instances, I really am not.

FEINSTEIN:

I'd like to just continue on. Has any intelligence agency been authorized to or carried out the killing of anyone on U.S. soil based on a link to Al Qaida?

NEGROPONTE:

I'm not aware of such a situation, Senator.

FEINSTEIN:

Mr. Mueller?

MUELLER:

If you're looking at me, Senator, I'm certainly not aware of such a situation, speaking for the FBI.

FEINSTEIN:

My time is up.

ROBERTS:

In a word, yes.

FEINSTEIN:

Thank you.

Thank you, Mr. Chairman.

ROBERTS:

Mr. Wyden?

WYDEN:

Thank you very much, Mr. Chairman.

In open session, Director Negroponte, I wanted to ask you about oil as it relates to terrorists. Here's my concern: You go to a gas station in the United States. You pay these huge prices. A portion of that eventually finds its way to foreign governments, particularly Saudi Arabia. The Saudis hand it over to charities and the charities back door it to terrorists who want to kill law abiding Americans.

What is being done to try to deal with this, and particularly to stiffen up the Saudi effort to deal with this problem, which I think everybody understand is going on?

We're seeing oil purchases in the United States; they're in effect the terror attacks. I'd like to know what is going on with respect to forcing the Saudis to crack down on how this oil money gets to terrorists who want to kill Americans?

NEGROPONTE:

I think first of all, Senator, since some of the egregious terrorist acts that were carried out in Saudi Arabia in recent years, I think starting with 2003 forward, I think there's a much greater awareness of the international terrorist threat on the part of Saudi authorities.

NEGROPONTE:

And I think I think we've seen a really strengthened effort to deal with that situation on their part.

And so I would say that cooperation has increased. It's getting better. And we have a lot of interchange at all levels, law enforcement, intelligence and so forth.

WYDEN:

You no longer think this is a problem?

NEGROPONTE:

That was going to be my second point.

I believe there are private Saudi citizens who still engage in these kinds of donations. And I think efforts and ways have to be found to discourage that kind of activity.

And I think there are also certain designated charities and organizations where we

actually identify those as ones to whom monies should not be given.

So I think it has been a problem. It's getting better. But it continues to need work.

WYDEN:

I'm going to ask you about that in private session.

One other question for you, Mr. Director.

There have been news reports this week -- there was one in Newsweek magazine -- talking about American officials being in face- to-face talks with high-level Iraqi insurgents as part of an effort to look at possible ways to get peace in the region.

My question is: Will you confirm what was in the news reports this week?

And, if you will, I particularly want to know what is being done to address the concerns that I'm sure Shia would have about any such talks.

So, one, will you confirm what it's in Newsweek magazine? And second, if this ongoing -- and I will ask you about this also in closed session as well -- what is being done, at least for the public record, to deal with what are certain to be Shia concerns about any such talks?

NEGROPONTE:

Sir, I simply don't have any comment on that story.

But as far as the question of Sunni and Shia relationships in Iraq, this is a very delicate balance, if you will. I think that any efforts to move the political process forward have got to be based on a desire to take into account all elements, Sunni and Shia included, of the Iraqi body politick.

WYDEN:

Mr. Chairman, colleagues didn't even get one round, and I appreciate you giving me these extra questions.

ROBERTS:

Senator Rockefeller?

ROCKEFELLER:

Thank you, Mr. Chairman.

Director, last year at this hearing, Porter Goss made the statement -- and I think this is probably the subject which is the most scary in all of this area of intelligence and international security -- that he could not assure the American people that there weren't unaccounted-for nuclear weapons or derivatives thereof that are housed in Russia. Had they been stolen? Had they been sold? It wasn't possible, really, to say. And I think this is a catastrophically important matter.

U.S. Department of Energy estimated that only 50 percent of the buildings that house fissile materials in Russia operate under the highest security standards.

And what I really just want to know, from either of you gentlemen, is whether you feel there has been any improvement in that area, and if we are working collaboratively -- not just Nunn-Lugar, but in other ways -- to try and decrease the number of available for purchase by terrorists, perhaps probably, these nuclear weapons or parts thereof.

NEGROPONTE:

If I could invite Director Goss to...

GOSS:

Thank you very much, Mr. Vice Chairman.

That is correct, last year you asked me if I could account for all of the unaccounted for nuclear weapons and be sure, therefore, that the terrorists did not access or could get one or had one. And I could not give you that assurance, and nor can I today.

But what I can tell you today is I'm a bit more comfortable than I was a year ago. I've had a chance to focus in on the efforts that we are making, and others are making, because this is a well- understood threat to the civilized world.

GOSS:

And I would dare say we're getting a good deal more cooperation on this subject than we were before that understanding was clear.

I would also say that this is an item that probably gets the loudest alarm bell any time our many collectors work.

So I am completely satisfied it is attended to. I am not satisfied that we have the answer that you and I both, we'd all like to have, that we are 100 percent sure, because we just aren't.

ROCKEFELLER:

But you think that the efforts not only within our own nation and its national security apparatus, but also other parts of the world, is stronger in effecting results towards diminishing that supply?

GOSS:

I believe that personally. You know, I represent a capabilities organization, but just one of 15.

From my perspective, we have got a proportionate number that is correct focused on that. And I think we are doing better.

I can't speak for the rest of the community, though.

ROCKEFELLER:

It's interesting, to do better makes me feel good, but it is until we get the whole thing solved. And, of course, that's going to take a lot of work and a lot of good faith and a lot of people.

GOSS:

If I could add, Senator, we have created an interagency effort to collect and analyze the whereabouts of fissile materials all over the world. That's ongoing on an urgent basis.

ROCKEFELLER:

And I'm glad to hear that.

Director, my final question will be to you. And that is: Do you agree with the statement that I made in my opening remarks that our committee members and our staff are routinely given access to the details of overseas signals intelligence programs that are carried out by the NSA?

GOSS:

Yes.

ROCKEFELLER:

Yes. And do you believe that it's appropriate for the committee to have a working understanding of these programs?

GOSS:

I do, yes.

ROCKEFELLER:

Why is it that -- you know, if I had to make my guess, and this is none of my business and I have no proof, and so just take it for what it's worth, that the leak which everybody is so properly concerned about probably came out of the executive branch of government. It certainly didn't come out of Chairman Roberts or Jay Rockefeller. And my guess would be somewhere in the Department of Justice. Just take that for what it's worth.

Do you really believe that fully briefing the NSA matters that we're discussing to 40 members of the Intelligence Committees in the Congress represents some kind of an unacceptable security risk?

GOSS:

Sir, we're talking about a decision that was made long before I arrived in this position.

And what I was trying to answer to Senator Feinstein earlier was that there is a history and a tradition of certain -- very small number, very limited number -- of select sensitive programs that the executive branch and president and the vice president over a period of 50 or 60 years have chosen to limit the briefings to a small select group in the Congress, such as the leadership of the Congress and the chairmanship and the vice chairman or ranking members of respective committees. And that is what has been done in this particular instance.

And that was the method that was chosen to deal with this issue. But there were extensive briefings over the lifetime of this program, I think more than 10. So I think that's how best I can answer that question.

ROCKEFELLER:

And I understand that. I'll just close with this thought: The top leadership doesn't usually go to these meetings. So you're really talking about Chairman Roberts and myself and Chairman Hoekstra and Ranking Member Harman.

ROCKEFELLER:

And there may be a long history of this. I'm not aware of that. But there is no history

that comports in any way to the intensity it what's happened as a result of 9/11.

I just want to make the statement that I think so much could be worked out and so many people would probably agree if we felt we were being talked to as is required by law.

The chairman, when he gave his opening statement, talked about "lawful." And I really think that the executive branch needs to think about the fact that laws are laws and you were specifically placed under a certain law and others are placed under certain laws. And forming the committee of jurisdiction is one of those laws. And it simply isn't being done in an atmosphere where it needs to be done, I think, more than ever.

In which I would disagree with Senator Bond -- this is not fair to paraphrase him -- but to say that, if people are asking questions about this, that somehow they're taking their eye off what is deemed to be the ball.

ROCKEFELLER:

And I think part of the discussion and the history and the future of all of this is going to be that the executive branch and the legislative branch have to have a working relationship that is, in fact, that fits into what the laws require.

I think you have nothing to fear from us. You have nothing to fear from the House. I think it's almost certain that whatever leaks came, came from the executive branch. And that's always going to be a problem.

But I beg you to consider what I say in deep seriousness and deep sincerity.

ROBERTS:

I think that the director of the FBI would like to respond.

MUELLER:

Senator, if I might, being a component of the Department of Justice, I want to not leave that remark. I want it addressed in terms of...

ROCKEFELLER:

I can understand that.

MUELLER:

And I'm not certain you have a basis for pointing a finger. I'm not certain what leak

And I'm not certain you have a basis for pointing a finger. I'm not certain what leak you're talking about. And I don't think it's fair to point a finger as to the responsibility of the leak.

So I did not want to let that go unaddressed.

ROCKEFELLER:

I understand.

ROBERTS:

We have Senator Feingold on a second round.

FEINGOLD:

Thank you, Mr. Chairman.

Following up on Senator Feinstein's question to Mr. Negroponte...

ROBERTS:

Oh, sir, I beg your pardon.

For some reason, I have not recognized the first round appearance of the sheriff of the always powerful Senate Agriculture Committee, Senator Chambliss.

CHAMBLISS:

Thank you, Mr. Chairman.

It used to be powerful before you were chairman in the House, and we haven't recovered. But we're getting there.

(LAUGHTER)

I want to follow up on what Senator Rockefeller just said, ladies and gentlemen. This issue relative to this leak coming out of the executive department or the administration: That's a pretty serious accusation.

CHAMBLISS:

And, in fact, the only known source of any communication from the inside has come from an individual, as I understand it, who used to work in the program and is not part

of the executive department.

But I have been very hesitant to talk about the fact -- and I assume I'm directing this to either you, Director Mueller or Director Goss or Director Negroponte.

I've been hesitant to talk publicly about the fact that the position of gathering intelligence and utilizing very classified and sophisticated intelligence has been compromised by not only the leak, wherever it came from, but also by the continuing highlighting of this issue in the press. And that those folks who continue to question this program, those folks who continue to go out front and talk in a negative way about this program may be aiding and abetting the terrorists. And I am extremely concerned about that.

I understand, Director Goss, that you may have addressed this in an earlier response to a question from Senator Bond. And I apologize for not being here. But I would like to ask y'all to comment on that, if you will, as to whether or not our position has been compromised, if we have lost any of our capability relative to this program as a result of the publicity surrounding it.

GOSS:

Thank you, Senator, very much.

It would only be appropriate for me to comment about those areas that I have accountability, responsibility for. And I was referring to leaks that Senator Bond had referred to that went to that area and explained at some length how damaging they have been and the steps we are taking to deal with that. And I hope they'll be successful steps.

NSA is not, obviously, in our area, and so I would prefer to yield to either Director Mueller, who has the domestic side of the argument, or the director of national intelligence, or whoever he would like to appoint to deal with the NSA aspects.

CHAMBLISS:

Sure.

HAYDEN:

Senator, it's hard for me to characterize it in open session.

But I did make the comment earlier in another environment that some people claim that somehow or another our capabilities are immune to this kind of information going out into the public domain. And I can tell you in a broad sense that is certainly not true.

NEGROPONTE:

The bad guys tend to get information that comes out of Congress or out of the American press in real time. Is that a fair statement, General Hayden?

HAYDEN:

We have been impressed with their ability, with various Web sites that are generally available, at how agile they are in responding to events in this country.

CHAMBLISS:

Director Negroponte, the Secure Border Initiative was introduced by the Department of Homeland Security in November 2005. And this is a comprehensive, multiyear plan to secure America's borders and reduce illegal immigration, which includes an increase in the number of Border Patrol agents, as well as upgrading technology used in controlling the border, increasing manned aerial assets, expanded use of UAVs and next-generation detection technology.

CHAMBLISS:

Recent reports suggests that smugglers are either disguising themselves as Mexican soldiers or may actually be members of the Mexican military. How large of a problem is protecting our borders from infiltrators who may be receiving assistance from corrupt Mexican authorities.

What is our intelligence community doing to identify those collaborators?

NEGROPONTE:

With your permission, Senator, perhaps I could invite Mr. Allen from the Department of Homeland Security to respond to that question.

ALLEN:

Thank you, Ambassador Mr. Negroponte.

Senator, on the Strategic Border Initiative, as you know, Secretary Chertoff has a number of multi-functional ways to do this, and a number of actions are under way.

I, from an intelligence perspective, am looking at this on how to strengthen our intelligence collection on all of our borders, wherever they may be.

Getting into specifics relating to any reported incidents on the border, that was something I'd prefer to talk to in a closed session.

But I can say this, that our borders are being strengthened whether by land, sea or air and whether north or south, thanks to the procedures that are being rapidly put in place under the leadership of Secretary Chertoff. I think we can take comfort that we're well on our way to taking the kind of measures that the American public really wants to see.

CHAMBLISS:

Thank you.

Thank you, Mr. Chairman.

ROBERTS:

It would be the hope of the chair that we could at least allow the witnesses an hour for lunch before we go to the closed session.

With that in mind, on the second round I recognize Senator Feingold.

FEINGOLD:

Thank you, Mr. Chairman.

I'm pleased I went after my friend Senator Chambliss, because what I'd like to say is the greatest publicizing of this NSA program that I ever heard was when I sat in front of the president of the United States the other night at the State of the Union and heard him discussing it in front of the whole world.

In fact, this is a larger effort to discuss this on a constant basis and to make it a political issue in front of the American people, so I take it his remarks would apply to that sort of conduct as well.

FEINGOLD:

Mr. Negroponte and General Hayden, following up on Senator Feinstein's question, have you defined "Al Qaida affiliate" for the purpose of warrantless NSA surveillance? Is it a term of art? How are the NSA officials guided on this?

HAYDEN:

It's a term of science, Senator. It is a specific list of affiliates. There is a burden of proof that must be met before an organization is deemed to be affiliated with Al Qaida.

And that work is overseen by the entire oversight structure that governs this program within NSA, by the I.G., the general counsel and by the Department of Justice.

FEINGOLD:

Thank you, General.

On Pakistan, Mr. Negroponte, the most recent State Department "Country Reports on Terrorism for 2004" states that Al Qaida continues to hide in Pakistan's federally administrated tribal areas of Pakistan.

Who wields power in these regions? And how has Al Qaida managed to stay there for so long? Is this region basically a terrorist sanctuary?

The report also states that Pakistan has pursued as strategy to win the support of tribes in the FATA, with a combination of negotiations and economic investments. Have the Pakistanis achieved any success in this regard?

MAPLES:

It's a tough area. It's a tough area, Senator. And it's an area that historically has sought to govern itself, if you will. It's not felt itself an integrated part of any country or nation. And a lot of people up there take the law into their own hands.

But I believe the Pakistani government has done a lot in recent times to establish a greater presence there. They've sent their military into the region, who operate with greater frequency and have taken a large number of casualties, substantial casualties, in their efforts to impose the writ of the central government.

So I think the situation there is gradually shifting, but it's proven to be a great challenge for the government of Pakistan.

But I don't doubt their commitment to fighting against international terrorists. And we've seen ample evidence of that over the past months and years.

FEINGOLD:

On Iraq, you state in your opening statement that Iraqi Sunni disaffection is the primary enabler of the insurgency. Can you just say a bit more about the range of motivations that inspire the insurgency and the extent to which it is motivated specifically by anti-coalition sentiment?

NEGROPONTE:

Well, I think the fundamental issue for those Sunnis who are not international terrorists, who are not part of Al Qaida or Zarqawi's group, has been a feeling of having been disempowered as a result of the fall of Saddam Hussein.

So I think that probably is the most significant motivation; the feeling on the part of many Sunnis that they no longer have the position of prominence in the governance of their society, of their country, that they used to have and their desire to recuperate some of that influence.

I think what we're seeing happening in Iraq is these different political forces and political groups finding the right balance between themselves that will permit their society to go forward in a peaceful manner.

And I think the electoral process and the political process that we're witnessing offers that opportunity.

FEINGOLD:

Thank you for all your answers.

And thank you, Mr. Chairman, for the addition time.

ROBERTS:

Yes, sir.

Senator Feinstein?

FEINSTEIN:

Thank you Mr. Chairman.

Mr. Negroponte, we have heard allegations that top officials in one of the technical intelligence agencies explicitly warned contractors not to talk to Congress about ongoing programs or refuse losing future contract competitions. I know this for a fact.

Are you aware of this? And does Congress have the right -- do we, as in my case, an appropriator as well as an authorizer, have the right -- to talk to the contractor of major technical programs?

NEGROPONTE:

Senator, I'm not aware of this particular situation. But if I may, I would like to know the details so that I can have a look at the matter.

FEINSTEIN:

I will be happy to give you the details. Thank you.

Last year, Admiral Loy -- who was present -- and I discussed border security.

particularly the increasing problem of penetration of other than Mexicans across our borders, which are growing in numbers.

And I said at that time that I felt it was a major gateway for terrorists to access the United States.

Do you have ongoing intelligence efforts to prevent this from happening? And is there any evidence up to this point that it is, in fact, happening?

NEGROPONTE:

I'm going to invite Mr. Allen to elaborate.

But one thing I would like to say, Senator, is, of course, it's an issue that we're sensitive to.

And, secondly, my impression is that perhaps our border with Canada has, to some degree, been of a bit greater concern than that with Mexico. Although, obviously, we have to watch all of our borders very, very carefully.

But if I could ask Mr. Allen to elaborate.

ALLEN:

Yes, Senator Feinstein, we recognize this issue.

As you know, we have found a lot of individuals other than Mexicans attempting to cross our borders illegally. And under Secretary Chertoff's new policy, which is catch and return, or deport, this is having, I think, a salutary effect.

Now, this Strategic Border Initiative is new and it's only now getting fully under way. And we're very sensitive to the fact that people from other areas, from areas where we might expect to find members of Al Qaida -- we're very sensitive of that. We work extraordinarily hard on this issue.

I think terrorists are facing an increasingly challenging environment to enter our country, certainly, by air and by sea. We now need to secure our borders, and including, as Ambassador Negroponte, we need to work harder with the northern border.

FEINSTEIN:

If I might suggest to you, the numbers in the past two years have tripled. They have gone from FY '03, 49,545, to '05, 155,000. Now, these are other than Mexicans.

ALLEN:

These are other than Mexicans. We're aware of those figures.

FEINSTEIN:

So this indicates to me that whatever we're doing is not working because more are coming through than ever before.

ALLEN:

We believe we'll see a change in that in the coming months, because the catch-and-return policy, I think, will have salutary effects over time.

We really do have to work this issue a lot harder. And as was said earlier, when I answered Senator Chambliss, we're using significant new capabilities, including Border Patrolmen, but significant new advanced technologies to try to detect people entering our country, particularly in Texas and Arizona.

FEINSTEIN:

Well, thank you very much for that.

ALLEN:

Yes, ma'am.

FEINSTEIN:

Mr. Negroponte, recent media reports have spotlighted a number of activities that appear to be related to intelligence- collection or covert action, but that well may be outside of the official intelligence community's channels.

For example, military databases of suspicious activity reports, called Talons, by the counterintelligence field activity, or CIFA; and, secondly, a Pentagon program to secretly pay Iraqi newspapers to run pro-American articles.

Were these activities subject to your approval and oversight?

(UNKNOWN)

Ma'am, I don't believe that either of those activities would fall into Mr. Negroponte's area. They are Department of Defense programs, I believe.

FEINSTEIN:

Now, let me raise this problem then.

FEINSTEIN:

They should. We appointed you to be the person -- we didn't appoint you, but we created the legislation so that you were the person over all intelligence.

Now, I know how tough it is. But if you didn't know and you didn't give a go-ahead, it indicates to me that, for 85 percent of the budget, which is defense-related, that you're not going to have the controls that you should have.

You want to comment?

NEGROPONTE:

Well, CIFA is within the national intelligence program. But as far as specifically directing those activities, that has not risen to the level of my office and comes under the direction of the undersecretary of defense for intelligence.

My understanding, in light of the issues that have come up in the controversy and the press attention that has been given to CIFA, that Mr. Cambone has ordered a complete review of that program from top down.

FEINSTEIN:

But will you get the results of that review?

NEGROPONTE:

Yes, I will get those results.

FEINSTEIN:

Will you be able to play a decision-making role in that, or does Defense control it?

NEGROPONTE:

Well, to the extent that I have reporting to me a national counterintelligence executive and have a role in counterintelligence, yes.

FEINSTEIN:

FEINSTEIN:

Thank you.

Thank you, Mr. Chairman.

ROBERTS:

Excuse me. Let me just say that our staff has been briefed by the DOD and that I would encourage the senator to check with staff on both sides, and that we have looked at this very carefully. And I think some of the concerns that she has raised -- which, obviously, should be shared by everybody -- have been answered.

Let me just say this in closing.

ROBERTS:

First, I want to thank you for your patience. Second, we are going to welcome you to the closed session. Third, I hope you get to at least eat a sandwich.

Let me make an observation.

Since the enactment of the provision requiring the Intelligence Committees be kept fully and currently informed, that the committees and the presidents -- and I use "the presidents" in plural -- have always managed the delicate process of access to information to claim this situation is somehow different, ignores this committee's history and the text of our laws.

I know this happened under President Carter. I know this happened under President Reagan. I know this happened under President Bush One. I know this happened under President Clinton. And I know this happened under President Bush.

Basically, the law, at least in the way that I have read it, indicates that the executive has the prerogative and also has the responsibility of keeping the Congress informed. The practice, however, has been that there are certain programs that are so highly classified that they are limited to eight, i.e., the leadership of the House and Senate and also the ranking member and in this particular case the co-chair and the chair of the Intelligence Committees.

On some occasions, if it involves the military and some kind of a covert operation, the same thing applies to Armed Services and the Subcommittee on Armed Services in regard to the Subcommittee on Appropriations.

I know there is a great hue and cry that we make more people pregnant with the knowledge, and then, of course, if they're pregnant with the knowledge, they will rock the baby, as opposed to throwing it out with the bath water. But let me say that we did that.

Immediately after 9/11 we felt it was our obligation on the Intelligence Committees -- under different leadership at that particular time -- to have a joint investigation, which we did.

ROBERTS:

We even had an independent staff forcing members to come to the meeting and act is as if they were studying for a chemistry test during a study hall because we never quite knew what to expect.

Now, that's, sort of, telling tales out of school, but I didn't think that was a very helpful operation.

It wasn't any time at all with the joint committees -- and I'm not trying to perjure anybody or the committees or the intent of Congress or the integrity of Congress -- before we had the leak. Now, the leak had nothing to do with 9/11 but, boy, it sure make the headlines.

And the executive made a decision at that particular time: "I'm not going to -- or we are not going to -- to share any information or send anybody down to testify further if we have leaks of this nature."

And so the leadership of that committee, the joint committee investigation on 9/11, made a decision or agreed to the executive that there would be an FBI investigation of the committee.

At the same time, the committee was investigating the FBI's role in 9/11. So here we were in a joint committee investigating the FBI and then the FBI investigating us and asking every member of the Intelligence Committee, both House and Senate, "Would you take a lie detector test?"

I can't think of anything more ridiculous or silly. I will say as chairman of this committee that if somebody asked me to do that, my answer is no.

The result was that -- what we really needed in that group -- and I'm not comparing that particular group because I was a member of it. And then, of course, everybody said it was staff. Members always say that it's staff and I said, "That's a lot of nonsense. What we ought to do is have members, when they walk out of room, put duct tape on and have a requirement that they at least wear the duct tape for 24 hours."

Now, that was the worry that happened under this administration and previous administrations when these briefings got to a larger group.

ROBERTS:

Now, I would agree with Vice Chairman Rockefeller. I don't know of anybody on

our committee, I don't know of anybody on the House committee, that would willingly or wittingly repeat any information that would be so classified that it would endanger our country.

Now my question is, however, there's been a lot of comment about the president talking about this, vice president talking about this. It was only after the leak in the New York Times -- which contained a lot of misinformation, as far as I'm concerned, about domestic spying, when we really have a threat warning capability. And that's what we're talking about. It's more of a military mission than it is any kind of a criminal proceeding under FISA.

And FISA, by the way, is outdated in regards to its context with both the threat and the technology.

And were we to do that, we would lose not only minutes, but hours or days, when we have a threat that may happen immediately.

And it would be an amazing thing to me that, if we had another attack, the very people that are doing all the questioning now would be having you all back up and say, "How come you didn't know?"

My question is basically to General Hayden: What happens if you lose this capability, General?

HAYDEN:

It's proven to be a very valuable tool for that which it was intended: to detect and prevent attacks inside the United States, Senator.

And you're right about the firestorm of misinformation that seemed to follow day after day after the original leak was reported in the New York Times.

I've spoken to this committee -- I think it was in this room -- in October of 2002, talking about the line between liberty and security and how that had to be an informed debate by the American people so that we're all comfortable about that line.

And there was so inaccurate information, misinformation and misunderstanding out there that what was appearing in the press wasn't informing a debate; it was horribly misshaping it.

And I don't see how we as a free people can make a decision in that way.

ROBERTS:

Well, I really regret that situation as happening, and I know that it is understandable both on the majority side and the minority side that we have differences of opinion and unfortunately the climate in the Congress today then is to ascribe politics as the reason for that.

I really think people have strong differences of opinion, but fortunately or unfortunately in regards of the number of people who are briefed, I think it's basically on the lack of information, and the lack of information in regard to exactly what this program is.

I cannot imagine how anybody who would be receiving a call from a terrorist cell, where we have reason to believe that they are going to attack the United States and that person happened to be in the United States, that they would think their civil liberty was being violated if some intelligence or law enforcement person was not monitoring that call. It would be indefensible if we did not.

And in addition, I would only point out that you really don't have any civil liberties if you are dead.

The only other thing that I would say is that I want to thank you again, all of you, for your dedication, your perseverance, for keeping this country safe, as opposed to some who obviously are more worried about you people, apparently, than some people who where we are at war and where we have a threat and where we have plots against the United States, and where with we have sleeper cells in the United States, and it could happen any moment. Thank God we have this capability.

This hearing is concluded.

ROCKEFELLER:

I need to respond, Mr. Chairman.

ROBERTS:

You may respond.

ROCKEFELLER:

Let me just ask a question first to the director.

Is the NSA program a covert action program as defined by the National Security Act?

NEGROPONTE:

I don't believe so, sir, no.

ROCKEFELLER:

That's what we were told yesterday by the Justice -- folks from Justice -- it is not

That's what we were told yesterday by the Justice -- folks from Justice -- it is not.

Now, as to the horror of people wanting to do things both rigorously, aggressively, using intelligence as in every possible way that we can, it does not subtract, however, from two other concepts which have kept our nation viable for many, many, many years.

ROCKEFELLER:

And that is that we do things under the law. We do them under the law.

Secondly, I would make -- and I've made this point many time to the chairman; we've talked about it -- there is an instinct readily grabbed upon by some, that when we ask questions about the largest NSA program in history, that somehow we are attacking you gentlemen and ladies.

Nothing could be further from the truth because the instructions or whatever come from elsewhere. That's been stipulated.

It is simply important that, in a democracy, that we understand there are three branches of government.

I spend an enormous amount of my time -- the chairman is leaving -- an enormous amount of my time, well over three-quarters, working exclusively on this subject in great depth, with great intensity. I do a lot of traveling and meet the same intelligence folks that Senator Saxby Chambliss was talking about and Kit Bond, I guess it was.

But you cannot equate, and you should not equate, asking questions, where we are meant to be informed by law as Intelligence Committees and we are not, for pursuing that effort. Because to do otherwise is to say that there's no reason for these committees to exist and that we should disband the committees, which I'm not for doing.

But do not kid yourselves, gentlemen and ladies, that the so- called -- as is often said, that the chairman and the ranking member of each of the committees are fully briefed and therefore everything is fine.

ROCKEFELLER:

That's not the way it works. That's not the way those meetings work. And General Hayden knows that. They don't last long enough, the flip charts are extensive, and everybody is in a hurry. The leadership usually doesn't come. Chairman Roberts and I do come, as well as the House members.

Four people out of 535, therefore, know about the most extensive and aggressive NSA effort in the history of this country.

I am strongly for the goals, but I want it to be done under the law. And so should you. That's what keeps our country together.

Thank you.

NEGROPONTE:

If I may just -- one sentence, Senator.

I know the attorney general will address this next week, but we believe that all these activities are being undertaken in full compliance with our Constitution and with the laws of our country. And that is an oath that each and every one of us at this table have undertaken.

CQ Transcriptions, Feb. 2, 2006

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ROBERT MUELLER, DIRECTOR, FBI

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Williams, Jan

From: Williams, Jan

Sent: Friday, February 3, 2006 3:12 PM

To: Nelson, Carrie; /o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford

Subject: Rep. Hoekstra Letter on the NSA terrorist surveillance program

Attachments: Internet - HPSCI Letter 020106a.pdf

Attachments: Intercept - HPSCI Letter 020106a.pdf

Importance: Low

Attached is a letter by Intelligence Committee Chairman Rep. Hoekstra to the Congressional Research Service on the NSA terrorist surveillance program.

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MICHAEL MEERMANS,
MAJORITY STAFF DIRECTOR

DAVID BUCKLEY
MINORITY STAFF DIRECTOR

February 1, 2006

Daniel P. Mulholland
Director
Congressional Research Service
Library of Congress
Washington, DC 20540

Dear Mr. Mulholland:

I previously wrote to you on January 9, 2006, regarding CRS's work on certain intelligence matters. Specifically, I expressed concern that CRS should not speculate on highly classified intelligence matters on which it could be erroneously viewed by the public as an authoritative source, and that its previous work was not conducted in a thorough and objective fashion. Subsequently, CRS has issued another memorandum with similar problems. I ask for immediate action on your part to ensure that CRS truly provides "comprehensive and reliable" legislative research that is "free of partisan or other bias."

As you know, on January 18, CRS Analyst Alfred Cumming completed a memorandum entitled "Statutory Procedures Under Which Congress Is To Be Informed of U.S. Intelligence Activities, Including Covert Actions." The memorandum subsequently was characterized in media headlines thusly: "Congressional Agency Questions Legality of Wiretaps."[1] The memorandum erroneously contended that certain intelligence reporting practices "would appear to be inconsistent with law, which requires

[1] Eggen, "Congressional Agency Questions Legality of Wiretaps," Washington Post, January 19, 2006 at A5. (Accessed via internet January 19, 2006). It is important to note that the headline did not accurately convey the substance of the memorandum, which addressed questions relating to reporting requirements applicable to certain intelligence programs rather than the legality of the activities of any specific program itself. Of course, CRS analysts previously were publicly reported to conclude that activities of a specific program "conflicts with existing law and hinges on weak legal arguments." Leonnnig, "Report Rebuts Bush on Spying," Washington Post, January 7, 2006, at A1 (Accessed via internet January 9, 2006). My concerns with the substance and process relating to that report were the subject of my January 9, 2006 letter to you.

that the 'congressional intelligence committees be kept fully and currently informed of all intelligence activities,' other than those involving covert actions."[2]

Once again, CRS has issued a memorandum on a highly sensitive intelligence issue on which it had no firsthand knowledge of the practices being followed by the Committee and the President and ignored highly relevant legal authorities and considerations.

Although I am not compelled to enter into a debate with CRS with respect to the practices of the Permanent Select Committee on Intelligence, I do want to point out three authorities highly relevant to the subject of the memorandum that were completely ignored by CRS. First, Section 501 of the National Security Act (50 U.S.C. § 413) expressly provides that "The President and the congressional intelligence committees shall establish such procedures as may be necessary to carry out the provisions of this title." These procedures apply to the reporting required under Section 502 of the National Security Act, which was improperly read by Mr. Cumming in isolation. As I have publicly indicated on many occasions, I and the Ranking Member were fully briefed on many occasions on the intelligence activities in question in a manner fully consistent with the practices that had been developed between the Committee and the President under the authority provided in Section 501.

Second, CRS completely ignored the most basic principles of statutory interpretation. Those principles clearly establish that terms not specifically included in the text of a statute generally will not be read into it. The plain text of Section 502 nowhere requires individual members of the Committee to be briefed with respect to all intelligence activities. Putting aside the important policy question of whether it is desirable to brief additional members of the Committee, it is clear that such reporting is not mandated by the law.[3]

Third, the Chairman (sometimes along with the Ranking Member) under longstanding practice customarily receives many statutorily mandated reports on behalf of the full Committee. It has never before been seriously argued that this practice is inconsistent with any of the statutes requiring these reports, even absent the type of clear guidance provided in Section 501.

Such a flawed and obviously incomplete analysis, seemingly intended to advocate the erroneous conclusion that the President did not comply with the relevant law, further reinforces my previously expressed concern that CRS's work on these matters has not

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[2] Cumming, "Statutory Procedures Under Which Congress is to Be Informed of U.S. Intelligence Activities, Including Covert Actions," at 7 (January 18, 2006).

[3] Mr. Cumming also suggested that Committee Rule 14(b), which provides that "[a]ll Members of the Committee shall at all times have access to all classified papers and other material received by the Committee from any source," is relevant. However, this rule clearly applies on its face only to tangible papers and materials. Moreover, the counterpart House Rule (clause 2(e) of Rule XI) "does not necessarily apply to records in the possession of the Executive Branch that members of the committee have been allowed to examine under limited conditions at the discretion of the agency." HOUSE PRACTICE, chapter 11 § 16 (108th Congress, 1st Session).

been "free of partisan or other bias." Media reports have further suggested the possibility of additional circumstances that could lead an objective observer to question whether the memorandum in question was truly nonpartisan.[4]

Once again, I would appreciate your assistance in ensuring that CRS refrain from speculating with respect to highly sensitive national security matters on which it has no authoritative knowledge, as well as ensuring that CRS allows the position of Congress on policy issues relating to intelligence to be determined by elected Members of Congress, Republican and Democrat, rather than by CRS staff.

Sincerely,

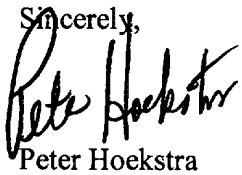

Peter Hoekstra
Chairman

cc: The Honorable J. Dennis Hastert
Speaker of the House

The Honorable Vern Ehlers
Committee on House Administration

The Honorable Jerry Lewis
Committee on Appropriations

[4] Pierce, "Inside Politics," Washington Times, January 25, 2006. (Accessed via intenet January 31, 2006). I note with interest that you responded to this item with a Letter to the Editor on January 27, 2006, but have not yet responded to my January 9 letter. In the future, I hope that press coverage will not be a higher priority for CRS than Members of Congress.

Elwood, John

From: Elwood, John
Sent: Monday, February 6, 2006 2:10 PM
To: Gorsuch, Neil M
Subject: NSA of 1947
Attachments: Specter Q+A.pdf

Neil:

Below is a draft of a response to a Feinstein question on this subject, and I've also attached the Specter Q&A responses, which also address this subject. Thanks.

The National Security Act of 1947 contemplates that any such programs would be disclosed to the intelligence committees of both houses, and the Act specifically contemplates even more limited disclosure in the case of sensitive programs. Title 50 of the U.S. Code provides that the Director of National Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities shall keep the congressional intelligence committees fully and currently informed of intelligence activities "[t]o the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters." 50 U.S.C. §§ 413a(a), 413b(b). It has for decades been the practice of both Democratic and Republican administrations to inform only the Chair and Ranking Members of the intelligence committees about exceptionally sensitive matters. Even the Congressional Research Service has acknowledged that the leaders of the intelligence committees "over time have accepted the executive branch practice of limiting notification of intelligence activities in some cases to either the Gang of Eight, or to the chairmen and ranking members of the intelligence committees." The Administration followed this well-established practice by briefing the leadership of the Intelligence Committees and, at a more general level, the leaders of both houses of Congress about the NSA activities.

RESPONSES TO QUESTIONS FROM CHAIRMAN SPECTER

(1) In interpreting whether Congress intended to amend the Foreign Intelligence Surveillance Act (FISA) by the September 14, 2001 Resolution (Resolution) would it be relevant on the issue of Congressional intent that the Administration did not specifically ask for an expansion for Executive powers under FISA? Was it because you thought you couldn't get such an expansion as when you said: "That was not something that we could likely get?"

I am pleased to respond to this question because it allows me to address two widespread misconceptions about the Department's position.

First, our position does not turn on whether Congress intended to amend FISA through the Resolution or on whether the Resolution effected such an amendment. Rather, FISA expressly contemplates that in a separate statute Congress may authorize electronic surveillance outside FISA procedures. *See* 50 U.S.C. § 1809(a)(1) (2000) (FISA § 109, prohibiting any person from intentionally "engag[ing] . . . in electronic surveillance under color of law *except as authorized by statute*") (emphasis added). That is what Congress did in the Resolution. As *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004), makes clear, a general authorization to use military force carries with it the authority to employ the traditional and accepted incidents of the use of force. That is so even if Congress did not specifically address each of the incidents of force; thus, a majority of the Court concluded that the Resolution authorized the detention of enemy combatants as a traditional incident of force and Justice O'Connor stated that "it is of no moment that the [Resolution] does not use specific language of detention." *Id.* at 519 (plurality opinion). As explained at length in our paper of January 19, 2006, signals intelligence is another traditional and accepted incident of the use of military force. Consistent with this traditional practice, other presidents, including Woodrow Wilson and Franklin Roosevelt, have interpreted general force-authorization resolutions to permit warrantless surveillance to intercept suspected enemy communications.

Second, the decision not to seek further legislation was *not* because I either concluded or was advised that Congress would reject such legislation. Rather, members of Congress advised the Administration that more specific legislation could not be enacted without likely compromising the terrorist surveillance program by disclosing program details and operational limitations and capabilities to our enemies. Some critics of the terrorist surveillance program have misinterpreted or misconstrued a statement that I made on December 19, 2005, that we were advised that specific legislation "would be difficult, if not impossible" to mean that the Administration declined to seek a specific amendment to FISA because we believed we could not get it. As I clarified later in the December 19th briefing and on December 21, 2005, that is not the case. *See* Remarks by Homeland Security Secretary Chertoff and Attorney General Gonzales on the USA PATRIOT Act, *available at* http://www.dhs.gov/dhspublic/

display?content=5285. Rather, we were advised by members of Congress that it would be difficult, if not impossible to pass such legislation without revealing the nature of the program and the nature of certain intelligence capabilities. That disclosure would likely have harmed our national security, and that was an unacceptable risk we were not prepared to take.

(2) If Congress had intended to amend FISA by the Resolution wouldn't Congress have specifically acted to as Congress did in passing the Patriot Act giving the Executive expanded powers and greater flexibility in using "roving" wiretaps?

Congress could have been more explicit if it had intended to amend FISA. But, as explained above, it is not our position that Congress amended FISA through the Resolution. Nor do we believe that Congress needed to be more specific in the Resolution in order for it to authorize electronic surveillance in an armed conflict. It is understandable why Congress did not attempt to catalog every specific aspect of the use of the forces it was authorizing and every potential preexisting statutory limitation on the Executive Branch. Rather than engage in that difficult and impractical exercise, Congress authorized the President, in general but intentionally broad terms, to use the traditional and fundamental incidents of war and to determine how best to identify and engage the enemy in the current armed conflict. Congress's judgment to proceed in this manner was unassailable, for, as the Supreme Court has recognized, even in normal times involving no major national security crisis, "Congress cannot anticipate and legislate with regard to every possible action the President may find it necessary to take." *Dames & Moore v. Regan*, 453 U.S. 654, 678 (1981). Indeed, Congress often has enacted authorizations to use military force using general authorizing language that does not purport to catalog in detail the specific powers the President may employ. The need for Congress to speak broadly in recognizing and augmenting the President's core constitutional powers over foreign affairs and military campaigns is of course significantly heightened in times of national emergency. *See Zemel v. Rusk,* 381 U.S. 1, 17 (1965) ("[B]ecause of the changeable and explosive nature of contemporary international relations . . . . Congress—in giving the Executive authority over matters of foreign affairs—must of necessity paint with a brush broader than that it customarily wields in domestic areas.").

The Supreme Court rejected a similar argument that the Resolution could not be read to have implicitly authorized the detention of enemy combatants as a traditional incident of force because Congress had specifically authorized detention in certain USA PATRIOT Act provisions. Only Justices Souter and Ginsburg subscribed to that position, which was rejected by a majority of Justices. *See Hamdi*, 542 U.S. at 551 (Souter, J., concurring in part, dissenting in part, and concurring in the judgment).

(3) In interpreting statutory construction on whether Congress intended to amend FISA by the Resolution, what is the impact of the rule of statutory construction that repeals or changes by implication are disfavored?

As I have explained, FISA contemplates that Congress can authorize electronic surveillance outside FISA without specifically amending FISA. Reading the Resolution to authorize the terrorist surveillance program, therefore, does not require any repeal by implication. But even if the text of FISA were clear that nothing other than an amendment to

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FISA could authorize additional electronic surveillance, the Resolution would impliedly repeal as much of FISA as would prevent the President from using "all necessary and appropriate force" in order to prevent al Qaeda and its allies from launching another terrorist attack against the United States. To be sure, repeals by implication are disfavored and are generally not found whenever two statutes are "capable of co-existence." *Ruckelshaus v. Monsanto Co.,* 467 U.S. 986, 1018 (1984). Under this standard, however, an implied repeal may be found where one statute would "unduly interfere with" the operation of another. *Radzanower v. Touche Ross & Co.,* 426 U.S. 148, 156 (1976).

In keeping with historical practice, the Resolution, to use Justice O'Connor's language from *Hamdi*, "clearly and unmistakably" authorizes the President to use fundamental and accepted incidents of the use of military force, including signals intelligence (without prior judicial approval). Interpreting FISA to prohibit what the Resolution "clearly and unmistakably" authorizes would create a clear conflict between the Resolution and FISA. In that case, FISA's restrictions on the use of electronic surveillance would preclude the President from doing what the Resolution "clearly and unmistakably" authorizes him to do: use all "necessary and appropriate force" to prevent al Qaeda from carrying out future attacks against the United States. And in that event, the ordinary restrictions in FISA could not continue to apply if the Resolution is to have its full effect; those constraints would "unduly interfere" with the operation of the Resolution.

Like other canons of statutory construction, the canon against implied repeals is simply a presumption that may be rebutted by other factors, including conflicting canons. *Connecticut National Bank v. Germain,* 503 U.S. 249, 253 (1992); *see also Chickasaw Nation v. United States,* 534 U.S. 84, 94 (2001); *Circuit City Stores, Inc. v. Adams*, 532 U.S. 105, 115 (2001). Indeed, the Supreme Court has declined to apply the ordinary presumption against implied repeals where other canons apply and suggest the opposite result. *See Montana v. Blackfeet Tribe of Indians,* 471 U.S. 759, 765-66 (1985). Moreover, *Blackfeet* suggests that where the presumption against implied repeals would conflict with other, more compelling interpretive imperatives, it simply does not apply at all. *See* 471 U.S. at 766. Here, in light of the constitutional avoidance canon, which imposes the overriding imperative to use the tools of statutory interpretation to avoid constitutional conflicts, the presumption against implied repeals either would not apply at all or would apply with significantly reduced force. We explain this point in more detail in the paper of January 19, 2006. In addition, the Resolution was enacted during an acute national emergency, where the type of deliberation and detail normally required for application of the canon against implied repeals was neither practical nor warranted. In such circumstances, Congress cannot be expected to work through every potential implication of the U.S. Code and to define with particularity each of the traditional incidents of the use of force available to the President.

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(4) In interpreting statutory construction on whether Congress intended to amend FISA by the Resolution, what would be the impact of the rule of statutory construction that specific statutory language, like that in FISA, trumps or takes precedence over more general pronouncements like those of the Resolution?

We do not believe that this canon of construction applies here. As the Supreme Court has explained, "[s]tatutory construction is a holistic endeavor." *Koons Buick Pontiac GMC, Inc. v. Nigh*, 543 U.S. 50, 60 (2004) (quotation marks and citations omitted). And we read the Resolution and FISA together to allow the terrorist surveillance program. In any event, if one were to apply this canon of construction, it is not clear which provision is more specific. Although FISA deals specifically with electronic surveillance, the Resolution deals specifically with our current armed conflict with al Qaeda. In addition, as noted above, other, more compelling canons of construction—including the canon of constitutional avoidance—apply here and support the conclusion that the Resolution authorizes the terrorist surveillance program. Finally, in *Hamdi*, the Court found that the same general authorization satisfied the specific requirement in 18 U.S.C. § 4001(a) (2000) (prohibiting the detention of U.S. citizens "except pursuant to an Act of Congress").

(5) Why did the Executive not ask for the authority to conduct electronic surveillance when Congress passed the Patriot Act and was predisposed, to the maximum extent likely, to grant the Executive additional powers which the Executive thought necessary?

The Administration has worked quite successfully with Congress in the USA PATRIOT Act and in other legislation to help make FISA more effective. FISA is an essential and invaluable tool, not just in the armed conflict with al Qaeda but also to protect the national security against myriad threats. But the Administration did not seek additional legislation regarding the terrorist surveillance program for two reasons. First, the President's constitutional authority as Commander in Chief, recognized and supplemented by Congress in the Resolution, amply supports the legality of the program. Second, as noted above, the legislative process may have revealed, and hence compromised, the program.

(6) Wasn't President Carter's signature on FISA in 1978, together with his signing statement, an explicit renunciation of any claim to inherent Executive authority under Article II of the Constitution to conduct warrantless domestic surveillance when the Act provided the exclusive procedures for such surveillance?

We believe, and the courts have agreed, that the President has constitutional authority to conduct warrantless foreign intelligence surveillance even in times of peace. *See In re Sealed Case,* 310 F.3d 717, 742 (Foreign Intel. Surv. Ct. of Rev. 2002) ("[A]ll the other courts to have decided the issue [have] held that the President did have inherent authority to conduct warrantless searches to obtain foreign intelligence information. . . . *We take for granted that the President does have that authority and, assuming that is so, FISA could not encroach on the President's constitutional power*.") (emphasis added). A President cannot give away that authority or any other authority that the Constitution vests in the office of the President. *See New York v. United States*, 505 U.S. 144, 182 (1992) ("The constitutional authority of Congress

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cannot be expanded by the 'consent' of the governmental unit whose domain is thereby narrowed, whether that unit is the Executive Branch or the States.") (collecting authorities). Nor do we believe that President Carter attempted to do so. President Carter's Attorney General testified at a hearing on FISA as follows: "[T]he current bill recognizes no inherent power of the President to conduct electronic surveillance, and I want to interpolate here to say that *this does not take away the power of the President under the Constitution*. It simply, in my view, is not necessary to state that power, so there is no reason to reiterate or iterate it as the case may be. It is in the Constitution, whatever it is. The President, by offering this legislation, is agreeing to follow the statutory procedure." *Foreign Intelligence Surveillance: Hearings Before the Subcomm. on Legislation of the House Permanent Select Comm. on Intelligence*, 95th Cong. 15 (Jan. 10, 1978) (emphasis added). Thus, in saying that President Carter agreed to follow the procedures, Attorney General Bell made clear that FISA could not take away the President's Article II authority.

(7) Why didn't the President seek a warrant from the Foreign Intelligence Surveillance Court authorizing in advance the electronic surveillance in issue? (The FISA Court has the experience and authority to issue such a warrant. The FISA Court has a record establishing its reliability for non-disclosure or leaking contrasted with concerns that disclosures to members of Congress involved a high risk of disclosure or leaking. The FISA Court is at least as reliable, if not more so, than the Executive Branch on avoiding disclosure or leaks.)

Let me stress that the FISA Court has been enormously valuable. And we routinely trust the FISA judges with many of the Nation's most closely held secrets. As I have explained elsewhere, the President authorized the terrorist surveillance program strictly as an early warning system in our armed conflict with al Qaeda. The optimal way to achieve the necessary speed and agility to protect the Nation from another catastrophic al Qaeda attack is to leave the decisions about intercepting particular international communications to the judgment of professional intelligence officers, based on the best available intelligence information. The delay inherent in the FISA process is incompatible with the narrow purpose of this early warning system. As explained in response to the next question, it takes considerable time *to begin* coverage under FISA, even making full use of FISA's emergency authorization procedures. Let me emphasize, however, that under the terrorist surveillance program, these intelligence officers, who are experts on al Qaeda and its tactics (including its use of communication systems) apply a probable cause standard (specifically, "reasonable grounds to believe") before intercepting any communications. The critical advantage offered by the terrorist surveillance program compared to FISA is *who* makes the probable cause determination and how many layers of review must occur *before* surveillance begins. In the narrow context of defending the Nation in this congressionally authorized armed conflict with al Qaeda, we must allow these professionals to use their skills and knowledge to protect us.

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(8) Why did the Executive Branch not seek after-the-fact authorization from the FISA Court within the 72 hours as provided by the Act? At a minimum, shouldn't the Executive have sought authorization from the FISA Court for law enforcement individuals to listen to a reduced number of conversations which were selected out from a larger number of conversations from the mechanical surveillance?

Like the first question, this question reflects several prevalent misimpressions regarding FISA and the terrorist surveillance program. Such misconceptions are, perhaps, an expected though unfortunate consequence of media reporting, which is often incorrect and confused and of our need to continue to protect intelligence sources and methods. I welcome this opportunity to clarify some points.

First, contrary to the speculation reflected in some media reporting, the terrorist surveillance program is not a dragnet that sucks in all conversations and uses computer searches to pick out calls of interest. No communications are intercepted unless first it is determined that one end of the call is outside of the country and professional intelligence experts have probable cause (that is, "reasonable grounds to believe") that a party to the communication is a member or agent of al Qaeda or an affiliated terrorist organization.

Second, this is a wartime intelligence activity undertaken in the midst of a congressionally authorized armed conflict; it is not a law enforcement tool. "[L]aw enforcement individuals" do not monitor conversations under the terrorist surveillance program; intelligence professionals with the Department of Defense do.

Third, the emergency authorization provision in FISA, which allows 72 hours of surveillance before obtaining a court order, does not—as many believe—allow the Government to undertake surveillance immediately. Rather, in order to authorize emergency surveillance under FISA, the Attorney General must personally "determine[] that . . . the factual basis for issuance of an order under [FISA] to approve such surveillance exists." 50 U.S.C. § 1805(f)(2) (2000 & Supp. II 2002). FISA requires the Attorney General to determine that this condition is satisfied *in advance* of authorizing the surveillance to begin. The process needed to make that determination, in turn, takes precious time. By the time I am presented with the application, the information will have passed from intelligence officers at the National Security Agency ("NSA") to NSA attorneys for vetting. Once NSA attorneys are satisfied, they will pass the information along to Department of Justice attorneys. And once these attorneys are satisfied, they will present the information to me. And this same process takes the decision away from the intelligence officers best situated to make it during an armed conflict. We can afford neither of these consequences in this armed conflict with an enemy that has already proven its ability to strike within the United States.

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(9) Was consideration given to the dichotomy between conversations by mechanical surveillance from conversations listened to by law enforcement personnel with the contention that the former was non-invasive and only the latter was invasive? Would this distinction have made it practical to obtain Court approval before the conversations were subject to human surveillance or after-the-fact approval within 72 hours?

This question reflects the same misconceptions as question 8. As explained in my answer to that question, the terrorist surveillance program is narrowly targeted at the international communications of persons linked to al Qaeda. Moreover, it is a wartime intelligence activity, not a law enforcement operation. Finally, FISA's emergency authorization provision does not provide the Government with the necessary flexibility. As explained above, FISA requires a time-consuming process before even emergency surveillance can begin.

(10) Would you consider seeking approval from the FISA Court at this time for the ongoing surveillance program at issue?

We use FISA where we can, and we always consider all of our legal options.

(11) How can the Executive justify disclosure to only the so-called "Gang of Eight" instead of the full intelligence committees when Title V of the National Security Act of 1947 provides:

SEC.501.[50 U.S.C. 413](a)(1) The President shall ensure that the congressional intelligence *committees* are kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activity as required by this title.
(Emphasis added)

(2)(e) Nothing in this Act shall be construed as authority to withhold information from the congressional intelligence *committees* on the grounds that providing the information to the congressional intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods.
(Emphasis added)

The quoted provisions of the National Security Act must be read together with the two specific notification provisions: 50 U.S.C. § 413a(a) (Supp. II 2002) (notification for intelligence activities other than covert actions) and 50 U.S.C. § 413b(b) (2000 & Supp. II 2002) (notification for covert actions).

> Section 413a(a): *To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters*, the Director of National Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities shall--

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> (1) keep the congressional intelligence committees fully and currently informed of all intelligence activities, other than a covert action (as defined in section 413b(e) of this title), which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including any significant anticipated intelligence activity and any significant intelligence failure; and
>
> (2) furnish the congressional intelligence committees any information or material concerning intelligence activities, other than covert actions, which is within their custody or control, and which is requested by either of the congressional intelligence committees in order to carry out its authorized responsibilities.

(Emphasis added.)

Section 413b(b): *To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters*, the Director of National Intelligence and the heads of all departments, agencies, and entities of the United States Government involved in a covert action--

> (1) shall keep the congressional intelligence committees fully and currently informed of all covert actions which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including significant failures; and
>
> (2) shall furnish to the congressional intelligence committees any information or material concerning covert actions which is in the possession, custody, or control of any department, agency, or entity of the United States Government and which is requested by either of the congressional intelligence committees in order to carry out its authorized responsibilities.

(Emphasis added.)

Each of these notification requirements, in turn, requires that the Executive Branch keep the intelligence committees "fully and currently informed of all intelligence activities," but *only* "to the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters." This express exception gives the Executive Branch flexibility to brief only certain members of the intelligence committees where more widespread briefings would pose an unacceptable risk to the national security. Section 501(a)(1) of the National Security Act, quoted in the question, requires the President to ensure that the relevant intelligence officials comply with the appropriate notification requirements, sections 413a(a) and 413b(b).

Consistent with the statutory language, it has for decades been the practice of both Democratic and Republican administrations to inform only the Chair and Ranking Members of

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the intelligence committees about certain exceptionally sensitive matters. Even the Congressional Research Service has acknowledged that the leaders of the intelligence committees "over time have accepted the executive branch practice of limiting notification of intelligence activities in some cases to either the Gang of Eight, or to the chairmen and ranking members of the intelligence committees." *See* Alfred Cumming, Congressional Research Service, *Re: Statutory Procedures Under Which Congress in to be Informed of U.S Intelligence Activities, Including Covert Actions* 10 (Jan. 18, 2006). The Administration followed this well-established practice by briefing only the leadership of the Intelligence Committees and, at a more general level, the leaders of both houses of Congress about the NSA activities.

(12) To the extent that it can be disclosed in a public hearing (or to be provided in a closed executive session), what are the facts upon which the Executive relies to assert Article II wartime authority over Congress' Article I authority to establish public policy on these issues especially where legislation is approved by the President as contrasted with being enacted over a Presidential veto as was the case with the War Powers Act?

Congress itself expressly recognized in the Resolution that "the President has authority under the Constitution to take action to deter and prevent acts of international terrorism against the United States." The Supreme Court has repeatedly reached the same conclusion. *See, e.g.*, *The Prize Cases,* 67 U.S. (2 Black) 635, 668-70 (1863). As explained in the Department's paper of January 19, 2006, the Framers of the Constitution intended to place this authority in the President.

Our legal analysis, however, does not require that we assert any Article II authority over Congress's Article I authority. Rather, Congress, in passing the Resolution, exercised its Article I authority *consistent with* the Executive Branch's authority under Article II to authorize electronic surveillance as an incident of using military force to protect the Nation in an armed conflict. As explained in more detail in the Department's paper of January 19, 2006, the Resolution thus places the President's authority to use military force and the traditional incidents of the use of such force against al Qaeda at its maximum because he is acting with the express authorization of Congress. Under the three-part framework of Justice Jackson's concurring opinion in *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 635-38 (1952) (Jackson, J., concurring), the President's authority falls within Category I. He is acting "pursuant to an express or implied authorization of Congress," and the President's authority "includes all that he possesses in his own right [under the Constitution] plus all that Congress can" confer on him. *Id.* at 635.

In any event, it is not at all clear that our conclusions would be contrary to the policy choices made by Congress in 1978. First, as already explained, FISA contemplates that subsequent legislation, such as the Resolution, can authorize electronic surveillance outside FISA procedures. Second, it is notable that FISA defines "electronic surveillance" carefully and precisely. 50 U.S.C. § 1801(f) (2000 & Supp. 2002). And, as confirmed by another provision, 18 U.S.C. § 2511(2)(f) (Supp. II 2002) (carving out from statutory regulation the acquisition of intelligence information from "international or foreign communications" and "foreign intelligence activities . . . involving a foreign electronic communications system" as long as they are accomplished "utilizing a means other than electronic surveillance as defined" by FISA), and

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by FISA's legislative history, Congress did *not* intend FISA to regulate certain communications intelligence activities of the NSA, including certain communications involving persons in the United States. *See, e.g.*, S. Rep. No. 95-604, at 64 (1978). Since FISA's enactment in 1978, however, the means of transmitting communications has undergone extensive transformation. In particular, many communications that would have been carried by wire are now transmitted through the air, and many communications that would have been carried by radio signals (including by satellite transmissions) are now transmitted by fiber optic cables. It is such technological advancements that have broadened FISA's reach, not any particularized congressional judgment that the NSA's traditional activities in intercepting such international communications should be subject to FISA's procedures. A full explanation of these technological changes would require a discussion of classified information.

Given the President's constitutional authority to protect the Nation from armed attack, whether and to what extent FISA may interfere with that authority is a difficult and serious constitutional question. The Supreme Court, however, has repeatedly counseled that such questions must be avoided "where an alternative interpretation of the statute is 'fairly possible.'" *INS v. St. Cyr,* 533 U.S. 289, 299-300 (2001) (citations omitted); *Ashwander v. TVA,* 297 U.S. 288, 345-48 (1936) (Brandeis, J., concurring). Because FISA can be interpreted, together with the Resolution, to allow the President to authorize this necessary early warning system in the congressionally authorized armed conflict with al Qaeda, and because much of FISA's current reach is a result of technological changes rather than congressional intent, we need not address this constitutional question.

(13) What case law does the Executive rely upon in asserting Article II powers to conduct the electronic surveillance at issue?

The case law is set forth in detail in the Department's paper of January 19, 2006. With respect to the President's constitutional authority to conduct warrantless foreign intelligence surveillance, we rely on cases such as *In re Sealed Case,* 310 F.3d 717 (Foreign Intel. Surv. Ct. of Rev. 2002), and *United States v. Truong Dinh Hung,* 629 F.2d 908 (4th Cir. 1980). *In re Sealed Case* notes that "all the other courts to have decided the issue [have] held that the President did have inherent authority to conduct warrantless searches to obtain foreign intelligence information." 310 F.3d at 742. The court then "t[ook] for granted that the President does have that authority" and explained that "FISA could not encroach on the President's constitutional power." *Id.*

We also rely on the Supreme Court's interpretation of the Resolution in *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004), which confirms that Congress in the Resolution gave its express approval to the military conflict against al Qaeda and its allies and thereby to the President's use of all fundamental and accepted incidents of the use of military force in this current military conflict. Because the use of warrantless electronic surveillance aimed at the enemy's communications is, as explained in the paper of January 19th, a fundamental and accepted incident of the use of military force, under the reasoning of *Hamdi*, the Resolution "clearly and unmistakably authorize[s]" the terrorist surveillance program. *Id.* at 519 (plurality opinion).

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More basically, a line of cases strongly supports the President's inherent authority to protect the Nation, *see, e.g.*, *The Prize Cases,* 67 U.S. (2 Black) 635, 668 (1863), and Americans abroad, *see Durand v. Hollins,* 8 F. Cas. 111, 112 (C.C.S.D.N.Y. 1860) (No. 4186). Other cases, including *United States v. Curtiss-Wright Export Corp.,* 299 U.S. 304, 319 (1936), make clear the President's preeminent role in conducting the Nation's foreign affairs.

(14) What academic or expert opinions does the Executive rely upon in asserting Article II powers to conduct the electronic surveillance at issue?

As explained above, our analysis does not require that we assert any Article II power over Congress's Article I powers. As to whether the President has constitutional authority to conduct foreign intelligence surveillance, we rely primarily upon the uniform case law summarized by the FISA Court of Review. *See In re Sealed Case*, 310 F.3d at 742. We do not believe that this point, which has generally been conceded even by those academics criticizing the terrorist surveillance program, is controversial. *See* Letter to the Hon. Bill Frist, Majority Leader, U.S. Senate, from Professor Curtis A. Bradley *et al.* at 6 (Jan. 9, 2006).

Our analysis of the Resolution is supported by several law review articles, notably one by Curtis Bradley and Jack Goldsmith. *See* Curtis A. Bradley & Jack L. Goldsmith, *Congressional Authorization and the War on Terrorism*, 118 Harv. L. Rev. 2047, 2091 (2005) (explaining that "Congress intended to authorize the President to take at least those actions permitted by the laws of war"); *see also* Michael Stokes Paulsen, Youngstown *Goes to War*, 19 Const. Comment. 215 (2002).

Most importantly, our analysis is fully supported by those who best know this technical area of the law and who have access to all of the pertinent facts—career attorneys at the NSA and the Department of Justice.

(15) When foreign calls (whether between the caller and the recipient both being on foreign soil or one of the callers or recipients being on foreign soil and the other in the U.S.) were routed through switches which were physically located on U.S. soil, would that constitute a violation of law or regulation restricting NSA from conducting surveillance inside the United States, absent a claim of unconstitutionality on encroaching the powers under Article II?

As explained above, none of the intercepts at issue constitutes a violation of law or regulation. I cannot give a more complete answer here, because I cannot go into operational details.

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Moschella, William

From:	Moschella, William
Sent:	Monday, February 6, 2006 6:34 PM
To:	Sampson, Kyle; Elwood, Courtney; Bradbury, Steve; Taylor, Jeffrey (OAG); Gorsuch, Neil M; Eisenberg, John
Subject:	Fw: 2.6.06 (am) Gonzales SJC hearing transcript
Attachments:	2.6.06.am.AG SJC NSA Hrg Transcript.pdf

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Webb, Lauren <Lauren.Webb@SMOJMD.USDOJ.gov>
To: Wade, Jill C <Jill.C.Wade@SMOJMD.USDOJ.gov>; Moschella, William <William.Moschella@SMOJMD.USDOJ.gov>; Clinger, James H <James.H.Clinger@SMOJMD.USDOJ.gov>
Sent: Mon Feb 06 18:02:19 2006
Subject: 2.6.06 (am) Gonzales SJC hearing transcript

MORNING SESSION OF A HEARING OF THE SENATE JUDICIARY COMMITTEE SUBJECT: "WARTIME EXECUTIVE POWER AND THE NATIONAL SECURITY AGENCY'S SURVEILLANCE AUTHORITY" CHAIRED BY: SENATOR ARLEN SPECTER (R-PA) WITNESS: U.S. ATTORNEY GENERAL ALBERTO GONZALES LOCATION: 216 HART SENATE OFFICE BUILDING, WASHINGTON, D.C. TIME: 9:30 A.M. EST DATE: MONDAY, FEBRUARY 6, 2006

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SEN. SPECTER: (Sounds gavel.) It's 9:30. The Judiciary Committee will now proceed with our hearing on the administration's program administered by the National Security Agency on surveillance. We welcome the attorney general of the United States here today, who will be testifying.

We face as a nation, as we all know, an enormous threat from international terrorism. The terrorists attacked this country on 9/11 and we remain in danger of renewed terrorist attacks. The president of the United States has the fundamental responsibility to protect the country, but even as the Supreme Court has said, the president does not have a blank check. And this hearing is designed to examine the legal underpinnings of the administration's program from the point of view of the statutory interpretation, and also from the point of view of constitutional law.

The Foreign Intelligence Surveillance Act was passed in 1978 and has a forceful and blanket prohibition against any electronic surveillance without a court order. That law was signed by President Carter with a signing statement that that was the exclusive way for electronic surveillance.

There is beyond a constitutional issue as to whether the president has inherent powers under Article II of the Constitution to undertake a program of this sort. If the president has constitutional authority, that trumps and supersedes the statute. The Constitution is the fundamental law of the country, and a statute cannot be inconsistent with a constitutional provision.

We will be examining the administration's contention that, notwithstanding the Foreign Intelligence Surveillance Act, there is statutory authority for what the president has done by virtue of the resolution of Congress authorizing the use of force against the terrorists. I have already expressed myself as being skeptical of that interpretation, but I believe the administration is entitled to a full and fair opportunity to advance their legal case on that important issue.

We will be examining with the attorney general the generalized rules of statutory interpretation. One of them is that a repeal by implication is disfavored and that the specific governs the generalizations. And in the Foreign Intelligence Surveillance Act, you have the specific prohibition, contrasted with the generalized authority under the resolution for the authorization for the use of force.

I sent a letter to the attorney general propounding some 15 questions, and I thank the attorney general for his responses. And they will provide to a substantial extent the framework for our discussion here today.

One of the key points on my mind is the role of the Foreign Intelligence Surveillance Court. And one of the questions which I asked of the attorney general was the role of the court in granting permission in advance, the role of the court in granting permission within 72 hours after the president exercised the surveillance authority, and beyond that, the issue as to whether the administration might now considering -- consider having the Foreign Intelligence Surveillance Court review this entire issue.

The whole question of probable cause is one with very substantial flexibility under our laws, depending upon the circumstances of the case. The Foreign Intelligence Surveillance Court has a great reputation for integrity -- no leaks, candidly, unlike the Congress; candidly, unlike the administration; candidly, unlike all of Washington, perhaps all of the world. But when that court has secrets, they keep the secrets, and they also are well-respected in terms of their technical competence.

And one of the questions, the lead question which I will be asking the attorney general, is whether the administration would consider sending this entire program to the court for their evaluation. The scope of this hearing is to examine the law on the subject, and the ground rules are that we will not inquire into the factual underpinnings of what is being undertaken here. That is for another committee and for another day. That is for the Intelligence Committee and that is for a closed session. It may be that some of the questions which we will ask the attorney general on legal issues may, in his mind, require a closed session, and if they do, we will accommodate his request in that regard.

One of the other questions which I will be directing to the attorney general, following up on the letter, is the practice of making disclosures only to the so-called gang of eight, the speaker and the Democratic leader in the House, the majority leader and the Democratic leader in the Senate, and the chairman and vice president of the two intelligence committees; and the adequacy of that in terms of the statute, which calls for disclosure to the committees, and the committees are much broader. And if the administration thinks that the current law is too broad, they have the standing to ask us to change the law, and we would certainly consider that on a showing of necessity to do so.

We have told the attorney general we would require his presence all day. We will have 10-minute rounds, which is double what is the practice of this committee. And as I've announced in advance, we will have multiple rounds.

There has been some question about swearing in the attorney general, and I discussed that with the attorney general, who said he would be willing to be sworn. After reflecting on the matter, I think it is unwarranted because the law provides ample punishment for a false official statement or a false statement to Congress under the provisions of 18 United States Code 1001, and 18 United States Code Section 1505. The penalties are equivalent to those under the perjury laws.

There has been a question raised as to legal memoranda within the department. And at this time and on this showing, it is my judgment that that issue ought to be reserved to another day. I'm sure it will come up in the

course of questioning. The attorney general will have an opportunity to amplify on the administration's position. But there is a fairly well-settled doctrine that internal memoranda within the Department of Justice are not subject to disclosure because of the concern that it would have a chilling effect; that if lawyers are concerned that what they write may later be subjected to review by others, they'll be less than candid in their positions. This committee has faced those issues in recent times with requests for internal memoranda of Chief Justice Roberts, and they were not produced, and they were more relevant there than here because of the issue of finding some ideas as to how Chief Justice Roberts would function on the court if confirmed. !
Here we h

One other issue has arisen, and that is the issue of showing a video. And I think that would not be in order. The transcripts of what the president said and the transcripts of what you, Mr. Attorney General, said earlier in a discussion with Senator Feingold are of record. This is not a Sunday morning talk show. And the transcripts contain the full statement as to legal import and legal effect, and I'm sure that those statements by the president and those statements by you will receive considerable attention by this committee.

That's longer than I usually talk, but this is a very big subject.

SEN. RUSSELL D. FEINGOLD (D-WI): Mr. Chairman?

SEN. SPECTER: This is the first of a series of hearings and at least two more because of the very profound and very deep questions which we have here beyond statutory interpretation and the constitutional implications of the president's Article II powers, and this is all in the context of the United States being under a continuing threat from terrorism. But the beauty of our system is the separation of powers, the ability of the Congress to call upon the administration for responses, the response of the attorney general and being willing to come here today, and then the Supreme Court to resolve any conflicts.

I'd like to yield now to our --

SEN. FEINGOLD: Mr. Chairman?

SEN. SPECTER: -- distinguished --

SEN. FEINGOLD: Mr. Chairman? Mr. Chairman, could I just ask a quick clarification?

SEN. SPECTER: Senator Feingold?

SEN. FEINGOLD: I heard your judgment about the -- whether the witness should be sworn. What would be the distinction between this occasion and the confirmation hearing where he was sworn?

SEN. SPECTER: The distinction is that it is the practice to swear nominees for attorney general or nominees for the Supreme Court or nominees for other Cabinet positions. But the attorney's general have appeared here on many occasions in the 25 years that I have been there, and there might be a showing, Senator Feingold, of -- to warrant swearing.

SEN. FEINGOLD: Mr. Chairman, I just say that the reason that anyone would want him sworn has to do with the fact that certain statements were made under oath at the confirmation hearing. So, it seems to me, logical that since

we're going to be asking about similar things, that he should be sworn in this occasion as well. SEN. PATRICK J. LEAHY (D-VT): And, Mr. Chairman, if I might on that point, if I might on that point, of course, the attorney general was sworn in on another occasion other than his confirmation, when he and Director Mueller appeared before this committee for oversight. And I had asked the chairman if he knows earlier that he should be sworn in this, and I made that request right after the press had pointed out where an answer to Senator Feingold appeared not to have been truthful. And I thought that that is an issue that's going to be brought up during this hearing, and we should go into it. I also recall the chairman and other Republicans ins!
isting th

I think because -- especially because of the article about the questions of the senator from Wisconsin, Senator Feingold, I believe he should have been sworn. That is obviously the prerogative of the chairman, but I would state again and state strongly for the record what I've told the chairman privately. I think in this instance, similar to what you did in April with Attorney General Gonzales and Director Mueller, both of whom were sworn, and as the chairman did on -- assisted with then-Attorney General Reno, I believe they should be sworn in.

SEN. SPECTER: Well, Senator Leahy and I have not disagreed on very much in more than a year since we've worked together as ranking --

SEN. LEAHY: I know.

SEN. SPECTER: -- and chairman, and I think it's strengthened the committee. And I did receive your request, and I went back and dug out the transcript and reviewed Senator Feingold's vigorous cross- examination of the attorney general at the confirmation hearings, and I know the issues as to torture which Senator Feingold raised and the issues which Senator Feingold raised as to searches without warrants. And I have reviewed the provisions of 18 U.S.C. 1001, and the case involving Admiral Poindexter, who was convicted under that provision. And I've reviewed the provisions of 18 United States Code 1505, where Oliver North was convicted, and there are penalties provided there commensurate with perjury, and it is my judgment that it is unnecessary to swear the witness.

SEN. LEAHY: Well, Mr. Chairman, may I ask if the witness has no objection to being sworn? Why not just do it and not have this question raised here? I realize only the chairman can do the swearing-in. I -- otherwise, I'd offer to give him the oath myself in so far as he said he would supposedly be sworn in. But I -- if he's willing to be, why not just do it?

SEN. JEFF SESSIONS (R-AL): Mr. Chairman --

SEN. SPECTER: The answer to why I'm not going to do it is that I've examined all the facts, and I've examined the law, and I have asked the attorney general whether he would object or mind, and he said he wouldn't, and I have put that on the record. But the reason I'm not going to swear him in -- it's not up to him. Attorney General Gonzales is not the chairman, I am, and I'm going to make the ruling.

SEN. SESSIONS: Mr. Chairman --

SEN. : Mr. Chairman --

SEN. LEAHY: I would point out that he's been here before this committee three times. The other two times he was sworn. It seems unusual not to swear him this time.

SEN. RICHARD DURBIN (D-IL): Mr. Chairman, I move the witness be sworn. SEN. SPECTER: The chairman has ruled. If there is an appeal from the ruling of the chair, I have a pretty good idea how it's going to come out.

SEN. DURBIN (?): Mr. Chairman, I appeal the ruling, too.

SEN. SPECTER: All in favor of the ruling of the chair say, "Aye."

SEN. : Aye.

SEN. : Roll call.

SEN. SPECTER: Opposed?

SEN. LEAHY: Roll call's been requested.

SEN. (DURBIN ?): Mr. Chairman, ask for roll call vote.

SEN. ORRIN G. HATCH (R-UT): What's the ruling? What are we voting on?

SEN. SPECTER: The clerk will call the roll. (Pause.) I'll the call the roll.

SEN. SESSIONS: (Inaudible) -- the question. (Laughter.)

SEN. SPECTER: Senator Hatch?

SEN. HATCH: No.

SEN. SPECTER: Senator Grassley?

SEN. CHARLES E. GRASSLEY (R-IA): No.

SEN. SPECTER: Senator Kyl.

SEN. JON KYL (R-AZ): Mr. Chairman, is the question to uphold or to reject the ruling of the chair?

SEN. SPECTER: The question is to uphold the ruling of the chair, so we're looking for "ayes," Senator. (Laughter.)

SEN. LEAHY: But we're very happy with the "nos" that have started on the Republican side! (Being the better position ?).

SEN. HATCH: I'm glad somebody clarified that! Aye.

SEN. SPECTER: The question is: Should the ruling of the chair be upheld that Attorney General Gonzales not be sworn?

SEN. HATCH: Aye.

SEN. KYL: Aye.

SEN. MIKE DEWINE (R-OH): Aye.

SEN. SESSIONS: Aye.

SEN. LINDSEY GRAHAM (R-SC): Aye.

SEN. JOHN CORNYN (R-TX): Aye.

SEN. SPECTER: By proxy for Senator Brownback, aye.

Senator Coburn?

SEN. TOM COBURN (R-OK): Aye.

SEN. : Proxies?

SEN. : Where are those proxies?

SEN. SPECTER: We've got enough votes already.

Senator Leahy?

SEN. LEAHY: Emphatically no. SEN. TED KENNEDY (D-MA): No.

SEN. JOSEPH BIDEN (D-DE): No.

SEN. HERBERT KOHL (D-WI): No.

SEN. DIANNE FEINSTEIN (D-CA): No.

SEN. RUSSELL FEINGOLD (D-WI): No.

SEN. CHARLES SCHUMER (D-NY): No.

SEN. RICHARD DURBIN (D-IL): No.

SEN. SPECTER: Aye.

The ayes have it.

SEN. FEINGOLD: Mr. Chairman, I request to see the proxies given by the Republican senators.

SEN. : Come on!

SEN. SPECTER: Would you repeat that, Senator Feingold?

SEN. FEINGOLD: I request to see the proxies given by the Republican senators.

SEN. SPECTER: The --

SEN. LEAHY: He has that right.

SEN. SPECTER: The practice is to rely upon the staffers. But without counting that vote -- (pause) -- Well, we can rephrase the question if there's

any serious challenge of the proxies. This is really not a very good way to begin this hearing. But I found that patience is a good practice here.

SEN. SESSIONS: Mr. Chairman? Mr. Chairman?

SEN. SPECTER: Senator Sessions.

SEN. SESSIONS: I'm very disappointed that we went through this process. This attorney general, in my view, is a man of integrity. And having read the questions, as you have, as Senator Feingold put forward, in his answers I believe he'll have a perfect answer to those questions when they come at this hearing, and I do not believe they're going to show he perjured himself in any way or was inaccurate in what he said.

And I remember having a conversation with General Myers and Secretary of Defense Rumsfeld, and one of the saddest days in their career was having to come in here and stand before a senate committee and raise their hand as if they are not trustworthy in matters relating to the defense of this country. And I think it's not necessary that a duly confirmed Cabinet member have to routinely stand up and just give an oath when they are, in effect, under oath and subject to prosecution if they don't tell the truth. I think it's just a question of propriety and good taste and due respect from one branch to the other. And that's why I would support the chair.

SEN. LEAHY: Mr. Chairman, I don't --

SEN. SPECTER: Let's -- let's not engage in protracted debate on this subject. We're not going to swear this witness. We have the votes to stop it.

Senator Leahy.

SEN. LEAHY: Mr. Chairman, I've stated my position why I believe he should be sworn in, but I understand that you have the majority of votes.

You know, the question for this hearing goes into the illegality of the government's domestic spying on ordinary Americans without a warrant. The question facing us is not whether the government should have all the tools it needs to protect the American people. Of course it should. Every single member of Congress agrees they should have all the tools necessary to protect the American people.

The terrorist threat to America's security remains very real. We should have the tools to protect America's security. That's why I co- authored the Patriot Act five years ago, and why it passed with such broad, bipartisan support, and I would also remind everybody that's why we amended FISA, the Foreign Intelligence Surveillance Act, five times since 9/11 to give it more flexibility, twice during the time when I was chairman.

We all agree that if you have al Qaeda terrorists calling, we should be wiretapping them. We don't even need authority to do that overseas and certainly going into so far the unsuccessful effort to catch Osama bin Laden in Afghanistan. Congress has given the president authority to monitor al Qaeda messages legally, with checks to guard against abuses when Americans' conversations and e-mails are being monitored. But instead of doing what the president has the authority to do legally, he's decided to do it illegally, without safeguards.

A judge from the special court Congress created to monitor domestic spying would grant any request to monitor an al Qaeda terrorist. Of the approximately 20,000 foreign intelligence warrant applications to these judges over the past 28 years, about a half dozen have been turned down.

I'm glad the chairman's having today's hearing. We have precious little oversight in this Congress, but the chairman and I have a long history of conducting vigorous, bipartisan oversight investigation. And if Congress is going to serve the role it should instead of being a rubber stamp for whoever is in the executive, we have to have these kind of oversights.

The domestic spying programs into e-mails and telephone calls apparently conducted by the National Security Agency was first reported by The New York Times on December 16, 2005. The next day, President Bush publicly admitted that secret, domestic wiretapping has been conducted without warrants since late 2001, and that he's issued secret orders to do this more than 30 times. We've asked for those presidential orders allowing secret eavesdropping on Americans; they have not been provided. We've asked for official legal opinions of the government that the administration say justify this program; they, too, have been withheld from us.

Now the hearing is expressly about the legality of this program. It's not about the operational details. It's about whether we can legally spy on Americans. In order for us to conduct effective oversight, we need the official documents to get those answers. We're an oversight committee of the United States Senate -- the oversight committee with jurisdiction over the Department of Justice and over its enforcement of the laws of the United States. We are the duly elected representatives of the United States. It's our duty to determine whether the laws of the United States have been violated. The president and the Justice Department have a constitutional duty to faithfully execute the laws. They do not write the laws. They do not pass the laws. They do not have unchecked powers to decide what laws to follow, and they certainly don't have the power to decide what laws to ignore. They cannot violate the laws or the rights of ordinary Americans. Mr. Attorney !
General,

There is much that we do not know about the president's secret spying program. I hope we're going to get some more answers, some real answers, not self-serving characterizations.

Let's start with what we do know.

Point one: The president's secret wiretapping program is not authorized by the Foreign Intelligence Surveillance Act. The law expressly states it provides the exclusive source of authority for wiretapping for intelligence purposes. Wiretapping that's not authorized under this is a federal crime. That is what the law says. It's also what the law means.

This law was enacted to define how domestic surveillance for intelligence purposes can be conducted while protecting the fundamental rights of Americans.

Now, a couple generations of Americans are too young to know why we passed this law. It was enacted after decades of abuses by the executive, including the wiretapping of Dr. Martin Luther King and other political opponents of early government officials, after some of the so-called White House "enemies" in the Nixon White House enemies list. And during that time, another

president asserted he did what was legal because he was president and, being president, he could do whatever he wanted to do.

The law has been updated five times since September 11, 2001. It provides broad and flexible authority. In fact, on July 31st, 2002, your Justice Department testified this law is a highly flexible statute that has proven effective. You noted: "When you are trying to prevent terrorist acts, that is really what FISA was intended to do and it was written with that in mind." But now the Bush administration concedes the president knowingly created a program involving thousands of wiretaps of Americans in the United States over the period of the last four or five years without complying with FISA. And legal scholars and former government officials, including many Republicans, have been almost unanimous in stating the obvious: This is against the law.

And point two: The authorization for the use of military force that Democratic and Republican lawmakers joined together to pass in the days immediately after the September 11 attacks did not give the president the authority to go around the FISA law to wiretap Americans illegally. That authorization said to capture or kill Osama bin Laden and to use the American military to do that. It did not authorize domestic surveillance of American citizens.

You know, let me be clear. Some Republican senators say that we're talking about special rights for terrorists. I have no interest in that. Just like every member of this committee and thousands of our staffs and every member of the House of Representatives, I go to work every single day in a building that was targeted for destruction by al Qaeda. Of course I want them captured. I wish the Bush administration had done a better job. I wish that when they had -- almost had Osama bin Laden, they had kept on after him and caught him and destroyed him rather than taking our special forces out of Afghanistan and sending them precipitously into Iraq. But my concern is the laws of America. My concern is when we see peaceful Quakers being spied upon, when we see babies and nuns who can't fly in airplanes because they're on a terrorist watchlist put together by your government.

And point three: The president never came to Congress and never sought additional legal authority to engage in the type of domestic surveillance in which the NSA has been secretly engaged for the last several years.

After September 11, 2001, I led a bipartisan effort to provide legal tools. We passed amendments to FISA. We passed the U.S. Patriot Act, and we ungraded FISA four times since then. In fact, when a Republican senator on this committee proposed a legal change to the standards needed for a FISA warrant, the Bush administration didn't support that effort, but raised questions about it and said it wasn't needed. The administration told the Senate that FISA was working just fine.

You, Mr. Attorney General, said the administration did not ask for legislation authorizing warrantless wiretapping of Americans, did not think such legislation would pass. Who did you ask? You didn't ask me. You didn't ask Senator Specter. Not only did the Bush administration not seek broader legal authority, it kept its very existence of this illegal wiretapping program completely secret from 527 of the 535 members of Congress, including members on this committee and members on the Intelligence Committee.

The administration has not suggested to Congress and the American people that FISA was inadequate, outmoded or irrelevant -- you never did that --

until the press caught you violating the statute with the secret wiretapping of Americans without warrants. In fact, in 2004, two years after he authorized the secret warrantless wiretapping program -- and this is the tape we're told we can't show -- the president said, quote, "Any time you hear the United States government talking about wiretap, a wiretap requires a court order. Nothing has changed. When we're talking about chasing down terrorists, we're talking about getting a court order before we do so."

That was when he was running for reelection. Today we know at the very -- at the very least that statement was misleading.

So let me conclude with this. I have many questions for you, but first, let me give you a message, Mr. Attorney General -- to you, to the president and to the administration. This is a message that should be unanimous from every single member of Congress no matter what their party or their ideology. Under our Constitution, Congress is the co-equal branch of government, and we make the laws. If you believe you need new laws then come and tell us. If Congress agrees, we'll amend the law. If you do not even attempt to persuade Congress to amend the law, then you're required to follow the law as it's written. That is as true of the president just as it's true of me and you and every American. That's a rule of law. That's a rule on which our nation was founded. That's the rule on which it endures and prospers.

Thank you, Mr. Chairman.

SEN. SPECTER: Thank you, Senator Leahy.

We turn now to the attorney general of the United States, Alberto R. Gonzales. The attorney general has held the office for a little over a year. Before that, he was counsel to the president right after the president's inauguration in 2001. He had served in state government with Governor Bush. He attended the U.S. Air Force Academy from 1975 to 1977, graduated from Rice University for a Bachelor's Degree and from the Harvard Law School, and was a partner in the distinguished firm of Vinson & Elkins in Houston before going into state government.

We have allotted 20 minutes for your opening statement, Mr. Attorney General, because of the depth and complexity and importance of the issues which you and we will be addressing.

You may proceed.

ATTY GEN. GONZALES: Good morning, Chairman Specter, Senator Leahy, and members of the committee. I'm pleased to have this opportunity to speak with you. And let me just add for the record, when Chairman Specter asked me whether I would be willing to go under oath, I did say I would have no objections. I also said that my answers would be the same, whether or not I was under oath or not. Al Qaeda and its affiliates remain deadly dangerous. Osama bin Laden recently warned America that -- quote -- "operations are under preparation, and you will see them in your homes." Bin Laden's deputy, Ayman al-Zawahiri, added just days ago that the American people are -- and again I quote -- "destined for a future colored by blood, the smoke of explosions, and the shadows of terror."

None of us can afford to shrug off warnings like this or forget that we remain a nation at war nor can we forget that this is a war against a radical and unconventional enemy. Al Qaeda has no boundaries, no government, no standing army. Yet they are capable of wreaking death and destruction on our

shores. And they have sought to fight us not just with bombs and guns. Our enemies are trained in the most sophisticated communications, counter-intelligence, and counter- surveillance techniques, and their tactics they are constantly changing. They use video feed and worldwide television networks to communicate with their forces; e-mail, the Internet, and cell phone calls to direct their operations; and even our own training academies to learn how to fly aircraft as suicide-driven missiles.

To fight this unconventional war while remaining open and vibrantly engaged with the world, we must search out the terrorists abroad and pinpoint their cells here at home. To succeed, we must deploy not just soldiers and sailors, airmen and marines. We must also depend on intelligence analysts, surveillance experts, and the nimble use of our technological strengths.

Before 9/11, terrorists were clustered throughout the United States preparing their assault. We know from the 9/11 Commission Report that they communicated with their superiors abroad using e- mail, the Internet, and telephones. General Hayden, the principal deputy director of National Intelligence, testified last week before the Senate that the terrorist surveillance program instituted after 9/11 has helped us detect and prevent terror plots in the United States and abroad.

Its continuation is vital to the national defense.

Before going any further, I should make clear what I can discuss today. I am here to explain the department's assessment that the president's terrorist surveillance program is consistent with our laws and Constitution. I am not here to discuss the operational details of that program, or any other classified activity. The president has described the terrorist surveillance program in response to certain leaks, and my discussion in this open forum must be limited to those facts the president has publicly confirmed -- nothing more. Many operational details of our intelligence activities remain classified and unknown to our enemy -- and it is vital that they remain so.

The president is duty bound to do everything he can to protect the American people. He took an oath to preserve, protect and defend the Constitution. In the wake of 9/11, he told the American people that to carry out this solemn responsibility, he would use every lawful means at his disposal to prevent another attack. One of those means is the terrorist surveillance program. It's an early warning system designed for the 21st century. It is the modern equivalent to a scout team sent ahead to do reconnaissance, or a series of radar outposts designed to detect enemy movements. And as with all wartime operations, speed, agility and secrecy are essential to its success.

While the president approved this program to respond to the new threats against us, he also imposed several important safeguards to protect the privacy and civil liberties of all Americans.

First, only international communications are authorized for interception under this program -- that is communications between a foreign country and this country.

Second, the program is triggered only when a career professional at the NSA has reasonable grounds to believe that one of the parties to a communication is a member or agent of al Qaeda or an affiliated terrorist organization. As the president has said, if you're talking with al Qaeda, we want to know what you're saying.

Third, to protect the privacy of Americans still further, the NSA employs safeguards to minimize the unnecessary collection and dissemination of information about U.S. persons.

Fourth, this program is administered by career professionals at NSA. Expert intelligence analysts and their senior supervisors with access to the best available information, they make the decisions to initiate surveillance. The operation of the program is reviewed by NSA lawyers, and rigorous oversight is provided by the NSA inspector general. I have been personally assured that no other foreign intelligence program in the history of NSA has received a more thorough review.

Fifth, the program expires by its own terms approximately every 45 days.

The program may be reauthorized, but only on the recommendation of intelligence professionals, and there must be a determination that al Qaeda continues to pose a continuing threat to America based on the latest intelligence.

Finally, the bipartisan leadership of the House and Senate Intelligence Committees has known about this program for years. The bipartisan leadership of both the House and Senate has also been informed. During the course of these briefings, no members of Congress asked that the program be discontinued.

Mr. Chairman, the terrorist surveillance program is lawful in all respects. As we have thoroughly explained in our written analysis, the president is acting with authority provided both by the Constitution and by statute.

First and foremost, the program is consistent with our Constitution. Under Article II, the president has the duty and the authority to protect America from attack. Article II also makes the president, in the words of the Supreme Court, quote, "The sole organ of government in the field of international relations." These inherent authorities vested in the president by the Constitution include the power to spy on enemies like al Qaeda without prior approval from other branches of government. The courts have uniformly upheld this principle in case after case. Fifty-five years ago, the Supreme Court explained that the president's inherent constitutional authorities expressly include, quote, "The authority to use secretive means to collect intelligence necessary for the conduct of foreign affairs and military campaigns."

More recently, in 2002, the FISA Court of Review explained that, quote, "All the other courts to have decided the issue have held that the president did have inherent authority to conduct warrantless searches to obtain intelligence information." The court went on to add, quote, "We take for granted that the president does have that authority and, assuming that that is so, FISA could not encroach on the president's constitutional powers." Now, it is significant that this statement, stressing the constitutional limits of the Foreign Intelligence Surveillance Act, or FISA, came from the very appellate court that Congress established to review the decisions of the FISA Court.

Nor is this just the view of the courts. Presidents throughout our history have authorized the warrantless surveillance of the enemy during wartime. And they have done so in ways far more sweeping than the narrowly targeted terrorist surveillance program authorized by President Bush. General

Washington, for example, instructed his army to intercept letters between British operatives, copy them, and then allow those communications to go on their way. President Lincoln used the warrantless wiretapping of telegraph messages during the Civil War to discern the movements and intentions of opposing troops. President Wilson in World War I authorized the military to intercept each and every cable, telephone and telegraph communication going into or out of the United States.

During World War II, President Roosevelt instructed the government to use listening devices to learn the plans of spies in the United States. He also gave the military the authority to review, without warrant, all telecommunications, quote, "passing between the United States and any foreign country." The far more focused terrorist surveillance program fully satisfies the reasonableness requirement of the Fourth Amendment.

Now, some argue that the passage of FISA diminished the president's inherent authority to intercept enemy communications even in a time of conflict. Others disagree, contesting whether and to what degree the legislative branch may extinguish core constitutional authorities granted to the executive branch.

Mr. Chairman, I think that we can all can agree that both of the elected branches have important roles to play during a time of war. Even if we assume that the terrorist surveillance program qualifies as electronic surveillance under FISA, it complies fully with the law. This is especially so in light of the principle that statutes should be read to avoid serious constitutional questions -- a principle that has no more important application than during wartime.

By its plain terms, FISA prohibits the government from engaging in electronic surveillance, quote, "except as authorized by statute." Those words, "except as authorized by statute," are no mere incident of drafting. Instead, they constitute a far-sighted safety valve. The Congress that passed FISA in 1978 included those words so that future Congresses could address unforeseen challenges. The 1978 Congress afforded future lawmakers the ability to modify or eliminate the need for a FISA application without having to amend or repeal FISA. Congress provided this safety valve because it knew that the only thing certain about foreign threats is that they change in unpredictable ways.

Mr. Chairman, the resolution authorizing the use of military force is exactly the sort of later statutory authorization contemplated by FISA's safety valve. Just as the 1978 Congress anticipated, a new Congress in 2001 found itself facing a radically new reality. In that new environment, Congress did two critical things when it passed the force resolution.

First, Congress recognized the president's inherent constitutional authority to combat al Qaeda. These inherent authorities, as I have explained, include the right to conduct surveillance of foreign enemies operating inside this country.

Second, Congress confirmed and supplemented the president's inherent authority by authorizing him, quote, "to use all necessary and appropriate force" against al Qaeda. This is a very broadly worded authorization. It is also one that must permit electronic surveillance of those associated with al Qaeda. Our enemies operate secretly and they seek to attack us from within. In this new kind of war, it is both necessary and appropriate for us to take all possible steps to locate our enemy and know what they are plotting before they strike.

Now, all agree that it's a necessary and appropriate use of force to fire bullets and missiles at al Qaeda strongholds. Given this common ground, how can anyone conclude that it is not necessary and appropriate to intercept al Qaeda phone calls? The term "necessary and appropriate force" must allow the president to spy on our enemies, not just shoot at them blindly, hoping we might hit the right target.

In fact, other presidents have used statutes like the force resolution as a basis for authorizing far broader intelligence surveillance programs. President Wilson in World War I cited not just his inherent authority as commander in chief to intercept all telecommunications coming into and out of this country; he also relied on a congressional resolution authorizing the use of force against Germany that parallels the Force Resolution against al Qaeda.

A few members of Congress have suggested that they personally did not intend the force resolution to authorize the electronic surveillance of the enemy, al Qaeda. But we are a nation governed by written laws, not the unwritten intentions of individuals. What matters is the plain meaning of the statute passed by Congress and signed by the president. And in this case those plain words could not be clearer.

The words contained in the force resolution do not limit the president to employing certain tactics against al Qaeda; instead, they authorize the use of ALL necessary and appropriate force. Nor does the force resolution require the president to fight al Qaeda only in foreign countries. The preamble to the force resolution acknowledges the continuing threat, quote, "at home and abroad." Congress passed the force resolution in response to a threat that emerged from within our own borders. Plainly, Congress expected the president to address that threat and to do so with all necessary and appropriate force.

Importantly, the Supreme Court has already interpreted the force resolution in the Hamdi case. There, the question was whether the president had the authority to detain an American citizen as an enemy combatant, and to do so despite a specific statute that said no American citizen could be detained except as provided by Congress.

A majority of the justices in Hamdi concluded that the broad language of the force resolution gave the president the authority to employ the traditional incidents of waging war. Justice O'Connor explained that these traditional powers include the right to detain enemy combatants, and to do so even if they happen to be American citizens. If the detention of an American citizen who fought with al Qaeda is authorized by the force resolution as an incident of waging war, how can it be that merely listening to al Qaeda phone calls into and out of the country in order to disrupt their plots is not?

Now, some have asked if the president could have obtained the same intelligence using traditional FISA processes. Let me respond by assuring you that we make robust use of FISA in our war efforts. We constantly search for ways to use FISA more effectively. In this debate, however, I have been concerned that some who have asked, "Why not FISA?", do not understand how that statute really works. To be sure, FISA allows the government to begin electronic surveillance without a court order for up to 72 hours in emergency situations or circumstances, but before that emergency provision can be used, the attorney general must make a determination that all of the requirements of the FISA statute are met in advance. This requirement can be cumbersome and burdensome.

Intelligence officials at NSA first have to assess that they have identified a legitimate target. After that, lawyers at NSA have to review the request to make sure it meets all of the requirements of the statute. And then, lawyers at the Justice Department must also review the request and reach the same judgment or insist on additional information before processing the emergency application. Finally, I, as attorney general, must review the request and make the determination that all of the requirements of FISA are met. But even this is not the end of the story.

Each emergency authorization must be followed by a detailed formal application to the FISA court within three days. The government must prepare legal documents laying out all of the relevant facts and law and obtain the approval of a Cabinet-level officer as well as certification from a senior official with national security responsibility, such as the director of the FBI. Finally, a judge must review, consider and approve the application. All of these steps take time. Al Qaeda, however, does not wait.

While FISA's appropriate for general foreign intelligence collection, the president made the determination that FISA is not always sufficient for providing the sort of nimble early-warning system we need against al Qaeda. Just as we can't demand that our soldiers bring lawyers onto the battlefield, let alone get the permission of the attorney general or a court before taking action, we can't afford to impose layers of lawyers on top of career intelligence officers who are striving valiantly to provide a first line of defense by tracking secretive al Qaeda operatives in real time.

Mr. Chairman, the terrorist surveillance program is necessary, it is lawful, and it respects the civil liberties that we all share -- cherish. It is well within the mainstream of what courts and prior presidents have authorized. It is subject to careful constraints, and congressional leaders have been briefed on the details of its operation. To end the program now would be to afford our enemy dangerous and potentially deadly new room for operation within our own borders.

I have highlighted the legal authority for the terrorist surveillance program, and I look forward to our discussion and know that you appreciate there remain serious constraints on what I can say about operational details. Our enemy is listening, and I cannot help but wonder if they aren't shaking their heads in amazement at the thought that anyone would imperil such a sensitive program by leaking its existence in the first place, and smiling at the prospect that we might now disclose even more or perhaps even unilaterally disarm ourselves of a key tool in the war on terror.

Thank you, Mr. Chairman.

SEN. SPECTER: Thank you very much, Attorney General Gonzales.

Before proceeding to the 10-minute rounds for each of the senators, let me request that you make your answers as brief as possible. You're an experienced witness. And we will try to make our questions as pointed, as brief as each senator sees it appropriate.

SEN. LEAHY: Mr. Chairman, could I also ask that we have for the record the statement that the attorney general -- well, obviously the statement he just gave now, but the statement that he submitted to the committee under our rules a couple days ago as part of the record.

SEN. SPECTER: Is there a difference between the two statements, Mr. Attorney General?

ATTY GEN. GONZALES: Sir, there is a difference between the written statement and the oral statement, yes, sir.

SEN. SPECTER: The same?

ATTY GEN. GONZALES: There is a difference, sir. They're not the same.

SEN. SPECTER: Well, both will be made a part of the record.

SEN. LEAHY: Thank you.

SEN. SPECTER: All right. Now for the 10-minute rounds.

Mr. Attorney General, starting with the FISA court, well- respected, maintain secrecy, experienced in the field -- and I posed this question to you in my letter -- why not take your entire program to the FISA court within the broad parameters of what is reasonable and constitutional and ask the FISA court to approve it or disapprove it?

ATTY GEN. GONZALES: Senator, I totally agree with you that the FISA court should be commended for its great service. They are working on weekends, they're working at nights --

SEN. SPECTER: Now, on to my question. ATTY GEN. GONZALES: -- they're -- assisting in the war on terror.

In terms of why not go to the FISA court, once the determination was made that neither the Constitution nor FISA prohibited the use of this tool, then the question becomes for the commander in chief which of the tools is appropriate given a particular circumstance. And we studied very carefully the requirements of the Constitution under the Fourth Amendment, we studied very carefully what FISA provides for. As I said in my statement, we believe that FISA does anticipate that another statute could permit electronic surveillance --

SEN. SPECTER: Okay, you think you're right. But there are a lot of people who think you're wrong.

As a matter of public confidence, why not take it to the FISA court? What do you have to lose if you're right?

ATTY GEN. GONZALES: What I can say, Senator, is that we are continually looking at ways that we can work with the FISA court in being more efficient and more effective in fighting the war on terror. Obviously, we would consider and are always considering methods of fighting the war effectively against al Qaeda.

SEN. SPECTER: Well, speaking for myself, I would urge the president to take this matter to the FISA court. They're experts. They'll maintain the secrecy. And let's see what they have to say.

Mr. Attorney General, did Judge Robertson of the FISA court resign in protest because of this program?

ATTY GEN. GONZALES: I do not know why Judge Robertson resigned, sir.

SEN. SPECTER: Has the FISA court declined to consider any information obtained from this program when considering warrants?

ATTY GEN. GONZALES: Sir, what I can say is that the sources of information provided or included in our application are advised or disclosed to the FISA court, because, obviously, one of the things they have to do is judge the reliability --

SEN. SPECTER: So if you have information that you're submitting to the FISA court in support for a warrant, you tell them that it was obtained from this program?

ATTY GEN. GONZALES: Senator, I am -- I am uncomfortable talking about how this -- in great detail about how this information is generally shared. What I can say, as I just -- repeat what I just said, and that is, we as a matter of routine provide to the FISA court information about the sources of the information that form the basis of an application.

SEN. SPECTER: I'm not asking you -- I'm not asking you how you get the information from the program. I'm asking you, do you tell the FISA court that you got it from the program? I want to know if they are declining to issue warrants because they are dissatisfied with the program. ATTY GEN. GONZALES: Senator, I'm not -- I believe that getting into those kind of details is getting into the detail about how the program has operated. Obviously, the members of the court understand that -- the existence of this program. What I can say is we have very open and very candid discussion and relationship with the FISA court. To the extent that we're involved in intelligence activities that relate in any way to the FISA court, and they have questions about that, we have discussions with the FISA court. Our relationship with the court is extremely important, and we do everything that we can do to assure them with respect to our intelligence activities that affect decision!
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SEN. SPECTER: I'm not going to press you further, but I'd ask you to reconsider your answer.

ATTY GEN. GONZALES: Yes, sir.

SEN. SPECTER: In your response to my letter, you said this, quote, "No communications are intercepted unless it is determined that" -- and then I'm leaving some material out -- "a party to the communication is a member or agent of al Qaeda or an affiliated terrorist organization." You're representing to this committee that before there's an interception, there is a determination that one of the parties is a member of al Qaeda, an agent of al Qaeda or an affiliated terrorist organization. Is that true?

ATTY GEN. GONZALES: Sir, I believe General Hayden, the deputy director of Intelligence, yesterday confirmed that before there is any interception there is a determination made -- there is a determination made by a -- an intelligence officer at NSA that in fact we have a reasonable grounds to believe that one party in the communication is a member or agent of al Qaeda or an affiliate terrorist organization.

SEN. SPECTER: Is there any way you can give us assurance of -- that it is true without disclosing the methods and sources of your program? It seems to me that that is a -- a very important statement, and if we were really sure that you're dealing only with the communication where you have a member of al Qaeda, an agent of al Qaeda, or an affiliated -- affiliates of al Qaeda terrorist organization, it would be one thing, because the concern is that there is a broad sweep which includes people who have no connection with al Qaeda.

What assurances can you give to this committee and, beyond this committee, to millions of Americans who are vitally interested in this issue and following these proceedings?

ATTY GEN. GONZALES: Well, I would say, Senator, and to the American people and to this committee, that the program as operated is a very narrowly tailored program. And we do have a great number of checks in place to ensure -- I am told by the operations folks that to a great degree of certainty, a high degree of confidence, that these calls are solely international calls. We have these career professionals at -- out at NSA who are experts in al Qaeda tactics, al Qaeda communications, al Qaeda aims. They are the best at what they do, and they are the ones that make the judgment as to whether or not someone is on a call that is a member of al Qaeda or a member of an affiliate organization.

The inspector general, as I've indicated, has been involved in this program from its early stages. There are --

SEN. SPECTER: Mr. Attorney General, let me interrupt you, because I want to cover a couple more questions, and time is fleeting. I think you've given the substance of the response.

We have contacted former Attorney General Ashcroft about his availability to testify before this committee, and he hasn't said yes and he hasn't said no. He's considering it.

I believe that the testimony of former Attorney General Ashcroft would fall under a little different line than line attorneys within the department who are giving information and the concern about having a chilling effect if they know their views are later to be determined. I think the attorney general is different.

And my question to you is, would you have any objection to former Attorney General Ashcroft's appearance before this committee on this issue?

ATTY GEN. GONZALES: I would not, Senator, although, you know, of course, if it relates to questions regarding the law and the position of the executive branch, that is what I'm doing today, is conveying to this committee what we -- what is the executive branch position on the legal authorities of the president in authorizing the terrorist surveillance program. SEN. SPECTER: That's all we'd ask him about. We would ask him about the operations. I take it, if I heard you correctly, you would not have an objection.

ATTY GEN. GONZALES: Senator, this committee can -- of course can ask who they want to ask to come before the committee --

SEN. SPECTER: No, no, I know we can ask. A totally different question as to what we hear in response -- he hasn't told us that he's going to look to the Department of Justice, but I think he'd feel more comfortable knowing that

you had no objection. I thought I heard you say earlier that you didn't have an objection.

ATTY GEN. GONZALES: Senator, I don't think I would have an objection.

SEN. SPECTER: Okay. Two more questions, which I'm going to ask before my red light goes on:

On looking at congressional intent as to whether the resolution authorizing the use of force -- whether Congress intended for that generalized resolution to carry an authorization for this electronic surveillance in distinction to the Foreign Intelligence Surveillance Act, you were quoted as saying, quote, "That was not something that we could likely get." Now that's different from the response you had that it might involve disclosures.

But I'll limit it to just this one question. If this is something you could not likely get, then how can you say Congress intended to give you this authority?

ATTY GEN. GONZALES: Senator --

SEN. SPECTER: Let the record show my light -- red light went on with the conclusion of the statement.

ATTY GEN. GONZALES: Senator, in that same press conference, I clarified that statement. And then in, I think, the next press conference that I was at with Mike Chertoff, I clarified that statement. And that is, the consensus was in a meeting that that legislation could not be obtained without compromising the program -- i.e., discussing the -- disclosing the existence of the program, how it operated -- and thereby effectively killing the program.

SEN. SPECTER: Thank you very much.

Senator Leahy.

SEN. LEAHY: Mr. Chairman -- raised some interesting points, and I -- you know, I'm listening to the attorney general, who's now arguing that the president's wiretapping on Americans without a warrant is legal, it does not violate the controlling law of the Foreign Intelligence Surveillance Act. They've given a fancy name to the president's surveillance, but I'd remind them that the terrorist surveillance program is the FISA law, which we passed. I think you are violating express provisions of that act. So let me ask you a few questions that could be easily answered yes or no. I'm not asking about operational details. I'm trying to understand when the administration came to the conclusion that the congressional resolution authorizing the military force against al Qaeda, where we had hoped that we would actually catch Osama bin Laden, the man who hit us -- but where you came to conclusion that it authorized warrantless wiretapping of Americans inside the United !
States.

ATTY GEN. GONZALES: Senator, the -- what I can say is that the program was initiated subsequent to the authorization to use military force --

SEN. LEAHY: Well, then let me --

ATTY GEN. GONZALES: -- and our legal analysis was completed prior to the authorization of that program.

SEN. LEAHY: So did -- so your answer is, you did not come to that conclusion before the Senate passed the resolution on September 14th, 2001?

ATTY GEN. GONZALES: Sir, I certainly had not come to that conclusion. There may be others in the administration who did.

SEN. LEAHY: Were you aware of anybody in the administration that came to that conclusion before September 14th, 2001?

ATTY GEN. GONZALES: Senator, sitting here right now, I don't have any knowledge of that.

SEN. LEAHY: Were you aware of anybody coming to that conclusion before the president signed the resolution on September 18th, 2001?

ATTY GEN. GONZALES: No, Senator, the only thing I can recall is that we had just been attacked and that we had been attacked by an enemy from within our own borders --

SEN. LEAHY: Mr. Attorney --

ATTY GEN. GONZALES: -- and that we --

SEN. LEAHY: -- Attorney General, I understand. I was here when that attack happened.

ATTY GEN. GONZALES: Right.

SEN. LEAHY: And I joined with Republicans and Democrats and virtually every member of this Congress to try to give you the tools that you said you needed for us to go after al Qaeda, and especially to go after Osama bin Laden, the man that we all understood masterminded the attack, the man who's still at large.

Now, back to my question. Did you come to the conclusion that you had to have this warrantless wiretapping of Americans inside the United States to protect us before the president signed the resolution on September 18th, 2001? You were the White House counsel at the time.

ATTY GEN. GONZALES: What I can say is that we came to a conclusion that the president had the authority to authorize this kind of activity before he actually authorized the activity.

SEN. LEAHY: When was that?

ATTY GEN. GONZALES: It was subsequent to the authorization to use military force.

SEN. LEAHY: When?

ATTY GEN. GONZALES: Sir, it was just a short period of time after the authorization to use military force.

SEN. LEAHY: Was it before or after NSA began its surveillance program?

ATTY GEN. GONZALES: Again, the -- NSA did not commence the activities under the terrorist surveillance program before the president gave his authorization. Before the president gave the authorization, he was advised by lawyers within the administration that he had the legal authority to authorize this kind of surveillance of the enemy.

SEN. LEAHY: So you -- so NSA didn't do this until the president gave them the green light that they could authorize warrantless wiretapping of Americans inside the United States --

ATTY GEN. GONZALES: Well --

SEN. LEAHY: -- under the circumstances you described in your earlier testimony?

ATTY GEN. GONZALES: Of course, Senator, the NSA has other authorities to engage in electronic surveillance --

SEN. LEAHY: No, I understand that.

ATTY GEN. GONZALES: -- and I'm told that they --

SEN. LEAHY: But I'm talking about this specific program.

ATTY GEN. GONZALES: And I'm told they took advantage of those authorities. But I -- it's my understanding, and I believe this to be true, that the NSA did not commence in the kind of electronic surveillance which I am discussing here today prior to the president's authorization.

SEN. LEAHY: Okay. The president has said publicly that he gave about 30 of these authorizations, having held off for a period of time I think when the administration heard The New York Times was looking into it.

But you were White House counsel. Did the president give his first authorization before or after Attorney General Ashcroft met with us and gave us the proposals from the administration, which ultimately went into the USA Patriot Act?

ATTY GEN. GONZALES: Sir, I don't know. I don't know when he gave you those proposals.

SEN. LEAHY: Well, we enacted the USA Patriot Act in October 2001. We used the -- and you were there at the signing ceremony. We used the -- we tried to encompass those things that the administration said they needed. Was the first one of the president's authorizations done before he signed the USA Patriot Act?

ATTY GEN. GONZALES: Sir, I'd have to go back and check. I don't know.

SEN. LEAHY: Well, okay. You're going to be back here this afternoon. Please check, because I'll ask you this question again and you'll have a chance to ask -- I'm looking around the room; you've got an awful lot of staff here. Let's have that answer before.

You were there when he signed the act. Let us know when his first authorization, whether it was before or after he signed that act.

Now --

ATTY GEN. GONZALES: Sir, may I make a statement? We believe the authorization to use military force constituted a statutory grant of authority to engage in this countersurveillance, and therefore --

SEN. LEAHY: Did you --

ATTY GEN. GONZALES: -- it wouldn't be necessary to seek an amendment to FISA through the Patriot Act.

SEN. LEAHY: Well, then -- okay, you -- my question still remains, and I, like Senator Specter, I want -- I'm trying to ask these basically to you, things you could answer yes or no. You talk about the authorization of U.S. -- for use of military force. We have a chart up over there. It says that: The president's authorized to use all necessary and appropriate force against those nations, organizations or persons determined planned, authorized, committed or aided the terrorist attacks that occurred on September 11th, 2001 or harbored such organizations or persons in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.

Now, you -- basically what you're saying is that Congress must have understood to have authorized the president to do it, not that we actually did, but that we must have understood it.

Now, this authorization is not a wiretap statute. I was a prosecutor; Senator Specter was a prosecutor, a lot of other prosecutors here. We know what the wiretap statute looks like. This is not it.

So let me ask this, under that logic, is there anything -- any(thing) (to) stop you from wiretapping without a warrant somebody inside the United States that you suspect of having al Qaeda connections?

ATTY GEN. GONZALES: Well, clearly, Senator, the -- that is not what's going on here, first of all. The president has authorized a much more narrow program. We are always, of course, subject to the Fourth Amendment, so the activities of any of kind surveillance within the United States would, of course, be subject to the Fourth Amendment.

SEN. LEAHY: Well, Mr. Attorney General, I -- we're getting the impression that this administration's kind of picking and choosing what they are subject to. Can you show us in the authorization of use of military force what is the specific language you say that's authorizing wiretapping of Americans without a warrant?

ATTY GEN. GONZALES: Sir, there is no specific language, but neither it is specific language to detain American citizens. And the Supreme Court said that the words "all necessary and appropriate force" means all activities fundamentally incident to waging war.

SEN. LEAHY: But -- but there wasn't a law -- they didn't have a law specifically on this.

ATTY GEN. GONZALES: Sure they did, sir.

SEN. LEAHY: Use the Jackson test. They have a law on wiretapping. It's called FISA. It's called FISA. And if you don't like that law, if that law doesn't work, why not just -- why not just ask us?

ATTY GEN. GONZALES: Sir, there was a law at question in Hamdi. It was 18 USC 4,001 (a), and that is, you cannot detain an American citizen except as authorized by Congress. And Hamdi came into the court saying the authorization to use military force isn't such a permission by Congress to detain an American citizen, and the Supreme Court -- Justice O'Connor said -- even though the words were not included in the authorization -- Justice O'Connor said, Congress clearly and unmistakably authorized the president to detain an American citizen. And detention is far more intrusive than electronic surveillance.

SEN. LEAHY: Well then let me ask you this. Under your interpretation of this, can you go in and do mail searches? Can you go into e-mails? Can you open -- can you open mail? Can you do black bag jobs?

ATTY GEN. GONZALES: Sir --

SEN. LEAHY: And under the idea that you don't have much time to go through what you described as a cumbersome procedure -- what most people think is a pretty easy procedure -- to get a FISA warrant, can you go and do that? Of Americans?

ATTY GEN. GONZALES: Sir, I have tried to outline for you and the committee what the president has authorized, and that is all that he has authorized.

SEN. LEAHY: Did it authorize the opening of first class mail of U.S. citizens? Just -- that you can answer yes or no.

ATTY GEN. GONZALES: There is all kinds of wild speculation about what the --

SEN. LEAHY: Did it authorize it?

SEN. SPECTER: Let him finish.

ATTY GEN. GONZALES: There is all kinds of wild speculation out there about what the president has authorized and what we're actually doing. And I'm not going to get into a discussion, Senator, about hypotheticals.

SEN. LEAHY: Mr. Attorney General, you're not answering my question! I'm not asking you what the president authorized. Does this law -- you're the chief law enforcement officer of the country. Does this law authorize the opening of first class mail of U.S. citizens -- yes or no -- under your interpretation?

ATTY GEN. GONZALES: Senator, I think -- I think that, again, that is not what is going on here. We're only focused on communications -- international communications where one part of the communication is al Qaeda. That's what this program is all about.

SEN. LEAHY: You haven't answered my question. Well, Mr. Chairman, I'll come back to this. And the attorney general understands there are some dates he's going to check during the break, and I'll go back to it.

SEN. SPECTER: Thank you, Senator Leahy.

Senator Hatch.

SEN. HATCH: Well, this is a very interesting set of issues because -- and a lot of constitutional issues. For people who are watching this, we've got, in addition to all kinds of constitutional issues about interpreting statutes, you've got the canon of constitutional avoidance here, that is a very important rule in constitutional law. You've got the vesting clause vesting power in the president. You've got inherent executive authority that people seem to just brush aside here. You know, they'll talk in terms of, well, Congress is co-equal with the president, but they don't ever really talk in terms of the president being co-equal with the Congress. Or the past laws, you've got various canons of statutory interpretation. All of these are here and it makes this a very interesting thing.

But let me just ask you some specific questions here. It's my understanding, as I've reviewed this and as I've looked at a lot of the cases, that virtually all of the federal courts of appeal that have addressed this issue -- or the issue, have affirmed the president's inherent constitutional authority to collect foreign intelligence without a warrant. Is that a fair statement?

ATTY GEN. GONZALES: It is a fair statement, Senator, that all of the court of appeals that have reviewed this issue have concluded that the president of the United States has the authority under the Constitution to engage in warrantless searches, consistent with the Fourth Amendment, for purposes of gathering foreign intelligence.

SEN. HATCH: That's what the Katz versus U.S. case seemed to say, isn't it, that wiretapping to protect the security of the nation has been authorized by successive presidents. Is that correct?

ATTY GEN. GONZALES: It is certainly the case that successive presidents, particularly during a time of war, have authorized warrantless searches.

SEN. HATCH: And you're relying on the Hamdi case as well, where a majority of the court basically authorized the president exceptional powers under the authorized use of military force as statute?

ATTY GEN. GONZALES: I wouldn't say they're exceptional powers. I think that they're traditional powers for the president under a time of war.

SEN. HATCH: I think that's fair. Okay. Then U.S. versus Truong. That was a 1983 (sic) case. U.S. --

ATTY GEN. GONZALES: Yes. Once again, the court finding that the president of the United States does have the inherent authority to engage in warrantless searches consistent with the Fourth Amendment for purposes of gathering foreign intelligence.

SEN. HATCH: That was the case after the enactment of the FISA law, right?

ATTY GEN. GONZALES: It was the case after the enactment of FISA. But I think to be fair, I don't think the court did a rigorous analysis about how FISA

affects the analysis, but there was a decision by the court that the president had the inherent authority.

SEN. HATCH: Yeah, that's the important part in the case, as far as I'm concerned.

U.S. versus Letenko (ph). It's a 1974 case before FISA. U.S. versus Brown, U.S. versus -- U.S. District Court in the so-called Keith case.

ATTY GEN. GONZALES: The Keith case was where the court for the first time said that electronic surveillance -- it would be subject -- electronic surveillance for domestic security purposes is subject to the Fourth Amendment.

SEN. HATCH: Well, Haig versus Agee that matters -- that's a 1981 case again after FISA that matters intimately related to foreign policy and national security rarely are proper subjects for judicial intervention.

ATTY GEN. GONZALES: Let me make --

SEN. HATCH: That's a recognition where the president has to make some decisions, rights? ATTY GEN. GONZALES: Right. If I could just follow up, Senator, on my statement on the Keith case, where the court did say that electronic surveillance for purposes of domestic security would be subject to the warrant requirements under the Fourth Amendment -- the court expressly made clear that they were not talking about electronic surveillance for foreign intelligence purposes. They were only talking about electronic surveillance for domestic security purposes.

SEN. HATCH: What about the (Prize ?) cases? They're very well- known cases, and -- culminating in the case that quotes the (Prize ?) cases in Campbell versus Clinton.

ATTY GEN. GONZALES: Again, there are a number of cases that recognizes the president's inherent constitutional authority, particularly in a time of war --

SEN. HATCH: Well, and the president's independent authority. Is that correct? That's what Campbell versus Clinton says.

ATTY GEN. GONZALES: To engage in surveillance in order to protect our country.

SEN. HATCH: Well, in fact, there's the 2002 case, In re: Sealed Cases, right?

ATTY GEN. GONZALES: In re: Sealed Cases, as I said in my statement --

SEN. HATCH: I mean, that's a case decided by the FISA Court of Review, the actual FISA Court, right?

ATTY GEN. GONZALES: The FISA Court of Review was created by Congress to review the decisions by the FISA Court. In that decision in that case, the FISA Court of Review acknowledged that these cases by other circuit courts the president does have the inherent authority, and the FISA Court of Review said assuming that to be true, that FISA could not encroach upon the powers of the president.

SEN. HATCH: They couldn't encroach on the president's constitutional powers.

ATTY GEN. GONZALES: That's correct.

SEN. HATCH: So people who are wildly saying that the president is violating the law are ignoring all these cases that say that the -- that -- or at least imply that he has the inherent power to be able to do what he should to protect our nation during a time of war.

ATTY GEN. GONZALES: And I want to emphasize, Senator, this is not a case of -- where we're saying FISA -- we're overriding FISA or we're ignoring FISA. Quite the contrary. We're interpreting the authorization to use military force as a statutory grant --

SEN. HATCH: You use FISA all the time, don't you?

ATTY GEN. GONZALES: We -- FISA is an extremely important tool in fighting the war on terror. I know today there's going to be some discussion about whether or not we should amend FISA. I don't know that FISA needs to be amended per se, because when you think about it, FISA covers much more than international surveillance. It exists even in the peacetime. And so when you're talking about domestic surveillance during peacetime, I think the procedures of FISA, quite frankly, are quite reasonable. And so that's one of the dangers of trying to seek an amendment to FISA, is that you -- there are certain parts of FISA that think provide good protections. And to make an amendment to FISA in order to allow the activities that the president has authorized, I am concerned, will jeopardize this program.

SEN. HATCH: And may even encroach on the inherent powers of the president, right?

ATTY GEN. GONZALES: Yes, sir.

SEN. HATCH: Well, let me just say this to you. As I view your arguments -- and we are faced with a war unlike any other war we've ever been in. We're faced with a war of international terrorists -- that's one reason we did the Patriot Act, was to bring our domestic criminal laws up or -- excuse me -- our international terrorism -- anti-terrorism laws up to the equivalent of domestic criminal laws.

And you're saying that -- and I have to say I find some solace in this -- you're saying that when Congress, through a joint resolution, authorized the use of military force, gave the president these wide powers that are much wider than the ordinary single-sentence declaration of war up through World War II, which was the last one, if I recall it correctly -- that that statute allowed you, coupled with inherent powers of the president, to be able to go after these terrorists before they hit us again.

ATTY GEN. GONZALES: This is an example of Congress exercising its Article I powers to pass legislation, so the president, in exercising his inherent authorities under Article II, has all the authority that he needs to fight al Qaeda.

SEN. HATCH: Well, the authorized use is not -- of military force resolution, which was a joint resolution of both houses of Congress, declared that the nation faces, quote, "an unusual and extraordinary threat," unquote,

and acknowledges that the president has authority under the Constitution to take action to deter and prevent acts of international terrorism against the United States, and provides that the president is authorized, quote, "to use all necessary and appropriate force," unquote, against those he determines are linked to the September 11th attacks.

Now, that sweeping language goes a lot further than the usual single-sentence declaration of war; right?

ATTY GEN. GONZALES: It is a very broad authorization, which makes sense. I don't think anyone in those days and weeks, certainly not in the Congress, were thinking about cataloguing all those authorities that you wanted to give to the president. I think everyone expected the president of the United States to do everything he could to protect our country. And the Supreme Court has said that those words, "all necessary and appropriate force," means that the Congress has given to the president of the United States the authority to engage in all the activities that are fundamental and incident to waging war.

SEN. HATCH: So you're relying on an act of Congress, a joint resolution, you're relying on the inherent powers of the president to protect our borders and to protect us, and you're relying on the Fourth Amendment, which allows reasonable searches and seizures in the best interest of the American public. Is that a fair analysis?

ATTY GEN. GONZALES: That is a fair analysis, yes, sir.

SEN. HATCH: My time is up, Mr. Chairman.

SEN. SPECTER: Thank you, Senator Hatch.

Senator Kennedy?

SEN. EDWARD KENNEDY (D-MA): Thank you, Mr. Chairman.

And I think the final comments about all of us desiring to protect our country is something which is common. We certainly respect your strong dedication and commitment to that, Attorney General.

ATTY GEN. GONZALES: Thank you, Senator.

SEN. KENNEDY: And I think all of us remember the time of 9/11. I certainly do, being actually with Mrs. Bush just before her testimony on an education hearing. It's a moment that's emblazoned in all our minds.

Now, I want to approach this in a somewhat different way in the questioning. I'm very concerned about the whole issue and question, if you're not right legally. Now, you make a very strong case in your presentation here about the authority which you are acting on. You talk about the authorization by the Congress, you talk about inherent power, you talk about the president having the authority and the power to do this. But there is, of course, a very significant legal opinion to the contrary. There was within your department very important, thoughtful lawyers that were in the Department of Justice who have questioned it, constitutional authorities that have questioned it.

So we're taking, really, a risk that I think -- with national security -- which I think is unwise. We're sending the wrong message to those that are

in the front lines of the NSA that maybe someday they may actually be prosecuted, criminally or civilly. We're sending a message to the courts that perhaps the materials that we're going to take from wire -- from let me just say from eavesdropping or signal intelligence may not be used in the courts, again, prosecuting al Qaeda, people we really want to go after, because it wasn't done legally. We're sending a message to the telephone companies that they may be under assault and attack as well. There are already some cases now brought by individuals against the telephone companies.

So that we have to get it right, because if we don't get it right, we're going to find that we have paid a very harsh price on it. Some of those toughest, meanest and cruelest members of al Qaeda may not -- may be able to use illegality in the court system to escape justice. Maybe or maybe not, but why take a chance?

Now, we were facing the issue of electronic surveillance at another time, in 1976 when we had Attorney General Ed Levi and President Ford, and they followed a much different course than you have followed. Ed Levi came and consulted with us. Members of this committee four -- went down and visited the Justice Department on four different times. The memoranda that we have from that period of time point out -- the Boushin (ph) memoranda, which are part of the record -- the concerns that the attorney general had about getting it right in terms of electronic surveillance; uncertainty in courts, validity of evidence, cooperation of the phone companies.

And in a series of memoranda that go to the president of the United States and discussions that were -- were actually held with the important -- with Henry Kissinger, Don Rumsfeld, Ed Levi, Brent Scowcroft, George Bush, lengthy discussions with others -- finally the attorney general said the main concern was whether this legislative initiative would succeed or whether, as some feared, the legislation which has actually passed would depart in objectionable ways, so that they were not sure about what Congress would do. But they dealt with the Congress and they got FISA.

Later it goes on to say, "Already the attorney general has found key members of the Senate Judiciary Committee receptive to the legislation." And then, finally, "The attorney general is strongly of the opinion that you" -- the president -- "should support the legislation as drafted. If you feel any hesitancy, I'll come by and brief you."

This is what we had 27 years ago -- an attorney general, they came up to the Judiciary Committee, have them come down and work out FISA, and it passed with one dissenting vote in the United States Senate. It might not have gotten it right, but it -- certainly for that period of time that it -- that it got it right.

And the question that I have for you is, why didn't you follow that kind of pathway, which was so successful at a different time? We had a Republican president, Republican attorney general. We're talking about electronic surveillance. And as you know from the FISA, there are very sensitive provisions that were included in there that were directed against foreign nationals that this committee was able to deal with and do it in a responsible way. Why -- why didn't you follow that -- that pattern?

ATTY GEN. GONZALES: Sir, the short answer is -- is that we didn't think we needed to, quite frankly. I've tried to make clear today that we looked at this issue carefully, decided that -- that neither the Constitution

nor FISA, which contemplated a new -- a new statute, would prohibit this kind of activity from going forward.

I might also say this is a little different time in terms of what existed in 1976. Of course, we are at war. And -- and we have briefed certain members of Congress, so it's not entirely true that we didn't reach out to the Congress and talk -- certain members of Congress -- and talk to them about this program, about what we were doing. SEN. KENNEDY: Well, the point I'd say, we were facing a nuclear threat. We've got terrorism now, but it was a nuclear threat then. The Cold War was in full flow at that time. It was a nuclear threat at that time.

And do you know what Attorney General Levi did? He took a day and a half to have outside constitutional authorities to come down and advise him on the questions of the constitutionality of the legislation. A day and a half.

Now, did you talk to any outside authorities? Not inside authorities that are going to give you, quite frankly, probably what you want to hear, but did you check any -- the reason I question on this, General, is because we've been through the Bybee amendment. We've been through torture amendments where you and the OLC and the White House counsel thought that those -- those -- the -- not amendments, memoranda -- but that the Bybee memoranda was just fine. And then we find out during the course of your hearings that it wasn't fine, and it was effectively repealed a year and a half after it was in -- in effect.

So it's against that kind of background about certainty, about your view about its legality and in-house review of the legality, some of us would have wondered, did you do or take the steps that Ed Levi, a Republican attorney general, on the same subject, was willing to do, to listen to outside constitutional authority? Because as we have seen subsequently, you've had difficulty in your own department, and you've had substantial difficulty with constitutional and others that might not believe that you're correct.

If it is correct, we haven't got a problem. If you're not correct, then it is a step back in terms of national security.

And my question to you is, looking at the national security issue, wouldn't we be in a stronger position if you'd come to the Congress and say let's get the kind of legislative authority that we need, rather than take a chance? Wouldn't our national security have been better defended if we didn't have any question as to the legality of this issue? Wouldn't the people that are in the frontlines of our national security be better protected and our court system better defended? And when we were able to get those al Qaeda individuals and they know they don't have any loopholes by appealing illegal eavesdropping, maybe then they begin to talk and try and make a deal; maybe then that enhances our national security as well.

ATTY GEN. GONZALES: Well, sir, you've said a lot, so I don't know -- (chuckles) --

SEN. KENNEDY: Yes, short time, but I've --

ATTY GEN. GONZALES: Let me just say, you're absolutely right, we've got to have a very clear message, and we cannot be wrong on this. I do not think that we are wrong on this.

Are we worried about the frontline people out at NSA? Of course we are. That is why the president, the day after the story ran in The New York Times, went out to the American people to reassure them this was not a situation where we had an agency running amuck; that he had authorized this activity, and it was very narrowly tailored.

In terms of whether or not are we concerned about activities that may jeopardize investigations or prosecutions? Absolutely we are. That's the last thing we want to do. We do not believe this program is -- we believe this program is lawful. We do not believe that prosecutions are going to be jeopardized as a result of this program. Obviously, we're in litigation now, so I don't want to say much more than that. But of course we ought to be operating in a way where we're doing what we need to do to protect our investigations and to protect our prosecutions. And I think that we're doing that.

SEN. KENNEDY: My time is just about up.

Thank you very much, General. SEN. SPECTER: I want to -- thank you very much, Senator Kennedy.

I want to acknowledge the presence in the audience of Ms. Debra Burlingame, who is the sister of Captain Charles F. Burlingame, the pilot on American Airlines Flight 77, which crashed into the Pentagon.

Attorney General Gonzales, would you like a break?

ATTY GEN. GONZALES: If you're offering a break, Mr. Chairman.

(Laughter.)

SEN. SPECTER: Well, I'm not going to offer you one unless you want one.

(Laughter.)

ATTY GEN. GONZALES: I'm fine, sir. I will defer to you, Mr. Chairman.

SEN. : Take the break!

SEN. : Take the break!

ATTY GEN. GONZALES: I'll take a break. Thank you, Mr. Chairman.

SEN. SPECTER: Well, let's take a vote here! (Laughter.)

(Sounds gavel.)

Ten minute break.

SEN. SCHUMER: Have you got the proxies?

(Recess.)

SEN. SPECTER: (In progress) -- the presence of Ms. Monica Gabrielle and Ms. Mindy Kleinburg, family members, husbands in the World Trade Center at the time of the 9/11 attack.

Mr. Attorney General, thank you for rejoining us. And we turn now to Senator Grassley.

SEN. CHARLES E. GRASSLEY (R-IA): I'm going to start -- thank you very much. I'm going to start with something that's just peripheral to the issues we're on, but it does deal with our national security, and it's the leak of this information to The New York Times. And I'm greatly concerned about this, and these leaks could be putting our nation's safety into serious jeopardy.

Could you tell us what is being done to investigate who leaked this national security information and whether the Department of Justice will initiate a prosecution of an individual leaking the information?

ATTY GEN. GONZALES: Senator, we have confirmed that the department has initiated an investigation into possible crimes here, and I really -- consistent with department practice, I'm not going to talk much further than -- about our ongoing investigation. Obviously, we have to look at the evidence, and if the evidence shows that a crime has been committed, then obviously we'll have to make a decision about moving forward with the prosecution.

SEN. GRASSLEY: Well -- and I don't blame you for this, but I don't hear as much about public outcry about this leak as I did about Valerie Plame and the White House disclosures of her -- presumed disclosures of her identity of a CIA agent, and to me, that's a two- bit nothing compared to this sort of issue that we have before us of this information being leaked to the press.

And in the follow-up commentaries, reading the newspapers and TV, you get the impression that this is some sort of an LBJ-J. Edgar Hoover operation that's designed to skirt the law, to spy on domestic enemies, and I think you're making very clear the opposite -- that this is only concerned about the national security of the United States and that's where the focus should be.

But the constant repetition on the news media of the term "domestic spying," as opposed to spying on and electronic surveillance of somebody outside the United States, connected with an organization that has as their goal the killing of Americans or the threatening of America or the destruction that happened on September the 11th is entirely two different things. But when "domestic spying" is often used, you can understand, General, the people having outrage maybe at what's going on.

Also, for my colleagues on this committee, it seems to me that if we're doing our job right, we've got some problems, because let's just say the attorney general is wrong in the statutory authority and constitutional authority by which they proceeded to do what they're doing, and yet members of Congress was told about this program over a period of four years -- a few members of Congress were -- the appropriate ones were. And then, all of sudden it hits The New York Times, and all of a sudden when that story breaks, congressmen change their tune from the one sung in private for four years to outrage that this is going on.

So if Senator Grassley, who's not a member of that elite group that has to be concerned about oversight of foreign intelligence, knows about it and doesn't tell -- if I were a member and didn't tell my colleagues about it and then expressed that outrage, where have I been as a member of that group for the last four years? If something's wrong after The New York Times reported, there had to be something wrong before The New York Times reported it. And all of a sudden, I see members of Congress who had that responsibility -- if they really

sincerely think it's wrong today -- that were caught not doing their job of congressional oversight as they should of, informing the other members of Congress that there's really something wrong that the president's doing here. So I think we in Congress have to do some -- some internal looking of whether or not we're doing our job as well as -- of oversight.

Now, I always want to remind people in the United States that what we're talking about here today is to make sure that September the 11th doesn't happen again, and somehow we tend to have short memories. We ought to remember that it happened in Madrid, it happened in London, it happened in Amman, it happened in a resort in Egypt, it happened in Bali twice, and it has happened here. It can happen again. And it seems to me that what you're trying to tell us is the president's determined to make sure that it doesn't happen in the United States again, and that's what their surveillance is all about. Yes?

ATTY GEN. GONZALES: Senator, he is absolutely determined to do everything that he can under the Constitution and the laws of this country to prevent another September 11th from happening again.

SEN. GRASSLEY: And I think you're telling us that in the case of people giving some information on a telephone call, that it's very necessary to act with dispatch; that acting with dispatch or not can be a matter of life or death for Americans. ATTY GEN. GONZALES: Absolutely. If we get information that may lead us to other information about a terrorist operating in this country, we may not have a matter of days or weeks or months -- which is sometimes the case with respect to the FISA application -- but we may not have that much time to begin surveillance. And if we wait -- and again, FISA has been a wonderful tool and has been very effective in the war on terror, but there are certain circumstances where the requirements of FISA present challenges -- and if we wait, we may lose valuable information that may help us -- it may help us get information that might prevent another attack.

SEN. GRASSLEY: I had an opportunity to speak to you on the phone recently, and I asked you to come ready to give us some specific instances of when past presidents have ordered warrantless intelligence surveillance in the prosecution of a war, or to otherwise fulfill the commander in chief's duties. I think that as the American public hears examples of how Democrat presidents and Republican presidents alike have done similar things, they may begin to see this program in a different light, particularly in regard to the presidents' over 225 years' use of the exercise of the power of commander in chief.

ATTY GEN. GONZALES: I gave in my opening statement, Senator, examples where President Washington, President Lincoln, President Wilson, President Roosevelt have all authorized electronic surveillance of the enemy on a far broader scale, far broader -- without any kind of probable cause standard, all communications in and out of the country.

And so, for example, President Wilson in World War I, I mean, he relied upon -- he relied upon his constitutional authority, inherent constitutional authority and a use of force resolution, declaration of war, that -- very consistent with what we're dealing with today.

SEN. GRASSLEY: And December the 8th, '41, the day after Pearl Harbor, FDR ordered the FBI to intercept any communications between our country and any other country, whether it be by mail or any other sort of --

ATTY GEN. GONZALES: President Roosevelt did authorize very broad surveillance of the enemy.

SEN. GRASSLEY: It's well established that the president has a number of inherent constitutional powers. Today's hearing, and the two that will follow, will give the Senate an opportunity to analyze the president's case on constitutionality.

When Moussaoui was arrested, the FBI couldn't look at his computer files and telephone contacts. Now, that's been changed so you can have that sort of communication now.

Could you tell us, in the Department of Justice white paper -- (audio break) -- including why the administration believes that its power in this regard is at its zenith. ATTY GEN. GONZALES: Yes, sir. I'll try to, with the time remaining. Justice Jackson --

SEN. GRASSLEY: No, all I have to do is finish my question before the time's up.

ATTY GEN. GONZALES: Okay. (Chuckles.) Justice -- pardon me, Senator. Justice Jackson laid out a three-part test in terms of determining presidential power. The first part is when the president is exercising his authority with the concurrence, in essence, of Congress. We believe that's what is occurring here. We believe the authorization to use military force is such a concurrence by Congress for the president to engage in this kind of activity, and therefore we believe the president's power is at its zenith in this first category.

The second category is where the president is exercising his constitutional authority in the absence of any congressional action or -- and there Justice Jackson talked about being sort of in the zone of twilight and not -- and trying to ascertain where the limits are between presidential authority and congressional authority. That is not the case here.

The third part was where the president is acting in contravention -- not in contravention but in a way that's incompatible with congressional action. In that particular case, the president -- you look at the president -- constitutional authority minus whatever constitutional congressional authority Congress has.

And so the question is whether or not -- in which category we are in. We believe we're in the first category; that the Congress has, through the authorization to use military force, provided its support for presidential action.

If in fact that is not the case, then we're in the third category.

And I submit, Senator, that this case is very different from Youngstown, where we talked about the president of the United States taking over domestic industry. We're talking here about a core constitutional action by the president, long -- the long history of presidents -- engage in electronic surveillance of the enemy. And so is a much different situation.

And my judgment is, while these are always very hard cases, and they're all -- and there's very little precedent in this matter, I believe that even under the third part, that the president does have the constitutional authority. I will just remind the committee that Chairman Roberts just recently submitted a

letter to the committee, and he himself opined that he also believes that if we were in the third category, that he believes that the president does -- would have the constitutional authority to engage in these kind of activities.

SEN. SPECTER: Thank you, Senator Grassley.

Without objection, we will admit into the record the letter from Senator Pat Roberts, chairman of the Intelligence Committee, to Senator Leahy and myself, dated February 3rd of this year.

Senator Biden.

SEN. JOSEPH BIDEN (D-DE): Thank you, Mr. Chairman.

I hope Chairman Roberts will see it his responsibility to also hold extensive hearings in the forum that is more appropriate, totally secret. Thus far, I'm told, he has intended on not holding any, which I find bordering on lacking any responsibility in terms of congressional oversight. But I hope he will do as you have done here.

General, there are two real issues here, in my view.

MORE .EOF I'm going to focus on one, and that is the president's reassurance as to what is exactly happening, for if, in fact, the only people being wiretapped or e-mails read are al Qaeda operatives contacting American citizens, I don't think you're going to find anybody in America saying, "Oh, my God, don't do that."

What's really at stake here is, the administration's made assertions in the past where their credibility has somewhat been questioned. And so it's not merely the constitutional reach you have; it is what is actually happening, what is actually going on.

I'm going to focus on that first, if I may. How will we know, General, when this war is over?

ATTY GEN. GONZALES: (Pauses.) I presume the straightforward answer, Senator, is that when al Qaeda is destroyed and it no longer poses a threat to the United States. Whenever that may be, we know it's not today. We know we're still at war today. We know we'll probably be at war still tomorrow. And so we know it still continues today.

SEN. BIDEN: The truth is, there is no definition of when we're going to know whether we've won, because al Qaeda, as the president points out, has mutated into many other organizations that are not directly dealing with bin Laden and are free agents themselves. Is that correct?

ATTY GEN. GONZALES: It is certainly true that there are a number of terrorist groups who share many of the same objectives of al Qaeda in terms of destroying America.

SEN. BIDEN: So as long as any of them are there, I assume you would assert you have this plenary authority.

ATTY GEN. GONZALES: Well, Senator, your -- obviously, if Congress were to take some kind of action and to say the president no longer has the authority to engage in electronic surveillance of the enemy, then I think that would put

us into the third part of Judge -- Justice Jackson's three-part test. And that would present a much harder question as to whether or not the president has the authority. As I've already indicated in response to Senator Grassley, I believe that under those circumstances -- and again, it's a hard question, and it may be -- it may have been irresponsible for me to offer up an opinion, because I would like to have to study it. I would like the opportunity to study it. But I think the facts would present a much different case than what we had in Youngstown v. Sawyer.

SEN. BIDEN: Why, if you -- and I've read everything you've submitted, and I was here when FISA was written. I was a cosponsor. I was on the Intelligence Committee and on the Foreign Relations Committee. And as the ranking member of the Foreign Relations Committee, I was charged by the Democratic leadership to be part of the small group to write the authorization for the use of force. So I've been involved in this. Doesn't mean I'm right, but I've been deeply involved.

As I understand your reasoning, I don't understand why you would limit your eavesdropping only to foreign conversations; in other words, al Qaeda communicating from Algeria -- I'm making it up -- or from France or Germany or wherever, to the United States. That's the assertion; it's only emanating from a foreign country. Correct?

ATTY GEN. GONZALES: Yes, sir.

SEN. BIDEN: Why limit it to that?

ATTY GEN. GONZALES: Authorization of the program I'm talking about. Well, of course, that's a presidential decision. And I believe, Senator -- and I'm now (reporting?) to speak for the president -- but I believe it's because of trying to balance concerns that might arise that, in fact, the NSA was engaged in electronic surveillance with respect to domestic calls. And so there was a decision made that this would be -- this is the appropriate balance.

There may be some in America -- I suspect there are some in America -- who are saying, "Well, why aren't you -- if you've got reason to believe that you've got two members of al Qaeda talking to each other in America, by God, why aren't you listening to their conversations?" Again, this was a judgment made that this was the right balance between the security of our country and protecting the private interests of Americans.

SEN. BIDEN: Well, the president said to do everything under the law to prevent another 9/11. The communications that occurred within this country, not outside this country, which, in fact, brought about 9/11, would not be captured by the president's efforts here. Is he refusing to do it for public-relations reasons, for appearance reasons, or because he thinks he doesn't have the constitutional authority to do it?

ATTY GEN. GONZALES: I don't believe that it's a question of constitutional authority. That analysis, quite frankly, has not been conducted. It's not a question of public relations. In his judgment, it was the appropriate thing to do, given the circumstances that we find ourselves in.

SEN. BIDEN: Who determines what calls or e-mails are to be monitored?

ATTY GEN. GONZALES: The decision as to which communications are to be surveiled are made by intelligence experts out at NSA. As I indicated, I

believe, in response to an earlier question, these are individuals who are expert in al Qaeda aims, objectives, communications.

I've heard General Hayden say they are the best at what they do. They know about al Qaeda. And they would probably be in the best position, better than certainly any lawyer, in evaluating whether or not there is reasonable grounds to believe that this person is an agent or member of al Qaeda or an affiliated terrorist organization.

SEN. BIDEN: How many of them are there?

ATTY GEN. GONZALES: Sir, I do not know.

SEN. BIDEN: There's thousands of people who work for NSA. It would be useful for us to know. Are there two people? Five people? Twenty-five people? Two hundred and fifty people? A thousand people?

ATTY GEN. GONZALES: Sir, I don't know the exact number of people out at NSA who are working on this program. But as I indicated to you, the people that are making the decision about whether surveillance should occur are people that are experts with respect to al Qaeda.

SEN. BIDEN: Well, what are the guidelines? Are there any written guidelines they are bound by?

ATTY GEN. GONZALES: Sir, there are guidelines. There are minimization procedures, as you know. There are minimization procedures for the work of NSA with respect to its collection activities under FISA, with respect to its collection activities under 12-EEE, Executive Order 12-EEE. There are additional minimization -- there are minimization requirements that are generally comparable with respect to this program.

I understand there's also a monthly sort of seniors' directors meeting, due-diligence meeting, out at NSA where they talk about how the program is done. They evaluate how the program is going and try to identify if there are any problems. And so they spend a great deal of time making sure the program is being authorized in a way that's consistent with the president's authorization.

SEN. BIDEN: By definition, you've acknowledged, though, the very minimization programs that exist under FISA, you're not bound by. You've acknowledged that you're not bound by FISA under this program. Therefore, the -- are you telling me the minimization programs that exist under FISA, as the way FISA is applied, are adhered to?

ATTY GEN. GONZALES: Okay, I'm sorry if I was confusing in my response. What I was meaning to say is that there are minimization requirements. Those minimization requirements are basically consistent with the minimization requirements that exist with respect to FISA if FISA were to apply.

SEN. BIDEN: Would it be any way compromising the program if you made available to the Intelligence Committee what those minimization procedures that are being followed are?

ATTY GEN. GONZALES: Well, of course, the minimization procedures themselves under 12-EEE, and I believe perhaps under the FISA court, are classified. I also believe they probably have been shared with the Intel Committee.

SEN. BIDEN: They have not, to the best of my knowledge. They have not been shared with the Intelligence Committee, to the best of my knowledge, unless you're talking about this very small group of the chairman and the ranking member.

ATTY GEN. GONZALES: You mean -- I'm talking about the minimization procedures for 12-EEE and for FISA.

SEN. BIDEN: Let me be very precise. I have not heard of NSA saying to the Intelligence Committee, "We are binding ourselves as we engage in this activity under the minimization procedures of 12-EEE, as well as other statutes." I'm unaware that that's written down or stated anywhere or been presented to the Intelligence Committee. Can you assure us that has been done?

ATTY GEN. GONZALES: No, sir, I can't assure you that.

SEN. BIDEN: Can you assure us, General, that you are fully, totally informed and confident that you know the absolute detail with which this program is being conducted? Can you assure us, you personally can assure us, that no one is being eavesdropped upon in the United States other than someone who has the communication that is emanating from foreign soil by a suspected terrorist, al Qaeda or otherwise? ATTY GEN. GONZALES: Sir, I can't give you absolute assurance --

SEN. BIDEN: Who can?

ATTY GEN. GONZALES: -- of the kind that you've asked for. Certainly General Hayden knows more about the operational details of this program. What I can give the American people assurance is that we have a number of safeguards in place so that we can say, with a high degree of confidence, or certainly of certainty, that what the president has authorized in connection with this program, that those procedures are being followed.

SEN. BIDEN: Mr. Chairman, my time is up. This is why the Intelligence Committee has a responsibility to be able to look at someone and have an absolute guaranteed assurance, under no circumstance is any American being eavesdropped upon unless it's coming from foreign soil and a suspected terrorist, and do it under oath and do it under penalty of law if they misrepresent it.

I'm not suggesting the attorney general can do that. We've got to find out who can do that.

SEN. SPECTER: Thank you, Senator Biden. Senator Leahy.

SEN. LEAHY: Mr. Chairman, just before Senator Biden's round, you put into the record the letter from Senator Roberts that was sent to the two of us concerning the authority. I want to place in the record a letter from Bruce Fein, formerly a senior Justice Department official in the Reagan administration, basically responding to Senator Roberts' letter. I mentioned earlier, Mr. Fein was very critical of this program. In fact, at that point, why don't I just put in -- I have a number of things here.

SEN. SPECTER: Without objection, the letter from Mr. Bruce Fein will be made a part of the record. And do you have other unanimous- consent requests?

SEN. LEAHY: For other material regarding this hearing, if I might put them all in the record.

SEN. SPECTER: Without objection, those materials will be made a part of the record. Senator Kyl.

SEN. JON KYL (R-AZ): Thank you, Mr. Chairman. Thank you, Mr. Attorney General. I think it's very interesting how the argument over this program has evolved in the last several weeks from initial concerns about the program itself now to some very different questions. And I think it's a good evolution, because I doubt, if we polled the members of this committee today, that there would be anybody who would vote against the conduct of this particular kind of surveillance.

There was then the suggestion that while the program is good, it's being conducted illegally. That was the charge, and I would submit a very serious charge, that the ranking member made earlier in his remarks.

It seems to me a little humility is called for by the members of this committee, especially before we accuse the president of committing a crime, which is what illegal activity is. If our hearings with now Justices Alito and Roberts demonstrated anything, I think it is that there are a lot of smart lawyers in Washington DC other than those who are sitting here on this committee.

And in that regard, I appreciate the last couple of rounds of questions that were asked by Senators Kennedy, Biden and Grassley, because they got more into specifics about how we might have better oversight.

Before I get into that, let me just ask four specific questions that I think you can answer very, very briefly. I'm reminded, by the way -- I told my staff, the very first time I saw a murder trial before I went to law school, I was absolutely persuaded, after the prosecution's summation, that this guy was guilty as could be. Then, after his lawyers argued, I was absolutely certain that he was innocent. And by the time the prosecutor finished, I was once again convinced that maybe he was guilty.

The bottom line being that with tough legal questions, good lawyers take both sides, and there are two sides to every question. And you shouldn't prejudge. And that's what I think happened with regard to this program. Before you and others in the administration explained the legal rationale for it, there were people jumping to conclusions about its illegality.

Now, I think you made four key points, and I just want to make sure that we got them right. Your first key point was that Article 2 of the U.S. Constitution has always been interpreted as allowing the president to do what's necessary to conduct war, and that includes surveillance of the enemy. Is that right?

ATTY GEN. GONZALES: Yes, sir.

SEN. KYL: Secondly, that when Congress passed the authorization for military force on September 18th, 2001, we actually did two things in that resolution. First of all, we affirmed the president's constitutional authority that I just spoke of; and secondly, that we granted authority that included the words "all necessary and appropriate force."

ATTY GEN. GONZALES: Yes.

SEN. KYL: And your point has been that that activity has always included surveillance of the enemy, and, in fact, that the U.S. -- excuse me -- that the FISA court itself has said that -- has commented on that inherent authority in a situation in which it involved the detention of an American citizen who was involved in terrorist activity.

ATTY GEN. GONZALES: That would be the Supreme Court, sir, not the FISA court.

SEN. KYL: The Supreme Court; I'm sorry.

ATTY GEN. GONZALES: Yes, sir.

SEN. KYL: And that it is -- that also, your second point is that the statutory authorization is contemplated in the FISA language, except as authorized by statute.

ATTY GEN. GONZALES: That is correct. We are acting in a way that the president has authorized activities that are consistent with what FISA anticipated.

SEN. KYL: Right. The third point is, you talked a little bit about FISA and noted that, in your view, it was difficult to further discuss the point because you can't discuss the detail of the program itself, but that the 1978 FISA law is really not well-suited to the particular kind of program that's being conducted here, including the 72-hour provision of FISA. Is that correct?

ATTY GEN. GONZALES: That is correct. I don't want these hearings to conclude today with the notion that FISA has not been effective. And again, I think a lot of the safeguards, some of the procedures in FISA, make a lot of sense. When you talk about a peacetime situation, particularly in domestic surveillance -- and that's what -- FISA also covers that kind of activity.

And so when you're talking about amending FISA because FISA is broke, well, the procedures in FISA, under certain circumstances, I think, would seem quite reasonable.

SEN. KYL: And you continue to use FISA not only -- well, you continue to use FISA, including in regard to the war on terrorism.

ATTY GEN. GONZALES: Absolutely. SEN. KYL: The fourth key point was that you argued about the checks and balances in the program; the fact that it has to be reauthorized every 45 days by the president himself, that there has been extensive congressional briefing of the Democrat and Republican leaders and chairman and ranking members respectively of the Intelligence Committee, and that there is extensive IG review. Is that correct?

ATTY GEN. GONZALES: That is correct.

SEN. KYL: And the inspector general is what inspector general?

ATTY GEN. GONZALES: This is the inspector general for the NSA.

SEN. KYL: Okay. In addition, you noted the two qualifications of the program, international communications involving al Qaeda or affiliated individuals.

ATTY GEN. GONZALES: That is correct, Senator.

SEN. KYL: And finally, you noted that this was as interpreted by the NSA professionals. Now, I thought there were two particularly interesting lines of inquiry, and one was Senator Biden's question about whether or not, if this program is really necessary, we shouldn't try to evaluate whether it should also be applied to calls from al Qaeda terrorist A to al Qaeda terrorist B, though they happen to be in the United States.

And it was my understanding you said that the analysis of that had not been conducted. Is that correct?

ATTY GEN. GONZALES: The legal analysis as to whether or not that kind of surveillance -- we haven't done that kind of analysis because, of course, the president -- that's not what the president has authorized.

SEN. KYL: I understand that. But I would suggest that that analysis should be undertaken, because I think most Americans now appreciate that this is a very important program that might warn us of an impending attack. It could be that the attackers are already in the United States, and therefore it could involve communication within the United States.

Understanding the need to balance the potential intrusion on privacy of American citizens within the United States, you would want to have a very careful constitutional analysis. And certainly the president wouldn't want to authorize such an activity unless he felt that he was on very sound legal ground.

On the other hand, there is no less reason to do it than there is to intercept international communications with respect to a potential terrorist warning or attack. So I would submit that Senator Biden is correct and that this -- at least the inference was in his question that this study should be accomplished. I would think that it would -- that it should.

I also think that both he and Senator Grassley and Senator Kennedy, to some extent, talked about, "Well, what happens if we're wrong here? How can we be assured that there is no improper surveillance?" And in this regard, I would ask you to think about it. And if you care to comment right now, fine, but this might hit you cold. It seems to me that you might consider, either in the presidential directive and the execution of that or even potentially in congressional legislative authorization, some kind of after-action report, some kind of quarterly review or some other appropriate time frame, maybe every 45 days, whatever is appropriate, to the eight people who are currently briefed in the Congress on questions such as whether the program acted as it was intended, whether it appeared that somebody might have been surveiled who, under the guidelines, should not have been, and, if there ever were such a case, how it happened and what's done to ensure that it doesn't!
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It seems to me that reporting on that kind of activity, including information about the guidelines to provide some additional insurance that it's being conducted properly, would be appropriately briefed to the members of Congress.

We do have an oversight responsibility, but we are not the only governmental entity with responsibility here. The president has critical responsibility. And I agree with those who say that should there be an attack and a review of all this activity is conducted, the president would be roundly criticized if he had a tool like this at his disposal and did not utilize it to protect the people of the United States of America.

ATTY GEN. GONZALEZ: Senator, I can tell you: I have not been present at all of the briefings with members of Congress, but in connection with those briefings where I was I was present, there was discussion about -- regarding some of the types of issues that you've just outlined. I'd be happy to take back your comments.

SEN. KYL: Thank you, Mr. Attorney General.

SEN. SPECTER: Thank you, Senator Kyl.

Senator Kohl.

SEN. HERB KOHL (D-WI): Thank you, Mr. Chairman.

Mr. Attorney General, the administration and the Congress and the courts share a common goal: to protect the American people. We all believe that as we face the long-term threat from terrorism, we must work together to ensure that the American people are safe. We in Congress have our role to play by writing the laws that protect Americans, and you have your role executing those laws, and of course, the courts have their role.

As part of this effort against terrorism, we have drafted many laws to give the administration the powers that it needs. And I'm hopeful that we can work together again to ensure that our laws are working, to protect the American people.

Mr. Attorney General, if terrorists are operating in this country, or if people in this country are communicating with terrorists, then of course we must collect whatever information that we have or that we can. To accomplish this, the administration had three options, as you know. First, you could have followed the current law, which most experts believe gives you all the authority you need to listen to these calls. Second, if you thought the law inadequate, you could have asked Congress to grant you additional authority. Or third, the course you followed: conduct warrantless spying outside current law and without new authorization.

If you had the two options that would have given you unquestionable authority to monitor these calls, and one whose legality was, at best, questionable, then why did you go for the most questionable one? Why not either follow the law or seek new laws?

ATTY GEN. GONZALEZ: Well, Senator, I agree with you: We are a nation of laws. And we do believe we are following the law, and we do believe that the Constitution allows the president of the United States to engage in this kind of surveillance.

We also believe that the authorization to use military force represents a supplemental grant of authority by the Congress to engage in this kind of surveillance, totally consistent with FISA. If you've studied carefully the

white paper that we've submitted, we're not arguing that somehow FISA was amended and that we're somehow overwriting FISA. That is not what we're talking about here. We are acting in a manner consistent with FISA. That's what the FISA contemplates -- another statute.

The Congress passed another -- provided additional supplemental grant of authority, through the authorization to use military force. So I totally agree with what you're saying. We should be acting, particularly in a time of war. I think it is good to have the branches of government working together. It's good for the country. I believe that's what happened here. Congress exercised its Article I authorities to pass the authorization to use military force. You supplement that with the president's constitutional authority as commander in chief, and --

SEN. KOHL: Are you saying that there was never any debate within the administration at any level or Justice Department at any level about whether or not you were pursuing the right course?

ATTY GEN. GONZALEZ: Senator --

SEN. KOHL: If I understand it, there was debate.

ATTY GEN. GONZALEZ: Of course, there was a great deal of debate. Think about the --

SEN. KOHL: If there were debate --

ATTY GEN. GONZALEZ: Of course there was debate, Senator. Think about -- if I may just finish this thought -- think about the issues that are implicated here: a very complicated Foreign Intelligence Surveillance Act -- it's extremely complicated; the president's inherent authority under the Constitution as commander in chief; the Fourth Amendment; the interpretation of the authorization to use military force. You've got a program that's existed over four years. You have multiple lawyers looking at the legal analysis. Of course there -- this is what lawyers do. We disagree. We debate. We argue. At the end of the day this position represents the position of the executive branch on behalf of the president of the United States.

SEN. KOHL: Well, with all the debate we're going through today and leading up to today, it seems to me clear that there is a real question about the course you pursued -- that's why we're here today -- which would, it seems to me, justify asking the question, why did you take the third option? And of course, you've given your answer. But there are some of us that would question that answer.

ATTY GEN. GONZALEZ: Yes, sir.

SEN. KOHL: Mr. Attorney General, if applying to the secret FISA court is too burdensome, then would you agree to after-the-fact review by the FISA court and by Congress of the wiretaps used specifically in this program? At least this way we can ensure, going forward, that the authority will never be abused by this or any other president.

ATTY GEN. GONZALEZ: Sir, obviously, we want to ensure that there are no other abuses. The president has said we're happy to listen to your ideas about legislation. There is concern, however, that, of course, the legislative process may result -- first of all, of course, we believe the president already

has the authority, and legislation is not necessary here. But the legislative process may result in restrictions on the president -- attempted restrictions on the president's inherent constitutional authority -- and may not -- he may not be able to protect the country in the way that he believes he has the authority to do under the Constitution.

And then finally, of course, the legislative process is one where it is pretty difficult to keep certain information confidential. Again, if we're talking about amending FISA, there are many aspects of FISA that make sense to me, that work well. Again, if you're talking about domestic surveillance during peace time, I think having the kind of restrictions that are in FISA make all the sense in the world.

So you're probably talking about a very narrowly tailored focused amendment in FISA -- and again, I'm not the expert on legislation, but we're talking potentially a very narrow focused amendment of FISA. And I think I'm concerned that that process will inform our enemies about what we're doing here, and how we're doing it. Subject to those concerns, of course, as the president said, we're happy to listen to your ideas.

SEN. KOHL: After the fact review by the FISA court -- you don't have any problem with that?

ATTY GEN. GONZALEZ: Again, Senator -- be happy to listen to what -- happy to consider it.

SEN. KOHL: Mr. Attorney General, is there anything that a president cannot do in a time of war in the name of protecting our country? We saw that the Justice Department changed its position on torture, but are there other limits on the president's power? Or can, in your opinion, the president assign to himself without an act of Congress any powers that he believes are necessary?
ATTY GEN. GONZALEZ: Well, of course, we're not talking about acting outside of an act of Congress. We think in this case the president has acted with an act of Congress. Of course, again, there are limits on the president of the United States. The Constitution serves as a limit of the president. The president's authorities under Article II as commander in chief are not limitless. Obviously Congress has a role to play in time of war. The Constitution says Congress can declare war. The Constitution says it is Congress to raise and support armies. The Constitution says it is Congre!
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SEN. KOHL: If the administration investigates an American for ties to terrorism using this program and finds nothing -- and of course, news reports have indicated that this happens the vast majority of the time, then what is done with the information collected? Does the administration keep this information on file somewhere, dispose of? What happens to this information?

ATTY GEN. GONZALEZ: Well, let me tell you that every morning I was given an intelligence briefing out of the FBI. And there are numbers of possible threats in the United States -- many of them washed out, thank God. The fact that they washed out doesn't mean that we should stop our intelligence collection. Intelligence is not perfect.

In terms of what is actually done with that information, what I can say is -- again, I can't talk about specifics about it -- but information is collected, information is retained, and information is disseminated in a way to protect the privacy interests of all Americans.

SEN. KOHL: So you're saying the information, even if it turns out to be without any correctness, the information is retained?

ATTY GEN. GONZALEZ: Senator, I can't provide any more of an answer than the one I just gave, in terms of -- there are minimization requirements that exist. And we understand that we have an obligation to try to minimize intrusion into the privacy interests of Americans, and we endeavor to do that.

SEN. KOHL: Just to go back to what Senator Biden and then Senator Kyl referred to about al Qaeda -- to al Qaeda within the country: You are saying we do not get involved with those calls?

ATTY GEN. GONZALEZ: Not under the program about which I'm testifying; that's right. SEN. KOHL: You need to tell us a little bit more, because to those of us who are listening, that is incomprehensible. If you would go al Qaeda to al Qaeda outside the country, domestic to outside the country, but you would not intrude into al Qaeda to al Qaeda within the country -- you are very smart, so are we; and to those of us who are interacting here today, there is something that is unfathomable about that remark.

ATTY GEN. GONZALEZ: Well, Senator, we certainly endeavor to get that information in other ways, if we can. But that is not what the president --

SEN. KOHL: We need to have some logic, some sense, some clarity to this discussion.

ATTY GEN. GONZALEZ: Senator, think about the reaction, the public reaction, which has arisen in some quarters about this program. If the president had authorized domestic surveillance as well, even though we're talking about al Qaeda to al Qaeda, I think the reaction would have been twice as great.

So the judgment was made that this was the appropriate line to draw in ensuring the security of our country and the protection of the privacy interests of Americans.

SEN. KOHL: I appreciate that. Before I turn it back -- yet the president has submitted, you know, with great justification, he's going to protect the American people, regardless. And if there is some criticism, he'll take the criticism.

And yet you're saying, al Qaeda to al Qaeda within the country is beyond the bounds?

ATTY GEN. GONZALEZ: It is beyond the bounds of the program which I'm testifying about today.

SEN. KOHL: Thank you.

(Protester interrupts)

SEN. SPECTER: If you do not sit down immediately, you will be removed from the chamber.

Senator DeWine. Senator DeWine, that's your introduction.

SEN. SESSIONS: Mr. Chairman, I'd like to state for the record that you are not a fascist.

SEN. SPECTER: Thank you for that reassurance, Senator Sessions.

Senator DeWine.

SEN. MIKE DEWINE (R-OH): Mr. Chairman, this issue has been raised several times by several members. My understanding is Senator Roberts, chairman of the intelligence committee, asked -- announced that there will be a closed hearing on February 9th with Attorney General Gonzalez as well as with General Hayden to cover this issue.

Mr. Attorney General, thank you very much for being with us today. We've had a lot of discussion, and I know we're going to continue to have discussion about this very serious constitutional issue, constitutional law issue. Let me tell you what I know, and what I truly believe. I truly believe that the American people expect the president of the United States, in a time of national emergency and peril, to take actions to protect them, even if those actions are not specifically authorized by statute. I think they expect no less, would want the president to do no less than that.

Second, though it is clear that there are serious legal and constitutional questions concerning whether the Fourth Amendment's reasonableness requirement for searches requires the president, after a period of time, after a program has been in place for a period of time, to come to the Congress for statutory authorizations to continue such actions.

Legal scholars, Mr. Attorney General, can and certainly are debating this issue. But what is not debatable is that, both from a constitutional as well as from a policy point of view, the president and the American people would be stronger -- this country would be stronger and the president would be stronger if he did so, if he did come to Congress for such specific statutory authorization.

There was a reason that President George H.W. Bush and President George W. Bush both came to the Congress prior to the respective wars in Iraq, even though some people argued, and we still argue today, that such resolutions weren't legally -- legally, constitutionally unnecessary.

Presidents are always stronger in the conduct of foreign affairs when Congress is on board. Statutory authorization and congressional oversight of this program would avoid what may be a very divisive, hurtful debate here in Congress. I truly believe it's in our national interest to resolve this matter as quickly as possible.

Mr. Attorney General, we need meaningful oversight by the intelligence committee, followed then by whatever statutory changes in the law might be appropriate.

Let me ask you, to follow on that statement, a question. What if Congress passed a law which just excluded FISA from any electronic surveillance of international communications where one part to the communications is a member of or affiliated with al Qaeda or a related terrorist group? And further, if we went on and provided that there would be normal oversight by both the House and the Senate intelligence committee -- not periodically, but the administration would report to the intelligence committees on the progress of that program. We

obviously have the ability within the committee to keep such things classified; we do it all the time. What would be your reaction to that? Is that something that would be possible from your point of view?

ATTY GEN. GONZALEZ: I'll repeat what the president has said, and that is, to the extent the Congress wants to suggest legislation, obviously, we're here to listen to your ideas. I've already responded to an earlier question, talked about some of the concerns that we have.

Obviously, generally, most concerns can be addressed one way or the other. If they could legitimately be a concern, then obviously we would listen to your question, would listen and consider your ideas.

SEN. DEWINE: I appreciate that. I understand your legal position. You've made it very clear today, I think articulated it very well. The administration has articulated it. Obviously there are others who don't agree with your position. This is going to be a debate we're going to continue to have.

It just seems to me that some four years into this program this debate could be put aside if -- we ought to be able to find someway to be able to protect the American people but take care of whatever legal issues that some might find to be there. And I would look forward, frankly, to working with you on that.

Let me move, if I could, to what to me has been a troubling question about FISA, really unrelated to this program. You and I talked about this before. You talked today about how FISA is being used -- frankly being used more than it's been used in the past.

ATTY GEN. GONZALEZ: The use of FISA is up 18 percent from 2004 to 2005.

SEN. DEWINE: Let me talk about something, though, that troubles me, and I've been talking and asking about this problem since 2004.

Let me give you a quote from 2004. Director Mueller of the FBI said, and I quote: "We still have some concerns, and we're addressing them with the Department of Justice. But there is still frustration out there in the field in certain areas where, because we had to prioritize, we cannot get certain requests for FISA as fast as perhaps we might have in the past.

My understanding, Mr. Attorney General, is, from recent information that I have, current information, that there are still a backlog, that there are still mechanical -- what I would call mechanical problems, both in the FISA court and at Justice. Could you just briefly address that? Because every time I see you I'm going to go back at this. Because I'm not saying it's your fault, but I just think it's something that, working together, we need to resolve. And this is something that I think Congress has to play a part in. If you don't have the money, if you don't have the resources, we cannot tolerate a backlog in FISA applications if it can be fixed mechanically.

ATTY GEN. GONZALEZ: I appreciate the opportunity to respond to that question, Senator. I would say that our staff at the Department of Justice -- these are the experts in the FISA process -- have, in essence, tripled since 2002. I think we all realized following the attacks of 9/11 that we needed to get more focused on board to help with the FISA applications.

It still takes too long, in my judgment, to get FISAs approved. I've described in my opening statement the process that's involved here. I've got -- FISA applications are often an inch thick, and it requires a sign-off by analysts at NSA, lawyers at NSA, lawyers at the department, and, finally, me, and then it's got to be approved by the FISA court. I've got to tell you, I was going to try to make this point in response to a question from the chairman.

The members of the FISA court are heroes, as far as I'm concerned. I mean, they're available day or night. They're working on weekends and holidays, because they want to make themselves available. They're killing themselves, quite frankly, making themselves available to be there to sign off on a FISA application, if it meets the requirements of the statute. But we still have some problems.

It is true that because of the procedures that are in FISA, it inherently is going to result in some kind of delay. And for that reason, the president made the determination that for certain very narrow circumstances, he's going to authorize a terrorist surveillance program. But we continue to work at it, and I know you're pretty interested in this, and I continue to -- I look forward to continuing to have discussions with you about it.

SEN. DEWINE: Well, I appreciate that, Mr. Attorney General. It is something that continues to trouble me. Putting aside the issue that we're here about today, FISA is a matter of national security, and I'm still hearing things that, frankly, disturb me.

And it's just a question of whether, you know, whether this can be sped up.

And some things are inherent, as you say, but I get the impression that part of the problem is not inherent and it could be fixed.

ATTY GEN. GONZALES: Well, one of the things that hopefully will happen soon is the creation of a new (national ?) security division. As you may know -- as you know, the Patriot Act has a provision in it which creates a new assistant attorney general for the (national ?) security division. We believe that division will assist in the streamlining of the FISA process.

SEN. DEWINE: Thank you, Mr. Attorney General.

ATTY GEN. GONZALES: Senator --

SEN. SPECTER: Thank you, Senator DeWine. Senator Feinstein.

ATTY GEN. GONZALES: Mr. Chairman --

SEN. : Mr. Chairman, I think the attorney general had a question.

ATTY GEN. GONZALES: I'm sorry. Could I make one point in response to Senator Kohl? I made this point, but I want to make sure that the committee understands this, in terms of domestic-to-domestic al Qaeda communications.

I said that we're using other authorities, and we are -- to the extent we can engage in intercepting al Qaeda's domestic-to-domestic calls, even

under FISA, if we can do it, we're doing it. So I don't want the American people to believe that we're doing absolutely nothing about al Qaeda's domestic-to-domestic calls. The president made a determination, this is where the line's going to be, and so we operate within those boundaries. And so we -- we take advantage of the tools that are out there, and if -- FISA isn't always the most efficient way to deal with that, but if that's all we have, that's what we use. So I guess I want to make sure the American people understand that we're not simply ignoring domestic-to-domestic communications of al Qaeda. We're going after it.

SEN. SPECTER: Thank you, Attorney General Gonzales, for that -- for that clarification. Senator Feinstein.

SEN. FEINSTEIN: Thanks very much, Mr. Chairman. I'd like to make clear that, for me at least, this hearing isn't about whether our nation should aggressively combat terrorism. I think we all agree on that. And it's not about whether we should use sophisticated electronic surveillance to learn about terrorist plans, intentions, and capabilities. We all agree on that. And it's not about whether we should use those techniques inside the United States to guard against attacks. We all agree on that. But this administration is effectively saying, and the attorney general has said it today, it doesn't have to follow the law. And this, Mr. Attorney General, I believe is a very slippery slope. It's fraught with consequences.

The intelligence committees have not been briefed on the scope and nature of the program. They have not been able to explore what is a link or an affiliate to al Qaeda, or what minimization procedures are in place. We know nothing about the program, other than what we've read in the newspapers. And so it comes with huge shock, as Senator Leahy said, that the president of the United States, in Buffalo, New York, in 2004, would say, and I quote, "Any time you hear the United States government talking about wire tap, it requires -- a wire tap requires a court order. Nothing has changed, by the way. When we're talking about chasing down terrorists, we're talking about getting a court order before we do so."

Mr. Attorney General, in light of what you and the president have said in the past month, this statement appears to be false. Do you agree? ATTY GEN. GONZALES: No, I don't, Senator. In fact, I -- I take great issue with your suggestion that somehow the president of the United States was not being totally forthcoming with the American people. I have -- I have his statement, and in the sentence immediately before what you're talking about, he said, he was referring to roving wire taps, and so -- I think anyone who -- I think --

SEN. FEINSTEIN: So you're saying that statement only relates to roving wire taps --

ATTY GEN. GONZALES: Senator, that was a -- discussion was about the Patriot Act and, right before he uttered those words that you referred to, he said, "Secondly, there are such things as roving wire taps. Now, by the way, any time you hear the United States government talk about wire taps, it requires -- a wire tap requires a court order." So as you know, the president is not a lawyer, but this was a discussion about the Patriot Act. This was a discussion about roving wire taps, and I think people -- some people are trying to take part of his statement out of context, and I think that's unfair.

SEN. FEINSTEIN: Okay, sir, now let me move along. In October, 2002, at a public hearing of the Senate-House joint inquiry into NSA activities,

the then-NSA director, General Michael Hayden, told me, quote, "If at times I seem indirect or incomplete, I hope that you and the public understand that I have discussed our operations fully and unreservedly in earlier closed sessions." As I mentioned, the Intelligence Committee has not been notified.

Let me ask you this: If the president determined that a truthful answer to questions posed by the Congress to you, including the questions I ask here today, would hinder his ability to function as commander-in-chief, does the authorization for use of military force or his asserted plenary powers authorize you to provide false or misleading answers to such questions?

ATTY GEN. GONZALES: Absolutely not, Senator. Of course not. Nothing would excuse --

SEN. FEINSTEIN: Thank you. Thank you; I just asked the question, a yes or no --

ATTY GEN. GONZALES: -- false statements before the Congress.

SEN. FEINSTEIN: All right. You have advanced what I think is a radical legal theory here today, the theory compels the conclusion that the president's power to defend the nation is unchecked by law; that he acts alone and according to his own discretion, and that the Congress's role, at best, is advisory. You say that the authorization for use of military force allows the president to circumvent the Foreign Intelligence Surveillance Act, and that if the AMUF (sic) doesn't, then the Constitution does. Senator Daschle has testified that when he was majority leader, the administration came to him shortly before the AUMF came to the floor and asked that the words "inside the United States" be added to the authorization, and that he said, Absolutely not, and it was withdrawn.

The question I have is, how do you interpret congressional intent from the passage of the AUMF, that it gave the administration the authority to order electronic surveillance of Americans, in contravention to the FISA law?

ATTY GEN. GONZALES: Senator, it is not in contravention of the FISA law. We believe the authorization to use military force is the kind of congressional action that the FISA law anticipated. It has never been our position that we are -- that somehow the AUMF amended FISA. It's never been our position that somehow FISA h as been overridden. Quite the contrary; we believe that the president's authorizations are fully consistent with the provisions of FISA. In terms --

SEN. FEINSTEIN: Now, let me stop you just for a second.

ATTY GEN. GONZALES: All right.

SEN. FEINSTEIN: I've read the FISA law. There are only two escape hatches. One is 15 days after a declaration of war, and the second is the 72-hour provision, which was actually amended by us in the Patriot Act from a lower number to 72 hours. Those are the only two escape hatches in FISA. What in FISA specifically, then, allows you to conduct electronic intelligence -- excuse me, electronic surveillance within America, on Americans?

ATTY GEN. GONZALES: I -- we -- I believe that it's section 109. That's where it talks about -- about persons not engaged in electronic surveillance under cover of law, except as authorized by statute. Now, I may not have it

exactly right. We believe that that is the -- the provision in the statute which allows us to rely upon the authorization to use military force.

Now, you may say, well, I disagree with that construction. That may be so. There may be other constructions that may be fairly possible. We believe this is a fairly possible ruling of FISA, and as the Supreme Court has said, in terms of -- under the canon of constitutional avoidance, if you have two possible constructions with a statute and one would result in raising a constitutional issue, if the other interpretation is one that is fairly possible, that is the interpretation that must be applied. And if you reject our interpretation of FISA, Senator, then you have a situation where you've got an act of Congress' intention with the president's constitutional authority as commander-in-chief; and the Supreme Court has said, when that happens, you go with another interpretation, if it's a fair application, and that's what we've done here.

SEN. FEINSTEIN: Could you check your citation? I just read 109, and I don't believe it says that, and we'll talk about that after lunch.

ATTY GEN. GONZALES: Okay. (Inaudible.)

SEN. FEINSTEIN: Let me go on and tell you why it's a slippery slope. Senator Kennedy asked you about first-class mail; has it been opened, and you declined answering. Let me ask this way. Has any other secret order or directive been issued by the president or any other senior administration official which authorizes conduct which would otherwise be prohibited by law? Yes or no will do.

ATTY GEN. GONZALES: Senator, the president has not authorized any conduct, that I'm aware of, that is in contravention of law.

SEN. FEINSTEIN: Has the president ever invoked this authority with respect to any activity other than NSA surveillance?

ATTY GEN. GONZALES: Again -- actually, I'm not sure how to answer that question.

The president has exercised his authority to authorize this very targeted surveillance to international communications of the enemy. So I'm sorry, your question is --

SEN. FEINSTEIN: Has the president ever invoked this authority with respect to any activity other than the program we're discussing, the NSA surveillance program?

ATTY GEN. GONZALES: Senator, I am not comfortable going down the road of saying yes or no as to what the president has or has not authorized.

SEN. FEINSTEIN: Okay, that's fine.

ATTY GEN. GONZALES: I'm here to -- okay.

SEN FEINSTEIN: That's fine. I just want to ask some others. If you don't want to answer them, don't answer them.

ATTY GEN. GONZALES: Yes, ma'am.

SEN. FEINSTEIN: Can the president suspend the application of the Posse Comitatus Act?

ATTY GEN. GONZALES: Of course, Senator, that is not what is at issue here.

SEN. FEINSTEIN: I understand that.

ATTY GEN. GONZALES: This is not about law enforcement; it's about foreign intelligence.

SEN. FEINSTEIN: I'm asking a question. You choose not to answer it?

ATTY GEN. GONZALES: Yes, ma'am.

SEN. FEINSTEIN: Okay. Can the president suspend, in secret or otherwise, the application of Section 503 of the National Security Act, which states that no covert action may be conducted which is intended to influence United States political processes, public opinion, policies or media? In other words, can he engage in otherwise illegal propaganda? ATTY GEN. GONZALES: Senator, let me respond to -- this is probably my response to all your questions of these kind of hypotheticals. The question is to whether or not can Congress pass the statute that is intentioned with a president's constitutional authority. Those are very, very difficult questions, and for me to answer those questions sort of off the cuff I think would not be responsible. I think that, again, I think that's --

SEN. FEINSTEIN: Okay, that's fine. I don't want to -- I don't want to argue with you. All I'm trying to say is this is a slippery slope. Once you do one, there are a whole series of actions that can be taken, and I suspect the temptations to take them are very great. And we are either a nation that practices our rule of law or we're not.

Has any Supreme Court case since FISA held that the president can wiretap Americans once Congress has passed a law forbidding this without warrant?

ATTY GEN. GONZALES: I think the only case that comes to mind that's really pertinent would be the 2002 case, In re: Sealed Case, by the FISA court of review, where the -- while the court did not decide this issue, the court acknowledged that every case that's considered this has found that the president has the inherent authority.

And assuming that to be true, that court said that FISA could not encroach upon those authorities, those constitutional inherent authorities.

SEN. FEINSTEIN: My time is up.

Thank you, Mr. Chairman.

SEN. SPECTER: Thank you, Senator Feinstein.

Senator Sessions?

SEN. SESSIONS: Thank you, Attorney General Gonzales. I believe you've faithfully fulfilled your responsibility to give your best honest answers to the questions so far. I think they've been very effective. If people have

listened, I think they will feel much better about the program that the president has authorized and that you are explaining because some of the news articles in particular gave the impression that there's widespread wiretapping of American citizens in domestic situations, and in every instance there's an international call. Most of us, by plain language, we understand international to be different from domestic, and the president has limited this to international calls in which one or more parties are connected to al Qaeda. Is that correct?

ATTY. GEN. GONZALES: Sir, the program that I'm talking about today, yes, is limited to international calls.

SEN. SESSIONS: And I'm sorry that there are those who would suggest that, in previous testimony, you may have not been truthful with the committee. I don't believe that's your reputation. I don't believe that's fair. I think you have a good answer to any of those charges.

And I also think it's unfortunate that we're in a position where when the president is talking about the Patriot Act, just like we talk about the Patriot Act throughout the debate on the Patriot Act, we insisted it did not authorize non-warrant wiretaps or searches. I mean, that's what we said about the Patriot Act because it didn't. So don't you think it's unfair to mix classified international surveillance issues with the Patriot Act debate?

ATTY. GEN. GONZALES: Well, sir, I don't want -- I don't know if it's my place to characterize whether it's fair or unfair. I do believe that there is a difference, certainly in practice and a difference recognizing the course between domestic surveillance and international surveillance.

SEN. SESSIONS: Well, I just want to -- I think it's important for us to remember the world is hearing this. And so we have people suggesting the attorney general of the United States and the president of the United States is deliberately lying, and it's not fair.

It's not accurate. It's not true. So I think that's important.

With regard to the briefing of Congress, the eight members that have been designated to receive highly secret information were briefed on this program, were they not, Attorney General Gonzales?

ATTY GEN. GONZALES: Sir, the -- from the outset, the bipartisan leadership of the Intel Committees have been briefed in great detail about this. And there have also in addition been fewer briefings with respect to the bipartisan congressional leadership.

SEN. SESSIONS: I would just note, then, of course there are eight that hold those positions, but since the beginning of the program, at least 15 individuals have been in and out of those positions, including Tom Daschle, Bob Graham, Dick Gephardt, who -- longer in Congress, but were presumably part of that process and were aware of it and participated in passing the FISA Act and believed that it was correct to go forward. I don't think they were hot-boxed or forced into this. I believe they weighed these issues based on what they thought the national interest was and what the law was, and they made their decision not to object to this program. And there's been no formal objection by any of those members to this program. And I think it's unfair to suggest the president there has acted in secret without informing key members of Congress about this highly classified program.

ATTY GEN. GONZALES: Senator, I can't -- of course I can't speak for the members of Congress, but to my knowledge, no one has raised -- no one has asserted the program should be stopped.

SEN. SESSIONS: Well, I thought about the Super Bowl. There's some reference to the security intensity around that event, that police and Secret Service and every available federal and, I guess, state agency that could be brought into that were intensely aware that there could be an attack on the Super Bowl or any other major public event like that. But Super Bowl would be a prime target, would you not agree, of the al Qaeda types.

ATTY GEN. GONZALES: Clearly, we would have concerns that events like the Super Bowl would be ones that would be attractive to al Qaeda.

SEN. SESSIONS: And intelligence is valuable to that. I mean, that's the key to it, and that's what we're trying to gather. And everybody understood after 9/11 that our failure was not in the capability to stop people, it was our capability to identify them. This program seems to me to be a step forward in our ability to identify them. And I believe as you've explained it, it's consistent with our law.

With regard to statutory construction and how we should construe it, people have made the point that it's a general principle that a specific statute might control over a general statute. But isn't it true that if a general statute clearly contemplates certain actions and they can't be effective without those actions, then it would overrule the more specific earlier statute?

ATTY GEN. GONZALES: Depending on the circumstances, that would certainly be true, Senator.

I might just also remind people when you talk about "general statutes" versus "specific statutes," this same argument was raised in connection with the Hamdi case. We had a specific statute that said no American citizen could be detained, except as otherwise authorized by statute. And the Supreme Court said that the authorization to use military force, even though it may have been characterized by some as a broad grant of authority, nonetheless, that was sufficient to override the prohibition in 4001(a).

SEN. SESSIONS: I think that's absolutely critical. I believe the Hamdi case is a pivotal authority here. After FISA, after the authorization of force on al Qaeda, an American citizen was detained without trial, and the Supreme Court of the United States held that since it was part of a military action in wartime, that that person could be held without trial as an incident to the authorization of force.

Would you not agree that listening in on a conversation is less intrusive than putting an American citizen in jail?

ATTY GEN. GONZALES: I would -- it would certainly seem to me that it would be less intrusive.

Let me -- just for the record, the language that I keep referring to -- "fundamental incident of waging war" -- was from Justice O'Connor. It is part of plurality. And of course, Justice Thomas, in essence, would have -- felt the president had the inherent authority under the Constitution to detain an

American citizen. So I just want to make sure that we're accurate in the way we describe the decisions by the court.

SEN. SESSIONS: Well, you've been very careful about those things and we appreciate that.

With regard to history, you've made reference to history. Isn't it true -- of course President Washington instructed his army to find ways to intercept letters from British operatives; that President Lincoln issued warrantless tapping of telegraph records -- telegraph communications during the Civil War to try to identify troop movements of the enemy. Is it true that President Wilson authorized the military to intercept all telephone and telegraph traffic going into and out of the United States?

ATTY GEN. GONZALES: That is correct.

SEN. SESSIONS: And that President Roosevelt instructed the government to use listening devices to learn the plans of spies in the United States, and that he gave the military the authority to access, without review, without warrant, all telecommunications, quote, "passing between the United States and any foreign country."

ATTY GEN. GONZALES: That is correct, sir.

SEN. SESSIONS: So what I would say to my colleagues and to the American people is, under FISA and other standards that we're using today, we are far more restrained -- have far more restraints on our military and the executive branch than history has demonstrated. We have absolutely not -- we are not going hog wild restraining American liberties. In fact, the trend has been to provide more and more protections. And there can be a danger that we go too far in that and allow sleeper cells in this country to operate in a way that they're successful in killing American citizens that could have been intercepted and stopped.

ATTY GEN. GONZALES: Of course, Senator, we're doing everything we can to ensure that that doesn't happen.

SEN. SESSIONS: But when you do domestic -- well, I won't go into that.

I want to ask you this question about -- that President Clinton's administration ordered several warrantless searches on the home and property of an alleged spy, Aldrich Ames. Actually, he was convicted. Isn't that true? And it also authorized the warrantless search of the Mississippi home of a suspected terrorist financier. And the deputy attorney general, Jamie Gorelick, the second in command of the Clinton Department of Justice, said this, "The president has inherent authority to conduct warrantless physical searches for foreign intelligence purposes. And the rules and methodologies for criminal searches are inconsistent with the collection of foreign intelligence and would unduly frustrate the president in carrying out his foreign intelligence responsibilities." Are those comments relevant to the discussion we're having today?

ATTY GEN. GONZALES: As I understand it, that was her testimony. I think there was an acknowledgement of the president's inherent constitutional authority. Now, of course some would rightly say that in response to that, FISA was changed to include physical searches. And so the question is -- again, that tees up, I think, a difficult constitutional issue whether or not -- can the

Congress constitutionally restrict the ability of the president of the United States to engage in surveillance of the enemy during a time of war. And fortunately, I don't think we need to answer that question. I think in this case the Congress has authorized the president to use all necessary and appropriate force, which would include the electronic surveillance of the enemy.

SEN. SESSIONS: But Deputy Attorney General Gorelick, in the Clinton administration, defending these searches, she asserted it was a constitutional power of the president, and this was in a period of peace, not even in war. Isn't that correct?

ATTY GEN. GONZALES: That's correct.

SEN. SESSIONS: Thank you, Mr. Chairman.

SEN. SPECTER: Thank you, Senator Sessions.

We'll now take a luncheon break and we'll resume at 1:45.

ATTY GEN. GONZALES: Yes, sir.

END.

Williams, Jan

From: Williams, Jan

Sent: Tuesday, February 7, 2006 8:16 AM

To: Nelson, Carrie; Garrett, Paul; Block, Jonathan; /o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford

Subject: The Morning Update: 2/7/06

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Attachments: tmp.htm
Importance: Low

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New Birth Missionary Baptist Church | Lithonia, Georgia

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Bolten said the budget proposal maintains Bush's 'pro-growth' agenda by calling for permanent extensions of temporary tax cuts passed in 2001 and 2003. It also proposes to eliminate or reduce 141 programs 'that are not getting results.'" (David Jackson And Richard Wolf, "Bush's Budget Big On Security," USA Today, 2/7/06)

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<http://www.whitehouse.gov/news/releases/2006/02/20060206.html>

* Fact Sheet: Highlights Of The President's FY2007 Budget <http://www.whitehouse.gov/news/releases/2006/02/20060206-1.html>

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A Proclamation By The President: Death Of Coretta Scott King <http://www.whitehouse.gov/news/releases/2006/02/20060206-4.html>

* Photo Essay: Remembering Coretta Scott King <http://www.whitehouse.gov/president/gallery/photoessay/coretta-king/pei
ndex.html>

Ask The White House - Donald Powell, Federal Coordinator Of Gulf Coast Rebuilding, Discusses Gulf Coast Rebuilding <http://www.whitehouse.gov/ask/20060206.html>

Press Briefing By Scott McClellan
<http://www.whitehouse.gov/news/releases/2006/02/20060206-3.html>

Press Briefing On The President's Fiscal Year 2007 Budget By Office Of Management And Budget Director Joshua B. Bolten <http://www.whitehouse.gov/news/releases/2006/02/20060206-2.html>

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jimenezf@dodgc.osd.mil

From:	jimenezf@dodgc.osd.mil
Sent:	Tuesday, February 07, 2006 12:38 PM
To:	Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject:	FW: MC Updates
Attachments:	tmp.htm; MilitaryCommissionCases.xls

For further distribution within your respective organizations on a need-to-know basis.

-----Original Message-----
From: Jimenez, Frank, Mr, DoD OGC
Sent: Tuesday, February 07, 2006 12:37
To: 'Dorosin, Joshua L'
Cc: Bellinger, John B(Legal); Witten, Samuel M; Hodgkinson, Sandra L;
Miller, Ronald W; Dolan, JoAnn; Hill, Steven R
Subject: RE: MC Updates

The attached spreadsheet is FOUO and should not be distributed further unless absolutely necessary. Please let me know if you find this format helpful. Thanks, Josh.

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Miller, Ronald W; Dolan, JoAnn; Hill, Steven R
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Frank -

You mentioned that DOD would be starting an e-mail to provide regular updates on military commission issues. A number of us here would be interested in receiving the update - I've copied their addresses in the cc line. Could you pass this to the person organizing the updates?

Thanks. Josh

FOUO (FOR OFFICIAL USE ONLY)

OFFICE OF MILITARY COMMISSIONS UPDATE (Week of Februrary 6, 2006)

KEY:

RTB: Reason to Believe
OMC: Office of Military Commissions
AA: Appointing Authority, Office of Military Commissions

* A referral is an order by the AA that charges be heard and a detainee tried by an appointed military commission.

Commission Cases Initiated	Inter-Agency Coordination Initiated	Cases Returned to OMC after RTB Determination	Cases Approved and Referred* to Trial by AA *(see "Referred Cases" Tab)*	Cases Pending in OMC for Evaluation and AA Referral Decision	Detainees Released to Home Country
Hamdan	X	X	X		
Hicks	X	X	X		
al Qosi	X	X	X		
al Bahlul	X	X	X		
Khadr	X	X	X		
al Sharbi	X	X	X		
al Qahtani, J.	X	X	X		
Barhoumi	X	X	X		
Muhammad	X	X	X		
al Rahabi	X	X		X	
Zahir	X	X	X		
al Darbi	X	X		X	
El Sawah	X	X		X	
Hashim	X	X		X	
Ali Abassi	X	X			X
Begg	X	X			X
Habib	X	X			X
al Suadi	X				
Kazimi	X				
Matrafi	X				
Muhammed	X				
Rabbani	X				
Sharqawi	X				
Shalabi	X				
al Qahtani, M.	X				

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Referred Cases: Latest Developments (Week of February 6, 2006)

10 Cases Total (scroll down and right)

Hamdan	Latest developments: - D.C. District Court stay in effect - Cert. granted by Supreme Court (oral argument 28 Mar.) - DOJ has filed motion in Supreme Court to dismiss case in light of Detainee Treatment Act	**Khadr**	Latest developments: - No federal court stay - Preliminary session held on 11-12 Jan. - Motions hearing scheduled for week of 27 Mar.
Hicks	Latest developments: - D.C. District Court stay in effect	**al Sharbi**	Latest developments: - Arraignment scheduled for the week of 27 Feb.
al Qosi	Latest developments: - AA stay in effect - DOJ assured D.C. District Court that AA stay would remain in effect until D.C. Circuit issues mandate in Hamdan; D.C. Circuit is awaiting S. Ct. ruling	**al Qahtani, J.**	Latest developments: - Pending initial trial session
al Bahlul	Latest developments: - No federal court stay - Preliminary session held on 11 Jan. 06	**Bar-houmi**	Latest developments: - Arraignment scheduled for the week of 27 February
Mu-hammed	Latest developments: -Arraignment scheduled for the week of 27 Feb.		
Zahir	Latest developments: - Charges approved and referred - 18 Jan. - Pending initial trial session		

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From: Williams, Jan
Sent: Tuesday, February 07, 2006 1:42 PM
To: Williams, Jan; Nelson, Carrie; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); '/o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy'; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); 'Bianco, Joseph F.'; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); 'Burch, Victoria'; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; 'Gambatesa, Donald (USMS)'; Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; 'Neumayr, Mary (ENRD)'; Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (OLP); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Woodruff, William; Garrett, Paul; Block, Jonathan

Subject: Another Chance to See Marine One Departure

Tomorrow Morning, the President will be departing from the South Lawn on Marine One. DOJ has limited spaces to attend the departure. If you would like to attend, please email me asap. You will need to arrive at the Southwest Gate of the White House at 9:15am. Again, these events are geared toward appointees that have never attended a similar event.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, February 07, 2006 3:28 PM
To: [redacted]@dodgc.osd.mil'
Subject: RE: MC Updates

thz

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto: [redacted]@dodgc.osd.mil]
Sent: Tuesday, February 07, 2006 12:38 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: MC Updates

For further distribution within your respective organizations on a need-to-know basis.

-----Original Message-----
From: [redacted] DoD OGC
Sent: Tuesday, February 07, 2006 12:37
To: 'Dorosin, Joshua L'
Cc: Bellinger, John B(Legal); Witten, Samuel M; Hodgkinson, Sandra L;
Miller, Ronald W; Dolan, JoAnn; Hill, Steven R
Subject: RE: MC Updates

The attached spreadsheet is FOUO and should not be distributed further unless absolutely necessary. Please let me know if you find this format helpful. Thanks, [redacted]

-----Original Message-----
From: [redacted] [mailto: [redacted]@state.gov]
Sent: Wednesday, January 11, 2006 17:18
To: '[redacted] DoD OGC'
Cc: Bellinger, John B(Legal); Witten, Samuel M; Hodgkinson, Sandra L;
Miller, Ronald W; Dolan, JoAnn; Hill, Steven R
Subject: MC Updates

[redacted]

You mentioned that DOD would be starting an e-mail to provide regular updates on military commission issues. A number of us here would be interested in receiving the update - I've copied their addresses in the cc line. Could you pass this to the person organizing the updates?

Thanks [redacted]

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Tuesday, February 07, 2006 3:29 PM
To:	McCallum, Robert (SMO); Elwood, Courtney; Taylor, Jeffrey (OAG); Monheim, Thomas; Fisher, Alice; Garre, Gregory G; Keisler, Peter D (CIV); Katsas, Gregory (CIV); Nichols, Carl (CIV)
Subject:	FW: MC Updates
Attachments:	tmp.htm; MilitaryCommissionCases.xls

FYI.

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto: [redacted]@dodgc.osd.mil]
Sent: Tuesday, February 07, 2006 12:38 PM
To: Gorsuch, Neil M; Brett_C._Gerry@who.eop.gov
Subject: FW: MC Updates

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Sent: Tuesday, February 07, 2006 12:37
To: 'Dorosin, Joshua L'
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Miller, Ronald W; Dolan, JoAnn; Hill, Steven R
Subject: RE: MC Updates

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-----Original Message-----
From: [redacted] [mailto:DorosinJL@state.gov]
Sent: Wednesday, January 11, 2006 17:18
To: [redacted]DoD OGC'
Cc: Bellinger, John B(Legal); Witten, Samuel M; Hodgkinson, Sandra L;
Miller, Ronald W; Dolan, JoAnn; Hill, Steven R
Subject: MC Updates

[redacted]

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Thanks.

FOUO (FOR OFFICIAL USE ONLY)

OFFICE OF MILITARY COMMISSIONS UPDATE (Week of Februrary 6, 2006)

KEY:

RTB: Reason to Believe
OMC: Office of Military Commissions
AA: Appointing Authority, Office of Military Commissions

* A referral is an order by the AA that charges be heard and a detainee tried by an appointed military commission.

Commission Cases Initiated	Inter-Agency Coordination Initiated	Cases Returned to OMC after RTB Determination	Cases Approved and Referred* to Trial by AA *(see "Referred Cases" Tab)*	Cases Pending in OMC for Evaluation and AA Referral Decision	Detainees Released to Home Country
Hamdan	X	X	X		
Hicks	X	X	X		
al Qosi	X	X	X		
al Bahlul	X	X	X		
Khadr	X	X	X		
al Sharbi	X	X	X		
al Qahtani, J.	X	X	X		
Barhoumi	X	X	X		
Muhammad	X	X	X		
al Rahabi	X	X		X	
Zahir	X	X	X		
al Darbi	X	X		X	
El Sawah	X	X		X	
Hashim	X	X		X	
Ali Abassi	X	X			X
Begg	X	X			X
Habib	X	X			X
al Suadi	X				
Kazimi	X				
Matrafi	X				
Muhammed	X				
Rabbani	X				
Sharqawi	X				
Shalabi	X				
al Qahtani, M.	X				

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Referred Cases: Latest Developments (Week of February 6, 2006)

10 Cases Total (scroll down and right)

Hamdan	Latest developments: - D.C. District Court stay in effect - Cert. granted by Supreme Court (oral argument 28 Mar.) - DOJ has filed motion in Supreme Court to dismiss case in light of Detainee Treatment Act	**Khadr**	Latest developments: - No federal court stay - Preliminary session held on 11-12 Jan. - Motions hearing scheduled for week of 27 Mar.
Mu-hammed	Latest developments: -Arraignment scheduled for the week of 27 Feb.		
Hicks	Latest developments: - D.C. District Court stay in effect	**al Sharbi**	Latest developments: - Arraignment scheduled for the week of 27 Feb.
Zahir	Latest developments: - Charges approved and referred - 18 Jan. - Pending initial trial session		
al Qosi	Latest developments: - AA stay in effect - DOJ assured D.C. District Court that AA stay would remain in effect until D.C. Circuit issues mandate in Hamdan; D.C. Circuit is awaiting S. Ct. ruling	**al Qahtani, J.**	Latest developments: - Pending initial trial session
al Bahlul	Latest developments: - No federal court stay - Preliminary session held on 11 Jan. 06	**Bar-houmi**	Latest developments: - Arraignment scheduled for the week of 27 February

FOUO (FOR OFFICIAL USE ONLY)

For further distribution within your respective organizations on a need-to-know basis.

-----Original Message-----
From: Jimenez, Frank, Mr, DoD OGC
Sent: Tuesday, February 07, 2006 12:37
To: 'Dorosin, Joshua L'
Cc: Bellinger, John B(Legal); Witten, Samuel M; Hodgkinson, Sandra L; Miller, Ronald W; Dolan, JoAnn; Hill, Steven R
Subject: RE: MC Updates

The attached spreadsheet is FOUO and should not be distributed further unless absolutely necessary. Please let me know if you find this format helpful. Thanks, Josh.

-----Original Message-----
From: Dorosin, Joshua L [mailto:DorosinJL@state.gov]
Sent: Wednesday, January 11, 2006 17:18
To: 'Jimenez, Frank, Mr, DoD OGC'
Cc: Bellinger, John B(Legal); Witten, Samuel M; Hodgkinson, Sandra L; Miller, Ronald W; Dolan, JoAnn; Hill, Steven R
Subject: MC Updates

Frank -

You mentioned that DOD would be starting an e-mail to provide regular updates on military commission issues. A number of us here would be interested in receiving the update - I've copied their addresses in the cc line. Could you pass this to the person organizing the updates?

Thanks. Josh

Moschella, William

From: Moschella, William
Sent: Tuesday, February 7, 2006 7:43 PM
To: Gorsuch, Neil M
Subject: FW: Terrorist Surveillance Program.ppt
Attachments: Terrorist Surveillance Program.ppt

These are our slides.

Terrorist Surveillance Program

Legal Analysis

February 8 & 9, 2006

Section 2511(2)(f) of Title 18

"Nothing contained in this chapter or chapter 121 or 206 of this title, or section 705 of the Communications Act of 1934, shall be deemed to affect the acquisition by the United States Government of foreign intelligence information from international or foreign communications, or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing a means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, **and procedures in this chapter or chapter 121 and the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in section 101 of such Act, and the interception of domestic wire, oral, and electronic communications may be conducted**."

Section 109 of FISA

Section 109 of FISA prohibits any person from intentionally "engag[ing] . . . in electronic surveillance under color of law **except as authorized by statute**."

Authorization for Use of Military Force (AUMF)

Congress authorized the President to "**use all necessary and appropriate force** against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks" of September 11th in order to prevent "any future acts of international terrorism against the United States."

AUMF Continued…

- The Supreme Court decision in *Hamdi v. Rumsfeld* concluded **that detention of enemy combatants** who fought against the United States as part of an organization "known to have supported" al Qaeda "**is so fundamental and accepted an incident to war as to be an exercise of the 'necessary and appropriate force' Congress has authorized the President to use**." 542 U.S. 507, 518 (2004).

- Section 4001(a) of Title 18 says "No citizen shall be imprisoned or otherwise detained by the United States **except pursuant to an Act of Congress**."

History of Presidential Surveillance Authorizations during Wartime

- **President George Washington**: Made frequent and effective use of secret intelligence, including the interception of mail from Britain to America during the Revolutionary War.
- **President Abraham Lincoln**: In the Civil War, telegraph wiretapping was common and provided important intelligence to both sides.
- **President Woodrow Wilson**: In World War I, the President ordered the interception of *all* cable communications between the United States and Europe; he inferred the authority to do so from the Constitution and from a general congressional authorization to use military force that did not mention anything about such surveillance. *See* Exec. Order No. 2604 (Apr. 28, 1917).
- **President Franklin Roosevelt**: The day after the attack on Pearl Harbor, President Roosevelt authorized the interception of *all* communications traffic into and out of the United States.

Canon of Constitutional Avoidance

It is well established that the **first task** of any interpreter faced with a statute that may present an unconstitutional infringement on the powers of the President is to determine whether the statute may be construed to avoid the constitutional difficulty. "[I]f an otherwise acceptable construction of a statute would raise serious constitutional problems, and where an alternative interpretation of the statute is 'fairly possible,' we are obligated to construe the statute to avoid such problems." *INS v. St. Cyr,* 533 U.S. 289, 299-300 (2001) (citations omitted); *Ashwander v. TVA,* 297 U.S. 288, 345-48 (1936) (Brandeis, J., concurring). Moreover, **the canon of constitutional avoidance has particular importance in the realm of national security, where the President's constitutional authority is at its highest**. *See Department of the Navy v. Egan*, 484 U.S. 518, 527, 530 (1988); William N. Eskridge, Jr., *Dynamic Statutory Interpretation* 325 (1994) (describing "[s]uper-strong rule against congressional interference with the President's authority over foreign affairs and national security").

USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Wednesday, February 8, 2006 8:03 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing for Wednesday, February 08, 2006
Attachments:	agnb060208.pdf; agnb060208.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, FEBRUARY 8, 2006 7:45 AM EST

TODAY'S EDITION

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TERRORISM NEWS:

Cheney Says Administration Has Legal Authority For NSA Surveillance Program. Vice President Dick Cheney was asked on PBS' Newshour with Jim Lehrer (2/7) if President Bush is willing to work with Congress to settle the legal disputes about the domestic spying program. Cheney said, "We believe that we have all the legal authority we need. He indicated the other day he's willing to listen to ideas from the Congress, and certainly they have the right and the responsibility to suggest whatever they want to suggest. We'd have to make a decision as an Administration whether or not we think it would help and would enhance our capabilities. But as I say, we believe firmly that based on the Constitution, based on the authorization for the use of force Congress passed in the immediate aftermath of 9/11, that we have all the legal authority we need with respect to the NSA program." Cheney also said that the domestic surveillance program "has produced intelligence for us that has been very valuable in the global war on terror both in terms of saving lives and breaking up plots directed at the United States. It has been a very useful source of intelligence for us and we need to continue the program."

Fox News' Special Report (2/7, Angle) reported, "The Vice President says the Administration has looked at the legal questions and reached a firm conclusion." Cheney: We believe, firmly, that based on The Constitution, based on the authorization for the use of force Congress passed in the immediate aftermath of 9/11, that we have all the legal authority we need." Fox continued, "But a leading Democratic critic went on the floor of the Senate Tuesday afternoon to blast the program, the president and even his own colleagues." Sen. Russ Feingold "criticized Democrats, as well as Republicans, for applauding the president when he talked about the N.S.A. program during his State of the Union address."

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Reuters (2/8, Holland) reports Vice President Dick Cheney "resisted bipartisan appeals for changes in a hotly disputed warrantless eavesdropping program, saying he believed 'we have all the legal authority we need.'" Still, Cheney "said Bush had indicated he was willing to listen to ideas from the U.S. Congress and that members of Congress certainly have the right to suggest changes."

The AP (2/8) reports Vice President Cheney "shrugged off congressional criticism of the Bush administration's domestic eavesdropping program Tuesday, suggesting some in the know who previously raised no objections were changing their tune. He also expressed little interest in working with Congress to settle legal disputes."

The New York Daily News (2/8, Meek) reports that as Vice President Cheney "launched a preemptive strike against a GOP insurrection on Capitol Hill, top sources from both parties made clear they weren't impressed with Attorney General Alberto Gonzales' arguments on Monday that National Security Agency wiretapping inside the U.S. broke no laws." Senior Capitol Hill aides "told the Daily News they expect bipartisan legislation that might put the controversial NSA domestic spying programs under the scrutiny of the supersecret Foreign Intelligence Surveillance Court."

Cheney Responds To Graham Comments About Program. Cheney was asked on PBS' Newshour with Jim Lehrer (2/7) about Sen. Lindsey Graham's comment that if the Administration uses the force resolution as a legal justification for the domestic surveillance program, when "this President or the next president comes and asks for a force resolution from Congress, there could be all kinds of exceptions." Cheney said, "I think people are straining here to try to find an issue to some extent. … Incident to the authorization of the use of force, military force, clearly I would expect would be a decision that that implies as well the ability to intercept the communications of the enemy. That's an inherent part of warfare. … Now, there may be suggestions from some that we need to have some additional authorization passed and we don't believe it's required, but as the president said the other day, we're perfectly willing to listen to suggestions from the Congress."

Wilson First Republican To Call For Full Congressional Investigation Of NSA Program. The New York Times (2/8, Lichtblau) reports Rep. Heather Wilson, "whose subcommittee oversees the National Security Agency," yesterday "broke ranks with the White House…and called for a full Congressional inquiry into the Bush administration's domestic eavesdropping program." Rep. Wilson, "chairwoman of the House Intelligence Subcommittee on Technical and Tactical Intelligence, said in an interview that she had 'serious concerns' about the surveillance program. By withholding information about its operations from many lawmakers, she said, the administration has deepened her apprehension about whom the agency is monitoring and why." The Times adds Wilson is the "first Republican on either the House's Intelligence Committee or the Senate's to call for a full Congressional investigation into the program."

Harman Says Full Intelligence Panel Should Be Briefed On Surveillance Program. Rep. Jane Harman, ranking member of the House Intelligence Committee, said on CNN's The Situation Room (2/7), "Now that the existence of the program has been disclosed by the president in response to some leaks to The New York Times, I have had a chance to check with some real experts on the Foreign Intelligence Surveillance Act. I believe the entire program could be covered under FISA, and it is not. And I'm baffled why the administration is declaring that it has inherent power to do this, disregarding laws that Congress intended to be the exclusive means to eavesdrop on Americans." Harman added, "The way this should be done is now that the program has been disclosed and is going to be gone over in painstaking detail, at least by the Senate Judicial Committee -- bravo for Chairman Specter, whom I spoke to earlier today and congratulated -- the full Intelligence Committee should be briefed on all aspects of program. We should decide in closed session whether the program complies with the laws that we have enacted. If it does not -- and I'm saying I think it does and those laws should be followed -- if it does not in any way, we should either change the law or change the program."

McCain Says Gonzales Hearing Was "Very Helpful." Sen. John McCain said on MSNBC's Hardball (2/7), "I do believe that there are concerns about how far the government is going, not just on this issue, but on other issues. But you know, the -- the Democrat leaders as well as Republican Intelligence Committee were briefed on this program. And so that -- and I don't know what the program is, and frankly, I probably will never know. But we want to -- we've got to make sure -- there have been abuses in the past by previous administrations, both Democrat and Republican, and I think our job, which is a careful balancing act, is to protect national security, at the same time protect the rights of

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the individual and there's always that kind of tension. I think that hearing was very helpful yesterday in a variety of ways. We need to have this issue ventilated for the American people."

Senate Seen As Defending Congressional Power Vis-À-Vis Executive. The Christian Science Monitor (2/8, Chaddock) reports the Senate this week has "opened a broad - and often tense - dialogue with the Bush administration over the president's wartime powers. It's more than just a probe into who authorized what, when, and why in a recently disclosed domestic eavesdropping program. If the president is not checked, lawmakers on both sides of the aisle argue, then the constitutional balance of power could shift away from the Congress for at least a generation." Sen. Lindsey Graham said, "I'm for the president's inherent authority to conduct the war, but not to neuter the other two branches." The Monitor adds that at the "root of congressional worries about the NSA surveillance case is the prospect that such broad interpretations of presidential powers could last well into the future. 'We could be in this war on terror for decades,' says Sen. Sam Brownback (R) of Kansas."

Ignatius Says Partisan Debate Over NSA Surveillance Misplaced. In his Washington Post column (2/8, A19), David Ignatius says, "As quickly as you can say the words 'Karl Rove,' the debate over the National Security Agency's anti-terrorist surveillance program is degenerating into a partisan squabble. Rather than seeking a compromise that would anchor the program in law, both the administration and its critics are pursuing absolutist agendas -- insisting on the primacy of security or liberty, rather than some reasonable balance of the two. This way lies disaster." A "stable, legal foundation for the NSA program can come by placing it under FISA jurisdiction, or by amending FISA, or perhaps by a judicial review that might support the administration's argument that Article II trumps FISA. Instead, we have none of the above."

Rivkin, Casey Say Congress Should Exercise Oversight Over NSA Program. In a Wall Street Journal op-ed (2/8), David Rivkin and Lee Casey, alumni of the Bush 41 and Reagan Justice Departments, say, "Although enhanced congressional oversight of the NSA program may well be constitutionally permissible and even sensible as a policy matter, the requirement of a warrant for this type of surveillance would trench upon the president's constitutional power as commander in chief to monitor enemy communications in wartime." Even the NSA program's "fiercest foes don't claim that it was designed or administered for snooping on the president's 'enemies' or critics." Rivkin and Casey conclude, "In short, there is no obviously constitutional and practical means of subjecting NSA's al Qaeda surveillance program to regular judicial review. Instead, Congress must itself shoulder the responsibility. It might enact a new FISA that would fully bless the president's activities, but add enhanced oversight, involving more information sharing with more members of Congress, backed up by the threat to use its fiscal powers to de-fund the program if abuses arise."

NYTimes Says Gonzales Failed To Answer Senators' Questions. The New York Times (2/8) says in an editorial, "We thought President Bush's two recent Supreme Court nominees set new lows when it came to giving vague and meaningless answers to legitimate questions, but Attorney General Alberto Gonzales made them look like models of openness when he testified before the Senate Judiciary Committee on Monday about domestic spying. Mr. Gonzales seems to have forgotten the promise he made to the same panel last year when it voted to promote him from White House counsel to attorney general: that he would serve the public interest and stop acting like a hired gun helping a client figure out how to evade the law."

More Commentary. The Milwaukee Journal Sentinel (2/8) editorializes, "Anyone who hoped that Monday's hearing of the Senate Judiciary Committee would shed new light on whether the Bush administration is violating the law by conducting secret wiretaps on the international e-mails and telephone conversations of Americans was bound to have been sorely disappointed. Although he spent more than seven hours under sometimes sharp questioning, Attorney General Alberto Gonzales supplied virtually no new facts or insights that would help Americans make a more informed judgment about this important matter. One can only hope that Gonzales will be more forthcoming when, as expected, he comes to Capitol Hill to meet with the committee a second time."

The Providence Journal (2/8) editorializes, "U.S. Atty. Gen. Alberto Gonzales's testimony to the Senate Judiciary Committee Monday about the National Security Agency's warrantless watching of U.S. citizens was not comforting. … In effect, he insisted that Article II of the Constitution lets the president ignore the legal duty to consult the two other branches of government in making such surveillance policies. … That al-Qaida poses perils must not be used as an excuse for ignoring the need to clearly follow the law. U.S. law, if followed, protects us from being victimized by U.S.

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officials who might have reasons other than national security to invade privacy and obtain personal information about us."

In a column for the San Francisco Chronicle (2/8), Debra J. Saunders writes, "If anyone can show me that the National Security Agency, under order from President Bush or top aides, eavesdropped on Hillary Clinton or Ted Kennedy or some prominent partisan critic, I'll change my tune and see what this administration is doing as a threat to civil liberties. Until then, I can only see the attacks on an NSA surveillance program -- on Monday the Senate Judiciary Committee grilled Attorney General Alberto Gonzales over the program that allowed officials to mine information from international phone calls and the Internet -- as ill-conceived, partisan and dangerous. … Sen. Arlen Specter, R-Pa., the committee chair, has pushed for the administration to ask the FISA court to review the NSA program. 'You think you're right, but there are a lot of people who think you're wrong,' Specter told Gonzales. 'What do you have to lose if you're right?' … The question should be: What does America have to lose? If FISA found against the NSA program, one would hope Congress would pass laws designed to give intelligence officials what they need -- with oversight to prevent abuses. But that may be asking too much."

The Portland Oregonian (2/8) editorializes, "Gonzales testified, in essence, that the Constitution and federal law give the president free rein to spy on people in this county, including American citizens, in the name of fighting terrorism. … Not even the Republican chairman of the Judiciary Committee buys that argument." The Oregonian adds, "Court-issued warrants, coupled with congressional oversight, are this country's time-tested safeguards. There's no evidence that such checks and balances contributed to the failure to prevent the 9/11 attacks, and there's no truth to the claim that they stand in the way of preventing future attacks. … In the political heat of Monday's hearing, Sen. Dianne Feinstein, D-Calif., claimed the Bush administration says it 'doesn't have to follow the law.' That's inaccurate. The president and his attorney general say they are following the law -- and, more to the point, they've decided what the law says. … All the more reason to support Specter's sensible call for a review by the FISA court."

In a piece posted on Slate.com (2/8), Slate senior editor Emily Bazelon writes, "Given the box Specter constructed for the hearings, what could be learned from them? Actually, the day was pretty instructive, not on the topics of spying or national security, but on the bizarre embrace into which the legislature and the executive have locked themselves since Sept. 11. Congress claims that it wants to exercise its war powers and help set rules for NSA spying—but in fact it's afraid to, for fear of appearing to undermine the president. And the Bush administration acts like it wants to undo the Foreign Intelligence Surveillance Act—but it fears the public uproar that amending the act would create." Bazelon adds, "The fuss over whether Gonzales should testify under oath seemed to be about the possibility, at least in Specter's mind, that the attorney general was about to say something that could get him into trouble for lying. Gonzales had been sworn in when he testified twice before, as have other Department of Justice officials. Today, though, Specter said such an oath was 'unwarranted' (though Gonzales had agreed to take it). … The Democrats wanted Gonzales sworn in. They made Specter take a roll-call vote, and he had to vote on behalf of two absent Republican senators to break a tie. … Everyone seemed to be rolling up their sleeves for a partisan square-off. … But then some of the Republicans changed their stance. They seemed more worried about a loss of senatorial power than about fighting with the Democrats. And that meant taking issue with Gonzales' theory of executive authority." Bazelon concludes, "How should FISA be amended? Where do you draw the line to protect civil liberties while allowing all the searches that could ever snare a potential terrorist? Those are hard questions—too hard for Congress, it seems. You have to hand it to Bush and Gonzales. They don't have much to work with, legally speaking. But they're playing the politics just right."

In a piece posted on washingtonpost.com (2/8), legal analyst Andrew Cohen writes, "There are remarkable similarities between what happened at Enron before its collapse in 2001 and what is happening now inside the executive branch as it prosecutes the legal war on terrorism. And it is only now, as the corporate fraud and conspiracy trial of Jeffrey Skilling and Kenneth Lay begins in Houston and as we approach the start of Congressional hearings into the White House's domestic surveillance program, that the patterns have emerged with real clarity." Cohen continues, "Federal prosecutors alleged in Houston last week that when Enron didn't like the profit numbers it was seeing from its business efforts, it simply changed the numbers through accounting and financial artifices, with the consent and at the direction of the men who led the company. … Likewise, when the Bush Administration didn't like the way its intelligence surveillance operations were going, it simply

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changed the rules through novel and as yet untested legal arguments, with the consent of the President and at the direction of his attorney general." Cohen adds, "Enron, we now know, didn't just immediately tumble off the cliff into illegal practices. It inched toward it. … Likewise, the Bush Administration didn't just start out on its current path toward legal and political confrontation (and perhaps constitutional violation) by rewriting surveillance law. The new program is just the latest example in a pattern of unilateral legal action by the White House. In 2002, remember, the White House and Justice Department rewrote the law on torture, implicitly and in some ways explicitly condoning conduct that most reasonable people would consider to be torture. That led us to Abu Ghraib as inexorably as Enron's crooked accounting led to its bankruptcy." Cohen concludes, "Enron's top executives thought they were the 'smartest guys in the room' but in the end, as the title of another Enron-related book goes, it was all just a 'conspiracy of fools.' Many Bush Administration's lawyers and leaders also give off a 'smartest guys in the room' aura, especially when they are interpreting the law in a way it hasn't been before. Whether they are fools, too, or we are, or both, remains unclear."

Lawyers File Suit On Behalf Of US Citizen Held In Iraq For Allegedly Helping Zarqawi. The New York Times (2/8, Lewis) reports attorneys representing Shawqi Ahmad Omar, a 44-year-old naturalized American citizen, "have been pressing a federal district judge to intervene in their client's case, saying that he had been arrested and held in Iraq for more than a year without being charged or given access to a lawyer." The Justice Department he is "a close associate of Abu Musab al-Zarqawi…and he may be guilty of war crimes," having "been captured…harboring an Iraqi insurgent and four Jordanian foreign fighters" that said "Omar was plotting to kidnap foreigners from Baghdad hotels." The Justice Department also "argued that Mr. Omar was not in military custody, the basis under which his lawyers say a federal judge has jurisdiction over his case," but is "held by the Multi-National Force." Omar's lawyers requested that the judge "block any transfer of Mr. Omar to Iraqi government custody, which they said would be a ruse by the United States to avoid federal court jurisdiction."

Muslim Cleric Convicted By UK Jury, Sentenced To Seven Years In Prison. A jury in London on Tuesday convicted radical Muslim cleric Abu Hamza al-Masri on charges of soliciting murder and inciting violence in sermons at his Finsbury Park Mosque, which was attended by shoe-bomber Richard Reid and al Qaeda operative Zacarias Moussaoui. Al-Masri was sentenced to seven years in prison.

The New York Times (2/8, Natta) reports, "The seven-year sentence means that Mr. Masri will most likely serve roughly three and a half years in prison. Under British law, he will not be eligible for extradition until he has completed his sentence here. Mr. Masri's defense lawyer, Edward Fitzgerald, said his client would 'strenuously contest' extradition to the United States." The AP (2/8, Panja) adds, "Authorities in Britain and the United States accuse al-Masri of being at the center of a web of terrorist activity," and "he has been charged in the United States on an 11-count indictment with trying to establish a terrorist training camp in Oregon, conspiring to take hostages in Yemen and facilitating terror training in Afghanistan." DOJ spokesman Bryan Sierra "said the United States 'stands ready to resume the extradition proceedings against Abu Hamza when British law allows.'" NBC Nightly News (2/7, story 4, :55, Williams) also noted, "American authorities are hoping to get him to the US to face trial."

The Financial Times (2/8, Tait, Burns) reports Justice Anthony Hughes said at the sentencing that al-Masri's "views had caused 'real danger to the lives of innocent people in different parts of the world' and helped created an atmosphere 'in which to kill has become regarded by some as...a moral and religious duty in pursuit of perceived justice.' The judge added: 'No one can now say what damage your words may have caused. No one can say whether your audience, present or wider, acted on your words'." The Los Angeles Times (2/8, Daniszewski, Stobart) notes the "jury found Masri guilty of 11 charges: six of solicitation to murder; three of using threatening words and behavior with intent to foment racial hatred; one of possessing audiotapes intended to stir up racial hatred; and one for possessing an 'Encyclopedia of Afghani Jihad,' which prosecutors described as a terrorist manual and said was dedicated to Osama bin Laden. (One chapter listed likely terrorist targets such as the Statue of Liberty, the Eiffel Tower and Big Ben in London.)

The Washington Post (2/8, A12, Jordan) reports, "In a surprise announcement, Scotland Yard said after the verdict was announced that officers who raided Masri's Finsbury Park mosque in 2003 had seized guns for firing blanks, a stun

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gun, a gas mask, blank passports, hunting knives and other items. Officials said that information was not publicly disclosed in an effort not to prejudice the trial, which involved other charges. 'What place do these things have in a place of worship?' asked Peter Clarke, head of Scotland Yard's terrorist branch. Clarke told reporters he could only conclude that the items were for 'some form of training or training camps.'"

US Seeks Extradition Of Kassir From Czech Republic. The Czech news agency CTK (2/8) reports, "The Justice Ministry has received an official U.S. application for the extradition of Oussama Kassir, a Swede of Lebanese origin, who was detained in Prague on suspicion of terrorism, ministry spokesman Petr Dimun said. 'The application was immediately handed to the relevant state attorney's office. The admissibility of extradition will be assessed by court and the decision on the extradition will be made by the justice minister (Pavel Nemec),' Dimun said." CTK notes, "Kassir allegedly participated in building a training camp for Jihad in Oregon, USA. The trained Muslims were to move to Afghanistan."

German High Court Orders Alleged Al Qaeda Member Released Pending Appeal. The New York Times (2/8, Landler) reports the German Federal Constitutional Court on Tuesday ordered the release of Moroccan Mounir el-Motassadeq, "who had been convicted of belonging to a cell of Al Qaeda whose members included the Sept. 11 hijackers, pending an appeal of his case," in which "he was sentenced to seven years in prison." The constitutional court "ruled that the lower court had been wrong to put him jail, because he posed no greater risk of fleeing than during his first appeal. As a condition of his release, he is not allowed to leave Germany and must turn in his passport to authorities." Motassadeq "could still serve his sentence if an appeals court upholds the lower court's conviction."

Agence France-Presse (2/8) reports, "Motassadeq left the prison in the company of his lawyer on Tuesday evening, according to journalists at the scene." AFP adds, "He was found guilty in August in a retrial of belonging to a terrorist organization for plotting holy war with fellow Muslim extremists, including three of the September 11 suicide hijackers. … He was jailed for seven years but both the prosecution and the defense have appealed the sentence. … His lawyer Gerhard Strate told AFP he filed the suit demanding Motassadeq's release with the federal constitutional court in the southwestern city of Karlsruhe on the grounds that he had been held in custody during the year-long retrial."

Mueller Discusses Security, Counter-Terrorism With Moroccan King. Under the headline "No Country Or Agency Could Be Successful Without Cooperation, FBI Head," The Morocco Times (2/8, Rhanem) reports FBI Director Robert Mueller "said that no country or agency in the world can be successful without cooperation. 'Countries have to work closely together in an era of globalization and technology to exchange information to prevent attacks and criminals from from preying on our people,' he told Morocco Times. 'Therefore associations and friendships between our countries are exceptionally important,' he added. Mueller also said that the FBI has also addressed ways to cooperate with Moroccan security officials to exchange information in policing and fingerprints and DNA databases. The FBI head was received on Tuesday in Rabat by HM King Mohammed VI. 'I have discussed with King Mohammed VI the fact that the War on Terror addresses certainly those few individuals who would undertake terrorist attacks,' Mueller told Morocco Times. 'But this also means that we have to work with the social structure, developing jobs and opportunities that King Mohammed VI has in his vision over the last several years. My discussion indicated how it is important to compliment him on addressing these issues,' he stressed."

Agence France Presse (2/8) reports Mueller and King Mohammed "held talks…on security cooperation and the fight against terrorism, officials said. Also present at the meeting were the United States ambassador to Morocco, Thomas Riley, the head of the Federal Bureau of Investigations' (FBI) Rabat office, Lauren Anderson, Moroccan Interior Minister Mostafa Sahel and intelligence chiefs Hamidou Laanigri and Abdellatif Hammouchi."

US Officials Confirm FBI Passed Tip About London Bomber To UK Before Attack. The AP (2/8, Hays) reports, "U.S. officials confirmed reports on Tuesday that a terror informant arrested in 2004 identified one of the London transit system suicide bombers as a possible threat. But the officials said the tip was too vague to foil last year's deadly attack. The FBI passed on the warning about Mohammed Sidique Khan to British authorities before

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the bombings…according to two U.S. law enforcement officials based in New York. The informant, Mohammed Junaid Babar, identified Khan as a potential terrorist," but he "offered no specific information about a plot targeting the transit system." The AP notes, "Britain's Home Office and London's Metropolitan Police have refused to comment on Babar's claims about intelligence related to Khan, citing government policy not to discuss issues of security or intelligence." The UK's ITN (2/7) briefly reports yesterday's New York Daily News article which broke the story.

HOMELAND RESPONSE:

DHS, FBI Warn Of Prepaid Cell Phone Purchases By Terrorists. CNN's The Situation Room (2/7, Arena) reported, "The Department of Homeland Security and the FBI sent out a bulletin to law enforcement partners today. It basically says that there are some individuals who have made bulk purchases of prepaid cell phones who may have links to terrorist organizations. Now…buying these types of cell phones in bulk and reselling them at a higher price is big business on the black market. FBI analysts conclude that if terrorists are involved it's probably to raise money. It's also important to point out that cell phones have also been used by terrorists as improvised explosive devices, as we saw in the Madrid train attack. But the bulletin says that it's unlikely that these purchases have links to IED construction."

Security Screening Test Begins At New Jersey Rail Stations. The Washington Post (2/8, A6, Garcia) reports that at the PATH station in Jersey city, "Manhattan-bound commuters passed through metal detectors and shoved their briefcases and knapsacks through X-ray machines Tuesday in the first test of airport-style security in a rail system. Government screeners searched bags and scanned passengers for explosives, but unlike in airports, commuters did not have to remove their shoes or change and cell phones from their pockets. Officials hope the screening won't take more than a minute per passenger." DHS spokesman Larry Orluskie said the 30-day pilot project is intended "collect information on customer wait times and impact on operations. The idea is to not hinder people."

The New York Times (2/8, McGeehan) reports, "During rush hours, the screeners choose subjects at a predetermined rate, maybe every eighth passenger. At slower times, they may switch to screening all of them or all of those with larger bags, officials said. Riders who decline to participate in the test will be free to walk away unless one of the two Port Authority police officers standing by considers their behavior suspicious, said an official overseeing the test."

Port Association Chairman Urges More Support For Port Infrastructure, Security. Bernard Groseclose, president and CEO of the South Carolina State Ports Authority and chairman of the board of the American Association of Port Authorities, in an op-ed in the Washington Times (2/8) writes that "the US port industry is facing unprecedented challenges that should concern every American consumer, as well as the president and Congress. If unaddressed, these challenges could weaken the nation's supply chain and economic vitality. Port security remains a critical issue in this post-September 11 world." Groseclose states, "The release Monday of the president's fiscal 2007 budget presents a timely opportunity to reflect on the nation's commitment to port infrastructure and its security. … It is vital that the federal government uphold its end of the partnership with public port authorities and help ensure that America's ports remain both secure and efficient."

DHS Seeks Another $41.7 Million To Implement Pay System. The Washington Post (2/8, B2, Barr) reports in its "Federal Diary" column, "The Department of Homeland Security is asking Congress for an extra $41.7 million in fiscal 2007 to continue setting up its new pay and personnel system, MaxHR, which will replace the GS system used across the government for decades. The increase, if approved, would bring total funding for MaxHR to $71.4 million. … The President's fiscal 2007 budget, released Monday, would allow Homeland Security to continue with the design of its market-based pay system, create a compensation committee and continue training supervisors and managers. … During fiscal 2007, Homeland Security officials expect to phase in pay-for-performance and market-based systems. The department's budget request seeks funding for 16 positions to administer the performance-based pay system. In addition, the budget request would finance two new positions to address hiring problems across the department. Federal managers, including Homeland Security officials, are increasingly complaining that hiring takes too long."

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Leader Selected For 9/11 Museum. The New York Times (2/8, Pogrebin) reports Alice M. Greenwald has been chosen "to guide a much-disputed 9/11 museum into existence at ground zero." The initial reaction to Greenwald, an associate director for museum programs at the Holocaust Museum in Washington, "seemed positive. Monica Iken, founder of September's Mission, whose husband, Michael, died in the south tower of the World Trade Center, said yesterday that Ms. Greenwald 'has done an exemplary job at the Holocaust Museum.'"

FEMA's Overall Disaster Response Rated As "Adequate." The Washington Post (2/8, A17, Kamen) reports in its "In the Loop" column, "Despite the awful press, FEMA's overall 'disaster response' has been deemed 'adequate,' according to a new government Web site. The site -- http://www.expectmore.gov -- provides the public with assessments of how federal programs are operating. … Most everyone, with maybe one prominent exception, thinks that former FEMA director Michael ('Brownie, you're doing a heck of a job') Brown led a hurricane rescue effort that was itself a disaster. So if FEMA is 'adequate,' exactly what do you have to do to flunk? Turns out it is the lowest rating given for programs deemed to be 'performing.' The ratings are 'effective, moderately effective, or adequate,' the site explains. 'Adequate' means 'a program that needs to set more ambitious goals, achieve better results, improve accountability or strengthen its management practices.'"

Blanco Threatens To Block Energy Leases Unless Louisiana Gets Its "Fair Share." The New York Times (2/8, Rivlin) reports, "Seeking more money from Washington for hurricane relief, Gov. Kathleen Babineaux Blanco entered uncharted legal territory with a threat on Monday to block oil and gas leases worth hundreds of millions to the federal treasury unless the state received its 'fair share' of the revenues. 'It's time to play hardball, as I believe that's the only game Washington understands,' Ms. Blanco said Monday night as she opened the second special legislative session she has called since Hurricanes Katrina and Rita." However, "It remains to be seen whether the governor has the authority to block the leases. By statute, the Minerals Management Service, the agency in the Interior Department that oversees offshore leases, has to seek comment from the affected governors. It is not clear what occurs if a governor refuses to approve a pact."

Evacuees Protest End Of Hotel Payments. NBC Nightly News (2/7, story 8, 1:45, Williams) reported, "There was a protest in New York City today. That's not usual but this is. The folks who were protesting were refugees from Hurricane Katrina. A number of them have been living for all these months in hotels throughout the city. Some people have been living at an airport hotel at New York's JFK airport. The protesters are all facing eviction starting tomorrow so today they gathered on the steps of New York City Hall, appealing for more time. FEMA for its part says the deadline to apply for an extension has passed but some of the protests insist they did apply in time but are tangled up in a bureaucratic mess."

The AP (2/7) reported, "The occupants of more than 4,500 government-paid hotel rooms were ordered to turn in their keys Tuesday, as the Federal Emergency Management Agency began cutting off money to pay for their stays. Far more people -- the occupants of at least 20,000 hotel rooms, many of which housed entire families -- were given extensions by FEMA until at least next week and possibly until March 1, said FEMA spokesman Butch Kinerney. FEMA said it gave people every possible opportunity to request an extension." Meanwhile, "FEMA maintains that as many as 80 percent of those being forced to check out this week have made other living arrangements, ranging from trailers to receiving federal rent assistance to living with relatives." The AP noted, "In New York, around 50 protesters including both evacuees and activists gathered at the steps of City Hall to protest the evictions. In Oakland, Calif., demonstrators carrying signs and chanting 'Evict FEMA' tried to present an eviction notice to employees at a FEMA branch office." A similar version of the AP story ran in the Washington Times.

WAR NEWS:

Cheney Says 2005 Was Turning Point In Iraq. Vice President Dick Cheney said on PBS' Newshour with Jim Lehrer (2/7) last night, "I think we're making progress against the insurgency. I think we have been now. I think we'll look back several years from now and see that 2005 was really a turning point in the sense of the progress we made, both in terms of training Iraqi forces -- because we've not got a large number of Iraqis taking the lead various placed around the country, from a security and military standpoint -- but also because of the political milestones that were achieved, that -- from the elections in January of '05, the

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writing of the constitution, the ratification of that constitution in October, the national elections in December under the new constitution. I think those political milestones, every single one of which has been met, are vital in terms of our ultimate success in Iraq of establishing a democratically elected government and a security situation that the Iraqis themselves can handle."

Before Senate Panel, Rumsfeld Says It Will Take Decades To Build Iraqi Infrastructure. CNN's Lou Dobbs Tonight (2/7, Pilgrim) reported, "Defense Secretary Donald Rumsfeld today went to Capitol Hill to give testimony about the war in Iraq and the Pentagon's budget." CNN (McIntyre) added, "Rumsfeld and his top generals once again found themselves defending a controversial plan to reorganize the National Guard and Army Reserves, insisting the shift would result in more combat forces, not less."

Reuters (2/8, Allen) reports Rumsfeld said "it will take decades to rebuild Iraq's infrastructure as senators charged the Bush administration had fumbled reconstruction efforts, slowing a US military withdrawal. … Contrary to forecasts of administration officials before the March 2003 invasion, Rumsfeld said, 'It's going to take decades' for Iraq 'to get the infrastructure back to where a modern country would have it.'" The senators also "questioned Pentagon officials on progress in training Iraqi forces, which the administration says is key for withdrawing U.S. troops."

The AP (2/8, Sidoti) reports "lawmakers of both parties" said the Administration "is falling short in its efforts to rebuild Iraq, increase oil production and spawn a new government that is representative of all factions there." Rumsfeld "heard from critics including panel Chairman John Warner, R-Va. The comments marked a continuation of bipartisan criticism the administration has received in recent months from members of Congress over its Iraq policies."

Knight Ridder (2/8, Brown) reports Rumsfeld also told senators yesterday "corruption and graft threaten to sink any progress that Iraq has made in trying to create a democracy, and U.S. military forces lack the expertise needed to build civilian government." Rumsfeld "discussed corruption, lack of basic services and the looming threat of civil war in Iraq with members of the committee. Although the hearing was not exclusively about the war, much of it focused on how far Iraq had to go before it has a stable, functioning government."

Warner Says Other Federal Agencies Not Doing Enough To Help Iraq Efforts. The Washington Times (2/8, Scarborough) reports Warner "said federal agencies are not doing everything they could to help the US military win in Iraq, prompting…Rumsfeld to suggest an overhaul of civilian departments to better fight Islamic terrorists. 'What we're not getting,' said…Warner, Virginia Republican,'"[are] the other elements of our government to bring to bear to conclude this conflict and perform the mission and bring our forces back.'" Warner "asked Mr. Rumsfeld: 'Do you agree or disagree with my view that we're not pulling together, all elements of our government, with equal force, as is the men and women of the armed forces?' Mr. Warner was airing what has primarily been debated behind closed doors in the Bush administration."

McCain Chastises Rumsfeld Over Supplementals. The Hill (2/8, Tiron) reports Sen. John McCain "accused the Bush administration yesterday of going around congressional authorizers to secure so-called 'emergency funding'" for military operations. At a hearing, McCain said to Defense Secretary Donald Rumsfeld, "This year you are submitting the seventh emergency supplemental of some $50 billion coming to a total of some $400 billion in the last four years. I do not know how you call it an emergency anymore when you know you are going to have costs associated with the Iraq war." Rumsfeld "said he can go about funding the war 'either way,' meaning he would feel comfortable with funding the war through the regular budget or through supplemental funding."

Intelligence Agencies To Analyze Tape Of Saddam Meeting With Advisors. The New York Times (2/8) reports, "The chairman of the House Intelligence Committee has turned over to intelligence agencies 12 hours of audio recordings of Saddam Hussein meeting with top advisers, an aide to the chairman, Representative Peter Hoekstra, Republican of Michigan, said Tuesday." Hoekstra "believes the recordings may shed light on whether Mr. Hussein hid unconventional weapons before he was toppled in 2003, said the aide, Jamal D. Ware. The voice on the recordings has been confirmed by intelligence analysts as Mr. Hussein's, Mr. Ware said."

Four Marines, Sunni Leader Killed In Iraq Yesterday. The CBS Evening News (2/7, story 4, 2:05, Schieffer) reported "Four more US Marines were killed in action west of Baghdad. Bombings in the capital killed at least seven Iraqis and assassins gunned down a Sunni leader who worked with the Shiite-led government." ABC World

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News Tonight (2/7, story 4, :10, Vargas) reported, "Three of the deaths occurred near the city of Hit, 85 miles from the capital."

Meanwhile, USA Today/AP (2/8) reports, "Gunmen assassinated a Sunni community leader Tuesday in the former extremist stronghold of Fallujah." Sheik Kamal Nazal, a Sunni preacher and chairman of the Fallujah city council, "was gunned down in a hail of bullets from two passing cars as he walked to work, police Chief Brig. Hudairi al-Janabi said. No group claimed responsibility for the killing." The Washington Post (2/8, A12, Finer) reports Nazal "ran for a seat in Iraq's parliament and worked closely with American forces policing Fallujah."

The New York Times (2/8, Worth) and Washington Times (2/8, Reid) also reports on the violence.

Shiite-Sunni Violence In Iraq On Upswing. The CBS Evening News (2/7, story 4, 2:05, Schieffer) reported "Around Iraq, Shiite versus Sunni violence is on the rise again." CBS (Dozier) added, "Kill one to frighten 1,000. Sunnis say it's simple, brutal and effective. It's being done to them by a shadowy force within the majority Shiite government." US diplomats and commanders "say the pace of killings has become so fast and furious Sunni leaders are threatening to walk out of a new government that hasn't even been formed yet. Shiite officials concede some in their ranks may be guilty but months of investigations have failed to yield a single arrest." Mowaffak Raubaie, Iraqi national security advisor: "There are so many sort of complaints and there's no smoke without fire." Dossier: "But so far no one from within any of the ministries?" Raubaie: "Well, we need the proof." Dossier: "Sunni politicians say they've provided proof time and again. Shiite officials insist these claims are exaggerated, and they say at least as many Shiites are being killed as Sunnis but Sunnis are seeing red. And they want payback."

UK Defense Secretary Says British Troops Could Leave Iraq. The Financial Times (2/8, Spiegel, Correspondent) reports, "John Reid, the UK defence secretary, on Tuesday night set out the conditions under which British troops would withdraw from Iraq, appearing to lower expectations of how peaceful the country would be when that withdrawal occurred." In a speech in which Reid "sought to 'set out in specific terms' his views on when UK forces could leave, the defence secretary said Iraq was likely to be still rife with violence and suffering from widespread shortages even when British troops departed." Although the speech "was not flagged as a major policy address and Mr Reid has given similarly sober assessments of Iraq's security in the past," the address was "his most specific and, in many regards, most pessimistic view of how Iraq would look after coalition troops withdraw."

The AP (2/8) reports Reid said that "if the months go well, they bring the day closer when the Iraqi people can finally take control of their own futures. That also means that the time is approaching when the coalition which is helping them achieve this can begin leaving Iraq." Reid "would not comment on numbers or dates, saying 'to do so would be to invite chaos.'" Britain "has about 8,000 soldiers in Iraq, most in or near the southern city of Basra."

Navy Reserve Commander Disputes Financial Problems For Activated Reservists. Dana Bienvenu, a commander in the United States Navy Reserve, writes in a letter to the editor of the Wall Street Journal (2/8), "That military reservists called to active duty are underpaid and that their families suffer severe financial hardships as a result of the war is repeated so often that I no longer even try to correct those who argue it as a matter of faith." Actually, "with base pay, housing allowance, imminent danger pay, family separation allowance, medical coverage for families at home and various specialty pay, all being tax free, few recalled soldiers and sailors face destructive hardships." Also, "increased federal legal protection (the Servicemembers Civil Relief Act signed by President Bush in 2003) actually allows activated members to shed financial responsibilities."

State Department Career Weapons Experts "Sidelined." Knight Ridder (2/8, Strobel) reports, "State Department officials appointed by President Bush have sidelined key career weapons experts and replaced them with less experienced political operatives who share the White House and Pentagon's distrust of international negotiations and treaties." The "reorganization of the department's arms control and international security bureaus" was intended "to help it better deal with 21st-century threats. Instead, it's thrown the agency into turmoil and produced an exodus of experts with decades of experience in nuclear arms, chemical weapons and related matters, according to 11 current and former officials and documents obtained by Knight Ridder." The reorganization "was conducted largely in secret by a panel of four political appointees."

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1999 White House Report Said Iraq Retained Capacity TO Develop WMD. In its "History Lessons" column, the Washington Times (2/8) excerpts an August 25, 1999 White House report on Iraq's development of WMD. The report stated, "As of December 1998, UNSCOM reporting provides an accurate assessment concerning Iraq's chemical programs as we understand them. … On discrepancies in the material balance of chemical munitions, Iraq continues its refusal to account for a falsely-reported expenditure of some 6,000 chemical munitions, for the disappearance of 550 artillery shells filled with mustard agent, and for an inaccurate accounting of R-400 aerial [chemical weapon] bombs. Concerning VX [gas], UNSCOM has stated that the amount of VX Iraq produced has yet to be verified and that Iraq has yet to admit to its weaponization of VX into missiles... The UNSCOM... reports note that in the biological weapons area, priority issues begin with Iraq's failure at a fundamental level to provide an accurate declaration of its [biological weapons] program; Iraq has submitted several declarations all found to be incomplete. Iraq has not accounted for materials and items that may have been used or acquired for such a program... Iraq retains the industrial capacity and knowledge base to develop [biological weapon] agents quickly."

CORPORATE SCANDALS:

Skilling's Attorney Highlights "Experts Defense" At Enron Trial. The Wall Street Journal (2/8, Emshwiller, McWilliams) reports, "The lead attorney for Jeffrey Skilling underscored the advice of experts and the imprecision of business affairs in federal court here yesterday as the defense continued to unfold for the former Enron Corp. president and his co-defendant, former Chairman Kenneth Lay." The Journal continues, "In a sometimes testy exchange in a second day of cross-examination, Mr. Skilling's attorney, Daniel Petrocelli, challenged the government's lead-off witness, former Enron investor-relations chief Mark Koenig, about whether he had any basis for claiming that the company put out false or misleading information to the public. Under government questioning last week, Mr. Koenig said that Messrs. Skilling and Lay had taken part in putting out misinformation about Enron in the nearly two years before its collapse into bankruptcy proceedings in December 2001. … Mr. Koenig himself has pleaded guilty to a felony for aiding and abetting securities fraud in Enron's public statements. He is cooperating with the government in hopes of reducing any prison sentence, which could be up to 10 years." The Journal adds, "In questioning yesterday, Mr. Petrocelli pushed the point that many accounting and legal experts reviewed Enron's public financial releases. For instance, the attorney presented Mr. Koenig with a document indicating that Enron's last-minute decision to increase reported earnings for the 1999 fourth quarter by a penny a share had been known to the company's outside accountants, Arthur Andersen. … Such an 'experts defense' argues that an executive can't be accused of lying if he is relying on the advice of outside experts, such as accountants, when making a statement about a company's finances. From the beginning of the giant Enron probe, prosecutors have worried about getting around this defense, say people familiar with the matter. To a large degree, the criminal charges that have been leveled against some 30 individuals in connection with Enron argue that key pieces of information were withheld from the outside experts -- thus removing the protection."

The Deal (2/8, Poole) reports, "The defense in the Enron Corp. fraud trial attempted Tuesday to demonstrate that two former executives did not try to hide anything at the one-time energy giant. … Daniel Petrocelli, former CEO Jeff Skilling's defense attorney, asked Mark Koenig, the former investor relations chief, if some of the things he did as part of his job were done at other companies. Koenig acknowledged that they were. … 'You're not suggesting these are illegal or improper'? Petrocelli asked. … 'No,' Koenig replied, then added, 'But there were false and misleading statements on earnings releases and conference calls.'" The Deal adds, "As for adjusting its earnings upward from 30 cents to 31 cents one quarter to meet Wall Street targets, Petrocelli asked if there was anything wrong with a company 'sharpening its pencil' to do that. … Koenig said there was, adding, 'He [chief accounting officer Rick Causey] said, 'Let me work on it and get it up by a penny." … Petrocelli objected, saying Koenig was 'going beyond' his questions, but the judge didn't rule and the questioning continued. … Petrocelli was able to get Koenig to admit that he erred in earlier testimony that Enron hadn't missed a Wall Street earnings consensus since 1997, when it did in fourth-quarter 1997."

USA Today (2/8, 2B, Farrell) also reports on the trial.

Humbled Rice To Take Stand. The New York Times (2/8, Barrionuevo) reports, "From fast cars to rugged adventure trips to $6.4 million in bonuses, Enron was a dream

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maker for Kenneth D. Rice. … While he was still in his 30's, Mr. Rice, a former Nebraska farm boy and high school jock, pocketed millions of dollars working for the Houston-based energy company. He lived life in the fast lane — literally — racing Ferraris and going on daredevil expeditions to southern Mexico and the Australian Outback with his onetime friend and mentor, Jeffrey K. Skilling, Enron's former chief executive. … But as early as Wednesday afternoon, a different Ken Rice will take the stand in the criminal trial of Mr. Skilling and Kenneth L. Lay, who was chief executive when Enron collapsed in late 2001. Mr. Rice will testify against Mr. Skilling, who once considered him one of his most loyal supporters in transforming Enron from a staid pipeline company into a cutting-edge trading company with big ambitions. Mr. Skilling helped make Mr. Rice a very wealthy man. His total compensation, including stock sales, in 2000 came to $47.3 million — more than his bosses, Mr. Lay and Mr. Skilling, earned. Mr. Rice spent some of that money on sports cars, motorcycles and a Colorado vacation home. … But these days, Mr. Rice, 47, is a humbled government witness, having pleaded guilty in 2004 to one count of securities fraud for falsely promoting the troubled broadband division that he headed for two years. He faces up to 10 years in prison and is named in at least 32 pending civil lawsuits, with each of them having the potential to bankrupt him."

Lawsuit Challenges Constitutionality Of Key Sarbanes-Oxley Component. The Wall Street Journal (2/8, Scannell, Mullins) reports that the Free Enterprise Fund, a Washington lobbying group, and the Nevada accounting firm Beckstead & Watts "are challenging the constitutionality of the Public Company Accounting Oversight Board, potentially opening the door for other efforts to roll back the Sarbanes-Oxley corporate-governance law" on the grounds that it "violates the appointments clause and separation of powers principles of the Constitution." Their legal team includes Kenneth Starr and ex-Justice Department official Viet Dinh. The lawsuit "comes as some lawmakers are trying to rally support for legislation that would weaken or roll back Sarbanes-Oxley," and also as "some groups, realizing they can't get rules and laws overturned, are turning to the courts to chip away at some recent reforms."

The AP (2/8, Gordon) reports, "Bitterly opposed to the sweeping anti-fraud law, they are challenging the board it established to oversee the accounting industry, arguing that it violates the Constitution's mandated separation of powers among the three branches of government." The AP adds, "The Free Enterprise Fund, an anti-tax group that seeks limited government, filed suit Tuesday in federal court in Washington against the accounting board, known as the Public Company Accounting Oversight Board. … The anti-fraud law, known as the Sarbanes-Oxley Act for its congressional sponsors, could be invalidated if any of its sections is found unconstitutional. Opponents want it sent back to Congress for a revision. … Until now, the objections to the law have come mainly from publicly traded companies — especially smaller ones — focusing on one key section of it. They want an easing of its requirements for reporting on the strength of internal financial controls. … Federal regulators and lawmakers have been receptive to their complaints about the burden of complying, but the Sarbanes-Oxley law itself has not been called into question."

WSJournal Calls Lawsuit's Case "Compelling." The Wall Street Journal (2/8) editorializes, "What do you get when you cross corporate scandals with a panicked Congress in an election year? … Sarbanes-Oxley, a bad law that, as it turns out, may also be unconstitutional." The Journal calls the lawsuit a "compelling argument and one that, with any luck, may finally spur Congress to revisit a law that has arguably done more economic harm than the scandals that inspired it. … If we've learned anything about corporate crime in recent years, it is that determined scoundrels can find ways around any corporate governance rules. Most of the post-Enron prosecutions have been made" with pre-Sarbanes-Oxley laws.

Spitzer-Grasso Dispute Still Awaits Trial Date. The Wall Street Journal (2/8, Lucchetti, Mcdonald) reports, "Having sparred for 20 months, New York state's attorney general, Eliot Spitzer, and former New York Stock Exchange chief Dick Grasso say they are ready to take their legal fight over Mr. Grasso's Big Board compensation to court." The Journal continues, "Today, trial-level New York State Supreme Court Judge Charles E. Ramos is expected to discuss progress with both sides of the civil matter and, according to lawyers involved, may revisit a topic he has only hinted at in past months: a trial date." The Journal adds, "Despite their public pronouncements, the litigants and others involved in the matter may benefit from further delay, and legal experts speculate the main event may never make it into court. … Mr. Spitzer has alleged that Mr. Grasso's $188 million compensation package was excessive under New

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York's not-for-profit law and that Mr. Grasso should return much of the money to the NYSE. Mr. Grasso has said he only took the money the Big Board directors offered him, and he has in turn sued the NYSE for money he says he is still owed. Kenneth Langone, a former Big Board director, was also named in Mr. Spitzer's lawsuit and has also criticized the attorney general's tactics. … One reason the case has proceeded so slowly is its complexity: Both sides have spent months gathering evidence, getting depositions from busy witnesses scattered around the world and doing other so-called discovery work. Neither side wants to rush into a trial without making sure its case is as solid as possible. … The case has also ballooned into a referendum on executive pay -- adding more spotlight pressure -- and Mr. Spitzer's campaign to become New York's next governor in a Nov. 7 election make a delay even more likely. Mr. Spitzer is the only announced Democrat in the race and is doing well in polls."

Senate Panel Looking Into Lobbying By Fannie Mae, Freddie Mac. The Wall Street Journal (2/8, Kopecki) reports, "A Senate committee has begun investigating whether government-chartered companies Fannie Mae and Freddie Mac may have improperly used their charitable foundations and other nonprofits to skirt campaign-finance laws and lobby Congress." The Senate Finance Committee probe "expands on the panel's inquiries into several charities tied to lobbyist Jack Abramoff, who recently pleaded guilty to bribery and other charges in a broader public corruption probe, a Finance Committee aide said." The Committee "is examining whether executives at Fannie Mae and Freddie Mac have used their charitable foundations and other nonprofit groups to skirt lobbying-disclosure laws, while expanding their access to key members of Congress."

CRIMINAL LAW:

Murdered Philadelphia Witness Had Refused Offer Of Government Protection. The Philadelphia Daily News (2/8, Gambacorta Weichselbaum) reports, "Tyreese Allen was killed near a spot where he was shot two years ago" in a shooting incident in which his cousin was murdered. "Allen was prepared to cooperate with authorities and testify against his cousin's alleged killer, Kareem Glass. … So what was he doing in the same neighborhood where he was riddled with bullets once before? Family members said Allen insisted on staying in North Philadelphia, even after the district attorney's office offered him refuge over the summer in the Witness Relocation Program. 'Tyreese didn't want to leave his son and mother behind,' said a relative who said she was too frightened to have her name in the paper. … But officials said Allen could have taken his family with him." The Daily News notes, "The District Attorney's Office doesn't offer witness-protection services, but local witnesses can have access to the federal Witness Security Program, thanks to 'Step Up, Speak Up,' the city's partnership with the FBI and U.S. Attorney's Office that was launched last week. … The federal program gives witnesses new identities and new lives while covering all of the costs, provided they agree never to return to their old neighborhoods."

Four Businessmen Indicted In Philadelphia Corruption Probe. The Philadelphia Inquirer (2/8, Shiffman, Anastasia, 423K) reports, "A federal indictment issued yesterday charges that four businessmen tried to funnel $30,000 in campaign contributions to Mayor Street's 2003 reelection campaign to help secure a contract at Philadelphia International Airport. 'This was a blatant attempt to buy influence,' U.S. Attorney Patrick L. Meehan said. The four men are charged with defrauding the company they were working for -- Sky Sites Inc.," which "supplied indoor, back-lit advertising displays to airports. … The indictment accuses no public official of wrongdoing." The Philadelphia Daily News (2/8, Hinkelman) notes, "The individuals indicted yesterday were Joseph C. Moderski, 68, of Bryn Mawr; Terry F. Crockett, 61, of Center City; Eric M. Selby, 39, of Washington Grove, Md., and Joseph Evans, 50, of Oyster Bay, N.Y." The New York Daily News/AP (2/8, Loviglio) also reports on the indictments, focusing on the fact that Evans is from Long Island.

In a second story, The Philadelphia Inquirer (2/8, Anastasia, Shiffman, 423K) reports Moderski is "the quintessential Philadelphia deal maker -- the guy who knows a guy who knows a guy." He "appeared on the FBI's radar screen early in the government corruption probe, according to FBI documents. Even thought his public service apparently began and ended with his appointment as chairman of the Ice Skating Rink Advisory Board in Haverford Township in the late 1980s, he had for years been a friend of those with political clout. During the corruption investigation, he was recorded in wiretapped conversations with" Street adviser

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Ron White, Imam Shamsud-din Ali, and airport deputy director James Tyrrell. During the Ali trial, "one lawyer asked the case's lead FBI agent, Jesse Coleman, if Moderski had been indicted. 'Not yet,' Coleman replied."

Defense Shows Jurors Photos Of Ryan's Modest Home. The AP (2/8, Robinson) reports, "The red brick home on a tree-shaded Kankakee street looks comfortable enough, but the century-old house where George Ryan has lived for the last four decades is no mansion. The jury at the former governor's racketeering and fraud trial got a photo tour of the place Tuesday from Nancy Smith, the soft-spoken caregiver who long looked after Ryan's mother-in-law. The images of Ryan's house…had that lived-in look and were in sharp contrast to what jurors have seen and heard of expense-paid Ryan vacations in Jamaica and Palm Springs as the guest of state vendors and others seeking favors. … Defense attorneys declined to say exactly why they wanted jurors to see the photos, but they certainly provided a humanizing glimpse of Ryan's home life. … But under cross-examination by Assistant U.S. Attorney Laurie J. Barsella, Smith said the Ryans were often away from the Kankakee home even when they were not campaigning."

The Chicago Tribune (2/8, O'Connor, 643K) notes, "During opening statements to jurors in September, Dan Webb, Ryan's lead lawyer, said the residence was Ryan's home for more than 40 years and his only major asset. In cross-examining Smith Tuesday, the prosecution noted that the Ryans also had an apartment on Wacker Drive in Chicago." The Tribune adds, "In other testimony Tuesday, a onetime press spokesman for former Cook County State's Atty. Jack O'Malley buttressed earlier testimony by O'Malley. Timothy Touhy testified he didn't recall Ryan cursing O'Malley after he passed on a suggestion on how to curb corruption when Ryan was secretary of state in 1992."

Judge Delays Tennessee Waltz Trial Until August. The AP (2/8) reports, "Shelby County Commissioner Michael Hooks' public corruption trial in the Tennessee Waltz investigation has been postponed to Aug. 7. Federal Judge Daniel Breen approved the delay Tuesday after defense lawyer Steven Farese said he needed more time to study government evidence against Hooks, including recordings of conversations made by FBI agents. … Farese also said Hooks has had trouble financing his defense and hiring lawyers' assistants to review the government recordings to make written transcripts." The AP notes, "The FBI's Tennessee Waltz investigation has led to federal corruption indictments against five current or former state lawmakers. "

Judge Continues To Balk At Prosecution Evidence In "Mafia Cops" Trial. Newsday (2/7, DeStefano) reports, "With the case against Louis Eppolito and Stephen Caracappa due to go to trial on Feb. 21, Judge Jack B. Weinstein asked for more clarity on the charges and hinted that he could keep the government from using certain evidence at trial." On Monday, "Weinstein told prosecutors…during a court hearing that he was having trouble with their request to introduce evidence of uncharged crimes into the case. … 'The evidentiary rulings depend upon what I instructed you from the outset was a serious problem, and that is, connecting the Nevada events with what happened a decade before in New York City,' Weinstein told prosecutors Robert Henoch and Mitra Hormozi. 'So you better come in prepared to convince me on those points, because I'm prepared to rule [on the evidence], and those rulings may be decisive in the jury' verdict, although there's no necessity that my findings will be the same as the jury's,' said Weinstein."

US Will Not Seek Trial Testimony Of NYPD Detectives Who Broke Case. NY1.com (2/7) reports, "The former detectives credited with breaking the so-called 'mafia cops' case will not testify at the upcoming trial. Former NYPD detectives Thomas Dades and William Oldham were able to get a key informer to speak, which led to the charges against disgraced former police officers Louis Eppolito and Stephen Caracappa. However, the Brooklyn U.S. Attorney's office said Tuesday it has decided not to use Dades and Oldham as witnesses. The news comes as the defense team works to uncover disciplinary action about Dades and Oldham which could hurt their credibility."

Ohio Executes Man For Raping, Murdering Two Women. The AP (2/8, McCarthy) reports, "Ohio on Tuesday executed a man convicted of raping and strangling two women during a five-month spree of assaults while he was on drugs." The AP continues, "Glenn L. Benner II, 43, died by injection at 10:15 a.m. at the Southern Ohio Correctional Facility. … Benner admitted committing horrific crimes while under the influence of drugs." The AP adds, "He was convicted of kidnapping, raping and murdering Trina Bowser, 21, in 1986, leaving her body in the trunk of her car

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along a highway in Tallmadge, the town where they grew up across the street from each other. … A year earlier, he had strangling Cynthia Sedgwick, 26, of Cleveland Heights, in Cuyahoga Falls after a George Thorogood concert. … Benner refused to ask that his life be spared, saying the process does not consider whether a person changes in prison. He also turned down interview requests, saying he was doing so out of respect for the victims and their families."

Identity Thieves Frequently Target Children's Social Security Numbers. ABC World News Tonight (2/7, story 9, 2:20, Gibson) reported a "new trend in identity theft" involves "stealing the Social Security numbers of babies. It is an insidious crime, because it can be years before the child grows up, applies for credit and then learns how much damage has been done to his or her credit." ABC (Harris) added, "While the thieves can be anyone with access to children's Social Security numbers -- health care workers, school officials -- two-thirds of children are victimized by people they know. And, like this woman, they often don't report in the crime because they don't want to get those people in trouble." One "possible solution is for the government to track every child's Social Security number and to investigate anytime anyone uses one of those numbers, at a bank or anywhere else, to get credit. Congress is working on a bill. For now, though, parents should closely guard their children's Social Security numbers."

Cuban Spying Case Fuels Long-Time Fears Of Florida Émigrés. The Miami Herald (2/8, Martin, 323K) reports, "Growing up in Miami, young Cuban Americans rolled their eyes whenever the older generation warned there were spies everywhere. … But over the years, proof poured in. The latest: alleged Cuban agents at Florida International University. The old-timers have felt vindicated every time a spy is discovered -- just because they were paranoid didn't mean spies weren't out to get them. But just how damaging have those spies been? Whatever intelligence they may have swiped, their greatest toll could be on the Cuban-American psyche. The 47 years of Castro's rule may have established a well-documented culture of fear and duplicity on the island -- but many say they look over their shoulders in Miami, too." The Herald adds, "Said Skip Brandon, former deputy assistant director of the FBI who specialized in counter-intelligence: 'On the one hand, we probably tended to give Fidel too much credit that he was behind everything, and on the other, maybe not enough. Many foreign intelligence agencies don't really worry about their émigré communities in the United States. Castro always did, and still does.'"

In a short companion piece, The Miami Herald (2/8, 323K) reports, "The recent arrests of Carlos and Elsa Alvarez…are hardly the only indication that Cuba performs the cloak-and-dagger routine in Miami. High-profile spy cases from the past include: July 1991: José Rafael Fernandez Brenes declares on Cuban television that he had been a spy for Fidel Castro…inside TV Martí. November 1992: Francisco Avila reveals he had been a double agent for the FBI and Cuba while serving as military chief for the Miami-based paramilitary group Alpha 66. … September 2000: The FBI arrests 10 South Floridians accused of spying for Cuba under the name La Red Avispa, or the Wasp Network. … September 2001: Ana Belén Montes, former senior analyst for the Pentagon's Defense Intelligence Agency, is charged with being a spy for Cuba" and "received a 25-year prison term."

New York Investigators Find New Evidence Of Music Industry Payola. The CBS Evening News (2/7, story 5, 2:15, Schieffer) reported, "Government investigators have turned up new evidence of an old problem on the business side" of the music industry, "Payola." CBS (Mason) added, "New York state Attorney General Elliott Spitzer say record labels have been rewarding the radio stations that play their songs with bribes and cash. In an ongoing investigation, Spitzer has uncovered confidential records that reveal how the record companies pay for play. For a Jennifer Lopez song, a Sony promoter writes we bought 63 spins at a cost of $3600. Another record executive notes, two weeks ago it cost us over $4,000 to get the band Franz on. They were effectively buying space on the air. Sony and Warner music have already paid multimillion dollar fines and admitted their employees had used practices that were wrong and improper. Now the rest of the industry is under scrutiny, as the investigation moves in on the giant radio companies that control much of the air waves." That includes "the two largest radio chains. Infinity now called CBS Radio, and Clear Channel, which has some 1200 stations." In a statement, Clear Channel "says it has zero tolerance for pay for play. But Spitzer says the radio companies have played a major role."

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Lawyer To Celebrities Is Subject Of Pellicano Probe. The Los Angeles Times (2/8, Welkos) reports, "His name is nowhere in Monday's 60-page indictment of celebrity gumshoe and alleged wiretapper Anthony Pellicano. … But the shadow of 76-year-old lawyer Bertram Fields, who for years employed Pellicano as an investigator, looms over the case. Listed throughout the indictment are a host of alleged victims, including such prominent names as actor Sylvester Stallone and comic Garry Shandling, who battled with Fields' clients." The Times continues, "According to the federal indictment, Pellicano and his associates either allegedly wiretapped the victims, as with Stallone, or performed background checks on them, as with Shandling, using a database that is supposed to be restricted to law enforcement agencies. … The indictment alleges that Pellicano was trying to gain a tactical advantage for his clients by uncovering embarrassing information on their courtroom opponents." The Times adds, "Fields, whose hardball legal tactics have made him a favorite of many studios and celebrities, has denied knowledge of any illegal activity. Nonetheless, he remains a subject of the ongoing Pellicano investigation. … Fields, who has publicly acknowledged his status as a subject, issued a terse comment Monday. 'It's something I want to stay out of,' Fields said. 'I try to keep practicing law and not pay a lot of attention to it.' … Norman Levine, managing partner of the Greenberg, Glusker, Fields, Claman, Machtinger and Kinsella firm where Fields is a partner, said that although some members of the firm used Pellicano as an investigator, 'if Mr. Pellicano engaged in any illegal activity, he did so without their or the firm's knowledge or authorization.' … Pellicano and his associates were charged with operating an illegal activity that sought information on a variety of key Hollywood figures, including top agents Kevin Huvane and Bryan Lourd of Creative Artists Agency, former New York Times entertainment journalist Bernard Weinraub, former Los Angeles Times reporter Anita Busch and actors Keith Carradine and Kevin Nealon."

Former Maryland Priest Sentenced For Sexual Abuse. The Baltimore Sun (2/8, Mcmenamin) reports, "For nearly 20 years, Thomas Roberts kept quiet, hiding the secret of sexual abuse by the high school chaplain he sought counseling from in 1987. … When another young man who had attended a different school came forward in 1993 with similar allegations against the priest, Roberts kept quiet still." The Sun continues, "Tuesday, as a Baltimore County judge prepared to sentence Jerome F. Toohey Jr. for the sexual abuse that occurred over three years, Roberts kept quiet no longer. … 'Father Jeff lived nearly 20 years in the freedom of my silence,' the 33-year-old former Calvert Hall College student told the judge. Turning to face Toohey, Roberts added, 'I'm old enough and strong enough now to fight for the young man you abused. Today, the balance of power has finally shifted, and the burden is completely yours.'" The Sun adds, "Toohey, 59, a former Roman Catholic priest and Calvert Hall College chaplain, was sentenced to 18 months in jail for sexually abusing Roberts after his mother asked the priest to counsel her then-14-year-old son, who was struggling with his parents' divorce and questions about his sexuality. … Baltimore County Circuit Judge John G. Turnbull II handed down a five-year sentence, suspending all but 18 months. He also recommended that Toohey be granted work release and directed him to serve 18 months of supervised probation after his release from the county detention center. … Known as 'Father Jeff,' Toohey has also worked as a chaplain to the deaf community and Baltimore police department and as an associate priest at St. John the Evangelist in Hydes."

CIA Employee Charged In Suburban Virginia Burglaries. The Washington Post (2/8, B1, Jackman) reports that CIA employee George Dalmas III has been "charged with 17 burglaries in the McLean area." In a search of Dalmas' Falls Church home, police said "they found a stunning trove of cash, jewelry, antiques, license plates -- and bags filled with more than 1,000 women's undergarments.' The Post adds, "Dalmas is a 'mid-level administrative employee,' a CIA spokesman said yesterday, and he has been suspended without pay pending the outcome of the investigation. Some of the houses that were burglarized belonged to CIA employees, and Dalmas may have targeted them because he knew they wouldn't be home, said Fairfax Officer Richard Henry."

Nebraska Man Sentenced For Having Sex With 13-Year-Old Girlfriend. The New York Times (2/8, Ruethling) reports, "A 23-year-old Nebraska man who pleaded guilty to first-degree sexual assault last year for having sex with his 13-year-old girlfriend, whom he impregnated and later married, was sentenced to 18 to 30 months in prison yesterday." The Times continues, "The man, Matthew Koso, of Falls City, will be eligible for parole

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after nine months. He could have faced up to 50 years in prison. … 'We were stunned,' said Mr. Koso's mother, Peggy, of the sentence given by Judge Daniel E. Bryan Jr. of Richardson County District Court. 'We honestly thought that he would get probation.' … But Mrs. Koso said she was relieved that the sentence was not longer and added that she did not look at her son as a pedophile. … 'Matt has always said that he and Crystal knew that what they did was wrong according to the law, but that they love each other and want to spend their lives together,' she said. 'He's a young man who happened to fall in love with someone much younger than he is, and he did not use good judgment when it came to having a sexual relationship with her.'" The Times notes, "Mr. Koso and his wife, Crystal, began dating in 2003 when he was 20 and she was 12. They were married last May in Hiawatha, Kan., with their parents' consent. Their daughter, Samara, was born in August. … Nebraska's attorney general, Jon Bruning, who charged Mr. Koso in July, said he thought the sentence was fair."

US Recovers $9.3 Million In Illegal Sports Betting Investigation. WAOW-TV Wausau (2/7) reports on its Web site, "We have more information in the case involving a sports betting operation with connections to Wisconsin. Gold Medal Sports handled phone and Internet sports bets totaling hundreds of millions of dollars over five years. Authorities collected more than $9 million in the eight-year effort." The AP (2/6) noted, "Duane Pede and Jeff D'Ambrosia were convicted of violating federal laws against an offshore bookmaking operation in 2002 and of filing false income tax returns. … The two were sentenced to five years in prison and ordered to pay more than$5.1 million in fines and back taxes. … The announcement Friday by U.S. Attorney Stephen P. Sinnott marks the final collection of the outstanding debts. In a statement, Sinnott said the $9.3 million represents the largest amount of fines, forfeitures and back income taxes ever collected in Wisconsin's Western District." The Madison Capital Times (2/4, Callender) also reported, "The payment marks the largest combination of fines, forfeitures, and back taxes ever collected in the Western District of Wisconsin." The Times added, "The offshore betting operation was headquartered in Curacao," but Pede D'Ambrosia "also ran a publishing house in Nelsonville, Wis., that advertised the service in the U.S. according to federal prosecutors."

Four Florida Medical Professionals Indicted On Health-Care Fraud Charges. The Palm Beach Post (2/7, Spencer-Wendel) reports, "A multimillion-dollar insurance scam kept a pharmacist in a lavish lifestyle, a prominent psychiatrist and chiropractor with a flow of illicit cash, and a neurologist with his own stash of prescription drugs for personal use, according to a federal indictment unsealed Monday. Prosecutors have charged pharmacist Joseph Sutera, psychiatrist Eric Ressner and neurologist Agustin Castellanos, all of northern Palm Beach County, with conspiracy to commit health-care fraud. The investigation — conducted by federal agents since at least 2004 — also snared chiropractor Robert Catanese of Palm Beach Gardens." The Post notes, "According to the indictment, Sutera…submitted more than $17 million in claims over a four-year period, receiving $9.9 million. Most of the money was from fraudulent drug claims — prescriptions never made and never filled." Sutera "used the names of the doctors with their permission, according to federal prosecutors. … Assistant U.S. Attorney Carolyn Bell asked a federal judge Monday to require a $1 million bail for Sutera's release." The South Florida Sun-Sentinel (2/7, Coté, 249K) also reports on the indictments.

Former Ohio Bank Manager To Plead Guilty To Embezzlement. The Columbus Dispatch (2/8, Mayhood) reports, "The former manager of a South Side bank has admitted she stole more than $1 million from the bank over five years." Carmen D. Torres Colston "has agreed to plead guilty to embezzlement" and "has already repaid U.S. Bank nearly half the $1.129 million she took." The Dispatch notes that "Colston falsified application documents and used the identities of others to procure loans, lines of credit and credit cards, said Fred Alverson, a spokesman for the U.S. attorney's office. Bank investigators became suspicious of her work and interviewed her. She admitted the thefts and the case was turned over to the FBI, according to court documents."

Debate Over Treatment Of Mentally Ill Blurred By Recent Killings. The New York Times (2/8, Archibold) reports, "Against the vivid backdrop of recent killings by mentally ill people, both sides in the national debate over whether mentally ill people who have not committed a crime can be forced into treatment are preparing for a showdown in the Legislature here." The

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Times continues, "New Mexico lawmakers are considering a bill, backed by Gov. Bill Richardson, that would make the state the 43rd with a law allowing family members, doctors or others to seek a court order forcing the mentally ill into outpatient treatment. Typically under the laws, if mentally ill people refuse the treatment, they can face confinement in a hospital." The Times adds, "Across the country, proponents have pushed the laws as a pragmatic approach to the mentally ill who fall through the cracks of the mental health system, particularly those who have committed no crime but could harm themselves or others as their sickness worsens. These mentally ill people often do not need to be in a hospital, but do need to stick to treatment, which could include medication, therapy or both. … 'We are talking about a small group of people who do not get help because they don't want help or know they need help,' Mary T. Zdanowicz, executive director of the Treatment Advocacy Center, based in Virginia, said in a break from lobbying lawmakers here. … But opponents say the laws infringe on the civil rights of the mentally ill, and they suggest that teams of social and psychiatric workers could accomplish the same thing with direct intervention on the streets. Critics also say that most states have not provided adequate money for the services needed by those forced into treatment."

CIVIL LAW:

Adelphia Bankruptcy Judge Denies Request To Appoint Special Examiner. The New York Law Journal (2/8, Lin) reports, "The judge presiding over the Chapter 11 bankruptcy of Adelphia Communications has denied a request to appoint a special examiner to determine whether Boies, Schiller & Flexner, which formerly represented the cable television company, violated the bankruptcy code by failing to disclose that some of its lawyers, including children of senior partner David Boies, were financially interested in litigation support companies the firm recommended to Adelphia." The Journal continues, "The company, which landed in bankruptcy in 2002 following allegations that its founding family, the Rigases, looted the company of hundreds of millions, asked Boies Schiller to resign as its special litigation counsel last August for failing to disclose those interests." The Journal adds, "The request for a special examiner, supported by the U.S. Trustee, Adelphia and its creditors' committee, was made in response to Boies Schiller's final request for fees in the case. … The firm is seeking almost $30 million for its work since June 2002, most of which has already been paid. … Adelphia and its creditors are hoping a probe will show that document management company Amici and copying company Echelon overcharged the estate, which was billed millions for their services. … Boies Schiller had objected to the appointment of an examiner on the grounds that Adelphia had previously bargained for a discount on document services, at which time it had determined fees were reasonable."

By 98-1 Margin, Senate Votes To Proceed With Asbestos Bill. The Washington Times (2/8, Ramstack) reports, "The Senate voted 98-1 yesterday to move forward with a bill to halt asbestos lawsuits and create a $140 billion trust fund for people sick from asbestos-related diseases." The bill now "will move to the floor for its first debate, expected to take place over the next two weeks. Sen. James M. Inhofe, Oklahoma Republican, voted against, while Sen. Tom Coburn, Oklahoma Republican, did not vote." Despite its progress, "the bill faces stiff opposition."

The New York Times (2/8, Labaton) reports the vote "came after critics dropped their opposition when they realized that they did not have enough votes to block the debate." The asbestos measure "still faces formidable political obstacles even though it is a priority of Republican leaders in Congress and the White House." The Los Angeles Times (2/8, Peterson) runs a similar story.

CIVIL RIGHTS:

Bush Criticized At Funeral Service For Coretta Scott King. President Bush and three former presidents attended the funeral of Coretta Scott King yesterday. Much of the coverage this morning notes the political attacks on Bush and his policies from some of the speakers. For example, under the headline "Bush Gets An Earful At Coretta King's Funeral," the Los Angeles Times (2/8, Wallsten, Fausset) reports the event "turned into a rare, in-person rebuke of President Bush, with a succession of civil rights and political leaders assailing White House policies as evidence that the dream of social and racial equality pursued by King and her slain husband is far from reality." The Times adds, "The appearance by Bush, who decided over the weekend to rearrange his schedule and attend the service, came as his approval rating among blacks has slipped to the low single digits in some surveys -- a direct response, some

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strategists believe, to the government's failed response in the wake of Katrina."

Reuters (2/8, Jacobs, Zakaria) also reports "speakers seized" on Bush's presence "to attack his policies." Jimmy Carter, one of four presidents to speak, "took a jab at Bush's domestic eavesdropping program." He "drew spirited applause with comments on federal efforts to spy on the Kings decades ago. 'It was difficult for them personally with the civil liberties of both husband and wife violated, and they became the targets of secret government wiretapping and other surveillance,' Carter said." The Washington Times (2/8, Curl) reports, "Carter later said Hurricane Katrina was a clear sign that racism is still alive in America. … The crowd applauded lustily."

The AP (2/8, Pickler) says "both Bush and his father winced as they sat behind the pulpit and heard the Rev. Joseph Lowery, who co-founded the Southern Christian Leadership Conference with Martin Luther King Jr., take several jabs at foreign and domestic policies. 'We know there were no weapons of mass destruction over there, but Coretta knew and we knew there are weapons of misdirection right down here,' Lowery said, complaining that were far too many in the US are living in poverty and without health care insurance. 'For war, billions more, but no more for the poor,' Lowery continued, a take-off of a lyric from the song 'A Time to Love' which drew a roaring standing ovation."

USA Today (2/8) titles one of its reports on the funeral "As Bush Listens, Speakers Aim Barbs At War, Spying," while a second story USA Today story (2/8, Copeland) says the event "felt like…a joyous, sometimes raucous, funny but rarely somber ceremony."

The Washington Post (2/8, A4, Fletcher) reports, "Bush all but ignored many black civil rights and political leaders during his first four years in office." Instead, "he focused on building inroads to African American leaders through the pastors of black evangelical churches and business leaders who were not identified with the traditional civil rights agenda." Bush "became the first president since Herbert Hoover to serve a full term without addressing the NAACP, which many acknowledge as the nation's leading civil rights organization. At the same time, Bush's relations with the Congressional Black Caucus were frosty, contributing to a growing gulf between the administration and black voters." But "in recent months, Bush has made an effort to forge relationships with leaders he once ignored."

The story was the lead on each of the networks. CBS ignored the political attacks on Bush altogether, while ABC and NBC gave a prominent mention to the Carter and Lowery remarks. The CBS Evening News (2/7, lead story, 4:25, Pitts) reported, "Four American Presidents, 14 US Senators and a host of preachers, poets and performers were among the nearly 10,000 mourners for Coretta Scott King. From prayers and scripture to the songs of the struggle." For "all this public adulation, Coretta Scott King guarded her privacy and her children with the same tenacity she put into her husband's legacy."

ABC World News Tonight (2/7, lead story, 4:00, Gibson) reported, "There are few people in this world who could bring presidents, senators, stars and thousands of Americans together in a single place. Coretta Scott King is one of them." It was "an extraordinary assemblage remembering the civil rights leader, the widow, the woman, the life of Coretta Scott King." At "one point, things got political." Lowery was then shown saying Mrs. King "deplored the terror inflicted by our smart bombs on missions way afar. We know, now, there were no weapons of mass destruction over there."

NBC Nightly News (2/7, lead story, 4:20, Savidge) reported Carter "said he could not have won office were it not for the changes the Kings and the civil rights movement brought," and "then said more needs to be done." Carter: "We only have to recall the color of the faces of those in Louisiana, Alabama, and Mississippi. Those who are most devastated by Katrina to know that they are not yet equal opportunities for all Americans." Lowery "shook the President's hand then scolded his foreign and domestic policies."

Bloomberg (2/8, Keil) reports Bush "honored Coretta Scott King as 'God's servant,' 'saying at the funeral for the widow of slain civil rights leader Martin Luther King Jr. that she was an example of strength and dignity who continued her husband's service in the cause of civil rights." CNN's The Situation Room (2/7, Blitzer) reported Bush said "he brought the 'sympathy of our nation with him.'" Bush: "By going forward with a strong and forgiving heart, Coretta Scott King not only secured her husband's legacy, she built her own."

The AP (2/8, Haines) reports, "Former President Clinton urged mourners to follow in her footsteps, honor her husband's sacrifice and help the couple's children fulfill their parents' legacy." Former President Bush said the "world is a kinder and gentler place because of Coretta Scott King." The New York Times (2/8, Dewan, Bumiller) says, "Of the four

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presidents, Mr. Clinton was the obvious favorite of the crowd. A huge cheer went up as he reached the open area near Mrs. King's coffin, and the crowd gave him a thunderous standing ovation when he approached the microphone with his wife, Senator Hillary Rodham Clinton."

The Washington Post (2/8, A1, Fears) notes "several high-profile -- and politically charged -- black figures, such at the Rev. Jesse L. Jackson and the Rev. Al Sharpton, were not accorded a place onstage." Still, adds the Times, "political tensions occasionally burst through the veneer of reconciliation." The Post goes on to mention the comments by Carter and Lowery.

Under the headline "Bushwhacked at King Funeral," Franck James wrote in the Chicago Tribune's website (2/7) reports, "For many people, a funeral probably seems an inappropriate time to criticize someone in attendance, especially if it happens to be the president of the United States." But "many Christian funerals are used by preachers to strike the conscience of those attending in order to create a come-to-Jesus moment where souls are won. Sometimes at such funerals, hard things are said. Coretta Scott King's funeral fit that bill." The Financial Times (2/8, Ward) also notes the "strong political undercurrent, with several speakers making veiled and in some cases open criticism of the Bush administration from a podium situated just feet from where the president sat."

Judge In Human Smuggling Trial Urges Deadlocked Jury To Continue Deliberating. The AP (2/8, Lozano) reports, "Jurors said they were deadlocked Tuesday on charges against three people accused in the nation's deadliest immigrant smuggling attempt, but the judge urged them to continue deliberating. The jury was expected to return Wednesday to begin a fourth day of deliberations." The AP continues, "The charges stem from the deaths of 19 immigrants in a locked, airtight trailer bound for Houston. Prosecutors say Victor Sanchez Rodriguez, 58; his wife, Emma Sapata Rodriguez, 59; and Rosa Sarrata Gonzalez, 51, were part of a ring that trucked more than 70 immigrants from South Texas to Houston in May 2003. … The immigrants began to succumb to heat and dehydration in the trailer during the trip and the driver, Tyrone Williams, abandoned the trailer at Victoria, about 100 miles from Houston. Seventeen died inside and two died later." The AP adds, "The three defendants were accused of hiding and transporting some of the immigrants before they were packed into the truck. Defense attorneys said their clients had no role in endangering the lives of the immigrants. … The defendants originally faced 58 counts of harboring and transporting illegal immigrants, but Gilmore dismissed most counts for lack of evidence."

FBI Reportedly Investigating Civil Rights Allegation Against Illinois Sheriff's Deputies. The Springfield State Journal-Register (2/7, Antonacci) reports, "The FBI reportedly is reviewing two methamphetamine arrests by the Sangamon County Sheriff's Office last summer to see if the arrestees' civil rights were violated. 'We've been notified there was an accusation made, and I can't talk about it,' Chief Deputy Sheriff Tony Sacco, who is a target of the accusation, said Monday. '(The FBI) called the sheriff about a week and a half ago and said they received a complaint, and I was the subject of an investigation into a civil rights violation.' Marshall Stone, supervisory special agent in the Springfield FBI office, said he could neither confirm nor deny the existence of any investigation of the sheriff's office." The Journal-Register notes, "According to the FBI Web site, the agency investigates all alleged violations of federal civil rights laws, the most common of which are complaints involving allegations of excessive use of force by law enforcement personnel. The Web site indicates 40 to 50 law enforcement personnel are convicted of the crime each year."

Georgia Bill Would Boost Pensions For Retired Black Atlanta Police Officers. A bill passed by the Georgia House would remedy an inequity in the pensions received by black police officers in Atlanta. ABC World News Tonight (2/7, story 11, 2:30, Avila) reported former assistant chief Howard Baugh, a one-time neighbor of Martin Luther King, "saw plenty change in his police department. But one thing remained the same -- he was paid less than his white counterparts then. And even now, his pension is less, too." He was "the 12th black police officer to join the Atlanta force and the first to reach the rank of assistant chief. Despite more than 30 years of service, he and about 2,000 other Atlanta police officers, are victims of Jim Crow segregation laws that kept them out of a special police pension." Baugh: "The explanation was we're not taking blacks in at this particular time." Avila: "When he retired, until this day, Baugh received $710 a month less than white officers, that were allowed into that pension fund." Baugh

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"says retirement equality would go a long way to erasing the painful memories and now, the Georgia House has passed a bill to do just that." Rep. Tyrone Brooks, Georgia Assoc. of Black Elected Officials: "It sends a message to the people of the nation and Georgia, that Georgia continues to move forward, to overcome the legacy of Jim Crow segregation."

Report Finds Many States Not In Election Law Compliance. The Boston Globe/AP (2/7, Abrams) reports, "With the midterm elections just nine months away, many states are lagging behind in meeting requirements under a 2002 election reform law that they modernize voting machines, create voter databases and establish ID systems, according to a report released Tuesday." The AP continues, "Controversies over the need for paper trails and the legality of ID requirements were among the reasons that states missed the Jan. 1 deadline for complying with the Help America Vote Act, said Electionline.org., a nonpartisan project that does analysis of election reform. … 'The lack of progress in nearly half of the states throws into doubt whether HAVA goals can be achieved in time for the November 2006 election,' the project's president, Doug Chapin, said in a statement." The AP adds, "HAVA was enacted in response to the disputed 2000 presidential election, and Chapin said that despite the glitches, the election system is undergoing significant change. Two years ago voters had never heard of voter-verified paper audit trails; now states are deciding whether to use them in recounts, and states that once debated the need for IDs are now debating whether IDs should be issued free of charge, he said."

Reuters (2/8) reports, "The report said nearly half of the states missed last month's federal deadline to implement changes required by the 2002 Help America Vote Act, which Congress passed to help restore confidence in the integrity of a process shaken by the drawn-out 2000 recount saga in Florida. The report, by the non-partisan Electionline.org project, said reforms have stalled across the country for a variety of reasons, including growing concerns about the reliability of electronic voting machines and about the legality of voter ID requirements."

Evangelical Group Seeks To Intervene In Air Force Suit. The Colorado Springs (CO) Gazette (2/8, Roeder) reports, "A Colorado Springs-based evangelical organization is expected to file court papers Wednesday asking to intervene in a lawsuit that charges the Air Force with religious intolerance." The Gazette continues, "The Air Force won't comment, but the National Association of Evangelicals says it has talked with government attorneys and is entering the case to defend the rights of evangelical chaplains. … 'We have been in collaboration with the Air Force attorneys working on this case,' said Kyle Fisk, executive administrator for the evangelical group. 'It is the policy of the Air Force to remain neutral when it comes to intervention, but we believe we are doing the Air Force a service.'" The Gazette adds, "Last fall, New Mexico resident Mikey Weinstein sued the Air Force, claiming non-Christian cadets at the Air Force Academy face discrimination from evangelical Christians. His suit, which was joined by four Air Force officers, asks for an outright ban on uninvited proselytizing and evangelism throughout the service. … On Tuesday, he said the intervention of the evangelical group, the second to ask to join on the Air Force's side, proves his point. … 'I am thunder-struck that a branch of government would collaborate with fundamentalist Christians to convert members of the armed forces to evangelical Christianity,' said Weinstein."

LA Mayor Backs Shielding Identity Of Officers In Shootings. The Los Angeles Times (2/8, Helfand, Glover, Lait) reports, "Mayor Antonio Villaraigosa today expressed support for his police commissioner's controversial decision to withhold the names of officers involved in shootings, but vowed to review the matter." The Times continues, "Villaraigosa also said he was troubled by reports that the executive director of the commission urged the police union to threaten a lawsuit if the names were not withheld." The Times adds, "Meanwhile, the Los Angeles Police Commission sent mixed signals today about its new policy of withholding the names of officers involved in shootings, as it affirmed the policy adopted in secret last year with a formal, public vote. The panel's president, John Mack, defended the action, saying it was required by law." The Times notes, "The commission acted amid an outcry from critics who complained that the panel, whose mandate is to provide public oversight over the LAPD, was making it more difficult for the public to assess the actions of officers and was ending a policy that has governed the release of officers' identities for 25 years. … In Los Angeles, the Police Commission had released the names of officers involved in shootings since 1980, a practice embraced by the public after the controversial killing by LAPD officers of a South Los Angeles woman in 1979. Since then, the actions of LAPD

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officers involved in shootings have frequently been the object of intense public interest — although police officers have routinely objected to being identified. … The change in commission policy was made during a closed-door meeting Dec. 13. The five-member civilian panel, which functions much like a corporate board for the Police Department, sets standards and oversees operations in conjunction with Chief William J. Bratton."

Police Say Man In Massachusetts Gay Bar Attack Killed Himself. The New York Times/AP (2/8, Press) reports, "A teenager accused of two killings and a rampage at a gay bar fatally shot himself in the head in a gunfight with the police in Arkansas, the authorities said Tuesday." The AP continues, "The teenager, Jacob D. Robida, 18, turned the gun on himself on Saturday after fatally shooting a woman in his car, District Attorney Paul Walsh Jr. of Bristol said, citing an autopsy. The police had searched for Mr. Robida since Thursday, when, they said, he used a hatchet and handgun to wound three men at a gay bar in New Bedford, Mass. … Mr. Walsh said that the autopsy showed that Mr. Robida was killed by the gun used in the bar attack and that it also fired the bullet that killed the woman, Jennifer Rena Bailey, 33, whom Mr. Robida picked up in West Virginia after fleeing Massachusetts."

WPost Calls For Passage Of Virginia Gay Bias Measure. The Washington Post (2/8, A18) editorializes, "Virginia has come late to the idea that employees and job-seekers should not be discriminated against because they may be homosexual. Now it has a chance to embrace the obvious justice of that policy. It is crucial that the opportunity not be missed. Former governor Mark R. Warner, having ignored the subject for most of his term, issued an order in December, weeks before leaving office, prohibiting discrimination by state agencies in hiring and employment. Mr. Warner's successor, Gov. Timothy M. Kaine, reaffirmed the policy on taking office last month. Now the General Assembly is considering legislation to codify that principled stance and extend it to local governments and school systems. It's as close to a no-brainer as legislation gets, but anti-gay legislators may still be able to kill it." The Post adds, "The legislation would simply do what nearly all of Virginia's largest corporate employers (Wal-Mart, Northrop Grumman, Food Lion) and universities (the University of Virginia, Virginia Tech, George Mason) have already done by adopting similar policies: that is, outlaw a particularly noxious form of bigotry whose day has quite definitely passed."

ANTITRUST:

DOJ To Probe Mittal-Arcelor Deal. The Wall Street Journal (2/8) reports, "The Justice Department is planning to investigate whether Mittal Steel Co.'s $24 billion hostile bid for chief rival Arcelor SA complies with antitrust law, a department official said. A tough U.S. investigation could delay the deal or force changes to eliminate overlapping product lines." The Journal continues, "The proposed merger of the world's largest steelmakers would lengthen Mittal's wide lead in producing steel for the U.S. auto industry and other big manufacturers. European antitrust officials have already said they would review the deal. Mittal is based in the Netherlands but is run from London. Arcelor is based in Luxembourg but is run from Paris. Mittal has an enormous market presence in the U.S., giving the Justice Department authority to review the deal if it proceeds. 'It's obviously something we'd look at,' the Justice official said." The Journal adds, "U.S. antitrust enforcers investigated Mittal's last acquisition but cleared it in December 2004 after a product-by-product review. The latest deal would give Mittal 11% of world crude-steel production, with much higher shares in some markets, analysts have said."

EU Official Seeks Debate On Mittal's Arcelor Bid. The AP (2/8, White) reports, "The European Parliament should discuss Mittal Steel Co.'s unsolicited 18.6 billion euros ($22.5 billion) bid for Luxembourg-based steelmaker Arcelor SA, the head of the Parliament said Tuesday after meeting with Mittal's CEO." The AP continues, "European Parliament President Josep Borrell said the Parliament should be a forum for major issues that affect the people and the economy of the European Union, even though it has no formal role in approving the offer. … 'I intend, with the support of all the interested parties, to promote this debate at the heart of our institution in the coming weeks,' he said. 'I am mindful of this offer and sensitive to the social concerns of employees of a large European industrial group, Arcelor, which has close to 80,000 people in the EU.'" The AP adds, "Borrell met with Lakshmi Mittal, chairman and chief executive of the world's largest steelmaker, at Mittal's request. Mittal has been trying to win support for his offer, which has been criticized by three European governments. … Borrell said in a statement that Mittal wanted to explain the takeover bid and its economic

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and social consequences. Borrell is also due to meet with the European Metalworkers' Federation this week and said he would also like to hear from Arcelor."

Settlement Of DOJ Suit Against West Virginia Hospital Pending. The Nashville Tennessean (2/8, Pack) reports, "The Justice Department has filed suit to force a West Virginia hospital to end a four-year-old agreement with HCA Inc. that the government says blocked HCA from developing a competing cardiac surgery program. … A settlement in the case is pending. HCA isn't named as a defendant." The Tennessean continues, "In a statement late Monday, Justice said its antitrust division has filed suit to force Charleston Area Medical Center Inc. to break its contract with the Nashville-based hospital chain, claiming the deal restricts competition and hurts patients. … 'Competition among hospitals results in lower prices, greater quality of care, and increased innovation for health care consumers,' Thomas Barnett, acting assistant attorney general in charge of Justice's antitrust division, said in a statement." The Tennessean adds, "Charleston Area Medical Center oversees the country's sixth largest cardiac surgery program. HCA owns and operates Raleigh General Hospital in Beckley, about 60 miles south of Charleston in Raleigh County. … According to the Justice Department, the Charleston hospital persuaded HCA to sign a deal in 2002 in which the hospital company agreed not to develop a heart surgery program in Beckley. … In return, Charleston Area Medical Center said it would support two unrelated HCA programs in other parts of the state, the government said. Justice claims the deal ensured that no hospital in the Beckley area would offer cardiac surgery services."

California Attorney Takes Aim At Realtors' Listing Services. The Contra Costa Times (2/8, Temple) reports, "David Barry has been a thorn in the side of Realtor associations for the last 25 years, but this year he aiming for the heart. … The San Francisco antitrust attorney, who has pursued more than a dozen lawsuits against Realtor groups, recently filed a ballot initiative with the California Attorney General calling for a statewide multiple listing service that would be open to the public." The Times adds, "An MLS is an index of homes for sale operated by regional Realtor groups, and ordinarily only updated by paying members. Barry asserts MLSs hand the associations monopoly control over the housing market, compelling Realtors to join, pay fees that are passed onto consumers, not compete with other members and charge fixed commission rates. … The U.S. Government Accountability Office supported this final point in a report late last year, which found that as a practice Realtors steer customers toward properties advertising standard fees. Similarly, the U.S. Department of Justice sued the National Association of Realtors last year over its policy of limiting Internet sites' access to MLSs, saying the restriction undercuts the ability of online and discount brokers to gain a foothold in the market. … Realtor groups, however, insist that real estate is highly competitive and commission rates already fluctuate."

Battle Over Computer Browsers Heating Up. CNET News (2/8, Krazit) reports, "Fighting for icon space on the desktop is so 2001. The new frontier on a virgin PC is the browser, and Internet companies like Google are jostling for space on the browsers of new PCs." CNET continues, "Dell and Google are evaluating a partnership in which the Google Toolbar, Google Desktop Search and a Google-designed Dell home page are included on new Dell PCs, a Dell representative confirmed. … The Wall Street Journal reported Tuesday that the companies are mulling a three-year partnership that could bring as much as $1 billion in revenue to the PC maker for letting Google install its software on Dell machines. The Dell representative declined to comment on the future of the relationship between the two companies. A Google representative confirmed the two companies were testing the search giant's products on new Dell PCs, but declined to comment further." CNET adds, "The browser, not the desktop, has become the most sought-after piece of real estate on a new PC, said Roger Kay, president of Endpoint Technologies Associates. Five years ago, PC companies were giddy over the prospect of renting space on their boxes' desktops to the highest bidder, after Microsoft's antitrust settlement with the U.S. Justice Department forced it to open up the Windows desktop to increased competition. … Companies such as America Online and CompuServe rushed to get prominent placement for their dial-up services on new PCs, but the move didn't pay off as they had hoped. PC users simply ignored icons they didn't wish to use, or used cleanup programs to remove all icons from their desktops or start menus, Kay said. However, just about every PC user who's connected to the Internet uses the browser at least once a day, and browser toolbars that

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contain useful utilities such as Google's search engine will grab a user's attention, he said."

Toshiba Expects Westinghouse Acquisition To Triple Sales By 2015. Bloomberg News (2/8, Alpeyev) reports, "Toshiba Corp., Japan's largest maker of nuclear power-plant equipment, said its Westinghouse Electric Co. acquisition will help triple sales of the business to as much as [$5.9 billion] by 2015." Toshiba's "stock has dropped 4.3 percent this week on concern President Atsutoshi Nishida would exhaust funds needed to invest in the company's bigger chip and liquid-crystal display businesses. Standard & Poor's and Moody's Investors Service said they may lower Toshiba's credit rating on concern the $5.4 billion acquisition will strain the company's finances. 'No decision has been made on the financing for the acquisition,' Nishida said today at a news conference in Tokyo. He said the company should be able to pay cash for Westinghouse, although he didn't rule out financing through equity markets." By buying "Westinghouse, Toshiba gets access to the pressurized water reactor technology preferred by China, which may spend as much as $54 billion in the next 15 years building nuclear plants."

The Wall Street Journal (2/8, Woods) reports, "The purchase would also allow Toshiba to sell pressurized-water reactors, a type of technology in which Westinghouse specializes and one that is more common globally than the boiling-water reactors Toshiba offers." The Journal adds, "Toshiba has said it expects to cover its investment in Westinghouse with its own cash, generating 300 billion yen in free cash flow over the next three years." But "some analysts and credit-rating agencies question Toshiba's strategy. Moody's Investors Service yesterday placed the company under review for a possible downgrade of its long-term debt rating. Yoshiharu Izumi, a senior industrial-electronics analyst at J.P. Morgan in Tokyo, said Toshiba may have less cash in the coming years as it may be forced to invest heavily to remain competitive in one of its key areas, the semiconductor business."

Toshiba Seeking Minority Stake Partners. Dow Jones Newswire (2/8, Ishibashi) reports, "Toshiba Corp. President and Chief Executive Atsutoshi Nishida said Wednesday that five to six firms have shown interest in taking stakes in Westinghouse Electric Co. Nishida also said at a press conference his company is not in talks with General Electric Co. regarding the US giant buying a stake in Westinghouse." Dow Jones adds, "Toshiba has said it would buy 100% of Westinghouse and retain a 51% stake in the company, selling the remaining minority stake to potential partners, including US and Japanese firms."

Boston Scientific Head Optimistic About Guidant Deal. The AP (2/8, Jewell) reports, "Boston Scientific Corp. said Tuesday it's increasingly optimistic that it can quickly complete a $27 billion acquisition of troubled medical device maker Guidant Corp. while also fixing its own quality-control problems." The AP continues, "After reporting a higher fourth-quarter profit despite declining sales, Boston Scientific executives told analysts that the Guidant deal looks more appealing that it first did - in part because of a tax-law change Boston Scientific said Tuesday will cut its debt from the Guidant purchase by $900 million. … 'The more we see, the better we like it, and the more opportunity we think we have,' President and Chief Executive Jim Tobin said in a conference call." The AP adds, "Boston Scientific expects shareholder and antitrust approvals by the end of next month - a timeline some analysts have suggested is overly optimistic, especially since Boston Scientific received a quality-control warning from federal regulators on Jan. 25. The letter came hours after Guidant's management accepted Boston Scientific's buyout bid, ending a nearly two-month bidding war for Guidant with Johnson & Johnson. … Boston Scientific hopes to make the quality-control fixes the Food and Drug Administration is seeking by June. The company says that timeline likely wouldn't delay the agency's review of a new heart stent whose approval could be blocked if it isn't satisfied with Boston Scientific's progress."

FTC Gives Antitrust Nod To Berkshire Hathaway's PacifiCorp Buy. Dow Jones (2/8) reports, "Berkshire Hathaway Inc. unit MidAmerican Energy Holdings Co. has received antitrust clearance from the Federal Trade Commission to buy PacifiCorp." Dow Jones continues, "The agency said Tuesday that it granted early termination Monday of the waiting period required under the Hart-Scott-Rodino Antitrust Improvements Act. … MidAmerican Energy announced its intention to buy PacifiCorp, a unit of ScottishPower PLC, in May 2005, in a deal valued at around $9.4 billion."

EU Regulators Probing Online Music Royalties. The AP (2/8) reports, "European Union

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antitrust regulators said Tuesday they were investigating the European agencies that collect royalties for musicians from Internet sites -- in parallel with other EU moves to open up the European market for online music." The AP continues, "The European Commission said it was concerned that the groups' contracts with composers -- organized strictly along national lines -- might violate rules on restrictive business practices and give national copyright agencies a de facto monopoly." The AP adds, "The International Confederation of Societies of Authors and Composers -- known as CISAC -- and its member agencies in EU countries collect royalty payments from broadcasters, night clubs or Internet sites. … The EU said it wanted to look at the membership rules that give authors only one choice of collecting society to pick up payments -- the one based in their own country. … Commercial users -- such as satellite or cable broadcasters and Internet sites -- who want to buy the rights have to get a license from each national society that only covers that country. … This is a complex and expensive process for online music sites aiming to sell songs across the European Union. Apple's iTunes, for example, has separate British, French and German sites with a different portfolio of music tracks. … The commission said that Europe-wide agreements guaranteed collecting societies a monopoly and prevents the emergence of new copyright collection agencies. CISAC and its members have two months to respond to the charges and may face fines if found guilty of breaking EU competition rules."

EnergySolutions To Acquire Duratek. The Washington Post (2/8, D4, ElBoghdady) reports, "Duratek Inc., a Columbia-based radioactive-waste disposal company, has agreed to sell itself to a privately held and relatively new firm in Utah in an all-cash deal valued at $326 million. If the deal closes as expected in the second quarter, EnergySolutions LLC will assume Duratek's debt and purchase its outstanding stock for $22 a share, a 26 percent premium over Monday's closing price." The Post adds, "EnergySolutions is the new name for Envirocare, a radioactive-waste disposal firm that was purchased last year by a group of private equity investors including Steve Creamer, a Utah businessman. Under its new management team, Envirocare acquired Scientech D&D last year and nuclear-cleanup company BNG America of Arlington last week. With BNG in its fold, Envirocare rebranded itself and adopted its new name, with Creamer as chief executive."

The Deseret Morning News (2/8, Bauman) reports, "Duratek bills itself as a provider of safe, secure disposal services for radioactive material. Its Web site notes that it has permits for disposal at Envirocare in Utah as well as other sites. The company provides services for commercial and government customers. EnergySolutions is to buy all outstanding shares of Duratek for $22 a share, a premium of 25.7 percent over the stock's price on Monday, according to Duratek. The deal requires the approval of Duratek's stockholders, but the boards of directors of each company have approved it." This "project has been in the works for three years, according to Steve Creamer, the Utahn who is president and CEO of EnergySolutions." Creamer said, "'We acquired some good, basic technology' involving reprocessing as carried out in the United Kingdom today," adding that as "America moves forward with reprocessing, he said he hopes EnergySolutions will be part of the effort. 'We believe that rather than Yucca Mountain or rather than PFS, we should be doing what the rest of the world has been doing,' Creamer said. That is, reprocessing fuel rods."

The Washington Business Journalll (2/8, Clabaugh) reports, "Environmental cleanup company Duratek has agreed to be acquired in a deal worth $396 million, including the assumption of debt. Salt Lake City-based EnergySolutions will pay $22 a share for Columbia-based Duratek, a 26 percent premium over the closing price of Duratek stock Tuesday. The acquisition is subject to shareholder and regulatory approval. Duratek says its board will unanimously recommend approval of the acquisition to shareholders at a special meeting in the second quarter. If approved, the company expects the deal to close shortly thereafter. Duratek provides hazardous-waste removal services for nuclear power plants."

Platts (2/8, Tiernan) reports, "Nuclear material handling firm Duratek said Tuesday that it has signed a merger agreement with EnergySolutions, in which EnergySolutions will acquire Duratek for $396-mil ($22/share) in cash." Platts adds, "Salt Lake City-based EnergySolutions provides nuclear waste management services and solutions to the nuclear energy industry. It is owned by a private investor group led by Lindsay Goldberg & Bessemer, Peterson Partners and Creamer Investments. Duratek said changing domestic and international markets for its services present opportunities for growth and challenges for the company and its investors."

The Baltimore Sun's (2/8, Cohn) "Business Buzz" page reports, "The acquirer, EnergySolutions, was created earlier

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this month from three entities involved in different aspects of the nuclear energy waste handling and disposal and technical services business. Duratek, the company said, would help it continue to grow."

UK Approves Boots-Alliance UniChem Merger. The AP (2/7) reports, "British antitrust regulators gave provisional approval Tuesday to the 7 billion pound ($12.2 billion) merger of drugstore chains Boots Group PLC and Alliance UniChem PLC." The AP continues, "The Office of Fair Trading said it would not refer the merger plan to the Competition Commission after the companies agreed to dispose of stores in 100 communities where the two businesses are dominant. … It had been feared that the loss of rivalry between Boots and UniChem pharmacies in certain areas would reduce choice for customers and lessen competition. … But the Office of Fair Trading said it was "satisfied" that undertakings offered by Boots and UniChem would address its concerns." The AP adds, "The merger, which has been driven by the need to tackle the growing threat of supermarket competition, will create a company -- Alliance Boots -- with annual sales of 13 billion pounds ($23 billion), 2,600 stores in Britain and 300 stores in continental Europe. … Boots, which began trading in 1849, has seen sales at its 1,400 pharmacies in Britain fall in recent years as supermarkets have aggressively targeted the toiletries and over-the-counter medicines markets."

ENVIRONMENT/INDIAN AFFAIRS:

Judge Denies Bail For Northwest Ecoterror Arson Suspect. The Eugene Register-Guard (2/7, Nolan) reports, "Family and friends scraped together $550,000 to post bail for the Springfield man charged with torching 35 sport utility vehicles at the Romania Truck Center in Eugene in 2001. But U.S. Magistrate Thomas Coffin denied Kevin M. Tubbs' request to be released on bail during a detention hearing Monday, despite letters from family and supporters who said Tubbs was neither violent nor dangerous. 'The risk of damage to the human beings that respond to a fire is significant and can't be ignored,' Coffin said." Tubbs "is charged with nine politically motivated arsons between 1996 and 2001, which caused a total of $11 million in damage. He is implicated but not charged in five others, Assistant U.S. Attorney Kirk Engdall said. The fires were later attributed to the Earth Liberation Front and the Animal Liberation Front." The AP (2/7) also reports on the ruling, drawing heavily on the Register-Guard story.

ALF Accuses UK Executives Of Being Rapists In Letter To Men's Neighbors. The (UK) Daily Independent (2/8, English) reports, "GlaxoSmithKline reacted with horror last night after two executives…became targets of a hate campaign by animal rights extremists. Letters sent to neighbours of the two have maliciously accused them of being rapists. The house of one was daubed with the words 'paedo scum'. The targets of the campaign are understood to be Sir Ian Prosser, a non-executive director, and Simon Bicknell, the company secretary. Franz Humer, of the drug maker Roche, is also understood to have been targeted. … The Animal Liberation Front has claimed responsibility for the campaign, which has seen scores of letters supposedly from a police officer sent to neighbours. Police are investigating what they say is a 'malicious campaign of intimidation'."

Oxford Enacts Stringent Security Measures In Response To ALF Threats. The Times of London (2/8, Woolcock) reports, "An unprecedented security crackdown is being mounted at Oxford University in the face of threats from animal rights extremists. Police have warned the university to tighten up its vetting checks on new staff, and college deans, who believe that attacks are inevitable, have ordered students to sign in night-time guests with gate porters." The Times notes that a new laboratory, currently under construction, "has become the main battleground in the fight between activists and those involved in animal research -- the Animal Liberation Front…recently announced that anyone associated with Oxford University, including students, was a legitimate target for attack. Security experts have reportedly been recruited to protect key workers at the site of the new laboratory."

86 Evangelical Leaders Back Global Warming Initiative. The New York Times (2/8, Goodstein) reports that 86 evangelical Christian leaders 'have decided to back a major initiative to fight global warming, saying 'millions of people could die in this century because of climate change, most of them our poorest global neighbors.' Among signers of the statement, which will be released in Washington on Wednesday, are the presidents of 39 evangelical colleges, leaders of aid groups and churches, like the Salvation Army, and pastors of megachurches, including Rick Warren, author of the best seller 'The Purpose-Driven Life.'" The statement "calls for federal

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legislation that would require reductions in carbon dioxide emissions through 'cost-effective, market-based mechanisms' -- a phrase lifted from a Senate resolution last year and one that could appeal to evangelicals, who tend to be pro-business. The statement, to be announced in Washington, is only the first stage of an 'Evangelical Climate Initiative' including television and radio spots in states with influential legislators, informational campaigns in churches, and educational events at Christian colleges."

MSHA To Issue Emergency Mine Safety Rules. USA Today (2/8, Frank) reports, "The Mine Safety and Health Administration said Tuesday it will require mine operators to place more oxygen supplies underground to give trapped workers a better chance of surviving a disaster. The emergency order, which will mandate several safety measures, comes after 18 mining deaths in West Virginia and Kentucky this year. … The new measures would require that miners receive more training in using breathing devices. The new regulations would also set a 15-minute deadline for mine operators to notify the agency of an accident. Current regulations require operators to tell MSHA of accidents 'immediately' but do not specify a time period."

The AP (2/8) reports, "The rules also require companies to make sure miners have 'lifelines' along primary and alternate escape routes. Those are guides, like ropes with reflective tape, that help steer miners toward the surface after an explosion that leaves a mine dark. David G. Dye, acting assistant secretary of labor for mine safety and health, said the emergency rules, a step the agency rarely takes, would better protect miners and help them safely evacuate in emergencies."

Alito, Roberts Face Challenge In Three Environmental Cases. The Legal Times (2/8, Mauro) reports, "The first time he takes the bench later this month, new Supreme Court Justice Samuel Alito Jr. will face a baptism -- not by fire but by water." The Times continues, "Three cases challenging the scope of the Clean Water Act will be argued Feb. 21, testing themes of federalism and commerce clause power that were much at issue during Alito's confirmation hearings. The cases have environmentalists worried about how Alito and Chief Justice John Roberts Jr. will ultimately come down. … 'These are probably the most important environmental cases in a decade and will be an enormous test of the two new justices,' says Douglas Kendall of the Community Rights Counsel, which filed a brief in two of the cases." The Times adds, "Alito has plenty of reading to do; more than 50 briefs on the cases have flowed into the Court. After being sworn in officially at the Court, on Jan. 31 at a private ceremony, Alito settled into the chambers his predecessor, Justice Sandra Day O'Connor, vacated last month in anticipation of retirement. His staff is still in flux, but he has already picked up two O'Connor law clerks, Benjamin Horwich and Alexander Volokh. Late Friday, Alito announced he would adopt the Court's 1993 policy on recusals in cases involving close relatives who are lawyers -- in Alito's case, sister Rosemary, a partner at Kirkpatrick & Lockhart Nicholson Graham in Newark, N.J. … The environmental cases, more than any other coming soon, will spotlight issues that got Democrats upset during Alito's contentious hearings last month. In two of the cases, Rapanos v. United States and Carabell v. United States Army Corps of Engineers, the issue is whether, under the commerce clause, the Clean Water Act protects certain wetlands that are adjacent to tributaries of navigable waters covered by the law. In the third case, S.D. Warren Co. v. Maine Board of Environmental Protection, the justices will decide whether the mere fact that a river flows through a dam produces a "discharge" that triggers federal jurisdiction under the act. … In all three cases, the Bush administration is arguing for a broad view that would preserve a 'landmark' law that is 'a permissible exercise of Congress' power,' in the words of Solicitor General Paul Clement, who will argue the cases himself."

Compromise May Be Near In Connecticut Eminent Domain Case. The New York Times (2/8, Yardley) reports, A handful of property owners in New London, Conn., who have resisted having their property taken by eminent domain even after the United States Supreme Court ruled last year that the taking was legal, could be allowed to stay on their land -- or at least very close to it -- under a plan approved by the City Council. … The proposal, approved by a 7-0 vote of the New London City Council on Monday, instructs the city's director of law, Thomas J. Londregan, to determine whether the site development plan could be revised so the half-dozen remaining property owners, scattered on two blocks, could be clustered on a single block, known throughout years of debate and court proceedings as 'Parcel 4A.' The idea would allow property owners to stay in the area, if not in precisely the same place. It would also free the

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surrounding area to make way for a planned 90-acre hotel, office and residential development. The city took the property in 2000 to make way for construction of the project, but it was paralyzed while property owners sued to keep their property and eventually took the case to the Supreme Court."

Friedman Criticizes Cheney For Opposing Conservation Efforts, Gas Taxes. In his New York Times column (2/8), Thomas Friedman says, "I've always thought Dick Cheney took national security seriously. I don't anymore. It seems that Mr. Cheney is so convinced that we have no choice but to be dependent on crude oil, so convinced that conservation is just some silly liberal hobby, that he will never seriously summon the country to kick its oil habit, never summon it to do anything great. Indeed, he seems determined to be a drag on any serious effort to make America energy-independent. He presents all this as a tough-guy 'realist' view of the world. But it's actually an ignorant and naïve view." The "global oil market is anything but free. It's controlled by the world's largest cartel — OPEC — which sets output, and thereby prices, according to the needs of some of the worst regimes in the world. By doing nothing, we are letting their needs determine the price and their treasuries reap all the profits." Friedman adds, "Also, why does Mr. Cheney have no problem influencing the market by lowering taxes to get consumers to spend, but he rejects raising gasoline taxes to get consumers to save energy — a fundamental national interest."

Hybrid Vehicles Said Not To Be Solution For Reducing Oil Consumption. In his New York Times column (2/8), David Leonhardt says President Bush "has taken the hybrid craze to a whole new level. To cure our addiction to oil, he said last week, we must invest in hybrid cars, hydrogen cars, even cars that run on wood chips and grass. Energy technology is having its big moment. Too bad the benefits of our new cult car have been so exaggerated." Hybrids have the "most overblown mileage ratings in the auto industry. In the government's road tests, which are conducted in a world without much traffic or any air-conditioning, the Prius gets 55 miles to the gallon. Consumer Reports says the car really goes 44 miles on a gallon of gas." And the "more time you spend looking at the economics of the hybrids, the less comfortable you get." But government policy "seems almost intended to undercut the benefits of efficient cars. In 1978, Congress set a minimum corporate average fuel economy, known as CAFE, for all carmakers." Each hybrid "becomes a free pass for its manufacturer to sell a few extra gas guzzlers."

FBI/DEA/ATF/USMS:

Four More Church Fires Reported In Alabama. The AP (2/8, Reeves) reports, "In a grimly familiar scene, four rural Alabama churches were found damaged or destroyed by fires Tuesday, less than a week after a string of five church fires that were ruled arson." The AP continues, "At three of the latest burned churches, the fires appeared to erupt in the sanctuary near the altar, according to church members and authorities, one of whom said two of the fires were found to be arson. … FBI acting assistant director Chip Burrus said investigators are working on the assumption that all nine of the Alabama church fires are linked. … 'Clearly there's a suspected link,' Burrus said in an interview with The Associated Press in Washington, D.C. 'I'm not prepared to talk about the evidence yet ... but common sense tells you there is a clear indication these fires are going to be linked.'" The AP notes, "Authorities have no suspects or motive, Burrus said." The Los Angeles Times (2/8, , 958K) adds that the ATF "plans to add 50 agents to the 50 it has at its command post in Alabama. The FBI, which has more than 10 agents in Alabama working on the arsons, is investigating the blazes as civil rights violations." Burrus "told Associated Press that his investigators were working on the assumption that the nine fires were linked."

The New York Times (2/8, Robertson) reports, "The four churches are all within an hour's drive of one another in a rural area of western Alabama, a few miles from the Mississippi border. Like the churches that were burned early Friday in Bibb County, in the central part of the state, they were Baptist. … But while four out of the five churches that burned in Bibb County had mainly white congregations, all the churches that burned yesterday had black congregations. … 'I think there's an obvious evidence link to the activities in Bibb County,' said Jim Cavanaugh, the special agent in charge of the investigation for the federal Bureau of Alcohol, Tobacco, Firearms and Explosives. … Mr. Cavanaugh said that whoever was setting the fires was probably familiar with the small, rural roads. … 'I do think they are pretty brazen,' he said. 'They feel like they've got free rein of these county roads.'"

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White Churches Said To Be Most Frequent Targets. The Christian Science Monitor (2/8, Jonsson) reports, "Three torched churches were discovered in Alabama Tuesday - the latest in a string of suspected arsons that damaged five churches in Bibb County. … Investigators have not discovered any apparent motives. Four of the five churches in Bibb County - three of which burned to the ground - were white Baptist congregations. The other was black." The Monitor continues, "Nationally, such patterns are not unusual. Most arson targets are white congregations, whereas mosques and synagogues get hit in much smaller numbers. … In a country with more than 350,000 churches, motives are as varied as the denominations they target, experts say. According to the Insurance Information Institute, the top reasons for torching a church include the coverup of a burglary, vandalism, and revenge. Racism, insurance fraud, and thrill-seeking are less common. … In fact, church burnings are common. The nation sees 15 to 20 church arsons a week, scattered from Florida to California." The Monitor adds, "Nearly 1,000 churches burned between 1996 and 2000 nationwide, according to the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). Authorities nabbed about 100 suspects, a pace that has only decreased slightly. … Since the summer of 1996, when a spate of racially motivated Alabama church fires drew national attention, investigators are not much closer to knowing what fuels the church arsonist. Confessions range from the hateful to the mundane: In Suffolk County, Va., an 18-year-old pleaded guilty to torching St. Mary's Catholic Church in October 2005, after stealing a few hot dogs and some sacramental wine in the course of an inebriated evening."

Walters To Announce National Anti-Drug Strategy. USA Today (2/8, Leinwand) reports, "The White House Wednesday will announce a national anti-drug strategy that includes prodding more states to set up databases that can track people who get multiple prescriptions of frequently abused prescription drugs such as OxyContin and Vicodin. The strategy, to be announced in Denver today by White House drug czar John Walters, does not include any new programs, a reflection of how the tight federal budget is limiting anti-drug initiatives. Twenty-eight states have passed laws to set up prescription-drug registries, which are funded with a mix of federal and state money. President Bush's proposed budget for fiscal 2007 includes $9.9 million to help establish registries in more states, up from $7.4 million this year."

Appellate Court To Decide Florida Drug Trafficking, Pain Management Case. In the St .Petersburg (FL) Times (2/7), Colleen Jenkins writes, "For a man sentenced to 25 years in prison on drug trafficking charges, Richard Paey had a lot of powerful people on his side. Prosecutors, a judge and some jurors didn't think the chronic pain patient from Hudson should go to prison at all. So why, an associate appellate judge asked Tuesday, didn't authorities seek help rather than punishment for the wheelchair-bound man? We did, the state said. And Paey turned it down. Now three 2nd District Court of Appeal judges are left to decide whether a case that has drawn the interest of chronic pain advocates worldwide and was featured on 60 Minutes last month should ever have gotten this far. … At issue is a one-size-fits-all Florida law that labels anyone with more than an ounce of a controlled substance a drug trafficker, even if the person never deals. The Pasco County Sheriff's Office and the federal Drug Enforcement Administration nabbed Paey after watching him buy more than 1,200 painkillers from different pharmacies between January and March 1997. Undated prescriptions from his New Jersey doctor and a copy machine gave Paey the ability to fake numerous prescriptions, which he used to obtain 800 pills of a painkiller made with oxycodone." Jenkins continues, "Paey…was frank about his use of pain medications. He said he developed a physical dependence on painkillers after a bad car wreck, failed back surgeries and a multiple sclerois diagnosis. As his tolerance of the medications grew, so did his need for larger amounts to combat his pain."

The AP (2/7) reports, "On Tuesday, as Paey's attorney tried to persuade the 2nd District Court of Appeal to throw out his 2004 drug trafficking convictions and mandatory 25-year sentence, advocates for chronic pain sufferers said the case illustrates flaws in the law and how people who are dependent on strong pain medication can get tangled up in the government's overzealous war on drugs. … His attorney, John P. Flannery, told the three-judge appellate panel that the 25-year mandatory sentence was cruel and unusual punishment. Further, Flannery said, the doctor lied on the witness stand and the prosecutor knew it. Flannery told the judges that Paey is now getting pain relief in prison, via a morphine drip. … The appeals court did not indicate when it would rule." The AP story also was published by the following

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Florida newspapers: Sarasota Herald-Tribune, The Ledger, Gainesville Sun, and Bradenton Herald.

Track Star Marion Jones, Conte Settle Steroid Use Lawsuit. The AP (2/8) reports, "The convicted ringleader in the BALCO doping scandal settled a defamation lawsuit brought by track star Marion Jones over allegations that she used banned performance-enhancing drugs. Jones settled her $25 million suit in U.S. District Court [in San Francisco] Monday against Victor Conte, who's serving a four-month prison term for his role in the steroid scandal. Terms of the deal were not disclosed. … Jones said Conte, the founder the Bay Area Laboratory Co-Operative firm, had a vendetta against her and accused him of lying to try to destroy her career and reputation. Conte maintained his statements about Jones were accurate, and told The Associated Press when the case was filed that 'I look forward with all confidence to the court proceedings as I stand by everything I said.'"

The San Francisco Chronicle (2/7) reports, "The Bay Area Laboratory Co-Operative owner alleged Jones was using the substances when she won five medals -- three of them gold -- at the 2000 Summer Olympics in Sydney."

Reuters (2/7) reports, "The former Olympic sprint champion sued Victor Conte for $25 million in 2004 after he claimed he supplied her with banned performance-enhancing drugs. She denied the charge and has never failed a doping test."

Suspected Drug Cartel Gunmen Storm Mexican Newspaper Office. Reuters (2/8) reports, "Gunmen thought to be working for a drug cartel shot and seriously wounded a reporter during a raid on a Mexican newspaper near the violent U.S.-Mexico border, reporters at the paper said on Tuesday. At least two hooded men burst into El Manana newspaper in Nuevo Laredo…late on Monday, tossing a grenade in the lobby and raking the newsroom with automatic weapons fire, they said. Night-shift reporter Jaime Orozco was shot four times as he tried to flee. He was hospitalized and listed in serious condition…editor Jose Garcia said. Some reporters were injured by flying glass and debris during the attack. … News reporting along the U.S.-Mexico border has long been dangerous, especially for columnists, editors and investigative reporters bold enough to name drug cartel operators and corrupt government officials."

Bolivia's Morales Wants US To Reconsider Anti-Drug Aid Cutback. The AP (2/8) reports, "President Evo Morales asked the United States on Tuesday to reconsider a proposed cut in anti-drug aid to Bolivia, and called on the world to strengthen drug-fighting alliances. Morales' appeal came a day after President Bush asked Congress to reduce anti-narcotics funding to Bolivia to $67 million $80 million. … Morales, who once promised to be "Washington's nightmare,' led the often-violent struggle against U.S.-backed coca eradication efforts over the past decade, and has promised to retool Bolivian coca policy. … Bush also proposed cuts in anti-narcotics aid to most countries that make up the Andean Counterdrug Initiative, including Brazil, Ecuador, Panama, Peru and Venezuela. Colombia is the only nation for which Bush has proposed a funding boost. U.S. funding for Bolivian anti-drug efforts has been declining since 2001, when it stood at $117 million. But the president's comments appeared to indicate he believed the budget proposal was a reprisal against him and his opposition to eradication. However, U.S. Ambassador David Greenlee said the cut was due solely to revised budget priorities in Washington."

Accused Drug Smuggler Surrenders To Colombian Government. According to Reuters (2/8), "The 'granddaddy' of Colombia's right-wing militias, who picked up a shotgun to protect his farm from Marxist rebels 29 years ago and now stands accused of drug smuggling, turned himself in to the government on Tuesday. The demobilization of Ramon Isaza and his 990-member force brings to about 22,290 the number of paramilitary fighters that have surrendered their arms in a government peace accord. Paramilitaries guilty of crimes such as massacres, torture and kidnapping face jail terms limited to eight years in exchange for laying down their weapons -- a deal criticized by human rights groups. Benefits under the law will be withheld from those who try to hide their crimes from government investigators, leaving them to face full jail terms."

California Law Would Have Barred Postal Worker From Purchasing Gun. In a widely-distributed story, the AP (2/8, Blood) reports, "The postal worker who went on a deadly shooting rampage last week at a mail-sorting center legally bought the weapon in New Mexico even though she had a history of psychiatric problems

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that would have barred her from purchasing the gun in California, officials said." Jennifer San Marco "was committed briefly for psychiatric reasons in 2001. Because of that, under California law, she was automatically barred for five years from buying a gun, officials said. But New Mexico, where she moved in late 2003 or early 2004, relies on federal gun law and the federal instant background check for would-be buyers. And San Marco cleared the background check there." The AP adds that "the FBI declined to say if San Marco was in the National Instant Criminal Background Check System, citing privacy reasons."

IMMIGRATION:

US Continues To Probe Possibility Mexican Soldiers Involved In Border Incident. The Arizona Republic (2/7, Madden) reports, "The uniformed, heavily armed drug smugglers involved in a standoff last month with law enforcement agents along the U.S.-Mexico border could have been Mexican soldiers, even though the Mexican government blames drug cartels, Border Patrol Chief David Aguilar told a House panel Tuesday." Aguilar said that "the FBI and Immigration and Customs Enforcement are looking into the case, and agents haven't ruled out involvement by Mexican military units," noting, however, "I do not want to leave the impression that our borders are under siege by government-of-Mexico entities." The Austin American-Statesman (2/7, Copp) adds that "the incident has increased border tensions, and in a packed hearing Tuesday chaired by U.S. Rep. Michael McCaul…American officials said the escalating violence is a national security problem. 'Whether these were Mexican military or cartels dressed up as military, neither scenario is good for this country,' said McCaul." The American-Statesman notes, "The State Department is working with the Mexican government to resolve the incident, and the FBI and Immigrations and Customs Enforcement are still investigating."

The Dallas Morning News (2/8, Mittelstadt) reports, "Texas border sheriffs pleaded Tuesday for more federal help to confront Mexican drug trafficking cartels that are arming themselves with more powerful weaponry and deploying tactics that pose an ever-greater danger to U.S. law enforcement." At the House hearing, "the sheriffs of El Paso and Hudspeth counties detailed deteriorating conditions in a region where rival cartels are locked in deadly competition." The Morning News notes, "An investigation by the FBI and Immigration and Customs Enforcement is continuing" into the recent incident, but "Aguilar said the vast majority of the 144 incursions documented over the last five years were accidental. But the incidents are significantly concerning, he said, because each encounter has the potential to escalate into violence." The Los Angeles Times (2/8, Timiraos, 958K) adds that Aguilar "told the lawmakers that the United States did not have proof that the individuals in military uniforms were Mexican soldiers, but added that nothing had been ruled out."

On Fox News' The O'Reilly Factor (2/7), McCaul said, "We have had over 200 incursions by the Mexican military over the last decade. … Violence on the border is really getting to the point where we are in a crisis. … Whether you think they are military, whether you think they were cartels buying the military or cartels dressed up like military, they had 50-caliber weapons and Humvees. These pose a serious threat to law enforcement on the United States side. They are doing everything from throwing rocks on fire to taking shots at them. ... This is really getting out of control, and we need to do something about it."

Half Of "Granny Brigade" Attends Minuteman Rally In Washington. The Washington Post (2/8, B1, Morello, Londoño, Klein, 744K) reports on Carmen Mercer's trip through the Washington D.C. area as she travels to a "Capitol Hill rally by the Minuteman Project." Mercer "has headed into the Arizona desert in her Chevrolet pickup" on many nights to patrol the border with another woman. "Locals call them the Granny Brigade." Following Mercer from the airport and around the D.C. area, the Post notes the foreign origins of several of the people she comes in contact with. "In the Washington region, where an estimated one in six residents is foreign-born, she would see a thousand faces of immigration during her visit."

Myerson Blames NAFTA For Increase In Illegal Immigration From Mexico. Harold Myerson in his column in the Washington Post (2/8, A19, 744K) writes, "With the number of immigrants illegally in the United States estimated at 11 million, the tensions between Americans and Mexicans -- chiefly, working-class Americans and working-class Mexicans -- are rising. And those are tensions that congressional Republicans, who don't look to have a lot of other issues they can run on this fall, are eager to stoke." Meyerson says the boom in illegal immigration is "not because we've let down our guard at the border…the border is more militarized now than it's ever been. The answer is

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actually simpler than that. In large part, it's NAFTA." For example NAFTA put Mexican farmers "in direct competition with incomparably more efficient U.S. agribusinesses. It proved to be no contest: From 1993 through 2002, at least 2 million Mexican farmers were driven off their land." Meyerson concludes, "So long as the global economy is designed, as NAFTA was, to keep workers powerless, Mexican desperation and American anger will only grow. Forget the fence. We need a new rulebook for the world."

Intel Chairman Calls For End To Quota System For H1-B Visas, Green Cards. The Financial Times (2/8, Nuttall) reports, "Craig Barrett, chairman of Intel, the world's largest semiconductor maker, called for comprehensive immigration reform to make the US more competitive, during a live question-and-answer session on FT.com. He "said the first step in simplifying the immigration process would be 'to replace the current arbitrary quota system with an open market type approach.' The US's H1-B visa allows foreign engineers and scientists to work on a temporary basis in the US but is capped at 65,000 a year." He "said demand was also greater than supply for green cards that allowed permanent employment, with the cap at 140,000 a year and long processing delays meaning individuals having to wait up to seven years to obtain one."

TAX:

Minnesota Tax Preparer Charged With Filing False Returns. The St. Paul Pioneer-Press (2/8) reports, "The Internal Revenue Service filed suit Monday, accusing a St. Paul tax preparer of filing numerous false federal tax returns on behalf of recent immigrants that overstated their deductions and caused the IRS an estimated $8 million in tax losses." The Pioneer-Press continues, "The lawsuit seeks to bar Nash Sonibare, 46, from preparing additional federal tax returns. Sonibare is the sole shareholder of Liberty Financial Group Inc. … IRS officials estimated that Sonibare has prepared 3,373 federal income tax returns from 2002 to 2005 and that many of his customers are nursing assistants and licensed practical nurses who have immigrated to the United States from various African countries." The Pioneer Press adds, "Sonibare also is under criminal investigation by IRS agents and continued to prepare fraudulent tax returns even after being advised of the investigation, the suit contends. … He also continually has misrepresented to IRS agents that he is a certified public accountant, the suit said."

CONGRESS-ADMINISTRATION:

Bush Budget Faces Gauntlet Of Election-Year Politics. The AP (2/7, Taylor) writes President Bush' budget proposal "already faces dire prospects in Congress. It's a blueprint better suited for an odd-numbered year." In an "even-numbered" election year, lawmakers "don't like to vote for things like cuts to Medicare, food stamps, farm subsidies and education." Sen. Tom Harkin said, "I can't imagine the Republican Party…is going to allow this to come through this year in an election year." The President's budget proposal "is the most austere since the Reagan era as the president seeks to build upon his spending cut success of last year." Roll Call (2/8, Pierce) reports members of Congress are questioning President Bush's push for Medicare and Medicaid cuts in an election year. One "senior Senate Republican staffer" said, "It strikes me that [the White House] isn't thinking about the election at all. I can't quite figure out why they are going to make us jump off this cliff."

The Washington Times (2/8, Fagan) reports Bush Administration officials said the "proposal's tight rein on spending coupled with extending tax cuts are essential for continued economic growth, while Democrats attacked the measures as misplaced priorities that will harm the middle class." At a Senate hearing, Treasury Secretary John Snow said, "This budget would continue the economic policies that have brought prosperity to America." But Sen. Charles Schumer offered criticism, saying, "There are nearly $2 trillion in additional tax cuts, but most of it is geared to the very well-to-do…rather than the middle class that's finding it harder and harder to make ends meet." Reuters (2/7, Felsenthal) reports Schumer "and others, speaking at a hearing of the Senate Finance Committee, questioned why the administration has prioritized extending expiring tax breaks for dividends and capital gains instead of overhauling another tax provision, the alternative minimum tax, which is increasingly affecting middle income tax filers." The Christian Science Monitor (2/8, Feldmann) says "the stark reality is that Bush is asking for budget savings from Medicare, education, transportation, and agriculture as he seeks to cut taxes. Can the administration pull it off? The answer goes to the core of different government philosophies of the two parties."

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CQ (2/7, Dennis, Higa) reports Republicans "acknowledged they face a political challenge in an election year in gaining passage of a plan with cuts to domestic programs alongside new tax cuts and a further military buildup." Senate Budget Chairman Judd Gregg said he "would try to appease Sen. Arlen Specter," who has said he will "oppose a budget resolution if it contained what he called 'scandalous' cuts to health and education programs." OMB Director Joshua Bolten "also sounded open to compromise," saying, "The budget is the President's proposal and we understand that's all it is. We look forward to working with Sen. Specter, just like we do with all the members of the Appropriations committees, and especially the two chairmen."

Scandals Increase Chances For Earmark Reform. The New York Times (2/8, Hulse) reports that Washington corruption and lobbying scandals are "providing powerful ammunition to critics of earmarks. … With backing from President Bush" and new House Majority Leader John Boehner, there appears to be a real opportunity "to restrain the targeted spending and force disclosure of projects that have increasingly been quietly added to major legislation at the last minute. But it will not be easy." The Times says "winning money for projects back home is the driving passion of many lawmakers and is considered a bipartisan necessity for re-election."

The Hill (2/8, Young) reports that the cuts to health-related programs "are putting House GOP centrists on the hot seat just weeks after they were asked to make a tough vote on budget reconciliation" and following a year of potentially politically costly votes on issues like free trade. Now, Republican leaders may be in the position of "approaching stubborn members with a weaker arsenal. The movement to restrict earmarks will make it more difficult for proponents of budget cuts to sweeten the bills with money for the home districts of politically endangered members."

Democratic Maneuver Could Block Capital Gains, Dividend Tax Cuts. On its front page, the Wall Street Journal (2/8, Mullins) reports Republicans "have run into a roadblock while working for a two-year extension of President Bush's 15% tax rates on capital gains and dividends." Democrats may use a parliamentary move to "force Republicans to pare plans to extend the lower tax rates -- or raise taxes by as much as $30 billion to pay for them," since Senate rules "require that any legislation considered under the privileged budget procedures can't add to the deficit beyond the five-year budget window. Extending the 15% rates on capital gains and dividends would cost $30 billion beyond that window."

Budget Calls For Increased VA Fees. USA Today (2/8, Stone) reports that while Bush's budget calls for increased spending on medical care for veterans, under his plan the Veterans Affairs budget would "be covered in part by an enrollment fee and increasing drug co-payments for veterans who make above a certain amount of income." The increases" would have to be approved by Congress, and with past Bush budgets, Congress has refused under pressure from veterans groups." Sen. Kay Bailey Hutchison, "who chairs the panel overseeing the VA budget, said she will evaluate the latest request. But, she added, 'I have been consistent and adamant that we do not increase the financial burden on veterans.'"

Unions, Democrats Link HSA Expansion To Social Security Push. Under the headline "Dems Try To Do To HSAs What They Did To Social Security Plan," The Hill (2/8, Schor) reports "unions and congressional Democrats already have started invoking a political comparison to last year's Social Security privatization drive." House Ways and Means ranking Democrat Charles Rangel said, "It will go the same way Social Security [did]. He'll send it to the committee, we'll discuss it."

Budget Includes No Funding For Privacy, Civil Liberties Body. CQ (2/7, Starks) reports the budget does not include funding "for the Privacy and Civil Liberties Oversight Board, even though President Bush has two nominations to the panel pending in the Senate. The failure to even note the existence of the board at a time when Bush is under fire for authorizing a secret domestic eavesdropping program did not go unnoticed by two of the board's biggest backers," Reps. Carolyn Maloney and Christopher Shays. In a joint statement, they said, "The bottom line is, with more authority must come more oversight, and money talks. To underscore our concern for civil liberties, we need a board that is up and running and has the teeth to do the job."

New York State Health Providers Fear Cuts. The New York Times (2/8, Hernandez) reports New York State's health care industry says it stands to lose $1.2 billion in funding, forcing "hospitals, nursing homes and home care providers to reduce services for elderly and disabled residents of the state."

NYC Public Projects In Line For Federal Funding. The New York Times (2/8, Lueck) reports, "Two of New York

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City's most ambitious public projects, the Second Avenue subway and a Long Island Rail Road extension to Grand Central Terminal, are in line to receive billions of dollars in federal aid." Transportation Secretary Norman Mineta said both projects "were on a list of 28 across the nation that would receive or be considered for financing" under Bush's budget.

LATimes Says Pentagon Should Not Be Exempt From Cuts. The Los Angeles Times (2/8) editorializes, 'A nation at war must make difficult choices and endure sacrifice. The soldiers who risk life and limb in Iraq carry the most obvious burden. But those in government must also do their part, by selecting wisely where to direct taxpayer money. At a time of belt-tightening throughout the federal government, including Medicare and several programs aimed at helping the poor, there is one corner of Washington where hard choices remain unknown: the Pentagon. The shocker in the $2.77-trillion budget proposed Monday by President Bush is that not one big-ticket Pentagon weapons program fell under the same knife that seems to be cutting the rest of us. … War requires courage, both on the battlefield and at home. By declaring 16% of the federal budget essentially off-limits, and by spending scores of billions on programs even the military suspects are wasteful, the president is showing a failure of nerve."

WPost Likes Science Funding, But Says Medical Science Should Not Be Neglected. The Washington Post (2/8, A18) editorializes, "Reaching for a domestic policy that would command easy bipartisan backing, the Bush administration has proposed an 'American Competitiveness Initiative.' The idea taps into a deep national neurosis about economic threats from abroad, especially from Asia: The current anxiety is focused on India and China, but it closely resembles the fear of Japan that floated a raft of paranoid bestsellers 20 years ago. Though the fears of American decline are exaggerated, the policy prescription that flows from them is sensible. Spending on science and math creates broad social benefits that exceed the gains likely to be captured by private financiers of research." But Bush's "reasonable enthusiasm for the physical sciences should not come at the expense of the biological sciences. After years of generous expansion, the National Institutes of Health are now facing budget cuts. The chief reason seems to be that Americans' fear of cancer has for the moment been eclipsed by an even stronger fear of foreign engineering prowess. This is a dumb trade-off."

Samuelson Sees Little Substance To Budget Debates. In his Washington Post (2/8, A19) column, Robert J. Samuelson writes, "Our annual budget debates…have increasingly become exercises in political theater. They certainly aren't intended to bridge the gap between Americans' huge appetite for government services and their fierce distaste for taxes. Someone has to choose -- higher taxes, lower spending or some combination. But American politicians are loath to choose. So we get an outpouring of partisan blab that does little to clarify. Instead, clever politicians of both parties devise self-serving delusions to justify their inaction. On the one hand we have the Bush Delusion: He says he's promoting lower taxes, but he's actually doing the opposite. … In the long run, tax levels reflect spending levels." The Democrats also "have their delusion. It's the Bill Clinton Delusion: that the Democrats are now the party of 'fiscal responsibility,' because Clinton engineered the first budget surpluses…since 1969. The reality is that those surpluses stemmed more from good luck than from Clinton's policies."

Business Leaders Launch Effort To Push Bush Competitiveness Plan. The Wall Street Journal (2/7) reported in its "Washington Wire" column on its web site, "A coalition of business and academic leaders is launching a lobbying and media campaign to build support for President Bush's new plan to boost the competitiveness of American business. The campaign opens Thursday with ad buys in national print publications, and will be followed up with ad buys in other media and direct advocacy on Capitol Hill. The goal is 'to try to increase the awareness in Washington and Congress,' said Craig Barrett, chairman of Intel Corp. Barrett co-chairs the National Innovation Initiative Leadership Council, which is leading the campaign, with William Brody, president of Johns Hopkins University."

Some Question Goss Methods In Probe Of CIA Leaks To Media. ABC News (2/7, Ross, Esposito) in an exclusive on its web site titled "Is CIA Leak Probe a 'Witch Hunt'?" reports, "The director of the CIA has launched a major internal probe into media leaks about covert operations. In an agencywide e-mail, Porter Goss blamed 'a very small number of people' for leaks about secret CIA operations that, in his words, 'do damage to the credibility of the agency.'" In the e-mail Goss "warned that any CIA officer deemed suspect by the agency's Office of Security and its

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Counter Intelligence Center (which handles internal affairs) could be subjected to an unscheduled lie detector test. CIA personnel are subjected to polygraphs at regular intervals in their careers, but one former intelligence officer called the new warning a 'witch hunt.' Others said Goss' e-mail was narrowly focused and did not suggest agencywide, random lie detector tests." Goss also "told CIA employees there were ways other than talking to the news media to resolve any issues they had with classified CIA operations."

Abramoff Scandal Still Could Ensnare White House. The Wall Street Journal (2/8, Cummings) reports the Abramoff scandal "still poses significant problems for the Bush White House." A court hearing "scheduled later this month may bring fresh attention to the case of former White House aide David Safavian, who is charged with lying in connection with a golf trip Mr. Abramoff arranged." Justice Department officials also "haven't closed their review of actions by former Interior Department official J. Steven Griles, who disputes claims that he favored Abramoff clients," and the "calls for the White House to release photos of Mr. Abramoff with the president -- and details of his contacts with presidential aides including Karl Rove -- haven't abated."

Bush To Address House GOP Retreat. The Hill (2/8, O'Connor) reports, "House Republicans will travel to Maryland's Eastern Shore tomorrow to hold a broad discussion on the future of their conference as members prepare for the upcoming midterm elections." President Bush "is scheduled to address the assembled members and staffers Friday afternoon at the Hyatt Regency Chesapeake Bay in Cambridge, Md." The Hill adds, "The focus of this year's retreat promises to be more about Congress than the White House, which is a marked departure from last year's gathering at the Greenbrier Resort in West Virginia, when the recently reelected president was poised to make dramatic reforms to Social Security."

Boehner Doesn't Want Luntz At Retreat. Roll Call (2/8, Pershing) reports, "The ascent last week of Rep. John Boehner (R-Ohio) to the Majority Leader post has put the agenda for the upcoming House GOP retreat somewhat in flux, but one thing is certain: Frank Luntz won't be there. The omnipresent Republican pollster was uninvited from the retreat -- scheduled for this Thursday through Saturday in Cambridge, Md. -- after Boehner adamantly told his colleagues at his first leadership meeting last Friday that he didn't want Luntz there. 'Boehner said he wasn't going if Luntz was going,' said a leadership source." Spokesmen for Boehner and the Republican Conference "both declined to discuss the issue, but multiple House GOP sources confirmed that Luntz was slated to attend the retreat until Boehner made his views known." A "love-hate divide" about Luntz "has at times split the Republican leadership." Boehner's predecessor, Rep. Tom DeLay, "is known to be an eager customer for Luntz's strategic advice, while Speaker Dennis Hastert (R-Ill.) and his office have been described by leadership sources as less than enthusiastic about Luntz's work. It is not clear why Boehner would dislike Luntz's work enough to ban him from the retreat."

White House To Announce Plan To Expand Prescription Drug Registries. USA Today (2/8, Leinwand) reports the White House "today will announce a national anti-drug strategy that includes prodding more states to set up databases that can track people who get multiple prescriptions of frequently abused prescription drugs such as OxyContin and Vicodin." The strategy, "to be announced in Denver today by White House drug czar John Walters, does not include any new programs, a reflection of how the tight federal budget is limiting anti-drug initiatives." Twenty-eight states "have passed laws to set up prescription-drug registries, which are funded with a mix of federal and state money. President Bush's proposed budget for fiscal 2007 includes $9.9 million to help establish registries in more states, up from $7.4 million this year." The "impact of the existing registries is unclear; the first data measuring their effectiveness will not be available until next year. Walters, whose office provided a copy of the strategy to USA TODAY, is focusing on 20 states that do not have prescription-drug registries and whose legislatures meet this year, plus Washington, D.C."

Finance Committee Senators Debate Medicare Drug Plan In Op-Eds. The Hill today runs op-eds from four Finance Committee senators on Medicare prescription drug coverage. In his The Hill (2/8) piece, Senate Finance Chairman Charles Grassley writes, "We can't imagine modern medicine without prescription drugs. Soon we won't be able to imagine Medicare without prescription-drug coverage. … Millions of people now have financial help to manage pain, keep diseases from progressing or save their lives. This coverage was overdue

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and desperately needed. For many older Americans, prescription drugs were either expensive or out of reach altogether."

In his op-ed in The Hill (2/8), Sen. Jay Rockefeller writes, "After the administration cut deals and twisted arms to push the 2003 Medicare prescription-drug bill through Congress, President Bush has repeatedly touted the new program as a revolution in the way that America's seniors would receive their prescription drugs. Unfortunately, the implementation of the program, which began Jan. 1, has hardly been a revolution. The program has been rife with problems, causing many of our senior citizens to go without their life-saving prescription drugs. … I am hopeful that we can agree that there are real problems that need immediate legislative action."

In his The Hill (2/8) op-ed, Sen. John Kerry writes, "Affordable healthcare is not a privilege for the elected, the connected and the wealthy; it should be a right afforded to all Americans, regardless of their background or social standing. President Bush's prescription-drug program soundly rejects this principle, and we have to pass serious reforms now to repair this program before it becomes entrenched. Our goal should be nothing more and nothing less than assuring that a Medicare prescription-drug plan actually does what it's supposed to do: conveniently provide affordable prescription drugs to all seniors."

And Sen. Max Baucus writes in The Hill (2/8), "Medicare is a remarkable American success story. We must build on this success by ensuring that Medicare's new drug benefit is implemented correctly. In 2003, with my support, Congress passed the Medicare Modernization Act to establish drug benefits under Medicare. The legislation was not perfect, but its passage was a step in the right direction. The bill as written provides solid coverage for low-income Medicare beneficiaries. It gives stop-loss, catastrophic protection for all who enroll. Most important, the bill gets a benefit started. … It's critical that the Medicare drug benefit be implemented correctly and clearly so that it can become the latest in a long line of Medicare successes."

Congress Under Pressure To Create Enforcement Mechanism For New Ethics Rules. The Wall Street Journal (2/8, Rogers) reports that as Congress "prepares to overhaul lobbying rules, there is growing pressure to create enforcement mechanisms so the proposed changes stick -- and are credible to voters." House and Senate Democrats have "introduced bills that would establish professional offices to audit disclosure reports filed by lobbyists. Critics say the same oversight should apply to similar filings by lawmakers, given the spotty investigative performance of congressional ethics committees." The issue "could prove a major test for new House Majority Leader John Boehner (R., Ohio), who has insisted that better disclosure -- overseen by the ethics committees -- is sufficient." But even as "scandals have beset the House in the past year, its Ethics Committee has been paralyzed politically by infighting. And historically, one of the weaknesses of the ethics enforcement process in Congress has been the panels' ability to initiate inquiries to see if there is probable cause for a fuller investigation." One option "promoted by Sen. Barack Obama (D., Ill.) borrows from the model of an independent ethics commission set up in Kentucky after bribery scandals there in the early 1990s. In testimony today before the Senate Rules Committee, Mr. Obama will propose a nine-member Congressional Ethics Enforcement Commission, made up of outsiders but appointed by House and Senate leaders." A second option "calls for creating a professional 'Office of Public Integrity' to audit filings and assist the ethics committees in enforcing rules."

Morris Says Members Of Congress Should Take "Lieberman Pledge" On Ethics. In his column in The Hill (2/8), Dick Morris says Sen. Joseph Lieberman is saying members should not "wait for legislation or ethics rulings, just follow his example and voluntarily announce that you and your staff will not accept gifts, meals or travel from lobbyists or groups with interests before Congress." Lieberman, the "most ethical member of the Senate (this is not damning with faint praise!), is setting up the only way to avoid fallout from the Jack Abramoff scandal and get clean for election day." The Lieberman Pledge "will catch on. In the elections of 2006, insurgents will happily take the pledge (they have likely never even met a lobbyist or accepted a ham sandwich from one) and incumbents will be hard-pressed not to follow. Pledges have a way of being contagious."

Some Businesses May Profit From Boehner's Rise In House Leadership. The Hill (2/8, Snyder) reports Rep. John Boehner's "rise to the second highest post in the House could benefit a number of business interests he has supported in Congress. Backers of for-profit education, free-market farm policies, immigration guest-worker programs and pension reforms could all benefit from

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Boehner's victory, lobbyists say." Some things "are unlikely to change under his leadership. Committee chairmen will maintain discretion to craft bills under their purview, and Boehner's conservative political philosophy — lower taxes, fewer regulations — is in line with that of both Majority Whip Roy Blunt (R-Mo.)."

Ornstein Says Boehner Needs To Fundamentally Change House Operations. In his Roll Call column (2/8), Norman Ornstein says the outcome of the House GOP leadership contest "is probably a good reflection of the collective desire of the House Republican Conference: Stand for change, but not too much change. Change obviously includes reforms that respond to the scandals on Capitol Hill, from former Rep. Duke Cunningham (R-Calif.) to ex-lobbyist Jack Abramoff and many of those associated with him, which will almost certainly engulf several Members of Congress and top staffers." Transparency is "dandy, and disclosure is useful. But if all that happens here is more disclosure — and a bar on former Members going on the floor or into the gym, something already approved by the House — that will be a huge disappointment and a massive failure of responsibility by the majority." As Majority Leader, Boehner "needs to alter fundamentally the way the House operates. He needs to create a fair process — fair to Republican moderates, Republican conservatives and minority Democrats."

Boehner Election Unlikely To Win Thomas Another Term At Ways And Means. The Hill (2/8, Cusack, Young) reports Rep. John Boehner's "rise to majority leader could have important implications for Rep. Bill Thomas's political future, but what Thomas wants most and probably can't attain is a waiver to stay on as chairman of the Ways and Means Committee." Thomas (R-Calif.) "is in the last year of a six-year term as chairman of the powerful panel, and it is unclear what he will do in 2007." Sources "close to Thomas say he has several options, including heading the Budget Committee, joining President Bush's Cabinet, chairing a Ways and Means subcommittee or retiring." But, "asked of the chances of a waiver for Thomas to retain his gavel, a Republican lawmaker last year said, 'I've got a better chance to be pope.'"

Polls Show DeLay Trailing Likely Democratic Opponent. The Washington Times (2/8, McCaslin) reports in its "Inside the Beltway" column, "It's Tom against Tom in Houston, where prominent lawyer Tom Campbell is out to topple politically (and legally) troubled incumbent Rep. Tom DeLay in the March 7 Republican primary. Local polling shows Mr. DeLay, the ousted House majority leader, trailing the likely Democratic opponent, his unfavorable ratings rising like hurricane floodwaters." Campbell "is preaching integrity and values as the antidote to DeLay-style bare-knuckle politics. He and his wife raised all five of their children in the Houston suburb of Sugar Land, once the heart of Mr. DeLay's turf."

In Boost For Reelection Bid, DeLay Expected To Claim Appropriations Seat. The Hill (2/8, Tiron) reports that in a move "that could help his reelection campaign, former House Majority Leader Tom DeLay (R-Texas) is expected to be appointed to an Appropriations subcommittee today that has jurisdiction over spending for space programs." A source said DeLay "would reclaim his spot on the Appropriations Committee while taking seats on one subcommittee dealing with homeland security and another that funds NASA. Those assignments could boost the indicted lawmaker's campaign against former Rep. Nick Lampson (D-Texas)." DeLay's district, "which he helped redraw in 2004, includes NASA's Johnson Space Center. DeLay has been known to boost NASA's interests in the Houston area." If DeLay is "cleared of the charges brought by Texas prosecutor Ronnie Earle and defeats Lampson and Republicans maintain their majority, he could become the chairman of the Science, State, Justice, Commerce and Related Agencies Appropriations Subcommittee in 2007 when Rep. Frank Wolf (R-Va.) will relinquish the gavel."

Democratic Leaders Say Party Is Missing Opportunities. Democratic leaders say their party is heading into the 2006 elections in a position weaker than they had hoped for. The New York Times (2/8, Nagourney, Stolberg) reports that the leaders are "stirring concern that they are letting pass an opportunity to exploit what they see as widespread Republican vulnerabilities. In interviews, senior Democrats said they were optimistic about significant gains in Congressional elections this fall, calling this the best political environment they have faced since President Bush took office. But Democrats described a growing sense that they had failed to take full advantage of the troubles that have plagued Mr. Bush and his party since the middle of last year, driving down the president's approval ratings, opening divisions among Republicans in Congress over policy and

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potentially putting control of the House and Senate into play in November." Senator Christopher J. Dodd said the health of the Democratic Party is "a lot worse than it should be," adding, "This has not been a very good two months. We seem to be losing our voice when it comes to the basic things people worry about."

Miller, Tauscher Want Ruling On Whether Pombo Aide Has Violated Rules. The Hill (2/8, Kaplan) reports California Democratic Reps. George Miller and Ellen Tauscher "asked the House Administration Committee last week to determine whether Rep. Richard Pombo's chief of staff has violated House rules." Steven Ding lives "in Stockton, Calif., which is in Pombo's district. Ding serves as chief of staff both in Pombo's personal office and for the House Resources Committee, which Pombo chairs. The committee pays Ding $150,000, and the personal office gives him an additional $100 each month." Reps. Miller and Tauscher "allege that Ding's arrangements violate three House rules. First, lawmakers cannot use their personal-office budgets — officially called the members' representational accounts (MRAs) — to pay for a committee's expenses and committees cannot subsidize expenses for a lawmaker's personal office. Second, if a staffer's job or "duty station" is in Washington, he cannot be reimbursed for commuting expenses." Finally, House rules state "that a lawmaker 'cannot retain an employee … who does not perform official duties commensurate with the compensation received for the offices of the employing authority.'"

The Los Angeles Times (2/8, Serrano) reports Duane Gibson, "a Washington lobbyist under federal scrutiny in the Jack Abramoff scandal, helped raise money for" Rep. Richard Pombo of California, "who championed legislation that would benefit Western mining interests that Gibson represented." Last year, Pombo, chairman of the House Resources Committee, "attached an amendment to a budget bill -- without hearings or floor debate -- that would have opened national forest and other public land to mining. The so-called Pombo provision passed the House, but was deleted from the bill in the Senate when several Western state senators and governors complained that it would endanger vast portions of federal land." Three months before Pombo "inserted the amendment, Gibson and his lobbying firm had a $1,000-a-head fundraiser for the congressman. Although the total raised at the July event is not known, Gibson contributed $1,000, and additional donations came from mining companies, including at least one that Gibson has represented." The fundraiser "and Pombo's action apparently broke no laws. But, as the Abramoff scandal continues to roil the capital, they reflect the symbiotic, cozy relationship between lobbyists and legislators that congressional leaders say they want to curb."

Senate Democrats Cut Ties With PAC Treasurer. Roll Call (2/8 , Newmyer) reports that Senate Democrats, in an effort to "clean up their own houses," are "cutting ties to a lobbyist serving as treasurer of their leadership political action committees. Minority Leader Harry Reid (Nev.), Democratic Policy Committee Chairman Byron Dorgan (N.D.) and Sen. Edward Kennedy (Mass.) are cutting ties to longtime appropriations lobbyist William Oldaker, who has served as treasurer for their leadership PACs. … Reid spokesman Jim Manley said the Minority Leader made the decision 'to err on the side of caution.'"

Burns Aide Leaving Amid Questions About Abramoff Ties. Roll Call (2/8, Akers) reports in its "Heard on the Hill" column, "Ryan Thomas, an aide to Sen. Conrad Burns (R), is leaving his post as the Montanan's top staffer on the Appropriations subcommittee on the Interior amid lingering questions about his role in helping clients of ex-lobbyist Jack Abramoff. Thomas, who was not available for comment, was on the now-infamous January 2001 trip to the Super Bowl in Tampa with Abramoff, along with another Burns staffer, then-Chief of Staff Will Brooke. … James Pendleton, Burns' spokesman, confirmed that Thomas was leaving but had no knowledge of what his next job would be. Pendleton defended the work of Thomas, who was a staffer in Burns' personal office before moving over to the subcommittee when his boss became chairman." Roll Call adds that Thomas' exit "comes as Burns is taking lots of political heat from Montana Democrats eyeing that seat in November."

NTSB Sending Investigators To Fewer Fatal Plane Crashes. The Washington Post (2/8, A17, Goo) reports that the NTSB "is sending investigators to fewer and fewer fatal airplane crashes -- particularly those involving small planes. And that has safety experts worried. Last year, the agency's accident investigators showed up at 62 percent of all fatal plane crashes, compared with 75 percent of all fatal crashes in 2001, according to NTSB numbers. But data

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from the Federal Aviation Administration -- which is required to send an investigator to every accident and take note of whether the NTSB is on the scene -- indicate that NTSB investigators showed up less than half the time last year. The NTSB chafed at the FAA numbers, calling them inaccurate. After a back-and-forth between the agencies, the FAA backed down, acknowledging that its numbers may be unreliable." The trend "has alarmed former accident investigators."

Pentagon Program Offers Pre-Marital Advice To Soldiers. The Washington Post/AP (2/8, A17) reports, "They are the Pentagon's new 'rules of engagement': U.S. Army chaplains are trying to teach troops how to pick the right spouse, through a program called 'How to Avoid Marrying a Jerk.' The matchmaking advice comes as military family life is being stressed: Defense Department records show that more than 56,000 people in the Army -- active-duty, National Guard and reserve -- have divorced since the campaign in Afghanistan started in 2001. Officials partly blame long and repeated deployments that started after the invasion of Iraq in 2003 and stretched the service thin. Troops also are coming home with life-altering injuries." The program "advises the marriage-bound to study a partner's FACES -- family background, attitudes, compatibility, experiences in previous relationships and skills they would bring to the union. It teaches them to pace themselves with a RAM chart -- the Relationship Attachment Model, which basically says not to let your sexual involvement exceed your level of commitment or level of knowledge about the other person. … The program teaches troops not to cave in to the pressure of a ticking clock -- such as rushing to marry before shipping out for a deployment, or too soon after homecoming."

OTHER NEWS:

Wolfowitz Draws Fire For Appointing Former Administration Officials To World Bank Jobs. The Washington Post (2/8, D1, Blustein) reports on the controversy World Bank President Paul Wolfowitz has created by appointing Americans "with ties to the Bush administration" to key jobs. Their "roles have rekindled fears among the staff that Wolfowitz, the former U.S. deputy defense secretary, is bent on imposing a conservative agenda on the bank." Wolfowitz has "repeatedly sought to dispel such concerns since he became bank president in June. He has pledged his commitment to the bank's mission of alleviating poverty, and his unassuming manner has charmed many staffers who were averse to his role as a chief strategist of the U.S.-Iraq war." But after "months of seeming tranquillity, the bank is stewing with discontent over Wolfowitz's choice of several confidantes with administration or Republican connections to serve in key bank posts," such as Robin Cleveland, Kevin Kellems, and Suzanne Rich Folsom.

Realtors Predict Home Sales Will Slow In 2006. USA Today (2/8, Kirchhoff) reports US home sales "are expected to slow in 2006, though remaining near peak levels, the National Association of Realtors said Tuesday." Realtors' chief economist David Lereah "predicts existing home sales will dip 4.7% to 6.74 million units, while new home sales decline 8.5% to 1.17 million units. That would still be the third-best year on record."

Stock Markets Down On Housing Market Concerns. The Wall Street Journal (2/8, McKay) reports concerns "about the housing market sent stocks down modestly, despite several promising developments, including strong earnings at Walt Disney and a pullback in crude-oil prices." The "nervousness spread after home builder Toll Brothers reported that while revenue was solid in the fourth quarter, orders for new homes declined 29%. Because home values represent such a large share of many Americans' net worth, any sign of softness in that sector reverberates throughout the financial markets." The Dow Jones Industrial Average "fell 48.51 points, or 0.45%, to 10749.76." Other "stock benchmarks slipped fractionally. The broad Standard & Poor's 500-stock index eased 10.24, or 0.8%, to 1254.78. The Nasdaq Composite edged down 13.84, or 0.6%, to 2244.96."

GM Announces Dividend, Benefit Cuts. NBC Nightly News (2/7, story 5, 2:00, Williams) reported there was "a big announcement from struggling General Motors, which lost $8 billion last year alone. The company says it will cut white collar pension and healthcare benefits, cut its dividend and cut executive salaries. Officials say they can't reach their goals without sacrifice here. But does this mean blue collar workers are next?" NBC (Thompson) added, "CEO Rick Wagoner called today's cuts 'shared sacrifice' to speed GM's return to profitability." Wagoner: "I don't take these actions lightly. And don't take them without considering the impact of every single person affected." Thompson: "Those feeling the pain; shareholders. Their yearly dividend will shrink from $2 to $1. Outside board members, their compensation will be slashed by 50%. Current salaried workers their pensions will

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be restructured. And GM's top five executives will take pay cuts, including Wagoner whose $2.2 million salary will be cut in half."

Energy Stocks Expected To Remain Strong. The Wall Street Journal (2/8, Lahart) reports that in early 2003, "most investors were cool to energy stocks -- a stance that was exactly wrong. In the three years since, the Dow Jones index of U.S. Oil & Gas stocks has more than doubled. Even after a big selloff yesterday, spurred by a government report that warm weather has slackened U.S. energy demand this winter, the index is up 7.4% so far this year." Unlike the "dot-com bubble of the late 1990s, the fundamental story on energy looks sound. Rising global demand -- particularly from the rapidly developing Chinese and Indian economies -- continues to push up against the world's ability to pump oil, says Tom Petrie of Denver energy investment bank Petrie Parkman."

PhRMA Defends Interactions Between Drug Makers, Doctors. In a USA Today (2/8) op-ed, Pharmaceutical Research and Manufacturers of America (PhRMA) Senior Vice President Ken Johnson writes, "America's pharmaceutical research companies share a common goal of ensuring that physicians and those who prescribe medicines stay abreast of rapid advancements in treatment options. … The ultimate goal is to improve patient care. That is why nearly four years ago, PhRMA adopted the voluntary Code on Interactions with health care Professionals. These guidelines outline permitted activities so the independent judgment of health providers is not compromised. … We believe that pharmaceutical companies should not offer or provide anything to doctors that would interfere with the independence of their prescribing practices. The guidelines are thorough and strict. … Doctors make decisions based on the best information, and the PhRMA code helps to ensure that they get it -- with no strings attached."

USA Today Criticizes Freebies For Doctors. USA Today (2/8) editorializes, "For decades, pharmaceutical companies have showered physicians with meals, tickets to shows and sporting events, ski and beach vacations disguised as medical education seminars, and consulting 'jobs' for which doctors do no work. The companies aren't being charitable. They expect a return on their investment, namely that doctors prescribe their newest expensive pills. That's why an army of 88,000 pharmaceutical representatives, many of them young and beautiful, provides freebies to doctors and their staffs. … Drug companies support many educational programs and provide doctors with vital information about new products. But the gifts and unseemly practices taint the profession and undermine patients' trust. Doctors are sufficiently well-compensated that they can live without pharmaceutical freebies."

"Fetal Pain" Bills Advancing In State Legislatures. USA Today (2/8, Biskupic) reports, "A new front in the debate over abortion is emerging in legislatures across the nation. Abortion foes are gaining ground with proposals to require doctors to tell women seeking abortions that their fetuses might feel pain during the procedure. State 'fetal pain' bills began popping up last year in the wake of other statutes that have drawn attention to the interests of fetuses, including bans on a procedure that its critics call 'partial birth' abortion." USA adds, "Fetal pain bills were introduced in 19 states in 2005, and were passed in Arkansas, Georgia, Minnesota and Wisconsin. The Wisconsin bill was vetoed last month by Democratic Gov. Jim Doyle, who said it failed 'to reflect a consensus of medical opinion" and "intrudes on the doctor-patient relationship in a heavy-handed manner.' He cited a controversial report in the Journal of the American Medical Association that said there is no conclusive evidence of when a fetus first feels pain. Despite such questions, more fetal pain bills are advancing this year. Such bills have been passed by House members in Utah and Indiana and are headed to their Senates."

In a separate story, USA Today (2/8, Biskupic) adds that "most of the debates over abortion in state legislatures stem from abortion opponents' continuing push to emphasize the interests of fetuses and to create more hurdles for women seeking abortions. It's a strategy that has led to a range of restrictions on abortion and to proposals in 21 states aimed at requiring doctors to tell women seeking an abortion that their fetuses might feel pain during the procedure."

Potential New York Gubernatorial Candidate Offers Plan To Reduce Abortions. The New York Times (2/8, Lambert) reports, "Nassau County Executive Thomas R. Suozzi announced a plan on Tuesday intended to reduce abortions, calling the proposal a 'politically risky' step as he contemplates running for governor this year. Even as he was speaking, an abortion rights group issued a statement criticizing the plan. Mr. Suozzi's proposal would give nearly $1 million in county grants to groups including Planned

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Parenthood and Catholic Charities to promote birth control, adoption, housing for unwed mothers and abstinence. He proposes spending similar amounts in each of the next two years. … In an interview, Naral's president, Kelli Conlin, said, 'Mr. Suozzi is pandering in the worst possible way.'" The Times adds, "The clash had political overtones, since Naral previously endorsed Eliot Spitzer as the state attorney general, and is considering endorsing him for governor. Mr. Suozzi, meanwhile, is contemplating challenging him in the Democratic primary."

Retailer Group Sues To Strike Down Maryland's "Wal-Mart Law." The Virginia-based Retail Industry Leaders Association filed suit yesterday to strike down a Maryland law requiring Wal-Mart to pay more for employee health care, saying federal regulations don't permit states to set worker benefits. The Baltimore Sun (2/8, Green, Rosen) reports that the group, which counts Wal-Mart as a member, "says Maryland's Fair Share Health Act is illegal under the Employee Retirement Income Security Act of 1974. That law, known as ERISA, is designed in part to make sure that large employers are subjected to national standards for their benefit plans and not a tangle of conflicting state rules."

The AP (2/8) reports that the suit say the law illegally mandates "specific health care expenditures" and threatens "to take away the flexibility businesses need to deal with their employees."

The Washington Post (2/8, B4, Wagner) reports, "Maryland Attorney General J. Joseph Curran Jr. (D) and Democratic leaders of the General Assembly expressed confidence yesterday that the law would withstand scrutiny. It requires private companies with more than 10,000 employees in Maryland to spend at least 8 percent of payroll on health benefits or make a contribution to the state's health insurance program for the poor. Of four known employers with that number of workers, Wal-Mart is the only one that has said it would be affected, and the legislation became known in Annapolis as 'the Wal-Mart bill.'"

Murray Says CEO Trying To Portray Wal-Mart As "A Force For Good." Alan Murray writes in the Wall Street Journal (2/8) that it is easy to depict Wal-Mart Chief Executive Lee Scott "as just another CEO saddled with a bad public-relations problem. His company has been accused of paying poverty-level wages, providing inadequate health-care coverage to employees, hiring illegal immigrants, destroying communities, driving jobs overseas, and, in a new book by Charles Fishman called 'The Wal-Mart Effect,' even polluting Chilean waters by buying salmon from crowded South American fish farms. Wal-Mart has become one of the great polarizing issues that divides American politics. … In response, Mr. Scott has had to become not just chief executive officer, but chief reputation officer. He spends at least half of his time, by his estimate, in a campaign to convince the world that Wal-Mart is a force for good."

Cheney Says Referring Iran To Security Council Was "The Right Step." Vice President Dick Cheney was asked on PBS' Newshour with Jim Lehrer (2/7) how dangerous the situation in Iran is right now. Cheney said, "We think it's dangerous and I think the international community believes that. We've seen the situation develop as they appear to be determined to develop their capacity to produce nuclear weapons. I think everybody also has had their level of concern increase because of the current leadership in Iran. The new president has made some pretty outrageous statements. Now the international community has come together, we had the vote in the International Atomic Energy Agency Board of Governors this past week to refer the matter to the U.N. Security Council. We think that's the right step."

Recapping Cheney's remarks on PBS, Reuters (2/8) adds, "Cheney rejected parallels between Iran and Iraq, which the United States invaded in 2003 in part because of the belief it had weapons of mass destruction." He "noted Tehran's rejection of a Russian plan to enrich uranium for a civilian reactor in Iran and then reclaim the spent fuel as a sign that Tehran wanted its 'own enrichment capacity to be able to go all the way to the levels required for a nuclear weapon. … So there doesn't seem to be any doubt of what their intentions are.'"

Administration More Convinced Of Iran's Nuclear Weapons Capability Than Intelligence Community. The Washington Post (2/8, A1, Linzer) in an extensive front page story examining the US evidence of Iran's nuclear program reports that analysis by US and international experts is inconclusive as to Iran's progress and that Iran's nuclear weapon capability "remains as much as a decade away. … But whether Iran's leaders have reached that decision and what concrete progress the effort has made remain divisive questions among government analysts and U.N. inspectors." Meanwhile, "Bush administration officials, convinced that Iran

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has a weapons program, believe that the body of documentation is the nearest anyone can expect to 'smoking gun' evidence. But even in the U.S. government, the predominant interpretation is more complex." Director of National Intelligence John Negroponte's recent "carefully hedged assessment" that Iran "will likely have the capability to produce a nuclear weapon within the next decade" is "more conservative than views expressed by some policymakers. Some in the Bush administration have begun pushing back, suggesting that the CIA is demanding an unrealistically high standard of evidence before reaching conclusions that the White House believes are obvious." One senior Administration official said, "Taking into account the assessments made by the intelligence community, and others, I just don't have a lot of confidence in the assessments." The Los Angeles Times (2/8) also publishes a brief version of the Washington Post article Wednesday morning.

Expert Argues Military Strike Against Iran Could Succeed. Edward Luttwak, a senior fellow at the Center for Strategic & International Studies, in an op-ed in the Wall Street Journal (2/8) writes, "Many commentators argue that a pre-emptive air attack against Iran's nuclear installations is unfeasible. … There may well be other, perfectly valid reasons to oppose an attack on Iran's nuclear sites. But let's not pretend that such an attack has no chance of success. In fact, the odds are rather good." Luttwak argues, "Iran might need 100 buildings in good working order to make its bomb, but it is enough to demolish a few critical installations to delay its program for years -- and perhaps longer because it would become harder or impossible for Iran to buy the materials it bought when its efforts were still secret." A bombing strike targeting Iran's nuclear infrastructure "could all be done in a single night. One may hope that Iran's rulers will therefore accept a diplomatic solution rather than gamble all on wildly exaggerated calculations."

Administration Urged To Pursue Diplomacy With Iran Through Iraq. Roger Cohen in his "Globalist" column in the New York Times/IHT (2/8) writes, "The decision to report Iran to the United Nations Security Council over its nuclear weapons program represents a diplomatic success for the Bush administration, which showed unusual flexibility in coaxing Russia and China to back the move." The US and Iran "have been cooperating, albeit uneasily, at close quarters" in Iraq "and their interests converge in several respects. The possibility exists to leverage this convergence into dialogue." For example, "Adel Abdul Mahdi, a potential future prime minister from the most influential Shiite party, suggested he saw the possibility of mediating. 'When we meet American officials, we do not hide our friendship with Iran. Nor do we hide to Iran our interest in better relations with the U.S. There are interests here that can be developed.'"

NYTimes Says International Pressure Is Key. The New York Times (2/8) in an editorial writes that the IAEA referral of Iran to the Un Security Council "is a significant step in the right direction, and Washington deserves credit for agreeing to the modest and cosmetic compromises necessary to build such a broad diplomatic front. Tehran is now certain to use every conceivable ploy to try to shatter that hard-won unity. It should not be allowed to succeed." Continuing to apply concerted international pressure "would at least gain time -- time for energy conservation measures in the United States and elsewhere to lessen Iran's economic leverage, time for the Nuclear Nonproliferation Treaty to be strengthened in ways that make it both more enforceable and more equitable, and time for Iran to elect a government that would be more amenable to reason and more willing to put the economic welfare of its people ahead of building nuclear bombs."

Bush Expresses "Solidarity" With Denmark In Face Of Muslim Protests. The AP (2/8) reports, "President Bush has called Denmark's prime minister to express 'our support and solidarity' in the wake of violence over the publication of caricatures of the prophet Muhammad." And State Department spokesman Sean McCormack "said American diplomats around the world had been directed to offer Denmark whatever assistance it might need to maintain its embassies."

AFP (2/8) adds, "Bush telephoned Rasmussen from his Air Force One presidential plane, and the two 'agreed that the way forward is through dialogue and tolerance, not violence,' said spokesman Scott McClellan." One Danish diplomat said, "Obviously this support from major countries lifts some of the pressure and soothes us, especially when it comes from the Americans and British, who slightly disappointed us earlier by their criticism and lack of solidarity."

Cheney Says Protests Unjustified. NBC Nightly News (2/7, story 3, 1:45, Boettcher) reported, "Thousands marched in Pakistan, Indonesia, Iraq, and Iran to protest the caricatures of the prophet Mohammed published in Denmark and republished elsewhere in Europe." NBC quoted Vice

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President Cheney, who said, "It's appropriate for people to respect one another's religion but I don't believe that the printing of those cartoons justifies the violence that we've seen." Boettcher: "Even though the protests have been directed at European target, here in Iraq, US military commanders worry that if this crisis does not abate, American forces too will be a target."

Muslim Protests Over Controversial Cartoons Continue To Spread. ABC World News Tonight (2/7, story 3, 2:10, Vargas) reported, "Fresh protest erupted across the Islamic world over the cartoons of the prophet Mohammed that many Muslims consider offensive. In Afghanistan, 3 were killed and 22 injured in a violent clash with NATO peacekeepers. Now, some Muslims are venting their rage by calling for the publication of offensive cartoons of their own." ABC (Watt) added, "This morning in Tehran, street protests. Today's targets, the Danish and Norwegian embassies."

The CBS Evening News (2/7, story 3, 2:05, Schieffer) reported, "57 Muslim countries today joined the United Nations and the European Union calling for an end to violent protest against those cartoons of the prophet Mohammed, but the violence went on and for a second day several protesters were killed. Now driving a wedge between some Muslim nations and some in Europe." CBS (Roth) added, "The insult to religion has become the excuse for a protest that's now burning on the fuel of anti-Western anger. And in Gaza or Syria or Iran, there's still plenty of that. In most of Europe though, even France with the continent's biggest Muslim population, the cartoons have caused controversy but hardly any confrontation. One exception was Britain where offended Muslims took their anger to the streets."

Protests May Threaten US Outreach To Muslim World. The Washington Post (2/8, A16, Kessler) reports, "The outrage over cartoons depicting the prophet Muhammad poses a challenge for the United States at a time when the Bush administration is investing greater resources to reach out to the Muslim world." One US official said, "We're starting to see the American flag popping up with the Danish flag in protests. … This could be the beginning of a long misunderstanding between the West and East." Even prior to the protests, "U.S. officials monitoring Iranian media out of Dubai had begun to detect a nascent campaign to expose a perceived hypocrisy of American culture. The campaign would focus on gun violence…in a nation that is fighting a war against Islamic extremism and terrorism." Undersecretary of State for Public Diplomacy Karen Hughes "has been monitoring the situation and is involved in crafting the administration's response. … Thus far, the administration has tried to strike a balance that includes embrace of freedom of expression, displeasure at the cartoons, disgust at the violence and support for the Danish government. U.S. officials have also thrown barbs at Iran and Syria, which they accuse of inflaming the situation for cynical purposes."

The New York Times (2/8, Cowell) reports, "As the protests have spread, some Europeans have come to realize that relatively small Muslim minorities -- 3 percent in Britain, 4 percent in Denmark and around 5 percent in the European Union -- can wield power across the Islamic world." The protests "have set off a profound debate about freedom of expression and supposed double standards. And the spreading protest signified a hardening of extremes that left little room for moderation. 'The moderate Muslim has again been effectively silenced,' said Tabish Khair, professor of English at the University of Aarhus, Denmark." Recent terrorist attacks have "challenged governments and societies to distinguish between moderates and extremists." Meanwhile "there is a seething resentment among some Muslims that they are treated as second-class citizens and potential terrorists in lands that deny the importance of their faith, even though the number of Muslims in Europe totals 20 million, and possibly many more."

The Christian Science Monitor (2/8, Rice-Oxley) reports, "The violence over cartoons satirizing the prophet Muhammad has highlighted often inconsistent rules in Europe governing free speech, tolerance, and the boundaries of public expression." The Monitor continues, "Muslims in particular charge that hate-speech laws are implemented unfairly. Many countries, they say, do not abide anti-Semitic outbursts, but will tolerate cartoons that to many Muslims are deeply offensive." The response from European leaders "has been to frown on those who reproduced images…while insisting that editors were within their legal rights to do so. Governments have refrained from apologizing to the Islamic community because they say publication is a matter for editors, not politicians. Muslim opinion, however, has not been appeased by this response."

Danish Leader Warns Of Growing Global Crisis Over Muslims Cartoons. Bloomberg (2/8, Brogger) quotes Danish Prime Minister Anders Fogh Rasmussen saying, "We are facing a growing global crisis." Bloomberg adds, "Radicals and fundamentalists are pursuing their own agendas, he said."

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European Diplomats Blame Islamic Regimes For Fanning Protests. The Financial Times (2/8, Turner, Khalaf, Smyth) reports, "The United Nations, the European Union and the Organisation of the Islamic Conference on Tuesday issued a joint appeal for an end to violence around the Muslim world." Yet "they also asserted that while that free speech was a right, it was one that entailed 'responsibility and discretion', and 'should respect the beliefs and tenets of all religions.'" And "as diplomatic efforts to calm tensions were stepped up, European diplomats cautioned against exaggerating the impact of the cartoon controversy. Disapproval of the caricatures, said diplomats, was being exploited by some regimes for political purposes. .... 'This is not the Muslim world jumping against western values. It is Iran, which is being sent to the UN Security Council over its nuclear programme. It is Syria because it reacts to policies that have been taken (against it) by the international community ... It is Afghanistan because the security situation there is fragile and deteriorating,' said a diplomat."

Demonstrators Attack Afghanistan NATO Base Over Danish Cartoons. The New York Times (2/8, Wafa, Gall) reports "NATO troops fired on demonstrators in northern Afghanistan on Tuesday in a second day of deadly protests here." In the town of Maimana "three protesters were killed and 22 injured," while "three Afghan police officers...and five Norwegian soldiers...were also injured." This marks "the first time NATO troops...had been attacked at their base by an angry crowd." Sayed Aslam Ziarati, the head of police security in Maimana, "blamed people he called terrorists for turning the demonstration into a violent one."

The Washington Post (2/8, A15, Witte) reports, "The most confrontational protest Tuesday occurred in the northern Afghan city of Meymaneh, where protesters threw stones and grenades at a NATO compound that primarily houses Norwegian soldiers doing reconstruction work. That protest and several others occurred in regions not usually associated with religious extremism or violence." And while other protests were in Afghanistan were peaceful, "violent demonstrations erupted in Kabul, where a small, angry mob grew quickly and as many as 1,000 men marched through the streets in search of Western targets to attack. During a rampage that lasted several hours, protesters trashed U.N. vehicles and threw stones at U.N. buildings, the U.S. Embassy compound, a NATO headquarters and private homes in a neighborhood popular among Westerners." They "tried to gain access to several heavily fortified compounds -- including the U.S. military base -- but were pushed back by security forces. They shouted slogans such as 'Down with the USA!' 'Down with Bush!' 'Down with the Jews!' 'Down with the Christians!' and 'Long live Islam!'"

Danish Aid Agency Expelled From Chechnya. The New York Times (2/8) reports, "The Danish Refugee Council, one of the largest aid organizations working in war-racked Chechnya and its neighboring republics, was expelled from Chechen territory on Tuesday, as anger spread yet further over Danish cartoons of the Prophet Muhammad." The Times adds, "Ramzan A. Kadyrov, acting prime minister of Chechnya and the head of President Vladimir V. Putin's political party in the region, said Monday that Chechnya would not admit 'anything that comes out of Denmark.'"

US Muslim Leaders Criticize Denmark. The Washington Times (2/8, Ward) reports, "American Muslim leaders say there is plenty of blame to go around in the uproar over the cartoons of the prophet Muhammad." They "have told European officials in Washington that the Danish government could have done a better job balancing free speech and respect for religious beliefs." Muslim Public Affairs Council national director Ahmed Younis "said his group organized a meeting Monday with the Danish ambassador to the United States 'to advise on the tone of the response of the Danish government and to offer opportunities for solutions.'"

Reaction In Saudi Arabia Mixed. The Washington Post (2/8, A15, Ambah) notes, "The controversy, one of the most intense in the Islamic world since the publication of Salman Rushdie's 'The Satanic Verses' in the 1980s, has provoked varied reactions here in the birthplace of Muhammad. Some Saudis have lauded the widespread reaction as Muslims' first unified stance in decades, a chance to flex their muscle and teach the West not to gratuitously offend their sensibilities. Others, like Barqah, say Muslims are reacting viscerally, not intelligently, and this, they say, goes against the very teachings of the prophet they are trying to defend."

Iranian Paper Solicits Cartoons Mocking Holocaust. The New York Times (2/8, Fathi) reports, "Iran's largest newspaper on Tuesday announced an international competition for Holocaust cartoons to retaliate against the publication of cartoons of the Prophet Muhammad in Danish newspapers last year." The daily newspaper Hamshahri "said it wanted to see whether freedom of expression extended to mocking the Holocaust." The newspaper said,

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"The serious question for Muslims is whether the West extends freedom of expression to the crimes committed by the United States and Israel, or an event such as the Holocaust. … Or is its freedom only for insulting religious sanctities?"

ABC World News Tonight (2/7, story 3, 2:10, Watts) reported, "And also a new twist -- the leading newspaper announced a competition: Who can draw the best cartoon lampooning the Holocaust." US reaction "was swift." Assistant Secretary of State Sean McCormack: "Any attempt to mock or in any way denigrate the horror that was the Holocaust is simply outrageous." Watt: "Moderate Muslims say this retaliation is offensive, but not blasphemous."

Editor Solicited Muslim Cartoons In Response To Reports Of Muslim Censorship. The Washington Post (2/8, A15, Sullivan) reports, "The global furor over cartoons of the prophet Muhammad can be traced to one day last September when newspaper editor Flemming Rose smelled a good story." Rose "said he'd read that museums in Sweden and London had recently removed artworks their staff deemed offensive to Muslims. A Danish comedian told him that he felt free to desecrate the Bible but that he'd be afraid to do the same to the Koran." He "suspected the art world was self-censoring out of fear of Islamic radicals. So he contacted 25 Danish newspaper cartoonists with a challenge: Draw Muhammad as you see him. Twelve responded, and the newspaper printed their submissions, including one that depicted Islam's holiest figure with a bomb in his turban."

Prophet's Image In Paintings Has Failed To Generate Controversy In Past. The Washington Times (2/8, Sands) reports, "Lost in the furor over cartoons of the prophet Muhammad is the fact that his likeness has long been portrayed in the collections of some of the world's greatest museums and libraries without exciting alarm or comment." Although "rare in the 1,400 years of Islamic art, depictions of Muhammad are found in the collections of such institutions as New York's Metropolitan Museum of Art, the Bibliotheque Nationale de France in Paris and the Edinburgh University library." None has "aroused the anger seen in reaction to a set of satirical cartoons."

Similarly, Amir Taheri, the author of "L'Irak: Le Dessous Des Cartes" in an op-ed in the Wall Street Journal (2/8) notes, "The claim that the ban on depicting Muhammad and other prophets is an absolute principle of Islam is also refuted by history." And "Islamic ethics is based on 'limits and proportions,' which means that the answer to an offensive cartoon is a cartoon, not the burning of embassies or the kidnapping of people designated as the enemy. Islam rejects guilt by association. Just as Muslims should not blame all Westerners for the poor taste of a cartoonist who wanted to be offensive, those horrified by the spectacle of rent-a-mob sackings of embassies in the name of Islam should not blame all Muslims for what is an outburst of fascist energy."

More Commentary. The Washington Post (2/8, A18) editorializes, "The Taliban is probably behind violent demonstrations in Afghanistan. … And the Bush administration has rightly fingered the secular but cynical government of Syria for orchestrating the burning of embassies in Damascus and Beirut." Conflict "between Muslims and the West is the fondest ambition of al Qaeda, the Taliban and other terrorist organizations. … But it also is a convenient refuge for authoritarian regimes hoping to resist the rising pressure for political liberalization in the Middle East." The Post concludes, "The few heroes in this sordid episode reside not in continental newsrooms but in the Middle East. In Jordan…two editors bravely republished the offensive cartoons; they now face prosecution. In Iraq, the Shiite Grand Ayatollah Ali Sistani condemned the Muslim inciters. It's not an accident that these Arab voices of reason are also leading proponents of democracy: They, more than anyone, are the ones deserving of the West's support."

The Wall Street Journal (2/8) in an editorial in its Opinion Asia section writes, "Violence surrounding the Danish cartoon scandal is now leaking into Asia, home to some of the world's most populous and diverse Muslim nations. Yet despite the disquieting reports, reasonable voices of moderation exist. That is, at least, encouraging. The discouraging bit comes when moderate Asian leaders shy away from the vigorous public debate needed to head off future flare-ups." The Journal faults Malaysian Prime Minister Abdullah Ahmad Badawi's and Indonesian President Susilo Bambang Yudhoyono's failure to support newspapers' right to publish controversial cartoons because "freedom of the press is paramount for a healthy democracy. … Just look at the radicalization of Muslims in China or Saudi Arabia for an example of how suppression breeds discontent. Malaysia and Indonesia, two young, Muslim-dominated democracies, can take a different path.

Syndicated columnist Kathleen Parker, a member of USA TODAY's board of contributors, in an op-ed in USA Today (2/8) writes, "What's clear is that East and West are not

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just cultures apart, but centuries, and that certain elements of the Muslim world would like to drag us back into the Dark Ages." And Western leaders "have been weak-spined when it comes to defending the principles of free expression that the artists in Denmark were exploring." As "President Bush and Clinton were feeling the pain of religious fanatics, marauders were burning Danish government buildings in Beirut, and Damascus, Syria, and promising Londoners a 9/11 of their own. Such are the fruits of appeasement." Parker states, "There is no equivalence between organized murder on behalf of a malignant social system and a half-dozen nerdy artists, speaking only for themselves, lampooning a fanatical religious sect whose members, by the way, specifically advance the delightful goal of exterminating millions of 'infidels.'"

Souheila al-Jadda, a journalist and member of USA TODAY's board of contributors, in an op-ed in USA Today (2/8) writes that "these provocative cartoon portrayals came as no surprise to many in the Islamic world. Protesters see this as a pattern of Western attacks against Islam and Muslims -- especially after reports of desecration of the Islamic holy book, the Quran, at the U.S. facility at Guantanamo Bay, Cuba; the abuse of prisoners in Iraq and Afghanistan; and the banning of the headscarf, hijab, in public schools in France. Muslims are asking themselves, what's next?" And although "Danish editors are free to publish such cartoons, Muslims are also free to express outrage. The republishing of the caricatures fueled even more anger because it was understood as a message from Europe that their protests, which are part and parcel of free expression, mean nothing." But "the ransacking of embassies and churches as well as the targeting of European nationals by demonstrators must be strongly condemned. These acts only serve to reinforce the very stereotypes Muslims are protesting."

Anne Applebaum in her column in the Washington Post (2/8, A19) writes, "Of course, some good may come out of this story, even in this country. If nothing else, this controversy should bring an end to that naive, charming and sadly incorrect American theory of international relations that 'the more we all learn about one another, the less we will fight.' Gradually, the Islamic world is learning that we don't respect religion in the same manner they do. Slowly, we are learning that they feel differently about the printed word, and the printed picture, from us. And somehow, I've got a feeling that this new knowledge will be not the beginning of understanding but the inspiration for more violence."

WTO Rules For US In Dispute Over GM Biotech Dispute. The New York Times (2/8, Pollack) reports, "The United States won a closely watched trade dispute yesterday when the World Trade Organization ruled that the European Union breached international rules by restricting imports of genetically modified crops and food made from them." The decision, which "was not made public but was discussed by federal trade officials," also "represents a victory for the agricultural biotechnology industry, which for years has been battling opposition to its products from consumers and governments in Europe and some other countries." Europe "could ignore the ruling and instead accept retaliatory tariffs on some of its exports to the United States."

The Wall Street Journal (2/8, Miller, Kilman) reports, "US officials said the finding against the EU sends an important warning to other parts of the world -- particularly nations in Africa and Asia -- against following the European lead in throwing up bans or partial bans against genetically modified crops." The US "has waged an intensive campaign to pry open the EU market, in large part because US biotechnology officials still hope Western Europe some day could be a rich market for their genetically modified seeds."

The Financial Times (2/8, Alden, Grant, Minder) reports the ruling was "castigated by environmental and consumer groups who charged the ruling was a blatant example of international trade rules running roughshod over democratic decisions aimed at protecting consumer health and safety." The Times adds, "A US trade official, briefing reporters on the confidential decision that was released to the countries involved in the dispute late yesterday, said: 'We're please with the outcome. We're not at the end of the road, but it's a significant milestone.'" USA Today (2/8, Weise) and Washington Post (2/8, D1, Gillis, Blustein) also report the story.

Sheriff Tells Congress Mexican Military Was Involved In Border Incident. The Washington Times (2/8, Dinan) reports Hudspeth County Sheriff Arvin West "and his deputy told Congress yesterday they had 'no doubt' that Mexican military crossed the US border in Texas on Jan. 23, even as Mexican officials announced they have concluded it was known drug traffickers instead." West said,

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"There's no doubt in my mind there was Mexican military involvement. I've seen it too many times over the years." During a hearing yesterday before a House Homeland Security Committee's investigations subcommittee, "Border Patrol Chief David V. Aguilar and Deputy Assistant Secretary of State Elizabeth Whitaker said the federal government will wait for an investigation by the FBI and Immigration and Customs Enforcement before drawing conclusions. Chief Aguilar said the number of incursions is decreasing. Asked what help Congress could provide, he said the executive branch is doing enough and he did 'not want to leave the impression our borders are besieged.'"

The Los Angeles Times (2/8, Timiraos) reports "Aguilar, told the lawmakers that the United States did not have proof that the individuals in military uniforms were Mexican soldiers, but added that nothing had been ruled out. 'If they weren't Mexican military, why is Mexico just sitting back and allowing this to happen?' said T.J. Bonner, president of the National Border Patrol Council, a 10,500-member union of Border Patrol agents. He decried a 'culture of corruption' that allows cartels to operate freely along the border by bribing Mexican authorities." Meanwhile, "Hudspeth County Sheriff Arvin West warned that inaction could prompt even more daring raids by smugglers. 'It is just a matter of time that the drug cartels will wire their drug loads with explosives and, when caught by law enforcement personnel, detonate the load vehicle,' he said."

McCaul Says Mexican Incursions Into US Are "Out Of Control." Rep. Michael McCaul was asked on Fox News' The O'Reilly Factor (2/7) if incursions into the US by the Mexican military is an escalating problem. McCaul said, "We have had over 200 incursions by the Mexican military over the last decade. … Violence on the border is really getting to the point where we are in a crisis. It really -- we talked to the five sheriffs, they testified before my committee. Whether you think they are military, whether you think they were cartels buying the military or cartels dressed up like military, they had 50-caliber weapons and Humvees. These pose a serious threat to law enforcement on the United States side. They are doing everything from throwing rocks on fire to taking shots at them. We have photographs of people on the other side of the border, Mexicans, literally shooting with their weapons. This is really getting out of control, and we need to do something about it."

Half Of "Granny Brigade" Attends Minuteman Rally In Washington. The Washington Post (2/8, B1, Morello, Londoño, Klein) reports on Carmen Mercer's trip through the Washington D.C. area as she travels to a "Capitol Hill rally by the Minuteman Project." Mercer "has headed into the Arizona desert in her Chevrolet pickup" on many nights to patrol the border with another woman. "Locals call them the Granny Brigade." Following Mercer from the airport and around the D.C. area, the Post notes the foreign origins of several of the people she comes in contact with. "In the Washington region, where an estimated one in six residents is foreign-born, she would see a thousand faces of immigration during her visit."

Olmert Unveils Plan To Establish Israel-Palestine Borders. The New York Times (2/8, Myre) reports, "Acting Prime Minister Ehud Olmert said in a television interview broadcast on Tuesday that he wanted to set the country's permanent borders, with Israel giving up significant parts of the West Bank but keeping the largest Jewish settlement blocs." Olmert "says a top priority would be establishing Israel's frontiers, with or without an agreement with the Palestinians." Olmert said, "The direction is clear: we are headed toward a separation from the Palestinians. … We will hold on to the main settlement blocs. But the borders we have in mind are not those Israel has today."

The Los Angeles Times (2/8, Ellingwood) notes it was Olmert's "latest effort to step out of Sharon's shadow and craft his own image, reintroducing himself to Israelis and the world at an exceedingly delicate moment." He "sidestepped the issue of whether he would push for additional unilateral withdrawals from the West Bank after Israel's pullout last summer from the Gaza Strip and four communities in the West Bank" and "expressed support for the U.S.-backed diplomatic blueprint known as the road map," yet "in outlining possible future boundaries that would exclude much of the West Bank, Olmert left open at least the possibility of additional pullbacks by Israel."

USA Today (2/8) in a brief article adds, "Olmert said Israel would retain a 'united Jerusalem,' a term understood as including the eastern part of the city where a large population of Arabs reside."

Hamas Leader Expected To Be Selected As Prime Minister. Reuters (2/8, Perry) reports, "A leader of the Islamist Hamas group said on Tuesday it was very likely that one of its members would become Palestinian prime minister." Asked if "a Hamas member would become the new prime minister, Hamas leader Ismail Haniyeh told Reuters in Cairo: 'This is

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highly expected.' But it was too soon to talk about names, he said."

US, South Korea Discuss Free Trade Deal. The New York Times (2/8, Brooke) reports, "South Korean and American negotiators have started a one-year drive to draw up the United States' largest free trade accord since Nafta went into effect." For the US, "the temptation to win better access to the seventh-largest export market is expected to carry more weight than objections from auto and steel manufacturers." It is not clear "whether both countries can negotiate" the deal "before President Bush's fast-track trade negotiating authority expires next year" yet US ambassador to Japn Thomas Schieffer "recalled the pessimism expressed when President Bush and Prime Minister John Howard of Australia announced in 2003 that their two countries would negotiate a free trade pact in one year."

US Navy Destroyer Boarded Suspected Pirate Ship In Indian Ocean. The Washington Times (2/8, Halloran) reports, "The United States was striking a pre-emptive blow when it ordered a US Navy destroyer to detain and board a suspected pirate ship in the Indian Ocean last month, aiming to see that terrorists do not lash up with pirates in the Asia-Pacific region." The destroyer, the USS Winston S. Churchill, "was ordered to intercept the suspected pirate ship on Jan. 21 after the U.S. Central Command, from its forward headquarters in Bahrain in the Persian Gulf, was contacted by the International Maritime Bureau, based in Malaysia. The maritime bureau monitors piracy all over the world, but especially in Asia." The Times adds, "It took the US warship several hours of maneuvering and firing warning shots to get the smaller vessel to surrender. A Navy boarding party then confiscated a cache of small arms to disarm the ship before sending it on its way."

Polling Stations Jammed In Haitian Presidential Elections. The Los Angeles Times (2/8, Dahlburg, Regnault) reports, "Haitians wearied by spiraling unrest and gang violence turned out in huge numbers Tuesday to choose a new president and parliament, and perhaps put their impoverished Caribbean homeland on the path to greater prosperity and peace." The Times adds "people in line were trampled by other would-be voters frantic to cast their ballot. According to local news reports, one person died of a heart attack, and another of asphyxia."

ABC World News Tonight (2/7, story 5, :10, Vargas) reported "there were accusations of fraud in some poor neighborhoods. Haiti is the poorest country in the hemisphere. It has fallen into chaos lately." The Washington Post (2/8, A11, Roig-Franzia) reports the elections "unfurled chaotically Tuesday but turned peaceful and orderly toward evening." Voters "overwhelmed badly prepared polling places." USA Today (2/8, Harman) and New York Times (2/8, Thompson) also report the story.

Nepal To Vote For Local Officials Today. The New York Times/AP (2/8) reports, "The government ordered security forces on Tuesday to shoot anyone who tried to interfere with elections on Wednesday for mayors and local officials." The balloting "will be the first in seven years, but nearly all the major political parties are boycotting it, calling the vote a sham intended to legitimize King Gyanendra's rule." The AP adds, "Maoist insurgents have threatened to kill anyone who votes. Two candidates have been killed, prompting the government to take out life insurance policies worth up to $10,300 for the more than 2,000 candidates."

The Washington Post (2/8, A11, Lancaster) reports, "Barely a year after seizing absolute power, King Gyanendra is a monarch under siege -- shunned by former allies, struggling to contain a raging Maoist insurgency and confronting a new alliance between the rebels and mainstream political parties that dismiss as farce his plans for restoring democracy." The parties "are boycotting municipal elections scheduled for Wednesday, a step that in combination with Maoist threats has ensured that more than half of the 4,000-plus local seats will not even be contested. The Maoists are also enforcing a week-long general strike that has paralyzed normal life in cities and towns throughout the country." The Post adds, "So tenuous is the king's position that some Nepalese journalists and analysts have begun to speculate about the odds of a military coup, or perhaps a hurried departure by the royal family in the dead of night."

Report Details Increase In US Assistance To Fight AIDS. The Wall Street Journal (2/8, Phillips) reports, "The U.S. provided life-extending drugs to nearly half-a-million AIDS patients in the developing world last year, marking a sharp increase in access to antiretroviral treatment, particularly in sub-Saharan Africa, according to a government report to be released today." The Journal notes, "Administration officials hope the report will spur Congress to

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meet Mr. Bush's new budget request and prompt other wealthy nations to increase their AIDS funding. 'People are alive today because the United States has turned its words into action,' wrote Randall Tobias, the administration's global AIDS coordinator."

Russia Seeks To Boost Credibility By Paying Off Debt, Becoming Donor. The Wall Street Journal (2/8, Chazan) reports, "Flush with petrodollars, Russia…said it will pay off a big chunk of its sovereign debt ahead of schedule this year." That "will improve Russia's credibility as it takes up the rotating presidency of the G-8 and help deflect claims from some in the West that it is too small economically to be a member of the exclusive club." In addition, "Russia is also discussing the possibility of becoming a major donor to the International Development Association. … It also announced plans to forgive $668 million owed it by 16 of the world's highly indebted countries, most of them in Africa." It is "a huge turnaround for a country that barely eight years ago defaulted on its domestic debt and devalued the ruble. Russia is also far advanced in talks to join the World Trade Organization, with bilateral deals reached with most of its trading partners except the U.S."

Nigerian Military Leader Warns Of Continued Unrest As Election Approach. The Financial Times (2/8, Mahtani) reports, "The commander of Nigeria's military operation in the oil-rich Niger delta has warned of more unrest there as Africa's biggest oil producer and most populous nation heads towards national elections next year." Increased "ethnic and political tensions ahead of next month's national census and the 2007 elections are a worry for both multinational oil companies and Nigeria, which produces about 2.5m barrels of oil a day."

Scientists Describe Expedition To Study Rare Species. The Washington Post (2/8, A1, Nakashima) in a front page story reports, "A team of scientists has discovered a lost world of rare plants, giant flowers and bizarre animals…on a mist-shrouded mountaintop in a remote province of Indonesia on New Guinea island." They "found more than 40 species new to science." Bruce Beehler, an ornithologist with Conservation International in Washington and the expedition's co-leader said, "I know the Bush administration is talking about going back to the moon and going to Mars. … But there are plenty of new things to look for right here, in our rain forests, in our oceans. There are whole worlds that are unknown to us."

Georgia Urged To Build Relations With West. Former Estonian Prime Minister Mart Laar in an op-ed in the Wall Street Journal (2/8) writes, "There are two main lessons Georgia can learn from" the energy disruptions from Russia. Georgia first "has to continue its integration with West." In addition "the crisis indicated that Georgia has to end its near total dependence on Russian energy sources." Georgia "needs the chance to restore its territorial integrity and find a peaceful solution for the problems of South Ossetia and Abkhazia. Russia's so-called 'peacekeeping' troops in these territories are not protecting the peace, but rather the pieces of the Russian empire. They must be sent home if the situation is to be normalized. Georgia can't be seen as just another little known country that is too far away from the Western world."

Columnist Blames NAFTA For Increase In Illegal Immigration From Mexico. Harold Myerson in his column in the Washington Post (2/8, A19) writes, "With the number of immigrants illegally in the United States estimated at 11 million, the tensions between Americans and Mexicans -- chiefly, working-class Americans and working-class Mexicans -- are rising. And those are tensions that congressional Republicans, who don't look to have a lot of other issues they can run on this fall, are eager to stoke." Meyerson says the boom in illegal immigration is "not because we've let down our guard at the border…the border is more militarized now than it's ever been. The answer is actually simpler than that. In large part, it's NAFTA." For example NAFTA put Mexican farmers "in direct competition with incomparably more efficient U.S. agribusinesses. It proved to be no contest: From 1993 through 2002, at least 2 million Mexican farmers were driven off their land." Meyerson concludes, "So long as the global economy is designed, as NAFTA was, to keep workers powerless, Mexican desperation and American anger will only grow. Forget the fence. We need a new rulebook for the world."

WSJournal Notes Recent Voinovich Support For Bolton. The Wall Street Journal (2/8) editorializes that after Sen. George Voinovich's recent praise of U.S. Ambassador to the United Nations John Bolton, "We called the Senator's office to confirm he was talking about the same guy he had pilloried just eight months before. Lo, he was.

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'He's doing a good job, I wouldn't say great,' says a Voinovich spokeswoman of Mr. Bolton. She adds that by 'following up' regularly with the Senator, Mr. Bolton's diplomatic skills appear to be getting better, particularly in building coalitions for U.N. reform." The Journal concludes, "No doubt Mr. Bolton is deeply grateful for the counsel of his newfound mentor. But we hope it's not rude to point out that perhaps Mr. Bolton is the same fellow he's always been, and with the same skills. Maybe Mr. Voinovich is the one who's learning on the job. In any case, we look forward to the Senator's 'aye' vote if the President renominates Mr. Bolton for confirmation by the full Senate next January."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"People's Party Animals."
"Chronicling Priest's Pattern Of Abuse."
"A Eulogy For King, A Scolding For Bush."
"Eating Lean Doesn't Cut Risk."
"And The Winners Are ... Performers On The Show."
"Sheriff To Move Violent Inmates."
"Israeli Leader Outlines His Goals For Nation's Borders."

USA Today:
"'A Lot More, A Lot Earlier' In 2008 White House Race."
"Abortion Foes Gain On New Front."

New York Times:
"Low-Fat Diet Does Not Cut Health Risks, Study Finds."
"Cleric Convicted Of Stirring Hate."
"Some Democrats Are Sensing Missed Opportunities."
"G.M. Will Cut Executive Pay And Dividend."
"At Mrs. King's Funeral, A Mix Of Elegy And Politics."

Washington Post:
"Council Reverses Vote, Approves Lease Deal."
"King's Legacy Celebrated In Farewell."
"Downloads Make Singles A Hit Again."
"Benefits Of Low-Fat Diets Rejected."
"Leads, Dead Ends In Iran Nuclear Case."
"A Lost World In Indonesia Yields Riches For Scientists."

Washington Times:
"Muhammad's Image Subject Of Art In Past."
"New Species Found In Remote Indonesia."
"Warner Hits Lack Of Help On Iraq War."
"Tribute To Mrs. King."
"Council Rejects Stadium Lease."
"American Dream Putting Homeowners In Deep Debt."

Detroit Free Press:
"Autoworkers Take More Hits."
"Mourning A Civil Rights Icon."
"A Low Fat Diet Is No Shield For Women."
"Macomb Co Crackdown On Young Suspects Raises Issues."

Atlanta Journal-Constitution:
"Coretta King Laid To Rest After Spirited Funeral."
"Sales Tax Exemption On Bible Ends."

Dallas Morning News:
"Border City Chaos Boils With Newspaper Attack."
"Perk Of Public Office: Discount Furniture."
"New DART Lines Get $700 Million Pledge."
"A United Salute To Coretta Scott King."
"Low-Fat Diet May Be Low In Benefit."

Houston Chronicle:
"Thousands Say Goodbye To King."
"Low Fats High Hopes Crumble In Study."
"Teen's Death Highlights Dangers Of 'Car Surfing'."
"Paper Attack Draws Fox's Wrath."

Story Lineup From Last Night's Network News:
ABC: King Widow's Funeral; AL Church Fires; Muslims-Cartoon Protests; Iraq-US KIAs; Haiti Elections; Low Fat Diet; Low Fat Diet-Analysis; January-Warm Weather; Identity Theft-Children; New Guinea-New Species; Atlanta-Police Pension Bias.
CBS: Coretta King Funeral; AL: Baptist Church Fires; Muslim Cartoon Protest; Iraq Violence; Radio Pay for Play; Ovarian Cancer Test.
NBC: Coretta King Funeral; AL: Baptist Church Fires; Muslim Cartoon Protests; UK: Al Masri Convicted; GM Budget Cuts; Torino Olympics; Low Fat Diet Study; NYC: Katrina Protest; Katrina-King.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: AL-church fires; King funeral; NM-Jennings ranch murders.
CBS: CA-wildfire; AL-church fires; RI-nightclub fire plea; Muslim cartoon riots; NHL-gambling ring; Wall Street.

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NPR: King funeral; Rice-Livni meeting; GM-cost cutting plan; Foreign stock markets; TN-Bredesen budget; AL-church fires; RI-nightclub fire plea.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Meets with King of Jordan, Oval Office, pool at bottom; participates in signing of Deficit Reduction Omnibus Reconciliation Act of 2005, East Room, White House, open press.

VICE PRESIDENT CHENEY — No public schedule.

LAURA BUSH — Departs Andrews Air Force Base enroute Rome, Italy. Notes: Arrives at Ciampino Military Airport, Rome, Italy, shortly after midnight local time.

US Senate: FLOOR SCHEDULE _ 9:45 a.m. The Senate reconvenes.

9:30 a.m. ENVIRONMENT AND PUBLIC WORKS _ Full Committee. Confirmation hearing on pending nominations. Location: Room 628, Dirksen.

9:30 a.m. FOREIGN RELATIONS _ Full Committee. Hearing on Iraq stabilization and reconstruction. Stuart W. Bowen, Jr., Special Inspector General for Iraq Reconstruction; James Jeffrey, Senior Advisor to the Secretary and Coordinator for Iraq Policy, State Department; James R. Kunder, Assistant Administrator for Asia and the Near East, USAID; Joseph A. Christoff, Director, International Affairs and Trade, GAO. Location: Room 216, Hart.

9:30 a.m. INDIAN AFFAIRS _ Full Committee. Oversight hearing on Indian tribes and the Federal Election Campaign Act. Location: Room 106, Dirksen.

10 a.m. FINANCE _ Full Committee. Hearing on implementation of the new Medicare drug benefit. Mark McClellan, administrator, Centers for Medicare and Medicaid Services. Location: Room 215, Dirksen.

2 p.m. RULES AND ADMINISTRATION _ Full Committee. Hearing on bringing greater transparency to the legislative process, revision of lobbying rules. With Sen. John McCain; Sen. Russ Feingold, D-Wis; Sen. Norm Coleman, R-Minn.; Sen. Barack Obama, D-Ill.; James A. Thurber, Center for Congressional and Presidential Studies; Fred Wertheimer, Democracy 21; Al Swift, Colling Murphy Swift Hynes LLC; and Bob Hynes, Colling Murphy Swift Hynes. Location: Room 301, Russell.

2:30 p.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Consumer Affairs, Product Safety and Insurance Subcommittee hearing on ``Protecting Consumers' Phone Records." Kris Montieth, Chief of Enforcement Bureau, FCC; Lydia Parnes, Director of the Bureau of Consumer Protection, FTC; Steve Largent, President, Cellular Telecommunications & Internet Association; Marc Rotenberg, Executive Director, Electronic Privacy Information Center; Robert Douglas, Chief Executive Officer, PrivacyToday.com; Cindy Southworth, Director of Technology & Director of the Safety Net Project, National Network to End Domestic Violence. Location: Room 562 Dirksen.

2:30 p.m. SELECT INTELLIGENCE _ Full committee. Closed meeting on weekly threat brief. No stakeout. Location: Room 219, Hart.

4:30 p.m. FOREIGN RELATIONS _ Full committee. Hearing on ambassadorial nominations. Janice L. Jacobs to be ambassador to the Republic of Senegal and to the Republic of Guinea-Bissau; and Jeanine E. Jackson to be ambassador to Burkina Faso. Location: Room 419, Dirksen.

US House: FLOOR SCHEDULE _ 2 p.m. Meets for legislative business. Highlights: Suspensions (6 bills): 1) H.R. 4054 - Dewey F. Bartlett Post Office Designation Act; 2) H.R. 4456 - Hattie Caraway Station Post Office Designation Act; 3) H.Res. 389 - Supporting the goals and ideals of The Year of the Museum; 4) H.Con.Res. 331 - Honoring the sacrifice and courage of the 12 coal miners killed and the stamina and courage of the one who survived the mine disaster in Sago, West Virginia, and the sacrifice and courage of the two coal miners killed in the Aracoma Alma mine disaster, and recognizing the rescue crews for their outstanding efforts in the aftermath of the tragedies; 5) H.Res. 660 - Supporting the goals and ideals of National Mentoring Month; 6) H.Res. 657 - Honoring the contributions of Catholic schools. Motion to go to Conference on H.R. 4297 - Tax Relief Extension Reconciliation Act of 2005, and Possible Democrat Motion to Instruct Conferees.

10 a.m. ARMED SERVICES _ Full Committee. Hearing on the FY07 defense authorization request. Defense Secretary Rumsfeld and Joint Chiefs of Staff Chairman Gen. Peter Pace. Location: Room 2118, Rayburn.

10 a.m. RESOURCES _ Water and Power Subcommittee. Hearing on pending legislation. Location: Room 1334, Longworth.

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10 a.m. RESOURCES _ Forests and Forest Health Subcommittee and Energy and Mineral Resources Subcommittee. Joint hearing on the impact of high energy costs on jobs and the potential for expanding use of biomass for energy. Location: Room 1324, Longworth.

10 a.m. TRANSPORTATION AND INFRASTRUCTURE _ Subcommittee on Aviation. Oversight hearing on U.S.-E.U. Open Skies Agreement, with a focus on DOT's NPRM regarding ``actual control" of U.S. air carriers. Location: Room 2167, Rayburn.

10:30 a.m. VETERANS AFFAIRS _ Full Committee. Hearing on the 2007 budget request. Secretary of Veterans Affairs Nicholson; and representatives of the American Legion, Veterans of Foreign Wars, Disabled American Veterans, Vietnam Veterans of America, others. Location: Room 334, Cannon House Office Bldg.

10:30 a.m. WAYS AND MEANS _ Full Committee. Hearing on the FY07 budget proposal. HHS Secretary Leavitt. Location: Room 1100, Longworth.

11 a.m. BUDGET _ Full Committee. Hearing on the FY07 budget. OMB Director Josh Bolten. Location: Room 210, Cannon.

12 p.m. INTERNATIONAL RELATIONS _ Subcommittee on Africa, Global Human Rights and International Operations. Hearing to examine the effects of Liberia's election on West Africa. Focus on U.S. support for restoring infrastructure and stimulating the Liberian economy. With Jendayi E. Frazer, Ph.D., Assistant Secretary, Bureau of African Affairs, US State Dept.; Lloyd Pierson, Assistant Administrator for Africa, U.S. Agency for Intl' Development; J. Peter Pham, Ph.D., Director, William R. Nelson Institute for International and Public Affairs, James Madison University; Vivian Lowery Derryck, Senior Vice President, Academy for Educational Development; and David Crane, former Chief Prosecutor Special Court for Sierra Leone. Location: Room 2172, Rayburn.

3:30 p.m. WAYS AND MEANS _ Full Committee. Hearing on the FY07 budget proposals. OMB Director Joshua Bolten. Location: Room 1100, Longworth.

Other: ISRAELI FOREIGN MINISTER ZIPI LIVNI _ Highlights: 11:50 a.m. Meets with Senate Majority Leader Bill Frist. Room S-230, Capitol. Note: Gallery escort from Ohio Clock Corridor leaves at 1:30 p.m. 3:15 p.m. Meets with members of the Senate Foreign Relations Committee. Room S-116, Capitol. Note" Set up outside S-116 begins at 2:15 p.m. Photo op at start of meeting. Stakeout follwos meeting.

KING ABDULLAH II OF JORDAN _ Highlights: 10:20 a.m. Meets with Senate Majority Leader Bill Frist. Room S-230, Capitol. Note: Escort to stage in Ohio Clock Corridor leaves at 10 a.m. Hand-held cameras only.

CARGO SECURITY _ 8:45 a.m. - 3 p.m. The Center for Strategic and International Studies holds a conference on cargo security and creation of a ``global green lane" for safe commerce. Highlights: 9:30 a.m. Opening session, Congress and the Green Lane, with Sens. Patty Murray and Norm Coleman. 11 a.m. Session on Canada-U.S. cargo security project, with Raymond Gagnon of National Infrastructure Project, Louis Morneau of the Quebec Ministry of Public Security and Marcel Savard of the Quebec Provincial Police. 12:30 p.m. Luncheon speaker - Michael Schmitz, World Customs Organization. 2 p.m. Panel discussion on private sector perspectives on supply chain security, with Randy Koch of General Electric Security, Kevin Smith of General Motors and Joel Webber of Couri and Couri PLC. Location: B-1 conference level, 1800 K St. NW.

DEAN-UAW _ 8:30 a.m. Democratic National Committee Chairman Howard Dean addresses the United Auto Workers Community Action Program 2006 Legislative Conference. Location: Marriott Wardman Park Hotel, Marriott Ballroom 2660 Woodley Road NW.

CARBON POLICY _ 9 a.m. Two key Senate Energy Committee staff - Democratic Staff Director Bob Simon and Republican Professional Staff Member John Peschke -- are panelists at a discussion, ``The Changing Business Climate: Is It Time for a National Carbon Policy? Other speakers: Sen. Tom Carper, D-Del.; Sen. Lindsey Graham, R-S.C.; and James E. Rogers, Chairman and CEO, Cinergy; Robert E. Busch, President, PSEG Services Corp. Location: Columbus Club in Union Station.

ELECTION REFORM _ 9 a.m. - 12:30 p.m. The American Enterprise Institute and the Brookings Institute co-host an event on election reform through the AEI-Brookings Election Reform Project, the Brookings Institution and the American Enterprise Institute plan a collaborative effort extending through the 2008 presidential election to develop a bipartisan, practical national policy for election reform. Highlights: 9:15 a.m. Sen. Barack Obama, D-Ill. 10 a.m. Panel I: HAVA--How Is It Working? Panelists are Paul Degregorio, chairman, Election Assistance Commission; Doug Chapin, director, electionline.org; and Deb Markowitz, Vermont secretary of state. Moderator is Norman J. Ornstein, AEI. 11:15 a.m. Panel II: Election Reform--Looking Ahead.

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Panelists are Michael Alvarez, co-director, Cal-Tech/MIT Voting Technology Project; Richard Hasen, William H. Hannon Distinguished Professor of Law, Loyola Law School; Robert Pastor, executive director, Carter-Baker Commission; and Paul Vinovich, Committee on House Administration. Moderator is Brookings senior fellow Thomas Mann. Location: Falk Auditorium, Brookings Institution, 1775 Massachusetts Ave. NW.

ASBESTOS CLAIMS _ 10 a.m. Key opponents of the asbestos trust fund bill, S. 852, hold a press conference Wednesday on Capitol Hill to challenge recent claims made by supporters of the FAIR Act. Location: Sewall Belmont House, 144 Constitution Ave. NE.

EVANGELICALS-GLOBAL WARMING _ 10 a.m. Spokesmen for 86 evangelical leaders hold a news conference to discuss their declaration on global warming, including a call for legislation on emissions. Location: National Press Club.

GOP RETREAT _ 10 a.m. Pen and pad briefing on GOP Retreat coverage planning. Location: House studio.

TEXAS-MEXICO BORDER _ 10 a.m. Representative Henry Bonilla will lead a Texas Delegation meeting with more than 20 members of the Texas Border Sheriffs' Coalition. Location: Room 2362A, Rayburn House Office Building.

TELECOMMUNICATIONS ACT _ 10 a.m. - 11:30 a.m. The American Enterprise Institute (AEI) hosts a conference, ``The Tenth Anniversary of the Telecommunications Act of 1996: A Tough Act to Follow?," examining the effect the Telecommunications Act has had on the industry and what lessons the existing law holds for those writing new legislation. Highlights: 10 a.m. Introduction by FCC chairman Kevin Martin. 10:15 a.m. Panel with former Sen. Larry Pressler, R-S.D., and former Rep. Thomas Bliley, R-Va. Moderator is Karlyn Bowman, AEI. 11:15 a.m. Conlusion by former FCC commissioner Harold Furchtgott-Roth, author of ``A Tough Act to Follow: The Telecommunications Act of 1996 and the Separation of Powers." Location: Wohlstetter Conference Center, 12th floor, AEI 1150 17th St. NW.

ASBESTOS LEGISLATION _ 10:30 a.m. Senate Judiciary Committee Chairman Arlen Specter and Senators Mike DeWine and George Voinovich host a press conference with 76 advocates from 13 states here to promote the Fairness in Asbestos Injury Resolution Act (FAIR Act, S. 852). The group includes local small businessmen, veterans, seniors, labor unions and other victims advocates. Location: Room SD-226, Dirksen Senate Office Building.

PUBLIC WORKS-IRAQ _ 10:30 a.m. Nesreen Barwari, Minister for Municipalities and Public Works in Iraq, speaks on ``Building the New Iraq: Challenges and Opportunities in Establishing a Unity Government." Location: Woodrow Wilson International Center for Scholars, 6th Floor Board Room, Ronald Reagan Building, 1300 Pennsylvania Avenue NW.

BURNS-IRAN NUCLEAR _ 11 a.m. The Iran Working Group holds a briefing on to give an update on Iran's nuclear ambitions, with R. Nicholas Burns, Under Secretary of State for Political Affairs. Location: Room 1302, Longworth House Office Building.

HOYER _ 11 a.m. House Democratic Whip Rep. Steny Hoyer holds a pen and pad only briefing. Issues include the FY07 budget. Location: Room H-306, Capitol.

MARRIAGE _ 11 a.m. The Family Research Council and Marriage Savers host a family policy marriage panel discussion in celebration of the signing of the 200th Community Marriage Policy in Las Cruces, N.M. With Wade Horn, Assistant Secretary for Children and Families; Sen. Sam Brownback, R-Kansas; Tony Perkins, president, FRC; and others. Location: Family Research Council, 801 G St. NW.

NASCAR-BLACK COLLEGES _ 11 a.m. Rep. J. Dennis Hastert, R-Ill., Speaker of the House, will recognize the National Association for Stock Car Auto Racing (NASCAR) and its effort to diversify and create job opportunities for African Americans through a collaboration with Historically Black Colleges and Universities. Other participants are Rep. Mel Watt, D-N.C., chairman, Congressional Black Caucus; Rep. Mike Rogers, R-Ala.; former Rep. J.C. Watts, R-Okla., former House GOP Conference chairman; Mike Helton, president and CEO, NASCAR; and Alvin Brown, chairman, National Black MBA Association. Location: Garfield Circle, west side of the Capitol, near 1st Street and Maryland Ave. SW.

EU-MCCREEVY _ 12 p.m. EU Commissioner for Internal Market and Services Charles McCreevy discusses transatlantic capital markets and U.S.-EU challenges, sponsored by the U.S. Chamber of Commerce. Location: 1615 H St. NW.

STEROIDS-HIGH SCHOOL _ 12 p.m. Sports Illustrated holds a press conference to announce an initiative to prevent steroid and drug abuse among high school athletes.

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Participants include Secretary of Education Margaret Spellings, Sens. John McCain, R-Ariz., and Joe Biden, D-Del., and Rep. Tom Davis, R-Va. Location: National Press Club, First Amendment Room.

TRADE DEFICIT _ 12 p.m. In advance of Friday evening's release of the 2005 trade deficit figures, AFL-CIO Chief International economist Thea Lee will join Reps. Sherrod Brown, D-Ohio, and Walter B. Jones, R-N.C., at a press conference to highlight how they say our nation's trade policies led to a record trade deficit last year, and how that deficit is hurting American workers. Location: Room 122, Cannon House Office Building.

DEMOCRATS _ 12:30 p.m. The Democratic Policy Committee holds a closed meeting. Location: Room S-211, Capitol. Notes: Stakeout note: Gallery escort for policy luncheons leaves between 12:15-12:30 p.m. from the Ohio Clock Corridor.

REPUBLICANS _ 12:30 p.m. The Republican Policy Committee holds a closed meeting. Location: Room S-207, Capitol.

ENERGY-UNIVERSITIES _ 1 p.m. Energy Secretary Bodman speaks on the department's Science, Competitiveness and Energy initiatives to the Universities Research Association. Location: National Academies of Science, 2100 C St. NW.

MCCAIN-EARMARKS _ 1 p.m. Sen. John McCain, R-Ariz., holds a news conference on earmark reform. Location: Senate Gallery Studio.

WILSON-NSA SPYING _ 3:30 p.m. Rep. Heather Wilson, R-N.M., holds a press conference on NSA terrorist surveillance. Location: House Studio.

US-CHINA RELATIONS _ 5:30 p.m. The Johns Hopkins Paul H. Nitze School of Advanced International Studies (SAIS) hosts a forum, ``U.S. Congress: An Update on U.S.-China Relations," with Reps. Mark Kirk, R-Ill., and Rick Larsen, D-Wash., co-chairmen of the U.S.-China Working Group in Congress. Location: Kenney Auditorium, first floor, Nitze Building,1740 Massachusetts Ave. NW.

PRESS CLUB FOUNDATION _ 6:30 p.m. The Washington Press Club Foundation holds its 62nd annual Congressional Dinner. Guests are Senate Judiciary Committee Chairman Arlen Specter and House Minority Whip Steny Hoyer. Helen Dewar of the Washington Post will receive the annual lifetime achievement award. Location: Ritz-Carlton Hotel, 1150 22nd St. NW. Notes: NBC's Andrea Mitchell will emcee.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, FEBRUARY 8, 2006 7:45 AM EST

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TERRORISM NEWS:

Cheney Says Administration Has Legal Authority For NSA Surveillance Program. Vice President Dick Cheney was asked on PBS' Newshour with Jim Lehrer (2/7) if President Bush is willing to work with Congress to settle the legal disputes about the domestic spying program. Cheney said, "We believe that we have all the legal authority we need. He indicated the other day he's willing to listen to ideas from the Congress, and certainly they have the right and the responsibility to suggest whatever they want to suggest. We'd have to make a decision as an Administration whether or not we think it would help and would enhance our capabilities. But as I say, we believe firmly that based on the Constitution, based on the authorization for the use of force Congress passed in the immediate aftermath of 9/11, that we have all the legal authority we need with respect to the NSA program." Cheney also said that the domestic surveillance program "has produced intelligence for us that has been very valuable in the global war on terror both in terms of saving lives and breaking up plots directed at the United States. It has been a very useful source of intelligence for us and we need to continue the program."

Fox News' Special Report (2/7, Angle) reported, "The Vice President says the Administration has looked at the legal questions and reached a firm conclusion." Cheney: We believe, firmly, that based on The Constitution, based on the authorization for the use of force Congress passed in the immediate aftermath of 9/11, that we have all the legal authority we need." Fox continued, "But a leading Democratic critic went on the floor of the Senate Tuesday afternoon to blast the program, the president and even his own colleagues." Sen. Russ Feingold "criticized Democrats, as well as Republicans, for applauding the president when he talked about the N.S.A. program during his State of the Union address."

Reuters (2/8, Holland) reports Vice President Dick Cheney "resisted bipartisan appeals for changes in a hotly disputed warrantless eavesdropping program, saying he believed 'we have all the legal authority we need.'" Still, Cheney "said Bush had indicated he was willing to listen to ideas from the U.S. Congress and that members of Congress certainly have the right to suggest changes."

The AP (2/8) reports Vice President Cheney "shrugged off congressional criticism of the Bush administration's domestic eavesdropping program Tuesday, suggesting some in the know who previously raised no objections were changing their tune. He also expressed little interest in working with Congress to settle legal disputes."

The New York Daily News (2/8, Meek) reports that as Vice President Cheney "launched a preemptive strike against a GOP insurrection on Capitol Hill, top sources from both parties made clear they weren't impressed with Attorney General Alberto Gonzales' arguments on Monday that National Security Agency wiretapping inside the U.S. broke no laws." Senior Capitol Hill aides "told the Daily News they expect bipartisan legislation that might put the controversial NSA domestic spying programs under the scrutiny of the supersecret Foreign Intelligence Surveillance Court."

Cheney Responds To Graham Comments About Program. Cheney was asked on PBS' Newshour with Jim Lehrer (2/7) about Sen. Lindsey Graham's comment that if the Administration uses the force resolution as a legal justification for the domestic surveillance program, when "this President or the next president comes and asks for a force resolution from Congress, there could be all kinds of exceptions." Cheney said, "I think people are straining here to try to find an issue to some extent. … Incident to the authorization of the use of force, military force, clearly I would expect would be a decision that that implies as well the ability to intercept the communications of the enemy. That's an inherent part of warfare. … Now, there may be suggestions from some that we need to have some additional authorization passed and we don't believe it's required, but as the president said the other day, we're perfectly willing to listen to suggestions from the Congress."

Wilson First Republican To Call For Full Congressional Investigation Of NSA Program. The New York Times (2/8, Lichtblau) reports Rep. Heather Wilson, "whose subcommittee oversees the National Security Agency," yesterday "broke ranks with the White House…and called for a full Congressional inquiry into the Bush administration's domestic eavesdropping program." Rep. Wilson, "chairwoman of the House Intelligence Subcommittee on Technical and Tactical Intelligence, said in an interview that she had 'serious concerns' about the surveillance program. By withholding information about its operations from many lawmakers, she said, the administration has deepened her apprehension about whom the agency is

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monitoring and why." The Times adds Wilson is the "first Republican on either the House's Intelligence Committee or the Senate's to call for a full Congressional investigation into the program."

Harman Says Full Intelligence Panel Should Be Briefed On Surveillance Program. Rep. Jane Harman, ranking member of the House Intelligence Committee, said on CNN's The Situation Room (2/7), "Now that the existence of the program has been disclosed by the president in response to some leaks to The New York Times, I have had a chance to check with some real experts on the Foreign Intelligence Surveillance Act. I believe the entire program could be covered under FISA, and it is not. And I'm baffled why the administration is declaring that it has inherent power to do this, disregarding laws that Congress intended to be the exclusive means to eavesdrop on Americans." Harman added, "The way this should be done is now that the program has been disclosed and is going to be gone over in painstaking detail, at least by the Senate Judicial Committee -- bravo for Chairman Specter, whom I spoke to earlier today and congratulated -- the full Intelligence Committee should be briefed on all aspects of program. We should decide in closed session whether the program complies with the laws that we have enacted. If it does not -- and I'm saying I think it does and those laws should be followed -- if it does not in any way, we should either change the law or change the program."

McCain Says Gonzales Hearing Was "Very Helpful." Sen. John McCain said on MSNBC's Hardball (2/7), "I do believe that there are concerns about how far the government is going, not just on this issue, but on other issues. But you know, the -- the Democrat leaders as well as Republican Intelligence Committee were briefed on this program. And so that -- and I don't know what the program is, and frankly, I probably will never know. But we want to -- we've got to make sure -- there have been abuses in the past by previous administrations, both Democrat and Republican, and I think our job, which is a careful balancing act, is to protect national security, at the same time protect the rights of the individual and there's always that kind of tension. I think that hearing was very helpful yesterday in a variety of ways. We need to have this issue ventilated for the American people."

Senate Seen As Defending Congressional Power Vis-À-Vis Executive. The Christian Science Monitor (2/8, Chaddock) reports the Senate this week has "opened a broad - and often tense - dialogue with the Bush administration over the president's wartime powers. It's more than just a probe into who authorized what, when, and why in a recently disclosed domestic eavesdropping program. If the president is not checked, lawmakers on both sides of the aisle argue, then the constitutional balance of power could shift away from the Congress for at least a generation." Sen. Lindsey Graham said, "I'm for the president's inherent authority to conduct the war, but not to neuter the other two branches." The Monitor adds that at the "root of congressional worries about the NSA surveillance case is the prospect that such broad interpretations of presidential powers could last well into the future. 'We could be in this war on terror for decades,' says Sen. Sam Brownback (R) of Kansas."

Ignatius Says Partisan Debate Over NSA Surveillance Misplaced. In his Washington Post column (2/8, A19), David Ignatius says, "As quickly as you can say the words 'Karl Rove,' the debate over the National Security Agency's anti-terrorist surveillance program is degenerating into a partisan squabble. Rather than seeking a compromise that would anchor the program in law, both the administration and its critics are pursuing absolutist agendas -- insisting on the primacy of security or liberty, rather than some reasonable balance of the two. This way lies disaster." A "stable, legal foundation for the NSA program can come by placing it under FISA jurisdiction, or by amending FISA, or perhaps by a judicial review that might support the administration's argument that Article II trumps FISA. Instead, we have none of the above."

Rivkin, Casey Say Congress Should Exercise Oversight Over NSA Program. In a Wall Street Journal op-ed (2/8), David Rivkin and Lee Casey, alumni of the Bush 41 and Reagan Justice Departments, say, "Although enhanced congressional oversight of the NSA program may well be constitutionally permissible and even sensible as a policy matter, the requirement of a warrant for this type of surveillance would trench upon the president's constitutional power as commander in chief to monitor enemy communications in wartime." Even the NSA program's "fiercest foes don't claim that it was designed or administered for snooping on the president's 'enemies' or critics." Rivkin and Casey conclude, "In short, there is no obviously constitutional and practical means of subjecting NSA's al Qaeda surveillance program to regular judicial review. Instead, Congress must itself shoulder the responsibility. It might enact a new FISA that would fully bless the president's activities, but add enhanced oversight, involving more information sharing with more members of Congress, backed up by the threat to use its fiscal powers to de-fund the program if abuses arise."

NYTimes Says Gonzales Failed To Answer Senators' Questions. The New York Times (2/8) says in an editorial, "We thought President Bush's two recent Supreme Court nominees set new lows when it came to giving vague and meaningless answers to legitimate questions, but Attorney General Alberto Gonzales made them look like models of openness when he testified before the Senate Judiciary Committee on Monday about domestic spying. Mr. Gonzales seems to have forgotten the promise he made to the same panel last year when it voted to promote him from White House counsel to attorney general: that he would serve

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the public interest and stop acting like a hired gun helping a client figure out how to evade the law."

More Commentary. The Milwaukee Journal Sentinel (2/8) editorializes, "Anyone who hoped that Monday's hearing of the Senate Judiciary Committee would shed new light on whether the Bush administration is violating the law by conducting secret wiretaps on the international e-mails and telephone conversations of Americans was bound to have been sorely disappointed. Although he spent more than seven hours under sometimes sharp questioning, Attorney General Alberto Gonzales supplied virtually no new facts or insights that would help Americans make a more informed judgment about this important matter. One can only hope that Gonzales will be more forthcoming when, as expected, he comes to Capitol Hill to meet with the committee a second time."

The Providence Journal (2/8) editorializes, "U.S. Atty. Gen. Alberto Gonzales's testimony to the Senate Judiciary Committee Monday about the National Security Agency's warrantless watching of U.S. citizens was not comforting. … In effect, he insisted that Article II of the Constitution lets the president ignore the legal duty to consult the two other branches of government in making such surveillance policies. … That al-Qaida poses perils must not be used as an excuse for ignoring the need to clearly follow the law. U.S. law, if followed, protects us from being victimized by U.S. officials who might have reasons other than national security to invade privacy and obtain personal information about us."

In a column for the San Francisco Chronicle (2/8), Debra J. Saunders writes, "If anyone can show me that the National Security Agency, under order from President Bush or top aides, eavesdropped on Hillary Clinton or Ted Kennedy or some prominent partisan critic, I'll change my tune and see what this administration is doing as a threat to civil liberties. Until then, I can only see the attacks on an NSA surveillance program -- on Monday the Senate Judiciary Committee grilled Attorney General Alberto Gonzales over the program that allowed officials to mine information from international phone calls and the Internet -- as ill-conceived, partisan and dangerous. … Sen. Arlen Specter, R-Pa., the committee chair, has pushed for the administration to ask the FISA court to review the NSA program. 'You think you're right, but there are a lot of people who think you're wrong,' Specter told Gonzales. 'What do you have to lose if you're right?' … The question should be: What does America have to lose? If FISA found against the NSA program, one would hope Congress would pass laws designed to give intelligence officials what they need -- with oversight to prevent abuses. But that may be asking too much."

The Portland Oregonian (2/8) editorializes, "Gonzales testified, in essence, that the Constitution and federal law give the president free rein to spy on people in this county, including American citizens, in the name of fighting terrorism. … Not even the Republican chairman of the Judiciary Committee buys that argument." The Oregonian adds, "Court-issued warrants, coupled with congressional oversight, are this country's time-tested safeguards. There's no evidence that such checks and balances contributed to the failure to prevent the 9/11 attacks, and there's no truth to the claim that they stand in the way of preventing future attacks. … In the political heat of Monday's hearing, Sen. Dianne Feinstein, D-Calif., claimed the Bush administration says it 'doesn't have to follow the law.' That's inaccurate. The president and his attorney general say they are following the law -- and, more to the point, they've decided what the law says. … All the more reason to support Specter's sensible call for a review by the FISA court."

In a piece posted on Slate.com (2/8), Slate senior editor Emily Bazelon writes, "Given the box Specter constructed for the hearings, what could be learned from them? Actually, the day was pretty instructive, not on the topics of spying or national security, but on the bizarre embrace into which the legislature and the executive have locked themselves since Sept. 11. Congress claims that it wants to exercise its war powers and help set rules for NSA spying—but in fact it's afraid to, for fear of appearing to undermine the president. And the Bush administration acts like it wants to undo the Foreign Intelligence Surveillance Act—but it fears the public uproar that amending the act would create." Bazelon adds, "The fuss over whether Gonzales should testify under oath seemed to be about the possibility, at least in Specter's mind, that the attorney general was about to say something that could get him into trouble for lying. Gonzales had been sworn in when he testified twice before, as have other Department of Justice officials. Today, though, Specter said such an oath was 'unwarranted' (though Gonzales had agreed to take it). … The Democrats wanted Gonzales sworn in. They made Specter take a roll-call vote, and he had to vote on behalf of two absent Republican senators to break a tie. … Everyone seemed to be rolling up their sleeves for a partisan square-off. … But then some of the Republicans changed their stance. They seemed more worried about a loss of senatorial power than about fighting with the Democrats. And that meant taking issue with Gonzales' theory of executive authority." Bazelon concludes, "How should FISA be amended? Where do you draw the line to protect civil liberties while allowing all the searches that could ever snare a potential terrorist? Those are hard questions—too hard for Congress, it seems. You have to hand it to Bush and Gonzales. They don't have much to work with, legally speaking. But they're playing the politics just right."

In a piece posted on washingtonpost.com (2/8), legal analyst Andrew Cohen writes, "There are remarkable similarities between what happened at Enron before its collapse in 2001 and what is happening now inside the executive branch as it prosecutes the legal war on terrorism.

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And it is only now, as the corporate fraud and conspiracy trial of Jeffrey Skilling and Kenneth Lay begins in Houston and as we approach the start of Congressional hearings into the White House's domestic surveillance program, that the patterns have emerged with real clarity." Cohen continues, "Federal prosecutors alleged in Houston last week that when Enron didn't like the profit numbers it was seeing from its business efforts, it simply changed the numbers through accounting and financial artifices, with the consent and at the direction of the men who led the company. … Likewise, when the Bush Administration didn't like the way its intelligence surveillance operations were going, it simply changed the rules through novel and as yet untested legal arguments, with the consent of the President and at the direction of his attorney general." Cohen adds, "Enron, we now know, didn't just immediately tumble off the cliff into illegal practices. It inched toward it. … Likewise, the Bush Administration didn't just start out on its current path toward legal and political confrontation (and perhaps constitutional violation) by rewriting surveillance law. The new program is just the latest example in a pattern of unilateral legal action by the White House. In 2002, remember, the White House and Justice Department rewrote the law on torture, implicitly and in some ways explicitly condoning conduct that most reasonable people would consider to be torture. That led us to Abu Ghraib as inexorably as Enron's crooked accounting led to its bankruptcy." Cohen concludes, "Enron's top executives thought they were the 'smartest guys in the room' but in the end, as the title of another Enron-related book goes, it was all just a 'conspiracy of fools.' Many Bush Administration's lawyers and leaders also give off a 'smartest guys in the room' aura, especially when they are interpreting the law in a way it hasn't been before. Whether they are fools, too, or we are, or both, remains unclear."

Lawyers File Suit On Behalf Of US Citizen Held In Iraq For Allegedly Helping Zarqawi. The New York Times (2/8, Lewis) reports attorneys representing Shawqi Ahmad Omar, a 44-year-old naturalized American citizen, "have been pressing a federal district judge to intervene in their client's case, saying that he had been arrested and held in Iraq for more than a year without being charged or given access to a lawyer." The Justice Department he is "a close associate of Abu Musab al-Zarqawi…and he may be guilty of war crimes," having "been captured…harboring an Iraqi insurgent and four Jordanian foreign fighters" that said "Omar was plotting to kidnap foreigners from Baghdad hotels." The Justice Department also "argued that Mr. Omar was not in military custody, the basis under which his lawyers say a federal judge has jurisdiction over his case," but is "held by the Multi-National Force." Omar's lawyers requested that the judge "block any transfer of Mr. Omar to Iraqi government custody, which they said would be a ruse by the United States to avoid federal court jurisdiction."

Muslim Cleric Convicted By UK Jury, Sentenced To Seven Years In Prison. A jury in London on Tuesday convicted radical Muslim cleric Abu Hamza al-Masri on charges of soliciting murder and inciting violence in sermons at his Finsbury Park Mosque, which was attended by shoe-bomber Richard Reid and al Qaeda operative Zacarias Moussaoui. Al-Masri was sentenced to seven years in prison.

The New York Times (2/8, Natta) reports, "The seven-year sentence means that Mr. Masri will most likely serve roughly three and a half years in prison. Under British law, he will not be eligible for extradition until he has completed his sentence here. Mr. Masri's defense lawyer, Edward Fitzgerald, said his client would 'strenuously contest' extradition to the United States." The AP (2/8, Panja) adds, "Authorities in Britain and the United States accuse al-Masri of being at the center of a web of terrorist activity," and "he has been charged in the United States on an 11-count indictment with trying to establish a terrorist training camp in Oregon, conspiring to take hostages in Yemen and facilitating terror training in Afghanistan." DOJ spokesman Bryan Sierra "said the United States 'stands ready to resume the extradition proceedings against Abu Hamza when British law allows.'" NBC Nightly News (2/7, story 4, :55, Williams) also noted, "American authorities are hoping to get him to the US to face trial."

The Financial Times (2/8, Tait, Burns) reports Justice Anthony Hughes said at the sentencing that al-Masri's "views had caused 'real danger to the lives of innocent people in different parts of the world' and helped created an atmosphere 'in which to kill has become regarded by some as...a moral and religious duty in pursuit of perceived justice.' The judge added: 'No one can now say what damage your words may have caused. No one can say whether your audience, present or wider, acted on your words'." The Los Angeles Times (2/8, Daniszewski, Stobart) notes the "jury found Masri guilty of 11 charges: six of solicitation to murder; three of using threatening words and behavior with intent to foment racial hatred; one of possessing audiotapes intended to stir up racial hatred; and one for possessing an 'Encyclopedia of Afghani Jihad,' which prosecutors described as a terrorist manual and said was dedicated to Osama bin Laden. (One chapter listed likely terrorist targets such as the Statue of Liberty, the Eiffel Tower and Big Ben in London.)

The Washington Post (2/8, A12, Jordan) reports, "In a surprise announcement, Scotland Yard said after the verdict was announced that officers who raided Masri's Finsbury Park mosque in 2003 had seized guns for firing blanks, a

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stun gun, a gas mask, blank passports, hunting knives and other items. Officials said that information was not publicly disclosed in an effort not to prejudice the trial, which involved other charges. 'What place do these things have in a place of worship?' asked Peter Clarke, head of Scotland Yard's terrorist branch. Clarke told reporters he could only conclude that the items were for 'some form of training or training camps.'"

US Seeks Extradition Of Kassir From Czech Republic. The Czech news agency CTK (2/8) reports, "The Justice Ministry has received an official U.S. application for the extradition of Oussama Kassir, a Swede of Lebanese origin, who was detained in Prague on suspicion of terrorism, ministry spokesman Petr Dimun said. 'The application was immediately handed to the relevant state attorney's office. The admissibility of extradition will be assessed by court and the decision on the extradition will be made by the justice minister (Pavel Nemec),' Dimun said." CTK notes, "Kassir allegedly participated in building a training camp for Jihad in Oregon, USA. The trained Muslims were to move to Afghanistan."

German High Court Orders Alleged Al Qaeda Member Released Pending Appeal. The New York Times (2/8, Landler) reports the German Federal Constitutional Court on Tuesday ordered the release of Moroccan Mounir el-Motassadeq, "who had been convicted of belonging to a cell of Al Qaeda whose members included the Sept. 11 hijackers, pending an appeal of his case," in which "he was sentenced to seven years in prison." The constitutional court "ruled that the lower court had been wrong to put him jail, because he posed no greater risk of fleeing than during his first appeal. As a condition of his release, he is not allowed to leave Germany and must turn in his passport to authorities." Motassadeq "could still serve his sentence if an appeals court upholds the lower court's conviction."

Agence France-Presse (2/8) reports, "Motassadeq left the prison in the company of his lawyer on Tuesday evening, according to journalists at the scene." AFP adds, "He was found guilty in August in a retrial of belonging to a terrorist organization for plotting holy war with fellow Muslim extremists, including three of the September 11 suicide hijackers. … He was jailed for seven years but both the prosecution and the defense have appealed the sentence. … His lawyer Gerhard Strate told AFP he filed the suit demanding Motassadeq's release with the federal constitutional court in the southwestern city of Karlsruhe on the grounds that he had been held in custody during the year-long retrial."

Mueller Discusses Security, Counter-Terrorism With Moroccan King. Under the headline "No Country Or Agency Could Be Successful Without Cooperation, FBI Head," The Morocco Times (2/8, Rhanem) reports FBI Director Robert Mueller "said that no country or agency in the world can be successful without cooperation. 'Countries have to work closely together in an era of globalization and technology to exchange information to prevent attacks and criminals from from preying on our people,' he told Morocco Times. 'Therefore associations and friendships between our countries are exceptionally important,' he added. Mueller also said that the FBI has also addressed ways to cooperate with Moroccan security officials to exchange information in policing and fingerprints and DNA databases. The FBI head was received on Tuesday in Rabat by HM King Mohammed VI. 'I have discussed with King Mohammed VI the fact that the War on Terror addresses certainly those few individuals who would undertake terrorist attacks,' Mueller told Morocco Times. 'But this also means that we have to work with the social structure, developing jobs and opportunities that King Mohammed VI has in his vision over the last several years. My discussion indicated how it is important to compliment him on addressing these issues,' he stressed."

Agence France Presse (2/8) reports Mueller and King Mohammed "held talks…on security cooperation and the fight against terrorism, officials said. Also present at the meeting were the United States ambassador to Morocco, Thomas Riley, the head of the Federal Bureau of Investigations' (FBI) Rabat office, Lauren Anderson, Moroccan Interior Minister Mostafa Sahel and intelligence chiefs Hamidou Laanigri and Abdellatif Hammouchi."

US Officials Confirm FBI Passed Tip About London Bomber To UK Before Attack. The AP (2/8, Hays) reports, "U.S. officials confirmed reports on Tuesday that a terror informant arrested in 2004 identified one of the London transit system suicide bombers as a possible threat. But the officials said the tip was too vague to foil last year's deadly attack. The FBI passed on the warning about Mohammed Sidique Khan to British authorities before the bombings…according to two U.S. law enforcement officials based in New York. The informant, Mohammed Junaid Babar, identified Khan as a potential terrorist," but he "offered no specific information about a plot targeting the transit system." The AP notes, "Britain's Home Office and London's Metropolitan Police have refused to comment on Babar's claims about intelligence related to Khan, citing government policy not to discuss issues of security or intelligence." The UK's ITN (2/7) briefly reports yesterday's New York Daily News article which broke the story.

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HOMELAND RESPONSE:

DHS, FBI Warn Of Prepaid Cell Phone Purchases By Terrorists. CNN's The Situation Room (2/7, Arena) reported, "The Department of Homeland Security and the FBI sent out a bulletin to law enforcement partners today. It basically says that there are some individuals who have made bulk purchases of prepaid cell phones who may have links to terrorist organizations. Now…buying these types of cell phones in bulk and reselling them at a higher price is big business on the black market. FBI analysts conclude that if terrorists are involved it's probably to raise money. It's also important to point out that cell phones have also been used by terrorists as improvised explosive devices, as we saw in the Madrid train attack. But the bulletin says that it's unlikely that these purchases have links to IED construction."

Security Screening Test Begins At New Jersey Rail Stations. The Washington Post (2/8, A6, Garcia) reports that at the PATH station in Jersey city, "Manhattan-bound commuters passed through metal detectors and shoved their briefcases and knapsacks through X-ray machines Tuesday in the first test of airport-style security in a rail system. Government screeners searched bags and scanned passengers for explosives, but unlike in airports, commuters did not have to remove their shoes or change and cell phones from their pockets. Officials hope the screening won't take more than a minute per passenger." DHS spokesman Larry Orluskie said the 30-day pilot project is intended "collect information on customer wait times and impact on operations. The idea is to not hinder people."

The New York Times (2/8, McGeehan) reports, "During rush hours, the screeners choose subjects at a predetermined rate, maybe every eighth passenger. At slower times, they may switch to screening all of them or all of those with larger bags, officials said. Riders who decline to participate in the test will be free to walk away unless one of the two Port Authority police officers standing by considers their behavior suspicious, said an official overseeing the test."

Port Association Chairman Urges More Support For Port Infrastructure, Security. Bernard Groseclose, president and CEO of the South Carolina State Ports Authority and chairman of the board of the American Association of Port Authorities, in an op-ed in the Washington Times (2/8) writes that "the US port industry is facing unprecedented challenges that should concern every American consumer, as well as the president and Congress. If unaddressed, these challenges could weaken the nation's supply chain and economic vitality. Port security remains a critical issue in this post-September 11 world." Groseclose states, "The release Monday of the president's fiscal 2007 budget presents a timely opportunity to reflect on the nation's commitment to port infrastructure and its security. … It is vital that the federal government uphold its end of the partnership with public port authorities and help ensure that America's ports remain both secure and efficient."

DHS Seeks Another $41.7 Million To Implement Pay System. The Washington Post (2/8, B2, Barr) reports in its "Federal Diary" column, "The Department of Homeland Security is asking Congress for an extra $41.7 million in fiscal 2007 to continue setting up its new pay and personnel system, MaxHR, which will replace the GS system used across the government for decades. The increase, if approved, would bring total funding for MaxHR to $71.4 million. … The President's fiscal 2007 budget, released Monday, would allow Homeland Security to continue with the design of its market-based pay system, create a compensation committee and continue training supervisors and managers. … During fiscal 2007, Homeland Security officials expect to phase in pay-for-performance and market-based systems. The department's budget request seeks funding for 16 positions to administer the performance-based pay system. In addition, the budget request would finance two new positions to address hiring problems across the department. Federal managers, including Homeland Security officials, are increasingly complaining that hiring takes too long."

Leader Selected For 9/11 Museum. The New York Times (2/8, Pogrebin) reports Alice M. Greenwald has been chosen "to guide a much-disputed 9/11 museum into existence at ground zero." The initial reaction to Greenwald, an associate director for museum programs at the Holocaust Museum in Washington, "seemed positive. Monica Iken, founder of September's Mission, whose husband, Michael, died in the south tower of the World Trade Center, said yesterday that Ms. Greenwald 'has done an exemplary job at the Holocaust Museum.'"

FEMA's Overall Disaster Response Rated As "Adequate." The Washington Post (2/8, A17, Kamen) reports in its "In the Loop" column, "Despite the awful press, FEMA's overall 'disaster response' has been deemed 'adequate,' according to a new government Web site. The site -- http://www.expectmore.gov -- provides the public with assessments of how federal programs are operating. … Most everyone, with maybe one prominent exception, thinks that former FEMA director Michael ('Brownie, you're doing a heck of a job') Brown led a hurricane rescue effort that was itself a disaster. So if FEMA is 'adequate,' exactly what do you have to do to flunk? Turns out it is the lowest rating

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given for programs deemed to be 'performing.' The ratings are 'effective, moderately effective, or adequate,' the site explains. 'Adequate' means 'a program that needs to set more ambitious goals, achieve better results, improve accountability or strengthen its management practices.'"

Blanco Threatens To Block Energy Leases Unless Louisiana Gets Its "Fair Share." The New York Times (2/8, Rivlin) reports, "Seeking more money from Washington for hurricane relief, Gov. Kathleen Babineaux Blanco entered uncharted legal territory with a threat on Monday to block oil and gas leases worth hundreds of millions to the federal treasury unless the state received its 'fair share' of the revenues. 'It's time to play hardball, as I believe that's the only game Washington understands,' Ms. Blanco said Monday night as she opened the second special legislative session she has called since Hurricanes Katrina and Rita." However, "It remains to be seen whether the governor has the authority to block the leases. By statute, the Minerals Management Service, the agency in the Interior Department that oversees offshore leases, has to seek comment from the affected governors. It is not clear what occurs if a governor refuses to approve a pact."

Evacuees Protest End Of Hotel Payments. NBC Nightly News (2/7, story 8, 1:45, Williams) reported, "There was a protest in New York City today. That's not usual but this is. The folks who were protesting were refugees from Hurricane Katrina. A number of them have been living for all these months in hotels throughout the city. Some people have been living at an airport hotel at New York's JFK airport. The protesters are all facing eviction starting tomorrow so today they gathered on the steps of New York City Hall, appealing for more time. FEMA for its part says the deadline to apply for an extension has passed but some of the protests insist they did apply in time but are tangled up in a bureaucratic mess."

The AP (2/7) reported, "The occupants of more than 4,500 government-paid hotel rooms were ordered to turn in their keys Tuesday, as the Federal Emergency Management Agency began cutting off money to pay for their stays. Far more people -- the occupants of at least 20,000 hotel rooms, many of which housed entire families -- were given extensions by FEMA until at least next week and possibly until March 1, said FEMA spokesman Butch Kinerney. FEMA said it gave people every possible opportunity to request an extension." Meanwhile, "FEMA maintains that as many as 80 percent of those being forced to check out this week have made other living arrangements, ranging from trailers to receiving federal rent assistance to living with relatives." The AP noted, "In New York, around 50 protesters including both evacuees and activists gathered at the steps of City Hall to protest the evictions. In Oakland, Calif., demonstrators carrying signs and chanting 'Evict FEMA' tried to present an eviction notice to employees at a FEMA branch office." A similar version of the AP story ran in the Washington Times.

WAR NEWS:

Cheney Says 2005 Was Turning Point In Iraq. Vice President Dick Cheney said on PBS' Newshour with Jim Lehrer (2/7) last night, "I think we're making progress against the insurgency. I think we have been now. I think we'll look back several years from now and see that 2005 was really a turning point in the sense of the progress we made, both in terms of training Iraqi forces -- because we've not got a large number of Iraqis taking the lead various placed around the country, from a security and military standpoint -- but also because of the political milestones that were achieved, that -- from the elections in January of '05, the writing of the constitution, the ratification of that constitution in October, the national elections in December under the new constitution. I think those political milestones, every single one of which has been met, are vital in terms of our ultimate success in Iraq of establishing a democratically elected government and a security situation that the Iraqis themselves can handle."

Before Senate Panel, Rumsfeld Says It Will Take Decades To Build Iraqi Infrastructure. CNN's Lou Dobbs Tonight (2/7, Pilgrim) reported, "Defense Secretary Donald Rumsfeld today went to Capitol Hill to give testimony about the war in Iraq and the Pentagon's budget." CNN (McIntyre) added, "Rumsfeld and his top generals once again found themselves defending a controversial plan to reorganize the National Guard and Army Reserves, insisting the shift would result in more combat forces, not less."

Reuters (2/8, Allen) reports Rumsfeld said "it will take decades to rebuild Iraq's infrastructure as senators charged the Bush administration had fumbled reconstruction efforts, slowing a US military withdrawal. … Contrary to forecasts of administration officials before the March 2003 invasion, Rumsfeld said, 'It's going to take decades' for Iraq 'to get the infrastructure back to where a modern country would have it.'" The senators also "questioned Pentagon officials on progress in training Iraqi forces, which the administration says is key for withdrawing U.S. troops."

The AP (2/8, Sidoti) reports "lawmakers of both parties" said the Administration "is falling short in its efforts to rebuild Iraq, increase oil production and spawn a new government that is representative of all factions there." Rumsfeld "heard from critics including panel Chairman John Warner, R-Va. The comments marked a continuation of bipartisan criticism the administration has received in recent months from members of Congress over its Iraq policies."

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Knight Ridder (2/8, Brown) reports Rumsfeld also told senators yesterday "corruption and graft threaten to sink any progress that Iraq has made in trying to create a democracy, and U.S. military forces lack the expertise needed to build civilian government." Rumsfeld "discussed corruption, lack of basic services and the looming threat of civil war in Iraq with members of the committee. Although the hearing was not exclusively about the war, much of it focused on how far Iraq had to go before it has a stable, functioning government."

Warner Says Other Federal Agencies Not Doing Enough To Help Iraq Efforts. The Washington Times (2/8, Scarborough) reports Warner "said federal agencies are not doing everything they could to help the US military win in Iraq, prompting…Rumsfeld to suggest an overhaul of civilian departments to better fight Islamic terrorists. 'What we're not getting,' said…Warner, Virginia Republican,'"[are] the other elements of our government to bring to bear to conclude this conflict and perform the mission and bring our forces back.'" Warner "asked Mr. Rumsfeld: 'Do you agree or disagree with my view that we're not pulling together, all elements of our government, with equal force, as is the men and women of the armed forces?' Mr. Warner was airing what has primarily been debated behind closed doors in the Bush administration."

McCain Chastises Rumsfeld Over Supplementals. The Hill (2/8, Tiron) reports Sen. John McCain "accused the Bush administration yesterday of going around congressional authorizers to secure so-called 'emergency funding'" for military operations. At a hearing, McCain said to Defense Secretary Donald Rumsfeld, "This year you are submitting the seventh emergency supplemental of some $50 billion coming to a total of some $400 billion in the last four years. I do not know how you call it an emergency anymore when you know you are going to have costs associated with the Iraq war." Rumsfeld "said he can go about funding the war 'either way,' meaning he would feel comfortable with funding the war through the regular budget or through supplemental funding."

Intelligence Agencies To Analyze Tape Of Saddam Meeting With Advisors. The New York Times (2/8) reports, "The chairman of the House Intelligence Committee has turned over to intelligence agencies 12 hours of audio recordings of Saddam Hussein meeting with top advisers, an aide to the chairman, Representative Peter Hoekstra, Republican of Michigan, said Tuesday." Hoekstra "believes the recordings may shed light on whether Mr. Hussein hid unconventional weapons before he was toppled in 2003, said the aide, Jamal D. Ware. The voice on the recordings has been confirmed by intelligence analysts as Mr. Hussein's, Mr. Ware said."

Four Marines, Sunni Leader Killed In Iraq Yesterday. The CBS Evening News (2/7, story 4, 2:05, Schieffer) reported "Four more US Marines were killed in action west of Baghdad. Bombings in the capital killed at least seven Iraqis and assassins gunned down a Sunni leader who worked with the Shiite-led government." ABC World News Tonight (2/7, story 4, :10, Vargas) reported, "Three of the deaths occurred near the city of Hit, 85 miles from the capital."

Meanwhile, USA Today/AP (2/8) reports, "Gunmen assassinated a Sunni community leader Tuesday in the former extremist stronghold of Fallujah." Sheik Kamal Nazal, a Sunni preacher and chairman of the Fallujah city council, "was gunned down in a hail of bullets from two passing cars as he walked to work, police Chief Brig. Hudairi al-Janabi said. No group claimed responsibility for the killing." The Washington Post (2/8, A12, Finer) reports Nazal "ran for a seat in Iraq's parliament and worked closely with American forces policing Fallujah."

The New York Times (2/8, Worth) and Washington Times (2/8, Reid) also reports on the violence.

Shiite-Sunni Violence In Iraq On Upswing. The CBS Evening News (2/7, story 4, 2:05, Schieffer) reported "Around Iraq, Shiite versus Sunni violence is on the rise again." CBS (Dozier) added, "Kill one to frighten 1,000. Sunnis say it's simple, brutal and effective. It's being done to them by a shadowy force within the majority Shiite government." US diplomats and commanders "say the pace of killings has become so fast and furious Sunni leaders are threatening to walk out of a new government that hasn't even been formed yet. Shiite officials concede some in their ranks may be guilty but months of investigations have failed to yield a single arrest." Mowaffak Raubaie, Iraqi national security advisor: "There are so many sort of complaints and there's no smoke without fire." Dossier: "But so far no one from within any of the ministries?" Raubaie: "Well, we need the proof." Dossier: "Sunni politicians say they've provided proof time and again. Shiite officials insist these claims are exaggerated, and they say at least as many Shiites are being killed as Sunnis but Sunnis are seeing red. And they want payback."

UK Defense Secretary Says British Troops Could Leave Iraq. The Financial Times (2/8, Spiegel, Correspondent) reports, "John Reid, the UK defence secretary, on Tuesday night set out the conditions under which British troops would withdraw from Iraq, appearing to lower expectations of how peaceful the country would be when that withdrawal occurred." In a speech in which Reid "sought to 'set out in specific terms' his views on when UK forces could leave, the defence secretary said Iraq was likely to be still rife with violence and suffering from widespread

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shortages even when British troops departed." Although the speech "was not flagged as a major policy address and Mr Reid has given similarly sober assessments of Iraq's security in the past," the address was "his most specific and, in many regards, most pessimistic view of how Iraq would look after coalition troops withdraw."

The AP (2/8) reports Reid said that "if the months go well, they bring the day closer when the Iraqi people can finally take control of their own futures. That also means that the time is approaching when the coalition which is helping them achieve this can begin leaving Iraq." Reid "would not comment on numbers or dates, saying 'to do so would be to invite chaos.'" Britain "has about 8,000 soldiers in Iraq, most in or near the southern city of Basra."

Navy Reserve Commander Disputes Financial Problems For Activated Reservists. Dana Bienvenu, a commander in the United States Navy Reserve, writes in a letter to the editor of the Wall Street Journal (2/8), "That military reservists called to active duty are underpaid and that their families suffer severe financial hardships as a result of the war is repeated so often that I no longer even try to correct those who argue it as a matter of faith." Actually, "with base pay, housing allowance, imminent danger pay, family separation allowance, medical coverage for families at home and various specialty pay, all being tax free, few recalled soldiers and sailors face destructive hardships." Also, "increased federal legal protection (the Servicemembers Civil Relief Act signed by President Bush in 2003) actually allows activated members to shed financial responsibilities."

State Department Career Weapons Experts "Sidelined." Knight Ridder (2/8, Strobel) reports, "State Department officials appointed by President Bush have sidelined key career weapons experts and replaced them with less experienced political operatives who share the White House and Pentagon's distrust of international negotiations and treaties." The "reorganization of the department's arms control and international security bureaus" was intended "to help it better deal with 21st-century threats. Instead, it's thrown the agency into turmoil and produced an exodus of experts with decades of experience in nuclear arms, chemical weapons and related matters, according to 11 current and former officials and documents obtained by Knight Ridder." The reorganization "was conducted largely in secret by a panel of four political appointees."

1999 White House Report Said Iraq Retained Capacity TO Develop WMD. In its "History Lessons" column, the Washington Times (2/8) excerpts an August 25, 1999 White House report on Iraq's development of WMD. The report stated, "As of December 1998, UNSCOM reporting provides an accurate assessment concerning Iraq's chemical programs as we understand them. … On discrepancies in the material balance of chemical munitions, Iraq continues its refusal to account for a falsely-reported expenditure of some 6,000 chemical munitions, for the disappearance of 550 artillery shells filled with mustard agent, and for an inaccurate accounting of R-400 aerial [chemical weapon] bombs. Concerning VX [gas], UNSCOM has stated that the amount of VX Iraq produced has yet to be verified and that Iraq has yet to admit to its weaponization of VX into missiles... The UNSCOM... reports note that in the biological weapons area, priority issues begin with Iraq's failure at a fundamental level to provide an accurate declaration of its [biological weapons] program; Iraq has submitted several declarations all found to be incomplete. Iraq has not accounted for materials and items that may have been used or acquired for such a program... Iraq retains the industrial capacity and knowledge base to develop [biological weapon] agents quickly."

CORPORATE SCANDALS:

Skilling's Attorney Highlights "Experts Defense" At Enron Trial. The Wall Street Journal (2/8, Emshwiller, McWilliams) reports, "The lead attorney for Jeffrey Skilling underscored the advice of experts and the imprecision of business affairs in federal court here yesterday as the defense continued to unfold for the former Enron Corp. president and his co-defendant, former Chairman Kenneth Lay." The Journal continues, "In a sometimes testy exchange in a second day of cross-examination, Mr. Skilling's attorney, Daniel Petrocelli, challenged the government's lead-off witness, former Enron investor-relations chief Mark Koenig, about whether he had any basis for claiming that the company put out false or misleading information to the public. Under government questioning last week, Mr. Koenig said that Messrs. Skilling and Lay had taken part in putting out misinformation about Enron in the nearly two years before its collapse into bankruptcy proceedings in December 2001. … Mr. Koenig himself has pleaded guilty to a felony for aiding and abetting securities fraud in Enron's public statements. He is cooperating with the government in hopes of reducing any prison sentence, which could be up to 10 years." The Journal adds, "In questioning yesterday, Mr. Petrocelli pushed the point that many accounting and legal experts reviewed Enron's public financial releases. For instance, the attorney presented Mr. Koenig with a document indicating that Enron's last-minute decision to increase reported earnings for the 1999 fourth quarter by a penny a share had been known to the company's outside accountants, Arthur Andersen. … Such an 'experts defense' argues that an executive can't be accused of lying if he is relying on the advice of outside

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experts, such as accountants, when making a statement about a company's finances. From the beginning of the giant Enron probe, prosecutors have worried about getting around this defense, say people familiar with the matter. To a large degree, the criminal charges that have been leveled against some 30 individuals in connection with Enron argue that key pieces of information were withheld from the outside experts -- thus removing the protection."

The Deal (2/8, Poole) reports, "The defense in the Enron Corp. fraud trial attempted Tuesday to demonstrate that two former executives did not try to hide anything at the one-time energy giant. … Daniel Petrocelli, former CEO Jeff Skilling's defense attorney, asked Mark Koenig, the former investor relations chief, if some of the things he did as part of his job were done at other companies. Koenig acknowledged that they were. … 'You're not suggesting these are illegal or improper'? Petrocelli asked. … 'No,' Koenig replied, then added, 'But there were false and misleading statements on earnings releases and conference calls.'" The Deal adds, "As for adjusting its earnings upward from 30 cents to 31 cents one quarter to meet Wall Street targets, Petrocelli asked if there was anything wrong with a company 'sharpening its pencil' to do that. … Koenig said there was, adding, 'He [chief accounting officer Rick Causey] said, 'Let me work on it and get it up by a penny." … Petrocelli objected, saying Koenig was 'going beyond' his questions, but the judge didn't rule and the questioning continued. … Petrocelli was able to get Koenig to admit that he erred in earlier testimony that Enron hadn't missed a Wall Street earnings consensus since 1997, when it did in fourth-quarter 1997."

USA Today (2/8, 2B, Farrell) also reports on the trial.

Humbled Rice To Take Stand. The New York Times (2/8, Barrionuevo) reports, "From fast cars to rugged adventure trips to $6.4 million in bonuses, Enron was a dream maker for Kenneth D. Rice. … While he was still in his 30's, Mr. Rice, a former Nebraska farm boy and high school jock, pocketed millions of dollars working for the Houston-based energy company. He lived life in the fast lane — literally — racing Ferraris and going on daredevil expeditions to southern Mexico and the Australian Outback with his onetime friend and mentor, Jeffrey K. Skilling, Enron's former chief executive. … But as early as Wednesday afternoon, a different Ken Rice will take the stand in the criminal trial of Mr. Skilling and Kenneth L. Lay, who was chief executive when Enron collapsed in late 2001. Mr. Rice will testify against Mr. Skilling, who once considered him one of his most loyal supporters in transforming Enron from a staid pipeline company into a cutting-edge trading company with big ambitions. Mr. Skilling helped make Mr. Rice a very wealthy man. His total compensation, including stock sales, in 2000 came to $47.3 million — more than his bosses, Mr. Lay and Mr. Skilling, earned. Mr. Rice spent some of that money on sports cars, motorcycles and a Colorado vacation home. … But these days, Mr. Rice, 47, is a humbled government witness, having pleaded guilty in 2004 to one count of securities fraud for falsely promoting the troubled broadband division that he headed for two years. He faces up to 10 years in prison and is named in at least 32 pending civil lawsuits, with each of them having the potential to bankrupt him."

Lawsuit Challenges Constitutionality Of Key Sarbanes-Oxley Component. The Wall Street Journal (2/8, Scannell, Mullins) reports that the Free Enterprise Fund, a Washington lobbying group, and the Nevada accounting firm Beckstead & Watts "are challenging the constitutionality of the Public Company Accounting Oversight Board, potentially opening the door for other efforts to roll back the Sarbanes-Oxley corporate-governance law" on the grounds that it "violates the appointments clause and separation of powers principles of the Constitution." Their legal team includes Kenneth Starr and ex-Justice Department official Viet Dinh. The lawsuit "comes as some lawmakers are trying to rally support for legislation that would weaken or roll back Sarbanes-Oxley," and also as "some groups, realizing they can't get rules and laws overturned, are turning to the courts to chip away at some recent reforms."

The AP (2/8, Gordon) reports, "Bitterly opposed to the sweeping anti-fraud law, they are challenging the board it established to oversee the accounting industry, arguing that it violates the Constitution's mandated separation of powers among the three branches of government." The AP adds, "The Free Enterprise Fund, an anti-tax group that seeks limited government, filed suit Tuesday in federal court in Washington against the accounting board, known as the Public Company Accounting Oversight Board. … The anti-fraud law, known as the Sarbanes-Oxley Act for its congressional sponsors, could be invalidated if any of its sections is found unconstitutional. Opponents want it sent back to Congress for a revision. … Until now, the objections to the law have come mainly from publicly traded companies — especially smaller ones — focusing on one key section of it. They want an easing of its requirements for reporting on the strength of internal financial controls. … Federal regulators and lawmakers have been receptive to their complaints about the burden of complying, but the Sarbanes-Oxley law itself has not been called into question."

WSJournal Calls Lawsuit's Case "Compelling." The Wall Street Journal (2/8) editorializes, "What do you get when you cross corporate scandals with a panicked Congress in an election year? … Sarbanes-Oxley, a bad law that, as it turns out, may also be unconstitutional." The Journal calls the lawsuit a "compelling argument and one that, with any luck, may finally spur Congress to revisit a law that has arguably done more economic harm than the scandals that inspired it.

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… If we've learned anything about corporate crime in recent years, it is that determined scoundrels can find ways around any corporate governance rules. Most of the post-Enron prosecutions have been made" with pre-Sarbanes-Oxley laws.

Spitzer-Grasso Dispute Still Awaits Trial Date. The Wall Street Journal (2/8, Lucchetti, Mcdonald) reports, "Having sparred for 20 months, New York state's attorney general, Eliot Spitzer, and former New York Stock Exchange chief Dick Grasso say they are ready to take their legal fight over Mr. Grasso's Big Board compensation to court." The Journal continues, "Today, trial-level New York State Supreme Court Judge Charles E. Ramos is expected to discuss progress with both sides of the civil matter and, according to lawyers involved, may revisit a topic he has only hinted at in past months: a trial date." The Journal adds, "Despite their public pronouncements, the litigants and others involved in the matter may benefit from further delay, and legal experts speculate the main event may never make it into court. … Mr. Spitzer has alleged that Mr. Grasso's $188 million compensation package was excessive under New York's not-for-profit law and that Mr. Grasso should return much of the money to the NYSE. Mr. Grasso has said he only took the money the Big Board directors offered him, and he has in turn sued the NYSE for money he says he is still owed. Kenneth Langone, a former Big Board director, was also named in Mr. Spitzer's lawsuit and has also criticized the attorney general's tactics. … One reason the case has proceeded so slowly is its complexity: Both sides have spent months gathering evidence, getting depositions from busy witnesses scattered around the world and doing other so-called discovery work. Neither side wants to rush into a trial without making sure its case is as solid as possible. … The case has also ballooned into a referendum on executive pay -- adding more spotlight pressure -- and Mr. Spitzer's campaign to become New York's next governor in a Nov. 7 election make a delay even more likely. Mr. Spitzer is the only announced Democrat in the race and is doing well in polls."

Senate Panel Looking Into Lobbying By Fannie Mae, Freddie Mac. The Wall Street Journal (2/8, Kopecki) reports, "A Senate committee has begun investigating whether government-chartered companies Fannie Mae and Freddie Mac may have improperly used their charitable foundations and other nonprofits to skirt campaign-finance laws and lobby Congress." The Senate Finance Committee probe "expands on the panel's inquiries into several charities tied to lobbyist Jack Abramoff, who recently pleaded guilty to bribery and other charges in a broader public corruption probe, a Finance Committee aide said." The Committee "is examining whether executives at Fannie Mae and Freddie Mac have used their charitable foundations and other nonprofit groups to skirt lobbying-disclosure laws, while expanding their access to key members of Congress."

CRIMINAL LAW:

Murdered Philadelphia Witness Had Refused Offer Of Government Protection. The Philadelphia Daily News (2/8, Gambacorta Weichselbaum) reports, "Tyreese Allen was killed near a spot where he was shot two years ago" in a shooting incident in which his cousin was murdered. "Allen was prepared to cooperate with authorities and testify against his cousin's alleged killer, Kareem Glass. … So what was he doing in the same neighborhood where he was riddled with bullets once before? Family members said Allen insisted on staying in North Philadelphia, even after the district attorney's office offered him refuge over the summer in the Witness Relocation Program. 'Tyreese didn't want to leave his son and mother behind,' said a relative who said she was too frightened to have her name in the paper. … But officials said Allen could have taken his family with him." The Daily News notes, "The District Attorney's Office doesn't offer witness-protection services, but local witnesses can have access to the federal Witness Security Program, thanks to 'Step Up, Speak Up,' the city's partnership with the FBI and U.S. Attorney's Office that was launched last week. … The federal program gives witnesses new identities and new lives while covering all of the costs, provided they agree never to return to their old neighborhoods."

Four Businessmen Indicted In Philadelphia Corruption Probe. The Philadelphia Inquirer (2/8, Shiffman, Anastasia, 423K) reports, "A federal indictment issued yesterday charges that four businessmen tried to funnel $30,000 in campaign contributions to Mayor Street's 2003 reelection campaign to help secure a contract at Philadelphia International Airport. 'This was a blatant attempt to buy influence,' U.S. Attorney Patrick L. Meehan said. The four men are charged with defrauding the company they were working for -- Sky Sites Inc.," which "supplied indoor, back-lit advertising displays to airports. … The indictment accuses no public official of wrongdoing." The Philadelphia Daily News (2/8, Hinkelman) notes, "The individuals indicted yesterday were Joseph C. Moderski, 68, of Bryn Mawr; Terry F. Crockett, 61, of Center City; Eric M. Selby, 39, of Washington Grove, Md., and Joseph Evans, 50, of Oyster Bay, N.Y." The New York Daily News/AP (2/8, Loviglio) also reports on the indictments, focusing on the fact that Evans is from Long Island.

In a second story, The Philadelphia Inquirer (2/8, Anastasia, Shiffman, 423K) reports Moderski is "the quintessential Philadelphia deal maker -- the guy who knows a guy who knows a guy." He "appeared on the FBI's radar

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screen early in the government corruption probe, according to FBI documents. Even thought his public service apparently began and ended with his appointment as chairman of the Ice Skating Rink Advisory Board in Haverford Township in the late 1980s, he had for years been a friend of those with political clout. During the corruption investigation, he was recorded in wiretapped conversations with" Street adviser Ron White, Imam Shamsud-din Ali, and airport deputy director James Tyrrell. During the Ali trial, "one lawyer asked the case's lead FBI agent, Jesse Coleman, if Moderski had been indicted. 'Not yet,' Coleman replied."

Defense Shows Jurors Photos Of Ryan's Modest Home. The AP (2/8, Robinson) reports, "The red brick home on a tree-shaded Kankakee street looks comfortable enough, but the century-old house where George Ryan has lived for the last four decades is no mansion. The jury at the former governor's racketeering and fraud trial got a photo tour of the place Tuesday from Nancy Smith, the soft-spoken caregiver who long looked after Ryan's mother-in-law. The images of Ryan's house…had that lived-in look and were in sharp contrast to what jurors have seen and heard of expense-paid Ryan vacations in Jamaica and Palm Springs as the guest of state vendors and others seeking favors. … Defense attorneys declined to say exactly why they wanted jurors to see the photos, but they certainly provided a humanizing glimpse of Ryan's home life. … But under cross-examination by Assistant U.S. Attorney Laurie J. Barsella, Smith said the Ryans were often away from the Kankakee home even when they were not campaigning."

The Chicago Tribune (2/8, O'Connor, 643K) notes, "During opening statements to jurors in September, Dan Webb, Ryan's lead lawyer, said the residence was Ryan's home for more than 40 years and his only major asset. In cross-examining Smith Tuesday, the prosecution noted that the Ryans also had an apartment on Wacker Drive in Chicago." The Tribune adds, "In other testimony Tuesday, a onetime press spokesman for former Cook County State's Atty. Jack O'Malley buttressed earlier testimony by O'Malley. Timothy Touhy testified he didn't recall Ryan cursing O'Malley after he passed on a suggestion on how to curb corruption when Ryan was secretary of state in 1992."

Judge Delays Tennessee Waltz Trial Until August. The AP (2/8) reports, "Shelby County Commissioner Michael Hooks' public corruption trial in the Tennessee Waltz investigation has been postponed to Aug. 7. Federal Judge Daniel Breen approved the delay Tuesday after defense lawyer Steven Farese said he needed more time to study government evidence against Hooks, including recordings of conversations made by FBI agents. … Farese also said Hooks has had trouble financing his defense and hiring lawyers' assistants to review the government recordings to make written transcripts." The AP notes, "The FBI's Tennessee Waltz investigation has led to federal corruption indictments against five current or former state lawmakers. "

Judge Continues To Balk At Prosecution Evidence In "Mafia Cops" Trial. Newsday (2/7, DeStefano) reports, "With the case against Louis Eppolito and Stephen Caracappa due to go to trial on Feb. 21, Judge Jack B. Weinstein asked for more clarity on the charges and hinted that he could keep the government from using certain evidence at trial." On Monday, "Weinstein told prosecutors…during a court hearing that he was having trouble with their request to introduce evidence of uncharged crimes into the case. … 'The evidentiary rulings depend upon what I instructed you from the outset was a serious problem, and that is, connecting the Nevada events with what happened a decade before in New York City,' Weinstein told prosecutors Robert Henoch and Mitra Hormozi. 'So you better come in prepared to convince me on those points, because I'm prepared to rule [on the evidence], and those rulings may be decisive in the jury' verdict, although there's no necessity that my findings will be the same as the jury's,' said Weinstein."

US Will Not Seek Trial Testimony Of NYPD Detectives Who Broke Case. NY1.com (2/7) reports, "The former detectives credited with breaking the so-called 'mafia cops' case will not testify at the upcoming trial. Former NYPD detectives Thomas Dades and William Oldham were able to get a key informer to speak, which led to the charges against disgraced former police officers Louis Eppolito and Stephen Caracappa. However, the Brooklyn U.S. Attorney's office said Tuesday it has decided not to use Dades and Oldham as witnesses. The news comes as the defense team works to uncover disciplinary action about Dades and Oldham which could hurt their credibility."

Ohio Executes Man For Raping, Murdering Two Women. The AP (2/8, McCarthy) reports, "Ohio on Tuesday executed a man convicted of raping and strangling two women during a five-month spree of assaults while he was on drugs." The AP continues, "Glenn L. Benner II, 43, died by injection at 10:15 a.m. at the Southern Ohio Correctional Facility. … Benner admitted committing horrific crimes while under the influence of drugs." The AP adds, "He was convicted of kidnapping, raping and murdering Trina Bowser, 21, in 1986, leaving her body in the trunk of her car along a highway in Tallmadge, the town where they grew up across the street from each other. … A year earlier, he had strangling Cynthia Sedgwick, 26, of Cleveland Heights, in Cuyahoga Falls after a George Thorogood concert. …

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Benner refused to ask that his life be spared, saying the process does not consider whether a person changes in prison. He also turned down interview requests, saying he was doing so out of respect for the victims and their families."

Identity Thieves Frequently Target Children's Social Security Numbers. ABC World News Tonight (2/7, story 9, 2:20, Gibson) reported a "new trend in identity theft" involves "stealing the Social Security numbers of babies. It is an insidious crime, because it can be years before the child grows up, applies for credit and then learns how much damage has been done to his or her credit." ABC (Harris) added, "While the thieves can be anyone with access to children's Social Security numbers -- health care workers, school officials -- two-thirds of children are victimized by people they know. And, like this woman, they often don't report in the crime because they don't want to get those people in trouble." One "possible solution is for the government to track every child's Social Security number and to investigate anytime anyone uses one of those numbers, at a bank or anywhere else, to get credit. Congress is working on a bill. For now, though, parents should closely guard their children's Social Security numbers."

Cuban Spying Case Fuels Long-Time Fears Of Florida Émigrés. The Miami Herald (2/8, Martin, 323K) reports, "Growing up in Miami, young Cuban Americans rolled their eyes whenever the older generation warned there were spies everywhere. … But over the years, proof poured in. The latest: alleged Cuban agents at Florida International University. The old-timers have felt vindicated every time a spy is discovered -- just because they were paranoid didn't mean spies weren't out to get them. But just how damaging have those spies been? Whatever intelligence they may have swiped, their greatest toll could be on the Cuban-American psyche. The 47 years of Castro's rule may have established a well-documented culture of fear and duplicity on the island -- but many say they look over their shoulders in Miami, too." The Herald adds, "Said Skip Brandon, former deputy assistant director of the FBI who specialized in counter-intelligence: 'On the one hand, we probably tended to give Fidel too much credit that he was behind everything, and on the other, maybe not enough. Many foreign intelligence agencies don't really worry about their émigré communities in the United States. Castro always did, and still does.'"

In a short companion piece, The Miami Herald (2/8, 323K) reports, "The recent arrests of Carlos and Elsa Alvarez…are hardly the only indication that Cuba performs the cloak-and-dagger routine in Miami. High-profile spy cases from the past include: July 1991: José Rafael Fernandez Brenes declares on Cuban television that he had been a spy for Fidel Castro…inside TV Martí. November 1992: Francisco Avila reveals he had been a double agent for the FBI and Cuba while serving as military chief for the Miami-based paramilitary group Alpha 66. … September 2000: The FBI arrests 10 South Floridians accused of spying for Cuba under the name La Red Avispa, or the Wasp Network. … September 2001: Ana Belén Montes, former senior analyst for the Pentagon's Defense Intelligence Agency, is charged with being a spy for Cuba" and "received a 25-year prison term."

New York Investigators Find New Evidence Of Music Industry Payola. The CBS Evening News (2/7, story 5, 2:15, Schieffer) reported, "Government investigators have turned up new evidence of an old problem on the business side" of the music industry, "Payola." CBS (Mason) added, "New York state Attorney General Elliott Spitzer say record labels have been rewarding the radio stations that play their songs with bribes and cash. In an ongoing investigation, Spitzer has uncovered confidential records that reveal how the record companies pay for play. For a Jennifer Lopez song, a Sony promoter writes we bought 63 spins at a cost of $3600. Another record executive notes, two weeks ago it cost us over $4,000 to get the band Franz on. They were effectively buying space on the air. Sony and Warner music have already paid multimillion dollar fines and admitted their employees had used practices that were wrong and improper. Now the rest of the industry is under scrutiny, as the investigation moves in on the giant radio companies that control much of the air waves." That includes "the two largest radio chains. Infinity now called CBS Radio, and Clear Channel, which has some 1200 stations." In a statement, Clear Channel "says it has zero tolerance for pay for play. But Spitzer says the radio companies have played a major role."

Lawyer To Celebrities Is Subject Of Pellicano Probe. The Los Angeles Times (2/8, Welkos) reports, "His name is nowhere in Monday's 60-page indictment of celebrity gumshoe and alleged wiretapper Anthony Pellicano. … But the shadow of 76-year-old lawyer Bertram Fields, who for years employed Pellicano as an investigator, looms over the case. Listed throughout the indictment are a host of alleged victims, including such prominent names as actor Sylvester Stallone and comic Garry Shandling, who battled with Fields' clients." The Times continues, "According to the federal indictment, Pellicano and his associates either allegedly wiretapped the victims, as with Stallone, or performed background checks on them, as with Shandling, using a database that is supposed to be restricted to law enforcement agencies. … The indictment alleges that Pellicano was trying to gain a tactical advantage for his clients by uncovering embarrassing information on their courtroom opponents." The

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Times adds, "Fields, whose hardball legal tactics have made him a favorite of many studios and celebrities, has denied knowledge of any illegal activity. Nonetheless, he remains a subject of the ongoing Pellicano investigation. … Fields, who has publicly acknowledged his status as a subject, issued a terse comment Monday. 'It's something I want to stay out of,' Fields said. 'I try to keep practicing law and not pay a lot of attention to it.' … Norman Levine, managing partner of the Greenberg, Glusker, Fields, Claman, Machtinger and Kinsella firm where Fields is a partner, said that although some members of the firm used Pellicano as an investigator, 'if Mr. Pellicano engaged in any illegal activity, he did so without their or the firm's knowledge or authorization.' … Pellicano and his associates were charged with operating an illegal activity that sought information on a variety of key Hollywood figures, including top agents Kevin Huvane and Bryan Lourd of Creative Artists Agency, former New York Times entertainment journalist Bernard Weinraub, former Los Angeles Times reporter Anita Busch and actors Keith Carradine and Kevin Nealon."

Former Maryland Priest Sentenced For Sexual Abuse. The Baltimore Sun (2/8, Mcmenamin) reports, "For nearly 20 years, Thomas Roberts kept quiet, hiding the secret of sexual abuse by the high school chaplain he sought counseling from in 1987. … When another young man who had attended a different school came forward in 1993 with similar allegations against the priest, Roberts kept quiet still." The Sun continues, "Tuesday, as a Baltimore County judge prepared to sentence Jerome F. Toohey Jr. for the sexual abuse that occurred over three years, Roberts kept quiet no longer. … 'Father Jeff lived nearly 20 years in the freedom of my silence,' the 33-year-old former Calvert Hall College student told the judge. Turning to face Toohey, Roberts added, 'I'm old enough and strong enough now to fight for the young man you abused. Today, the balance of power has finally shifted, and the burden is completely yours.'" The Sun adds, "Toohey, 59, a former Roman Catholic priest and Calvert Hall College chaplain, was sentenced to 18 months in jail for sexually abusing Roberts after his mother asked the priest to counsel her then-14-year-old son, who was struggling with his parents' divorce and questions about his sexuality. … Baltimore County Circuit Judge John G. Turnbull II handed down a five-year sentence, suspending all but 18 months. He also recommended that Toohey be granted work release and directed him to serve 18 months of supervised probation after his release from the county detention center. … Known as 'Father Jeff,' Toohey has also worked as a chaplain to the deaf community and Baltimore police department and as an associate priest at St. John the Evangelist in Hydes."

CIA Employee Charged In Suburban Virginia Burglaries. The Washington Post (2/8, B1, Jackman) reports that CIA employee George Dalmas III has been "charged with 17 burglaries in the McLean area." In a search of Dalmas' Falls Church home, police said "they found a stunning trove of cash, jewelry, antiques, license plates -- and bags filled with more than 1,000 women's undergarments.' The Post adds, "Dalmas is a 'mid-level administrative employee,' a CIA spokesman said yesterday, and he has been suspended without pay pending the outcome of the investigation. Some of the houses that were burglarized belonged to CIA employees, and Dalmas may have targeted them because he knew they wouldn't be home, said Fairfax Officer Richard Henry."

Nebraska Man Sentenced For Having Sex With 13-Year-Old Girlfriend. The New York Times (2/8, Ruethling) reports, "A 23-year-old Nebraska man who pleaded guilty to first-degree sexual assault last year for having sex with his 13-year-old girlfriend, whom he impregnated and later married, was sentenced to 18 to 30 months in prison yesterday." The Times continues, "The man, Matthew Koso, of Falls City, will be eligible for parole after nine months. He could have faced up to 50 years in prison. … 'We were stunned,' said Mr. Koso's mother, Peggy, of the sentence given by Judge Daniel E. Bryan Jr. of Richardson County District Court. 'We honestly thought that he would get probation.' … But Mrs. Koso said she was relieved that the sentence was not longer and added that she did not look at her son as a pedophile. … 'Matt has always said that he and Crystal knew that what they did was wrong according to the law, but that they love each other and want to spend their lives together,' she said. 'He's a young man who happened to fall in love with someone much younger than he is, and he did not use good judgment when it came to having a sexual relationship with her.'" The Times notes, "Mr. Koso and his wife, Crystal, began dating in 2003 when he was 20 and she was 12. They were married last May in Hiawatha, Kan., with their parents' consent. Their daughter, Samara, was born in August. … Nebraska's attorney general, Jon Bruning, who charged Mr. Koso in July, said he thought the sentence was fair."

US Recovers $9.3 Million In Illegal Sports Betting Investigation. WAOW-TV Wausau (2/7) reports on its Web site, "We have more information in the case involving a sports betting operation with connections to Wisconsin. Gold Medal Sports handled phone and Internet sports bets totaling hundreds of millions of dollars over five years. Authorities collected more than $9 million in the eight-year effort." The AP (2/6) noted, "Duane Pede and Jeff D'Ambrosia were convicted of violating federal laws against

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an offshore bookmaking operation in 2002 and of filing false income tax returns. … The two were sentenced to five years in prison and ordered to pay more than$5.1 million in fines and back taxes. … The announcement Friday by U.S. Attorney Stephen P. Sinnott marks the final collection of the outstanding debts. In a statement, Sinnott said the $9.3 million represents the largest amount of fines, forfeitures and back income taxes ever collected in Wisconsin's Western District." The Madison Capital Times (2/4, Callender) also reported, "The payment marks the largest combination of fines, forfeitures, and back taxes ever collected in the Western District of Wisconsin." The Times added, "The offshore betting operation was headquartered in Curacao," but Pede D'Ambrosia "also ran a publishing house in Nelsonville, Wis., that advertised the service in the U.S. according to federal prosecutors."

Four Florida Medical Professionals Indicted On Health-Care Fraud Charges. The Palm Beach Post (2/7, Spencer-Wendel) reports, "A multimillion-dollar insurance scam kept a pharmacist in a lavish lifestyle, a prominent psychiatrist and chiropractor with a flow of illicit cash, and a neurologist with his own stash of prescription drugs for personal use, according to a federal indictment unsealed Monday. Prosecutors have charged pharmacist Joseph Sutera, psychiatrist Eric Ressner and neurologist Agustin Castellanos, all of northern Palm Beach County, with conspiracy to commit health-care fraud. The investigation — conducted by federal agents since at least 2004 — also snared chiropractor Robert Catanese of Palm Beach Gardens." The Post notes, "According to the indictment, Sutera…submitted more than $17 million in claims over a four-year period, receiving $9.9 million. Most of the money was from fraudulent drug claims — prescriptions never made and never filled." Sutera "used the names of the doctors with their permission, according to federal prosecutors. … Assistant U.S. Attorney Carolyn Bell asked a federal judge Monday to require a $1 million bail for Sutera's release." The South Florida Sun-Sentinel (2/7, Coté, 249K) also reports on the indictments.

Former Ohio Bank Manager To Plead Guilty To Embezzlement. The Columbus Dispatch (2/8, Mayhood) reports, "The former manager of a South Side bank has admitted she stole more than $1 million from the bank over five years." Carmen D. Torres Colston "has agreed to plead guilty to embezzlement" and "has already repaid U.S. Bank nearly half the $1.129 million she took." The Dispatch notes that "Colston falsified application documents and used the identities of others to procure loans, lines of credit and credit cards, said Fred Alverson, a spokesman for the U.S. attorney's office. Bank investigators became suspicious of her work and interviewed her. She admitted the thefts and the case was turned over to the FBI, according to court documents."

Debate Over Treatment Of Mentally Ill Blurred By Recent Killings. The New York Times (2/8, Archibold) reports, "Against the vivid backdrop of recent killings by mentally ill people, both sides in the national debate over whether mentally ill people who have not committed a crime can be forced into treatment are preparing for a showdown in the Legislature here." The Times continues, "New Mexico lawmakers are considering a bill, backed by Gov. Bill Richardson, that would make the state the 43rd with a law allowing family members, doctors or others to seek a court order forcing the mentally ill into outpatient treatment. Typically under the laws, if mentally ill people refuse the treatment, they can face confinement in a hospital." The Times adds, "Across the country, proponents have pushed the laws as a pragmatic approach to the mentally ill who fall through the cracks of the mental health system, particularly those who have committed no crime but could harm themselves or others as their sickness worsens. These mentally ill people often do not need to be in a hospital, but do need to stick to treatment, which could include medication, therapy or both. … 'We are talking about a small group of people who do not get help because they don't want help or know they need help,' Mary T. Zdanowicz, executive director of the Treatment Advocacy Center, based in Virginia, said in a break from lobbying lawmakers here. … But opponents say the laws infringe on the civil rights of the mentally ill, and they suggest that teams of social and psychiatric workers could accomplish the same thing with direct intervention on the streets. Critics also say that most states have not provided adequate money for the services needed by those forced into treatment."

CIVIL LAW:

Adelphia Bankruptcy Judge Denies Request To Appoint Special Examiner. The New York Law Journal (2/8, Lin) reports, "The judge presiding over the Chapter 11 bankruptcy of Adelphia Communications has denied a request to appoint a special examiner to determine whether Boies, Schiller & Flexner, which formerly represented the cable television company, violated the bankruptcy code by failing to disclose that some of its lawyers, including children of senior partner David Boies, were financially interested in litigation support companies the firm recommended to Adelphia." The Journal continues, "The company, which landed in bankruptcy in 2002 following allegations that its founding family, the Rigases, looted the company of hundreds of millions, asked Boies Schiller to

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resign as its special litigation counsel last August for failing to disclose those interests." The Journal adds, "The request for a special examiner, supported by the U.S. Trustee, Adelphia and its creditors' committee, was made in response to Boies Schiller's final request for fees in the case. … The firm is seeking almost $30 million for its work since June 2002, most of which has already been paid. … Adelphia and its creditors are hoping a probe will show that document management company Amici and copying company Echelon overcharged the estate, which was billed millions for their services. … Boies Schiller had objected to the appointment of an examiner on the grounds that Adelphia had previously bargained for a discount on document services, at which time it had determined fees were reasonable."

By 98-1 Margin, Senate Votes To Proceed With Asbestos Bill. The Washington Times (2/8, Ramstack) reports, "The Senate voted 98-1 yesterday to move forward with a bill to halt asbestos lawsuits and create a $140 billion trust fund for people sick from asbestos-related diseases." The bill now "will move to the floor for its first debate, expected to take place over the next two weeks. Sen. James M. Inhofe, Oklahoma Republican, voted against, while Sen. Tom Coburn, Oklahoma Republican, did not vote." Despite its progress, "the bill faces stiff opposition."

The New York Times (2/8, Labaton) reports the vote "came after critics dropped their opposition when they realized that they did not have enough votes to block the debate." The asbestos measure "still faces formidable political obstacles even though it is a priority of Republican leaders in Congress and the White House." The Los Angeles Times (2/8, Peterson) runs a similar story.

CIVIL RIGHTS:

Bush Criticized At Funeral Service For Coretta Scott King. President Bush and three former presidents attended the funeral of Coretta Scott King yesterday. Much of the coverage this morning notes the political attacks on Bush and his policies from some of the speakers. For example, under the headline "Bush Gets An Earful At Coretta King's Funeral," the Los Angeles Times (2/8, Wallsten, Fausset) reports the event "turned into a rare, in-person rebuke of President Bush, with a succession of civil rights and political leaders assailing White House policies as evidence that the dream of social and racial equality pursued by King and her slain husband is far from reality." The Times adds, "The appearance by Bush, who decided over the weekend to rearrange his schedule and attend the service, came as his approval rating among blacks has slipped to the low single digits in some surveys -- a direct response, some strategists believe, to the government's failed response in the wake of Katrina."

Reuters (2/8, Jacobs, Zakaria) also reports "speakers seized" on Bush's presence "to attack his policies." Jimmy Carter, one of four presidents to speak, "took a jab at Bush's domestic eavesdropping program." He "drew spirited applause with comments on federal efforts to spy on the Kings decades ago. 'It was difficult for them personally with the civil liberties of both husband and wife violated, and they became the targets of secret government wiretapping and other surveillance,' Carter said." The Washington Times (2/8, Curl) reports, "Carter later said Hurricane Katrina was a clear sign that racism is still alive in America. … The crowd applauded lustily."

The AP (2/8, Pickler) says "both Bush and his father winced as they sat behind the pulpit and heard the Rev. Joseph Lowery, who co-founded the Southern Christian Leadership Conference with Martin Luther King Jr., take several jabs at foreign and domestic policies. 'We know there were no weapons of mass destruction over there, but Coretta knew and we knew there are weapons of misdirection right down here,' Lowery said, complaining that were far too many in the US are living in poverty and without health care insurance. 'For war, billions more, but no more for the poor,' Lowery continued, a take-off of a lyric from the song 'A Time to Love' which drew a roaring standing ovation."

USA Today (2/8) titles one of its reports on the funeral "As Bush Listens, Speakers Aim Barbs At War, Spying," while a second story USA Today story (2/8, Copeland) says the event "felt like…a joyous, sometimes raucous, funny but rarely somber ceremony."

The Washington Post (2/8, A4, Fletcher) reports, "Bush all but ignored many black civil rights and political leaders during his first four years in office." Instead, "he focused on building inroads to African American leaders through the pastors of black evangelical churches and business leaders who were not identified with the traditional civil rights agenda." Bush "became the first president since Herbert Hoover to serve a full term without addressing the NAACP, which many acknowledge as the nation's leading civil rights organization. At the same time, Bush's relations with the Congressional Black Caucus were frosty, contributing to a growing gulf between the administration and black voters." But "in recent months, Bush has made an effort to forge relationships with leaders he once ignored."

The story was the lead on each of the networks. CBS ignored the political attacks on Bush altogether, while ABC and NBC gave a prominent mention to the Carter and Lowery remarks. The CBS Evening News (2/7, lead story, 4:25, Pitts) reported, "Four American Presidents, 14 US Senators and a host of preachers, poets and performers were among the nearly 10,000 mourners for Coretta Scott King. From prayers and scripture to the songs of the struggle." For "all

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this public adulation, Coretta Scott King guarded her privacy and her children with the same tenacity she put into her husband's legacy."

ABC World News Tonight (2/7, lead story, 4:00, Gibson) reported, "There are few people in this world who could bring presidents, senators, stars and thousands of Americans together in a single place. Coretta Scott King is one of them." It was "an extraordinary assemblage remembering the civil rights leader, the widow, the woman, the life of Coretta Scott King." At "one point, things got political." Lowery was then shown saying Mrs. King "deplored the terror inflicted by our smart bombs on missions way afar. We know, now, there were no weapons of mass destruction over there."

NBC Nightly News (2/7, lead story, 4:20, Savidge) reported Carter "said he could not have won office were it not for the changes the Kings and the civil rights movement brought," and "then said more needs to be done." Carter: "We only have to recall the color of the faces of those in Louisiana, Alabama, and Mississippi. Those who are most devastated by Katrina to know that they are not yet equal opportunities for all Americans." Lowery "shook the President's hand then scolded his foreign and domestic policies."

Bloomberg (2/8, Keil) reports Bush "honored Coretta Scott King as 'God's servant,' 'saying at the funeral for the widow of slain civil rights leader Martin Luther King Jr. that she was an example of strength and dignity who continued her husband's service in the cause of civil rights." CNN's The Situation Room (2/7, Blitzer) reported Bush said "he brought the 'sympathy of our nation with him.'" Bush: "By going forward with a strong and forgiving heart, Coretta Scott King not only secured her husband's legacy, she built her own."

The AP (2/8, Haines) reports, "Former President Clinton urged mourners to follow in her footsteps, honor her husband's sacrifice and help the couple's children fulfill their parents' legacy." Former President Bush said the "world is a kinder and gentler place because of Coretta Scott King." The New York Times (2/8, Dewan, Bumiller) says, "Of the four presidents, Mr. Clinton was the obvious favorite of the crowd. A huge cheer went up as he reached the open area near Mrs. King's coffin, and the crowd gave him a thunderous standing ovation when he approached the microphone with his wife, Senator Hillary Rodham Clinton."

The Washington Post (2/8, A1, Fears) notes "several high-profile -- and politically charged -- black figures, such at the Rev. Jesse L. Jackson and the Rev. Al Sharpton, were not accorded a place onstage." Still, adds the Times, "political tensions occasionally burst through the veneer of reconciliation." The Post goes on to mention the comments by Carter and Lowery.

Under the headline "Bushwhacked at King Funeral," Franck James wrote in the Chicago Tribune's website (2/7) reports, "For many people, a funeral probably seems an inappropriate time to criticize someone in attendance, especially if it happens to be the president of the United States." But "many Christian funerals are used by preachers to strike the conscience of those attending in order to create a come-to-Jesus moment where souls are won. Sometimes at such funerals, hard things are said. Coretta Scott King's funeral fit that bill." The Financial Times (2/8, Ward) also notes the "strong political undercurrent, with several speakers making veiled and in some cases open criticism of the Bush administration from a podium situated just feet from where the president sat."

Judge In Human Smuggling Trial Urges Deadlocked Jury To Continue Deliberating. The AP (2/8, Lozano) reports, "Jurors said they were deadlocked Tuesday on charges against three people accused in the nation's deadliest immigrant smuggling attempt, but the judge urged them to continue deliberating. The jury was expected to return Wednesday to begin a fourth day of deliberations." The AP continues, "The charges stem from the deaths of 19 immigrants in a locked, airtight trailer bound for Houston. Prosecutors say Victor Sanchez Rodriguez, 58; his wife, Emma Sapata Rodriguez, 59; and Rosa Sarrata Gonzalez, 51, were part of a ring that trucked more than 70 immigrants from South Texas to Houston in May 2003. … The immigrants began to succumb to heat and dehydration in the trailer during the trip and the driver, Tyrone Williams, abandoned the trailer at Victoria, about 100 miles from Houston. Seventeen died inside and two died later." The AP adds, "The three defendants were accused of hiding and transporting some of the immigrants before they were packed into the truck. Defense attorneys said their clients had no role in endangering the lives of the immigrants. … The defendants originally faced 58 counts of harboring and transporting illegal immigrants, but Gilmore dismissed most counts for lack of evidence."

FBI Reportedly Investigating Civil Rights Allegation Against Illinois Sheriff's Deputies. The Springfield State Journal-Register (2/7, Antonacci) reports, "The FBI reportedly is reviewing two methamphetamine arrests by the Sangamon County Sheriff's Office last summer to see if the arrestees' civil rights were violated. 'We've been notified there was an accusation made, and I can't talk about it,' Chief Deputy Sheriff Tony Sacco, who is a target of the accusation, said Monday. '(The FBI) called the sheriff about a week and a half ago and said they received a complaint, and I was the subject of an investigation into a civil rights violation.' Marshall Stone, supervisory special agent in the Springfield FBI office, said he could neither confirm nor deny the existence of any

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investigation of the sheriff's office." The Journal-Register notes, "According to the FBI Web site, the agency investigates all alleged violations of federal civil rights laws, the most common of which are complaints involving allegations of excessive use of force by law enforcement personnel. The Web site indicates 40 to 50 law enforcement personnel are convicted of the crime each year."

Georgia Bill Would Boost Pensions For Retired Black Atlanta Police Officers. A bill passed by the Georgia House would remedy an inequity in the pensions received by black police officers in Atlanta. ABC World News Tonight (2/7, story 11, 2:30, Avila) reported former assistant chief Howard Baugh, a one-time neighbor of Martin Luther King, "saw plenty change in his police department. But one thing remained the same -- he was paid less than his white counterparts then. And even now, his pension is less, too." He was "the 12th black police officer to join the Atlanta force and the first to reach the rank of assistant chief. Despite more than 30 years of service, he and about 2,000 other Atlanta police officers, are victims of Jim Crow segregation laws that kept them out of a special police pension." Baugh: "The explanation was we're not taking blacks in at this particular time." Avila: "When he retired, until this day, Baugh received $710 a month less than white officers, that were allowed into that pension fund." Baugh "says retirement equality would go a long way to erasing the painful memories and now, the Georgia House has passed a bill to do just that." Rep. Tyrone Brooks, Georgia Assoc. of Black Elected Officials: "It sends a message to the people of the nation and Georgia, that Georgia continues to move forward, to overcome the legacy of Jim Crow segregation."

Report Finds Many States Not In Election Law Compliance. The Boston Globe/AP (2/7, Abrams) reports, "With the midterm elections just nine months away, many states are lagging behind in meeting requirements under a 2002 election reform law that they modernize voting machines, create voter databases and establish ID systems, according to a report released Tuesday." The AP continues, "Controversies over the need for paper trails and the legality of ID requirements were among the reasons that states missed the Jan. 1 deadline for complying with the Help America Vote Act, said Electionline.org., a nonpartisan project that does analysis of election reform. … 'The lack of progress in nearly half of the states throws into doubt whether HAVA goals can be achieved in time for the November 2006 election,' the project's president, Doug Chapin, said in a statement." The AP adds, "HAVA was enacted in response to the disputed 2000 presidential election, and Chapin said that despite the glitches, the election system is undergoing significant change. Two years ago voters had never heard of voter-verified paper audit trails; now states are deciding whether to use them in recounts, and states that once debated the need for IDs are now debating whether IDs should be issued free of charge, he said."

Reuters (2/8) reports, "The report said nearly half of the states missed last month's federal deadline to implement changes required by the 2002 Help America Vote Act, which Congress passed to help restore confidence in the integrity of a process shaken by the drawn-out 2000 recount saga in Florida. The report, by the non-partisan Electionline.org project, said reforms have stalled across the country for a variety of reasons, including growing concerns about the reliability of electronic voting machines and about the legality of voter ID requirements."

Evangelical Group Seeks To Intervene In Air Force Suit. The Colorado Springs (CO) Gazette (2/8, Roeder) reports, "A Colorado Springs-based evangelical organization is expected to file court papers Wednesday asking to intervene in a lawsuit that charges the Air Force with religious intolerance." The Gazette continues, "The Air Force won't comment, but the National Association of Evangelicals says it has talked with government attorneys and is entering the case to defend the rights of evangelical chaplains. … 'We have been in collaboration with the Air Force attorneys working on this case,' said Kyle Fisk, executive administrator for the evangelical group. 'It is the policy of the Air Force to remain neutral when it comes to intervention, but we believe we are doing the Air Force a service.'" The Gazette adds, "Last fall, New Mexico resident Mikey Weinstein sued the Air Force, claiming non-Christian cadets at the Air Force Academy face discrimination from evangelical Christians. His suit, which was joined by four Air Force officers, asks for an outright ban on uninvited proselytizing and evangelism throughout the service. … On Tuesday, he said the intervention of the evangelical group, the second to ask to join on the Air Force's side, proves his point. … 'I am thunder-struck that a branch of government would collaborate with fundamentalist Christians to convert members of the armed forces to evangelical Christianity,' said Weinstein."

LA Mayor Backs Shielding Identity Of Officers In Shootings. The Los Angeles Times (2/8, Helfand, Glover, Lait) reports, "Mayor Antonio Villaraigosa today expressed support for his police commissioner's controversial decision to withhold the names of officers involved in shootings, but vowed to review the matter." The Times continues, "Villaraigosa also said he was troubled by reports that the executive director of the commission urged the police union to threaten a lawsuit if the names were not withheld." The Times adds, "Meanwhile, the Los Angeles Police

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Commission sent mixed signals today about its new policy of withholding the names of officers involved in shootings, as it affirmed the policy adopted in secret last year with a formal, public vote. The panel's president, John Mack, defended the action, saying it was required by law." The Times notes, "The commission acted amid an outcry from critics who complained that the panel, whose mandate is to provide public oversight over the LAPD, was making it more difficult for the public to assess the actions of officers and was ending a policy that has governed the release of officers' identities for 25 years. … In Los Angeles, the Police Commission had released the names of officers involved in shootings since 1980, a practice embraced by the public after the controversial killing by LAPD officers of a South Los Angeles woman in 1979. Since then, the actions of LAPD officers involved in shootings have frequently been the object of intense public interest — although police officers have routinely objected to being identified. … The change in commission policy was made during a closed-door meeting Dec. 13. The five-member civilian panel, which functions much like a corporate board for the Police Department, sets standards and oversees operations in conjunction with Chief William J. Bratton."

Police Say Man In Massachusetts Gay Bar Attack Killed Himself. The New York Times/AP (2/8, Press) reports, "A teenager accused of two killings and a rampage at a gay bar fatally shot himself in the head in a gunfight with the police in Arkansas, the authorities said Tuesday." The AP continues, "The teenager, Jacob D. Robida, 18, turned the gun on himself on Saturday after fatally shooting a woman in his car, District Attorney Paul Walsh Jr. of Bristol said, citing an autopsy. The police had searched for Mr. Robida since Thursday, when, they said, he used a hatchet and handgun to wound three men at a gay bar in New Bedford, Mass. … Mr. Walsh said that the autopsy showed that Mr. Robida was killed by the gun used in the bar attack and that it also fired the bullet that killed the woman, Jennifer Rena Bailey, 33, whom Mr. Robida picked up in West Virginia after fleeing Massachusetts."

WPost Calls For Passage Of Virginia Gay Bias Measure. The Washington Post (2/8, A18) editorializes, "Virginia has come late to the idea that employees and job-seekers should not be discriminated against because they may be homosexual. Now it has a chance to embrace the obvious justice of that policy. It is crucial that the opportunity not be missed. Former governor Mark R. Warner, having ignored the subject for most of his term, issued an order in December, weeks before leaving office, prohibiting discrimination by state agencies in hiring and employment. Mr. Warner's successor, Gov. Timothy M. Kaine, reaffirmed the policy on taking office last month. Now the General Assembly is considering legislation to codify that principled stance and extend it to local governments and school systems. It's as close to a no-brainer as legislation gets, but anti-gay legislators may still be able to kill it." The Post adds, "The legislation would simply do what nearly all of Virginia's largest corporate employers (Wal-Mart, Northrop Grumman, Food Lion) and universities (the University of Virginia, Virginia Tech, George Mason) have already done by adopting similar policies: that is, outlaw a particularly noxious form of bigotry whose day has quite definitely passed."

ANTITRUST:

DOJ To Probe Mittal-Arcelor Deal. The Wall Street Journal (2/8) reports, "The Justice Department is planning to investigate whether Mittal Steel Co.'s $24 billion hostile bid for chief rival Arcelor SA complies with antitrust law, a department official said. A tough U.S. investigation could delay the deal or force changes to eliminate overlapping product lines." The Journal continues, "The proposed merger of the world's largest steelmakers would lengthen Mittal's wide lead in producing steel for the U.S. auto industry and other big manufacturers. European antitrust officials have already said they would review the deal. Mittal is based in the Netherlands but is run from London. Arcelor is based in Luxembourg but is run from Paris. Mittal has an enormous market presence in the U.S., giving the Justice Department authority to review the deal if it proceeds. 'It's obviously something we'd look at,' the Justice official said." The Journal adds, "U.S. antitrust enforcers investigated Mittal's last acquisition but cleared it in December 2004 after a product-by-product review. The latest deal would give Mittal 11% of world crude-steel production, with much higher shares in some markets, analysts have said."

EU Official Seeks Debate On Mittal's Arcelor Bid. The AP (2/8, White) reports, "The European Parliament should discuss Mittal Steel Co.'s unsolicited 18.6 billion euros ($22.5 billion) bid for Luxembourg-based steelmaker Arcelor SA, the head of the Parliament said Tuesday after meeting with Mittal's CEO." The AP continues, "European Parliament President Josep Borrell said the Parliament should be a forum for major issues that affect the people and the economy of the European Union, even though it has no formal role in approving the offer. … 'I intend, with the support of all the interested parties, to promote this debate at the heart of our institution in the coming weeks,' he said. 'I am mindful of this offer and sensitive to the social concerns of employees of a large European industrial group, Arcelor, which has close to 80,000 people in the EU.'" The AP adds, "Borrell met with Lakshmi Mittal, chairman and chief executive of the world's largest steelmaker, at Mittal's

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request. Mittal has been trying to win support for his offer, which has been criticized by three European governments. … Borrell said in a statement that Mittal wanted to explain the takeover bid and its economic and social consequences. Borrell is also due to meet with the European Metalworkers' Federation this week and said he would also like to hear from Arcelor."

Settlement Of DOJ Suit Against West Virginia Hospital Pending. The Nashville Tennessean (2/8, Pack) reports, "The Justice Department has filed suit to force a West Virginia hospital to end a four-year-old agreement with HCA Inc. that the government says blocked HCA from developing a competing cardiac surgery program. … A settlement in the case is pending. HCA isn't named as a defendant." The Tennessean continues, "In a statement late Monday, Justice said its antitrust division has filed suit to force Charleston Area Medical Center Inc. to break its contract with the Nashville-based hospital chain, claiming the deal restricts competition and hurts patients. … 'Competition among hospitals results in lower prices, greater quality of care, and increased innovation for health care consumers,' Thomas Barnett, acting assistant attorney general in charge of Justice's antitrust division, said in a statement." The Tennessean adds, "Charleston Area Medical Center oversees the country's sixth largest cardiac surgery program. HCA owns and operates Raleigh General Hospital in Beckley, about 60 miles south of Charleston in Raleigh County. … According to the Justice Department, the Charleston hospital persuaded HCA to sign a deal in 2002 in which the hospital company agreed not to develop a heart surgery program in Beckley. … In return, Charleston Area Medical Center said it would support two unrelated HCA programs in other parts of the state, the government said. Justice claims the deal ensured that no hospital in the Beckley area would offer cardiac surgery services."

California Attorney Takes Aim At Realtors' Listing Services. The Contra Costa Times (2/8, Temple) reports, "David Barry has been a thorn in the side of Realtor associations for the last 25 years, but this year he aiming for the heart. … The San Francisco antitrust attorney, who has pursued more than a dozen lawsuits against Realtor groups, recently filed a ballot initiative with the California Attorney General calling for a statewide multiple listing service that would be open to the public." The Times adds, "An MLS is an index of homes for sale operated by regional Realtor groups, and ordinarily only updated by paying members. Barry asserts MLSs hand the associations monopoly control over the housing market, compelling Realtors to join, pay fees that are passed onto consumers, not compete with other members and charge fixed commission rates. … The U.S. Government Accountability Office supported this final point in a report late last year, which found that as a practice Realtors steer customers toward properties advertising standard fees. Similarly, the U.S. Department of Justice sued the National Association of Realtors last year over its policy of limiting Internet sites' access to MLSs, saying the restriction undercuts the ability of online and discount brokers to gain a foothold in the market. … Realtor groups, however, insist that real estate is highly competitive and commission rates already fluctuate."

Battle Over Computer Browsers Heating Up. CNET News (2/8, Krazit) reports, "Fighting for icon space on the desktop is so 2001. The new frontier on a virgin PC is the browser, and Internet companies like Google are jostling for space on the browsers of new PCs." CNET continues, "Dell and Google are evaluating a partnership in which the Google Toolbar, Google Desktop Search and a Google-designed Dell home page are included on new Dell PCs, a Dell representative confirmed. … The Wall Street Journal reported Tuesday that the companies are mulling a three-year partnership that could bring as much as $1 billion in revenue to the PC maker for letting Google install its software on Dell machines. The Dell representative declined to comment on the future of the relationship between the two companies. A Google representative confirmed the two companies were testing the search giant's products on new Dell PCs, but declined to comment further." CNET adds, "The browser, not the desktop, has become the most sought-after piece of real estate on a new PC, said Roger Kay, president of Endpoint Technologies Associates. Five years ago, PC companies were giddy over the prospect of renting space on their boxes' desktops to the highest bidder, after Microsoft's antitrust settlement with the U.S. Justice Department forced it to open up the Windows desktop to increased competition. … Companies such as America Online and CompuServe rushed to get prominent placement for their dial-up services on new PCs, but the move didn't pay off as they had hoped. PC users simply ignored icons they didn't wish to use, or used cleanup programs to remove all icons from their desktops or start menus, Kay said. However, just about every PC user who's connected to the Internet uses the browser at least once a day, and browser toolbars that contain useful utilities such as Google's search engine will grab a user's attention, he said."

Toshiba Expects Westinghouse Acquisition To Triple Sales By 2015. Bloomberg News (2/8, Alpeyev) reports, "Toshiba Corp., Japan's largest maker of nuclear power-plant equipment, said its Westinghouse Electric Co. acquisition will help triple sales of the business to as much as [$5.9 billion] by 2015." Toshiba's "stock has dropped 4.3 percent this week on concern President Atsutoshi Nishida

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would exhaust funds needed to invest in the company's bigger chip and liquid-crystal display businesses. Standard & Poor's and Moody's Investors Service said they may lower Toshiba's credit rating on concern the $5.4 billion acquisition will strain the company's finances. 'No decision has been made on the financing for the acquisition,' Nishida said today at a news conference in Tokyo. He said the company should be able to pay cash for Westinghouse, although he didn't rule out financing through equity markets." By buying "Westinghouse, Toshiba gets access to the pressurized water reactor technology preferred by China, which may spend as much as $54 billion in the next 15 years building nuclear plants."

The Wall Street Journal (2/8, Woods) reports, "The purchase would also allow Toshiba to sell pressurized-water reactors, a type of technology in which Westinghouse specializes and one that is more common globally than the boiling-water reactors Toshiba offers." The Journal adds, "Toshiba has said it expects to cover its investment in Westinghouse with its own cash, generating 300 billion yen in free cash flow over the next three years." But "some analysts and credit-rating agencies question Toshiba's strategy. Moody's Investors Service yesterday placed the company under review for a possible downgrade of its long-term debt rating. Yoshiharu Izumi, a senior industrial-electronics analyst at J.P. Morgan in Tokyo, said Toshiba may have less cash in the coming years as it may be forced to invest heavily to remain competitive in one of its key areas, the semiconductor business."

Toshiba Seeking Minority Stake Partners. Dow Jones Newswire (2/8, Ishibashi) reports, "Toshiba Corp. President and Chief Executive Atsutoshi Nishida said Wednesday that five to six firms have shown interest in taking stakes in Westinghouse Electric Co. Nishida also said at a press conference his company is not in talks with General Electric Co. regarding the US giant buying a stake in Westinghouse." Dow Jones adds, "Toshiba has said it would buy 100% of Westinghouse and retain a 51% stake in the company, selling the remaining minority stake to potential partners, including US and Japanese firms."

Boston Scientific Head Optimistic About Guidant Deal. The AP (2/8, Jewell) reports, "Boston Scientific Corp. said Tuesday it's increasingly optimistic that it can quickly complete a $27 billion acquisition of troubled medical device maker Guidant Corp. while also fixing its own quality-control problems." The AP continues, "After reporting a higher fourth-quarter profit despite declining sales, Boston Scientific executives told analysts that the Guidant deal looks more appealing that it first did - in part because of a tax-law change Boston Scientific said Tuesday will cut its debt from the Guidant purchase by $900 million. … 'The more we see, the better we like it, and the more opportunity we think we have,' President and Chief Executive Jim Tobin said in a conference call." The AP adds, "Boston Scientific expects shareholder and antitrust approvals by the end of next month - a timeline some analysts have suggested is overly optimistic, especially since Boston Scientific received a quality-control warning from federal regulators on Jan. 25. The letter came hours after Guidant's management accepted Boston Scientific's buyout bid, ending a nearly two-month bidding war for Guidant with Johnson & Johnson. … Boston Scientific hopes to make the quality-control fixes the Food and Drug Administration is seeking by June. The company says that timeline likely wouldn't delay the agency's review of a new heart stent whose approval could be blocked if it isn't satisfied with Boston Scientific's progress."

FTC Gives Antitrust Nod To Berkshire Hathaway's PacifiCorp Buy. Dow Jones (2/8) reports, "Berkshire Hathaway Inc. unit MidAmerican Energy Holdings Co. has received antitrust clearance from the Federal Trade Commission to buy PacifiCorp." Dow Jones continues, "The agency said Tuesday that it granted early termination Monday of the waiting period required under the Hart-Scott-Rodino Antitrust Improvements Act. … MidAmerican Energy announced its intention to buy PacifiCorp, a unit of ScottishPower PLC, in May 2005, in a deal valued at around $9.4 billion."

EU Regulators Probing Online Music Royalties. The AP (2/8) reports, "European Union antitrust regulators said Tuesday they were investigating the European agencies that collect royalties for musicians from Internet sites -- in parallel with other EU moves to open up the European market for online music." The AP continues, "The European Commission said it was concerned that the groups' contracts with composers -- organized strictly along national lines -- might violate rules on restrictive business practices and give national copyright agencies a de facto monopoly." The AP adds, "The International Confederation of Societies of Authors and Composers -- known as CISAC -- and its member agencies in EU countries collect royalty payments from broadcasters, night clubs or Internet sites. … The EU said it wanted to look at the membership rules that give authors only one choice of collecting society to pick up payments -- the one based in their own country. … Commercial users -- such as satellite or cable broadcasters and Internet sites -- who want to buy the rights have to get a license from each national society that only covers that country. … This is a complex and expensive process for online music sites aiming to sell songs across the European Union. Apple's iTunes, for example, has separate British, French and German sites with a different portfolio of music tracks. … The commission said that Europe-wide

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agreements guaranteed collecting societies a monopoly and prevents the emergence of new copyright collection agencies. CISAC and its members have two months to respond to the charges and may face fines if found guilty of breaking EU competition rules."

EnergySolutions To Acquire Duratek. The Washington Post (2/8, D4, ElBoghdady) reports, "Duratek Inc., a Columbia-based radioactive-waste disposal company, has agreed to sell itself to a privately held and relatively new firm in Utah in an all-cash deal valued at $326 million. If the deal closes as expected in the second quarter, EnergySolutions LLC will assume Duratek's debt and purchase its outstanding stock for $22 a share, a 26 percent premium over Monday's closing price." The Post adds, "EnergySolutions is the new name for Envirocare, a radioactive-waste disposal firm that was purchased last year by a group of private equity investors including Steve Creamer, a Utah businessman. Under its new management team, Envirocare acquired Scientech D&D last year and nuclear-cleanup company BNG America of Arlington last week. With BNG in its fold, Envirocare rebranded itself and adopted its new name, with Creamer as chief executive."

The Deseret Morning News (2/8, Bauman) reports, "Duratek bills itself as a provider of safe, secure disposal services for radioactive material. Its Web site notes that it has permits for disposal at Envirocare in Utah as well as other sites. The company provides services for commercial and government customers. EnergySolutions is to buy all outstanding shares of Duratek for $22 a share, a premium of 25.7 percent over the stock's price on Monday, according to Duratek. The deal requires the approval of Duratek's stockholders, but the boards of directors of each company have approved it." This "project has been in the works for three years, according to Steve Creamer, the Utahn who is president and CEO of EnergySolutions." Creamer said, "'We acquired some good, basic technology' involving reprocessing as carried out in the United Kingdom today," adding that as "America moves forward with reprocessing, he said he hopes EnergySolutions will be part of the effort. 'We believe that rather than Yucca Mountain or rather than PFS, we should be doing what the rest of the world has been doing,' Creamer said. That is, reprocessing fuel rods."

The Washington Business Journal (2/8, Clabaugh) reports, "Environmental cleanup company Duratek has agreed to be acquired in a deal worth $396 million, including the assumption of debt. Salt Lake City-based EnergySolutions will pay $22 a share for Columbia-based Duratek, a 26 percent premium over the closing price of Duratek stock Tuesday. The acquisition is subject to shareholder and regulatory approval. Duratek says its board will unanimously recommend approval of the acquisition to shareholders at a special meeting in the second quarter. If approved, the company expects the deal to close shortly thereafter. Duratek provides hazardous-waste removal services for nuclear power plants."

Platts (2/8, Tiernan) reports, "Nuclear material handling firm Duratek said Tuesday that it has signed a merger agreement with EnergySolutions, in which EnergySolutions will acquire Duratek for $396-mil ($22/share) in cash." Platts adds, "Salt Lake City-based EnergySolutions provides nuclear waste management services and solutions to the nuclear energy industry. It is owned by a private investor group led by Lindsay Goldberg & Bessemer, Peterson Partners and Creamer Investments. Duratek said changing domestic and international markets for its services present opportunities for growth and challenges for the company and its investors."

The Baltimore Sun's (2/8, Cohn) "Business Buzz" page reports, "The acquirer, EnergySolutions, was created earlier this month from three entities involved in different aspects of the nuclear energy waste handling and disposal and technical services business. Duratek, the company said, would help it continue to grow."

UK Approves Boots-Alliance UniChem Merger. The AP (2/7) reports, "British antitrust regulators gave provisional approval Tuesday to the 7 billion pound ($12.2 billion) merger of drugstore chains Boots Group PLC and Alliance UniChem PLC." The AP continues, "The Office of Fair Trading said it would not refer the merger plan to the Competition Commission after the companies agreed to dispose of stores in 100 communities where the two businesses are dominant. … It had been feared that the loss of rivalry between Boots and UniChem pharmacies in certain areas would reduce choice for customers and lessen competition. … But the Office of Fair Trading said it was "satisfied" that undertakings offered by Boots and UniChem would address its concerns." The AP adds, "The merger, which has been driven by the need to tackle the growing threat of supermarket competition, will create a company -- Alliance Boots -- with annual sales of 13 billion pounds ($23 billion), 2,600 stores in Britain and 300 stores in continental Europe. … Boots, which began trading in 1849, has seen sales at its 1,400 pharmacies in Britain fall in recent years as supermarkets have aggressively targeted the toiletries and over-the-counter medicines markets."

ENVIRONMENT/INDIAN AFFAIRS:

Judge Denies Bail For Northwest Ecoterror Arson Suspect. The Eugene Register-Guard (2/7, Nolan) reports, "Family and friends scraped together $550,000 to post bail for the Springfield man charged with torching 35 sport utility vehicles at the Romania Truck Center

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in Eugene in 2001. But U.S. Magistrate Thomas Coffin denied Kevin M. Tubbs' request to be released on bail during a detention hearing Monday, despite letters from family and supporters who said Tubbs was neither violent nor dangerous. 'The risk of damage to the human beings that respond to a fire is significant and can't be ignored,' Coffin said." Tubbs "is charged with nine politically motivated arsons between 1996 and 2001, which caused a total of $11 million in damage. He is implicated but not charged in five others, Assistant U.S. Attorney Kirk Engdall said. The fires were later attributed to the Earth Liberation Front and the Animal Liberation Front." The AP (2/7) also reports on the ruling, drawing heavily on the Register-Guard story.

ALF Accuses UK Executives Of Being Rapists In Letter To Men's Neighbors. The (UK) Daily Independent (2/8, English) reports, "GlaxoSmithKline reacted with horror last night after two executives…became targets of a hate campaign by animal rights extremists. Letters sent to neighbours of the two have maliciously accused them of being rapists. The house of one was daubed with the words 'paedo scum'. The targets of the campaign are understood to be Sir Ian Prosser, a non-executive director, and Simon Bicknell, the company secretary. Franz Humer, of the drug maker Roche, is also understood to have been targeted. … The Animal Liberation Front has claimed responsibility for the campaign, which has seen scores of letters supposedly from a police officer sent to neighbours. Police are investigating what they say is a 'malicious campaign of intimidation'."

Oxford Enacts Stringent Security Measures In Response To ALF Threats. The Times of London (2/8, Woolcock) reports, "An unprecedented security crackdown is being mounted at Oxford University in the face of threats from animal rights extremists. Police have warned the university to tighten up its vetting checks on new staff, and college deans, who believe that attacks are inevitable, have ordered students to sign in night-time guests with gate porters." The Times notes that a new laboratory, currently under construction, "has become the main battleground in the fight between activists and those involved in animal research -- the Animal Liberation Front…recently announced that anyone associated with Oxford University, including students, was a legitimate target for attack. Security experts have reportedly been recruited to protect key workers at the site of the new laboratory."

86 Evangelical Leaders Back Global Warming Initiative. The New York Times (2/8, Goodstein) reports that 86 evangelical Christian leaders 'have decided to back a major initiative to fight global warming, saying 'millions of people could die in this century because of climate change, most of them our poorest global neighbors.' Among signers of the statement, which will be released in Washington on Wednesday, are the presidents of 39 evangelical colleges, leaders of aid groups and churches, like the Salvation Army, and pastors of megachurches, including Rick Warren, author of the best seller 'The Purpose-Driven Life.'" The statement "calls for federal legislation that would require reductions in carbon dioxide emissions through 'cost-effective, market-based mechanisms' -- a phrase lifted from a Senate resolution last year and one that could appeal to evangelicals, who tend to be pro-business. The statement, to be announced in Washington, is only the first stage of an 'Evangelical Climate Initiative' including television and radio spots in states with influential legislators, informational campaigns in churches, and educational events at Christian colleges."

MSHA To Issue Emergency Mine Safety Rules. USA Today (2/8, Frank) reports, "The Mine Safety and Health Administration said Tuesday it will require mine operators to place more oxygen supplies underground to give trapped workers a better chance of surviving a disaster. The emergency order, which will mandate several safety measures, comes after 18 mining deaths in West Virginia and Kentucky this year. … The new measures would require that miners receive more training in using breathing devices. The new regulations would also set a 15-minute deadline for mine operators to notify the agency of an accident. Current regulations require operators to tell MSHA of accidents 'immediately' but do not specify a time period."

The AP (2/8) reports, "The rules also require companies to make sure miners have 'lifelines' along primary and alternate escape routes. Those are guides, like ropes with reflective tape, that help steer miners toward the surface after an explosion that leaves a mine dark. David G. Dye, acting assistant secretary of labor for mine safety and health, said the emergency rules, a step the agency rarely takes, would better protect miners and help them safely evacuate in emergencies."

Alito, Roberts Face Challenge In Three Environmental Cases. The Legal Times (2/8, Mauro) reports, "The first time he takes the bench later this month, new Supreme Court Justice Samuel Alito Jr. will face a baptism -- not by fire but by water." The Times continues, "Three cases challenging the scope of the Clean Water Act will be argued Feb. 21, testing themes of federalism and commerce clause power that were much at issue during Alito's confirmation hearings. The cases have environmentalists worried about how Alito and Chief Justice John Roberts Jr. will ultimately come down. … 'These are probably the most important environmental cases in a decade and will be an enormous test of the two new justices,' says Douglas Kendall of the Community Rights Counsel, which filed a brief in two of the cases." The Times adds, "Alito has plenty of reading to do; more than 50 briefs on the cases

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have flowed into the Court. After being sworn in officially at the Court, on Jan. 31 at a private ceremony, Alito settled into the chambers his predecessor, Justice Sandra Day O'Connor, vacated last month in anticipation of retirement. His staff is still in flux, but he has already picked up two O'Connor law clerks, Benjamin Horwich and Alexander Volokh. Late Friday, Alito announced he would adopt the Court's 1993 policy on recusals in cases involving close relatives who are lawyers -- in Alito's case, sister Rosemary, a partner at Kirkpatrick & Lockhart Nicholson Graham in Newark, N.J. … The environmental cases, more than any other coming soon, will spotlight issues that got Democrats upset during Alito's contentious hearings last month. In two of the cases, Rapanos v. United States and Carabell v. United States Army Corps of Engineers, the issue is whether, under the commerce clause, the Clean Water Act protects certain wetlands that are adjacent to tributaries of navigable waters covered by the law. In the third case, S.D. Warren Co. v. Maine Board of Environmental Protection, the justices will decide whether the mere fact that a river flows through a dam produces a "discharge" that triggers federal jurisdiction under the act. … In all three cases, the Bush administration is arguing for a broad view that would preserve a 'landmark' law that is 'a permissible exercise of Congress' power,' in the words of Solicitor General Paul Clement, who will argue the cases himself."

Compromise May Be Near In Connecticut Eminent Domain Case. The New York Times (2/8, Yardley) reports, A handful of property owners in New London, Conn., who have resisted having their property taken by eminent domain even after the United States Supreme Court ruled last year that the taking was legal, could be allowed to stay on their land -- or at least very close to it -- under a plan approved by the City Council. … The proposal, approved by a 7-0 vote of the New London City Council on Monday, instructs the city's director of law, Thomas J. Londregan, to determine whether the site development plan could be revised so the half-dozen remaining property owners, scattered on two blocks, could be clustered on a single block, known throughout years of debate and court proceedings as 'Parcel 4A.' The idea would allow property owners to stay in the area, if not in precisely the same place. It would also free the surrounding area to make way for a planned 90-acre hotel, office and residential development. The city took the property in 2000 to make way for construction of the project, but it was paralyzed while property owners sued to keep their property and eventually took the case to the Supreme Court."

Friedman Criticizes Cheney For Opposing Conservation Efforts, Gas Taxes. In his New York Times column (2/8), Thomas Friedman says, "I've always thought Dick Cheney took national security seriously. I don't anymore. It seems that Mr. Cheney is so convinced that we have no choice but to be dependent on crude oil, so convinced that conservation is just some silly liberal hobby, that he will never seriously summon the country to kick its oil habit, never summon it to do anything great. Indeed, he seems determined to be a drag on any serious effort to make America energy-independent. He presents all this as a tough-guy 'realist' view of the world. But it's actually an ignorant and naïve view." The "global oil market is anything but free. It's controlled by the world's largest cartel — OPEC — which sets output, and thereby prices, according to the needs of some of the worst regimes in the world. By doing nothing, we are letting their needs determine the price and their treasuries reap all the profits." Friedman adds, "Also, why does Mr. Cheney have no problem influencing the market by lowering taxes to get consumers to spend, but he rejects raising gasoline taxes to get consumers to save energy — a fundamental national interest."

Hybrid Vehicles Said Not To Be Solution For Reducing Oil Consumption. In his New York Times column (2/8), David Leonhardt says President Bush "has taken the hybrid craze to a whole new level. To cure our addiction to oil, he said last week, we must invest in hybrid cars, hydrogen cars, even cars that run on wood chips and grass. Energy technology is having its big moment. Too bad the benefits of our new cult car have been so exaggerated." Hybrids have the "most overblown mileage ratings in the auto industry. In the government's road tests, which are conducted in a world without much traffic or any air-conditioning, the Prius gets 55 miles to the gallon. Consumer Reports says the car really goes 44 miles on a gallon of gas." And the "more time you spend looking at the economics of the hybrids, the less comfortable you get." But government policy "seems almost intended to undercut the benefits of efficient cars. In 1978, Congress set a minimum corporate average fuel economy, known as CAFE, for all carmakers." Each hybrid "becomes a free pass for its manufacturer to sell a few extra gas guzzlers."

FBI/DEA/ATF/USMS:

Four More Church Fires Reported In Alabama. The AP (2/8, Reeves) reports, "In a grimly familiar scene, four rural Alabama churches were found damaged or destroyed by fires Tuesday, less than a week after a string of five church fires that were ruled arson." The AP continues, "At three of the latest burned churches, the fires appeared to erupt in the sanctuary near the altar, according to church members and authorities, one of whom said two of the fires

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were found to be arson. … FBI acting assistant director Chip Burrus said investigators are working on the assumption that all nine of the Alabama church fires are linked. … 'Clearly there's a suspected link,' Burrus said in an interview with The Associated Press in Washington, D.C. 'I'm not prepared to talk about the evidence yet ... but common sense tells you there is a clear indication these fires are going to be linked.'" The AP notes, "Authorities have no suspects or motive, Burrus said." The Los Angeles Times (2/8, , 958K) adds that the ATF "plans to add 50 agents to the 50 it has at its command post in Alabama. The FBI, which has more than 10 agents in Alabama working on the arsons, is investigating the blazes as civil rights violations." Burrus "told Associated Press that his investigators were working on the assumption that the nine fires were linked."

The New York Times (2/8, Robertson) reports, "The four churches are all within an hour's drive of one another in a rural area of western Alabama, a few miles from the Mississippi border. Like the churches that were burned early Friday in Bibb County, in the central part of the state, they were Baptist. … But while four out of the five churches that burned in Bibb County had mainly white congregations, all the churches that burned yesterday had black congregations. … 'I think there's an obvious evidence link to the activities in Bibb County,' said Jim Cavanaugh, the special agent in charge of the investigation for the federal Bureau of Alcohol, Tobacco, Firearms and Explosives. … Mr. Cavanaugh said that whoever was setting the fires was probably familiar with the small, rural roads. … 'I do think they are pretty brazen,' he said. 'They feel like they've got free rein of these county roads.'"

White Churches Said To Be Most Frequent Targets. The Christian Science Monitor (2/8, Jonsson) reports, "Three torched churches were discovered in Alabama Tuesday - the latest in a string of suspected arsons that damaged five churches in Bibb County. … Investigators have not discovered any apparent motives. Four of the five churches in Bibb County - three of which burned to the ground - were white Baptist congregations. The other was black." The Monitor continues, "Nationally, such patterns are not unusual. Most arson targets are white congregations, whereas mosques and synagogues get hit in much smaller numbers. … In a country with more than 350,000 churches, motives are as varied as the denominations they target, experts say. According to the Insurance Information Institute, the top reasons for torching a church include the coverup of a burglary, vandalism, and revenge. Racism, insurance fraud, and thrill-seeking are less common. … In fact, church burnings are common. The nation sees 15 to 20 church arsons a week, scattered from Florida to California." The Monitor adds, "Nearly 1,000 churches burned between 1996 and 2000 nationwide, according to the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). Authorities nabbed about 100 suspects, a pace that has only decreased slightly. … Since the summer of 1996, when a spate of racially motivated Alabama church fires drew national attention, investigators are not much closer to knowing what fuels the church arsonist. Confessions range from the hateful to the mundane: In Suffolk County, Va., an 18-year-old pleaded guilty to torching St. Mary's Catholic Church in October 2005, after stealing a few hot dogs and some sacramental wine in the course of an inebriated evening."

Walters To Announce National Anti-Drug Strategy. USA Today (2/8, Leinwand) reports, "The White House Wednesday will announce a national anti-drug strategy that includes prodding more states to set up databases that can track people who get multiple prescriptions of frequently abused prescription drugs such as OxyContin and Vicodin. The strategy, to be announced in Denver today by White House drug czar John Walters, does not include any new programs, a reflection of how the tight federal budget is limiting anti-drug initiatives. Twenty-eight states have passed laws to set up prescription-drug registries, which are funded with a mix of federal and state money. President Bush's proposed budget for fiscal 2007 includes $9.9 million to help establish registries in more states, up from $7.4 million this year."

Appellate Court To Decide Florida Drug Trafficking, Pain Management Case. In the St .Petersburg (FL) Times (2/7), Colleen Jenkins writes, "For a man sentenced to 25 years in prison on drug trafficking charges, Richard Paey had a lot of powerful people on his side. Prosecutors, a judge and some jurors didn't think the chronic pain patient from Hudson should go to prison at all. So why, an associate appellate judge asked Tuesday, didn't authorities seek help rather than punishment for the wheelchair-bound man? We did, the state said. And Paey turned it down. Now three 2nd District Court of Appeal judges are left to decide whether a case that has drawn the interest of chronic pain advocates worldwide and was featured on 60 Minutes last month should ever have gotten this far. … At issue is a one-size-fits-all Florida law that labels anyone with more than an ounce of a controlled substance a drug trafficker, even if the person never deals. The Pasco County Sheriff's Office and the federal Drug Enforcement Administration nabbed Paey after watching him buy more than 1,200 painkillers from different pharmacies between January and March 1997. Undated prescriptions from his New Jersey doctor and a copy machine gave Paey the ability to fake numerous prescriptions, which he used to obtain 800 pills of a painkiller made with oxycodone." Jenkins continues, "Paey…was frank about his use of pain medications. He said he developed a physical dependence on painkillers after a

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bad car wreck, failed back surgeries and a multiple sclerois diagnosis. As his tolerance of the medications grew, so did his need for larger amounts to combat his pain."

The AP (2/7) reports, "On Tuesday, as Paey's attorney tried to persuade the 2nd District Court of Appeal to throw out his 2004 drug trafficking convictions and mandatory 25-year sentence, advocates for chronic pain sufferers said the case illustrates flaws in the law and how people who are dependent on strong pain medication can get tangled up in the government's overzealous war on drugs. … His attorney, John P. Flannery, told the three-judge appellate panel that the 25-year mandatory sentence was cruel and unusual punishment. Further, Flannery said, the doctor lied on the witness stand and the prosecutor knew it. Flannery told the judges that Paey is now getting pain relief in prison, via a morphine drip. … The appeals court did not indicate when it would rule." The AP story also was published by the following Florida newspapers: Sarasota Herald-Tribune, The Ledger, Gainesville Sun, and Bradenton Herald.

Track Star Marion Jones, Conte Settle Steroid Use Lawsuit. The AP (2/8) reports, "The convicted ringleader in the BALCO doping scandal settled a defamation lawsuit brought by track star Marion Jones over allegations that she used banned performance-enhancing drugs. Jones settled her $25 million suit in U.S. District Court [in San Francisco] Monday against Victor Conte, who's serving a four-month prison term for his role in the steroid scandal. Terms of the deal were not disclosed. … Jones said Conte, the founder the Bay Area Laboratory Co-Operative firm, had a vendetta against her and accused him of lying to try to destroy her career and reputation. Conte maintained his statements about Jones were accurate, and told The Associated Press when the case was filed that 'I look forward with all confidence to the court proceedings as I stand by everything I said.'"

The San Francisco Chronicle (2/7) reports, "The Bay Area Laboratory Co-Operative owner alleged Jones was using the substances when she won five medals -- three of them gold -- at the 2000 Summer Olympics in Sydney."

Reuters (2/7) reports, "The former Olympic sprint champion sued Victor Conte for $25 million in 2004 after he claimed he supplied her with banned performance-enhancing drugs. She denied the charge and has never failed a doping test."

Suspected Drug Cartel Gunmen Storm Mexican Newspaper Office. Reuters (2/8) reports, "Gunmen thought to be working for a drug cartel shot and seriously wounded a reporter during a raid on a Mexican newspaper near the violent U.S.-Mexico border, reporters at the paper said on Tuesday. At least two hooded men burst into El Manana newspaper in Nuevo Laredo…late on Monday, tossing a grenade in the lobby and raking the newsroom with automatic weapons fire, they said. Night-shift reporter Jaime Orozco was shot four times as he tried to flee. He was hospitalized and listed in serious condition…editor Jose Garcia said. Some reporters were injured by flying glass and debris during the attack. … News reporting along the U.S.-Mexico border has long been dangerous, especially for columnists, editors and investigative reporters bold enough to name drug cartel operators and corrupt government officials."

Bolivia's Morales Wants US To Reconsider Anti-Drug Aid Cutback. The AP (2/8) reports, "President Evo Morales asked the United States on Tuesday to reconsider a proposed cut in anti-drug aid to Bolivia, and called on the world to strengthen drug-fighting alliances. Morales' appeal came a day after President Bush asked Congress to reduce anti-narcotics funding to Bolivia to $67 million $80 million. … Morales, who once promised to be "Washington's nightmare,' led the often-violent struggle against U.S.-backed coca eradication efforts over the past decade, and has promised to retool Bolivian coca policy. … Bush also proposed cuts in anti-narcotics aid to most countries that make up the Andean Counterdrug Initiative, including Brazil, Ecuador, Panama, Peru and Venezuela. Colombia is the only nation for which Bush has proposed a funding boost. U.S. funding for Bolivian anti-drug efforts has been declining since 2001, when it stood at $117 million. But the president's comments appeared to indicate he believed the budget proposal was a reprisal against him and his opposition to eradication. However, U.S. Ambassador David Greenlee said the cut was due solely to revised budget priorities in Washington."

Accused Drug Smuggler Surrenders To Colombian Government. According to Reuters (2/8), "The 'granddaddy' of Colombia's right-wing militias, who picked up a shotgun to protect his farm from Marxist rebels 29 years ago and now stands accused of drug smuggling, turned himself in to the government on Tuesday. The demobilization of Ramon Isaza and his 990-member force brings to about 22,290 the number of paramilitary fighters that have surrendered their arms in a government peace accord. Paramilitaries guilty of crimes such as massacres, torture and kidnapping face jail terms limited to eight years in exchange for laying down their weapons -- a deal criticized by human rights groups. Benefits under the law will be withheld from those who try to hide their crimes from government investigators, leaving them to face full jail terms."

California Law Would Have Barred Postal Worker From Purchasing Gun. In a widely-

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distributed story, the AP (2/8, Blood) reports, "The postal worker who went on a deadly shooting rampage last week at a mail-sorting center legally bought the weapon in New Mexico even though she had a history of psychiatric problems that would have barred her from purchasing the gun in California, officials said." Jennifer San Marco "was committed briefly for psychiatric reasons in 2001. Because of that, under California law, she was automatically barred for five years from buying a gun, officials said. But New Mexico, where she moved in late 2003 or early 2004, relies on federal gun law and the federal instant background check for would-be buyers. And San Marco cleared the background check there." The AP adds that "the FBI declined to say if San Marco was in the National Instant Criminal Background Check System, citing privacy reasons."

IMMIGRATION:

US Continues To Probe Possibility Mexican Soldiers Involved In Border Incident. The Arizona Republic (2/7, Madden) reports, "The uniformed, heavily armed drug smugglers involved in a standoff last month with law enforcement agents along the U.S.-Mexico border could have been Mexican soldiers, even though the Mexican government blames drug cartels, Border Patrol Chief David Aguilar told a House panel Tuesday." Aguilar said that "the FBI and Immigration and Customs Enforcement are looking into the case, and agents haven't ruled out involvement by Mexican military units," noting, however, "I do not want to leave the impression that our borders are under siege by government-of-Mexico entities." The Austin American-Statesman (2/7, Copp) adds that "the incident has increased border tensions, and in a packed hearing Tuesday chaired by U.S. Rep. Michael McCaul…American officials said the escalating violence is a national security problem. 'Whether these were Mexican military or cartels dressed up as military, neither scenario is good for this country,' said McCaul." The American-Statesman notes, "The State Department is working with the Mexican government to resolve the incident, and the FBI and Immigrations and Customs Enforcement are still investigating."

The Dallas Morning News (2/8, Mittelstadt) reports, "Texas border sheriffs pleaded Tuesday for more federal help to confront Mexican drug trafficking cartels that are arming themselves with more powerful weaponry and deploying tactics that pose an ever-greater danger to U.S. law enforcement." At the House hearing, "the sheriffs of El Paso and Hudspeth counties detailed deteriorating conditions in a region where rival cartels are locked in deadly competition." The Morning News notes, "An investigation by the FBI and Immigration and Customs Enforcement is continuing" into the recent incident, but "Aguilar said the vast majority of the 144 incursions documented over the last five years were accidental. But the incidents are significantly concerning, he said, because each encounter has the potential to escalate into violence." The Los Angeles Times (2/8, Timiraos, 958K) adds that Aguilar "told the lawmakers that the United States did not have proof that the individuals in military uniforms were Mexican soldiers, but added that nothing had been ruled out."

On Fox News' The O'Reilly Factor (2/7), McCaul said, "We have had over 200 incursions by the Mexican military over the last decade. … Violence on the border is really getting to the point where we are in a crisis. … Whether you think they are military, whether you think they were cartels buying the military or cartels dressed up like military, they had 50-caliber weapons and Humvees. These pose a serious threat to law enforcement on the United States side. They are doing everything from throwing rocks on fire to taking shots at them. ... This is really getting out of control, and we need to do something about it."

Half Of "Granny Brigade" Attends Minuteman Rally In Washington. The Washington Post (2/8, B1, Morello, Londoño, Klein, 744K) reports on Carmen Mercer's trip through the Washington D.C. area as she travels to a "Capitol Hill rally by the Minuteman Project." Mercer "has headed into the Arizona desert in her Chevrolet pickup" on many nights to patrol the border with another woman. "Locals call them the Granny Brigade." Following Mercer from the airport and around the D.C. area, the Post notes the foreign origins of several of the people she comes in contact with. "In the Washington region, where an estimated one in six residents is foreign-born, she would see a thousand faces of immigration during her visit."

Myerson Blames NAFTA For Increase In Illegal Immigration From Mexico. Harold Myerson in his column in the Washington Post (2/8, A19, 744K) writes, "With the number of immigrants illegally in the United States estimated at 11 million, the tensions between Americans and Mexicans -- chiefly, working-class Americans and working-class Mexicans -- are rising. And those are tensions that congressional Republicans, who don't look to have a lot of other issues they can run on this fall, are eager to stoke." Meyerson says the boom in illegal immigration is "not because we've let down our guard at the border…the border is more militarized now than it's ever been. The answer is actually simpler than that. In large part, it's NAFTA." For example NAFTA put Mexican farmers "in direct competition with incomparably more efficient U.S. agribusinesses. It proved to be no contest: From 1993 through 2002, at least 2 million Mexican farmers were driven off their land." Meyerson concludes, "So long as the global economy is designed, as NAFTA was, to keep workers powerless, Mexican desperation and American anger will only grow. Forget the fence. We need a new rulebook for the world."

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Intel Chairman Calls For End To Quota System For H1-B Visas, Green Cards. The Financial Times (2/8, Nuttall) reports, "Craig Barrett, chairman of Intel, the world's largest semiconductor maker, called for comprehensive immigration reform to make the US more competitive, during a live question-and-answer session on FT.com. He "said the first step in simplifying the immigration process would be 'to replace the current arbitrary quota system with an open market type approach.' The US's H1-B visa allows foreign engineers and scientists to work on a temporary basis in the US but is capped at 65,000 a year." He "said demand was also greater than supply for green cards that allowed permanent employment, with the cap at 140,000 a year and long processing delays meaning individuals having to wait up to seven years to obtain one."

TAX:

Minnesota Tax Preparer Charged With Filing False Returns. The St. Paul Pioneer-Press (2/8) reports, "The Internal Revenue Service filed suit Monday, accusing a St. Paul tax preparer of filing numerous false federal tax returns on behalf of recent immigrants that overstated their deductions and caused the IRS an estimated $8 million in tax losses." The Pioneer-Press continues, "The lawsuit seeks to bar Nash Sonibare, 46, from preparing additional federal tax returns. Sonibare is the sole shareholder of Liberty Financial Group Inc. … IRS officials estimated that Sonibare has prepared 3,373 federal income tax returns from 2002 to 2005 and that many of his customers are nursing assistants and licensed practical nurses who have immigrated to the United States from various African countries." The Pioneer Press adds, "Sonibare also is under criminal investigation by IRS agents and continued to prepare fraudulent tax returns even after being advised of the investigation, the suit contends. … He also continually has misrepresented to IRS agents that he is a certified public accountant, the suit said."

CONGRESS-ADMINISTRATION:

Bush Budget Faces Gauntlet Of Election-Year Politics. The AP (2/7, Taylor) writes President Bush' budget proposal "already faces dire prospects in Congress. It's a blueprint better suited for an odd-numbered year." In an "even-numbered" election year, lawmakers "don't like to vote for things like cuts to Medicare, food stamps, farm subsidies and education." Sen. Tom Harkin said, "I can't imagine the Republican Party…is going to allow this to come through this year in an election year." The President's budget proposal "is the most austere since the Reagan era as the president seeks to build upon his spending cut success of last year." Roll Call (2/8, Pierce) reports members of Congress are questioning President Bush's push for Medicare and Medicaid cuts in an election year. One "senior Senate Republican staffer" said, "It strikes me that [the White House] isn't thinking about the election at all. I can't quite figure out why they are going to make us jump off this cliff."

The Washington Times (2/8, Fagan) reports Bush Administration officials said the "proposal's tight rein on spending coupled with extending tax cuts are essential for continued economic growth, while Democrats attacked the measures as misplaced priorities that will harm the middle class." At a Senate hearing, Treasury Secretary John Snow said, "This budget would continue the economic policies that have brought prosperity to America." But Sen. Charles Schumer offered criticism, saying, "There are nearly $2 trillion in additional tax cuts, but most of it is geared to the very well-to-do…rather than the middle class that's finding it harder and harder to make ends meet." Reuters (2/7, Felsenthal) reports Schumer "and others, speaking at a hearing of the Senate Finance Committee, questioned why the administration has prioritized extending expiring tax breaks for dividends and capital gains instead of overhauling another tax provision, the alternative minimum tax, which is increasingly affecting middle income tax filers." The Christian Science Monitor (2/8, Feldmann) says "the stark reality is that Bush is asking for budget savings from Medicare, education, transportation, and agriculture as he seeks to cut taxes. Can the administration pull it off? The answer goes to the core of different government philosophies of the two parties."

CQ (2/7, Dennis, Higa) reports Republicans "acknowledged they face a political challenge in an election year in gaining passage of a plan with cuts to domestic programs alongside new tax cuts and a further military buildup." Senate Budget Chairman Judd Gregg said he "would try to appease Sen. Arlen Specter," who has said he will "oppose a budget resolution if it contained what he called 'scandalous' cuts to health and education programs." OMB Director Joshua Bolten "also sounded open to compromise," saying, "The budget is the President's proposal and we understand that's all it is. We look forward to working with Sen. Specter, just like we do with all the members of the Appropriations committees, and especially the two chairmen."

Scandals Increase Chances For Earmark Reform. The New York Times (2/8, Hulse) reports that Washington corruption and lobbying scandals are "providing powerful ammunition to critics of earmarks. … With backing from President Bush" and new House Majority Leader John Boehner, there appears to be a real opportunity "to restrain the targeted spending and force disclosure of projects that have increasingly been quietly added to major legislation at the last minute. But it will not be easy." The Times says "winning money for projects back home is the driving passion

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of many lawmakers and is considered a bipartisan necessity for re-election."

The Hill (2/8, Young) reports that the cuts to health-related programs "are putting House GOP centrists on the hot seat just weeks after they were asked to make a tough vote on budget reconciliation" and following a year of potentially politically costly votes on issues like free trade. Now, Republican leaders may be in the position of "approaching stubborn members with a weaker arsenal. The movement to restrict earmarks will make it more difficult for proponents of budget cuts to sweeten the bills with money for the home districts of politically endangered members."

Democratic Maneuver Could Block Capital Gains, Dividend Tax Cuts. On its front page, the Wall Street Journal (2/8, Mullins) reports Republicans "have run into a roadblock while working for a two-year extension of President Bush's 15% tax rates on capital gains and dividends." Democrats may use a parliamentary move to "force Republicans to pare plans to extend the lower tax rates -- or raise taxes by as much as $30 billion to pay for them," since Senate rules "require that any legislation considered under the privileged budget procedures can't add to the deficit beyond the five-year budget window. Extending the 15% rates on capital gains and dividends would cost $30 billion beyond that window."

Budget Calls For Increased VA Fees. USA Today (2/8, Stone) reports that while Bush's budget calls for increased spending on medical care for veterans, under his plan the Veterans Affairs budget would "be covered in part by an enrollment fee and increasing drug co-payments for veterans who make above a certain amount of income." The increases" would have to be approved by Congress, and with past Bush budgets, Congress has refused under pressure from veterans groups." Sen. Kay Bailey Hutchison, "who chairs the panel overseeing the VA budget, said she will evaluate the latest request. But, she added, 'I have been consistent and adamant that we do not increase the financial burden on veterans.'"

Unions, Democrats Link HSA Expansion To Social Security Push. Under the headline "Dems Try To Do To HSAs What They Did To Social Security Plan," The Hill (2/8, Schor) reports "unions and congressional Democrats already have started invoking a political comparison to last year's Social Security privatization drive." House Ways and Means ranking Democrat Charles Rangel said, "It will go the same way Social Security [did]. He'll send it to the committee, we'll discuss it."

Budget Includes No Funding For Privacy, Civil Liberties Body. CQ (2/7, Starks) reports the budget does not include funding "for the Privacy and Civil Liberties Oversight Board, even though President Bush has two nominations to the panel pending in the Senate. The failure to even note the existence of the board at a time when Bush is under fire for authorizing a secret domestic eavesdropping program did not go unnoticed by two of the board's biggest backers," Reps. Carolyn Maloney and Christopher Shays. In a joint statement, they said, "The bottom line is, with more authority must come more oversight, and money talks. To underscore our concern for civil liberties, we need a board that is up and running and has the teeth to do the job."

New York State Health Providers Fear Cuts. The New York Times (2/8, Hernandez) reports New York State's health care industry says it stands to lose $1.2 billion in funding, forcing "hospitals, nursing homes and home care providers to reduce services for elderly and disabled residents of the state."

NYC Public Projects In Line For Federal Funding. The New York Times (2/8, Lueck) reports, "Two of New York City's most ambitious public projects, the Second Avenue subway and a Long Island Rail Road extension to Grand Central Terminal, are in line to receive billions of dollars in federal aid." Transportation Secretary Norman Mineta said both projects "were on a list of 28 across the nation that would receive or be considered for financing" under Bush's budget.

LATimes Says Pentagon Should Not Be Exempt From Cuts. The Los Angeles Times (2/8) editorializes, 'A nation at war must make difficult choices and endure sacrifice. The soldiers who risk life and limb in Iraq carry the most obvious burden. But those in government must also do their part, by selecting wisely where to direct taxpayer money. At a time of belt-tightening throughout the federal government, including Medicare and several programs aimed at helping the poor, there is one corner of Washington where hard choices remain unknown: the Pentagon. The shocker in the $2.77-trillion budget proposed Monday by President Bush is that not one big-ticket Pentagon weapons program fell under the same knife that seems to be cutting the rest of us. … War requires courage, both on the battlefield and at home. By declaring 16% of the federal budget essentially off-limits, and by spending scores of billions on programs even the military suspects are wasteful, the president is showing a failure of nerve."

WPost Likes Science Funding, But Says Medical Science Should Not Be Neglected. The Washington Post (2/8, A18) editorializes, "Reaching for a domestic policy that would command easy bipartisan backing, the Bush administration has proposed an 'American Competitiveness Initiative.' The idea taps into a deep national neurosis about economic threats from abroad, especially from Asia: The current anxiety is focused on India and China, but it closely resembles the fear of Japan that floated a raft of paranoid bestsellers 20 years ago. Though the fears of American decline are exaggerated, the policy prescription that flows from them is sensible. Spending on science and math creates broad social benefits that exceed the gains likely to

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be captured by private financiers of research." But Bush's "reasonable enthusiasm for the physical sciences should not come at the expense of the biological sciences. After years of generous expansion, the National Institutes of Health are now facing budget cuts. The chief reason seems to be that Americans' fear of cancer has for the moment been eclipsed by an even stronger fear of foreign engineering prowess. This is a dumb trade-off."

Samuelson Sees Little Substance To Budget Debates. In his Washington Post (2/8, A19) column, Robert J. Samuelson writes, "Our annual budget debates…have increasingly become exercises in political theater. They certainly aren't intended to bridge the gap between Americans' huge appetite for government services and their fierce distaste for taxes. Someone has to choose -- higher taxes, lower spending or some combination. But American politicians are loath to choose. So we get an outpouring of partisan blab that does little to clarify. Instead, clever politicians of both parties devise self-serving delusions to justify their inaction. On the one hand we have the Bush Delusion: He says he's promoting lower taxes, but he's actually doing the opposite. … In the long run, tax levels reflect spending levels." The Democrats also "have their delusion. It's the Bill Clinton Delusion: that the Democrats are now the party of 'fiscal responsibility,' because Clinton engineered the first budget surpluses…since 1969. The reality is that those surpluses stemmed more from good luck than from Clinton's policies."

Business Leaders Launch Effort To Push Bush Competitiveness Plan. The Wall Street Journal (2/7) reported in its "Washington Wire" column on its web site, "A coalition of business and academic leaders is launching a lobbying and media campaign to build support for President Bush's new plan to boost the competitiveness of American business. The campaign opens Thursday with ad buys in national print publications, and will be followed up with ad buys in other media and direct advocacy on Capitol Hill. The goal is 'to try to increase the awareness in Washington and Congress,' said Craig Barrett, chairman of Intel Corp. Barrett co-chairs the National Innovation Initiative Leadership Council, which is leading the campaign, with William Brody, president of Johns Hopkins University."

Some Question Goss Methods In Probe Of CIA Leaks To Media. ABC News (2/7, Ross, Esposito) in an exclusive on its web site titled "Is CIA Leak Probe a 'Witch Hunt'?" reports, "The director of the CIA has launched a major internal probe into media leaks about covert operations. In an agencywide e-mail, Porter Goss blamed 'a very small number of people' for leaks about secret CIA operations that, in his words, 'do damage to the credibility of the agency.'" In the e-mail Goss "warned that any CIA officer deemed suspect by the agency's Office of Security and its Counter Intelligence Center (which handles internal affairs) could be subjected to an unscheduled lie detector test. CIA personnel are subjected to polygraphs at regular intervals in their careers, but one former intelligence officer called the new warning a 'witch hunt.' Others said Goss' e-mail was narrowly focused and did not suggest agencywide, random lie detector tests." Goss also "told CIA employees there were ways other than talking to the news media to resolve any issues they had with classified CIA operations."

Abramoff Scandal Still Could Ensnare White House. The Wall Street Journal (2/8, Cummings) reports the Abramoff scandal "still poses significant problems for the Bush White House." A court hearing "scheduled later this month may bring fresh attention to the case of former White House aide David Safavian, who is charged with lying in connection with a golf trip Mr. Abramoff arranged." Justice Department officials also "haven't closed their review of actions by former Interior Department official J. Steven Griles, who disputes claims that he favored Abramoff clients," and the "calls for the White House to release photos of Mr. Abramoff with the president -- and details of his contacts with presidential aides including Karl Rove -- haven't abated."

Bush To Address House GOP Retreat. The Hill (2/8, O'Connor) reports, "House Republicans will travel to Maryland's Eastern Shore tomorrow to hold a broad discussion on the future of their conference as members prepare for the upcoming midterm elections." President Bush "is scheduled to address the assembled members and staffers Friday afternoon at the Hyatt Regency Chesapeake Bay in Cambridge, Md." The Hill adds, "The focus of this year's retreat promises to be more about Congress than the White House, which is a marked departure from last year's gathering at the Greenbrier Resort in West Virginia, when the recently reelected president was poised to make dramatic reforms to Social Security."

Boehner Doesn't Want Luntz At Retreat. Roll Call (2/8, Pershing) reports, "The ascent last week of Rep. John Boehner (R-Ohio) to the Majority Leader post has put the agenda for the upcoming House GOP retreat somewhat in flux, but one thing is certain: Frank Luntz won't be there. The omnipresent Republican pollster was uninvited from the retreat -- scheduled for this Thursday through Saturday in Cambridge, Md. -- after Boehner adamantly told his colleagues at his first leadership meeting last Friday that he didn't want Luntz there. 'Boehner said he wasn't going if Luntz was going,' said a leadership source." Spokesmen for Boehner and the Republican Conference "both declined to discuss the issue, but multiple House GOP sources confirmed that Luntz was slated to attend the retreat until

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Boehner made his views known." A "love-hate divide" about Luntz "has at times split the Republican leadership." Boehner's predecessor, Rep. Tom DeLay, "is known to be an eager customer for Luntz's strategic advice, while Speaker Dennis Hastert (R-Ill.) and his office have been described by leadership sources as less than enthusiastic about Luntz's work. It is not clear why Boehner would dislike Luntz's work enough to ban him from the retreat."

White House To Announce Plan To Expand Prescription Drug Registries. USA Today (2/8, Leinwand) reports the White House "today will announce a national anti-drug strategy that includes prodding more states to set up databases that can track people who get multiple prescriptions of frequently abused prescription drugs such as OxyContin and Vicodin." The strategy, "to be announced in Denver today by White House drug czar John Walters, does not include any new programs, a reflection of how the tight federal budget is limiting anti-drug initiatives." Twenty-eight states "have passed laws to set up prescription-drug registries, which are funded with a mix of federal and state money. President Bush's proposed budget for fiscal 2007 includes $9.9 million to help establish registries in more states, up from $7.4 million this year." The "impact of the existing registries is unclear; the first data measuring their effectiveness will not be available until next year. Walters, whose office provided a copy of the strategy to USA TODAY, is focusing on 20 states that do not have prescription-drug registries and whose legislatures meet this year, plus Washington, D.C."

Finance Committee Senators Debate Medicare Drug Plan In Op-Eds. The Hill today runs op-eds from four Finance Committee senators on Medicare prescription drug coverage. In his The Hill (2/8) piece, Senate Finance Chairman Charles Grassley writes, "We can't imagine modern medicine without prescription drugs. Soon we won't be able to imagine Medicare without prescription-drug coverage. … Millions of people now have financial help to manage pain, keep diseases from progressing or save their lives. This coverage was overdue and desperately needed. For many older Americans, prescription drugs were either expensive or out of reach altogether."

In his op-ed in The Hill (2/8), Sen. Jay Rockefeller writes, "After the administration cut deals and twisted arms to push the 2003 Medicare prescription-drug bill through Congress, President Bush has repeatedly touted the new program as a revolution in the way that America's seniors would receive their prescription drugs. Unfortunately, the implementation of the program, which began Jan. 1, has hardly been a revolution. The program has been rife with problems, causing many of our senior citizens to go without their life-saving prescription drugs. … I am hopeful that we can agree that there are real problems that need immediate legislative action."

In his The Hill (2/8) op-ed, Sen. John Kerry writes, "Affordable healthcare is not a privilege for the elected, the connected and the wealthy; it should be a right afforded to all Americans, regardless of their background or social standing. President Bush's prescription-drug program soundly rejects this principle, and we have to pass serious reforms now to repair this program before it becomes entrenched. Our goal should be nothing more and nothing less than assuring that a Medicare prescription-drug plan actually does what it's supposed to do: conveniently provide affordable prescription drugs to all seniors."

And Sen. Max Baucus writes in The Hill (2/8), "Medicare is a remarkable American success story. We must build on this success by ensuring that Medicare's new drug benefit is implemented correctly. In 2003, with my support, Congress passed the Medicare Modernization Act to establish drug benefits under Medicare. The legislation was not perfect, but its passage was a step in the right direction. The bill as written provides solid coverage for low-income Medicare beneficiaries. It gives stop-loss, catastrophic protection for all who enroll. Most important, the bill gets a benefit started. … It's critical that the Medicare drug benefit be implemented correctly and clearly so that it can become the latest in a long line of Medicare successes."

Congress Under Pressure To Create Enforcement Mechanism For New Ethics Rules. The Wall Street Journal (2/8, Rogers) reports that as Congress "prepares to overhaul lobbying rules, there is growing pressure to create enforcement mechanisms so the proposed changes stick -- and are credible to voters." House and Senate Democrats have "introduced bills that would establish professional offices to audit disclosure reports filed by lobbyists. Critics say the same oversight should apply to similar filings by lawmakers, given the spotty investigative performance of congressional ethics committees." The issue "could prove a major test for new House Majority Leader John Boehner (R., Ohio), who has insisted that better disclosure -- overseen by the ethics committees -- is sufficient." But even as "scandals have beset the House in the past year, its Ethics Committee has been paralyzed politically by infighting. And historically, one of the weaknesses of the ethics enforcement process in Congress has been the panels' ability to initiate inquiries to see if there is probable cause for a fuller investigation." One option "promoted by Sen. Barack Obama (D., Ill.) borrows from the model of an independent ethics commission set up in Kentucky after bribery scandals there in the early 1990s. In testimony today before the Senate Rules Committee, Mr.

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Obama will propose a nine-member Congressional Ethics Enforcement Commission, made up of outsiders but appointed by House and Senate leaders." A second option "calls for creating a professional 'Office of Public Integrity' to audit filings and assist the ethics committees in enforcing rules."

Morris Says Members Of Congress Should Take "Lieberman Pledge" On Ethics. In his column in The Hill (2/8), Dick Morris says Sen. Joseph Lieberman is saying members should not "wait for legislation or ethics rulings, just follow his example and voluntarily announce that you and your staff will not accept gifts, meals or travel from lobbyists or groups with interests before Congress." Lieberman, the "most ethical member of the Senate (this is not damning with faint praise!), is setting up the only way to avoid fallout from the Jack Abramoff scandal and get clean for election day." The Lieberman Pledge "will catch on. In the elections of 2006, insurgents will happily take the pledge (they have likely never even met a lobbyist or accepted a ham sandwich from one) and incumbents will be hard-pressed not to follow. Pledges have a way of being contagious."

Some Businesses May Profit From Boehner's Rise In House Leadership. The Hill (2/8, Snyder) reports Rep. John Boehner's "rise to the second highest post in the House could benefit a number of business interests he has supported in Congress. Backers of for-profit education, free-market farm policies, immigration guest-worker programs and pension reforms could all benefit from Boehner's victory, lobbyists say." Some things "are unlikely to change under his leadership. Committee chairmen will maintain discretion to craft bills under their purview, and Boehner's conservative political philosophy — lower taxes, fewer regulations — is in line with that of both Majority Whip Roy Blunt (R-Mo.)."

Ornstein Says Boehner Needs To Fundamentally Change House Operations. In his Roll Call column (2/8), Norman Ornstein says the outcome of the House GOP leadership contest "is probably a good reflection of the collective desire of the House Republican Conference: Stand for change, but not too much change. Change obviously includes reforms that respond to the scandals on Capitol Hill, from former Rep. Duke Cunningham (R-Calif.) to ex-lobbyist Jack Abramoff and many of those associated with him, which will almost certainly engulf several Members of Congress and top staffers." Transparency is "dandy, and disclosure is useful. But if all that happens here is more disclosure — and a bar on former Members going on the floor or into the gym, something already approved by the House — that will be a huge disappointment and a massive failure of responsibility by the majority." As Majority Leader, Boehner "needs to alter fundamentally the way the House operates. He needs to create a fair process — fair to Republican moderates, Republican conservatives and minority Democrats."

Boehner Election Unlikely To Win Thomas Another Term At Ways And Means. The Hill (2/8, Cusack, Young) reports Rep. John Boehner's "rise to majority leader could have important implications for Rep. Bill Thomas's political future, but what Thomas wants most and probably can't attain is a waiver to stay on as chairman of the Ways and Means Committee." Thomas (R-Calif.) "is in the last year of a six-year term as chairman of the powerful panel, and it is unclear what he will do in 2007." Sources "close to Thomas say he has several options, including heading the Budget Committee, joining President Bush's Cabinet, chairing a Ways and Means subcommittee or retiring." But, "asked of the chances of a waiver for Thomas to retain his gavel, a Republican lawmaker last year said, 'I've got a better chance to be pope.'"

Polls Show DeLay Trailing Likely Democratic Opponent. The Washington Times (2/8, McCaslin) reports in its "Inside the Beltway" column, "It's Tom against Tom in Houston, where prominent lawyer Tom Campbell is out to topple politically (and legally) troubled incumbent Rep. Tom DeLay in the March 7 Republican primary. Local polling shows Mr. DeLay, the ousted House majority leader, trailing the likely Democratic opponent, his unfavorable ratings rising like hurricane floodwaters." Campbell "is preaching integrity and values as the antidote to DeLay-style bare-knuckle politics. He and his wife raised all five of their children in the Houston suburb of Sugar Land, once the heart of Mr. DeLay's turf."

In Boost For Reelection Bid, DeLay Expected To Claim Appropriations Seat. The Hill (2/8, Tiron) reports that in a move "that could help his reelection campaign, former House Majority Leader Tom DeLay (R-Texas) is expected to be appointed to an Appropriations subcommittee today that has jurisdiction over spending for space programs." A source said DeLay "would reclaim his spot on the Appropriations Committee while taking seats on one subcommittee dealing with homeland security and another that funds NASA. Those assignments could boost the indicted lawmaker's campaign against former Rep. Nick Lampson (D-Texas)." DeLay's district, "which he helped redraw in 2004, includes NASA's Johnson Space Center. DeLay has been known to boost NASA's interests in the Houston area." If DeLay is "cleared of the charges brought by Texas prosecutor Ronnie Earle and defeats Lampson and Republicans maintain their majority, he could become the chairman of the Science, State, Justice, Commerce and Related Agencies Appropriations Subcommittee in 2007 when Rep. Frank Wolf (R-Va.) will relinquish the gavel."

Democratic Leaders Say Party Is Missing Opportunities. Democratic leaders say their party is

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heading into the 2006 elections in a position weaker than they had hoped for. The New York Times (2/8, Nagourney, Stolberg) reports that the leaders are "stirring concern that they are letting pass an opportunity to exploit what they see as widespread Republican vulnerabilities. In interviews, senior Democrats said they were optimistic about significant gains in Congressional elections this fall, calling this the best political environment they have faced since President Bush took office. But Democrats described a growing sense that they had failed to take full advantage of the troubles that have plagued Mr. Bush and his party since the middle of last year, driving down the president's approval ratings, opening divisions among Republicans in Congress over policy and potentially putting control of the House and Senate into play in November." Senator Christopher J. Dodd said the health of the Democratic Party is "a lot worse than it should be," adding, "This has not been a very good two months. We seem to be losing our voice when it comes to the basic things people worry about."

Miller, Tauscher Want Ruling On Whether Pombo Aide Has Violated Rules. The Hill (2/8, Kaplan) reports California Democratic Reps. George Miller and Ellen Tauscher "asked the House Administration Committee last week to determine whether Rep. Richard Pombo's chief of staff has violated House rules." Steven Ding lives "in Stockton, Calif., which is in Pombo's district. Ding serves as chief of staff both in Pombo's personal office and for the House Resources Committee, which Pombo chairs. The committee pays Ding $150,000, and the personal office gives him an additional $100 each month." Reps. Miller and Tauscher "allege that Ding's arrangements violate three House rules. First, lawmakers cannot use their personal-office budgets — officially called the members' representational accounts (MRAs) — to pay for a committee's expenses and committees cannot subsidize expenses for a lawmaker's personal office. Second, if a staffer's job or "duty station" is in Washington, he cannot be reimbursed for commuting expenses." Finally, House rules state "that a lawmaker 'cannot retain an employee … who does not perform official duties commensurate with the compensation received for the offices of the employing authority.'"

The Los Angeles Times (2/8, Serrano) reports Duane Gibson, "a Washington lobbyist under federal scrutiny in the Jack Abramoff scandal, helped raise money for" Rep. Richard Pombo of California, "who championed legislation that would benefit Western mining interests that Gibson represented." Last year, Pombo, chairman of the House Resources Committee, "attached an amendment to a budget bill -- without hearings or floor debate -- that would have opened national forest and other public land to mining. The so-called Pombo provision passed the House, but was deleted from the bill in the Senate when several Western state senators and governors complained that it would endanger vast portions of federal land." Three months before Pombo "inserted the amendment, Gibson and his lobbying firm had a $1,000-a-head fundraiser for the congressman. Although the total raised at the July event is not known, Gibson contributed $1,000, and additional donations came from mining companies, including at least one that Gibson has represented." The fundraiser "and Pombo's action apparently broke no laws. But, as the Abramoff scandal continues to roil the capital, they reflect the symbiotic, cozy relationship between lobbyists and legislators that congressional leaders say they want to curb."

Senate Democrats Cut Ties With PAC Treasurer. Roll Call (2/8 , Newmyer) reports that Senate Democrats, in an effort to "clean up their own houses," are "cutting ties to a lobbyist serving as treasurer of their leadership political action committees. Minority Leader Harry Reid (Nev.), Democratic Policy Committee Chairman Byron Dorgan (N.D.) and Sen. Edward Kennedy (Mass.) are cutting ties to longtime appropriations lobbyist William Oldaker, who has served as treasurer for their leadership PACs. … Reid spokesman Jim Manley said the Minority Leader made the decision 'to err on the side of caution.'"

Burns Aide Leaving Amid Questions About Abramoff Ties. Roll Call (2/8, Akers) reports in its "Heard on the Hill" column, "Ryan Thomas, an aide to Sen. Conrad Burns (R), is leaving his post as the Montanan's top staffer on the Appropriations subcommittee on the Interior amid lingering questions about his role in helping clients of ex-lobbyist Jack Abramoff. Thomas, who was not available for comment, was on the now-infamous January 2001 trip to the Super Bowl in Tampa with Abramoff, along with another Burns staffer, then-Chief of Staff Will Brooke. … James Pendleton, Burns' spokesman, confirmed that Thomas was leaving but had no knowledge of what his next job would be. Pendleton defended the work of Thomas, who was a staffer in Burns' personal office before moving over to the subcommittee when his boss became chairman." Roll Call adds that Thomas' exit "comes as Burns is taking lots of political heat from Montana Democrats eyeing that seat in November."

NTSB Sending Investigators To Fewer Fatal Plane Crashes. The Washington Post (2/8, A17, Goo) reports that the NTSB "is sending investigators to fewer and fewer fatal airplane crashes -- particularly those involving small planes. And that has safety experts worried. Last year, the agency's accident investigators showed up at 62 percent of all fatal plane crashes, compared with 75 percent of all

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fatal crashes in 2001, according to NTSB numbers. But data from the Federal Aviation Administration -- which is required to send an investigator to every accident and take note of whether the NTSB is on the scene -- indicate that NTSB investigators showed up less than half the time last year. The NTSB chafed at the FAA numbers, calling them inaccurate. After a back-and-forth between the agencies, the FAA backed down, acknowledging that its numbers may be unreliable." The trend "has alarmed former accident investigators."

Pentagon Program Offers Pre-Marital Advice To Soldiers. The Washington Post/AP (2/8, A17) reports, "They are the Pentagon's new 'rules of engagement': U.S. Army chaplains are trying to teach troops how to pick the right spouse, through a program called 'How to Avoid Marrying a Jerk.' The matchmaking advice comes as military family life is being stressed: Defense Department records show that more than 56,000 people in the Army -- active-duty, National Guard and reserve -- have divorced since the campaign in Afghanistan started in 2001. Officials partly blame long and repeated deployments that started after the invasion of Iraq in 2003 and stretched the service thin. Troops also are coming home with life-altering injuries." The program "advises the marriage-bound to study a partner's FACES -- family background, attitudes, compatibility, experiences in previous relationships and skills they would bring to the union. It teaches them to pace themselves with a RAM chart -- the Relationship Attachment Model, which basically says not to let your sexual involvement exceed your level of commitment or level of knowledge about the other person. … The program teaches troops not to cave in to the pressure of a ticking clock -- such as rushing to marry before shipping out for a deployment, or too soon after homecoming."

OTHER NEWS:

Wolfowitz Draws Fire For Appointing Former Administration Officials To World Bank Jobs. The Washington Post (2/8, D1, Blustein) reports on the controversy World Bank President Paul Wolfowitz has created by appointing Americans "with ties to the Bush administration" to key jobs. Their "roles have rekindled fears among the staff that Wolfowitz, the former U.S. deputy defense secretary, is bent on imposing a conservative agenda on the bank." Wolfowitz has "repeatedly sought to dispel such concerns since he became bank president in June. He has pledged his commitment to the bank's mission of alleviating poverty, and his unassuming manner has charmed many staffers who were averse to his role as a chief strategist of the U.S.-Iraq war." But after "months of seeming tranquillity, the bank is stewing with discontent over Wolfowitz's choice of several confidantes with administration or Republican connections to serve in key bank posts," such as Robin Cleveland, Kevin Kellems, and Suzanne Rich Folsom.

Realtors Predict Home Sales Will Slow In 2006. USA Today (2/8, Kirchhoff) reports US home sales "are expected to slow in 2006, though remaining near peak levels, the National Association of Realtors said Tuesday." Realtors' chief economist David Lereah "predicts existing home sales will dip 4.7% to 6.74 million units, while new home sales decline 8.5% to 1.17 million units. That would still be the third-best year on record."

Stock Markets Down On Housing Market Concerns. The Wall Street Journal (2/8, McKay) reports concerns "about the housing market sent stocks down modestly, despite several promising developments, including strong earnings at Walt Disney and a pullback in crude-oil prices." The "nervousness spread after home builder Toll Brothers reported that while revenue was solid in the fourth quarter, orders for new homes declined 29%. Because home values represent such a large share of many Americans' net worth, any sign of softness in that sector reverberates throughout the financial markets." The Dow Jones Industrial Average "fell 48.51 points, or 0.45%, to 10749.76." Other "stock benchmarks slipped fractionally. The broad Standard & Poor's 500-stock index eased 10.24, or 0.8%, to 1254.78. The Nasdaq Composite edged down 13.84, or 0.6%, to 2244.96."

GM Announces Dividend, Benefit Cuts. NBC Nightly News (2/7, story 5, 2:00, Williams) reported there was "a big announcement from struggling General Motors, which lost $8 billion last year alone. The company says it will cut white collar pension and healthcare benefits, cut its dividend and cut executive salaries. Officials say they can't reach their goals without sacrifice here. But does this mean blue collar workers are next?" NBC (Thompson) added, "CEO Rick Wagoner called today's cuts 'shared sacrifice' to speed GM's return to profitability." Wagoner: "I don't take these actions lightly. And don't take them without considering the impact of every single person affected." Thompson: "Those feeling the pain; shareholders. Their yearly dividend will shrink from $2 to $1. Outside board members, their compensation will be slashed by 50%. Current salaried workers their pensions will be restructured. And GM's top five executives will take pay cuts, including Wagoner whose $2.2 million salary will be cut in half."

Energy Stocks Expected To Remain Strong. The Wall Street Journal (2/8, Lahart) reports that in early 2003, "most investors were cool to energy stocks -- a stance that was exactly wrong. In the three years since, the Dow Jones index of U.S. Oil & Gas stocks has more than doubled. Even after a big selloff yesterday, spurred by a government report

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that warm weather has slackened U.S. energy demand this winter, the index is up 7.4% so far this year." Unlike the "dot-com bubble of the late 1990s, the fundamental story on energy looks sound. Rising global demand -- particularly from the rapidly developing Chinese and Indian economies -- continues to push up against the world's ability to pump oil, says Tom Petrie of Denver energy investment bank Petrie Parkman."

PhRMA Defends Interactions Between Drug Makers, Doctors. In a USA Today (2/8) op-ed, Pharmaceutical Research and Manufacturers of America (PhRMA) Senior Vice President Ken Johnson writes, "America's pharmaceutical research companies share a common goal of ensuring that physicians and those who prescribe medicines stay abreast of rapid advancements in treatment options. … The ultimate goal is to improve patient care. That is why nearly four years ago, PhRMA adopted the voluntary Code on Interactions with health care Professionals. These guidelines outline permitted activities so the independent judgment of health providers is not compromised. … We believe that pharmaceutical companies should not offer or provide anything to doctors that would interfere with the independence of their prescribing practices. The guidelines are thorough and strict. … Doctors make decisions based on the best information, and the PhRMA code helps to ensure that they get it -- with no strings attached."

USA Today Criticizes Freebies For Doctors. USA Today (2/8) editorializes, "For decades, pharmaceutical companies have showered physicians with meals, tickets to shows and sporting events, ski and beach vacations disguised as medical education seminars, and consulting 'jobs' for which doctors do no work. The companies aren't being charitable. They expect a return on their investment, namely that doctors prescribe their newest expensive pills. That's why an army of 88,000 pharmaceutical representatives, many of them young and beautiful, provides freebies to doctors and their staffs. … Drug companies support many educational programs and provide doctors with vital information about new products. But the gifts and unseemly practices taint the profession and undermine patients' trust. Doctors are sufficiently well-compensated that they can live without pharmaceutical freebies."

"Fetal Pain" Bills Advancing In State Legislatures. USA Today (2/8, Biskupic) reports, "A new front in the debate over abortion is emerging in legislatures across the nation. Abortion foes are gaining ground with proposals to require doctors to tell women seeking abortions that their fetuses might feel pain during the procedure. State 'fetal pain' bills began popping up last year in the wake of other statutes that have drawn attention to the interests of fetuses, including bans on a procedure that its critics call 'partial birth' abortion." USA adds, "Fetal pain bills were introduced in 19 states in 2005, and were passed in Arkansas, Georgia, Minnesota and Wisconsin. The Wisconsin bill was vetoed last month by Democratic Gov. Jim Doyle, who said it failed 'to reflect a consensus of medical opinion" and "intrudes on the doctor-patient relationship in a heavy-handed manner.' He cited a controversial report in the Journal of the American Medical Association that said there is no conclusive evidence of when a fetus first feels pain. Despite such questions, more fetal pain bills are advancing this year. Such bills have been passed by House members in Utah and Indiana and are headed to their Senates."

In a separate story, USA Today (2/8, Biskupic) adds that "most of the debates over abortion in state legislatures stem from abortion opponents' continuing push to emphasize the interests of fetuses and to create more hurdles for women seeking abortions. It's a strategy that has led to a range of restrictions on abortion and to proposals in 21 states aimed at requiring doctors to tell women seeking an abortion that their fetuses might feel pain during the procedure."

Potential New York Gubernatorial Candidate Offers Plan To Reduce Abortions. The New York Times (2/8, Lambert) reports, "Nassau County Executive Thomas R. Suozzi announced a plan on Tuesday intended to reduce abortions, calling the proposal a 'politically risky' step as he contemplates running for governor this year. Even as he was speaking, an abortion rights group issued a statement criticizing the plan. Mr. Suozzi's proposal would give nearly $1 million in county grants to groups including Planned Parenthood and Catholic Charities to promote birth control, adoption, housing for unwed mothers and abstinence. He proposes spending similar amounts in each of the next two years. … In an interview, Naral's president, Kelli Conlin, said, 'Mr. Suozzi is pandering in the worst possible way.'" The Times adds, "The clash had political overtones, since Naral previously endorsed Eliot Spitzer as the state attorney general, and is considering endorsing him for governor. Mr. Suozzi, meanwhile, is contemplating challenging him in the Democratic primary."

Retailer Group Sues To Strike Down Maryland's "Wal-Mart Law." The Virginia-based Retail Industry Leaders Association filed suit yesterday to strike down a Maryland law requiring Wal-Mart to pay more for employee health care, saying federal regulations don't permit states to set worker benefits. The Baltimore Sun (2/8, Green, Rosen) reports that the group, which counts Wal-Mart as a member, "says Maryland's Fair Share Health Act is illegal under the Employee Retirement Income Security Act of 1974. That law, known as ERISA, is designed in part to make sure that large

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employers are subjected to national standards for their benefit plans and not a tangle of conflicting state rules."

The AP (2/8) reports that the suit say the law illegally mandates "specific health care expenditures" and threatens "to take away the flexibility businesses need to deal with their employees."

The Washington Post (2/8, B4, Wagner) reports, "Maryland Attorney General J. Joseph Curran Jr. (D) and Democratic leaders of the General Assembly expressed confidence yesterday that the law would withstand scrutiny. It requires private companies with more than 10,000 employees in Maryland to spend at least 8 percent of payroll on health benefits or make a contribution to the state's health insurance program for the poor. Of four known employers with that number of workers, Wal-Mart is the only one that has said it would be affected, and the legislation became known in Annapolis as 'the Wal-Mart bill.'"

Murray Says CEO Trying To Portray Wal-Mart As "A Force For Good." Alan Murray writes in the Wall Street Journal (2/8) that it is easy to depict Wal-Mart Chief Executive Lee Scott "as just another CEO saddled with a bad public-relations problem. His company has been accused of paying poverty-level wages, providing inadequate health-care coverage to employees, hiring illegal immigrants, destroying communities, driving jobs overseas, and, in a new book by Charles Fishman called 'The Wal-Mart Effect,' even polluting Chilean waters by buying salmon from crowded South American fish farms. Wal-Mart has become one of the great polarizing issues that divides American politics. … In response, Mr. Scott has had to become not just chief executive officer, but chief reputation officer. He spends at least half of his time, by his estimate, in a campaign to convince the world that Wal-Mart is a force for good."

Cheney Says Referring Iran To Security Council Was "The Right Step." Vice President Dick Cheney was asked on PBS' Newshour with Jim Lehrer (2/7) how dangerous the situation in Iran is right now. Cheney said, "We think it's dangerous and I think the international community believes that. We've seen the situation develop as they appear to be determined to develop their capacity to produce nuclear weapons. I think everybody also has had their level of concern increase because of the current leadership in Iran. The new president has made some pretty outrageous statements. Now the international community has come together, we had the vote in the International Atomic Energy Agency Board of Governors this past week to refer the matter to the U.N. Security Council. We think that's the right step."

Recapping Cheney's remarks on PBS, Reuters (2/8) adds, "Cheney rejected parallels between Iran and Iraq, which the United States invaded in 2003 in part because of the belief it had weapons of mass destruction." He "noted Tehran's rejection of a Russian plan to enrich uranium for a civilian reactor in Iran and then reclaim the spent fuel as a sign that Tehran wanted its 'own enrichment capacity to be able to go all the way to the levels required for a nuclear weapon. … So there doesn't seem to be any doubt of what their intentions are.'"

Administration More Convinced Of Iran's Nuclear Weapons Capability Than Intelligence Community. The Washington Post (2/8, A1, Linzer) in an extensive front page story examining the US evidence of Iran's nuclear program reports that analysis by US and international experts is inconclusive as to Iran's progress and that Iran's nuclear weapon capability "remains as much as a decade away. … But whether Iran's leaders have reached that decision and what concrete progress the effort has made remain divisive questions among government analysts and U.N. inspectors." Meanwhile, "Bush administration officials, convinced that Iran has a weapons program, believe that the body of documentation is the nearest anyone can expect to 'smoking gun' evidence. But even in the U.S. government, the predominant interpretation is more complex." Director of National Intelligence John Negroponte's recent "carefully hedged assessment" that Iran "will likely have the capability to produce a nuclear weapon within the next decade" is "more conservative than views expressed by some policymakers. Some in the Bush administration have begun pushing back, suggesting that the CIA is demanding an unrealistically high standard of evidence before reaching conclusions that the White House believes are obvious." One senior Administration official said, "Taking into account the assessments made by the intelligence community, and others, I just don't have a lot of confidence in the assessments." The Los Angeles Times (2/8) also publishes a brief version of the Washington Post article Wednesday morning.

Expert Argues Military Strike Against Iran Could Succeed. Edward Luttwak, a senior fellow at the Center for Strategic & International Studies, in an op-ed in the Wall Street Journal (2/8) writes, "Many commentators argue that a pre-emptive air attack against Iran's nuclear installations is unfeasible. … There may well be other, perfectly valid reasons to oppose an attack on Iran's nuclear sites. But let's not pretend that such an attack has no chance of success. In fact, the odds are rather good." Luttwak argues, "Iran might need 100 buildings in good working order to make its bomb, but it is enough to demolish a few critical installations to delay its program for years -- and perhaps longer because it would become harder or impossible for Iran to buy the materials it bought when its efforts were still secret." A bombing strike targeting Iran's nuclear infrastructure "could all be done in a single night. One may hope that Iran's rulers will therefore

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accept a diplomatic solution rather than gamble all on wildly exaggerated calculations."

Administration Urged To Pursue Diplomacy With Iran Through Iraq. Roger Cohen in his "Globalist" column in the New York Times/IHT (2/8) writes, "The decision to report Iran to the United Nations Security Council over its nuclear weapons program represents a diplomatic success for the Bush administration, which showed unusual flexibility in coaxing Russia and China to back the move." The US and Iran "have been cooperating, albeit uneasily, at close quarters" in Iraq "and their interests converge in several respects. The possibility exists to leverage this convergence into dialogue." For example, "Adel Abdul Mahdi, a potential future prime minister from the most influential Shiite party, suggested he saw the possibility of mediating. 'When we meet American officials, we do not hide our friendship with Iran. Nor do we hide to Iran our interest in better relations with the U.S. There are interests here that can be developed.'"

NYTimes Says International Pressure Is Key. The New York Times (2/8) in an editorial writes that the IAEA referral of Iran to the Un Security Council "is a significant step in the right direction, and Washington deserves credit for agreeing to the modest and cosmetic compromises necessary to build such a broad diplomatic front. Tehran is now certain to use every conceivable ploy to try to shatter that hard-won unity. It should not be allowed to succeed." Continuing to apply concerted international pressure "would at least gain time -- time for energy conservation measures in the United States and elsewhere to lessen Iran's economic leverage, time for the Nuclear Nonproliferation Treaty to be strengthened in ways that make it both more enforceable and more equitable, and time for Iran to elect a government that would be more amenable to reason and more willing to put the economic welfare of its people ahead of building nuclear bombs."

Bush Expresses "Solidarity" With Denmark In Face Of Muslim Protests. The AP (2/8) reports, "President Bush has called Denmark's prime minister to express 'our support and solidarity' in the wake of violence over the publication of caricatures of the prophet Muhammad." And State Department spokesman Sean McCormack "said American diplomats around the world had been directed to offer Denmark whatever assistance it might need to maintain its embassies."

AFP (2/8) adds, "Bush telephoned Rasmussen from his Air Force One presidential plane, and the two 'agreed that the way forward is through dialogue and tolerance, not violence,' said spokesman Scott McClellan." One Danish diplomat said, "Obviously this support from major countries lifts some of the pressure and soothes us, especially when it comes from the Americans and British, who slightly disappointed us earlier by their criticism and lack of solidarity."

Cheney Says Protests Unjustified. NBC Nightly News (2/7, story 3, 1:45, Boettcher) reported, "Thousands marched in Pakistan, Indonesia, Iraq, and Iran to protest the caricatures of the prophet Mohammed published in Denmark and republished elsewhere in Europe." NBC quoted Vice President Cheney, who said, "It's appropriate for people to respect one another's religion but I don't believe that the printing of those cartoons justifies the violence that we've seen." Boettcher: "Even though the protests have been directed at European target, here in Iraq, US military commanders worry that if this crisis does not abate, American forces too will be a target."

Muslim Protests Over Controversial Cartoons Continue To Spread. ABC World News Tonight (2/7, story 3, 2:10, Vargas) reported, "Fresh protest erupted across the Islamic world over the cartoons of the prophet Mohammed that many Muslims consider offensive. In Afghanistan, 3 were killed and 22 injured in a violent clash with NATO peacekeepers. Now, some Muslims are venting their rage by calling for the publication of offensive cartoons of their own." ABC (Watt) added, "This morning in Tehran, street protests. Today's targets, the Danish and Norwegian embassies."

The CBS Evening News (2/7, story 3, 2:05, Schieffer) reported, "57 Muslim countries today joined the United Nations and the European Union calling for an end to violent protest against those cartoons of the prophet Mohammed, but the violence went on and for a second day several protesters were killed. Now driving a wedge between some Muslim nations and some in Europe." CBS (Roth) added, "The insult to religion has become the excuse for a protest that's now burning on the fuel of anti-Western anger. And in Gaza or Syria or Iran, there's still plenty of that. In most of Europe though, even France with the continent's biggest Muslim population, the cartoons have caused controversy but hardly any confrontation. One exception was Britain where offended Muslims took their anger to the streets."

Protests May Threaten US Outreach To Muslim World. The Washington Post (2/8, A16, Kessler) reports, "The outrage over cartoons depicting the prophet Muhammad poses a challenge for the United States at a time when the Bush administration is investing greater resources to reach out to the Muslim world." One US official said, "We're starting to see the American flag popping up with the Danish flag in protests. … This could be the beginning of a long misunderstanding between the West and East." Even prior to the protests, "U.S. officials monitoring Iranian media out of Dubai had begun to detect a nascent campaign to expose a perceived hypocrisy of American culture. The campaign would focus on gun violence…in a nation that is fighting a war against Islamic extremism and terrorism." Undersecretary of State for Public Diplomacy Karen Hughes "has been

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monitoring the situation and is involved in crafting the administration's response. … Thus far, the administration has tried to strike a balance that includes embrace of freedom of expression, displeasure at the cartoons, disgust at the violence and support for the Danish government. U.S. officials have also thrown barbs at Iran and Syria, which they accuse of inflaming the situation for cynical purposes."

The New York Times (2/8, Cowell) reports, "As the protests have spread, some Europeans have come to realize that relatively small Muslim minorities -- 3 percent in Britain, 4 percent in Denmark and around 5 percent in the European Union -- can wield power across the Islamic world." The protests "have set off a profound debate about freedom of expression and supposed double standards. And the spreading protest signified a hardening of extremes that left little room for moderation. 'The moderate Muslim has again been effectively silenced,' said Tabish Khair, professor of English at the University of Aarhus, Denmark." Recent terrorist attacks have "challenged governments and societies to distinguish between moderates and extremists." Meanwhile "there is a seething resentment among some Muslims that they are treated as second-class citizens and potential terrorists in lands that deny the importance of their faith, even though the number of Muslims in Europe totals 20 million, and possibly many more."

The Christian Science Monitor (2/8, Rice-Oxley) reports, "The violence over cartoons satirizing the prophet Muhammad has highlighted often inconsistent rules in Europe governing free speech, tolerance, and the boundaries of public expression." The Monitor continues, "Muslims in particular charge that hate-speech laws are implemented unfairly. Many countries, they say, do not abide anti-Semitic outbursts, but will tolerate cartoons that to many Muslims are deeply offensive." The response from European leaders "has been to frown on those who reproduced images…while insisting that editors were within their legal rights to do so. Governments have refrained from apologizing to the Islamic community because they say publication is a matter for editors, not politicians. Muslim opinion, however, has not been appeased by this response."

Danish Leader Warns Of Growing Global Crisis Over Muslims Cartoons. Bloomberg (2/8, Brogger) quotes Danish Prime Minister Anders Fogh Rasmussen saying, "We are facing a growing global crisis." Bloomberg adds, "Radicals and fundamentalists are pursuing their own agendas, he said."

European Diplomats Blame Islamic Regimes For Fanning Protests. The Financial Times (2/8, Turner, Khalaf, Smyth) reports, "The United Nations, the European Union and the Organisation of the Islamic Conference on Tuesday issued a joint appeal for an end to violence around the Muslim world." Yet "they also asserted that while that free speech was a right, it was one that entailed 'responsibility and discretion', and 'should respect the beliefs and tenets of all religions.'" And "as diplomatic efforts to calm tensions were stepped up, European diplomats cautioned against exaggerating the impact of the cartoon controversy. Disapproval of the caricatures, said diplomats, was being exploited by some regimes for political purposes. …. 'This is not the Muslim world jumping against western values. It is Iran, which is being sent to the UN Security Council over its nuclear programme. It is Syria because it reacts to policies that have been taken (against it) by the international community … It is Afghanistan because the security situation there is fragile and deteriorating,' said a diplomat."

Demonstrators Attack Afghanistan NATO Base Over Danish Cartoons. The New York Times (2/8, Wafa, Gall) reports "NATO troops fired on demonstrators in northern Afghanistan on Tuesday in a second day of deadly protests here." In the town of Maimana "three protesters were killed and 22 injured," while "three Afghan police officers…and five Norwegian soldiers…were also injured." This marks "the first time NATO troops…had been attacked at their base by an angry crowd." Sayed Aslam Ziarati, the head of police security in Maimana, "blamed people he called terrorists for turning the demonstration into a violent one."

The Washington Post (2/8, A15, Witte) reports, "The most confrontational protest Tuesday occurred in the northern Afghan city of Meymaneh, where protesters threw stones and grenades at a NATO compound that primarily houses Norwegian soldiers doing reconstruction work. That protest and several others occurred in regions not usually associated with religious extremism or violence." And while other protests were in Afghanistan were peaceful, "violent demonstrations erupted in Kabul, where a small, angry mob grew quickly and as many as 1,000 men marched through the streets in search of Western targets to attack. During a rampage that lasted several hours, protesters trashed U.N. vehicles and threw stones at U.N. buildings, the U.S. Embassy compound, a NATO headquarters and private homes in a neighborhood popular among Westerners." They "tried to gain access to several heavily fortified compounds -- including the U.S. military base -- but were pushed back by security forces. They shouted slogans such as 'Down with the USA!' 'Down with Bush!' 'Down with the Jews!' 'Down with the Christians!' and 'Long live Islam!'"

Danish Aid Agency Expelled From Chechnya. The New York Times (2/8) reports, "The Danish Refugee Council, one of the largest aid organizations working in war-racked Chechnya and its neighboring republics, was expelled from Chechen territory on Tuesday, as anger spread yet further over Danish cartoons of the Prophet Muhammad." The Times adds, "Ramzan A. Kadyrov, acting prime minister of Chechnya and the head of President Vladimir V. Putin's political party in the region, said Monday that Chechnya would not admit 'anything that comes out of Denmark.'"

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US Muslim Leaders Criticize Denmark. The Washington Times (2/8, Ward) reports, "American Muslim leaders say there is plenty of blame to go around in the uproar over the cartoons of the prophet Muhammad." They "have told European officials in Washington that the Danish government could have done a better job balancing free speech and respect for religious beliefs." Muslim Public Affairs Council national director Ahmed Younis "said his group organized a meeting Monday with the Danish ambassador to the United States 'to advise on the tone of the response of the Danish government and to offer opportunities for solutions.'"

Reaction In Saudi Arabia Mixed. The Washington Post (2/8, A15, Ambah) notes, "The controversy, one of the most intense in the Islamic world since the publication of Salman Rushdie's 'The Satanic Verses' in the 1980s, has provoked varied reactions here in the birthplace of Muhammad. Some Saudis have lauded the widespread reaction as Muslims' first unified stance in decades, a chance to flex their muscle and teach the West not to gratuitously offend their sensibilities. Others, like Barqah, say Muslims are reacting viscerally, not intelligently, and this, they say, goes against the very teachings of the prophet they are trying to defend."

Iranian Paper Solicits Cartoons Mocking Holocaust. The New York Times (2/8, Fathi) reports, "Iran's largest newspaper on Tuesday announced an international competition for Holocaust cartoons to retaliate against the publication of cartoons of the Prophet Muhammad in Danish newspapers last year." The daily newspaper Hamshahri "said it wanted to see whether freedom of expression extended to mocking the Holocaust." The newspaper said, "The serious question for Muslims is whether the West extends freedom of expression to the crimes committed by the United States and Israel, or an event such as the Holocaust. … Or is its freedom only for insulting religious sanctities?"

ABC World News Tonight (2/7, story 3, 2:10, Watts) reported, "And also a new twist -- the leading newspaper announced a competition: Who can draw the best cartoon lampooning the Holocaust." US reaction "was swift." Assistant Secretary of State Sean McCormack: "Any attempt to mock or in any way denigrate the horror that was the Holocaust is simply outrageous." Watt: "Moderate Muslims say this retaliation is offensive, but not blasphemous."

Editor Solicited Muslim Cartoons In Response To Reports Of Muslim Censorship. The Washington Post (2/8, A15, Sullivan) reports, "The global furor over cartoons of the prophet Muhammad can be traced to one day last September when newspaper editor Flemming Rose smelled a good story." Rose "said he'd read that museums in Sweden and London had recently removed artworks their staff deemed offensive to Muslims. A Danish comedian told him that he felt free to desecrate the Bible but that he'd be afraid to do the same to the Koran." He "suspected the art world was self-censoring out of fear of Islamic radicals. So he contacted 25 Danish newspaper cartoonists with a challenge: Draw Muhammad as you see him. Twelve responded, and the newspaper printed their submissions, including one that depicted Islam's holiest figure with a bomb in his turban."

Prophet's Image In Paintings Has Failed To Generate Controversy In Past. The Washington Times (2/8, Sands) reports, "Lost in the furor over cartoons of the prophet Muhammad is the fact that his likeness has long been portrayed in the collections of some of the world's greatest museums and libraries without exciting alarm or comment." Although "rare in the 1,400 years of Islamic art, depictions of Muhammad are found in the collections of such institutions as New York's Metropolitan Museum of Art, the Bibliotheque Nationale de France in Paris and the Edinburgh University library." None has "aroused the anger seen in reaction to a set of satirical cartoons."

Similarly, Amir Taheri, the author of "L'Irak: Le Dessous Des Cartes" in an op-ed in the Wall Street Journal (2/8) notes, "The claim that the ban on depicting Muhammad and other prophets is an absolute principle of Islam is also refuted by history." And "Islamic ethics is based on 'limits and proportions,' which means that the answer to an offensive cartoon is a cartoon, not the burning of embassies or the kidnapping of people designated as the enemy. Islam rejects guilt by association. Just as Muslims should not blame all Westerners for the poor taste of a cartoonist who wanted to be offensive, those horrified by the spectacle of rent-a-mob sackings of embassies in the name of Islam should not blame all Muslims for what is an outburst of fascist energy."

More Commentary. The Washington Post (2/8, A18) editorializes, "The Taliban is probably behind violent demonstrations in Afghanistan. … And the Bush administration has rightly fingered the secular but cynical government of Syria for orchestrating the burning of embassies in Damascus and Beirut." Conflict "between Muslims and the West is the fondest ambition of al Qaeda, the Taliban and other terrorist organizations. … But it also is a convenient refuge for authoritarian regimes hoping to resist the rising pressure for political liberalization in the Middle East." The Post concludes, "The few heroes in this sordid episode reside not in continental newsrooms but in the Middle East. In Jordan…two editors bravely republished the offensive cartoons; they now face prosecution. In Iraq, the Shiite Grand Ayatollah Ali Sistani condemned the Muslim inciters. It's not an accident that these Arab voices of reason are also leading proponents of democracy: They, more than anyone, are the ones deserving of the West's support."

The Wall Street Journal (2/8) in an editorial in its Opinion Asia section writes, "Violence surrounding the Danish

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cartoon scandal is now leaking into Asia, home to some of the world's most populous and diverse Muslim nations. Yet despite the disquieting reports, reasonable voices of moderation exist. That is, at least, encouraging. The discouraging bit comes when moderate Asian leaders shy away from the vigorous public debate needed to head off future flare-ups." The Journal faults Malaysian Prime Minister Abdullah Ahmad Badawi's and Indonesian President Susilo Bambang Yudhoyono's failure to support newspapers' right to publish controversial cartoons because "freedom of the press is paramount for a healthy democracy. … Just look at the radicalization of Muslims in China or Saudi Arabia for an example of how suppression breeds discontent. Malaysia and Indonesia, two young, Muslim-dominated democracies, can take a different path.

Syndicated columnist Kathleen Parker, a member of USA TODAY's board of contributors, in an op-ed in USA Today (2/8) writes, "What's clear is that East and West are not just cultures apart, but centuries, and that certain elements of the Muslim world would like to drag us back into the Dark Ages." And Western leaders "have been weak-spined when it comes to defending the principles of free expression that the artists in Denmark were exploring." As "President Bush and Clinton were feeling the pain of religious fanatics, marauders were burning Danish government buildings in Beirut, and Damascus, Syria, and promising Londoners a 9/11 of their own. Such are the fruits of appeasement." Parker states, "There is no equivalence between organized murder on behalf of a malignant social system and a half-dozen nerdy artists, speaking only for themselves, lampooning a fanatical religious sect whose members, by the way, specifically advance the delightful goal of exterminating millions of 'infidels.'"

Souheila al-Jadda, a journalist and member of USA TODAY's board of contributors, in an op-ed in USA Today (2/8) writes that "these provocative cartoon portrayals came as no surprise to many in the Islamic world. Protesters see this as a pattern of Western attacks against Islam and Muslims -- especially after reports of desecration of the Islamic holy book, the Quran, at the U.S. facility at Guantanamo Bay, Cuba; the abuse of prisoners in Iraq and Afghanistan; and the banning of the headscarf, hijab, in public schools in France. Muslims are asking themselves, what's next?" And although "Danish editors are free to publish such cartoons, Muslims are also free to express outrage. The republishing of the caricatures fueled even more anger because it was understood as a message from Europe that their protests, which are part and parcel of free expression, mean nothing." But "the ransacking of embassies and churches as well as the targeting of European nationals by demonstrators must be strongly condemned. These acts only serve to reinforce the very stereotypes Muslims are protesting."

Anne Applebaum in her column in the Washington Post (2/8, A19) writes, "Of course, some good may come out of this story, even in this country. If nothing else, this controversy should bring an end to that naive, charming and sadly incorrect American theory of international relations that 'the more we all learn about one another, the less we will fight.' Gradually, the Islamic world is learning that we don't respect religion in the same manner they do. Slowly, we are learning that they feel differently about the printed word, and the printed picture, from us. And somehow, I've got a feeling that this new knowledge will be not the beginning of understanding but the inspiration for more violence."

WTO Rules For US In Dispute Over GM Biotech Dispute. The New York Times (2/8, Pollack) reports, "The United States won a closely watched trade dispute yesterday when the World Trade Organization ruled that the European Union breached international rules by restricting imports of genetically modified crops and food made from them." The decision, which "was not made public but was discussed by federal trade officials," also "represents a victory for the agricultural biotechnology industry, which for years has been battling opposition to its products from consumers and governments in Europe and some other countries." Europe "could ignore the ruling and instead accept retaliatory tariffs on some of its exports to the United States."

The Wall Street Journal (2/8, Miller, Kilman) reports, "US officials said the finding against the EU sends an important warning to other parts of the world -- particularly nations in Africa and Asia -- against following the European lead in throwing up bans or partial bans against genetically modified crops." The US "has waged an intensive campaign to pry open the EU market, in large part because US biotechnology officials still hope Western Europe some day could be a rich market for their genetically modified seeds."

The Financial Times (2/8, Alden, Grant, Minder) reports the ruling was "castigated by environmental and consumer groups who charged the ruling was a blatant example of international trade rules running roughshod over democratic decisions aimed at protecting consumer health and safety." The Times adds, "A US trade official, briefing reporters on the confidential decision that was released to the countries involved in the dispute late yesterday, said: 'We're please with the outcome. We're not at the end of the road, but it's a significant milestone.'" USA Today (2/8, Weise) and Washington Post (2/8, D1, Gillis, Blustein) also report the story.

Sheriff Tells Congress Mexican Military Was Involved In Border Incident. The Washington Times (2/8, Dinan) reports Hudspeth County Sheriff Arvin West "and his deputy told Congress yesterday they had 'no doubt' that

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Mexican military crossed the US border in Texas on Jan. 23, even as Mexican officials announced they have concluded it was known drug traffickers instead." West said, "There's no doubt in my mind there was Mexican military involvement. I've seen it too many times over the years." During a hearing yesterday before a House Homeland Security Committee's investigations subcommittee, "Border Patrol Chief David V. Aguilar and Deputy Assistant Secretary of State Elizabeth Whitaker said the federal government will wait for an investigation by the FBI and Immigration and Customs Enforcement before drawing conclusions. Chief Aguilar said the number of incursions is decreasing. Asked what help Congress could provide, he said the executive branch is doing enough and he did 'not want to leave the impression our borders are besieged.'"

The Los Angeles Times (2/8, Timiraos) reports "Aguilar, told the lawmakers that the United States did not have proof that the individuals in military uniforms were Mexican soldiers, but added that nothing had been ruled out. 'If they weren't Mexican military, why is Mexico just sitting back and allowing this to happen?' said T.J. Bonner, president of the National Border Patrol Council, a 10,500-member union of Border Patrol agents. He decried a 'culture of corruption' that allows cartels to operate freely along the border by bribing Mexican authorities." Meanwhile, "Hudspeth County Sheriff Arvin West warned that inaction could prompt even more daring raids by smugglers. 'It is just a matter of time that the drug cartels will wire their drug loads with explosives and, when caught by law enforcement personnel, detonate the load vehicle,' he said."

McCaul Says Mexican Incursions Into US Are "Out Of Control." Rep. Michael McCaul was asked on Fox News' The O'Reilly Factor (2/7) if incursions into the US by the Mexican military is an escalating problem. McCaul said, "We have had over 200 incursions by the Mexican military over the last decade. … Violence on the border is really getting to the point where we are in a crisis. It really -- we talked to the five sheriffs, they testified before my committee. Whether you think they are military, whether you think they were cartels buying the military or cartels dressed up like military, they had 50-caliber weapons and Humvees. These pose a serious threat to law enforcement on the United States side. They are doing everything from throwing rocks on fire to taking shots at them. We have photographs of people on the other side of the border, Mexicans, literally shooting with their weapons. This is really getting out of control, and we need to do something about it."

Half Of "Granny Brigade" Attends Minuteman Rally In Washington. The Washington Post (2/8, B1, Morello, Londoño, Klein) reports on Carmen Mercer's trip through the Washington D.C. area as she travels to a "Capitol Hill rally by the Minuteman Project." Mercer "has headed into the Arizona desert in her Chevrolet pickup" on many nights to patrol the border with another woman. "Locals call them the Granny Brigade." Following Mercer from the airport and around the D.C. area, the Post notes the foreign origins of several of the people she comes in contact with. "In the Washington region, where an estimated one in six residents is foreign-born, she would see a thousand faces of immigration during her visit."

Olmert Unveils Plan To Establish Israel-Palestine Borders. The New York Times (2/8, Myre) reports, "Acting Prime Minister Ehud Olmert said in a television interview broadcast on Tuesday that he wanted to set the country's permanent borders, with Israel giving up significant parts of the West Bank but keeping the largest Jewish settlement blocs." Olmert "says a top priority would be establishing Israel's frontiers, with or without an agreement with the Palestinians." Olmert said, "The direction is clear: we are headed toward a separation from the Palestinians. … We will hold on to the main settlement blocs. But the borders we have in mind are not those Israel has today."

The Los Angeles Times (2/8, Ellingwood) notes it was Olmert's "latest effort to step out of Sharon's shadow and craft his own image, reintroducing himself to Israelis and the world at an exceedingly delicate moment." He "sidestepped the issue of whether he would push for additional unilateral withdrawals from the West Bank after Israel's pullout last summer from the Gaza Strip and four communities in the West Bank" and "expressed support for the U.S.-backed diplomatic blueprint known as the road map," yet "in outlining possible future boundaries that would exclude much of the West Bank, Olmert left open at least the possibility of additional pullbacks by Israel."

USA Today (2/8) in a brief article adds, "Olmert said Israel would retain a 'united Jerusalem,' a term understood as including the eastern part of the city where a large population of Arabs reside."

Hamas Leader Expected To Be Selected As Prime Minister. Reuters (2/8, Perry) reports, "A leader of the Islamist Hamas group said on Tuesday it was very likely that one of its members would become Palestinian prime minister." Asked if "a Hamas member would become the new prime minister, Hamas leader Ismail Haniyeh told Reuters in Cairo: 'This is highly expected.' But it was too soon to talk about names, he said."

US, South Korea Discuss Free Trade Deal. The New York Times (2/8, Brooke) reports, "South Korean and American negotiators have started a one-year drive to draw up the United States' largest free trade accord since Nafta went into effect." For the US, "the temptation to win better access to the seventh-largest export market is expected to carry more weight than objections from auto and steel manufacturers." It is not clear "whether both countries can

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negotiate" the deal "before President Bush's fast-track trade negotiating authority expires next year" yet US ambassador to Japn Thomas Schieffer "recalled the pessimism expressed when President Bush and Prime Minister John Howard of Australia announced in 2003 that their two countries would negotiate a free trade pact in one year."

US Navy Destroyer Boarded Suspected Pirate Ship In Indian Ocean. The Washington Times (2/8, Halloran) reports, "The United States was striking a pre-emptive blow when it ordered a US Navy destroyer to detain and board a suspected pirate ship in the Indian Ocean last month, aiming to see that terrorists do not lash up with pirates in the Asia-Pacific region." The destroyer, the USS Winston S. Churchill, "was ordered to intercept the suspected pirate ship on Jan. 21 after the U.S. Central Command, from its forward headquarters in Bahrain in the Persian Gulf, was contacted by the International Maritime Bureau, based in Malaysia. The maritime bureau monitors piracy all over the world, but especially in Asia." The Times adds, "It took the US warship several hours of maneuvering and firing warning shots to get the smaller vessel to surrender. A Navy boarding party then confiscated a cache of small arms to disarm the ship before sending it on its way."

Polling Stations Jammed In Haitian Presidential Elections. The Los Angeles Times (2/8, Dahlburg, Regnault) reports, "Haitians wearied by spiraling unrest and gang violence turned out in huge numbers Tuesday to choose a new president and parliament, and perhaps put their impoverished Caribbean homeland on the path to greater prosperity and peace." The Times adds "people in line were trampled by other would-be voters frantic to cast their ballot. According to local news reports, one person died of a heart attack, and another of asphyxia."

ABC World News Tonight (2/7, story 5, :10, Vargas) reported "there were accusations of fraud in some poor neighborhoods. Haiti is the poorest country in the hemisphere. It has fallen into chaos lately." The Washington Post (2/8, A11, Roig-Franzia) reports the elections "unfurled chaotically Tuesday but turned peaceful and orderly toward evening." Voters "overwhelmed badly prepared polling places." USA Today (2/8, Harman) and New York Times (2/8, Thompson) also report the story.

Nepal To Vote For Local Officials Today. The New York Times/AP (2/8) reports, "The government ordered security forces on Tuesday to shoot anyone who tried to interfere with elections on Wednesday for mayors and local officials." The balloting "will be the first in seven years, but nearly all the major political parties are boycotting it, calling the vote a sham intended to legitimize King Gyanendra's rule." The AP adds, "Maoist insurgents have threatened to kill anyone who votes. Two candidates have been killed, prompting the government to take out life insurance policies worth up to $10,300 for the more than 2,000 candidates."

The Washington Post (2/8, A11, Lancaster) reports, "Barely a year after seizing absolute power, King Gyanendra is a monarch under siege -- shunned by former allies, struggling to contain a raging Maoist insurgency and confronting a new alliance between the rebels and mainstream political parties that dismiss as farce his plans for restoring democracy." The parties "are boycotting municipal elections scheduled for Wednesday, a step that in combination with Maoist threats has ensured that more than half of the 4,000-plus local seats will not even be contested. The Maoists are also enforcing a week-long general strike that has paralyzed normal life in cities and towns throughout the country." The Post adds, "So tenuous is the king's position that some Nepalese journalists and analysts have begun to speculate about the odds of a military coup, or perhaps a hurried departure by the royal family in the dead of night."

Report Details Increase In US Assistance To Fight AIDS. The Wall Street Journal (2/8, Phillips) reports, "The U.S. provided life-extending drugs to nearly half-a-million AIDS patients in the developing world last year, marking a sharp increase in access to antiretroviral treatment, particularly in sub-Saharan Africa, according to a government report to be released today." The Journal notes, "Administration officials hope the report will spur Congress to meet Mr. Bush's new budget request and prompt other wealthy nations to increase their AIDS funding. 'People are alive today because the United States has turned its words into action,' wrote Randall Tobias, the administration's global AIDS coordinator."

Russia Seeks To Boost Credibility By Paying Off Debt, Becoming Donor. The Wall Street Journal (2/8, Chazan) reports, "Flush with petrodollars, Russia…said it will pay off a big chunk of its sovereign debt ahead of schedule this year." That "will improve Russia's credibility as it takes up the rotating presidency of the G-8 and help deflect claims from some in the West that it is too small economically to be a member of the exclusive club." In addition, "Russia is also discussing the possibility of becoming a major donor to the International Development Association. … It also announced plans to forgive $668 million owed it by 16 of the world's highly indebted countries, most of them in Africa." It is "a huge turnaround for a country that barely eight years ago defaulted on its domestic debt and devalued the ruble. Russia is also far advanced in talks to join the World Trade Organization, with bilateral deals reached with most of its trading partners except the U.S."

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Nigerian Military Leader Warns Of Continued Unrest As Election Approach. The Financial Times (2/8, Mahtani) reports, "The commander of Nigeria's military operation in the oil-rich Niger delta has warned of more unrest there as Africa's biggest oil producer and most populous nation heads towards national elections next year." Increased "ethnic and political tensions ahead of next month's national census and the 2007 elections are a worry for both multinational oil companies and Nigeria, which produces about 2.5m barrels of oil a day."

Scientists Describe Expedition To Study Rare Species. The Washington Post (2/8, A1, Nakashima) in a front page story reports, "A team of scientists has discovered a lost world of rare plants, giant flowers and bizarre animals…on a mist-shrouded mountaintop in a remote province of Indonesia on New Guinea island." They "found more than 40 species new to science." Bruce Beehler, an ornithologist with Conservation International in Washington and the expedition's co-leader said, "I know the Bush administration is talking about going back to the moon and going to Mars. … But there are plenty of new things to look for right here, in our rain forests, in our oceans. There are whole worlds that are unknown to us."

Georgia Urged To Build Relations With West. Former Estonian Prime Minister Mart Laar in an op-ed in the Wall Street Journal (2/8) writes, "There are two main lessons Georgia can learn from" the energy disruptions from Russia. Georgia first "has to continue its integration with West." In addition "the crisis indicated that Georgia has to end its near total dependence on Russian energy sources." Georgia "needs the chance to restore its territorial integrity and find a peaceful solution for the problems of South Ossetia and Abkhazia. Russia's so-called 'peacekeeping' troops in these territories are not protecting the peace, but rather the pieces of the Russian empire. They must be sent home if the situation is to be normalized. Georgia can't be seen as just another little known country that is too far away from the Western world."

Columnist Blames NAFTA For Increase In Illegal Immigration From Mexico. Harold Myerson in his column in the Washington Post (2/8, A19) writes, "With the number of immigrants illegally in the United States estimated at 11 million, the tensions between Americans and Mexicans -- chiefly, working-class Americans and working-class Mexicans -- are rising. And those are tensions that congressional Republicans, who don't look to have a lot of other issues they can run on this fall, are eager to stoke." Meyerson says the boom in illegal immigration is "not because we've let down our guard at the border…the border is more militarized now than it's ever been. The answer is actually simpler than that. In large part, it's NAFTA." For example NAFTA put Mexican farmers "in direct competition with incomparably more efficient U.S. agribusinesses. It proved to be no contest: From 1993 through 2002, at least 2 million Mexican farmers were driven off their land." Meyerson concludes, "So long as the global economy is designed, as NAFTA was, to keep workers powerless, Mexican desperation and American anger will only grow. Forget the fence. We need a new rulebook for the world."

WSJournal Notes Recent Voinovich Support For Bolton. The Wall Street Journal (2/8) editorializes that after Sen. George Voinovich's recent praise of U.S. Ambassador to the United Nations John Bolton, "We called the Senator's office to confirm he was talking about the same guy he had pilloried just eight months before. Lo, he was. 'He's doing a good job, I wouldn't say great,' says a Voinovich spokeswoman of Mr. Bolton. She adds that by 'following up' regularly with the Senator, Mr. Bolton's diplomatic skills appear to be getting better, particularly in building coalitions for U.N. reform." The Journal concludes, "No doubt Mr. Bolton is deeply grateful for the counsel of his newfound mentor. But we hope it's not rude to point out that perhaps Mr. Bolton is the same fellow he's always been, and with the same skills. Maybe Mr. Voinovich is the one who's learning on the job. In any case, we look forward to the Senator's 'aye' vote if the President renominates Mr. Bolton for confirmation by the full Senate next January."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"People's Party Animals."
"Chronicling Priest's Pattern Of Abuse."
"A Eulogy For King, A Scolding For Bush."
"Eating Lean Doesn't Cut Risk."
"And The Winners Are ... Performers On The Show."
"Sheriff To Move Violent Inmates."
"Israeli Leader Outlines His Goals For Nation's Borders."

USA Today:
"'A Lot More, A Lot Earlier' In 2008 White House Race."
"Abortion Foes Gain On New Front."

New York Times:
"Low-Fat Diet Does Not Cut Health Risks, Study Finds."
"Cleric Convicted Of Stirring Hate."
"Some Democrats Are Sensing Missed Opportunities."
"G.M. Will Cut Executive Pay And Dividend."
"At Mrs. King's Funeral, A Mix Of Elegy And Politics."

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Washington Post:
"Council Reverses Vote, Approves Lease Deal."
"King's Legacy Celebrated In Farewell."
"Downloads Make Singles A Hit Again."
"Benefits Of Low-Fat Diets Rejected."
"Leads, Dead Ends In Iran Nuclear Case."
"A Lost World In Indonesia Yields Riches For Scientists."

Washington Times:
"Muhammad's Image Subject Of Art In Past."
"New Species Found In Remote Indonesia."
"Warner Hits Lack Of Help On Iraq War."
"Tribute To Mrs. King."
"Council Rejects Stadium Lease."
"American Dream Putting Homeowners In Deep Debt."

Detroit Free Press:
"Autoworkers Take More Hits."
"Mourning A Civil Rights Icon."
"A Low Fat Diet Is No Shield For Women."
"Macomb Co Crackdown On Young Suspects Raises Issues."

Atlanta Journal-Constitution:
"Coretta King Laid To Rest After Spirited Funeral."
"Sales Tax Exemption On Bible Ends."

Dallas Morning News:
"Border City Chaos Boils With Newspaper Attack."
"Perk Of Public Office: Discount Furniture."
"New DART Lines Get $700 Million Pledge."
"A United Salute To Coretta Scott King."
"Low-Fat Diet May Be Low In Benefit."

Houston Chronicle:
"Thousands Say Goodbye To King."
"Low Fats High Hopes Crumble In Study."
"Teen's Death Highlights Dangers Of 'Car Surfing'."
"Paper Attack Draws Fox's Wrath."

Story Lineup From Last Night's Network News:
ABC: King Widow's Funeral; AL Church Fires; Muslims-Cartoon Protests; Iraq-US KIAs; Haiti Elections; Low Fat Diet; Low Fat Diet-Analysis; January-Warm Weather; Identity Theft-Children; New Guinea-New Species; Atlanta-Police Pension Bias.
CBS: Coretta King Funeral; AL: Baptist Church Fires; Muslim Cartoon Protest; Iraq Violence; Radio Pay for Play; Ovarian Cancer Test.
NBC: Coretta King Funeral; AL: Baptist Church Fires; Muslim Cartoon Protests; UK: Al Masri Convicted; GM Budget Cuts; Torino Olympics; Low Fat Diet Study; NYC: Katrina Protest; Katrina-King.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: AL-church fires; King funeral; NM-Jennings ranch murders.
CBS: CA-wildfire; AL-church fires; RI-nightclub fire plea; Muslim cartoon riots; NHL-gambling ring; Wall Street.
NPR: King funeral; Rice-Livni meeting; GM-cost cutting plan; Foreign stock markets; TN-Bredesen budget; AL-church fires; RI-nightclub fire plea.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Meets with King of Jordan, Oval Office, pool at bottom; participates in signing of Deficit Reduction Omnibus Reconciliation Act of 2005, East Room, White House, open press.

VICE PRESIDENT CHENEY — No public schedule.

LAURA BUSH — Departs Andrews Air Force Base enroute Rome, Italy. Notes: Arrives at Ciampino Military Airport, Rome, Italy, shortly after midnight local time.

US Senate: FLOOR SCHEDULE _ 9:45 a.m. The Senate reconvenes.

9:30 a.m. ENVIRONMENT AND PUBLIC WORKS _ Full Committee. Confirmation hearing on pending nominations. Location: Room 628, Dirksen.

9:30 a.m. FOREIGN RELATIONS _ Full Committee. Hearing on Iraq stabilization and reconstruction. Stuart W. Bowen, Jr., Special Inspector General for Iraq Reconstruction; James Jeffrey, Senior Advisor to the Secretary and Coordinator for Iraq Policy, State Department; James R. Kunder, Assistant Administrator for Asia and the Near East, USAID; Joseph A. Christoff, Director, International Affairs and Trade, GAO. Location: Room 216, Hart.

9:30 a.m. INDIAN AFFAIRS _ Full Committee. Oversight hearing on Indian tribes and the Federal Election Campaign Act. Location: Room 106, Dirksen.

10 a.m. FINANCE _ Full Committee. Hearing on implementation of the new Medicare drug benefit. Mark McClellan, administrator, Centers for Medicare and Medicaid Services. Location: Room 215, Dirksen.

2 p.m. RULES AND ADMINISTRATION _ Full Committee. Hearing on bringing greater transparency to the legislative process, revision of lobbying rules. With Sen. John McCain; Sen. Russ Feingold, D-Wis; Sen. Norm Coleman, R-Minn.; Sen. Barack Obama, D-Ill.; James A. Thurber, Center for Congressional and Presidential Studies; Fred Wertheimer, Democracy 21; Al Swift, Colling Murphy Swift Hynes LLC; and Bob Hynes, Colling Murphy Swift Hynes. Location: Room 301, Russell.

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2:30 p.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Consumer Affairs, Product Safety and Insurance Subcommittee hearing on ``Protecting Consumers' Phone Records." Kris Montieth, Chief of Enforcement Bureau, FCC; Lydia Parnes, Director of the Bureau of Consumer Protection, FTC; Steve Largent, President, Cellular Telecommunications & Internet Association; Marc Rotenberg, Executive Director, Electronic Privacy Information Center; Robert Douglas, Chief Executive Officer, PrivacyToday.com; Cindy Southworth, Director of Technology & Director of the Safety Net Project, National Network to End Domestic Violence. Location: Room 562 Dirksen.

2:30 p.m. SELECT INTELLIGENCE _ Full committee. Closed meeting on weekly threat brief. No stakeout. Location: Room 219, Hart.

4:30 p.m. FOREIGN RELATIONS _ Full committee. Hearing on ambassadorial nominations. Janice L. Jacobs to be ambassador to the Republic of Senegal and to the Republic of Guinea-Bissau; and Jeanine E. Jackson to be ambassador to Burkina Faso. Location: Room 419, Dirksen.

US House: FLOOR SCHEDULE _ 2 p.m. Meets for legislative business. Highlights: Suspensions (6 bills): 1) H.R. 4054 - Dewey F. Bartlett Post Office Designation Act; 2) H.R. 4456 - Hattie Caraway Station Post Office Designation Act; 3) H.Res. 389 - Supporting the goals and ideals of The Year of the Museum; 4) H.Con.Res. 331 - Honoring the sacrifice and courage of the 12 coal miners killed and the stamina and courage of the one who survived the mine disaster in Sago, West Virginia, and the sacrifice and courage of the two coal miners killed in the Aracoma Alma mine disaster, and recognizing the rescue crews for their outstanding efforts in the aftermath of the tragedies; 5) H.Res. 660 - Supporting the goals and ideals of National Mentoring Month; 6) H.Res. 657 - Honoring the contributions of Catholic schools. Motion to go to Conference on H.R. 4297 - Tax Relief Extension Reconciliation Act of 2005, and Possible Democrat Motion to Instruct Conferees.

10 a.m. ARMED SERVICES _ Full Committee. Hearing on the FY07 defense authorization request. Defense Secretary Rumsfeld and Joint Chiefs of Staff Chairman Gen. Peter Pace. Location: Room 2118, Rayburn.

10 a.m. RESOURCES _ Water and Power Subcommittee. Hearing on pending legislation. Location: Room 1334, Longworth.

10 a.m. RESOURCES _ Forests and Forest Health Subcommittee and Energy and Mineral Resources Subcommittee. Joint hearing on the impact of high energy costs on jobs and the potential for expanding use of biomass for energy. Location: Room 1324, Longworth.

10 a.m. TRANSPORTATION AND INFRASTRUCTURE _ Subcommittee on Aviation. Oversight hearing on U.S.-E.U. Open Skies Agreement, with a focus on DOT's NPRM regarding ``actual control'' of U.S. air carriers. Location: Room 2167, Rayburn.

10:30 a.m. VETERANS AFFAIRS _ Full Committee. Hearing on the 2007 budget request. Secretary of Veterans Affairs Nicholson; and representatives of the American Legion, Veterans of Foreign Wars, Disabled American Veterans, Vietnam Veterans of America, others. Location: Room 334, Cannon House Office Bldg.

10:30 a.m. WAYS AND MEANS _ Full Committee. Hearing on the FY07 budget proposal. HHS Secretary Leavitt. Location: Room 1100, Longworth.

11 a.m. BUDGET _ Full Committee. Hearing on the FY07 budget. OMB Director Josh Bolten. Location: Room 210, Cannon.

12 p.m. INTERNATIONAL RELATIONS _ Subcommittee on Africa, Global Human Rights and International Operations. Hearing to examine the effects of Liberia's election on West Africa. Focus on U.S. support for restoring infrastructure and stimulating the Liberian economy. With Jendayi E. Frazer, Ph.D., Assistant Secretary, Bureau of African Affairs, US State Dept.; Lloyd Pierson, Assistant Administrator for Africa, U.S. Agency for Intl' Development; J. Peter Pham, Ph.D., Director, William R. Nelson Institute for International and Public Affairs, James Madison University; Vivian Lowery Derryck, Senior Vice President, Academy for Educational Development; and David Crane, former Chief Prosecutor Special Court for Sierra Leone. Location: Room 2172, Rayburn.

3:30 p.m. WAYS AND MEANS _ Full Committee. Hearing on the FY07 budget proposals. OMB Director Joshua Bolten. Location: Room 1100, Longworth.

Other: ISRAELI FOREIGN MINISTER ZIPI LIVNI _ Highlights: 11:50 a.m. Meets with Senate Majority Leader Bill Frist. Room S-230, Capitol. Note: Gallery escort from Ohio Clock Corridor leaves at 1:30 p.m. 3:15 p.m. Meets with members of the Senate Foreign Relations Committee. Room S-116, Capitol. Note" Set up outside S-116 begins at 2:15 p.m. Photo op at start of meeting. Stakeout follwos meeting.

KING ABDULLAH II OF JORDAN _ Highlights: 10:20 a.m. Meets with Senate Majority Leader Bill Frist. Room S-230, Capitol. Note: Escort to stage in Ohio Clock Corridor leaves at 10 a.m. Hand-held cameras only.

CARGO SECURITY _ 8:45 a.m. - 3 p.m. The Center for Strategic and International Studies holds a conference on cargo security and creation of a ``global green lane'' for safe commerce. Highlights: 9:30 a.m. Opening session, Congress and the Green Lane, with Sens. Patty Murray and Norm Coleman. 11 a.m. Session on Canada-U.S. cargo security project, with Raymond Gagnon of National Infrastructure Project, Louis Morneau of the Quebec Ministry of Public Security and Marcel Savard of the Quebec Provincial Police. 12:30 p.m. Luncheon speaker - Michael

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Schmitz, World Customs Organization. 2 p.m. Panel discussion on private sector perspectives on supply chain security, with Randy Koch of General Electric Security, Kevin Smith of General Motors and Joel Webber of Couri and Couri PLC. Location: B-1 conference level, 1800 K St. NW.

DEAN-UAW _ 8:30 a.m. Democratic National Committee Chairman Howard Dean addresses the United Auto Workers Community Action Program 2006 Legislative Conference. Location: Marriott Wardman Park Hotel, Marriott Ballroom 2660 Woodley Road NW.

CARBON POLICY _ 9 a.m. Two key Senate Energy Committee staff - Democratic Staff Director Bob Simon and Republican Professional Staff Member John Peschke -- are panelists at a discussion, ``The Changing Business Climate: Is It Time for a National Carbon Policy? Other speakers: Sen. Tom Carper, D-Del.; Sen. Lindsey Graham, R-S.C.; and James E. Rogers, Chairman and CEO, Cinergy; Robert E. Busch, President, PSEG Services Corp. Location: Columbus Club in Union Station.

ELECTION REFORM _ 9 a.m. - 12:30 p.m. The American Enterprise Institute and the Brookings Institute co-host an event on election reform through the AEI-Brookings Election Reform Project, the Brookings Institution and the American Enterprise Institute plan a collaborative effort extending through the 2008 presidential election to develop a bipartisan, practical national policy for election reform. Highlights: 9:15 a.m. Sen. Barack Obama, D-Ill. 10 a.m. Panel I: HAVA--How Is It Working? Panelists are Paul Degregorio, chairman, Election Assistance Commission; Doug Chapin, director, electionline.org; and Deb Markowitz, Vermont secretary of state. Moderator is Norman J. Ornstein, AEI. 11:15 a.m. Panel II: Election Reform--Looking Ahead. Panelists are Michael Alvarez, co-director, Cal-Tech/MIT Voting Technology Project; Richard Hasen, William H. Hannon Distinguished Professor of Law, Loyola Law School; Robert Pastor, executive director, Carter-Baker Commission; and Paul Vinovich, Committee on House Administration. Moderator is Brookings senior fellow Thomas Mann. Location: Falk Auditorium, Brookings Institution, 1775 Massachusetts Ave. NW.

ASBESTOS CLAIMS _ 10 a.m. Key opponents of the asbestos trust fund bill, S. 852, hold a press conference Wednesday on Capitol Hill to challenge recent claims made by supporters of the FAIR Act. Location: Sewall Belmont House, 144 Constitution Ave. NE.

EVANGELICALS-GLOBAL WARMING _ 10 a.m. Spokesmen for 86 evangelical leaders hold a news conference to discuss their declaration on global warming, including a call for legislation on emissions. Location: National Press Club.

GOP RETREAT _ 10 a.m. Pen and pad briefing on GOP Retreat coverage planning. Location: House studio.

TEXAS-MEXICO BORDER _ 10 a.m. Representative Henry Bonilla will lead a Texas Delegation meeting with more than 20 members of the Texas Border Sheriffs' Coalition. Location: Room 2362A, Rayburn House Office Building.

TELECOMMUNICATIONS ACT _ 10 a.m. - 11:30 a.m. The American Enterprise Institute (AEI) hosts a conference, ``The Tenth Anniversary of the Telecommunications Act of 1996: A Tough Act to Follow?," examining the effect the Telecommunications Act has had on the industry and what lessons the existing law holds for those writing new legislation. Highlights: 10 a.m. Introduction by FCC chairman Kevin Martin. 10:15 a.m. Panel with former Sen. Larry Pressler, R-S.D., and former Rep. Thomas Bliley, R-Va. Moderator is Karlyn Bowman, AEI. 11:15 a.m. Conlusion by former FCC commissioner Harold Furchtgott-Roth, author of ``A Tough Act to Follow: The Telecommunications Act of 1996 and the Separation of Powers." Location: Wohlstetter Conference Center, 12th floor, AEI 1150 17th St. NW.

ASBESTOS LEGISLATION _ 10:30 a.m. Senate Judiciary Committee Chairman Arlen Specter and Senators Mike DeWine and George Voinovich host a press conference with 76 advocates from 13 states here to promote the Fairness in Asbestos Injury Resolution Act (FAIR Act, S. 852). The group includes local small businessmen, veterans, seniors, labor unions and other victims advocates. Location: Room SD-226, Dirksen Senate Office Building.

PUBLIC WORKS-IRAQ _ 10:30 a.m. Nesreen Barwari, Minister for Municipalities and Public Works in Iraq, speaks on ``Building the New Iraq: Challenges and Opportunities in Establishing a Unity Government." Location: Woodrow Wilson International Center for Scholars, 6th Floor Board Room, Ronald Reagan Building, 1300 Pennsylvania Avenue NW.

BURNS-IRAN NUCLEAR _ 11 a.m. The Iran Working Group holds a briefing on to give an update on Iran's nuclear ambitions, with R. Nicholas Burns, Under Secretary of State for Political Affairs. Location: Room 1302, Longworth House Office Building.

HOYER _ 11 a.m. House Democratic Whip Rep. Steny Hoyer holds a pen and pad only briefing. Issues include the FY07 budget. Location: Room H-306, Capitol.

MARRIAGE _ 11 a.m. The Family Research Council and Marriage Savers host a family policy marriage panel discussion in celebration of the signing of the 200th Community Marriage Policy in Las Cruces, N.M. With Wade Horn, Assistant Secretary for Children and Families; Sen. Sam Brownback, R-Kansas; Tony Perkins, president, FRC; and others. Location: Family Research Council, 801 G St. NW.

NASCAR-BLACK COLLEGES _ 11 a.m. Rep. J. Dennis Hastert, R-Ill., Speaker of the House, will recognize the National Association for Stock Car Auto Racing (NASCAR) and its effort to diversify and create job

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opportunities for African Americans through a collaboration with Historically Black Colleges and Universities. Other participants are Rep. Mel Watt, D-N.C., chairman, Congressional Black Caucus; Rep. Mike Rogers, R-Ala.; former Rep. J.C. Watts, R-Okla., former House GOP Conference chairman; Mike Helton, president and CEO, NASCAR; and Alvin Brown, chairman, National Black MBA Association. Location: Garfield Circle, west side of the Capitol, near 1st Street and Maryland Ave. SW.

EU-MCCREEVY _ 12 p.m. EU Commissioner for Internal Market and Services Charles McCreevy discusses transatlantic capital markets and U.S.-EU challenges, sponsored by the U.S. Chamber of Commerce. Location: 1615 H St. NW.

STEROIDS-HIGH SCHOOL _ 12 p.m. Sports Illustrated holds a press conference to announce an initiative to prevent steroid and drug abuse among high school athletes. Participants include Secretary of Education Margaret Spellings, Sens. John McCain, R-Ariz., and Joe Biden, D-Del., and Rep. Tom Davis, R-Va. Location: National Press Club, First Amendment Room.

TRADE DEFICIT _ 12 p.m. In advance of Friday evening's release of the 2005 trade deficit figures, AFL-CIO Chief International economist Thea Lee will join Reps. Sherrod Brown, D-Ohio, and Walter B. Jones, R-N.C., at a press conference to highlight how they say our nation's trade policies led to a record trade deficit last year, and how that deficit is hurting American workers. Location: Room 122, Cannon House Office Building.

DEMOCRATS _ 12:30 p.m. The Democratic Policy Committee holds a closed meeting. Location: Room S-211, Capitol. Notes: Stakeout note: Gallery escort for policy luncheons leaves between 12:15-12:30 p.m. from the Ohio Clock Corridor.

REPUBLICANS _ 12:30 p.m. The Republican Policy Committee holds a closed meeting. Location: Room S-207, Capitol.

ENERGY-UNIVERSITIES _ 1 p.m. Energy Secretary Bodman speaks on the department's Science, Competitiveness and Energy initiatives to the Universities Research Association. Location: National Academies of Science, 2100 C St. NW.

MCCAIN-EARMARKS _ 1 p.m. Sen. John McCain, R-Ariz., holds a news conference on earmark reform. Location: Senate Gallery Studio.

WILSON-NSA SPYING _ 3:30 p.m. Rep. Heather Wilson, R-N.M., holds a press conference on NSA terrorist surveillance. Location: House Studio.

US-CHINA RELATIONS _ 5:30 p.m. The Johns Hopkins Paul H. Nitze School of Advanced International Studies (SAIS) hosts a forum, ``U.S. Congress: An Update on U.S.-China Relations," with Reps. Mark Kirk, R-Ill., and Rick Larsen, D-Wash., co-chairmen of the U.S.-China Working Group in Congress. Location: Kenney Auditorium, first floor, Nitze Building,1740 Massachusetts Ave. NW.

PRESS CLUB FOUNDATION _ 6:30 p.m. The Washington Press Club Foundation holds its 62nd annual Congressional Dinner. Guests are Senate Judiciary Committee Chairman Arlen Specter and House Minority Whip Steny Hoyer. Helen Dewar of the Washington Post will receive the annual lifetime achievement award. Location: Ritz-Carlton Hotel, 1150 22nd St. NW. Notes: NBC's Andrea Mitchell will emcee.

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Miller, Charles S

From: Miller, Charles S
Sent: Wednesday, February 8, 2006 10:55 AM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 2/8/06 Civil Division News

Judge Is Urged To Intervene For Detainee Held in Iraq

Lawyer of the lost - The US won't release the Chinese Muslims being held illegally at Guantanamo Bay. Sabin Willett can't let them go either

Evangels want in on Air Force suit

Natural Ovens resolves label suit - FDA pressed case after finding discrepancy in nutritional information

Court backs asylum for sect supporter

York manufacturer admits making false report in work for Army

New York Times (NY)

February 8, 2006

Judge Is Urged To Intervene For Detainee Held in Iraq

NEIL A. LEWIS

WASHINGTON, Feb. 7 Lawyers for a 44-year-old naturalized American citizen have been pressing a federal district judge to intervene in their client's case, saying that he had been arrested and held in Iraq for more than a year without being charged or given access to a lawyer.

But the Justice\l "l" Department\l "l", in its first formal response, said on Tuesday that the prisoner, Shawqi

Ahmad Omar, was not a businessman who was in Iraq simply looking for construction contracts, as his lawyers assert. He is, department officials said in a brief, a close associate of Abu Musab al-Zarqawi, the leader of Al Qaeda in Iraq, and he may be guilty of war crimes.

In its papers, the officials said that Mr. Omar had been captured in Baghdad harboring an Iraqi insurgent and four Jordanian foreign fighters who entered Iraq illegally and admitted that they went there to fight American forces.

The officials added that the Jordanians said that Mr. Omar was plotting to kidnap foreigners from Baghdad hotels, using his fluency in English gained during his years in the United States. The government said that when he was arrested, his house contained weapons and materials for making improvised bombs.

Mr. Omar's lawyers have asked Judge Ricardo M. Urbina to review his case, which they have asserted has resulted in wide-scale violations of the rights to which he is entitled as a United States citizen. They have also asked Judge Urbina to block any transfer of Mr. Omar to Iraqi government custody, which they said would be a ruse by the United States to avoid federal court jurisdiction.

The Justice\l "l" Department\l "l" argued that Mr. Omar was not in military custody, the basis under which his lawyers say a federal judge has jurisdiction over his case. The officials asserted that he was held by the Multi-National Force, a coalition of 27 nations that is assisting Iraq at the request of the United Nations.

To support that argument, the Justice\l "l" Department\l "l" included an affidavit from Maj. Gen. John D. Gardner, who describes himself as the commander of detainee operations for the multinational force. While there are, in fact, other nations represented in the military coalition in Iraq, the detention system run by the military in Baghdad is widely regarded as an essentially American-led system. General Gardner has been described regularly in news reports as commander of the American-managed detention system in Iraq.

Nonetheless, the case of Mr. Omar -- an American citizen arrested in Iraq by the military authorities -- presents a new situation for the courts, which are already grappling with several questions involving the conflict between national security interests and civil liberties. Courts have had to deal with issues involving American citizens arrested in the United States and Afghanistan and those held at Guantanamo Bay, Cuba, but Mr. Omar's case appears to be the first one before a federal court of an American citizen detained in Iraq.

Jonathan Hafetz of the Brennan Center for Justice at New York University, one of several American lawyers representing Mr. Omar, said before the government filing that "neither we nor his family know why he is being held." He added, "We're asking the court to provide him with the due process rights he is entitled to as an American citizen."

Mr. Hafetz said that Mr. Omar's wife had been told by American consular officials that her husband was to be transferred to Iraqi custody. "As an interim matter, we're trying to prevent any middle-of-the-night transfer to circumvent the federal court's jurisdiction," Mr. Hafetz said.

The lawsuit, which was filed against the secretary of the Army, is being brought in Mrs. Omar's name because her husband is unavailable to sign papers, the lawyers said.

The papers filed on Mrs. Omar's behalf say that her husband had gone to Iraq after the overthrow of Saddam Hussein in hope of obtaining contracts on reconstruction work. His lawyers say that Mr. Omar was born in Kuwait to Jordanian parents and he served in the Minnesota National Guard and became a citizen in 1986. The government said he retained his Jordanian citizenship as well.

END

Boston Globe
February 8, 2007

Lawyer of the lost - The US won't release the Chinese Muslims being held illegally at Guantanamo Bay. Sabin Willett can't let them go either.

By Bella English, Globe Staff

Most weekday mornings find Sabin Willett on the commuter train, headed in from Natick to his job as a partner and bankruptcy lawyer at the white-shoe firm Bingham McCutchen. He often wears the corporate uniform: tailored suit, white shirt, power tie, and he frequently has his Sony Vaio laptop open, jabbing at the keys -- he's had three novels published, to good reviews, and a fourth ready to go.

There's another Sabin Willett, the one who wears khakis, sleeps in 12-buck-a-night digs, eats military mush in the chow hall, and dodges banana rats and turkey buzzards in the steamy heat of Guantanamo Bay. He is representing indigent clients being held there by the US government, volunteering his time after reading newspaper accounts of the men's detention. "Gitmo," he says, using the base's nickname, "was not only revolting, it was illegal." He found his way to the Center for Constitutional Rights in New York, which steered him to the Uighur cases.

Like most Americans, Willett had never heard the word "Uighurs" -- he certainly couldn't spell it -- until he agreed to represent two of them. But he has quickly become an expert on the Chinese Muslims who "live in the part of the world that's always in the crease of the atlas when you open it up," as he puts it. He spent a recent week bunking in the Combined Bachelors' Quarters, visiting his clients on the base at the southern tip of Cuba. It was his fourth trip; during his first, in July, he found them in leg shackles chained to a bolt in the floor.

A tiny minority, the Uighurs (pronounced "WEE-gurs") have been oppressed by the Chinese government for decades. At least 15 of them are being held at Guantanamo. They're not terrorists; even the government agrees with that. They were simply in the wrong place at the wrong time -- Afghanistan and Pakistan in the weeks following Sept. 11, 2001, when American troops rounded up suspected terrorists and shipped them to the naval station. Willett's clients, he says, were waiting for visas en route to jobs in Turkey when the bombs began to fall.

The Uighurs are now in their fifth year of confinement, even though the US military has concluded that they are not "enemy combatants." In fact, a federal court in December found their imprisonment illegal. But US District Judge James Robertson in Washington, D.C., also said that he had no authority to release them, as they have nowhere to go.

"This indefinite imprisonment at Guantanamo Bay is unlawful," Robertson wrote. But he added: "The question in this case is whether the law gives me the power to do what I believe justice requires. The answer, I believe, is no." The judge said he could not order the men released into the United States because that would interfere with the immigration powers of the executive branch of government.

Which leaves them in geographical and legal limbo. They'd be persecuted if sent back to China, the Bush administration has refused to grant them asylum, and several countries have declined to accept them. Willett had asked for his clients to be sent to a small Uighur community outside of Washington, D.C., to no avail.

"It's heartbreaking from a legal perspective," says Willett, 48, who is appealing the decision. "It's a bizarre conclusion, to have a judge say the executive branch is acting illegally, but he can't do anything about it."

The sheer logistics of the case are frustrating, too. It took months for Willett to gain FBI clearance. Then he had to find an interpreter who speaks both English and Uighur. "There are like four of them in the world, and two of them are our translators," he says. And only one of the two has been fully cleared by the FBI to go to Guantanamo, which Willett's firm -- handling the cases pro bono -- pays for. Willett also

had to convince the suspicious Uighurs that he was indeed their attorney and not a government interrogator. Although his law firm is representing 12 Uighurs, attorneys have been allowed to see only two of them, because of red tape. Willett says the government keeps finding ways to delay, and a court has yet to rule on motions made by his law firm that would clarify the process of legal representation.

A sharp contrastWillett's experience in Guantanamo stands in stark contrast to his Boston practice. On Guantanamo, it took nine months to get a ruling from a judge. In bankruptcy court, he says, he can get a hearing on a day's notice and a decision shortly after. "People are well prepared, judges are smart, things go quickly. And it's just financial matters."

Dan Glosband, a partner at Goodwin Procter, has opposed Willett on several cases. On one such case, Willett came up with what Glosband calls a "creative" theory for a particular business transaction and convinced the jury he was right. "He is very capable and very well prepared," Glosband says.

Robin Phelan, a partner in Haynes and Boone of Dallas, has been on the other side of the courtroom from Willett, too. "He's good, a smart guy, he knows what he's doing." But Phelan says he's most jealous of Willett's sonorous voice: "It's like he went to central casting and said, 'Make me a litigator.' Even when he's talking total BS, it sounds good."

After graduating magna cum laude from Harvard, Willett worked as a reporter for a year, covering crime at The Greenville News, a daily paper in South Carolina. He returned to Harvard Law School, graduating cum laude, and then moved to Concord, N.H., to practice law. Like Greenville, that didn't last, either.

"I wanted to be a country gentleman," he says. "It didn't work out, so I came back to Boston."

Willett has always had one cause or another. In 1979, he gave the senior Latin dissertation at Harvard, lambasting the raising of the legal drinking age from 18 to 21. Happy hour for students, he complained, had been reduced to "milk and cookies," and the "Conscript Fathers of the Commonwealth of Massachusetts . . . have worked to banish Bacchus from our shady yard" while their own cups "runneth over."

He and his wife, Marta, have six children: his four and her two. When he's not working or writing his novels, he spends a lot of time at swim meets, where, his daughter Claire says, he also lugs his laptop. Though he writes arcane law journal articles such as "Bankruptcy Trial Tactics" and "The Shallows of Deepening Insolvency," fiction is his passion. Sometimes on the train he is so engrossed in writing that he'll miss his stop.

The first book, "The Deal," he calls a "shameless Grisham knockoff." The second, "The Betrayal," was a political thriller. His third, published in 2003, was a departure. "Present Value" is a devastatingly funny satire about the rich and powerful, about misplaced values and a society almost umbilically tethered to BlackBerries.

"Plastic dopeheads. Always ready for a fix -- reaching for an electronic mainline the moment an aircraft door opened or a conference flagged. . . . The Berry must be read, always and everywhere. In a restaurant, for example. On the train. In the Little League dugout while Johnny was leaning in for the sign. During dinner at home. In the FastLane approaching the Newton tolls. In a theater. . . . The prospect of an electronic message was more immediate, more vital, more interesting than whatever the poor human being in the room was saying."

No, Willett does not own a BlackBerry.

A financial bankruptcy is the device he uses in "Present Value" to plumb the moral bankruptcy of overpriced attorneys, greedy businessmen, incompetent politicians, uncaring shrinks, snooty suburbs, and pretentious private schools, a world where people are measured by their paycheck, their car, and their accessories. *"Even the kids have to have the $109 Patagonia backpack . . . while the $79.99 JanSport would do in a pinch."*

Claire Willett, 18, served as an adviser on the name brands that pepper the novel. "He's kind of clueless in the fashion world," she says. "He wears clogs like chefs wear, and the bag he carries is kind of a mess."

No wimpy wingtips for Willett -- he even wears the clogs to court. "I get a lot of heat for them, but they are comfortable," he says.

The law of warIn October, Willett gave a speech on Guantanamo at the Boston University School of Law. His opening remarks could have been plucked from one of his novels: *"The boots crunch across the gravel, and you hurry behind a young sailor. It is hot and so silent as to be a little eerie in this small, sterile camp, ringed by boxes with men in them. Nothing grows in here: no grass or flower or tree or even weed. You pass a cage, open to the sun, about 8 foot square, that contains a soccer ball, and which can't be someone's idea of an exercise yard -- can it?"*

Though his normal daily bread is debtors and creditors, convertible debentures and vulture investors, he has taken a crash course in habeas corpus, the law of war, and the Geneva Conventions. He has studied the Army Field Manual and other cases in the war on terror. He has researched the Uighurs and their plight in China.

"I want my flag back," he told the BU students. "If we care about being a civilized people, then it is precisely in times of fear that we have to hold fastest to our rule of law."

At Guantanamo, there are strict rules. Willett can bring papers, without staples. When he leaves the base, he must turn over all his notes to the Navy to be checked for classified information. He brought one of his clients a DVD of his children, but there was no TV to play it on, no newspapers or magazines -- despite the government's promise to supply such items to the Uighurs. Anything Willett takes in, he must leave with, including pictures of his client's children.

After meeting with the two men recently, he reports that they are "frustrated, very lonely, missing their families, trying to be resolute." In an affidavit he filed with the US Court of Appeals on his most recent trip to Guantanamo, he observed "in the demeanor, tone and conversation of the Appellants a more depressed affect than I have seen in earlier meetings."

Willett minces no words when discussing his opinion of the Bush administration's actions regarding Guantanamo detainees. "Knuckleheads" is one. "An administration with confidence would have the guts to say of course mistakes are made during war," he says.

Terry Henry, the lead government attorney on the cases, would not comment on the Guantanamo detainees.

During a recent forum sponsored by the Boston Bar Association, Willett stressed that Americans don't know and don't care about Guantanamo. "It applies to some vague group of people we can't see, far away."

But surely some of the 500 prisoners at Guantanamo are indeed members of Al Qaeda? Willett acknowledges there may be terrorists and criminals there. "But who knows? Where are the prosecutions, four years later?"

As a satirist, Sabin Willett finds irony everywhere. His Uighur clients live in "Camp Iguana" at the base. "There are actually iguanas that go in and out," he says. "If you were to hit an iguana with your jeep, it would cost you $10,000 under the Endangered Species Act." His point? "The iguanas have rights at Camp Iguana. My clients don't."

END

Colorado Springs Gazette

February 08, 2006

Evangels want in on Air Force suit

By TOM ROEDER THE GAZETTE

A Colorado Springs-based evangelical organization is expected to file court papers today asking to intervene in a lawsuit that charges the Air Force with religious intolerance.

The Air Force won't comment, but the National Association of Evangelicals says it has talked with government attorneys and is entering the case to defend the rights of evangelical chaplains.

"We have been in collaboration with the Air Force attorneys working on this case," said Kyle Fisk, executive administrator for the evangelical group. "It is the policy of the Air Force to remain neutral when it comes to intervention, but we believe we are doing the Air Force a service."

Ted Haggard, pastor of New Life Church in Colorado Springs, is president of the association. He was out of town and unavailable for comment.

Last fall, New Mexico resident Mikey Weinstein sued the Air Force, saying non-Christian cadets at the Air Force Acade- my face discrimination from evangelical Christians. His suit, which was joined by four Air Force officers, asks for an outright ban on uninvited proselytizing and evangelism throughout the service.

Tuesday, he said the intervention of the evangelical group, the second to ask to join on the Air Force's side, proves his point.

"I am thunderstruck that a branch of government would collaborate with fundamentalist Christians to convert members of the armed forces to evangelical Christianity," said Weinstein.

Fisk said there was nothing inappropriate about his group's routine talks with government attorneys and said the Air Force hasn't endorsed its actions. He said there has been no collaboration between his group and the Air Force to push Christian views.

"We simply are defending all people's faith and their right to free expression with their faith," Fisk said.

Federal District Judge James Parker has yet to rule on a similar request for intervention by the Alliance Defense Fund, a Christian legal group that wants to intervene on behalf of an academy chaplain.

Arguments on Alliance's motion to intervene have not been scheduled.

The Air Force, in court papers, didn't take a position on that intervention, and its Justice Department attorney, Andrew Tannenbaum, declined comment Tuesday on the move by Haggard's group.

Legal experts say the Air Force would probably be better off without Haggard's intervention.

Having evangelicals intervene in the suit could turn it into a broader debate about the public behavior of evangelical Christians, said Alan Wolfe, director of The Boisi Center for Religion and American Public Life at Boston College.

Wolfe said the Air Force would likely prefer for the whole thing to be disposed of quietly.

"I would think that the Air Force would prefer that this would be handled through outside legal channels," he said.

John Witte Jr., director of the Law and Religion Program at Emory University in Atlanta, said although religious organizations often make their views known in church-state dust-ups through “friend of the court” briefs, it’s extremely rare for them to try to jump into the lawsuit itself.

“I would think their intervention would be resisted” by the Air Force, Witte said.

Court papers show the Air Force is focusing on getting Weinstein’s lawsuit dismissed. The service says Weinstein can’t prove he’s been hurt by religious tolerance policies at the school.

Fisk said that although his group is also pulling for a dismissal, it wants to be heard if the case goes to trial.

“This goes beyond one chaplain and one military service,” he said. “What’s going on is a systemic attack on religious expression in the United States military.”

He said because the National Association of Evangelicals is the sponsoring religion of many military chaplains, it has a right to be heard in the case.

“We believe that chaplains need to be represented,” he said.

END

Manitowoc, WI, Herald Times

February 8, 2006

Natural Ovens resolves label suit - FDA pressed case after finding discrepancy in nutritional information

By Charlie Mathews
Herald Times Reporter and the Associated Press

MILWAUKEE — Natural Ovens Bakery Inc. of Manitowoc has agreed to change labels on its breads, muffins and bagels following a U.S. Department of Justice lawsuit alleging they were misleading.

The suit said tests showed that Golden Crunch Carb Conscious Bread, Golden Crunch Bagels, Carrot Nut Muffins, Gourmet Dinner Rolls and Paul's Oats had incorrect levels listed for certain ingredients.

The bread label, for example, listed 3 grams of net carbohydrates, but it actually had 7 grams, according to the suit.

"It makes it sound like we've done a lot of bad things but we haven't," said Barb Stitt on Tuesday. She is the president of the company founded by her husband, Paul Stitt, in 1976.

"When you are dealing with whole grain natural products, it is difficult to have the measurements come out the same every time," Stitt said. "Nothing has been done that has harmed a single person."

The Food and Drug Administration inspected Natural Ovens in March and sampled eight products, according to the suit.

It said the agency gave the company a report with test results in April, but misleading claims still were on the products as of September.

The FDA also took Natural Ovens to task last year for marketing three foods with a "Pain Prevention

Program" brochure, telling it the product claims made them subject to classification as new drugs that needed FDA approval.

The suit says Natural Ovens failed to heed the FDA's warnings and continued to promote the products with illegal claims.

"The stunning thing is there are junk foods out there that are loaded with corn syrup, contribute to diabetes and various things but that seems to be approved," Barb Stitt said.

"We are making all natural foods with no refined sugars, no trans fats, and no refined white flour," she said.

Stitt acknowledged the manufacturers of what she labeled as junk foods don't make claims their products are healthy.

"We weren't aware we were making any claims," she said. But information in Natural Ovens' newsletters, on its Web site and in books authored by the Stitts are considered to be part of label information by the FDA, Stitt said.

Chelle Blaszczyk, marketing manager for Natural Ovens, said the company worked out an agreement with the government to settle the suit. A consent decree was filed Friday in U.S. District Court in Milwaukee.

The company has hired a Washington, D.C., law firm to review all label claims for compliance with FDA regulations, and a laboratory in Minneapolis will do product analysis testing to make sure ingredient calculations are correct, Blaszczyk said.

END

San Francisco Chronicle (CA)

February 8, 2006

Court backs asylum for sect supporter

Bob Egelko

A Bay Area woman who faced arrest in her native China for bringing in foreign newspaper articles critical of the government's treatment of the Falun Gong spiritual movement is eligible for political asylum, a federal appeals court ruled Tuesday.

Ling Zhou was not a member of the outlawed group, but would risk persecution if deported to China because she would be viewed as a supporter of "a perceived anti-governmental movement," said the Ninth U.S. Circuit Court of Appeals in San Francisco. In a 3-0 ruling, the court said her likely punishment would be "re-education through labor" and as much as three years in prison.

The ruling is important because the court recognized that "the persecution of Falun Gong extends to sympathizers and supporters," said Chung Phang, a lawyer for Zhou.

The Chinese Consulate did not respond to a request for comment. Falun Gong, which incorporates aspects of Eastern religions with meditation and breathing exercises, was banned by China in 1999 as a dangerous cult.

Zhou, who now lives in Fremont, had a supervisory job with a software company in the central Chinese city of Guangzhou in May 2000 when she met a former college classmate, Yung Su, who was a Falun

Gong practitioner. At Su's request, the next time Zhou took one of her regular business trips to Singapore, she brought back about 20 newspaper articles attacking China's crackdown on Falun Gong, the court said.

Zhou left later that month on a trip to the United States and soon learned that police had been to her home and her parents' home, had summoned her brother for questioning and had arrested Su. Zhou has since learned that her mother was taken away by security officers about a year ago and has not resurfaced, Phang said.

She remained in the United States and applied for asylum, but was turned down by immigration\l "l" judges\l "l", who decided that she lacked credibility and that she faced criminal prosecution, not political persecution, if returned to China. The appeals court disagreed and said the Chinese government's opposition to Falun Gong and its supporters is political.

END

Patriot-News, The (Harrisburg, PA) (KRT)

February 8, 2006

York manufacturer admits making false report in work for Army

John Beauge

The Patriot-News, Harrisburg, Pa.

Feb. 8--WILLIAMSPORT -- A York company has pleaded guilty in federal court to making false statements to the Army in 2001 about tests of air-conditioning units for Patriot missile shelters.

WEDJ/Three Cs Inc. entered the plea before U.S. Middle District Senior Judge James F. McClure Jr., who deferred sentencing until May. The government and WEDJ had agreed earlier that a $100,000 fine would be sufficient punishment.

Terms of the settlement of a companion civil suit, in which the government is seeking more than $4.6 million from WEDJ, should be filed with the court soon, McClure was told.

A document filed in conjunction with the guilty plea states that WEDJ proposes to pay the government $840,000 and return to the Army certain parts that were purchased for $170,404 as part of the contract to make the equipment.

Keith A. Zimmerman, the whistle-blower who alerted the government to what the company did, has indicated he plans to contest the settlement because he believes he should be rewarded monetarily, Assistant U.S\l "l". Attorney\l "l" Bruce Brandler said.

The criminal and civil cases relate to a 1998 contract WEDJ had with the Army to design, manufacture and deliver about 180 environmental-control units to cool Patriot missile shelters in the desert to prevent damage to computers.

The first six units failed tests conducted by the company, but the late Vincent Bertucci, then general manager at WEDJ, had others falsify documents to show they passed, Brandler said.

As a result of the false report that WEDJ certified and sent to the Army, three units were shipped and ultimately malfunctioned, the prosecutor said.

The Army had paid WEDJ $851,000 by the time it canceled the contract in June 2002, Brandler said. Of that, $500,000 was paid after the false report was submitted, he said.

George Cooper, 88, the vice president of WEDJ, agreed with Brandler's description of what occurred.

The civil suit claims WEDJ used reconditioned parts, falsified purchase orders and certificates of compliance and failed to document substitution of parts for those that failed during testing.

Besides WEDJ, other defendants named in the lawsuit are CEO Neil R. Tucker, United Cool Air Corp. of the same York address, chief engineer James Morrison and Bertucci.

END

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Wednesday, February 08, 2006 6:51 PM
To: Gorsuch, Neil M
Subject: Fw: Senators letters
Attachments: Sen Kerry letter.pdf; Sen Reid,Durbin,Stabenow & Schumer.pdf

I assume AG received the same. How is DOJ handling?

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted] DoD OGC <[redacted]@dodgc.osd.mil>
To: [redacted] DoD OGC <[redacted]@dodgc.osd.mil>
Sent: Tue Feb 07 15:20:10 2006
Subject: Senators letters

<<Sen Kerry letter.pdf>> <<Sen Reid,Durbin,Stabenow & Schumer.pdf>>

JOHN KERRY
MASSACHUSETTS

COMMITTEES:
COMMERCE, SCIENCE, AND TRANSPORTATION
FINANCE
FOREIGN RELATIONS
SMALL BUSINESS

United States Senate

WASHINGTON, DC 20510-2102

OFFICE OF THE SECRETARY OF DEFENSE
2006 FEB -1 PM 2:54

January 20, 2006

The Honorable Donald Rumsfeld
Secretary
U.S. Department of Defense
The Pentagon
Room 3E880
Washington, D.C. 20301

Dear Secretary Rumsfeld:

I am writing to request that you release a detailed list of all contacts between officials in your agency and Jack Abramoff, his associates, and the clients he represented between January 20, 2001, and today. I also request an explanation of any changes in federal policy based on those contacts. This is not the first request seeking the release of these records, and the resistance to these requests is troubling to the American people.

As you are aware, Mr. Abramoff has recently pleaded guilty to conspiracy, mail fraud and tax evasion charges related to his attempts to influence federal government policy in both the Congress and the Executive Branch. The Justice Department is currently investigating this influence-peddling scandal. Published reports show that Bush Administration officials have met with Mr. Abramoff approximately 200 times.

I strongly believe that Members of Congress and all federal employees must be held to the highest ethical standards. As the Congress considers legislation to reform federal ethics laws, we must know the extent to which lobbyists like Mr. Abramoff affect federal policy in both the Congress and the Executive Branch. That is why, during the 2004 Presidential campaign, I released the names of lobbyists I met with during my time in the Senate.

As part of that process, it is critical for the Congress to know about each contact that Mr. Abramoff has had with officials in your agency and whether any of those contacts led to any changes in federal policy. This information will help determine what additional changes to our ethics laws are necessary to stop lobbyists and others from using undue and improper influence in their dealings with the federal government.

I am deeply disappointed that the Bush Administration has repeatedly failed to provide any substantive information regarding its interactions with Mr. Abramoff. Refusing to disclose this information is completely inconsistent with the high ethical

email: john_kerry@kerry.senate.gov
www: http://www.senate.gov/~kerry/

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OSD 01641-06

standards that the American people expect and deserve. I respectfully request that this information be made public immediately.

Thank you in advance for your consideration of this request.

Sincerely,

John F. Kerry

United States Senate

OFFICE OF THE
SECRETARY OF DEFENSE

2006 JAN 31 PM 2:02

January 19, 2006

The Honorable Donald Rumsfeld
Secretary
Department of Defense
1000 Defense
The Pentagon
Washington, D.C. 20301-1000

Dear Secretary Rumsfeld:

On Tuesday, we sent a letter to President Bush asking that he and officials within his Administration detail whatever contact they might have had with Jack Abramoff. Scott McClellan announced that the White House would not provide this information, despite earlier assurances. Therefore, we have no choice but to ask you these questions directly.

As we are sure you are aware, the Justice Department is currently investigating the web of corruption surrounding lobbyist Jack Abramoff. Even at this early stage of the investigation, concerns have been raised that Mr. Abramoff may have had undue and improper influence within the highest levels of the Bush Administration and even the White House itself. Such accusations serve to undermine the credibility of this Administration and our government at large -- even before any indictments or convictions. As a result, it is crucial that the American people know what role, if any, Mr. Abramoff played in the highest levels of our government.

As more and more Republican officials in and out of Congress are implicated in this scandal, it has become increasingly important that the record be cleared and that any contact you or others in the Administration have had with Mr. Abramoff be fully explained to the American people. For this reason, we urge you to publicly and immediately detail all of your personal contacts with Mr. Abramoff during your time with the Bush Administration. If you know of others in the Administration who have had such contacts, please disclose those contacts as well. Please also detail any official acts that have been undertaken on behalf of or at the request of Mr. Abramoff. Perhaps there are no contacts to reveal, no favors that have been given. We hope that is the case. But it is important to set the record straight, one way or the other.

Additionally, we believe is it imperative that you reveal any involvement in the "K Street Project," the initiative launched in recent years by Republicans close to this Administration who have worked hard to increase the ties between lobbyists like Jack Abramoff and Republican elected officials.

OSD 01544-06

DOJ_NMG_0013497

We urge you to respond to this letter and help shed some light on what has happened between Mr. Abramoff and this Administration. We look forward to your response.

Sincerely,

Harry Reid
United States Senator

Dick Durbin
United States Senator

Debbie Stabenow
United States Senator

Charles E. Schumer
United States Senator

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, February 8, 2006 7:27 PM
To: Beach, Andrew
Cc: [redacted]@gmail.com'
Subject: FW: Senators letters
Attachments: Sen Kerry letter.pdf; Sen Reid,Durbin,Stabenow & Schumer.pdf

Andy - Do you know who is handling DOJ responses to these sort of letters? I'd like to be able to tell [redacted] with whom he can coordinate. Thanks. NMG

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto [redacted]@dodgc.osd.mil]
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JOHN KERRY
MASSACHUSETTS

COMMITTEES:
COMMERCE, SCIENCE, AND TRANSPORTATION
FINANCE
FOREIGN RELATIONS
SMALL BUSINESS

United States Senate

WASHINGTON, DC 20510-2102

OFFICE OF THE SECRETARY OF DEFENSE
2006 FEB -1 PM 2:54

January 20, 2006

The Honorable Donald Rumsfeld
Secretary
U.S. Department of Defense
The Pentagon
Room 3E880
Washington, D.C. 20301

Dear Secretary Rumsfeld:

I am writing to request that you release a detailed list of all contacts between officials in your agency and Jack Abramoff, his associates, and the clients he represented between January 20, 2001, and today. I also request an explanation of any changes in federal policy based on those contacts. This is not the first request seeking the release of these records, and the resistance to these requests is troubling to the American people.

As you are aware, Mr. Abramoff has recently pleaded guilty to conspiracy, mail fraud and tax evasion charges related to his attempts to influence federal government policy in both the Congress and the Executive Branch. The Justice Department is currently investigating this influence-peddling scandal. Published reports show that Bush Administration officials have met with Mr. Abramoff approximately 200 times.

I strongly believe that Members of Congress and all federal employees must be held to the highest ethical standards. As the Congress considers legislation to reform federal ethics laws, we must know the extent to which lobbyists like Mr. Abramoff affect federal policy in both the Congress and the Executive Branch. That is why, during the 2004 Presidential campaign, I released the names of lobbyists I met with during my time in the Senate.

As part of that process, it is critical for the Congress to know about each contact that Mr. Abramoff has had with officials in your agency and whether any of those contacts led to any changes in federal policy. This information will help determine what additional changes to our ethics laws are necessary to stop lobbyists and others from using undue and improper influence in their dealings with the federal government.

I am deeply disappointed that the Bush Administration has repeatedly failed to provide any substantive information regarding its interactions with Mr. Abramoff. Refusing to disclose this information is completely inconsistent with the high ethical

email: john_kerry@kerry.senate.gov
www: http://www.senate.gov/~kerry/

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OSD 01641-06

standards that the American people expect and deserve. I respectfully request that this information be made public immediately.

Thank you in advance for your consideration of this request.

Sincerely,

John F. Kerry

United States Senate

OFFICE OF THE
SECRETARY OF DEFENSE

2006 JAN 31 PM 2:02

January 19, 2006

The Honorable Donald Rumsfeld
Secretary
Department of Defense
1000 Defense
The Pentagon
Washington, D.C. 20301-1000

Dear Secretary Rumsfeld:

On Tuesday, we sent a letter to President Bush asking that he and officials within his Administration detail whatever contact they might have had with Jack Abramoff. Scott McClellan announced that the White House would not provide this information, despite earlier assurances. Therefore, we have no choice but to ask you these questions directly.

As we are sure you are aware, the Justice Department is currently investigating the web of corruption surrounding lobbyist Jack Abramoff. Even at this early stage of the investigation, concerns have been raised that Mr. Abramoff may have had undue and improper influence within the highest levels of the Bush Administration and even the White House itself. Such accusations serve to undermine the credibility of this Administration and our government at large -- even before any indictments or convictions. As a result, it is crucial that the American people know what role, if any, Mr. Abramoff played in the highest levels of our government.

As more and more Republican officials in and out of Congress are implicated in this scandal, it has become increasingly important that the record be cleared and that any contact you or others in the Administration have had with Mr. Abramoff be fully explained to the American people. For this reason, we urge you to publicly and immediately detail all of your personal contacts with Mr. Abramoff during your time with the Bush Administration. If you know of others in the Administration who have had such contacts, please disclose those contacts as well. Please also detail any official acts that have been undertaken on behalf of or at the request of Mr. Abramoff. Perhaps there are no contacts to reveal, no favors that have been given. We hope that is the case. But it is important to set the record straight, one way or the other.

Additionally, we believe is it imperative that you reveal any involvement in the "K Street Project," the initiative launched in recent years by Republicans close to this Administration who have worked hard to increase the ties between lobbyists like Jack Abramoff and Republican elected officials.

OSD 01544-06

DOJ_NMG_0013502

We urge you to respond to this letter and help shed some light on what has happened between Mr. Abramoff and this Administration. We look forward to your response.

Sincerely,

Harry Reid
United States Senator

Dick Durbin
United States Senator

Debbie Stabenow
United States Senator

Charles E. Schumer
United States Senator

Beach, Andrew

From: Beach, Andrew
Sent: Thursday, February 09, 2006 8:03 AM
To: Gorsuch, Neil M
Cc: [redacted]@gmail.com'
Subject: RE: Senators letters

I would guess that OLA would be tasked with preparing a response to such a letter from a Member of Congress. I haven't seen any similar letters come through here. It's not a FOIA request so doubt that the privacy office folks would be involved.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, February 08, 2006 7:27 PM
To: Beach, Andrew
Cc: [redacted]@gmail.com'
Subject: FW: Senators letters

Andy - Do you know who is handling DOJ responses to these sort of letters? I'd like to be able to tell [redacted] with whom he can coordinate. Thanks. NMG

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto [redacted]@dodgc.osd.mil]
Sent: Wednesday, February 08, 2006 6:51 PM
To: Gorsuch, Neil M
Subject: Fw: Senators letters

I assume AG received the same. How is DOJ handling?

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted] DoD OGC <[redacted]@dodgc.osd.mil>
To: [redacted] DoD OGC <[redacted]@dodgc.osd.mil>
Sent: Tue Feb 07 15:20:10 2006
Subject: Senators letters

<<Sen Kerry letter.pdf>> <<Sen Reid,Durbin,Stabenow & Schumer.pdf>>

[redacted]@judiciary-rep.senate.gov

From:	[redacted]@judiciary-rep.senate.gov
Sent:	Thursday, February 9, 2006 11:29 AM
To:	Gorsuch, Neil M
Subject:	FW: versions of the Graham amendment
Attachments:	tmp.htm; Graham Am No. 2515.pdf; Graham Am No. 2516.pdf; S. 1088.pdf

Fyi. Just want to keep you in the loop.

From: [redacted] (Judiciary)
Sent: Thursday, February 09, 2006 11:28 AM
To: [redacted]@bakerbotts.com'
Subject: versions of the Graham amendment

[redacted] attached is the base Graham amendment filed on Nov. 10, number 2515, and the perfecting amendment filed the same day, number 2516, as they appeared in the record. The perfecting amendment makes only one change, adding a new sentence at the very end. Levin voted against the perfecting amendment adding the effective-date language. (Conveniently, the record of that vote appears in the record on the same page as amendment number 2516.)

If you want to get into deep leg history, the text and structure of the Graham amendment were borrowed from S.1088, a habeas reform package that Sen. Kyl introduced in May. (A copy is attached.) The "no court, justice, or judge shall have jurisdiction" language is borrowed from S.1088, as is the effective date language of "shall apply to cases pending on or after." S.1088 was not a pure jurisdiction ousting amendment - many of its parts simply create new standards, and are not jurisdictional in nature. Thus in S.1088, it was necessary to expressly apply the new standards to pending claims. Also, where S.1088 bars new claims, it is designed to force their dismissal or rejection, not to force litigants to reformulate the claims. You could argue that the original Graham amendment's language was borrowed from S.1088, but that upon further reflection it became clear to Graham and Kyl that S.1088's "applying to" language was not really appropriate for the Graham amendment for the reasons previously noted - i.e., there is no ambiguity about the effect of pure jurisdiction removal on pending claims, and Graham and Kyl wanted to effect reformulation of the pending claims, not their outright dismissal.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. The group that is working on the Kerry amendment, with the proposed Roberts-Rockefeller second degree, is working diligently, but it is important that we continue on the bill. At this time, I ask unanimous consent that the amendment by the Senator from Massachusetts be laid aside and that the Senator from South Carolina be recognized for the purpose of offering an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Is it my understanding that upon the disposition of the next amendment, this will be the pending business?

Mr. WARNER. That can easily be arranged.

Mr. KERRY. Can we have that?

Mr. WARNER. I so ask.

The PRESIDING OFFICER. That will be the order pending further action of the body.

Mr. WARNER. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENT NO. 2515

Mr. GRAHAM. Mr. President, I call up amendment No. 2515 which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for himself, Mr. KYL, and Mr. CHAMBLISS, proposes an amendment numbered 2515.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Relating to the review of the status of detainees of the United States Government)

At the end of subtitle G of title X, add the following:

SEC. ___. REVIEW OF STATUS OF DETAINEES.

(a) SUBMITTAL OF PROCEDURES FOR STATUS REVIEW OF DETAINEES AT GUANTANAMO BAY, CUBA.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report setting forth the procedures of the Combatant Status Review Tribunals and the noticed Administrative Review Boards in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay.

(b) PROCEDURES.—The procedures submitted to Congress pursuant to subsection (a) shall, with respect to proceedings beginning after the date of the submittal of such procedures under that subsection, ensure that—

(1) in making a determination of status of any detainee under such procedures, a Combatant Status Review Tribunal or Administrative Review Board may not consider statements derived from persons that, as determined by such Tribunal or Board, by the preponderance of the evidence, were obtained with undue coercion; and

(2) the Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advice and consent of the Senate.

(c) REPORT ON MODIFICATION OF PROCEDURES.—The Secretary of Defense shall submit to the committees of Congress referred to in subsection (a) a report on any modification of the procedures submitted under subsection (a) not later than 30 days before the date on which such modifications go into effect.

(d) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

(1) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

''(e) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien outside the United States (as that term is defined in section 101(a)(38) of the Immigration and Naturalization Act (8 U.S.C. 1101(a)(38)) who is detained by the Department of Defense at Guantanamo Bay, Cuba.''.

(2) CERTAIN DECISIONS.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any decision of a Designated Civilian Official described in subsection (b)(2) that an alien is properly detained as an enemy combatant.

(B) LIMITATION ON CLAIMS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the procedures and standards specified by the Secretary of Defense for Combatant Status Review Tribunals.

(D) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to any application or other action that is pending on or after the date of the enactment of this Act. Paragraph (2) shall apply with respect to any claim regarding a decision covered by that paragraph that is pending on or after such date.

Mr. GRAHAM. Mr. President, will you notify me when I have used 15 minutes of the time?

The PRESIDING OFFICER. The Chair will so notify the Senator.

Mr. GRAHAM. Mr. President, this whole debate we are having now with Senator KERRY, what we did with Senator MCCAIN's amendment earlier, and what I am trying to do, is a healthy debate about where we are going as a nation, how we prosecute the war on terror, and what kind of value set we are going to adopt.

One thing we need to understand as a nation and we need to understand in the Senate, in my opinion, is that the attack of 9/11 was an act of war. It was not a criminal enterprise. That is an important statement to make. Every Senator needs to understand in their own mind: Was 9/11 and were those who planned it and those who blew up the people in Jordan yesterday common criminals or are these people engaged in acts of terrorism and war? Let it be said clearly, in my opinion, that the United States is at war with al-Qaida and associate groups, and we have been since 9/11.

When a country such as the United States is at war, we have a rich tradition of following the law of armed conflict, of living up to the Geneva Conventions and all other international treaties that regulate the conduct of war. We have a moral imperative as a nation not to lose our way in fighting this war. Using tactics of one's enemy is no excuse in defeating one's enemy.

It is clear to me from Abu Ghraib backward, forward, and other things we know about that at times we have lost our way in fighting this war. What we are trying to do in a series of amendments is recapture the moral high ground and provide guidance to our troops. That is why Senator MCCAIN's amendment, which I cosponsored, is so important, and it passed by voice vote.

The McCain amendment requires standardization of interrogation techniques when it comes to people in our charge, not as criminal defendants but as enemy combatants, people detained on the battlefield, POWs. It requires the Army Field Manual, not the United States Code, to be changed in a way to give our troops the guidance they need as to what is in bounds and out of bounds when it comes to interrogating prisoners. It is important that we get good information. It is equally important that we not lose our value set in obtaining that information.

Senator MCCAIN has two things in his amendment that we desperately need. It standardizes interrogation techniques for the military, dealing with people who are part of this war, our enemies, and it also makes a statement to every other agency in the Government that you are going to treat people humanely if they are captured under your charge as part of fighting this war.

Guantanamo Bay is a place we have designated to take people off the battlefield and hold them, and the determinations that go on at Guantanamo Bay fall into two categories. Some can be prosecuted for violations of the law of war, not criminal violations in

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Relating to the review of the status of detainees of the United States Government)

Strike all after the word SEC.

____. REVIEW OF STATUS OF DETAINEES.

(a) SUBMITTAL OF PROCEDURES FOR STATUS REVIEW OF DETAINEES AT GUANTANAMO BAY, CUBA.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report setting forth the procedures of the Combatant Status Review Tribunals and the noticed Administrative Review Boards in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay.

(b) PROCEDURES.—The procedures submitted to Congress pursuant to subsection (a) shall, with respect to proceedings beginning after the date of the submittal of such procedures under that subsection, ensure that—

(1) in making a determination of status of any detainee under such procedures, a Combatant Status Review Tribunal or Administrative Review Board may not consider statements derived from persons that, as determined by such Tribunal or Board, by the preponderance of the evidence, were obtained with undue coercion; and

(2) the Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advice and consent of the Senate.

(c) REPORT ON MODIFICATION OF PROCEDURES.—The Secretary of Defense shall submit to the committees of Congress referred to in subsection (a) a report on any modification of the procedures submitted under subsection (a) not later than 30 days before the date on which such modifications go into effect.

(d) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

(1) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

''(e) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien outside the United States (as that term is defined in section 101(a)(38) of the Immigration and Naturalization Act (8 U.S.C. 1101(a)(38)) who is detained by the Department of Defense at Guantanamo Bay, Cuba.''.

(2) CERTAIN DECISIONS.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any decision of a Designated Civilian Official described in subsection (b)(2) that an alien is properly detained as an enemy combatant.

(B) LIMITATION ON CLAIMS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the procedures and standards specified by the Secretary of Defense for Combatant Status Review Tribunals.

(D) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to any application or other action that is pending on or after the date of the enactment of this Act. Paragraph (2) shall apply with respect to any claim regarding a decision covered by that paragraph that is pending on or after such date.

This section shall become effective 1 day after enactment.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Debate is equally divided on the amendment. Is there further debate?

Mr. BINGAMAN. Mr. President, let me speak briefly in opposition to this amendment.

This amendment contains a provision that I think is a very major mistake. It essentially denies all courts anywhere the right to consider any petition from any prisoner being held at Guantanamo Bay. In my view, it is contrary to the way the court decisions have come down already. It is an extraordinary step for this Congress to be taking as an amendment to the Defense bill. This is an issue that should be dealt with in the Judiciary Committee. Senator SPECTER has spoken against the amendment. Senator LEVIN has spoken against the amendment. Senator LEAHY has spoken against the amendment. It is something that requires hearings. It is a very important issue, and we should not be dealing with it here on a late evening on Thursday as part of this authorization bill.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from South Carolina.

Mr. GRAHAM. Mr. President, we need to standardize our interrogation techniques because we have lost our way. We need to make a statement we are not going to treat people poorly during our charge. For 200 years in the law of armed conflict, no nation has given an enemy combatant, a terrorist, al-Qaida member the ability to go into every Federal court in the United States and sue the people who are fighting the war for us. There are 160 habeas corpus petitions being filed against Guantanamo Bay detention.

Let me read what one of them is saying, a motion by a high-level al-Qaida detainee complaining about basic security procedures: Speed of mail delivery, medical treatment, seek an order to be transferred to the least onerous condition at Gitmo, and asking the court to order Gitmo to allow him to keep any books and reading material sent to him, and report to the court on his opportunities for exercise, communication, recreation, and worship.

The Nazis couldn't go to a Federal court when we had them in our charge as prisoners of war. Never in the history of armed conflict has this been allowed.

Let us stand up for our troops in a reasonable way, protect them from abuses, and protect them from the court suits filed by the people they are fighting.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Wyoming (Mr. ENZI), the Senator from Nebraska (Mr. HAGEL), the Senator from Indiana (Mr. LUGAR), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Wyoming (Mr. THOMAS).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted ''yea.''

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 42, as follows:

[Rollcall Vote No. 319 Leg.]

YEAS—49

Allard	DeMint	McCain
Allen	DeWine	McConnell
Bennett	Dole	Murkowski
Bond	Ensign	Nelson (NE)
Brownback	Frist	Roberts
Bunning	Graham	Sessions
Burns	Grassley	Shelby
Burr	Gregg	Snowe
Chambliss	Hatch	Stevens
Coburn	Hutchison	Talent
Cochran	Inhofe	Thune
Coleman	Isakson	Vitter
Collins	Kyl	Voinovich
Conrad	Landrieu	Warner
Cornyn	Lieberman	Wyden
Craig	Lott	
Crapo	Martinez	

NAYS—42

Akaka	Dodd	Leahy
Baucus	Dorgan	Levin
Bayh	Durbin	Lincoln
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Harkin	Nelson (FL)
Byrd	Jeffords	Obama
Cantwell	Johnson	Pryor
Carper	Kennedy	Reed
Chafee	Kerry	Reid
Clinton	Kohl	Rockefeller
Dayton	Lautenberg	Salazar

109TH CONGRESS
1ST SESSION

S. 1088

To establish streamlined procedures for collateral review of mixed petitions, amendments, and defaulted claims, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 19, 2005

Mr. KYL introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To establish streamlined procedures for collateral review of mixed petitions, amendments, and defaulted claims, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Streamlined Procedures Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Mixed petitions.
Sec. 3. Amendments to petitions.
Sec. 4. Procedurally defaulted claims.
Sec. 5. Tolling of limitation period.

Sec. 6. Harmless error in sentencing.
Sec. 7. Unified review standard.
Sec. 8. Appeals.
Sec. 9. Capital cases.
Sec. 10. Clemency and pardon decisions.
Sec. 11. Ex parte funding requests.
Sec. 12. Crime victims' rights.
Sec. 13. Technical corrections.
Sec. 14. Application to pending cases.

SEC. 2. MIXED PETITIONS.

Section 2254(b) of title 28, United States Code, is amended—

(1) in paragraph (1), by striking subparagraphs (A) and (B) and inserting the following:

''(A) the applicant—

''(i) has exhausted the remedies available in the courts of the State by fairly presenting and arguing the specific Federal basis for each claim in the State courts; and

''(ii) has described in the application how the applicant has exhausted each claim in the State courts; or

''(B)(i) the application presents a claim for relief that would qualify for consideration on the grounds described in subsection (e)(2); and

''(ii) the denial of such relief is contrary to, or would entail an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States.''; and

(2) by adding at the end the following:

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"(4) Any unexhausted claim that does not qualify for consideration on the grounds described in this subsection shall be dismissed with prejudice.".

SEC. 3. AMENDMENTS TO PETITIONS.

(a) IN GENERAL.—Section 2244 of title 28, United States Code, is amended by adding at the end the following:

"(e)(1) An application for a writ of habeas corpus may be amended once as a matter of course before the earlier of the date on which an answer to the application is filed or the expiration of the 1-year period described in subsection (d).

"(2) Except as provided under paragraph (1), an application may not be amended to modify existing claims or to present additional claims, unless the modified or newly presented claims would qualify for consideration on the grounds described in subsection (b)(2).".

(b) CONFORMING AMENDMENT.—Section 2242 of title 28, United States Code, is amended in the third undesignated paragraph by striking "in the rules of procedure applicable to civil actions" and inserting "under section 2244(e)".

SEC. 4. PROCEDURALLY DEFAULTED CLAIMS.

(a) IN GENERAL.—Section 2254 of title 28, United States Code, is amended—

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(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by adding after subsection (g) the following:

''(h)(1) A court, justice, or judge shall not have jurisdiction to consider an application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court with respect to any claim that was found by the State court to be procedurally barred, or any claim of ineffective assistance of counsel related to such claim, unless—

''(A) the claim would qualify for consideration on the grounds described in subsection (e)(2); or

''(B) the State, through counsel, expressly waives the provisions of this paragraph.

''(2)(A) A court, justice, or judge shall not have jurisdiction to consider any claim that the State court denies on the merits and on the ground that the claim was not properly raised under State procedural law, or any claim of ineffective assistance of counsel related to such claim, unless the claim would qualify for consideration on the grounds described in subsection (e)(2).

''(B) A court, justice, or judge shall not have jurisdiction to consider any claim that is otherwise subject to paragraph (1) and that was reviewed by the State court for plain error, fundamental error, or under a similarly

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1 heightened standard of review, unless the claim would
2 qualify for consideration on the grounds described in sub-
3 section (e)(2).

4 ''(3) The State shall not be required to answer any
5 claim described in paragraph (1) or (2) unless the court
6 first determines that the claim would qualify for consider-
7 ation on the grounds described in subsection (e)(2).

8 ''(4) If a court determines that a State court order
9 denying relief on procedural grounds is ambiguous as to
10 which claims were found to be procedurally barred, the
11 court shall resolve any perceived ambiguity, if necessary,
12 by examining the full record in the State court.

13 ''(5) An application for a writ of habeas corpus on
14 behalf of a person in custody pursuant to the judgment
15 of a State court shall not be granted with respect to any
16 claim under paragraph (1) or (2) unless the denial of such
17 relief is contrary to, or would entail an unreasonable appli-
18 cation of, clearly established Federal law, as determined
19 by the Supreme Court of the United States.''.

20 (b) LIMITATION.—Section 2244(d)(2) of title 28,
21 United States Code, as amended by section 3, is amended
22 by adding at the end the following: ''An application that
23 was otherwise improperly filed in State court shall not be
24 deemed to have been properly filed because the State court

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exercises discretion in applying a rule or recognizes exceptions to that rule.''.

SEC. 5. TOLLING OF LIMITATION PERIOD.

Section 2244(d) of title 28, United States Code, is amended—

(1) in paragraph (2), by striking ''judgment or''; and

(2) by adding at the end the following:

''(3) In this section, an application for State post-conviction or other collateral review—

''(A) is pending from the date on which the application is filed with a State court until the date on which the same State court rules on that application; and

''(B) is not pending during any period of time between the date on which a State court rules on that application and the date on which the application or a related application is filed, or is otherwise presented, for adjudication to such State court on rehearing authorized by State law or to a higher State court.

''(4) The period of limitation under paragraph (1) may be tolled, suspended, or extended only as provided under this subsection.''.

DOJ_NMG_0013513

SEC. 6. HARMLESS ERROR IN SENTENCING.

Section 2254 of title 28, United States Code, as amended by section 4, is amended by adding at the end the following:

''(k) A court, justice, or judge shall not have jurisdiction to consider an application with respect to an error relating to the applicant's sentence or sentencing that has been found to be harmless or not prejudicial in State court proceedings, unless a determination that the error is not structural is contrary to clearly established Federal law, as determined by the Supreme Court of the United States.''.

SEC. 7. UNIFIED REVIEW STANDARD.

Section 107(c) of the Antiterrorism and Effective Death Penalty Act of 1996 (28 U.S.C. 2261 note) is amended by striking ''Chapter 154 of title 28, United States Code (as amended by subsection (a))'' and inserting ''This title and the amendments made by this title''.

SEC. 8. APPEALS.

(a) APPELLATE TIME LIMITS.—Section 2254 of title 28, United States Code, as amended by sections 4 and 6, is further amended by adding at the end the following:

''(l) In review by a court of appeals of a district court's determination of an application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court, the following shall apply:

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"(1) A timely filed notice of appeal from an order issuing a writ of habeas corpus shall operate as a stay of that order, pending final disposition of the appeal.

"(2) A court of appeals shall decide the appeal from an order granting or denying a writ of habeas corpus—

"(A) not later than 300 days after the date on which the brief of the appellee is filed or, if no timely brief is filed, the date on which such brief is due; or

"(B) if a cross-appeal is filed, not later than 300 days after the date on which the appellant files a brief in response to the issues presented by the cross-appeal or, if no timely brief is filed, the date on which such brief is due.

"(3)(A) If a petition is filed for a panel rehearing or rehearing by the court of appeals en banc following a decision by a panel of a court of appeals under paragraph (2), the court of appeals shall decide whether to grant the petition not later than 90 days after the date on which the petition is filed, unless a response is required.

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"(B) If a response to a petition is required under subparagraph (A), a court of appeals shall decide whether to grant the petition not later than 90 days after the date on which the response is filed or, if no timely response is filed, the date on which the response is due.

"(C) If a panel rehearing is granted, the panel shall make a determination of the appeal on rehearing not later than 120 days after the date on which the order granting a panel rehearing is entered. No second or successive petition for panel rehearing shall be allowed.

"(D) If rehearing en banc is granted, the court of appeals shall make a final determination of the appeal not later than 180 days after the date on which the order granting rehearing en banc is entered.

"(4) If a court of appeals fails to comply with the requirements of this subsection, the State may petition the Supreme Court, or a justice thereof, for a writ of mandamus to enforce the requirements of this subsection.

"(5) The time limitations in this subsection shall apply in all proceedings in a court of appeals on review of a district court's determination of an

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application for a writ of habeas corpus, including any such proceedings in a court of appeals following a remand by the Supreme Court for further proceedings.

''(6) In proceedings following remand in a court of appeals, the time limit specified in paragraph (2) shall begin on the date the remand is ordered if further briefing is not required in the court of appeals. If there is further briefing in the court of appeals, the time limit specified in paragraph (2) shall begin on the date on which a responsive brief is filed or, if no timely responsive brief is filed, from the date on which such brief is due.

''(7) The failure of a court to meet or comply with a time limitation under this subsection shall not be a ground for granting relief from a judgment of conviction or sentence, nor shall the time limitations under this subsection be construed to entitle a capital applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.''.

(b) FINALITY OF DETERMINATION.—Section 2244(b)(3)(E) of title 28, United States Code, is amended by striking ''the subject of a petition'' and all that follows

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1 and inserting the following: ''reheard in the court of ap-
2 peals or reviewed by writ of certiorari.''.

3 **SEC. 9. CAPITAL CASES.**

4 (a) SCOPE OF REVIEW.—Chapter 154 of title 28,
5 United States Code, is amended by striking section 2264
6 and inserting the following:

7 **''§ 2264. Scope of Federal review**

8 ''(a) IN GENERAL.—Except as provided in subsection
9 (b), a court, justice, or judge shall not have jurisdiction
10 to consider any claim relating to the judgment or sentence
11 in an application covered under this chapter.

12 ''(b) EXCEPTION.—A court, justice, or judge has ju-
13 risdiction to consider an application under this chapter
14 if—

15 ''(1) the applicant shows that the claim relies
16 on a new rule of constitutional law, made retroactive
17 to cases on collateral review by the Supreme Court,
18 that was previously unavailable; or

19 ''(2) both—

20 ''(A) the factual predicate for the claim
21 could not have been discovered previously
22 through the exercise of due diligence; and

23 ''(B) the facts underlying the claim, if
24 proven and viewed in light of the evidence as a
25 whole, would be sufficient to establish by clear

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and convincing evidence that, but for constitutional error, no reasonable fact finder would have found the applicant guilty of the underlying offense.''.

(b) TIME LIMITS.—Section 2266(b)(1)(A) of title 28, United States Code, is amended by striking ''180 days'' and inserting ''15 months''.

(c) REVIEW BY ATTORNEY GENERAL.—

(1) IN GENERAL.—Section 2261(b) of title 28, United States Code, is amended—

(A) by striking ''(b) This chapter is applicable if a State establishes'' and inserting the following:

''(b) This chapter is applicable if—

''(1) the Attorney General of the United States certifies that a State has established'';

(B) in the first sentence, by striking the period at the end and inserting a semicolon;

(C) by striking ''The rule of court or statute must provide standards'' and inserting the following:

''(2) the court, statute, or other agency provides standards'';

(D) by striking the period at the end and inserting ''; and''; and

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(E) by adding at the end the following:

''(3) the order required under subsection (c) is entered on or after the effective date of the Attorney General's certification under section 2267.''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 2265(a) of title 28, United States Code, is amended—

(A) by striking ''(a) For purposes'' and inserting the following:

''(a)(1) For purposes'';

(B) by striking ''This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes'' and inserting the following:

''(2) This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if—

''(A) the Attorney General of the United States certifies that a State has established'';

(C) by striking ''or by statute'' and inserting '', by statute, or by agency rule'';

(D) by striking the period after ''proceedings'' and inserting a semicolon;

(E) by striking ''The rule of court or statute must provide'' and inserting the following:

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"(B) the rule of the court, the statute, or the agency rule provides";

(F) by striking the period at the end and inserting "; and"; and

(G) by adding at the end the following:

"(C) the order required under subsection (b) is entered on or after the effective date of the Attorney General's certification under section 2267.".

(d) JUDICIAL REVIEW.—Chapter 154 of title 28, United States Code, is amended by adding at the end the following:

"§ 2267. Judicial Review

"(a) IN GENERAL.—If requested by the chief law enforcement officer of a State, the Attorney General of the United States shall determine whether the State has established a qualifying mechanism for the purpose of section 2261(b)(3) or 2265(a)(2)(C), and, if so, the date on which the mechanism was established. The date the mechanism was established shall be the effective date of the certification.

"(b) REGULATIONS.—The Attorney General shall promulgate regulations to implement the certification procedure under subsection (a).

"(c) REVIEW OF CERTIFICATION.—

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"(1) IN GENERAL.—The Attorney General's determination of whether to certify a State under this section is subject to review exclusively as provided under chapter 158.

"(2) VENUE.—The Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction over matters under paragraph (1), subject to review by the Supreme Court under section 2350.

"(3) STANDARD OF REVIEW.—The Attorney General's determination of whether to certify a State under this section shall be conclusive unless manifestly contrary to the law and an abuse of discretion.".

(e) CLERICAL AMENDMENTS.—The table of sections for chapter 154 of title 28, United States Code, is amended—

(1) by striking the item related to section 2264 and inserting the following:

"2264. Scope of Federal review.";

and

(2) by adding at the end the following:

"2267. Judicial review.".

SEC. 10. CLEMENCY AND PARDON DECISIONS.

(a) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following:

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"§ 1370. State clemency and pardon decisions

''(a) IN GENERAL.—Except as provided under subsection (b), and notwithstanding any other provision of law, no Federal court shall have jurisdiction to hear any cause or claim arising from the exercise of a State's executive clemency or pardon power, or the process or procedures used under such power.

''(b) EXCEPTION.—This section does not affect the jurisdiction of the Supreme Court to review any decision of the highest court of a State that involves a cause or claim arising from the exercise of a State's executive clemency or pardon power, or the process or procedures used under such power.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 85 of title 28, United States Code, is amended by adding at the end the following:

''1370. State clemency and pardon decisions.''.

SEC. 11. EX PARTE FUNDING REQUESTS.

Section 408(q)(9) of the Controlled Substances Act (21 U.S.C. 848(q)(9)) is amended—

(1) by striking ''(9) Upon'' and inserting the following: ''(9) (A) Upon'';

(2) by striking the last two sentences and inserting the following: ''An application for services under this paragraph shall be decided by a judge other than the judge presiding over the post convic-

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tion proceeding under section 2254 or 2255 of Title 28, United States Code, seeking to vacate or set aside a death sentence. Any amounts authorized to be paid under this paragraph shall be disclosed to the public immediately.''; and

(3) by adding at the end the following:

''(B) No ex parte proceeding, communication, or request may be considered in a post-conviction action pursuant to this section, except to the extent necessary to protect any confidential-communications privilege between the defendant and post-conviction counsel. The court shall not grant an application for an ex parte proceeding, communication, or request unless the application has been served upon the respondent and the court has allowed the respondent a reasonable opportunity to answer the application. All proceedings, communications, or requests conducted pursuant to this section shall be transcribed and made a part of the record available for appellate review.''.

SEC. 12. CRIME VICTIMS' RIGHTS.

Section 3771(b) of title 18, United States Code, is amended by adding at the end the following: ''A crime victim shall also be afforded the rights established for crime

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victims by this section in a Federal habeas corpus proceeding arising out of a State conviction.''.

SEC. 13. TECHNICAL CORRECTIONS.

(a) APPEAL.—Section 2253(c)(1) of title 28, United States Code, is amended by striking ''circuit justice or judge'' and inserting ''district or circuit judge''.

(b) FEDERAL CUSTODY.—Section 2255 of title 28, United States Code, is amended by designating the 8 undesignated paragraphs as subsections (a) through (h), respectively.

SEC. 14. APPLICATION TO PENDING CASES.

(a) IN GENERAL.—This Act and the amendments made by this Act shall apply to cases pending on and after the date of enactment of this Act.

(b) TIME LIMITS.—In a case pending on the date of enactment of this Act, if the amendments made by this Act establish a time limit for taking certain action the period of which began on the date of an event that occurred prior to the date of enactment of this Act, the period of such time limit shall instead begin on the date of enactment of this Act.

○

DOJ_NMG_0013525

Fyi. Just want to keep you in the loop.

From: [redacted] (Judiciary)
Sent: Thursday, February 09, 2006 11:28 AM
To: [redacted] @bakerbotts.com'
Subject: versions of the Graham amendment

[redacted] attached is the base Graham amendment filed on Nov. 10, number 2515, and the perfecting amendment filed the same day, number 2516, as they appeared in the record. The perfecting amendment makes only one change, adding a new sentence at the very end. Levin voted against the perfecting amendment adding the effective-date language. (Conveniently, the record of that vote appears in the record on the same page as amendment number 2516.)

If you want to get into deep leg history, the text and structure of the Graham amendment were borrowed from S.1088, a habeas reform package that Sen. Kyl introduced in May. (A copy is attached.) The "no court, justice, or judge shall have jurisdiction" language is borrowed from S.1088, as is the effective date language of "shall apply to cases pending on or after." S.1088 was not a pure jurisdiction ousting amendment – many of its parts simply create new standards, and are not jurisdictional in nature. Thus in S.1088, it was necessary to expressly apply the new standards to pending claims. Also, where S.1088 bars new claims, it is designed to force their dismissal or rejection, not to force litigants to reformulate the claims. You could argue that the original Graham amendment's language was borrowed from S.1088, but that upon further reflection it became clear to Graham and Kyl that S.1088's "applying to" language was not really appropriate for the Graham amendment for the reasons previously noted – i.e., there is no ambiguity about the effect of pure jurisdiction removal on pending claims, and Graham and Kyl wanted to effect reformulation of the pending claims, not their outright dismissal.

Miller, Charles S

From: Miller, Charles S
Sent: Thursday, February 9, 2006 11:29 AM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 2/9/06 Civil Division News

Washington wants Iraq to try US 'enemy combatant'

U.S. Citizen May Be Handed Over to Iraqis

3rd Circuit Limits Appeal of FDA Ban of Ephedrine

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9/11 SUIT MAY BOOST PUSH FOR GREATER EPA DISASTER RESPONSE ROLE

Evangelical Christian group asks to intervene in lawsuit against Air Force Academy

Opinion: Punishing Indians for wanting their money back

Opinion: Recruitment hypocrisy

AGENCE FRANCE PRESSE ENGLISH WIRE

February 9, 2006

Washington wants Iraq to try US 'enemy combatant'

WASHINGTON, Feb 8, 2006 (AFP) - The United States wants to hand over to Baghdad for trial a detained US citizen suspected of links to Iraq Al-Qaeda leader Abu Musab al-Zarqawi, the man's lawyers

said Wednesday.

Shawqi Omar, a Sunni Muslim with both US and Kuwaiti nationality, allegedly served as Zarqawi's personal emissary with different Iraqi insurgent groups, according to US documents released Wednesday.

Omar was detained by US forces in Iraq on October 29, 2004 and held without charge for 15 months.

In a document recently submitted to a federal court in Washington, the US government also alleged that Omar took part in staking out foreigners to be kidnapped and plotted with Zarqawi to undertake a chemical weapons attack.

Omar's lawyers Aziz Huq and Jonathan Hafetz told AFP that he arrived in Iraq in 2004 for business and lived with a ten year old son until he was detained in his Baghdad home.

In 2005 the lawyers contested his detention without charges. But on February 2, they were informed in an e-mailed document from a government\l "l" lawyer\l "l" that Omar was being handed over to Iraq's justice authorities.

"Mr Omar is currently in the custody of multinational force-Iraq and a determination was previously made to refer his case to the central criminal court of Iraq," the document said.

After his lawyers argued in court on February 3 that Omar could be tortured, Judge Ricardo Urbina delayed the transfer until a final ruling could be made in the days ahead.

END

AP

February 9, 2006

U.S. Citizen May Be Handed Over to Iraqis

By MARK SHERMAN, Associated Press Writer

WASHINGTON_The U.S. government wants an Iraqi court to prosecute an American citizen who is being held in Iraq on suspicion that he is a senior operative of insurgent leader Abu Musab al-Zarqawi.

The man's lawyers said he is innocent and likely to be tortured if handed over.

The case is the first known instance in which the government has decided to allow an American to be tried in the new Iraqi legal system. At least four other U.S. citizens suspected of aiding the insurgency had been held in Iraq, the Pentagon has said.

Shawqi Omar, 44, who once served in the Minnesota National Guard, has been held since late 2004 in U.S.-run military prisons as an enemy combatant. He has not been charged with a crime or been given access to a lawyer, said Jonathan Hafetz, a lawyer representing Omar's family in the United States.

The government said Omar, who also holds Jordanian citizenship, was harboring an Iraqi insurgent and four Jordanian fighters at the time of his arrest and also had bomb-making materials. He is described in court papers as a relative of Zarqawi who was plotting to kidnap foreigners from Baghdad hotels.

Separately, Omar, Zarqawi and 11 others have been indicted by a Jordanian court on charges they

plotted a chemical attack against Jordan's intelligence agency.

Omar's family said he is a businessman who was seeking reconstruction contracts in Iraq.

The family is asking a U.S. judge to step in and force the government to charge Omar with a crime and put him on trial in the United States, or release him. They also are seeking to prevent Omar's transfer to Iraqi custody, which they said would subject the Sunni Muslim to torture by Shiite-dominated authorities.

U.S. District Judge Ricardo Urbina last week issued an order in Washington temporarily blocking Omar's transfer to Iraqi custody. The order is set to expire Monday, but the family is asking the judge to extend it until he decides whether to order Omar to be returned to the United States.

The Justice\l "l" Department\l "l" weighed in Tuesday, arguing that Urbina has no business intervening on Omar's behalf and denying that Omar is even in U.S. custody.

Instead, the department said in court papers, Omar was captured by the U.S.-led multinational force in Iraq and remains in its custody. The multinational force is independent of the U.S. government, the department said.

In any event, Omar would not be handed over to the Iraqis unless he is convicted in an Iraqi court, the government said.

Hafetz, a lawyer at New York University's Brennan Center for Justice, said the government is resorting to a legal gimmick to keep Omar's case out of American courts. Prosecutors are arguing, "despite all appearances to the contrary, Mr. Omar is not really in U.S. custody," the Omar family's lawyers said Wednesday in a legal filing.

In July, Pentagon spokesman Bryan Whitman said five unnamed Americans, including one who also had Jordanian citizenship, were in U.S. military custody in Iraq. Whitman said then that the government had not decided whether their cases would be turned over to the Justice\l "l" Department\l "l" or to the new Iraqi legal system, which has handled the prosecution of other foreign fighters who came to Iraq to fight the U.S.-led occupation and Iraqi government.

It is unclear what happened to the other Americans. Los Angeles filmmaker Cyrus Kar was released later in July without being charged after nearly two months in custody. An Iraqi expatriate who is a legal U.S. resident, Numan Adnan Al Kaby, was freed in September, but it is not known whether he was one of the five described by Whitman.

Last March, Matthew Waxman, the Pentagon's deputy assistant secretary of defense for detainee affairs, said a panel of three U.S. officers had determined the Jordanian-American was an enemy combatant and was not entitled to prisoner-of-war status under the Geneva Convention. The description provided by Waxman and other officials matches Omar's biography as contained in the government's court papers.

In its filing Tuesday, the Justice\l "l" Department\l "l" said the officers were part of the multinational force.

Omar became a U.S. citizen in 1986, two years after he served in the National Guard. Omar spent about 11 months in the Guard before being discharged in November 1984 without completing his training, said Shannon Purvis, a spokesperson for the Minnesota National Guard. Omar received an "uncharacterized discharge," meaning he was discharged for such things as health problems or poor performance, Purvis said.

END

The Legal Intelligencer
02-09-2006

3rd Circuit Limits Appeal of FDA Ban of Ephedrine

Shannon P. Duffy

In an ephedrine manufacturer's challenge to the Food and Drug Administration's decision to ban the substance, a federal appeals court has ruled that the litigation must be strictly limited to a review of the FDA's administrative record, and that the manufacturer therefore is not entitled to present its own expert witnesses nor to gather and present additional evidence.

The decision in *NVE Inc. v. Department of Health and Human Services* could have an immediate impact on similar cases around the country. Several court battles are under way to challenge the FDA's ban on sales of popular dietary supplements and weight loss aids after the active ingredient was linked to deaths among athletes.

In its April 2004 decision, the FDA prohibited all distribution of products containing ephedrine alkaloids, also known as "ephedra," saying it found them to be "adulterated" food that posed an "unreasonable risk" to consumers.

Three manufacturers quickly challenged the ban, filing lawsuits in New Jersey, Florida and Utah. In each case, the manufacturers accused the FDA of exceeding its powers as defined in the 1994 Dietary Supplement Health and Education Act.

Congress passed DSHEA after a long-running dispute with the FDA about how strictly dietary supplements should be regulated. Some members of Congress complained that the FDA was pursuing a heavy-handed enforcement agenda.

But the 3rd Circuit held that DSHEA "does not provide a private cause of action," and that the manufacturers' lawsuits are therefore governed by the deferential standards of the Administrative Procedures Act.

The FDA won the first round in the New Jersey case when U.S. District Judge Joel Pisano refused to issue an emergency injunction to lift the ban.

But Pisano also quickly realized that continuing litigation of the case would involve important procedural questions for which the 3rd U.S. Circuit Court of Appeals had offered little or no guidance. As a result, Pisano certified four questions for an immediate appeal.

Now the 3rd Circuit has answered "no" to three of the four: No, the party challenging an FDA decision may not "supplement the administrative record." No, the challenger may not "present expert affidavits and/or testimony." And no, the challenger may not "conduct discovery."

The final question was not yes-or-no in nature, but the 3rd Circuit's answer underscored its negative responses to the first three by holding that the trial judge must limit the case to a review of the FDA's proceedings and therefore cannot conduct a "trial de novo."

Writing for the court, U.S. Circuit Judge Marjorie O. Rendell found that Pisano had correctly held that the suit was governed by the Administrative Procures Act.

Under the APA, Rendell said, the court focuses only on the agency's actions and the plaintiff is therefore not entitled to discovery that would add to the administrative record.

But Rendell found that Pisano erred by holding that the DSHEA required that he give no deference to the FDA's factual and legal conclusions, and instead conduct a trial de novo.

Rendell, in an opinion joined by Judge Julio M. Fuentes and Leonard I. Garth, found that DSHEA's de

novo provisions apply only in "enforcement actions" brought by the government, and not in private "rulemaking" actions such as NVE's.

The statute's use of the term "de novo" is also unusually limited, Rendell found, since it calls for courts to decide "issues" on a de novo basis, rather than to conduct "de novo review."

"This distinction is highly significant," Rendell wrote, "given that a court's function in an APA suit is always to review administrative action."

Lawyers for NVE argued that if a manufacturer is not entitled to a de novo review, the courts would be opening a "gaping loophole" that would effectively eviscerate DSHEA's de novo provision.

The FDA, they argued, would simply avoid de novo judicial review by issuing regulations on dietary supplements instead of bringing individual enforcement actions.

But Rendell found that such a claim called for a solution that the courts cannot provide.

"While we do not downplay the significance of this allegation, we cannot legislate to correct it, if that is in fact what is occurring here. If Congress perceives the agency's action to be an end-run around the standard it legislated for enforcement actions, surely it can amend DSHEA or the APA to remedy the situation," Rendell wrote.

NVE was represented in the appeal by attorney Walter F. Timpone of McElroy Deutsch Mulvaney & Carpenter in Morristown, N.J.

Justice Department attorney Christine N. Kohl argued the case for the government.

END

Reuters

2/9/06

RIM unveils plan to keep BlackBerrys alive

By Susan Taylor

OTTAWA (Reuters) - Research In Motion <RIM.TO> <RIMM.O> on Thursday unveiled a plan that it says will let its addictive BlackBerry e-mail device work even if it loses a patent dispute, and said the workaround will prevent a shutdown of service in the United States.

In an announcement made as the clock ticked to a February 24 court hearing on patent holding company NTP Inc.'s request for an injunction to halt U.S. BlackBerry service, RIM also said it was still willing to negotiate a deal.

The Canadian technology company, whose black, blue or silver device is dubbed "CrackBerry" by many users, said it is has taken a "pragmatic and reasonable" stance in mediation.

But it called NTP's offer to license disputed technology "untenable" and offering only "illusory protection."

The high-stakes legal battle is heating up in advance of the February 24 hearing by U.S. District Judge James Spencer in Richmond, Va.

That could be the final step before Spencer decides whether to impose an injunction granting NTP's

request -- potentially affecting more than 3 million subscribers.

The U.S. Justice Department has already argued against a shut-down, saying that NTP had not submitted enough evidence to show that government users could be exempted "without substantial hardship."

RIM's lawyers have said there was "exceptional public interest" in maintaining an uninterrupted service for government and national security officials.

NTP sued RIM for patent infringement in 2002 and won an injunction in 2003 to shut down the U.S. service.

That injunction was stayed pending appeals, and the court has issued a series of rulings since then, moving RIM shares like a yo-yo, depending on whether the rulings looked good or bad for the firm.

The stock climbed 3.4 percent before the bell on Thursday, adding $2.35 to $71.

RIM, which is based in Waterloo, Ontario, said it has developed and tested software workaround designs for all BlackBerry handsets operating in the United States.

"RIM's workaround provides a contingency for our customers and partners and a counterbalance to NTP's threats," said RIM co-chief executive Jim Balsillie.

"This will hopefully lead to more reasonable negotiations, since NTP risks losing all future royalties if the workaround is implemented."

RIM said it has filed applications for a patent for its workaround, part of a software update called BlackBerry Multi-Mode Edition.

The company said it will soon begin shipping handsets with the software update in a dormant mode. It will make the update available at www.blackberry.com/workaround at a later, but as yet unspecified, date.

RIM said the changes would require software updates, but the new system will deliver the same functions and performance.

It said a legal opinion from a patent law and workaround expert said its designs do not infringe on any of the NTP patent claims remaining in the lawsuit.

END

Ft. Worth Weekly

2/8/06

Raising the Stakes: Mahmoud Alafyouny's case is drawing attention that the feds are trying to fend off.

By DAN MALONE

The case of a Mesquite man accused by the federal government of supporting terrorism is heating up — on both sides. Federal prosecutors are increasing their efforts to deport Mahmoud Alafyouny — and to keep him under wraps until they can do so — while at the same time his story has caught the attention of national civil-rights and Arab-American groups as well as a network news program.

Alafyouny, who is married to a Department of Homeland Security screener at Dallas' Love Field, has been detained for the past 20 months at a West Texas prison while immigration officials have attempted

to deport him. Last week, Alafyouny's lawyer, Joshua Turin, asked a federal judge to release his client, saying the accusation that he is dangerous is "nothing short of a cruel and pathetic lie.''

The government responded to Alafyouny's latest bid for freedom, however, by announcing it would attempt to speed up his deportation and by bringing in a U.S. Justice Department attorney from Washington who specializes in immigration-related terrorism cases to lead that effort.

Alafyouny's plight was first reported by Fort Worth Weekly last July. The government's case against him seems to hinge on a single, decades-old accusation — that as a teen-ager in Jordan 20 years ago he collected money and distributed handbills for the Palestinian Liberation Organization. The PLO or the Palestinian Authority have, according to Alafyouny's lawsuit and a recent Wall Street Journal article, received hundreds of millions of dollars in foreign aid from the very government that is now trying to deport him.

Yet Alafyouny's actions — under an obscure provision of the USA PATRIOT Act — are, according to the government, sufficient grounds on which to keep him locked up until it can toss him out of the country.

An official with U.S. Immigration and Customs Enforcement (ICE) informed Alafyouny in writing on Jan. 19 that the agency had "an obligation to protect the community from ... the threat of violence'' and that Alafyouny's "support for an organization that utilized and promoted terrorist violence leads me to believe that your release may pose a threat to the United States.''

Alafyouny came to the United States on a business visa in 1996, applied for political asylum in 1997, and was ordered deported in 1998. He subsequently married an American citizen, Rae Johnson, and the couple has been fighting his deportation ever since. He was arrested in the spring of 2004 after losing an appeal and has been imprisoned since then at the Rolling Plains Detention Center in Haskell.

In a strange twist, the government's case against Alafyouny is based on evidence that he voluntarily disclosed when he applied for political asylum, telling U.S, immigration officials that he feared persecution in Jordan because he had raised money for the PLO.

In a telephone conference among the attorneys, Turin said that Douglas E. Ginsburg, the Justice Department's terrorist-case specialist, revealed that the government is planning to ask the U.S. Fifth Circuit Court of Appeals (where Alafyouny's appeal is being considered) to permit immigration officials to deport him before ruling on the merits of his case.

The government's refusal to release Alafyouny raises questions about whether officials might know something Alafyouny's family and supporters do not. If they do, however, they're not talking about it.

Ginsburg referred questions about the case to another Justice Department official, Charles S. Miller, who said this week he could not answer questions because of ongoing litigation. Carl Rusnok, a spokesman for ICE in Dallas, declined comment on the same grounds.

Alafyouny's attorney, meanwhile, questions why the government would detain him now after letting him remain free for seven years. In court papers, Turin said that immigration officials "never alleged that Alafyouny was dangerous during his many-years-old deportation proceedings; there is no, zero evidence in his voluminous administrative record or elsewhere that he is dangerous. He has no criminal history He has never failed to appear for an interview or hearing.''

The Weekly's initial story about Alafyouny generated interest among several civil-rights organizations, including the American Civil Liberties Union, which commissioned a documentary, Beyond the Patriot Act, about Alafyouny's plight. The program was originally broadcast on Link TV last year.

Judy Rabinovitz, of the ACLU Immigrants' Rights Project in New York, said Alafyouny's detention "is a graphic example of how, in our pursuit of terrorists, we've swept common sense under the rug, as well as due process.

"No one denies that this country has a right to enact laws that keep out terrorists," she added. "But this

law ... is so broad that it encompasses people like Mr. Alafyouny who are indisputably not terrorists and pose no danger to our national security."

The American-Arab Anti-Discrimination Committee also rallied behind Alafyouny. "This is a person who, to our knowledge, has no criminal history and has been a completely lawful person in the United States,'' said the league's Kareem Shora. "He has not engaged in anything even nearing suspicious behavior. There is absolutely no reason for this person to be continually held in detention from the information we have."

Aside from the fact that he doesn't believe Alafyouny is a danger to anyone, Turin also argued in court papers that he should be released because his continued detention is working a hardship on his family. The loss of Alafyouny's income led his wife to file for bankruptcy and forced a stepson to put college plans on hold. Two younger stepchildren are having trouble in school, a development that Turin blames on Alafyouny's forced absence from their lives.

Alafyouny's wife, whose day job as an airline security screener for the federal Transportation Security Administration puts her on the front line of the domestic war on terror, said she's been unable to get a straight answer from anyone about why her husband can't be released while his case is on appeal. If the government knows something about her husband that she doesn't, she said, they should reveal it or let him go.

"They're trying to turn this into something that it's not," Rae Alafyouny said. "I could never believe that he could do anything to anybody. He's so gentle and kind — he's just not capable of that.'' Besides, she said, the government has thoroughly investigated his background and found nothing. "They ran fingerprint checks on him. If there was anything, they would have found it."

Alafyouny's case has also caught the attention of the CBS Evening News. Jason Sickles, a producer in the network's Dallas office, said immigration officials have twice refused his request to interview Alafyouny. Sickles said ICE spokesman Rusnok told him "they could not facilitate an interview with an inmate who is involved in ongoing litigation.'' Sickles said he asked ICE to reconsider the decision. "I explained to them that Mr. Alafyouny wants to talk," Sickles said. "His family indicated that he wants to talk. We explained that other media have been able to talk to him in the past.''

ICE, however, would not budge. A second ICE official, who responded to his request for reconsideration, came back with the "same explanation as the first,'' Sickles said. "They said they can't or won't facilitate an interview with someone who has ongoing litigation."

Alafyouny is allowed to make collect calls from the privately run prison — and Sickles said he plans to interview him by phone. "We're disappointed we can't talk to him on camera. It's our medium, and it's important to be able to see a person.'' ICE's refusal to let him meet with Alafyouny face to face, he said, "is not going to keep us from doing the story.''

Why ICE would refuse to let a network news producer interview Alafyouny after having permitted two reporters from the Weekly to meet with him last year is not clear. Rabinovitz believes the government is afraid of the exposure a CBS news story would bring to the case.

"Virtually everyone who is detained by [federal immigration authorities] is involved in 'litigation' challenging their removal orders. If that was a sufficient basis to deny a face-to-face interview, then such interviews would never be allowed," she said. "The government is not allowed to selectively decide when to grant or deny press access. Seems to me that the government denied CBS access because it recognizes that if the public were to actually see Mr. Alafyouny on television and hear him speak, it would be obvious that he poses no risk to anyone, and they would be shocked at what our government is doing under the guise of protecting us against terrorism."

END

Inside the EPA

February 10, 2006

9/11 SUIT MAY BOOST PUSH FOR GREATER EPA DISASTER RESPONSE ROLE

A federal\l "l" court ruling last week allowing a class\l "l" action\l "l" suit against EPA to proceed over the agency's actions immediately after the 2001 terrorist attacks may bolster arguments that EPA is required to reduce environmental risks following disasters even when those threats fall outside its traditional authorities, such as widespread indoor health risks from Hurricane Katrina.

Most notably, environmentalists have long criticized EPA's assertion that it lacks statutory authority to regulate indoor air -- and therefore building interiors -- claiming the agency has broad authority under a host of environmental laws to require mitigation of health risks. Following last year's Gulf Coast hurricanes, activists criticized EPA for failing to conduct testing of risks in building interiors in the region as a result of flooding from Hurricane Katrina.

But in a situation that observers call analogous to the Katrina aftermath, a federal judge Feb. 2 harshly criticized EPA actions -- and those of former Administrator Christine Todd Whitman -- following the collapse of the World Trade Center on Sept. 11, 2001.

"No reasonable person would have thought that telling thousands of people that it was safe to return to Lower Manhattan, while knowing that such return could pose long-term health risks and other dire consequences, was conduct sanctioned by our laws," writes Judge Deborah H. Batts of the U.S. District Court for the Southern District of New York in the ruling.

One attorney involved with the 9/11 suit says similar suits against EPA for its response to Katrina are likely, and the arguments at play in the New York suit "definitely" apply to the Gulf Coast region.

In the class-action suit, Benzman, et al., v. Christine Todd Whitman, et al., residents of Lower Manhattan are charging that EPA actions in the wake of Sept. 11 -- including its public statements about health, decisions not to remediate building interiors, and delegation of cleanup responsibility for interiors in New York City -- violated constitutional rights to be free from bodily harm. The plaintiffs say federal environmental laws, presidential directives and federal response plans require greater EPA involvement during a disaster. Relevant documents are available on InsideEPA.com.

In its defense, EPA argued that the Stafford Act -- which governs disaster response -- bars review of federal "discretionary" functions, such as the decisions cited by the plaintiffs in the case. While the court largely agreed that the authorities cited by the plaintiffs did not mandate specific responses by EPA, the court nonetheless concluded that it did have jurisdiction over the plaintiffs' constitutional claims and the merits of the case required further review.

EPA, in the aftermath of Hurricane Katrina, has made similar claims about its limited statutory authority. For instance, in an interview with PBS's NewsHour last November, EPA Administrator Stephen Johnson said the agency lacked authority to test the interiors of homes contaminated by hurricane floodwaters.

"Well, first of all, the responsibility for testing within homes is not within the purview of EPA," Johnson said, according to a transcript of the interview. "And so EPA does not have any statutory responsibility for indoor air, for example. And issues such as mold are the responsibility of and advice and counsel from the Centers for Disease Control, Health & Human Services."

But an attorney with the Natural Resources Defense Council, Erik Olson, disputed Johnson's comments during the same program. "EPA has all sorts of authority if they want to use it to declare an imminent and substantial endangerment under most of its laws just to say it's really not safe for people to be here, we are going to bar people from re-entering, or we're going to order certain clamps or [require] certain activity to happen before people enter," Olson said. "EPA really has been unwilling to use those authorities."

Environmentalists have made similar arguments before Congress. In testimony before a House subcommittee in September 2005, Olson maintained, "EPA bears the lead responsibility for evaluating and acting to remedy environmental health threats" under a host of environmental laws, including the Clean Water Act, the Resource Conservation & Recovery Act, Superfund and the Oil Pollution Act.

"Unfortunately, EPA apparently has decided to 'punt' to local authorities the responsibility to protect citizens' health in the wake of the massive Katrina-related oil and hazardous chemical releases," Olson said at the hearing. "The agency has neither the legal nor the moral right to pass the buck in this way, particularly since local authorities are working under difficult conditions, with communication limitations, displaced staff and other unimaginable challenges."

Johnson, however, told the NewsHour that it was the job of state and local officials to make such safety decisions. "It's not the EPA's decision," he said. "It's the responsibility of the state and local officials to make the decision. You know they're the ones that made the decision to evacuate. They're the ones appropriately to make the decision to come back in."

In partially rejecting a motion-to-dismiss by the defendants, Judge Batts is allowing to proceed several of the 9/11 plaintiffs' legal arguments about why EPA was required to address building interiors. An attorney for the plaintiffs says there is little existing case law on the matter.

The plaintiffs argue that a variety of authorities required EPA to address health risks posed by contamination in building interiors in Lower Manhattan, including Superfund law and its regulatory blueprint, the National Contingency Plan; Presidential Decision Directive 62, a Clinton-era order that assigns EPA the lead responsibility for cleaning up buildings and other sites contaminated by terrorist attacks; and homeland security and other response plans related to terrorism.

In addition, the suit charges that EPA improperly delegated cleanup responsibility for interiors to the city of New York and failed to ensure the city's cleanup guidelines were protective enough. The suit is seeking damages, a medical monitoring program, and testing and cleanup of building interiors in Lower Manhattan.

Attorneys for the plaintiffs say the legal authorities cited in the case could apply to other scenarios as well. "I think we're correct in this position," one attorney says.

Observers also say the court's ruling could pressure the Bush administration to settle the case to avoid releasing potentially embarrassing White House communications documents. But if the agency settles, it could also be forced to conduct a more thorough cleanup than EPA has so far agreed to conduct following the 2001 attacks.

New York congressional Democrats say the decision validates their long-standing claims that EPA avoided federal responsibility for cleanup of the areas affected by the attacks and destruction of the World Trade Center.

The court denied motions to dismiss the case filed by both EPA and Whitman, allowing the suit to go forward to establish the merits of New York City residents' claims that Whitman and EPA violated the due process clause of the Fifth Amendment. They claim EPA and Whitman endangered the public by issuing press releases that said it was safe for residents and workers to return to Lower Manhattan days after the attacks.

The court also will consider claims that EPA violated the Administrative Procedure Act by conducting a "voluntary cleanup program" that could be considered "arbitrary and capricious" by leaving many buildings contaminated.

But the court granted another former high-ranking EPA official, Marianne Lamont Horinko, her request to dismiss the same constitutional charges against her. Horinko served as waste chief under Whitman and

also served as acting administrator for several months after Whitman left the agency.

The court also rejected a claim that could have compelled immediate cleanup action by EPA, as well as a claim filed under the Superfund law.

EPA has 45 days to appeal the decision.

An EPA spokesman declined to comment on the case, referring calls to the Department of Justice (DOJ). A DOJ spokesman says the case is under review and, "No determination has been made as to what the government is going to do."

END

AP

February 9, 2006

Evangelical Christian group asks to intervene in lawsuit against Air Force Academy

By SUE MAJOR HOLMES, Associated Press Writer

ALBUQUERQUE, N.M._An evangelical group petitioned Wednesday to intervene in a lawsuit by an Air Force Academy graduate who alleges senior officers and cadets illegally impose Christianity on others at the school.

The National Association of Evangelicals, based in Colorado Springs, wants to intervene to help the Air Force fight the federal lawsuit filed last October.

Cadets, watchdog groups and a former academy chaplain have alleged religious intolerance is widespread at the Colorado Springs school.

The Air Force has declined to discuss the lawsuit in any detail.

However, last August it issued guidelines discouraging public prayer at official functions and urging commanders to be sensitive about personal expressions of religious faith.

In June, an Air Force task force found no overt religious discrimination but said it observed a lack of sensitivity among some and confusion over what's permitted in sharing one's faith.

Kyle Fisk, executive administrator for the evangelical group, called the lawsuit "an unprecedented attack on religious expression in the military" and said it seeks the military's "secularization."

The organization wants to protect the rights of military chaplains and soldiers who enter into religious discussions with fellow soldiers, he said Wednesday.

The group sought to intervene because interveners, unlike those granted friend-of-the-court status, have the right to introduce new facts in a case, Fisk said.

The chief plaintiff, Mikey Weinstein, who is Jewish, is a 1977 honors graduate of the academy. One of his sons graduated from the school in 2004; another currently is a junior.

He has said he's convinced academy leaders are nurturing a culture where evangelical Christians _ officers, cadets, chaplains, coaches and professors _ bully members of other faiths.

The Justice\l "l" Department\l "l" on Dec. 23 and again in January asked U.S. District Judge James Parker to dismiss the lawsuit, repeating the position the Air Force has maintained since the lawsuit was filed _ that there is no official policy of proselytizing.

It also argues that Weinstein, of Albuquerque, and four co-plaintiffs _ also academy graduates _ cannot show that they have been harmed.

END

Native American Times
2/8/06

Opinion: Punishing Indians for wanting their money back

Louis Gray

Some old habits die hard. The Department of Interior just can't seem to help itself. First they lost billions of Indian trust funds and now because they refuse to settle or actually pay back what they lost, stole, and misused, they have decided to do what they do best: Punish the poor.

Quite simply, those people must have the heart of a lizard to continue to mistreat the people they are bound to serve. Hate your job but don't hurt the defenseless. Plans to cut social programs designed to alleviate the ravages of abject poverty are insensitive at best.

To blame the Cobell lawsuit for the multiple cuts in services is akin to blaming African Americans' lack of riches as the reason that ethnic group suffered so greatly from Katrina. It is the height of insensitivity.

If the BIA wants to cut funds from an irresponsible agency, they should look no further than the Office Special Trustee (OST), which has wasted more even federal dollars than FEMA. The fat and lazy should not thrive while hungry Native Americans go wanting.

Fortunately, there are those in Congress who agree and have tried to reign in OST when it requests more money. Congress will once again be called upon to do the right thing. Where else are the poor punished for seeking justice?

The Department of Interior can't manage our funds, they can't be trusted to operate their own Internet, they can't admit their wrongs, and they can't take care of the very people they obligated to serve. How much longer will thoughtful citizens allow the gang that can't shoot straight to continue bungling their responsibilities?

END

The Diamondback (University of Maryland Independent Student Paper)

February 9, 2006

Opinion: Recruitment hypocrisy

Anika Fontaine

Rumsfeld vs. FAIR is touted by some to be the gay rights case of the term. At question is the

constitutionality of the Solomon Amendment, a federal law that punishes universities that do not allow military recruiters on their campuses by withdrawing federal funding.

Those who consider this an important gay rights case believe by declaring it unconstitutional for the military to force its way onto the campus, gay rights are being protected because university nondiscrimination policies are upheld. But this is in no way a gay rights case. By overturning the Solomon Amendment, gay rights are not directly affected for better or for worse. So, even if the Solomon Amendment is defeated, the lesbian, gay, bisexual and transgendered community will gain nothing.

The case FAIR (Forum for Academic and Institutional Rights) makes is one for free speech. The military operates under the "don't ask, don't tell" policy, barring all those who are openly not heterosexual (meaning gay, bisexual or transgendered). Several law schools, represented by FAIR, claim the Solomon Amendment violates their right to free speech and association, because hosting a military recruiter on the campus forces the school to carry military messages and indicate approval of the military's policies.

Their case isn't a very strong one. To say hosting a military recruiter is a form of speech is far-fetched. Those siding with the government argue no one would confuse the military's messages with the messages of the law schools. Besides, hosting a recruiter is more likely to be considered an action than a form of speech.

The military, however, has no need to force itself onto these campuses. The Department of Defense has actually called it unnecessary because there is no lack of interest in the positions for which they would be recruiting (think JAG lawyers). Yet, the administration says we are in a time of war and, therefore, it must be able to have equal access to campuses for recruitment. This seems to be about punishing the schools for speaking out against the very paranoid military.

Enough about free speech. If it's gay rights they want to protect, why aren't they going after the real problem — the "don't ask, don't tell" policy?

Don't ask, don't tell, don't pursue, don't harass. This policy, supposedly, protects "non-heterosexuals" from discrimination. But does it really work? The policy itself is discriminatory. By requiring these individuals keep their sexual orientation a secret and to refrain from any same-sex contact with sexual intent, they are reduced to lesser human beings. Openly discriminating against alternative sexual orientations breeds the homophobia, fear and anger that is so at home in the military.

According to the Human Rights Campaign, the number of discharges (as well as the related costs) have increased considerably since the "don't ask, don't tell" policy was established.

Also, even though the "don't tell" portion of the policy has been enforced, the other three parts have been widely ignored. There have been several cases of harassment, name-calling and physical assaults. A notable case involves a private being beaten to death after months of harassment at a domestic base. It turns out the commanding general, a Maj. Gen. Robert Clark, neglected to "provide [the] required training" on the policy.

Coincidentally, President Bush has twice attempted to promote this man to lieutenant general, the second highest rank in the Army.

To argue it is important to be able to recruit on all university campuses because we are in a time of war and, on the other hand, to turn away people from service because of their sexual orientation, is hypocritical! The military is letting the talent of many slip away. If we really are in need of military personnel, then allow all who wish to serve their country to do so.

END

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, February 09, 2006 11:30 AM
To: Beach, Andrew
Cc: [redacted]@gmail.com'
Subject: RE: Senators letters

Thanks, Andy

-----Original Message-----
From: Beach, Andrew
Sent: Thursday, February 09, 2006 8:03 AM
To: Gorsuch, Neil M
Cc[redacted]@gmail.com'
Subject: RE: Senators letters

I would guess that OLA would be tasked with preparing a response to such a letter from a Member of Congress. I haven't seen any similar letters come through here. It's not a FOIA request so doubt that the privacy office folks would be involved.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, February 08, 2006 7:27 PM
To: Beach, Andrew
Cc:[redacted]@gmail.com'
Subject: FW: Senators letters

Andy - Do you know who is handling DOJ responses to these sort of letters? I'd like to be able to tell [redacted] with whom he can coordinate. Thanks. NMG

-----Original Message-----
From:[redacted]@dodgc.osd.mil [mailto:[redacted]@dodgc.osd.mil]
Sent: Wednesday, February 08, 2006 6:51 PM
To: Gorsuch, Neil M
Subject: Fw: Senators letters

I assume AG received the same. How is DOJ handling?

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted] DoD OGC <[redacted]@dodgc.osd.mil>
To: [redacted] DoD OGC <[redacted]@dodgc.osd.mil>
Sent: Tue Feb 07 15:20:10 2006
Subject: Senators letters

<<Sen Kerry letter.pdf>> <<Sen Reid,Durbin,Stabenow & Schumer.pdf>>

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Thursday, February 09, 2006 11:31 AM
To:	Seidel, Rebecca
Cc:	[redacted]@dodgc.osd.mil'
Subject:	FW: Senators letters
Attachments:	Sen Kerry letter.pdf; Sen Reid,Durbin,Stabenow & Schumer.pdf

Rebecca - Do you know who is handling DOJ responses to these sort of letters? I'd like to be able to tell [redacted] (DOD OGC) with whom he can coordinate. Thanks. NMG

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Subject: Senators letters

<<Sen Kerry letter.pdf>> <<Sen Reid,Durbin,Stabenow & Schumer.pdf>>

JOHN KERRY
MASSACHUSETTS

COMMITTEES:
COMMERCE, SCIENCE, AND TRANSPORTATION
FINANCE
FOREIGN RELATIONS
SMALL BUSINESS

United States Senate

WASHINGTON, DC 20510-2102

OFFICE OF THE SECRETARY OF DEFENSE
2006 FEB -1 PM 2:54

January 20, 2006

The Honorable Donald Rumsfeld
Secretary
U.S. Department of Defense
The Pentagon
Room 3E880
Washington, D.C. 20301

Dear Secretary Rumsfeld:

I am writing to request that you release a detailed list of all contacts between officials in your agency and Jack Abramoff, his associates, and the clients he represented between January 20, 2001, and today. I also request an explanation of any changes in federal policy based on those contacts. This is not the first request seeking the release of these records, and the resistance to these requests is troubling to the American people.

As you are aware, Mr. Abramoff has recently pleaded guilty to conspiracy, mail fraud and tax evasion charges related to his attempts to influence federal government policy in both the Congress and the Executive Branch. The Justice Department is currently investigating this influence-peddling scandal. Published reports show that Bush Administration officials have met with Mr. Abramoff approximately 200 times.

I strongly believe that Members of Congress and all federal employees must be held to the highest ethical standards. As the Congress considers legislation to reform federal ethics laws, we must know the extent to which lobbyists like Mr. Abramoff affect federal policy in both the Congress and the Executive Branch. That is why, during the 2004 Presidential campaign, I released the names of lobbyists I met with during my time in the Senate.

As part of that process, it is critical for the Congress to know about each contact that Mr. Abramoff has had with officials in your agency and whether any of those contacts led to any changes in federal policy. This information will help determine what additional changes to our ethics laws are necessary to stop lobbyists and others from using undue and improper influence in their dealings with the federal government.

I am deeply disappointed that the Bush Administration has repeatedly failed to provide any substantive information regarding its interactions with Mr. Abramoff. Refusing to disclose this information is completely inconsistent with the high ethical

email: john_kerry@kerry.senate.gov
www: http://www.senate.gov/~kerry/

PRINTED ON RECYCLED PAPER

OSD 01641-06

standards that the American people expect and deserve. I respectfully request that this information be made public immediately.

Thank you in advance for your consideration of this request.

Sincerely,

John F. Kerry

United States Senate

OFFICE OF THE
SECRETARY OF DEFENSE

2006 JAN 31 PM 2:02

January 19, 2006

The Honorable Donald Rumsfeld
Secretary
Department of Defense
1000 Defense
The Pentagon
Washington, D.C. 20301-1000

Dear Secretary Rumsfeld:

On Tuesday, we sent a letter to President Bush asking that he and officials within his Administration detail whatever contact they might have had with Jack Abramoff. Scott McClellan announced that the White House would not provide this information, despite earlier assurances. Therefore, we have no choice but to ask you these questions directly.

As we are sure you are aware, the Justice Department is currently investigating the web of corruption surrounding lobbyist Jack Abramoff. Even at this early stage of the investigation, concerns have been raised that Mr. Abramoff may have had undue and improper influence within the highest levels of the Bush Administration and even the White House itself. Such accusations serve to undermine the credibility of this Administration and our government at large -- even before any indictments or convictions. As a result, it is crucial that the American people know what role, if any, Mr. Abramoff played in the highest levels of our government.

As more and more Republican officials in and out of Congress are implicated in this scandal, it has become increasingly important that the record be cleared and that any contact you or others in the Administration have had with Mr. Abramoff be fully explained to the American people. For this reason, we urge you to publicly and immediately detail all of your personal contacts with Mr. Abramoff during your time with the Bush Administration. If you know of others in the Administration who have had such contacts, please disclose those contacts as well. Please also detail any official acts that have been undertaken on behalf of or at the request of Mr. Abramoff. Perhaps there are no contacts to reveal, no favors that have been given. We hope that is the case. But it is important to set the record straight, one way or the other.

Additionally, we believe is it imperative that you reveal any involvement in the "K Street Project," the initiative launched in recent years by Republicans close to this Administration who have worked hard to increase the ties between lobbyists like Jack Abramoff and Republican elected officials.

OSD 01544-06

DOJ_NMG_0013545

We urge you to respond to this letter and help shed some light on what has happened between Mr. Abramoff and this Administration. We look forward to your response.

Sincerely,

Harry Reid
United States Senator

Dick Durbin
United States Senator

Debbie Stabenow
United States Senator

Charles E. Schumer
United States Senator

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Thursday, February 09, 2006 12:08 PM
To: Gorsuch, Neil M
Cc: [redacted]@dodgc.osd.mil'; Burton, Faith
Subject: RE: Senators letters

Faith Burton (cc'd here) is the appropriate contact for DOJ leg affairs.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, February 09, 2006 11:31 AM
To: Seidel, Rebecca
Cc: [redacted]@dodgc.osd.mil'
Subject: FW: Senators letters

Rebecca - Do you know who is handling DOJ responses to these sort of letters? I'd like to be able to tell [redacted] (DOD OGC) with whom he can coordinate. Thanks. NMG

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From: [redacted]@dodgc.osd.mil [mailto [redacted]@dodgc.osd.mil]
Sent: Wednesday, February 08, 2006 6:51 PM
To: Gorsuch, Neil M
Subject: Fw: Senators letters

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From: [redacted] DoD OGC <[redacted]@dodgc.osd.mil>
To: [redacted] DoD OGC <[redacted]@dodgc.osd.mil>
Sent: Tue Feb 07 15:20:10 2006
Subject: Senators letters

<<Sen Kerry letter.pdf>> <<Sen Reid,Durbin,Stabenow & Schumer.pdf>>

Williams, Jan

From: Williams, Jan

Sent: Thursday, February 09, 2006 1:35 PM

To: Nelson, Carrie; Garrett, Paul; Block, Jonathan; /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bradbury, Steve; Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; /o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); Balfe, Robert; Biskupic, Steven (USAWIE); Bogden, Daniel (USANV); Brooks, Susan; Brownlee, John (USAVAW); Buchanan, MaryBeth (USAPAW); Canary, Leura G. (USAALM); Charlton, Paul (USAAZ); Chiara, Margaret M. (USAMIW); Christie,

Christopher (USANJ); Colantuono, Thomas P. (USANH); Connolly, Colm (USADE); Corrente, Robert (USARI); Cummins, Bud (USAARE); Dugas, David R. (USALAM); Fitzgerald, Patrick J. (USAILN); Garcia, H; Garcia, Michael J (SDNY); Graves, Todd (USAMOW); Greenlee, Jim (USAMSN); Heavican, Michael (USANE); Heffelfinger, Tom (USAMN); Huber, David L. (USAKYW); Iglesias, David C. (USANM); Immergut, Karin (USAOR); Jenkins, Anthony; Kubo, Ed (USAHI); Lam, Carol (USACAS); Lampton, Dunn (USAMSS); Larson, Charles (USAIAN); Letten, James (USALAE); Lockhart, Gregory; Marino, Thomas (USAPAM); Martin, Alice (USAALN); Mauskopf, Roslynn; McDevitt, Jim A. (USAWAE); McKay, John (USAWAW); Mead, Matthew H. (USAWY); Meehan, Patrick (USAPAE); Melgren, Eric (USAKS); Mercer, Bill (USAMT); Miller, Gregory (USAFLN); Moss, Thomas (USAID); Murphy, Stephen J. (USAMIE); Nahmias, David (USAGAN); O'Connor, Kevin (USACT); O'Melia, Michael (USAAZ); Orwig, Matt (USATXE); Perez, Paul (USAFLM); Rapadas, Leonardo; Roper, Richard (USATXN); Rosenstein, Rod (USAMD); Ryan, Kevin (USACAN); Scott, McGregor (USACAE); Shappert, Gretchen (USANCW); Sperling, Sheldon J. (USAOKE); Suddaby, Glenn T. (USANYN); Sullivan, Michael (USAMA); Sutton, Johnny K. (USATXW); Vines, Jim (USATNM); Wagoner, Anna Mills S. (USANCM); Wainstein, Kenneth; Washington, Donald (USALAW); Whitaker, Matt (USAIAS); White, Greg (USAOHN); Whitney, Frank (USANCE); Wood, Lisa (USAGAS); Wood, Maxwell; Wrigley, Drew (USAND); Yang, Debra (USACAC)

Subject: FW: IN CASE YOU MISSED IT: President Bush Discusses Progress In The War On Terror

Attachments: tmp.htm

Importance: Low

In Case You Missed It ...

President Bush Discusses Progress In The War On Terror

THE PRESIDENT: "By standing together, the United States and our partners are striking real blows against the enemy. Since September the 11th, 2001, our coalition has captured or killed Al Qaeda managers and operatives in over two dozen countries. That includes many of Al Qaeda's operational commanders - the senior leaders responsible for day-to-day planning of terrorist activities across the globe. In November 2001, our coalition forces killed Mohammed Atef with an airstrike in Afghanistan. March 2003, his replacement - Khalid Shaikh Mohammed - was captured in Pakistan. May 2005, the man who took over for him - a terrorist named al-Libbi - was captured in South Asia. The terrorists are living under constant pressure, and this adds to our security. When terrorists spend their days working to avoid death or capture, it's harder for them to plan and execute new attacks on our country.

"By striking the terrorists where they live, we're protecting the American homeland. Since September the 11th, the United States and our coalition partners have disrupted a number of serious Al Qaeda terrorist plots, including plots to attack targets inside the United States. Let me give you an example. In the weeks after September the 11th, while Americans were still recovering from an unprecedented

the weeks after September the 11th, while Americans were still recovering from an unprecedented strike on our homeland, Al Qaeda was already busy planning its next attack. We now know that in October 2001, Khalid Shaikh Mohammed - the mastermind of the September the 11th attacks - had already set in motion a plan to have terrorist operatives hijack an airplane using shoe bombs to breach the cockpit door and fly the plane into the tallest building on the West Coast. We believe the intended target was Liberty Tower in Los Angeles, California.

"Rather than use Arab hijackers as he had on September the 11th, Khalid Shaikh Mohammed sought out young men from Southeast Asia whom he believed would not arouse as much suspicion. To help carry out this plan, he tapped a terrorist named Hambali, one of the leaders of an Al Qaeda-affiliated group in Southeast Asia called "JI." JI terrorists were responsible for a series of deadly attacks in Southeast Asia and members of the group had trained with Al Qaeda. Hambali recruited several key operatives who had been training in Afghanistan. Once the operatives were recruited, they met with Osama bin Laden, and then began preparations for the West Coast attack.

"Their plot was derailed in early 2002, when a Southeast Asian nation arrested a key Al Qaeda operative. Subsequent debriefings and other intelligence operations made clear the intended target and how Al Qaeda hoped to execute it. This critical intelligence helped other allies capture the ringleaders and other known operatives who'd been recruited for this plot. The West Coast plot had been thwarted. Our efforts did not end there. In the summer of 2003, our partners in Southeast Asia conducted another successful manhunt that led to the capture of the terrorist Hambali.

"This West Coast plot shows, in the War on Terror, we face a relentless and determined enemy. It operates in many nations, so protecting our citizens requires unprecedented cooperation from many nations, as well.
It took the combined efforts of several countries to break up this plot.
By working together, we took dangerous terrorists off the streets. By working together, we stopped a catastrophic attack on our homeland.

"Across the world, our coalition is pursuing the enemy with relentless determination. And because of these efforts, the terrorists are weakened and fractured. Yet they're still lethal. We cannot let the fact that America hadn't been attacked in four and a half years, since September the 11th, lull us into an illusion that the threats to our Nation have disappeared. They have not. Just last month, we heard Osama bin Laden declare his intention to attack America again. Our military, law enforcement, homeland security and intelligence professionals take those threats very seriously. And they are working around the clock day and night to protect us. We are safer for their efforts, but we're not yet safe. America remains at risk, so we must remain vigilant. We'll stay on the offensive. We will hunt down the terrorists. And we will never rest until this threat to the American people is removed."

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[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Thursday, February 09, 2006 1:40 PM
To: Seidel, Rebecca; Gorsuch, Neil M
Cc: Burton, Faith
Subject: RE: Senators letters

Faith, if the AG has received these "Abramoff letters," we're curious to hear how you've decided to handle them . . .

-----Original Message-----
From: Rebecca.Seidel@usdoj.gov [mailto:Rebecca.Seidel@usdoj.gov]
Sent: Thursday, February 09, 2006 12:40
To: Neil.Gorsuch@usdoj.gov
Cc: Faith.Burton@usdoj.gov; [redacted]@dodgc.osd.mil
Subject: RE: Senators letters

Faith Burton (cc'd here) is the appropriate contact for DOJ leg affairs.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, February 09, 2006 11:31 AM
To: Seidel, Rebecca
Cc: [redacted]@dodgc.osd.mil'
Subject: FW: Senators letters

Rebecca - Do you know who is handling DOJ responses to these sort of letters? I'd like to be able to tell [redacted] (DOD OGC) with whom he can coordinate. Thanks. NMG

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto [redacted]@dodgc.osd.mil]
Sent: Wednesday, February 08, 2006 6:51 PM
To: Gorsuch, Neil M
Subject: Fw: Senators letters

I assume AG received the same. How is DOJ handling?

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Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted] DoD OGC <[redacted]@dodgc.osd.mil>
To: [redacted] DoD OGC <[redacted]@dodgc.osd.mil>
Sent: Tue Feb 07 15:20:10 2006
Subject: Senators letters

<<Sen Kerry letter.pdf>> <<Sen Reid,Durbin,Stabenow & Schumer.pdf>>

Williams, Jan

From: Williams, Jan
Sent: Thursday, February 9, 2006 1:43 PM
To: Williams, Jan; Nelson, Carrie; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); '/o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy'; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); 'Bianco, Joseph F.'; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); 'Burch, Victoria'; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; 'Gambatesa, Donald (USMS)'; Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; 'Greg Harris'; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; 'Neumayr, Mary (ENRD)'; Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Woodruff, William; Garrett, Paul; Block, Jonathan

Subject: Chance To See Marine One Departure

Tomorrow Morning (Friday, 2/10), the President will be departing from the South Lawn on Marine One. DOJ has limited spaces to attend the departure. If you would like to attend, please email me asap. You will need to arrive at the Southwest Gate of the White House at 10:35am. THI EVENT IS OPEN TO ANYONE WHO WOULD LIKE TO ATTEND.

Comisac, Rena (CRT)

From: Comisac, Rena (CRT)
Sent: Thursday, February 09, 2006 1:52 PM
To: Gorsuch, Neil M; Todd, Gordon (CRT); Swenson, Lily F
Cc: Kim, Wan (CRT); Vargas, Omar (CRT)
Subject: Trafficking Report
Attachments: Appendix Case Summaries.wpd; AG Cover Letter.wpd

We have clearance from the WH on the trafficking report, which is great news. Since we are looking at a three-week printing schedule, we will have the report in plenty of time if we get it to the printers at the beginning of next week.

While the report was at the WH, we put together an appendix of case summaries that could be included in the report. This would illustrate the wide variety of trafficking cases that the Department prosecutes. The report already accomplishes this objective, but putting in the an appendix allows the reader to focus exclusively on the prosecutions. We are still making line edits to the appendix, but a draft is attached so that you have a feel for what it would look like. This is purely icing on the cake at this point, so I welcome your thoughts on its inclusion.

In addition, we have drafted an introductory letter from the AG, which would go at the beginning of the report. A draft of that letter is attached for your consideration.

[DOJ Seal] [AG Photo]

Dear Reader,

Human trafficking is the enslavement of vulnerable persons forced into exploitative work situations. Traffickers are slave traders who treat people not with the dignity and respect that every human being deserves, but as commodities to be recruited, moved, and sold. Human trafficking victims often hail from impoverished nations. Their quest for a new beginning leads them to take chances on alluring work opportunities in the United States that all too often turn their dreams of a better life into nightmares of physical, emotional, and sexual abuse and humiliation. Of course, not all trafficking victims move across international borders. Many victims are Americans recruited from our nation's streets, and their plight is just as heartbreaking as those victims who hail from faraway lands.

In early 2002, at the beginning of his administration, President George W. Bush declared that human trafficking is a national security issue requiring a comprehensive and coordinated response by all federal agencies. He created mechanisms, such as the cabinet-level Interagency Task Force to Monitor and Combat Trafficking in Person (now the Senior Policy Operating Group), to ensure that the federal government fully implements the Trafficking Victims Protection Act of 2000. The Department of Justice has aggressively carried out the President's directives, and has worked with governmental and non-governmental organizations, both here and abroad, to rescue, protect, and assist victims of sex, labor, and child sex trafficking. In addition, the Department has collaborated with its partners in other federal governmental agencies, state and local law enforcement agencies, and foreign governments to investigate, apprehend, and prosecute hundreds of traffickers. Indeed, since fiscal year 2001, federal investigators and prosecutors have charged and convicted record numbers of trafficking defendants.

This report presents a summary of the Department's accomplishments to halt human trafficking through aggressive, proactive investigations that reflect a victim-centered approach. As we explain in this report, victims are essential to the investigation, prosecution, and prevention of this appalling crime. Federally supported crime victim services and outreach programs are an integral part of our strategy. The Department has also energetically shared our victim-centered approach with foreign nations, and is supporting the active involvement of state and local government in our efforts. Since 2004, the Department has awarded more than $30 million to institute 32 multi-disciplinary anti-human trafficking task forces and nearly two dozen victim service providers in communities across the nation.

The Department has accomplished a great deal to implement the President's directives to abolish human trafficking, but we do not end here. We must continue to rescue victims, prosecute traffickers, and coordinate with our domestic and international partners to put an end to this heinous crime. It is my hope that this report will help further inform our nation's response to human trafficking by sharing the successes that we at the Department of Justice have thus far achieved in combating human trafficking.

Sincerely,

Alberto R. Gonzales

Appendix

HUMAN TRAFFICKING CASES
Fiscal Years 2001 - 2005

The following are summaries of human trafficking cases prosecuted by the Department between fiscal years 2001 and 2005, many of which are discussed in this report, that highlight the factual variations found in these types of cases.

Fiscal Year 2001

United States v. Gasanov (Texas)

Two defendants, Sardar and Nadira Gasanov, a Russian couple, were convicted on March 15, 2002, of recruiting women from Uzbekistan into the United States under false pretenses, then forcing them to work in strip clubs and bars in El Paso, Texas, in order to pay back an alleged $300,000 smuggling fee. The victims were stripped of their passports, required to work seven days a week, and had their families in Uzbekistan threatened should they not comply with the Gasanovs' demands. On May 17, 2002, the defendants were sentenced to 5 years incarceration to be followed by 3 years supervised release, and they were ordered to pay approximately $516,000 in restitution.

United States v. Lee, et al. (Hawaii)

In *United States v. Kil Soo Lee*, the largest trafficking prosecution ever brought by the Department, the Civil Rights Division led a long and difficult investigation resulting in a 22-count indictment against five defendants charged with subjecting workers to involuntary servitude in a garment factory in American Samoa. Specifically, the indictment, filed in federal court in Hawaii, charged that the defendants brought over 250 Vietnamese and Chinese nationals, mostly young women, to work as sewing machine operators in a Daewoosa garment factory. The victims, some of whom were held for up to two years, were forced to work through extreme food deprivation, beatings and physical restraint. The victims were held in barracks on a guarded company compound, and were threatened with confiscation of their passports, deportation, economic bankruptcy, severe economic hardship to family members, false arrest, and a host of other consequences. One victim had an eye gouged out by a defendant who struck her with a jagged pipe in order to punish her for refusing to comply with the defendants' orders.

Two Samoan defendants, who conspired with Lee, previously pled guilty to charges of conspiracy and received sentences of 5 years and 10 months and 4 years and 9 months incarceration. On February 21, 2002, defendant Kil Soo Lee, the Korean owner of a sweatshop in the Territory of American Samoa, was convicted of conspiracy to violate the civil rights of the workers, eleven counts of involuntary servitude), one count of extortion and one count of money laundering. The other two defendants, his subordinates, were acquitted. On June 22, 2005, defendant Lee was sentenced to 40 years incarceration.

DOJ_NMG_0013562

United States v. Ramos, et al. (Florida)

On June 27, 2002, three defendants, Jose, Juan, and Ramiro Ramos – two of whom operated a fruit harvesting business in Lake Placid, Florida – were convicted of conspiring to commit involuntary servitude, harboring illegal aliens and violating the Hobbs Act (which criminalizes extortion by the wrongful use of actual or threatened force, violence, or fear) for illegally transporting Mexican citizens to Florida to work in their fields (charges against a fourth defendant were dismissed by the government). Upon their arrival, the workers were told that they owed money for their transport and they were not free to leave the employment until they had repaid the debt. The defendants created a climate of fear by threatening the workers with violence if they left; they subjected the victims to constant surveillance.. The defendants brutally beat a van driver and several of his employees in an effort to prevent them from taking workers away from the area. November 20, 2002, two of the three defendants, Ramiro and Juan Ramos, were sentenced to 12 years and 3 months imprisonment and ordered to pay $675 in restitution to certain victims and to forfeit certain property, under federal asset forfeiture laws, including vehicles, real property and over $3 million in proceeds because the jury that convicted them determined that the property was used in furtherance of the trafficking conspiracy or obtained as a result of the criminal trafficking enterprise. Additionally, defendant Jose Ramos was sentenced to 10 years and 3 months imprisonment and ordered to pay a $10,000 fine.

Following sentencing, however, the Supreme Court rendered its decision in *Scheidler v. National Organization for Women, Inc.*, 537 U.S. 393 (2003), which held that actions which did not amount to "obtaining" property could not be the basis for a Hobbs Act violation. The defendants had been charged with and convicted of Hobbs Act violations, but the evidence did not show that the defendants obtained any property as a result of their actions. Therefore, the Hobbs Act convictions were vacated. On the government's motion, the Court of Appeals for the Eleventh Circuit, dismissed those charges (the only ones pending against Jose Ramos) and remanded the case against Juan and Ramiro Ramos to the District Court for re-sentencing, where they received sentences of 15 years incarceration, fined $20,000 and ordered to pay $675 restitution on March 1 and May 3, 2004, respectively.

United States v. Satia and Nanji (Maryland)

Two defendants were convicted on December 20, 2001 of holding a teenage Cameroonian girl in involuntary servitude and illegally harboring her in their home to use her as their domestic servant. The defendants were convicted of involuntary servitude, conspiracy, and harboring the victim for their own financial benefit. The defendants recruited the 14-year-old female Cameroonian national to the United States with false promises of attending a school in the United States. Once the young girl arrived here, she was isolated in the defendants' home and forced through threats, sexual assaults, and physical abuse to work for them for several years as their personal servant. On March 27, 2002, the defendants were each sentenced to 9 years of incarceration and ordered to pay approximately $105,300 in restitution to the victim.

United States v. Virchenko, et al. (Alaska)

DOJ_NMG_0013563

On June 13, 2001, three defendants pled guilty to violating the Mann Act and related charges for their involvement in a scheme to traffic Russian women to Alaska. In December 2000, the group approached nine young female Russian folk dancers with the offer to perform in cultural festivals in the United States. The defendants also told the women that they might perform in exhibitions which would include partial nudity similar to the type of dancing done in Las Vegas shows. The defendants made these same representations on the women's United States visa applications. When the women arrived in Alaska, the defendants took their passports, visas, and return plane tickets to Russia and told the women that they must perform as nude dancers in two bars in Anchorage. The women were not permitted to talk to customers and were always accompanied by one or more of the defendants. In August and September, 2001, the defendants were sentenced to terms of incarceration ranging from 1 ½ to 3 years and 10 months of incarceration.

Fiscal Year 2002

United States v. Blackwell (Maryland)

After a three-week trial in June 2003, the defendants, Barbara Coleman-Blackwell and her husband, Kenneth Coleman, natives of Ghana, were convicted of conspiring to smuggle a woman from Ghana into the United States to work as an unpaid domestic servant and nanny for their child. After bringing their victim to the United States, the defendants isolated her, confiscated her passport, and repeatedly threatened her in order to keep her working in their home while also performing baby-sitting services for neighbors. The victim provided around-the-clock care for the defendants' child; cooked the family's meals; cleaned the home; did the laundry; and, at Coleman-Blackwell's insistence, performed such duties as removing Coleman-Blackwell's shoes at the end of the work day; cleaning between the defendant's toes; cleaning up Blackwell's vomit; and bringing Coleman-Blackwell a bowl of water at meal time to wash her hands. Defendant Coleman's mother, a powerful member of the Ghanaian Parliament, was also charged in the indictment, but has never faced trial because she returned to Ghana and has not been extradited, despite a request presented to the Government of Ghana by the Department of Justice.

United States v. Garcia, et al. (New York)

Six defendants were charged with conspiring to recruit young undocumented Mexican aliens from the Arizona border and transporting them to New York with false promises of good wages. They transported their victims to Albion, New York, where the traffickers forced them to work in agricultural fields for little or no pay and housed them in overcrowded and filthy conditions.

Prior to trial, the defendants challenged the constitutionality of the TVPA's criminalization of labor trafficking, codified at 18. U.S.C. § 1589, arguing that it was void for vagueness because it did not define terms such as "obtains," "threats of serious harm to or physical restraint," and " means of the abuse or threatened abuse of law or the legal process." The magistrate disagreed, finding that the terms used in the statute to define this criminal act were common words, likely to be understood by anyone, and that the statute ensured that prosecutors will only be successful in proving a case of labor trafficking if they can show that the trafficker knowingly committed

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the prohibited acts. In early December, 2004, the magistrate denied defense motions challenging the labor trafficking statute as unconstitutionally vague.

Subsequently, on December 2, 2004, Maria Garcia entered a guilty plea to charges of forced labor. Elias Botello, a co-defendant pled guilty to conspiring to commit forced labor and co-defendants Jose J. Garcia and Jose I. Garcia entered a guilty plea to harboring aliens. On May 26, 2005, Maria Garcia was sentenced to3 years and 10 months of incarceration, defendant Elias Botello was sentenced to 3 years and 1 month of incarceration, Jose J. Garcia was sentenced to 1 year and 2 months and defendant Jose I. Garcia was sentenced to 1 year probation. Two other co-defendants, Rogelio Espinoza and Sylvia Muñoz Rubio, are currently fugitives.

United States v. Jimenez-Calderon et al. (New Jersey)

Eight defendants were charged on September 26, 2002, with conspiring to lure and transport young Mexican girls into the United States under false pretenses, and then forcing them into prostitution, using physical violence and threats to maintain strict control over them. In September and October 2002, three defendants entered guilty pleas to sex trafficking by force, fraud and coercion. In January 2003, two additional defendants entered guilty pleas to sex trafficking and conspiring to sex trafficking, were subsequently sentenced to 17 ½ years of incarceration.

In September and October 2003, two of the defendants who pled guilty in 2002 were sentenced, respectively, to 44 months incarceration and 96 months incarceration. On June 9, 2004, the third defendant who pled guilty in 2002, was sentenced to 2 years and 3 months of incarceration and five years supervised release. These defendants were held jointly and severally liable, along with the previously-sentenced defendants, for the restitution owed to the victims. The Court further ordered the defendants to pay the victims $135,240.00 in restitution. One other defendant, who pled guilty in January 2003 to conspiring to obstruct justice, was subsequently sentenced to 1 year and four months incarceration. Two defendants remain in fugitive status.

As an offshoot of the original investigation, called Operation Sonic, Bureau of Immigration and Customs Enforcement agents in Newark, New Jersey, conducted Operation Supersonic. On August 7, 2003 they executed ten search warrants, arrested 50 undocumented aliens, and seized $27,000. These warrants were a result of a human smuggling investigation worked jointly with the New York Police Department and the United States Department of Labor. On October 21, 2003, defendant Pedro Garcia-Burgos pled guilty and was sentenced to 96 months imprisonment in the District of New York. On January 20, 2004, four additional subjects were charged for violations ranging from human smuggling to transportation in aid of a racketeering enterprise.

United States v. Lozoya (Texas)

Two defendants pled guilty to charges arising from their illegal transportation of a young Mexican woman into the United States to perform domestic work. The Mexican woman, along with her baby daughter, was held in a trailer where the family mistreated them; the family's failure to obtain medical assistance resulted in the death of the baby. The local United States

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Attorney's Office and the Civil Rights Division prosecuted the case; each defendant was sentenced on June 25, 2003 to15 years and 5 years of incarceration respectively.

United States v. Molina, et al. (Texas)

Nine defendants were charged with conspiring to smuggle and harbor illegal aliens from Honduras to Fort Worth, Texas, under false pretenses that they would be employed as waitresses in restaurants. Once in the United States, the victims were forced to work in bars entertaining men in order to pay off their smuggling and other debts. In September 2002, six of the nine defendants entered guilty pleas. Four defendants pled guilty to conspiring to smuggle and harbor illegal aliens, while one other defendant pled guilty to smuggling illegal aliens and another pled guilty to transporting illegal aliens. On January 3, 2003, these six defendants were sentenced to terms of incarceration ranging from 2 years and 3 months to 5 years and 3 months. Three remaining defendants are fugitives.

United States v. Trakhtenberg, et al. (New Jersey and New York)

Three defendants were charged with conspiring to commit forced labor, document fraud, and inducing aliens to unlawfully enter the United States for devising and carrying out a scheme to obtain the labor and services of Russian women. From the summer of 1999 through August 2002, the defendants induced more than 25 women to come from Russia to the United States using visa petition falsely claiming they were part of an exchange program with the University of Illinois at Chicago. Instead the women were forced to dance nude up to 10 hours a day, six days a week at strip clubs. In addition, the women's passports and return airline tickets were confiscated to make it difficult to force Russian women to dance in New Jersey strip clubs. and are awaiting sentencing. The victims were lured to the United States to perform cultural dance shows and with the promises of good pay and adequate housing accommodations. However, once in the United States, they were forced to perform in strip clubs and threatened that they would suffer serious harm and physical restraint if they did not perform.

On August 13, 2004, defendant Sergey Malchikov pled guilty to one count of conspiracy to commit forced labor, visa fraud, immigration violations, and extortion, and on July 21, 2005, he was sentenced to 3 years and 9 months of incarceration. Trakhtenberg was charged in two cases in connection with this case; one in District of New Jersey and the other in the Southern District of New York. In late 2004, defendant Trakhtenberg pled guilty to conspiring to commit forced labor, immigration offenses and visa fraud in the District of New Jersey where he was subsequently sentenced, in 2005, to 5 years of incarceration. He also pled guilty to conspiring to commit extortion for having threatened a victim's family in Russia with physical harm unless they paid money owed by the victim, who had escaped from prostitution in the Southern District of New York was subsequently, also in 2005, sentenced to 3 ½ years of incarceration to run concurrently with his earlier sentence of 5 years. Federal prosecutors also sought that Trakhtenberg pay restitution to his victims and forfeit assets gained in connection with this criminal enterprise. He was subsequently ordered to pay approximately $66,300 in restitution to four of his victims and ordered to forfeit $25,575. On January 2, 2006, the third defendant in this case, Viktoriya I'lina, pled guilty to conspiring to commit extortion and visa fraud and her

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sentencing is pending.

Fiscal Year 2003

United States v. Bradley and O'Dell (New Hampshire)

Two defendants, who operated a tree cutting business, were convicted of holding two Jamaican immigrants in conditions of forced labor and document servitude in Litchfield, New Hampshire. The defendants obtained workers from Jamaica by means of false promises of good work and pay. Once the workers arrived in New Hampshire, their visas and others documents were confiscated and the workers were paid substantially less than promised, were housed in deplorable conditions, were denied medical treatment, and were routinely threatened. On January 16, 2004, the defendants were sentenced to 5 years and 10 months of incarceration, fined $12,500 and ordered to pay $13,052 in restitution to their victims. Defendants appealed their sentence in light of the Supreme Court's decision in *United States v. Booker*, 543 U.S. 220 (2005)(holding that federal sentencing guidelines are advisory rather than mandatory) and thus the trial judge had an opportunity to reconsider the defendants' sentences. On January 13, 2006, re-sentencing was held, and upon reconsideration, defendants Bradley and O'Dell received the same sentence as in January 2004.

United States v. Guzman, et al. (Georgia)

On January 30, 2003, four defendants, Samuel Mendez Romero, Noe Quetzal Mendez Guzman, Alejandro Mendez Ramos, and Jose Luis Lopez, were charged in a 20-count superseding indictment with conspiring to bring Mexican women to the United States to engage in prostitution. The defendants were charged with conspiracy, forced prostitution, immigration offenses, and Mann Act violations. In 2002, at least three victims were smuggled into the United States and housed in apartments in the Atlanta area. One of the defendants threatened to kill a victim and her family if the victim refused to engage in prostitution; repeatedly chastised her for not bringing in enough money; and, at one point, physically assaulted her. Each of the victims serviced up to 25 or more men per night and provided half of their income to the taxi drivers who transported the victims to the houses of prostitution. Most of the remaining money was turned over to the defendants.

On May 1, 2003, Samuel Mendez Romero pled guilty to conspiracy, and on July 30, 2003, he was sentenced to nearly 3 years of incarceration. The remaining three defendants – Noe Quetzal Mendez Guzman, Alejandro Mendez Ramos, and Jose Luis Lopez – are fugitives.

United States v. Maka (Hawaii)

The defendant, a landscape maintenance contractor and rock wall builder, was charged with with involuntary servitude, forced labor, document servitude and immigration offenses for transporting Tongan males to Hawaii where they were forced to work in his businesses to repay the transporting expenses. The victims were housed in shacks on the subject's pig farm and were required to work in excess of 12 hours a day, six days a week for approximately $60 to $100 per

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week. On December 14, 2004, following a month-long trial, defendant Maka was convicted on 34 counts and his sentencing is pending.

United States v. Reyes-Rojas, et al. (Georgia)

Three defendants were charged with conspiracy, sex trafficking, importing and harboring aliens for the purpose of prostitution, alien smuggling and interstate transportation of illegal aliens for smuggling young, illegal aliens from Mexico into the United States and forcing them into prostitution. The defendants seduced their victims and lured them to the United States with the promise of employment, long-term romance and marriage. Once the women were in Atlanta, the defendants used physical violence, threats, and psychological coercion to force their victims to have sex with numerous men every night. Two defendants pled guilty on May 6, 2004, and were sentenced on November 23, 2004. Juan Rojas pled guilty to two sex trafficking counts and was sentenced to 5 years and 11 months of incarceration. Jose Reyes Rojas pled guilty to one sex trafficking charge and was sentenced to 4 years and 9 months of incarceration. A third defendant is a fugitive.

United States v. Russell (California)

Bernard Lawrence Russell was indicted on December 3, 2003, on charges of traveling in foreign commerce with intent to engage in sex with a juvenile, production of child pornography, and possession with intent to import child pornography. Investigation by ICE revealed that Russell traveled to the Philippines on numerous occasions over a two-year period in order to engage in sexual acts with children and to produce child pornography for the purpose of importation into the United States. At least three Filipino children have been identified as Russell's victims. Russell pled guilty on April 22, 2005. Sentencing is pending.

United States v. Soto-Huarto, et al. (Texas)

Eight defendants were charged with maintaining trailers in Edinburg, Texas, as safe houses for illegal aliens newly arrived from the United States-Mexico border. Women aliens were kept at the trailers and were forced to cook, clean, and submit to rapes at the hands of the defendants. In February 2003, local law enforcement encountered two women who had been raped and left for dead as punishment following their attempted escape from the defendants. Agents of the Bureau of Immigration and Customs Enforcement identified two additional female victims and rescued them. A joint Bureau of Immigration and Customs Enforcement and Federal Bureau of Investigation initiative dismantled the trafficking operation and arrested the defendants. In April and July, 2003, four of the eight defendants entered guilty pleas to transporting aliens. On August 27, 2003, three other defendants entered guilty pleas; two to involuntary servitude charges and one to conspiring to commit involuntary servitude. One remaining defendant is currently in fugitive status. On January 29, 2004 five defendants were sentenced to terms of incarceration ranging from 4 months to 14 years incarceration and on January 30, 2004, one defendant was sentenced to more than 23 years of incarceration. Three of the 5 defendants were ordered to pay $11,532 in restitution to their victims.

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United States v. Trisanti and Nasution (California)

Defendant Trisanti was charged with involuntary servitude and visa fraud, while both defendants were charged together with transportation of aliens. Between March 1996 and March 2003, two victims were trafficked into the United States from Indonesia and forced to work as domestic servants against their will by threats and physical violence. On March 25, 2004, defendant Trisanti pled guilty to involuntary servitude. On March 4, 2005, defendant Trisanti was sentenced to more than 3 ½ years incarceration. In the judge's final sentencing order, Trisanti was ordered to pay $205,289.85 in restitution to his victims. On May 10, 2004, defendant Nasution pled guilty to harboring an illegal alien and was subsequently sentenced to six months home detention and 3 years supervised release.

Fiscal Year 2004

United States v. Adaobi and George Udeozor (Maryland)

The defendants, husband and wife Nigerian nationals, were charged with smuggling a teenage girl from Nigeria into the United States, forcing her to work long hours at their home in Maryland and at the wife's medical practice, sexually assaulting and regularly beating her. The husband fled to Nigeria prior to trial and is being sought as a fugitive. The wife's month-long trial in 2004 resulted in her conviction for harboring-for-financial-gain and for conspiring to hold the girl in involuntary servitude. Her sentencing is pending.

United States v. Boehm, et. al. (Alaska)

On March 19, 2004, an 18-count federal indictment was returned against Josef F. Boehm charging him with conspiracy to commit sex trafficking of children, possession of a controlled substance with intent to distribute, being a felon in possession of a firearm, and being an unlawful user in possession of a firearm and ammunition. A superseding indictment also charged three others with conspiracy to commit sex trafficking, sex trafficking of children, and conspiracy to distribute cocaine and crack to persons under the age of 21. All four defendants are in federal custody. Boehm pleaded guilty on November 22, 2004 to child sex trafficking and to drug charges. As part of the plea agreement, he agreed to forfeit his residence and also to provide $1.2 million in a trust fund for the future benefit of the victims. Three defendants previously pleaded guilty. Sentencing for the defendants is pending.

United States v. Carreto, et al. (New York)

On April 5, 2005, defendants Josue Flores Carreto, Gerardo Flores Carreto, and Daniel Perez Alonso pled guilty, just prior to trial, to charges arising from forcing young Mexican women into prostitution in brothels throughout the New York City metropolitan area, including Queens and Brooklyn. The three defendants pled guilty to multiple counts of conspiring to engage in sex trafficking and conspiring to import aliens for immoral purposes, sex trafficking, attempted sex trafficking, forced labor, violating the Mann Act, importation of an alien for immoral purposes, and alien smuggling. Additionally, on November 12, 2004, co-defendant Edith Mosquera de

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Flores pled guilty to conspiring to force the young Mexican women into prostitution; and co-defendants Eloy Carreto Reyes and Eliu Carreto Fernandez entered guilty pleas on November 16, and December 22, 2004, respectively, to one count of sex trafficking. Co-defendants Consuelo Carreto Valencia and Maria De Los Angeles Velasquez Reyes, who were also indicted on charges of conspiracy, sex trafficking, forced labor or services, and Mann Act and immigration-related offenses, are presently incarcerated in Mexico on Mexican federal charges related to their role in this human trafficking conspiracy. Sentencing of the convicted defendants is pending.

United States v. Clark (Washington)

Michael Clark was arrested in June 2003 in Cambodia for sexually abusing two Cambodian boys, ages 10 and 13. Clark was subsequently indicted in the United States on September 24, 2003, and charged with attempting to and engaging in illicit sexual conduct after travel in foreign commerce. The case is believed to be the first such prosecution under the new provisions of the PROTECT Act. Clark pled guilty on March 17, 2004 and was subsequently to 8 years and 1 month of incarceration.

United States v. Du Preez, et al. (Georgia)

Five defendants were charged with conspiracy, visa fraud, false statements, and immigration offenses in connection with a scheme to bring aliens from other countries, but most often South Africa, into the United States illegally and to provide them with employment at their granite and marble business. Once in the United States, the aliens resided in apartments leased by the granite company, and they were induced to provide labor for cash or for credit against the cost of their rent, furniture, utilities and visa applications. The defendants threatened to report the aliens' illegal status to the immigration officials as a means to keep the aliens under their employment. Between October 25 and November 8, 2005, all 5 defendants entered guilty pleas to conspiring to harbor aliens and sentencing is pending.

United States v. Gates and Heyward (Washington, DC)

Defendants Gary Gates and Tamisha Heyward were charged with multiple counts sex trafficking and violating the Mann Act. The defendants operated a sex-trafficking and Internet prostitution business from their home, at times using girls as young as 14 to perform sexual acts. Gates beat the women who disobeyed him, and he also sexually assaulted many of the women and provided drugs to support some of the women's addictions. Heyward was also charged with unlawful possession of a firearm while defendant Gates was charged with first degree child sexual, under the laws of the District of Columbia. In mid-2004, Heyward pled guilty to sex trafficking and Gates pled guilty to four counts of sex trafficking of children and one count of first degree child sexual abuse. On September 8, Gates was sentenced to 14 years and 10 months of incarceration, 5 years supervised release and fined $1,000. Heyward was sentenced to 9 years of incarceration, 5 years supervised release and fined $5,000.

United States v. Kang, et al. (New York)

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The Kangs, a Korean couple, lured Korean women to New York City with promises of good jobs as hostesses in the their nightclub, but subjected them to rapes and physical abuse, held them for repayment of a $10,000 debt, and attempted to force them into prostitution. On November 18, 2005, the Korean couple pled guilty to forced labor and Byungki Koo, a Department of Homeland Security federal air marshal, also pled guilty to attempting to force one of the victims to get on a flight to South Korea to keep her from testifying against the Kangs. In October 2005, other defendants pled guilty to alien smuggling, conspiring to obstruct justice, and obstruction of justice. Sentencing of all seven defendants is pending.

United States v. Mubang (Maryland)

Defendant Theresa Mubang was convicted after a jury trial in November on charges of involuntary servitude and harboring an alien. Between November 1996 and December 1998, an 11 year old Cameroonian national was allegedly forced to work against her will as a domestic servant after being brought into the United States illegally and under false pretenses. Once in the United States, the victim was forced to care for the defendant's two children and performed all the household chores without pay at her home in Chevy Chase, Maryland. The defendant forced the victim to comply by beating her with a broken metal broom stick and a cable cord, forbidding her from speaking of her conditions to anyone, forbidding her from leaving the house or opening the door to anyone, and interfering with her mail. Mubang fled the country soon after her conviction. On February 28, 2005, Mubang was sentenced in absentia to 17 ½ years of incarceration and is currently a fugitive.

United States v. Sims (Georgia)

Maurice Sims transported a 16-year-old girl from El Dorado, Arkansas, to Atlanta, Georgia, for purposes of prostitution. Along the route he beat and raped the girl. On February 4, 2004, a federal grand jury indicted Sims on six counts including kidnaping, violations of the TVPA, and transporting a minor in interstate commerce for criminal sexual activity. A superseding indictment was returned March 2, 2004, adding three counts of obstruction of justice. On September 2004 Sims was convicted of kidnaping, trafficking, transportation across state lines for criminal sexual purposes, and persuading an individual to travel interstate for a criminal sexual purpose. Sims was sentenced to life imprisonment in December of 2004. His co-defendant, who testified against Sims at trial, was sentenced to5 years imprisonment.

The Stormy Nights Case*: United States v. Parsons, United States v. Thomas, United States v. Washington, United States v. Williams and Southwell, United States v. White, United States v. Sutherland, United States v. Scott, United States v. Phillips* (Oklahoma)

Nine defendants in eight cases were indicted on charges arising from Stormy Nights, a child prostitution investigation. In mid-2004, five defendants pled guilty to various charges in connection with their criminal activity. Defendant Michael Wayne Thomas pled guilty to transporting a juvenile to Pennsylvania for purposes of prostitution on two occasions and to committing an act of violence in furtherance of a prostitution enterprise. Thomas was sentenced to 17 ½ years of incarceration. Jermaine Dion Washington pled guilty to transporting a juvenile

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to Denver for purposes of prostitution and was sentenced to nearly 9 years of incarceration. DeCory Williams and Tiffone Southwell pled guilty to transporting a juvenile to Miami for purposes of prostitution and they were sentenced to 10 years and 3 years and 5 months, respectively. Jacinto White pled guilty to interstate travel to Pennsylvania in furtherance of a prostitution enterprise and was sentenced to 6 months incarceration. On July 9, 2004, defendant Phillips entered a guilty plea to coercing a person under age 18 to engage in a sexual act was sentenced to 10 years and 5 months of incarceration. On August 10, 2004, Kelvin Scott pled guilty to transporting for immoral purposes, and was sentenced to 10 years of incarceration. On August 20, 2004, Greg Parsons pled guilty to transporting a person under age 18 with intent to engage in criminal sexual activity and was sentenced to 4 years and 10 months of incarceration. On January 11, 2005, Troy Sutherland was convicted on charges of child sex trafficking and his sentencing is pending.

Fiscal Year 2005

United States v. Babaev and *United States v. Mammedov* (New York)

In July 2005, Alex Babaev and Asgar Mammedov pled guilty to sex trafficking in connection with bringing young women from Azerbaijan into the United States to work as prostitutes in New York, between March 2003 and March 2004. In early 2006, Babaev was sentenced to 20 years of incarceration and Mammadov was sentenced in December, 2005, to 10 years of incarceration and ordered to pay $325,000 in restitution to his victims.

United States v. Kaufman (Kansas)

A thirty five count superseding indictment was returned charging defendants Arlan and Linda Kaufman with conspiracy, forced labor, and involuntary servitude, as well as several other violations including health care fraud, mail fraud, making a false representation and writing, obstructing a federal audit, and forfeiture. The defendants operated "The Kaufman House," a residential treatment group home for mentally ill adults. For nearly 20 years, beginning in 1986 and lasting through October 2004, the defendants engaged in a conspiracy and scheme to hold mentally ill residents in involuntary servitude and forced labor. The defendants forced the residents to engage in nudity and sexually explicit acts and perform acts of labor and services for the defendants' entertainment and benefit. On November 7, 2005, defendants Arlan and Linda Kaufman were convicted. Arlen Kaufman was sentenced to 30 years of incarceration and Linda Kaufman was sentenced to 7 years of incarceration.

United States v. Maksimenko and Aronov and *United States v. Prokopenko and Bondarenko* (Michigan)

Aleksandr Maksimenko and Michail Aronov were indicted in February 2005, on charges of forced labor. The defendants allegedly smuggled a Ukranian woman into the United States and then coerced her into working at bars dancing for customers in the Detroit area. The defendants allegedly sexually assaulted her as part of their scheme to intimidate her. On September 8, 2005, Aronov pled guilty to conspiring with others to compel Eastern Europeans to serve as exotic

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dancers through forced labor, trafficking, document servitude and obstruction of justice. Aronov also pled guilty to conspiring to illegally recruit, transport, and harbor the women as well as to launder proceeds arising from the compelled servitude as well as immigration crimes. Evgeny Prokopenko and Alesander Bondarenko pled guilty to visa fraud for their involvement in this scheme. Trial for defendant Maksimenko is currently being scheduled and sentencing of those defendants who pled guilty is pending.

United States v. Medrano, et al. (New Jersey)

Defendants Luisa Medrano, Noris Elvira Rosales Martinez, Ana Luz Rosales Martinez, Nancy Floridalma Rosales Martinez, Jose Dimas Magana, Lourdes Rosales Martinez, Zenia Zunilda Martinez, Jose Arnaldo Isaula-Meza, Elsa Consuelo Isaula-Meza, and Rosalba Ortiz were charged with conspiracy to commit forced labor and multiple counts of forced labor and alien smuggling. A superseding federal indictment added six additional defendants to the case. Beginning in April 2003, the defendants allegedly recruited Honduran women and girls to come to the United States with promises of restaurant jobs. Once the women were smuggled into the United States, they were brought to New Jersey, where the subjects confined them in safe houses, forced them to dance with men in bars, and encouraged them to engage in prostitution to pay of inflated smuggling debts. On November 16, 2005, defendant Xochil Nectalina Rosales Martinez entered a guilty plea to conspiring to commit forced labor for her involvement in this matter. Sentencing of Rosales Martinez is pending as is a trial of the other remaining defendants.

United States v. Okhotina (California)

Defendant Alana Okhotina was charged with sex trafficking by force, fraud or coercion, and trafficking into servitude by importation of an alien for immoral purposes alien smuggling and two counts of transportation into prostitution. In January 2003, the defendant smuggled her eighteen year old niece into the United States from Russia and forced her to work as a prostitute to repay her smuggling debt. The defendant threatened to kill the victim and her family if she did not comply. On December 6, 2005, Okhotina entered a guilty plea for trafficking into slavery. Okhotina's sentencing is pending.

United States v. Salazar, et al. (Texas)

Defendants Gerardo Salazar, Salvador Fernando Molina Garcia, Angel Moreno Salazar and Jose Luis Moreno Salazar were charged with conspiring to commit sex trafficking of young Mexican women and girls. Two additional defendants, Juan Carlos Salazar and Ivan Salazar, were charged in the superseding indictment with this same charge. The defendants allegedly lured young Mexican girls and women into the United States under false pretenses, then forced them into prostitution, using physical violence and threats to maintain strict control over them. On January 17, 2006, defendant Salvador Fernando Molina Garcia entered a guilty plea to conspiring to smuggle minor Mexican girls and young Mexican women into the United States.

United States v. Zavala and Ibanez (New York)

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On November 5, 2004, defendants Mariluz Zavala and Jorge Ibanez pled guilty to conspiracy to commit forced labor, document servitude, and to recruit, harbor, transport and house undocumented workers; engaging in extortionate credit transactions; transferring false alien registration cards. Between June 1, 1999, and June 21, 2004, Zavala and Ibanez orchestrated a scheme to illegally obtain visas for Peruvian aliens seeking to come into the United States. The defendants charged the aliens a smuggling fee ranging from $6,000 to $13,000. By confiscating their passports and threatening to turn them over to authorities, the defendants compelled the aliens to perform work for them and other employers. The defendants would keep most of their paychecks, leaving the aliens with approximately $50 or less per week on which to live and support their families. More than 60 Peruvian illegal aliens, including 13 children, who were living in cramped and squalid conditions, were granted continued presence and are receiving services through a non-governmental organization. As part of their guilty pleas, the defendants will forfeit a residence valued at $175,000 and bank accounts containing approximately $30,000 generated through their crimes. On November 9, 2005, Zavala was sentenced to 15 years of incarceration and the sentencing of Iabnez is pending.

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Appendix

HUMAN TRAFFICKING CASES
Pre-Fiscal Year 2001

The following are cases discussed in this report that were prosecuted by the Department prior to fiscal year 2001.

United States v. Cadena, et al., (Florida)

Sixteen defendants were involved in operating brothel houses in Florida and the Carolinas. The defendants recruited young women from Veracruz, Mexico -- some as young as 14 years of age -- to come to the United States with promises of good jobs as in waitresses, child and elder care, and landscaping. Upon their arrival, the victims were informed that they owed a smuggling debt and that they must work as prostitutes or risk harm to themselves or their families. The women were held in bondage in a series of trailer house brothels, where they were made to serve over 30 men a day. Those who attempted to escape and were caught were subjected to beatings, confinement, threats, and punitive rapes. Girls and women who became pregnant as a result of the sexual slavery were forced to have abortions.

On April 2, 1999, Rogerio Cadena, who had pleaded guilty to one count alleging Conspiracy Against Rights (the Thirteenth Amendment) and one count Use of Firearm in Commission of a Crime of Violence was sentenced to more than 15 years of incarceration, and ordered to pay $1,000,000 to the victims of this crime. On April 16, 1999, eight Cadena associates were sentenced to terms ranging from 4 years and 9 months to more than 24 years of incarceration. Rogerio Cadena and several of his co-defendants were also ordered to pay their victims $1,000,000. In September 2005, Jose Luis Cadena, another associate, was arrested in Mexico pursuant to an extradition request by the United States. In addition, one co-defendant was convicted of murder in state court as a result of the joint federal and state investigation, another was dismissed by the government, and one has died in Mexico of natural causes. Three other co-defendants remain fugitives as of January 2006.

United States v. Michael Allen Lee, et al. (Florida)

Defendant Michael Lee, an agricultural crew leader, targeted homeless African-Americans who were addicted to cocaine or alcohol in recruiting for agricultural laborers. The men were offered crack cocaine in exchange for work. These recruits were then housed in abhorrent conditions, cheated of pay, threatened with violence, physically abused, and kept working because of a revolving debt to Lee. Assisting Lee was defendant Billy Rankin, and Lee's "henchman," defendant William Smith. Rankin recruited homeless African-American men in Orlando for the Lee operation, and drove the laborers to and from the fields in unsafe vehicles. Smith acted as "enforcer" for Lee. In April 1997, Lee and Smith kidnaped victim George Williams and brutally beat him for leaving Lee's employ without satisfying the debt he owed. Michael Allen Lee pled guilty in February 2001 to felony civil rights conspiracy to violate the Thirteenth Amendment's prohibition against slavery. On August 15, 2001, Lee was sentenced to more than 4 years of

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incarceration. William Oscar Smith pled guilty in May 2001 to a felony charge of one count of conspiring to hold a person in involuntary servitude. In July 2001, Smith was sentenced to 4 years and 7 months of incarceration. In March 2001, Billy C. Rankin pled guilty to a misdemeanor count of conspiring to provide unsafe transportation to agricultural workers. On June 11, 2001, Rankin was sentenced to 4 months of incarceration.

United States v. Pipkins (Georgia)

In August 2004, the Eleventh Circuit Court of Appeals upheld the 2001 convictions in *United States v. Pipkins,* 378 F. 3d 1281 (11th Cir. 2004), in which a gang of street pimps were convicted of Involuntary Servitude and Extortion for holding girls and women in a condition of forced prostitution from 1997 through 2001. The men persuaded underage females to prostitute for them by presenting a vision of ostentatious living, promising fame and fortune. They also enforced their rules brutally. Prostitutes endured beatings with belts, baseball bats, or "pimp sticks" (two coat hangers wrapped together). The pimps also punished the girls and women by kicking them, punching them, forcing them to lay naked on the floor and then have sex with another prostitute while others watched, or "trunking" them by locking them in the trunk of a car to teach them a lesson. Pipkins was sentenced to 30 years incarceration and his confederate Andrew Moore was sentenced to 40 years incarceration. The Eleventh Circuit upheld the use of the federal racketeering statute against the loose confederation of pimps, ruled that the evidence was sufficient to support a slavery conviction despite the victims' apparent freedom of movement (as their continued service was compelled through force and threats), and upheld the application of the criminal sexual abuse sentencing guideline to the case.

United States v. Reddy, et al. (California)

For over ten years, defendant Lakireddy Bali Reddy, a Berkeley, California, businessman, maintained a number of young girls and women for his sexual gratification and to work in his household and business enterprises. These victims were predominantly from families of lower castes and were brought into the United States by way of fraudulent employment offers or sham marriages. The case came to light upon the accidental death, by carbon monoxide poisoning, of a girl housed in one of Reddy's apartments and used by him as a concubine. Members of Reddy's family, notably his brother Jay and sister-in-law Annapurna Lakireddy, posed as relatives to assist in the fraudulent importation of these victims. On March 7, 2001, Lakireddy Bali Reddy pled guilty to violating two counts transportation of minors for immoral purposes, one count of conspiracy to bring aliens into the United States illegally and subscribing to a false tax return). On June 19, 2001, Reddy was sentenced to 8 years and 1 month of incarceration, and was ordered to pay $2,000,000 in restitution to four of his victims and be put on the registery of sex offenders. On March 7, 2001 Jay and Annapurna Lakireddy pled guilty to conspiring with Reddy to commit immigration fraud. On April 29, 2002 Jayaprakash Lakireddy was sentenced to 1 year and 1 day of incarceration and fined $30,000 and defendant Annapurna Lakireddy was sentenced to six months home detention and fined $2,000. On June 26, 2002, Vijay Kumar Lakireddy pled guilty today to conspiracy to commit visa fraud, stemming from his role in a large immigration fraud conspiracy and human trafficking operation. As part of his plea agreement, Mr. Lakireddy agreed that his sentence should be increased because the visa fraud was committed to effectuate

DOJ_NMG_0013576

another felony offense. The defendant also agreed that he would not dispute the government's characterization of the underlying felony offense as being that of involuntary servitude. On November 18, 2002, he was sentenced to 2 years incarceration and he was fined $40,000. In addition, he was held liable, jointly and severally with the main defendant, for $2,000,000 in restitution to the victims. On October 31, 2003, another son of the defendant pled guilty to conspiring to employ illegal aliens and on June 7, 2004, he was sentenced to 1 year home detention, 5 years probation, 300 hours of community service, and ordered to pay a $20,000 fine.

DOJ_NMG_0013577

Williams, Jan

From: Williams, Jan

Sent: Thursday, February 09, 2006 2:10 PM

To: Nelson, Carrie; /o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford; Balfe, Robert; Biskupic, Steven (USAWIE); Bogden, Daniel (USANV); Brooks, Susan; Brownlee, John (USAVAW); Buchanan, MaryBeth (USAPAW); Canary, Leura G.

(USAALM); Charlton, Paul (USAAZ); Chiara, Margaret M. (USAMIW); Christie, Christopher (USANJ); Colantuono, Thomas P. (USANH); Connolly, Colm (USADE); Corrente, Robert (USARI); Cummins, Bud (USAARE); Dugas, David R. (USALAM); Fitzgerald, Patrick J. (USAILN); Garcia, H; Garcia, Michael J (SDNY); Graves, Todd (USAMOW); Greenlee, Jim (USAMSN); Heavican, Michael (USANE); Heffelfinger, Tom (USAMN); Huber, David L. (USAKYW); Iglesias, David C. (USANM); Immergut, Karin (USAOR); Jenkins, Anthony; Kubo, Ed (USAHI); Lam, Carol (USACAS); Lampton, Dunn (USAMSS); Larson, Charles (USAIAN); Letten, James (USALAE); Lockhart, Gregory; Marino, Thomas (USAPAM); Martin, Alice (USAALN); Mauskopf, Roslynn; McDevitt, Jim A. (USAWAE); McKay, John (USAWAW); Mead, Matthew H. (USAWY); Meehan, Patrick (USAPAE); Melgren, Eric (USAKS); Mercer, Bill (USAMT); Miller, Gregory (USAFLN); Moss, Thomas (USAID); Murphy, Stephen J. (USAMIE); Nahmias, David (USAGAN); O'Connor, Kevin (USACT); O'Melia, Michael (USAAZ); Orwig, Matt (USATXE); Perez, Paul (USAFLM); Rapadas, Leonardo; Roper, Richard (USATXN); Rosenstein, Rod (USAMD); Ryan, Kevin (USACAN); Scott, McGregor (USACAE); Shappert, Gretchen (USANCW); Sperling, Sheldon J. (USAOKE); Suddaby, Glenn T. (USANYN); Sullivan, Michael (USAMA); Sutton, Johnny K. (USATXW); Vines, Jim (USATNM); Wagoner, Anna Mills S. (USANCM); Wainstein, Kenneth; Washington, Donald (USALAW); Whitaker, Matt (USAIAS); White, Greg (USAOHN); Whitney, Frank (USANCE); Wood, Lisa (USAGAS); Wood, Maxwell; Wrigley, Drew (USAND); Yang, Debra (USACAC)

Subject: State by State budget facts

Attachments: tmp.htm

If you are interested in seeing state-by-state fact sheets from the President's Budget, please follow this link:

http://www.whitehouse.gov/infocus/budget/2007/states/

If you are interested in seeing state-by-state fact sheets from the President's Budget, please follow this link:

http://www.whitehouse.gov/infocus/budget/2007/states/

As always, don't hesitate to forward any questions.

jsj

J. Scott Jennings
Special Assistant to the President and
Deputy Political Director
The White House
sjennings@gwb43.com
Office: 202-456-5275

Burton, Faith

From: Burton, Faith
Sent: Thursday, February 9, 2006 2:24 PM
To: [redacted]@dodgc.osd.mil'; Seidel, Rebecca; Gorsuch, Neil M
Subject: RE: Senators letters

I'd be happy to confer with you about this, but it would be great if you wanted to e-mail your incoming letters so that we can see how similar they are. I can be reached at 202/514-1653 if you want to call - or send me your phone number. Thanks. FB

-----Original Message-----
From [redacted]@dodgc.osd.mil [mailto [redacted]@dodgc.osd.mil]
Sent: Thursday, February 09, 2006 1:40 PM
To: Seidel, Rebecca; Gorsuch, Neil M
Cc: Burton, Faith
Subject: RE: Senators letters

Faith, if the AG has received these "Abramoff letters," we're curious to hear how you've decided to handle them . . .

-----Original Message-----
From: Rebecca.Seidel@usdoj.gov [mailto:Rebecca.Seidel@usdoj.gov]
Sent: Thursday, February 09, 2006 12:40
To: Neil.Gorsuch@usdoj.gov
Cc: Faith.Burton@usdoj.gov; [redacted]@dodgc.osd.mil
Subject: RE: Senators letters

Faith Burton (cc'd here) is the appropriate contact for DOJ leg affairs.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, February 09, 2006 11:31 AM
To: Seidel, Rebecca
Cc: [redacted]@dodgc.osd.mil'
Subject: FW: Senators letters

Rebecca - Do you know who is handling DOJ responses to these sort of letters? I'd like to be able to tell [redacted] (DOD OGC) with whom he can coordinate. Thanks. NMG

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto [redacted]@dodgc.osd.mil]
Sent: Wednesday, February 08, 2006 6:51 PM
To: Gorsuch, Neil M
Subject: Fw: Senators letters

I assume AG received the same. How is DOJ handling?

I assume AG received the same. How is DOJ handling?

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted] DoD OGC [redacted] @dodgc.osd.mil>
To: [redacted] DoD OGC < [redacted] @dodgc.osd.mil>
Sent: Tue Feb 07 15:20:10 2006
Subject: Senators letters

<<Sen Kerry letter.pdf>> <<Sen Reid,Durbin,Stabenow & Schumer.pdf>>

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, February 9, 2006 2:27 PM
To: Comisac, Rena (CRT); Todd, Gordon (CRT); Swenson, Lily F
Cc: Kim, Wan (CRT); Vargas, Omar (CRT)
Subject: Re: Trafficking Report

Gordon please would you help drive this through to completion?

-----Original Message-----
From: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Todd, Gordon (CRT) <Gordon.Todd@crt.usdoj.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
CC: Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>; Vargas, Omar (CRT) <Omar.Vargas@crt.usdoj.gov>
Sent: Thu Feb 09 13:52:23 2006
Subject: Trafficking Report

We have clearance from the WH on the trafficking report, which is great news. Since we are looking at a three-week printing schedule, we will have the report in plenty of time if we get it to the printers at the beginning of next week.

While the report was at the WH, we put together an appendix of case summaries that could be included in the report. This would illustrate the wide variety of trafficking cases that the Department prosecutes. The report already accomplishes this objective, but putting in the an appendix allows the reader to focus exclusively on the prosecutions. We are still making line edits to the appendix, but a draft is attached so that you have a feel for what it would look like. This is purely icing on the cake at this point, so I welcome your thoughts on its inclusion.

In addition, we have drafted an introductory letter from the AG, which would go at the beginning of the report. A draft of that letter is attached for your consideration.

Todd, Gordon (CRT)

From: Todd, Gordon (CRT)
Sent: Thursday, February 09, 2006 2:30 PM
To: Gorsuch, Neil M
Subject: Re: Trafficking Report

Will do.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M
To: Comisac, Rena (CRT); Todd, Gordon (CRT); Swenson, Lily F
CC: Kim, Wan (CRT); Vargas, Omar (CRT)
Sent: Thu Feb 09 14:27:14 2006
Subject: Re: Trafficking Report

Gordon please would you help drive this through to completion?

-----Original Message-----
From: Comisac, Rena (CRT) <Rena.Comisac@crt.usdoj.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; Todd, Gordon (CRT) <Gordon.Todd@crt.usdoj.gov>; Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>
CC: Kim, Wan (CRT) <Wan.Kim@crt.usdoj.gov>; Vargas, Omar (CRT) <Omar.Vargas@crt.usdoj.gov>
Sent: Thu Feb 09 13:52:23 2006
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[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Thursday, February 09, 2006 2:52 PM
To: Seidel, Rebecca; Gorsuch, Neil M; Burton, Faith; [redacted]@dodgc.osd.mil
Subject: RE: Senators letters
Attachments: Senators letters.msg

See attached.

-----Original Message-----
From: Faith.Burton@usdoj.gov [mailto:Faith.Burton@usdoj.gov]
Sent: Thursday, February 09, 2006 14:25
To: Rebecca.Seidel@usdoj.gov; Neil.Gorsuch@usdoj.gov; [redacted]@dodgc.osd.mil
Subject: RE: Senators letters

I'd be happy to confer with you about this, but it would be great if you wanted to e-mail your incoming letters so that we can see how similar they are. I can be reached at 202/514-1653 if you want to call - or send me your phone number. Thanks. FB

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From: [redacted]@dodgc.osd.mil [mailto: [redacted]@dodgc.osd.mil]
Sent: Thursday, February 09, 2006 1:40 PM
To: Seidel, Rebecca; Gorsuch, Neil M
Cc: Burton, Faith
Subject: RE: Senators letters

Faith, if the AG has received these "Abramoff letters," we're curious to hear how you've decided to handle them . . .

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From: Rebecca.Seidel@usdoj.gov [mailto:Rebecca.Seidel@usdoj.gov]
Sent: Thursday, February 09, 2006 12:40
To: Neil.Gorsuch@usdoj.gov
Cc: Faith.Burton@usdoj.gov; [redacted]@dodgc.osd.mil
Subject: RE: Senators letters

Faith Burton (cc'd here) is the appropriate contact for DOJ leg affairs.

-----Original Message-----
From: Gorsuch, Neil M
Sent: Thursday, February 09, 2006 11:31 AM
To: Seidel, Rebecca
Cc: [redacted]@dodgc.osd.mil'

Subject: FW: Senators letters

Rebecca - Do you know who is handling DOJ responses to these sort of letters? I'd like to be able to tell [redacted] (DOD OGC) with whom he can coordinate. Thanks. NMG

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Sent: Wednesday, February 08, 2006 6:51 PM
To: Gorsuch, Neil M
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Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [redacted] CTR, DoD OGC [redacted]@dodgc.osd.mil>
To: [redacted] DoD OGC <[redacted]@dodgc.osd.mil>
Sent: Tue Feb 07 15:20:10 2006
Subject: Senators letters

<<Sen Kerry letter.pdf>> <<Sen Reid,Durbin,Stabenow & Schumer.pdf>>

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Tuesday, February 07, 2006 3:20 PM
To: [redacted]@dodgc.osd.mil
Subject: Senators letters
Attachments: Sen Kerry letter.pdf; Sen Reid,Durbin,Stabenow & Schumer.pdf

<<Sen Kerry letter.pdf>> <<Sen Reid,Durbin,Stabenow & Schumer.pdf>>

JOHN KERRY
MASSACHUSETTS

COMMITTEES:
COMMERCE, SCIENCE, AND TRANSPORTATION
FINANCE
FOREIGN RELATIONS
SMALL BUSINESS

United States Senate

WASHINGTON, DC 20510-2102

OFFICE OF THE SECRETARY OF DEFENSE
2006 FEB -1 PM 2:54

January 20, 2006

The Honorable Donald Rumsfeld
Secretary
U.S. Department of Defense
The Pentagon
Room 3E880
Washington, D.C. 20301

Dear Secretary Rumsfeld:

I am writing to request that you release a detailed list of all contacts between officials in your agency and Jack Abramoff, his associates, and the clients he represented between January 20, 2001, and today. I also request an explanation of any changes in federal policy based on those contacts. This is not the first request seeking the release of these records, and the resistance to these requests is troubling to the American people.

As you are aware, Mr. Abramoff has recently pleaded guilty to conspiracy, mail fraud and tax evasion charges related to his attempts to influence federal government policy in both the Congress and the Executive Branch. The Justice Department is currently investigating this influence-peddling scandal. Published reports show that Bush Administration officials have met with Mr. Abramoff approximately 200 times.

I strongly believe that Members of Congress and all federal employees must be held to the highest ethical standards. As the Congress considers legislation to reform federal ethics laws, we must know the extent to which lobbyists like Mr. Abramoff affect federal policy in both the Congress and the Executive Branch. That is why, during the 2004 Presidential campaign, I released the names of lobbyists I met with during my time in the Senate.

As part of that process, it is critical for the Congress to know about each contact that Mr. Abramoff has had with officials in your agency and whether any of those contacts led to any changes in federal policy. This information will help determine what additional changes to our ethics laws are necessary to stop lobbyists and others from using undue and improper influence in their dealings with the federal government.

I am deeply disappointed that the Bush Administration has repeatedly failed to provide any substantive information regarding its interactions with Mr. Abramoff. Refusing to disclose this information is completely inconsistent with the high ethical

email: john_kerry@kerry.senate.gov
www: http://www.senate.gov/~kerry/

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OSD 01641-06

DOJ_NMG_0013589

standards that the American people expect and deserve. I respectfully request that this information be made public immediately.

Thank you in advance for your consideration of this request.

Sincerely,

John F. Kerry

United States Senate

OFFICE OF THE
SECRETARY OF DEFENSE

2006 JAN 31 PM 2:02

January 19, 2006

The Honorable Donald Rumsfeld
Secretary
Department of Defense
1000 Defense
The Pentagon
Washington, D.C. 20301-1000

Dear Secretary Rumsfeld:

On Tuesday, we sent a letter to President Bush asking that he and officials within his Administration detail whatever contact they might have had with Jack Abramoff. Scott McClellan announced that the White House would not provide this information, despite earlier assurances. Therefore, we have no choice but to ask you these questions directly.

As we are sure you are aware, the Justice Department is currently investigating the web of corruption surrounding lobbyist Jack Abramoff. Even at this early stage of the investigation, concerns have been raised that Mr. Abramoff may have had undue and improper influence within the highest levels of the Bush Administration and even the White House itself. Such accusations serve to undermine the credibility of this Administration and our government at large -- even before any indictments or convictions. As a result, it is crucial that the American people know what role, if any, Mr. Abramoff played in the highest levels of our government.

As more and more Republican officials in and out of Congress are implicated in this scandal, it has become increasingly important that the record be cleared and that any contact you or others in the Administration have had with Mr. Abramoff be fully explained to the American people. For this reason, we urge you to publicly and immediately detail all of your personal contacts with Mr. Abramoff during your time with the Bush Administration. If you know of others in the Administration who have had such contacts, please disclose those contacts as well. Please also detail any official acts that have been undertaken on behalf of or at the request of Mr. Abramoff. Perhaps there are no contacts to reveal, no favors that have been given. We hope that is the case. But it is important to set the record straight, one way or the other.

Additionally, we believe is it imperative that you reveal any involvement in the "K Street Project," the initiative launched in recent years by Republicans close to this Administration who have worked hard to increase the ties between lobbyists like Jack Abramoff and Republican elected officials.

OSD 01544-06

DOJ_NMG_0013591

We urge you to respond to this letter and help shed some light on what has happened between Mr. Abramoff and this Administration. We look forward to your response.

Sincerely,

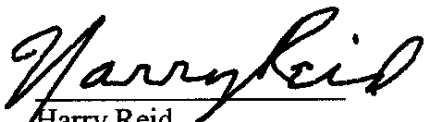

Harry Reid
United States Senator

Dick Durbin
United States Senator

Debbie Stabenow
United States Senator

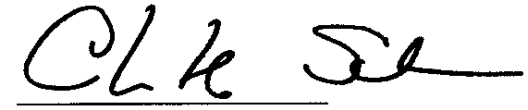

Charles E. Schumer
United States Senator

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Thursday, February 09, 2006 4:03 PM
To:	Katsas, Gregory (CIV); Garre, Gregory G
Subject:	FW: versions of the Graham amendment
Attachments:	tmp.htm; Graham Am No. 2515.pdf; Graham Am No. 2516.pdf; S. 1088.pdf

FYI

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov [mailto: [redacted]@judiciary-rep.senate.gov]
Sent: Thursday, February 09, 2006 11:29 AM
To: Gorsuch, Neil M
Subject: FW: versions of the Graham amendment

Fyi. Just want to keep you in the loop.

From: [redacted](Judiciary)
Sent: Thursday, February 09, 2006 11:28 AM
To: [redacted]@bakerbotts.com'
Subject: versions of the Graham amendment

[redacted] attached is the base Graham amendment filed on Nov. 10, number 2515, and the perfecting amendment filed the same day, number 2516, as they appeared in the record. The perfecting amendment makes only one change, adding a new sentence at the very end. Levin voted against the perfecting amendment adding the effective-date language. (Conveniently, the record of that vote appears in the record on the same page as amendment number 2516.)

If you want to get into deep leg history, the text and structure of the Graham amendment were borrowed from S.1088, a habeas reform package that Sen. Kyl introduced in May. (A copy is attached.) The "no court, justice, or judge shall have jurisdiction" language is borrowed from S.1088, as is the effective date language of "shall apply to cases pending on or after." S.1088 was not a pure jurisdiction ousting amendment - many of its parts simply create new standards, and are not jurisdictional in nature. Thus in S.1088, it was necessary to expressly apply the new standards to pending claims. Also, where S.1088 bars new claims, it is designed to force their dismissal or rejection, not to force litigants to reformulate the claims. You could argue that the original Graham amendment's language was borrowed from S.1088, but that upon further reflection it became clear to Graham and Kyl that S.1088's "applying to" language was not really appropriate for the Graham amendment for the reasons

previously noted - i.e., there is no ambiguity about the effect of pure jurisdiction removal on pending claims, and Graham and Kyl wanted to effect reformulation of the pending claims, not their outright dismissal.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. The group that is working on the Kerry amendment, with the proposed Roberts-Rockefeller second degree, is working diligently, but it is important that we continue on the bill. At this time, I ask unanimous consent that the amendment by the Senator from Massachusetts be laid aside and that the Senator from South Carolina be recognized for the purpose of offering an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Is it my understanding that upon the disposition of the next amendment, this will be the pending business?

Mr. WARNER. That can easily be arranged.

Mr. KERRY. Can we have that?

Mr. WARNER. I so ask.

The PRESIDING OFFICER. That will be the order pending further action of the body.

Mr. WARNER. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENT NO. 2515

Mr. GRAHAM. Mr. President, I call up amendment No. 2515 which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for himself, Mr. KYL, and Mr. CHAMBLISS, proposes an amendment numbered 2515.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Relating to the review of the status of detainees of the United States Government)

At the end of subtitle G of title X, add the following:

SEC. ____. REVIEW OF STATUS OF DETAINEES.

(a) SUBMITTAL OF PROCEDURES FOR STATUS REVIEW OF DETAINEES AT GUANTANAMO BAY, CUBA.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report setting forth the procedures of the Combatant Status Review Tribunals and the noticed Administrative Review Boards in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay.

(b) PROCEDURES.—The procedures submitted to Congress pursuant to subsection (a) shall, with respect to proceedings beginning after the date of the submittal of such procedures under that subsection, ensure that—

(1) in making a determination of status of any detainee under such procedures, a Combatant Status Review Tribunal or Administrative Review Board may not consider statements derived from persons that, as determined by such Tribunal or Board, by the preponderance of the evidence, were obtained with undue coercion; and

(2) the Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advice and consent of the Senate.

(c) REPORT ON MODIFICATION OF PROCEDURES.—The Secretary of Defense shall submit to the committees of Congress referred to in subsection (a) a report on any modification of the procedures submitted under subsection (a) not later than 30 days before the date on which such modifications go into effect.

(d) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

(1) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

''(e) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien outside the United States (as that term is defined in section 101(a)(38) of the Immigration and Naturalization Act (8 U.S.C. 1101(a)(38)) who is detained by the Department of Defense at Guantanamo Bay, Cuba.''.

(2) CERTAIN DECISIONS.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any decision of a Designated Civilian Official described in subsection (b)(2) that an alien is properly detained as an enemy combatant.

(B) LIMITATION ON CLAIMS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the procedures and standards specified by the Secretary of Defense for Combatant Status Review Tribunals.

(D) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to any application or other action that is pending on or after the date of the enactment of this Act. Paragraph (2) shall apply with respect to any claim regarding a decision covered by that paragraph that is pending on or after such date.

Mr. GRAHAM. Mr. President, will you notify me when I have used 15 minutes of the time?

The PRESIDING OFFICER. The Chair will so notify the Senator.

Mr. GRAHAM. Mr. President, this whole debate we are having now with Senator KERRY, what we did with Senator MCCAIN's amendment earlier, and what I am trying to do, is a healthy debate about where we are going as a nation, how we prosecute the war on terror, and what kind of value set we are going to adopt.

One thing we need to understand as a nation and we need to understand in the Senate, in my opinion, is that the attack of 9/11 was an act of war. It was not a criminal enterprise. That is an important statement to make. Every Senator needs to understand in their own mind: Was 9/11 and were those who planned it and those who blew up the people in Jordan yesterday common criminals or are these people engaged in acts of terrorism and war? Let it be said clearly, in my opinion, that the United States is at war with al-Qaida and associate groups, and we have been since 9/11.

When a country such as the United States is at war, we have a rich tradition of following the law of armed conflict, of living up to the Geneva Conventions and all other international treaties that regulate the conduct of war. We have a moral imperative as a nation not to lose our way in fighting this war. Using tactics of one's enemy is no excuse in defeating one's enemy.

It is clear to me from Abu Ghraib backward, forward, and other things we know about that at times we have lost our way in fighting this war. What we are trying to do in a series of amendments is recapture the moral high ground and provide guidance to our troops. That is why Senator MCCAIN's amendment, which I cosponsored, is so important, and it passed by voice vote.

The McCain amendment requires standardization of interrogation techniques when it comes to people in our charge, not as criminal defendants but as enemy combatants, people detained on the battlefield, POWs. It requires the Army Field Manual, not the United States Code, to be changed in a way to give our troops the guidance they need as to what is in bounds and out of bounds when it comes to interrogating prisoners. It is important that we get good information. It is equally important that we not lose our value set in obtaining that information.

Senator MCCAIN has two things in his amendment that we desperately need. It standardizes interrogation techniques for the military, dealing with people who are part of this war, our enemies, and it also makes a statement to every other agency in the Government that you are going to treat people humanely if they are captured under your charge as part of fighting this war.

Guantanamo Bay is a place we have designated to take people off the battlefield and hold them, and the determinations that go on at Guantanamo Bay fall into two categories. Some can be prosecuted for violations of the law of war, not criminal violations in

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Relating to the review of the status of detainees of the United States Government)

Strike all after the word SEC.

____. REVIEW OF STATUS OF DETAINEES.

(a) SUBMITTAL OF PROCEDURES FOR STATUS REVIEW OF DETAINEES AT GUANTANAMO BAY, CUBA.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report setting forth the procedures of the Combatant Status Review Tribunals and the noticed Administrative Review Boards in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay.

(b) PROCEDURES.—The procedures submitted to Congress pursuant to subsection (a) shall, with respect to proceedings beginning after the date of the submittal of such procedures under that subsection, ensure that—

(1) in making a determination of status of any detainee under such procedures, a Combatant Status Review Tribunal or Administrative Review Board may not consider statements derived from persons that, as determined by such Tribunal or Board, by the preponderance of the evidence, were obtained with undue coercion; and

(2) the Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advice and consent of the Senate.

(c) REPORT ON MODIFICATION OF PROCEDURES.—The Secretary of Defense shall submit to the committees of Congress referred to in subsection (a) a report on any modification of the procedures submitted under subsection (a) not later than 30 days before the date on which such modifications go into effect.

(d) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

(1) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

''(e) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien outside the United States (as that term is defined in section 101(a)(38) of the Immigration and Naturalization Act (8 U.S.C. 1101(a)(38)) who is detained by the Department of Defense at Guantanamo Bay, Cuba.''.

(2) CERTAIN DECISIONS.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any decision of a Designated Civilian Official described in subsection (b)(2) that an alien is properly detained as an enemy combatant.

(B) LIMITATION ON CLAIMS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the procedures and standards specified by the Secretary of Defense for Combatant Status Review Tribunals.

(D) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to any application or other action that is pending on or after the date of the enactment of this Act. Paragraph (2) shall apply with respect to any claim regarding a decision covered by that paragraph that is pending on or after such date.

This section shall become effective 1 day after enactment.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Debate is equally divided on the amendment. Is there further debate?

Mr. BINGAMAN. Mr. President, let me speak briefly in opposition to this amendment.

This amendment contains a provision that I think is a very major mistake. It essentially denies all courts anywhere the right to consider any petition from any prisoner being held at Guantanamo Bay. In my view, it is contrary to the way the court decisions have come down already. It is an extraordinary step for this Congress to be taking as an amendment to the Defense bill. This is an issue that should be dealt with in the Judiciary Committee. Senator SPECTER has spoken against the amendment. Senator LEVIN has spoken against the amendment. Senator LEAHY has spoken against the amendment. It is something that requires hearings. It is a very important issue, and we should not be dealing with it here on a late evening on Thursday as part of this authorization bill.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from South Carolina.

Mr. GRAHAM. Mr. President, we need to standardize our interrogation techniques because we have lost our way. We need to make a statement we are not going to treat people poorly during our charge. For 200 years in the law of armed conflict, no nation has given an enemy combatant, a terrorist, al-Qaida member the ability to go into every Federal court in the United States and sue the people who are fighting the war for us. There are 160 habeas corpus petitions being filed against Guantanamo Bay detention.

Let me read what one of them is saying, a motion by a high-level al-Qaida detainee complaining about basic security procedures: Speed of mail delivery, medical treatment, seek an order to be transferred to the least onerous condition at Gitmo, and asking the court to order Gitmo to allow him to keep any books and reading material sent to him, and report to the court on his opportunities for exercise, communication, recreation, and worship.

The Nazis couldn't go to a Federal court when we had them in our charge as prisoners of war. Never in the history of armed conflict has this been allowed.

Let us stand up for our troops in a reasonable way, protect them from abuses, and protect them from the court suits filed by the people they are fighting.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Wyoming (Mr. ENZI), the Senator from Nebraska (Mr. HAGEL), the Senator from Indiana (Mr. LUGAR), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Wyoming (Mr. THOMAS).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted ''yea.''

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 42, as follows:

[Rollcall Vote No. 319 Leg.]

YEAS—49

Allard	DeMint	McCain
Allen	DeWine	McConnell
Bennett	Dole	Murkowski
Bond	Ensign	Nelson (NE)
Brownback	Frist	Roberts
Bunning	Graham	Sessions
Burns	Grassley	Shelby
Burr	Gregg	Snowe
Chambliss	Hatch	Stevens
Coburn	Hutchison	Talent
Cochran	Inhofe	Thune
Coleman	Isakson	Vitter
Collins	Kyl	Voinovich
Conrad	Landrieu	Warner
Cornyn	Lieberman	Wyden
Craig	Lott	
Crapo	Martinez	

NAYS—42

Akaka	Dodd	Leahy
Baucus	Dorgan	Levin
Bayh	Durbin	Lincoln
Biden	Feingold	Mikulski
Bingaman	Feinstein	Murray
Boxer	Harkin	Nelson (FL)
Byrd	Jeffords	Obama
Cantwell	Johnson	Pryor
Carper	Kennedy	Reed
Chafee	Kerry	Reid
Clinton	Kohl	Rockefeller
Dayton	Lautenberg	Salazar

109TH CONGRESS
1ST SESSION

S. 1088

To establish streamlined procedures for collateral review of mixed petitions, amendments, and defaulted claims, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 19, 2005

Mr. KYL introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To establish streamlined procedures for collateral review of mixed petitions, amendments, and defaulted claims, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Streamlined Procedures Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Mixed petitions.
Sec. 3. Amendments to petitions.
Sec. 4. Procedurally defaulted claims.
Sec. 5. Tolling of limitation period.

Sec. 6. Harmless error in sentencing.
Sec. 7. Unified review standard.
Sec. 8. Appeals.
Sec. 9. Capital cases.
Sec. 10. Clemency and pardon decisions.
Sec. 11. Ex parte funding requests.
Sec. 12. Crime victims' rights.
Sec. 13. Technical corrections.
Sec. 14. Application to pending cases.

SEC. 2. MIXED PETITIONS.

Section 2254(b) of title 28, United States Code, is amended—

(1) in paragraph (1), by striking subparagraphs (A) and (B) and inserting the following:

''(A) the applicant—

''(i) has exhausted the remedies available in the courts of the State by fairly presenting and arguing the specific Federal basis for each claim in the State courts; and

''(ii) has described in the application how the applicant has exhausted each claim in the State courts; or

''(B)(i) the application presents a claim for relief that would qualify for consideration on the grounds described in subsection (e)(2); and

''(ii) the denial of such relief is contrary to, or would entail an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States.''; and

(2) by adding at the end the following:

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"(4) Any unexhausted claim that does not qualify for consideration on the grounds described in this subsection shall be dismissed with prejudice.".

SEC. 3. AMENDMENTS TO PETITIONS.

(a) IN GENERAL.—Section 2244 of title 28, United States Code, is amended by adding at the end the following:

"(e)(1) An application for a writ of habeas corpus may be amended once as a matter of course before the earlier of the date on which an answer to the application is filed or the expiration of the 1-year period described in subsection (d).

"(2) Except as provided under paragraph (1), an application may not be amended to modify existing claims or to present additional claims, unless the modified or newly presented claims would qualify for consideration on the grounds described in subsection (b)(2).".

(b) CONFORMING AMENDMENT.—Section 2242 of title 28, United States Code, is amended in the third undesignated paragraph by striking "in the rules of procedure applicable to civil actions" and inserting "under section 2244(e)".

SEC. 4. PROCEDURALLY DEFAULTED CLAIMS.

(a) IN GENERAL.—Section 2254 of title 28, United States Code, is amended—

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(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by adding after subsection (g) the following:

''(h)(1) A court, justice, or judge shall not have jurisdiction to consider an application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court with respect to any claim that was found by the State court to be procedurally barred, or any claim of ineffective assistance of counsel related to such claim, unless—

''(A) the claim would qualify for consideration on the grounds described in subsection (e)(2); or

''(B) the State, through counsel, expressly waives the provisions of this paragraph.

''(2)(A) A court, justice, or judge shall not have jurisdiction to consider any claim that the State court denies on the merits and on the ground that the claim was not properly raised under State procedural law, or any claim of ineffective assistance of counsel related to such claim, unless the claim would qualify for consideration on the grounds described in subsection (e)(2).

''(B) A court, justice, or judge shall not have jurisdiction to consider any claim that is otherwise subject to paragraph (1) and that was reviewed by the State court for plain error, fundamental error, or under a similarly

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heightened standard of review, unless the claim would qualify for consideration on the grounds described in subsection (e)(2).

''(3) The State shall not be required to answer any claim described in paragraph (1) or (2) unless the court first determines that the claim would qualify for consideration on the grounds described in subsection (e)(2).

''(4) If a court determines that a State court order denying relief on procedural grounds is ambiguous as to which claims were found to be procedurally barred, the court shall resolve any perceived ambiguity, if necessary, by examining the full record in the State court.

''(5) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim under paragraph (1) or (2) unless the denial of such relief is contrary to, or would entail an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States.''.

(b) LIMITATION.—Section 2244(d)(2) of title 28, United States Code, as amended by section 3, is amended by adding at the end the following: ''An application that was otherwise improperly filed in State court shall not be deemed to have been properly filed because the State court

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exercises discretion in applying a rule or recognizes exceptions to that rule.''.

SEC. 5. TOLLING OF LIMITATION PERIOD.

Section 2244(d) of title 28, United States Code, is amended—

(1) in paragraph (2), by striking ''judgment or''; and

(2) by adding at the end the following:

''(3) In this section, an application for State post-conviction or other collateral review—

''(A) is pending from the date on which the application is filed with a State court until the date on which the same State court rules on that application; and

''(B) is not pending during any period of time between the date on which a State court rules on that application and the date on which the application or a related application is filed, or is otherwise presented, for adjudication to such State court on rehearing authorized by State law or to a higher State court.

''(4) The period of limitation under paragraph (1) may be tolled, suspended, or extended only as provided under this subsection.''.

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SEC. 6. HARMLESS ERROR IN SENTENCING.

Section 2254 of title 28, United States Code, as amended by section 4, is amended by adding at the end the following:

''(k) A court, justice, or judge shall not have jurisdiction to consider an application with respect to an error relating to the applicant's sentence or sentencing that has been found to be harmless or not prejudicial in State court proceedings, unless a determination that the error is not structural is contrary to clearly established Federal law, as determined by the Supreme Court of the United States.''.

SEC. 7. UNIFIED REVIEW STANDARD.

Section 107(c) of the Antiterrorism and Effective Death Penalty Act of 1996 (28 U.S.C. 2261 note) is amended by striking ''Chapter 154 of title 28, United States Code (as amended by subsection (a))'' and inserting ''This title and the amendments made by this title''.

SEC. 8. APPEALS.

(a) APPELLATE TIME LIMITS.—Section 2254 of title 28, United States Code, as amended by sections 4 and 6, is further amended by adding at the end the following:

''(l) In review by a court of appeals of a district court's determination of an application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court, the following shall apply:

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"(1) A timely filed notice of appeal from an order issuing a writ of habeas corpus shall operate as a stay of that order, pending final disposition of the appeal.

"(2) A court of appeals shall decide the appeal from an order granting or denying a writ of habeas corpus—

"(A) not later than 300 days after the date on which the brief of the appellee is filed or, if no timely brief is filed, the date on which such brief is due; or

"(B) if a cross-appeal is filed, not later than 300 days after the date on which the appellant files a brief in response to the issues presented by the cross-appeal or, if no timely brief is filed, the date on which such brief is due.

"(3)(A) If a petition is filed for a panel rehearing or rehearing by the court of appeals en banc following a decision by a panel of a court of appeals under paragraph (2), the court of appeals shall decide whether to grant the petition not later than 90 days after the date on which the petition is filed, unless a response is required.

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1 "(B) If a response to a petition is required
2 under subparagraph (A), a court of appeals shall de-
3 cide whether to grant the petition not later than 90
4 days after the date on which the response is filed or,
5 if no timely response is filed, the date on which the
6 response is due.
7 "(C) If a panel rehearing is granted, the panel
8 shall make a determination of the appeal on rehear-
9 ing not later than 120 days after the date on which
10 the order granting a panel rehearing is entered. No
11 second or successive petition for panel rehearing
12 shall be allowed.
13 "(D) If rehearing en banc is granted, the court
14 of appeals shall make a final determination of the
15 appeal not later than 180 days after the date on
16 which the order granting rehearing en banc is en-
17 tered.
18 "(4) If a court of appeals fails to comply with
19 the requirements of this subsection, the State may
20 petition the Supreme Court, or a justice thereof, for
21 a writ of mandamus to enforce the requirements of
22 this subsection.
23 "(5) The time limitations in this subsection
24 shall apply in all proceedings in a court of appeals
25 on review of a district court's determination of an

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application for a writ of habeas corpus, including any such proceedings in a court of appeals following a remand by the Supreme Court for further proceedings.

''(6) In proceedings following remand in a court of appeals, the time limit specified in paragraph (2) shall begin on the date the remand is ordered if further briefing is not required in the court of appeals. If there is further briefing in the court of appeals, the time limit specified in paragraph (2) shall begin on the date on which a responsive brief is filed or, if no timely responsive brief is filed, from the date on which such brief is due.

''(7) The failure of a court to meet or comply with a time limitation under this subsection shall not be a ground for granting relief from a judgment of conviction or sentence, nor shall the time limitations under this subsection be construed to entitle a capital applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.''.

(b) FINALITY OF DETERMINATION.—Section 2244(b)(3)(E) of title 28, United States Code, is amended by striking ''the subject of a petition'' and all that follows

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1 and inserting the following: ''reheard in the court of ap-
2 peals or reviewed by writ of certiorari.''.

3 **SEC. 9. CAPITAL CASES.**

4 (a) SCOPE OF REVIEW.—Chapter 154 of title 28,
5 United States Code, is amended by striking section 2264
6 and inserting the following:

7 **''§ 2264. Scope of Federal review**

8 ''(a) IN GENERAL.—Except as provided in subsection
9 (b), a court, justice, or judge shall not have jurisdiction
10 to consider any claim relating to the judgment or sentence
11 in an application covered under this chapter.

12 ''(b) EXCEPTION.—A court, justice, or judge has ju-
13 risdiction to consider an application under this chapter
14 if—

15 ''(1) the applicant shows that the claim relies
16 on a new rule of constitutional law, made retroactive
17 to cases on collateral review by the Supreme Court,
18 that was previously unavailable; or

19 ''(2) both—

20 ''(A) the factual predicate for the claim
21 could not have been discovered previously
22 through the exercise of due diligence; and

23 ''(B) the facts underlying the claim, if
24 proven and viewed in light of the evidence as a
25 whole, would be sufficient to establish by clear

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and convincing evidence that, but for constitutional error, no reasonable fact finder would have found the applicant guilty of the underlying offense.''.

(b) TIME LIMITS.—Section 2266(b)(1)(A) of title 28, United States Code, is amended by striking ''180 days'' and inserting ''15 months''.

(c) REVIEW BY ATTORNEY GENERAL.—

(1) IN GENERAL.—Section 2261(b) of title 28, United States Code, is amended—

(A) by striking ''(b) This chapter is applicable if a State establishes'' and inserting the following:

''(b) This chapter is applicable if—

''(1) the Attorney General of the United States certifies that a State has established'';

(B) in the first sentence, by striking the period at the end and inserting a semicolon;

(C) by striking ''The rule of court or statute must provide standards'' and inserting the following:

''(2) the court, statute, or other agency provides standards'';

(D) by striking the period at the end and inserting ''; and''; and

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(E) by adding at the end the following:

''(3) the order required under subsection (c) is entered on or after the effective date of the Attorney General's certification under section 2267.''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 2265(a) of title 28, United States Code, is amended—

(A) by striking ''(a) For purposes'' and inserting the following:

''(a)(1) For purposes'';

(B) by striking ''This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes'' and inserting the following:

''(2) This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if—

''(A) the Attorney General of the United States certifies that a State has established'';

(C) by striking ''or by statute'' and inserting '', by statute, or by agency rule'';

(D) by striking the period after ''proceedings'' and inserting a semicolon;

(E) by striking ''The rule of court or statute must provide'' and inserting the following:

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"(B) the rule of the court, the statute, or the agency rule provides";

(F) by striking the period at the end and inserting "; and"; and

(G) by adding at the end the following:

"(C) the order required under subsection (b) is entered on or after the effective date of the Attorney General's certification under section 2267.".

(d) JUDICIAL REVIEW.—Chapter 154 of title 28, United States Code, is amended by adding at the end the following:

"§ 2267. Judicial Review

"(a) IN GENERAL.—If requested by the chief law enforcement officer of a State, the Attorney General of the United States shall determine whether the State has established a qualifying mechanism for the purpose of section 2261(b)(3) or 2265(a)(2)(C), and, if so, the date on which the mechanism was established. The date the mechanism was established shall be the effective date of the certification.

"(b) REGULATIONS.—The Attorney General shall promulgate regulations to implement the certification procedure under subsection (a).

"(c) REVIEW OF CERTIFICATION.—

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"(1) IN GENERAL.—The Attorney General's determination of whether to certify a State under this section is subject to review exclusively as provided under chapter 158.

"(2) VENUE.—The Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction over matters under paragraph (1), subject to review by the Supreme Court under section 2350.

"(3) STANDARD OF REVIEW.—The Attorney General's determination of whether to certify a State under this section shall be conclusive unless manifestly contrary to the law and an abuse of discretion.".

(e) CLERICAL AMENDMENTS.—The table of sections for chapter 154 of title 28, United States Code, is amended—

(1) by striking the item related to section 2264 and inserting the following:

"2264. Scope of Federal review.";

and

(2) by adding at the end the following:

"2267. Judicial review.".

SEC. 10. CLEMENCY AND PARDON DECISIONS.

(a) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following:

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"§ 1370. State clemency and pardon decisions

''(a) IN GENERAL.—Except as provided under subsection (b), and notwithstanding any other provision of law, no Federal court shall have jurisdiction to hear any cause or claim arising from the exercise of a State's executive clemency or pardon power, or the process or procedures used under such power.

''(b) EXCEPTION.—This section does not affect the jurisdiction of the Supreme Court to review any decision of the highest court of a State that involves a cause or claim arising from the exercise of a State's executive clemency or pardon power, or the process or procedures used under such power.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 85 of title 28, United States Code, is amended by adding at the end the following:

''1370. State clemency and pardon decisions.''.

SEC. 11. EX PARTE FUNDING REQUESTS.

Section 408(q)(9) of the Controlled Substances Act (21 U.S.C. 848(q)(9)) is amended—

(1) by striking ''(9) Upon'' and inserting the following: ''(9) (A) Upon'';

(2) by striking the last two sentences and inserting the following: ''An application for services under this paragraph shall be decided by a judge other than the judge presiding over the post convic-

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tion proceeding under section 2254 or 2255 of Title 28, United States Code, seeking to vacate or set aside a death sentence. Any amounts authorized to be paid under this paragraph shall be disclosed to the public immediately.''; and

(3) by adding at the end the following:

''(B) No ex parte proceeding, communication, or request may be considered in a post-conviction action pursuant to this section, except to the extent necessary to protect any confidential-communications privilege between the defendant and post-conviction counsel. The court shall not grant an application for an ex parte proceeding, communication, or request unless the application has been served upon the respondent and the court has allowed the respondent a reasonable opportunity to answer the application. All proceedings, communications, or requests conducted pursuant to this section shall be transcribed and made a part of the record available for appellate review.''.

SEC. 12. CRIME VICTIMS' RIGHTS.

Section 3771(b) of title 18, United States Code, is amended by adding at the end the following: ''A crime victim shall also be afforded the rights established for crime

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victims by this section in a Federal habeas corpus proceeding arising out of a State conviction.''.

SEC. 13. TECHNICAL CORRECTIONS.

(a) APPEAL.—Section 2253(c)(1) of title 28, United States Code, is amended by striking ''circuit justice or judge'' and inserting ''district or circuit judge''.

(b) FEDERAL CUSTODY.—Section 2255 of title 28, United States Code, is amended by designating the 8 undesignated paragraphs as subsections (a) through (h), respectively.

SEC. 14. APPLICATION TO PENDING CASES.

(a) IN GENERAL.—This Act and the amendments made by this Act shall apply to cases pending on and after the date of enactment of this Act.

(b) TIME LIMITS.—In a case pending on the date of enactment of this Act, if the amendments made by this Act establish a time limit for taking certain action the period of which began on the date of an event that occurred prior to the date of enactment of this Act, the period of such time limit shall instead begin on the date of enactment of this Act.

○

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Fyi. Just want to keep you in the loop.

From: [redacted] (Judiciary)
Sent: Thursday, February 09, 2006 11:28 AM
To: [redacted]@bakerbotts.com'
Subject: versions of the Graham amendment

[redacted] attached is the base Graham amendment filed on Nov. 10, number 2515, and the perfecting amendment filed the same day, number 2516, as they appeared in the record. The perfecting amendment makes only one change, adding a new sentence at the very end. Levin voted against the perfecting amendment adding the effective-date language. (Conveniently, the record of that vote appears in the record on the same page as amendment number 2516.)

If you want to get into deep leg history, the text and structure of the Graham amendment were borrowed from S.1088, a habeas reform package that Sen. Kyl introduced in May. (A copy is attached.) The "no court, justice, or judge shall have jurisdiction" language is borrowed from S.1088, as is the effective date language of "shall apply to cases pending on or after." S.1088 was not a pure jurisdiction ousting amendment – many of its parts simply create new standards, and are not jurisdictional in nature. Thus in S.1088, it was necessary to expressly apply the new standards to pending claims. Also, where S.1088 bars new claims, it is designed to force their dismissal or rejection, not to force litigants to reformulate the claims. You could argue that the original Graham amendment's language was borrowed from S.1088, but that upon further reflection it became clear to Graham and Kyl that S.1088's "applying to" language was not really appropriate for the Graham amendment for the reasons previously noted – i.e., there is no ambiguity about the effect of pure jurisdiction removal on pending claims, and Graham and Kyl wanted to effect reformulation of the pending claims, not their outright dismissal.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, February 9, 2006 4:03 PM
To: [redacted]@judiciary-rep.senate.gov'
Subject: RE: versions of the Graham amendment

Thanks, [redacted] this is helpful.

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov [mailto: [redacted]@judiciary-rep.senate.gov]
Sent: Thursday, February 09, 2006 11:29 AM
To: Gorsuch, Neil M
Subject: FW: versions of the Graham amendment

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[redacted]@judiciary-rep.senate.gov

From:	[redacted]@judiciary-rep.senate.gov
Sent:	Thursday, February 9, 2006 7:29 PM
To:	Gorsuch, Neil M;[redacted]@bakerbotts.com
Subject:	February 9 Kyl statement
Attachments:	February floor statement.wpd; Graham-Kyl Am 11.8.05.pdf

Senator Kyl "made" the following statement on the floor of the U.S.
Senate today. It will eventually appear in the printed record for today, February 9. The final printed version will not be available online for several days, however. I will send that to you when it is available.

SENATOR KYL
ENEMY COMBATANTS

Mr. KYL: Mr. President, I rise today to introduce into the Record a letter that Senator Graham and I recently sent to the Attorney General, and to respond to misrepresentations that have been made in the press and by others regarding the circumstances of the enactment of the Graham amendment to last year's Defense Authorization bill. The letter responds to similar misleading attacks that were made against the Justice Department at the beginning of this year. My office has received several inquiries about this letter, which was sent to the Attorney General on January 18. So that anyone interested in this matter might review the letter, I introduce it into the Record.

I ordinarily would not comment on the meaning of legislation that already has been enacted into law. In this case, however, there has been a considerable amount of post-enactment commentary by others on the meaning of the Graham amendment. Much of this commentary insinuates that the Administration and the backers of the amendment are violating an agreement with members of the minority by characterizing the amendment as governing pending litigation. Since the enactment of the Graham amendment last December, some critics have begun to paint a revisionist history of this legislation. In this new account, the Graham amendment supposedly was intentionally modified by the Senate so as not to affect pending litigation. Also in this version of events, Senators relied on representations that the amendment was modified to carve out pending litigation when they voted in favor of its final passage. This conspiracy theory is without foundation.

For those unfamiliar with the Graham amendment, the disputed provision in the legislation changes the federal habeas code by adding a subsection providing as follows: "Except as provided in section 1005 of the Detainee Treatment Act of 2005, no court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the Department of Defense at Guantanamo Bay, Cuba." The amendment also provides that "[t]his section shall take effect on the date of the enactment of this Act." In addition, the amendment establishes substantive standards for limited judicial review of CSRT determinations and military-commission decisions, and provides that the paragraphs creating those review standards "shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act."

Some critics now assert that nothing in the amendment prevents pre-enactment habeas actions from going forward in their previous form. For reasons explained in the letter to the Attorney General, I believe that such an interpretation is untenable. In addition to the points made in the letter, I would also add the following: the amendment states that the changes that it makes to the habeas code "shall take effect on the date of the enactment of this Act." If the current pack habeas cases are allowed to go forward in their current form, the law's provision that "no court, justice, or judge shall have jurisdiction" to hear those cases in that form will not be effective on the date of the law's enactment. Rather, the courts still would have jurisdiction over these cases after the date of enactment, and the law's all-encompassing jurisdictional bar would become effective only when the current litigation would exhaust itself – a date that likely would

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come only years in the future. Such a result would not be consistent with the requirement that the law's total jurisdictional prohibition "take effect of the date of the enactment of this Act."

Of those critics who argue that the amendment carves out pre-enactment habeas cases, I would simply ask, what part of "no court, justice or judge" do you not understand? How could this language possibly be more comprehensive? And how could any Senator possibly have been misled as to its effect?

Some of the recent criticism of the amendment in the press has taken a new tack. A few critics have begun to suggest that even if the legislative text of the Graham amendment does wipe out the pending habeas cases, Senators were affirmatively misled about this aspect of the final amendment. The allegation is that Senators were led to understand that the amendment that they were voting on would not affect pending cases. I have reviewed the legislative record from the days leading up to the vote on final passage of the Graham amendment, and find this suggestion wanting. Allow me to describe what was actually said about the original version of the amendment – the Graham/Kyl amendment – as well as the final version, the Graham/Levin/Kyl amendment, prior to their passage.

On November 10, Senator Levin stated with regard to the original Graham/Kyl amendment, "I read the language as to how broad it is. It eliminates explicitly any appeal: No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus, and that is the way an appeal goes to a court from one of these people. It is eliminated." (151 Cong. Rec. S12665.) Similarly, later that day, Senator Bingaman characterized the original Graham amendment as follows: "It essentially denies all courts anywhere the right to consider any petition from any prisoner being held at Guantanamo Bay." (151 Cong. Rec. S12667.) And later, on November 15, Senator Durbin said the following about the original Graham/Kyl amendment: "the amendment would eliminate habeas for detainees at Guantanamo Bay. * * * * It would strip Federal courts, including the U.S. Supreme Court, of the right to hear any challenge to any practice at Guantanamo Bay, other than a one-time appeal to the D.C. Circuit * * *. It applies retroactively, and therefore also likely would prevent the Supreme Court from ruling on the merits of the Hamdan case, a pending challenge to the legality of the administration's military commissions." (151 Cong. Rec. S12799.)

Thus from the beginning, Senators recognized and emphasized to their colleagues that the original Graham amendment's language was comprehensive. They also recognized and emphasized that the amendment barred pending cases from going forward, including the Hamdan case in the Supreme Court. These aspects of the original amendment not only were generally acknowledged, but were a point of controversy during the Senate debate.

Had the subsequent Graham/Levin/Kyl amendment departed from the original amendment by carving out pending cases, this would have been a momentous change. Aside from the fact that such a change would have gutted the amendment, it also would addressed one of the issues about which opposing Senators had expressed sharp concern. Surely, had such a change been made or even intended to be made, the fact would have been noted. Instead, it is the dog that did not bark.

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First, neither Senator Graham nor I ever said anything in the days leading up to the final vote on the amendment that could possibly suggest to anyone that the modified amendment exempted pending cases. Senator Graham is the lead sponsor and I am an original cosponsor of the amendment that passed the Senate on November 10. We controlled the amendment. No one was in a better position than we were to describe what the amendment does and does not do. Had such a major change to the amendment been made, it is inconceivable that one of us would not at least have commented on it. No such comment or even the suggestion of such a change was made by either one of us.

Indeed, the few statements that Senator Graham did make prior to passage of Graham/Levin/Kyl that describe the amendment's reach tend to confirm that the amendment does not treat detainees differently based on when they filed their claims. For example, on the evening of November 14, when the final amendment was introduced, Senator Graham noted that "[i]nstead of having unlimited habeas corpus opportunities under the Constitution, we give every enemy combatant, all 500, a chance to go to Federal court, the Circuit Court of Appeals for the District of Columbia." (151 Cong. Rec. S12754.) "What we have done, working with Senators Levin, Kyl, and others, we have created that same type of appeals process for all military commission decisions." *Ibid.*

During that same evening, Senator Levin also commented on the new amendment. Although he said that the amendment did not "strip jurisdiction" from the courts, he made clear that he meant that jurisdiction remained in place because the pending cases – including challenges to military-commission decisions – could go forward as claims invoking the substantive review standards of the new amendment. Senator Levin stated: "What we have done in this amendment, we have said that the standards in the amendment will be applied in pending cases, but the amendment will not trip the courts of jurisdiction over those cases. For instance, the Supreme Court jurisdiction in Hamdan is not affected." (151 Cong. Rec. S12755.) Again, later: "what our amendment does, as soon as it is enacted and the enactment is effective, it provides that the standards we set forth in our amendment will be the substantive standards which we would expect would be applied in all cases, including cases which are pending as of the effective date of this amendment." *Ibid.* And again: "because it would not strip courts of jurisdiction over these matters where they have taken jurisdiction, it does, again, apply the substantive law and assume that the courts would apply the substantive law if this amendment is agreed to." *Ibid.*

Whether the amendment, by barring one type of claim and authorizing another type to take its place, strips the courts of jurisdiction, is, to some extent, a matter of perspective. It is a question of whether the glass is half empty or half full. On the operative issue, however, Senator Levin's remarks on November 14 are consistent not only with my own and Senator Graham's characterization of the amendment (*see, e.g.* 151 Cong. Rec. S14263), but also with the interpretation now advanced by the Justice Department: that the current claims can go forward, but only as claims for review under the substantive standards created by the new the act.

It bears mention that the revised amendment's authorization of judicial review of

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military-commission decisions, though narrow and venue-restricted, was a substantial departure from the original amendment. As Senator Levin had emphasized on November 10, the original amendment "eliminates court review of the sentences of enemy combatants before these commissions." (151 Cong. Rec. S12664.) He stated that the amendment even "eliminates the appeal of a conviction that led to a capital offense." (151 Cong. Rec. S12665.) Under the original Graham amendment, no appeal of any kind would have been permitted from the military-commission verdict in the Hamdan case.

The revised amendment does allow limited appeals of final military-commission decisions. In fact, this change was described to Senators as the principal difference between the original and revised Graham amendments. Senator Levin noted on the morning of November 15, before the vote on Graham/Levin/Kyl:

> "The amendment which was approved last Thursday, which is the one now awaiting this amendment, would have provided for review only for status determinations and not of convictions by military commissions. * * * * One of the reasons I voted against the amendment last Thursday is that it did not provide for that direct judicial review of convictions by military commissions. That is the major change in the amendment before the Senate, the so-called Graham-Levin-Kyl amendment which is before the Senate. There are a number of other changes as well, but of all the changes, what this amendment does is add * * * a direct appeal for convictions by military commissions." (151 Cong. Rec. S12754.)

Other Senators speaking about the amendment prior to the final vote did not even view the detainee's glass as half full. On the morning of November 15, Senator Specter exhorted his colleagues to oppose the amendment, stating: "On the face of the Graham amendment, it * * * even takes away jurisdiction from the Supreme Court of the United States." (151 Cong. Rec. S12799.) He later stated that the amendment would "strip Federal courts of the authority to consider a habeas petition from detainees being held in U.S. custody as enemy combatants," (151 Cong. Rec. 12801), and reiterated that the Graham/Levin/Kyl amendment was an amendment "which on the face takes away jurisdiction of the Supreme Court of the United States." *Ibid.* Senator Specter's remarks should at least have placed any Senator on inquiry notice that the final amendment might affect pending cases.

Finally, Senator Durbin also spoke about the final Graham amendment prior to the vote. As I mentioned earlier, on the morning of November 15, Senator Durbin expressed concern that the original Graham/Kyl amendment's jurisdictional bar would apply "retroactively," and that it "likely would prevent the Supreme Court from ruling on the merits of the Hamdan case." (151 Cong. Rec. S12799.) Almost immediately after these words, Senator Durbin also commented on the revised Graham amendment. He stated:

> "The Graham-Levin substitute amendment would somewhat improve the underlying amendment by expanding the scope of review in the D.C. Circuit Court to include whether CSRT's are legal, but not whether a particular detainee's detention is legal. It would also allow for post-conviction review of military

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> commission convictions. However, the amendment would still eliminate habeas review and overrule Rasul."

(151 Cong. Rec. S12799.) Again, no suggestion was made that the new amendment might carve out pending cases, despite the Senator's expressed concern about retroactivity. The Senator gave no hint that he expected the new amendment to treat pending cases any differently than did the old amendment. Senator Durbin does not appear to have been misled about the effect of the final Graham amendment, not did he mislead anyone else.

To be sure, two statements that do appear in the record prior to the final vote on the Graham amendment both assert that the amendment would not "strip jurisdiction" – and both of these statements are unleavened by Senator Levin's accompanying clarification that pending cases would proceed under the substantive review standards of the new law. Both of these statements, however, appear to have been introduced into the record following the final vote – both refer to that vote in the past tense. Neither Senator thus could have misled other members about the effect of the amendment prior to the vote. Senator Kerry made clear in his statement that his remarks were made only after the November 15 vote: "Today, I voted in favor of Senator Bingaman's amendment No. 2523, because it would have preserved judicial review. * * * When the Bingaman amendment failed, I voted for a second-degree amendment." (151 Cong. Rec. S12799.) Similarly, Senator Reid also emphasized that his statement did not precede the actual vote: "the Senate has voted to deny the availability of habeas corpus to individuals held by the United States at Guantanamo Bay, Cuba. I rise to explain * * * my votes in favor of the Bingaman amendment and the Graham-Levin amendment earlier today." (151 Cong. Rec. S12802.) Neither of these statements was part of the information that was presented to Senators prior to the final vote on the Graham amendment.

To summarize, the legislative record is utterly devoid of any evidence that Senators were led to believe that the Graham/Levin/Kyl amendment would carve out pending cases. Prior to the vote, several Senators spoke of the original amendment's breadth and the fact that it would terminate pending cases. Senator Graham, drawing no distinction between pre- and post-enactment filers, stated that the revised amendment would apply a uniform standard to all 500 Guantanamo detainees. Senator Levin made clear that "the standards we set forth in our amendment will be the substantive standards which we would expect would be applied in all cases, including cases which are pending as of the effective date of this amendment." Senator Specter pointedly warned that the final amendment would "strip Federal courts of the authority to consider a habeas petition from detainees" and "even take[] away jurisdiction from the Supreme Court of the United States." Other members who condemned the original amendment for terminating pending cases gave no hint that they viewed the new amendment any differently. Quite simply, there is no evidence that anyone misled anyone else about the fact that the Graham amendment would only allow pending cases to go forward under the limited review standards of the new law.

On November 15, the Graham/Levin/Kyl amendment passed the Senate by a vote of 84-14. That same day, the entire Defense Authorization bill passed the Senate by unanimous consent and the Senate appointed conferees. One month later, on December 16, the House and

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Senate conferees agreed to file a conference report. In the days that followed, a new slew of statements were made in the Senate and even in the House commenting on the meaning of the Graham amendment. Many of these statements are simply the usual effort by the losers of legislative battles to rewrite legislative history. The majority of the Senators, for example, who announced in these statements that the Graham amendment was not intended to affect pending cases also were among the 14 Senators who voted against the final Graham/Levin/Kyl amendment. No one can seriously suggest that these members relied on any representations made by the backers of the amendment. And more importantly, given the marked disagreement between the statements that were made at this late stage about the effect of the amendment on pending cases, no one could justifiably have relied upon one view rather than another to learn what the amendment does. Rather, it is up to members to examine the actual language of the amendment.

I hope that this review of the circumstances of the enactment of the Graham amendment will put to rest any accusation that members of Congress were misled about the amendment's impact on pending cases. Whether the amendment does in fact govern pending cases is another matter. For the reasons expressed here and in the January 18 letter to the Attorney General, I believe that it does so, but that, of course, is a matter for the courts to decide. In the event that the courts concur with my and Senator Graham's interpretation of the amendment, however, no member should be heard to complain that they were led to believe that the amendment would operate differently.

I ask unanimous consent that the following letter be printed in the RECORD.

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AMENDMENT NO._____ Calendar No._____

Purpose: Relating to the review of the status of detainees of the United States Government

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRAHAM

Viz:

1 At the end of subtitle G of title X, add the following:

2 **SEC. ___. REVIEW OF STATUS OF DETAINEES.**

3 (a) SUBMITTAL OF PROCEDURES FOR STATUS RE-
4 VIEW OF DETAINEES AT GUANTANAMO BAY, CUBA.—Not
5 later than 180 days after the date of the enactment of
6 this Act, the Secretary of Defense shall submit to the con-
7 gressional defense committees, and to the Committees on
8 the Judiciary of the Senate and the House of Representa-

1 tives, a report setting forth the procedures of the Combat-
2 ant Status Review Tribunals and the noticed Administra-
3 tive Review Boards in operation at Guantanamo Bay,
4 Cuba, for determining the status of the detainees held at
5 Guantanamo Bay.

6 (b) PROCEDURES.—The procedures submitted to
7 Congress pursuant to subsection (a) shall, with respect to
8 proceedings beginning after the date of the submittal of
9 such procedures under that subsection, ensure that—

10 (1) in making a determination of status of any
11 detainee under such procedures, a Combatant Status
12 Review Tribunal or Administrative Review Board
13 may not consider statements derived from persons
14 that, as determined by such Tribunal or Board, by
15 the preponderance of the evidence, were obtained
16 with undue coercion; and

17 (2) the Designated Civilian Official shall be an
18 officer of the United States Government whose ap-
19 pointment to office was made by the President, by
20 and with the advice and consent of the Senate.

21 (c) REPORT ON MODIFICATION OF PROCEDURES.—
22 The Secretary of Defense shall submit to the committees
23 of Congress referred to in subsection (a) a report on any
24 modification of the procedures submitted under subsection

(a) not later than 30 days before the date on which such modifications go into effect.

(d) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

(1) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by adding at the end the following new subsection:

''(e) No court, justice, or judge shall have jurisdiction to consider—

''(1) an application for a writ of habeas corpus based on policies established by the Secretary of Defense under section 1071(a) of the National Defense Authorization Act for Fiscal Year 2006 filed on behalf of an alien who is detained by the Secretary of Defense as an enemy combatant; or

''(2) any other action, challenging any aspect of the detention of an alien who is detained by the Secretary of Defense as an enemy combatant.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to any application or other action pending on or after the date of the enactment of this Act.

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, February 9, 2006 7:31 PM
To: [redacted]@judiciary-rep.senate.gov'
Subject: Re: February 9 Kyl statement

Many thanks

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov <[redacted]@judiciary-rep.senate.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>[redacted]@bakerbotts.com
[redacted]@bakerbotts.com>
Sent: Thu Feb 09 19:29:12 2006
Subject: February 9 Kyl statement

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Senate today. It will eventually appear in the printed record for today, February 9. The final printed version will not be available online for several days, however. I will send that to you when it is available.

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Thursday, February 09, 2006 7:32 PM
To:	Katsas, Gregory (CIV); Garre, Gregory G
Subject:	Fw: February 9 Kyl statement
Attachments:	February floor statement.wpd; Graham-Kyl Am 11.8.05.pdf

Fyi

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov [redacted]@judiciary-rep.senate.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>; [redacted]@bakerbotts.com
[redacted]@bakerbotts.com>
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ENEMY COMBATANTS

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I ordinarily would not comment on the meaning of legislation that already has been enacted into law. In this case, however, there has been a considerable amount of post-enactment commentary by others on the meaning of the Graham amendment. Much of this commentary insinuates that the Administration and the backers of the amendment are violating an agreement with members of the minority by characterizing the amendment as governing pending litigation. Since the enactment of the Graham amendment last December, some critics have begun to paint a revisionist history of this legislation. In this new account, the Graham amendment supposedly was intentionally modified by the Senate so as not to affect pending litigation. Also in this version of events, Senators relied on representations that the amendment was modified to carve out pending litigation when they voted in favor of its final passage. This conspiracy theory is without foundation.

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Some critics now assert that nothing in the amendment prevents pre-enactment habeas actions from going forward in their previous form. For reasons explained in the letter to the Attorney General, I believe that such an interpretation is untenable. In addition to the points made in the letter, I would also add the following: the amendment states that the changes that it makes to the habeas code "shall take effect on the date of the enactment of this Act." If the current pack habeas cases are allowed to go forward in their current form, the law's provision that "no court, justice, or judge shall have jurisdiction" to hear those cases in that form will not be effective on the date of the law's enactment. Rather, the courts still would have jurisdiction over these cases after the date of enactment, and the law's all-encompassing jurisdictional bar would become effective only when the current litigation would exhaust itself – a date that likely would

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come only years in the future. Such a result would not be consistent with the requirement that the law's total jurisdictional prohibition "take effect of the date of the enactment of this Act."

Of those critics who argue that the amendment carves out pre-enactment habeas cases, I would simply ask, what part of "no court, justice or judge" do you not understand? How could this language possibly be more comprehensive? And how could any Senator possibly have been misled as to its effect?

Some of the recent criticism of the amendment in the press has taken a new tack. A few critics have begun to suggest that even if the legislative text of the Graham amendment does wipe out the pending habeas cases, Senators were affirmatively misled about this aspect of the final amendment. The allegation is that Senators were led to understand that the amendment that they were voting on would not affect pending cases. I have reviewed the legislative record from the days leading up to the vote on final passage of the Graham amendment, and find this suggestion wanting. Allow me to describe what was actually said about the original version of the amendment – the Graham/Kyl amendment – as well as the final version, the Graham/Levin/Kyl amendment, prior to their passage.

On November 10, Senator Levin stated with regard to the original Graham/Kyl amendment, "I read the language as to how broad it is. It eliminates explicitly any appeal: No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus, and that is the way an appeal goes to a court from one of these people. It is eliminated." (151 Cong. Rec. S12665.) Similarly, later that day, Senator Bingaman characterized the original Graham amendment as follows: "It essentially denies all courts anywhere the right to consider any petition from any prisoner being held at Guantanamo Bay." (151 Cong. Rec. S12667.) And later, on November 15, Senator Durbin said the following about the original Graham/Kyl amendment: "the amendment would eliminate habeas for detainees at Guantanamo Bay. * * * * It would strip Federal courts, including the U.S. Supreme Court, of the right to hear any challenge to any practice at Guantanamo Bay, other than a one-time appeal to the D.C. Circuit * * *. It applies retroactively, and therefore also likely would prevent the Supreme Court from ruling on the merits of the Hamdan case, a pending challenge to the legality of the administration's military commissions." (151 Cong. Rec. S12799.)

Thus from the beginning, Senators recognized and emphasized to their colleagues that the original Graham amendment's language was comprehensive. They also recognized and emphasized that the amendment barred pending cases from going forward, including the Hamdan case in the Supreme Court. These aspects of the original amendment not only were generally acknowledged, but were a point of controversy during the Senate debate.

Had the subsequent Graham/Levin/Kyl amendment departed from the original amendment by carving out pending cases, this would have been a momentous change. Aside from the fact that such a change would have gutted the amendment, it also would addressed one of the issues about which opposing Senators had expressed sharp concern. Surely, had such a change been made or even intended to be made, the fact would have been noted. Instead, it is the dog that did not bark.

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First, neither Senator Graham nor I ever said anything in the days leading up to the final vote on the amendment that could possibly suggest to anyone that the modified amendment exempted pending cases. Senator Graham is the lead sponsor and I am an original cosponsor of the amendment that passed the Senate on November 10. We controlled the amendment. No one was in a better position than we were to describe what the amendment does and does not do. Had such a major change to the amendment been made, it is inconceivable that one of us would not at least have commented on it. No such comment or even the suggestion of such a change was made by either one of us.

Indeed, the few statements that Senator Graham did make prior to passage of Graham/Levin/Kyl that describe the amendment's reach tend to confirm that the amendment does not treat detainees differently based on when they filed their claims. For example, on the evening of November 14, when the final amendment was introduced, Senator Graham noted that "[i]nstead of having unlimited habeas corpus opportunities under the Constitution, we give every enemy combatant, all 500, a chance to go to Federal court, the Circuit Court of Appeals for the District of Columbia." (151 Cong. Rec. S12754.) "What we have done, working with Senators Levin, Kyl, and others, we have created that same type of appeals process for all military commission decisions." *Ibid.*

During that same evening, Senator Levin also commented on the new amendment. Although he said that the amendment did not "strip jurisdiction" from the courts, he made clear that he meant that jurisdiction remained in place because the pending cases – including challenges to military-commission decisions – could go forward as claims invoking the substantive review standards of the new amendment. Senator Levin stated: "What we have done in this amendment, we have said that the standards in the amendment will be applied in pending cases, but the amendment will not trip the courts of jurisdiction over those cases. For instance, the Supreme Court jurisdiction in Hamdan is not affected." (151 Cong. Rec. S12755.) Again, later: "what our amendment does, as soon as it is enacted and the enactment is effective, it provides that the standards we set forth in our amendment will be the substantive standards which we would expect would be applied in all cases, including cases which are pending as of the effective date of this amendment." *Ibid.* And again: "because it would not strip courts of jurisdiction over these matters where they have taken jurisdiction, it does, again, apply the substantive law and assume that the courts would apply the substantive law if this amendment is agreed to." *Ibid.*

Whether the amendment, by barring one type of claim and authorizing another type to take its place, strips the courts of jurisdiction, is, to some extent, a matter of perspective. It is a question of whether the glass is half empty or half full. On the operative issue, however, Senator Levin's remarks on November 14 are consistent not only with my own and Senator Graham's characterization of the amendment (*see, e.g.* 151 Cong. Rec. S14263), but also with the interpretation now advanced by the Justice Department: that the current claims can go forward, but only as claims for review under the substantive standards created by the new the act.

It bears mention that the revised amendment's authorization of judicial review of

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military-commission decisions, though narrow and venue-restricted, was a substantial departure from the original amendment. As Senator Levin had emphasized on November 10, the original amendment "eliminates court review of the sentences of enemy combatants before these commissions." (151 Cong. Rec. S12664.) He stated that the amendment even "eliminates the appeal of a conviction that led to a capital offense." (151 Cong. Rec. S12665.) Under the original Graham amendment, no appeal of any kind would have been permitted from the military-commission verdict in the Hamdan case.

The revised amendment does allow limited appeals of final military-commission decisions. In fact, this change was described to Senators as the principal difference between the original and revised Graham amendments. Senator Levin noted on the morning of November 15, before the vote on Graham/Levin/Kyl:

> "The amendment which was approved last Thursday, which is the one now awaiting this amendment, would have provided for review only for status determinations and not of convictions by military commissions. * * * * One of the reasons I voted against the amendment last Thursday is that it did not provide for that direct judicial review of convictions by military commissions. That is the major change in the amendment before the Senate, the so-called Graham-Levin-Kyl amendment which is before the Senate. There are a number of other changes as well, but of all the changes, what this amendment does is add * * * a direct appeal for convictions by military commissions." (151 Cong. Rec. S12754.)

Other Senators speaking about the amendment prior to the final vote did not even view the detainee's glass as half full. On the morning of November 15, Senator Specter exhorted his colleagues to oppose the amendment, stating: "On the face of the Graham amendment, it * * * even takes away jurisdiction from the Supreme Court of the United States." (151 Cong. Rec. S12799.) He later stated that the amendment would "strip Federal courts of the authority to consider a habeas petition from detainees being held in U.S. custody as enemy combatants," (151 Cong. Rec. 12801), and reiterated that the Graham/Levin/Kyl amendment was an amendment "which on the face takes away jurisdiction of the Supreme Court of the United States." *Ibid.* Senator Specter's remarks should at least have placed any Senator on inquiry notice that the final amendment might affect pending cases.

Finally, Senator Durbin also spoke about the final Graham amendment prior to the vote. As I mentioned earlier, on the morning of November 15, Senator Durbin expressed concern that the original Graham/Kyl amendment's jurisdictional bar would apply "retroactively," and that it "likely would prevent the Supreme Court from ruling on the merits of the Hamdan case." (151 Cong. Rec. S12799.) Almost immediately after these words, Senator Durbin also commented on the revised Graham amendment. He stated:

> "The Graham-Levin substitute amendment would somewhat improve the underlying amendment by expanding the scope of review in the D.C. Circuit Court to include whether CSRT's are legal, but not whether a particular detainee's detention is legal. It would also allow for post-conviction review of military

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> commission convictions. However, the amendment would still eliminate habeas review and overrule Rasul."

(151 Cong. Rec. S12799.) Again, no suggestion was made that the new amendment might carve out pending cases, despite the Senator's expressed concern about retroactivity. The Senator gave no hint that he expected the new amendment to treat pending cases any differently than did the old amendment. Senator Durbin does not appear to have been misled about the effect of the final Graham amendment, not did he mislead anyone else.

To be sure, two statements that do appear in the record prior to the final vote on the Graham amendment both assert that the amendment would not "strip jurisdiction" – and both of these statements are unleavened by Senator Levin's accompanying clarification that pending cases would proceed under the substantive review standards of the new law. Both of these statements, however, appear to have been introduced into the record following the final vote – both refer to that vote in the past tense. Neither Senator thus could have misled other members about the effect of the amendment prior to the vote. Senator Kerry made clear in his statement that his remarks were made only after the November 15 vote: "Today, I voted in favor of Senator Bingaman's amendment No. 2523, because it would have preserved judicial review. * * * When the Bingaman amendment failed, I voted for a second-degree amendment." (151 Cong. Rec. S12799.) Similarly, Senator Reid also emphasized that his statement did not precede the actual vote: "the Senate has voted to deny the availability of habeas corpus to individuals held by the United States at Guantanamo Bay, Cuba. I rise to explain * * * my votes in favor of the Bingaman amendment and the Graham-Levin amendment earlier today." (151 Cong. Rec. S12802.) Neither of these statements was part of the information that was presented to Senators prior to the final vote on the Graham amendment.

To summarize, the legislative record is utterly devoid of any evidence that Senators were led to believe that the Graham/Levin/Kyl amendment would carve out pending cases. Prior to the vote, several Senators spoke of the original amendment's breadth and the fact that it would terminate pending cases. Senator Graham, drawing no distinction between pre- and post-enactment filers, stated that the revised amendment would apply a uniform standard to all 500 Guantanamo detainees. Senator Levin made clear that "the standards we set forth in our amendment will be the substantive standards which we would expect would be applied in all cases, including cases which are pending as of the effective date of this amendment." Senator Specter pointedly warned that the final amendment would "strip Federal courts of the authority to consider a habeas petition from detainees" and "even take[] away jurisdiction from the Supreme Court of the United States." Other members who condemned the original amendment for terminating pending cases gave no hint that they viewed the new amendment any differently. Quite simply, there is no evidence that anyone misled anyone else about the fact that the Graham amendment would only allow pending cases to go forward under the limited review standards of the new law.

On November 15, the Graham/Levin/Kyl amendment passed the Senate by a vote of 84-14. That same day, the entire Defense Authorization bill passed the Senate by unanimous consent and the Senate appointed conferees. One month later, on December 16, the House and

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Senate conferees agreed to file a conference report. In the days that followed, a new slew of statements were made in the Senate and even in the House commenting on the meaning of the Graham amendment. Many of these statements are simply the usual effort by the losers of legislative battles to rewrite legislative history. The majority of the Senators, for example, who announced in these statements that the Graham amendment was not intended to affect pending cases also were among the 14 Senators who voted against the final Graham/Levin/Kyl amendment. No one can seriously suggest that these members relied on any representations made by the backers of the amendment. And more importantly, given the marked disagreement between the statements that were made at this late stage about the effect of the amendment on pending cases, no one could justifiably have relied upon one view rather than another to learn what the amendment does. Rather, it is up to members to examine the actual language of the amendment.

I hope that this review of the circumstances of the enactment of the Graham amendment will put to rest any accusation that members of Congress were misled about the amendment's impact on pending cases. Whether the amendment does in fact govern pending cases is another matter. For the reasons expressed here and in the January 18 letter to the Attorney General, I believe that it does so, but that, of course, is a matter for the courts to decide. In the event that the courts concur with my and Senator Graham's interpretation of the amendment, however, no member should be heard to complain that they were led to believe that the amendment would operate differently.

I ask unanimous consent that the following letter be printed in the RECORD.

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AMENDMENT NO._____ Calendar No._____

Purpose: Relating to the review of the status of detainees of the United States Government

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

S. 1042

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRAHAM

Viz:

1 At the end of subtitle G of title X, add the following:

2 **SEC. ___. REVIEW OF STATUS OF DETAINEES.**

3 (a) SUBMITTAL OF PROCEDURES FOR STATUS RE-
4 VIEW OF DETAINEES AT GUANTANAMO BAY, CUBA.—Not
5 later than 180 days after the date of the enactment of
6 this Act, the Secretary of Defense shall submit to the con-
7 gressional defense committees, and to the Committees on
8 the Judiciary of the Senate and the House of Representa-

1 tives, a report setting forth the procedures of the Combat-
2 ant Status Review Tribunals and the noticed Administra-
3 tive Review Boards in operation at Guantanamo Bay,
4 Cuba, for determining the status of the detainees held at
5 Guantanamo Bay.

6 (b) PROCEDURES.—The procedures submitted to
7 Congress pursuant to subsection (a) shall, with respect to
8 proceedings beginning after the date of the submittal of
9 such procedures under that subsection, ensure that—

10 (1) in making a determination of status of any
11 detainee under such procedures, a Combatant Status
12 Review Tribunal or Administrative Review Board
13 may not consider statements derived from persons
14 that, as determined by such Tribunal or Board, by
15 the preponderance of the evidence, were obtained
16 with undue coercion; and

17 (2) the Designated Civilian Official shall be an
18 officer of the United States Government whose ap-
19 pointment to office was made by the President, by
20 and with the advice and consent of the Senate.

21 (c) REPORT ON MODIFICATION OF PROCEDURES.—
22 The Secretary of Defense shall submit to the committees
23 of Congress referred to in subsection (a) a report on any
24 modification of the procedures submitted under subsection

1 (a) not later than 30 days before the date on which such
2 modifications go into effect.
3 (d) JUDICIAL REVIEW OF DETENTION OF ENEMY
4 COMBATANTS.—
5 (1) IN GENERAL.—Section 2241 of title 28,
6 United States Code, is amended by adding at the
7 end the following new subsection:
8 ''(e) No court, justice, or judge shall have jurisdiction
9 to consider—
10 ''(1) an application for a writ of habeas corpus
11 based on policies established by the Secretary of De-
12 fense under section 1071(a) of the National Defense
13 Authorization Act for Fiscal Year 2006 filed on be-
14 half of an alien who is detained by the Secretary of
15 Defense as an enemy combatant; or
16 ''(2) any other action, challenging any aspect of
17 the detention of an alien who is detained by the Sec-
18 retary of Defense as an enemy combatant.''.
19 (2) EFFECTIVE DATE.—The amendment made
20 by paragraph (1) shall apply to any application or
21 other action pending on or after the date of the en-
22 actment of this Act.

USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Friday, February 10, 2006 8:08 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing for Friday, February 10, 2006
Attachments:	agnb060210.pdf; agnb060210.doc

THE ATTORNEY GENERAL'S NEWS BRIEFING

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, FEBRUARY 10, 2006 7:45 AM EST

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TERRORISM NEWS:

Cheney Says Domestic Spying Program Should Be A Political Issue. The Washington Post (2/10, A7, VandeHei) reports Vice President Cheney "suggested last night that the debate over spying on overseas communications to or from terrorism suspects should be a political issue in this year's congressional elections." Speaking at the annual CPAC convention, Cheney "said the debate over the National Security Agency surveillance program 'has clarified where all stand' on an issue that has drawn criticism from congressional Democrats and some Republicans." Cheney said, "And with an important election coming up, people need to know just how we view the most critical questions of national security, and how we propose to defend the nation that all of us, Republicans and Democrats, love and are privileged to serve." The Post adds Cheney's "comments reflected the emerging GOP plan to make national security and terrorism the centerpiece of House and Senate elections," but they were the "closest a top White House official has come to calling for the NSA program to be a political matter."

The Washington Times (2/10, Pierce) reports in its "Inside Politics" column that Cheney, "who has issued repeated Shermanesque statements that he will not run for president in 2008, said last night that he may be rethinking his position. Almost." After a "crowd of hundreds gathered at the Conservative Political Action Conference in Northwest gave him a rousing standing ovation before his speech last night, the vice president was moved." Cheney said, "Getting a reception like that almost makes me want to run for office again." As the crowd "again erupted in applause, he cut them off -- 'Almost,' he said loudly, drawing laughter."

McCain Supports Increasing Congressional Oversight Of NSA Monitoring Program. Sen. John McCain on The Late Show With David Letterman (2/9) was asked about the NSA terrorist monitoring debate and whether

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"any president" can "order wiretaps, and that's just fine?" McCain replied, "Apparently that was the position of the Attorney General but the good news is, seriously, that there's been, in the last 24, 48 hours, there's been a effort to engage and involve the Senate, and the House, and have briefings and get this issue shared with the right members of Congress. I remind you that right after September 11, there was a leak to the media that we were intercepting al Qaeda phone calls. And they shut down. That was a very serious breach of intelligence. And none of us want that to happen again, but Congress has to be briefed, at least key members of Congress, the key members of Congress of which I am not one."

Fox Poll Finds NSA Legislation Has Broad Support. Fox News' Special Report (2/9, Angle) reported, "The push for legislation" to validate the NSA terrorist monitoring program "has lots of support from Republicans and Democrats. The program itself remains popular with the public. In the latest Fox News/Opinion Dynamics poll people were asked if the President should have the power to authorize electronic surveillance without warrants. 54% said yes. Only 40% said no."

Support For NSA Program Rises In AP Poll. The AP (2/10, Shrader) reports, "Bush's campaign to convince Americans that the government's eavesdropping program is essential to the war on terrorism has made an impact: Last month people disapproved, 56 percent to 42 percent. Now it's basically 50-50." Bush "has been particularly successful at making his case to core supporters, including Republicans, white evangelicals and suburban men. Support in each category grew more than 10 percentage points in the last month." The AP adds "public support for the program has grown with the White House's monthlong campaign of speeches and TV appearances to make its case that the monitoring is necessary. According to the AP-Ipsos poll, some 48 percent of Americans now support the administration's program. That's up from 42 percent last month. Half now say the administration should have to get a warrant to conduct eavesdropping, down from 56 percent one month ago. Support for the program grew by 9 percentage points among men, but it dropped 8 points -- to 30 percent -- in the Northeast. … Republican support for the program jumped 14 points to 82 percent. Independent support is up 17 points, to 53 percent. White evangelical support grew by 11 points, to 71 percent."

Former Iowa FBI Agent Warns Senate Probe Could Hurt NSA Program. KIMT-TV Mason City, IA (2/9) reports on its Web site from a story broadcast Thursday, "Former FBI agent Ralph Decker thinks wiretapping is not only legal, it's necessary. He says at least 50 attacks have been stopped by the FBI since September 11th. He thinks the Senate's investigation into the matter could be hurting the spying program." Decker: "I just hope the Senate wakes up because I know the trail of blood would lead right back to the Senate if something does happen and would they claim it? Probably not, knowing them." KIMT adds, "But supporters like Ralph will face an uphill battle since opponents of the wiretapping say spying on American citizens without warrants is not just illegal, it's a violation of their constitutional rights."

More Commentary On NSA Surveillance. Daniel Henninger writes in his Wall Street Journal column (2/10) reports, "Let's start with the one thing we know for sure about the Bush administration's program to listen to al Qaeda's phone calls into and out of the United States: It's dead. After all the publicity of the past two weeks, does anyone think that the boys working on plans for Boston Harbor, the Golden Gate Bridge or Chicago's Loop are still chatting by phone? If the purpose of the public exposure was to pull the plug on the pre-emptive surveillance program, mission accomplished. Be safe, Times Square."

E.J. Dionne writes in the Washington Post (2/10, A19, 744K), "This week the Bush administration was finally forced out of its own pre-Sept. 11 worldview -- and, yes, you read that right. It happened because some brave Republicans stared the president down and said: Stop. Of course, it is the administration that is always accusing its opponents of pre-Sept. 11 thinking." But "for the past five years, President Bush, Vice President Cheney and Karl Rove have been willing to put the national unity required to fight terrorism in second place behind their goals of aggrandizing presidential power and winning elections. Can you get more pre-Sept. 11 than that?"

The Wall Street Journal (2/10, 2.11M) editorializes, "We'd like to thank the Washington Post for publishing a story yesterday that so quickly proved our editorial point of the same day about the folly of putting judges in control of national security decisions. That's what we call service. The front-page story reported that on rare occasion the Bush Administration has used information from the NSA's warrantless foreign-linked wiretaps to seek domestic wiretapping authority from the Foreign Intelligence Surveillance Court. This was said to have upset chief FISA

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judge Colleen Kollar-Kotelly, and the tenor of the story is that this is one more example of how the warrantless wiretaps are an abuse of power. But the better question is, Who elected Ms. Kollar-Kotelly? The story's real news is that Judge Kollar-Kotelly, and her predecessor Judge Royce Lamberth, took it upon themselves to erect a new 'wall' concerning how intelligence is to be used to protect America. … In any event, why is an unelected judge such as Ms. Kollar-Kotelly making these decisions?"

The Washington Post (2/10, A18, 744K) writes in an editorial that the Administration "would like the debate over its warrantless wiretapping program to divide neatly along partisan, and potentially electorally useful, lines. But some Republican legislators aren't with the program. Their responsible pressure has nudged the administration from its customary highhandedness. The resulting congressional briefings are a good first step, but a framework for real oversight of the surveillance program remains necessary. … Lawmakers don't seem to be deterred by the administration's coolness to a legislative solution -- and they shouldn't be."

More Commentary. The Sacramento Bee (2/10) editorializes, "Attorney General Alberto Gonzales made it clearer than ever this week that the Bush administration is determined not only to continue warrantless electronic eavesdropping, but also to stonewall Congress and the public by saying 'trust us' over and over - and not much else. … Testifying Monday before the Senate Judiciary Committee, Gonzales fell back on the argument that the president is responsible for protecting the country, and that the Constitution and Congress, in authorizing the president after 9/11 to use force against terrorist groups and states, give him the authority to do it as he sees fit. Even the most innocuous questions from senators elicited mostly platitudes, obfuscation and refusals to answer. Gonzales even said Congress is a full partner in combating terrorism. … 'In the arena of war,' he said, 'it is not true that the president works ... to the exclusion of Congress. Quite the contrary; our framers intended that, in a time of war, both branches of government have a role to play.' … Oh? Presumably that means Congress should be grateful for any scrap of information thrown its way. Key members of Congress - eight in all - have been briefed 'fully,' according to administration officials. But some of those briefed have said the information provided is sketchy and that security rules bar them from spelling out their objections. … Closed hearings could do much to reassure Congress, and indirectly the public, that the administration is not exceeding its mandate while wrapping itself in the flag of national security. If it does have all the authority it needs, then why isn't it willing to make its case to the branch of government charged with making the laws, declaring war and providing the funds to pay for it?"

In a column in the Sacramento Bee (2/10), Cal Thomas writes, "Democrats appeared not to accept Gonzales' testimony that the surveillance is being done legally, preferring to make political points rather than capture and defeat the enemy. … The danger in tinkering with intelligence gathering is that the tinkerers sometimes go too far. In its effort to curtail domestic eavesdropping and foreign spying 30 years ago, a Democratic Congress used the Church Committee findings on illegal domestic surveillance in a way that some analysts believe subsequently curtailed our effectiveness to obtain information vital to the nation's security." Thomas adds, "In his defense of the president's order to monitor limited communications between foreign terrorist suspects and people in the United States, Gonzales listed a number of presidents, Democratic and Republican, dating back to the 19th century, who had used far more invasive and widespread tactics to gather intelligence they believed crucial to defending the nation. … Should the United States be attacked again, the next congressional hearings (assuming Congress survives the attack) will focus on why more wasn't done to protect us. More is now being done and public opinion seems to be fine with it for now, complaints from liberal Democrats (and a few liberal Republicans) notwithstanding."

Goss Says Leaks Of Classified Information Compromise Security. Under the headline "Loose Lips Sink Spies, Porter Goss, director of the Central Intelligence Agency, writes in an op-ed in the New York Times (2/10, 1.19M), "At the Central Intelligence Agency, we are more than holding our own in the global war on terrorism, but we are at risk of losing a key battle: the battle to protect our classified information. Judge Laurence Silberman, a chairman of President Bush's commission on weapons of mass destruction, said he was 'stunned' by the damage done to our critical intelligence assets by leaked information." The commission "reported last March that in monetary terms, unauthorized disclosures have cost America hundreds of millions of dollars; in security terms, of course, the cost has been much higher. Part of the problem is that the term 'whistleblower' has been misappropriated. The sharp

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distinction between a whistleblower and someone who breaks the law by willfully compromising classified information has been muddied." Goss adds that "those who choose to bypass the law and go straight to the press are not noble, honorable or patriotic. Nor are they whistleblowers. Instead they are committing a criminal act that potentially places American lives at risk. It is unconscionable to compromise national security information and then seek protection as a whistleblower to forestall punishment."

US Turns Over Three Detainees To Morocco In Wake Of Mueller Visit. Reuters (2/10) reports, "The United States has handed three suspected Islamic militants held at its Guantanamo Bay prison over to Morocco, Moroccan state media reported on Thursday. The three Moroccan men were being detained in Casablanca…for further questioning by an investigating judge, the official news agency MAP reported." Reuters notes, "The extradition was announced two days after U.S. Federal Bureau of Investigation head Robert Mueller held talks with King Mohammed on security cooperation between Rabat and Washington. Mueller, who toured the North Africa region to cement the U.S. anti-terror drive, also met Morocco's top security chiefs. 'We knew very well that Morocco, Algeria, Tunisia and Libya are working together to fight terrorism,' Thursday's edition of the Moroccan daily al Maghribia quoted Mueller as saying. 'So we must follow up in building our friendly relations with them and create mechanisms to exchange information quickly to prevent new terrorism attacks,' he said."

PATRIOT ACT:

Senators Reach Deal On Patriot Act. The Los Angeles Times (2/10, Gaouette, 958K) reports, "Senate Republicans who had been blocking a long-term extension of the Patriot Act announced Thursday that an agreement reached with the White House could allow reauthorization of the anti-terrorism law. " At an afternoon news conference, Sen. John E. Sununu "said a bipartisan group of lawmakers had worked out changes in three areas where the legislators thought 'we could do better to protect civil liberties while providing law enforcement the tools it needs.'" White House spokesman Scott McClellan "hailed the agreement, saying that the administration was 'pleased that this important legislation is moving forward.'"

USA Today (2/10, Diamond, 2.31M) says "the compromise allows recipients of 'Section 215' subpoenas seeking business or library records related to a terrorism investigation to challenge in court a requirement that they not tell anyone." It also "scraps a provision that required recipients of "national security letters," which are issued without going before a judge, to provide the FBI with the name of any lawyer they consulted about it. A third element of the deal says traditional libraries may not be subject to FBI requests for information on research done by patrons."

The AP (2/10, Espo) reports, "While there was no immediate reaction from House Republicans, Sen. Larry Craig, R-Idaho, one of the Senate negotiators, said he had been in close touch with the chairman of the House Judiciary Committee. Rep. James Sensenbrenner, R-Wis." Reaction from the Democrats "was divided. Sen. Dick Durbin of Illinois, second-ranking in the Democratic leadership, appeared at the GOP news conference. He said the compromise included 'significant progress' toward protecting basic liberties and that he planned to support the compromise." Sen. Harry Reid "said in a statement that the agreement among Republicans 'appears to be a step in the right direction.'" But Sen. Russell Feingold "threatened a filibuster."

The New York Times (2/10, Stolberg, 1.19M) reports the deal may "possibly clear the way for passage of the legislation, which has been bottled up in a dispute over civil liberties," while the Washington Post (2/10, A1, Babington, 744K) runs a story headlined "Patriot Act Compromise Clears Way For Senate Vote." The Washington Times (2/10, Hurt, 90K), however, says "the agreement involving White House officials and top congressional leaders doesn't guarantee approval because most Democrats are still on the record opposing the measure."

Bloomberg (2/10, Bliss) reports, "The measure would still have to pass the House. House Judiciary Committee Chairman James Sensenbrenner won't comment until he's reviewed details of the accord, said his spokesman, Jeff Lungren."

Reuters (2/10, Cowan) reports, "One change to the law accepted by Senate Republicans and the White House would allow individuals to challenge gag orders when they have been subpoenaed to produce sensitive information on library, medical, education or gun-related records. … Another change would clarify that traditional libraries would not be

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subjected to special subpoenas, which are not issued by judges, to gain records."

The Manchester (NH) Union Leader (2/10, Distaso) reports, "Sen. John Sununu was pleased with what he called important improvements in the anti-terrorism USA Patriot Act announced yesterday as a compromise between a key group of senators and the White House. … 'I think it's a good package and a step in the right direction and allows us to maintain a bipartisan consensus,' Sununu told the New Hampshire Union Leader in a telephone interview from Washington." The Leader adds, "Sununu announced the deal with the White House on Capitol Hill with Senate Judiciary Committee Chairman Arlen Specter and three other senators who had held out for changes they felt would protect the legal rights and attorney-client privacy privilege of individuals and businesses under investigation by law enforcement authorities. … Sununu and the other senators said they hope the agreement will clear the way for final passage of the Patriot Act, which has been stalled since December. Congress has extended the existing provisions twice, most recently until March 10."

Judge Allows E-Mail Monitoring Under Patriot Act. CNET News (2/10, McCullagh) reports, "As part of a grand jury investigation that's still secret, the Justice Department asked a federal magistrate judge to approve monitoring of an unnamed person's e-mail correspondents." CNET continues, "The request had a twist: Instead of asking to eavesdrop on the contents of the e-mail messages, which would require some evidence of wrongdoing, prosecutors instead requested the identities of the correspondents. Also included in the request was header information like date and time and Internet address--but not subject lines. … The federal magistrate judge balked and asked the Justice Department to submit an additional brief to demonstrate that such a request would be legal." CNET adds, "Instead, prosecutors asked (US District Judge Thomas) Hogan to step in. He reviewed the portion of federal law dealing with 'pen register' and 'trap and trace' devices--terms originating in the world of telephone wiretapping--and concluded it 'unambiguously' authorizes the e-mail surveillance request. … Though the language may be clumsy, Hogan said, the Patriot Act's amendments authorize that type of easily obtainable surveillance of e-mail. All that's required, he said, is that prosecutors claim the surveillance could conceivably be 'relevant' to an investigation."

HOMELAND RESPONSE:

Bush Reveals New Details About 2002 Al Qaeda Plot Against Los Angeles Skyscraper. President Bush yesterday revealed the details of a 2002 al Qaeda plot to crash a jet into the Library Tower in Los Angeles, the tallest building west of the Mississippi. The general outlines of the plot had been publicly available previously, but the President disclosed newly-declassified information about the personal involvement of Osama bin Laden in the plot. The New York Times (2/10, Bumiller, Johnston, 1.19M) reports Bush and his counterterrorism adviser, Frances Fragos Townsend, "said that four extremists were recruited from Southeast Asia to carry out the plan, that their leader received training in shoe bombs and that all four had traveled to an undisclosed place after the Sept. 11 attacks to meet with Osama bin Laden and pledge their loyalty to Al Qaeda." Khalid Sheikh Mohammed "trained the leader of the group in building a shoe bomb, similar to the device recovered from Richard Reid, who had tried to set off a bomb in his shoe on an American Airlines flight from Paris to Miami in December 2001." Reuters (2/10, Zakaria) says, "The plot was disrupted with help from two countries in Southeast Asia and two countries in South Asia, Townsend said." On ABC World News Tonight (2/9, story 2, 2:40, Thomas), Bush was shown saying, "Rather than use Arab hijackers as he had on September the 11th, Khalid Sheikh Mohammed sought out young men from Southeast Asia whom he believed would not arouse as much suspicion."

Much of the media coverage looks at the story from a political standpoint, with some suggesting the timing of the disclosure was intended to defuse the furor over the NSA surveillance program or to boost the Republican Party. Some print reports, in fact, carry quotes from anonymous "intelligence" and "law enforcement officials" who downplay the significance of the Los Angeles threat. For example, the Washington Post (2/10, A4, Baker, Eggen, 744K) reports "several US intelligence officials played down the relative importance of the alleged plot and attributed the timing of Bush's speech to politics. The officials, who spoke on the condition of anonymity because they did not want to publicly criticize the White House, said there is deep disagreement within the intelligence community over the seriousness of the

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Library Tower scheme and whether it was ever much more than talk."

The Los Angeles Times (2/10, Wallsten, Meyer, 958K) reports the details disclosed by Bush "did little to counter skepticism from Democrats and some law enforcement officials who have questioned whether the reported scheme had ever been put into operation before it was thwarted. 'It didn't go,' said one US official familiar with the operational aspects of the war on terrorism. 'It didn't happen.'" The official "said he believed the Library Tower plot was one of many Al Qaeda operations that had not gone much past the conceptual stage. The official spoke on the condition of anonymity, saying that those familiar with the plot feared political retaliation for providing a different characterization of the plan than that of the president."

Meanwhile, NBC Nightly News (2/9, lead story, 2:15, Williams) reported, "The White House says that it was just a coincidence that at this time when the President is under fire for a program of domestic eavesdropping and trying to renew the Patriot Act, he just happened to choose today as the day to talk about a planned terrorist incident in the US that was thwarted and thus never happened." NBC (O'Donnell) added, "The White House had talked generally about this plot before. But today spelled out what al Qaeda's Khalid Sheik Mohammed and this terror suspect Hambali, picked a cell of four operatives, avoiding any Arab recruits." The CBS Evening News (2/9, lead story, 6:35, Axelrod) also reported "today's speech…dovetails with a new White House effort to gain support for its warrantless wiretapping, reversing its refusal to brief Congress on the wiretaps."

ABC World News Tonight (2/9, story 3, 1:05, Gibson) reported, "Democrats in Washington immediately began asking -- why is the President talking about this now?" ABC (Stephanopoulos) added, "White House officials say the President wanted to emphasize this is a global problem that requires a global response. But Charlie, you know, there is a lot of politics at play here. Republicans hope this war on terror issue is going to be the key to have them keeping control of the House and the Senate in these 2006 mid-term elections. It worked for them in 2002 and 2004. Democrats know this is a serious threat. Yesterday, Senator Hillary Rodham Clinton gave a major speech where she warned Democrats can't let Republicans play the fear card. Today, Senator Dianne Feinstein said the President's speech is old news, available on the open record."

CNN's Lou Dobbs Tonight (2/9, Bash) reported, "The vivid new description is part of a Bush effort to justify controversial tactics in fighting terror." CNN's The Situation Room (2/9, Forsman) said, "It's a huge story and it's part of an overall message from the White House. … The overall message that for all that trouble since 9/11, the United States has been free of any major terrorist attack. And today, they were driving that home with details saying it hasn't been for want of trying."

Fox News' Special Report (2/9, Cameron) reported Sen. Diane Feinstein "seemed unconvinced of the importance or even existence of the West Coast plot." Feinstein, "I have never seen anything that indicated whether the second wave was bona fide or not. There has been rumors bandied about that it was, but I don't know candidly."

Participants in Fox News' Special Report's roundtable also looked at the politics of Bush's announcement. Morton Kondracke on Fox News' Special Report (2/9) said Bush's speech "was designed to in effect say the menace is there. We're dealing with it. We have dealt with it successfully. So trust me." Fred Barnes said, "It fits with his notion that the most important thing he can do as President is fight the war on terrorism. Also fits with the political interests of Republicans who would rather have terror be the issue than the big issue going into the 2006 mid-term election than say corruption or something like that." Mara Liasson remarked, "I think that this is the President trying to keep people focused on the number one issue for him." Meanwhile, Washington Post reporter Dana Milbank on MSNBC's Hardball (2/9), referring to the President's remarks on the terror threat, "It's something they didn't feel they needed to do before but now they want to do it to boost his ratings on the NSA surveillance program."

Knight Ridder (2/10, Hutcheson) says "the timing of his chilling disclosures…raised suspicion that his remarks were politically motivated. At the very moment that Bush was defending his aggressive approach to terrorism, two of his top advisers were trying to quell a revolt in Congress against his domestic eavesdropping program."

The Christian Science Monitor (2/10, Grier, 61K) reports, "Headlines about possibly illegal eavesdropping activity authorized by the president, plus more bombings in Iraq and revelations about the slow pace of Iraqi reconstruction, have put the Bush team on the defensive this week. In revealing details about an alleged Al Qaeda plot to fly an airliner into a Los Angeles skyscraper, plus insisting that

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terrorists are weakened and on the run, Bush may be attempting to counter bad news."

The Wall Street Journal (2/10, Solomon, McKinnon, Rogers, 2.11M) also says "Bush's announcement came as both Republican and Democratic lawmakers are seeking better oversight and regulation of intelligence gathering, after concerns were raised about the National Security Agency's domestic-surveillance activities."

The Chicago Tribune (2/10, Silva, 643K) reports the White House "seemed to underscore both successes in the war on terror and the threat that terrorists still pose. 'We are not yet safe,' said Bush, flanked by paintings of colonial-era Minutemen in a speech delivered in a flag-lined hall of the National Guard Memorial Building in Washington." The Tribune adds, "Karl Rove, the president's chief political adviser, has told top Republicans that the party's fortunes this year rest on assuring Americans that Republicans are tough on terrorism. And some Democrats have accused the administration of exploiting fear."

Other reports say there is no indication that the NSA intercepts played any role in the intelligence that unraveled the plot. The CBS Evening News (2/9, lead story, 6:35, Axelrod) said "the White House won't go anywhere near this question of whether the eavesdropping program had anything to do with the foiling of this West Coast bomb plot. Won't go anywhere near it. But checking across the government today, we couldn't find one single US official to say that it had." The Washington Times (2/10, Sammon, 90K), however, reports Townsend said that "the US used 'all instruments of national power' to foil the plot."

CBS' Bob Schieffer, meanwhile, suggested that the key information about the plot was obtained through torture. The CBS Evening News (2/9, Stewart) reported, "As detailed as the President got in his speech, US counterterrorism officials got even more explicit with us after he spoke. How serious was Osama bin Laden about a second strike? Officials confirm the terrorist chief had personally set aside $50,000 of his dwindling fortune to bankroll it. And one of the four men recruited to carry it out was already a professionally trained pilot which theoretically put the plot on a fast track." CBS added, "All the indications we have are that they got this information not from any wiretap but from what they called the rigorous questioning of some al Qaeda detainees." CBS anchor Bob Schieffer responded, "Torture." Stewart: "Call it what you will, sir." Schieffer: "But not in this country, someplace else." Stewart: "No sir, in undisclosed locations, as they say."

USA Today (2/10, Jackson, Benedetto, 2.31M) reports "Bush's revelation triggered a blast from Los Angeles Mayor Antonio Villaraigosa, who said he was surprised by Bush's announcement because the White House had not fully informed him in advance." White House spokesman Scott McClellan said, "My understanding was that we did reach out to officials in California and Los Angeles to let them know, I think it was yesterday." The AP (2/10, Riechmann) also reports Villaraigosa "complained he first learned of Bush's remarks while watching TV." He is quoted saying, "I'm amazed that the president would make this on national TV and not inform us of these details through the appropriate channels."

The New York Times (2/10, Broder, 1.19M) reports Villaraigosa "said that he had twice written to the White House to request a meeting with the president to discuss security threats to Los Angeles, but that he had received no response. 'I'm mayor of the second largest city in the country,' Mr. Villaraigosa said. 'I have tried to meet with the president at the White House on a number of occasions every time that I've gone to Washington, DC, to discuss specifically this issue of homeland security, and to no avail. Let's be clear about that.'" He also "said that the president's antiterrorism budget had shortchanged a number of potential targets, including Los Angeles."

Bias Against Counterintelligence Blamed For Vacancies In Top Positions. The Washington Times (2/10, Gertz, 90K) reports, "The most senior U.S. government counterintelligence official -- presidential appointee Michelle Van Cleave -- resigned last month after the office of the National Counterintelligence Executive" was incorporated into the DNI's office. "At the FBI, CIA and Pentagon, senior counterintelligence positions are held by acting officials," and the NSC "counterintelligence staff position has been downgraded. … Intelligence officials said the failure to fill the top posts is a sign of bias against counterspying by senior intelligence officials under DNI John Negroponte and at other agencies. It goes against the recommendations of a presidential commission that called improving efforts to counter foreign spying an urgent priority." The Times adds that "a senior U.S. intelligence official" said, "The administration has put out good words, but is showing by deed that counterintelligence is not a priority." However,

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DNI spokesman Carl Kropf declared, "The DNI is confident that counterintelligence operations are being very effectively conducted across the intelligence community." Kropf "added that the selection process is active and that 'we anticipate that these vacancies will be filled expeditiously.'"

TSA Reportedly Dropping Secure Flight Program. NBC Nightly News (2/9, story 2, 1:00, Williams) reported, "The folks who run airport security at the US have scrapped a program called Secure Flight that was supposed to check every domestic airline passenger's name against government watch lists. The reason it is being scrapped we're told after four years and $200 million, the TSA still hasn't figured out how the program would work. Civil libertarians strongly oppose Secure Flight, saying the program could grow into a massive domestic surveillance system all its own."

GAO Says Secure Flight "At Risk Of Failure." USA Today (2/10, Frank, 2.31M) reports the Government Accountability Office said yesterday that the "long-delayed kickoff of" the Transportation Security Administration's Secure Flight program "is 'at risk of failure' and faces an uncertain future." In a report, GAO "criticized post-9/11 efforts to implement the computerized program, which aims to check domestic airline passengers' names against terrorist watch lists and other databases. Transportation Security Administration chief Kip Hawley told a Capitol Hill hearing that his agency is doing its own internal review of the program." Meanwhile, "Senators expressed frustration that the TSA has spent nearly three years and $144 million trying to improve on the current system, which has been criticized for mistakenly singling out innocent travelers as suspected terrorists. The agency is seeking an additional $40 million next year for Secure Flight."

The New York Times (2/10, 1.19M) reports, "The newest version of the Transportation Security Administration's proposed system to check the names of airline passengers against terrorist watch lists could be vulnerable to hackers, the agency said on Thursday. The agency's chief, Kip Hawley, told a Senate committee that the long-delayed program, now called Secure Flight, will be delayed again. … At a hearing Thursday before the Senate Commerce Committee, Cathleen A. Berrick, an auditor with the Government Accountability Office, said in testimony that Secure Flight 'may not be adequately protected against unauthorized access and use or disruption.'"

TSA Seeks $10 Million To Combat Turnover. In its "Federal Diary" column, the Washington Post (2/10, B2, Barr, 744K) reports, "The Transportation Security Administration has been hit by troubling turnover in its screener workforce. One in five full-time security screeners has been leaving the agency, according to the administration's new budget. Half of the part-time screeners have also departed. TSA is seeking $10 million in fiscal 2007 to address what the budget calls 'a high rate of attrition.' … Requests for extra money to deal with staff turnover are unusual, but agencies often try to solve the problem with the help of their Cabinet secretary or the Office of Personnel Management before going to Congress."

TSA Auctions Items Seized From Airline Passengers On eBay. The CBS Evening News (2/9, story 6, 1:00, Schieffer) reported, "If you do a lot of flying, you probably have seen airport security agents taking away all those items that are not allowed on planes." CBS (Orr) added, "It looks like an airport security junkyard. Littered with some of 30 million knives, scissors and tools confiscated at check points since 9/11. And believe it or not, frequent flyers, most of this junk is head for eBay." Mary Beth Ingram "runs the program for Pennsylvania, making $15,000 a month selling the loot from airports in Philadelphia, New York and Boston."

Officials Initially Suspected VX In Senate False Alarm. The Washington Post (2/10, A8, Sheridan, 744K) reports, "The evacuation at the Russell Senate Office Building on Wednesday night marked the biggest nerve-agent scare yet at the Capitol complex, with officials initially fearing that a deadly chemical substance might have been released in the building, authorities said yesterday." US Capitol Police Chief Terrance Gainer "declined to identify the agent that appeared to be indicated by the sensor. But the FBI and other agencies that assisted in the emergency response said they were told it was the VX nerve agent."

DHS, White House Were Warned Of Levee Failure On Night Of Katrina. The New York Times (2/10, Lipton, 1.19M) reports, "In the aftermath of Hurricane Katrina, Bush administration officials said they had been caught by surprise when they were told on Tuesday, Aug. 30, that a levee had broken, allowing floodwaters to engulf New Orleans. But Congressional investigators have now learned that an eyewitness account of the flooding from a federal emergency official reached the Homeland Security Department's headquarters starting at 9:27 p.m. the day

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before, and the White House itself at midnight." In a "recently unearthed" e-mail to the chief of staff of Homeland Security Secretary Michael Chertoff, sent Monday night at 9:27, FEMA warned that conditions "are far more serious than media reports are currently reflecting. Finding extensive flooding and more stranded people than they had thought -- also a number of fires." Former FEMA Director Michael D. Brown "said in a telephone interview Thursday that he personally notified the White House of this news that night, though he declined to identify the official he spoke to." The Times adds, "Investigators now have the documentation to pinpoint some of the fundamental errors and oversights that combined to produce what is universally agreed to be a flawed government response to the worst natural disaster in modern American history."

The New York Times (2/10, Lipton, 1.19M) provides a more in depth look at some of the documents, which it says "pinpoint some of the fundamental errors and oversights that combined to produce what is universally agreed to be a flawed government response to the worst natural disaster in modern United States history." The documentation provided indicates failures at all levels of government. For example, "An official from the United States Department of Health and Human Services, which is charged with helping evacuate medical patients from disaster areas, asked a Louisiana state health official two days before Katrina landed if the state needed help moving patients out of harms way. The state official turned down the offer." Meanwhile, "Reports that there were major breaks in the levees started on Monday morning, the day Katrina hit. But it would be nearly 24 hours before officials in the Bush administration, including President Bush and Homeland Security Secretary Michael Chertoff, appeared to recognize the severity of what had happened."

Brown Says He Will Answer Questions About Communications During Katrina. The New York Times (2/10, Lipton, 1.19M) reports that though Brown "has declined to answer questions from Congress about his conversations during Hurricane Katrina with top Bush administration officials," he said Thursday "that his position had changed." Brown said, "I feel an obligation to answer any questions they put to me." He "will have that chance on Friday, when he is scheduled to testify to the Senate Homeland Security and Governmental Affairs Committee, which is nearing the end of a five-month inquiry on the hurricane. 'The public needs to know the entire picture of what was going on,' Mr. Brown said. … As of Thursday evening, Mr. Brown and his lawyer, Andrew W. Lester, said they had received no calls or letters from the White House urging Mr. Brown to remain silent. The testimony will make clear, Mr. Brown said, that senior administration officials, including President Bush, recognized the severity of the problem in New Orleans in the immediate aftermath of the storm."

The Washington Post (2/10, A7, Hsu, 744K) adds, "Brown could shed light on the White House's lack of awareness of events on the day of Katrina's landfall. Documents released by the Senate show that although the Homeland Security Operations Center reported at 6 p.m. Aug. 29 that no New Orleans levees had been breached, authorities received no fewer than 16 reports to the contrary before then."

Baker Touts Louisiana Recovery Plan. The day after the Washington Post ran an article titled, "The Big Easy? Now It's Limbo Land," Rep. Richard Baker, in an op-ed in USA Today (2/10, Baker, 2.31M) writes, "Louisiana's in limbo. Months after Hurricanes Katrina and Rita destroyed more than 200,000 homes and businesses, little progress has been made toward rebuilding. Nor will it if these properties languish in ruins for years." Baker continues, "Even individuals with resources to rebuild won't when their neighborhood remains decimated. The only answer: Restoring whole communities. To help, I have proposed the Louisiana Recovery Corp., which would purchase property from willing sellers, providing them financial stability to move forward and options to come home." Baker states, "Stronger levees, building codes and insurance requirements would ensure that government and Louisianans live up to their responsibilities and rebuild responsibly."

USA Today Says State, Local Plan Needed To Rebuild New Orleans. Meanwhile, USA Today (2/10, 2.31M) editorializes, "New Orleans and the surrounding area are devastated and need help. Americans want to provide it. But Congress is focused on a scheme that would serve neither the city nor the taxpayers well. Actually, it's less a plan than an exercise in thoughtless political spending — and further proof that Washington can't manage disaster relief." USA Today adds, "The Bush administration wisely opposes Baker's plan, but despite the passage of time, it hasn't proposed an alternative." USA Today states, "New Orleans needs a sound state and local rebuilding plan," rather than "an expensive federal bureaucracy."

SBA Seeks $1.1 Billion To Handle Disaster Loans. USA Today (2/10, Drinkard, 2.31M) reports, "The Small

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Business Administration, criticized for its slow pace in making disaster loans to victims of Hurricane Katrina, is asking Congress for an additional $1.1 billion in relief money. Though the agency has approved $4.1 billion in loans, most of them to owners of storm-damaged homes, it has paid out just $326 million of that amount." John Scofield, a spokesman for the House Appropriations Committee, said, "We've given them everything they've asked for. That should get them through it." However, "SBA spokesman Raul Cisneros defended the request, noting that Katrina is the most expensive disaster ever to hit the USA and that requests for additional money have been routine in previous disasters. 'We just don't know' how much such events will ultimately cost, he said."

US Seen As Having Lost Will To Rebuild Following Disasters. USA Today (2/10, Hampson, 2.31M) reports that following the Chicago fire of 1871, William Bross, an owner of the Chicago Tribune, had a message for Wall Street: The fire was not a disaster; it was an investment opportunity. … That was the attitude in Chicago in 1871. And in Galveston, Texas, after the hurricane of 1900; in San Francisco after the earthquake of 1906; at Pearl Harbor after the sneak attack in 1941." However, "In New York City, where terrorists destroyed the World Trade Center, and in New Orleans, where Katrina flooded most of the city, Americans are arguing over how, when and even whether to rebuild. The qualities we associate with recovery from disaster — urgency, unity, determination, imagination — have been eclipsed by indecision, delay and dissension." In a list of explanations for the change, USA Today adds, "New Orleans and Lower Manhattan were on the decline, not the rise." Meanwhile, "Rebuilding after natural disasters always has relied on private capital, not federal aid."

WAR NEWS:

Former CIA Officer Charges White House With "Cherry-Picking" Iraq Intelligence. The Washington Post (2/10, A1, Pincus, 744K) reports Paul Pillar, CIA national intelligence officer for the Near East and South Asia from 2000 to 2005, "has accused the Bush administration of 'cherry-picking' intelligence on Iraq to justify a decision it had already reached to go to war, and of ignoring warnings that the country could easily fall into violence and chaos" after the fall of Saddam Hussein. In an upcoming issue of Foreign Affairs, Pillar writes, "It has become clear that official intelligence was not relied on in making even the most significant national security decisions, that intelligence was misused publicly to justify decisions already made, that damaging ill will developed between [Bush] policymakers and intelligence officers, and that the intelligence community's own work was politicized." The Post calls it "one of the most severe indictments of White House actions by a former Bush official since Richard C. Clarke, a former National Security Council staff member, went public with his criticism of the administration's handling of the Sept. 11, 2001, attacks and its failure to deal with the terrorist threat beforehand."

United Iraqi Alliance Narrows List Of Premier Candidates To Two. USA Today (2/10, Jervis, 2.31M) reports the United Iraqi Alliance "has narrowed its field of prime minister candidates to two," Prime Minister Ibrahim al-Jaafari and Vice President Adel Abdul Mahdi. Al-Jaafari "has been criticized as being ineffective during the past nine months as prime minister, said Mahmoud Othman, a leading Kurdish lawmaker. Al-Jaafari was not as assertive as his tough-talking predecessor, Ayad Allawi." But he "has gained experience in office and has distanced himself from religious Shiite leaders, Othman said." Mahdi "has a stronger personality capable of bringing different sides to the bargaining table, Othman said. However, he is faulted for being too close to Iraq's religious clerics and viewed warily by some because he once lived in Iran."

Iraqi Infrastructure Remains In Abysmal State. The Christian Science Monitor (2/10, Prusher, Levinson, 61K) writes about Iraq's infrastructure woes, where "electricity -- along with water, sewage, and oil production -- has dropped below prewar levels." Before the US-led invasion, "Baghdad was receiving an average of at least 16 hours of power a day. Today, with insurgents targeting power plants and electrical lines on an almost daily basis, the city gets power just four hours each day on average." Iraq "was generating 4,500 megawatts before the US invasion. But by November of last year that generation capacity had dropped to 3,995 megawatts, well below the national demand of 7,000 megawatts." And according to Special Inspector General for Iraq Reconstruction Stuart Bowen, "Iraq's water supply, sewer system, and electrical grid were worse off than once thought."

Iraq Experiencing Internet Boom. On the flip side, the New York Times (2/10, Worth, 1.19M) writes about the burgeoning Internet in Iraq. Three years ago, "the Internet

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was virtually unknown in Iraq. Today, Baghdad has dozens of Internet cafes like ShreifiNet, which consists of three sparely decorated rooms with a total of 34 computers and a satellite dish on the roof. Most of the cafes also transmit wireless services to home Internet users in the surrounding area for a monthly fee; in parts of central Baghdad there are about 20 overlapping wireless networks. The universal hunger to get online has made computer and Web services one of the few bright spots in Iraq's stagnant economy."

Terrorists Release Video Of Kidnapped US Reporter. A new video of kidnapped Christian Science Monitor freelancer Jill Carroll was shown on Kuwaiti TV today. The CBS Evening News (2/9, story 3, 2:00, Dozier) reported, "The best news we have tonight is that at least as of this last Monday which is the date Carroll gives in her video, she was alive and well and asking that everything possible be done for her release." Some "70 American officials in the hostage-working group are working around the clock to try to figure out who has got her. And Iraqi forces are staging raids almost every night trying to track her down. Her family has said that they are grateful that so many people are working to free her." ABC World News Tonight (2/9, story 4, :25, Vargas) reported and NBC Nightly News (2/9, story 5, 1:00, Williams) reported the story in brief segments.

The New York Times/AP (2/10) reports, "The kidnapped American journalist Jill Carroll appeared in a video shown Thursday on a private Kuwaiti television channel, appealing for her supporters to do whatever was necessary to win her release and saying, 'There is a very short time.'"

The Los Angeles Times (2/10, Daragahi, 958K) describing Carroll as appearing "healthy and composed" said she "punctuated her 22-second message, which she said was recorded on Feb. 2, with a note of urgency. 'There is a very short time,' she said. 'Please do it fast. That's all.'" The video "suggested that Carroll has not fallen into the hands of the most brutal category of kidnappers in Iraq, who have previously beheaded western hostages for political ends." Yet "it remains unclear what the kidnappers still demand in return for Carroll's release."

The Washington Post (2/10, A14, Hernandez, 744K) reports Carroll said "that she had sent one letter in her own hand and was sending another 'to prove I am with the mujaheddin,' Arabic for holy warriors." The Post adds, "The content of the letters Carroll spoke of is unknown. In the broadcast, the newscaster said that one letter Carroll had written would be handed over to authorities. The station said it would not broadcast the letter's contents, according to the Associated Press."

Progress Made In Training Afghan Army. The Christian Science Monitor (2/10, Baldauf, 61K) reports, "Increasingly, coalition forces are turning over some of the training to Afghan sergeants like Reza. Fresh recruits learn the basics of how to take protective measures and launch counterattacks, skills that will help them hold their positions in a fight." The Afghan forces are not ready to act without support from international forces which "means that the international presence in Afghanistan will remain crucial for the foreseeable future." But "four years after the Taliban's ouster, there are growing expectations that the ANA will pick up more of the slack in defending the country and providing the sort of security that allows Afghans to trust in their own government and their future."

NATO Leaders Reiterate Commitment To Afghanistan After Protests Over Cartoons. Reuters (2/10, John, Dunham) reports, "NATO defense chiefs pledged on Thursday to expand alliance peacekeeping in Afghanistan despite attacks on their troops triggered by the storm over cartoons depicting the Prophet Mohammad." The NATO leaders "meeting in Italy agreed to check security measures in place for their 9,000-strong International Security Assistance Force (ISAF) mission in Afghanistan, but insisted its expansion to 16,000 troops this year would go ahead as planned."

Rumsfeld Favors NATO Lead On Afghan Security, But Says US To Lead Counterterror Mission. The Washington Times/AP (2/10, Burns) reports, "The United States favors NATO eventually taking full command of the international military effort to stabilize Afghanistan, but that will not include a separate American-led counterterrorism mission against al Qaeda, Defense Secretary Donald H. Rumsfeld said yesterday." Rumsfeld said he was "very comfortable" with NATO taking control of the security mission but "drew the line, however, at the counterterrorism mission, which is being performed mainly by U.S. special operations forces."

Violence Erupts In Pakistan, Afghanistan During Shiite Religious Holiday. The New York Times (2/10, Gall, Masood, 1.19M) reports, "Violence exploded in Pakistan and Afghanistan on Thursday during

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processions by Shiite Muslim worshipers observing the holy day of Ashura. A suicide bombing in northwestern Pakistan killed 23 people and wounded dozens more." And in "Afghanistan, fighting broke out between Shiite and Sunni Muslims during a procession of Shiite worshipers in Herat, the country's third-largest city. The fighting killed 6 people and wounded 120 others, said a senior military official." The Times notes, "Sectarian attacks, including suicide attacks on mosques, have occurred in Pakistan, but such a clash was unexpected in the traditionally tolerant Afghan city of Herat. The violence there was another blow in a country that has been struggling with increasing terrorist attacks, local insurgencies and angry demonstrations in recent days over the publication of satirical cartoons of the Prophet Muhammad."

The Washington Post (2/10, A12, Witte, 744K) reports, "Samina Ahmed, South Asia project director for the International Crisis Group, blamed the violence in Afghanistan and Pakistan on governments that have not done enough to curb Sunni groups that target their fellow Muslims. 'It's not just enough to take action against al Qaeda,' Ahmed said in a telephone interview from Pakistan. 'It's just as important to take the same kind of action against sectarian terrorists.'" Meanwhile, "President Hamid Karzai and religious leaders in Afghanistan appealed for calm, and a delegation of clerics was dispatched from Kabul on Thursday night to try to soothe tensions in Herat."

Holiday In Iraq Peaceful. The Washington Post (2/10, A12, Witte, 744K) also notes, "By contrast, not a single attack on Shiite worshipers marred the day in Iraq. Ashura was banned in Iraq during Saddam Hussein's reign. Since the observance was resumed in 2004, the holy day has been jolted by bombings that have killed hundreds." US military spokesman Maj. Gen. Rick Lynch "said the relative tranquility was 'a tribute to the Iraqi security forces.' He said Iraqi soldiers and police had imposed tight security throughout the country, particularly in Karbala, the focal point of the holy day. In a raid this week, Iraqi troops detained 19 suspects who were apparently planning to conduct suicide attacks on Ashura observances, Lynch said." The Los Angeles Times (2/10, Daragahi, Boudreaux, 958K) runs a similar report.

Wounded US Soldiers Face Long Path To Recovery. ABC World News Tonight (2/9, story 7, 3:10, Vargas) reported, "A greater percentage of US forces are surviving war injuries than at any other time in history. Which means many more people are living with the lasting effects of war. We have devoted a lot of time on this broadcast to their struggles and their triumphs." ABC (Reynolds) added, "It has not been, nor will it ever be, easy for Sam Ross or B.J. Jackson. Two years ago, we met them they were struggling and they struggle still. Do you feel as though you've adjusted?" Sam Ross: "I'm adjusting. I'm not adjusted." B.J. Jackson: "It's a long, frustrating road. And it's painful." Reynolds: "But outwardly, B.J., whose legs were blown off in Iraq, takes his recovery literally in stride." Today, Jackson is "something of a celebrity as the point man for a veterans' group." Ross "came close to losing his life twice. First, when a bomb exploded in his face in Iraq, taking his left leg and his sight. And then a second time last May when the enormity of his loss almost led to suicide." Alienated "from his family, unhappy with his care, and living alone in his trailer. Then, a man named John Gonsalves called. Gonsalves runs 'Homes for Our Troops,' building house free of charge for severely disabled vets." To Sam, "it's more than a log cabin. Though he cannot see it, he says it feels like home and a better future."

US Improves Veterinary Care For Bomb Sniffing Dogs In Iraq. The Los Angeles Times (2/10, Kraul, 958K) reports Lt. Col. Randall Thompson is one of only "six clinical veterinary surgeons in the U.S. military" and now he "works to save the lives of some of the military's most valued assets: bombsniffing dogs that have been severely wounded in combat. He arrived here in October to open Iraq's first urgent surgical care ward for canines." Prior to his "arrival, injured dogs were shipped to a U.S. base in Germany or to the United States for emergency medical treatment. At best, seriously wounded dogs were out of commission for weeks; at worst, they died during transport to a faraway veterinary facility." But their "talent for sniffing out hidden explosive devices has become crucial to the war effort, so the command changed policy."

CORPORATE SCANDALS:

AIG To Pay $1.6 Billion In Accounting Scandal. The CBS Evening News (2/9, story 4, :45, Schieffer) reported, "New York State Attorney General accused the insurance giant AIG of doing some creative cooking of its books to mislead investors and the government. Today AIG agreed to pay over $1.6 billion, that's $1,640

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million to settle the allegations, getting a share of that money will be investor policyholders and 45 states."

DOJ Warns AIG About Settlement Compliance. The Financial Times (2/10, Parker) reports, "American International Group, the world's biggest insurance company, broke the law after entering into transactions that wrongly boosted its reserves and hid underwriting losses, US prosecutors said on Thursday." The Times continues, "The Department of Justice said AIG 'violated federal criminal law' in connection with misleading financial statements issued by the company. … If AIG or any of its employees fail to abide by settlements announced on Thursday with federal authorities, the Justice department warned it could prosecute the company. AIG agreed to pay $1.64bn to federal and state authorities to resolve allegations of accounting abuses and other impropriety. It represents one of the largest settlements involving a public company."

The AP2 (2/10, Powell) reports, "The deal…also requires the New York-based firm to adopt changes in its business practices that will ensure proper accounting procedures in the future. … AIG said in a statement that the settlement was approved by its board 'in the best interest of the company.' … The pact announced Thursday settles a civil lawsuit filed last May by New York Attorney General Eliot Spitzer with backing from the New York State Insurance Department and the U.S. Justice Department. The Securities and Exchange Commission, which also worked with Spitzer on the investigation, filed and settled allegations of accounting fraud with the company simultaneously."

Reuters (2/10) reports, "The settlement… ends a long-running investigation of the company, and was widely anticipated. … It does not resolve pending cases against former AIG chief executive Maurice 'Hank' Greenberg and former chief financial officer Howard Smith, who were forced out last spring. Both have denied any wrongdoing."

The New York Times (2/10, Morgenson) reports, "Apologizing for deceptive business practices extending as far back as two decades ago, American International Group, the global insurance giant, reached a $1.64 billion settlement yesterday with federal and state securities and insurance regulators. … The company also agreed to changes that would soften its historically combative approach to business, a trademark of its ousted chief executive, Maurice R. Greenberg."

The Wall Street Journal (2/10, Mcdonald, Pleven) reports, "The $1.64 billion toll is the biggest paid to regulators by any financial-services company in U.S. history. Additionally, the company said it will take a $1.1 billion after-tax charge to boost its reserves by $1.69 billion following an internal review."

USA Today (2/10, Smith) reports, "New York Attorney General Eliot Spitzer, whose inquiry into insurance industry sales and commission practices led to Greenberg and a wide range of alleged abuses, called AIG 'a solid company that didn't need to cheat. It finds itself in this position solely because some senior managers thought it was acceptable to deceive the investing public and regulators.' … Mark Schonfeld, director of the Securities and Exchange Commission's Northeast Regional Office, which joined the state's investigation, said, 'We have sought to balance AIG's historical misconduct — which was substantial — with its new approach to compliance and cooperation with regulators and law enforcement.'"

Bloomberg (2/10) reports, "The SEC's investigation of AIG began in 2001 with a probe of policies that mobile-phone distributor Brightpoint Inc. allegedly used to manipulate earnings. The agency continued to look at income-smoothing insurance and reinsurance after AIG paid $10 million to settle the Brightpoint case. More than a dozen companies have been subpoenaed by state and federal regulators."

NYTimes Says "Honest Corporate Environment" Key Goal Of AIG Settlement. The New York Times (2/10, 1.19M) says in an editorial that after the "settlement yesterday between regulators and the insurance giant American International Group, a lot of attention focused on the dollars: $1.6 billion. It is an impressive figure. But the money should not obscure the higher goal of an honest corporate environment." The "difference between Enron and A.I.G. is that Enron was a house of cards, but A.I.G. was and still is, as New York's attorney general, Eliot Spitzer, put it, 'a solid company that didn't need to cheat.'"

Lay Attorney Questions Enron Witness's Plea Bargain. The New York Times/Reuters (2/10) reports, "A lawyer for Jeffrey K. Skilling, a former chief executive of Enron, suggested Thursday that a crucial prosecution witness in the trial of Mr. Skilling and another former chief executive, Kenneth L. Lay, did not commit the crimes he admitted to under a plea deal with prosecutors. … The witness, Mark E. Koenig, Enron's former head of investor relations, is the first of several former Enron employees who

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are expected to testify against Mr. Skilling and Mr. Lay after striking deals with the government to avoid trials." Reuters continues, "Defense lawyers have said that many of the government's witnesses who reached deals were not guilty but buckled under pressure because they lacked the wherewithal to mount a defense at trial and feared they could face lengthy prison sentences if convicted. … Mr. Skilling's lawyer, Daniel Petrocelli, questioned Mr. Koenig about the plea deal, which could send him to prison for up to 10 years for aiding and abetting securities fraud, saying at one point: 'Don't you think this is pretty thin stuff?' … A visibly angry Mr. Koenig replied, 'I don't think it's thin, or else I wouldn't have pleaded guilty to it.'"

The Washington Post (2/10, D2, Johnson) reports, "Koenig…reminded jurors of previous testimony in which he described efforts by the company to meet or exceed Wall Street targets by two pennies in 2000, more than two weeks after the fiscal quarter closed. … 'Frankly, I was afraid these things would come back to me for years,' Koenig said of misleading statements he made to analysts about the health of one of Enron's units. He faces as much as 10 years in prison when he is sentenced."

The Wall Street Journal (2/10, Emshwiller, Mcwilliams) reports, "Mr. Ramsey asked whether Mr. Koenig had told a friend and former Enron colleague that he had done nothing wrong, or simply made a misstatement during a call with securities analysts. Mr. Koenig firmly denied that he made such comments. Mr. Ramsey hinted that he might call the friend to testify later in the case." The Journal notes, "The line of questioning begun yesterday by Mr. Ramsey is part of a broad defense of Enron's business practices being mounted by the legal teams for Messrs. Lay and Skilling. While Enron, in the more than four years since its December 2001 collapse, has become a synonym for corporate malfeasance, the Lay and Skilling defense teams are betting that they can convince the jury that Enron was a great company felled by an array of outside forces. Prosecutors counter that the two defendants led a years-long scheme to hide numerous problems at Enron, which finally collapsed when some of those problems became public."

USA Today (2/10, Farrell) reports, "The lawyer representing former Enron CEO Ken Lay finally got a chance to cross-examine the government's first witness Thursday, and whiffed. … Shortly after the lunch break at federal court here, attorney Mike Ramsey attacked the credibility of Mark Koenig. The former Enron investor relations chief has pleaded guilty and is cooperating with the prosecution of Lay and another former Enron CEO, Jeff Skilling, on charges of hiding the true state of Enron's financial health from investors in 2000 and 2001. … 'Isn't it true that after you pleaded guilty you told a very close friend and former co-worker that you were not guilty and committed no crime?' he asked. 'Haven't you admitted to Joanie Williamson, sir, that you were not guilty?' Koenig denied telling Williamson any such thing. Ramsey then threatened to have Williamson testify. 'So if she said that (on the stand), she'd be lying, perjuring herself?' Ramsey asked. 'That's right,' Koenig stated defiantly. … Ramsey dropped the subject and immediately began quizzing Koenig about several topics that have yet to be fully introduced through testimony. At each point, U.S. District Judge Sim Lake shut him down."

Bloomberg (2/10, Calkins) reports that Judge Lake "sustained prosecutors' objections to questions by Michael Ramsey, Lay's lead defense lawyer, about off-book partnerships former finance chief Andrew Fastow created to do Enron-related deals. Fastow has pleaded guilty to a fraud charge stemming from Enron's collapse. … Lake did allow Ramsey to cross-examine Mark Koenig, who ran Enron's investor communication unit, about whether Fastow's LJM partnerships caused concern among shareholders. Koenig is in his sixth day of testimony in the trial of former chairman Lay and former chief executive officer Skilling. … 'It was not something our competitors did,' Koenig said about the off-book partnerships. 'It was different, so we got questions about it.'"

The AP (2/10, Hays) reports that Koenig "acknowledged that founder Kenneth Lay had to jump back into nuts-and-bolts management of his company when he resumed the role of chief executive after Jeffrey Skilling resigned less than four months before Enron collapsed in December 2001. … 'He had to get more involved, yes,'… Koenig said in response to cross examination by… Ramsey in his sixth day on the witness stand. … 'He was involved before, but he took on a whole new duty,' Koenig said. Lay remained chairman of Enron throughout 2001, but he ceded the CEO position to Skilling in February that year. Skilling abruptly resigned six months later. … Lay's new duties included a hastily arranged conference call with Wall Street analysts on the day Enron announced Skilling's resignation in mid-August 2001, Koenig said. He said Enron was obligated to make executives available on the call to try to calm any market jitters sparked by the unexpected resignation." The AP notes, "Ramsey's

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questioning appeared to try to highlight what Lay claimed publicly when he was indicted in July 2004: Lay knew of no skullduggery, and was like a student cramming for an exam when his hand-picked successor as CEO quit."

Judge Declares Second Mistrial In Fraud Case Against Former Cendant Chairman. The New York Times (2/10, Stowe) reports, "For the second time, the fraud trial of Walter A. Forbes, the former chairman of the Cendant Corporation, ended in a mistrial after the jury announced on Thursday that it had failed to reach a unanimous verdict in its 27th day of deliberations." The Times continues, "The mistrial occurs as a similar accounting-fraud prosecution involving Enron is under way. In such complex cases, the jury can sift through hours of expert testimony about arcane financial procedures and the responsibilities of executives only to find itself unable to render a verdict." The Times adds, "Last July, another prosecution for accounting fraud ended in a mistrial in the case of five former executives with Enron Broadband Services when jurors found themselves deadlocked on most charges." Judge Alvin W. Thompson of Federal District Court in Hartford, CT, declared the mistrial after the jury reported further deliberations would be fruitless. The Times continues, "Mr. Forbes, who faced more than 20 years in prison if convicted, betrayed no emotion when the decision was announced but kept his eyes locked on the jury. Asked moments later if he had a statement, he replied, "None," and quickly left the courtroom, followed by his wife, Caryn, and other family members. … A spokesman for Christopher J. Christie, the United States attorney for New Jersey, said the government had not yet decided whether it would prosecute Mr. Forbes again."

The New York Times (2/10, Norris) reports, "Walter A. Forbes was paid more than $100 million as chairman and chief executive of the CUC Corporation. To hear him tell it, he did not do very much to earn the money. … Operations of the company, he testified at a trial where he faced charges of masterminding a fraud that cost investors billions, were left to others." The Times continues, "He admitted signing quarterly and annual financial statements that turned out to be fraudulent, but said he neither prepared nor read them. … 'We were a public company with thousands of employees, divisions all over the country and all over the world,' he testified. 'I don't think they would have expected me to be reading 10-Q's.' … It was a defense that worked at his first trial, when a jury convicted CUC's No. 2 official but was unable to reach a verdict on Mr. Forbes. And it has worked again. Yesterday, the jury in the second trial was dismissed after it, too, was unable to reach a verdict after 27 days of deliberations. … The jury foreman, Ken Premo, said afterward that he did not feel the accounting issues in the trial had been too complex and thought that Mr. Forbes was guilty. But, he added, 'I wouldn't say it was clear cut.' … If he had been convicted, Mr. Forbes would have faced more than 20 years in prison."

Judge OKs Bristol-Myers $185 Million Shareholder Suit Settlement. The AP (2/10, Agovino) reports, "Bristol-Myers Squibb Co. said Thursday that a judge gave preliminary approval for a proposed $185 million settlement to end a class action lawsuit that alleges the drugmaker artificially inflated its stock price by making false and misleading claims about an experimental heart drug." The AP continues, "U.S. District Judge Stanley Chesler entered preliminary approval of a settlement for the case pending in the U.S. District Court in New Jersey, relating to the drug known as Vanlev, the company said. Vanlev was never approved." The AP adds, "Under the proposed settlement, Bristol-Myers Squibb will pay $185 million to create a settlement fund to pay the claims of certain investors who purchased Bristol-Myers Squibb common stock during the period from Oct. 19, 1999 through March 20, 2002. … Last month, Bristol-Myers announced it had reached a settlement with plaintiff lawyers and had established a reserve to settle the case. At that time, Thomas Dubbs, a plaintiffs lawyer in the case, said he hoped the settlement would act as a deterrent to other companies hiding damaging information."

Traders Seek To Limit Commodity Market Watchdog's Policing Authority. The Wall Street Journal (2/10, Schroeder, 2.11M) reports the Commodity Futures Trading Commission's "reputation as a toothless regulator has been changing. Spurred by complaints that natural-gas prices have driven up the cost of fertilizer and farming, Congress is working on legislation to allow the CFTC to expand its regulation of energy trading in the commodity and over-the-counter market." Some Wall Street traders, "concerned by a spate of energy-manipulation cases brought by the CFTC, are fighting back. They are working to water down the policing authority of the CFTC, thereby

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stalling legislation to reauthorize the agency, which has operated without a charter since Sept. 30."

CRIMINAL LAW:

Libby Said "Superiors" Authorized Release Of Classified Information. Lewis "Scooter" Libby claimed he was authorized to release classified information by Bush Administration superiors, according to newly disclosed court documents. While some reports say attorneys for Vice President Cheney's ex-chief of staff are planning to defend Libby by claiming Cheney encouraged him to leak the classified information, the attorneys today denied this claim.

The National Journal (2/9, Waas) reports, "Vice President Dick Cheney's former chief of staff, I. Lewis (Scooter) Libby, testified to a federal grand jury that he had been 'authorized' by Cheney and other White House 'superiors' in the summer of 2003 to disclose classified information to journalists to defend the Bush administration's use of prewar intelligence in making the case to go to war with Iraq, according to attorneys familiar with the matter, and to court records." The Journal continues, "According to sources with firsthand knowledge, Cheney authorized Libby to release additional classified information, including details of the NIE, to defend the administration's use of prewar intelligence in making the case for war. … Libby specifically claimed that in one instance he had been authorized to divulge portions of a then-still highly classified National Intelligence Estimate regarding Saddam Hussein's purported efforts to develop nuclear weapons, according to correspondence recently filed in federal court by special prosecutor Patrick J. Fitzgerald." The Journal adds, "Beyond what was stated in the court paper, say people with firsthand knowledge of the matter, Libby also indicated what he will offer as a broad defense during his upcoming criminal trial: that Vice President Cheney and other senior Bush administration officials had earlier encouraged and authorized him to share classified information with journalists to build public support for going to war. Later, after the war began in 2003, Cheney authorized Libby to release additional classified information, including details of the NIE, to defend the administration's use of prewar intelligence in making the case for war. … Libby testified to the grand jury that he had been authorized to share parts of the NIE with journalists in the summer of 2003 as part of an effort to rebut charges then being made by former U.S. Ambassador Joseph Wilson that the Bush administration had misrepresented intelligence information to make a public case for war."

The CBS Evening News (2/9, story 2, 2:00, Schieffer) called it "an embarrassing development for the Administration." CBS (Borger) added Libby "testified that his quote, 'superiors' authorized him to leak classified information to reporters. It's a clear arrow pointing to the Vice President." NBC Nightly News (2/9, story 3, 2:00, Williams) reported Libby "reportedly told a grand jury he had permission to leak classified information to reporters to defend the administration's prewar record." NBC (Myers) added that a recent letter from special prosecutor Patrick Fitzgerald "showed that Libby told the grand jury that he disclosed the content of the national intelligence estimate to reporters in June and July 2003 and that he was authorized to disclose this information by his superiors. The letter does not specifically name the Vice President, but Cheney was Libby's boss."

The AP (2/9) reports, "In a Jan. 23 letter to Libby's lawyers, Fitzgerald said Libby also testified before the grand jury that he caused at least one other government official to discuss an intelligence estimate with reporters in July 2003. 'We also note that it is our understanding that Mr. Libby testified that he was authorized to disclose information about the [National Intelligence Estimate] to the press by his superiors,' Fitzgerald wrote." The New York Times (2/10, Lewis, 1.19M) reports the document shows that Libby "was actively engaged in the Bush administration's public relations effort to rebut complaints that there was little evidence to support the claim that Saddam Hussein possessed or sought weapons of mass destruction, which was used to justify the invasion of Iraq."

The Los Angeles Times (2/10, Schmitt, 958K) writes that the "revelation that leaks were authorized comes as the Bush administration has been quick to condemn others for failing to safeguard secrets since the Sept. 11 terrorist attacks. Cheney has been among the most aggressive in lashing out against what officials have described as unauthorized leaks that have gravely hurt the country." The Wall Street Journal (2/10, Squeo, McKinnon, 2.11M) notes that while Libby is "facing trial for lying to federal investigators and a grand jury," he "wasn't charged with leaking classified information." The Washington Post (2/10, A8, Leonnig) runs a similar story under the headline "Libby Testified He Was Told To Leak Data About Iraq."

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Allegations Seen As Damaging To Cheney. David Gergen, appearing on CNN's The Situation Room (2/9, Blitzer), said the allegations Libby was instructed by Cheney are "significant, if Libby testified that he was authorized by superiors, he was high up. He was the superior. And fingers are going to be pointing at the Vice President himself. We don't know whether he's saying the Vice President versus others. But it really does bring it smack in the middle of the White House now that there were people at the top level of the White House who were telling Mr. Libby to reveal highly classified information in order to rebut critics on the more in Iraq."

CNN legal analyst Jeffrey Toobin said on CNN's The Situation Room (2/9, Blitzer), "I think it's more of a political deal than a legal deal." Libby's "not charged with unauthorized disclosure of classified information, so this doesn't really help him directly with the charges against him. Politically, it raised a lot of unsettled questions. What right does the Vice President have to authorize anybody to release classified information?"

Former Deputy Independent Counsel Sol Wisenberg, appearing on MSNBC's Hardball (2/9), said, "It's not even relevant to the specific charges. The Vice President cannot give you permission to declassify information. The Vice President can't give you permission to violate the National Intelligence Identities act. And the Vice President can't give you permission to go into the grand jury and lie."

Libby Defense Said To Be Similar To North's. Gergen, appearing on CNN's The Situation Room (2/9, Blitzer), said, "Legally it does mean that Scooter Libby may be arguing as Oliver North did earlier, basically a lot of what he did was authorized by superiors. Therefore in the North case, legally he may be a lot closer to acquittal than having thought."

Abramoff Says He Met With Bush Many Times. The New York Times (2/10, Shenon, 1.19M) reports, "The disgraced lobbyist Jack Abramoff told a magazine editor in recent days that he had met with President Bush many times and was invited to the president's Texas ranch for a gathering of campaign contributors in 2003." Washingtonian's Kim Eisler said he "had received the information in e-mail messages from Mr. Abramoff, a major Republican fund-raiser who pleaded guilty last month to conspiring to bribe public officials. The messages suggest an effort by Mr. Abramoff to cast doubt on Mr. Bush's insistence that he does not recall the two of them meeting and that whatever contact they might have had was fleeting and for the purposes of a handshake and a picture."

The Washington Post (2/10, VandeHei, 744K) quotes one of the e-mails from Abramoff to Eisler: "[Bush] has one of the best memories of any politicians I have ever met. The guys saw me in almost a dozen settings, and joked with me about a bunch of things, including details of my kids." Eisler "confirmed the contents of the e-mail and said he recently provided portions of it to the liberal Web log ThinkProgress because he thought he was dealing with a fellow reporter. The blog posted the contents of the Abramoff-Eisler communication." Reuters (2/9) reports that while Eisler "confirmed their accuracy," he "did not intend them to become public."

Reid Acknowledges "Routine Contacts" With Abramoff Partners. The Washington Post (2/10, A8, Solomon, Theimer, 744K) reports Senate Minority Leader

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Harry Reid wrote "at least four letters helpful to Indian tribes represented" by Abramoff, and Reid's staff "had frequent contact with the disgraced lobbyist's team about legislation." The activities, "detailed in previously unreported billing records and correspondence," took place "over three years as Reid…collected nearly $68,000 in political donations from Abramoff's firm, lobbying partners and clients." Reid's office "acknowledged having 'routine contacts' with Abramoff's lobbying partners."

McCain Defends Bush's Explanation For Abramoff Pictures. Sen. John McCain, on The Late Show With David Letterman (2/9), was asked about the Administration's explanation for Bush's appearance with Abramoff in pictures at fundraisers. He said, "It is plausible. Every fundraiser gets to have his picture taken. The President is right, he's probably had his picture taken with thousands of people. That's entirely plausible."

Editorial Blasts Removal Of Abramoff Prosecutor. The Buffalo News (2/10) editorializes, "Jack Abramoff prosecutor Noel Hillman may deserve the White House nomination he recently got for a federal judgeship in New Jersey, but the timing is suspicious and the probe into unethical and illegal activities in Washington will suffer." The News continues, "Hillman was chief of the Justice Department's Office of Public Integrity until the nomination caused him to step down. He was deeply involved in the federal probe of activities by super-lobbyist Abramoff and his colleagues, and sat in on the negotiations that led to plea deals in return for cooperation that could reveal which congressmen or agency officials took what in return for favors. Two years of experience are lost, just when the investigation zeros in on its most important targets. … Coincidence? Maybe, if you believe in such things. … Removing an aggressive prosecutor at this point will pass the sniff test only if the Justice Department finds an equally aggressive replacement - or the White House agrees to a special prosecutor. … The current investigation now is tainted, Hillman's experience already lost. … The present probe needs to gain momentum, not lose it - and that means a replacement prosecutor just as independent, aggressive and involved as Hillman, or more so. Otherwise, this nomination stinks."

New York Construction Executive Acquitted Of Paying Bribes To Union Officials. The New York Times (2/10, Preston, 1.19M) reports, "The president of a New York construction company, who was accused of doing a 'corrupt dance' with greedy union bosses, was acquitted yesterday in New York federal court of paying bribes to union officials." DeFoe Corporation President John Amicucci "was found not guilty of two counts of illegal labor payments after a two-week trial in Federal District Court in Manhattan. … Prosecutors did not present wiretap or other evidence to back up the claims of the union officials that they had been handed cash by Mr. Amicucci, and in return allowed him to fill the most expensive union supervisory jobs on his crews with workers who were paid less than union rates and who were lax in enforcing the rules." The Times adds, "By the end of the trial, it appeared that the union officials had done their best to corrupt Mr. Amicucci, and not the other way around." During the trial, defense attorney Gerald Shargel "brought out, under cross-examination" that key prosecution witnesses, union officials Joseph Rizzuto Sr. and his son Joseph Rizzuto Jr., "only mentioned Mr. Amicucci for the first time to F.B.I. agents months after they began cooperating with the government."

Defense Yet To Decide On Ryan Testimony At Trial. The Chicago Tribune (2/10, O'Connor, 643K) reports, "Decision day is nearing for former Gov. George Ryan and his lawyers on whether he takes the stand at his corruption trial. On Thursday, outside the presence of the jury, Dan Webb, Ryan's lead lawyer, said he expects the defense case to wrap up by late next week unless Ryan or co-defendant Lawrence Warner testifies. … Webb has said that Ryan is likely to take the stand, but Thursday he indicated he hasn't made a final decision." The Tribune adds that in testimony for the defense Thursday, former high-ranking secretary of state official "defended a Joliet lease deal in 1995 as in the best interest of the state. Ryan is charged with steering the lease to Warner, who held a hidden ownership in a building…in Joliet and collected $387,500 in the 1990s." The AP (2/10, Robinson) also reports Webb said yesterday that the defense is yet to decide whether Ryan will testify.

At Campbell Trial, Water Executive Testifies About Paris Trip. WXIA-TV Atlanta (2/9, Carnes, King) reports on its Web site from a story broadcast Thursday, "Former Atlanta mayor Bill Campbell apologized to his wife Thursday" about his affair with TV anchor Marion Brooks and their trip to Paris. "Campbell's trip came after United Water won a $21 million contract to run the water system in the city

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of Atlanta. The company invited Campbell to visit its European headquarters." On Thursday at Campbell's corruption trial, "United Water executives testified that they spent $4,500 on Campbell's hotel suite, another $4,500 for a limousine. Witnesses told the jury that Campbell missed a scheduled tour of their waste water treatment plant, and during the four-day trip, spent 2½ hours talking business over lunch. … Campbell's lawyers questioned United Water's former president, David Sherman. 'Mayor Campbell never asked for a bribe, did he,' asked Campbell's attorney. Sherman answered, 'No.'"

Judge Rules Chicago Mob Boss Qualifies For Publicly-Funded Counsel. The Chicago Tribune (2/10, Bush, 643K) reports US District Judge James Zagel "ruled Thursday that reputed mob boss Joey 'the Clown' Lombardo qualifies for free counsel and appointed two attorneys to represent him," but "Zagel added that he will revisit the decision if prosecutors show Lombardo…is hiding assets and can afford to pay for his own defense. Zagel approved prosecutors' request to examine the finances of Lombardo's ex-wife and two children to determine if he has access to a 1982 trust he set up for them. … In the meantime, attorneys Rick Halprin and Susan Shatz will represent Lombardo, Zagel ruled." The AP (2/10, Robinson) adds, "Prosecutors said in court papers that 'the FBI has obtained information that after the completion of his parole status on June 15, 2002, the defendant traveled to France for approximately 10 days, arriving in Paris on July 11, 2002, and continuing on to Nice. The defendant flew back to Chicago from France on July 21, 2002,' prosecutors said. 'The government respectfully submits that these facts including a 10-day trip abroad are not consistent with the need for a court-appointed lawyer.'"

US Attorney Adds Drug, Armed Robbery Charges Against "Mafia Cop." NY1 (2/9) reports on its Web site, "The laundry list of accusations against the so-called 'mafia cops' is growing ever longer with new charges of armed robbery and drug use. Former detective Stephen Caracappa and his partner Louis Eppolito already stand accused of eight mob-related murders. Now, the Brooklyn U.S. Attorney's Office says Caracappa admitted using cocaine as an undercover narcotics officer. The person he allegedly told this to is expected to testify at this month's trial. Another witness will say the two held up delis for cash and that Eppolito asked him for money in order to bribe doctors into falsifying a heart condition."

Bank Robber Sentenced To Life For Shooting Chicago Police Officer. The Chicago Tribune (2/10, Higgins, 643K) reports, "A former tax preparer who shot a Chicago police officer in the head and held the gravely wounded officer hostage for more than two hours was sentenced Thursday to life in prison plus 132 years." Daniel Salley "was convicted in October of 15 felony charges, including two counts of attempted murder, after a jury rejected his claim that he was the victim of a government conspiracy. Detective Joseph Airhart is "unable to speak, walk or swallow food." The Tribune adds, "When it was his turn to speak, Salley repeated his claims that the government was punishing him for the success of his tax business and that an FBI agent had shot Airhart during the raid. … Airhart, who was assigned to the FBI's fugitive task force, had volunteered to be part of a team sent to arrest Salley after Salley robbed a Southwest Side bank twice in one week, taking more than $250,000." The Chicago Sun-Times (2/10, Thomas) adds that Airhart "was a member of an FBI task force trying to arrest Salley in a series of bank robberies. Salley refused to allow medical treatment for Airhart, keeping federal and local police at bay for more than two hours before he was taken into custody. The AP (2/10, Brummer) notes US Attorney Patrick Fitzgerald "said his office was 'very gratified' by the sentence. … Salley, who acted as his own attorney, was convicted of illegally detaining, assaulting and attempting to murder Airhart, as well as assault and attempted murder of an FBI agent. He also was convicted on several firearms charges and two bank robbery charges."

Two Former New Jersey Officials Plead Guilty To Extortion In FBI Probe. The AP (2/10) reports, "Two former officials in Monmouth County pleaded guilty Thursday to extortion charges, part of the Federal Bureau of Investigation's Operation Big Rig investigation." Former Neptune Township Deputy Mayor Richard Iadanza "admitted that he accepted $3,000 from a contractor in exchange for arranging work in Neptune, according to a statement from U.S. Attorney Christopher Christie," and Monmouth County Division of Transportation Operations Manager Joseph McCurnin "admitted he helped facilitate a $1,500 bribe from a demolition contractor to a Neptune Township official." The AP notes, "The two were among 11

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then-sitting or former Monmouth County public officials arrested in the federal sting operation in February 2005. They were charged with extorting cash bribes and free work from a contractor who was cooperating with the FBI."

FCC Probing Radio Stations Over Payola Allegations. ABC News (2/9, Ross, Esposito, Walter) reports, "Hundreds of radio stations are under investigation by the Federal Communications Commission in the payola scandal rocking the music industry, ABC has learned. … 'The FCC staff is working with voluminous evidence right now. It's a complicated and wide-ranging investigation.' FCC Commissioner Jonathan Adelstein told ABC News in an exclusive interview. … 'This is potentially the most wide spread and flagrant violation of FCC rules in the history of American broadcasting,' Adelstein said. 'We've never seen evidence of such a systematic betrayal of the responsibility of broadcasters.'" ABC continues, "Payola -- or pay-for-play -- is a practice seemingly as old as the recording industry itself. In the past the money went to rogue disc jockeys in exchange for increasing the air play for individual songs and driving those songs to the top of the charts. In the modern version, the money goes to the bottom line of the radio stations and the conglomerates that own them, according to New York Attorney General Eliot Spitzer. … 'We have people in suits coming in with documents rather than cash payments under the table to a DJ,' Spitzer told ABC News Chief Investigative Correspondent Brian Ross." ABC adds, "Several of the largest radio conglomerates in America - the corporate owners of FM radio stations across the nation -- are within the scope of the FCC probe, which was triggered by the two year long pay-for-play investigation by Spitzer and was first reported on by ABC News. … A vigorous investigation by the FCC brings federal regulatory clout, and the specter of criminal prosecution by the Justice Department. … In addition to criminal prosecution any broadcaster in clear violation could face severe sanctions, and in the most blatant cases, the loss of their broadcast licenses, officials involved in the investigation have told ABC."

British Arrest Englishman Suspected Of Killing Wife, Daughter In Boston. The Los Angeles Times (2/10, Muskal) reports that Neil Entwistle, "An Englishman wanted in the killing of his wife and baby daughter in their suburban home near Boston," has been "arrested this morning in" a London subway stations and is being "held pending an extradition hearing, perhaps as soon as Friday." Should he be "extradited, he will face murder and weapons charges in connection with the deaths of his wife, Rachel, 27, and their 9-month-old daughter, Lillian."

The Washington Post (2/10, A9, Fahrenthold) adds, "The charges against Neil Entwistle added a new twist to a case whose lurid elements -- failed Internet schemes, a mother and daughter shot side by side, and a police search that missed two bodies buried under bedclothes -- have generated intense interest on both sides of the Atlantic." Entwistle "spent much of the past three weeks at his parents' home in Worksop, England, dogged by British and U.S. media."

US Charges Taiwanese Citizen Of Role In China Jet, Missile Deal. Reuters (2/10, Christie, Eckert) reports, "A Taiwanese citizen was charged in the United States on Thursday with being a covert agent for Beijing, and accused together with a Frenchman of trying to illegally export an F-16 jet engine, Blackhawk helicopter engines and cruise missiles to China." Reuters continues, "U.S. prosecutors in Miami said a federal grand jury had returned a nine-count indictment against Ko-Suen Moo, of Taipei, and Maurice Serge Voros, of Paris. … The indictment alleged that the defendants violated the Arms Export Control Act by trying to export controlled items without a license to China, including the engines, the cruise missiles and air-to-air missiles, the prosecutors said." Reuters adds, "The case follows repeated U.S. expressions of concern about Beijing's strategic intentions as China increasingly pours proceeds from its rapidly expanding economy into its military. … Chinese war capabilities are growing at a pace expected to soon upset a delicate military balance between China and rival Taiwan, which relies on U.S. weaponry to defend itself. … 'This case highlights the national security threat posed when agents of a foreign government seek to illegally acquire and export American military weaponry,' said U.S. Attorney R. Alexander Acosta. … 'We will continue to aggressively investigate and prosecute foreign agents whose motives and actions are, by definition, detrimental do the United States and our national security,' he said in a statement released by the Justice Department."

US Seizes Truckload Of Fake Olive Oil. The AP (2/9) reports, "More than a discerning palate has determined that thousands of cans of Hermes and San Giovanni brands

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of extra virgin olive oil weren't quite right. … The U.S. Food and Drug Administration tested the chemical composition of the oil and found it was really less expensive soybean oil, prompting Thursday's seizure. … The U.S. Marshals Service seized 22,700 gallons of oil, imported from Italy, at a trucking company warehouse in Clifton. … 'It is a whole lot of faux olive oil,' said Mike Drewniak, a spokesman for U.S. Attorney Christopher Christie." The AP adds, "The labels on the 3-liter tins in 4,855 cases said the contents were more expensive extra virgin olive oil or pomace olive oil. … Because olive oil is five to six times more expensive than soybean oil, the potential estimated profit is about $105,600, according to the FDA. … 'We will not permit New Jersey consumers to be defrauded,' Christie said in a statement."

Police Say Teenage Boys Were Forced To Rob Maryland Banks. The Washington Post (2/10, A1, Klein) reports, "They are bank robbers who didn't want the cash, police say. The scared 14- and 15-year-olds were not looking for a thrill, either, when they walked into banks in suburban Maryland and handed tellers notes demanding money. … They had been snatched by gunmen, taken to the banks and forced by their captors to commit the crimes, according to Prince George's County police." The Post continues, "After the teenagers came out of the banks with the money, the gunmen made off with the take and left the stunned youths behind. … At least four recent bank robberies were committed by three teenagers who later told police they had robbed the banks against their will. Their stories are 'very credible,' said an investigator who did not want to be identified because the case is still open." The Post adds, "The most recent was on Wednesday, when a 14-year-old Landover youth was abducted and then forced to hold up a branch of Chevy Chase Bank in Bethesda, said FBI spokeswoman Michelle Crnkovich. … Police found him walking along Rockville Pike, stained by ink from an exploding dye pack, a device that banks attach to bundles of money to stain bank robbers, making them easier to spot. … The other three incidents occurred in Prince George's, two of them on Jan. 20 and one on Monday."

Former Louisiana Judge Sentenced In Bond Scheme. The AP (2/10, Sayre) reports, "A former (Louisiana) state judge who was tried for allegedly accepting bribes from a bail bonding company was sentenced Thursday to more than four years in federal prison for mail fraud." The AP continues, "Alan Green was accused of taking $20,000 in cash, golf trips and meals from the company in return for reducing the bonds of dangerous criminals to levels they could afford. That way, Bail Bonds Unlimited could collect hefty fees for guaranteeing their court appearances." The AP adds, "Green was convicted of a single charge of mail fraud after being tried on charges relating to the bribery allegations. The jury could not agree on the other charges: four more counts of mail fraud, one of mail fraud conspiracy and one of racketeering conspiracy. … Federal Judge Lance Africk told Green his conduct endangered citizens. 'Bail Bonds Unlimited saw a for-sale sign on your office,' Africk said. … Green apologized for 'impugning the integrity of the bench' but denied taking any bribes, saying he was manipulated through a friendship with an accountant for the company."

The New Orleans Times-Picayune (2/10, Krupa, 257K) adds, "Before delivering a scathing rebuke of Green's exploitation of his post as an elected jurist and slapping him with a $50,000 fine, U.S. District Judge Lance Africk gave Green one last chance to admit that two $5,000 payments he got from the Gretna bail bonds firm were not 'off-the-books' campaign contributions, as Green testified in his June trial, but part of the web of bribery confirmed by nine defendants who have admitted to crimes in the seven-year probe. … 'They were not bribes, your honor, as far as I was told,' Green replied. 'At no time did I believe that they were, in fact, bribes.' Africk then took aim at Green, saying , "Bail Bonds Unlimited saw a 'For Sale' sign on your office and decided to purchase it in order to maximize its profits.'" The Times-Picayune notes, "Green was the 14th defendant to be nabbed by Wrinkled Robe and the only one to risk trial rather than ink a plea agreement with prosecutors."

Director Of Getty Trust Steps Down Under Pressure. The New York Times (2/10, Kennedy, Vogel) reports, "The president of the J. Paul Getty Trust in Los Angeles, one of the world's richest art institutions, resigned under pressure yesterday amid growing questions about his improper use of the trust's money." The Times continues, "The trust said that the president, Barry Munitz, whose travel and expense spending are under investigation by the California attorney general's office, would be required to repay the trust $250,000 and would not be given a severance package. The money was an estimate of what the trust felt Mr. Munitz owed because of perks, expenses and other costs

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that should not have been charged to the trust during his eight-year tenure, trust officials said. … 'It's more judgment than it is precise mathematics,' John H. Biggs, the board's chairman, said of the figure, adding that because the attorney general's investigation was continuing, he could provide few details about Mr. Munitz's departure and could not answer other questions about his practices. … He added, however, that 'as far as the Getty Trust is involved, Munitz has resolved these issues' with the payment of $250,000, and that the board did not believe Mr. Munitz did anything improper under the laws that govern nonprofit trusts. … 'He's still at risk that the A.G. may see it otherwise,' Mr. Biggs added, referring to the state attorney general, 'and there's no way that we as trustees can give him any assurance.'" The Times notes, "Mr. Munitz's departure represents a major reversal for one of the most powerful leaders in the art world, who controlled an institution with an endowment of more than $5 billion. The trust's board of trustees — many of whom are Mr. Munitz's friends and allies — had steadfastly stood by him, even as questions about his leadership and about other troubles at the trust mounted over the last several months."

Federal Banking Regulators Seek To Curb Mortgage Lending Abuses. The Washington Times (2/10, Hill, 90K) reports Federal banking agencies, "concerned about the potential for abuses in mortgage lending, are going after the worst practices in the industry." A directive "last month from the Federal Reserve and four other federal agencies targets the proliferation of loans offering interest-only payments for extended periods and adjustable-rate mortgages that offer the option of paying interest only, making a minimum payment each month or adding in principal. That includes about half of all mortgages made last year." Regulators say they "are particularly concerned that some loans not only do not pay down principal, like a traditional mortgage, but they also increase the amount of principal that a consumer must pay by as much as 100 percent through 'negative amortization.'"

Gretzky Recorded On Wiretaps Discussing Gambling Ring. In a story widely-distributed by Knight Ridder, The Philadelphia Inquirer (2/10, Moroz, 423K) reports, "State wiretaps caught hockey legend and NHL coach Wayne Gretzky talking about a sports gambling ring allegedly run by his assistant, former Flyer Rick Tocchet, two New Jersey law enforcement sources confirmed Thursday. As part of a probe into what state law enforcement officials have described as a nationwide, multimillion-dollar illegal bookmaking operation, investigators are looking into whether Gretzky…placed any bets through his wife, Janet Jones, the sources said on condition of anonymity." KRT notes, "Some law enforcement officials quietly predict that federal authorities will step in to investigate numerous possible violations of federal law. Michael Drewniak, a spokesman for the U.S. Attorney's Office in New Jersey, said the FBI had assisted state police 'concerning interstate aspects' of the investigation, but that federal involvement had been minimal so far." USA Today (2/10, Allen, 2.31M) reports Gretzky's wife, Janet Jones, "said Thursday that she never placed a wager on behalf of her husband…and Gretzky said he's 'done nothing wrong, nothing that has to do with betting.'" USA notes, "FBI spokesman Rich Kolko confirmed the bureau was asked Thursday to assist in the case." The Washington Times/AP (2/10, Santi, Mulvihill) also reports this story.

FBI-Led Utah Task Force Touts Identity Theft Investigations. Under the headline, "Task Force Run By FBI Unmasks Identity Thieves," The Salt Lake Tribune (2/10, Manson) reports that as identity theft "started to become more prevalent, authorities set up the Utah Identity Theft Task Force (ITTF), which operates as part of the FBI's Joint Terrorism Task Force. Since its inception in November 2004, 'the task force has been a resounding success,' said Kathy Roberts, inspector in charge of the U.S. Postal Inspection Service's Denver division, which includes Utah. At a recent news conference in Salt Lake City, Roberts and other officials ticked off Utah ITTF statistics from the past 15 months -- 190 investigations launched; 1,366 victims of identity theft identified; about 150 indictments returned with convictions won in 127 of them so far; and more than 25 training sessions held on fraud prevention for law enforcement agencies, community groups and merchants." The Tribune adds, "Identity thieves run the gamut from individuals to members of street gangs to white collar criminals, according to Timothy Fuhrman, special agent in charge of the FBI's Salt Lake City office. Fuhrman and Paul Warner, who recently stepped down as U.S. attorney for Utah to become a federal magistrate, said many thieves are drug addicts trying to support their habit."

Former North Carolina Lawmaker Invokes Fifth Amendment About Campaign

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Donations. The Winston-Salem (NC) Journal (2/10, Rice) reports, "Former state Rep. Michael Decker took the Fifth Amendment yesterday, citing his right against self-incrimination as he declined to testify about campaign donations he got from optometrists after he switched parties in 2003 to help optometrist Jim Black remain speaker of the House. … 'We have advised Rep. Decker ... to rest upon his Fifth Amendment rights,' David Freedman, Decker's attorney, told Larry Leake, the chairman of the State Board of Elections after Leake called on Decker to testify. The elections board is investigating possible illegal donations from optometrists and the video-poker industry to the Black and Decker campaigns. A federal grand jury is also investigating, and several optometrists said they have been interviewed by the FBI and U.S. Treasury agents." The Journal continues, "Although Black initially testified yesterday that he couldn't recall handling blank checks provided by his fellow optometrists, he later acknowledged to the elections board that he filled in Decker's campaign as the payee on at least three of the checks. … 'I don't remember seeing blank checks - unless they were in an envelope, sealed, with somebody's name on it,' Black said at first." The Journal adds, "Then Leake handed Black a copy of a $4,000 check made out to Decker's campaign from M. Scott Edwards of Murfreesboro, the treasurer of the N.C. Optometric Society, along with two $100 checks from Gary Roach, an optometrist from Morrisville. … Black acknowledged that it was his handwriting that designated Decker's campaign as the payee. But Black and his attorneys argued that the donations were not illegal under state law."

Texas Executes Man For Torture-Killing Of 19-Year-Old Girl. The AP (2/10, Graczyk) reports, "A paroled burglar who claimed he wanted to be a serial killer of minorities was executed Wednesday night for the torture-slaying eight years ago of a 19-year-old mentally impaired woman who once worked with him." The AP continues, "Robert Neville Jr., apologizing profusely, addressed his victim's mother by name as she and her two daughters stood close to the glass with their arms around each other. He expressed love to them. … 'I hope you can find it in yourselves to forgive me and I hope all this here will kind of settle your pain. And I hope the Lord will give you comfort and peace. I just want you to know I am very sorry for what I have done,' he said." The AP adds, "Neville, 31, was the third prisoner executed this year and the first of three over the next 15 days in the nation's most active capital punishment state. … Neville and a companion, Michael Wayne Hall, were condemned for the fatal shooting of Robinson, who was abducted as she rode her bike to work at a Dallas-area supermarket. She was taken to a remote area of Tarrant County where she was shot repeatedly with a pellet gun, then killed with shots from a .22-caliber rifle as she begged for her life. … Hall, 26, remains on death row. He does not have an execution date."

Supreme Court Puzzles Observers With Lethal Injection Decisions. The Washington Post (2/10, A3, Lane, 744K) reports that in the "past two weeks, the Supreme Court stopped two executions in Florida and allowed a lower court to halt another in Missouri -- but the justices allowed three other death sentences, in Texas and Indiana, to proceed." Though "not necessarily contradictory under the law," the court's decisions "have puzzled many on both sides of the debate over capital punishment because in each case the death-row inmate raised a similar issue: the legality of lethal injection as the means for execution." Douglas A. Berman, "an expert in criminal sentencing law at Ohio State University's Moritz College of Law," said, "I am sure the court is trying to apply some sort of sensible standard. But they need to do a heck of a lot better job explaining why." The Post adds the "probable explanation for the court's apparent zigzag is that a majority of the court is ready to consider only a relatively narrow issue related to lethal injection. But because the court generally does not reveal more than a bare minimum of information about how and why it chooses to take up any particular matter, lawyers have only been able to arrive at this educated guess after much litigation."

CIVIL LAW:

Federal Judge Questions Viability Of New York City's Gun Litigation. The New York Law Journal (2/10, Perrotta) reports, "Two months after allowing New York City's lawsuit against the gun industry to proceed, a federal judge in Brooklyn suggested Wednesday the suit might be doomed by language in the appropriations bill passed by Congress last year." The Journal continues, "In a brief order, Eastern District of New York Judge Jack B. Weinstein ordered the city to explain why its suit should not be dismissed in light of the new legislation, which bars the use of a federal database that tracks firearms as evidence in civil litigation." The Journal adds, "The Firearms Trace System

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database is central to the city's suit, which alleges that gun manufacturers sell excess weapons in cities and states with weak gun laws, knowing that unqualified buyers in New York will obtain the weapons through 'straw' purchases. … The city alleges that gun manufacturers know which dealers are selling weapons that are used in crimes, and it had intended to use the database to help prove its case. … Assistant Corporation Counsel Eric Proshansky, the city's lead attorney on the case, said the new legislation would force the city 'to prove this case in a manner that does not require trace data' -- a far more difficult task."

Cornyn Calls For Complete Rewrite Of Asbestos Bill. Reuters (2/9, Cornwell) reports, "A group of Republican senators on Thursday proposed completely rewriting an asbestos bill to allow lawsuits under strict medical criteria rather than create a $140 billion fund to pay victims of the mineral." The new approach was offered by Sen. John Cornyn, "who said he had 14 Republican co-sponsors and hoped to attract Democrats." The proposal "is similar to a bill introduced in the House that would allow asbestos lawsuits to go forward only if claimants met certain medical standards. He introduced the plan as an amendment to a bill that would halt asbestos lawsuits and create an industry-financed $140 billion fund to pay claims."

Meanwhile, the AP (2/9, Dalrymple) reports that the Senate voted 70-27 to reject an attempt "to keep asbestos cases in the courts, removing one obstacle to the creation of a $140 billion trust fund for paying victims and ending their lawsuits." CQ (2/9, Stern) reports "conservative Republicans" used the vote "to show their unease" with the legislation to establish the fund, putting "26 Republicans, joined by one Democrat, on record as opposing the trust fund concept. And with few Democrats backing the underlying bill, the vote also suggested the measure may ultimately fall short among Republicans as well."

WPost Lauds Asbestos Bill, Calls Reid Opposition "Reprehensible." The Washington Post (2/10, 744K) editorializes, "In a triumph of good sense and bipartisan cooperation, the Senate voted on Tuesday to go forward with a bill that would fix the broken asbestos litigation system. … Some amendment may be reasonable at the margins, but the bill's central idea -- to replace litigation with a $140 billion compensation fund to be financed by defendant companies and their insurers -- must be preserved. … The fact that the bill is being attacked from both directions suggests that its authors, Sens. Arlen Specter (R-Pa.) and Patrick J. Leahy (D-Vt.), have balanced competing interests in a reasonable manner. Unfortunately, the bill's critics are not always so reasonable. Sen. Harry M. Reid of Nevada, the Democratic minority leader, has complained, 'One would have to search long and hard to find a bill in my opinion as bad as this.' … But the truth is that the bill's main opponents are trial lawyers, who profit mightily from asbestos lawsuits and who constitute a powerful lobby in their own right. … For Mr. Reid to demean this effort in order to fire off campaign sound bites is reprehensible."

CIVIL RIGHTS:

FBI Arrests Former Maryland Police Officer Over Racist Threat Letters. In a widely-distributed story, the AP (2/10) reports, "The FBI on Thursday charged a former police officer with making racial, bomb and anthrax threats after he was fired by" Hagerstown, Md. "The threats began four months after Jeffrey S. Shifler was dismissed in November 2003 for falsifying payroll records, court records said." Shifler "was in custody, authorities said. He was expected to appear Friday in federal court in Baltimore." The AP adds, "Shifler made 14 anonymous phone calls and sent at least nine anonymous letters containing threats, insults or false crime reports, according to a court complaint. The threats targeted police employees and a black city council member, and such institutions as schools and public office buildings. Many letters were on photocopied Hagerstown Police Department letterhead, the complaint alleges."

EEOC Files Fewer Discrimination Charges For Third Straight Year. The AP (2/10) reports, "The U.S. Equal Employment Opportunity Commission filed fewer charges of discrimination against private employers last year for the third straight year." The AP continues, "Commission chair Cari M. Dominguez said the commission's prevention efforts through outreach and training might be responsible but added that other factors, like the economic slowdown, might also be involved. 'We are pleased to see that our proactive prevention efforts may be having an impact,' she said." The AP adds, "Commission field offices filed 75,428 charges in the 12 months ended Sept. 30, down from 79,432, 81,293 and 84,442 in fiscal years 2004, 2003 and 2002, respectively. The average complaint took 171 days to process in fiscal 2005. … During 2005, 77,352 discrimination complaints

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were resolved, 21.5 percent with a favorable outcome for the individual who complained, up from 19.5 percent the previous two years." The AP notes, "The commission obtained $380 million in compensation for those who complained of discrimination, including a record $271.6 million through mediation and other means short of going to court. … The type of complaints remained relatively unchanged from previous years: Allegations of racial discrimination remained the largest group, 26,740 charges accounting for 35.5 percent of all filings. … Sex discrimination accounted for 23,094 charges or 30.6 percent of all complaints; retaliation, 22,278 or 29.5 percent; age, 16,585 or 22 percent; disability, 14,893 or 19.7 percent; national origin, 8,035 or 10.7 percent; religion, 2,340 or 3.1 percent and equal pay, 970 or 1.3 percent. The total exceeds 100 percent because individuals may allege more than one kind of discrimination in a complaint."

Proposed Changes To New Orleans Bureaucracy Would Need DOJ Nod. The AP (2/9, Simpson) reports, "Hurricane Katrina created a chance to slash the city bureaucracy in New Orleans, which has two elected sheriffs, two elected clerks of court and two separate court systems, a legislative panel voted on Thursday." The AP continues, "The city's population has plummeted since the storm, giving critics the chance to streamline a system, stemming from the 19th century, which gives the city numerous elected positions long seen as redundant. Rep. Peppi Bruneau, a key supporter, urged colleagues to support the change, calling New Orleans' bureaucracy outmoded, time-consuming, antiquated and out of step with the rest of the country. … Without objection, a House judicial committee approved a bill that would combine the city's clerks and sheriffs offices, plus consolidate the city civil and criminal court systems. The bill, backed by Gov. Kathleen Blanco and sponsored by House Speaker Joe Salter, D-Florien, now moves to the House floor for debate." The AP adds, "Separate legislation is aimed at consolidating New Orleans' seven elected property tax assessors into one elected assessor post. That measure awaits debate in the House Ways and Means Committee. … Passage of Salter's bill came after Rep. Cedric Richmond, D-New Orleans, head of the Legislative Black Caucus, said race is one reason the state is moving to slash the number of the city's elected officials, most of whom are black. Many of New Orleans black residents remain displaced — living in other states because of hurricane damage — and Richmond questioned why lawmakers and Gov. Kathleen Blanco were pushing the consolidation now, while black voters are elsewhere, unable to voice concerns about the proposed changes. … Richmond noted that the U.S. Justice Department would need to approve the changes, because Louisiana remains restricted under the Voting Rights Act of 1965, imposed on states with ahistory of election discrimination against blacks."

One Dead, Dozens Injured IN Five Days Of Racial Rioting In Los Angeles Jails. The New York Times (2/10, Archibold) reports, "Five days of racial rioting have left one inmate dead and dozens injured at Los Angeles County jails as blacks and Latinos have taken their conflicts from the streets behind bars, the authorities said." The Times continues, "The latest occurred Thursday when 200 inmates at Pitchess Detention Center, a collection of jails in the northern fringes of the county where most of the violence has occurred, clashed briefly until deputies used tear gas to bring them under control. There were no reported injuries." The Times adds, "On Wednesday night, two dozen inmates were injured in a riot among 300 people that ended after teams of deputies fired rubber pellets. That riot, as well as those that took place Monday and Tuesday, was at the Pitchess center. … Since the worst of the rioting on Saturday, when a 43-year-old inmate was beaten to death, the sheriff's department has locked down all jails, suspending activities and privileges in the system — the nation's largest, with 21,000 inmates. … 'We are convinced it is traced back to an age-old gang war in South Los Angeles,' said Steve Whitmore, a spokesman for the Sheriff's Department. 'It is a small core group of people, and most of the inmates don't want to fight.' … Mr. Whitmore declined to elaborate on a motive for the violence, but members of the clergy and community advocates who met Thursday with inmates said they were told that a gang called the Mexican Mafia had ordered retaliation on black gang members who had apparently attacked Latino gang members in Los Angeles in a dispute involving drugs, turf or both."

Suit Targets Discriminatory Online Ads On Craigslist Website. The AP (2/10, Carpenter) reports, "A federal lawsuit accuses the online site Craigslist of violating fair housing laws by publishing discriminatory classified ads, reviving the question of what legal boundaries, if any, should exist for postings on the Internet. … But legal

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experts say the lawsuit against Craigslist, a fast-growing online network of classified ads and forums, faces an uphill battle because of laws in place to protect online service providers." The AP continues, "The lawsuit, filed by a Chicago fair housing group in U.S. District Court on Feb. 3, contends that Craigslist's Chicago site distributed more than 100 ads that violated the federal Fair Housing Act by excluding prospective buyers or tenants on the basis of race, gender or religion. … Among the housing ads cited as objectionable by the Chicago Lawyers' Committee for Civil Rights Under Law Inc. were ones that read 'NO MINORITIES,' 'Requirements: Clean Godly Christian Male,' and 'Only Muslims apply.' … While it remained unclear Thursday if the suit is the first of its kind, it signifies a burgeoning effort by housing watchdog groups to extend to the Internet the same legal restrictions facing those that publish print classifieds."

Air Force Softens Rules On Religious Expression. The Washington Post (2/10, A5, Cooperman, 744K) reports the Air Force, "under pressure from evangelical Christian groups and members of Congress, softened its guidelines on religious expression yesterday to emphasize that superior officers may discuss their faith with subordinates and that chaplains will not be required to offer nonsectarian prayers." The guidelines "were first issued in late August after allegations that evangelical Christian commanders, coaches and cadets at the Air Force Academy had pressured cadets of other faiths." But evangelical groups, "such as the Colorado-based Focus on the Family, saw the guidelines as overly restrictive. They launched a nationwide petition drive, sounded alarms on Christian radio stations, and deluged the White House and Air Force Secretary Michael W. Wynne's office with e-mails calling the guidelines an infringement of the Constitution's guarantees of free speech and free exercise of religion."

California Police Kill Carjacker During Gun Battle. The Los Angeles Times (2/10) reports, "A chase and fierce gun battle between a shotgun-wielding carjacker and police ended early this morning when the suspect was cornered and shot dead in Venice." The Times continues, "Santa Monica police Chief James T. Butts said his officers acted 'valorously.' … 'It took a great deal of courage,' Butts said. 'This person has manifested the intent to kill you, and these officers chased him. That's what you expect of police officers in a free society.'" The Times adds, "The incident began in Santa Monica about 5:00 a.m., when a motorist stopped to help what he thought was a driver with car trouble. Instead, the suspect jumped out of a vehicle, pointed a shotgun at the would-be good Samaritan, and commandeered the car. The motorist was not injured. … Butts said officers stopped the car at 7th and California streets, where a gun battle broke out. The man, who has not been identified, fled in the carjacked auto. … About a half-mile later, with police pursuing, the suspect crashed the car in the 1300 block of Electric Avenue in Venice. When he ignored commands to surrender and pointed a shotgun at police, officers opened fire, Butts said."

Noonan Praises King Funeral As Example Of Free Speech. In a Wall Street Journal op-ed (2/10), Peggy Noonan says Coretta Scott King's funeral "was wonderful -- spirited and moving, rousing and respectful, pugnacious and loving." The "old lions of the great American civil rights movement of the 20th century were there, and standing tall." There was "nothing prissy, nothing sissy about it. A former president, a softly gray-haired and chronically dyspeptic gentleman who seems to have judged the world to be just barely deserving of his presence, pointedly insulted a sitting president who was, in fact, sitting right behind him. The Clintons unveiled their 2008 campaign. A rhyming preacher, one of the old lions, a man of warmth and stature, freely used the occasion to verbally bop the sitting president on the head. So what? This was the authentic sound of a vibrant democracy doing its thing. It was the exact opposite of the frightened and prissy attitude that if you draw a picture I don't like, I'll have to kill you. It was: We do free speech here."

NYTimes Criticizes Pennsylvania GOP's Election Bills. The New York Times (2/10, 1.19M) says in an editorial that Pennsylvania, "a swing state that will hold some critical elections this fall, is being barraged by legislation, championed by Republican lawmakers, that would raise voting barriers, especially for groups that tend to be Democratic. One measure would institute one of the most restrictive voter-identification laws in the nation, in a state that currently requires only first-time voters to prove their identities. Pennsylvanians -- who have been at the forefront of fairness in voting rights issues — should not allow partisanship to erase that legacy."

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ANTITRUST:

Rivals Complain To DOJ About Microsoft's New Vista Software. The Wall Street Journal (2/10, Delaney, Guth) reports, "The Justice Department said it has received complaints about Microsoft Corp.'s coming Windows Vista operating system, focusing in part on concerns over the introductory "first-boot" screens displayed on new personal computers and other aspects of the software." The Journal continues, "The government, in a status report on Microsoft's compliance with an antitrust settlement, said an unidentified company complained about the ability of PC makers to customize the initial process of booting up Vista. Some PC makers use those screens to offer broadband Internet access, antivirus and other PC-related services and software." The Journal adds, "The Wall Street Journal Tuesday reported that Hewlett-Packard Co. has tussled with Microsoft over the screens. The PC maker in recent months briefed the Justice Department on those concerns, a person familiar with the matter said. An H-P spokesman declined to comment. The report said that in addition to the first-boot process, 'several industry members' had expressed other unspecified concerns regarding Windows Vista, which Microsoft is expected to begin selling later this year. A Microsoft spokesman said it has worked closely with partners 'to make sure Windows Vista provides flexibility...while remaining faithful to the goal of putting users first.' … The complaints were disclosed as part of a regular monitoring by the Justice Department of Microsoft's compliance with its 2001 antitrust settlement with the federal government. The status report noted that Microsoft's recent decision to license elements of its server software was a 'constructive proposal' in addressing concerns of the plaintiffs in the antitrust settlement. A Justice Department spokeswoman declined to comment further. … Separately, executives at search company Google Inc. asserted in an interview that Microsoft is using its influence over the browser-software market to push its MSN Web-search service to the disadvantage of rivals. Google objects to how Microsoft handles a default search-engine setting in its Internet Explorer 7 Web-browser software, which Microsoft considers part of Vista. A Google spokesman declined to say whether the company had discussed its concerns with the Justice Department."

RIM Plan Would Allow BlackBerry Service If It Loses Patent Fight. Reuters (2/9, Taylor) reports, "Research In Motion unveiled a plan on Thursday that it says will let its BlackBerry e-mail device work even if it loses a patent fight, and said the workaround will prevent a shutdown of service in the United States." Reuters continues, "In an announcement made as the clock ticked toward a February 24 court hearing on U.S. patent holding company NTP Inc.'s request for an injunction to halt U.S. BlackBerry service, RIM also said it was still willing to negotiate a deal. … NTP questioned why RIM simply didn't go ahead and make the software changes for the workaround and argued the BlackBerry maker was trying to bully it. One analyst described the announcement as part of a 'high stakes poker game.'" Reuters adds, "The Waterloo, Ontario-based technology company, whose addictive device has been dubbed the 'CrackBerry' by many users, said it is willing to 'generously compensate' NTP, but called NTP's offer to license disputed technology 'untenable.'" Reuters notes, "The legal battle is heating up ahead of a hearing that could be the final step before U.S. District Judge James Spencer decides whether to impose an injunction granting NTP's request -- potentially shutting off more than 3 million U.S. BlackBerry subscribers. … The U.S. Justice Department has argued against a shut-down, saying NTP has not submitted enough evidence to show government users could be exempted 'without substantial hardship.'"

The AP (2/10) reports, "Although there is currently no injunction in place in the patent litigation with NTP Inc., RIM said it developed the workaround software as a contingency to allow BlackBerry service to continue should the court declare an injunction. … NTP has convinced a federal jury that its patents were infringed by RIM and is asking a federal judge in Richmond, Va., to turn off the network. The judge has indicated he could decide on NTP's request following a hearing scheduled for Feb. 24. … The lawsuit against RIM has drawn objections from the U.S. government and big corporate users who rely on BlackBerry e-mail service."

Mittal Pledges To Honor Union Agreements In Arcelor Acquisition. The AP (2/10) reports, "Germany's biggest industrial union said it received assurances Thursday from Mittal Steel Co. that if it acquires rival Arcelor SA, no labor agreements would be affected." The AP continues, "Meanwhile, U.S. antitrust regulators are looking at Mittal's hostile bid for Arcelor, Justice Department

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spokeswoman Gina Talamona confirmed Thursday." The AP adds, "Mittal Steel Europe Chief Executive Roeland Baan met with union deputy chairman Berthold Huber for several hours to address Mittal's euro18.6 billion (US$22.5 billion) bid for Luxembourg's Arcelor, IG Metall spokeswoman Ingrid Gier said. … Mittal employs approximately 1,600 workers in Germany, while Arcelor employs 14,000."

FCC Says Cable "A La Carte" Would Save Consumers Money. ABC World News Tonight (2/9, story 9, 2:10, Gibson) reported, "Federal regulators issued a study that could lead to changes in the cable television industry and what comes into your home. Giving cable customers a chance to pick your channels, a system known as ala la carte pricing, could save consumers a bundle. Consumer groups cheered the findings. The cable industry did not." ABC (L. Stark) added, "More than a year ago, the FCC warned that so-called a la carte or buying individual channels would cost consumers more. But now, the agency says, consumers could pay 3% to 13% less for cable a la carte, with no increase in your monthly bill, if you select as many as 20 channels. Plenty of television viewing, they say, for most Americans -- who tend to watch only 17 out of the more than 100 channels they now get. Supporters say this is all about giving consumers more control over what comes in to the home."

CQ (2/9, Wolfe) reports the report "drew an immediate response on Capitol Hill and could spur lawmakers to consider a bill to create a la carte cable options." Sen. John McCain, R-Ariz., "long an advocate for a la carte cable, announced Thursday that he will soon introduce a bill that would offer 'regulatory relief' as a carrot to cable providers who allow consumers the option of picking either a la carte or bundled channels."

Realtors Seek To Stop Bankers From Entering Real Estate Market. The Hill (2/10, Schor) reports, "Congress and the Bush administration are again getting caught in the crossfire of a long-standing turf war between the National Association of Realtors, which bills itself as the nation's biggest trade association, and the banking industry over whether banks can engage in real-estate activities." The Hill continues, "Federal regulators signed off late last year on several bids for real-estate development from large banking chains, alarming the Realtors and reinvigorating the group's push for a bill, co-sponsored by Reps. Ken Calvert (R-Calif.) and Paul Kanjorski (D-Pa.), prohibiting banks from 'directly or indirectly' engaging in real-estate activities. Banking lobbyists dismiss the Realtors' claims that the regulators are gradually dismantling existing law. … 'This issue is totally phony. Banks for a long time have been able to own their own real estate,' said Ed Yingling, president of the American Bankers Association. 'The Realtors would like to think it's something new, but it's not.'" The Hill adds, "The Calvert-Kanjorski bill is hardly new to Capitol Hill, having snagged the support of a majority of the House in each of the past three Congresses. But banking lobbyists pushed back last year with a bill of their own that only needed two co-sponsors — House Financial Services Committee Chairman Mike Oxley (R-Ohio) and his ranking Democrat, Barney Frank (Mass.) — to make a splash. … With their bill stalled in both House and Senate committees, the Realtors now are aiming at the Bush administration in their vigorous lobbying efforts against banks involved in real estate. The group has promoted letters this month to new Federal Reserve Chairman Ben Bernanke, Treasury Secretary John Snow and leaders at the Office of the Comptroller of the Currency (OCC), which has jurisdiction over national banks, asking for a definitive exclusion of banks from the real-estate market. … In a unique twist, the Realtors also have chosen to side publicly with bankers in the fight to prevent retail behemoth Wal-Mart from opening an industrial loan corporation to conduct banking activities. Just as the Realtors fear banks encroaching on their business, bankers want Congress to keep commercial corporations off their turf."

Federal Judge Tosses Antitrust Suit Against Bengals, NFL. The AP (2/10, Kinney) reports, "A judge dismissed Hamilton County's federal antitrust lawsuit against the Cincinnati Bengals and the National Football League on Thursday because the suit was not filed within the four-year statute of limitations." The AP continues, "U.S. District Judge S. Arthur Spiegel threw out the suit without getting to the merits of the county's argument that the Bengals misled taxpayers and officials by contending that they needed a new stadium to be profitable and might move if they didn't get one." The AP adds, "Hamilton County taxpayers approved a one-half-cent sales tax increase in 1996 to finance the $450 million Paul Brown Stadium. Commissioners signed a lease with the Bengals the following year. … The antitrust lawsuit was not filed until 2003, three years after the Bengals began using the stadium. … 'To be sure, the lease that Hamilton

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County enjoys with the Bengals is highly favorable - perhaps egregiously so - to the Bengals,' Spiegel wrote. … He said prior members of the board were aware of allegations that league and its teams wielded unlawful antitrust power to obtain favorable leases, but by not filing suit sooner the chance 'was lost to the passage of time.'"

South Korean Antitrust Regulators Question Intel Employees. The AP (2/10) reports, "Investigators from South Korea's antitrust watchdog questioned some employees at Intel Corp.'s local subsidiary this week as part of an inquiry that began last year, a company spokesman said Friday." The AP continues, "The Korean Fair Trade Commission 'made an unscheduled visit to our offices on Tuesday during normal business hours,' said Chuck Mulloy, legal affairs spokesman for Intel in Santa Clara, California. … 'This is part of an ongoing inquiry that we disclosed in June of 2005,' Mulloy said, adding it was 'not appropriate for us to talk about specifics.' Mulloy said the visit to Intel Korea marked the first time regulators had arrived unannounced."

Reuters (2/10, So-eui) reports, "South Korea, which fined Microsoft Corp. for antitrust violations in December, began investigating Intel in the middle of last year, following similar probes launched by Japan and the European Union. … Intel, the world's largest chipmaker, confirmed on Thursday that FTC officials paid an unscheduled visit to the Seoul office. … The officials talked to Intel staff and took away some documents as part of an ongoing probe, a spokeswoman for Intel Korea said. … 'It will take a while for us to reach a conclusion,' FTC spokesman Kim Joo-hyok said by telephone. … The watchdog had received a complaint that Intel was using its dominant position in South Korea to increase microprocessor sales, Kim said. He declined to say who filed the complaint."

Bloomberg (2/10, King) reports, "Intel is facing a U.S. antitrust lawsuit based on a complaint filed last June by rival Advanced Micro Devices Inc. European regulators investigating antitrust claims have also raided Intel offices, and Japan's Fair Trade Commission last year told the company to remove a clause from its contracts forcing PC makers to exclusively use its chips."

The San Jose Mercury News (2/10, Ackerman) reports, "Intel first disclosed the Korean inquiry in a regulatory filing in August, stating that Korean antitrust regulators began looking into its marketing and rebate programs in June. … Also in June, rival chip maker Advanced Micro Devices sued in federal court alleging that Intel provided secret and discriminatory discounts. … Today, AMD said in a statement that the 'dawn raids are part of an investigation into Intel's business dealings with four Korean PC makers.'"

ENVIRONMENT:

Six Charged With Illegally Harvesting Leopard Sharks. The AP (2/10, Goodin) reports, "A church pastor, four men in the aquarium industry and a commercial fisherman have been accused of illegally catching and selling hundreds of juvenile leopard sharks." The AP continues, "An indictment Wednesday charged the men with selling 465 leopard sharks that were too small to harvest to pet distributors throughout the United States, and in The Netherlands and the United Kingdom." The AP adds, "The six defendants were arrested on Tuesday, when the indictment was unsealed. Two pleaded not guilty. The Associated Press was unable to reach the other four. They face maximum penalties of five years in prison, a $250,000 (â‚¬210,000) fine and possible requirement to pay restitution for each count, according to the U.S. Attorney's office. … Seven of the 19 baby leopard sharks confiscated during the two-year investigation died, the U.S. Attorney's office said. Three are on exhibit at the Monterey Bay Aquarium, and nine were returned to the wild in 2004."

Forest Service To Propose Sale Of 200,000 Acres To Fund Rural Schools. Knight Ridder (2/10, Borenstein) reports the National Forest Service will today unveil a plan to "sell up to 200,000 acres of national forest land in 'isolated parcels' ranging from a quarter of an acre to 200 acres, much of it in California." The sale is part of an effort "to raise $800 million over the next five years to pay for rural schools in 41 states, offsetting shrinking revenues from sale of timber from national forests. The Bureau of Land Management also plans to sell federal lands to raise an estimated $182 million over five years."

Interior Department Says Energy Companies Were Slow To Pay Royalties. The New York Times (2/10, Andrews, Romero, 1.19M) reports Interior Department documents show "more than three dozen energy companies fell nearly $500 million behind last year on royalty payments the federal government says they owed for oil and gas extracted from public territory." While "most of that money

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was later turned over after the government demanded payment, almost $60 million remains in dispute." The companies, "which included major producers like Chevron, Shell and ConocoPhillips, had claimed lucrative government incentives for drilling in the Gulf of Mexico even though the incentives were not supposed to be available if market prices climbed above certain 'threshold prices.'" The Interior Department, "in a report sent to lawmakers looking into the energy royalty program, identified 41 companies that incorrectly claimed about $493 million in 'royalty relief' during 2004, when prices for both oil and gas climbed to records. The Interior Department said that 38 of the 41 companies quickly paid $435 million in back royalties after it sent out warning letters in December, months after the money should have been paid." But "three companies — Kerr-McGee, Forest Oil and AGIP — continue to protest $58 million in additional payments."

Penalties For Coal Company Safety Violations Small Compared To Other Industries. USA Today (2/10, Frank, 2.31M) reports coal companies "pay some of the smallest fines of any industry for federal violations even as the nation tries to curb one of the deadliest periods in recent coal-mining history, a USA TODAY analysis found." The Federal Government "levied a larger fine — $550,000 — for the 2004 Super Bowl showing of Janet Jackson's breast than it did for the 2001 deaths of 13 Alabama miners in one of the deadliest mine disasters in a quarter-century. And the $435,000 fine against mine operator Jim Walter Resources was cut by a judge to $3,000." Federal law limits "fines to $60,000 for each violation of a mine health and safety standard." USA adds the Bush Administration "has said that higher fines are not as effective as forcing companies to close unsafe areas until they are fixed."

Panel Backs Administration Plan For Transporting Nuclear Waste. The Wall Street Journal (2/10, Fialka, 2.11M) reports a panel "of scientists, engineers and other experts endorsed the Energy Department's plans to ship tens of thousands of tons of nuclear waste for disposal in Nevada, saying they pose 'no fundamental technical barriers' and relatively low and manageable risks." The panel was "organized by the National Research Council, an arm of the National Academy of Sciences," and its study was "the first major outside study of the government's plans for waste removal, which will take two decades and involve transportation routes through or near many population centers." The panel's report "gives a boost to administration proposals to spur nuclear power by moving spent nuclear-power-plant fuel from 70 sites in 31 states and to minimize waste-storage needs by reprocessing some elements from spent fuel. The Yucca Mountain disposal site, located 90 miles from Las Vegas, would also receive high-level nuclear-weapons waste from four government sites."

WSJournal Praises WTO Decision On Genetically Modified Food. The Wall Street Journal (2/10, 2.11M) editorializes, "Frankenstein is finally dead, or at least his political imitators are. That good news comes from the World Trade Organization, which struck a blow for science over scare-mongers by ruling this week against Europe's attempt to ban genetically modified food." The EU "can accurately say its review process for new GMOs, which is stricter and slower than that used in the U.S., wasn't struck down. However, the panel said a clear review process has to be in place, and one not based on junk science. That means no more moratoriums on approving new GMOs such as that imposed by Brussels from 1998 to 2003."

FBI/DEA/ATF/USMS:

Handprint Could Be Key Evidence In Alabama Church Fire Probe. CNN.com (2/10, Dornin) reports, "Investigators looking into the fires at nine Baptist churches in Alabama over the past week are hoping a handprint left on one church's front door may help catch a perpetrator." CNN continues, "The Bureau of Alcohol, Tobacco, Firearms and Explosives would not indicate whether its agents were able to lift a readable fingerprint from the inside part of the front door at Dancy First Baptist Church, south of Aliceville in Pickens County. … Arsonists entered the church by kicking in a back door, then set a fire near the pulpit before trying to escape through the front door, authorities said. … However, the front door had a dead-bolt lock, and the arsonists had to exit through the back door, where police said they found a footprint that might have come from someone kicking the door." CNN adds, "Nine churches -- five with predominantly African-American congregations and four with predominantly white ones -- have been set ablaze in the past week in central and western Alabama. Nobody has been injured. … More than 100 ATF personnel, including special agents and forensic experts, are investigating the

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fires. A criminal and geographical profiler also has been called in. … The ATF has said witnesses have reported seeing a dark-colored SUV near some of the fires. But it is not clear if the vehicle is linked to the blazes."

The New York Times (2/10, Lyman) reports that "as investigators sift the rubble after nine church fires across rural Alabama in the last week, all suspected arsons, the evidence they are finding and the pattern of the attacks suggest that those behind the arsons were either locals or, at the very least, frequent-enough visitors to cherry-pick the most vulnerable and remote churches and drive the region's coal-dark roads at night with brazen efficiency." The Times continues, "Five churches, including Ashby Baptist, were set on fire just before dawn last Friday in rural Bibb County, about an hour south of Birmingham. They were all Baptist churches, four with predominantly white congregations and one with a black congregation. … Then, early Tuesday, four more churches — all Baptist and, this time, all black congregations — were hit on a long stretch of country highways in more rural counties along Alabama's western edge." The Times adds, "Although investigators say they have reached no firm conclusions about who might be behind the arsons, they point to strong similarities between the two strings of attacks. In both cases, the churches tended to be the most secluded; indeed, in Bibb County, the arsonists passed by several churches beside the highway to seek out those tucked deep into the pine woods."

Maryland Man Sentenced To 30 Years For Oxycontin Distribution. The Baltimore Sun (2/10, 296K) reports Oliver Clifton Hudson of Baltimore was sentenced Thursday "to 30 years in prison for distributing Oxycontin and engaging in health-care fraud." Hudson "and his co-defendant, Gregory Wayne Banks…were convicted in federal court Nov. 7. Both claimed to not be subject to the jurisdiction of the court and were removed from the courtroom after they refused to participate in the trial, according to court documents." Banks is scheduled for sentencing today. " The Sun notes, "The defendants sent 'runners' to various pharmacies with the prescriptions and made themselves available by telephone -- posing as health clinic officials -- to answer questions from pharmacy employees seeking verification for the prescriptions, officials said. … Once obtained, the oxycodone prescriptions were ultimately resold on the street. Officials said the defendants sold more than 41,000 oxycodone pills using this scheme.

Two San Diego City Employees Arrested, Accused Of Dealing Marijuana. The AP (2/9) reports that San Diego officials "have launched an investigation into illegal activity by city employees after two workers from the Park and Recreation Department were arrested on suspicion of drug possession and sales. The employees, who are brothers, were arrested Jan. 25 as part of a broader Drug Enforcement Administration Investigation, authorities said. They are accused of dealing marijuana out of a Park and Recreation vehicle and had been under surveillance."

Reporting Continues On The National Survey On Drug Use and Health. There was wide media coverage of the survey results, with more than 200 news outlets publishing stories on the results in their newspapers and/or posting them on their Web sites. For example, The AP (2/10, Matthews) reports, "In a reversal of past trends, teenage girls are trying marijuana, alcohol and cigarettes at higher rates than boys, the White House drug czar said Thursday. The findings from a new government analysis come even as teen drug use is declining overall. The National Survey on Drug Use and Health, released by John Walters, the national drug policy director, indicates 1.5 million girls ages 12 to 17 started drinking alcohol in 2004, the most recent year for which data is available. That compares with 1.28 million boys. … 'This is the first time that we've recorded this kind of relationship between boys' and girls' drug use,' said Walters. 'In the past, boys have had higher rates of use _ and significantly higher rates of use at certain times in the past.' Overall illicit drug use among youths 12 to 17 has declined 19 percent since 2001, according to the survey. 'In order to drive it down further, we have to deal with today's substance abuse reality, and today's reality is, girls have been using at higher rates than boys in critical areas,' Walters said. More than 100 news outlets used the AP story, including CBS News, FOX News, MSNBC, Forbes, The Washington Post, San Diego Union-Tribune, Houston Chronicle, Miami Herald, Baltimore Sun, Boston Globe, Knoxville Tennessee News Sentinel, and China's China Daily.

Reuters (2/9) writes, "More girls than boys are becoming first-time users of alcohol, cigarettes and marijuana, reversing previous trends, the U.S. drug czar said in a report released on Thursday. 'Girls have become users at rates that exceed boys or equal boys now, which never

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used to be the case,' John Walters, director of the White House Office of National Drug Control Policy, said in a telephone interview. … Walters said there were several reasons why girls might turn more to drugs and alcohol than boys. 'They are more likely to be influenced by peer pressure, even when they have been told and accepted that these behaviors are risky for them,' Walters said. 'They are twice as likely to be victims of depression. They report that when they use, that they do that to improve their moods.'"

The Washington Times (2/10, Wetzstein) reports, "Young men and women are abusing tobacco, alcohol and drugs at the same rate, according a report released yesterday that urged parents to get more involved in the lives of their teenage children. 'The gender gap has closed. Girls are smoking, drinking and using drugs equal to boys,' said Susan Foster, vice president of the National Center on Addiction and Substance Abuse (CASA) at Columbia University and lead author of a new book on women and substance abuse. … A separate report released yesterday in New York City by the White House Office of National Drug Control Policy (ONDCP) and Seventeen magazine said teenage girls now match teenage boys in illicit drug and alcohol use, surpass them in cigarette and prescription drug use, and are more likely than boys to start using illicit substances. 'Girls are telling us that they understand the risks associated with drugs, alcohol and cigarettes. But that doesn't appear to be stopping them from using,' White House drug czar John P. Walters said yesterday. … Parental disapproval of tobacco, alcohol and drugs is a strong influence on teens, as is parental monitoring of teens and their friends, said the ONDCP, which offers parents and community leaders a wealth of anti-drug materials."

UPI (2/10) reports, "Experts say that teenage girls are more likely than boys to use drugs and alcohol to escape from family problems and other pressures in their lives. They also may take up smoking to help keep their weight down."

ABC News (2/9) reports on its Web site, "First lady Laura Bush has spearheaded an initiative to steer boys away from gangs, crime and drugs. She felt the program was needed because, she said, because we have 'shifted our gaze away from boys for the last several decades.' A White House report released [Thursday] on drug use among youths suggests that we need to keep a closer eye on girls as well. The report reveals that in 2004, the most recent year studied, 1.5 million girls started using alcohol — 173,000 more than the number of boys who started drinking."

AFP (2/10) writes, "Atoosa Rubenstein, editor in chief of Seventeen magazine, which cooperated with the White House initiative, said young girls were becoming more independent and starting to make decisions about their future. 'Combine this new responsibility with all the stress and pressures in their lives and the result, unfortunately, can be substance abuse,' she said."

LiveScience.com (2/9) writes, "Contrary to popular belief, more girls are new substance abusers. In 2004, 1.5 million girls started using alcohol, 730,000 girls started smoking, and 675,000 started using marijuana, according to the 2004 National Survey on Drug Use and Health. … 'Over the last few years, we have seen overall drug use decrease among teens—boys and girls. But the trends of substance use among our adolescent girls are alarming,' said ONDCP Director John P. Walters. … Marijuana is the drug of choice for girls; they prefer it over cocaine, heroin, Ecstasy, and all other illicit drugs combined, according to ONDCP."

The Minneapolis Star Tribune (2/10) reports, "A report by the White House Office of National Drug Control Policy released Thursday notes that young females across the country tend to use alcohol or drugs to lose weight, improve their mood, increase their confidence, cope with problems and lose their inhibitions. The report also said more girls than boys are starting to drink and smoke cigarettes and marijuana."

US Skeleton Racer Seeks Olympic Eligibility Following Positive Drug Test. The AP (2/10, Withers) reports, "U.S. skeleton racer Zach Lund's hopes of competing in the Olympics now rest in the hands of a special arbitration court. The Court of Arbitration for Sport is expected to rule Friday on whether Lund should be allowed to race in the Turin Games after testing positive for finasteride — an ingredient in a hair-restoration product that also can be used as a steroid-masking agent. Lund insists he tested positive because he was taking an baldness-fighting drug. Lund spent more than three hours Thursday at a hearing with the CAS. The men's skeleton competition is scheduled to begin next week. Lund was publicly warned but not suspended by the U.S. Anti-Doping Agency on Jan. 23 after the positive test. But last week, the World Anti-Doping Agency filed an appeal with the CAS over Lund's Olympic eligibility."

Duke University Changes Drug-Testing Policies. The AP (2/10) reports student athletes at Duke

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University who test positive for steroids "will have to sit out of competition for a year, while a second offense will result in lost eligibility, the school announced Thursday. The changes come after allegations last spring of steroid use by former baseball players. Bill Hillier, who compiled a 121-214 record in six years, resigned as coach a month after two former Duke players told the university newspaper they used steroids while playing for the school. Those players and others have said Hillier suggested that they use steroids. Hillier has denied the allegations. The new policy goes into place immediately. Evidence of blood doping or masking agents and refusal to take or attempts to manipulate a test are treated as positive tests."

Durham, North Carolina's Herald Sun (2/10) writes, "The school's new drug policy differentiates between performance-enhancing drugs and other substances banned by the NCAA -- so-called 'street drugs' -- by imposing harsher penalties for student-athletes who test positive for steroids and the like. The previous policy treated all banned substances the same, calling for counseling, treatment and further evaluation for a first offense, a suspension for at least half the season for a second offense and a permanent ban from competition for a third offense."

The Charlotte (NC) Observer (2/9) reports, "The University of North Carolina strengthened its steroid policy in October, requiring permanent dismissal for athletes testing positive for anabolic steroids. Duke's policy provides a second chance for steroid offenders. 'We are an educational institution,' said Duke law professor James E. Coleman Jr., who chaired Duke's committee. 'We felt it was appropriate to give a student who tested positive for a steroid a second chance to learn from and recover from the error, if possible.'"

ATF Busts Moonshine Still In Georgia. The Clayton (GA) Tribune (2/9, Spurney) reports, "Federal agents from the U.S. Forest Service and the Bureau of Alcohol, Tobacco and Firearms raided a moonshine still Feb. 2 off Muscadine Lane in eastern Rabun County." The Tribune continues, "The still, on Forest Service land in the Pool Creek community, had been under surveillance for nearly two months. No arrests have been made, though Rabun County sheriff's deputies and Georgia Department of Revenue agents helped execute warrants at three local residences." The Tribune adds, "Authorities released few details about the still's operation, including the names of potential suspects. The investigation is ongoing. … 'Suffice it to say, the suspects have been under surveillance with our operation,' said ATF spokesman Marc Jackson. … 'It was estimated that up until our enforcement action on it, that this suspected still was suspected of producing 45-70 gallons per cycle,' Jackson added. The still had yielded about seven cycles since Dec. 8. … The still was estimated to hold 750 gallons of mash. It was tucked away off Forest Service Road 517. Liquor was transported from the site in a 55-gallon barrel to another location where it was transferred to jars. Its operators had built a makeshift road through the woods, apparently on an old logging roadbed. The liquor was distilled through an old radiator."

New Jersey Man Sentenced In Pennsylvania Arson-For-Hire Case. The Bucks County (PA) Courier-Times (2/9, Yanoshak) reports, "A New Jersey man was sentenced to five years in federal prison Wednesday for hiring two men to torch the Morrisville (PA) restaurant across the street from what used to be his pizzeria." The Courier-Times continues, "From his own family to the man whose deli-restaurant was damaged by Molotov cocktails, many in U.S. District Court posed the same question to Alessandro 'Alex' Tramo: 'What were you thinking?' … Tramo's answer: He wasn't." The Courier-Times adds, "The abuse of prescription drugs had clouded his judgment, he told U.S. District Court Judge Anita Brody, whose sentence of five years was the mandatory minimum. … 'I forever regret having anything to do with this incident,' he told the court as his wife, Lisa, sat in the audience and wiped away tears. … Tramo pleaded guilty to hiring the men to burn Ben's Deli and Restaurant on Dec. 2, 2000. The 3:45 a.m. fire was brought under control in about 20 minutes and seriously damaged the landmark cafeteria-style eatery. … An investigation by Morrisville and Bucks County fire marshals and the federal Bureau of Alcohol, Tobacco and Firearms resulted in an indictment against Tramo, 34, of Bordentown; Bruce Armstrong, 35, of Trenton; and William Anderson, 39, of Morrisville. … Tramo, who then owned Anthony's 4 Pizza, hired the two to eliminate Ben's as a competitor, the investigators determined. … Armstrong and Anderson pleaded guilty and agreed to testify against Tramo. After that, Tramo pleaded guilty to arson and criminal conspiracy to commit arson."

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IMMIGRATION:

Noting Rise In Border Violence, Chertoff Says US Will Not Tolerate Attacks On Agents. The Washington Times (2/10, Seper, 90K) reports, "Department of Homeland Security Secretary Michael Chertoff, concerned about rising border violence, said yesterday nearly $1 billion in next year's proposed $42.7 billion department budget will be used for new US Border Patrol agents, upgraded electronic security measures, and more fences, roads, and detention beds." During a Washington press conference, Chertoff said, "There has been an over-100 percent increase in the last fiscal year in border violence aimed at our Border Patrol agents." Chertoff added, "We are not going to tolerate this kind of behavior." The secretary said "much of the border violence has been the result of increased enforcement efforts by the US government, but that the department was committed to securing the nation's borders as part of the strategy that 'involves not only apprehensions at the border, but detention, removal and more vigorous work site enforcement.'"

Cornyn Says Immigration Is National Security Issue. The Washington Times (2/10, McCain, 90K) reports, "Immigration should be treated as a national security issue, Sen. John Cornyn yesterday told a gathering of conservative activists. 'The federal government needs to obtain operational security of our borders,' the Texas Republican said in a speech to the 33rd annual Conservative Political Action Conference (CPAC) at the Omni Shoreham Hotel in Washington." Cornyn "said human traffickers, drug smugglers and criminal gangs from Brazil, China and other countries are 'using Mexico as a point of entry into the United States.'" He "drew applause when he said he would push for a Senate bill to provide 'a comprehensive solution' to US immigration problems 'that does not include amnesty.'"

DHS IG Finds Companies Using L-1 Visas To Get Around H-1B Quotas. The Washington Times (2/10, Dinan, 90K) reports that the temporary L-1 visa, which is "used particularly by foreign technology workers, is being abused by companies looking to get around protections for American workers, according to a new government report." The L-1 visa "is intended for foreign companies who want to transfer managerial employees or workers with 'specialized knowledge' temporarily to the United States." However, while "Congress has capped the number of workers who can come under the H-1B visa category each year at 65,000," it "has not placed limits on the L-1 visa, which applies to workers with specialized knowledge." The Department of Homeland Security's inspector general has "found that it is difficult for adjudicators at US Citizenship and Immigration Services (USCIS) to determine what constitutes a manager, particularly because companies vary in size and organization. Adjudicators also have to rely on a company's claims about its own operations, a worker's status at the time of the petition and how a worker will be used in the United States."

LATimes Criticizes Bush Border Budget Proposals. Under the headline "Bipolar Border Budgeting," the Los Angeles Times (2/10, 958K) editorializes, "Throwing money at a problem doesn't solve it. Knee-jerk reactions don't help, either. When it comes to illegal immigration, the Bush administration, apparently unable to decide which approach it prefers, has opted for both. But spending more on border enforcement will do little to curb illegal immigration and may even distract attention from better solutions to the problem." Though President Bush emphasized Border Patrol spending in this week's budge, "Over the last 10 years, such spending has increased by many times, yet illegal immigration continues to climb. A more sensible step would be a guest-worker program that makes temporary workers legal and reduces people smuggling, along with the risks and related crimes that go with it." The Times adds, "The other disappointment in the president's budget is that he continued his annual practice of ignoring states' requests for reimbursement for jailing illegal immigrants."

TAX:

Opt-Outs May Jeopardize KPMG Tax-Shelter Settlement. The Wall Street Journal (2/10, Koppel) reports, "A federal judge postponed a proposed $225 million class-action settlement with accounting firm KPMG LLP and law firm Sidley Austin Brown & Wood LLP in a tax-shelter lawsuit. … The order, issued yesterday, came in response to a motion by KPMG in federal court in Newark, N.J., to revise the settlement because potential members opted out of the deal. The postponement was reported in the New York Times. … 'This settlement could be in jeopardy,' said attorney Edmundo Ramirez, whose client was one of 284 potential members of the KPMG class. Mr. Ramirez said his client rejected the original settlement, considering it 'a sweetheart deal for KPMG.'" The Journal adds, "In an

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interview, attorney Melvyn Weiss, a partner at Milberg Weiss Bershad & Schulman LLP and the lead lawyer for the plaintiffs in the case, said the parties may reduce the original settlement amount, but he believed an accord could still be reached in about a month. Milberg Weiss filed the suit last year, claiming KPMG sold fraudulent tax shelters. KPMG has admitted wrongdoing and agreed to pay the U.S. $456 million in restitution. … As originally proposed, the settlement would have awarded $195 million to purchasers of allegedly fraudulent tax shelters sold by KPMG. Milberg Weiss and other class counsel stood to earn $30 million from the settlement. If the plaintiffs' recovery is reduced in a new settlement, the plaintiffs' lawyers would also earn less, Mr. Weiss said."

SCOTUS To Hear Challenge To Corporate Tax Breaks. The National Law Journal (2/10, Coyle) reports, "In North Carolina this spring, a state court will take up a constitutional challenge to $242 million in state tax breaks given by state officials to Dell Inc. to build a plant in Winston-Salem. In Minnesota, another suit is pending attacking the validity of two multimillion-dollar tax-incentive programs to attract and keep businesses in special zones in that state." The Journal continues, "The North Carolina and Minnesota suits are among a number percolating around the country that have been inspired largely by a federal appellate decision in 2004 that struck down Ohio's investment tax credit -- a sacred tool of state economic competition." The Journal adds, "The Ohio case, which involved a $280 million tax incentive plan for DaimlerChrysler Corp.'s expansion in that state, is now before the U.S. Supreme Court, which is scheduled to hear arguments on March 1. DaimlerChrysler Corp. v. Cuno, No. 04-1704; Wilkins v. Cuno, No. 04-1724. … The case has raised to a high profile a long-running debate over the constitutionality of state tax incentives under the so-called dormant or negative commerce clause, which prohibits states from acting in a way that interferes with interstate commerce, as well as a debate over the effectiveness of tax incentives as an economic-development tool. … Business and government officials predict 'dire ramifications' if states lose the ability to offer these incentives and businesses lose the ability to use them. … They note that one study reported last year that more than 330 statutory income or franchise tax credits and incentives are offered by 46 states."

Mack Says Tax Overhaul Will Be Harder If Delayed. The Wall Street Journal (2/10, Harwood) reports in its "Washington Wire" column that former Sen. Connie Mack, "'disappointed' that presidential advisory group he headed isn't producing action, cautions the issue will become 'more difficult' to push as president's term continues. Absence of tax overhaul in Bush's State of the Union address is seen as sign of Treasury Secretary Snow's lack of clout."

WSJournal Pleased Rhode Island Democrats Are Considering Flat Tax. The Wall Street Journal (2/10, 2.11M) says in an editorial, "Let's hope James Carville, Robert Rubin, Nancy Pelosi and other national Democrats are all sitting down for this one: The Rhode Island legislature is considering a flat tax, and the proposal comes from its majority Democrats." Democratic leaders "proposed an optional flat rate income tax of 5.5% as an alternative to the current 'progressive' tax schedule, which imposes rates ranging from 3.75% to 9.9% for the highest earners. The flat tax is part of a more comprehensive reform plan that would also include a sales tax holiday weekend in August and a full week of relief on 'energy efficient' items in March 2007 from the state's 7% sales tax." What's "going on here? Have the state's liberals all taken Art Laffer happy pills? The answer is tax competition, and the discovery that Rhode Island's high tax burden is damaging its economy."

CONGRESS-ADMINISTRATION:

Bush Submits List Of Proposed Program Cuts To Congress. The Wall Street Journal (2/10, Calmes, 2.11M) reports President Bush "sent Congress his list of 141 programs to be killed or reduced to achieve almost $15 billion in savings, and almost half are three-time losers -- cuts he proposed for fiscal years 2004, 2005 and 2006, only to be ignored by Congress each time. The total savings are less than 4% of the current year's projected deficit." But if "the third time wasn't a charm, the fourth probably won't be either, congressional staffers say." Of the 91 programs targeted for complete elimination, "40 are making their fourth annual appearance on the list. Of 50 to be reduced, 20 are perennials." USA Today (2/10, Wolf, 2.31M) also writes that most of the programs Bush wants to cut or eliminate "are survivors of past Bush hit lists," and the total amount that would be saved is "small compared with the big ones in the

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budget: the skyrocketing costs of Medicare, Medicaid and Social Security, Bush's effort to boost spending on defense and homeland security, and the cost of making his tax cuts permanent."

Among the proposed eliminations: a "program that provides poor seniors with vegetables, peanut butter and other nutritious foods," according to the AP (2/9); the "$255 Social Security death benefit," according to CQ (2/9, Schuler); and the "public housing reconstruction program known as HOPE VI," also according to CQ (2/9, Wayne). Meanwhile, Reuters (2/9, Doggett) reports Democrats "slammed" a proposal "to cut funds for a government program that helps poor people weatherize their homes."

Both Parties Reluctant To Enact Spending Reductions. Reuters (2/9, Bohan) reports the White House "defended reductions in programs from veterans healthcare to housing on Thursday as it sought to persuade a reluctant Congress" to make the cuts. The proposals "have gotten a wary reception in Congress, with Democrats lashing out at Bush for pushing tax cuts for the rich while reducing programs for the poor and middle class," and even "prominent members of Bush's Republican party criticized his budget." House Appropriations Chairman Jerry Lewis "complained about 'fees and gimmicks,' which he said the White House knows Congress will again reject, but give Bush leeway to propose spending increases in favored areas such as defense." House Majority Leader John Boehner is among the skeptics, CQ (2/9, Ota) reports, giving "lukewarm support Thursday for President Bush's plan to slice $71 billion from Medicare and other entitlement programs. 'We have to build a budget together,' Boehner said during the first day of a House GOP retreat. 'I don't want to put things on the table or off the table.'"

Senate, House Pass Typo Fix For Spending Cut Bill. Reuters (2/9) reports, "The Senate and House have passed legislation aimed at ending confusion over a $39-billion spending-cut bill signed into law by President Bush on Wednesday, which varied slightly from the final version passed by the House. The two chambers passed the fix late on Wednesday, hours after the technical problem was discovered and the bill was enacted into law with Bush's signature. The problem stemmed from a typographical error written into the contentious bill as it bounced back and forth from the House and Senate since December."

Huckabee Says Congress Cutting Deficit By Boosting States' Medicaid Costs. The Wall Street Journal (2/10, Harwood) reports in its "Washington Wire" column that National Governors Association Mike Huckabee of Arkansas "hits Congress for trimming deficit 'on the backs of the states' with proposals to increase state cost-sharing on Medicaid. Arkansas' Republican governor, a 2008 White House hopeful, says states instead need more flexibility to experiment with approaches to reining in Medicaid costs."

Krugman Criticizes "Artificial Shortsightedness" Of Bush Budgeting Practices. In his New York Times (2/10, 1.19M) column, Paul Krugman writes, "At this point we've had six years to grow accustomed to Bush budget chicanery. … What still amazes me, however, is the sheer childishness of the administration's denials and deceptions. Consider the case of the vanishing future. … Clinton-era budgets offered 10-year projections of spending and revenues. But the Bush administration slashed the budget horizon to five years. This artificial shortsightedness greatly aided the campaign to make the 2001 tax cut permanent because it hid the costs: since budget analyses no longer covered the years after 2010, the revenue losses from extending the tax cut became invisible. … At this point the administration's budget strategy seems to be simply to ignore reality."

Neuharth Blames Iraq Costs For Swelling Budget. In his USA Today (2/10, 2.31M) column, Al Neuharth writes, "President Bush submitted a budget to Congress this week that is so big, most of us just shrug it off without thinking about what it means to us individually. Think about this: The $2.77 trillion budget for the fiscal year starting in October breaks down to an average of $9,293.62 for everyone in the USA. The latest budget request for Iraq of about $96 billion brings the cost of that war to $322 billion, an average of $1,080.34 per person. … Bush simply can't convince me on continuing the cost in Iraq -- in dollars and, more important, in precious lives -- for a war that he never should have started."

Pentagon Budget Proposal Would Increase Weapons Spending. The Washington Post (2/10, Merle, 744K) reports the defense industry was largely "relieved" by the Pentagon budget proposal, which "would increase spending on weapons to $84.2 billion, $8 billion more than this year, and includes $1.7 billion for unmanned aerial vehicles, an increase of about 3 percent, to begin buying 322 of the pilotless planes over the next five years." The "proposed 7 percent increase in the budget for weapons procurement and research and development is twice that expected by Troy Lahr, a defense analyst at investment bank

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Stifel, Nicolaus & Co. 'And we were among the more bullish,' said Lahr."

Defense Savings Plan Likely To Face Challenges. CQ (2/9, Donnelly, Plummer) reports lawmakers "are expected to challenge President Bush's proposal for defense savings because the plan, worth more than $50 billion over the next five years, entails significant reductions in uniformed personnel to support massive increases in weapons purchases and rising health care bills. Lawmakers in recent weeks have protested personnel cuts and threatened to add money for the troops back into the budget."

NYTimes Criticizes Pentagon Budget Priorities. The New York Times (2/10, 1.19M) editorializes, "It's amazing how Donald Rumsfeld's Defense Department can produce a $439 billion spending plan and still skimp on the one thing the American military desperately needs: expanded ground forces so the weakened and cannibalized Army can meet the requirements of Iraq without hurting its ability to respond to other threats. While the Pentagon intends to increase pay and recruitment bonuses, no part of its nearly 7 percent budget increase is aimed at raising overall troop strength. Instead, a large chunk of this nearly $30 billion bonanza goes to buying more new weapons and postponing overdue cuts in wasteful Air Force and Navy projects unrelated to fighting terrorism. … The military contractors are doing just fine. It's the troops in Iraq who need help from Washington."

Bush Domestic Policy Adviser Resigns. The AP (2/9) reports President Bush's domestic policy adviser Claude Allen "has resigned to spend more time with his family." Allen "has been working for the administration since Bush's first year in office -- first as the No. 2 official at the Health and Human Services Department, and for the last year as domestic policy adviser in the White House." He "did not respond to inquiries asking about his departure or future job plans."

Insiders Say Card, McClellan And Others Are Not Planning To Leave. The White House Bulletin/US News (2/9) reported White House and Administration insiders "are playing down rumors that Chief of Staff Andy Card, spokesman Scott McClellan and other top Bush aides are considering leaving the West Wing this spring. The latest reports are being fed by expectations that Treasury Secretary John Snow will retire this spring and that Bush would put Card, a former Transportation secretary, into the post." But top aides and Administration officials this week, "however, said it appears that no staff changes are underway or even planned and that the feeling inside is that the top aides, including Card and McClellan, will remain on the job at least through the midterm elections -- and possibly until the end of the President's second term. Indeed, two insiders said that Card has been leading pep talks for staffers, telling them that they have a job of 'high honor' and to stay focused on continuing to 'build on the President's agenda.'" Said one insider, "There is no hint that anybody is going anywhere. They're building the legacy" for President Bush.

House Members Show Support For Bush Competitiveness Initiative. The AP (2/9, Crutsinger) reports President Bush's "plan to boost the competitiveness of U.S. industry through innovation won support from members of Congress Thursday, although Democrats criticized the initiative for slashing some education programs to pay for more spending on math and science." Commerce Secretary Carlos Gutierrez "won widespread support from members of the House Government Reform Committee for Bush's 'American Competitiveness Initiative,' one of the biggest new programs in the budget Bush sent to Congress on Monday." The initiative "would double government funding for basic research in the physical sciences, train thousands of new science and math teachers and extend a popular tax credit businesses can receive for investing in research and development," at a cost of $136 billion over 10 years.

The Christian Science Monitor (2/10, Feldmann, 61K) reports, "The education piece of Mr. Bush's plan seems relatively small -- $380 million in fiscal 2007 -- but it is getting most of the attention. From that, $90 million would go to boost the ranks of students taking Advanced Placement and International Baccalaureate classes in math, science, and foreign languages by training 70,000 additional teachers in those subject areas in high-poverty high schools." The plan "aims to boost the number of students taking AP math and science exams from 380,000 today to 1.5 million in 2012."

Gutierrez To Promote Bush Competitiveness Initiative In North Carolina. The Raleigh News & Observer (2/10) in its "Morning Briefing" column reports, "North Carolina likes to think of itself as a hotbed of innovation. Apparently, the Bush administration is keying in on that reputation." The News & Observer continues, "For the second time in a week, a senior Bush adviser will visit the state to discuss the president's 'American Competitiveness

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Initiative.' Commerce Secretary Carlos M. Gutierrez…this morning will meet with business and education leaders at IBM's Research Triangle Park campus to promote the stronger focus on technological and scientific innovation." The "initiative is meant to increase competitiveness with other nations. Treasury Secretary John W. Snow touted the effort in Kannapolis last week."

Bush To Address House GOP Retreat Today. Reuters (2/9, Ferraro) reports House Republicans "rocked by an ethics scandal" are meeting at a hotel in "secluded" Cambridge, Maryland, for a three-day retreat. New House Majority Leader John Boehner said the retreat "would allow a 'period of renewal,' but gave no hint whether he could quickly unite his 231-member caucus on lobbying reform." President Bush will address the group today. The Washington Times (2/10, Dinan, 90K) reports Republican National Committee Chairman Ken Mehlman spoke to the GOP caucus on Thursday, saying Democrats "are failing to capitalize on Republican ethics questions ahead of difficult midterm congressional elections in November." While according to Mehlman politics is "supposed to be a zero-sum situation: If one party is doing poorly, the other does well," Republican "travails have not helped Democrats, he said. 'The law of political physics is being defied by Nancy Pelosi, Howard Dean and Harry Reid,' he said."

House GOP Members To Raise Election Year Needs With Leaders. The Wall Street Journal (2/10, Harwood) reports in its "Washington Wire" column, "Republicans speak up to House leaders about election-year needs. Format for this weekend's retreat in Maryland is 'unstructured,' says Ohio Rep. Pryce, who chairs Republican conference. Newly elected Majority Leader Boehner calls these 'times of renewal.'" House Democrats "press Boehner to open legislative process while banning lobbyists' gifts. But House reform timetable slips, while McCain presses Senate effort to change spending 'earmarks.'"

McCain Leads Senate Effort To Curtail Earmarks. The AP (2/10, Abrams) reports, "Ten senators led by Sen. John McCain took on the Senate's much maligned practice of inserting individual members' special projects, often without the knowledge of their colleagues, into larger spending bills. The 'Pork-Barrel Reduction Act,' introduced Thursday by eight Republicans and two Democrats, is the latest in a rash of proposals promoting ways to restore integrity to the political process in the wake of lobbying and ethics scandals." The bill "would allow senators to raise points of order against special projects, or earmarks, that are attached to spending bills without having been approved by the relevant committee. Under the procedure, which also applies to policy changes embedded in spending bills, 60 votes would be needed to override the point of order and keep the provision in the bill."

CQ (2/9, Higa) reports that while McCain's bill "has bipartisan sponsorship from eight Republicans and Democrats, including Russ Feingold of Wisconsin and Evan Bayh of Indiana, its prospects for reaching the floor are uncertain. It has been referred to the Senate Rules Committee, chaired by Trent Lott, R-Miss., who introduced his own earmark proposal with Dianne Feinstein" last week. Lott's measure "has fewer cosponsors, but the mix of Republicans and Democrats is more balanced than McCain's and includes Rules panel members Chuck Hagel, R-Neb., and Christopher J. Dodd."

Coburn Says Earmark Reform Crucial To Ending "Culture Of Corruption." In a Wall Street Journal (2/10, 2.11M) op-ed, Sen. Tom Coburn writes, "John McCain and I recently delivered a letter to our colleagues announcing our intention to challenge every individual earmark on the floor of the Senate. Many senators, staff and reporters have asked if we are serious. The answer is yes. I am convinced that forcing hundreds or, if necessary, thousands of votes to strike individual earmarks is the only way to produce meaningful results for American taxpayers. Bringing the Senate to a standstill for as long as it takes would be a small price to pay for shutting down what Jack Abramoff described as Congress's 'earmark favor factory.' … As Congress confronts its culture of corruption and our enormous fiscal challenges, it's time to 'just say no' to earmarks."

Top Official At Corporation For Public Broadcasting Announces Resignation. The New York Times (2/10, Labaton, Jensen, 1.19M) reports, "The top television executive at the Corporation for Public Broadcasting announced on Thursday that he would be stepping down. This is the latest in a string of departures of officials and consultants who played central roles in an effort by conservatives to bring what they viewed as more balance to public television and radio." The executive, Michael Pack, "controlled a $70 million production budget and was described by the official who hired him as a conservative

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Republican." He "chose to resign after Patricia S. Harrison, the corporation's new president, forced him to decide between renewing his employment contract and exercising a soon-to-expire option that gives him $500,000 to produce a documentary."

Deutsch Denies Lying About Resume, Calls Hansen Politically Motivated. The New York Times (2/10, Revkin, 1.19M) reports, "George C. Deutsch, the young NASA press aide who resigned on Tuesday amid claims that he had tried to keep the agency's top climate scientist from speaking publicly about global warming, defended himself publicly yesterday. Speaking to a Texas radio station and then to The New York Times, Mr. Deutsch said the scientist, James E. Hansen, exaggerated the threat of warming and tried to cast the Bush administration's response to it as inadequate. Mr. Deutsch also denied lying about having a college degree and trying to inject religion into some NASA Web presentations. 'I have never been told to censor science, to squelch anything or to insert religion into any issue,' he told the radio reporter, Brian Cain. Parts of that interview were posted on the Web site of WTAW-AM, in College Station (wtaw.com), where Mr. Deutsch attended Texas A&M University until he joined President Bush's campaign in 2004. After seeing a transcript of some of the criticisms, Dr. Hansen said, 'This is so wacky that it deserves little response.'" In an interview with the Times, "Mr. Deutsch said he had written the résumé in anticipation of graduating. … 'As a result, it may appear misleading to some. However, I was up front with NASA about my undergraduate status when they hired me.'"

The AP (2/10) reports in a widely published story, "A staffer who resigned from NASA after he was accused of restricting access to a noted climate scientist said Thursday he was targeted because of his political ties. George C. Deutsch, 24, resigned from the agency's public relations department earlier this week. 'What you do have is hearsay coming from a handful of people who have clear partisan ties and they are really coming after me as a Bush appointee,' he told radio station WTAW. 'I was an easy target. I was low-hanging fruit.'"

NASA, Hansen Say Deutsch Charges Untrue. Under the headline "'Culture War' At NASA?" the Houston Chronicle (2/10, Carreau, 581K) reports that Deutsch "directed much of his wrath at James Hansen... 'What is going on at NASA and throughout the federal government is a culture war,' Deutsch said in a statement from his Washington-area home. 'I quickly learned one thing: Dr. Hansen and his supporters have a very partisan agenda and ties reaching to the top of the Democratic Party.' In a telephone interview, Deutsch accused the space agency of too often showcasing Hansen as its expert on global warming, passing over other scientists whose views were not as alarming." The story adds, "On Thursday, both Hansen… and NASA challenged the allegations by Deutsch. 'I have no idea where he got that idea. It would be the opposite of our credo about presenting all sides of a problem,' Hansen wrote in an e-mail in response to the charge he tried to suppress opposing views. … Hansen's views on global warming were not favored over others, said Dean Acosta, chief spokesman for NASA administrator Michael Griffin. 'I can tell you categorically that is not happening,' said Acosta."

USA Today Says Bush Needs To Take Cue From NASA Flap. USA Today (2/10, 12A, 2.31M) editorializes, "That a low-level bureaucrat could overrule a prestigious scientist says worlds about how the administration balances politics against science. Further evidence can be found at the Food and Drug Administration, which has stifled overwhelming evidence that the 'morning-after pill' is safe and effective. It blocked over-the-counter sales — a transparent payoff to abortion opponents. Global warming is a good place to begin altering that facts-be-damned approach. … Ignoring the impact of climate change is getting difficult: Federal officials are considering declaring the polar bear a threatened species because rising Arctic temperatures are melting the ice pack that's their home. Now that scientific fact has spoken louder than ideology at NASA, perhaps the same can happen at the White House."

More Commentary. In his column on the Washington Post (2/10, A17, 744K), Al Kamen reports, "Deutsch did attend the Texas University and did some writing for the Battalion, the student paper. In an opinion piece in 2003 when New York Times reporter Jayson Blair was unmasked as a fabricator, Deutsch wrote: 'Blair's decisions and actions lacked ethics and integrity. As a reporter, he cared only about himself and furthering his career at the expense of the truth. Unclear if Deutsch plans to re-enroll to finish his degree."

In an editorial titled "Earth to NASA," the Spokane (WA) Spokesman-Review (2/10) argues, "The National Aeronautics and Space Administration is the latest battleground in the war between science and politics. First, the agency's public information office was accused of censoring its scientists'

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findings on global warming. Then it imposed itself on the origins-of-the-universe debate." The paper describes the controversy around George Deutsch and concludes, "We're guessing Deutsch was motivated by more than just science, but that's just a theory. Deutsch was dumped on Tuesday for lying on his resume. We hope NASA administrators can see that there was a bigger problem."

NAS Accepts Congressional Request To Referee Warming Dispute. The Wall Street Journal (2/10, B4, Regalado, 2.11M) reports, "Seeking to resolve a scientific dispute that has taken on a rancorous political edge, the National Academy of Sciences said it had agreed to a request from Congress to assess how well researchers understand the history of temperatures on earth. The study by the academy, an independent advisory body based in Washington, will focus on the 'hockey stick,' a chart of past temperatures that critics say is inaccurate. … The controversy took a sharp political turn in July when Rep. Joe Barton (R., Texas), head of the House Energy and Commerce Committee, launched a probe into the work of three climate specialists who generated the graph, including Michael Mann, now a professor at Pennsylvania State University. Mr. Barton's inquiry drew a rebuke from several scientific societies as well as fellow Republican Sherwood Boehlert of New York, chairman of the House Committee on Science, who called it a blatant effort to intimidate global-warming researchers. After Mr. Barton didn't respond to an offer to jointly bring the issue to the National Academy, Mr. Boehlert independently asked for a review in November, science committee chief of staff David Goldston said."

VA Has Declined Health Care To More Than 250,000 High-Income Veterans. The Washington Post (2/10, A17, 744K) reports that it has been three years since then-Secretary Anthony Principi said the Department of Veterans Affairs would be suspending health care enrollment "for some higher-income veterans who did not have injuries or illnesses related to their military service. The move to exclude 'Priority 8' veterans was unpopular, but Principi said it was necessary to prevent the VA medical system from being swamped by the rising number of veterans who were eligible for care. … More than a quarter-million 'Priority 8' veterans who tried to sign up for VA health care coverage between January 2003 and October 2005 were turned away because of the new effort to rein in costs," and as many as 10 million of the 16.9 million veterans not enrolled in the VA health care system are Priority 8 veterans, the VA says.

Specter Statements On Swearing Witnesses Contrasted. In a "Verbatim" item, the Washington Post (2/10, A17, 744K) contrasts Senate Judiciary Chairman Arlen Specter's statement on declining to put Attorney General Alberto Gonzales under oath this week -- "It is my judgment that it is unnecessary to swear the witness" -- with a Specter statement from April 2005: "During my stewardship here, I'm going to put everybody under oath when we have testimony, as we do on confirmation hearings."

Allen Urges Withholding Lawmaker Paychecks. The AP (2/10, Taylor) reports, "A potential GOP presidential candidate has come up with a familiar way to cater to conservative core voters -- bashing Congress." Virginia Sen. George Allen, "a darling of conservatives, says lawmakers' paychecks should be withheld if they don't pass spending bills on time." He "says that would solve the problem of larding spending into end-of-session bills that sometimes pass without anybody reading them."

Administration Contributing To Growth Of "Faith Based" Social Services. In the Chicago Tribune's "The Swamp" blog (2/8), Mark Silva writes, "For all the hoopla surrounding cuts in Medicare and Medicaid spending, a quieter revolution is taking place in Washington: The advancement of 'faith-based' social services." As President Bush "signed a significant budget-cutting bill today with an audience of congressional leaders in the East Room of the White House, he signed into law protections for religious groups that spend federal money on the social services that they deliver." Legal protection "for many federally financed private groups to hire people of their choosing already had been provided by the Welfare Reform Act of 1996 signed by President Clinton. In the reauthorization of that act, Congress has extended that authority for programs operating under the $17-billion Temporary Assistance to Needy Families through 2010 and also has extended this 'Charitable Choice' authority to his new Marriage and Fatherhood Program." Bush "signed all of this into law today as he approved a Deficit Reduction Act that will rein in the growth of Medicare and Medicaid. The choice provisions were added to the bill."

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Senate Confirms Ameriquest Founder As Ambassador To The Netherlands. The Los Angeles Times (2/10, Peterson, 958K) reports the Senate confirmed Ameriquest founder Roland Arnall as US ambassador to the Netherlands on an "uncontested" voice vote 16 days after Ameriquest "agreed to pay $325 million to settle allegations of unfair lending practices by regulators in 49 states and the District of Columbia." The vote "brought a peaceful end to a divisive, three-month confirmation process, in which Democrats led by Sen. Paul S. Sarbanes (D-Md.) had insisted that Ameriquest resolve the allegations against it before they would confirm Arnall."

OTHER NEWS:

Weekly Jobless Claims At Lowest Level In Six Years. The Wall Street Journal (2/10, 2.11M) reports, "A closely watched barometer of joblessness fell to its lowest reading in nearly six years, offering further proof that so far this year the labor market is improving along with the economy." The Labor Department "said the number of workers filing initial unemployment claims last week was 277,000, a figure that pushed the more telling four-week moving average of jobless claims down to 276,500, its lowest level since April 2000." The claims data "provide the latest bit of evidence that strong economic activity is improving conditions for workers."

Stocks Mixed. USA Today (2/10, 2.31M) reports, "Stocks were mostly higher Thursday as a six-year low in unemployment claims and strong corporate earnings encouraged investors. However, the momentum sagged in late-afternoon trading as uncertainty about the economy resurfaced. While weekly first-time jobless claims rose slightly, Wall Street was encouraged that the Labor Department said the four-week moving average fell to its lowest since April 2000." The Dow Jones industrial average "rose 24.73 points to 10,883.35 after gaining 108.86 points Wednesday. The Standard & Poor's 500 index fell 1.87 points to 1263.78, and the Nasdaq composite dropped 11.11 points to 2255.87." The Wall Street Journal (2/10, Patterson, 2.11M) also reports the stock numbers.

Economists Worry Bernanke Could Raise Fed Funds Rate Too High. The Wall Street Journal (2/10, Annett, 2.11M) reports economists have "some advice for Ben Bernanke as he takes over at the Federal Reserve: establish your credibility as an inflation fighter. But, at the same time, they have concern that he could take that effort too far." When asked "in the latest WSJ.com forecasting survey which mistake Mr. Bernanke is more likely to make -- raising rates too much or not enough -- three-quarters of economists said he is more likely to lift rates too high." The "challenge is especially acute now. Soaring energy prices have nudged up inflation pressures at the same time the Fed has been steadily lifting rates. Now, Mr. Bernanke must pick the right time to stop the increases." On average, the "economists expect the federal-funds rate, charged on overnight loans between banks, to be 4.75% by June and to remain at that level through year-end. That suggests the Bernanke Fed would raise the funds rate from its current 4.5% and then halt the string of increases embarked upon in June 2004, when the funds rate sat at a 46-year low of 1%."

The Wall Street Journal (2/10, Harwood) reports in its "Washington Wire" column, "Bernanke faces pressure to answer deficit questions in next week's congressional testimony. 'He ultimately will have to speak out on serious things that affect the economy,' says Senate Banking Chairman Shelby. 'If he doesn't, there will be a void.' With Fed nominees Kroszner and Warsh headed for confirmation, open market committee should be back to full strength at March 27-28 meeting for first time in a year."

Greenspan Draws Fire For Remarks On Economy. The Financial Times (2/10, Beales, Hughes, Balls) reports that "barely a week after leaving the US Federal Reserve, Alan Greenspan has been reminded how tricky life can be in the private sector for a man revered as the world's greatest former central banker." Greenspan's "comments at a Wall Street dinner on Tuesday rippled through currency and bond market trading rooms on Thursday, drawing comment not just on what he did - or maybe didn't - say but whether he should have said anything at all." The remarks, "during a talk for bankers and top hedge fund clients of Lehman Brothers, were interpreted as relatively hawkish on the US interest rate outlook, and contributed to a modest rise in the dollar and a decline in Treasury prices." Some observers suggested Greenspan "would have done better to defer his appearances at least until next week when Ben Bernanke, the new chairman, is due to present the central bank's twice-yearly monetary policy report to the US Congress for the first time."

Attorneys Said To Be Biggest Purchasers Of Cell Phone Records. The National Law Journal

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(2/10, Baldas) reports, "The sale of cell phone records over the Internet -- a hot topic that recently spurred litigation, legislation and a federal investigation -- has more than a few lawyers nervous." The Journal continues, "Attorneys are among the top customers of the controversial Web sites, according to private investigators, privacy advocates and Web site operators who sell the phone records. … 'Let's put it this way, the legal profession is keeping it alive,' said Rob Douglas, a former private eye turned security consultant who has helped the Federal Trade Commission investigate and prosecute online operators that sell phone records. … 'I've investigated them with the federal government and in private lawsuits ... and in every single case, the overwhelming majority of users of these companies are attorneys,' Douglas said." The Journal adds, "These attorneys include divorce lawyers, who want to know who feuding spouses are talking to; business lawyers, who want to know who their clients' competitors are talking to; and employment lawyers, who want to know if employees are selling any trade secrets. … The online data industry has come under intense scrutiny in recent months, triggering private lawsuits and federal and state investigations."

Conservatives Face Questions About Future Course. The New York Times (2/10, Nagourney, Kirkpatrick, 1.19M) writes that "despite the triumph of placing two conservatives on the Supreme Court within four months, leaders of the conservative movement these days seem less celebratory than divided." Conservatives "face internal rifts over polarizing issues and are dogged by a sense that a Republican-led Congress and a Republican president are not taking the nation in the proper direction on some critical matters." Those "fissures were evident" as the Conservative Political Action Conference convened in Washington, with leaders expressing "concern about the loyalty of elected Republicans in Washington to the conservative agenda, complained about the growth of spending in Mr. Bush's latest budget and said they were uncertain, at a time when Congressional Republicans are squirming under the glare of a corruption inquiry, of the future of the movement."

Gingrich Says US Again Looking To Conservatives For Leadership. In a Washington Times (2/10, 90K) op-ed, Newt Gingrich writes, "For over three decades now, American history has been written on the right. The crossroads confronted by conservatives have been America's crossroads, and the path forward charted by conservatives has consistently been the path of the nation. Today, America, and therefore conservatives too -- stand at another crossroads, with another set of historic choices that will determine whether we leave our children and grandchildren a country as safe, prosperous and free as the country our parents and grandparents fought and worked to give us. Throughout the 1970s, Ronald Reagan argued that the choice faced by Americans was not between left and right but between up and down -- down toward 'the totalitarianism of the ant heap' or up toward 'that shining city on a hill.' In the 1990s, conservatives again spoke to the hopes of a broad majority of Americans. … Twice before we've stood at the crossroads, and twice before conservatives have led the way forward to greater safety, prosperity and freedom for all Americans. Today, the stakes are higher than ever before. Our fellow Americans are once again looking to conservatives and asking this question: What are you doing to win the future?"

Sheehan Won't Challenge Feinstein. Reuters (2/10) reports, "Cindy Sheehan, the anti-Iraq war activist whose son was killed in the conflict there, put an end to speculation on Thursday that she would launch a long-shot bid to become a US senator from California." Sheehan, speaking in front of San Francisco City Hall," said she would not run for the office." The AP (2/10) quotes Sheehan saying, "I think I'm more effective on the outside than on the inside."

Steele Criticized For Comparing Stem Cell Research, Nazi Experiments. The Baltimore Sun (2/10, Skalka, 296K) reports that in a discussion of "his position on embryonic stem cell research with Baltimore Jewish leaders yesterday, Lt. Gov. Michael S. Steele said he is 'concerned about the destruction of human life' and made a comparison between the controversial science and experiments done on Jews during the Holocaust." Steele, speaking to a Baltimore Jewish Council board meeting, said, "You of all folks know what happens when people decide they want to experiment on human beings, when they want to take your life and use it as a tool. I know that as well in my community, out of our experience with slavery, and so I'm very cautious when people say this is the best new thing, this is going to save lives." The Sun adds Steele's remarks, "which followed a well-received speech about his trip to Israel in November, came in response to a board member's question about Steele's stance on embryonic stem cell research. His answer stunned many in the audience."

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Democrats To Pay Homage To Steele During Black History Month Events. The Washington Times (2/10, Miller, 90K) reports, "The Maryland Democratic Party has been relentless in criticizing…Steele in his run for U.S. Senate, but party officials say that won't stop them from paying homage to the conservative Republican during Black History Month. 'Michael Steele is an important figure in African-American history in Maryland. There is no question about it,' said Derek Walker, executive director of the state Democratic Party. 'We should be proud of the achievements of African-Americans, regardless of what party they are from or what their background is,' he said." Steele, "the first black elected to statewide office in Maryland, will be celebrated Monday as part of the state Democratic Party's campaign to honor a black Marylander each day this month, Mr. Walker said."

Unions Gave To 48 Maryland Legislators Before Wal-Mart Vote. The Washington Post (2/10, B5, Wagner, Marimow, 744K) reports two labor unions "pushing for legislation that could expand Wal-Mart's health benefits made campaign contributions to 48 members of the Maryland General Assembly in the month before the high-profile vote." The contributions, "totaling more than $36,000 in the run-up to the January vote, came to more than a quarter of the state's legislators from affiliates of the Service Employees International Union and the United Food and Commercial Workers International Union, according to analysis of campaign finance reports filed last month." Bobbie Walton of Common Cause Maryland said, "They were obviously trying to get somebody's attention." The Post adds Wal-Mart "retained as many as a dozen Annapolis lobbyists for the fight, which drew national attention, and tried to sway public opinion through radio and newspaper ads." But in "the weeks before the override vote, Wal-Mart made only seven direct political contributions to lawmakers, one of which was returned, according to Maryland State Board of Elections records."

LATimes Promotes Circumcision To Prevent AIDS Spread. The Los Angeles Times (2/10, 958K) says in an editorial that President Bush has been "a reliable ally in the global fight against AIDS, proposing to increase federal funding to about $4 billion next year. With so much at stake, efficiency is vital, and according to a growing body of research, one procedure that is relatively inexpensive and can drastically reduce the transmission of AIDS is male circumcision. Last fall, the first rigorous trial on the subject conducted in South Africa found that circumcised men are 60% less likely to contract HIV."

Putin May Break With US, EU And Welcome Hamas Visit. The New York Times (2/10, McLean, Myre, 1.19M) reports, "Pulling away from an agreed American and European policy, President Vladimir V. Putin of Russia said Thursday that he was considering inviting the newly victorious leaders of the radical Palestinian Islamic group Hamas to Moscow to discuss solutions to the conflict in the Middle East." Putin said, "Preserving our contacts with Hamas, we are willing in the near future to invite the authorities of Hamas to Moscow to carry out talks." And "Hamas responded favorably on Thursday. 'If we receive an official invitation to visit Russia, we will visit Russia,' said Ismail Haniya, a senior Hamas leader." One "senior State Department official said that the administration was surprised and irritated by Mr. Putin's remarks, but that Russia had assured the United States that there would not be any senior-level contacts with Hamas. Asked about Mr. Putin's statement, the official said, 'Frankly, it doesn't help.'" Although "Putin seemed to catch the Bush administration and some others by surprise, it was not the first time he had voiced such an opinion. In a news conference late last month, after the Palestinian elections, he said Russia had 'never regarded Hamas as a terrorist organization,' and did not rule out financial aid for a Hamas-led government."

The Washington Post (2/10, A15, Wilson, 744K) says Putin's invitation signaled "the first crack in diplomatic efforts to isolate the radical Islamic group as it prepares to form the next Palestinian cabinet." The Post adds, "U.S. officials were caught off guard by Putin's comments and sought clarification from Russian officials." U.S. assistant secretary of state for Near Eastern affairs David Welch "noted to reporters that Russia was a member of the quartet and had agreed to the group's stance toward Hamas." Welch said, "These are the principles that were clearly articulated now several times by the quartet and again with Russian participation and agreement. … We would expect that any meeting that occurs with any Palestinian representative, including Hamas, would emphasize these principles."

The Washington Times/Reuters (2/10, Croft) notes, "State Department spokesman Sean McCormack said in Washington that the Bush administration has 'contacted the Russian government about what their intentions are.'"

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McCormack said, "If there are any contacts between the Russian government and Hamas, we would expect that they would send that very clear message, both in public and private, that is contained in the Quartet statement."

Prosecution Seeks Death Penalty For Beslan Terrorist. The New York Times (2/10, Myers, 1.19M) reports, "A senior prosecutor on Thursday asked a court in southern Russia to sentence to death the only attacker known to have survived the siege of Middle School No. 1 in Beslan in September 2004. The request rekindles a contentious debate in Russia over capital punishment." Deputy prosecutor general Nikolai Shepel "said the gravity of the terrorist siege, which ended with the deaths of 331 hostages, warranted a penalty of death, despite a government moratorium on executions that has been in place since 1996." Shepel's "appeal came only two days after President Vladimir V. Putin reiterated his personal opposition to the death penalty but said he would move cautiously in seeking its final abolition by the Parliament -- years after Russia committed to doing so."

G-8 Meeting Overshadowed By Concerns About Russian Democracy, Energy. The Washington Times (2/10, Mainville, 90K) reports, "A meeting of the Group of Eight finance ministers beginning today threatens to be overshadowed by tensions over President Vladimir Putin's record on democracy and Russia's reliability as an energy supplier." Topics like "Energy security, education, efforts to fight infectious diseases and debt relief for poor countries are all on the agenda. But the tone has been set by Washington's public questioning of Russia's fitness to lead the group and Moscow's prickly response." And recently senior U.S. officials said "they believe Russia is using its control of Soviet-era pipelines to hold down purchase prices in Central Asia while skimming huge profits through corrupt middlemen."

Tax Snafu Halts Russian Vodka Production. The Wall Street Journal (2/10, Chazan, 2.11M) reports, "There was an eerie silence last week at ZAO Veda's vodka distillery, one of Russia's biggest. For the first time in its 10-year history, the plant stopped production. Bored workers kept busy by scrubbing down machinery with Ajax." Russia's "entire vodka industry ground to a halt, thanks to a Siberia-size bureaucratic snafu over a new tax on alcohol."

Rice Realignment Expands US Presence In India, China. The Washington Post (2/10, A17, Graham, Kessler, 744K) reports, "China and India have emerged as the big winners -- and Russia and Germany as the top losers -- in the first round of a broad restructuring of U.S. diplomatic posts ordered by Secretary of State Condoleezza Rice." The Post notes, "Of 61 positions slated for elimination in the initial batch, 10 will fall in Russia and seven in Germany. U.S. embassies in several other countries -- Belgium, Poland, Italy, Spain, Ukraine, Japan and Brazil -- will lose two or three posts. All told, 38 of the cuts will come in European nations." Meanwhile, "of 74 new U.S. diplomatic positions, China will get 15, including a dozen at the U.S. Embassy in Beijing. India ranks second with 12 new posts, seven of them in New Delhi. And Indonesia is third with five new slots in Jakarta. Other countries that are to receive at least three more U.S. diplomatic slots include Nigeria, Israel, Lebanon, Vietnam, Tajikistan, Bolivia, Ecuador, Venezuela and Nicaragua."

McCain Applauds Bush's Handling Of International Crises. Sen. John McCain said on The Late Show With David Letterman (2/9), "I would say that the biggest challenge we've faced in a long time…is this Iranian nuclear threat. If they acquire weapons -- nuclear weapons, they've said repeatedly they want to exterminate the state of Israel. They will destabilize the Middle East, and we've got a very, very serious challenge on our hands." Asked how the Administration was handling the negotiations with Iran as well as problems over energy with Russia and Venezuela, McCain said, "I think president Bush and Condi Rice are doing a very good job in handling these crises now. I really do."

US Keeping Response To Arab Cartoon Controversy "Low Key." NBC Nightly News (2/9, story 4, 1:50, Mitchell) reported the US "is accusing Iran and Syria of fanning the protests." Sean McCormack, State Department spokesman: "Things like burning down embassies don't happen by accident in Damascus." Mitchell: "State Department official Karen Hughes is in charge of rebutting anti-American propaganda. Hughes last fall:" Hughes: "We have to be more effective, rapid and nimble in responding to rumors and outright lies and misinformation." A State Department war room "is monitoring how Arab media, including blogs, are reporting the cartoon crisis." US officials "say they are deliberately keeping their response low-key to avoid further inflaming the Muslim world."

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Danish Prime Minister Defends Bush Administration Response. The New York Times (2/10, Vinocur, Bilefsky, 1.19M) reports Danish Prime Minister Anders Fogh Rasmussen tried to shield the Bush administration and some of Denmark's partners in NATO from accusations that they had been tardy and overcautious in coming to Denmark's defense in the crisis, which he attributed more to attempts by Iran and Syria to cause diversions in the Middle East than to a few satirical cartoons." He "declined to criticize the Bush administration about its cautious defense of an ally. President Bush referred to his solidarity with Denmark for the first time on Wednesday, after five days of rioting in the Middle East against Danish interests." Rasmussen said, "I have never doubted that Bush would stand up for Denmark. … He values faithfulness and loyalty. I was not surprised he decided to call me and express support."

Rasmussen Accuses Iran, Syria Of Fomenting Protests. The Washington Post (2/10, A12, Sullivan, 744K) reports Rasmussen "said Thursday that the governments of Iran and Syria had intentionally inflamed Muslim protests against a Danish newspaper's publication of cartoons depicting the prophet Muhammad to distract attention from their own diplomatic crises." His statement "echoed" recent remarks made by Secretary of State Condoleezza Rice. He also said he "was pleased with Bush's recent statements condemning violence against Danish diplomatic missions." The Administration's position "on the situation have shifted. Initially, the administration condemned the cartoons as offensive, but now Bush and other officials are stressing their opposition to the widespread violence. Rasmussen said the administration's initial stance on the cartoons 'caused some public debate in Denmark, whether it could be considered a support or not. … We do realize that this is also a balance for the United States.'"

Annan Dismisses Accusation Syria, Iran Behind Protests. The Los Angeles Times (2/10, Farley, 958K) reports, "When asked about claims this week by U.S. Secretary of State Condoleezza Rice that Syria and Iran had inflamed the controversy and incited protests," Secretary-General Kofi Annan "told reporters that he had 'no evidence to that effect.'"

Annan Chastises Newspapers For Continuing To Print Muslim Cartoons. The Los Angeles Times (2/10, Farley, 958K) reports Annan also "chastised newspapers Thursday that continue to publish cartoons depicting the prophet Muhammad in the face of the religious controversy the drawings have ignited." Annan said, "This does not mean that I am against freedom of speech, or freedom of the press. … But as I have indicated in the past, freedom of speech is not a license. It does entail exercising responsibility and judgment."

Bush To Proceed With Trip To Pakistan Despite Protests. AFP (2/10) reports, "The White House…insisted US President George W. Bush would go ahead with his planned trip to Pakistan in March despite widespread outrage over the cartoons there. Protesters burned his effigy Wednesday."

First Lady Urges Muslims To Stop Violence. NBC Nightly News (2/9, story 4, 1:50, Mitchell) reported that at the Vatican, Laura Bush "discussed the crisis with the Pope." Laura Bush: "I hope that every government, including the governments of the Middle East, will speak out and call for an end to the violence."

ABC World News Tonight (2/9, story 6, :20, Vargas) reported, "First Lady Laura Bush is in Italy with her daughter, Barbara, on their way to the Olympics, which start tomorrow. They stopped off at the Vatican today for an audience with Pope Benedict XVI. After exchanging gifts, Mrs. Bush said the Pope expressed concern about violence in the Muslim world over the cartoons of the prophet Muhammad and called for peace and tolerance."

Fox News' Special Report (2/9, Henneberg) reported the First Lady "says it is not necessary for Muslims to get their point across they that were offended." After meeting with Pope Benedict Fist Lady Laura Bush said, "I know that Muslims are offended with these cartoons. And I understand their offense. On the other hand, I don't think violence is the answer. I think it's that everyone around the world needs to speak out and say, let's stop the violence." Reuters (2/10, Holland) and the AP (2/10, Winfield) also report on the First Lady's visit with the Pope.

Hamas Leader Calls For Calm. AFP (2/10) reports, "The radical Palestinian group Hamas joined voices for calm in the international furore sparked by cartoons of the Prophet Mohammed." Hamas leader Khaled Meshaal said Hamas "is prepared to play a role in calming the situation between the Islamic world and Western countries on condition that these countries commit themselves to putting an end to attacks against the feelings of Muslims." Meshaal's conciliatory tone came a day after he warned the Western

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press was 'playing with fire' by publishing the cartoons which have led to riots around the world."

Hezbollah Leader Encourages Muslims To Protest. CNN's The Situation Room (2/9) reported that in Beirut, "Hezbollah's leader urges Muslims to protest more. Let Condoleezza Rice shut up, he says. As well as Bush and all world tyrants. We're a nation that will not forgive or stay silent. A no-compromise stand from a militant Muslim leader with an influential voice setting his own conditions."

Italians Consider Additional Security Precautions In Response To Muslim Protests. The Washington Post (2/10, A1, Williams, 744K) in a front page story on Italian security preparations for the Winter Olympics reports in response to the Muslim protests "Interior Minister Giuseppe Pisanu, Italy's top official for civilian police and the intelligence corps, called an emergency meeting of security officials Monday regarding possible new threats. Pisanu said the riots and protests in the Middle East, Central Asia and Far East countries have been 'carried out coldly with political ends. We mustn't forget that Islamic extremism is an essentially political movement that cynically uses religious values.'" But he also said that "homegrown violence is the most likely problem for the Olympics. 'For the Olympics I fear the rising aggressiveness of anti-globalization protesters, anarchists and all the domestic subversion movements that are pursuing the Olympic spotlight.'" Recently "Italian authorities have deported about 30 Islamic militants they said were inciting violence. … The Italians rely on wiretapping to keep tabs on terrorist suspects and their supporters. Officials say they have 2,000 people under close watch."

Kinsley Says Administration Not Defending Free Speech. Michael Kinsley in his column in the Washington Post (2/10, A19, 744K) writes, "The shameful American position on all this is boilerplate endorsement of free expression combined with denunciation of the cartoons as an 'unacceptable' insult. When three protesters died this week in a confrontation at a U.S. military base in Afghanistan, an American spokesman there said that Afghans 'should judge us on what we're doing here, not on what some cartoonist is doing somewhere else.' But the limits of free expression cannot be set by the sensitivities of people who don't believe in it. How can President Bush continue to ask young Americans to sacrifice their lives for freedom in the Muslim world, if he won't even defend freedom verbally when forces from that world are suppressing it in our own?"

Krauthammer Criticizes "Moderates" For Not Standing Up To Protestors. Charles Krauthammer in his column in the Washington Post (2/10, A19, 744K) writes, "The mob has turned this into a test case for freedom of speech in the West. The German, French and Italian newspapers that republished these cartoons did so not to inform but to defy -- to declare that they will not be intimidated by the mob." The protests "are instruments of intimidation, reminders of van Gogh's fate. The Islamic 'moderates' are the mob's agents and interpreters, warning us not to do this again. And the Western 'moderates' are their terrified collaborators who say: Don't worry, we won't. It's those Danes. We're clean. Spare us. Please."

Muslim Outrage Compared To Racial Sensitivities In US. David Ignatius in his column in the Washington Post (2/10, A19, 744K) compares the Muslim outrage with racial sensitivities in the US, in particular when "you think about American reactions to a word we hesitate even to write for fear of giving offense, calling it instead the 'n-word.'" In response to the Muslim protests, Ignatius thinks "of the American civil rights movement. In the space of my lifetime, America has gone from a country of brutal racism and outright segregation to a place where black folks and white folks pretty much get along." Ignatius concludes, "I want to believe that Muslims and the West are in that kind of transition. We're in the rage phase -- the part of the story where black folks are torching cities, white governors are sending in the National Guard and the problems seem insoluble. But if people keep their heads, we will eventually pass from this crazy moment into a different one where a genuine reconciliation is possible."

International Commentary. In a sampling of opinion from international newspapers on the Muslim protests, USA Today (2/10, 2.31M) reports that in Afghanistan Arman-e Melli writes, "The Muslim and Mojahed people of Afghanistan have the right to demonstrate and make the Western press realize that freedom of speech does not mean insulting the sacred beliefs of other religions. Looking at developments in the country, it is clear that the enemies of our people have exploited the religious beliefs of our people. They have changed the peaceful process of demonstrations into a violent one." Meanwhile, Politiken, in Copenhagen writes, "The acts of violence arise from the internal tensions in Muslim societies; they show the desperation of people who see the world's cultural and economic development passing them by. The escalation of the crisis does not therefore have

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anything to do with Danish newspaper cartoons, and there is nothing that Denmark could have done to halt this development."

Iranians Said To Blame UK For "Much Of What Goes Wrong." The New York Times (2/10, Slackman, 1.19M) reports, "The idea that Britain is behind much of what goes wrong in Iran is not just a conspiracy theory but also a prism through which to view events. Indeed, America -- the Great Satan itself -- is often portrayed as merely a hapless, muscle-bound child manipulated by smarter, craftier, more deceitful forces in London." And although "many Iranians are adept at poking fun at their Brit-fixation, the prevailing view also serves to complicate already tense relations between London and Tehran over such matters as the Iranian nuclear program. One Western diplomat…said Iranians often raised the specter of 'historical inequities' with Britain in diplomatic meetings." For example, while Western nations were pushing to refer Iran to "the United Nations Security Council for its nuclear activities, Iranian officials accused the British of some recent bombings and deadly plane crashes in Iran."

US Basketball Players In Iran Keep Low Profile. The Washington Post (2/10, A1, Vick, 744K) reports, "About 20 Americans play hoops for a living in Iran. They nurture pro careers that might not exist in the States, navigate a culture that offers precious few diversions in public -- though a lot more behind closed doors -- and, as much as possible, avoid politics. Iran is at the center of international concern for its nuclear ambitions and has remained notorious to the United States since 1979, when student radicals took over the U.S. Embassy in a siege that lasted 444 days. But for offshore ballplayers working for a paycheck, Iran is just another stop on an international circuit that quietly counterbalances the NBA's burgeoning import of players from Croatia, Congo and China, to name just the C's."

Iran Seen As Vulnerable To Ethnic Divisions If Attacked. Edward Luttwak, a senior fellow at the Center for Strategic and International Studies, in an op-ed in the Los Angeles Times (2/10, 958K) writes that the theory that attacking Iran will lead to increased public support for its leaders is flawed because Iran "is not a nation-state but rather a multinational empire dominated by Persians, much as the Soviet Union was once dominated by Russians. Except that in this case, the Persians only account for just over half the population of Iran (making them a smaller proportion than the Russians were even in the final days of the Soviet Union)."

Rift Increasing Between US, Venezuela. The Washington Post (2/10, A14, Constable, 744K) reports, "After an especially ugly week in the hostile relationship between the Bush administration and the government of Venezuelan President Hugo Chavez, Venezuela's envoy here tried yesterday to salvage some civility, saying his country sought 'mature and rational relations' with Washington and would remain a 'reliable' source of energy to all foreign customers, including the United States." In response, State Department spokesman Sean McCormack "responded in kind," saying "Washington was 'open to a good relationship with Venezuela' and hoped for a 'positive one.'" He "said that the two countries were cooperating in the fight against drugs and that the administration was prepared to work with governments across the political spectrum, including those with 'left-of-center' views." Yet "the exchange did little to dispel a growing sense among officials and analysts that the current political breach between Caracas and Washington…is becoming potentially irreparable."

"Populist Leaders" Seek To Create Counterweight To US Power. The Christian Science Monitor (2/10, LaFranchi, 61K) reports, "Some might call it the axle of anti-American populism. With linchpins in Tehran on one end and Caracas on the other, a new brand of international populism is rising by fanning flames of division between Western powers and the 'powerless' of the developing world." Leaders like Iran's President Mahmoud Ahmadinejad and Venezuela's President Hugo Chávez "are winning points at home by striking a nationalist and anti-American pose. Their method: Use the international stage to rail against what they see as a disconnect between the values espoused by the world's sole superpower and its actions." But in addition to "all their heated rhetoric, the two leaders have a vision for the world, one that seeks to end the 'sole superpower' reality. Beyond simply opposing America's robust exercise of power -- a sentiment increasingly found in the developing world, especially -- their aim is to join political forces to provide a significant counterweight in the international arena." And according to Thomas Carothers, an expert on democracy and rule of law at Carnegie Endowment for International Peace, "Russia's Vladimir Putin also belongs on the list," of those leaders.

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Preval Expected To Win Haitian Election. The New York Times (2/10, Thompson, 1.19M) reports, "Unofficial electoral results that had been carried in by mules, trucks and helicopters from polling centers across the country appeared Thursday to give an early lead to René Préval, a former president considered a champion of the poor masses and a thorn in the side of the elite." Early returns indicate "that Mr. Préval had won 61 percent of the 15 percent of the votes tabulated from the election Tuesday, including 67 percent of the votes counted so far in the department that includes Port-au-Prince." Although "several of his opponents quietly began to move toward conceding, others cautioned that it was still too early to declare a winner, and the political hostilities that have kept this country near the brink of anarchy lingered in the air." A top "objective of Mr. Préval's government, one of his advisers said, would be to attract more investment from the United States. In the last decade, the adviser said, United States investment in Haiti was less than $10 million, the amount invested in a single year in the neighboring Dominican Republic."

Meanwhile, the Christian Science Monitor (2/10, Harman, 61K) reports, "International election monitoring groups have said…that, despite minor irregularities, there was no credible evidence of widespread fraud. 'Having been on the ground in Haiti observing the preparations and the elections, I would say it was a reasonably fair election,' Knowlson Gift, Trinidad's Foreign Minister, told The Associated Press."

Polish Prime Minister Proposes Energy Security Treaty. Polish Prime Minister Kazimierz Marcinkiewicz in an op-ed in the Financial Times (2/10) writes that in response to recent energy disruptions "I want to propose to our partners from the EU and the Nato alliance a treaty on energy security." It "could follow formulas contained in the 1949 Washington Treaty, an agreement that allowed for effective transatlantic co-operation, or provisions of the modified Treaty of Brussels that established the Western European Union in 1948." Marcinkiewicz concludes, "Our president is raising this issue today in Washington and I will shortly present an initiative that expands on this idea. … I am convinced that the latest – unprecedented – curtailment of natural gas supplies to the EU, in one of the harshest winters of recent years, created a sufficient predicament to encourage bold and firm action. An energy security treaty would give us ways and means to provide stability and security that we all wish for."

Friedman Says Bush Energy Policy Endangering World. Thomas Friedman in his column in the New York Times (2/10, 1.19M) writes that "if the Arab world starts to go nuclear, then you will see the crumbling of the whole global nuclear nonproliferation regime." And "with so many nuclear powers, particularly in its primary oil-producing region," the world will "only be a more dangerous and unstable place, compared with the post-cold-war world." For the US, "its leadership task has shifted. If the Bush team continues to let Dick Cheney set its oil policy -- one that will keep America dependent on crude oil -- the post-cold-war democracy movement that was unleashed by the fall of the Berlin Wall will be either aborted, diluted or reversed. If regimes like those in Iran, Venezuela, Syria, Burma, Sudan and Nigeria have the benefit of 10 years of $60-a-barrel oil, whatever democratic tide President Bush thinks he is unleashing will be stymied. The worst regimes in the world will have the most power to support the most regressive political and religious trends." Friedman states, "That's why we need an urgent national effort, starting with a gasoline tax, to move the U.S. economy onto a path of more fuel-efficient cars and renewable energy. If we do it, everyone will follow."

Chinese Monopolies Increasingly Violate US Antitrust Laws. The Wall Street Journal (2/10, Wilke, Chen, 2.11M) reports, "As China becomes ever more dominant in manufacturing, its ability to dictate the prices of industrial and consumer products is steadily rising. As a result, Chinese manufacturers are increasingly running afoul of Western antitrust law in products from vitamin C to a mineral used in steel production. These legal struggles could become another point of tension in the U.S.-China relationship, which has been tested by disagreements over matters from textile tariffs to the trade deficit." The Journal notes, "Monopolies remain active in parts of China's economy, even though price-fixing was formally outlawed in 1998. A sweeping new antimonopoly law is being drafted in Beijing. Its adoption has been slowed by squabbling among Chinese government agencies forced to give up the ability to set prices. It isn't clear if the new law would bar price collusion in the vitamin market."

Yahoo Under Fire For Aiding China In Crackdown On Dissenters. ABC World News Tonight (2/9, story 5, Vargas) reported, "The Internet giant Yahoo! was facing fierce

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criticism from human rights advocates tonight. Like its rivals Microsoft and Google, Yahoo! was hungry to do business in China, the world's second largest Internet market. But that means playing by China's rules. For the second time, now, Yahoo! was accused of helping China prosecute Chinese Internet users for exercising free speech." ABC (Tapper) added, "Chinese journalist Shi Tao anonymously e-mailed to pro-democracy Websites examples of press censorship, including government instructions on how to cover the anniversary of the Tiananmen Square massacre. According to court papers, Yahoo! helped the government trace that e-mail to Shi Tao's computer. He was sentenced to ten years in prison." Another dissident, Li Zhi, "is in prison for exposing Chinese government corruption on a message board. Yahoo! is accused of helping the government identify him, too." Chinese dissidents "in the US expressed outrage." Harry Wu, Chinese dissident: "It's a dirty business. It costs people life. The money is built on their people suffering and blood." Tapper: "Next week, a congressional subcommittee will demand answers." Rep. Christopher Smith: "Profits don't trump human rights. And, unfortunately, they seem to be doing that."

Loss Of Glaciers Said To Be Caused By Global Warming. NBC Nightly News (2/9, story 9, 2:00, Williams) reported, "Just before we left the United States for Italy we learned that January was the warmest January ever in all the recorded history of the US and suddenly now, in this region, global warming is a hot issue as well." NBC (Maceda) added, "They are like the jewels of the Alps, the glaciers, thousands of years old. These majestic rivers of ice span the European continent and have been the pillars of its ski industry. Providing year-round skiing in resorts like Val Senales, in the Italian alps. Until now. Global warming, climatologists say, is melting these glaciers. And not slowly. The glaciers, some warn, will all but disappear in 50 years. Already, melting permafrost is threatening glacier ski stations and lifts leaving resort official in a critical race against the elements. And it's a way of life. 80% of those Italian villagers depend on the Senales glacier for freshwater, grazing land for livestock and tourism. So over the summer, something revolutionary was rolled out. Giant strips of white fleece, the size of football fields. An Austrian and Swiss experiment, the polyethylene foil acts like a giant picnic cooler, keeping the sun out and the cold in. And it works. Wrapped glaciers lost just a fraction of their mass. Some even grew. But wrapping a whole glacier? Hardly. At that whopping $70,000 a sheet, only the most vulnerable parts of ski runs can be covered."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"Munitz Steps Down As Head Of Getty Trust."
"The Sky Is Falling In Alaska."
"Anaheim Strikes Out Against Angels."
"Bush Gives New Details About Old Report Of L.A. Terror Plot."
"Warning Urged For ADHD Drugs."
"Libby Says 'Superiors' Authorized Leaks."
"Disney Loses A Voice, Pulls Rabbit Out Of NBC's Hat."

USA Today:

"Warnings Advised On ADHD Drugs."
"Ambitious USA Ready To 'Surprise The World'."
"Mining Fines Among Smallest."

New York Times:

"White House Knew Of Levee's Failure On Night Of Storm."
"Warning Urged On Stimulants Like Ritalin."
"Official Resigns Public TV Post."
"Candidate Of Haiti's Poor Leads In Early Tally With 61% Of Vote."
"Seized With Heavy Hand At Border, For Paperwork Errors."

Washington Post:

"Ex-CIA Official Faults Use Of Data On Iraq."
"For Americans, It Can Pay To Play In Iran's Court."
"Patriot Act Clears Way For Senate Vote."
"Security Concerns Up."
"Warning Urged For ADHD Drugs."
"Teen Boys Abducted, Forced To Rob Md. Banks, Police Say."

Washington Times:

"GOP Reaches Patriot Act Deal."
"No Joke: Maryland Democrats Will Honor Steele."
"Gretzky Taped Trying To Aid Wife."
"Counterintelligence Posts Vacant."
"Tensions Over Russia Set Tone At G-8 Meeting."
"Putin Invites Hamas To Talks."
"Federal Directive Targets Risky Mortgage Practices."

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Detroit Free Press:
"Traffic Tangles Are Around The Corner."
"Toyota Rolls Out Beefier Mega-Truck."
"Budge Plan Protects Schools, Social Services."

Atlanta Journal-Constitution:
"Money Race On For NASCAR Hall."
"Bill On Illegals Set To Go."
"Women Of Winter."
"FCC Changes Course, Back 'A La Carte' TV."

Dallas Morning News:
"As Games Begin, Security Is A Key Concern."
"Lake Highlands Residents To Use Cameras In Subdivision."
"No Regrets For Miers."
"Is Regional Authority A Wright Fix?"
"FDA Advisers Push Warnings For ADHD Drugs."

Houston Chronicle:
"Bush Details A Thwarted Terror Plot."
"Games Of Passion."
"Witness Defends His Plea Bargain."

Story Lineup From Last Night's Network News:
ABC: Cancer Deaths Down; Bush-LA Terror Plot; LA Terror-Politics; Iraq-Kidnapped Journalist; Yahoo-Chinese Censorship; Laura Bush-Pope; Iraq-US Wounded; ADHD Drug Warnings; Cable-A La Carte Pricing; G-Rated Movies-Sexism; Barbie-Ken Romance.
CBS: Bush: Terrorism & Domestic Spying; Cheney Libby Leak; Carroll Hostage Video; Gretzky Gambling Investigation; AIG Settlement; ADHD Medication Warning; Cancer Deaths Drop; Confiscated Materials.
NBC: Bush-Terrorism & Domestic Spying; TSA Secure Flight; Cheney Libby Leak; Muslim Cartoon Protest; Carroll Hostage Video; ADHD Medication Warning; Cancer Deaths Drop; Paying For E-Mail; Global Warming.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH — Meets with the Minister of Transportation, Roads, and Bridges of the Government of Southern Sudan, Oval Office, The White House; makes remarks to House Republican Conference, Hyatt Regency Chesapeake Bay, Cambridge, Maryland.

VICE PRESIDENT CHENEY — No public schedule.

LAURA BUSH — Speaks to troops, Aviano Air Force Base, Aviano, Italy; visits with U.S. Olympic athletes, Palace Sport, Torino, Italy; participates in opening ceremony of the 2006 Winter Olympics. Torino, Italy.

US Senate: 9:30 a.m. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ Full Committee. Hearing on the roles of DHS and FEMA leadership concerning Hurricane Katrina. Former FEMA Director Michael Brown; former FEMA Chief of Staff Patgrick Rhode; Assistant DHS Secretary Robert Stephan; DHS Direcvtor for Operations Coordination Matthew Broderick. Location: Room 342, Dirksen.

US House: No scheduled events.

Other: POLISH PRESIDENT LECH KACZYNSKI _ Highlights: 10:30 a.m. Signs agreements on technological cooperation regarding training of Polish F-16 pilots. Blair House. 11:20 a.m. Meets with the American Jewish Committee. 12:05 p.m. Attends ceremony at home of a Polish-American who is donating her library to the Uprising Museum in Warsaw. 1 p.m. Lunch with Zbigniew Brzezinski. 3 p.m. Departs for Chicago.

CONSERVATIVES _ Meeting of the Conservative Political Action Conference, sponsored by the NRA, Americans for Tax Reform, American Conservative Union and the Club for Growth. Highlights: 8:30 a.m. Texas Gov. Rick Perry. 11 a.m. Sen. Mitch McConnell. 12:30 p.m. Corporate responsibility session, with Paul Driessen of the Center for the Defense of Free Enterprise; Peter Flaherty of the National Legal and Policy Center; Ed Hudgins of the Objectivst Center; and Steve Milloy of the Free Enterprise Action Fund. 5 p.m. RNC Chairman Ken Mehlman. 5:20 p.m. Senate Majority Leader Sen. Bill Frist. 7:30 p.m. Banquet with UN Ambassador John Bolton. Location: Omni Shoreham Hotel, 2500 Calvert St. NW.

BANKRUPTCY _ 9 a.m. - 3 p.m. American University Washington College of Law sponsors a conference on the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. Location: Room 603, 4801 Massachusetts Ave. NW.

CLARK _ 8:30 a.m. The Council on Foreign Relations holds an on-the-record meeting with retired Gen. Wesley Clark. Location: 1779 Massachusetts Ave. NW.

PENTAGON-IRAQ _ 9 a.m. Marine Col. Stephen W. Davis, commander of Regimental Combat Team -2, will brief live from Iraq to provide an update on ongoing security operations in the Multinational Force-West area of operations. Location: DOD Briefing Studio, Pentagon 2E579.

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BUDGET _ 9:30 a.m. The Brookings Institution holds two panel discussions on the FY07 budget -- domestic and international implications, and political and business perspectives. Location: Falk Auditorium, 1775 Massachusetts Ave. NW.

BUDGET-SECURITY _ 9:30 a.m. The Security Policy Working Group holds a briefing on the FY07 national security budget request and Quadrennial Defense Review, with Steve Kosiak of the Center for Strategic and Budgetary Assessments, William Hartung of the World Policy Institute, others. Location: National Press Club.

CYBER SECURITY _ 12 p.m. Homeland Security Undersecretary George Foresman, others, hold a news conference to discuss the completion of Cyber Storm, the first federal government sponsored full scale cyber security exercise. Location: Building 21, DHS, 3801 Nebraska Ave. NW.

PALESTINIAN ELECTIONS _ 12 p.m. The Heritage Foundation holds a discussion on the Palestinian elections and Mideast democracy, with Ariel Cohen and Kim Holmes of the foundation, Shibley Telhami of the University of Maryland, and Tamara Cofman Wittes of Brookings. Location: Lehrman Auditorium, Heritage Foundation, 214 Massachusetts Ave. NE.

PENTAGON-ACQUSITION _ 4 p.m. Under Secretary of Defense for Acquisition, Technology and Logistics Kenneth Krieg will conduct a news briefing. Location: DOD Briefing Room, Pentagon 2E579.

PATRIOT ACT _ 4:30 p.m. Senate Judiciary Chairman Arlen Specter, R-Penn., and U.S. Senator Larry Craig, R-Idaho, among others, are set to discuss progress on reauthorization of the USA PATRIOT Act. A press conference will be held. Location: Senate Radio and T.V. Gallery.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, FEBRUARY 10, 2006 7:45 AM EST

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TERRORISM NEWS:

Cheney Says Domestic Spying Program Should Be A Political Issue. The Washington Post (2/10, A7, VandeHei) reports Vice President Cheney "suggested last night that the debate over spying on overseas communications to or from terrorism suspects should be a political issue in this year's congressional elections." Speaking at the annual CPAC convention, Cheney "said the debate over the National Security Agency surveillance program 'has clarified where all stand' on an issue that has drawn criticism from congressional Democrats and some Republicans." Cheney said, "And with an important election coming up, people need to know just how we view the most critical questions of national security, and how we propose to defend the nation that all of us, Republicans and Democrats, love and are privileged to serve." The Post adds Cheney's "comments reflected the emerging GOP plan to make national security and terrorism the centerpiece of House and Senate elections," but they were the "closest a top White House official has come to calling for the NSA program to be a political matter."

The Washington Times (2/10, Pierce) reports in its "Inside Politics" column that Cheney, "who has issued repeated Shermanesque statements that he will not run for president in 2008, said last night that he may be rethinking his position. Almost." After a "crowd of hundreds gathered at the Conservative Political Action Conference in Northwest gave him a rousing standing ovation before his speech last night, the vice president was moved." Cheney said, "Getting a reception like that almost makes me want to run for office again." As the crowd "again erupted in applause, he cut them off -- 'Almost,' he said loudly, drawing laughter."

McCain Supports Increasing Congressional Oversight Of NSA Monitoring Program. Sen. John McCain on The Late Show With David Letterman (2/9) was asked about the NSA terrorist monitoring debate and whether "any president" can "order wiretaps, and that's just fine?" McCain replied, "Apparently that was the position of the Attorney General but the good news is, seriously, that there's been, in the last 24, 48 hours, there's been a effort to engage and involve the Senate, and the House, and have briefings and get this issue shared with the right members of Congress. I remind you that right after September 11, there was a leak to the media that we were intercepting al Qaeda phone calls. And they shut down. That was a very serious breach of intelligence. And none of us want that to happen again, but Congress has to be briefed, at least key members of Congress, the key members of Congress of which I am not one."

Fox Poll Finds NSA Legislation Has Broad Support. Fox News' Special Report (2/9, Angle) reported, "The push for legislation" to validate the NSA terrorist monitoring program "has lots of support from Republicans and Democrats. The program itself remains popular with the public. In the latest Fox News/Opinion Dynamics poll people were asked if the President should have the power to authorize electronic surveillance without warrants. 54% said yes. Only 40% said no."

Support For NSA Program Rises In AP Poll. The AP (2/10, Shrader) reports, "Bush's campaign to convince Americans that the government's eavesdropping program is essential to the war on terrorism has made an impact: Last month people disapproved, 56 percent to 42 percent. Now it's basically 50-50." Bush "has been particularly successful at making his case to core supporters, including Republicans, white evangelicals and suburban men. Support in each category grew more than 10 percentage points in the last month." The AP adds "public support for the program has grown with the White House's monthlong campaign of speeches and TV appearances to make its case that the monitoring is necessary. According to the AP-Ipsos poll, some 48 percent of Americans now support the administration's program. That's up from 42 percent last month. Half now say the administration should have to get a warrant to conduct eavesdropping, down from 56 percent one month ago. Support for the program grew by 9 percentage points among men, but it dropped 8 points -- to 30 percent -- in the Northeast. … Republican support for the program jumped 14 points to 82 percent. Independent support is up 17 points, to 53 percent. White evangelical support grew by 11 points, to 71 percent."

Former Iowa FBI Agent Warns Senate Probe Could Hurt NSA Program. KIMT-TV Mason City, IA (2/9) reports on its Web site from a story broadcast Thursday, "Former FBI agent Ralph Decker thinks wiretapping is not only legal, it's necessary. He says at least 50 attacks have been stopped by the FBI since September 11th. He thinks the Senate's investigation into the matter could be hurting the spying program." Decker: "I just hope the Senate wakes up because I know the trail of blood would lead right back to the

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Senate if something does happen and would they claim it? Probably not, knowing them." KIMT adds, "But supporters like Ralph will face an uphill battle since opponents of the wiretapping say spying on American citizens without warrants is not just illegal, it's a violation of their constitutional rights."

More Commentary On NSA Surveillance. Daniel Henninger writes in his Wall Street Journal column (2/10) reports, "Let's start with the one thing we know for sure about the Bush administration's program to listen to al Qaeda's phone calls into and out of the United States: It's dead. After all the publicity of the past two weeks, does anyone think that the boys working on plans for Boston Harbor, the Golden Gate Bridge or Chicago's Loop are still chatting by phone? If the purpose of the public exposure was to pull the plug on the pre-emptive surveillance program, mission accomplished. Be safe, Times Square."

E.J. Dionne writes in the Washington Post (2/10, A19, 744K), "This week the Bush administration was finally forced out of its own pre-Sept. 11 worldview -- and, yes, you read that right. It happened because some brave Republicans stared the president down and said: Stop. Of course, it is the administration that is always accusing its opponents of pre-Sept. 11 thinking." But "for the past five years, President Bush, Vice President Cheney and Karl Rove have been willing to put the national unity required to fight terrorism in second place behind their goals of aggrandizing presidential power and winning elections. Can you get more pre-Sept. 11 than that?"

The Wall Street Journal (2/10, 2.11M) editorializes, "We'd like to thank the Washington Post for publishing a story yesterday that so quickly proved our editorial point of the same day about the folly of putting judges in control of national security decisions. That's what we call service. The front-page story reported that on rare occasion the Bush Administration has used information from the NSA's warrantless foreign-linked wiretaps to seek domestic wiretapping authority from the Foreign Intelligence Surveillance Court. This was said to have upset chief FISA judge Colleen Kollar-Kotelly, and the tenor of the story is that this is one more example of how the warrantless wiretaps are an abuse of power. But the better question is, Who elected Ms. Kollar-Kotelly? The story's real news is that Judge Kollar-Kotelly, and her predecessor Judge Royce Lamberth, took it upon themselves to erect a new 'wall' concerning how intelligence is to be used to protect America. … In any event, why is an unelected judge such as Ms. Kollar-Kotelly making these decisions?"

The Washington Post (2/10, A18, 744K) writes in an editorial that the Administration "would like the debate over its warrantless wiretapping program to divide neatly along partisan, and potentially electorally useful, lines. But some Republican legislators aren't with the program. Their responsible pressure has nudged the administration from its customary highhandedness. The resulting congressional briefings are a good first step, but a framework for real oversight of the surveillance program remains necessary. … Lawmakers don't seem to be deterred by the administration's coolness to a legislative solution -- and they shouldn't be."

More Commentary. The Sacramento Bee (2/10) editorializes, "Attorney General Alberto Gonzales made it clearer than ever this week that the Bush administration is determined not only to continue warrantless electronic eavesdropping, but also to stonewall Congress and the public by saying 'trust us' over and over - and not much else. … Testifying Monday before the Senate Judiciary Committee, Gonzales fell back on the argument that the president is responsible for protecting the country, and that the Constitution and Congress, in authorizing the president after 9/11 to use force against terrorist groups and states, give him the authority to do it as he sees fit. Even the most innocuous questions from senators elicited mostly platitudes, obfuscation and refusals to answer. Gonzales even said Congress is a full partner in combating terrorism. … 'In the arena of war,' he said, 'it is not true that the president works ... to the exclusion of Congress. Quite the contrary; our framers intended that, in a time of war, both branches of government have a role to play.' … Oh? Presumably that means Congress should be grateful for any scrap of information thrown its way. Key members of Congress - eight in all - have been briefed 'fully,' according to administration officials. But some of those briefed have said the information provided is sketchy and that security rules bar them from spelling out their objections. … Closed hearings could do much to reassure Congress, and indirectly the public, that the administration is not exceeding its mandate while wrapping itself in the flag of national security. If it does have all the authority it needs, then why isn't it willing to make its case to the branch of government charged with making the laws, declaring war and providing the funds to pay for it?"

In a column in the Sacramento Bee (2/10), Cal Thomas writes, "Democrats appeared not to accept Gonzales' testimony that the surveillance is being done legally, preferring to make political points rather than capture and defeat the enemy. … The danger in tinkering with intelligence gathering is that the tinkerers sometimes go too far. In its effort to curtail domestic eavesdropping and foreign spying 30 years ago, a Democratic Congress used the Church Committee findings on illegal domestic surveillance in a way that some analysts believe subsequently curtailed our effectiveness to obtain information vital to the nation's security." Thomas adds, "In his defense of the president's order to monitor limited communications between foreign terrorist suspects and people in the United States, Gonzales listed a number of presidents, Democratic and Republican, dating back to the 19th century, who had used far more invasive and widespread tactics to gather intelligence they

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believed crucial to defending the nation. … Should the United States be attacked again, the next congressional hearings (assuming Congress survives the attack) will focus on why more wasn't done to protect us. More is now being done and public opinion seems to be fine with it for now, complaints from liberal Democrats (and a few liberal Republicans) notwithstanding."

Goss Says Leaks Of Classified Information Compromise Security. Under the headline "Loose Lips Sink Spies, Porter Goss, director of the Central Intelligence Agency, writes in an op-ed in the New York Times (2/10, 1.19M), "At the Central Intelligence Agency, we are more than holding our own in the global war on terrorism, but we are at risk of losing a key battle: the battle to protect our classified information. Judge Laurence Silberman, a chairman of President Bush's commission on weapons of mass destruction, said he was 'stunned' by the damage done to our critical intelligence assets by leaked information." The commission "reported last March that in monetary terms, unauthorized disclosures have cost America hundreds of millions of dollars; in security terms, of course, the cost has been much higher. Part of the problem is that the term 'whistleblower' has been misappropriated. The sharp distinction between a whistleblower and someone who breaks the law by willfully compromising classified information has been muddied." Goss adds that "those who choose to bypass the law and go straight to the press are not noble, honorable or patriotic. Nor are they whistleblowers. Instead they are committing a criminal act that potentially places American lives at risk. It is unconscionable to compromise national security information and then seek protection as a whistleblower to forestall punishment."

US Turns Over Three Detainees To Morocco In Wake Of Mueller Visit. Reuters (2/10) reports, "The United States has handed three suspected Islamic militants held at its Guantanamo Bay prison over to Morocco, Moroccan state media reported on Thursday. The three Moroccan men were being detained in Casablanca…for further questioning by an investigating judge, the official news agency MAP reported." Reuters notes, "The extradition was announced two days after U.S. Federal Bureau of Investigation head Robert Mueller held talks with King Mohammed on security cooperation between Rabat and Washington. Mueller, who toured the North Africa region to cement the U.S. anti-terror drive, also met Morocco's top security chiefs. 'We knew very well that Morocco, Algeria, Tunisia and Libya are working together to fight terrorism,' Thursday's edition of the Moroccan daily al Maghribia quoted Mueller as saying. 'So we must follow up in building our friendly relations with them and create mechanisms to exchange information quickly to prevent new terrorism attacks,' he said."

PATRIOT ACT:

Senators Reach Deal On Patriot Act. The Los Angeles Times (2/10, Gaouette, 958K) reports, "Senate Republicans who had been blocking a long-term extension of the Patriot Act announced Thursday that an agreement reached with the White House could allow reauthorization of the anti-terrorism law. " At an afternoon news conference, Sen. John E. Sununu "said a bipartisan group of lawmakers had worked out changes in three areas where the legislators thought 'we could do better to protect civil liberties while providing law enforcement the tools it needs.'" White House spokesman Scott McClellan "hailed the agreement, saying that the administration was 'pleased that this important legislation is moving forward.'"

USA Today (2/10, Diamond, 2.31M) says "the compromise allows recipients of 'Section 215' subpoenas seeking business or library records related to a terrorism investigation to challenge in court a requirement that they not tell anyone." It also "scraps a provision that required recipients of "national security letters," which are issued without going before a judge, to provide the FBI with the name of any lawyer they consulted about it. A third element of the deal says traditional libraries may not be subject to FBI requests for information on research done by patrons."

The AP (2/10, Espo) reports, "While there was no immediate reaction from House Republicans, Sen. Larry Craig, R-Idaho, one of the Senate negotiators, said he had been in close touch with the chairman of the House Judiciary Committee. Rep. James Sensenbrenner, R-Wis." Reaction from the Democrats "was divided. Sen. Dick Durbin of Illinois, second-ranking in the Democratic leadership, appeared at the GOP news conference. He said the compromise included 'significant progress' toward protecting basic liberties and that he planned to support the compromise." Sen. Harry Reid "said in a statement that the agreement among Republicans 'appears to be a step in the right direction.'" But Sen. Russell Feingold "threatened a filibuster."

The New York Times (2/10, Stolberg, 1.19M) reports the deal may "possibly clear the way for passage of the legislation, which has been bottled up in a dispute over civil liberties," while the Washington Post (2/10, A1, Babington, 744K) runs a story headlined "Patriot Act Compromise Clears Way For Senate Vote." The Washington Times (2/10, Hurt, 90K), however, says "the agreement involving White House officials and top congressional leaders doesn't guarantee approval because most Democrats are still on the record opposing the measure."

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Bloomberg (2/10, Bliss) reports, "The measure would still have to pass the House. House Judiciary Committee Chairman James Sensenbrenner won't comment until he's reviewed details of the accord, said his spokesman, Jeff Lungren."

Reuters (2/10, Cowan) reports, "One change to the law accepted by Senate Republicans and the White House would allow individuals to challenge gag orders when they have been subpoenaed to produce sensitive information on library, medical, education or gun-related records. … Another change would clarify that traditional libraries would not be subjected to special subpoenas, which are not issued by judges, to gain records."

The Manchester (NH) Union Leader (2/10, Distaso) reports, "Sen. John Sununu was pleased with what he called important improvements in the anti-terrorism USA Patriot Act announced yesterday as a compromise between a key group of senators and the White House. … 'I think it's a good package and a step in the right direction and allows us to maintain a bipartisan consensus,' Sununu told the New Hampshire Union Leader in a telephone interview from Washington." The Leader adds, "Sununu announced the deal with the White House on Capitol Hill with Senate Judiciary Committee Chairman Arlen Specter and three other senators who had held out for changes they felt would protect the legal rights and attorney-client privacy privilege of individuals and businesses under investigation by law enforcement authorities. … Sununu and the other senators said they hope the agreement will clear the way for final passage of the Patriot Act, which has been stalled since December. Congress has extended the existing provisions twice, most recently until March 10."

Judge Allows E-Mail Monitoring Under Patriot Act. CNET News (2/10, McCullagh) reports, "As part of a grand jury investigation that's still secret, the Justice Department asked a federal magistrate judge to approve monitoring of an unnamed person's e-mail correspondents." CNET continues, "The request had a twist: Instead of asking to eavesdrop on the contents of the e-mail messages, which would require some evidence of wrongdoing, prosecutors instead requested the identities of the correspondents. Also included in the request was header information like date and time and Internet address--but not subject lines. … The federal magistrate judge balked and asked the Justice Department to submit an additional brief to demonstrate that such a request would be legal." CNET adds, "Instead, prosecutors asked (US District Judge Thomas) Hogan to step in. He reviewed the portion of federal law dealing with 'pen register' and 'trap and trace' devices--terms originating in the world of telephone wiretapping--and concluded it 'unambiguously' authorizes the e-mail surveillance request. … Though the language may be clumsy, Hogan said, the Patriot Act's amendments authorize that type of easily obtainable surveillance of e-mail. All that's required, he said, is that prosecutors claim the surveillance could conceivably be 'relevant' to an investigation."

HOMELAND RESPONSE:

Bush Reveals New Details About 2002 Al Qaeda Plot Against Los Angeles Skyscraper. President Bush yesterday revealed the details of a 2002 al Qaeda plot to crash a jet into the Library Tower in Los Angeles, the tallest building west of the Mississippi. The general outlines of the plot had been publicly available previously, but the President disclosed newly-declassified information about the personal involvement of Osama bin Laden in the plot. The New York Times (2/10, Bumiller, Johnston, 1.19M) reports Bush and his counterterrorism adviser, Frances Fragos Townsend, "said that four extremists were recruited from Southeast Asia to carry out the plan, that their leader received training in shoe bombs and that all four had traveled to an undisclosed place after the Sept. 11 attacks to meet with Osama bin Laden and pledge their loyalty to Al Qaeda." Khalid Sheikh Mohammed "trained the leader of the group in building a shoe bomb, similar to the device recovered from Richard Reid, who had tried to set off a bomb in his shoe on an American Airlines flight from Paris to Miami in December 2001." Reuters (2/10, Zakaria) says, "The plot was disrupted with help from two countries in Southeast Asia and two countries in South Asia, Townsend said." On ABC World News Tonight (2/9, story 2, 2:40, Thomas), Bush was shown saying, "Rather than use Arab hijackers as he had on September the 11th, Khalid Sheikh Mohammed sought out young men from Southeast Asia whom he believed would not arouse as much suspicion."

Much of the media coverage looks at the story from a political standpoint, with some suggesting the timing of the disclosure was intended to defuse the furor over the NSA surveillance program or to boost the Republican Party. Some print reports, in fact, carry quotes from anonymous "intelligence" and "law enforcement officials" who downplay the significance of the Los Angeles threat. For example, the Washington Post (2/10, A4, Baker, Eggen, 744K) reports "several US intelligence officials played down the relative importance of the alleged plot and attributed the timing of Bush's speech to politics. The officials, who spoke on the condition of anonymity because they did not want to publicly criticize the White House, said there is deep disagreement within the intelligence community over the seriousness of the Library Tower scheme and whether it was ever much more than talk."

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The Los Angeles Times (2/10, Wallsten, Meyer, 958K) reports the details disclosed by Bush "did little to counter skepticism from Democrats and some law enforcement officials who have questioned whether the reported scheme had ever been put into operation before it was thwarted. 'It didn't go,' said one US official familiar with the operational aspects of the war on terrorism. 'It didn't happen.'" The official "said he believed the Library Tower plot was one of many Al Qaeda operations that had not gone much past the conceptual stage. The official spoke on the condition of anonymity, saying that those familiar with the plot feared political retaliation for providing a different characterization of the plan than that of the president."

Meanwhile, NBC Nightly News (2/9, lead story, 2:15, Williams) reported, "The White House says that it was just a coincidence that at this time when the President is under fire for a program of domestic eavesdropping and trying to renew the Patriot Act, he just happened to choose today as the day to talk about a planned terrorist incident in the US that was thwarted and thus never happened." NBC (O'Donnell) added, "The White House had talked generally about this plot before. But today spelled out what al Qaeda's Khalid Sheik Mohammed and this terror suspect Hambali, picked a cell of four operatives, avoiding any Arab recruits." The CBS Evening News (2/9, lead story, 6:35, Axelrod) also reported "today's speech…dovetails with a new White House effort to gain support for its warrantless wiretapping, reversing its refusal to brief Congress on the wiretaps."

ABC World News Tonight (2/9, story 3, 1:05, Gibson) reported, "Democrats in Washington immediately began asking -- why is the President talking about this now?" ABC (Stephanopoulos) added, "White House officials say the President wanted to emphasize this is a global problem that requires a global response. But Charlie, you know, there is a lot of politics at play here. Republicans hope this war on terror issue is going to be the key to have them keeping control of the House and the Senate in these 2006 mid-term elections. It worked for them in 2002 and 2004. Democrats know this is a serious threat. Yesterday, Senator Hillary Rodham Clinton gave a major speech where she warned Democrats can't let Republicans play the fear card. Today, Senator Dianne Feinstein said the President's speech is old news, available on the open record."

CNN's Lou Dobbs Tonight (2/9, Bash) reported, "The vivid new description is part of a Bush effort to justify controversial tactics in fighting terror." CNN's The Situation Room (2/9, Forsman) said, "It's a huge story and it's part of an overall message from the White House. … The overall message that for all that trouble since 9/11, the United States has been free of any major terrorist attack. And today, they were driving that home with details saying it hasn't been for want of trying."

Fox News' Special Report (2/9, Cameron) reported Sen. Diane Feinstein "seemed unconvinced of the importance or even existence of the West Coast plot." Feinstein, "I have never seen anything that indicated whether the second wave was bona fide or not. There has been rumors bandied about that it was, but I don't know candidly."

Participants in Fox News' Special Report's roundtable also looked at the politics of Bush's announcement. Morton Kondracke on Fox News' Special Report (2/9) said Bush's speech "was designed to in effect say the menace is there. We're dealing with it. We have dealt with it successfully. So trust me." Fred Barnes said, "It fits with his notion that the most important thing he can do as President is fight the war on terrorism. Also fits with the political interests of Republicans who would rather have terror be the issue than the big issue going into the 2006 mid-term election than say corruption or something like that." Mara Liasson remarked, "I think that this is the President trying to keep people focused on the number one issue for him." Meanwhile, Washington Post reporter Dana Milbank on MSNBC's Hardball (2/9), referring to the President's remarks on the terror threat, "It's something they didn't feel they needed to do before but now they want to do it to boost his ratings on the NSA surveillance program."

Knight Ridder (2/10, Hutcheson) says "the timing of his chilling disclosures…raised suspicion that his remarks were politically motivated. At the very moment that Bush was defending his aggressive approach to terrorism, two of his top advisers were trying to quell a revolt in Congress against his domestic eavesdropping program."

The Christian Science Monitor (2/10, Grier, 61K) reports, "Headlines about possibly illegal eavesdropping activity authorized by the president, plus more bombings in Iraq and revelations about the slow pace of Iraqi reconstruction, have put the Bush team on the defensive this week. In revealing details about an alleged Al Qaeda plot to fly an airliner into a Los Angeles skyscraper, plus insisting that terrorists are weakened and on the run, Bush may be attempting to counter bad news."

The Wall Street Journal (2/10, Solomon, McKinnon, Rogers, 2.11M) also says "Bush's announcement came as both Republican and Democratic lawmakers are seeking better oversight and regulation of intelligence gathering, after concerns were raised about the National Security Agency's domestic-surveillance activities."

The Chicago Tribune (2/10, Silva, 643K) reports the White House "seemed to underscore both successes in the war on terror and the threat that terrorists still pose. 'We are not yet safe,' said Bush, flanked by paintings of colonial-era Minutemen in a speech delivered in a flag-lined hall of the National Guard Memorial Building in Washington." The Tribune adds, "Karl Rove, the president's chief political adviser, has told top Republicans that the party's fortunes this

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year rest on assuring Americans that Republicans are tough on terrorism. And some Democrats have accused the administration of exploiting fear."

Other reports say there is no indication that the NSA intercepts played any role in the intelligence that unraveled the plot. The CBS Evening News (2/9, lead story, 6:35, Axelrod) said "the White House won't go anywhere near this question of whether the eavesdropping program had anything to do with the foiling of this West Coast bomb plot. Won't go anywhere near it. But checking across the government today, we couldn't find one single US official to say that it had." The Washington Times (2/10, Sammon, 90K), however, reports Townsend said that "the US used 'all instruments of national power' to foil the plot."

CBS' Bob Schieffer, meanwhile, suggested that the key information about the plot was obtained through torture. The CBS Evening News (2/9, Stewart) reported, "As detailed as the President got in his speech, US counterterrorism officials got even more explicit with us after he spoke. How serious was Osama bin Laden about a second strike? Officials confirm the terrorist chief had personally set aside $50,000 of his dwindling fortune to bankroll it. And one of the four men recruited to carry it out was already a professionally trained pilot which theoretically put the plot on a fast track." CBS added, "All the indications we have are that they got this information not from any wiretap but from what they called the rigorous questioning of some al Qaeda detainees." CBS anchor Bob Schieffer responded, "Torture." Stewart: "Call it what you will, sir." Schieffer: "But not in this country, someplace else." Stewart: "No sir, in undisclosed locations, as they say."

USA Today (2/10, Jackson, Benedetto, 2.31M) reports "Bush's revelation triggered a blast from Los Angeles Mayor Antonio Villaraigosa, who said he was surprised by Bush's announcement because the White House had not fully informed him in advance." White House spokesman Scott McClellan said, "My understanding was that we did reach out to officials in California and Los Angeles to let them know, I think it was yesterday." The AP (2/10, Riechmann) also reports Villaraigosa "complained he first learned of Bush's remarks while watching TV." He is quoted saying, "I'm amazed that the president would make this on national TV and not inform us of these details through the appropriate channels."

The New York Times (2/10, Broder, 1.19M) reports Villaraigosa "said that he had twice written to the White House to request a meeting with the president to discuss security threats to Los Angeles, but that he had received no response. 'I'm mayor of the second largest city in the country,' Mr. Villaraigosa said. 'I have tried to meet with the president at the White House on a number of occasions every time that I've gone to Washington, DC, to discuss specifically this issue of homeland security, and to no avail. Let's be clear about that.'" He also "said that the president's antiterrorism budget had shortchanged a number of potential targets, including Los Angeles."

Bias Against Counterintelligence Blamed For Vacancies In Top Positions. The Washington Times (2/10, Gertz, 90K) reports, "The most senior U.S. government counterintelligence official -- presidential appointee Michelle Van Cleave -- resigned last month after the office of the National Counterintelligence Executive" was incorporated into the DNI's office. "At the FBI, CIA and Pentagon, senior counterintelligence positions are held by acting officials," and the NSC "counterintelligence staff position has been downgraded. … Intelligence officials said the failure to fill the top posts is a sign of bias against counterspying by senior intelligence officials under DNI John Negroponte and at other agencies. It goes against the recommendations of a presidential commission that called improving efforts to counter foreign spying an urgent priority." The Times adds that "a senior U.S. intelligence official" said, "The administration has put out good words, but is showing by deed that counterintelligence is not a priority." However, DNI spokesman Carl Kropf declared, "The DNI is confident that counterintelligence operations are being very effectively conducted across the intelligence community." Kropf "added that the selection process is active and that 'we anticipate that these vacancies will be filled expeditiously.'"

TSA Reportedly Dropping Secure Flight Program. NBC Nightly News (2/9, story 2, 1:00, Williams) reported, "The folks who run airport security at the US have scrapped a program called Secure Flight that was supposed to check every domestic airline passenger's name against government watch lists. The reason it is being scrapped we're told after four years and $200 million, the TSA still hasn't figured out how the program would work. Civil libertarians strongly oppose Secure Flight, saying the program could grow into a massive domestic surveillance system all its own."

GAO Says Secure Flight "At Risk Of Failure." USA Today (2/10, Frank, 2.31M) reports the Government Accountability Office said yesterday that the "long-delayed kickoff of" the Transportation Security Administration's Secure Flight program "is 'at risk of failure' and faces an uncertain future." In a report, GAO "criticized post-9/11 efforts to implement the computerized program, which aims to check domestic airline passengers' names against terrorist watch lists and other databases. Transportation Security Administration chief Kip Hawley told a Capitol Hill hearing that his agency is doing its own internal review of the program." Meanwhile, "Senators expressed frustration that the TSA has spent nearly three years and $144 million trying to improve on

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the current system, which has been criticized for mistakenly singling out innocent travelers as suspected terrorists. The agency is seeking an additional $40 million next year for Secure Flight."

The New York Times (2/10, 1.19M) reports, "The newest version of the Transportation Security Administration's proposed system to check the names of airline passengers against terrorist watch lists could be vulnerable to hackers, the agency said on Thursday. The agency's chief, Kip Hawley, told a Senate committee that the long-delayed program, now called Secure Flight, will be delayed again. … At a hearing Thursday before the Senate Commerce Committee, Cathleen A. Berrick, an auditor with the Government Accountability Office, said in testimony that Secure Flight 'may not be adequately protected against unauthorized access and use or disruption.'"

TSA Seeks $10 Million To Combat Turnover. In its "Federal Diary" column, the Washington Post (2/10, B2, Barr, 744K) reports, "The Transportation Security Administration has been hit by troubling turnover in its screener workforce. One in five full-time security screeners has been leaving the agency, according to the administration's new budget. Half of the part-time screeners have also departed. TSA is seeking $10 million in fiscal 2007 to address what the budget calls 'a high rate of attrition.' … Requests for extra money to deal with staff turnover are unusual, but agencies often try to solve the problem with the help of their Cabinet secretary or the Office of Personnel Management before going to Congress."

TSA Auctions Items Seized From Airline Passengers On eBay. The CBS Evening News (2/9, story 6, 1:00, Schieffer) reported, "If you do a lot of flying, you probably have seen airport security agents taking away all those items that are not allowed on planes." CBS (Orr) added, "It looks like an airport security junkyard. Littered with some of 30 million knives, scissors and tools confiscated at check points since 9/11. And believe it or not, frequent flyers, most of this junk is head for eBay." Mary Beth Ingram "runs the program for Pennsylvania, making $15,000 a month selling the loot from airports in Philadelphia, New York and Boston."

Officials Initially Suspected VX In Senate False Alarm. The Washington Post (2/10, A8, Sheridan, 744K) reports, "The evacuation at the Russell Senate Office Building on Wednesday night marked the biggest nerve-agent scare yet at the Capitol complex, with officials initially fearing that a deadly chemical substance might have been released in the building, authorities said yesterday." US Capitol Police Chief Terrance Gainer "declined to identify the agent that appeared to be indicated by the sensor. But the FBI and other agencies that assisted in the emergency response said they were told it was the VX nerve agent."

DHS, White House Were Warned Of Levee Failure On Night Of Katrina. The New York Times (2/10, Lipton, 1.19M) reports, "In the aftermath of Hurricane Katrina, Bush administration officials said they had been caught by surprise when they were told on Tuesday, Aug. 30, that a levee had broken, allowing floodwaters to engulf New Orleans. But Congressional investigators have now learned that an eyewitness account of the flooding from a federal emergency official reached the Homeland Security Department's headquarters starting at 9:27 p.m. the day before, and the White House itself at midnight." In a "recently unearthed" e-mail to the chief of staff of Homeland Security Secretary Michael Chertoff, sent Monday night at 9:27, FEMA warned that conditions "are far more serious than media reports are currently reflecting. Finding extensive flooding and more stranded people than they had thought -- also a number of fires." Former FEMA Director Michael D. Brown "said in a telephone interview Thursday that he personally notified the White House of this news that night, though he declined to identify the official he spoke to." The Times adds, "Investigators now have the documentation to pinpoint some of the fundamental errors and oversights that combined to produce what is universally agreed to be a flawed government response to the worst natural disaster in modern American history."

The New York Times (2/10, Lipton, 1.19M) provides a more in depth look at some of the documents, which it says "pinpoint some of the fundamental errors and oversights that combined to produce what is universally agreed to be a flawed government response to the worst natural disaster in modern United States history." The documentation provided indicates failures at all levels of government. For example, "An official from the United States Department of Health and Human Services, which is charged with helping evacuate medical patients from disaster areas, asked a Louisiana state health official two days before Katrina landed if the state needed help moving patients out of harms way. The state official turned down the offer." Meanwhile, "Reports that there were major breaks in the levees started on Monday morning, the day Katrina hit. But it would be nearly 24 hours before officials in the Bush administration, including President Bush and Homeland Security Secretary Michael Chertoff, appeared to recognize the severity of what had happened."

Brown Says He Will Answer Questions About Communications During Katrina. The New York Times (2/10, Lipton, 1.19M) reports that though Brown "has declined to answer questions from Congress about his conversations during Hurricane Katrina with top Bush administration officials," he said Thursday "that his position had changed." Brown said, "I feel an obligation to answer any questions they put to me." He "will have that chance on Friday, when he is scheduled to testify to the Senate Homeland Security and

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Governmental Affairs Committee, which is nearing the end of a five-month inquiry on the hurricane. 'The public needs to know the entire picture of what was going on,' Mr. Brown said. … As of Thursday evening, Mr. Brown and his lawyer, Andrew W. Lester, said they had received no calls or letters from the White House urging Mr. Brown to remain silent. The testimony will make clear, Mr. Brown said, that senior administration officials, including President Bush, recognized the severity of the problem in New Orleans in the immediate aftermath of the storm."

The Washington Post (2/10, A7, Hsu, 744K) adds, "Brown could shed light on the White House's lack of awareness of events on the day of Katrina's landfall. Documents released by the Senate show that although the Homeland Security Operations Center reported at 6 p.m. Aug. 29 that no New Orleans levees had been breached, authorities received no fewer than 16 reports to the contrary before then."

Baker Touts Louisiana Recovery Plan. The day after the Washington Post ran an article titled, "The Big Easy? Now It's Limbo Land," Rep. Richard Baker, in an op-ed in USA Today (2/10, Baker, 2.31M) writes, "Louisiana's in limbo. Months after Hurricanes Katrina and Rita destroyed more than 200,000 homes and businesses, little progress has been made toward rebuilding. Nor will it if these properties languish in ruins for years." Baker continues, "Even individuals with resources to rebuild won't when their neighborhood remains decimated. The only answer: Restoring whole communities. To help, I have proposed the Louisiana Recovery Corp., which would purchase property from willing sellers, providing them financial stability to move forward and options to come home." Baker states, "Stronger levees, building codes and insurance requirements would ensure that government and Louisianans live up to their responsibilities and rebuild responsibly."

USA Today Says State, Local Plan Needed To Rebuild New Orleans. Meanwhile, USA Today (2/10, 2.31M) editorializes, "New Orleans and the surrounding area are devastated and need help. Americans want to provide it. But Congress is focused on a scheme that would serve neither the city nor the taxpayers well. Actually, it's less a plan than an exercise in thoughtless political spending — and further proof that Washington can't manage disaster relief." USA Today adds, "The Bush administration wisely opposes Baker's plan, but despite the passage of time, it hasn't proposed an alternative." USA Today states, "New Orleans needs a sound state and local rebuilding plan," rather than "an expensive federal bureaucracy."

SBA Seeks $1.1 Billion To Handle Disaster Loans. USA Today (2/10, Drinkard, 2.31M) reports, "The Small Business Administration, criticized for its slow pace in making disaster loans to victims of Hurricane Katrina, is asking Congress for an additional $1.1 billion in relief money. Though the agency has approved $4.1 billion in loans, most of them to owners of storm-damaged homes, it has paid out just $326 million of that amount." John Scofield, a spokesman for the House Appropriations Committee, said, "We've given them everything they've asked for. That should get them through it." However, "SBA spokesman Raul Cisneros defended the request, noting that Katrina is the most expensive disaster ever to hit the USA and that requests for additional money have been routine in previous disasters. 'We just don't know' how much such events will ultimately cost, he said."

US Seen As Having Lost Will To Rebuild Following Disasters. USA Today (2/10, Hampson, 2.31M) reports that following the Chicago fire of 1871, William Bross, an owner of the Chicago Tribune, had a message for Wall Street: The fire was not a disaster; it was an investment opportunity. … That was the attitude in Chicago in 1871. And in Galveston, Texas, after the hurricane of 1900; in San Francisco after the earthquake of 1906; at Pearl Harbor after the sneak attack in 1941." However, "In New York City, where terrorists destroyed the World Trade Center, and in New Orleans, where Katrina flooded most of the city, Americans are arguing over how, when and even whether to rebuild. The qualities we associate with recovery from disaster — urgency, unity, determination, imagination — have been eclipsed by indecision, delay and dissension." In a list of explanations for the change, USA Today adds, "New Orleans and Lower Manhattan were on the decline, not the rise." Meanwhile, "Rebuilding after natural disasters always has relied on private capital, not federal aid."

WAR NEWS:

Former CIA Officer Charges White House With "Cherry-Picking" Iraq Intelligence. The Washington Post (2/10, A1, Pincus, 744K) reports Paul Pillar, CIA national intelligence officer for the Near East and South Asia from 2000 to 2005, "has accused the Bush administration of 'cherry-picking' intelligence on Iraq to justify a decision it had already reached to go to war, and of ignoring warnings that the country could easily fall into violence and chaos" after the fall of Saddam Hussein. In an upcoming issue of Foreign Affairs, Pillar writes, "It has become clear that official intelligence was not relied on in making even the most significant national security decisions, that intelligence was misused publicly to justify decisions already made, that damaging ill will developed between [Bush] policymakers and intelligence officers, and that the intelligence community's own work was politicized." The Post calls it "one of the most severe indictments of White House actions by a former Bush official since Richard C. Clarke, a former National Security Council staff member, went public with his criticism of the

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administration's handling of the Sept. 11, 2001, attacks and its failure to deal with the terrorist threat beforehand."

United Iraqi Alliance Narrows List Of Premier Candidates To Two. USA Today (2/10, Jervis, 2.31M) reports the United Iraqi Alliance "has narrowed its field of prime minister candidates to two," Prime Minister Ibrahim al-Jaafari and Vice President Adel Abdul Mahdi. Al-Jaafari "has been criticized as being ineffective during the past nine months as prime minister, said Mahmoud Othman, a leading Kurdish lawmaker. Al-Jaafari was not as assertive as his tough-talking predecessor, Ayad Allawi." But he "has gained experience in office and has distanced himself from religious Shiite leaders, Othman said." Mahdi "has a stronger personality capable of bringing different sides to the bargaining table, Othman said. However, he is faulted for being too close to Iraq's religious clerics and viewed warily by some because he once lived in Iran."

Iraqi Infrastructure Remains In Abysmal State. The Christian Science Monitor (2/10, Prusher, Levinson, 61K) writes about Iraq's infrastructure woes, where "electricity -- along with water, sewage, and oil production -- has dropped below prewar levels." Before the US-led invasion, "Baghdad was receiving an average of at least 16 hours of power a day. Today, with insurgents targeting power plants and electrical lines on an almost daily basis, the city gets power just four hours each day on average." Iraq "was generating 4,500 megawatts before the US invasion. But by November of last year that generation capacity had dropped to 3,995 megawatts, well below the national demand of 7,000 megawatts." And according to Special Inspector General for Iraq Reconstruction Stuart Bowen, "Iraq's water supply, sewer system, and electrical grid were worse off than once thought."

Iraq Experiencing Internet Boom. On the flip side, the New York Times (2/10, Worth, 1.19M) writes about the burgeoning Internet in Iraq. Three years ago, "the Internet was virtually unknown in Iraq. Today, Baghdad has dozens of Internet cafes like ShreifiNet, which consists of three sparely decorated rooms with a total of 34 computers and a satellite dish on the roof. Most of the cafes also transmit wireless services to home Internet users in the surrounding area for a monthly fee; in parts of central Baghdad there are about 20 overlapping wireless networks. The universal hunger to get online has made computer and Web services one of the few bright spots in Iraq's stagnant economy."

Terrorists Release Video Of Kidnapped US Reporter. A new video of kidnapped Christian Science Monitor freelancer Jill Carroll was shown on Kuwaiti TV today. The CBS Evening News (2/9, story 3, 2:00, Dozier) reported, "The best news we have tonight is that at least as of this last Monday which is the date Carroll gives in her video, she was alive and well and asking that everything possible be done for her release." Some "70 American officials in the hostage-working group are working around the clock to try to figure out who has got her. And Iraqi forces are staging raids almost every night trying to track her down. Her family has said that they are grateful that so many people are working to free her." ABC World News Tonight (2/9, story 4, :25, Vargas) reported and NBC Nightly News (2/9, story 5, 1:00, Williams) reported the story in brief segments.

The New York Times/AP (2/10) reports, "The kidnapped American journalist Jill Carroll appeared in a video shown Thursday on a private Kuwaiti television channel, appealing for her supporters to do whatever was necessary to win her release and saying, 'There is a very short time.'"

The Los Angeles Times (2/10, Daragahi, 958K) describing Carroll as appearing "healthy and composed" said she "punctuated her 22-second message, which she said was recorded on Feb. 2, with a note of urgency. 'There is a very short time,' she said. 'Please do it fast. That's all.'" The video "suggested that Carroll has not fallen into the hands of the most brutal category of kidnappers in Iraq, who have previously beheaded western hostages for political ends." Yet "it remains unclear what the kidnappers still demand in return for Carroll's release."

The Washington Post (2/10, A14, Hernandez, 744K) reports Carroll said "that she had sent one letter in her own hand and was sending another 'to prove I am with the mujaheddin,' Arabic for holy warriors." The Post adds, "The content of the letters Carroll spoke of is unknown. In the broadcast, the newscaster said that one letter Carroll had written would be handed over to authorities. The station said it would not broadcast the letter's contents, according to the Associated Press."

Progress Made In Training Afghan Army. The Christian Science Monitor (2/10, Baldauf, 61K) reports, "Increasingly, coalition forces are turning over some of the training to Afghan sergeants like Reza. Fresh recruits learn the basics of how to take protective measures and launch counterattacks, skills that will help them hold their positions in a fight." The Afghan forces are not ready to act without support from international forces which "means that the international presence in Afghanistan will remain crucial for the foreseeable future." But "four years after the Taliban's ouster, there are growing expectations that the ANA will pick up more of the slack in defending the country and providing the sort of security that allows Afghans to trust in their own government and their future."

NATO Leaders Reiterate Commitment To Afghanistan After Protests Over Cartoons. Reuters (2/10, John, Dunham) reports, "NATO defense chiefs pledged on Thursday to expand alliance peacekeeping in Afghanistan

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despite attacks on their troops triggered by the storm over cartoons depicting the Prophet Mohammad." The NATO leaders "meeting in Italy agreed to check security measures in place for their 9,000-strong International Security Assistance Force (ISAF) mission in Afghanistan, but insisted its expansion to 16,000 troops this year would go ahead as planned."

Rumsfeld Favors NATO Lead On Afghan Security, But Says US To Lead Counterterror Mission. The Washington Times/AP (2/10, Burns) reports, "The United States favors NATO eventually taking full command of the international military effort to stabilize Afghanistan, but that will not include a separate American-led counterterrorism mission against al Qaeda, Defense Secretary Donald H. Rumsfeld said yesterday." Rumsfeld said he was "very comfortable" with NATO taking control of the security mission but "drew the line, however, at the counterterrorism mission, which is being performed mainly by U.S. special operations forces."

Violence Erupts In Pakistan, Afghanistan During Shiite Religious Holiday. The New York Times (2/10, Gall, Masood, 1.19M) reports, "Violence exploded in Pakistan and Afghanistan on Thursday during processions by Shiite Muslim worshipers observing the holy day of Ashura. A suicide bombing in northwestern Pakistan killed 23 people and wounded dozens more." And in "Afghanistan, fighting broke out between Shiite and Sunni Muslims during a procession of Shiite worshipers in Herat, the country's third-largest city. The fighting killed 6 people and wounded 120 others, said a senior military official." The Times notes, "Sectarian attacks, including suicide attacks on mosques, have occurred in Pakistan, but such a clash was unexpected in the traditionally tolerant Afghan city of Herat. The violence there was another blow in a country that has been struggling with increasing terrorist attacks, local insurgencies and angry demonstrations in recent days over the publication of satirical cartoons of the Prophet Muhammad."

The Washington Post (2/10, A12, Witte, 744K) reports, "Samina Ahmed, South Asia project director for the International Crisis Group, blamed the violence in Afghanistan and Pakistan on governments that have not done enough to curb Sunni groups that target their fellow Muslims. 'It's not just enough to take action against al Qaeda,' Ahmed said in a telephone interview from Pakistan. 'It's just as important to take the same kind of action against sectarian terrorists.'" Meanwhile, "President Hamid Karzai and religious leaders in Afghanistan appealed for calm, and a delegation of clerics was dispatched from Kabul on Thursday night to try to soothe tensions in Herat."

Holiday In Iraq Peaceful. The Washington Post (2/10, A12, Witte, 744K) also notes, "By contrast, not a single attack on Shiite worshipers marred the day in Iraq. Ashura was banned in Iraq during Saddam Hussein's reign. Since the observance was resumed in 2004, the holy day has been jolted by bombings that have killed hundreds." US military spokesman Maj. Gen. Rick Lynch "said the relative tranquility was 'a tribute to the Iraqi security forces.' He said Iraqi soldiers and police had imposed tight security throughout the country, particularly in Karbala, the focal point of the holy day. In a raid this week, Iraqi troops detained 19 suspects who were apparently planning to conduct suicide attacks on Ashura observances, Lynch said." The Los Angeles Times (2/10, Daragahi, Boudreaux, 958K) runs a similar report.

Wounded US Soldiers Face Long Path To Recovery. ABC World News Tonight (2/9, story 7, 3:10, Vargas) reported, "A greater percentage of US forces are surviving war injuries than at any other time in history. Which means many more people are living with the lasting effects of war. We have devoted a lot of time on this broadcast to their struggles and their triumphs." ABC (Reynolds) added, "It has not been, nor will it ever be, easy for Sam Ross or B.J. Jackson. Two years ago, we met them they were struggling and they struggle still. Do you feel as though you've adjusted?" Sam Ross: "I'm adjusting. I'm not adjusted." B.J. Jackson: "It's a long, frustrating road. And it's painful." Reynolds: "But outwardly, B.J., whose legs were blown off in Iraq, takes his recovery literally in stride." Today, Jackson is "something of a celebrity as the point man for a veterans' group." Ross "came close to losing his life twice. First, when a bomb exploded in his face in Iraq, taking his left leg and his sight. And then a second time last May when the enormity of his loss almost led to suicide." Alienated "from his family, unhappy with his care, and living alone in his trailer. Then, a man named John Gonsalves called. Gonsalves runs 'Homes for Our Troops,' building house free of charge for severely disabled vets." To Sam, "it's more than a log cabin. Though he cannot see it, he says it feels like home and a better future."

US Improves Veterinary Care For Bomb Sniffing Dogs In Iraq. The Los Angeles Times (2/10, Kraul, 958K) reports Lt. Col. Randall Thompson is one of only "six clinical veterinary surgeons in the U.S. military" and now he "works to save the lives of some of the military's most valued assets: bombsniffing dogs that have been severely wounded in combat. He arrived here in October to open Iraq's first urgent surgical care ward for canines." Prior to his "arrival, injured dogs were shipped to a U.S. base in Germany or to the United States for emergency medical treatment. At best, seriously wounded dogs were out of commission for

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weeks; at worst, they died during transport to a faraway veterinary facility." But their "talent for sniffing out hidden explosive devices has become crucial to the war effort, so the command changed policy."

CORPORATE SCANDALS:

AIG To Pay $1.6 Billion In Accounting Scandal.

The CBS Evening News (2/9, story 4, :45, Schieffer) reported, "New York State Attorney General accused the insurance giant AIG of doing some creative cooking of its books to mislead investors and the government. Today AIG agreed to pay over $1.6 billion, that's $1,640 million to settle the allegations, getting a share of that money will be investor policyholders and 45 states."

DOJ Warns AIG About Settlement Compliance. The Financial Times (2/10, Parker) reports, "American International Group, the world's biggest insurance company, broke the law after entering into transactions that wrongly boosted its reserves and hid underwriting losses, US prosecutors said on Thursday." The Times continues, "The Department of Justice said AIG 'violated federal criminal law' in connection with misleading financial statements issued by the company. … If AIG or any of its employees fail to abide by settlements announced on Thursday with federal authorities, the Justice department warned it could prosecute the company. AIG agreed to pay $1.64bn to federal and state authorities to resolve allegations of accounting abuses and other impropriety. It represents one of the largest settlements involving a public company."

The AP2 (2/10, Powell) reports, "The deal…also requires the New York-based firm to adopt changes in its business practices that will ensure proper accounting procedures in the future. … AIG said in a statement that the settlement was approved by its board 'in the best interest of the company.' … The pact announced Thursday settles a civil lawsuit filed last May by New York Attorney General Eliot Spitzer with backing from the New York State Insurance Department and the U.S. Justice Department. The Securities and Exchange Commission, which also worked with Spitzer on the investigation, filed and settled allegations of accounting fraud with the company simultaneously."

Reuters (2/10) reports, "The settlement… ends a long-running investigation of the company, and was widely anticipated. … It does not resolve pending cases against former AIG chief executive Maurice 'Hank' Greenberg and former chief financial officer Howard Smith, who were forced out last spring. Both have denied any wrongdoing."

The New York Times (2/10, Morgenson) reports, "Apologizing for deceptive business practices extending as far back as two decades ago, American International Group, the global insurance giant, reached a $1.64 billion settlement yesterday with federal and state securities and insurance regulators. … The company also agreed to changes that would soften its historically combative approach to business, a trademark of its ousted chief executive, Maurice R. Greenberg."

The Wall Street Journal (2/10, Mcdonald, Pleven) reports, "The $1.64 billion toll is the biggest paid to regulators by any financial-services company in U.S. history. Additionally, the company said it will take a $1.1 billion after-tax charge to boost its reserves by $1.69 billion following an internal review."

USA Today (2/10, Smith) reports, "New York Attorney General Eliot Spitzer, whose inquiry into insurance industry sales and commission practices led to Greenberg and a wide range of alleged abuses, called AIG 'a solid company that didn't need to cheat. It finds itself in this position solely because some senior managers thought it was acceptable to deceive the investing public and regulators.' … Mark Schonfeld, director of the Securities and Exchange Commission's Northeast Regional Office, which joined the state's investigation, said, 'We have sought to balance AIG's historical misconduct — which was substantial — with its new approach to compliance and cooperation with regulators and law enforcement.'"

Bloomberg (2/10) reports, "The SEC's investigation of AIG began in 2001 with a probe of policies that mobile-phone distributor Brightpoint Inc. allegedly used to manipulate earnings. The agency continued to look at income-smoothing insurance and reinsurance after AIG paid $10 million to settle the Brightpoint case. More than a dozen companies have been subpoenaed by state and federal regulators."

NYTimes Says "Honest Corporate Environment" Key Goal Of AIG Settlement. The New York Times (2/10, 1.19M) says in an editorial that after the "settlement yesterday between regulators and the insurance giant American International Group, a lot of attention focused on the dollars: $1.6 billion. It is an impressive figure. But the money should not obscure the higher goal of an honest corporate environment." The "difference between Enron and A.I.G. is that Enron was a house of cards, but A.I.G. was and still is, as New York's attorney general, Eliot Spitzer, put it, 'a solid company that didn't need to cheat.'"

Lay Attorney Questions Enron Witness's Plea Bargain.

The New York Times/Reuters (2/10) reports, "A lawyer for Jeffrey K. Skilling, a former chief executive of Enron, suggested Thursday that a crucial prosecution witness in the trial of Mr. Skilling and another former chief executive, Kenneth L. Lay, did not commit the crimes he admitted to under a plea deal with prosecutors. … The witness, Mark E. Koenig, Enron's former head of investor relations, is the first of several former Enron employees who are expected to

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testify against Mr. Skilling and Mr. Lay after striking deals with the government to avoid trials." Reuters continues, "Defense lawyers have said that many of the government's witnesses who reached deals were not guilty but buckled under pressure because they lacked the wherewithal to mount a defense at trial and feared they could face lengthy prison sentences if convicted. … Mr. Skilling's lawyer, Daniel Petrocelli, questioned Mr. Koenig about the plea deal, which could send him to prison for up to 10 years for aiding and abetting securities fraud, saying at one point: 'Don't you think this is pretty thin stuff?' … A visibly angry Mr. Koenig replied, 'I don't think it's thin, or else I wouldn't have pleaded guilty to it.'"

The Washington Post (2/10, D2, Johnson) reports, "Koenig…reminded jurors of previous testimony in which he described efforts by the company to meet or exceed Wall Street targets by two pennies in 2000, more than two weeks after the fiscal quarter closed. … 'Frankly, I was afraid these things would come back to me for years,' Koenig said of misleading statements he made to analysts about the health of one of Enron's units. He faces as much as 10 years in prison when he is sentenced."

The Wall Street Journal (2/10, Emshwiller, Mcwilliams) reports, "Mr. Ramsey asked whether Mr. Koenig had told a friend and former Enron colleague that he had done nothing wrong, or simply made a misstatement during a call with securities analysts. Mr. Koenig firmly denied that he made such comments. Mr. Ramsey hinted that he might call the friend to testify later in the case." The Journal notes, "The line of questioning begun yesterday by Mr. Ramsey is part of a broad defense of Enron's business practices being mounted by the legal teams for Messrs. Lay and Skilling. While Enron, in the more than four years since its December 2001 collapse, has become a synonym for corporate malfeasance, the Lay and Skilling defense teams are betting that they can convince the jury that Enron was a great company felled by an array of outside forces. Prosecutors counter that the two defendants led a years-long scheme to hide numerous problems at Enron, which finally collapsed when some of those problems became public."

USA Today (2/10, Farrell) reports, "The lawyer representing former Enron CEO Ken Lay finally got a chance to cross-examine the government's first witness Thursday, and whiffed. … Shortly after the lunch break at federal court here, attorney Mike Ramsey attacked the credibility of Mark Koenig. The former Enron investor relations chief has pleaded guilty and is cooperating with the prosecution of Lay and another former Enron CEO, Jeff Skilling, on charges of hiding the true state of Enron's financial health from investors in 2000 and 2001. … 'Isn't it true that after you pleaded guilty you told a very close friend and former co-worker that you were not guilty and committed no crime?' he asked. 'Haven't you admitted to Joanie Williamson, sir, that you were not guilty?' Koenig denied telling Williamson any such thing. Ramsey then threatened to have Williamson testify. 'So if she said that (on the stand), she'd be lying, perjuring herself?' Ramsey asked. 'That's right,' Koenig stated defiantly. … Ramsey dropped the subject and immediately began quizzing Koenig about several topics that have yet to be fully introduced through testimony. At each point, U.S. District Judge Sim Lake shut him down."

Bloomberg (2/10, Calkins) reports that Judge Lake "sustained prosecutors' objections to questions by Michael Ramsey, Lay's lead defense lawyer, about off-book partnerships former finance chief Andrew Fastow created to do Enron-related deals. Fastow has pleaded guilty to a fraud charge stemming from Enron's collapse. … Lake did allow Ramsey to cross-examine Mark Koenig, who ran Enron's investor communication unit, about whether Fastow's LJM partnerships caused concern among shareholders. Koenig is in his sixth day of testimony in the trial of former chairman Lay and former chief executive officer Skilling. … 'It was not something our competitors did,' Koenig said about the off-book partnerships. 'It was different, so we got questions about it.'"

The AP (2/10, Hays) reports that Koenig "acknowledged that founder Kenneth Lay had to jump back into nuts-and-bolts management of his company when he resumed the role of chief executive after Jeffrey Skilling resigned less than four months before Enron collapsed in December 2001. … 'He had to get more involved, yes,'… Koenig said in response to cross examination by… Ramsey in his sixth day on the witness stand. … 'He was involved before, but he took on a whole new duty,' Koenig said. Lay remained chairman of Enron throughout 2001, but he ceded the CEO position to Skilling in February that year. Skilling abruptly resigned six months later. … Lay's new duties included a hastily arranged conference call with Wall Street analysts on the day Enron announced Skilling's resignation in mid-August 2001, Koenig said. He said Enron was obligated to make executives available on the call to try to calm any market jitters sparked by the unexpected resignation." The AP notes, "Ramsey's questioning appeared to try to highlight what Lay claimed publicly when he was indicted in July 2004: Lay knew of no skullduggery, and was like a student cramming for an exam when his hand-picked successor as CEO quit."

Judge Declares Second Mistrial In Fraud Case Against Former Cendant Chairman. The New York Times (2/10, Stowe) reports, "For the second time, the fraud trial of Walter A. Forbes, the former chairman of the Cendant Corporation, ended in a mistrial after the jury announced on Thursday that it had failed to reach a unanimous verdict in its 27th day of deliberations." The Times continues, "The mistrial

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occurs as a similar accounting-fraud prosecution involving Enron is under way. In such complex cases, the jury can sift through hours of expert testimony about arcane financial procedures and the responsibilities of executives only to find itself unable to render a verdict." The Times adds, "Last July, another prosecution for accounting fraud ended in a mistrial in the case of five former executives with Enron Broadband Services when jurors found themselves deadlocked on most charges." Judge Alvin W. Thompson of Federal District Court in Hartford, CT, declared the mistrial after the jury reported further deliberations would be fruitless. The Times continues, "Mr. Forbes, who faced more than 20 years in prison if convicted, betrayed no emotion when the decision was announced but kept his eyes locked on the jury. Asked moments later if he had a statement, he replied, "None," and quickly left the courtroom, followed by his wife, Caryn, and other family members. … A spokesman for Christopher J. Christie, the United States attorney for New Jersey, said the government had not yet decided whether it would prosecute Mr. Forbes again."

The New York Times (2/10, Norris) reports, "Walter A. Forbes was paid more than $100 million as chairman and chief executive of the CUC Corporation. To hear him tell it, he did not do very much to earn the money. … Operations of the company, he testified at a trial where he faced charges of masterminding a fraud that cost investors billions, were left to others." The Times continues, "He admitted signing quarterly and annual financial statements that turned out to be fraudulent, but said he neither prepared nor read them. … 'We were a public company with thousands of employees, divisions all over the country and all over the world,' he testified. 'I don't think they would have expected me to be reading 10-Q's.' … It was a defense that worked at his first trial, when a jury convicted CUC's No. 2 official but was unable to reach a verdict on Mr. Forbes. And it has worked again. Yesterday, the jury in the second trial was dismissed after it, too, was unable to reach a verdict after 27 days of deliberations. … The jury foreman, Ken Premo, said afterward that he did not feel the accounting issues in the trial had been too complex and thought that Mr. Forbes was guilty. But, he added, 'I wouldn't say it was clear cut.' … If he had been convicted, Mr. Forbes would have faced more than 20 years in prison."

Judge OKs Bristol-Myers $185 Million Shareholder Suit Settlement. The AP (2/10, Agovino) reports, "Bristol-Myers Squibb Co. said Thursday that a judge gave preliminary approval for a proposed $185 million settlement to end a class action lawsuit that alleges the drugmaker artificially inflated its stock price by making false and misleading claims about an experimental heart drug." The AP continues, "U.S. District Judge Stanley Chesler entered preliminary approval of a settlement for the case pending in the U.S. District Court in New Jersey, relating to the drug known as Vanlev, the company said. Vanlev was never approved." The AP adds, "Under the proposed settlement, Bristol-Myers Squibb will pay $185 million to create a settlement fund to pay the claims of certain investors who purchased Bristol-Myers Squibb common stock during the period from Oct. 19, 1999 through March 20, 2002. … Last month, Bristol-Myers announced it had reached a settlement with plaintiff lawyers and had established a reserve to settle the case. At that time, Thomas Dubbs, a plaintiffs lawyer in the case, said he hoped the settlement would act as a deterrent to other companies hiding damaging information."

Traders Seek To Limit Commodity Market Watchdog's Policing Authority. The Wall Street Journal (2/10, Schroeder, 2.11M) reports the Commodity Futures Trading Commission's "reputation as a toothless regulator has been changing. Spurred by complaints that natural-gas prices have driven up the cost of fertilizer and farming, Congress is working on legislation to allow the CFTC to expand its regulation of energy trading in the commodity and over-the-counter market." Some Wall Street traders, "concerned by a spate of energy-manipulation cases brought by the CFTC, are fighting back. They are working to water down the policing authority of the CFTC, thereby stalling legislation to reauthorize the agency, which has operated without a charter since Sept. 30."

CRIMINAL LAW:

Libby Said "Superiors" Authorized Release Of Classified Information. Lewis "Scooter" Libby claimed he was authorized to release classified information by Bush Administration superiors, according to newly disclosed court documents. While some reports say attorneys for Vice President Cheney's ex-chief of staff are planning to defend Libby by claiming Cheney encouraged him to leak the classified information, the attorneys today denied this claim.

The National Journal (2/9, Waas) reports, "Vice President Dick Cheney's former chief of staff, I. Lewis (Scooter) Libby, testified to a federal grand jury that he had been 'authorized' by Cheney and other White House 'superiors' in the summer of 2003 to disclose classified information to journalists to defend the Bush administration's use of prewar intelligence in making the case to go to war with Iraq, according to attorneys familiar with the matter, and to court records." The Journal continues, "According to sources with firsthand knowledge, Cheney authorized Libby to release additional classified information, including details of the NIE, to defend the administration's use of prewar

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intelligence in making the case for war. … Libby specifically claimed that in one instance he had been authorized to divulge portions of a then-still highly classified National Intelligence Estimate regarding Saddam Hussein's purported efforts to develop nuclear weapons, according to correspondence recently filed in federal court by special prosecutor Patrick J. Fitzgerald." The Journal adds, "Beyond what was stated in the court paper, say people with firsthand knowledge of the matter, Libby also indicated what he will offer as a broad defense during his upcoming criminal trial: that Vice President Cheney and other senior Bush administration officials had earlier encouraged and authorized him to share classified information with journalists to build public support for going to war. Later, after the war began in 2003, Cheney authorized Libby to release additional classified information, including details of the NIE, to defend the administration's use of prewar intelligence in making the case for war. … Libby testified to the grand jury that he had been authorized to share parts of the NIE with journalists in the summer of 2003 as part of an effort to rebut charges then being made by former U.S. Ambassador Joseph Wilson that the Bush administration had misrepresented intelligence information to make a public case for war."

The CBS Evening News (2/9, story 2, 2:00, Schieffer) called it "an embarrassing development for the Administration." CBS (Borger) added Libby "testified that his quote, 'superiors' authorized him to leak classified information to reporters. It's a clear arrow pointing to the Vice President." NBC Nightly News (2/9, story 3, 2:00, Williams) reported Libby "reportedly told a grand jury he had permission to leak classified information to reporters to defend the administration's prewar record." NBC (Myers) added that a recent letter from special prosecutor Patrick Fitzgerald "showed that Libby told the grand jury that he disclosed the content of the national intelligence estimate to reporters in June and July 2003 and that he was authorized to disclose this information by his superiors. The letter does not specifically name the Vice President, but Cheney was Libby's boss."

The AP (2/9) reports, "In a Jan. 23 letter to Libby's lawyers, Fitzgerald said Libby also testified before the grand jury that he caused at least one other government official to discuss an intelligence estimate with reporters in July 2003. 'We also note that it is our understanding that Mr. Libby testified that he was authorized to disclose information about the [National Intelligence Estimate] to the press by his superiors,' Fitzgerald wrote." The New York Times (2/10, Lewis, 1.19M) reports the document shows that Libby "was actively engaged in the Bush administration's public relations effort to rebut complaints that there was little evidence to support the claim that Saddam Hussein possessed or sought weapons of mass destruction, which was used to justify the invasion of Iraq."

The Los Angeles Times (2/10, Schmitt, 958K) writes that the "revelation that leaks were authorized comes as the Bush administration has been quick to condemn others for failing to safeguard secrets since the Sept. 11 terrorist attacks. Cheney has been among the most aggressive in lashing out against what officials have described as unauthorized leaks that have gravely hurt the country." The Wall Street Journal (2/10, Squeo, McKinnon, 2.11M) notes that while Libby is "facing trial for lying to federal investigators and a grand jury," he "wasn't charged with leaking classified information." The Washington Post (2/10, A8, Leonnig) runs a similar story under the headline "Libby Testified He Was Told To Leak Data About Iraq."

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Allegations Seen As Damaging To Cheney. David Gergen, appearing on CNN's The Situation Room (2/9, Blitzer), said the allegations Libby was instructed by Cheney are "significant, if Libby testified that he was authorized by superiors, he was high up. He was the superior. And fingers are going to be pointing at the Vice President himself. We don't know whether he's saying the Vice President versus others. But it really does bring it smack in the middle of the White House now that there were people at the top level of the White House who were telling Mr. Libby to reveal highly classified information in order to rebut critics on the more in Iraq."

CNN legal analyst Jeffrey Toobin said on CNN's The Situation Room (2/9, Blitzer), "I think it's more of a political deal than a legal deal." Libby's "not charged with unauthorized disclosure of classified information, so this doesn't really help him directly with the charges against him. Politically, it raised a lot of unsettled questions. What right does the Vice President have to authorize anybody to release classified information?"

Former Deputy Independent Counsel Sol Wisenberg, appearing on MSNBC's Hardball (2/9), said, "It's not even relevant to the specific charges. The Vice President cannot give you permission to declassify information. The Vice President can't give you permission to violate the National Intelligence Identities act. And the Vice President can't give you permission to go into the grand jury and lie."

Libby Defense Said To Be Similar To North's. Gergen, appearing on CNN's The Situation Room (2/9, Blitzer), said, "Legally it does mean that Scooter Libby may be arguing as Oliver North did earlier, basically a lot of what he did was authorized by superiors. Therefore in the North case, legally he may be a lot closer to acquittal than having thought."

Abramoff Says He Met With Bush Many Times.

The New York Times (2/10, Shenon, 1.19M) reports, "The disgraced lobbyist Jack Abramoff told a magazine editor in recent days that he had met with President Bush many times and was invited to the president's Texas ranch for a gathering of campaign contributors in 2003." Washingtonian's Kim Eisler said he "had received the information in e-mail messages from Mr. Abramoff, a major Republican fund-raiser who pleaded guilty last month to conspiring to bribe public officials. The messages suggest an effort by Mr. Abramoff to cast doubt on Mr. Bush's insistence that he does not recall the two of them meeting and that whatever contact they might have had was fleeting and for the purposes of a handshake and a picture."

The Washington Post (2/10, VandeHei, 744K) quotes one of the e-mails from Abramoff to Eisler: "[Bush] has one of the best memories of any politicians I have ever met. The guys saw me in almost a dozen settings, and joked with me about a bunch of things, including details of my kids." Eisler "confirmed the contents of the e-mail and said he recently provided portions of it to the liberal Web log ThinkProgress because he thought he was dealing with a fellow reporter. The blog posted the contents of the Abramoff-Eisler communication." Reuters (2/9) reports that while Eisler "confirmed their accuracy," he "did not intend them to become public."

Reid Acknowledges "Routine Contacts" With Abramoff Partners. The Washington Post (2/10, A8, Solomon, Theimer, 744K) reports Senate Minority Leader Harry Reid wrote "at least four letters helpful to Indian tribes represented" by Abramoff, and Reid's staff "had frequent contact with the disgraced lobbyist's team about legislation." The activities, "detailed in previously unreported billing records and correspondence," took place "over three years as Reid…collected nearly $68,000 in political donations from Abramoff's firm, lobbying partners and clients." Reid's office "acknowledged having 'routine contacts' with Abramoff's lobbying partners."

McCain Defends Bush's Explanation For Abramoff Pictures. Sen. John McCain, on The Late Show With David Letterman (2/9), was asked about the Administration's explanation for Bush's appearance with Abramoff in pictures at fundraisers. He said, "It is plausible. Every fundraiser gets to have his picture taken. The President is right, he's probably had his picture taken with thousands of people. That's entirely plausible."

Editorial Blasts Removal Of Abramoff Prosecutor. The Buffalo News (2/10) editorializes, "Jack Abramoff prosecutor Noel Hillman may deserve the White House nomination he recently got for a federal judgeship in New Jersey, but the timing is suspicious and the probe into unethical and illegal activities in Washington will suffer." The News continues, "Hillman was chief of the Justice Department's Office of Public Integrity until the nomination caused him to step down. He was deeply involved in the federal probe of activities by super-lobbyist Abramoff and his colleagues, and sat in on the negotiations that led to plea deals in return for cooperation that could reveal which congressmen or agency officials took what in return for favors. Two years of experience are lost, just when the investigation zeros in on its most important targets. … Coincidence? Maybe, if you believe in such things. … Removing an aggressive prosecutor at this point will pass the sniff test only if the Justice Department finds an equally aggressive replacement - or the White House agrees to a special prosecutor. … The current investigation now is tainted, Hillman's experience already lost. … The present probe needs to gain momentum, not lose it - and that means a replacement prosecutor just as independent, aggressive and involved as Hillman, or more so. Otherwise, this nomination stinks."

New York Construction Executive Acquitted Of Paying Bribes To Union Officials.

The New York Times (2/10, Preston, 1.19M) reports, "The president of a New York construction company, who was accused of doing a 'corrupt dance' with greedy union bosses, was acquitted yesterday in New York federal court of paying bribes to union officials." DeFoe Corporation President John Amicucci "was found not guilty of two counts of illegal labor payments after a two-week trial in Federal District Court in Manhattan. … Prosecutors did not present wiretap or other evidence to back up the claims of the union officials that they had been handed

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cash by Mr. Amicucci, and in return allowed him to fill the most expensive union supervisory jobs on his crews with workers who were paid less than union rates and who were lax in enforcing the rules." The Times adds, "By the end of the trial, it appeared that the union officials had done their best to corrupt Mr. Amicucci, and not the other way around." During the trial, defense attorney Gerald Shargel "brought out, under cross-examination" that key prosecution witnesses, union officials Joseph Rizzuto Sr. and his son Joseph Rizzuto Jr., "only mentioned Mr. Amicucci for the first time to F.B.I. agents months after they began cooperating with the government."

Defense Yet To Decide On Ryan Testimony At Trial. The Chicago Tribune (2/10, O'Connor, 643K) reports, "Decision day is nearing for former Gov. George Ryan and his lawyers on whether he takes the stand at his corruption trial. On Thursday, outside the presence of the jury, Dan Webb, Ryan's lead lawyer, said he expects the defense case to wrap up by late next week unless Ryan or co-defendant Lawrence Warner testifies. … Webb has said that Ryan is likely to take the stand, but Thursday he indicated he hasn't made a final decision." The Tribune adds that in testimony for the defense Thursday, former high-ranking secretary of state official "defended a Joliet lease deal in 1995 as in the best interest of the state. Ryan is charged with steering the lease to Warner, who held a hidden ownership in a building…in Joliet and collected $387,500 in the 1990s." The AP (2/10, Robinson) also reports Webb said yesterday that the defense is yet to decide whether Ryan will testify.

At Campbell Trial, Water Executive Testifies About Paris Trip. WXIA-TV Atlanta (2/9, Carnes, King) reports on its Web site from a story broadcast Thursday, "Former Atlanta mayor Bill Campbell apologized to his wife Thursday" about his affair with TV anchor Marion Brooks and their trip to Paris. "Campbell's trip came after United Water won a $21 million contract to run the water system in the city of Atlanta. The company invited Campbell to visit its European headquarters." On Thursday at Campbell's corruption trial, "United Water executives testified that they spent $4,500 on Campbell's hotel suite, another $4,500 for a limousine. Witnesses told the jury that Campbell missed a scheduled tour of their waste water treatment plant, and during the four-day trip, spent 2½ hours talking business over lunch. … Campbell's lawyers questioned United Water's former president, David Sherman. 'Mayor Campbell never asked for a bribe, did he,' asked Campbell's attorney. Sherman answered, 'No.'"

Judge Rules Chicago Mob Boss Qualifies For Publicly-Funded Counsel. The Chicago Tribune (2/10, Bush, 643K) reports US District Judge James Zagel "ruled Thursday that reputed mob boss Joey 'the Clown' Lombardo qualifies for free counsel and appointed two attorneys to represent him," but "Zagel added that he will revisit the decision if prosecutors show Lombardo…is hiding assets and can afford to pay for his own defense. Zagel approved prosecutors' request to examine the finances of Lombardo's ex-wife and two children to determine if he has access to a 1982 trust he set up for them. … In the meantime, attorneys Rick Halprin and Susan Shatz will represent Lombardo, Zagel ruled." The AP (2/10, Robinson) adds, "Prosecutors said in court papers that 'the FBI has obtained information that after the completion of his parole status on June 15, 2002, the defendant traveled to France for approximately 10 days, arriving in Paris on July 11, 2002, and continuing on to Nice. The defendant flew back to Chicago from France on July 21, 2002,' prosecutors said. 'The government respectfully submits that these facts including a 10-day trip abroad are not consistent with the need for a court-appointed lawyer.'"

US Attorney Adds Drug, Armed Robbery Charges Against "Mafia Cop." NY1 (2/9) reports on its Web site, "The laundry list of accusations against the so-called 'mafia cops' is growing ever longer with new charges of armed robbery and drug use. Former detective Stephen Caracappa and his partner Louis Eppolito already stand accused of eight mob-related murders. Now, the Brooklyn U.S. Attorney's Office says Caracappa admitted using cocaine as an undercover narcotics officer. The person he allegedly told this to is expected to testify at this month's trial. Another witness will say the two held up delis for cash and that Eppolito asked him for money in order to bribe doctors into falsifying a heart condition."

Bank Robber Sentenced To Life For Shooting Chicago Police Officer. The Chicago Tribune (2/10, Higgins, 643K) reports, "A former tax preparer who shot a Chicago police officer in the head and held the gravely wounded officer hostage for more than two hours was sentenced Thursday to life in prison plus 132 years." Daniel Salley "was convicted in October of 15 felony charges, including two counts of attempted murder, after a jury rejected his claim that he was the victim of a government conspiracy. Detective Joseph Airhart is "unable to speak, walk or swallow food." The Tribune adds, "When it was his turn to speak, Salley repeated his claims that the government was punishing him for the success of his tax business and that an FBI agent had shot Airhart during the raid. … Airhart, who was assigned to the FBI's fugitive task force, had volunteered to be part of a team sent to arrest Salley after Salley robbed a Southwest Side bank twice in one week,

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taking more than $250,000." The Chicago Sun-Times (2/10, Thomas) adds that Airhart "was a member of an FBI task force trying to arrest Salley in a series of bank robberies. Salley refused to allow medical treatment for Airhart, keeping federal and local police at bay for more than two hours before he was taken into custody. The AP (2/10, Brummer) notes US Attorney Patrick Fitzgerald "said his office was 'very gratified' by the sentence. … Salley, who acted as his own attorney, was convicted of illegally detaining, assaulting and attempting to murder Airhart, as well as assault and attempted murder of an FBI agent. He also was convicted on several firearms charges and two bank robbery charges."

Two Former New Jersey Officials Plead Guilty To Extortion In FBI Probe. The AP (2/10) reports, "Two former officials in Monmouth County pleaded guilty Thursday to extortion charges, part of the Federal Bureau of Investigation's Operation Big Rig investigation." Former Neptune Township Deputy Mayor Richard Iadanza "admitted that he accepted $3,000 from a contractor in exchange for arranging work in Neptune, according to a statement from U.S. Attorney Christopher Christie," and Monmouth County Division of Transportation Operations Manager Joseph McCurnin "admitted he helped facilitate a $1,500 bribe from a demolition contractor to a Neptune Township official." The AP notes, "The two were among 11 then-sitting or former Monmouth County public officials arrested in the federal sting operation in February 2005. They were charged with extorting cash bribes and free work from a contractor who was cooperating with the FBI."

FCC Probing Radio Stations Over Payola Allegations. ABC News (2/9, Ross, Esposito, Walter) reports, "Hundreds of radio stations are under investigation by the Federal Communications Commission in the payola scandal rocking the music industry, ABC has learned. … 'The FCC staff is working with voluminous evidence right now. It's a complicated and wide-ranging investigation.' FCC Commissioner Jonathan Adelstein told ABC News in an exclusive interview. … 'This is potentially the most wide spread and flagrant violation of FCC rules in the history of American broadcasting,' Adelstein said. 'We've never seen evidence of such a systematic betrayal of the responsibility of broadcasters.'" ABC continues, "Payola -- or pay-for-play -- is a practice seemingly as old as the recording industry itself. In the past the money went to rogue disc jockeys in exchange for increasing the air play for individual songs and driving those songs to the top of the charts. In the modern version, the money goes to the bottom line of the radio stations and the conglomerates that own them, according to New York Attorney General Eliot Spitzer. … 'We have people in suits coming in with documents rather than cash payments under the table to a DJ,' Spitzer told ABC News Chief Investigative Correspondent Brian Ross." ABC adds, "Several of the largest radio conglomerates in America - the corporate owners of FM radio stations across the nation -- are within the scope of the FCC probe, which was triggered by the two year long pay-for-play investigation by Spitzer and was first reported on by ABC News. … A vigorous investigation by the FCC brings federal regulatory clout, and the specter of criminal prosecution by the Justice Department. … In addition to criminal prosecution any broadcaster in clear violation could face severe sanctions, and in the most blatant cases, the loss of their broadcast licenses, officials involved in the investigation have told ABC."

British Arrest Englishman Suspected Of Killing Wife, Daughter In Boston. The Los Angeles Times (2/10, Muskal) reports that Neil Entwistle, "An Englishman wanted in the killing of his wife and baby daughter in their suburban home near Boston," has been "arrested this morning in" a London subway stations and is being "held pending an extradition hearing, perhaps as soon as Friday." Should he be "extradited, he will face murder and weapons charges in connection with the deaths of his wife, Rachel, 27, and their 9-month-old daughter, Lillian."

The Washington Post (2/10, A9, Fahrenthold) adds, "The charges against Neil Entwistle added a new twist to a case whose lurid elements -- failed Internet schemes, a mother and daughter shot side by side, and a police search that missed two bodies buried under bedclothes -- have generated intense interest on both sides of the Atlantic." Entwistle "spent much of the past three weeks at his parents' home in Worksop, England, dogged by British and U.S. media."

US Charges Taiwanese Citizen Of Role In China Jet, Missile Deal. Reuters (2/10, Christie, Eckert) reports, "A Taiwanese citizen was charged in the United States on Thursday with being a covert agent for Beijing, and accused together with a Frenchman of trying to illegally export an F-16 jet engine, Blackhawk helicopter engines and cruise missiles to China." Reuters continues, "U.S. prosecutors in Miami said a federal grand jury had returned a nine-count indictment against Ko-Suen Moo, of Taipei, and Maurice Serge Voros, of Paris. … The indictment alleged that the defendants violated the Arms Export Control Act by trying to export controlled items without a license to China, including the engines, the cruise missiles and air-to-air missiles, the prosecutors said." Reuters adds, "The case follows repeated U.S. expressions of concern about Beijing's strategic intentions as China increasingly pours proceeds from its rapidly expanding economy into its military. … Chinese war capabilities are growing at a pace expected to

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soon upset a delicate military balance between China and rival Taiwan, which relies on U.S. weaponry to defend itself. … 'This case highlights the national security threat posed when agents of a foreign government seek to illegally acquire and export American military weaponry,' said U.S. Attorney R. Alexander Acosta. … 'We will continue to aggressively investigate and prosecute foreign agents whose motives and actions are, by definition, detrimental do the United States and our national security,' he said in a statement released by the Justice Department."

US Seizes Truckload Of Fake Olive Oil. The AP (2/9) reports, "More than a discerning palate has determined that thousands of cans of Hermes and San Giovanni brands of extra virgin olive oil weren't quite right. … The U.S. Food and Drug Administration tested the chemical composition of the oil and found it was really less expensive soybean oil, prompting Thursday's seizure. … The U.S. Marshals Service seized 22,700 gallons of oil, imported from Italy, at a trucking company warehouse in Clifton. … 'It is a whole lot of faux olive oil,' said Mike Drewniak, a spokesman for U.S. Attorney Christopher Christie." The AP adds, "The labels on the 3-liter tins in 4,855 cases said the contents were more expensive extra virgin olive oil or pomace olive oil. … Because olive oil is five to six times more expensive than soybean oil, the potential estimated profit is about $105,600, according to the FDA. … 'We will not permit New Jersey consumers to be defrauded,' Christie said in a statement."

Police Say Teenage Boys Were Forced To Rob Maryland Banks. The Washington Post (2/10, A1, Klein) reports, "They are bank robbers who didn't want the cash, police say. The scared 14- and 15-year-olds were not looking for a thrill, either, when they walked into banks in suburban Maryland and handed tellers notes demanding money. … They had been snatched by gunmen, taken to the banks and forced by their captors to commit the crimes, according to Prince George's County police." The Post continues, "After the teenagers came out of the banks with the money, the gunmen made off with the take and left the stunned youths behind. … At least four recent bank robberies were committed by three teenagers who later told police they had robbed the banks against their will. Their stories are 'very credible,' said an investigator who did not want to be identified because the case is still open." The Post adds, "The most recent was on Wednesday, when a 14-year-old Landover youth was abducted and then forced to hold up a branch of Chevy Chase Bank in Bethesda, said FBI spokeswoman Michelle Crnkovich. … Police found him walking along Rockville Pike, stained by ink from an exploding dye pack, a device that banks attach to bundles of money to stain bank robbers, making them easier to spot. … The other three incidents occurred in Prince George's, two of them on Jan. 20 and one on Monday."

Former Louisiana Judge Sentenced In Bond Scheme. The AP (2/10, Sayre) reports, "A former (Louisiana) state judge who was tried for allegedly accepting bribes from a bail bonding company was sentenced Thursday to more than four years in federal prison for mail fraud." The AP continues, "Alan Green was accused of taking $20,000 in cash, golf trips and meals from the company in return for reducing the bonds of dangerous criminals to levels they could afford. That way, Bail Bonds Unlimited could collect hefty fees for guaranteeing their court appearances." The AP adds, "Green was convicted of a single charge of mail fraud after being tried on charges relating to the bribery allegations. The jury could not agree on the other charges: four more counts of mail fraud, one of mail fraud conspiracy and one of racketeering conspiracy. … Federal Judge Lance Africk told Green his conduct endangered citizens. 'Bail Bonds Unlimited saw a for-sale sign on your office,' Africk said. … Green apologized for 'impugning the integrity of the bench' but denied taking any bribes, saying he was manipulated through a friendship with an accountant for the company."

The New Orleans Times-Picayune (2/10, Krupa, 257K) adds, "Before delivering a scathing rebuke of Green's exploitation of his post as an elected jurist and slapping him with a $50,000 fine, U.S. District Judge Lance Africk gave Green one last chance to admit that two $5,000 payments he got from the Gretna bail bonds firm were not 'off-the-books' campaign contributions, as Green testified in his June trial, but part of the web of bribery confirmed by nine defendants who have admitted to crimes in the seven-year probe. … 'They were not bribes, your honor, as far as I was told,' Green replied. 'At no time did I believe that they were, in fact, bribes.' Africk then took aim at Green, saying , "Bail Bonds Unlimited saw a 'For Sale' sign on your office and decided to purchase it in order to maximize its profits.'" The Times-Picayune notes, "Green was the 14th defendant to be nabbed by Wrinkled Robe and the only one to risk trial rather than ink a plea agreement with prosecutors."

Director Of Getty Trust Steps Down Under Pressure. The New York Times (2/10, Kennedy, Vogel) reports, "The president of the J. Paul Getty Trust in Los Angeles, one of the world's richest art institutions, resigned under pressure yesterday amid growing questions about his improper use of the trust's money." The Times continues, "The trust said that the president, Barry Munitz, whose travel and expense spending are under investigation by the California attorney general's office, would be required to repay the trust $250,000 and would not be given a severance package. The money was an estimate of what the trust felt

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Mr. Munitz owed because of perks, expenses and other costs that should not have been charged to the trust during his eight-year tenure, trust officials said. … 'It's more judgment than it is precise mathematics,' John H. Biggs, the board's chairman, said of the figure, adding that because the attorney general's investigation was continuing, he could provide few details about Mr. Munitz's departure and could not answer other questions about his practices. … He added, however, that 'as far as the Getty Trust is involved, Munitz has resolved these issues' with the payment of $250,000, and that the board did not believe Mr. Munitz did anything improper under the laws that govern nonprofit trusts. … 'He's still at risk that the A.G. may see it otherwise,' Mr. Biggs added, referring to the state attorney general, 'and there's no way that we as trustees can give him any assurance.'" The Times notes, "Mr. Munitz's departure represents a major reversal for one of the most powerful leaders in the art world, who controlled an institution with an endowment of more than $5 billion. The trust's board of trustees — many of whom are Mr. Munitz's friends and allies — had steadfastly stood by him, even as questions about his leadership and about other troubles at the trust mounted over the last several months."

Federal Banking Regulators Seek To Curb Mortgage Lending Abuses. The Washington Times (2/10, Hill, 90K) reports Federal banking agencies, "concerned about the potential for abuses in mortgage lending, are going after the worst practices in the industry." A directive "last month from the Federal Reserve and four other federal agencies targets the proliferation of loans offering interest-only payments for extended periods and adjustable-rate mortgages that offer the option of paying interest only, making a minimum payment each month or adding in principal. That includes about half of all mortgages made last year." Regulators say they "are particularly concerned that some loans not only do not pay down principal, like a traditional mortgage, but they also increase the amount of principal that a consumer must pay by as much as 100 percent through 'negative amortization.'"

Gretzky Recorded On Wiretaps Discussing Gambling Ring. In a story widely-distributed by Knight Ridder, The Philadelphia Inquirer (2/10, Moroz, 423K) reports, "State wiretaps caught hockey legend and NHL coach Wayne Gretzky talking about a sports gambling ring allegedly run by his assistant, former Flyer Rick Tocchet, two New Jersey law enforcement sources confirmed Thursday. As part of a probe into what state law enforcement officials have described as a nationwide, multimillion-dollar illegal bookmaking operation, investigators are looking into whether Gretzky…placed any bets through his wife, Janet Jones, the sources said on condition of anonymity." KRT notes, "Some law enforcement officials quietly predict that federal authorities will step in to investigate numerous possible violations of federal law. Michael Drewniak, a spokesman for the U.S. Attorney's Office in New Jersey, said the FBI had assisted state police 'concerning interstate aspects' of the investigation, but that federal involvement had been minimal so far." USA Today (2/10, Allen, 2.31M) reports Gretzky's wife, Janet Jones, "said Thursday that she never placed a wager on behalf of her husband…and Gretzky said he's 'done nothing wrong, nothing that has to do with betting.'" USA notes, "FBI spokesman Rich Kolko confirmed the bureau was asked Thursday to assist in the case." The Washington Times/AP (2/10, Santi, Mulvihill) also reports this story.

FBI-Led Utah Task Force Touts Identity Theft Investigations. Under the headline, "Task Force Run By FBI Unmasks Identity Thieves," The Salt Lake Tribune (2/10, Manson) reports that as identity theft "started to become more prevalent, authorities set up the Utah Identity Theft Task Force (ITTF), which operates as part of the FBI's Joint Terrorism Task Force. Since its inception in November 2004, 'the task force has been a resounding success,' said Kathy Roberts, inspector in charge of the U.S. Postal Inspection Service's Denver division, which includes Utah. At a recent news conference in Salt Lake City, Roberts and other officials ticked off Utah ITTF statistics from the past 15 months -- 190 investigations launched; 1,366 victims of identity theft identified; about 150 indictments returned with convictions won in 127 of them so far; and more than 25 training sessions held on fraud prevention for law enforcement agencies, community groups and merchants." The Tribune adds, "Identity thieves run the gamut from individuals to members of street gangs to white collar criminals, according to Timothy Fuhrman, special agent in charge of the FBI's Salt Lake City office. Fuhrman and Paul Warner, who recently stepped down as U.S. attorney for Utah to become a federal magistrate, said many thieves are drug addicts trying to support their habit."

Former North Carolina Lawmaker Invokes Fifth Amendment About Campaign Donations. The Winston-Salem (NC) Journal (2/10, Rice) reports, "Former state Rep. Michael Decker took the Fifth Amendment yesterday, citing his right against self-incrimination as he declined to testify about campaign donations he got from optometrists after he switched parties in 2003 to help optometrist Jim Black remain speaker of the House. … 'We have advised Rep. Decker ... to rest upon his Fifth Amendment rights,' David Freedman, Decker's attorney, told Larry Leake, the chairman of the State Board of Elections after Leake called on Decker to testify. The elections board is

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investigating possible illegal donations from optometrists and the video-poker industry to the Black and Decker campaigns. A federal grand jury is also investigating, and several optometrists said they have been interviewed by the FBI and U.S. Treasury agents." The Journal continues, "Although Black initially testified yesterday that he couldn't recall handling blank checks provided by his fellow optometrists, he later acknowledged to the elections board that he filled in Decker's campaign as the payee on at least three of the checks. … 'I don't remember seeing blank checks - unless they were in an envelope, sealed, with somebody's name on it,' Black said at first." The Journal adds, "Then Leake handed Black a copy of a $4,000 check made out to Decker's campaign from M. Scott Edwards of Murfreesboro, the treasurer of the N.C. Optometric Society, along with two $100 checks from Gary Roach, an optometrist from Morrisville. … Black acknowledged that it was his handwriting that designated Decker's campaign as the payee. But Black and his attorneys argued that the donations were not illegal under state law."

Texas Executes Man For Torture-Killing Of 19-Year-Old Girl. The AP (2/10, Graczyk) reports, "A paroled burglar who claimed he wanted to be a serial killer of minorities was executed Wednesday night for the torture-slaying eight years ago of a 19-year-old mentally impaired woman who once worked with him." The AP continues, "Robert Neville Jr., apologizing profusely, addressed his victim's mother by name as she and her two daughters stood close to the glass with their arms around each other. He expressed love to them. … 'I hope you can find it in yourselves to forgive me and I hope all this here will kind of settle your pain. And I hope the Lord will give you comfort and peace. I just want you to know I am very sorry for what I have done,' he said." The AP adds, "Neville, 31, was the third prisoner executed this year and the first of three over the next 15 days in the nation's most active capital punishment state. … Neville and a companion, Michael Wayne Hall, were condemned for the fatal shooting of Robinson, who was abducted as she rode her bike to work at a Dallas-area supermarket. She was taken to a remote area of Tarrant County where she was shot repeatedly with a pellet gun, then killed with shots from a .22-caliber rifle as she begged for her life. … Hall, 26, remains on death row. He does not have an execution date."

Supreme Court Puzzles Observers With Lethal Injection Decisions. The Washington Post (2/10, A3, Lane, 744K) reports that in the "past two weeks, the Supreme Court stopped two executions in Florida and allowed a lower court to halt another in Missouri -- but the justices allowed three other death sentences, in Texas and Indiana, to proceed." Though "not necessarily contradictory under the law," the court's decisions "have puzzled many on both sides of the debate over capital punishment because in each case the death-row inmate raised a similar issue: the legality of lethal injection as the means for execution." Douglas A. Berman, "an expert in criminal sentencing law at Ohio State University's Moritz College of Law," said, "I am sure the court is trying to apply some sort of sensible standard. But they need to do a heck of a lot better job explaining why." The Post adds the "probable explanation for the court's apparent zigzag is that a majority of the court is ready to consider only a relatively narrow issue related to lethal injection. But because the court generally does not reveal more than a bare minimum of information about how and why it chooses to take up any particular matter, lawyers have only been able to arrive at this educated guess after much litigation."

CIVIL LAW:

Federal Judge Questions Viability Of New York City's Gun Litigation. The New York Law Journal (2/10, Perrotta) reports, "Two months after allowing New York City's lawsuit against the gun industry to proceed, a federal judge in Brooklyn suggested Wednesday the suit might be doomed by language in the appropriations bill passed by Congress last year." The Journal continues, "In a brief order, Eastern District of New York Judge Jack B. Weinstein ordered the city to explain why its suit should not be dismissed in light of the new legislation, which bars the use of a federal database that tracks firearms as evidence in civil litigation." The Journal adds, "The Firearms Trace System database is central to the city's suit, which alleges that gun manufacturers sell excess weapons in cities and states with weak gun laws, knowing that unqualified buyers in New York will obtain the weapons through 'straw' purchases. … The city alleges that gun manufacturers know which dealers are selling weapons that are used in crimes, and it had intended to use the database to help prove its case. … Assistant Corporation Counsel Eric Proshansky, the city's lead attorney on the case, said the new legislation would force the city 'to prove this case in a manner that does not require trace data' -- a far more difficult task."

Cornyn Calls For Complete Rewrite Of Asbestos Bill. Reuters (2/9, Cornwell) reports, "A group of Republican senators on Thursday proposed completely rewriting an asbestos bill to allow lawsuits under strict medical criteria rather than create a $140 billion fund to pay victims of the mineral." The new approach was offered by Sen. John Cornyn, "who said he had 14 Republican co-sponsors and hoped to attract Democrats." The proposal "is similar to a bill introduced in the House that would allow asbestos lawsuits to go forward only if claimants met certain medical standards.

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He introduced the plan as an amendment to a bill that would halt asbestos lawsuits and create an industry-financed $140 billion fund to pay claims."

Meanwhile, the AP (2/9, Dalrymple) reports that the Senate voted 70-27 to reject an attempt "to keep asbestos cases in the courts, removing one obstacle to the creation of a $140 billion trust fund for paying victims and ending their lawsuits." CQ (2/9, Stern) reports "conservative Republicans" used the vote "to show their unease" with the legislation to establish the fund, putting "26 Republicans, joined by one Democrat, on record as opposing the trust fund concept. And with few Democrats backing the underlying bill, the vote also suggested the measure may ultimately fall short among Republicans as well."

WPost Lauds Asbestos Bill, Calls Reid Opposition "Reprehensible." The Washington Post (2/10, 744K) editorializes, "In a triumph of good sense and bipartisan cooperation, the Senate voted on Tuesday to go forward with a bill that would fix the broken asbestos litigation system. … Some amendment may be reasonable at the margins, but the bill's central idea -- to replace litigation with a $140 billion compensation fund to be financed by defendant companies and their insurers -- must be preserved. … The fact that the bill is being attacked from both directions suggests that its authors, Sens. Arlen Specter (R-Pa.) and Patrick J. Leahy (D-Vt.), have balanced competing interests in a reasonable manner. Unfortunately, the bill's critics are not always so reasonable. Sen. Harry M. Reid of Nevada, the Democratic minority leader, has complained, 'One would have to search long and hard to find a bill in my opinion as bad as this.' … But the truth is that the bill's main opponents are trial lawyers, who profit mightily from asbestos lawsuits and who constitute a powerful lobby in their own right. … For Mr. Reid to demean this effort in order to fire off campaign sound bites is reprehensible."

CIVIL RIGHTS:

FBI Arrests Former Maryland Police Officer Over Racist Threat Letters. In a widely-distributed story, the AP (2/10) reports, "The FBI on Thursday charged a former police officer with making racial, bomb and anthrax threats after he was fired by" Hagerstown, Md. "The threats began four months after Jeffrey S. Shifler was dismissed in November 2003 for falsifying payroll records, court records said." Shifler "was in custody, authorities said. He was expected to appear Friday in federal court in Baltimore." The AP adds, "Shifler made 14 anonymous phone calls and sent at least nine anonymous letters containing threats, insults or false crime reports, according to a court complaint. The threats targeted police employees and a black city council member, and such institutions as schools and public office buildings. Many letters were on photocopied Hagerstown Police Department letterhead, the complaint alleges."

EEOC Files Fewer Discrimination Charges For Third Straight Year. The AP (2/10) reports, "The U.S. Equal Employment Opportunity Commission filed fewer charges of discrimination against private employers last year for the third straight year." The AP continues, "Commission chair Cari M. Dominguez said the commission's prevention efforts through outreach and training might be responsible but added that other factors, like the economic slowdown, might also be involved. 'We are pleased to see that our proactive prevention efforts may be having an impact,' she said." The AP adds, "Commission field offices filed 75,428 charges in the 12 months ended Sept. 30, down from 79,432, 81,293 and 84,442 in fiscal years 2004, 2003 and 2002, respectively. The average complaint took 171 days to process in fiscal 2005. … During 2005, 77,352 discrimination complaints were resolved, 21.5 percent with a favorable outcome for the individual who complained, up from 19.5 percent the previous two years." The AP notes, "The commission obtained $380 million in compensation for those who complained of discrimination, including a record $271.6 million through mediation and other means short of going to court. … The type of complaints remained relatively unchanged from previous years: Allegations of racial discrimination remained the largest group, 26,740 charges accounting for 35.5 percent of all filings. … Sex discrimination accounted for 23,094 charges or 30.6 percent of all complaints; retaliation, 22,278 or 29.5 percent; age, 16,585 or 22 percent; disability, 14,893 or 19.7 percent; national origin, 8,035 or 10.7 percent; religion, 2,340 or 3.1 percent and equal pay, 970 or 1.3 percent. The total exceeds 100 percent because individuals may allege more than one kind of discrimination in a complaint."

Proposed Changes To New Orleans Bureaucracy Would Need DOJ Nod. The AP (2/9, Simpson) reports, "Hurricane Katrina created a chance to slash the city bureaucracy in New Orleans, which has two elected sheriffs, two elected clerks of court and two separate court systems, a legislative panel voted on Thursday." The AP continues, "The city's population has plummeted since the storm, giving critics the chance to streamline a system, stemming from the 19th century, which gives the city numerous elected positions long seen as redundant. Rep. Peppi Bruneau, a key supporter, urged colleagues to support the change, calling New Orleans' bureaucracy outmoded, time-consuming, antiquated and out of step with the rest of the country. … Without objection, a House judicial committee approved a bill that would combine the city's clerks and sheriffs offices, plus consolidate the city civil and criminal

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court systems. The bill, backed by Gov. Kathleen Blanco and sponsored by House Speaker Joe Salter, D-Florien, now moves to the House floor for debate." The AP adds, "Separate legislation is aimed at consolidating New Orleans' seven elected property tax assessors into one elected assessor post. That measure awaits debate in the House Ways and Means Committee. … Passage of Salter's bill came after Rep. Cedric Richmond, D-New Orleans, head of the Legislative Black Caucus, said race is one reason the state is moving to slash the number of the city's elected officials, most of whom are black. Many of New Orleans black residents remain displaced — living in other states because of hurricane damage — and Richmond questioned why lawmakers and Gov. Kathleen Blanco were pushing the consolidation now, while black voters are elsewhere, unable to voice concerns about the proposed changes. … Richmond noted that the U.S. Justice Department would need to approve the changes, because Louisiana remains restricted under the Voting Rights Act of 1965, imposed on states with ahistory of election discrimination against blacks."

One Dead, Dozens Injured IN Five Days Of Racial Rioting In Los Angeles Jails. The New York Times (2/10, Archibold) reports, "Five days of racial rioting have left one inmate dead and dozens injured at Los Angeles County jails as blacks and Latinos have taken their conflicts from the streets behind bars, the authorities said." The Times continues, "The latest occurred Thursday when 200 inmates at Pitchess Detention Center, a collection of jails in the northern fringes of the county where most of the violence has occurred, clashed briefly until deputies used tear gas to bring them under control. There were no reported injuries." The Times adds, "On Wednesday night, two dozen inmates were injured in a riot among 300 people that ended after teams of deputies fired rubber pellets. That riot, as well as those that took place Monday and Tuesday, was at the Pitchess center. … Since the worst of the rioting on Saturday, when a 43-year-old inmate was beaten to death, the sheriff's department has locked down all jails, suspending activities and privileges in the system — the nation's largest, with 21,000 inmates. … 'We are convinced it is traced back to an age-old gang war in South Los Angeles,' said Steve Whitmore, a spokesman for the Sheriff's Department. 'It is a small core group of people, and most of the inmates don't want to fight.' … Mr. Whitmore declined to elaborate on a motive for the violence, but members of the clergy and community advocates who met Thursday with inmates said they were told that a gang called the Mexican Mafia had ordered retaliation on black gang members who had apparently attacked Latino gang members in Los Angeles in a dispute involving drugs, turf or both."

Suit Targets Discriminatory Online Ads On Craigslist Website. The AP (2/10, Carpenter) reports, "A federal lawsuit accuses the online site Craigslist of violating fair housing laws by publishing discriminatory classified ads, reviving the question of what legal boundaries, if any, should exist for postings on the Internet. … But legal experts say the lawsuit against Craigslist, a fast-growing online network of classified ads and forums, faces an uphill battle because of laws in place to protect online service providers." The AP continues, "The lawsuit, filed by a Chicago fair housing group in U.S. District Court on Feb. 3, contends that Craigslist's Chicago site distributed more than 100 ads that violated the federal Fair Housing Act by excluding prospective buyers or tenants on the basis of race, gender or religion. … Among the housing ads cited as objectionable by the Chicago Lawyers' Committee for Civil Rights Under Law Inc. were ones that read 'NO MINORITIES,' 'Requirements: Clean Godly Christian Male,' and 'Only Muslims apply.' … While it remained unclear Thursday if the suit is the first of its kind, it signifies a burgeoning effort by housing watchdog groups to extend to the Internet the same legal restrictions facing those that publish print classifieds."

Air Force Softens Rules On Religious Expression. The Washington Post (2/10, A5, Cooperman, 744K) reports the Air Force, "under pressure from evangelical Christian groups and members of Congress, softened its guidelines on religious expression yesterday to emphasize that superior officers may discuss their faith with subordinates and that chaplains will not be required to offer nonsectarian prayers." The guidelines "were first issued in late August after allegations that evangelical Christian commanders, coaches and cadets at the Air Force Academy had pressured cadets of other faiths." But evangelical groups, "such as the Colorado-based Focus on the Family, saw the guidelines as overly restrictive. They launched a nationwide petition drive, sounded alarms on Christian radio stations, and deluged the White House and Air Force Secretary Michael W. Wynne's office with e-mails calling the guidelines an infringement of the Constitution's guarantees of free speech and free exercise of religion."

California Police Kill Carjacker During Gun Battle. The Los Angeles Times (2/10) reports, "A chase and fierce gun battle between a shotgun-wielding carjacker and police ended early this morning when the suspect was cornered and shot dead in Venice." The Times continues, "Santa Monica police Chief James T. Butts said his officers acted 'valorously.' … 'It took a great deal of courage,' Butts said. 'This person has manifested the intent to kill you, and these officers chased him. That's what you expect of police officers in a free society.'" The Times adds, "The incident

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began in Santa Monica about 5:00 a.m., when a motorist stopped to help what he thought was a driver with car trouble. Instead, the suspect jumped out of a vehicle, pointed a shotgun at the would-be good Samaritan, and commandeered the car. The motorist was not injured. … Butts said officers stopped the car at 7th and California streets, where a gun battle broke out. The man, who has not been identified, fled in the carjacked auto. … About a half-mile later, with police pursuing, the suspect crashed the car in the 1300 block of Electric Avenue in Venice. When he ignored commands to surrender and pointed a shotgun at police, officers opened fire, Butts said."

Noonan Praises King Funeral As Example Of Free Speech. In a Wall Street Journal op-ed (2/10), Peggy Noonan says Coretta Scott King's funeral "was wonderful -- spirited and moving, rousing and respectful, pugnacious and loving." The "old lions of the great American civil rights movement of the 20th century were there, and standing tall." There was "nothing prissy, nothing sissy about it. A former president, a softly gray-haired and chronically dyspeptic gentleman who seems to have judged the world to be just barely deserving of his presence, pointedly insulted a sitting president who was, in fact, sitting right behind him. The Clintons unveiled their 2008 campaign. A rhyming preacher, one of the old lions, a man of warmth and stature, freely used the occasion to verbally bop the sitting president on the head. So what? This was the authentic sound of a vibrant democracy doing its thing. It was the exact opposite of the frightened and prissy attitude that if you draw a picture I don't like, I'll have to kill you. It was: We do free speech here."

NYTimes Criticizes Pennsylvania GOP's Election Bills. The New York Times (2/10, 1.19M) says in an editorial that Pennsylvania, "a swing state that will hold some critical elections this fall, is being barraged by legislation, championed by Republican lawmakers, that would raise voting barriers, especially for groups that tend to be Democratic. One measure would institute one of the most restrictive voter-identification laws in the nation, in a state that currently requires only first-time voters to prove their identities. Pennsylvanians -- who have been at the forefront of fairness in voting rights issues — should not allow partisanship to erase that legacy."

ANTITRUST:

Rivals Complain To DOJ About Microsoft's New Vista Software. The Wall Street Journal (2/10, Delaney, Guth) reports, "The Justice Department said it has received complaints about Microsoft Corp.'s coming Windows Vista operating system, focusing in part on concerns over the introductory "first-boot" screens displayed on new personal computers and other aspects of the software." The Journal continues, "The government, in a status report on Microsoft's compliance with an antitrust settlement, said an unidentified company complained about the ability of PC makers to customize the initial process of booting up Vista. Some PC makers use those screens to offer broadband Internet access, antivirus and other PC-related services and software." The Journal adds, "The Wall Street Journal Tuesday reported that Hewlett-Packard Co. has tussled with Microsoft over the screens. The PC maker in recent months briefed the Justice Department on those concerns, a person familiar with the matter said. An H-P spokesman declined to comment. The report said that in addition to the first-boot process, 'several industry members' had expressed other unspecified concerns regarding Windows Vista, which Microsoft is expected to begin selling later this year. A Microsoft spokesman said it has worked closely with partners 'to make sure Windows Vista provides flexibility...while remaining faithful to the goal of putting users first.' … The complaints were disclosed as part of a regular monitoring by the Justice Department of Microsoft's compliance with its 2001 antitrust settlement with the federal government. The status report noted that Microsoft's recent decision to license elements of its server software was a 'constructive proposal' in addressing concerns of the plaintiffs in the antitrust settlement. A Justice Department spokeswoman declined to comment further. … Separately, executives at search company Google Inc. asserted in an interview that Microsoft is using its influence over the browser-software market to push its MSN Web-search service to the disadvantage of rivals. Google objects to how Microsoft handles a default search-engine setting in its Internet Explorer 7 Web-browser software, which Microsoft considers part of Vista. A Google spokesman declined to say whether the company had discussed its concerns with the Justice Department."

RIM Plan Would Allow BlackBerry Service If It Loses Patent Fight. Reuters (2/9, Taylor) reports, "Research In Motion unveiled a plan on Thursday that it says will let its BlackBerry e-mail device work even if it loses a patent fight, and said the workaround will prevent a shutdown of service in the United States." Reuters continues, "In an announcement made as the clock ticked toward a February 24 court hearing on U.S. patent holding company NTP Inc.'s request for an injunction to halt U.S. BlackBerry service, RIM also said it was still willing to negotiate a deal. … NTP questioned why RIM simply didn't go ahead and make the software changes for the workaround and argued the BlackBerry maker was trying to bully it. One analyst

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described the announcement as part of a 'high stakes poker game.'" Reuters adds, "The Waterloo, Ontario-based technology company, whose addictive device has been dubbed the 'CrackBerry' by many users, said it is willing to 'generously compensate' NTP, but called NTP's offer to license disputed technology 'untenable.'" Reuters notes, "The legal battle is heating up ahead of a hearing that could be the final step before U.S. District Judge James Spencer decides whether to impose an injunction granting NTP's request -- potentially shutting off more than 3 million U.S. BlackBerry subscribers. … The U.S. Justice Department has argued against a shut-down, saying NTP has not submitted enough evidence to show government users could be exempted 'without substantial hardship.'"

The AP (2/10) reports, "Although there is currently no injunction in place in the patent litigation with NTP Inc., RIM said it developed the workaround software as a contingency to allow BlackBerry service to continue should the court declare an injunction. … NTP has convinced a federal jury that its patents were infringed by RIM and is asking a federal judge in Richmond, Va., to turn off the network. The judge has indicated he could decide on NTP's request following a hearing scheduled for Feb. 24. … The lawsuit against RIM has drawn objections from the U.S. government and big corporate users who rely on BlackBerry e-mail service."

Mittal Pledges To Honor Union Agreements In Arcelor Acquisition. The AP (2/10) reports, "Germany's biggest industrial union said it received assurances Thursday from Mittal Steel Co. that if it acquires rival Arcelor SA, no labor agreements would be affected." The AP continues, "Meanwhile, U.S. antitrust regulators are looking at Mittal's hostile bid for Arcelor, Justice Department spokeswoman Gina Talamona confirmed Thursday." The AP adds, "Mittal Steel Europe Chief Executive Roeland Baan met with union deputy chairman Berthold Huber for several hours to address Mittal's euro18.6 billion (US$22.5 billion) bid for Luxembourg's Arcelor, IG Metall spokeswoman Ingrid Gier said. … Mittal employs approximately 1,600 workers in Germany, while Arcelor employs 14,000."

FCC Says Cable "A La Carte" Would Save Consumers Money. ABC World News Tonight (2/9, story 9, 2:10, Gibson) reported, "Federal regulators issued a study that could lead to changes in the cable television industry and what comes into your home. Giving cable customers a chance to pick your channels, a system known as ala la carte pricing, could save consumers a bundle. Consumer groups cheered the findings. The cable industry did not." ABC (L. Stark) added, "More than a year ago, the FCC warned that so-called a la carte or buying individual channels would cost consumers more. But now, the agency says, consumers could pay 3% to 13% less for cable a la carte, with no increase in your monthly bill, if you select as many as 20 channels. Plenty of television viewing, they say, for most Americans -- who tend to watch only 17 out of the more than 100 channels they now get. Supporters say this is all about giving consumers more control over what comes in to the home."

CQ (2/9, Wolfe) reports the report "drew an immediate response on Capitol Hill and could spur lawmakers to consider a bill to create a la carte cable options." Sen. John McCain, R-Ariz., "long an advocate for a la carte cable, announced Thursday that he will soon introduce a bill that would offer 'regulatory relief' as a carrot to cable providers who allow consumers the option of picking either a la carte or bundled channels."

Realtors Seek To Stop Bankers From Entering Real Estate Market. The Hill (2/10, Schor) reports, "Congress and the Bush administration are again getting caught in the crossfire of a long-standing turf war between the National Association of Realtors, which bills itself as the nation's biggest trade association, and the banking industry over whether banks can engage in real-estate activities." The Hill continues, "Federal regulators signed off late last year on several bids for real-estate development from large banking chains, alarming the Realtors and reinvigorating the group's push for a bill, co-sponsored by Reps. Ken Calvert (R-Calif.) and Paul Kanjorski (D-Pa.), prohibiting banks from 'directly or indirectly' engaging in real-estate activities. Banking lobbyists dismiss the Realtors' claims that the regulators are gradually dismantling existing law. … 'This issue is totally phony. Banks for a long time have been able to own their own real estate,' said Ed Yingling, president of the American Bankers Association. 'The Realtors would like to think it's something new, but it's not.'" The Hill adds, "The Calvert-Kanjorski bill is hardly new to Capitol Hill, having snagged the support of a majority of the House in each of the past three Congresses. But banking lobbyists pushed back last year with a bill of their own that only needed two co-sponsors — House Financial Services Committee Chairman Mike Oxley (R-Ohio) and his ranking Democrat, Barney Frank (Mass.) — to make a splash. … With their bill stalled in both House and Senate committees, the Realtors now are aiming at the Bush administration in their vigorous lobbying efforts against banks involved in real estate. The group has promoted letters this month to new Federal Reserve Chairman Ben Bernanke, Treasury Secretary John Snow and leaders at the Office of the Comptroller of the Currency (OCC), which has jurisdiction over national banks, asking for a definitive exclusion of banks from the real-estate market. … In a unique twist, the Realtors also have chosen to side publicly with bankers in the fight to prevent retail behemoth Wal-Mart from opening an industrial

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loan corporation to conduct banking activities. Just as the Realtors fear banks encroaching on their business, bankers want Congress to keep commercial corporations off their turf."

Federal Judge Tosses Antitrust Suit Against Bengals, NFL. The AP (2/10, Kinney) reports, "A judge dismissed Hamilton County's federal antitrust lawsuit against the Cincinnati Bengals and the National Football League on Thursday because the suit was not filed within the four-year statute of limitations." The AP continues, "U.S. District Judge S. Arthur Spiegel threw out the suit without getting to the merits of the county's argument that the Bengals misled taxpayers and officials by contending that they needed a new stadium to be profitable and might move if they didn't get one." The AP adds, "Hamilton County taxpayers approved a one-half-cent sales tax increase in 1996 to finance the $450 million Paul Brown Stadium. Commissioners signed a lease with the Bengals the following year. … The antitrust lawsuit was not filed until 2003, three years after the Bengals began using the stadium. … 'To be sure, the lease that Hamilton County enjoys with the Bengals is highly favorable - perhaps egregiously so - to the Bengals,' Spiegel wrote. … He said prior members of the board were aware of allegations that league and its teams wielded unlawful antitrust power to obtain favorable leases, but by not filing suit sooner the chance 'was lost to the passage of time.'"

South Korean Antitrust Regulators Question Intel Employees. The AP (2/10) reports, "Investigators from South Korea's antitrust watchdog questioned some employees at Intel Corp.'s local subsidiary this week as part of an inquiry that began last year, a company spokesman said Friday." The AP continues, "The Korean Fair Trade Commission 'made an unscheduled visit to our offices on Tuesday during normal business hours,' said Chuck Mulloy, legal affairs spokesman for Intel in Santa Clara, California. … 'This is part of an ongoing inquiry that we disclosed in June of 2005,' Mulloy said, adding it was 'not appropriate for us to talk about specifics.' Mulloy said the visit to Intel Korea marked the first time regulators had arrived unannounced."

Reuters (2/10, So-eui) reports, "South Korea, which fined Microsoft Corp. for antitrust violations in December, began investigating Intel in the middle of last year, following similar probes launched by Japan and the European Union. … Intel, the world's largest chipmaker, confirmed on Thursday that FTC officials paid an unscheduled visit to the Seoul office. … The officials talked to Intel staff and took away some documents as part of an ongoing probe, a spokeswoman for Intel Korea said. … 'It will take a while for us to reach a conclusion,' FTC spokesman Kim Joo-hyok said by telephone. … The watchdog had received a complaint that Intel was using its dominant position in South Korea to increase microprocessor sales, Kim said. He declined to say who filed the complaint."

Bloomberg (2/10, King) reports, "Intel is facing a U.S. antitrust lawsuit based on a complaint filed last June by rival Advanced Micro Devices Inc. European regulators investigating antitrust claims have also raided Intel offices, and Japan's Fair Trade Commission last year told the company to remove a clause from its contracts forcing PC makers to exclusively use its chips."

The San Jose Mercury News (2/10, Ackerman) reports, "Intel first disclosed the Korean inquiry in a regulatory filing in August, stating that Korean antitrust regulators began looking into its marketing and rebate programs in June. … Also in June, rival chip maker Advanced Micro Devices sued in federal court alleging that Intel provided secret and discriminatory discounts. … Today, AMD said in a statement that the 'dawn raids are part of an investigation into Intel's business dealings with four Korean PC makers.'"

ENVIRONMENT:

Six Charged With Illegally Harvesting Leopard Sharks. The AP (2/10, Goodin) reports, "A church pastor, four men in the aquarium industry and a commercial fisherman have been accused of illegally catching and selling hundreds of juvenile leopard sharks." The AP continues, "An indictment Wednesday charged the men with selling 465 leopard sharks that were too small to harvest to pet distributors throughout the United States, and in The Netherlands and the United Kingdom." The AP adds, "The six defendants were arrested on Tuesday, when the indictment was unsealed. Two pleaded not guilty. The Associated Press was unable to reach the other four. They face maximum penalties of five years in prison, a $250,000 (â‚¬210,000) fine and possible requirement to pay restitution for each count, according to the U.S. Attorney's office. … Seven of the 19 baby leopard sharks confiscated during the two-year investigation died, the U.S. Attorney's office said. Three are on exhibit at the Monterey Bay Aquarium, and nine were returned to the wild in 2004."

Forest Service To Propose Sale Of 200,000 Acres To Fund Rural Schools. Knight Ridder (2/10, Borenstein) reports the National Forest Service will today unveil a plan to "sell up to 200,000 acres of national forest land in 'isolated parcels' ranging from a quarter of an acre to 200 acres, much of it in California." The sale is part of an effort "to raise $800 million over the next five years to pay for rural schools in 41 states, offsetting shrinking revenues from sale of timber from national forests. The Bureau of Land Management also plans to sell federal lands to raise an estimated $182 million over five years."

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Interior Department Says Energy Companies Were Slow To Pay Royalties. The New York Times (2/10, Andrews, Romero, 1.19M) reports Interior Department documents show "more than three dozen energy companies fell nearly $500 million behind last year on royalty payments the federal government says they owed for oil and gas extracted from public territory." While "most of that money was later turned over after the government demanded payment, almost $60 million remains in dispute." The companies, "which included major producers like Chevron, Shell and ConocoPhillips, had claimed lucrative government incentives for drilling in the Gulf of Mexico even though the incentives were not supposed to be available if market prices climbed above certain 'threshold prices.'" The Interior Department, "in a report sent to lawmakers looking into the energy royalty program, identified 41 companies that incorrectly claimed about $493 million in 'royalty relief' during 2004, when prices for both oil and gas climbed to records. The Interior Department said that 38 of the 41 companies quickly paid $435 million in back royalties after it sent out warning letters in December, months after the money should have been paid." But "three companies — Kerr-McGee, Forest Oil and AGIP — continue to protest $58 million in additional payments."

Penalties For Coal Company Safety Violations Small Compared To Other Industries. USA Today (2/10, Frank, 2.31M) reports coal companies "pay some of the smallest fines of any industry for federal violations even as the nation tries to curb one of the deadliest periods in recent coal-mining history, a USA TODAY analysis found." The Federal Government "levied a larger fine — $550,000 — for the 2004 Super Bowl showing of Janet Jackson's breast than it did for the 2001 deaths of 13 Alabama miners in one of the deadliest mine disasters in a quarter-century. And the $435,000 fine against mine operator Jim Walter Resources was cut by a judge to $3,000." Federal law limits "fines to $60,000 for each violation of a mine health and safety standard." USA adds the Bush Administration "has said that higher fines are not as effective as forcing companies to close unsafe areas until they are fixed."

Panel Backs Administration Plan For Transporting Nuclear Waste. The Wall Street Journal (2/10, Fialka, 2.11M) reports a panel "of scientists, engineers and other experts endorsed the Energy Department's plans to ship tens of thousands of tons of nuclear waste for disposal in Nevada, saying they pose 'no fundamental technical barriers' and relatively low and manageable risks." The panel was "organized by the National Research Council, an arm of the National Academy of Sciences," and its study was "the first major outside study of the government's plans for waste removal, which will take two decades and involve transportation routes through or near many population centers." The panel's report "gives a boost to administration proposals to spur nuclear power by moving spent nuclear-power-plant fuel from 70 sites in 31 states and to minimize waste-storage needs by reprocessing some elements from spent fuel. The Yucca Mountain disposal site, located 90 miles from Las Vegas, would also receive high-level nuclear-weapons waste from four government sites."

WSJournal Praises WTO Decision On Genetically Modified Food. The Wall Street Journal (2/10, 2.11M) editorializes, "Frankenstein is finally dead, or at least his political imitators are. That good news comes from the World Trade Organization, which struck a blow for science over scare-mongers by ruling this week against Europe's attempt to ban genetically modified food." The EU "can accurately say its review process for new GMOs, which is stricter and slower than that used in the U.S., wasn't struck down. However, the panel said a clear review process has to be in place, and one not based on junk science. That means no more moratoriums on approving new GMOs such as that imposed by Brussels from 1998 to 2003."

FBI/DEA/ATF/USMS:

Handprint Could Be Key Evidence In Alabama Church Fire Probe. CNN.com (2/10, Dornin) reports, "Investigators looking into the fires at nine Baptist churches in Alabama over the past week are hoping a handprint left on one church's front door may help catch a perpetrator." CNN continues, "The Bureau of Alcohol, Tobacco, Firearms and Explosives would not indicate whether its agents were able to lift a readable fingerprint from the inside part of the front door at Dancy First Baptist Church, south of Aliceville in Pickens County. … Arsonists entered the church by kicking in a back door, then set a fire near the pulpit before trying to escape through the front door, authorities said. … However, the front door had a dead-bolt lock, and the arsonists had to exit through the back door, where police said they found a footprint that might have come from someone kicking the door." CNN adds, "Nine churches -- five with predominantly African-American congregations and four with predominantly white ones -- have been set ablaze in the past week in central and western Alabama. Nobody has been injured. … More than 100 ATF personnel, including special agents and forensic experts, are investigating the fires. A criminal and geographical profiler also has been called in. … The ATF has said witnesses have reported seeing a dark-colored SUV near some of the fires. But it is not clear if the vehicle is linked to the blazes."

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The New York Times (2/10, Lyman) reports that "as investigators sift the rubble after nine church fires across rural Alabama in the last week, all suspected arsons, the evidence they are finding and the pattern of the attacks suggest that those behind the arsons were either locals or, at the very least, frequent-enough visitors to cherry-pick the most vulnerable and remote churches and drive the region's coal-dark roads at night with brazen efficiency." The Times continues, "Five churches, including Ashby Baptist, were set on fire just before dawn last Friday in rural Bibb County, about an hour south of Birmingham. They were all Baptist churches, four with predominantly white congregations and one with a black congregation. … Then, early Tuesday, four more churches — all Baptist and, this time, all black congregations — were hit on a long stretch of country highways in more rural counties along Alabama's western edge." The Times adds, "Although investigators say they have reached no firm conclusions about who might be behind the arsons, they point to strong similarities between the two strings of attacks. In both cases, the churches tended to be the most secluded; indeed, in Bibb County, the arsonists passed by several churches beside the highway to seek out those tucked deep into the pine woods."

Maryland Man Sentenced To 30 Years For Oxycontin Distribution. The Baltimore Sun (2/10, 296K) reports Oliver Clifton Hudson of Baltimore was sentenced Thursday "to 30 years in prison for distributing Oxycontin and engaging in health-care fraud." Hudson "and his co-defendant, Gregory Wayne Banks…were convicted in federal court Nov. 7. Both claimed to not be subject to the jurisdiction of the court and were removed from the courtroom after they refused to participate in the trial, according to court documents." Banks is scheduled for sentencing today. " The Sun notes, "The defendants sent 'runners' to various pharmacies with the prescriptions and made themselves available by telephone -- posing as health clinic officials -- to answer questions from pharmacy employees seeking verification for the prescriptions, officials said. … Once obtained, the oxycodone prescriptions were ultimately resold on the street. Officials said the defendants sold more than 41,000 oxycodone pills using this scheme.

Two San Diego City Employees Arrested, Accused Of Dealing Marijuana. The AP (2/9) reports that San Diego officials "have launched an investigation into illegal activity by city employees after two workers from the Park and Recreation Department were arrested on suspicion of drug possession and sales. The employees, who are brothers, were arrested Jan. 25 as part of a broader Drug Enforcement Administration Investigation, authorities said. They are accused of dealing marijuana out of a Park and Recreation vehicle and had been under surveillance."

Reporting Continues On The National Survey On Drug Use and Health. There was wide media coverage of the survey results, with more than 200 news outlets publishing stories on the results in their newspapers and/or posting them on their Web sites. For example, The AP (2/10, Matthews) reports, "In a reversal of past trends, teenage girls are trying marijuana, alcohol and cigarettes at higher rates than boys, the White House drug czar said Thursday. The findings from a new government analysis come even as teen drug use is declining overall. The National Survey on Drug Use and Health, released by John Walters, the national drug policy director, indicates 1.5 million girls ages 12 to 17 started drinking alcohol in 2004, the most recent year for which data is available. That compares with 1.28 million boys. … 'This is the first time that we've recorded this kind of relationship between boys' and girls' drug use,' said Walters. 'In the past, boys have had higher rates of use _ and significantly higher rates of use at certain times in the past.' Overall illicit drug use among youths 12 to 17 has declined 19 percent since 2001, according to the survey. 'In order to drive it down further, we have to deal with today's substance abuse reality, and today's reality is, girls have been using at higher rates than boys in critical areas,' Walters said. More than 100 news outlets used the AP story, including CBS News, FOX News, MSNBC, Forbes, The Washington Post, San Diego Union-Tribune, Houston Chronicle, Miami Herald, Baltimore Sun, Boston Globe, Knoxville Tennessee News Sentinel, and China's China Daily.

Reuters (2/9) writes, "More girls than boys are becoming first-time users of alcohol, cigarettes and marijuana, reversing previous trends, the U.S. drug czar said in a report released on Thursday. 'Girls have become users at rates that exceed boys or equal boys now, which never used to be the case,' John Walters, director of the White House Office of National Drug Control Policy, said in a telephone interview. … Walters said there were several reasons why girls might turn more to drugs and alcohol than boys. 'They are more likely to be influenced by peer pressure, even when they have been told and accepted that these behaviors are risky for them,' Walters said. 'They are twice as likely to be victims of depression. They report that when they use, that they do that to improve their moods.'"

The Washington Times (2/10, Wetzstein) reports, "Young men and women are abusing tobacco, alcohol and drugs at the same rate, according a report released yesterday that urged parents to get more involved in the lives of their teenage children. 'The gender gap has closed. Girls are smoking, drinking and using drugs equal to boys,' said Susan

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Foster, vice president of the National Center on Addiction and Substance Abuse (CASA) at Columbia University and lead author of a new book on women and substance abuse. … A separate report released yesterday in New York City by the White House Office of National Drug Control Policy (ONDCP) and Seventeen magazine said teenage girls now match teenage boys in illicit drug and alcohol use, surpass them in cigarette and prescription drug use, and are more likely than boys to start using illicit substances. 'Girls are telling us that they understand the risks associated with drugs, alcohol and cigarettes. But that doesn't appear to be stopping them from using,' White House drug czar John P. Walters said yesterday. … Parental disapproval of tobacco, alcohol and drugs is a strong influence on teens, as is parental monitoring of teens and their friends, said the ONDCP, which offers parents and community leaders a wealth of anti-drug materials."

UPI (2/10) reports, "Experts say that teenage girls are more likely than boys to use drugs and alcohol to escape from family problems and other pressures in their lives. They also may take up smoking to help keep their weight down."

ABC News (2/9) reports on its Web site, "First lady Laura Bush has spearheaded an initiative to steer boys away from gangs, crime and drugs. She felt the program was needed because, she said, because we have 'shifted our gaze away from boys for the last several decades.' A White House report released [Thursday] on drug use among youths suggests that we need to keep a closer eye on girls as well. The report reveals that in 2004, the most recent year studied, 1.5 million girls started using alcohol — 173,000 more than the number of boys who started drinking."

AFP (2/10) writes, "Atoosa Rubenstein, editor in chief of Seventeen magazine, which cooperated with the White House initiative, said young girls were becoming more independent and starting to make decisions about their future. 'Combine this new responsibility with all the stress and pressures in their lives and the result, unfortunately, can be substance abuse,' she said."

LiveScience.com (2/9) writes, "Contrary to popular belief, more girls are new substance abusers. In 2004, 1.5 million girls started using alcohol, 730,000 girls started smoking, and 675,000 started using marijuana, according to the 2004 National Survey on Drug Use and Health. … 'Over the last few years, we have seen overall drug use decrease among teens—boys and girls. But the trends of substance use among our adolescent girls are alarming,' said ONDCP Director John P. Walters. … Marijuana is the drug of choice for girls; they prefer it over cocaine, heroin, Ecstasy, and all other illicit drugs combined, according to ONDCP."

The Minneapolis Star Tribune (2/10) reports, "A report by the White House Office of National Drug Control Policy released Thursday notes that young females across the country tend to use alcohol or drugs to lose weight, improve their mood, increase their confidence, cope with problems and lose their inhibitions. The report also said more girls than boys are starting to drink and smoke cigarettes and marijuana."

US Skeleton Racer Seeks Olympic Eligibility Following Positive Drug Test. The AP (2/10, Withers) reports, "U.S. skeleton racer Zach Lund's hopes of competing in the Olympics now rest in the hands of a special arbitration court. The Court of Arbitration for Sport is expected to rule Friday on whether Lund should be allowed to race in the Turin Games after testing positive for finasteride — an ingredient in a hair-restoration product that also can be used as a steroid-masking agent. Lund insists he tested positive because he was taking an baldness-fighting drug. Lund spent more than three hours Thursday at a hearing with the CAS. The men's skeleton competition is scheduled to begin next week. Lund was publicly warned but not suspended by the U.S. Anti-Doping Agency on Jan. 23 after the positive test. But last week, the World Anti-Doping Agency filed an appeal with the CAS over Lund's Olympic eligibility."

Duke University Changes Drug-Testing Policies. The AP (2/10) reports student athletes at Duke University who test positive for steroids "will have to sit out of competition for a year, while a second offense will result in lost eligibility, the school announced Thursday. The changes come after allegations last spring of steroid use by former baseball players. Bill Hillier, who compiled a 121-214 record in six years, resigned as coach a month after two former Duke players told the university newspaper they used steroids while playing for the school. Those players and others have said Hillier suggested that they use steroids. Hillier has denied the allegations. The new policy goes into place immediately. Evidence of blood doping or masking agents and refusal to take or attempts to manipulate a test are treated as positive tests."

Durham, North Carolina's Herald Sun (2/10) writes, "The school's new drug policy differentiates between performance-enhancing drugs and other substances banned by the NCAA -- so-called 'street drugs' -- by imposing harsher penalties for student-athletes who test positive for steroids and the like. The previous policy treated all banned substances the same, calling for counseling, treatment and further evaluation for a first offense, a suspension for at least half the season for a second offense and a permanent ban from competition for a third offense."

The Charlotte (NC) Observer (2/9) reports, "The University of North Carolina strengthened its steroid policy in October, requiring permanent dismissal for athletes testing positive for anabolic steroids. Duke's policy provides a

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second chance for steroid offenders. 'We are an educational institution,' said Duke law professor James E. Coleman Jr., who chaired Duke's committee. 'We felt it was appropriate to give a student who tested positive for a steroid a second chance to learn from and recover from the error, if possible.'"

ATF Busts Moonshine Still In Georgia. The Clayton (GA) Tribune (2/9, Spurney) reports, "Federal agents from the U.S. Forest Service and the Bureau of Alcohol, Tobacco and Firearms raided a moonshine still Feb. 2 off Muscadine Lane in eastern Rabun County." The Tribune continues, "The still, on Forest Service land in the Pool Creek community, had been under surveillance for nearly two months. No arrests have been made, though Rabun County sheriff's deputies and Georgia Department of Revenue agents helped execute warrants at three local residences." The Tribune adds, "Authorities released few details about the still's operation, including the names of potential suspects. The investigation is ongoing. … 'Suffice it to say, the suspects have been under surveillance with our operation,' said ATF spokesman Marc Jackson. … 'It was estimated that up until our enforcement action on it, that this suspected still was suspected of producing 45-70 gallons per cycle,' Jackson added. The still had yielded about seven cycles since Dec. 8. … The still was estimated to hold 750 gallons of mash. It was tucked away off Forest Service Road 517. Liquor was transported from the site in a 55-gallon barrel to another location where it was transferred to jars. Its operators had built a makeshift road through the woods, apparently on an old logging roadbed. The liquor was distilled through an old radiator."

New Jersey Man Sentenced In Pennsylvania Arson-For-Hire Case. The Bucks County (PA) Courier-Times (2/9, Yanoshak) reports, "A New Jersey man was sentenced to five years in federal prison Wednesday for hiring two men to torch the Morrisville (PA) restaurant across the street from what used to be his pizzeria." The Courier-Times continues, "From his own family to the man whose deli-restaurant was damaged by Molotov cocktails, many in U.S. District Court posed the same question to Alessandro 'Alex' Tramo: 'What were you thinking?' … Tramo's answer: He wasn't." The Courier-Times adds, "The abuse of prescription drugs had clouded his judgment, he told U.S. District Court Judge Anita Brody, whose sentence of five years was the mandatory minimum. … 'I forever regret having anything to do with this incident,' he told the court as his wife, Lisa, sat in the audience and wiped away tears. … Tramo pleaded guilty to hiring the men to burn Ben's Deli and Restaurant on Dec. 2, 2000. The 3:45 a.m. fire was brought under control in about 20 minutes and seriously damaged the landmark cafeteria-style eatery. … An investigation by Morrisville and Bucks County fire marshals and the federal Bureau of Alcohol, Tobacco and Firearms resulted in an indictment against Tramo, 34, of Bordentown; Bruce Armstrong, 35, of Trenton; and William Anderson, 39, of Morrisville. … Tramo, who then owned Anthony's 4 Pizza, hired the two to eliminate Ben's as a competitor, the investigators determined. … Armstrong and Anderson pleaded guilty and agreed to testify against Tramo. After that, Tramo pleaded guilty to arson and criminal conspiracy to commit arson."

IMMIGRATION:

Noting Rise In Border Violence, Chertoff Says US Will Not Tolerate Attacks On Agents. The Washington Times (2/10, Seper, 90K) reports, "Department of Homeland Security Secretary Michael Chertoff, concerned about rising border violence, said yesterday nearly $1 billion in next year's proposed $42.7 billion department budget will be used for new US Border Patrol agents, upgraded electronic security measures, and more fences, roads, and detention beds." During a Washington press conference, Chertoff said, "There has been an over-100 percent increase in the last fiscal year in border violence aimed at our Border Patrol agents." Chertoff added, "We are not going to tolerate this kind of behavior." The secretary said "much of the border violence has been the result of increased enforcement efforts by the US government, but that the department was committed to securing the nation's borders as part of the strategy that 'involves not only apprehensions at the border, but detention, removal and more vigorous work site enforcement.'"

Cornyn Says Immigration Is National Security Issue. The Washington Times (2/10, McCain, 90K) reports, "Immigration should be treated as a national security issue, Sen. John Cornyn yesterday told a gathering of conservative activists. 'The federal government needs to obtain operational security of our borders,' the Texas Republican said in a speech to the 33rd annual Conservative Political Action Conference (CPAC) at the Omni Shoreham Hotel in Washington." Cornyn "said human traffickers, drug smugglers and criminal gangs from Brazil, China and other countries are 'using Mexico as a point of entry into the United States.'" He "drew applause when he said he would push for a Senate bill to provide 'a comprehensive solution' to US immigration problems 'that does not include amnesty.'"

DHS IG Finds Companies Using L-1 Visas To Get Around H-1B Quotas. The Washington Times (2/10, Dinan, 90K) reports that the temporary L-1 visa, which is "used particularly by foreign technology workers, is being abused by companies looking to get around protections for American workers, according to a new government report." The L-1 visa "is intended for foreign companies who want to transfer

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managerial employees or workers with 'specialized knowledge' temporarily to the United States." However, while "Congress has capped the number of workers who can come under the H-1B visa category each year at 65,000," it "has not placed limits on the L-1 visa, which applies to workers with specialized knowledge." The Department of Homeland Security's inspector general has "found that it is difficult for adjudicators at US Citizenship and Immigration Services (USCIS) to determine what constitutes a manager, particularly because companies vary in size and organization. Adjudicators also have to rely on a company's claims about its own operations, a worker's status at the time of the petition and how a worker will be used in the United States."

LATimes Criticizes Bush Border Budget Proposals. Under the headline "Bipolar Border Budgeting," the Los Angeles Times (2/10, 958K) editorializes, "Throwing money at a problem doesn't solve it. Knee-jerk reactions don't help, either. When it comes to illegal immigration, the Bush administration, apparently unable to decide which approach it prefers, has opted for both. But spending more on border enforcement will do little to curb illegal immigration and may even distract attention from better solutions to the problem." Though President Bush emphasized Border Patrol spending in this week's budge, "Over the last 10 years, such spending has increased by many times, yet illegal immigration continues to climb. A more sensible step would be a guest-worker program that makes temporary workers legal and reduces people smuggling, along with the risks and related crimes that go with it." The Times adds, "The other disappointment in the president's budget is that he continued his annual practice of ignoring states' requests for reimbursement for jailing illegal immigrants."

TAX:

Opt-Outs May Jeopardize KPMG Tax-Shelter Settlement. The Wall Street Journal (2/10, Koppel) reports, "A federal judge postponed a proposed $225 million class-action settlement with accounting firm KPMG LLP and law firm Sidley Austin Brown & Wood LLP in a tax-shelter lawsuit. … The order, issued yesterday, came in response to a motion by KPMG in federal court in Newark, N.J., to revise the settlement because potential members opted out of the deal. The postponement was reported in the New York Times. … 'This settlement could be in jeopardy,' said attorney Edmundo Ramirez, whose client was one of 284 potential members of the KPMG class. Mr. Ramirez said his client rejected the original settlement, considering it 'a sweetheart deal for KPMG.'" The Journal adds, "In an interview, attorney Melvyn Weiss, a partner at Milberg Weiss Bershad & Schulman LLP and the lead lawyer for the plaintiffs in the case, said the parties may reduce the original settlement amount, but he believed an accord could still be reached in about a month. Milberg Weiss filed the suit last year, claiming KPMG sold fraudulent tax shelters. KPMG has admitted wrongdoing and agreed to pay the U.S. $456 million in restitution. … As originally proposed, the settlement would have awarded $195 million to purchasers of allegedly fraudulent tax shelters sold by KPMG. Milberg Weiss and other class counsel stood to earn $30 million from the settlement. If the plaintiffs' recovery is reduced in a new settlement, the plaintiffs' lawyers would also earn less, Mr. Weiss said."

SCOTUS To Hear Challenge To Corporate Tax Breaks. The National Law Journal (2/10, Coyle) reports, "In North Carolina this spring, a state court will take up a constitutional challenge to $242 million in state tax breaks given by state officials to Dell Inc. to build a plant in Winston-Salem. In Minnesota, another suit is pending attacking the validity of two multimillion-dollar tax-incentive programs to attract and keep businesses in special zones in that state." The Journal continues, "The North Carolina and Minnesota suits are among a number percolating around the country that have been inspired largely by a federal appellate decision in 2004 that struck down Ohio's investment tax credit -- a sacred tool of state economic competition." The Journal adds, "The Ohio case, which involved a $280 million tax incentive plan for DaimlerChrysler Corp.'s expansion in that state, is now before the U.S. Supreme Court, which is scheduled to hear arguments on March 1. DaimlerChrysler Corp. v. Cuno, No. 04-1704; Wilkins v. Cuno, No. 04-1724. … The case has raised to a high profile a long-running debate over the constitutionality of state tax incentives under the so-called dormant or negative commerce clause, which prohibits states from acting in a way that interferes with interstate commerce, as well as a debate over the effectiveness of tax incentives as an economic-development tool. … Business and government officials predict 'dire ramifications' if states lose the ability to offer these incentives and businesses lose the ability to use them. … They note that one study reported last year that more than 330 statutory income or franchise tax credits and incentives are offered by 46 states."

Mack Says Tax Overhaul Will Be Harder If Delayed. The Wall Street Journal (2/10, Harwood) reports in its "Washington Wire" column that former Sen. Connie Mack, "'disappointed' that presidential advisory group he headed isn't producing action, cautions the issue will become 'more difficult' to push as president's term continues. Absence of tax overhaul in Bush's State of the Union address is seen as sign of Treasury Secretary Snow's lack of clout."

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WSJournal Pleased Rhode Island Democrats Are Considering Flat Tax. The Wall Street Journal (2/10, 2.11M) says in an editorial, "Let's hope James Carville, Robert Rubin, Nancy Pelosi and other national Democrats are all sitting down for this one: The Rhode Island legislature is considering a flat tax, and the proposal comes from its majority Democrats." Democratic leaders "proposed an optional flat rate income tax of 5.5% as an alternative to the current 'progressive' tax schedule, which imposes rates ranging from 3.75% to 9.9% for the highest earners. The flat tax is part of a more comprehensive reform plan that would also include a sales tax holiday weekend in August and a full week of relief on 'energy efficient' items in March 2007 from the state's 7% sales tax." What's "going on here? Have the state's liberals all taken Art Laffer happy pills? The answer is tax competition, and the discovery that Rhode Island's high tax burden is damaging its economy."

CONGRESS-ADMINISTRATION:

Bush Submits List Of Proposed Program Cuts To Congress. The Wall Street Journal (2/10, Calmes, 2.11M) reports President Bush "sent Congress his list of 141 programs to be killed or reduced to achieve almost $15 billion in savings, and almost half are three-time losers -- cuts he proposed for fiscal years 2004, 2005 and 2006, only to be ignored by Congress each time. The total savings are less than 4% of the current year's projected deficit." But if "the third time wasn't a charm, the fourth probably won't be either, congressional staffers say." Of the 91 programs targeted for complete elimination, "40 are making their fourth annual appearance on the list. Of 50 to be reduced, 20 are perennials." USA Today (2/10, Wolf, 2.31M) also writes that most of the programs Bush wants to cut or eliminate "are survivors of past Bush hit lists," and the total amount that would be saved is "small compared with the big ones in the budget: the skyrocketing costs of Medicare, Medicaid and Social Security, Bush's effort to boost spending on defense and homeland security, and the cost of making his tax cuts permanent."

Among the proposed eliminations: a "program that provides poor seniors with vegetables, peanut butter and other nutritious foods," according to the AP (2/9); the "$255 Social Security death benefit," according to CQ (2/9, Schuler); and the "public housing reconstruction program known as HOPE VI," also according to CQ (2/9, Wayne). Meanwhile, Reuters (2/9, Doggett) reports Democrats "slammed" a proposal "to cut funds for a government program that helps poor people weatherize their homes."

Both Parties Reluctant To Enact Spending Reductions. Reuters (2/9, Bohan) reports the White House "defended reductions in programs from veterans healthcare to housing on Thursday as it sought to persuade a reluctant Congress" to make the cuts. The proposals "have gotten a wary reception in Congress, with Democrats lashing out at Bush for pushing tax cuts for the rich while reducing programs for the poor and middle class," and even "prominent members of Bush's Republican party criticized his budget." House Appropriations Chairman Jerry Lewis "complained about 'fees and gimmicks,' which he said the White House knows Congress will again reject, but give Bush leeway to propose spending increases in favored areas such as defense." House Majority Leader John Boehner is among the skeptics, CQ (2/9, Ota) reports, giving "lukewarm support Thursday for President Bush's plan to slice $71 billion from Medicare and other entitlement programs. 'We have to build a budget together,' Boehner said during the first day of a House GOP retreat. 'I don't want to put things on the table or off the table.'"

Senate, House Pass Typo Fix For Spending Cut Bill. Reuters (2/9) reports, "The Senate and House have passed legislation aimed at ending confusion over a $39-billion spending-cut bill signed into law by President Bush on Wednesday, which varied slightly from the final version passed by the House. The two chambers passed the fix late on Wednesday, hours after the technical problem was discovered and the bill was enacted into law with Bush's signature. The problem stemmed from a typographical error written into the contentious bill as it bounced back and forth from the House and Senate since December."

Huckabee Says Congress Cutting Deficit By Boosting States' Medicaid Costs. The Wall Street Journal (2/10, Harwood) reports in its "Washington Wire" column that National Governors Association Mike Huckabee of Arkansas "hits Congress for trimming deficit 'on the backs of the states' with proposals to increase state cost-sharing on Medicaid. Arkansas' Republican governor, a 2008 White House hopeful, says states instead need more flexibility to experiment with approaches to reining in Medicaid costs."

Krugman Criticizes "Artificial Shortsightedness" Of Bush Budgeting Practices. In his New York Times (2/10, 1.19M) column, Paul Krugman writes, "At this point we've had six years to grow accustomed to Bush budget chicanery. … What still amazes me, however, is the sheer childishness of the administration's denials and deceptions. Consider the case of the vanishing future. … Clinton-era budgets offered 10-year projections of spending and revenues. But the Bush administration slashed the budget horizon to five years. This artificial shortsightedness greatly aided the campaign to make the 2001 tax cut permanent because it hid the costs: since budget analyses no longer covered the years after 2010, the revenue losses from extending the tax cut became invisible. … At this point the administration's budget strategy seems to be simply to ignore reality."

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Neuharth Blames Iraq Costs For Swelling Budget. In his USA Today (2/10, 2.31M) column, Al Neuharth writes, "President Bush submitted a budget to Congress this week that is so big, most of us just shrug it off without thinking about what it means to us individually. Think about this: The $2.77 trillion budget for the fiscal year starting in October breaks down to an average of $9,293.62 for everyone in the USA. The latest budget request for Iraq of about $96 billion brings the cost of that war to $322 billion, an average of $1,080.34 per person. … Bush simply can't convince me on continuing the cost in Iraq -- in dollars and, more important, in precious lives -- for a war that he never should have started."

Pentagon Budget Proposal Would Increase Weapons Spending. The Washington Post (2/10, Merle, 744K) reports the defense industry was largely "relieved" by the Pentagon budget proposal, which "would increase spending on weapons to $84.2 billion, $8 billion more than this year, and includes $1.7 billion for unmanned aerial vehicles, an increase of about 3 percent, to begin buying 322 of the pilotless planes over the next five years." The "proposed 7 percent increase in the budget for weapons procurement and research and development is twice that expected by Troy Lahr, a defense analyst at investment bank Stifel, Nicolaus & Co. 'And we were among the more bullish,' said Lahr."

Defense Savings Plan Likely To Face Challenges. CQ (2/9, Donnelly, Plummer) reports lawmakers "are expected to challenge President Bush's proposal for defense savings because the plan, worth more than $50 billion over the next five years, entails significant reductions in uniformed personnel to support massive increases in weapons purchases and rising health care bills. Lawmakers in recent weeks have protested personnel cuts and threatened to add money for the troops back into the budget."

NYTimes Criticizes Pentagon Budget Priorities. The New York Times (2/10, 1.19M) editorializes, "It's amazing how Donald Rumsfeld's Defense Department can produce a $439 billion spending plan and still skimp on the one thing the American military desperately needs: expanded ground forces so the weakened and cannibalized Army can meet the requirements of Iraq without hurting its ability to respond to other threats. While the Pentagon intends to increase pay and recruitment bonuses, no part of its nearly 7 percent budget increase is aimed at raising overall troop strength. Instead, a large chunk of this nearly $30 billion bonanza goes to buying more new weapons and postponing overdue cuts in wasteful Air Force and Navy projects unrelated to fighting terrorism. … The military contractors are doing just fine. It's the troops in Iraq who need help from Washington."

Bush Domestic Policy Adviser Resigns. The AP (2/9) reports President Bush's domestic policy adviser Claude Allen "has resigned to spend more time with his family." Allen "has been working for the administration since Bush's first year in office -- first as the No. 2 official at the Health and Human Services Department, and for the last year as domestic policy adviser in the White House." He "did not respond to inquiries asking about his departure or future job plans."

Insiders Say Card, McClellan And Others Are Not Planning To Leave. The White House Bulletin/US News (2/9) reported White House and Administration insiders "are playing down rumors that Chief of Staff Andy Card, spokesman Scott McClellan and other top Bush aides are considering leaving the West Wing this spring. The latest reports are being fed by expectations that Treasury Secretary John Snow will retire this spring and that Bush would put Card, a former Transportation secretary, into the post." But top aides and Administration officials this week, "however, said it appears that no staff changes are underway or even planned and that the feeling inside is that the top aides, including Card and McClellan, will remain on the job at least through the midterm elections -- and possibly until the end of the President's second term. Indeed, two insiders said that Card has been leading pep talks for staffers, telling them that they have a job of 'high honor' and to stay focused on continuing to 'build on the President's agenda.'" Said one insider, "There is no hint that anybody is going anywhere. They're building the legacy" for President Bush.

House Members Show Support For Bush Competitiveness Initiative. The AP (2/9, Crutsinger) reports President Bush's "plan to boost the competitiveness of U.S. industry through innovation won support from members of Congress Thursday, although Democrats criticized the initiative for slashing some education programs to pay for more spending on math and science." Commerce Secretary Carlos Gutierrez "won widespread support from members of the House Government Reform Committee for Bush's 'American Competitiveness Initiative,' one of the biggest new programs in the budget Bush sent to Congress on Monday." The initiative "would double government funding for basic research in the physical sciences, train thousands of new science and math teachers and extend a popular tax credit businesses can receive for investing in research and development," at a cost of $136 billion over 10 years.

The Christian Science Monitor (2/10, Feldmann, 61K) reports, "The education piece of Mr. Bush's plan seems relatively small -- $380 million in fiscal 2007 -- but it is getting most of the attention. From that, $90 million would go to boost the ranks of students taking Advanced Placement and International Baccalaureate classes in math, science, and

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foreign languages by training 70,000 additional teachers in those subject areas in high-poverty high schools." The plan "aims to boost the number of students taking AP math and science exams from 380,000 today to 1.5 million in 2012."

Gutierrez To Promote Bush Competitiveness Initiative In North Carolina. The Raleigh News & Observer (2/10) in its "Morning Briefing" column reports, "North Carolina likes to think of itself as a hotbed of innovation. Apparently, the Bush administration is keying in on that reputation." The News & Observer continues, "For the second time in a week, a senior Bush adviser will visit the state to discuss the president's 'American Competitiveness Initiative.' Commerce Secretary Carlos M. Gutierrez…this morning will meet with business and education leaders at IBM's Research Triangle Park campus to promote the stronger focus on technological and scientific innovation." The "initiative is meant to increase competitiveness with other nations. Treasury Secretary John W. Snow touted the effort in Kannapolis last week."

Bush To Address House GOP Retreat Today. Reuters (2/9, Ferraro) reports House Republicans "rocked by an ethics scandal" are meeting at a hotel in "secluded" Cambridge, Maryland, for a three-day retreat. New House Majority Leader John Boehner said the retreat "would allow a 'period of renewal,' but gave no hint whether he could quickly unite his 231-member caucus on lobbying reform." President Bush will address the group today. The Washington Times (2/10, Dinan, 90K) reports Republican National Committee Chairman Ken Mehlman spoke to the GOP caucus on Thursday, saying Democrats "are failing to capitalize on Republican ethics questions ahead of difficult midterm congressional elections in November." While according to Mehlman politics is "supposed to be a zero-sum situation: If one party is doing poorly, the other does well," Republican "travails have not helped Democrats, he said. 'The law of political physics is being defied by Nancy Pelosi, Howard Dean and Harry Reid,' he said."

House GOP Members To Raise Election Year Needs With Leaders. The Wall Street Journal (2/10, Harwood) reports in its "Washington Wire" column, "Republicans speak up to House leaders about election-year needs. Format for this weekend's retreat in Maryland is 'unstructured,' says Ohio Rep. Pryce, who chairs Republican conference. Newly elected Majority Leader Boehner calls these 'times of renewal.'" House Democrats "press Boehner to open legislative process while banning lobbyists' gifts. But House reform timetable slips, while McCain presses Senate effort to change spending 'earmarks.'"

McCain Leads Senate Effort To Curtail Earmarks. The AP (2/10, Abrams) reports, "Ten senators led by Sen. John McCain took on the Senate's much maligned practice of inserting individual members' special projects, often without the knowledge of their colleagues, into larger spending bills. The 'Pork-Barrel Reduction Act,' introduced Thursday by eight Republicans and two Democrats, is the latest in a rash of proposals promoting ways to restore integrity to the political process in the wake of lobbying and ethics scandals." The bill "would allow senators to raise points of order against special projects, or earmarks, that are attached to spending bills without having been approved by the relevant committee. Under the procedure, which also applies to policy changes embedded in spending bills, 60 votes would be needed to override the point of order and keep the provision in the bill."

CQ (2/9, Higa) reports that while McCain's bill "has bipartisan sponsorship from eight Republicans and Democrats, including Russ Feingold of Wisconsin and Evan Bayh of Indiana, its prospects for reaching the floor are uncertain. It has been referred to the Senate Rules Committee, chaired by Trent Lott, R-Miss., who introduced his own earmark proposal with Dianne Feinstein" last week. Lott's measure "has fewer cosponsors, but the mix of Republicans and Democrats is more balanced than McCain's and includes Rules panel members Chuck Hagel, R-Neb., and Christopher J. Dodd."

Coburn Says Earmark Reform Crucial To Ending "Culture Of Corruption." In a Wall Street Journal (2/10, 2.11M) op-ed, Sen. Tom Coburn writes, "John McCain and I recently delivered a letter to our colleagues announcing our intention to challenge every individual earmark on the floor of the Senate. Many senators, staff and reporters have asked if we are serious. The answer is yes. I am convinced that forcing hundreds or, if necessary, thousands of votes to strike individual earmarks is the only way to produce meaningful results for American taxpayers. Bringing the Senate to a standstill for as long as it takes would be a small price to pay for shutting down what Jack Abramoff described as Congress's 'earmark favor factory.' … As Congress confronts its culture of corruption and our enormous fiscal challenges, it's time to 'just say no' to earmarks."

Top Official At Corporation For Public Broadcasting Announces Resignation. The New York Times (2/10, Labaton, Jensen, 1.19M) reports, "The top television executive at the Corporation for Public Broadcasting announced on Thursday that he would be stepping down. This is the latest in a string of departures of officials and consultants who played central roles in an effort by conservatives to bring what they viewed as more balance to public television and radio." The executive, Michael Pack, "controlled a $70 million production budget and was described by the official who hired him as a conservative Republican." He "chose to resign after Patricia S. Harrison, the corporation's new president, forced him to decide

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between renewing his employment contract and exercising a soon-to-expire option that gives him $500,000 to produce a documentary."

Deutsch Denies Lying About Resume, Calls Hansen Politically Motivated. The New York Times (2/10, Revkin, 1.19M) reports, "George C. Deutsch, the young NASA press aide who resigned on Tuesday amid claims that he had tried to keep the agency's top climate scientist from speaking publicly about global warming, defended himself publicly yesterday. Speaking to a Texas radio station and then to The New York Times, Mr. Deutsch said the scientist, James E. Hansen, exaggerated the threat of warming and tried to cast the Bush administration's response to it as inadequate. Mr. Deutsch also denied lying about having a college degree and trying to inject religion into some NASA Web presentations. 'I have never been told to censor science, to squelch anything or to insert religion into any issue,' he told the radio reporter, Brian Cain. Parts of that interview were posted on the Web site of WTAW-AM, in College Station (wtaw.com), where Mr. Deutsch attended Texas A&M University until he joined President Bush's campaign in 2004. After seeing a transcript of some of the criticisms, Dr. Hansen said, 'This is so wacky that it deserves little response.'" In an interview with the Times, "Mr. Deutsch said he had written the résumé in anticipation of graduating. … 'As a result, it may appear misleading to some. However, I was up front with NASA about my undergraduate status when they hired me.'"

The AP (2/10) reports in a widely published story, "A staffer who resigned from NASA after he was accused of restricting access to a noted climate scientist said Thursday he was targeted because of his political ties. George C. Deutsch, 24, resigned from the agency's public relations department earlier this week. 'What you do have is hearsay coming from a handful of people who have clear partisan ties and they are really coming after me as a Bush appointee,' he told radio station WTAW. 'I was an easy target. I was low-hanging fruit.'"

NASA, Hansen Say Deutsch Charges Untrue. Under the headline "'Culture War' At NASA?" the Houston Chronicle (2/10, Carreau, 581K) reports that Deutsch "directed much of his wrath at James Hansen... 'What is going on at NASA and throughout the federal government is a culture war,' Deutsch said in a statement from his Washington-area home. 'I quickly learned one thing: Dr. Hansen and his supporters have a very partisan agenda and ties reaching to the top of the Democratic Party.' In a telephone interview, Deutsch accused the space agency of too often showcasing Hansen as its expert on global warming, passing over other scientists whose views were not as alarming." The story adds, "On Thursday, both Hansen… and NASA challenged the allegations by Deutsch. 'I have no idea where he got that idea. It would be the opposite of our credo about presenting all sides of a problem,' Hansen wrote in an e-mail in response to the charge he tried to suppress opposing views. … Hansen's views on global warming were not favored over others, said Dean Acosta, chief spokesman for NASA administrator Michael Griffin. 'I can tell you categorically that is not happening,' said Acosta."

USA Today Says Bush Needs To Take Cue From NASA Flap. USA Today (2/10, 12A, 2.31M) editorializes, "That a low-level bureaucrat could overrule a prestigious scientist says worlds about how the administration balances politics against science. Further evidence can be found at the Food and Drug Administration, which has stifled overwhelming evidence that the 'morning-after pill' is safe and effective. It blocked over-the-counter sales — a transparent payoff to abortion opponents. Global warming is a good place to begin altering that facts-be-damned approach. … Ignoring the impact of climate change is getting difficult: Federal officials are considering declaring the polar bear a threatened species because rising Arctic temperatures are melting the ice pack that's their home. Now that scientific fact has spoken louder than ideology at NASA, perhaps the same can happen at the White House."

More Commentary. In his column on the Washington Post (2/10, A17, 744K), Al Kamen reports, "Deutsch did attend the Texas University and did some writing for the Battalion, the student paper. In an opinion piece in 2003 when New York Times reporter Jayson Blair was unmasked as a fabricator, Deutsch wrote: 'Blair's decisions and actions lacked ethics and integrity. As a reporter, he cared only about himself and furthering his career at the expense of the truth. Unclear if Deutsch plans to re-enroll to finish his degree."

In an editorial titled "Earth to NASA," the Spokane (WA) Spokesman-Review (2/10) argues, "The National Aeronautics and Space Administration is the latest battleground in the war between science and politics. First, the agency's public information office was accused of censoring its scientists' findings on global warming. Then it imposed itself on the origins-of-the-universe debate." The paper describes the controversy around George Deutsch and concludes, "We're guessing Deutsch was motivated by more than just science, but that's just a theory. Deutsch was dumped on Tuesday for lying on his resume. We hope NASA administrators can see that there was a bigger problem."

NAS Accepts Congressional Request To Referee Warming Dispute. The Wall Street Journal (2/10, B4, Regalado, 2.11M) reports, "Seeking to resolve a scientific dispute that has taken on a rancorous political edge, the National Academy of Sciences said it had agreed to a request from Congress to assess how well researchers understand the history of temperatures on earth. The study by the academy, an independent advisory body based in

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Washington, will focus on the 'hockey stick,' a chart of past temperatures that critics say is inaccurate. … The controversy took a sharp political turn in July when Rep. Joe Barton (R., Texas), head of the House Energy and Commerce Committee, launched a probe into the work of three climate specialists who generated the graph, including Michael Mann, now a professor at Pennsylvania State University. Mr. Barton's inquiry drew a rebuke from several scientific societies as well as fellow Republican Sherwood Boehlert of New York, chairman of the House Committee on Science, who called it a blatant effort to intimidate global-warming researchers. After Mr. Barton didn't respond to an offer to jointly bring the issue to the National Academy, Mr. Boehlert independently asked for a review in November, science committee chief of staff David Goldston said."

VA Has Declined Health Care To More Than 250,000 High-Income Veterans. The Washington Post (2/10, A17, 744K) reports that it has been three years since then-Secretary Anthony Principi said the Department of Veterans Affairs would be suspending health care enrollment "for some higher-income veterans who did not have injuries or illnesses related to their military service. The move to exclude 'Priority 8' veterans was unpopular, but Principi said it was necessary to prevent the VA medical system from being swamped by the rising number of veterans who were eligible for care. … More than a quarter-million 'Priority 8' veterans who tried to sign up for VA health care coverage between January 2003 and October 2005 were turned away because of the new effort to rein in costs," and as many as 10 million of the 16.9 million veterans not enrolled in the VA health care system are Priority 8 veterans, the VA says.

Specter Statements On Swearing Witnesses Contrasted. In a "Verbatim" item, the Washington Post (2/10, A17, 744K) contrasts Senate Judiciary Chairman Arlen Specter's statement on declining to put Attorney General Alberto Gonzales under oath this week -- "It is my judgment that it is unnecessary to swear the witness" -- with a Specter statement from April 2005: "During my stewardship here, I'm going to put everybody under oath when we have testimony, as we do on confirmation hearings."

Allen Urges Withholding Lawmaker Paychecks. The AP (2/10, Taylor) reports, "A potential GOP presidential candidate has come up with a familiar way to cater to conservative core voters -- bashing Congress." Virginia Sen. George Allen, "a darling of conservatives, says lawmakers' paychecks should be withheld if they don't pass spending bills on time." He "says that would solve the problem of larding spending into end-of-session bills that sometimes pass without anybody reading them."

Administration Contributing To Growth Of "Faith Based" Social Services. In the Chicago Tribune's "The Swamp" blog (2/8), Mark Silva writes, "For all the hoopla surrounding cuts in Medicare and Medicaid spending, a quieter revolution is taking place in Washington: The advancement of 'faith-based' social services." As President Bush "signed a significant budget-cutting bill today with an audience of congressional leaders in the East Room of the White House, he signed into law protections for religious groups that spend federal money on the social services that they deliver." Legal protection "for many federally financed private groups to hire people of their choosing already had been provided by the Welfare Reform Act of 1996 signed by President Clinton. In the reauthorization of that act, Congress has extended that authority for programs operating under the $17-billion Temporary Assistance to Needy Families through 2010 and also has extended this 'Charitable Choice' authority to his new Marriage and Fatherhood Program." Bush "signed all of this into law today as he approved a Deficit Reduction Act that will rein in the growth of Medicare and Medicaid. The choice provisions were added to the bill."

Senate Confirms Ameriquest Founder As Ambassador To The Netherlands. The Los Angeles Times (2/10, Peterson, 958K) reports the Senate confirmed Ameriquest founder Roland Arnall as US ambassador to the Netherlands on an "uncontested" voice vote 16 days after Ameriquest "agreed to pay $325 million to settle allegations of unfair lending practices by regulators in 49 states and the District of Columbia." The vote "brought a peaceful end to a divisive, three-month confirmation process, in which Democrats led by Sen. Paul S. Sarbanes (D-Md.) had insisted that Ameriquest resolve the allegations against it before they would confirm Arnall."

OTHER NEWS:

Weekly Jobless Claims At Lowest Level In Six Years. The Wall Street Journal (2/10, 2.11M) reports, "A closely watched barometer of joblessness fell to its lowest reading in nearly six years, offering further proof that so far this year the labor market is improving along with the economy." The Labor Department "said the number of workers filing initial unemployment claims last week was 277,000, a figure that pushed the more telling four-week moving average of jobless claims down to 276,500, its lowest level since April 2000." The claims data "provide the latest bit of evidence that strong economic activity is improving conditions for workers."

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Stocks Mixed. USA Today (2/10, 2.31M) reports, "Stocks were mostly higher Thursday as a six-year low in unemployment claims and strong corporate earnings encouraged investors. However, the momentum sagged in late-afternoon trading as uncertainty about the economy resurfaced. While weekly first-time jobless claims rose slightly, Wall Street was encouraged that the Labor Department said the four-week moving average fell to its lowest since April 2000." The Dow Jones industrial average "rose 24.73 points to 10,883.35 after gaining 108.86 points Wednesday. The Standard & Poor's 500 index fell 1.87 points to 1263.78, and the Nasdaq composite dropped 11.11 points to 2255.87." The Wall Street Journal (2/10, Patterson, 2.11M) also reports the stock numbers.

Economists Worry Bernanke Could Raise Fed Funds Rate Too High. The Wall Street Journal (2/10, Annett, 2.11M) reports economists have "some advice for Ben Bernanke as he takes over at the Federal Reserve: establish your credibility as an inflation fighter. But, at the same time, they have concern that he could take that effort too far." When asked "in the latest WSJ.com forecasting survey which mistake Mr. Bernanke is more likely to make -- raising rates too much or not enough -- three-quarters of economists said he is more likely to lift rates too high." The "challenge is especially acute now. Soaring energy prices have nudged up inflation pressures at the same time the Fed has been steadily lifting rates. Now, Mr. Bernanke must pick the right time to stop the increases." On average, the "economists expect the federal-funds rate, charged on overnight loans between banks, to be 4.75% by June and to remain at that level through year-end. That suggests the Bernanke Fed would raise the funds rate from its current 4.5% and then halt the string of increases embarked upon in June 2004, when the funds rate sat at a 46-year low of 1%."

The Wall Street Journal (2/10, Harwood) reports in its "Washington Wire" column, "Bernanke faces pressure to answer deficit questions in next week's congressional testimony. 'He ultimately will have to speak out on serious things that affect the economy,' says Senate Banking Chairman Shelby. 'If he doesn't, there will be a void.' With Fed nominees Kroszner and Warsh headed for confirmation, open market committee should be back to full strength at March 27-28 meeting for first time in a year."

Greenspan Draws Fire For Remarks On Economy. The Financial Times (2/10, Beales, Hughes, Balls) reports that "barely a week after leaving the US Federal Reserve, Alan Greenspan has been reminded how tricky life can be in the private sector for a man revered as the world's greatest former central banker." Greenspan's "comments at a Wall Street dinner on Tuesday rippled through currency and bond market trading rooms on Thursday, drawing comment not just on what he did - or maybe didn't - say but whether he should have said anything at all." The remarks, "during a talk for bankers and top hedge fund clients of Lehman Brothers, were interpreted as relatively hawkish on the US interest rate outlook, and contributed to a modest rise in the dollar and a decline in Treasury prices." Some observers suggested Greenspan "would have done better to defer his appearances at least until next week when Ben Bernanke, the new chairman, is due to present the central bank's twice-yearly monetary policy report to the US Congress for the first time."

Attorneys Said To Be Biggest Purchasers Of Cell Phone Records. The National Law Journal (2/10, Baldas) reports, "The sale of cell phone records over the Internet -- a hot topic that recently spurred litigation, legislation and a federal investigation -- has more than a few lawyers nervous." The Journal continues, "Attorneys are among the top customers of the controversial Web sites, according to private investigators, privacy advocates and Web site operators who sell the phone records. … 'Let's put it this way, the legal profession is keeping it alive,' said Rob Douglas, a former private eye turned security consultant who has helped the Federal Trade Commission investigate and prosecute online operators that sell phone records. … 'I've investigated them with the federal government and in private lawsuits ... and in every single case, the overwhelming majority of users of these companies are attorneys,' Douglas said." The Journal adds, "These attorneys include divorce lawyers, who want to know who feuding spouses are talking to; business lawyers, who want to know who their clients' competitors are talking to; and employment lawyers, who want to know if employees are selling any trade secrets. … The online data industry has come under intense scrutiny in recent months, triggering private lawsuits and federal and state investigations."

Conservatives Face Questions About Future Course. The New York Times (2/10, Nagourney, Kirkpatrick, 1.19M) writes that "despite the triumph of placing two conservatives on the Supreme Court within four months, leaders of the conservative movement these days seem less celebratory than divided." Conservatives "face internal rifts over polarizing issues and are dogged by a sense that a Republican-led Congress and a Republican president are not taking the nation in the proper direction on some critical matters." Those "fissures were evident" as the Conservative Political Action Conference convened in Washington, with leaders expressing "concern about the loyalty of elected Republicans in Washington to the conservative agenda, complained about the growth of spending in Mr. Bush's latest budget and said they were uncertain, at a time when

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Congressional Republicans are squirming under the glare of a corruption inquiry, of the future of the movement."

Gingrich Says US Again Looking To Conservatives For Leadership. In a Washington Times (2/10, 90K) op-ed, Newt Gingrich writes, "For over three decades now, American history has been written on the right. The crossroads confronted by conservatives have been America's crossroads, and the path forward charted by conservatives has consistently been the path of the nation. Today, America, and therefore conservatives too -- stand at another crossroads, with another set of historic choices that will determine whether we leave our children and grandchildren a country as safe, prosperous and free as the country our parents and grandparents fought and worked to give us. Throughout the 1970s, Ronald Reagan argued that the choice faced by Americans was not between left and right but between up and down -- down toward 'the totalitarianism of the ant heap' or up toward 'that shining city on a hill.' In the 1990s, conservatives again spoke to the hopes of a broad majority of Americans. … Twice before we've stood at the crossroads, and twice before conservatives have led the way forward to greater safety, prosperity and freedom for all Americans. Today, the stakes are higher than ever before. Our fellow Americans are once again looking to conservatives and asking this question: What are you doing to win the future?"

Sheehan Won't Challenge Feinstein. Reuters (2/10) reports, "Cindy Sheehan, the anti-Iraq war activist whose son was killed in the conflict there, put an end to speculation on Thursday that she would launch a long-shot bid to become a US senator from California." Sheehan, speaking in front of San Francisco City Hall," said she would not run for the office." The AP (2/10) quotes Sheehan saying, "I think I'm more effective on the outside than on the inside."

Steele Criticized For Comparing Stem Cell Research, Nazi Experiments. The Baltimore Sun (2/10, Skalka, 296K) reports that in a discussion of "his position on embryonic stem cell research with Baltimore Jewish leaders yesterday, Lt. Gov. Michael S. Steele said he is 'concerned about the destruction of human life' and made a comparison between the controversial science and experiments done on Jews during the Holocaust." Steele, speaking to a Baltimore Jewish Council board meeting, said, "You of all folks know what happens when people decide they want to experiment on human beings, when they want to take your life and use it as a tool. I know that as well in my community, out of our experience with slavery, and so I'm very cautious when people say this is the best new thing, this is going to save lives." The Sun adds Steele's remarks, "which followed a well-received speech about his trip to Israel in November, came in response to a board member's question about Steele's stance on embryonic stem cell research. His answer stunned many in the audience."

Democrats To Pay Homage To Steele During Black History Month Events. The Washington Times (2/10, Miller, 90K) reports, "The Maryland Democratic Party has been relentless in criticizing…Steele in his run for U.S. Senate, but party officials say that won't stop them from paying homage to the conservative Republican during Black History Month. 'Michael Steele is an important figure in African-American history in Maryland. There is no question about it,' said Derek Walker, executive director of the state Democratic Party. 'We should be proud of the achievements of African-Americans, regardless of what party they are from or what their background is,' he said." Steele, "the first black elected to statewide office in Maryland, will be celebrated Monday as part of the state Democratic Party's campaign to honor a black Marylander each day this month, Mr. Walker said."

Unions Gave To 48 Maryland Legislators Before Wal-Mart Vote. The Washington Post (2/10, B5, Wagner, Marimow, 744K) reports two labor unions "pushing for legislation that could expand Wal-Mart's health benefits made campaign contributions to 48 members of the Maryland General Assembly in the month before the high-profile vote." The contributions, "totaling more than $36,000 in the run-up to the January vote, came to more than a quarter of the state's legislators from affiliates of the Service Employees International Union and the United Food and Commercial Workers International Union, according to analysis of campaign finance reports filed last month." Bobbie Walton of Common Cause Maryland said, "They were obviously trying to get somebody's attention." The Post adds Wal-Mart "retained as many as a dozen Annapolis lobbyists for the fight, which drew national attention, and tried to sway public opinion through radio and newspaper ads." But in "the weeks before the override vote, Wal-Mart made only seven direct political contributions to lawmakers, one of which was returned, according to Maryland State Board of Elections records."

LATimes Promotes Circumcision To Prevent AIDS Spread. The Los Angeles Times (2/10, 958K) says in an editorial that President Bush has been "a reliable ally in the global fight against AIDS, proposing to increase federal funding to about $4 billion next year. With so much at stake, efficiency is vital, and according to a growing body of research, one procedure that is relatively inexpensive and can drastically reduce the transmission of AIDS is male circumcision. Last fall, the first rigorous trial on the subject conducted in South Africa found that circumcised men are 60% less likely to contract HIV."

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Putin May Break With US, EU And Welcome Hamas Visit. The New York Times (2/10, McLean, Myre, 1.19M) reports, "Pulling away from an agreed American and European policy, President Vladimir V. Putin of Russia said Thursday that he was considering inviting the newly victorious leaders of the radical Palestinian Islamic group Hamas to Moscow to discuss solutions to the conflict in the Middle East." Putin said, "Preserving our contacts with Hamas, we are willing in the near future to invite the authorities of Hamas to Moscow to carry out talks." And "Hamas responded favorably on Thursday. 'If we receive an official invitation to visit Russia, we will visit Russia,' said Ismail Haniya, a senior Hamas leader." One "senior State Department official said that the administration was surprised and irritated by Mr. Putin's remarks, but that Russia had assured the United States that there would not be any senior-level contacts with Hamas. Asked about Mr. Putin's statement, the official said, 'Frankly, it doesn't help.'" Although "Putin seemed to catch the Bush administration and some others by surprise, it was not the first time he had voiced such an opinion. In a news conference late last month, after the Palestinian elections, he said Russia had 'never regarded Hamas as a terrorist organization,' and did not rule out financial aid for a Hamas-led government."

The Washington Post (2/10, A15, Wilson, 744K) says Putin's invitation signaled "the first crack in diplomatic efforts to isolate the radical Islamic group as it prepares to form the next Palestinian cabinet." The Post adds, "U.S. officials were caught off guard by Putin's comments and sought clarification from Russian officials." U.S. assistant secretary of state for Near Eastern affairs David Welch "noted to reporters that Russia was a member of the quartet and had agreed to the group's stance toward Hamas." Welch said, "These are the principles that were clearly articulated now several times by the quartet and again with Russian participation and agreement. … We would expect that any meeting that occurs with any Palestinian representative, including Hamas, would emphasize these principles."

The Washington Times/Reuters (2/10, Croft) notes, "State Department spokesman Sean McCormack said in Washington that the Bush administration has 'contacted the Russian government about what their intentions are.'" McCormack said, "If there are any contacts between the Russian government and Hamas, we would expect that they would send that very clear message, both in public and private, that is contained in the Quartet statement."

Prosecution Seeks Death Penalty For Beslan Terrorist. The New York Times (2/10, Myers, 1.19M) reports, "A senior prosecutor on Thursday asked a court in southern Russia to sentence to death the only attacker known to have survived the siege of Middle School No. 1 in Beslan in September 2004. The request rekindles a contentious debate in Russia over capital punishment." Deputy prosecutor general Nikolai Shepel "said the gravity of the terrorist siege, which ended with the deaths of 331 hostages, warranted a penalty of death, despite a government moratorium on executions that has been in place since 1996." Shepel's "appeal came only two days after President Vladimir V. Putin reiterated his personal opposition to the death penalty but said he would move cautiously in seeking its final abolition by the Parliament -- years after Russia committed to doing so."

G-8 Meeting Overshadowed By Concerns About Russian Democracy, Energy. The Washington Times (2/10, Mainville, 90K) reports, "A meeting of the Group of Eight finance ministers beginning today threatens to be overshadowed by tensions over President Vladimir Putin's record on democracy and Russia's reliability as an energy supplier." Topics like "Energy security, education, efforts to fight infectious diseases and debt relief for poor countries are all on the agenda. But the tone has been set by Washington's public questioning of Russia's fitness to lead the group and Moscow's prickly response." And recently senior U.S. officials said "they believe Russia is using its control of Soviet-era pipelines to hold down purchase prices in Central Asia while skimming huge profits through corrupt middlemen."

Tax Snafu Halts Russian Vodka Production. The Wall Street Journal (2/10, Chazan, 2.11M) reports, "There was an eerie silence last week at ZAO Veda's vodka distillery, one of Russia's biggest. For the first time in its 10-year history, the plant stopped production. Bored workers kept busy by scrubbing down machinery with Ajax." Russia's "entire vodka industry ground to a halt, thanks to a Siberia-size bureaucratic snafu over a new tax on alcohol."

Rice Realignment Expands US Presence In India, China. The Washington Post (2/10, A17, Graham, Kessler, 744K) reports, "China and India have emerged as the big winners -- and Russia and Germany as the top losers -- in the first round of a broad restructuring of U.S. diplomatic posts ordered by Secretary of State Condoleezza Rice." The Post notes, "Of 61 positions slated for elimination in the initial batch, 10 will fall in Russia and seven in Germany. U.S. embassies in several other countries -- Belgium, Poland, Italy, Spain, Ukraine, Japan and Brazil -- will lose two or three posts. All told, 38 of the cuts will come in European nations." Meanwhile, "of 74 new U.S. diplomatic positions, China will get 15, including a dozen at the U.S. Embassy in Beijing. India ranks second with 12 new posts, seven of them in New Delhi. And Indonesia is third with five new slots in Jakarta. Other countries that are to receive at least three more U.S.

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diplomatic slots include Nigeria, Israel, Lebanon, Vietnam, Tajikistan, Bolivia, Ecuador, Venezuela and Nicaragua."

McCain Applauds Bush's Handling Of International Crises. Sen. John McCain said on The Late Show With David Letterman (2/9), "I would say that the biggest challenge we've faced in a long time…is this Iranian nuclear threat. If they acquire weapons -- nuclear weapons, they've said repeatedly they want to exterminate the state of Israel. They will destabilize the Middle East, and we've got a very, very serious challenge on our hands." Asked how the Administration was handling the negotiations with Iran as well as problems over energy with Russia and Venezuela, McCain said, "I think president Bush and Condi Rice are doing a very good job in handling these crises now. I really do."

US Keeping Response To Arab Cartoon Controversy "Low Key." NBC Nightly News (2/9, story 4, 1:50, Mitchell) reported the US "is accusing Iran and Syria of fanning the protests." Sean McCormack, State Department spokesman: "Things like burning down embassies don't happen by accident in Damascus." Mitchell: "State Department official Karen Hughes is in charge of rebutting anti-American propaganda. Hughes last fall:" Hughes: "We have to be more effective, rapid and nimble in responding to rumors and outright lies and misinformation." A State Department war room "is monitoring how Arab media, including blogs, are reporting the cartoon crisis." US officials "say they are deliberately keeping their response low-key to avoid further inflaming the Muslim world."

Danish Prime Minister Defends Bush Administration Response. The New York Times (2/10, Vinocur, Bilefsky, 1.19M) reports Danish Prime Minister Anders Fogh Rasmussen tried to shield the Bush administration and some of Denmark's partners in NATO from accusations that they had been tardy and overcautious in coming to Denmark's defense in the crisis, which he attributed more to attempts by Iran and Syria to cause diversions in the Middle East than to a few satirical cartoons." He "declined to criticize the Bush administration about its cautious defense of an ally. President Bush referred to his solidarity with Denmark for the first time on Wednesday, after five days of rioting in the Middle East against Danish interests." Rasmussen said, "I have never doubted that Bush would stand up for Denmark. … He values faithfulness and loyalty. I was not surprised he decided to call me and express support."

Rasmussen Accuses Iran, Syria Of Fomenting Protests. The Washington Post (2/10, A12, Sullivan, 744K) reports Rasmussen "said Thursday that the governments of Iran and Syria had intentionally inflamed Muslim protests against a Danish newspaper's publication of cartoons depicting the prophet Muhammad to distract attention from their own diplomatic crises." His statement "echoed" recent remarks made by Secretary of State Condoleezza Rice. He also said he "was pleased with Bush's recent statements condemning violence against Danish diplomatic missions." The Administration's position "on the situation have shifted. Initially, the administration condemned the cartoons as offensive, but now Bush and other officials are stressing their opposition to the widespread violence. Rasmussen said the administration's initial stance on the cartoons 'caused some public debate in Denmark, whether it could be considered a support or not. … We do realize that this is also a balance for the United States.'"

Annan Dismisses Accusation Syria, Iran Behind Protests. The Los Angeles Times (2/10, Farley, 958K) reports, "When asked about claims this week by U.S. Secretary of State Condoleezza Rice that Syria and Iran had inflamed the controversy and incited protests," Secretary-General Kofi Annan "told reporters that he had 'no evidence to that effect.'"

Annan Chastises Newspapers For Continuing To Print Muslim Cartoons. The Los Angeles Times (2/10, Farley, 958K) reports Annan also "chastised newspapers Thursday that continue to publish cartoons depicting the prophet Muhammad in the face of the religious controversy the drawings have ignited." Annan said, "This does not mean that I am against freedom of speech, or freedom of the press. … But as I have indicated in the past, freedom of speech is not a license. It does entail exercising responsibility and judgment."

Bush To Proceed With Trip To Pakistan Despite Protests. AFP (2/10) reports, "The White House…insisted US President George W. Bush would go ahead with his planned trip to Pakistan in March despite widespread outrage over the cartoons there. Protesters burned his effigy Wednesday."

First Lady Urges Muslims To Stop Violence. NBC Nightly News (2/9, story 4, 1:50, Mitchell) reported that at the Vatican, Laura Bush "discussed the crisis with the Pope." Laura Bush: "I hope that every government, including the governments of the Middle East, will speak out and call for an end to the violence."

ABC World News Tonight (2/9, story 6, :20, Vargas) reported, "First Lady Laura Bush is in Italy with her daughter, Barbara, on their way to the Olympics, which start tomorrow. They stopped off at the Vatican today for an audience with Pope Benedict XVI. After exchanging gifts, Mrs. Bush said the Pope expressed concern about violence in the Muslim world over the cartoons of the prophet Muhammad and called for peace and tolerance."

Fox News' Special Report (2/9, Henneberg) reported the First Lady "says it is not necessary for Muslims to get their point across they that were offended." After meeting with

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Pope Benedict Fist Lady Laura Bush said, "I know that Muslims are offended with these cartoons. And I understand their offense. On the other hand, I don't think violence is the answer. I think it's that everyone around the world needs to speak out and say, let's stop the violence." Reuters (2/10, Holland) and the AP (2/10, Winfield) also report on the First Lady's visit with the Pope.

Hamas Leader Calls For Calm. AFP (2/10) reports, "The radical Palestinian group Hamas joined voices for calm in the international furore sparked by cartoons of the Prophet Mohammed." Hamas leader Khaled Meshaal said Hamas "is prepared to play a role in calming the situation between the Islamic world and Western countries on condition that these countries commit themselves to putting an end to attacks against the feelings of Muslims." Meshaal's conciliatory tone came a day after he warned the Western press was 'playing with fire' by publishing the cartoons which have led to riots around the world."

Hezbollah Leader Encourages Muslims To Protest. CNN's The Situation Room (2/9) reported that in Beirut, "Hezbollah's leader urges Muslims to protest more. Let Condoleezza Rice shut up, he says. As well as Bush and all world tyrants. We're a nation that will not forgive or stay silent. A no-compromise stand from a militant Muslim leader with an influential voice setting his own conditions."

Italians Consider Additional Security Precautions In Response To Muslim Protests. The Washington Post (2/10, A1, Williams, 744K) in a front page story on Italian security preparations for the Winter Olympics reports in response to the Muslim protests "Interior Minister Giuseppe Pisanu, Italy's top official for civilian police and the intelligence corps, called an emergency meeting of security officials Monday regarding possible new threats. Pisanu said the riots and protests in the Middle East, Central Asia and Far East countries have been 'carried out coldly with political ends. We mustn't forget that Islamic extremism is an essentially political movement that cynically uses religious values.'" But he also said that "homegrown violence is the most likely problem for the Olympics. 'For the Olympics I fear the rising aggressiveness of anti-globalization protesters, anarchists and all the domestic subversion movements that are pursuing the Olympic spotlight.'" Recently "Italian authorities have deported about 30 Islamic militants they said were inciting violence. … The Italians rely on wiretapping to keep tabs on terrorist suspects and their supporters. Officials say they have 2,000 people under close watch."

Kinsley Says Administration Not Defending Free Speech. Michael Kinsley in his column in the Washington Post (2/10, A19, 744K) writes, "The shameful American position on all this is boilerplate endorsement of free expression combined with denunciation of the cartoons as an 'unacceptable' insult. When three protesters died this week in a confrontation at a U.S. military base in Afghanistan, an American spokesman there said that Afghans 'should judge us on what we're doing here, not on what some cartoonist is doing somewhere else.' But the limits of free expression cannot be set by the sensitivities of people who don't believe in it. How can President Bush continue to ask young Americans to sacrifice their lives for freedom in the Muslim world, if he won't even defend freedom verbally when forces from that world are suppressing it in our own?"

Krauthammer Criticizes "Moderates" For Not Standing Up To Protestors. Charles Krauthammer in his column in the Washington Post (2/10, A19, 744K) writes, "The mob has turned this into a test case for freedom of speech in the West. The German, French and Italian newspapers that republished these cartoons did so not to inform but to defy -- to declare that they will not be intimidated by the mob." The protests "are instruments of intimidation, reminders of van Gogh's fate. The Islamic 'moderates' are the mob's agents and interpreters, warning us not to do this again. And the Western 'moderates' are their terrified collaborators who say: Don't worry, we won't. It's those Danes. We're clean. Spare us. Please."

Muslim Outrage Compared To Racial Sensitivities In US. David Ignatius in his column in the Washington Post (2/10, A19, 744K) compares the Muslim outrage with racial sensitivities in the US, in particular when "you think about American reactions to a word we hesitate even to write for fear of giving offense, calling it instead the 'n-word.'" In response to the Muslim protests, Ignatius thinks "of the American civil rights movement. In the space of my lifetime, America has gone from a country of brutal racism and outright segregation to a place where black folks and white folks pretty much get along." Ignatius concludes, "I want to believe that Muslims and the West are in that kind of transition. We're in the rage phase -- the part of the story where black folks are torching cities, white governors are sending in the National Guard and the problems seem insoluble. But if people keep their heads, we will eventually pass from this crazy moment into a different one where a genuine reconciliation is possible."

International Commentary. In a sampling of opinion from international newspapers on the Muslim protests, USA Today (2/10, 2.31M) reports that in Afghanistan Arman-e Melli writes, "The Muslim and Mojahed people of Afghanistan have the right to demonstrate and make the Western press realize that freedom of speech does not mean insulting the sacred beliefs of other religions. Looking at developments in the country, it is clear that the enemies of our people have exploited the religious beliefs of our people. They have changed the peaceful process of demonstrations into a violent one." Meanwhile, Politiken, in Copenhagen writes, "The acts of violence arise from the internal tensions in Muslim societies; they show the desperation of people who see the world's cultural and economic development passing

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them by. The escalation of the crisis does not therefore have anything to do with Danish newspaper cartoons, and there is nothing that Denmark could have done to halt this development."

Iranians Said To Blame UK For "Much Of What Goes Wrong." The New York Times (2/10, Slackman, 1.19M) reports, "The idea that Britain is behind much of what goes wrong in Iran is not just a conspiracy theory but also a prism through which to view events. Indeed, America -- the Great Satan itself -- is often portrayed as merely a hapless, muscle-bound child manipulated by smarter, craftier, more deceitful forces in London." And although "many Iranians are adept at poking fun at their Brit-fixation, the prevailing view also serves to complicate already tense relations between London and Tehran over such matters as the Iranian nuclear program. One Western diplomat…said Iranians often raised the specter of 'historical inequities' with Britain in diplomatic meetings." For example, while Western nations were pushing to refer Iran to "the United Nations Security Council for its nuclear activities, Iranian officials accused the British of some recent bombings and deadly plane crashes in Iran."

US Basketball Players In Iran Keep Low Profile. The Washington Post (2/10, A1, Vick, 744K) reports, "About 20 Americans play hoops for a living in Iran. They nurture pro careers that might not exist in the States, navigate a culture that offers precious few diversions in public -- though a lot more behind closed doors -- and, as much as possible, avoid politics. Iran is at the center of international concern for its nuclear ambitions and has remained notorious to the United States since 1979, when student radicals took over the U.S. Embassy in a siege that lasted 444 days. But for offshore ballplayers working for a paycheck, Iran is just another stop on an international circuit that quietly counterbalances the NBA's burgeoning import of players from Croatia, Congo and China, to name just the C's."

Iran Seen As Vulnerable To Ethnic Divisions If Attacked. Edward Luttwak, a senior fellow at the Center for Strategic and International Studies, in an op-ed in the Los Angeles Times (2/10, 958K) writes that the theory that attacking Iran will lead to increased public support for its leaders is flawed because Iran "is not a nation-state but rather a multinational empire dominated by Persians, much as the Soviet Union was once dominated by Russians. Except that in this case, the Persians only account for just over half the population of Iran (making them a smaller proportion than the Russians were even in the final days of the Soviet Union)."

Rift Increasing Between US, Venezuela. The Washington Post (2/10, A14, Constable, 744K) reports, "After an especially ugly week in the hostile relationship between the Bush administration and the government of Venezuelan President Hugo Chavez, Venezuela's envoy here tried yesterday to salvage some civility, saying his country sought 'mature and rational relations' with Washington and would remain a 'reliable' source of energy to all foreign customers, including the United States." In response, State Department spokesman Sean McCormack "responded in kind," saying "Washington was 'open to a good relationship with Venezuela' and hoped for a 'positive one.'" He "said that the two countries were cooperating in the fight against drugs and that the administration was prepared to work with governments across the political spectrum, including those with 'left-of-center' views." Yet "the exchange did little to dispel a growing sense among officials and analysts that the current political breach between Caracas and Washington…is becoming potentially irreparable."

"Populist Leaders" Seek To Create Counterweight To US Power. The Christian Science Monitor (2/10, LaFranchi, 61K) reports, "Some might call it the axle of anti-American populism. With linchpins in Tehran on one end and Caracas on the other, a new brand of international populism is rising by fanning flames of division between Western powers and the 'powerless' of the developing world." Leaders like Iran's President Mahmoud Ahmadinejad and Venezuela's President Hugo Chávez "are winning points at home by striking a nationalist and anti-American pose. Their method: Use the international stage to rail against what they see as a disconnect between the values espoused by the world's sole superpower and its actions." But in addition to "all their heated rhetoric, the two leaders have a vision for the world, one that seeks to end the 'sole superpower' reality. Beyond simply opposing America's robust exercise of power -- a sentiment increasingly found in the developing world, especially -- their aim is to join political forces to provide a significant counterweight in the international arena." And according to Thomas Carothers, an expert on democracy and rule of law at Carnegie Endowment for International Peace, "Russia's Vladimir Putin also belongs on the list," of those leaders.

Preval Expected To Win Haitian Election. The New York Times (2/10, Thompson, 1.19M) reports, "Unofficial electoral results that had been carried in by mules, trucks and helicopters from polling centers across the country appeared Thursday to give an early lead to René Préval, a former president considered a champion of the poor masses and a thorn in the side of the elite." Early returns indicate "that Mr. Préval had won 61 percent of the 15 percent of the votes tabulated from the election Tuesday, including 67 percent of the votes counted so far in the department that includes Port-au-Prince." Although "several of his opponents quietly began to move toward conceding, others cautioned that it was still too early to declare a winner, and the political hostilities that

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have kept this country near the brink of anarchy lingered in the air." A top "objective of Mr. Préval's government, one of his advisers said, would be to attract more investment from the United States. In the last decade, the adviser said, United States investment in Haiti was less than $10 million, the amount invested in a single year in the neighboring Dominican Republic."

Meanwhile, the Christian Science Monitor (2/10, Harman, 61K) reports, "International election monitoring groups have said…that, despite minor irregularities, there was no credible evidence of widespread fraud. 'Having been on the ground in Haiti observing the preparations and the elections, I would say it was a reasonably fair election,' Knowlson Gift, Trinidad's Foreign Minister, told The Associated Press."

Polish Prime Minister Proposes Energy Security Treaty. Polish Prime Minister Kazimierz Marcinkiewicz in an op-ed in the Financial Times (2/10) writes that in response to recent energy disruptions "I want to propose to our partners from the EU and the Nato alliance a treaty on energy security." It "could follow formulas contained in the 1949 Washington Treaty, an agreement that allowed for effective transatlantic co-operation, or provisions of the modified Treaty of Brussels that established the Western European Union in 1948." Marcinkiewicz concludes, "Our president is raising this issue today in Washington and I will shortly present an initiative that expands on this idea. … I am convinced that the latest – unprecedented – curtailment of natural gas supplies to the EU, in one of the harshest winters of recent years, created a sufficient predicament to encourage bold and firm action. An energy security treaty would give us ways and means to provide stability and security that we all wish for."

Friedman Says Bush Energy Policy Endangering World. Thomas Friedman in his column in the New York Times (2/10, 1.19M) writes that "if the Arab world starts to go nuclear, then you will see the crumbling of the whole global nuclear nonproliferation regime." And "with so many nuclear powers, particularly in its primary oil-producing region," the world will "only be a more dangerous and unstable place, compared with the post-cold-war world." For the US, "its leadership task has shifted. If the Bush team continues to let Dick Cheney set its oil policy -- one that will keep America dependent on crude oil -- the post-cold-war democracy movement that was unleashed by the fall of the Berlin Wall will be either aborted, diluted or reversed. If regimes like those in Iran, Venezuela, Syria, Burma, Sudan and Nigeria have the benefit of 10 years of $60-a-barrel oil, whatever democratic tide President Bush thinks he is unleashing will be stymied. The worst regimes in the world will have the most power to support the most regressive political and religious trends." Friedman states, "That's why we need an urgent national effort, starting with a gasoline tax, to move the U.S. economy onto a path of more fuel-efficient cars and renewable energy. If we do it, everyone will follow."

Chinese Monopolies Increasingly Violate US Antitrust Laws. The Wall Street Journal (2/10, Wilke, Chen, 2.11M) reports, "As China becomes ever more dominant in manufacturing, its ability to dictate the prices of industrial and consumer products is steadily rising. As a result, Chinese manufacturers are increasingly running afoul of Western antitrust law in products from vitamin C to a mineral used in steel production. These legal struggles could become another point of tension in the U.S.-China relationship, which has been tested by disagreements over matters from textile tariffs to the trade deficit." The Journal notes, "Monopolies remain active in parts of China's economy, even though price-fixing was formally outlawed in 1998. A sweeping new antimonopoly law is being drafted in Beijing. Its adoption has been slowed by squabbling among Chinese government agencies forced to give up the ability to set prices. It isn't clear if the new law would bar price collusion in the vitamin market."

Yahoo Under Fire For Aiding China In Crackdown On Dissenters. ABC World News Tonight (2/9, story 5, Vargas) reported, "The Internet giant Yahoo! was facing fierce criticism from human rights advocates tonight. Like its rivals Microsoft and Google, Yahoo! was hungry to do business in China, the world's second largest Internet market. But that means playing by China's rules. For the second time, now, Yahoo! was accused of helping China prosecute Chinese Internet users for exercising free speech." ABC (Tapper) added, "Chinese journalist Shi Tao anonymously e-mailed to pro-democracy Websites examples of press censorship, including government instructions on how to cover the anniversary of the Tiananmen Square massacre. According to court papers, Yahoo! helped the government trace that e-mail to Shi Tao's computer. He was sentenced to ten years in prison." Another dissident, Li Zhi, "is in prison for exposing Chinese government corruption on a message board. Yahoo! is accused of helping the government identify him, too." Chinese dissidents "in the US expressed outrage." Harry Wu, Chinese dissident: "It's a dirty business. It costs people life. The money is built on their people suffering and blood." Tapper: "Next week, a congressional subcommittee will demand answers." Rep. Christopher Smith: "Profits don't trump human rights. And, unfortunately, they seem to be doing that."

Loss Of Glaciers Said To Be Caused By Global Warming. NBC Nightly News (2/9, story 9, 2:00, Williams) reported, "Just before we left the United States for Italy we

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learned that January was the warmest January ever in all the recorded history of the US and suddenly now, in this region, global warming is a hot issue as well." NBC (Maceda) added, "They are like the jewels of the Alps, the glaciers, thousands of years old. These majestic rivers of ice span the European continent and have been the pillars of its ski industry. Providing year-round skiing in resorts like Val Senales, in the Italian alps. Until now. Global warming, climatologists say, is melting these glaciers. And not slowly. The glaciers, some warn, will all but disappear in 50 years. Already, melting permafrost is threatening glacier ski stations and lifts leaving resort official in a critical race against the elements. And it's a way of life. 80% of those Italian villagers depend on the Senales glacier for freshwater, grazing land for livestock and tourism. So over the summer, something revolutionary was rolled out. Giant strips of white fleece, the size of football fields. An Austrian and Swiss experiment, the polyethylene foil acts like a giant picnic cooler, keeping the sun out and the cold in. And it works. Wrapped glaciers lost just a fraction of their mass. Some even grew. But wrapping a whole glacier? Hardly. At that whopping $70,000 a sheet, only the most vulnerable parts of ski runs can be covered."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Munitz Steps Down As Head Of Getty Trust."
"The Sky Is Falling In Alaska."
"Anaheim Strikes Out Against Angels."
"Bush Gives New Details About Old Report Of L.A. Terror Plot."
"Warning Urged For ADHD Drugs."
"Libby Says 'Superiors' Authorized Leaks."
"Disney Loses A Voice, Pulls Rabbit Out Of NBC's Hat."

USA Today:
"Warnings Advised On ADHD Drugs."
"Ambitious USA Ready To 'Surprise The World'."
"Mining Fines Among Smallest."

New York Times:
"White House Knew Of Levee's Failure On Night Of Storm."
"Warning Urged On Stimulants Like Ritalin."
"Official Resigns Public TV Post."
"Candidate Of Haiti's Poor Leads In Early Tally With 61% Of Vote."
"Seized With Heavy Hand At Border, For Paperwork Errors."

Washington Post:
"Ex-CIA Official Faults Use Of Data On Iraq."
"For Americans, It Can Pay To Play In Iran's Court."
"Patriot Act Clears Way For Senate Vote."
"Security Concerns Up."
"Warning Urged For ADHD Drugs."
"Teen Boys Abducted, Forced To Rob Md. Banks, Police Say."

Washington Times:
"GOP Reaches Patriot Act Deal."
"No Joke: Maryland Democrats Will Honor Steele."
"Gretzky Taped Trying To Aid Wife."
"Counterintelligence Posts Vacant."
"Tensions Over Russia Set Tone At G-8 Meeting."
"Putin Invites Hamas To Talks."
"Federal Directive Targets Risky Mortgage Practices."

Detroit Free Press:
"Traffic Tangles Are Around The Corner."
"Toyota Rolls Out Beefier Mega-Truck."
"Budge Plan Protects Schools, Social Services."

Atlanta Journal-Constitution:
"Money Race On For NASCAR Hall."
"Bill On Illegals Set To Go."
"Women Of Winter."
"FCC Changes Course, Back 'A La Carte' TV."

Dallas Morning News:
"As Games Begin, Security Is A Key Concern."
"Lake Highlands Residents To Use Cameras In Subdivision."
"No Regrets For Miers."
"Is Regional Authority A Wright Fix?"
"FDA Advisers Push Warnings For ADHD Drugs."

Houston Chronicle:
"Bush Details A Thwarted Terror Plot."
"Games Of Passion."
"Witness Defends His Plea Bargain."

Story Lineup From Last Night's Network News:
ABC: Cancer Deaths Down; Bush-LA Terror Plot; LA Terror-Politics; Iraq-Kidnapped Journalist; Yahoo-Chinese Censorship; Laura Bush-Pope; Iraq-US Wounded; ADHD Drug Warnings; Cable-A La Carte Pricing; G-Rated Movies-Sexism; Barbie-Ken Romance.
CBS: Bush: Terrorism & Domestic Spying; Cheney Libby Leak; Carroll Hostage Video; Gretzky Gambling Investigation; AIG Settlement; ADHD Medication Warning; Cancer Deaths Drop; Confiscated Materials.
NBC: Bush-Terrorism & Domestic Spying; TSA Secure Flight; Cheney Libby Leak; Muslim Cartoon Protest; Carroll Hostage Video; ADHD Medication Warning; Cancer Deaths Drop; Paying For E-Mail; Global Warming.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

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White House:

PRESIDENT BUSH — Meets with the Minister of Transportation, Roads, and Bridges of the Government of Southern Sudan, Oval Office, The White House; makes remarks to House Republican Conference, Hyatt Regency Chesapeake Bay, Cambridge, Maryland.

VICE PRESIDENT CHENEY — No public schedule.

LAURA BUSH — Speaks to troops, Aviano Air Force Base, Aviano, Italy; visits with U.S. Olympic athletes, Palace Sport, Torino, Italy; participates in opening ceremony of the 2006 Winter Olympics. Torino, Italy.

US Senate: 9:30 a.m. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ Full Committee. Hearing on the roles of DHS and FEMA leadership concerning Hurricane Katrina. Former FEMA Director Michael Brown; former FEMA Chief of Staff Patgrick Rhode; Assistant DHS Secretary Robert Stephan; DHS Direcvtor for Operations Coordination Matthew Broderick. Location: Room 342, Dirksen.

US House: No scheduled events.

Other: POLISH PRESIDENT LECH KACZYNSKI _ Highlights: 10:30 a.m. Signs agreements on technological cooperation regarding training of Polish F-16 pilots. Blair House. 11:20 a.m. Meets with the American Jewish Committee. 12:05 p.m. Attends ceremony at home of a Polish-American who is donating her library to the Uprising Museum in Warsaw. 1 p.m. Lunch with Zbigniew Brzezinski. 3 p.m. Departs for Chicago.

CONSERVATIVES _ Meeting of the Conservative Political Action Conference, sponsored by the NRA, Americans for Tax Reform, American Conservative Union and the Club for Growth. Highlights: 8:30 a.m. Texas Gov. Rick Perry. 11 a.m. Sen. Mitch McConnell. 12:30 p.m. Corporate responsibility session, with Paul Driessen of the Center for the Defense of Free Enterprise; Peter Flaherty of the National Legal and Policy Center; Ed Hudgins of the Objectivst Center; and Steve Milloy of the Free Enterprise Action Fund. 5 p.m. RNC Chairman Ken Mehlman. 5:20 p.m. Senate Majority Leader Sen. Bill Frist. 7:30 p.m. Banquet with UN Ambassador John Bolton. Location: Omni Shoreham Hotel, 2500 Calvert St. NW.

BANKRUPTCY _ 9 a.m. - 3 p.m. American University Washington College of Law sponsors a conference on the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005. Location: Room 603, 4801 Massachusetts Ave. NW.

CLARK _ 8:30 a.m. The Council on Foreign Relations holds an on-the-record meeting with retired Gen. Wesley Clark. Location: 1779 Massachusetts Ave. NW.

PENTAGON-IRAQ _ 9 a.m. Marine Col. Stephen W. Davis, commander of Regimental Combat Team -2, will brief live from Iraq to provide an update on ongoing security operations in the Multinational Force-West area of operations. Location: DOD Briefing Studio, Pentagon 2E579.

BUDGET _ 9:30 a.m. The Brookings Institution holds two panel discussions on the FY07 budget -- domestic and international implications, and political and business perspectives. Location: Falk Auditorium, 1775 Massachusetts Ave. NW.

BUDGET-SECURITY _ 9:30 a.m. The Security Policy Working Group holds a briefing on the FY07 national security budget request and Quadrennial Defense Review, with Steve Kosiak of the Center for Strategic and Budgetary Assessments, William Hartung of the World Policy Institute, others. Location: National Press Club.

CYBER SECURITY _ 12 p.m. Homeland Security Undersecretary George Foresman, others, hold a news conference to discuss the completion of Cyber Storm, the first federal government sponsored full scale cyber security exercise. Location: Building 21, DHS, 3801 Nebraska Ave. NW.

PALESTINIAN ELECTIONS _ 12 p.m. The Heritage Foundation holds a discussion on the Palestinian elections and Mideast democracy, with Ariel Cohen and Kim Holmes of the foundation, Shibley Telhami of the University of Maryland, and Tamara Cofman Wittes of Brookings. Location: Lehrman Auditorium, Heritage Foundation, 214 Massachusetts Ave. NE.

PENTAGON-ACQUSITION _ 4 p.m. Under Secretary of Defense for Acquisition, Technology and Logistics Kenneth Krieg will conduct a news briefing. Location: DOD Briefing Room, Pentagon 2E579.

PATRIOT ACT _ 4:30 p.m. Senate Judiciary Chairman Arlen Specter, R-Penn., and U.S. Senator Larry Craig, R-Idaho, among others, are set to discuss progress on reauthorization of the USA PATRIOT Act. A press conference will be held. Location: Senate Radio and T.V. Gallery.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, FEBRUARY 10, 2006 7:45 AM EST

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TERRORISM NEWS:

Cheney Says NSA Spying Should Be An Election Issue (WP)

By Jim Vandehei

The Washington Post, February 10, 2006

Vice President Cheney suggested last night that the debate over spying on overseas communications to or from terrorism suspects should be a political issue in this year's congressional elections.

Speaking to Republicans gathered for the annual CPAC convention, Cheney said the debate over the National Security Agency surveillance program "has clarified where all stand" on an issue that has drawn criticism from congressional Democrats and some Republicans.

"And with an important election coming up, people need to know just how we view the most critical questions of national security, and how we propose to defend the nation that all of us, Republicans and Democrats, love and are privileged to serve," Cheney said.

His comments reflected the emerging GOP plan to make national security and terrorism the centerpiece of House and Senate elections. White House Deputy Chief of Staff Karl Rove telegraphed the strategy last month when he told a Republican audience that "we are dealing with two parties that have fundamentally different views on national security."

Cheney's comments were the closest a top White House official has come to calling for the NSA program to be a political matter.

Democrats have criticized the White House for politicizing national security issues such as the USA Patriot Act and NSA surveillance.

Its unclear whether the GOP strategy will work, however.

In a new Associated Press poll, about half of those surveyed favored the wiretap program. In the same poll last month, 56 percent opposed it. White House officials privately argue that President Bush's greatest political strength is the same one that helped Republicans in the last two elections: fighting terrorism.

In recent weeks, Bush has shifted his public focus away from Iraq and trained it on winning public support for the program. Some Democrats argue that Bush is breaking the law by spying on people in the United States without a warrant and without congressional or judicial oversight. Bush contends that the Constitution and the 2001 congressional war resolution give him the authority to take such steps to track down terrorism suspects.

"Some in Washington are yielding to the temptation to downplay the threat and to back away from the business at hand," Cheney said. "That mind-set may be comforting, but it is dangerous."

Inside Politics (WT)

By Greg Pierce

The Washington Times, February 10, 2006

Dean's latest line

Democratic National Committee Chairman Howard Dean, in criticizing government eavesdropping on domestic phone calls involving terror suspects overseas, likened President Bush to the leader of Iran.

"All we ask is that we not turn into a country like Iran, where the president can do anything he wants," Mr. Dean said yesterday on ABC's "Good Morning America."

The Republican National Committee immediately fired back at Mr. Dean.

"Chairman Dean's outrageous comparison today between the United States and Iran is reckless and wrong," RNC spokeswoman Tracey Schmitt said. "By equating the United States of America to an oppressive regime that promotes anti-

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Semitism, suppresses women and restricts free speech, Howard Dean continues to lower the bar for political discourse in this country. The question for Democrats is, do they stand beside their party chairman and his latest wild-eyed attack?"

Scandalous behavior

"Mark Antony in his famous funeral oration in Shakespeare's 'Julius Caesar' says that he came not to praise Caesar, but to bury him. This week, at the funeral for the widow of Dr. Martin Luther King, two of the speakers, Jimmy Carter and Rev. Joseph Lowery, might have opened their remarks by saying that they came not to bury Coretta Scott King, but to bash [President] Bush, which is exactly what they proceeded to do," Lee Harris writes at www.tcsdaily.com.

"They exploited a solemn occasion in order to take cheap pot shots at the president, keenly aware that their remarks would be broadcast around the world, and into many American classrooms," the writer said.

"Of course, both Carter and Lowery were also aware that the target of their attack, George W. Bush, was sitting right behind them. Had he not been present on the occasion, their Bush-bashing would have only been an affront to good taste.

"But because Bush had come there to honor the memory of Coretta Scott King, and not to engage in a debate with his political opponents, the attacks on him crossed the boundaries of mere bad taste, and became low blows. They were deliberately attacking a man who they knew could not, under the circumstances, defend himself against their assault. Their aim was quite obvious — to embarrass and humiliate Bush in the full knowledge that there was not a thing Bush could decently do about it.

"The president, for example, could not do what most people, including myself, would have done. He could not jump up and simply walk out — that would have created a scandal. Therefore, he had no choice but to sit there and take it. He was hopelessly trapped, and was entirely at the mercy of his assailants — and they knew it. He had to behave like the president, even when a former president, Mr. Carter, was behaving like a cad."

Cheney rethinks?

Vice President Dick Cheney, who has issued repeated Shermanesque statements that he will not run for president in 2008, said last night that he may be rethinking his position.

Almost.

After a crowd of hundreds gathered at the Conservative Political Action Conference in Northwest gave him a rousing standing ovation before his speech last night, the vice president was moved.

"Getting a reception like that almost makes me want to run for office again," he said with a wry smile.

As the crowd again erupted in applause, he cut them off — "Almost," he said loudly, drawing laughter.

The vice president gave the Republican rank and file the same message his boss, President Bush, has for the past few months — extend the tax cuts, renew the USA Patriot Act and stay the course in Iraq.

Taking a dig at the more liberal Massachusetts senator, Mr. Cheney said U.S. troops have received "mixed signals out of Washington."

"They have at times been unfairly criticized, as when John Kerry said on national television that American soldiers were, quote, terrorizing Iraqi women and children in their homes." The crowd booed lustily.

But he said that under Mr. Bush's leadership, "We are in this fight to win, and we are winning."

For those in Washington who say the war in Iraq is a distraction, he said: "Which part of the war on terror do they consider worth fighting?"

Surveillance poll

President Bush's campaign to convince Americans that the government's terrorist surveillance program is essential to national security has had an effect: Last month, people disapproved, 56 percent to 42 percent. Now it's basically tied.

In the poll of 1,000 adults taken from Monday to Wednesday, 50 percent said the administration "should be required to get a warrant" before monitoring Americans' communications involving terror suspects. Forty-eight percent said officials "should be allowed to monitor without a warrant." The two-point gap is less than the poll's margin of error of 3.1 percentage points.

Mr. Bush has been particularly successful at making his case to core supporters, including Republicans, white evangelicals and suburban men. Support in each category grew more than 10 percentage points in the past month, the Associated Press reports.

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Land of the free

It's all about the freebies for hundreds of activists attending this week's Conservative Political Action Conference (CPAC) at the Omni Shoreham Hotel in Northwest.

Conference attendees get a canvas tote bag full of goodies, including a 2006 calendar from the National Taxpayers Union, mints from TV Watch and a pink toy pig from Americans for Limited Government.

The Young America's Foundation booth was doing brisk business with a "buy one, get one free" deal on posters. Those who bought YAF's eye-catching Ann Coulter poster could have their free pick of a Ronald Reagan poster or a President Bush poster.

Meanwhile, at the booth of Nashville-based publisher Nelson Current, author Joel Miller was giving away T-shirts to promote his new book, which was subtitled, "How Big Government Puts the Squeeze on America's Families, Finances and Freedom."

For some reason, Mr. Miller's T-shirts were especially popular with ladies at CPAC. Maybe it's because the shirts are hot pink. But it also might have something to do with the book title, boldly displayed on the front of the T-shirts: "Size Matters."

No-go

Anti-war activist Cindy Sheehan said yesterday that she will not run for the U.S. Senate against Sen. Dianne Feinstein, California Democrat, Reuters news agency reports.

Mrs. Sheehan, speaking in front of San Francisco City Hall, said, "If I thought that running for Senate would bring our young people home more quickly, I would do it in a minute, but I am not convinced that that would do so."

Mrs. Sheehan in recent weeks had expressed interest in challenging Mrs. Feinstein, who does not favor an immediate withdrawal of troops from Iraq.

Poll: Surveillance Wins Some More Backers (AP-Y2)

By Katherine Shrader

AP2, February 10, 2006

President Bush's campaign to convince Americans that the government's eavesdropping program is essential to the war on terrorism has made an impact: Last month people disapproved, 56 percent to 42 percent. Now it's basically 50-50.

Bush has been particularly successful at making his case to core supporters, including Republicans, white evangelicals and suburban men. Support in each category grew more than 10 percentage points in the last month.

The AP-Ipsos poll findings came as the White House relented and provided some new details to the House and Senate Intelligence Committees about the program. At Bush's direction, the National Security Agency has been monitoring communications between people overseas and in the U.S. when links to terrorism are suspected.

However, Senate Democrats left their three-hour session Thursday frustrated about the level of information they received from Attorney General Alberto Gonzales and Gen. Michael Hayden, the nation's No. 2 intelligence official.

"Where we really wanted hard information that was important to us — to give us the size of the scope and the reach and the depth — they were not forthcoming," said West Virginia Sen. Jay Rockefeller, the intelligence panel's top Democrat. "And what that did was take good people who were willing ... to have an open mind about all of this, and push them the other direction."

The irritation stood in contrast to some Democrats on the House Intelligence Committee. That panel's top Democrat, Rep. Jane Harman (news, bio, voting record) of California, left a separate briefing on Wednesday cautiously saying she saw a thaw after weeks of White House insistence that it would not brief the congressional committees on the program's details. Under the initial plan, the briefing was only supposed to cover legal issues, but members said they also got some operational information.

It was unclear why the White House suddenly was willing to share more information with lawmakers. When asked what changed, Senate Intelligence Committee Chairman Pat Roberts, R-Kan., said: "Meaningful dialogue." He would not elaborate.

The debate over the program has turned intensely political in recent days. A growing cadre of Republicans has joined Democrats in raising fundamental questions about the program. Although the White House has argued the president has all the authority he needs to order the surveillance, calls for legislation have grown.

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As part of an upcoming bill, Senate Judiciary Committee Chairman Arlen Specter, R-Pa., said he wants the secretive Foreign Intelligence Surveillance Court to review the program and determine if it is constitutional.

Using a different approach, Sen. Mike DeWine (news, bio, voting record), R-Ohio, said changes in U.S. law are necessary to give the White House the statutory authority it needs to conduct the monitoring — and end the controversy.

Bush's spokesman Scott McClellan said the White House will listen to lawmakers' ideas on legislation, but the president has indicated he would resist any move that would compromise the program. "There is a high bar to overcome on such ideas," McClellan said.

Some lawmakers see Roberts as key to any changes. He said the legislative work should be the jurisdiction of his committee, if "there is any necessity" for a bill. He was noncommittal about whether there would be future briefings on the program, saying, "We'll see."

The intelligence committee's Democrats and at least two Republicans have called for inquiries into the program. Thursday's session "doesn't excuse the need for genuine accountability," said Sen. Ron Wyden (news, bio, voting record), D-Ore., a committee member.

Two senators are looking outside the Bush administration for information. Sens. Edward Kennedy, D-Mass., and Russ Feingold, D-Wis., wrote a letter Thursday to the major telecommunications companies — AT&T Inc., Sprint Nextel Corp. and Verizon Communications Inc. — asking if they have cooperated with the government monitoring.

As congressional debate continues, public support for the program has grown with the White House's monthlong campaign of speeches and TV appearances to make its case that the monitoring is necessary. According to the AP-Ipsos poll, some 48 percent of Americans now support the administration's program. That's up from 42 percent last month.

Half now say the administration should have to get a warrant to conduct eavesdropping, down from 56 percent one month ago. Support for the program grew by 9 percentage points among men, but it dropped 8 points — to 30 percent — in the Northeast.

Some noteworthy trends from Bush's political base:

_Fifty-eight percent of suburban men support the program, up 13 percentage points.

_Fifty-six percent of Southerners support the program, up 12 points.

_Republican support for the program jumped 14 points to 82 percent. Independent support is up 17 points, to 53 percent.

_White evangelical support grew by 11 points, to 71 percent.

Former FBI Agent Ralph Decker Thinks Wiretapping Is Not Only Legal, It's Necessary. (KIMT)

KIMT-TV, February 10, 2006

He says at least 50-attacks have been stopped by the FBI since September 11th.

He thinks the senate's investigation into the matter, could be hurting the spying program.

Ralph Decker tells KIMT NewsChannel Three," I just hope the senate wakes up because I know the trail of blood would lead right back to the senate if something does happen and would they claim it? Probably not knowing them."

But supporters like Ralph will face an uphill battle since opponents of the wiretapping say spying on American citizens without warrants is not just illegal, it's a violation of their constitutional rights.

If Al Qaeda Phones Tell Them We Can't Take The Call (WSJ)

By Daniel Henninger

The Wall Street Journal, February 10, 2006

Let's start with the one thing we know for sure about the Bush administration's program to listen to al Qaeda's phone calls into and out of the United States: It's dead.

After all the publicity of the past two weeks, does anyone think that the boys working on plans for Boston Harbor, the Golden Gate Bridge or Chicago's Loop are still chatting by phone? If the purpose of the public exposure was to pull the plug on the pre-emptive surveillance program, mission accomplished. Be safe, Times Square.

At the least, al Qaeda's operatives in Yemen, Iraq, Pakistan, Hamburg and the U.S. will hold off phoning in the next mass-murder plan until the U.S. Senate finishes deliberating Arlen Specter's proposal to legislatively order up an opinion from the

judges on the Foreign Intelligence Surveillance Act court, est. 1978, as to whether the antiterrorist wiretap program violates the law that created their jobs.

This passage appears on the second page of the 9/11 Commission's 567-page report, On Terrorist Attacks Upon the United States: "We learned that the institutions charged with protecting our borders, civil aviation and national security did not understand how grave this threat could be, and did not adjust their policies, plans and practices to deter or defeat it. . . . We learned of the pervasive problems of managing and sharing information across a large and unwieldy government [my emphasis] that had been built in a different era to confront different dangers."

And those who cannot remember the past are condemned to repeat it. Having watched one passenger-filled airliner fly into a skyscraper on a peaceful morning in lower Manhattan more than four years ago, I'd just as soon not repeat the experience. If the question on the table is whether it is legal for the executive branch to listen without warrants to phone calls between people who repeatedly chant "Death to America," then I guess I'm for declaring it respectful of our laws and getting on with it.

But insofar as the surveillance program has been rendered moot, let's by all means pull over to the side of the road and have a long national conversation about it. (But don't send your thoughts to Sen. Specter via the Postal Service, as his Web site contains the following Important Notice: "Security restrictions now cause considerable delay in processing postal mail sent to Senate offices.")

The issues at the center of this dispute are in fact intellectually interesting, having to do with separation of powers, legal rules versus legal discretion, and competing interpretations of the Fourth Amendment and Article II of the Constitution.

But let us here consider something that tends to fall outside legal considerations -- effective management. On Tuesday, Vice President Cheney said, "You can't take 535 members of Congress and tell them everything and protect the nation's secrets." Mr. Cheney was reflecting the view, which arose at the time of the Founding Fathers, that foreign policy was disorganized under the Articles of Confederation and belonged under a strong executive. A primary reason for calling the Constitutional Convention of 1787 was the mess Congress had made of managing foreign policy.

Then later in the week GOP Rep. Heather Wilson suddenly became famous for presumably dissenting from the White House line and demanding a "complete review" of the surveillance program. Rep. Wilson, who chairs a House intelligence oversight subcommittee, is rightly regarded as one of the House's savvier and more serious members on national security issues. But . . .

Rep. Wilson is in a neck-and-neck re-election fight back in her New Mexico district with state Attorney General Patricia Madrid. Rep. Wilson is under pressure because her district is heavily Democratic; the opposition's primary line of attack has been that Rep. Wilson isn't sufficiently "independent" of the Bush White House. Right after her highly publicized NSA declaration this week, the Democratic Congressional Campaign Committee got out a statement that "Rep. Wilson is now and has always been a rubber stamp for the policies of the Bush-Cheney administration."

What this means is that the local politics of Albuquerque is now setting national security policy. Why them? Why not accord the same overweighted political status to the Third District in North Carolina, which happens to house Camp Lejeune? The primary argument against letting Albuquerque set national security policy through Rep. Wilson's political problems back home is found in that earlier statement from the 9/11 Commission: You simply cannot disperse policy formation in this area across all branches of government in the guise of checks and balances and then expect efficient management in, say, stopping terrorists. Nor can you present the paperwork required to satisfy "probable cause" before a FISA judge prior to every proposed antiterror wiretap and not risk flipping the competition's outcome in favor of the terrorists.

Historically, the proper path for working out these national security disputes hasn't been Sen. Specter's preposterous appeal to let some judge design the nation's antiterror policy but rather through informal political negotiation between the executive branch and Congress. That only works, though, if the presidency has someone who will negotiate in good faith. Who's that? Hillary Clinton, already on the campaign trail in front of the UAW Wednesday, contributed: "You cannot explain to me why we have not captured or killed the tallest man in Afghanistan." Well for starters, he's probably not making phone calls.

At the Judiciary Committee hearings Monday, Sen. Leahy announced: "Mr. Attorney General, in America, our America, nobody is above the law, not even the president of the United States." Got it. But here's the bottom line on the surveillance program. It was going to work, and help lessen the chance of another atrocity in our America, only if it stayed secret. The odds of

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it staying secret would diminish as its existence spread through the Congress and judicial system. Now it is public, and its utility is about zero. What's left is the legal issue of whether it violated FISA. We can only look forward to the answer.

Changing Winds On Surveillance (WP)

By E. J. Dionne Jr.

The Washington Post, February 10, 2006

This week the Bush administration was finally forced out of its own pre-Sept. 11 worldview -- and, yes, you read that right. It happened because some brave Republicans stared the president down and said: Stop.

Of course, it is the administration that is always accusing its opponents of pre-Sept. 11 thinking. But for the past five years, President Bush, Vice President Cheney and Karl Rove have been willing to put the national unity required to fight terrorism in second place behind their goals of aggrandizing presidential power and winning elections. Can you get more pre-Sept. 11 than that?

Instead of seeking broad agreement on the measures required for our nation's safety, they preferred to pick fights designed to make the Democrats look soft and to claim the president could do pretty much anything he wanted.

That's why the White House made sure that Rove trumpeted the surveillance issue before the Republican National Committee last month. A president who cared more about national security than politics wouldn't send out his top political lieutenant to make sure everyone knew that the GOP planned to use a matter of such grave importance to bash Democrats.

And it's why Cheney, when asked this week by Jim Lehrer if Bush was willing to work with Congress on the issue, barely entertained the question. "We believe, Jim, that we have all the legal authority we need," Cheney replied immediately. Congress could make any suggestions it wanted, but -- I add the italics to underscore the point -- the White House would ignore whatever it chose to ignore. " We'd have to make a decision as an administration whether or not we think it would help and would enhance our capabilities."

Translation -- Cheney to Congress: Buzz off.

But this time some important members of the president's own party -- led by Senate Judiciary Committee Chairman Arlen Specter -- decided that enough is enough. As stewards of Congress's constitutional authority, they could not stand by while the president claimed the power to decide for himself what the law said and whether he needed to follow it without any concern for what those meddlesome members of Congress or judges might say.

And it's wonderful to see what a few brave politicians can achieve. Yesterday, the administration agreed to brief the Senate intelligence committee on the program after having offered a similar briefing to the comparable House committee the day before.

It was a small crack in the wall, and Specter and his allies will have to remain vigilant. Still, until this week, the White House had flatly refused to offer such briefings. The winds are changing.

What's heartening is how broad the Republican dissent from the administration has been -- a sign that many Republicans have calculated that they'll be better off in this fall's elections if they do their jobs, even if this means challenging Bush and Cheney.

Rep. Heather Wilson (R-N.M.), who faces a tough reelection battle and has shown streaks of independence in the past, demanded the briefings for reasons straight out of a good civics textbook. "The checks and balances in our system of government are very important," she said, noting that our "constitutional structure has kept us safe and free and the strongest country in the world for a very long time." Yes, let's wave a flag for this Air Force veteran.

Sen. Mike DeWine (R-Ohio), who also is up for reelection, said that "this country would be stronger and the president would be stronger" if Bush accepted the idea that Congress might actually have a role in lawmaking on the surveillance issue.

And Sen. Lindsey Graham (R-S.C.) said the administration was making a "very dangerous" argument in claiming that it got the authority to wiretap without supervision when Congress passed its use-of-force resolution against terrorism. Graham said he never envisioned that he was giving Bush -- or "any other president" -- "carte blanche" on surveillance.

Focus for a moment on Graham's reference to "any other president." It's instructive to imagine what Republicans in Congress (let alone Rush Limbaugh or Bill O'Reilly) would say if a President Hillary Rodham Clinton were to claim the far-reaching authority Bush and Cheney say they have. Is there any doubt that the entire Republican Party would -- to cite a recent

comment by Republican National Committee Chairman Ken Mehlman -- "have a lot of anger" and denounce Clinton for arrogance, overreaching and power lust?

"The president should have all the tools he needs to fight terrorism," Specter said, "but we also want to maintain our civil liberties." Now there is a perfect expression of patriotic, post-Sept. 11 thinking.

President Kollar-Kotelly (WSJ)

The Wall Street Journal, February 10, 2006

We'd like to thank the Washington Post for publishing a story yesterday that so quickly proved our editorial point of the same day about the folly of putting judges in control of national security decisions. That's what we call service.

The front-page story reported that on rare occasion the Bush Administration has used information from the NSA's warrantless foreign-linked wiretaps to seek domestic wiretapping authority from the Foreign Intelligence Surveillance Court. This was said to have upset chief FISA judge Colleen Kollar-Kotelly, and the tenor of the story is that this is one more example of how the warrantless wiretaps are an abuse of power. But the better question is, Who elected Ms. Kollar-Kotelly?

The story's real news is that Judge Kollar-Kotelly, and her predecessor Judge Royce Lamberth, took it upon themselves to erect a new "wall" concerning how intelligence is to be used to protect America. They decided that pertinent information gleaned from a warrantless wiretap should never be used later to justify a domestic warrant. But why not? If a tip gathered from an e mail from Pakistan leads to suspicion about an American-based contact, what's wrong with using that news to get a legal warrant to track that suspect in the U.S.? It might even prevent a domestic attack.

In any event, why is an unelected judge such as Ms. Kollar-Kotelly making these decisions? Under the Constitution, those calls ought to be made by the President, who swears to defend the U.S. and can be held accountable by the voters if he fails. Under the current FISA court process, Judge Kollar-Kotelly answers essentially to no one.

GOP Senator Arlen Specter is saying he wants to write legislation putting even more power in the hands of FISA judges. This isn't merely unconstitutional. As the Post story shows, in a world of WMD and fast-moving transnational terrorists, it's dangerous.

Another Set Of Eyes (WP)

The Washington Post, February 10, 2006

THE BUSH administration would like the debate over its warrantless wiretapping program to divide neatly a long partisan, and potentially electorally useful, lines. But some Republican legislators aren't with the program. Their responsible pressure has nudged the administration from its customary highhandedness. The resulting congressional briefings are a good first step, but a framework for real oversight of the surveillance program remains necessary.

When Attorney General Alberto R. Gonzales appeared before the Senate Judiciary Committee on Monday, Republican senators -- Chairman Arlen Specter (Pa.) and Mike DeWine (Ohio), Sam Brownback (Kan.) and Lindsey O. Graham (S.C.) -- expressed discomfort with the administration's end run around the Foreign Intelligence Surveillance Act (FISA). Then Rep. Heather A. Wilson

(R-N.M.), who chairs a House intelligence subcommittee that oversees the National Security Agency, called for a full congressional investigation into the eavesdropping. She'd been trying in vain to get information from the administration about the program since it was revealed in December. After her public statement, the administration wisely, if belatedly, agreed to brief House and Senate intelligence panels not just with a rehash of its unconvincing legal arguments but with actual details about the surveillance.

This is a promising reversal but not enough. Lawmakers beyond the "Gang of Eight" congressional leaders and intelligence committee chairs need to know what the surveillance program entails. But it is even more important to try to put in place a mechanism -- beyond the executive branch monitoring itself -- to make certain the surveillance stays within constitutional boundaries.

The administration is not exactly embracing the notion of congressional involvement here -- but it is also not slamming the door as firmly as it has in some confrontations. Questioned by PBS's Jim Lehrer on Tuesday, Vice President Cheney said a legislative fix was both unnecessary and potentially counterproductive. "We believe firmly . . . that we have all the legal authority

we need," Mr. Cheney said, adding, "I don't think it would necessarily be in the interests of the country" to have new legislation. Still, he said of Congress, "if you've got suggestions, we're happy to listen to them."

Lawmakers don't seem to be deterred by the administration's coolness to a legislative solution -- and they shouldn't be. Mr. Specter is drafting legislation that would call on the court that oversees the administration of FISA to determine the constitutionality of the surveillance program. Ms. Wilson and other lawmakers have raised the possibility of rewriting the FISA statute to accommodate new technological realities.

Mr. Brownback urged the administration to recognize the importance of having "another set of eyes also looking at this surveillance technique." The administration ought to take his advice.

Editorial: Stonewalled (SACBEE)

The Sacramento Bee, February 10, 2006

Bush team keeps Congress in the dark

Attorney General Alberto Gonzales made it clearer than ever this week that the Bush administration is determined not only to continue warrantless electronic eavesdropping, but also to stonewall Congress and the public by saying "trust us" over and over - and not much else.

Testifying Monday before the Senate Judiciary Committee, Gonzales fell back on the argument that the president is responsible for protecting the country, and that the Constitution and Congress, in authorizing the president after 9/11 to use force against terrorist groups and states, give him the authority to do it as he sees fit. Even the most innocuous questions from senators elicited mostly platitudes, obfuscation and refusals to answer. Gonzales even said Congress is a full partner in combating terrorism.

"In the arena of war," he said, "it is not true that the president works ... to the exclusion of Congress. Quite the contrary; our framers intended that, in a time of war, both branches of government have a role to play."

Oh? Presumably that means Congress should be grateful for any scrap of information thrown its way. Key members of Congress - eight in all - have been briefed "fully," according to administration officials. But some of those briefed have said the information provided is sketchy and that security rules bar them from spelling out their objections.

Gonzales, President Bush and others have said the program, run by the National Security Agency, is limited in nature, affecting only a modest number of Americans at the U.S. end of international phone calls and e-mails. But other sources, including unnamed sources involved in the program, have said the Federal Bureau of Investigation has been inundated with information producing no useful leads.

The frustration in Congress is bipartisan. At least four of 10 GOP members of the Judiciary Committee - including Chairman Arlen Specter - have challenged official assertions of unfettered authority. So, now, has Republican Rep. Heather Wilson, who chairs a subcommittee of the House Intelligence Committee. She has called for the full Intelligence Committee to conduct an inquiry. But so far that seems unlikely.

What does seem likely is growing mutual mistrust between the administration and its supporters in Congress and those in both parties who feel, justifiably, that the president has essentially dealt Congress out of the anti-terrorist campaign. Vice President Dick Cheney made that point clearly in an interview this week, saying, "We have all the authority we need" and that a public debate "could alert al-Qaida to tactics used" by U.S. officials.

Nonsense. Closed hearings could do much to reassure Congress, and indirectly the public, that the administration is not exceeding its mandate while wrapping itself in the flag of national security. If it does have all the authority it needs, then why isn't it willing to make its case to the branch of government charged with making the laws, declaring war and providing the funds to pay for it?

Cal Thomas: In A Dither On Security (SACBEE)

By Cal Thomas

The Sacramento Bee, February 10, 2006

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"The critical question before the committee was to determine how the fundamental liberties of the people can be maintained in the course of the government's effort to protect their security. The delicate balance between these basic goals of our system of government is often difficult to strike, but it can, and must, be achieved."

That is not a statement from a member of the Senate Judiciary Committee, which last Monday heard testimony from Attorney General Alberto Gonzales about the Bush administration's efforts to monitor the conversations of terrorist suspects. It is from the introduction to the 1976 "Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities," sometimes referred to as the Church Committee after its chairman, Sen. Frank Church, D-Idaho.

The New York Times recalled those "glorious" (for the left) days by reprinting a picture of Church talking to reporters during the 1975 hearings into the misuse of intelligence gathering by the Nixon administration. Though Nixon used government agencies to spy on his domestic political enemies, the Times wants its readers to believe that what the Bush administration is doing by monitoring phone calls and other communications between terrorist suspects outside the country, and those inside, is similar behavior.

What the newspaper fails to acknowledge is that the findings of the Church Committee led to the dismantling of many useful intelligence-gathering operations, thus limiting our ability to gather precisely the type of intelligence that would have been useful in stopping 9/11.

Democrats on the Senate Judiciary Committee denied they are trying to write a bill of rights for terrorists. Sen. Patrick Leahy, R-Vt., assured his colleagues and those watching C-SPAN, which carried the hearing live, that he wants to do everything possible to find terrorists before they kill more of us. He just wants to make sure it is done "legally."

Democrats appeared not to accept Gonzales' testimony that the surveillance is being done legally, preferring to make political points rather than capture and defeat the enemy.

The danger in tinkering with intelligence gathering is that the tinkerers sometimes go too far. In its effort to curtail domestic eavesdropping and foreign spying 30 years ago, a Democratic Congress used the Church Committee findings on illegal domestic surveillance in a way that some analysts believe subsequently curtailed our effectiveness to obtain information vital to the nation's security.

The CIA came to rely more on satellites and other technologies and less on human intelligence. The result was fewer people who spoke the languages of the countries in which they operated and the consequence of that has been a reduced ability to gather information that could only be obtained on the ground.

Politicians, egged on by the crusading media (who were feeling especially self-righteous after "bringing down" President Nixon), resembled constitutional fundamentalists. Today's left quotes the text of the Constitution as if it means what it says on searches and seizures, though when it comes to behavior the left wishes to condone, the Constitution morphs into a "living document" in constant need of updating to suit the times.

Which is it? Liberals in the 1970s began suggesting that virtually all American spying is unconstitutional. Soviet and Chinese spies were to be expected, but we shouldn't "be like them." A similar double standard exists today in much of the big media and among certain liberal politicians of both parties. The enemy does what it wants without restraint. We put shackles on ourselves and are shocked when those without any attack us. Then we ask, "What went wrong?"

In his defense of the president's order to monitor limited communications between foreign terrorist suspects and people in the United States, Gonzales listed a number of presidents, Democratic and Republican, dating back to the 19th century, who had used far more invasive and widespread tactics to gather intelligence they believed crucial to defending the nation.

Should the United States be attacked again, the next congressional hearings (assuming Congress survives the attack) will focus on why more wasn't done to protect us. More is now being done and public opinion seems to be fine with it for now, complaints from liberal Democrats (and a few liberal Republicans) notwithstanding.

About the writer:

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Loose Lips Sink Spies (NYT)

By Porter Goss

The New York Times, February 10, 2006

Washington

AT the Central Intelligence Agency, we are more than holding our own in the global war on terrorism, but we are at risk of losing a key battle: the battle to protect our classified information.

Judge Laurence Silberman, a chairman of President Bush's commission on weapons of mass destruction, said he was "stunned" by the damage done to our critical intelligence assets by leaked information. The commission reported last March that in monetary terms, unauthorized disclosures have cost America hundreds of millions of dollars; in security terms, of course, the cost has been much higher. Part of the problem is that the term "whistleblower" has been misappropriated. The sharp distinction between a whistleblower and someone who breaks the law by willfully compromising classified information has been muddied.

As a member of Congress in 1998, I sponsored the Intelligence Community Whistleblower Protection Act to ensure that current or former employees could petition Congress, after raising concerns within their respective agency, consistent with the need to protect classified information.

Exercising one's rights under this act is an appropriate and responsible way to bring questionable practices to the attention of those in Congress charged with oversight of intelligence agencies. And it works. Government employees have used statutory procedures — including internal channels at their agencies — on countless occasions to correct abuses without risk of retribution and while protecting information critical to our national defense.

On the other hand, those who choose to bypass the law and go straight to the press are not noble, honorable or patriotic. Nor are they whistleblowers. Instead they are committing a criminal act that potentially places American lives at risk. It is unconscionable to compromise national security information and then seek protection as a whistleblower to forestall punishment.

Today America is confronting an enemy intent on brutal murder. Without the capacity to gain intelligence on terrorist organizations through clandestine sources and methods, we and our allies are left vulnerable to the horrors of homicidal fanaticism.

The C.I.A. has put many terrorists out of action since 9/11. In our pursuit of the enemy, we accept the unique responsibility we bear as officers of a clandestine service serving an open, constitutional society. But we also know that unauthorized disclosure of classified intelligence inhibits our ability to carry out our mission and protect the nation.

Revelations of intelligence successes or failures, whether accurate or not, can aid Al Qaeda and its global affiliates in many ways. A leak is invaluable to them, even if it only, say, prematurely confirms whether one of their associates is dead or alive. They can gain much more: these disclosures can tip the terrorists to new technologies we use, our operational tactics, and the identities of brave men and women who risk their lives to assist us.

Such leaks also cause our intelligence partners around the globe to question our professionalism and credibility. Too many of my counterparts from other countries have told me, "You Americans can't keep a secret." And because of the number of recent news reports discussing our relationships with other intelligence services, some of these critical partners have even informed the C.I.A. that they are reconsidering their participation in some of our most important antiterrorism ventures. They fear that exposure of their cooperation could subject their citizens to terrorist retaliation.

Last month, a news article in this newspaper described a "secret meeting" to discuss "highly classified" techniques to detect efforts by other countries to build nuclear weapons. This information was attributed to unnamed intelligence officials who "spoke on the condition of anonymity because of the effort's secrecy." Whether accurate or not, this is a direct acknowledgment that these unnamed officials apparently know the importance of secrecy.

Recently, I noticed renewed debate in the news media over press reports in 1998 that Osama bin Laden's satellite phone was being tracked by United States intelligence officials. In the recent debate, it was taken for granted that the original reports did not hurt our national security efforts, and any suggestions that they did cause damage were dismissed as urban myth. But the reality is that the revelation of the phone tracking was, without question, one of the most egregious examples of an unauthorized criminal disclosure of classified national defense information in recent years. It served no public interest. Ultimately, the bin Laden phone went silent.

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I take seriously my agency's responsibility to protect our national security. Unauthorized disclosures undermine our efforts and abuse the trust of the people we are sworn to protect. Since becoming director, I have filed criminal reports with the Department of Justice because of such compromises. That department is committed to working with us to investigate these cases aggressively. In addition, I have instituted measures within the agency to further safeguard the integrity of classified data.

Our enemies cannot match the creativity, expertise, technical genius and tradecraft that the C.I.A. brings to bear in this war. Criminal disclosures of national security information, however, can erase much of that advantage. The terrorists gain an edge when they keep their secrets and we don't keep ours.

US Sends 3 Guantanamo Prisoners Home To Morocco (REU)

Reuters, February 9, 2006

RABAT (Reuters) - The United States has handed three suspected Islamic militants held at its Guantanamo Bay prison over to Morocco, Moroccan state media reported on Thursday.

The three Moroccan men were being detained in Casablanca, Morocco's financial capital, for further questioning by an investigating judge, the official news agency MAP reported.

MAP gave no further details and Moroccan security officials were not immediately available for comment.

The extradition was announced two days after U.S. Federal Bureau of Investigation head Robert Mueller held talks with King Mohammed on security cooperation between Rabat and Washington.

Mueller, who toured the North Africa region to cement the U.S. anti-terror drive, also met Morocco's top security chiefs.

"We knew very well that Morocco, Algeria, Tunisia and Libya are working together to fight terrorism," Thursday's edition of the Moroccan daily al Maghribia quoted Mueller as saying.

"So we must follow up in building our friendly relations with them and create mechanisms to exchange information quickly to prevent new terrorism attacks," he said.

Morocco, a staunch U.S. ally in the region, has been clamping down on suspected cells of Islamic radicals since 2003, when multiple suicide bombings in Casablanca killed 45 people and shocked the normally peaceful country.

The United States sent five Moroccan detainees home from Guantanamo in 2004, but the five have since been in and out of detention and questioning by police over their suspected links with radical Islamist cells.

Local lawyers and rights groups say more than 20 Moroccans are still held prison by Guanatanamo.

Morocco's main independent human rights group, the Moroccan Human Rights Association (AMDH), urged Moroccans to take to the streets in Rabat on Sunday to protest against expanded security cooperation with the United States.

"The protest will express the Moroccan people's opposition to integrate Morocco in the U.S. military and security plans under the disguise of opposition to terrorism. Such cooperation threatens Morocco's security and independence," the AMDH said in statement.

U.S. military authorities in Afghanistan on Thursday released seven men who had been detained at Guantanamo Bay.

PATRIOT ACT:

Senate Republicans Announce Deal For Renewal Of Patriot Act (LAT)

By Nicole Gaouette, Times Staff Writer

The Los Angeles Times, February 10, 2006

The compromise focuses on subpoena powers. Democrats are split.

WASHINGTON — Senate Republicans who had been blocking a long-term extension of the Patriot Act announced Thursday that an agreement reached with the White House could allow reauthorization of the anti-terrorism law.

At an afternoon news conference, Sen. John E. Sununu (R-N.H.) said a bipartisan group of lawmakers had worked out changes in three areas where the legislators thought "we could do better to protect civil liberties while providing law enforcement the tools it needs."

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White House spokesman Scott McClellan hailed the agreement, saying that the administration was "pleased that this important legislation is moving forward."

Though some Democrats expressed support for the changes, others were critical, raising the prospect that a two-month filibuster of the act could continue.

"The few minor changes that the White House agreed to do not address the major problems with the Patriot Act that a bipartisan coalition has been trying to fix for the past several years," said Sen. Russell D. Feingold (D-Wis). "I will continue to strongly oppose and use every option at my disposal to stop any reauthorization of the Patriot Act that does not protect the rights and freedoms of law-abiding Americans."

Enacted shortly after the Sept. 11 terrorist attacks, the Patriot Act broke down barriers between intelligence agencies and law enforcement, giving each new powers to collect information. Lawmakers and civil liberties groups objected to provisions that included secret wiretaps and searches, saying they allowed the government to intrude too easily and too far into citizens' lives.

When the Patriot Act expired at the end of 2005, Congress resorted to passing short-term extensions while negotiations over its reauthorization took place.

Sununu made his announcement accompanied by Sens. Larry E. Craig (R-Idaho), Lisa Murkowski (R-Alaska), Chuck Hagel (R-Neb.) and Richard J. Durbin (D-Ill.). Although the lawmakers acknowledged that they did not get everything they wanted, they said the compromise was an improvement over the version that emerged after House and Senate negotiators met in conference in November.

Those negotiations produced legislation that would have made permanent 14 of the Patriot Act's 16 provisions, prompting opponents to charge that the conference bill failed "to protect innocent people from unnecessary and intrusive government surveillance" and to fight against the act's reauthorization.

The changes announced Thursday focus largely on Section 215 orders, known as National Security Letters, a powerful type of subpoena that comes with a gag order forbidding recipients to say they have received it.

Lawmakers also reached a compromise on the act's so-called "library provision," which requires libraries, businesses or medical offices to hand over individual records to law enforcement officials.

One change, Sununu said, establishes that libraries functioning in their traditional role will no longer be subject to National Security Letters. He said the definition "traditional role" included lending digital books and providing patrons with access to the Internet.

Libraries that act as an Internet service provider, instead of simply giving people access to the Internet, would still be subject to National Security Letters.

Critics pointed out that in other respects, little has changed.

"This deal does not prevent the government from obtaining the library, medical and other sensitive business records of people with no link to suspected terrorists," Feingold said in a statement. "The records just have to be 'relevant' to a terrorist investigation, which is not adequate protection against a fishing expedition."

The negotiated changes also remove a requirement that recipients of a National Security Letter give the FBI the name of any attorney they consult about the subpoena. And, for the first time, recipients of the letters will be allowed to challenge the gag order that accompanies them, though they can only do that after a year has passed.

"We've always said that you ought to allow citizens to appeal that [gag order] before a judge," said Sununu. "We suggested a 90-day waiting period. This has a one-year waiting period, but it's important to have the process and the principle in place."

In order to successfully challenge a gag order, recipients of a National Security Letter would have to prove the government acted in bad faith.

Craig emphasized that the provisions concerning the National Security Letters would expire after four years unless they were renewed. "We've been most concerned about [Section] 215. We don't believe the protections are there the way they need to be," he said.

Craig said that there would be no additional changes, and that he was optimistic that the compromise version could pass.

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Sen. Dianne Feinstein (D-Calif.) said she would support the agreement, telling reporters outside the Senate chamber: "I'm going to vote for it. There are three changes, they are substantive changes…. I think it's important to get this done, and there is a four-year sunset, so we'll be able to watch it closely."

President Bush has vigorously defended the Patriot Act and the administration's domestic spying program, declaring during his Jan. 31 State of the Union address that "the enemy has not lost the desire or capability to attack us."

The Senate announcement came a few hours after Bush generally defended the administration's surveillance efforts. In a speech at the National Guard Memorial Building, the president said that his anti-terrorism strategy helped foil a 2002 terrorist plot to attack Los Angeles.

Senators Make Compromises On Patriot Act (USAT)

USA Today, February 10, 2006

A bipartisan group of senators reached agreement Thursday with the White House on disputed provisions of the USA Patriot Act, increasing the chances the anti-terrorism law, held up because of civil liberties concerns, will be renewed.

The compromise allows recipients of "Section 215" subpoenas seeking business or library records related to a terrorism investigation to challenge in court a requirement that they not tell anyone.

The compromise also scraps a provision that required recipients of "national security letters," which are issued without going before a judge, to provide the FBI with the name of any lawyer they consulted about it. A third element of the deal says traditional libraries may not be subject to FBI requests for information on research done by patrons.

The deal — reached by Republican Sens. Larry Craig of Idaho, John Sununu of New Hampshire and Lisa Murkowski of Alaska with Sen. Dick Durbin, D-Ill. — moves the Senate to within a few votes of overcoming a filibuster that blocked renewal of the bill. Still uncertain, though, is whether the House will accept the compromise. The current version of the Patriot Act expires March 10.

— John Diamond

Senate bill would curbpractice of 'earmarks'

Ten senators, led by Sen. John McCain, R-Ariz., introduced the Pork-Barrel Reduction Act. It's the latest of several proposals aimed at ending "earmarks," the special-interest projects that members of Congress insert into legislation just before final passage.

The measure would require that earmarks be described in detail and the sponsor identified, and any member could eliminate an earmark unless it is upheld by 60 votes in the 100-member chamber.

Sheehan won't challengeFeinstein in primary

Peace activist Cindy Sheehan said she won't run against Sen. Dianne Feinstein, D-Calif., in the Democratic primary, even though she thinks Feinstein has not done enough to oppose the war.

"I think I'm more effective on the outside than on the inside," said Sheehan, whose 24-year-old son, Casey, was killed in Iraq in 2004.

Agreement Reached On Patriot Act Changes (AP-Y2)

By David Espo

AP2, February 10, 2006

A band of Senate Republican holdouts reached agreement Thursday with the White House on changes in the Patriot Act designed to clear the way for passage of anti-terror legislation stalled in a dispute over civil liberties.

Sen. John Sununu (news, bio, voting record), R-N.H. said the changes, quickly endorsed by at least one leading Democrat, would better "protect civil liberties even as we give law enforcement important tools to conduct terrorism investigation."

The White House embraced the deal even before Sununu and several other senators outlined it.

Presidential spokesman Scott McClellan said the agreement would "continue to build upon the civil liberties protections that are in place but do so in a way that doesn't compromise our national security priorities."

"We're pleased that this important legislation is moving forward," he said.

The compromise focused on three areas:

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_giving recipients of subpoenas for information in terrorist investigations the right to challenge a requirement that they refrain from telling anyone.

_eliminating a requirement that an individual provide the FBI with the name of a lawyer consulted about a National Security Letter, which is a secret request for records.

_clarifying that most libraries are not subject to demands in those letters for information about suspected terrorists.

While there was no immediate reaction from House Republicans, Sen. Larry Craig (news, bio, voting record), R-Idaho, one of the Senate negotiators, said he had been in close touch with the chairman of the House Judiciary Committee. Rep. James Sensenbrenner, R-Wis.

Reaction from the Democrats was divided.

Sen. Dick Durbin of Illinois, second-ranking in the Democratic leadership, appeared at the GOP news conference. He said the compromise included "significant progress" toward protecting basic liberties and that he planned to support the compromise.

The party's leader, Sen. Harry Reid (news, bio, voting record) of Nevada, said in a statement that the agreement among Republicans "appears to be a step in the right direction."

But Sen. Russell Feingold, D-Wis., threatened a filibuster.

The senior Democrat on the Senate Judiciary committee, Patrick Leahy of Vermont, criticized the White House. At the same time, his office left open the possibility he would support the measure.

The law originally was passed within days of the attacks of Sept. 11, 2001, and the administration says it has been an important weapon in the government's arsenal for tracking suspected terrorists.

Renewal of the law was blocked last year when critics said its provisions shortchanged civil liberties, particularly in the cases of individuals who were not suspected of terrorist activities themselves, but might have had innocent dealings with suspects.

Also at issue was concern over the government's ability to demand information from libraries.

As a result of the deadlock, lawmakers decided to extend the old law temporarily, a short-term solution that left the administration and many in Congress unhappy.

The current extension expires March 10.

Republicans said that with the changes, the chance would be remote that any library would have to turn over information.

But Democrats said the same provision made explicit that some libraries could be forced to turn over information, adding that existing law is vague on the subject.

Other than Sununu, the Senate Republicans who had defied the president's wishes on the Patriot Act last December were Craig, Lisa Murkowski of Alaska and Chuck Hagel of Nebraska.

The changes were worked out over several weeks in discussions that involved the lawmakers and White House counsel Harriet Miers, according to one Republican familiar with the efforts.

Officials who discussed the issue did so on condition of anonymity, saying they did not want to pre-empt a formal announcement.

On Dec. 16, the Senate voted 52-47 to move to a final vote on the legislation, which deals specifically with 16 provisions in the act that Congress wanted reviewed and renewed by the end of last year. That was eight votes short of the 60 needed to end the filibuster.

Key Democratic And G.O.P. Senators Are In Accord On Extending Patriot Act (NYT)

By Sheryl Gay Stolberg

The New York Times, February 10, 2006

WASHINGTON, Feb. 9 — Four recalcitrant Senate Republicans said Thursday that they had reached agreement with the White House on the broad antiterrorism law known as the USA Patriot Act, and two leading Democrats said they would now support the bill. The moves possibly clear the way for passage of the legislation, which has been bottled up in a dispute over civil liberties.

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The Republicans, led by Senator John E. Sununu of New Hampshire, joined with Democrats last year in a filibuster that blocked the revised bill. Their deal involved three changes that, they said, would place greater restraints on the government's latitude in obtaining personal information like library records and business transactions.

"This is an accommodation that I think we can be proud of," said another of the four senators, Chuck Hagel of Nebraska, adding that the changes to the bill "makes it relevant, makes it realistic, makes it workable and protects both our rights and our national security interests."

The deal focused on three particular areas. The new measure would give recipients of subpoenas the right to challenge an accompanying judicial order not to discuss the case publicly, though they would have to wait one year. In the meantime, they would have to comply with the subpoena. That would prevent the F.B.I. from demanding the names of lawyers consulted by people who receive secret government requests for information and prevent most libraries from being subject to those requests.

Critics said the changes were cosmetic.

"A few insignificant changes just doesn't cut it," Senator Russell D. Feingold, Democrat of Wisconsin, said in a statement. "I cannot support this deal, and I will do everything I can to stop it."

The administration would still have the power to obtain information about terror suspects who use libraries to gain access to the Internet by seeking that information not directly from libraries, but from their Internet service providers.

"This agreement clarifies crucial national security tools without weakening them and provides additional civil liberties protections," said a spokesman for the Justice Department, Brian Roehrkasse.

With the White House and Senate Republicans in accord, the bill is likely to be approved by the House. The question now is whether enough Democrats will support the compromise to give Republicans, who have 55 seats in the Senate, the 60 votes necessary to put it up for a vote. Two Democrats supported the earlier measure and another two, Richard J. Durbin of Illinois and Dianne E. Feinstein of California, said they would support the latest version. "It is a substantial improvement," Ms. Feinstein said. "There are three basic changes. They are specific. They do improve the bill. I think it's important to get this done."

As the fight over the Patriot Act has played out over the last several months, the original law, passed after the Sept. 11, 2001, attacks, has been extended to March 10. The bill, which greatly expanded the government's surveillance and investigative powers, has since its passage provoked intense debate about the balance between protecting national security and civil liberties.

The original bill included 16 provisions that were scheduled to expire at the end of 2005. The Senate and House passed differing measures to make those provisions permanent. But when the competing bills were reconciled into a new version, Mr. Sununu, Mr. Hagel and the two other Republicans, Larry E. Craig of Idaho and Lisa Murkowski of Alaska, balked, forcing the temporary extension and prodding Mr. Sununu into negotiations with the White House.

Passage would make several major components of the act permanent.

The compromise does not, however, address one of their chief complaints, that the revised bill would allow the government to obtain private records of Americans with just loose connections to a terrorism investigation. Mr. Sununu and the others had originally insisted that the government prove a direct connection. In its current version, the bill simply says the records have to be relevant to a terrorism investigation, a standard that Ms. Feingold said was "not adequate protection against a fishing expedition."

Mr. Durbin, the lone Democrat to appear with Mr. Sununu and the others at a news conference on the compromise, disagreed, saying, "As Senator Sununu has said, we've made progress here, significant progress, progress that moves us in the right direction, protecting basic civil liberties at a time when we are dealing with a war on terrorism."

Patriot Act Compromise Clears Way For Senate Vote (WP)

By Charles Babington

The Washington Post, February 10, 2006

Efforts to extend the USA Patriot Act cleared a major hurdle yesterday when the White House and key senators agreed to revisions that are virtually certain to secure Senate passage and likely to win House approval, congressional leaders said.

The law -- passed in the wake of the 2001 terrorist attacks and scheduled to lapse in key areas last year -- makes it easier for federal agents to secretly tap phones, obtain library and bank records, and search the homes of suspected terrorists. Several

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Democrats said the compromise announced yesterday lacks important civil liberties safeguards, and even the Republican negotiators said they had to yield to the administration on several points.

But with virtually all 55 GOP senators now on board, and Democrats joining them, the plan appears to have enough support to overcome the Senate filibuster that has thwarted a four-year renewal of the statute for months. Senators said they think the White House will be able to coax the Republican-controlled House to agree as well, even though House leaders have complained that senators' demands had weakened the measure.

"It was a bipartisan group of us that really believed we could do better . . . to protect civil liberties even as we gave law enforcement important tools to conduct terrorism investigations," Sen. John E. Sununu (R-N.H.) told reporters. He said that he and his fellow negotiators had to make more concessions to the administration than they wanted to, but that Congress will monitor the law's application over the coming years and perhaps revise it.

Sen. Richard J. Durbin (Ill.), one of several Democrats who agreed to back the compromise yesterday, said "it falls far short" of the bill that was passed by the Senate last year but rejected by the House. "But if you measure it against the original Patriot Act . . . we've made progress" toward "protecting basic civil liberties at a time when we are dealing with the war on terrorism," Durbin said.

Senate Minority Leader Harry M. Reid (D-Nev.) called the compromise "a step in the right direction."

The proposal would restrict federal agents' access to library records, one of the Patriot Act's most contentious provisions. A form of secret subpoena known as a National Security Letter could no longer be used to obtain records from libraries that function "in their traditional capacity, including providing basic Internet access," Sununu and others said in a statement. But libraries that are "Internet service providers" would remain subject to the letters, Durbin said.

The Senate proposal would no longer require National Security Letter recipients to tell the FBI the identity of their lawyers.

The compromise bill also addresses "Section 215 subpoenas," which are granted by the Foreign Intelligence Surveillance Act court. Recipients of such subpoenas originally were forbidden to tell anyone about the action. The proposed Senate measure would allow them to challenge the "gag order" after one year, rather than the 90-day wait in earlier legislation.

Sununu said the administration insisted on the longer waiting period. "You now have a process to challenge the gag order," he said, defending the concession. "That didn't exist before."

Sununu said he and his allies were disappointed that the compromise does not require agents to "show a connection to a suspected terrorist or spy" before obtaining a Section 215 subpoena. Instead, a FISA judge would have to agree that there are reasonable grounds to believe the items being sought are relevant to an investigation into terrorism.

Several liberals condemned the bill. "I am gravely disappointed in this so-called deal," said Sen. Russell Feingold (D-Wis.). "The White House agreed to only a few minor changes" that "do not address the major problems," he said, adding: "We've come too far and fought too hard to agree to reauthorize the Patriot Act without fixing those problems."

But Justice Department spokesman Brian Roehrkasse said the Senate compromise "maintains the tools necessary to fight terrorism while further strengthening safeguards to protect civil liberties."

"We are hopeful that the Congress will now move forward to renew the Patriot Act," he said.

In a related area yesterday, several Democrats said the administration must do more to explain and justify the domestic surveillance program conducted by the National Security Agency.

"If they came with the idea that this is going to stop an investigation on the part of the Senate intelligence committee, they were wrong," committee Vice Chairman John D. Rockefeller IV (D-W.Va.) told reporters after a closed briefing by two top administration officials. "There were certain kinds of questions which could easily have been answered but weren't. . . . Where we really wanted hard information that was important to us, that gave us the size and the scope and the reach and the depth" of the program," he said, "they were not forthcoming."

Sen. Dianne Feinstein (D-Calif.) said after the briefing: "For the life of me, I don't understand why the administration won't say, 'Sure, you have a right to look at this. We'd like to explain it.' "

GOP Reaches Patriot Act Deal (WT)

By Charles Hurt

DOJ_NMG_0013762

The Washington Times, February 10, 2006

Four Republican senators reached a deal yesterday to drop their opposition to the renewal of the USA Patriot Act, hailed by the White House as crucial in the war against terrorists.

But the agreement involving White House officials and top congressional leaders doesn't guarantee approval because most Democrats are still on the record opposing the measure.

Republican Sens. John E. Sununu of New Hampshire, Larry E. Craig of Idaho, Lisa Murkowski of Alaska and Chuck Hagel of Nebraska had opposed the reauthorization because they said it lacked the appropriate civil liberties protections.

"America's civil liberty protections are a model to the world," the four Republicans said in a joint statement yesterday. "We should always strive to balance protection of these freedoms with the essential needs of law enforcement. The substantive, and at times, emotional debate concerning Patriot Act reauthorization reflects the importance of enabling law enforcement to investigate terrorists without sacrificing these rights."

Under the deal, civil liberties protections have been added regarding the issuance of secret national security subpoenas and federal searches of library records.

"The changes announced today by Senator Sununu strengthen civil liberties protections without hindering the core anti-terrorism safeguards in the Patriot Act," said Majority Leader Bill Frist, Tennessee Republican. "I expect swift adoption of these changes and the Patriot Act conference report."

Senate Judiciary Committee Chairman Arlen Specter, Pennsylvania Republican, said the modifications should clear the way for passage.

"It appears -- and I say 'appears' because nothing is ever certain in the United States Senate until the final votes are cast -- that we have come to an agreement, at least within the Senate, on modifications for the Patriot Act so that it can be renewed," he said yesterday.

Once the new provisions are added, the bill must again be approved by both chambers. The new bill is expected to get easy approval from the House, but faces stiff opposition from Senate Democrats.

In December, the four Republicans joined Democrats in filibustering reauthorization of current law, which now expires in March.

With the four Republicans on board, a filibuster would become an all-Democrat move -- a prospect that Republicans relish because polls show that voters don't trust Democrats on national security. As of yesterday, the new bill remained one vote shy of breaking the filibuster.

But the deal gained at least two key Democrat supporters yesterday in Minority Whip Richard J. Durbin of Illinois and Sen. Dianne Feinstein of California, both members of the Judiciary Committee.

"It is a substantial improvement," Mrs. Feinstein said of the new version. "I think it's important to get this done. And there is a four-year sunset, so we will be able to watch it closely."

Minority Leader Harry Reid, Nevada Democrat, signaled optimism as well.

"I commend my Republican colleagues for working hard to make the Patriot Act better," he said after the agreement was announced. "Democrats strongly believe we must have all necessary tools to fight terrorism, but we want checks and balances to ensure that these expansive powers are not abused. The deal reached by my Republican colleagues appears to be a step in the right direction."

Praise from Democrats was not unanimous. Sen. Russell D. Feingold, the Wisconsin Democrat who led opposition to the bill, said the alterations are "a few small changes" and he would continue to oppose the bill.

Sen. Patrick J. Leahy, Vermont Democrat and ranking minority member of the Senate Judiciary Committee, was disappointed, too. "A bipartisan coalition in the Senate made a valiant stand to make clear that security and liberty are not mutually exclusive values in America," he said. "We can and we should have both. But White House naysaying and partisanship have obstructed this from becoming the better bill that it should be, and that is deeply regrettable."

Republicans, Durbin, Bush Reach Accord On Patriot Act (Update3) (BLOOM)

By Jeff Bliss

DOJ_NMG_0013763

Bloomberg, February 10, 2006

Feb. 9 (Bloomberg) -- Republicans in the U.S. Senate and the Bush administration agreed to changes in the USA Patriot Act that they say will allow its renewal.

The deal was endorsed by Richard Durbin, the No. 2 Democrat in the Senate, and Senate Democratic Leader Harry Reid called the accord ``a step in the right direction."

The anti-terrorism law, passed in the wake of the Sept. 11 attacks, expired in December and its renewal has been stalled by concerns among Democrats and some Republicans over the law's effect on civil liberties.

Senate Judiciary Chairman Arlen Specter of Pennsylvania said the compromises reached will enable passage. ``It appears, and I say appears because nothing is ever certain in the United States Senate until the final votes are cast, that we have come to an agreement," he told reporters in Washington today.

The measure would still have to pass the House. House Judiciary Committee Chairman James Sensenbrenner won't comment until he's reviewed details of the accord, said his spokesman, Jeff Lungren.

Senator John Sununu of New Hampshire, who helped negotiate the accord, said compromises were struck on three major issues.

Compromises

Companies will now be able to challenge a gag order against discussing an FBI demand for information a year after the request is made, Sununu said. In addition, those who received so-called National Security Letters from the FBI asking for information won't have to disclose the names of the lawyers they consult, as is required currently, he said.

Finally, records of libraries performing their traditional duties will no longer be subject to search by the Federal Bureau of Investigation, Sununu said.

The Patriot Act expanded the FBI's authority to demand business records, use roving wiretaps and share information with intelligence agents to pursue suspected terrorists. The Bush administration says it's been essential to tracking suspected terrorists. Critics say the law allows abuse of civil liberties.

The law expired Dec. 31 and has twice been extended for one month to give lawmakers time to settle differences.

Specter and Sununu were joined at a press conference announcing the agreement by Republican Senators Larry Craig of Idaho, Lisa Murkowski of Alaska and Chuck Hagel of Nebraska, all of whom had reservations about the Patriot Act.

Durbin's Support

Durbin, a member of the Judiciary Committee, also was there to announce his support. ``I don't speak for my caucus as I stand here," he told reporters. ``I speak for myself" in supporting the agreement.

White House spokesman Scott McClellan announced the Bush administration's support earlier. ``We believe an agreement has been reached that will continue to build on the civil liberties protections that are in place," he said at a news briefing. ``We are pleased it appears this important legislation is moving forward."

Senator Patrick Leahy of Vermont, the senior Democrat on the Judiciary Committee, made clear that he's not satisfied with the accord.

``White House nay-saying and partisanship obstructed this from becoming the better bill that it should be, and that is deeply regrettable," Leahy said in a statement.

Senator Russell Feingold, a Wisconsin Democrat, said he opposes the agreement and would try to block the measure's passage with a filibuster, a parliamentary tactic that allows for unlimited debate.

Sununu said he now counts 58 votes to support the measure - - two short of the number needed to block a filibuster -- and is confident he'll pick up enough additional votes ``on both sides of the aisle" to ``be able to pass the Senate."

Senate Republicans Craft Patriot Act Deal (REU)

By Richard Cowan

Reuters, February 10, 2006

WASHINGTON (Reuters) - Senate Republicans reached a deal with the White House on Thursday that would likely clear the way for renewing the USA Patriot Act, a key element of President Bush's war on terror.

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While some Democrats were quick to portray the deal as failing to address civil liberties concerns adequately, several Republicans and Democrats who had earlier balked at renewing the law gave their support now that some revisions had been accepted by the White House.

First enacted after the September 11 attacks, the Patriot Act expanded law enforcement authorities' ability to conduct wiretaps and secret searches and share information.

Sen. Harry Reid of Nevada, the Democratic leader, said the deal appeared to be "a step in the right direction."

The Republican accord would make permanent a number of key provisions of the act that are set to expire March 10.

"It is much less likely that a filibuster would be sustained under these circumstances," said Sen. Richard Durbin of Illinois, who is in the Democratic leadership and intends to vote for the new compromise.

One change to the law accepted by Senate Republicans and the White House would allow individuals to challenge gag orders when they have been subpoenaed to produce sensitive information on library, medical, education or gun-related records.

Another change would clarify that traditional libraries would not be subjected to special subpoenas, which are not issued by judges, to gain records.

A group of Republican and Democratic senators combined in December to stage a Patriot Act renewal filibuster, a procedural move that blocked a vote on the bill.

Since then, Congress approved short-term extensions of the law.

"White House nay-saying and partisanship have obstructed this from becoming the better bill that it should be and that is deeply regrettable," said Sen. Patrick Leahy of Vermont, the senior Democrat on the Senate Judiciary Committee.

White House spokesman Scott McClellan countered that the agreement that has been reached "will continue to build upon the civil liberties protections that are in place but do so in a way that doesn't compromise our national security priorities within this legislation."

Sen. Russ Feingold, a Wisconsin Democrat who led efforts for revisions, said the Republican proposal had only had "minor changes" that do "not address the major problems with the Patriot Act." He called the Republican-backed version a "one-sided 'deal'" and "unacceptable."

But Feingold had worked closely with Republican Sen. John Sununu of New Hampshire, who on Thursday said he would support the new language.

Sununu on Thursday acknowledged the new compromise had "places where we could do better." He said a bipartisan group of senators would work on such concerns over the long term.

Civil liberties experts have criticized the law for making it too easy for the government to obtain individuals' private records, including medical and library records.

The fight over the Patriot Act comes as Bush is under attack from Democrats for conducting domestic surveillance without warrants.

(Additional reporting by Thomas Ferraro)

Patriot Act Gets OK From Sununu (MANUL)

By JOHN DISTASO, Senior Political Reporter

Manchester (NH) Union Leader, February 10, 2006

Sen. John Sununu was pleased with what he called important improvements in the anti-terrorism USA Patriot Act announced yesterday as a compromise between a key group of senators and the White House.

“I think it’s a good package and a step in the right direction and allows us to maintain a bipartisan consensus,” Sununu told the New Hampshire Union Leader in a telephone interview from Washington.

Sununu announced the deal with the White House on Capitol Hill with Senate Judiciary Committee Chairman Arlen Specter and three other senators who had held out for changes they felt would protect the legal rights and attorney-client privacy privilege of individuals and businesses under investigation by law enforcement authorities.

Sununu and the other senators said they hope the agreement will clear the way for final passage of the Patriot Act, which has been stalled since December. Congress has extended the existing provisions twice, most recently until March 10.

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Sununu and fellow Republicans Larry Craig of Idaho, Lisa Murkowski of Arkansas and Charles Hagel of Nebraska joined with Democrats last year to block the bill.

The New Hampshire Republican said yesterday he is confident the changes will secure the necessary 60 votes to ensure any future effort to block passage will be overridden.

White House press secretary Scott McClellan said the changes "continue to build upon the civil liberties protections that are in place but do so in a way that doesn't compromise our national security priorities."

"We're pleased that this important legislation is moving forward," he said.

There was no immediate reaction from House Republicans, although several GOP officials told The Associated Press key lawmakers had been informed of the proposed changes.

Sununu said he and President George W. Bush discussed the issue briefly aboard Air Force One when he accompanied the President to and from New Hampshire on Wednesday for Bush's Manchester speech.

He said Bush "asked if we were making progress and if I thought we'd be able to agree to something, and I did indicate to him that we were making progress and that I wanted to get bipartisan support."

Sununu said that since House and Senate leaders initially worked on a conference report, "there were 18 changes and 15 were the work of our coalition."

Since the Senate voted down the conference report late last year, "we have since negotiated three improvements," he announced yesterday.

One section of the bill allows federal agents to issue, with no judicial approval, National Security Letters, which require an individual or business to produce records if the government believes they are relevant to a national security investigation.

Another part of the bill, section 215, allows a special judge acting under the Federal Intelligence Surveillance Act to be asked by law enforcement authorities to issue a subpoena for virtually anything that may be related to an intelligence investigation.

Both "215" subpoena and National Security Letters are now accompanied by "gag orders" that forbid someone who receives either document from telling anyone except his attorney that he has received it.

If the recipient does tell an attorney, he is required to inform the FBI and provide the bureau with the attorney's name. That requirement was stricken from the bill in the compromise, Sununu said.

"That, to me, is a big issue because it carried the risk that we would discourage people from seeking legal counsel," Sununu said.

A change announced yesterday for the first time allows a judge to overturn the "gag order" on 215 subpoenas if the judge finds no reason to believe disclosure would endanger national security or interfere with a criminal or counter-terrorism investigation.

But if top Justice Department officials certify that disclosure would endanger national security or interfere with diplomatic relations, their decision would be final, unless a judge finds their decision was made in bad faith.

The compromise also clarifies that a library acting in its "traditional role" would not be subject to a National Security Letter. But Sununu said a library could still be subject to a 215 subpoena, which would require a court order.

Sununu wanted to heighten the standard for issuing 215 subpoenas to require the government to show a connection to a specific spy or terrorist.

"We did not get improvement on the 215 standard, but I think it's a good package and a step in the right direction," he said.

A GOP agreement would put Senate Democrats in a politically difficult position of deciding whether to renew their filibuster on an issue of national security — an area where polling shows them trailing Bush and the Republicans, The Associated Press reported.

Sen. Russell Feingold, D-Wis., opposed the agreement outright, while Sen. Patrick Leahy, D-Vt., opposed it but stopped short of joining in Feingold's threat to renew a filibuster, the AP reported.

The Associated Press contributed to this report.

Police Blotter: Patriot Act E-mail Spying Approved (CNET)

DOJ_NMG_0013766

By Declan McCullagh, CNET News.com

CNET News, February 10, 2006

"Police blotter" is a weekly report on the intersection of technology and the law.

What: The Justice Department asks a judge to approve Patriot Act e-mail monitoring without any evidence of criminal behavior.

When: Decided Feb. 2, 2006 by U.S. District Judge Thomas Hogan in Washington, D.C.

Outcome: E-mail surveillance approved.

What happened: As part of a grand jury investigation that's still secret, the Justice Department asked a federal magistrate judge to approve monitoring of an unnamed person's e-mail correspondents.

The request had a twist: Instead of asking to eavesdrop on the contents of the e-mail messages, which would require some evidence of wrongdoing, prosecutors instead requested the identities of the correspondents. Also included in the request was header information like date and time and Internet address--but not subject lines.

The federal magistrate judge balked and asked the Justice Department to submit an additional brief to demonstrate that such a request would be legal.

Instead, prosecutors asked Judge Hogan to step in. He reviewed the portion of federal law dealing with "pen register" and "trap and trace" devices--terms originating in the world of telephone wiretapping--and concluded it "unambiguously" authorizes the e-mail surveillance request.

Though the language may be clumsy, Hogan said, the Patriot Act's amendments authorize that type of easily obtainable surveillance of e-mail. All that's required, he said, is that prosecutors claim the surveillance could conceivably be "relevant" to an investigation.

Excerpt from the court's opinion:

"In 2001, Congress enacted the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the "USA Patriot Act"), Section 216 of which explicitly amended the authorities relating to pen registers and trap and trace devices...by expanding the definitions of these devices to include "processes" to obtain information about "electronic communication."

"Commenting on the very language that was finally enacted in Section 216 of the USA Patriot Act, several members of Congress highlighted the fact that the amendments would bring the state of the law in line with current technology by making pen registers and trap and trace devices applicable to the Internet and--more to the point--e-mail.

"For example, a section-by-section analysis of the bill that Representative John Conyers included in the record before the final House vote, which contains the same language that was finally enacted by Congress, states that Section 216 "extends the pen/trap provisions so they apply not just to telephone communications but also to Internet traffic."

"In addition, Senator Jon Kyl, who is currently Chairman of the United States Senate Judiciary Subcommittee on Terrorism, Technology & Homeland Security, noted that the same language in the Senate version of the bill "would codify current case law that holds that pen/trap orders apply to modern communication technologies such as e-mail and the Internet, in addition to traditional phone lines."

"The Congressional Research Service also published a legal analysis of the USA Patriot Act that states that the Act "permits pen register and trap and trace orders for electronic communications (e.g., e-mail)."

"The plain language of the statute makes clear that pen registers and trap and trace devices may be processes used to obtain information about e-mail communications. The statute's history confirms this interpretation and there is no support for a contrary result."

HOMELAND RESPONSE:

Bush Gives New Details Of 2002 Qaeda Plot To Attack Los Angeles (NYT)

By Elisabeth Bumiller And David Johnston

The New York Times, February 10, 2006

DOJ_NMG_0013767

WASHINGTON, Feb. 9 — President Bush offered new information on Thursday about what he said was a foiled plot by Al Qaeda in 2002 to fly a hijacked airplane into the tallest building west of the Mississippi, the U.S. Bank Tower in Los Angeles, as he sought to make the case for his record on national security.

Although the administration made public the Los Angeles plot in general terms four months ago, Mr. Bush, in a speech to the National Guard Association, disclosed more specific details, including what he said was the planned use of a "shoe bomb" by hijackers to breach the airplane's cockpit door and take over the controls.

In addition, Mr. Bush and one of his counterterrorism advisers said that four extremists were recruited from Southeast Asia to carry out the plan, that their leader received training in shoe bombs and that all four had traveled to an undisclosed place after the Sept. 11 attacks to meet with Osama bin Laden and pledge their loyalty to Al Qaeda.

Mr. Bush and White House officials gave no reason for releasing details of a plot that they first disclosed last October. But Mr. Bush's speech came at a time when Republicans are intent on establishing their record on national security as the pre-eminent issue in the 2006 midterm elections, and when the president is facing questions from members of both parties about a secret eavesdropping program that he describes as pivotal to the war on terrorism.

In his speech, Mr. Bush said the plot had been "derailed in early 2002, when a Southeast Asian nation arrested a key Al Qaeda operative." He added that "subsequent debriefings and other intelligence operations made clear the intended target and how Al Qaeda hoped to execute it."

Mr. Bush and his counterterrorism adviser, Frances Fragos Townsend, made no claim on Thursday that the eavesdropping program, conducted by the National Security Agency, had helped to foil the 2002 plot. But in a conference call with reporters, Ms. Townsend did not rule out the program as a factor in discovering the plan.

"We use all available sources and methods in the intelligence community, but we have to protect them," Ms. Townsend said. "So I'm not going to talk about what ones we did or didn't use in this particular case."

She added that the Los Angeles plot had grown out of the Sept. 11 attacks. As described in the staff report by the independent commission that investigated the Sept. 11 attacks, Khalid Shaikh Mohammed, who is said to be the mastermind behind them, had originally envisioned an elaborate plan with 10 planes that would attack the East and West Coasts simultaneously on Sept. 11, 2001. But Mr. bin Laden rejected the plan, the report said, because of its difficulty.

"It was bin Laden who decided that it should just focus on the East Coast, and the West Coast should be held in abeyance until there was a follow-on attack," Ms. Townsend told reporters. "It's our understanding now that it was too difficult to get enough operatives for both the East and West Coast plots at the same time."

Weeks after the Sept. 11 attacks, Ms. Townsend said, Mr. Mohammed turned his attention to the West Coast and to recruits from Southeast Asia affiliated with Jemaah Islamiyah, a Qaeda offshoot with roots in Indonesia.

Working with another terror figure, Riduan Isamuddin, better known as Hambali, Mr. Mohammed recruited a cell leader and three other men in October 2001, Ms. Townsend said. Mr. Mohammed trained the leader of the group in building a shoe bomb, similar to the device recovered from Richard Reid, who had tried to set off a bomb in his shoe on an American Airlines flight from Paris to Miami in December 2001.

Significantly, each of the four men, whom Ms. Townsend would not identify, were found to have traveled to Afghanistan to meet with Mr. bin Laden in the months after the Sept. 11 attacks. Each pledged loyalty to him, she said. Such pledges were a significant gesture in the bin Laden network and usually a prerequisite to carrying out an attack.

Ms. Townsend said that American counterterrorism officials, working with four other regional governments, which she would not identify, arrested the cell leader and three others in February 2002. The plot was effectively extinguished.

Several American counterterrorism officials said Thursday that, at the time the plot was broken up in early 2002, the authorities believed that they had disrupted an active terrorist planning effort, but that they possessed only fragmentary evidence and were unsure whether the threat was significant.

Only later did they conclude that the plot was genuine and potentially serious. The outline of the plot became clear, the officials said, primarily through the interrogations of captured Qaeda figures like Mr. Mohammed, who was apprehended in March 2003, and Hambali, captured in August 2003.

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In Los Angeles, the office of Mayor Antonio R. Villaraigosa said that the White House on Wednesday had given them a heads up about the president's disclosure but said that the mayor was not personally informed.

"I would have expected a direct call from the White House," the mayor said at an afternoon news conference.

In his remarks, Mr. Bush referred to the West Coast target as "the Liberty Tower," but White House officials said he had meant to say Library Tower, the name of the U.S. Bank Tower in 2002. The building, completed in 1989, is 1,018 feet tall and was "destroyed" by alien invaders in the 1996 movie "Independence Day."

Bush Signs Deficit Reduction Act (REU)

By Tabassum Zakaria

Reuters, February 10, 2006

WASHINGTON (Reuters) - U.S. President George W. Bush disclosed new details on Thursday of a thwarted al Qaeda plot to use shoe bombs to hijack a plane and fly it into a Los Angeles building, as he sought to justify his tactics in fighting terrorism.

With critics questioning the legality of his authorisation of a domestic spying program, Bush used newly declassified details of a previously revealed plot to show that the threat of terrorism has not abated.

"America remains at risk, so we must remain vigilant," Bush said.

He said that in early 2002 the United States and its allies disrupted a plot to use bombs hidden in shoes to breach the cockpit door of an airplane and fly it into the tallest building in Los Angeles.

But he got the name of the building wrong, saying the "intended target was Liberty Tower." He meant Library Tower, now the US Bank Tower, that at 1,017 feet (310 metres) high is the tallest building in the United States west of the Mississippi River.

The Bush administration last October had cited the plan to attack West Coast targets using hijacked planes as among 10 disrupted al Qaeda plots.

Bush gave a more detailed account on Thursday, saying that in October 2001, Khalid Sheikh Mohammed, the operational mastermind of the September 11 attacks that year, set in motion a plot for another attack inside the United States.

"Rather than use Arab hijackers as he had on September 11, Khalid Sheikh Mohammed sought out young men from Southeast Asia whom he believed would not arouse as much suspicion," he said.

Mohammed worked with a man known as Hambali, the leader of an al Qaeda-affiliated group in Southeast Asia, who recruited a cell of four operatives, the White House said. Mohammed trained the cell leader in the shoe bomb technique and they met al Qaeda leader Osama bin Laden in Afghanistan in October 2001, said Frances Townsend, homeland security and counterterrorism adviser to Bush.

The West Coast plot initially was to have been part of the September 11 attack, but bin Laden decided to focus on the East Coast because it was too difficult to get operatives for both, she said.

She said authorities did not know specific details of the planned attack such as its timing or the flight.

"We knew they were going to fly a commercial airliner into the tallest building in California," Townsend said. "And it was an analytic judgement by the intelligence community that that meant the Library Tower."

The plot was disrupted with help from two countries in Southeast Asia and two countries in South Asia, Townsend said.

Bush has been fighting criticism from Democrats and some Republicans over his decision to authorise the National Security Agency to eavesdrop without court warrants inside the United States on international e-mails and phone calls of people with suspected ties to terrorism.

He has called it a necessary tool for fighting terrorism and preventing another attack on the United States.

Townsend would not comment on whether the eavesdropping program helped in foiling the West Coast plot or capturing the plotters.

The cell leader was arrested in February 2002 and the other three operatives were also caught, but Townsend declined to identify the three or the countries where they were captured.

Mohammed was captured in Pakistan in March 2003, and Hambali was caught in Thailand in August 2003.

Bin Laden and his deputy Ayman al-Zawahri, believed by U.S. officials to be hiding in the border region of Afghanistan and Pakistan, have so far eluded the U.S. manhunt.

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Townsend said it was unclear whether the West Coast plot had any connection to "shoebomber" Richard Reid.

Reid failed in an attempt to blow up an American Airlines plane from Paris to Miami in December 2001 after passengers and crew tackled him as he tried to ignite explosives in his shoe. Reid was sentenced to life imprisonment by a U.S. court in January 2003.

"I've never seen anything that indicated whether the second wave was bonafide or not. There's been rumours bandied about that it was, but I don't know," Sen. Dianne Feinstein, a California Democrat on the Senate intelligence committee, said of the hijacked plane plot.

Bush Details 2002 Plot To Attack L.A. Tower (WP)

By Peter Baker And Dan Eggen

The Washington Post, February 10, 2006

Intelligence Officials Play Down Importance of Case, Attribute Remarks to Politics

President Bush, under pressure from Congress, defended his campaign against terrorism yesterday, offering for the first time a vivid account of a foiled al Qaeda plot to strike the United States after Sept. 11, 2001, by crashing a hijacked commercial airliner into a Los Angeles skyscraper.

Bush said four Southeast Asians who met with Osama bin Laden in Afghanistan in October 2001 were taught how to use shoe bombs to blow open a cockpit door and steer a plane into the Library Tower, the tallest building on the West Coast. The four were captured by Asian authorities before they could execute the plan, he said.

Declaring that "America remains at risk," Bush cited the episode as an example of international cooperation against terrorism, and cautioned against complacency. "We cannot let the fact that America hasn't been attacked in four and a half years since September 11, 2001, lull us into the illusion that the threats to our nation have disappeared. They have not."

The reported West Coast plot had been disclosed before but never in as much detail. The president's speech came on the same day as a Senate hearing into the Bush-ordered warrantless surveillance of telephone calls and e-mail by Americans and their contacts overseas, but aides said his comments were not related to the dispute over the program.

White House officials, who were unwilling to publicly disclose details of the alleged plot as recently as last fall, said they decided in the past three weeks to declassify the case so that Bush could have an example to provide the public.

But several U.S. intelligence officials played down the relative importance of the alleged plot and attributed the timing of Bush's speech to politics. The officials, who spoke on the condition of anonymity because they did not want to publicly criticize the White House, said there is deep disagreement within the intelligence community over the seriousness of the Library Tower scheme and whether it was ever much more than talk.

One intelligence official said nothing has changed to precipitate the release of more information on the case. The official attributed the move to the administration's desire to justify its efforts in the face of criticism of the domestic surveillance program, which has no connection to the incident.

Bruce Hoffman, a terrorism specialist who heads the Washington office of Rand Corp., said Bush's account adds some interesting detail to the Library Tower episode. But he said it still leaves key questions about the case unanswered.

"It doesn't really give us any more indication of whether this was a plot that was derailed or preempted, or a plot that was more in the realm of an idle daydream," Hoffman said.

Sen. John D. Rockefeller IV (W.Va.), the ranking Democrat on the Senate intelligence committee, mocked the idea of raising the alleged Library Tower plot. "Maybe they're tired of talking about [the] Brooklyn Bridge and they're trying to find a different edifice of some sort," he said, referring to another alleged terrorist plot that some have said was inflated by the government.

But Frances Fragos Townsend, the president's chief counterterrorism adviser, told reporters that "there is no question in my mind that this is a disruption. It's not about credit; it's about protecting the American people. And the American people are absolutely safer as a result of these arrests."

Bush first alluded to the incident in a speech in October when he said the United States and its allies had thwarted 10 serious planned al Qaeda attacks since Sept. 11, 2001. A White House list released at the time referred to a plot to fly a hijacked

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plane into an unspecified West Coast city in 2002. Citing unnamed sources, news organizations reported that the target was the Library Tower, since renamed the U.S. Bank Tower, and that the plot's author was Khalid Sheik Mohammed, the architect of the Sept. 11 attacks who was captured in 2003.

Mohammed's original plan for Sept. 11, as presented to bin Laden in 1998 or 1999, called for hijacking 10 jetliners on both coasts, according to interrogations of Mohammed cited by the commission that investigated the 2001 attacks. U.S. officials concluded that bin Laden had instructed Mohammed to initially focus on the East Coast because it was too difficult to recruit enough operatives to seize 10 planes. After the Twin Towers of the World Trade Center were knocked down, Mohammed set about putting his West Coast plan in motion.

Speaking at the National Guard Memorial Building yesterday, Bush offered a fuller account of what ensued, and the White House later provided a briefing to elaborate. In this account, Mohammed deputized Hambali, head of the affiliated Southeast Asian group Jemaah Islamiya, to set up a West Coast attack, and they put together a four-man cell. Asians were chosen, Bush said, on the theory that they would draw less suspicion.

The four Asians traveled to Afghanistan to meet with bin Laden in October 2001 just as U.S. forces were hunting al Qaeda, officials said. After swearing loyalty to the al Qaeda leader, the four reportedly returned to Asia to train in the use of shoe bombs like those later found on Richard Reid, who was convicted of trying to take down an airliner over the Atlantic in December 2001.

But the cell leader was captured by authorities in a Southeast Asian country in February 2002, and the three others were later detained, as well. The officials said four Asian countries were involved but would not identify them.

Bush mistakenly identified the target as the "Liberty Tower," and aides later corrected him.

"As the West Coast plot shows," Bush said, "in the war on terror, we face a relentless and determined enemy that operates in many nations, so protecting our citizens requires unprecedented cooperation from many nations."

Bush Gives New Details About Old Report Of L.A. Terror Plot (LAT)

By Peter Wallsten And Josh Meyer

The Los Angeles Times, February 10, 2006

WASHINGTON — With pressure mounting on the White House to more fully explain its anti-terrorism strategy, President Bush offered new details Thursday of a reported plot against downtown Los Angeles as evidence of success in foiling attacks.

Federal officials had revealed two years ago that they believed Al Qaeda operatives, in a West Coast follow-up to the Sept. 11 attacks, had planned to hijack an airliner and crash it into what was then called the Library Tower.

But Bush, offering new specifics in a speech designed to boost support for his national security policies, said Thursday that the terrorist operatives planned to use "shoe bombs to breach the cockpit door." He said Sept. 11 mastermind Khalid Shaikh Mohammed had recruited and trained young Asian men to carry out the plot because suspicions of Arabs were running high, but that the plan was derailed when a Southeast Asian nation arrested a key Al Qaeda operative.

Bush did not name the nation or the operative, but his decision to reveal even the most incremental details of the reported plot underscored the effort the White House has undertaken recently to defend its anti-terrorism policies.

The details did little to counter skepticism from Democrats and some law enforcement officials who have questioned whether the reported scheme had ever been put into operation before it was thwarted.

"It didn't go," said one U.S. official familiar with the operational aspects of the war on terrorism. "It didn't happen."

The official said he believed the Library Tower plot was one of many Al Qaeda operations that had not gone much past the conceptual stage. The official spoke on the condition of anonymity, saying that those familiar with the plot feared political retaliation for providing a different characterization of the plan than that of the president.

Bush's chief domestic security advisor, Frances Townsend, said the plotters had described their target only as the tallest building on the West Coast, and that it was the "analytic judgment" of the U.S. intelligence community that they intended to strike the Library Tower.

Bush misspoke when making a similar point: "We believe the intended target was Liberty Tower in Los Angeles," he said. The building was renamed in 2003 and is now known as the U.S. Bank Tower.

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Bush first mentioned the Los Angeles plot in a speech in October, when he listed 10 post-Sept. 11 schemes that had been disrupted. At the time, he gave few details.

In his speech Thursday to the National Guard Assn., the president cited the reported plan as evidence of the ongoing danger of terrorism and of the success of his anti-terrorism strategy.

"As the West Coast plot shows, in the war on terror we face a relentless and determined enemy that operates in many nations — so protecting our citizens requires unprecedented cooperation from many nations as well," Bush said. "By working together, we took dangerous terrorists off the streets. By working together, we stopped a catastrophic attack on our homeland."

Bush did not link the foiling of the plot to his controversial program of warrantless wiretaps conducted on certain international communications by the National Security Agency. But his remarks came as ongoing criticism of the spy program from lawmakers, including some Republicans, has appeared to force the administration to reverse course and provide more detailed information about the surveillance to congressional intelligence committees.

Mayor Antonio Villaraigosa said he was stunned that Bush revealed details of the reported terrorist plot without first relaying the information to city officials. Villaraigosa said local authorities had heard some of the new information Wednesday from California domestic security officials, but not the specifics mentioned by Bush in his address, which was carried nationally on cable television.

"I would have expected a direct call from the White House," said Villaraigosa, a Democrat, during a City Hall news conference. "We should have been aware of all the details much before today. We did not know all of the facts."

The mayor sought to reassure residents that Los Angeles was safe. He said the police and fire departments had taken precautions at high-rise buildings, including the one singled out by Bush. Villaraigosa said police had specifically evaluated security and evacuation plans at the U.S. Bank Tower.

"There is no imminent threat to Los Angeles," the mayor said, flanked by police and fire officials.

Critics on Thursday accused Bush of reaching far back into time as part of a public relations ploy to maintain focus on his battle against terrorism, an issue that continued to win him public approval. Bush's chief political strategist, Karl Rove, said last month that Republicans in this year's elections would seek ways to paint Democrats as exhibiting a pre-Sept. 11 mentality, while programs such as the warrantless surveillance showed the president's toughness.

Rep. Brad Sherman (D-Sherman Oaks) described Bush's speech as a political stunt meant to draw attention from the mounting criticisms of the National Security Agency's warrantless wiretapping program and other questions about administration tactics.

"I can't think of a governmental reason to disclose these details at this time to the general public. Clearly, the goal was to create headlines," said Sherman, who monitors security matters as the ranking Democrat on the House subcommittee on international terrorism and nonproliferation.

Sen. John D. Rockefeller IV of West Virginia, the senior Democrat on the Senate Intelligence Committee, said he "didn't find [Bush's comments] very helpful … from a professional point of view."

When news of the reported plot surfaced two years ago, some counter-terrorism officials treated it with skepticism. By contrast, Bush on Thursday cast the foiling of the plot as a significant development that underscored the danger and persistence of Al Qaeda.

Townsend, the White House domestic security advisor, said after Bush's speech that the so-called West Coast plot was initially designed as part of the Sept. 11 attacks.

But she said Osama bin Laden determined that the two-coast plan was too ambitious and scaled it back. Mohammed then began preparations for a "follow-on" attack on the West Coast, Townsend said, reiterating the findings of the Sept. 11 commission.

"It's our understanding now that it was too difficult to get enough operatives for both the East and West Coast plots at the same time," Townsend said.

Townsend said the cell leader of the reported Los Angeles plot and three other operatives went to Afghanistan, where they met with Bin Laden and swore an "oath of loyalty" to him before returning to Asia, where they continued to work for an operative named Hambali, the chief of operations for an Al Qaeda affiliate group in South Asia.

The reported scheme ended in 2002 with four arrests in Southeast Asia, she said. Four U.S. allies in Asia played a role in disrupting the plot, she said, refusing to name the countries.

Mohammed was arrested in Pakistan in March 2003. Hambali was captured in August 2003.

In defending Bush's claim that the plot was foiled, Townsend said: "There is no question in my mind that this is a disruption…. And the American people are absolutely safer as a result of these arrests."

Bush Provides Details Of 2002 Terrorist Plot Aimed At Los Angeles (MERCN)

By Ron Hutcheson

The San Jose Mercury News, February 10, 2006

WASHINGTON - The plot envisioned a ghastly replay of the attack that brought down the World Trade Center, only this time the terrorists wanted to crash a plane into the tallest building in Los Angeles. The plan unraveled in early 2002 with the arrest of one of the ringleaders, but President Bush provided new details about it Thursday in defending his handling of the war on terrorism.

The timing of his chilling disclosures, four years after the plot was discovered and four months after he first discussed the broad outlines of the scheme, raised suspicion that his remarks were politically motivated. At the very moment that Bush was defending his aggressive approach to terrorism, two of his top advisers were trying to quell a revolt in Congress against his domestic eavesdropping program.

Bowing to bipartisan pressure, Attorney General Alberto Gonzales and Gen. Michael Hayden, the deputy director of national intelligence, gave a closed-door briefing on the surveillance program to members of the Senate Intelligence Committee. The warrantless surveillance, which the president authorized without congressional or court approval shortly after the attacks on Sept. 11, 2001, targets communications between suspected terrorists overseas and their contacts in the United States.

The session, conducted a day after a similar briefing for members of the House Intelligence Committee, failed to resolve doubts about the program's legality. Committee Democrats and at least one Republican, Sen. Mike DeWine of Ohio, said they wanted more information.

"If they came with the idea that this was going to stop an investigation on the part of the Senate Intelligence Committee, they were wrong," Sen. John "Jay" Rockefeller of West Virginia, the top Democrat on the panel, said after the meeting.

Bush and his advisers said the Los Angeles plot illustrated the need to move swiftly against any suspicious activity.

"It took the combined efforts of several countries to break up this plot," the president told members of the National Guard Association. "By working together, we stopped a catastrophic attack on our homeland."

As described by Bush and Frances Townsend, his top counterterrorism adviser, the plot grew out of early planning for the Sept. 11 attacks, when al-Qaida leaders considered simultaneous assaults on both coasts. They scrapped that idea but quickly began work on an encore attack on the 73-story Library Tower, a gleaming, granite-and-glass edifice now known as the US Bank Tower. (In the 1996 movie "Independence Day," aliens destroy the 1,018-foot-tall building.)

"We now know that in October 2001, Khalid Shaikh Mohammed - the mastermind of the Sept. 11 attacks - had already set in motion a plan to have terrorist operatives hijack an airplane using shoe bombs to breach the cockpit door," Bush said.

According to administration officials, Mohammed, fearing that Arab terrorists would generate suspicion, recruited a four-man terrorist cell through Jemaah Islamiyah, an Islamic terrorist group in Indonesia. The four operatives were sent to Afghanistan, where they pledged their loyalty to al-Qaida chief Osama bin Laden in an oath known as a biat.

Townsend said intelligence officials weren't sure whether the meeting occurred shortly before or sometime after the U.S. invasion of Afghanistan, which sent bin Laden into hiding. Also unclear is how close the plotters were to executing their scheme when the cell leader was arrested in an undisclosed country in February 2002. Townsend refused to discuss whether electronic surveillance played any role.

Townsend said all four cell members were currently in custody, but she declined to identify them, to say where they were arrested or to disclose where they are being held. The plotters didn't include Richard Reid, the would-be shoe bomber who was arrested in December 2001 on a flight from Paris to Miami.

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Although Reid had been trained in the same bombing technique that the plotters planned to use, intelligence officials don't know whether Reid had any contact with them, Townsend said.

In a conference call with reporters, Townsend took issue with suggestions that the White House had released new details about the plot to help deal with the controversy over domestic eavesdropping. Bush first mentioned the Los Angeles plot in vague terms in a speech last October as one of the administration's successes in the war on terrorism.

"The problem is you can't share these details when you have operational leads," she said. "It takes time."

Bush Details Terror Plot (CSM)

By Peter Grier

The Christian Science Monitor, February 10, 2006

WASHINGTON - Bush to US: It's still a dangerous world out there, but we're making progress in rounding up the bad guys.

In essence, that may be the message that President Bush and other administration officials are trying to convey this week as they defend White House actions in the war in terror.

Headlines about possibly illegal eavesdropping activity authorized by the president, plus more bombings in Iraq and revelations about the slow pace of Iraqi reconstruction, have put the Bush team on the defensive this week. In revealing details about an alleged Al Qaeda plot to fly an airliner into a Los Angeles skyscraper, plus insisting that terrorists are weakened and on the run, Bush may be attempting to counter bad news.

"The timing of this clearly has to do with politics ... but that doesn't mean the [L.A. plot] isn't true," says Lorenzo Vidino, a terrorism expert at the Fletcher School at Tufts University.

In a speech Thursday at the National Guard Memorial Building in Washington, President Bush said that the US and its allies had thwarted a plot to use shoe bombs to blow open the cockpit door of an airliner, hijack it, and fly it into the tallest building on the US West coast.

Bush called this target the "Liberty Building," but its name in 2001 was the "Library Tower," and it has since been renamed the US Bank Tower.

Khalid Sheik Mohammed, alleged mastermind of the Sept. 11 attacks, was behind the L.A. plot, said Bush. The Al Qaeda operative began planning it in October 2001.

Mr. Mohammed's co-conspirator in this plot was Hambali, also known as Riduan Isamuddin, thought to be the operations chief of Southeast Asia's largest Al Qaeda-related group, Jemaah Islamiyah. Hambali's job was to recruit Asian hijackers, who were likely to attract less attention from law enforcement authorities than Arabs. He recruited four operatives for the cell, whose leader was personally trained by Mohammed in shoebombing, according to a Department of Homeland Security briefing given after the president's speech. The operatives met with Osama bin Laden before going back to Asia.

Bush said that the plan unravelled when a key Southeast Asian nation arrested one of the operatives. He did not say who this operative was, or which nation nabbed him.

"Subsequent debriefings and other intelligence operations made clear the intended target and how Al Qaeda hoped to execute it," said Bush. "This critical intelligence helped other allies capture the ringleaders and other known operatives who'd been recruited for this effort."

Hambali was captured by Indonesian authorities in 2003. Mohammed was captured in Pakistan that same year.

Bush has referred to the Library Tower plot before, but only in vague terms. In an address last October, he said the US and its allies had foiled at least 10 serious Al Qaeda plots, including plans for a Sept. 11-like attack on both coasts.

Thursday's revelations provide a fuller picture and add details, says Mr. Vidino, author of the book "Al Qaeda in Europe."

The plot Bush outlined made sense, considering that Mohammed had long been interested in a second wave of attacks, and had previously cooperated with Southeast Asian Al Qaeda adherents. Two of the Sept. 11 hijackers entered the US on the West Coast, with help from Hambali, says Vidino.

Al Qaeda has also long wanted to attack California, as well as other targets scattered throughout the United States. Khalid Sheik Mohammed "wanted to scare the entire country," says Vidino.

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The White House would not say whether the National Security Agency's controversial warrantless eavesdropping program played any role in uncovering the West Coast plot.

Bush's speech came as the chairman of the Senate Judiciary Committee, Sen. Arlen Specter (R) of Pennsylvania, announced he is writing legislation intended to force the administration to defend the legality of the eavesdropping in court.

Bush Gives Details Of Foiled Plot By Al Qaeda To Attack Los Angeles (WSJ)

By Jay Solomon, John D. McKinnon And David Rogers

The Wall Street Journal, February 10, 2006

WASHINGTON -- President Bush, seeking to increase public support for his counterterrorism policies, took the unusual step of detailing what he said was one of his administration's greatest unheralded successes: breaking up a 2002 al Qaeda plot to strike Los Angeles.

The foiled plot, he said, would have sent a hijacked airplane into the tallest building in Los Angeles, the Library Tower.

Mr. Bush's announcement came as both Republican and Democratic lawmakers are seeking better oversight and regulation of intelligence gathering, after concerns were raised about the National Security Agency's domestic-surveillance activities. After weeks of uncertainty, House Republicans are beginning to embrace legislation to update 30-year-old laws on foreign-intelligence eavesdropping, but without challenging the legal underpinnings of Mr. Bush's wiretap program, according to Intelligence Committee Chairman Peter Hoekstra (R., Mich.)

At the same time, the White House agreed to compromises to win the 60 votes required in the Senate to cut off debate on reauthorization of the Patriot Act. "I can't at this point calculate how a filibuster can prevail," said Senate Minority Whip Richard Durbin (D., Ill) who endorsed the changes together with Sen. Dianne Feinstein (D., Cal.) and four Republicans led by Sen. John Sununu (R., N.H.).

In his speech yesterday, President Bush, said the planned attack in Los Angeles involved a four-man Southeast Asian terrorist cell. Acting on the direct order of al Qaeda leader Osama bin Laden, the cell was dispatched to use shoe bombs to help hijack a Los Angeles-bound plane. But close cooperation between the U.S. and a number of unnamed overseas partners resulted in their arrests beginning in February 2002, President Bush said.

"As the West Coast plot shows, in the war on terror, we face a relentless and determined enemy," Mr. Bush told a gathering of National Guardsmen in Washington. "It took the combined efforts of several countries to break up this plot."

The president didn't cite the NSA's warrantless wiretap program, but his top aides stressed that sharply criticized counterterrorism techniques, such as domestic surveillance and extensive interrogations of alleged al Qaeda members, are necessary.

Some counterterrorism experts were skeptical, questioning whether the Los Angeles plot was even close to operational in 2002, particularly as U.S. forces were attacking al Qaeda strongholds in Afghanistan. They also said some aspects of the plan to hit the Library Tower were disclosed in a report released by the 9/11 Commission in June 2004.

"I really, really would question the White House's assertion that it thwarted a second 9/11," said Zachary Abuza, an associate professor at Simmons College in Boston who wrote a 2003 book on Jemaah Islamiyah, al Qaeda's Southeast Asia affiliate. "I've never, ever heard that this [plot] was operational."

As for legislation updating the Foreign Intelligence Surveillance Act, House Republicans said they aren't attempting to legitimize the administration's NSA wiretapping program. For the most part, they -- like the White House -- believe the administration has all the legal authority it needs now. Still, they didn't foreclose the possibility that some of the controversial NSA eavesdropping could be done under an updated law.

FISA, the current law, was passed in the 1970s, before the digital revolution that has transformed the telecommunications industry -- and intercept techniques. Bush administration officials complain the FISA process, geared for a different time, is cumbersome.

"There is a legitimate concern that FISA needs to be updated from its current form just because of the changes in technology," Rep. Hoekstra said. "But not as applies to our activities versus al Qaeda."

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Last night, House Judiciary Committee Chairman James Sensenbrenner didn't have any comment on the Patriot Act compromises in the Senate, but people close to the Wisconsin Republican said he would be open to the proposals if they prove sufficient to end the almost two-month impasse.

Despite continued grumbling from liberals, that appears all but certain, and Sen. Durbin credited Sen. Sununu with persuading the White House to give some ground. The changes do more to guarantee judicial review of gag rules governing certain subpoenas issued under the Patriot Act to obtain records. In addition, protections are added to shield traditional libraries from surveillance.

It remains a tangled process to enact these provisions alongside the underlying bill, but a test vote in the Senate could come as early as next week.

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Bush Details Foiled Terror Plot Targeting L.A. (CHIT)

By Mark Silva

Chicago Tribune, February 10, 2006

WASHINGTON -- Facing challenges to his domestic surveillance program and difficult negotiations over renewal of the Patriot Act, President Bush on Thursday emphasized new details of a previously foiled plot to strike a high-rise in Los Angeles as he defended aggressive tactics to combat terrorism.

In revealing facts about the aborted 2002 plan to slam a hijacked airliner into the tallest building in Los Angeles—in a West Coast sequel to Sept. 11—the White House seemed to underscore both successes in the war on terror and the threat that terrorists still pose.

"We are not yet safe," said Bush, flanked by paintings of colonial-era Minutemen in a speech delivered in a flag-lined hall of the National Guard Memorial Building in Washington.

This is not the first time Bush has cited the West Coast plot. He mentioned it among several other instances of averted attacks when he sought in October to confront growing opposition to the war in Iraq, a point at which his own job-approval ratings were nearing their nadir.

This time the White House released details about four unnamed Asian terrorists recruited by the Al Qaeda mastermind of the Sept. 11 attacks to commandeer an airliner with shoe bombs and attack the U.S. Bank Tower in Los Angeles.

The White House disclosure came at the height of congressional negotiations over renewal of the controversial USA Patriot Act. Republican and Democratic leaders announced Thursday that they have agreed to an extension..

The White House declined to say whether the National Security Agency surveillance that Bush repeatedly has authorized without court orders since Sept. 11 played any role in uncovering the West Coast plot or arresting the leader of the Asian cell in 2002 and thus thwarting it.

But invoking that plot followed a pattern for the president, who has often talked about the possibility of more terror attacks, a message echoed by other administration officials.

Karl Rove, the president's chief political adviser, has told top Republicans that the party's fortunes this year rest on assuring Americans that Republicans are tough on terrorism.

And some Democrats have accused the administration of exploiting fear.

"Two weeks ago, Karl Rove ... was telling the National Republican Committee, 'Here's your game plan, folks, here's how you're going to win—we're going to win by getting everybody scared again,'" Sen. Hillary Rodham Clinton (D-N.Y.), told the United Auto Workers this week. "This crowd [says], 'All we've got is fear and we are going to keep playing the fear card.'"

The administration is under growing congressional pressure to more fully explain its rationale for the eavesdropping program.

"If they came with the idea that this is going to stop an investigation on the part of the Senate Intelligence Committee, they were wrong," said Sen. Jay Rockefeller (D-W.Va.), vice chairman of the committee, emerging from a briefing on surveillance Thursday.

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The president, and later his homeland security adviser Fran Townsend, offered a more complete narrative of the planned attack on Los Angeles:

Al Qaeda wanted to carry out simultaneous attacks on the East and West Coasts of the U.S. Osama bin Laden, the Al Qaeda leader who has evaded capture to this day, decided to delay the West Coast assault for "a follow-up attack." Khalid Sheik Mohammed, mastermind of the attacks on the World Trade Center and the Pentagon, started planning the Los Angeles attack in October 2001 with Riduan Isamuddin, known as Hambali, chief of a related terrorist group, Jemaah Islamiyah.

To avoid arousing suspicion after the Sept. 11 hijackings carried out by Arab terrorists, Hambali recruited four terrorists from Southeast Asia. Mohammed trained the leader of a four-man cell in the use of shoe bombs for a plot to breach the pilot's door of an airliner.

The four terrorists traveled to Afghanistan in October 2001 to meet with bin Laden. But, with the help of intelligence services in four unnamed South Asian nations, the cell leader was arrested in February 2002, foiling the plot. The other three were also caught. In addition, Mohammed was captured in March 2003, and Hambali was arrested in August 2003.

Asked why Bush is offering more details of a four-year-old event now, Townsend said, "The president is always looking for opportunities to share with the American people the details and the texture of the ongoing war on terror."

Plot To Hit Los Angeles Tower Foiled, Bush Says (WT)

By Bill Sammon

The Washington Times, February 10, 2006

President Bush yesterday revealed newly declassified details of a foiled plot to ram a hijacked airplane into a Los Angeles skyscraper in 2002.

Mr. Bush did not say whether the al Qaeda plan was thwarted with the help of telephone intercepts, which have come under fierce fire by Democrats and which he repeatedly has rebutted in recent days while seeking to shore up support for the war on terrorism.

But Fran Townsend, his homeland security adviser, said later that the U.S. used "all instruments of national power" to foil the plot. Although the president alluded to the episode in October, he did not give a detailed description until yesterday.

"We now know that in October 2001, Khalid Sheikh Muhammad -- the mastermind of the September 11 attacks -- had already set in motion a plan to have terrorist operatives hijack an airplane using shoe bombs to breach the cockpit door, and fly the plane into the tallest building on the West Coast," Mr. Bush said in a speech at the National Guard Building.

He was referring to the Library Tower -- since renamed the U.S. Bank Tower -- a revelation that angered Los Angeles Mayor Antonio Villaraigosa.

"I'm amazed that the president would make this [announcement] on national TV and not inform us of these details through the appropriate channels," the Democrat told the AP. "I don't expect a call from the president -- but somebody."

White House Press Secretary Scott McClellan said the administration was not trying to blindside local authorities.

"My understanding was that we did reach out to officials in California and Los Angeles to let them know -- I think it was yesterday -- that the president would be talking about this," he said. "And the word I heard was there is great appreciation for the notification that we provided."

Other Democrats questioned the timing of yesterday's disclosure about the Los Angeles plot, saying the president was trying to shift attention away from his domestic surveillance program.

Attorney General Alberto R. Gonzales and Gen. Michael Hayden, principal deputy director of national intelligence, gave theSenate Select Committee on Intelligence a closed-door briefing on the program yesterday.

White House officials said terrorists initially planned to attack Los Angeles as part of the September 11 offensive, but al Qaeda could not recruit enough terrorists. So, they decided to stage a separate attack while the U.S. still was reeling from the events of September 11.

"Rather than use Arab hijackers as he had on September the 11th, Khalid Sheikh Muhammad sought out young men from Southeast Asia -- whom he believed would not arouse as much suspicion," Mr. Bush said. "To help carry out this plan, he tapped a terrorist named Hambali, one of the leaders of an al Qaeda affiliated group in Southeast Asia called J.I."

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Hambali, the reputed operations chief of Indonesia-based Jemaah Islamiyah (JI), trained three other terrorists in Asia before taking them to Afghanistan, where they swore loyalty to al Qaeda leader Osama bin Laden. The four-person "cell" then returned to Asia for additional training.

"Their plot was derailed in early 2002, when a Southeast Asian nation arrested a key al Qaeda operative," said Mr. Bush, who did not identify the nation. "Subsequent debriefings and other intelligence operations made clear the intended target and how al Qaeda hoped to execute it.

"This critical intelligence helped other allies capture the ringleaders and other known operatives who had been recruited for this plot," he said. "The West Coast plot had been thwarted."

Mrs. Townsend said "the cell leader was arrested in February of 2002." Authorities arrested Muhammad in March 2003 and Hambali in August 2003.

Neither Mrs. Townsend nor Mr. McClellan would name the arresting Asian country.

Bush Details Purported Plot To Hit L.A. President: Southeast Asian Men Were To Fly Jet Into City's Tallest Building (USAT)

By David Jackson And Richard Benedetto

USA Today, February 10, 2006

WASHINGTON — President Bush gave new details Thursday of how the government foiled purported plans by al-Qaeda to attack the tallest building on the West Coast in 2002.

The scheme involved specially recruited Southeast Asian hijackers who planned to fly an airliner into the 73-story Library Tower in Los Angeles, Bush said in a speech to the National Guard Association.

“Since Sept. 11, the United States and our coalition partners have disrupted a number of serious al-Qaeda terrorist plots, including plots to attack targets inside the United States,” Bush said.

Frances Townsend, counterterrorism adviser to the president, declined to say whether the investigation involved the National Security Agency surveillance program that has drawn criticism for using wiretaps without court order.

Townsend said Bush discussed the investigation to remind Americans the threat is still there and highlight the level of international cooperation needed to fight terrorism.

“The terrorists are weakened and fractured, yet they're still lethal,” Bush said. “We cannot let the fact that America hasn't been attacked in 4½ years … lull us into the illusion that the threats to our nation have disappeared. They have not.”

Senate Minority Leader Harry Reid, D-Nev., said after the speech that Bush still has failed to lay out a comprehensive counterterrorism plan. He cited the Sept. 11 Commission's poor ratings of the administration's homeland security plans.

“This White House has committed a series of national security mistakes that have made America less secure,” Reid said.

Bush said Khalid Shaikh Mohammed, the alleged mastermind of the Sept. 11 attacks captured in 2003, planned to have operatives use shoe bombs to enter the cockpit and hijack a commercial airliner that would be flown into the California building.

Rather than use Arab hijackers as in the 2001 attacks, the plan was to use Southeast Asian men because they “would not arouse as much suspicion,” Bush said.

Bush mentioned the alleged plot last October when he listed 10 planned terrorist attacks that had been thwarted. He did not provide details of those plots, although news organizations later described an attempt on the Library Tower, perhaps best known as one of the targets in the 1996 alien invasion movie Independence Day. Also known as the U.S. Bank Tower, the Library Tower is North America's tallest building west of Chicago.

Townsend would not disclose how many suspects were arrested, which countries they were from, where they are today or which nations helped foil the plot.

Bush's revelation triggered a blast from Los Angeles Mayor Antonio Villaraigosa, who said he was surprised by Bush's announcement because the White House had not fully informed him in advance. White House spokesman Scott McClellan said, “My understanding was that we did reach out to officials in California and Los Angeles to let them know, I think it was yesterday.”

Bush: U.S. Surveillance Helped Stop Attack (AP-Y2)

DOJ_NMG_0013778

By Deb Riechmann

AP2, February 10, 2006

Under fire for eavesdropping on Americans, President Bush said Thursday that spy work stretching from the U.S. to Asia helped thwart terrorists plotting to use shoe bombs to hijack an airliner and crash it into the tallest skyscraper on the West Coast.

"It took the combined efforts of several countries to break up this plot," Bush said. "By working together we stopped a catastrophic attack on our homeland."

Some information about the foiled attack was disclosed last year, but Bush offered more details to highlight international cooperation in fighting terrorists. He did not say whether information about the West Coast plot was collected by his administration's program to monitor — without court warrants — some calls to the U.S. from terror suspects overseas.

The White House said that issue was not the point of the speech, but the president and his advisers have been vigorously defending the legality of the program, which has been questioned by both Democratic and Republican lawmakers.

After weeks of insisting that divulging details of the monitoring program would hinder intelligence gathering, the White House relented Wednesday and began briefing some additional lawmakers.

Meanwhile, the president's monthlong campaign to convince Americans the government's eavesdropping program is essential to the war on terrorism appears to be making an impact.

In a new AP-Ipsos poll, 48 percent now support wiretapping without a warrant in cases of suspected communications with terrorists, up from 42 percent last month. Half say the administration should have to get a warrant, down from 56 percent. Men in particular have come around to Bush's view over the last month, the poll suggested.

On Capitol Hill Thursday, four Senate Republican holdouts reached agreement with the White House on minor changes in the Patriot Act, hoping to clear the way for renewal of anti-terror legislation that Bush says is essential in the fight against terrorists.

In his speech, at the National Guard Memorial Building, Bush said Khalid Shaikh Mohammed, the reputed mastermind of the Sept. 11 attacks, began planning the West Coast operation in October 2001. One of Mohammed's key planners was a man known as Hambali, the alleged operations chief of the terrorist group Jemaah Islamiyah, which is affiliated with al-Qaida.

"Rather than use Arab hijackers as he had on Sept. 11, Khalid Sheik Mohammed sought out young men from Southeast Asia — whom he believed would not arouse as much suspicion," Bush said.

In Los Angeles, Mayor Antonio Villaraigosa complained he first learned of Bush's remarks while watching TV.

"I'm amazed that the president would make this on national TV and not inform us of these details through the appropriate channels," said the mayor, a Democrat.

Bush press secretary Scott McClellan said that the White House did reach out before the speech to officials in California and that there was appreciation for the notification.

As the plot was described, the hijackers were to use shoe bombs to blow open the cockpit door of a commercial jetliner, take control of the plane and crash it into the Library Tower in Los Angeles, a 73-story building since renamed the US Bank Tower. In his remarks, Bush inadvertently referred to the site as "Liberty Tower."

The president said the plot was derailed when a Southeast Asian nation arrested a key al-Qaida operative. Bush did not name the country or the operative.

Frances Fragos Townsend, assistant to the president for homeland security and counterterrorism, said Mohammed, working with Hambali in Asia, recruited four members of the terrorist cell and trained its leader in how to use shoe bombs.

Townsend said it was not clear whether there was any connection between the West Coast plot and shoe bomber Richard Reid, who tried to blow up a trans-Atlantic flight in December 2001. After that, the Transportation Security Administration began asking passengers to take off their shoes for inspection.

The Sept. 11 attacks originally were planned to include both the East and West coasts. "It was bin Laden who decided that it should just focus on the East Coast, and that the West Coast should be held in abeyance ... as a follow-on attack," Townsend said. "It's our understanding now that it was too difficult to get enough operatives for both the East and West Coast plots at the same time."

She said all four of the West Coast planners went to Afghanistan in October 2001 and met with Osama bin Laden.

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Townsend said all four members of the cell have been apprehended. She declined to disclose their names or say where they were being held. She also would not identify the two South Asia and two Southeast Asian nations that helped foil the attack.

Senate Minority Leader Harry Reid, D-Nev., said Bush's speech failed to lay out a comprehensive strategy to fight terrorists.

"As is too often the case with this president, the rhetoric does not match the reality," Reid said. "The fact is this White House has committed a series of national security mistakes that have made America less secure."

A Distinctive Shape, And An Inviting Target (NYT)

By John M. Broder

The New York Times, February 10, 2006

LOS ANGELES, Feb. 9 — The U.S. Bank Tower here, the city's tallest building, has long been presumed to be an inviting target for terrorists. Rising 1,018 feet from Bunker Hill in downtown Los Angeles, the gleaming I. M. Pei-designed building is the most distinctive shape in the skyline and the tallest office building west of Chicago.

President Bush said on Thursday that the 72-story building, known as the Library Tower until U.S. Bancorp acquired naming rights in 2003, was to have been the target of a follow-up attack by Al Qaeda after the terrorist strikes of Sept. 11, 2001.

Officials have discussed the alleged plot numerous times in recent years as an example of terrorist actions that might have been foiled by government vigilance, but Mr. Bush offered new details.

Mayor Antonio R. Villaraigosa complained at a news conference on Thursday that he had not been called directly by the White House, learning of the new information on the alleged plot only from state officials and staff members.

The White House press secretary, Scott McClellan, said federal officials had passed along the new information to the authorities in Los Angeles and Sacramento, telling them that Mr. Bush would discuss it on Thursday.

Mayor Villaraigosa, a Democrat, said that he had twice written to the White House to request a meeting with the president to discuss security threats to Los Angeles, but that he had received no response.

"I'm mayor of the second largest city in the country," Mr. Villaraigosa said. "I have tried to meet with the president at the White House on a number of occasions every time that I've gone to Washington, D.C., to discuss specifically this issue of homeland security, and to no avail. Let's be clear about that."

He also said that the president's antiterrorism budget had shortchanged a number of potential targets, including Los Angeles.

"Given the known terrorist plots against our city, I firmly believe that Los Angeles deserves a greater share of that funding," the mayor said.

Mr. Bush mistakenly referred to the building in his remarks Thursday as Liberty Tower; the White House later corrected the error.

Chief William J. Bratton of the Los Angeles Police Department said in an interview that he had been aware of threats to the skyscraper since he took over as chief in 2002. He said he had devoted significant counterterrorism resources to the building and to Los Angeles International Airport, another potential target, because Al Qaeda is known to carefully research its targets and to try to strike more than once, as it did at the World Trade Center.

He said he was working with federal and local law enforcement officials on a program, Operation Archangel, to identify critical sites around the country that might be targets for terrorist attack and to design methods to defend them.

Mr. Bratton was in Washington on Thursday with other big-city police chiefs for a brief White House meeting with Mr. Bush that he characterized as "mostly a photo op."

The bank tower opened in 1989 and has nearly 1.4 million square feet of rentable space. It was designed to withstand an 8.3 magnitude earthquake, but not an alien invasion. It was the first building destroyed by space invaders in the 1996 film "Independence Day."

Counterintelligence Posts Vacant (WT)

By Bill Gertz

The Washington Times, February 10, 2006

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The top ranks of government counterintelligence agencies are empty due to resignations and retirements amid a dispute over the role of counterspying, U.S. intelligence officials say.

The most senior U.S. government counterintelligence official -- presidential appointee Michelle Van Cleave -- resigned last month after the office of the National Counterintelligence Executive (NCIX), which she headed, was made part of the new Office of the Director of National Intelligence (DNI).

At the FBI, CIA and Pentagon, senior counterintelligence positions are held by acting officials. At the White House, the National Security Council (NSC) counterintelligence staff position has been downgraded. In the past, it was held by an FBI counterspy. Heidi Avery, the current NSC counterintelligence director, is not an FBI agent.

Intelligence officials said the failure to fill the top posts is a sign of bias against counterspying by senior intelligence officials under DNI John Negroponte and at other agencies.

It goes against the recommendations of a presidential commission that called improving efforts to counter foreign spying an urgent priority.

The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction stated last year that "while our enemies are executing what amounts to a global intelligence war against the United States, we have failed to meet the challenge."

It said counterspying efforts "have remained fractured, myopic, and only marginally effective."

Former FBI Counterintelligence Chief Dave Szady, who left Jan. 27 for a private-sector job, said in a recent interview that the threat from foreign spies "is worse now than it was in the Cold War." An FBI official said FBI Director Robert S. Mueller III has identified spying by China as the most serious foreign intelligence threat.

Mr. Szady has not been replaced. The acting counterspy chief is Tim Bereznay, a veteran special agent.

"At a time of maximum need for counterintelligence, the administration has put out good words, but is showing by deed that counterintelligence is not a priority," said a senior U.S. intelligence official.

The official said those within the intelligence bureaucracy have "resisted counterintelligence reform for a decade."

"The DNI is confident that counterintelligence operations are being very effectively conducted across the intelligence community," DNI spokesman Carl Kropf said. He added that the selection process is active and that "we anticipate that these vacancies will be filled expeditiously."

Miss Van Cleave left as NCIX director last month. She was instrumental in setting a new national counterintelligence strategy approved by President Bush that called for conducting offensive counterintelligence activities and using counterintelligence techniques to go after terrorists.

The leading candidate to replace Miss Van Cleave is Paul J. Redmond, a former CIA counterintelligence chief who helped uncover CIA turncoat Aldrich Ames, a KGB mole in the agency.

Intelligence officials said one problem with beefing up counterintelligence is that senior officials within Mr. Negroponte's office are opposed to giving counterintelligence more clout and independence.

In particular, the current DNI mission manager for collection, Mary Margaret Graham, who left as head of counterintelligence at the CIA last year, regards counterintelligence as a support function.

Counterintelligence "needs to remain a strategic mission rather than a support activity," a second intelligence official said. "We have to stay ahead of foreign intelligence services that are out there going after our secrets."

Counterspies must comprehend and take action against foreign spies who are attacking the government to steal secrets, not simply how they interfere with U.S. spying efforts.

At the Pentagon, Carol A. Haave, deputy undersecretary of defense for counterintelligence and security, left in November, and no replacement has been named, although an acting official is in place.

A CIA spokesman declined to say whether the National Counterintelligence Center director is acting or permanent.

When reached by telephone in California, Miss Van Cleave said she left her NCIX job because she had accomplished many initial reforms.

"I am confident that the contributions that the NCIX team has made will be a solid foundation for Director of National Intelligence to carry forward," she said.

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TSA Criticized For Delay In New Passenger-screening Program Secure Flight Is 'at Risk Of Failure,' Investigators Say (USAT)

By Thomas Frank

USA Today, February 10, 2006

The government's long-delayed kickoff of a program to improve background checks of airline passengers is "at risk of failure" and faces an uncertain future, congressional investigators said Thursday.

A report by the Government Accountability Office (GAO), Congress' investigative arm, criticized post-9/11 efforts to implement the computerized program, which aims to check domestic airline passengers' names against terrorist watch lists and other databases.

Transportation Security Administration chief Kip Hawley told a Capitol Hill hearing that his agency is doing its own internal review of the program, called Secure Flight.

He said he didn't want to rush development of the TSA program.

"This is the time to ensure that Secure Flight's security, operational and privacy foundation is solid," Hawley told the Senate Commerce Committee.

"My priority is that we do it right, not just that we do it quickly," he said.

Senators expressed frustration that the TSA has spent nearly three years and $144 million trying to improve on the current system, which has been criticized for mistakenly singling out innocent travelers as suspected terrorists.

The agency is seeking an additional $40 million next year for Secure Flight.

"Do something," Sen. Trent Lott, R-Miss., told Hawley. "Quit fumbling around with it."

A law enacted in December 2004 requires the TSA to take over background checks currently done by airlines.

The TSA would check passengers' names against comprehensive terrorist databases instead of the incomplete, declassified watch lists given to airlines.

Travelers making plane reservations would be asked for their full names and birth dates to help verify identities.

The agency had hoped to start Secure Flight last April.

The new GAO report says the TSA "has not yet produced an updated schedule" of when Secure Flight will begin.

The report criticized TSA for not following its own plans to develop Secure Flight. That resulted in "ad hoc" and "out of sequence" planning that's left it unclear when the program will begin, how much it will cost and how it will help security, the GAO says.

"Without clarification," the report says, "the program is at risk of failure."

Investigators also warned that the TSA hasn't taken adequate steps to protect "sensitive information" being gathered for Secure Flight from hackers.

Previous audits have criticized the TSA for mishandling passenger data.

A probe in 2004 found that the TSA improperly stored 100 million commercial data records containing personal information on passengers after the agency said no data storage would occur.

Hawley, the TSA chief, said Secure Flight would "be built from a strong privacy foundation as a starting point as opposed to building it and then adding privacy."

He called the GAO report "fair criticism" and said his agency's own internal review found many similar problems, which were being corrected.

Passenger Check May Be Vulnerable (NYT)

By The New York Times

The New York Times, February 10, 2006

WASHINGTON, Feb. 9 — The newest version of the Transportation Security Administration's proposed system to check the names of airline passengers against terrorist watch lists could be vulnerable to hackers, the agency said on Thursday.

The agency's chief, Kip Hawley, told a Senate committee that the long-delayed program, now called Secure Flight, will be delayed again.

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The program is supposed to take over from the airlines the job of checking passenger names against a "watch list." The idea is to reduce the number of cases in which people with names similar to those on the watch list are prevented from boarding planes, but civil libertarians say it would violate passengers' privacy.

The agency has been working on the program for about four years and has spent at least $140 million.

At a hearing Thursday before the Senate Commerce Committee, Cathleen A. Berrick, an auditor with the Government Accountability Office, said in testimony that Secure Flight "may not be adequately protected against unauthorized access and use or disruption."

Mr. Hawley said his agency's technology office had identified many of the same problems.

Even before the hearing, there was no target date for turning the system on.

In Unusual Request, TSA Seeks $10 Million To Address High Turnover (WP)

By Stephen Barr

The Washington Post, February 10, 2006

The Transportation Security Administration has been hit by troubling turnover in its screener workforce. One in five full-time security screeners has been leaving the agency, according to the administration's new budget. Half of the part-time screeners have also departed.

TSA is seeking $10 million in fiscal 2007 to address what the budget calls "a high rate of attrition." The money would be used to offer extra pay, bonuses, retention allowances, college credit reimbursements and other incentives, the budget request said.

The turnover, TSA said, has driven up recruitment and training costs as the agency constantly replaces screeners who quit.

Requests for extra money to deal with staff turnover are unusual, but agencies often try to solve the problem with the help of their Cabinet secretary or the Office of Personnel Management before going to Congress.

TSA, to some extent, is not a typical federal agency. It hired more than 50,000 employees in 2002, when Congress moved to strengthen aviation safety after terrorists hijacked jetliners and slammed them into the Pentagon and World Trade Center. Concerned about the agency's size, Congress moved a year later to cut the TSA workforce.

As TSA coped with budget and management startup pains, many passenger screeners complained that managers did not listen to their suggestions, did not provide adequate training and sometimes put them at risk of injury in handling heavy luggage.

TSA's budget also asks Congress to provide $20 million to fund workers compensation payments owed to the Labor Department.

Darrin Kayser , a TSA spokesman, said the agency is working to reduce injuries. A new case management initiative has reduced the number of lost workdays from 45 per injury to 11 per injury, he said.

TSA also is trying to provide opportunities for screeners to move up in the agency or elsewhere in government, Kayser said. They have been reclassified as law enforcement officers (transportation security officer) and positions are being set aside for entry into the federal air marshal program, he said.

The agency has established an advisory council so that security screeners can provide feedback to senior TSA leaders and help develop ways of improving morale, Kayser said.

"We did have a lot of challenges, and do appreciate the patience of the workforce," he said. "We are working very hard to address issues that still exist."Postal Point Person?

The White House point person on legislation to overhaul the U.S. Postal Service, Claude A. Allen , head of the domestic policy council, resigned Wednesday, leaving the Bush administration to look for a presidential adviser to help broker a compromise bill.

On a voice vote yesterday, the Senate approved a bill sponsored by Sen. Susan Collins (R-Maine) and Thomas R. Carper (D-Del.). The House last summer passed similar legislation, backed by Reps. Thomas M. Davis III (R-Va.) and John M. McHugh (R-N.Y.). The Senate and House will create a joint panel to iron out differences in the two versions.

The Postal Service board of governors opposes the overhaul, saying the bills would impose "numerous burdensome provisions." The White House opposes any bill that would increase the federal deficit.

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Postal lobbyists said leading contenders to replace Allen on postal issues were Roger Kodat , a deputy assistant treasury secretary; Dan Blair , deputy director at OPM, and Jess Sharp , a White House domestic policy official.

The White House said Allen had put in long hours over five years in the administration and wanted to spend more time with his family. "We will be working to name a replacement for Claude as soon as possible," said Erin Healy , a White House spokeswoman.

In a statement yesterday, Sen. Daniel K. Akaka (D-Hawaii) said the House and Senate bills would "protect postal employees' right to collective bargaining and employee benefits."Talk Shows

James Bamford , author of two books on the National Security Agency, will be the guest on "FEDtalk" at 11 a.m. today on http://federalnewsradio.com and WFED (1050 AM).

Dave Combs , chief information officer at the Agriculture Department, will be the guest on "The IBM Business of Government Hour" at 9 a.m. Saturday on WJFK radio (106.7 FM).

Sensor On Hill First Suggested VX Nerve Agent (WP)

By Mary Beth Sheridan

The Washington Post, February 10, 2006

The evacuation at the Russell Senate Office Building on Wednesday night marked the biggest nerve-agent scare yet at the Capitol complex, with officials initially fearing that a deadly chemical substance might have been released in the building, authorities said yesterday.

Terrance W. Gainer, chief of the U.S. Capitol Police, said the initial reading from a sensor in the building "bore a striking resemblance to a nerve agent." Further tests, however, were negative. The alarm prompted the evacuation of about 200 people, including at least eight senators, to an underground garage, where they were held for about three hours.

Exposure to an amount of nerve agent as small as a drop can cause death within minutes or hours. Gainer declined to identify the agent that appeared to be indicated by the sensor. But the FBI and other agencies that assisted in the emergency response said they were told it was the VX nerve agent.

Officials still were trying to determine yesterday what prompted the alarm. One possibility, Gainer said, was treated lumber that had been brought into the building recently. It could have contained harmless amounts of chemicals that activated the sensors.

"The experts will be doing a lot more analysis of what the heck it is," Gainer said.

Legislators who were evacuated to the nearby Senate parking garage applauded Capitol Police officers for their handling of the alarm, saying they were calm and provided frequent information.

"The police were very, very professional," said Sen. Judd Gregg (R-N.H.). "And you've got to admire them. They go into these buildings, and they don't know what's in there."

Gainer said his force was "100 percent more prepared" than it had been for the crisis brought on by the anthrax mailings to the Capitol in 2001, which killed two postal employees in Washington. Still, he said, his officers were studying Wednesday night's incident to see how they could improve. Among the glitches: Five people, including journalists and staff members, were discovered in the building well after police thought it was cleared, Gainer said.

"I'm trying to ascertain whether we failed to get the message to them, or they failed to heed our message," he said.

The five included two members of an ABC News camera crew, said Emily Lenzner, a spokeswoman for the organization. She said they had been storing equipment in the attic.

"These guys didn't hear a thing," she said.

Sensors placed throughout the Capitol complex occasionally have produced false alarms. Experts working with Capitol Police check the chemical "signatures" picked up by the sensors and often find that they match those of such familiar products as cleaning sprays or paint thinner.

What caused the concerns Wednesday night, Gainer said, was that the chemical signature looked very much like that of a nerve agent. "This was a unique one to us," he said.

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Shortly after 6:30 p.m., alarms mounted in Senate offices started beeping loudly, as Capitol Police officers announced the evacuation. E-mails issuing the order were sent to staffers' hand-held communicators.

Senators and staffers described the evacuation as orderly.

"There was no running for the door or anything like that," said Coy Knobel, press secretary to Sen. Mike Enzi (R-Wyo.), both of whom were in the building.

Knobel said the alarms in the hallway outside his office did not appear to be working. However, Gainer said he knew of only one hallway where the public-address message was garbled. "Even if they didn't pick up the electronics, our officers went through the old-fashioned way" to ensure that everyone left the building, he said.

Capitol Police officers decided to take the building's occupants to the Senate garage across Delaware Avenue NE in order to isolate them, Gainer said. But it was quickly obvious that no one in the crowd was showing symptoms of significant nerve-agent exposure, which include vomiting, involuntary defecation, paralysis of the respiratory muscles, unconsciousness and seizures.

Still, Capitol Police officers called in assistance from the D.C. fire department, which set up red, yellow and blue decontamination tents outside the Russell building in case they were needed.

White House Knew Of Levee's Failure On Night Of Storm (NYT)

By Eric Lipton

The New York Times, February 10, 2006

WASHINGTON, Feb. 9 — In the aftermath of Hurricane Katrina, Bush administration officials said they had been caught by surprise when they were told on Tuesday, Aug. 30, that a levee had broken, allowing floodwaters to engulf New Orleans.

But Congressional investigators have now learned that an eyewitness account of the flooding from a federal emergency official reached the Homeland Security Department's headquarters starting at 9:27 p.m. the day before, and the White House itself at midnight.

The Federal Emergency Management Agency official, Marty Bahamonde, first heard of a major levee breach Monday morning. By late Monday afternoon, Mr. Bahamonde had hitched a ride on a Coast Guard helicopter over the breach at the 17th Street Canal to confirm the extensive flooding. He then telephoned his report to FEMA headquarters in Washington, which notified the Homeland Security Department.

"FYI from FEMA," said an e-mail message from the agency's public affairs staff describing the helicopter flight, sent Monday night at 9:27 to the chief of staff of Homeland Security Secretary Michael Chertoff and recently unearthed by investigators. Conditions, the message said, "are far more serious than media reports are currently reflecting. Finding extensive flooding and more stranded people than they had thought — also a number of fires."

Michael D. Brown, who was the director of FEMA until he resigned under pressure on Sept. 12, said in a telephone interview Thursday that he personally notified the White House of this news that night, though he declined to identify the official he spoke to.

White House officials have confirmed to Congressional investigators that the report of the levee break arrived there at midnight, and Trent Duffy, the White House spokesman, acknowledged as much in an interview this week, though he said it was surrounded with conflicting reports.

But the alert did not seem to register. Even the next morning, President Bush, on vacation in Texas, was feeling relieved that New Orleans had "dodged the bullet," he later recalled. Mr. Chertoff, similarly confident, flew Tuesday to Atlanta for a briefing on avian flu. With power out from the high winds and movement limited, even news reporters in New Orleans remained unaware of the full extent of the levee breaches until Tuesday.

The federal government let out a sigh of relief when in fact it should have been sounding an "all hands on deck" alarm, the investigators have found.

This chain of events, along with dozens of other critical flashpoints in the Hurricane Katrina saga, has for the first time been laid out in detail following five months of work by two Congressional committees that have assembled nearly 800,000 pages of documents, testimony and interviews from more than 250 witnesses. Investigators now have the documentation to pinpoint some

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of the fundamental errors and oversights that combined to produce what is universally agreed to be a flawed government response to the worst natural disaster in modern American history.

On Friday, Mr. Brown, the former FEMA director, is scheduled to testify before the Senate Homeland Security and Governmental Affairs Committee. He is expected to confirm that he notified the White House on that Monday, the day the hurricane hit, that the levee had given way, the city was flooding and his crews were overwhelmed.

"There is no question in my mind that at the highest levels of the White House they understood how grave the situation was," Mr. Brown said in the interview.

The problem, he said, was the handicapping of FEMA when it was turned into a division of the Homeland Security Department in 2003.

"The real story is with this new structure," he said. "Why weren't more things done, or what prevented or delayed Mike Brown from being able to do what he would have done and did do in any other disaster?"

Although Mr. Bahamonde said in October that he had notified Mr. Brown that Monday, it was not known until recently what Mr. Brown or the Homeland Security Department did with that information, or when the White House was told.

Missteps at All Levels

It has been known since the earliest days of the storm that all levels of government — from the White House to the Department of Homeland Security to the Louisiana Capitol to New Orleans City Hall — were unprepared, uncommunicative and phlegmatic in protecting Gulf Coast residents from the floodwaters and their aftermath. But an examination of the latest evidence by The New York Times shines a new light on the key players involved in the important turning points: what they said, what they did and what they did not do, all of which will soon be written up in the committees' investigative reports.

Among the findings that emerge in the mass of documents and testimony were these:

¶Federal officials knew long before the storm showed up on the radar that 100,000 people in New Orleans had no way to escape a major hurricane on their own and that the city had finished only 10 percent of a plan for how to evacuate its largely poor, African-American population.

¶Mr. Chertoff failed to name a principal federal official to oversee the response before the hurricane arrived, an omission a top Pentagon official acknowledged to investigators complicated the coordination of the response. His department also did not plan enough to prevent a conflict over which agency should be in charge of law enforcement support. And Mr. Chertoff was either poorly informed about the levee break or did not recognize the significance of the initial report about it, investigators said.

¶The Louisiana transportation secretary, Johnny B. Bradberry, who had legal responsibility for the evacuation of thousands of people in nursing homes and hospitals, admitted bluntly to investigators, "We put no plans in place to do any of this."

¶Mayor C. Ray Nagin of New Orleans at first directed his staff to prepare a mandatory evacuation of his city on Saturday, two days before the storm hit, but he testified that he had not done so that day while he and other city officials struggled to decide if they should exempt hospitals and hotels from the order. The mandatory evacuation occurred on Sunday, and the delay exacerbated the difficulty in moving people away from the storm.

¶The New Orleans Police Department unit assigned to the rescue effort, despite many years' worth of flood warnings and requests for money, had just three small boats and no food, water or fuel to supply its emergency workers.

¶Investigators could find no evidence that food and water supplies were formally ordered for the Convention Center, where more than 10,000 evacuees had assembled, until days after the city had decided to open it as a backup emergency shelter. FEMA had planned to have 360,000 ready-to-eat meals delivered to the city and 15 trucks of water in advance of the storm. But only 40,000 meals and five trucks of water had arrived.

Representative Thomas M. Davis III, Republican of Virginia, chairman of the special House committee investigating the hurricane response, said the only government agency that performed well was the National Weather Service, which correctly predicted the force of the storm. But no one heeded the message, he said.

"The president is still at his ranch, the vice president is still fly-fishing in Wyoming, the president's chief of staff is in Maine," Mr. Davis said. "In retrospect, don't you think it would have been better to pull together? They should have had better leadership. It is disengagement."

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One of the greatest mysteries for both the House and Senate committees has been why it took so long, even after Mr. Bahamonde filed his urgent report on the Monday the storm hit, for federal officials to appreciate that the levee had broken and that New Orleans was flooding.

Eyewitness to Devastation

As his helicopter approached the site, Mr. Bahamonde testified in October, there was no mistaking what had happened: large sections of the levee had fallen over, leaving the section of the city on the collapsed side entirely submerged, but the neighborhood on the other side relatively dry. He snapped a picture of the scene with a small camera.

"The situation is only going to get worse," he said he warned Mr. Brown, then the FEMA director, whom he called about 8 p.m. Monday Eastern time to report on his helicopter tour.

"Thank you," he said Mr. Brown replied. "I am now going to call the White House."

Citing restrictions placed on him by his lawyers, Mr. Brown declined to tell House investigators during testimony if he had actually made that call. White House aides have urged administration officials not to discuss any conversations with the president or his top advisors and declined to release e-mail messages sent among Mr. Bush's senior advisors.

But investigators have found the e-mail message referring to Mr. Bahamonde's helicopter survey that was sent to John F. Wood, chief of staff to Secretary Chertoff at 9:27 p.m. They have also found a summary of Mr. Bahamonde's observations that was issued at 10:30 p.m. and an 11:05 p.m. e-mail message to Michael Jackson, the deputy secretary of homeland security. Each message describes in detail the extensive flooding that was taking place in New Orleans after the levee collapse.

Given this chain of events, investigators have repeatedly questioned why Mr. Bush and Mr. Chertoff stated in the days after the storm that the levee break did not happen until Tuesday, as they made an effort to explain why they initially thought the storm had passed without the catastrophe that some had feared.

"The hurricane started to depart the area on Monday, and then Tuesday morning the levee broke and the water started to flood into New Orleans," Mr. Chertoff said on CBS's "Face the Nation" on Sunday, Sept. 4, the weekend after the hurricane hit.

Mr. Chertoff and White House officials have said that they were referring to official confirmation that the levee had broken, which they say they received Tuesday morning from the Army Corps of Engineers. They also say there were conflicting reports all day Monday about whether a breach had occurred and noted that they were not alone in failing to recognize the growing catastrophe.

Mr. Duffy, the White House spokesman, said it would not have made much difference even if the White House had realized the significance of the midnight report. "Like it or not, you cannot fix a levee overnight, or in an hour, or even six hours," he said.

But Senator Susan Collins, Republican of Maine and chairwoman of the Senate Committee on Homeland Security and Governmental Affairs, said it was obvious to her in retrospect that Mr. Chertoff, perhaps in deference to Mr. Brown's authority, was not paying close enough attention to the events in New Orleans and that the federal response to the disaster may have been slowed as a result.

"Secretary Chertoff was too disengaged from the process," Ms. Collins said in an interview.

Compounding the problem, once Mr. Chertoff learned of the levee break on Tuesday, he could not reach Mr. Brown, his top emergency response official, for an entire day because Mr. Brown was on helicopter tours of the damage.

Senator Joseph I. Lieberman of Connecticut, the ranking Democrat on the homeland security committee, said the government confusion reminded him of the period surrounding the attacks of Sept. 11, 2001.

"Information was in different places, in that case prior to the attack," Mr. Lieberman said, "and it wasn't reaching the key decision makers in a coordinated way for them to take action."

Russ Knocke, a homeland security spokesman, said that although Mr. Chertoff had been "intensely involved in monitoring the storm" he had not actually been told about the report of the levee breach until Tuesday, after he arrived in Atlanta.

"No one is satisfied with the response in the early days," Mr. Knocke said.

But he rejected criticism by Senator Collins and others that Mr. Chertoff was disengaged.

"He was not informed of it," Mr. Knocke said. "It is certainly a breakdown. And through an after-action process, that is something we will address."

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The day before the hurricane made landfall, the Homeland Security Department issued a report predicting that it could lead to a levee breach that could submerge New Orleans for months and leave 100,000 people stranded. Yet despite these warnings, state, federal and local officials acknowledged to investigators that there was no coordinated effort before the storm arrived to evacuate nursing homes and hospitals or others in the urban population without cars.

Focus on Highway Plan

Mr. Bradberry, the state transportation secretary, told an investigator that he had focused on improving the highway evacuation plan for the general public with cars and had not attended to his responsibility to remove people from hospitals and nursing homes. The state even turned down an offer for patient evacuation assistance from the federal government.

In fact, the city was desperately in need of help. And this failure would have deadly consequences. Only 21 of the 60 or so nursing homes were cleared of residents before the storm struck. Dozens of lives were lost in hospitals and nursing homes.

One reason the city was unable to help itself, investigators said, is that it never bought the basic equipment needed to respond to the long-predicted catastrophe. The Fire Department had asked for inflatable boats and generators, as well as an emergency food supply, but none were provided, a department official told investigators.

Timothy P. Bayard, a police narcotics commander assigned to lead a water rescue effort, said that with just three boats, not counting the two it commandeered and almost no working radios, his small team spent much of its time initially just trying to rescue detectives who themselves were trapped by rising water.

The investigators also determined that the federal Department of Transportation was not asked until Wednesday to provide buses to evacuate the Superdome and the convention center, meaning that evacuees sat there for perhaps two more days longer than necessary.

Mr. Brown acknowledged to investigators that he wished, in retrospect, that he had moved much earlier to turn over major aspects of the response effort to the Department of Defense. It was not until the middle of the week, he said, that he asked the military to take over the delivery and distribution of water, food and ice.

"In hindsight I should have done it right then," Mr. Brown told the House, referring to the Sunday before the storm hit.

A Closer Look At Some Of The Documents (NYT)

By eric lipton

The New York Times, February 10, 2006

Investigators now have the documentation to pinpoint some of the fundamental errors and oversights that combined to produce what is universally agreed to be a flawed government response to the worst natural disaster in modern United States history.

Audio: Eric Lipton on the Documents (mp3)

Long before Hurricane Katrina emerged, this document shows that federal official knew that if a major hurricane landed in New Orleans, local authorities would be overwhelmed. Go to Document

But investigators have concluded that the federal government, even when it saw this dire warning from the National Weather Service, did not act as if he knew this most basic reality: local authorities would not be able to fend for themselves. Here is an excerpt of the federal statement of the local incapacity to fend for itself and the weather forecast just before Katrina landed.

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On Sunday, Aug. 28, at noon, federal and state officials, including President Bush and Homeland Security Secretary Michael Chertoff participated in a teleconference call to discuss the approaching storm. Mr. Max Mayfield, the director of the National Hurricane Center provided some dire warnings. Mr. Chertoff asked FEMA director Michael Brown if there was anything he needed. Mr. Bush prayed for no loss of life. And Mr. Brown asked Col. Jeff Smith, Deputy Director of the Louisiana Department of Homeland Security, if he needed any assistance.

Go to Excerpts From a Transcript of the Call

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Johnny B. Bradberry, secretary of the Louisiana Department of Transportation signed an agreement in April 2005 committing his department to "mobilize transportation to support emergency evacuation for at-risk populations," meaning the frail,

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elderly, disabled and others who might not be able to get out of the city on their own. But Mr. Bradberry admitted to investigators that he did not honor this agrreement. Senator Susan Collins, Republican of Maine, observed: "The initial evacuation from New Orleans in advance of the storm went relatively well. Approximately 1 million people left the greater New Orleans area in a much more efficient and orderly manner than in hurricane evacuations of years past. Then, so to speak, the wheels came off. Those without access to transportation out of the region found themselves stranded high and dry, but only in the figurative sense. Among those left behind were thousands of elderly, disabled and disadvantaged residents." Mr. Bradberry was interviewed by a Senate investigator.

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In July 2005, at an emergency planning session sponsored by FEMA, state and local officials discussed evacuation planning for a possible hurricane in the region, which all parties recognized could cause thousands, if not tens of thousands of deaths. At the meeting, there was a consensus that they were far from ready, as only about 10 percent of the planning was finished for how they would evacuate the estimated 100,000 people in the area that did not have cars or other means of getting out of the city.

Go to Excerpts From a Transcript of the Meeting

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An official from the United States Department of Health and Human Services, which is charged with helping evacuate medical patients from disaster areas, asked a Louisiana state health official two days before Katrina landed if the state needed help moving patients out of harms way. The state official turned down the offer. The e-mails are in reverse chronological order.

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On Sunday, Aug. 28th, the day before Hurricane Katrina hit, FEMA issued a "situation report" on the storm that had several dire predictions, including that a direct hit by the storm could leave the city submerged by several feet of water and that at least 100,000 people lacked a way to get out of town.

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Without an organized plan to evacuate nursing homes before Katrina landed, 36 nursing homes failed to heed mandatory evacuation orders. Chaos followed, as once the storm hit and the flood waters rose, they were without electricity and often food and water. Dozens of patients died while they awaited rescue.

Excerpts from the testimony of Joseph A. Donchess Executive Director Louisiana Nursing Home Association to Senate Homeland Security and Governmental Affairs Committee:

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City hospitals also did not evacuate. But city officials acknowledged during the investigation that they did not realize that many hospitals had their back up generators in areas that could be flooded. That meant that they too were often without electricity after the storm and flood.

Excerpts from testimony on the attempting to evacuate a New Orleans hospital:

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Reports that there were major breaks in the levees started on Monday morning, the day Katrina hit. But it would be nearly 24 hours before officials in the Bush administration, including President Bush and Homeland Security Secretary Michael Chertoff, appeared to recognize the serverity of what had happened. Marty Bahamonde, a public affairs officer with the Federal Emergency Management Agency, heard the early reports on Monday and then told supervisors in Washington. News of his report, and helicopter flights he took to confirm the levee breach, reached the White House and the office of the Homeland Security secretary by Monday evening or late Monday night. Here are excerpts of testimony about the initial reports of the levee

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break. He is questioned by Sen. Susan Collins, Republican of Maine and Senator Joseph Lieberman, Democrat of Connecticut, who are the two leaders of the Senate Homeland Security and Governmental Affairs Committee.

Go to Excerpts From the Testimony

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Marty Bahamonde, a FEMA public affairs office, took this photograph on Monday Aug. 29, the day Katrina hit, at about 5:15 p.m. central time. In a Coast Guard helicopter, he flew directly to the site that had been described in a report he overheard Monday morning at about 11 a.m. to confirm that the levee had broken. As soon as he saw the spot, he said there was no question in his mind that the levee had collapsed, not just been overtopped, as it was obvious that only one side was flooded and he could see sections of the levee that had fallen over. (Click on the photo to enlarge the image.)

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At 9:27 p.m., Monday, Homeland Security Secretary Michael Chertoff's chief of staff, John Wood, and others in the Secretary's office, received an email from Brian Besanceney, the Assistant Secretary for Public Affairs, reporting that observations by a FEMA employee in New Orleans had found that conditions were "far more serious," than the media was reporting.

Go to E-Mail

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At 10:30 p.m. on Monday, Aug. 29, the day Katrina landed in New Orleans, the Department of Homeland Security issued a report detailing observations that had been made of the broken levee by Marty Bahamonde, the sole FEMA representative on the ground in the city that day. He had heard the report at 11 a.m. that morning and then confirmed it with a flyover in a helicopter that evening. This same report made its way to the White House Monday, shortly after midnight.

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New Orleans Mayor C. Ray Nagin provided the Federal Emergency Management Agency with a detailed list of emergency aid his city desperately needed in the aftermath of Hurricane Katrina. Most of the requested supplies and other assistance did not arrive for days, if at all, as FEMA was not prepared to deliver what the city said it needed.

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In the aftermath of Hurricane Katrina, New Orleans Police Captain Timothy P. Bayard prepared this internal report assessing the role his city's Office of Emergency Preparedness played in the response to Katrina. He introduced the report to investigators by saying: "The New Orleans Office of Emergency Preparedness failed. They did not prepare themselves, nor did they manage the city agencies responsible for conducting emergency response to the disaster. Their function was to coordinate with state, federal and other local agencies, to enlist logistical assistance. We did not coordinate with any state, local or federal agencies. We were not prepared logistically. Most importantly, we relocated evacuees to two locations where there was no food, water or portable restrooms. We did not implement the pre-existing plan. We did not utilize buses that would have allowed us to transport mass quantities of evacuees expeditiously. We did not have food, water or fuel for the emergency workers. We did not have a back up communication system. We had no portable radio towers or repeaters that would have enabled us to communicate. The other mistakes have been mentioned previously." Go to Document **********

The National Guard, which is made up of troops under the command of individual states, ultimately had at least 30,000 troops assigned to Louisiana to help with the response to Hurricane Katrina. But an "after action review" that evaluates the National Guard's own response found that it was hampered by poor coordination, insufficient communications and a lack of so-called situational awareness.

Ex-FEMA Chief, In Reversal, To Answer Questions On Storm (NYT)

By Eric Lipton

The New York Times, February 10, 2006

DOJ_NMG_0013790

WASHINGTON, Feb. 9 — For months, Michael D. Brown, former director of the Federal Emergency Management Agency, has declined to answer questions from Congress about his conversations during Hurricane Katrina with top Bush administration officials. But in an interview on Thursday, he said that his position had changed.

Now that he is a private citizen, he said, "I feel an obligation to answer any questions they put to me."

Mr. Brown will have that chance on Friday, when he is scheduled to testify to the Senate Homeland Security and Governmental Affairs Committee, which is nearing the end of a five-month inquiry on the hurricane.

"The public needs to know the entire picture of what was going on," Mr. Brown said.

Mr. Brown's lawyer, in a letter sent Monday to Harriet E. Miers, the White House counsel, wrote that "unless there is specific direction otherwise by the president" that "Mr. Brown will testify, if asked, about particular communications he had" with White House officials and others in the executive branch.

As of Thursday evening, Mr. Brown and his lawyer, Andrew W. Lester, said they had received no calls or letters from the White House urging Mr. Brown to remain silent.

The testimony will make clear, Mr. Brown said, that senior administration officials, including President Bush, recognized the severity of the problem in New Orleans in the immediate aftermath of the storm. But changes in the organization of FEMA and the powers of the director of the agency after it became part of the Homeland Security Department, Mr. Brown said, prevented him from effectively leading the response.

The administration has declined House and Senate investigators' requests to turn over e-mail messages and other correspondence from top White House officials involved in the hurricane response. Mr. Bush, asked last month whether Mr. Brown should testify about his White House discussions, seemed to urge him to not do so.

A White House spokesman, Trent Duffy, said he had nothing to add to that comment.

Mr. Brown, who has a permanent residence in Colorado but continues to live here, has formed a disaster-relief consultancy. He would not name clients but said he had signed up a number of companies, including firms that sell communications equipment and work on rebuilding on the Gulf Coast.

Former FEMA Director To Testify About Katrina (WP)

By Spencer S. Hsu

The Washington Post, February 10, 2006

Michael D. Brown, the former head of the Federal Emergency Management Agency, was rebuffed in his request for a claim of executive privilege and plans to testify to a Senate panel today about his calls and e-mails to President Bush and top White House aides in the Hurricane Katrina crisis, Brown's lawyer said yesterday.

White House Counsel Harriet Miers declined to offer Brown a legal defense for declining to testify or respond to a Feb. 6 letter advising that without such protection Brown "intends to answer all questions fully, completely and accurately," said Brown's lawyer, Andrew W. Lester.

Lester wrote that Brown will testify if asked about communications with Bush, Vice President Cheney, Chief of Staff Andrew H. Card Jr., Deputy Chief of Staff Karl Rove, Deputy Chief of Staff Joseph Hagin, domestic policy adviser Claude A. Allen and national security adviser Stephen J. Hadley.

As the federal official in charge of the disaster before he resigned, Brown is "between a rock and a hard place," his lawyer said. "On the one hand he desires to answer fully any and all questions the Committee may have," Lester wrote. "On the other hand the President's statements indicate concern that the President be able to 'get unvarnished advice from [his] advisors.' "

House and Senate investigative committees have battled the White House over its refusal to make available top aides and their correspondence from the response to the storm. Instead, the White House has provided 15,000 pages of records and briefings by a deputy White House homeland security adviser.

Bush spokesman Trent Duffy declined to comment on Brown's letter. But Duffy noted a Jan. 26 news conference in which Bush, while declining to cite Brown by name, defended "people who give me advice" from being forced to disclose such conversations, citing a "chilling effect on future advisers."

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In testimony to a House committee in September, Brown did not discuss such conversations on the advice of counsel, although he estimated that he communicated with the White House "30 times" during the weekend before Katrina made landfall on Monday, Aug. 29. That included "several" calls to Bush to help speed evacuations by Louisiana and New Orleans leaders.

Yesterday, Lester said that Brown "is planning to testify by answering all questions."

Brown could shed light on the White House's lack of awareness of events on the day of Katrina's landfall. Documents released by the Senate show that although the Homeland Security Operations Center reported at 6 p.m. Aug. 29 that no New Orleans levees had been breached, authorities received no fewer than 16 reports to the contrary before then.

Beginning at 8:30 a.m. Aug. 29, levee breaks were reported by sources including New Orleans and Louisiana homeland security officials, the Transportation Security Administration, the National Weather Service, FEMA officials, White House Homeland Security Council and Homeland Security Department "spot reports," the Army Corps of Engineers, the Coast Guard, and the American Red Cross.

Neighborhoods At Stake (USAT)

By Richard Baker

USA Today, February 10, 2006

Louisiana's in limbo. Months after Hurricanes Katrina and Rita destroyed more than 200,000 homes and businesses, little progress has been made toward rebuilding. Nor will it if these properties languish in ruins for years. Think about that: American ruins.

Thousands face paying mortgages on homes lost or accepting foreclosure and losing still more. The private sector is held back by a broken market: Even individuals with resources to rebuild won't when their neighborhood remains decimated. The only answer: Restoring whole communities.

To help, I have proposed the Louisiana Recovery Corp., which would purchase property from willing sellers, providing them financial stability to move forward and options to come home. By clearing title and reconditioning land, the LRC would open the door for the private sector, following local plans, to finance rebuilding, with proceeds from land sales returned to taxpayers.

At an average payment of 60% of $200,000, covering every property would cost $24 billion, but if only half were recovered through resale, the overall cost would be $12 billion. That's a major investment, but consider: In nearly six months, the Federal Emergency Management Agency has spent more than $8 billion on Gulf Coast "housing," for such things as trailers, motels and cruise ships. While helpful, these "temporary" arrangements aren't solutions. For 50% more over 10 years, the LRC would allow people to make long-term housing plans, while laying a path to rebuild a vast portion of a vital state. Isn't this a better way?

To say assisting Louisiana's floodplain is unwise closes the door on whole parishes and New Orleans itself, and overlooks that many were inadequately insured because they had relied on levees built by the federal government. Stronger levees, building codes and insurance requirements would ensure that government and Louisianans live up to their responsibilities and rebuild responsibly.

Offering philosophical objections but no workable alternative does nothing to address the reality. If there's a fairer, more effective and fiscally responsible plan, I'd like to hear it. But as it is, the LRC enjoys broad support across ideological lines. A fair hearing and an up-or-down vote is all we ask.

Rep. Richard Baker, R-La., chairs a subcommittee of the House Financial Services Committee.

Rebuild Louisiana, But Not By Creating Federal Money Pit (USAT)

USA Today, February 10, 2006

They call it the "devastation tour," and sadly for New Orleans, it delivers everything the label implies.

The three-hour bus excursion, offered since last month by Gray Line New Orleans, takes visitors through the ruins that once were graceful neighborhoods in one of the nation's fabled cities. Now, nearly six months after Hurricane Katrina struck, the tour shows ghostly shells of homes, upended trees and roof-high water marks — the brownish calling cards left by flooding. Unseen are the smashed lives the waters also leftbehind.

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New Orleans and the surrounding area are devastated and need help. Americans want to provide it. But Congress is focused on a scheme that would serve neither the city nor the taxpayers well. Actually, it's less a plan than an exercise in thoughtless political spending — and further proof that Washington can't manage disaster relief.

Rep. Richard Baker, R-La., proposes creating a new federal bureaucracy, the Louisiana Recovery Corp. (LRC), to buy damaged properties, repackage them and sell them for redevelopment. Baker's plan is gaining traction in Congress and plaudits in Louisiana. At first glance, it appears promising. But look deeper, and costly flaws appear:

• Unknown price tag. The plan would allow the new corporation to borrow up to $30 billion from the U.S. Treasury, but there's no limit on how much could ultimately be spent to set up and run this entity. And no hard figures on how much taxpayers might hope to recoup.

• No guarantee. The LRC would buy homes from sellers for at least 60% of their fair market value before Katrina struck — an interesting, if expensive, goal. But the land would be acquired in disconnected chunks. There's no provision for emptying flood-prone areas and scant help for homeowners who want to rebuild safely, not sell.

• Questionable recipients. Baker's plan would reward lenders by paying them as much as 60% of outstanding mortgages. This would apply even to lenders who failed to fulfill federal requirements that homes in designated flood plains be insured as a condition of getting a mortgage. Taxpayers shouldn't be forced to bail out lenders who took such risks. Doing so would encourage cavalier practices in the future.

• Dangerous precedent. Though the New Orleans flood was an unparalleled disaster, this vast new program would lead homeowners to expect similar aid in the next catastrophe. The poorly run National Flood Insurance Program is nearly bankrupt after Katrina; this is no time to create a bureaucracy with an open checkbook.

The Bush administration wisely opposes Baker's plan, but despite the passage of time, it hasn't proposed an alternative.

Katrina's victims merit help to restore their lives, and New Orleans needs help in rebuilding. That requires substantial aid from the federal government, which contributed to the disaster when its levees failed.

Even so, aid programs that lack accountability to taxpayers or a clear plan for rebuilding would make matters worse. Nor should the federal government usurp local responsibility and control. New Orleans needs a sound state and local rebuilding plan. Neither the City Council nor the state has adopted one. That, not an expensive federal bureaucracy, is the first building block toward putting the "devastation tour" out of business.

SBA Seeking More Money From Congress Some Lawmakers Criticize Agency For 'lack Of Leadership' In Handling Katrina Relief Funds (USAT)

By Jim Drinkard

USA Today, February 10, 2006

WASHINGTON — The Small Business Administration, criticized for its slow pace in making disaster loans to victims of Hurricane Katrina, is asking Congress for an additional $1.1 billion in relief money.

Though the agency has approved $4.1 billion in loans, most of them to owners of storm-damaged homes, it has paid out just $326 million of that amount.

The agency received an emergency infusion of $441 million in December for disaster loans and got permission last week to transfer $100 million into the loan program from other accounts.

"We have concerns about how they got to this reported crisis," said John Scofield, a spokesman for the House Appropriations Committee, which along with its Senate counterpart controls federal spending. "We've given them everything they've asked for. That should get them through it."

Rep. Nydia Velzquez, D-N.Y., the top Democrat on the House Small Business Committee and an agency critic, said the SBA has "been wrong with the numbers. It proves the lack of leadership and mismanagement."

SBA spokesman Raul Cisneros defended the request, noting that Katrina is the most expensive disaster ever to hit the USA and that requests for additional money have been routine in previous disasters. "We just don't know" how much such events will ultimately cost, he said.

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The $1.1 billion in requested new money — part of an upcoming $18 billion Bush administration request for Katrina relief — will fund an additional $6.8 billion in disaster loans, Cisneros said. The $1.1 billion represents the federal subsidy involved in making the loans, or the ultimate cost to the government once the loan is repaid.

The SBA projects it ultimately will approve nearly $12.4 billion in loans by Sept. 30, the end of the 2006 fiscal year for Katrina and for Hurricanes Rita and Wilma. The requested $1.1 billion would allow those loans to be fully funded, the agency said.

In the five months since Katrina struck, SBA has received 373,495 disaster loan applications and has approved 59,398 of them. An additional 165,263 remain to be processed. The rest were denied or withdrawn.

The agency has come under harsh criticism from Velzquez and other lawmakers on Capitol Hill, as well as some of its own employees, for its handling of the crisis.

In other news, 28 government entities, from local Louisiana parishes to the White House, reported that New Orleans levees were breached Aug. 29, the day Katrina hit, the Associated Press said Thursday.

A timeline of e-mails, situation updates and weather reports, pieced together by Senate Democrats, indicates the Bush administration knew as early as 8:30 a.m. ET about levee failures that would ultimately lead to massive flooding of the city and its surrounding parishes.

White House spokesman Trent Duffy said President Bush and his top aides were fully aware about the massive flooding — and less concerned whether it was caused by levee breaches, overtopped levees or failed pumps, all three of which were being reported at the time.

"We knew there was flooding, and that's why the No. 1 effort in those early hours was on search and rescue, and saving life and limb," Duffy said.

Has USA Lost Drive To Rebuild After Tragedies? Nation Usually Quick To Rebound, But Confusion Slowing Process In New Orleans, At Ground Zero (USAT)

By Rick Hampson

USA Today, February 10, 2006

Less than 72 hours after fire destroyed a third of Chicago, including his own family's new town house on Michigan Avenue, a civic booster named William Bross boarded a train to New York.

Bross, an owner of the Chicago Tribune, had a message for Wall Street: The fire was not a disaster; it was an investment opportunity. "What she has been in the past, she must become in the future," he said of his home town, "and a hundredfold more."

That was the attitude in Chicago in 1871. And in Galveston, Texas, after the hurricane of 1900; in San Francisco after the earthquake of 1906; at Pearl Harbor after the sneak attack in 1941.

It's the American attitude: We always spring up off the mat, always rebuild bigger and better.

At least until now. In New York City, where terrorists destroyed the World Trade Center, and in New Orleans, where Katrina flooded most of the city, Americans are arguing over how, when and even whether to rebuild.

The qualities we associate with recovery from disaster — urgency, unity, determination, imagination — have been eclipsed by indecision, delay and dissension.

"Rebuilding quickly is part of our self-identity, but we're getting more cynical about what we're capable of," says Christine Rosen, a business school professor at the University of California-Berkeley who has studied urban disasters.

To some, it's a disturbing change. "Great nations rebuild," says Douglas Brinkley, a historian at New Orleans' Tulane University. He blames the dithering in Lower Manhattan and his own city on a failure of political leadership.

"If we had the will in 1947 to rebuild the capitals of Europe, why don't we have the will in 2006 to rebuild the capital city of the Mississippi (River)?" he asks. "Most Americans are oblivious to what's happening, because no one is standing in the bully pulpit to tell them."

It's been only five months since the hurricane, but Brinkley sees little sign of the comeback spirit that sprang from the ruins of Chicago, San Francisco and Galveston.

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At Ground Zero, there's still a gaping hole where the Trade Center stood. More than four years have passed without a consensus as to what should fill it, observes Brent Glass, director of the Smithsonian's National Museum of American History.

He adds: “I don't know if there's an analogy for that in American history.”

These cities rebuilt, each with little federal aid:

•Chicago: After the Great Fire destroyed 18,000 buildings and left 100,000 homeless (one in three residents), rebuilding in the “Burnt District” began almost immediately. Debris was pushed into Lake Michigan as landfill for a bigger city. The size of the central business district doubled, and taller buildings were constructed.

•San Francisco: The earthquake started fires that destroyed about three quarters of the city and left 300,000 homeless — half the population. City leaders began rebuilding immediately, abandoning for the sake of speed a master plan to beautify the city.

•Galveston: The year after the hurricane wrecked much of Galveston Island, a county referendum on a bond issue for a seawall passed by better than 9-to-1. The entire city was raised by more than 15 feet.

Times change.

In New York, the city, the state, the Port Authority, the Trade Center leaseholder, relatives of 9/11 victims, neighborhood residents and business owners are still bickering over what will rise at Ground Zero.

Although a memorial has been designed, little else is settled. Plans for two museums fell apart amid complaints that their exhibits might dishonor the dead. The Freedom Tower, planned to be the world's tallest building, was redesigned because of security concerns and will not be finished until the next decade, if at all.

It's still early to rebuild in New Orleans, but the prospect of recovery is clouded by squabbling over who's responsible for what happened and by confusion over who's responsible for what will happen.

The leading rebuilding proposal, which gives the most flood-prone sections from four months to a year to attract a critical mass of residents or be condemned, has divided the city. It also counts on at least $17 billion more than the federal government has pledged.

Whatever the city's plan, many residents have said they won't return unless Washington promises to improve the levees to withstand a Category 5 hurricane. That might cost more than $32 billion — 10 times what the president has promised for levees.

There's another variable — the new federal flood maps for the city. When issued, the maps may mean that many people who want to return won't be able to because of higher insurance and building costs.

Why does America seem to rebuild and rebound differently today than it has in the past?

•New Orleans and Lower Manhattan were on the decline, not the rise.

Chicago in 1871, Galveston in 1900 and San Francisco in 1906 had something more powerful than fire, flood or earthquake: location. The first was poised between the industrial Northeast and the agricultural Midwest. The second was Texas' major port on the Gulf of Mexico. The third was the economic capital of the West and gateway to the Pacific Ocean.

In contrast, New Orleans' population had dropped from 600,000 in 1960 to 450,000. It had a slew of problems, from high crime to low elevation. “New Orleans was slowly sinking, literally and figuratively, well before Katrina,” says Lawrence Vale, head of MIT's urban planning department.

Similarly, on Sept. 11, 2001, Lower Manhattan was in the commercial doldrums, mostly because it lacked Midtown's parking and commuter rail links. The market for office space was glutted.

Four years later, little has changed. No. 7 World Trade Center — an office tower next to Ground Zero that also was destroyed and has now been rebuilt — is scheduled to open in April, but only 300,000 of its 1.7 million square feet have been leased.

•Rebuilding after natural disasters always has relied on private capital, not federal aid.

Although Eastern money was wary of San Francisco after the quake, Western investors stepped up to rebuild the city.

Now, with Washington still prosecuting a war and facing a $400 billion-a-year deficit, economics trumps politics: “No matter what the government does, who's going to invest?” asks George Friedman, president of Stratfor, a private intelligence and analysis service.

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Given tight government finances and investor reluctance, New Orleans "just doesn't have the economic muscle to come back as it was," says Mary Comerio, a UC-Berkeley expert in disaster recovery.

•Rebuilding then wasn't as smooth as it looks now.

Chicago and San Francisco weren't rebuilt without delays and problems. Chicago started fast, but construction stalled after the financial panic of 1873. San Francisco took about nine years to come all the way back. "There was no 'golden age' of rebuilding," says Glass, the museum director. "They had the same controversies then that we have now."

•Haste made waste.

After great 19th-century fires devastated cities such as Boston and Baltimore, proposed reforms — wider streets, tighter building codes, better water service — were compromised by the drive to rebuild quickly.

Post-quake San Francisco hurriedly pushed debris into the bay, where it became a weak base for the city's Marina district, which suffered some of the heaviest damage during a 1989 quake. Chicago suffered another devastating fire in 1874, partly because the city did not improve water pressure and install more hydrants.

Today, those kinds of memories help explain the reluctance in New Orleans to rebuild in low-lying areas and the concern in New York that new skyscrapers at Ground Zero might be vulnerable to another attack.

•There's more to rebuild now — at higher cost.

Chicago before the fire had no electricity or phone service, few paved streets and little indoor plumbing. The fire largely spared its rail lines and stockyards.

New Orleans faces a much bigger rebuilding job. Carl Smith, a Northwestern University professor who has studied the Chicago fire, says he's "astonished" by the devastation of Katrina. In 2006 dollars, the fire caused about $3.2 billion in property damage. Katrina caused about $40 billion in insured losses alone.

•We listen to our own rhetoric.

"We will rebuild!" elected officials crowed in unison after 9/11 and Katrina. Many cited heroic precedents such as Chicago and San Francisco. But House Speaker Dennis Hastert, R-Ill., received criticism when he suggested it might not be prudent to rebuild New Orleans.

The rhetoric "is part of the problem," Berkeley's Comerio says. "It's heresy to say that we don't need all this new office space in Lower Manhattan or that some parts of New Orleans can't be resettled," she says. "It's reality, but in American terms it's defeatist."

As for timing, Friedman, the intelligence analyst, says Americans should give themselves a break: "A major city was destroyed in August. Now it's (February). Americans are prodigious rebuilders, but we're also a nation that demands instant gratification."

WAR NEWS:

Ex-CIA Official Faults Use Of Data On Iraq (WP)

By Walter Pincus

The Washington Post, February 10, 2006

Intelligence 'Misused' to Justify War, He Says

The former CIA official who coordinated U.S. intelligence on the Middle East until last year has accused the Bush administration of "cherry-picking" intelligence on Iraq to justify a decision it had already reached to go to war, and of ignoring warnings that the country could easily fall into violence and chaos after an invasion to overthrow Saddam Hussein.

Paul R. Pillar, who was the national intelligence officer for the Near East and South Asia from 2000 to 2005, acknowledges the U.S. intelligence agencies' mistakes in concluding that Hussein's government possessed weapons of mass destruction. But he said those misjudgments did not drive the administration's decision to invade.

"Official intelligence on Iraqi weapons programs was flawed, but even with its flaws, it was not what led to the war," Pillar wrote in the upcoming issue of the journal Foreign Affairs. Instead, he asserted, the administration "went to war without requesting -- and evidently without being influenced by -- any strategic-level intelligence assessments on any aspect of Iraq."

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"It has become clear that official intelligence was not relied on in making even the most significant national security decisions, that intelligence was misused publicly to justify decisions already made, that damaging ill will developed between [Bush] policymakers and intelligence officers, and that the intelligence community's own work was politicized," Pillar wrote.

Pillar's critique is one of the most severe indictments of White House actions by a former Bush official since Richard C. Clarke, a former National Security Council staff member, went public with his criticism of the administration's handling of the Sept. 11, 2001, attacks and its failure to deal with the terrorist threat beforehand.

It is also the first time that such a senior intelligence officer has so directly and publicly condemned the administration's handling of intelligence.

Pillar, retired after 28 years at the CIA, was an influential behind-the-scenes player and was considered the agency's leading counterterrorism analyst. By the end of his career, he was responsible for coordinating assessments on Iraq from all 15 agencies in the intelligence community. He is now a professor in security studies at Georgetown University.

White House officials did not respond to a request to comment for this article. They have vehemently denied accusations that the administration manipulated intelligence to generate public support for the war.

"Our statements about the threat posed by Saddam Hussein were based on the aggregation of intelligence from a number of sources and represented the collective view of the intelligence community," national security adviser Stephen J. Hadley said in a White House briefing in November. "Those judgments were shared by Republicans and Democrats alike."

Republicans and Democrats in Congress continue to argue over whether, or how, to investigate accusations the administration manipulated prewar intelligence.

Yesterday, the Senate Republican Policy Committee issued a statement to counter what it described as "the continuing Iraq pre-war intelligence myths," including charges that Bush " 'misused' intelligence to justify the war." Writing that it was perfectly reasonable for the president to rely on the intelligence he was given, the paper concluded, "it is actually the critics who are misleading the American people."

In his article, Pillar said he believes that the "politicization" of intelligence on Iraq occurred "subtly" and in many forms, but almost never resulted from a policymaker directly asking an analyst to reshape his or her results. "Such attempts are rare," he writes, "and when they do occur . . . are almost always unsuccessful."

Instead, he describes a process in which the White House helped frame intelligence results by repeatedly posing questions aimed at bolstering its arguments about Iraq.

The Bush administration, Pillar wrote, "repeatedly called on the intelligence community to uncover more material that would contribute to the case for war," including information on the "supposed connection" between Hussein and al Qaeda, which analysts had discounted. "Feeding the administration's voracious appetite for material on the Saddam-al Qaeda link consumed an enormous amount of time and attention."

The result of the requests, and public statements by the president, Vice President Cheney and others, led analysts and managers to conclude the United States was heading for war well before the March 2003 invasion, Pillar asserted.

They thus knew, he wrote, that senior policymakers "would frown on or ignore analysis that called into question a decision to go to war and welcome analysis that supported such a decision. . . . [They] felt a strong wind consistently blowing in one direction. The desire to bend with such a wind is natural and strong, even if unconscious."

Pillar wrote that the prewar intelligence asserted Hussein's "weapons capacities," but he said the "broad view" within the United States and overseas "was that Saddam was being kept 'in his box' " by U.N. sanctions, and that the best way to deal with him was through "an aggressive inspections program to supplement sanctions already in place."

"If the entire body of official intelligence analysis on Iraq had a policy implication," Pillar wrote, "it was to avoid war -- or, if war was going to be launched, to prepare for a messy aftermath."

Pillar describes for the first time that the intelligence community did assessments before the invasion that, he wrote, indicated a postwar Iraq "would not provide fertile ground for democracy" and would need "a Marshall Plan-type effort" to restore its economy despite its oil revenue. It also foresaw Sunnis and Shiites fighting for power.

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Pillar wrote that the intelligence community "anticipated that a foreign occupying force would itself be the target of resentment and attacks -- including guerrilla warfare -- unless it established security and put Iraq on the road to prosperity in the first few weeks or months after the fall of Saddam."

In an interview, Pillar said the prewar assessments "were not crystal-balling, but in them we were laying out the challenges that would face us depending on decisions that were made."

Pillar wrote that the first request he received from a Bush policymaker for an assessment of post-invasion Iraq was "not until a year into the war."

That assessment, completed in August 2004, warned that the insurgency in Iraq could evolve into a guerrilla war or civil war. It was leaked to the media in September in the midst of the presidential campaign, and Bush, who had told voters that the mission in Iraq was going well, described the assessment to reporters as "just guessing."

Shortly thereafter, Pillar was identified in a column by Robert D. Novak as having prepared the assessment and having given a speech critical of Bush's Iraq policy at a private dinner in California. The column fed the White House's view that the CIA was in effect working against the Bush administration, and that Pillar was part of that. A columnist in the Washington Times in October 2004 called him "a longstanding intellectual opponent of the policy options chosen by President Bush to fight terrorism."

Leaked information "encouraged some administration supporters to charge intelligence officers (including me) with trying to sabotage the president's policies," Pillar wrote. One effect of that, he said, was to limit challenges to consensus views on matters such as the Iraqi weapons program.

When asked why he did not quit given his concerns, Pillar said in the interview that he was doing "other worthwhile work in the nation's interest" and never thought of resigning over the issue.

Pillar suggests that the CIA and other intelligence agencies, now under Director of National Intelligence John D. Negroponte, remain within the executive branch but "be given greater independence."

The model he cites is the Federal Reserve, overseen by governors who serve fixed terms. That, he said, would reduce "both the politicization of the intelligence community's own work and the public misuse of intelligence by policymakers."

Two Shiite Alliance Contenders Vie For Prime Minister Job In Iraq (USAT)

By Rick Jervis

USA Today, February 10, 2006

BAGHDAD — Iraq's largest political alliance has narrowed its field of prime minister candidates to two.

The top candidates are Prime Minister Ibrahim al-Jaafari and Adel Abdul Mahdi, one of Iraq's two vice presidents, said Basam Ridha, an al-Jaafari adviser.

Al-Jaafari, who belongs to the Dawa Party, a Shiite religious organization that resisted Saddam Hussein's regime, has been criticized as being ineffective during the past nine months as prime minister, said Mahmoud Othman, a leading Kurdish lawmaker. Al-Jaafari was not as assertive as his tough-talking predecessor, Ayad Allawi.

However, al-Jaafari has gained experience in office and has distanced himself from religious Shiite leaders, Othman said. Al-Jaafari lived in England for much of the two decades he lived in exile.

Mahdi, a high-ranking member of the Supreme Council for Islamic Revolution in Iraq, has a stronger personality capable of bringing different sides to the bargaining table, Othman said. However, he is faulted for being too close to Iraq's religious clerics and viewed warily by some because he once lived in Iran, Othman said.

The United Iraqi Alliance, the Shiite coalition that won the largest number of seats in parliamentary elections Dec. 15, will attempt to name its choice by Saturday.

The Independent Electoral Commission is to release officially certified election results today, clearing the way for the parliament to be seated. The legislature will then begin forming a government.

The Shiite alliance won 128 of parliament's 275 seats. Since the alliance fell short of a majority, it will need to form a coalition with other groups to form a government.

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The United States encourages an inclusive government as a crucial step in deflating Iraq's insurgency and stabilizing the country. The new prime minister will lead efforts to form a government that includes Shiite and Sunni Arabs, Kurds and Christians.

In a statement in December, Zalmay Khalilzad, U.S. ambassador to Iraq, urged Iraq's different parties to form a unity government. “Iraq's political parties and their leaders must come together to reinforce their commitment to democratic principles and national unity,” he said.

The Sunnis, who once dominated Iraq's government, now are behind much of the insurgency battling U.S. and Iraqi forces. Sunnis are seeking a larger role in the new government.

“The key issue is what kind of government will form,” said Hassan Bazzad, professor of International Relations at Baghdad University. “Forming a real national unity government will have the strongest impact on the situation in Iraq.”

After election results are formally announced, the new parliament will convene and vote on a president and two vice presidents, known as the presidential council. The presidential council will then announce its choice for prime minister, taken from the Shiite alliance, and assign ministers. The serious negotiations are expected to take place behind closed doors, Othman said.

The jobs of heading the Defense and Interior ministries are critical, since those officials control the security forces. Khalilzad has said the security ministries should go to people without ties to sectarian groups or militias.

Othman said the Shiite alliance will try to agree on a prime minister nominee before Saturday. If not, the group will have to vote on it, a step that could divide the tentative alliance of different Shiite groups, he said.

Key to the selection could be Muqtada al-Sadr, the radical Shiite cleric whose followers clashed with U.S. forces twice in 2004.

Al-Sadr supporters won about 30 seats within the alliance bloc. It's not clear which candidate al-Sadr will support, Ridha said.

Iraqis Cope With Life Without Lights (CSM)

By Ilene R. Prusher And Charles Levinson

The Christian Science Monitor, February 10, 2006

BAGHDAD - Younes Abbas Shamari is a carpenter with an open-air shop on Baghdad's Zawiya Street, which means he depends on electricity for most of what he does: sawing, drilling, sanding. These days, however, he rarely works, as the electricity is off more than it's on.

His workshop sits on a commercial strip in a relatively calm area in the central part of the city. Many small businesses here are in need of electricity to function, but Mr. Shamari estimates he gets just two hours of electricity for every four there is none. And that's twice the Baghdad average, this being one of the capital's more upscale neighborhoods.

Thanks largely to deteriorating security, electricity - along with water, sewage, and oil production - has dropped below prewar levels. Before the invasion, for example, Baghdad was receiving an average of at least 16 hours of power a day. Today, with insurgents targeting power plants and electrical lines on an almost daily basis, the city gets power just four hours each day on average.

"It's not enough to pay for the rent on my shop," says Shamari, whose salary supports an extended family of 13 in Diyala, outside Baghdad. "The rent is almost higher than whatever income I get from my work." He acknowledges that before the war, electricity wasn't nonstop, but it was available when he worked.

Iraq was generating 4,500 megawatts before the US invasion. But by November of last year that generation capacity had dropped to 3,995 megawatts, well below the national demand of 7,000 megawatts, according to a January report by the Office of the Special Inspector General for Iraq Reconstruction. Production has slumped despite the $3 billion - of $18.4 billion authorized for Iraq reconstruction - the US has set aside for electricity projects.

Stuart Bowen, the special inspector general for Iraq reconstruction, testified Wednesday before the Senate Foreign Relations Committee that Iraq would need much more than the $56 billion estimated by the World Bank and UN in 2003 to rebuild Iraq. He didn't give a new figure.

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Mr. Bowen told the committee that Iraq's water supply, sewer system, and electrical grid were worse off than once thought.

When fuel was still cheaper than water, before the government cut subsidies in December, Shamari made up for the lack of power with a gas-powered generator. But with the price of fuel now three to five times what it was just three months ago, that's no longer an option.

"How is Iraq supposed to make an economic recovery if businesses don't have basic necessities like electricity?" asks Humam al-Shamaa, an economics professor at Baghdad University. "And the lack of electricity affects security, too, because the streets aren't lighted after sundown and so businesses close earlier than normal."

US officials, though, point out that while power in Baghdad is slumping, supply has increased elsewhere in Iraq. "Now [electricity] is being distributed in a much more egalitarian manner," says Dawn Liberi, head of the Iraq office of the United States Agency for International Development (USAID).

Bowen seconded that claim at Wednesday's hearing. He said the power supply outside Baghdad was the one area of improvement since the war began.

Ms. Liberi does find a silver lining in Baghdad's current electricity situation. Iraqi incomes are on the rise, she says, which is ramping up the consumption of air conditioners, refrigerators, washing machines, and other electricity-hungry consumer goods. "It's very difficult to meet demand, because it's rising much faster than supply," she says.

Liberi also offers another explanation US officials frequently cite when discussing reconstruction shortfalls: Iraqi government disregard for free-market principles and the continuation of state subsidies.

Shamari, for example, pays 4,000 Iraqi dinars a month for electricity, about $2.75. One regular household user says he pays 450 dinars for three months of usage - about 40 cents.

It's a key factor in Iraq's electricity problem, says Liberi. Under Saddam Hussein most people received electricity as a virtual state gift, paying symbolic prices that were out of touch with international rates. After Mr. Hussein, she says, Iraq has yet to adjust, with most people still paying very little. As a result, Iraqis have little incentive to conserve.

US officials have repeatedly argued that the elimination of state subsidies will free up cash for much needed reconstruction projects. Others, however, worry that such belt-tightening measures could lead to social unrest at a time when stability tops the agenda.

But as long as insurgents continue to strike Iraq's power grid, reconstruction remains a perilous endeavor. The insurgency has caused the US to reroute reconstruction money to security. Of the estimated $270 billion spent, $15 billion has gone to nonsecurity items, Liberi says.

And there are few encouraging signs that this trend will change. In fact, a recent report by the US Government Accountability Office, says insurgent attacks are on the increase. There were 2,500 attacks in December 2005, up from just 1,000 the previous March, the report finds.

"We have had increased [electricity] generation, but we have very limited transmission around the country, because the transmission lines keep getting hit," says Liberi.

Shamari, the carpenter, agrees that the situation is getting worse. Power shortage aside, business is down in general because, as the economy suffers, he says, fewer people are getting married. Newlyweds seeking to furnish their new homes are his main clients. Shamari used to get four major orders a month, he says, and now he gets only one.

He pushes a small power saw through a plank of wood and speaks sadly through the sawdust spray. "I'm thinking of just selling my business."

Danger? Drabness? No Date? Iraqis Find An Outlet Online (NYT)

By Robert F. Worth

The New York Times, February 10, 2006

BAGHDAD, Iraq, Feb. 9 — On a recent rainy afternoon, Ahmad Nader Ali sat in a booth at the ShreifiNet Cafe, sending instant messages to his brother who lives in Finland on one screen window and his fiancée, Nour, on another. A tiny Web camera sat atop the computer, beaming live images of him to Nour's home screen across Baghdad.

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"Because of the situation, I'm not able to go and see her often," said Mr. Ali, a confident 20-year-old with slicked-back hair who runs a men's clothing store. "Everybody does it like this."

Nearby, partially hidden by wood-paneled booths, were a dozen other young men staring intently at their screens, most chatting simultaneously on three or four different e-mail accounts. All of them were paying 1,500 dinars an hour — about a dollar — to escape the gray confines of Baghdad's blasted walls for a while. Two heavyset men sat on a black faux-leather couch by the door, keeping a watchful eye on the street.

Three years ago, the Internet was virtually unknown in Iraq. Today, Baghdad has dozens of Internet cafes like ShreifiNet, which consists of three sparely decorated rooms with a total of 34 computers and a satellite dish on the roof. Most of the cafes also transmit wireless services to home Internet users in the surrounding area for a monthly fee; in parts of central Baghdad there are about 20 overlapping wireless networks.

The universal hunger to get online has made computer and Web services one of the few bright spots in Iraq's stagnant economy. On Sinaa Street, the two-lane thoroughfare in central Baghdad lined with computer and software stores, business is brisk. Companies that install wireless networks and satellite dishes are also thriving, despite the irritation caused by frequent power failures. So are many Internet cafes.

"I have to work to persuade people to come to my clothes shop," Mr. Ali said. "But you don't need to advertise to tempt customers to come in here."

Few people on earth have more incentive to communicate online (and indoors) than Iraqis, who risk their lives every time they go out for a quart of milk. The Internet can also be a way to get around the rising Islamization of everyday life. Young people caught flirting on the street even in Baghdad are sometimes chastised or even beaten by self-proclaimed Islamists, but no one can stop them on the Web. "If you look at the chat rooms, it is mostly young guys and girls," Mr. Ali said.

But Islamists and insurgents have their own uses for the Web. Diatribes against the American presence, along with detailed bomb-making instructions and tributes to the latest suicide bombers, appear regularly on Iraqi chat rooms and Web sites.

The total number of people using the Internet, like most Iraqi statistics, is partly guesswork. There are 215,000 subscribers on the state-owned Internet company, but that does not include the Internet cafe users, who are probably far more numerous, said Eva Wohn, a legal adviser to Iraq's Communications Ministry on telecommunications issues.

After their long isolation, young Iraqis are quickly erasing their technological gap with the West. In some ways they are even further along. Thanks to the absence of piracy laws here, many Iraqis use software that is not yet in common use in the United States. The new Microsoft Vista operating system, for instance, scheduled to be introduced for commercial use in late 2006, is already widely used here.

Large numbers of Iraqis can be found on the dozens of Arabic chat rooms listed on Yahoo Messenger, a popular platform for instant messaging. There are dozens of Iraqi Web logs, ranging from political sites, to forums for young people seeking spouses, to "hashasha" (www.7shasha.com), a comic site whose name means "hashish smokers." Angry sectarian conversations often break out, especially in Arab Chat Room 12, which is popular with Iraqi Shiites (the number signifies the 12 great imams of Shiite Islam).

Like many Internet cafe users, Mr. Ali has no access at home. He lives in Doura, a dangerous area where there are almost no Internet cafes and few wireless networks. He could get service on a land line, but he works long hours and prefers to do all his e-mailing at ShreifiNet, which is not far from his clothing store.

That calculus has been good for Ramzi al-Shreifi, 32, the owner of ShreifiNet. He took over the lease of his two-story building just off Karrada Street from a travel agency in the fall of 2003 and renovated it, painting the two columns out front bright yellow. A Kurdish company installed a satellite dish on the roof, charging him $2,600 a month for his service. He also mounted wireless transmission equipment, and now has 25 home customers, paying $50 each to use his signal. In the past year, his gross income has grown by half, to about $6,000 a month, Mr. Shreifi said, a tidy sum by Iraqi retail standards.

"It would have been more, but there is competition," he added.

There are about 15 Internet cafes in Inner Karrada, a busy commercial area that is one of Baghdad's safer neighborhoods, Mr. Shreifi said. His cafe is open until 10 p.m., and would stay open all night if not for the curfew imposed by the Iraqi government, he said. He has been luckier than many Baghdad business owners: no robberies, no violence.

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Mr. Shreifi has plans to expand. There are hundreds of people in the area who would like to get wireless service. The problem, he said, is that there are no rules governing the Internet: anyone with enough money for a satellite can transmit to whomever he or she like, and some do not require passwords so that many people can log on free. Mr. Shreifi also suspects that his signal is sometimes affected by American military officials in the Green Zone who may be jamming frequencies used by insurgents. Still, by Baghdad standards, it is a good living.

"Most days this place is almost full," Mr. Shreifi said.

Kidnapped U.S. Journalist Pleads, 'Just Do Whatever They Want' (NYT/AP)

The New York Times, February 10, 2006

KUWAIT, Feb. 9 (AP) — The kidnapped American journalist Jill Carroll appeared in a video shown Thursday on a private Kuwaiti television channel, appealing for her supporters to do whatever was necessary to win her release and saying, "There is a very short time."

Ms. Carroll was shown in the black-and-white video wearing an Islamic head scarf and sitting on a chair in front of a wall with a large floral design. She spoke to the camera in a firm voice without weeping, as she had done on a previous video.

"I am here," she said. "I am fine. Please just do whatever they want, give them whatever they want as quickly as possible."

Ms. Carroll said that she was speaking on Feb. 2. "There is a very short time," she said. "Please do it fast. That's all."

The 22-second video was broadcast on Al Rai TV, a private Kuwaiti channel. The video was delivered to Al Rai's Baghdad office and was shown in its entirety, said Hani al-Srougi, an editor at the station. He said it was accompanied by a letter written by Ms. Carroll.

The newscaster said the station would give the letter to authorities but did not specify whether he meant Kuwaiti or American officials.

In Baghdad, Dennis Culkin, a spokesman for the United States Embassy, said American officials did not comment on such tapes before they had been authenticated.

Armed men abducted Ms. Carroll, a 28-year-old freelance journalist, on Jan. 7 in Baghdad. The kidnappers set a deadline of Jan. 20 and threatened to kill Ms. Carroll if their demands were not met.

Kidnapped U.S. Reporter Appears In New Video (LAT)

By Borzou Daragahi, Times Staff Writer

The Los Angeles Times, February 10, 2006

BAGHDAD — Looking healthy and composed, the American reporter kidnapped in Iraq last month appeared on a new videotape aired on an Arab-language television channel today, urging supporters to do whatever necessary to obtain her release.

Jill Carroll, the 28-year-old Christian Science Monitor freelancer captured by an unknown armed group in Baghdad on Jan. 7 as she left the offices of a Sunni Arab politician, asked an unnamed third party to quickly comply with the kidnappers' demands.

"I am here," said Carroll, a Michigan native who first arrived in Iraq shortly after the 2003 U.S.-led invasion and stayed through the insurgency.

"I am fine. Please just do whatever they want, give them whatever they want as quickly as possible."

She punctuated her 22-second message, which she said was recorded on Feb. 2, with a note of urgency. "There is a very short time," she said. "Please do it fast. That's all."

The tape, with references to ongoing negotiations, suggested that Carroll has not fallen into the hands of the most brutal category of kidnappers in Iraq, who have previously beheaded western hostages for political ends.

Still, it remains unclear what the kidnappers still demand in return for Carroll's release. In a tape that aired Jan. 30, Carroll called for the release of all female prisoners being held by U.S. and Iraqi forces.

U.S. Maj. Gen. Rick Lynch told reporters today that American and Iraqi officials plan to release about 450 prisoners from detention centers sometime next week. He said he did not know whether any of them were women.

U.S. military officials say insurgents have turned to kidnapping for ransom to fund operations and have detected a slight rise in the number of kidnappings reported to Iraqi crime hotlines in the past few weeks.

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"We're watching closely trends and we are concerned about the number of kidnappings we're seeing," said Lynch. "A lot of them are conducted by criminal gangs."

Today's video was broadcast on the privately owned Al Rai, a Kuwaiti satellite channel known more for entertainment than news. It showed Carroll wearing a greenish head scarf and sitting or standing before a pink backdrop, with a flower-like design.

In the video, Carroll made reference to an apparent earlier communication between her abductors and negotiators, saying the latest video was made to confirm a letter she had apparently sent to prove she was with the mujahedin, a reference to the Sunni Arab insurgency.

"I sent you a letter written by my hand, but you wanted more evidence," she said in the tape.

Western news agencies quoted officials from Al Rai saying the tape was delivered to the television station earlier today.

In New Video, Abducted U.S. Reporter Pleads For Quick Action (WP)

By Nelson Hernandez

The Washington Post, February 10, 2006

BAGHDAD, Feb. 9 -- In the third video of her to be aired since she was abducted here last month, American journalist Jill Carroll asked that authorities meet her captors' demands "as quickly as possible" because "there is a very short time."

The 22-second video, which appeared on the private Kuwaiti television station al-Rai on Thursday night, showed Carroll wearing a Muslim veil and sitting before a tapestry depicting a large flower. In a composed voice, she said that the video was being filmed on Feb. 2 and that she had sent one letter in her own hand and was sending another "to prove I am with the mujaheddin," Arabic for holy warriors.

"I'm here. I'm fine," she says. "Please just do whatever they want. Give them whatever they want as quickly as possible. There is a very short time. Please do it fast. That is all."

Carroll, 28, a freelance journalist working for the Christian Science Monitor, was kidnapped in Baghdad on Jan. 7 by gunmen who also killed her interpreter, Allan Enwiyah, 32. Ten days later, her captors, who call themselves the Vengeance Brigades, released a video in which they threatened to kill her in three days unless U.S. authorities released all female detainees in Iraq. A second video, aired on Jan. 30, showed Carroll in a head scarf, sobbing.

Both videos showed Carroll speaking, but neither had sound. The video that aired Thursday had sound but did not include the Vengeance Brigades' logo.

The content of the letters Carroll spoke of is unknown. In the broadcast, the newscaster said that one letter Carroll had written would be handed over to authorities. The station said it would not broadcast the letter's contents, according to the Associated Press.

The editor of the Christian Science Monitor, Richard Bergenheim, said in a statement: "It is always difficult to see someone speaking under coercion and under these circumstances. We are seeking more information about the letter that Jill refers to in the video. We remain in constant contact with Jill's family and are still doing everything possible to obtain Jill's release."

Carroll's family said they were "hopeful and grateful to all those working on Jill's behalf."

A 'Half Full' Afghan Army (CSM)

By Scott Baldauf

The Christian Science Monitor, February 10, 2006

KABUL, AFGHANISTAN - Sgt. Mohammad Reza walks silently on a ridge, watching his platoon conduct a reconnaissance patrol in a gully below. His men are all recent recruits. Some are former militia fighters who have seen many battles but little professional training. Others are as green as the helmets on their head.

"They don't know about organized war, they just know about guerrilla warfare," says Sergeant Reza, himself a former militiaman from Bamian Province.

Increasingly, coalition forces are turning over some of the training to Afghan sergeants like Reza. Fresh recruits learn the basics of how to take protective measures and launch counterattacks, skills that will help them hold their positions in a fight.

How well they absorb these lesson will be crucial for Afghanistan's ability to stand on its own two feet. Now half-way toward the goal of a 70,000-man force, the Afghan National Army is reaching a crucial testing period: The US military is preparing to

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draw down its forces in Afghanistan, NATO forces are moving in, and security conditions along the southern border with Pakistan are worsening.

"Those who are in the military know how difficult it is to make an army self-sufficient, and the Afghan National Army has just been formed, so it will take some work," says Gen. Zaher Azimi, a Ministry of Defense spokesman. "If we are fighting alongside foreign forces, we have the capability to fight against guerrillas, but we can't do it alone."

That means that the international presence in Afghanistan will remain crucial for the foreseeable future. The growing number of ANA brigades in the volatile south will soon by joined by NATO forces who are rotating in to take over the responsibility for Afghanistan's security after the US military draws down 3,000 of its troops this spring.

US, French, British, Rumanian, and even Mongolian trainers will continue to train ANA troops at the Kabul Military Training Center (KMTC), just outside Kabul, and a growing number of Afghan officers will enter military exchange programs at military bases in the US and other coalition countries.

Yet four years after the Taliban's ouster, there are growing expectations that the ANA will pick up more of the slack in defending the country and providing the sort of security that allows Afghans to trust in their own government and their future.

"The fortunate thing about Afghans is that they have a feeling that our army is able to defend the country at a high level of proficiency," says Gen. Rahmatullah Raufi, the corps commander in Kandahar. "But when we talk of defending our country on our own, I confess, we can't do it ourselves. We are a poor country."

Eighty percent of the soldiers in his corps are illiterate, General Raufi says. Fifty percent of the officers are illiterate. Only 20 percent of his soldiers have a professional knowledge of how to serve in an army; the rest are former militia fighters or young recruits. "No one will tell you this, but even if the president sahib asks me, I will tell him this myself.

While the ANA appears to be on course in reaching its goal of a 70,000-man army by 2009, the army also realizes that it needs to improve the quality of its soldiers rather than merely put warm bodies out into uniform.

"Previously, there was a need to produce large numbers of soldiers, but now we focus on quality instead of quantity," says Brig. Gen. Mohammad Amin Wardak, commander of the training center in Kabul.

At first, ANA soldiers were given a brisk two-month course and then sent out to face Taliban insurgents. But now, the training at KMTC is 15 weeks long, including six weeks of basic training, and the rest in Advanced Infantry Training, where soldiers will be given specialities, from rifleman to artillery to more elite commando duty.

Upon graduation, ANA soldiers earn $70 a month, double the median monthly income nationwide. Officers earn more, depending on their rank.

Sgt. Steve Bromfield, a Canadian military trainer from the 2nd Field Engineer Regiment, is just ending a six month stint guiding the live-fire exercises at KMTC. He says the recruits he trains are eager to learn. In two weeks, he helps break some bad habits from former militia fighters like spraying gunfire instead of making every shot count. "Like everyone, if you give them bullets, they want to shoot," he laughs. "It's the same in the Canadian Army."

Up on a plateau, the first platoon of Afghan soldiers are advancing, team by team toward a target, firing their Kalashnikovs at paper targets. Down below in a dry streambed, a second platoon runs into position, and climbs up a ridge to attack the paper enemy on its flank. Behind, a reserve platoon forms a defensive circle, and prepares to respond to any enemy counterattack.

"This is the most vulnerable time for a platoon," says Sgt. Maj. Rick Dumas, a Canadian trainer, enjoying the moment. "They're getting tired, they are consolidating their forces, preparing for a counterattack."

Behind Sergeant Dumas, some overeager Afghans from the reserve platoon rush through a group of foreign trainers and journalists with their guns at the ready, before being called back by their sergeant.

While the ANA generally enjoys a good local reputation, some Afghans criticize Army leadership for packing the ranks with members of some ethnic groups, and not others.

"I don't want to call this army the Afghan National Army," said Najibullah Kabuli, a parliamentarian during an impassioned outburst in the lower house last week. "I want to call it the Army of National Rivalries. They are asking for exact numbers of Tajiks, exact numbers of Pashtuns."

ANA officials counter that ethnicity is not a criteria for selecting foot soldiers, although there is an attempt to maintain an ethnic balance among officers to reflect the country's ethnic mix.

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General Raufi says ethnicity is just one of those issues that will take time to sort out in Afghanistan. "A national army should serve the people, not one ethnic group, not one person, or one province," he says. "Your army is almost 250 years old. Maybe you had those problems in your country's history too."

NATO Renews Afghan Commitment After Cartoon Storm (REU-Y2)

By Mark John And Will Dunham

Reuters, February 10, 2006

NATO defense chiefs pledged on Thursday to expand alliance peacekeeping in Afghanistan despite attacks on their troops triggered by the storm over cartoons depicting the Prophet Mohammad.

Protesters angered by the cartoons tried to storm a NATO base housing Norwegian troops on Tuesday in one of the worst outbreaks of violence prompted by the controversy. Afghan police opened fire, killing four.

Defense ministers meeting in Italy agreed to check security measures in place for their 9,000-strong International Security Assistance Force (ISAF) mission in Afghanistan, but insisted its expansion to 16,000 troops this year would go ahead as planned.

"There is full commitment to take forward the ISAF expansion to the south this summer. That commitment will not waver," NATO Secretary-General Jaap de Hoop Scheffer told a news briefing after a first day of talks in the Sicilian resort of Taormina.

"The key words today were solidarity ... but also the need for dialogue, respect for others and the need for de-escalation," he added. NATO ministers will meet counterparts from Israel and six Arab countries on Friday for long-scheduled talks on defense reform that will nonetheless touch on the cartoons controversy.

British troops in Afghanistan were rushed to the northwest city of Maymana on Tuesday to secure the airfield after crowds attacked a NATO base of Norwegian troops with guns and grenades.

The Norwegians fired teargas while NATO F-16 jets flew over Maymana in a show of force before the violence died down.

Aside from calling for new checks on whether existing ISAF security measures were sufficient, ministers agreed the events showed the urgent need for well-trained Afghan security forces.

"The force protection worked, but there was a feeling we want to ensure that we are well prepared. There was an emphasis on training the Afghans," said one observer at the talks.

DENMARK STICKS TO MISSION

The upsurge in tension comes as NATO readies to expand ISAF -- already in the north, west and the capital Kabul -- to the more volatile southern Afghanistan and ultimately the east.

NATO would then manage all international peacekeeping in the country, allowing the larger U.S.-led coalition to reduce troop numbers and focus on hunting the Taliban and al Qaeda remnants seen as behind the insurgency.

"That's the plan. And they're en route toward that," U.S. Defense Secretary Donald Rumsfeld told reporters traveling with him to the meeting.

Rumsfeld gave no fixed timetable for when NATO was expected to take over peacekeeping in the east, saying only that the plan was for it to happen "at some point either this year or next."

U.S. and NATO officials have in the past expressed firm hopes that ISAF would take over all peacekeeping by end-2006.

But the move to the south, which was initially intended for early 2006, is now seen some time in the middle of the year after hesitation among some allies to come forward with troops.

After much debate, Dutch lawmakers finally voted this month in favor of sending up to 1,400 troops to Afghanistan to join the deployment into the south. Britain and Canada are the two other main contributors, taking ISAF strength up to 15,000.

Denmark -- a focus of protests because a Danish newspaper published the cartoons first -- is to contribute some 300 troops to the expansion. De Hoop Scheffer said there had been no discussion in Taormina of it pulling out of the mission.

Asked if he thought the row over the cartoons complicated NATO's plans, British Defense Secretary John Reid replied: "No. Naturally we regret it. We are there to help the Afghan people."

Rumsfeld Backs NATO Taking Over Operations (WT/AP)

By Robert Burns

The Washington Times, February 10, 2006

DOJ_NMG_0013805

TAORMINA, Italy -- The United States favors NATO eventually taking full command of the international military effort to stabilize Afghanistan, but that will not include a separate American-led counterterrorism mission against al Qaeda, Defense Secretary Donald H. Rumsfeld said yesterday.

Mr. Rumsfeld arrived in this Sicilian seaside resort to attend two days of talks with North Atlantic Treaty Organization defense ministers, who are committed to expanding the alliance's military mission in Afghanistan.

NATO is expected to take over the security mission in southern Afghanistan by this summer, and Mr. Rumsfeld said he supported the goal of eventually having NATO in charge of the coalition effort across the country.

"I'm very comfortable with it," he told reporters aboard his plane en route from Washington.

He drew the line, however, at the counterterrorism mission, which is being performed mainly by U.S. special operations forces such as Army Special Forces and Navy SEAL commandos.

They have been searching for al Qaeda fighters since the early days of the U.S. invasion in 2001, when al Qaeda leader Osama bin Laden fled into the mountainous Tora Bora area and then possibly into neighboring Pakistan.

NATO has been extending its security forces into northern and western Afghanistan to help provide enough security to enable humanitarian and reconstruction projects to proceed. It also has helped train the Afghan national army, but it has left much of the direct combat action to American forces.

Some NATO members have chosen to contribute to the peacekeeping mission in Kosovo instead of Afghanistan, where the dangers are greater. Mr. Rumsfeld said that in light of those choices, he would like to see U.S. peacekeepers in Kosovo be withdrawn faster than those of other allied nations.

"We would kind of like to see if it's possible for us to have a somewhat disproportionate reduction when the reductions take place," he said.

The United States has about 1,700 peacekeeping troops in Kosovo.

Mr. Rumsfeld said he would meet separately today with his Russian counterpart, Sergei Ivanov. Russia is not a NATO member but holds regular talks with the alliance through a NATO-Russia Council set up in 2002.

The U.S. government has been critical of Russia's willingness to assist Iran in its nuclear program, and last fall Russia signed a new agreement to sell short-range surface-to-air missiles to Iran.

Mr. Rumsfeld said he expected the issue of Iran's nuclear program to arise during the NATO conference, but that it was primarily a matter for allied diplomats, not defense chiefs.

Sectarian Strife Kills 31 In Pakistan And 6 In Afghanistan (NYT)

By Carlotta Gall And Salman Masood

The New York Times, February 10, 2006

LASHKAR GAH, Afghanistan, Feb. 9 — Violence exploded in Pakistan and Afghanistan on Thursday during processions by Shiite Muslim worshipers observing the holy day of Ashura. A suicide bombing in northwestern Pakistan killed 23 people and wounded dozens more.

After the bombing, in the town of Hangu, angry Shiites rampaged through the streets, setting fire to stores, government buildings and vehicles. By the end of the day the death toll had grown to 31, local officials said.

In western Afghanistan, fighting broke out between Shiite and Sunni Muslims during a procession of Shiite worshipers in Herat, the country's third-largest city. The fighting killed 6 people and wounded 120 others, said a senior military official, who spoke on the condition of anonymity because he was not authorized to discuss the matter.

Sectarian attacks, including suicide attacks on mosques, have occurred in Pakistan, but such a clash was unexpected in the traditionally tolerant Afghan city of Herat. The violence there was another blow in a country that has been struggling with increasing terrorist attacks, local insurgencies and angry demonstrations in recent days over the publication of satirical cartoons of the Prophet Muhammad.

Pakistani troops moved into Hangu, which is 125 miles southwest of the capital, Islamabad, after the bombing and the rampage.

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"There was panic everywhere," The Associated Press quoted a witness, Muhammad Jamil, 25, as saying. "Some people rushed to the injured and dead bodies. Others went to houses and took out weapons and knives and kerosene oil and started setting fire to shops, destroying everything."

There were unconfirmed reports that angry Shiites had fired on a vehicle, killing four people. News accounts reported a thick layer of smoke hanging above the town as the violence intensified.

Leading Shiite and Sunni religious leaders condemned the attack as an attempt to create chaos in Pakistan. No one had claimed responsibility for the attack by Thursday evening, but Sheik Rashid Ahmed, the information minister, confirmed in a telephone interview that a suicide bomber had carried out the attack.

"This was a blast," he said. "It was a suicide bomber." He would not say who he thought was behind the attack. "Such things take time," he said of the investigation.

Riffat Pasha, the police chief of North-West Frontier Province, told local news organizations: "This is an act of terrorism. There were elaborate security arrangements, but it is difficult to prevent such suicide attacks."

Pakistan has been troubled by tensions between the Shiite minority and the Deobandi sect, a puritanical branch of Sunni Islam to which some of the country's jihadist political factions belong. Violence between the two groups has killed more than 1,200 people in the last 15 years. Sunnis make up 77 percent of the country's population of 150 million, and Shiites 20 percent.

In Afghanistan the procession of hundreds of Shiites in Herat commemorating the martyrdom of Imam Hussein, the grandson of the Prophet Muhammad, turned violent, with Sunnis and Shiites fighting with sticks, stones and knives, and then guns and grenades. Dr. Abdul Jalil, who was on duty at the city's main civilian hospital, said the staff had treated wounds from shootings, stabbing and beatings.

By the end of the afternoon the main Shiite mosque in the northern part of the city and nearby shops were on fire, said Muhammad Rafiq Shahir, leader of a group of socially minded professionals called the Experts Council. He said he had seen a Shiite throw a grenade into a crowd, wounding about 15 people.

Mr. Shahir, a Sunni, blamed the government for setting the stage for violence by appointing a Shiite last year as governor of Herat Province, which has a Sunni majority. Tensions remain between ethnic groups in Afghanistan from years of factional fighting.

The governor, who is known to have close ties to Iran, had aggravated the latent tensions, Mr. Shahir contended, in part by allowing a larger procession for Ashura this year than usual. Mr. Shahir also accused Shiites of provocations, saying some of them entered the main Sunni mosque wearing shoes last year, and he accused Shiites of a knife attack against the son of a Sunni cleric on Wednesday.

Afghan soldiers and police officers were deployed, and by evening the city was calm, said Gen. Zaher Azimi, the Defense Ministry spokesman. The Afghan government sent a delegation from the capital, Kabul, to negotiate, headed by a former governor of Herat, the powerful Tajik commander Ismail Khan, who was ousted from office in 2004.

Shiites Targeted On Deadly Holy Day (WP)

By Griff Witte

The Washington Post, February 10, 2006

KABUL, Afghanistan, Feb. 9 -- At least 34 people were killed and more than 130 injured Thursday in Afghanistan and Pakistan in sectarian violence that coincided with a Muslim holy day especially revered among Shiites.

In Iraq, the observance of the Ashura holiday was made remarkable by the absence of violence for the first time since the overthrow of President Saddam Hussein.

The day's deadliest attacks occurred in Pakistan's North-West Frontier province, where hundreds of Shiites in the town of Hangu had turned out to participate in a procession marking Ashura, which commemorates the martyrdom in 680 of Hussein, grandson of the prophet Muhammad. Before sermons by local clerics could begin, at least one suicide bomber, who may have been disguised as a mourner, detonated his explosives, killing at least 27 people and wounding about 30, said an Interior Ministry official, Brig. Javed Cheema.

Later in the day, it was reported that gunmen had opened fire on a bus just outside the town, killing four.

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"This was a blatant act of terrorism," Cheema said in a telephone interview from Islamabad. He noted that no group had asserted responsibility but that sectarian tensions have historically been high in the region. In the past few years, Shiites in Pakistan -- who are a minority -- have been the victims of frequent attacks thought to have been perpetrated by Sunni Muslim groups.

In Afghanistan, where about 80 percent of the population is Sunni and instances of sectarian violence are far less common, at least three people were killed and more than 100 injured when a clash erupted between Shiites and Sunnis in the western city of Herat.

Herat's police chief, Mohammed Ayoub Salangi, said the fight began when approximately 300 young Sunni demonstrators entered a Shiite mosque and accused worshipers gathered for Ashura services of burning a piece of cloth emblazoned with the name of Islam's second caliph, Umar, an important figure in the Sunni faith.

A brawl ensued, with both sides using sticks, rocks and guns. Grenades were also reportedly thrown.

Two hundred Afghan troops were deployed, and security forces fired shots into the air in a bid to quell the violence.

Salangi said authorities were investigating how the Sunni demonstrators were able to organize so quickly. "There must be the hands of others behind this," he said.

Samina Ahmed, South Asia project director for the International Crisis Group, blamed the violence in Afghanistan and Pakistan on governments that have not done enough to curb Sunni groups that target their fellow Muslims. "It's not just enough to take action against al Qaeda," Ahmed said in a telephone interview from Pakistan. "It's just as important to take the same kind of action against sectarian terrorists."

Ahmed noted that while there have been more sectarian attacks in Pakistan than in Afghanistan in recent years, the Hazara ethnic group -- which is predominantly Shiite -- has faced persecution in Afghanistan for centuries. "It's nothing new for Afghanistan," she said. "It's always under the surface."

President Hamid Karzai and religious leaders in Afghanistan appealed for calm, and a delegation of clerics was dispatched from Kabul on Thursday night to try to soothe tensions in Herat.

"Our God is the same. Our Koran is the same. And our religion is the same," said Mulwi Enayatullah Balegh, a Sunni leader who delivers sermons at one of Kabul's largest mosques. "There are some minor differences to be discussed with the Shias, but they are not things that can be resolved through this kind of fighting."

The sectarian violence came after three consecutive days of deadly riots in Afghanistan arising from the publication in European newspapers of cartoons of the prophet Muhammad. But the cartoon uproar was not thought to have played a direct role in Thursday's violence in Herat.

There were no reported demonstrations related to the cartoons in Afghanistan on Thursday, a day after religious leaders called for an end to the protests, saying they were being hijacked by extremists.

However, security in the capital, Kabul, was especially tight, and authorities here were bracing for the possibility of more protests Friday.

By contrast, not a single attack on Shiite worshipers marred the day in Iraq. Ashura was banned in Iraq during Saddam Hussein's reign. Since the observance was resumed in 2004, the holy day has been jolted by bombings that have killed hundreds.

In 2005, suicide bombers killed at least 60 people in the streets and in Shiite mosques. The year before, attacks killed at least 170 people. The only attack reported Thursday was a suicide car bombing in New Ubaydi, in Sunni-dominated western Iraq, which killed three Iraqi civilians and two Iraqi soldiers.

Maj. Gen. Rick Lynch, the spokesman for U.S. military in Iraq, said the relative tranquility was "a tribute to the Iraqi security forces." He said Iraqi soldiers and police had imposed tight security throughout the country, particularly in Karbala, the focal point of the holy day. In a raid this week, Iraqi troops detained 19 suspects who were apparently planning to conduct suicide attacks on Ashura observances, Lynch said.

In Karbala, the provincial governor, Aqeel Khazaly, said that the government had forbidden outside vehicles to enter the city and that the streets were covered by "very strict" security consisting of public order police, special police commandos and Iraqi army soldiers.

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"This was a great accomplishment and a triumph over terrorists and terrorism," said Ali Kassim, a fisherman from the southeastern town of Amarah who had made the pilgrimage to Karbala.

Correspondent Nelson Hernandez in Baghdad and special correspondents Saad Sarhan in Karbala and Javed Hamdard in Kabul contributed to this report.

Peace Prevails In Iraq As Shiites Observe Holy Day (LAT)

By Borzou Daragahi And Richard Boudreaux, Times Staff Writers

The Los Angeles Times, February 10, 2006

Unlike in previous years marred by bombings, pilgrims throng shrines across the country in relative calm. U.S. cites improved security.

BAGHDAD — For the first time since the March 2003 U.S.-led invasion, hundreds of thousands of Iraqi Shiites on Thursday marked their most important religious holiday without suffering a terrorist attack.

Waving red, green and yellow flags and some beating themselves with chains, members of Iraq's majority Shiite community gathered around major shrines for Ashura, which commemorates the martyrdom of Imam Hussein, grandson of the prophet Muhammad. As many as 2 million Shiite pilgrims from Iraq and abroad crowded the city of Karbala, where Hussein is buried, security officials reported.

Suicide bombers killed 180 people in 2004, and 50 people last year, despite heightened security. Observation of the holiday was suppressed under Saddam Hussein, a Sunni Muslim.

A U.S. military official attributed the relatively peaceful proceedings to better-trained Iraqi security forces; Sunni Arab leaders said insurgents refrained from attacks for fear of sabotaging negotiations for power-sharing in the new government. Sunni Arabs won a combined 55 parliamentary seats in the Dec. 15 elections, whereas the Shiite-dominated United Iraqi Alliance captured 128 of the 275 seats.

Pilgrims marched carrying gold-domed replicas of the shrines, beating drums and chanting slogans in memory of Hussein. He was killed in the 7th century on the plains near Karbala by the Caliph Yazid in a succession battle that split Muslims into the Sunni and Shiite sects.

"By God, we will never forget you, Hussein!" the pilgrims chanted, as they swarmed the streets surrounding the shrines in Karbala, Najaf and Baghdad.

Pilgrims walked for days to Karbala, eating rice and taking shelter in tents set up along the route by well-wishers. Costumed men on horseback staged elaborate reenactments of Hussein's martyrdom in passion plays called taziyas. Fervent mourners beat themselves, some striking their heads with swords and drawing blood.

"Hussein is a symbol for us," said Mohammed Mehdi Rubayie, 33, a restaurant worker in the northern Baghdad suburb of Kadhimiya, home of an important Shiite shrine. "He fought for our religion, and he fought against oppression."

The Shiite-led government kept electricity on 24 hours a day in Najaf and Karbala for pilgrims, who arrived from Iran, Pakistan and Afghanistan as well as other parts of Iraq. One pilgrim was reported killed Thursday afternoon in a shooting in western Baghdad.

A suicide bombing last month in Karbala killed dozens, raising sectarian tensions and hurting the bargaining position of the minority Sunni Arabs, who lead the insurgency. A Sunni tribal leader said rebels had agreed to halt attacks during Ashura.

"The activities of the resistance are at a halt now until we have a unity government," Osama Jadan, a leader of a western Iraqi tribe, said. "That's the information we have from the resistance."

U.S. officials said improved Iraqi security forces played a role in diminishing violence. U.S. and Iraqi forces raided a village southeast of Baghdad this week where insurgents were allegedly preparing to attack Ashura pilgrims. A spokesman for the border police in Najaf said his men caught a Turkish national who reportedly confessed that he and other foreigners were trying to sneak into Iraq to stage attacks during Ashura.

In Baghdad, U.S. military spokesman Army Maj. Gen. Rick Lynch said the experiences of 2004 and 2005 had taught Iraqi forces to impose vehicle bans and establish multiple security cordons around shrines in Karbala, Najaf and Kadhimiya.

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"You think like the enemy," Lynch told reporters when asked about the relative calm this year. "The Iraqi government did detailed planning and preparation for Ashura." Still, he acknowledged that the number of insurgent attacks nationwide had not declined precipitously.

U.S. officials announced Thursday that a suicide bomber had killed two Iraqi soldiers and three civilians Wednesday at a joint U.S.-Iraqi checkpoint near the village of New Ubaidi.

In the northern city of Kirkuk, tensions rose over the killing Tuesday of several civilians by contract security guards stationed at a U.S. army base. American and Iraqi officials said they were conducting a joint investigation into the deaths.

The guards, working for the State Department, opened fire from two GMC sport utility vehicles, killing two Kurdish men in separate cars and wounding a third at a traffic circle north of Kirkuk, said Maj. Gen. Shirko Shakir, the city's police chief.

The number and nationality of the guards involved and the name of their company were not disclosed. Lt. Col. James Johnson, commander of the 2nd Battalion, 327th Infantry Regiment, said the guards were "under our control" while the investigation proceeded. In a written statement, he called the shooting "regrettable." The regiment is part of the Army's 101st Airborne Division, which is responsible for security in Kirkuk.

Angry relatives buried the two men and demanded that the killers be punished. Several Iraqi politicians demanded abolition of a law that grants immunity from prosecution to American and allied forces and private contractors working for them.

"There was nothing going on at the time of the shooting that could justify it," said Imad Hameed Ibrahim, whose uncle, Nizam Qadir, 25, was killed at the wheel of his taxi. "These foreigners do not care about the lives of Iraqis."

Special correspondents in Najaf and Kirkuk contributed to this report.

Odds Of Survival Improve For The U.S. Military's Best Friends (LAT)

By Chris Kraul, Times Staff Writer

The Los Angeles Times, February 10, 2006

Bomb-sniffing dogs are now vital to the Iraq war effort, and the Army has improved its medical care for those severely wounded in combat.

BAGHDAD — Lt. Col. Randall Thompson knows his life has gone to the dogs. But that's probably a good thing for the Army, the canine corps and for him.

One of only six clinical veterinary surgeons in the U.S. military, Thompson works to save the lives of some of the military's most valued assets: bombsniffing dogs that have been severely wounded in combat. He arrived here in October to open Iraq's first urgent surgical care ward for canines.

Before Thompson's arrival, injured dogs were shipped to a U.S. base in Germany or to the United States for emergency medical treatment. At best, seriously wounded dogs were out of commission for weeks; at worst, they died during transport to a faraway veterinary facility.

The dogs' talent for sniffing out hidden explosive devices has become crucial to the war effort, so the command changed policy.

"It reached a buildup of dogs here and a concern level that said we had to do something to support these animals the best way possible," said Thompson, 46, a native of Savannah, Ga. Quicker medical care means the dogs return to duty sooner, he said. "Every day that we can keep a dog out on the line working is another day that a soldier or Marine is going to live because the dog was doing its job."

By uncovering tons of explosives that insurgents could otherwise use against coalition soldiers, the dogs have saved countless lives, said Col. Arnaldo Claudio, who as 18th Airborne Corps provost marshal commands all military police and dog handlers in Iraq. He declined to disclose the precise number of war dogs here.

"The dogs weren't needed as much when [the war] started. But the threat has changed," he said, referring to insurgents' increasing use of hidden, remote-controlled bombs often fashioned from mortar and artillery shells and detonated by cellphones and pagers. The bombs cause the majority of casualties suffered by U.S.-led forces in Iraq.

Claudio said a bomb-sniffing dog probably saved his life in August when it alerted him and a handler to a roadside bomb at a traffic stop in northern Baghdad.

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"We got out of there and the bomb exploded a few minutes later," Claudio said.

But the dogs and their handlers sometimes pay a steep price. Four-year-old Flapeur was receiving treatment at Thompson's clinic last month. The Belgian Malinois had taken a piece of shrapnel through the chest in a suicide bombing in the Sunni Triangle city of Ramadi days before. He was on crowd-control duty with two other dogs and their handlers when the bomber struck a line of police recruits.

Flapeur's handler, a Marine whom the military declined to identify, was also seriously wounded, as was a second handler. Both were airlifted to Germany for medical treatment. The third handler, Marine Sgt. Adam Cann, was killed in the bombing.

Flapeur and the other injured dogs were taken by helicopter to Baghdad's combat support hospital, just as severely wounded soldiers or Marines would be.

"We would never fly a dog in front of a human casualty. But when there isn't someone ahead of them, we'll fly them," Thompson said.

He and other vets narrowly saved Flapeur, the most severely wounded of the three canines, from dying of shock, blood loss and a collapsed lung. Had the bombing happened before Thompson's arrival, Flapeur almost certainly would have died.

Although the wound left a nasty-looking hole in his chest, Flapeur was alert and friendly after his treatment. He is expected to be back on duty in three months, as is his handler.

Cann's dog, Bruno, will go through training again with a new handler. The third dog, Kevin, is expected back on duty as soon as his handler recovers.

A professed dog lover, Thompson says caring for man's best friend is one of the military's best jobs. "How many of your other friends listen to you attentively, don't talk back and are always glad to be in your company?" Thompson said. He has owned dogs, mostly German shepherds, since he can remember, he said. He and his wife have a Labrador retriever and a Cairn terrier.

Most of the dogs used in bomb-detection operations are either German shepherds or Belgian Malinois; they have been trained to detect explosives and to chase down and detain suspects, Thompson said. Just the sight of them usually deters unruly crowds, however.

"It's the only weapon system we have that you can change your mind on after squeezing the trigger," Thompson said.

The military dogs here were bought almost exclusively in Europe, where the canines are bred for detection and tracking skills. Then they are sent to Lackland Air Force Base in San Antonio for training. Each dog goes through a six-month course to learn how to sense a dozen or more explosives and weapons.

Dogs that complete the training emerge "more reliable than any chip or software, high-tech machine or robot," Claudio said.

The training leaves the dogs with an uncanny ability to detect bombs whether underground, behind walls and aboard passing vehicles. The Air Force distributes dogs to all five branches of the armed forces and to the Transportation Security Administration.

After the Sept. 11 attacks, demand for dogs skyrocketed. Lackland now trains 300 animals a year, 40% more than before the attacks. But there still aren't enough to go around, said Tim Ori, director of operations at the 341st Training Squadron, the unit at Lackland that oversees dog and handler training.

"It is a challenge to fill the demand," said Air Force Capt. Greg Blaylock, an operations officer with the squadron. Dogs average eight years in active duty, and usually "they retire by being adopted out to former military working dog handlers," he said.

Thompson says he is thrilled to be here, both because of his love for dogs and because he has wanted to be near a combat zone ever since he joined the Army at 23 after getting his veterinary degree at University of Georgia. Later, the Army sent him for a three-year surgical residency at North Carolina State's veterinary school.

He was turned down for duty in Somalia and Operation Desert Storm, partly because his skills were needed elsewhere.

"I was frustrated about not getting proximity to a battlefield," Thompson said. "Now I don't think there is a more important job for a veterinarian anywhere in the Army than they one I have here right now."

CORPORATE SCANDALS:

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DoJ Warns AIG To Comply With Settlement (FT)

By Andrew Parker

Financial Times, February 10, 2006

American International Group, the world's biggest insurance company, broke the law after entering into transactions that wrongly boosted its reserves and hid underwriting losses, US prosecutors said on Thursday.

The Department of Justice said AIG "violated federal criminal law" in connection with misleading financial statements issued by the company.

If AIG or any of its employees fail to abide by settlements announced on Thursday with federal authorities, the Justice department warned it could prosecute the company. AIG agreed to pay $1.64bn to federal and state authorities to resolve allegations of accounting abuses and other impropriety. It represents one of the largest settlements involving a public company.

The Justice department said AIG improperly boosted its reserves by $500m in 2000 and 2001 through "sham transactions" with General Re, the reinsurance subsidiary of Warren Buffett's Berkshire Hathaway group.

Although it did not name the individuals who orchestrated the transactions, the Justice department said "high-level executives" at AIG were involved.

It also said AIG hid $200m of underwriting losses in 2000 by improperly converting them into "investment losses" and transferring them to Capco, an offshore reinsurance company.

Under an agreement between AIG and the Justice department, the company accepted responsibility for the actions of its employees in the General Re and Capco transactions.

The Justice department said given AIG's co-operation with its investigation into alleged wrongdoing, and the company's commitment to a settlement with the Securities and Exchange Commission, it would not prosecute for the transactions with General Re and Capco.

However, the Justice department added: "AIG understands and agrees that if AIG or any of its employees, officers and directors fail to comply with, or violate, any provision of this agreement, the department can prosecute AIG for crimes committed by and through its employees related to the AIG/General Re or Capco transactions."

AIG will pay $25m under its agreement with the Justice department, which last week issued criminal charges against one former executive at the company. AIG will pay $800m to the SEC following its investigation into alleged accounting abuses at the company. AIG neither admitted nor denied the SEC's allegations of wrongdoing.

AIG will pay $819m to state authorities to cover alleged bid rigging and under payment of taxes. Martin Sullivan, AIG's chief executive, said the settlements were "a major step forward".

AIG To Pay $1.64 Billion To Settle Charges (AP-Y2)

By Eileen Alt Powell, Ap Business Writer

AP2, February 10, 2006

American International Group Inc., one of the world's largest insurance companies, has agreed to pay $1.64 billion to resolve allegations that it used deceptive accounting practices to mislead investors and regulatory agencies.

The deal — believed to be the biggest concluded by regulators with a single company — also requires the New York-based firm to adopt changes in its business practices that will ensure proper accounting procedures in the future.

AIG said in a statement that the settlement was approved by its board "in the best interest of the company."

The pact announced Thursday settles a civil lawsuit filed last May by New York Attorney General Eliot Spitzer with backing from the New York State Insurance Department and the U.S. Justice Department. The Securities and Exchange Commission, which also worked with Spitzer on the investigation, filed and settled allegations of accounting fraud with the company simultaneously.

The settlement does not cover Maurice "Hank" Greenberg, the company's former chairman and chief executive who was named in the suit but who has pledged to fight it in court.

While acknowledging the civil misconduct and facing a huge fine, AIG at the same time escapes the threat that a criminal case could have been brought.

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The Justice Department said that AIG's agreement spares the company criminal prosecution in exchange for its cooperation with the ongoing federal criminal investigation.

Shareholders welcomed the announcement, sending AIG shares up 74 cents, or 1.1 percent, to close at $67.12 Thursday on the New York Stock Exchange.

AIG said that under the settlement it will pay $800 million for investors who were deceived by AIG's accounting tactics, including a $100 million penalty to the SEC. In addition, it will pay $375 million to AIG policyholders, $344 million to states harmed by AIG's practices from 1986 to 1995 involving state workers' compensation funds, and fines of $100 million to the state of New York and $25 million to the U.S. Justice Department.

AIG said it would take a $1.15 billion after-tax charge in its upcoming fourth-quarter earnings report to cover the settlement. It also announced that it would take a $1.1 billion after-tax charge to increase its reserves to reflect the completion of a recently concluded internal risk study.

AIG said that as part of the deal, it also has agreed "to retain for a period of three years an independent consultant who will conduct a review" of the company's accounting and internal controls.

Donald Light, senior insurance analyst with Celent, a Boston-based research and consulting company, said the settlement "means AIG's board and management is off the hook for anything worse ... such as a criminal case."

He added: "They're paying a lot of money for that, but AIG is huge and this amounts to less than 2 percent of shareholders' equity."

Spitzer told The Associated Press in an interview, "This is a company that didn't have to cheat. But once they began, they found it hard to stop. And like an addict, they grew dependent on financial gamesmanship that could ultimately destroy the company."

He said that the new business practices AIG was adopting would improve the market for property and casualty insurance in the United States by creating "a new level of transparency in the market that all consumers will benefit from.

The SEC's enforcement director, Linda Thomsen, noted that the investigation looked at the entire industry and centered on misuse of specialized insurance vehicles, such as reinsurance.

"While this settlement concludes our investigation of AIG, our investigation continues with respect to others who may have participated in AIG's securities-laws violations," she said.

The settlement with AIG exceeds many of the fines the SEC imposed following a wave of corporate scandals in 2002, including civil fines and restitution of $750 million for WorldCom Inc., $715 million for Adelphia Communications Corp. and $300 million for Time Warner Inc.

It also surpasses the $850 million settlement Spitzer reached last year with New York-based Marsh & McLennan Companies Inc., the nation's largest property and casualty brokerage, over allegations of bid rigging and price fixing as well as hidden commissions.

AIG was among the companies that allegedly participated in the bid-rigging scheme, and four former AIG executives were among 20 insurance executives and officers who have pleaded guilty to charges, Spitzer's office said.

Besides naming AIG, Spitzer's suit alleged that Greenberg and former chief financial officer, Howard I. Smith, orchestrated the scheme.

Greenberg, who resigned from AIG in March, has repeatedly insisted that he followed proper accounting procedures during his 38 years at the helm of AIG. Smith, too, has denied wrongdoing, and neither of the men was involved in the negotiations with the SEC and Spitzer.

In a statement issued late Thursday, Greenberg's spokesman Howard Opinsky said a "white paper" issued by Greenberg's legal team last sumer "debunked many of the allegations" of the regulators. He added: "The suggestion in the attorney general's public comments that Mr. Greenberg may have been involved in any wrongdoing is false. We are confident that when the debate moves from the newspaper to the courts, Mr. Greenberg will be vindicated."

The accounting scandal centered on transactions that AIG under Greenberg concluded with Berkshire Hathaway's General Re. insurance group.

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In its filing, the SEC said the $500 million transactions in 2000 and 2001 "were designed to inflate falsely AIG's loss reserves ... in order to quell analyst criticism that AIG's reserves had been declining."

Three former Gen Re executives and one former AIG executive were indicted last week in connection with the deceptive accounting scheme.

Greenberg was replaced as chief executive by Martin Sullivan, who oversaw the restatement of AIG's earnings back to 2000. The revisions knocked some $2 billion off shareholders' equity and nearly $4 billion off its profits.

Sullivan said in a statement Thursday that the settlement marked "a major step forward in resolving the legal and regulatory issues facing AIG." He said the company was "committed to business practices that provide transparency and fairness in the insurance market."

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AP Writer Michael Gormley in Albany and AP Business Writer Marcy Gordon in Washington, D.C., contributed to this story.

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On the Net:

http://www.aig.com

http://www.oag.state.ny.us

AIG Settles Fraud Charges For $1.64 Bln (REU)

Reuters, February 10, 2006

NEW YORK (Reuters) - American International Group Inc. <AIG.N>, the world's largest insurer by market value, on Thursday agreed to pay $1.64 billion (941 million pounds) to settle charges of fraud, bid-rigging and improper accounting, the biggest regulatory settlement by a single company in U.S. history.

The settlement with New York Attorney General Eliot Spitzer and State Insurance Superintendent Howard Mills, the U.S. Securities and Exchange Commission and the Justice Department ends a long-running investigation of the company, and was widely anticipated.

It does not resolve pending cases against former AIG chief executive Maurice "Hank" Greenberg and former chief financial officer Howard Smith, who were forced out last spring. Both have denied any wrongdoing.

"AIG today is a better company for all that we have been through," said Martin Sullivan, who replaced Greenberg as chief executive.

The company will take a $1.15 billion after-tax charge for the fourth quarter of 2005 for the settlement. It also said it "regrets and apologises" for its conduct, and said providing incorrect information to investors and regulators was "wrong."

In settling, Spitzer pointed the finger directly at Greenberg, who built AIG over nearly four decades, and Smith.

"There are some who continue to deny there was any wrongdoing at the company," the attorney general said in an interview in New York City. "I think the facts are overwhelming in establishing that -- from the highest levels of AIG -- there was an intent to misrepresent its financial condition."

A spokesman for Greenberg maintained that any suggestion the former CEO was involved in wrongdoing is false. A lawyer for Smith could not immediately be reached for comment.

SPITZER PRAISES NEW MANAGEMENT

Spitzer said AIG's new management has done a "spectacular" job of cooperating with investigators and instituting reforms.

The settlement tops the $850 million that Marsh & McLennan Cos. <MMC.N>, the insurance broker once run by Greenberg's son Jeffrey, agreed to pay to resolve bid-rigging accusations by Spitzer. It also tops the $750 million penalty that the SEC imposed against WorldCom Inc. for accounting fraud.

"This settlement removes the largest cloud overhanging the company," said Rob Haines, an analyst with CreditSights.

AIG shares rose 74 cents, or 1.1 percent, to close at $67.12. The shares have risen 34 percent from their 52-week low set last April 29, but remain 8 percent below their level about a year ago, before the company disclosed receiving subpoenas from Spitzer and the SEC.

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AIG will pay $800 million to a fund for investors deceived by its false financial statements, including a $100 million SEC penalty.

Policyholders harmed by bid-rigging will receive $375 million. Another $344 million will go to states harmed by AIG's understating of workers' compensation premiums. New York fined AIG $100 million, and the Justice Department fined it $25 million.

AIG agreed not to pay contingent commissions for certain types of insurance, and said it will support legislation to end them. Such commissions involve brokers and insurers rewarding each other for steering business.

The penalties, along with a higher reserve for property and casualty losses, will reduce AIG's book value by less than 3 percent, UBS AG insurance analyst Andrew Kligerman said.

AIG also agreed to retain an independent consultant for three years to review internal controls and practices. Sullivan said naming a consultant is a "top priority" for the company.

Separately, AIG said it will take a $1.1 billion fourth-quarter charge to increase its loss reserves, and expects $550 million of charges and insurance losses for catastrophes including Hurricanes Katrina and Wilma.

On the conference call, AIG said it plans to report 2005 results on or before March 16.

A.I.G. Apologizes And Agrees To $1.64 Billion Settlement (NYT)

By Gretchen Morgenson

The New York Times, February 10, 2006

Apologizing for deceptive business practices extending as far back as two decades ago, American International Group, the global insurance giant, reached a $1.64 billion settlement yesterday with federal and state securities and insurance regulators.

The company also agreed to changes that would soften its historically combative approach to business, a trademark of its ousted chief executive, Maurice R. Greenberg.

Under the settlement, reached with the Justice Department, the Securities and Exchange Commission, the New York attorney general's office and the New York State Insurance Department, A.I.G. acknowledged that it had deceived the investing public and regulators.

The settlement resolved allegations that A.I.G. had participated in bid-rigging schemes and paid insurance brokers to steer business its way, used fraudulent insurance transactions to bolster the quality and quantity of its earnings and underreported to state insurance departments the amounts of workers' compensation premiums it had collected, on which it owed taxes.

In its apology, A.I.G. said: "Providing incorrect information to the investing public and regulators was wrong and is against the values of our current leadership and employees."

The company said it was committed to business practices "that provide transparency and fairness in the insurance markets."

Both the settlement and the apology are a clear repudiation of the company's practices under Mr. Greenberg, its longtime chief executive who ruled A.I.G. with an iron hand and often battled openly with regulators.

Mr. Greenberg, who was removed by A.I.G.'s board last March, remains under investigation by the Securities and Exchange Commission and the Justice Department and faces a lawsuit by the New York attorney general, Eliot Spitzer.

"This settlement is a complete and total vindication of everything we said from Day 1, despite significant pushback from others," Mr. Spitzer said in an interview. "It sends an important message that this kind of gamesmanship won't be tolerated; we don't care who you are or what company you're running."

Under the terms of the settlement, A.I.G. will pay $200 million in fines and penalties and put $1.5 billion into three funds to benefit victims of the company's deceptions.

One fund, totaling $800 million, will be available to investors who lost money in A.I.G. stock after its accounting irregularities were disclosed. Another $375 million fund will repay former customers who may have paid too much to buy A.I.G.'s insurance policies. A third fund, with $343 million, will go to the states that A.I.G. cheated by underpayment of taxes relating to workers' compensation premiums earned in those states.

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S.E.C. officials said the settlement was important because it will deliver meaningful monetary relief to those harmed by A.I.G.'s conduct.

"While this settlement concludes our investigation of A.I.G., our investigation continues with respect to others who may have participated in A.I.G.'s securities law violations," said Linda C. Thomsen, director of enforcement at the commission.

A.I.G. is also paying $25 million to the United States government to resolve criminal liability arising from its accounting missteps. The company will also cooperate with the Justice Department in its continuing criminal investigation.

A.I.G. has been cooperating with the federal and state investigators since last March, when Mr. Greenberg left the company. Last year, it restated its financial results for five years beginning in 2000, stating that improper accounting during that period had inflated the company's earnings by more than $3 billion.

"These settlements are a major step forward in resolving the legal and regulatory issues facing A.I.G.," Martin J. Sullivan, the company's chief executive, said in a statement. "We have already implemented a wide range of improvements in our accounting, financial reporting and corporate governance, and will continue to make enhancements in these areas."

After taxes, A.I.G. will pay $1.15 billion under the settlement.

A spokesman for Mr. Greenberg issued this statement: "We have already debunked many of the allegations settled today by A.I.G. in a white paper issued last summer. The suggestion in the attorney general's public comments that Mr. Greenberg may have been involved in any wrongdoing is false. We are confident that when the debate moves from the newspaper to the courts, Mr. Greenberg will be vindicated."

Shares of A.I.G. rose 74 cents yesterday, or 1.1 percent, to $67.12.

Yesterday's settlement grew out of two separate inquiries, one in New York and another in Washington. The bid-rigging practices were turned up by Mr. Spitzer's office in a 2004 investigation into insurance brokers who act as middlemen between the corporations that buy insurance and the companies that sell policies. Guilty pleas by officials at Marsh Inc., a unit of Marsh & McLennan, and other insurance brokers led investigators to A.I.G.

In Washington, the S.E.C. uncovered an insurance product sold by A.I.G., known as finite-loss coverage, which seemed designed to help the companies that bought it hide profit shortfalls. In 2003, A.I.G. paid $10 million to settle a lawsuit filed by the S.E.C. over the insurer's sale of finite insurance to Brightpoint Inc., a cellphone distributor in Indiana.

The insurance, which the S.E.C. said A.I.G. had developed "for the specific purpose of helping issuers to report false financial information to the public," helped Brightpoint conceal $11.9 million in losses in 1998.

Investigators soon discovered that finite insurance was also central to a manipulation of A.I.G.'s own results. They uncovered insurance deals the company struck with General Re in late 2000 and early 2001 that were intended to add $500 million in phony loss reserves to A.I.G.'s balance sheet.

Insurance analysts had voiced concern over A.I.G.'s declining reserves in the third quarter, putting pressure on the company's stock; to address the analysts' concerns, A.I.G. bolstered its reserves artificially through the General Re deal.

Last week, federal prosecutors in Virginia charged three former officials of General Re and a former A.I.G. executive with fraud and conspiracy related to the fraudulent transactions.

Under the terms of the settlement, A.I.G. agreed to a raft of reforms. It will soon disclose commissions it pays to insurance brokers on its Web site, create companywide standards of conduct regarding those commissions, and train employees in business ethics, professional obligations, conflicts of interest and recordkeeping procedures. A.I.G. also agreed to hire a consultant to examine its internal controls over financial reporting; regulatory, legal and compliance policies; and adequacy of whistle-blower procedures.

The agreement also stated that the consultant hired by A.I.G. will issue a report to the S.E.C., the New York attorney general, the New York State Insurance Department and A.I.G.'s board recommending best practices for the company to adopt. The consultant will remain on the job for three years.

A.I.G. will also provide New York's superintendent of insurance with a report detailing the reinsurance contracts it has struck with other insurers. Such policies must contain risk transfer if the companies buying them are to receive preferred insurance accounting; where such a risk transfer is not evident, A.I.G. must supply appropriate documentation.

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The settlement requires A.I.G. to cooperate on all examinations and regulatory requests. A.I.G. will cooperate with the New York attorney general in his continuing investigation into the insurance industry and former A.I.G. employees.

AIG Accord May Lighten Its Wallet, But The Stock May Be Poised To Gain (WSJ)

By Ian Mcdonald And Liam Pleven

The Wall Street Journal, February 10, 2006

American International Group Inc. has to write a $1.64 billion check to U.S. regulators and add even more than that to its reserves. But the mammoth insurer's stock might be a bargain.

To some, that may smack of classic up-is-down Wall Street logic. After all, an investigation of the firm's accounting last spring triggered civil-fraud charges from New York authorities, the ouster of iconic Chief Executive Maurice R. "Hank" Greenberg and a restatement of five years of financial results.

The New York insurer -- the world's largest by market value with a more than $172 billion market capitalization -- closed this chapter with yesterday's deal with U.S. and federal authorities, who mainly alleged that in recent years improper accounting smoothed actual profit, not that the insurer created those gains. The $1.64 billion toll is the biggest paid to regulators by any financial-services company in U.S. history. Additionally, the company said it will take a $1.1 billion after-tax charge to boost its reserves by $1.69 billion following an internal review.

American International Group's size makes the twin hits lighter than they would be for most insurers -- profit neared $11.5 billion in the year ended Sept. 30. In 4 p.m. composite trading yesterday on the New York Stock Exchange, AIG's shares were up 74 cents to $67.12.

Those investors who gobbled up shares yesterday likely got it right. Why? Bulls argue that in coming years, AIG shareholders will likely benefit from rising profit and a share price that trades at a higher multiple of that profit, now that investors know the company's accounting issues are put to bed.

"I think the issues that have dogged them are past and there's a lot of value here," says Jeff Arricale, an analyst at portfolio manager T. Rowe Price in Baltimore, which holds AIG stock in several portfolios. "It's a franchise that should be able to generate consistent, double-digit earnings growth for a long time. Everyone talks about that, but few companies do it."

An insurer makes money by selling policies and investing the premiums that customers pay. If premiums tend to outpace the claims it has to pay out and the company earns decent returns on its investments, profit rises. Sharp underwriting acumen also lowers the insurer's borrowing costs -- a big chunk of its overhead -- which creates a positive cycle.

Thanks to savvy management and enviable, double-digit profit growth, AIG's shares have risen nearly 190% during the past decade, almost lapping the return on the S&P 500-stock index, which is up 99% during the period.

The drivers of that success, aside from Mr. Greenberg, are intact. Earnings have risen steadily over the few quarters under new CEO Martin J. Sullivan. A 51-year-old who has worked at the firm since he was a teenager, Mr. Sullivan took the reins from Mr. Greenberg, 80, in March.

In many ways, Mr. Sullivan is left to implement a growth strategy that Mr. Greenberg and some of his departed lieutenants honed over more than three decades. For years, Mr. Greenberg forged ties in emerging foreign markets such as China and Vietnam. In many of these markets, AIG is way ahead of other U.S. companies, offering consumer lending, asset-management, plane-leasing and other noninsurance services.

Chris Winans, a spokesman for AIG, said that generally the company's life and nonlife-insurance businesses in foreign markets are healthy and expanding, and at a faster rate than in the domestic market.

AIG is in a position to benefit because people are getting wealthier in developing markets, but also from people spending an increasing percentage of their mounting wealth on insurance, which is seen as a safe investment. Investors and analysts have long been bullish on those operations and that feeling didn't exit with Mr. Greenberg, who still has eyes on some of AIG's turf through two private-equity funds he still controls.

"It still looks like it's all systems go for AIG," says Dreyfus Neenan, a stock analyst who covers the company for Chicago researcher Morningstar Inc. Mr. Neenan has AIG valued at $80 a share.

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Broadly, analysts have targeted 13% annual earnings growth over the next five years and 18 of the 23 analysts following the stock rate it a "buy" or "outperform," according to Thomson Financial. Despite that forecast, however, AIG's shares look cheap.

Today, the stock trades at about 12 times its projected profit for 2006, about 25% lower than the average stock in the S&P 500. Historically, the stock has traded closer to, and often higher than, a market multiple.

T. Rowe Price's Mr. Arricale notes that if AIG earns roughly $6.20 a share next year, as analysts expect, and trades at just 13.5 times those earnings -- still a 10% discount to the market's historical valuation -- the stock would be fairly valued at more than $80.

Of course, there are worries that could keep that from happening.

Andrew Kligerman, a stock analyst with UBS Securities LLC, sees a range of challenges, including the competitive pressures that come with operating in some mature markets and the need to retain talent. While AIG is a good company, Mr. Kligerman says, whether it will outperform the industry is "the question mark." His target price for the shares is $67. Mr. Kligerman has a "neutral" rating on the stock and AIG has been a UBS client in the past 12 months.

And despite Mr. Sullivan's long tenure with the company, the CEO is still in a "show-me" situation. "Management has handled all this pretty well," says David Dreman, chairman and chief investment officer at Dreman Value Management, a more than $13 billion money manager in Jersey City, N.J.

The firm bought shares roughly a year ago and expects earnings growth of 10% or more. At the same time, Mr. Dreman says, they are waiting to gauge new management's effectiveness this year before adding to the position.

AIG Agrees To Pay $1.64B Fraud Fine Biggest Penalty Ever On A U.S. Company (USAT)

By Elliot Blair Smith

USA Today, February 10, 2006

Insurance giant American International Group settled sweeping state and federal fraud probes Thursday by agreeing to pay $1.64 billion in fines and restitution, twice the highest penalty previously imposed on a U.S. company.

But the cost to AIG's reputation cut deeper. The company said an independent consultant's review had uncovered a $1.7 billion deficiency in its underwriting loss reserves, half related to its previously underestimated exposure to environmental and asbestos claims.

All told, AIG will record nearly $2.3 billion in after-tax charges to its fourth-quarter 2005 earnings. That comes atop a $1.3 billion reduction to its previously reported 2004 earnings last year, amid government investigations and the forced resignation of former chairman and CEO Maurice Greenberg.

New York Attorney General Eliot Spitzer, whose inquiry into insurance industry sales and commission practices led to Greenberg and a wide range of alleged abuses, called AIG “a solid company that didn't need to cheat. It finds itself in this position solely because some senior managers thought it was acceptable to deceive the investing public and regulators.”

Mark Schonfeld, director of the Securities and Exchange Commission's Northeast Regional Office, which joined the state's investigation, said, “We have sought to balance AIG's historical misconduct — which was substantial — with its new approach to compliance and cooperation with regulators and law enforcement.”

However, Greenberg spokesman Howard Opinsky said many of the regulators' allegations previously had been “debunked” in a report by the former CEO's legal defense team last year that termed the company's financial restatements “exaggerated and unnecessary” and argued that Greenberg, now 80, had relied on trusted advisers.

Insurance rating company A.M. Best said the latest reversals of fortune compromised the capital levels of AIG's domestic brokerage group, which “were not considered robust before and therefore provided little cushion for the restated earnings and reserve charge.”

“It's a big amount of money even for a huge company like AIG to have to pay out,” said Celent insurance analyst Donald Light.

The settlement dwarfs the $850 million Spitzer's office levied last year against insurance brokerage Marsh & McLennan in connection with the bid-rigging scandal.

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Greenberg and former CFO Howard Smith still face civil fraud charges in New York state court. And another former AIG executive, Christian Milton, faces a criminal charge related to the company's past dealings with Berkshire Hathaway subsidiary General Re.

AIG To Pay $1.64 Billion To End State, Federal Probes (Update2) (BLOOM)

Bloomberg, February 10, 2006

Feb. 9 (Bloomberg) -- American International Group Inc., the world's largest insurer, agreed to pay $1.64 billion to resolve allegations it misled investors, faked bids, and cheated workers- compensation programs.

The settlements with New York Attorney General Eliot Spitzer, the U.S. Securities and Exchange Commission and the Justice Department include fines and restitution to investors, policyholders and state funds, AIG said in a statement today. The company, which didn't admit or deny any wrongdoing, will pay $800 million in its accord with the SEC, a record for the agency.

The agreement concludes probes dating as far back as 2001 and widens the split between New York-based AIG and ousted Chief Executive Maurice ``Hank" Greenberg, who ran the company for 38 years. AIG's auditors blamed Greenberg for skirting internal controls to alter the company's books, fueling separate accounting fraud allegations against the former CEO.

``The fact that these material misstatements were orchestrated from the very top of the company is clearly demonstrated," Spitzer said before speaking at a New York Law School event in Manhattan today. The settlement ``will send AIG off on a better trajectory."

The company's shares rose 74 cents, or 1.1 percent, to $67.12 in New York Stock Exchange composite trading. Martin Sullivan, the former chief operating officer who replaced Greenberg in March, had promised to settle the probes, helping the company record two-thirds of the $59 billion in market value it lost between February and April.

Reserve Increase

AIG, which restated $3.9 billion of past earnings last year, also today agreed to hire a consultant to monitor its internal controls and financial reporting for three years. Greenberg, 80, has called much of the restatement unnecessary and pledged to fight Spitzer's suit at trial.

AIG separately said it will increase reserves for asbestos and other claims at a cost of $1.1 billion in the fourth quarter. The reserve and settlement costs total $2.25 billion in the quarter, after taxes.

``These settlements are a major step forward in resolving the legal and regulatory issues facing AIG," Sullivan, 51, said in the statement. ``We have already implemented a wide range of improvements in our accounting, financial reporting and corporate governance, and will continue to make enhancements."

AIG will pay $800 million to investors hurt by the alleged misstatements, $375 million to policyholders who may have been cheated by fake insurance bids and $343 million to 50 state workers compensation funds. The company will also pay a $100 million fine to Spitzer and a $25 million penalty to the Justice Department.

Buying Opportunity

The SEC's biggest settlement before today was with WorldCom Inc., which paid $750 million in 2003 to resolve fraud allegations. Spitzer's record with a single company is $850 million to end bid-rigging accusations against Marsh & McLennan Cos., the insurance broker once run by Greenberg's son, Jeffrey.

A $1.6 billion payment equals about 16 percent of what AIG earned in the first nine months of 2005. It costs about 42 cents in per-share earnings and reduces AIG's net worth by about 1.2 percent, Goldman Sachs Group Inc. analyst Thomas Cholnoky said before the agreements were announced. He has an ``outperform" rating on the stock.

``Eliot Spitzer and his focus on AIG presented investors with a great gift to buy the franchise cheaply," said Keith Wirtz, chief investment officer at Fifth Third Asset Management, which holds 1.5 million AIG shares. ``We accumulated the stock in the $40's when this cloud surfaced. Now we think the earnings power of this company suggests to us it may be an $80 stock."

General Re

AIG, which lowered 2000 to 2004 net income by 10 percent in the restatement, is resolving Spitzer's May 2005 lawsuit and an SEC complaint filed today in conjunction with the agreement. At the core of the SEC's case is a reinsurance transaction with a unit of Warren Buffett's Berkshire Hathaway Inc. that inflated AIG's reported reserves for claims by $500 million.

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According to guilty pleas from two former executives of Berkshire's General Re, Greenberg initiated the deal with former General Re CEO Ronald Ferguson in late 2000 because he wanted to appease analysts who were concerned about AIG's reserve levels.

Ferguson and Christian Milton, AIG's former head of reinsurance, were among four indicted on federal charges of conspiring to distort AIG's finances last week. In today's agreement, AIG pledged to cooperate with the Justice Department's investigation of that deal.

Spitzer's suit also said the company used sham reinsurance contracts with offshore entities to hide underwriting losses. AIG had originally reported $3.73 billion in property and casualty underwriting income during the five-year period. After restating, the company showed a $206 million underwriting loss.

Bid-Rigging

The settlement resolves Spitzer's allegations that the company understated premiums to reduce its payments to state funds that finance a portion of benefits for injured workers.

AIG's accord separately clears a 15-month inquiry into price-fixing with insurance brokers including Marsh & McLennan. At least 17 people, including four AIG employees, have pleaded guilty in connection with the investigation. Spitzer's October 2004 suit against Marsh & McLennan accused it of soliciting fake bids from AIG and other insurers that paid hidden fees.

The SEC's investigation of AIG began in 2001 with a probe of policies that mobile-phone distributor Brightpoint Inc. allegedly used to manipulate earnings. The agency continued to look at income-smoothing insurance and reinsurance after AIG paid $10 million to settle the Brightpoint case. More than a dozen companies have been subpoenaed by state and federal regulators.

The SEC today credited AIG for changing its approach to dealing with regulators and cooperating fully in the agency's most recent investigation.

``Just a year ago, facing its third SEC investigation in as many years, AIG was on a path to disaster," Andrew Calamari, an SEC official in New York, said today. ``We are very encouraged that the company has now chosen a different path."

To contact the reporters on this story: George Stein in New York at ghstein@bloomberg.net; Jesse Westbrook in Washington at jwestbrook1@bloomberg.net. Last Updated: February 9, 2006 16:12 EST

The Cleanup Continues (NYT)

The New York Times, February 10, 2006

It's not about the money. After the settlement yesterday between regulators and the insurance giant American International Group, a lot of attention focused on the dollars: $1.6 billion. It is an impressive figure. But the money should not obscure the higher goal of an honest corporate environment.

Smart investors look at a company's balance sheet, its assets and liabilities, its sales and its profit before deciding whether to sink their savings into its stock. They assume that the corporation is telling the truth and operating within the law before taking a leap of faith by purchasing its shares. A.I.G. employees betrayed that trust in numerous ways, misleading investors and policyholders alike.

According to the Securities and Exchange Commission and the New York attorney general's office, A.I.G. engaged in bid-rigging, fraud and improper accounting. Like many companies in this era of corporate scandals, the fraud was meant to make the company look better than it really was.

A.I.G. engaged in what regulators describe as sham transactions to inflate its reserves by $500 million. Why go to all that trouble? According to the S.E.C., the company did it to "quell analyst criticism."

Rather than focusing on the long-term health of their businesses, too many executives worry about share prices and analysts' reactions. Equity markets are an important concern, but they are fickle, unpredictable and secondary. It's the bottom line, stupid.

In Houston, a jury is hearing testimony about a much bigger sham in the trial of the former bosses of Enron, Kenneth Lay and Jeffrey Skilling. Enron executives showed a similar obsession with financial analysts. The former head of investor relations

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described for the court how Enron, an energy company, would fudge quarterly results if earnings came in even a single penny short of outside expectations.

These targets are like point spreads for sports gamblers. Whatever they sell, companies should concentrate on business and leave the odds-makers to play their games.

The difference between Enron and A.I.G. is that Enron was a house of cards, but A.I.G. was and still is, as New York's attorney general, Eliot Spitzer, put it, "a solid company that didn't need to cheat." A.I.G. appears to be back on track, with a new management team and approval from regulators for its cooperation. Let's hope they don't call it a day with the fat check and let others, including the company's former chief executive and chairman, Maurice Greenberg, off the hook.

Enron Witness's Plea Bargain Is Questioned By The Defense (NYT/REU)

By Reuters

The New York Times, February 10, 2006

HOUSTON, Feb. 9 (Reuters) — A lawyer for Jeffrey K. Skilling, a former chief executive of Enron, suggested Thursday that a crucial prosecution witness in the trial of Mr. Skilling and another former chief executive, Kenneth L. Lay, did not commit the crimes he admitted to under a plea deal with prosecutors.

The witness, Mark E. Koenig, Enron's former head of investor relations, is the first of several former Enron employees who are expected to testify against Mr. Skilling and Mr. Lay after striking deals with the government to avoid trials.

Defense lawyers have said that many of the government's witnesses who reached deals were not guilty but buckled under pressure because they lacked the wherewithal to mount a defense at trial and feared they could face lengthy prison sentences if convicted.

Mr. Skilling's lawyer, Daniel Petrocelli, questioned Mr. Koenig about the plea deal, which could send him to prison for up to 10 years for aiding and abetting securities fraud, saying at one point: "Don't you think this is pretty thin stuff?"

A visibly angry Mr. Koenig replied, "I don't think it's thin, or else I wouldn't have pleaded guilty to it."

Mr. Lay and Mr. Skilling are charged with conspiracy and fraud and are accused of trying to hide the company's poor financial state as it plunged toward bankruptcy in December 2001.

Mr. Skilling also faces insider trading charges.

Mr. Koenig, in six days on the witness stand in Federal District Court, has said he and other top executives at Enron misled investors and analysts about revenue and conspired to inflate profits to impress Wall Street.

In his plea agreement, Mr. Koenig admitted to misrepresenting transactions three times on conference calls with financial analysts in 2001, although he later recanted one of those episodes.

Mr. Lay's lawyer, Michael Ramsey, took up the attack where Mr. Petrocelli left off, asking Mr. Koenig whether he had told a friend he was not guilty of any crimes.

"Isn't it true, Mark, you told a very close friend and former co-worker that you were not guilty and did not commit a crime?" Mr. Ramsey asked.

"That's not true," Mr. Koenig replied.

Former Enron Investor Relations Chief Defends Guilty Plea (WP)

By Carrie Johnson

The Washington Post, February 10, 2006

Witnesses Were Intimidated Into Deals, Defense Says

HOUSTON, Feb. 9 -- Defense lawyers attacked the guilty plea of a former Enron Corp. executive Thursday, calling the deal "pretty thin stuff" in an effort to advance their argument that witnesses had been intimidated into cooperating with the government.

But in his sixth day of testimony against former chairman Kenneth L. Lay and chief executive Jeffrey K. Skilling, the company's onetime investor relations chief soundly rejected the idea.

"I don't think it's thin, or I wouldn't have pled guilty to it," Mark E. Koenig said of his August 2004 plea to a single count of aiding and abetting securities fraud.

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Without prompting, Koenig then reminded jurors of previous testimony in which he described efforts by the company to meet or exceed Wall Street targets by two pennies in 2000, more than two weeks after the fiscal quarter closed.

"Frankly, I was afraid these things would come back to me for years," Koenig said of misleading statements he made to analysts about the health of one of Enron's units. He faces as much as 10 years in prison when he is sentenced.

The exchanges punctuated another long day in which the eight-woman, four-man jury heard audiotapes and videotapes of stock analyst calls and employee meetings in which Skilling and Lay gave largely optimistic assessments of Enron's finances in the months before its filing for bankruptcy protection.

Both defendants argue that the company collapsed in a "panic" and that the vast majority of 16 former executives who pleaded guilty did so to preserve money for their families and to escape long prison sentences. Skilling and Lay, who say they are not guilty, could spend the rest of their lives in prison if they are convicted on fraud and conspiracy charges.

Michael Ramsey, lead defense lawyer for Lay, urged Koenig to answer only the questions he was asked. Ramsey confronted the witness about statements he allegedly made to a close friend and former Enron employee who Ramsey said indicated that Koenig did not think he had engaged in wrongdoing at Enron. Koenig called the woman, who is not on the defense witness list, a "dear friend" but said the account was wrong. Defense lawyers could later seek to call her to rebut his testimony.

Ramsey spent most of the afternoon seeking to explore "clues relative to the sudden death of Enron." But U.S. District Judge Simeon T. Lake III affirmed most objections by Assistant U.S. Attorney Kathryn H. Ruemmler and headed Ramsey away from that line of questioning.

"I'm allowing you to question this witness," the judge told Ramsey. "I'm not allowing you to argue your case in the guise of questioning this witness."

Ramsey gained more ground when he attempted to portray Lay as less focused on details and more on leading the company's "public relations, politically oriented, diplomatically oriented" efforts before returning as chief executive upon Skilling's abrupt August 2001 departure. Lay moved in high-level political circles, meeting with Vice President Cheney about energy policy and conversing at least twice with presidential adviser Karl Rove, according to a 2001 analyst call the jury heard Thursday afternoon.

Ramsey said Lay had to "re-immerse himself" in the day-to-day operations at Enron.

Late in the day, the judge pronounced one line of questioning "a waste of time" and urged the defense to move on to other topics. Koenig is expected to return to the witness stand for most of Monday. The trial will last at least four months.

Lay's Lawyer Argues That Panic In Market Sank Enron, Not Fraud (WSJ)

By John R. Emshwiller And Gary Mcwilliams

The Wall Street Journal, February 10, 2006

HOUSTON -- Nearly two weeks into the criminal trial of his client, former Enron Corp. Chairman Kenneth Lay, defense attorney Michael Ramsey began his questioning of the government's first witness with a jab, then turned to pounding home the defense's argument that Enron collapsed because of a market panic rather than fraud.

Mr. Ramsey sharply challenged former Enron investor-relations chief Mark Koenig on whether he actually believed that he was guilty of the Enron-related crime he pleaded guilty to in 2004. Mr. Koenig has a cooperation agreement with the government in hopes of reducing his sentence. He is the first witness in the criminal fraud and conspiracy trial under way here against Mr. Lay and former Enron President Jeffrey Skilling.

Mr. Ramsey asked whether Mr. Koenig had told a friend and former Enron colleague that he had done nothing wrong, or simply made a misstatement during a call with securities analysts. Mr. Koenig firmly denied that he made such comments. Mr. Ramsey hinted that he might call the friend to testify later in the case.

The line of questioning begun yesterday by Mr. Ramsey is part of a broad defense of Enron's business practices being mounted by the legal teams for Messrs. Lay and Skilling. While Enron, in the more than four years since its December 2001 collapse, has become a synonym for corporate malfeasance, the Lay and Skilling defense teams are betting that they can convince the jury that Enron was a great company felled by an array of outside forces. Prosecutors counter that the two

defendants led a years-long scheme to hide numerous problems at Enron, which finally collapsed when some of those problems became public.

Although the first government witness, Mr. Koenig, took the stand in the middle of last week, Mr. Ramsey didn't begin questioning him until yesterday afternoon. Prosecutor Kathryn Ruemmler took a little over two days to question Mr. Koenig, who claimed that Messrs. Lay and Skilling took part with him in making false or misleading statements to the public on a variety of matters about Enron.

Following Ms. Ruemmler, Mr. Skilling's lead counsel, Daniel Petrocelli, cross-examined Mr. Koenig for some three days, during which time the attorney repeatedly tried to emphasize the complexity of Enron's operations and the limited knowledge Mr. Koenig had of those activities. Mr. Petrocelli claimed that Mr. Koenig's knowledge was so limited that things he said were improper really weren't.

Mr. Ramsey then turned to matters beginning in August 2001, when Mr. Skilling unexpectedly quit and Mr. Lay assumed his duties. He began questioning Mr. Koenig regarding outside partnerships, known as LJM1 and LJM2, that had done large amounts of business with Enron and had been run by the company's chief financial officer, Andrew Fastow. "LJM was going to turn out to be a real big deal in 2001," Mr. Ramsey said.

In his opening argument last week, Mr. Ramsey argued that articles in The Wall Street Journal in the fall of 2001 raising questions about the LJM operation helped spark the market "panic" that sank Enron. Yesterday, Mr. Ramsey suggested that the Enron-LJM relationship was proper, but that the Journal treated it as "scandalous."

Mr. Ramsey also began going through various problems Enron had in August 2001, including political and business headaches from the California electricity crisis and the impact of a troubled power project in India. Such concerns, Mr. Ramsey said, were "pulling down the price of Enron stock" in the summer of 2001, making the company more vulnerable to the turmoil that later arose.

Cross-examination of Mr. Koenig is scheduled to resume Monday.

Lay's Attorney Hits Snags In Dealings With Witness (USAT)

By Greg Farrell

USA Today, February 10, 2006

HOUSTON — The lawyer representing former Enron CEO Ken Lay finally got a chance to cross-examine the government's first witness Thursday, and whiffed.

Shortly after the lunch break at federal court here, attorney Mike Ramsey attacked the credibility of Mark Koenig. The former Enron investor relations chief has pleaded guilty and is cooperating with the prosecution of Lay and another former Enron CEO, Jeff Skilling, on charges of hiding the true state of Enron's financial health from investors in 2000 and 2001.

“Isn't it true that after you pleaded guilty you told a very close friend and former co-worker that you were not guilty and committed no crime?” he asked. “Haven't you admitted to Joanie Williamson, sir, that you were not guilty?” Koenig denied telling Williamson any such thing. Ramsey then threatened to have Williamson testify. “So if she said that (on the stand), she'd be lying, perjuring herself?” Ramsey asked. “That's right,” Koenig stated defiantly.

Ramsey dropped the subject and immediately began quizzing Koenig about several topics that have yet to be fully introduced through testimony. At each point, U.S. District Judge Sim Lake shut him down.

When Ramsey tried to get Koenig to talk about private partnerships formed by former CFO Andrew Fastow, dubbed LJM1 and LJM2, Lake curtailed him. When Ramsey tried to get Koenig to talk about threats made against Lay by the attorney general of California about allegations of price-gouging, Lake again urged him to move on, sustaining a government objection by saying, “Go ahead and ask your next question.”

Finally, when Ramsey wanted Koenig to agree with his point that the meltdown of tech stocks in 2001 supported Lay's statements that Enron Broadband was in tough straits, Lake seemed to lose his patience. “This is an undue waste of our time,” he said.

Earlier Thursday, Skilling lawyer Dan Petrocelli asked Koenig about his decision to plead guilty to one count of aiding and abetting securities fraud in 2004. Although Koenig admitted in the agreement that he misled investors on numerous occasions,

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he cited three instances in particular where he made false statements to investors. “Don't you think this is pretty thin stuff?” Petrocelli asked. “I didn't think it was thin, or I wouldn't have pleaded guilty,” Koenig said.

In their opening arguments, Petrocelli and Ramsey both declared that there was no criminal conspiracy at Enron, and that many of those who pleaded guilty, such as Koenig, had been forced to do so rather than face worse charges at a criminal trial.

Koenig's cross-examination continues today. If it finishes, prosecutors plan to call Ken Rice, former CEO of Enron Broadband Services, as their next witness.

Enron Judge Stops Lay's Lawyer's Bid To Focus Trial On Fastow (BLOOM)

By Jef Feeley Laurel Brubaker Calkins

Bloomberg, February 10, 2006

Feb. 9 (Bloomberg) -- The federal judge presiding over the fraud trial of former Enron Corp. top executives Kenneth Lay and Jeffrey Skilling stopped a bid by Lay's lawyer to shift the focus of the trial onto the misdeeds of an Enron subordinate.

U.S. District Judge Sim Lake in Houston sustained prosecutors' objections to questions by Michael Ramsey, Lay's lead defense lawyer, about off-book partnerships former finance chief Andrew Fastow created to do Enron-related deals. Fastow has pleaded guilty to a fraud charge stemming from Enron's collapse.

Lake did allow Ramsey to cross-examine Mark Koenig, who ran Enron's investor communication unit, about whether Fastow's LJM partnerships caused concern among shareholders. Koenig is in his sixth day of testimony in the trial of former chairman Lay and former chief executive officer Skilling.

``It was not something our competitors did," Koenig said about the off-book partnerships. ``It was different, so we got questions about it."

Prosecutors contend Lay, 63, and Skilling, 52, used the partnerships to help hide billions in Enron's debt and losses to pump up the company's earnings. The government contends the accounting fraud led to the collapses of what was once the U.S.'s seventh-largest company by sales.

Enron had more than $68 billion in market value before it filed for bankruptcy in December 2001, wiping out thousands of jobs and at least $1 billion in retirement funds almost overnight. Investors suing over the company's collapse claim accounting fraud led to at least $25 billion in losses.

Normal Practices

Skilling's and Lay's defense lawyers argue the two men engaged in normal corporate practices and that neither conspired to mislead investors or Enron workers who sank millions in retirement funds into the company's stock.

Prosecutors told jurors in opening arguments Jan. 31 they'd focus on Skilling's and Lay's lies and deceptions rather than company's complex financial and accounting transactions.

Defense lawyers have sought to frustrate the government's efforts by questioning Koenig extensively about the specifics of sophisticated financing deals and the operations of Fastow's partnerships.

Fastow created the LJM partnerships, named for his wife and sons, in 1999 to buy poorly performing assets from Enron or invest in the company's deals. He's alleged to have reaped at least $25 million in fees from the partnership's Enron-related deals while still serving as the company's CFO.

Fastow E-Mail

Skilling's and Lay's defense team has painted Fastow as a ``crook" who hid the fees he received from Enron-related deals from his bosses and the company's board. They've also said Fastow's partnerships were blessed by the company's lawyers, accountants and directors, and disclosed in Enron's securities filings.

Ramsey questioned Koenig today about an e-mail he received from Fastow in August 2001 indicating that he was no longer involved in the partnership. That obviated the need to disclose any further deals to investors.

``At the time you got the e-mail, did you have any reason to believe Mr. Fastow was a dishonest person?" Ramsey asked. ``At the time, no," Koenig said.

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Lake barred Ramsey from asking Koenig whether he'd learned that Fastow said the partnership's future Enron-related deals didn't have to be disclosed because he'd sold his interest in it. Ramsey said Fastow had sold LJM to former Enron executive Michael Kopper and ``was splitting profits with him."

Conflicting Interests

Kopper, who'd worked under Fastow in Enron's finance department and took over as LJM2's general manager in July 2001, has also pleaded guilty to an Enron-related fraud charge.

Outside investors who sank more than $387 million into the partnership sued Kopper in state court in Delaware in 2001 to oust him as head of the entity.

They argued he had conflicting interests in connection with Enron-related deals and wrongfully collected $6 million in management fees. A judge removed Kopper in March 2002.

During cross-examination earlier today, Daniel Petrocelli, Skilling's main defense lawyer, noted that Koenig had made a mistake when he detailed his wrongdoing as part of his guilty plea.

Koenig pleaded guilty in August 2004 to a single count of aiding and abetting securities fraud in connection with Enron's collapse. He's facing a maximum sentence of 10 years in prison. Prosecutors could ask a judge to cut his sentence for his cooperation in the Skilling and Lay case.

Wrong Lie

Koenig originally told prosecutors he'd lied to investors about why some Enron's retail energy division's functions were shifted to the company's trading unit.

Prosecutors contend the functions were moved as part of an effort to hide losses in that unit. Koenig said he downplayed the reasons for the move to investment analysts during a July 2001 conference call.

The former Enron executive said while reviewing transcripts of the call years later, he discovered it was actually Skilling who'd told analysts on the call that the functions were moved ``to get some more efficiency." He alerted prosecutors to the mistake and they changed the documentation on his plea.

Petrocelli questioned why Koenig would plead guilty to something he didn't do.

``I pled guilty to aiding and abetting securities fraud," Koenig said. He added that his wrongdoing included more than one statement on a conference call. ``I don't think it's thin or I wouldn't have pled guilty to it."

Skilling's and Lay's lawyers are seeking to persuade jurors that prosecutors coerced lower-level executives like Koenig into pleading guilty to crimes they didn't commit with the threat of lengthy prison terms.

Lay is charged with seven counts of fraud and conspiracy, plus four counts of bank fraud that will be tried separately after his first trial. Skilling faces 31 counts of fraud, conspiracy and insider trading.

The case is U.S. v. Skilling, No. 04-cr-25, U.S. District Court, Southern District of Texas (Houston).

Witness: Lay Took On New Duties At Enron (AP)

By KRISTEN HAYS, AP Business Writer

AP, February 10, 2006

HOUSTON -- Enron Corp.'s former investor-relations chief on Thursday acknowledged that founder Kenneth Lay had to jump back into nuts-and-bolts management of his company when he resumed the role of chief executive after Jeffrey Skilling resigned less than four months before Enron collapsed in December 2001.

"He had to get more involved, yes," Mark Koenig said in response to cross examination by lead Lay lawyer Michael Ramsey in his sixth day on the witness stand. Koenig is the government's first witness in the fraud and conspiracy trial of his former bosses.

"He was involved before, but he took on a whole new duty," Koenig said. Lay remained chairman of Enron throughout 2001, but he ceded the CEO position to Skilling in February that year. Skilling abruptly resigned six months later.

Lay's new duties included a hastily arranged conference call with Wall Street analysts on the day Enron announced Skilling's resignation in mid-August 2001, Koenig said. He said Enron was obligated to make executives available on the call to try to calm any market jitters sparked by the unexpected resignation.

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Ramsey's questioning appeared to try to highlight what Lay claimed publicly when he was indicted in July 2004: Lay knew of no skullduggery, and was like a student cramming for an exam when his hand-picked successor as CEO quit.

"We think the company's on solid footing," Lay told analysts on the August 2001 conference call played in court for the jury. On the same call, Skilling tried to reassure analysts that his departure was "purely a personal decision" and he stressed that it had nothing to do with Enron.

Ramsey said he expected to finish questioning Koenig on Monday, when the trial will resume.

At times, U.S. District Judge Sim Lake shut down Ramsey's efforts to delve into issues that weren't covered first when prosecutors questioned Koenig. Court rules limit cross examination to areas touched on in direct examination.

In one instance, Ramsey sought to question Koenig about a comment about Lay by California Attorney General Bill Lockyer to the Wall Street Journal in early 2001, the second year the state suffered through a power crunch that led to rolling blackouts and astronomical utility bills. Neither Lay nor Skilling are charged with manipulating California's power market, but three former Enron traders have pleaded guilty to doing so.

"Do you know of personal threats made against Mr. Lay by the attorney general of California?" Ramsey asked, his voice raised.

When a prosecutor objected, Lake cut Ramsey off. "I don't know of any threats against Mr. Lay that came up on direct," the judge said.

Lockyer told the Journal in May 2000, "I would love to personally escort Lay to an 8 by 10 cell that he could share with a tattooed dude who says, 'Hi my name is Spike, honey.'"

Skilling lawyer Daniel Petrocelli, before he wrapped up three days of cross examination, sought to show how Skilling discussed bad news with analysts in conference calls earlier in 2001. Those discussions included the meltdown of the telecom industry in 2001 as Enron pushed its venture into broadband and bandwidth trading. The downturn siphoned potential bandwidth trading partners, he said.

The broadband unit never earned a profit and filed for bankruptcy protection alongside its parent in December 2001. Prosecutors contend Lay and Skilling hid bad news as they painted a falsely rosy picture of Enron.

"You understand in conference calls, you have to be careful and cautious in how the questions are answered?" Petrocelli asked.

"You want to be accurate, yes," Koenig replied.

Koenig is among 16 ex-Enron executives who have cut plea deals with prosecutors. He pleaded guilty in August 2004 to aiding and abetting securities fraud for lying to investors about Enron's finances. As head of investor relations, he was the company's chief liaison to Wall Street.

He told jurors Thursday he isn't proud of his actions.

"I was frankly afraid these things would come back to me for years," Koenig said.

The defense teams have suggested to jurors that Koenig and other ex-Enron executives pleaded guilty to crimes they didn't commit out of fear of lengthy prison terms or pressure from prosecutors.

Enron, once the nation's seventh-largest company, collapsed amid revelations of billions of dollars hidden debt and inflated profits.

Both face decades in prison if convicted. Both sold millions of dollars in stock before Enron went bankrupt, but only Skilling faces allegations of improper stock sales.

Skilling faces 31 counts of fraud, conspiracy, insider trading and lying to auditors for allegedly conspiring to fool investors into believing Enron was healthy. Lay faces seven counts of fraud and conspiracy for perpetuating the alleged ruse after Skilling quit.

Both say no fraud occurred at Enron other than a few executives skimming money, and they are innocent of any wrongdoing.

A Second Mistrial Is Declared In Fraud Case Against The Former Chairman Of Cendant (NYT)

By Stacey Stowe

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The New York Times, February 10, 2006

HARTFORD, Feb. 9 — For the second time, the fraud trial of Walter A. Forbes, the former chairman of the Cendant Corporation, ended in a mistrial after the jury announced on Thursday that it had failed to reach a unanimous verdict in its 27th day of deliberations.

The mistrial occurs as a similar accounting-fraud prosecution involving Enron is under way. In such complex cases, the jury can sift through hours of expert testimony about arcane financial procedures and the responsibilities of executives only to find itself unable to render a verdict.

Last July, another prosecution for accounting fraud ended in a mistrial in the case of five former executives with Enron Broadband Services when jurors found themselves deadlocked on most charges.

"My understanding of your note is that you've reached the point where you believe that further deliberations would not be beneficial," Judge Alvin W. Thompson of Federal District Court in Hartford said Thursday. "Is that correct?"

"It is, your honor," said the jury foreman, Ken Premo.

"Then I declare a mistrial," Judge Thompson said.

Mr. Forbes, who faced more than 20 years in prison if convicted, betrayed no emotion when the decision was announced but kept his eyes locked on the jury. Asked moments later if he had a statement, he replied, "None," and quickly left the courtroom, followed by his wife, Caryn, and other family members. His lawyers also declined to comment.

A spokesman for Christopher J. Christie, the United States attorney for New Jersey, said the government had not yet decided whether it would prosecute Mr. Forbes again.

"We're keeping our options open," said the spokesman, Michael Drewniak. At the end of court on Thursday, Judge Thompson scheduled a conference call on Monday with prosecutors and defense lawyers.

Mr. Forbes, 63, of New Canaan, Conn., was charged with conspiracy and securities fraud and with submitting false reports to the Securities and Exchange Commission. Prosecutors said he inflated income at CUC International, which merged in 1997 with HFS Inc., to form Cendant, a real estate and travel services company. The stock lost almost half of its value in one day when, three months after the merger, Cendant disclosed evidence of accounting irregularities.

The case against Mr. Forbes relied on testimony from former financial executives of CUC who pleaded guilty to fraud charges and testified that their superiors participated in the manipulation. Throughout the 24-day trial, Mr. Forbes's lawyers portrayed him as a visionary who relied on accountants to handle the workaday aspects of business.

The Cendant case also resulted in the largest payment to settle a lawsuit brought by shareholders who lost money in a fraud. Cendant paid $2.85 billion to settle, while its auditor, Ernst & Young, paid $335 million. Before it was eclipsed by WorldCom and Enron, the Cendant case was the largest accounting fraud in America. Company shareholders lost $19 billion after it was disclosed in 1998.

John C. Coffee, a professor at Columbia University School of Law, said a second mistrial in the Cendant case was "an ominous signal for the Enron case" and a cautionary tale about the difficulties of trying cases that involve complex and often befuddling accounting procedures.

"There's a great deal of difficulty about teaching the jury the equivalent of an intermediate college course in accounting," he said, adding that prosecutors would have been better served by focusing on the most vivid examples of criminal behavior.

But at least one juror did not feel the accounting issues were too complex. Mr. Premo, the jury foreman and a maintenance technician who lives in Windsor Locks, Conn., said, "I was able to sort it out." He described the deliberations as "cordial."

Citing a directive from Judge Thompson that jurors provide only their own opinions and not comment on the actions or opinions of fellow jurors at the end of the trial, he said, "I would have convicted."

"I wouldn't say it was clear cut. I really had to look at the facts. My opinion was based more on the actions of a C.E.O. and the lack of actions of a C.E.O."

Although the jury deliberated for 27 days, some of those were half days and many were not consecutive as Judge Thompson accommodated various requests for absences or early departures. On Tuesday, Judge Thompson dismissed a juror after he admitted that he had researched Cendant. By law, jurors can consider only court testimony in their deliberations.

The jury did not meet on Wednesday. On Thursday morning, rather than appoint an alternate, Judge Thompson directed the 11-member jury to continue its work. Less than one hour later, the jury foreman sent a note saying he believed that the jury was unable to reach a unanimous verdict.

Barry Simon, one of Mr. Forbes's defense lawyers, asked for a mistrial but Michael Martinez, one of two prosecutors trying the case, said the note was "somewhat equivocal," and asked Judge Thompson to direct the jurors to continue working despite a possible deadlock.

Judge Thompson had told the jury once before, on Jan. 5, to continue its work when the jury claimed it could not reach a unanimous decision on the 12th day of deliberations. On Thursday, he declared a mistrial after he confirmed that the jury was indeed deadlocked.

In January 2005, the first attempt to prosecute Mr. Forbes, a 1968 graduate of Harvard Business School, also ended in a mistrial when, after hearing seven months of testimony, the jury deadlocked on all charges against him after 33 days.

A co-defendant in that trial, E. Kirk Shelton, 50, former vice chairman of Cendant, was convicted on all 12 counts of conspiracy, securities fraud, mail fraud and wire fraud. He was sentenced to 10 years in prison but is appealing his conviction.

In The Cendant Trial, Ignorance Was An Excuse (NYT)

By Floyd Norris

The New York Times, February 10, 2006

Walter A. Forbes was paid more than $100 million as chairman and chief executive of the CUC Corporation. To hear him tell it, he did not do very much to earn the money.

Operations of the company, he testified at a trial where he faced charges of masterminding a fraud that cost investors billions, were left to others.

He admitted signing quarterly and annual financial statements that turned out to be fraudulent, but said he neither prepared nor read them.

"We were a public company with thousands of employees, divisions all over the country and all over the world," he testified. "I don't think they would have expected me to be reading 10-Q's."

It was a defense that worked at his first trial, when a jury convicted CUC's No. 2 official but was unable to reach a verdict on Mr. Forbes. And it has worked again. Yesterday, the jury in the second trial was dismissed after it, too, was unable to reach a verdict after 27 days of deliberations. [Page C6.]

The jury foreman, Ken Premo, said afterward that he did not feel the accounting issues in the trial had been too complex and thought that Mr. Forbes was guilty. But, he added, "I wouldn't say it was clear cut."

If he had been convicted, Mr. Forbes would have faced more than 20 years in prison. A spokesman for Christopher J. Christie, the United States attorney for the New Jersey district, said the government had not yet decided whether it would prosecute Mr. Forbes a third time.

The fraud was discovered after CUC merged with another company, HFS, to form the Cendant Corporation, with holdings that included Avis car rental and Century 21 real estate. When the fraud was discovered in 1998, it was called the largest accounting fraud in American history — and investors lost $19 billion when Cendant's stock fell in the wake of the disclosure. But the company subsequently lost the title as Enron and WorldCom collapsed in scandal.

The fact pattern at Cendant would prove to be similar to the later rush of accounting fraud cases. The chief financial officer first denied anything was wrong, then confessed and agreed to testify against his boss. But orders to falsify books, if they were given, were given orally and documents were scarce.

In the WorldCom trial, the jury believed the chief financial officer and convicted Bernard J. Ebbers, the former chief executive. At HealthSouth, the jury chose not to believe a series of financial officers and acquitted Richard M. Scrushy, the former chief executive.

Now, two former Enron chief executives, Kenneth L. Lay and Jeffrey K. Skilling, are on trial in Houston, with Andrew S. Fastow, the former chief financial officer, expected to be a star prosecution witness. The strategy chosen by lawyers for the

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former Enron bosses is radically different, arguing that there really were no crimes and that the company failed because negative publicity caused a loss of confidence.

In the Forbes trial, Cosmo Corigliano, the former chief financial officer, testified that the books were cooked for years at Mr. Forbes's direction, and that every quarter he and Mr. Forbes discussed how much money would be taken from inflated reserves and used to increase profits to meet targets. Over the three-year period covered in the indictment, $250 million was thus added to profits.

Mr. Forbes denied that the conversations took place, and he also said he had never seen the "cheat sheets" that Mr. Corigliano said were shown to him each quarter, detailing how much the profits were being inflated.

Mr. Forbes, who has an M.B.A. degree from Harvard, as well as bachelor's and master's degrees in journalism from Northwestern University, testified he knew little of accounting and never paid any attention to how the profit figures were compiled.

To some extent, the case came down to a "he said, he said" battle between the men. Brandon Sullivan, Mr. Forbes's lawyer, branded Mr. Corigliano a liar and said there had to be at least a reasonable doubt whether he was telling the truth.

But the prosecution pointed to other inconsistencies in the testimony. Steven Kernkraut, an analyst from Bear Stearns, testified that he had held discussions with Mr. Forbes regarding how merger reserves were set, and why the reserve for one merger was increased months after it was completed.

Mr. Forbes said that was wrong. "I never had a conversation with him after the deal was announced" regarding the reserves, he testified.

He also denied testimony from Mike Monaco, the HFS chief financial officer, that Mr. Forbes had fought to keep Ernst & Young as the auditor of CUC's books after the merger, even proposing that the company have two auditors.

Mr. Forbes said he never heard of such an idea, although he acknowledged that he was at a meeting whose minutes said the idea was discussed and rejected. Ernst had failed to spot the fraud, and the prosecution claimed Mr. Forbes wanted to keep the firm because he thought it could continue to be fooled.

Although the charges at the trial covered just three years, Mr. Corigliano told the court, when he pleaded guilty in 2000, that the fraud had been going on since the early 1980's, when he joined the company from Ernst & Whinney, a predecessor of Ernst & Young.

An accounting official, who said he followed Mr. Corigliano's orders to cook books, said he had followed similar orders from Mr. Corigliano's predecessor, Stuart Bell, who left the company in 1995. Mr. Bell, who was not charged with any crime, did not testify.

In describing his own role at CUC, Mr. Forbes said he was a visionary who mapped strategy and guided the company into mergers that enabled it to grow. But even there, he said, he avoided the details.

"I knew it was a strategic fit," he said in discussing one large acquisition, "but I never actually visited the company or met the principals."

Mr. Forbes said he was "stunned and shocked" when he first heard there were problems with the books. But he soon agreed to step down as chairman in return for a $47 million severance package that he promised to return to the company if he were convicted of a crime.

He quickly transferred many of his assets to his wife, but said he did not remember a warning from his lawyer that such an action would be viewed by prosecutors as an admission of guilt. At his first trial, he said the lawyer advised him there was nothing wrong with the transfer. At the second trial, the lawyer denied telling him that.

Those contradictions did not bother all the jurors, at least not enough to produce a conviction. Unless the government is willing to force a third trial, Mr. Forbes will have prevailed with his defense of not having any idea what was happening at the company he ran, just as Mr. Scrushy did.

Preliminary Approval Given To Bristol-Myers' $185M Shareholder Settlement (LAW/AP)

By Theresa Agovino, The Associated Press

AP, February 10, 2006

DOJ_NMG_0013829

Bristol-Myers Squibb Co. said Thursday that a judge gave preliminary approval for a proposed $185 million settlement to end a class action lawsuit that alleges the drugmaker artificially inflated its stock price by making false and misleading claims about an experimental heart drug.

U.S. District Judge Stanley Chesler entered preliminary approval of a settlement for the case pending in the U.S. District Court in New Jersey, relating to the drug known as Vanlev, the company said. Vanlev was never approved.

Under the proposed settlement, Bristol-Myers Squibb will pay $185 million to create a settlement fund to pay the claims of certain investors who purchased Bristol-Myers Squibb common stock during the period from Oct. 19, 1999 through March 20, 2002.

Last month, Bristol-Myers announced it had reached a settlement with plaintiff lawyers and had established a reserve to settle the case. At that time, Thomas Dubbs, a plaintiffs lawyer in the case, said he hoped the settlement would act as a deterrent to other companies hiding damaging information.

The settlement also includes provisions regarding the company's commitment to the public disclosure of the results of certain clinical trials and the registration of trials on an appropriate publicly accessible database.

The shareholders' lawsuit alleges that company executives praised Vanlev as a potential blockbuster despite knowing it had potentially severe side effects as early as 1996.

But on April 19, 2000, Bristol-Myers announced it was withdrawing its application for approval from the U.S. Food and Drug Administration because of side effects. The stock fell 39 percent, according to the suit.

In July 2000, Bristol-Myers said it would test Vanlev at lower doses, where the problem of side effects didn't seem as severe. The complaint alleges that there were still problems at the lower doses and that Bristol-Myers didn't announce it to the market until March 20, 2002, sending the stock down more than 15 percent.

The company said it agreed to the settlement without any admission of wrongdoing.

The court has set another hearing in the case for May 11.

Futures Traders Resist Tighter Oversight Plan (WSJ)

By Michael Schroeder

The Wall Street Journal, February 10, 2006

WASHINGTON -- The Commodity Futures Trading Commission's reputation as a toothless regulator has been changing. Spurred by complaints that natural-gas prices have driven up the cost of fertilizer and farming, Congress is working on legislation to allow the CFTC to expand its regulation of energy trading in the commodity and over-the-counter market.

Some Wall Street traders, concerned by a spate of energy-manipulation cases brought by the CFTC, are fighting back. They are working to water down the policing authority of the CFTC, thereby stalling legislation to reauthorize the agency, which has operated without a charter since Sept. 30.

By law, the CFTC must be reauthorized every five years. There isn't much pressure to pass legislation before the charter expires because the agency's operating budget continues to be funded. However, every five years, various interests use the reauthorization legislation to strengthen or weaken the CFTC.

The CFTC was created in 1974 to oversee futures and options trading in agricultural and mineral contracts on commodity exchanges, such as the Chicago Mercantile Exchange. Wall Street regularly has succeeded in limiting its regulatory oversight. In late 1998, after the near-collapse of hedge fund Long-Term Capital Management, the then-chairwoman of the agency suggested that the CFTC should consider some regulation of derivatives contracts. Financial institutions, though, used their lobbying clout to get Congress to pass a bill in 2000 that exempted OTC derivatives -- and specifically energy transactions -- from most regulatory oversight. (The CFTC retained some authority to investigate wrongdoing in the market.)

This time around, energy users complain that shortages of natural gas have created a market dominated by speculators who manipulate prices.

Leading the effort is the American Public Gas Association, which represents gas utilities, and the Industrial Energy Consumers of America, which represents gas-consuming industries such as manufacturers and fertilizer producers.

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Late last year, the House passed its version of the CFTC reauthorization bill with a last-minute amendment to help the regulator investigate natural-gas price manipulation on the OTC markets. In these markets, traders at banks, hedge funds and money management firms privately arrange transactions among themselves by phone or computer. Most natural-gas trading occurs over the counter.

The provision, by Rep. Sam Graves (R., Mo.) and Rep. John Barrow (D., Ga.), charges the CFTC with preventing and detecting manipulation of natural-gas markets, outlines more record-keeping requirements and increases the penalties for violations.

Mr. Graves said the measure stemmed from complaints by agriculture groups that natural-gas prices had driven up the costs of fertilizer and farming. Mild winter weather has spared consumers from steeper price increases.

State officials also are getting in the act. Utah Republican Gov. Jon Huntsman has called on federal agencies to probe the gas market and determine if prices are being manipulated. Massachusetts Attorney General Tom Reilly has sought to end what he describes as legal market manipulation of natural-gas prices in the state.

Scrutiny of energy markets rose after electricity traders at Enron Corp. and other companies fleeced California residents of hundreds of millions of dollars in 2002 by contriving power shortages. That triggered an energy-industry probe by the CFTC, which found widespread price manipulation. Nearly $300 million in fines has resulted from its investigation of about 55 energy companies -- with 27 companies and 23 individuals charged with either false-data reporting or attempted market manipulation.

John Damgard, president of the Futures Industry Association, which represents commodity exchanges, futures traders and banks, said the CFTC -- which has fewer than 500 employees and an annual budget of $97 million this year -- has no business investigating commodity scams. Federal prosecutors should be responsible for filing criminal cases against violators, he said.

Financial firms have taken note of the CFTC's pursuit of energy fraud in the OTC market. Energy users point to the slew of cases as evidence that the CFTC must have OTC policing powers.

Gregory Mocek, the CFTC enforcement director, said because trades on exchanges and over the counter are interdependent, each energy-enforcement case brought by the agency included violations that occurred on the OTC market.

Supporters of more oversight fear the financial-services lobby will not only kill the natural-gas provision in the House bill but may go further and try to water down the CFTC's existing enforcement authority.

"We'll do whatever we have to do to make sure (the natural-gas provision) won't pass," said Robert Pickel, executive director of the International Swaps and Derivatives Association.

The opposition -- led by the futures and derivatives trade groups, the Bond Market Association and the Securities Industry Association -- has focused its lobbying on senators on both sides of the aisle, CFTC commissioners and staff, and Treasury and Federal Reserve officials. They argue that giving the CFTC more oversight authority on the OTC market would cause an exodus of U.S. trading business to less-regulated foreign markets.

"It's a cruel hoax that giving the CFTC more regulatory power will bring down the prices of natural gas and gasoline," Mr. Damgard said.

The dispute has bottled up legislation in the Senate, where the leadership has said it won't schedule a vote until there is enough agreement on a CFTC bill to assure passage.

The final arbiter likely will be a group of presidential advisers that includes the chiefs of the Federal Reserve, Treasury Department, Securities and Exchange Commission and CFTC. In letters to members of Congress, the Fed and Treasury have raised objections to any such regulation of OTC transactions, based on fears that it could cause "legal uncertainty" and breed lawsuits that could disrupt the market.

CRIMINAL LAW:

Cheney 'Authorized' Libby To Leak Classified Information (NATJOUR)

By Murray Waas, National Journal

National Journal, February 9, 2006

DOJ_NMG_0013831

Vice President Dick Cheney's former chief of staff, I. Lewis (Scooter) Libby, testified to a federal grand jury that he had been "authorized" by Cheney and other White House "superiors" in the summer of 2003 to disclose classified information to journalists to defend the Bush administration's use of prewar intelligence in making the case to go to war with Iraq, according to attorneys familiar with the matter, and to court records.

According to sources with firsthand knowledge, Cheney authorized Libby to release additional classified information, including details of the NIE, to defend the administration's use of prewar intelligence in making the case for war.

Libby specifically claimed that in one instance he had been authorized to divulge portions of a then-still highly classified National Intelligence Estimate regarding Saddam Hussein's purported efforts to develop nuclear weapons, according to correspondence recently filed in federal court by special prosecutor Patrick J. Fitzgerald.

Beyond what was stated in the court paper, say people with firsthand knowledge of the matter, Libby also indicated what he will offer as a broad defense during his upcoming criminal trial: that Vice President Cheney and other senior Bush administration officials had earlier encouraged and authorized him to share classified information with journalists to build public support for going to war. Later, after the war began in 2003, Cheney authorized Libby to release additional classified information, including details of the NIE, to defend the administration's use of prewar intelligence in making the case for war.

Previous coverage of the CIA leak investigation from Murray Waas

Libby testified to the grand jury that he had been authorized to share parts of the NIE with journalists in the summer of 2003 as part of an effort to rebut charges then being made by former U.S. Ambassador Joseph Wilson that the Bush administration had misrepresented intelligence information to make a public case for war.

Wilson had been sent on a CIA-sponsored mission to investigate allegations that the African nation of Niger had sold uranium to Iraq to develop a nuclear weapon. Despite the fact that Wilson reported back that the information was most likely baseless, it was still used in the President's 2003 State of the Union speech to make the case for war.

But besides sharing details of the NIE with reporters during the effort to rebut Wilson, Libby is also accused of telling journalists that Wilson's wife, Valerie Plame, had worked for the CIA. Libby and other Bush administration officials believed that if Plame played a role in the selection of her husband for the Niger mission, that fact might discredit him.

A federal grand jury indicted Libby on October 28, 2005, on five counts of making false statements, perjury, and obstruction of justice, alleging that he concealed his role in leaking information about Plame to the media. He resigned his positions as chief of staff and national security adviser to Cheney the same day. Libby has never claimed that Cheney encouraged him to disclose information about Plame to the media.

In a January 23 letter, related to discovery issues for Libby's upcoming trial, Fitzgerald wrote to Libby's attorneys: "Mr. Libby testified in the grand jury that he had contact with reporters in which he disclosed the content of the National Intelligence Estimate ("NIE") … in the course of his interaction with reporters in June and July 2003.… We also note that it is our understanding that Mr. Libby testified that he was authorized to disclose information about the NIE to the press by his superiors."

Although it is not known if Cheney had told the special prosecutor that he had authorized Libby to leak classified information to reporters, Dan Richman, a professor of law at Fordham University and a former federal prosecutor for the Southern District of New York, said, "One certainly would not expect Libby, as part of his defense, to claim some sort of clear authorization from Cheney where none existed, because that would clearly risk the government's calling Cheney to rebut that claim."

The public correspondence does not mention the identities of the "superiors" who authorized the leaking of the classified information, but people with firsthand knowledge of the matter identified one of them as Cheney. Libby also testified that he worked closely with then-Deputy National Security Adviser Stephen Hadley and White House Deputy Chief of Staff Karl Rove in deciding what information to leak to the press to build public support for the war, and later, postwar, to defend the administration's use of prewar intelligence.

In the correspondence, Fitzgerald also asserted that Libby testified that he had met with then-New York Times reporter Judith Miller on July 8, 2003, with the "purpose" of intending "to transmit information" to her "concerning the NIE."

That particular meeting has been key to Fitzgerald's investigation because the special prosecutor alleges that Libby lied both to the FBI and to his federal grand jury by saying that he had not discussed Plame with Miller on that date, when in fact he did tell her of Plame's work for the CIA.

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In an account of her grand jury testimony, Miller has written that Libby discussed the NIE with her: "Mr. Libby also cited a National Intelligence Estimate on Iraq, produced by American intelligence agencies in October 2002 … which he said had firmly concluded that Iraq was seeking uranium." Portions of the NIE were later declassified, but the material in it related to Niger was still classified at the time.

Libby, through a spokesperson, declined to comment, and the vice president, through a spokesperson, also declined to comment for this story.

The new disclosure that Libby has claimed that the vice president and others in the White House had authorized him to release information to make the case to go to war, and later to defend the administration's use of prewar intelligence, is significant for several reasons. First, it significantly adds to a mounting body of information that Cheney played a central and personal role in directing efforts to counter claims by Wilson and other administration critics that the Bush administration had misused intelligence information to go to war with Iraq.

Second, it raises additional questions about Libby's motives in concealing his role in leaking Plame's name to the press, if he was in fact more broadly authorized by Cheney and others to rebut former Ambassador Wilson's charges. The federal grand jury indictment of Libby alleges that he had lied to the FBI and the federal grand jury by claiming that when he provided information to reporters about Plame's CIA employment, he was only passing along what he understood to be unverified gossip that he had heard from other journalists.

Instead, the indictment charges that Libby had in fact learned of Plame's CIA status from at least four government officials, Cheney among them, and from classified documents. Indeed, much of Libby's earliest and most detailed information regarding Plame's CIA employment came directly from the vice president, according to information in Libby's grand jury indictment. "On or about June 12, 2003," the indictment stated, "Libby was advised by the Vice President of the United States that Wilson's wife worked at the Central Intelligence Agency in the Counterproliferation Division."

Libby testified that Cheney told him about Plame "in an off sort of, curiosity sort of, fashion," according to other information recently unsealed in federal court. Not long after that date, Libby, White House Deputy Chief of Staff Karl Rove, and a third administration official began to tell reporters that Plame had worked at the CIA, and that she had been responsible for sending her husband to Niger.

Finally, the new information indicates that Libby is likely to pursue a defense during his trial that he was broadly "authorized" by Cheney and other "superiors" to defend the Bush administration in making the case to go to war. Libby does not, however, appear to be claiming that he was acting specifically on Cheney's behalf in disclosing information about Plame to the press.

Libby's legal strategy in asserting that Cheney and other Bush administration officials authorized activities related to the underlying allegations of criminal conduct leveled against him, without approving of or encouraging him to engage in the specific misconduct, is reminiscent of the defense strategy used by Oliver North, who was a National Security Council official in the Reagan administration.

North, a Marine lieutenant colonel assigned to the National Security Council, implemented the Reagan administration's efforts to covertly send arms to Iran in exchange for the release of American hostages held in the Middle East, and to covertly fund and provide military assistance to the Nicaraguan Contras at a time when federal law prohibited such activities. Later, it was discovered that North and other Reagan administration officials had diverted funds they had received from the Iranian arms sales to covertly fund the Contras.

If Libby's defense adopts strategies used by North, it might be in part because the strategies largely worked for North and in part because Libby's defense team has quietly retained John D. Cline, who was a defense attorney for North. Cline, a San-Francisco partner at the Jones Day law firm, has specialized in the use of classified information in defending clients charged with wrongdoing in national security cases.

Among his detractors, Cline is what is known as a "graymail" specialist-an attorney who, critics say, purposely makes onerous demands on the federal government to disclose classified information in the course of defending his clients, in an effort to force the government to dismiss the charges. Although Cline declined to be interviewed for this story, he has said that the use of classified information is necessary in assuring that defendants are accorded due process and receive fair trials.

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In the Libby case, Cline has frustrated prosecutors by demanding, as part of pretrial discovery, more than 10 months of the President's Daily Brief, or PDBs, the president's morning intelligence briefing. The reports are among the most highly classified documents in government, not only because they often contain sensitive intelligence and methods, but also because they indicate what the president and policy makers consider to be the most pressing national security threats. In the past, the Bush administration has defied bipartisan requests from the Intelligence committees in Congress to turn over PDBs for review.

After Cline demanded the PDBs, Fitzgerald wrote to him on January 9 that the prosecutor's office has only "received a very discrete amount of material relating to PDBs" and "never requested copies of PDBs" themselves, in part because "they are extraordinarily sensitive documents which are usually highly classified." Moreover, Fitzgerald wrote, only a relatively small number of PDB pages included reference to Wilson's trip to Niger.

But Cline has insisted that it is imperative for his client's defense to be able to review the PDBs because part of Libby's defense is that he may have had a faulty memory regarding conversations he had with government officials and reporters regarding Plame, in that he had so many other pressing issues to consider every day as chief of staff and national security adviser to the vice president.

In a January 31 court filing, attorneys for Libby argued: "Mr. Libby will show that, in the constant rush of more pressing matters, any errors he made in FBI interviews or grand jury testimony, months after the conversations, were the result of confusion, mistake, faulty memory, rather than a willful intent to deceive."

In the North case, the Iran-Contra independent counsel, Lawrence Walsh, was forced to dismiss many of the central charges against North, including the most serious ones-that North defrauded taxpayers by diverting proceeds from arms sales to Iran to finance the Nicaraguan Contras-because intelligence agencies and the Reagan administration refused to declassify documents necessary for a trial on those charges.

Walsh and many of his deputies believed that the Reagan Justice Department refused to declassify documents necessary to try North because officials were personally sympathetic to him. A North trial would also have politically embarrassed the Reagan administration, and a North conviction might have led to charges against higher officials.

In court filings, Walsh said that much of what intelligence agencies and the Reagan administration had refused to declassify had long before been published in the media or made public in some other way.

"It was a backdoor way of shutting us down," said one former Iran-Contra prosecutor, who spoke only on the condition that his name not be used, because his current position as a private attorney requires frequent dealings with attorneys who were on the other side of the North case at the time. "It was a cover-up by means of an administrative action, and it was an effective cover-up at that."

The former prosecutor added: "The intelligence agencies do not declassify things on the pretext that they are protecting state secrets, but the truth is that we were investigating and prosecuting their own. The same was true for the Reagan administration. Cline was particularly adept at working the system."

Is it possible that a prosecution of Libby might be impeded or even derailed entirely by the refusal of the Bush White House or its Justice Department to declassify information that might be necessary to try Libby? "Under the current statute, it may well be the attorney general's call-or whomever he designates-to ultimately decide what should be declassified, and what might not be, in the Libby case," said Michael Bromwich, a former associate Iran-Contra independent counsel and a former Justice Department inspector general.

William Treanor, the dean of Fordham University's Law School, and also a former associate Iran-contra special counsel, said that it is less likely that the Bush administration would challenge Fitzgerald as former administrations did with special prosecutors. Walsh, dealing with the Reagan and elder Bush administrations, and Whitewater independent counsel Kenneth Starr, dealing with the Clinton administration, often alleged that political appointees in the Justice Department worked purposely to undermine their investigations.

"Walsh and Starr were not appointed by an attorney general," Treanor said, noting that Walsh, Starr, and earlier special prosecutors had been appointed by a three-judge federal panel instead of by the Justice Department. Currently, he pointed out, special prosecutors are appointed by the attorney general or their designate.

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"With Walsh or Starr, the president and his supporters could more easily argue that a prosecutor was overzealous or irresponsible, because there had been a three-judge panel that appointed him," Treanor said. "With Fitzgerald, you have a prosecutor who was appointed by the deputy attorney general [at the direction of the attorney general]. The administration almost has to stand behind him because this is someone they selected themselves. It is harder to criticize someone you yourself put into play."

There are other reasons why it might prove difficult to undercut Fitzgerald, including outstanding questions about the role that Cheney and others in the Bush administration played in the effort to discredit Wilson, and the fact that Cheney is still the point man in defending the White House's use of prewar intelligence on Iraq.

And the new disclosure, that Libby is alleging that Cheney and other Bush administration officials "authorized" him to disclose classified information as a means to counter charges that the administration misused prewar intelligence, might also make it difficult for this administration to refuse to declassify information for Libby's trial.

But a Libby defense strategy asserting that he released classified information or took other actions as broadly authorized by Cheney might have other advantages, if the North case is any guide. At North's trial, the counts on which the jury acquitted him tended to be those involving actions that appeared to be authorized by superiors. He was found guilty of three felonies on which the evidence indicated that he was acting on his own initiative or for his own financial benefit.

"It was a memorable and powerful moment when North told the jury that he was 'a pawn in a chess game played by giants,'" Treanor said.

The claims by North that his activities had been broadly authorized by higher-ups, including even the president, also worked to his advantage when he was sentenced. Despite the fact that North had been convicted of three felonies and that Iran-Contra prosecutors argued before sentencing that letting North off with "only a slap on the wrist … would send exactly the wrong message … [only] 15 years after Watergate," he was sentenced to only probation, a fine, and community service.

North's trial judge, U.S. District Court Judge Gerhard Gesell, took note that the jury had acquitted North of criminal charges mainly where it appeared that his conduct might have been authorized by higher authorities: "Observing that many others involved in the events were escaping without censure or with prosecutorial promises of leniency or immunities, [the jury] used their common sense. And they gave you the benefit of a reasonable doubt."

Explaining his own leniency in sentencing the former NSC aide, Gesell told North: "I do not believe you were a leader at all, but really a low-ranking subordinate to carry out initiatives of a few cynical superiors. You came to be a point man in a very complex power play developed by higher-ups."

Later, North's convictions were overturned on appeal because of concerns that some of the evidence used against him during his trial might have been derived from his testimony before the House-Senate Iran-Contra investigating committee. North had been given immunity for that testimony.

But most outside legal observers say that Libby, because he was himself such a high-ranking official, will most likely face a much more difficult time than North did in arguing that, in some of his activities, he was just carrying out orders from Cheney or other senior White House officials.

"A defendant can make a claim that he is just a victim of Washington politics or doing the bidding for someone else," said Richman, the former prosecutor, "But there may be limits to a jury's sympathy when that defendant himself was so high-ranking. Given Libby's position in the White House, the jury is less likely to view him as a sacrificial lamb than as a sacrificial ram."

Libby: White House 'Superiors' Authorized Leaks (AP)

The Associated Press, February 10, 2006

WASHINGTON — A former top aide to Vice President Dick Cheney told a federal grand jury that his superiors authorized him to give secret information to reporters as part of the Bush administration's defense of intelligence used to justify invading Iraq, according to court papers.

Special prosecutor Patrick Fitzgerald said in documents filed last month that he plans to introduce evidence that I. Lewis "Scooter" Libby, Cheney's former chief of staff, disclosed to reporters the contents of a classified National Intelligence Estimate in the summer of 2003.

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The NIE is a report prepared by the head of the nation's intelligence operations for high-level government officials, up to and including the president. Portions of NIEs are sometimes declassified and made public. It is unclear whether that happened in this instance.

In a Jan. 23 letter to Libby's lawyers, Fitzgerald said Libby also testified before the grand jury that he caused at least one other government official to discuss an intelligence estimate with reporters in July 2003.

"We also note that it is our understanding that Mr. Libby testified that he was authorized to disclose information about the NIE to the press by his superiors," Fitzgerald wrote.

White House spokesman Scott McClellan refused to comment. "Our policy is that we are not going to discuss this when it's an ongoing legal proceeding," he said.

William Jeffress, Libby's lawyer, said, "There is no truth at all" to suggestions that Libby would try to shift blame to his superiors as a defense against the charges.

Libby, 55, was indicted late last year on charges that he lied to FBI agents and the grand jury about how he learned CIA operative Valerie Plame's identity and when he subsequently told reporters. He is not charged with leaking classified information from an intelligence estimate report.

Plame's identity was published in July 2003 by columnist Robert Novak after her husband, former U.S. Ambassador Joseph Wilson, accused the administration of twisting intelligence about Iraq's efforts to buy uranium in Niger. The year before, the CIA had sent Wilson to Niger to determine the accuracy of the uranium reports.

Wilson's revelations cast doubt on President Bush's claim in his 2003 State of the Union address that Iraq was trying to develop a nuclear bomb and had sought to buy uranium in Africa as one of the administration's key justifications for going to war in Iraq.

On Thursday, Sen. Edward Kennedy, D-Mass., said Cheney should take responsibility if he authorized Libby to share classified information with reporters.

"These charges, if true, represent a new low in the already sordid case of partisan interests being placed above national security," Kennedy said. "The vice president's vindictiveness in defending the misguided war in Iraq is obvious. If he used classified information to defend it, he should be prepared to take full responsibility."

In the summer of 2003, White House officials — including Libby — were frustrated that the media were incorrectly reporting that Cheney had sent Wilson to Niger and had received a report of his findings in Africa before the war in Iraq had begun.

In an effort to counter those reports, Libby and other White House officials sought information from the CIA regarding Wilson and how his trip to Niger came about, according to court records.

Fitzgerald, in his letter to Libby's lawyers, said he plans to use Libby's grand jury testimony to support evidence pertaining to the White House aide's meeting with former New York Times reporter Judith Miller.

During the meeting with Miller on July 8, Libby also discussed Plame, Fitzgerald said. "Our anticipated basis for offering such evidence is that such facts are inextricably intertwined with the narrative of the events of spring 2003, as Libby's testimony itself makes plain," the prosecutor wrote.

Miller spent 85 days in jail for refusing to discuss her source.

Ex-Cheney Aide Testified Leak Was Ordered, Prosecutor Says (NYT)

By Neil A. Lewis

The New York Times, February 10, 2006

WASHINGTON, Feb. 9 — I. Lewis Libby Jr., the former chief of staff to Vice President Dick Cheney, told a grand jury that he was authorized by his "superiors" to disclose classified information to reporters about Iraq's weapons capability in June and July 2003, according to a document filed by a federal prosecutor.

The document shows that Mr. Libby, known as Scooter, was actively engaged in the Bush administration's public relations effort to rebut complaints that there was little evidence to support the claim that Saddam Hussein possessed or sought weapons of mass destruction, which was used to justify the invasion of Iraq.

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The document is part of the prosecutors' case against Mr. Libby, who has been indicted on charges that he lied about his role in exposing the identity of a C.I.A. operative to journalists.

The prosecutor, Patrick J. Fitzgerald, said in a letter to Mr. Libby's lawyers last month that Mr. Libby had testified before the grand jury that "he had contacts with reporters in which he disclosed the content of the National Intelligence Estimate ('NIE')," that discussed Iraq's nuclear weapons capability. "We also note that it is our understanding that Mr. Libby testified that he was authorized to disclose information about the NIE to the press by his superiors."

Mr. Libby was indicted on five counts of perjury and obstruction of justice last October in what Mr. Fitzgerald has charged was a willful misleading of investigators about his role in exposing Valerie Wilson as an officer of the Central Intelligence Agency. Ms. Wilson is the wife of Joseph C. Wilson IV, a former ambassador who had accused the administration of twisting intelligence about Iraq's efforts to buy uranium from the government of Niger.

Ms. Wilson's identity was first disclosed in a column by Robert D. Novak in July 2003, just after Mr. Wilson wrote an Op-Ed column in The New York Times saying he had investigated the Niger claim and found little evidence to support it. Mr. Wilson charged that destroying his wife's undercover status was a way to discredit him and his assertions.

The prosecutor's note of Jan. 23 does not, however, make any reference to Mr. Libby's involvement in the disclosure of Ms. Wilson's identity. It seems, rather, to be part of an effort by the prosecutor to demonstrate that Mr. Libby was engaged in using secret information to press the administration's case at the same time that Ms. Wilson's identity was leaked to reporters.

The letter was first reported Thursday by the National Journal, which said its sources had identified that one of the superiors was Mr. Cheney.

The National Intelligence Estimate, which was done in October 2002, said that Iraq "will probably have a nuclear weapon during this decade," but it included some dissenting views. The report was classified.

But amid doubts about the rationale for the invasion of Iraq some of which were attributable to Mr. Wilson's Op-Ed article, the administration declassified the report on July 18.

Mr. Fitzgerald said in his letter that Mr. Libby discussed the contents of the classified report in a July 8 meeting — 10 days before it was declassified — with Judith Miller, then a reporter at The Times. Ms. Miller, who spent 85 days in jail before agreeing to testify in the leak case, has told the grand jury that Mr. Libby told her about Ms. Wilson at the same meeting.

Mr. Fitzgerald said that Mr. Libby's testimony showed how Ms. Wilson's status was disclosed. "Our anticipated basis for offering such evidence is that such facts are inextricably intertwined with the narrative of the events of spring, 2003, as Libby's testimony itself makes plain," he wrote.

Mr. Libby's lawyers have already suggested they will mount a defense in which they will not challenge the charge that he made misstatements about how he learned of Ms. Wilson's identity and whether he shared that information with reporters. They have said that any statements he made to investigators that might have been untrue were the result of his preoccupation with many serious matters of national security at the time.

Libby Says 'Superiors' Authorized Leaks (LAT)

By Richard B. Schmitt

The Los Angeles Times, February 10, 2006

WASHINGTON — Former vice presidential aide I. Lewis "Scooter" Libby has told a federal grand jury that his "superiors" authorized him to leak highly sensitive intelligence to journalists, including a New York Times reporter he allegedly tipped off to the name of an undercover CIA operative.

The revelation is contained in a Jan. 23 letter from Special Prosecutor Patrick J. Fitzgerald to lawyers for Libby, who was indicted in late October in connection with the leak of the operative's name. In the letter, Fitzgerald recounts testimony in which Vice President Dick Cheney's former chief of staff admitted circulating portions of the National Intelligence Estimate to reporters in June and July 2003.

"It is our understanding that Mr. Libby testified that he was authorized to disclose information about the [National Intelligence Estimate] to the press by his superiors," Fitzgerald wrote.

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The letter did not identify those superiors. The National Journal reported on its website Thursday that Cheney, who was Libby's direct boss at the time, had authorized the disclosures.

The revelation that leaks were authorized comes as the Bush administration has been quick to condemn others for failing to safeguard secrets since the Sept. 11 terrorist attacks. Cheney has been among the most aggressive in lashing out against what officials have described as unauthorized leaks that have gravely hurt the country.

In a speech Thursday evening at the Conservative Political Action Conference, Cheney made no reference to the report of Libby's testimony.

But he renewed his sharp criticism of the leak that led to December reports in the New York Times that the National Security Agency was monitoring communications, without court warrants, between people in the U.S. and suspected Al Qaeda operatives outside the country.

"The terrorist surveillance program was highly classified, and information about it was improperly given to the news media," the vice president said.

Noting that Atty. Gen. Alberto R. Gonzales had appeared before the Senate Judiciary Committee on Monday, Cheney added: "As the attorney general pointed out this week, it's easy to imagine America's enemies shaking their heads in amazement that anyone would disclose this information, thereby giving notice to those enemies and [endangering] national security, putting our citizens at risk. But that is what happened."

The surveillance program, he said, has helped prevent attacks and "remains essential" to U.S. security.

Lea Anne McBride, Cheney's press secretary, referred questions about the Libby letter to Fitzgerald's office. She declined to discuss whether Cheney had been involved with the leaks, saying only, "We continue to cooperate fully with the investigation." A spokesman for Fitzgerald declined to comment.

In late December, the Justice Department launched an aggressive leak investigation into media reports about the domestic surveillance program. In another case, the CIA is believed to have asked Justice Department officials to probe the sources of a Washington Post report last year that the agency was operating a secret prison system for terrorist suspects in Europe.

The National Intelligence Estimates are reports that are meant to convey a consensus view in the intelligence community on issues confronting policymakers. Portions of the documents are sometimes made public.

Fitzgerald's letter did not specify which National Intelligence Estimate Libby shared with reporters or whether it was classified, and Fitzgerald has not charged Libby with disclosing classified information. Fitzgerald said in the letter that he intended to introduce the testimony at Libby's trial, set for January 2007, as part of establishing a "narrative of the events" rather than to show that a crime was committed.

Fitzgerald wrote in the correspondence, which was part of a defense motion filed Jan. 31, that Libby had testified that he caused at least one other government official to discuss an intelligence estimate with reporters in July 2003.

One such report, produced in October 2002, was a foundation of the administration's flawed case for going to war in Iraq. It asserted that Saddam Hussein had chemical and biological weapons and was rebuilding his nuclear program. Cheney was among the most ardent administration proponents of that viewpoint, although a report by the Senate Intelligence Committee subsequently found that none of the claims were backed up by evidence.

Libby, 55, was indicted on charges of obstruction of justice, making false statements and perjury. Prosecutors contend that he lied to FBI agents and a federal grand jury about how he learned the identity of CIA operative Valerie Plame.

The unmasking of Plame, in a July 2003 article by columnist Robert Novak, has been linked to the administration's rationale for going to war in Iraq. In 2002, at the request of the CIA, Plame's husband, former Ambassador Joseph C. Wilson IV, traveled to Niger to investigate allegations that Hussein had sought to purchase uranium there. In a New York Times op-ed article published eight days before Novak's column appeared, Wilson accused the administration of twisting intelligence about Iraq's nuclear capabilities.

Wilson's concerns, which had surfaced anonymously earlier that spring, were a source of frustration and irritation for Cheney and other officials.

Libby and Karl Rove, Bush's chief political strategist, have acknowledged speaking with reporters about Plame in the days before Novak's column was published. Libby testified that he first learned of Plame's identity from Tim Russert of NBC News, but

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Fitzgerald charged that the former aide had lied and that he had learned her identity independently and spread it around. Among the people who told Libby that Wilson's wife worked at the CIA was Cheney, the indictment of Libby alleges.

Fitzgerald said in his Jan. 23 letter that Libby testified that he met with Judith Miller of the New York Times on July 8, 2003, to transmit information about the intelligence estimate. Fitzgerald has separately alleged that at the same interview, Libby advised Miller of his belief that Wilson's wife worked for the CIA.

Miller, who spent 85 days in jail before agreeing to testify about her interviews with Libby, has written that Fitzgerald asked her whether Libby had indicated that Cheney had authorized the conversations or was even aware of them.

"The answer was no," Miller wrote.

Libby Testifies Superiors Approved Secret-Data Leak (WSJ)

By Anne Marie Squeo And John D. Mckinnon

The Wall Street Journal, February 10, 2006

WASHINGTON -- Special Prosecutor Patrick Fitzgerald has informed attorneys for former Vice Presidential Chief of Staff I. Lewis Libby that Mr. Libby said he was authorized "by his superiors" to leak classified information in mid-2003 as part of the Bush administration's defense of the war in Iraq.

In a Jan. 23 letter, released as part of a court filing by Mr. Libby's defense team, Mr. Fitzpatrick discusses Mr. Libby leaking parts of what is known as the National Intelligence Estimate to reporters. It specifically states that Mr. Libby testified to the grand jury that he discussed material in the classified document with reporters. In the letter, Mr. Fitzgerald goes on to say, "it is our understanding that Mr. Libby testified that he was authorized to disclose information about the NIE to the press by his superiors."

Mr. Libby, facing trial for lying to federal investigators and a grand jury in a federal probe into whether administration officials purposely blew the cover of covert Central Intelligence Agency official Valerie Plame, wasn't charged with leaking classified information.

Ms. Plame's husband, former ambassador Joseph Wilson, had publicly and privately rebuked the administration's reasoning for the war in Iraq.

But the disclosure that Mr. Libby told a grand jury that he was authorized by his superiors, possibly including Vice President Dick Cheney, to reveal secret information to the press is embarrassing for the White House. President Bush initially insisted he would fire anyone involved in leaking the CIA operative's name and his administration has prided itself on controlling information. Mr. Bush has called for an investigation into which administration officials leaked information related to the classified warrantless wiretapping program he launched after Sept. 11; the Justice Department is investigating.

Mr. Libby's legal team quickly shot down any notion that blaming Mr. Cheney would be part of their client's defense. "There is no truth at all to the story that Mr. Libby's lawyers have advised the court or the special counsel that he will raise a defense based on authorization by superiors," said William Jeffress, one of Mr. Libby's attorneys.

White House spokesman Scott McClellan declined to comment on the Fitzgerald letter. Mr. Cheney's spokeswoman referred questions to the special prosecutor's office, as she has done previously, and noted that the vice president's office is cooperating in the probe.

Libby Testified He Was Told To Leak Data About Iraq (WP)

By Carol D. Leonnig

The Washington Post, February 10, 2006

Vice President Cheney's former chief of staff testified that his bosses instructed him to leak information to reporters from a high-level intelligence report that suggested Iraq was trying to obtain weapons of mass destruction, according to court records in the CIA leak case.

Cheney was one of the "superiors" I. Lewis "Scooter" Libby said had authorized him to make the disclosures, according to sources familiar with the investigation into Libby's discussions with reporters about CIA operative Valerie Plame.

But it is unclear whether Cheney instructed his former top aide to release classified information, because parts of the National Intelligence Estimate were previously declassified.

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The disclosure in a legal document written by special prosecutor Patrick J. Fitzgerald demonstrates one way in which Cheney was involved in responding to public allegations by Plame's husband, former ambassador Joseph C. Wilson IV, that the administration had exaggerated questionable intelligence to justify war with Iraq.

In a letter written in January and released in court papers filed by Libby's defense Monday, Fitzgerald wrote that Libby testified that his "superiors" authorized him to disclose information from the National Intelligence Estimate to reporters in the summer of 2003.

The National Journal first reported on its Web site yesterday that Cheney had provided the authorization.

The intelligence estimate is a classified report prepared by intelligence officers for high-level government officials, and some parts are regularly declassified in a summary and available to the public.

Cheney spokeswoman Lea Anne McBride declined to comment on Cheney's role in Libby's discussions of the intelligence estimate, referring calls to Fitzgerald's office. Fitzgerald's spokesman has declined to comment on the prosecutor's investigation and filings.

Libby was indicted in October on charges of obstruction of justice, perjury and making false statements in the course of the investigation. Fitzgerald has been trying to determine since January 2004 whether administration officials knowingly disclosed Plame's identity to reporters to discredit Wilson's allegations, a possible violation of law.

Plame's name first appeared in a syndicated column by Robert D. Novak in July 2003, eight days after her husband publicly accused the administration of relying on questionable information about Iraq's weapons program to justify the war.

Sen. Edward M. Kennedy (D-Mass.) said the new information about Libby's testimony exposes a possible hypocrisy within the Bush administration as it seeks to punish those who leak politically embarrassing information about secret CIA prisons and warrantless spying, but encourages leaks that aid the administration's political strategy.

"These charges, if true, represent a new low in the already sordid case of partisan interests being placed above national security," Kennedy said in a statement. "The Vice President's vindictiveness in defending the misguided war in Iraq is obvious."

Larry Johnson, a former intelligence officer and colleague of Plame's who has been critical of the administration's campaign against Wilson, said the Libby testimony helps prove that top executive branch officials were working to discredit an administration critic.

"This was not some rogue operation, but was directed at the highest levels, and specifically by Dick Cheney," Johnson said. "Libby was definitely a man with a mission, but a man who was given a mission."

E-Mail Notes Say Lobbyist Met President Many Times (NYT)

By Philip Shenon

The New York Times, February 10, 2006

WASHINGTON, Feb. 9 — The disgraced lobbyist Jack Abramoff told a magazine editor in recent days that he had met with President Bush many times and was invited to the president's Texas ranch for a gathering of campaign contributors in 2003, the editor said Thursday.

The journalist, Kim Eisler, national editor of Washingtonian magazine, said in an interview that he had received the information in e-mail messages from Mr. Abramoff, a major Republican fund-raiser who pleaded guilty last month to conspiring to bribe public officials. The messages suggest an effort by Mr. Abramoff to cast doubt on Mr. Bush's insistence that he does not recall the two of them meeting and that whatever contact they might have had was fleeting and for the purposes of a handshake and a picture.

In one message, Mr. Abramoff is reported as saying that Mr. Bush had "one of the best memories of any politician I have ever met" and that he "saw me in almost a dozen settings and joked with me about a bunch of things, including details of my kids." It added: "Perhaps he has forgotten everything. Who knows."

An Abramoff defense spokesman, Andrew Blum, said he could not comment on the e-mail messages or confirm their authenticity.

Mr. Eisler said he had been in contact with Mr. Abramoff since interviewing him six years ago for research for a book Mr. Eisler was writing about Indian reservation gambling; Mr. Abramoff's most lucrative lobbying clients were Indian casinos.

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Parts of the messages became public this week, Mr. Eisler said, after he shared them with a writer for a political Web site, thinkprogress .org, without realizing that the Web site would make them public. The portions of e-mail messages posted on the site do not provide details of any meetings between Mr. Bush and Mr. Abramoff and do not refer to the substance of any conversations between them except for pleasantries about their families.

"I considered them confidential e-mails, and it was a slip on my part to release a portion of them," Mr. Eisler said.

The White House has tried to distance itself from Mr. Abramoff, and at a news conference last month, Mr. Bush said that while he might have had photographs taken with the lobbyist, "I don't know him." He added, "I frankly don't even remember having my picture taken with the guy."

The White House spokesman, Scott McClellan, was asked about Mr. Abramoff's e-mail messages on Thursday and said, "I think what the president says still stands: Mr. Abramoff is someone who was involved in wrongdoing, he has acknowledged that himself."

According to the messages, Mr. Abramoff wrote that he was invited to Mr. Bush's ranch in Crawford, Tex., in 2003 for a gathering of fund-raisers but was unable to attend because he does not travel on the Jewish Sabbath.

"I would have had to travel on Saturday (Shabbos)," he wrote. "Yes, I was invited, during the 2004 campaign. It was Saturday Aug. 9, 2003 at the ranch in Crawford."

Mr. Abramoff wrote that Mr. Bush "has one of the best memories of any politician I have ever met" and that his memory was one of Mr. Bush's "trademarks, though of course he can't recall that he has a great memory!"

Mr. Eisler said that Mr. Abramoff had told him details of the conversations between the lobbyist and his wife and Mr. Bush and Laura Bush, including discussions of the fact that both couples had twins.

Lobbyist Told Reporter Of Nearly A Dozen Contacts With Bush (WP)

By Jim Vandehei

The Washington Post, February 10, 2006

President Bush met lobbyist Jack Abramoff almost a dozen times over the past five years and invited him to Crawford, Tex., in the summer of 2003, according to an e-mail Abramoff wrote to a reporter last month.

Bush "has one of the best memories of any politicians I have ever met," Abramoff wrote to Kim Eisler of Washingtonian magazine. "The guys saw me in almost a dozen settings, and joked with me about a bunch of things, including details of my kids."

In an interview last night, Eisler confirmed the contents of the e-mail and said he recently provided portions of it to the liberal Web log ThinkProgress because he thought he was dealing with a fellow reporter. The blog posted the contents of the Abramoff-Eisler communication.

In the e-mail, Abramoff scoffs at Bush's public statements that he does not recall ever meeting the disgraced lobbyist and former top Bush fundraiser. "Of course he can't recall that he has a great memory!" Abramoff wrote. Eisler, an editor for Washingtonian, said in the interview that the lobbyist was the source of his exclusive report last month that at least five photographs of Bush with Abramoff exist. Abramoff showed him the pictures, Eisler said. Abramoff has told others he will not release them publicly.

Bush has said he does not recall ever meeting Abramoff or posing for pictures with the Republican lobbyist at official events or parties. The White House has refused to release the pictures or detail Abramoff's contacts with top White House officials over the past five years.

White House spokesman Scott McClellan said yesterday that "what the president said still stands."

"Mr. Abramoff is someone who was involved in wrongdoing," McClellan said. "He acknowledged that himself. He is being brought to account." Abramoff would not comment last night.

Abramoff pleaded guilty last month in a bribery and corruption scandal that has rocked the Republican Party and threatened the political and professional careers of several lawmakers and aides. No evidence has emerged that Bush or his top White House aides did anything improper to aid Abramoff or his clients, according to people familiar with the investigation.

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Several lower-level administration officials, however, have been caught up in the scandal, including the top procurement official. The federal probe is expected to zero in on Abramoff's dealing with the Interior Department as it unfolds in the coming months.

In mentioning the invitation to Texas in 2003, Abramoff was apparently referring to a private barbecue Bush hosted for his biggest fundraisers at the Broken Spoke Ranch, down the road from the president's rustic compound near Crawford, on Aug. 9 of that year. About 350 Republicans who had raised at least $50,000 each for Bush were invited.

Abramoff was member of the exclusive group of top Bush fundraisers known as Pioneers, each of whom raised $100,000 or more for Bush. So it would not have been unusual for him to be invited to the barbecue. McClellan said that the photographs are no different from thousands Bush takes each year with visitors, supporters and even reporters and that it would not be unusual for the president to not recall meeting Abramoff.

"Perhaps he has forgotten everything," Abramoff wrote in the e-mail. "Who knows?" Eisler said Abramoff did not grant him permission to release the contents of their e-mail and Abramoff is upset that Eisler did. Eisler, who described himself as sympathetic to Abramoff's situation, was trying to show the ThinkProgress reporter that Abramoff was not exaggerating his relationship with Bush.

Eisler said he has known Abramoff for years and considers the level of vilification "out of proportion."

Abramoff Says He Met Bush "almost A Dozen" Times (REU)

By Andy Sullivan

Reuters, February 10, 2006

WASHINGTON (Reuters) - Jack Abramoff said in correspondence made public on Thursday that President Bush met him "almost a dozen" times, disputing White House claims Bush did not know the former lobbyist at the center of a corruption scandal.

"The guy saw me in almost a dozen settings, and joked with me about a bunch of things, including details of my kids. Perhaps he has forgotten everything, who knows," Abramoff wrote in an e-mail to Kim Eisler, national editor for the Washingtonian magazine.

Abramoff added that Bush also once invited him to his Texas ranch.

The messages were made public by the American Progress Action Fund, a liberal activist group. Eisler confirmed their accuracy to Reuters but said he did not intend them to become public.

"They reflect the feeling of frustration he has not just with Bush but with all these guys claiming they didn't know him," said Eisler, who knew Abramoff through a book he wrote about the Pequot Indian tribe.

Abramoff pleaded guilty to fraud charges in early January and is cooperating with prosecutors in a corruption probe that could implicate lawmakers and officials across Washington.

Bush has said he never had a discussion with Abramoff and does not remember having his picture taken with him.

The White House has said Abramoff attended three Hanukkah receptions at the White House.

Eisler said he had seen five photographs of Abramoff with Bush, none taken at Hanukkah parties.

White House spokesman Scott McClellan said on Thursday that the revelations did not prove Bush knew him well.

"I think as the president also indicated, he's taken at least five photos with many people in this room at the annual holiday reception. And so I think you need to put this in context," McClellan said.

Abramoff spokesman Andrew Blum declined to comment.

Abramoff raised more than $100,000 for Bush's 2004 re-election campaign, a feat that won him an invitation to Bush's ranch in August 2003, the National Journal reported at the time.

"I was invited during the 2004 campaign," Abramoff told Eisler.

Abramoff said he did not make the trip because as an Orthodox Jew he cannot travel on Saturdays.

In the wake of Abramoff's indictment, the Bush-Cheney campaign said it would donate to charity $6,000 in contributions made by Abramoff or his clients, but not the money he helped raise.

The White House has acknowledged he participated in a few staff-level meetings at the White House.

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Although the Abramoff scandal has mostly focused attention so far on prominent House Republicans, including former Majority Leader Tom DeLay of Texas, at least two Bush administration officials have been implicated.

David Safavian, a former White House budget official, has been charged with lying and obstructing investigations into his 2002 golf outing to Scotland with Abramoff.

Stephen Griles, the former No. 2 official at the Interior Department, has come under scrutiny after allegations he tried to block a casino at Abramoff's request.

Abramoff Team And Reid's Office Had Frequent Contact, Records Show (WP)

By John Solomon And Sharon Theimer

The Washington Post, February 10, 2006

Senate Minority Leader Harry M. Reid wrote at least four letters helpful to Indian tribes represented by Jack Abramoff, and Reid's staff had frequent contact with the disgraced lobbyist's team about legislation.

The activities -- detailed in previously unreported billing records and correspondence -- occurred over three years as Reid (D-Nev.) collected nearly $68,000 in political donations from Abramoff's firm, lobbying partners and clients.

Reid's office yesterday acknowledged having "routine contacts" with Abramoff's lobbying partners. Reid intervened on government matters in ways that Abramoff's tribal clients might have deemed helpful, once opposing legislation on the Senate floor and four times sending letters pressing the Bush administration on tribal issues. Reid collected donations around the time of each action.

Abramoff's firm also hired one of Reid's top legislative aides as a lobbyist. The aide later helped throw a fundraiser for Reid at Abramoff's firm that raised money from several of Abramoff's lobbying partners.

A Reid spokesman said none of the senator's actions were affected by donations or done for Abramoff. "All the actions that Senator Reid took were consistent with his long-held beliefs, such as not letting tribal casinos expand beyond reservations, and were taken to defend the interests of Nevada constituents," spokesman Jim Manley said.

Abramoff has pleaded guilty to fraud and bribery and is helping prosecutors investigate the conduct of lawmakers, congressional aides and administration officials his team used to lobby.

Abramoff spokesman Andrew Blum declined to comment on the Reid contacts.

Reid has assailed Republicans' ties to Abramoff while refusing to return any of his own donations. He argues there is no need to return the money. "Senator Reid never met Jack Abramoff and never has taken contributions from him, and efforts to drag him into this are going to fail," Manley said.

Although Abramoff never donated personally to Reid, the lobbyist did instruct one tribe, the Louisiana Coushattas, to send $5,000 to Reid's tax-exempt political group, the Searchlight Leadership Fund, in 2002. Reid was Democratic whip at the time.

Abramoff sent a list to the tribe titled "Coushatta Requests" recommending donations to campaigns or groups for 50 lawmakers. Alongside Reid's name, Abramoff wrote, "5,000 (Searchlight Leadership Fund) Senate Majority Whip."

About the same time, Reid sent a letter to the Interior Department helpful to the tribe, records show. His March 5, 2002, letter pressed the agency to reject a casino proposed by a potential rival to the Coushattas, the Jena Band of Choctaw Indians. Sen. John Ensign (R-Nev.) also signed the letter.

Reid also officially opposed new tribal casinos in California and Michigan, where Abramoff had tribal clients with casinos.

Reid and Ensign recently wrote the Senate Ethics Committee to say their letter had nothing to do with Abramoff or the donation and instead reflected their interest in protecting Las Vegas's gambling establishments.

"As senators for the state with the largest nontribal gaming industry in the nation, we have long opposed the growth of off-reservation tribal gaming throughout the United States," Ensign and Reid wrote. Reid authored the law legalizing casinos on reservations, and he has long argued it does not allow tribal gambling off reservations.

Abramoff's group had earlier contacts with Reid's office over the Northern Mariana Islands, a U.S. territory and one of Abramoff's highest paying clients. In 2001, records show, Abramoff's lobbying partners billed for nearly two dozen phone contacts or meetings with Reid's office, mostly to discuss Democratic legislation that would have gradually applied the U.S. minimum wage to the islands. Republicans wanted to keep the islands exempt.

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Reid, along with his Senate counsel, Jim Ryan, met with Abramoff deputy Ronald Platt on June 5, 2001, "to discuss timing on minimum wage bill," according to a bill that Greenberg Traurig, Abramoff's firm, sent the Marianas. Three weeks before the meeting, Greenberg Traurig's political action committee donated $1,000 to Reid's Senate reelection committee. Three weeks after the meeting, Platt himself donated $1,000 to Reid.

Manley said Reid's official calendar does not list a meeting on June 5, 2001, with Platt, but he also said he could not say for sure the contact did not occur. Manley confirmed Platt had regular contacts with Reid's office, calling them part of the "routine checking in" by lobbyists who work Capitol Hill.

As for the timing of donations, Manley said, "There is no connection. This is just a typical part of lawful fundraising."

Platt and a fellow lobbyist also reported a contact on May 30, 2001, with Edward P. Ayoob, Reid's legislative counsel. Within a year, Ayoob had left Reid's office to work for Abramoff's firm, registering to lobby for the islands as well as several tribes. Manley confirmed Ayoob had subsequent lobbying contacts with Reid's office.

Editorial: Curious Move In Abramoff Case (BUFFNEWS)

Buffalo News, February 10, 2006

If you believe in coincidence, then taking prosecutor off investigation makes sense

Jack Abramoff prosecutor Noel Hillman may deserve the White House nomination he recently got for a federal judgeship in New Jersey, but the timing is suspicious and the probe into unethical and illegal activities in Washington will suffer.

Hillman was chief of the Justice Department's Office of Public Integrity until the nomination caused him to step down. He was deeply involved in the federal probe of activities by super-lobbyist Abramoff and his colleagues, and sat in on the negotiations that led to plea deals in return for cooperation that could reveal which congressmen or agency officials took what in return for favors. Two years of experience are lost, just when the investigation zeros in on its most important targets.

Coincidence? Maybe, if you believe in such things. The selection process, according to the Justice Department, started a year ago. Hillman was part of a batch of nominations to judgeships that needed to be filled, and he wants the job. But this probe now is venturing deeply into Congress - and most notably its Republicans, although a few Democrats also received campaign donations from Abramoff clients. It's also looking hard into the Bush administration bureaucracy. Removing an aggressive prosecutor at this point will pass the sniff test only if the Justice Department finds an equally aggressive replacement - or the White House agrees to a special prosecutor.

The current investigation now is tainted, Hillman's experience already lost. The challenge the government faces is to enact meaningful ethics reforms that tighten the rules and end limits on complaints and internal investigations. But it's not enough to hold officials more accountable to their own houses of Congress in future cases. The present probe needs to gain momentum, not lose it - and that means a replacement prosecutor just as independent, aggressive and involved as Hillman, or more so. Otherwise, this nomination stinks.

Head Of Construction Company Is Acquitted Of Bribing Union (NYT)

By Julia Preston

The New York Times, February 10, 2006

The president of a New York construction company, who was accused of doing a "corrupt dance" with greedy union bosses, was acquitted yesterday in New York federal court of paying bribes to union officials.

John Amicucci, 54, the president of DeFoe Corporation, was found not guilty of two counts of illegal labor payments after a two-week trial in Federal District Court in Manhattan. Mr. Amicucci had been charged with making secret cash payments to officials of Local 14 of the International Union of Operating Engineers so they would cut corners and ignore contract violations to help DeFoe increase its profits.

But the main government witnesses in the trial were five officials from the union, including Joseph Rizzuto Sr., a former general manager, and his son Joseph Rizzuto Jr., both of whom have pleaded guilty in the same courthouse to accepting bribes.

Prosecutors did not present wiretap or other evidence to back up the claims of the union officials that they had been handed cash by Mr. Amicucci, and in return allowed him to fill the most expensive union supervisory jobs on his crews with workers who were paid less than union rates and who were lax in enforcing the rules.

In one instance, government evidence showed, Mr. Amicucci gave himself a key supervisory job.

During his closing arguments on Tuesday, Mr. Amicucci's lawyer, Gerald L. Shargel, had the jurors laughing as he ridiculed a cheap tote bag and a watch that the prosecutors had presented to prove that the union officials received gifts from Mr. Amicucci. Mr. Shargel showed that Mr. Amicucci and his company had handed out dozens of the bags and watches as Christmas gifts to employees and friends.

By the end of the trial, it appeared that the union officials had done their best to corrupt Mr. Amicucci, and not the other way around. Local 14 represents workers who drive cranes, backhoes and other heavy equipment on construction sites. Mr. Shargel brought out, under cross-examination, that the two Rizzutos had only mentioned Mr. Amicucci for the first time to F.B.I. agents months after they began cooperating with the government.

Jurors who spoke with Mr. Shargel after the trial said they thought the government's case was too weak for a conviction, the lawyer said.

DeFoe is a familiar name to New York drivers. The company carried out a $240 million contract on the Bruckner Expressway in the Bronx and also did major work on the Gowanus Expressway in Brooklyn.

This was not Mr. Amicucci's first brush with the law. He was convicted of federal tax evasion charges in 1990. In a 1993 case, DeFoe admitted in court that it had made "illegal payments" to a minority construction workers' group that was trying to extort money from the company.

Ryan Defense's Decision Day Nears (CHIT)

By Matt O'Connor, Tribune Staff Reporter

Chicago Tribune, February 10, 2006

Decision day is nearing for former Gov. George Ryan and his lawyers on whether he takes the stand at his corruption trial.

On Thursday, outside the presence of the jury, Dan Webb, Ryan's lead lawyer, said he expects the defense case to wrap up by late next week unless Ryan or co-defendant Lawrence Warner testifies.

That means Ryan or Warner could begin testifying by Thursday.

Webb has said that Ryan is likely to take the stand, but Thursday he indicated he hasn't made a final decision. Warner's lawyers haven't divulged their strategy.

The marathon trial began in September.

On Thursday, in the defense's fourth full day of testimony, a former high-ranking official at the secretary of state's office while it was headed by Ryan defended a Joliet lease deal in 1995 as in the best interest of the state.

Ryan is charged with steering the lease to Warner, who held a hidden ownership in a building at 605 Maple Rd. in Joliet and collected $387,500 in the 1990s.

Thomas Cuculich, who was chief deputy director of the office's physical services department, testified Thursday he didn't know of Warner's ownership interest "until the Tribune printed it in 1999 or 2000."

Cuculich said Scott Fawell, Ryan's chief of staff, directed him to check out the Maple Road property, but Cuculich said he didn't think the fix was in at the time. Fawell suggested that other properties be looked at in the Joliet area as well, Cuculich said.

Though Cuculich had no experience in real estate, he said, Fawell eventually asked him to call Warner and negotiate a lease on the Joliet building. Cuculich said he thought Warner was a broker in the deal.

Warner asked that a standard clause allowing the state to terminate the contract in 90 days be removed because he could be stuck paying for up-front renovation costs to the building, Cuculich said.

Cuculich said that he found the request "fair" but that it was Fawell who decided to take out the termination clause.

On cross-examination, Assistant U.S. Atty. Patrick Collins brought out that the owners of the Joliet building actually were paid a higher rent than they had initially proposed themselves.

The secretary of state's office also agreed to pay for janitorial service, lawn care and snow removal, expenses usually covered by the landlord. Cuculich said he had objected to that but was overruled by Fawell.

Cuculich conceded that in an appearance before the grand jury, he swore Fawell had never asked him to look at other properties besides the Joliet building.

But on Thursday, he said he believed a memo written after the lease had been signed was accurate when it stated that a thorough market survey had been done.

Collins questioned Cuculich's independence at the time, asking him a couple of times if he had been a loyal member of the Ryan administration then.

Cuculich bristled at the questioning, saying, "I considered myself a good employee and yes, I think I was a team player, but not in any negative connotation at all."

After Ryan's election as governor, Cuculich was appointed to head the Illinois State Toll Highway Authority.

Fawell testified at the trial that Ryan directed him to help Warner secure the Joliet lease deal. Fawell said he feared the news media would uncover Warner's link to the property and questioned Warner to make sure his financial involvement was concealed.

In other testimony Thursday, a vice president of a realty company that owns a Springfield office complex disputed Fawell's claim that he artificially brought the price down on a secretary of state lease at the property by adding unusable space to the total square footage.

Thomas Bernacchi of Towne Realty, which owns Lincoln Towers, testified he included the unusable space in the square footage without consulting with the secretary of state's office.

Ryan is accused of moving the office's securities department to Lincoln Towers in 1995 to benefit longtime friend Ron Swanson, a broker for Towne. Fawell testified that the move took place even though he thought the asking price was too high.

But Bernacchi said that two other state agencies leased space at Lincoln Towers and paid comparable rates.

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Ryan May Take The Witness Stand Next Week (AP)

By MIKE ROBINSON, ASSOCIATED PRESS

AP, February 10, 2006

George Ryan may take the witness stand in his own defense as early as next week, the former governor's defense attorney told his racketeering and fraud trial Thursday.

"I will make the decision at the time," defense attorney Dan K. Webb told U.S. District Judge Rebecca R. Pallmeyer, leaving himself the option of keeping Ryan off the witness stand.

Webb also said as the trial headed toward the end of its 19th week that if Ryan and co-defendant Larry Warner take the witness stand, they would be the final defense witnesses.

Pallmeyer told jurors that the long trial is coming to an end and that she would not be drawing up a work schedule for the month of March because one might not be needed.

If Ryan were convicted, he might face a stiffer sentence if prosecutors could prove to Pallmeyer that he lied under oath while on the stand.

Ryan, 71, and Warner, 67, are charged in a 22-count federal indictment with racketeering, fraud and other offenses. They say that nothing they did was illegal.

On Wednesday, Pallmeyer warned defense attorneys not to try to turn the trial into a showcase for his opposition to the death penalty when they call character witnesses next week.

Ryan's lawyers say character witnesses, such as Sister Helen Prejean, head of the Washington-based National Coalition to Abolish the Death Penalty, may be called next week.

Prejean's book about capital punishment, "Dead Man Walking," became a major movie.

Pallmeyer already has ruled that Ryan's campaign against the death penalty is irrelevant to federal charges that as secretary of state and governor he steered state contracts and leases to friends and got free vacations and gifts in exchange.

Pallmeyer on Wednesday made it plain she hasn't changed her mind and that Ryan's character witnesses will not be allowed to turn her courtroom into a capital punishment debate.

"I don't want this to be a back door way of inviting the jurors to speculate on whether Mr. Ryan's position on the death penalty is a good thing," she said.

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Before leaving office in January 2003, Ryan commuted the death sentences of 167 inmates to life in prison and pardoned four others, declaring the state's capital justice system "haunted by the demon of error." Three years earlier he halted all executions in Illinois over fears that a flawed system had led to the wrongful convictions of 13 death row inmates.

Ryan's actions have made an improbable hero, at least among capital punishment opponents, of the husky-voiced, white-haired Republican from downstate Kankakee. He also is a former pharmacist known for most of his career as a master of political horse trading in the legislative caucus rooms.

Defense attorneys would like it if that popularity would prove catching to the jurors.

Prosecutors said Wednesday that if Ryan's defense team uses their character witnesses to slip in testimony about the death penalty, the government should be able to tell jurors about the November 1994 Wisconsin expressway disaster that killed six children.

The expressway accident occurred when the family van was struck by a part from a truck driven by an unqualified driver who is believed to have gotten his drivers license through bribery.

Pallmeyer said Wednesday that testimony about the six children of the Rev. Scott and Janet Willis is "so prejudicial and inflammatory that it must not find its way into this case."

Meanwhile, two retired state employees who had recommended awarding a $25.8 million computer contract to IBM testified Wednesday they felt no pressure from lobbyists in reaching their decision.

Defense witnesses John Anderson and Bruce Taylor, who sat on a committee that urged Ryan to pick IBM over rival Honeywell Bull, said they based their decision solely on the merits.

Among other things, the IBM system cost $3 million less, was available a year earlier and was more compatible with the systems used by other state agencies, they said.

Under cross examination, Anderson said he had not known that Warner stood to make $1 million off the IBM contract.

Campbell To Wife: "I'm Sorry" (WXIA-TV)

By Jerry Carnes

WXIA-TV, February 10, 2006

Former Atlanta mayor Bill Campbell apologized to his wife Thursday. The apology comes on the heels of testimony in Campbell's corruption trial in federal court about a trip to Paris with another woman.

Campbell's trip came after United Water won a $21 million contract to run the water system in the city of Atlanta. The company invited Campbell to visit its European headquarters.

United Water executives testified that they spent $4,500 on Campbell's hotel suite, another $4,500 for a limousine. Witnesses told the jury that Campbell missed a scheduled tour of their waste water treatment plant, and during the four-day trip, spent 2½ hours talking business over lunch.

"We said from the beginning, the mayor was in Paris on business. And as we heard today, he had meetings with the CEO of a multi-billion dollar corporation," Campbell lawyer Billy Taylor said.

The mayor did spend time with a woman other than his wife. Former Atlanta television anchor Marion Brooks testified she was with Campbell in that hotel room, and touring Paris.

"While it's a private matter," Campbell said. "I want to publicly apologize to my wife. She has supported me with grace and dignity for 28 years."

Campbell's lawyers questioned United Water's former president, David Sherman.

"Mayor Campbell never asked for a bribe, did he," asked Campbell's attorney.

Sherman answered, "No."

"He never asked you or your company to do anything illegal, did he," the lawyer asked.

"That's correct," Sherman said.

The government will contend that Campbell should have disclosed the trip to the public, but didn't.

The trial is set to take Friday off, and will resume on Monday.

Judge Gives 'Clown' Legal Counsel (CHIT)

By Rudolph Bush, Tribune Staff Reporter

Chicago Tribune, February 10, 2006

A federal judge ruled Thursday that reputed mob boss Joey "the Clown" Lombardo qualifies for free counsel and appointed two attorneys to represent him.

But U.S. District Judge James Zagel added that he will revisit the decision if prosecutors show Lombardo, 77, is hiding assets and can afford to pay for his own defense.

Zagel approved prosecutors' request to examine the finances of Lombardo's ex-wife and two children to determine if he has access to a 1982 trust he set up for them.

"The government is free to investigate to its heart's content that trust, the trustees and its affairs," Zagel told prosecutors. "I don't believe Mr. Lombardo is in a position to object to any questions you have."

In the meantime, attorneys Rick Halprin and Susan Shatz will represent Lombardo, Zagel ruled.

Halprin, a veteran defense attorney, long has represented Lombardo in criminal matters.

Lombardo and 11 other men are charged with running a racketeering conspiracy that prosecutors say was supported through murder and extortion.

An indictment against the men charges them with involvement in 18 Outfit-related murders. Lombardo is charged only in the 1974 slaying of Bensenville businessman Daniel Seifert.

Before his murder, Seifert was scheduled to testify against Lombardo in a Teamsters pension-fraud trial.

Zagel's ruling comes a day after prosecutors revealed that Lombardo was carrying $3,000 when captured in January.

They also questioned the legitimacy of Lombardo's 1992 divorce from his wife, Marion.

"There's some question whether the dissolution of the marriage is itself a sham," Assistant U.S. Atty. Mitchell Mars said.

Prosecutors contend Lombardo lived with his ex-wife on West Ohio Street until he fled from a racketeering and extortion indictment in April.

They also noted that in 2003, she sold three pieces of property in Florida for more than $4.5 million.

Zagel said that because Lombardo has said he has no access to that money and no claim to the 1982 trust, he cannot object to the government's investigation.

In the meantime, he is entitled to free representation, Zagel said.

"If, as a result of that investigation, you can make a case there's been a bad-faith transfer of assets there, I can remedy that," Zagel said.

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Joey The Clown Too Broke To Pay His Lawyers? Feds Are Scoffing (AP)

By Mike Robinson

AP, February 10, 2006

CHICAGO - Lawyers for Joseph "Joey the Clown" Lombardo got permission Thursday to collect their fees from the government, while federal prosecutors got the green light to do whatever it takes to prove that the reputed mob boss isn't as broke as he claims to be.

Lombardo, 77, who claims he can't pay his lawyers because he has no money, appeared in court in an orange prison jumpsuit, wore his usual puzzled expression and said nothing.

U.S. District Judge James B. Zagel granted defense attorney Rick Halprin and an associate permission to represent Lombardo at public expense but said he might change his mind if federal prosecutors can prove that there has been "a fraud or a bad-faith exchange of assets."

"The government is free to investigate to its heart's content," Zagel said.

Prosecutors noted that Lombardo was carrying $3,000 in cash the night of Jan. 13 when an FBI organized-crime squad caught him in a suburban Elmwood Park alley after eight months on the run.

Lombardo is among 14 reputed mob figures charged in April 2005 with a racketeering conspiracy that included plotting at least 18 murders as far back as 1970.

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When agents went to arrest him on that charge, Lombardo had vanished and immediately became the target of a high-profile manhunt.

Lombardo claims to have had no income since May 2005.

He was convicted and sent to prison along with former International Brotherhood of Teamsters President Roy Lee Williams in a 1982 bribery-conspiracy case.

Prosecutors said in court papers that "the FBI has obtained information that after the completion of his parole status on June 15, 2002, the defendant traveled to France for approximately 10 days, arriving in Paris on July 11, 2002, and continuing on to Nice."

"The defendant flew back to Chicago from France on July 21, 2002," prosecutors said. "The government respectfully submits that these facts including a 10-day trip abroad are not consistent with the need for a court-appointed lawyer."

Prosecutors said that after being indicted in the 1982 case Lombardo transferred "substantial assets" to a trust that benefits his children, Joseph and Joanne, "in an apparent attempt to put funds beyond the reach of the government." His ex-wife, Marion, is the trustee.

Prosecutors said Marion Lombardo appears to have sold three parcels in Florida held by the MJJ Trust for more than $4.5 million in 2003. They said there is a May 1992 dissolution of marriage record but that it appears the Lombardos lived together until the latest indictment.

They said two warranty deeds recording the sale of the Florida property referred to Marion Lombardo as "a married woman."

Halprin scoffed at the government's claims, telling Zagel that the assets had been placed in "an irrevocable trust" for Lombardo's family. He said that if the government thinks Lombardo has money prosecutors should prove it.

He did acknowledge that the trust might revert to Lombardo if his wife, son and daughter all died. But he said that considering his client's age, "That is worth about the same as 5,000 shares of Enron stock."

New Allegations Filed Against So-Called "Mob Cops" (NY1)

NY1, February 10, 2006

The laundry list of accusations against the so-called "mafia cops" is growing ever longer with new charges of armed robbery and drug use.

Former detective Stephen Caracappa and his partner Louis Eppolito already stand accused of eight mob-related murders. Now, the Brooklyn U.S. Attorney's Office says Caracappa admitted using cocaine as an undercover narcotics officer.

The person he allegedly told this to is expected to testify at this month's trial. Another witness will say the two held up delis for cash and that

Eppolito asked him for money in order to bribe doctors into falsifying a heart condition. Both Eppolito and Caracappa have pleaded not guilty.

Man Sentenced For Shooting Cop, Holding Him Hostage (CHIT)

By Michael Higgins, Tribune Staff Reporter

Chicago Tribune, February 10, 2006

A former tax preparer who shot a Chicago police officer in the head and held the gravely wounded officer hostage for more than two hours was sentenced Thursday to life in prison plus 132 years.

Daniel Salley, 45, was convicted in October of 15 felony charges, including two counts of attempted murder, after a jury rejected his claim that he was the victim of a government conspiracy.

Detective Joseph Airhart was shot as he rushed into a South Loop apartment in 2001 to arrest Salley on bank robbery charges. The shooting left Airhart, a 19-year police veteran, unable to speak, walk or swallow food, his two sisters and brother said in court Thursday.

Airhart's sister Denise narrated a videotape that showed her brother lying in bed with a ventilator tube attached to his throat and a feeding tube leading to his stomach.

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"Salley, I hope you never see the light of day or set foot outside again," Denise Airhart said as more than 70 spectators, including many law enforcement officers who worked with Airhart, looked on.

"This crime, the shooting of this man, tore the heart out of the Chicago police," said Robert Milan, first assistant to Cook County State's Atty. Dick Devine.

U.S. District Judge Wayne Andersen sentenced Salley to life in prison without the possibility of parole for taking Airhart hostage. The additional 132 years on other charges would not have any practical effect unless the life sentence were overturned, prosecutors said.

Salley, who acted as his own attorney Thursday as he did during his trial, showed little emotion as the wounded police officer's colleagues and family members spoke. He looked down at legal papers, sometimes jotting notes.

When it was his turn to speak, Salley repeated his claims that the government was punishing him for the success of his tax business and that an FBI agent had shot Airhart during the raid.

"There is punishment that's coming for everybody who is working for this government," Salley said.

Members of Airhart's family declined to comment after the hearing, but they hugged one another and Airhart's law enforcement colleagues after the sentence was announced.

Airhart, who was assigned to the FBI's fugitive task force, had volunteered to be part of a team sent to arrest Salley after Salley robbed a Southwest Side bank twice in one week, taking more than $250,000.

After Salley shot Airhart, he forced other officers to back off by threatening to kill Airhart if they approached him. Salley surrendered after police granted his request to talk to a television reporter.

In the videotape, Airhart did not make eye contact with the camera and barely moved, except for flinching his jaw and twitching his arm slightly.

Denise Airhart broke into tears as she described her brother's role in the family. "He always protected me," she said. "He protected all of us."

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News Bank Robber Gets Life Plus 132 Years (CHIST)

By MONIFA THOMAS, Staff Reporter

Chicago Sun-Times, February 10, 2006

A former tax consultant was sentenced Thursday to life in prison -- plus an additional 132 years -- for shooting a Chicago Police detective in the head and then holding the wounded officer hostage for hours.

Daniel E. Salley was convicted last October of shooting Detective Joseph Airhart in a South Side apartment in August 2001. Airhart, who was then 45 years old, was a member of an FBI task force trying to arrest Salley in a series of bank robberies.

Salley refused to allow medical treatment for Airhart, keeping federal and local police at bay for more than two hours before he was taken into custody.

The shooting left Airhart with severe brain injuries, and he is unable to walk, feed himself or breathe without the assistance of a ventilator, his sister testified before U.S. District Judge Wayne Andersen on Thursday.

The courtroom was packed with relatives, members of the Chicago Police Department and other law enforcement agents. They watched as Airhart's younger sister, Denise Airhart, narrated a video taken of the detective last month. It showed Airhart lying on a specially made air mattress, barely moving.

"My family was destroyed, Salley, by the blatant attempt you made to murder my brother," Denise Airhart said, stopping at times to cry while Salley calmly scribbled notes on a pad.

"In an instant, Salley, you took away a promising and productive future."

Claimed FBI agent fired shot

She asked that Salley "never see the light of day nor set foot outside again."

Airhart's two other siblings and his former partner on the police force also spoke to the court, describing the 19-year officer as an adventurous, dependable family man who was robbed of his life.

Salley, who represented himself during trial, maintained his innocence, saying an FBI agent was the one who shot Airhart.

He told the Airharts he understood their grief, but also said, "God knows what happened in that room. I believe that the truth is going to come out."

Salley showed little emotion as Andersen sentenced him to life in prison on the hostage charge plus an additional 132 years on six weapons charges, five of which carry mandatory sentences of 25 years.

The sentences for eight other felony counts Salley was convicted of, including attempted murder and bank robbery, are to be served concurrently with the life sentence, Andersen ruled.

Salley admitted during his trial to twice robbing the same bank and being armed with an arsenal of weapons when Airhart and others came to arrest him.

He told jurors the government had been spying on him.

Airhart's family declined to speak to reporters. After the hearing, relatives stood in a circle and prayed.

Bank Robber Who Shot Officer Gets Life (CHIST)

By DAVID BRUMMER, ASSOCIATED PRESS

Chicago Sun-Times, February 10, 2006

A bank robber who shot a police detective and then held the wounded officer hostage was sentenced to life in prison Thursday.

Police and prosecutors praised the sentence imposed on Daniel Salley in the August 2001 shooting that left Chicago police detective Joseph Airhart with a crippling brain injury.

"We're very pleased that Mr. Salley won't be allowed to set foot on the streets and commit this sort of crime again," Chicago police Deputy Superintendent Charles L. Williams said.

Patrick Fitzgerald, U.S. attorney for northern Illinois, said his office was "very gratified" by the sentence. "It's an end to a very sad chapter for Joe Airhart," Fitzgerald said.

Four months after a federal jury convicted Salley of all 15 counts he faced, Judge Wayne Anderson gave Salley life in prison for taking Airhart hostage and 132 years on the other charges. The judge also ordered him to pay more than $3 million to cover Airhart's medical costs and lost wages by the family.

Salley, who acted as his own attorney, was convicted of illegally detaining, assaulting and attempting to murder Airhart, as well as assault and attempted murder of an FBI agent. He also was convicted on several firearms charges and two bank robbery charges.

Throughout the trial and sentencing, Salley maintained he did not shoot Airhart. Prosecutors pointed out that he amassed an arsenal of handguns, rifles and knives.

"I'm concerned if you were free, you would feel the need to get weapons and hurt people," Anderson said Thursday.

Minutes before he was sentenced, Salley railed against the government, compared himself to U.S. soldiers in Iraq and Afghanistan and said he was "training to kill."

"I grieve for Mr. Airhart as well," Salley said. "God knows my heart. God knows I didn't mean to hurt him."

Airhart's three siblings and his former partner spoke at the hearing and pleaded for a maximum sentence.

Denise Airhart narrated a month-old video that showed a bedridden brother who's unable to speak. Machines and tubes have helped him breathe and eat since a January 2003 seizure related to the shooting, she said.

"I hope you never see the light of day," a sobbing Denise Airhart told Salley.

After the courtroom cleared, Airhart's family stayed to hold hands in a circle. They declined to speak with reporters.

During the trial, the former tax preparer admitted to twice robbing the same bank in 2001 and being armed when Airhart and others came to his girlfriend's apartment to arrest him.

Prosecutors alleged Salley shot Airhart then held him hostage for more than two hours, refusing to allow him medical treatment.

He told jurors the government had been spying on him and his tax business.

Salley, whom a judge found mentally unfit to stand trial in 2003, was eventually found competent for trial a year later after several psychiatric exams.

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Two Former Officials Plead Guilty In Monmouth Corruption Case (NSDY/AP)

Long Island Newsday, February 10, 2006

NEWARK, N.J. (AP) _ Two former officials in Monmouth County pleaded guilty Thursday to extortion charges, part of the Federal Bureau of Investigation's Operation Big Rig investigation.

Richard Iadanza, 50, a former deputy mayor of Neptune Township, admitted that he accepted $3,000 from a contractor in exchange for arranging work in Neptune, according to a statement from U.S. Attorney Christopher Christie.

Joseph McCurnin, 64, an operations manager at the Monmouth County Division of Transportation, admitted he helped facilitate a $1,500 bribe from a demolition contractor to a Neptune Township official.

Extortion carries a maximum penalty of 20 years in prison and a $250,000 fine. No sentencing dates were set for either man.

The two were among 11 then-sitting or former Monmouth County public officials arrested in the federal sting operation in February 2005. They were charged with extorting cash bribes and free work from a contractor who was cooperating with the FBI.

100's Of Radio Stations Cited In Payola Probe (ABC)

By BRIAN ROSS, RICHARD ESPOSITO & VIC WALTER

ABC News, February 9, 2006

FCC Commissioner Alleges 'Systematic Betrayal of the Responsibility of Broadcasters'

Hundreds of radio stations are under investigation by the Federal Communications Commission in the payola scandal rocking the music industry, ABC has learned.

"The FCC staff is working with voluminous evidence right now. It's a complicated and wide-ranging investigation." FCC Commissioner Jonathan Adelstein told ABC News in an exclusive interview.

"This is potentially the most wide spread and flagrant violation of FCC rules in the history of American broadcasting," Adelstein said. "We've never seen evidence of such a systematic betrayal of the responsibility of broadcasters."

Payola -- or pay-for-play -- is a practice seemingly as old as the recording industry itself. In the past the money went to rogue disc jockeys in exchange for increasing the air play for individual songs and driving those songs to the top of the charts. In the modern version, the money goes to the bottom line of the radio stations and the conglomerates that own them, according to New York Attorney General Eliot Spitzer.

"We have people in suits coming in with documents rather than cash payments under the table to a DJ," Spitzer told ABC News Chief Investigative Correspondent Brian Ross.

Several of the largest radio conglomerates in America -- the corporate owners of FM radio stations across the nation -- are within the scope of the FCC probe, which was triggered by the two year long pay-for-play investigation by Spitzer and was first reported on by ABC News.

A vigorous investigation by the FCC brings federal regulatory clout, and the specter of criminal prosecution by the Justice Department.

Paid to Play Songs by J.Lo, John Mayer and Possibly Others

In addition to criminal prosecution any broadcaster in clear violation could face severe sanctions, and in the most blatant cases, the loss of their broadcast licenses, officials involved in the investigation have told ABC.

"I can't believe that radio stations are putting their licenses at risk. It seems to me they thought the FCC was asleep and they shot someone in front of the policemen. The policeman is obligated to act when evidence is so clear," Adelstein said.

Spitzer said record company documents obtained in the investigation of Sony BMG and Warner, both of which have settled with the attorney general, revealed payments for songs that became major hits, including Jennifer Lopez's "I'm Real" and John Mayer's "Daughters."

Other artists whose songs are named in the Spitzer documents include Jessica Simpson, Celine Dion, Maroon 5, Good Charlotte, Franz Ferdinand, Switchfoot, Michelle Branch, and R.E.M. The record companies allegedly paid radio stations to increase airplay of those artists' songs.

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That money allegedly came in many forms; directly from the record companies, through "Indie" promoters or in promotional considerations that lowered stations' overheads.

Adelstein said that the New York attorney general has shared mountains of information with the FCC and has identified specific documents and e-mails that seem to clearly implicate some of the companies controlling much music radio in the United States.

"The FCC has received an unbelievable amount of evidence from Attorney General Eliot Spitzer that there appears to be widespread and flagrant violation of FCC rules regarding payola, (including) undisclosed promotions by radio broadcasters. And we need to find out who did it, basically prosecute any violations to the fullest extent of the law," Adelstein said.

Adelstein spoke to ABC News after reading ABC's disclosure of the shift of Spitzer's probe from record companies to broadcasters. He has been in regular contact with Spitzer.

"When anything is aired that is paid for without being disclosed to the public it is a clear violation of FCC rules," he said.

"We have a responsibility to get to the bottom of this & It's important that the FCC does its job and not let the states do it for us," Adelstein added.

Spitzer has been critical of the FCC's approach to the issue of payola.

"I would be the first to acknowledge that I would like to see the FCC more directly involved in addressing what is very clearly a payola scandal that has run rife through the industry. They have failed to do so and we have reached out to them,' said Spitzer.

The FCC originally started a probe into the payola scandal in August 2005, after Spitzer disclosed his investigation of record companies including Warner Music Group, Sony BMG, EMI and Universal. At that time, Adelstein called for the FCC to aggressively investigate. By November 2005 he was calling for the FCC to bring the probe to a swift and satisfactory conclusion. Now he admits the FCC needs to devote more resources to the probe. "We need to devote significant resources [to investigating this aspect] and I'm not sure we are doing that yet," Adelstein added.

"Based on the evidence we have seen some of the radio conglomerates clearly are participating and knowledge of this and orchestration of this came from the very top," Spitzer told ABC.

"Now since it is up to the FCC -- not me -- whether or not to strip them of their licenses. I will leave that decision to the FCC. But certainly the behavior has been unethical, improper illegal and a sanction of some severity should be imposed," said Spitzer.

Adelstein told ABC News that "at this stage in the investigation it's not clear what the appropriate sanctions are because we're still looking into it, seeing if there are violations and, if there are, if they are systemic and go to the corporate offices."

Adelstein did say that the potential sanctions could be severe.

"While it's highly unusual for the FCC to pull licenses on first violation, depending on the severity that is one option that is available to us. These are criminal matters as well."

"If we do find evidence of criminal violations its incumbent on us to refer this to the Department of Justice for criminal prosecutions."

Man Charged With Killing Wife, Daughter In Boston (LAT)

By Michael Muskal

The Los Angeles Times, February 10, 2006

An Englishman wanted in the killing of his wife and baby daughter in their suburban home near Boston was arrested this morning in London, officials said.

Neil Entwistle, 27, was taken into custody without incident in a London subway station and was held pending an extradition hearing, perhaps as soon as Friday, British authorities said.

If extradited, he will face murder and weapons charges in connection with the deaths of his wife, Rachel, 27, and their 9-month-old daughter, Lillian. They were found shot to death Jan. 22, tangled in the bedding in the family home in Hopkinton, Mass.

The dead woman's family was "confident this day would come and the case would be solved," family spokesman Joe Flaherty told reporters today. The family was saddened and shocked by the deaths of their relatives, he said, and the arrest of a person "the family trusted."

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The family knew investigators "would unravel what happened here and that somebody would be arrested and brought to justice," Flaherty said.

Because of the nature of the crime, the age of the child and Entwistle's abrupt departure to his native Britain, the case has been getting extensive coverage on cable television news shows.

Middlesex Dist. Atty. Martha Coakley told a televised news conference that officials surmise that Entwistle meant to kill himself after murdering his family, but changed his mind. The motive could have been financial difficulties, she said.

Coakley said Entwistle used his father-in-law's handgun to shoot his wife and daughter on the morning of Jan. 20. The next morning, Entwistle bought a one-way ticket and fled to London. He did not return for the family funerals.

Before he boarded the flight, Entwistle brought the .22-caliber handgun back to his father-in-law's house in Carver, Mass., Coakley said.

"We have forensic information that links it both to him and to Rachel, and we know Rachel had not used that gun," Coakley said.

It was Rachel Entwistle's mother who called authorities when she couldn't contact her daughter. Police went to the Entwistles' home on Jan. 21 but didn't see anything wrong. After a missing person report was filed, police visited the home again, and discovered the bodies amid piles of bedding, Coakley said.

As is common in murder cases, Entwistle was immediately considered a person of interest, a step below suspect. State officials flew to London late last month to interview Entwistle, who was at his family's home in Worksop, England.

Entwistle was an unemployed computer entrepreneur who met Rachel in 1999 at the University of York, where she spent a year studying abroad. They married in 2003 and stayed in England until last year.

The family had rented the home in Hopkinton some two weeks before the murders.

In a statement, London authorities said Entwistle was arrested on a provisional extradition warrant issued by Bow Street Magistrates Court.

"The warrant alleges that on or before" Jan. 22, Entwistle "murdered Rachel Entwistle … and he murdered Lillian Entwistle. Mr. Entwistle is now in custody at a London police station and will be brought before Bow Street Magistrates Court in due course."

British Man Charged In Deaths Of American Wife, Daughter (WP)

By David A. Fahrenthold

The Washington Post, February 10, 2006

CAMBRIDGE, Mass., Feb. 9 -- A British man whose wife and infant daughter were discovered fatally shot in a Boston suburb last month, a day after he had abruptly left the country, was arrested on murder charges Thursday in London, authorities said.

The charges against Neil Entwistle added a new twist to a case whose lurid elements -- failed Internet schemes, a mother and daughter shot side by side, and a police search that missed two bodies buried under bedclothes -- have generated intense interest on both sides of the Atlantic.

In announcing the arrest, Middlesex County District Attorney Martha Coakley said that Entwistle, mired in debt, may have initially planned to kill himself after shooting his wife and daughter Jan. 20.

"We believe possibly that this was intended to be a murder-suicide," Coakley said at a news conference, adding: "Obviously, the murder was effected, the suicide was not."

Entwistle, 27, has spent much of the past three weeks at his parents' home in Worksop, England, dogged by British and U.S. media. Coakley said Entwistle was visiting friends in London on Thursday when he was arrested by British police at the Royal Oak train station.

He faces extradition proceedings to return him to Massachusetts.

In a statement Thursday, family members of Entwistle's wife, Rachel, said they were saddened by the arrest.

"Neil was a trusted husband and father, and it is incomprehensible how that love and trust was betrayed," the statement said, according to the Associated Press.

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Entwistle and his wife met while studying at Britain's University of York in 1999 and were married in 2003, the AP reported. They moved into their rented home in the suburb of Hopkinton, Mass., a few days before the killings.

By that time, Coakley said, Entwistle was facing debt he had accumulated in Britain, plus a series of Internet ventures had produced little income.

Coakley said Entwistle used a .22-caliber handgun he had taken from his father-in-law to shoot his wife, 27, in the head, and then shoot their 9-month-old daughter, Lillian, in the abdomen. At the time of the shootings, Coakley said, both victims were lying on a bed and wearing "sleepwear," but she said it was unclear whether they were awake or asleep.

Later that day, Entwistle surreptitiously returned the gun to his in-laws' home in another Boston suburb, Coakley said.

The next morning, Jan. 21, Coakley said, he used a one-way ticket to fly to London.

The bodies were not discovered until more than 24 hours after Entwistle departed, after Hopkinton police and family friends had done separate walk-throughs in the house and noticed nothing amiss. The bodies were apparently there the whole time, Coakley said, but were concealed by a large pile of bedding. "It just looked like an unmade bed," Coakley said. Police discovered the bodies when they made another search on the evening of Jan. 22.

US Charges Taiwanese Over China Jet, Missile Deal (REU-Y2)

By Michael Christie And Paul Eckert

Reuters, February 10, 2006

A Taiwanese citizen was charged in the United States on Thursday with being a covert agent for Beijing, and accused together with a Frenchman of trying to illegally export an F-16 jet engine, Blackhawk helicopter engines and cruise missiles to China.

U.S. prosecutors in Miami said a federal grand jury had returned a nine-count indictment against Ko-Suen Moo, of Taipei, and Maurice Serge Voros, of Paris.

The indictment alleged that the defendants violated the Arms Export Control Act by trying to export controlled items without a license to China, including the engines, the cruise missiles and air-to-air missiles, the prosecutors said.

The case follows repeated U.S. expressions of concern about Beijing's strategic intentions as China increasingly pours proceeds from its rapidly expanding economy into its military.

Chinese war capabilities are growing at a pace expected to soon upset a delicate military balance between China and rival Taiwan, which relies on U.S. weaponry to defend itself.

"This case highlights the national security threat posed when agents of a foreign government seek to illegally acquire and export American military weaponry," said U.S. Attorney R. Alexander Acosta.

"We will continue to aggressively investigate and prosecute foreign agents whose motives and actions are, by definition, detrimental do the United States and our national security," he said in a statement released by the Justice Department.

RISING CHINA CONCERNS

A Pentagon spokesman refused to comment specifically on the Miami case, saying it was a Justice Department matter.

But he added: "We are aware that there are continuing efforts on the part of China to obtain U.S. technology," Navy Lt. Cmdr. Greg Hicks told Reuters in Washington.

A spokesman for the Chinese embassy in Washington was not immediately available for comment.

A spokesman for Taiwan, which has an unofficial economic office in the U.S. capital in the absence of formal diplomatic ties with the United States, declined to comment.

Taiwan and China split in 1949 after a civil war brought the communists to power on the mainland. Beijing has vowed to attack if Taiwan formally declares statehood -- a fight that could embroil the United States as Taiwan's traditional backer.

Last week, the Pentagon, in a new long-range strategy blueprint, called China the rising power with the greatest potential to compete militarily with the United States. The strategy calls for new long-range weapons and a greater U.S. naval presence in the Pacific.

Moo was also charged with being a covert agent of the People's Republic of China, and with bribery, obstruction of justice and money laundering for offering $500,000, through an intermediary, to be released.

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Moo had been detained but Voros remained at large, prosecutors said. The defendants face up to 20 years in prison if convicted.

According to the indictment, Moo traveled to the United States on two occasions and actually inspected an F-16 aircraft engine. The engine was to be flown to an airstrip in China.

"In the post-9/11 world, keeping sensitive U.S. military components from falling into the wrong hands has never been more important," Jesus Torres, Special Agent in Charge of Immigration and Customs Enforcement in Miami, said in a statement.

(Additional reporting by Deborah Charles and Charles Aldinger)

Feds Seize Truckload Of Fake Olive Oil (AP)

AP, February 9, 2006

NEWARK, N.J. (AP) - More than a discerning palate has determined that thousands of cans of Hermes and San Giovanni brands of extra virgin olive oil weren't quite right.

The U.S. Food and Drug Administration tested the chemical composition of the oil and found it was really less expensive soybean oil, prompting Thursday's seizure.

The U.S. Marshals Service seized 22,700 gallons of oil, imported from Italy, at a trucking company warehouse in Clifton.

"It is a whole lot of faux olive oil," said Mike Drewniak, a spokesman for U.S. Attorney Christopher Christie.

The labels on the 3-liter tins in 4,855 cases said the contents were more expensive extra virgin olive oil or pomace olive oil.

Because olive oil is five to six times more expensive than soybean oil, the potential estimated profit is about $105,600, according to the FDA.

"We will not permit New Jersey consumers to be defrauded," Christie said in a statement.

The tainted oil includes Hermes' brand of extra virgin olive oil and pomace oil and San Giovanni's brand of extra virgin oil. The cans remain at the warehouse in Clifton under a state-ordered embargo.

Teen Boys Abducted, Forced To Rob Md. Banks, Police Say (WP)

By Allison Klein

The Washington Post, February 10, 2006

They are bank robbers who didn't want the cash, police say. The scared 14- and 15-year-olds were not looking for a thrill, either, when they walked into banks in suburban Maryland and handed tellers notes demanding money.

They had been snatched by gunmen, taken to the banks and forced by their captors to commit the crimes, according to Prince George's County police.

After the teenagers came out of the banks with the money, the gunmen made off with the take and left the stunned youths behind.

At least four recent bank robberies were committed by three teenagers who later told police they had robbed the banks against their will. Their stories are "very credible," said an investigator who did not want to be identified because the case is still open.

The most recent was on Wednesday, when a 14-year-old Landover youth was abducted and then forced to hold up a branch of Chevy Chase Bank in Bethesda, said FBI spokeswoman Michelle Crnkovich.

Police found him walking along Rockville Pike, stained by ink from an exploding dye pack, a device that banks attach to bundles of money to stain bank robbers, making them easier to spot.

The other three incidents occurred in Prince George's, two of them on Jan. 20 and one on Monday.

"These kids were frightened," Crnkovich said. "There are absolute parallels in these cases."

None of the teenagers was physically hurt, police said.

The FBI is working with Prince George's and Montgomery County police on the cases. The agencies have "promising leads," Crnkovich said.

Prince George's police consider the youths to be victims, and they were not arrested, said Cpl. Debbi Carlson, a police spokeswoman. The 14-year-old in the Bethesda bank case was taken into custody by Montgomery police but was not charged with a crime. Instead, he was released to his parents.

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"I've been a cop for 17 years, and this is the first time I've heard of a kid that young robbing banks," said Lt. Eric Burnett, spokesman for Montgomery police.

Police did not identify any of the teenagers and would not say who wrote the notes used in the robberies. They did not disclose what the notes said.

Prince George's police Lt. Sean Carney, commander of the department's robbery section, cautioned parents yesterday to always know where their children are. He also said children should walk or travel with friends or relatives.

"People need to take steps to protect themselves," Carney said. "Be aware of your surroundings. Be aware of your children's travel routes. Tell neighbors to keep their eyes out."

The first Prince George's kidnapping and robbery began at 4 p.m. Jan. 20 in the 7400 block of Barlowe Road, two blocks from police headquarters in the Palmer Park neighborhood.

Two men approached a 15-year-old, saying they had a weapon and would hurt him if he did not follow their orders. They took him several blocks to a Wachovia Bank in the 7700 block of Landover Road and forced him to pass a note to the teller demanding money, police said.

They then went to a SunTrust Bank in the 8200 block of Ardwick-Ardmore Road, next to an entrance ramp for Route 50, and forced him to rob that bank, police said.

The men fled, and the teenager ran to a nearby business and called police.

The second abduction occurred at 6 p.m. Monday, when a man with a gun approached a teenager on a Metrobus. Police would not say where the bus was heading or where it was when the incident occurred.

The gunman said he'd hurt the youth if he didn't follow the man's orders, according to police.

He took the youth to a SunTrust bank in the 7700 block of Riverdale Road and told him to pass a note to the teller demanding money, which the youth did. After the teenager handed over the money, the man ran off with it.

Bank employees called police and gave a description of the teenager who had robbed the bank. Patrol officers quickly spotted the youth and stopped him. He explained what had happened, police said.

In the Montgomery case, the teenager robbed a Chevy Chase Bank at 7501 Wisconsin Ave. in Bethesda about 4:20 p.m. He was taken into custody shortly after 5 p.m. when patrol officers who had heard the suspect's description spotted him on Rockville Pike.

Burnett said detectives don't believe he participated in the robberies in Prince George's.

The youth, who was not identified, was released to his parents last night after being questioned by detectives at police headquarters in Rockville.

Police have descriptions of two men possibly involved in the Prince George's cases but do not have surveillance images of them from the recent robberies because they did not enter the banks with the teenagers, Crnkovich said.

But one or both might have been involved in a late December robbery of a Wachovia bank, and there might be surveillance images from that heist, she said.

Employees at the Wachovia, SunTrust and Chevy Chase banks that were robbed declined to comment yesterday. Corporate spokesmen for the banks said only that they were cooperating with law enforcement officials.

One of the men, who might have been involved in both Prince George's cases, is described as 6 feet tall, about 20 years old and of dark complexion. He had a moustache and a light growth of hair on his chin and was wearing a gray sweat jacket, bluejeans and black Jordan tennis shoes.

Another man, who might have been involved in the Jan. 20 incident, is described as 16 years old and about 5 feet 8 inches tall with cornrows. He was wearing a No. 3 Allen Iverson Philadelphia 76ers jersey, police said.

Carney appealed to the public for information. "No matter how insignificant it may seem, we need to know everything the public knows about this," he said.

Anyone who has information about these cases is asked to call 866-411-TIPS.

Ex-La. Judge Gets Prison In Bond Scheme (FINDLAW/AP)

By Alan Sayre, Associated Press Writer

DOJ_NMG_0013857

AP, February 10, 2006

(AP) - NEW ORLEANS-A former state judge who was tried for allegedly accepting bribes from a bail bonding company was sentenced Thursday to more than four years in federal prison for mail fraud.

Alan Green was accused of taking $20,000 in cash, golf trips and meals from the company in return for reducing the bonds of dangerous criminals to levels they could afford. That way, Bail Bonds Unlimited could collect hefty fees for guaranteeing their court appearances.

Green was convicted of a single charge of mail fraud after being tried on charges relating to the bribery allegations. The jury could not agree on the other charges: four more counts of mail fraud, one of mail fraud conspiracy and one of racketeering conspiracy.

Federal Judge Lance Africk told Green his conduct endangered citizens. "Bail Bonds Unlimited saw a for-sale sign on your office," Africk said.

Green apologized for "impugning the integrity of the bench" but denied taking any bribes, saying he was manipulated through a friendship with an accountant for the company.

Green served on the state district court in the New Orleans suburb of Jefferson Parish until his conviction last year. He was the 14th defendant convicted in the FBI's investigation of courthouse corruption in the parish.

Green Sentenced To 51 Months (NOTP)

By Michelle Krupa, West Bank bureau

New Orleans Times-Picayune, February 10, 2006

Defiant to the end of prosecutors' claim that $10,000 in cash payments that he received from Bail Bonds Unlimited were not bribes, former state Judge Alan Green was sentenced to 51 months in prison Thursday in New Orleans' federal court, becoming the second judge to wind up behind bars in the Jefferson Parish courthouse corruption scandal.

Before delivering a scathing rebuke of Green's exploitation of his post as an elected jurist and slapping him with a $50,000 fine, U.S. District Judge Lance Africk gave Green one last chance to admit that two $5,000 payments he got from the Gretna bail bonds firm were not "off-the-books" campaign contributions, as Green testified in his June trial, but part of the web of bribery confirmed by nine defendants who have admitted to crimes in the seven-year probe.

"Do you still contend that the two $5,000 contributions were not bribes?" Africk asked Green.

"They were not bribes, your honor, as far as I was told," Green replied. "At no time did I believe that they were, in fact, bribes."

Africk then took aim at Green, assailing his refusal to realize, even in retrospect that, the cash, gifts and meals that Bail Bonds Unlimited executives Louis and Lori Marcotte and accountant Norman Bowley showered upon him did not trigger his favorable treatment of the bond house, which included reducing or splitting bonds for violent arrestees at the specific request of the Marcottes and Bowley.

"Bail Bonds Unlimited saw a 'For Sale' sign on your office and decided to purchase it in order to maximize its profits," Africk said. "I find this sentencing to be one of the most distasteful things I have ever had to face in more than 15 years on the bench. You had all the promise in the world, and you were a role model in the community. It is beyond sad that it has to come to this."

After Africk handed down the punishment, Green declined comment other than to say that his "faith in God would carry me through." Several of his relatives, including his wife and mother, were present in the courtroom.

U.S. Attorney Jim Letten, who attended the proceeding along with about 75 observers, said after the hearing that he was insulted by Green's lack of willingness to take responsibility for the bribery that was a component of the single count of mail fraud for which jurors found Green guilty. The jury hung on six other charges, including one under the potent Racketeer Influenced and Corrupt Organization act, or RICO.

"Of course, I'm offended," Letten said. "Anyone with a single brain cell will understand that in the face of ... (wiretapped) conversations that showed the context in which these payments transpired that these cash payments were clearly bribes.

"For Alan Green to stand before God, country and a federal judge and assert that his conduct was not bribery is something that flies in the face of common sense and, as (chief prosecutor) Mike Magner said, made his skin crawl," Letten added.

Green, who faced a maximum 20 years in prison and a $250,000 fine, apologized during the hearing for "impugning the integrity of the court in Jefferson Parish."

"I unwittingly and unintentionally placed myself in a situation where I was manipulated by the bail bond company," Green said. "Today I stand before you as many people have stood before me. I've always expected them to be accountable to my court, ... and I am prepared to accept whatever sentence you deem is appropriate."

That punishment was elevated beyond the 33 to 41 months recommended by the court's probation office because Africk agreed with prosecutors' argument that Green lied on the witness stand when he maintained his assertion that the cash he took from Bail Bonds Unlimited, plus $800 in cash from Gretna lawyer W.J. LeBlanc, were not bribes but campaign contributions, even though they far surpassed donation limits in state law.

Africk said Green, who spent six years as a prosecutor before becoming a judge in 1992, was "too smart" not to realize the bribery.

Indeed, Green's lead defense attorney, Frank DeSalvo, told Africk that he begged his client after the jury verdict to "just say (the payments) were bribes" in an attempt to earn leniency. But Green refused, saying that admission would have been a boldfaced lie, DeSalvo said.

In suggesting to Africk that Green should go to prison for as long as 87 months based on federal guidelines, Magner implored the court not to consider as "a ceiling" the 46-month sentence of Ronald Bodenheimer, the only other judge to be sent to jail in the ongoing Operation Wrinkled Robe investigation.

Bodenheimer "accepted responsibility for his wrongdoing;" entered a plea deal with prosecutors, avoiding an expensive trial; and provided crucial information during at least 10 debriefing sessions that led directly to the indictment and subsequent plea deals of the Marcottes, who ultimately admitted orchestrating the corruption scheme, Magner said.

But DeSalvo said Bodenheimer only pleaded guilty because he "folded under the pressure" of the government's continuing probe. Bodenheimer also admitted to other crimes, DeSalvo said, including conspiring to plant drugs on a critic of his business and rigging the child custody case of millionaire restaurateur Al Copeland, which was assigned to his court.

"To compare Judge Green to Judge Bodenheimer would be like comparing a sinner to the devil," he said.

But prosecutors contended that Green's actions injured justice on several levels, from the innocent victims who were harmed by violent arrestees whom Green helped usher out of jail, to the public's tarnished impression of the Jefferson Parish bench.

"Hardly a day goes past when I don't get a call from some litigant" expressing doubts over the "fairness or accuracy" of some judgment rendered by Bodenheimer, Green or other jurists of the 24th Judicial District Court, Magner said. "This has caused the entire public to question the validity of a system that separates this society from chaos."

Letten went a step further, saying misdeeds such as those perpetrated by Green cast a cloud over the entire justice system and on politicians in general. That unfair perception, he said, has been ridiculed by some federal lawmakers and may affect how much money Louisiana receives to recover from Hurricane Katrina.

"This kind of conduct ... undoubtedly has had an affect on how our region is perceived," Letten said.

Green, a Democrat from Marrero, first was elected in 1992 to the 24th Judicial District Court's black-majority district, which was created that year. He was re-elected four years later and in September 2002 won a third term, even though he had been identified publicly two months earlier as a subject of Wrinkled Robe.

He continued to hear cases into the fall of 2004, when he was indicted, along with Bowley, who avoided trial by pleading guilty in June to a lesser crime; Bowley was sentenced last week to 20 months behind bars.

Green resigned from the bench in August, several weeks after his conviction, and DeSalvo said this week Green also has voluntarily relinquished his law license.

With Thursday's sentencing, Green became the fifth Louisiana judge, and the third in Jefferson Parish, to be sent to prison in the past two decades, according to the state Supreme Court. Before Bodenheimer, 1st Parish Court Judge Bruce Naccari of Metairie was sentenced in 1996 to 18 months for wire fraud charges related to his family's defunct insurance company.

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Green was the 14th defendant to be nabbed by Wrinkled Robe and the only one to risk trial rather than ink a plea agreement with prosecutors. The list includes Jefferson Parish Sheriff's deputies, who also admitted accepting bribes from Bail Bonds Unlimited in return for helping the company secure clients, as well as players in Bodenheimer's various schemes.

The government issued another round of grand jury subpoenas in August. Judges on the list were Louisiana 5th Circuit Court of Appeal Judge Susan Chehardy, state Judge Kernan "Skip" Hand, Justice of the Peace Steve Mortillaro of Jefferson's 5th Justice Court and state Judge Steve Windhorst.

But Letten said Thursday that though prosecutors still are hunting any sign of public corruption in Jefferson, the Wrinkled Robe soon may be headed for the judicial closet.

"Much of the investigation has been successfully concluded," he said. •

Andrea Shaw contributed to this report.

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Pressured, Director Of Getty Trust Steps Down (NYT)

By Randy Kennedy And Carol Vogel

The New York Times, February 10, 2006

The president of the J. Paul Getty Trust in Los Angeles, one of the world's richest art institutions, resigned under pressure yesterday amid growing questions about his improper use of the trust's money.

The trust said that the president, Barry Munitz, whose travel and expense spending are under investigation by the California attorney general's office, would be required to repay the trust $250,000 and would not be given a severance package. The money was an estimate of what the trust felt Mr. Munitz owed because of perks, expenses and other costs that should not have been charged to the trust during his eight-year tenure, trust officials said.

"It's more judgment than it is precise mathematics," John H. Biggs, the board's chairman, said of the figure, adding that because the attorney general's investigation was continuing, he could provide few details about Mr. Munitz's departure and could not answer other questions about his practices.

He added, however, that "as far as the Getty Trust is involved, Munitz has resolved these issues" with the payment of $250,000, and that the board did not believe Mr. Munitz did anything improper under the laws that govern nonprofit trusts.

"He's still at risk that the A.G. may see it otherwise," Mr. Biggs added, referring to the state attorney general, "and there's no way that we as trustees can give him any assurance."

Mr. Munitz's departure represents a major reversal for one of the most powerful leaders in the art world, who controlled an institution with an endowment of more than $5 billion. The trust's board of trustees — many of whom are Mr. Munitz's friends and allies — had steadfastly stood by him, even as questions about his leadership and about other troubles at the trust mounted over the last several months.

Citing confidentiality agreements, the trust gave few specifics yesterday about the exact reasons for Mr. Munitz's departure. Mr. Biggs said that Mr. Munitz informed the trust of his decision to leave last weekend at a board meeting. "It was Barry's decision to get on with his life and not to have this hanging over him," he said.

But one former Getty employee with knowledge of the attorney general's inquiry said that investigators were looking into several instances in which Mr. Munitz had authorized grants or uses of the trust's money without obtaining proper approval. In some cases, the former employee said, the money was spent on pet projects of Mr. Munitz's — one involving chess, which he loved — that had very little to do with the Getty's mission. The trust said yesterday that Mr. Munitz would not be available for comment.

For the last several months, the Getty has been under siege on several fronts. Its former antiquities curator, Marion True, is now on trial in Italy on charges of trafficking in looted antiquities. She resigned last October amid questions about possible improprieties involving a real estate deal.

Allegations that Mr. Munitz may have abused his expense account with luxurious travel and perks, first reported in The Los Angeles Times last June, led to the wide-ranging investigation by the attorney general into the trust's finances and also led the Getty to set up its own internal committee to look into questions about the trust's practices.

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In interviews, Mr. Munitz has defended his actions and his spending, saying that his job required him to court powerful collectors and donors around the world. He has also stressed that trust's board had approved all his expenses, including first-class air travel, stays at five-star hotels and a leased Porsche Cayenne.

Both the attorney general and the internal committee are also examining a 2002 real estate deal between the Getty and Eli Broad, a billionaire investor who is a friend of Mr. Munitz's.

In an interview last fall, after the attorney general's investigation was announced, Mr. Biggs said he believed Mr. Munitz had "really done a terrific job," though he added that he had warned Mr. Munitz about travel expenses, including yacht trips with Mr. Broad in Greece and Eastern Europe for which Mr. Munitz was partially reimbursed by the Getty.

Mr. Biggs, a former chief executive of TIAA-CREF, the investment fund, said the trips should have been treated as vacations, not business trips. "Barry and I have had a discussion about that," Mr. Biggs said at the time, adding, "Every time he spends some money we want him to take a hard look at it and ask himself whether he would want that spending published."

The Getty Trust includes the J. Paul Getty Museum in Los Angeles, a research institute, a library, an art conservation program and a grant-making office. The museum instantly became one of the world's wealthiest in 1982, when it received the estate of the oilman J. Paul Getty, giving it six times more money than its next-richest American sibling, the Metropolitan Museum of Art.

Over the next two decades, the Getty grew significantly, spending hundreds of millions of dollars to enlarge its collection. But many critics say it has failed to live up to its early promise, a problem even before Mr. Munitz's arrival.

Mr. Munitz, a former business executive and chancellor of the California State University system who is well-connected in California political circles, has been one of the nation's best-paid executives of a nonprofit institution, with salary, benefits and perks totaling more than $1 million.

Federal Directive Targets Risky Mortgage Practices (WT)

By Patrice Hill

The Washington Times, February 10, 2006

Third of three parts

Federal banking agencies, concerned about the potential for abuses in mortgage lending, are going after the worst practices in the industry.

A directive last month from the Federal Reserve and four other federal agencies targets the proliferation of loans offering interest-only payments for extended periods and adjustable-rate mortgages that offer the option of paying interest only, making a minimum payment each month or adding in principal. That includes about half of all mortgages made last year.

Regulators say they are particularly concerned that some loans not only do not pay down principal, like a traditional mortgage, but they also increase the amount of principal that a consumer must pay by as much as 100 percent through "negative amortization."

The regulators also expressed concern about the growing practice of "layering" risky mortgages on top of already dicey lending practices, such as requiring no down payment or proof of income from borrowers.

The regulators said banks that offer such loans will be held accountable for making full disclosure of the risks to consumers.

But many inside and outside the mortgage industry question how much impact the banking directive will have, because so many mortgage brokers operate outside the banking system. Only those that are subsidiaries of banks would seem to be affected.

"Banking regulators actually have fairly minimal control or even influence over a huge portion of our economy," said Christopher Cruise, a Washington mortgage broker and trainer for the Mortgage Training Institute.

"I'm not saying we're thumbing our nose at the regulators," he said. But "if I'm a street-level originator licensed by the state of Maryland generating 20,000 loans in a year, and I find rich investors to buy them, nothing the [Office of the Comptroller of the Currency] says has any impact on me."

Mortgage companies such as Countrywide, the biggest nonbank lender in the country, appear to be unaffected, he said.

"I think they own a bank, I don't think the bank owns them. They sell their mortgages to Wall Street," he said.

'Empire of debt'

Although mortgage brokers perceive few limits on current practices, many nevertheless are concerned about the massive debts they see borrowers take on to buy houses and maintain affluent lifestyles.

Mortgage brokers in California report that some borrowers in recent years have been making a living by taking advantage of soaring housing prices and "flipping" real-estate investments — buying and selling them in rapid succession — while using equity loans on the properties as "income."

The practice could amount to mortgage fraud if the borrowers disguised the source of their "income" on their loan applications, the brokers said.

Mr. Cruise noted that debt appears to be addictive for some consumers who simply cannot save or go without lavish things. Some will refinance their mortgage at Christmastime, for example, so they can splurge on expensive presents.

"I feel like a drug dealer," he said. "I'm horrified at the empire of debt we're creating."

Mr. Cruise said some of his customers are so intent on getting loans, they won't take "no" for an answer. "We're enablers. We're just middlemen. In a sense, we profit from their foolishness."

Most mortgage brokers follow the disclosure requirements of the Truth In Lending Act, which specifies, among other things, that the full cost of the loan — principal plus interest — must be clearly spelled out to consumers before they sign the mortgage contract.

But Mr. Cruise said many consumers never bother to read the disclosures. With today's complex and sophisticated loan instruments, the old guidelines are inadequate and consumers are not getting the disclosures they need to make well-informed decisions, he said.

The law does not specify, for example, that lenders must disclose how much monthly payments may rise when rates are fully adjusted and principal is added under a worst-case scenario.

Most mortgage brokers today are in their 20s or early 30s and have not lived through a deep recession or other "worst-case scenario" in their adult lives, Mr. Cruise said.

"I'm not sure the loan officers themselves know what could happen" if rates rise precipitously or the economy plunges, he said.

Distant control

The federal banking directive specifies that lenders should disclose the terms of fully indexed loans to borrowers.

But Jack M. Guttentag, a retired professor from University of Pennsylvania's Wharton School of Business who sponsors a mortgage education Web site, mtgprofessor.com, said it's not clear whether the guidelines will change anything.

"What a broker or loan officer tells a borrower is pretty much up to them, so long as they comply with the disclosure laws," which don't prohibit most current practices, he said. "That is part of the market culture, and the regulators would have their hands full trying to change it."

Mortgage brokers also are right to question whether the directive applies to them, because the Federal Reserve has, at best, distant control over what the nonbank subsidiaries of bank-holding companies do, he said.

Deborah Lagomarsino, a Fed spokeswoman, declined to say whether or how the Fed would ensure that its directive is followed by the many mortgage companies not directly regulated by the Fed.

In any case, the guidance is too vague to be of much help to lenders that have established guidelines that detail the credit scores, loan-to-value ratios and other standards that borrowers must meet for loans.

"Sending me a bunch of homilies about how important it is to be careful of this or that will leave me unimpressed," Mr. Guttentag said. "If you really want me to take notice, show me where my guidelines fall short."

Because of the light regulation and demonstrated abuses, Mr. Guttentag has established a program to certify mortgage brokers and lenders in order to separate the unethical ones from "upfront" ones who disclose their fees and essential borrowing information.

"Many potential borrowers are shocked to discover that there is no registry of bad apples — and no system to certify good ones," he said.

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One of the commitments a mortgage lender must make to be certified under Mr. Guttentag's program is to disclose what will happen to monthly payments in worst-case scenarios.

Some financial analysts say the banking directive will have a definite impact on banks as well as on investors who have been using interest-only loans to purchase property.

David Lereah, chief economist with the National Association of Realtors, says he expects the directive particularly to discourage speculators who "flip" properties in transactions that require minimal down payments and liberal loan terms.

"There will be fewer investors in the market this year," he said.

Sources: Gretzky Knew Of Gambling (PHI)

By Jennifer Moroz

The Philadelphia Inquirer, February 10, 2006

TRENTON - State wiretaps recorded hockey legend and NHL coach Wayne Gretzky talking about a sports gambling ring allegedly run by his assistant, former Flyer Rick Tocchet, two New Jersey law enforcement sources confirmed yesterday.

As part of a probe into what state law enforcement officials have described as a nationwide, multimillion-dollar illegal bookmaking operation, investigators are looking into whether Gretzky - coach and part-owner of the Phoenix Coyotes - placed any bets through his wife, Janet Jones, the sources said on condition of anonymity.

Gretzky, who has not been accused of wrongdoing, denied any involvement.

"If I had made one bet, I would have quit the Coyotes," Gretzky told the East Valley (Ariz.) Tribune before last night's game with the Dallas Stars. "I would never embarrass the team or the organization. If I had made one bet, I would have quit Team Canada. I would never embarrass them.

"There's nothing for me to hide from."

This week, sources confirmed that Jones and former Flyers center Jeremy Roenick, now with the Los Angeles Kings, were among several high-profile figures - including at least a half-dozen former and current NHL players - who had placed bets with the five-year-old gambling operation.

New Jersey state officials say that the ring accepted wagers on college and professional sports - mostly football and basketball - and that there was no evidence of any bets on National Hockey League games.

The Star-Ledger of Newark, citing unidentified law enforcement sources, first reported yesterday that state investigators had recorded Gretzky talking about the ring. The newspaper also reported that Jones bet $500,000 during a recent six-week period, including $75,000 on the Super Bowl.

"At no time did I ever place a wager on my husband's behalf, period," Jones said in a statement provided by the Coyotes last night, which did not address her own possible involvement. "Other than the occasional horse race, my husband does not bet on any sports."

After the Coyotes' 5-1 loss last night, Gretzky said he still planned to attend the Turin Olympics as Team Canada's executive director.

"I'm still going to coach the Phoenix Coyotes. I've done nothing wrong," he said. "I'm going to Italy on Sunday. I'm going to be with Team Canada."

State police officials said investigators were interviewing the biggest bettors to determine whether they had engaged in any criminal activity. None has been accused of any wrongdoing.

So far, the only people charged in connection with the operation are Tocchet, who played for the Flyers from 1984 to 1992 and again from 1999 to 2002; his alleged partner, James Harney, a state trooper from Marlton who officials say accepted wagers while on patrol; and James Ulmer of Woolwich, who investigators said helped the pair taking bets.

The three men are scheduled to be arraigned Feb. 21 on charges of promoting gambling, money laundering and conspiracy in state Superior Court in Burlington County.

Attorneys for Harney and Tocchet - who is on indefinite leave from his job as a Coyotes associate coach - have called the charges overblown and irresponsible. Roenick has not commented.

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On Tuesday, the day state officials announced the charges against Tocchet and Jones' name surfaced as a bettor, the Great One said he "wasn't involved."

"The reality is, I'm not involved, I wasn't involved, and I'm not going to be involved," Gretzky said. "Am I concerned for both of them [Jones and Tocchet]? Sure, there's concern from me. I'm more worried about them than me. I'm like you guys, I'm trying to figure it all out."

Elliot Mintz, a spokesman for Jones, said in a statement that she might be called as a witness before a New Jersey grand jury.

Some law enforcement officials quietly predict that federal authorities will step in to investigate numerous possible violations of federal law.

Michael Drewniak, a spokesman for the U.S. Attorney's Office in New Jersey, said the FBI had assisted state police "concerning interstate aspects" of the investigation, but that federal involvement had been minimal so far.

"At this time, this remains very much a state case," he said. He declined further comment.

Gretzky's Wife: 'Great One' Didn't Gamble (USAT)

By Kevin Allen, Usa Today

USA Today, February 10, 2006

Actress Janet Jones said Thursday that she never placed a wager on behalf of her husband, Phoenix Coyotes coach Wayne Gretzky, and Gretzky said he's "done nothing wrong, nothing that has to do with betting."

Addressing a betting scandal that led to the arrest of Coyotes associate Rick Tocchet, she released a statement, saying, "Other than the occasional horse race, my husband does not bet on any sports."

Reached by phone by USA TODAY, Jones said the statement would be her only comment: "I would like to say a thousand things, but I can't."

After the Coyotes' 5-1 loss to the Dallas Stars in Phoenix, Gretzky said he "felt like I've defended myself against something that absolutely didn't happen."

Jones' statement comes as the Associated Press, citing a person with knowledge of the investigation, reported Gretzky had been recorded on a wiretap talking to Tocchet about how Jones could avoid being implicated in the case.

According to that news report, Jones allegedly bet $100,000 on football games over the course of the investigation. The report said there was no evidence Gretzky bet on games.

USA TODAY could not independently confirm Gretzky was recorded on a wiretap.

FBI spokesman Rich Kolko confirmed the bureau was asked Thursday to assist in the case.

According to The Arizona Republic, citing two NHL officials with knowledge of the investigation, Coyotes general manager Mike Barnett, Gretzky's former agent, bet on the Super Bowl with Tocchet.

Barnett said in a statement he cooperated with investigators in New Jersey and "they informed me my conduct in no way violated federal or state laws."

Gretzky said he will travel to Italy to serve as executive director of Canada's Olympic men's hockey team.

David Gourevitch, a former prosecutor who now specializes in defending white collar cases, called the leaks about Gretzky "inappropriate" and "salacious" and does not prove that Gretzky committed a crime.

"They are leaking stuff that they know is inflammable and will garner publicity," says Gourevitch. "But it is not clear what they are leaking violates a law. It's not a crime to know that some else is engaged in a crime," he adds. "There is no snitch obligation and there doesn't seem to be as yet a suggestion that Gretzky was placing bets or personally involved in this."

Team Canada and Coyotes officials say Gretzky plans to travel to Italy to serve as executive director of the Olympic men's hockey team.

The New Jersey attorney general said Thursday that arraignment hearings for the trio charged in "Operation Slapshot" will be Feb. 21.

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Tocchet, James Harney and James A. Ulmer all face charges of money laundering, promotion of gambling and conspiracy, while Harney, a New Jersey state trooper, has the added charge of official misconduct because he allegedly committed these acts while acting as a public servant.

The reaction around the hockey world is that it's shocking even to have Gretzky's name associated with the scandal.

"When I played with and against Gretzky, I viewed him as a player who understood what he meant to the game and always put the game first," said former NHL player Tom Laidlaw, who played with Gretzky in Los Angeles. "He was always concerned about his image, and I mean that in a good way. And Janet struck me as someone who also understood who he was and how important it was to him to have the proper image."

Contributing: Adam Shell, Kevin Johnson

Gretzky Taped Trying To Aid Wife (WT/AP)

By Angela Delli Santi And Geoff Mulvihill

The Washington Times, February 10, 2006

TRENTON, N.J. -- Wayne Gretzky was recorded on a wiretap talking to the man suspected of financing a gambling ring, discussing how the hockey great's wife could avoid being implicated, a person with knowledge of the investigation told the Associated Press yesterday.

Mr. Gretzky, coach and part owner of the Phoenix Coyotes, can be heard on wiretaps made within the past month talking about his wife with assistant coach Rick Tocchet, the person said, speaking on the condition of anonymity because the investigation was ongoing.

Mr. Gretzky's wife, actress Janet Jones, purportedly bet at least $100,000 on football games over the course of the investigation by state authorities, the person said.

There is no evidence that Mr. Gretzky placed any bets, according to the person.

"At no time did I ever place a wager on my husband's behalf, period," Mrs. Jones said in a statement provided by the Coyotes last night. "Other than the occasional horse race, my husband does not bet on any sports."

Authorities say from Dec. 29 through Feb. 5 -- the day of the Super Bowl -- bettors placed $1.7 million in wagers with the ring run by a New Jersey state trooper, Mr. Tocchet and a South Jersey man. All face charges of promoting gambling, money laundering and conspiracy and are scheduled to be arraigned in Superior Court in Mount Holly on Feb. 21, the state Attorney General's office said yesterday.

Mrs. Jones has not been charged.

Elliot Mintz, a spokesman for Mrs. Jones, said in a statement that she may be called as a witness before a grand jury in New Jersey.

"Janet is merely one of a number of witnesses, and there is no allegation whatsoever that Janet has violated any law," he said.

Investigators are looking into whether anyone involved in the five-year-old ring, which authorities say had a connection to organized crime in Philadelphia and southern New Jersey, bet on National Hockey League (NHL) games. Mr. Gretzky is not the main focus of the probe, the person said.

The Star-Ledger of Newark, citing unidentified law-enforcement sources, first reported a wiretap involving Mr. Gretzky in yesterday's newspapers. The newspaper also reported that Mrs. Jones bet $500,000 during the investigation, including $75,000 on the Super Bowl.

Earlier in the week, Mr. Gretzky denied any involvement in the ring. Mr. Gretzky did not attend the Coyotes practice in Phoenix yesterday.

Lawyers involved in the case said details of the three-month investigation should not be made public.

"I have never been involved in a case where the prosecution has engaged in such inappropriate conduct in terms of making investigators available to the press, appearing on nationally syndicated television," said Kevin Marino, a lawyer for Mr. Tocchet, who was granted an indefinite leave from the NHL on Wednesday. "It's improper, it's unwarranted, and I will not tolerate it."

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Attorneys for all three men charged in what authorities have dubbed "Operation Slapshot" said they will fight the charges.

"This case will not be a guilty plea," said Charles A. Peruto Jr., who is representing James Ulmer. Mr. Ulmer and Trooper James Harney are accused of taking wagers and cuts of the bets.

The accusations have sent shock waves through the hockey world.

State investigators said they will interview more hockey players who were thought to have placed bets, in part to determine whether there was any gambling on hockey. So far, authorities say, they do not have evidence that there was.

The NHL has hired Robert Cleary, a former federal prosecutor who handled the Unabomber case, to investigate.

Mr. Cleary said yesterday that he was not sure how long his work might take, in part because he wants to stay out of the way of law-enforcement agents who are continuing to investigate.

Hockey players are prohibited from making NHL wagers, legal or otherwise. There are no rules that forbid them from placing legal bets on other sports.

Task Force Run By FBI Unmasks Identity Thieves (SLT)

By Pamela Manson, The Salt Lake Tribune

Salt Lake Tribune, February 10, 2006

Matthew Rodney Page, of Kaysville, surfed the Internet to find someone with his name and a similar date of birth to help get himself $42,000 in auto loans, two new credit cards and the fee for flying lessons.

Bryan Nelson Hansard, of Bountiful, "washed" stolen checks - removed the ink with chemicals, then rewrote the dollar amount or recipient - and deposited them into his own bank accounts.

These Davis County residents are part of a trend of using the names and financial information of others to steal money and merchandise. As the offense started to become more prevalent, authorities set up the Utah Identity Theft Task Force (ITTF), which operates as part of the FBI's Joint Terrorism Task Force.

Since its inception in November 2004, "the task force has been a resounding success," said Kathy Roberts, inspector in charge of the U.S. Postal Inspection Service's Denver division, which includes Utah.

At a recent news conference in Salt Lake City, Roberts and other officials ticked off Utah ITTF statistics from the past 15 months - 190 investigations launched; 1,366 victims of identity theft identified; about 150 indictments returned with convictions won in 127 of them so far; and more than 25 training sessions held on fraud prevention for law enforcement agencies, community groups and merchants.

Identity thieves use stolen information to obtain credit cards, cash checks made out to others, take out loans, collect tax refunds due to another taxpayer and get a driver license or passport under a false name. In addition to cheating merchants and banks, they cause financial hardship to their victims, who often are left with bad credit ratings that take a long time to correct.

The majority of cases handled by the identity theft task force involve "mailboxing," the stealing of checks, credit cards and other items from mailboxes. Thieves using someone else's personal information to get a credit card is the next biggest category.

Among the ways scam artists find information is by going through customer records at their own jobs or by pretending to be salespeople in telephone calls.

Identity thieves run the gamut from individuals to members of street gangs to white collar criminals, according to Timothy Fuhrman, special agent in charge of the FBI's Salt Lake City office.

Advertisement

Fuhrman and Paul Warner, who recently stepped down as U.S. attorney for Utah to become a federal magistrate, said many thieves are drug addicts trying to support their habit.

Punishment for identity theft-related crimes can be stiff. Aggravated identity fraud carries a minimum mandatory sentence of two years, which must be served after all sentences are served.

Other maximum terms are 30 years for bank fraud; 15 years for identity theft; 10 years for possession of stolen checks; and five years for conspiracy to commit identity fraud and possession of stolen mail.

Page, 40, pleaded guilty and was sentenced Feb. 1 to one month in federal prison for bank fraud and two years for aggravated identity theft.

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Hansard, 35, who admitted committing bank fraud, was sentenced last year in U.S. District Court to 18 months behind bars.

ITTF members include the FBI, U.S. Postal Inspection Service, Secret Service, Utah Attorney General's Office, Department of Corrections, Department of Public Safety, Ogden Police Department, Salt Lake County Sheriff's Office and the U.S. Attorney's Office. Numerous local law enforcement agencies also participate in investigating identity theft crimes.

Protect yourself

Even people who are careful with their personal information can be victimized by identity theft, but these tips from the U.S. Postal Inspection Service can help.

* Review your consumer credit reports annually.
* Shred and destroy unwanted documents that contain personal information.
* Deposit mail in U.S. Postal Service collection boxes.
* Do not leave mail in your mailbox overnight or on weekends.

More suggestions on how to avoid identity fraud are posted at http://www.usps.com/postalinspectors.

Decker Takes 5th Amendment (WINSJ)

By David Rice, JOURNAL RALEIGH BUREAU

Winston-Salem (NC) Journal, February 10, 2006

Former member of House declines to testify before hearing into possible illegal campaign donations

RALEIGH -- Former state Rep. Michael Decker took the Fifth Amendment yesterday, citing his right against self-incrimination as he declined to testify about campaign donations he got from optometrists after he switched parties in 2003 to help optometrist Jim Black remain speaker of the House.

"We have advised Rep. Decker ... to rest upon his Fifth Amendment rights," David Freedman, Decker's attorney, told Larry Leake, the chairman of the State Board of Elections after Leake called on Decker to testify. The elections board is investigating possible illegal donations from optometrists and the video-poker industry to the Black and Decker campaigns. A federal grand jury is also investigating, and several optometrists said they have been interviewed by the FBI and U.S. Treasury agents.

Although Black initially testified yesterday that he couldn't recall handling blank checks provided by his fellow optometrists, he later acknowledged to the elections board that he filled in Decker's campaign as the payee on at least three of the checks.

"I don't remember seeing blank checks - unless they were in an envelope, sealed, with somebody's name on it," Black said at first.

Then Leake handed Black a copy of a $4,000 check made out to Decker's campaign from M. Scott Edwards of Murfreesboro, the treasurer of the N.C. Optometric Society, along with two $100 checks from Gary Roach, an optometrist from Morrisville.

Black acknowledged that it was his handwriting that designated Decker's campaign as the payee. But Black and his attorneys argued that the donations were not illegal under state law.

"The law specifically allows ... for the donor to fill out a check and leave the determination of who it goes to until another time," said Kenneth Bell, one of Black's attorneys. "The law specifically allows for that."

Black acknowledged that he urged optometrists and others to support Decker with campaign donations when Decker, a Republican from Walkertown, switched parties in January 2003, creating a 60-60 tie in the House that allowed Black, a Democrat, to remain speaker.

"I encouraged a lot of people to give to Mr. Decker," Black said. "I knew he was going to be under siege. If he was going to survive politically, he needed to build a war chest."

After returning to the GOP, Decker was soundly defeated in the 2004 Republican primary.

Black gave an impassioned defense of his actions to help raise campaign money for Decker, but he denied giving Decker money in return for his party switch.

"I want to right here, right now, under oath, tell you that I never gave Michael Decker anything to change parties or to vote for me or for any other political purpose," Black said. "There was nothing offered to him, nothing promised to him. He changed parties because I'd always treated him with respect and dignity, and his own party didn't.

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"Now, if Michael Decker's on my team - and he was the newest, very important member of my team - I don't want Michael Decker to get beat in the next election. So I want to help him raise funds, as I do all the people on my team - Democrat and Republican," Black testified.

Leake read a quotation from a 1991 newspaper article in which Black was quoted as saying that he would ask optometrists to form a political-action committee and stop the practice of sending checks with the recipients' names left blank.

"I'm going to make a proposal that we not send a check anywhere that's not filled out," Black was quoted as saying at the time.

But yesterday marked the second day of testimony from optometrists who said they had given the N.C. Optometric Society PAC dozens of checks that they signed but left the "payee" line blank.

Many of the checks found their way to Decker's campaign, and, in some cases, were made out to Decker personally and appeared to have been cashed.

David Freeman, an optometrist in Winston-Salem, said he occasionally got checks from Edwards, the optometric PAC's treasurer, with instructions to pass them along to Decker.

Leake showed J. Michael Burke, another optometrist from Winston-Salem, two $100 checks from Burke that had personally been made out to Decker.

"That was not the intent of the contribution," Burke replied.

"They came in an envelope. I'd just add my own check and forward it on to Mike," Freeman said.

Edwards, too, cited his Fifth Amendment rights and declined to testify yesterday.

Although Black said that personal donations were a way to keep optometrists personally involved, several of the optometrists who provided blank checks that ultimately went to Decker or his campaign said they did not know Decker.

"I've heard maybe three or four say they knew who Michael Decker was. So how are these people involved if their money goes to somebody they don't know from Adam's housecat?" asked Chuck Winfree, a Republican member of the elections board from Greensboro.

Lorraine Shinn, a Republican board member from Greenville, pointed to the $4,000 check from Edwards and the optometrists' PAC on Jan. 15, 2003, that went to Decker's campaign - nine days before he switched parties.

"That, to me, is buying a vote in this situation," she said.

Black said that Decker told him that Black had Decker's vote for speaker in mid-November 2002, two months before he actually switched parties.

Board members grew frustrated with what they considered evasive answers.

When Michael Haines, an optometrist from Four Oaks, asked the difference between "probable" and "possible," Winfree erupted.

"Four years ago we had hearings and we had witnesses in the Meg Scott Phipps matter, and we had witnesses sitting there evading answers, and they are now in the custody of the federal marshals," Winfree said.

"That's a threat," said Press Millen, an attorney for the optometrists. "I think that's a totally inappropriate thing that he said."

The hearing will enter its third day today, and Leake said that it will have to resume later because testimony on the video-poker portion of the investigation has not begun.

The board could take action on the optometrist investigation today, and Leake made it clear that he thinks that the optometrists have run an illegal PAC through their separate "legislative committee."

"I believe that there is a significant likelihood that there were illegalities on the part of certain individuals or parties," he said.

But Leake said that the board decided not to offer Decker immunity from civil penalties in order to get him to testify before the elections board.

"This board has enjoyed what I would call unparalleled cooperation from the U.S. Attorney's Office ... and from the office of the district attorney," he said. "While we have that power, we are being very careful that we do not frustrate any investigation or any activities that they have ongoing."

Convicted Torture Killer Of 19-year-old Girl Executed (FINDLAW/AP)

By Michael Graczyk, Associated Press Writer

AP, February 10, 2006

(AP) - HUNTSVILLE, Texas-A paroled burglar who claimed he wanted to be a serial killer of minorities was executed Wednesday night for the torture-slaying eight years ago of a 19-year-old mentally impaired woman who once worked with him.

Robert Neville Jr., apologizing profusely, addressed his victim's mother by name as she and her two daughters stood close to the glass with their arms around each other. He expressed love to them.

"I hope you can find it in yourselves to forgive me and I hope all this here will kind of settle your pain. And I hope the Lord will give you comfort and peace. I just want you to know I am very sorry for what I have done," he said.

Referring to his victim, Amy Robinson, 19, Neville, said, "If I see Amy on the other side, I will tell her how much you love and miss her. And we will have a lot to talk about."

Neville then turned toward his parents, who watched through an adjacent window.

"I am sorry for putting you through all this pain and stuff," he said. "I love you all and I will see you on the other side."

Seven minutes later at 6:19 p.m. CST, he was pronounced dead.

Neville, 31, was the third prisoner executed this year and the first of three over the next 15 days in the nation's most active capital punishment state.

Neville and a companion, Michael Wayne Hall, were condemned for the fatal shooting of Robinson, who was abducted as she rode her bike to work at a Dallas-area supermarket. She was taken to a remote area of Tarrant County where she was shot repeatedly with a pellet gun, then killed with shots from a .22-caliber rifle as she begged for her life.

Hall, 26, remains on death row. He does not have an execution date.

"I think they just thought of her as you would think of a cat or dog or something," said Alan Levy, the Tarrant County assistant district attorney who prosecuted the pair.

At the time of the Feb. 15, 1998, slaying, Neville had been on parole about eight months after serving two years of a 10-year prison term for burglary.

"He did mention Amy. We're really glad we came," Tina Robinson, the victim's mother, said, flanked by two other daughters. "I feel like this is a victory for Amy. We're really relieved.

"I think he really felt bad for what he did, even though it's not going to bring Amy back."

About an hour before his scheduled execution time, the U.S. Supreme Court rejected his final appeals.

His lawyers had hoped to block the execution with appeals in the federal courts that questioned whether the lethal drugs used in the punishment were humane and that Neville suffered a mental illness brought on by lupus that should disqualify him from the death penalty.

The Supreme Court has ruled mentally retarded people are ineligible for capital punishment but has not extended the blanket prohibition to the mentally ill.

Neville and Hall were arrested about two weeks after Robinson was reported missing. They were stopped at a customs checkpoint near Eagle Pass as they were trying to cross into Mexico. They told authorities they could find Robinson's body in a grassy field in the Trinity River bottoms just north of Arlington.

Robinson suffered from a genetic disorder, Turner's syndrome, a rare chromosome disorder found only in women and characterized by short stature and lack of sexual development at puberty.

She also was described as mentally challenged. Prosecutors said she was "easy prey," which is how Neville and Hall, days after their arrest, characterized their victim as they spoke with reporters and laughed about how Robinson died as she pleaded to live.

The pair had worked with her at an Arlington Kroger store before they were fired and knew the route she took as she rode her bike to work. When they offered her a ride, she accepted.

"We had a bet going to see who could shoot and kill the most people between the two of us," Neville told the Fort Worth Star-Telegram two weeks after his arrest, explaining that he and Hall wanted to become serial killers whose victims were racial minorities. "No matter if it was blacks or Mexicans - anybody as long as they weren't our color."

Robinson was part Native American.

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Neville declined to speak with reporters in the weeks before his scheduled execution.

Next week, another inmate, Clyde Smith, 32, faces injection for the robbery and slaying of a Houston taxi driver in 1992.

Texas Department of Criminal Justice execution schedule: http://www.tdcj.state.tx.us/stat/scheduledexecutions.htm

Supreme Court Puzzles Some With Mixed Answers On Lethal Injection (WP)

By Charles Lane

The Washington Post, February 10, 2006

In the past two weeks, the Supreme Court stopped two executions in Florida and allowed a lower court to halt another in Missouri -- but the justices allowed three other death sentences, in Texas and Indiana, to proceed.

The court's actions are not necessarily contradictory under the law, but they have puzzled many on both sides of the debate over capital punishment because in each case the death-row inmate raised a similar issue: the legality of lethal injection as the means for execution.

In the Texas case, for example, lawyers for Robert Neville Jr. took the wording for their Feb. 8 appeal from a petition that the court had accepted 14 days earlier when it halted the execution of Clarence E. Hill in Florida. But the justices rejected Neville's bid; he was put to death Wednesday.

"We look to the Supreme Court for consistency and a policy everyone can follow, and we're not getting it from this court," said Richard Alley, Neville's lawyer. Florida Gov. Jeb Bush (R) also cited "uncertainty" about the Supreme Court's direction when he declared Feb. 1 that he will not sign any more death warrants until the court issues final rulings on the Florida cases.

"I am sure the court is trying to apply some sort of sensible standard," said Douglas A. Berman, an expert in criminal sentencing law at Ohio State University's Moritz College of Law. "But they need to do a heck of a lot better job explaining why."

The probable explanation for the court's apparent zigzag is that a majority of the court is ready to consider only a relatively narrow issue related to lethal injection. But because the court generally does not reveal more than a bare minimum of information about how and why it chooses to take up any particular matter, lawyers have only been able to arrive at this educated guess after much litigation.

Introduced in Oklahoma in 1977 as an alternative to the electric chair, lethal injection has been adopted as the principal mode of execution by 37 of 38 death-penalty states, including Maryland and Virginia, as well as the federal government and the U.S. military. The District has no death penalty.

Yet anti-death-penalty activists argue that the dosage of anesthetic in the three-drug "protocol" used to kill capital offenders is flawed, and that, if it is administered improperly by untrained personnel, the process of suffocation and cardiac arrest caused by the other two drugs can therefore be as painful as electrocution or the gas chamber.

Their claim was bolstered by a 2005 article in the Lancet, a medical journal, but state law enforcement officials remain skeptical.

"It's sort of a legal 'Hail Mary' pass," said Joshua Marquis, prosecutor in Astoria, Ore., and a vice president of the National District Attorneys Association.

Indeed, the argument had made little headway in court until the night of Jan. 25, when the justices issued a stay of execution to Hill, the convicted killer of a Pensacola, Fla., police officer, as he lay on a gurney waiting for the flow of lethal chemicals.

The court acted without recorded dissent after first rejecting Hill's request to consider the broad issue of whether lethal injection as such is "cruel and unusual punishment."

But it did say it would hear Hill's narrower claim, which had been rejected by a federal appeals court in Atlanta: that he should have an opportunity to argue in the lower courts that Florida's lethal-injection formula, which is similar to that used in other jurisdictions, would cause him excessive pain, thus violating his civil rights.

The next day, the court's unanimity fractured. It denied a stay of execution to Indiana death-row inmate Marvin Bieghler, who was appealing the Indiana Supreme Court's rejection of his broad challenge to the constitutionality of lethal injection.

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Two justices, John Paul Stevens and Ruth Bader Ginsburg dissented, signaling that they thought the court should hear the broader constitutional claim, too.

Bieghler then brought the broad claim to the lower federal courts, winning a stay of execution from the federal appeals court in Chicago. That court based its 2 to 1 decision on the Supreme Court's grant of a stay to Hill. But the majority of the appeals court said it had acted only because it was not "comfortably certain" about the meaning of the court's stay for Hill.

The next day, the Supreme Court overturned that stay -- with dissents by Stevens, Ginsburg and Stephen G. Breyer -- and Bieghler was put to death. That ruling is the clearest indication that the court is, indeed, interested only in the narrow claim raised by Hill -- that there should be a chance to raise a civil rights challenge to the injection formula.

On Jan. 31, the court granted a stay to another Florida inmate, Arthur D. Rutherford, who was in an identical position to Hill.

A day later, on Feb. 1, the court denied a stay to Texas's Jaime Elizalde Jr. -- but refused to vacate a stay for Missouri's Michael A. Taylor that had been imposed by the federal court of appeals in St. Louis. This time, Chief Justice John G. Roberts Jr. and Justices Antonin Scalia and Clarence Thomas dissented.

Taylor had raised a Hill-like narrow claim early in his appeals process but had been given only a hasty, last-minute hearing on the claim in federal district court, said Thomas C. Goldstein, a Washington lawyer who represents a Tennessee death-row inmate at the Supreme Court. This apparently prompted the appeals court to give him a stay, and a majority of the Supreme Court, including new Justice Samuel A. Alito Jr. to let it stand.

The bottom line appears to be, Goldstein said, that while the court will not block executions for those raising only a broad claim that lethal injection is cruel and unusual, it has agreed to decide whether challenges to a lethal-injection formula may be raised as a civil rights lawsuit, and is therefore blocking executions for people who have not yet had a sufficient day in court on that claim.

Meanwhile, however, it is also not stopping executions in which death-row inmates seem to be raising the narrow issue only at the last minute, to take advantage of its decision to hear Hill's case. In a 2004 opinion, the court had expressed opposition to such latecomers.

That would explain why the court denied Texas's Neville a stay of execution -- with no recorded dissents.

With 22 executions scheduled by the states and the federal government before the end of June, when the court's term ends, lower courts remain caught up in the lethal-injection issue.

In California, Angelo Michael Morales is challenging that state's injection formula before a San Jose federal district judge. His execution is set for Feb. 21.

In Maryland, Vernon L. Evans Jr. has received a stay of execution from the Court of Appeals so that it could decide several claims, related both to alleged racial discrimination and to the state's lethal-injection protocol. But his lawsuit is based on alleged violations of state rather than federal law.

CIVIL LAW:

Judge Questions Viability Of NYC's Gun Litigation (LAW)

By Tom Perrotta, New York Law Journal

New York Law Journal, February 10, 2006

Two months after allowing New York City's lawsuit against the gun industry to proceed, a federal judge in Brooklyn suggested Wednesday the suit might be doomed by language in the appropriations bill passed by Congress last year.

In a brief order, Eastern District of New York Judge Jack B. Weinstein ordered the city to explain why its suit should not be dismissed in light of the new legislation, which bars the use of a federal database that tracks firearms as evidence in civil litigation.

The Firearms Trace System database is central to the city's suit, which alleges that gun manufacturers sell excess weapons in cities and states with weak gun laws, knowing that unqualified buyers in New York will obtain the weapons through "straw" purchases.

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The city alleges that gun manufacturers know which dealers are selling weapons that are used in crimes, and it had intended to use the database to help prove its case.

Assistant Corporation Counsel Eric Proshansky, the city's lead attorney on the case, said the new legislation would force the city "to prove this case in a manner that does not require trace data" -- a far more difficult task.

The legislation was signed into law on Nov. 22, before Weinstein issued a 111-page opinion that determined the city's suit was exempt from the Protection of Lawful Commerce in Arms Act, a different law that shields gun manufacturers from civil lawsuits.

Weinstein was unaware of the appropriations legislation when he issued his order in early December. At the time, the judge stayed his ruling, and the 2nd U.S. Circuit Court of Appeals later accepted an interlocutory appeal.

Wednesday, however, Weinstein rescinded his stay, saying he still had jurisdiction over matters not involved in the appeal. He scheduled a hearing for March 3.

"Decision by this court on the effect of the new legislation may affect the nature of any appeal now pending," Weinstein wrote in City of New York v. Beretta U.S.A. Corp., 00-cv-3641, a three-page order. "To avoid any unnecessary work by the parties and the Court of Appeals this court withdraws its stay."

An attorney for the National Shooting Sports Foundation, the gun industry's trade association, objected to Weinstein's sua sponte order for a hearing. The attorney, Lawrence G. Keane, said the appropriations bill addressed an evidentiary question separate from issues pending before the circuit, and should not be considered until the appeal is completed, if necessary.

"He has no jurisdiction, and even if he does the issue is not ripe," Keane said. "The trial hasn't started."

Proshansky said it made no difference to the city whether the evidentiary issue was addressed before or after the circuit appeal. He said he was more concerned with the little-noticed language that was inserted into the appropriations bill.

"It basically says you can't use this evidence in court," Proshansky said. "What's most frustrating is to see the federal government interfering with local efforts to protect the public safety."

The city's lawsuit, now more than five years old, has received the strong backing of Mayor Michael R. Bloomberg. It alleges that gun manufacturers -- including Beretta U.S.A. Corp., Smith & Wesson Corp., and Colt's Manufacturing Company -- have created a public nuisance through the sale and marketing of weapons that are later used to commit crimes. The city is not seeking monetary damages, but wants changes to the gun industry's marketing practices. It also is seeking attorney fees.

Last year, the gun manufacturers sought to dismiss the suit after the Protection of Lawful Commerce in Arms Act was signed into law. Weinstein found that the city's claim fit into an exception made for suits that allege a knowing violation of a state or federal statute applicable to the sale or marketing of guns.

Michael L. Rice of Jones Day, which represents Colt's Manufacturing, said the defendants wish to resolve litigation through the pending appeal. "We would like to get the suit resolved on that basis," Rice said. "We think it's clear that the Protection of Lawful Commerce [in Arms] Act is the clean, direct way to end the lawsuit."

Senators Urge Major Changes To Asbestos Bill (REU-Y2)

By Susan Cornwell

Reuters, February 10, 2006

A group of Republican senators on Thursday proposed completely rewriting an asbestos bill to allow lawsuits under strict medical criteria rather than create a $140 billion fund to pay victims of the mineral.

The new approach to resolve years of litigation over lung-scarring diseases and cancer linked to asbestos was offered by Texas Republican John Cornyn, who said he had 14 Republican co-sponsors and hoped to attract Democrats.

Cornyn's proposal is similar to a bill introduced in the House that would allow asbestos lawsuits to go forward only if claimants met certain medical standards. He introduced the plan as an amendment to a bill that would halt asbestos lawsuits and create an industry-financed $140 billion fund to pay claims.

Many critics of the fund are concerned it will run out of money, leaving taxpayers to foot the bill.

"I believe the likelihood is that the trust fund will sooner rather than later, prove unsustainable," Cornyn said.

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Asbestos fibers were widely used for their insulating and fire-retardant capabilities for years. Some 70 U.S. companies, including W.R. Grace and Co. and USG Corp., have been pushed into bankruptcy proceedings by injury claims.

The asbestos fund bill on the Senate floor is sponsored by Pennsylvania Republican Sen. Arlen Specter (news, bio, voting record) -- who immediately spoke against Cornyn's proposal -- and Vermont Democrat Sen. Patrick Leahy (news, bio, voting record). Their bill would require asbestos companies and insurers to finance the fund to end all litigation.

The fund proposal has split the business community as well as senators in both parties and has struggled to gain support.

On Wednesday, Senate Democrats said their analysis of the proposed fund showed that it would run out of money and need a federal bailout to pay injury claims.

Cornyn said his proposed amendment would establish a "national floor" with respect to medical criteria. It would require physical impairment, to which exposure to asbestos was a substantial contributing factor, to bring an asbestos claim to court. Several states have passed similar legislation.

His proposal would also extend the statute of limitations for filing claims, so people who are not yet sick from asbestos can still have their cases heard if they fall ill in the future, Cornyn said. Further, the plan would attempt to limit fraud by medical screeners that vouch for claims.

Specter said medical criteria would not help injured employees of bankrupt firms because they had no one to sue.

Utah Republican Sen. Bob Bennett said support was divided for the bill because some companies, like USG, would have vast asbestos liabilities wiped out if the fund passes. Others, like Foster Wheeler Ltd, would have to pay into the fund many times what their asbestos outlays would otherwise be.

"People have done the numbers. Some say I'm better off in the tort (court) system and others say, 'I'll pay anything to get out," Bennett told the Senate.

The Coalition for Asbestos Reform, a lobbying group representing companies opposed to the trust fund, urged senators to vote for Cornyn's amendment. Its chairman Thomas O'Brien, former counsel to Foster Wheeler, said Cornyn's approach would create "a national standard that would finally bring asbestos litigation abuses under control."

Shares of companies with asbestos liabilities were mixed in afternoon trading.

Foster Wheeler was up 1.21 percent to $48.58 a share on Nasdaq. W.R. Grace was down 1 percent to $10.91 a share and USG was off 1.63 percent to $88.76, both on the New York Stock Exchange.

Asbestos Bill Meets Test, Faces New One (AJC/AP)

By Mary Dalrymple

The Atlanta Journal-Constitution, February 10, 2006

WASHINGTON — The Senate rejected an attempt Thursday to keep asbestos cases in the courts, removing one obstacle to the creation of a $140 billion trust fund for paying victims and ending their lawsuits.

Opponents quickly raised another obstacle. Sen. John Ensign, R-Nev., questioned the fund's future costs to taxpayers and asserted that the bill violates budget rules.

The bill would establish a privately funded trust fund, administered through the Labor Department, to compensate asbestos victims.

The fibrous mineral was commonly used until the mid-1970s in insulation and fireproof material. Its tiny fibers can cause cancer and other ailments when inhaled. Disease can take decades to develop.

Sen. John Cornyn, R-Texas, tried to kill the proposed trust fund and create, instead, new medical standards for bringing an asbestos case to court. He said lawmakers could weed out suits brought by people not yet sick from asbestos exposure and thin the mass of cases clogging the judicial system.

"I believe that the likelihood is far greater that the trust fund will sooner, rather than later, prove unsustainable and return us to the same broken tort system, only then leaving thousands of Americans in the wake of a failed government program wondering where to go and why they must now go back to court," he said.

The Senate voted 70-27 to shelve the proposal.

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Senate Judiciary Committee Chairman Arlen Specter, the Pennsylvania Republican who sponsored the trust fund bill, said changing the standards for bringing a case to court can't help the thousands of people suffering deadly disease who have no one to sue.

Specter and other trust fund supporters say it could compensate veterans and former employees of bankrupt companies. They also argue that smaller companies could avoid bankruptcy by sidestepping lengthy court battles.

The White House gave the bill lukewarm support but expressed serious concerns about some parts of the legislation. Some critics question whether the trust fund, financed by asbestos manufacturers, users and insurers, would be emptied by claims.

Ensign said there remains the possibility that taxpayers will have to pick up the tab in future years if the trust fund runs out of money.

"I don't think that the underlying piece of legislation can be fixed to any great certainty to make sure that the taxpayers in the future aren't ending up holding a huge mess that includes a great deal of debt for future generations," Ensign said.

His objection requires 60 of 100 votes to overcome, with a vote expected next week.

Specter said private companies fill the trust fund, not the government, and that the trust fund's opponents had seized on a technicality.

"This is a convenient maneuver to defeat the bill," he said.

Forward On Asbestos (WP)

The Washington Post, February 10, 2006

IN A TRIUMPH of good sense and bipartisan cooperation, the Senate voted on Tuesday to go forward with a bill that would fix the broken asbestos litigation system. Hundreds of thousands of asbestos injury claims have already landed in the courts, contributing to the bankruptcy of more than 70 companies. Without reform, this process will drag on, triggering the bankruptcy of yet more firms, many of which have only tenuous asbestos connections, because the main firms responsible have already gone under. Meanwhile, many who are ill from asbestos-related diseases won't be able to get timely compensation or, in some cases, any compensation. Unless the bill passes, Navy veterans, for example, will go uncompensated for diseases caused by asbestos on ships. Veterans are not allowed to sue the government, and many of the shipbuilders are long since bankrupt.

The bill will be debated and amended, and it may face a second attempted filibuster before it gets a vote. Some amendment may be reasonable at the margins, but the bill's central idea -- to replace litigation with a $140 billion compensation fund to be financed by defendant companies and their insurers -- must be preserved. Democrats complain that the fund won't have enough money to compensate asbestos victims; Republicans complain that the fund will have too much money, the raising of which will constitute a burden on small and medium-size firms. The fact that the bill is being attacked from both directions suggests that its authors, Sens. Arlen Specter (R-Pa.) and Patrick J. Leahy (D-Vt.), have balanced competing interests in a reasonable manner.

Unfortunately, the bill's critics are not always so reasonable. Sen. Harry M. Reid of Nevada, the Democratic minority leader, has complained, "One would have to search long and hard to find a bill in my opinion as bad as this." He has even described the legislation as the work of lobbyists hired by corporations to limit asbestos exposure. But the truth is that the bill's main opponents are trial lawyers, who profit mightily from asbestos lawsuits and who constitute a powerful lobby in their own right. Mr. Specter and Mr. Leahy are in fact model resisters of special interests who have spent more than two years crafting legislation that serves the public interest. For Mr. Reid to demean this effort in order to fire off campaign sound bites is reprehensible.

CIVIL RIGHTS:

Ex-Officer Charged With Making Threats (NSDY/AP)

By Associated Press

Long Island Newsday, February 10, 2006

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HAGERSTOWN, Md. -- The FBI on Thursday charged a former police officer with making racial, bomb and anthrax threats after he was fired by the city.

The threats began four months after Jeffrey S. Shifler was dismissed in November 2003 for falsifying payroll records, court records said.

Shifler, 41, was in custody, authorities said. He was expected to appear Friday in federal court in Baltimore. He faces as many as 10 years in prison if convicted on all counts.

No phone listing was available for him.

Shifler made 14 anonymous phone calls and sent at least nine anonymous letters containing threats, insults or false crime reports, according to a court complaint. The threats targeted police employees and a black city council member, and such institutions as schools and public office buildings.

Many letters were on photocopied Hagerstown Police Department letterhead, the complaint alleges.

Shifler was hired by the nearby town of Boonsboro after being fired in Hagerstown. It was unclear whether he was still working there.

U.S. Files Fewer Discrimination Charges (AP)

AP, February 10, 2006

WASHINGTON (AP) - The U.S. Equal Employment Opportunity Commission filed fewer charges of discrimination against private employers last year for the third straight year.

Commission chair Cari M. Dominguez said the commission's prevention efforts through outreach and training might be responsible but added that other factors, like the economic slowdown, might also be involved. "We are pleased to see that our proactive prevention efforts may be having an impact," she said.

Commission field offices filed 75,428 charges in the 12 months ended Sept. 30, down from 79,432, 81,293 and 84,442 in fiscal years 2004, 2003 and 2002, respectively. The average complaint took 171 days to process in fiscal 2005.

During 2005, 77,352 discrimination complaints were resolved, 21.5 percent with a favorable outcome for the individual who complained, up from 19.5 percent the previous two years.

The commission obtained $380 million in compensation for those who complained of discrimination, including a record $271.6 million through mediation and other means short of going to court.

The type of complaints remained relatively unchanged from previous years: Allegations of racial discrimination remained the largest group, 26,740 charges accounting for 35.5 percent of all filings.

Sex discrimination accounted for 23,094 charges or 30.6 percent of all complaints; retaliation, 22,278 or 29.5 percent; age, 16,585 or 22 percent; disability, 14,893 or 19.7 percent; national origin, 8,035 or 10.7 percent; religion, 2,340 or 3.1 percent and equal pay, 970 or 1.3 percent. The total exceeds 100 percent because individuals may allege more than one kind of discrimination in a complaint.

In addition, there were 12,679 complaints of sexual harassment, 14 percent filed by men, and 4,449 pregnancy discrimination complaints.

EEOC enforces federal antidiscrimination laws among private employers. The Justice Department enforces those laws among government workers.

Katrina Disaster Seen As Chance To Fix New Orleans Bureaucracy (AP)

By DOUG SIMPSON, The Associated Press

AP, February 9, 2006

BATON ROUGE, La. (AP) — Hurricane Katrina created a chance to slash the city bureaucracy in New Orleans, which has two elected sheriffs, two elected clerks of court and two separate court systems, a legislative panel voted on Thursday.

The city's population has plummeted since the storm, giving critics the chance to streamline a system, stemming from the 19th century, which gives the city numerous elected positions long seen as redundant. Rep. Peppi Bruneau, a key supporter, urged colleagues to support the change, calling New Orleans' bureaucracy outmoded, time-consuming, antiquated and out of step with the rest of the country.

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"It's time to join the rest of the United States of America," said Bruneau, R-New Orleans.

Without objection, a House judicial committee approved a bill that would combine the city's clerks and sheriffs offices, plus consolidate the city civil and criminal court systems. The bill, backed by Gov. Kathleen Blanco and sponsored by House Speaker Joe Salter, D-Florien, now moves to the House floor for debate.

Separate legislation is aimed at consolidating New Orleans' seven elected property tax assessors into one elected assessor post. That measure awaits debate in the House Ways and Means Committee.

Passage of Salter's bill came after Rep. Cedric Richmond, D-New Orleans, head of the Legislative Black Caucus, said race is one reason the state is moving to slash the number of the city's elected officials, most of whom are black. Many of New Orleans black residents remain displaced — living in other states because of hurricane damage — and Richmond questioned why lawmakers and Gov. Kathleen Blanco were pushing the consolidation now, while black voters are elsewhere, unable to voice concerns about the proposed changes.

Race, Richmond said, "is the elephant that's been in this room the whole time. It may be uncomfortable, but let's address it."

Salter later said: "I can assure you that my bringing the bill was not predicated on race."

Richmond noted that the U.S. Justice Department would need to approve the changes, because Louisiana remains restricted under the Voting Rights Act of 1965, imposed on states with a history of election discrimination against blacks.

The court consolidation plans also face opposition from the New Orleans Bar Association, judges and other court officials in New Orleans, who said their courts are still reeling from Katrina's flooding and need to worry first about getting the city's judicial system back in order.

State Supreme Court Justice Bernette Johnson, a former civil district judge in the city, called the bill "half-baked." She urged lawmakers to focus instead on passing measures to ensure that New Orleans levee system is better managed.

"This legislation ... is not going to help New Orleans right now," Johnson said. "This is a distraction."

The city's two sheriffs also oppose the measures: Criminal Sheriff Marlin Gusman, who runs the city jail, and Civil Sheriff Paul Valteau, whose office functions in support of the city's civil district court.

"Downsizing our office right now, when we have over 1,350 inmates ... just doesn't make sense to me," Gusman said.

The criminal sheriff has traditionally been one of the city's most powerful elected positions. The former sheriff, Charles Foti, was elected state attorney general in 2003.

Bruneau said the city already has a police chief, its top law-enforcement officer, and doesn't need an additional two sheriffs.

Richmond said he supported some form of consolidation but added the matter could wait until the regular session set for next month. That way, Richmond said, the Legislature could also deal with other proposed consolidation, including compressing the city's juvenile, municipal and city courts.

Rather than get it all done at once, Bruneau responded that he wanted to get the initial consolidation done during the current special session, then continue in the regular session.

"It's like eating a hamburger — you can eat it in a couple bites or you can shove the whole thing in your mouth at one time," he said.

Richmond tried to amend the measure to remove consolidation of sheriffs, but the committee voted it down with a 6-7 vote.

More Injuries As Race Riots Disrupt Jails In Los Angeles (NYT)

By Randal C. Archibold

The New York Times, February 10, 2006

LOS ANGELES, Feb. 9 — Five days of racial rioting have left one inmate dead and dozens injured at Los Angeles County jails as blacks and Latinos have taken their conflicts from the streets behind bars, the authorities said.

The latest occurred Thursday when 200 inmates at Pitchess Detention Center, a collection of jails in the northern fringes of the county where most of the violence has occurred, clashed briefly until deputies used tear gas to bring them under control. There were no reported injuries.

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On Wednesday night, two dozen inmates were injured in a riot among 300 people that ended after teams of deputies fired rubber pellets. That riot, as well as those that took place Monday and Tuesday, was at the Pitchess center.

Since the worst of the rioting on Saturday, when a 43-year-old inmate was beaten to death, the sheriff's department has locked down all jails, suspending activities and privileges in the system — the nation's largest, with 21,000 inmates.

"We are convinced it is traced back to an age-old gang war in South Los Angeles," said Steve Whitmore, a spokesman for the Sheriff's Department. "It is a small core group of people, and most of the inmates don't want to fight."

Mr. Whitmore declined to elaborate on a motive for the violence, but members of the clergy and community advocates who met Thursday with inmates said they were told that a gang called the Mexican Mafia had ordered retaliation on black gang members who had apparently attacked Latino gang members in Los Angeles in a dispute involving drugs, turf or both.

In a move deployed only in emergencies, deputies have segregated black and Latino inmates and put "shot callers" from the gangs in separate cells, Mr. Whitmore said.

Sheriff Lee Baca has outlined a plan to move some of the most dangerous inmates next month to a more secure but underused jail in downtown Los Angeles.

Mayor Antonio R. Villaraigosa of Los Angeles said in an interview that the persistence of the clashes and their racial nature troubled him and that he would visit the jail complex in the next few days.

"I feel, as someone who has dedicated his life to trying to bridge communities and promote understanding between racial groups, we obviously all should be concerned about the level of violence and racial nature of the conflicts," he said.

Mr. Villaraigosa, who has no authority over the jails, said he would seek to cool tempers in his visit.

Racial violence has flared at the jails since the early 1980's, when hardening street gangs bloodied neighborhoods all over Los Angeles and carried their disputes into jails and prisons.

But some observers said they believed the jail violence pointed to long-held but little-discussed black-Latino tensions that go beyond street gangs.

With substantial support from black voters, Mr. Villaraigosa last year became the city's first Latino mayor in more than 100 years.

But he took office after a spate of fights among black and Latino students at several schools in Southern California, including one in South Los Angeles that endured at least three such brawls.

"What you are seeing in the jails is symptomatic of a much deeper malaise," said Earl Ofari Hutchinson, a radio talk-show host who organizes the weekly Los Angeles Urban Policy Roundtable, a discussion group that recently addressed the conflict among blacks and Latinos.

"Blacks and Latinos have been clashing in schools, on the streets, in the workplace, in hospitals," Mr. Hutchinson said, noting the decline in the black population as the number of Latinos increases. "I don't necessarily mean physically clash, but struggling over turf as neighborhoods change and become predominantly Latino."

Discriminatory Online Ads Targeted In Craigslist Lawsuit (LAW/AP)

By Dave Carpenter, The Associated Press

AP, February 10, 2006

A federal lawsuit accuses the online site Craigslist of violating fair housing laws by publishing discriminatory classified ads, reviving the question of what legal boundaries, if any, should exist for postings on the Internet.

But legal experts say the lawsuit against Craigslist, a fast-growing online network of classified ads and forums, faces an uphill battle because of laws in place to protect online service providers.

The lawsuit, filed by a Chicago fair housing group in U.S. District Court on Feb. 3, contends that Craigslist's Chicago site distributed more than 100 ads that violated the federal Fair Housing Act by excluding prospective buyers or tenants on the basis of race, gender or religion.

Among the housing ads cited as objectionable by the Chicago Lawyers' Committee for Civil Rights Under Law Inc. were ones that read "NO MINORITIES," "Requirements: Clean Godly Christian Male," and "Only Muslims apply."

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While it remained unclear Thursday if the suit is the first of its kind, it signifies a burgeoning effort by housing watchdog groups to extend to the Internet the same legal restrictions facing those that publish print classifieds.

"Our goal is to have the Internet places like Craigslist treated no differently than newspapers and other media who have traditionally been posting real estate advertisements," said Stephen Libowsky, a counsel for the housing group. "All of the gains are going to get lost if the same rules don't apply."

The nonprofit group is an affiliate of the National Fair Housing Alliance. Its Louisiana affiliate, the Greater New Orleans Fair Housing Action Center, recently filed a similar complaint against the hurricane relief Web site Katrinahousing.org, alleging it found 68 discriminatory housing ads.

San Francisco-based Craigslist, founded in 1995 as a roundup of local events, now has listings in more than 20 countries and 150 cities and runs 8 million new classified ads a month. Its huge scope means the Chicago case will likely be watched closely by other online sites. EBay Inc. owns 25 percent of Craigslist.

A ruling against it "would have a chilling effect on the Internet and what it was intended to provide, and that is an open forum and free expression," said Melissa Klipp, a Florham Park, N.J.-based attorney who practices Internet law.

The lawsuit seeks, among other things, to require Craigslist to report to the government any individual seeking to post a discriminatory ad and to develop screening software to preclude discriminatory ads from being published on its Web site.

Craigslist, which has 19 employees, maintains that screening its almost-nonstop classified listings would be impossible. Jim Buckmaster, its chief executive officer, said Thursday that the system is automated and that users can flag postings. If enough do, it comes off automatically. The "NO MINORITIES" ad was removed within two hours, he said.

"We admit that one or two postings per 100,000 are discriminatory," Buckmaster said. "But we feel we're in the forefront of promoting fair housing for everyone."

The site last month added a yellow link on each housing ad warning that "Stating a discriminatory preference in a housing post is illegal." When clicked, users get information about the Fair Housing Act and guidance on how to write ads that comply.

Several Internet law experts said the suit seems likely to fail, citing a 1996 federal law that says an online service provider isn't considered a publisher or a speaker when it merely passes along information provided by someone else.

Jennifer Rothman, a law professor at Washington University in St. Louis, called it "a complete nonstarter" despite legitimate concerns about discrimination.

"Congress decided it was more important not to chill speech on the Internet and not to shut down these Internet providers," she said. "If you start holding them responsible, essentially you shut down the business."

"From a moral standpoint, of course, people will expect that if you're going to run a site like that you ought to police it," said Houston-based attorney Jeff Diamant. "But all Craigslist is doing is running a forum for people to communicate."

Air Force Eases Rules On Religion (WP)

By Alan Cooperman

The Washington Post, February 10, 2006

The Air Force, under pressure from evangelical Christian groups and members of Congress, softened its guidelines on religious expression yesterday to emphasize that superior officers may discuss their faith with subordinates and that chaplains will not be required to offer nonsectarian prayers.

"This does affirm every airman's right, even the commanders' right, to free exercise of religion, and that means sharing your faith," said Maj. Gen. Charles C. Baldwin, the Air Force's chief of chaplains.

The guidelines were first issued in late August after allegations that evangelical Christian commanders, coaches and cadets at the Air Force Academy had pressured cadets of other faiths. The original wording sought to tamp down religious fervor and to foster tolerance throughout the Air Force. It discouraged public prayers at routine events and warned superior officers that personal expressions of faith could be misunderstood as official statements.

But evangelical groups, such as the Colorado-based Focus on the Family, saw the guidelines as overly restrictive. They launched a nationwide petition drive, sounded alarms on Christian radio stations, and deluged the White House and Air Force

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Secretary Michael W. Wynne's office with e-mails calling the guidelines an infringement of the Constitution's guarantees of free speech and free exercise of religion.

Seventy-two members of Congress also signed a letter to President Bush criticizing the guidelines and urging him to issue an executive order guaranteeing the right of military chaplains to pray "in Jesus' name" rather than being forced to offer nonsectarian prayers at public ceremonies.

The revised guidelines are considerably shorter than the original, filling one page instead of four. They place more emphasis on the Constitution's free exercise clause, which is mentioned four times, than on its prohibition on any government establishment of religion, which is mentioned twice.

The guidelines still warn superior officers to be "sensitive to the potential" that personal expressions of faith may appear to be official statements. But they say that, "subject to these sensitivities, superiors enjoy the same free exercise rights as all other airmen." They now add that there are no restrictions in situations "where it is reasonably clear that the discussions are personal, not official, and they can be reasonably free of the potential for, or appearance of, coercion."

Baldwin acknowledged in a telephone interview yesterday that the changes reflect the criticism from evangelicals.

"I think that my evangelical friends were concerned that we did limit, and somehow restrict, the chaplains' service, for example, because the guidance said chaplains should be 'as sensitive to those who do not welcome offerings of faith as they are generous in sharing their faith with those who do,' " Baldwin said.

The Rev. Ted Haggard, president of the National Association of Evangelicals and pastor of New Life Church, a congregation near the Air Force Academy, said the revised document restores the proper balance between the free exercise and establishment clauses.

"When I read it, I thought, if I were nonreligious, I would feel protected; if I were a minority religion, I would feel respected; and as a member of the majority religion, I feel the need to be respectful," Haggard said.

Rep. Walter B. Jones Jr. (R-N.C.), a principal author of the congressional letter, said he considers the revised guidelines an improvement but is not wholly satisfied.

He noted that the revisions include a sentence saying: "We will respect the rights of chaplains to adhere to the tenets of their religious faiths and they will not be required to participate in religious activities, including public prayer, inconsistent with their faiths."

But he said the guidelines still call for "nondenominational, inclusive prayer or a moment of silence" at military ceremonies. "There is some progress, but it does not go as far as it needs to go in making sure that Christian chaplains can pray in the name of Jesus and other chaplains can pray according to their faiths," Jones said.

Americans United for Separation of Church and State, a Washington-based group whose investigation of the Air Force Academy helped spark the controversy last year, said the revisions "focus heavily on protecting the rights of chaplains, while ignoring the rights of nonbelievers and minority faiths."

Michael L. "Mikey" Weinstein, an Albuquerque lawyer who is suing the Air Force over its policy on religion, questioned the sentence allowing commanders to share their faith when it is "reasonably clear" that they are speaking personally, not officially.

"Reasonably clear from whose perspective, the superior's or the subordinate's?" asked Weinstein, a 1977 Air Force Academy graduate. "When a senior member of your chain of command wants to speak to you 'reasonably' about religion, saying 'Get out of my face, sir!' is not an option."

Police Kill Carjacker During Gun Battle In Venice (LAT)

The Los Angeles Times, February 10, 2006

A chase and fierce gun battle between a shotgun-wielding carjacker and police ended early this morning when the suspect was cornered and shot dead in Venice.

Santa Monica police Chief James T. Butts said his officers acted "valorously."

"It took a great deal of courage," Butts said. "This person has manifested the intent to kill you, and these officers chased him. That's what you expect of police officers in a free society."

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The incident began in Santa Monica about 5:00 a.m., when a motorist stopped to help what he thought was a driver with car trouble. Instead, the suspect jumped out of a vehicle, pointed a shotgun at the would-be good Samaritan, and commandeered the car. The motorist was not injured.

Butts said officers stopped the car at 7th and California streets, where a gun battle broke out. The man, who has not been identified, fled in the carjacked auto.

About a half-mile later, with police pursuing, the suspect crashed the car in the 1300 block of Electric Avenue in Venice. When he ignored commands to surrender and pointed a shotgun at police, officers opened fire, Butts said.

The suspect was declared dead at the scene. No officers were hurt, Butts said.

Four Presidents And A Funeral (WSJ)

By Peggy Noonan

The Wall Street Journal, February 10, 2006

Listen, I watched the funeral of Coretta Scott King for six hours Tuesday, from the pre-service commentary to the very last speech, and it was wonderful -- spirited and moving, rousing and respectful, pugnacious and loving. The old lions of the great American civil rights movement of the 20th century were there, and standing tall. The old lionesses, too. There was preaching and speechifying and at the end I thought: This is how democracy ought to be, ought to look every day -- full of the joy of argument, and marked by the moral certainty that here you can say what you think.

There was nothing prissy, nothing sissy about it. A former president, a softly gray-haired and chronically dyspeptic gentleman who seems to have judged the world to be just barely deserving of his presence, pointedly insulted a sitting president who was, in fact, sitting right behind him. The Clintons unveiled their 2008 campaign. A rhyming preacher, one of the old lions, a man of warmth and stature, freely used the occasion to verbally bop the sitting president on the head.

So what? This was the authentic sound of a vibrant democracy doing its thing. It was the exact opposite of the frightened and prissy attitude that if you draw a picture I don't like, I'll have to kill you.

It was: We do free speech here.

That funeral honored us, and the world could learn a lot from watching it. The U.S. government should send all six hours of it throughout the World Wide Web and to every country on earth, because it said more about who we are than any number of decorous U.N. speeches and formal diplomatic declarations. * * *

A moment for a distinction that must be made. Some have compared Mrs. King's funeral to the Paul Wellstone memorial. It was not like the Wellstone memorial, and you'd have to be as dim and false as Al Franken to say it was. The Wellstone memorial was marked not by joy but anger. It was at moments sour, even dark. There was famous booing.

The King funeral was nothing like this. It was gracious, full of applause and cheers and amens. It was loving even when it was political. It had spirit, not rage. That's part of why it was beautiful.

It was also beautiful because, as the first speaker, Bishop Eddie L. Long, senior pastor of the New Birth Missionary Baptist Church in Lithonia, Ga., said in almost his first words, "This is a worship. This is a celebration. This is a moment that we give to honor God."

It was a religious service in which no one was afraid to talk about God. "Praise the Lord," and "Lord, we lift your name on high" and "How we love to sing your praises" rang through the room. Scripture was quoted, stories told. Blacks in America are not afraid to love Jesus the way they want to love him, to use the language and symbols they want to use. I want to kiss their hands for this. I also happen to honor the fact that, by and large, older blacks at least have not given way to 20th-century stoicism in their style of mourning. The Kennedys, who had too much experience with funerals, set the stoic style 40 years ago, and while it was elegant and moving in its own way, it left an entire nation thinking it was in rather poor taste to cry aloud and sob.

As for the speakers, no one has ever been or could be better than the Rev. Bernice King, who spoke of her mother's love, her mother's end, and the possible metaphorical meaning of the cancer that killed her.

The Rev. Joseph Lowery gave a beautiful poem about Martin being with Rosa in heaven and then finding out that Coretta was coming, and rushing to greet her at the pearly gates. Strike you as corny? Not me. It was beautiful because it was not only full of unselfconscious faith, it assumed unselfconscious faith on the part of the audience, and so was both an implicit compliment

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and a declaration of shared assumptions. The audience responded with amens and cheers. When he bopped the president over weapons of mass destruction, what seemed, on CNN, to be half the room stood and applauded.

When George Bush 41 followed him to the podium, he teased Mr. Lowery in a way that complimented his eloquence. People sometimes marvel at the grace of George H.W. Bush. He is a warm and gracious man, and he's old enough to appreciate the humor in everything. He's old enough to appreciate life. But it is also true that when you attack him or his son from the left he doesn't get mad because in his heart he kinda thinks you're right. Attack him from the right; you won't be overwhelmed by his bonhomie then.

President Bush was fine, his eloquence of the formal kind. He needs to find the place between High Rhetoric and off-the-cuff plainspeak. He always does one or the other. But there's a place in between, a place that's not fancy and not common, that would serve him well if he could find it.

Bill Clinton was, as always, the master. Say what you will, he is the only politician in America with the confidence to call Episcopalians "the frozen chosen" and know everyone will laugh and take no offense. Amid all the happy bombast he was the one who pointed at the casket and said, "There's a woman in there." He talked about Mrs. King in good strong plain terms. Yes, he caused a quarter-second of awkwardness when he said of the beautiful Coretta that even at age 75 she still had the goods, but in moments of exuberance we all forget our own history.

The real news was how the Clintons used the funeral to unveil how they will run in 2008: Together, side by side, with beautiful hairdos. I haven't seen them like this -- both standing at the podium -- since 1992, when they were new. In the years since, after the health-care failure and the Whitewater scandals, the West Wing attitude toward the president's wife was a quiet and respectful "Get that woman off the podium!" Not anymore. All is new again. Mrs. Clinton has clearly been working on her public speaking, and attempted to use her hands as her husband uses his, now in an emphasizing arc, now resting on her chest. But his are large, long and elegant, and hers are puffed and grasping.

Both Clintons spoke in the cadence and with the imagery of the Bible. Mrs. Clinton's first words, in which she referred to Mrs. King's brave decision to continue her husband's work after his murder, were steeped in religiosity. "As we are called, each of us must decide whether to answer that call by saying, 'Send me.'" She ended with, "The work of peace never ends. So we bid her earthly presence farewell. We wish her Godspeed on her homecoming. And we ask ourselves, 'Will we say, when the call comes, "Send me"?'"

Oh I think we will, Ms. Meanieface!

If you don't understand that Mrs. Clinton was rehearsing her 2008 announcement speech, then you are a child and must go home and have a nice cup of cocoa.

This is what is coming: I have had a blessed life. And like so many people I could choose, after all these years, a life of comfort. Watch it from the sidelines, tend to my own concerns, watch the garden grow. But our nation calls out. And if we are to be Americans we must meet the call. "Send me."

With Bill nodding beside her, his hands clasped prayerfully in front of him, nodding and working that jaw muscle he works when he wants you to notice, for just a second, how hard it is sometimes for him to contain his admiration.

God I love them. * * *

Apart from its beauty, dignity and fight, Mrs. King's funeral got me thinking about this: Did she know how much she was loved? It's hard for a person to know that. If only she could have gone to her own funeral, she would have known. I wonder if it wouldn't be good if somewhere along the way, just once in your life, you got to call your own funeral. Pick the church, the speakers, the music, sit in the pew, clap when they talk about how wonderful you were. Then afterwards have a long lunch and toast your memory. Then the next day you go to work as usual, but maybe in a different mood. I don't see why we don't do this. Is this a stupid thing to say? It's allowed. I've got free speech.

Ms. Noonan, a contributing editor of The Wall Street Journal and columnist for OpinionJournal.com1, is the author of "John Paul the Great: Remembering a Spiritual Father," (Penguin, 2005).

Voting Rights Under Siege (NYT)

The New York Times, February 10, 2006

DOJ_NMG_0013881

American laws that strip convicted felons of the right to vote, barring nearly five million from the polls in the last election, are the most punitive and regressive laws of their kind in the democratic world. Several states have recently softened or eliminated the voting bans, and many others are considering laws that could eventually establish voting as a basic American right that should never be curtailed in a way that bars a whole class of people from the polls.

This attitude is gaining traction even in the Deep South, which pioneered voting bans to disenfranchise black Americans in the late 19th and early 20th centuries. But the new trend toward fairness has somehow vaulted over Pennsylvania, where the Republican majority in the State House is pushing to pass one of the most odious felon-voting bans ever seen above the Mason-Dixon line.

Under current Pennsylvania law, people can vote once they leave prison. But a bill pending in the Legislature would disenfranchise those on parole or probation. The bill would go further and bar convicts from voting until the dates when their maximum sentences would expire — even if they had been fully released from the system much earlier.

Pennsylvania, a swing state that will hold some critical elections this fall, is being barraged by legislation, championed by Republican lawmakers, that would raise voting barriers, especially for groups that tend to be Democratic. One measure would institute one of the most restrictive voter-identification laws in the nation, in a state that currently requires only first-time voters to prove their identities. Pennsylvanians — who have been at the forefront of fairness in voting rights issues — should not allow partisanship to erase that legacy.

ANTITRUST:

Microsoft Rivals Gripe To U.S. About Its New Vista Software (WSJ)

By Kevin J. Delaney And Robert A. Guth

The Wall Street Journal, February 10, 2006

The Justice Department said it has received complaints about Microsoft Corp.'s coming Windows Vista operating system, focusing in part on concerns over the introductory "first-boot" screens displayed on new personal computers and other aspects of the software.

The government, in a status report on Microsoft's compliance with an antitrust settlement, said an unidentified company complained about the ability of PC makers to customize the initial process of booting up Vista. Some PC makers use those screens to offer broadband Internet access, antivirus and other PC-related services and software.

The Wall Street Journal Tuesday reported that Hewlett-Packard Co. has tussled with Microsoft over the screens. The PC maker in recent months briefed the Justice Department on those concerns, a person familiar with the matter said. An H-P spokesman declined to comment. The report said that in addition to the first-boot process, "several industry members" had expressed other unspecified concerns regarding Windows Vista, which Microsoft is expected to begin selling later this year. A Microsoft spokesman said it has worked closely with partners "to make sure Windows Vista provides flexibility...while remaining faithful to the goal of putting users first." (See related article.1)

The complaints were disclosed as part of a regular monitoring by the Justice Department of Microsoft's compliance with its 2001 antitrust settlement with the federal government. The status report noted that Microsoft's recent decision to license elements of its server software was a "constructive proposal" in addressing concerns of the plaintiffs in the antitrust settlement. A Justice Department spokeswoman declined to comment further.

Separately, executives at search company Google Inc. asserted in an interview that Microsoft is using its influence over the browser-software market to push its MSN Web-search service to the disadvantage of rivals. Google objects to how Microsoft handles a default search-engine setting in its Internet Explorer 7 Web-browser software, which Microsoft considers part of Vista. A Google spokesman declined to say whether the company had discussed its concerns with the Justice Department.

Google wants Microsoft to ask consumers directly which search service they want as a default when upgrading from older versions of Explorer -- a change Microsoft feels is intrusive. Explorer 7 features a built-in box linking to the user's default search engine, making ownership of that default setting more strategically important to the search companies. Google said Microsoft

DOJ_NMG_0013882

has put other roadblocks in the way of consumers' changing their default search setting away from MSN. "It's a way in which they're using their dominant position to favor their product," said Sundar Pichai, a Google group-product manager.

Microsoft has said it has listened to Google's requests and made changes to make it easier for consumers to choose other search engines.

RIM Unveils Plan To Keep US BlackBerrys Alive (REU)

By Susan Taylor

Reuters, February 9, 2006

OTTAWA (Reuters) - Research In Motion <RIM.TO> <RIMM.O> unveiled a plan on Thursday that it says will let its BlackBerry e-mail device work even if it loses a patent fight, and said the workaround will prevent a shutdown of service in the United States.

In an announcement made as the clock ticked toward a February 24 court hearing on U.S. patent holding company NTP Inc.'s request for an injunction to halt U.S. BlackBerry service, RIM also said it was still willing to negotiate a deal.

NTP questioned why RIM simply didn't go ahead and make the software changes for the workaround and argued the BlackBerry maker was trying to bully it. One analyst described the announcement as part of a "high stakes poker game."

The Waterloo, Ontario-based technology company, whose addictive device has been dubbed the "CrackBerry" by many users, said it is willing to "generously compensate" NTP, but called NTP's offer to license disputed technology "untenable."

The legal battle is heating up ahead of a hearing that could be the final step before U.S. District Judge James Spencer decides whether to impose an injunction granting NTP's request -- potentially shutting off more than 3 million U.S. BlackBerry subscribers.

The U.S. Justice Department has argued against a shut-down, saying NTP has not submitted enough evidence to show government users could be exempted "without substantial hardship."

NTP sued RIM for patent infringement in 2002 and won an injunction in 2003 to shut down the U.S. service. That injunction was stayed pending appeals, and the court has issued several rulings since.

RIM shares have been up and down like a yo-yo as a result, adding or subtracting hundreds of millions in market value.

The stock added 97 cents, or 1.4 percent, to end at $69.62 on Nasdaq and were up C$1.07, or 1.4 percent, at C$79.72 on the Toronto Stock Exchange on Thursday.

"It's a very high-stakes poker match," Canaccord Adams analyst Peter Misek said. "I think what's going on here is that NTP was daring RIM to unveil the workaround to let them know whether or not they actually had one."

RIM said it has developed and tested workaround software for all BlackBerry handsets in the United States and will activate the changes if there is an injunction.

It said the workaround alters the way e-mail messages are delivered and queued, but "users will not see any changes in the way they use the BlackBerry device".

"RIM's workaround provides a contingency for our customers and partners and a counterbalance to NTP's threats," said RIM Co-Chief Executive Jim Balsillie. "This will hopefully lead to more reasonable negotiations, since NTP risks losing all future royalties if the workaround is implemented."

NTP co-founder Don Stout said the onus is on RIM to reveal its workaround more fully and then convince the court it does not infringe on any NTP patents.

"To tell the world they have a workaround without sharing what it is, to me suggests they're not comfortable with it," Stout said. "If they've got a workaround, go do it. I mean, quit screwing around with tantalizing the world."

He added: "They're just using the bully pulpit again."

RIM said a patent law and workaround expert believes its designs do not infringe on any of the NTP patent claims remaining in the lawsuit.

"The legal merits of the workaround will be challenged by NTP," American Technology Research analyst Rob Sanderson said in a note. "This could mean the legal battle continues for an extended period, perhaps years."

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RIM said it has filed patent applications for its workaround and will soon begin shipping handsets with the software update in a dormant mode. It will make the free update available at www.blackberry.com/workaround at a later date for customers to download and install.

In a court filing last month, RIM said it stands to lose customers even after rolling out a workaround.

"It is reasonably certain that some of RIM's existing customers will opt for other providers ... rather than go through the trouble of installing the new software," it said.

(Additional reporting by Robert MacMillan in New York)

BlackBerry Maker RIM Develops Software 'Workaround' In Event Of Injunction (LAW/AP)

The Associated Press

AP, February 10, 2006

Research in Motion Ltd., the Canadian maker of the BlackBerry wireless e-mail device, said Thursday it has developed software "workaround" designs for its popular handsets in case a court bars the use of current software in a pending patent dispute.

Although there is currently no injunction in place in the patent litigation with NTP Inc., RIM said it developed the workaround software as a contingency to allow BlackBerry service to continue should the court declare an injunction.

RIM stressed it still believes it has "strong legal and factual arguments opposing an injunction." Jim Balsillie, RIM's chairman and co-chief executive, called the workaround software "a counterbalance" to the NTP lawsuit.

NTP has convinced a federal jury that its patents were infringed by RIM and is asking a federal judge in Richmond, Va., to turn off the network. The judge has indicated he could decide on NTP's request following a hearing scheduled for Feb. 24.

The lawsuit against RIM has drawn objections from the U.S. government and big corporate users who rely on BlackBerry e-mail service.

NTP has said such an injunction would not apply to government BlackBerry users, who may account for up to 200,000 of the company's 4.3 million customers, though RIM has questioned whether it would be possible to separate its service in such a way.

Despite the threat of a BlackBerry blackout, many analysts think an actual shutdown still is unlikely because putting RIM out of business would make it harder for NTP to collect a big settlement.

Union: Mittal Pledges To Honor Agreements (AP)

AP, February 10, 2006

German Industrial Union Says Mittal Steel Pledges to Honor Labor Agreements Made by Arcelor

FRANKFURT, Germany (AP) -- Germany's biggest industrial union said it received assurances Thursday from Mittal Steel Co. that if it acquires rival Arcelor SA, no labor agreements would be affected.

Meanwhile, U.S. antitrust regulators are looking at Mittal's hostile bid for Arcelor, Justice Department spokeswoman Gina Talamona confirmed Thursday.

Mittal Steel Europe Chief Executive Roeland Baan met with union deputy chairman Berthold Huber for several hours to address Mittal's euro18.6 billion (US$22.5 billion) bid for Luxembourg's Arcelor, IG Metall spokeswoman Ingrid Gier said.

Mittal employs approximately 1,600 workers in Germany, while Arcelor employs 14,000.

Gier said the German union considered the talks and Mittal's pledge a "first important step."

It was not the first trip Mittal executives have made to lobby for the unsolicited takeover.

The company's chairman and chief executive, Lakshmi Mittal, has visited Luxembourg, France, Spain and Belgium to explain his bid for Arcelor, which would merge the world's No. 1 and No. 2 steel makers.

The takeover, which would be the biggest steel deal ever, would have repercussions across Europe, but also in North America and Asia, where both companies have plants.

European critics of the deal -- especially in France -- are worried that it would mean job losses or less protection for Arcelor's 94,000 employees.

Mittal has insisted that no jobs would be cut and that Arcelor's existing labor agreements would be respected.

DOJ_NMG_0013884

Realtors Ask Administration To Stop Bankers From Delving Into Real Estate (HILL)

By Elana Schor

The Hill, February 10, 2006

Congress and the Bush administration are again getting caught in the crossfire of a long-standing turf war between the National Association of Realtors, which bills itself as the nation's biggest trade association, and the banking industry over whether banks can engage in real-estate activities.

Federal regulators signed off late last year on several bids for real-estate development from large banking chains, alarming the Realtors and reinvigorating the group's push for a bill, co-sponsored by Reps. Ken Calvert (R-Calif.) and Paul Kanjorski (D-Pa.), prohibiting banks from "directly or indirectly" engaging in real-estate activities. Banking lobbyists dismiss the Realtors' claims that the regulators are gradually dismantling existing law.

"This issue is totally phony. Banks for a long time have been able to own their own real estate," said Ed Yingling, president of the American Bankers Association. "The Realtors would like to think it's something new, but it's not."

The Calvert-Kanjorski bill is hardly new to Capitol Hill, having snagged the support of a majority of the House in each of the past three Congresses. But banking lobbyists pushed back last year with a bill of their own that only needed two co-sponsors — House Financial Services Committee Chairman Mike Oxley (R-Ohio) and his ranking Democrat, Barney Frank (Mass.) — to make a splash.

With their bill stalled in both House and Senate committees, the Realtors now are aiming at the Bush administration in their vigorous lobbying efforts against banks involved in real estate. The group has promoted letters this month to new Federal Reserve Chairman Ben Bernanke, Treasury Secretary John Snow and leaders at the Office of the Comptroller of the Currency (OCC), which has jurisdiction over national banks, asking for a definitive exclusion of banks from the real-estate market.

In a unique twist, the Realtors also have chosen to side publicly with bankers in the fight to prevent retail behemoth Wal-Mart from opening an industrial loan corporation to conduct banking activities. Just as the Realtors fear banks encroaching on their business, bankers want Congress to keep commercial corporations off their turf.

"We find it ironic that the banks are using our argument, that banks and commerce should not be mixed, to make arguments that Wal-Mart shouldn't have a bank," said Jerry Giovanello, the Realtors' senior vice president of government affairs.

Rep. Jim Leach (R-Iowa) introduced a bill in September that would block Wal-Mart's banking bid, and Leach picked up the endorsement of Alan Greenspan before he departed the Federal Reserve Board chairmanship last week. A Leach spokesman said the lawmaker has had no negotiations on the bill, whether with Oxley or others, so far this year.

The Realtors have similarly leveraged their congressional clout to block regulators from expanding banks' involvement in real estate. Sympathetic members have quietly inserted a rider into the past three Treasury Department appropriations bills preventing banks from fully entering the real-estate market.

Banking lobbyists are hardly won over by the Realtors' support of their work to clarify the industrial loan corporations.

"Congress has spoken that real-estate activities [that are] financial services are allowed and ought to be regulated," said Steve Bartlett, president of the Financial Services Roundtable. "The Realtors are just wrong."

Oxley has expressed an affinity for the bankers' view — that Congress definitively allowed regulators to draw the line between banking and real estate in 1999's Gramm-Leach-Bliley Act.

Oxley issued a statement after the recent OCC rulings, affirming the regulator's ability to allow banks limited powers in real-estate development.

"The actions that the OCC has taken in its authorization letters are reasonable, well within the law, and within precedent," Oxley said. "The letters do not constitute an expansion of national banks' authority to make the type of equity investments that breach the separation of banking and commerce."

But Giovanello stayed on offense, questioning Oxley and Frank's decision to request two Government Accountability Office (GAO) studies on transparency and competition in real estate while not asking for a similar inquiry into banking.

"We don't know why the House Financial Services Committee keeps asking the GAO to investigate real-estate competition when, over the past four or five years, banks have been consolidating. When are they going to ask for a similar study on banks?" Giovanello said.

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In September, the week after the GAO reported to Oxley and Frank on their most recent real-estate-related inquiry, the Justice Department sued the Realtors, arguing that the group's online listings unfairly obstruct competitors' business.

Oxley's and Frank's offices did not return calls for further comment by press time.

Realtors can count Oxley's Senate counterpart, Banking Committee Chairman Richard Shelby (R-Ala.), as an ally; he is among seven co-sponsors of his chamber's counterpart to the Calvert-Kanjorski bill.

Federal Judge Dismisses Lawsuit Against Team, NFL (AP)

By Terry Kinney

AP, February 10, 2006

CINCINNATI - A judge dismissed Hamilton County's federal antitrust lawsuit against the Cincinnati Bengals and the National Football League on Thursday because the suit was not filed within the four-year statute of limitations.

U.S. District Judge S. Arthur Spiegel threw out the suit without getting to the merits of the county's argument that the Bengals misled taxpayers and officials by contending that they needed a new stadium to be profitable and might move if they didn't get one.

Hamilton County taxpayers approved a one-half-cent sales tax increase in 1996 to finance the $450 million Paul Brown Stadium. Commissioners signed a lease with the Bengals the following year.

The antitrust lawsuit was not filed until 2003, three years after the Bengals began using the stadium.

"To be sure, the lease that Hamilton County enjoys with the Bengals is highly favorable - perhaps egregiously so - to the Bengals," Spiegel wrote.

He said prior members of the board were aware of allegations that league and its teams wielded unlawful antitrust power to obtain favorable leases, but by not filing suit sooner the chance "was lost to the passage of time."

"We are pleased that Judge Spiegel took the time to thoroughly analyze the case and conclude that the facts were on our side," Bengals owner Mike Brown said in a statement released by the team.

Likewise, "We appreciate Judge Spiegel's careful consideration of the issues and believe that his opinion conclusively demonstrates that there was no basis for the county's claims," NFL spokesman Greg Aiello said.

Commissioner Pat DeWine urged the other two board members to let the matter drop. He said the county faces more important local issues, such as developing county property on Cincinnati's riverfront and building a new county jail.

Commissioner Todd Portune said he favored discussing all options with attorneys, including an appeal, filing a lawsuit in state court or seeking to reopen negotiations with the Bengals.

It was Portune who originally sued against the Bengals as an individual taxpayer. When conflict-of-interest questions arose regarding his position as a commissioner, community activist Carrie Davis took his place as lead plaintiff.

Eventually, county commissioners took over the suit.

Portune said Thursday that the Bengals were largely to blame for the county facing a deficit of $191 million.

"There is no doubt that Hamilton County is in an upside-down financial position because of a lease agreement that is unconscionable, has terms that are onerous, has terms that have resulted in the county being in this upside down and burdensome financial position," Portune said.

In February 2004, Spiegel rejected the NFL's motion to dismiss the case, ruling that Davis could pursue her claims that the NFL violated federal antitrust provisions by using its monopoly to "extort" new stadiums and highly favorable lease terms.

In his ruling Thursday, Spiegel explained why he did not rule at that time that the statute of limitations had expired.

He said a new standard was applied when the county commission took over the suit, based not on what an outsider like Davis could know about negotiations but what commissioners knew or should have known.

Spiegel noted that county officials knew all along that the Bengals were profitable, although the lawsuit alleged that the statute of limitations started not in 1997 but in May 2001 when commissioners got a clearer image of profits based on information in a lawsuit between the league and Oakland Raiders owner Al Davis.

South Korean Trade Regulator Questions Intel Employees (AP)

AP, February 10, 2006

DOJ_NMG_0013886

(02-09) 20:12 PST SEOUL, South Korea (AP) --

Investigators from South Korea's antitrust watchdog questioned some employees at Intel Corp.'s local subsidiary this week as part of an inquiry that began last year, a company spokesman said Friday.

The Korean Fair Trade Commission "made an unscheduled visit to our offices on Tuesday during normal business hours," said Chuck Mulloy, legal affairs spokesman for Intel in Santa Clara, California.

"This is part of an ongoing inquiry that we disclosed in June of 2005," Mulloy said, adding it was "not appropriate for us to talk about specifics." Mulloy said the visit to Intel Korea marked the first time regulators had arrived unannounced.

The Fair Trade Commission refused to comment.

Yonhap news agency quoted an unidentified FTC official as saying that the probe was focused on whether Intel a bused its dominant position by pressuring computer makers to avoid using chips made by Intel rivals.

Intel, the world's largest chip maker, is facing numerous legal battles over how it maintains its leading position. Intel has repeatedly denied it has broken any laws.

Japan's Fair Trade Commission said last year that Intel violated fair trade laws — a ruling the company accepted without admitting wrongdoing.

S.Korea Says No Conclusion Yet On Intel Probe (REU)

By Rhee So-eui

Reuters, February 10, 2006

SEOUL, Feb 10 (Reuters) - South Korea's antitrust watchdog said on Friday it had not yet reached a conclusion on whether Intel Corp. broke regulations in marketing its computer chips after raiding the firm's Seoul office this week.

The Fair Trade Commission is also investigating Samsung Electronics Co. Ltd. and LG Electronics Inc. , which make PCs using Intel's microprocessors.

South Korea, which fined Microsoft Corp. for antitrust violations in December, began investigating Intel in the middle of last year, following similar probes launched by Japan and the European Union.

Intel, the world's largest chipmaker, confirmed on Thursday that FTC officials paid an unscheduled visit to the Seoul office.

The officials talked to Intel staff and took away some documents as part of an ongoing probe, a spokeswoman for Intel Korea said.

"It will take a while for us to reach a conclusion," FTC spokesman Kim Joo-hyok said by telephone.

If a company is found to have violated antitrust laws, the FTC can order it to correct business practices and can also impose fines.

Sometimes companies are asked to make public notices acknowledging anti-competitive practices.

The watchdog had received a complaint that Intel was using its dominant position in South Korea to increase microprocessor sales, Kim said. He declined to say who filed the complaint.

Samsung and LG said FTC officials visited them earlier this week for preliminary investigation, but declined to comment further.

Intel is estimated to have more than 80 percent of the South Korean market for microprocessors, the central chips in personal computers. The country accounts for 6 to 7 percent of the global PC market, analysts said.

LEADING POSTION IN KOREA

Analysts said the FTC investigation was unlikely to trigger major changes to Intel's leading position in South Korea.

"There may be fines or orders on business practices, but it won't have an impact on Intel's business in the market," said Michael Min, an analyst at Korea Investment & Securities.

Min said smaller U.S. rival Advanced Micro Devices Inc. could still increase its market share in South Korea given its aggressive marketing recently.

AMD sued Intel in the United States in June, charging it with anti-competitive practices such as offering discounts to computer makers who agreed to curtail use of AMD chips.

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"AMD continues to believe -- as specified in its private U.S. antitrust complaint filed on June 27, 2005 in U.S. federal court in Delaware -- that PC manufacturers worldwide are victims of Intel's monopoly power," AMD said in a statement.

The European Union has been investigating Intel's business practices since 2001, while Japan ordered Intel to eliminate discounts to PC makers in March, 2005.

In the Microsoft case, the U.S. software firm was fined $32 million in South Korea and ordered to separate its instant messaging service from its Windows software.

Shares in Samsung Electronics fell 1.45 percent to 681,000 won by 0440 GMT, versus the wider market's 0.22 percent fall, while LG Electronics feel 0.75 percent to 79,700 won.

Intel Says Employees Questioned By South Korean Regulators (BLOOM)

By Ian King

Bloomberg, February 10, 2006

Feb. 9 (Bloomberg) -- Intel Corp., the world's biggest computer chipmaker, said South Korean regulators questioned some of the company's employees as part of an investigation of its marketing and rebate programs.

Officers from the Korea Fair Trade Commission are following up on an investigation begun in June when the agency requested documents related to local marketing practices, Chuck Mulloy, a spokesman for Santa Clara, California-based Intel, said today.

``They paid a visit earlier this week and asked some questions consistent with previous inquiries," Mulloy said in an interview. ``We cooperated with them then and will continue to cooperate."

Intel is facing a U.S. antitrust lawsuit based on a complaint filed last June by rival Advanced Micro Devices Inc. European regulators investigating antitrust claims have also raided Intel offices, and Japan's Fair Trade Commission last year told the company to remove a clause from its contracts forcing PC makers to exclusively use its chips.

Shares of Intel rose 54 cents to $21.20 at 12:24 p.m. New York time in Nasdaq Stock Market composite trading. The shares had dropped 12 percent in the past 12 months before today.

Advanced Micro, based in Sunnyvale, California, is the world's second-largest maker of personal-computer chips.

South Korea's Antitrust Officials Continue Intel Probe (MERCN)

By Elise Ackerman

The San Jose Mercury News, February 10, 2006

An Intel spokesman confirmed that the South Korean trade officials paid an unscheduled visit to the company's Seoul office on Tuesday morning as part of an ongoing investigation into the tech giant's business practices.

Chuck Mulloy said Korean Fair Trade Commission investigators asked to meet with company officials and requested information. ``They have been asking for information and we have been providing information for many, many months," Mulloy said.

Intel first disclosed the Korean inquiry in a regulatory filing in August, stating that Korean antitrust regulators began looking into its marketing and rebate programs in June.

Also in June, rival chip maker Advanced Micro Devices sued in federal court alleging that Intel provided secret and discriminatory discounts.

Today, AMD said in a statement that the ``dawn raids are part of an investigation into Intel's business dealings with four Korean PC makers."

The statement quoted Thomas M. McCoy, AMD executive vice president: ``The dawn raids in Korea make it abundantly clear that competition authorities worldwide are intensifying their investigative efforts into Intel's anti-competitive business practices because they have good reason to believe evidence of illegal monopoly abuse is there to be found."

Mulloy said the visit was conducted during normal business hours and that investigators ``did not come in with guns drawn."

``It is not unusual for a company as successful as Intel to come under scrutiny," Mulloy said. ``It is also not unusual for us to cooperate."

ENVIRONMENT:

Six People Accused Of Illegally Harvesting Leopard Sharks In California (FINDLAW/AP)

By Dan Goodin, Associated Press Writer

AP, February 10, 2006

(AP) - SAN FRANCISCO-A church pastor, four men in the aquarium industry and a commercial fisherman have been accused of illegally catching and selling hundreds of juvenile leopard sharks.

An indictment Wednesday charged the men with selling 465 leopard sharks that were too small to harvest to pet distributors throughout the United States, and in The Netherlands and the United Kingdom.

California leopard sharks, which can take 13 years to reach maturity and live as long as 30 years, are protected under a state law that prohibits the commercial catching of specimens under 36 inches (90 centimeters) long.

The leopard shark's gray body and black bars make it a "particularly attractive" species, said Christina Slager, a curator at the Monterey Bay Aquarium.

"In general sharks are struggling in the wild, and leopard sharks are no different," Slager said. "If these animals aren't allowed to reach an age or size where they can reproduce before they are removed from the environment, that has drastic implications for future generations."

The six defendants were arrested on Tuesday, when the indictment was unsealed. Two pleaded not guilty. The Associated Press was unable to reach the other four. They face maximum penalties of five years in prison, a $250,000 (â,¬210,000) fine and possible requirement to pay restitution for each count, according to the U.S. Attorney's office.

Seven of the 19 baby leopard sharks confiscated during the two-year investigation died, the U.S. Attorney's office said. Three are on exhibit at the Monterey Bay Aquarium, and nine were returned to the wild in 2004.

Bush Administration Moves To Sell National Forest Land (KRT)

By Seth Borenstein

Knight Ridder, February 10, 2006

WASHINGTON - The Bush administration will unveil a proposal Friday to sell up to 200,000 acres of national forest land in "isolated parcels" ranging from a quarter of an acre to 200 acres, much of it in California.

The sale is part of a National Forest Service plan to raise $800 million over the next five years to pay for rural schools in 41 states, offsetting shrinking revenues from sale of timber from national forests. The Bureau of Land Management also plans to sell federal lands to raise an estimated $182 million over five years.

Environmentalists charge that the short-term gain would be more than offset by the loss of public land. Congress would have to approve the land sales, but it has rejected similar recent proposals.

"I am outraged, and I don't think the public is going to stand for it for one minute," said Wilderness Society policy analyst Mike Anderson. "It's a scheme to raise money at the expense of the national forests, the wildlife, recreation and all the other values that Americans hold dear. It's the ultimate threat to the national forest."

Jerry Taylor of the Cato Institute, a libertarian think tank, said the proposed land sales make sense.

"Private property will end up in the possession of those who value it the most," Taylor said. "That is an iron law of economics."

Details about what plots of land would be put up for sale are expected to be revealed at a noon press conference by Undersecretary of Agriculture Mark Rey, a former timber industry lobbyist. The Forest Service owns 193 million acres of land and plans to sell about 175,000 to 200,000 acres, according to Forest Service spokeswoman Heidi Valetkevitch.

"They could be theoretically from every national forest," Valetkevitch said. "California has a lot on the list, I understand."

The lands in question aren't environmentally sensitive wilderness or protected scenic areas, Valetkevitch said. "It could be something that's in a neighborhood that people don't even know is forest land," she said.

Sen. Dianne Feinstein, D-Calif., attacked the plan as "crazy," saying: "Here the administration wants to pass more tax cuts for the rich, and to pay the bill, they want to sell off public land - our nation's natural heritage."

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The Forest Service owns 20 percent of California, including much of the Sierra Nevada, Lake Tahoe, Big Sur and dense forests along the Oregon border. The Bureau of Land Management owns 15 percent of the Golden State.

Rural schools get 25 percent of federal forest timber sale proceeds, but those revenues have fallen, so the idea is to sell forest land to make up for that, Valetkevitch said.

Anderson of the Wilderness Society argued that money for rural schools could come from many sources and that the land sales are being proposed "so the budget deficit doesn't get worse." He noted that if forests are sold, future federal timber sales likely would yield even less money for rural schools.

The president's new fiscal 2007 federal budget calls for the bureau to raise $1 million in 2007 land sales, $28 million in 2008, $40 million in 2009, $42 million in 2010 and $71 million in 2011.

Dave Alberswerth, a Wilderness Society senior policy adviser, said that would be "way more than they have been selling in recent years." From 2000 to 2004, the bureau sold 13,160 acres for an average price of $320 an acre, he said. At that rate, the government would have to sell more than half a million acres to garner $182 million.

Oil Giants Fell Behind On Fees (NYT)

By Edmund L. Andrews And Simon Romero

The New York Times, February 10, 2006

WASHINGTON, Feb. 9 — More than three dozen energy companies fell nearly $500 million behind last year on royalty payments the federal government says they owed for oil and gas extracted from public territory, according to Interior Department documents released Thursday.

While most of that money was later turned over after the government demanded payment, almost $60 million remains in dispute.

The companies, which included major producers like Chevron, Shell and ConocoPhillips, had claimed lucrative government incentives for drilling in the Gulf of Mexico even though the incentives were not supposed to be available if market prices climbed above certain "threshold prices."

The Interior Department, in a report sent to lawmakers looking into the energy royalty program, identified 41 companies that incorrectly claimed about $493 million in "royalty relief" during 2004, when prices for both oil and gas climbed to records.

The Interior Department said that 38 of the 41 companies quickly paid $435 million in back royalties after it sent out warning letters in December, months after the money should have been paid.

But three companies — Kerr-McGee, Forest Oil and AGIP — continue to protest $58 million in additional payments.

Indeed, Kerr-McGee officials suggested on Thursday that they planned to challenge the government's legal authority to impose price thresholds in the first place.

"We pride ourselves on operating legally," said John Christiansen, a spokesman for Kerr-McGee, which is based in Oklahoma City. "Now the Interior Department is claiming it has the power to cancel royalty relief granted by Congress."

Mr. Christiansen said Kerr-McGee would fight the case if the government did not back down. "We'll take this issue to the federal court system if necessary," he said.

Royalty payments for oil and gas extracted from federal territory have drawn increased attention from Congress since The New York Times reported last month that payments had not climbed in line with the huge increase in market prices.

Last year, the government received about $5.15 billion in royalties on natural gas and about $3.5 billion in royalties on oil. While royalties have climbed sharply since 2003, they are still barely even with amounts collected in 2001, when market prices were much lower.

One apparent reason for the shortfall is that the government has had trouble auditing the flow of money.

Under the government's royalty relief program, companies that drill in deep waters off the Gulf of Mexico do not have to pay the standard royalty of 12 percent on large quantities of the oil or gas they produce.

But federal regulations also call for that special incentive to be suspended if market prices rise above certain threshold levels. Market prices for both oil and natural gas have been higher than those levels since the end of 2002.

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Administration officials said Thursday that they sent out letters to 41 companies in December, almost a full year after the end of 2004, reminding the companies that they had not been entitled to the incentives and needed to pay up.

The list included many of the biggest producers in the Gulf of Mexico: Anadarko, Amerada Hess, British Petroleum, Chevron, ConocoPhillips, Kerr-McGee, Shell and more than two dozen others.

But several major producers, like Exxon Mobil, the sixth-largest producer of natural gas in the Gulf of Mexico, were not on the list. Exxon officials said that their company stopped claiming royalty relief long ago, because market prices had exceeded the price thresholds.

Lawyers for some of the companies said that they should never have been included on the list released by the Interior Department, because the companies had actually paid the proper royalties or had not disputed the demand for additional royalties.

"We think it was inappropriate for Chevron and Unocal to have been included on the list," said Donald Campbell, a spokesman for Chevron, which acquired Unocal last year.

"Chevron's policy is to pay royalties when deepwater lease price thresholds are exceeded," Mr. Campbell said. "Based on our review to date, Chevron has consistently followed that policy and has paid royalties for the calendar years when lease price thresholds have been exceeded."

Mining Fines Among Smallest Laws Limit Size, Allow Reduction (USAT)

By Thomas Frank

USA Today, February 10, 2006

Coal companies pay some of the smallest fines of any industry for federal violations even as the nation tries to curb one of the deadliest periods in recent coal-mining history, a USA TODAY analysis found.

The federal government levied a larger fine — $550,000 — for the 2004 Super Bowl showing of Janet Jackson's breast than it did for the 2001 deaths of 13 Alabama miners in one of the deadliest mine disasters in a quarter-century. And the $435,000 fine against mine operator Jim Walter Resources was cut by a judge to $3,000.

USA TODAY's review of safety laws and corporate records found:

•Federal law limits fines to $60,000 for each violation of a mine health and safety standard. The Environmental Protection Agency, the Federal Communications Commission and the Securities and Exchange Commission can levy fines of $1 million or more for a single violation.

•Labor Department rules require mining fines to be cut by 30% if violations are quickly abated.

“That doesn't make any sense,” says Steve Webber, who oversaw mining penalties for the federal government from 1999 to 2003, when he retired. “You're rewarding (mine) operators for correcting conditions that should not have existed in the first place.”

The Bush administration has said that higher fines are not as effective as forcing companies to close unsafe areas until they are fixed.

Tim Biddle, an attorney for coal companies, said higher penalties won't improve safety. “I really don't think any responsible mine operator makes any decision about safety based on civil penalties,” he said.

•Mining fines are set by a complicated formula that often results in small penalties for negligence. A mine operator could be fined just a few hundred dollars for “high negligence” of worker safety.

The Occupational Safety and Health Administration, which inspects most workplaces, sets a $5,000 minimum fine on firms that knowingly endanger workers.

Mining fines have taken on added importance as federal and state officials investigate fatal accidents that have killed 19 miners this year. The Sago Mine disaster Jan. 2 in West Virginia accounted for 12 deaths.

West Virginia's federal lawmakers recently proposed setting a $10,000 minimum fine for mine-safety violations for “negligence or reckless disregard.”

Mining fines are particularly small compared with recent record profits in the coal industry. The 10 largest publicly held coal companies reported combined profits of $2.4 billion last year on $24 billion in sales.

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"The price of coal has increased dramatically and the price of penalties has not," Davitt McAteer, mine-safety chief in the Clinton administration, told a Senate panel recently. Increasing fines "needs to be done and it needs to be done immediately."

Panel Backs U.S. Plan To Transport Nuclear Waste (WSJ)

By John J. Fialka

The Wall Street Journal, February 10, 2006

WASHINGTON -- A panel of scientists, engineers and other experts endorsed the Energy Department's plans to ship tens of thousands of tons of nuclear waste for disposal in Nevada, saying they pose "no fundamental technical barriers" and relatively low and manageable risks.

A review by the panel, organized by the National Research Council, an arm of the National Academy of Sciences, was the first major outside study of the government's plans for waste removal, which will take two decades and involve transportation routes through or near many population centers.

The panel's report gives a boost to administration proposals to spur nuclear power by moving spent nuclear-power-plant fuel from 70 sites in 31 states and to minimize waste-storage needs by reprocessing some elements from spent fuel. The Yucca Mountain disposal site, located 90 miles from Las Vegas, would also receive high-level nuclear-weapons waste from four government sites.

The panel called for the federal government to give states and communities advance knowledge of the travel routes of the waste, which would be shipped primarily by rail. It also called for federal aid to help them train teams of firefighters and others to deal with accidents involving trains or trucks carrying waste.

While the experts found the risks of radiation and other health-related damage from accidents were "generally low," they also found that public acceptance of the shipments will be complicated by a "fear factor" that might be reduced if people understood, in general, how the waste would be moved and the nature of the risks involved.

Activists from antinuclear groups and the state of Nevada, which is opposed to burying the waste there, have claimed that the waste shipments could result in massive nuclear accidents -- claims the panel rejected. But it warned that governments had to be prepared to manage "increased anxiety" that could lower property values and reduce tourism along some routes.

Neal F. Lane, a physicist at Rice University, who was chairman of the panel, said experts on the 16-member panel agreed that the timing or exact routes of particular shipments should remain secret. The Energy Department estimates that there would be 9,600 rail shipments, most of them by dedicated and guarded waste-carrying trains, and 1,100 truck shipments. Overall, some 70,000 tons of radioactive waste may be dumped at Yucca Mountain, should the government complete development of the facility.

The possibility of hazards caused by collisions, derailments or other accidents, or theft by terrorists, the panel concluded, will be minimized by putting the spent fuel and other waste in specially designed steel and concrete canisters, some weighing as much as two tons, that are designed to withstand most fires and the shock of accidents.

When the waste will begin to move is still unknown because the U.S. Nuclear Regulatory Commission must first issue a license to Yucca Mountain, a process that could extend beyond 2010. The opening of the facility will be crucial to the plans of the nuclear-power industry, which is running out of temporary storage space and will need to show regulators that new power plants won't encounter waste-storage problems.

Frankensense (WSJ)

The Wall Street Journal, February 10, 2006

Frankenstein is finally dead, or at least his political imitators are. That good news comes from the World Trade Organization, which struck a blow for science over scare-mongers by ruling this week against Europe's attempt to ban genetically modified food.

The written decision in the case brought by Argentina, Canada and the U.S. against the European Union won't be released for months, but the press leaks give a good picture of the ruling. All one needs to know is that Friends of the Earth and Greenpeace are howling that an "undemocratic" body is trying to "force-feed markets with GMOs." Expanding consumer choice and free trade equals force-feeding? Sounds like the good guys won.

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The EU can accurately say its review process for new GMOs, which is stricter and slower than that used in the U.S., wasn't struck down. However, the panel said a clear review process has to be in place, and one not based on junk science. That means no more moratoriums on approving new GMOs such as that imposed by Brussels from 1998 to 2003.

The absence of proper and timely regulatory approvals led to the complaint in the first place. So did the fact that at least six EU member states have ignored regulator decisions to approve some new genetically modified products. The WTO also rejected this practice. American and Canadian producers currently lose an estimated $500 million of business a year thanks to European barriers on GM foods.

The emphasis on using good science is especially welcome. GMOs are typically vilified with disinformation campaigns, nowhere more so than on the Continent. Agriterrorists such as France's José Bové destroy fields of GM crops ("Frankenfood" to the looters) to the cheers of radicals and much of the media. The propaganda has had its intended effect. Opinion polls show a majority of Europeans look askance at biotech products.

In reality, farmers have been genetically modifying crops for millennia through hybridization. Early cultivators favored the seeds of plants that were sturdiest and produced the largest yields. Gene splicing is no different, except that it is quicker and more versatile and offers permanent, reproducible crop varieties. Humans have consumed "new" GM foods for a decade now with no discernible ill effects.

Of course, this dispute was never really about science and health. Politicians trip over themselves to oppose goods "unsafe" in the public imagination. But they also know that Europe's farmers will find it harder to compete in a world market full of cheaper, healthier GM products.

More sinister is the effect European GMO policies have on the world's poorest farmers. African countries receive preferential access to European farm markets and have been reluctant to introduce GM crops at home. The concern is cross-pollination because the EU has zero tolerance for GM traces in non-GM imports. As a result, gene-altered seed stocks that better resist disease and severe climate conditions -- which would provide more food and export income for the people who need them most -- remain out of reach in many developing countries.

Certain European leaders have already vowed to defy this week's ruling to "protect" their people. The Continent has no monopoly on protectionists. But the WTO has just exposed the sham science and populist politics behind the EU's biotech regime and made it harder to stop better farm products from making it to market. The world's poor will be the biggest beneficiaries.

FBI/DEA/ATF/USMS:

Handprint Could Be Key To Church Fire Probe (CNN)

By Rusty Dornin

CNN.com, February 10, 2006

ALICEVILLE, Alabama (CNN) -- Investigators looking into the fires at nine Baptist churches in Alabama over the past week are hoping a handprint left on one church's front door may help catch a perpetrator.

The Bureau of Alcohol, Tobacco, Firearms and Explosives would not indicate whether its agents were able to lift a readable fingerprint from the inside part of the front door at Dancy First Baptist Church, south of Aliceville in Pickens County.

Arsonists entered the church by kicking in a back door, then set a fire near the pulpit before trying to escape through the front door, authorities said. (Watch how the church blazes have become an ATF priority -- 2:04)

However, the front door had a dead-bolt lock, and the arsonists had to exit through the back door, where police said they found a footprint that might have come from someone kicking the door.

The fire consumed the pulpit, communion table and part of the ceiling. Churchgoers were allowed to take a look at the damaged church Thursday, and the Rev. Walter Hawkins said they hope to have it rebuilt by May.

"They are material things that can be replaced," Hawkins said. "The church is in our heart. That's what we live on." Hawkins added that he hopes the arsonists "have a repentance of heart."

"Forgive them, they know not what they do," a sign in front of the church reads.

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Authorities have been investigating the fires to determine if they're connected and, if so, who is behind them.

Nine churches -- five with predominantly African-American congregations and four with predominantly white ones -- have been set ablaze in the past week in central and western Alabama. Nobody has been injured. (Map)

James Posey, a preacher at the fire-damaged Morning Star Baptist Church, speculated that the perpetrators could have been hatemongers, devil worshippers or thrill seekers.

"I would like to ask them: What did you get from this? Why did you do it?" Posey said.

N.G. Berrill, a forensic psychologist, said arsonists "love the power" and "the theater associated with fire."

Investigators are going "to look for any communications that might be left specifically, consciously or inadvertently at the scenes of the crime," Berrill said.

More than 100 ATF personnel, including special agents and forensic experts, are investigating the fires. A criminal and geographical profiler also has been called in. (Full story)

The ATF has said witnesses have reported seeing a dark-colored SUV near some of the fires. But it is not clear if the vehicle is linked to the blazes.

Fears And Precautions Spread After Alabama Church Fires (NYT)

By Rick Lyman

The New York Times, February 10, 2006

ASHBY, Ala., Feb. 9 — Larry Crocker leaned on his cane in the hard clay beside the ruins of Ashby Baptist Church, listening for the distant rumble of the truck that was to bring the mobile sanctuary that would be the church's temporary new home.

"I just hope that I don't know whoever's doing this," Mr. Crocker, a member of a nearby congregation, said of the rash of church fires in the area . "I'd hate to think I'd know a person who could do something like this."

But as investigators sift the rubble after nine church fires across rural Alabama in the last week, all suspected arsons, the evidence they are finding and the pattern of the attacks suggest that those behind the arsons were either locals or, at the very least, frequent-enough visitors to cherry-pick the most vulnerable and remote churches and drive the region's coal-dark roads at night with brazen efficiency.

"Everybody's fairly nervous out there now," said Jim Parker, pastor of the Ashby church. "People are taking some sort of precaution at almost every church."

Five churches, including Ashby Baptist, were set on fire just before dawn last Friday in rural Bibb County, about an hour south of Birmingham. They were all Baptist churches, four with predominantly white congregations and one with a black congregation.

Then, early Tuesday, four more churches — all Baptist and, this time, all black congregations — were hit on a long stretch of country highways in more rural counties along Alabama's western edge.

Although investigators say they have reached no firm conclusions about who might be behind the arsons, they point to strong similarities between the two strings of attacks. In both cases, the churches tended to be the most secluded; indeed, in Bibb County, the arsonists passed by several churches beside the highway to seek out those tucked deep into the pine woods.

The doors of many of the churches were kicked down. And witnesses in both areas said they had seen a dark-colored S.U.V., perhaps a Nissan Pathfinder, near some of the blazes.

At Six Mile Baptist Church, which has not been damaged, church members have carved up the night, taking shifts to drive by their sanctuary. The same is happening at several other churches across central Alabama.

"Different ones of us are going out at random times, just to be sure everything is O.K.," said Jimmy Jones, a retired elementary school principal and a member of the Six Mile Baptist congregation, in Bibb County. "We've bought some new lights that we can leave on at the church at night."

David Hand, pastor of Old Union Baptist Church, which was damaged last week, said everyone was keeping an extra watchful eye.

"We're doing what we can," Mr. Hand said. "Our neighbors are watching out for us, and the sheriff has extra patrols. We have some dogs out at the nearby houses. Hopefully, they'll give us some warning if anyone comes back around."

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At Antioch Baptist Church, about 15 miles from Ashby's charred sanctuary, H. L. Morrison sat in the front pew and watched a clean-up team from a company called Restoration Xpress wipe the soot from the sanctuary's white wood ceiling and assess the fire damage on the table before the pulpit.

"This church was full of smoke, but it didn't burn," Mr. Morrison, a member of the congregation, said.

Indeed, Antioch Baptist was lucky. Pleasant Sabine Baptist Church, around the corner on a dirt road, burned to its foundation.

But the effort to gut Antioch Baptist fizzled. A three-foot floral arrangement on the table in front of the pulpit was set ablaze, but the flames died before they could ignite the surrounding wood.

The heat from the fire cracked the glass top on the table into a star-shaped pattern, and there was a burn mark on the carpet in the shape of a teardrop. But neither the pulpit nor the small plastic models of churches just beside the fire were as much as scorched, and a plastic bucket of money for the poor still rested, untouched, on the floor beside the table.

"About eight dollars in there," Mr. Morrison said. "They weren't thieves, whoever they were."

After the attack, the pastor placed a new message on the board outside the church: "The Lord is my helper. I will not fear what man shall do unto me."

Jim Cavanaugh, a special agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives, said it was too early for investigators to know why only Baptist churches were singled out. It could simply be that so many of the churches in rural Alabama are Baptist.

One line of speculation is that people who hunt at night are responsible, because they are among the few familiar with navigating Alabama's country lanes in the dead of night.

"In the past, of course, when we had these kind of church burnings in Alabama, they seemed to be racially motivated," said Jerry Wilkins, director of the Bibb County Baptist Association. "At least here, that doesn't seem to be the case, which is something."

City Man Sentenced In Drug Fraud Case (BSUN)

By A Sun Reporter

The Baltimore Sun, February 10, 2006

Hudson, co-defendant convicted in scheme to sell pill prescriptions

A 49-year-old Baltimore man was sentenced to 30 years in prison for distributing Oxycontin and engaging in health-care fraud, the U.S. attorney's office said today.

Oliver Clifton Hudson and his co-defendant, Gregory Wayne Banks, 53, of Severna Park, were convicted in federal court Nov. 7. Both claimed to not be subject to the jurisdiction of the court and were removed from the courtroom after they refused to participate in the trial, according to court documents. Hudson returned to the courtroom today when U.S. District Judge J. Frederick Motz handed down his sentence. Banks is scheduled to be sentenced tomorrow.

"Criminal defendants are entitled to raise any valid legal claims and required to treat the court with respect," U.S. Attorney Rod J. Rosenstein said in a statement. "Instead, Oliver Hudson and his co-defendants made frivolous claims that judges cannot control their 'flesh and blood.' Defendants do not benefit when they disrupt criminal proceedings."

According to evidence presented at their trial, Hudson and Banks fraudulently obtained Oxycontin and other oxycodone drugs from pharmacies in Baltimore City and Baltimore, Anne Arundel, Howard, Montgomery and Harford counties. The drugs were obtained using prescriptions created with computers and photocopiers, officials said.

The defendants sent "runners" to various pharmacies with the prescriptions and made themselves available by telephone -- posing as health clinic officials -- to answer questions from pharmacy employees seeking verification for the prescriptions, officials said.

Furthermore, the defendants fraudulently obtained health insurance cards by paying people to "rent" their insurance for the purchases, officials said. The pharmacies would then unwittingly charge health insurance companies for the cost of the fake prescriptions, leaving only a co-payment for the defendants to pay.

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Once obtained, the oxycodone prescriptions were ultimately resold on the street. Officials said the defendants sold more than 41,000 oxycodone pills using this scheme.

News Briefs From San Diego County (AP)

The Associated Press, February 9, 2006

SAN DIEGO (AP) - City officials have launching an investigation into illegal activity by city employees after two workers from the Park and Recreation Department were arrested on suspicion of drug possession and sales.

The employees, who are brothers, were arrested Jan. 25 as part of a broader Drug Enforcement Administration Investigation, authorities said. They are accused of dealing marijuana out of a Park and Recreation vehicle and had been under surveillance.

Fred Sainz, spokesman for Mayor Jerry Sanders, said the mayor was very disturbed by the arrests and ordered the probe.

"We have started our own investigation to see if other city assets or offices are involved," Sainz said.

Girls Try Drugs, Alcohol At Higher Rates (WP/AP)

By Karen Matthews, Associated Press

The Washington Post, February 10, 2006

NEW YORK -- In a reversal of past trends, teenage girls are trying marijuana, alcohol and cigarettes at higher rates than boys, the White House drug czar said Thursday.

The findings from a new government analysis come even as teen drug use is declining overall.

The National Survey on Drug Use and Health, released by John Walters, the national drug policy director, indicates 1.5 million girls ages 12 to 17 started drinking alcohol in 2004, the most recent year for which data is available. That compares with 1.28 million boys.

Among the same age group, 730,000 girls started smoking cigarettes in 2004, compared with 565,000 boys, and 675,000 girls starting using marijuana, compared with 577,000 boys, the survey found.

The nationwide survey, based on interviews with 70,000 families, also found that girls surpassed boys in abusing prescription drugs. Of the youths surveyed in 2004, 14.4 percent of girls and 12.5 percent of boys reported misusing prescription drugs.

"This is the first time that we've recorded this kind of relationship between boys' and girls' drug use," said Walters. "In the past, boys have had higher rates of use _ and significantly higher rates of use at certain times in the past."

Overall illicit drug use among youths 12 to 17 has declined 19 percent since 2001, according to the survey.

"In order to drive it down further, we have to deal with today's substance abuse reality, and today's reality is, girls have been using at higher rates than boys in critical areas," Walters said.

Experts who joined Walters at a news conference in a Manhattan hotel said girls' use of drugs, alcohol and cigarettes is particularly alarming because girls are more vulnerable to their effects.

"Boys and girls react to drugs differently," said Dr. Warren Seigel, past president of the New York State chapter of the American Academy of Pediatrics.

Seigel said research has shown that girls may become addicted to nicotine faster than boys and even moderate drinking can disrupt their growth and the development of their reproductive systems.

"It's imperative that parents understand that these differences exist, and understand the differences between girls and boys, because it requires some different parenting skills," he said.

Dr. Ralph Lopez, an associate professor at Cornell University's Weill Medical College and the author of "The Teen Health Book: A Parents' Guide to Adolescent Health and Well-Being," said teenage girls are at risk for drug and alcohol use because they feel pressure to succeed academically and also to look perfect.

"They have to be skinny and gorgeous," he said. "We don't do that to the boys."

Lopez said many parents are afraid to confront their children about drugs.

"I'm afraid that our parents have dropped the ball in many cases," he said. "I have a line in my practice that if you are popular with your kids, you're doing something wrong."

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On the Net:

http://www.whitehousedrugpolicy.gov/

More Girls Than Boy Trying Drugs For First Time-US (REU)

Reuters, February 9, 2006

WASHINGTON (Reuters) - More girls than boys are becoming first-time users of alcohol, cigarettes and marijuana, reversing previous trends, the U.S. drug czar said in a report released on Thursday.

"Girls have become users at rates that exceed boys or equal boys now, which never used to be the case," John Walters, director of the White House Office of National Drug Control Policy, said in a telephone interview.

The report found 1.5 million U.S. girls 18 or under started using alcohol in 2004, compared with 1.2 million boys. It found that 730,000 girls started smoking cigarettes, compared with 565,000 boys, and 675,000 girls started using marijuana, compared with 577,000 boys.

The report was published on the Internet at http://www.mediacampaign.org/pdf/girls_and_drugs.pdf.

Walters said there were several reasons why girls might turn more to drugs and alcohol than boys.

"They are more likely to be influenced by peer pressure, even when they have been told and accepted that these behaviors are risky for them," Walters said.

"They are twice as likely to be victims of depression. They report that when they use, that they do that to improve their moods."

The report, based on government surveys, found that 1.6 million girls reported having at least one major depressive episode in 2004. "That's more than twice as many as boys," the report reads.

Walters said girls often used drugs and cigarettes to try to stay slim.

He said parents should talk to children before they were at risk of drug use.

"It is not going to be a stranger or some sinister person who offers it," Walters said. "It is going to be your best friend. We have to be sure to prepare them for how they are going to say no to their best friend."

Girls Matching Boys In Substance Abuse (WT)

By Cheryl Wetzstein

The Washington Times, February 10, 2006

Young men and women are abusing tobacco, alcohol and drugs at the same rate, according a report released yesterday that urged parents to get more involved in the lives of their teenage children.

"The gender gap has closed. Girls are smoking, drinking and using drugs equal to boys," said Susan Foster, vice president of the National Center on Addiction and Substance Abuse (CASA) at Columbia University and lead author of a new book on women and substance abuse.

CASA's book, released yesterday during an event on Capitol Hill, documents how women differ from men in their vulnerabilities to substance abuse. It also makes recommendations on how parents, policy-makers, educators and treatment professionals can improve their responses to substance abuse by girls and women.

A separate report released yesterday in New York City by the White House Office of National Drug Control Policy (ONDCP) and Seventeen magazine said teenage girls now match teenage boys in illicit drug and alcohol use, surpass them in cigarette and prescription drug use, and are more likely than boys to start using illicit substances.

"Girls are telling us that they understand the risks associated with drugs, alcohol and cigarettes. But that doesn't appear to be stopping them from using," White House drug czar John P. Walters said yesterday.

Susan Molinari, chairwoman of the Century Council, an educational group funded by the distilled-spirits industry, said that, overall, underage drinking has dropped since 1992 among both girls and boys.

However, almost half of mothers think it's OK for their teen daughters to drink, the council found in a recent survey of nearly 900 mothers and daughters. Moreover, 30 percent of girls ages 16 to 18 said they drank with friends -- but only 9 percent of their mothers said they knew about it.

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"These data illustrate a disturbing misperception among moms about the seriousness of problems associated with alcohol consumption by their teenage daughters," said Mrs. Molinari, whose group offers a program called "Girl Talk" to discourage underage drinking.

Parental disapproval of tobacco, alcohol and drugs is a strong influence on teens, as is parental monitoring of teens and their friends, said the ONDCP, which offers parents and community leaders a wealth of anti-drug materials.

At the Capitol Hill event, Joseph A. Califano Jr., CASA chairman and president, said he hoped the group's new book, "Women Under the Influence," will stimulate new public attitudes about women and substance abuse.

There is no doubt women can become addicted faster -- even with less exposure to substances -- and suffer the consequences more quickly, he said.

"If young women knew that, they might be quicker to say, 'No, I'm not going to have that second beer,' " said Rep. Nancy L. Johnson, Connecticut Republican.

Teen Girls Turn To Drugs, Cigarettes (UPI)

United Press International, February 10, 2006

WASHINGTON, Feb. 10 (UPI) -- The latest U.S. national survey on alcohol and drug use finds that teenage girls are more likely than boys to smoke and abuse prescription drugs.

They had already equaled boys in drinking and illegal drug abuse, The Washington Post reports.

The National Survey on Drug Use and Health has been conducted every year since 1971. The figures on teenage girls are based on the 2004 study, which interviewed 70,000 households.

Experts say that teenage girls are more likely than boys to use drugs and alcohol to escape from family problems and other pressures in their lives. They also may take up smoking to help keep their weight down.

More Girls Than Boys Turning To Drugs (ABC)

ABC News, February 9, 2006

Feb. 9, 2006 — For the past year, first lady Laura Bush has spearheaded an initiative to steer boys away from gangs, crime and drugs. She felt the program was needed because, she said, because we have "shifted our gaze away from boys for the last several decades." A White House report released today on drug use among youths suggests that we need to keep a closer eye on girls as well.

The report reveals that in 2004, the most recent year studied, 1.5 million girls started using alcohol — 173,000 more than the number of boys who started drinking.

During his State of the Union address, President Bush said that drug use among youth was down 19 percent since 2001. But this latest report has raised concerns about whether the message about the dangers of drugs, alcohol and smoking is reaching girls as well as it is boys.

"The reason we're pointing to this alarming trend is because if we're going to get girls to continue to decline in drug use effectively, we're going to have to deal with those causes, which are different," drug czar John Walters said.

As with alcohol use, first time tobacco and marijuana use was also higher among girls than boys. In 2004, 729,000 girls — 164,000 more than boys — started smoking cigarettes, and 675,000 girls — 98,000 more than boys — started using marijuana. Since 2002, more girls than boys have started using marijuana. The study found that for girls, marijuana was used more than cocaine, heroin, Ecstasy, and all other illicit drugs combined.

That's because girls are under a lot of stress because of their changing roles in society, said Dr. Keith Ablow, child psychologist and author. They are abusing drugs and alcohol to self-medicate.

"I think we're deluging young girls with certain expectations," he said. "They're watching dramas on television that ask them to have relationships where girls are deciding between two boys at such an early age. Fashion is designed for adults but in little sizes."

"We're going to have to focus on the particular, unique circumstances we're faced with girls, which is different today than it's ever been before, which has obstacles we've not faced before, but obstacles we can overcome if we do the right thing," Walters said.

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On the home front, Ablow said that parents should behave like detectives and assume there might be a problem, especially if a girl is exhibiting low self-esteem.

"We want to believe our families are perfect," he said. "That's understandable, but better would be to say, let's think what might be wrong. Let's make sure we don't get into denial and become very sensitive to what might be going on in the lives of our daughters."

Ablow, who has a 7-year-old daughter, said to pay attention if a girl's grades began to slip or if she lost interest in activities that she once enjoyed.

"Drug use and abuse is a symptom, almost always — I'd say always — of an underlying, other deeper problem," he said. "In this case, we're looking at depression, attention-deficit problems, potentially eating disorders."

US Girls Match Boys In Alcohol, Drugs, Cigarette Use (AFP)

AFP, February 9, 2006

WASHINGTON (AFP) - American girls are puffing more cigarettes and popping more prescription pills than boys, and using as much alcohol and illicit drugs, the White House drugs control czar said.

The warning was based on an analysis of recent studies which showed girls typically use drugs and alcohol to boost dented self-esteem and self-confidence, as they face the hard choices and questions of early adolescence.

"The trends of substance use among our adolescent girls are alarming," said John Walters, director of the White House office of National Drug Control Policy.

Though overall drug use among youths in the United States had dipped in recent years, statistics for girls were causing concern, he said, and debunked conventional wisdom that boys were more at risk from illegal drugs.

"Girls are telling us that they understand the risks associated with drugs, alcohol and cigarettes," Walters said in a statement, issued in New York.

"But that doesn't appear to be stopping them from using (them)," Walters said, urging parents to talk to their daughters about the importance of staying drugs-free.

Atoosa Rubenstein, editor in chief of Seventeen magazine, which cooperated with the White House initiative, said young girls were becoming more independent and starting to make decisions about their future."

"Combine this new responsibility with all the stress and pressures in their lives and the result, unfortunately, can be substance abuse," she said.

Girls Equal, Exceed Boys In Substance Abuse (LIVESCI)

By Corey Binns

LiveScience.com, February 9, 2006

Adolescent girls abuse drugs and alcohol just as much if not more than boys, a new study indicates.

Contrary to popular belief, more girls are new substance abusers. In 2004, 1.5 million girls started using alcohol, 730,000 girls started smoking, and 675,000 started using marijuana, according to the 2004 National Survey on Drug Use and Health.

The Office of National Drug Control Policy (ONDCP) reported the findings today.

"Over the last few years, we have seen overall drug use decrease among teens—boys and girls. But the trends of substance use among our adolescent girls are alarming," said ONDCP Director John P. Walters.

Conversely, a 2003 Centers for Disease Control survey of high school students found male students more likely to report methamphetamine use than their female classmates.

Marijuana is the drug of choice for girls; they prefer it over cocaine, heroin, Ecstasy, and all other illicit drugs combined, according to ONDCP.

Girls smoke cigarettes and abuse prescription drugs more than boys. And since 2003, girls have caught up with boys in abuse of illicit drugs and alcohol.

Girls abuse for different reasons that boys. Drug and alcohol use has a more profound impact on teen girls, both physically and psychologically.

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They tend to use substances to help their mood, boost their confidence, and cope with problems. Yet smoking marijuana can increase the risk of depression by five times in teen girls, and double the risk of depression for teens of both genders, research shows.

A desire to lose weight also contributes to drug abuse; girls pop diet pills four times more than boys.

Substance abuse can lead to physical, mental, and social consequences for girls, especially when their bodies and brains are still developing.

"Girls are telling us that they understand the risks associated with drugs, alcohol, and cigarettes," Walters said. "But that doesn't appear to be stopping them from using."

Drug Use Often Masks Self-worth Issues (MINNST)

By Jenna Ross

Minneapolis Star Tribune, February 10, 2006

Andrea Raines downed Ecstasy and alcohol, did methamphetamine and morphine, smoked marijuana and snorted cocaine

But that wasn't enough, she said. Throughout three years of chemical abuse, she would make herself throw up.

Raines, now 16, was like many adolescent girls who use drugs. She was insecure. "I didn't like my body," Raines said. "I wanted to be skinnier. I wanted to be like the women you see on TV."

A report by the White House Office of National Drug Control Policy released Thursday notes that young females across the country tend to use alcohol or drugs to lose weight, improve their mood, increase their confidence, cope with problems and lose their inhibitions.

The report also said more girls than boys are starting to drink and smoke cigarettes and marijuana.

And, according to the report, the girls who drink alcohol or take drugs are more likely to have sex.

Raines' drug use began with marijuana at age 12. When she started hanging with a group of older guys, she began using harder drugs. By the time she was 14, she had lost weight, close friends and her virginity.

Now, Raines lives at Minnesota Teen Challenge in Minneapolis, where she attends therapy and goes to school with 12 high school girls with similar histories. It's the fourth drug treatment she's tried in less than a year and a half.

This time, it's working. She has regained her "self-worth," put on 48 pounds and hopes to graduate from high school a year early.

Raines, who grew up in Coon Rapids, has a great deal of advice she would give young girls getting high. She'd tell them to listen to their parents and carefully consider their friends. Then she'd tell them this:

"Don't try to be so much like the world," she said. "The world is evil."

Lund Pleads Case For Olympic Eligibility (AP-Y2)

By Tom Withers, AP Sports Writer

AP2, February 10, 2006

U.S. skeleton racer Zach Lund's hopes of competing in the Olympics now rest in the hands of a special arbitration court.

The Court of Arbitration for Sport is expected to rule Friday on whether Lund should be allowed to race in the Turin Games after testing positive for finasteride — an ingredient in a hair-restoration product that also can be used as a steroid-masking agent. Lund insists he tested positive because he was taking an baldness-fighting drug.

Lund spent more than three hours Thursday at a hearing with the CAS. The men's skeleton competition scheduled to begin next week.

Lund was publicly warned but not suspended by the U.S. Anti-Doping Agency on Jan. 23 after the positive test. But last week, the World Anti-Doping Agency filed an appeal with the CAS over Lund's Olympic eligibility.

The World Anti-Doping Code recommends a two-year suspension for a first serious doping violation, and it has the right to appeal any decision it feels to be too lenient or incorrect.

Lund attended Thursday's hearing at a Turin hotel with his attorney, Howard Jacobs, who declined to comment to The Associated Press afterward. WADA participated in the hearing via a conference call.

Lund, 26, was the overall World Cup leader before he was sanctioned, a ruling that compounded other pre-Olympic problems for the U.S. Bobsled and Skeleton Federation.

At the time, the USBSF was dealing with accusations of sexual harassment against U.S. coach Tim Nardiello, who was suspended, reinstated and ultimately fired after ignoring orders to stay away from the American team during its final Olympic preparations.

Finasteride has been on the banned list since 2005. Two athletes, Argentine tennis player Mariano Hood and German soccer player Nemanja Vucicevic, were banned for taking the same drug last year.

On Thursday, the Montreal Canadiens said goalie Jose Theodore tested positive for a banned substance in pre-Olympic screening because he was using a hair-growth drug that can be used as a masking agent.

Theodore was not picked for Canada's Olympic team, but was on the preliminary 81-player eligibility list. No punishment was handed down because he is appealing the result to an arbitrator.

Duke Strengthens Drug - Testing Policies (NYT/AP)

By The Associated Press

The New York Times, February 9, 2006

DURHAM, N.C. (AP) -- Student athletes at Duke who test positive for steroids will have to sit out of competition for a year, while a second offense will result in lost eligibility, the school announced Thursday.

The changes come after allegations last spring of steroid use by former baseball players. Bill Hillier, who compiled a 121-214 record in six years, resigned as coach a month after two former Duke players told the university newspaper that used steroids while playing for the school.

Those players and others have said Hillier suggested that they use steroids. Hillier has denied the allegations.

The new policy goes into place immediately. Evidence of blood doping or masking agents and refusal to take or attempts to manipulate a test are treated as positive tests, the school said.

The new rules also call for treatment and counseling for athletes who test positive for illegal drugs or any other substance banned by the NCAA. Athletes who flunk a second test for such drugs would be suspended for at least half of a season, while a third offense would result in a permanent ban from competition.

The previous policy did not distinguish between steroids and other drugs, said James E. Coleman Jr., a Duke law professor who headed the committee that recommended the changes.

The policy also allows for unannounced drug testing for players in all of Duke's 26 varsity programs.

Duke Tightens Athletes' Drug Rules (DURHS)

By BRYAN STRICKLAND, The Herald-Sun

Durham (NC) Herald Sun, February 10, 2006

DURHAM -- Duke University's athletics program became the latest to crack down on the use of performance-enhancing drugs Thursday, less than a year after allegations surfaced regarding steroid use in the baseball program.

The school's new drug policy differentiates between performance-enhancing drugs and other substances banned by the NCAA -- so-called "street drugs" -- by imposing harsher penalties for student-athletes who test positive for steroids and the like.

The previous policy treated all banned substances the same, calling for counseling, treatment and further evaluation for a first offense, a suspension for at least half the season for a second offense and a permanent ban from competition for a third offense.

That remains the penalty schedule for street drugs. But performance-enhancing drugs now carry a minimum one-year ban for a first offense and a permanent ban for a second offense.

"There's only one reason in the world to use steroids, and that's to gain an advantage and to cheat," said Brad Berndt, assistant director of athletics. "An educational institution should uphold all the ideals of what's best about integrity and honesty. There's no other reason to take a steroid other than to gain an advantage over your opponent. Besides, they're illegal."

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Berndt, who has overseen the NCAA's drug-testing program on the Duke campus for the last eight years, was one of six members of a committee appointed last year by Duke President Richard Brodhead to review and rework the athletics department's drug policy.

Berndt said the committee sought comments from all of the school's head and assistant coaches and the Student-Athlete Advisory group during its research phase.

Berndt said a review was due but was surely sped up by the events of last April, when former Duke baseball players Aaron Kempster and Gavin Stanley told Duke's student newspaper, The Chronicle, that they had used steroids in the summer of 2002. They also claimed they did so at the suggestion of their coach, Bill Hillier.

Hillier turned in his resignation a month later at the end of the season, a decision that he and the school said came as a result of his 121-214 record over six seasons rather than the former players' claims.

"Honestly, we were ready to review our policy. We probably reviewed it a little bit faster than we would have had that not come up," Berndt said. "The two folks that went to the media were two folks that were disenchanted with the baseball program first of all, and used that as a vehicle to bring some bad publicity to the program.

"I think it was very, very isolated, and it was three or four years after the fact. I think if they had been really concerned, they would have come to us as administrators and would have said, 'Hey, we've got a problem,' and we would have dealt with it. And they would have done so earlier."

Chris Kennedy, senior associate athletics director, also downplayed the claims. But he did say some good had come out of them, both in terms of the new policy and in terms of making sure coaches are delivering the anti-drug message loudly and clearly.

"The important conclusion that we came to out of that, by talking to bunches of past and current baseball players, is that as in every other team that we sponsor, coaches want people to get bigger and stronger because otherwise you're going to get beat," said Kennedy, who has been involved with the school's drug policy since its infancy in the early 1980s. "But there was none of this winking and, 'You know what to do,' stuff like that. If they interpreted it that way, they grossly misinterpret what was being said.

"What we want our coaches to say is, 'You need to get bigger and stronger; here's how you do it. We're going to fit you in with our nutritionist and she's going to talk to you about protein, and you'll get with the weight coach and work out a program for you. Do not take performance-enhancing drugs. Do not take steroids. Do not take supplements.' "

Steroids have been big news at the highest level of sports over the last year or so, as evidenced by congressional hearings involving commissioners from Major League Baseball, the NBA and the NHL last spring.

The changing landscape has led to changes at other area schools as well.

In October, UNC adopted a new policy with much stiffer penalties for "anabolic agents" than other drugs: termination for eligibility for a first positive test for steroids, versus at a minimum a probationary period for a first offense involving a street drug, followed by loss of half a season for a second offense and termination of eligibility for a third offense.

N.C. State updated its policy in July 2004, before steroids became such a hot-button issue. It doesn't differentiate between steroids and street drugs in terms of its minimum penalties.

Duke's policy falls somewhere in the middle.

"We want it to be a stiff penalty, but we're also in the business of education, so we want to make sure we educate the student and give them another chance," Berndt said. "It is pretty strong, and it's very consistent with the NCAA policy. That was one of the things that was kind of leading this committee all along: What does the NCAA do? Not only what's best for Duke, but what does the NCAA do?"

Like Duke's new policy, the NCAA suspends athletes for one year for a first offense of its steroid policy and for lifetime for a second offense.

But the NCAA's drug-testing procedures alone reach a tiny percentage of the total athletes. Berndt said the NCAA was on campus last Thursday to conduct the year-round phase of its drug testing, which typically involves one trip to each campus over the course of a school year to test 18 football players and eight athletes from one other team for performance-enhancing drugs only. The NCAA also randomly tests during its postseason tournaments for both street drugs and steroids.

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"Our rule is, 'If we don't give it to you, don't put it in your body,' " Duke football coach Ted Roof said. "We believe that the only way to get an edge is to work hard. There are no shortcuts to success."

Berndt said Duke started its own testing about 10 years ago. The school was randomly testing 30 athletes on five or six occasions during the course of a school year in the past but is in the process of increasing that number to nine or 10 times a year. The increased testing will now include summer school and will reach more of the school's Olympic sports.

Duke has 26 teams. But Berndt said four have received much of the focus of testing in the past -- football, men's and women's basketball, and baseball. School officials hope that wider testing and stiffer penalties will keep their athletes on the straight and narrow.

"Obviously, we hope it will deter drug use, partly by giving our kids a reason to say, 'I can't do that,' " Kennedy said. "They're in the dorm at 2 a.m. on a Saturday or Sunday morning and everybody else is doing something and it's like, 'Oh, come on.'

"But the kid might say, 'Listen, I could be tested Tuesday. I can't do that.' "

Duke senior basketball player Shelden Williams, who said he had been tested a couple of times during his career and during his participation over the summer with USA Basketball, said the increased testing and penalties don't bother him.

"It's only annoying if you have something to hide," Williams said. "It's no problem for me. I don't have anything to hide. Being tested is I guess a walk in the park."

1:21 Pm | Duke Toughens Steroids Policy (CO)

By Ken Tysiac

The Charlotte Observer, February 10, 2006

Duke University has toughened its policy on steroids, mandating a one-year suspension for any athlete who tests positive for anabolic steroids, blood doping or masking agents, the school announced Thursday.

A second positive test will result in termination of athletics eligibility.

Duke's policy for athletes who test positive for street drugs or NCAA-banned substances other than steroids is basically unchanged. Those athletes will receive evaluation, treatment and counseling, with at least a half-season suspension for the second offense and a permanent ban for a third offense.

Steroids were treated the same as street drugs under Duke's previous policy. A committee commissioned by university president Richard Brodhead created the new policy.

Stories last year about alleged steroid use by former members of Duke's baseball team were one reason the university decided to review its policy, committee member Tallman Trask III said in a statement.

"While we fully checked out these allegations and were satisfied that this was not a widespread problem, we nonetheless felt it was important to take this pro-active step in strengthening our drug policy," said Trask, Duke's executive vice president. "We also felt Duke could, and should, take a leadership role in this area, and that it is in the best interest of our student-athletes' health and well-being that we do so."

The University of North Carolina strengthened its steroid policy in October, requiring permanent dismissal for athletes testing positive for anabolic steroids.

Duke's policy provides a second chance for steroid offenders.

"We are an educational institution," said Duke law professor James E. Coleman Jr., who chaired Duke's committee. "We felt it was appropriate to give a student who tested positive for a steroid a second chance to learn from and recover from the error, if possible."

-- Ken Tysiac: ktysiac@charlotteobserver.com

-- Read tomorrow's Charlotte Observer for more details on this developing story.

Feds Raid Moonshine Still (CLAYTRIB)

By Blake Spurney, Editor

Clayton (GA) Tribune, February 9, 2006

Federal agents from the U.S. Forest Service and the Bureau of Alcohol, Tobacco and Firearms raided a moonshine still Feb. 2 off Muscadine Lane in eastern Rabun County.

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The still, on Forest Service land in the Pool Creek community, had been under surveillance for nearly two months. No arrests have been made, though Rabun County sheriff's deputies and Georgia Department of Revenue agents helped execute warrants at three local residences.

Authorities released few details about the still's operation, including the names of potential suspects. The investigation is ongoing.

"Suffice it to say, the suspects have been under surveillance with our operation," said ATF spokesman Marc Jackson.

"It was estimated that up until our enforcement action on it, that this suspected still was suspected of producing 45-70 gallons per cycle," Jackson added. The still had yielded about seven cycles since Dec. 8.

The still was estimated to hold 750 gallons of mash. It was tucked away off Forest Service Road 517. Liquor was transported from the site in a 55-gallon barrel to another location where it was transferred to jars. Its operators had built a makeshift road through the woods, apparently on an old logging roadbed. The liquor was distilled through an old radiator.

Jackson said samples taken of the finished product detected "an enough amount of lead to cause a concern for public safety."

The Forest Service brought in a bulldozer Friday morning to finish cutting the still. Some parts of it had been dismantled the previous evening.

The ATF got involved in the investigation upon getting a referral from the Forest Service.

"That's what makes it unique was that it was found on Forest Service land," Jackson said.

State revenue agents merely assisted the federal investigation.

"It was a federal warrant executed on federal land," said Revenue Department spokesman Charles Willey, declining further comment.

Because the raid stemmed from a federal investigation, no suspect was immediately arrested. Jackson said no affidavits had been filed and that arrests typically came after a federal grand jury indictment.

U.S. Attorney's Office spokesman Pat Crosby said he could neither confirm nor deny an ongoing investigation. Therefore, it's likely no decision has been made as to whether the case will prosecuted in federal court.

A federal conviction for transporting, selling or manufacturing nontaxed liquor carries a possible sentence of up to five years in prison and a maximum fine of $10,000.

The residences that were searched as part of the investigation are located on Pool Creek Road, Earl's Ford Road and Screamer Street. Two vehicles suspected of hauling liquor were seized, as was an unspecified quantity of liquor found at two of the residences.

A woman who answered the phone at the suspect's residence on Pool Creek Road said, "There's no comment."

Man Sentenced In Arson-for-hire Case (BUCKSCCT)

By HARRY YANOSHAK, Bucks County Courier Times

Bucks County (PA) Courier-Times, February 9, 2006

PHILADELPHIA - A New Jersey man was sentenced to five years in federal prison Wednesday for hiring two men to torch the Morrisville restaurant across the street from what used to be his pizzeria.

From his own family to the man whose deli-restaurant was damaged by Molotov cocktails, many in U.S. District Court posed the same question to Alessandro "Alex" Tramo: "What were you thinking?"

Tramo's answer: He wasn't.

The abuse of prescription drugs had clouded his judgment, he told U.S. District Court Judge Anita Brody, whose sentence of five years was the mandatory minimum.

"I forever regret having anything to do with this incident," he told the court as his wife, Lisa, sat in the audience and wiped away tears.

Tramo pleaded guilty to hiring the men to burn Ben's Deli and Restaurant on Dec. 2, 2000. The 3:45 a.m. fire was brought under control in about 20 minutes and seriously damaged the landmark cafeteria-style eatery.

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An investigation by Morrisville and Bucks County fire marshals and the federal Bureau of Alcohol, Tobacco and Firearms resulted in an indictment against Tramo, 34, of Bordentown; Bruce Armstrong, 35, of Trenton; and William Anderson, 39, of Morrisville.

Tramo, who then owned Anthony's 4 Pizza, hired the two to eliminate Ben's as a competitor, the investigators determined.

Armstrong and Anderson pleaded guilty and agreed to testify against Tramo. After that, Tramo pleaded guilty to arson and criminal conspiracy to commit arson.

Armstrong was sentenced to 40 months in federal prison. Anderson will be sentenced March 8.

The government said Tramo paid Anderson $3,000 to torch Ben's, and Anderson then gave Molotov cocktails and $2,000 to Armstrong.

The cocktail was a mixture of castor oil and nitromethane, a highly explosive liquid gas used to power remote-controlled model cars. The fuel was packed in glass root beer bottles.

After owners Joe Koebert and Nickolas Blasy rebuilt Ben's, Tramo tried to hire Armstrong in summer 2003 to again to torch the restaurant, according to the government case against him. Armstrong was cooperating with authorities at the time and his phone calls to Tramo were recorded, Assistant U.S. Attorney Robert E. Goldman said.

In court Wednesday, Tramo said he was upset that his poor decision-making skills cost him precious time with his wife and their girls, 3 and 6.

"Please don't keep me from my precious children," the defendant told the judge.

Brody, who acknowledged the support of Tramo's wife and other family members, said the minimum sentence was appropriate, given the seriousness of the crime.

Tramo's criminal history in Bucks County includes convictions for stalking and harassment, forgery and making terroristic threats. He was sentenced to county probation for those crimes, records showed.

"There's just no question about it," Brody said. "When you take all the factors into consideration, this sentence is very appropriate. You destroyed a business, you put firefighters' lives in jeopardy, and you even contemplated burning down this business a second time."

A dozen of Tramo's family members, including relatives who had flown in from Italy, attended the sentencing. His wife declined to comment. She asked the judge to send her husband to a federal prison nearby.

Defense lawyer Marc Neff said he was satisfied that Tramo received only the mandatory minimum sentence. "In a moment of lapsed judgment, he did something stupid," the lawyer said.

Called to testify, Koebert said that he had suspicions about Tramo early on, but he couldn't believe that he could do such a thing.

"What were you thinking?" Koebert asked.

After Tramo was led away, apologizing to his family in Italian, Koebert shook hands with Tramo's wife, mother and relatives.

"We were friends. We were friends," he told them.

Then he said, "Look at how he's devastated his family."

Cousin Ben Tramo said the family is hurting.

"Hopefully, when this is all over, we'll all try to put this behind us. He has a wife and two beautiful kids waiting for him," he said.

Referring to the question asked by Koebert, Ben Tramo said, "For the past months that's what we were all saying: 'What were you thinking?' "

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IMMIGRATION:

Border Violence Alarms Chertoff (WT)

By Jerry Seper

The Washington Times, February 10, 2006

Department of Homeland Security Secretary Michael Chertoff, concerned about rising border violence, said yesterday nearly $1 billion in next year's proposed $42.7 billion department budget will be used for new U.S. Border Patrol agents, upgraded electronic security measures, and more fences, roads, and detention beds.

"There has been an over-100 percent increase in the last fiscal year in border violence aimed at our Border Patrol agents, and that ranges from gunshots fired across the border to rocks being thrown, sometimes flaming rocks, and let me tell you, rockings are serious," Mr. Chertoff said at a press conference in Washington.

"We are not going to tolerate this kind of behavior ... if they think they're going to back us down or chase us away, the answer to that is no. Our Border Patrol is properly trained. They have rules of engagement. They are entitled to defend themselves. They will defend themselves. We will support them in applying these rules of engagement," he said.

Border Patrol Chief David V. Aguilar noted there had already been 192 assaults on his agents since the start of the new fiscal year in October.

Mr. Chertoff said much of the border violence has been the result of increased enforcement efforts by the U.S. government, but that the department was committed to securing the nation's borders as part of the strategy that "involves not only apprehensions at the border, but detention, removal and more vigorous work site enforcement."

The new budget calls for $458.9 million for 1,500 new Border Patrol agents, doubling the number of agents added to 3,000 since 2005. This represents a 42 percent increase in the agent work force since the September 11 attacks.

The budget also calls for:

•$100 million for technology that will enhance electronic surveillance and operational response capability along the border. Mr. Chertoff said the money will provide significant procurement investments needed to begin an aggressive deployment plan that began in fiscal 2005.

•$30 million to complete construction of the San Diego border infrastructure project that includes multiple fences and patrol roads to enable quick enforcement response.

•$410.2 million for an additional 6,700 detention bed spaces -- to eliminate an existing "catch and release" program in which apprehended illegal aliens are released because of a lack of bed space.

Mr. Chertoff said rising violence along the U.S.-Mexico border represented not only a threat to law-enforcement personnel but to everyone.

"This is dangerous to our country; it's dangerous to Mexico; it's dangerous to the human beings who are being smuggled into the country and then left to die in the desert, or subject to being victims of assaults by the coyotes [alien smugglers] themselves," he said.

"So, from a humanitarian and a national security standpoint, we have to have a very strong commitment to ending this activity by illegal trafficking organizations," he said.

Senator Calls Immigration A National-security Concern (WT)

By Robert Stacy Mccain

The Washington Times, February 10, 2006

Immigration should be treated as a national security issue, Sen. John Cornyn yesterday told a gathering of conservative activists.

"The federal government needs to obtain operational security of our borders," the Texas Republican said in a speech to the 33rd annual Conservative Political Action Conference (CPAC) at the Omni Shoreham Hotel in Washington.

"We are proud to be a nation of immigrants ... but we are also a nation of laws," said Mr. Cornyn, warning that other nations, including Mexico, must "have respect for this country's laws and our nation's sovereignty."

He said human traffickers, drug smugglers and criminal gangs from Brazil, China and other countries are "using Mexico as a point of entry into the United States."

Mr. Cornyn, whose appearance capped a morning of speeches and panel discussions devoted to border issues, drew applause when he said he would push for a Senate bill to provide "a comprehensive solution" to U.S. immigration problems "that does not include amnesty."

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Earlier CPAC discussions highlighted what Mark Krikorian of the Center for Immigration Studies called the "gap between elite and public opinion" on the issue.

"That divide ... really is what drives the debate," said Mr. Krikorian, who sparked laughter with his remarks on proposals by President Bush and others for an immigrant guest-worker program.

"It's the Nigerian e-mail scam of immigration. It's obviously false, but people keep falling for it over and over," Mr. Krikorian said, noting that in other countries with such programs, most "guest workers" become permanent residents.

Veteran conservative activist Phyllis Schlafly suggested that guest-worker proposals would create a separate caste for foreign laborers.

"We don't want a servant or serf or peasant class," the Eagle Forum president said.

Rep. J.D. Hayworth, Arizona Republican, opened one morning panel by emphasizing the issue of border enforcement.

"In the spirit of Ronald Reagan, who said his grand strategy for the Cold War was this, 'We win, they lose,' let me propose this simple notion ...: Let's enforce existing laws, and then move to close loopholes that exist that others game and take advantage of," Mr. Hayworth said. " 'Enforcement first' should be our call to action."

Colin A. Hanna, president of Let Freedom Ring, a public-policy organization that advocates enhanced border security, noted that the U.S.-Mexico border is one "between two allies," but said that "recently, the Mexican government has not acted like much of an ally in addressing illegal immigration."

CPAC attendees signaled their mood with loud cheers for Chris Simcox, president of the Minuteman Civil Defense Corps, a group that has made headlines with its civilian border vigils.

"I'm tired of hearing sheriffs from Texas ... begging and pleading for military support because they're outmanned and outgunned on the borders," said Mr. Simcox, who called the inflow of illegal aliens and drugs "terrorism that's affecting the lives of people who live along the border."

Temporary Manager Visas Used To Circumvent Limits (WT)

By Stephen Dinan

The Washington Times, February 10, 2006

One of the country's temporary work visa programs, used particularly by foreign technology workers, is being abused by companies looking to get around protections for American workers, according to a new government report.

The L visa, which is intended for foreign companies who want to transfer managerial employees or workers with "specialized knowledge" temporarily to the United States, has been abused to get around limits on other types of visas, according to the Department of Homeland Security's inspector general.

Congress has capped the number of workers who can come under the H-1B visa category each year at 65,000, but has not placed limits on the L-1 visa, which applies to workers with specialized knowledge. Also, the L visa does not require that workers are paid the "prevailing wage" so that American workers are not displaced.

"Software companies appear to be using the L visa to get around H quotas," one consular post in Southeast Asia told investigators. State Department officials often are called upon to double-check information abroad.

L visas have proven attractive for technology companies -- and particularly firms that outsource labor to India. Nearly 50 percent of the petitions received under the "specialized knowledge" category in fiscal 2005 were for people born in India.

The inspector general found that it is difficult for adjudicators at U.S. Citizenship and Immigration Services (USCIS) to determine what constitutes a manager, particularly because companies vary in size and organization. Adjudicators also have to rely on a company's claims about its own operations, a worker's status at the time of the petition and how a worker will be used in the United States.

In some cases, adjudicators said, applications were prepared by lawyers and "were either too vague, or conversely too technical, for the adjudicator to make appropriate decisions."

Sen. Charles E. Grassley, the Iowa Republican who inserted a provision into a bill to require the study, said it showed "extensive and well-known fraud and abuse in the L visa program."

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"When our own consular officers agree that there are problems with the L visa program, something has to be done," he said. "We can't have companies bypass the H-1B visas just to get around protections intended to help American workers."

The inspector general concluded that although the claims about displacing U.S. workers "may have merit," it is not a significant national trend.

Angelica Alfonso, a spokeswoman for USCIS, said the report is accurate in saying L-1 visas are difficult to adjudicate and have "the potential of being exploited to fraud and abuse."

"USCIS has provided additional guidance to minimize such vulnerabilities. In addition, in 2006, USCIS plans to conduct a benefit fraud assessment to determine the nature and extent of fraud in the L-1A non-immigrant classification," she said.

The L-1A category applies to managers and executives.

The inspector general called for USCIS to come up with new ways to make sure overseas checks are made and has given the agency 90 days to respond.

Bipolar Border Budgeting (LAT)

The Los Angeles Times, February 10, 2006

THROWING MONEY AT A PROBLEM doesn't solve it. Knee-jerk reactions don't help, either. When it comes to illegal immigration, the Bush administration, apparently unable to decide which approach it prefers, has opted for both. But spending more on border enforcement will do little to curb illegal immigration and may even distract attention from better solutions to the problem.

In his State of the Union address, President Bush reaffirmed his call for immigration reform, noting a need for both stronger border enforcement and for "a rational, humane guest-worker program." In this week's budget proposal, however, the president lost his good sense and succumbed to hysteria, shifting emphasis to Border Patrol spending. Over the last 10 years, such spending has increased by many times, yet illegal immigration continues to climb.

A more sensible step would be a guest-worker program that makes temporary workers legal and reduces people smuggling, along with the risks and related crimes that go with it. In Bush's budget there is a small nod in this direction, with $247 million to support such a program. But most of the $22.2 billion allotted for border and transportation security, up 10% over last year, is directed at enforcement: hiring 1,500 Border Patrol agents, buying high-tech detection gadgets and expanding fences along our southern border.

The other disappointment in the president's budget is that he continued his annual practice of ignoring states' requests for reimbursement for jailing illegal immigrants. California will spend $662 million this year to imprison illegal immigrants convicted of crimes, but it will receive only $107 million from the federal government to help pay for it.

Meanwhile, federal immigration jails are so overcrowded that many suspects caught by border agents are released with nothing more than a promise to show up later in immigration court. Michael Chertoff, the secretary of Homeland Security, asserted at a news conference on Thursday that this practice would end. The "catch and release" program has been an embarrassment for years, as a shortage of bed space in detention centers allowed many immigrants to be released into the United States. If Chertoff gets his way, detention space will be expanded and "catch and return" will become watchwords as migrants are returned to their home countries.

There is no quick fix to the problem of illegal immigration. A massive migration from Central America into the United States, mostly in pursuit of better wages, will not be stemmed by increased spending on bigger fences or more officers.

Many politicians fall for the temptation of promising better enforcement. And Americans want their country to better police its borders. But the solution is to balance enforcement with better control and regulation of the flow of labor into the United States. Unless administration policies address the whole problem, it's not going to go away.

TAX:

KPMG Tax-Shelter Settlement May Be Revised Amid Opt-Outs (WSJ)

By Nathan Koppel

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The Wall Street Journal, February 10, 2006

A federal judge postponed a proposed $225 million class-action settlement with accounting firm KPMG LLP and law firm Sidley Austin Brown & Wood LLP in a tax-shelter lawsuit.

The order, issued yesterday, came in response to a motion by KPMG in federal court in Newark, N.J., to revise the settlement because potential members opted out of the deal. The postponement was reported in the New York Times.

"This settlement could be in jeopardy," said attorney Edmundo Ramirez, whose client was one of 284 potential members of the KPMG class. Mr. Ramirez said his client rejected the original settlement, considering it "a sweetheart deal for KPMG."

In an interview, attorney Melvyn Weiss, a partner at Milberg Weiss Bershad & Schulman LLP and the lead lawyer for the plaintiffs in the case, said the parties may reduce the original settlement amount, but he believed an accord could still be reached in about a month. Milberg Weiss filed the suit last year, claiming KPMG sold fraudulent tax shelters. KPMG has admitted wrongdoing and agreed to pay the U.S. $456 million in restitution.

As originally proposed, the settlement would have awarded $195 million to purchasers of allegedly fraudulent tax shelters sold by KPMG. Milberg Weiss and other class counsel stood to earn $30 million from the settlement. If the plaintiffs' recovery is reduced in a new settlement, the plaintiffs' lawyers would also earn less, Mr. Weiss said.

According to a previous court filing, 61 of the 284 potential class members opted out of the original settlement, a high rate of rejection. The opt-outs lowered the settlement's value to KPMG, according to lawyers, because the plaintiffs who rejected the settlement are now free to file individual suits against the accounting firm. Indeed, many of the plaintiffs have sued KPMG in state and federal courts across the country. "KPMG wants to lower the class settlement because of the high number of plaintiffs who have opted out," Mr. Ramirez said.

A KPMG spokesman said, "These continuing discussions are consistent with our goals for a fair settlement." An attorney representing Sidley Austin didn't return a call for comment.

High Court To Hear Challenge To Company Tax Breaks (NLJ)

By Marcia Coyle, The National Law Journal

National Law Journal, February 10, 2006

In North Carolina this spring, a state court will take up a constitutional challenge to $242 million in state tax breaks given by state officials to Dell Inc. to build a plant in Winston-Salem. In Minnesota, another suit is pending attacking the validity of two multimillion-dollar tax-incentive programs to attract and keep businesses in special zones in that state.

The North Carolina and Minnesota suits are among a number percolating around the country that have been inspired largely by a federal appellate decision in 2004 that struck down Ohio's investment tax credit -- a sacred tool of state economic competition.

The Ohio case, which involved a $280 million tax incentive plan for DaimlerChrysler Corp.'s expansion in that state, is now before the U.S. Supreme Court, which is scheduled to hear arguments on March 1. DaimlerChrysler Corp. v. Cuno, No. 04-1704; Wilkins v. Cuno, No. 04-1724.

The case has raised to a high profile a long-running debate over the constitutionality of state tax incentives under the so-called dormant or negative commerce clause, which prohibits states from acting in a way that interferes with interstate commerce, as well as a debate over the effectiveness of tax incentives as an economic-development tool.

Business and government officials predict "dire ramifications" if states lose the ability to offer these incentives and businesses lose the ability to use them.

They note that one study reported last year that more than 330 statutory income or franchise tax credits and incentives are offered by 46 states.

But of all the many state and local provisions designed to attract and encourage business development, the most common form of tax incentive in America is the investment tax credit, according to Walter Hellerstein of the University of Georgia School of Law, who is considered the leading academic authority on state and local taxation.

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Since the Ohio credit's inception in 1995, corporations have used it in investing more than $30 billion in Ohio plants and equipment, according to the state. In 2002, more than 2,100 corporate taxpayers took Ohio ITC credits, totaling more than $73 million.

"The Constitution is not an economic suicide pact among the States," said Ohio State Solicitor Douglas R. Cole in his high court brief. "The Court should not turn it into one here."

BALKANIZATION?

But neither is the Constitution a facilitator of the economic balkanization of the states, said retired North Carolina Supreme Court Justice Robert F. Orr, head of the North Carolina Institute for Constitutional Law, which filed the Dell lawsuit.

"What we're seeing nationally is large corporations able to play one state off another," he said. "States, in desperate search for jobs, are forced to hand out huge tax breaks that shift the burden to small businesses and individuals and deprives local governments of revenue.

"This is the modern-day version of the trade wars that the framers put the commerce clause into the Constitution in the first place to prevent."

What the two sides can agree on now is that uncertainty permeates the legal and business landscapes following the Ohio decision by the 6th U.S. Circuit Court of Appeals.

"There are a fair number of jurisdictions -- upwards of 40 -- that have similar incentive programs. Is this a precursor for further overturning?" asked Eli J. Dicker, chief tax counsel at Tax Executives Institute, a non-profit association of corporate and other business tax executives.

"If a businessperson is trying to plan where to build a factory, whether it be a vehicle or high-tech assembly line, with a lot of jobs in play, I would strongly suspect there is a hesitancy now, especially when the economics may be uncertain."

OHIO PRECURSOR?

The Ohio story began in the mid-1990s, when DaimlerChrysler decided to expand its capacity to build Jeeps. Faced with a choice of expanding an existing facility in Toledo or crossing the border into Michigan, the company approached Ohio officials about tax incentives to remain in Ohio.

One of the decisive incentives for DaimlerChrysler was the investment tax credit, which provides a one-time credit against Ohio's corporate franchise tax to any company that makes a qualifying investment in the state.

The suit challenging the tax incentives was brought by a Toledo resident, a small business owner whose property was taken, and some citizens of Michigan. They claimed that the incentive package discriminated against interstate commerce by "providing preferential treatment to in-state economic activity."

The 6th Circuit agreed, striking down the investment tax credit, but upholding a property tax exemption. On the investment tax credit, the court said that corporations would be treated unequally based on their investment decisions.

For example, a business paying Ohio taxes would receive a credit against those taxes in exchange for investing in Ohio, but a business paying Ohio taxes choosing to invest in Michigan would not.

The Supreme Court's jurisprudence in this area is "at best uncertain and at worst indecipherable to those of us who spend our life working in this area," said Georgia's Hellerstein.

From a practical perspective, Hellerstein said, "There's an overwhelming need" for clarification. "You have both taxpayers and states that really have no clue as to whether a particular tax incentive is going to be sustained," he said.

"One thing we know is that states are free to enact legislation that encourages economic development. Even in the course of striking down legislation that it has found violative of the commerce clause, the court has made clear states are not hamstrung in those efforts," Hellerstein said.

DRAWING THE LINE

But where is the line between what is discriminatory and what isn't, asked Chris Atkins, senior attorney with the Tax Foundation.

"We want the Court to say this type of investment credit is OK or draw a reasonable line saying, it's not OK but lowering tax rates or building new roads is OK," said Atkins.

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"The 6th Circuit didn't draw that line. Saying the credit discriminated because it encouraged investment in Ohio is very broad. There's a whole range of spending policies that encourage investment in the state, from infrastructure improvements to building schools."

The Ohio case differs from prior high court challenges in this area. The Commerce Clause historically has been enforced by one business suing to take away a benefit given to another. But the Ohio case is brought by nonbusiness taxpayers, raising a potential standing problem on which the justices have ordered briefing, and which could prevent a ruling on the merits.

"The usual plaintiffs who typically would bring challenges are choosing not to because if they're being discriminated against by Ohio, they may be, by the same token, getting the benefit of the same provision in Alabama or Minnesota," said Peter Enrich of Northeastern University School of Law, who is counsel to the Ohio plaintiffs.

"The way these tax incentives have grown like topsy has created a situation where it's not in the interests of business taxpayers to bring these suits."

Although Enrich argues that his clients do have standing, his high court opponent, Theodore B. Olson of Los Angeles-based Gibson, Dunn & Crutcher, who is counsel to DaimlerChrysler, contends that their standing is "even weaker than usual" because they do not complain that the state has imposed a discriminatory tax on them, but that a credit against that tax -- which most of them do not pay -- "somehow reduces the state's overall tax receipts" to which they contribute. That is not the "concrete and particularized injury" that standing demands, according to Olson.

DIRE IMPACT?

If the high court gets beyond the standing issue and reaches the merits of the case, the impact of any decision, of course, will depend on how it is written.

The U.S. Chamber of Commerce and other business groups contend that the 6th Circuit's approach would result in a loss of economic investment and activity to various foreign countries, as well as a decrease in investment by foreign manufacturers in the United States.

They also predict that there would be "significant financial statement impacts" on those companies that included the incentives in their calculations of profitability.

Philadelphia firm Blank Rome, in a tax bulletin on the Ohio decision, warned that "the magnitude of the credits that may be 'clawed back' or voided in the future could cause many publicly traded companies to restate their earnings."

Tax counsel Walter Nagel, of the Washington office of Boston's Sullivan & Worcester, predicted that the most likely impact of a decision against Ohio would be some action by Congress to overturn the Supreme Court ruling.

Ohio senators already have introduced bills to overturn the 6th Circuit ruling, he noted. However, he and others agreed, Congress appears to be waiting to see what the high court does.

But, Nagel asked, "What happens to everybody up until Congress overrides it? Then there's real potential for chaos in terms of who gets taxes back, which benefits go away. One ramification is that only the immediate taxpayer loses the benefit, but another ramification is everybody else -- taxpayers indirectly injured by paying higher taxes -- could well enjoy a modest reduction because it's a large base."

Nagel said that there is no consistent rule regarding what happens when a tax or economic incentive is found to be unconstitutional. A decade of litigation over the appropriate remedy, he said, has followed key Supreme Court decisions finding taxes unconstitutional.

States are infinitely creative in finding ways to attract business, said a number of tax scholars and practitioners, and will continue to be creative if Ohio loses in the high court.

Georgia's Hellerstein thinks Ohio will win, given the Court's current composition. But, he added, "One easy way for states to encourage business is simply to subsidize them. They can provide in-kind benefits in the form of subsidies."

The high court has indicated that subsidies from the general treasury do not create the same constitutional problems as using the state taxing power.

But the Tax Foundation's Atkins countered, "I think businesses might feel more comfortable keeping more of their own money taking that credit off their liability than essentially becoming beholden to the appropriations process. Some may see it as a bit more entanglement than they are willing to endure."

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And direct cash subsidies could invite litigation, said Enrich. "The pressures on states to find ways to advantage in-state economic activity are immense. I think states would continue to look for new ways to do that. Some won't pose constitutional problems."

Regardless of what the high court decides, North Carolina's Orr said, his foundation is organizing a national, bipartisan coalition to generate debate about these tax policies.

"We now see more and more local companies threatening to move unless they get incentives to stay," said Orr. "We're not taking this lying down."

No Thanks (WSJ)

By John Harwood

The Wall Street Journal, February 10, 2006

TAX OVERHAUL'S DEMISE leaves unhappy Bush panel.

Former Sen. Mack, "disappointed" that presidential advisory group he headed isn't producing action, cautions the issue will become "more difficult" to push as president's term continues. Absence of tax overhaul in Bush's State of the Union address is seen as sign of Treasury Secretary Snow's lack of clout.

Some senior Republicans want to put off overhaul debates until Washington tackles baby-boom retirement, the subject of commission Bush has called for. The liberal Center for American Progress wants Democrats to step in, placing tax overhaul atop its "15 new ideas," with plan to cut employee payroll-tax contributions on earnings below $90,000.

Ex-Sen. Breaux, Mack's co-chair, got note from Snow but "no saying 'thank you' " from Bush for panel's work.

REPUBLICANS speak up to House leaders about election-year needs.

Format for this weekend's retreat in Maryland is "unstructured," says Ohio Rep. Pryce, who chairs Republican conference. Newly elected Majority Leader Boehner calls these "times of renewal."

House Democrats press Boehner to open legislative process while banning lobbyists' gifts. But House reform timetable slips, while McCain presses Senate effort to change spending "earmarks." Answering attacks on Santorum's lobbying ties, Senate Republican campaign committee hits challenger Casey's donations from a former Abramoff colleague.

CONTRACEPTION FIGHT spreads in the states.

After FDA delays bid to sell "Plan B" pills without a prescription, backers of morning-after contraceptive push bills legalizing such distribution in Colorado, New Jersey, Kentucky and Illinois. It is already available without a prescription in eight states.

Maker Barr Pharmaceuticals Inc., which has seen Plan B prescriptions double to 1.2 million since 2003, quietly encourages the move.

Priscilla Smith of Center for Reproductive Rights says emergency contraception can "reduce abortions dramatically."

Social conservatives, saying such drugs starve new life, weigh bills to let pharmacists refuse to dispense them.

BERNANKE FACES pressure to answer deficit questions in next week's congressional testimony. "He ultimately will have to speak out on serious things that affect the economy," says Senate Banking Chairman Shelby. "If he doesn't, there will be a void." With Fed nominees Kroszner and Warsh headed for confirmation, open market committee should be back to full strength at March 27-28 meeting for first time in a year.

NGA CHAIR HUCKABEE hits Congress for trimming deficit "on the backs of the states" with proposals to increase state cost-sharing on Medicaid. Arkansas' Republican governor, a 2008 White House hopeful, says states instead need more flexibility to experiment with approaches to reining in Medicaid costs.

HOUSE DEMOCRATS CRITICIZE Bush budget proposal cutting Social Security survivors' benefits. "Continues the Bush administration's raid on the middle class," says Washington House candidate Darcy Burner, one of many challengers joining coordinated campaign offensive. Republicans leaders have signaled they won't pursue the proposal, which would cut $255 lump-sum death benefit for survivors.

MY VALENTINE? Veterans History Project sponsors a lecture at Library of Congress on "The American Soldier and 'Mademoiselle': Love and Marriage After WWI and WWII." With military-family breakups sharply up since 2000, nevadadivorce.net offers quick splits for $1,000 but cautions "7-day stay in Guam required."

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CHANGES LOOM for Pentagon weapons purchasing.

New acquisition chief Ken Krieg wants war fighters in places like Iraq and Afghanistan to play bigger role in deciding what military needs. His goal is more rapidly identifying current needs in hopes of shortening lead time on development of new weapons systems, which now sometimes runs 20 years.

"We need to institutionalize the combatant commanders in the process," he says. Most big decisions on new hardware are currently dominated by service bureaucracies in the Pentagon.

National Guard Association unveils bust of "First Lt. George W. Bush" before president's speech yesterday.

MINOR MEMOS: Randolph-Macon College physicists say dollar bills in Bush's $2.77 trillion budget, laid end to end, would reach to the sun and back. ... Budget also represents $87,800 in federal spending every second for a year. * * *

Thursday, Feb. 9

Dueling data: An American Bar Association poll shows 52% of Americans believe the president alone can't suspend constitutional freedoms, and 25% more say he must get permission from a court or Congress. That, the ABA, concludes, demonstrates that 77% of Americans have "deep reservations" about President Bush's warrantless surveillance program. Only 18% of the respondents to the poll conducted last weekend said the president can shelve constitutional freedoms "anytime the president thinks it is necessary to protect the country." ABA President Michael S. Greco said the poll, conducted for the ABA by Harris Interactive, found that "While everyone agrees on the need for aggressive deterrence of terrorism, the disclosure of unchecked domestic spying by the president is deeply troubling to many Americans."

Meantime, an Associated Press-Ipsos poll released Thursday showed that Bush is making some headway in defending the National Security Agency's secret eavesdropping program. It found that 48% support the administration, up from 42% a month ago. Half of the respondents said the administration should get a court warrant, down from 56% last month.

Greco offered an idea most could embrace: "It is a time when we should be having conversations about our constitutional freedoms as well as our security." --Mary Lu Carnevale

* * *

Katrina's wake: White House Homeland Security Adviser Fran Townsend plans to brief state emergency managers in Alexandria, Va., Saturday morning about some of the findings of the White House inquiry into Hurricane Katrina. The report is expected to be critical of the Department of Homeland Security and its policies that stripped the Federal Emergency Management Agency of funds and authority. --Bobby Block * * *

Health-care providers are starting to gin up opposition to President Bush's plan to cut billions from projected Medicare and Medicaid payments.

The American Hospital Association and five other hospital organizations are running advertisements saying that $25 billion in proposed hospital cuts over five years "will threaten people's ability to get the care they need." The ads have appeared the last two days in such publications as the Washington Times, The Hill and Roll Call. Meanwhile, the American Clinical Laboratory Association, which represents local, regional and national labs across the U.S., is complaining about a budget proposal to expand competitive bidding for lab services in Medicare. The lab group argues that competitive bidding would hurt quality by putting too much emphasis on price.

Earlier this week, Health and Human Services Secretary Michael Leavitt told Congress that expanded competitive bidding for lab and other services would "ensure more appropriate Medicare payments." --Laurie McGinley * * *

Bernanke the Inflation Fighter: Economists have some advice for Ben Bernanke as he takes over at the Federal Reserve: establish your credibility as an inflation fighter.

But, at the same time, they have concern that he could take that effort too far. When asked in the latest WSJ.com forecasting survey1 which mistake Mr. Bernanke is more likely to make -- raising rates too much or not enough -- three-quarters of economists said he is more likely to lift rates too high.

The new Fed chief faces the same puzzle that always confronts the Fed: how to check inflation without lifting rates so high that economic growth is snuffed out. But the challenge is especially acute now. Soaring energy prices have nudged up inflation pressures at the same time the Fed has been steadily lifting rates. Now, Mr. Bernanke must pick the right time to stop the

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increases. The matter could be further complicated because some have questioned Mr. Bernanke's resolve on price stability. Four years ago, he made comments about using loose money to fend off a very different threat: deflation. --Tim Annett

• Read the full article2, and see a video report3 of the Journal's David Wessel discussing economists' expectations for the first quarter. Plus, download forecasts for GDP, inflation, productivity, employment and interest rates4.

* * *

Wednesday, Feb. 8

Apparently stung by criticism of his budget policies, President Bush pushed back against opponents like Senate Democratic Leader Harry Reid, who termed the president's plan "immoral" for reining in Medicaid and other social-services programs.

"People talked about how the decision to reform Medicaid was immoral," Mr. Bush said Wednesday in a speech to the Business and Industry Association of New Hampshire. "Well, it's not immoral to make sure that prescription drug pharmacists don't overcharge the system. You're a taxpayer, you expect the Medicaid person we're helping to be able to buy drugs at a reasonable cost. But it turns out that there was inflated markups for people who had government help to buy drugs. That doesn't make any sense, so we reformed that."

He also defended reforms preventing parents from transferring assets to children in order to qualify for Medicaid long-term care. And he responded to concerns about cuts in the student-loan program raised by a student at an appearance last month. "I said, well, I didn't think we were -- as a matter of fact, I thought we were helping you get student loans.... Let me tell you what those reforms were. There were too many subsidies to folks who were providing loans to the students. And so we decided to reform those subsidies to make it more rational for the taxpayers, and at the same time, to help the students. By reducing the cost of lending, we saved the taxpayers $22 billion, of which $10 billion will be used to increase student loans. So here is an example of staying focused on the mission, providing money for loans, and at the same time, providing relief for the taxpayer." --John D. McKinnnon * * *

Teacher's Pet? House Minority Leader John Boehner's choice for the new chairman of the House Education and the Workforce Committee, California's Rep. Howard "Buck" McKeon, is likely to cause higher-education groups to groan.

McKeon has led committee efforts to hold down college-tuition increases, including proposing federal sanctions against colleges that raised their tuition well above the inflation rate. McKeon backed down two years ago when his proposal to cut student loans on campuses with fast-rising tuition didn't attract cosponsors -- and even Republican colleagues pointed out that it would hurt students more than their universities. But Boehner supported other McKeon efforts to hold down tuition increases, including requiring colleges to report big price jumps.

McKeon and Boehner complain that their efforts to raise Pell Grants have been counteracted by subsequent tuition increases, leaving students no better off. The Higher Education Act, which defines the government's relationship with colleges and universities, is up for renewal this year. --June Kronholz * * *

The Treasury and the World Bank are sparring over the Group of Eight's plan to cancel $37 billion in loans to 42 poor countries.

The debts are supposed to be forgiven in July, but Treasury officials worry that the World Bank will miss the deadline. "We strongly urge the bank to move as quickly as possible to get this done," a senior Treasury official said. But some World Bank member nations see the U.S. as the holdup; they don't trust the U.S. to refill its share of the World Bank's kitty as loan forgiveness drains it over the next 40 years.

Treasury Secretary Snow promised the G8 last year that he would support a bill promising future payments, but the administration's support has been lukewarm. "In the American system, current Congresses cannot obligate the appropriations decisions of future Congresses," said Treasury spokesman Tony Fratto. --Michael M. Phillips * * *

A Push for Education: Chief executives of several Business Roundtable companies, in Washington Wednesday, lauded President Bush's focus on increased funding for physical science research, on encouraging immigration of math and science whizzes from abroad and -- especially -- on improving K-12 math and science education. The executives warned, though, that the U.S. shouldn't count on continuing to rely on immigrant scientists to compensate for what they see as shortcomings of

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American school systems. U.S.-trained Chinese and Indian scientists increasingly have promising opportunities in their home countries.

"It's not a problem for our businesses. It's our job not to let it be a problem" by hiring overseas when talent is in short supply in the U.S., said William D. Green, chief executive of Accenture, a consulting company. Pfizer CEO Hank McKinnell added, at a small press briefing: "We want to make sure our kids and grandkids -- and yours -- have jobs." --David Wessel * * *

The scandal surrounding disgraced lobbyist Jack Abramoff has shaken up Capitol Hill. But it still poses significant problems for the Bush White House.

A court hearing scheduled later this month may bring fresh attention to the case of former White House aide David Safavian, who is charged with lying in connection with a golf trip Mr. Abramoff arranged. Justice Department officials haven't closed their review of actions by former Interior Department official J. Steven Griles, who disputes claims that he favored Abramoff clients, such as Native American tribes involved in casinos. Calls for the White House to release photos of Mr. Abramoff with the president -- and details of his contacts with presidential aides including Karl Rove -- haven't abated. --Jeanne Cummings

• Read more in today's Journal article5.

* * *

Tuesday, Feb. 7

A coalition of business and academic leaders is launching a lobbying and media campaign to build support for President Bush's new plan to boost the competitiveness of American business.

The campaign opens Thursday with ad buys in national print publications, and will be followed up with ad buys in other media and direct advocacy on Capitol Hill.

The goal is "to try to increase the awareness in Washington and Congress," said Craig Barrett, chairman of Intel Corp. Barrett co-chairs the National Innovation Initiative Leadership Council, which is leading the campaign, with William Brody, president of Johns Hopkins University.

In his State of the Union address, Bush promised to seek increases in spending for scientific research and development and for math and science education. Among other things, the Bush plan would boost next year's spending by 9.3% for the National Science Foundation, the Department of Energy's Office of Science and the Commerce Department's National Institute of Standards and Technology, a step toward doubling their budgets over the next decade. Companion bills have been introduced by several members of Congress. But even so, the Bush initiative is expected to face a tough road toward passage this year, amid the broader concerns on Capitol Hill about the budget deficit.

"The question will now be, as the legislative process works, exactly what stays in and what gets consolidated and what the final bottom line is," Barrett said. "We're just trying to show there is a lot of latent interest and enthusiasm." --Greg Hitt

• Read excerpts6 and full text7 of Bush's State of the Union address. Compare text8 of his past speeches.

* * *

Steel Deal: The Justice Department is planning to investigate whether Mittal Steel Co.'s $24 billion hostile bid for chief rival Arcelor SA complies with antitrust law, a department official said. A tough U.S. investigation could delay the deal or force changes to eliminate overlapping product lines.

The proposed merger of the world's largest steelmakers would lengthen Mittal's wide lead in producing steel for the U.S. auto industry and other big manufacturers. European antitrust officials have already said they would review the deal. Mittal is based in the Netherlands but is run from London. Arcelor is based in Luxembourg but is run from Paris. Mittal has an enormous market presence in the U.S., giving the Justice Department authority to review the deal if it proceeds. "It's obviously something we'd look at," the Justice official said.

U.S. antitrust enforcers investigated Mittal's last acquisition but cleared it in December 2004 after a product-by-product review. The latest deal would give Mittal 11% of world crude-steel production, with much higher shares in some markets, analysts have said. --John R. Wilke * * *

Voting Block: Nearly half of U.S. states aren't yet in compliance with standards required under the 2002 Help America Vote Act and some are unlikely to meet all requirements in time for this year's mid-term elections, according to a report by

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Electionline.org9. The law, passed in the wake of voting problems during the 2000 presidential election, provided funds to help states upgrade voting machines, create statewide voter databases and improve voter identification.

But states have had trouble meeting the law's January 2006 deadline, Electionline says. New York has struggled to replace lever voting machines with electronic systems and construct a statewide voter database. It faces potential Justice Department action. California has had problems certifying voting machines purchased by some of its cities. And partisan squabbling has complicated efforts in Wisconsin and Ohio to impose voter ID rules. So far, the report says, changes are "not as comprehensive as HAVA's authors had envisioned four years earlier." --Deborah Solomon * * *

Cupid's Calculations: When the Census Bureau combed its files10 for Valentine's Day facts, it found there are 120 single men (never married, widowed or divorced) in their 20s for every 100 single women in their 20s. For those 65 years of age and older, the numbers are even more lopsided: 33 single men for every 100 single women.

Each year, some 2.2 million marriages take place in the U.S. In 2004, 145,800 were performed in Nevada, ranking it the No. 4 state for marriages even though it ranks only 35 for population. The median age for first marriages was 25.8 for women and 27.4 for men in 2004, and the oldest first-time brides and grooms were in the Northeast. (In Massachusetts, the median age for women was 27.4 years and for men, 29.1.)

Census counted some 4.7 million opposite-sex cohabitating couples in 2004. That's 4.2% of all households.

Continuing the counting, the bureau found 1,271 establishments producing chocolate and cocoa products in 2003. California (146) and Pennsylvania (120) topped the list. Shipments of chocolate and cocoa products totaled $13.5 billion. Americans' per capita consumption of candy declined to 24.7 pounds in 2004, down from 27 pounds in 1997. Census tallied 22,022 florists, employing 113,270 people in 2003. And it pinpointed 28,527 jewelry stores, with sales of $2.4 billion (unadjusted) in February 2005.

Citing Hallmark, the Census Bureau figures some 180 million cards are exchanged for Valentine's Day, excluding all those packages of cards kids give their classmates. * * *

Oh Brother! "The president's brother's on board -- Bill Clinton," Scott McClellan said when he dropped by the press pen aboard Air Force One shortly before takeoff to attend the funeral of Coretta Scott King.

Mr. McClellan's joke alluded to the close relationship between Clinton and President Bush's father, who have worked together on aid programs for victims of the tsunami and Hurricane Katrina. Indeed, Clinton was onboard, along with his wife, Sen. Hillary Rodham Clinton. Four presidents attended the service for King at the New Birth Missionary Baptist Church in Lithonia, Ga.: President Bush, George H.W. Bush, Jimmy Carter and Clinton.

Rhode Island Revelation (WSJ)

The Wall Street Journal, February 10, 2006

Let's hope James Carville, Robert Rubin, Nancy Pelosi and other national Democrats are all sitting down for this one: The Rhode Island legislature is considering a flat tax, and the proposal comes from its majority Democrats.

That's right, last week Ocean State Democratic leaders proposed an optional flat rate income tax of 5.5% as an alternative to the current "progressive" tax schedule, which imposes rates ranging from 3.75% to 9.9% for the highest earners. The flat tax is part of a more comprehensive reform plan that would also include a sales tax holiday weekend in August and a full week of relief on "energy efficient" items in March 2007 from the state's 7% sales tax.

And listen to how House Speaker William Murphy pitched the idea at a news conference: "The ultimate goal is to put more money directly into people's pockets both by giving relief to those who need it and by making Rhode Island a more attractive place for business that will provide high-paying jobs for more Rhode Islanders." What's going on here? Have the state's liberals all taken Art Laffer happy pills?

The answer is tax competition, and the discovery that Rhode Island's high tax burden is damaging its economy. Just as the countries of the former Soviet bloc have passed flat taxes to make themselves more competitive, Rhode Island politicians are hoping the idea can help them stop their most talented workers and growth industries from going elsewhere.

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In a recent survey by the Boston-based Beacon Hill Institute -- which measured the economic competitiveness of states based on their ability to generate income and growth -- Rhode Island ranked 37th, or well behind Massachusetts, Vermont, New Hampshire and Connecticut, which were all in the top 20. Only two years ago, Rhode Island ranked 22nd in the same survey.

The Democrats noted in their press release that Rhode Island's current top marginal income tax rate of 9.9% is among the highest of the 41 states with broad-based income taxes. They also cited a study that showed this high marginal rate "might be having an effect on the retention of wealth in Rhode Island by causing retirees and companies to move to states with lower taxes, and causing large companies with multiple locations to put their highest earners somewhere other than Rhode Island."

That "somewhere" else is often just up the road in Massachusetts, which has a 5.3% flat tax. One reason the Bay State, once known as Taxachusetts, cut its tax rate was to be able to compete with nearby New Hampshire, which still has no income tax at all. Bay Staters were moving to southern New Hampshire in droves, taking their tax dollars and high-tech know-how with them.

Rhode Island currently piggybacks the already complicated federal tax system -- residents pay the state 25% of their federal tax liability -- which further increases complexity and costs on businesses and individual filers. By contrast, the proposed flat tax would be levied on adjusted gross income (AGI) with no deductions, exemptions or credits. The fairest taxes are not only simple but are levied on the broadest base possible. And working off AGI is both.

All of this ought to be especially instructive to national Democrats, who typically confront tax cuts with garlic and crosses. It's especially useful to have liberals underscoring that marginal income tax rates matter to incentives, and can drive both investment and workers into lower-tax venues. California and New York liberals still haven't figured that out.

Rhode Island Republicans, including Governor Don Carcieri, were also caught off guard by the Democrats' proposal and now sound like Beltway Democrats in raising objections. House Minority Leader Robert Watson has said he'd like to know how the Democrats "plan on paying for these tax cuts." A spokesman for the Governor had a similar cart-before-the-horse mentality, telling the Providence Journal that "the governor hopes to work with the General Assembly to make the spending cuts necessary to enact real tax relief."

But opposing good policies out of partisanship isn't going to make Rhode Island a more attractive place to work and invest. Tax cuts will. Republicans might try congratulating Democrats for their supply-side revelation, and then join them in doing right by taxpayers.

CONGRESS-ADMINISTRATION:

Bush Sends Congress A Familiar Budget Hit List (WSJ)

By Jackie Calmes

The Wall Street Journal, February 10, 2006

WASHINGTON -- President Bush sent Congress his list of 141 programs to be killed or reduced to achieve almost $15 billion in savings, and almost half are three-time losers -- cuts he proposed for fiscal years 2004, 2005 and 2006, only to be ignored by Congress each time. The total savings are less than 4% of the current year's projected deficit.

If the third time wasn't a charm, the fourth probably won't be either, congressional staffers say. "We look at it," is all one Republican aide would say of the hit list disclosed by the Office of Management and Budget.

Of 91 programs targeted for elimination, 40 are making their fourth annual appearance on the list. Of 50 to be reduced, 20 are perennials. Among those that would get a death sentence -- but for Congress's equally persistent protection -- are the $79 million Advanced Technology Program, $49 million Emergency Steel Guarantee Loan Program and $64 million Oil and Gas Research and Development Program. Each benefits industries that are flourishing right now, administration officials argue.

Also recycled are a raft of education programs -- among them the $99 million Even Start for helping parents and students with literacy, and others for school counseling, alcohol-abuse and drop-out prevention, arts and migrant-education. A $22 million National Writing Project -- to teach teachers how to teach writing -- keeps making the list because it is redundant, OMB said, and because the money goes to a single nonprofit firm that is friendly with an appropriations committee member in Congress.

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Well-placed friends also are certain to help another target -- the $9 million Exchanges with Historic Whaling and Trading Partners program -- escape the president's net. Supporters of the noncompetitive grants, for educational activities for Alaskan, Hawaiian and Massachusetts children on their states' once-vibrant whaling industries, include: former Senate Appropriations Committee Chairman Ted Stevens of Alaska, its senior Democrat, Daniel Inouye of Hawaii, senior Democratic Sen. Ted Kennedy of Massachusetts and -- with Congress's recent decision to add benefits for an Indian tribe in Mississippi -- the new chairman of Senate Appropriations, Thad Cochran of Mississippi.

The single biggest item on Mr. Bush's list, nearly $1.2 billion for grants to states for vocational education, is on it for just the second time. Among the smallest is $1 million for Close Up Fellowships, which long have brought low-income students not long in the country to observe the federal government at work. This is Close Up's fourth straight mention.

Separately yesterday, the liberal Center on Budget and Policy Priorities called into question some of the budget increases Mr. Bush boasts of in the budget he proposed this week for the fiscal year 2007 that starts Oct. 1. Using unreleased data from OMB, the center's analysts found that in the years 2008 to 2011, the Bush administration would make deep cuts in such areas as veterans' health care, health research and student loans.

In a break from past practice, the administration didn't include a five-year breakdown of proposed spending beyond 2007. OMB spokesman Scott Milburn said such out-year projections are speculative at best.

Most Of The Programs On Bush's Budgetary Hit List Are Retreads (USAT)

By Richard Wolf

USA Today, February 10, 2006

WASHINGTON — Most of the 141 programs President Bush wants to cut or eliminate in his 2007 budget are survivors of past Bush hit lists, a list released Thursday by the White House showed.

Of 91 programs proposed for termination, all but 13 have been on the chopping block before. The 13 new programs would save the government $581 million — about 0.02% of the $2.77 trillion budget.

Including the other 50 programs that would be cut but allowed to continue, Bush wants to save $14.7 billion overall, about 0.5% of the budget. Last year, he tried to trim $15.8 billion from 154 programs; Congress agreed to cut $6.5 billion.

All of those numbers are small compared with the big ones in the budget: the skyrocketing costs of Medicare, Medicaid and Social Security, Bush's effort to boost spending on defense and homeland security, and the cost of making his tax cuts permanent.

The White House says the effort to cut or kill relatively small programs is important. Among the new targets is a food program for low-income women, children and seniors and an Internet-based listing of job openings.

"We've got to get away from the idea that it's OK to waste just a little money," says Scott Milburn, spokesman for the White House budget office. "When you've got a $2.77 trillion budget, a lot of little problems add up to big money."

Milburn says the White House is making headway, even if Congress doesn't go along completely. He points out that of the 78 programs Bush has again asked Congress to kill, lawmakers reduced funding last year in 33.

Budget watchdog groups want Bush to cut more. Keith Ashdown of Taxpayers for Common Sense says the president is focused only on domestic programs.

"They're leaving war-on-terrorism and defense spending off the table," Ashdown says. "They're basically trying to cut from around 13% to 15% of the budget. It leaves you with fewer oxes to gore."

Bush is being criticized by conservatives as too cautious in his cuts and by liberals as too brazen:

•"There is no shortage of candidates for elimination," says Brian Riedl of the conservative Heritage Foundation. "There is only the shortage of political will to make the difficult decisions."

•"Every year they propose the same drastic cuts," says Kirstin Brost, spokeswoman for Rep. David Obey, D-Wis., top Democrat on the House Appropriations Committee. "They've cut programs that help average Americans to the bone to pay for supersized tax cuts for millionaires."

Bush Calls For Eliminating Program For Needy Seniors (AP)

By frederic frommer

DOJ_NMG_0013918

The Associated Press, February 10, 2006

President Bush wants to eliminate a program that provides poor seniors with vegetables, peanut butter and other nutritious foods, proposing that recipients be moved to food stamps.

But critics argue that the change, part of the President's budget plan, will leave the seniors worse off than they are now.

The Commodity Supplemental Food Program, targeted for the chopping block, provides nutritionally balanced boxes of food to about a half-million poor people monthly, including nearly 14,000 in Minnesota. The majority of beneficiaries are elderly, although some women and children also participate.

The Department of Agriculture, which administers the CSFP program, proposes moving recipients to food stamps starting in the fiscal year that begins Oct. 1. But CSFP advocates say that many seniors are reluctant to sign up for food stamps and that, in any event, the CSFP often provides a more generous package.

The proposal could face an uphill battle on Capitol Hill. Wisconsin Sen. Herb Kohl, the ranking Democrat on the Senate Appropriations agriculture subcommittee, said he would oppose it.

"I call it misplaced priorities. How do you justify doing something like this, while at the same time giving people like Herb Kohl huge tax cuts?" said Kohl, a multimillionaire.

"It really does come under the category, in the most extreme way, of balancing the budget on the backs of those who are most needy. And in this case we're not even balancing the budget."

Congress funded about $111 million for the program in the current fiscal year, including a $4 million supplement for victims of Hurricane Katrina.

The CSFP program, which dates back to 1968, operates in 32 states and the District of Columbia. Its lack of national reach is one reason the administration wants to eliminate it, according to USDA officials.

Kate Coler, the USDA's deputy under secretary for Food, Nutrition and Consumer Services, said the department believes it can serve people more efficiently through food stamps and the Women, Infants and Children program, which are both nationwide.

"It's really a duplicative program," she said of CSFP.

Recipients of CSFP boxes receive powdered milk, vegetables, cereal, juice, meat, fruit, protein (peanut butter or beans), starch (such as dehydrated potatoes, rice or pasta) and cheese.

"When I heard about this, my first thought was, 'What are they thinking?'" said R. Jane Brown, Executive Director of the Second Harvest Heartland in Maplewood, Minn. Brown's hunger relief organization administers the CSFP program for the Twin Cities and central and western Minnesota.

"It's a program that everyone who has benefited from has nothing but good stories to tell about it."

Sarah Mayek, 75, of Milwaukee, receives both the CSFP box and $10 a month for food stamps.

"You try to stretch your budget a little bit," Mayek said. Without CSFP, she said, "I would have to adjust. But I raised 11 children. I know how to cut corners."

Tim Robertson, president of the National CSFP Association, which represents state and local organizations that administer the program, challenged the USDA's premise that people will switch over to food stamps.

"Seniors have repeatedly said they don't want to be on that program," Robertson said, because of the perceived stigma of using food stamps and the paperwork hassles.

The USDA's own statistics show that just 28 percent of seniors eligible for food stamps participate in the program.

Jean Daniel, a spokeswoman for the USDA's Food and Nutrition Service, said her agency is working to remove the perceived stigma. For example, she said, the agency is getting the word out that food stamp payments are now made by an electronic transfer card, not actual stamps.

"We try to make the point that this is not a welfare program, this is a nutritional assistance program," she said.

Lawmakers Slam Bush Cut In Weatherization Funds (REU)

By Tom Doggett

Reuters, February 10, 2006

DOJ_NMG_0013919

Democratic lawmakers on Thursday slammed the Bush administration's proposal to cut funds for a government program that helps poor people weatherize their homes, even though the White House's energy task force recommended increasing money for the program.

The administration wants to gut 32 percent of the money in the Energy Department's budget for weatherization assistance grants, which help low-income families buy storm windows and insulation for their homes to make them more energy-efficient. The program's funding would fall to $164.2 million.

Sen. Jeff Bingaman, the top Democrat on the Senate Energy Committee, said slashing the program's funds did not make much sense "at a time when home energy bills are at historically high levels."

Bingaman, speaking at committee hearing on the Energy Department budget, pointed out President George W. Bush pledged during this 2000 campaign to nearly double funding for the program and the White House energy task force headed by Vice President Dick Cheney called for more weatherization funds.

The administration's request of $164.2 million for the weatherization program is not only a cut, but is also short of the $600 million Congress authorized for the program in a sweeping energy bill that Bush signed into law last August.

Energy Secretary Sam Bodman defended what he described as a "painful" cut in the program's budget, saying the department had a limited amount of money and it was targeted to programs that have the most promising results.

"I personally made this decision (to reduce the weatherization funds) as it came across my desk, and it was strictly knowing how much money I had to spend and where I had to put the funds," he said.

Bodman said the lower budget for the program would still pay for weatherizing 64,000 homes in the 2007 spending year. But that's down from 97,000 homes at current funding levels.

Democratic Sen. Robert Menendez of New Jersey said cutting the program would hurt the neediest Americans who require help to save on their high energy costs.

"The recipients of this (program) are the people who are on lowest levels of economic opportunity in our society," he said. "They are the elderly. They are poor families with children. They are the disabled. They are the least capable of meeting their energy needs and they will be coldest, if we don't have the type of robust weatherization program that we should have."

Environmental and consumer groups have also come out against reducing the budget for the weatherization program, which has proven to save energy at the same time Bush calls for the United States to reduce its foreign energy imports.

"The only way to ease the pain of record energy prices for consumers and businesses alike, and to address critical energy-related security and environmental issues, is to back up the rhetoric with the reality of adequate federal funding for key energy-efficiency programs," said Kateri Callahan, president of the Alliance to Save Energy.

Sen. Pete Domenici (news, bio, voting record), who chairs the Senate's energy committee, told reporters that lawmakers would likely restore some of weatherization funds the administration wants to cut.

White House Seeks To Make Case For Programs Cuts (REU-Y2)

By Caren Bohan

Reuters, February 10, 2006

The White House defended reductions in programs from veterans healthcare to housing on Thursday as it sought to persuade a reluctant Congress to enact its proposals for 141 domestic spending cuts.

President George W. Bush, who unveiled a $2.77 trillion budget for fiscal 2007 on Monday, said the government could save nearly $15 billion from the cuts.

The proposals include requiring that higher-income veterans pay more for their medical care, eliminating a writing program in public schools and the consolidation of housing programs.

The White House says the cuts target programs that were either not performing well or not fulfilling important functions.

But the proposals have gotten a wary reception in Congress, with Democrats lashing out at Bush for pushing tax cuts for the rich while reducing programs for the poor and middle class.

Even prominent members of Bush's Republican party criticized his budget.

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House Appropriations Committee Chairman Jerry Lewis complained about "fees and gimmicks," which he said the White House knows Congress will again reject, but give Bush leeway to propose spending increases in favored areas such as defense.

"These proposals make a difficult appropriations season even harder," said the California Republican, who must steer a series of spending bills through Congress this summer that uphold a budget blueprint Republicans hope to pass.

Of the savings proposals, 22 of the 141 are new. The rest revive reductions that Congress either rejected or adopted only in part last year.

ARRAY OF CUTS

Following are details on some of them:

* A monthly food package to help poor women, children and the elderly would be eliminated. The White House said part of its mission overlaps with the more effective nutrition program for Women, Infants and Children. It said the elderly could receive temporary benefits and be shifted to food stamps.

* Nineteen small education plans such as a writing program and one for economic education would be terminated. The White House said states can support the activities through federal grants giving them the discretion on how to spend the money.

* A program to provide block grants to states to improve juvenile justice system would be eliminated. The administration said the program has not been effective and is not needed with crime at historic lows.

* The White House would cut $30 million from an Internal Revenue Service modernization program that will encourage more electronic filing and use of the Internet for tax services. The White House said the program has had some success but is moving ahead more slowly than expected.

* A program for public-housing modernization and renovation would be reduced by 11 percent, with the savings redirected toward programs such as housing block grants for states and rental assistance.

* A program of revolving loans for clean water programs for states would be pared back. The administration said that over the past three years Congress has given the program more money than requested and therefore it needs less funding in 2007.

* The White House would require higher-income veterans with no disabilities to pay a $250 annual enrollment fee for medical care and raise co-pays for their drug purchases to $15 from $8. The administration said the change would allow the veterans' health program to focus on its core mission of helping poor veterans and those with special needs or disabilities.

Congress Fixes Error In $39 Bln Spending-cut Law (REU-Y2)

Reuters, February 10, 2006

The Senate and House have passed legislation aimed at ending confusion over a $39-billion spending-cut bill signed into law by President Bush on Wednesday, which varied slightly from the final version passed by the House.

The two chambers passed the fix late on Wednesday, hours after the technical problem was discovered and the bill was enacted into law with Bush's signature.

The problem stemmed from a typographical error written into the contentious bill as it bounced back and forth from the House and Senate since December.

The clerical error involved Medicare payments for the rental of medical equipment such as oxygen tanks. The version signed by Bush contained the payment schedule intended by both chambers, but not contained in the final House-passed bill.

The legislative fix stated that the version signed by the president reflected "the intent of the Congress in enacting the bill into law."

The spending-cut bill cuts domestic programs, including health care for the poor and elderly, raises some student loan costs and cuts federal enforcement of child support payments. Democrats and some moderate Republicans boycotted the measure and it only passed the Senate in December after Vice President Dick Cheney cast a rare tie-breaking vote.

Democrats on the House and Senate budget committees were not available for comment on whether they would challenge the propriety of Bush signing a bill that technically was not passed in identical form by both chambers.

The Vanishing Future (NYT)

By Paul Krugman

The New York Times, February 10, 2006

DOJ_NMG_0013921

At this point we've had six years to grow accustomed to Bush budget chicanery. (Yes, six years: George W. Bush's special mix of blatant dishonesty and gross irresponsibility was fully visible during the 2000 presidential campaign.) What still amazes me, however, is the sheer childishness of the administration's denials and deceptions.

Consider the case of the vanishing future.

The story begins in 2001, when President Bush was pushing his first tax cut through Congress. At the time, the administration insisted that its tax-cut plans wouldn't endanger the budget surplus bequeathed to Mr. Bush by Bill Clinton. But even some Republican senators were skeptical. So the Senate demanded a cap on the tax cut: it should not reduce revenue over the period from 2001 to 2011 by more than $1.35 trillion.

The administration met this requirement, but not by scaling back its tax-cutting ambitions. Instead, it created fictitious savings by "sunsetting" the tax cut, making the whole thing expire at the end of 2010.

This was obviously silly. For example, under the law as written there will be no federal tax on the estates of wealthy people who die in 2010. But the estate tax will return in 2011 with a maximum rate of 55 percent, creating some interesting incentives.

I suggested, back in 2001, that the legislation be renamed the Throw Momma From the Train Act.

It was also obvious that the administration had no intention of abiding by its concession to fiscal prudence, that it would try to eliminate the sunset clause and make the tax cuts permanent.

But it quickly became clear that the budget forecasts the administration used to justify the 2001 tax cut were wildly overoptimistic. The federal government faced a future of deficits, not surpluses, as far as the eye could see. Making the tax cut permanent would greatly worsen those future deficits. What were budget officials to do?

You almost have to admire their brazenness: they made the future disappear.

Clinton-era budgets offered 10-year projections of spending and revenues. But the Bush administration slashed the budget horizon to five years. This artificial shortsightedness greatly aided the campaign to make the 2001 tax cut permanent because it hid the costs: since budget analyses no longer covered the years after 2010, the revenue losses from extending the tax cut became invisible.

But now it's 2006, and even a five-year projection covers the period from 2007 to 2011, which means including a year in which making the Bush tax cuts permanent will cost a lot of revenue — $119.7 billion, but who's counting? Has the administration finally run out of ways to avoid budget reality?

Not quite. As the Center on Budget and Policy Priorities points out, until this year budget documents contained a standard table titled "Impact of Budget Policy," which summarized the effects of the administration's tax and spending proposals on future outlays and revenues. But this year, that table is missing. So you have to do some detective work to figure out what's really going on.

Now, the administration has proposed spending cuts that are both cruel and implausible. For example, administration computer printouts obtained by the center show that the budget calls for a 13 percent cut in spending on veterans' health care, adjusted for inflation, over the next five years.

Yet even these cuts would fall far short of making up for the revenue losses from making the tax cuts permanent. The administration's own estimate, which can be deduced from its budget tables, is that extending the tax cuts would cost an average of $235 billion in each year from 2012 through 2016.

In other words, the administration has no idea how to make its tax cuts feasible in the long run. Yet it has never, as far as I can tell, allowed unfavorable facts to affect its determination to make the tax cuts permanent. Instead, it has devoted all its efforts to hiding those awkward facts from public view. (Any resemblance to, say, its Iraq strategy is no coincidence.)

At this point the administration's budget strategy seems to be simply to ignore reality. The 2007 budget makes it clear, once and for all, that the tax cuts can't be offset with spending cuts. But Bush officials have decided to ignore that unpleasant fact, and let some future administration deal with the mess they have created.

Iraq, Not Homeland, Bush Budget Buster (USAT)

USA Today, February 10, 2006

DOJ_NMG_0013922

President Bush submitted a budget to Congress this week that is so big, most of us just shrug it off without thinking about what it means to us individually. Think about this:

• The $2.77 trillion budget for the fiscal year starting in October breaks down to an average of $9,293.62 for everyone in the USA.

• The latest budget request for Iraq of about $96 billion brings the cost of that war to $322 billion, an average of $1,080.34 per person.

If you think big business or somebody else will pay the bill, think again. About 45% of the federal government's revenue comes from individual income taxes.

The income tax is the fairest tax we have. Paying more for education, health care, Social Security, real "homeland security" and the most modern military equipment and decent pay for servicemen and women doesn't bother me. But ...

Bush simply can't convince me on continuing the cost in Iraq — in dollars and, more important, in precious lives -for a war that he never should have started.

The $20 billion-plus for Afghanistan in the new budget is another matter. That's where several of the terrorists came from who hit us on 9/11. That's where we should have concentrated and continued the hunt for Osama bin Laden and his gang.

Instead, Bush got sidetracked to Iraq. Paraphrasing poet Robert Frost: Two roads diverged in the woods and I ... I took the one I shouldn't have traveled by.

"Staying the course" on that wrong road will not bankrupt us financially. But it is busting our budget, continuing to cost countless innocent lives, and making us look morally bankrupt in the eyes of much of the rest of the world.

Pentagon Budget 'A Great Surprise' (WP)

By Renae Merle

The Washington Post, February 10, 2006

Richard Bernstein, like many other defense contractors, was anxious as the Pentagon spending blueprint for fiscal 2007 was being developed in recent months. "There were a lot of rumors that the defense budget would get cut back, and there was some concern," recalled Bernstein, president of BAI Aerosystems Inc, a small dronemaker in Maryland.

When that Defense Department budget was unveiled Monday, however, Bernstein and most other defense executives were relieved. The $439 billion proposal would increase spending on weapons to $84.2 billion, $8 billion more than this year, and includes $1.7 billion for unmanned aerial vehicles, an increase of about 3 percent, to begin buying 322 of the pilotless planes over the next five years. "It was a great surprise," said Bernstein, who read the budget proposal on the Internet from Australia, where he was attending an industry trade show.

The proposed 7 percent increase in the budget for weapons procurement and research and development is twice that expected by Troy Lahr, a defense analyst at investment bank Stifel, Nicolaus & Co. "And we were among the more bullish," said Lahr, noting that most of his counterparts were expecting the budget to remain flat or increase 1 percent to 2 percent.

The Pentagon probably reasoned that members of Congress would be reluctant to make significant cuts that could cost jobs in their districts with midterm elections near, analysts said. Last year, Congress rejected cuts to retire an aircraft carrier and scale back production of the C-130J cargo jet.

"It might be easier to close bases in Germany than tackle the U.S. industrial complex," said Michael E. O'Hanlon, a senior fellow at the Brookings Institution.

One negative surprise was slower growth than expected in the Pentagon's information technology budget. It would increase less than 1 percent, to $30.54 billion, in the fiscal year starting Oct. 1. Overall, government information technology spending would increase 2.8 percent, to $64.29 billion. That is significantly slower than the 5 percent to 6 percent increases the IT industry has been used to receiving since the Sept. 11, 2001, terrorist attacks.

Dendy Young, chairman and chief executive of Chantilly-based GTSI Corp., which develops and maintains computer systems for the government, said, "I am concerned that the priority for IT investment seems to be declining."

To be sure, the budget proposal includes some cuts. Despite the objections of British Prime Minister Tony Blair, it would cancel an engine being developed by London-based Rolls-Royce PLC and General Electric Co. of Connecticut for the F-35

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Joint Strike Fighter. "We were surprised that the DoD has decided they no longer need the engine," said Mike Ryan, Rolls-Royce's executive vice president of government business. Ryan estimates that the government spent $1.2 billion through 2005 on the engine.

And the Air Force would limit to 180 the total number of Boeing C-17 cargo jets being built, despite lobbying by officials from Long Beach, Calif., where the plane is made, to keep the production line open. "We're a little disappointed," said Robert M. Swayze, economic development bureau manager for the city. City officials will probably join companies that supply parts for the plane in a District rally being planned by Boeing to oppose the decision, he said.

The overall defense-funding proposal is a relief for Wall Street. After being sluggish for months, for example, shares of Lockheed Martin Corp. closed at $70.62 yesterday, compared with $68.92 last Friday and a 52-week low of $58.28.

But many industry experts remain convinced that defense spending will inevitably fall because of the budget deficit and the cost of fighting the wars in Iraq and Afghanistan. In a conference call with analysts last week, Boeing Chairman Jim McNerney warned that the company expected "defense growth to moderate due to a tightening budget environment." The 2007 budget proposal does not change that outlook, said company spokesman Todd Blecher.

The administration spending plan just postpones the inevitable, some industry analysts said, noting the mismatch between the projected budget level over the next few years and the costs of the programs. Manufacturers have defended spending on Cold War-era legacy programs by modifying them. The F-22 fighter, designed to shoot down Soviet MiGs, is now the F/A-22, adding a ground support role. Four giant Ohio-class submarines, built to carry nuclear missiles targeted at the Soviet Union, are being converted to carry shorter-range cruise missiles and Navy SEALs and other special operations troops.

As the Pentagon spends more on initiatives to transform the military to combat insurgents and other nontraditional threats, supporting expensive traditional weapons will become more difficult, some analysts predict.

"Here is the problem: People like me have been talking about the coming train wreck for so long now that people are tired of hearing it," said Christopher Hellman, director of the project on military spending oversight at the Center for Arms Control and Non-Proliferation. "But the truth of the matter is that it will happen; we're not making it up."

Still Shortchanging The Troops (NYT)

The New York Times, February 10, 2006

It's amazing how Donald Rumsfeld's Defense Department can produce a $439 billion spending plan and still skimp on the one thing the American military desperately needs: expanded ground forces so the weakened and cannibalized Army can meet the requirements of Iraq without hurting its ability to respond to other threats.

While the Pentagon intends to increase pay and recruitment bonuses, no part of its nearly 7 percent budget increase is aimed at raising overall troop strength. Instead, a large chunk of this nearly $30 billion bonanza goes to buying more new weapons and postponing overdue cuts in wasteful Air Force and Navy projects unrelated to fighting terrorism.

The prospects for Iraq might be very different today if Mr. Rumsfeld had listened to some of his own senior generals and occupation officials and authorized significantly larger ground forces from the beginning. The early looting might have been contained before it shattered political confidence and vital infrastructure. The insurgency might never have gotten such a head start. The incineration tactics of Falluja and the Abu Ghraib nightmare might have been avoided. And the Army's downward spiral of readiness, recruitment and morale might never have begun. But the obstinate ideologues in Mr. Rumsfeld's Pentagon have never accepted the fact that the reality of Iraq did not fit their assumptions. The budget and the four-year plan released with it read almost as if the current conflict had never happened and could never happen again.

Instead of reallocating resources toward the real threats America faces, the military services continue to pour their money into fighting fictive superpowers in the wild blue yonder and on and below the seven seas. Pentagon budgeters showed themselves so pathetically unable to restrain spending on expensive ships and planes that they actually cut back, rather than increased, the overall size of the Army over the next few years to pay for it.

It would cost about $4 billion to $5 billion a year to give the Army 30,000 more troops, the minimum it needs to check its alarming slide. Instead the Pentagon chose to begin the construction of two unneeded new stealth destroyers, which will end up costing $2 billion to $3 billion each.

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It also decided to splurge on a new nuclear attack submarine for $2.6 billion and to shell out $5.5 billion for separate Navy and Air Force versions of new stealth fighter jets, plus another $5.5 billion for yet a third version that either can use. In all, the Pentagon is asking for $84 billion to buy weapons systems (twice what it got in 1996) and $73 billion more for research and development.

This budget would be wasteful even under a worst-case assumption that had a second superpower arising within the lifespan of these weapons, turning hostile to America and arming itself to the teeth with the most advanced weapons. There's still unnecessary spending that could be used to repair the Army, which has been ground down at least as much by Pentagon miserliness as by Iraqi insurgents.

The military contractors are doing just fine. It's the troops in Iraq who need help from Washington.

Bush's Domestic Policy Adviser Resigns (NSDY/AP)

By Associated Press

Long Island Newsday, February 10, 2006

WASHINGTON -- President Bush's domestic policy adviser, Claude Allen, has resigned to spend more time with his family, the White House said Thursday.

Allen has been working for the administration since Bush's first year in office -- first as the No. 2 official at the Health and Human Services Department, and for the last year as domestic policy adviser in the White House.

In a statement, Bush said Allen has helped develop policies that have strengthened the country's families, schools and communities. Bush thanked Allen for "his many years of principled and dedicated service to our country."

Allen, a father of four and former attorney, did not respond to inquiries asking about his departure or future job plans. His office referred calls to the White House press office, which said he will be taking some time off to spend more time with his family.

Press secretary Scott McClellan said Allen had been considering his resignation for several weeks, but decided to stay on through last week's State of the Union address.

In his resignation letter, Allen thanked the president for the opportunity to serve and said he treasured his time working for the administration. "Although this is a difficult decision, it is the best decision for my family," the letter said.

Bush Wins Praise For Competitiveness Plan (MBSN)

By Martin Crutsinger

Myrtle Beach (SC) Sun News, February 10, 2006

WASHINGTON - President Bush's plan to boost the competitiveness of U.S. industry through innovation won support from members of Congress Thursday, although Democrats criticized the initiative for slashing some education programs to pay for more spending on math and science.

Commerce Secretary Carlos Gutierrez won widespread support from members of the House Government Reform Committee for Bush's "American Competitiveness Initiative," one of the biggest new programs in the budget Bush sent to Congress on Monday.

The initiative, which the president highlighted in his State of the Union address, would double government funding for basic research in the physical sciences, train thousands of new science and math teachers and extend a popular tax credit businesses can receive for investing in research and development. The total pricetag over 10 years would be $136 billion.

Gutierrez said country had a choice on how it would respond to increased global competition from countries such as China and India.

"Some want to respond by retreating into isolationism," Gutierrez said. He said the alternative offered by the president through the competitiveness initiative was "maintaining our leadership by competing with confidence."

Committee Chairman Tom Davis, R-Va., said he believed there was a need to boost math and science teaching in high schools to reverse a slide in which the country's colleges are graduating fewer engineers today than 20 years ago.

But Rep. Chris Van Hollen, D-Md., said he was concerned because while Bush's budget called for increasing areas of the Education Department budget to train 70,000 new math and science teachers and to attract 30,000 math and science professionals to tutor in the schools, the money was taken from other education programs.

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For the second straight year, Bush's new budget would cut overall discretionary spending for education programs. He also asked Congress to eliminate 42 education programs he deemed unnecessary or inefficient, covering such areas as providing money for the arts, parent-resource centers and drug-free schools.

Van Hollen said he was also concerned that Bush was scrimping on the necessary support for the National Institutes of Health, including his proposal to trim spending for 18 of the 19 medical research institutes, calling cutbacks in these areas a mistake given the need to maintain the country's lead in medical research.

Gutierrez, however, said that the president's budget was seeking to find the right priorities for spending while at the same time pursuing Bush's goal of cutting the deficit in half by 2009.

Gutierrez urged individual members of Congress to refrain from inserting money into budget bills for pet projects, a process known as "earmarking."

"The most successful research is based on careful planning and merit-based peer review," Gutierrez said. "So to maximize the impact of (American Competitiveness Initiative) research, we encourage Congress to resist earmarking scientific research funding."

Can Bush Make America More Competitive In Math And Science? (CSM)

By Linda Feldmann, Staff Writer Of The Christian Science Monitor

The Christian Science Monitor, February 10, 2006

WASHINGTON - Americans have heard the warnings for decades: The nation is in danger of falling behind other technological powerhouses in the world, posing a threat to its way of life. In the 1950s, it was the Soviet Union; in the 1980s, Japan. Now the big competitors are India and China.

President Bush's competitiveness initiative, outlined in his federal budget, would focus $136 billion over 10 years on boosting research and education. Much of that cost would come in the form of tax incentives for research and development; the rest represents new funding, including a doubling of the budgets of three federal agencies focused on science and technology.

The education piece of Mr. Bush's plan seems relatively small - $380 million in fiscal 2007 - but it is getting most of the attention. From that, $90 million would go to boost the ranks of students taking Advanced Placement and International Baccalaureate classes in math, science, and foreign languages by training 70,000 additional teachers in those subject areas in high-poverty high schools.

Overall, Bush's AP Incentive Program aims to boost the number of students taking AP math and science exams from 380,000 today to 1.5 million in 2012.

In a nation that seems to have a cultural aversion to tackling "hard" subjects like math and science, can those numbers be achieved? And without the stark image of Sputnik - the Soviet satellite whose launch in 1957 caught the US by surprise - to spur a fear of national decline, will the nation rally to the "competitiveness" cause and push Congress to fund the plan?

After all, in earlier waves of national concern about competitiveness, education reform fell short and yet the US still leads the world in economic might and innovation, says Michael Petrilli, vice president of the Fordham Foundation, a school-reform think tank.

"But I think, as Tom Friedman argued in his bestselling book, the economy is fundamentally different today," Mr. Petrilli says. "If our kids are going to have an opportunity to have good-paying jobs and enjoy the lifestyle they're used to, they're going to have to be able to use their brains. By any measure, our students are falling behind the rest of the world, especially in math and science."

The recent growth in participation in the College Board's Advanced Placement Program provides cause for hope. On Tuesday, the program reported an increase in success by high school students in all 50 states and the District of Columbia in AP courses over the past five years. The proportion of high school students passing AP exams - earning at least a 3 on a 5-point scale - has jumped from 10 percent to 14 percent since 2000.

Minority students remain underrepresented. Though African-Americans make up 13 percent of the high school population, they are 6 percent of AP test-takers. Native Americans make up 1 percent of students, but 0.5 percent of the AP population. The news is better for Latinos, who represent 13 percent of the student population and 13 percent of AP test-takers.

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One constituency supportive of the president's education initiative is the business community, which fears that a future of unqualified American students will harm the bottom line. But some education analysts worry that - among the issues on business's plate, including tax cuts - education funding won't be high on the agenda when it comes time to lobby Congress.

"We are very willing to go to the mat on this," says Susan Traiman of the Education and Workforce Policy at the Business Roundtable. In the National Academy of Sciences report from last fall, which served as a blueprint for Bush's competitiveness initiative, the first recommendation centered on education, she notes.

"With the coming retirement of baby boomers who are in the science and engineering workforce, we need to make sure we have young people coming up behind them ready to enter those careers," Ms. Traiman says.

Education experts are also wondering whether Bush's first-term education initiative - No Child Left Behind (NCLB), which aims to improve the achievement of low performers - will work at cross-purposes with the American Competitiveness Initiative. The FY 2007 budget for the Department of Education took a big hit - a 5.5 percent reduction. Education Secretary Margaret Spellings maintains that the department can do both: raise the bottom and enhance achievement at the top. The budget would boost funding for NCLB by 4.6 percent.

Given the other education programs slated for abolition, many of them aimed at inner-city students, skepticism remains.

"I doubt whether most of this competitiveness stuff will be funded," says John Jennings of the nonprofit Center on Education Policy. "He's asking for so much less for education, and asking to eliminate so many popular ... programs. I find it hard to believe Congress will eliminate these programs and create new programs."

bush advisor to visit (RNO)

Raleigh News & Observer, February 10, 2006

North Carolina likes to think of itself as a hotbed of innovation.

Apparently, the Bush administration is keying in on that reputation.

For the second time in a week, a senior Bush adviser will visit the state to discuss the president's "American Competitiveness Initiative." Commerce Secretary Carlos M. Gutierrez, right, this morning will meet with business and education leaders at IBM's Research Triangle Park campus to promote the stronger focus on technological and scientific innovation.

Bush's initiative is meant to increase competitiveness with other nations. Treasury Secretary John W. Snow touted the effort in Kannapolis last week.

TRADE GAP REPORT TO BE RELEASED

The Commerce Department releases its monthly trade report today, and some economists predict that the U.S. trade deficit -- aggravated by energy costs and Chinese imports -- widened in December and set an all-time high for the year.

The increase in the deficit last year has prompted U.S. lawmakers to increase criticism of China, which they claim keeps the value of its currency artificially low, making its exports less expensive to U.S. consumers.

The projected December shortfall of $64.9 billion would be the third-largest ever, and follows a $64.2 billion November gap. It would bring the 2005 trade deficit to $727 billion.

Ethics Scandal Looms Over Republicans' Retreat (REU-Y2)

By Thomas Ferraro

Reuters, February 10, 2006

Republicans in the U.S. House of Representatives, rocked by an ethics scandal, gathered at a secluded Maryland town on Thursday for a retreat, hoping to regroup under new leadership and position themselves to retain power in November's elections.

A week after electing Rep. John Boehner (news, bio, voting record) of Ohio as majority leader in place of the indicted Texan Tom DeLay, the Republicans were to hold three days of meetings at a hotel in Cambridge, Maryland, a two-hour bus ride from Washington.

Lobbying scandals and Justice Department investigations involving Republican lawmakers and former aides threaten the party's control of the House, which it has held since 1995.

Boehner said the retreat would allow a "period of renewal," but gave no hint whether he could quickly unite his 231-member caucus on lobbying reform. House Speaker Dennis Hastert, an Illinois Republican, has said this is his top priority.

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In the wake of a scandal involving Republican lobbyist Jack Abramoff, Boehner has called for more public disclosure of the relationships between lawmakers and lobbyists rather than a fundamental overhaul of the way Congress does business.

Unlike some of his colleagues, he is also opposed to abolishing so-called "earmark" spending for pet projects, urging instead more transparency.

President George W. Bush who, along with fellow Republicans in Congress has been battered by slumping poll numbers, was to speak to the group on Friday.

"I think you have some nervous Republicans who are looking at a political environment that is very dangerous for their party," said Amy Walter of the nonpartisan Cook Political Report.

A number of senior Republicans have been drawn into the investigation into Abramoff, who pleaded guilty last month to fraud charges and agreed to help prosecutors in their corruption probe.

Ethan Siegal of the Washington Exchange, a private group that tracks legislation and politics for institutional investors, said, "House Republicans need to focus on an agenda that plays to their (conservative) base and demonstrates to the voting public at large that they are competent and deserve to remain in power."

There was also concern about Bush's proposed $2.77 trillion budget submitted this week that would boost defense spending, slow the growth of Medicare and cut a host of domestic programs in an effort to soothe Republican worries over high deficits.

Boehner was the upset winner of a House Republican leadership election last week, defeating Roy Blunt of Missouri. Blunt was seen by some as too close to DeLay, who was forced to step down as majority leader last year after being indicted in Texas on campaign-related felony charges.

Other likely topics for the meeting included energy prices, health care, national security, the Iraq war, immigration and education.

GOP Gets Quick Course In Ethics (WT)

By Stephen Dinan

The Washington Times, February 10, 2006

CAMBRIDGE, Md. -- House Republicans will get a refresher course on ethics tomorrow as part of their three-day retreat to discuss lobby and ethics reforms and try to clarify a vision for 2006.

Rep. Doc Hastings of Washington, chairman of the ethics committee, will review the code of conduct for the 180 Republicans who have gathered at a conference center on Maryland's Eastern Shore.

They will hear a pep talk from President Bush today.

Republican National Committee Chairman Ken Mehlman told the lawmakers yesterday that Democrats are failing to capitalize on Republican ethics questions ahead of difficult midterm congressional elections in November.

Mr. Mehlman said politics is supposed to be a zero-sum situation: If one party is doing poorly, the other does well. But Republicans' travails have not helped Democrats, he said.

"The law of political physics is being defied by Nancy Pelosi, Howard Dean and Harry Reid," he said, referring to the top Democrats in the House, the national party and the Senate.

Mr. Mehlman said more of the electorate is voting based on ideology, providing a cushion for the president's lower approval numbers and a general feeling that the country is moving in the wrong direction.

Rep. David Dreier of California, chairman of the Rules Committee, rejected calls by Democrats and some Republicans to alter the way the House debates and votes, including lag time to read legislation and a time limit on floor votes.

The current rules set a minimum but not a maximum time limit.

The Republican leadership has been accused of abusing the rule, most notably in the 2003 vote on the Medicare prescription-drug legislation.

That three-hour vote included heavy persuasion, and the ethics committee admonished Rep. Tom DeLay, Texas Republican, for the appearance of trying to strong-arm a Republican colleague.

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Top House Democrats wrote a letter calling for fewer "closed rules" that prevent amendments and a requirement that measures be available for 24 hours before they are brought up for a floor vote.

Mr. Dreier told reporters that Republicans already allow Democrats to have a substitute on most bills, and said more Democratic amendments were allowed last year than Republican amendments.

Although Republicans want reforms to be bipartisan, he said, their priority is "moving the Republican agenda."

"There's no reason in the world we should be tying hands," Mr. Dreier said.

Sen. McCain Leads Effort To Cut Earmarks (AP-Y2)

By Jim Abrams

AP2, February 10, 2006

Ten senators led by Sen. John McCain (news, bio, voting record) took on the Senate's much maligned practice of inserting individual members' special projects, often without the knowledge of their colleagues, into larger spending bills.

The "Pork-Barrel Reduction Act," introduced Thursday by eight Republicans and two Democrats, is the latest in a rash of proposals promoting ways to restore integrity to the political process in the wake of lobbying and ethics scandals.

McCain's bill would allow senators to raise points of order against special projects, or earmarks, that are attached to spending bills without having been approved by the relevant committee. Under the procedure, which also applies to policy changes embedded in spending bills, 60 votes would be needed to override the point of order and keep the provision in the bill.

The measure also would require that earmarks be described in detail and the sponsor identified. House-Senate compromise bills would have to be made public at least 48 hours before the Senate considers them.

Critics of earmarks complain they are often put in bills only after the bills have passed the House or Senate, and that lawmakers are forced to vote on massive spending bills put together by House-Senate negotiators without knowing what's in them.

According to a Congressional Research Service study, the number of earmarks in spending, or appropriations, bills went from 4,126 in 1994 to 15,877 in 2005. The value of those earmarks doubled to $47.4 billion in the same period.

"It's a relatively recent phenomenon that members of Congress have begun to believe that their political support is only or largely determined by a number," Sen. John Sununu (news, bio, voting record), R-N.H., said of the desire of lawmakers to secure projects they can brag about back home.

The bill introduced by McCain, R-Ariz., is one of several to tackle the earmarks issue. Senate Rules Committee Chairman Trent Lott, R-Miss., and Sen. Dianne Feinstein (news, bio, voting record), D-Calif., have a similar bill, and Sen. Barack Obama, D-Ill., also has a plan.

In the House, Democratic leader Nancy Pelosi on Thursday wrote new Majority Leader John Boehner, R-Ohio, Thursday urging him to move on both lobbying and House procedural reform, including putting an end to secret earmarks and earmarks that fund activities in which the author has a financial interest.

"If we want to stay the majority as a party," said Sen. Lindsey Graham (news, bio, voting record), R-S.C., a cosponsor of the McCain bill, "we will reform the way we've been doing business the last few years or we will lose."

McCain said the Jack Abramoff lobbying scandal, which has exposed the sometimes unsavory ties between lobbyists and members of Congress, has set the stage for passing legislation that can both make congressional procedures more open and deal with such issues as limiting gifts and travel arranged by lobbyists. "The Abramoff thing is a long way from over," he said.

Also on Thursday, Sens. John Kerry, D-Mass., and Ken Salazar, D-Colo., introduced a bill that would deny federal pension benefits to members of Congress convicted of bribery, conspiracy or other serious ethics offenses.

Just Say No To Earmarks (WSJ)

By Tom Coburn

The Wall Street Journal, February 10, 2006

John McCain and I recently delivered a letter to our colleagues announcing our intention to challenge every individual earmark on the floor of the Senate. Many senators, staff and reporters have asked if we are serious. The answer is yes.

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I am convinced that forcing hundreds or, if necessary, thousands of votes to strike individual earmarks is the only way to produce meaningful results for American taxpayers. Bringing the Senate to a standstill for as long as it takes would be a small price to pay for shutting down what Jack Abramoff described as Congress's "earmark favor factory." The battle against pork is crucial. Pork is the root cause of the unholy relationship between some members of Congress, lobbyists and donors. Inside Congress, the pork process is effectively a black market economy: Thousands of instances exist where appropriations are leveraged for fundraising dollars or political capital. It is delusional to claim Congress can redeem its relationship with K Street without eliminating earmarks. The problem is not lobbyists. The problem is us.

Those who argue that fighting pork distracts members from the more costly challenge of entitlement reform don't understand human nature. Earmarks are a gateway drug on the road to the spending addiction. One day an otherwise frugal member votes for pork, the next day he or she votes for a bloated spending bill or entitlement expansion: A "no" vote might cut off their access to earmarks.

The most vocal opponents to a zero-tolerance approach toward pork are, sadly, the bipartisan leaders of the House and Senate. Senate Majority Leader Bill Frist, to his credit, has issued only a mild defense of earmarking by stating we should "mend, not end" the practice. Senate Minority Leader Harry Reid and House Speaker Denny Hastert, on the other hand, have been enthusiastic in their defense of pork. Sen. Reid offered a fictional account of American history when he said the pork process "has been going on since we were a country." He and other pork apologists ignore the reality that pork as we know it today didn't exist 20 years ago. In 1987, President Reagan vetoed a spending bill because it contained 121 earmarks. The number of earmarks has skyrocketed over the past decade, from 4,126 in 1994 to 15,268 in 2005, according to the Congressional Research Service.

Nowhere in our founding documents is a justification for today's out-of-control earmarking. In fact, Madison and the other framers were clear that the general welfare clause of the Constitution should never be construed as a blank check for Congress. Pork is a modern indulgence, not an ancient or noble tradition.

Speaker Hastert, for his part, has said pork is "what members do" and that members are best positioned to know where to put a "red light in their district." This vision of an imperial Congress, where urban planners in state and local governments can be usurped by individual congressman and their 20-something staffers, is unsettling. And every hour members spend on parochial obsessions is an hour they can't devote to oversight, balancing the budget or serious national security issues.

The American people are demanding real reform, not cosmetic measures that will clean the outside of the cup but leave the inside filthy. As Congress confronts its culture of corruption and our enormous fiscal challenges, it's time to "just say no" to earmarks.

Mr. Coburn is a Republican senator from Oklahoma.

Official Resigns Public TV Post (NYT)

By Stephen Labaton And Elizabeth Jensen

The New York Times, February 10, 2006

WASHINGTON, Feb. 9 — The top television executive at the Corporation for Public Broadcasting announced on Thursday that he would be stepping down. This is the latest in a string of departures of officials and consultants who played central roles in an effort by conservatives to bring what they viewed as more balance to public television and radio.

The executive, Michael Pack, controlled a $70 million production budget and was described by the official who hired him as a conservative Republican. He chose to resign after Patricia S. Harrison, the corporation's new president, forced him to decide between renewing his employment contract and exercising a soon-to-expire option that gives him $500,000 to produce a documentary.

Ms. Harrison said the departures of Mr. Pack and a senior consultant, James Denton, were business decisions and were not part of any purge of ideologically driven officials. "You are connecting dots when there is no connection," she said in an interview. "I have not fired a single person since I came on board here."

But other officials in public broadcasting saw political overtones to the moves. Since being named president of the corporation last June, Ms. Harrison, a former co-chairwoman of the Republican National Committee, has attempted to tamp

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down a debate over balance in programming that has threatened to undermine financial support for public broadcasting from both Congress and private sources. Public broadcasting officials who had been at odds with the corporation said the personnel changes could shore up support among Republican moderates and Democrats, important traditional allies in budget fights.

"Pat Harrison appears to be trying to ratchet down some of the ideological orientation of the organization," said John Lawson, president of the Association of Public Television Stations.

"The best thing that C.P.B. can do now is stay out of the spotlight," Mr. Lawson added. "If changes in management at C.P.B. signal to Democrats and Republicans alike that C.P.B. will be nonpartisan and programming decisions will be made on a nonideological basis, that's a very positive development as we go about seeking support from Congress."

The White House this week proposed a cut of more than $100 million, or more than 25 percent, in the corporation's budget.

The corporation has faced tumult since last spring, when it was disclosed that Kenneth Y. Tomlinson, who was then its chairman, was pressing public broadcasters to correct what he and other conservatives saw as liberal bias. Mr. Tomlinson was forced to resign in November, after the corporation's inspector general found evidence that he had repeatedly broken federal law and the organization's own regulations. He remains the head of a separate agency, the Broadcasting Board of Governors, which oversees most government broadcasting operations abroad. Mr. Pack's departure followed the recent decision by Ms. Harrison not to renew the contract of Mr. Denton, who oversaw one of the corporation's largest projects: a $20 million documentary series called "America at a Crossroads" examining the nation's role in a post-9/11 world. (The New York Times has received financing for one program, "Indonesia: Battleground for the Soul of Islam," as part of that series.)

Mr. Denton, the son of Jeremiah Denton, a conservative Alabama Republican who served in the Senate in the 1980's, was seen by some documentary makers as advancing a conservative political agenda. In an interview, he disputed the complaints that he had sought to bring a conservative bent to programming, calling them "absurd."

Mr. Denton provoked a controversy last year when, at a forum on one of the corporation's largest initiatives, creating projects designed to teach history and civics to teenagers, he suggested to producers that they tell corporate partners the programs could be a "Trojan horse" to get their technology into the schools.

A third official involved in the effort to change the political direction of public broadcasting, William Schulz, submitted his resignation last month. Mr. Schulz, a conservative who once worked with Mr. Tomlinson at Reader's Digest, was one of the two men hired last year to serve as the corporation's ombudsmen, responsible for monitoring the balance of programs. He said in an interview that he had resigned because he had other projects that were interfering with his obligations to the corporation.

In an interview on Thursday afternoon, Ms. Harrison said the personnel moves had "nothing to do with politics or ideology."

"These are business decisions," she said. "It was not in the best interests of the corporation to extend or enhance Michael Pack's option to produce a program."

"In the case of Jim Denton, he did a great job," she added. "His contract was over in December."

Other broadcasting executives said that Ms. Harrison had heard complaints from producers that the "America at a Crossroads" and history and civics projects have moved too slowly and been disorganized.

Among other programming moves, he helped bring to public television a show featuring The Wall Street Journal's conservative editorial board and another whose host was Tucker Carlson, the conservative commentator.

Mr. Pack called "America at a Crossroads" "a good example of the way to bring diversity of views to public broadcasting across the political spectrum." With new voices and a mix of cultural and political topics, he said, "I hope it will be a model for how to bring a true diversity of opinion and in some ways get out of the left-right box."

Ex-Press Aide For NASA Offers Defense (NYT)

By Andrew C. Revkin

The New York Times, February 10, 2006

George C. Deutsch, the young NASA press aide who resigned on Tuesday amid claims that he had tried to keep the agency's top climate scientist from speaking publicly about global warming, defended himself publicly yesterday.

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Speaking to a Texas radio station and then to The New York Times, Mr. Deutsch said the scientist, James E. Hansen, exaggerated the threat of warming and tried to cast the Bush administration's response to it as inadequate.

Mr. Deutsch also denied lying about having a college degree and trying to inject religion into some NASA Web presentations.

"I have never been told to censor science, to squelch anything or to insert religion into any issue," he told the radio reporter, Brian Cain.

Parts of that interview were posted on the Web site of WTAW-AM, in College Station (wtaw.com), where Mr. Deutsch attended Texas A&M University until he joined President Bush's campaign in 2004.

After seeing a transcript of some of the criticisms, Dr. Hansen said, "This is so wacky that it deserves little response."

In the radio interview, Mr. Deutsch also criticized others within NASA who supported Dr. Hansen's view that he was being suppressed. Leslie McCarthy, a public affairs officer who told The Times of several conversations in which Mr. Deutsch said his job was to "make the president look good," said she would not comment on his assertions.

"The House Science Committee is conducting an investigation because they were concerned and I'm just not prepared to stoop to his level," Ms. McCarthy said in a telephone interview last night.

Starting in late January with several interviews in The New York Times, Dr. Hansen, the director of NASA's Goddard Institute for Space Studies in Manhattan, and several career NASA public affairs officials and scientists complained about what they said were intensifying efforts by political appointees in NASA, including Mr. Deutsch, to control more closely his lectures and Web presentations.

Last Friday, after more NASA scientists and public affairs officers told The Times of other instances in which political appointees altered news releases or Web presentations in ways the workers said were tinged by politics, Michael D. Griffin, the NASA administrator, issued a "statement of scientific openness" to all NASA employees saying, "we have identified a number of areas in which clarification and improvements to the standard operating procedures of the Office of Public Affairs can and will be made."

Dr. Griffin also said "it is not the job of public affairs officers to alter, filter or adjust engineering or scientific material produced by NASA's technical staff."

The Times reported on Wednesday that contrary to his résumé on file with NASA, Mr. Deutsch, who is 24, never graduated from Texas A&M. Yesterday, in an interview with The Times, Mr. Deutsch said he had written the résumé in anticipation of graduating.

"When I left college," he said, "I did not properly update my résumé. As a result, it may appear misleading to some. However, I was up front with NASA about my undergraduate status when they hired me."

In an e-mail message, Mr. Deutsch said that remarks about religious views on the creation of the universe sent last October to a Web designer working on a presentation on Albert Einstein were "personal observations" and never were reflected in the material that was posted online.

"We are both Christians, and I was sharing with him my personal opinions on the Big Bang theory versus intelligent design," Mr. Deutsch wrote to The Times. "What I said about intelligent design did not affect the presentation of the Big Bang theory in the subsequent Einstein Web story. This is a very important point, because I have been accused of trying to insert religion into this story, which I was not trying to do."

Former NASA Spokesman Speaks Out (WTAW)

WTAW-AM, February 10, 2006

(posted 2/9/06) A controversy involving allegations of censorship at NASA has apparently led to the resignation of a public affairs officer at the agency. ...

George Deutsch Interview, Part 2

Click icon to hear part two of WTAW's exclusive interview with former NASA public affairs officer George Deutsch. ...

George Deutsch Interview, Part 3

Man Who Left NASA Says He's Under Attack (AP)

AP, February 10, 2006

COLLEGE STATION, Texas -- A staffer who resigned from NASA after he was accused of restricting access to a noted climate scientist said Thursday he was targeted because of his political ties.

George C. Deutsch, 24, resigned from the agency's public relations department earlier this week.

"What you do have is hearsay coming from a handful of people who have clear partisan ties and they are really coming after me as a Bush appointee," he told radio station WTAW. "I was an easy target. I was low-hanging fruit."

The New York Times reported Wednesday that Deutsch attempted to limit reporters' access to Jim Hansen, a noted NASA climate scientist, and insisted that a Web designer insert the word "theory" before any mention of the Big Bang.

Deutsch denied the allegations.

"I have never been told to censor science, to squelch anything or to insert religion into any issue, absolutely not," said the former Bush campaign worker.

'Culture War' At NASA? (HC)

By Mark Carreau

Houston Chronicle, February 10, 2006

The young public affairs officer who resigned from NASA this week amidst controversy over his handling of communications on global warming charged on Thursday he's the victim of a politically motivated smear campaign.

George Deutsch, 24, a former Texas A&M University student who left the school to work on President Bush's 2004 re-election campaign, lashed back at those who accused him of scientific censorship.

He directed much of his wrath at James Hansen, a prominent NASA climatologist who complained in media reports that Deutsch was relying on Republican dogma to restrain scientifically motivated concerns about global warming.

'A very partisan agenda'"What is going on at NASA and throughout the federal government is a culture war," Deutsch said in a statement from his Washington-area home. "I quickly learned one thing: Dr. Hansen and his supporters have a very partisan agenda and ties reaching to the top of the Democratic Party."

In a telephone interview, Deutsch accused the space agency of too often showcasing Hansen as its expert on global warming, passing over other scientists whose views were not as alarming.

"If you don't have an idea that is in line with his agenda of global warming, if you don't have this sky-is-falling mentality, then you are considered the wacko," he charged.

Deutsch said he was especially appalled at what he characterized as an alliance between Hansen and Al Gore, the former Democratic presidential nominee who writes and speaks often on environmental issues.

Deutsch resigned from NASA late Tuesday after one year as a junior member of the agency's Washington public affairs staff. His departure came after a little-known Web site operated by a Texas A&M biochemistry graduate disclosed Deutsch's résumé falsely claimed an undergraduate degree from the school.

Hansen, NASA fire backOn Thursday, both Hansen, who directs climate research from the Goddard Institute for Space Studies in New York City, and NASA challenged the allegations by Deutsch.

"I have no idea where he got that idea. It would be the opposite of our credo about presenting all sides of a problem," Hansen wrote in an e-mail in response to the charge he tried to suppress opposing views.

Hansen also characterized himself as a moderately conservative independent who favors the positions of U.S. Sen. John McCain, R-Ariz., on campaign finance reform and climate change.

Hansen's views on global warming were not favored over others, said Dean Acosta, chief spokesman for NASA administrator Michael Griffin. "I can tell you categorically that is not happening," said Acosta.

Deutsch acknowledged he'd erred in claiming an A&M degree on his résumé. He claimed he informed NASA that he lacked the math class he needed to complete the degree.

Politics Vs. Climate Reality (USAT)

USA Today, February 10, 2006

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Would that the rise and fall of George C. Deutsch, 24, a NASA political appointee, could become a metaphor — one taken all the way to its logical conclusion — for the Bush administration's policies on global warming. Deutsch has for months embodied the White House's earth-is-flat take on why the earth is warming, with consequences from melting glaciers to freak weather.

Working in NASA's public relations, he tried to muzzle a renowned climate scientist who — like serious scientists the world over — warns that global warming is a threat requiring government intervention to curb emissions from cars, factories and more.

This furthered the business-friendly Bush administration's increasingly lonely mantra that the science isn't solid enough for more than voluntary measures. But scientific consensus long ago moved on. The issue now is not whether global warming is happening, but how severe the effects will be.

This week, evangelical Christians, normally among President Bush's most loyal supporters, broke with him on the issue and urged action: 86 prominent figures released a statement warning that “millions of people could die” because of global warming.

One casualty of all this was Deutsch, who resigned when it was discovered his résumé was longer on political loyalty — work on Bush's re-election campaign — than on education. Texas A&M University said he never received the journalism degree he claimed.

But that merely removed the symptom, not the underlying problem.

That a low-level bureaucrat could overrule a prestigious scientist says worlds about how the administration balances politics against science. Further evidence can be found at the Food and Drug Administration, which has stifled overwhelming evidence that the “morning-after pill” is safe and effective. It blocked over-the-counter sales — a transparent payoff to abortion opponents.

Global warming is a good place to beginaltering that facts-be-damned approach. The administration has a ready-made environmental bandwagon to jump back onto. The world agreed in 1992 to prevent dangerous climate change. Countries have since worked on mandatory emissions curbs in what is known as the Kyoto Protocol, but Bush, as soon as he took office, turned his back on it.

Ignoring the impact of climate change is getting difficult: Federal officials are considering declaring the polar bear a threatened species because rising Arctic temperatures are melting the ice pack that's their home.

Now that scientific fact has spoken louder than ideology at NASA, perhaps the same can happen at the White House.

Backlash Brewing (WP)

By Al Kamen

The Washington Post, February 10, 2006

Deutsch's Potshot at Jayson Blair

Speaking of kids, it isn't that George C. Deutsch , 24, the NASA press aide who quit after it turned out he lied about being a Texas A&M University graduate, didn't have any press experience.

Deutsch earned his bit of fame last week when he was criticized for preventing reporters from talking to James E. Hansen , NASA's leading climate scientist, because, as the New York Times reported, Deutsch told colleagues his job was to "make the president look good." The non-college graduate also opined about the big-bang theory and said NASA should not discount "intelligent design by a creator."

Deutsch did attend the Texas university and did some writing for the Battalion, the student paper. In an opinion piece in 2003 when New York Times reporter Jayson Blair was unmasked as a fabricator, Deutsch wrote: "Blair's decisions and actions lacked ethics and integrity. As a reporter, he cared only about himself and furthering his career at the expense of the truth ."

Unclear if Deutsch plans to re-enroll to finish his degree.

And Another Thing . . . (SSR)

Spokane (WA) Spokesman-Review, February 10, 2006

Don't they get it?

DOJ_NMG_0013934

Outward appearances play such a role in politics that you'd expect the professionals in the field to show themselves in the best light at all times. If not every moment, at least when they're on center stage.

The U.S. House of Representatives moved conspicuously onto center stage for an ethical melodrama after former Majority Floor Leader Tom DeLay was indicted on federal conspiracy charges and super-lobbyist Jack Abramoff pleaded guilty to conspiracy, fraud and tax evasion. With more developments to come in both cases, there has been considerable talk about reform efforts to reduce the influence money and favors have over the lawmaking process – but little more than talk. The closest facsimile of action has been the election by House Republicans last week of Ohio Congressman John Boehner to replace DeLay.

No sooner had the outcome been announced, however, than it was remembered that in 1995, when Congress was considering elimination of tobacco subsidies, Boehner was going about on the House floor distributing tobacco lobbyists' campaign checks to select colleagues. Boehner, who's enjoyed his own share of lobbyists' hospitality, has called himself a reformer.

That was the case again this week after it was revealed that he rents a $1,600-a-month Capitol Hill basement apartment from longtime friend and lobbyist John D. Milne. And that some of Milne's clients have a direct interest in legislation Boehner has sponsored or managed through the legislative process.

It's important, of course, that Boehner's actions are legal and free of conflicts of interest, which he insists that they are. It's equally important, though, that the public have confidence in government, an attitude that's hard to sustain when questionable appearances keep raising suspicions.

Earth to NASA

Political operatives are boldly going where they've never gone before. The National Aeronautics and Space Administration is the latest battleground in the war between science and politics.

First, the agency's public information office was accused of censoring its scientists' findings on global warming. Then it imposed itself on the origins-of-the-universe debate.

George Deutsch, a young intern from the Bush-Cheney campaign, landed a job at NASA after the election and kept right on campaigning. Instead of helping scientists communicate their findings, he decided to politicize them. Some scientists say their reports on global warming were watered down. Scientist James Hansen said the administration didn't want him giving speeches on the topic.

Deutsch also ordered that all mentions of "Big Bang" carry the word "theory" on the NASA Web site. That's not so bad, but his rationale was: "It is not NASA's place, nor should it be, to make a declaration such as this about the existence of the universe that discounts intelligent design by a creator – the other half of the argument."

We're guessing Deutsch was motivated by more than just science, but that's just a theory. Deutsch was dumped on Tuesday for lying on his resume. We hope NASA administrators can see that there was a bigger problem.

Academy To Referee Climate-Change Fight (WSJ)

By Antonio Regalado

The Wall Street Journal, February 10, 2006

Seeking to resolve a scientific dispute that has taken on a rancorous political edge, the National Academy of Sciences said it had agreed to a request from Congress to assess how well researchers understand the history of temperatures on earth.

The study by the academy, an independent advisory body based in Washington, will focus on the "hockey stick," a chart of past temperatures that critics say is inaccurate. The graph gets its name because of the sudden, blade-like rise of recent temperatures compared with past epochs.

The controversy took a sharp political turn in July when Rep. Joe Barton (R., Texas), head of the House Energy and Commerce Committee, launched a probe into the work of three climate specialists who generated the graph, including Michael Mann, now a professor at Pennsylvania State University.

Mr. Barton's inquiry drew a rebuke from several scientific societies as well as fellow Republican Sherwood Boehlert of New York, chairman of the House Committee on Science, who called it a blatant effort to intimidate global-warming researchers.

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After Mr. Barton didn't respond to an offer to jointly bring the issue to the National Academy, Mr. Boehlert independently asked for a review in November, science committee chief of staff David Goldston said. "It appeared that the issue was not going to go away by itself. We thought this was an appropriate way to get an assessment of the science," Mr. Goldston said in an interview.

Larry Neal, deputy staff director for Mr. Barton's committee, said in a statement that because "combating climate change is a breathtakingly expensive prospect," it deserved closer study, and that the academy was "unlikely" to address all of Mr. Barton's concerns.

Mr. Barton has already sought a separate analysis of the hockey stick led by statistician Edward Wegman of George Mason University, people familiar with the matter said. Dr. Wegman couldn't be reached yesterday.

Using records stored in ice, tree rings, and coral reefs, scientists including Dr. Mann have estimated that current air temperatures exceed any in the past 1,000 years. Such findings are not only evidence for man-made global warming, but also underlie predictions of future temperature rises.

An 11-member academy panel will now study the accuracy and importance of such research, in particular the work of Dr. Mann, whose hockey-stick graph was included in a report issued by the United Nations in 2001. An academy spokesman said the report would be completed in about four months.

Dr. Mann's critics, including two amateur Canadian climate researchers, say his work contains serious inaccuracies. Dr. Mann has denied that, but the debate has prompted several climate researchers to take a fresh look at temperature reconstructions.

While some recent publications have found fault with the hockey stick and similar studies, others have sought to rebut critics.

The debate comes as many scientists express growing alarm over the warming trend. The planet has warmed more than one degree over the past century, and recent heating is widely blamed on greenhouse gases emitted by the burning of coal, oil and natural gas.

More than 150 countries have ratified the Kyoto Protocol, an international agreement to slash gas emissions by 2012. The U.S. hasn't signed the treaty, which the Bush administration has said is ineffective and would slow economic growth.

Write to Antonio Regalado at antonio.regalado@wsj.com1

More Vets Get Health Care, But 'Priority 8' Is Like Priority Zero (WP)

By Christopher Lee

The Washington Post, February 10, 2006

Three years ago, then-Secretary Anthony J. Principi announced that the Department of Veterans Affairs was suspending health care enrollment for some higher-income veterans who did not have injuries or illnesses related to their military service.

The move to exclude "Priority 8" veterans was unpopular, but Principi said it was necessary to prevent the VA medical system from being swamped by the rising number of veterans who were eligible for care. At the time, about 6.8 million veterans were enrolled in the VA health system. Now more than 7.5 million are -- including 5.4 million who received treatment last year.

Others could not get in the door, however. More than a quarter-million "Priority 8" veterans who tried to sign up for VA health care coverage between January 2003 and October 2005 were turned away because of the new effort to rein in costs. The 263,257 veterans who were not allowed enroll included 5,459 veterans in Virginia, 3,051 in Maryland and 164 in the District of Columbia, according to figures the VA recently released.

There are 24.4 million veterans in the United States, and 16.9 million are not enrolled in the VA health care system. As many of 10 million of those not enrolled are Priority 8 veterans, the VA says. The annual household income cutoff for Priority 8 veterans varies by region. It was $57,500 for a veteran with three dependents who lived in Arlington or Fairfax counties, or in Montgomery or Prince George's counties.

Rep. Lane Evans (Ill.), ranking Democrat on the House Veterans Affairs Committee, called on the administration to increase the VA budget.

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"There is no reason for the VA to give the cold shoulder to veterans who have served our country honorably," Evans said in a written statement.

Lisette Mondello, a VA spokeswoman, said the affected veterans could not enroll because they were not eligible. "We want to be clear that absolutely nobody is being cut from VA health care rolls and no veteran will be dis-enrolled from VA health care unless they specifically request it," Mondello wrote news organizations.

VERBATIM (WP)

The Washington Post, February 10, 2006

That Was Then

" During my stewardship here, I'm going to put everybody under oath when we have testimony, as we do on confirmation hearings."

Judiciary Committee Chairman

Arlen Specter, April 5, 2005

This Is Now

"It is my judgment that it is unnecessary to swear the witness."

Specter, declining to put Attorney General

Alberto R. Gonzales under oath, Feb. 6, 2006

GOP Senator Says Withhold Congress' Pay (AP-Y2)

By Andrew Taylor

AP2, February 10, 2006

A potential GOP presidential candidate has come up with a familiar way to cater to conservative core voters — bashing Congress.

Virginia Sen. George Allen (news, bio, voting record), a darling of conservatives, says lawmakers' paychecks should be withheld if they don't pass spending bills on time. He says that would solve the problem of larding spending into end-of-session bills that sometimes pass without anybody reading them.

Allen was to unveil the plan Thursday night before the CPAC convention, a gathering of conservative activists in Washington.

The senator said his so-called pay check penalty "provides powerful incentives for senators and congressmen to perform their jobs on time, with discipline."

Congress is supposed to pass spending bills by the Oct. 1 start of the budget year, but invariably fails to do so. Allen voted for every appropriations bill last year and the most recent "omnibus" appropriations bill in November 2004.

Keeping The Faith At The White House (CHIT)

Chicago Tribune, February 10, 2006

For all the hoopla surrounding cuts in Medicare and Medicaid spending, a quieter revolution is taking place in Washington: The advancement of “faith-based’’ social services.

As President Bush signed a significant budget-cutting bill today with an audience of congressional leaders in the East Room of the White House, he signed into law protections for religious groups that spend federal money on the social services that they deliver.

Legal protection for many federally financed private groups to hire people of their choosing already had been provided by the Welfare Reform Act of 1996 signed by President Clinton. In the reauthorization of that act, Congress has extended that authority for programs operating under the $17-billion Temporary Assistance to Needy Families through 2010 and also has extended this “Charitable Choice’’ authority to his new Marriage and Fatherhood Program.

Bush signed all of this into law today as he approved a Deficit Reduction Act that will rein in the growth of Medicare and Medicaid. The choice provisions were added to the bill.

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The act is expected to cut $6 billion from Medicare over five years, requiring wealthier recipients to pay higher premiums. In addition, Bush is asking Congress to trim $36 billion more from Medicare over the next five years in the 2007 budget that he is proposing, slowing the program's annual growth from 8.1 to 7.7 percent.

"One of the reasons for the success of welfare reform is a policy called charitable choice, which allows faith-based groups that provide social services to receive federal funding without changing the way they hire,'' Bush said. "Ten years ago, Congress made welfare the first federal program to include charitable choice. The bill I sign today will extend charitable choice for another five years, and expand it to the new healthy marriage and responsible fatherhood programs.

In the 2007 budget that Bush proposed this week - which calls for spending cuts throughout many federal agencies - the president is asking Congress to boost spending for his "faith-based initiatives.''

Bush is asking Congress for $323 million for programs such as a "Compassion Capital Fund'' of $100 million - with half of the fund earmarked for a program aimed at steering youth away from gang involvement, an initiative that First Lady Laura Bush is leading. Other programs include mentoring for children of prisoners ($40 million) and a "re-entry'' program for 600,000 convicts returning to society this year ($60 million) as well as help for recovering drug addicts that 14 states and one Indian tribe are offering ($98 million).

That $323 million request represents a 36 percent increase in what is going to the president's faith-based initiatives this year, $236 million.

In addition, five federal agencies including the Department of Education and Health and Human Services increased their own grants to faith-based groups to $1.334 billion in 2004 - up 14 percent from the year before. Combined with grants from the U.S. Agency for International Development and Department of Agriculture, the overall 2004 spending was closer to $2 billion.

The White House is collecting data on all those agencies' grants in 2005 and plans to announce how they fared on March 9. Watch for another reported increase in spending.

Bush maintains the government can pay for these increases - as well as a much more costly 7 percent boost in defense spending ($18.5 billion) - while cutting spending elsewhere and preserving the tax cuts that the president won during his first few years in office.

"You will hear the argument during the budget debates -- you know -- all the noise coming out of Washington, that you need to raise taxes in order to balance the budget,'' Bush said earlier today in Manchester, N.H., making his first public pitch for his new budget. "I've been there long enough to tell you, that's not the way Washington works. They're going to raise your taxes and they're going to find new ways to spend your money.''

With the way the White House is spending money on social services offered by faith-based groups, religious leaders have been concerned that federal money carries federal strings. They have sought protection in matters such as hiring for the private groups collecting federal money - groups that may restrict hiring to members of their own church, for instance.

A federal court recently ruled in favor of the faith-based groups' right to hire as they choose. The White House failed to win broad legislation for Charitable Choice in 2001 so has been working on the issue case by case. The act signed today represents the first chance Bush has had to sign choice into law for one of his programs, the marriage and fatherhood program.

"This represents a major development in the president's efforts to advance his faith-based initiative… For five years, this initiative has been blocked in Congress,'' said Jim Towey, director of the White Office of Community and Faith-Based Initiatives. "The story line that had been written - that the faith-based initiative has been blocked throughout his presidency - that story line has given way to a signature today.''

Senate Confirms Ameriquest Founder As Ambassador (LAT)

By Jonathan Peterson, Times Staff Writer

The Los Angeles Times, February 10, 2006

WASHINGTON — Roland E. Arnall is heading for Amsterdam.

The Southern California mortgage-lending magnate was confirmed late Wednesday as U.S. ambassador to the Netherlands, 16 days after his Ameriquest Mortgage Co. agreed to pay $325 million to settle allegations of unfair lending practices by regulators in 49 states and the District of Columbia.

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The uncontested Senate voice vote brought a peaceful end to a divisive, three-month confirmation process, in which Democrats led by Sen. Paul S. Sarbanes (D-Md.) had insisted that Ameriquest resolve the allegations against it before they would confirm Arnall.

"With Ameriquest's recent settlement with the attorneys general over its mortgage lending practices, Sen. Sarbanes did not object to moving forward on this nomination," said Jesse Jacobs, a spokesman for Sarbanes.

Arnall's loyalists were ebullient at the vote, which came as an anticlimactic finale to a process in which the media-shy billionaire had been subjected to a public grilling. Supporters, including business associates and some civil rights activists, had said throughout the debate that he would be an effective diplomat.

"We are pleased that Mr. Arnall's nomination to be the ambassador to the Netherlands has been confirmed by the United States Senate," Adam J. Bass, Ameriquest's vice chairman and a nephew of Arnall, said in a statement Thursday. "We take great pride in knowing that our company's founder will be representing our country abroad and know he will serve with honor and distinction."

Some of Arnall's critics, however, decried his appointment: "I find it unbelievable that the reward for settling this case is not jail avoidance but being named ambassador to another country by the United States," said Ira Rheingold, general counsel of the National Assn. of Consumer Advocates.

Arnall was not available for comment.

The 66-year-old Holmby Hills resident emerged in recent years as a major Republican financier, directly or indirectly helping raise more than $12 million for President Bush and Republican activities.

Arnall turned Orange-based Ameriquest into a major national lender by tailoring home loans to people with weak credit histories and other problems that limit their options in traditional credit markets. In October, he resigned his positions with the firm to comply with State Department ethics requirements for ambassadors. His wife, Dawn, retained her posts with Ameriquest and its related companies.

While Ameriquest's fortunes soared under Arnall's leadership, complaints that some of its employees engaged in unfair lending practices — pressuring borrowers to refinance loans with costly terms, for example, or surprising borrowers with unexpected fees at closing — drew the attention of state regulators.

Under the Jan. 23 settlement, Ameriquest promised to take steps to safeguard consumers.

That deal cleared most of the roadblocks to Arnall's confirmation. Republicans brought the matter up Wednesday night, and with no objection and no debate, Arnall became an ambassador.

Special correspondent Mike Hudson contributed to this report.

OTHER NEWS:

Jobless Claims Fall To 6-Year Low (WSJ)

The Wall Street Journal, February 10, 2006

WASHINGTON -- A closely watched barometer of joblessness fell to its lowest reading in nearly six years, offering further proof that so far this year the labor market is improving along with the economy.

The Labor Department said the number of workers filing initial unemployment claims last week was 277,000, a figure that pushed the more telling four-week moving average of jobless claims down to 276,500, its lowest level since April 2000.

The claims data provide the latest bit of evidence that strong economic activity is improving conditions for workers. Last week, the Labor Department released figures showing that the economy added 687,000 jobs over the past three months, pushing the unemployment rate down to 4.7%, its lowest mark since July 2001. Moreover, hourly wages rose 3.3% over the past year, the fastest growth rate in nearly three years.

Many analysts are convinced that readily improving labor conditions, in tandem with other robust economic indicators, will lead the Federal Reserve to raise the federal-funds rate by another quarter point to 4.75% next month in an effort to tamp down inflationary pressures on prices and wages.

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"They're going to view the tightening labor market as a sign of inflation worries to come," said Gina Martin, an economist at Wachovia Corp. in Charlotte, N.C. "We think they're going to go up to 5% in May and then stop there for the rest of the year."

Separately, U.S. wholesale inventories climbed during December at twice the pace expected, even as sales rebounded and increased at the same rate as stocks.

Wholesale inventories rose by 1.0% to a seasonally adjusted $362.48 billion, the Commerce Department said Thursday. November inventories increased by 0.5%, revised from a 0.4% climb. Wholesale sales rose by 1.0% to a seasonally adjusted $314.91 billion. That followed a 0.7% decrease in November, which was unrevised. The inventory-to-sales ratio held steady at 1.15. The ratio measures how many months it would take for a company to deplete its current inventory.

Overall inventories held by U.S. businesses -- wholesalers, manufacturers and retailers -- increased in the final quarter of 2005 after six months of liquidation. The latest government report on gross domestic product said companies elevated stockpiles by $25.7 billion in the fourth quarter, after decreases of $13.3 billion in the third quarter and $1.7 billion in the second.

Year over year, wholesale inventories were up by 6.7% in December, while sales were 8.3% higher than the level in December 2004.

Inventories of durable goods -- meant to last three or more years -- rose 0.6% in December, after increasing 0.8% in November. Durable goods sales went up 1.3%, after falling by 0.2% in November. The 0.6% increase in durable goods inventories was led by growth in stocks of autos, up 1.2%. Driving up sales of durables were the auto sector, up 1.8%, and professional equipment, 2.5% higher.

Inventories of non-durable goods rose 1.6% in December, after inching up 0.1%. The increase in non-durables was the biggest since a climb at an equal rate in April 2001. Non-durable sales increased by 0.7% after declining 1.3%. Petroleum sales rose 4.4% in December.

Dow Rises On Jobs, Earnings Reports (USAT)

USA Today, February 10, 2006

NEW YORK — Stocks were mostly higher Thursday as a six-year low in unemployment claims and strong corporate earnings encouraged investors. However, the momentum sagged in late-afternoon trading as uncertainty about the economy resurfaced.

While weekly first-time jobless claims rose slightly, Wall Street was encouraged that the Labor Department said the four-week moving average fell to its lowest since April 2000.

Positive earnings news from Best Buy, Aetna and Marriott International also encouraged buyers. However, with longer-term questions remaining about the housing market, the economy, interest rates, oil prices and geopolitics, analysts question whether the trend higher could continue.

“Right now, it's like an absence of bad news is being treated as good news,” says Hans Olsen, managing director and chief investment officer at Bingham Legg Advisers.

The Dow Jones industrial average rose 24.73 points to 10,883.35 after gaining 108.86 points Wednesday. The Standard & Poor's 500 index fell 1.87 points to 1263.78, and the Nasdaq composite dropped 11.11 points to 2255.87.

Best Buy gained $4.13 to $52.96. The electronics retailer raised its forecast for fourth-quarter earnings. Aetna climbed $3.15 to $99.27. The insurer reported fourth-quarter net income up 41% to $423 million and boosted its 2006 outlook. Marriott added $1.53 to $67.64 after it said fourth-quarter earnings rose 25% to $237 million and increased its 2006 forecast.

•Whole Foods Market fell $6.78 to $65.27. The top U.S. natural and organic foods retailer posted a quarterly profit just shy of Wall Street expectations.

•Martin Marietta Materials climbed $4.92 to $94.07. The company posted a strong fourth-quarter profit and issued an earnings forecast well beyond Wall Street expectations.

•Brinks slid $5.03 to $48.80. The security company said its fourth-quarter profits, which missed analysts' forecasts, were “disappointing.”

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•NightHawk Radiology closed at $20.65, up 29% from the $16 at which the company sold 6.3 million shares in an initial public offering. NightHawk employs radiologists in Switzerland and Australia to read X-rays in the off-hours of U.S. health care providers.

•EResearch Technology tumbled $3.26, or 18%, to $14.50. The health care technology company's profit forecasts were lower than expected.

Dow Industrials Build On Rally (WSJ)

The Wall Street Journal, February 10, 2006

A stock rally lost steam in the final hours Thursday, tripping up the Dow Jones Industrial Average as it made another push toward 11000, though the industrials still finished up for the day.

The market started to pull back just after the Dow industrials crossed 10950, which has proven to be a tough obstacle for stocks, said Todd Leone, head of listed trading at SG Cowen. "Every time we get near there, we fade," he said.

Remarks from Michael Moskow, president of the Federal Reserve's Chicago branch, also took the air out of stocks. Mr. Moskow said inflation is currently at "the upper end" of his comfort zone, and that monetary policy may have to be tightened further if inflation expectations keep rising.

The Fed official's speech before the Risk Management Association in Chicago, which didn't say anything remarkably surprising about interest rates, put "a bit of fright into the market," said Larry Peruzzi, senior equity trader at Boston Company Asset Management.

While stocks had a good run Wednesday, when the industrials rose more than 100 points, the market has been dour this month. The lackluster action could be a sign that stocks are on a downward trend that could last months, said Steven Shobin, chief investment strategist at AmeriCap Advisers. One sign of a market top, he said, is weakness in former leaders, such as the energy sector.

The Dow Jones Industrial Average, up as much as 94 points earlier, gained just 24.73 points to 10883.35. The Standard & Poor's 500-stock index fell 1.89 to 1263.76 and the Nasdaq Composite Index slid by 11.11 to 2255.87.

Stocks rallied early, extending Wednesday's triple-digit Dow gain thanks to a strong earnings report from Aetna and Marriott International, as well as upbeat guidance from Best Buy.

An auction of $14 billion in 30-year Treasury bonds -- the first "long bond" sale in five years -- was met with robust demand. A little more than half of the bids were at the highest price. Indirect bidders snapped up 65% of the total, indicating there was a strong appetite for U.S. debt from foreign buyers.

Longer-dated bonds rose after the results of the auction were released at about 1 p.m. Eastern. The current 30-year bond, auctioned in February 2001, gained 16/32 point, or $5 for each $1,000 invested, to yield 4.645%. The new long bond, which begins trading tomorrow, will yield 4.5%. The benchmark 10-year note finished slightly higher, yielding 4.54%.

American International Group gained 1.1% as investors expressed relief that the company's skirmish with regulators is behind it. AIG agreed to a $1.64 billion settlement7 with the Securities and Exchange Commission and New York authorities over alleged accounting improprieties. The insurance provider said the deal should result in a $1.15 billion after-tax charge for the fourth quarter.

Light, sweet crude rose seven cents to $62.62 a barrel on the New York Mercantile Exchange. Comex gold futures for April, which fell nearly $20 an ounce Tuesday, jumped $14.30 to $568.10.

In major market action:

Stocks were mixed8. On the New York Stock Exchange, where 1.8 billion shares traded, 1,728 stocks rose and 1,615 fell. On the Nasdaq Stock Market, where 2.3 billion shares traded, 1,378 rose and 1,642 declined.

Bonds advanced9. The benchmark 10-year Treasury note gained 1/32, or 31 cents per $1,000 invested, to yield 4.541%. The 30-year bond rose 1/32 to yield 4.675%. Yields move inversely to prices.

The dollar slipped.10 It traded at 118.50 yen, down from 118.53 yen late Wednesday, while the euro rose to $1.1959 from $1.1951.

Bernanke The Inflation Fighter (WSJ)

DOJ_NMG_0013941

By Tim Annett

The Wall Street Journal, February 10, 2006

Economists have some advice for Ben Bernanke as he takes over at the Federal Reserve: establish your credibility as an inflation fighter.

But, at the same time, they have concern that he could take that effort too far. When asked in the latest WSJ.com forecasting survey which mistake Mr. Bernanke is more likely to make -- raising rates too much or not enough -- three-quarters of economists said he is more likely to lift rates too high.

The new Fed chief faces the same puzzle that always confronts the Fed: how to check inflation without lifting rates so high that economic growth is snuffed out. But the challenge is especially acute now. Soaring energy prices have nudged up inflation pressures at the same time the Fed has been steadily lifting rates. Now, Mr. Bernanke must pick the right time to stop the increases.

The matter could be further complicated because some have questioned Mr. Bernanke's resolve on price stability. Four years ago, he made comments about using loose money to fend off a very different threat: deflation.

Today, there is pressure on Mr. Bernanke to keep tightening. Sixty-one percent of the economists said it's more important for Mr. Bernanke to establish his anti-inflation credentials than it is to avoid overshooting on rates.

"It's hard to put the inflation genie back in the bottle," said Michael P. Niemira, chief economist for the International Council of Shopping Centers. "If you raise rates a little too much, it's much easier to go back."

On average, the economists expect the federal-funds rate, charged on overnight loans between banks, to be 4.75% by June and to remain at that level through year-end. That suggests the Bernanke Fed would raise the funds rate from its current 4.5% and then halt the string of increases embarked upon in June 2004, when the funds rate sat at a 46-year low of 1%.

Some economists think the central bank will be more aggressive than the average forecast suggests: 22 predict the funds rate will be 5% by June. But only four see the Fed moving beyond 5% this year, and 10 expect policy makers to reverse course and trim rates in the second half. David Rosenberg of Merrill Lynch thinks the Fed is done tightening and that it will cut rates by a full point, to 3.5%, by December.

Eyes on Prices

Inflation as measured by the Labor Department's consumer-price index is forecast to diminish this year: the economists predict the CPI will increase 3% in annual terms in May but only 2.4% in November. The CPI was up 3.4%, year over year, in December 2005, the last month for which data are available.

Just over half of the economists surveyed said energy prices will be the most important factor in determining the inflation rate this year. But while economists lifted their forecasts for oil prices from the levels they predicted in a survey conducted in December, the economists said they don't expect oil to reach a level that would stoke significant increases in overall inflation.

ABOUT THE SURVEY

The Wall Street Journal surveys a group of more than 50 economists throughout the year. Broad surveys on more than 10 major economic indicators are conducted semiannually, at midyear and at year-end. Between each semiannual survey, four monthly updates are conducted for the most closely watched forecasts. This is the monthly survey for February. For prior installments of the semiannual and monthly surveys, see: WSJ.com/Economist3.

Although oil prices have soared over the past year, businesses generally haven't passed their higher energy costs on to their customers in the form of higher prices. The economists predicted that crude oil would need to be sustained at around $80 a barrel in order for businesses to be compelled to do so and for that to cause a significant increase in inflation pressures across the economy.

Economists predicted crude-oil futures prices would stand at around $62 a barrel in June, compared with the $56.29 they forecast in a survey conducted in December. Today, crude oil for delivery next month stands at around $63.

Oil's price is less significant than how the Fed responds to it, according to Neal Soss of Credit Suisse First Boston. "The monetary policy response to a rise in the oil price is the relevant factor that would help determine the extent of pass-through by businesses and any subsequent inflation pressure across the economy," he said.

First-Quarter Bounce

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The Commerce Department said last month that gross domestic product, the broadest measure of U.S. economic output, grew at an annual rate of 1.1% during the final quarter of 2005. That was substantially slower than the 4.1% rate of growth that was reported for the third quarter.

But the weak reading hasn't rattled the economists. Fifty-six percent said the report doesn't worry them because they believe that any weakness has since passed. Thirteen percent believe the data will be revised to show a stronger rate of growth (the government will issue two more readings on fourth-quarter GDP). Only four economists say the report heralds a weakening expansion.

The economists foresee growth rebounding sharply during the first three months of 2006, clocking in at a 4.3% annual rate, up from the 3.6% rate of growth that they forecast in the last survey and the highest average forecast since economists were first asked for first-quarter predictions in May.

Mr. Niemira said the first quarter should be a "reactive quarter" where many of the categories that were weak at the end of 2005, such as consumer spending and the trade balance, rebound. But he worries the consumer is facing strains, such as mild job growth, that could pinch spending, and thus the economy, down the road.

The economists expect growth to taper somewhat as the year wears on, to a 3.3% rate in the second quarter, a 3.1% rate in the third quarter, and a 3% rate in the fourth quarter. They see only a 15% chance of a recession over the next 12 months.

Risks to Growth

When asked about their biggest worry for the U.S. outlook this year, 38% said they were most concerned about a weakening housing market. A slowdown in consumer spending ranked as the top concern for 23% of the economists, while three said they were wary of a possible slowdown in business outlays.

On a broader scale, 48% said that an energy-price shock posed the most danger for the global economy in 2006, while 23% view terrorism as the greatest potential threat to global growth.

Among other findings in the survey:

• The economists expect the spread between short- and long-term interest rates to remain tight. They predict the yield on the three-month Treasury bill will be 4.71% in June and 4.67% in December, while they expect the yield on the 10-year note to be 4.79% in June and 4.88% in December.

• Nonfarm business productivity is expected to grow 2.4% in 2006, on average. Productivity, or output per hours worked, rose 2.7% during 2005, though it fell 0.6% during the fourth quarter.

Life After Fed Proves Tricky For Greenspan (FT)

By Richard Beales And Jennifer Hughes In New York And Andrew Balls In Washington

Financial Times, February 10, 2006

Barely a week after leaving the US Federal Reserve, Alan Greenspan has been reminded how tricky life can be in the private sector for a man revered as the world's greatest former central banker.

His comments at a Wall Street dinner on Tuesday rippled through currency and bond market trading rooms on Thursday, drawing comment not just on what he did - or maybe didn't - say but whether he should have said anything at all.

The remarks, during a talk for bankers and top hedge fund clients of Lehman Brothers, were interpreted as relatively hawkish on the US interest rate outlook, and contributed to a modest rise in the dollar and a decline in Treasury prices. Earlier on Tuesday Mr Greenpan spoke by video link to a Tokyo conference organised by CLSA, the Asian investment banking unit of Credit Agricole.

According to one person who was present at the dinner, Mr Greenspan made upbeat comments on the short-term outlook for the US economy, while noting the uncertainty over the slowdown in the housing market and how its impact on consumer spending would not be known for six months.

"By 7.30am, two people [from Lehman] had called us," said Anthony Karydakis, chief fixed income strategist at JPMorgan Asset Management. "Greenspan qualified his remarks in a number of ways, but people tried to keep only the soundbites," said Mr Karydakis, who did not attend the dinner.

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Mr Greenspan, according to the person present, also said there was plenty of liquidity in global financial markets that was supporting activity, and that the low level of long-term interest rates, as a result of global economic forces, may have muted the impact of the Fed's interest rate increases since June 2004 to some degree. He also talked about the dangers posed to the US and global economies by a rise in protectionism.

While these are familiar themes that Mr Greenspan discussed in public before leaving the Fed, some observers suggested he would have done better to defer his appearances at least until next week when Ben Bernanke, the new chairman, is due to present the central bank's twice-yearly monetary policy report to the US Congress for the first time. "I'm surprised he encroached on the blackout," said one trader.

Others questioned Mr Greenspan's willingness to speak to a small audience of hedge fund luminaries such as Stanley Druckenmiller of Soros Fund Managment. "I thought it was somewhat innopportune on Greenspan's part to go to a forum that he knew could cause ripples," said Mr Karydakis. "It was inevitable, and Greenspan should have known that. If he didn't, he could be accused of naivete."

An associate of Mr Greenspan declined to comment on his appearance at the dinner or the content of his remarks. The Fed also declined to comment, saying the central bank no longer spoke on behalf of its former chairman. "Board members who complete their term may meet with and speak to groups without restriction provided they reveal no confidential information," a spokesman said.

Will Lawyers Get Hung Up In Quest For Cell Phone Records? (LAW)

By Tresa Baldas, The National Law Journal

National Law Journal, February 10, 2006

The sale of cell phone records over the Internet -- a hot topic that recently spurred litigation, legislation and a federal investigation -- has more than a few lawyers nervous.

Attorneys are among the top customers of the controversial Web sites, according to private investigators, privacy advocates and Web site operators who sell the phone records.

"Let's put it this way, the legal profession is keeping it alive," said Rob Douglas, a former private eye turned security consultant who has helped the Federal Trade Commission investigate and prosecute online operators that sell phone records.

"I've investigated them with the federal government and in private lawsuits ... and in every single case, the overwhelming majority of users of these companies are attorneys," Douglas said.

These attorneys include divorce lawyers, who want to know who feuding spouses are talking to; business lawyers, who want to know who their clients' competitors are talking to; and employment lawyers, who want to know if employees are selling any trade secrets.

The online data industry has come under intense scrutiny in recent months, triggering private lawsuits and federal and state investigations.

In the last two weeks, four wireless carriers -- Cingular, Verizon, Sprint Nextel and T-Mobile -- have filed lawsuits against Web site operators for allegedly using trickery to obtain customers' phone records. State attorneys general in Illinois and Missouri filed similar lawsuits against rogue Internet operators in January, while Texas said it was investigating such Web sites. Illinois v. First Information Specialist, No. 2006CH29 (Sangamon Co., Ill., Cir. Ct.).

The FTC is investigating 40 Web sites that were named defendants in a complaint filed by the Electronic Privacy Information Center, a Washington nonprofit privacy advocacy group. And on Capitol Hill, three lawmakers in recent weeks introduced bills to outlaw the sale of phone lists. The U.S. House Energy and Commerce Committee held a hearing last week to determine how widespread the problem of cell phone data theft is, and whether or not the cell phone industry is doing enough to protect customers' records from data burglars.

Given all the controversy surrounding the sale of cell phone records, attorneys were reluctant to comment on the subject. Of the more than a dozen divorce, business and criminal defense attorneys contacted for this story, none said they used the tactic. Most wouldn't even talk about the subject. One lawyer said, "Good luck finding anyone to admit to it."

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Attorney Paul Murphy, a business litigator with Murphy Rosen & Cohen in Santa Monica, Calif., said he has sometimes used people-finder Web sites for as little as $10 a search to help locate potential witnesses involved in business disputes. But he never tried to get cell phone records, he said, adding that he was unaware that such Web sites even existed until about a month ago.

"The interesting thing now is that other lawyers are being made aware of this," Murphy said, noting that some attorneys might now be tempted to try it. "It can be a very valuable tool to try to get information to see who's calling people ... but it does concern me that this could violate people's privacy."

Jay Patel, manager of www.abika.com, one of the 40 Web sites named in the FTC complaint, defended the sale of cell phone records over the Internet, calling it a legitimate business tool for the legal profession and law enforcement. "Many of the searches are used by lawyers, private investigators, bail bond agents, law enforcement and even some government agencies use the searches. Many people who have been victim[s] of fraud use the searches," Patel said. "There have been many cases where searches have helped people prove they're innocent or save themselves from harm."

Patel, however, recently stopped selling cell phone records, saying "after the media coverage there was such a huge demand for these searches that anybody and everybody started requesting it. This made it hard to vet the ones with a legitimate need or not ... To tell you the truth, many people started practically begging for it."

Another Web site named in the FTC complaint, www.locatecell.com, also recently stopped providing cell phone searches, but only on customers of Cingular Wireless, T-Mobile and Verizon, which, along with the states of Illinois and Missouri, are suing the site's owners over the sale of phone records.

A lawyer representing the operators of locatecell.com, Philip L. Schwartz of the Law Offices of P.L. Schwartz in Boca Raton, Fla., did not return calls seeking comment.

Meanwhile, several lawyers and privacy experts argue that the law is gray in the area of cell phone privacy, noting that there is no statute on the books that criminalizes getting or selling phone records.

"Are cell phone records private? We probably all assumed that they were, but the answer is probably to the contrary. We probably have some privacy interest but it's not protected by common law or statute," said Harold J. Krent, dean of the Chicago-Kent College of Law. Krent noted that given the vagueness of the law, attorneys who obtain cell phone records via the Internet are not doing anything illegal or unethical.

Washington attorney Frank Morris, with Epstein Becker & Green, who advises companies on privacy matters, noted that the "problem right now is that there are no rules." Morris said he has never tried to get cell phone records via the Internet, but has heard of other lawyers doing it. "There does seem to be a lot of smoke around it."

Conservatives Unsettled About Movement's Future (NYT)

By Adam Nagourney And David D. Kirkpatrick

The New York Times, February 10, 2006

WASHINGTON, Feb. 9 — Despite the triumph of placing two conservatives on the Supreme Court within four months, leaders of the conservative movement these days seem less celebratory than divided.

Heading into a midterm Congressional election in which the enthusiasm of conservative advocates could play a vital role in determining how Republicans fare, conservative leaders face internal rifts over polarizing issues and are dogged by a sense that a Republican-led Congress and a Republican president are not taking the nation in the proper direction on some critical matters, party leaders said.

The fissures were evident as members gathered here on Thursday for the first day of the annual Conservative Political Action Conference. The first session was marked by disagreement over whether to support a White House plan to allow some illegal immigrants to work legally within the United States and challenges to the legality of the Bush administration's program of eavesdropping without warrants on communications between Americans in the United States and people abroad who might have links to terrorism.

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In interviews, conservative leaders emphasized their admiration for President Bush, and said they were heartened by the placement of Chief Justice John G. Roberts Jr. and Justice Samuel A. Alito Jr. on the Supreme Court. But they made it clear that that was not enough.

The leaders expressed concern about the loyalty of elected Republicans in Washington to the conservative agenda, complained about the growth of spending in Mr. Bush's latest budget and said they were uncertain, at a time when Congressional Republicans are squirming under the glare of a corruption inquiry, of the future of the movement.

"The degree to which the conservative movement is dissatisfied is very real," said Newt Gingrich, the former House speaker, who will give the closing speech at the conference on Saturday. "Conservatism is at its biggest crossroads since Reagan was nominated in 1980."

Senator Sam Brownback, a conservative Republican from Kansas, said, "They are feeling good as far as the judiciary is concerned. There is a strong feeling that one of the things that we campaigned on is coming through. But people are concerned about spending. And there is a strong feeling that immigration needs to be gotten under control."

David Keene, the chairman of the American Conservative Union, said, "There is some frustration, and some belief that both the president and folks in Congress have forgotten what it is we want done, what it is that gets us behind them."

The sentiments — coming on the 25th anniversary of the inauguration of President Ronald Reagan — reflect the strains that this diverse and powerful political coalition faces while Mr. Bush struggles to regain his political clout and House Republicans try to settle down after the departure of Representative Tom DeLay of Texas as majority leader. It was also evidence, coming after the Supreme Court victories, of what even some conservatives said was the difficulty of sating their segment of the electorate.

Paul Weyrich, chairman of the Free Congress Foundation and a founder of the modern conservative movement, said he was fielding a host of messages from conservatives complaining about White House policies on immigration, spending and the war in Iraq.

"If I just went by what I am getting on a daily basis," Mr. Weyrich said, "I would say that Republican nervousness is justified."

Some conservatives scoffed at the dissatisfaction, saying that the Supreme Court accomplishment alone established a conservative legacy for Mr. Bush that would reshape the country.

"The last 12 months have been a very good year," said Grover G. Norquist, a conservative with close ties to the White House. "For all the talk about DeLay, Katrina, government spending too much, dah-dah, dah-dah, dah-dah — excuse me: Roberts. Alito. So as much as people want to say, 'I didn't get X, Y and Z,' I say, 'Roberts and Alito.' "

Republicans in Congress said they were aware of conservative disappointment with them, particularly regarding spending and the continued growth in the size of government.

"Spending is our Achilles heel," said Senator Lindsey Graham, Republican of South Carolina. "The one issue that I find we are the weakest on is we have been in change of this government 10 years and it is growing too much. If we don't show spending control, it is a bust."

Senator Tom Coburn, Republican of Oklahoma and a conservative champion when elected in 2004, said Mr. Bush's 2007 budget, while a start, was "not good enough."

"I believe he should have made a request for the American people to sacrifice," Mr. Coburn said. "There are plenty of things to trim, and the president needs to lead on that."

Some conservatives were scornful of White House efforts to allow at least some illegal immigrants to work legally in this country, and some challenged the legality of Mr. Bush's surveillance program, saying that it was an abuse of presidential power and that Mr. Bush should come to the Congress and ask for authority to allow it.

"Think hard down the road to a future administration not occupied by the people we have now," said Bob Barr, a former congressman from Georgia. "We have to keep that precedent in mind: That gauntlet, if we throw it down, will be taken up by someone in the future that we really don't like and be used against us."

Mr. Graham said many conservatives like himself were troubled by the administration's arguments for its program to eavesdrop on communications. "The inherent power argument, if you take it to the natural conclusion, there is no role for Congress in a time of war," he said.

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Vice President Dick Cheney drew restrained applause Thursday night when he offered a defense of the surveillance program at a dinner of conservative leaders, reflecting the ambivalent feeling among many conservatives toward the program.

America At A Crossroads (WT)

By Newt Gingrich

The Washington Times, February 10, 2006

For over three decades now, American history has been written on the right. The crossroads confronted by conservatives have been America's crossroads, and the path forward charted by conservatives has consistently been the path of the nation. Today, America, and therefore conservatives too -- stand at another crossroads, with another set of historic choices that will determine whether we leave our children and grandchildren a country as safe, prosperous and free as the country our parents and grandparents fought and worked to give us.

Throughout the 1970s, Ronald Reagan argued that the choice faced by Americans was not between left and right but between up and down -- down toward "the totalitarianism of the ant heap" or up toward "that shining city on a hill."

In the 1990s, conservatives again spoke to the hopes of a broad majority of Americans. The choice then, as we framed it, was between the arrogance and stagnation bred of 40 years of one-party congressional government or restoring the bonds of trust between the people and their elected representatives.

Today, the world has been freed of Soviet totalitarianism but faces a more committed fascist-like threat from the irreconcilable wing of Islam. At home, welfare reform has proved that even the poorest Americans can make their own futures, but other government programs continue to make people worse off the longer they stay in them. For example, children covered by Medicaid are nearly six times more likely to be treated for severe obesity than are children with private insurance.

As before, our choices aren't necessarily easy, but they are simple. One path leads backward to decline and defeat. It is the path of government dependence at home and American surrender abroad. It is the path led by the rich and powerful who stood and applauded the president's State of the Union admission that Congress failed to pass a plan to save Social Security. It is the path of those who put party politics above controlling our borders; who embrace the easy illusion of protectionism over the hard work of competition. The path of those who would surrender self-government to the rule of judges and exchange property rights for government confiscation, religious freedom for sterile secularism, and freedom of speech for supposed campaign finance reform.

The other path is the way forward, toward winning the future. What does it mean to "win the future"? It means to chart a course, as Ronald Reagan once said, that "will preserve for our children this, the last best hope of man on earth." It is the path of limited, effective government at home and an unapologetic defense of American values abroad.

The way forward will be led by those who understand that the problem in Washington isn't merely Jack Abramoff; it's a government so powerful and bloated that a special-interest group would decide it is worth their while to spend $80 million to hire Jack Abramoff. It is the path of those who believe a balanced budget is not only a financial imperative, but is a moral imperative because massive government is inherently corrupting. And the way forward is the path of those who know that true compassion lies in not sacrificing the well-being of the poor for the well-being of the bureaucracy; of those who understand that there is something profoundly wrong when the federal government's largest single health program makes poor children less, not more, healthy.

All of Western civilization joins America at this crossroads. Abroad, the path of defeat and decline is followed by those who would censor our civilization on behalf of the fascist tyrants of the irreconcilable wing of Islam. It is seen in the pathetic weakness of governments that accept lectures on tolerance from theocrats who oppress women and outlaw all religions but their own. It is the path of those who would prop up Hamas with financial contributions while Hamas remains committed to terrorism and the destruction of Israel; those who ignore Iran's genocidal intentions, despite the clarity of its leader's rhetoric; and those who would abandon the people of Iraq to butchers, bombers and beheaders.

There is a better way -- a way forward toward a future that defends American values and preserves American civilization. The path toward winning America's future abroad begins with a few simple but resolute steps. Formally protest the lack of freedom of religion in Saudi Arabia. Isolate Hamas until it renounces terrorism and the destruction of Israel. Demand complete

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onsite inspections of nuclear facilities in Iran. Support Iranian democrats. Force the Syrians to stop aiding terrorists in Iraq. Withdraw American troops from Iraq as victory permits, not as advocates of appeasement demand.

Twice before we've stood at the crossroads, and twice before conservatives have led the way forward to greater safety, prosperity and freedom for all Americans. Today, the stakes are higher than ever before. Our fellow Americans are once again looking to conservatives and asking this question: What are you doing to win the future?

Former House Speaker Newt Gingrich is a senior fellow at the American Enterprise Institute and author of "Winning the Future: A 21st Century Contract with America."

Anti-war Mom Sheehan Will Not Run For Senate (REU-Y2)

Reuters, February 10, 2006

Cindy Sheehan, the anti-Iraq war activist whose son was killed in the conflict there, put an end to speculation on Thursday that she would launch a long-shot bid to become a U.S. senator from California.

Sheehan, speaking in front of San Francisco City Hall, said she would not run for the office.

"If I thought that running for Senate would bring our young people home more quickly I would do it in a minute, but I am not convinced that that would do so," Sheehan said.

A campaign would have pitted her against California's senior senator, Dianne Feinstein, a Democrat who is one of the state's most popular politicians.

Although experts and polls suggest Feinstein, in office since 1992, will win reelection easily, a campaign by Sheehan would have provided her with a platform for her anti-war message.

Sheehan, 48, became a central figure in the U.S. anti-war movement last summer after she camped out outside President George W. Bush's Texas ranch to call for a withdrawal of U.S. forces. Her soldier son Casey was killed in Iraq in 2004.

Sheehan has continued to stay in the news. Last week, police arrested her at the House of Representatives shortly before Bush gave his annual State of the Union address because she was wearing a T-shirt with an anti-war slogan.

On January 29 she met Venezuela's left-wing president, Hugo Chavez, who also criticized Bush.

No Senate Run For Activist Cindy Sheehan (AP-Y2)

AP2, February 10, 2006

Peace activist Cindy Sheehan said Thursday she will not run against U.S. Sen. Dianne Feinstein (news, bio, voting record) in the Democratic primary.

Sheehan, who camped outside President Bush's ranch in Texas to protest the Iraq war, said she won't challenge the state's senior senator even though she thinks Feinstein hasn't done enough to oppose the war. Sheehan's 24-year-old son was killed in Iraq in 2004.

"I think I'm more effective on the outside than on the inside," Sheehan said.

During a trip to Venezuela last month, Sheehan said supporters had encouraged her to take on Feinstein in the June primary.

Sheehan, 48, was arrested last week before Bush's State of the Union address and ejected from the House gallery on a charge of unlawful conduct for wearing a T-shirt with an anti-war message. Capitol Police later dropped the charge, but Sheehan said Thursday she plans to sue over the incident.

Sheehan also said she plans to pitch her tent outside the president's ranch in April.

Steele's Words At Meeting Faulted (BSUN)

By Jennifer Skalka

The Baltimore Sun, February 10, 2006

Discussing his position on embryonic stem cell research with Baltimore Jewish leaders yesterday, Lt. Gov. Michael S. Steele said he is "concerned about the destruction of human life" and made a comparison between the controversial science and experiments done on Jews during the Holocaust.

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"You of all folks know what happens when people decide they want to experiment on human beings, when they want to take your life and use it as a tool," said Steele, a Republican candidate for U.S. Senate, to a crowd of about 40 at a Baltimore Jewish Council board meeting. "I know that as well in my community, out of our experience with slavery, and so I'm very cautious when people say this is the best new thing, this is going to save lives."

Steele's remarks, which followed a well-received speech about his trip to Israel in November, came in response to a board member's question about Steele's stance on embryonic stem cell research. His answer stunned many in the audience.

"If the lieutenant governor was drawing a comparison between stem cell research and human medical experimentation during the Holocaust, he must understand the pain this kind of analogy would inflict on survivors and their families," Art Abramson, executive director of the Baltimore Jewish Council, said in a statement to The Sun. "We absolutely reject any comparisons between ethical and lifesaving medical research, and the horrors committed by the Nazis in their evil drive to create a master race. We welcome any clarification Lt. Gov. Steele can offer about his remarks."

Steele later issued a statement expanding on his comment.

"When I was asked the question about stem cell research, I had just finished speaking at length about my first trip to Israel and the powerful memories I had of my visit to the Holocaust museum there," Steele said. "Those memories have had a lasting impression on me, but in no way did I intend to equate the two or trivialize the pain and suffering of more than six million Jews."

Jewish Council board member Michele Lax said after the lunch that Steele's comments revealed a "total lack of sensitivity."

"I was just really shocked and outraged," said Lax, a retired attorney from Owings Mills. "I can't believe that he could make a comparison to the Nazis with embryonic stem cell research, which saves lives. It just shows you what his true colors are and how far right wing he is."

Sam Penn, a retired businessman and the board member who questioned Steele, said he thought the lieutenant governor's answer was "ludicrous."

"The Holocaust, they were killing people," Penn said. "Stem cell research, we want to help people."

Abba Poliakoff, a Baltimore attorney and board member, said that while he disagrees with Steele's position on embryonic stem cell research, he was not offended by his remarks.

"If a person has a strong moral and ethical belief, and he takes his guidance and he takes his lesson from what happened in the Holocaust, how could I fault the person?" said Poliakoff, who attended the lunch.

Myrna Cardin, wife of Rep. Benjamin L. Cardin, a Baltimore Democrat also running in the race for Senate, attended the luncheon in her role as past board president. Through a Cardin campaign spokesman, she declined to comment, but the congressman issued a statement.

"Michael Steele's comments were offensive to both millions of Americans who stand to benefit from this research and to Holocaust survivors and their families," the congressman said. "Michael Steele has it backward. This is not about experimenting on humans. It is about saving lives. "

A Catholic and former seminarian who often speaks about his faith, Steele espouses strong moral views and is opposed to the death penalty and abortion. The Catholic Church teaches that life begins at conception and opposes the use of embryos in scientific research, saying a human being is destroyed in the process.

In answering Penn's question about embryonic stem cell research, Steele said that "the governor and I have pretty squarely laid out where we are on that."

"I'm very concerned when we start tinkering around with life," Steele said during the council event, adding, "I'm very concerned about the destruction of life."

A spokesman for Gov. Robert L. Ehrlich Jr. did not return a call for comment.

Steele expressed support for research using adult stem cells but said embryonic stem cell research could be "a very slippery slope."

The Maryland General Assembly is debating state funding for stem cell research, with Democratic lawmakers proposing $25 million a year for five years for a plan that emphasizes embryonic research. Their legislation outlaws human cloning and commits to using only those embryos that would otherwise be discarded from fertility clinics.

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Ehrlich has proposed $20 million for stem cell research, saying that science should determine what types of research are funded. The Maryland Technology Development Corp., a quasi-public agency that falls within the state Department of Business and Economic Development, would administer the grants under the governor's plan. Ehrlich has also promised $13.5 million for a new center for regenerative medicine in Baltimore.

Scientists believe stem cell research could produce cures for a range of debilitating illnesses such as Parkinson's and Alzheimer's diseases. But many conservatives, as well as leaders of the Catholic Church, echo what Steele said - that adult stem cell research shows promise, while embryonic, which uses cells harvested from human embryos, is unethical.

Curt I. Civin, a cancer research expert at the Johns Hopkins University, expressed disappointment with Steele, saying that it doesn't sound like he stands with the governor, who has indicated an openness to embryonic research.

"I certainly would reject any comparison between what stem cell researchers want to do and the Holocaust," Civin said. "What stem cell researchers want to do is learn about diseases. ... This is so unlike the medical horrors that were done during the Holocaust that I can't even begin to compare them. We're trying to save lives by doing this."

Douglas Greenberg, executive director of the University of Southern California Shoah Foundation Institute, a group that was founded by director Steven Spielberg and has recorded the testimony of 52,000 Holocaust survivors, said he believes that politicians should never use the Holocaust to make a contemporary political point. He said he was pleased that Steele revised his remarks.

"What he originally said, whether he intended it to be or not, is an insult to those men and women who are still alive who survived these awful experiments," Greenberg said. "And also to the memory of 6 million murdered men and women and children."

In Nazi Germany, aides to Hitler conducted experiments on humans in hopes of producing a pure Aryan race, and killed millions of Jews, Gypsies and other minorities in ethnic-cleansing executions.

Bradley Wine, a member of Steele's Senate campaign finance committee and the Greater Washington chairman of the Republican Jewish Coalition, said that he knows the lieutenant governor well and that they have often discussed the shared experiences of Jews, Catholics and African-Americans. Wine also said he and Steele have discussed the "profound impact" his trip to Israel, an outreach effort to explore business opportunities with the state, had on him.

"I know that he would never utilize a reference to the Holocaust lightly or in a way designed to be political," Wine said.

No Joke: Maryland Democrats Will Honor Steele (WT)

By S.a. Miller

The Washington Times, February 10, 2006

ANNAPOLIS -- The Maryland Democratic Party has been relentless in criticizing Lt. Gov. Michael S. Steele in his run for U.S. Senate, but party officials say that won't stop them from paying homage to the conservative Republican during Black History Month.

"Michael Steele is an important figure in African-American history in Maryland. There is no question about it," said Derek Walker, executive director of the state Democratic Party.

"We should be proud of the achievements of African-Americans, regardless of what party they are from or what their background is," he said.

Mr. Steele, the first black elected to statewide office in Maryland, will be celebrated Monday as part of the state Democratic Party's campaign to honor a black Marylander each day this month, Mr. Walker said.

The party distributes a daily e-mail spotlighting the day's honoree.

When told of the party's plans, Mr. Steele said it sounded like a joke -- but added that he would be appreciative if the Democrats truly mean to honor him.

"I appreciate the honor, and I thank them for it," the lieutenant governor said.

In recent days, Democrats have scolded Mr. Steele for not taking a public stance on the nomination of U.S. Supreme Court Justice Samuel A. Alito Jr., for opposing the $1 increase to Maryland's minimum wage, for not criticizing President Bush's budget

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proposal and for being allied with congressional Republicans who received low civil-rights scores from the National Association for the Advancement of Colored People.

"We'll see what the next e-mail they send out looks like," Mr. Steele said.

Some black Democratic lawmakers said it is about time their party credited Mr. Steele for raising the profile of black Marylanders in state politics.

"I think it is a great idea," said Delegate Emmett C. Burns Jr., Baltimore County Democrat. "Michael Steele is an honorable man."

The party also plans to honor Kweisi Mfume, a Democrat and former NAACP leader who has been at odds with his party over its lackluster support for his Senate run.

Mfume campaign spokesman Dan Walter said it is "appropriate" that the party would honor Mr. Mfume and Mr. Steele.

Racial issues have overshadowed Maryland's Senate race -- one of the most closely watched contests in the nation -- as the Democratic Party struggles to shore up black votes lost to Mr. Steele and the Republican Party that backed him in 2002.

Black Democratic lawmakers said racially tinged attacks against Mr. Steele are fair because he is a conservative Republican, and key Democratic leaders -- such as gubernatorial candidates Baltimore Mayor Martin O'Malley and Montgomery County Executive Douglas M. Duncan, both white -- declined to repudiate their comments.

In addition, black Democrats have blamed Mr. Mfume's fundraising woes on their leaders' push to give the Senate nomination to Rep. Benjamin L. Cardin, a white Democrat and 10-term congressman.

Mr. Walker has said the party is "militantly neutral" about Democratic contenders seeking to replace retiring Sen. Paul S. Sarbanes.

Still, Democratic endorsements for Mr. Cardin and Mr. Mfume have divided closely along racial lines.

Largess Preceded Md. Vote On Wal-Mart (WP)

By John Wagner And Ann E. Marimow

The Washington Post, February 10, 2006

Two labor unions pushing for legislation that could expand Wal-Mart's health benefits made campaign contributions to 48 members of the Maryland General Assembly in the month before the high-profile vote.

The contributions, totaling more than $36,000 in the run-up to the January vote, came to more than a quarter of the state's legislators from affiliates of the Service Employees International Union and the United Food and Commercial Workers International Union, according to analysis of campaign finance reports filed last month.

"They were obviously trying to get somebody's attention," Bobbie Walton, executive director of the watchdog group Common Cause Maryland, said of the two unions, which were pitted against the retailing giant on the issue.

The House and Senate decided last month, with just a few votes to spare, to override Gov. Robert L. Ehrlich Jr.'s veto of the bill setting a threshold for benefits provided by large employers.

Wal-Mart retained as many as a dozen Annapolis lobbyists for the fight, which drew national attention, and tried to sway public opinion through radio and newspaper ads. This week, a retailing association aligned with the company filed suit in an attempt to block the law.

But in the weeks before the override vote, Wal-Mart made only seven direct political contributions to lawmakers, one of which was returned, according to Maryland State Board of Elections records.

The final weeks before the legislature convenes are typically feverish ones for fundraising because Maryland law bans contributions during the 90-day sessions.

But donations from SEIU and UFCW, collectively, were more than seven times what the unions had given previously in the month before sessions started, dating back to 1999, the first year that contributions are recorded in a database maintained by the elections board.

Moreover, about a third of the lawmakers who received money in the weeks just before the session had not received any contributions from these union chapters before Ehrlich's veto of the bill last spring. All told, SEIU affiliates contributed $20,570 in the month before the vote, and UFCW affiliates contributed $16,050.

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Combined, the contributions exceeded what the two unions gave lawmakers in the final months of the 2002 campaign, the last time state lawmakers stood for election.

"Our members have given in greater amount to our political action funds because they understand the importance of the upcoming election year, due in no small part to what they viewed as a list of unpopular vetoes made by the current governor," said Robert L. Moore, president of the SEIU chapter that serves Maryland and the District.

Aides to Ehrlich (R) suggested that the money was more evidence of the unions' role in muscling through the legislation, which requires employers with 10,000 or more workers to spend at least 8 percent of their payroll on health benefits -- or make a contribution to Medicaid, the state's health program for the poor. Wal-Mart is the only known Maryland employer that does not meet that obligation.

"There's no question. If you had eyes, you could see the sea of purple here," said Alan Friedman, Ehrlich's director of legislative relations, referring to the purple T-shirts worn by SEIU members present during debate over the bill, which was also championed by health care advocates.

The union efforts extended beyond campaign contributions. Days before the veto-override vote, the state chapter of the AFL-CIO announced that it would not endorse any lawmaker who did not support the override.

Other groups active in the debate included Wake-Up Wal-Mart and Wal-Mart Watch, two national organizations that monitor the company's business practices. Wake-Up Wal-Mart is funded by the UCFW, and Wal-Mart Watch receives money from the SEIU.

Among the lawmakers who received union contributions in the month before the session began was Del. Norman H. Conway (D-Wicomico), who said he sided with the unions last spring because of concerns about the state's rising Medicaid costs. But, he said, he was open to hearing Wal-Mart's case.

The day before the House voted to override the bill, he received a call from a Wal-Mart vice president in Arkansas. Conway wanted a guarantee that the company would build a proposed distribution plant with the potential to create hundreds of jobs in the county next to his rural district.

Conway said that he did not get the commitment and that he decided to stick with his original position.

Conway attributed the $1,500 in donations from two SEIU chapters more to his status as chairman of the Appropriations Committee than to his vote on the "Wal-Mart bill."

"Money doesn't influence me," he said. "I look at the issue and try to understand the impacts. I'm going to do what I ultimately think is the right thing."

Just before the session began Jan. 11, Del. Murray D. Levy (D-Charles), who voted against the bill last spring, received $100 apiece from SEIU and UFCW chapters.

Levy said he was bombarded with phone calls and e-mails from both sides of the debate. Despite the pressure, Levy did not change his mind, because he said that going after one company was not a solution to the massive problem of health care.

Wal-Mart delivered just a handful of contributions, totaling $1,650, leading up to the session. And, in one case, the company's check was returned.

Del. Joseph J. Minnick (D-Baltimore County), who did not vote in April, said he was receptive to Wal-Mart's case that "government should not be in business's business."

He ultimately voted to override the veto, however, because he said companies should help pick up the cost of health care. When he realized that Wal-Mart had written him a check for a fundraiser just before the session began, he decided to give it back.

"If I don't support their issue, I shouldn't be accepting a contribution, plain and simple -- not only Wal-Mart, but anyone else."

An Old Way To Fight AIDS (LAT)

The Los Angeles Times, February 10, 2006

PRESIDENT BUSH HAS BEEN a reliable ally in the global fight against AIDS, proposing to increase federal funding to about $4 billion next year. With so much at stake, efficiency is vital, and according to a growing body of research, one procedure that is relatively inexpensive and can drastically reduce the transmission of AIDS is male circumcision.

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Last fall, the first rigorous trial on the subject conducted in South Africa found that circumcised men are 60% less likely to contract HIV. Researchers, who halted the study early because the results were so convincing, suspect that the foreskin contains a concentration of cells that are easily infected by the virus. Similar studies in Uganda and Kenya are expected to release their preliminary findings this summer. If they're similar, as many predict, health officials and donor countries such as the U.S. should help increase access to a safe and affordable procedure that has gone out of favor in most of the world.

Globally, only a quarter of men are circumcised, and rates are exceptionally low in many areas where HIV is dangerously prevalent, including India, Asia and southern Africa. Even with the increased availability of antiretroviral drugs, AIDS is getting worse in many parts of the world. In 2005, there were 5 million new cases worldwide (including 700,000 children), and 3 million people died of the disease.

Since the South African study was released late last year, health officials in countries such as Botswana and Swaziland have begun phasing in adult and infant circumcision programs, and waiting lists for the procedure at clinics are growing. If public clinics are overrun, people may turn to rural doctors, in which case dangerous and even deadly infections could occur. There also is concern that newly circumcised men may increase risky behavior, so any circumcision program should be accompanied by a strong message reinforcing the need for safe sex.

To a lesser degree, the issue has relevance in the United States. Overall circumcision rates have fallen to just half of all men in recent years, and 16 states — including California — have cut funding for the surgery because of an incorrect belief that it has no medical benefit. Although HIV rates are considerably lower in the United States than in other countries, they are highest among minorities and the poor. HIV rates in those populations could climb once their children become sexually active.

The United States is to be commended for increasing its funding for HIV prevention in recent years. And the Group of 8 industrialized nations has promised to provide universal access to AIDS treatments by 2010. Properly planned circumcision programs should be part of both efforts.

Putin Considers Inviting Hamas Leaders To Moscow (NYT)

By Renwick McLean And Greg Myre

The New York Times, February 10, 2006

MADRID, Feb. 9 — Pulling away from an agreed American and European policy, President Vladimir V. Putin of Russia said Thursday that he was considering inviting the newly victorious leaders of the radical Palestinian Islamic group Hamas to Moscow to discuss solutions to the conflict in the Middle East.

He spoke during a day of chaos and violence in the Gaza Strip, where three armed Palestinians were killed as they attacked Israeli forces and Palestinian gunmen kidnapped an Egyptian diplomat. The kidnapping was the most serious attack against diplomats in Gaza since a United States diplomatic convoy was hit by a roadside bomb in October 2003, killing three security guards.

Speaking at a joint news conference in Madrid with Prime Minister José Luis Rodríguez Zapatero, Mr. Putin rejected suggestions that Russia join with the European Union and the United States in declaring Hamas, which won the Palestinian parliamentary elections on Jan. 25, a terrorist organization.

"I am profoundly convinced that burning bridges in politics is the easiest thing to do, but it has no perspective, it has no future," he said. "Preserving our contacts with Hamas, we are willing in the near future to invite the authorities of Hamas to Moscow to carry out talks."

Hamas responded favorably on Thursday. "If we receive an official invitation to visit Russia, we will visit Russia," said Ismail Haniya, a senior Hamas leader, according to a Reuters report from Gaza City.

But Israeli officials said Mr. Putin's remarks conflicted with the ground rules for negotiations that Russia signed on to in London last month at a meeting of the so-called quartet on the Middle East, which also includes the United States, the European Union and the United Nations. They called on Hamas to renounce violence, disarm militias, recognize Israel and respect previous agreements with it, and implied that international aid would be cut off if changes were not made.

In New York, the Israeli foreign minister, Tzipi Livni, warned that any weakness in dealing with Hamas would "legitimize terror," according to the Israeli ambassador to the United Nations, Dan Gillerman.

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At a lunch meeting with Secretary General Kofi Annan and the ambassadors of all five Security Council permanent members, Ms. Livni said, "Any show of weakness or hesitation on the part of any country and especially a member of the Security Council would only act to legitimize terror and give Hamas a feeling that maybe the international community was weakening," Mr. Gillerman reported.

A senior State Department official said that the administration was surprised and irritated by Mr. Putin's remarks, but that Russia had assured the United States that there would not be any senior-level contacts with Hamas. Asked about Mr. Putin's statement, the official said, "Frankly, it doesn't help."

A spokesman for the Russian Foreign Ministry, Mikhail Kamynin, said Russia would adhere to the approach agreed upon in London. Later Thursday, Russia's special Middle East envoy, Aleksandr Kalugin, said Moscow hoped to bring Hamas "up to international requirements" and draw it into dialogue with Israel, The Moscow Times reported.

While Mr. Putin seemed to catch the Bush administration and some others by surprise, it was not the first time he had voiced such an opinion. In a news conference late last month, after the Palestinian elections, he said Russia had "never regarded Hamas as a terrorist organization," and did not rule out financial aid for a Hamas-led government.

In Gaza, the Egyptian diplomat, Hussam el-Musli, was driving through Gaza City when two masked gunmen shot the tires of his vehicle, pulled him from his car and then drove away with him, according to witness accounts. No group claimed responsibility, and the motive was not clear.

Hamas condemned the kidnapping. But a spokesman, Sami Abu Zuhri, called the attacks along the Israeli border in which three Palestinians were killed "a natural response to the Israeli crimes," a reference to recent Israeli airstrikes that have killed Palestinian militants in Gaza.

The Palestinian leader, Mahmoud Abbas, also denounced the kidnapping, saying in a statement that it was "foreign to the traditions of the Palestinian people."

But Palestinian gunmen in Gaza have repeatedly seized Western journalists and aid workers in recent years, though all have been released unharmed, usually within a few hours. The kidnappers often say their motive is to get jobs in the Palestinian Authority security forces or to secure the release of jailed relatives and fellow militants.

The kidnappers are rarely, if ever, prosecuted by the Palestinian Authority. In some instances, the authority has released prisoners as demanded by the kidnappers. Still, Thursday's kidnapping was highly unusual because the target was from Egypt, a close ally of the Palestinians that often acts as a mediator between Israel and the authority.

Before dawn on Thursday, Israeli soldiers killed two armed Palestinians who attacked the Erez crossing on the Gaza-Israel border, the military said. Israel has been permitting 5,000 Palestinian workers to commute to Israel each day through the crossing, and virtually all pass through Erez during a hectic rush hour well before dawn.

About half of the workers had gone through Erez by 4 a.m. when the flood of laborers suddenly stopped, Israeli officials said. Israel security officers called their Palestinian counterparts, but did not receive a coherent explanation, they said. Then at 4:30 a.m., the two Palestinians attacked an Israeli military position with grenades and gunfire, the military said.

Responsibility for the attack was jointly claimed by Al Aksa Martyrs Brigades, which is part of Mr. Abbas's Fatah movement, and the Popular Resistance Committees, which includes militants from various groups.

Israel closed the crossing after the attack.

A few hours later and a short distance away, Israeli troops shot and killed one of two Palestinians who were planting a bomb along the border fence, according to the Israeli military.

In a separate development, nearly all the 137,000 Palestinian government employees received their overdue January paychecks on Thursday, Palestinian officials said. The Palestinian Authority needs more than $100 million to meet its monthly payroll, and pay is sometimes late.

The authority could face even greater difficulties if Hamas takes over the government as expected in the next few weeks. Israel this week agreed to hand over $54 million in tax and customs revenues that it collected on behalf of the Palestinians, but said it would not continue the monthly transfer if Hamas came to power.

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In another development on Thursday, Israeli radio reported that the Palestinian Authority had released dozens of members of the Islamic Jihad faction who were jailed in the West Bank town of Jericho. The authority has imprisoned some militants wanted by Israel, but Israel complains that they are routinely released after relatively short periods.

Putin To Issue Invite To Hamas Leaders (WP)

By Scott Wilson

The Washington Post, February 10, 2006

JERUSALEM, Feb. 9 -- Russian President Vladimir Putin indicated Thursday that he would soon invite the leaders of Hamas to visit Moscow, signaling the first crack in diplomatic efforts to isolate the radical Islamic group as it prepares to form the next Palestinian cabinet.

"Russia is maintaining contacts with the Hamas organization and intends in the near future to invite the leadership of this organization to Moscow," Putin said at a news conference during a visit to Madrid.

Putin's announcement drew a sharp rebuke from Israeli officials, who said it marked a break from the position held by the group known as the quartet -- Russia, the United States, the European Union and the United Nations -- since Hamas's victory in parliamentary elections last month.

"Israel supports the quartet position -- Russia being a full and active member of the quartet -- as expressed by [U.N. Secretary General] Kofi Annan in the days following the elections, that said Hamas is not a partner for a political dialogue unless, one, it recognizes Israel, two, it abandons terrorism, and three, it accepts the legitimacy of signed agreements," said Mark Regev, the Israeli Foreign Ministry spokesman.

In Washington, U.S. officials were caught off guard by Putin's comments and sought clarification from Russian officials. Like Regev, C. David Welch, the U.S. assistant secretary of state for Near Eastern affairs, noted to reporters that Russia was a member of the quartet and had agreed to the group's stance toward Hamas.

"These are the principles that were clearly articulated now several times by the quartet and again with Russian participation and agreement," Welch said. "We would expect that any meeting that occurs with any Palestinian representative, including Hamas, would emphasize these principles."

Hamas leaders, now touring Arab countries to outline their political program and seek financial support for the nearly bankrupt Palestinian Authority, indicated that they would accept Putin's invitation.

The Palestinian Authority's president, Mahmoud Abbas, is expected to ask Hamas, known formally as the Islamic Resistance Movement, to form the next cabinet when the legislature convenes next week. The movement won 74 of 132 parliamentary seats, imperiling the Palestinian Authority's lifeblood of foreign aid because the United States, Israel and other nations consider Hamas a terrorist organization for carrying out scores of attacks targeting Israeli civilians.

Israel has urged foreign governments to isolate a Palestinian Authority that includes Hamas until the movement recognizes the Jewish state's right to exist. But Hamas leaders have said they have no intention of doing so and would only consider a long-term truce with Israel if it withdraws from all territory it occupied in the 1967 Middle East war.

The Bush administration and European diplomats have publicly endorsed the Israeli position, but Putin's invitation opens a schism in that once-unified front. The quartet is the sponsor of the now-dormant peace plan known as the "road map," which envisions a two-state solution to the Israeli-Palestinian conflict. Hamas does not support that outcome.

In another development, the Palestinian Authority's attorney general, Ahmed Moghani, confirmed that he has frozen more than two dozen bank accounts of former government officials who have been implicated in a widening corruption investigation that dates back nearly a decade. Although the inquiry mostly covers the period when Yasser Arafat ran the Palestinian Authority, the preliminary results have been disclosed in recent days for political reasons.

Moghani has announced that at least $700 million and perhaps far more has been stolen from the Palestinian Authority since 1997. So far he has arrested at least 25 officials of the Fatah movement -- founded by Arafat and now led by Abbas -- which lost its monopoly on power in the Jan. 25 parliamentary elections. The inquiry has found that front companies, construction-contract kickbacks, phantom payrolls and other methods were used to steal perhaps more than $1 billion from the Palestinian Authority, most of it donated by foreign governments.

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Abbas, commonly known as Abu Mazen, authorized the attorney general to announce the preliminary findings before Hamas, which campaigned on an anti-corruption platform, entered parliament. A technical team from the World Bank is also meeting with Palestinian officials to determine whether to release $300 million in emergency funds that the bank withheld from the Palestinian Authority last year after it failed to carry out specified reforms.

"I think by doing this Abu Mazen would like to improve the reputation of Fatah, which is now almost totally destroyed," said Bassem Eid, director of the Palestinian Human Rights Monitoring Group. "In addition, he doesn't want the coming government of Hamas to look into this. Then he would be in trouble."

Also on Thursday, masked gunmen kidnapped the Egyptian military attache in the Gaza Strip a few hundred yards from his office. None of the various Palestinian armed groups asserted responsibility for the abduction. Egypt has played an important role in Gaza, serving as a broker between the various parties whose rivalry has sharpened since the elections.

Earlier in the day, Israeli soldiers killed three Palestinian gunmen in two separate attacks on the Erez crossing into Israel in northern Gaza. Israeli military officials said the men were armed with rifles and hand grenades.

Staff writer Glenn Kessler in Washington contributed to this report.

Putin Invites Hamas To Talks (WT/REU)

By Adrian Croft

The Washington Times, February 10, 2006

MADRID -- Russian President Vladimir Putin yesterday invited Hamas leaders to Moscow, saying his country -- unlike most of the West -- does not consider the winner in the Palestinian elections a terrorist organization.

"Maintaining our contacts with Hamas, we are ready in the near future to invite the Hamas authorities to Moscow to hold talks," Mr. Putin told a press conference in the Spanish capital, Madrid, where he was on a visit.

Ismail Haniyeh, a senior Hamas official, said in Gaza that leaders of the group, whose charter calls for Israel's destruction, "would be delighted" to visit Russia if Mr. Putin tendered a formal invitation.

Hamas, which won a crushing victory over the long-dominant Fatah party in an election on Jan. 25, is considered a terrorist organization by Washington.

Mr. Putin disagreed yesterday.

"We haven't considered Hamas a terrorist organization. Today, we must recognize that Hamas has reached power in Palestine as a result of legitimate elections and we must respect the choice of the Palestinian people," he said.

An Israeli government source voiced surprise at Mr. Putin's comments, calling them a departure from a position taken by a Quartet of international negotiators on Middle East peace, to which Russia belongs along with the United States, European Union and the United Nations.

Israeli Foreign Ministry spokesman Mark Regev said in Jerusalem that no talks should be held with Hamas until it recognized the Jewish state's right to exist and "renounced terror."

State Department spokesman Sean McCormack said in Washington that the Bush administration has "contacted the Russian government about what their intentions are."

"If there are any contacts between the Russian government and Hamas, we would expect that they would send that very clear message, both in public and private, that is contained in the Quartet statement," he said.

At a meeting in London on Jan. 30, Quartet representatives said the Palestinians risked losing international aid if Hamas did not renounce violence and recognize Israel. Hamas has rejected the demand.

A State Department official said Russia had not revealed Mr. Putin's plan to invite Hamas leaders at the Quartet meeting.

Russia's Foreign Ministry said the talks with Hamas will build on the group's agreement last month and will send Hamas a clear signal that it must make "responsible decisions."

"It needs to be stressed that our dialogue with Hamas will run along with contacts which leading regional parties, including Egypt, already have with this organization," the ministry said.

Russia's special Middle East envoy, Alexander Kalugin, was quoted by Itar-Tass news agency as saying Russia hoped to bring Hamas "up to international requirements" and draw it into dialogue with Israel.

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In Gaza yesterday, Palestinian gunmen abducted an Egyptian military attache, the first kidnapping of a diplomat in the turbulent territory where militants hold sway.

The motive for the abduction of Egyptian diplomat Hussam el-Musli was not clear, and no one had taken responsibility.

Gaza has seen a rash of kidnappings since Israel's pullout in September, but foreigners seized by militants with grudges against the Palestinian Authority have been released quickly.

Death Penalty Asked For Beslan Raider, Reviving A Debate (NYT)

By Steven Lee Myers

The New York Times, February 10, 2006

MOSCOW, Feb. 9 — A senior prosecutor on Thursday asked a court in southern Russia to sentence to death the only attacker known to have survived the siege of Middle School No. 1 in Beslan in September 2004. The request rekindles a contentious debate in Russia over capital punishment.

The deputy prosecutor general, Nikolai I. Shepel, made the request as he summed up the case against the defendant, Nurpashi Kulayev, after an emotionally wrought trial. Mr. Shepel said the gravity of the terrorist siege, which ended with the deaths of 331 hostages, warranted a penalty of death, despite a government moratorium on executions that has been in place since 1996.

His appeal came only two days after President Vladimir V. Putin reiterated his personal opposition to the death penalty but said he would move cautiously in seeking its final abolition by the Parliament — years after Russia committed to doing so.

"The court's decision should have a sobering effect on those who want to go down the path of terrorism, so that they know their only future is an unmarked grave," Mr. Shepel said in his remarks, shown on television.

The bloody siege in Beslan by Chechen militants, along with other terrorist attacks, has prompted some officials here to call for the restoration of capital punishment, at least for crimes as serious as terrorism. But such a step would contradict not only Russia's international commitments but also a Constitutional Court ruling in 1999 that declared the death penalty unconstitutional as long as jury trials were not universal.

Since that ruling, jury trials have been established in most regions, but they are used inconsistently. Mr. Kulayev is being tried before a panel of judges, for example.

Mr. Kulayev had admitted taking part in the attack on Beslan, in which the attackers rounded up more than 1,000 hostages at the school. But he denied responsibility for any of the deaths, most of which occurred when the siege ended on the third day in a convulsion of explosions and gunfire.

His trial, which began last summer, has provoked anger and grief among survivors and relatives of the Beslan victims, who wanted the trial to address broader issues.

On Thursday, with the prosecution wrapping up its case against Mr. Kulayev, several relatives announced a hunger strike, protesting that the trial was neither objective nor thorough. "The true culprits have not been named," said one, Ella Kesayeva, according to Interfax.

A verdict could be announced within days.

Russia's moratorium on capital punishment stems from an agreement President Boris N. Yeltsin made in 1996 as a condition for joining the Council of Europe, an organization of 46 nations that oversees legal, political and human rights issues. Government executions have reportedly not been carried out since then, and in 1999, Mr. Yeltsin commuted the death sentences of 716 prisoners.

But Russia did not submit legislation erasing the death penalty from its criminal code by 1999, as it had promised, and it is the only member of the European group that still has the death penalty on the books.

In an interview with Spanish journalists on Tuesday, Mr. Putin said he would defer to Parliament on the issue, but spoke against capital punishment, as he had before. "Any punishment has several goals," he said. "They include correction and retribution. There is no correction in the case of the death penalty, only retribution."

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Even so, polls suggest that a majority of Russians favor the death penalty, as do some legislators, and that has stalled its abolition in Parliament. The Communist leader, Gennadi A. Zyuganov, said Thursday that the Beslan attack underscored the need for capital punishment.

Ella A. Pamfilova, Mr. Putin's human rights adviser, said government leaders needed to defy popular opinion on certain issues. "As for the death penalty," she told Interfax, "our society is already cruel enough."

Tensions Over Russia Set Tone At G-8 Meeting (WT)

By Michael Mainville

The Washington Times, February 10, 2006

MOSCOW -- A meeting of the Group of Eight finance ministers beginning today threatens to be overshadowed by tensions over President Vladimir Putin's record on democracy and Russia's reliability as an energy supplier.

The two-day session, attended by Treasury Secretary John W. Snow, is the first important meeting to be hosted by Russia in its role as this year's president of the powerful G-8 major industrial nations.

Energy security, education, efforts to fight infectious diseases and debt relief for poor countries are all on the agenda. But the tone has been set by Washington's public questioning of Russia's fitness to lead the group and Moscow's prickly response.

Despite its relatively small economy -- about the size of Portugal's -- Russia was added to the G-7 club of Britain, Canada, France, Germany, Italy, Japan and the United States in 1998.

But the West's relationship with Russia has become strained since Mr. Putin moved in recent years to concentrate more power in the Kremlin. And despite some cooperation on containing Iran's nuclear ambitions, Mr. Putin's foreign policy has often been at odds with the West, especially with Russian support for autocratic regimes in Belarus and Uzbekistan.

On Sunday, Sen. John McCain called on G-8 leaders to boycott the group's July summit in St. Petersburg, Russia, saying the country "is neither a democracy nor one of the world's leading economies." He accused the Kremlin of being "in pursuit of autocracy at home and abroad."

Concerns about Russia's commitment to G-8 principles peaked after gas supplies to Ukraine were cut off on Jan. 1 in a price dispute between Moscow and a former ally that has taken a pro-Western stance. The move disrupted gas supplies to Europe, which buys about half its natural gas from Russia.

Moscow insisted it was simply asking Ukraine to pay fair market prices. But senior U.S. officials told The Washington Times this week they believe Russia is using its control of Soviet-era pipelines to hold down purchase prices in Central Asia while skimming huge profits through corrupt middlemen.

Repeated calls seeking comment from the Russian Embassy in Washington yesterday were not returned.

Secretary of State Condoleezza Rice publicly criticized Russia's actions in the Ukraine gas dispute last month, saying there was a "distance between Russian behavior" and "what would be expected of a responsible member of the G-8."

At a subsequent press conference with French Foreign Minister Philippe Douste-Blazy, Russian Foreign Minister Sergei Lavrov complained that a reporter had asked Mr. Douste-Blazy "if [he] wanted to join the criticism of Russia, and did not ask me if I wanted to join the criticism of the United States."

"It hasn't been a very successful start" to Moscow's tenure as G-8 chairman, said Lilia Shevtsova, a political analyst with the Moscow Carnegie Center.

"The dispute with Ukraine created a lot of concerns over Russia's role as an energy superpower at the same time as this unfortunate new law on [nongovernmental organizations] was passed."

Also in January, Mr. Putin signed a law imposing strict curbs on NGOs -- one of the few areas of public life outside state dominance after a Kremlin drive to consolidate control over parliament and regional governments, the media and strategic business sectors.

The London-based Foreign Policy Center, a prominent British think tank with links to Prime Minister Tony Blair, released a report last week saying Russia's presidency of the G-8 was "a PR disaster."

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The center released what it called a "G-8 scorecard" -- assessing Russia according to 12 criteria tied to the G-8's founding declaration, including openness and freedom of speech, rule of law, and economic weight in the world. In no category did Russia score better than "sporadic compliance with G-8 norms" and in many instances it received the worst possible score.

"Russia's faltering chairmanship of the G-8 raises fundamental questions about whether Russia should be a member at all," the center's director, Stephen Twigg, said with the release of the report.

What! No Vodka? Pause In Production Has Russians Uneasy (WSJ)

By Guy Chazan

The Wall Street Journal, February 10, 2006

MOSCOW -- There was an eerie silence last week at ZAO Veda's vodka distillery, one of Russia's biggest. For the first time in its 10-year history, the plant stopped production. Bored workers kept busy by scrubbing down machinery with Ajax.

It was the same picture in towns and cities across Russia. The country's entire vodka industry ground to a halt, thanks to a Siberia-size bureaucratic snafu over a new tax on alcohol.

"This is unprecedented," said Yuri Lobanov, Veda's exasperated technical director, as he walked past empty conveyor belts. "We're losing a ton of money."

For the liquor industry, it has been a catastrophe. Rarely in its history has Russia stopped making vodka. Even during World War II, the Soviets churned out industrial quantities of the stuff.

So far, the disruption has had little effect on big cities like Moscow, where distributors, sensing trouble ahead, amassed huge stocks late last year. In remote regions, popular brands of vodka have vanished from store shelves.

"Our selection has shrunk, and we've had to raise prices," says Svetlana Matakayeva of the Alkon liquor store in Cherkessk, southern Russia. "Customers are beginning to complain."

In Moscow, drinkers shrug off the threat of shortages. "As long as they're still selling 95-proof antiseptic at the drugstore for 30 cents a bottle, we'll survive," says Mikhail Vasiliev, an accountant shopping for spirits at a Moscow supermarket.

Vodka is a national staple, as quintessentially Russian as caviar and the Bolshoi ballet. Each year, Russians knock back 9.1 liters of spirits a person, most of it vodka, according to beverage research company Canadean. Americans, in contrast, drink 4.9.

The crisis began with a law passed last year to tighten state control of the alcohol industry and make life harder for the thousands of producers of counterfeit vodka that by some estimates still account for a third of the Russian market.

The law introduced a new excise stamp, the sticker that goes on all strong alcoholic beverages in Russia to prove tax has been paid on it. Tax authorities were supposed to start handing them out to distilleries Jan. 1, but regulations setting out how the new system works weren't drafted in time.

Desperate efforts by the liquor lobby to delay implementation came to nothing. The new, high-security stickers were printed and stockpiled, but the distillers couldn't get at them. Without them, they couldn't sell their alcohol.

Wineries have been affected, too. "It's absolutely absurd," says Vladimir Yegorov, deputy chief executive of a champagne factory in Nizhny Novgorod that also has been forced to stop work. "They've managed to shut down an entire sector, and it's not because of a power blackout or force majeure, but incompetent bureaucrats."

Mr. Yegorov's company has taken the unprecedented step of suing the government for "illegal conduct." He admits its chances of victory are slim. "It's more of a cry of desperation really," he says.

Though the law was part of a crackdown on fake vodka, it is the illegal producers who have benefited most from the crisis. Bootleg vodka with fake stamps now is filling the void left by legal distillers. That could spell trouble for Russia's public health system: According to official statistics, around 40,000 people die in Russia every year from poor-quality counterfeit vodka.

Russia's finance ministry, which has borne the brunt of the liquor barons' anger, says it isn't to blame. It says the original law was so badly written it needed major changes that weren't passed until December. Officials couldn't draft their instructions before then.

"For more than a week now, federal excise stamps have been given out to anyone who wants them," the ministry said in a statement late last month.

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That is no consolation to importers. The new stamps for imported liquor haven't even been printed yet. That has led to massive disruptions in shipments of whiskey, rum and cognac to Russia -- one of the world's fastest-growing markets for premium spirits.

"The importers are out of business," says Alexander Romanov of the Alcoholic Beverages Committee of the Association of European Business. "There will definitely be a period of shortage."

Vodka -- which means "little water" in Russian -- has been part of the national fabric since it was invented here in the 14th century. Served straight and chilled, it is an essential attribute of any meal. Soviet soldiers were given shots to drink before they went into combat in World War II. Russian men often swig it at breakfast.

Soviet leader Mikhail Gorbachev earned the wrath of millions in the mid-1980s with his antialcohol drive, when liquor production and sales were drastically curbed. Industrial output rose, divorce rates fell and there were fewer accidents. Hardened alcoholics simply switched to toxic surrogates like bug spray and eau de Cologne.

The antibooze drive was finally ditched in the late 1980s, and as market reforms spawned new private-sector distilleries, the trickle of vodka became a torrent. Liquor production has nearly doubled in the past 10 years, to 1.32 billion liters last year from 706 million in 1996.

The current stoppage has been a disaster for the sector. Even huge state-owned giants like Kristall, Russia's biggest distillery, still are shuttered. Industry officials say Russia's treasury sacrificed $70 million in unpaid excise tax while producers sustained losses of $35 million. Exports have been largely unaffected: Russia's leading export brand, Stolichnaya, is bottled in neighboring Latvia.

Veda's distillery stood idle for four weeks as managers scrambled to get the new stamps. The plant lies in Kingisepp, a town of 54,000 a short drive from the Estonian border that is full of dreary Khrushchev-era apartment blocks and men playing at outdoor Internet casinos. Veda, Russia's second biggest vodka producer, set up the plant in 1996 in an old state-owned bakery, and it now is one of the town's biggest employers.

All of last month, the company produced nothing but still had to pay salaries and rent, as well as heating and lighting bills. It says it posted a loss of $2.5 million in the shutdown. "We're not oil men," says Zhanna Bulavchik, the company's commercial director, in her St. Petersburg office. "We can't sustain those kind of losses."

Veda got its new stamps and restarted production last Saturday. But ambitious plans to increase output 35% this year from 75 million liters in 2005 are in disarray.

Meanwhile, about half of Russia's distilleries still aren't working. "I've been in the business nine years and I've never seen anything like it," Ms. Bulavchik says.

U.S. To Shift Envoys To China, India (WP)

By Bradley Graham And Glenn Kessler

The Washington Post, February 10, 2006

Russia, Germany to Lose Diplomatic Posts in Early Restructuring

China and India have emerged as the big winners -- and Russia and Germany as the top losers -- in the first round of a broad restructuring of U.S. diplomatic posts ordered by Secretary of State Condoleezza Rice.

Rice announced plans last month to shift hundreds of Foreign Service positions from Europe and other developed countries to more challenging assignments in Asia, the Middle East and elsewhere as part of an increased U.S. focus on battling terrorism and bolstering security in threatened regions. But the secretary and her aides released few details at the time.

Two State Department lists obtained by The Washington Post this week -- one showing which diplomatic positions will be eliminated, the other specifying which embassies and consulates are due to expand -- provide a clearer picture of the impact of the moves.

Of 61 positions slated for elimination in the initial batch, 10 will fall in Russia and seven in Germany. U.S. embassies in several other countries -- Belgium, Poland, Italy, Spain, Ukraine, Japan and Brazil -- will lose two or three posts. All told, 38 of the cuts will come in European nations.

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On the plus side, of 74 new U.S. diplomatic positions, China will get 15, including a dozen at the U.S. Embassy in Beijing. India ranks second with 12 new posts, seven of them in New Delhi. And Indonesia is third with five new slots in Jakarta. Other countries that are to receive at least three more U.S. diplomatic slots include Nigeria, Israel, Lebanon, Vietnam, Tajikistan, Bolivia, Ecuador, Venezuela and Nicaragua.

The lists of closures and add-ons constitute just the beginning of a major rearrangement that State Department officials say will affect a substantial portion of the 6,400 Foreign Service positions. A senior State Department official involved in the planning said the first round grew out of assessments by regional bureaus of jobs they could "safely give up" and of "places where there was a crying, urgent need to have additional representation."

"This is a down payment for a shift that will probably take place over several years," the official said.

Rice has portrayed the restructuring as an essential feature of her larger "transformational diplomacy" campaign, which envisions a more active role for U.S. diplomats in fostering the growth of democratic states worldwide. Although the shifting of posts has been welcomed generally by the American Foreign Service Association representing U.S. diplomats, the potential scale of the change has unsettled some State Department employees.

"We're waiting to see just how far the secretary plans to go with this," said one Foreign Service officer who has discussed the plan with senior department officials.

One particular concern, the officer said, involves future levels of security and support for the expanded embassies and consulates. The new jobs listed so far have been confined to political, economic and public diplomacy positions. No mention has been made of additional security personnel to enhance protection, office management specialists to handle heavier administrative loads or technology experts to deal with computer problems and other technical issues.

Asked about this aspect, the senior State Department official said parallel plans are being drawn to provide extra support staff.

Some of the overseas posts on the initial cut list had been due to receive fresh replacement officers, who already had begun foreign language training or taken other steps to prepare for the positions. State Department officials say that fewer than 30 such "broken handshake" cases exist and that the affected officers are being helped to secure alternate assignments.

To find volunteers for the newly created positions, the State Department issued a memo last month advising Foreign Service personnel not to wait for the formal bidding process normally used to decide assignments. Instead, willing officers were encouraged to make their interest known to the relevant regional bureaus.

"Bureaus will be authorized to extend handshakes even before the positions appear" on the bid list, the memo said.

Dane Sees Greed And Politics In The Crisis (NYT)

By John Vinocur And Dan Bilefsky

The New York Times, February 10, 2006

COPENHAGEN, Feb. 9 — Prime Minister Anders Fogh Rasmussen said Thursday that attempts by European companies in the Middle East to disassociate themselves from Denmark or Danish products were "disgraceful."

At the same time, Mr. Rasmussen tried to shield the Bush administration and some of Denmark's partners in NATO from accusations that they had been tardy and overcautious in coming to Denmark's defense in the crisis, which he attributed more to attempts by Iran and Syria to cause diversions in the Middle East than to a few satirical cartoons depicting the Prophet Muhammad in a Danish newspaper.

Looking tired after what he acknowledged had been a difficult week, Mr. Rasmussen said in an interview that attempts to gain commercial advantage at Denmark's expense had struck at the hearts of all Danes.

Mr. Rasmussen did not refer to a particular business organization or country. But his response came in reply to a question referring to attempts in the Arab world by companies associated with Nestlé, the Swiss food giant, and Carrefour, the French retailer, to distance themselves from Denmark. Danish industry estimates it has lost more than $55 million in sales in the Middle East since the furor began a week ago.

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But the prime minister declined to criticize the Bush administration about its cautious defense of an ally. President Bush referred to his solidarity with Denmark for the first time on Wednesday, after five days of rioting in the Middle East against Danish interests.

"I have never doubted that Bush would stand up for Denmark," Mr. Rasmussen said. "He values faithfulness and loyalty. I was not surprised he decided to call me and express support."

Mr. Rasmussen reiterated that there would be no Danish apology for the cartoons. He brushed aside any suggestion that Denmark's policies requiring immigrants to accommodate themselves to Danish tradition were at fault, and asserted, "We are on the right track." More broadly, he said, "I see a very clear tendency that other European countries will go in our direction."

In light of statements here that Denmark had been abandoned in the early phase of the crisis, Mr. Rasmussen was asked if Parliament would maintain troops in Iraq and Afghanistan if it were asked to vote on the issue now. "The situation would be the same; we haven't changed," he said.

Mr. Rasmussen argued that the cartoon crisis had been hijacked by Middle Eastern interests using the caricatures for domestic ends.

He said Iran, isolated over its nuclear program, was using the cartoons to generate support in the Muslim world, while Syria, under investigation for the assassination of the former Lebanese prime minister, Rafik Hariri, was trying to cause a distraction. The Palestinian Authority, divided over the recent election of Hamas, was exploiting the cartoon crisis to unite its disparate elements, he said.

"We have religious extremists who exploit the situation and fuel the flames to pursue their own agenda," he said. "Religious extremists aim at destabilizing the situation in the whole region."

The issue will be discussed this week at a meeting of NATO defense ministers in Sicily, he said.

Mr. Rasmussen said he believed that Islam was compatible with democracy but argued that it was incumbent on Muslim immigrants in Denmark and Europe in general to embrace the liberal values of their adopted countries.

"Denmark is a liberal country," he said. "We do believe in individual liberty and freedom. People can live according to their own customs. However, I think we have to insist on respecting our core values, including freedom of expression, gender equality for women and men, and a clear distinction between politics and religion."

Mr. Rasmussen said the perception of Denmark in the Muslim world had been distorted by falsehoods spread by cellphone and Internet messages across the Middle East.

In particular, he said the government was re-evaluating relations with local Muslim leaders who traveled to the Middle East in December, stoking tensions by showing the cartoons to religious leaders.

Asked if he would have done anything differently in retrospect, Mr. Rasmussen said he had no regrets. "I don't think we could have done something in another way," he said. "We are witnessing events with deep sadness and disbelief. We are not used to it in Denmark."

Danish Premier Faults Iran, Syria (WP)

By Kevin Sullivan

The Washington Post, February 10, 2006

Governments Using Cartoon Controversy as 'Distraction' From Their Own Crises, He Says

COPENHAGEN, Feb. 9 -- Prime Minister Anders Fogh Rasmussen of Denmark said Thursday that the governments of Iran and Syria had intentionally inflamed Muslim protests against a Danish newspaper's publication of cartoons depicting the prophet Muhammad to distract attention from their own diplomatic crises.

"Syria and Iran have taken advantage of the situation because both countries are under international pressure," Rasmussen said in an interview that echoed statements Wednesday by Secretary of State Condoleezza Rice. Rasmussen also said he would "not exclude the possibility" that Syria had also been involved in violent protests in Beirut, the Lebanese capital.

"I think they have taken this opportunity to use this case and a small country like Denmark as a distraction," Rasmussen said. He alleged that Iran was trying to divert attention from international pressure over its nuclear program and Syria from allegations that it was behind the assassination of former Lebanese prime minister Rafiq Hariri.

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"It is obvious that these events have now gone beyond the cartoons," he said, responding to a question about Rice's statements. "We are now facing an international crisis which has its roots in tensions in the Muslim world."

Rasmussen said he held "the two governments responsible" for mobs that attacked and burned Danish embassies in Tehran and Damascus. He said Denmark had lodged formal protests with the two governments and was considering further "diplomatic steps," which he declined to specify.

Rasmussen, a right-of-center former economic affairs minister who was elected in November 2001, said he has watched the events of the past week in "disbelief and sadness." Protesters in countries in the Middle East and Asia have burned Danish flags, attacked Danish embassies and called for Danes to be beheaded and massacred for cartoons seen in the Muslim world as a grave insult to the most revered figure in Islam.

"We are seeing ourselves portrayed as an intolerant nation, as a nation hostile to Islam," Rasmussen said in his spacious corner office at the parliamentary palace. "And it's a false picture. I think it's fair to say that Denmark is one of the most open and tolerant countries in the world. We have a real freedom of religion and we do respect all religions."

Rasmussen, who received a phone call of support from President Bush on Tuesday, said he was pleased with Bush's recent statements condemning violence against Danish diplomatic missions.

"We consider ourselves a faithful and loyal ally of the United States and we appreciate very much to see this reciprocated in the support from the United States," Rasmussen said.

The Bush administration's statements on the situation have shifted. Initially, the administration condemned the cartoons as offensive, but now Bush and other officials are stressing their opposition to the widespread violence. Rasmussen said the administration's initial stance on the cartoons "caused some public debate in Denmark, whether it could be considered a support or not. . . . We do realize that this is also a balance for the United States."

Muslims have staged violent demonstrations against Denmark in Iraq and Afghanistan, where several people have died in protests. But Rasmussen said Denmark had no plans to withdraw or reduce its 530 troops in Iraq or 390 troops in Afghanistan because of that violence.

Throughout the crisis, Rasmussen has publicly said he was sorry that the cartoons had offended Muslims. But he has steadfastly refused to apologize for their publication, because, he said in the interview, "neither the government nor the Danish people can be held responsible for what is published in an independent newspaper."

During the growing global debate about freedom of expression -- and whether the Jyllands-Posten newspaper was wrong to publish the dozen cartoons -- Rasmussen has emerged as its unapologetic champion. "I think freedom of expression is the safeguard of all other freedoms," he said. "I consider freedom of expression the most important freedom of all."

Rasmussen said he supported free speech even when it was directed harshly at him. As Muslim anger has been channeled through the Internet, he has been the subject of unflattering cartoons and altered photos.

"I don't feel offended -- that's part of the game," Rasmussen said, laughing. "As a politician, I am used to caricatures. I think it's a question of culture and tradition and maybe one of the reasons why most Danes don't understand why cartoons can cause all this."

Rasmussen said he would not support an idea, suggested by a top official of the European Union this week, that the E.U. consider adopting a voluntary code of conduct for the press.

But Rasmussen said he did believe the government had a responsibility to limit some expression -- that which would incite violence or terrorism. Following his election, two months after the Sept. 11 attacks on New York and the Pentagon, one of his government's first acts was to pass an anti-terrorism law that prohibits instigating terrorism or offering advice to terrorists. That law was widely seen as one of Europe's toughest responses in a post-Sept. 11 debate over how far to restrict civil liberties in the name of fighting extremist violence.

"If the freedom of expression is oppressed or suppressed because of violence or the threat of violence, then freedom of expression is dead," he said. "Therefore, you must have certain limitations. It must be prohibited to incite violence or terrorism."

Many countries in Europe have laws banning racist hate speech that stem from their experiences with Nazi Germany and the Holocaust.

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Rasmussen said Denmark has laws outlawing racist or blasphemous expressions. A group of 11 Muslim organizations used that law to sue the Jyllands-Posten newspaper after the cartoons were published in late September, but last month the prosecutor declined to go forward with the case, saying the cartoons did not violate those laws. The Muslim groups have appealed to Denmark's top prosecutor.

Freedom Of Speech Carries Responsibility, Annan Says (LAT)

By Maggie Farley, Times Staff Writer

The Los Angeles Times, February 10, 2006

His words are directed at publishers of cartoons of Islam's prophet that have sparked protests.

UNITED NATIONS — Secretary-General Kofi Annan chastised newspapers Thursday that continue to publish cartoons depicting the prophet Muhammad in the face of the religious controversy the drawings have ignited.

"Honestly, I do not understand why any newspaper will publish the cartoons today," he told reporters at the United Nations. "It is insensitive, it is offensive, it is provocative, and they should see what has happened around the world.

"This does not mean that I am against freedom of speech, or freedom of the press," he added. "But as I have indicated in the past, freedom of speech is not a license. It does entail exercising responsibility and judgment."

Caricatures of Muhammad first appeared in the Danish right-leaning newspaper Jyllands-Posten last fall and have been reprinted in recent weeks elsewhere in Europe. Their appearance has triggered often-violent protests among Muslims.

The protests continued Thursday, with about 2,000 Muslims rallying in Dhaka, the capital of Bangladesh, Associated Press reported. Elsewhere, Malaysia's government indefinitely shut down a local newspaper for reprinting a cartoon of Muhammad, and Indonesia canceled badminton games against Denmark because of safety concerns, the news service reported.

When asked about claims this week by U.S. Secretary of State Condoleezza Rice that Syria and Iran had inflamed the controversy and incited protests, Annan told reporters that he had "no evidence to that effect."

He also condemned the violent response by demonstrators.

"They should not attack innocent civilians," he said. "They should not attack people who are not responsible for the publication of the cartoons."

At the United Nations, a group of Islamic nations Thursday introduced anti-defamation language into a founding document for a new U.N. Human Rights Council, which is being formed to replace the widely criticized U.N. Human Rights Commission based in Geneva.

The proposed text would "prevent instances of intolerance, discrimination, incitement of hatred and violence arising from any actions against religions, prophets and beliefs which threaten the enjoyment of human rights and fundamental freedoms."

The text also says that "defamation of religions and prophets is inconsistent with the right to freedom of expression" and urges states, organizations and the media to exercise "responsibility in promoting tolerance and respect for religious and cultural values."

Hamas Joins Call For Calm In Cartoon Row (AFP-Y2)

AFP, February 10, 2006

The radical Palestinian group Hamas joined voices for calm in the international furore sparked by cartoons of the Prophet Mohammed, as a Taliban commander in Afghanistan said 100 suicide bombers had volunteered.

Hamas "is prepared to play a role in calming the situation between the Islamic world and Western countries on condition that these countries commit themselves to putting an end to attacks against the feelings of Muslims," the organisation's leader Khaled Meshaal told a news conference.

His conciliatory tone came a day after he warned the Western press was "playing with fire" by publishing the cartoons which have led to riots around the world.

As Muslim protests over the cartoons subsided on Thursday, a Taliban commander in Afghanistan warned that 100 militants had enlisted as suicide bombers and Denmark said it feared for the safety of its troops in Iraq.

Mullah Dadullah, one of the Taliban's most senior military commanders, said his Islamic extremist group had also offered a reward of 100 kilograms (220 pounds) of gold to anyone who killed people responsible for the drawings.

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Meanwhile Afghan authorities arrested more than 40 Pakistani workers for inciting violence Wednesday during a protest against the cartoons in which four people were killed.

The deaths in Qalat raised the death toll to 11 in five days of protests in Afghanistan against the cartoons. Two people have also died in protests in Somalia and Lebanon.

The cartoons, including one showing the Prophet Mohammed with a bomb in his turban, were first published in the Danish daily Jyllands-Posten in September, but have since been widely reprinted.

The newspaper's chief editor, Carsten Juste, said Thursday the culture editor who had decided to publish the cartoons, Flemming Rose, had been sent on holiday for an indefinite period "because nobody can bear the weight that is on his shoulders," according to the online edition of the Danish daily Politiken.

Danish military officials said the country's troops deployed in Iraq were keeping a low profile Thursday to avoid any clashes with Shiites during their holy mourning festival of Ashura.

Calls for calm came from many quarters Thursday after days of violent protests.

A senior figure at Al-Azhar, the highest authority in Sunni Islam, said it was time to move on from high emotion to constructive dialogue.

"Quiet debate and dialogue, without passion" is the way forward, Ali al-Samman, who heads an interconfessional dialogue committee at the prestigious seat of learning in the Egyptian capital, said.

UN chief Kofi Annan again slammed the violence. "It is unfortunate that we all need to take steps to calm the situation and whatever the anger of those concerned, violence is not the answer," the secretary general told reporters.

Annan, asked whether he thought some governments were behind the violence, replied: "It's difficult for me to say. I have no evidence to that effect."

Russian President Vladimir Putin also called for cool: "The situation should be brought under control as soon as possible."

In Brussels, European Union justice commissioner Franco Frattini called for an urgent "relaunch of dialogue" with the Islamic world in response to the wave of protests.

Nearly 3,000 Danes by Thursday afternoon had signed an open letter calling for "peace with the Muslim world".

In Paris, close to 100 Arab and European academics, political and religious figures also issued a joint appeal for "moderation and wisdom" in the row.

However in Lebanon, the head of the country's Shiite movement Hezbollah insisted on an apology for the cartoons, as hundreds of thousands of Shiites gathered in southern Beirut to mark the Ashura festival.

"There will be no compromise before we receive an apology," Hassan Nasrallah told the crowds at the Shiite gathering.

Up to 15,000 South African Muslims also took to the streets in Cape Town, and handed over a petition to the Danish consulate.

The protestors sang Arabic songs and carried banners stating "Cartooning our prophet will earn you no profit" and "We will sacrifice our lives for our prophet."

The United States warned of potential violence during protests planned this week in Kenya's capital.

Kenyan Muslims have called for demonstrations, including a possible march on the Danish embassy in Nairobi.

The White House, meanwhile, insisted US President George W. Bush would go ahead with his planned trip to Pakistan in March despite widespread outrage over the cartoons there. Protesters burned his effigy Wednesday.

Egyptian writer and Nobel literature prize laureate Naguib Mahfouz said a boycott of Danish products was "the only option" for Muslims to retaliate.

"The world only understands the language of force," he told the English-language Al-Ahram Weekly.

Liberal Dutch politician Ayaan Hirsi Ali said the European press had been right to publish contentious cartoons of the Prophet Mohammed.

Ali, a close friend of Dutch filmmaker Theo van Gogh, who was killed by a Muslim extremist in 2004, said media who "lacked the courage to show their readers the caricatures" should be ashamed.

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Somali-born Ali, who describes herself as "a dissident of Islam", told journalists in Berlin: "I am of the opinion that it was correct to publish the cartoons of Mohammed in Jyllands Posten and it was right to re-publish them in other papers across Europe.

"Shame on those politicians who stated that publishing and re-publishing the drawings was 'unnecessary', 'insensitive', 'disrespectful' and 'wrong'," she added, echoing the words of British Foreign Secretary Jack Straw.

Ali said it was wrong to expect people from other cultures to abide by the Muslim ban on depicting their prophet.

"Demanding that people who do not accept Mohammed's teachings should refrain from drawing him is not a request for respect but a demand for submission."

She listed numerous teachings of Mohammed which she rejected and said she believed there was a need to be critical of him to educate people.

"The prophet did and said good things. But I wish to defend the position that he was also disrespectful and insensitive to those who disagreed with him.

"I think it is right to make critical drawings and films of Mohammed."

Pope Meets Laura Bush, Says Worried About Terror (REU-Y2)

By Steve Holland

Reuters, February 10, 2006

Pope Benedict received U.S. First Lady Laura Bush on Thursday and told her that he was worried about terrorism around the world and violence sparked by the publication of cartoons of the Prophet Mohammad.

"He talked to me about the worries of terrorism, the worries right now about the violence in Beirut, Damascus and other cities," she told reporters after the meeting the Pope.

"His hope and certainly our hope (is) for peace and tolerance for each of us, to treat everyone else with respect," she said.

Angry Muslims have demonstrated around the world over the cartoons, first published in Denmark, then Norway and several other countries in Europe and elsewhere.

The caricatures, including one showing the Prophet Mohammad wearing a bomb-shaped turban, have unleashed fury among many Muslims who consider any portrayal of their prophet as blasphemous, let alone one showing him as a terrorist.

The Vatican has already condemned the cartoons.

"I know that Muslims are offended with these cartoons. I understand their offence (but) on the other hand I don't think violence is the answer. I think everyone around the world needs to speak out and say 'lets stop the violence,'" she said.

The Pope told Mrs Bush that he hoped her stay in Italy for the start of the winter Olympics would be peaceful.

"We hope you will have a peaceful time," the Pope told Mrs Bush and her daughter Barbara when he welcomed them into his private study in the Vatican's Apostolic Palace.

Mrs Bush and Barbara, 24, are in Italy as head of the official U.S. delegation to the Turin games, which start on Friday.

The First Lady, Barbara and Francis Rooney, the U.S. ambassador to the Vatican, spoke privately for about 15 minutes in the Pope's study.

At the picture taking session afterwards Mrs Bush gave the Pope a silver bowl and he gave his visitors rosary beads and medals of his pontificate.

Mrs Bush is due to have lunch with Italian Prime Minister Silvio Berlusconi and visit a Rome hospital before heading to Turin for the start of the games.

She will also visit U.S. military personnel stationed at the Aviano air base in the north before returning to the United States.

First Lady Discusses Terrorism With Pope (AP)

By Nicole Winfield

AP, February 10, 2006

Laura Bush said Pope Benedict XVI expressed concern over violence linked to the prophet drawings in their meeting Thursday, with the pontiff calling for peace and tolerance.

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"He talked to me about the worries of terrorism, the worries right now of the violence in Beirut and Damascus and other cities," Mrs. Bush said after the 20-minute audience in the pope's private library.

The pontiff, she said, also expressed his hope "and certainly our hope, for peace and for tolerance, for each of us to treat everyone else with respect."

Benedict also wished Mrs. Bush "a peaceful time" in Turin, where she is heading the official U.S. delegation to the Olympics.

"We're looking forward to the games," Mrs. Bush told the pope as she arrived for the meeting along with her daughter Barbara and the U.S. ambassador to the Holy See, Francis Rooney.

Mrs. Bush told reporters after the meeting that she understood the offense Muslims around the world feel about the publication in European newspapers of the caricatures of the Prophet Muhammad.

"On the other hand, I don't think violence is the answer. I think that everyone around the world needs to speak out and say 'Let's stop the violence.' It's really not necessary to get the point across that they were offended by those cartoons."

She said she and the pope discussed the violence briefly, although spoke at greater length about religion and the separation of church and state in the United States.

During the audience, Mrs. Bush gave Benedict a small silver bowl engraved with the U.S. presidential seal and the signatures of the president and first lady; the pope in turn gave the first lady and Barbara rosaries and Rooney a Vatican medal.

As she left, the first lady told the pope that the president "sends his best wishes." She said she would also relay the pope's good wishes back to him.

She wore a black suit and black lace mantilla, or head covering; Barbara, 24, wore a black skirt and top and high-heeled black boots.

The audience kicked off a visit that will take Mrs. Bush to Turin, where she is heading a U.S. Olympic delegation that includes former Olympians Dorothy Hamill, Kerri Strug, Eric Heiden, Debi Thomas and Herschel Walker. The games begin Friday and last through Feb. 26.

After the meeting at the Vatican, Mrs. Bush lunched with Italian Premier Silvio Berlusconi and visited a Rome hospital where she participated in a panel discussion on breast cancer. The event was organized by the Italian chapter of the Susan G. Komen Breast Cancer Foundation, founded by a friend of the first lady.

"Early detection is the only cure," Mrs. Bush told the crowd.

Swifter, Higher, Stronger, Safer? (WP)

By Daniel Williams

The Washington Post, February 10, 2006

TURIN, Italy, Feb. 9 -- The worldwide Muslim protests against caricatures of Muhammad that appeared in a Danish newspaper last year have compounded Italy's security headaches for the Winter Olympics, which already suffer from possible disruption by local anti-globalization groups, opponents of a high-speed railway line and striking tram drivers.

Signs of concern are all over this town near Italy's northwest frontier. About 10,000 police from all over the country are patrolling boulevards and back alleys. Bomb-sniffing dogs stand guard at the airport, train station, stadiums and street corners. About 300 specially trained troops will patrol the nearby mountain sites on snowmobiles and skis. Airspace over Turin will be closed to anything with mechanical wings except for F-16s from the Italian air force that will zoom about during Friday's Opening Ceremonies and two surveillance planes supplied by NATO that will monitor wayward flights.

Missiles have been mounted around the city.

All that was in the works before the Muhammad cartoon unrest overwhelmed the local news. Because of the uproar, Interior Minister Giuseppe Pisanu, Italy's top official for civilian police and the intelligence corps, called an emergency meeting of security officials Monday regarding possible new threats. Pisanu said the riots and protests in the Middle East, Central Asia and Far East countries have been "carried out coldly with political ends. We mustn't forget that Islamic extremism is an essentially political movement that cynically uses religious values."

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At least two Italian newspapers reprinted the Muhammad caricatures that included one showing the prophet of Islam wearing a turban shaped like a bomb.

Nonetheless, Pisanu said, homegrown violence is the most likely problem for the Olympics. "For the Olympics I fear the rising aggressiveness of anti-globalization protesters, anarchists and all the domestic subversion movements that are pursuing the Olympic spotlight. Unfortunately, these people have already done very serious damage to the image of our country," Pisanu said.

He was referring to the bumpy ride of the Olympic flame to Turin. Protesters blocked its passage in several Italian cities. In Genoa a few weeks ago, it had to travel by sea to arrive in town. The group of demonstrators include residents of towns near Turin who oppose construction of a railway tunnel through the Alps as part of a cross-European, high-speed train network. Assorted masked anti-globalization militants are protesting corporate sponsorship of the Olympics.

On a clear, sunny Thursday, the flame arrived in Turin and guest runners carried it along streets lined with cheering people. But the flame had to compete with unemployed laborers who held up self-described "fake torches" to protest layoffs at the local Fiat auto plant. Police surrounded anti-globalization demonstrators who tried to approach the route. Plenty of gesticulating broke out, but no violence.

More protests are planned for Friday, when the flame will once again navigate Turin.

On Tuesday, the country's president, Carlo Azeglio Ciampi, urged Italians to show a "sense of responsibility" and keep the Olympics incident-free. "For two weeks, Turin will be the capital of Italy," he said. "I am confident that everyone will work together for the Olympics."

Italian politicians took the message as an opportunity to point fingers at each other for trouble that had yet to break out. Italy is in the middle of heated campaigns for parliamentary elections scheduled for April. Pier Ferdinando Casini, who is a leader in Prime Minister Silvio Berlusconi's government, said it was up to the opposition, some of whom back the groups opposing the high-speed rail network, to head off any trouble. He called the opposition "irresponsible."

Romano Prodi, who is running against Berlusconi for prime minister, countered that he did not endorse disruption, but understood that the government "had done little" to resolve the problems of the tunnel with local residents.

Italian officials have long predicted that, with elections on the horizon, Italy would be the focus of a terrorist attack. Berlusconi supported the U.S.-led occupation of Iraq by dispatching about 3,000 soldiers to the southern Iraqi town of Nasiriyah. The Italians have begun a withdrawal, but it will not be complete until later this year.

In recent months, Italian authorities have deported about 30 Islamic militants they said were inciting violence, including an imam preaching in Turin. The Italians rely on wiretapping to keep tabs on terrorist suspects and their supporters. Officials say they have 2,000 people under close watch.

Turin is not the only possible target. Italy has several crowded tourist sites and Italy has intensified security at hundreds of them at a cost of more than $100 million.

Italy has significant experience in dealing with high-profile events. Officials cite the trouble-free funeral of Pope John Paul II last year as a prime example. On the other hand, violence broke out at a summit of the Group of Eight industrialized nations held in Genoa in 2001, which was marred by mob violence and vicious police counterattacks.

Pisanu described the Islamic threat as less to do with al Qaeda than with independent North African origin "Islamic-European" militant groups.

The security nerve center in Turin is called the National Center for Olympic Information. Spread around the city and Olympic sites are 21 operation rooms all linked together by sophisticated communications. Officials at the center said that athletes from any country involved in the wars in Iraq and Afghanistan are at risk. In all, there are 2,500 athletes in Turin scheduled to perform in front of a million spectators during the Games, which end Feb. 26.

Ciampi made a broader appeal on Thursday, calling for a worldwide "Olympic truce" during which no one would make war on anyone else, but instead "brotherhood prevails in the world."

The Ayatollah Joke Book (WP)

By Michael Kinsley

DOJ_NMG_0013968

The Washington Post, February 10, 2006

Ayatollah Ali Khamenei, the noted wit, expert on freedom and unelected religious leader -- the leader who counts -- of Iran, observed the other day that in the West, "casting doubt or negating the genocide of the Jews is banned but insulting the beliefs of 1.5 billion Muslims is allowed." He apparently thought that this was a devastating point. Touche, Ayatollah Khamenei.

The worldwide fuss over 12 cartoon images of the prophet Muhammad (some mocking, some benign) that ran in a Danish newspaper has already killed a number of people. Many self-styled voices of Islam have made the bizarre comparison between showing pictures of Muhammad and expressing doubt about the Holocaust. A government-controlled Tehran newspaper announced a contest for cartoons about the Holocaust, asking "whether freedom of expression" applies to "the crimes committed by the United States and Israel." In a spirit of "see how you like it," a European Muslim group posted on the Web a cartoon of Anne Frank in bed with Hitler.

Muslim complaints about a Western double standard would be more telling if the factual premise were accurate. But it is not. In fact, it is nearly the opposite of the truth. Nothing is easier and more common in the West, including the United States, than criticizing the United States -- except for criticizing Israel. A few Western countries have stupid laws, erratically enforced, against denying the Holocaust, but that hasn't stopped Holocaust denial from becoming a literary industry and cultural phenomenon. Nevertheless, there has been no rioting about the historical reality of the Holocaust. No one has died over it.

Meanwhile, whatever point these European Muslims were making with their cartoon of Hitler and Anne Frank is more or less disproved by their very exercise. No one tried to stop them from putting the cartoon on the Web. The notion that jokes about Frank are beyond the pale is provably false. There's a play running in New York right now called "25 Questions for a Jewish Mother." It's a monologue written and acted by stand-up comic Judy Gold, who says on stage every night that her mother used to read to her from a pop-up version of Anne Frank's diary, and would say, "Pull the tab, Judith. Alive. Pull it again. Dead." Maybe you had to be there. But the New York Times reviewer called the play "fiercely funny, honest and moving" and did not demand that the author be executed or even admonished.

By contrast, in a spectacular exercise of self-censorship, almost every major newspaper in this country is refraining from publishing the controversial Danish cartoons, even though they are at the center of a major news story that these papers cover at length every day. An editorial in the Times on Wednesday said that not publishing the cartoons was "a reasonable choice" because they would offend many people and "are so easy to describe in words." As I write I am looking at a front-page photo in today's Times of Mariah Carey singing into a microphone. Words do it justice, I think.

Of course it is not Western values that are trampling freedom of expression, it is the ayatollah's own values, combined with the threat of violence. The other problem with his little joke about double standards, and with the whole, supposedly mordant, comparison between denying the Holocaust and portraying the prophet is that the offended Muslims do not want a world where people are free to do both. They don't even want a world where people are not free to do either, which would at least be consistent. They want a world where you may not portray Muhammad (even flatteringly, slaying infidels or whatnot), but you may deny the Holocaust all day long.

The bewildered prime minister of Denmark, trying to calm the whirlwind that has descended on his innocent, unsuspecting country, gets it spectacularly wrong when he reassures disgruntled Muslims that Denmark supports "freedom of religion" and is "one of the world's most tolerant and open societies." Tolerance, openness and freedom of religion are not what they have in mind.

A lively debate is going on about whether Islam really does forbid any portrayal of the prophet, however benign, or whether that is a recent innovation of some subset of the faithful with possible ulterior motives. This debate misses the point. Some Christians believe they are required to wear particular sorts of clothing. Some Jews and Muslims don't eat pork. They don't claim that their religion requires other people to wear special clothing or avoid eating pork. Tolerance and ecumenism can do only so much. They have nothing to offer a Muslim in Afghanistan who is personally insulted and enraged about an image that appears in a newspaper in Denmark.

The shameful American position on all this is boilerplate endorsement of free expression combined with denunciation of the cartoons as an "unacceptable" insult. When three protesters died this week in a confrontation at a U.S. military base in Afghanistan, an American spokesman there said that Afghans "should judge us on what we're doing here, not on what some

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cartoonist is doing somewhere else." But the limits of free expression cannot be set by the sensitivities of people who don't believe in it. How can President Bush continue to ask young Americans to sacrifice their lives for freedom in the Muslim world, if he won't even defend freedom verbally when forces from that world are suppressing it in our own?

Curse Of The Moderates (WP)

By Charles Krauthammer

The Washington Post, February 10, 2006

As much of the Islamic world erupts in a studied frenzy over the Danish Muhammad cartoons, there are voices of reason being heard on both sides. Some Islamic leaders and organizations, while endorsing the demonstrators' sense of grievance and sharing their outrage, speak out against using violence as a vehicle of expression. Their Western counterparts -- intellectuals, including most of the major newspapers in the United States -- are similarly balanced: While, of course, endorsing the principle of free expression, they criticize the Danish newspaper for abusing that right by publishing offensive cartoons, and they declare themselves opposed, in the name of religious sensitivity, to doing the same.

God save us from the voices of reason.

What passes for moderation in the Islamic community -- "I share your rage but don't torch that embassy" -- is nothing of the sort. It is simply a cynical way to endorse the goals of the mob without endorsing its means. It is fraudulent because, while pretending to uphold the principle of religious sensitivity, it is interested only in this instance of religious insensitivity.

Have any of these "moderates" ever protested the grotesque caricatures of Christians and, most especially, Jews that are broadcast throughout the Middle East on a daily basis? The sermons on Palestinian TV that refer to Jews as the sons of pigs and monkeys? The Syrian prime-time TV series that shows rabbis slaughtering a gentile boy to ritually consume his blood? The 41-part (!) series on Egyptian TV based on that anti-Semitic czarist forgery (and inspiration of the Nazis), "The Protocols of the Elders of Zion," showing the Jews to be engaged in a century-old conspiracy to control the world?

A true Muslim moderate is one who protests desecrations of all faiths. Those who don't are not moderates but hypocrites, opportunists and agents for the rioters, merely using different means to advance the same goal: to impose upon the West, with its traditions of freedom of speech, a set of taboos that is exclusive to the Islamic faith. These are not defenders of religion but Muslim supremacists trying to force their dictates upon the liberal West.

And these "moderates" are aided and abetted by Western "moderates" who publish pictures of the Virgin Mary covered with elephant dung and celebrate the "Piss Christ" (a crucifix sitting in a jar of urine) as art deserving public subsidy, but who are seized with a sudden religious sensitivity when the subject is Muhammad.

Had they not been so hypocritical, one might defend their refusal to republish these cartoons on the grounds that news value can sometimes be trumped by good taste and sensitivity. After all, on grounds of basic decency, American newspapers generally -- and correctly -- do not publish pictures of dead bodies, whatever their news value.

There is a "sensitivity" argument for not having published the cartoons in the first place, back in September when they first appeared in that Danish newspaper. But it is not September. It is February. The cartoons have been published, and the newspaper, the publishers and Denmark itself have come under savage attack. After multiple arsons, devastating boycotts, and threats to cut off hands and heads, the issue is no longer news value, i.e., whether a newspaper needs to publish them to inform the audience about what is going on. The issue now is solidarity.

The mob is trying to dictate to Western newspapers, indeed Western governments, what is a legitimate subject for discussion and caricature. The cartoons do not begin to approach the artistic level of Salman Rushdie's prose, but that's not the point. The point is who decides what can be said and what can be drawn within the precincts of what we quaintly think of as the free world.

The mob has turned this into a test case for freedom of speech in the West. The German, French and Italian newspapers that republished these cartoons did so not to inform but to defy -- to declare that they will not be intimidated by the mob.

What is at issue is fear. The unspoken reason many newspapers do not want to republish is not sensitivity but simple fear. They know what happened to Theo van Gogh, who made a film about the Islamic treatment of women and got a knife through the chest with an Islamist manifesto attached.

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The worldwide riots and burnings are instruments of intimidation, reminders of van Gogh's fate. The Islamic "moderates" are the mob's agents and interpreters, warning us not to do this again. And the Western "moderates" are their terrified collaborators who say: Don't worry, we won't. It's those Danes. We're clean. Spare us. Please.

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Hope Beyond The Rage? (WP)

By David Ignatius

The Washington Post, February 10, 2006

Looking at the cartoons, a non-Muslim wonders how they could possibly have given such offense. How could a few juvenile, satirical drawings of the prophet Muhammad have created a global crisis? It seems inexplicable, until you think about American reactions to a word we hesitate even to write for fear of giving offense, calling it instead the "n-word."

The African American experience reminds us that there is a rage so deep and abiding that it can be triggered by a small comment, an unintended slight, a remark perhaps meant as a joke but heard as a grievous insult. The legacy of slavery left behind that residue of anger. It created taboos that protect what Sigmund Freud described as the sacred totems of cultural identity. It established boundaries where outsiders -- in this case, white people -- are not allowed to venture. That's why the n-word is so powerful -- it is the symbol of the suffering that a people experienced at the hands of others.

By drawing this comparison, I don't mean to condone what Muslims are doing in their violent, deadly overreaction to a provocation by a foolish newspaper editor in Denmark. And I think the Muslim world could learn something about tolerance from African Americans. The United States still abounds with racist images, but blacks are no longer rioting in the streets or burning down buildings. With time, people have learned to deal with their anger in less self-destructive ways -- even, sometimes, to laugh about it.

This week, the African American cartoonist Aaron McGruder is running a series in his taboo-busting strip "The Boondocks" making fun of civil rights leader Al Sharpton's protests about racism. In Monday's strip, Huey Freeman muses to his friend: "Give me news of hope, Caesar. Tell me of the leaders who dare to stand against the grave dangers faced by this world. I crave inspiration." His pal Caesar looks up from his newspaper: "Says here Al Sharpton is protesting a cartoon for using the n-word." To which Huey responds: "I'm going back to bed."

Maybe the Muslim world will someday be able to laugh off slurs against the prophet Muhammad, but not now. The wounds are too raw; the sense of victimization is too immediate. I travel often to Muslim countries, and I am sometimes astonished at how hundreds of years of history can seem condensed into the present, so that every current injustice is magnified by the weight of every past one. I don't understand it, but then, I have to remind myself, I'm not a Muslim. I haven't lived it.

Hoping to understand this blood-knot of rage and intolerance, I called Randall Kennedy, a prominent African American professor of law at Harvard University. He is the author of a 2002 book that explores the intense emotions aroused by the n-word, which he actually dares to spell out in the book's title. He says he's not surprised that a cartoon, like a taboo word, can become a focus for rage. For African Americans, he explains, "there are all sorts of indignities and insults, but they're momentary and ambiguous." But when white people say the hateful word, "it crystallizes something that's often hard to discern."

"When people feel they're being disrespected, they respond in all sorts of ways, including very self-destructive ways," Kennedy observes. That said, he finds the Muslim reaction to the Danish cartoons unacceptable -- just as he thinks people overreact to the n-word. "Are we going to bleep out Richard Pryor's album? Are we going to scratch out every reference to the word in 'Huckleberry Finn'? I would say with respect that's what is happening here with the reaction to the cartoons."

Whenever I'm feeling really pessimistic about the world, I remind myself of the American civil rights movement. In the space of my lifetime, America has gone from a country of brutal racism and outright segregation to a place where black folks and white folks pretty much get along. We haven't abolished racism, but by working honestly at the problem, we've made real progress. Along the way, we experienced rage and violence: Our cities burned; our nation sometimes felt at war with itself. But we passed through that dark period into a brighter one.

I want to believe that Muslims and the West are in that kind of transition. We're in the rage phase -- the part of the story where black folks are torching cities, white governors are sending in the National Guard and the problems seem insoluble. But if

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people keep their heads, we will eventually pass from this crazy moment into a different one where a genuine reconciliation is possible. Let's face it: We are living the clash of civilizations, and it's likely that things won't get much better until they get a bit worse.

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A Global View On Cartoons Debate (USAT)

USA Today, February 10, 2006

Ruth Wishart,

columnist, in The Herald, Glasgow, Scotland: "How on earth did we get here from there? From a batch of indifferently executed cartoons published over four months ago in a Danish newspaper to worldwide riots, death threats and the destruction of embassies? ... If we are to believe the editor of the small Danish newspaper who put a match to this now global conflagration, the motivation was merely to question whether or not people had become too scared of controversy and retaliation to speak and publish freely and frankly. Ironically, he has created not a new honesty but wholesale paranoia."

Arman-e Melli,

Kabul, Afghanistan, in an editorial: "The Muslim and Mojahed people of Afghanistan have the right to demonstrate and make the Western press realize that freedom of speech does not mean insulting the sacred beliefs of other religions. Looking at developments in the country, it is clear that the enemies of our people have exploited the religious beliefs of our people. They have changed the peaceful process of demonstrations into a violent one."

ABC,

newspaper, Madrid, in an editorial: "The problem is that the argument about 'freedom of expression' — or, in the end, any other freedom — is incomprehensible for those living in states where human rights, or basically the law, are in dire straits because of the autocratic nature of their leaders."

The People,

Nairobi, Kenya, in an editorial: "It is an issue of civil rights. In any society, there is an understanding that free speech should be used wisely so as not to provoke hostilities."

Fintan O'Toole,

columnist, for The Irish Times, Dublin: "Offense has to be taken as well as given. ... Money, success and power thicken the skin, and ours has been so hardened by our newly confident self-image that sticks and stones feel like tickles. Offense is subjective, not objective. Mass outbreaks of high dudgeon depend on the presence of two factors. One is a group with an agenda, looking for insults to exploit. The other is a wider group of people who feel so vulnerable to denigration that their feelings are available for exploitation. The Irish had those two factors 20 years ago. The Muslims have them now. The current conflict is not about religion, still less about a supposed clash of civilizations. It is about power and politics."

Politiken,

Copenhagen, Denmark, in an editorial: "The acts of violence arise from the internal tensions in Muslim societies; they show the desperation of people who see the world's cultural and economic development passing them by. The escalation of the crisis does not therefore have anything to do with Danish newspaper cartoons, and there is nothing that Denmark could have done to halt this development."

Can Dundar,

commentary in Milliyet newspaper, in Turkey: "Attacking values which people consider divine cannot be excused with the pretext of 'freedom of expression' ... The crisis seems to be getting bigger because of Europe's attitude."

Cape Argus,

Cape Town, South Africa, in an editorial: "The position of this newspaper was not to publish the offending cartoons because they would be an affront to our Muslim readers and are, quite simply, racist in their stereotyping of Arabs as people with hooked noses and as terrorists. But we also reject the notion that ... any group could, on a presumption, interdict our newspapers from publishing content."

The Nation,

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Bangkok, in an editorial: "Instead of expending energy on defending freedom of expression or calling for deadly revenge, perhaps all parties should focus instead on our common decency, which is a prerequisite for rational debate. Surely for Western and Islamic civilizations, which have long been trying to come to terms with much worse atrocities over the centuries, offensive cartoons should not be all that difficult to let go of."

In Iranian Eyes, The 'Cross-Eyed British' Are To Blame (NYT)

By Michael Slackman

The New York Times, February 10, 2006

TEHRAN, Feb. 7 — The Embassy of Denmark was attacked and pelted with gasoline bombs two days in a row because of the caricatures of the Prophet Muhammad published in a Danish newspaper. The Austrian Embassy was stoned and all its windows were smashed for the same reason. The United States has been dubbed the World Oppressor, and Israel has always been at the top of the enemies list.

But to understand whom Iranians distrust most of all, you need only visit Bobby Sands Street. Named after the Irish republican who died of a hunger strike in 1981, the street runs right past the British Embassy in a busy neighborhood of Tehran.

A not-too-subtle finger in the eye.

"We have not seen anything other than bad things from the British since they stepped foot here 200 years ago," said Seyed Razi Abbassian, 72, a dealer in stamps and coins at a shop across from the street from the British Embassy. "We have no good memories of the British."

In an often bitterly divided country, Mr. Abbassian's outlook is one that unites Iranians of many social, economic and political classes.

The idea that Britain is behind much of what goes wrong in Iran is not just a conspiracy theory but also a prism through which to view events. Indeed, America — the Great Satan itself — is often portrayed as merely a hapless, muscle-bound child manipulated by smarter, craftier, more deceitful forces in London.

One European diplomat said he once received a gift from an Iranian child: a drawing of America as a marionette with Britain pulling the strings.

"For 200 years we have had a political relationship with the British," said Mansoureh Ettehadie, a history professor and writer. "They have never been innocent. There is a feeling in Iran that is widespread, that the British have not been blameless."

As Ms. Ettehadie intimated, there are sound historical reasons for the Iranians to suspect the British. Early in the 20th century, she said, Britain tussled with France and Russia over control of the country, and Britain's success in the south, and in dominating the rich oil fields, left a bad taste. She said, for example, that for many years, Iran did not even have its own central bank, but had to rely on the Imperial Bank to issue currency.

And as every Iranian schoolchild knows, it was the British who engineered the coup that brought to power the dictatorial Reza Shah Pahlavi, who founded the hated dynasty that lasted until the Shiite revolution in 1979.

Distrust of Britain is so ingrained in the public psyche — especially among the older generation — that it has been joked about, written about and even dismissed as paranoia, but never done away with. One of the most popular novels in Iran, "My Uncle Napoleon," is a comic love story spoofing how Iranians see a British hand in all dark deeds.

The book popularized the phrase, "This is the job of the cross-eyed British," which is often used here with a smile, and a wink. It can be said when bombs go off, or when there is really bad traffic.

While many Iranians are adept at poking fun at their Brit-fixation, the prevailing view also serves to complicate already tense relations between London and Tehran over such matters as the Iranian nuclear program. One Western diplomat, who asked not to be identified so as not to inflame his host country, said Iranians often raised the specter of "historical inequities" with Britain in diplomatic meetings.

Recently, as the United States and Britain and other European partners pressed for Iran to be referred to the United Nations Security Council for its nuclear activities, Iranian officials accused the British of some recent bombings and deadly plane crashes in Iran.

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In each case, government officials said that Britain was not working alone, but in tandem with Israel and the United States. Nevertheless, Britain was the ringmaster.

If there is an event that still angers many, it is the coup in 1953 that ousted the prime minister, Mohammed Mossadegh, and reinstalled Shah Mohammed Reza Pahlavi, who had fled the country. Although the Central Intelligence Agency was involved in ousting Mr. Mossadegh, sentiment here holds that British intelligence pulled the strings.

"The British were responsible for ending Mossadegh's rule," said Mustafa Jahangard, 26, who runs a fruit and vegetable store in central Tehran. Asked who is disliked more in Iran, the United States or Britain, Mr. Jahangard first drew a distinction between the American people, who "are good," and the American government, which "is bad." No such distinction was made for the British.

"The British win in this competition," he said. "England is even worse. They are sneaky."

The anger and suspicions are widespread, and widely discussed. On Jan. 31, Resalat, an Iranian daily, ran an article about the bombings in Ahvaz beneath the headline: "England's Hand in Measures Against Our National Security."

"Britain, the old colonizer, has a hand in all of these criminal measures," the article said. "Another trick of the government of the old colonizer, England, is that whenever its secret intentions — in conspiring against others — are somehow revealed, it takes totally friendly positions, that are against America's positions, regarding Iran; and when everything is back to normal, it follows up its previous hostile positions."

The British Embassy occupies a large compound in Tehran and is tucked back inside, behind a tall brick wall. Reza Razavi said he had run his pen store on a corner, on the other side of the wall, for 12 years, and had never, to his knowledge, had a British customer from the embassy. He said it was easy to believe that the British were up to no good because of recent charges made public by Russia about a British diplomat caught working as a spy — and of course the Mossadegh affair.

As for all the negative deeds Iranians attribute to the Americans, he said, "If you think about it, America was under the British as well."

For Americans, It Can Pay To Play In Iran's Court (WP)

By Karl Vick

The Washington Post, February 10, 2006

Imports Pump Up Basketball's Popularity

TEHRAN -- Making himself as inconspicuous as a 7-foot-2 black man can be in Iran, Garth Joseph sidled up to the store counter. His air was at once playful and furtive. "Give me that good stuff," he whispered.

The clerk, a bespectacled woman dressed in a black head scarf, reached under the counter and brought forth a slab of pork: It was black-market bacon, absolutely illegal in the Islamic Republic of Iran and priced like the contraband it was.

"Fifteen dollars for bacon!" Joseph squawked, reaching into his sweats for his wad of green Iranian currency. "It's so much money, but I love bacon. I eat about two pounds of bacon a day in America."

But in America, Joseph warmed the bench during his only season in the National Basketball Association, hobbled by injuries and struggling for a place in a league moving away from the big man. And in Iran, he is huge in every way, the object of stares and delight not only for his gargantuan size, but also as the most conspicuous and highest-paid of the basketball players who left the United States to play the pivot along the "axis of evil," a grouping in which President Bush included the country where they have found their fortunes.

About 20 Americans play hoops for a living in Iran. They nurture pro careers that might not exist in the States, navigate a culture that offers precious few diversions in public -- though a lot more behind closed doors -- and, as much as possible, avoid politics. Iran is at the center of international concern for its nuclear ambitions and has remained notorious to the United States since 1979, when student radicals took over the U.S. Embassy in a siege that lasted 444 days. But for offshore ballplayers working for a paycheck, Iran is just another stop on an international circuit that quietly counterbalances the NBA's burgeoning import of players from Croatia, Congo and China, to name just the C's.

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"One of my friends -- he's really like a cave man -- he says, 'Are they walking around with AKs?' " said Andre Pitts, a Texas native who plays point guard on the same team with Joseph, Saba Battery. "I said, 'If you came here, you wouldn't ever want to go back, the way they treat you.' "

Black-market bacon is the least of it. American players are paid from $60,000 to $200,000 a year to elevate a sport that in Iran ranks in public popularity behind soccer, volleyball and wrestling, in that order. The Americans are considered so special they are not even required to cover their tattoos with bandages, as their Iranian teammates do on game days. They are paid in dollars, which they must wire home through third countries because U.S. banks are prohibited by sanctions from doing business with Iran.

The Americans "cover up the weaknesses of the team and help basketball in the whole country," said Mustafa Hashemi, coach of Petrochimi, sponsored by the Petroleum Ministry in the southern city of Mahram, a city so devoid of acceptable restaurants that the Americans eat in a company cafeteria.

"It's like being at a camp," said Eddie Elisma, a New York native drafted in 1997 by the Seattle SuperSonics and now a Petrochimi team leader. "It's not as bad as you think."

In fact, inside a private home, life in Iran can be exactly the opposite of the public image. In Joseph's six months in Tehran, his most striking discovery has been the nation's double life. He first noticed it during Ramadan, the month when observant Muslims fast during daylight hours.

"They eat," Joseph declared. "They don't eat in public, but they eat.

"It's like I found out: A lot of things aren't done in public here. They're done, though."

On the streets of Tehran, for instance, many women glide along under the enveloping black chador that covers all but their faces. "Little ninjas walking around," Joseph said. "You can't look at them -- you're afraid they'll smack you."

About two weeks after arriving, he was invited inside an apartment in the prosperous, generally liberal north of Tehran. He watched as female guests arrived and peeled off their cloaks.

"Nice miniskirts," Joseph said, smiling at the memory. "You know, I'm married. But I'm lookin'."

And behind closed doors, the liquor flowed freely -- both the homemade vodka that has been produced in Iran since the 1979 revolution and the bottles of Smirnoff that have become readily available in recent years through discreet dealers.

"Do you like my liquor collection?" Pitts said, gesturing to the well-stocked alcove in his own apartment, sleekly decorated in blacks and whites.

For Americans playing offshore, any hardships are relative. Before arriving in Tehran last season, Pitts played in Turkey, Cyprus, Lebanon, Hong Kong and Syria, where he was a star. Joseph, whose brief time in the NBA was split between Toronto and Denver, arrived here after four seasons in China, where he once played an outdoor game at minus-20-degree temperatures on a dirt court.

"The Middle East -- based on what they read in The Post or see on CNN -- will scare most travelers off," said Jerald Wrightsil, who built a business representing U.S. players offshore after his own overseas career in the 1990s, when Eastern Europe was the new frontier. "But players chasing a paycheck, they're willing to take that chance."

There have been perils. Stones sometimes rain down from the stands, said Pitts, adding that a fragment injured an eye of one teammate.

But players say the primary risk in Iran is being bored to death. The conservative Muslim clerics who prohibit the public sale of pork, proscribed by the Koran, do the same for alcohol. Women are required to cover their hair, and public mixing of the sexes is officially discouraged.

For the professional athlete, such strictness has its upside.

"It prolongs my career," said Pitts, recalling the night spots of secular Syria, where women sometimes danced on the bar. "I'm getting good rest."

But it's not for everyone. Joseph, a jocular extrovert, was flummoxed to find health clubs populated by only men.

"How do you live here without looking at women?" he asked. "What do you go to the weight room for?" Worse was learning that, in Iran, even beaches are segregated by sex.

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He shook his head, just inches from the ceiling in his bleak, two-bedroom apartment overlooking the Sadr Expressway, its traffic roaring through the gray of Tehran in winter. The bed was in the living room, to be closer to the satellite television that players describe as their life-support system. "I never watch Iranian TV," Joseph said. "Always some military guy on."

On the coffee table: old issues of People and a basketball magazine. "Oh, I got to keep my place a little Americanized," he said. The one book in the room was The Essential Atlas of the World.

Joseph was saying that China at least had TGIFridays and Outback Steakhouses. Iran is simply more foreign. Boxes of tissues take the place of napkins, and bathroom light switches are outside the door. Clothes dryers are novelties. The lemon that restaurants put on the food makes everything taste the same. And cutlery?

"I ordered a steak and they bought me a spoon," Joseph said.

The Americans not only have adjusted to Iran's duality, they also abet it. Officially, Saba Battery -- a Tehran-based team that belongs to the Defense Ministry -- refuses to employ Americans. The pretense was imposed by its owner, an arm of a government that has no diplomatic relations with Washington and regularly renews the paint on the "Death to America" slogans still scattered around the capital.

Joseph's connection to the Great Satan is at least ambiguous. Though he lives outside Albany, N.Y., he remains a citizen of Dominica, the Caribbean island where he was born and raised.

But Pitts, born and raised in Seguin, Tex., is officially listed on the team roster as a citizen of Senegal. He even has a Senegalese passport, though he's not sure how he came by it.

"My agent got it for me," he said. "Basically, I'm here for the money."

Would Iranians Rally 'Round The Flag? (LAT)

By Edward N. Luttwak, Edward N. Luttwak Is A Senior Fellow At The Center For Strategic And International Studies In Washin

The Los Angeles Times, February 10, 2006

Various ethnic and religious factions might see little to gain in supporting Tehran if the country's nuclear facilities were bombed.

THERE MAY BE good reasons to oppose an air attack on Iran's nuclear installations at this time, but one of the arguments that is advanced most often is seriously flawed.

The argument is based on a familiar axiom that ruling regimes, even unpopular ones, are strengthened by such attacks because the bombarded nation rallies around its rulers. But this does not apply to Iran. It's true that when Germans, Japanese and Serbs, among others, were bombed, they did indeed support their leaders all the more because the attacks increased their sense of national solidarity.

Iran, however, is not a nation-state but rather a multinational empire dominated by Persians, much as the Soviet Union was once dominated by Russians. Except that in this case, the Persians only account for just over half the population of Iran (making them a smaller proportion than the Russians were even in the final days of the Soviet Union).

No scholar who studies Iran would dispute that there is a very strong Persian identity and pride of ownership in ruling Iran among the Persians, but only a very weak sense of Iranian participation among non-Persians. Iran is not like Lebanon, where the different communities often fight each other. Instead, Iran's minorities each resist the Persian-dominated central government. Just in the last month, guerrillas of Baluch nationality kidnapped soldiers in southeast Iran. Arabs of Khuzistan province next to Iraq detonated bombs in Ahwaz, and Kurds clashed with the rural police.

To the extent that the different nationalities each have their own identities and oppose the essentially Persian regime, they are likely to applaud external attacks on the nuclear installations rather than rally to the defense of their rulers.

So how does factional solidarity in Iran break down?

The Kurds, who account for about 9% of the population, have been encouraged by the example of virtual Kurdish independence in Iraq next door. Their demands for autonomy are becoming more forceful, and something of an insurgency seems to have started. Very few Kurds are likely to rally around their Persian overlords.

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Smaller nationalities that are known to be disaffected because of recent examples of violent resistance include the Arabs at 3% of Iran's population and the Baluch at 2%. Little is known of the intensity of the national sentiments of the Turkmen and Lurs (2% each), and still less of the Gilaki and Mazandarani (8% in all), who may be politically more assimilated simply because they speak Persian dialects.

Along with the Kurds, all the smaller nationalities amount to only a quarter of Iran's population; but Turkic-speaking Azeris add another 24% all by themselves. Many Azeri families in Tehran especially are believed to be thoroughly assimilated, but the more numerous Azeris farther north are not, and national revival and separatist groups have become increasingly active among them. Since Azerbaijan just across the border gained its independence from the Soviet Union, the Azeris have a national home of their own, and it is not Iran.

The religious extremism of Iran's regime has further fractured the nation's solidarity by discriminating not only against the non-Muslim Bahais, Christians, Jews and Zoroastrians who amount to only 2% of the total population, and are of yet smaller political significance, but also against the 9% or more who are Sunnis (who are not even allowed to have their own mosque in Tehran, where 1 million of them live).

So, all in all, at least half the population is unlikely to be motivated by feelings of solidarity with their rulers. Only among the Persians are many likely to react to an attack as the axiom prescribes; others might welcome the humiliation of their oppressors. The bombing of Iran's nuclear installations may still be a bad idea for other reasons, but not because it would strengthen the hold of its rulers. One may hope that Iran's rulers are not misled by their own propaganda and will therefore accept a diplomatic solution rather than gamble all on an irrelevant axiom.

For Venezuela, U.S., A (Very) Little Civility (WP)

By Pamela Constable

The Washington Post, February 10, 2006

After an especially ugly week in the hostile relationship between the Bush administration and the government of Venezuelan President Hugo Chavez, Venezuela's envoy here tried yesterday to salvage some civility, saying his country sought "mature and rational relations" with Washington and would remain a "reliable" source of energy to all foreign customers, including the United States.

The State Department responded in kind, with its spokesman saying Washington was "open to a good relationship with Venezuela" and hoped for a "positive one." The spokesman, Sean McCormack, said that the two countries were cooperating in the fight against drugs and that the administration was prepared to work with governments across the political spectrum, including those with "left-of-center" views.

But the exchange did little to dispel a growing sense among officials and analysts that the current political breach between Caracas and Washington -- still major oil trading partners and former longtime democratic allies -- is becoming potentially irreparable.

In the past week, Defense Secretary Donald H. Rumsfeld has compared Chavez to Adolf Hitler, and the administration's top intelligence official, John D. Negroponte, has condemned his ties with Iran and North Korea. Venezuela has expelled a U.S. naval attache on charges of spying, and Washington has expelled a senior Venezuelan diplomat in return.

Meanwhile, rumors have circulated in both capitals that the United States may put Venezuela on a list of states that sponsor terrorism, a designation that would make it ineligible for most U.S. aid and programs. A State Department spokesman yesterday declined to say whether such a move was being considered.

There were other signs that the antagonism was hardening between the United States and Chavez, a self-styled revolutionary leader and protege of Cuba's Fidel Castro. First elected president in 1998 and reelected in 2000, he survived a coup attempt two years later and has since repeatedly accused the United States of seeking to overthrow him. He has vowed to thwart a U.S.-backed hemispheric free-trade pact and forge an alternative economic pact within Latin America.

In an interview Wednesday, the senior State Department official for Latin America, Thomas A. Shannon Jr., described the U.S. differences with Chavez as "a battle of ideas . . . a battle that we shouldn't be afraid of." He depicted Chavez as a defiant but

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comic figure, "standing there and desperately taking swings at us. We must go around him and engage the rest of the region in our common positive agenda," he said.

Shannon, a scholarly diplomat, is viewed among Latin America experts here as less ideologically allergic to Chavez than his recent predecessors, and he said he hoped the two governments could find common ground on a number of issues. But yesterday, Venezuelan Ambassador Bernardo Alvarez complained that he had not been able to see Shannon, although he said he has traveled to several states to promote Venezuela's project to assist poor families through home heating oil subsidies.

"We are not against the United States. We are against certain policies of the United States, but we have a lot of important things in common," Alvarez told journalists. "We are not a threat to the national interests of the United States or anyone else. Why are they trying to portray us as anti-American?"

Several experts on U.S.-Latin American relations in Washington said both governments were to blame for the increasingly hostile rhetoric and plummeting relations. They suggested that provocative comments such as those made by Rumsfeld could play into Chavez's hands as he seeks to rally domestic support against a foreign enemy.

"The State Department is clearly attempting to set a different tone, but there are other voices in the administration that reflect knee-jerk Cold War thinking," said Julia Sweig, an associate scholar at the Council on Foreign Relations. "Chavez has figured out how to play those cards really well, but it would be a mistake to ascribe to individuals like Chavez and Castro the deep social cleavages in the region."

Otto Reich, a former senior State Department official who is now a private consultant, said that the Bush administration had largely refrained from verbal mud-slinging and that Chavez was responsible for provoking U.S. hostility. "We didn't start this," he said. "If there is going to be change, it has to come from the other side."

Reich said that there was little chance other Latin American leaders, even those with left-of-center views, would follow Chavez's leadership, but that Chavez could do serious regional harm. Those leaders should be "concerned that he is giving all of Latin America a bad name," Reich said. "The region badly needs foreign investment, and it doesn't help to have him running around with a red beret and incendiary rhetoric."

'New Populists' Vs. The West (CSM)

By Howard Lafranchi

The Christian Science Monitor, February 10, 2006

WASHINGTON - Some might call it the axle of anti-American populism.

With linchpins in Tehran on one end and Caracas on the other, a new brand of international populism is rising by fanning flames of division between Western powers and the "powerless" of the developing world.

Leaders, from Iran's President Mahmoud Ahmadinejad to Venezuela's President Hugo Chávez, are winning points at home by striking a nationalist and anti-American pose. Their method: Use the international stage to rail against what they see as a disconnect between the values espoused by the world's sole superpower and its actions.

• Mr. Ahmadinejad consolidates his domestic political power and wins support among several countries caught in America's cross hairs by pointing out that Washington accepts the nuclear status of Pakistan - which it needs on its side in the war on terror - while opposing Iran's program, which Iran insists is for power-generation only.

• Mr. Chávez, espousing a philosophy of "democratic socialism" in any international forum that will listen, accuses the United States of trying to overthrow his own democratically elected government. He fires up sympathetic crowds by branding "US imperialism [as] our real enemy."

Yet for all their heated rhetoric, the two leaders have a vision for the world, one that seeks to end the "sole superpower" reality. Beyond simply opposing America's robust exercise of power - a sentiment increasingly found in the developing world, especially - their aim is to join political forces to provide a significant counterweight in the international arena.

"There is no great level of love between Venezuela and Iran, but they both are seeking a multipolar world, and that's where the two of them find a point of intersection," says Miguel Tinker-Salas, a Latin America and US foreign-policy expert at Pomona College in Claremont, Calif.

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The two leaders, though, are impelled by different motives. Chávez is motivated by an antiglobalization stance that vilifies Washington as the epicenter of market- oriented economics, says Thomas Carothers, an expert on democracy and rule of law at Carnegie Endowment for International Peace. Ahmadinejad's wrath, he says, is more focused on the Bush administration's agenda for secular democracy in the Middle East.

Russia's Vladimir Putin also belongs on the list, says Mr. Carothers, for his challenge to the West over its promotion of democracy in Russia and in the former Soviet neighboring countries.

"We're seeing on different fronts different leaders who are pushing back," he says, "with the idea of resisting the West." It is "no coincidence" that all three countries are "flush with oil money" that allows their leaders the luxury of promoting their causes, he adds. A risk of overreaction by the West

The West's response to the populists' challenge need not - indeed, should not - be uniform, some analysts say. Each presents a different challenge.

"The Latin American populists like Chávez have a very limited capacity to do anything that threatens substantial harm to our interests, so it's key in those cases not to overreact," says Andrew Bacevich, director of the Center for International Relations at Boston University.

Iran, on the other hand, is different because of the "nuclear question" and "the importance we assign to stability in that region," he says. Iran plays a key role in events in both Iraq and Afghanistan.

In some current international controversies, it's the West, not simply America, that is in the line of fire - as with the Muslim world's fury over cartoons depicting the prophet Muhammad. But Chávez and Ahmadinejad, in particular, "are finding it pays politically to focus on the US," adds Mr. Tinker-Salas.

Iran lost no time this week announcing an end to cooperation on its nuclear program with the International Atomic Energy Agency, after the IAEA on Saturday approved a US-supported resolution that reports Iran to the United Nations Security Council.

Landing Iran in the Security Council was a goal of the Bush administration for at least two years. But the vote also revealed cracks in the international community and support for Iran - albeit from some at the top of Washington's blacklist. Syria, Venezuela, and Cuba all voted "no" on the IAEA resolution.

Iran's foreign minister will travel to Cuba and Venezuela this month in a bid to further cement support for Iran's battle against the "world oppressor" - the US. Ahmadinejad has established contact, too, with Evo Morales, the recently elected populist president of Bolivia. Rumsfeld takes a jab

The US is also caught in what State Department officials describe as a "tit-for-tat" imbroglio with Chávez. After Caracas expelled a military attaché assigned to the US Embassy on charges of spying, the US responded last Friday by expelling a Venezuelan diplomat.

The US action followed comments by Defense Secretary Donald Rumsfeld in which he likened Chávez to Adolf Hitler, saying both were "elected legally." The election of "populist" leaders like Chávez and Bolivia's new president, he added, "are worrisome."

Some experts caution against such riffs, saying they only play into the hands of the new populists, coming at a time when US standing in the world is low and more people seem to sympathize with challenges to American power.

"People see a certain hypocrisy in US actions, and what we're seeing from people like Chávez and Iran's president are attempts to exploit that," says Tinker-Salas.

"The US has a pretty good record of falling into this trap," adds Mr. Bacevich of Boston University. "The Bush administration has so overused the Hitler analogy that it's almost demeaning to history."

Iran's depiction of an "arrogant West" has "some echo" in parts of the developing world, he adds, but that doesn't mean Damascus, Havana, and Caracas are poised to lead a new anti-West movement.

Still, anti-Western sentiment shows signs of spreading, fed by economics, nationalism, or culture, says Carothers. That should give the US pause from "sparring" with the new populists, he says, "as tempting as that might be."

The current circumstances should also encourage the US to reduce its use of all foreign oil, he adds.

"It takes ready cash to fiddle with politics outside your borders," he says, "and thanks to oil prices that's something that all of these leaders have."

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Candidate Of Haiti's Poor Leads In Early Tally With 61% Of Vote (NYT)

By Ginger Thompson

The New York Times, February 10, 2006

PORT-AU-PRINCE, Haiti, Feb. 9 — Unofficial electoral results that had been carried in by mules, trucks and helicopters from polling centers across the country appeared Thursday to give an early lead to René Préval, a former president considered a champion of the poor masses and a thorn in the side of the elite.

The Provisional Electoral Council announced Thursday night that Mr. Préval had won 61 percent of the 15 percent of the votes tabulated from the election Tuesday, including 67 percent of the votes counted so far in the department that includes Port-au-Prince.

While several of his opponents quietly began to move toward conceding, others cautioned that it was still too early to declare a winner, and the political hostilities that have kept this country near the brink of anarchy lingered in the air.

Heavily armed gang members who control some of the slums that are Mr. Préval's political strongholds have threatened violence if he is not declared the winner with more than 50 percent of the votes, thereby avoiding a runoff election. It was also from the slums that Mr. Préval's mentor, the former president, Jean-Bertrand Aristide, drew his political strength.

A spokesman for Charles-Henry Baker, a wealthy factory owner considered the candidate of the tiny elite, said his campaign had begun preparing charges of fraud to try to stop Mr. Préval from winning power.

As Haiti, a country of 8.5 million people, braced for final results, which are not expected until this weekend, it was not easy to tell whether the nation was on the verge of its first real steps out of anarchy, or set to plunge into another cycle of political upheaval.

Ending the political fighting between the rich and the poor must be the first of a long list of priorities for its next president. And the question looming over Mr. Préval is whether a man whose previous term as president was overshadowed by Mr. Aristide, a polarizing political leader, is up to the task.

"Préval has to turn history upside down in Haiti," said Mark Schneider, of the International Crisis Group, a nonpartisan organization focusing on conflict resolution. "For decades, if not centuries, Haitian politics have been ruled by a take-no-prisoners mentality. The determination of the Haitian people to use the ballot to change their history became evident after the record turnout Tuesday. And if the early reports of a first round win turn out to be accurate, I would hope that René Préval knows that he cannot govern alone."

In an interview last month at his sister's house in Port-au-Prince, and then another this week in Marmelade, his father's hometown, Mr. Préval, a former bakery owner, said his priority would be to provide relief to the two-thirds of the population living in extreme poverty. His plans include what he described as a "universal public school program," and at least one free meal a day for poor children.

Mr. Préval also said he would investigate the cases of hundreds of prisoners who claim they are being held for political purposes, and would negotiate with gangs, rather than using only force against them, to end violence and lawlessness in slums like Cité Soleil.

"What do you prefer?" he asked. "An amnesty, or for people to keep dying?"

Mr. Préval said he that would recruit Haitian professionals overseas to help rebuild the government, and hinted that he had offered a job in his administration to a former presidential candidate, Dumarsais Siméus, a Haitian-born business magnate who was forced out of the race because he is an American citizen.

A chief objective of Mr. Préval's government, one of his advisers said, would be to attract more investment from the United States. In the last decade, the adviser said, United States investment in Haiti was less than $10 million, the amount invested in a single year in the neighboring Dominican Republic.

But Mr. Préval also suggested that he would reach out to his opponents among the middle and upper classes. He said that much of his campaign had been financed by the elite, and that he would appoint a prime minister from the political party that wins control of the parliament, which is highly unlikely to be his own.

"People know that I don't like to speak of myself," said Mr. Préval, 63. "But I think the first thing that people appreciate about me is that Préval has not stolen. Préval is not an assassin. Préval respects freedom. Préval is frank and honest.

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"He says what he can and cannot do, and he doesn't make promises he cannot keep."

After graduating from college in Belgium, he lived in New York. "I always told my father I worked on Wall Street," Mr. Préval said of those years. "But I never told him I was a messenger. I used to think how my father would kill me if he saw me sweeping floors and making coffee."

By 1990, Mr. Préval had returned to Haiti and had opened a bakery that supplied bread to an orphanage run by Mr. Aristide, who was then a priest. When Mr. Aristide rose to power as Haiti's first elected president, he appointed Mr. Préval prime minister.

Haitians called the men the Twins. In voodoo, twins are believed to have an eternal bond and magical powers. And after Mr. Aristide was overthrown by a military coup, Mr. Préval went with him into exile.

When Mr. Aristide was restored to power in 1994, Mr. Préval returned with him. And with Mr. Aristide's blessing a year later, Mr. Préval was elected president a year later.

He was credited with supporting important human rights investigations that led to trials and convictions against high-ranking police and military officers involved in political assassinations.

But his government was crippled by a Parliament dominated by his opponents and meddling by his old ally, Mr. Aristide. And critics said his greatest single achievement was becoming the only president, in a country roiled by a long history of military coups, to finish a full term in office and peacefully turn over power.

Political observers said Mr. Préval, who served as president from 1996 to 2000, was not able to keep many promises during his last term in office.

A slight, unassuming, plain-talking agronomist, Mr. Préval had never been a high achiever before he stumbled into political power in the shadows of the extremely charismatic Mr. Aristide. And until now he had essentially stayed there.

His successor was Mr. Aristide. But by then, aides to Mr. Préval said, relations between the two had been severely strained, and Mr. Préval retired to his father's hometown, near the north coast.

Then two years ago, another armed uprising, along with pressure by the United States, forced Mr. Aristide from power and pushed Haiti, the hemisphere's poorest country, close to collapse.

Political observers have said Mr. Préval was sought out by the United States and governments leading the United Nations Stabilization Mission struggling to restore order.

"I think Préval wants to show he's his own man, that he can leave his own legacy, and solve some of this country's worst problems," said Mr. Schneider, of the International Crisis Group. "Hopefully his opposition will recognize they don't have an option, for the sake of the country, but to cooperate."

Haitians Patiently Await Final Election Results (CSM)

By Danna Harman

The Christian Science Monitor, February 10, 2006

PORT-AU-PRINCE, HAITI - The streets remained empty Thursday, with shops closed, businesses boarded up, and schools locked: Haiti, as if holding its breath, waited patiently as the ballots continued to trickle in.

Final results from Tuesday's presidential election are expected over the weekend. At press time Thursday, partial returns show that René Préval had a comfortable lead over his 33 opponents - a finding that at least one of his rivals said was not acceptable.

With 9,000 UN troops and 5,000 Haitian police out in full force to maintain security, National Police Chief Mario Andersol warned of the possibility of violence, should candidates feel the vote wasn't going their way. Election day itself, despite massive disorganization, was generally peaceful - giving hope to many here that the entire exercise would be a success.

"We have gotten this far. Let's continue to be calm," begged Rosemond Pradel, secretary general of the Provisional Electoral Council (CEP).

The reason it has taken so long for the votes to be counted, explained Mr. Pradel, was that the ballots were still being ferried - by plane, truck, and even mule - from around the country to the vote tabulation center in Port-au-Prince, often over difficult terrain. Logistical and technical problems have beset Haiti's election, the first since President Jean-Bertrand Aristide was ousted two years ago.

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Polling stations across Port-au-Prince - from the Cité Soleil slum to the upscale Petionville suburb - began posting results late Wednesday, most showing Préval with between 60 and 92 percent of the vote. Though Préval's support outside the capital is not as strong, his political adviser Bob Manuel told reporters he felt confident his candidate would win more than 50 percent of the votes nationwide, thus avoiding a run-off and becoming Haiti's next president.

Préval, an ally of Mr. Aristide, has remained secluded all week in his rural hometown of Marmelade and refused to comment on developments.

But candidate Charles Henri Baker, a wealthy businessman who, according to pre-election polling, is Préval's closest opponent, called the elections "a mess" Thursday and saidhis party was collecting evidence of fraud. "Even if you got ink on your finger, it was the kind that washed off on your pants when wet," he said. Pradel dismissed those claims, saying it was the same sort of ink used in all past Haitian elections.

"We have eyewitnesses to voters casting ballots up to eight times by going to different stations," Baker also charged in a phone interview. "This has to be looked into."

International election monitoring groups have said, however, that, despite minor irregularities, there was no credible evidence of widespread fraud. "Having been on the ground in Haiti observing the preparations and the elections, I would say it was a reasonably fair election," Knowlson Gift, Trinidad's Foreign Minister, told The Associated Press.

UN Secretary-General Kofi Annan, meanwhile, congratulated the Haitian people in a statement Wednesday in New York, saying he was pleased that, "compared to previous elections, [this one] ... was remarkably free from violence." The secretary-general appealed to all to respect the official results to be announced by the CEP and said it was "essential that all political and social actors come together in a spirit of national reconciliation and dialogue."

Baker, however, stressed there was "no way" he would consider partaking in a future Préval government. "[Préval's] morality and mine don't mix together. I am an honest person. I believe in the law. So I don't think we will be working together," said Baker, adding: "We will be in bad shape if he becomes president."

Even as the process of counting the votes and evaluating the election stretched on, and fears of future violence weighed down on Haiti, many here tried to begin discussing the next steps for the country.

"We have spent so long talking about ballots and IDs and polling stations - but what about the issues?" asked Maryse Kedar, a former minister under Préval, pointing at what many here have called a "substance-lite" election. "What are the new ideas that have come from this process? How are we going to fix Haiti?"

"We remain very divided," said Jean-Junior Joseph, a spokesman for interim Prime Minister Gérard Latortue, who stressed that he hopes the elections do not end up adding to that divide. "This country really needs reconciliation and dialogue. That should be our first priority."

Europe's Energy Musketeers Must Stand Together (FT)

By Kazimierz Marcinkiewicz

Financial Times, February 10, 2006

In the past few weeks, European governments have faced growing pressure to fulfil one of their most basic functions as public authorities, namely to secure natural gas supplies for their national markets. Not only the countries of central and eastern Europe but also those in the Mediterranean basin, such as Italy, have been forced increasingly to limit natural gas consumption by their industries. Political ambitions, terrorism and even climatic conditions are now threatening the energy security outlook for most European Union member states as well as other countries.

On January 1, Gazprom, the Russian company, reduced the amount of natural gas transmitted to EU member states via Ukraine's transmission system. Basically, a dispute between third countries directly touched a number of EU members. More recently – due this time perhaps to climate conditions – natural gas supplies again have been limited.

The shortages provided tangible evidence of institutional weakness in European energy security structures. The citizens of affected countries expect effective responses from the EU. But up to now, the relevant governments have been unable to respond adequately because Europe lacks the necessary treaty provisions.

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It must be underlined at this point that energy security is a fundamental matter: a cut to energy supplies leads to economic disequilibrium and causes losses across a range of sectors. The governments concerned must protect their citizens and industries against such a scenario. At the same time, we are fully aware that security comes at a price and that it brings its own value.

We cannot remain defenceless nor isolated amid this increasingly threatening situation. The long-term strategic interests of EU member states demand a new initiative. In Europe, there is a widespread feeling that EU countries should act in solidarity: after all, the Union is a vehicle for deeper economic co-operation. Yet, the field of energy security is not within the scope of the EU's competencies. This is a paradox. In 1950, it was precisely in the then-strategically important sector of coal energy that the great process of European integration began, resulting eventually in the European Coal and Steel Community. A few years later, Euratom, the European Atomic Energy Community, was created. The problems of energy security were thus at the very heart of the European integration process. We should remember this heritage.

Up to now, EU activity on the fringes of the energy security problem – for example in the security of natural gas supplies – has been market-related and has served mainly to achieve a single market for natural gas. This was intended to make it more secure. Yet, a difficulty here is in finding bridging solutions aimed at liberalisation of the market, a goal the European Commission rightly promotes, while emphasising the necessity of effective provision of energy security that rests upon EU member governments.

It is the right time, in my view, to suggest a common effort to face not only current but also future challenges. That is why I want to propose to our partners from the EU and the Nato alliance a treaty on energy security. It would be an expression of solidarity for all parties, uniting them in the face of any energy threat provoked by either a cut or a diminution of supply sources that may occur because of natural disasters, disruption of wide distribution and supply systems or political decisions by suppliers.

Such an energy security treaty could follow formulas contained in the 1949 Washington Treaty, an agreement that allowed for effective transatlantic co-operation, or provisions of the modified Treaty of Brussels that established the Western European Union in 1948.

A European energy security treaty along these lines could become a real tool that would give us some badly needed certainty, as well as security in crisis situations. That is why it is essential that the treaty contains a clearly and firmly stated guarantee clause based on the "musketeer principle": "All for one – one for all".

Our president is raising this issue today in Washington and I will shortly present an initiative that expands on this idea. It seems clear that Europe will continue to depend on external energy supplies. I am convinced that the latest – unprecedented – curtailment of natural gas supplies to the EU, in one of the harshest winters of recent years, created a sufficient predicament to encourage bold and firm action. An energy security treaty would give us ways and means to provide stability and security that we all wish for.

The writer is prime minister of Poland

Driving Toward Middle East Nukes In Our S.U.V.'s (NYT)

By Thomas L. Friedman

The New York Times, February 10, 2006

LONDON

The world stands today at a very dangerous dividing line. It is the dividing line between the post-cold-war world, which we have known since 1989 — one of expanding democracy and free markets — and a post-post-cold-war world, which is unknown but almost certain to be a much less stable, prosperous and benign place.

I believe the questions that will determine whether we enter the post-post-cold-war world will come down to two: how India, China and Russia deal with Iran's nuclear ambitions, and how the West, particularly America, deals with $60-a-barrel oil.

Let me explain: if Iran develops a nuclear bomb, Saudi Arabia, Egypt and possibly other Sunni Arab states are bound to follow. The Sunni Arabs can overlook Israel's bomb, but they will never stand for the Persian Shiites having a bomb and them not. That's about brothers with a centuries-old rivalry. And if the Arab world starts to go nuclear, then you will see the crumbling of the whole global nuclear nonproliferation regime.

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A world with so many nuclear powers, particularly in its primary oil-producing region, could only be a more dangerous and unstable place, compared with the post-cold-war world. Imagine Iran with $60-a-barrel oil to make all the mischief it wants, and a nuclear weapon to shield it from any retaliation. Indeed, if you want to know what the post-post-cold-war world would sound like, listen to Iran's poisonous president, Mahmoud Ahmadinejad. He was quoted in The Guardian of London the other day as saying: "Our enemies cannot do a damn thing. We do not need you at all. But you are in need of the Iranian nation."

I'm convinced that the only countries capable of getting Iran to back down — through diplomacy — are China, India and Russia. Europe is too weak, and America has already used every economic sanction it can on Iran. China, India and Russia have been great beneficiaries of the post-cold-war order, and the trade, economic development and exports it has made possible. That order was largely shaped and safeguarded by the United States, with China, India and Russia often getting a free ride.

But that order will continue only if China, India and Russia get over their reluctance to get too close to America and become real stakeholders in maintaining this post-cold-war world.

I want to share power and responsibility with them — starting with the three of them, which represent half of humanity, looking Iran in the eye and telling its leadership that they will join in any and all U.N. sanctions if Iran tries to build an A-bomb. That would get Tehran's attention.

As for America, its leadership task has shifted. If the Bush team continues to let Dick Cheney set its oil policy — one that will keep America dependent on crude oil — the post-cold-war democracy movement that was unleashed by the fall of the Berlin Wall will be either aborted, diluted or reversed. If regimes like those in Iran, Venezuela, Syria, Burma, Sudan and Nigeria have the benefit of 10 years of $60-a-barrel oil, whatever democratic tide President Bush thinks he is unleashing will be stymied. The worst regimes in the world will have the most power to support the most regressive political and religious trends.

I don't approve of the Danish newspaper cartoons mocking the Prophet Muhammad. Yes, you can see much worse in the Arab-Muslim press on any day. But why should the West get into that gutter? What I approve of even less are the blatant efforts to intimidate the world media that have printed these cartoons — an intimidation effort cynically fueled by Iran, Syria and its theocratic allies. What do you think will happen after a few more years of $60-a-barrel oil? You will see a radical arc from Iran to Syria to Hezbollah to Hamas — all financed by Iran — intimidating every moderate in the Muslim world.

A British official recalled for me that in 1946, the British foreign secretary, Ernest Bevin, remarked, "Give me 100,000 tons of coal and I will give you a foreign policy." What he meant was, Give me the energy source to heat the homes and run the businesses of Europe, and I will give you a rebuilt Europe.

Well, I say, Give me even $30-a-barrel oil and I will give you an Iranian regime that is a lot less smug — an Iran that will need to be tied into the world much more in order to create real jobs for its exploding population.

That's why we need an urgent national effort, starting with a gasoline tax, to move the U.S. economy onto a path of more fuel-efficient cars and renewable energy. If we do it, everyone will follow.

If we don't, then say hello to the post-post-cold-war world and say goodbye to the post-cold-war world. It was fun while it lasted.

Planned Economy As China's Trade Clout Grows, So Do Price-Fixing Accusations (WSJ)

By John R. Wilke And Kathy Chen

The Wall Street Journal, February 10, 2006

Ten years ago, China's pharmaceutical firms had a sliver of the world's market for vitamin C. Today, China is the OPEC of vitamin C.

Chinese manufacturers currently supply more than 85% of the vitamin C used in the U.S. Just like the oil cartel, they can heavily influence world prices. After a 2001 agreement among China's four largest producers, spot prices for vitamin C rose to as high as $9 a kilogram from lows of less than $3.

Cooperation among competitors is illegal in the U.S. when it leads to higher prices for consumers. So far, about half a dozen civil antitrust suits have been filed against Chinese vitamin C manufacturers in various U.S. courts. Federal prosecutors in Texas are reviewing similar allegations, though the Justice Department hasn't yet decided whether or not to pursue criminal charges, people close to the inquiry say.

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As China becomes ever more dominant in manufacturing, its ability to dictate the prices of industrial and consumer products is steadily rising. As a result, Chinese manufacturers are increasingly running afoul of Western antitrust law in products from vitamin C to a mineral used in steel production. These legal struggles could become another point of tension in the U.S.-China relationship, which has been tested by disagreements over matters from textile tariffs to the trade deficit.

Chinese companies deny breaking U.S. law and have hired U.S. law firms to mount a defense. The companies are expected to argue they are acting as agents of the Chinese government and therefore aren't subject to antitrust law. A Chinese industry executive says the companies raised prices to stave off accusations they were "dumping," or illegally selling products abroad at below cost to win market share.

There are signs the vitamin C model is migrating to other Chinese exports. In a meeting of Chinese makers of the pain reliever acetaminophen, the companies "fervently indicated their wish to use the example of vitamin C industry self-regulation," according to minutes posted on the group's Web site. Prices subsequently jumped 20%. Chinese makers of saccharin, rayon and magnesite -- a mineral used in steel production -- recently formed similar alliances. Magnesite producers also are being sued in the U.S.

In the case of saccharin, Chinese producers had been accused by the U.S. Commerce Department of dumping. Then in March 2003, five companies formed a "Saccharin Sub-committee" of the China Chamber of Commerce, a quasigovernment body. They declared that low prices no longer made sense now that they had overtaken their U.S. and South Korean rivals.

"Due to disorderly internal competition...various enterprises lost huge profits" and had to pay antidumping duties levied by the U.S., according to minutes of the meeting posted on the group's Web site. The companies agreed to raise export prices and said "self-regulation should continue into 2004 to prevent the mutual slaughtering of aggressive competition."

William Isaacson, a Washington lawyer who filed the first of the civil lawsuits against Chinese producers of vitamin C and magnesite, says these aren't isolated instances. "Once Chinese companies can control a market, this becomes their business model," he contends. His vitamin C case is pending in federal court in Brooklyn, N.Y. The magnesite case was filed in U.S. District Court in Newark, N.J.

American courts have been increasingly willing to claim jurisdiction across international borders in antitrust cases if harm can be shown to U.S. consumers. U.S. companies that use vitamin C include makers of dietary supplements, soft drinks and animal feed.

Monopolies remain active in parts of China's economy, even though price-fixing was formally outlawed in 1998. A sweeping new antimonopoly law is being drafted in Beijing. Its adoption has been slowed by squabbling among Chinese government agencies forced to give up the ability to set prices. It isn't clear if the new law would bar price collusion in the vitamin market.

China's state-run pharmaceutical companies began making vitamin C in 1958 catering to domestic demand. In the late 1970s, Chinese government researchers found a way to speed up the basic production process, which is done by fermenting ascorbic acid. Chinese companies then could make vitamin C in two steps rather than five, as was common in the West.

Looking Abroad

Vitamin C, thus, was among the first Western drugs for which China developed its own intellectual property and a clear cost advantage over foreign rivals. With its new technology, Chinese producers began to look for sales abroad. The promise of export profits attracted new producers. Production lines multiplied and volume soared.

Northeast Pharmaceutical Group Co. was one of the first to begin exporting. Based in the gritty industrial city of Shenyang, 800 miles northeast of Beijing, Northeast is among the biggest Chinese vitamin C producers and boasts that it is one of China's best-known pharmaceutical brands. It employs 8,000 workers making products from antibiotics to the AIDS drug AZT. Vitamin C is its best seller, with more than 15,000 tons a year under production.

China's vitamin makers got a big break in 1997, thanks to an earlier antitrust dispute. After a long investigation, the U.S. Justice Department accused European and Japanese companies of price-fixing in a dozen vitamins, including vitamin C. It became the largest-ever criminal antitrust case, resulting in nearly $1 billion in government fines and several jail terms for executives.

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With the European-Japanese cartel broken, Chinese companies flooded the market with low-price vitamin C, forcing plant closings and consolidation among European and Japanese firms. Chinese companies, who previously had been overshadowed by their bigger rivals, quickly captured much of the world market.

Prices fell sharply from the high of $12 a kilo established by the European and Japanese cartel members in 1996. By late 2001, competition pushed prices down to $2.80 a kilo. (A kilogram equals 2.2 pounds.)

People familiar with the matter say China's vitamin C makers were told at that time by the Chinese government to deal with Western complaints about price dumping. They say the companies took that to mean they should coordinate to raise prices.

Ma Xiaoye, director of independent think tank Shanghai Academy for World Watch and a former Chinese trade official, says the government routinely encourages Chinese companies to "coordinate" to avoid price wars that often spark antidumping charges, a practice he says is legal. He says these requests aren't binding and that the groups don't usually set specific prices.

Mr. Ma says these efforts often don't result in any agreement. "Vitamin C was an exception, because there are only a few companies," Mr. Ma says. "It was easier" for them to agree on an approach.

In November 2001, the four largest Chinese producers formed the Vitamin C Chapter of the China Chamber of Commerce of Medicines & Health Products Importers & Exporters. On its Chinese-language Web site, the chapter announced a "self-discipline agreement...to stabilize and raise export prices."

Soon after, spot prices for vitamin C shot up to as high as $7 a kilo. By 2003, rising demand and supply shortages pushed the price higher.

Guan Ningyun, legal director of the China Chamber of Commerce of Medicines & Health Products Importers & Exporters denies the group sets prices, saying in an interview that "it's the market force that pushes prices up."

The rise enticed a few Chinese producers to grab market share by cutting their prices, according to the U.S. civil suits. U.S. import data show a noticeable price dip in mid-2003.

In November, the Vitamin C trade group held an "emergency meeting" in which members again agreed not to cut prices, according to allegations in the U.S. civil suits. Spot prices rose to as high as $9 a kilo by the end of December. As U.S. lawyers readied lawsuits at the end of 2004, prices again drifted downward. It also is possible that some Chinese producers were backsliding on their promises. In recent months, as antitrust scrutiny increased, U.S. prices have fallen to as low as $3.80 a kilo.

Bulk purchasers of vitamin C in the U.S. were buffeted by the price swings. "We were paying about $4 a kilo, then within a year it was $8," says Bradley Reynolds, a vice president at Animal Science Products Inc., Nacogdoches, Texas, who says the higher costs hurt profits. The family-owned, feed-supplement company blends vitamins for customers from catfish farmers to pet-food makers.

Mr. Reynolds's family firm is a lead plaintiff in one of the civil lawsuits against the Chinese vitamin C makers. It was among the U.S. businesses that won damages in the European vitamin case. Though he won't divulge the amount, Mr. Reynolds says, "it wasn't near as much as they stole."

Livestock feed accounts for about 10% of U.S. vitamin C consumption. About a third goes to food and beverage makers, where it is used as a preservative as well as a nutrient. The rest is used in pharmaceuticals and diet supplements.

The proliferation of private antitrust suits against Chinese companies has brought teams of U.S. lawyers to China seeking to defend them. Attorneys looking to defend Chinese magnesite producers recently took part in a bake-off in Beijing. The first round included 30-minute pitches in an auditorium at the China Chamber of Commerce of Metals, Minerals & Chemicals. In later meetings, held in ornate ceremonial rooms over rounds of steaming chrysanthemum tea, lawyers made individual presentations about their defense strategy.

The Chinese executives rarely spoke, the U.S. participants say, but appeared to understand every word. Their Chinese lawyers quizzed the U.S. attorneys closely about U.S. law and cited the latest cases and law-review articles. A similar competition was held for law firms seeking to represent Chinese vitamin C manufacturers.

Some attorneys maintain that antitrust law still is largely an alien concept for Chinese companies. "China today is where Japan or [South] Korea were a decade ago -- they don't fully appreciate the seriousness of these lawsuits and possible criminal investigations," says Kirby Behre, a Washington, D.C., lawyer with Paul, Hastings Janofsky & Walker LLP, which has numerous clients in China.

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James Serota, an attorney with Greenberg Traurig LLP in New York, who is representing Northeast Pharmaceutical, declines to comment, citing the pending civil cases. Other vitamin C makers who have been sued decline to comment. In the past, many have said they have done nothing wrong. North China Pharmaceutical Group Ltd. called the suits "groundless" in reports carried by Xinhua, the official China news agency, in June. In Xinhua reports, Shijiazhuang Pharmaceutical Group Ltd. said the suits were "deliberately provocative."

One Possible Defense

A recent court filing by Northeast Pharmaceutical in a Massachusetts state court signals one possible defense. The filing says Northeast is "supervised and directed" by the Shenyang municipal government and should be treated by U.S. courts as an "agent or instrumentality" of the People's Republic of China.

Under international law, sovereign nations are immune from antitrust enforcement by another country. That is why lawsuits against the Organization of Petroleum Exporting Countries are routinely dismissed. Although they have a number of different shareholders, the vitamin C makers are overseen by state officials and a majority of their stock is still held by government groups, according to Northeast's court filing.

It isn't clear how close these ties remain. A high-level official in the local government office that oversees North China Pharmaceutical says the government no longer "interferes" in management. "We don't help set prices, that concept is 20 or 30 years old," says the official. "They do what it takes to earn money."

Plaintiffs' lawyers are expected to challenge the immunity defense on the grounds that it doesn't apply to companies indirectly owned by the state or state-owned companies that engage in purely commercial activity.

China's chambers of commerce could be major figures in the cases. Many of the price agreements were set up under their auspices. These days, the chambers awkwardly combine their old role in China's centrally planned economy, in which they set prices and market standards, with their new one as champion of the country's newly privatized businesses. In some ways, they symbolize the learning process the country is undergoing as it becomes a key player in global trade.

"China's chamber of commerce has two personalities," says Wang Ming, deputy dean of School of Public Policy & Management at Tsinghua University.

U.S. trial lawyers are examining other Chinese industries for evidence of price fixing. Two of the firms that filed cases against Chinese vitamin C makers -- Boies Schiller & Flexner LLP, and Cohen, Milstein Hausfeld & Toll PLLC -- earlier won settlements of $1.2 billion for U.S. businesses overcharged by the European vitamin cartel. They included drug giant Abbott Laboratories and cereal maker General Mills Inc.

The team of prosecutors and FBI agents looking into Chinese vitamin C is the same one responsible for breaking up the European vitamin cartel. But criminal price-fixing cases are extraordinarily difficult to prove. Witnesses and evidence are often beyond the reach of investigators. This case, in particular, would be fraught with political and economic complications.

"These civil suits are probably going to go forward," predicts Mr. Behre, the Paul, Hastings lawyer. "But whether or not the government decides to bring a criminal case becomes a political question."

Mr. Reynolds, the Texas feed-supplement maker, doesn't think it's all that complicated. "If China is going to be a world player, they've got to play by the rules."

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

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TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

Cheney Says NSA Spying Should Be An Election Issue (WP)

By Jim Vandehei

The Washington Post, February 10, 2006

Vice President Cheney suggested last night that the debate over spying on overseas communications to or from terrorism suspects should be a political issue in this year's congressional elections.

Speaking to Republicans gathered for the annual CPAC convention, Cheney said the debate over the National Security Agency surveillance program "has clarified where all stand" on an issue that has drawn criticism from congressional Democrats and some Republicans.

"And with an important election coming up, people need to know just how we view the most critical questions of national security, and how we propose to defend the nation that all of us, Republicans and Democrats, love and are privileged to serve," Cheney said.

His comments reflected the emerging GOP plan to make national security and terrorism the centerpiece of House and Senate elections. White House Deputy Chief of Staff Karl Rove telegraphed the strategy last month when he told a Republican audience that "we are dealing with two parties that have fundamentally different views on national security."

Cheney's comments were the closest a top White House official has come to calling for the NSA program to be a political matter.

Democrats have criticized the White House for politicizing national security issues such as the USA Patriot Act and NSA surveillance.

Its unclear whether the GOP strategy will work, however.

In a new Associated Press poll, about half of those surveyed favored the wiretap program. In the same poll last month, 56 percent opposed it. White House officials privately argue that President Bush's greatest political strength is the same one that helped Republicans in the last two elections: fighting terrorism.

In recent weeks, Bush has shifted his public focus away from Iraq and trained it on winning public support for the program. Some Democrats argue that Bush is breaking the law by spying on people in the United States without a warrant and without congressional or judicial oversight. Bush contends that the Constitution and the 2001 congressional war resolution give him the authority to take such steps to track down terrorism suspects.

"Some in Washington are yielding to the temptation to downplay the threat and to back away from the business at hand," Cheney said. "That mind-set may be comforting, but it is dangerous."

Inside Politics (WT)

By Greg Pierce

The Washington Times, February 10, 2006

Dean's latest line

Democratic National Committee Chairman Howard Dean, in criticizing government eavesdropping on domestic phone calls involving terror suspects overseas, likened President Bush to the leader of Iran.

"All we ask is that we not turn into a country like Iran, where the president can do anything he wants," Mr. Dean said yesterday on ABC's "Good Morning America."

The Republican National Committee immediately fired back at Mr. Dean.

"Chairman Dean's outrageous comparison today between the United States and Iran is reckless and wrong," RNC spokeswoman Tracey Schmitt said. "By equating the United States of America to an oppressive regime that promotes anti-Semitism, suppresses women and restricts free speech, Howard Dean continues to lower the bar for political discourse in this country. The question for Democrats is, do they stand beside their party chairman and his latest wild-eyed attack?"

Scandalous behavior

"Mark Antony in his famous funeral oration in Shakespeare's 'Julius Caesar' says that he came not to praise Caesar, but to bury him. This week, at the funeral for the widow of Dr. Martin Luther King, two of the speakers, Jimmy Carter and Rev. Joseph

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Lowery, might have opened their remarks by saying that they came not to bury Coretta Scott King, but to bash [President] Bush, which is exactly what they proceeded to do," Lee Harris writes at www.tcsdaily.com.

"They exploited a solemn occasion in order to take cheap pot shots at the president, keenly aware that their remarks would be broadcast around the world, and into many American classrooms," the writer said.

"Of course, both Carter and Lowery were also aware that the target of their attack, George W. Bush, was sitting right behind them. Had he not been present on the occasion, their Bush-bashing would have only been an affront to good taste.

"But because Bush had come there to honor the memory of Coretta Scott King, and not to engage in a debate with his political opponents, the attacks on him crossed the boundaries of mere bad taste, and became low blows. They were deliberately attacking a man who they knew could not, under the circumstances, defend himself against their assault. Their aim was quite obvious — to embarrass and humiliate Bush in the full knowledge that there was not a thing Bush could decently do about it.

"The president, for example, could not do what most people, including myself, would have done. He could not jump up and simply walk out — that would have created a scandal. Therefore, he had no choice but to sit there and take it. He was hopelessly trapped, and was entirely at the mercy of his assailants — and they knew it. He had to behave like the president, even when a former president, Mr. Carter, was behaving like a cad."

Cheney rethinks?

Vice President Dick Cheney, who has issued repeated Shermanesque statements that he will not run for president in 2008, said last night that he may be rethinking his position.

Almost.

After a crowd of hundreds gathered at the Conservative Political Action Conference in Northwest gave him a rousing standing ovation before his speech last night, the vice president was moved.

"Getting a reception like that almost makes me want to run for office again," he said with a wry smile.

As the crowd again erupted in applause, he cut them off — "Almost," he said loudly, drawing laughter.

The vice president gave the Republican rank and file the same message his boss, President Bush, has for the past few months — extend the tax cuts, renew the USA Patriot Act and stay the course in Iraq.

Taking a dig at the more liberal Massachusetts senator, Mr. Cheney said U.S. troops have received "mixed signals out of Washington."

"They have at times been unfairly criticized, as when John Kerry said on national television that American soldiers were, quote, terrorizing Iraqi women and children in their homes." The crowd booed lustily.

But he said that under Mr. Bush's leadership, "We are in this fight to win, and we are winning."

For those in Washington who say the war in Iraq is a distraction, he said: "Which part of the war on terror do they consider worth fighting?"

Surveillance poll

President Bush's campaign to convince Americans that the government's terrorist surveillance program is essential to national security has had an effect: Last month, people disapproved, 56 percent to 42 percent. Now it's basically tied.

In the poll of 1,000 adults taken from Monday to Wednesday, 50 percent said the administration "should be required to get a warrant" before monitoring Americans' communications involving terror suspects. Forty-eight percent said officials "should be allowed to monitor without a warrant." The two-point gap is less than the poll's margin of error of 3.1 percentage points.

Mr. Bush has been particularly successful at making his case to core supporters, including Republicans, white evangelicals and suburban men. Support in each category grew more than 10 percentage points in the past month, the Associated Press reports.

Land of the free

It's all about the freebies for hundreds of activists attending this week's Conservative Political Action Conference (CPAC) at the Omni Shoreham Hotel in Northwest.

Conference attendees get a canvas tote bag full of goodies, including a 2006 calendar from the National Taxpayers Union, mints from TV Watch and a pink toy pig from Americans for Limited Government.

The Young America's Foundation booth was doing brisk business with a "buy one, get one free" deal on posters. Those who bought YAF's eye-catching Ann Coulter poster could have their free pick of a Ronald Reagan poster or a President Bush poster.

Meanwhile, at the booth of Nashville-based publisher Nelson Current, author Joel Miller was giving away T-shirts to promote his new book, which was subtitled, "How Big Government Puts the Squeeze on America's Families, Finances and Freedom."

For some reason, Mr. Miller's T-shirts were especially popular with ladies at CPAC. Maybe it's because the shirts are hot pink. But it also might have something to do with the book title, boldly displayed on the front of the T-shirts: "Size Matters."

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No-go

Anti-war activist Cindy Sheehan said yesterday that she will not run for the U.S. Senate against Sen. Dianne Feinstein, California Democrat, Reuters news agency reports.

Mrs. Sheehan, speaking in front of San Francisco City Hall, said, "If I thought that running for Senate would bring our young people home more quickly, I would do it in a minute, but I am not convinced that that would do so."

Mrs. Sheehan in recent weeks had expressed interest in challenging Mrs. Feinstein, who does not favor an immediate withdrawal of troops from Iraq.

Poll: Surveillance Wins Some More Backers (AP-Y2)

By Katherine Shrader

AP2, February 10, 2006

President Bush's campaign to convince Americans that the government's eavesdropping program is essential to the war on terrorism has made an impact: Last month people disapproved, 56 percent to 42 percent. Now it's basically 50-50.

Bush has been particularly successful at making his case to core supporters, including Republicans, white evangelicals and suburban men. Support in each category grew more than 10 percentage points in the last month.

The AP-Ipsos poll findings came as the White House relented and provided some new details to the House and Senate Intelligence Committees about the program. At Bush's direction, the National Security Agency has been monitoring communications between people overseas and in the U.S. when links to terrorism are suspected.

However, Senate Democrats left their three-hour session Thursday frustrated about the level of information they received from Attorney General Alberto Gonzales and Gen. Michael Hayden, the nation's No. 2 intelligence official.

"Where we really wanted hard information that was important to us — to give us the size of the scope and the reach and the depth — they were not forthcoming," said West Virginia Sen. Jay Rockefeller, the intelligence panel's top Democrat. "And what that did was take good people who were willing ... to have an open mind about all of this, and push them the other direction."

The irritation stood in contrast to some Democrats on the House Intelligence Committee. That panel's top Democrat, Rep. Jane Harman (news, bio, voting record) of California, left a separate briefing on Wednesday cautiously saying she saw a thaw after weeks of White House insistence that it would not brief the congressional committees on the program's details. Under the initial plan, the briefing was only supposed to cover legal issues, but members said they also got some operational information.

It was unclear why the White House suddenly was willing to share more information with lawmakers. When asked what changed, Senate Intelligence Committee Chairman Pat Roberts, R-Kan., said: "Meaningful dialogue." He would not elaborate.

The debate over the program has turned intensely political in recent days. A growing cadre of Republicans has joined Democrats in raising fundamental questions about the program. Although the White House has argued the president has all the authority he needs to order the surveillance, calls for legislation have grown.

As part of an upcoming bill, Senate Judiciary Committee Chairman Arlen Specter, R-Pa., said he wants the secretive Foreign Intelligence Surveillance Court to review the program and determine if it is constitutional.

Using a different approach, Sen. Mike DeWine (news, bio, voting record), R-Ohio, said changes in U.S. law are necessary to give the White House the statutory authority it needs to conduct the monitoring — and end the controversy.

Bush's spokesman Scott McClellan said the White House will listen to lawmakers' ideas on legislation, but the president has indicated he would resist any move that would compromise the program. "There is a high bar to overcome on such ideas," McClellan said.

Some lawmakers see Roberts as key to any changes. He said the legislative work should be the jurisdiction of his committee, if "there is any necessity" for a bill. He was noncommittal about whether there would be future briefings on the program, saying, "We'll see."

The intelligence committee's Democrats and at least two Republicans have called for inquiries into the program. Thursday's session "doesn't excuse the need for genuine accountability," said Sen. Ron Wyden (news, bio, voting record), D-Ore., a committee member.

Two senators are looking outside the Bush administration for information. Sens. Edward Kennedy, D-Mass., and Russ Feingold, D-Wis., wrote a letter Thursday to the major telecommunications companies — AT&T Inc., Sprint Nextel Corp. and Verizon Communications Inc. — asking if they have cooperated with the government monitoring.

As congressional debate continues, public support for the program has grown with the White House's monthlong campaign of speeches and TV appearances to make its case that the monitoring is necessary. According to the AP-Ipsos poll, some 48 percent of Americans now support the administration's program. That's up from 42 percent last month.

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Half now say the administration should have to get a warrant to conduct eavesdropping, down from 56 percent one month ago. Support for the program grew by 9 percentage points among men, but it dropped 8 points — to 30 percent — in the Northeast.

Some noteworthy trends from Bush's political base:

_Fifty-eight percent of suburban men support the program, up 13 percentage points.

_Fifty-six percent of Southerners support the program, up 12 points.

_Republican support for the program jumped 14 points to 82 percent. Independent support is up 17 points, to 53 percent.

_White evangelical support grew by 11 points, to 71 percent.

Former FBI Agent Ralph Decker Thinks Wiretapping Is Not Only Legal, It's Necessary. (KIMT)

KIMT-TV, February 10, 2006

He says at least 50-attacks have been stopped by the FBI since September 11th.

He thinks the senate's investigation into the matter, could be hurting the spying program.

Ralph Decker tells KIMT NewsChannel Three," I just hope the senate wakes up because I know the trail of blood would lead right back to the senate if something does happen and would they claim it? Probably not knowing them."

But supporters like Ralph will face an uphill battle since opponents of the wiretapping say spying on American citizens without warrants is not just illegal, it's a violation of their constitutional rights.

If Al Qaeda Phones Tell Them We Can't Take The Call (WSJ)

By Daniel Henninger

The Wall Street Journal, February 10, 2006

Let's start with the one thing we know for sure about the Bush administration's program to listen to al Qaeda's phone calls into and out of the United States: It's dead.

After all the publicity of the past two weeks, does anyone think that the boys working on plans for Boston Harbor, the Golden Gate Bridge or Chicago's Loop are still chatting by phone? If the purpose of the public exposure was to pull the plug on the pre-emptive surveillance program, mission accomplished. Be safe, Times Square.

At the least, al Qaeda's operatives in Yemen, Iraq, Pakistan, Hamburg and the U.S. will hold off phoning in the next mass-murder plan until the U.S. Senate finishes deliberating Arlen Specter's proposal to legislatively order up an opinion from the judges on the Foreign Intelligence Surveillance Act court, est. 1978, as to whether the antiterrorist wiretap program violates the law that created their jobs.

This passage appears on the second page of the 9/11 Commission's 567-page report, On Terrorist Attacks Upon the United States: "We learned that the institutions charged with protecting our borders, civil aviation and national security did not understand how grave this threat could be, and did not adjust their policies, plans and practices to deter or defeat it. . . . We learned of the pervasive problems of managing and sharing information across a large and unwieldy government [my emphasis] that had been built in a different era to confront different dangers."

And those who cannot remember the past are condemned to repeat it. Having watched one passenger-filled airliner fly into a skyscraper on a peaceful morning in lower Manhattan more than four years ago, I'd just as soon not repeat the experience. If the question on the table is whether it is legal for the executive branch to listen without warrants to phone calls between people who repeatedly chant "Death to America," then I guess I'm for declaring it respectful of our laws and getting on with it.

But insofar as the surveillance program has been rendered moot, let's by all means pull over to the side of the road and have a long national conversation about it. (But don't send your thoughts to Sen. Specter via the Postal Service, as his Web site contains the following Important Notice: "Security restrictions now cause considerable delay in processing postal mail sent to Senate offices.")

The issues at the center of this dispute are in fact intellectually interesting, having to do with separation of powers, legal rules versus legal discretion, and competing interpretations of the Fourth Amendment and Article II of the Constitution.

But let us here consider something that tends to fall outside legal considerations -- effective management. On Tuesday, Vice President Cheney said, "You can't take 535 members of Congress and tell them everything and protect the nation's secrets." Mr. Cheney was reflecting the view, which arose at the time of the Founding Fathers, that foreign policy was disorganized under the Articles of Confederation and belonged under a strong executive. A primary reason for calling the Constitutional Convention of 1787 was the mess Congress had made of managing foreign policy.

Then later in the week GOP Rep. Heather Wilson suddenly became famous for presumably dissenting from the White House line and demanding a "complete review" of the surveillance program. Rep. Wilson, who chairs a House intelligence

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oversight subcommittee, is rightly regarded as one of the House's savvier and more serious members on national security issues. But . . .

Rep. Wilson is in a neck-and-neck re-election fight back in her New Mexico district with state Attorney General Patricia Madrid. Rep. Wilson is under pressure because her district is heavily Democratic; the opposition's primary line of attack has been that Rep. Wilson isn't sufficiently "independent" of the Bush White House. Right after her highly publicized NSA declaration this week, the Democratic Congressional Campaign Committee got out a statement that "Rep. Wilson is now and has always been a rubber stamp for the policies of the Bush-Cheney administration."

What this means is that the local politics of Albuquerque is now setting national security policy. Why them? Why not accord the same overweighted political status to the Third District in North Carolina, which happens to house Camp Lejeune? The primary argument against letting Albuquerque set national security policy through Rep. Wilson's political problems back home is found in that earlier statement from the 9/11 Commission: You simply cannot disperse policy formation in this area across all branches of government in the guise of checks and balances and then expect efficient management in, say, stopping terrorists. Nor can you present the paperwork required to satisfy "probable cause" before a FISA judge prior to every proposed antiterror wiretap and not risk flipping the competition's outcome in favor of the terrorists.

Historically, the proper path for working out these national security disputes hasn't been Sen. Specter's preposterous appeal to let some judge design the nation's antiterror policy but rather through informal political negotiation between the executive branch and Congress. That only works, though, if the presidency has someone who will negotiate in good faith. Who's that? Hillary Clinton, already on the campaign trail in front of the UAW Wednesday, contributed: "You cannot explain to me why we have not captured or killed the tallest man in Afghanistan." Well for starters, he's probably not making phone calls.

At the Judiciary Committee hearings Monday, Sen. Leahy announced: "Mr. Attorney General, in America, our America, nobody is above the law, not even the president of the United States." Got it. But here's the bottom line on the surveillance program. It was going to work, and help lessen the chance of another atrocity in our America, only if it stayed secret. The odds of it staying secret would diminish as its existence spread through the Congress and judicial system. Now it is public, and its utility is about zero. What's left is the legal issue of whether it violated FISA. We can only look forward to the answer.

Changing Winds On Surveillance (WP)

By E. J. Dionne Jr.

The Washington Post, February 10, 2006

This week the Bush administration was finally forced out of its own pre-Sept. 11 worldview -- and, yes, you read that right. It happened because some brave Republicans stared the president down and said: Stop.

Of course, it is the administration that is always accusing its opponents of pre-Sept. 11 thinking. But for the past five years, President Bush, Vice President Cheney and Karl Rove have been willing to put the national unity required to fight terrorism in second place behind their goals of aggrandizing presidential power and winning elections. Can you get more pre-Sept. 11 than that?

Instead of seeking broad agreement on the measures required for our nation's safety, they preferred to pick fights designed to make the Democrats look soft and to claim the president could do pretty much anything he wanted.

That's why the White House made sure that Rove trumpeted the surveillance issue before the Republican National Committee last month. A president who cared more about national security than politics wouldn't send out his top political lieutenant to make sure everyone knew that the GOP planned to use a matter of such grave importance to bash Democrats.

And it's why Cheney, when asked this week by Jim Lehrer if Bush was willing to work with Congress on the issue, barely entertained the question. "We believe, Jim, that we have all the legal authority we need," Cheney replied immediately. Congress could make any suggestions it wanted, but -- I add the italics to underscore the point -- the White House would ignore whatever it chose to ignore. " We'd have to make a decision as an administration whether or not we think it would help and would enhance our capabilities."

Translation -- Cheney to Congress: Buzz off.

But this time some important members of the president's own party -- led by Senate Judiciary Committee Chairman Arlen Specter -- decided that enough is enough. As stewards of Congress's constitutional authority, they could not stand by while the president claimed the power to decide for himself what the law said and whether he needed to follow it without any concern for what those meddlesome members of Congress or judges might say.

And it's wonderful to see what a few brave politicians can achieve. Yesterday, the administration agreed to brief the Senate intelligence committee on the program after having offered a similar briefing to the comparable House committee the day before.

It was a small crack in the wall, and Specter and his allies will have to remain vigilant. Still, until this week, the White House had flatly refused to offer such briefings. The winds are changing.

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What's heartening is how broad the Republican dissent from the administration has been -- a sign that many Republicans have calculated that they'll be better off in this fall's elections if they do their jobs, even if this means challenging Bush and Cheney.

Rep. Heather Wilson (R-N.M.), who faces a tough reelection battle and has shown streaks of independence in the past, demanded the briefings for reasons straight out of a good civics textbook. "The checks and balances in our system of government are very important," she said, noting that our "constitutional structure has kept us safe and free and the strongest country in the world for a very long time." Yes, let's wave a flag for this Air Force veteran.

Sen. Mike DeWine (R-Ohio), who also is up for reelection, said that "this country would be stronger and the president would be stronger" if Bush accepted the idea that Congress might actually have a role in lawmaking on the surveillance issue.

And Sen. Lindsey Graham (R-S.C.) said the administration was making a "very dangerous" argument in claiming that it got the authority to wiretap without supervision when Congress passed its use-of-force resolution against terrorism. Graham said he never envisioned that he was giving Bush -- or "any other president" -- "carte blanche" on surveillance.

Focus for a moment on Graham's reference to "any other president." It's instructive to imagine what Republicans in Congress (let alone Rush Limbaugh or Bill O'Reilly) would say if a President Hillary Rodham Clinton were to claim the far-reaching authority Bush and Cheney say they have. Is there any doubt that the entire Republican Party would -- to cite a recent comment by Republican National Committee Chairman Ken Mehlman -- "have a lot of anger" and denounce Clinton for arrogance, overreaching and power lust?

"The president should have all the tools he needs to fight terrorism," Specter said, "but we also want to maintain our civil liberties." Now there is a perfect expression of patriotic, post-Sept. 11 thinking.

President Kollar-Kotelly (WSJ)

The Wall Street Journal, February 10, 2006

We'd like to thank the Washington Post for publishing a story yesterday that so quickly proved our editorial point of the same day about the folly of putting judges in control of national security decisions. That's what we call service.

The front-page story reported that on rare occasion the Bush Administration has used information from the NSA's warrantless foreign-linked wiretaps to seek domestic wiretapping authority from the Foreign Intelligence Surveillance Court. This was said to have upset chief FISA judge Colleen Kollar-Kotelly, and the tenor of the story is that this is one more example of how the warrantless wiretaps are an abuse of power. But the better question is, Who elected Ms. Kollar-Kotelly?

The story's real news is that Judge Kollar-Kotelly, and her predecessor Judge Royce Lamberth, took it upon themselves to erect a new "wall" concerning how intelligence is to be used to protect America. They decided that pertinent information gleaned from a warrantless wiretap should never be used later to justify a domestic warrant. But why not? If a tip gathered from an email from Pakistan leads to suspicion about an American-based contact, what's wrong with using that news to get a legal warrant to track that suspect in the U.S.? It might even prevent a domestic attack.

In any event, why is an unelected judge such as Ms. Kollar-Kotelly making these decisions? Under the Constitution, those calls ought to be made by the President, who swears to defend the U.S. and can be held accountable by the voters if he fails. Under the current FISA court process, Judge Kollar-Kotelly answers essentially to no one.

GOP Senator Arlen Specter is saying he wants to write legislation putting even more power in the hands of FISA judges. This isn't merely unconstitutional. As the Post story shows, in a world of WMD and fast-moving transnational terrorists, it's dangerous.

Another Set Of Eyes (WP)

The Washington Post, February 10, 2006

THE BUSH administration would like the debate over its warrantless wiretapping program to divide neatly along partisan, and potentially electorally useful, lines. But some Republican legislators aren't with the program. Their responsible pressure has nudged the administration from its customary highhandedness. The resulting congressional briefings are a good first step, but a framework for real oversight of the surveillance program remains necessary.

When Attorney General Alberto R. Gonzales appeared before the Senate Judiciary Committee on Monday, Republican senators -- Chairman Arlen Specter (Pa.) and Mike DeWine (Ohio), Sam Brownback (Kan.) and Lindsey O. Graham (S.C.) -- expressed discomfort with the administration's end run around the Foreign Intelligence Surveillance Act (FISA). Then Rep. Heather A. Wilson

(R-N.M.), who chairs a House intelligence subcommittee that oversees the National Security Agency, called for a full congressional investigation into the eavesdropping. She'd been trying in vain to get information from the administration about the program since it was revealed in December. After her public statement, the administration wisely, if belatedly, agreed to brief

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House and Senate intelligence panels not just with a rehash of its unconvincing legal arguments but with actual details about the surveillance.

This is a promising reversal but not enough. Lawmakers beyond the "Gang of Eight" congressional leaders and intelligence committee chairs need to know what the surveillance program entails. But it is even more important to try to put in place a mechanism -- beyond the executive branch monitoring itself -- to make certain the surveillance stays within constitutional boundaries.

The administration is not exactly embracing the notion of congressional involvement here -- but it is also not slamming the door as firmly as it has in some confrontations. Questioned by PBS's Jim Lehrer on Tuesday, Vice President Cheney said a legislative fix was both unnecessary and potentially counterproductive. "We believe firmly . . . that we have all the legal authority we need," Mr. Cheney said, adding, "I don't think it would necessarily be in the interests of the country" to have new legislation. Still, he said of Congress, "if you've got suggestions, we're happy to listen to them."

Lawmakers don't seem to be deterred by the administration's coolness to a legislative solution -- and they shouldn't be. Mr. Specter is drafting legislation that would call on the court that oversees the administration of FISA to determine the constitutionality of the surveillance program. Ms. Wilson and other lawmakers have raised the possibility of rewriting the FISA statute to accommodate new technological realities.

Mr. Brownback urged the administration to recognize the importance of having "another set of eyes also looking at this surveillance technique." The administration ought to take his advice.

Editorial: Stonewalled (SACBEE)

The Sacramento Bee, February 10, 2006

Bush team keeps Congress in the dark

Attorney General Alberto Gonzales made it clearer than ever this week that the Bush administration is determined not only to continue warrantless electronic eavesdropping, but also to stonewall Congress and the public by saying "trust us" over and over - and not much else.

Testifying Monday before the Senate Judiciary Committee, Gonzales fell back on the argument that the president is responsible for protecting the country, and that the Constitution and Congress, in authorizing the president after 9/11 to use force against terrorist groups and states, give him the authority to do it as he sees fit. Even the most innocuous questions from senators elicited mostly platitudes, obfuscation and refusals to answer. Gonzales even said Congress is a full partner in combating terrorism.

"In the arena of war," he said, "it is not true that the president works ... to the exclusion of Congress. Quite the contrary; our framers intended that, in a time of war, both branches of government have a role to play."

Oh? Presumably that means Congress should be grateful for any scrap of information thrown its way. Key members of Congress - eight in all - have been briefed "fully," according to administration officials. But some of those briefed have said the information provided is sketchy and that security rules bar them from spelling out their objections.

Gonzales, President Bush and others have said the program, run by the National Security Agency, is limited in nature, affecting only a modest number of Americans at the U.S. end of international phone calls and e-mails. But other sources, including unnamed sources involved in the program, have said the Federal Bureau of Investigation has been inundated with information producing no useful leads.

The frustration in Congress is bipartisan. At least four of 10 GOP members of the Judiciary Committee - including Chairman Arlen Specter - have challenged official assertions of unfettered authority. So, now, has Republican Rep. Heather Wilson, who chairs a subcommittee of the House Intelligence Committee. She has called for the full Intelligence Committee to conduct an inquiry. But so far that seems unlikely.

What does seem likely is growing mutual mistrust between the administration and its supporters in Congress and those in both parties who feel, justifiably, that the president has essentially dealt Congress out of the anti-terrorist campaign. Vice President Dick Cheney made that point clearly in an interview this week, saying, "We have all the authority we need" and that a public debate "could alert al-Qaida to tactics used" by U.S. officials.

Nonsense. Closed hearings could do much to reassure Congress, and indirectly the public, that the administration is not exceeding its mandate while wrapping itself in the flag of national security. If it does have all the authority it needs, then why isn't it willing to make its case to the branch of government charged with making the laws, declaring war and providing the funds to pay for it?

Cal Thomas: In A Dither On Security (SACBEE)

By Cal Thomas

DOJ_NMG_0013998

The Sacramento Bee, February 10, 2006

"The critical question before the committee was to determine how the fundamental liberties of the people can be maintained in the course of the government's effort to protect their security. The delicate balance between these basic goals of our system of government is often difficult to strike, but it can, and must, be achieved."

That is not a statement from a member of the Senate Judiciary Committee, which last Monday heard testimony from Attorney General Alberto Gonzales about the Bush administration's efforts to monitor the conversations of terrorist suspects. It is from the introduction to the 1976 "Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities," sometimes referred to as the Church Committee after its chairman, Sen. Frank Church, D-Idaho.

The New York Times recalled those "glorious" (for the left) days by reprinting a picture of Church talking to reporters during the 1975 hearings into the misuse of intelligence gathering by the Nixon administration. Though Nixon used government agencies to spy on his domestic political enemies, the Times wants its readers to believe that what the Bush administration is doing by monitoring phone calls and other communications between terrorist suspects outside the country, and those inside, is similar behavior.

What the newspaper fails to acknowledge is that the findings of the Church Committee led to the dismantling of many useful intelligence-gathering operations, thus limiting our ability to gather precisely the type of intelligence that would have been useful in stopping 9/11.

Democrats on the Senate Judiciary Committee denied they are trying to write a bill of rights for terrorists. Sen. Patrick Leahy, R-Vt., assured his colleagues and those watching C-SPAN, which carried the hearing live, that he wants to do everything possible to find terrorists before they kill more of us. He just wants to make sure it is done "legally."

Democrats appeared not to accept Gonzales' testimony that the surveillance is being done legally, preferring to make political points rather than capture and defeat the enemy.

The danger in tinkering with intelligence gathering is that the tinkerers sometimes go too far. In its effort to curtail domestic eavesdropping and foreign spying 30 years ago, a Democratic Congress used the Church Committee findings on illegal domestic surveillance in a way that some analysts believe subsequently curtailed our effectiveness to obtain information vital to the nation's security.

The CIA came to rely more on satellites and other technologies and less on human intelligence. The result was fewer people who spoke the languages of the countries in which they operated and the consequence of that has been a reduced ability to gather information that could only be obtained on the ground.

Politicians, egged on by the crusading media (who were feeling especially self-righteous after "bringing down" President Nixon), resembled constitutional fundamentalists. Today's left quotes the text of the Constitution as if it means what it says on searches and seizures, though when it comes to behavior the left wishes to condone, the Constitution morphs into a "living document" in constant need of updating to suit the times.

Which is it? Liberals in the 1970s began suggesting that virtually all American spying is unconstitutional. Soviet and Chinese spies were to be expected, but we shouldn't "be like them." A similar double standard exists today in much of the big media and among certain liberal politicians of both parties. The enemy does what it wants without restraint. We put shackles on ourselves and are shocked when those without any attack us. Then we ask, "What went wrong?"

In his defense of the president's order to monitor limited communications between foreign terrorist suspects and people in the United States, Gonzales listed a number of presidents, Democratic and Republican, dating back to the 19th century, who had used far more invasive and widespread tactics to gather intelligence they believed crucial to defending the nation.

Should the United States be attacked again, the next congressional hearings (assuming Congress survives the attack) will focus on why more wasn't done to protect us. More is now being done and public opinion seems to be fine with it for now, complaints from liberal Democrats (and a few liberal Republicans) notwithstanding.

About the writer:

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Loose Lips Sink Spies (NYT)

By Porter Goss

The New York Times, February 10, 2006

Washington

AT the Central Intelligence Agency, we are more than holding our own in the global war on terrorism, but we are at risk of losing a key battle: the battle to protect our classified information.

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Judge Laurence Silberman, a chairman of President Bush's commission on weapons of mass destruction, said he was "stunned" by the damage done to our critical intelligence assets by leaked information. The commission reported last March that in monetary terms, unauthorized disclosures have cost America hundreds of millions of dollars; in security terms, of course, the cost has been much higher. Part of the problem is that the term "whistleblower" has been misappropriated. The sharp distinction between a whistleblower and someone who breaks the law by willfully compromising classified information has been muddied.

As a member of Congress in 1998, I sponsored the Intelligence Community Whistleblower Protection Act to ensure that current or former employees could petition Congress, after raising concerns within their respective agency, consistent with the need to protect classified information.

Exercising one's rights under this act is an appropriate and responsible way to bring questionable practices to the attention of those in Congress charged with oversight of intelligence agencies. And it works. Government employees have used statutory procedures — including internal channels at their agencies — on countless occasions to correct abuses without risk of retribution and while protecting information critical to our national defense.

On the other hand, those who choose to bypass the law and go straight to the press are not noble, honorable or patriotic. Nor are they whistleblowers. Instead they are committing a criminal act that potentially places American lives at risk. It is unconscionable to compromise national security information and then seek protection as a whistleblower to forestall punishment.

Today America is confronting an enemy intent on brutal murder. Without the capacity to gain intelligence on terrorist organizations through clandestine sources and methods, we and our allies are left vulnerable to the horrors of homicidal fanaticism.

The C.I.A. has put many terrorists out of action since 9/11. In our pursuit of the enemy, we accept the unique responsibility we bear as officers of a clandestine service serving an open, constitutional society. But we also know that unauthorized disclosure of classified intelligence inhibits our ability to carry out our mission and protect the nation.

Revelations of intelligence successes or failures, whether accurate or not, can aid Al Qaeda and its global affiliates in many ways. A leak is invaluable to them, even if it only, say, prematurely confirms whether one of their associates is dead or alive. They can gain much more: these disclosures can tip the terrorists to new technologies we use, our operational tactics, and the identities of brave men and women who risk their lives to assist us.

Such leaks also cause our intelligence partners around the globe to question our professionalism and credibility. Too many of my counterparts from other countries have told me, "You Americans can't keep a secret." And because of the number of recent news reports discussing our relationships with other intelligence services, some of these critical partners have even informed the C.I.A. that they are reconsidering their participation in some of our most important antiterrorism ventures. They fear that exposure of their cooperation could subject their citizens to terrorist retaliation.

Last month, a news article in this newspaper described a "secret meeting" to discuss "highly classified" techniques to detect efforts by other countries to build nuclear weapons. This information was attributed to unnamed intelligence officials who "spoke on the condition of anonymity because of the effort's secrecy." Whether accurate or not, this is a direct acknowledgment that these unnamed officials apparently know the importance of secrecy.

Recently, I noticed renewed debate in the news media over press reports in 1998 that Osama bin Laden's satellite phone was being tracked by United States intelligence officials. In the recent debate, it was taken for granted that the original reports did not hurt our national security efforts, and any suggestions that they did cause damage were dismissed as urban myth. But the reality is that the revelation of the phone tracking was, without question, one of the most egregious examples of an unauthorized criminal disclosure of classified national defense information in recent years. It served no public interest. Ultimately, the bin Laden phone went silent.

I take seriously my agency's responsibility to protect our national security. Unauthorized disclosures undermine our efforts and abuse the trust of the people we are sworn to protect. Since becoming director, I have filed criminal reports with the Department of Justice because of such compromises. That department is committed to working with us to investigate these cases aggressively. In addition, I have instituted measures within the agency to further safeguard the integrity of classified data.

Our enemies cannot match the creativity, expertise, technical genius and tradecraft that the C.I.A. brings to bear in this war. Criminal disclosures of national security information, however, can erase much of that advantage. The terrorists gain an edge when they keep their secrets and we don't keep ours.

US Sends 3 Guantanamo Prisoners Home To Morocco (REU)

Reuters, February 9, 2006

RABAT (Reuters) - The United States has handed three suspected Islamic militants held at its Guantanamo Bay prison over to Morocco, Moroccan state media reported on Thursday.

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The three Moroccan men were being detained in Casablanca, Morocco's financial capital, for further questioning by an investigating judge, the official news agency MAP reported.

MAP gave no further details and Moroccan security officials were not immediately available for comment.

The extradition was announced two days after U.S. Federal Bureau of Investigation head Robert Mueller held talks with King Mohammed on security cooperation between Rabat and Washington.

Mueller, who toured the North Africa region to cement the U.S. anti-terror drive, also met Morocco's top security chiefs.

"We knew very well that Morocco, Algeria, Tunisia and Libya are working together to fight terrorism," Thursday's edition of the Moroccan daily al Maghribia quoted Mueller as saying.

"So we must follow up in building our friendly relations with them and create mechanisms to exchange information quickly to prevent new terrorism attacks," he said.

Morocco, a staunch U.S. ally in the region, has been clamping down on suspected cells of Islamic radicals since 2003, when multiple suicide bombings in Casablanca killed 45 people and shocked the normally peaceful country.

The United States sent five Moroccan detainees home from Guantanamo in 2004, but the five have since been in and out of detention and questioning by police over their suspected links with radical Islamist cells.

Local lawyers and rights groups say more than 20 Moroccans are still held prison by Guanatanamo.

Morocco's main independent human rights group, the Moroccan Human Rights Association (AMDH), urged Moroccans to take to the streets in Rabat on Sunday to protest against expanded security cooperation with the United States.

"The protest will express the Moroccan people's opposition to integrate Morocco in the U.S. military and security plans under the disguise of opposition to terrorism. Such cooperation threatens Morocco's security and independence," the AMDH said in statement.

U.S. military authorities in Afghanistan on Thursday released seven men who had been detained at Guantanamo Bay.

PATRIOT ACT:

Senate Republicans Announce Deal For Renewal Of Patriot Act (LAT)

By Nicole Gaouette, Times Staff Writer

The Los Angeles Times, February 10, 2006

The compromise focuses on subpoena powers. Democrats are split.

WASHINGTON — Senate Republicans who had been blocking a long-term extension of the Patriot Act announced Thursday that an agreement reached with the White House could allow reauthorization of the anti-terrorism law.

At an afternoon news conference, Sen. John E. Sununu (R-N.H.) said a bipartisan group of lawmakers had worked out changes in three areas where the legislators thought "we could do better to protect civil liberties while providing law enforcement the tools it needs."

White House spokesman Scott McClellan hailed the agreement, saying that the administration was "pleased that this important legislation is moving forward."

Though some Democrats expressed support for the changes, others were critical, raising the prospect that a two-month filibuster of the act could continue.

"The few minor changes that the White House agreed to do not address the major problems with the Patriot Act that a bipartisan coalition has been trying to fix for the past several years," said Sen. Russell D. Feingold (D-Wis). "I will continue to strongly oppose and use every option at my disposal to stop any reauthorization of the Patriot Act that does not protect the rights and freedoms of law-abiding Americans."

Enacted shortly after the Sept. 11 terrorist attacks, the Patriot Act broke down barriers between intelligence agencies and law enforcement, giving each new powers to collect information. Lawmakers and civil liberties groups objected to provisions that included secret wiretaps and searches, saying they allowed the government to intrude too easily and too far into citizens' lives.

When the Patriot Act expired at the end of 2005, Congress resorted to passing short-term extensions while negotiations over its reauthorization took place.

Sununu made his announcement accompanied by Sens. Larry E. Craig (R-Idaho), Lisa Murkowski (R-Alaska), Chuck Hagel (R-Neb.) and Richard J. Durbin (D-Ill.). Although the lawmakers acknowledged that they did not get everything they wanted, they said the compromise was an improvement over the version that emerged after House and Senate negotiators met in conference in November.

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Those negotiations produced legislation that would have made permanent 14 of the Patriot Act's 16 provisions, prompting opponents to charge that the conference bill failed "to protect innocent people from unnecessary and intrusive government surveillance" and to fight against the act's reauthorization.

The changes announced Thursday focus largely on Section 215 orders, known as National Security Letters, a powerful type of subpoena that comes with a gag order forbidding recipients to say they have received it.

Lawmakers also reached a compromise on the act's so-called "library provision," which requires libraries, businesses or medical offices to hand over individual records to law enforcement officials.

One change, Sununu said, establishes that libraries functioning in their traditional role will no longer be subject to National Security Letters. He said the definition "traditional role" included lending digital books and providing patrons with access to the Internet.

Libraries that act as an Internet service provider, instead of simply giving people access to the Internet, would still be subject to National Security Letters.

Critics pointed out that in other respects, little has changed.

"This deal does not prevent the government from obtaining the library, medical and other sensitive business records of people with no link to suspected terrorists," Feingold said in a statement. "The records just have to be 'relevant' to a terrorist investigation, which is not adequate protection against a fishing expedition."

The negotiated changes also remove a requirement that recipients of a National Security Letter give the FBI the name of any attorney they consult about the subpoena. And, for the first time, recipients of the letters will be allowed to challenge the gag order that accompanies them, though they can only do that after a year has passed.

"We've always said that you ought to allow citizens to appeal that [gag order] before a judge," said Sununu. "We suggested a 90-day waiting period. This has a one-year waiting period, but it's important to have the process and the principle in place."

In order to successfully challenge a gag order, recipients of a National Security Letter would have to prove the government acted in bad faith.

Craig emphasized that the provisions concerning the National Security Letters would expire after four years unless they were renewed. "We've been most concerned about [Section] 215. We don't believe the protections are there the way they need to be," he said.

Craig said that there would be no additional changes, and that he was optimistic that the compromise version could pass.

Sen. Dianne Feinstein (D-Calif.) said she would support the agreement, telling reporters outside the Senate chamber: "I'm going to vote for it. There are three changes, they are substantive changes…. I think it's important to get this done, and there is a four-year sunset, so we'll be able to watch it closely."

President Bush has vigorously defended the Patriot Act and the administration's domestic spying program, declaring during his Jan. 31 State of the Union address that "the enemy has not lost the desire or capability to attack us."

The Senate announcement came a few hours after Bush generally defended the administration's surveillance efforts. In a speech at the National Guard Memorial Building, the president said that his anti-terrorism strategy helped foil a 2002 terrorist plot to attack Los Angeles.

Senators Make Compromises On Patriot Act (USAT)

USA Today, February 10, 2006

A bipartisan group of senators reached agreement Thursday with the White House on disputed provisions of the USA Patriot Act, increasing the chances the anti-terrorism law, held up because of civil liberties concerns, will be renewed.

The compromise allows recipients of “Section 215” subpoenas seeking business or library records related to a terrorism investigation to challenge in court a requirement that they not tell anyone.

The compromise also scraps a provision that required recipients of “national security letters,” which are issued without going before a judge, to provide the FBI with the name of any lawyer they consulted about it. A third element of the deal says traditional libraries may not be subject to FBI requests for information on research done by patrons.

The deal — reached by Republican Sens. Larry Craig of Idaho, John Sununu of New Hampshire and Lisa Murkowski of Alaska with Sen. Dick Durbin, D-Ill. — moves the Senate to within a few votes of overcoming a filibuster that blocked renewal of the bill. Still uncertain, though, is whether the House will accept the compromise. The current version of the Patriot Act expires March 10.

— John Diamond

Senate bill would curbpractice of ‘earmarks'

Ten senators, led by Sen. John McCain, R-Ariz., introduced the Pork-Barrel Reduction Act. It's the latest of several proposals aimed at ending “earmarks,” the special-interest projects that members of Congress insert into legislation just before final passage.

The measure would require that earmarks be described in detail and the sponsor identified, and any member could eliminate an earmark unless it is upheld by 60 votes in the 100-member chamber.

Sheehan won't challengeFeinstein in primary

Peace activist Cindy Sheehan said she won't run against Sen. Dianne Feinstein, D-Calif., in the Democratic primary, even though she thinks Feinstein has not done enough to oppose the war.

“I think I'm more effective on the outside than on the inside,” said Sheehan, whose 24-year-old son, Casey, was killed in Iraq in 2004.

Agreement Reached On Patriot Act Changes (AP-Y2)

By David Espo

AP2, February 10, 2006

A band of Senate Republican holdouts reached agreement Thursday with the White House on changes in the Patriot Act designed to clear the way for passage of anti-terror legislation stalled in a dispute over civil liberties.

Sen. John Sununu (news, bio, voting record), R-N.H. said the changes, quickly endorsed by at least one leading Democrat, would better "protect civil liberties even as we give law enforcement important tools to conduct terrorism investigation."

The White House embraced the deal even before Sununu and several other senators outlined it.

Presidential spokesman Scott McClellan said the agreement would "continue to build upon the civil liberties protections that are in place but do so in a way that doesn't compromise our national security priorities."

"We're pleased that this important legislation is moving forward," he said.

The compromise focused on three areas:

_giving recipients of subpoenas for information in terrorist investigations the right to challenge a requirement that they refrain from telling anyone.

_eliminating a requirement that an individual provide the FBI with the name of a lawyer consulted about a National Security Letter, which is a secret request for records.

_clarifying that most libraries are not subject to demands in those letters for information about suspected terrorists.

While there was no immediate reaction from House Republicans, Sen. Larry Craig (news, bio, voting record), R-Idaho, one of the Senate negotiators, said he had been in close touch with the chairman of the House Judiciary Committee. Rep. James Sensenbrenner, R-Wis.

Reaction from the Democrats was divided.

Sen. Dick Durbin of Illinois, second-ranking in the Democratic leadership, appeared at the GOP news conference. He said the compromise included "significant progress" toward protecting basic liberties and that he planned to support the compromise.

The party's leader, Sen. Harry Reid (news, bio, voting record) of Nevada, said in a statement that the agreement among Republicans "appears to be a step in the right direction."

But Sen. Russell Feingold, D-Wis., threatened a filibuster.

The senior Democrat on the Senate Judiciary committee, Patrick Leahy of Vermont, criticized the White House. At the same time, his office left open the possibility he would support the measure.

The law originally was passed within days of the attacks of Sept. 11, 2001, and the administration says it has been an important weapon in the government's arsenal for tracking suspected terrorists.

Renewal of the law was blocked last year when critics said its provisions shortchanged civil liberties, particularly in the cases of individuals who were not suspected of terrorist activities themselves, but might have had innocent dealings with suspects.

Also at issue was concern over the government's ability to demand information from libraries.

As a result of the deadlock, lawmakers decided to extend the old law temporarily, a short-term solution that left the administration and many in Congress unhappy.

The current extension expires March 10.

Republicans said that with the changes, the chance would be remote that any library would have to turn over information.

But Democrats said the same provision made explicit that some libraries could be forced to turn over information, adding that existing law is vague on the subject.

Other than Sununu, the Senate Republicans who had defied the president's wishes on the Patriot Act last December were Craig, Lisa Murkowski of Alaska and Chuck Hagel of Nebraska.

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The changes were worked out over several weeks in discussions that involved the lawmakers and White House counsel Harriet Miers, according to one Republican familiar with the efforts.

Officials who discussed the issue did so on condition of anonymity, saying they did not want to pre-empt a formal announcement.

On Dec. 16, the Senate voted 52-47 to move to a final vote on the legislation, which deals specifically with 16 provisions in the act that Congress wanted reviewed and renewed by the end of last year. That was eight votes short of the 60 needed to end the filibuster.

Key Democratic And G.O.P. Senators Are In Accord On Extending Patriot Act (NYT)

By Sheryl Gay Stolberg

The New York Times, February 10, 2006

WASHINGTON, Feb. 9 — Four recalcitrant Senate Republicans said Thursday that they had reached agreement with the White House on the broad antiterrorism law known as the USA Patriot Act, and two leading Democrats said they would now support the bill. The moves possibly clear the way for passage of the legislation, which has been bottled up in a dispute over civil liberties.

The Republicans, led by Senator John E. Sununu of New Hampshire, joined with Democrats last year in a filibuster that blocked the revised bill. Their deal involved three changes that, they said, would place greater restraints on the government's latitude in obtaining personal information like library records and business transactions.

"This is an accommodation that I think we can be proud of," said another of the four senators, Chuck Hagel of Nebraska, adding that the changes to the bill "makes it relevant, makes it realistic, makes it workable and protects both our rights and our national security interests."

The deal focused on three particular areas. The new measure would give recipients of subpoenas the right to challenge an accompanying judicial order not to discuss the case publicly, though they would have to wait one year. In the meantime, they would have to comply with the subpoena. That would prevent the F.B.I. from demanding the names of lawyers consulted by people who receive secret government requests for information and prevent most libraries from being subject to those requests.

Critics said the changes were cosmetic.

"A few insignificant changes just doesn't cut it," Senator Russell D. Feingold, Democrat of Wisconsin, said in a statement. "I cannot support this deal, and I will do everything I can to stop it."

The administration would still have the power to obtain information about terror suspects who use libraries to gain access to the Internet by seeking that information not directly from libraries, but from their Internet service providers.

"This agreement clarifies crucial national security tools without weakening them and provides additional civil liberties protections," said a spokesman for the Justice Department, Brian Roehrkasse.

With the White House and Senate Republicans in accord, the bill is likely to be approved by the House. The question now is whether enough Democrats will support the compromise to give Republicans, who have 55 seats in the Senate, the 60 votes necessary to put it up for a vote. Two Democrats supported the earlier measure and another two, Richard J. Durbin of Illinois and Dianne E. Feinstein of California, said they would support the latest version. "It is a substantial improvement," Ms. Feinstein said. "There are three basic changes. They are specific. They do improve the bill. I think it's important to get this done."

As the fight over the Patriot Act has played out over the last several months, the original law, passed after the Sept. 11, 2001, attacks, has been extended to March 10. The bill, which greatly expanded the government's surveillance and investigative powers, has since its passage provoked intense debate about the balance between protecting national security and civil liberties.

The original bill included 16 provisions that were scheduled to expire at the end of 2005. The Senate and House passed differing measures to make those provisions permanent. But when the competing bills were reconciled into a new version, Mr. Sununu, Mr. Hagel and the two other Republicans, Larry E. Craig of Idaho and Lisa Murkowski of Alaska, balked, forcing the temporary extension and prodding Mr. Sununu into negotiations with the White House.

Passage would make several major components of the act permanent.

The compromise does not, however, address one of their chief complaints, that the revised bill would allow the government to obtain private records of Americans with just loose connections to a terrorism investigation. Mr. Sununu and the others had originally insisted that the government prove a direct connection. In its current version, the bill simply says the records have to be relevant to a terrorism investigation, a standard that Ms. Feingold said was "not adequate protection against a fishing expedition."

Mr. Durbin, the lone Democrat to appear with Mr. Sununu and the others at a news conference on the compromise, disagreed, saying, "As Senator Sununu has said, we've made progress here, significant progress, progress that moves us in the right direction, protecting basic civil liberties at a time when we are dealing with a war on terrorism."

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Patriot Act Compromise Clears Way For Senate Vote (WP)

By Charles Babington

The Washington Post, February 10, 2006

Efforts to extend the USA Patriot Act cleared a major hurdle yesterday when the White House and key senators agreed to revisions that are virtually certain to secure Senate passage and likely to win House approval, congressional leaders said.

The law -- passed in the wake of the 2001 terrorist attacks and scheduled to lapse in key areas last year -- makes it easier for federal agents to secretly tap phones, obtain library and bank records, and search the homes of suspected terrorists. Several Democrats said the compromise announced yesterday lacks important civil liberties safeguards, and even the Republican negotiators said they had to yield to the administration on several points.

But with virtually all 55 GOP senators now on board, and Democrats joining them, the plan appears to have enough support to overcome the Senate filibuster that has thwarted a four-year renewal of the statute for months. Senators said they think the White House will be able to coax the Republican-controlled House to agree as well, even though House leaders have complained that senators' demands had weakened the measure.

"It was a bipartisan group of us that really believed we could do better . . . to protect civil liberties even as we gave law enforcement important tools to conduct terrorism investigations," Sen. John E. Sununu (R-N.H.) told reporters. He said that he and his fellow negotiators had to make more concessions to the administration than they wanted to, but that Congress will monitor the law's application over the coming years and perhaps revise it.

Sen. Richard J. Durbin (Ill.), one of several Democrats who agreed to back the compromise yesterday, said "it falls far short" of the bill that was passed by the Senate last year but rejected by the House. "But if you measure it against the original Patriot Act . . . we've made progress" toward "protecting basic civil liberties at a time when we are dealing with the war on terrorism," Durbin said.

Senate Minority Leader Harry M. Reid (D-Nev.) called the compromise "a step in the right direction."

The proposal would restrict federal agents' access to library records, one of the Patriot Act's most contentious provisions. A form of secret subpoena known as a National Security Letter could no longer be used to obtain records from libraries that function "in their traditional capacity, including providing basic Internet access," Sununu and others said in a statement. But libraries that are "Internet service providers" would remain subject to the letters, Durbin said.

The Senate proposal would no longer require National Security Letter recipients to tell the FBI the identity of their lawyers.

The compromise bill also addresses "Section 215 subpoenas," which are granted by the Foreign Intelligence Surveillance Act court. Recipients of such subpoenas originally were forbidden to tell anyone about the action. The proposed Senate measure would allow them to challenge the "gag order" after one year, rather than the 90-day wait in earlier legislation.

Sununu said the administration insisted on the longer waiting period. "You now have a process to challenge the gag order," he said, defending the concession. "That didn't exist before."

Sununu said he and his allies were disappointed that the compromise does not require agents to "show a connection to a suspected terrorist or spy" before obtaining a Section 215 subpoena. Instead, a FISA judge would have to agree that there are reasonable grounds to believe the items being sought are relevant to an investigation into terrorism.

Several liberals condemned the bill. "I am gravely disappointed in this so-called deal," said Sen. Russell Feingold (D-Wis.). "The White House agreed to only a few minor changes" that "do not address the major problems," he said, adding: "We've come too far and fought too hard to agree to reauthorize the Patriot Act without fixing those problems."

But Justice Department spokesman Brian Roehrkasse said the Senate compromise "maintains the tools necessary to fight terrorism while further strengthening safeguards to protect civil liberties."

"We are hopeful that the Congress will now move forward to renew the Patriot Act," he said.

In a related area yesterday, several Democrats said the administration must do more to explain and justify the domestic surveillance program conducted by the National Security Agency.

"If they came with the idea that this is going to stop an investigation on the part of the Senate intelligence committee, they were wrong," committee Vice Chairman John D. Rockefeller IV (D-W.Va.) told reporters after a closed briefing by two top administration officials. "There were certain kinds of questions which could easily have been answered but weren't. . . . Where we really wanted hard information that was important to us, that gave us the size and the scope and the reach and the depth" of the program," he said, "they were not forthcoming."

Sen. Dianne Feinstein (D-Calif.) said after the briefing: "For the life of me, I don't understand why the administration won't say, 'Sure, you have a right to look at this. We'd like to explain it.' "

GOP Reaches Patriot Act Deal (WT)

DOJ_NMG_0014005

By Charles Hurt

The Washington Times, February 10, 2006

Four Republican senators reached a deal yesterday to drop their opposition to the renewal of the USA Patriot Act, hailed by the White House as crucial in the war against terrorists.

But the agreement involving White House officials and top congressional leaders doesn't guarantee approval because most Democrats are still on the record opposing the measure.

Republican Sens. John E. Sununu of New Hampshire, Larry E. Craig of Idaho, Lisa Murkowski of Alaska and Chuck Hagel of Nebraska had opposed the reauthorization because they said it lacked the appropriate civil liberties protections.

"America's civil liberty protections are a model to the world," the four Republicans said in a joint statement yesterday. "We should always strive to balance protection of these freedoms with the essential needs of law enforcement. The substantive, and at times, emotional debate concerning Patriot Act reauthorization reflects the importance of enabling law enforcement to investigate terrorists without sacrificing these rights."

Under the deal, civil liberties protections have been added regarding the issuance of secret national security subpoenas and federal searches of library records.

"The changes announced today by Senator Sununu strengthen civil liberties protections without hindering the core anti-terrorism safeguards in the Patriot Act," said Majority Leader Bill Frist, Tennessee Republican. "I expect swift adoption of these changes and the Patriot Act conference report."

Senate Judiciary Committee Chairman Arlen Specter, Pennsylvania Republican, said the modifications should clear the way for passage.

"It appears -- and I say 'appears' because nothing is ever certain in the United States Senate until the final votes are cast -- that we have come to an agreement, at least within the Senate, on modifications for the Patriot Act so that it can be renewed," he said yesterday.

Once the new provisions are added, the bill must again be approved by both chambers. The new bill is expected to get easy approval from the House, but faces stiff opposition from Senate Democrats.

In December, the four Republicans joined Democrats in filibustering reauthorization of current law, which now expires in March.

With the four Republicans on board, a filibuster would become an all-Democrat move -- a prospect that Republicans relish because polls show that voters don't trust Democrats on national security. As of yesterday, the new bill remained one vote shy of breaking the filibuster.

But the deal gained at least two key Democrat supporters yesterday in Minority Whip Richard J. Durbin of Illinois and Sen. Dianne Feinstein of California, both members of the Judiciary Committee.

"It is a substantial improvement," Mrs. Feinstein said of the new version. "I think it's important to get this done. And there is a four-year sunset, so we will be able to watch it closely."

Minority Leader Harry Reid, Nevada Democrat, signaled optimism as well.

"I commend my Republican colleagues for working hard to make the Patriot Act better," he said after the agreement was announced. "Democrats strongly believe we must have all necessary tools to fight terrorism, but we want checks and balances to ensure that these expansive powers are not abused. The deal reached by my Republican colleagues appears to be a step in the right direction."

Praise from Democrats was not unanimous. Sen. Russell D. Feingold, the Wisconsin Democrat who led opposition to the bill, said the alterations are "a few small changes" and he would continue to oppose the bill.

Sen. Patrick J. Leahy, Vermont Democrat and ranking minority member of the Senate Judiciary Committee, was disappointed, too. "A bipartisan coalition in the Senate made a valiant stand to make clear that security and liberty are not mutually exclusive values in America," he said. "We can and we should have both. But White House naysaying and partisanship have obstructed this from becoming the better bill that it should be, and that is deeply regrettable."

Republicans, Durbin, Bush Reach Accord On Patriot Act (Update3) (BLOOM)

By Jeff Bliss

Bloomberg, February 10, 2006

Feb. 9 (Bloomberg) -- Republicans in the U.S. Senate and the Bush administration agreed to changes in the USA Patriot Act that they say will allow its renewal.

The deal was endorsed by Richard Durbin, the No. 2 Democrat in the Senate, and Senate Democratic Leader Harry Reid called the accord ``a step in the right direction."

The anti-terrorism law, passed in the wake of the Sept. 11 attacks, expired in December and its renewal has been stalled by concerns among Democrats and some Republicans over the law's effect on civil liberties.

Senate Judiciary Chairman Arlen Specter of Pennsylvania said the compromises reached will enable passage. ``It appears, and I say appears because nothing is ever certain in the United States Senate until the final votes are cast, that we have come to an agreement," he told reporters in Washington today.

The measure would still have to pass the House. House Judiciary Committee Chairman James Sensenbrenner won't comment until he's reviewed details of the accord, said his spokesman, Jeff Lungren.

Senator John Sununu of New Hampshire, who helped negotiate the accord, said compromises were struck on three major issues.

Compromises

Companies will now be able to challenge a gag order against discussing an FBI demand for information a year after the request is made, Sununu said. In addition, those who received so-called National Security Letters from the FBI asking for information won't have to disclose the names of the lawyers they consult, as is required currently, he said.

Finally, records of libraries performing their traditional duties will no longer be subject to search by the Federal Bureau of Investigation, Sununu said.

The Patriot Act expanded the FBI's authority to demand business records, use roving wiretaps and share information with intelligence agents to pursue suspected terrorists. The Bush administration says it's been essential to tracking suspected terrorists. Critics say the law allows abuse of civil liberties.

The law expired Dec. 31 and has twice been extended for one month to give lawmakers time to settle differences.

Specter and Sununu were joined at a press conference announcing the agreement by Republican Senators Larry Craig of Idaho, Lisa Murkowski of Alaska and Chuck Hagel of Nebraska, all of whom had reservations about the Patriot Act.

Durbin's Support

Durbin, a member of the Judiciary Committee, also was there to announce his support. ``I don't speak for my caucus as I stand here," he told reporters. ``I speak for myself" in supporting the agreement.

White House spokesman Scott McClellan announced the Bush administration's support earlier. ``We believe an agreement has been reached that will continue to build on the civil liberties protections that are in place," he said at a news briefing. ``We are pleased it appears this important legislation is moving forward."

Senator Patrick Leahy of Vermont, the senior Democrat on the Judiciary Committee, made clear that he's not satisfied with the accord.

``White House nay-saying and partisanship obstructed this from becoming the better bill that it should be, and that is deeply regrettable," Leahy said in a statement.

Senator Russell Feingold, a Wisconsin Democrat, said he opposes the agreement and would try to block the measure's passage with a filibuster, a parliamentary tactic that allows for unlimited debate.

Sununu said he now counts 58 votes to support the measure - - two short of the number needed to block a filibuster -- and is confident he'll pick up enough additional votes ``on both sides of the aisle" to ``be able to pass the Senate."

Senate Republicans Craft Patriot Act Deal (REU)

By Richard Cowan

Reuters, February 10, 2006

WASHINGTON (Reuters) - Senate Republicans reached a deal with the White House on Thursday that would likely clear the way for renewing the USA Patriot Act, a key element of President Bush's war on terror.

While some Democrats were quick to portray the deal as failing to address civil liberties concerns adequately, several Republicans and Democrats who had earlier balked at renewing the law gave their support now that some revisions had been accepted by the White House.

First enacted after the September 11 attacks, the Patriot Act expanded law enforcement authorities' ability to conduct wiretaps and secret searches and share information.

Sen. Harry Reid of Nevada, the Democratic leader, said the deal appeared to be "a step in the right direction."

The Republican accord would make permanent a number of key provisions of the act that are set to expire March 10.

"It is much less likely that a filibuster would be sustained under these circumstances," said Sen. Richard Durbin of Illinois, who is in the Democratic leadership and intends to vote for the new compromise.

One change to the law accepted by Senate Republicans and the White House would allow individuals to challenge gag orders when they have been subpoenaed to produce sensitive information on library, medical, education or gun-related records.

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Another change would clarify that traditional libraries would not be subjected to special subpoenas, which are not issued by judges, to gain records.

A group of Republican and Democratic senators combined in December to stage a Patriot Act renewal filibuster, a procedural move that blocked a vote on the bill.

Since then, Congress approved short-term extensions of the law.

"White House nay-saying and partisanship have obstructed this from becoming the better bill that it should be and that is deeply regrettable," said Sen. Patrick Leahy of Vermont, the senior Democrat on the Senate Judiciary Committee.

White House spokesman Scott McClellan countered that the agreement that has been reached "will continue to build upon the civil liberties protections that are in place but do so in a way that doesn't compromise our national security priorities within this legislation."

Sen. Russ Feingold, a Wisconsin Democrat who led efforts for revisions, said the Republican proposal had only had "minor changes" that do "not address the major problems with the Patriot Act." He called the Republican-backed version a "one-sided 'deal'" and "unacceptable."

But Feingold had worked closely with Republican Sen. John Sununu of New Hampshire, who on Thursday said he would support the new language.

Sununu on Thursday acknowledged the new compromise had "places where we could do better." He said a bipartisan group of senators would work on such concerns over the long term.

Civil liberties experts have criticized the law for making it too easy for the government to obtain individuals' private records, including medical and library records.

The fight over the Patriot Act comes as Bush is under attack from Democrats for conducting domestic surveillance without warrants.

(Additional reporting by Thomas Ferraro)

Patriot Act Gets OK From Sununu (MANUL)

By JOHN DISTASO, Senior Political Reporter

Manchester (NH) Union Leader, February 10, 2006

Sen. John Sununu was pleased with what he called important improvements in the anti-terrorism USA Patriot Act announced yesterday as a compromise between a key group of senators and the White House.

“I think it’s a good package and a step in the right direction and allows us to maintain a bipartisan consensus,” Sununu told the New Hampshire Union Leader in a telephone interview from Washington.

Sununu announced the deal with the White House on Capitol Hill with Senate Judiciary Committee Chairman Arlen Specter and three other senators who had held out for changes they felt would protect the legal rights and attorney-client privacy privilege of individuals and businesses under investigation by law enforcement authorities.

Sununu and the other senators said they hope the agreement will clear the way for final passage of the Patriot Act, which has been stalled since December. Congress has extended the existing provisions twice, most recently until March 10.

Sununu and fellow Republicans Larry Craig of Idaho, Lisa Murkowski of Arkansas and Charles Hagel of Nebraska joined with Democrats last year to block the bill.

The New Hampshire Republican said yesterday he is confident the changes will secure the necessary 60 votes to ensure any future effort to block passage will be overridden.

White House press secretary Scott McClellan said the changes “continue to build upon the civil liberties protections that are in place but do so in a way that doesn’t compromise our national security priorities.”

“We’re pleased that this important legislation is moving forward,” he said.

There was no immediate reaction from House Republicans, although several GOP officials told The Associated Press key lawmakers had been informed of the proposed changes.

Sununu said he and President George W. Bush discussed the issue briefly aboard Air Force One when he accompanied the President to and from New Hampshire on Wednesday for Bush’s Manchester speech.

He said Bush “asked if we were making progress and if I thought we’d be able to agree to something, and I did indicate to him that we were making progress and that I wanted to get bipartisan support.”

Sununu said that since House and Senate leaders initially worked on a conference report, “there were 18 changes and 15 were the work of our coalition.”

Since the Senate voted down the conference report late last year, “we have since negotiated three improvements,” he announced yesterday.

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One section of the bill allows federal agents to issue, with no judicial approval, National Security Letters, which require an individual or business to produce records if the government believes they are relevant to a national security investigation.

Another part of the bill, section 215, allows a special judge acting under the Federal Intelligence Surveillance Act to be asked by law enforcement authorities to issue a subpoena for virtually anything that may be related to an intelligence investigation.

Both "215" subpoena and National Security Letters are now accompanied by "gag orders" that forbid someone who receives either document from telling anyone except his attorney that he has received it.

If the recipient does tell an attorney, he is required to inform the FBI and provide the bureau with the attorney's name. That requirement was stricken from the bill in the compromise, Sununu said.

"That, to me, is a big issue because it carried the risk that we would discourage people from seeking legal counsel," Sununu said.

A change announced yesterday for the first time allows a judge to overturn the "gag order" on 215 subpoenas if the judge finds no reason to believe disclosure would endanger national security or interfere with a criminal or counter-terrorism investigation.

But if top Justice Department officials certify that disclosure would endanger national security or interfere with diplomatic relations, their decision would be final, unless a judge finds their decision was made in bad faith.

The compromise also clarifies that a library acting in its "traditional role" would not be subject to a National Security Letter. But Sununu said a library could still be subject to a 215 subpoena, which would require a court order.

Sununu wanted to heighten the standard for issuing 215 subpoenas to require the government to show a connection to a specific spy or terrorist.

"We did not get improvement on the 215 standard, but I think it's a good package and a step in the right direction," he said.

A GOP agreement would put Senate Democrats in a politically difficult position of deciding whether to renew their filibuster on an issue of national security — an area where polling shows them trailing Bush and the Republicans, The Associated Press reported.

Sen. Russell Feingold, D-Wis., opposed the agreement outright, while Sen. Patrick Leahy, D-Vt., opposed it but stopped short of joining in Feingold's threat to renew a filibuster, the AP reported.

The Associated Press contributed to this report.

Police Blotter: Patriot Act E-mail Spying Approved (CNET)

By Declan McCullagh, CNET News.com

CNET News, February 10, 2006

"Police blotter" is a weekly report on the intersection of technology and the law.

What: The Justice Department asks a judge to approve Patriot Act e-mail monitoring without any evidence of criminal behavior.

When: Decided Feb. 2, 2006 by U.S. District Judge Thomas Hogan in Washington, D.C.

Outcome: E-mail surveillance approved.

What happened: As part of a grand jury investigation that's still secret, the Justice Department asked a federal magistrate judge to approve monitoring of an unnamed person's e-mail correspondents.

The request had a twist: Instead of asking to eavesdrop on the contents of the e-mail messages, which would require some evidence of wrongdoing, prosecutors instead requested the identities of the correspondents. Also included in the request was header information like date and time and Internet address--but not subject lines.

The federal magistrate judge balked and asked the Justice Department to submit an additional brief to demonstrate that such a request would be legal.

Instead, prosecutors asked Judge Hogan to step in. He reviewed the portion of federal law dealing with "pen register" and "trap and trace" devices--terms originating in the world of telephone wiretapping--and concluded it "unambiguously" authorizes the e-mail surveillance request.

Though the language may be clumsy, Hogan said, the Patriot Act's amendments authorize that type of easily obtainable surveillance of e-mail. All that's required, he said, is that prosecutors claim the surveillance could conceivably be "relevant" to an investigation.

Excerpt from the court's opinion:

"In 2001, Congress enacted the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the "USA Patriot Act"), Section 216 of which explicitly amended the authorities relating to

pen registers and trap and trace devices...by expanding the definitions of these devices to include "processes" to obtain information about "electronic communication."

"Commenting on the very language that was finally enacted in Section 216 of the USA Patriot Act, several members of Congress highlighted the fact that the amendments would bring the state of the law in line with current technology by making pen registers and trap and trace devices applicable to the Internet and--more to the point--e-mail.

"For example, a section-by-section analysis of the bill that Representative John Conyers included in the record before the final House vote, which contains the same language that was finally enacted by Congress, states that Section 216 "extends the pen/trap provisions so they apply not just to telephone communications but also to Internet traffic."

"In addition, Senator Jon Kyl, who is currently Chairman of the United States Senate Judiciary Subcommittee on Terrorism, Technology & Homeland Security, noted that the same language in the Senate version of the bill "would codify current case law that holds that pen/trap orders apply to modern communication technologies such as e-mail and the Internet, in addition to traditional phone lines."

"The Congressional Research Service also published a legal analysis of the USA Patriot Act that states that the Act "permits pen register and trap and trace orders for electronic communications (e.g., e-mail)."

"The plain language of the statute makes clear that pen registers and trap and trace devices may be processes used to obtain information about e-mail communications. The statute's history confirms this interpretation and there is no support for a contrary result."

HOMELAND RESPONSE:

Bush Gives New Details Of 2002 Qaeda Plot To Attack Los Angeles (NYT)

By Elisabeth Bumiller And David Johnston

The New York Times, February 10, 2006

WASHINGTON, Feb. 9 — President Bush offered new information on Thursday about what he said was a foiled plot by Al Qaeda in 2002 to fly a hijacked airplane into the tallest building west of the Mississippi, the U.S. Bank Tower in Los Angeles, as he sought to make the case for his record on national security.

Although the administration made public the Los Angeles plot in general terms four months ago, Mr. Bush, in a speech to the National Guard Association, disclosed more specific details, including what he said was the planned use of a "shoe bomb" by hijackers to breach the airplane's cockpit door and take over the controls.

In addition, Mr. Bush and one of his counterterrorism advisers said that four extremists were recruited from Southeast Asia to carry out the plan, that their leader received training in shoe bombs and that all four had traveled to an undisclosed place after the Sept. 11 attacks to meet with Osama bin Laden and pledge their loyalty to Al Qaeda.

Mr. Bush and White House officials gave no reason for releasing details of a plot that they first disclosed last October. But Mr. Bush's speech came at a time when Republicans are intent on establishing their record on national security as the pre-eminent issue in the 2006 midterm elections, and when the president is facing questions from members of both parties about a secret eavesdropping program that he describes as pivotal to the war on terrorism.

In his speech, Mr. Bush said the plot had been "derailed in early 2002, when a Southeast Asian nation arrested a key Al Qaeda operative." He added that "subsequent debriefings and other intelligence operations made clear the intended target and how Al Qaeda hoped to execute it."

Mr. Bush and his counterterrorism adviser, Frances Fragos Townsend, made no claim on Thursday that the eavesdropping program, conducted by the National Security Agency, had helped to foil the 2002 plot. But in a conference call with reporters, Ms. Townsend did not rule out the program as a factor in discovering the plan.

"We use all available sources and methods in the intelligence community, but we have to protect them," Ms. Townsend said. "So I'm not going to talk about what ones we did or didn't use in this particular case."

She added that the Los Angeles plot had grown out of the Sept. 11 attacks. As described in the staff report by the independent commission that investigated the Sept. 11 attacks, Khalid Shaikh Mohammed, who is said to be the mastermind behind them, had originally envisioned an elaborate plan with 10 planes that would attack the East and West Coasts simultaneously on Sept. 11, 2001. But Mr. bin Laden rejected the plan, the report said, because of its difficulty.

"It was bin Laden who decided that it should just focus on the East Coast, and the West Coast should be held in abeyance until there was a follow-on attack," Ms. Townsend told reporters. "It's our understanding now that it was too difficult to get enough operatives for both the East and West Coast plots at the same time."

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Weeks after the Sept. 11 attacks, Ms. Townsend said, Mr. Mohammed turned his attention to the West Coast and to recruits from Southeast Asia affiliated with Jemaah Islamiyah, a Qaeda offshoot with roots in Indonesia.

Working with another terror figure, Riduan Isamuddin, better known as Hambali, Mr. Mohammed recruited a cell leader and three other men in October 2001, Ms. Townsend said. Mr. Mohammed trained the leader of the group in building a shoe bomb, similar to the device recovered from Richard Reid, who had tried to set off a bomb in his shoe on an American Airlines flight from Paris to Miami in December 2001.

Significantly, each of the four men, whom Ms. Townsend would not identify, were found to have traveled to Afghanistan to meet with Mr. bin Laden in the months after the Sept. 11 attacks. Each pledged loyalty to him, she said. Such pledges were a significant gesture in the bin Laden network and usually a prerequisite to carrying out an attack.

Ms. Townsend said that American counterterrorism officials, working with four other regional governments, which she would not identify, arrested the cell leader and three others in February 2002. The plot was effectively extinguished.

Several American counterterrorism officials said Thursday that, at the time the plot was broken up in early 2002, the authorities believed that they had disrupted an active terrorist planning effort, but that they possessed only fragmentary evidence and were unsure whether the threat was significant.

Only later did they conclude that the plot was genuine and potentially serious. The outline of the plot became clear, the officials said, primarily through the interrogations of captured Qaeda figures like Mr. Mohammed, who was apprehended in March 2003, and Hambali, captured in August 2003.

In Los Angeles, the office of Mayor Antonio R. Villaraigosa said that the White House on Wednesday had given them a heads up about the president's disclosure but said that the mayor was not personally informed.

"I would have expected a direct call from the White House," the mayor said at an afternoon news conference.

In his remarks, Mr. Bush referred to the West Coast target as "the Liberty Tower," but White House officials said he had meant to say Library Tower, the name of the U.S. Bank Tower in 2002. The building, completed in 1989, is 1,018 feet tall and was "destroyed" by alien invaders in the 1996 movie "Independence Day."

Bush Signs Deficit Reduction Act (REU)

By Tabassum Zakaria

Reuters, February 10, 2006

WASHINGTON (Reuters) - U.S. President George W. Bush disclosed new details on Thursday of a thwarted al Qaeda plot to use shoe bombs to hijack a plane and fly it into a Los Angeles building, as he sought to justify his tactics in fighting terrorism.

With critics questioning the legality of his authorisation of a domestic spying program, Bush used newly declassified details of a previously revealed plot to show that the threat of terrorism has not abated.

"America remains at risk, so we must remain vigilant," Bush said.

He said that in early 2002 the United States and its allies disrupted a plot to use bombs hidden in shoes to breach the cockpit door of an airplane and fly it into the tallest building in Los Angeles.

But he got the name of the building wrong, saying the "intended target was Liberty Tower." He meant Library Tower, now the US Bank Tower, that at 1,017 feet (310 metres) high is the tallest building in the United States west of the Mississippi River.

The Bush administration last October had cited the plan to attack West Coast targets using hijacked planes as among 10 disrupted al Qaeda plots.

Bush gave a more detailed account on Thursday, saying that in October 2001, Khalid Sheikh Mohammed, the operational mastermind of the September 11 attacks that year, set in motion a plot for another attack inside the United States.

"Rather than use Arab hijackers as he had on September 11, Khalid Sheikh Mohammed sought out young men from Southeast Asia whom he believed would not arouse as much suspicion," he said.

Mohammed worked with a man known as Hambali, the leader of an al Qaeda-affiliated group in Southeast Asia, who recruited a cell of four operatives, the White House said. Mohammed trained the cell leader in the shoe bomb technique and they met al Qaeda leader Osama bin Laden in Afghanistan in October 2001, said Frances Townsend, homeland security and counterterrorism adviser to Bush.

The West Coast plot initially was to have been part of the September 11 attack, but bin Laden decided to focus on the East Coast because it was too difficult to get operatives for both, she said.

She said authorities did not know specific details of the planned attack such as its timing or the flight.

"We knew they were going to fly a commercial airliner into the tallest building in California," Townsend said. "And it was an analytic judgement by the intelligence community that that meant the Library Tower."

The plot was disrupted with help from two countries in Southeast Asia and two countries in South Asia, Townsend said.

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Bush has been fighting criticism from Democrats and some Republicans over his decision to authorise the National Security Agency to eavesdrop without court warrants inside the United States on international e-mails and phone calls of people with suspected ties to terrorism.

He has called it a necessary tool for fighting terrorism and preventing another attack on the United States.

Townsend would not comment on whether the eavesdropping program helped in foiling the West Coast plot or capturing the plotters.

The cell leader was arrested in February 2002 and the other three operatives were also caught, but Townsend declined to identify the three or the countries where they were captured.

Mohammed was captured in Pakistan in March 2003, and Hambali was caught in Thailand in August 2003.

Bin Laden and his deputy Ayman al-Zawahri, believed by U.S. officials to be hiding in the border region of Afghanistan and Pakistan, have so far eluded the U.S. manhunt.

Townsend said it was unclear whether the West Coast plot had any connection to "shoebomber" Richard Reid.

Reid failed in an attempt to blow up an American Airlines plane from Paris to Miami in December 2001 after passengers and crew tackled him as he tried to ignite explosives in his shoe. Reid was sentenced to life imprisonment by a U.S. court in January 2003.

"I've never seen anything that indicated whether the second wave was bonafide or not. There's been rumours bandied about that it was, but I don't know," Sen. Dianne Feinstein, a California Democrat on the Senate intelligence committee, said of the hijacked plane plot.

Bush Details 2002 Plot To Attack L.A. Tower (WP)

By Peter Baker And Dan Eggen

The Washington Post, February 10, 2006

Intelligence Officials Play Down Importance of Case, Attribute Remarks to Politics

President Bush, under pressure from Congress, defended his campaign against terrorism yesterday, offering for the first time a vivid account of a foiled al Qaeda plot to strike the United States after Sept. 11, 2001, by crashing a hijacked commercial airliner into a Los Angeles skyscraper.

Bush said four Southeast Asians who met with Osama bin Laden in Afghanistan in October 2001 were taught how to use shoe bombs to blow open a cockpit door and steer a plane into the Library Tower, the tallest building on the West Coast. The four were captured by Asian authorities before they could execute the plan, he said.

Declaring that "America remains at risk," Bush cited the episode as an example of international cooperation against terrorism, and cautioned against complacency. "We cannot let the fact that America hasn't been attacked in four and a half years since September 11, 2001, lull us into the illusion that the threats to our nation have disappeared. They have not."

The reported West Coast plot had been disclosed before but never in as much detail. The president's speech came on the same day as a Senate hearing into the Bush-ordered warrantless surveillance of telephone calls and e-mail by Americans and their contacts overseas, but aides said his comments were not related to the dispute over the program.

White House officials, who were unwilling to publicly disclose details of the alleged plot as recently as last fall, said they decided in the past three weeks to declassify the case so that Bush could have an example to provide the public.

But several U.S. intelligence officials played down the relative importance of the alleged plot and attributed the timing of Bush's speech to politics. The officials, who spoke on the condition of anonymity because they did not want to publicly criticize the White House, said there is deep disagreement within the intelligence community over the seriousness of the Library Tower scheme and whether it was ever much more than talk.

One intelligence official said nothing has changed to precipitate the release of more information on the case. The official attributed the move to the administration's desire to justify its efforts in the face of criticism of the domestic surveillance program, which has no connection to the incident.

Bruce Hoffman, a terrorism specialist who heads the Washington office of Rand Corp., said Bush's account adds some interesting detail to the Library Tower episode. But he said it still leaves key questions about the case unanswered.

"It doesn't really give us any more indication of whether this was a plot that was derailed or preempted, or a plot that was more in the realm of an idle daydream," Hoffman said.

Sen. John D. Rockefeller IV (W.Va.), the ranking Democrat on the Senate intelligence committee, mocked the idea of raising the alleged Library Tower plot. "Maybe they're tired of talking about [the] Brooklyn Bridge and they're trying to find a different edifice of some sort," he said, referring to another alleged terrorist plot that some have said was inflated by the government.

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But Frances Fragos Townsend, the president's chief counterterrorism adviser, told reporters that "there is no question in my mind that this is a disruption. It's not about credit; it's about protecting the American people. And the American people are absolutely safer as a result of these arrests."

Bush first alluded to the incident in a speech in October when he said the United States and its allies had thwarted 10 serious planned al Qaeda attacks since Sept. 11, 2001. A White House list released at the time referred to a plot to fly a hijacked plane into an unspecified West Coast city in 2002. Citing unnamed sources, news organizations reported that the target was the Library Tower, since renamed the U.S. Bank Tower, and that the plot's author was Khalid Sheik Mohammed, the architect of the Sept. 11 attacks who was captured in 2003.

Mohammed's original plan for Sept. 11, as presented to bin Laden in 1998 or 1999, called for hijacking 10 jetliners on both coasts, according to interrogations of Mohammed cited by the commission that investigated the 2001 attacks. U.S. officials concluded that bin Laden had instructed Mohammed to initially focus on the East Coast because it was too difficult to recruit enough operatives to seize 10 planes. After the Twin Towers of the World Trade Center were knocked down, Mohammed set about putting his West Coast plan in motion.

Speaking at the National Guard Memorial Building yesterday, Bush offered a fuller account of what ensued, and the White House later provided a briefing to elaborate. In this account, Mohammed deputized Hambali, head of the affiliated Southeast Asian group Jemaah Islamiya, to set up a West Coast attack, and they put together a four-man cell. Asians were chosen, Bush said, on the theory that they would draw less suspicion.

The four Asians traveled to Afghanistan to meet with bin Laden in October 2001 just as U.S. forces were hunting al Qaeda, officials said. After swearing loyalty to the al Qaeda leader, the four reportedly returned to Asia to train in the use of shoe bombs like those later found on Richard Reid, who was convicted of trying to take down an airliner over the Atlantic in December 2001.

But the cell leader was captured by authorities in a Southeast Asian country in February 2002, and the three others were later detained, as well. The officials said four Asian countries were involved but would not identify them.

Bush mistakenly identified the target as the "Liberty Tower," and aides later corrected him.

"As the West Coast plot shows," Bush said, "in the war on terror, we face a relentless and determined enemy that operates in many nations, so protecting our citizens requires unprecedented cooperation from many nations."

Bush Gives New Details About Old Report Of L.A. Terror Plot (LAT)

By Peter Wallsten And Josh Meyer

The Los Angeles Times, February 10, 2006

WASHINGTON — With pressure mounting on the White House to more fully explain its anti-terrorism strategy, President Bush offered new details Thursday of a reported plot against downtown Los Angeles as evidence of success in foiling attacks.

Federal officials had revealed two years ago that they believed Al Qaeda operatives, in a West Coast follow-up to the Sept. 11 attacks, had planned to hijack an airliner and crash it into what was then called the Library Tower.

But Bush, offering new specifics in a speech designed to boost support for his national security policies, said Thursday that the terrorist operatives planned to use "shoe bombs to breach the cockpit door." He said Sept. 11 mastermind Khalid Shaikh Mohammed had recruited and trained young Asian men to carry out the plot because suspicions of Arabs were running high, but that the plan was derailed when a Southeast Asian nation arrested a key Al Qaeda operative.

Bush did not name the nation or the operative, but his decision to reveal even the most incremental details of the reported plot underscored the effort the White House has undertaken recently to defend its anti-terrorism policies.

The details did little to counter skepticism from Democrats and some law enforcement officials who have questioned whether the reported scheme had ever been put into operation before it was thwarted.

"It didn't go," said one U.S. official familiar with the operational aspects of the war on terrorism. "It didn't happen."

The official said he believed the Library Tower plot was one of many Al Qaeda operations that had not gone much past the conceptual stage. The official spoke on the condition of anonymity, saying that those familiar with the plot feared political retaliation for providing a different characterization of the plan than that of the president.

Bush's chief domestic security advisor, Frances Townsend, said the plotters had described their target only as the tallest building on the West Coast, and that it was the "analytic judgment" of the U.S. intelligence community that they intended to strike the Library Tower.

Bush misspoke when making a similar point: "We believe the intended target was Liberty Tower in Los Angeles," he said. The building was renamed in 2003 and is now known as the U.S. Bank Tower.

Bush first mentioned the Los Angeles plot in a speech in October, when he listed 10 post-Sept. 11 schemes that had been disrupted. At the time, he gave few details.

In his speech Thursday to the National Guard Assn., the president cited the reported plan as evidence of the ongoing danger of terrorism and of the success of his anti-terrorism strategy.

"As the West Coast plot shows, in the war on terror we face a relentless and determined enemy that operates in many nations — so protecting our citizens requires unprecedented cooperation from many nations as well," Bush said. "By working together, we took dangerous terrorists off the streets. By working together, we stopped a catastrophic attack on our homeland."

Bush did not link the foiling of the plot to his controversial program of warrantless wiretaps conducted on certain international communications by the National Security Agency. But his remarks came as ongoing criticism of the spy program from lawmakers, including some Republicans, has appeared to force the administration to reverse course and provide more detailed information about the surveillance to congressional intelligence committees.

Mayor Antonio Villaraigosa said he was stunned that Bush revealed details of the reported terrorist plot without first relaying the information to city officials. Villaraigosa said local authorities had heard some of the new information Wednesday from California domestic security officials, but not the specifics mentioned by Bush in his address, which was carried nationally on cable television.

"I would have expected a direct call from the White House," said Villaraigosa, a Democrat, during a City Hall news conference. "We should have been aware of all the details much before today. We did not know all of the facts."

The mayor sought to reassure residents that Los Angeles was safe. He said the police and fire departments had taken precautions at high-rise buildings, including the one singled out by Bush. Villaraigosa said police had specifically evaluated security and evacuation plans at the U.S. Bank Tower.

"There is no imminent threat to Los Angeles," the mayor said, flanked by police and fire officials.

Critics on Thursday accused Bush of reaching far back into time as part of a public relations ploy to maintain focus on his battle against terrorism, an issue that continued to win him public approval. Bush's chief political strategist, Karl Rove, said last month that Republicans in this year's elections would seek ways to paint Democrats as exhibiting a pre-Sept. 11 mentality, while programs such as the warrantless surveillance showed the president's toughness.

Rep. Brad Sherman (D-Sherman Oaks) described Bush's speech as a political stunt meant to draw attention from the mounting criticisms of the National Security Agency's warrantless wiretapping program and other questions about administration tactics.

"I can't think of a governmental reason to disclose these details at this time to the general public. Clearly, the goal was to create headlines," said Sherman, who monitors security matters as the ranking Democrat on the House subcommittee on international terrorism and nonproliferation.

Sen. John D. Rockefeller IV of West Virginia, the senior Democrat on the Senate Intelligence Committee, said he "didn't find [Bush's comments] very helpful … from a professional point of view."

When news of the reported plot surfaced two years ago, some counter-terrorism officials treated it with skepticism. By contrast, Bush on Thursday cast the foiling of the plot as a significant development that underscored the danger and persistence of Al Qaeda.

Townsend, the White House domestic security advisor, said after Bush's speech that the so-called West Coast plot was initially designed as part of the Sept. 11 attacks.

But she said Osama bin Laden determined that the two-coast plan was too ambitious and scaled it back. Mohammed then began preparations for a "follow-on" attack on the West Coast, Townsend said, reiterating the findings of the Sept. 11 commission.

"It's our understanding now that it was too difficult to get enough operatives for both the East and West Coast plots at the same time," Townsend said.

Townsend said the cell leader of the reported Los Angeles plot and three other operatives went to Afghanistan, where they met with Bin Laden and swore an "oath of loyalty" to him before returning to Asia, where they continued to work for an operative named Hambali, the chief of operations for an Al Qaeda affiliate group in South Asia.

The reported scheme ended in 2002 with four arrests in Southeast Asia, she said. Four U.S. allies in Asia played a role in disrupting the plot, she said, refusing to name the countries.

Mohammed was arrested in Pakistan in March 2003. Hambali was captured in August 2003.

In defending Bush's claim that the plot was foiled, Townsend said: "There is no question in my mind that this is a disruption…. And the American people are absolutely safer as a result of these arrests."

Bush Provides Details Of 2002 Terrorist Plot Aimed At Los Angeles (MERCN)

By Ron Hutcheson

The San Jose Mercury News, February 10, 2006

DOJ_NMG_0014014

WASHINGTON - The plot envisioned a ghastly replay of the attack that brought down the World Trade Center, only this time the terrorists wanted to crash a plane into the tallest building in Los Angeles. The plan unraveled in early 2002 with the arrest of one of the ringleaders, but President Bush provided new details about it Thursday in defending his handling of the war on terrorism.

The timing of his chilling disclosures, four years after the plot was discovered and four months after he first discussed the broad outlines of the scheme, raised suspicion that his remarks were politically motivated. At the very moment that Bush was defending his aggressive approach to terrorism, two of his top advisers were trying to quell a revolt in Congress against his domestic eavesdropping program.

Bowing to bipartisan pressure, Attorney General Alberto Gonzales and Gen. Michael Hayden, the deputy director of national intelligence, gave a closed-door briefing on the surveillance program to members of the Senate Intelligence Committee. The warrantless surveillance, which the president authorized without congressional or court approval shortly after the attacks on Sept. 11, 2001, targets communications between suspected terrorists overseas and their contacts in the United States.

The session, conducted a day after a similar briefing for members of the House Intelligence Committee, failed to resolve doubts about the program's legality. Committee Democrats and at least one Republican, Sen. Mike DeWine of Ohio, said they wanted more information.

"If they came with the idea that this was going to stop an investigation on the part of the Senate Intelligence Committee, they were wrong," Sen. John "Jay" Rockefeller of West Virginia, the top Democrat on the panel, said after the meeting.

Bush and his advisers said the Los Angeles plot illustrated the need to move swiftly against any suspicious activity.

"It took the combined efforts of several countries to break up this plot," the president told members of the National Guard Association. "By working together, we stopped a catastrophic attack on our homeland."

As described by Bush and Frances Townsend, his top counterterrorism adviser, the plot grew out of early planning for the Sept. 11 attacks, when al-Qaida leaders considered simultaneous assaults on both coasts. They scrapped that idea but quickly began work on an encore attack on the 73-story Library Tower, a gleaming, granite-and-glass edifice now known as the US Bank Tower. (In the 1996 movie "Independence Day," aliens destroy the 1,018-foot-tall building.)

"We now know that in October 2001, Khalid Shaikh Mohammed - the mastermind of the Sept. 11 attacks - had already set in motion a plan to have terrorist operatives hijack an airplane using shoe bombs to breach the cockpit door," Bush said.

According to administration officials, Mohammed, fearing that Arab terrorists would generate suspicion, recruited a four-man terrorist cell through Jemaah Islamiyah, an Islamic terrorist group in Indonesia. The four operatives were sent to Afghanistan, where they pledged their loyalty to al-Qaida chief Osama bin Laden in an oath known as a biat.

Townsend said intelligence officials weren't sure whether the meeting occurred shortly before or sometime after the U.S. invasion of Afghanistan, which sent bin Laden into hiding. Also unclear is how close the plotters were to executing their scheme when the cell leader was arrested in an undisclosed country in February 2002. Townsend refused to discuss whether electronic surveillance played any role.

Townsend said all four cell members were currently in custody, but she declined to identify them, to say where they were arrested or to disclose where they are being held. The plotters didn't include Richard Reid, the would-be shoe bomber who was arrested in December 2001 on a flight from Paris to Miami.

Although Reid had been trained in the same bombing technique that the plotters planned to use, intelligence officials don't know whether Reid had any contact with them, Townsend said.

In a conference call with reporters, Townsend took issue with suggestions that the White House had released new details about the plot to help deal with the controversy over domestic eavesdropping. Bush first mentioned the Los Angeles plot in vague terms in a speech last October as one of the administration's successes in the war on terrorism.

"The problem is you can't share these details when you have operational leads," she said. "It takes time."

Bush Details Terror Plot (CSM)

By Peter Grier

The Christian Science Monitor, February 10, 2006

WASHINGTON - Bush to US: It's still a dangerous world out there, but we're making progress in rounding up the bad guys.

In essence, that may be the message that President Bush and other administration officials are trying to convey this week as they defend White House actions in the war in terror.

Headlines about possibly illegal eavesdropping activity authorized by the president, plus more bombings in Iraq and revelations about the slow pace of Iraqi reconstruction, have put the Bush team on the defensive this week. In revealing details about an alleged Al Qaeda plot to fly an airliner into a Los Angeles skyscraper, plus insisting that terrorists are weakened and on the run, Bush may be attempting to counter bad news.

"The timing of this clearly has to do with politics ... but that doesn't mean the [L.A. plot] isn't true," says Lorenzo Vidino, a terrorism expert at the Fletcher School at Tufts University.

In a speech Thursday at the National Guard Memorial Building in Washington, President Bush said that the US and its allies had thwarted a plot to use shoe bombs to blow open the cockpit door of an airliner, hijack it, and fly it into the tallest building on the US West coast.

Bush called this target the "Liberty Building," but its name in 2001 was the "Library Tower," and it has since been renamed the US Bank Tower.

Khalid Sheik Mohammed, alleged mastermind of the Sept. 11 attacks, was behind the L.A. plot, said Bush. The Al Qaeda operative began planning it in October 2001.

Mr. Mohammed's co-conspirator in this plot was Hambali, also known as Riduan Isamuddin, thought to be the operations chief of Southeast Asia's largest Al Qaeda-related group, Jemaah Islamiyah. Hambali's job was to recruit Asian hijackers, who were likely to attract less attention from law enforcement authorities than Arabs. He recruited four operatives for the cell, whose leader was personally trained by Mohammed in shoebombing, according to a Department of Homeland Security briefing given after the president's speech. The operatives met with Osama bin Laden before going back to Asia.

Bush said that the plan unravelled when a key Southeast Asian nation arrested one of the operatives. He did not say who this operative was, or which nation nabbed him.

"Subsequent debriefings and other intelligence operations made clear the intended target and how Al Qaeda hoped to execute it," said Bush. "This critical intelligence helped other allies capture the ringleaders and other known operatives who'd been recruited for this effort."

Hambali was captured by Indonesian authorities in 2003. Mohammed was captured in Pakistan that same year.

Bush has referred to the Library Tower plot before, but only in vague terms. In an address last October, he said the US and its allies had foiled at least 10 serious Al Qaeda plots, including plans for a Sept. 11-like attack on both coasts.

Thursday's revelations provide a fuller picture and add details, says Mr. Vidino, author of the book "Al Qaeda in Europe."

The plot Bush outlined made sense, considering that Mohammed had long been interested in a second wave of attacks, and had previously cooperated with Southeast Asian Al Qaeda adherents. Two of the Sept. 11 hijackers entered the US on the West Coast, with help from Hambali, says Vidino.

Al Qaeda has also long wanted to attack California, as well as other targets scattered throughout the United States. Khalid Sheik Mohammed "wanted to scare the entire country," says Vidino.

The White House would not say whether the National Security Agency's controversial warrantless eavesdropping program played any role in uncovering the West Coast plot.

Bush's speech came as the chairman of the Senate Judiciary Committee, Sen. Arlen Specter (R) of Pennsylvania, announced he is writing legislation intended to force the administration to defend the legality of the eavesdropping in court.

Bush Gives Details Of Foiled Plot By Al Qaeda To Attack Los Angeles (WSJ)

By Jay Solomon, John D. McKinnon And David Rogers

The Wall Street Journal, February 10, 2006

WASHINGTON -- President Bush, seeking to increase public support for his counterterrorism policies, took the unusual step of detailing what he said was one of his administration's greatest unheralded successes: breaking up a 2002 al Qaeda plot to strike Los Angeles.

The foiled plot, he said, would have sent a hijacked airplane into the tallest building in Los Angeles, the Library Tower.

Mr. Bush's announcement came as both Republican and Democratic lawmakers are seeking better oversight and regulation of intelligence gathering, after concerns were raised about the National Security Agency's domestic-surveillance activities. After weeks of uncertainty, House Republicans are beginning to embrace legislation to update 30-year-old laws on foreign-intelligence eavesdropping, but without challenging the legal underpinnings of Mr. Bush's wiretap program, according to Intelligence Committee Chairman Peter Hoekstra (R., Mich.)

At the same time, the White House agreed to compromises to win the 60 votes required in the Senate to cut off debate on reauthorization of the Patriot Act. "I can't at this point calculate how a filibuster can prevail," said Senate Minority Whip Richard Durbin (D., Ill) who endorsed the changes together with Sen. Dianne Feinstein (D., Cal.) and four Republicans led by Sen. John Sununu (R., N.H.).

In his speech yesterday, President Bush, said the planned attack in Los Angeles involved a four-man Southeast Asian terrorist cell. Acting on the direct order of al Qaeda leader Osama bin Laden, the cell was dispatched to use shoe bombs to help hijack a Los Angeles-bound plane. But close cooperation between the U.S. and a number of unnamed overseas partners resulted in their arrests beginning in February 2002, President Bush said.

"As the West Coast plot shows, in the war on terror, we face a relentless and determined enemy," Mr. Bush told a gathering of National Guardsmen in Washington. "It took the combined efforts of several countries to break up this plot."

The president didn't cite the NSA's warrantless wiretap program, but his top aides stressed that sharply criticized counterterrorism techniques, such as domestic surveillance and extensive interrogations of alleged al Qaeda members, are necessary.

Some counterterrorism experts were skeptical, questioning whether the Los Angeles plot was even close to operational in 2002, particularly as U.S. forces were attacking al Qaeda strongholds in Afghanistan. They also said some aspects of the plan to hit the Library Tower were disclosed in a report released by the 9/11 Commission in June 2004.

"I really, really would question the White House's assertion that it thwarted a second 9/11," said Zachary Abuza, an associate professor at Simmons College in Boston who wrote a 2003 book on Jemaah Islamiyah, al Qaeda's Southeast Asia affiliate. "I've never, ever heard that this [plot] was operational."

As for legislation updating the Foreign Intelligence Surveillance Act, House Republicans said they aren't attempting to legitimize the administration's NSA wiretapping program. For the most part, they -- like the White House -- believe the administration has all the legal authority it needs now. Still, they didn't foreclose the possibility that some of the controversial NSA eavesdropping could be done under an updated law.

FISA, the current law, was passed in the 1970s, before the digital revolution that has transformed the telecommunications industry -- and intercept techniques. Bush administration officials complain the FISA process, geared for a different time, is cumbersome.

"There is a legitimate concern that FISA needs to be updated from its current form just because of the changes in technology," Rep. Hoekstra said. "But not as applies to our activities versus al Qaeda."

Last night, House Judiciary Committee Chairman James Sensenbrenner didn't have any comment on the Patriot Act compromises in the Senate, but people close to the Wisconsin Republican said he would be open to the proposals if they prove sufficient to end the almost two-month impasse.

Despite continued grumbling from liberals, that appears all but certain, and Sen. Durbin credited Sen. Sununu with persuading the White House to give some ground. The changes do more to guarantee judicial review of gag rules governing certain subpoenas issued under the Patriot Act to obtain records. In addition, protections are added to shield traditional libraries from surveillance.

It remains a tangled process to enact these provisions alongside the underlying bill, but a test vote in the Senate could come as early as next week.

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Bush Details Foiled Terror Plot Targeting L.A. (CHIT)

By Mark Silva

Chicago Tribune, February 10, 2006

WASHINGTON -- Facing challenges to his domestic surveillance program and difficult negotiations over renewal of the Patriot Act, President Bush on Thursday emphasized new details of a previously foiled plot to strike a high-rise in Los Angeles as he defended aggressive tactics to combat terrorism.

In revealing facts about the aborted 2002 plan to slam a hijacked airliner into the tallest building in Los Angeles—in a West Coast sequel to Sept. 11—the White House seemed to underscore both successes in the war on terror and the threat that terrorists still pose.

"We are not yet safe," said Bush, flanked by paintings of colonial-era Minutemen in a speech delivered in a flag-lined hall of the National Guard Memorial Building in Washington.

This is not the first time Bush has cited the West Coast plot. He mentioned it among several other instances of averted attacks when he sought in October to confront growing opposition to the war in Iraq, a point at which his own job-approval ratings were nearing their nadir.

This time the White House released details about four unnamed Asian terrorists recruited by the Al Qaeda mastermind of the Sept. 11 attacks to commandeer an airliner with shoe bombs and attack the U.S. Bank Tower in Los Angeles.

The White House disclosure came at the height of congressional negotiations over renewal of the controversial USA Patriot Act. Republican and Democratic leaders announced Thursday that they have agreed to an extension..

The White House declined to say whether the National Security Agency surveillance that Bush repeatedly has authorized without court orders since Sept. 11 played any role in uncovering the West Coast plot or arresting the leader of the Asian cell in 2002 and thus thwarting it.

But invoking that plot followed a pattern for the president, who has often talked about the possibility of more terror attacks, a message echoed by other administration officials.

Karl Rove, the president's chief political adviser, has told top Republicans that the party's fortunes this year rest on assuring Americans that Republicans are tough on terrorism.

And some Democrats have accused the administration of exploiting fear.

"Two weeks ago, Karl Rove ... was telling the National Republican Committee, 'Here's your game plan, folks, here's how you're going to win—we're going to win by getting everybody scared again,'" Sen. Hillary Rodham Clinton (D-N.Y.), told the United Auto Workers this week. "This crowd [says], 'All we've got is fear and we are going to keep playing the fear card.'"

The administration is under growing congressional pressure to more fully explain its rationale for the eavesdropping program.

"If they came with the idea that this is going to stop an investigation on the part of the Senate Intelligence Committee, they were wrong," said Sen. Jay Rockefeller (D-W.Va.), vice chairman of the committee, emerging from a briefing on surveillance Thursday.

The president, and later his homeland security adviser Fran Townsend, offered a more complete narrative of the planned attack on Los Angeles:

Al Qaeda wanted to carry out simultaneous attacks on the East and West Coasts of the U.S. Osama bin Laden, the Al Qaeda leader who has evaded capture to this day, decided to delay the West Coast assault for "a follow-up attack." Khalid Sheik Mohammed, mastermind of the attacks on the World Trade Center and the Pentagon, started planning the Los Angeles attack in October 2001 with Riduan Isamuddin, known as Hambali, chief of a related terrorist group, Jemaah Islamiyah.

To avoid arousing suspicion after the Sept. 11 hijackings carried out by Arab terrorists, Hambali recruited four terrorists from Southeast Asia. Mohammed trained the leader of a four-man cell in the use of shoe bombs for a plot to breach the pilot's door of an airliner.

The four terrorists traveled to Afghanistan in October 2001 to meet with bin Laden. But, with the help of intelligence services in four unnamed South Asian nations, the cell leader was arrested in February 2002, foiling the plot. The other three were also caught. In addition, Mohammed was captured in March 2003, and Hambali was arrested in August 2003.

Asked why Bush is offering more details of a four-year-old event now, Townsend said, "The president is always looking for opportunities to share with the American people the details and the texture of the ongoing war on terror."

Plot To Hit Los Angeles Tower Foiled, Bush Says (WT)

By Bill Sammon

The Washington Times, February 10, 2006

President Bush yesterday revealed newly declassified details of a foiled plot to ram a hijacked airplane into a Los Angeles skyscraper in 2002.

Mr. Bush did not say whether the al Qaeda plan was thwarted with the help of telephone intercepts, which have come under fierce fire by Democrats and which he repeatedly has rebutted in recent days while seeking to shore up support for the war on terrorism.

But Fran Townsend, his homeland security adviser, said later that the U.S. used "all instruments of national power" to foil the plot. Although the president alluded to the episode in October, he did not give a detailed description until yesterday.

"We now know that in October 2001, Khalid Sheikh Muhammad -- the mastermind of the September 11 attacks -- had already set in motion a plan to have terrorist operatives hijack an airplane using shoe bombs to breach the cockpit door, and fly the plane into the tallest building on the West Coast," Mr. Bush said in a speech at the National Guard Building.

He was referring to the Library Tower -- since renamed the U.S. Bank Tower -- a revelation that angered Los Angeles Mayor Antonio Villaraigosa.

"I'm amazed that the president would make this [announcement] on national TV and not inform us of these details through the appropriate channels," the Democrat told the AP. "I don't expect a call from the president -- but somebody."

White House Press Secretary Scott McClellan said the administration was not trying to blindside local authorities.

"My understanding was that we did reach out to officials in California and Los Angeles to let them know -- I think it was yesterday -- that the president would be talking about this," he said. "And the word I heard was there is great appreciation for the notification that we provided."

Other Democrats questioned the timing of yesterday's disclosure about the Los Angeles plot, saying the president was trying to shift attention away from his domestic surveillance program.

Attorney General Alberto R. Gonzales and Gen. Michael Hayden, principal deputy director of national intelligence, gave theSenate Select Committee on Intelligence a closed-door briefing on the program yesterday.

White House officials said terrorists initially planned to attack Los Angeles as part of the September 11 offensive, but al Qaeda could not recruit enough terrorists. So, they decided to stage a separate attack while the U.S. still was reeling from the events of September 11.

"Rather than use Arab hijackers as he had on September the 11th, Khalid Sheikh Muhammad sought out young men from Southeast Asia -- whom he believed would not arouse as much suspicion," Mr. Bush said. "To help carry out this plan, he tapped a terrorist named Hambali, one of the leaders of an al Qaeda affiliated group in Southeast Asia called J.I."

Hambali, the reputed operations chief of Indonesia-based Jemaah Islamiyah (JI), trained three other terrorists in Asia before taking them to Afghanistan, where they swore loyalty to al Qaeda leader Osama bin Laden. The four-person "cell" then returned to Asia for additional training.

"Their plot was derailed in early 2002, when a Southeast Asian nation arrested a key al Qaeda operative," said Mr. Bush, who did not identify the nation. "Subsequent debriefings and other intelligence operations made clear the intended target and how al Qaeda hoped to execute it.

"This critical intelligence helped other allies capture the ringleaders and other known operatives who had been recruited for this plot," he said. "The West Coast plot had been thwarted."

Mrs. Townsend said "the cell leader was arrested in February of 2002." Authorities arrested Muhammad in March 2003 and Hambali in August 2003.

Neither Mrs. Townsend nor Mr. McClellan would name the arresting Asian country.

Bush Details Purported Plot To Hit L.A. President: Southeast Asian Men Were To Fly Jet Into City's Tallest Building (USAT)

By David Jackson And Richard Benedetto

USA Today, February 10, 2006

WASHINGTON — President Bush gave new details Thursday of how the government foiled purported plans by al-Qaeda to attack the tallest building on the West Coast in 2002.

The scheme involved specially recruited Southeast Asian hijackers who planned to fly an airliner into the 73-story Library Tower in Los Angeles, Bush said in a speech to the National Guard Association.

“Since Sept. 11, the United States and our coalition partners have disrupted a number of serious al-Qaeda terrorist plots, including plots to attack targets inside the United States,” Bush said.

Frances Townsend, counterterrorism adviser to the president, declined to say whether the investigation involved the National Security Agency surveillance program that has drawn criticism for using wiretaps without court order.

Townsend said Bush discussed the investigation to remind Americans the threat is still there and highlight the level of international cooperation needed to fight terrorism.

“The terrorists are weakened and fractured, yet they're still lethal,” Bush said. “We cannot let the fact that America hasn't been attacked in 4½ years … lull us into the illusion that the threats to our nation have disappeared. They have not.”

Senate Minority Leader Harry Reid, D-Nev., said after the speech that Bush still has failed to lay out a comprehensive counterterrorism plan. He cited the Sept. 11 Commission's poor ratings of the administration's homeland security plans.

“This White House has committed a series of national security mistakes that have made America less secure,” Reid said.

Bush said Khalid Shaikh Mohammed, the alleged mastermind of the Sept. 11 attacks captured in 2003, planned to have operatives use shoe bombs to enter the cockpit and hijack a commercial airliner that would be flown into the California building.

Rather than use Arab hijackers as in the 2001 attacks, the plan was to use Southeast Asian men because they “would not arouse as much suspicion,” Bush said.

Bush mentioned the alleged plot last October when he listed 10 planned terrorist attacks that had been thwarted. He did not provide details of those plots, although news organizations later described an attempt on the Library Tower, perhaps best known as one of the targets in the 1996 alien invasion movie Independence Day. Also known as the U.S. Bank Tower, the Library Tower is North America's tallest building west of Chicago.

Townsend would not disclose how many suspects were arrested, which countries they were from, where they are today or which nations helped foil the plot.

Bush's revelation triggered a blast from Los Angeles Mayor Antonio Villaraigosa, who said he was surprised by Bush's announcement because the White House had not fully informed him in advance. White House spokesman Scott McClellan said, “My understanding was that we did reach out to officials in California and Los Angeles to let them know, I think it was yesterday.”

Bush: U.S. Surveillance Helped Stop Attack (AP-Y2)

By Deb Riechmann

DOJ_NMG_0014019

AP2, February 10, 2006

Under fire for eavesdropping on Americans, President Bush said Thursday that spy work stretching from the U.S. to Asia helped thwart terrorists plotting to use shoe bombs to hijack an airliner and crash it into the tallest skyscraper on the West Coast.

"It took the combined efforts of several countries to break up this plot," Bush said. "By working together we stopped a catastrophic attack on our homeland."

Some information about the foiled attack was disclosed last year, but Bush offered more details to highlight international cooperation in fighting terrorists. He did not say whether information about the West Coast plot was collected by his administration's program to monitor — without court warrants — some calls to the U.S. from terror suspects overseas.

The White House said that issue was not the point of the speech, but the president and his advisers have been vigorously defending the legality of the program, which has been questioned by both Democratic and Republican lawmakers.

After weeks of insisting that divulging details of the monitoring program would hinder intelligence gathering, the White House relented Wednesday and began briefing some additional lawmakers.

Meanwhile, the president's monthlong campaign to convince Americans the government's eavesdropping program is essential to the war on terrorism appears to be making an impact.

In a new AP-Ipsos poll, 48 percent now support wiretapping without a warrant in cases of suspected communications with terrorists, up from 42 percent last month. Half say the administration should have to get a warrant, down from 56 percent. Men in particular have come around to Bush's view over the last month, the poll suggested.

On Capitol Hill Thursday, four Senate Republican holdouts reached agreement with the White House on minor changes in the Patriot Act, hoping to clear the way for renewal of anti-terror legislation that Bush says is essential in the fight against terrorists.

In his speech, at the National Guard Memorial Building, Bush said Khalid Shaikh Mohammed, the reputed mastermind of the Sept. 11 attacks, began planning the West Coast operation in October 2001. One of Mohammed's key planners was a man known as Hambali, the alleged operations chief of the terrorist group Jemaah Islamiyah, which is affiliated with al-Qaida.

"Rather than use Arab hijackers as he had on Sept. 11, Khalid Sheik Mohammed sought out young men from Southeast Asia — whom he believed would not arouse as much suspicion," Bush said.

In Los Angeles, Mayor Antonio Villaraigosa complained he first learned of Bush's remarks while watching TV.

"I'm amazed that the president would make this on national TV and not inform us of these details through the appropriate channels," said the mayor, a Democrat.

Bush press secretary Scott McClellan said that the White House did reach out before the speech to officials in California and that there was appreciation for the notification.

As the plot was described, the hijackers were to use shoe bombs to blow open the cockpit door of a commercial jetliner, take control of the plane and crash it into the Library Tower in Los Angeles, a 73-story building since renamed the US Bank Tower. In his remarks, Bush inadvertently referred to the site as "Liberty Tower."

The president said the plot was derailed when a Southeast Asian nation arrested a key al-Qaida operative. Bush did not name the country or the operative.

Frances Fragos Townsend, assistant to the president for homeland security and counterterrorism, said Mohammed, working with Hambali in Asia, recruited four members of the terrorist cell and trained its leader in how to use shoe bombs.

Townsend said it was not clear whether there was any connection between the West Coast plot and shoe bomber Richard Reid, who tried to blow up a trans-Atlantic flight in December 2001. After that, the Transportation Security Administration began asking passengers to take off their shoes for inspection.

The Sept. 11 attacks originally were planned to include both the East and West coasts. "It was bin Laden who decided that it should just focus on the East Coast, and that the West Coast should be held in abeyance ... as a follow-on attack," Townsend said. "It's our understanding now that it was too difficult to get enough operatives for both the East and West Coast plots at the same time."

She said all four of the West Coast planners went to Afghanistan in October 2001 and met with Osama bin Laden.

Townsend said all four members of the cell have been apprehended. She declined to disclose their names or say where they were being held. She also would not identify the two South Asia and two Southeast Asian nations that helped foil the attack.

Senate Minority Leader Harry Reid, D-Nev., said Bush's speech failed to lay out a comprehensive strategy to fight terrorists.

"As is too often the case with this president, the rhetoric does not match the reality," Reid said. "The fact is this White House has committed a series of national security mistakes that have made America less secure."

A Distinctive Shape, And An Inviting Target (NYT)

By John M. Broder

The New York Times, February 10, 2006

LOS ANGELES, Feb. 9 — The U.S. Bank Tower here, the city's tallest building, has long been presumed to be an inviting target for terrorists. Rising 1,018 feet from Bunker Hill in downtown Los Angeles, the gleaming I. M. Pei-designed building is the most distinctive shape in the skyline and the tallest office building west of Chicago.

President Bush said on Thursday that the 72-story building, known as the Library Tower until U.S. Bancorp acquired naming rights in 2003, was to have been the target of a follow-up attack by Al Qaeda after the terrorist strikes of Sept. 11, 2001.

Officials have discussed the alleged plot numerous times in recent years as an example of terrorist actions that might have been foiled by government vigilance, but Mr. Bush offered new details.

Mayor Antonio R. Villaraigosa complained at a news conference on Thursday that he had not been called directly by the White House, learning of the new information on the alleged plot only from state officials and staff members.

The White House press secretary, Scott McClellan, said federal officials had passed along the new information to the authorities in Los Angeles and Sacramento, telling them that Mr. Bush would discuss it on Thursday.

Mayor Villaraigosa, a Democrat, said that he had twice written to the White House to request a meeting with the president to discuss security threats to Los Angeles, but that he had received no response.

"I'm mayor of the second largest city in the country," Mr. Villaraigosa said. "I have tried to meet with the president at the White House on a number of occasions every time that I've gone to Washington, D.C., to discuss specifically this issue of homeland security, and to no avail. Let's be clear about that."

He also said that the president's antiterrorism budget had shortchanged a number of potential targets, including Los Angeles.

"Given the known terrorist plots against our city, I firmly believe that Los Angeles deserves a greater share of that funding," the mayor said.

Mr. Bush mistakenly referred to the building in his remarks Thursday as Liberty Tower; the White House later corrected the error.

Chief William J. Bratton of the Los Angeles Police Department said in an interview that he had been aware of threats to the skyscraper since he took over as chief in 2002. He said he had devoted significant counterterrorism resources to the building and to Los Angeles International Airport, another potential target, because Al Qaeda is known to carefully research its targets and to try to strike more than once, as it did at the World Trade Center.

He said he was working with federal and local law enforcement officials on a program, Operation Archangel, to identify critical sites around the country that might be targets for terrorist attack and to design methods to defend them.

Mr. Bratton was in Washington on Thursday with other big-city police chiefs for a brief White House meeting with Mr. Bush that he characterized as "mostly a photo op."

The bank tower opened in 1989 and has nearly 1.4 million square feet of rentable space. It was designed to withstand an 8.3 magnitude earthquake, but not an alien invasion. It was the first building destroyed by space invaders in the 1996 film "Independence Day."

Counterintelligence Posts Vacant (WT)

By Bill Gertz

The Washington Times, February 10, 2006

The top ranks of government counterintelligence agencies are empty due to resignations and retirements amid a dispute over the role of counterspying, U.S. intelligence officials say.

The most senior U.S. government counterintelligence official -- presidential appointee Michelle Van Cleave -- resigned last month after the office of the National Counterintelligence Executive (NCIX), which she headed, was made part of the new Office of the Director of National Intelligence (DNI).

At the FBI, CIA and Pentagon, senior counterintelligence positions are held by acting officials. At the White House, the National Security Council (NSC) counterintelligence staff position has been downgraded. In the past, it was held by an FBI counterspy. Heidi Avery, the current NSC counterintelligence director, is not an FBI agent.

Intelligence officials said the failure to fill the top posts is a sign of bias against counterspying by senior intelligence officials under DNI John Negroponte and at other agencies.

It goes against the recommendations of a presidential commission that called improving efforts to counter foreign spying an urgent priority.

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The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction stated last year that "while our enemies are executing what amounts to a global intelligence war against the United States, we have failed to meet the challenge."

It said counterspying efforts "have remained fractured, myopic, and only marginally effective."

Former FBI Counterintelligence Chief Dave Szady, who left Jan. 27 for a private-sector job, said in a recent interview that the threat from foreign spies "is worse now than it was in the Cold War." An FBI official said FBI Director Robert S. Mueller III has identified spying by China as the most serious foreign intelligence threat.

Mr. Szady has not been replaced. The acting counterspy chief is Tim Bereznay, a veteran special agent.

"At a time of maximum need for counterintelligence, the administration has put out good words, but is showing by deed that counterintelligence is not a priority," said a senior U.S. intelligence official.

The official said those within the intelligence bureaucracy have "resisted counterintelligence reform for a decade."

"The DNI is confident that counterintelligence operations are being very effectively conducted across the intelligence community," DNI spokesman Carl Kropf said. He added that the selection process is active and that "we anticipate that these vacancies will be filled expeditiously."

Miss Van Cleave left as NCIX director last month. She was instrumental in setting a new national counterintelligence strategy approved by President Bush that called for conducting offensive counterintelligence activities and using counterintelligence techniques to go after terrorists.

The leading candidate to replace Miss Van Cleave is Paul J. Redmond, a former CIA counterintelligence chief who helped uncover CIA turncoat Aldrich Ames, a KGB mole in the agency.

Intelligence officials said one problem with beefing up counterintelligence is that senior officials within Mr. Negroponte's office are opposed to giving counterintelligence more clout and independence.

In particular, the current DNI mission manager for collection, Mary Margaret Graham, who left as head of counterintelligence at the CIA last year, regards counterintelligence as a support function.

Counterintelligence "needs to remain a strategic mission rather than a support activity," a second intelligence official said. "We have to stay ahead of foreign intelligence services that are out there going after our secrets."

Counterspies must comprehend and take action against foreign spies who are attacking the government to steal secrets, not simply how they interfere with U.S. spying efforts.

At the Pentagon, Carol A. Haave, deputy undersecretary of defense for counterintelligence and security, left in November, and no replacement has been named, although an acting official is in place.

A CIA spokesman declined to say whether the National Counterintelligence Center director is acting or permanent.

When reached by telephone in California, Miss Van Cleave said she left her NCIX job because she had accomplished many initial reforms.

"I am confident that the contributions that the NCIX team has made will be a solid foundation for Director of National Intelligence to carry forward," she said.

TSA Criticized For Delay In New Passenger-screening Program Secure Flight Is 'at Risk Of Failure,' Investigators Say (USAT)

By Thomas Frank

USA Today, February 10, 2006

The government's long-delayed kickoff of a program to improve background checks of airline passengers is "at risk of failure" and faces an uncertain future, congressional investigators said Thursday.

A report by the Government Accountability Office (GAO), Congress' investigative arm, criticized post-9/11 efforts to implement the computerized program, which aims to check domestic airline passengers' names against terrorist watch lists and other databases.

Transportation Security Administration chief Kip Hawley told a Capitol Hill hearing that his agency is doing its own internal review of the program, called Secure Flight.

He said he didn't want to rush development of the TSA program.

"This is the time to ensure that Secure Flight's security, operational and privacy foundation is solid," Hawley told the Senate Commerce Committee.

"My priority is that we do it right, not just that we do it quickly," he said.

Senators expressed frustration that the TSA has spent nearly three years and $144 million trying to improve on the current system, which has been criticized for mistakenly singling out innocent travelers as suspected terrorists.

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The agency is seeking an additional $40 million next year for Secure Flight.

"Do something," Sen. Trent Lott, R-Miss., told Hawley. "Quit fumbling around with it."

A law enacted in December 2004 requires the TSA to take over background checks currently done by airlines.

The TSA would check passengers' names against comprehensive terrorist databases instead of the incomplete, declassified watch lists given to airlines.

Travelers making plane reservations would be asked for their full names and birth dates to help verify identities.

The agency had hoped to start Secure Flight last April.

The new GAO report says the TSA "has not yet produced an updated schedule" of when Secure Flight will begin.

The report criticized TSA for not following its own plans to develop Secure Flight. That resulted in "ad hoc" and "out of sequence" planning that's left it unclear when the program will begin, how much it will cost and how it will help security, the GAO says.

"Without clarification," the report says, "the program is at risk of failure."

Investigators also warned that the TSA hasn't taken adequate steps to protect "sensitive information" being gathered for Secure Flight from hackers.

Previous audits have criticized the TSA for mishandling passenger data.

A probe in 2004 found that the TSA improperly stored 100 million commercial data records containing personal information on passengers after the agency said no data storage would occur.

Hawley, the TSA chief, said Secure Flight would "be built from a strong privacy foundation as a starting point as opposed to building it and then adding privacy."

He called the GAO report "fair criticism" and said his agency's own internal review found many similar problems, which were being corrected.

Passenger Check May Be Vulnerable (NYT)

By The New York Times

The New York Times, February 10, 2006

WASHINGTON, Feb. 9 — The newest version of the Transportation Security Administration's proposed system to check the names of airline passengers against terrorist watch lists could be vulnerable to hackers, the agency said on Thursday.

The agency's chief, Kip Hawley, told a Senate committee that the long-delayed program, now called Secure Flight, will be delayed again.

The program is supposed to take over from the airlines the job of checking passenger names against a "watch list." The idea is to reduce the number of cases in which people with names similar to those on the watch list are prevented from boarding planes, but civil libertarians say it would violate passengers' privacy.

The agency has been working on the program for about four years and has spent at least $140 million.

At a hearing Thursday before the Senate Commerce Committee, Cathleen A. Berrick, an auditor with the Government Accountability Office, said in testimony that Secure Flight "may not be adequately protected against unauthorized access and use or disruption."

Mr. Hawley said his agency's technology office had identified many of the same problems.

Even before the hearing, there was no target date for turning the system on.

In Unusual Request, TSA Seeks $10 Million To Address High Turnover (WP)

By Stephen Barr

The Washington Post, February 10, 2006

The Transportation Security Administration has been hit by troubling turnover in its screener workforce. One in five full-time security screeners has been leaving the agency, according to the administration's new budget. Half of the part-time screeners have also departed.

TSA is seeking $10 million in fiscal 2007 to address what the budget calls "a high rate of attrition." The money would be used to offer extra pay, bonuses, retention allowances, college credit reimbursements and other incentives, the budget request said.

The turnover, TSA said, has driven up recruitment and training costs as the agency constantly replaces screeners who quit.

Requests for extra money to deal with staff turnover are unusual, but agencies often try to solve the problem with the help of their Cabinet secretary or the Office of Personnel Management before going to Congress.

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TSA, to some extent, is not a typical federal agency. It hired more than 50,000 employees in 2002, when Congress moved to strengthen aviation safety after terrorists hijacked jetliners and slammed them into the Pentagon and World Trade Center. Concerned about the agency's size, Congress moved a year later to cut the TSA workforce.

As TSA coped with budget and management startup pains, many passenger screeners complained that managers did not listen to their suggestions, did not provide adequate training and sometimes put them at risk of injury in handling heavy luggage.

TSA's budget also asks Congress to provide $20 million to fund workers compensation payments owed to the Labor Department.

Darrin Kayser , a TSA spokesman, said the agency is working to reduce injuries. A new case management initiative has reduced the number of lost workdays from 45 per injury to 11 per injury, he said.

TSA also is trying to provide opportunities for screeners to move up in the agency or elsewhere in government, Kayser said. They have been reclassified as law enforcement officers (transportation security officer) and positions are being set aside for entry into the federal air marshal program, he said.

The agency has established an advisory council so that security screeners can provide feedback to senior TSA leaders and help develop ways of improving morale, Kayser said.

"We did have a lot of challenges, and do appreciate the patience of the workforce," he said. "We are working very hard to address issues that still exist."Postal Point Person?

The White House point person on legislation to overhaul the U.S. Postal Service, Claude A. Allen , head of the domestic policy council, resigned Wednesday, leaving the Bush administration to look for a presidential adviser to help broker a compromise bill.

On a voice vote yesterday, the Senate approved a bill sponsored by Sen. Susan Collins (R-Maine) and Thomas R. Carper (D-Del.). The House last summer passed similar legislation, backed by Reps. Thomas M. Davis III (R-Va.) and John M. McHugh (R-N.Y.). The Senate and House will create a joint panel to iron out differences in the two versions.

The Postal Service board of governors opposes the overhaul, saying the bills would impose "numerous burdensome provisions." The White House opposes any bill that would increase the federal deficit.

Postal lobbyists said leading contenders to replace Allen on postal issues were Roger Kodat , a deputy assistant treasury secretary; Dan Blair , deputy director at OPM, and Jess Sharp , a White House domestic policy official.

The White House said Allen had put in long hours over five years in the administration and wanted to spend more time with his family. "We will be working to name a replacement for Claude as soon as possible," said Erin Healy , a White House spokeswoman.

In a statement yesterday, Sen. Daniel K. Akaka (D-Hawaii) said the House and Senate bills would "protect postal employees' right to collective bargaining and employee benefits."Talk Shows

James Bamford , author of two books on the National Security Agency, will be the guest on "FEDtalk" at 11 a.m. today on http://federalnewsradio.com and WFED (1050 AM).

Dave Combs , chief information officer at the Agriculture Department, will be the guest on "The IBM Business of Government Hour" at 9 a.m. Saturday on WJFK radio (106.7 FM).

Sensor On Hill First Suggested VX Nerve Agent (WP)

By Mary Beth Sheridan

The Washington Post, February 10, 2006

The evacuation at the Russell Senate Office Building on Wednesday night marked the biggest nerve-agent scare yet at the Capitol complex, with officials initially fearing that a deadly chemical substance might have been released in the building, authorities said yesterday.

Terrance W. Gainer, chief of the U.S. Capitol Police, said the initial reading from a sensor in the building "bore a striking resemblance to a nerve agent." Further tests, however, were negative. The alarm prompted the evacuation of about 200 people, including at least eight senators, to an underground garage, where they were held for about three hours.

Exposure to an amount of nerve agent as small as a drop can cause death within minutes or hours. Gainer declined to identify the agent that appeared to be indicated by the sensor. But the FBI and other agencies that assisted in the emergency response said they were told it was the VX nerve agent.

Officials still were trying to determine yesterday what prompted the alarm. One possibility, Gainer said, was treated lumber that had been brought into the building recently. It could have contained harmless amounts of chemicals that activated the sensors.

"The experts will be doing a lot more analysis of what the heck it is," Gainer said.

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Legislators who were evacuated to the nearby Senate parking garage applauded Capitol Police officers for their handling of the alarm, saying they were calm and provided frequent information.

"The police were very, very professional," said Sen. Judd Gregg (R-N.H.). "And you've got to admire them. They go into these buildings, and they don't know what's in there."

Gainer said his force was "100 percent more prepared" than it had been for the crisis brought on by the anthrax mailings to the Capitol in 2001, which killed two postal employees in Washington. Still, he said, his officers were studying Wednesday night's incident to see how they could improve. Among the glitches: Five people, including journalists and staff members, were discovered in the building well after police thought it was cleared, Gainer said.

"I'm trying to ascertain whether we failed to get the message to them, or they failed to heed our message," he said.

The five included two members of an ABC News camera crew, said Emily Lenzner, a spokeswoman for the organization. She said they had been storing equipment in the attic.

"These guys didn't hear a thing," she said.

Sensors placed throughout the Capitol complex occasionally have produced false alarms. Experts working with Capitol Police check the chemical "signatures" picked up by the sensors and often find that they match those of such familiar products as cleaning sprays or paint thinner.

What caused the concerns Wednesday night, Gainer said, was that the chemical signature looked very much like that of a nerve agent. "This was a unique one to us," he said.

Shortly after 6:30 p.m., alarms mounted in Senate offices started beeping loudly, as Capitol Police officers announced the evacuation. E-mails issuing the order were sent to staffers' hand-held communicators.

Senators and staffers described the evacuation as orderly.

"There was no running for the door or anything like that," said Coy Knobel, press secretary to Sen. Mike Enzi (R-Wyo.), both of whom were in the building.

Knobel said the alarms in the hallway outside his office did not appear to be working. However, Gainer said he knew of only one hallway where the public-address message was garbled. "Even if they didn't pick up the electronics, our officers went through the old-fashioned way" to ensure that everyone left the building, he said.

Capitol Police officers decided to take the building's occupants to the Senate garage across Delaware Avenue NE in order to isolate them, Gainer said. But it was quickly obvious that no one in the crowd was showing symptoms of significant nerve-agent exposure, which include vomiting, involuntary defecation, paralysis of the respiratory muscles, unconsciousness and seizures.

Still, Capitol Police officers called in assistance from the D.C. fire department, which set up red, yellow and blue decontamination tents outside the Russell building in case they were needed.

White House Knew Of Levee's Failure On Night Of Storm (NYT)

By Eric Lipton

The New York Times, February 10, 2006

WASHINGTON, Feb. 9 — In the aftermath of Hurricane Katrina, Bush administration officials said they had been caught by surprise when they were told on Tuesday, Aug. 30, that a levee had broken, allowing floodwaters to engulf New Orleans.

But Congressional investigators have now learned that an eyewitness account of the flooding from a federal emergency official reached the Homeland Security Department's headquarters starting at 9:27 p.m. the day before, and the White House itself at midnight.

The Federal Emergency Management Agency official, Marty Bahamonde, first heard of a major levee breach Monday morning. By late Monday afternoon, Mr. Bahamonde had hitched a ride on a Coast Guard helicopter over the breach at the 17th Street Canal to confirm the extensive flooding. He then telephoned his report to FEMA headquarters in Washington, which notified the Homeland Security Department.

"FYI from FEMA," said an e-mail message from the agency's public affairs staff describing the helicopter flight, sent Monday night at 9:27 to the chief of staff of Homeland Security Secretary Michael Chertoff and recently unearthed by investigators. Conditions, the message said, "are far more serious than media reports are currently reflecting. Finding extensive flooding and more stranded people than they had thought — also a number of fires."

Michael D. Brown, who was the director of FEMA until he resigned under pressure on Sept. 12, said in a telephone interview Thursday that he personally notified the White House of this news that night, though he declined to identify the official he spoke to.

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White House officials have confirmed to Congressional investigators that the report of the levee break arrived there at midnight, and Trent Duffy, the White House spokesman, acknowledged as much in an interview this week, though he said it was surrounded with conflicting reports.

But the alert did not seem to register. Even the next morning, President Bush, on vacation in Texas, was feeling relieved that New Orleans had "dodged the bullet," he later recalled. Mr. Chertoff, similarly confident, flew Tuesday to Atlanta for a briefing on avian flu. With power out from the high winds and movement limited, even news reporters in New Orleans remained unaware of the full extent of the levee breaches until Tuesday.

The federal government let out a sigh of relief when in fact it should have been sounding an "all hands on deck" alarm, the investigators have found.

This chain of events, along with dozens of other critical flashpoints in the Hurricane Katrina saga, has for the first time been laid out in detail following five months of work by two Congressional committees that have assembled nearly 800,000 pages of documents, testimony and interviews from more than 250 witnesses. Investigators now have the documentation to pinpoint some of the fundamental errors and oversights that combined to produce what is universally agreed to be a flawed government response to the worst natural disaster in modern American history.

On Friday, Mr. Brown, the former FEMA director, is scheduled to testify before the Senate Homeland Security and Governmental Affairs Committee. He is expected to confirm that he notified the White House on that Monday, the day the hurricane hit, that the levee had given way, the city was flooding and his crews were overwhelmed.

"There is no question in my mind that at the highest levels of the White House they understood how grave the situation was," Mr. Brown said in the interview.

The problem, he said, was the handicapping of FEMA when it was turned into a division of the Homeland Security Department in 2003.

"The real story is with this new structure," he said. "Why weren't more things done, or what prevented or delayed Mike Brown from being able to do what he would have done and did do in any other disaster?"

Although Mr. Bahamonde said in October that he had notified Mr. Brown that Monday, it was not known until recently what Mr. Brown or the Homeland Security Department did with that information, or when the White House was told.

Missteps at All Levels

It has been known since the earliest days of the storm that all levels of government — from the White House to the Department of Homeland Security to the Louisiana Capitol to New Orleans City Hall — were unprepared, uncommunicative and phlegmatic in protecting Gulf Coast residents from the floodwaters and their aftermath. But an examination of the latest evidence by The New York Times shines a new light on the key players involved in the important turning points: what they said, what they did and what they did not do, all of which will soon be written up in the committees' investigative reports.

Among the findings that emerge in the mass of documents and testimony were these:

¶Federal officials knew long before the storm showed up on the radar that 100,000 people in New Orleans had no way to escape a major hurricane on their own and that the city had finished only 10 percent of a plan for how to evacuate its largely poor, African-American population.

¶Mr. Chertoff failed to name a principal federal official to oversee the response before the hurricane arrived, an omission a top Pentagon official acknowledged to investigators complicated the coordination of the response. His department also did not plan enough to prevent a conflict over which agency should be in charge of law enforcement support. And Mr. Chertoff was either poorly informed about the levee break or did not recognize the significance of the initial report about it, investigators said.

¶The Louisiana transportation secretary, Johnny B. Bradberry, who had legal responsibility for the evacuation of thousands of people in nursing homes and hospitals, admitted bluntly to investigators, "We put no plans in place to do any of this."

¶Mayor C. Ray Nagin of New Orleans at first directed his staff to prepare a mandatory evacuation of his city on Saturday, two days before the storm hit, but he testified that he had not done so that day while he and other city officials struggled to decide if they should exempt hospitals and hotels from the order. The mandatory evacuation occurred on Sunday, and the delay exacerbated the difficulty in moving people away from the storm.

¶The New Orleans Police Department unit assigned to the rescue effort, despite many years' worth of flood warnings and requests for money, had just three small boats and no food, water or fuel to supply its emergency workers.

¶Investigators could find no evidence that food and water supplies were formally ordered for the Convention Center, where more than 10,000 evacuees had assembled, until days after the city had decided to open it as a backup emergency shelter. FEMA had planned to have 360,000 ready-to-eat meals delivered to the city and 15 trucks of water in advance of the storm. But only 40,000 meals and five trucks of water had arrived.

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Representative Thomas M. Davis III, Republican of Virginia, chairman of the special House committee investigating the hurricane response, said the only government agency that performed well was the National Weather Service, which correctly predicted the force of the storm. But no one heeded the message, he said.

"The president is still at his ranch, the vice president is still fly-fishing in Wyoming, the president's chief of staff is in Maine," Mr. Davis said. "In retrospect, don't you think it would have been better to pull together? They should have had better leadership. It is disengagement."

One of the greatest mysteries for both the House and Senate committees has been why it took so long, even after Mr. Bahamonde filed his urgent report on the Monday the storm hit, for federal officials to appreciate that the levee had broken and that New Orleans was flooding.

Eyewitness to Devastation

As his helicopter approached the site, Mr. Bahamonde testified in October, there was no mistaking what had happened: large sections of the levee had fallen over, leaving the section of the city on the collapsed side entirely submerged, but the neighborhood on the other side relatively dry. He snapped a picture of the scene with a small camera.

"The situation is only going to get worse," he said he warned Mr. Brown, then the FEMA director, whom he called about 8 p.m. Monday Eastern time to report on his helicopter tour.

"Thank you," he said Mr. Brown replied. "I am now going to call the White House."

Citing restrictions placed on him by his lawyers, Mr. Brown declined to tell House investigators during testimony if he had actually made that call. White House aides have urged administration officials not to discuss any conversations with the president or his top advisors and declined to release e-mail messages sent among Mr. Bush's senior advisors.

But investigators have found the e-mail message referring to Mr. Bahamonde's helicopter survey that was sent to John F. Wood, chief of staff to Secretary Chertoff at 9:27 p.m. They have also found a summary of Mr. Bahamonde's observations that was issued at 10:30 p.m. and an 11:05 p.m. e-mail message to Michael Jackson, the deputy secretary of homeland security. Each message describes in detail the extensive flooding that was taking place in New Orleans after the levee collapse.

Given this chain of events, investigators have repeatedly questioned why Mr. Bush and Mr. Chertoff stated in the days after the storm that the levee break did not happen until Tuesday, as they made an effort to explain why they initially thought the storm had passed without the catastrophe that some had feared.

"The hurricane started to depart the area on Monday, and then Tuesday morning the levee broke and the water started to flood into New Orleans," Mr. Chertoff said on CBS's "Face the Nation" on Sunday, Sept. 4, the weekend after the hurricane hit.

Mr. Chertoff and White House officials have said that they were referring to official confirmation that the levee had broken, which they say they received Tuesday morning from the Army Corps of Engineers. They also say there were conflicting reports all day Monday about whether a breach had occurred and noted that they were not alone in failing to recognize the growing catastrophe.

Mr. Duffy, the White House spokesman, said it would not have made much difference even if the White House had realized the significance of the midnight report. "Like it or not, you cannot fix a levee overnight, or in an hour, or even six hours," he said.

But Senator Susan Collins, Republican of Maine and chairwoman of the Senate Committee on Homeland Security and Governmental Affairs, said it was obvious to her in retrospect that Mr. Chertoff, perhaps in deference to Mr. Brown's authority, was not paying close enough attention to the events in New Orleans and that the federal response to the disaster may have been slowed as a result.

"Secretary Chertoff was too disengaged from the process," Ms. Collins said in an interview.

Compounding the problem, once Mr. Chertoff learned of the levee break on Tuesday, he could not reach Mr. Brown, his top emergency response official, for an entire day because Mr. Brown was on helicopter tours of the damage.

Senator Joseph I. Lieberman of Connecticut, the ranking Democrat on the homeland security committee, said the government confusion reminded him of the period surrounding the attacks of Sept. 11, 2001.

"Information was in different places, in that case prior to the attack," Mr. Lieberman said, "and it wasn't reaching the key decision makers in a coordinated way for them to take action."

Russ Knocke, a homeland security spokesman, said that although Mr. Chertoff had been "intensely involved in monitoring the storm" he had not actually been told about the report of the levee breach until Tuesday, after he arrived in Atlanta.

"No one is satisfied with the response in the early days," Mr. Knocke said.

But he rejected criticism by Senator Collins and others that Mr. Chertoff was disengaged.

"He was not informed of it," Mr. Knocke said. "It is certainly a breakdown. And through an after-action process, that is something we will address."

The day before the hurricane made landfall, the Homeland Security Department issued a report predicting that it could lead to a levee breach that could submerge New Orleans for months and leave 100,000 people stranded. Yet despite these warnings,

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state, federal and local officials acknowledged to investigators that there was no coordinated effort before the storm arrived to evacuate nursing homes and hospitals or others in the urban population without cars.

Focus on Highway Plan

Mr. Bradberry, the state transportation secretary, told an investigator that he had focused on improving the highway evacuation plan for the general public with cars and had not attended to his responsibility to remove people from hospitals and nursing homes. The state even turned down an offer for patient evacuation assistance from the federal government.

In fact, the city was desperately in need of help. And this failure would have deadly consequences. Only 21 of the 60 or so nursing homes were cleared of residents before the storm struck. Dozens of lives were lost in hospitals and nursing homes.

One reason the city was unable to help itself, investigators said, is that it never bought the basic equipment needed to respond to the long-predicted catastrophe. The Fire Department had asked for inflatable boats and generators, as well as an emergency food supply, but none were provided, a department official told investigators.

Timothy P. Bayard, a police narcotics commander assigned to lead a water rescue effort, said that with just three boats, not counting the two it commandeered and almost no working radios, his small team spent much of its time initially just trying to rescue detectives who themselves were trapped by rising water.

The investigators also determined that the federal Department of Transportation was not asked until Wednesday to provide buses to evacuate the Superdome and the convention center, meaning that evacuees sat there for perhaps two more days longer than necessary.

Mr. Brown acknowledged to investigators that he wished, in retrospect, that he had moved much earlier to turn over major aspects of the response effort to the Department of Defense. It was not until the middle of the week, he said, that he asked the military to take over the delivery and distribution of water, food and ice.

"In hindsight I should have done it right then," Mr. Brown told the House, referring to the Sunday before the storm hit.

A Closer Look At Some Of The Documents (NYT)

By eric lipton

The New York Times, February 10, 2006

Investigators now have the documentation to pinpoint some of the fundamental errors and oversights that combined to produce what is universally agreed to be a flawed government response to the worst natural disaster in modern United States history.

Audio: Eric Lipton on the Documents (mp3)

Long before Hurricane Katrina emerged, this document shows that federal official knew that if a major hurricane landed in New Orleans, local authorities would be overwhelmed. Go to Document

But investigators have concluded that the federal government, even when it saw this dire warning from the National Weather Service, did not act as if he knew this most basic reality: local authorities would not be able to fend for themselves. Here is an excerpt of the federal statement of the local incapacity to fend for itself and the weather forecast just before Katrina landed.

Go to Document **********

On Sunday, Aug. 28, at noon, federal and state officials, including President Bush and Homeland Security Secretary Michael Chertoff participated in a teleconference call to discuss the approaching storm. Mr. Max Mayfield, the director of the National Hurricane Center provided some dire warnings. Mr. Chertoff asked FEMA director Michael Brown if there was anything he needed. Mr. Bush prayed for no loss of life. And Mr. Brown asked Col. Jeff Smith, Deputy Director of the Louisiana Department of Homeland Security, if he needed any assistance.

Go to Excerpts From a Transcript of the Call

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Johnny B. Bradberry, secretary of the Louisiana Department of Transportation signed an agreement in April 2005 committing his department to "mobilize transportation to support emergency evacuation for at-risk populations," meaning the frail, elderly, disabled and others who might not be able to get out of the city on their own. But Mr. Bradberry admitted to investigators that he did not honor this agrreement. Senator Susan Collins, Republican of Maine, observed: "The initial evacuation from New Orleans in advance of the storm went relatively well. Approximately 1 million people left the greater New Orleans area in a much more efficient and orderly manner than in hurricane evacuations of years past. Then, so to speak, the wheels came off. Those without access to transportation out of the region found themselves stranded high and dry, but only in the figurative sense. Among those left behind were thousands of elderly, disabled and disadvantaged residents." Mr. Bradberry was interviewed by a Senate investigator.

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In July 2005, at an emergency planning session sponsored by FEMA, state and local officials discussed evacuation planning for a possible hurricane in the region, which all parties recognized could cause thousands, if not tens of thousands of deaths. At the meeting, there was a consensus that they were far from ready, as only about 10 percent of the planning was finished for how they would evacuate the estimated 100,000 people in the area that did not have cars or other means of getting out of the city.

Go to Excerpts From a Transcript of the Meeting

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An official from the United States Department of Health and Human Services, which is charged with helping evacuate medical patients from disaster areas, asked a Louisiana state health official two days before Katrina landed if the state needed help moving patients out of harms way. The state official turned down the offer. The e-mails are in reverse chronological order.

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On Sunday, Aug. 28th, the day before Hurricane Katrina hit, FEMA issued a "situation report" on the storm that had several dire predictions, including that a direct hit by the storm could leave the city submerged by several feet of water and that at least 100,000 people lacked a way to get out of town.

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Without an organized plan to evacuate nursing homes before Katrina landed, 36 nursing homes failed to heed mandatory evacuation orders. Chaos followed, as once the storm hit and the flood waters rose, they were without electricity and often food and water. Dozens of patients died while they awaited rescue.

Excerpts from the testimony of Joseph A. Donchess Executive Director Louisiana Nursing Home Association to Senate Homeland Security and Governmental Affairs Committee:

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City hospitals also did not evacuate. But city officials acknowledged during the investigation that they did not realize that many hospitals had their back up generators in areas that could be flooded. That meant that they too were often without electricity after the storm and flood.

Excerpts from testimony on the attempting to evacuate a New Orleans hospital:

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Reports that there were major breaks in the levees started on Monday morning, the day Katrina hit. But it would be nearly 24 hours before officials in the Bush administration, including President Bush and Homeland Security Secretary Michael Chertoff, appeared to recognize the serverity of what had happened. Marty Bahamonde, a public affairs officer with the Federal Emergency Management Agency, heard the early reports on Monday and then told supervisors in Washington. News of his report, and helicopter flights he took to confirm the levee breach, reached the White House and the office of the Homeland Security secretary by Monday evening or late Monday night. Here are excerpts of testimony about the initial reports of the levee break. He is questioned by Sen. Susan Collins, Republican of Maine and Senator Joseph Lieberman, Democrat of Connecticut, who are the two leaders of the Senate Homeland Security and Governmental Affairs Committee.

Go to Excerpts From the Testimony

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Marty Bahamonde, a FEMA public affairs office, took this photograph on Monday Aug. 29, the day Katrina hit, at about 5:15 p.m. central time. In a Coast Guard helicopter, he flew directly to the site that had been described in a report he overheard Monday morning at about 11 a.m. to confirm that the levee had broken. As soon as he saw the spot, he said there was no question in his mind that the levee had collapsed, not just been overtopped, as it was obvious that only one side was flooded and he could see sections of the levee that had fallen over. (Click on the photo to enlarge the image.)

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At 9:27 p.m., Monday, Homeland Security Secretary Michael Chertoff's chief of staff, John Wood, and others in the Secretary's office, received an email from Brian Besanceney, the Assistant Secretary for Public Affairs, reporting that observations by a FEMA employee in New Orleans had found that conditions were "far more serious," than the media was reporting.

Go to E-Mail

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At 10:30 p.m. on Monday, Aug. 29, the day Katrina landed in New Orleans, the Department of Homeland Security issued a report detailing observations that had been made of the broken levee by Marty Bahamonde, the sole FEMA representative on the ground in the city that day. He had heard the report at 11 a.m. that morning and then confirmed it with a flyover in a helicopter that evening. This same report made its way to the White House Monday, shortly after midnight.

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New Orleans Mayor C. Ray Nagin provided the Federal Emergency Management Agency with a detailed list of emergency aid his city desperately needed in the aftermath of Hurricane Katrina. Most of the requested supplies and other assistance did not arrive for days, if at all, as FEMA was not prepared to deliver what the city said it needed.

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In the aftermath of Hurricane Katrina, New Orleans Police Captain Timothy P. Bayard prepared this internal report assessing the role his city's Office of Emergency Preparedness played in the response to Katrina. He introduced the report to investigators by saying: "The New Orleans Office of Emergency Preparedness failed. They did not prepare themselves, nor did they manage the city agencies responsible for conducting emergency response to the disaster. Their function was to coordinate with state, federal and other local agencies, to enlist logistical assistance. We did not coordinate with any state, local or federal agencies. We were not prepared logistically. Most importantly, we relocated evacuees to two locations where there was no food, water or portable restrooms. We did not implement the pre-existing plan. We did not utilize buses that would have allowed us to transport mass quantities of evacuees expeditiously. We did not have food, water or fuel for the emergency workers. We did not have a back up communication system. We had no portable radio towers or repeaters that would have enabled us to communicate. The other mistakes have been mentioned previously." Go to Document **********

The National Guard, which is made up of troops under the command of individual states, ultimately had at least 30,000 troops assigned to Louisiana to help with the response to Hurricane Katrina. But an "after action review" that evaluates the National Guard's own response found that it was hampered by poor coordination, insufficient communications and a lack of so-called situational awareness.

Ex-FEMA Chief, In Reversal, To Answer Questions On Storm (NYT)

By Eric Lipton

The New York Times, February 10, 2006

WASHINGTON, Feb. 9 — For months, Michael D. Brown, former director of the Federal Emergency Management Agency, has declined to answer questions from Congress about his conversations during Hurricane Katrina with top Bush administration officials. But in an interview on Thursday, he said that his position had changed.

Now that he is a private citizen, he said, "I feel an obligation to answer any questions they put to me."

Mr. Brown will have that chance on Friday, when he is scheduled to testify to the Senate Homeland Security and Governmental Affairs Committee, which is nearing the end of a five-month inquiry on the hurricane.

"The public needs to know the entire picture of what was going on," Mr. Brown said.

Mr. Brown's lawyer, in a letter sent Monday to Harriet E. Miers, the White House counsel, wrote that "unless there is specific direction otherwise by the president" that "Mr. Brown will testify, if asked, about particular communications he had" with White House officials and others in the executive branch.

As of Thursday evening, Mr. Brown and his lawyer, Andrew W. Lester, said they had received no calls or letters from the White House urging Mr. Brown to remain silent.

The testimony will make clear, Mr. Brown said, that senior administration officials, including President Bush, recognized the severity of the problem in New Orleans in the immediate aftermath of the storm. But changes in the organization of FEMA and the powers of the director of the agency after it became part of the Homeland Security Department, Mr. Brown said, prevented him from effectively leading the response.

The administration has declined House and Senate investigators' requests to turn over e-mail messages and other correspondence from top White House officials involved in the hurricane response. Mr. Bush, asked last month whether Mr. Brown should testify about his White House discussions, seemed to urge him to not do so.

A White House spokesman, Trent Duffy, said he had nothing to add to that comment.

Mr. Brown, who has a permanent residence in Colorado but continues to live here, has formed a disaster-relief consultancy. He would not name clients but said he had signed up a number of companies, including firms that sell communications equipment and work on rebuilding on the Gulf Coast.

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Former FEMA Director To Testify About Katrina (WP)

By Spencer S. Hsu

The Washington Post, February 10, 2006

Michael D. Brown, the former head of the Federal Emergency Management Agency, was rebuffed in his request for a claim of executive privilege and plans to testify to a Senate panel today about his calls and e-mails to President Bush and top White House aides in the Hurricane Katrina crisis, Brown's lawyer said yesterday.

White House Counsel Harriet Miers declined to offer Brown a legal defense for declining to testify or respond to a Feb. 6 letter advising that without such protection Brown "intends to answer all questions fully, completely and accurately," said Brown's lawyer, Andrew W. Lester.

Lester wrote that Brown will testify if asked about communications with Bush, Vice President Cheney, Chief of Staff Andrew H. Card Jr., Deputy Chief of Staff Karl Rove, Deputy Chief of Staff Joseph Hagin, domestic policy adviser Claude A. Allen and national security adviser Stephen J. Hadley.

As the federal official in charge of the disaster before he resigned, Brown is "between a rock and a hard place," his lawyer said. "On the one hand he desires to answer fully any and all questions the Committee may have," Lester wrote. "On the other hand the President's statements indicate concern that the President be able to 'get unvarnished advice from [his] advisors.' "

House and Senate investigative committees have battled the White House over its refusal to make available top aides and their correspondence from the response to the storm. Instead, the White House has provided 15,000 pages of records and briefings by a deputy White House homeland security adviser.

Bush spokesman Trent Duffy declined to comment on Brown's letter. But Duffy noted a Jan. 26 news conference in which Bush, while declining to cite Brown by name, defended "people who give me advice" from being forced to disclose such conversations, citing a "chilling effect on future advisers."

In testimony to a House committee in September, Brown did not discuss such conversations on the advice of counsel, although he estimated that he communicated with the White House "30 times" during the weekend before Katrina made landfall on Monday, Aug. 29. That included "several" calls to Bush to help speed evacuations by Louisiana and New Orleans leaders.

Yesterday, Lester said that Brown "is planning to testify by answering all questions."

Brown could shed light on the White House's lack of awareness of events on the day of Katrina's landfall. Documents released by the Senate show that although the Homeland Security Operations Center reported at 6 p.m. Aug. 29 that no New Orleans levees had been breached, authorities received no fewer than 16 reports to the contrary before then.

Beginning at 8:30 a.m. Aug. 29, levee breaks were reported by sources including New Orleans and Louisiana homeland security officials, the Transportation Security Administration, the National Weather Service, FEMA officials, White House Homeland Security Council and Homeland Security Department "spot reports," the Army Corps of Engineers, the Coast Guard, and the American Red Cross.

Neighborhoods At Stake (USAT)

By Richard Baker

USA Today, February 10, 2006

Louisiana's in limbo. Months after Hurricanes Katrina and Rita destroyed more than 200,000 homes and businesses, little progress has been made toward rebuilding. Nor will it if these properties languish in ruins for years. Think about that: American ruins.

Thousands face paying mortgages on homes lost or accepting foreclosure and losing still more. The private sector is held back by a broken market: Even individuals with resources to rebuild won't when their neighborhood remains decimated. The only answer: Restoring whole communities.

To help, I have proposed the Louisiana Recovery Corp., which would purchase property from willing sellers, providing them financial stability to move forward and options to come home. By clearing title and reconditioning land, the LRC would open the door for the private sector, following local plans, to finance rebuilding, with proceeds from land sales returned to taxpayers.

At an average payment of 60% of $200,000, covering every property would cost $24 billion, but if only half were recovered through resale, the overall cost would be $12 billion. That's a major investment, but consider: In nearly six months, the Federal Emergency Management Agency has spent more than $8 billion on Gulf Coast "housing," for such things as trailers, motels and cruise ships. While helpful, these "temporary" arrangements aren't solutions. For 50% more over 10 years, the LRC would allow people to make long-term housing plans, while laying a path to rebuild a vast portion of a vital state. Isn't this a better way?

To say assisting Louisiana's floodplain is unwise closes the door on whole parishes and New Orleans itself, and overlooks that many were inadequately insured because they had relied on levees built by the federal government. Stronger levees,

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building codes and insurance requirements would ensure that government and Louisianans live up to their responsibilities and rebuild responsibly.

Offering philosophical objections but no workable alternative does nothing to address the reality. If there's a fairer, more effective and fiscally responsible plan, I'd like to hear it. But as it is, the LRC enjoys broad support across ideological lines. A fair hearing and an up-or-down vote is all we ask.

Rep. Richard Baker, R-La., chairs a subcommittee of the House Financial Services Committee.

Rebuild Louisiana, But Not By Creating Federal Money Pit (USAT)

USA Today, February 10, 2006

They call it the "devastation tour," and sadly for New Orleans, it delivers everything the label implies.

The three-hour bus excursion, offered since last month by Gray Line New Orleans, takes visitors through the ruins that once were graceful neighborhoods in one of the nation's fabled cities. Now, nearly six months after Hurricane Katrina struck, the tour shows ghostly shells of homes, upended trees and roof-high water marks — the brownish calling cards left by flooding. Unseen are the smashed lives the waters also leftbehind.

New Orleans and the surrounding area are devastated and need help. Americans want to provide it. But Congress is focused on a scheme that would serve neither the city nor the taxpayers well. Actually, it's less a plan than an exercise in thoughtless political spending — and further proof that Washington can't manage disaster relief.

Rep. Richard Baker, R-La., proposes creating a new federal bureaucracy, the Louisiana Recovery Corp. (LRC), to buy damaged properties, repackage them and sell them for redevelopment. Baker's plan is gaining traction in Congress and plaudits in Louisiana. At first glance, it appears promising. But look deeper, and costly flaws appear:

· Unknown price tag. The plan would allow the new corporation to borrow up to $30 billion from the U.S. Treasury, but there's no limit on how much could ultimately be spent to set up and run this entity. And no hard figures on how much taxpayers might hope to recoup.

· No guarantee. The LRC would buy homes from sellers for at least 60% of their fair market value before Katrina struck — an interesting, if expensive, goal. But the land would be acquired in disconnected chunks. There's no provision for emptying flood-prone areas and scant help for homeowners who want to rebuild safely, not sell.

· Questionable recipients. Baker's plan would reward lenders by paying them as much as 60% of outstanding mortgages. This would apply even to lenders who failed to fulfill federal requirements that homes in designated flood plains be insured as a condition of getting a mortgage. Taxpayers shouldn't be forced to bail out lenders who took such risks. Doing so would encourage cavalier practices in the future.

· Dangerous precedent. Though the New Orleans flood was an unparalleled disaster, this vast new program would lead homeowners to expect similar aid in the next catastrophe. The poorly run National Flood Insurance Program is nearly bankrupt after Katrina; this is no time to create a bureaucracy with an open checkbook.

The Bush administration wisely opposes Baker's plan, but despite the passage of time, it hasn't proposed an alternative.

Katrina's victims merit help to restore their lives, and New Orleans needs help in rebuilding. That requires substantial aid from the federal government, which contributed to the disaster when its levees failed.

Even so, aid programs that lack accountability to taxpayers or a clear plan for rebuilding would make matters worse. Nor should the federal government usurp local responsibility and control. New Orleans needs a sound state and local rebuilding plan. Neither the City Council nor the state has adopted one. That, not an expensive federal bureaucracy, is the first building block toward putting the "devastation tour" out of business.

SBA Seeking More Money From Congress Some Lawmakers Criticize Agency For 'lack Of Leadership' In Handling Katrina Relief Funds (USAT)

By Jim Drinkard

USA Today, February 10, 2006

WASHINGTON — The Small Business Administration, criticized for its slow pace in making disaster loans to victims of Hurricane Katrina, is asking Congress for an additional $1.1 billion in relief money.

Though the agency has approved $4.1 billion in loans, most of them to owners of storm-damaged homes, it has paid out just $326 million of that amount.

The agency received an emergency infusion of $441 million in December for disaster loans and got permission last week to transfer $100 million into the loan program from other accounts.

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"We have concerns about how they got to this reported crisis," said John Scofield, a spokesman for the House Appropriations Committee, which along with its Senate counterpart controls federal spending. "We've given them everything they've asked for. That should get them through it."

Rep. Nydia Velzquez, D-N.Y., the top Democrat on the House Small Business Committee and an agency critic, said the SBA has "been wrong with the numbers. It proves the lack of leadership and mismanagement."

SBA spokesman Raul Cisneros defended the request, noting that Katrina is the most expensive disaster ever to hit the USA and that requests for additional money have been routine in previous disasters. "We just don't know" how much such events will ultimately cost, he said.

The $1.1 billion in requested new money — part of an upcoming $18 billion Bush administration request for Katrina relief — will fund an additional $6.8 billion in disaster loans, Cisneros said. The $1.1 billion represents the federal subsidy involved in making the loans, or the ultimate cost to the government once the loan is repaid.

The SBA projects it ultimately will approve nearly $12.4 billion in loans by Sept. 30, the end of the 2006 fiscal year for Katrina and for Hurricanes Rita and Wilma. The requested $1.1 billion would allow those loans to be fully funded, the agency said.

In the five months since Katrina struck, SBA has received 373,495 disaster loan applications and has approved 59,398 of them. An additional 165,263 remain to be processed. The rest were denied or withdrawn.

The agency has come under harsh criticism from Velzquez and other lawmakers on Capitol Hill, as well as some of its own employees, for its handling of the crisis.

In other news, 28 government entities, from local Louisiana parishes to the White House, reported that New Orleans levees were breached Aug. 29, the day Katrina hit, the Associated Press said Thursday.

A timeline of e-mails, situation updates and weather reports, pieced together by Senate Democrats, indicates the Bush administration knew as early as 8:30 a.m. ET about levee failures that would ultimately lead to massive flooding of the city and its surrounding parishes.

White House spokesman Trent Duffy said President Bush and his top aides were fully aware about the massive flooding — and less concerned whether it was caused by levee breaches, overtopped levees or failed pumps, all three of which were being reported at the time.

"We knew there was flooding, and that's why the No. 1 effort in those early hours was on search and rescue, and saving life and limb," Duffy said.

Has USA Lost Drive To Rebuild After Tragedies? Nation Usually Quick To Rebound, But Confusion Slowing Process In New Orleans, At Ground Zero (USAT)

By Rick Hampson

USA Today, February 10, 2006

Less than 72 hours after fire destroyed a third of Chicago, including his own family's new town house on Michigan Avenue, a civic booster named William Bross boarded a train to New York.

Bross, an owner of the Chicago Tribune, had a message for Wall Street: The fire was not a disaster; it was an investment opportunity. "What she has been in the past, she must become in the future," he said of his home town, "and a hundredfold more."

That was the attitude in Chicago in 1871. And in Galveston, Texas, after the hurricane of 1900; in San Francisco after the earthquake of 1906; at Pearl Harbor after the sneak attack in 1941.

It's the American attitude: We always spring up off the mat, always rebuild bigger and better.

At least until now. In New York City, where terrorists destroyed the World Trade Center, and in New Orleans, where Katrina flooded most of the city, Americans are arguing over how, when and even whether to rebuild.

The qualities we associate with recovery from disaster — urgency, unity, determination, imagination — have been eclipsed by indecision, delay and dissension.

"Rebuilding quickly is part of our self-identity, but we're getting more cynical about what we're capable of," says Christine Rosen, a business school professor at the University of California-Berkeley who has studied urban disasters.

To some, it's a disturbing change. "Great nations rebuild," says Douglas Brinkley, a historian at New Orleans' Tulane University. He blames the dithering in Lower Manhattan and his own city on a failure of political leadership.

"If we had the will in 1947 to rebuild the capitals of Europe, why don't we have the will in 2006 to rebuild the capital city of the Mississippi (River)?" he asks. "Most Americans are oblivious to what's happening, because no one is standing in the bully pulpit to tell them."

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It's been only five months since the hurricane, but Brinkley sees little sign of the comeback spirit that sprang from the ruins of Chicago, San Francisco and Galveston.

At Ground Zero, there's still a gaping hole where the Trade Center stood. More than four years have passed without a consensus as to what should fill it, observes Brent Glass, director of the Smithsonian's National Museum of American History.

He adds: “I don't know if there's an analogy for that in American history.”

These cities rebuilt, each with little federal aid:

·Chicago: After the Great Fire destroyed 18,000 buildings and left 100,000 homeless (one in three residents), rebuilding in the “Burnt District” began almost immediately. Debris was pushed into Lake Michigan as landfill for a bigger city. The size of the central business district doubled, and taller buildings were constructed.

·San Francisco: The earthquake started fires that destroyed about three quarters of the city and left 300,000 homeless — half the population. City leaders began rebuilding immediately, abandoning for the sake of speed a master plan to beautify the city.

·Galveston: The year after the hurricane wrecked much of Galveston Island, a county referendum on a bond issue for a seawall passed by better than 9-to-1. The entire city was raised by more than 15 feet.

Times change.

In New York, the city, the state, the Port Authority, the Trade Center leaseholder, relatives of 9/11 victims, neighborhood residents and business owners are still bickering over what will rise at Ground Zero.

Although a memorial has been designed, little else is settled. Plans for two museums fell apart amid complaints that their exhibits might dishonor the dead. The Freedom Tower, planned to be the world's tallest building, was redesigned because of security concerns and will not be finished until the next decade, if at all.

It's still early to rebuild in New Orleans, but the prospect of recovery is clouded by squabbling over who's responsible for what happened and by confusion over who's responsible for what will happen.

The leading rebuilding proposal, which gives the most flood-prone sections from four months to a year to attract a critical mass of residents or be condemned, has divided the city. It also counts on at least $17 billion more than the federal government has pledged.

Whatever the city's plan, many residents have said they won't return unless Washington promises to improve the levees to withstand a Category 5 hurricane. That might cost more than $32 billion — 10 times what the president has promised for levees.

There's another variable — the new federal flood maps for the city. When issued, the maps may mean that many people who want to return won't be able to because of higher insurance and building costs.

Why does America seem to rebuild and rebound differently today than it has in the past?

·New Orleans and Lower Manhattan were on the decline, not the rise.

Chicago in 1871, Galveston in 1900 and San Francisco in 1906 had something more powerful than fire, flood or earthquake: location. The first was poised between the industrial Northeast and the agricultural Midwest. The second was Texas' major port on the Gulf of Mexico. The third was the economic capital of the West and gateway to the Pacific Ocean.

In contrast, New Orleans' population had dropped from 600,000 in 1960 to 450,000. It had a slew of problems, from high crime to low elevation. “New Orleans was slowly sinking, literally and figuratively, well before Katrina,” says Lawrence Vale, head of MIT's urban planning department.

Similarly, on Sept. 11, 2001, Lower Manhattan was in the commercial doldrums, mostly because it lacked Midtown's parking and commuter rail links. The market for office space was glutted.

Four years later, little has changed. No. 7 World Trade Center — an office tower next to Ground Zero that also was destroyed and has now been rebuilt — is scheduled to open in April, but only 300,000 of its 1.7 million square feet have been leased.

·Rebuilding after natural disasters always has relied on private capital, not federal aid.

Although Eastern money was wary of San Francisco after the quake, Western investors stepped up to rebuild the city.

Now, with Washington still prosecuting a war and facing a $400 billion-a-year deficit, economics trumps politics: “No matter what the government does, who's going to invest?” asks George Friedman, president of Stratfor, a private intelligence and analysis service.

Given tight government finances and investor reluctance, New Orleans “just doesn't have the economic muscle to come back as it was,” says Mary Comerio, a UC-Berkeley expert in disaster recovery.

·Rebuilding then wasn't as smooth as it looks now.

Chicago and San Francisco weren't rebuilt without delays and problems. Chicago started fast, but construction stalled after the financial panic of 1873. San Francisco took about nine years to come all the way back. “There was no ‘golden age' of rebuilding,” says Glass, the museum director. “They had the same controversies then that we have now.”

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·Haste made waste.

After great 19th-century fires devastated cities such as Boston and Baltimore, proposed reforms — wider streets, tighter building codes, better water service — were compromised by the drive to rebuild quickly.

Post-quake San Francisco hurriedly pushed debris into the bay, where it became a weak base for the city's Marina district, which suffered some of the heaviest damage during a 1989 quake. Chicago suffered another devastating fire in 1874, partly because the city did not improve water pressure and install more hydrants.

Today, those kinds of memories help explain the reluctance in New Orleans to rebuild in low-lying areas and the concern in New York that new skyscrapers at Ground Zero might be vulnerable to another attack.

·There's more to rebuild now — at higher cost.

Chicago before the fire had no electricity or phone service, few paved streets and little indoor plumbing. The fire largely spared its rail lines and stockyards.

New Orleans faces a much bigger rebuilding job. Carl Smith, a Northwestern University professor who has studied the Chicago fire, says he's "astonished" by the devastation of Katrina. In 2006 dollars, the fire caused about $3.2 billion in property damage. Katrina caused about $40 billion in insured losses alone.

·We listen to our own rhetoric.

"We will rebuild!" elected officials crowed in unison after 9/11 and Katrina. Many cited heroic precedents such as Chicago and San Francisco. But House Speaker Dennis Hastert, R-Ill., received criticism when he suggested it might not be prudent to rebuild New Orleans.

The rhetoric "is part of the problem," Berkeley's Comerio says. "It's heresy to say that we don't need all this new office space in Lower Manhattan or that some parts of New Orleans can't be resettled," she says. "It's reality, but in American terms it's defeatist."

As for timing, Friedman, the intelligence analyst, says Americans should give themselves a break: "A major city was destroyed in August. Now it's (February). Americans are prodigious rebuilders, but we're also a nation that demands instant gratification."

WAR NEWS:

Ex-CIA Official Faults Use Of Data On Iraq (WP)

By Walter Pincus

The Washington Post, February 10, 2006

Intelligence 'Misused' to Justify War, He Says

The former CIA official who coordinated U.S. intelligence on the Middle East until last year has accused the Bush administration of "cherry-picking" intelligence on Iraq to justify a decision it had already reached to go to war, and of ignoring warnings that the country could easily fall into violence and chaos after an invasion to overthrow Saddam Hussein.

Paul R. Pillar, who was the national intelligence officer for the Near East and South Asia from 2000 to 2005, acknowledges the U.S. intelligence agencies' mistakes in concluding that Hussein's government possessed weapons of mass destruction. But he said those misjudgments did not drive the administration's decision to invade.

"Official intelligence on Iraqi weapons programs was flawed, but even with its flaws, it was not what led to the war," Pillar wrote in the upcoming issue of the journal Foreign Affairs. Instead, he asserted, the administration "went to war without requesting -- and evidently without being influenced by -- any strategic-level intelligence assessments on any aspect of Iraq."

"It has become clear that official intelligence was not relied on in making even the most significant national security decisions, that intelligence was misused publicly to justify decisions already made, that damaging ill will developed between [Bush] policymakers and intelligence officers, and that the intelligence community's own work was politicized," Pillar wrote.

Pillar's critique is one of the most severe indictments of White House actions by a former Bush official since Richard C. Clarke, a former National Security Council staff member, went public with his criticism of the administration's handling of the Sept. 11, 2001, attacks and its failure to deal with the terrorist threat beforehand.

It is also the first time that such a senior intelligence officer has so directly and publicly condemned the administration's handling of intelligence.

Pillar, retired after 28 years at the CIA, was an influential behind-the-scenes player and was considered the agency's leading counterterrorism analyst. By the end of his career, he was responsible for coordinating assessments on Iraq from all 15 agencies in the intelligence community. He is now a professor in security studies at Georgetown University.

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White House officials did not respond to a request to comment for this article. They have vehemently denied accusations that the administration manipulated intelligence to generate public support for the war.

"Our statements about the threat posed by Saddam Hussein were based on the aggregation of intelligence from a number of sources and represented the collective view of the intelligence community," national security adviser Stephen J. Hadley said in a White House briefing in November. "Those judgments were shared by Republicans and Democrats alike."

Republicans and Democrats in Congress continue to argue over whether, or how, to investigate accusations the administration manipulated prewar intelligence.

Yesterday, the Senate Republican Policy Committee issued a statement to counter what it described as "the continuing Iraq pre-war intelligence myths," including charges that Bush " 'misused' intelligence to justify the war." Writing that it was perfectly reasonable for the president to rely on the intelligence he was given, the paper concluded, "it is actually the critics who are misleading the American people."

In his article, Pillar said he believes that the "politicization" of intelligence on Iraq occurred "subtly" and in many forms, but almost never resulted from a policymaker directly asking an analyst to reshape his or her results. "Such attempts are rare," he writes, "and when they do occur . . . are almost always unsuccessful."

Instead, he describes a process in which the White House helped frame intelligence results by repeatedly posing questions aimed at bolstering its arguments about Iraq.

The Bush administration, Pillar wrote, "repeatedly called on the intelligence community to uncover more material that would contribute to the case for war," including information on the "supposed connection" between Hussein and al Qaeda, which analysts had discounted. "Feeding the administration's voracious appetite for material on the Saddam-al Qaeda link consumed an enormous amount of time and attention."

The result of the requests, and public statements by the president, Vice President Cheney and others, led analysts and managers to conclude the United States was heading for war well before the March 2003 invasion, Pillar asserted.

They thus knew, he wrote, that senior policymakers "would frown on or ignore analysis that called into question a decision to go to war and welcome analysis that supported such a decision. . . . [They] felt a strong wind consistently blowing in one direction. The desire to bend with such a wind is natural and strong, even if unconscious."

Pillar wrote that the prewar intelligence asserted Hussein's "weapons capacities," but he said the "broad view" within the United States and overseas "was that Saddam was being kept 'in his box' " by U.N. sanctions, and that the best way to deal with him was through "an aggressive inspections program to supplement sanctions already in place."

"If the entire body of official intelligence analysis on Iraq had a policy implication," Pillar wrote, "it was to avoid war -- or, if war was going to be launched, to prepare for a messy aftermath."

Pillar describes for the first time that the intelligence community did assessments before the invasion that, he wrote, indicated a postwar Iraq "would not provide fertile ground for democracy" and would need "a Marshall Plan-type effort" to restore its economy despite its oil revenue. It also foresaw Sunnis and Shiites fighting for power.

Pillar wrote that the intelligence community "anticipated that a foreign occupying force would itself be the target of resentment and attacks -- including guerrilla warfare -- unless it established security and put Iraq on the road to prosperity in the first few weeks or months after the fall of Saddam."

In an interview, Pillar said the prewar assessments "were not crystal-balling, but in them we were laying out the challenges that would face us depending on decisions that were made."

Pillar wrote that the first request he received from a Bush policymaker for an assessment of post-invasion Iraq was "not until a year into the war."

That assessment, completed in August 2004, warned that the insurgency in Iraq could evolve into a guerrilla war or civil war. It was leaked to the media in September in the midst of the presidential campaign, and Bush, who had told voters that the mission in Iraq was going well, described the assessment to reporters as "just guessing."

Shortly thereafter, Pillar was identified in a column by Robert D. Novak as having prepared the assessment and having given a speech critical of Bush's Iraq policy at a private dinner in California. The column fed the White House's view that the CIA was in effect working against the Bush administration, and that Pillar was part of that. A columnist in the Washington Times in October 2004 called him "a longstanding intellectual opponent of the policy options chosen by President Bush to fight terrorism."

Leaked information "encouraged some administration supporters to charge intelligence officers (including me) with trying to sabotage the president's policies," Pillar wrote. One effect of that, he said, was to limit challenges to consensus views on matters such as the Iraqi weapons program.

When asked why he did not quit given his concerns, Pillar said in the interview that he was doing "other worthwhile work in the nation's interest" and never thought of resigning over the issue.

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Pillar suggests that the CIA and other intelligence agencies, now under Director of National Intelligence John D. Negroponte, remain within the executive branch but "be given greater independence."

The model he cites is the Federal Reserve, overseen by governors who serve fixed terms. That, he said, would reduce "both the politicization of the intelligence community's own work and the public misuse of intelligence by policymakers."

Two Shiite Alliance Contenders Vie For Prime Minister Job In Iraq (USAT)

By Rick Jervis

USA Today, February 10, 2006

BAGHDAD — Iraq's largest political alliance has narrowed its field of prime minister candidates to two.

The top candidates are Prime Minister Ibrahim al-Jaafari and Adel Abdul Mahdi, one of Iraq's two vice presidents, said Basam Ridha, an al-Jaafari adviser.

Al-Jaafari, who belongs to the Dawa Party, a Shiite religious organization that resisted Saddam Hussein's regime, has been criticized as being ineffective during the past nine months as prime minister, said Mahmoud Othman, a leading Kurdish lawmaker. Al-Jaafari was not as assertive as his tough-talking predecessor, Ayad Allawi.

However, al-Jaafari has gained experience in office and has distanced himself from religious Shiite leaders, Othman said. Al-Jaafari lived in England for much of the two decades he lived in exile.

Mahdi, a high-ranking member of the Supreme Council for Islamic Revolution in Iraq, has a stronger personality capable of bringing different sides to the bargaining table, Othman said. However, he is faulted for being too close to Iraq's religious clerics and viewed warily by some because he once lived in Iran, Othman said.

The United Iraqi Alliance, the Shiite coalition that won the largest number of seats in parliamentary elections Dec. 15, will attempt to name its choice by Saturday.

The Independent Electoral Commission is to release officially certified election results today, clearing the way for the parliament to be seated. The legislature will then begin forming a government.

The Shiite alliance won 128 of parliament's 275 seats. Since the alliance fell short of a majority, it will need to form a coalition with other groups to form a government.

The United States encourages an inclusive government as a crucial step in deflating Iraq's insurgency and stabilizing the country. The new prime minister will lead efforts to form a government that includes Shiite and Sunni Arabs, Kurds and Christians.

In a statement in December, Zalmay Khalilzad, U.S. ambassador to Iraq, urged Iraq's different parties to form a unity government. “Iraq's political parties and their leaders must come together to reinforce their commitment to democratic principles and national unity,” he said.

The Sunnis, who once dominated Iraq's government, now are behind much of the insurgency battling U.S. and Iraqi forces. Sunnis are seeking a larger role in the new government.

“The key issue is what kind of government will form,” said Hassan Bazzad, professor of International Relations at Baghdad University. “Forming a real national unity government will have the strongest impact on the situation in Iraq.”

After election results are formally announced, the new parliament will convene and vote on a president and two vice presidents, known as the presidential council. The presidential council will then announce its choice for prime minister, taken from the Shiite alliance, and assign ministers. The serious negotiations are expected to take place behind closed doors, Othman said.

The jobs of heading the Defense and Interior ministries are critical, since those officials control the security forces. Khalilzad has said the security ministries should go to people without ties to sectarian groups or militias.

Othman said the Shiite alliance will try to agree on a prime minister nominee before Saturday. If not, the group will have to vote on it, a step that could divide the tentative alliance of different Shiite groups, he said.

Key to the selection could be Muqtada al-Sadr, the radical Shiite cleric whose followers clashed with U.S. forces twice in 2004.

Al-Sadr supporters won about 30 seats within the alliance bloc. It's not clear which candidate al-Sadr will support, Ridha said.

Iraqis Cope With Life Without Lights (CSM)

By Ilene R. Prusher And Charles Levinson

The Christian Science Monitor, February 10, 2006

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BAGHDAD - Younes Abbas Shamari is a carpenter with an open-air shop on Baghdad's Zawiya Street, which means he depends on electricity for most of what he does: sawing, drilling, sanding. These days, however, he rarely works, as the electricity is off more than it's on.

His workshop sits on a commercial strip in a relatively calm area in the central part of the city. Many small businesses here are in need of electricity to function, but Mr. Shamari estimates he gets just two hours of electricity for every four there is none. And that's twice the Baghdad average, this being one of the capital's more upscale neighborhoods.

Thanks largely to deteriorating security, electricity - along with water, sewage, and oil production - has dropped below prewar levels. Before the invasion, for example, Baghdad was receiving an average of at least 16 hours of power a day. Today, with insurgents targeting power plants and electrical lines on an almost daily basis, the city gets power just four hours each day on average.

"It's not enough to pay for the rent on my shop," says Shamari, whose salary supports an extended family of 13 in Diyala, outside Baghdad. "The rent is almost higher than whatever income I get from my work." He acknowledges that before the war, electricity wasn't nonstop, but it was available when he worked.

Iraq was generating 4,500 megawatts before the US invasion. But by November of last year that generation capacity had dropped to 3,995 megawatts, well below the national demand of 7,000 megawatts, according to a January report by the Office of the Special Inspector General for Iraq Reconstruction. Production has slumped despite the $3 billion - of $18.4 billion authorized for Iraq reconstruction - the US has set aside for electricity projects.

Stuart Bowen, the special inspector general for Iraq reconstruction, testified Wednesday before the Senate Foreign Relations Committee that Iraq would need much more than the $56 billion estimated by the World Bank and UN in 2003 to rebuild Iraq. He didn't give a new figure.

Mr. Bowen told the committee that Iraq's water supply, sewer system, and electrical grid were worse off than once thought.

When fuel was still cheaper than water, before the government cut subsidies in December, Shamari made up for the lack of power with a gas-powered generator. But with the price of fuel now three to five times what it was just three months ago, that's no longer an option.

"How is Iraq supposed to make an economic recovery if businesses don't have basic necessities like electricity?" asks Humam al-Shamaa, an economics professor at Baghdad University. "And the lack of electricity affects security, too, because the streets aren't lighted after sundown and so businesses close earlier than normal."

US officials, though, point out that while power in Baghdad is slumping, supply has increased elsewhere in Iraq. "Now [electricity] is being distributed in a much more egalitarian manner," says Dawn Liberi, head of the Iraq office of the United States Agency for International Development (USAID).

Bowen seconded that claim at Wednesday's hearing. He said the power supply outside Baghdad was the one area of improvement since the war began.

Ms. Liberi does find a silver lining in Baghdad's current electricity situation. Iraqi incomes are on the rise, she says, which is ramping up the consumption of air conditioners, refrigerators, washing machines, and other electricity-hungry consumer goods. "It's very difficult to meet demand, because it's rising much faster than supply," she says.

Liberi also offers another explanation US officials frequently cite when discussing reconstruction shortfalls: Iraqi government disregard for free-market principles and the continuation of state subsidies.

Shamari, for example, pays 4,000 Iraqi dinars a month for electricity, about $2.75. One regular household user says he pays 450 dinars for three months of usage - about 40 cents.

It's a key factor in Iraq's electricity problem, says Liberi. Under Saddam Hussein most people received electricity as a virtual state gift, paying symbolic prices that were out of touch with international rates. After Mr. Hussein, she says, Iraq has yet to adjust, with most people still paying very little. As a result, Iraqis have little incentive to conserve.

US officials have repeatedly argued that the elimination of state subsidies will free up cash for much needed reconstruction projects. Others, however, worry that such belt-tightening measures could lead to social unrest at a time when stability tops the agenda.

But as long as insurgents continue to strike Iraq's power grid, reconstruction remains a perilous endeavor. The insurgency has caused the US to reroute reconstruction money to security. Of the estimated $270 billion spent, $15 billion has gone to nonsecurity items, Liberi says.

And there are few encouraging signs that this trend will change. In fact, a recent report by the US Government Accountability Office, says insurgent attacks are on the increase. There were 2,500 attacks in December 2005, up from just 1,000 the previous March, the report finds.

"We have had increased [electricity] generation, but we have very limited transmission around the country, because the transmission lines keep getting hit," says Liberi.

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Shamari, the carpenter, agrees that the situation is getting worse. Power shortage aside, business is down in general because, as the economy suffers, he says, fewer people are getting married. Newlyweds seeking to furnish their new homes are his main clients. Shamari used to get four major orders a month, he says, and now he gets only one.

He pushes a small power saw through a plank of wood and speaks sadly through the sawdust spray. "I'm thinking of just selling my business."

Danger? Drabness? No Date? Iraqis Find An Outlet Online (NYT)

By Robert F. Worth

The New York Times, February 10, 2006

BAGHDAD, Iraq, Feb. 9 — On a recent rainy afternoon, Ahmad Nader Ali sat in a booth at the ShreifiNet Cafe, sending instant messages to his brother who lives in Finland on one screen window and his fiancée, Nour, on another. A tiny Web camera sat atop the computer, beaming live images of him to Nour's home screen across Baghdad.

"Because of the situation, I'm not able to go and see her often," said Mr. Ali, a confident 20-year-old with slicked-back hair who runs a men's clothing store. "Everybody does it like this."

Nearby, partially hidden by wood-paneled booths, were a dozen other young men staring intently at their screens, most chatting simultaneously on three or four different e-mail accounts. All of them were paying 1,500 dinars an hour — about a dollar — to escape the gray confines of Baghdad's blasted walls for a while. Two heavyset men sat on a black faux-leather couch by the door, keeping a watchful eye on the street.

Three years ago, the Internet was virtually unknown in Iraq. Today, Baghdad has dozens of Internet cafes like ShreifiNet, which consists of three sparely decorated rooms with a total of 34 computers and a satellite dish on the roof. Most of the cafes also transmit wireless services to home Internet users in the surrounding area for a monthly fee; in parts of central Baghdad there are about 20 overlapping wireless networks.

The universal hunger to get online has made computer and Web services one of the few bright spots in Iraq's stagnant economy. On Sinaa Street, the two-lane thoroughfare in central Baghdad lined with computer and software stores, business is brisk. Companies that install wireless networks and satellite dishes are also thriving, despite the irritation caused by frequent power failures. So are many Internet cafes.

"I have to work to persuade people to come to my clothes shop," Mr. Ali said. "But you don't need to advertise to tempt customers to come in here."

Few people on earth have more incentive to communicate online (and indoors) than Iraqis, who risk their lives every time they go out for a quart of milk. The Internet can also be a way to get around the rising Islamization of everyday life. Young people caught flirting on the street even in Baghdad are sometimes chastised or even beaten by self-proclaimed Islamists, but no one can stop them on the Web. "If you look at the chat rooms, it is mostly young guys and girls," Mr. Ali said.

But Islamists and insurgents have their own uses for the Web. Diatribes against the American presence, along with detailed bomb-making instructions and tributes to the latest suicide bombers, appear regularly on Iraqi chat rooms and Web sites.

The total number of people using the Internet, like most Iraqi statistics, is partly guesswork. There are 215,000 subscribers on the state-owned Internet company, but that does not include the Internet cafe users, who are probably far more numerous, said Eva Wohn, a legal adviser to Iraq's Communications Ministry on telecommunications issues.

After their long isolation, young Iraqis are quickly erasing their technological gap with the West. In some ways they are even further along. Thanks to the absence of piracy laws here, many Iraqis use software that is not yet in common use in the United States. The new Microsoft Vista operating system, for instance, scheduled to be introduced for commercial use in late 2006, is already widely used here.

Large numbers of Iraqis can be found on the dozens of Arabic chat rooms listed on Yahoo Messenger, a popular platform for instant messaging. There are dozens of Iraqi Web logs, ranging from political sites, to forums for young people seeking spouses, to "hashasha" (www.7shasha.com), a comic site whose name means "hashish smokers." Angry sectarian conversations often break out, especially in Arab Chat Room 12, which is popular with Iraqi Shiites (the number signifies the 12 great imams of Shiite Islam).

Like many Internet cafe users, Mr. Ali has no access at home. He lives in Doura, a dangerous area where there are almost no Internet cafes and few wireless networks. He could get service on a land line, but he works long hours and prefers to do all his e-mailing at ShreifiNet, which is not far from his clothing store.

That calculus has been good for Ramzi al-Shreifi, 32, the owner of ShreifiNet. He took over the lease of his two-story building just off Karrada Street from a travel agency in the fall of 2003 and renovated it, painting the two columns out front bright yellow. A Kurdish company installed a satellite dish on the roof, charging him $2,600 a month for his service. He also mounted

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wireless transmission equipment, and now has 25 home customers, paying $50 each to use his signal. In the past year, his gross income has grown by half, to about $6,000 a month, Mr. Shreifi said, a tidy sum by Iraqi retail standards.

"It would have been more, but there is competition," he added.

There are about 15 Internet cafes in Inner Karrada, a busy commercial area that is one of Baghdad's safer neighborhoods, Mr. Shreifi said. His cafe is open until 10 p.m., and would stay open all night if not for the curfew imposed by the Iraqi government, he said. He has been luckier than many Baghdad business owners: no robberies, no violence.

Mr. Shreifi has plans to expand. There are hundreds of people in the area who would like to get wireless service. The problem, he said, is that there are no rules governing the Internet: anyone with enough money for a satellite can transmit to whomever he or she like, and some do not require passwords so that many people can log on free. Mr. Shreifi also suspects that his signal is sometimes affected by American military officials in the Green Zone who may be jamming frequencies used by insurgents. Still, by Baghdad standards, it is a good living.

"Most days this place is almost full," Mr. Shreifi said.

Kidnapped U.S. Journalist Pleads, 'Just Do Whatever They Want' (NYT/AP)

The New York Times, February 10, 2006

KUWAIT, Feb. 9 (AP) — The kidnapped American journalist Jill Carroll appeared in a video shown Thursday on a private Kuwaiti television channel, appealing for her supporters to do whatever was necessary to win her release and saying, "There is a very short time."

Ms. Carroll was shown in the black-and-white video wearing an Islamic head scarf and sitting on a chair in front of a wall with a large floral design. She spoke to the camera in a firm voice without weeping, as she had done on a previous video.

"I am here," she said. "I am fine. Please just do whatever they want, give them whatever they want as quickly as possible."

Ms. Carroll said that she was speaking on Feb. 2. "There is a very short time," she said. "Please do it fast. That's all."

The 22-second video was broadcast on Al Rai TV, a private Kuwaiti channel. The video was delivered to Al Rai's Baghdad office and was shown in its entirety, said Hani al-Srougi, an editor at the station. He said it was accompanied by a letter written by Ms. Carroll.

The newscaster said the station would give the letter to authorities but did not specify whether he meant Kuwaiti or American officials.

In Baghdad, Dennis Culkin, a spokesman for the United States Embassy, said American officials did not comment on such tapes before they had been authenticated.

Armed men abducted Ms. Carroll, a 28-year-old freelance journalist, on Jan. 7 in Baghdad. The kidnappers set a deadline of Jan. 20 and threatened to kill Ms. Carroll if their demands were not met.

Kidnapped U.S. Reporter Appears In New Video (LAT)

By Borzou Daragahi, Times Staff Writer

The Los Angeles Times, February 10, 2006

BAGHDAD — Looking healthy and composed, the American reporter kidnapped in Iraq last month appeared on a new videotape aired on an Arab-language television channel today, urging supporters to do whatever necessary to obtain her release.

Jill Carroll, the 28-year-old Christian Science Monitor freelancer captured by an unknown armed group in Baghdad on Jan. 7 as she left the offices of a Sunni Arab politician, asked an unnamed third party to quickly comply with the kidnappers' demands.

"I am here," said Carroll, a Michigan native who first arrived in Iraq shortly after the 2003 U.S.-led invasion and stayed through the insurgency.

"I am fine. Please just do whatever they want, give them whatever they want as quickly as possible."

She punctuated her 22-second message, which she said was recorded on Feb. 2, with a note of urgency. "There is a very short time," she said. "Please do it fast. That's all."

The tape, with references to ongoing negotiations, suggested that Carroll has not fallen into the hands of the most brutal category of kidnappers in Iraq, who have previously beheaded western hostages for political ends.

Still, it remains unclear what the kidnappers still demand in return for Carroll's release. In a tape that aired Jan. 30, Carroll called for the release of all female prisoners being held by U.S. and Iraqi forces.

U.S. Maj. Gen. Rick Lynch told reporters today that American and Iraqi officials plan to release about 450 prisoners from detention centers sometime next week. He said he did not know whether any of them were women.

U.S. military officials say insurgents have turned to kidnapping for ransom to fund operations and have detected a slight rise in the number of kidnappings reported to Iraqi crime hotlines in the past few weeks.

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"We're watching closely trends and we are concerned about the number of kidnappings we're seeing," said Lynch. "A lot of them are conducted by criminal gangs."

Today's video was broadcast on the privately owned Al Rai, a Kuwaiti satellite channel known more for entertainment than news. It showed Carroll wearing a greenish head scarf and sitting or standing before a pink backdrop, with a flower-like design.

In the video, Carroll made reference to an apparent earlier communication between her abductors and negotiators, saying the latest video was made to confirm a letter she had apparently sent to prove she was with the mujahedin, a reference to the Sunni Arab insurgency.

"I sent you a letter written by my hand, but you wanted more evidence," she said in the tape.

Western news agencies quoted officials from Al Rai saying the tape was delivered to the television station earlier today.

In New Video, Abducted U.S. Reporter Pleads For Quick Action (WP)

By Nelson Hernandez

The Washington Post, February 10, 2006

BAGHDAD, Feb. 9 -- In the third video of her to be aired since she was abducted here last month, American journalist Jill Carroll asked that authorities meet her captors' demands "as quickly as possible" because "there is a very short time."

The 22-second video, which appeared on the private Kuwaiti television station al-Rai on Thursday night, showed Carroll wearing a Muslim veil and sitting before a tapestry depicting a large flower. In a composed voice, she said that the video was being filmed on Feb. 2 and that she had sent one letter in her own hand and was sending another "to prove I am with the mujaheddin," Arabic for holy warriors.

"I'm here. I'm fine," she says. "Please just do whatever they want. Give them whatever they want as quickly as possible. There is a very short time. Please do it fast. That is all."

Carroll, 28, a freelance journalist working for the Christian Science Monitor, was kidnapped in Baghdad on Jan. 7 by gunmen who also killed her interpreter, Allan Enwiyah, 32. Ten days later, her captors, who call themselves the Vengeance Brigades, released a video in which they threatened to kill her in three days unless U.S. authorities released all female detainees in Iraq. A second video, aired on Jan. 30, showed Carroll in a head scarf, sobbing.

Both videos showed Carroll speaking, but neither had sound. The video that aired Thursday had sound but did not include the Vengeance Brigades' logo.

The content of the letters Carroll spoke of is unknown. In the broadcast, the newscaster said that one letter Carroll had written would be handed over to authorities. The station said it would not broadcast the letter's contents, according to the Associated Press.

The editor of the Christian Science Monitor, Richard Bergenheim, said in a statement: "It is always difficult to see someone speaking under coercion and under these circumstances. We are seeking more information about the letter that Jill refers to in the video. We remain in constant contact with Jill's family and are still doing everything possible to obtain Jill's release."

Carroll's family said they were "hopeful and grateful to all those working on Jill's behalf."

A 'Half Full' Afghan Army (CSM)

By Scott Baldauf

The Christian Science Monitor, February 10, 2006

KABUL, AFGHANISTAN - Sgt. Mohammad Reza walks silently on a ridge, watching his platoon conduct a reconnaissance patrol in a gully below. His men are all recent recruits. Some are former militia fighters who have seen many battles but little professional training. Others are as green as the helmets on their head.

"They don't know about organized war, they just know about guerrilla warfare," says Sergeant Reza, himself a former militiaman from Bamian Province.

Increasingly, coalition forces are turning over some of the training to Afghan sergeants like Reza. Fresh recruits learn the basics of how to take protective measures and launch counterattacks, skills that will help them hold their positions in a fight.

How well they absorb these lesson will be crucial for Afghanistan's ability to stand on its own two feet. Now half-way toward the goal of a 70,000-man force, the Afghan National Army is reaching a crucial testing period: The US military is preparing to draw down its forces in Afghanistan, NATO forces are moving in, and security conditions along the southern border with Pakistan are worsening.

"Those who are in the military know how difficult it is to make an army self-sufficient, and the Afghan National Army has just been formed, so it will take some work," says Gen. Zaher Azimi, a Ministry of Defense spokesman. "If we are fighting alongside foreign forces, we have the capability to fight against guerrillas, but we can't do it alone."

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That means that the international presence in Afghanistan will remain crucial for the foreseeable future. The growing number of ANA brigades in the volatile south will soon by joined by NATO forces who are rotating in to take over the responsibility for Afghanistan's security after the US military draws down 3,000 of its troops this spring.

US, French, British, Rumanian, and even Mongolian trainers will continue to train ANA troops at the Kabul Military Training Center (KMTC), just outside Kabul, and a growing number of Afghan officers will enter military exchange programs at military bases in the US and other coalition countries.

Yet four years after the Taliban's ouster, there are growing expectations that the ANA will pick up more of the slack in defending the country and providing the sort of security that allows Afghans to trust in their own government and their future.

"The fortunate thing about Afghans is that they have a feeling that our army is able to defend the country at a high level of proficiency," says Gen. Rahmatullah Raufi, the corps commander in Kandahar. "But when we talk of defending our country on our own, I confess, we can't do it ourselves. We are a poor country."

Eighty percent of the soldiers in his corps are illiterate, General Raufi says. Fifty percent of the officers are illiterate. Only 20 percent of his soldiers have a professional knowledge of how to serve in an army; the rest are former militia fighters or young recruits. "No one will tell you this, but even if the president sahib asks me, I will tell him this myself.

While the ANA appears to be on course in reaching its goal of a 70,000-man army by 2009, the army also realizes that it needs to improve the quality of its soldiers rather than merely put warm bodies out into uniform.

"Previously, there was a need to produce large numbers of soldiers, but now we focus on quality instead of quantity," says Brig. Gen. Mohammad Amin Wardak, commander of the training center in Kabul.

At first, ANA soldiers were given a brisk two-month course and then sent out to face Taliban insurgents. But now, the training at KMTC is 15 weeks long, including six weeks of basic training, and the rest in Advanced Infantry Training, where soldiers will be given specialities, from rifleman to artillery to more elite commando duty.

Upon graduation, ANA soldiers earn $70 a month, double the median monthly income nationwide. Officers earn more, depending on their rank.

Sgt. Steve Bromfield, a Canadian military trainer from the 2nd Field Engineer Regiment, is just ending a six month stint guiding the live-fire exercises at KMTC. He says the recruits he trains are eager to learn. In two weeks, he helps break some bad habits from former militia fighters like spraying gunfire instead of making every shot count. "Like everyone, if you give them bullets, they want to shoot," he laughs. "It's the same in the Canadian Army."

Up on a plateau, the first platoon of Afghan soldiers are advancing, team by team toward a target, firing their Kalashnikovs at paper targets. Down below in a dry streambed, a second platoon runs into position, and climbs up a ridge to attack the paper enemy on its flank. Behind, a reserve platoon forms a defensive circle, and prepares to respond to any enemy counterattack.

"This is the most vulnerable time for a platoon," says Sgt. Maj. Rick Dumas, a Canadian trainer, enjoying the moment. "They're getting tired, they are consolidating their forces, preparing for a counterattack."

Behind Sergeant Dumas, some overeager Afghans from the reserve platoon rush through a group of foreign trainers and journalists with their guns at the ready, before being called back by their sergeant.

While the ANA generally enjoys a good local reputation, some Afghans criticize Army leadership for packing the ranks with members of some ethnic groups, and not others.

"I don't want to call this army the Afghan National Army," said Najibullah Kabuli, a parliamentarian during an impassioned outburst in the lower house last week. "I want to call it the Army of National Rivalries. They are asking for exact numbers of Tajiks, exact numbers of Pashtuns."

ANA officials counter that ethnicity is not a criteria for selecting foot soldiers, although there is an attempt to maintain an ethnic balance among officers to reflect the country's ethnic mix.

General Raufi says ethnicity is just one of those issues that will take time to sort out in Afghanistan. "A national army should serve the people, not one ethnic group, not one person, or one province," he says. "Your army is almost 250 years old. Maybe you had those problems in your country's history too."

NATO Renews Afghan Commitment After Cartoon Storm (REU-Y2)

By Mark John And Will Dunham

Reuters, February 10, 2006

NATO defense chiefs pledged on Thursday to expand alliance peacekeeping in Afghanistan despite attacks on their troops triggered by the storm over cartoons depicting the Prophet Mohammad.

Protesters angered by the cartoons tried to storm a NATO base housing Norwegian troops on Tuesday in one of the worst outbreaks of violence prompted by the controversy. Afghan police opened fire, killing four.

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Defense ministers meeting in Italy agreed to check security measures in place for their 9,000-strong International Security Assistance Force (ISAF) mission in Afghanistan, but insisted its expansion to 16,000 troops this year would go ahead as planned.

"There is full commitment to take forward the ISAF expansion to the south this summer. That commitment will not waver," NATO Secretary-General Jaap de Hoop Scheffer told a news briefing after a first day of talks in the Sicilian resort of Taormina.

"The key words today were solidarity ... but also the need for dialogue, respect for others and the need for de-escalation," he added. NATO ministers will meet counterparts from Israel and six Arab countries on Friday for long-scheduled talks on defense reform that will nonetheless touch on the cartoons controversy.

British troops in Afghanistan were rushed to the northwest city of Maymana on Tuesday to secure the airfield after crowds attacked a NATO base of Norwegian troops with guns and grenades.

The Norwegians fired teargas while NATO F-16 jets flew over Maymana in a show of force before the violence died down.

Aside from calling for new checks on whether existing ISAF security measures were sufficient, ministers agreed the events showed the urgent need for well-trained Afghan security forces.

"The force protection worked, but there was a feeling we want to ensure that we are well prepared. There was an emphasis on training the Afghans," said one observer at the talks.

DENMARK STICKS TO MISSION

The upsurge in tension comes as NATO readies to expand ISAF -- already in the north, west and the capital Kabul -- to the more volatile southern Afghanistan and ultimately the east.

NATO would then manage all international peacekeeping in the country, allowing the larger U.S.-led coalition to reduce troop numbers and focus on hunting the Taliban and al Qaeda remnants seen as behind the insurgency.

"That's the plan. And they're en route toward that," U.S. Defense Secretary Donald Rumsfeld told reporters traveling with him to the meeting.

Rumsfeld gave no fixed timetable for when NATO was expected to take over peacekeeping in the east, saying only that the plan was for it to happen "at some point either this year or next."

U.S. and NATO officials have in the past expressed firm hopes that ISAF would take over all peacekeeping by end-2006.

But the move to the south, which was initially intended for early 2006, is now seen some time in the middle of the year after hesitation among some allies to come forward with troops.

After much debate, Dutch lawmakers finally voted this month in favor of sending up to 1,400 troops to Afghanistan to join the deployment into the south. Britain and Canada are the two other main contributors, taking ISAF strength up to 15,000.

Denmark -- a focus of protests because a Danish newspaper published the cartoons first -- is to contribute some 300 troops to the expansion. De Hoop Scheffer said there had been no discussion in Taormina of it pulling out of the mission.

Asked if he thought the row over the cartoons complicated NATO's plans, British Defense Secretary John Reid replied: "No. Naturally we regret it. We are there to help the Afghan people."

Rumsfeld Backs NATO Taking Over Operations (WT/AP)

By Robert Burns

The Washington Times, February 10, 2006

TAORMINA, Italy -- The United States favors NATO eventually taking full command of the international military effort to stabilize Afghanistan, but that will not include a separate American-led counterterrorism mission against al Qaeda, Defense Secretary Donald H. Rumsfeld said yesterday.

Mr. Rumsfeld arrived in this Sicilian seaside resort to attend two days of talks with North Atlantic Treaty Organization defense ministers, who are committed to expanding the alliance's military mission in Afghanistan.

NATO is expected to take over the security mission in southern Afghanistan by this summer, and Mr. Rumsfeld said he supported the goal of eventually having NATO in charge of the coalition effort across the country.

"I'm very comfortable with it," he told reporters aboard his plane en route from Washington.

He drew the line, however, at the counterterrorism mission, which is being performed mainly by U.S. special operations forces such as Army Special Forces and Navy SEAL commandos.

They have been searching for al Qaeda fighters since the early days of the U.S. invasion in 2001, when al Qaeda leader Osama bin Laden fled into the mountainous Tora Bora area and then possibly into neighboring Pakistan.

NATO has been extending its security forces into northern and western Afghanistan to help provide enough security to enable humanitarian and reconstruction projects to proceed. It also has helped train the Afghan national army, but it has left much of the direct combat action to American forces.

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Some NATO members have chosen to contribute to the peacekeeping mission in Kosovo instead of Afghanistan, where the dangers are greater. Mr. Rumsfeld said that in light of those choices, he would like to see U.S. peacekeepers in Kosovo be withdrawn faster than those of other allied nations.

"We would kind of like to see if it's possible for us to have a somewhat disproportionate reduction when the reductions take place," he said.

The United States has about 1,700 peacekeeping troops in Kosovo.

Mr. Rumsfeld said he would meet separately today with his Russian counterpart, Sergei Ivanov. Russia is not a NATO member but holds regular talks with the alliance through a NATO-Russia Council set up in 2002.

The U.S. government has been critical of Russia's willingness to assist Iran in its nuclear program, and last fall Russia signed a new agreement to sell short-range surface-to-air missiles to Iran.

Mr. Rumsfeld said he expected the issue of Iran's nuclear program to arise during the NATO conference, but that it was primarily a matter for allied diplomats, not defense chiefs.

Sectarian Strife Kills 31 In Pakistan And 6 In Afghanistan (NYT)

By Carlotta Gall And Salman Masood

The New York Times, February 10, 2006

LASHKAR GAH, Afghanistan, Feb. 9 — Violence exploded in Pakistan and Afghanistan on Thursday during processions by Shiite Muslim worshipers observing the holy day of Ashura. A suicide bombing in northwestern Pakistan killed 23 people and wounded dozens more.

After the bombing, in the town of Hangu, angry Shiites rampaged through the streets, setting fire to stores, government buildings and vehicles. By the end of the day the death toll had grown to 31, local officials said.

In western Afghanistan, fighting broke out between Shiite and Sunni Muslims during a procession of Shiite worshipers in Herat, the country's third-largest city. The fighting killed 6 people and wounded 120 others, said a senior military official, who spoke on the condition of anonymity because he was not authorized to discuss the matter.

Sectarian attacks, including suicide attacks on mosques, have occurred in Pakistan, but such a clash was unexpected in the traditionally tolerant Afghan city of Herat. The violence there was another blow in a country that has been struggling with increasing terrorist attacks, local insurgencies and angry demonstrations in recent days over the publication of satirical cartoons of the Prophet Muhammad.

Pakistani troops moved into Hangu, which is 125 miles southwest of the capital, Islamabad, after the bombing and the rampage.

"There was panic everywhere," The Associated Press quoted a witness, Muhammad Jamil, 25, as saying. "Some people rushed to the injured and dead bodies. Others went to houses and took out weapons and knives and kerosene oil and started setting fire to shops, destroying everything."

There were unconfirmed reports that angry Shiites had fired on a vehicle, killing four people. News accounts reported a thick layer of smoke hanging above the town as the violence intensified.

Leading Shiite and Sunni religious leaders condemned the attack as an attempt to create chaos in Pakistan. No one had claimed responsibility for the attack by Thursday evening, but Sheik Rashid Ahmed, the information minister, confirmed in a telephone interview that a suicide bomber had carried out the attack.

"This was a blast," he said. "It was a suicide bomber." He would not say who he thought was behind the attack. "Such things take time," he said of the investigation.

Riffat Pasha, the police chief of North-West Frontier Province, told local news organizations: "This is an act of terrorism. There were elaborate security arrangements, but it is difficult to prevent such suicide attacks."

Pakistan has been troubled by tensions between the Shiite minority and the Deobandi sect, a puritanical branch of Sunni Islam to which some of the country's jihadist political factions belong. Violence between the two groups has killed more than 1,200 people in the last 15 years. Sunnis make up 77 percent of the country's population of 150 million, and Shiites 20 percent.

In Afghanistan the procession of hundreds of Shiites in Herat commemorating the martyrdom of Imam Hussein, the grandson of the Prophet Muhammad, turned violent, with Sunnis and Shiites fighting with sticks, stones and knives, and then guns and grenades. Dr. Abdul Jalil, who was on duty at the city's main civilian hospital, said the staff had treated wounds from shootings, stabbing and beatings.

By the end of the afternoon the main Shiite mosque in the northern part of the city and nearby shops were on fire, said Muhammad Rafiq Shahir, leader of a group of socially minded professionals called the Experts Council. He said he had seen a Shiite throw a grenade into a crowd, wounding about 15 people.

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Mr. Shahir, a Sunni, blamed the government for setting the stage for violence by appointing a Shiite last year as governor of Herat Province, which has a Sunni majority. Tensions remain between ethnic groups in Afghanistan from years of factional fighting.

The governor, who is known to have close ties to Iran, had aggravated the latent tensions, Mr. Shahir contended, in part by allowing a larger procession for Ashura this year than usual. Mr. Shahir also accused Shiites of provocations, saying some of them entered the main Sunni mosque wearing shoes last year, and he accused Shiites of a knife attack against the son of a Sunni cleric on Wednesday.

Afghan soldiers and police officers were deployed, and by evening the city was calm, said Gen. Zaher Azimi, the Defense Ministry spokesman. The Afghan government sent a delegation from the capital, Kabul, to negotiate, headed by a former governor of Herat, the powerful Tajik commander Ismail Khan, who was ousted from office in 2004.

Shiites Targeted On Deadly Holy Day (WP)

By Griff Witte

The Washington Post, February 10, 2006

KABUL, Afghanistan, Feb. 9 -- At least 34 people were killed and more than 130 injured Thursday in Afghanistan and Pakistan in sectarian violence that coincided with a Muslim holy day especially revered among Shiites.

In Iraq, the observance of the Ashura holiday was made remarkable by the absence of violence for the first time since the overthrow of President Saddam Hussein.

The day's deadliest attacks occurred in Pakistan's North-West Frontier province, where hundreds of Shiites in the town of Hangu had turned out to participate in a procession marking Ashura, which commemorates the martyrdom in 680 of Hussein, grandson of the prophet Muhammad. Before sermons by local clerics could begin, at least one suicide bomber, who may have been disguised as a mourner, detonated his explosives, killing at least 27 people and wounding about 30, said an Interior Ministry official, Brig. Javed Cheema.

Later in the day, it was reported that gunmen had opened fire on a bus just outside the town, killing four.

"This was a blatant act of terrorism," Cheema said in a telephone interview from Islamabad. He noted that no group had asserted responsibility but that sectarian tensions have historically been high in the region. In the past few years, Shiites in Pakistan -- who are a minority -- have been the victims of frequent attacks thought to have been perpetrated by Sunni Muslim groups.

In Afghanistan, where about 80 percent of the population is Sunni and instances of sectarian violence are far less common, at least three people were killed and more than 100 injured when a clash erupted between Shiites and Sunnis in the western city of Herat.

Herat's police chief, Mohammed Ayoub Salangi, said the fight began when approximately 300 young Sunni demonstrators entered a Shiite mosque and accused worshipers gathered for Ashura services of burning a piece of cloth emblazoned with the name of Islam's second caliph, Umar, an important figure in the Sunni faith.

A brawl ensued, with both sides using sticks, rocks and guns. Grenades were also reportedly thrown.

Two hundred Afghan troops were deployed, and security forces fired shots into the air in a bid to quell the violence.

Salangi said authorities were investigating how the Sunni demonstrators were able to organize so quickly. "There must be the hands of others behind this," he said.

Samina Ahmed, South Asia project director for the International Crisis Group, blamed the violence in Afghanistan and Pakistan on governments that have not done enough to curb Sunni groups that target their fellow Muslims. "It's not just enough to take action against al Qaeda," Ahmed said in a telephone interview from Pakistan. "It's just as important to take the same kind of action against sectarian terrorists."

Ahmed noted that while there have been more sectarian attacks in Pakistan than in Afghanistan in recent years, the Hazara ethnic group -- which is predominantly Shiite -- has faced persecution in Afghanistan for centuries. "It's nothing new for Afghanistan," she said. "It's always under the surface."

President Hamid Karzai and religious leaders in Afghanistan appealed for calm, and a delegation of clerics was dispatched from Kabul on Thursday night to try to soothe tensions in Herat.

"Our God is the same. Our Koran is the same. And our religion is the same," said Mulwi Enayatullah Balegh, a Sunni leader who delivers sermons at one of Kabul's largest mosques. "There are some minor differences to be discussed with the Shias, but they are not things that can be resolved through this kind of fighting."

The sectarian violence came after three consecutive days of deadly riots in Afghanistan arising from the publication in European newspapers of cartoons of the prophet Muhammad. But the cartoon uproar was not thought to have played a direct role in Thursday's violence in Herat.

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There were no reported demonstrations related to the cartoons in Afghanistan on Thursday, a day after religious leaders called for an end to the protests, saying they were being hijacked by extremists.

However, security in the capital, Kabul, was especially tight, and authorities here were bracing for the possibility of more protests Friday.

By contrast, not a single attack on Shiite worshipers marred the day in Iraq. Ashura was banned in Iraq during Saddam Hussein's reign. Since the observance was resumed in 2004, the holy day has been jolted by bombings that have killed hundreds.

In 2005, suicide bombers killed at least 60 people in the streets and in Shiite mosques. The year before, attacks killed at least 170 people. The only attack reported Thursday was a suicide car bombing in New Ubaydi, in Sunni-dominated western Iraq, which killed three Iraqi civilians and two Iraqi soldiers.

Maj. Gen. Rick Lynch, the spokesman for U.S. military in Iraq, said the relative tranquility was "a tribute to the Iraqi security forces." He said Iraqi soldiers and police had imposed tight security throughout the country, particularly in Karbala, the focal point of the holy day. In a raid this week, Iraqi troops detained 19 suspects who were apparently planning to conduct suicide attacks on Ashura observances, Lynch said.

In Karbala, the provincial governor, Aqeel Khazaly, said that the government had forbidden outside vehicles to enter the city and that the streets were covered by "very strict" security consisting of public order police, special police commandos and Iraqi army soldiers.

"This was a great accomplishment and a triumph over terrorists and terrorism," said Ali Kassim, a fisherman from the southeastern town of Amarah who had made the pilgrimage to Karbala.

Correspondent Nelson Hernandez in Baghdad and special correspondents Saad Sarhan in Karbala and Javed Hamdard in Kabul contributed to this report.

Peace Prevails In Iraq As Shiites Observe Holy Day (LAT)

By Borzou Daragahi And Richard Boudreaux, Times Staff Writers

The Los Angeles Times, February 10, 2006

Unlike in previous years marred by bombings, pilgrims throng shrines across the country in relative calm. U.S. cites improved security.

BAGHDAD — For the first time since the March 2003 U.S.-led invasion, hundreds of thousands of Iraqi Shiites on Thursday marked their most important religious holiday without suffering a terrorist attack.

Waving red, green and yellow flags and some beating themselves with chains, members of Iraq's majority Shiite community gathered around major shrines for Ashura, which commemorates the martyrdom of Imam Hussein, grandson of the prophet Muhammad. As many as 2 million Shiite pilgrims from Iraq and abroad crowded the city of Karbala, where Hussein is buried, security officials reported.

Suicide bombers killed 180 people in 2004, and 50 people last year, despite heightened security. Observation of the holiday was suppressed under Saddam Hussein, a Sunni Muslim.

A U.S. military official attributed the relatively peaceful proceedings to better-trained Iraqi security forces; Sunni Arab leaders said insurgents refrained from attacks for fear of sabotaging negotiations for power-sharing in the new government. Sunni Arabs won a combined 55 parliamentary seats in the Dec. 15 elections, whereas the Shiite-dominated United Iraqi Alliance captured 128 of the 275 seats.

Pilgrims marched carrying gold-domed replicas of the shrines, beating drums and chanting slogans in memory of Hussein. He was killed in the 7th century on the plains near Karbala by the Caliph Yazid in a succession battle that split Muslims into the Sunni and Shiite sects.

"By God, we will never forget you, Hussein!" the pilgrims chanted, as they swarmed the streets surrounding the shrines in Karbala, Najaf and Baghdad.

Pilgrims walked for days to Karbala, eating rice and taking shelter in tents set up along the route by well-wishers. Costumed men on horseback staged elaborate reenactments of Hussein's martyrdom in passion plays called taziyas. Fervent mourners beat themselves, some striking their heads with swords and drawing blood.

"Hussein is a symbol for us," said Mohammed Mehdi Rubayie, 33, a restaurant worker in the northern Baghdad suburb of Kadhimiya, home of an important Shiite shrine. "He fought for our religion, and he fought against oppression."

The Shiite-led government kept electricity on 24 hours a day in Najaf and Karbala for pilgrims, who arrived from Iran, Pakistan and Afghanistan as well as other parts of Iraq. One pilgrim was reported killed Thursday afternoon in a shooting in western Baghdad.

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A suicide bombing last month in Karbala killed dozens, raising sectarian tensions and hurting the bargaining position of the minority Sunni Arabs, who lead the insurgency. A Sunni tribal leader said rebels had agreed to halt attacks during Ashura.

"The activities of the resistance are at a halt now until we have a unity government," Osama Jadan, a leader of a western Iraqi tribe, said. "That's the information we have from the resistance."

U.S. officials said improved Iraqi security forces played a role in diminishing violence. U.S. and Iraqi forces raided a village southeast of Baghdad this week where insurgents were allegedly preparing to attack Ashura pilgrims. A spokesman for the border police in Najaf said his men caught a Turkish national who reportedly confessed that he and other foreigners were trying to sneak into Iraq to stage attacks during Ashura.

In Baghdad, U.S. military spokesman Army Maj. Gen. Rick Lynch said the experiences of 2004 and 2005 had taught Iraqi forces to impose vehicle bans and establish multiple security cordons around shrines in Karbala, Najaf and Kadhimiya.

"You think like the enemy," Lynch told reporters when asked about the relative calm this year. "The Iraqi government did detailed planning and preparation for Ashura." Still, he acknowledged that the number of insurgent attacks nationwide had not declined precipitously.

U.S. officials announced Thursday that a suicide bomber had killed two Iraqi soldiers and three civilians Wednesday at a joint U.S.-Iraqi checkpoint near the village of New Ubaidi.

In the northern city of Kirkuk, tensions rose over the killing Tuesday of several civilians by contract security guards stationed at a U.S. army base. American and Iraqi officials said they were conducting a joint investigation into the deaths.

The guards, working for the State Department, opened fire from two GMC sport utility vehicles, killing two Kurdish men in separate cars and wounding a third at a traffic circle north of Kirkuk, said Maj. Gen. Shirko Shakir, the city's police chief.

The number and nationality of the guards involved and the name of their company were not disclosed. Lt. Col. James Johnson, commander of the 2nd Battalion, 327th Infantry Regiment, said the guards were "under our control" while the investigation proceeded. In a written statement, he called the shooting "regrettable." The regiment is part of the Army's 101st Airborne Division, which is responsible for security in Kirkuk.

Angry relatives buried the two men and demanded that the killers be punished. Several Iraqi politicians demanded abolition of a law that grants immunity from prosecution to American and allied forces and private contractors working for them.

"There was nothing going on at the time of the shooting that could justify it," said Imad Hameed Ibrahim, whose uncle, Nizam Qadir, 25, was killed at the wheel of his taxi. "These foreigners do not care about the lives of Iraqis."

Special correspondents in Najaf and Kirkuk contributed to this report.

Odds Of Survival Improve For The U.S. Military's Best Friends (LAT)

By Chris Kraul, Times Staff Writer

The Los Angeles Times, February 10, 2006

Bomb-sniffing dogs are now vital to the Iraq war effort, and the Army has improved its medical care for those severely wounded in combat.

BAGHDAD — Lt. Col. Randall Thompson knows his life has gone to the dogs. But that's probably a good thing for the Army, the canine corps and for him.

One of only six clinical veterinary surgeons in the U.S. military, Thompson works to save the lives of some of the military's most valued assets: bombsniffing dogs that have been severely wounded in combat. He arrived here in October to open Iraq's first urgent surgical care ward for canines.

Before Thompson's arrival, injured dogs were shipped to a U.S. base in Germany or to the United States for emergency medical treatment. At best, seriously wounded dogs were out of commission for weeks; at worst, they died during transport to a faraway veterinary facility.

The dogs' talent for sniffing out hidden explosive devices has become crucial to the war effort, so the command changed policy.

"It reached a buildup of dogs here and a concern level that said we had to do something to support these animals the best way possible," said Thompson, 46, a native of Savannah, Ga. Quicker medical care means the dogs return to duty sooner, he said. "Every day that we can keep a dog out on the line working is another day that a soldier or Marine is going to live because the dog was doing its job."

By uncovering tons of explosives that insurgents could otherwise use against coalition soldiers, the dogs have saved countless lives, said Col. Arnaldo Claudio, who as 18th Airborne Corps provost marshal commands all military police and dog handlers in Iraq. He declined to disclose the precise number of war dogs here.

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"The dogs weren't needed as much when [the war] started. But the threat has changed," he said, referring to insurgents' increasing use of hidden, remote-controlled bombs often fashioned from mortar and artillery shells and detonated by cellphones and pagers. The bombs cause the majority of casualties suffered by U.S.-led forces in Iraq.

Claudio said a bomb-sniffing dog probably saved his life in August when it alerted him and a handler to a roadside bomb at a traffic stop in northern Baghdad.

"We got out of there and the bomb exploded a few minutes later," Claudio said.

But the dogs and their handlers sometimes pay a steep price. Four-year-old Flapeur was receiving treatment at Thompson's clinic last month. The Belgian Malinois had taken a piece of shrapnel through the chest in a suicide bombing in the Sunni Triangle city of Ramadi days before. He was on crowd-control duty with two other dogs and their handlers when the bomber struck a line of police recruits.

Flapeur's handler, a Marine whom the military declined to identify, was also seriously wounded, as was a second handler. Both were airlifted to Germany for medical treatment. The third handler, Marine Sgt. Adam Cann, was killed in the bombing.

Flapeur and the other injured dogs were taken by helicopter to Baghdad's combat support hospital, just as severely wounded soldiers or Marines would be.

"We would never fly a dog in front of a human casualty. But when there isn't someone ahead of them, we'll fly them," Thompson said.

He and other vets narrowly saved Flapeur, the most severely wounded of the three canines, from dying of shock, blood loss and a collapsed lung. Had the bombing happened before Thompson's arrival, Flapeur almost certainly would have died.

Although the wound left a nasty-looking hole in his chest, Flapeur was alert and friendly after his treatment. He is expected to be back on duty in three months, as is his handler.

Cann's dog, Bruno, will go through training again with a new handler. The third dog, Kevin, is expected back on duty as soon as his handler recovers.

A professed dog lover, Thompson says caring for man's best friend is one of the military's best jobs. "How many of your other friends listen to you attentively, don't talk back and are always glad to be in your company?" Thompson said. He has owned dogs, mostly German shepherds, since he can remember, he said. He and his wife have a Labrador retriever and a Cairn terrier.

Most of the dogs used in bomb-detection operations are either German shepherds or Belgian Malinois; they have been trained to detect explosives and to chase down and detain suspects, Thompson said. Just the sight of them usually deters unruly crowds, however.

"It's the only weapon system we have that you can change your mind on after squeezing the trigger," Thompson said.

The military dogs here were bought almost exclusively in Europe, where the canines are bred for detection and tracking skills. Then they are sent to Lackland Air Force Base in San Antonio for training. Each dog goes through a six-month course to learn how to sense a dozen or more explosives and weapons.

Dogs that complete the training emerge "more reliable than any chip or software, high-tech machine or robot," Claudio said.

The training leaves the dogs with an uncanny ability to detect bombs whether underground, behind walls and aboard passing vehicles. The Air Force distributes dogs to all five branches of the armed forces and to the Transportation Security Administration.

After the Sept. 11 attacks, demand for dogs skyrocketed. Lackland now trains 300 animals a year, 40% more than before the attacks. But there still aren't enough to go around, said Tim Ori, director of operations at the 341st Training Squadron, the unit at Lackland that oversees dog and handler training.

"It is a challenge to fill the demand," said Air Force Capt. Greg Blaylock, an operations officer with the squadron. Dogs average eight years in active duty, and usually "they retire by being adopted out to former military working dog handlers," he said.

Thompson says he is thrilled to be here, both because of his love for dogs and because he has wanted to be near a combat zone ever since he joined the Army at 23 after getting his veterinary degree at University of Georgia. Later, the Army sent him for a three-year surgical residency at North Carolina State's veterinary school.

He was turned down for duty in Somalia and Operation Desert Storm, partly because his skills were needed elsewhere.

"I was frustrated about not getting proximity to a battlefield," Thompson said. "Now I don't think there is a more important job for a veterinarian anywhere in the Army than they one I have here right now."

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CORPORATE SCANDALS:

DoJ Warns AIG To Comply With Settlement (FT)

By Andrew Parker

Financial Times, February 10, 2006

American International Group, the world's biggest insurance company, broke the law after entering into transactions that wrongly boosted its reserves and hid underwriting losses, US prosecutors said on Thursday.

The Department of Justice said AIG "violated federal criminal law" in connection with misleading financial statements issued by the company.

If AIG or any of its employees fail to abide by settlements announced on Thursday with federal authorities, the Justice department warned it could prosecute the company. AIG agreed to pay $1.64bn to federal and state authorities to resolve allegations of accounting abuses and other impropriety. It represents one of the largest settlements involving a public company.

The Justice department said AIG improperly boosted its reserves by $500m in 2000 and 2001 through "sham transactions" with General Re, the reinsurance subsidiary of Warren Buffett's Berkshire Hathaway group.

Although it did not name the individuals who orchestrated the transactions, the Justice department said "high-level executives" at AIG were involved.

It also said AIG hid $200m of underwriting losses in 2000 by improperly converting them into "investment losses" and transferring them to Capco, an offshore reinsurance company.

Under an agreement between AIG and the Justice department, the company accepted responsibility for the actions of its employees in the General Re and Capco transactions.

The Justice department said given AIG's co-operation with its investigation into alleged wrongdoing, and the company's commitment to a settlement with the Securities and Exchange Commission, it would not prosecute for the transactions with General Re and Capco.

However, the Justice department added: "AIG understands and agrees that if AIG or any of its employees, officers and directors fail to comply with, or violate, any provision of this agreement, the department can prosecute AIG for crimes committed by and through its employees related to the AIG/General Re or Capco transactions."

AIG will pay $25m under its agreement with the Justice department, which last week issued criminal charges against one former executive at the company. AIG will pay $800m to the SEC following its investigation into alleged accounting abuses at the company. AIG neither admitted nor denied the SEC's allegations of wrongdoing.

AIG will pay $819m to state authorities to cover alleged bid rigging and under payment of taxes. Martin Sullivan, AIG's chief executive, said the settlements were "a major step forward".

AIG To Pay $1.64 Billion To Settle Charges (AP-Y2)

By Eileen Alt Powell, Ap Business Writer

AP2, February 10, 2006

American International Group Inc., one of the world's largest insurance companies, has agreed to pay $1.64 billion to resolve allegations that it used deceptive accounting practices to mislead investors and regulatory agencies.

The deal — believed to be the biggest concluded by regulators with a single company — also requires the New York-based firm to adopt changes in its business practices that will ensure proper accounting procedures in the future.

AIG said in a statement that the settlement was approved by its board "in the best interest of the company."

The pact announced Thursday settles a civil lawsuit filed last May by New York Attorney General Eliot Spitzer with backing from the New York State Insurance Department and the U.S. Justice Department. The Securities and Exchange Commission, which also worked with Spitzer on the investigation, filed and settled allegations of accounting fraud with the company simultaneously.

The settlement does not cover Maurice "Hank" Greenberg, the company's former chairman and chief executive who was named in the suit but who has pledged to fight it in court.

While acknowledging the civil misconduct and facing a huge fine, AIG at the same time escapes the threat that a criminal case could have been brought.

The Justice Department said that AIG's agreement spares the company criminal prosecution in exchange for its cooperation with the ongoing federal criminal investigation.

Shareholders welcomed the announcement, sending AIG shares up 74 cents, or 1.1 percent, to close at $67.12 Thursday on the New York Stock Exchange.

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AIG said that under the settlement it will pay $800 million for investors who were deceived by AIG's accounting tactics, including a $100 million penalty to the SEC. In addition, it will pay $375 million to AIG policyholders, $344 million to states harmed by AIG's practices from 1986 to 1995 involving state workers' compensation funds, and fines of $100 million to the state of New York and $25 million to the U.S. Justice Department.

AIG said it would take a $1.15 billion after-tax charge in its upcoming fourth-quarter earnings report to cover the settlement. It also announced that it would take a $1.1 billion after-tax charge to increase its reserves to reflect the completion of a recently concluded internal risk study.

AIG said that as part of the deal, it also has agreed "to retain for a period of three years an independent consultant who will conduct a review" of the company's accounting and internal controls.

Donald Light, senior insurance analyst with Celent, a Boston-based research and consulting company, said the settlement "means AIG's board and management is off the hook for anything worse ... such as a criminal case."

He added: "They're paying a lot of money for that, but AIG is huge and this amounts to less than 2 percent of shareholders' equity."

Spitzer told The Associated Press in an interview, "This is a company that didn't have to cheat. But once they began, they found it hard to stop. And like an addict, they grew dependent on financial gamesmanship that could ultimately destroy the company."

He said that the new business practices AIG was adopting would improve the market for property and casualty insurance in the United States by creating "a new level of transparency in the market that all consumers will benefit from.

The SEC's enforcement director, Linda Thomsen, noted that the investigation looked at the entire industry and centered on misuse of specialized insurance vehicles, such as reinsurance.

"While this settlement concludes our investigation of AIG, our investigation continues with respect to others who may have participated in AIG's securities-laws violations," she said.

The settlement with AIG exceeds many of the fines the SEC imposed following a wave of corporate scandals in 2002, including civil fines and restitution of $750 million for WorldCom Inc., $715 million for Adelphia Communications Corp. and $300 million for Time Warner Inc.

It also surpasses the $850 million settlement Spitzer reached last year with New York-based Marsh & McLennan Companies Inc., the nation's largest property and casualty brokerage, over allegations of bid rigging and price fixing as well as hidden commissions.

AIG was among the companies that allegedly participated in the bid-rigging scheme, and four former AIG executives were among 20 insurance executives and officers who have pleaded guilty to charges, Spitzer's office said.

Besides naming AIG, Spitzer's suit alleged that Greenberg and former chief financial officer, Howard I. Smith, orchestrated the scheme.

Greenberg, who resigned from AIG in March, has repeatedly insisted that he followed proper accounting procedures during his 38 years at the helm of AIG. Smith, too, has denied wrongdoing, and neither of the men was involved in the negotiations with the SEC and Spitzer.

In a statement issued late Thursday, Greenberg's spokesman Howard Opinsky said a "white paper" issued by Greenberg's legal team last sumer "debunked many of the allegations" of the regulators. He added: "The suggestion in the attorney general's public comments that Mr. Greenberg may have been involved in any wrongdoing is false. We are confident that when the debate moves from the newspaper to the courts, Mr. Greenberg will be vindicated."

The accounting scandal centered on transactions that AIG under Greenberg concluded with Berkshire Hathaway's General Re. insurance group.

In its filing, the SEC said the $500 million transactions in 2000 and 2001 "were designed to inflate falsely AIG's loss reserves ... in order to quell analyst criticism that AIG's reserves had been declining."

Three former Gen Re executives and one former AIG executive were indicted last week in connection with the deceptive accounting scheme.

Greenberg was replaced as chief executive by Martin Sullivan, who oversaw the restatement of AIG's earnings back to 2000. The revisions knocked some $2 billion off shareholders' equity and nearly $4 billion off its profits.

Sullivan said in a statement Thursday that the settlement marked "a major step forward in resolving the legal and regulatory issues facing AIG." He said the company was "committed to business practices that provide transparency and fairness in the insurance market."

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AP Writer Michael Gormley in Albany and AP Business Writer Marcy Gordon in Washington, D.C., contributed to this story.

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On the Net:
http://www.aig.com
http://www.oag.state.ny.us

AIG Settles Fraud Charges For $1.64 Bln (REU)

Reuters, February 10, 2006

NEW YORK (Reuters) - American International Group Inc. <AIG.N>, the world's largest insurer by market value, on Thursday agreed to pay $1.64 billion (941 million pounds) to settle charges of fraud, bid-rigging and improper accounting, the biggest regulatory settlement by a single company in U.S. history.

The settlement with New York Attorney General Eliot Spitzer and State Insurance Superintendent Howard Mills, the U.S. Securities and Exchange Commission and the Justice Department ends a long-running investigation of the company, and was widely anticipated.

It does not resolve pending cases against former AIG chief executive Maurice "Hank" Greenberg and former chief financial officer Howard Smith, who were forced out last spring. Both have denied any wrongdoing.

"AIG today is a better company for all that we have been through," said Martin Sullivan, who replaced Greenberg as chief executive.

The company will take a $1.15 billion after-tax charge for the fourth quarter of 2005 for the settlement. It also said it "regrets and apologises" for its conduct, and said providing incorrect information to investors and regulators was "wrong."

In settling, Spitzer pointed the finger directly at Greenberg, who built AIG over nearly four decades, and Smith.

"There are some who continue to deny there was any wrongdoing at the company," the attorney general said in an interview in New York City. "I think the facts are overwhelming in establishing that -- from the highest levels of AIG -- there was an intent to misrepresent its financial condition."

A spokesman for Greenberg maintained that any suggestion the former CEO was involved in wrongdoing is false. A lawyer for Smith could not immediately be reached for comment.

SPITZER PRAISES NEW MANAGEMENT

Spitzer said AIG's new management has done a "spectacular" job of cooperating with investigators and instituting reforms.

The settlement tops the $850 million that Marsh & McLennan Cos. <MMC.N>, the insurance broker once run by Greenberg's son Jeffrey, agreed to pay to resolve bid-rigging accusations by Spitzer. It also tops the $750 million penalty that the SEC imposed against WorldCom Inc. for accounting fraud.

"This settlement removes the largest cloud overhanging the company," said Rob Haines, an analyst with CreditSights.

AIG shares rose 74 cents, or 1.1 percent, to close at $67.12. The shares have risen 34 percent from their 52-week low set last April 29, but remain 8 percent below their level about a year ago, before the company disclosed receiving subpoenas from Spitzer and the SEC.

AIG will pay $800 million to a fund for investors deceived by its false financial statements, including a $100 million SEC penalty.

Policyholders harmed by bid-rigging will receive $375 million. Another $344 million will go to states harmed by AIG's understating of workers' compensation premiums. New York fined AIG $100 million, and the Justice Department fined it $25 million.

AIG agreed not to pay contingent commissions for certain types of insurance, and said it will support legislation to end them. Such commissions involve brokers and insurers rewarding each other for steering business.

The penalties, along with a higher reserve for property and casualty losses, will reduce AIG's book value by less than 3 percent, UBS AG insurance analyst Andrew Kligerman said.

AIG also agreed to retain an independent consultant for three years to review internal controls and practices. Sullivan said naming a consultant is a "top priority" for the company.

Separately, AIG said it will take a $1.1 billion fourth-quarter charge to increase its loss reserves, and expects $550 million of charges and insurance losses for catastrophes including Hurricanes Katrina and Wilma.

On the conference call, AIG said it plans to report 2005 results on or before March 16.

A.I.G. Apologizes And Agrees To $1.64 Billion Settlement (NYT)

By Gretchen Morgenson

The New York Times, February 10, 2006

Apologizing for deceptive business practices extending as far back as two decades ago, American International Group, the global insurance giant, reached a $1.64 billion settlement yesterday with federal and state securities and insurance regulators.

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The company also agreed to changes that would soften its historically combative approach to business, a trademark of its ousted chief executive, Maurice R. Greenberg.

Under the settlement, reached with the Justice Department, the Securities and Exchange Commission, the New York attorney general's office and the New York State Insurance Department, A.I.G. acknowledged that it had deceived the investing public and regulators.

The settlement resolved allegations that A.I.G. had participated in bid-rigging schemes and paid insurance brokers to steer business its way, used fraudulent insurance transactions to bolster the quality and quantity of its earnings and underreported to state insurance departments the amounts of workers' compensation premiums it had collected, on which it owed taxes.

In its apology, A.I.G. said: "Providing incorrect information to the investing public and regulators was wrong and is against the values of our current leadership and employees."

The company said it was committed to business practices "that provide transparency and fairness in the insurance markets."

Both the settlement and the apology are a clear repudiation of the company's practices under Mr. Greenberg, its longtime chief executive who ruled A.I.G. with an iron hand and often battled openly with regulators.

Mr. Greenberg, who was removed by A.I.G.'s board last March, remains under investigation by the Securities and Exchange Commission and the Justice Department and faces a lawsuit by the New York attorney general, Eliot Spitzer.

"This settlement is a complete and total vindication of everything we said from Day 1, despite significant pushback from others," Mr. Spitzer said in an interview. "It sends an important message that this kind of gamesmanship won't be tolerated; we don't care who you are or what company you're running."

Under the terms of the settlement, A.I.G. will pay $200 million in fines and penalties and put $1.5 billion into three funds to benefit victims of the company's deceptions.

One fund, totaling $800 million, will be available to investors who lost money in A.I.G. stock after its accounting irregularities were disclosed. Another $375 million fund will repay former customers who may have paid too much to buy A.I.G.'s insurance policies. A third fund, with $343 million, will go to the states that A.I.G. cheated by underpayment of taxes relating to workers' compensation premiums earned in those states.

S.E.C. officials said the settlement was important because it will deliver meaningful monetary relief to those harmed by A.I.G.'s conduct.

"While this settlement concludes our investigation of A.I.G., our investigation continues with respect to others who may have participated in A.I.G.'s securities law violations," said Linda C. Thomsen, director of enforcement at the commission.

A.I.G. is also paying $25 million to the United States government to resolve criminal liability arising from its accounting missteps. The company will also cooperate with the Justice Department in its continuing criminal investigation.

A.I.G. has been cooperating with the federal and state investigators since last March, when Mr. Greenberg left the company. Last year, it restated its financial results for five years beginning in 2000, stating that improper accounting during that period had inflated the company's earnings by more than $3 billion.

"These settlements are a major step forward in resolving the legal and regulatory issues facing A.I.G.," Martin J. Sullivan, the company's chief executive, said in a statement. "We have already implemented a wide range of improvements in our accounting, financial reporting and corporate governance, and will continue to make enhancements in these areas."

After taxes, A.I.G. will pay $1.15 billion under the settlement.

A spokesman for Mr. Greenberg issued this statement: "We have already debunked many of the allegations settled today by A.I.G. in a white paper issued last summer. The suggestion in the attorney general's public comments that Mr. Greenberg may have been involved in any wrongdoing is false. We are confident that when the debate moves from the newspaper to the courts, Mr. Greenberg will be vindicated."

Shares of A.I.G. rose 74 cents yesterday, or 1.1 percent, to $67.12.

Yesterday's settlement grew out of two separate inquiries, one in New York and another in Washington. The bid-rigging practices were turned up by Mr. Spitzer's office in a 2004 investigation into insurance brokers who act as middlemen between the corporations that buy insurance and the companies that sell policies. Guilty pleas by officials at Marsh Inc., a unit of Marsh & McLennan, and other insurance brokers led investigators to A.I.G.

In Washington, the S.E.C. uncovered an insurance product sold by A.I.G., known as finite-loss coverage, which seemed designed to help the companies that bought it hide profit shortfalls. In 2003, A.I.G. paid $10 million to settle a lawsuit filed by the S.E.C. over the insurer's sale of finite insurance to Brightpoint Inc., a cellphone distributor in Indiana.

The insurance, which the S.E.C. said A.I.G. had developed "for the specific purpose of helping issuers to report false financial information to the public," helped Brightpoint conceal $11.9 million in losses in 1998.

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Investigators soon discovered that finite insurance was also central to a manipulation of A.I.G.'s own results. They uncovered insurance deals the company struck with General Re in late 2000 and early 2001 that were intended to add $500 million in phony loss reserves to A.I.G.'s balance sheet.

Insurance analysts had voiced concern over A.I.G.'s declining reserves in the third quarter, putting pressure on the company's stock; to address the analysts' concerns, A.I.G. bolstered its reserves artificially through the General Re deal.

Last week, federal prosecutors in Virginia charged three former officials of General Re and a former A.I.G. executive with fraud and conspiracy related to the fraudulent transactions.

Under the terms of the settlement, A.I.G. agreed to a raft of reforms. It will soon disclose commissions it pays to insurance brokers on its Web site, create companywide standards of conduct regarding those commissions, and train employees in business ethics, professional obligations, conflicts of interest and recordkeeping procedures. A.I.G. also agreed to hire a consultant to examine its internal controls over financial reporting; regulatory, legal and compliance policies; and adequacy of whistle-blower procedures.

The agreement also stated that the consultant hired by A.I.G. will issue a report to the S.E.C., the New York attorney general, the New York State Insurance Department and A.I.G.'s board recommending best practices for the company to adopt. The consultant will remain on the job for three years.

A.I.G. will also provide New York's superintendent of insurance with a report detailing the reinsurance contracts it has struck with other insurers. Such policies must contain risk transfer if the companies buying them are to receive preferred insurance accounting; where such a risk transfer is not evident, A.I.G. must supply appropriate documentation.

The settlement requires A.I.G. to cooperate on all examinations and regulatory requests. A.I.G. will cooperate with the New York attorney general in his continuing investigation into the insurance industry and former A.I.G. employees.

AIG Accord May Lighten Its Wallet, But The Stock May Be Poised To Gain (WSJ)

By Ian Mcdonald And Liam Pleven

The Wall Street Journal, February 10, 2006

American International Group Inc. has to write a $1.64 billion check to U.S. regulators and add even more than that to its reserves. But the mammoth insurer's stock might be a bargain.

To some, that may smack of classic up-is-down Wall Street logic. After all, an investigation of the firm's accounting last spring triggered civil-fraud charges from New York authorities, the ouster of iconic Chief Executive Maurice R. "Hank" Greenberg and a restatement of five years of financial results.

The New York insurer -- the world's largest by market value with a more than $172 billion market capitalization -- closed this chapter with yesterday's deal with U.S. and federal authorities, who mainly alleged that in recent years improper accounting smoothed actual profit, not that the insurer created those gains. The $1.64 billion toll is the biggest paid to regulators by any financial-services company in U.S. history. Additionally, the company said it will take a $1.1 billion after-tax charge to boost its reserves by $1.69 billion following an internal review.

American International Group's size makes the twin hits lighter than they would be for most insurers -- profit neared $11.5 billion in the year ended Sept. 30. In 4 p.m. composite trading yesterday on the New York Stock Exchange, AIG's shares were up 74 cents to $67.12.

Those investors who gobbled up shares yesterday likely got it right. Why? Bulls argue that in coming years, AIG shareholders will likely benefit from rising profit and a share price that trades at a higher multiple of that profit, now that investors know the company's accounting issues are put to bed.

"I think the issues that have dogged them are past and there's a lot of value here," says Jeff Arricale, an analyst at portfolio manager T. Rowe Price in Baltimore, which holds AIG stock in several portfolios. "It's a franchise that should be able to generate consistent, double-digit earnings growth for a long time. Everyone talks about that, but few companies do it."

An insurer makes money by selling policies and investing the premiums that customers pay. If premiums tend to outpace the claims it has to pay out and the company earns decent returns on its investments, profit rises. Sharp underwriting acumen also lowers the insurer's borrowing costs -- a big chunk of its overhead -- which creates a positive cycle.

Thanks to savvy management and enviable, double-digit profit growth, AIG's shares have risen nearly 190% during the past decade, almost lapping the return on the S&P 500-stock index, which is up 99% during the period.

The drivers of that success, aside from Mr. Greenberg, are intact. Earnings have risen steadily over the few quarters under new CEO Martin J. Sullivan. A 51-year-old who has worked at the firm since he was a teenager, Mr. Sullivan took the reins from Mr. Greenberg, 80, in March.

In many ways, Mr. Sullivan is left to implement a growth strategy that Mr. Greenberg and some of his departed lieutenants honed over more than three decades. For years, Mr. Greenberg forged ties in emerging foreign markets such as China and

Vietnam. In many of these markets, AIG is way ahead of other U.S. companies, offering consumer lending, asset-management, plane-leasing and other noninsurance services.

Chris Winans, a spokesman for AIG, said that generally the company's life and nonlife-insurance businesses in foreign markets are healthy and expanding, and at a faster rate than in the domestic market.

AIG is in a position to benefit because people are getting wealthier in developing markets, but also from people spending an increasing percentage of their mounting wealth on insurance, which is seen as a safe investment. Investors and analysts have long been bullish on those operations and that feeling didn't exit with Mr. Greenberg, who still has eyes on some of AIG's turf through two private-equity funds he still controls.

"It still looks like it's all systems go for AIG," says Dreyfus Neenan, a stock analyst who covers the company for Chicago researcher Morningstar Inc. Mr. Neenan has AIG valued at $80 a share.

Broadly, analysts have targeted 13% annual earnings growth over the next five years and 18 of the 23 analysts following the stock rate it a "buy" or "outperform," according to Thomson Financial. Despite that forecast, however, AIG's shares look cheap.

Today, the stock trades at about 12 times its projected profit for 2006, about 25% lower than the average stock in the S&P 500. Historically, the stock has traded closer to, and often higher than, a market multiple.

T. Rowe Price's Mr. Arricale notes that if AIG earns roughly $6.20 a share next year, as analysts expect, and trades at just 13.5 times those earnings -- still a 10% discount to the market's historical valuation -- the stock would be fairly valued at more than $80.

Of course, there are worries that could keep that from happening.

Andrew Kligerman, a stock analyst with UBS Securities LLC, sees a range of challenges, including the competitive pressures that come with operating in some mature markets and the need to retain talent. While AIG is a good company, Mr. Kligerman says, whether it will outperform the industry is "the question mark." His target price for the shares is $67. Mr. Kligerman has a "neutral" rating on the stock and AIG has been a UBS client in the past 12 months.

And despite Mr. Sullivan's long tenure with the company, the CEO is still in a "show-me" situation. "Management has handled all this pretty well," says David Dreman, chairman and chief investment officer at Dreman Value Management, a more than $13 billion money manager in Jersey City, N.J.

The firm bought shares roughly a year ago and expects earnings growth of 10% or more. At the same time, Mr. Dreman says, they are waiting to gauge new management's effectiveness this year before adding to the position.

AIG Agrees To Pay $1.64B Fraud Fine Biggest Penalty Ever On A U.S. Company (USAT)

By Elliot Blair Smith

USA Today, February 10, 2006

Insurance giant American International Group settled sweeping state and federal fraud probes Thursday by agreeing to pay $1.64 billion in fines and restitution, twice the highest penalty previously imposed on a U.S. company.

But the cost to AIG's reputation cut deeper. The company said an independent consultant's review had uncovered a $1.7 billion deficiency in its underwriting loss reserves, half related to its previously underestimated exposure to environmental and asbestos claims.

All told, AIG will record nearly $2.3 billion in after-tax charges to its fourth-quarter 2005 earnings. That comes atop a $1.3 billion reduction to its previously reported 2004 earnings last year, amid government investigations and the forced resignation of former chairman and CEO Maurice Greenberg.

New York Attorney General Eliot Spitzer, whose inquiry into insurance industry sales and commission practices led to Greenberg and a wide range of alleged abuses, called AIG “a solid company that didn't need to cheat. It finds itself in this position solely because some senior managers thought it was acceptable to deceive the investing public and regulators.”

Mark Schonfeld, director of the Securities and Exchange Commission's Northeast Regional Office, which joined the state's investigation, said, “We have sought to balance AIG's historical misconduct — which was substantial — with its new approach to compliance and cooperation with regulators and law enforcement.”

However, Greenberg spokesman Howard Opinsky said many of the regulators' allegations previously had been “debunked” in a report by the former CEO's legal defense team last year that termed the company's financial restatements “exaggerated and unnecessary” and argued that Greenberg, now 80, had relied on trusted advisers.

Insurance rating company A.M. Best said the latest reversals of fortune compromised the capital levels of AIG's domestic brokerage group, which “were not considered robust before and therefore provided little cushion for the restated earnings and reserve charge.”

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"It's a big amount of money even for a huge company like AIG to have to pay out," said Celent insurance analyst Donald Light.

The settlement dwarfs the $850 million Spitzer's office levied last year against insurance brokerage Marsh & McLennan in connection with the bid-rigging scandal.

Greenberg and former CFO Howard Smith still face civil fraud charges in New York state court. And another former AIG executive, Christian Milton, faces a criminal charge related to the company's past dealings with Berkshire Hathaway subsidiary General Re.

AIG To Pay $1.64 Billion To End State, Federal Probes (Update2) (BLOOM)

Bloomberg, February 10, 2006

Feb. 9 (Bloomberg) -- American International Group Inc., the world's largest insurer, agreed to pay $1.64 billion to resolve allegations it misled investors, faked bids, and cheated workers- compensation programs.

The settlements with New York Attorney General Eliot Spitzer, the U.S. Securities and Exchange Commission and the Justice Department include fines and restitution to investors, policyholders and state funds, AIG said in a statement today. The company, which didn't admit or deny any wrongdoing, will pay $800 million in its accord with the SEC, a record for the agency.

The agreement concludes probes dating as far back as 2001 and widens the split between New York-based AIG and ousted Chief Executive Maurice ``Hank'' Greenberg, who ran the company for 38 years. AIG's auditors blamed Greenberg for skirting internal controls to alter the company's books, fueling separate accounting fraud allegations against the former CEO.

``The fact that these material misstatements were orchestrated from the very top of the company is clearly demonstrated,'' Spitzer said before speaking at a New York Law School event in Manhattan today. The settlement ``will send AIG off on a better trajectory.''

The company's shares rose 74 cents, or 1.1 percent, to $67.12 in New York Stock Exchange composite trading. Martin Sullivan, the former chief operating officer who replaced Greenberg in March, had promised to settle the probes, helping the company record two-thirds of the $59 billion in market value it lost between February and April.

Reserve Increase

AIG, which restated $3.9 billion of past earnings last year, also today agreed to hire a consultant to monitor its internal controls and financial reporting for three years. Greenberg, 80, has called much of the restatement unnecessary and pledged to fight Spitzer's suit at trial.

AIG separately said it will increase reserves for asbestos and other claims at a cost of $1.1 billion in the fourth quarter. The reserve and settlement costs total $2.25 billion in the quarter, after taxes.

``These settlements are a major step forward in resolving the legal and regulatory issues facing AIG,'' Sullivan, 51, said in the statement. ``We have already implemented a wide range of improvements in our accounting, financial reporting and corporate governance, and will continue to make enhancements.''

AIG will pay $800 million to investors hurt by the alleged misstatements, $375 million to policyholders who may have been cheated by fake insurance bids and $343 million to 50 state workers compensation funds. The company will also pay a $100 million fine to Spitzer and a $25 million penalty to the Justice Department.

Buying Opportunity

The SEC's biggest settlement before today was with WorldCom Inc., which paid $750 million in 2003 to resolve fraud allegations. Spitzer's record with a single company is $850 million to end bid-rigging accusations against Marsh & McLennan Cos., the insurance broker once run by Greenberg's son, Jeffrey.

A $1.6 billion payment equals about 16 percent of what AIG earned in the first nine months of 2005. It costs about 42 cents in per-share earnings and reduces AIG's net worth by about 1.2 percent, Goldman Sachs Group Inc. analyst Thomas Cholnoky said before the agreements were announced. He has an ``outperform'' rating on the stock.

``Eliot Spitzer and his focus on AIG presented investors with a great gift to buy the franchise cheaply,'' said Keith Wirtz, chief investment officer at Fifth Third Asset Management, which holds 1.5 million AIG shares. ``We accumulated the stock in the $40's when this cloud surfaced. Now we think the earnings power of this company suggests to us it may be an $80 stock.''

General Re

AIG, which lowered 2000 to 2004 net income by 10 percent in the restatement, is resolving Spitzer's May 2005 lawsuit and an SEC complaint filed today in conjunction with the agreement. At the core of the SEC's case is a reinsurance transaction with a unit of Warren Buffett's Berkshire Hathaway Inc. that inflated AIG's reported reserves for claims by $500 million.

According to guilty pleas from two former executives of Berkshire's General Re, Greenberg initiated the deal with former General Re CEO Ronald Ferguson in late 2000 because he wanted to appease analysts who were concerned about AIG's reserve levels.

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Ferguson and Christian Milton, AIG's former head of reinsurance, were among four indicted on federal charges of conspiring to distort AIG's finances last week. In today's agreement, AIG pledged to cooperate with the Justice Department's investigation of that deal.

Spitzer's suit also said the company used sham reinsurance contracts with offshore entities to hide underwriting losses. AIG had originally reported $3.73 billion in property and casualty underwriting income during the five-year period. After restating, the company showed a $206 million underwriting loss.

Bid-Rigging

The settlement resolves Spitzer's allegations that the company understated premiums to reduce its payments to state funds that finance a portion of benefits for injured workers.

AIG's accord separately clears a 15-month inquiry into price-fixing with insurance brokers including Marsh & McLennan. At least 17 people, including four AIG employees, have pleaded guilty in connection with the investigation. Spitzer's October 2004 suit against Marsh & McLennan accused it of soliciting fake bids from AIG and other insurers that paid hidden fees.

The SEC's investigation of AIG began in 2001 with a probe of policies that mobile-phone distributor Brightpoint Inc. allegedly used to manipulate earnings. The agency continued to look at income-smoothing insurance and reinsurance after AIG paid $10 million to settle the Brightpoint case. More than a dozen companies have been subpoenaed by state and federal regulators.

The SEC today credited AIG for changing its approach to dealing with regulators and cooperating fully in the agency's most recent investigation.

``Just a year ago, facing its third SEC investigation in as many years, AIG was on a path to disaster," Andrew Calamari, an SEC official in New York, said today. ``We are very encouraged that the company has now chosen a different path."

To contact the reporters on this story: George Stein in New York at ghstein@bloomberg.net; Jesse Westbrook in Washington at jwestbrook1@bloomberg.net. Last Updated: February 9, 2006 16:12 EST

The Cleanup Continues (NYT)

The New York Times, February 10, 2006

It's not about the money. After the settlement yesterday between regulators and the insurance giant American International Group, a lot of attention focused on the dollars: $1.6 billion. It is an impressive figure. But the money should not obscure the higher goal of an honest corporate environment.

Smart investors look at a company's balance sheet, its assets and liabilities, its sales and its profit before deciding whether to sink their savings into its stock. They assume that the corporation is telling the truth and operating within the law before taking a leap of faith by purchasing its shares. A.I.G. employees betrayed that trust in numerous ways, misleading investors and policyholders alike.

According to the Securities and Exchange Commission and the New York attorney general's office, A.I.G. engaged in bid-rigging, fraud and improper accounting. Like many companies in this era of corporate scandals, the fraud was meant to make the company look better than it really was.

A.I.G. engaged in what regulators describe as sham transactions to inflate its reserves by $500 million. Why go to all that trouble? According to the S.E.C., the company did it to "quell analyst criticism."

Rather than focusing on the long-term health of their businesses, too many executives worry about share prices and analysts' reactions. Equity markets are an important concern, but they are fickle, unpredictable and secondary. It's the bottom line, stupid.

In Houston, a jury is hearing testimony about a much bigger sham in the trial of the former bosses of Enron, Kenneth Lay and Jeffrey Skilling. Enron executives showed a similar obsession with financial analysts. The former head of investor relations described for the court how Enron, an energy company, would fudge quarterly results if earnings came in even a single penny short of outside expectations.

These targets are like point spreads for sports gamblers. Whatever they sell, companies should concentrate on business and leave the odds-makers to play their games.

The difference between Enron and A.I.G. is that Enron was a house of cards, but A.I.G. was and still is, as New York's attorney general, Eliot Spitzer, put it, "a solid company that didn't need to cheat." A.I.G. appears to be back on track, with a new management team and approval from regulators for its cooperation. Let's hope they don't call it a day with the fat check and let others, including the company's former chief executive and chairman, Maurice Greenberg, off the hook.

Enron Witness's Plea Bargain Is Questioned By The Defense (NYT/REU)

By Reuters

DOJ_NMG_0014056

The New York Times, February 10, 2006

HOUSTON, Feb. 9 (Reuters) — A lawyer for Jeffrey K. Skilling, a former chief executive of Enron, suggested Thursday that a crucial prosecution witness in the trial of Mr. Skilling and another former chief executive, Kenneth L. Lay, did not commit the crimes he admitted to under a plea deal with prosecutors.

The witness, Mark E. Koenig, Enron's former head of investor relations, is the first of several former Enron employees who are expected to testify against Mr. Skilling and Mr. Lay after striking deals with the government to avoid trials.

Defense lawyers have said that many of the government's witnesses who reached deals were not guilty but buckled under pressure because they lacked the wherewithal to mount a defense at trial and feared they could face lengthy prison sentences if convicted.

Mr. Skilling's lawyer, Daniel Petrocelli, questioned Mr. Koenig about the plea deal, which could send him to prison for up to 10 years for aiding and abetting securities fraud, saying at one point: "Don't you think this is pretty thin stuff?"

A visibly angry Mr. Koenig replied, "I don't think it's thin, or else I wouldn't have pleaded guilty to it."

Mr. Lay and Mr. Skilling are charged with conspiracy and fraud and are accused of trying to hide the company's poor financial state as it plunged toward bankruptcy in December 2001.

Mr. Skilling also faces insider trading charges.

Mr. Koenig, in six days on the witness stand in Federal District Court, has said he and other top executives at Enron misled investors and analysts about revenue and conspired to inflate profits to impress Wall Street.

In his plea agreement, Mr. Koenig admitted to misrepresenting transactions three times on conference calls with financial analysts in 2001, although he later recanted one of those episodes.

Mr. Lay's lawyer, Michael Ramsey, took up the attack where Mr. Petrocelli left off, asking Mr. Koenig whether he had told a friend he was not guilty of any crimes.

"Isn't it true, Mark, you told a very close friend and former co-worker that you were not guilty and did not commit a crime?" Mr. Ramsey asked.

"That's not true," Mr. Koenig replied.

Former Enron Investor Relations Chief Defends Guilty Plea (WP)

By Carrie Johnson

The Washington Post, February 10, 2006

Witnesses Were Intimidated Into Deals, Defense Says

HOUSTON, Feb. 9 -- Defense lawyers attacked the guilty plea of a former Enron Corp. executive Thursday, calling the deal "pretty thin stuff" in an effort to advance their argument that witnesses had been intimidated into cooperating with the government.

But in his sixth day of testimony against former chairman Kenneth L. Lay and chief executive Jeffrey K. Skilling, the company's onetime investor relations chief soundly rejected the idea.

"I don't think it's thin, or I wouldn't have pled guilty to it," Mark E. Koenig said of his August 2004 plea to a single count of aiding and abetting securities fraud.

Without prompting, Koenig then reminded jurors of previous testimony in which he described efforts by the company to meet or exceed Wall Street targets by two pennies in 2000, more than two weeks after the fiscal quarter closed.

"Frankly, I was afraid these things would come back to me for years," Koenig said of misleading statements he made to analysts about the health of one of Enron's units. He faces as much as 10 years in prison when he is sentenced.

The exchanges punctuated another long day in which the eight-woman, four-man jury heard audiotapes and videotapes of stock analyst calls and employee meetings in which Skilling and Lay gave largely optimistic assessments of Enron's finances in the months before its filing for bankruptcy protection.

Both defendants argue that the company collapsed in a "panic" and that the vast majority of 16 former executives who pleaded guilty did so to preserve money for their families and to escape long prison sentences. Skilling and Lay, who say they are not guilty, could spend the rest of their lives in prison if they are convicted on fraud and conspiracy charges.

Michael Ramsey, lead defense lawyer for Lay, urged Koenig to answer only the questions he was asked. Ramsey confronted the witness about statements he allegedly made to a close friend and former Enron employee who Ramsey said indicated that Koenig did not think he had engaged in wrongdoing at Enron. Koenig called the woman, who is not on the defense witness list, a "dear friend" but said the account was wrong. Defense lawyers could later seek to call her to rebut his testimony.

Ramsey spent most of the afternoon seeking to explore "clues relative to the sudden death of Enron." But U.S. District Judge Simeon T. Lake III affirmed most objections by Assistant U.S. Attorney Kathryn H. Ruemmler and headed Ramsey away from that line of questioning.

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"I'm allowing you to question this witness," the judge told Ramsey. "I'm not allowing you to argue your case in the guise of questioning this witness."

Ramsey gained more ground when he attempted to portray Lay as less focused on details and more on leading the company's "public relations, politically oriented, diplomatically oriented" efforts before returning as chief executive upon Skilling's abrupt August 2001 departure. Lay moved in high-level political circles, meeting with Vice President Cheney about energy policy and conversing at least twice with presidential adviser Karl Rove, according to a 2001 analyst call the jury heard Thursday afternoon.

Ramsey said Lay had to "re-immerse himself" in the day-to-day operations at Enron.

Late in the day, the judge pronounced one line of questioning "a waste of time" and urged the defense to move on to other topics. Koenig is expected to return to the witness stand for most of Monday. The trial will last at least four months.

Lay's Lawyer Argues That Panic In Market Sank Enron, Not Fraud (WSJ)

By John R. Emshwiller And Gary Mcwilliams

The Wall Street Journal, February 10, 2006

HOUSTON -- Nearly two weeks into the criminal trial of his client, former Enron Corp. Chairman Kenneth Lay, defense attorney Michael Ramsey began his questioning of the government's first witness with a jab, then turned to pounding home the defense's argument that Enron collapsed because of a market panic rather than fraud.

Mr. Ramsey sharply challenged former Enron investor-relations chief Mark Koenig on whether he actually believed that he was guilty of the Enron-related crime he pleaded guilty to in 2004. Mr. Koenig has a cooperation agreement with the government in hopes of reducing his sentence. He is the first witness in the criminal fraud and conspiracy trial under way here against Mr. Lay and former Enron President Jeffrey Skilling.

Mr. Ramsey asked whether Mr. Koenig had told a friend and former Enron colleague that he had done nothing wrong, or simply made a misstatement during a call with securities analysts. Mr. Koenig firmly denied that he made such comments. Mr. Ramsey hinted that he might call the friend to testify later in the case.

The line of questioning begun yesterday by Mr. Ramsey is part of a broad defense of Enron's business practices being mounted by the legal teams for Messrs. Lay and Skilling. While Enron, in the more than four years since its December 2001 collapse, has become a synonym for corporate malfeasance, the Lay and Skilling defense teams are betting that they can convince the jury that Enron was a great company felled by an array of outside forces. Prosecutors counter that the two defendants led a years-long scheme to hide numerous problems at Enron, which finally collapsed when some of those problems became public.

Although the first government witness, Mr. Koenig, took the stand in the middle of last week, Mr. Ramsey didn't begin questioning him until yesterday afternoon. Prosecutor Kathryn Ruemmler took a little over two days to question Mr. Koenig, who claimed that Messrs. Lay and Skilling took part with him in making false or misleading statements to the public on a variety of matters about Enron.

Following Ms. Ruemmler, Mr. Skilling's lead counsel, Daniel Petrocelli, cross-examined Mr. Koenig for some three days, during which time the attorney repeatedly tried to emphasize the complexity of Enron's operations and the limited knowledge Mr. Koenig had of those activities. Mr. Petrocelli claimed that Mr. Koenig's knowledge was so limited that things he said were improper really weren't.

Mr. Ramsey then turned to matters beginning in August 2001, when Mr. Skilling unexpectedly quit and Mr. Lay assumed his duties. He began questioning Mr. Koenig regarding outside partnerships, known as LJM1 and LJM2, that had done large amounts of business with Enron and had been run by the company's chief financial officer, Andrew Fastow. "LJM was going to turn out to be a real big deal in 2001," Mr. Ramsey said.

In his opening argument last week, Mr. Ramsey argued that articles in The Wall Street Journal in the fall of 2001 raising questions about the LJM operation helped spark the market "panic" that sank Enron. Yesterday, Mr. Ramsey suggested that the Enron-LJM relationship was proper, but that the Journal treated it as "scandalous."

Mr. Ramsey also began going through various problems Enron had in August 2001, including political and business headaches from the California electricity crisis and the impact of a troubled power project in India. Such concerns, Mr. Ramsey said, were "pulling down the price of Enron stock" in the summer of 2001, making the company more vulnerable to the turmoil that later arose.

Cross-examination of Mr. Koenig is scheduled to resume Monday.

Lay's Attorney Hits Snags In Dealings With Witness (USAT)

By Greg Farrell

USA Today, February 10, 2006

HOUSTON — The lawyer representing former Enron CEO Ken Lay finally got a chance to cross-examine the government's first witness Thursday, and whiffed.

Shortly after the lunch break at federal court here, attorney Mike Ramsey attacked the credibility of Mark Koenig. The former Enron investor relations chief has pleaded guilty and is cooperating with the prosecution of Lay and another former Enron CEO, Jeff Skilling, on charges of hiding the true state of Enron's financial health from investors in 2000 and 2001.

"Isn't it true that after you pleaded guilty you told a very close friend and former co-worker that you were not guilty and committed no crime?" he asked. "Haven't you admitted to Joanie Williamson, sir, that you were not guilty?" Koenig denied telling Williamson any such thing. Ramsey then threatened to have Williamson testify. "So if she said that (on the stand), she'd be lying, perjuring herself?" Ramsey asked. "That's right," Koenig stated defiantly.

Ramsey dropped the subject and immediately began quizzing Koenig about several topics that have yet to be fully introduced through testimony. At each point, U.S. District Judge Sim Lake shut him down.

When Ramsey tried to get Koenig to talk about private partnerships formed by former CFO Andrew Fastow, dubbed LJM1 and LJM2, Lake curtailed him. When Ramsey tried to get Koenig to talk about threats made against Lay by the attorney general of California about allegations of price-gouging, Lake again urged him to move on, sustaining a government objection by saying, "Go ahead and ask your next question."

Finally, when Ramsey wanted Koenig to agree with his point that the meltdown of tech stocks in 2001 supported Lay's statements that Enron Broadband was in tough straits, Lake seemed to lose his patience. "This is an undue waste of our time," he said.

Earlier Thursday, Skilling lawyer Dan Petrocelli asked Koenig about his decision to plead guilty to one count of aiding and abetting securities fraud in 2004. Although Koenig admitted in the agreement that he misled investors on numerous occasions, he cited three instances in particular where he made false statements to investors. "Don't you think this is pretty thin stuff?" Petrocelli asked. "I didn't think it was thin, or I wouldn't have pleaded guilty," Koenig said.

In their opening arguments, Petrocelli and Ramsey both declared that there was no criminal conspiracy at Enron, and that many of those who pleaded guilty, such as Koenig, had been forced to do so rather than face worse charges at a criminal trial.

Koenig's cross-examination continues today. If it finishes, prosecutors plan to call Ken Rice, former CEO of Enron Broadband Services, as their next witness.

Enron Judge Stops Lay's Lawyer's Bid To Focus Trial On Fastow (BLOOM)

By Jef Feeley Laurel Brubaker Calkins

Bloomberg, February 10, 2006

Feb. 9 (Bloomberg) -- The federal judge presiding over the fraud trial of former Enron Corp. top executives Kenneth Lay and Jeffrey Skilling stopped a bid by Lay's lawyer to shift the focus of the trial onto the misdeeds of an Enron subordinate.

U.S. District Judge Sim Lake in Houston sustained prosecutors' objections to questions by Michael Ramsey, Lay's lead defense lawyer, about off-book partnerships former finance chief Andrew Fastow created to do Enron-related deals. Fastow has pleaded guilty to a fraud charge stemming from Enron's collapse.

Lake did allow Ramsey to cross-examine Mark Koenig, who ran Enron's investor communication unit, about whether Fastow's LJM partnerships caused concern among shareholders. Koenig is in his sixth day of testimony in the trial of former chairman Lay and former chief executive officer Skilling.

``It was not something our competitors did," Koenig said about the off-book partnerships. ``It was different, so we got questions about it."

Prosecutors contend Lay, 63, and Skilling, 52, used the partnerships to help hide billions in Enron's debt and losses to pump up the company's earnings. The government contends the accounting fraud led to the collapses of what was once the U.S.'s seventh-largest company by sales.

Enron had more than $68 billion in market value before it filed for bankruptcy in December 2001, wiping out thousands of jobs and at least $1 billion in retirement funds almost overnight. Investors suing over the company's collapse claim accounting fraud led to at least $25 billion in losses.

Normal Practices

Skilling's and Lay's defense lawyers argue the two men engaged in normal corporate practices and that neither conspired to mislead investors or Enron workers who sank millions in retirement funds into the company's stock.

Prosecutors told jurors in opening arguments Jan. 31 they'd focus on Skilling's and Lay's lies and deceptions rather than company's complex financial and accounting transactions.

Defense lawyers have sought to frustrate the government's efforts by questioning Koenig extensively about the specifics of sophisticated financing deals and the operations of Fastow's partnerships.

Fastow created the LJM partnerships, named for his wife and sons, in 1999 to buy poorly performing assets from Enron or invest in the company's deals. He's alleged to have reaped at least $25 million in fees from the partnership's Enron-related deals while still serving as the company's CFO.

Fastow E-Mail

Skilling's and Lay's defense team has painted Fastow as a ``crook'' who hid the fees he received from Enron-related deals from his bosses and the company's board. They've also said Fastow's partnerships were blessed by the company's lawyers, accountants and directors, and disclosed in Enron's securities filings.

Ramsey questioned Koenig today about an e-mail he received from Fastow in August 2001 indicating that he was no longer involved in the partnership. That obviated the need to disclose any further deals to investors.

``At the time you got the e-mail, did you have any reason to believe Mr. Fastow was a dishonest person?'' Ramsey asked. ``At the time, no,'' Koenig said.

Lake barred Ramsey from asking Koenig whether he'd learned that Fastow said the partnership's future Enron-related deals didn't have to be disclosed because he'd sold his interest in it. Ramsey said Fastow had sold LJM to former Enron executive Michael Kopper and ``was splitting profits with him.''

Conflicting Interests

Kopper, who'd worked under Fastow in Enron's finance department and took over as LJM2's general manager in July 2001, has also pleaded guilty to an Enron-related fraud charge.

Outside investors who sank more than $387 million into the partnership sued Kopper in state court in Delaware in 2001 to oust him as head of the entity.

They argued he had conflicting interests in connection with Enron-related deals and wrongfully collected $6 million in management fees. A judge removed Kopper in March 2002.

During cross-examination earlier today, Daniel Petrocelli, Skilling's main defense lawyer, noted that Koenig had made a mistake when he detailed his wrongdoing as part of his guilty plea.

Koenig pleaded guilty in August 2004 to a single count of aiding and abetting securities fraud in connection with Enron's collapse. He's facing a maximum sentence of 10 years in prison. Prosecutors could ask a judge to cut his sentence for his cooperation in the Skilling and Lay case.

Wrong Lie

Koenig originally told prosecutors he'd lied to investors about why some Enron's retail energy division's functions were shifted to the company's trading unit.

Prosecutors contend the functions were moved as part of an effort to hide losses in that unit. Koenig said he downplayed the reasons for the move to investment analysts during a July 2001 conference call.

The former Enron executive said while reviewing transcripts of the call years later, he discovered it was actually Skilling who'd told analysts on the call that the functions were moved ``to get some more efficiency.'' He alerted prosecutors to the mistake and they changed the documentation on his plea.

Petrocelli questioned why Koenig would plead guilty to something he didn't do.

``I pled guilty to aiding and abetting securities fraud,'' Koenig said. He added that his wrongdoing included more than one statement on a conference call. ``I don't think it's thin or I wouldn't have pled guilty to it.''

Skilling's and Lay's lawyers are seeking to persuade jurors that prosecutors coerced lower-level executives like Koenig into pleading guilty to crimes they didn't commit with the threat of lengthy prison terms.

Lay is charged with seven counts of fraud and conspiracy, plus four counts of bank fraud that will be tried separately after his first trial. Skilling faces 31 counts of fraud, conspiracy and insider trading.

The case is U.S. v. Skilling, No. 04-cr-25, U.S. District Court, Southern District of Texas (Houston).

Witness: Lay Took On New Duties At Enron (AP)

By KRISTEN HAYS, AP Business Writer

AP, February 10, 2006

HOUSTON -- Enron Corp.'s former investor-relations chief on Thursday acknowledged that founder Kenneth Lay had to jump back into nuts-and-bolts management of his company when he resumed the role of chief executive after Jeffrey Skilling resigned less than four months before Enron collapsed in December 2001.

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"He had to get more involved, yes," Mark Koenig said in response to cross examination by lead Lay lawyer Michael Ramsey in his sixth day on the witness stand. Koenig is the government's first witness in the fraud and conspiracy trial of his former bosses.

"He was involved before, but he took on a whole new duty," Koenig said. Lay remained chairman of Enron throughout 2001, but he ceded the CEO position to Skilling in February that year. Skilling abruptly resigned six months later.

Lay's new duties included a hastily arranged conference call with Wall Street analysts on the day Enron announced Skilling's resignation in mid-August 2001, Koenig said. He said Enron was obligated to make executives available on the call to try to calm any market jitters sparked by the unexpected resignation.

Ramsey's questioning appeared to try to highlight what Lay claimed publicly when he was indicted in July 2004: Lay knew of no skullduggery, and was like a student cramming for an exam when his hand-picked successor as CEO quit.

"We think the company's on solid footing," Lay told analysts on the August 2001 conference call played in court for the jury. On the same call, Skilling tried to reassure analysts that his departure was "purely a personal decision" and he stressed that it had nothing to do with Enron.

Ramsey said he expected to finish questioning Koenig on Monday, when the trial will resume.

At times, U.S. District Judge Sim Lake shut down Ramsey's efforts to delve into issues that weren't covered first when prosecutors questioned Koenig. Court rules limit cross examination to areas touched on in direct examination.

In one instance, Ramsey sought to question Koenig about a comment about Lay by California Attorney General Bill Lockyer to the Wall Street Journal in early 2001, the second year the state suffered through a power crunch that led to rolling blackouts and astronomical utility bills. Neither Lay nor Skilling are charged with manipulating California's power market, but three former Enron traders have pleaded guilty to doing so.

"Do you know of personal threats made against Mr. Lay by the attorney general of California?" Ramsey asked, his voice raised.

When a prosecutor objected, Lake cut Ramsey off. "I don't know of any threats against Mr. Lay that came up on direct," the judge said.

Lockyer told the Journal in May 2000, "I would love to personally escort Lay to an 8 by 10 cell that he could share with a tattooed dude who says, 'Hi my name is Spike, honey.'"

Skilling lawyer Daniel Petrocelli, before he wrapped up three days of cross examination, sought to show how Skilling discussed bad news with analysts in conference calls earlier in 2001. Those discussions included the meltdown of the telecom industry in 2001 as Enron pushed its venture into broadband and bandwidth trading. The downturn siphoned potential bandwidth trading partners, he said.

The broadband unit never earned a profit and filed for bankruptcy protection alongside its parent in December 2001. Prosecutors contend Lay and Skilling hid bad news as they painted a falsely rosy picture of Enron.

"You understand in conference calls, you have to be careful and cautious in how the questions are answered?" Petrocelli asked.

"You want to be accurate, yes," Koenig replied.

Koenig is among 16 ex-Enron executives who have cut plea deals with prosecutors. He pleaded guilty in August 2004 to aiding and abetting securities fraud for lying to investors about Enron's finances. As head of investor relations, he was the company's chief liaison to Wall Street.

He told jurors Thursday he isn't proud of his actions.

"I was frankly afraid these things would come back to me for years," Koenig said.

The defense teams have suggested to jurors that Koenig and other ex-Enron executives pleaded guilty to crimes they didn't commit out of fear of lengthy prison terms or pressure from prosecutors.

Enron, once the nation's seventh-largest company, collapsed amid revelations of billions of dollars hidden debt and inflated profits.

Both face decades in prison if convicted. Both sold millions of dollars in stock before Enron went bankrupt, but only Skilling faces allegations of improper stock sales.

Skilling faces 31 counts of fraud, conspiracy, insider trading and lying to auditors for allegedly conspiring to fool investors into believing Enron was healthy. Lay faces seven counts of fraud and conspiracy for perpetuating the alleged ruse after Skilling quit.

Both say no fraud occurred at Enron other than a few executives skimming money, and they are innocent of any wrongdoing.

A Second Mistrial Is Declared In Fraud Case Against The Former Chairman Of Cendant (NYT)

By Stacey Stowe

The New York Times, February 10, 2006

HARTFORD, Feb. 9 — For the second time, the fraud trial of Walter A. Forbes, the former chairman of the Cendant Corporation, ended in a mistrial after the jury announced on Thursday that it had failed to reach a unanimous verdict in its 27th day of deliberations.

The mistrial occurs as a similar accounting-fraud prosecution involving Enron is under way. In such complex cases, the jury can sift through hours of expert testimony about arcane financial procedures and the responsibilities of executives only to find itself unable to render a verdict.

Last July, another prosecution for accounting fraud ended in a mistrial in the case of five former executives with Enron Broadband Services when jurors found themselves deadlocked on most charges.

"My understanding of your note is that you've reached the point where you believe that further deliberations would not be beneficial," Judge Alvin W. Thompson of Federal District Court in Hartford said Thursday. "Is that correct?"

"It is, your honor," said the jury foreman, Ken Premo.

"Then I declare a mistrial," Judge Thompson said.

Mr. Forbes, who faced more than 20 years in prison if convicted, betrayed no emotion when the decision was announced but kept his eyes locked on the jury. Asked moments later if he had a statement, he replied, "None," and quickly left the courtroom, followed by his wife, Caryn, and other family members. His lawyers also declined to comment.

A spokesman for Christopher J. Christie, the United States attorney for New Jersey, said the government had not yet decided whether it would prosecute Mr. Forbes again.

"We're keeping our options open," said the spokesman, Michael Drewniak. At the end of court on Thursday, Judge Thompson scheduled a conference call on Monday with prosecutors and defense lawyers.

Mr. Forbes, 63, of New Canaan, Conn., was charged with conspiracy and securities fraud and with submitting false reports to the Securities and Exchange Commission. Prosecutors said he inflated income at CUC International, which merged in 1997 with HFS Inc., to form Cendant, a real estate and travel services company. The stock lost almost half of its value in one day when, three months after the merger, Cendant disclosed evidence of accounting irregularities.

The case against Mr. Forbes relied on testimony from former financial executives of CUC who pleaded guilty to fraud charges and testified that their superiors participated in the manipulation. Throughout the 24-day trial, Mr. Forbes's lawyers portrayed him as a visionary who relied on accountants to handle the workaday aspects of business.

The Cendant case also resulted in the largest payment to settle a lawsuit brought by shareholders who lost money in a fraud. Cendant paid $2.85 billion to settle, while its auditor, Ernst & Young, paid $335 million. Before it was eclipsed by WorldCom and Enron, the Cendant case was the largest accounting fraud in America. Company shareholders lost $19 billion after it was disclosed in 1998.

John C. Coffee, a professor at Columbia University School of Law, said a second mistrial in the Cendant case was "an ominous signal for the Enron case" and a cautionary tale about the difficulties of trying cases that involve complex and often befuddling accounting procedures.

"There's a great deal of difficulty about teaching the jury the equivalent of an intermediate college course in accounting," he said, adding that prosecutors would have been better served by focusing on the most vivid examples of criminal behavior.

But at least one juror did not feel the accounting issues were too complex. Mr. Premo, the jury foreman and a maintenance technician who lives in Windsor Locks, Conn., said, "I was able to sort it out." He described the deliberations as "cordial."

Citing a directive from Judge Thompson that jurors provide only their own opinions and not comment on the actions or opinions of fellow jurors at the end of the trial, he said, "I would have convicted."

"I wouldn't say it was clear cut. I really had to look at the facts. My opinion was based more on the actions of a C.E.O. and the lack of actions of a C.E.O."

Although the jury deliberated for 27 days, some of those were half days and many were not consecutive as Judge Thompson accommodated various requests for absences or early departures. On Tuesday, Judge Thompson dismissed a juror after he admitted that he had researched Cendant. By law, jurors can consider only court testimony in their deliberations.

The jury did not meet on Wednesday. On Thursday morning, rather than appoint an alternate, Judge Thompson directed the 11-member jury to continue its work. Less than one hour later, the jury foreman sent a note saying he believed that the jury was unable to reach a unanimous verdict.

Barry Simon, one of Mr. Forbes's defense lawyers, asked for a mistrial but Michael Martinez, one of two prosecutors trying the case, said the note was "somewhat equivocal," and asked Judge Thompson to direct the jurors to continue working despite a possible deadlock.

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Judge Thompson had told the jury once before, on Jan. 5, to continue its work when the jury claimed it could not reach a unanimous decision on the 12th day of deliberations. On Thursday, he declared a mistrial after he confirmed that the jury was indeed deadlocked.

In January 2005, the first attempt to prosecute Mr. Forbes, a 1968 graduate of Harvard Business School, also ended in a mistrial when, after hearing seven months of testimony, the jury deadlocked on all charges against him after 33 days.

A co-defendant in that trial, E. Kirk Shelton, 50, former vice chairman of Cendant, was convicted on all 12 counts of conspiracy, securities fraud, mail fraud and wire fraud. He was sentenced to 10 years in prison but is appealing his conviction.

In The Cendant Trial, Ignorance Was An Excuse (NYT)

By Floyd Norris

The New York Times, February 10, 2006

Walter A. Forbes was paid more than $100 million as chairman and chief executive of the CUC Corporation. To hear him tell it, he did not do very much to earn the money.

Operations of the company, he testified at a trial where he faced charges of masterminding a fraud that cost investors billions, were left to others.

He admitted signing quarterly and annual financial statements that turned out to be fraudulent, but said he neither prepared nor read them.

"We were a public company with thousands of employees, divisions all over the country and all over the world," he testified. "I don't think they would have expected me to be reading 10-Q's."

It was a defense that worked at his first trial, when a jury convicted CUC's No. 2 official but was unable to reach a verdict on Mr. Forbes. And it has worked again. Yesterday, the jury in the second trial was dismissed after it, too, was unable to reach a verdict after 27 days of deliberations. [Page C6.]

The jury foreman, Ken Premo, said afterward that he did not feel the accounting issues in the trial had been too complex and thought that Mr. Forbes was guilty. But, he added, "I wouldn't say it was clear cut."

If he had been convicted, Mr. Forbes would have faced more than 20 years in prison. A spokesman for Christopher J. Christie, the United States attorney for the New Jersey district, said the government had not yet decided whether it would prosecute Mr. Forbes a third time.

The fraud was discovered after CUC merged with another company, HFS, to form the Cendant Corporation, with holdings that included Avis car rental and Century 21 real estate. When the fraud was discovered in 1998, it was called the largest accounting fraud in American history — and investors lost $19 billion when Cendant's stock fell in the wake of the disclosure. But the company subsequently lost the title as Enron and WorldCom collapsed in scandal.

The fact pattern at Cendant would prove to be similar to the later rush of accounting fraud cases. The chief financial officer first denied anything was wrong, then confessed and agreed to testify against his boss. But orders to falsify books, if they were given, were given orally and documents were scarce.

In the WorldCom trial, the jury believed the chief financial officer and convicted Bernard J. Ebbers, the former chief executive. At HealthSouth, the jury chose not to believe a series of financial officers and acquitted Richard M. Scrushy, the former chief executive.

Now, two former Enron chief executives, Kenneth L. Lay and Jeffrey K. Skilling, are on trial in Houston, with Andrew S. Fastow, the former chief financial officer, expected to be a star prosecution witness. The strategy chosen by lawyers for the former Enron bosses is radically different, arguing that there really were no crimes and that the company failed because negative publicity caused a loss of confidence.

In the Forbes trial, Cosmo Corigliano, the former chief financial officer, testified that the books were cooked for years at Mr. Forbes's direction, and that every quarter he and Mr. Forbes discussed how much money would be taken from inflated reserves and used to increase profits to meet targets. Over the three-year period covered in the indictment, $250 million was thus added to profits.

Mr. Forbes denied that the conversations took place, and he also said he had never seen the "cheat sheets" that Mr. Corigliano said were shown to him each quarter, detailing how much the profits were being inflated.

Mr. Forbes, who has an M.B.A. degree from Harvard, as well as bachelor's and master's degrees in journalism from Northwestern University, testified he knew little of accounting and never paid any attention to how the profit figures were compiled.

To some extent, the case came down to a "he said, he said" battle between the men. Brandon Sullivan, Mr. Forbes's lawyer, branded Mr. Corigliano a liar and said there had to be at least a reasonable doubt whether he was telling the truth.

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But the prosecution pointed to other inconsistencies in the testimony. Steven Kernkraut, an analyst from Bear Stearns, testified that he had held discussions with Mr. Forbes regarding how merger reserves were set, and why the reserve for one merger was increased months after it was completed.

Mr. Forbes said that was wrong. "I never had a conversation with him after the deal was announced" regarding the reserves, he testified.

He also denied testimony from Mike Monaco, the HFS chief financial officer, that Mr. Forbes had fought to keep Ernst & Young as the auditor of CUC's books after the merger, even proposing that the company have two auditors.

Mr. Forbes said he never heard of such an idea, although he acknowledged that he was at a meeting whose minutes said the idea was discussed and rejected. Ernst had failed to spot the fraud, and the prosecution claimed Mr. Forbes wanted to keep the firm because he thought it could continue to be fooled.

Although the charges at the trial covered just three years, Mr. Corigliano told the court, when he pleaded guilty in 2000, that the fraud had been going on since the early 1980's, when he joined the company from Ernst & Whinney, a predecessor of Ernst & Young.

An accounting official, who said he followed Mr. Corigliano's orders to cook books, said he had followed similar orders from Mr. Corigliano's predecessor, Stuart Bell, who left the company in 1995. Mr. Bell, who was not charged with any crime, did not testify.

In describing his own role at CUC, Mr. Forbes said he was a visionary who mapped strategy and guided the company into mergers that enabled it to grow. But even there, he said, he avoided the details.

"I knew it was a strategic fit," he said in discussing one large acquisition, "but I never actually visited the company or met the principals."

Mr. Forbes said he was "stunned and shocked" when he first heard there were problems with the books. But he soon agreed to step down as chairman in return for a $47 million severance package that he promised to return to the company if he were convicted of a crime.

He quickly transferred many of his assets to his wife, but said he did not remember a warning from his lawyer that such an action would be viewed by prosecutors as an admission of guilt. At his first trial, he said the lawyer advised him there was nothing wrong with the transfer. At the second trial, the lawyer denied telling him that.

Those contradictions did not bother all the jurors, at least not enough to produce a conviction. Unless the government is willing to force a third trial, Mr. Forbes will have prevailed with his defense of not having any idea what was happening at the company he ran, just as Mr. Scrushy did.

Preliminary Approval Given To Bristol-Myers' $185M Shareholder Settlement (LAW/AP)

By Theresa Agovino, The Associated Press

AP, February 10, 2006

Bristol-Myers Squibb Co. said Thursday that a judge gave preliminary approval for a proposed $185 million settlement to end a class action lawsuit that alleges the drugmaker artificially inflated its stock price by making false and misleading claims about an experimental heart drug.

U.S. District Judge Stanley Chesler entered preliminary approval of a settlement for the case pending in the U.S. District Court in New Jersey, relating to the drug known as Vanlev, the company said. Vanlev was never approved.

Under the proposed settlement, Bristol-Myers Squibb will pay $185 million to create a settlement fund to pay the claims of certain investors who purchased Bristol-Myers Squibb common stock during the period from Oct. 19, 1999 through March 20, 2002.

Last month, Bristol-Myers announced it had reached a settlement with plaintiff lawyers and had established a reserve to settle the case. At that time, Thomas Dubbs, a plaintiffs lawyer in the case, said he hoped the settlement would act as a deterrent to other companies hiding damaging information.

The settlement also includes provisions regarding the company's commitment to the public disclosure of the results of certain clinical trials and the registration of trials on an appropriate publicly accessible database.

The shareholders' lawsuit alleges that company executives praised Vanlev as a potential blockbuster despite knowing it had potentially severe side effects as early as 1996.

But on April 19, 2000, Bristol-Myers announced it was withdrawing its application for approval from the U.S. Food and Drug Administration because of side effects. The stock fell 39 percent, according to the suit.

In July 2000, Bristol-Myers said it would test Vanlev at lower doses, where the problem of side effects didn't seem as severe. The complaint alleges that there were still problems at the lower doses and that Bristol-Myers didn't announce it to the market until March 20, 2002, sending the stock down more than 15 percent.

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The company said it agreed to the settlement without any admission of wrongdoing.

The court has set another hearing in the case for May 11.

Futures Traders Resist Tighter Oversight Plan (WSJ)

By Michael Schroeder

The Wall Street Journal, February 10, 2006

WASHINGTON -- The Commodity Futures Trading Commission's reputation as a toothless regulator has been changing. Spurred by complaints that natural-gas prices have driven up the cost of fertilizer and farming, Congress is working on legislation to allow the CFTC to expand its regulation of energy trading in the commodity and over-the-counter market.

Some Wall Street traders, concerned by a spate of energy-manipulation cases brought by the CFTC, are fighting back. They are working to water down the policing authority of the CFTC, thereby stalling legislation to reauthorize the agency, which has operated without a charter since Sept. 30.

By law, the CFTC must be reauthorized every five years. There isn't much pressure to pass legislation before the charter expires because the agency's operating budget continues to be funded. However, every five years, various interests use the reauthorization legislation to strengthen or weaken the CFTC.

The CFTC was created in 1974 to oversee futures and options trading in agricultural and mineral contracts on commodity exchanges, such as the Chicago Mercantile Exchange. Wall Street regularly has succeeded in limiting its regulatory oversight. In late 1998, after the near-collapse of hedge fund Long-Term Capital Management, the then-chairwoman of the agency suggested that the CFTC should consider some regulation of derivatives contracts. Financial institutions, though, used their lobbying clout to get Congress to pass a bill in 2000 that exempted OTC derivatives -- and specifically energy transactions -- from most regulatory oversight. (The CFTC retained some authority to investigate wrongdoing in the market.)

This time around, energy users complain that shortages of natural gas have created a market dominated by speculators who manipulate prices.

Leading the effort is the American Public Gas Association, which represents gas utilities, and the Industrial Energy Consumers of America, which represents gas-consuming industries such as manufacturers and fertilizer producers.

Late last year, the House passed its version of the CFTC reauthorization bill with a last-minute amendment to help the regulator investigate natural-gas price manipulation on the OTC markets. In these markets, traders at banks, hedge funds and money management firms privately arrange transactions among themselves by phone or computer. Most natural-gas trading occurs over the counter.

The provision, by Rep. Sam Graves (R., Mo.) and Rep. John Barrow (D., Ga.), charges the CFTC with preventing and detecting manipulation of natural-gas markets, outlines more record-keeping requirements and increases the penalties for violations.

Mr. Graves said the measure stemmed from complaints by agriculture groups that natural-gas prices had driven up the costs of fertilizer and farming. Mild winter weather has spared consumers from steeper price increases.

State officials also are getting in the act. Utah Republican Gov. Jon Huntsman has called on federal agencies to probe the gas market and determine if prices are being manipulated. Massachusetts Attorney General Tom Reilly has sought to end what he describes as legal market manipulation of natural-gas prices in the state.

Scrutiny of energy markets rose after electricity traders at Enron Corp. and other companies fleeced California residents of hundreds of millions of dollars in 2002 by contriving power shortages. That triggered an energy-industry probe by the CFTC, which found widespread price manipulation. Nearly $300 million in fines has resulted from its investigation of about 55 energy companies -- with 27 companies and 23 individuals charged with either false-data reporting or attempted market manipulation.

John Damgard, president of the Futures Industry Association, which represents commodity exchanges, futures traders and banks, said the CFTC -- which has fewer than 500 employees and an annual budget of $97 million this year -- has no business investigating commodity scams. Federal prosecutors should be responsible for filing criminal cases against violators, he said.

Financial firms have taken note of the CFTC's pursuit of energy fraud in the OTC market. Energy users point to the slew of cases as evidence that the CFTC must have OTC policing powers.

Gregory Mocek, the CFTC enforcement director, said because trades on exchanges and over the counter are interdependent, each energy-enforcement case brought by the agency included violations that occurred on the OTC market.

Supporters of more oversight fear the financial-services lobby will not only kill the natural-gas provision in the House bill but may go further and try to water down the CFTC's existing enforcement authority.

"We'll do whatever we have to do to make sure (the natural-gas provision) won't pass," said Robert Pickel, executive director of the International Swaps and Derivatives Association.

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The opposition -- led by the futures and derivatives trade groups, the Bond Market Association and the Securities Industry Association -- has focused its lobbying on senators on both sides of the aisle, CFTC commissioners and staff, and Treasury and Federal Reserve officials. They argue that giving the CFTC more oversight authority on the OTC market would cause an exodus of U.S. trading business to less-regulated foreign markets.

"It's a cruel hoax that giving the CFTC more regulatory power will bring down the prices of natural gas and gasoline," Mr. Damgard said.

The dispute has bottled up legislation in the Senate, where the leadership has said it won't schedule a vote until there is enough agreement on a CFTC bill to assure passage.

The final arbiter likely will be a group of presidential advisers that includes the chiefs of the Federal Reserve, Treasury Department, Securities and Exchange Commission and CFTC. In letters to members of Congress, the Fed and Treasury have raised objections to any such regulation of OTC transactions, based on fears that it could cause "legal uncertainty" and breed lawsuits that could disrupt the market.

CRIMINAL LAW:

Cheney 'Authorized' Libby To Leak Classified Information (NATJOUR)

By Murray Waas, National Journal

National Journal, February 9, 2006

Vice President Dick Cheney's former chief of staff, I. Lewis (Scooter) Libby, testified to a federal grand jury that he had been "authorized" by Cheney and other White House "superiors" in the summer of 2003 to disclose classified information to journalists to defend the Bush administration's use of prewar intelligence in making the case to go to war with Iraq, according to attorneys familiar with the matter, and to court records.

According to sources with firsthand knowledge, Cheney authorized Libby to release additional classified information, including details of the NIE, to defend the administration's use of prewar intelligence in making the case for war.

Libby specifically claimed that in one instance he had been authorized to divulge portions of a then-still highly classified National Intelligence Estimate regarding Saddam Hussein's purported efforts to develop nuclear weapons, according to correspondence recently filed in federal court by special prosecutor Patrick J. Fitzgerald.

Beyond what was stated in the court paper, say people with firsthand knowledge of the matter, Libby also indicated what he will offer as a broad defense during his upcoming criminal trial: that Vice President Cheney and other senior Bush administration officials had earlier encouraged and authorized him to share classified information with journalists to build public support for going to war. Later, after the war began in 2003, Cheney authorized Libby to release additional classified information, including details of the NIE, to defend the administration's use of prewar intelligence in making the case for war.

Previous coverage of the CIA leak investigation from Murray Waas

Libby testified to the grand jury that he had been authorized to share parts of the NIE with journalists in the summer of 2003 as part of an effort to rebut charges then being made by former U.S. Ambassador Joseph Wilson that the Bush administration had misrepresented intelligence information to make a public case for war.

Wilson had been sent on a CIA-sponsored mission to investigate allegations that the African nation of Niger had sold uranium to Iraq to develop a nuclear weapon. Despite the fact that Wilson reported back that the information was most likely baseless, it was still used in the President's 2003 State of the Union speech to make the case for war.

But besides sharing details of the NIE with reporters during the effort to rebut Wilson, Libby is also accused of telling journalists that Wilson's wife, Valerie Plame, had worked for the CIA. Libby and other Bush administration officials believed that if Plame played a role in the selection of her husband for the Niger mission, that fact might discredit him.

A federal grand jury indicted Libby on October 28, 2005, on five counts of making false statements, perjury, and obstruction of justice, alleging that he concealed his role in leaking information about Plame to the media. He resigned his positions as chief of staff and national security adviser to Cheney the same day. Libby has never claimed that Cheney encouraged him to disclose information about Plame to the media.

In a January 23 letter, related to discovery issues for Libby's upcoming trial, Fitzgerald wrote to Libby's attorneys: "Mr. Libby testified in the grand jury that he had contact with reporters in which he disclosed the content of the National Intelligence Estimate ("NIE") … in the course of his interaction with reporters in June and July 2003.… We also note that it is our understanding that Mr. Libby testified that he was authorized to disclose information about the NIE to the press by his superiors."

Although it is not known if Cheney had told the special prosecutor that he had authorized Libby to leak classified information to reporters, Dan Richman, a professor of law at Fordham University and a former federal prosecutor for the

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Southern District of New York, said, "One certainly would not expect Libby, as part of his defense, to claim some sort of clear authorization from Cheney where none existed, because that would clearly risk the government's calling Cheney to rebut that claim."

The public correspondence does not mention the identities of the "superiors" who authorized the leaking of the classified information, but people with firsthand knowledge of the matter identified one of them as Cheney. Libby also testified that he worked closely with then-Deputy National Security Adviser Stephen Hadley and White House Deputy Chief of Staff Karl Rove in deciding what information to leak to the press to build public support for the war, and later, postwar, to defend the administration's use of prewar intelligence.

In the correspondence, Fitzgerald also asserted that Libby testified that he had met with then-New York Times reporter Judith Miller on July 8, 2003, with the "purpose" of intending "to transmit information" to her "concerning the NIE."

That particular meeting has been key to Fitzgerald's investigation because the special prosecutor alleges that Libby lied both to the FBI and to his federal grand jury by saying that he had not discussed Plame with Miller on that date, when in fact he did tell her of Plame's work for the CIA.

In an account of her grand jury testimony, Miller has written that Libby discussed the NIE with her: "Mr. Libby also cited a National Intelligence Estimate on Iraq, produced by American intelligence agencies in October 2002 … which he said had firmly concluded that Iraq was seeking uranium." Portions of the NIE were later declassified, but the material in it related to Niger was still classified at the time.

Libby, through a spokesperson, declined to comment, and the vice president, through a spokesperson, also declined to comment for this story.

The new disclosure that Libby has claimed that the vice president and others in the White House had authorized him to release information to make the case to go to war, and later to defend the administration's use of prewar intelligence, is significant for several reasons. First, it significantly adds to a mounting body of information that Cheney played a central and personal role in directing efforts to counter claims by Wilson and other administration critics that the Bush administration had misused intelligence information to go to war with Iraq.

Second, it raises additional questions about Libby's motives in concealing his role in leaking Plame's name to the press, if he was in fact more broadly authorized by Cheney and others to rebut former Ambassador Wilson's charges. The federal grand jury indictment of Libby alleges that he had lied to the FBI and the federal grand jury by claiming that when he provided information to reporters about Plame's CIA employment, he was only passing along what he understood to be unverified gossip that he had heard from other journalists.

Instead, the indictment charges that Libby had in fact learned of Plame's CIA status from at least four government officials, Cheney among them, and from classified documents. Indeed, much of Libby's earliest and most detailed information regarding Plame's CIA employment came directly from the vice president, according to information in Libby's grand jury indictment. "On or about June 12, 2003," the indictment stated, "Libby was advised by the Vice President of the United States that Wilson's wife worked at the Central Intelligence Agency in the Counterproliferation Division."

Libby testified that Cheney told him about Plame "in an off sort of, curiosity sort of, fashion," according to other information recently unsealed in federal court. Not long after that date, Libby, White House Deputy Chief of Staff Karl Rove, and a third administration official began to tell reporters that Plame had worked at the CIA, and that she had been responsible for sending her husband to Niger.

Finally, the new information indicates that Libby is likely to pursue a defense during his trial that he was broadly "authorized" by Cheney and other "superiors" to defend the Bush administration in making the case to go to war. Libby does not, however, appear to be claiming that he was acting specifically on Cheney's behalf in disclosing information about Plame to the press.

Libby's legal strategy in asserting that Cheney and other Bush administration officials authorized activities related to the underlying allegations of criminal conduct leveled against him, without approving of or encouraging him to engage in the specific misconduct, is reminiscent of the defense strategy used by Oliver North, who was a National Security Council official in the Reagan administration.

North, a Marine lieutenant colonel assigned to the National Security Council, implemented the Reagan administration's efforts to covertly send arms to Iran in exchange for the release of American hostages held in the Middle East, and to covertly fund and provide military assistance to the Nicaraguan Contras at a time when federal law prohibited such activities. Later, it was discovered that North and other Reagan administration officials had diverted funds they had received from the Iranian arms sales to covertly fund the Contras.

If Libby's defense adopts strategies used by North, it might be in part because the strategies largely worked for North and in part because Libby's defense team has quietly retained John D. Cline, who was a defense attorney for North. Cline, a San-

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Francisco partner at the Jones Day law firm, has specialized in the use of classified information in defending clients charged with wrongdoing in national security cases.

Among his detractors, Cline is what is known as a "graymail" specialist-an attorney who, critics say, purposely makes onerous demands on the federal government to disclose classified information in the course of defending his clients, in an effort to force the government to dismiss the charges. Although Cline declined to be interviewed for this story, he has said that the use of classified information is necessary in assuring that defendants are accorded due process and receive fair trials.

In the Libby case, Cline has frustrated prosecutors by demanding, as part of pretrial discovery, more than 10 months of the President's Daily Brief, or PDBs, the president's morning intelligence briefing. The reports are among the most highly classified documents in government, not only because they often contain sensitive intelligence and methods, but also because they indicate what the president and policy makers consider to be the most pressing national security threats. In the past, the Bush administration has defied bipartisan requests from the Intelligence committees in Congress to turn over PDBs for review.

After Cline demanded the PDBs, Fitzgerald wrote to him on January 9 that the prosecutor's office has only "received a very discrete amount of material relating to PDBs" and "never requested copies of PDBs" themselves, in part because "they are extraordinarily sensitive documents which are usually highly classified." Moreover, Fitzgerald wrote, only a relatively small number of PDB pages included reference to Wilson's trip to Niger.

But Cline has insisted that it is imperative for his client's defense to be able to review the PDBs because part of Libby's defense is that he may have had a faulty memory regarding conversations he had with government officials and reporters regarding Plame, in that he had so many other pressing issues to consider every day as chief of staff and national security adviser to the vice president.

In a January 31 court filing, attorneys for Libby argued: "Mr. Libby will show that, in the constant rush of more pressing matters, any errors he made in FBI interviews or grand jury testimony, months after the conversations, were the result of confusion, mistake, faulty memory, rather than a willful intent to deceive."

In the North case, the Iran-Contra independent counsel, Lawrence Walsh, was forced to dismiss many of the central charges against North, including the most serious ones-that North defrauded taxpayers by diverting proceeds from arms sales to Iran to finance the Nicaraguan Contras-because intelligence agencies and the Reagan administration refused to declassify documents necessary for a trial on those charges.

Walsh and many of his deputies believed that the Reagan Justice Department refused to declassify documents necessary to try North because officials were personally sympathetic to him. A North trial would also have politically embarrassed the Reagan administration, and a North conviction might have led to charges against higher officials.

In court filings, Walsh said that much of what intelligence agencies and the Reagan administration had refused to declassify had long before been published in the media or made public in some other way.

"It was a backdoor way of shutting us down," said one former Iran-Contra prosecutor, who spoke only on the condition that his name not be used, because his current position as a private attorney requires frequent dealings with attorneys who were on the other side of the North case at the time. "It was a cover-up by means of an administrative action, and it was an effective cover-up at that."

The former prosecutor added: "The intelligence agencies do not declassify things on the pretext that they are protecting state secrets, but the truth is that we were investigating and prosecuting their own. The same was true for the Reagan administration. Cline was particularly adept at working the system."

Is it possible that a prosecution of Libby might be impeded or even derailed entirely by the refusal of the Bush White House or its Justice Department to declassify information that might be necessary to try Libby? "Under the current statute, it may well be the attorney general's call-or whomever he designates-to ultimately decide what should be declassified, and what might not be, in the Libby case," said Michael Bromwich, a former associate Iran-Contra independent counsel and a former Justice Department inspector general.

William Treanor, the dean of Fordham University's Law School, and also a former associate Iran-contra special counsel, said that it is less likely that the Bush administration would challenge Fitzgerald as former administrations did with special prosecutors. Walsh, dealing with the Reagan and elder Bush administrations, and Whitewater independent counsel Kenneth Starr, dealing with the Clinton administration, often alleged that political appointees in the Justice Department worked purposely to undermine their investigations.

"Walsh and Starr were not appointed by an attorney general," Treanor said, noting that Walsh, Starr, and earlier special prosecutors had been appointed by a three-judge federal panel instead of by the Justice Department. Currently, he pointed out, special prosecutors are appointed by the attorney general or their designate.

"With Walsh or Starr, the president and his supporters could more easily argue that a prosecutor was overzealous or irresponsible, because there had been a three-judge panel that appointed him," Treanor said. "With Fitzgerald, you have a

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prosecutor who was appointed by the deputy attorney general [at the direction of the attorney general]. The administration almost has to stand behind him because this is someone they selected themselves. It is harder to criticize someone you yourself put into play."

There are other reasons why it might prove difficult to undercut Fitzgerald, including outstanding questions about the role that Cheney and others in the Bush administration played in the effort to discredit Wilson, and the fact that Cheney is still the point man in defending the White House's use of prewar intelligence on Iraq.

And the new disclosure, that Libby is alleging that Cheney and other Bush administration officials "authorized" him to disclose classified information as a means to counter charges that the administration misused prewar intelligence, might also make it difficult for this administration to refuse to declassify information for Libby's trial.

But a Libby defense strategy asserting that he released classified information or took other actions as broadly authorized by Cheney might have other advantages, if the North case is any guide. At North's trial, the counts on which the jury acquitted him tended to be those involving actions that appeared to be authorized by superiors. He was found guilty of three felonies on which the evidence indicated that he was acting on his own initiative or for his own financial benefit.

"It was a memorable and powerful moment when North told the jury that he was 'a pawn in a chess game played by giants,'" Treanor said.

The claims by North that his activities had been broadly authorized by higher-ups, including even the president, also worked to his advantage when he was sentenced. Despite the fact that North had been convicted of three felonies and that Iran-Contra prosecutors argued before sentencing that letting North off with "only a slap on the wrist … would send exactly the wrong message … [only] 15 years after Watergate," he was sentenced to only probation, a fine, and community service.

North's trial judge, U.S. District Court Judge Gerhard Gesell, took note that the jury had acquitted North of criminal charges mainly where it appeared that his conduct might have been authorized by higher authorities: "Observing that many others involved in the events were escaping without censure or with prosecutorial promises of leniency or immunities, [the jury] used their common sense. And they gave you the benefit of a reasonable doubt."

Explaining his own leniency in sentencing the former NSC aide, Gesell told North: "I do not believe you were a leader at all, but really a low-ranking subordinate to carry out initiatives of a few cynical superiors. You came to be a point man in a very complex power play developed by higher-ups."

Later, North's convictions were overturned on appeal because of concerns that some of the evidence used against him during his trial might have been derived from his testimony before the House-Senate Iran-Contra investigating committee. North had been given immunity for that testimony.

But most outside legal observers say that Libby, because he was himself such a high-ranking official, will most likely face a much more difficult time than North did in arguing that, in some of his activities, he was just carrying out orders from Cheney or other senior White House officials.

"A defendant can make a claim that he is just a victim of Washington politics or doing the bidding for someone else," said Richman, the former prosecutor, "But there may be limits to a jury's sympathy when that defendant himself was so high-ranking. Given Libby's position in the White House, the jury is less likely to view him as a sacrificial lamb than as a sacrificial ram."

Libby: White House 'Superiors' Authorized Leaks (AP)

The Associated Press, February 10, 2006

WASHINGTON — A former top aide to Vice President Dick Cheney told a federal grand jury that his superiors authorized him to give secret information to reporters as part of the Bush administration's defense of intelligence used to justify invading Iraq, according to court papers.

Special prosecutor Patrick Fitzgerald said in documents filed last month that he plans to introduce evidence that I. Lewis "Scooter" Libby, Cheney's former chief of staff, disclosed to reporters the contents of a classified National Intelligence Estimate in the summer of 2003.

The NIE is a report prepared by the head of the nation's intelligence operations for high-level government officials, up to and including the president. Portions of NIEs are sometimes declassified and made public. It is unclear whether that happened in this instance.

In a Jan. 23 letter to Libby's lawyers, Fitzgerald said Libby also testified before the grand jury that he caused at least one other government official to discuss an intelligence estimate with reporters in July 2003.

"We also note that it is our understanding that Mr. Libby testified that he was authorized to disclose information about the NIE to the press by his superiors," Fitzgerald wrote.

White House spokesman Scott McClellan refused to comment. "Our policy is that we are not going to discuss this when it's an ongoing legal proceeding," he said.

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William Jeffress, Libby's lawyer, said, "There is no truth at all" to suggestions that Libby would try to shift blame to his superiors as a defense against the charges.

Libby, 55, was indicted late last year on charges that he lied to FBI agents and the grand jury about how he learned CIA operative Valerie Plame's identity and when he subsequently told reporters. He is not charged with leaking classified information from an intelligence estimate report.

Plame's identity was published in July 2003 by columnist Robert Novak after her husband, former U.S. Ambassador Joseph Wilson, accused the administration of twisting intelligence about Iraq's efforts to buy uranium in Niger. The year before, the CIA had sent Wilson to Niger to determine the accuracy of the uranium reports.

Wilson's revelations cast doubt on President Bush's claim in his 2003 State of the Union address that Iraq was trying to develop a nuclear bomb and had sought to buy uranium in Africa as one of the administration's key justifications for going to war in Iraq.

On Thursday, Sen. Edward Kennedy, D-Mass., said Cheney should take responsibility if he authorized Libby to share classified information with reporters.

"These charges, if true, represent a new low in the already sordid case of partisan interests being placed above national security," Kennedy said. "The vice president's vindictiveness in defending the misguided war in Iraq is obvious. If he used classified information to defend it, he should be prepared to take full responsibility."

In the summer of 2003, White House officials — including Libby — were frustrated that the media were incorrectly reporting that Cheney had sent Wilson to Niger and had received a report of his findings in Africa before the war in Iraq had begun.

In an effort to counter those reports, Libby and other White House officials sought information from the CIA regarding Wilson and how his trip to Niger came about, according to court records.

Fitzgerald, in his letter to Libby's lawyers, said he plans to use Libby's grand jury testimony to support evidence pertaining to the White House aide's meeting with former New York Times reporter Judith Miller.

During the meeting with Miller on July 8, Libby also discussed Plame, Fitzgerald said. "Our anticipated basis for offering such evidence is that such facts are inextricably intertwined with the narrative of the events of spring 2003, as Libby's testimony itself makes plain," the prosecutor wrote.

Miller spent 85 days in jail for refusing to discuss her source.

Ex-Cheney Aide Testified Leak Was Ordered, Prosecutor Says (NYT)

By Neil A. Lewis

The New York Times, February 10, 2006

WASHINGTON, Feb. 9 — I. Lewis Libby Jr., the former chief of staff to Vice President Dick Cheney, told a grand jury that he was authorized by his "superiors" to disclose classified information to reporters about Iraq's weapons capability in June and July 2003, according to a document filed by a federal prosecutor.

The document shows that Mr. Libby, known as Scooter, was actively engaged in the Bush administration's public relations effort to rebut complaints that there was little evidence to support the claim that Saddam Hussein possessed or sought weapons of mass destruction, which was used to justify the invasion of Iraq.

The document is part of the prosecutors' case against Mr. Libby, who has been indicted on charges that he lied about his role in exposing the identity of a C.I.A. operative to journalists.

The prosecutor, Patrick J. Fitzgerald, said in a letter to Mr. Libby's lawyers last month that Mr. Libby had testified before the grand jury that "he had contacts with reporters in which he disclosed the content of the National Intelligence Estimate ('NIE')," that discussed Iraq's nuclear weapons capability. "We also note that it is our understanding that Mr. Libby testified that he was authorized to disclose information about the NIE to the press by his superiors."

Mr. Libby was indicted on five counts of perjury and obstruction of justice last October in what Mr. Fitzgerald has charged was a willful misleading of investigators about his role in exposing Valerie Wilson as an officer of the Central Intelligence Agency. Ms. Wilson is the wife of Joseph C. Wilson IV, a former ambassador who had accused the administration of twisting intelligence about Iraq's efforts to buy uranium from the government of Niger.

Ms. Wilson's identity was first disclosed in a column by Robert D. Novak in July 2003, just after Mr. Wilson wrote an Op-Ed column in The New York Times saying he had investigated the Niger claim and found little evidence to support it. Mr. Wilson charged that destroying his wife's undercover status was a way to discredit him and his assertions.

The prosecutor's note of Jan. 23 does not, however, make any reference to Mr. Libby's involvement in the disclosure of Ms. Wilson's identity. It seems, rather, to be part of an effort by the prosecutor to demonstrate that Mr. Libby was engaged in using secret information to press the administration's case at the same time that Ms. Wilson's identity was leaked to reporters.

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The letter was first reported Thursday by the National Journal, which said its sources had identified that one of the superiors was Mr. Cheney.

The National Intelligence Estimate, which was done in October 2002, said that Iraq "will probably have a nuclear weapon during this decade," but it included some dissenting views. The report was classified.

But amid doubts about the rationale for the invasion of Iraq some of which were attributable to Mr. Wilson's Op-Ed article, the administration declassified the report on July 18.

Mr. Fitzgerald said in his letter that Mr. Libby discussed the contents of the classified report in a July 8 meeting — 10 days before it was declassified — with Judith Miller, then a reporter at The Times. Ms. Miller, who spent 85 days in jail before agreeing to testify in the leak case, has told the grand jury that Mr. Libby told her about Ms. Wilson at the same meeting.

Mr. Fitzgerald said that Mr. Libby's testimony showed how Ms. Wilson's status was disclosed. "Our anticipated basis for offering such evidence is that such facts are inextricably intertwined with the narrative of the events of spring, 2003, as Libby's testimony itself makes plain," he wrote.

Mr. Libby's lawyers have already suggested they will mount a defense in which they will not challenge the charge that he made misstatements about how he learned of Ms. Wilson's identity and whether he shared that information with reporters. They have said that any statements he made to investigators that might have been untrue were the result of his preoccupation with many serious matters of national security at the time.

Libby Says 'Superiors' Authorized Leaks (LAT)

By Richard B. Schmitt

The Los Angeles Times, February 10, 2006

WASHINGTON — Former vice presidential aide I. Lewis "Scooter" Libby has told a federal grand jury that his "superiors" authorized him to leak highly sensitive intelligence to journalists, including a New York Times reporter he allegedly tipped off to the name of an undercover CIA operative.

The revelation is contained in a Jan. 23 letter from Special Prosecutor Patrick J. Fitzgerald to lawyers for Libby, who was indicted in late October in connection with the leak of the operative's name. In the letter, Fitzgerald recounts testimony in which Vice President Dick Cheney's former chief of staff admitted circulating portions of the National Intelligence Estimate to reporters in June and July 2003.

"It is our understanding that Mr. Libby testified that he was authorized to disclose information about the [National Intelligence Estimate] to the press by his superiors," Fitzgerald wrote.

The letter did not identify those superiors. The National Journal reported on its website Thursday that Cheney, who was Libby's direct boss at the time, had authorized the disclosures.

The revelation that leaks were authorized comes as the Bush administration has been quick to condemn others for failing to safeguard secrets since the Sept. 11 terrorist attacks. Cheney has been among the most aggressive in lashing out against what officials have described as unauthorized leaks that have gravely hurt the country.

In a speech Thursday evening at the Conservative Political Action Conference, Cheney made no reference to the report of Libby's testimony.

But he renewed his sharp criticism of the leak that led to December reports in the New York Times that the National Security Agency was monitoring communications, without court warrants, between people in the U.S. and suspected Al Qaeda operatives outside the country.

"The terrorist surveillance program was highly classified, and information about it was improperly given to the news media," the vice president said.

Noting that Atty. Gen. Alberto R. Gonzales had appeared before the Senate Judiciary Committee on Monday, Cheney added: "As the attorney general pointed out this week, it's easy to imagine America's enemies shaking their heads in amazement that anyone would disclose this information, thereby giving notice to those enemies and [endangering] national security, putting our citizens at risk. But that is what happened."

The surveillance program, he said, has helped prevent attacks and "remains essential" to U.S. security.

Lea Anne McBride, Cheney's press secretary, referred questions about the Libby letter to Fitzgerald's office. She declined to discuss whether Cheney had been involved with the leaks, saying only, "We continue to cooperate fully with the investigation." A spokesman for Fitzgerald declined to comment.

In late December, the Justice Department launched an aggressive leak investigation into media reports about the domestic surveillance program. In another case, the CIA is believed to have asked Justice Department officials to probe the sources of a Washington Post report last year that the agency was operating a secret prison system for terrorist suspects in Europe.

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The National Intelligence Estimates are reports that are meant to convey a consensus view in the intelligence community on issues confronting policymakers. Portions of the documents are sometimes made public.

Fitzgerald's letter did not specify which National Intelligence Estimate Libby shared with reporters or whether it was classified, and Fitzgerald has not charged Libby with disclosing classified information. Fitzgerald said in the letter that he intended to introduce the testimony at Libby's trial, set for January 2007, as part of establishing a "narrative of the events" rather than to show that a crime was committed.

Fitzgerald wrote in the correspondence, which was part of a defense motion filed Jan. 31, that Libby had testified that he caused at least one other government official to discuss an intelligence estimate with reporters in July 2003.

One such report, produced in October 2002, was a foundation of the administration's flawed case for going to war in Iraq. It asserted that Saddam Hussein had chemical and biological weapons and was rebuilding his nuclear program. Cheney was among the most ardent administration proponents of that viewpoint, although a report by the Senate Intelligence Committee subsequently found that none of the claims were backed up by evidence.

Libby, 55, was indicted on charges of obstruction of justice, making false statements and perjury. Prosecutors contend that he lied to FBI agents and a federal grand jury about how he learned the identity of CIA operative Valerie Plame.

The unmasking of Plame, in a July 2003 article by columnist Robert Novak, has been linked to the administration's rationale for going to war in Iraq. In 2002, at the request of the CIA, Plame's husband, former Ambassador Joseph C. Wilson IV, traveled to Niger to investigate allegations that Hussein had sought to purchase uranium there. In a New York Times op-ed article published eight days before Novak's column appeared, Wilson accused the administration of twisting intelligence about Iraq's nuclear capabilities.

Wilson's concerns, which had surfaced anonymously earlier that spring, were a source of frustration and irritation for Cheney and other officials.

Libby and Karl Rove, Bush's chief political strategist, have acknowledged speaking with reporters about Plame in the days before Novak's column was published. Libby testified that he first learned of Plame's identity from Tim Russert of NBC News, but Fitzgerald charged that the former aide had lied and that he had learned her identity independently and spread it around. Among the people who told Libby that Wilson's wife worked at the CIA was Cheney, the indictment of Libby alleges.

Fitzgerald said in his Jan. 23 letter that Libby testified that he met with Judith Miller of the New York Times on July 8, 2003, to transmit information about the intelligence estimate. Fitzgerald has separately alleged that at the same interview, Libby advised Miller of his belief that Wilson's wife worked for the CIA.

Miller, who spent 85 days in jail before agreeing to testify about her interviews with Libby, has written that Fitzgerald asked her whether Libby had indicated that Cheney had authorized the conversations or was even aware of them.

"The answer was no," Miller wrote.

Libby Testifies Superiors Approved Secret-Data Leak (WSJ)

By Anne Marie Squeo And John D. Mckinnon

The Wall Street Journal, February 10, 2006

WASHINGTON -- Special Prosecutor Patrick Fitzgerald has informed attorneys for former Vice Presidential Chief of Staff I. Lewis Libby that Mr. Libby said he was authorized "by his superiors" to leak classified information in mid-2003 as part of the Bush administration's defense of the war in Iraq.

In a Jan. 23 letter, released as part of a court filing by Mr. Libby's defense team, Mr. Fitzpatrick discusses Mr. Libby leaking parts of what is known as the National Intelligence Estimate to reporters. It specifically states that Mr. Libby testified to the grand jury that he discussed material in the classified document with reporters. In the letter, Mr. Fitzgerald goes on to say, "it is our understanding that Mr. Libby testified that he was authorized to disclose information about the NIE to the press by his superiors."

Mr. Libby, facing trial for lying to federal investigators and a grand jury in a federal probe into whether administration officials purposely blew the cover of covert Central Intelligence Agency official Valerie Plame, wasn't charged with leaking classified information.

Ms. Plame's husband, former ambassador Joseph Wilson, had publicly and privately rebuked the administration's reasoning for the war in Iraq.

But the disclosure that Mr. Libby told a grand jury that he was authorized by his superiors, possibly including Vice President Dick Cheney, to reveal secret information to the press is embarrassing for the White House. President Bush initially insisted he would fire anyone involved in leaking the CIA operative's name and his administration has prided itself on controlling information. Mr. Bush has called for an investigation into which administration officials leaked information related to the classified warrantless wiretapping program he launched after Sept. 11; the Justice Department is investigating.

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Mr. Libby's legal team quickly shot down any notion that blaming Mr. Cheney would be part of their client's defense. "There is no truth at all to the story that Mr. Libby's lawyers have advised the court or the special counsel that he will raise a defense based on authorization by superiors," said William Jeffress, one of Mr. Libby's attorneys.

White House spokesman Scott McClellan declined to comment on the Fitzgerald letter. Mr. Cheney's spokeswoman referred questions to the special prosecutor's office, as she has done previously, and noted that the vice president's office is cooperating in the probe.

Libby Testified He Was Told To Leak Data About Iraq (WP)

By Carol D. Leonnig

The Washington Post, February 10, 2006

Vice President Cheney's former chief of staff testified that his bosses instructed him to leak information to reporters from a high-level intelligence report that suggested Iraq was trying to obtain weapons of mass destruction, according to court records in the CIA leak case.

Cheney was one of the "superiors" I. Lewis "Scooter" Libby said had authorized him to make the disclosures, according to sources familiar with the investigation into Libby's discussions with reporters about CIA operative Valerie Plame.

But it is unclear whether Cheney instructed his former top aide to release classified information, because parts of the National Intelligence Estimate were previously declassified.

The disclosure in a legal document written by special prosecutor Patrick J. Fitzgerald demonstrates one way in which Cheney was involved in responding to public allegations by Plame's husband, former ambassador Joseph C. Wilson IV, that the administration had exaggerated questionable intelligence to justify war with Iraq.

In a letter written in January and released in court papers filed by Libby's defense Monday, Fitzgerald wrote that Libby testified that his "superiors" authorized him to disclose information from the National Intelligence Estimate to reporters in the summer of 2003.

The National Journal first reported on its Web site yesterday that Cheney had provided the authorization.

The intelligence estimate is a classified report prepared by intelligence officers for high-level government officials, and some parts are regularly declassified in a summary and available to the public.

Cheney spokeswoman Lea Anne McBride declined to comment on Cheney's role in Libby's discussions of the intelligence estimate, referring calls to Fitzgerald's office. Fitzgerald's spokesman has declined to comment on the prosecutor's investigation and filings.

Libby was indicted in October on charges of obstruction of justice, perjury and making false statements in the course of the investigation. Fitzgerald has been trying to determine since January 2004 whether administration officials knowingly disclosed Plame's identity to reporters to discredit Wilson's allegations, a possible violation of law.

Plame's name first appeared in a syndicated column by Robert D. Novak in July 2003, eight days after her husband publicly accused the administration of relying on questionable information about Iraq's weapons program to justify the war.

Sen. Edward M. Kennedy (D-Mass.) said the new information about Libby's testimony exposes a possible hypocrisy within the Bush administration as it seeks to punish those who leak politically embarrassing information about secret CIA prisons and warrantless spying, but encourages leaks that aid the administration's political strategy.

"These charges, if true, represent a new low in the already sordid case of partisan interests being placed above national security," Kennedy said in a statement. "The Vice President's vindictiveness in defending the misguided war in Iraq is obvious."

Larry Johnson, a former intelligence officer and colleague of Plame's who has been critical of the administration's campaign against Wilson, said the Libby testimony helps prove that top executive branch officials were working to discredit an administration critic.

"This was not some rogue operation, but was directed at the highest levels, and specifically by Dick Cheney," Johnson said. "Libby was definitely a man with a mission, but a man who was given a mission."

E-Mail Notes Say Lobbyist Met President Many Times (NYT)

By Philip Shenon

The New York Times, February 10, 2006

WASHINGTON, Feb. 9 — The disgraced lobbyist Jack Abramoff told a magazine editor in recent days that he had met with President Bush many times and was invited to the president's Texas ranch for a gathering of campaign contributors in 2003, the editor said Thursday.

The journalist, Kim Eisler, national editor of Washingtonian magazine, said in an interview that he had received the information in e-mail messages from Mr. Abramoff, a major Republican fund-raiser who pleaded guilty last month to conspiring to

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bribe public officials. The messages suggest an effort by Mr. Abramoff to cast doubt on Mr. Bush's insistence that he does not recall the two of them meeting and that whatever contact they might have had was fleeting and for the purposes of a handshake and a picture.

In one message, Mr. Abramoff is reported as saying that Mr. Bush had "one of the best memories of any politician I have ever met" and that he "saw me in almost a dozen settings and joked with me about a bunch of things, including details of my kids." It added: "Perhaps he has forgotten everything. Who knows."

An Abramoff defense spokesman, Andrew Blum, said he could not comment on the e-mail messages or confirm their authenticity.

Mr. Eisler said he had been in contact with Mr. Abramoff since interviewing him six years ago for research for a book Mr. Eisler was writing about Indian reservation gambling; Mr. Abramoff's most lucrative lobbying clients were Indian casinos.

Parts of the messages became public this week, Mr. Eisler said, after he shared them with a writer for a political Web site, thinkprogress .org, without realizing that the Web site would make them public. The portions of e-mail messages posted on the site do not provide details of any meetings between Mr. Bush and Mr. Abramoff and do not refer to the substance of any conversations between them except for pleasantries about their families.

"I considered them confidential e-mails, and it was a slip on my part to release a portion of them," Mr. Eisler said.

The White House has tried to distance itself from Mr. Abramoff, and at a news conference last month, Mr. Bush said that while he might have had photographs taken with the lobbyist, "I don't know him." He added, "I frankly don't even remember having my picture taken with the guy."

The White House spokesman, Scott McClellan, was asked about Mr. Abramoff's e-mail messages on Thursday and said, "I think what the president says still stands: Mr. Abramoff is someone who was involved in wrongdoing, he has acknowledged that himself."

According to the messages, Mr. Abramoff wrote that he was invited to Mr. Bush's ranch in Crawford, Tex., in 2003 for a gathering of fund-raisers but was unable to attend because he does not travel on the Jewish Sabbath.

"I would have had to travel on Saturday (Shabbos)," he wrote. "Yes, I was invited, during the 2004 campaign. It was Saturday Aug. 9, 2003 at the ranch in Crawford."

Mr. Abramoff wrote that Mr. Bush "has one of the best memories of any politician I have ever met" and that his memory was one of Mr. Bush's "trademarks, though of course he can't recall that he has a great memory!"

Mr. Eisler said that Mr. Abramoff had told him details of the conversations between the lobbyist and his wife and Mr. Bush and Laura Bush, including discussions of the fact that both couples had twins.

Lobbyist Told Reporter Of Nearly A Dozen Contacts With Bush (WP)

By Jim Vandehei

The Washington Post, February 10, 2006

President Bush met lobbyist Jack Abramoff almost a dozen times over the past five years and invited him to Crawford, Tex., in the summer of 2003, according to an e-mail Abramoff wrote to a reporter last month.

Bush "has one of the best memories of any politicians I have ever met," Abramoff wrote to Kim Eisler of Washingtonian magazine. "The guys saw me in almost a dozen settings, and joked with me about a bunch of things, including details of my kids."

In an interview last night, Eisler confirmed the contents of the e-mail and said he recently provided portions of it to the liberal Web log ThinkProgress because he thought he was dealing with a fellow reporter. The blog posted the contents of the Abramoff-Eisler communication.

In the e-mail, Abramoff scoffs at Bush's public statements that he does not recall ever meeting the disgraced lobbyist and former top Bush fundraiser. "Of course he can't recall that he has a great memory!" Abramoff wrote. Eisler, an editor for Washingtonian, said in the interview that the lobbyist was the source of his exclusive report last month that at least five photographs of Bush with Abramoff exist. Abramoff showed him the pictures, Eisler said. Abramoff has told others he will not release them publicly.

Bush has said he does not recall ever meeting Abramoff or posing for pictures with the Republican lobbyist at official events or parties. The White House has refused to release the pictures or detail Abramoff's contacts with top White House officials over the past five years.

White House spokesman Scott McClellan said yesterday that "what the president said still stands."

"Mr. Abramoff is someone who was involved in wrongdoing," McClellan said. "He acknowledged that himself. He is being brought to account." Abramoff would not comment last night.

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Abramoff pleaded guilty last month in a bribery and corruption scandal that has rocked the Republican Party and threatened the political and professional careers of several lawmakers and aides. No evidence has emerged that Bush or his top White House aides did anything improper to aid Abramoff or his clients, according to people familiar with the investigation. Several lower-level administration officials, however, have been caught up in the scandal, including the top procurement official. The federal probe is expected to zero in on Abramoff's dealing with the Interior Department as it unfolds in the coming months.

In mentioning the invitation to Texas in 2003, Abramoff was apparently referring to a private barbecue Bush hosted for his biggest fundraisers at the Broken Spoke Ranch, down the road from the president's rustic compound near Crawford, on Aug. 9 of that year. About 350 Republicans who had raised at least $50,000 each for Bush were invited.

Abramoff was member of the exclusive group of top Bush fundraisers known as Pioneers, each of whom raised $100,000 or more for Bush. So it would not have been unusual for him to be invited to the barbecue. McClellan said that the photographs are no different from thousands Bush takes each year with visitors, supporters and even reporters and that it would not be unusual for the president to not recall meeting Abramoff.

"Perhaps he has forgotten everything," Abramoff wrote in the e-mail. "Who knows?" Eisler said Abramoff did not grant him permission to release the contents of their e-mail and Abramoff is upset that Eisler did. Eisler, who described himself as sympathetic to Abramoff's situation, was trying to show the ThinkProgress reporter that Abramoff was not exaggerating his relationship with Bush.

Eisler said he has known Abramoff for years and considers the level of vilification "out of proportion."

Abramoff Says He Met Bush "almost A Dozen" Times (REU)

By Andy Sullivan

Reuters, February 10, 2006

WASHINGTON (Reuters) - Jack Abramoff said in correspondence made public on Thursday that President Bush met him "almost a dozen" times, disputing White House claims Bush did not know the former lobbyist at the center of a corruption scandal.

"The guy saw me in almost a dozen settings, and joked with me about a bunch of things, including details of my kids. Perhaps he has forgotten everything, who knows," Abramoff wrote in an e-mail to Kim Eisler, national editor for the Washingtonian magazine.

Abramoff added that Bush also once invited him to his Texas ranch.

The messages were made public by the American Progress Action Fund, a liberal activist group. Eisler confirmed their accuracy to Reuters but said he did not intend them to become public.

"They reflect the feeling of frustration he has not just with Bush but with all these guys claiming they didn't know him," said Eisler, who knew Abramoff through a book he wrote about the Pequot Indian tribe.

Abramoff pleaded guilty to fraud charges in early January and is cooperating with prosecutors in a corruption probe that could implicate lawmakers and officials across Washington.

Bush has said he never had a discussion with Abramoff and does not remember having his picture taken with him.

The White House has said Abramoff attended three Hanukkah receptions at the White House.

Eisler said he had seen five photographs of Abramoff with Bush, none taken at Hanukkah parties.

White House spokesman Scott McClellan said on Thursday that the revelations did not prove Bush knew him well.

"I think as the president also indicated, he's taken at least five photos with many people in this room at the annual holiday reception. And so I think you need to put this in context," McClellan said.

Abramoff spokesman Andrew Blum declined to comment.

Abramoff raised more than $100,000 for Bush's 2004 re-election campaign, a feat that won him an invitation to Bush's ranch in August 2003, the National Journal reported at the time.

"I was invited during the 2004 campaign," Abramoff told Eisler.

Abramoff said he did not make the trip because as an Orthodox Jew he cannot travel on Saturdays.

In the wake of Abramoff's indictment, the Bush-Cheney campaign said it would donate to charity $6,000 in contributions made by Abramoff or his clients, but not the money he helped raise.

The White House has acknowledged he participated in a few staff-level meetings at the White House.

Although the Abramoff scandal has mostly focused attention so far on prominent House Republicans, including former Majority Leader Tom DeLay of Texas, at least two Bush administration officials have been implicated.

David Safavian, a former White House budget official, has been charged with lying and obstructing investigations into his 2002 golf outing to Scotland with Abramoff.

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Stephen Griles, the former No. 2 official at the Interior Department, has come under scrutiny after allegations he tried to block a casino at Abramoff's request.

Abramoff Team And Reid's Office Had Frequent Contact, Records Show (WP)

By John Solomon And Sharon Theimer

The Washington Post, February 10, 2006

Senate Minority Leader Harry M. Reid wrote at least four letters helpful to Indian tribes represented by Jack Abramoff, and Reid's staff had frequent contact with the disgraced lobbyist's team about legislation.

The activities -- detailed in previously unreported billing records and correspondence -- occurred over three years as Reid (D-Nev.) collected nearly $68,000 in political donations from Abramoff's firm, lobbying partners and clients.

Reid's office yesterday acknowledged having "routine contacts" with Abramoff's lobbying partners. Reid intervened on government matters in ways that Abramoff's tribal clients might have deemed helpful, once opposing legislation on the Senate floor and four times sending letters pressing the Bush administration on tribal issues. Reid collected donations around the time of each action.

Abramoff's firm also hired one of Reid's top legislative aides as a lobbyist. The aide later helped throw a fundraiser for Reid at Abramoff's firm that raised money from several of Abramoff's lobbying partners.

A Reid spokesman said none of the senator's actions were affected by donations or done for Abramoff. "All the actions that Senator Reid took were consistent with his long-held beliefs, such as not letting tribal casinos expand beyond reservations, and were taken to defend the interests of Nevada constituents," spokesman Jim Manley said.

Abramoff has pleaded guilty to fraud and bribery and is helping prosecutors investigate the conduct of lawmakers, congressional aides and administration officials his team used to lobby.

Abramoff spokesman Andrew Blum declined to comment on the Reid contacts.

Reid has assailed Republicans' ties to Abramoff while refusing to return any of his own donations. He argues there is no need to return the money. "Senator Reid never met Jack Abramoff and never has taken contributions from him, and efforts to drag him into this are going to fail," Manley said.

Although Abramoff never donated personally to Reid, the lobbyist did instruct one tribe, the Louisiana Coushattas, to send $5,000 to Reid's tax-exempt political group, the Searchlight Leadership Fund, in 2002. Reid was Democratic whip at the time.

Abramoff sent a list to the tribe titled "Coushatta Requests" recommending donations to campaigns or groups for 50 lawmakers. Alongside Reid's name, Abramoff wrote, "5,000 (Searchlight Leadership Fund) Senate Majority Whip."

About the same time, Reid sent a letter to the Interior Department helpful to the tribe, records show. His March 5, 2002, letter pressed the agency to reject a casino proposed by a potential rival to the Coushattas, the Jena Band of Choctaw Indians. Sen. John Ensign (R-Nev.) also signed the letter.

Reid also officially opposed new tribal casinos in California and Michigan, where Abramoff had tribal clients with casinos.

Reid and Ensign recently wrote the Senate Ethics Committee to say their letter had nothing to do with Abramoff or the donation and instead reflected their interest in protecting Las Vegas's gambling establishments.

"As senators for the state with the largest nontribal gaming industry in the nation, we have long opposed the growth of off-reservation tribal gaming throughout the United States," Ensign and Reid wrote. Reid authored the law legalizing casinos on reservations, and he has long argued it does not allow tribal gambling off reservations.

Abramoff's group had earlier contacts with Reid's office over the Northern Mariana Islands, a U.S. territory and one of Abramoff's highest paying clients. In 2001, records show, Abramoff's lobbying partners billed for nearly two dozen phone contacts or meetings with Reid's office, mostly to discuss Democratic legislation that would have gradually applied the U.S. minimum wage to the islands. Republicans wanted to keep the islands exempt.

Reid, along with his Senate counsel, Jim Ryan, met with Abramoff deputy Ronald Platt on June 5, 2001, "to discuss timing on minimum wage bill," according to a bill that Greenberg Traurig, Abramoff's firm, sent the Marianas. Three weeks before the meeting, Greenberg Traurig's political action committee donated $1,000 to Reid's Senate reelection committee. Three weeks after the meeting, Platt himself donated $1,000 to Reid.

Manley said Reid's official calendar does not list a meeting on June 5, 2001, with Platt, but he also said he could not say for sure the contact did not occur. Manley confirmed Platt had regular contacts with Reid's office, calling them part of the "routine checking in" by lobbyists who work Capitol Hill.

As for the timing of donations, Manley said, "There is no connection. This is just a typical part of lawful fundraising."

Platt and a fellow lobbyist also reported a contact on May 30, 2001, with Edward P. Ayoob, Reid's legislative counsel. Within a year, Ayoob had left Reid's office to work for Abramoff's firm, registering to lobby for the islands as well as several tribes. Manley confirmed Ayoob had subsequent lobbying contacts with Reid's office.

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Editorial: Curious Move In Abramoff Case (BUFFNEWS)

Buffalo News, February 10, 2006

If you believe in coincidence, then taking prosecutor off investigation makes sense

Jack Abramoff prosecutor Noel Hillman may deserve the White House nomination he recently got for a federal judgeship in New Jersey, but the timing is suspicious and the probe into unethical and illegal activities in Washington will suffer.

Hillman was chief of the Justice Department's Office of Public Integrity until the nomination caused him to step down. He was deeply involved in the federal probe of activities by super-lobbyist Abramoff and his colleagues, and sat in on the negotiations that led to plea deals in return for cooperation that could reveal which congressmen or agency officials took what in return for favors. Two years of experience are lost, just when the investigation zeros in on its most important targets.

Coincidence? Maybe, if you believe in such things. The selection process, according to the Justice Department, started a year ago. Hillman was part of a batch of nominations to judgeships that needed to be filled, and he wants the job. But this probe now is venturing deeply into Congress - and most notably its Republicans, although a few Democrats also received campaign donations from Abramoff clients. It's also looking hard into the Bush administration bureaucracy. Removing an aggressive prosecutor at this point will pass the sniff test only if the Justice Department finds an equally aggressive replacement - or the White House agrees to a special prosecutor.

The current investigation now is tainted, Hillman's experience already lost. The challenge the government faces is to enact meaningful ethics reforms that tighten the rules and end limits on complaints and internal investigations. But it's not enough to hold officials more accountable to their own houses of Congress in future cases. The present probe needs to gain momentum, not lose it - and that means a replacement prosecutor just as independent, aggressive and involved as Hillman, or more so. Otherwise, this nomination stinks.

Head Of Construction Company Is Acquitted Of Bribing Union (NYT)

By Julia Preston

The New York Times, February 10, 2006

The president of a New York construction company, who was accused of doing a "corrupt dance" with greedy union bosses, was acquitted yesterday in New York federal court of paying bribes to union officials.

John Amicucci, 54, the president of DeFoe Corporation, was found not guilty of two counts of illegal labor payments after a two-week trial in Federal District Court in Manhattan. Mr. Amicucci had been charged with making secret cash payments to officials of Local 14 of the International Union of Operating Engineers so they would cut corners and ignore contract violations to help DeFoe increase its profits.

But the main government witnesses in the trial were five officials from the union, including Joseph Rizzuto Sr., a former general manager, and his son Joseph Rizzuto Jr., both of whom have pleaded guilty in the same courthouse to accepting bribes.

Prosecutors did not present wiretap or other evidence to back up the claims of the union officials that they had been handed cash by Mr. Amicucci, and in return allowed him to fill the most expensive union supervisory jobs on his crews with workers who were paid less than union rates and who were lax in enforcing the rules.

In one instance, government evidence showed, Mr. Amicucci gave himself a key supervisory job.

During his closing arguments on Tuesday, Mr. Amicucci's lawyer, Gerald L. Shargel, had the jurors laughing as he ridiculed a cheap tote bag and a watch that the prosecutors had presented to prove that the union officials received gifts from Mr. Amicucci. Mr. Shargel showed that Mr. Amicucci and his company had handed out dozens of the bags and watches as Christmas gifts to employees and friends.

By the end of the trial, it appeared that the union officials had done their best to corrupt Mr. Amicucci, and not the other way around. Local 14 represents workers who drive cranes, backhoes and other heavy equipment on construction sites. Mr. Shargel brought out, under cross-examination, that the two Rizzutos had only mentioned Mr. Amicucci for the first time to F.B.I. agents months after they began cooperating with the government.

Jurors who spoke with Mr. Shargel after the trial said they thought the government's case was too weak for a conviction, the lawyer said.

DeFoe is a familiar name to New York drivers. The company carried out a $240 million contract on the Bruckner Expressway in the Bronx and also did major work on the Gowanus Expressway in Brooklyn.

This was not Mr. Amicucci's first brush with the law. He was convicted of federal tax evasion charges in 1990. In a 1993 case, DeFoe admitted in court that it had made "illegal payments" to a minority construction workers' group that was trying to extort money from the company.

Ryan Defense's Decision Day Nears (CHIT)

DOJ_NMG_0014077

By Matt O'Connor, Tribune Staff Reporter

Chicago Tribune, February 10, 2006

Decision day is nearing for former Gov. George Ryan and his lawyers on whether he takes the stand at his corruption trial.

On Thursday, outside the presence of the jury, Dan Webb, Ryan's lead lawyer, said he expects the defense case to wrap up by late next week unless Ryan or co-defendant Lawrence Warner testifies.

That means Ryan or Warner could begin testifying by Thursday.

Webb has said that Ryan is likely to take the stand, but Thursday he indicated he hasn't made a final decision. Warner's lawyers haven't divulged their strategy.

The marathon trial began in September.

On Thursday, in the defense's fourth full day of testimony, a former high-ranking official at the secretary of state's office while it was headed by Ryan defended a Joliet lease deal in 1995 as in the best interest of the state.

Ryan is charged with steering the lease to Warner, who held a hidden ownership in a building at 605 Maple Rd. in Joliet and collected $387,500 in the 1990s.

Thomas Cuculich, who was chief deputy director of the office's physical services department, testified Thursday he didn't know of Warner's ownership interest "until the Tribune printed it in 1999 or 2000."

Cuculich said Scott Fawell, Ryan's chief of staff, directed him to check out the Maple Road property, but Cuculich said he didn't think the fix was in at the time. Fawell suggested that other properties be looked at in the Joliet area as well, Cuculich said.

Though Cuculich had no experience in real estate, he said, Fawell eventually asked him to call Warner and negotiate a lease on the Joliet building. Cuculich said he thought Warner was a broker in the deal.

Warner asked that a standard clause allowing the state to terminate the contract in 90 days be removed because he could be stuck paying for up-front renovation costs to the building, Cuculich said.

Cuculich said that he found the request "fair" but that it was Fawell who decided to take out the termination clause.

On cross-examination, Assistant U.S. Atty. Patrick Collins brought out that the owners of the Joliet building actually were paid a higher rent than they had initially proposed themselves.

The secretary of state's office also agreed to pay for janitorial service, lawn care and snow removal, expenses usually covered by the landlord. Cuculich said he had objected to that but was overruled by Fawell.

Cuculich conceded that in an appearance before the grand jury, he swore Fawell had never asked him to look at other properties besides the Joliet building.

But on Thursday, he said he believed a memo written after the lease had been signed was accurate when it stated that a thorough market survey had been done.

Collins questioned Cuculich's independence at the time, asking him a couple of times if he had been a loyal member of the Ryan administration then.

Cuculich bristled at the questioning, saying, "I considered myself a good employee and yes, I think I was a team player, but not in any negative connotation at all."

After Ryan's election as governor, Cuculich was appointed to head the Illinois State Toll Highway Authority.

Fawell testified at the trial that Ryan directed him to help Warner secure the Joliet lease deal. Fawell said he feared the news media would uncover Warner's link to the property and questioned Warner to make sure his financial involvement was concealed.

In other testimony Thursday, a vice president of a realty company that owns a Springfield office complex disputed Fawell's claim that he artificially brought the price down on a secretary of state lease at the property by adding unusable space to the total square footage.

Thomas Bernacchi of Towne Realty, which owns Lincoln Towers, testified he included the unusable space in the square footage without consulting with the secretary of state's office.

Ryan is accused of moving the office's securities department to Lincoln Towers in 1995 to benefit longtime friend Ron Swanson, a broker for Towne. Fawell testified that the move took place even though he thought the asking price was too high.

But Bernacchi said that two other state agencies leased space at Lincoln Towers and paid comparable rates.

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Ryan May Take The Witness Stand Next Week (AP)

By MIKE ROBINSON, ASSOCIATED PRESS

AP, February 10, 2006

George Ryan may take the witness stand in his own defense as early as next week, the former governor's defense attorney told his racketeering and fraud trial Thursday.

"I will make the decision at the time," defense attorney Dan K. Webb told U.S. District Judge Rebecca R. Pallmeyer, leaving himself the option of keeping Ryan off the witness stand.

Webb also said as the trial headed toward the end of its 19th week that if Ryan and co-defendant Larry Warner take the witness stand, they would be the final defense witnesses.

Pallmeyer told jurors that the long trial is coming to an end and that she would not be drawing up a work schedule for the month of March because one might not be needed.

If Ryan were convicted, he might face a stiffer sentence if prosecutors could prove to Pallmeyer that he lied under oath while on the stand.

Ryan, 71, and Warner, 67, are charged in a 22-count federal indictment with racketeering, fraud and other offenses. They say that nothing they did was illegal.

On Wednesday, Pallmeyer warned defense attorneys not to try to turn the trial into a showcase for his opposition to the death penalty when they call character witnesses next week.

Ryan's lawyers say character witnesses, such as Sister Helen Prejean, head of the Washington-based National Coalition to Abolish the Death Penalty, may be called next week.

Prejean's book about capital punishment, "Dead Man Walking," became a major movie.

Pallmeyer already has ruled that Ryan's campaign against the death penalty is irrelevant to federal charges that as secretary of state and governor he steered state contracts and leases to friends and got free vacations and gifts in exchange.

Pallmeyer on Wednesday made it plain she hasn't changed her mind and that Ryan's character witnesses will not be allowed to turn her courtroom into a capital punishment debate.

"I don't want this to be a back door way of inviting the jurors to speculate on whether Mr. Ryan's position on the death penalty is a good thing," she said.

Before leaving office in January 2003, Ryan commuted the death sentences of 167 inmates to life in prison and pardoned four others, declaring the state's capital justice system "haunted by the demon of error." Three years earlier he halted all executions in Illinois over fears that a flawed system had led to the wrongful convictions of 13 death row inmates.

Ryan's actions have made an improbable hero, at least among capital punishment opponents, of the husky-voiced, white-haired Republican from downstate Kankakee. He also is a former pharmacist known for most of his career as a master of political horse trading in the legislative caucus rooms.

Defense attorneys would like it if that popularity would prove catching to the jurors.

Prosecutors said Wednesday that if Ryan's defense team uses their character witnesses to slip in testimony about the death penalty, the government should be able to tell jurors about the November 1994 Wisconsin expressway disaster that killed six children.

The expressway accident occurred when the family van was struck by a part from a truck driven by an unqualified driver who is believed to have gotten his drivers license through bribery.

Pallmeyer said Wednesday that testimony about the six children of the Rev. Scott and Janet Willis is "so prejudicial and inflammatory that it must not find its way into this case."

Meanwhile, two retired state employees who had recommended awarding a $25.8 million computer contract to IBM testified Wednesday they felt no pressure from lobbyists in reaching their decision.

Defense witnesses John Anderson and Bruce Taylor, who sat on a committee that urged Ryan to pick IBM over rival Honeywell Bull, said they based their decision solely on the merits.

Among other things, the IBM system cost $3 million less, was available a year earlier and was more compatible with the systems used by other state agencies, they said.

Under cross examination, Anderson said he had not known that Warner stood to make $1 million off the IBM contract.

Campbell To Wife: "I'm Sorry" (WXIA-TV)

By Jerry Carnes

WXIA-TV, February 10, 2006

Former Atlanta mayor Bill Campbell apologized to his wife Thursday. The apology comes on the heels of testimony in Campbell's corruption trial in federal court about a trip to Paris with another woman.

Campbell's trip came after United Water won a $21 million contract to run the water system in the city of Atlanta. The company invited Campbell to visit its European headquarters.

United Water executives testified that they spent $4,500 on Campbell's hotel suite, another $4,500 for a limousine. Witnesses told the jury that Campbell missed a scheduled tour of their waste water treatment plant, and during the four-day trip, spent 2½ hours talking business over lunch.

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"We said from the beginning, the mayor was in Paris on business. And as we heard today, he had meetings with the CEO of a multi-billion dollar corporation," Campbell lawyer Billy Taylor said.

The mayor did spend time with a woman other than his wife. Former Atlanta television anchor Marion Brooks testified she was with Campbell in that hotel room, and touring Paris.

"While it's a private matter," Campbell said. "I want to publicly apologize to my wife. She has supported me with grace and dignity for 28 years."

Campbell's lawyers questioned United Water's former president, David Sherman.

"Mayor Campbell never asked for a bribe, did he," asked Campbell's attorney.

Sherman answered, "No."

"He never asked you or your company to do anything illegal, did he," the lawyer asked.

"That's correct," Sherman said.

The government will contend that Campbell should have disclosed the trip to the public, but didn't.

The trial is set to take Friday off, and will resume on Monday.

Judge Gives 'Clown' Legal Counsel (CHIT)

By Rudolph Bush, Tribune Staff Reporter

Chicago Tribune, February 10, 2006

A federal judge ruled Thursday that reputed mob boss Joey "the Clown" Lombardo qualifies for free counsel and appointed two attorneys to represent him.

But U.S. District Judge James Zagel added that he will revisit the decision if prosecutors show Lombardo, 77, is hiding assets and can afford to pay for his own defense.

Zagel approved prosecutors' request to examine the finances of Lombardo's ex-wife and two children to determine if he has access to a 1982 trust he set up for them.

"The government is free to investigate to its heart's content that trust, the trustees and its affairs," Zagel told prosecutors. "I don't believe Mr. Lombardo is in a position to object to any questions you have."

In the meantime, attorneys Rick Halprin and Susan Shatz will represent Lombardo, Zagel ruled.

Halprin, a veteran defense attorney, long has represented Lombardo in criminal matters.

Lombardo and 11 other men are charged with running a racketeering conspiracy that prosecutors say was supported through murder and extortion.

An indictment against the men charges them with involvement in 18 Outfit-related murders. Lombardo is charged only in the 1974 slaying of Bensenville businessman Daniel Seifert.

Before his murder, Seifert was scheduled to testify against Lombardo in a Teamsters pension-fraud trial.

Zagel's ruling comes a day after prosecutors revealed that Lombardo was carrying $3,000 when captured in January.

They also questioned the legitimacy of Lombardo's 1992 divorce from his wife, Marion.

"There's some question whether the dissolution of the marriage is itself a sham," Assistant U.S. Atty. Mitchell Mars said.

Prosecutors contend Lombardo lived with his ex-wife on West Ohio Street until he fled from a racketeering and extortion indictment in April.

They also noted that in 2003, she sold three pieces of property in Florida for more than $4.5 million.

Zagel said that because Lombardo has said he has no access to that money and no claim to the 1982 trust, he cannot object to the government's investigation.

In the meantime, he is entitled to free representation, Zagel said.

"If, as a result of that investigation, you can make a case there's been a bad-faith transfer of assets there, I can remedy that," Zagel said.

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Joey The Clown Too Broke To Pay His Lawyers? Feds Are Scoffing (AP)

By Mike Robinson

AP, February 10, 2006

CHICAGO - Lawyers for Joseph "Joey the Clown" Lombardo got permission Thursday to collect their fees from the government, while federal prosecutors got the green light to do whatever it takes to prove that the reputed mob boss isn't as broke as he claims to be.

Lombardo, 77, who claims he can't pay his lawyers because he has no money, appeared in court in an orange prison jumpsuit, wore his usual puzzled expression and said nothing.

U.S. District Judge James B. Zagel granted defense attorney Rick Halprin and an associate permission to represent Lombardo at public expense but said he might change his mind if federal prosecutors can prove that there has been "a fraud or a bad-faith exchange of assets."

"The government is free to investigate to its heart's content," Zagel said.

Prosecutors noted that Lombardo was carrying $3,000 in cash the night of Jan. 13 when an FBI organized-crime squad caught him in a suburban Elmwood Park alley after eight months on the run.

Lombardo is among 14 reputed mob figures charged in April 2005 with a racketeering conspiracy that included plotting at least 18 murders as far back as 1970.

When agents went to arrest him on that charge, Lombardo had vanished and immediately became the target of a high-profile manhunt.

Lombardo claims to have had no income since May 2005.

He was convicted and sent to prison along with former International Brotherhood of Teamsters President Roy Lee Williams in a 1982 bribery-conspiracy case.

Prosecutors said in court papers that "the FBI has obtained information that after the completion of his parole status on June 15, 2002, the defendant traveled to France for approximately 10 days, arriving in Paris on July 11, 2002, and continuing on to Nice."

"The defendant flew back to Chicago from France on July 21, 2002," prosecutors said. "The government respectfully submits that these facts including a 10-day trip abroad are not consistent with the need for a court-appointed lawyer."

Prosecutors said that after being indicted in the 1982 case Lombardo transferred "substantial assets" to a trust that benefits his children, Joseph and Joanne, "in an apparent attempt to put funds beyond the reach of the government." His ex-wife, Marion, is the trustee.

Prosecutors said Marion Lombardo appears to have sold three parcels in Florida held by the MJJ Trust for more than $4.5 million in 2003. They said there is a May 1992 dissolution of marriage record but that it appears the Lombardos lived together until the latest indictment.

They said two warranty deeds recording the sale of the Florida property referred to Marion Lombardo as "a married woman."

Halprin scoffed at the government's claims, telling Zagel that the assets had been placed in "an irrevocable trust" for Lombardo's family. He said that if the government thinks Lombardo has money prosecutors should prove it.

He did acknowledge that the trust might revert to Lombardo if his wife, son and daughter all died. But he said that considering his client's age, "That is worth about the same as 5,000 shares of Enron stock."

New Allegations Filed Against So-Called "Mob Cops" (NY1)

NY1, February 10, 2006

The laundry list of accusations against the so-called "mafia cops" is growing ever longer with new charges of armed robbery and drug use.

Former detective Stephen Caracappa and his partner Louis Eppolito already stand accused of eight mob-related murders. Now, the Brooklyn U.S. Attorney's Office says Caracappa admitted using cocaine as an undercover narcotics officer.

The person he allegedly told this to is expected to testify at this month's trial. Another witness will say the two held up delis for cash and that

Eppolito asked him for money in order to bribe doctors into falsifying a heart condition. Both Eppolito and Caracappa have pleaded not guilty.

Man Sentenced For Shooting Cop, Holding Him Hostage (CHIT)

By Michael Higgins, Tribune Staff Reporter

Chicago Tribune, February 10, 2006

A former tax preparer who shot a Chicago police officer in the head and held the gravely wounded officer hostage for more than two hours was sentenced Thursday to life in prison plus 132 years.

Daniel Salley, 45, was convicted in October of 15 felony charges, including two counts of attempted murder, after a jury rejected his claim that he was the victim of a government conspiracy.

Detective Joseph Airhart was shot as he rushed into a South Loop apartment in 2001 to arrest Salley on bank robbery charges. The shooting left Airhart, a 19-year police veteran, unable to speak, walk or swallow food, his two sisters and brother said in court Thursday.

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Airhart's sister Denise narrated a videotape that showed her brother lying in bed with a ventilator tube attached to his throat and a feeding tube leading to his stomach.

"Salley, I hope you never see the light of day or set foot outside again," Denise Airhart said as more than 70 spectators, including many law enforcement officers who worked with Airhart, looked on.

"This crime, the shooting of this man, tore the heart out of the Chicago police," said Robert Milan, first assistant to Cook County State's Atty. Dick Devine.

U.S. District Judge Wayne Andersen sentenced Salley to life in prison without the possibility of parole for taking Airhart hostage. The additional 132 years on other charges would not have any practical effect unless the life sentence were overturned, prosecutors said.

Salley, who acted as his own attorney Thursday as he did during his trial, showed little emotion as the wounded police officer's colleagues and family members spoke. He looked down at legal papers, sometimes jotting notes.

When it was his turn to speak, Salley repeated his claims that the government was punishing him for the success of his tax business and that an FBI agent had shot Airhart during the raid.

"There is punishment that's coming for everybody who is working for this government," Salley said.

Members of Airhart's family declined to comment after the hearing, but they hugged one another and Airhart's law enforcement colleagues after the sentence was announced.

Airhart, who was assigned to the FBI's fugitive task force, had volunteered to be part of a team sent to arrest Salley after Salley robbed a Southwest Side bank twice in one week, taking more than $250,000.

After Salley shot Airhart, he forced other officers to back off by threatening to kill Airhart if they approached him. Salley surrendered after police granted his request to talk to a television reporter.

In the videotape, Airhart did not make eye contact with the camera and barely moved, except for flinching his jaw and twitching his arm slightly.

Denise Airhart broke into tears as she described her brother's role in the family. "He always protected me," she said. "He protected all of us."

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News Bank Robber Gets Life Plus 132 Years (CHIST)

By MONIFA THOMAS, Staff Reporter

Chicago Sun-Times, February 10, 2006

A former tax consultant was sentenced Thursday to life in prison -- plus an additional 132 years -- for shooting a Chicago Police detective in the head and then holding the wounded officer hostage for hours.

Daniel E. Salley was convicted last October of shooting Detective Joseph Airhart in a South Side apartment in August 2001. Airhart, who was then 45 years old, was a member of an FBI task force trying to arrest Salley in a series of bank robberies.

Salley refused to allow medical treatment for Airhart, keeping federal and local police at bay for more than two hours before he was taken into custody.

The shooting left Airhart with severe brain injuries, and he is unable to walk, feed himself or breathe without the assistance of a ventilator, his sister testified before U.S. District Judge Wayne Andersen on Thursday.

The courtroom was packed with relatives, members of the Chicago Police Department and other law enforcement agents. They watched as Airhart's younger sister, Denise Airhart, narrated a video taken of the detective last month. It showed Airhart lying on a specially made air mattress, barely moving.

"My family was destroyed, Salley, by the blatant attempt you made to murder my brother," Denise Airhart said, stopping at times to cry while Salley calmly scribbled notes on a pad.

"In an instant, Salley, you took away a promising and productive future."

Claimed FBI agent fired shot

She asked that Salley "never see the light of day nor set foot outside again."

Airhart's two other siblings and his former partner on the police force also spoke to the court, describing the 19-year officer as an adventurous, dependable family man who was robbed of his life.

Salley, who represented himself during trial, maintained his innocence, saying an FBI agent was the one who shot Airhart.

He told the Airharts he understood their grief, but also said, "God knows what happened in that room. I believe that the truth is going to come out."

Salley showed little emotion as Andersen sentenced him to life in prison on the hostage charge plus an additional 132 years on six weapons charges, five of which carry mandatory sentences of 25 years.

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The sentences for eight other felony counts Salley was convicted of, including attempted murder and bank robbery, are to be served concurrently with the life sentence, Andersen ruled.

Salley admitted during his trial to twice robbing the same bank and being armed with an arsenal of weapons when Airhart and others came to arrest him.

He told jurors the government had been spying on him.

Airhart's family declined to speak to reporters. After the hearing, relatives stood in a circle and prayed.

Bank Robber Who Shot Officer Gets Life (CHIST)

By DAVID BRUMMER, ASSOCIATED PRESS

Chicago Sun-Times, February 10, 2006

A bank robber who shot a police detective and then held the wounded officer hostage was sentenced to life in prison Thursday.

Police and prosecutors praised the sentence imposed on Daniel Salley in the August 2001 shooting that left Chicago police detective Joseph Airhart with a crippling brain injury.

"We're very pleased that Mr. Salley won't be allowed to set foot on the streets and commit this sort of crime again," Chicago police Deputy Superintendent Charles L. Williams said.

Patrick Fitzgerald, U.S. attorney for northern Illinois, said his office was "very gratified" by the sentence. "It's an end to a very sad chapter for Joe Airhart," Fitzgerald said.

Four months after a federal jury convicted Salley of all 15 counts he faced, Judge Wayne Anderson gave Salley life in prison for taking Airhart hostage and 132 years on the other charges. The judge also ordered him to pay more than $3 million to cover Airhart's medical costs and lost wages by the family.

Salley, who acted as his own attorney, was convicted of illegally detaining, assaulting and attempting to murder Airhart, as well as assault and attempted murder of an FBI agent. He also was convicted on several firearms charges and two bank robbery charges.

Throughout the trial and sentencing, Salley maintained he did not shoot Airhart. Prosecutors pointed out that he amassed an arsenal of handguns, rifles and knives.

"I'm concerned if you were free, you would feel the need to get weapons and hurt people," Anderson said Thursday.

Minutes before he was sentenced, Salley railed against the government, compared himself to U.S. soldiers in Iraq and Afghanistan and said he was "training to kill."

"I grieve for Mr. Airhart as well," Salley said. "God knows my heart. God knows I didn't mean to hurt him."

Airhart's three siblings and his former partner spoke at the hearing and pleaded for a maximum sentence.

Denise Airhart narrated a month-old video that showed a bedridden brother who's unable to speak. Machines and tubes have helped him breathe and eat since a January 2003 seizure related to the shooting, she said.

"I hope you never see the light of day," a sobbing Denise Airhart told Salley.

After the courtroom cleared, Airhart's family stayed to hold hands in a circle. They declined to speak with reporters.

During the trial, the former tax preparer admitted to twice robbing the same bank in 2001 and being armed when Airhart and others came to his girlfriend's apartment to arrest him.

Prosecutors alleged Salley shot Airhart then held him hostage for more than two hours, refusing to allow him medical treatment.

He told jurors the government had been spying on him and his tax business.

Salley, whom a judge found mentally unfit to stand trial in 2003, was eventually found competent for trial a year later after several psychiatric exams.

Two Former Officials Plead Guilty In Monmouth Corruption Case (NSDY/AP)

Long Island Newsday, February 10, 2006

NEWARK, N.J. (AP) _ Two former officials in Monmouth County pleaded guilty Thursday to extortion charges, part of the Federal Bureau of Investigation's Operation Big Rig investigation.

Richard Iadanza, 50, a former deputy mayor of Neptune Township, admitted that he accepted $3,000 from a contractor in exchange for arranging work in Neptune, according to a statement from U.S. Attorney Christopher Christie.

Joseph McCurnin, 64, an operations manager at the Monmouth County Division of Transportation, admitted he helped facilitate a $1,500 bribe from a demolition contractor to a Neptune Township official.

Extortion carries a maximum penalty of 20 years in prison and a $250,000 fine. No sentencing dates were set for either man.

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The two were among 11 then-sitting or former Monmouth County public officials arrested in the federal sting operation in February 2005. They were charged with extorting cash bribes and free work from a contractor who was cooperating with the FBI.

100's Of Radio Stations Cited In Payola Probe (ABC)

By BRIAN ROSS, RICHARD ESPOSITO & VIC WALTER

ABC News, February 9, 2006

FCC Commissioner Alleges 'Systematic Betrayal of the Responsibility of Broadcasters'

Hundreds of radio stations are under investigation by the Federal Communications Commission in the payola scandal rocking the music industry, ABC has learned.

"The FCC staff is working with voluminous evidence right now. It's a complicated and wide-ranging investigation." FCC Commissioner Jonathan Adelstein told ABC News in an exclusive interview.

"This is potentially the most wide spread and flagrant violation of FCC rules in the history of American broadcasting," Adelstein said. "We've never seen evidence of such a systematic betrayal of the responsibility of broadcasters."

Payola -- or pay-for-play -- is a practice seemingly as old as the recording industry itself. In the past the money went to rogue disc jockeys in exchange for increasing the air play for individual songs and driving those songs to the top of the charts. In the modern version, the money goes to the bottom line of the radio stations and the conglomerates that own them, according to New York Attorney General Eliot Spitzer.

"We have people in suits coming in with documents rather than cash payments under the table to a DJ," Spitzer told ABC News Chief Investigative Correspondent Brian Ross.

Several of the largest radio conglomerates in America - the corporate owners of FM radio stations across the nation -- are within the scope of the FCC probe, which was triggered by the two year long pay-for-play investigation by Spitzer and was first reported on by ABC News.

A vigorous investigation by the FCC brings federal regulatory clout, and the specter of criminal prosecution by the Justice Department.

Paid to Play Songs by J.Lo, John Mayer and Possibly Others

In addition to criminal prosecution any broadcaster in clear violation could face severe sanctions, and in the most blatant cases, the loss of their broadcast licenses, officials involved in the investigation have told ABC.

"I can't believe that radio stations are putting their licenses at risk. It seems to me they thought the FCC was asleep and they shot someone in front of the policemen. The policeman is obligated to act when evidence is so clear," Adelstein said.

Spitzer said record company documents obtained in the investigation of Sony BMG and Warner, both of which have settled with the attorney general, revealed payments for songs that became major hits, including Jennifer Lopez's "I'm Real" and John Mayer's "Daughters."

Other artists whose songs are named in the Spitzer documents include Jessica Simpson, Celine Dion, Maroon 5, Good Charlotte, Franz Ferdinand, Switchfoot, Michelle Branch, and R.E.M. The record companies allegedly paid radio stations to increase airplay of those artists' songs.

That money allegedly came in many forms; directly from the record companies, through "Indie" promoters or in promotional considerations that lowered stations' overheads.

Adelstein said that the New York attorney general has shared mountains of information with the FCC and has identified specific documents and e-mails that seem to clearly implicate some of the companies controlling much music radio in the United States.

"The FCC has received an unbelievable amount of evidence from Attorney General Eliot Spitzer that there appears to be widespread and flagrant violation of FCC rules regarding payola, (including) undisclosed promotions by radio broadcasters. And we need to find out who did it, basically prosecute any violations to the fullest extent of the law," Adelstein said.

Adelstein spoke to ABC News after reading ABC's disclosure of the shift of Spitzer's probe from record companies to broadcasters. He has been in regular contact with Spitzer.

"When anything is aired that is paid for without being disclosed to the public it is a clear violation of FCC rules," he said.

"We have a responsibility to get to the bottom of this & It's important that the FCC does its job and not let the states do it for us," Adelstein added.

Spitzer has been critical of the FCC's approach to the issue of payola.

"I would be the first to acknowledge that I would like to see the FCC more directly involved in addressing what is very clearly a payola scandal that has run rife through the industry. They have failed to do so and we have reached out to them,' said Spitzer.

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The FCC originally started a probe into the payola scandal in August 2005, after Spitzer disclosed his investigation of record companies including Warner Music Group, Sony BMG, EMI and Universal. At that time, Adelstein called for the FCC to aggressively investigate. By November 2005 he was calling for the FCC to bring the probe to a swift and satisfactory conclusion. Now he admits the FCC needs to devote more resources to the probe. "We need to devote significant resources [to investigating this aspect] and I'm not sure we are doing that yet," Adelstein added.

"Based on the evidence we have seen some of the radio conglomerates clearly are participating and knowledge of this and orchestration of this came from the very top," Spitzer told ABC.

"Now since it is up to the FCC -- not me -- whether or not to strip them of their licenses. I will leave that decision to the FCC. But certainly the behavior has been unethical, improper illegal and a sanction of some severity should be imposed," said Spitzer.

Adelstein told ABC News that "at this stage in the investigation it's not clear what the appropriate sanctions are because we're still looking into it, seeing if there are violations and, if there are, if they are systemic and go to the corporate offices."

Adelstein did say that the potential sanctions could be severe.

"While it's highly unusual for the FCC to pull licenses on first violation, depending on the severity that is one option that is available to us. These are criminal matters as well."

"If we do find evidence of criminal violations its incumbent on us to refer this to the Department of Justice for criminal prosecutions."

Man Charged With Killing Wife, Daughter In Boston (LAT)

By Michael Muskal

The Los Angeles Times, February 10, 2006

An Englishman wanted in the killing of his wife and baby daughter in their suburban home near Boston was arrested this morning in London, officials said.

Neil Entwistle, 27, was taken into custody without incident in a London subway station and was held pending an extradition hearing, perhaps as soon as Friday, British authorities said.

If extradited, he will face murder and weapons charges in connection with the deaths of his wife, Rachel, 27, and their 9-month-old daughter, Lillian. They were found shot to death Jan. 22, tangled in the bedding in the family home in Hopkinton, Mass.

The dead woman's family was "confident this day would come and the case would be solved," family spokesman Joe Flaherty told reporters today. The family was saddened and shocked by the deaths of their relatives, he said, and the arrest of a person "the family trusted."

The family knew investigators "would unravel what happened here and that somebody would be arrested and brought to justice," Flaherty said.

Because of the nature of the crime, the age of the child and Entwistle's abrupt departure to his native Britain, the case has been getting extensive coverage on cable television news shows.

Middlesex Dist. Atty. Martha Coakley told a televised news conference that officials surmise that Entwistle meant to kill himself after murdering his family, but changed his mind. The motive could have been financial difficulties, she said.

Coakley said Entwistle used his father-in-law's handgun to shoot his wife and daughter on the morning of Jan. 20. The next morning, Entwistle bought a one-way ticket and fled to London. He did not return for the family funerals.

Before he boarded the flight, Entwistle brought the .22-caliber handgun back to his father-in-law's house in Carver, Mass., Coakley said.

"We have forensic information that links it both to him and to Rachel, and we know Rachel had not used that gun," Coakley said.

It was Rachel Entwistle's mother who called authorities when she couldn't contact her daughter. Police went to the Entwistles' home on Jan. 21 but didn't see anything wrong. After a missing person report was filed, police visited the home again, and discovered the bodies amid piles of bedding, Coakley said.

As is common in murder cases, Entwistle was immediately considered a person of interest, a step below suspect. State officials flew to London late last month to interview Entwistle, who was at his family's home in Worksop, England.

Entwistle was an unemployed computer entrepreneur who met Rachel in 1999 at the University of York, where she spent a year studying abroad. They married in 2003 and stayed in England until last year.

The family had rented the home in Hopkinton some two weeks before the murders.

In a statement, London authorities said Entwistle was arrested on a provisional extradition warrant issued by Bow Street Magistrates Court.

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"The warrant alleges that on or before" Jan. 22, Entwistle "murdered Rachel Entwistle … and he murdered Lillian Entwistle. Mr. Entwistle is now in custody at a London police station and will be brought before Bow Street Magistrates Court in due course."

British Man Charged In Deaths Of American Wife, Daughter (WP)

By David A. Fahrenthold

The Washington Post, February 10, 2006

CAMBRIDGE, Mass., Feb. 9 -- A British man whose wife and infant daughter were discovered fatally shot in a Boston suburb last month, a day after he had abruptly left the country, was arrested on murder charges Thursday in London, authorities said.

The charges against Neil Entwistle added a new twist to a case whose lurid elements -- failed Internet schemes, a mother and daughter shot side by side, and a police search that missed two bodies buried under bedclothes -- have generated intense interest on both sides of the Atlantic.

In announcing the arrest, Middlesex County District Attorney Martha Coakley said that Entwistle, mired in debt, may have initially planned to kill himself after shooting his wife and daughter Jan. 20.

"We believe possibly that this was intended to be a murder-suicide," Coakley said at a news conference, adding: "Obviously, the murder was effected, the suicide was not."

Entwistle, 27, has spent much of the past three weeks at his parents' home in Worksop, England, dogged by British and U.S. media. Coakley said Entwistle was visiting friends in London on Thursday when he was arrested by British police at the Royal Oak train station.

He faces extradition proceedings to return him to Massachusetts.

In a statement Thursday, family members of Entwistle's wife, Rachel, said they were saddened by the arrest.

"Neil was a trusted husband and father, and it is incomprehensible how that love and trust was betrayed," the statement said, according to the Associated Press.

Entwistle and his wife met while studying at Britain's University of York in 1999 and were married in 2003, the AP reported. They moved into their rented home in the suburb of Hopkinton, Mass., a few days before the killings.

By that time, Coakley said, Entwistle was facing debt he had accumulated in Britain, plus a series of Internet ventures had produced little income.

Coakley said Entwistle used a .22-caliber handgun he had taken from his father-in-law to shoot his wife, 27, in the head, and then shoot their 9-month-old daughter, Lillian, in the abdomen. At the time of the shootings, Coakley said, both victims were lying on a bed and wearing "sleepwear," but she said it was unclear whether they were awake or asleep.

Later that day, Entwistle surreptitiously returned the gun to his in-laws' home in another Boston suburb, Coakley said.

The next morning, Jan. 21, Coakley said, he used a one-way ticket to fly to London.

The bodies were not discovered until more than 24 hours after Entwistle departed, after Hopkinton police and family friends had done separate walk-throughs in the house and noticed nothing amiss. The bodies were apparently there the whole time, Coakley said, but were concealed by a large pile of bedding. "It just looked like an unmade bed," Coakley said. Police discovered the bodies when they made another search on the evening of Jan. 22.

US Charges Taiwanese Over China Jet, Missile Deal (REU-Y2)

By Michael Christie And Paul Eckert

Reuters, February 10, 2006

A Taiwanese citizen was charged in the United States on Thursday with being a covert agent for Beijing, and accused together with a Frenchman of trying to illegally export an F-16 jet engine, Blackhawk helicopter engines and cruise missiles to China.

U.S. prosecutors in Miami said a federal grand jury had returned a nine-count indictment against Ko-Suen Moo, of Taipei, and Maurice Serge Voros, of Paris.

The indictment alleged that the defendants violated the Arms Export Control Act by trying to export controlled items without a license to China, including the engines, the cruise missiles and air-to-air missiles, the prosecutors said.

The case follows repeated U.S. expressions of concern about Beijing's strategic intentions as China increasingly pours proceeds from its rapidly expanding economy into its military.

Chinese war capabilities are growing at a pace expected to soon upset a delicate military balance between China and rival Taiwan, which relies on U.S. weaponry to defend itself.

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"This case highlights the national security threat posed when agents of a foreign government seek to illegally acquire and export American military weaponry," said U.S. Attorney R. Alexander Acosta.

"We will continue to aggressively investigate and prosecute foreign agents whose motives and actions are, by definition, detrimental do the United States and our national security," he said in a statement released by the Justice Department.

RISING CHINA CONCERNS

A Pentagon spokesman refused to comment specifically on the Miami case, saying it was a Justice Department matter.

But he added: "We are aware that there are continuing efforts on the part of China to obtain U.S. technology," Navy Lt. Cmdr. Greg Hicks told Reuters in Washington.

A spokesman for the Chinese embassy in Washington was not immediately available for comment.

A spokesman for Taiwan, which has an unofficial economic office in the U.S. capital in the absence of formal diplomatic ties with the United States, declined to comment.

Taiwan and China split in 1949 after a civil war brought the communists to power on the mainland. Beijing has vowed to attack if Taiwan formally declares statehood -- a fight that could embroil the United States as Taiwan's traditional backer.

Last week, the Pentagon, in a new long-range strategy blueprint, called China the rising power with the greatest potential to compete militarily with the United States. The strategy calls for new long-range weapons and a greater U.S. naval presence in the Pacific.

Moo was also charged with being a covert agent of the People's Republic of China, and with bribery, obstruction of justice and money laundering for offering $500,000, through an intermediary, to be released.

Moo had been detained but Voros remained at large, prosecutors said. The defendants face up to 20 years in prison if convicted.

According to the indictment, Moo traveled to the United States on two occasions and actually inspected an F-16 aircraft engine. The engine was to be flown to an airstrip in China.

"In the post-9/11 world, keeping sensitive U.S. military components from falling into the wrong hands has never been more important," Jesus Torres, Special Agent in Charge of Immigration and Customs Enforcement in Miami, said in a statement.

(Additional reporting by Deborah Charles and Charles Aldinger)

Feds Seize Truckload Of Fake Olive Oil (AP)

AP, February 9, 2006

NEWARK, N.J. (AP) - More than a discerning palate has determined that thousands of cans of Hermes and San Giovanni brands of extra virgin olive oil weren't quite right.

The U.S. Food and Drug Administration tested the chemical composition of the oil and found it was really less expensive soybean oil, prompting Thursday's seizure.

The U.S. Marshals Service seized 22,700 gallons of oil, imported from Italy, at a trucking company warehouse in Clifton.

"It is a whole lot of faux olive oil," said Mike Drewniak, a spokesman for U.S. Attorney Christopher Christie.

The labels on the 3-liter tins in 4,855 cases said the contents were more expensive extra virgin olive oil or pomace olive oil.

Because olive oil is five to six times more expensive than soybean oil, the potential estimated profit is about $105,600, according to the FDA.

"We will not permit New Jersey consumers to be defrauded," Christie said in a statement.

The tainted oil includes Hermes' brand of extra virgin olive oil and pomace oil and San Giovanni's brand of extra virgin oil. The cans remain at the warehouse in Clifton under a state-ordered embargo.

Teen Boys Abducted, Forced To Rob Md. Banks, Police Say (WP)

By Allison Klein

The Washington Post, February 10, 2006

They are bank robbers who didn't want the cash, police say. The scared 14- and 15-year-olds were not looking for a thrill, either, when they walked into banks in suburban Maryland and handed tellers notes demanding money.

They had been snatched by gunmen, taken to the banks and forced by their captors to commit the crimes, according to Prince George's County police.

After the teenagers came out of the banks with the money, the gunmen made off with the take and left the stunned youths behind.

At least four recent bank robberies were committed by three teenagers who later told police they had robbed the banks against their will. Their stories are "very credible," said an investigator who did not want to be identified because the case is still open.

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The most recent was on Wednesday, when a 14-year-old Landover youth was abducted and then forced to hold up a branch of Chevy Chase Bank in Bethesda, said FBI spokeswoman Michelle Crnkovich.

Police found him walking along Rockville Pike, stained by ink from an exploding dye pack, a device that banks attach to bundles of money to stain bank robbers, making them easier to spot.

The other three incidents occurred in Prince George's, two of them on Jan. 20 and one on Monday.

"These kids were frightened," Crnkovich said. "There are absolute parallels in these cases."

None of the teenagers was physically hurt, police said.

The FBI is working with Prince George's and Montgomery County police on the cases. The agencies have "promising leads," Crnkovich said.

Prince George's police consider the youths to be victims, and they were not arrested, said Cpl. Debbi Carlson, a police spokeswoman. The 14-year-old in the Bethesda bank case was taken into custody by Montgomery police but was not charged with a crime. Instead, he was released to his parents.

"I've been a cop for 17 years, and this is the first time I've heard of a kid that young robbing banks," said Lt. Eric Burnett, spokesman for Montgomery police.

Police did not identify any of the teenagers and would not say who wrote the notes used in the robberies. They did not disclose what the notes said.

Prince George's police Lt. Sean Carney, commander of the department's robbery section, cautioned parents yesterday to always know where their children are. He also said children should walk or travel with friends or relatives.

"People need to take steps to protect themselves," Carney said. "Be aware of your surroundings. Be aware of your children's travel routes. Tell neighbors to keep their eyes out."

The first Prince George's kidnapping and robbery began at 4 p.m. Jan. 20 in the 7400 block of Barlowe Road, two blocks from police headquarters in the Palmer Park neighborhood.

Two men approached a 15-year-old, saying they had a weapon and would hurt him if he did not follow their orders. They took him several blocks to a Wachovia Bank in the 7700 block of Landover Road and forced him to pass a note to the teller demanding money, police said.

They then went to a SunTrust Bank in the 8200 block of Ardwick-Ardmore Road, next to an entrance ramp for Route 50, and forced him to rob that bank, police said.

The men fled, and the teenager ran to a nearby business and called police.

The second abduction occurred at 6 p.m. Monday, when a man with a gun approached a teenager on a Metrobus. Police would not say where the bus was heading or where it was when the incident occurred.

The gunman said he'd hurt the youth if he didn't follow the man's orders, according to police.

He took the youth to a SunTrust bank in the 7700 block of Riverdale Road and told him to pass a note to the teller demanding money, which the youth did. After the teenager handed over the money, the man ran off with it.

Bank employees called police and gave a description of the teenager who had robbed the bank. Patrol officers quickly spotted the youth and stopped him. He explained what had happened, police said.

In the Montgomery case, the teenager robbed a Chevy Chase Bank at 7501 Wisconsin Ave. in Bethesda about 4:20 p.m. He was taken into custody shortly after 5 p.m. when patrol officers who had heard the suspect's description spotted him on Rockville Pike.

Burnett said detectives don't believe he participated in the robberies in Prince George's.

The youth, who was not identified, was released to his parents last night after being questioned by detectives at police headquarters in Rockville.

Police have descriptions of two men possibly involved in the Prince George's cases but do not have surveillance images of them from the recent robberies because they did not enter the banks with the teenagers, Crnkovich said.

But one or both might have been involved in a late December robbery of a Wachovia bank, and there might be surveillance images from that heist, she said.

Employees at the Wachovia, SunTrust and Chevy Chase banks that were robbed declined to comment yesterday. Corporate spokesmen for the banks said only that they were cooperating with law enforcement officials.

One of the men, who might have been involved in both Prince George's cases, is described as 6 feet tall, about 20 years old and of dark complexion. He had a moustache and a light growth of hair on his chin and was wearing a gray sweat jacket, bluejeans and black Jordan tennis shoes.

Another man, who might have been involved in the Jan. 20 incident, is described as 16 years old and about 5 feet 8 inches tall with cornrows. He was wearing a No. 3 Allen Iverson Philadelphia 76ers jersey, police said.

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Carney appealed to the public for information. "No matter how insignificant it may seem, we need to know everything the public knows about this," he said.

Anyone who has information about these cases is asked to call 866-411-TIPS.

Ex-La. Judge Gets Prison In Bond Scheme (FINDLAW/AP)

By Alan Sayre, Associated Press Writer

AP, February 10, 2006

(AP) - NEW ORLEANS-A former state judge who was tried for allegedly accepting bribes from a bail bonding company was sentenced Thursday to more than four years in federal prison for mail fraud.

Alan Green was accused of taking $20,000 in cash, golf trips and meals from the company in return for reducing the bonds of dangerous criminals to levels they could afford. That way, Bail Bonds Unlimited could collect hefty fees for guaranteeing their court appearances.

Green was convicted of a single charge of mail fraud after being tried on charges relating to the bribery allegations. The jury could not agree on the other charges: four more counts of mail fraud, one of mail fraud conspiracy and one of racketeering conspiracy.

Federal Judge Lance Africk told Green his conduct endangered citizens. "Bail Bonds Unlimited saw a for-sale sign on your office," Africk said.

Green apologized for "impugning the integrity of the bench" but denied taking any bribes, saying he was manipulated through a friendship with an accountant for the company.

Green served on the state district court in the New Orleans suburb of Jefferson Parish until his conviction last year. He was the 14th defendant convicted in the FBI's investigation of courthouse corruption in the parish.

Green Sentenced To 51 Months (NOTP)

By Michelle Krupa, West Bank bureau

New Orleans Times-Picayune, February 10, 2006

Defiant to the end of prosecutors' claim that $10,000 in cash payments that he received from Bail Bonds Unlimited were not bribes, former state Judge Alan Green was sentenced to 51 months in prison Thursday in New Orleans' federal court, becoming the second judge to wind up behind bars in the Jefferson Parish courthouse corruption scandal.

Before delivering a scathing rebuke of Green's exploitation of his post as an elected jurist and slapping him with a $50,000 fine, U.S. District Judge Lance Africk gave Green one last chance to admit that two $5,000 payments he got from the Gretna bail bonds firm were not "off-the-books" campaign contributions, as Green testified in his June trial, but part of the web of bribery confirmed by nine defendants who have admitted to crimes in the seven-year probe.

"Do you still contend that the two $5,000 contributions were not bribes?" Africk asked Green.

"They were not bribes, your honor, as far as I was told," Green replied. "At no time did I believe that they were, in fact, bribes."

Africk then took aim at Green, assailing his refusal to realize, even in retrospect that, the cash, gifts and meals that Bail Bonds Unlimited executives Louis and Lori Marcotte and accountant Norman Bowley showered upon him did not trigger his favorable treatment of the bond house, which included reducing or splitting bonds for violent arrestees at the specific request of the Marcottes and Bowley.

"Bail Bonds Unlimited saw a 'For Sale' sign on your office and decided to purchase it in order to maximize its profits," Africk said. "I find this sentencing to be one of the most distasteful things I have ever had to face in more than 15 years on the bench. You had all the promise in the world, and you were a role model in the community. It is beyond sad that it has to come to this."

After Africk handed down the punishment, Green declined comment other than to say that his "faith in God would carry me through." Several of his relatives, including his wife and mother, were present in the courtroom.

U.S. Attorney Jim Letten, who attended the proceeding along with about 75 observers, said after the hearing that he was insulted by Green's lack of willingness to take responsibility for the bribery that was a component of the single count of mail fraud for which jurors found Green guilty. The jury hung on six other charges, including one under the potent Racketeer Influenced and Corrupt Organization act, or RICO.

"Of course, I'm offended," Letten said. "Anyone with a single brain cell will understand that in the face of ... (wiretapped) conversations that showed the context in which these payments transpired that these cash payments were clearly bribes.

"For Alan Green to stand before God, country and a federal judge and assert that his conduct was not bribery is something that flies in the face of common sense and, as (chief prosecutor) Mike Magner said, made his skin crawl," Letten added.

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Green, who faced a maximum 20 years in prison and a $250,000 fine, apologized during the hearing for "impugning the integrity of the court in Jefferson Parish."

"I unwittingly and unintentionally placed myself in a situation where I was manipulated by the bail bond company," Green said. "Today I stand before you as many people have stood before me. I've always expected them to be accountable to my court, ... and I am prepared to accept whatever sentence you deem is appropriate."

That punishment was elevated beyond the 33 to 41 months recommended by the court's probation office because Africk agreed with prosecutors' argument that Green lied on the witness stand when he maintained his assertion that the cash he took from Bail Bonds Unlimited, plus $800 in cash from Gretna lawyer W.J. LeBlanc, were not bribes but campaign contributions, even though they far surpassed donation limits in state law.

Africk said Green, who spent six years as a prosecutor before becoming a judge in 1992, was "too smart" not to realize the bribery.

Indeed, Green's lead defense attorney, Frank DeSalvo, told Africk that he begged his client after the jury verdict to "just say (the payments) were bribes" in an attempt to earn leniency. But Green refused, saying that admission would have been a boldfaced lie, DeSalvo said.

In suggesting to Africk that Green should go to prison for as long as 87 months based on federal guidelines, Magner implored the court not to consider as "a ceiling" the 46-month sentence of Ronald Bodenheimer, the only other judge to be sent to jail in the ongoing Operation Wrinkled Robe investigation.

Bodenheimer "accepted responsibility for his wrongdoing;" entered a plea deal with prosecutors, avoiding an expensive trial; and provided crucial information during at least 10 debriefing sessions that led directly to the indictment and subsequent plea deals of the Marcottes, who ultimately admitted orchestrating the corruption scheme, Magner said.

But DeSalvo said Bodenheimer only pleaded guilty because he "folded under the pressure" of the government's continuing probe. Bodenheimer also admitted to other crimes, DeSalvo said, including conspiring to plant drugs on a critic of his business and rigging the child custody case of millionaire restaurateur Al Copeland, which was assigned to his court.

"To compare Judge Green to Judge Bodenheimer would be like comparing a sinner to the devil," he said.

But prosecutors contended that Green's actions injured justice on several levels, from the innocent victims who were harmed by violent arrestees whom Green helped usher out of jail, to the public's tarnished impression of the Jefferson Parish bench.

"Hardly a day goes past when I don't get a call from some litigant" expressing doubts over the "fairness or accuracy" of some judgment rendered by Bodenheimer, Green or other jurists of the 24th Judicial District Court, Magner said. "This has caused the entire public to question the validity of a system that separates this society from chaos."

Letten went a step further, saying misdeeds such as those perpetrated by Green cast a cloud over the entire justice system and on politicians in general. That unfair perception, he said, has been ridiculed by some federal lawmakers and may affect how much money Louisiana receives to recover from Hurricane Katrina.

"This kind of conduct ... undoubtedly has had an affect on how our region is perceived," Letten said.

Green, a Democrat from Marrero, first was elected in 1992 to the 24th Judicial District Court's black-majority district, which was created that year. He was re-elected four years later and in September 2002 won a third term, even though he had been identified publicly two months earlier as a subject of Wrinkled Robe.

He continued to hear cases into the fall of 2004, when he was indicted, along with Bowley, who avoided trial by pleading guilty in June to a lesser crime; Bowley was sentenced last week to 20 months behind bars.

Green resigned from the bench in August, several weeks after his conviction, and DeSalvo said this week Green also has voluntarily relinquished his law license.

With Thursday's sentencing, Green became the fifth Louisiana judge, and the third in Jefferson Parish, to be sent to prison in the past two decades, according to the state Supreme Court. Before Bodenheimer, 1st Parish Court Judge Bruce Naccari of Metairie was sentenced in 1996 to 18 months for wire fraud charges related to his family's defunct insurance company.

Green was the 14th defendant to be nabbed by Wrinkled Robe and the only one to risk trial rather than ink a plea agreement with prosecutors. The list includes Jefferson Parish Sheriff's deputies, who also admitted accepting bribes from Bail Bonds Unlimited in return for helping the company secure clients, as well as players in Bodenheimer's various schemes.

The government issued another round of grand jury subpoenas in August. Judges on the list were Louisiana 5th Circuit Court of Appeal Judge Susan Chehardy, state Judge Kernan "Skip" Hand, Justice of the Peace Steve Mortillaro of Jefferson's 5th Justice Court and state Judge Steve Windhorst.

But Letten said Thursday that though prosecutors still are hunting any sign of public corruption in Jefferson, the Wrinkled Robe soon may be headed for the judicial closet.

"Much of the investigation has been successfully concluded," he said.

Andrea Shaw contributed to this report.

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Pressured, Director Of Getty Trust Steps Down (NYT)

By Randy Kennedy And Carol Vogel

The New York Times, February 10, 2006

The president of the J. Paul Getty Trust in Los Angeles, one of the world's richest art institutions, resigned under pressure yesterday amid growing questions about his improper use of the trust's money.

The trust said that the president, Barry Munitz, whose travel and expense spending are under investigation by the California attorney general's office, would be required to repay the trust $250,000 and would not be given a severance package. The money was an estimate of what the trust felt Mr. Munitz owed because of perks, expenses and other costs that should not have been charged to the trust during his eight-year tenure, trust officials said.

"It's more judgment than it is precise mathematics," John H. Biggs, the board's chairman, said of the figure, adding that because the attorney general's investigation was continuing, he could provide few details about Mr. Munitz's departure and could not answer other questions about his practices.

He added, however, that "as far as the Getty Trust is involved, Munitz has resolved these issues" with the payment of $250,000, and that the board did not believe Mr. Munitz did anything improper under the laws that govern nonprofit trusts.

"He's still at risk that the A.G. may see it otherwise," Mr. Biggs added, referring to the state attorney general, "and there's no way that we as trustees can give him any assurance."

Mr. Munitz's departure represents a major reversal for one of the most powerful leaders in the art world, who controlled an institution with an endowment of more than $5 billion. The trust's board of trustees — many of whom are Mr. Munitz's friends and allies — had steadfastly stood by him, even as questions about his leadership and about other troubles at the trust mounted over the last several months.

Citing confidentiality agreements, the trust gave few specifics yesterday about the exact reasons for Mr. Munitz's departure. Mr. Biggs said that Mr. Munitz informed the trust of his decision to leave last weekend at a board meeting. "It was Barry's decision to get on with his life and not to have this hanging over him," he said.

But one former Getty employee with knowledge of the attorney general's inquiry said that investigators were looking into several instances in which Mr. Munitz had authorized grants or uses of the trust's money without obtaining proper approval. In some cases, the former employee said, the money was spent on pet projects of Mr. Munitz's — one involving chess, which he loved — that had very little to do with the Getty's mission. The trust said yesterday that Mr. Munitz would not be available for comment.

For the last several months, the Getty has been under siege on several fronts. Its former antiquities curator, Marion True, is now on trial in Italy on charges of trafficking in looted antiquities. She resigned last October amid questions about possible improprieties involving a real estate deal.

Allegations that Mr. Munitz may have abused his expense account with luxurious travel and perks, first reported in The Los Angeles Times last June, led to the wide-ranging investigation by the attorney general into the trust's finances and also led the Getty to set up its own internal committee to look into questions about the trust's practices.

In interviews, Mr. Munitz has defended his actions and his spending, saying that his job required him to court powerful collectors and donors around the world. He has also stressed that trust's board had approved all his expenses, including first-class air travel, stays at five-star hotels and a leased Porsche Cayenne.

Both the attorney general and the internal committee are also examining a 2002 real estate deal between the Getty and Eli Broad, a billionaire investor who is a friend of Mr. Munitz's.

In an interview last fall, after the attorney general's investigation was announced, Mr. Biggs said he believed Mr. Munitz had "really done a terrific job," though he added that he had warned Mr. Munitz about travel expenses, including yacht trips with Mr. Broad in Greece and Eastern Europe for which Mr. Munitz was partially reimbursed by the Getty.

Mr. Biggs, a former chief executive of TIAA-CREF, the investment fund, said the trips should have been treated as vacations, not business trips. "Barry and I have had a discussion about that," Mr. Biggs said at the time, adding, "Every time he spends some money we want him to take a hard look at it and ask himself whether he would want that spending published."

The Getty Trust includes the J. Paul Getty Museum in Los Angeles, a research institute, a library, an art conservation program and a grant-making office. The museum instantly became one of the world's wealthiest in 1982, when it received the estate of the oilman J. Paul Getty, giving it six times more money than its next-richest American sibling, the Metropolitan Museum of Art.

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Over the next two decades, the Getty grew significantly, spending hundreds of millions of dollars to enlarge its collection. But many critics say it has failed to live up to its early promise, a problem even before Mr. Munitz's arrival.

Mr. Munitz, a former business executive and chancellor of the California State University system who is well-connected in California political circles, has been one of the nation's best-paid executives of a nonprofit institution, with salary, benefits and perks totaling more than $1 million.

Federal Directive Targets Risky Mortgage Practices (WT)

By Patrice Hill

The Washington Times, February 10, 2006

Third of three parts

Federal banking agencies, concerned about the potential for abuses in mortgage lending, are going after the worst practices in the industry.

A directive last month from the Federal Reserve and four other federal agencies targets the proliferation of loans offering interest-only payments for extended periods and adjustable-rate mortgages that offer the option of paying interest only, making a minimum payment each month or adding in principal. That includes about half of all mortgages made last year.

Regulators say they are particularly concerned that some loans not only do not pay down principal, like a traditional mortgage, but they also increase the amount of principal that a consumer must pay by as much as 100 percent through "negative amortization."

The regulators also expressed concern about the growing practice of "layering" risky mortgages on top of already dicey lending practices, such as requiring no down payment or proof of income from borrowers.

The regulators said banks that offer such loans will be held accountable for making full disclosure of the risks to consumers.

But many inside and outside the mortgage industry question how much impact the banking directive will have, because so many mortgage brokers operate outside the banking system. Only those that are subsidiaries of banks would seem to be affected.

"Banking regulators actually have fairly minimal control or even influence over a huge portion of our economy," said Christopher Cruise, a Washington mortgage broker and trainer for the Mortgage Training Institute.

"I'm not saying we're thumbing our nose at the regulators," he said. But "if I'm a street-level originator licensed by the state of Maryland generating 20,000 loans in a year, and I find rich investors to buy them, nothing the [Office of the Comptroller of the Currency] says has any impact on me."

Mortgage companies such as Countrywide, the biggest nonbank lender in the country, appear to be unaffected, he said.

"I think they own a bank, I don't think the bank owns them. They sell their mortgages to Wall Street," he said.

'Empire of debt'

Although mortgage brokers perceive few limits on current practices, many nevertheless are concerned about the massive debts they see borrowers take on to buy houses and maintain affluent lifestyles.

Mortgage brokers in California report that some borrowers in recent years have been making a living by taking advantage of soaring housing prices and "flipping" real-estate investments — buying and selling them in rapid succession — while using equity loans on the properties as "income."

The practice could amount to mortgage fraud if the borrowers disguised the source of their "income" on their loan applications, the brokers said.

Mr. Cruise noted that debt appears to be addictive for some consumers who simply cannot save or go without lavish things. Some will refinance their mortgage at Christmastime, for example, so they can splurge on expensive presents.

"I feel like a drug dealer," he said. "I'm horrified at the empire of debt we're creating."

Mr. Cruise said some of his customers are so intent on getting loans, they won't take "no" for an answer. "We're enablers. We're just middlemen. In a sense, we profit from their foolishness."

Most mortgage brokers follow the disclosure requirements of the Truth In Lending Act, which specifies, among other things, that the full cost of the loan — principal plus interest — must be clearly spelled out to consumers before they sign the mortgage contract.

But Mr. Cruise said many consumers never bother to read the disclosures. With today's complex and sophisticated loan instruments, the old guidelines are inadequate and consumers are not getting the disclosures they need to make well-informed decisions, he said.

The law does not specify, for example, that lenders must disclose how much monthly payments may rise when rates are fully adjusted and principal is added under a worst-case scenario.

Most mortgage brokers today are in their 20s or early 30s and have not lived through a deep recession or other "worst-case scenario" in their adult lives, Mr. Cruise said.

"I'm not sure the loan officers themselves know what could happen" if rates rise precipitously or the economy plunges, he said.

Distant control

The federal banking directive specifies that lenders should disclose the terms of fully indexed loans to borrowers.

But Jack M. Guttentag, a retired professor from University of Pennsylvania's Wharton School of Business who sponsors a mortgage education Web site, mtgprofessor.com, said it's not clear whether the guidelines will change anything.

"What a broker or loan officer tells a borrower is pretty much up to them, so long as they comply with the disclosure laws," which don't prohibit most current practices, he said. "That is part of the market culture, and the regulators would have their hands full trying to change it."

Mortgage brokers also are right to question whether the directive applies to them, because the Federal Reserve has, at best, distant control over what the nonbank subsidiaries of bank-holding companies do, he said.

Deborah Lagomarsino, a Fed spokeswoman, declined to say whether or how the Fed would ensure that its directive is followed by the many mortgage companies not directly regulated by the Fed.

In any case, the guidance is too vague to be of much help to lenders that have established guidelines that detail the credit scores, loan-to-value ratios and other standards that borrowers must meet for loans.

"Sending me a bunch of homilies about how important it is to be careful of this or that will leave me unimpressed," Mr. Guttentag said. "If you really want me to take notice, show me where my guidelines fall short."

Because of the light regulation and demonstrated abuses, Mr. Guttentag has established a program to certify mortgage brokers and lenders in order to separate the unethical ones from "upfront" ones who disclose their fees and essential borrowing information.

"Many potential borrowers are shocked to discover that there is no registry of bad apples — and no system to certify good ones," he said.

One of the commitments a mortgage lender must make to be certified under Mr. Guttentag's program is to disclose what will happen to monthly payments in worst-case scenarios.

Some financial analysts say the banking directive will have a definite impact on banks as well as on investors who have been using interest-only loans to purchase property.

David Lereah, chief economist with the National Association of Realtors, says he expects the directive particularly to discourage speculators who "flip" properties in transactions that require minimal down payments and liberal loan terms.

"There will be fewer investors in the market this year," he said.

Sources: Gretzky Knew Of Gambling (PHI)

By Jennifer Moroz

The Philadelphia Inquirer, February 10, 2006

TRENTON - State wiretaps recorded hockey legend and NHL coach Wayne Gretzky talking about a sports gambling ring allegedly run by his assistant, former Flyer Rick Tocchet, two New Jersey law enforcement sources confirmed yesterday.

As part of a probe into what state law enforcement officials have described as a nationwide, multimillion-dollar illegal bookmaking operation, investigators are looking into whether Gretzky - coach and part-owner of the Phoenix Coyotes - placed any bets through his wife, Janet Jones, the sources said on condition of anonymity.

Gretzky, who has not been accused of wrongdoing, denied any involvement.

"If I had made one bet, I would have quit the Coyotes," Gretzky told the East Valley (Ariz.) Tribune before last night's game with the Dallas Stars. "I would never embarrass the team or the organization. If I had made one bet, I would have quit Team Canada. I would never embarrass them.

"There's nothing for me to hide from."

This week, sources confirmed that Jones and former Flyers center Jeremy Roenick, now with the Los Angeles Kings, were among several high-profile figures - including at least a half-dozen former and current NHL players - who had placed bets with the five-year-old gambling operation.

New Jersey state officials say that the ring accepted wagers on college and professional sports - mostly football and basketball - and that there was no evidence of any bets on National Hockey League games.

The Star-Ledger of Newark, citing unidentified law enforcement sources, first reported yesterday that state investigators had recorded Gretzky talking about the ring. The newspaper also reported that Jones bet $500,000 during a recent six-week period, including $75,000 on the Super Bowl.

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"At no time did I ever place a wager on my husband's behalf, period," Jones said in a statement provided by the Coyotes last night, which did not address her own possible involvement. "Other than the occasional horse race, my husband does not bet on any sports."

After the Coyotes' 5-1 loss last night, Gretzky said he still planned to attend the Turin Olympics as Team Canada's executive director.

"I'm still going to coach the Phoenix Coyotes. I've done nothing wrong," he said. "I'm going to Italy on Sunday. I'm going to be with Team Canada."

State police officials said investigators were interviewing the biggest bettors to determine whether they had engaged in any criminal activity. None has been accused of any wrongdoing.

So far, the only people charged in connection with the operation are Tocchet, who played for the Flyers from 1984 to 1992 and again from 1999 to 2002; his alleged partner, James Harney, a state trooper from Marlton who officials say accepted wagers while on patrol; and James Ulmer of Woolwich, who investigators said helped the pair taking bets.

The three men are scheduled to be arraigned Feb. 21 on charges of promoting gambling, money laundering and conspiracy in state Superior Court in Burlington County.

Attorneys for Harney and Tocchet - who is on indefinite leave from his job as a Coyotes associate coach - have called the charges overblown and irresponsible. Roenick has not commented.

On Tuesday, the day state officials announced the charges against Tocchet and Jones' name surfaced as a bettor, the Great One said he "wasn't involved."

"The reality is, I'm not involved, I wasn't involved, and I'm not going to be involved," Gretzky said. "Am I concerned for both of them [Jones and Tocchet]? Sure, there's concern from me. I'm more worried about them than me. I'm like you guys, I'm trying to figure it all out."

Elliot Mintz, a spokesman for Jones, said in a statement that she might be called as a witness before a New Jersey grand jury.

Some law enforcement officials quietly predict that federal authorities will step in to investigate numerous possible violations of federal law.

Michael Drewniak, a spokesman for the U.S. Attorney's Office in New Jersey, said the FBI had assisted state police "concerning interstate aspects" of the investigation, but that federal involvement had been minimal so far.

"At this time, this remains very much a state case," he said. He declined further comment.

Gretzky's Wife: 'Great One' Didn't Gamble (USAT)

By Kevin Allen, Usa Today

USA Today, February 10, 2006

Actress Janet Jones said Thursday that she never placed a wager on behalf of her husband, Phoenix Coyotes coach Wayne Gretzky, and Gretzky said he's "done nothing wrong, nothing that has to do with betting."

Addressing a betting scandal that led to the arrest of Coyotes associate Rick Tocchet, she released a statement, saying, "Other than the occasional horse race, my husband does not bet on any sports."

Reached by phone by USA TODAY, Jones said the statement would be her only comment: "I would like to say a thousand things, but I can't."

After the Coyotes' 5-1 loss to the Dallas Stars in Phoenix, Gretzky said he "felt like I've defended myself against something that absolutely didn't happen."

Jones' statement comes as the Associated Press, citing a person with knowledge of the investigation, reported Gretzky had been recorded on a wiretap talking to Tocchet about how Jones could avoid being implicated in the case.

According to that news report, Jones allegedly bet $100,000 on football games over the course of the investigation. The report said there was no evidence Gretzky bet on games.

USA TODAY could not independently confirm Gretzky was recorded on a wiretap.

FBI spokesman Rich Kolko confirmed the bureau was asked Thursday to assist in the case.

According to The Arizona Republic, citing two NHL officials with knowledge of the investigation, Coyotes general manager Mike Barnett, Gretzky's former agent, bet on the Super Bowl with Tocchet.

Barnett said in a statement he cooperated with investigators in New Jersey and "they informed me my conduct in no way violated federal or state laws."

Gretzky said he will travel to Italy to serve as executive director of Canada's Olympic men's hockey team.

David Gourevitch, a former prosecutor who now specializes in defending white collar cases, called the leaks about Gretzky "inappropriate" and "salacious" and does not prove that Gretzky committed a crime.

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"They are leaking stuff that they know is inflammable and will garner publicity," says Gourevitch. "But it is not clear what they are leaking violates a law. It's not a crime to know that some else is engaged in a crime," he adds. "There is no snitch obligation and there doesn't seem to be as yet a suggestion that Gretzky was placing bets or personally involved in this."

Team Canada and Coyotes officials say Gretzky plans to travel to Italy to serve as executive director of the Olympic men's hockey team.

The New Jersey attorney general said Thursday that arraignment hearings for the trio charged in "Operation Slapshot" will be Feb. 21.

Tocchet, James Harney and James A. Ulmer all face charges of money laundering, promotion of gambling and conspiracy, while Harney, a New Jersey state trooper, has the added charge of official misconduct because he allegedly committed these acts while acting as a public servant.

The reaction around the hockey world is that it's shocking even to have Gretzky's name associated with the scandal.

"When I played with and against Gretzky, I viewed him as a player who understood what he meant to the game and always put the game first," said former NHL player Tom Laidlaw, who played with Gretzky in Los Angeles. "He was always concerned about his image, and I mean that in a good way. And Janet struck me as someone who also understood who he was and how important it was to him to have the proper image."

Contributing: Adam Shell, Kevin Johnson

Gretzky Taped Trying To Aid Wife (WT/AP)

By Angela Delli Santi And Geoff Mulvihill

The Washington Times, February 10, 2006

TRENTON, N.J. -- Wayne Gretzky was recorded on a wiretap talking to the man suspected of financing a gambling ring, discussing how the hockey great's wife could avoid being implicated, a person with knowledge of the investigation told the Associated Press yesterday.

Mr. Gretzky, coach and part owner of the Phoenix Coyotes, can be heard on wiretaps made within the past month talking about his wife with assistant coach Rick Tocchet, the person said, speaking on the condition of anonymity because the investigation was ongoing.

Mr. Gretzky's wife, actress Janet Jones, purportedly bet at least $100,000 on football games over the course of the investigation by state authorities, the person said.

There is no evidence that Mr. Gretzky placed any bets, according to the person.

"At no time did I ever place a wager on my husband's behalf, period," Mrs. Jones said in a statement provided by the Coyotes last night. "Other than the occasional horse race, my husband does not bet on any sports."

Authorities say from Dec. 29 through Feb. 5 -- the day of the Super Bowl -- bettors placed $1.7 million in wagers with the ring run by a New Jersey state trooper, Mr. Tocchet and a South Jersey man. All face charges of promoting gambling, money laundering and conspiracy and are scheduled to be arraigned in Superior Court in Mount Holly on Feb. 21, the state Attorney General's office said yesterday.

Mrs. Jones has not been charged.

Elliot Mintz, a spokesman for Mrs. Jones, said in a statement that she may be called as a witness before a grand jury in New Jersey.

"Janet is merely one of a number of witnesses, and there is no allegation whatsoever that Janet has violated any law," he said.

Investigators are looking into whether anyone involved in the five-year-old ring, which authorities say had a connection to organized crime in Philadelphia and southern New Jersey, bet on National Hockey League (NHL) games. Mr. Gretzky is not the main focus of the probe, the person said.

The Star-Ledger of Newark, citing unidentified law-enforcement sources, first reported a wiretap involving Mr. Gretzky in yesterday's newspapers. The newspaper also reported that Mrs. Jones bet $500,000 during the investigation, including $75,000 on the Super Bowl.

Earlier in the week, Mr. Gretzky denied any involvement in the ring. Mr. Gretzky did not attend the Coyotes practice in Phoenix yesterday.

Lawyers involved in the case said details of the three-month investigation should not be made public.

"I have never been involved in a case where the prosecution has engaged in such inappropriate conduct in terms of making investigators available to the press, appearing on nationally syndicated television," said Kevin Marino, a lawyer for Mr. Tocchet, who was granted an indefinite leave from the NHL on Wednesday. "It's improper, it's unwarranted, and I will not tolerate it."

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Attorneys for all three men charged in what authorities have dubbed "Operation Slapshot" said they will fight the charges.

"This case will not be a guilty plea," said Charles A. Peruto Jr., who is representing James Ulmer. Mr. Ulmer and Trooper James Harney are accused of taking wagers and cuts of the bets.

The accusations have sent shock waves through the hockey world.

State investigators said they will interview more hockey players who were thought to have placed bets, in part to determine whether there was any gambling on hockey. So far, authorities say, they do not have evidence that there was.

The NHL has hired Robert Cleary, a former federal prosecutor who handled the Unabomber case, to investigate.

Mr. Cleary said yesterday that he was not sure how long his work might take, in part because he wants to stay out of the way of law-enforcement agents who are continuing to investigate.

Hockey players are prohibited from making NHL wagers, legal or otherwise. There are no rules that forbid them from placing legal bets on other sports.

Task Force Run By FBI Unmasks Identity Thieves (SLT)

By Pamela Manson, The Salt Lake Tribune

Salt Lake Tribune, February 10, 2006

Matthew Rodney Page, of Kaysville, surfed the Internet to find someone with his name and a similar date of birth to help get himself $42,000 in auto loans, two new credit cards and the fee for flying lessons.

Bryan Nelson Hansard, of Bountiful, "washed" stolen checks - removed the ink with chemicals, then rewrote the dollar amount or recipient - and deposited them into his own bank accounts.

These Davis County residents are part of a trend of using the names and financial information of others to steal money and merchandise. As the offense started to become more prevalent, authorities set up the Utah Identity Theft Task Force (ITTF), which operates as part of the FBI's Joint Terrorism Task Force.

Since its inception in November 2004, "the task force has been a resounding success," said Kathy Roberts, inspector in charge of the U.S. Postal Inspection Service's Denver division, which includes Utah.

At a recent news conference in Salt Lake City, Roberts and other officials ticked off Utah ITTF statistics from the past 15 months - 190 investigations launched; 1,366 victims of identity theft identified; about 150 indictments returned with convictions won in 127 of them so far; and more than 25 training sessions held on fraud prevention for law enforcement agencies, community groups and merchants.

Identity thieves use stolen information to obtain credit cards, cash checks made out to others, take out loans, collect tax refunds due to another taxpayer and get a driver license or passport under a false name. In addition to cheating merchants and banks, they cause financial hardship to their victims, who often are left with bad credit ratings that take a long time to correct.

The majority of cases handled by the identity theft task force involve "mailboxing," the stealing of checks, credit cards and other items from mailboxes. Thieves using someone else's personal information to get a credit card is the next biggest category.

Among the ways scam artists find information is by going through customer records at their own jobs or by pretending to be salespeople in telephone calls.

Identity thieves run the gamut from individuals to members of street gangs to white collar criminals, according to Timothy Fuhrman, special agent in charge of the FBI's Salt Lake City office.

Advertisement

Fuhrman and Paul Warner, who recently stepped down as U.S. attorney for Utah to become a federal magistrate, said many thieves are drug addicts trying to support their habit.

Punishment for identity theft-related crimes can be stiff. Aggravated identity fraud carries a minimum mandatory sentence of two years, which must be served after all sentences are served.

Other maximum terms are 30 years for bank fraud; 15 years for identity theft; 10 years for possession of stolen checks; and five years for conspiracy to commit identity fraud and possession of stolen mail.

Page, 40, pleaded guilty and was sentenced Feb. 1 to one month in federal prison for bank fraud and two years for aggravated identity theft.

Hansard, 35, who admitted committing bank fraud, was sentenced last year in U.S. District Court to 18 months behind bars.

ITTF members include the FBI, U.S. Postal Inspection Service, Secret Service, Utah Attorney General's Office, Department of Corrections, Department of Public Safety, Ogden Police Department, Salt Lake County Sheriff's Office and the U.S. Attorney's Office. Numerous local law enforcement agencies also participate in investigating identity theft crimes.

Protect yourself

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Even people who are careful with their personal information can be victimized by identity theft, but these tips from the U.S. Postal Inspection Service can help.

* Review your consumer credit reports annually.
* Shred and destroy unwanted documents that contain personal information.
* Deposit mail in U.S. Postal Service collection boxes.
* Do not leave mail in your mailbox overnight or on weekends.

More suggestions on how to avoid identity fraud are posted at http://www.usps.com/postalinspectors.

Decker Takes 5th Amendment (WINSJ)

By David Rice, JOURNAL RALEIGH BUREAU

Winston-Salem (NC) Journal, February 10, 2006

Former member of House declines to testify before hearing into possible illegal campaign donations

RALEIGH -- Former state Rep. Michael Decker took the Fifth Amendment yesterday, citing his right against self-incrimination as he declined to testify about campaign donations he got from optometrists after he switched parties in 2003 to help optometrist Jim Black remain speaker of the House.

"We have advised Rep. Decker ... to rest upon his Fifth Amendment rights," David Freedman, Decker's attorney, told Larry Leake, the chairman of the State Board of Elections after Leake called on Decker to testify. The elections board is investigating possible illegal donations from optometrists and the video-poker industry to the Black and Decker campaigns. A federal grand jury is also investigating, and several optometrists said they have been interviewed by the FBI and U.S. Treasury agents.

Although Black initially testified yesterday that he couldn't recall handling blank checks provided by his fellow optometrists, he later acknowledged to the elections board that he filled in Decker's campaign as the payee on at least three of the checks.

"I don't remember seeing blank checks - unless they were in an envelope, sealed, with somebody's name on it," Black said at first.

Then Leake handed Black a copy of a $4,000 check made out to Decker's campaign from M. Scott Edwards of Murfreesboro, the treasurer of the N.C. Optometric Society, along with two $100 checks from Gary Roach, an optometrist from Morrisville.

Black acknowledged that it was his handwriting that designated Decker's campaign as the payee. But Black and his attorneys argued that the donations were not illegal under state law.

"The law specifically allows ... for the donor to fill out a check and leave the determination of who it goes to until another time," said Kenneth Bell, one of Black's attorneys. "The law specifically allows for that."

Black acknowledged that he urged optometrists and others to support Decker with campaign donations when Decker, a Republican from Walkertown, switched parties in January 2003, creating a 60-60 tie in the House that allowed Black, a Democrat, to remain speaker.

"I encouraged a lot of people to give to Mr. Decker," Black said. "I knew he was going to be under siege. If he was going to survive politically, he needed to build a war chest."

After returning to the GOP, Decker was soundly defeated in the 2004 Republican primary.

Black gave an impassioned defense of his actions to help raise campaign money for Decker, but he denied giving Decker money in return for his party switch.

"I want to right here, right now, under oath, tell you that I never gave Michael Decker anything to change parties or to vote for me or for any other political purpose," Black said. "There was nothing offered to him, nothing promised to him. He changed parties because I'd always treated him with respect and dignity, and his own party didn't.

"Now, if Michael Decker's on my team - and he was the newest, very important member of my team - I don't want Michael Decker to get beat in the next election. So I want to help him raise funds, as I do all the people on my team - Democrat and Republican," Black testified.

Leake read a quotation from a 1991 newspaper article in which Black was quoted as saying that he would ask optometrists to form a political-action committee and stop the practice of sending checks with the recipients' names left blank.

"I'm going to make a proposal that we not send a check anywhere that's not filled out," Black was quoted as saying at the time.

But yesterday marked the second day of testimony from optometrists who said they had given the N.C. Optometric Society PAC dozens of checks that they signed but left the "payee" line blank.

Many of the checks found their way to Decker's campaign, and, in some cases, were made out to Decker personally and appeared to have been cashed.

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David Freeman, an optometrist in Winston-Salem, said he occasionally got checks from Edwards, the optometric PAC's treasurer, with instructions to pass them along to Decker.

Leake showed J. Michael Burke, another optometrist from Winston-Salem, two $100 checks from Burke that had personally been made out to Decker.

"That was not the intent of the contribution," Burke replied.

"They came in an envelope. I'd just add my own check and forward it on to Mike," Freeman said.

Edwards, too, cited his Fifth Amendment rights and declined to testify yesterday.

Although Black said that personal donations were a way to keep optometrists personally involved, several of the optometrists who provided blank checks that ultimately went to Decker or his campaign said they did not know Decker.

"I've heard maybe three or four say they knew who Michael Decker was. So how are these people involved if their money goes to somebody they don't know from Adam's housecat?" asked Chuck Winfree, a Republican member of the elections board from Greensboro.

Lorraine Shinn, a Republican board member from Greenville, pointed to the $4,000 check from Edwards and the optometrists' PAC on Jan. 15, 2003, that went to Decker's campaign - nine days before he switched parties.

"That, to me, is buying a vote in this situation," she said.

Black said that Decker told him that Black had Decker's vote for speaker in mid-November 2002, two months before he actually switched parties.

Board members grew frustrated with what they considered evasive answers.

When Michael Haines, an optometrist from Four Oaks, asked the difference between "probable" and "possible," Winfree erupted.

"Four years ago we had hearings and we had witnesses in the Meg Scott Phipps matter, and we had witnesses sitting there evading answers, and they are now in the custody of the federal marshals," Winfree said.

"That's a threat," said Press Millen, an attorney for the optometrists. "I think that's a totally inappropriate thing that he said."

The hearing will enter its third day today, and Leake said that it will have to resume later because testimony on the video-poker portion of the investigation has not begun.

The board could take action on the optometrist investigation today, and Leake made it clear that he thinks that the optometrists have run an illegal PAC through their separate "legislative committee."

"I believe that there is a significant likelihood that there were illegalities on the part of certain individuals or parties," he said.

But Leake said that the board decided not to offer Decker immunity from civil penalties in order to get him to testify before the elections board.

"This board has enjoyed what I would call unparalleled cooperation from the U.S. Attorney's Office ... and from the office of the district attorney," he said. "While we have that power, we are being very careful that we do not frustrate any investigation or any activities that they have ongoing."

Convicted Torture Killer Of 19-year-old Girl Executed (FINDLAW/AP)

By Michael Graczyk, Associated Press Writer

AP, February 10, 2006

(AP) - HUNTSVILLE, Texas-A paroled burglar who claimed he wanted to be a serial killer of minorities was executed Wednesday night for the torture-slaying eight years ago of a 19-year-old mentally impaired woman who once worked with him.

Robert Neville Jr., apologizing profusely, addressed his victim's mother by name as she and her two daughters stood close to the glass with their arms around each other. He expressed love to them.

"I hope you can find it in yourselves to forgive me and I hope all this here will kind of settle your pain. And I hope the Lord will give you comfort and peace. I just want you to know I am very sorry for what I have done," he said.

Referring to his victim, Amy Robinson, 19, Neville, said, "If I see Amy on the other side, I will tell her how much you love and miss her. And we will have a lot to talk about."

Neville then turned toward his parents, who watched through an adjacent window.

"I am sorry for putting you through all this pain and stuff," he said. "I love you all and I will see you on the other side."

Seven minutes later at 6:19 p.m. CST, he was pronounced dead.

Neville, 31, was the third prisoner executed this year and the first of three over the next 15 days in the nation's most active capital punishment state.

Neville and a companion, Michael Wayne Hall, were condemned for the fatal shooting of Robinson, who was abducted as she rode her bike to work at a Dallas-area supermarket. She was taken to a remote area of Tarrant County where she was shot repeatedly with a pellet gun, then killed with shots from a .22-caliber rifle as she begged for her life.

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Hall, 26, remains on death row. He does not have an execution date.

"I think they just thought of her as you would think of a cat or dog or something," said Alan Levy, the Tarrant County assistant district attorney who prosecuted the pair.

At the time of the Feb. 15, 1998, slaying, Neville had been on parole about eight months after serving two years of a 10-year prison term for burglary.

"He did mention Amy. We're really glad we came," Tina Robinson, the victim's mother, said, flanked by two other daughters. "I feel like this is a victory for Amy. We're really relieved.

"I think he really felt bad for what he did, even though it's not going to bring Amy back."

About an hour before his scheduled execution time, the U.S. Supreme Court rejected his final appeals.

His lawyers had hoped to block the execution with appeals in the federal courts that questioned whether the lethal drugs used in the punishment were humane and that Neville suffered a mental illness brought on by lupus that should disqualify him from the death penalty.

The Supreme Court has ruled mentally retarded people are ineligible for capital punishment but has not extended the blanket prohibition to the mentally ill.

Neville and Hall were arrested about two weeks after Robinson was reported missing. They were stopped at a customs checkpoint near Eagle Pass as they were trying to cross into Mexico. They told authorities they could find Robinson's body in a grassy field in the Trinity River bottoms just north of Arlington.

Robinson suffered from a genetic disorder, Turner's syndrome, a rare chromosome disorder found only in women and characterized by short stature and lack of sexual development at puberty.

She also was described as mentally challenged. Prosecutors said she was "easy prey," which is how Neville and Hall, days after their arrest, characterized their victim as they spoke with reporters and laughed about how Robinson died as she pleaded to live.

The pair had worked with her at an Arlington Kroger store before they were fired and knew the route she took as she rode her bike to work. When they offered her a ride, she accepted.

"We had a bet going to see who could shoot and kill the most people between the two of us," Neville told the Fort Worth Star-Telegram two weeks after his arrest, explaining that he and Hall wanted to become serial killers whose victims were racial minorities. "No matter if it was blacks or Mexicans - anybody as long as they weren't our color."

Robinson was part Native American.

Neville declined to speak with reporters in the weeks before his scheduled execution.

Next week, another inmate, Clyde Smith, 32, faces injection for the robbery and slaying of a Houston taxi driver in 1992.

Texas Department of Criminal Justice execution schedule: http://www.tdcj.state.tx.us/stat/scheduledexecutions.htm

Supreme Court Puzzles Some With Mixed Answers On Lethal Injection (WP)

By Charles Lane

The Washington Post, February 10, 2006

In the past two weeks, the Supreme Court stopped two executions in Florida and allowed a lower court to halt another in Missouri -- but the justices allowed three other death sentences, in Texas and Indiana, to proceed.

The court's actions are not necessarily contradictory under the law, but they have puzzled many on both sides of the debate over capital punishment because in each case the death-row inmate raised a similar issue: the legality of lethal injection as the means for execution.

In the Texas case, for example, lawyers for Robert Neville Jr. took the wording for their Feb. 8 appeal from a petition that the court had accepted 14 days earlier when it halted the execution of Clarence E. Hill in Florida. But the justices rejected Neville's bid; he was put to death Wednesday.

"We look to the Supreme Court for consistency and a policy everyone can follow, and we're not getting it from this court," said Richard Alley, Neville's lawyer. Florida Gov. Jeb Bush (R) also cited "uncertainty" about the Supreme Court's direction when he declared Feb. 1 that he will not sign any more death warrants until the court issues final rulings on the Florida cases.

"I am sure the court is trying to apply some sort of sensible standard," said Douglas A. Berman, an expert in criminal sentencing law at Ohio State University's Moritz College of Law. "But they need to do a heck of a lot better job explaining why."

The probable explanation for the court's apparent zigzag is that a majority of the court is ready to consider only a relatively narrow issue related to lethal injection. But because the court generally does not reveal more than a bare minimum of information about how and why it chooses to take up any particular matter, lawyers have only been able to arrive at this educated guess after much litigation.

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Introduced in Oklahoma in 1977 as an alternative to the electric chair, lethal injection has been adopted as the principal mode of execution by 37 of 38 death-penalty states, including Maryland and Virginia, as well as the federal government and the U.S. military. The District has no death penalty.

Yet anti-death-penalty activists argue that the dosage of anesthetic in the three-drug "protocol" used to kill capital offenders is flawed, and that, if it is administered improperly by untrained personnel, the process of suffocation and cardiac arrest caused by the other two drugs can therefore be as painful as electrocution or the gas chamber.

Their claim was bolstered by a 2005 article in the Lancet, a medical journal, but state law enforcement officials remain skeptical.

"It's sort of a legal 'Hail Mary' pass," said Joshua Marquis, prosecutor in Astoria, Ore., and a vice president of the National District Attorneys Association.

Indeed, the argument had made little headway in court until the night of Jan. 25, when the justices issued a stay of execution to Hill, the convicted killer of a Pensacola, Fla., police officer, as he lay on a gurney waiting for the flow of lethal chemicals.

The court acted without recorded dissent after first rejecting Hill's request to consider the broad issue of whether lethal injection as such is "cruel and unusual punishment."

But it did say it would hear Hill's narrower claim, which had been rejected by a federal appeals court in Atlanta: that he should have an opportunity to argue in the lower courts that Florida's lethal-injection formula, which is similar to that used in other jurisdictions, would cause him excessive pain, thus violating his civil rights.

The next day, the court's unanimity fractured. It denied a stay of execution to Indiana death-row inmate Marvin Bieghler, who was appealing the Indiana Supreme Court's rejection of his broad challenge to the constitutionality of lethal injection.

Two justices, John Paul Stevens and Ruth Bader Ginsburg dissented, signaling that they thought the court should hear the broader constitutional claim, too.

Bieghler then brought the broad claim to the lower federal courts, winning a stay of execution from the federal appeals court in Chicago. That court based its 2 to 1 decision on the Supreme Court's grant of a stay to Hill. But the majority of the appeals court said it had acted only because it was not "comfortably certain" about the meaning of the court's stay for Hill.

The next day, the Supreme Court overturned that stay -- with dissents by Stevens, Ginsburg and Stephen G. Breyer -- and Bieghler was put to death. That ruling is the clearest indication that the court is, indeed, interested only in the narrow claim raised by Hill -- that there should be a chance to raise a civil rights challenge to the injection formula.

On Jan. 31, the court granted a stay to another Florida inmate, Arthur D. Rutherford, who was in an identical position to Hill.

A day later, on Feb. 1, the court denied a stay to Texas's Jaime Elizalde Jr. -- but refused to vacate a stay for Missouri's Michael A. Taylor that had been imposed by the federal court of appeals in St. Louis. This time, Chief Justice John G. Roberts Jr. and Justices Antonin Scalia and Clarence Thomas dissented.

Taylor had raised a Hill-like narrow claim early in his appeals process but had been given only a hasty, last-minute hearing on the claim in federal district court, said Thomas C. Goldstein, a Washington lawyer who represents a Tennessee death-row inmate at the Supreme Court. This apparently prompted the appeals court to give him a stay, and a majority of the Supreme Court, including new Justice Samuel A. Alito Jr. to let it stand.

The bottom line appears to be, Goldstein said, that while the court will not block executions for those raising only a broad claim that lethal injection is cruel and unusual, it has agreed to decide whether challenges to a lethal-injection formula may be raised as a civil rights lawsuit, and is therefore blocking executions for people who have not yet had a sufficient day in court on that claim.

Meanwhile, however, it is also not stopping executions in which death-row inmates seem to be raising the narrow issue only at the last minute, to take advantage of its decision to hear Hill's case. In a 2004 opinion, the court had expressed opposition to such latecomers.

That would explain why the court denied Texas's Neville a stay of execution -- with no recorded dissents.

With 22 executions scheduled by the states and the federal government before the end of June, when the court's term ends, lower courts remain caught up in the lethal-injection issue.

In California, Angelo Michael Morales is challenging that state's injection formula before a San Jose federal district judge. His execution is set for Feb. 21.

In Maryland, Vernon L. Evans Jr. has received a stay of execution from the Court of Appeals so that it could decide several claims, related both to alleged racial discrimination and to the state's lethal-injection protocol. But his lawsuit is based on alleged violations of state rather than federal law.

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CIVIL LAW:

Judge Questions Viability Of NYC's Gun Litigation (LAW)

By Tom Perrotta, New York Law Journal

New York Law Journal, February 10, 2006

Two months after allowing New York City's lawsuit against the gun industry to proceed, a federal judge in Brooklyn suggested Wednesday the suit might be doomed by language in the appropriations bill passed by Congress last year.

In a brief order, Eastern District of New York Judge Jack B. Weinstein ordered the city to explain why its suit should not be dismissed in light of the new legislation, which bars the use of a federal database that tracks firearms as evidence in civil litigation.

The Firearms Trace System database is central to the city's suit, which alleges that gun manufacturers sell excess weapons in cities and states with weak gun laws, knowing that unqualified buyers in New York will obtain the weapons through "straw" purchases.

The city alleges that gun manufacturers know which dealers are selling weapons that are used in crimes, and it had intended to use the database to help prove its case.

Assistant Corporation Counsel Eric Proshansky, the city's lead attorney on the case, said the new legislation would force the city "to prove this case in a manner that does not require trace data" -- a far more difficult task.

The legislation was signed into law on Nov. 22, before Weinstein issued a 111-page opinion that determined the city's suit was exempt from the Protection of Lawful Commerce in Arms Act, a different law that shields gun manufacturers from civil lawsuits.

Weinstein was unaware of the appropriations legislation when he issued his order in early December. At the time, the judge stayed his ruling, and the 2nd U.S. Circuit Court of Appeals later accepted an interlocutory appeal.

Wednesday, however, Weinstein rescinded his stay, saying he still had jurisdiction over matters not involved in the appeal. He scheduled a hearing for March 3.

"Decision by this court on the effect of the new legislation may affect the nature of any appeal now pending," Weinstein wrote in City of New York v. Beretta U.S.A. Corp., 00-cv-3641, a three-page order. "To avoid any unnecessary work by the parties and the Court of Appeals this court withdraws its stay."

An attorney for the National Shooting Sports Foundation, the gun industry's trade association, objected to Weinstein's sua sponte order for a hearing. The attorney, Lawrence G. Keane, said the appropriations bill addressed an evidentiary question separate from issues pending before the circuit, and should not be considered until the appeal is completed, if necessary.

"He has no jurisdiction, and even if he does the issue is not ripe," Keane said. "The trial hasn't started."

Proshansky said it made no difference to the city whether the evidentiary issue was addressed before or after the circuit appeal. He said he was more concerned with the little-noticed language that was inserted into the appropriations bill.

"It basically says you can't use this evidence in court," Proshansky said. "What's most frustrating is to see the federal government interfering with local efforts to protect the public safety."

The city's lawsuit, now more than five years old, has received the strong backing of Mayor Michael R. Bloomberg. It alleges that gun manufacturers -- including Beretta U.S.A. Corp., Smith & Wesson Corp., and Colt's Manufacturing Company -- have created a public nuisance through the sale and marketing of weapons that are later used to commit crimes. The city is not seeking monetary damages, but wants changes to the gun industry's marketing practices. It also is seeking attorney fees.

Last year, the gun manufacturers sought to dismiss the suit after the Protection of Lawful Commerce in Arms Act was signed into law. Weinstein found that the city's claim fit into an exception made for suits that allege a knowing violation of a state or federal statute applicable to the sale or marketing of guns.

Michael L. Rice of Jones Day, which represents Colt's Manufacturing, said the defendants wish to resolve litigation through the pending appeal. "We would like to get the suit resolved on that basis," Rice said. "We think it's clear that the Protection of Lawful Commerce [in Arms] Act is the clean, direct way to end the lawsuit."

Senators Urge Major Changes To Asbestos Bill (REU-Y2)

By Susan Cornwell

Reuters, February 10, 2006

A group of Republican senators on Thursday proposed completely rewriting an asbestos bill to allow lawsuits under strict medical criteria rather than create a $140 billion fund to pay victims of the mineral.

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The new approach to resolve years of litigation over lung-scarring diseases and cancer linked to asbestos was offered by Texas Republican John Cornyn, who said he had 14 Republican co-sponsors and hoped to attract Democrats.

Cornyn's proposal is similar to a bill introduced in the House that would allow asbestos lawsuits to go forward only if claimants met certain medical standards. He introduced the plan as an amendment to a bill that would halt asbestos lawsuits and create an industry-financed $140 billion fund to pay claims.

Many critics of the fund are concerned it will run out of money, leaving taxpayers to foot the bill.

"I believe the likelihood is that the trust fund will sooner rather than later, prove unsustainable," Cornyn said.

Asbestos fibers were widely used for their insulating and fire-retardant capabilities for years. Some 70 U.S. companies, including W.R. Grace and Co. and USG Corp., have been pushed into bankruptcy proceedings by injury claims.

The asbestos fund bill on the Senate floor is sponsored by Pennsylvania Republican Sen. Arlen Specter (news, bio, voting record) -- who immediately spoke against Cornyn's proposal -- and Vermont Democrat Sen. Patrick Leahy (news, bio, voting record). Their bill would require asbestos companies and insurers to finance the fund to end all litigation.

The fund proposal has split the business community as well as senators in both parties and has struggled to gain support.

On Wednesday, Senate Democrats said their analysis of the proposed fund showed that it would run out of money and need a federal bailout to pay injury claims.

Cornyn said his proposed amendment would establish a "national floor" with respect to medical criteria. It would require physical impairment, to which exposure to asbestos was a substantial contributing factor, to bring an asbestos claim to court. Several states have passed similar legislation.

His proposal would also extend the statute of limitations for filing claims, so people who are not yet sick from asbestos can still have their cases heard if they fall ill in the future, Cornyn said. Further, the plan would attempt to limit fraud by medical screeners that vouch for claims.

Specter said medical criteria would not help injured employees of bankrupt firms because they had no one to sue.

Utah Republican Sen. Bob Bennett said support was divided for the bill because some companies, like USG, would have vast asbestos liabilities wiped out if the fund passes. Others, like Foster Wheeler Ltd, would have to pay into the fund many times what their asbestos outlays would otherwise be.

"People have done the numbers. Some say I'm better off in the tort (court) system and others say, 'I'll pay anything to get out," Bennett told the Senate.

The Coalition for Asbestos Reform, a lobbying group representing companies opposed to the trust fund, urged senators to vote for Cornyn's amendment. Its chairman Thomas O'Brien, former counsel to Foster Wheeler, said Cornyn's approach would create "a national standard that would finally bring asbestos litigation abuses under control."

Shares of companies with asbestos liabilities were mixed in afternoon trading.

Foster Wheeler was up 1.21 percent to $48.58 a share on Nasdaq. W.R. Grace was down 1 percent to $10.91 a share and USG was off 1.63 percent to $88.76, both on the New York Stock Exchange.

Asbestos Bill Meets Test, Faces New One (AJC/AP)

By Mary Dalrymple

The Atlanta Journal-Constitution, February 10, 2006

WASHINGTON — The Senate rejected an attempt Thursday to keep asbestos cases in the courts, removing one obstacle to the creation of a $140 billion trust fund for paying victims and ending their lawsuits.

Opponents quickly raised another obstacle. Sen. John Ensign, R-Nev., questioned the fund's future costs to taxpayers and asserted that the bill violates budget rules.

The bill would establish a privately funded trust fund, administered through the Labor Department, to compensate asbestos victims.

The fibrous mineral was commonly used until the mid-1970s in insulation and fireproof material. Its tiny fibers can cause cancer and other ailments when inhaled. Disease can take decades to develop.

Sen. John Cornyn, R-Texas, tried to kill the proposed trust fund and create, instead, new medical standards for bringing an asbestos case to court. He said lawmakers could weed out suits brought by people not yet sick from asbestos exposure and thin the mass of cases clogging the judicial system.

"I believe that the likelihood is far greater that the trust fund will sooner, rather than later, prove unsustainable and return us to the same broken tort system, only then leaving thousands of Americans in the wake of a failed government program wondering where to go and why they must now go back to court," he said.

The Senate voted 70-27 to shelve the proposal.

Senate Judiciary Committee Chairman Arlen Specter, the Pennsylvania Republican who sponsored the trust fund bill, said changing the standards for bringing a case to court can't help the thousands of people suffering deadly disease who have no one to sue.

Specter and other trust fund supporters say it could compensate veterans and former employees of bankrupt companies. They also argue that smaller companies could avoid bankruptcy by sidestepping lengthy court battles.

The White House gave the bill lukewarm support but expressed serious concerns about some parts of the legislation. Some critics question whether the trust fund, financed by asbestos manufacturers, users and insurers, would be emptied by claims.

Ensign said there remains the possibility that taxpayers will have to pick up the tab in future years if the trust fund runs out of money.

"I don't think that the underlying piece of legislation can be fixed to any great certainty to make sure that the taxpayers in the future aren't ending up holding a huge mess that includes a great deal of debt for future generations," Ensign said.

His objection requires 60 of 100 votes to overcome, with a vote expected next week.

Specter said private companies fill the trust fund, not the government, and that the trust fund's opponents had seized on a technicality.

"This is a convenient maneuver to defeat the bill," he said.

Forward On Asbestos (WP)

The Washington Post, February 10, 2006

IN A TRIUMPH of good sense and bipartisan cooperation, the Senate voted on Tuesday to go forward with a bill that would fix the broken asbestos litigation system. Hundreds of thousands of asbestos injury claims have already landed in the courts, contributing to the bankruptcy of more than 70 companies. Without reform, this process will drag on, triggering the bankruptcy of yet more firms, many of which have only tenuous asbestos connections, because the main firms responsible have already gone under. Meanwhile, many who are ill from asbestos-related diseases won't be able to get timely compensation or, in some cases, any compensation. Unless the bill passes, Navy veterans, for example, will go uncompensated for diseases caused by asbestos on ships. Veterans are not allowed to sue the government, and many of the shipbuilders are long since bankrupt.

The bill will be debated and amended, and it may face a second attempted filibuster before it gets a vote. Some amendment may be reasonable at the margins, but the bill's central idea -- to replace litigation with a $140 billion compensation fund to be financed by defendant companies and their insurers -- must be preserved. Democrats complain that the fund won't have enough money to compensate asbestos victims; Republicans complain that the fund will have too much money, the raising of which will constitute a burden on small and medium-size firms. The fact that the bill is being attacked from both directions suggests that its authors, Sens. Arlen Specter (R-Pa.) and Patrick J. Leahy (D-Vt.), have balanced competing interests in a reasonable manner.

Unfortunately, the bill's critics are not always so reasonable. Sen. Harry M. Reid of Nevada, the Democratic minority leader, has complained, "One would have to search long and hard to find a bill in my opinion as bad as this." He has even described the legislation as the work of lobbyists hired by corporations to limit asbestos exposure. But the truth is that the bill's main opponents are trial lawyers, who profit mightily from asbestos lawsuits and who constitute a powerful lobby in their own right. Mr. Specter and Mr. Leahy are in fact model resisters of special interests who have spent more than two years crafting legislation that serves the public interest. For Mr. Reid to demean this effort in order to fire off campaign sound bites is reprehensible.

CIVIL RIGHTS:

Ex-Officer Charged With Making Threats (NSDY/AP)

By Associated Press

Long Island Newsday, February 10, 2006

HAGERSTOWN, Md. -- The FBI on Thursday charged a former police officer with making racial, bomb and anthrax threats after he was fired by the city.

The threats began four months after Jeffrey S. Shifler was dismissed in November 2003 for falsifying payroll records, court records said.

Shifler, 41, was in custody, authorities said. He was expected to appear Friday in federal court in Baltimore. He faces as many as 10 years in prison if convicted on all counts.

No phone listing was available for him.

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Shifler made 14 anonymous phone calls and sent at least nine anonymous letters containing threats, insults or false crime reports, according to a court complaint. The threats targeted police employees and a black city council member, and such institutions as schools and public office buildings.

Many letters were on photocopied Hagerstown Police Department letterhead, the complaint alleges.

Shifler was hired by the nearby town of Boonsboro after being fired in Hagerstown. It was unclear whether he was still working there.

U.S. Files Fewer Discrimination Charges (AP)

AP, February 10, 2006

WASHINGTON (AP) - The U.S. Equal Employment Opportunity Commission filed fewer charges of discrimination against private employers last year for the third straight year.

Commission chair Cari M. Dominguez said the commission's prevention efforts through outreach and training might be responsible but added that other factors, like the economic slowdown, might also be involved. "We are pleased to see that our proactive prevention efforts may be having an impact," she said.

Commission field offices filed 75,428 charges in the 12 months ended Sept. 30, down from 79,432, 81,293 and 84,442 in fiscal years 2004, 2003 and 2002, respectively. The average complaint took 171 days to process in fiscal 2005.

During 2005, 77,352 discrimination complaints were resolved, 21.5 percent with a favorable outcome for the individual who complained, up from 19.5 percent the previous two years.

The commission obtained $380 million in compensation for those who complained of discrimination, including a record $271.6 million through mediation and other means short of going to court.

The type of complaints remained relatively unchanged from previous years: Allegations of racial discrimination remained the largest group, 26,740 charges accounting for 35.5 percent of all filings.

Sex discrimination accounted for 23,094 charges or 30.6 percent of all complaints; retaliation, 22,278 or 29.5 percent; age, 16,585 or 22 percent; disability, 14,893 or 19.7 percent; national origin, 8,035 or 10.7 percent; religion, 2,340 or 3.1 percent and equal pay, 970 or 1.3 percent. The total exceeds 100 percent because individuals may allege more than one kind of discrimination in a complaint.

In addition, there were 12,679 complaints of sexual harassment, 14 percent filed by men, and 4,449 pregnancy discrimination complaints.

EEOC enforces federal antidiscrimination laws among private employers. The Justice Department enforces those laws among government workers.

Katrina Disaster Seen As Chance To Fix New Orleans Bureaucracy (AP)

By DOUG SIMPSON, The Associated Press

AP, February 9, 2006

BATON ROUGE, La. (AP) — Hurricane Katrina created a chance to slash the city bureaucracy in New Orleans, which has two elected sheriffs, two elected clerks of court and two separate court systems, a legislative panel voted on Thursday.

The city's population has plummeted since the storm, giving critics the chance to streamline a system, stemming from the 19th century, which gives the city numerous elected positions long seen as redundant. Rep. Peppi Bruneau, a key supporter, urged colleagues to support the change, calling New Orleans' bureaucracy outmoded, time-consuming, antiquated and out of step with the rest of the country.

"It's time to join the rest of the United States of America," said Bruneau, R-New Orleans.

Without objection, a House judicial committee approved a bill that would combine the city's clerks and sheriffs offices, plus consolidate the city civil and criminal court systems. The bill, backed by Gov. Kathleen Blanco and sponsored by House Speaker Joe Salter, D-Florien, now moves to the House floor for debate.

Separate legislation is aimed at consolidating New Orleans' seven elected property tax assessors into one elected assessor post. That measure awaits debate in the House Ways and Means Committee.

Passage of Salter's bill came after Rep. Cedric Richmond, D-New Orleans, head of the Legislative Black Caucus, said race is one reason the state is moving to slash the number of the city's elected officials, most of whom are black. Many of New Orleans black residents remain displaced — living in other states because of hurricane damage — and Richmond questioned why lawmakers and Gov. Kathleen Blanco were pushing the consolidation now, while black voters are elsewhere, unable to voice concerns about the proposed changes.

Race, Richmond said, "is the elephant that's been in this room the whole time. It may be uncomfortable, but let's address it."

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Salter later said: "I can assure you that my bringing the bill was not predicated on race."

Richmond noted that the U.S. Justice Department would need to approve the changes, because Louisiana remains restricted under the Voting Rights Act of 1965, imposed on states with ahistory of election discrimination against blacks.

The court consolidation plans also face opposition from the New Orleans Bar Association, judges and other court officials in New Orleans, who said their courts are still reeling from Katrina's flooding and need to worry first about getting the city's judicial system back in order.

State Supreme Court Justice Bernette Johnson, a former civil district judge in the city, called the bill "half-baked." She urged lawmakers to focus instead on passing measures to ensure that New Orleans levee system is better managed.

"This legislation ... is not going to help New Orleans right now," Johnson said. "This is a distraction."

The city's two sheriffs also oppose the measures: Criminal Sheriff Marlin Gusman, who runs the city jail, and Civil Sheriff Paul Valteau, whose office functions in support of the city's civil district court.

"Downsizing our office right now, when we have over 1,350 inmates ... just doesn't make sense to me," Gusman said.

The criminal sheriff has traditionally been one of the city's most powerful elected positions. The former sheriff, Charles Foti, was elected state attorney general in 2003.

Bruneau said the city already has a police chief, its top law-enforcement officer, and doesn't need an additional two sheriffs.

Richmond said he supported some form of consolidation but added the matter could wait until the regular session set for next month. That way, Richmond said, the Legislature could also deal with other proposed consolidation, including compressing the city's juvenile, municipal and city courts.

Rather than get it all done at once, Bruneau responded that he wanted to get the initial consolidation done during the current special session, then continue in the regular session.

"It's like eating a hamburger — you can eat it in a couple bites or you can shove the whole thing in your mouth at one time," he said.

Richmond tried to amend the measure to remove consolidation of sheriffs, but the committee voted it down with a 6-7 vote.

More Injuries As Race Riots Disrupt Jails In Los Angeles (NYT)

By Randal C. Archibold

The New York Times, February 10, 2006

LOS ANGELES, Feb. 9 — Five days of racial rioting have left one inmate dead and dozens injured at Los Angeles County jails as blacks and Latinos have taken their conflicts from the streets behind bars, the authorities said.

The latest occurred Thursday when 200 inmates at Pitchess Detention Center, a collection of jails in the northern fringes of the county where most of the violence has occurred, clashed briefly until deputies used tear gas to bring them under control. There were no reported injuries.

On Wednesday night, two dozen inmates were injured in a riot among 300 people that ended after teams of deputies fired rubber pellets. That riot, as well as those that took place Monday and Tuesday, was at the Pitchess center.

Since the worst of the rioting on Saturday, when a 43-year-old inmate was beaten to death, the sheriff's department has locked down all jails, suspending activities and privileges in the system — the nation's largest, with 21,000 inmates.

"We are convinced it is traced back to an age-old gang war in South Los Angeles," said Steve Whitmore, a spokesman for the Sheriff's Department. "It is a small core group of people, and most of the inmates don't want to fight."

Mr. Whitmore declined to elaborate on a motive for the violence, but members of the clergy and community advocates who met Thursday with inmates said they were told that a gang called the Mexican Mafia had ordered retaliation on black gang members who had apparently attacked Latino gang members in Los Angeles in a dispute involving drugs, turf or both.

In a move deployed only in emergencies, deputies have segregated black and Latino inmates and put "shot callers" from the gangs in separate cells, Mr. Whitmore said.

Sheriff Lee Baca has outlined a plan to move some of the most dangerous inmates next month to a more secure but underused jail in downtown Los Angeles.

Mayor Antonio R. Villaraigosa of Los Angeles said in an interview that the persistence of the clashes and their racial nature troubled him and that he would visit the jail complex in the next few days.

"I feel, as someone who has dedicated his life to trying to bridge communities and promote understanding between racial groups, we obviously all should be concerned about the level of violence and racial nature of the conflicts," he said.

Mr. Villaraigosa, who has no authority over the jails, said he would seek to cool tempers in his visit.

Racial violence has flared at the jails since the early 1980's, when hardening street gangs bloodied neighborhoods all over Los Angeles and carried their disputes into jails and prisons.

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But some observers said they believed the jail violence pointed to long-held but little-discussed black-Latino tensions that go beyond street gangs.

With substantial support from black voters, Mr. Villaraigosa last year became the city's first Latino mayor in more than 100 years.

But he took office after a spate of fights among black and Latino students at several schools in Southern California, including one in South Los Angeles that endured at least three such brawls.

"What you are seeing in the jails is symptomatic of a much deeper malaise," said Earl Ofari Hutchinson, a radio talk-show host who organizes the weekly Los Angeles Urban Policy Roundtable, a discussion group that recently addressed the conflict among blacks and Latinos.

"Blacks and Latinos have been clashing in schools, on the streets, in the workplace, in hospitals," Mr. Hutchinson said, noting the decline in the black population as the number of Latinos increases. "I don't necessarily mean physically clash, but struggling over turf as neighborhoods change and become predominantly Latino."

Discriminatory Online Ads Targeted In Craigslist Lawsuit (LAW/AP)

By Dave Carpenter, The Associated Press

AP, February 10, 2006

A federal lawsuit accuses the online site Craigslist of violating fair housing laws by publishing discriminatory classified ads, reviving the question of what legal boundaries, if any, should exist for postings on the Internet.

But legal experts say the lawsuit against Craigslist, a fast-growing online network of classified ads and forums, faces an uphill battle because of laws in place to protect online service providers.

The lawsuit, filed by a Chicago fair housing group in U.S. District Court on Feb. 3, contends that Craigslist's Chicago site distributed more than 100 ads that violated the federal Fair Housing Act by excluding prospective buyers or tenants on the basis of race, gender or religion.

Among the housing ads cited as objectionable by the Chicago Lawyers' Committee for Civil Rights Under Law Inc. were ones that read "NO MINORITIES," "Requirements: Clean Godly Christian Male," and "Only Muslims apply."

While it remained unclear Thursday if the suit is the first of its kind, it signifies a burgeoning effort by housing watchdog groups to extend to the Internet the same legal restrictions facing those that publish print classifieds.

"Our goal is to have the Internet places like Craigslist treated no differently than newspapers and other media who have traditionally been posting real estate advertisements," said Stephen Libowsky, a counsel for the housing group. "All of the gains are going to get lost if the same rules don't apply."

The nonprofit group is an affiliate of the National Fair Housing Alliance. Its Louisiana affiliate, the Greater New Orleans Fair Housing Action Center, recently filed a similar complaint against the hurricane relief Web site Katrinahousing.org, alleging it found 68 discriminatory housing ads.

San Francisco-based Craigslist, founded in 1995 as a roundup of local events, now has listings in more than 20 countries and 150 cities and runs 8 million new classified ads a month. Its huge scope means the Chicago case will likely be watched closely by other online sites. EBay Inc. owns 25 percent of Craigslist.

A ruling against it "would have a chilling effect on the Internet and what it was intended to provide, and that is an open forum and free expression," said Melissa Klipp, a Florham Park, N.J.-based attorney who practices Internet law.

The lawsuit seeks, among other things, to require Craigslist to report to the government any individual seeking to post a discriminatory ad and to develop screening software to preclude discriminatory ads from being published on its Web site.

Craigslist, which has 19 employees, maintains that screening its almost-nonstop classified listings would be impossible. Jim Buckmaster, its chief executive officer, said Thursday that the system is automated and that users can flag postings. If enough do, it comes off automatically. The "NO MINORITIES" ad was removed within two hours, he said.

"We admit that one or two postings per 100,000 are discriminatory," Buckmaster said. "But we feel we're in the forefront of promoting fair housing for everyone."

The site last month added a yellow link on each housing ad warning that "Stating a discriminatory preference in a housing post is illegal." When clicked, users get information about the Fair Housing Act and guidance on how to write ads that comply.

Several Internet law experts said the suit seems likely to fail, citing a 1996 federal law that says an online service provider isn't considered a publisher or a speaker when it merely passes along information provided by someone else.

Jennifer Rothman, a law professor at Washington University in St. Louis, called it "a complete nonstarter" despite legitimate concerns about discrimination.

"Congress decided it was more important not to chill speech on the Internet and not to shut down these Internet providers," she said. "If you start holding them responsible, essentially you shut down the business."

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"From a moral standpoint, of course, people will expect that if you're going to run a site like that you ought to police it," said Houston-based attorney Jeff Diamant. "But all Craigslist is doing is running a forum for people to communicate."

Air Force Eases Rules On Religion (WP)

By Alan Cooperman

The Washington Post, February 10, 2006

The Air Force, under pressure from evangelical Christian groups and members of Congress, softened its guidelines on religious expression yesterday to emphasize that superior officers may discuss their faith with subordinates and that chaplains will not be required to offer nonsectarian prayers.

"This does affirm every airman's right, even the commanders' right, to free exercise of religion, and that means sharing your faith," said Maj. Gen. Charles C. Baldwin, the Air Force's chief of chaplains.

The guidelines were first issued in late August after allegations that evangelical Christian commanders, coaches and cadets at the Air Force Academy had pressured cadets of other faiths. The original wording sought to tamp down religious fervor and to foster tolerance throughout the Air Force. It discouraged public prayers at routine events and warned superior officers that personal expressions of faith could be misunderstood as official statements.

But evangelical groups, such as the Colorado-based Focus on the Family, saw the guidelines as overly restrictive. They launched a nationwide petition drive, sounded alarms on Christian radio stations, and deluged the White House and Air Force Secretary Michael W. Wynne's office with e-mails calling the guidelines an infringement of the Constitution's guarantees of free speech and free exercise of religion.

Seventy-two members of Congress also signed a letter to President Bush criticizing the guidelines and urging him to issue an executive order guaranteeing the right of military chaplains to pray "in Jesus' name" rather than being forced to offer nonsectarian prayers at public ceremonies.

The revised guidelines are considerably shorter than the original, filling one page instead of four. They place more emphasis on the Constitution's free exercise clause, which is mentioned four times, than on its prohibition on any government establishment of religion, which is mentioned twice.

The guidelines still warn superior officers to be "sensitive to the potential" that personal expressions of faith may appear to be official statements. But they say that, "subject to these sensitivities, superiors enjoy the same free exercise rights as all other airmen." They now add that there are no restrictions in situations "where it is reasonably clear that the discussions are personal, not official, and they can be reasonably free of the potential for, or appearance of, coercion."

Baldwin acknowledged in a telephone interview yesterday that the changes reflect the criticism from evangelicals.

"I think that my evangelical friends were concerned that we did limit, and somehow restrict, the chaplains' service, for example, because the guidance said chaplains should be 'as sensitive to those who do not welcome offerings of faith as they are generous in sharing their faith with those who do,' " Baldwin said.

The Rev. Ted Haggard, president of the National Association of Evangelicals and pastor of New Life Church, a congregation near the Air Force Academy, said the revised document restores the proper balance between the free exercise and establishment clauses.

"When I read it, I thought, if I were nonreligious, I would feel protected; if I were a minority religion, I would feel respected; and as a member of the majority religion, I feel the need to be respectful," Haggard said.

Rep. Walter B. Jones Jr. (R-N.C.), a principal author of the congressional letter, said he considers the revised guidelines an improvement but is not wholly satisfied.

He noted that the revisions include a sentence saying: "We will respect the rights of chaplains to adhere to the tenets of their religious faiths and they will not be required to participate in religious activities, including public prayer, inconsistent with their faiths."

But he said the guidelines still call for "nondenominational, inclusive prayer or a moment of silence" at military ceremonies. "There is some progress, but it does not go as far as it needs to go in making sure that Christian chaplains can pray in the name of Jesus and other chaplains can pray according to their faiths," Jones said.

Americans United for Separation of Church and State, a Washington-based group whose investigation of the Air Force Academy helped spark the controversy last year, said the revisions "focus heavily on protecting the rights of chaplains, while ignoring the rights of nonbelievers and minority faiths."

Michael L. "Mikey" Weinstein, an Albuquerque lawyer who is suing the Air Force over its policy on religion, questioned the sentence allowing commanders to share their faith when it is "reasonably clear" that they are speaking personally, not officially.

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"Reasonably clear from whose perspective, the superior's or the subordinate's?" asked Weinstein, a 1977 Air Force Academy graduate. "When a senior member of your chain of command wants to speak to you 'reasonably' about religion, saying 'Get out of my face, sir!' is not an option."

Police Kill Carjacker During Gun Battle In Venice (LAT)

The Los Angeles Times, February 10, 2006

A chase and fierce gun battle between a shotgun-wielding carjacker and police ended early this morning when the suspect was cornered and shot dead in Venice.

Santa Monica police Chief James T. Butts said his officers acted "valorously."

"It took a great deal of courage," Butts said. "This person has manifested the intent to kill you, and these officers chased him. That's what you expect of police officers in a free society."

The incident began in Santa Monica about 5:00 a.m., when a motorist stopped to help what he thought was a driver with car trouble. Instead, the suspect jumped out of a vehicle, pointed a shotgun at the would-be good Samaritan, and commandeered the car. The motorist was not injured.

Butts said officers stopped the car at 7th and California streets, where a gun battle broke out. The man, who has not been identified, fled in the carjacked auto.

About a half-mile later, with police pursuing, the suspect crashed the car in the 1300 block of Electric Avenue in Venice. When he ignored commands to surrender and pointed a shotgun at police, officers opened fire, Butts said.

The suspect was declared dead at the scene. No officers were hurt, Butts said.

Four Presidents And A Funeral (WSJ)

By Peggy Noonan

The Wall Street Journal, February 10, 2006

Listen, I watched the funeral of Coretta Scott King for six hours Tuesday, from the pre-service commentary to the very last speech, and it was wonderful -- spirited and moving, rousing and respectful, pugnacious and loving. The old lions of the great American civil rights movement of the 20th century were there, and standing tall. The old lionesses, too. There was preaching and speechifying and at the end I thought: This is how democracy ought to be, ought to look every day -- full of the joy of argument, and marked by the moral certainty that here you can say what you think.

There was nothing prissy, nothing sissy about it. A former president, a softly gray-haired and chronically dyspeptic gentleman who seems to have judged the world to be just barely deserving of his presence, pointedly insulted a sitting president who was, in fact, sitting right behind him. The Clintons unveiled their 2008 campaign. A rhyming preacher, one of the old lions, a man of warmth and stature, freely used the occasion to verbally bop the sitting president on the head.

So what? This was the authentic sound of a vibrant democracy doing its thing. It was the exact opposite of the frightened and prissy attitude that if you draw a picture I don't like, I'll have to kill you.

It was: We do free speech here.

That funeral honored us, and the world could learn a lot from watching it. The U.S. government should send all six hours of it throughout the World Wide Web and to every country on earth, because it said more about who we are than any number of decorous U.N. speeches and formal diplomatic declarations. * * *

A moment for a distinction that must be made. Some have compared Mrs. King's funeral to the Paul Wellstone memorial. It was not like the Wellstone memorial, and you'd have to be as dim and false as Al Franken to say it was. The Wellstone memorial was marked not by joy but anger. It was at moments sour, even dark. There was famous booing.

The King funeral was nothing like this. It was gracious, full of applause and cheers and amens. It was loving even when it was political. It had spirit, not rage. That's part of why it was beautiful.

It was also beautiful because, as the first speaker, Bishop Eddie L. Long, senior pastor of the New Birth Missionary Baptist Church in Lithonia, Ga., said in almost his first words, "This is a worship. This is a celebration. This is a moment that we give to honor God."

It was a religious service in which no one was afraid to talk about God. "Praise the Lord," and "Lord, we lift your name on high" and "How we love to sing your praises" rang through the room. Scripture was quoted, stories told. Blacks in America are not afraid to love Jesus the way they want to love him, to use the language and symbols they want to use. I want to kiss their hands for this. I also happen to honor the fact that, by and large, older blacks at least have not given way to 20th-century stoicism in their style of mourning. The Kennedys, who had too much experience with funerals, set the stoic style 40 years ago, and while it was elegant and moving in its own way, it left an entire nation thinking it was in rather poor taste to cry aloud and sob.

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As for the speakers, no one has ever been or could be better than the Rev. Bernice King, who spoke of her mother's love, her mother's end, and the possible metaphorical meaning of the cancer that killed her.

The Rev. Joseph Lowery gave a beautiful poem about Martin being with Rosa in heaven and then finding out that Coretta was coming, and rushing to greet her at the pearly gates. Strike you as corny? Not me. It was beautiful because it was not only full of unselfconscious faith, it assumed unselfconscious faith on the part of the audience, and so was both an implicit compliment and a declaration of shared assumptions. The audience responded with amens and cheers. When he bopped the president over weapons of mass destruction, what seemed, on CNN, to be half the room stood and applauded.

When George Bush 41 followed him to the podium, he teased Mr. Lowery in a way that complimented his eloquence. People sometimes marvel at the grace of George H.W. Bush. He is a warm and gracious man, and he's old enough to appreciate the humor in everything. He's old enough to appreciate life. But it is also true that when you attack him or his son from the left he doesn't get mad because in his heart he kinda thinks you're right. Attack him from the right; you won't be overwhelmed by his bonhomie then.

President Bush was fine, his eloquence of the formal kind. He needs to find the place between High Rhetoric and off-the-cuff plainspeak. He always does one or the other. But there's a place in between, a place that's not fancy and not common, that would serve him well if he could find it.

Bill Clinton was, as always, the master. Say what you will, he is the only politician in America with the confidence to call Episcopalians "the frozen chosen" and know everyone will laugh and take no offense. Amid all the happy bombast he was the one who pointed at the casket and said, "There's a woman in there." He talked about Mrs. King in good strong plain terms. Yes, he caused a quarter-second of awkwardness when he said of the beautiful Coretta that even at age 75 she still had the goods, but in moments of exuberance we all forget our own history.

The real news was how the Clintons used the funeral to unveil how they will run in 2008: Together, side by side, with beautiful hairdos. I haven't seen them like this -- both standing at the podium -- since 1992, when they were new. In the years since, after the health-care failure and the Whitewater scandals, the West Wing attitude toward the president's wife was a quiet and respectful "Get that woman off the podium!" Not anymore. All is new again. Mrs. Clinton has clearly been working on her public speaking, and attempted to use her hands as her husband uses his, now in an emphasizing arc, now resting on her chest. But his are large, long and elegant, and hers are puffed and grasping.

Both Clintons spoke in the cadence and with the imagery of the Bible. Mrs. Clinton's first words, in which she referred to Mrs. King's brave decision to continue her husband's work after his murder, were steeped in religiosity. "As we are called, each of us must decide whether to answer that call by saying, 'Send me.'" She ended with, "The work of peace never ends. So we bid her earthly presence farewell. We wish her Godspeed on her homecoming. And we ask ourselves, 'Will we say, when the call comes, "Send me"?'"

Oh I think we will, Ms. Meanieface!

If you don't understand that Mrs. Clinton was rehearsing her 2008 announcement speech, then you are a child and must go home and have a nice cup of cocoa.

This is what is coming: I have had a blessed life. And like so many people I could choose, after all these years, a life of comfort. Watch it from the sidelines, tend to my own concerns, watch the garden grow. But our nation calls out. And if we are to be Americans we must meet the call. "Send me."

With Bill nodding beside her, his hands clasped prayerfully in front of him, nodding and working that jaw muscle he works when he wants you to notice, for just a second, how hard it is sometimes for him to contain his admiration.

God I love them. * * *

Apart from its beauty, dignity and fight, Mrs. King's funeral got me thinking about this: Did she know how much she was loved? It's hard for a person to know that. If only she could have gone to her own funeral, she would have known. I wonder if it wouldn't be good if somewhere along the way, just once in your life, you got to call your own funeral. Pick the church, the speakers, the music, sit in the pew, clap when they talk about how wonderful you were. Then afterwards have a long lunch and toast your memory. Then the next day you go to work as usual, but maybe in a different mood. I don't see why we don't do this. Is this a stupid thing to say? It's allowed. I've got free speech.

Ms. Noonan, a contributing editor of The Wall Street Journal and columnist for OpinionJournal.com1, is the author of "John Paul the Great: Remembering a Spiritual Father," (Penguin, 2005).

Voting Rights Under Siege (NYT)

The New York Times, February 10, 2006

American laws that strip convicted felons of the right to vote, barring nearly five million from the polls in the last election, are the most punitive and regressive laws of their kind in the democratic world. Several states have recently softened or eliminated

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the voting bans, and many others are considering laws that could eventually establish voting as a basic American right that should never be curtailed in a way that bars a whole class of people from the polls.

This attitude is gaining traction even in the Deep South, which pioneered voting bans to disenfranchise black Americans in the late 19th and early 20th centuries. But the new trend toward fairness has somehow vaulted over Pennsylvania, where the Republican majority in the State House is pushing to pass one of the most odious felon-voting bans ever seen above the Mason-Dixon line.

Under current Pennsylvania law, people can vote once they leave prison. But a bill pending in the Legislature would disenfranchise those on parole or probation. The bill would go further and bar convicts from voting until the dates when their maximum sentences would expire — even if they had been fully released from the system much earlier.

Pennsylvania, a swing state that will hold some critical elections this fall, is being barraged by legislation, championed by Republican lawmakers, that would raise voting barriers, especially for groups that tend to be Democratic. One measure would institute one of the most restrictive voter-identification laws in the nation, in a state that currently requires only first-time voters to prove their identities. Pennsylvanians — who have been at the forefront of fairness in voting rights issues — should not allow partisanship to erase that legacy.

ANTITRUST:

Microsoft Rivals Gripe To U.S. About Its New Vista Software (WSJ)

By Kevin J. Delaney And Robert A. Guth

The Wall Street Journal, February 10, 2006

The Justice Department said it has received complaints about Microsoft Corp.'s coming Windows Vista operating system, focusing in part on concerns over the introductory "first-boot" screens displayed on new personal computers and other aspects of the software.

The government, in a status report on Microsoft's compliance with an antitrust settlement, said an unidentified company complained about the ability of PC makers to customize the initial process of booting up Vista. Some PC makers use those screens to offer broadband Internet access, antivirus and other PC-related services and software.

The Wall Street Journal Tuesday reported that Hewlett-Packard Co. has tussled with Microsoft over the screens. The PC maker in recent months briefed the Justice Department on those concerns, a person familiar with the matter said. An H-P spokesman declined to comment. The report said that in addition to the first-boot process, "several industry members" had expressed other unspecified concerns regarding Windows Vista, which Microsoft is expected to begin selling later this year. A Microsoft spokesman said it has worked closely with partners "to make sure Windows Vista provides flexibility...while remaining faithful to the goal of putting users first." (See related article.1)

The complaints were disclosed as part of a regular monitoring by the Justice Department of Microsoft's compliance with its 2001 antitrust settlement with the federal government. The status report noted that Microsoft's recent decision to license elements of its server software was a "constructive proposal" in addressing concerns of the plaintiffs in the antitrust settlement. A Justice Department spokeswoman declined to comment further.

Separately, executives at search company Google Inc. asserted in an interview that Microsoft is using its influence over the browser-software market to push its MSN Web-search service to the disadvantage of rivals. Google objects to how Microsoft handles a default search-engine setting in its Internet Explorer 7 Web-browser software, which Microsoft considers part of Vista. A Google spokesman declined to say whether the company had discussed its concerns with the Justice Department.

Google wants Microsoft to ask consumers directly which search service they want as a default when upgrading from older versions of Explorer -- a change Microsoft feels is intrusive. Explorer 7 features a built-in box linking to the user's default search engine, making ownership of that default setting more strategically important to the search companies. Google said Microsoft has put other roadblocks in the way of consumers' changing their default search setting away from MSN. "It's a way in which they're using their dominant position to favor their product," said Sundar Pichai, a Google group-product manager.

Microsoft has said it has listened to Google's requests and made changes to make it easier for consumers to choose other search engines.

RIM Unveils Plan To Keep US BlackBerrys Alive (REU)

By Susan Taylor

Reuters, February 9, 2006

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OTTAWA (Reuters) - Research In Motion <RIM.TO> <RIMM.O> unveiled a plan on Thursday that it says will let its BlackBerry e-mail device work even if it loses a patent fight, and said the workaround will prevent a shutdown of service in the United States.

In an announcement made as the clock ticked toward a February 24 court hearing on U.S. patent holding company NTP Inc.'s request for an injunction to halt U.S. BlackBerry service, RIM also said it was still willing to negotiate a deal.

NTP questioned why RIM simply didn't go ahead and make the software changes for the workaround and argued the BlackBerry maker was trying to bully it. One analyst described the announcement as part of a "high stakes poker game."

The Waterloo, Ontario-based technology company, whose addictive device has been dubbed the "CrackBerry" by many users, said it is willing to "generously compensate" NTP, but called NTP's offer to license disputed technology "untenable."

The legal battle is heating up ahead of a hearing that could be the final step before U.S. District Judge James Spencer decides whether to impose an injunction granting NTP's request -- potentially shutting off more than 3 million U.S. BlackBerry subscribers.

The U.S. Justice Department has argued against a shut-down, saying NTP has not submitted enough evidence to show government users could be exempted "without substantial hardship."

NTP sued RIM for patent infringement in 2002 and won an injunction in 2003 to shut down the U.S. service. That injunction was stayed pending appeals, and the court has issued several rulings since.

RIM shares have been up and down like a yo-yo as a result, adding or subtracting hundreds of millions in market value.

The stock added 97 cents, or 1.4 percent, to end at $69.62 on Nasdaq and were up C$1.07, or 1.4 percent, at C$79.72 on the Toronto Stock Exchange on Thursday.

"It's a very high-stakes poker match," Canaccord Adams analyst Peter Misek said. "I think what's going on here is that NTP was daring RIM to unveil the workaround to let them know whether or not they actually had one."

RIM said it has developed and tested workaround software for all BlackBerry handsets in the United States and will activate the changes if there is an injunction.

It said the workaround alters the way e-mail messages are delivered and queued, but "users will not see any changes in the way they use the BlackBerry device".

"RIM's workaround provides a contingency for our customers and partners and a counterbalance to NTP's threats," said RIM Co-Chief Executive Jim Balsillie. "This will hopefully lead to more reasonable negotiations, since NTP risks losing all future royalties if the workaround is implemented."

NTP co-founder Don Stout said the onus is on RIM to reveal its workaround more fully and then convince the court it does not infringe on any NTP patents.

"To tell the world they have a workaround without sharing what it is, to me suggests they're not comfortable with it," Stout said. "If they've got a workaround, go do it. I mean, quit screwing around with tantalizing the world."

He added: "They're just using the bully pulpit again."

RIM said a patent law and workaround expert believes its designs do not infringe on any of the NTP patent claims remaining in the lawsuit.

"The legal merits of the workaround will be challenged by NTP," American Technology Research analyst Rob Sanderson said in a note. "This could mean the legal battle continues for an extended period, perhaps years."

RIM said it has filed patent applications for its workaround and will soon begin shipping handsets with the software update in a dormant mode. It will make the free update available at www.blackberry.com/workaround at a later date for customers to download and install.

In a court filing last month, RIM said it stands to lose customers even after rolling out a workaround.

"It is reasonably certain that some of RIM's existing customers will opt for other providers ... rather than go through the trouble of installing the new software," it said.

(Additional reporting by Robert MacMillan in New York)

BlackBerry Maker RIM Develops Software 'Workaround' In Event Of Injunction (LAW/AP)

The Associated Press

AP, February 10, 2006

Research in Motion Ltd., the Canadian maker of the BlackBerry wireless e-mail device, said Thursday it has developed software "workaround" designs for its popular handsets in case a court bars the use of current software in a pending patent dispute.

Although there is currently no injunction in place in the patent litigation with NTP Inc., RIM said it developed the workaround software as a contingency to allow BlackBerry service to continue should the court declare an injunction.

RIM stressed it still believes it has "strong legal and factual arguments opposing an injunction." Jim Balsillie, RIM's chairman and co-chief executive, called the workaround software "a counterbalance" to the NTP lawsuit.

NTP has convinced a federal jury that its patents were infringed by RIM and is asking a federal judge in Richmond, Va., to turn off the network. The judge has indicated he could decide on NTP's request following a hearing scheduled for Feb. 24.

The lawsuit against RIM has drawn objections from the U.S. government and big corporate users who rely on BlackBerry e-mail service.

NTP has said such an injunction would not apply to government BlackBerry users, who may account for up to 200,000 of the company's 4.3 million customers, though RIM has questioned whether it would be possible to separate its service in such a way.

Despite the threat of a BlackBerry blackout, many analysts think an actual shutdown still is unlikely because putting RIM out of business would make it harder for NTP to collect a big settlement.

Union: Mittal Pledges To Honor Agreements (AP)

AP, February 10, 2006

German Industrial Union Says Mittal Steel Pledges to Honor Labor Agreements Made by Arcelor

FRANKFURT, Germany (AP) -- Germany's biggest industrial union said it received assurances Thursday from Mittal Steel Co. that if it acquires rival Arcelor SA, no labor agreements would be affected.

Meanwhile, U.S. antitrust regulators are looking at Mittal's hostile bid for Arcelor, Justice Department spokeswoman Gina Talamona confirmed Thursday.

Mittal Steel Europe Chief Executive Roeland Baan met with union deputy chairman Berthold Huber for several hours to address Mittal's euro18.6 billion (US$22.5 billion) bid for Luxembourg's Arcelor, IG Metall spokeswoman Ingrid Gier said.

Mittal employs approximately 1,600 workers in Germany, while Arcelor employs 14,000.

Gier said the German union considered the talks and Mittal's pledge a "first important step."

It was not the first trip Mittal executives have made to lobby for the unsolicited takeover.

The company's chairman and chief executive, Lakshmi Mittal, has visited Luxembourg, France, Spain and Belgium to explain his bid for Arcelor, which would merge the world's No. 1 and No. 2 steel makers.

The takeover, which would be the biggest steel deal ever, would have repercussions across Europe, but also in North America and Asia, where both companies have plants.

European critics of the deal -- especially in France -- are worried that it would mean job losses or less protection for Arcelor's 94,000 employees.

Mittal has insisted that no jobs would be cut and that Arcelor's existing labor agreements would be respected.

Realtors Ask Administration To Stop Bankers From Delving Into Real Estate (HILL)

By Elana Schor

The Hill, February 10, 2006

Congress and the Bush administration are again getting caught in the crossfire of a long-standing turf war between the National Association of Realtors, which bills itself as the nation's biggest trade association, and the banking industry over whether banks can engage in real-estate activities.

Federal regulators signed off late last year on several bids for real-estate development from large banking chains, alarming the Realtors and reinvigorating the group's push for a bill, co-sponsored by Reps. Ken Calvert (R-Calif.) and Paul Kanjorski (D-Pa.), prohibiting banks from "directly or indirectly" engaging in real-estate activities. Banking lobbyists dismiss the Realtors' claims that the regulators are gradually dismantling existing law.

"This issue is totally phony. Banks for a long time have been able to own their own real estate," said Ed Yingling, president of the American Bankers Association. "The Realtors would like to think it's something new, but it's not."

The Calvert-Kanjorski bill is hardly new to Capitol Hill, having snagged the support of a majority of the House in each of the past three Congresses. But banking lobbyists pushed back last year with a bill of their own that only needed two co-sponsors — House Financial Services Committee Chairman Mike Oxley (R-Ohio) and his ranking Democrat, Barney Frank (Mass.) — to make a splash.

With their bill stalled in both House and Senate committees, the Realtors now are aiming at the Bush administration in their vigorous lobbying efforts against banks involved in real estate. The group has promoted letters this month to new Federal Reserve Chairman Ben Bernanke, Treasury Secretary John Snow and leaders at the Office of the Comptroller of the Currency (OCC), which has jurisdiction over national banks, asking for a definitive exclusion of banks from the real-estate market.

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In a unique twist, the Realtors also have chosen to side publicly with bankers in the fight to prevent retail behemoth Wal-Mart from opening an industrial loan corporation to conduct banking activities. Just as the Realtors fear banks encroaching on their business, bankers want Congress to keep commercial corporations off their turf.

"We find it ironic that the banks are using our argument, that banks and commerce should not be mixed, to make arguments that Wal-Mart shouldn't have a bank," said Jerry Giovanello, the Realtors' senior vice president of government affairs.

Rep. Jim Leach (R-Iowa) introduced a bill in September that would block Wal-Mart's banking bid, and Leach picked up the endorsement of Alan Greenspan before he departed the Federal Reserve Board chairmanship last week. A Leach spokesman said the lawmaker has had no negotiations on the bill, whether with Oxley or others, so far this year.

The Realtors have similarly leveraged their congressional clout to block regulators from expanding banks' involvement in real estate. Sympathetic members have quietly inserted a rider into the past three Treasury Department appropriations bills preventing banks from fully entering the real-estate market.

Banking lobbyists are hardly won over by the Realtors' support of their work to clarify the industrial loan corporations.

"Congress has spoken that real-estate activities [that are] financial services are allowed and ought to be regulated," said Steve Bartlett, president of the Financial Services Roundtable. "The Realtors are just wrong."

Oxley has expressed an affinity for the bankers' view — that Congress definitively allowed regulators to draw the line between banking and real estate in 1999's Gramm-Leach-Bliley Act.

Oxley issued a statement after the recent OCC rulings, affirming the regulator's ability to allow banks limited powers in real-estate development.

"The actions that the OCC has taken in its authorization letters are reasonable, well within the law, and within precedent," Oxley said. "The letters do not constitute an expansion of national banks' authority to make the type of equity investments that breach the separation of banking and commerce."

But Giovanello stayed on offense, questioning Oxley and Frank's decision to request two Government Accountability Office (GAO) studies on transparency and competition in real estate while not asking for a similar inquiry into banking.

"We don't know why the House Financial Services Committee keeps asking the GAO to investigate real-estate competition when, over the past four or five years, banks have been consolidating. When are they going to ask for a similar study on banks?" Giovanello said.

In September, the week after the GAO reported to Oxley and Frank on their most recent real-estate-related inquiry, the Justice Department sued the Realtors, arguing that the group's online listings unfairly obstruct competitors' business.

Oxley's and Frank's offices did not return calls for further comment by press time.

Realtors can count Oxley's Senate counterpart, Banking Committee Chairman Richard Shelby (R-Ala.), as an ally; he is among seven co-sponsors of his chamber's counterpart to the Calvert-Kanjorski bill.

Federal Judge Dismisses Lawsuit Against Team, NFL (AP)

By Terry Kinney

AP, February 10, 2006

CINCINNATI - A judge dismissed Hamilton County's federal antitrust lawsuit against the Cincinnati Bengals and the National Football League on Thursday because the suit was not filed within the four-year statute of limitations.

U.S. District Judge S. Arthur Spiegel threw out the suit without getting to the merits of the county's argument that the Bengals misled taxpayers and officials by contending that they needed a new stadium to be profitable and might move if they didn't get one.

Hamilton County taxpayers approved a one-half-cent sales tax increase in 1996 to finance the $450 million Paul Brown Stadium. Commissioners signed a lease with the Bengals the following year.

The antitrust lawsuit was not filed until 2003, three years after the Bengals began using the stadium.

"To be sure, the lease that Hamilton County enjoys with the Bengals is highly favorable - perhaps egregiously so - to the Bengals," Spiegel wrote.

He said prior members of the board were aware of allegations that league and its teams wielded unlawful antitrust power to obtain favorable leases, but by not filing suit sooner the chance "was lost to the passage of time."

"We are pleased that Judge Spiegel took the time to thoroughly analyze the case and conclude that the facts were on our side," Bengals owner Mike Brown said in a statement released by the team.

Likewise, "We appreciate Judge Spiegel's careful consideration of the issues and believe that his opinion conclusively demonstrates that there was no basis for the county's claims," NFL spokesman Greg Aiello said.

Commissioner Pat DeWine urged the other two board members to let the matter drop. He said the county faces more important local issues, such as developing county property on Cincinnati's riverfront and building a new county jail.

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Commissioner Todd Portune said he favored discussing all options with attorneys, including an appeal, filing a lawsuit in state court or seeking to reopen negotiations with the Bengals.

It was Portune who originally sued against the Bengals as an individual taxpayer. When conflict-of-interest questions arose regarding his position as a commissioner, community activist Carrie Davis took his place as lead plaintiff.

Eventually, county commissioners took over the suit.

Portune said Thursday that the Bengals were largely to blame for the county facing a deficit of $191 million.

"There is no doubt that Hamilton County is in an upside-down financial position because of a lease agreement that is unconscionable, has terms that are onerous, has terms that have resulted in the county being in this upside down and burdensome financial position," Portune said.

In February 2004, Spiegel rejected the NFL's motion to dismiss the case, ruling that Davis could pursue her claims that the NFL violated federal antitrust provisions by using its monopoly to "extort" new stadiums and highly favorable lease terms.

In his ruling Thursday, Spiegel explained why he did not rule at that time that the statute of limitations had expired.

He said a new standard was applied when the county commission took over the suit, based not on what an outsider like Davis could know about negotiations but what commissioners knew or should have known.

Spiegel noted that county officials knew all along that the Bengals were profitable, although the lawsuit alleged that the statute of limitations started not in 1997 but in May 2001 when commissioners got a clearer image of profits based on information in a lawsuit between the league and Oakland Raiders owner Al Davis.

South Korean Trade Regulator Questions Intel Employees (AP)

AP, February 10, 2006

(02-09) 20:12 PST SEOUL, South Korea (AP) --

Investigators from South Korea's antitrust watchdog questioned some employees at Intel Corp.'s local subsidiary this week as part of an inquiry that began last year, a company spokesman said Friday.

The Korean Fair Trade Commission "made an unscheduled visit to our offices on Tuesday during normal business hours," said Chuck Mulloy, legal affairs spokesman for Intel in Santa Clara, California.

"This is part of an ongoing inquiry that we disclosed in June of 2005," Mulloy said, adding it was "not appropriate for us to talk about specifics." Mulloy said the visit to Intel Korea marked the first time regulators had arrived unannounced.

The Fair Trade Commission refused to comment.

Yonhap news agency quoted an unidentified FTC official as saying that the probe was focused on whether Intel abused its dominant position by pressuring computer makers to avoid using chips made by Intel rivals.

Intel, the world's largest chip maker, is facing numerous legal battles over how it maintains its leading position. Intel has repeatedly denied it has broken any laws.

Japan's Fair Trade Commission said last year that Intel violated fair trade laws — a ruling the company accepted without admitting wrongdoing.

S.Korea Says No Conclusion Yet On Intel Probe (REU)

By Rhee So-eui

Reuters, February 10, 2006

SEOUL, Feb 10 (Reuters) - South Korea's antitrust watchdog said on Friday it had not yet reached a conclusion on whether Intel Corp. broke regulations in marketing its computer chips after raiding the firm's Seoul office this week.

The Fair Trade Commission is also investigating Samsung Electronics Co. Ltd. and LG Electronics Inc. , which make PCs using Intel's microprocessors.

South Korea, which fined Microsoft Corp. for antitrust violations in December, began investigating Intel in the middle of last year, following similar probes launched by Japan and the European Union.

Intel, the world's largest chipmaker, confirmed on Thursday that FTC officials paid an unscheduled visit to the Seoul office.

The officials talked to Intel staff and took away some documents as part of an ongoing probe, a spokeswoman for Intel Korea said.

"It will take a while for us to reach a conclusion," FTC spokesman Kim Joo-hyok said by telephone.

If a company is found to have violated antitrust laws, the FTC can order it to correct business practices and can also impose fines.

Sometimes companies are asked to make public notices acknowledging anti-competitive practices.

The watchdog had received a complaint that Intel was using its dominant position in South Korea to increase microprocessor sales, Kim said. He declined to say who filed the complaint.

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Samsung and LG said FTC officials visited them earlier this week for preliminary investigation, but declined to comment further.

Intel is estimated to have more than 80 percent of the South Korean market for microprocessors, the central chips in personal computers. The country accounts for 6 to 7 percent of the global PC market, analysts said.

LEADING POSTION IN KOREA

Analysts said the FTC investigation was unlikely to trigger major changes to Intel's leading position in South Korea.

"There may be fines or orders on business practices, but it won't have an impact on Intel's business in the market," said Michael Min, an analyst at Korea Investment & Securities.

Min said smaller U.S. rival Advanced Micro Devices Inc. could still increase its market share in South Korea given its aggressive marketing recently.

AMD sued Intel in the United States in June, charging it with anti-competitive practices such as offering discounts to computer makers who agreed to curtail use of AMD chips.

"AMD continues to believe -- as specified in its private U.S. antitrust complaint filed on June 27, 2005 in U.S. federal court in Delaware -- that PC manufacturers worldwide are victims of Intel's monopoly power," AMD said in a statement.

The European Union has been investigating Intel's business practices since 2001, while Japan ordered Intel to eliminate discounts to PC makers in March, 2005.

In the Microsoft case, the U.S. software firm was fined $32 million in South Korea and ordered to separate its instant messaging service from its Windows software.

Shares in Samsung Electronics fell 1.45 percent to 681,000 won by 0440 GMT, versus the wider market's 0.22 percent fall, while LG Electronics feel 0.75 percent to 79,700 won.

Intel Says Employees Questioned By South Korean Regulators (BLOOM)

By Ian King

Bloomberg, February 10, 2006

Feb. 9 (Bloomberg) -- Intel Corp., the world's biggest computer chipmaker, said South Korean regulators questioned some of the company's employees as part of an investigation of its marketing and rebate programs.

Officers from the Korea Fair Trade Commission are following up on an investigation begun in June when the agency requested documents related to local marketing practices, Chuck Mulloy, a spokesman for Santa Clara, California-based Intel, said today.

``They paid a visit earlier this week and asked some questions consistent with previous inquiries," Mulloy said in an interview. ``We cooperated with them then and will continue to cooperate."

Intel is facing a U.S. antitrust lawsuit based on a complaint filed last June by rival Advanced Micro Devices Inc. European regulators investigating antitrust claims have also raided Intel offices, and Japan's Fair Trade Commission last year told the company to remove a clause from its contracts forcing PC makers to exclusively use its chips.

Shares of Intel rose 54 cents to $21.20 at 12:24 p.m. New York time in Nasdaq Stock Market composite trading. The shares had dropped 12 percent in the past 12 months before today.

Advanced Micro, based in Sunnyvale, California, is the world's second-largest maker of personal-computer chips.

South Korea's Antitrust Officials Continue Intel Probe (MERCN)

By Elise Ackerman

The San Jose Mercury News, February 10, 2006

An Intel spokesman confirmed that the South Korean trade officials paid an unscheduled visit to the company's Seoul office on Tuesday morning as part of an ongoing investigation into the tech giant's business practices.

Chuck Mulloy said Korean Fair Trade Commission investigators asked to meet with company officials and requested information. ``They have been asking for information and we have been providing information for many, many months," Mulloy said.

Intel first disclosed the Korean inquiry in a regulatory filing in August, stating that Korean antitrust regulators began looking into its marketing and rebate programs in June.

Also in June, rival chip maker Advanced Micro Devices sued in federal court alleging that Intel provided secret and discriminatory discounts.

Today, AMD said in a statement that the ``dawn raids are part of an investigation into Intel's business dealings with four Korean PC makers."

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The statement quoted Thomas M. McCoy, AMD executive vice president: ``The dawn raids in Korea make it abundantly clear that competition authorities worldwide are intensifying their investigative efforts into Intel's anti-competitive business practices because they have good reason to believe evidence of illegal monopoly abuse is there to be found."

Mulloy said the visit was conducted during normal business hours and that investigators ``did not come in with guns drawn."

``It is not unusual for a company as successful as Intel to come under scrutiny," Mulloy said. ``It is also not unusual for us to cooperate."

ENVIRONMENT:

Six People Accused Of Illegally Harvesting Leopard Sharks In California (FINDLAW/AP)

By Dan Goodin, Associated Press Writer

AP, February 10, 2006

(AP) - SAN FRANCISCO-A church pastor, four men in the aquarium industry and a commercial fisherman have been accused of illegally catching and selling hundreds of juvenile leopard sharks.

An indictment Wednesday charged the men with selling 465 leopard sharks that were too small to harvest to pet distributors throughout the United States, and in The Netherlands and the United Kingdom.

California leopard sharks, which can take 13 years to reach maturity and live as long as 30 years, are protected under a state law that prohibits the commercial catching of specimens under 36 inches (90 centimeters) long.

The leopard shark's gray body and black bars make it a "particularly attractive" species, said Christina Slager, a curator at the Monterey Bay Aquarium.

"In general sharks are struggling in the wild, and leopard sharks are no different," Slager said. "If these animals aren't allowed to reach an age or size where they can reproduce before they are removed from the environment, that has drastic implications for future generations."

The six defendants were arrested on Tuesday, when the indictment was unsealed. Two pleaded not guilty. The Associated Press was unable to reach the other four. They face maximum penalties of five years in prison, a $250,000 (â,¬210,000) fine and possible requirement to pay restitution for each count, according to the U.S. Attorney's office.

Seven of the 19 baby leopard sharks confiscated during the two-year investigation died, the U.S. Attorney's office said. Three are on exhibit at the Monterey Bay Aquarium, and nine were returned to the wild in 2004.

Bush Administration Moves To Sell National Forest Land (KRT)

By Seth Borenstein

Knight Ridder, February 10, 2006

WASHINGTON - The Bush administration will unveil a proposal Friday to sell up to 200,000 acres of national forest land in "isolated parcels" ranging from a quarter of an acre to 200 acres, much of it in California.

The sale is part of a National Forest Service plan to raise $800 million over the next five years to pay for rural schools in 41 states, offsetting shrinking revenues from sale of timber from national forests. The Bureau of Land Management also plans to sell federal lands to raise an estimated $182 million over five years.

Environmentalists charge that the short-term gain would be more than offset by the loss of public land. Congress would have to approve the land sales, but it has rejected similar recent proposals.

"I am outraged, and I don't think the public is going to stand for it for one minute," said Wilderness Society policy analyst Mike Anderson. "It's a scheme to raise money at the expense of the national forests, the wildlife, recreation and all the other values that Americans hold dear. It's the ultimate threat to the national forest."

Jerry Taylor of the Cato Institute, a libertarian think tank, said the proposed land sales make sense.

"Private property will end up in the possession of those who value it the most," Taylor said. "That is an iron law of economics."

Details about what plots of land would be put up for sale are expected to be revealed at a noon press conference by Undersecretary of Agriculture Mark Rey, a former timber industry lobbyist. The Forest Service owns 193 million acres of land and plans to sell about 175,000 to 200,000 acres, according to Forest Service spokeswoman Heidi Valetkevitch.

"They could be theoretically from every national forest," Valetkevitch said. "California has a lot on the list, I understand."

The lands in question aren't environmentally sensitive wilderness or protected scenic areas, Valetkevitch said. "It could be something that's in a neighborhood that people don't even know is forest land," she said.

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Sen. Dianne Feinstein, D-Calif., attacked the plan as "crazy," saying: "Here the administration wants to pass more tax cuts for the rich, and to pay the bill, they want to sell off public land - our nation's natural heritage."

The Forest Service owns 20 percent of California, including much of the Sierra Nevada, Lake Tahoe, Big Sur and dense forests along the Oregon border. The Bureau of Land Management owns 15 percent of the Golden State.

Rural schools get 25 percent of federal forest timber sale proceeds, but those revenues have fallen, so the idea is to sell forest land to make up for that, Valetkevitch said.

Anderson of the Wilderness Society argued that money for rural schools could come from many sources and that the land sales are being proposed "so the budget deficit doesn't get worse." He noted that if forests are sold, future federal timber sales likely would yield even less money for rural schools.

The president's new fiscal 2007 federal budget calls for the bureau to raise $1 million in 2007 land sales, $28 million in 2008, $40 million in 2009, $42 million in 2010 and $71 million in 2011.

Dave Alberswerth, a Wilderness Society senior policy adviser, said that would be "way more than they have been selling in recent years." From 2000 to 2004, the bureau sold 13,160 acres for an average price of $320 an acre, he said. At that rate, the government would have to sell more than half a million acres to garner $182 million.

Oil Giants Fell Behind On Fees (NYT)

By Edmund L. Andrews And Simon Romero

The New York Times, February 10, 2006

WASHINGTON, Feb. 9 — More than three dozen energy companies fell nearly $500 million behind last year on royalty payments the federal government says they owed for oil and gas extracted from public territory, according to Interior Department documents released Thursday.

While most of that money was later turned over after the government demanded payment, almost $60 million remains in dispute.

The companies, which included major producers like Chevron, Shell and ConocoPhillips, had claimed lucrative government incentives for drilling in the Gulf of Mexico even though the incentives were not supposed to be available if market prices climbed above certain "threshold prices."

The Interior Department, in a report sent to lawmakers looking into the energy royalty program, identified 41 companies that incorrectly claimed about $493 million in "royalty relief" during 2004, when prices for both oil and gas climbed to records.

The Interior Department said that 38 of the 41 companies quickly paid $435 million in back royalties after it sent out warning letters in December, months after the money should have been paid.

But three companies — Kerr-McGee, Forest Oil and AGIP — continue to protest $58 million in additional payments.

Indeed, Kerr-McGee officials suggested on Thursday that they planned to challenge the government's legal authority to impose price thresholds in the first place.

"We pride ourselves on operating legally," said John Christiansen, a spokesman for Kerr-McGee, which is based in Oklahoma City. "Now the Interior Department is claiming it has the power to cancel royalty relief granted by Congress."

Mr. Christiansen said Kerr-McGee would fight the case if the government did not back down. "We'll take this issue to the federal court system if necessary," he said.

Royalty payments for oil and gas extracted from federal territory have drawn increased attention from Congress since The New York Times reported last month that payments had not climbed in line with the huge increase in market prices.

Last year, the government received about $5.15 billion in royalties on natural gas and about $3.5 billion in royalties on oil. While royalties have climbed sharply since 2003, they are still barely even with amounts collected in 2001, when market prices were much lower.

One apparent reason for the shortfall is that the government has had trouble auditing the flow of money.

Under the government's royalty relief program, companies that drill in deep waters off the Gulf of Mexico do not have to pay the standard royalty of 12 percent on large quantities of the oil or gas they produce.

But federal regulations also call for that special incentive to be suspended if market prices rise above certain threshold levels. Market prices for both oil and natural gas have been higher than those levels since the end of 2002.

Administration officials said Thursday that they sent out letters to 41 companies in December, almost a full year after the end of 2004, reminding the companies that they had not been entitled to the incentives and needed to pay up.

The list included many of the biggest producers in the Gulf of Mexico: Anadarko, Amerada Hess, British Petroleum, Chevron, ConocoPhillips, Kerr-McGee, Shell and more than two dozen others.

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But several major producers, like Exxon Mobil, the sixth-largest producer of natural gas in the Gulf of Mexico, were not on the list. Exxon officials said that their company stopped claiming royalty relief long ago, because market prices had exceeded the price thresholds.

Lawyers for some of the companies said that they should never have been included on the list released by the Interior Department, because the companies had actually paid the proper royalties or had not disputed the demand for additional royalties.

"We think it was inappropriate for Chevron and Unocal to have been included on the list," said Donald Campbell, a spokesman for Chevron, which acquired Unocal last year.

"Chevron's policy is to pay royalties when deepwater lease price thresholds are exceeded," Mr. Campbell said. "Based on our review to date, Chevron has consistently followed that policy and has paid royalties for the calendar years when lease price thresholds have been exceeded."

Mining Fines Among Smallest Laws Limit Size, Allow Reduction (USAT)

By Thomas Frank

USA Today, February 10, 2006

Coal companies pay some of the smallest fines of any industry for federal violations even as the nation tries to curb one of the deadliest periods in recent coal-mining history, a USA TODAY analysis found.

The federal government levied a larger fine — $550,000 — for the 2004 Super Bowl showing of Janet Jackson's breast than it did for the 2001 deaths of 13 Alabama miners in one of the deadliest mine disasters in a quarter-century. And the $435,000 fine against mine operator Jim Walter Resources was cut by a judge to $3,000.

USA TODAY's review of safety laws and corporate records found:

·Federal law limits fines to $60,000 for each violation of a mine health and safety standard. The Environmental Protection Agency, the Federal Communications Commission and the Securities and Exchange Commission can levy fines of $1 million or more for a single violation.

·Labor Department rules require mining fines to be cut by 30% if violations are quickly abated.

“That doesn't make any sense,” says Steve Webber, who oversaw mining penalties for the federal government from 1999 to 2003, when he retired. “You're rewarding (mine) operators for correcting conditions that should not have existed in the first place.”

The Bush administration has said that higher fines are not as effective as forcing companies to close unsafe areas until they are fixed.

Tim Biddle, an attorney for coal companies, said higher penalties won't improve safety. “I really don't think any responsible mine operator makes any decision about safety based on civil penalties,” he said.

·Mining fines are set by a complicated formula that often results in small penalties for negligence. A mine operator could be fined just a few hundred dollars for “high negligence” of worker safety.

The Occupational Safety and Health Administration, which inspects most workplaces, sets a $5,000 minimum fine on firms that knowingly endanger workers.

Mining fines have taken on added importance as federal and state officials investigate fatal accidents that have killed 19 miners this year. The Sago Mine disaster Jan. 2 in West Virginia accounted for 12 deaths.

West Virginia's federal lawmakers recently proposed setting a $10,000 minimum fine for mine-safety violations for “negligence or reckless disregard.”

Mining fines are particularly small compared with recent record profits in the coal industry. The 10 largest publicly held coal companies reported combined profits of $2.4 billion last year on $24 billion in sales.

“The price of coal has increased dramatically and the price of penalties has not,” Davitt McAteer, mine-safety chief in the Clinton administration, told a Senate panel recently. Increasing fines “needs to be done and it needs to be done immediately.”

Panel Backs U.S. Plan To Transport Nuclear Waste (WSJ)

By John J. Fialka

The Wall Street Journal, February 10, 2006

WASHINGTON -- A panel of scientists, engineers and other experts endorsed the Energy Department's plans to ship tens of thousands of tons of nuclear waste for disposal in Nevada, saying they pose "no fundamental technical barriers" and relatively low and manageable risks.

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A review by the panel, organized by the National Research Council, an arm of the National Academy of Sciences, was the first major outside study of the government's plans for waste removal, which will take two decades and involve transportation routes through or near many population centers.

The panel's report gives a boost to administration proposals to spur nuclear power by moving spent nuclear-power-plant fuel from 70 sites in 31 states and to minimize waste-storage needs by reprocessing some elements from spent fuel. The Yucca Mountain disposal site, located 90 miles from Las Vegas, would also receive high-level nuclear-weapons waste from four government sites.

The panel called for the federal government to give states and communities advance knowledge of the travel routes of the waste, which would be shipped primarily by rail. It also called for federal aid to help them train teams of firefighters and others to deal with accidents involving trains or trucks carrying waste.

While the experts found the risks of radiation and other health-related damage from accidents were "generally low," they also found that public acceptance of the shipments will be complicated by a "fear factor" that might be reduced if people understood, in general, how the waste would be moved and the nature of the risks involved.

Activists from antinuclear groups and the state of Nevada, which is opposed to burying the waste there, have claimed that the waste shipments could result in massive nuclear accidents -- claims the panel rejected. But it warned that governments had to be prepared to manage "increased anxiety" that could lower property values and reduce tourism along some routes.

Neal F. Lane, a physicist at Rice University, who was chairman of the panel, said experts on the 16-member panel agreed that the timing or exact routes of particular shipments should remain secret. The Energy Department estimates that there would be 9,600 rail shipments, most of them by dedicated and guarded waste-carrying trains, and 1,100 truck shipments. Overall, some 70,000 tons of radioactive waste may be dumped at Yucca Mountain, should the government complete development of the facility.

The possibility of hazards caused by collisions, derailments or other accidents, or theft by terrorists, the panel concluded, will be minimized by putting the spent fuel and other waste in specially designed steel and concrete canisters, some weighing as much as two tons, that are designed to withstand most fires and the shock of accidents.

When the waste will begin to move is still unknown because the U.S. Nuclear Regulatory Commission must first issue a license to Yucca Mountain, a process that could extend beyond 2010. The opening of the facility will be crucial to the plans of the nuclear-power industry, which is running out of temporary storage space and will need to show regulators that new power plants won't encounter waste-storage problems.

Frankensense (WSJ)

The Wall Street Journal, February 10, 2006

Frankenstein is finally dead, or at least his political imitators are. That good news comes from the World Trade Organization, which struck a blow for science over scare-mongers by ruling this week against Europe's attempt to ban genetically modified food.

The written decision in the case brought by Argentina, Canada and the U.S. against the European Union won't be released for months, but the press leaks give a good picture of the ruling. All one needs to know is that Friends of the Earth and Greenpeace are howling that an "undemocratic" body is trying to "force-feed markets with GMOs." Expanding consumer choice and free trade equals force-feeding? Sounds like the good guys won.

The EU can accurately say its review process for new GMOs, which is stricter and slower than that used in the U.S., wasn't struck down. However, the panel said a clear review process has to be in place, and one not based on junk science. That means no more moratoriums on approving new GMOs such as that imposed by Brussels from 1998 to 2003.

The absence of proper and timely regulatory approvals led to the complaint in the first place. So did the fact that at least six EU member states have ignored regulator decisions to approve some new genetically modified products. The WTO also rejected this practice. American and Canadian producers currently lose an estimated $500 million of business a year thanks to European barriers on GM foods.

The emphasis on using good science is especially welcome. GMOs are typically vilified with disinformation campaigns, nowhere more so than on the Continent. Agriterrorists such as France's José Bové destroy fields of GM crops ("Frankenfood" to the looters) to the cheers of radicals and much of the media. The propaganda has had its intended effect. Opinion polls show a majority of Europeans look askance at biotech products.

In reality, farmers have been genetically modifying crops for millennia through hybridization. Early cultivators favored the seeds of plants that were sturdiest and produced the largest yields. Gene splicing is no different, except that it is quicker and more versatile and offers permanent, reproducible crop varieties. Humans have consumed "new" GM foods for a decade now with no discernible ill effects.

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Of course, this dispute was never really about science and health. Politicians trip over themselves to oppose goods "unsafe" in the public imagination. But they also know that Europe's farmers will find it harder to compete in a world market full of cheaper, healthier GM products.

More sinister is the effect European GMO policies have on the world's poorest farmers. African countries receive preferential access to European farm markets and have been reluctant to introduce GM crops at home. The concern is cross-pollination because the EU has zero tolerance for GM traces in non-GM imports. As a result, gene-altered seed stocks that better resist disease and severe climate conditions -- which would provide more food and export income for the people who need them most -- remain out of reach in many developing countries.

Certain European leaders have already vowed to defy this week's ruling to "protect" their people. The Continent has no monopoly on protectionists. But the WTO has just exposed the sham science and populist politics behind the EU's biotech regime and made it harder to stop better farm products from making it to market. The world's poor will be the biggest beneficiaries.

FBI/DEA/ATF/USMS:

Handprint Could Be Key To Church Fire Probe (CNN)

By Rusty Dornin

CNN.com, February 10, 2006

ALICEVILLE, Alabama (CNN) -- Investigators looking into the fires at nine Baptist churches in Alabama over the past week are hoping a handprint left on one church's front door may help catch a perpetrator.

The Bureau of Alcohol, Tobacco, Firearms and Explosives would not indicate whether its agents were able to lift a readable fingerprint from the inside part of the front door at Dancy First Baptist Church, south of Aliceville in Pickens County.

Arsonists entered the church by kicking in a back door, then set a fire near the pulpit before trying to escape through the front door, authorities said. (Watch how the church blazes have become an ATF priority -- 2:04)

However, the front door had a dead-bolt lock, and the arsonists had to exit through the back door, where police said they found a footprint that might have come from someone kicking the door.

The fire consumed the pulpit, communion table and part of the ceiling. Churchgoers were allowed to take a look at the damaged church Thursday, and the Rev. Walter Hawkins said they hope to have it rebuilt by May.

"They are material things that can be replaced," Hawkins said. "The church is in our heart. That's what we live on." Hawkins added that he hopes the arsonists "have a repentance of heart."

"Forgive them, they know not what they do," a sign in front of the church reads.

Authorities have been investigating the fires to determine if they're connected and, if so, who is behind them.

Nine churches -- five with predominantly African-American congregations and four with predominantly white ones -- have been set ablaze in the past week in central and western Alabama. Nobody has been injured. (Map)

James Posey, a preacher at the fire-damaged Morning Star Baptist Church, speculated that the perpetrators could have been hatemongers, devil worshippers or thrill seekers.

"I would like to ask them: What did you get from this? Why did you do it?" Posey said.

N.G. Berrill, a forensic psychologist, said arsonists "love the power" and "the theater associated with fire."

Investigators are going "to look for any communications that might be left specifically, consciously or inadvertently at the scenes of the crime," Berrill said.

More than 100 ATF personnel, including special agents and forensic experts, are investigating the fires. A criminal and geographical profiler also has been called in. (Full story)

The ATF has said witnesses have reported seeing a dark-colored SUV near some of the fires. But it is not clear if the vehicle is linked to the blazes.

Fears And Precautions Spread After Alabama Church Fires (NYT)

By Rick Lyman

The New York Times, February 10, 2006

ASHBY, Ala., Feb. 9 — Larry Crocker leaned on his cane in the hard clay beside the ruins of Ashby Baptist Church, listening for the distant rumble of the truck that was to bring the mobile sanctuary that would be the church's temporary new home.

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"I just hope that I don't know whoever's doing this," Mr. Crocker, a member of a nearby congregation, said of the rash of church fires in the area . "I'd hate to think I'd know a person who could do something like this."

But as investigators sift the rubble after nine church fires across rural Alabama in the last week, all suspected arsons, the evidence they are finding and the pattern of the attacks suggest that those behind the arsons were either locals or, at the very least, frequent-enough visitors to cherry-pick the most vulnerable and remote churches and drive the region's coal-dark roads at night with brazen efficiency.

"Everybody's fairly nervous out there now," said Jim Parker, pastor of the Ashby church. "People are taking some sort of precaution at almost every church."

Five churches, including Ashby Baptist, were set on fire just before dawn last Friday in rural Bibb County, about an hour south of Birmingham. They were all Baptist churches, four with predominantly white congregations and one with a black congregation.

Then, early Tuesday, four more churches — all Baptist and, this time, all black congregations — were hit on a long stretch of country highways in more rural counties along Alabama's western edge.

Although investigators say they have reached no firm conclusions about who might be behind the arsons, they point to strong similarities between the two strings of attacks. In both cases, the churches tended to be the most secluded; indeed, in Bibb County, the arsonists passed by several churches beside the highway to seek out those tucked deep into the pine woods.

The doors of many of the churches were kicked down. And witnesses in both areas said they had seen a dark-colored S.U.V., perhaps a Nissan Pathfinder, near some of the blazes.

At Six Mile Baptist Church, which has not been damaged, church members have carved up the night, taking shifts to drive by their sanctuary. The same is happening at several other churches across central Alabama.

"Different ones of us are going out at random times, just to be sure everything is O.K.," said Jimmy Jones, a retired elementary school principal and a member of the Six Mile Baptist congregation, in Bibb County. "We've bought some new lights that we can leave on at the church at night."

David Hand, pastor of Old Union Baptist Church, which was damaged last week, said everyone was keeping an extra watchful eye.

"We're doing what we can," Mr. Hand said. "Our neighbors are watching out for us, and the sheriff has extra patrols. We have some dogs out at the nearby houses. Hopefully, they'll give us some warning if anyone comes back around."

At Antioch Baptist Church, about 15 miles from Ashby's charred sanctuary, H. L. Morrison sat in the front pew and watched a clean-up team from a company called Restoration Xpress wipe the soot from the sanctuary's white wood ceiling and assess the fire damage on the table before the pulpit.

"This church was full of smoke, but it didn't burn," Mr. Morrison, a member of the congregation, said.

Indeed, Antioch Baptist was lucky. Pleasant Sabine Baptist Church, around the corner on a dirt road, burned to its foundation.

But the effort to gut Antioch Baptist fizzled. A three-foot floral arrangement on the table in front of the pulpit was set ablaze, but the flames died before they could ignite the surrounding wood.

The heat from the fire cracked the glass top on the table into a star-shaped pattern, and there was a burn mark on the carpet in the shape of a teardrop. But neither the pulpit nor the small plastic models of churches just beside the fire were as much as scorched, and a plastic bucket of money for the poor still rested, untouched, on the floor beside the table.

"About eight dollars in there," Mr. Morrison said. "They weren't thieves, whoever they were."

After the attack, the pastor placed a new message on the board outside the church: "The Lord is my helper. I will not fear what man shall do unto me."

Jim Cavanaugh, a special agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives, said it was too early for investigators to know why only Baptist churches were singled out. It could simply be that so many of the churches in rural Alabama are Baptist.

One line of speculation is that people who hunt at night are responsible, because they are among the few familiar with navigating Alabama's country lanes in the dead of night.

"In the past, of course, when we had these kind of church burnings in Alabama, they seemed to be racially motivated," said Jerry Wilkins, director of the Bibb County Baptist Association. "At least here, that doesn't seem to be the case, which is something."

City Man Sentenced In Drug Fraud Case (BSUN)

By A Sun Reporter

The Baltimore Sun, February 10, 2006

DOJ_NMG_0014121

Hudson, co-defendant convicted in scheme to sell pill prescriptions

A 49-year-old Baltimore man was sentenced to 30 years in prison for distributing Oxycontin and engaging in health-care fraud, the U.S. attorney's office said today.

Oliver Clifton Hudson and his co-defendant, Gregory Wayne Banks, 53, of Severna Park, were convicted in federal court Nov. 7. Both claimed to not be subject to the jurisdiction of the court and were removed from the courtroom after they refused to participate in the trial, according to court documents. Hudson returned to the courtroom today when U.S. District Judge J. Frederick Motz handed down his sentence. Banks is scheduled to be sentenced tomorrow.

"Criminal defendants are entitled to raise any valid legal claims and required to treat the court with respect," U.S. Attorney Rod J. Rosenstein said in a statement. "Instead, Oliver Hudson and his co-defendants made frivolous claims that judges cannot control their 'flesh and blood.' Defendants do not benefit when they disrupt criminal proceedings."

According to evidence presented at their trial, Hudson and Banks fraudulently obtained Oxycontin and other oxycodone drugs from pharmacies in Baltimore City and Baltimore, Anne Arundel, Howard, Montgomery and Harford counties. The drugs were obtained using prescriptions created with computers and photocopiers, officials said.

The defendants sent "runners" to various pharmacies with the prescriptions and made themselves available by telephone -- posing as health clinic officials -- to answer questions from pharmacy employees seeking verification for the prescriptions, officials said.

Furthermore, the defendants fraudulently obtained health insurance cards by paying people to "rent" their insurance for the purchases, officials said. The pharmacies would then unwittingly charge health insurance companies for the cost of the fake prescriptions, leaving only a co-payment for the defendants to pay.

Once obtained, the oxycodone prescriptions were ultimately resold on the street. Officials said the defendants sold more than 41,000 oxycodone pills using this scheme.

News Briefs From San Diego County (AP)

The Associated Press, February 9, 2006

SAN DIEGO (AP) - City officials have launching an investigation into illegal activity by city employees after two workers from the Park and Recreation Department were arrested on suspicion of drug possession and sales.

The employees, who are brothers, were arrested Jan. 25 as part of a broader Drug Enforcement Administration Investigation, authorities said. They are accused of dealing marijuana out of a Park and Recreation vehicle and had been under surveillance.

Fred Sainz, spokesman for Mayor Jerry Sanders, said the mayor was very disturbed by the arrests and ordered the probe.

"We have started our own investigation to see if other city assets or offices are involved," Sainz said.

Girls Try Drugs, Alcohol At Higher Rates (WP/AP)

By Karen Matthews, Associated Press

The Washington Post, February 10, 2006

NEW YORK -- In a reversal of past trends, teenage girls are trying marijuana, alcohol and cigarettes at higher rates than boys, the White House drug czar said Thursday.

The findings from a new government analysis come even as teen drug use is declining overall.

The National Survey on Drug Use and Health, released by John Walters, the national drug policy director, indicates 1.5 million girls ages 12 to 17 started drinking alcohol in 2004, the most recent year for which data is available. That compares with 1.28 million boys.

Among the same age group, 730,000 girls started smoking cigarettes in 2004, compared with 565,000 boys, and 675,000 girls starting using marijuana, compared with 577,000 boys, the survey found.

The nationwide survey, based on interviews with 70,000 families, also found that girls surpassed boys in abusing prescription drugs. Of the youths surveyed in 2004, 14.4 percent of girls and 12.5 percent of boys reported misusing prescription drugs.

"This is the first time that we've recorded this kind of relationship between boys' and girls' drug use," said Walters. "In the past, boys have had higher rates of use _ and significantly higher rates of use at certain times in the past."

Overall illicit drug use among youths 12 to 17 has declined 19 percent since 2001, according to the survey.

"In order to drive it down further, we have to deal with today's substance abuse reality, and today's reality is, girls have been using at higher rates than boys in critical areas," Walters said.

Experts who joined Walters at a news conference in a Manhattan hotel said girls' use of drugs, alcohol and cigarettes is particularly alarming because girls are more vulnerable to their effects.

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"Boys and girls react to drugs differently," said Dr. Warren Seigel, past president of the New York State chapter of the American Academy of Pediatrics.

Seigel said research has shown that girls may become addicted to nicotine faster than boys and even moderate drinking can disrupt their growth and the development of their reproductive systems.

"It's imperative that parents understand that these differences exist, and understand the differences between girls and boys, because it requires some different parenting skills," he said.

Dr. Ralph Lopez, an associate professor at Cornell University's Weill Medical College and the author of "The Teen Health Book: A Parents' Guide to Adolescent Health and Well-Being," said teenage girls are at risk for drug and alcohol use because they feel pressure to succeed academically and also to look perfect.

"They have to be skinny and gorgeous," he said. "We don't do that to the boys."

Lopez said many parents are afraid to confront their children about drugs.

"I'm afraid that our parents have dropped the ball in many cases," he said. "I have a line in my practice that if you are popular with your kids, you're doing something wrong."

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On the Net:

http://www.whitehousedrugpolicy.gov/

More Girls Than Boy Trying Drugs For First Time-US (REU)

Reuters, February 9, 2006

WASHINGTON (Reuters) - More girls than boys are becoming first-time users of alcohol, cigarettes and marijuana, reversing previous trends, the U.S. drug czar said in a report released on Thursday.

"Girls have become users at rates that exceed boys or equal boys now, which never used to be the case," John Walters, director of the White House Office of National Drug Control Policy, said in a telephone interview.

The report found 1.5 million U.S. girls 18 or under started using alcohol in 2004, compared with 1.2 million boys. It found that 730,000 girls started smoking cigarettes, compared with 565,000 boys, and 675,000 girls started using marijuana, compared with 577,000 boys.

The report was published on the Internet at http://www.mediacampaign.org/pdf/girls_and_drugs.pdf.

Walters said there were several reasons why girls might turn more to drugs and alcohol than boys.

"They are more likely to be influenced by peer pressure, even when they have been told and accepted that these behaviors are risky for them," Walters said.

"They are twice as likely to be victims of depression. They report that when they use, that they do that to improve their moods."

The report, based on government surveys, found that 1.6 million girls reported having at least one major depressive episode in 2004. "That's more than twice as many as boys," the report reads.

Walters said girls often used drugs and cigarettes to try to stay slim.

He said parents should talk to children before they were at risk of drug use.

"It is not going to be a stranger or some sinister person who offers it," Walters said. "It is going to be your best friend. We have to be sure to prepare them for how they are going to say no to their best friend."

Girls Matching Boys In Substance Abuse (WT)

By Cheryl Wetzstein

The Washington Times, February 10, 2006

Young men and women are abusing tobacco, alcohol and drugs at the same rate, according a report released yesterday that urged parents to get more involved in the lives of their teenage children.

"The gender gap has closed. Girls are smoking, drinking and using drugs equal to boys," said Susan Foster, vice president of the National Center on Addiction and Substance Abuse (CASA) at Columbia University and lead author of a new book on women and substance abuse.

CASA's book, released yesterday during an event on Capitol Hill, documents how women differ from men in their vulnerabilities to substance abuse. It also makes recommendations on how parents, policy-makers, educators and treatment professionals can improve their responses to substance abuse by girls and women.

A separate report released yesterday in New York City by the White House Office of National Drug Control Policy (ONDCP) and Seventeen magazine said teenage girls now match teenage boys in illicit drug and alcohol use, surpass them in cigarette and prescription drug use, and are more likely than boys to start using illicit substances.

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"Girls are telling us that they understand the risks associated with drugs, alcohol and cigarettes. But that doesn't appear to be stopping them from using," White House drug czar John P. Walters said yesterday.

Susan Molinari, chairwoman of the Century Council, an educational group funded by the distilled-spirits industry, said that, overall, underage drinking has dropped since 1992 among both girls and boys.

However, almost half of mothers think it's OK for their teen daughters to drink, the council found in a recent survey of nearly 900 mothers and daughters. Moreover, 30 percent of girls ages 16 to 18 said they drank with friends -- but only 9 percent of their mothers said they knew about it.

"These data illustrate a disturbing misperception among moms about the seriousness of problems associated with alcohol consumption by their teenage daughters," said Mrs. Molinari, whose group offers a program called "Girl Talk" to discourage underage drinking.

Parental disapproval of tobacco, alcohol and drugs is a strong influence on teens, as is parental monitoring of teens and their friends, said the ONDCP, which offers parents and community leaders a wealth of anti-drug materials.

At the Capitol Hill event, Joseph A. Califano Jr., CASA chairman and president, said he hoped the group's new book, "Women Under the Influence," will stimulate new public attitudes about women and substance abuse.

There is no doubt women can become addicted faster -- even with less exposure to substances -- and suffer the consequences more quickly, he said.

"If young women knew that, they might be quicker to say, 'No, I'm not going to have that second beer,' " said Rep. Nancy L. Johnson, Connecticut Republican.

Teen Girls Turn To Drugs, Cigarettes (UPI)

United Press International, February 10, 2006

WASHINGTON, Feb. 10 (UPI) -- The latest U.S. national survey on alcohol and drug use finds that teenage girls are more likely than boys to smoke and abuse prescription drugs.

They had already equaled boys in drinking and illegal drug abuse, The Washington Post reports.

The National Survey on Drug Use and Health has been conducted every year since 1971. The figures on teenage girls are based on the 2004 study, which interviewed 70,000 households.

Experts say that teenage girls are more likely than boys to use drugs and alcohol to escape from family problems and other pressures in their lives. They also may take up smoking to help keep their weight down.

More Girls Than Boys Turning To Drugs (ABC)

ABC News, February 9, 2006

Feb. 9, 2006 — For the past year, first lady Laura Bush has spearheaded an initiative to steer boys away from gangs, crime and drugs. She felt the program was needed because, she said, because we have "shifted our gaze away from boys for the last several decades." A White House report released today on drug use among youths suggests that we need to keep a closer eye on girls as well.

The report reveals that in 2004, the most recent year studied, 1.5 million girls started using alcohol — 173,000 more than the number of boys who started drinking.

During his State of the Union address, President Bush said that drug use among youth was down 19 percent since 2001. But this latest report has raised concerns about whether the message about the dangers of drugs, alcohol and smoking is reaching girls as well as it is boys.

"The reason we're pointing to this alarming trend is because if we're going to get girls to continue to decline in drug use effectively, we're going to have to deal with those causes, which are different," drug czar John Walters said.

As with alcohol use, first time tobacco and marijuana use was also higher among girls than boys. In 2004, 729,000 girls — 164,000 more than boys — started smoking cigarettes, and 675,000 girls — 98,000 more than boys — started using marijuana. Since 2002, more girls than boys have started using marijuana. The study found that for girls, marijuana was used more than cocaine, heroin, Ecstasy, and all other illicit drugs combined.

That's because girls are under a lot of stress because of their changing roles in society, said Dr. Keith Ablow, child psychologist and author. They are abusing drugs and alcohol to self-medicate.

"I think we're deluging young girls with certain expectations," he said. "They're watching dramas on television that ask them to have relationships where girls are deciding between two boys at such an early age. Fashion is designed for adults but in little sizes."

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"We're going to have to focus on the particular, unique circumstances we're faced with girls, which is different today than it's ever been before, which has obstacles we've not faced before, but obstacles we can overcome if we do the right thing," Walters said.

On the home front, Ablow said that parents should behave like detectives and assume there might be a problem, especially if a girl is exhibiting low self-esteem.

"We want to believe our families are perfect," he said. "That's understandable, but better would be to say, let's think what might be wrong. Let's make sure we don't get into denial and become very sensitive to what might be going on in the lives of our daughters."

Ablow, who has a 7-year-old daughter, said to pay attention if a girl's grades began to slip or if she lost interest in activities that she once enjoyed.

"Drug use and abuse is a symptom, almost always — I'd say always — of an underlying, other deeper problem," he said. "In this case, we're looking at depression, attention-deficit problems, potentially eating disorders."

US Girls Match Boys In Alcohol, Drugs, Cigarette Use (AFP)

AFP, February 9, 2006

WASHINGTON (AFP) - American girls are puffing more cigarettes and popping more prescription pills than boys, and using as much alcohol and illicit drugs, the White House drugs control czar said.

The warning was based on an analysis of recent studies which showed girls typically use drugs and alcohol to boost dented self-esteem and self-confidence, as they face the hard choices and questions of early adolescence.

"The trends of substance use among our adolescent girls are alarming," said John Walters, director of the White House office of National Drug Control Policy.

Though overall drug use among youths in the United States had dipped in recent years, statistics for girls were causing concern, he said, and debunked conventional wisdom that boys were more at risk from illegal drugs.

"Girls are telling us that they understand the risks associated with drugs, alcohol and cigarettes," Walters said in a statement, issued in New York.

"But that doesn't appear to be stopping them from using (them)," Walters said, urging parents to talk to their daughters about the importance of staying drugs-free.

Atoosa Rubenstein, editor in chief of Seventeen magazine, which cooperated with the White House initiative, said young girls were becoming more independent and starting to make decisions about their future."

"Combine this new responsibility with all the stress and pressures in their lives and the result, unfortunately, can be substance abuse," she said.

Girls Equal, Exceed Boys In Substance Abuse (LIVESCI)

By Corey Binns

LiveScience.com, February 9, 2006

Adolescent girls abuse drugs and alcohol just as much if not more than boys, a new study indicates.

Contrary to popular belief, more girls are new substance abusers. In 2004, 1.5 million girls started using alcohol, 730,000 girls started smoking, and 675,000 started using marijuana, according to the 2004 National Survey on Drug Use and Health.

The Office of National Drug Control Policy (ONDCP) reported the findings today.

"Over the last few years, we have seen overall drug use decrease among teens—boys and girls. But the trends of substance use among our adolescent girls are alarming," said ONDCP Director John P. Walters.

Conversely, a 2003 Centers for Disease Control survey of high school students found male students more likely to report methamphetamine use than their female classmates.

Marijuana is the drug of choice for girls; they prefer it over cocaine, heroin, Ecstasy, and all other illicit drugs combined, according to ONDCP.

Girls smoke cigarettes and abuse prescription drugs more than boys. And since 2003, girls have caught up with boys in abuse of illicit drugs and alcohol.

Girls abuse for different reasons that boys. Drug and alcohol use has a more profound impact on teen girls, both physically and psychologically.

They tend to use substances to help their mood, boost their confidence, and cope with problems. Yet smoking marijuana can increase the risk of depression by five times in teen girls, and double the risk of depression for teens of both genders, research shows.

A desire to lose weight also contributes to drug abuse; girls pop diet pills four times more than boys.

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Substance abuse can lead to physical, mental, and social consequences for girls, especially when their bodies and brains are still developing.

"Girls are telling us that they understand the risks associated with drugs, alcohol, and cigarettes," Walters said. "But that doesn't appear to be stopping them from using."

Drug Use Often Masks Self-worth Issues (MINNST)

By Jenna Ross

Minneapolis Star Tribune, February 10, 2006

Andrea Raines downed Ecstasy and alcohol, did methamphetamine and morphine, smoked marijuana and snorted cocaine

But that wasn't enough, she said. Throughout three years of chemical abuse, she would make herself throw up.

Raines, now 16, was like many adolescent girls who use drugs. She was insecure. "I didn't like my body," Raines said. "I wanted to be skinnier. I wanted to be like the women you see on TV."

A report by the White House Office of National Drug Control Policy released Thursday notes that young females across the country tend to use alcohol or drugs to lose weight, improve their mood, increase their confidence, cope with problems and lose their inhibitions.

The report also said more girls than boys are starting to drink and smoke cigarettes and marijuana.

And, according to the report, the girls who drink alcohol or take drugs are more likely to have sex.

Raines' drug use began with marijuana at age 12. When she started hanging with a group of older guys, she began using harder drugs. By the time she was 14, she had lost weight, close friends and her virginity.

Now, Raines lives at Minnesota Teen Challenge in Minneapolis, where she attends therapy and goes to school with 12 high school girls with similar histories. It's the fourth drug treatment she's tried in less than a year and a half.

This time, it's working. She has regained her "self-worth," put on 48 pounds and hopes to graduate from high school a year early.

Raines, who grew up in Coon Rapids, has a great deal of advice she would give young girls getting high. She'd tell them to listen to their parents and carefully consider their friends. Then she'd tell them this:

"Don't try to be so much like the world," she said. "The world is evil."

Lund Pleads Case For Olympic Eligibility (AP-Y2)

By Tom Withers, AP Sports Writer

AP2, February 10, 2006

U.S. skeleton racer Zach Lund's hopes of competing in the Olympics now rest in the hands of a special arbitration court.

The Court of Arbitration for Sport is expected to rule Friday on whether Lund should be allowed to race in the Turin Games after testing positive for finasteride — an ingredient in a hair-restoration product that also can be used as a steroid-masking agent. Lund insists he tested positive because he was taking an baldness-fighting drug.

Lund spent more than three hours Thursday at a hearing with the CAS. The men's skeleton competition scheduled to begin next week.

Lund was publicly warned but not suspended by the U.S. Anti-Doping Agency on Jan. 23 after the positive test. But last week, the World Anti-Doping Agency filed an appeal with the CAS over Lund's Olympic eligibility.

The World Anti-Doping Code recommends a two-year suspension for a first serious doping violation, and it has the right to appeal any decision it feels to be too lenient or incorrect.

Lund attended Thursday's hearing at a Turin hotel with his attorney, Howard Jacobs, who declined to comment to The Associated Press afterward. WADA participated in the hearing via a conference call.

Lund, 26, was the overall World Cup leader before he was sanctioned, a ruling that compounded other pre-Olympic problems for the U.S. Bobsled and Skeleton Federation.

At the time, the USBSF was dealing with accusations of sexual harassment against U.S. coach Tim Nardiello, who was suspended, reinstated and ultimately fired after ignoring orders to stay away from the American team during its final Olympic preparations.

Finasteride has been on the banned list since 2005. Two athletes, Argentine tennis player Mariano Hood and German soccer player Nemanja Vucicevic, were banned for taking the same drug last year.

On Thursday, the Montreal Canadiens said goalie Jose Theodore tested positive for a banned substance in pre-Olympic screening because he was using a hair-growth drug that can be used as a masking agent.

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Theodore was not picked for Canada's Olympic team, but was on the preliminary 81-player eligibility list. No punishment was handed down because he is appealing the result to an arbitrator.

Duke Strengthens Drug - Testing Policies (NYT/AP)

By The Associated Press

The New York Times, February 9, 2006

DURHAM, N.C. (AP) -- Student athletes at Duke who test positive for steroids will have to sit out of competition for a year, while a second offense will result in lost eligibility, the school announced Thursday.

The changes come after allegations last spring of steroid use by former baseball players. Bill Hillier, who compiled a 121-214 record in six years, resigned as coach a month after two former Duke players told the university newspaper that used steroids while playing for the school.

Those players and others have said Hillier suggested that they use steroids. Hillier has denied the allegations.

The new policy goes into place immediately. Evidence of blood doping or masking agents and refusal to take or attempts to manipulate a test are treated as positive tests, the school said.

The new rules also call for treatment and counseling for athletes who test positive for illegal drugs or any other substance banned by the NCAA. Athletes who flunk a second test for such drugs would be suspended for at least half of a season, while a third offense would result in a permanent ban from competition.

The previous policy did not distinguish between steroids and other drugs, said James E. Coleman Jr., a Duke law professor who headed the committee that recommended the changes.

The policy also allows for unannounced drug testing for players in all of Duke's 26 varsity programs.

Duke Tightens Athletes' Drug Rules (DURHS)

By BRYAN STRICKLAND, The Herald-Sun

Durham (NC) Herald Sun, February 10, 2006

DURHAM -- Duke University's athletics program became the latest to crack down on the use of performance-enhancing drugs Thursday, less than a year after allegations surfaced regarding steroid use in the baseball program.

The school's new drug policy differentiates between performance-enhancing drugs and other substances banned by the NCAA -- so-called "street drugs" -- by imposing harsher penalties for student-athletes who test positive for steroids and the like.

The previous policy treated all banned substances the same, calling for counseling, treatment and further evaluation for a first offense, a suspension for at least half the season for a second offense and a permanent ban from competition for a third offense.

That remains the penalty schedule for street drugs. But performance-enhancing drugs now carry a minimum one-year ban for a first offense and a permanent ban for a second offense.

"There's only one reason in the world to use steroids, and that's to gain an advantage and to cheat," said Brad Berndt, assistant director of athletics. "An educational institution should uphold all the ideals of what's best about integrity and honesty. There's no other reason to take a steroid other than to gain an advantage over your opponent. Besides, they're illegal."

Berndt, who has overseen the NCAA's drug-testing program on the Duke campus for the last eight years, was one of six members of a committee appointed last year by Duke President Richard Brodhead to review and rework the athletics department's drug policy.

Berndt said the committee sought comments from all of the school's head and assistant coaches and the Student-Athlete Advisory group during its research phase.

Berndt said a review was due but was surely sped up by the events of last April, when former Duke baseball players Aaron Kempster and Gavin Stanley told Duke's student newspaper, The Chronicle, that they had used steroids in the summer of 2002. They also claimed they did so at the suggestion of their coach, Bill Hillier.

Hillier turned in his resignation a month later at the end of the season, a decision that he and the school said came as a result of his 121-214 record over six seasons rather than the former players' claims.

"Honestly, we were ready to review our policy. We probably reviewed it a little bit faster than we would have had that not come up," Berndt said. "The two folks that went to the media were two folks that were disenchanted with the baseball program first of all, and used that as a vehicle to bring some bad publicity to the program.

"I think it was very, very isolated, and it was three or four years after the fact. I think if they had been really concerned, they would have come to us as administrators and would have said, 'Hey, we've got a problem,' and we would have dealt with it. And they would have done so earlier."

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Chris Kennedy, senior associate athletics director, also downplayed the claims. But he did say some good had come out of them, both in terms of the new policy and in terms of making sure coaches are delivering the anti-drug message loudly and clearly.

"The important conclusion that we came to out of that, by talking to bunches of past and current baseball players, is that as in every other team that we sponsor, coaches want people to get bigger and stronger because otherwise you're going to get beat," said Kennedy, who has been involved with the school's drug policy since its infancy in the early 1980s. "But there was none of this winking and, 'You know what to do,' stuff like that. If they interpreted it that way, they grossly misinterpret what was being said.

"What we want our coaches to say is, 'You need to get bigger and stronger; here's how you do it. We're going to fit you in with our nutritionist and she's going to talk to you about protein, and you'll get with the weight coach and work out a program for you. Do not take performance-enhancing drugs. Do not take steroids. Do not take supplements.' "

Steroids have been big news at the highest level of sports over the last year or so, as evidenced by congressional hearings involving commissioners from Major League Baseball, the NBA and the NHL last spring.

The changing landscape has led to changes at other area schools as well.

In October, UNC adopted a new policy with much stiffer penalties for "anabolic agents" than other drugs: termination for eligibility for a first positive test for steroids, versus at a minimum a probationary period for a first offense involving a street drug, followed by loss of half a season for a second offense and termination of eligibility for a third offense.

N.C. State updated its policy in July 2004, before steroids became such a hot-button issue. It doesn't differentiate between steroids and street drugs in terms of its minimum penalties.

Duke's policy falls somewhere in the middle.

"We want it to be a stiff penalty, but we're also in the business of education, so we want to make sure we educate the student and give them another chance," Berndt said. "It is pretty strong, and it's very consistent with the NCAA policy. That was one of the things that was kind of leading this committee all along: What does the NCAA do? Not only what's best for Duke, but what does the NCAA do?"

Like Duke's new policy, the NCAA suspends athletes for one year for a first offense of its steroid policy and for lifetime for a second offense.

But the NCAA's drug-testing procedures alone reach a tiny percentage of the total athletes. Berndt said the NCAA was on campus last Thursday to conduct the year-round phase of its drug testing, which typically involves one trip to each campus over the course of a school year to test 18 football players and eight athletes from one other team for performance-enhancing drugs only. The NCAA also randomly tests during its postseason tournaments for both street drugs and steroids.

"Our rule is, 'If we don't give it to you, don't put it in your body,' " Duke football coach Ted Roof said. "We believe that the only way to get an edge is to work hard. There are no shortcuts to success."

Berndt said Duke started its own testing about 10 years ago. The school was randomly testing 30 athletes on five or six occasions during the course of a school year in the past but is in the process of increasing that number to nine or 10 times a year. The increased testing will now include summer school and will reach more of the school's Olympic sports.

Duke has 26 teams. But Berndt said four have received much of the focus of testing in the past -- football, men's and women's basketball, and baseball. School officials hope that wider testing and stiffer penalties will keep their athletes on the straight and narrow.

"Obviously, we hope it will deter drug use, partly by giving our kids a reason to say, 'I can't do that,' " Kennedy said. "They're in the dorm at 2 a.m. on a Saturday or Sunday morning and everybody else is doing something and it's like, 'Oh, come on.'

"But the kid might say, 'Listen, I could be tested Tuesday. I can't do that.' "

Duke senior basketball player Shelden Williams, who said he had been tested a couple of times during his career and during his participation over the summer with USA Basketball, said the increased testing and penalties don't bother him.

"It's only annoying if you have something to hide," Williams said. "It's no problem for me. I don't have anything to hide. Being tested is I guess a walk in the park."

1:21 Pm | Duke Toughens Steroids Policy (CO)

By Ken Tysiac

The Charlotte Observer, February 10, 2006

Duke University has toughened its policy on steroids, mandating a one-year suspension for any athlete who tests positive for anabolic steroids, blood doping or masking agents, the school announced Thursday.

A second positive test will result in termination of athletics eligibility.

Duke's policy for athletes who test positive for street drugs or NCAA-banned substances other than steroids is basically unchanged. Those athletes will receive evaluation, treatment and counseling, with at least a half-season suspension for the second offense and a permanent ban for a third offense.

Steroids were treated the same as street drugs under Duke's previous policy. A committee commissioned by university president Richard Brodhead created the new policy.

Stories last year about alleged steroid use by former members of Duke's baseball team were one reason the university decided to review its policy, committee member Tallman Trask III said in a statement.

"While we fully checked out these allegations and were satisfied that this was not a widespread problem, we nonetheless felt it was important to take this pro-active step in strengthening our drug policy," said Trask, Duke's executive vice president. "We also felt Duke could, and should, take a leadership role in this area, and that it is in the best interest of our student-athletes' health and well-being that we do so."

The University of North Carolina strengthened its steroid policy in October, requiring permanent dismissal for athletes testing positive for anabolic steroids.

Duke's policy provides a second chance for steroid offenders.

"We are an educational institution," said Duke law professor James E. Coleman Jr., who chaired Duke's committee. "We felt it was appropriate to give a student who tested positive for a steroid a second chance to learn from and recover from the error, if possible."

-- Ken Tysiac: ktysiac@charlotteobserver.com

-- Read tomorrow's Charlotte Observer for more details on this developing story.

Feds Raid Moonshine Still (CLAYTRIB)

By Blake Spurney, Editor

Clayton (GA) Tribune, February 9, 2006

Federal agents from the U.S. Forest Service and the Bureau of Alcohol, Tobacco and Firearms raided a moonshine still Feb. 2 off Muscadine Lane in eastern Rabun County.

The still, on Forest Service land in the Pool Creek community, had been under surveillance for nearly two months. No arrests have been made, though Rabun County sheriff's deputies and Georgia Department of Revenue agents helped execute warrants at three local residences.

Authorities released few details about the still's operation, including the names of potential suspects. The investigation is ongoing.

"Suffice it to say, the suspects have been under surveillance with our operation," said ATF spokesman Marc Jackson.

"It was estimated that up until our enforcement action on it, that this suspected still was suspected of producing 45-70 gallons per cycle," Jackson added. The still had yielded about seven cycles since Dec. 8.

The still was estimated to hold 750 gallons of mash. It was tucked away off Forest Service Road 517. Liquor was transported from the site in a 55-gallon barrel to another location where it was transferred to jars. Its operators had built a makeshift road through the woods, apparently on an old logging roadbed. The liquor was distilled through an old radiator.

Jackson said samples taken of the finished product detected "an enough amount of lead to cause a concern for public safety."

The Forest Service brought in a bulldozer Friday morning to finish cutting the still. Some parts of it had been dismantled the previous evening.

The ATF got involved in the investigation upon getting a referral from the Forest Service.

"That's what makes it unique was that it was found on Forest Service land," Jackson said.

State revenue agents merely assisted the federal investigation.

"It was a federal warrant executed on federal land," said Revenue Department spokesman Charles Willey, declining further comment.

Because the raid stemmed from a federal investigation, no suspect was immediately arrested. Jackson said no affidavits had been filed and that arrests typically came after a federal grand jury indictment.

U.S. Attorney's Office spokesman Pat Crosby said he could neither confirm nor deny an ongoing investigation. Therefore, it's likely no decision has been made as to whether the case will prosecuted in federal court.

A federal conviction for transporting, selling or manufacturing nontaxed liquor carries a possible sentence of up to five years in prison and a maximum fine of $10,000.

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The residences that were searched as part of the investigation are located on Pool Creek Road, Earl's Ford Road and Screamer Street. Two vehicles suspected of hauling liquor were seized, as was an unspecified quantity of liquor found at two of the residences.

A woman who answered the phone at the suspect's residence on Pool Creek Road said, "There's no comment."

Man Sentenced In Arson-for-hire Case (BUCKSCCT)

By HARRY YANOSHAK, Bucks County Courier Times

Bucks County (PA) Courier-Times, February 9, 2006

PHILADELPHIA - A New Jersey man was sentenced to five years in federal prison Wednesday for hiring two men to torch the Morrisville restaurant across the street from what used to be his pizzeria.

From his own family to the man whose deli-restaurant was damaged by Molotov cocktails, many in U.S. District Court posed the same question to Alessandro "Alex" Tramo: "What were you thinking?"

Tramo's answer: He wasn't.

The abuse of prescription drugs had clouded his judgment, he told U.S. District Court Judge Anita Brody, whose sentence of five years was the mandatory minimum.

"I forever regret having anything to do with this incident," he told the court as his wife, Lisa, sat in the audience and wiped away tears.

Tramo pleaded guilty to hiring the men to burn Ben's Deli and Restaurant on Dec. 2, 2000. The 3:45 a.m. fire was brought under control in about 20 minutes and seriously damaged the landmark cafeteria-style eatery.

An investigation by Morrisville and Bucks County fire marshals and the federal Bureau of Alcohol, Tobacco and Firearms resulted in an indictment against Tramo, 34, of Bordentown; Bruce Armstrong, 35, of Trenton; and William Anderson, 39, of Morrisville.

Tramo, who then owned Anthony's 4 Pizza, hired the two to eliminate Ben's as a competitor, the investigators determined.

Armstrong and Anderson pleaded guilty and agreed to testify against Tramo. After that, Tramo pleaded guilty to arson and criminal conspiracy to commit arson.

Armstrong was sentenced to 40 months in federal prison. Anderson will be sentenced March 8.

The government said Tramo paid Anderson $3,000 to torch Ben's, and Anderson then gave Molotov cocktails and $2,000 to Armstrong.

The cocktail was a mixture of castor oil and nitromethane, a highly explosive liquid gas used to power remote-controlled model cars. The fuel was packed in glass root beer bottles.

After owners Joe Koebert and Nickolas Blasy rebuilt Ben's, Tramo tried to hire Armstrong in summer 2003 to again to torch the restaurant, according to the government case against him. Armstrong was cooperating with authorities at the time and his phone calls to Tramo were recorded, Assistant U.S. Attorney Robert E. Goldman said.

In court Wednesday, Tramo said he was upset that his poor decision-making skills cost him precious time with his wife and their girls, 3 and 6.

"Please don't keep me from my precious children," the defendant told the judge.

Brody, who acknowledged the support of Tramo's wife and other family members, said the minimum sentence was appropriate, given the seriousness of the crime.

Tramo's criminal history in Bucks County includes convictions for stalking and harassment, forgery and making terroristic threats. He was sentenced to county probation for those crimes, records showed.

"There's just no question about it," Brody said. "When you take all the factors into consideration, this sentence is very appropriate. You destroyed a business, you put firefighters' lives in jeopardy, and you even contemplated burning down this business a second time."

A dozen of Tramo's family members, including relatives who had flown in from Italy, attended the sentencing. His wife declined to comment. She asked the judge to send her husband to a federal prison nearby.

Defense lawyer Marc Neff said he was satisfied that Tramo received only the mandatory minimum sentence. "In a moment of lapsed judgment, he did something stupid," the lawyer said.

Called to testify, Koebert said that he had suspicions about Tramo early on, but he couldn't believe that he could do such a thing.

"What were you thinking?" Koebert asked.

After Tramo was led away, apologizing to his family in Italian, Koebert shook hands with Tramo's wife, mother and relatives.

"We were friends. We were friends," he told them.

Then he said, "Look at how he's devastated his family."

Cousin Ben Tramo said the family is hurting.

"Hopefully, when this is all over, we'll all try to put this behind us. He has a wife and two beautiful kids waiting for him," he said.

Referring to the question asked by Koebert, Ben Tramo said, "For the past months that's what we were all saying: 'What were you thinking?' "

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IMMIGRATION:

Border Violence Alarms Chertoff (WT)

By Jerry Seper

The Washington Times, February 10, 2006

Department of Homeland Security Secretary Michael Chertoff, concerned about rising border violence, said yesterday nearly $1 billion in next year's proposed $42.7 billion department budget will be used for new U.S. Border Patrol agents, upgraded electronic security measures, and more fences, roads, and detention beds.

"There has been an over-100 percent increase in the last fiscal year in border violence aimed at our Border Patrol agents, and that ranges from gunshots fired across the border to rocks being thrown, sometimes flaming rocks, and let me tell you, rockings are serious," Mr. Chertoff said at a press conference in Washington.

"We are not going to tolerate this kind of behavior ... if they think they're going to back us down or chase us away, the answer to that is no. Our Border Patrol is properly trained. They have rules of engagement. They are entitled to defend themselves. They will defend themselves. We will support them in applying these rules of engagement," he said.

Border Patrol Chief David V. Aguilar noted there had already been 192 assaults on his agents since the start of the new fiscal year in October.

Mr. Chertoff said much of the border violence has been the result of increased enforcement efforts by the U.S. government, but that the department was committed to securing the nation's borders as part of the strategy that "involves not only apprehensions at the border, but detention, removal and more vigorous work site enforcement."

The new budget calls for $458.9 million for 1,500 new Border Patrol agents, doubling the number of agents added to 3,000 since 2005. This represents a 42 percent increase in the agent work force since the September 11 attacks.

The budget also calls for:

·$100 million for technology that will enhance electronic surveillance and operational response capability along the border. Mr. Chertoff said the money will provide significant procurement investments needed to begin an aggressive deployment plan that began in fiscal 2005.

·$30 million to complete construction of the San Diego border infrastructure project that includes multiple fences and patrol roads to enable quick enforcement response.

·$410.2 million for an additional 6,700 detention bed spaces -- to eliminate an existing "catch and release" program in which apprehended illegal aliens are released because of a lack of bed space.

Mr. Chertoff said rising violence along the U.S.-Mexico border represented not only a threat to law-enforcement personnel but to everyone.

"This is dangerous to our country; it's dangerous to Mexico; it's dangerous to the human beings who are being smuggled into the country and then left to die in the desert, or subject to being victims of assaults by the coyotes [alien smugglers] themselves," he said.

"So, from a humanitarian and a national security standpoint, we have to have a very strong commitment to ending this activity by illegal trafficking organizations," he said.

Senator Calls Immigration A National-security Concern (WT)

By Robert Stacy Mccain

The Washington Times, February 10, 2006

Immigration should be treated as a national security issue, Sen. John Cornyn yesterday told a gathering of conservative activists.

"The federal government needs to obtain operational security of our borders," the Texas Republican said in a speech to the 33rd annual Conservative Political Action Conference (CPAC) at the Omni Shoreham Hotel in Washington.

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"We are proud to be a nation of immigrants ... but we are also a nation of laws," said Mr. Cornyn, warning that other nations, including Mexico, must "have respect for this country's laws and our nation's sovereignty."

He said human traffickers, drug smugglers and criminal gangs from Brazil, China and other countries are "using Mexico as a point of entry into the United States."

Mr. Cornyn, whose appearance capped a morning of speeches and panel discussions devoted to border issues, drew applause when he said he would push for a Senate bill to provide "a comprehensive solution" to U.S. immigration problems "that does not include amnesty."

Earlier CPAC discussions highlighted what Mark Krikorian of the Center for Immigration Studies called the "gap between elite and public opinion" on the issue.

"That divide ... really is what drives the debate," said Mr. Krikorian, who sparked laughter with his remarks on proposals by President Bush and others for an immigrant guest-worker program.

"It's the Nigerian e-mail scam of immigration. It's obviously false, but people keep falling for it over and over," Mr. Krikorian said, noting that in other countries with such programs, most "guest workers" become permanent residents.

Veteran conservative activist Phyllis Schlafly suggested that guest-worker proposals would create a separate caste for foreign laborers.

"We don't want a servant or serf or peasant class," the Eagle Forum president said.

Rep. J.D. Hayworth, Arizona Republican, opened one morning panel by emphasizing the issue of border enforcement.

"In the spirit of Ronald Reagan, who said his grand strategy for the Cold War was this, 'We win, they lose,' let me propose this simple notion ...: Let's enforce existing laws, and then move to close loopholes that exist that others game and take advantage of," Mr. Hayworth said. " 'Enforcement first' should be our call to action."

Colin A. Hanna, president of Let Freedom Ring, a public-policy organization that advocates enhanced border security, noted that the U.S.-Mexico border is one "between two allies," but said that "recently, the Mexican government has not acted like much of an ally in addressing illegal immigration."

CPAC attendees signaled their mood with loud cheers for Chris Simcox, president of the Minuteman Civil Defense Corps, a group that has made headlines with its civilian border vigils.

"I'm tired of hearing sheriffs from Texas ... begging and pleading for military support because they're outmanned and outgunned on the borders," said Mr. Simcox, who called the inflow of illegal aliens and drugs "terrorism that's affecting the lives of people who live along the border."

Temporary Manager Visas Used To Circumvent Limits (WT)

By Stephen Dinan

The Washington Times, February 10, 2006

One of the country's temporary work visa programs, used particularly by foreign technology workers, is being abused by companies looking to get around protections for American workers, according to a new government report.

The L visa, which is intended for foreign companies who want to transfer managerial employees or workers with "specialized knowledge" temporarily to the United States, has been abused to get around limits on other types of visas, according to the Department of Homeland Security's inspector general.

Congress has capped the number of workers who can come under the H-1B visa category each year at 65,000, but has not placed limits on the L-1 visa, which applies to workers with specialized knowledge. Also, the L visa does not require that workers are paid the "prevailing wage" so that American workers are not displaced.

"Software companies appear to be using the L visa to get around H quotas," one consular post in Southeast Asia told investigators. State Department officials often are called upon to double-check information abroad.

L visas have proven attractive for technology companies -- and particularly firms that outsource labor to India. Nearly 50 percent of the petitions received under the "specialized knowledge" category in fiscal 2005 were for people born in India.

The inspector general found that it is difficult for adjudicators at U.S. Citizenship and Immigration Services (USCIS) to determine what constitutes a manager, particularly because companies vary in size and organization. Adjudicators also have to rely on a company's claims about its own operations, a worker's status at the time of the petition and how a worker will be used in the United States.

In some cases, adjudicators said, applications were prepared by lawyers and "were either too vague, or conversely too technical, for the adjudicator to make appropriate decisions."

Sen. Charles E. Grassley, the Iowa Republican who inserted a provision into a bill to require the study, said it showed "extensive and well-known fraud and abuse in the L visa program."

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"When our own consular officers agree that there are problems with the L visa program, something has to be done," he said. "We can't have companies bypass the H-1B visas just to get around protections intended to help American workers."

The inspector general concluded that although the claims about displacing U.S. workers "may have merit," it is not a significant national trend.

Angelica Alfonso, a spokeswoman for USCIS, said the report is accurate in saying L-1 visas are difficult to adjudicate and have "the potential of being exploited to fraud and abuse."

"USCIS has provided additional guidance to minimize such vulnerabilities. In addition, in 2006, USCIS plans to conduct a benefit fraud assessment to determine the nature and extent of fraud in the L-1A non-immigrant classification," she said.

The L-1A category applies to managers and executives.

The inspector general called for USCIS to come up with new ways to make sure overseas checks are made and has given the agency 90 days to respond.

Bipolar Border Budgeting (LAT)

The Los Angeles Times, February 10, 2006

THROWING MONEY AT A PROBLEM doesn't solve it. Knee-jerk reactions don't help, either. When it comes to illegal immigration, the Bush administration, apparently unable to decide which approach it prefers, has opted for both. But spending more on border enforcement will do little to curb illegal immigration and may even distract attention from better solutions to the problem.

In his State of the Union address, President Bush reaffirmed his call for immigration reform, noting a need for both stronger border enforcement and for "a rational, humane guest-worker program." In this week's budget proposal, however, the president lost his good sense and succumbed to hysteria, shifting emphasis to Border Patrol spending. Over the last 10 years, such spending has increased by many times, yet illegal immigration continues to climb.

A more sensible step would be a guest-worker program that makes temporary workers legal and reduces people smuggling, along with the risks and related crimes that go with it. In Bush's budget there is a small nod in this direction, with $247 million to support such a program. But most of the $22.2 billion allotted for border and transportation security, up 10% over last year, is directed at enforcement: hiring 1,500 Border Patrol agents, buying high-tech detection gadgets and expanding fences along our southern border.

The other disappointment in the president's budget is that he continued his annual practice of ignoring states' requests for reimbursement for jailing illegal immigrants. California will spend $662 million this year to imprison illegal immigrants convicted of crimes, but it will receive only $107 million from the federal government to help pay for it.

Meanwhile, federal immigration jails are so overcrowded that many suspects caught by border agents are released with nothing more than a promise to show up later in immigration court. Michael Chertoff, the secretary of Homeland Security, asserted at a news conference on Thursday that this practice would end. The "catch and release" program has been an embarrassment for years, as a shortage of bed space in detention centers allowed many immigrants to be released into the United States. If Chertoff gets his way, detention space will be expanded and "catch and return" will become watchwords as migrants are returned to their home countries.

There is no quick fix to the problem of illegal immigration. A massive migration from Central America into the United States, mostly in pursuit of better wages, will not be stemmed by increased spending on bigger fences or more officers.

Many politicians fall for the temptation of promising better enforcement. And Americans want their country to better police its borders. But the solution is to balance enforcement with better control and regulation of the flow of labor into the United States. Unless administration policies address the whole problem, it's not going to go away.

TAX:

KPMG Tax-Shelter Settlement May Be Revised Amid Opt-Outs (WSJ)

By Nathan Koppel

The Wall Street Journal, February 10, 2006

A federal judge postponed a proposed $225 million class-action settlement with accounting firm KPMG LLP and law firm Sidley Austin Brown & Wood LLP in a tax-shelter lawsuit.

The order, issued yesterday, came in response to a motion by KPMG in federal court in Newark, N.J., to revise the settlement because potential members opted out of the deal. The postponement was reported in the New York Times.

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"This settlement could be in jeopardy," said attorney Edmundo Ramirez, whose client was one of 284 potential members of the KPMG class. Mr. Ramirez said his client rejected the original settlement, considering it "a sweetheart deal for KPMG."

In an interview, attorney Melvyn Weiss, a partner at Milberg Weiss Bershad & Schulman LLP and the lead lawyer for the plaintiffs in the case, said the parties may reduce the original settlement amount, but he believed an accord could still be reached in about a month. Milberg Weiss filed the suit last year, claiming KPMG sold fraudulent tax shelters. KPMG has admitted wrongdoing and agreed to pay the U.S. $456 million in restitution.

As originally proposed, the settlement would have awarded $195 million to purchasers of allegedly fraudulent tax shelters sold by KPMG. Milberg Weiss and other class counsel stood to earn $30 million from the settlement. If the plaintiffs' recovery is reduced in a new settlement, the plaintiffs' lawyers would also earn less, Mr. Weiss said.

According to a previous court filing, 61 of the 284 potential class members opted out of the original settlement, a high rate of rejection. The opt-outs lowered the settlement's value to KPMG, according to lawyers, because the plaintiffs who rejected the settlement are now free to file individual suits against the accounting firm. Indeed, many of the plaintiffs have sued KPMG in state and federal courts across the country. "KPMG wants to lower the class settlement because of the high number of plaintiffs who have opted out," Mr. Ramirez said.

A KPMG spokesman said, "These continuing discussions are consistent with our goals for a fair settlement." An attorney representing Sidley Austin didn't return a call for comment.

High Court To Hear Challenge To Company Tax Breaks (NLJ)

By Marcia Coyle, The National Law Journal

National Law Journal, February 10, 2006

In North Carolina this spring, a state court will take up a constitutional challenge to $242 million in state tax breaks given by state officials to Dell Inc. to build a plant in Winston-Salem. In Minnesota, another suit is pending attacking the validity of two multimillion-dollar tax-incentive programs to attract and keep businesses in special zones in that state.

The North Carolina and Minnesota suits are among a number percolating around the country that have been inspired largely by a federal appellate decision in 2004 that struck down Ohio's investment tax credit -- a sacred tool of state economic competition.

The Ohio case, which involved a $280 million tax incentive plan for DaimlerChrysler Corp.'s expansion in that state, is now before the U.S. Supreme Court, which is scheduled to hear arguments on March 1. DaimlerChrysler Corp. v. Cuno, No. 04-1704; Wilkins v. Cuno, No. 04-1724.

The case has raised to a high profile a long-running debate over the constitutionality of state tax incentives under the so-called dormant or negative commerce clause, which prohibits states from acting in a way that interferes with interstate commerce, as well as a debate over the effectiveness of tax incentives as an economic-development tool.

Business and government officials predict "dire ramifications" if states lose the ability to offer these incentives and businesses lose the ability to use them.

They note that one study reported last year that more than 330 statutory income or franchise tax credits and incentives are offered by 46 states.

But of all the many state and local provisions designed to attract and encourage business development, the most common form of tax incentive in America is the investment tax credit, according to Walter Hellerstein of the University of Georgia School of Law, who is considered the leading academic authority on state and local taxation.

Since the Ohio credit's inception in 1995, corporations have used it in investing more than $30 billion in Ohio plants and equipment, according to the state. In 2002, more than 2,100 corporate taxpayers took Ohio ITC credits, totaling more than $73 million.

"The Constitution is not an economic suicide pact among the States," said Ohio State Solicitor Douglas R. Cole in his high court brief. "The Court should not turn it into one here."

BALKANIZATION?

But neither is the Constitution a facilitator of the economic balkanization of the states, said retired North Carolina Supreme Court Justice Robert F. Orr, head of the North Carolina Institute for Constitutional Law, which filed the Dell lawsuit.

"What we're seeing nationally is large corporations able to play one state off another," he said. "States, in desperate search for jobs, are forced to hand out huge tax breaks that shift the burden to small businesses and individuals and deprives local governments of revenue.

"This is the modern-day version of the trade wars that the framers put the commerce clause into the Constitution in the first place to prevent."

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What the two sides can agree on now is that uncertainty permeates the legal and business landscapes following the Ohio decision by the 6th U.S. Circuit Court of Appeals.

"There are a fair number of jurisdictions -- upwards of 40 -- that have similar incentive programs. Is this a precursor for further overturning?" asked Eli J. Dicker, chief tax counsel at Tax Executives Institute, a non-profit association of corporate and other business tax executives.

"If a businessperson is trying to plan where to build a factory, whether it be a vehicle or high-tech assembly line, with a lot of jobs in play, I would strongly suspect there is a hesitancy now, especially when the economics may be uncertain."

OHIO PRECURSOR?

The Ohio story began in the mid-1990s, when DaimlerChrysler decided to expand its capacity to build Jeeps. Faced with a choice of expanding an existing facility in Toledo or crossing the border into Michigan, the company approached Ohio officials about tax incentives to remain in Ohio.

One of the decisive incentives for DaimlerChrysler was the investment tax credit, which provides a one-time credit against Ohio's corporate franchise tax to any company that makes a qualifying investment in the state.

The suit challenging the tax incentives was brought by a Toledo resident, a small business owner whose property was taken, and some citizens of Michigan. They claimed that the incentive package discriminated against interstate commerce by "providing preferential treatment to in-state economic activity."

The 6th Circuit agreed, striking down the investment tax credit, but upholding a property tax exemption. On the investment tax credit, the court said that corporations would be treated unequally based on their investment decisions.

For example, a business paying Ohio taxes would receive a credit against those taxes in exchange for investing in Ohio, but a business paying Ohio taxes choosing to invest in Michigan would not.

The Supreme Court's jurisprudence in this area is "at best uncertain and at worst indecipherable to those of us who spend our life working in this area," said Georgia's Hellerstein.

From a practical perspective, Hellerstein said, "There's an overwhelming need" for clarification. "You have both taxpayers and states that really have no clue as to whether a particular tax incentive is going to be sustained," he said.

"One thing we know is that states are free to enact legislation that encourages economic development. Even in the course of striking down legislation that it has found violative of the commerce clause, the court has made clear states are not hamstrung in those efforts," Hellerstein said.

DRAWING THE LINE

But where is the line between what is discriminatory and what isn't, asked Chris Atkins, senior attorney with the Tax Foundation.

"We want the Court to say this type of investment credit is OK or draw a reasonable line saying, it's not OK but lowering tax rates or building new roads is OK," said Atkins.

"The 6th Circuit didn't draw that line. Saying the credit discriminated because it encouraged investment in Ohio is very broad. There's a whole range of spending policies that encourage investment in the state, from infrastructure improvements to building schools."

The Ohio case differs from prior high court challenges in this area. The Commerce Clause historically has been enforced by one business suing to take away a benefit given to another. But the Ohio case is brought by nonbusiness taxpayers, raising a potential standing problem on which the justices have ordered briefing, and which could prevent a ruling on the merits.

"The usual plaintiffs who typically would bring challenges are choosing not to because if they're being discriminated against by Ohio, they may be, by the same token, getting the benefit of the same provision in Alabama or Minnesota," said Peter Enrich of Northeastern University School of Law, who is counsel to the Ohio plaintiffs.

"The way these tax incentives have grown like topsy has created a situation where it's not in the interests of business taxpayers to bring these suits."

Although Enrich argues that his clients do have standing, his high court opponent, Theodore B. Olson of Los Angeles-based Gibson, Dunn & Crutcher, who is counsel to DaimlerChrysler, contends that their standing is "even weaker than usual" because they do not complain that the state has imposed a discriminatory tax on them, but that a credit against that tax -- which most of them do not pay -- "somehow reduces the state's overall tax receipts" to which they contribute. That is not the "concrete and particularized injury" that standing demands, according to Olson.

DIRE IMPACT?

If the high court gets beyond the standing issue and reaches the merits of the case, the impact of any decision, of course, will depend on how it is written.

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The U.S. Chamber of Commerce and other business groups contend that the 6th Circuit's approach would result in a loss of economic investment and activity to various foreign countries, as well as a decrease in investment by foreign manufacturers in the United States.

They also predict that there would be "significant financial statement impacts" on those companies that included the incentives in their calculations of profitability.

Philadelphia firm Blank Rome, in a tax bulletin on the Ohio decision, warned that "the magnitude of the credits that may be 'clawed back' or voided in the future could cause many publicly traded companies to restate their earnings."

Tax counsel Walter Nagel, of the Washington office of Boston's Sullivan & Worcester, predicted that the most likely impact of a decision against Ohio would be some action by Congress to overturn the Supreme Court ruling.

Ohio senators already have introduced bills to overturn the 6th Circuit ruling, he noted. However, he and others agreed, Congress appears to be waiting to see what the high court does.

But, Nagel asked, "What happens to everybody up until Congress overrides it? Then there's real potential for chaos in terms of who gets taxes back, which benefits go away. One ramification is that only the immediate taxpayer loses the benefit, but another ramification is everybody else -- taxpayers indirectly injured by paying higher taxes -- could well enjoy a modest reduction because it's a large base."

Nagel said that there is no consistent rule regarding what happens when a tax or economic incentive is found to be unconstitutional. A decade of litigation over the appropriate remedy, he said, has followed key Supreme Court decisions finding taxes unconstitutional.

States are infinitely creative in finding ways to attract business, said a number of tax scholars and practitioners, and will continue to be creative if Ohio loses in the high court.

Georgia's Hellerstein thinks Ohio will win, given the Court's current composition. But, he added, "One easy way for states to encourage business is simply to subsidize them. They can provide in-kind benefits in the form of subsidies."

The high court has indicated that subsidies from the general treasury do not create the same constitutional problems as using the state taxing power.

But the Tax Foundation's Atkins countered, "I think businesses might feel more comfortable keeping more of their own money taking that credit off their liability than essentially becoming beholden to the appropriations process. Some may see it as a bit more entanglement than they are willing to endure."

And direct cash subsidies could invite litigation, said Enrich. "The pressures on states to find ways to advantage in-state economic activity are immense. I think states would continue to look for new ways to do that. Some won't pose constitutional problems."

Regardless of what the high court decides, North Carolina's Orr said, his foundation is organizing a national, bipartisan coalition to generate debate about these tax policies.

"We now see more and more local companies threatening to move unless they get incentives to stay," said Orr. "We're not taking this lying down."

No Thanks (WSJ)

By John Harwood

The Wall Street Journal, February 10, 2006

TAX OVERHAUL'S DEMISE leaves unhappy Bush panel.

Former Sen. Mack, "disappointed" that presidential advisory group he headed isn't producing action, cautions the issue will become "more difficult" to push as president's term continues. Absence of tax overhaul in Bush's State of the Union address is seen as sign of Treasury Secretary Snow's lack of clout.

Some senior Republicans want to put off overhaul debates until Washington tackles baby-boom retirement, the subject of commission Bush has called for. The liberal Center for American Progress wants Democrats to step in, placing tax overhaul atop its "15 new ideas," with plan to cut employee payroll-tax contributions on earnings below $90,000.

Ex-Sen. Breaux, Mack's co-chair, got note from Snow but "no saying 'thank you' " from Bush for panel's work.

REPUBLICANS speak up to House leaders about election-year needs.

Format for this weekend's retreat in Maryland is "unstructured," says Ohio Rep. Pryce, who chairs Republican conference. Newly elected Majority Leader Boehner calls these "times of renewal."

House Democrats press Boehner to open legislative process while banning lobbyists' gifts. But House reform timetable slips, while McCain presses Senate effort to change spending "earmarks." Answering attacks on Santorum's lobbying ties, Senate Republican campaign committee hits challenger Casey's donations from a former Abramoff colleague.

CONTRACEPTION FIGHT spreads in the states.

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After FDA delays bid to sell "Plan B" pills without a prescription, backers of morning-after contraceptive push bills legalizing such distribution in Colorado, New Jersey, Kentucky and Illinois. It is already available without a prescription in eight states.

Maker Barr Pharmaceuticals Inc., which has seen Plan B prescriptions double to 1.2 million since 2003, quietly encourages the move.

Priscilla Smith of Center for Reproductive Rights says emergency contraception can "reduce abortions dramatically."

Social conservatives, saying such drugs starve new life, weigh bills to let pharmacists refuse to dispense them.

BERNANKE FACES pressure to answer deficit questions in next week's congressional testimony. "He ultimately will have to speak out on serious things that affect the economy," says Senate Banking Chairman Shelby. "If he doesn't, there will be a void." With Fed nominees Kroszner and Warsh headed for confirmation, open market committee should be back to full strength at March 27-28 meeting for first time in a year.

NGA CHAIR HUCKABEE hits Congress for trimming deficit "on the backs of the states" with proposals to increase state cost-sharing on Medicaid. Arkansas' Republican governor, a 2008 White House hopeful, says states instead need more flexibility to experiment with approaches to reining in Medicaid costs.

HOUSE DEMOCRATS CRITICIZE Bush budget proposal cutting Social Security survivors' benefits. "Continues the Bush administration's raid on the middle class," says Washington House candidate Darcy Burner, one of many challengers joining coordinated campaign offensive. Republicans leaders have signaled they won't pursue the proposal, which would cut $255 lump-sum death benefit for survivors.

MY VALENTINE? Veterans History Project sponsors a lecture at Library of Congress on "The American Soldier and 'Mademoiselle': Love and Marriage After WWI and WWII." With military-family breakups sharply up since 2000, nevadadivorce.net offers quick splits for $1,000 but cautions "7-day stay in Guam required."

CHANGES LOOM for Pentagon weapons purchasing.

New acquisition chief Ken Krieg wants war fighters in places like Iraq and Afghanistan to play bigger role in deciding what military needs. His goal is more rapidly identifying current needs in hopes of shortening lead time on development of new weapons systems, which now sometimes runs 20 years.

"We need to institutionalize the combatant commanders in the process," he says. Most big decisions on new hardware are currently dominated by service bureaucracies in the Pentagon.

National Guard Association unveils bust of "First Lt. George W. Bush" before president's speech yesterday.

MINOR MEMOS: Randolph-Macon College physicists say dollar bills in Bush's $2.77 trillion budget, laid end to end, would reach to the sun and back. ... Budget also represents $87,800 in federal spending every second for a year. * * *

Thursday, Feb. 9

Dueling data: An American Bar Association poll shows 52% of Americans believe the president alone can't suspend constitutional freedoms, and 25% more say he must get permission from a court or Congress. That, the ABA, concludes, demonstrates that 77% of Americans have "deep reservations" about President Bush's warrantless surveillance program. Only 18% of the respondents to the poll conducted last weekend said the president can shelve constitutional freedoms "anytime the president thinks it is necessary to protect the country." ABA President Michael S. Greco said the poll, conducted for the ABA by Harris Interactive, found that "While everyone agrees on the need for aggressive deterrence of terrorism, the disclosure of unchecked domestic spying by the president is deeply troubling to many Americans."

Meantime, an Associated Press-Ipsos poll released Thursday showed that Bush is making some headway in defending the National Security Agency's secret eavesdropping program. It found that 48% support the administration, up from 42% a month ago. Half of the respondents said the administration should get a court warrant, down from 56% last month.

Greco offered an idea most could embrace: "It is a time when we should be having conversations about our constitutional freedoms as well as our security." --Mary Lu Carnevale

* * *

Katrina's wake: White House Homeland Security Adviser Fran Townsend plans to brief state emergency managers in Alexandria, Va., Saturday morning about some of the findings of the White House inquiry into Hurricane Katrina. The report is expected to be critical of the Department of Homeland Security and its policies that stripped the Federal Emergency Management Agency of funds and authority. --Bobby Block * * *

Health-care providers are starting to gin up opposition to President Bush's plan to cut billions from projected Medicare and Medicaid payments.

The American Hospital Association and five other hospital organizations are running advertisements saying that $25 billion in proposed hospital cuts over five years "will threaten people's ability to get the care they need." The ads have appeared the last two days in such publications as the Washington Times, The Hill and Roll Call. Meanwhile, the American Clinical Laboratory Association, which represents local, regional and national labs across the U.S., is complaining about a budget proposal to

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expand competitive bidding for lab services in Medicare. The lab group argues that competitive bidding would hurt quality by putting too much emphasis on price.

Earlier this week, Health and Human Services Secretary Michael Leavitt told Congress that expanded competitive bidding for lab and other services would "ensure more appropriate Medicare payments." --Laurie McGinley * * *

Bernanke the Inflation Fighter: Economists have some advice for Ben Bernanke as he takes over at the Federal Reserve: establish your credibility as an inflation fighter.

But, at the same time, they have concern that he could take that effort too far. When asked in the latest WSJ.com forecasting survey1 which mistake Mr. Bernanke is more likely to make -- raising rates too much or not enough -- three-quarters of economists said he is more likely to lift rates too high.

The new Fed chief faces the same puzzle that always confronts the Fed: how to check inflation without lifting rates so high that economic growth is snuffed out. But the challenge is especially acute now. Soaring energy prices have nudged up inflation pressures at the same time the Fed has been steadily lifting rates. Now, Mr. Bernanke must pick the right time to stop the increases. The matter could be further complicated because some have questioned Mr. Bernanke's resolve on price stability. Four years ago, he made comments about using loose money to fend off a very different threat: deflation. --Tim Annett

· Read the full article2, and see a video report3 of the Journal's David Wessel discussing economists' expectations for the first quarter. Plus, download forecasts for GDP, inflation, productivity, employment and interest rates4.

* * *

Wednesday, Feb. 8

Apparently stung by criticism of his budget policies, President Bush pushed back against opponents like Senate Democratic Leader Harry Reid, who termed the president's plan "immoral" for reining in Medicaid and other social-services programs.

"People talked about how the decision to reform Medicaid was immoral," Mr. Bush said Wednesday in a speech to the Business and Industry Association of New Hampshire. "Well, it's not immoral to make sure that prescription drug pharmacists don't overcharge the system. You're a taxpayer, you expect the Medicaid person we're helping to be able to buy drugs at a reasonable cost. But it turns out that there was inflated markups for people who had government help to buy drugs. That doesn't make any sense, so we reformed that."

He also defended reforms preventing parents from transferring assets to children in order to qualify for Medicaid long-term care. And he responded to concerns about cuts in the student-loan program raised by a student at an appearance last month. "I said, well, I didn't think we were -- as a matter of fact, I thought we were helping you get student loans.... Let me tell you what those reforms were. There were too many subsidies to folks who were providing loans to the students. And so we decided to reform those subsidies to make it more rational for the taxpayers, and at the same time, to help the students. By reducing the cost of lending, we saved the taxpayers $22 billion, of which $10 billion will be used to increase student loans. So here is an example of staying focused on the mission, providing money for loans, and at the same time, providing relief for the taxpayer." --John D. McKinnnon * * *

Teacher's Pet? House Minority Leader John Boehner's choice for the new chairman of the House Education and the Workforce Committee, California's Rep. Howard "Buck" McKeon, is likely to cause higher-education groups to groan.

McKeon has led committee efforts to hold down college-tuition increases, including proposing federal sanctions against colleges that raised their tuition well above the inflation rate. McKeon backed down two years ago when his proposal to cut student loans on campuses with fast-rising tuition didn't attract cosponsors -- and even Republican colleagues pointed out that it would hurt students more than their universities. But Boehner supported other McKeon efforts to hold down tuition increases, including requiring colleges to report big price jumps.

McKeon and Boehner complain that their efforts to raise Pell Grants have been counteracted by subsequent tuition increases, leaving students no better off. The Higher Education Act, which defines the government's relationship with colleges and universities, is up for renewal this year. --June Kronholz * * *

The Treasury and the World Bank are sparring over the Group of Eight's plan to cancel $37 billion in loans to 42 poor countries.

The debts are supposed to be forgiven in July, but Treasury officials worry that the World Bank will miss the deadline. "We strongly urge the bank to move as quickly as possible to get this done," a senior Treasury official said. But some World Bank member nations see the U.S. as the holdup; they don't trust the U.S. to refill its share of the World Bank's kitty as loan forgiveness drains it over the next 40 years.

Treasury Secretary Snow promised the G8 last year that he would support a bill promising future payments, but the administration's support has been lukewarm. "In the American system, current Congresses cannot obligate the appropriations decisions of future Congresses," said Treasury spokesman Tony Fratto. --Michael M. Phillips * * *

A Push for Education: Chief executives of several Business Roundtable companies, in Washington Wednesday, lauded President Bush's focus on increased funding for physical science research, on encouraging immigration of math and science whizzes from abroad and -- especially -- on improving K-12 math and science education. The executives warned, though, that the U.S. shouldn't count on continuing to rely on immigrant scientists to compensate for what they see as shortcomings of American school systems. U.S.-trained Chinese and Indian scientists increasingly have promising opportunities in their home countries.

"It's not a problem for our businesses. It's our job not to let it be a problem" by hiring overseas when talent is in short supply in the U.S., said William D. Green, chief executive of Accenture, a consulting company. Pfizer CEO Hank McKinnell added, at a small press briefing: "We want to make sure our kids and grandkids -- and yours -- have jobs." --David Wessel * * *

The scandal surrounding disgraced lobbyist Jack Abramoff has shaken up Capitol Hill. But it still poses significant problems for the Bush White House.

A court hearing scheduled later this month may bring fresh attention to the case of former White House aide David Safavian, who is charged with lying in connection with a golf trip Mr. Abramoff arranged. Justice Department officials haven't closed their review of actions by former Interior Department official J. Steven Griles, who disputes claims that he favored Abramoff clients, such as Native American tribes involved in casinos. Calls for the White House to release photos of Mr. Abramoff with the president -- and details of his contacts with presidential aides including Karl Rove -- haven't abated. --Jeanne Cummings

· Read more in today's Journal article5.

* * *

Tuesday, Feb. 7

A coalition of business and academic leaders is launching a lobbying and media campaign to build support for President Bush's new plan to boost the competitiveness of American business.

The campaign opens Thursday with ad buys in national print publications, and will be followed up with ad buys in other media and direct advocacy on Capitol Hill.

The goal is "to try to increase the awareness in Washington and Congress," said Craig Barrett, chairman of Intel Corp. Barrett co-chairs the National Innovation Initiative Leadership Council, which is leading the campaign, with William Brody, president of Johns Hopkins University.

In his State of the Union address, Bush promised to seek increases in spending for scientific research and development and for math and science education. Among other things, the Bush plan would boost next year's spending by 9.3% for the National Science Foundation, the Department of Energy's Office of Science and the Commerce Department's National Institute of Standards and Technology, a step toward doubling their budgets over the next decade. Companion bills have been introduced by several members of Congress. But even so, the Bush initiative is expected to face a tough road toward passage this year, amid the broader concerns on Capitol Hill about the budget deficit.

"The question will now be, as the legislative process works, exactly what stays in and what gets consolidated and what the final bottom line is," Barrett said. "We're just trying to show there is a lot of latent interest and enthusiasm." --Greg Hitt

· Read excerpts6 and full text7 of Bush's State of the Union address. Compare text8 of his past speeches.

* * *

Steel Deal: The Justice Department is planning to investigate whether Mittal Steel Co.'s $24 billion hostile bid for chief rival Arcelor SA complies with antitrust law, a department official said. A tough U.S. investigation could delay the deal or force changes to eliminate overlapping product lines.

The proposed merger of the world's largest steelmakers would lengthen Mittal's wide lead in producing steel for the U.S. auto industry and other big manufacturers. European antitrust officials have already said they would review the deal. Mittal is based in the Netherlands but is run from London. Arcelor is based in Luxembourg but is run from Paris. Mittal has an enormous market presence in the U.S., giving the Justice Department authority to review the deal if it proceeds. "It's obviously something we'd look at," the Justice official said.

U.S. antitrust enforcers investigated Mittal's last acquisition but cleared it in December 2004 after a product-by-product review. The latest deal would give Mittal 11% of world crude-steel production, with much higher shares in some markets, analysts have said. --John R. Wilke * * *

Voting Block: Nearly half of U.S. states aren't yet in compliance with standards required under the 2002 Help America Vote Act and some are unlikely to meet all requirements in time for this year's mid-term elections, according to a report by Electionline.org9. The law, passed in the wake of voting problems during the 2000 presidential election, provided funds to help states upgrade voting machines, create statewide voter databases and improve voter identification.

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But states have had trouble meeting the law's January 2006 deadline, Electionline says. New York has struggled to replace lever voting machines with electronic systems and construct a statewide voter database. It faces potential Justice Department action. California has had problems certifying voting machines purchased by some of its cities. And partisan squabbling has complicated efforts in Wisconsin and Ohio to impose voter ID rules. So far, the report says, changes are "not as comprehensive as HAVA's authors had envisioned four years earlier." --Deborah Solomon * * *

Cupid's Calculations: When the Census Bureau combed its files10 for Valentine's Day facts, it found there are 120 single men (never married, widowed or divorced) in their 20s for every 100 single women in their 20s. For those 65 years of age and older, the numbers are even more lopsided: 33 single men for every 100 single women.

Each year, some 2.2 million marriages take place in the U.S. In 2004, 145,800 were performed in Nevada, ranking it the No. 4 state for marriages even though it ranks only 35 for population. The median age for first marriages was 25.8 for women and 27.4 for men in 2004, and the oldest first-time brides and grooms were in the Northeast. (In Massachusetts, the median age for women was 27.4 years and for men, 29.1.)

Census counted some 4.7 million opposite-sex cohabitating couples in 2004. That's 4.2% of all households.

Continuing the counting, the bureau found 1,271 establishments producing chocolate and cocoa products in 2003. California (146) and Pennsylvania (120) topped the list. Shipments of chocolate and cocoa products totaled $13.5 billion. Americans' per capita consumption of candy declined to 24.7 pounds in 2004, down from 27 pounds in 1997. Census tallied 22,022 florists, employing 113,270 people in 2003. And it pinpointed 28,527 jewelry stores, with sales of $2.4 billion (unadjusted) in February 2005.

Citing Hallmark, the Census Bureau figures some 180 million cards are exchanged for Valentine's Day, excluding all those packages of cards kids give their classmates. * * *

Oh Brother! "The president's brother's on board -- Bill Clinton," Scott McClellan said when he dropped by the press pen aboard Air Force One shortly before takeoff to attend the funeral of Coretta Scott King.

Mr. McClellan's joke alluded to the close relationship between Clinton and President Bush's father, who have worked together on aid programs for victims of the tsunami and Hurricane Katrina. Indeed, Clinton was onboard, along with his wife, Sen. Hillary Rodham Clinton. Four presidents attended the service for King at the New Birth Missionary Baptist Church in Lithonia, Ga.: President Bush, George H.W. Bush, Jimmy Carter and Clinton.

Rhode Island Revelation (WSJ)

The Wall Street Journal, February 10, 2006

Let's hope James Carville, Robert Rubin, Nancy Pelosi and other national Democrats are all sitting down for this one: The Rhode Island legislature is considering a flat tax, and the proposal comes from its majority Democrats.

That's right, last week Ocean State Democratic leaders proposed an optional flat rate income tax of 5.5% as an alternative to the current "progressive" tax schedule, which imposes rates ranging from 3.75% to 9.9% for the highest earners. The flat tax is part of a more comprehensive reform plan that would also include a sales tax holiday weekend in August and a full week of relief on "energy efficient" items in March 2007 from the state's 7% sales tax.

And listen to how House Speaker William Murphy pitched the idea at a news conference: "The ultimate goal is to put more money directly into people's pockets both by giving relief to those who need it and by making Rhode Island a more attractive place for business that will provide high-paying jobs for more Rhode Islanders." What's going on here? Have the state's liberals all taken Art Laffer happy pills?

The answer is tax competition, and the discovery that Rhode Island's high tax burden is damaging its economy. Just as the countries of the former Soviet bloc have passed flat taxes to make themselves more competitive, Rhode Island politicians are hoping the idea can help them stop their most talented workers and growth industries from going elsewhere.

In a recent survey by the Boston-based Beacon Hill Institute -- which measured the economic competitiveness of states based on their ability to generate income and growth -- Rhode Island ranked 37th, or well behind Massachusetts, Vermont, New Hampshire and Connecticut, which were all in the top 20. Only two years ago, Rhode Island ranked 22nd in the same survey.

The Democrats noted in their press release that Rhode Island's current top marginal income tax rate of 9.9% is among the highest of the 41 states with broad-based income taxes. They also cited a study that showed this high marginal rate "might be having an effect on the retention of wealth in Rhode Island by causing retirees and companies to move to states with lower taxes, and causing large companies with multiple locations to put their highest earners somewhere other than Rhode Island."

That "somewhere" else is often just up the road in Massachusetts, which has a 5.3% flat tax. One reason the Bay State, once known as Taxachusetts, cut its tax rate was to be able to compete with nearby New Hampshire, which still has no income tax at all. Bay Staters were moving to southern New Hampshire in droves, taking their tax dollars and high-tech know-how with them.

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Rhode Island currently piggybacks the already complicated federal tax system -- residents pay the state 25% of their federal tax liability -- which further increases complexity and costs on businesses and individual filers. By contrast, the proposed flat tax would be levied on adjusted gross income (AGI) with no deductions, exemptions or credits. The fairest taxes are not only simple but are levied on the broadest base possible. And working off AGI is both.

All of this ought to be especially instructive to national Democrats, who typically confront tax cuts with garlic and crosses. It's especially useful to have liberals underscoring that marginal income tax rates matter to incentives, and can drive both investment and workers into lower-tax venues. California and New York liberals still haven't figured that out.

Rhode Island Republicans, including Governor Don Carcieri, were also caught off guard by the Democrats' proposal and now sound like Beltway Democrats in raising objections. House Minority Leader Robert Watson has said he'd like to know how the Democrats "plan on paying for these tax cuts." A spokesman for the Governor had a similar cart-before-the-horse mentality, telling the Providence Journal that "the governor hopes to work with the General Assembly to make the spending cuts necessary to enact real tax relief."

But opposing good policies out of partisanship isn't going to make Rhode Island a more attractive place to work and invest. Tax cuts will. Republicans might try congratulating Democrats for their supply-side revelation, and then join them in doing right by taxpayers.

CONGRESS-ADMINISTRATION:

Bush Sends Congress A Familiar Budget Hit List (WSJ)

By Jackie Calmes

The Wall Street Journal, February 10, 2006

WASHINGTON -- President Bush sent Congress his list of 141 programs to be killed or reduced to achieve almost $15 billion in savings, and almost half are three-time losers -- cuts he proposed for fiscal years 2004, 2005 and 2006, only to be ignored by Congress each time. The total savings are less than 4% of the current year's projected deficit.

If the third time wasn't a charm, the fourth probably won't be either, congressional staffers say. "We look at it," is all one Republican aide would say of the hit list disclosed by the Office of Management and Budget.

Of 91 programs targeted for elimination, 40 are making their fourth annual appearance on the list. Of 50 to be reduced, 20 are perennials. Among those that would get a death sentence -- but for Congress's equally persistent protection -- are the $79 million Advanced Technology Program, $49 million Emergency Steel Guarantee Loan Program and $64 million Oil and Gas Research and Development Program. Each benefits industries that are flourishing right now, administration officials argue.

Also recycled are a raft of education programs -- among them the $99 million Even Start for helping parents and students with literacy, and others for school counseling, alcohol-abuse and drop-out prevention, arts and migrant-education. A $22 million National Writing Project -- to teach teachers how to teach writing -- keeps making the list because it is redundant, OMB said, and because the money goes to a single nonprofit firm that is friendly with an appropriations committee member in Congress.

Well-placed friends also are certain to help another target -- the $9 million Exchanges with Historic Whaling and Trading Partners program -- escape the president's net. Supporters of the noncompetitive grants, for educational activities for Alaskan, Hawaiian and Massachusetts children on their states' once-vibrant whaling industries, include: former Senate Appropriations Committee Chairman Ted Stevens of Alaska, its senior Democrat, Daniel Inouye of Hawaii, senior Democratic Sen. Ted Kennedy of Massachusetts and -- with Congress's recent decision to add benefits for an Indian tribe in Mississippi -- the new chairman of Senate Appropriations, Thad Cochran of Mississippi.

The single biggest item on Mr. Bush's list, nearly $1.2 billion for grants to states for vocational education, is on it for just the second time. Among the smallest is $1 million for Close Up Fellowships, which long have brought low-income students not long in the country to observe the federal government at work. This is Close Up's fourth straight mention.

Separately yesterday, the liberal Center on Budget and Policy Priorities called into question some of the budget increases Mr. Bush boasts of in the budget he proposed this week for the fiscal year 2007 that starts Oct. 1. Using unreleased data from OMB, the center's analysts found that in the years 2008 to 2011, the Bush administration would make deep cuts in such areas as veterans' health care, health research and student loans.

In a break from past practice, the administration didn't include a five-year breakdown of proposed spending beyond 2007. OMB spokesman Scott Milburn said such out-year projections are speculative at best.

Most Of The Programs On Bush's Budgetary Hit List Are Retreads (USAT)

By Richard Wolf

DOJ_NMG_0014141

USA Today, February 10, 2006

WASHINGTON — Most of the 141 programs President Bush wants to cut or eliminate in his 2007 budget are survivors of past Bush hit lists, a list released Thursday by the White House showed.

Of 91 programs proposed for termination, all but 13 have been on the chopping block before. The 13 new programs would save the government $581 million — about 0.02% of the $2.77 trillion budget.

Including the other 50 programs that would be cut but allowed to continue, Bush wants to save $14.7 billion overall, about 0.5% of the budget. Last year, he tried to trim $15.8 billion from 154 programs; Congress agreed to cut $6.5 billion.

All of those numbers are small compared with the big ones in the budget: the skyrocketing costs of Medicare, Medicaid and Social Security, Bush's effort to boost spending on defense and homeland security, and the cost of making his tax cuts permanent.

The White House says the effort to cut or kill relatively small programs is important. Among the new targets is a food program for low-income women, children and seniors and an Internet-based listing of job openings.

"We've got to get away from the idea that it's OK to waste just a little money," says Scott Milburn, spokesman for the White House budget office. "When you've got a $2.77 trillion budget, a lot of little problems add up to big money."

Milburn says the White House is making headway, even if Congress doesn't go along completely. He points out that of the 78 programs Bush has again asked Congress to kill, lawmakers reduced funding last year in 33.

Budget watchdog groups want Bush to cut more. Keith Ashdown of Taxpayers for Common Sense says the president is focused only on domestic programs.

"They're leaving war-on-terrorism and defense spending off the table," Ashdown says. "They're basically trying to cut from around 13% to 15% of the budget. It leaves you with fewer oxes to gore."

Bush is being criticized by conservatives as too cautious in his cuts and by liberals as too brazen:

·"There is no shortage of candidates for elimination," says Brian Riedl of the conservative Heritage Foundation. "There is only the shortage of political will to make the difficult decisions."

·"Every year they propose the same drastic cuts," says Kirstin Brost, spokeswoman for Rep. David Obey, D-Wis., top Democrat on the House Appropriations Committee. "They've cut programs that help average Americans to the bone to pay for supersized tax cuts for millionaires."

Bush Calls For Eliminating Program For Needy Seniors (AP)

By frederic frommer

The Associated Press, February 10, 2006

President Bush wants to eliminate a program that provides poor seniors with vegetables, peanut butter and other nutritious foods, proposing that recipients be moved to food stamps.

But critics argue that the change, part of the President's budget plan, will leave the seniors worse off than they are now.

The Commodity Supplemental Food Program, targeted for the chopping block, provides nutritionally balanced boxes of food to about a half-million poor people monthly, including nearly 14,000 in Minnesota. The majority of beneficiaries are elderly, although some women and children also participate.

The Department of Agriculture, which administers the CSFP program, proposes moving recipients to food stamps starting in the fiscal year that begins Oct. 1. But CSFP advocates say that many seniors are reluctant to sign up for food stamps and that, in any event, the CSFP often provides a more generous package.

The proposal could face an uphill battle on Capitol Hill. Wisconsin Sen. Herb Kohl, the ranking Democrat on the Senate Appropriations agriculture subcommittee, said he would oppose it.

"I call it misplaced priorities. How do you justify doing something like this, while at the same time giving people like Herb Kohl huge tax cuts?" said Kohl, a multimillionaire.

"It really does come under the category, in the most extreme way, of balancing the budget on the backs of those who are most needy. And in this case we're not even balancing the budget."

Congress funded about $111 million for the program in the current fiscal year, including a $4 million supplement for victims of Hurricane Katrina.

The CSFP program, which dates back to 1968, operates in 32 states and the District of Columbia. Its lack of national reach is one reason the administration wants to eliminate it, according to USDA officials.

Kate Coler, the USDA's deputy under secretary for Food, Nutrition and Consumer Services, said the department believes it can serve people more efficiently through food stamps and the Women, Infants and Children program, which are both nationwide.

"It's really a duplicative program," she said of CSFP.

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Recipients of CSFP boxes receive powdered milk, vegetables, cereal, juice, meat, fruit, protein (peanut butter or beans), starch (such as dehydrated potatoes, rice or pasta) and cheese.

"When I heard about this, my first thought was, 'What are they thinking?'" said R. Jane Brown, Executive Director of the Second Harvest Heartland in Maplewood, Minn. Brown's hunger relief organization administers the CSFP program for the Twin Cities and central and western Minnesota.

"It's a program that everyone who has benefited from has nothing but good stories to tell about it."

Sarah Mayek, 75, of Milwaukee, receives both the CSFP box and $10 a month for food stamps.

"You try to stretch your budget a little bit," Mayek said. Without CSFP, she said, "I would have to adjust. But I raised 11 children. I know how to cut corners."

Tim Robertson, president of the National CSFP Association, which represents state and local organizations that administer the program, challenged the USDA's premise that people will switch over to food stamps.

"Seniors have repeatedly said they don't want to be on that program," Robertson said, because of the perceived stigma of using food stamps and the paperwork hassles.

The USDA's own statistics show that just 28 percent of seniors eligible for food stamps participate in the program.

Jean Daniel, a spokeswoman for the USDA's Food and Nutrition Service, said her agency is working to remove the perceived stigma. For example, she said, the agency is getting the word out that food stamp payments are now made by an electronic transfer card, not actual stamps.

"We try to make the point that this is not a welfare program, this is a nutritional assistance program," she said.

Lawmakers Slam Bush Cut In Weatherization Funds (REU)

By Tom Doggett

Reuters, February 10, 2006

Democratic lawmakers on Thursday slammed the Bush administration's proposal to cut funds for a government program that helps poor people weatherize their homes, even though the White House's energy task force recommended increasing money for the program.

The administration wants to gut 32 percent of the money in the Energy Department's budget for weatherization assistance grants, which help low-income families buy storm windows and insulation for their homes to make them more energy-efficient. The program's funding would fall to $164.2 million.

Sen. Jeff Bingaman, the top Democrat on the Senate Energy Committee, said slashing the program's funds did not make much sense "at a time when home energy bills are at historically high levels."

Bingaman, speaking at committee hearing on the Energy Department budget, pointed out President George W. Bush pledged during this 2000 campaign to nearly double funding for the program and the White House energy task force headed by Vice President Dick Cheney called for more weatherization funds.

The administration's request of $164.2 million for the weatherization program is not only a cut, but is also short of the $600 million Congress authorized for the program in a sweeping energy bill that Bush signed into law last August.

Energy Secretary Sam Bodman defended what he described as a "painful" cut in the program's budget, saying the department had a limited amount of money and it was targeted to programs that have the most promising results.

"I personally made this decision (to reduce the weatherization funds) as it came across my desk, and it was strictly knowing how much money I had to spend and where I had to put the funds," he said.

Bodman said the lower budget for the program would still pay for weatherizing 64,000 homes in the 2007 spending year. But that's down from 97,000 homes at current funding levels.

Democratic Sen. Robert Menendez of New Jersey said cutting the program would hurt the neediest Americans who require help to save on their high energy costs.

"The recipients of this (program) are the people who are on lowest levels of economic opportunity in our society," he said. "They are the elderly. They are poor families with children. They are the disabled. They are the least capable of meeting their energy needs and they will be coldest, if we don't have the type of robust weatherization program that we should have."

Environmental and consumer groups have also come out against reducing the budget for the weatherization program, which has proven to save energy at the same time Bush calls for the United States to reduce its foreign energy imports.

"The only way to ease the pain of record energy prices for consumers and businesses alike, and to address critical energy-related security and environmental issues, is to back up the rhetoric with the reality of adequate federal funding for key energy-efficiency programs," said Kateri Callahan, president of the Alliance to Save Energy.

Sen. Pete Domenici (news, bio, voting record), who chairs the Senate's energy committee, told reporters that lawmakers would likely restore some of weatherization funds the administration wants to cut.

DOJ_NMG_0014143

White House Seeks To Make Case For Programs Cuts (REU-Y2)

By Caren Bohan

Reuters, February 10, 2006

The White House defended reductions in programs from veterans healthcare to housing on Thursday as it sought to persuade a reluctant Congress to enact its proposals for 141 domestic spending cuts.

President George W. Bush, who unveiled a $2.77 trillion budget for fiscal 2007 on Monday, said the government could save nearly $15 billion from the cuts.

The proposals include requiring that higher-income veterans pay more for their medical care, eliminating a writing program in public schools and the consolidation of housing programs.

The White House says the cuts target programs that were either not performing well or not fulfilling important functions.

But the proposals have gotten a wary reception in Congress, with Democrats lashing out at Bush for pushing tax cuts for the rich while reducing programs for the poor and middle class.

Even prominent members of Bush's Republican party criticized his budget.

House Appropriations Committee Chairman Jerry Lewis complained about "fees and gimmicks," which he said the White House knows Congress will again reject, but give Bush leeway to propose spending increases in favored areas such as defense.

"These proposals make a difficult appropriations season even harder," said the California Republican, who must steer a series of spending bills through Congress this summer that uphold a budget blueprint Republicans hope to pass.

Of the savings proposals, 22 of the 141 are new. The rest revive reductions that Congress either rejected or adopted only in part last year.

ARRAY OF CUTS

Following are details on some of them:

* A monthly food package to help poor women, children and the elderly would be eliminated. The White House said part of its mission overlaps with the more effective nutrition program for Women, Infants and Children. It said the elderly could receive temporary benefits and be shifted to food stamps.

* Nineteen small education plans such as a writing program and one for economic education would be terminated. The White House said states can support the activities through federal grants giving them the discretion on how to spend the money.

* A program to provide block grants to states to improve juvenile justice system would be eliminated. The administration said the program has not been effective and is not needed with crime at historic lows.

* The White House would cut $30 million from an Internal Revenue Service modernization program that will encourage more electronic filing and use of the Internet for tax services. The White House said the program has had some success but is moving ahead more slowly than expected.

* A program for public-housing modernization and renovation would be reduced by 11 percent, with the savings redirected toward programs such as housing block grants for states and rental assistance.

* A program of revolving loans for clean water programs for states would be pared back. The administration said that over the past three years Congress has given the program more money than requested and therefore it needs less funding in 2007.

* The White House would require higher-income veterans with no disabilities to pay a $250 annual enrollment fee for medical care and raise co-pays for their drug purchases to $15 from $8. The administration said the change would allow the veterans' health program to focus on its core mission of helping poor veterans and those with special needs or disabilities.

Congress Fixes Error In $39 Bln Spending-cut Law (REU-Y2)

Reuters, February 10, 2006

The Senate and House have passed legislation aimed at ending confusion over a $39-billion spending-cut bill signed into law by President Bush on Wednesday, which varied slightly from the final version passed by the House.

The two chambers passed the fix late on Wednesday, hours after the technical problem was discovered and the bill was enacted into law with Bush's signature.

The problem stemmed from a typographical error written into the contentious bill as it bounced back and forth from the House and Senate since December.

The clerical error involved Medicare payments for the rental of medical equipment such as oxygen tanks. The version signed by Bush contained the payment schedule intended by both chambers, but not contained in the final House-passed bill.

The legislative fix stated that the version signed by the president reflected "the intent of the Congress in enacting the bill into law."

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The spending-cut bill cuts domestic programs, including health care for the poor and elderly, raises some student loan costs and cuts federal enforcement of child support payments. Democrats and some moderate Republicans boycotted the measure and it only passed the Senate in December after Vice President Dick Cheney cast a rare tie-breaking vote.

Democrats on the House and Senate budget committees were not available for comment on whether they would challenge the propriety of Bush signing a bill that technically was not passed in identical form by both chambers.

The Vanishing Future (NYT)

By Paul Krugman

The New York Times, February 10, 2006

At this point we've had six years to grow accustomed to Bush budget chicanery. (Yes, six years: George W. Bush's special mix of blatant dishonesty and gross irresponsibility was fully visible during the 2000 presidential campaign.) What still amazes me, however, is the sheer childishness of the administration's denials and deceptions.

Consider the case of the vanishing future.

The story begins in 2001, when President Bush was pushing his first tax cut through Congress. At the time, the administration insisted that its tax-cut plans wouldn't endanger the budget surplus bequeathed to Mr. Bush by Bill Clinton. But even some Republican senators were skeptical. So the Senate demanded a cap on the tax cut: it should not reduce revenue over the period from 2001 to 2011 by more than $1.35 trillion.

The administration met this requirement, but not by scaling back its tax-cutting ambitions. Instead, it created fictitious savings by "sunsetting" the tax cut, making the whole thing expire at the end of 2010.

This was obviously silly. For example, under the law as written there will be no federal tax on the estates of wealthy people who die in 2010. But the estate tax will return in 2011 with a maximum rate of 55 percent, creating some interesting incentives.

I suggested, back in 2001, that the legislation be renamed the Throw Momma From the Train Act.

It was also obvious that the administration had no intention of abiding by its concession to fiscal prudence, that it would try to eliminate the sunset clause and make the tax cuts permanent.

But it quickly became clear that the budget forecasts the administration used to justify the 2001 tax cut were wildly overoptimistic. The federal government faced a future of deficits, not surpluses, as far as the eye could see. Making the tax cut permanent would greatly worsen those future deficits. What were budget officials to do?

You almost have to admire their brazenness: they made the future disappear.

Clinton-era budgets offered 10-year projections of spending and revenues. But the Bush administration slashed the budget horizon to five years. This artificial shortsightedness greatly aided the campaign to make the 2001 tax cut permanent because it hid the costs: since budget analyses no longer covered the years after 2010, the revenue losses from extending the tax cut became invisible.

But now it's 2006, and even a five-year projection covers the period from 2007 to 2011, which means including a year in which making the Bush tax cuts permanent will cost a lot of revenue — $119.7 billion, but who's counting? Has the administration finally run out of ways to avoid budget reality?

Not quite. As the Center on Budget and Policy Priorities points out, until this year budget documents contained a standard table titled "Impact of Budget Policy," which summarized the effects of the administration's tax and spending proposals on future outlays and revenues. But this year, that table is missing. So you have to do some detective work to figure out what's really going on.

Now, the administration has proposed spending cuts that are both cruel and implausible. For example, administration computer printouts obtained by the center show that the budget calls for a 13 percent cut in spending on veterans' health care, adjusted for inflation, over the next five years.

Yet even these cuts would fall far short of making up for the revenue losses from making the tax cuts permanent. The administration's own estimate, which can be deduced from its budget tables, is that extending the tax cuts would cost an average of $235 billion in each year from 2012 through 2016.

In other words, the administration has no idea how to make its tax cuts feasible in the long run. Yet it has never, as far as I can tell, allowed unfavorable facts to affect its determination to make the tax cuts permanent. Instead, it has devoted all its efforts to hiding those awkward facts from public view. (Any resemblance to, say, its Iraq strategy is no coincidence.)

At this point the administration's budget strategy seems to be simply to ignore reality. The 2007 budget makes it clear, once and for all, that the tax cuts can't be offset with spending cuts. But Bush officials have decided to ignore that unpleasant fact, and let some future administration deal with the mess they have created.

Iraq, Not Homeland, Bush Budget Buster (USAT)

DOJ_NMG_0014145

USA Today, February 10, 2006

President Bush submitted a budget to Congress this week that is so big, most of us just shrug it off without thinking about what it means to us individually. Think about this:

· The $2.77 trillion budget for the fiscal year starting in October breaks down to an average of $9,293.62 for everyone in the USA.

· The latest budget request for Iraq of about $96 billion brings the cost of that war to $322 billion, an average of $1,080.34 per person.

If you think big business or somebody else will pay the bill, think again. About 45% of the federal government's revenue comes from individual income taxes.

The income tax is the fairest tax we have. Paying more for education, health care, Social Security, real "homeland security" and the most modern military equipment and decent pay for servicemen and women doesn't bother me. But ...

Bush simply can't convince me on continuing the cost in Iraq — in dollars and, more important, in precious lives -for a war that he never should have started.

The $20 billion-plus for Afghanistan in the new budget is another matter. That's where several of the terrorists came from who hit us on 9/11. That's where we should have concentrated and continued the hunt for Osama bin Laden and his gang.

Instead, Bush got sidetracked to Iraq. Paraphrasing poet Robert Frost: Two roads diverged in the woods and I ... I took the one I shouldn't have traveled by.

"Staying the course" on that wrong road will not bankrupt us financially. But it is busting our budget, continuing to cost countless innocent lives, and making us look morally bankrupt in the eyes of much of the rest of the world.

Pentagon Budget 'A Great Surprise' (WP)

By Renae Merle

The Washington Post, February 10, 2006

Richard Bernstein, like many other defense contractors, was anxious as the Pentagon spending blueprint for fiscal 2007 was being developed in recent months. "There were a lot of rumors that the defense budget would get cut back, and there was some concern," recalled Bernstein, president of BAI Aerosystems Inc, a small dronemaker in Maryland.

When that Defense Department budget was unveiled Monday, however, Bernstein and most other defense executives were relieved. The $439 billion proposal would increase spending on weapons to $84.2 billion, $8 billion more than this year, and includes $1.7 billion for unmanned aerial vehicles, an increase of about 3 percent, to begin buying 322 of the pilotless planes over the next five years. "It was a great surprise," said Bernstein, who read the budget proposal on the Internet from Australia, where he was attending an industry trade show.

The proposed 7 percent increase in the budget for weapons procurement and research and development is twice that expected by Troy Lahr, a defense analyst at investment bank Stifel, Nicolaus & Co. "And we were among the more bullish," said Lahr, noting that most of his counterparts were expecting the budget to remain flat or increase 1 percent to 2 percent.

The Pentagon probably reasoned that members of Congress would be reluctant to make significant cuts that could cost jobs in their districts with midterm elections near, analysts said. Last year, Congress rejected cuts to retire an aircraft carrier and scale back production of the C-130J cargo jet.

"It might be easier to close bases in Germany than tackle the U.S. industrial complex," said Michael E. O'Hanlon, a senior fellow at the Brookings Institution.

One negative surprise was slower growth than expected in the Pentagon's information technology budget. It would increase less than 1 percent, to $30.54 billion, in the fiscal year starting Oct. 1. Overall, government information technology spending would increase 2.8 percent, to $64.29 billion. That is significantly slower than the 5 percent to 6 percent increases the IT industry has been used to receiving since the Sept. 11, 2001, terrorist attacks.

Dendy Young, chairman and chief executive of Chantilly-based GTSI Corp., which develops and maintains computer systems for the government, said, "I am concerned that the priority for IT investment seems to be declining."

To be sure, the budget proposal includes some cuts. Despite the objections of British Prime Minister Tony Blair, it would cancel an engine being developed by London-based Rolls-Royce PLC and General Electric Co. of Connecticut for the F-35 Joint Strike Fighter. "We were surprised that the DoD has decided they no longer need the engine," said Mike Ryan, Rolls-Royce's executive vice president of government business. Ryan estimates that the government spent $1.2 billion through 2005 on the engine.

And the Air Force would limit to 180 the total number of Boeing C-17 cargo jets being built, despite lobbying by officials from Long Beach, Calif., where the plane is made, to keep the production line open. "We're a little disappointed," said Robert M.

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Swayze, economic development bureau manager for the city. City officials will probably join companies that supply parts for the plane in a District rally being planned by Boeing to oppose the decision, he said.

The overall defense-funding proposal is a relief for Wall Street. After being sluggish for months, for example, shares of Lockheed Martin Corp. closed at $70.62 yesterday, compared with $68.92 last Friday and a 52-week low of $58.28.

But many industry experts remain convinced that defense spending will inevitably fall because of the budget deficit and the cost of fighting the wars in Iraq and Afghanistan. In a conference call with analysts last week, Boeing Chairman Jim McNerney warned that the company expected "defense growth to moderate due to a tightening budget environment." The 2007 budget proposal does not change that outlook, said company spokesman Todd Blecher.

The administration spending plan just postpones the inevitable, some industry analysts said, noting the mismatch between the projected budget level over the next few years and the costs of the programs. Manufacturers have defended spending on Cold War-era legacy programs by modifying them. The F-22 fighter, designed to shoot down Soviet MiGs, is now the F/A-22, adding a ground support role. Four giant Ohio-class submarines, built to carry nuclear missiles targeted at the Soviet Union, are being converted to carry shorter-range cruise missiles and Navy SEALs and other special operations troops.

As the Pentagon spends more on initiatives to transform the military to combat insurgents and other nontraditional threats, supporting expensive traditional weapons will become more difficult, some analysts predict.

"Here is the problem: People like me have been talking about the coming train wreck for so long now that people are tired of hearing it," said Christopher Hellman, director of the project on military spending oversight at the Center for Arms Control and Non-Proliferation. "But the truth of the matter is that it will happen; we're not making it up."

Still Shortchanging The Troops (NYT)

The New York Times, February 10, 2006

It's amazing how Donald Rumsfeld's Defense Department can produce a $439 billion spending plan and still skimp on the one thing the American military desperately needs: expanded ground forces so the weakened and cannibalized Army can meet the requirements of Iraq without hurting its ability to respond to other threats.

While the Pentagon intends to increase pay and recruitment bonuses, no part of its nearly 7 percent budget increase is aimed at raising overall troop strength. Instead, a large chunk of this nearly $30 billion bonanza goes to buying more new weapons and postponing overdue cuts in wasteful Air Force and Navy projects unrelated to fighting terrorism.

The prospects for Iraq might be very different today if Mr. Rumsfeld had listened to some of his own senior generals and occupation officials and authorized significantly larger ground forces from the beginning. The early looting might have been contained before it shattered political confidence and vital infrastructure. The insurgency might never have gotten such a head start. The incineration tactics of Falluja and the Abu Ghraib nightmare might have been avoided. And the Army's downward spiral of readiness, recruitment and morale might never have begun. But the obstinate ideologues in Mr. Rumsfeld's Pentagon have never accepted the fact that the reality of Iraq did not fit their assumptions. The budget and the four-year plan released with it read almost as if the current conflict had never happened and could never happen again.

Instead of reallocating resources toward the real threats America faces, the military services continue to pour their money into fighting fictive superpowers in the wild blue yonder and on and below the seven seas. Pentagon budgeters showed themselves so pathetically unable to restrain spending on expensive ships and planes that they actually cut back, rather than increased, the overall size of the Army over the next few years to pay for it.

It would cost about $4 billion to $5 billion a year to give the Army 30,000 more troops, the minimum it needs to check its alarming slide. Instead the Pentagon chose to begin the construction of two unneeded new stealth destroyers, which will end up costing $2 billion to $3 billion each.

It also decided to splurge on a new nuclear attack submarine for $2.6 billion and to shell out $5.5 billion for separate Navy and Air Force versions of new stealth fighter jets, plus another $5.5 billion for yet a third version that either can use. In all, the Pentagon is asking for $84 billion to buy weapons systems (twice what it got in 1996) and $73 billion more for research and development.

This budget would be wasteful even under a worst-case assumption that had a second superpower arising within the lifespan of these weapons, turning hostile to America and arming itself to the teeth with the most advanced weapons. There's still unnecessary spending that could be used to repair the Army, which has been ground down at least as much by Pentagon miserliness as by Iraqi insurgents.

The military contractors are doing just fine. It's the troops in Iraq who need help from Washington.

Bush's Domestic Policy Adviser Resigns (NSDY/AP)

By Associated Press

DOJ_NMG_0014147

Long Island Newsday, February 10, 2006

WASHINGTON -- President Bush's domestic policy adviser, Claude Allen, has resigned to spend more time with his family, the White House said Thursday.

Allen has been working for the administration since Bush's first year in office -- first as the No. 2 official at the Health and Human Services Department, and for the last year as domestic policy adviser in the White House.

In a statement, Bush said Allen has helped develop policies that have strengthened the country's families, schools and communities. Bush thanked Allen for "his many years of principled and dedicated service to our country."

Allen, a father of four and former attorney, did not respond to inquiries asking about his departure or future job plans. His office referred calls to the White House press office, which said he will be taking some time off to spend more time with his family.

Press secretary Scott McClellan said Allen had been considering his resignation for several weeks, but decided to stay on through last week's State of the Union address.

In his resignation letter, Allen thanked the president for the opportunity to serve and said he treasured his time working for the administration. "Although this is a difficult decision, it is the best decision for my family," the letter said.

Bush Wins Praise For Competitiveness Plan (MBSN)

By Martin Crutsinger

Myrtle Beach (SC) Sun News, February 10, 2006

WASHINGTON - President Bush's plan to boost the competitiveness of U.S. industry through innovation won support from members of Congress Thursday, although Democrats criticized the initiative for slashing some education programs to pay for more spending on math and science.

Commerce Secretary Carlos Gutierrez won widespread support from members of the House Government Reform Committee for Bush's "American Competitiveness Initiative," one of the biggest new programs in the budget Bush sent to Congress on Monday.

The initiative, which the president highlighted in his State of the Union address, would double government funding for basic research in the physical sciences, train thousands of new science and math teachers and extend a popular tax credit businesses can receive for investing in research and development. The total pricetag over 10 years would be $136 billion.

Gutierrez said country had a choice on how it would respond to increased global competition from countries such as China and India.

"Some want to respond by retreating into isolationism," Gutierrez said. He said the alternative offered by the president through the competitiveness initiative was "maintaining our leadership by competing with confidence."

Committee Chairman Tom Davis, R-Va., said he believed there was a need to boost math and science teaching in high schools to reverse a slide in which the country's colleges are graduating fewer engineers today than 20 years ago.

But Rep. Chris Van Hollen, D-Md., said he was concerned because while Bush's budget called for increasing areas of the Education Department budget to train 70,000 new math and science teachers and to attract 30,000 math and science professionals to tutor in the schools, the money was taken from other education programs.

For the second straight year, Bush's new budget would cut overall discretionary spending for education programs. He also asked Congress to eliminate 42 education programs he deemed unnecessary or inefficient, covering such areas as providing money for the arts, parent-resource centers and drug-free schools.

Van Hollen said he was also concerned that Bush was scrimping on the necessary support for the National Institutes of Health, including his proposal to trim spending for 18 of the 19 medical research institutes, calling cutbacks in these areas a mistake given the need to maintain the country's lead in medical research.

Gutierrez, however, said that the president's budget was seeking to find the right priorities for spending while at the same time pursuing Bush's goal of cutting the deficit in half by 2009.

Gutierrez urged individual members of Congress to refrain from inserting money into budget bills for pet projects, a process known as "earmarking."

"The most successful research is based on careful planning and merit-based peer review," Gutierrez said. "So to maximize the impact of (American Competitiveness Initiative) research, we encourage Congress to resist earmarking scientific research funding."

Can Bush Make America More Competitive In Math And Science? (CSM)

By Linda Feldmann, Staff Writer Of The Christian Science Monitor

The Christian Science Monitor, February 10, 2006

DOJ_NMG_0014148

WASHINGTON - Americans have heard the warnings for decades: The nation is in danger of falling behind other technological powerhouses in the world, posing a threat to its way of life. In the 1950s, it was the Soviet Union; in the 1980s, Japan. Now the big competitors are India and China.

President Bush's competitiveness initiative, outlined in his federal budget, would focus $136 billion over 10 years on boosting research and education. Much of that cost would come in the form of tax incentives for research and development; the rest represents new funding, including a doubling of the budgets of three federal agencies focused on science and technology.

The education piece of Mr. Bush's plan seems relatively small - $380 million in fiscal 2007 - but it is getting most of the attention. From that, $90 million would go to boost the ranks of students taking Advanced Placement and International Baccalaureate classes in math, science, and foreign languages by training 70,000 additional teachers in those subject areas in high-poverty high schools.

Overall, Bush's AP Incentive Program aims to boost the number of students taking AP math and science exams from 380,000 today to 1.5 million in 2012.

In a nation that seems to have a cultural aversion to tackling "hard" subjects like math and science, can those numbers be achieved? And without the stark image of Sputnik - the Soviet satellite whose launch in 1957 caught the US by surprise - to spur a fear of national decline, will the nation rally to the "competitiveness" cause and push Congress to fund the plan?

After all, in earlier waves of national concern about competitiveness, education reform fell short and yet the US still leads the world in economic might and innovation, says Michael Petrilli, vice president of the Fordham Foundation, a school-reform think tank.

"But I think, as Tom Friedman argued in his bestselling book, the economy is fundamentally different today," Mr. Petrilli says. "If our kids are going to have an opportunity to have good-paying jobs and enjoy the lifestyle they're used to, they're going to have to be able to use their brains. By any measure, our students are falling behind the rest of the world, especially in math and science."

The recent growth in participation in the College Board's Advanced Placement Program provides cause for hope. On Tuesday, the program reported an increase in success by high school students in all 50 states and the District of Columbia in AP courses over the past five years. The proportion of high school students passing AP exams - earning at least a 3 on a 5-point scale - has jumped from 10 percent to 14 percent since 2000.

Minority students remain underrepresented. Though African-Americans make up 13 percent of the high school population, they are 6 percent of AP test-takers. Native Americans make up 1 percent of students, but 0.5 percent of the AP population. The news is better for Latinos, who represent 13 percent of the student population and 13 percent of AP test-takers.

One constituency supportive of the president's education initiative is the business community, which fears that a future of unqualified American students will harm the bottom line. But some education analysts worry that - among the issues on business's plate, including tax cuts - education funding won't be high on the agenda when it comes time to lobby Congress.

"We are very willing to go to the mat on this," says Susan Traiman of the Education and Workforce Policy at the Business Roundtable. In the National Academy of Sciences report from last fall, which served as a blueprint for Bush's competitiveness initiative, the first recommendation centered on education, she notes.

"With the coming retirement of baby boomers who are in the science and engineering workforce, we need to make sure we have young people coming up behind them ready to enter those careers," Ms. Traiman says.

Education experts are also wondering whether Bush's first-term education initiative - No Child Left Behind (NCLB), which aims to improve the achievement of low performers - will work at cross-purposes with the American Competitiveness Initiative. The FY 2007 budget for the Department of Education took a big hit - a 5.5 percent reduction. Education Secretary Margaret Spellings maintains that the department can do both: raise the bottom and enhance achievement at the top. The budget would boost funding for NCLB by 4.6 percent.

Given the other education programs slated for abolition, many of them aimed at inner-city students, skepticism remains.

"I doubt whether most of this competitiveness stuff will be funded," says John Jennings of the nonprofit Center on Education Policy. "He's asking for so much less for education, and asking to eliminate so many popular ... programs. I find it hard to believe Congress will eliminate these programs and create new programs."

bush advisor to visit (RNO)

Raleigh News & Observer, February 10, 2006

North Carolina likes to think of itself as a hotbed of innovation.

Apparently, the Bush administration is keying in on that reputation.

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For the second time in a week, a senior Bush adviser will visit the state to discuss the president's "American Competitiveness Initiative." Commerce Secretary Carlos M. Gutierrez, right, this morning will meet with business and education leaders at IBM's Research Triangle Park campus to promote the stronger focus on technological and scientific innovation.

Bush's initiative is meant to increase competitiveness with other nations. Treasury Secretary John W. Snow touted the effort in Kannapolis last week.

TRADE GAP REPORT TO BE RELEASED

The Commerce Department releases its monthly trade report today, and some economists predict that the U.S. trade deficit -- aggravated by energy costs and Chinese imports -- widened in December and set an all-time high for the year.

The increase in the deficit last year has prompted U.S. lawmakers to increase criticism of China, which they claim keeps the value of its currency artificially low, making its exports less expensive to U.S. consumers.

The projected December shortfall of $64.9 billion would be the third-largest ever, and follows a $64.2 billion November gap. It would bring the 2005 trade deficit to $727 billion.

Ethics Scandal Looms Over Republicans' Retreat (REU-Y2)

By Thomas Ferraro

Reuters, February 10, 2006

Republicans in the U.S. House of Representatives, rocked by an ethics scandal, gathered at a secluded Maryland town on Thursday for a retreat, hoping to regroup under new leadership and position themselves to retain power in November's elections.

A week after electing Rep. John Boehner (news, bio, voting record) of Ohio as majority leader in place of the indicted Texan Tom DeLay, the Republicans were to hold three days of meetings at a hotel in Cambridge, Maryland, a two-hour bus ride from Washington.

Lobbying scandals and Justice Department investigations involving Republican lawmakers and former aides threaten the party's control of the House, which it has held since 1995.

Boehner said the retreat would allow a "period of renewal," but gave no hint whether he could quickly unite his 231-member caucus on lobbying reform. House Speaker Dennis Hastert, an Illinois Republican, has said this is his top priority.

In the wake of a scandal involving Republican lobbyist Jack Abramoff, Boehner has called for more public disclosure of the relationships between lawmakers and lobbyists rather than a fundamental overhaul of the way Congress does business.

Unlike some of his colleagues, he is also opposed to abolishing so-called "earmark" spending for pet projects, urging instead more transparency.

President George W. Bush who, along with fellow Republicans in Congress has been battered by slumping poll numbers, was to speak to the group on Friday.

"I think you have some nervous Republicans who are looking at a political environment that is very dangerous for their party," said Amy Walter of the nonpartisan Cook Political Report.

A number of senior Republicans have been drawn into the investigation into Abramoff, who pleaded guilty last month to fraud charges and agreed to help prosecutors in their corruption probe.

Ethan Siegal of the Washington Exchange, a private group that tracks legislation and politics for institutional investors, said, "House Republicans need to focus on an agenda that plays to their (conservative) base and demonstrates to the voting public at large that they are competent and deserve to remain in power."

There was also concern about Bush's proposed $2.77 trillion budget submitted this week that would boost defense spending, slow the growth of Medicare and cut a host of domestic programs in an effort to soothe Republican worries over high deficits.

Boehner was the upset winner of a House Republican leadership election last week, defeating Roy Blunt of Missouri. Blunt was seen by some as too close to DeLay, who was forced to step down as majority leader last year after being indicted in Texas on campaign-related felony charges.

Other likely topics for the meeting included energy prices, health care, national security, the Iraq war, immigration and education.

GOP Gets Quick Course In Ethics (WT)

By Stephen Dinan

The Washington Times, February 10, 2006

CAMBRIDGE, Md. -- House Republicans will get a refresher course on ethics tomorrow as part of their three-day retreat to discuss lobby and ethics reforms and try to clarify a vision for 2006.

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Rep. Doc Hastings of Washington, chairman of the ethics committee, will review the code of conduct for the 180 Republicans who have gathered at a conference center on Maryland's Eastern Shore.

They will hear a pep talk from President Bush today.

Republican National Committee Chairman Ken Mehlman told the lawmakers yesterday that Democrats are failing to capitalize on Republican ethics questions ahead of difficult midterm congressional elections in November.

Mr. Mehlman said politics is supposed to be a zero-sum situation: If one party is doing poorly, the other does well. But Republicans' travails have not helped Democrats, he said.

"The law of political physics is being defied by Nancy Pelosi, Howard Dean and Harry Reid," he said, referring to the top Democrats in the House, the national party and the Senate.

Mr. Mehlman said more of the electorate is voting based on ideology, providing a cushion for the president's lower approval numbers and a general feeling that the country is moving in the wrong direction.

Rep. David Dreier of California, chairman of the Rules Committee, rejected calls by Democrats and some Republicans to alter the way the House debates and votes, including lag time to read legislation and a time limit on floor votes.

The current rules set a minimum but not a maximum time limit.

The Republican leadership has been accused of abusing the rule, most notably in the 2003 vote on the Medicare prescription-drug legislation.

That three-hour vote included heavy persuasion, and the ethics committee admonished Rep. Tom DeLay, Texas Republican, for the appearance of trying to strong-arm a Republican colleague.

Top House Democrats wrote a letter calling for fewer "closed rules" that prevent amendments and a requirement that measures be available for 24 hours before they are brought up for a floor vote.

Mr. Dreier told reporters that Republicans already allow Democrats to have a substitute on most bills, and said more Democratic amendments were allowed last year than Republican amendments.

Although Republicans want reforms to be bipartisan, he said, their priority is "moving the Republican agenda."

"There's no reason in the world we should be tying hands," Mr. Dreier said.

Sen. McCain Leads Effort To Cut Earmarks (AP-Y2)

By Jim Abrams

AP2, February 10, 2006

Ten senators led by Sen. John McCain (news, bio, voting record) took on the Senate's much maligned practice of inserting individual members' special projects, often without the knowledge of their colleagues, into larger spending bills.

The "Pork-Barrel Reduction Act," introduced Thursday by eight Republicans and two Democrats, is the latest in a rash of proposals promoting ways to restore integrity to the political process in the wake of lobbying and ethics scandals.

McCain's bill would allow senators to raise points of order against special projects, or earmarks, that are attached to spending bills without having been approved by the relevant committee. Under the procedure, which also applies to policy changes embedded in spending bills, 60 votes would be needed to override the point of order and keep the provision in the bill.

The measure also would require that earmarks be described in detail and the sponsor identified. House-Senate compromise bills would have to be made public at least 48 hours before the Senate considers them.

Critics of earmarks complain they are often put in bills only after the bills have passed the House or Senate, and that lawmakers are forced to vote on massive spending bills put together by House-Senate negotiators without knowing what's in them.

According to a Congressional Research Service study, the number of earmarks in spending, or appropriations, bills went from 4,126 in 1994 to 15,877 in 2005. The value of those earmarks doubled to $47.4 billion in the same period.

"It's a relatively recent phenomenon that members of Congress have begun to believe that their political support is only or largely determined by a number," Sen. John Sununu (news, bio, voting record), R-N.H., said of the desire of lawmakers to secure projects they can brag about back home.

The bill introduced by McCain, R-Ariz., is one of several to tackle the earmarks issue. Senate Rules Committee Chairman Trent Lott, R-Miss., and Sen. Dianne Feinstein (news, bio, voting record), D-Calif., have a similar bill, and Sen. Barack Obama, D-Ill., also has a plan.

In the House, Democratic leader Nancy Pelosi on Thursday wrote new Majority Leader John Boehner, R-Ohio, Thursday urging him to move on both lobbying and House procedural reform, including putting an end to secret earmarks and earmarks that fund activities in which the author has a financial interest.

"If we want to stay the majority as a party," said Sen. Lindsey Graham (news, bio, voting record), R-S.C., a cosponsor of the McCain bill, "we will reform the way we've been doing business the last few years or we will lose."

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McCain said the Jack Abramoff lobbying scandal, which has exposed the sometimes unsavory ties between lobbyists and members of Congress, has set the stage for passing legislation that can both make congressional procedures more open and deal with such issues as limiting gifts and travel arranged by lobbyists. "The Abramoff thing is a long way from over," he said.

Also on Thursday, Sens. John Kerry, D-Mass., and Ken Salazar, D-Colo., introduced a bill that would deny federal pension benefits to members of Congress convicted of bribery, conspiracy or other serious ethics offenses.

Just Say No To Earmarks (WSJ)

By Tom Coburn

The Wall Street Journal, February 10, 2006

John McCain and I recently delivered a letter to our colleagues announcing our intention to challenge every individual earmark on the floor of the Senate. Many senators, staff and reporters have asked if we are serious. The answer is yes.

I am convinced that forcing hundreds or, if necessary, thousands of votes to strike individual earmarks is the only way to produce meaningful results for American taxpayers. Bringing the Senate to a standstill for as long as it takes would be a small price to pay for shutting down what Jack Abramoff described as Congress's "earmark favor factory." The battle against pork is crucial. Pork is the root cause of the unholy relationship between some members of Congress, lobbyists and donors. Inside Congress, the pork process is effectively a black market economy: Thousands of instances exist where appropriations are leveraged for fundraising dollars or political capital. It is delusional to claim Congress can redeem its relationship with K Street without eliminating earmarks. The problem is not lobbyists. The problem is us.

Those who argue that fighting pork distracts members from the more costly challenge of entitlement reform don't understand human nature. Earmarks are a gateway drug on the road to the spending addiction. One day an otherwise frugal member votes for pork, the next day he or she votes for a bloated spending bill or entitlement expansion: A "no" vote might cut off their access to earmarks.

The most vocal opponents to a zero-tolerance approach toward pork are, sadly, the bipartisan leaders of the House and Senate. Senate Majority Leader Bill Frist, to his credit, has issued only a mild defense of earmarking by stating we should "mend, not end" the practice. Senate Minority Leader Harry Reid and House Speaker Denny Hastert, on the other hand, have been enthusiastic in their defense of pork. Sen. Reid offered a fictional account of American history when he said the pork process "has been going on since we were a country." He and other pork apologists ignore the reality that pork as we know it today didn't exist 20 years ago. In 1987, President Reagan vetoed a spending bill because it contained 121 earmarks. The number of earmarks has skyrocketed over the past decade, from 4,126 in 1994 to 15,268 in 2005, according to the Congressional Research Service.

Nowhere in our founding documents is a justification for today's out-of-control earmarking. In fact, Madison and the other framers were clear that the general welfare clause of the Constitution should never be construed as a blank check for Congress. Pork is a modern indulgence, not an ancient or noble tradition.

Speaker Hastert, for his part, has said pork is "what members do" and that members are best positioned to know where to put a "red light in their district." This vision of an imperial Congress, where urban planners in state and local governments can be usurped by individual congressman and their 20-something staffers, is unsettling. And every hour members spend on parochial obsessions is an hour they can't devote to oversight, balancing the budget or serious national security issues.

The American people are demanding real reform, not cosmetic measures that will clean the outside of the cup but leave the inside filthy. As Congress confronts its culture of corruption and our enormous fiscal challenges, it's time to "just say no" to earmarks.

Mr. Coburn is a Republican senator from Oklahoma.

Official Resigns Public TV Post (NYT)

By Stephen Labaton And Elizabeth Jensen

The New York Times, February 10, 2006

WASHINGTON, Feb. 9 — The top television executive at the Corporation for Public Broadcasting announced on Thursday that he would be stepping down. This is the latest in a string of departures of officials and consultants who played central roles in an effort by conservatives to bring what they viewed as more balance to public television and radio.

The executive, Michael Pack, controlled a $70 million production budget and was described by the official who hired him as a conservative Republican. He chose to resign after Patricia S. Harrison, the corporation's new president, forced him to decide between renewing his employment contract and exercising a soon-to-expire option that gives him $500,000 to produce a documentary.

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Ms. Harrison said the departures of Mr. Pack and a senior consultant, James Denton, were business decisions and were not part of any purge of ideologically driven officials. "You are connecting dots when there is no connection," she said in an interview. "I have not fired a single person since I came on board here."

But other officials in public broadcasting saw political overtones to the moves. Since being named president of the corporation last June, Ms. Harrison, a former co-chairwoman of the Republican National Committee, has attempted to tamp down a debate over balance in programming that has threatened to undermine financial support for public broadcasting from both Congress and private sources. Public broadcasting officials who had been at odds with the corporation said the personnel changes could shore up support among Republican moderates and Democrats, important traditional allies in budget fights.

"Pat Harrison appears to be trying to ratchet down some of the ideological orientation of the organization," said John Lawson, president of the Association of Public Television Stations.

"The best thing that C.P.B. can do now is stay out of the spotlight," Mr. Lawson added. "If changes in management at C.P.B. signal to Democrats and Republicans alike that C.P.B. will be nonpartisan and programming decisions will be made on a nonideological basis, that's a very positive development as we go about seeking support from Congress."

The White House this week proposed a cut of more than $100 million, or more than 25 percent, in the corporation's budget.

The corporation has faced tumult since last spring, when it was disclosed that Kenneth Y. Tomlinson, who was then its chairman, was pressing public broadcasters to correct what he and other conservatives saw as liberal bias. Mr. Tomlinson was forced to resign in November, after the corporation's inspector general found evidence that he had repeatedly broken federal law and the organization's own regulations. He remains the head of a separate agency, the Broadcasting Board of Governors, which oversees most government broadcasting operations abroad. Mr. Pack's departure followed the recent decision by Ms. Harrison not to renew the contract of Mr. Denton, who oversaw one of the corporation's largest projects: a $20 million documentary series called "America at a Crossroads" examining the nation's role in a post-9/11 world. (The New York Times has received financing for one program, "Indonesia: Battleground for the Soul of Islam," as part of that series.)

Mr. Denton, the son of Jeremiah Denton, a conservative Alabama Republican who served in the Senate in the 1980's, was seen by some documentary makers as advancing a conservative political agenda. In an interview, he disputed the complaints that he had sought to bring a conservative bent to programming, calling them "absurd."

Mr. Denton provoked a controversy last year when, at a forum on one of the corporation's largest initiatives, creating projects designed to teach history and civics to teenagers, he suggested to producers that they tell corporate partners the programs could be a "Trojan horse" to get their technology into the schools.

A third official involved in the effort to change the political direction of public broadcasting, William Schulz, submitted his resignation last month. Mr. Schulz, a conservative who once worked with Mr. Tomlinson at Reader's Digest, was one of the two men hired last year to serve as the corporation's ombudsmen, responsible for monitoring the balance of programs. He said in an interview that he had resigned because he had other projects that were interfering with his obligations to the corporation.

In an interview on Thursday afternoon, Ms. Harrison said the personnel moves had "nothing to do with politics or ideology."

"These are business decisions," she said. "It was not in the best interests of the corporation to extend or enhance Michael Pack's option to produce a program."

"In the case of Jim Denton, he did a great job," she added. "His contract was over in December."

Other broadcasting executives said that Ms. Harrison had heard complaints from producers that the "America at a Crossroads" and history and civics projects have moved too slowly and been disorganized.

Among other programming moves, he helped bring to public television a show featuring The Wall Street Journal's conservative editorial board and another whose host was Tucker Carlson, the conservative commentator.

Mr. Pack called "America at a Crossroads" "a good example of the way to bring diversity of views to public broadcasting across the political spectrum." With new voices and a mix of cultural and political topics, he said, "I hope it will be a model for how to bring a true diversity of opinion and in some ways get out of the left-right box."

Ex-Press Aide For NASA Offers Defense (NYT)

By Andrew C. Revkin

The New York Times, February 10, 2006

George C. Deutsch, the young NASA press aide who resigned on Tuesday amid claims that he had tried to keep the agency's top climate scientist from speaking publicly about global warming, defended himself publicly yesterday.

Speaking to a Texas radio station and then to The New York Times, Mr. Deutsch said the scientist, James E. Hansen, exaggerated the threat of warming and tried to cast the Bush administration's response to it as inadequate.

Mr. Deutsch also denied lying about having a college degree and trying to inject religion into some NASA Web presentations.

"I have never been told to censor science, to squelch anything or to insert religion into any issue," he told the radio reporter, Brian Cain.

Parts of that interview were posted on the Web site of WTAW-AM, in College Station (wtaw.com), where Mr. Deutsch attended Texas A&M University until he joined President Bush's campaign in 2004.

After seeing a transcript of some of the criticisms, Dr. Hansen said, "This is so wacky that it deserves little response."

In the radio interview, Mr. Deutsch also criticized others within NASA who supported Dr. Hansen's view that he was being suppressed. Leslie McCarthy, a public affairs officer who told The Times of several conversations in which Mr. Deutsch said his job was to "make the president look good," said she would not comment on his assertions.

"The House Science Committee is conducting an investigation because they were concerned and I'm just not prepared to stoop to his level," Ms. McCarthy said in a telephone interview last night.

Starting in late January with several interviews in The New York Times, Dr. Hansen, the director of NASA's Goddard Institute for Space Studies in Manhattan, and several career NASA public affairs officials and scientists complained about what they said were intensifying efforts by political appointees in NASA, including Mr. Deutsch, to control more closely his lectures and Web presentations.

Last Friday, after more NASA scientists and public affairs officers told The Times of other instances in which political appointees altered news releases or Web presentations in ways the workers said were tinged by politics, Michael D. Griffin, the NASA administrator, issued a "statement of scientific openness" to all NASA employees saying, "we have identified a number of areas in which clarification and improvements to the standard operating procedures of the Office of Public Affairs can and will be made."

Dr. Griffin also said "it is not the job of public affairs officers to alter, filter or adjust engineering or scientific material produced by NASA's technical staff."

The Times reported on Wednesday that contrary to his résumé on file with NASA, Mr. Deutsch, who is 24, never graduated from Texas A&M. Yesterday, in an interview with The Times, Mr. Deutsch said he had written the résumé in anticipation of graduating.

"When I left college," he said, "I did not properly update my résumé. As a result, it may appear misleading to some. However, I was up front with NASA about my undergraduate status when they hired me."

In an e-mail message, Mr. Deutsch said that remarks about religious views on the creation of the universe sent last October to a Web designer working on a presentation on Albert Einstein were "personal observations" and never were reflected in the material that was posted online.

"We are both Christians, and I was sharing with him my personal opinions on the Big Bang theory versus intelligent design," Mr. Deutsch wrote to The Times. "What I said about intelligent design did not affect the presentation of the Big Bang theory in the subsequent Einstein Web story. This is a very important point, because I have been accused of trying to insert religion into this story, which I was not trying to do."

Former NASA Spokesman Speaks Out (WTAW)

WTAW-AM, February 10, 2006

(posted 2/9/06) A controversy involving allegations of censorship at NASA has apparently led to the resignation of a public affairs officer at the agency. ...

George Deutsch Interview, Part 2

Click icon to hear part two of WTAW's exclusive interview with former NASA public affairs officer George Deutsch. ...

George Deutsch Interview, Part 3

Man Who Left NASA Says He's Under Attack (AP)

AP, February 10, 2006

COLLEGE STATION, Texas -- A staffer who resigned from NASA after he was accused of restricting access to a noted climate scientist said Thursday he was targeted because of his political ties.

George C. Deutsch, 24, resigned from the agency's public relations department earlier this week.

"What you do have is hearsay coming from a handful of people who have clear partisan ties and they are really coming after me as a Bush appointee," he told radio station WTAW. "I was an easy target. I was low-hanging fruit."

The New York Times reported Wednesday that Deutsch attempted to limit reporters' access to Jim Hansen, a noted NASA climate scientist, and insisted that a Web designer insert the word "theory" before any mention of the Big Bang.

Deutsch denied the allegations.

DOJ_NMG_0014154

"I have never been told to censor science, to squelch anything or to insert religion into any issue, absolutely not," said the former Bush campaign worker.

'Culture War' At NASA? (HC)

By Mark Carreau

Houston Chronicle, February 10, 2006

The young public affairs officer who resigned from NASA this week amidst controversy over his handling of communications on global warming charged on Thursday he's the victim of a politically motivated smear campaign.

George Deutsch, 24, a former Texas A&M University student who left the school to work on President Bush's 2004 re-election campaign, lashed back at those who accused him of scientific censorship.

He directed much of his wrath at James Hansen, a prominent NASA climatologist who complained in media reports that Deutsch was relying on Republican dogma to restrain scientifically motivated concerns about global warming.

'A very partisan agenda'"What is going on at NASA and throughout the federal government is a culture war," Deutsch said in a statement from his Washington-area home. "I quickly learned one thing: Dr. Hansen and his supporters have a very partisan agenda and ties reaching to the top of the Democratic Party."

In a telephone interview, Deutsch accused the space agency of too often showcasing Hansen as its expert on global warming, passing over other scientists whose views were not as alarming.

"If you don't have an idea that is in line with his agenda of global warming, if you don't have this sky-is-falling mentality, then you are considered the wacko," he charged.

Deutsch said he was especially appalled at what he characterized as an alliance between Hansen and Al Gore, the former Democratic presidential nominee who writes and speaks often on environmental issues.

Deutsch resigned from NASA late Tuesday after one year as a junior member of the agency's Washington public affairs staff. His departure came after a little-known Web site operated by a Texas A&M biochemistry graduate disclosed Deutsch's résumé falsely claimed an undergraduate degree from the school.

Hansen, NASA fire backOn Thursday, both Hansen, who directs climate research from the Goddard Institute for Space Studies in New York City, and NASA challenged the allegations by Deutsch.

"I have no idea where he got that idea. It would be the opposite of our credo about presenting all sides of a problem," Hansen wrote in an e-mail in response to the charge he tried to suppress opposing views.

Hansen also characterized himself as a moderately conservative independent who favors the positions of U.S. Sen. John McCain, R-Ariz., on campaign finance reform and climate change.

Hansen's views on global warming were not favored over others, said Dean Acosta, chief spokesman for NASA administrator Michael Griffin. "I can tell you categorically that is not happening," said Acosta.

Deutsch acknowledged he'd erred in claiming an A&M degree on his résumé. He claimed he informed NASA that he lacked the math class he needed to complete the degree.

Politics Vs. Climate Reality (USAT)

USA Today, February 10, 2006

Would that the rise and fall of George C. Deutsch, 24, a NASA political appointee, could become a metaphor — one taken all the way to its logical conclusion — for the Bush administration's policies on global warming. Deutsch has for months embodied the White House's earth-is-flat take on why the earth is warming, with consequences from melting glaciers to freak weather.

Working in NASA's public relations, he tried to muzzle a renowned climate scientist who — like serious scientists the world over — warns that global warming is a threat requiring government intervention to curb emissions from cars, factories and more.

This furthered the business-friendly Bush administration's increasingly lonely mantra that the science isn't solid enough for more than voluntary measures. But scientific consensus long ago moved on. The issue now is not whether global warming is happening, but how severe the effects will be.

This week, evangelical Christians, normally among President Bush's most loyal supporters, broke with him on the issue and urged action: 86 prominent figures released a statement warning that “millions of people could die” because of global warming.

One casualty of all this was Deutsch, who resigned when it was discovered his résumé was longer on political loyalty — work on Bush's re-election campaign — than on education. Texas A&M University said he never received the journalism degree he claimed.

But that merely removed the symptom, not the underlying problem.

DOJ_NMG_0014155

That a low-level bureaucrat could overrule a prestigious scientist says worlds about how the administration balances politics against science. Further evidence can be found at the Food and Drug Administration, which has stifled overwhelming evidence that the “morning-after pill” is safe and effective. It blocked over-the-counter sales — a transparent payoff to abortion opponents.

Global warming is a good place to beginaltering that facts-be-damned approach. The administration has a ready-made environmental bandwagon to jump back onto. The world agreed in 1992 to prevent dangerous climate change. Countries have since worked on mandatory emissions curbs in what is known as the Kyoto Protocol, but Bush, as soon as he took office, turned his back on it.

Ignoring the impact of climate change is getting difficult: Federal officials are considering declaring the polar bear a threatened species because rising Arctic temperatures are melting the ice pack that's their home.

Now that scientific fact has spoken louder than ideology at NASA, perhaps the same can happen at the White House.

Backlash Brewing (WP)

By Al Kamen

The Washington Post, February 10, 2006

Deutsch's Potshot at Jayson Blair

Speaking of kids, it isn't that George C. Deutsch , 24, the NASA press aide who quit after it turned out he lied about being a Texas A&M University graduate, didn't have any press experience.

Deutsch earned his bit of fame last week when he was criticized for preventing reporters from talking to James E. Hansen , NASA's leading climate scientist, because, as the New York Times reported, Deutsch told colleagues his job was to "make the president look good." The non-college graduate also opined about the big-bang theory and said NASA should not discount "intelligent design by a creator."

Deutsch did attend the Texas university and did some writing for the Battalion, the student paper. In an opinion piece in 2003 when New York Times reporter Jayson Blair was unmasked as a fabricator, Deutsch wrote: "Blair's decisions and actions lacked ethics and integrity. As a reporter, he cared only about himself and furthering his career at the expense of the truth."

Unclear if Deutsch plans to re-enroll to finish his degree.

And Another Thing . . . (SSR)

Spokane (WA) Spokesman-Review, February 10, 2006

Don't they get it?

Outward appearances play such a role in politics that you'd expect the professionals in the field to show themselves in the best light at all times. If not every moment, at least when they're on center stage.

The U.S. House of Representatives moved conspicuously onto center stage for an ethical melodrama after former Majority Floor Leader Tom DeLay was indicted on federal conspiracy charges and super-lobbyist Jack Abramoff pleaded guilty to conspiracy, fraud and tax evasion. With more developments to come in both cases, there has been considerable talk about reform efforts to reduce the influence money and favors have over the lawmaking process – but little more than talk. The closest facsimile of action has been the election by House Republicans last week of Ohio Congressman John Boehner to replace DeLay.

No sooner had the outcome been announced, however, than it was remembered that in 1995, when Congress was considering elimination of tobacco subsidies, Boehner was going about on the House floor distributing tobacco lobbyists' campaign checks to select colleagues. Boehner, who's enjoyed his own share of lobbyists' hospitality, has called himself a reformer.

That was the case again this week after it was revealed that he rents a $1,600-a-month Capitol Hill basement apartment from longtime friend and lobbyist John D. Milne. And that some of Milne's clients have a direct interest in legislation Boehner has sponsored or managed through the legislative process.

It's important, of course, that Boehner's actions are legal and free of conflicts of interest, which he insists that they are. It's equally important, though, that the public have confidence in government, an attitude that's hard to sustain when questionable appearances keep raising suspicions.

Earth to NASA

Political operatives are boldly going where they've never gone before. The National Aeronautics and Space Administration is the latest battleground in the war between science and politics.

First, the agency's public information office was accused of censoring its scientists' findings on global warming. Then it imposed itself on the origins-of-the-universe debate.

DOJ_NMG_0014156

George Deutsch, a young intern from the Bush-Cheney campaign, landed a job at NASA after the election and kept right on campaigning. Instead of helping scientists communicate their findings, he decided to politicize them. Some scientists say their reports on global warming were watered down. Scientist James Hansen said the administration didn't want him giving speeches on the topic.

Deutsch also ordered that all mentions of "Big Bang" carry the word "theory" on the NASA Web site. That's not so bad, but his rationale was: "It is not NASA's place, nor should it be, to make a declaration such as this about the existence of the universe that discounts intelligent design by a creator – the other half of the argument."

We're guessing Deutsch was motivated by more than just science, but that's just a theory. Deutsch was dumped on Tuesday for lying on his resume. We hope NASA administrators can see that there was a bigger problem.

Academy To Referee Climate-Change Fight (WSJ)

By Antonio Regalado

The Wall Street Journal, February 10, 2006

Seeking to resolve a scientific dispute that has taken on a rancorous political edge, the National Academy of Sciences said it had agreed to a request from Congress to assess how well researchers understand the history of temperatures on earth.

The study by the academy, an independent advisory body based in Washington, will focus on the "hockey stick," a chart of past temperatures that critics say is inaccurate. The graph gets its name because of the sudden, blade-like rise of recent temperatures compared with past epochs.

The controversy took a sharp political turn in July when Rep. Joe Barton (R., Texas), head of the House Energy and Commerce Committee, launched a probe into the work of three climate specialists who generated the graph, including Michael Mann, now a professor at Pennsylvania State University.

Mr. Barton's inquiry drew a rebuke from several scientific societies as well as fellow Republican Sherwood Boehlert of New York, chairman of the House Committee on Science, who called it a blatant effort to intimidate global-warming researchers.

After Mr. Barton didn't respond to an offer to jointly bring the issue to the National Academy, Mr. Boehlert independently asked for a review in November, science committee chief of staff David Goldston said. "It appeared that the issue was not going to go away by itself. We thought this was an appropriate way to get an assessment of the science," Mr. Goldston said in an interview.

Larry Neal, deputy staff director for Mr. Barton's committee, said in a statement that because "combating climate change is a breathtakingly expensive prospect," it deserved closer study, and that the academy was "unlikely" to address all of Mr. Barton's concerns.

Mr. Barton has already sought a separate analysis of the hockey stick led by statistician Edward Wegman of George Mason University, people familiar with the matter said. Dr. Wegman couldn't be reached yesterday.

Using records stored in ice, tree rings, and coral reefs, scientists including Dr. Mann have estimated that current air temperatures exceed any in the past 1,000 years. Such findings are not only evidence for man-made global warming, but also underlie predictions of future temperature rises.

An 11-member academy panel will now study the accuracy and importance of such research, in particular the work of Dr. Mann, whose hockey-stick graph was included in a report issued by the United Nations in 2001. An academy spokesman said the report would be completed in about four months.

Dr. Mann's critics, including two amateur Canadian climate researchers, say his work contains serious inaccuracies. Dr. Mann has denied that, but the debate has prompted several climate researchers to take a fresh look at temperature reconstructions.

While some recent publications have found fault with the hockey stick and similar studies, others have sought to rebut critics.

The debate comes as many scientists express growing alarm over the warming trend. The planet has warmed more than one degree over the past century, and recent heating is widely blamed on greenhouse gases emitted by the burning of coal, oil and natural gas.

More than 150 countries have ratified the Kyoto Protocol, an international agreement to slash gas emissions by 2012. The U.S. hasn't signed the treaty, which the Bush administration has said is ineffective and would slow economic growth.

Write to Antonio Regalado at antonio.regalado@wsj.com1

More Vets Get Health Care, But 'Priority 8' Is Like Priority Zero (WP)

By Christopher Lee

The Washington Post, February 10, 2006

DOJ_NMG_0014157

Three years ago, then-Secretary Anthony J. Principi announced that the Department of Veterans Affairs was suspending health care enrollment for some higher-income veterans who did not have injuries or illnesses related to their military service.

The move to exclude "Priority 8" veterans was unpopular, but Principi said it was necessary to prevent the VA medical system from being swamped by the rising number of veterans who were eligible for care. At the time, about 6.8 million veterans were enrolled in the VA health system. Now more than 7.5 million are -- including 5.4 million who received treatment last year.

Others could not get in the door, however. More than a quarter-million "Priority 8" veterans who tried to sign up for VA health care coverage between January 2003 and October 2005 were turned away because of the new effort to rein in costs. The 263,257 veterans who were not allowed enroll included 5,459 veterans in Virginia, 3,051 in Maryland and 164 in the District of Columbia, according to figures the VA recently released.

There are 24.4 million veterans in the United States, and 16.9 million are not enrolled in the VA health care system. As many of 10 million of those not enrolled are Priority 8 veterans, the VA says. The annual household income cutoff for Priority 8 veterans varies by region. It was $57,500 for a veteran with three dependents who lived in Arlington or Fairfax counties, or in Montgomery or Prince George's counties.

Rep. Lane Evans (Ill.), ranking Democrat on the House Veterans Affairs Committee, called on the administration to increase the VA budget.

"There is no reason for the VA to give the cold shoulder to veterans who have served our country honorably," Evans said in a written statement.

Lisette Mondello, a VA spokeswoman, said the affected veterans could not enroll because they were not eligible. "We want to be clear that absolutely nobody is being cut from VA health care rolls and no veteran will be dis-enrolled from VA health care unless they specifically request it," Mondello wrote news organizations.

VERBATIM (WP)

The Washington Post, February 10, 2006

That Was Then

" During my stewardship here, I'm going to put everybody under oath when we have testimony, as we do on confirmation hearings."

Judiciary Committee Chairman
Arlen Specter, April 5, 2005

This Is Now

"It is my judgment that it is unnecessary to swear the witness."

Specter, declining to put Attorney General
Alberto R. Gonzales under oath, Feb. 6, 2006

GOP Senator Says Withhold Congress' Pay (AP-Y2)

By Andrew Taylor

AP2, February 10, 2006

A potential GOP presidential candidate has come up with a familiar way to cater to conservative core voters — bashing Congress.

Virginia Sen. George Allen (news, bio, voting record), a darling of conservatives, says lawmakers' paychecks should be withheld if they don't pass spending bills on time. He says that would solve the problem of larding spending into end-of-session bills that sometimes pass without anybody reading them.

Allen was to unveil the plan Thursday night before the CPAC convention, a gathering of conservative activists in Washington.

The senator said his so-called pay check penalty "provides powerful incentives for senators and congressmen to perform their jobs on time, with discipline."

Congress is supposed to pass spending bills by the Oct. 1 start of the budget year, but invariably fails to do so. Allen voted for every appropriations bill last year and the most recent "omnibus" appropriations bill in November 2004.

Keeping The Faith At The White House (CHIT)

Chicago Tribune, February 10, 2006

For all the hoopla surrounding cuts in Medicare and Medicaid spending, a quieter revolution is taking place in Washington: The advancement of “faith-based’’ social services.

DOJ_NMG_0014158

As President Bush signed a significant budget-cutting bill today with an audience of congressional leaders in the East Room of the White House, he signed into law protections for religious groups that spend federal money on the social services that they deliver.

Legal protection for many federally financed private groups to hire people of their choosing already had been provided by the Welfare Reform Act of 1996 signed by President Clinton. In the reauthorization of that act, Congress has extended that authority for programs operating under the $17-billion Temporary Assistance to Needy Families through 2010 and also has extended this "Charitable Choice" authority to his new Marriage and Fatherhood Program.

Bush signed all of this into law today as he approved a Deficit Reduction Act that will rein in the growth of Medicare and Medicaid. The choice provisions were added to the bill.

The act is expected to cut $6 billion from Medicare over five years, requiring wealthier recipients to pay higher premiums. In addition, Bush is asking Congress to trim $36 billion more from Medicare over the next five years in the 2007 budget that he is proposing, slowing the program's annual growth from 8.1 to 7.7 percent.

"One of the reasons for the success of welfare reform is a policy called charitable choice, which allows faith-based groups that provide social services to receive federal funding without changing the way they hire," Bush said. "Ten years ago, Congress made welfare the first federal program to include charitable choice. The bill I sign today will extend charitable choice for another five years, and expand it to the new healthy marriage and responsible fatherhood programs.

In the 2007 budget that Bush proposed this week - which calls for spending cuts throughout many federal agencies - the president is asking Congress to boost spending for his "faith-based initiatives."

Bush is asking Congress for $323 million for programs such as a "Compassion Capital Fund" of $100 million - with half of the fund earmarked for a program aimed at steering youth away from gang involvement, an initiative that First Lady Laura Bush is leading. Other programs include mentoring for children of prisoners ($40 million) and a "re-entry" program for 600,000 convicts returning to society this year ($60 million) as well as help for recovering drug addicts that 14 states and one Indian tribe are offering ($98 million).

That $323 million request represents a 36 percent increase in what is going to the president's faith-based initiatives this year, $236 million.

In addition, five federal agencies including the Department of Education and Health and Human Services increased their own grants to faith-based groups to $1.334 billion in 2004 - up 14 percent from the year before. Combined with grants from the U.S. Agency for International Development and Department of Agriculture, the overall 2004 spending was closer to $2 billion.

The White House is collecting data on all those agencies' grants in 2005 and plans to announce how they fared on March 9. Watch for another reported increase in spending.

Bush maintains the government can pay for these increases - as well as a much more costly 7 percent boost in defense spending ($18.5 billion) - while cutting spending elsewhere and preserving the tax cuts that the president won during his first few years in office.

"You will hear the argument during the budget debates -- you know -- all the noise coming out of Washington, that you need to raise taxes in order to balance the budget," Bush said earlier today in Manchester, N.H., making his first public pitch for his new budget. "I've been there long enough to tell you, that's not the way Washington works. They're going to raise your taxes and they're going to find new ways to spend your money."

With the way the White House is spending money on social services offered by faith-based groups, religious leaders have been concerned that federal money carries federal strings. They have sought protection in matters such as hiring for the private groups collecting federal money - groups that may restrict hiring to members of their own church, for instance.

A federal court recently ruled in favor of the faith-based groups' right to hire as they choose. The White House failed to win broad legislation for Charitable Choice in 2001 so has been working on the issue case by case. The act signed today represents the first chance Bush has had to sign choice into law for one of his programs, the marriage and fatherhood program.

"This represents a major development in the president's efforts to advance his faith-based initiative… For five years, this initiative has been blocked in Congress," said Jim Towey, director of the White Office of Community and Faith-Based Initiatives. "The story line that had been written - that the faith-based initiative has been blocked throughout his presidency - that story line has given way to a signature today."

Senate Confirms Ameriquest Founder As Ambassador (LAT)

By Jonathan Peterson, Times Staff Writer

The Los Angeles Times, February 10, 2006

WASHINGTON — Roland E. Arnall is heading for Amsterdam.

DOJ_NMG_0014159

The Southern California mortgage-lending magnate was confirmed late Wednesday as U.S. ambassador to the Netherlands, 16 days after his Ameriquest Mortgage Co. agreed to pay $325 million to settle allegations of unfair lending practices by regulators in 49 states and the District of Columbia.

The uncontested Senate voice vote brought a peaceful end to a divisive, three-month confirmation process, in which Democrats led by Sen. Paul S. Sarbanes (D-Md.) had insisted that Ameriquest resolve the allegations against it before they would confirm Arnall.

"With Ameriquest's recent settlement with the attorneys general over its mortgage lending practices, Sen. Sarbanes did not object to moving forward on this nomination," said Jesse Jacobs, a spokesman for Sarbanes.

Arnall's loyalists were ebullient at the vote, which came as an anticlimactic finale to a process in which the media-shy billionaire had been subjected to a public grilling. Supporters, including business associates and some civil rights activists, had said throughout the debate that he would be an effective diplomat.

"We are pleased that Mr. Arnall's nomination to be the ambassador to the Netherlands has been confirmed by the United States Senate," Adam J. Bass, Ameriquest's vice chairman and a nephew of Arnall, said in a statement Thursday. "We take great pride in knowing that our company's founder will be representing our country abroad and know he will serve with honor and distinction."

Some of Arnall's critics, however, decried his appointment: "I find it unbelievable that the reward for settling this case is not jail avoidance but being named ambassador to another country by the United States," said Ira Rheingold, general counsel of the National Assn. of Consumer Advocates.

Arnall was not available for comment.

The 66-year-old Holmby Hills resident emerged in recent years as a major Republican financier, directly or indirectly helping raise more than $12 million for President Bush and Republican activities.

Arnall turned Orange-based Ameriquest into a major national lender by tailoring home loans to people with weak credit histories and other problems that limit their options in traditional credit markets. In October, he resigned his positions with the firm to comply with State Department ethics requirements for ambassadors. His wife, Dawn, retained her posts with Ameriquest and its related companies.

While Ameriquest's fortunes soared under Arnall's leadership, complaints that some of its employees engaged in unfair lending practices — pressuring borrowers to refinance loans with costly terms, for example, or surprising borrowers with unexpected fees at closing — drew the attention of state regulators.

Under the Jan. 23 settlement, Ameriquest promised to take steps to safeguard consumers.

That deal cleared most of the roadblocks to Arnall's confirmation. Republicans brought the matter up Wednesday night, and with no objection and no debate, Arnall became an ambassador.

Special correspondent Mike Hudson contributed to this report.

OTHER NEWS:

Jobless Claims Fall To 6-Year Low (WSJ)

The Wall Street Journal, February 10, 2006

WASHINGTON -- A closely watched barometer of joblessness fell to its lowest reading in nearly six years, offering further proof that so far this year the labor market is improving along with the economy.

The Labor Department said the number of workers filing initial unemployment claims last week was 277,000, a figure that pushed the more telling four-week moving average of jobless claims down to 276,500, its lowest level since April 2000.

The claims data provide the latest bit of evidence that strong economic activity is improving conditions for workers. Last week, the Labor Department released figures showing that the economy added 687,000 jobs over the past three months, pushing the unemployment rate down to 4.7%, its lowest mark since July 2001. Moreover, hourly wages rose 3.3% over the past year, the fastest growth rate in nearly three years.

Many analysts are convinced that readily improving labor conditions, in tandem with other robust economic indicators, will lead the Federal Reserve to raise the federal-funds rate by another quarter point to 4.75% next month in an effort to tamp down inflationary pressures on prices and wages.

"They're going to view the tightening labor market as a sign of inflation worries to come," said Gina Martin, an economist at Wachovia Corp. in Charlotte, N.C. "We think they're going to go up to 5% in May and then stop there for the rest of the year."

Separately, U.S. wholesale inventories climbed during December at twice the pace expected, even as sales rebounded and increased at the same rate as stocks.

DOJ_NMG_0014160

Wholesale inventories rose by 1.0% to a seasonally adjusted $362.48 billion, the Commerce Department said Thursday. November inventories increased by 0.5%, revised from a 0.4% climb. Wholesale sales rose by 1.0% to a seasonally adjusted $314.91 billion. That followed a 0.7% decrease in November, which was unrevised. The inventory-to-sales ratio held steady at 1.15. The ratio measures how many months it would take for a company to deplete its current inventory.

Overall inventories held by U.S. businesses -- wholesalers, manufacturers and retailers -- increased in the final quarter of 2005 after six months of liquidation. The latest government report on gross domestic product said companies elevated stockpiles by $25.7 billion in the fourth quarter, after decreases of $13.3 billion in the third quarter and $1.7 billion in the second.

Year over year, wholesale inventories were up by 6.7% in December, while sales were 8.3% higher than the level in December 2004.

Inventories of durable goods -- meant to last three or more years -- rose 0.6% in December, after increasing 0.8% in November. Durable goods sales went up 1.3%, after falling by 0.2% in November. The 0.6% increase in durable goods inventories was led by growth in stocks of autos, up 1.2%. Driving up sales of durables were the auto sector, up 1.8%, and professional equipment, 2.5% higher.

Inventories of non-durable goods rose 1.6% in December, after inching up 0.1%. The increase in non-durables was the biggest since a climb at an equal rate in April 2001. Non-durable sales increased by 0.7% after declining 1.3%. Petroleum sales rose 4.4% in December.

Dow Rises On Jobs, Earnings Reports (USAT)

USA Today, February 10, 2006

NEW YORK — Stocks were mostly higher Thursday as a six-year low in unemployment claims and strong corporate earnings encouraged investors. However, the momentum sagged in late-afternoon trading as uncertainty about the economy resurfaced.

While weekly first-time jobless claims rose slightly, Wall Street was encouraged that the Labor Department said the four-week moving average fell to its lowest since April 2000.

Positive earnings news from Best Buy, Aetna and Marriott International also encouraged buyers. However, with longer-term questions remaining about the housing market, the economy, interest rates, oil prices and geopolitics, analysts question whether the trend higher could continue.

“Right now, it's like an absence of bad news is being treated as good news,” says Hans Olsen, managing director and chief investment officer at Bingham Legg Advisers.

The Dow Jones industrial average rose 24.73 points to 10,883.35 after gaining 108.86 points Wednesday. The Standard & Poor's 500 index fell 1.87 points to 1263.78, and the Nasdaq composite dropped 11.11 points to 2255.87.

Best Buy gained $4.13 to $52.96. The electronics retailer raised its forecast for fourth-quarter earnings. Aetna climbed $3.15 to $99.27. The insurer reported fourth-quarter net income up 41% to $423 million and boosted its 2006 outlook. Marriott added $1.53 to $67.64 after it said fourth-quarter earnings rose 25% to $237 million and increased its 2006 forecast.

·Whole Foods Market fell $6.78 to $65.27. The top U.S. natural and organic foods retailer posted a quarterly profit just shy of Wall Street expectations.

·Martin Marietta Materials climbed $4.92 to $94.07. The company posted a strong fourth-quarter profit and issued an earnings forecast well beyond Wall Street expectations.

·Brinks slid $5.03 to $48.80. The security company said its fourth-quarter profits, which missed analysts' forecasts, were “disappointing.”

·NightHawk Radiology closed at $20.65, up 29% from the $16 at which the company sold 6.3 million shares in an initial public offering. NightHawk employs radiologists in Switzerland and Australia to read X-rays in the off-hours of U.S. health care providers.

·EResearch Technology tumbled $3.26, or 18%, to $14.50. The health care technology company's profit forecasts were lower than expected.

Dow Industrials Build On Rally (WSJ)

The Wall Street Journal, February 10, 2006

A stock rally lost steam in the final hours Thursday, tripping up the Dow Jones Industrial Average as it made another push toward 11000, though the industrials still finished up for the day.

The market started to pull back just after the Dow industrials crossed 10950, which has proven to be a tough obstacle for stocks, said Todd Leone, head of listed trading at SG Cowen. "Every time we get near there, we fade," he said.

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Remarks from Michael Moskow, president of the Federal Reserve's Chicago branch, also took the air out of stocks. Mr. Moskow said inflation is currently at "the upper end" of his comfort zone, and that monetary policy may have to be tightened further if inflation expectations keep rising.

The Fed official's speech before the Risk Management Association in Chicago, which didn't say anything remarkably surprising about interest rates, put "a bit of fright into the market," said Larry Peruzzi, senior equity trader at Boston Company Asset Management.

While stocks had a good run Wednesday, when the industrials rose more than 100 points, the market has been dour this month. The lackluster action could be a sign that stocks are on a downward trend that could last months, said Steven Shobin, chief investment strategist at AmeriCap Advisers. One sign of a market top, he said, is weakness in former leaders, such as the energy sector.

The Dow Jones Industrial Average, up as much as 94 points earlier, gained just 24.73 points to 10883.35. The Standard & Poor's 500-stock index fell 1.89 to 1263.76 and the Nasdaq Composite Index slid by 11.11 to 2255.87.

Stocks rallied early, extending Wednesday's triple-digit Dow gain thanks to a strong earnings report from Aetna and Marriott International, as well as upbeat guidance from Best Buy.

An auction of $14 billion in 30-year Treasury bonds -- the first "long bond" sale in five years -- was met with robust demand. A little more than half of the bids were at the highest price. Indirect bidders snapped up 65% of the total, indicating there was a strong appetite for U.S. debt from foreign buyers.

Longer-dated bonds rose after the results of the auction were released at about 1 p.m. Eastern. The current 30-year bond, auctioned in February 2001, gained 16/32 point, or $5 for each $1,000 invested, to yield 4.645%. The new long bond, which begins trading tomorrow, will yield 4.5%. The benchmark 10-year note finished slightly higher, yielding 4.54%.

American International Group gained 1.1% as investors expressed relief that the company's skirmish with regulators is behind it. AIG agreed to a $1.64 billion settlement7 with the Securities and Exchange Commission and New York authorities over alleged accounting improprieties. The insurance provider said the deal should result in a $1.15 billion after-tax charge for the fourth quarter.

Light, sweet crude rose seven cents to $62.62 a barrel on the New York Mercantile Exchange. Comex gold futures for April, which fell nearly $20 an ounce Tuesday, jumped $14.30 to $568.10.

In major market action:

Stocks were mixed8. On the New York Stock Exchange, where 1.8 billion shares traded, 1,728 stocks rose and 1,615 fell. On the Nasdaq Stock Market, where 2.3 billion shares traded, 1,378 rose and 1,642 declined.

Bonds advanced9. The benchmark 10-year Treasury note gained 1/32, or 31 cents per $1,000 invested, to yield 4.541%. The 30-year bond rose 1/32 to yield 4.675%. Yields move inversely to prices.

The dollar slipped.10 It traded at 118.50 yen, down from 118.53 yen late Wednesday, while the euro rose to $1.1959 from $1.1951.

Bernanke The Inflation Fighter (WSJ)

By Tim Annett

The Wall Street Journal, February 10, 2006

Economists have some advice for Ben Bernanke as he takes over at the Federal Reserve: establish your credibility as an inflation fighter.

But, at the same time, they have concern that he could take that effort too far. When asked in the latest WSJ.com forecasting survey which mistake Mr. Bernanke is more likely to make -- raising rates too much or not enough -- three-quarters of economists said he is more likely to lift rates too high.

The new Fed chief faces the same puzzle that always confronts the Fed: how to check inflation without lifting rates so high that economic growth is snuffed out. But the challenge is especially acute now. Soaring energy prices have nudged up inflation pressures at the same time the Fed has been steadily lifting rates. Now, Mr. Bernanke must pick the right time to stop the increases.

The matter could be further complicated because some have questioned Mr. Bernanke's resolve on price stability. Four years ago, he made comments about using loose money to fend off a very different threat: deflation.

Today, there is pressure on Mr. Bernanke to keep tightening. Sixty-one percent of the economists said it's more important for Mr. Bernanke to establish his anti-inflation credentials than it is to avoid overshooting on rates.

"It's hard to put the inflation genie back in the bottle," said Michael P. Niemira, chief economist for the International Council of Shopping Centers. "If you raise rates a little too much, it's much easier to go back."

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On average, the economists expect the federal-funds rate, charged on overnight loans between banks, to be 4.75% by June and to remain at that level through year-end. That suggests the Bernanke Fed would raise the funds rate from its current 4.5% and then halt the string of increases embarked upon in June 2004, when the funds rate sat at a 46-year low of 1%.

Some economists think the central bank will be more aggressive than the average forecast suggests: 22 predict the funds rate will be 5% by June. But only four see the Fed moving beyond 5% this year, and 10 expect policy makers to reverse course and trim rates in the second half. David Rosenberg of Merrill Lynch thinks the Fed is done tightening and that it will cut rates by a full point, to 3.5%, by December.

Eyes on Prices

Inflation as measured by the Labor Department's consumer-price index is forecast to diminish this year: the economists predict the CPI will increase 3% in annual terms in May but only 2.4% in November. The CPI was up 3.4%, year over year, in December 2005, the last month for which data are available.

Just over half of the economists surveyed said energy prices will be the most important factor in determining the inflation rate this year. But while economists lifted their forecasts for oil prices from the levels they predicted in a survey conducted in December, the economists said they don't expect oil to reach a level that would stoke significant increases in overall inflation.

ABOUT THE SURVEY

The Wall Street Journal surveys a group of more than 50 economists throughout the year. Broad surveys on more than 10 major economic indicators are conducted semiannually, at midyear and at year-end. Between each semiannual survey, four monthly updates are conducted for the most closely watched forecasts. This is the monthly survey for February. For prior installments of the semiannual and monthly surveys, see: WSJ.com/Economist3.

Although oil prices have soared over the past year, businesses generally haven't passed their higher energy costs on to their customers in the form of higher prices. The economists predicted that crude oil would need to be sustained at around $80 a barrel in order for businesses to be compelled to do so and for that to cause a significant increase in inflation pressures across the economy.

Economists predicted crude-oil futures prices would stand at around $62 a barrel in June, compared with the $56.29 they forecast in a survey conducted in December. Today, crude oil for delivery next month stands at around $63.

Oil's price is less significant than how the Fed responds to it, according to Neal Soss of Credit Suisse First Boston. "The monetary policy response to a rise in the oil price is the relevant factor that would help determine the extent of pass-through by businesses and any subsequent inflation pressure across the economy," he said.

First-Quarter Bounce

The Commerce Department said last month that gross domestic product, the broadest measure of U.S. economic output, grew at an annual rate of 1.1% during the final quarter of 2005. That was substantially slower than the 4.1% rate of growth that was reported for the third quarter.

But the weak reading hasn't rattled the economists. Fifty-six percent said the report doesn't worry them because they believe that any weakness has since passed. Thirteen percent believe the data will be revised to show a stronger rate of growth (the government will issue two more readings on fourth-quarter GDP). Only four economists say the report heralds a weakening expansion.

The economists foresee growth rebounding sharply during the first three months of 2006, clocking in at a 4.3% annual rate, up from the 3.6% rate of growth that they forecast in the last survey and the highest average forecast since economists were first asked for first-quarter predictions in May.

Mr. Niemira said the first quarter should be a "reactive quarter" where many of the categories that were weak at the end of 2005, such as consumer spending and the trade balance, rebound. But he worries the consumer is facing strains, such as mild job growth, that could pinch spending, and thus the economy, down the road.

The economists expect growth to taper somewhat as the year wears on, to a 3.3% rate in the second quarter, a 3.1% rate in the third quarter, and a 3% rate in the fourth quarter. They see only a 15% chance of a recession over the next 12 months.

Risks to Growth

When asked about their biggest worry for the U.S. outlook this year, 38% said they were most concerned about a weakening housing market. A slowdown in consumer spending ranked as the top concern for 23% of the economists, while three said they were wary of a possible slowdown in business outlays.

On a broader scale, 48% said that an energy-price shock posed the most danger for the global economy in 2006, while 23% view terrorism as the greatest potential threat to global growth.

Among other findings in the survey:

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· The economists expect the spread between short- and long-term interest rates to remain tight. They predict the yield on the three-month Treasury bill will be 4.71% in June and 4.67% in December, while they expect the yield on the 10-year note to be 4.79% in June and 4.88% in December.

· Nonfarm business productivity is expected to grow 2.4% in 2006, on average. Productivity, or output per hours worked, rose 2.7% during 2005, though it fell 0.6% during the fourth quarter.

Life After Fed Proves Tricky For Greenspan (FT)

By Richard Beales And Jennifer Hughes In New York And Andrew Balls In Washington

Financial Times, February 10, 2006

Barely a week after leaving the US Federal Reserve, Alan Greenspan has been reminded how tricky life can be in the private sector for a man revered as the world's greatest former central banker.

His comments at a Wall Street dinner on Tuesday rippled through currency and bond market trading rooms on Thursday, drawing comment not just on what he did - or maybe didn't - say but whether he should have said anything at all.

The remarks, during a talk for bankers and top hedge fund clients of Lehman Brothers, were interpreted as relatively hawkish on the US interest rate outlook, and contributed to a modest rise in the dollar and a decline in Treasury prices. Earlier on Tuesday Mr Greenpan spoke by video link to a Tokyo conference organised by CLSA, the Asian investment banking unit of Credit Agricole.

According to one person who was present at the dinner, Mr Greenspan made upbeat comments on the short-term outlook for the US economy, while noting the uncertainty over the slowdown in the housing market and how its impact on consumer spending would not be known for six months.

"By 7.30am, two people [from Lehman] had called us," said Anthony Karydakis, chief fixed income strategist at JPMorgan Asset Management. "Greenspan qualified his remarks in a number of ways, but people tried to keep only the soundbites," said Mr Karydakis, who did not attend the dinner.

Mr Greenspan, according to the person present, also said there was plenty of liquidity in global financial markets that was supporting activity, and that the low level of long-term interest rates, as a result of global economic forces, may have muted the impact of the Fed's interest rate increases since June 2004 to some degree. He also talked about the dangers posed to the US and global economies by a rise in protectionism.

While these are familiar themes that Mr Greenspan discussed in public before leaving the Fed, some observers suggested he would have done better to defer his appearances at least until next week when Ben Bernanke, the new chairman, is due to present the central bank's twice-yearly monetary policy report to the US Congress for the first time. "I'm surprised he encroached on the blackout," said one trader.

Others questioned Mr Greenspan's willingness to speak to a small audience of hedge fund luminaries such as Stanley Druckenmiller of Soros Fund Managment. "I thought it was somewhat innopportune on Greenspan's part to go to a forum that he knew could cause ripples," said Mr Karydakis. "It was inevitable, and Greenspan should have known that. If he didn't, he could be accused of naivete."

An associate of Mr Greenspan declined to comment on his appearance at the dinner or the content of his remarks. The Fed also declined to comment, saying the central bank no longer spoke on behalf of its former chairman. "Board members who complete their term may meet with and speak to groups without restriction provided they reveal no confidential information," a spokesman said.

Will Lawyers Get Hung Up In Quest For Cell Phone Records? (LAW)

By Tresa Baldas, The National Law Journal

National Law Journal, February 10, 2006

The sale of cell phone records over the Internet -- a hot topic that recently spurred litigation, legislation and a federal investigation -- has more than a few lawyers nervous.

Attorneys are among the top customers of the controversial Web sites, according to private investigators, privacy advocates and Web site operators who sell the phone records.

"Let's put it this way, the legal profession is keeping it alive," said Rob Douglas, a former private eye turned security consultant who has helped the Federal Trade Commission investigate and prosecute online operators that sell phone records.

"I've investigated them with the federal government and in private lawsuits ... and in every single case, the overwhelming majority of users of these companies are attorneys," Douglas said.

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These attorneys include divorce lawyers, who want to know who feuding spouses are talking to; business lawyers, who want to know who their clients' competitors are talking to; and employment lawyers, who want to know if employees are selling any trade secrets.

The online data industry has come under intense scrutiny in recent months, triggering private lawsuits and federal and state investigations.

In the last two weeks, four wireless carriers -- Cingular, Verizon, Sprint Nextel and T-Mobile -- have filed lawsuits against Web site operators for allegedly using trickery to obtain customers' phone records. State attorneys general in Illinois and Missouri filed similar lawsuits against rogue Internet operators in January, while Texas said it was investigating such Web sites. Illinois v. First Information Specialist, No. 2006CH29 (Sangamon Co., Ill., Cir. Ct.).

The FTC is investigating 40 Web sites that were named defendants in a complaint filed by the Electronic Privacy Information Center, a Washington nonprofit privacy advocacy group. And on Capitol Hill, three lawmakers in recent weeks introduced bills to outlaw the sale of phone lists. The U.S. House Energy and Commerce Committee held a hearing last week to determine how widespread the problem of cell phone data theft is, and whether or not the cell phone industry is doing enough to protect customers' records from data burglars.

Given all the controversy surrounding the sale of cell phone records, attorneys were reluctant to comment on the subject. Of the more than a dozen divorce, business and criminal defense attorneys contacted for this story, none said they used the tactic. Most wouldn't even talk about the subject. One lawyer said, "Good luck finding anyone to admit to it."

Attorney Paul Murphy, a business litigator with Murphy Rosen & Cohen in Santa Monica, Calif., said he has sometimes used people-finder Web sites for as little as $10 a search to help locate potential witnesses involved in business disputes. But he never tried to get cell phone records, he said, adding that he was unaware that such Web sites even existed until about a month ago.

"The interesting thing now is that other lawyers are being made aware of this," Murphy said, noting that some attorneys might now be tempted to try it. "It can be a very valuable tool to try to get information to see who's calling people ... but it does concern me that this could violate people's privacy."

Jay Patel, manager of www.abika.com, one of the 40 Web sites named in the FTC complaint, defended the sale of cell phone records over the Internet, calling it a legitimate business tool for the legal profession and law enforcement. "Many of the searches are used by lawyers, private investigators, bail bond agents, law enforcement and even some government agencies use the searches. Many people who have been victim[s] of fraud use the searches," Patel said. "There have been many cases where searches have helped people prove they're innocent or save themselves from harm."

Patel, however, recently stopped selling cell phone records, saying "after the media coverage there was such a huge demand for these searches that anybody and everybody started requesting it. This made it hard to vet the ones with a legitimate need or not ... To tell you the truth, many people started practically begging for it."

Another Web site named in the FTC complaint, www.locatecell.com, also recently stopped providing cell phone searches, but only on customers of Cingular Wireless, T-Mobile and Verizon, which, along with the states of Illinois and Missouri, are suing the site's owners over the sale of phone records.

A lawyer representing the operators of locatecell.com, Philip L. Schwartz of the Law Offices of P.L. Schwartz in Boca Raton, Fla., did not return calls seeking comment.

Meanwhile, several lawyers and privacy experts argue that the law is gray in the area of cell phone privacy, noting that there is no statute on the books that criminalizes getting or selling phone records.

"Are cell phone records private? We probably all assumed that they were, but the answer is probably to the contrary. We probably have some privacy interest but it's not protected by common law or statute," said Harold J. Krent, dean of the Chicago-Kent College of Law. Krent noted that given the vagueness of the law, attorneys who obtain cell phone records via the Internet are not doing anything illegal or unethical.

Washington attorney Frank Morris, with Epstein Becker & Green, who advises companies on privacy matters, noted that the "problem right now is that there are no rules." Morris said he has never tried to get cell phone records via the Internet, but has heard of other lawyers doing it. "There does seem to be a lot of smoke around it."

Conservatives Unsettled About Movement's Future (NYT)

By Adam Nagourney And David D. Kirkpatrick

The New York Times, February 10, 2006

WASHINGTON, Feb. 9 — Despite the triumph of placing two conservatives on the Supreme Court within four months, leaders of the conservative movement these days seem less celebratory than divided.

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Heading into a midterm Congressional election in which the enthusiasm of conservative advocates could play a vital role in determining how Republicans fare, conservative leaders face internal rifts over polarizing issues and are dogged by a sense that a Republican-led Congress and a Republican president are not taking the nation in the proper direction on some critical matters, party leaders said.

The fissures were evident as members gathered here on Thursday for the first day of the annual Conservative Political Action Conference. The first session was marked by disagreement over whether to support a White House plan to allow some illegal immigrants to work legally within the United States and challenges to the legality of the Bush administration's program of eavesdropping without warrants on communications between Americans in the United States and people abroad who might have links to terrorism.

In interviews, conservative leaders emphasized their admiration for President Bush, and said they were heartened by the placement of Chief Justice John G. Roberts Jr. and Justice Samuel A. Alito Jr. on the Supreme Court. But they made it clear that that was not enough.

The leaders expressed concern about the loyalty of elected Republicans in Washington to the conservative agenda, complained about the growth of spending in Mr. Bush's latest budget and said they were uncertain, at a time when Congressional Republicans are squirming under the glare of a corruption inquiry, of the future of the movement.

"The degree to which the conservative movement is dissatisfied is very real," said Newt Gingrich, the former House speaker, who will give the closing speech at the conference on Saturday. "Conservatism is at its biggest crossroads since Reagan was nominated in 1980."

Senator Sam Brownback, a conservative Republican from Kansas, said, "They are feeling good as far as the judiciary is concerned. There is a strong feeling that one of the things that we campaigned on is coming through. But people are concerned about spending. And there is a strong feeling that immigration needs to be gotten under control."

David Keene, the chairman of the American Conservative Union, said, "There is some frustration, and some belief that both the president and folks in Congress have forgotten what it is we want done, what it is that gets us behind them."

The sentiments — coming on the 25th anniversary of the inauguration of President Ronald Reagan — reflect the strains that this diverse and powerful political coalition faces while Mr. Bush struggles to regain his political clout and House Republicans try to settle down after the departure of Representative Tom DeLay of Texas as majority leader. It was also evidence, coming after the Supreme Court victories, of what even some conservatives said was the difficulty of sating their segment of the electorate.

Paul Weyrich, chairman of the Free Congress Foundation and a founder of the modern conservative movement, said he was fielding a host of messages from conservatives complaining about White House policies on immigration, spending and the war in Iraq.

"If I just went by what I am getting on a daily basis," Mr. Weyrich said, "I would say that Republican nervousness is justified."

Some conservatives scoffed at the dissatisfaction, saying that the Supreme Court accomplishment alone established a conservative legacy for Mr. Bush that would reshape the country.

"The last 12 months have been a very good year," said Grover G. Norquist, a conservative with close ties to the White House. "For all the talk about DeLay, Katrina, government spending too much, dah-dah, dah-dah, dah-dah — excuse me: Roberts. Alito. So as much as people want to say, 'I didn't get X, Y and Z,' I say, 'Roberts and Alito.' "

Republicans in Congress said they were aware of conservative disappointment with them, particularly regarding spending and the continued growth in the size of government.

"Spending is our Achilles heel," said Senator Lindsey Graham, Republican of South Carolina. "The one issue that I find we are the weakest on is we have been in change of this government 10 years and it is growing too much. If we don't show spending control, it is a bust."

Senator Tom Coburn, Republican of Oklahoma and a conservative champion when elected in 2004, said Mr. Bush's 2007 budget, while a start, was "not good enough."

"I believe he should have made a request for the American people to sacrifice," Mr. Coburn said. "There are plenty of things to trim, and the president needs to lead on that."

Some conservatives were scornful of White House efforts to allow at least some illegal immigrants to work legally in this country, and some challenged the legality of Mr. Bush's surveillance program, saying that it was an abuse of presidential power and that Mr. Bush should come to the Congress and ask for authority to allow it.

"Think hard down the road to a future administration not occupied by the people we have now," said Bob Barr, a former congressman from Georgia. "We have to keep that precedent in mind: That gauntlet, if we throw it down, will be taken up by someone in the future that we really don't like and be used against us."

Mr. Graham said many conservatives like himself were troubled by the administration's arguments for its program to eavesdrop on communications. "The inherent power argument, if you take it to the natural conclusion, there is no role for Congress in a time of war," he said.

Vice President Dick Cheney drew restrained applause Thursday night when he offered a defense of the surveillance program at a dinner of conservative leaders, reflecting the ambivalent feeling among many conservatives toward the program.

America At A Crossroads (WT)

By Newt Gingrich

The Washington Times, February 10, 2006

For over three decades now, American history has been written on the right. The crossroads confronted by conservatives have been America's crossroads, and the path forward charted by conservatives has consistently been the path of the nation. Today, America, and therefore conservatives too -- stand at another crossroads, with another set of historic choices that will determine whether we leave our children and grandchildren a country as safe, prosperous and free as the country our parents and grandparents fought and worked to give us.

Throughout the 1970s, Ronald Reagan argued that the choice faced by Americans was not between left and right but between up and down -- down toward "the totalitarianism of the ant heap" or up toward "that shining city on a hill."

In the 1990s, conservatives again spoke to the hopes of a broad majority of Americans. The choice then, as we framed it, was between the arrogance and stagnation bred of 40 years of one-party congressional government or restoring the bonds of trust between the people and their elected representatives.

Today, the world has been freed of Soviet totalitarianism but faces a more committed fascist-like threat from the irreconcilable wing of Islam. At home, welfare reform has proved that even the poorest Americans can make their own futures, but other government programs continue to make people worse off the longer they stay in them. For example, children covered by Medicaid are nearly six times more likely to be treated for severe obesity than are children with private insurance.

As before, our choices aren't necessarily easy, but they are simple. One path leads backward to decline and defeat. It is the path of government dependence at home and American surrender abroad. It is the path led by the rich and powerful who stood and applauded the president's State of the Union admission that Congress failed to pass a plan to save Social Security. It is the path of those who put party politics above controlling our borders; who embrace the easy illusion of protectionism over the hard work of competition. The path of those who would surrender self-government to the rule of judges and exchange property rights for government confiscation, religious freedom for sterile secularism, and freedom of speech for supposed campaign finance reform.

The other path is the way forward, toward winning the future. What does it mean to "win the future"? It means to chart a course, as Ronald Reagan once said, that "will preserve for our children this, the last best hope of man on earth." It is the path of limited, effective government at home and an unapologetic defense of American values abroad.

The way forward will be led by those who understand that the problem in Washington isn't merely Jack Abramoff; it's a government so powerful and bloated that a special-interest group would decide it is worth their while to spend $80 million to hire Jack Abramoff. It is the path of those who believe a balanced budget is not only a financial imperative, but is a moral imperative because massive government is inherently corrupting. And the way forward is the path of those who know that true compassion lies in not sacrificing the well-being of the poor for the well-being of the bureaucracy; of those who understand that there is something profoundly wrong when the federal government's largest single health program makes poor children less, not more, healthy.

All of Western civilization joins America at this crossroads. Abroad, the path of defeat and decline is followed by those who would censor our civilization on behalf of the fascist tyrants of the irreconcilable wing of Islam. It is seen in the pathetic weakness of governments that accept lectures on tolerance from theocrats who oppress women and outlaw all religions but their own. It is the path of those who would prop up Hamas with financial contributions while Hamas remains committed to terrorism and the destruction of Israel; those who ignore Iran's genocidal intentions, despite the clarity of its leader's rhetoric; and those who would abandon the people of Iraq to butchers, bombers and beheaders.

There is a better way -- a way forward toward a future that defends American values and preserves American civilization. The path toward winning America's future abroad begins with a few simple but resolute steps. Formally protest the lack of freedom of religion in Saudi Arabia. Isolate Hamas until it renounces terrorism and the destruction of Israel. Demand complete onsite inspections of nuclear facilities in Iran. Support Iranian democrats. Force the Syrians to stop aiding terrorists in Iraq. Withdraw American troops from Iraq as victory permits, not as advocates of appeasement demand.

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Twice before we've stood at the crossroads, and twice before conservatives have led the way forward to greater safety, prosperity and freedom for all Americans. Today, the stakes are higher than ever before. Our fellow Americans are once again looking to conservatives and asking this question: What are you doing to win the future?

Former House Speaker Newt Gingrich is a senior fellow at the American Enterprise Institute and author of "Winning the Future: A 21st Century Contract with America."

Anti-war Mom Sheehan Will Not Run For Senate (REU-Y2)

Reuters, February 10, 2006

Cindy Sheehan, the anti-Iraq war activist whose son was killed in the conflict there, put an end to speculation on Thursday that she would launch a long-shot bid to become a U.S. senator from California.

Sheehan, speaking in front of San Francisco City Hall, said she would not run for the office.

"If I thought that running for Senate would bring our young people home more quickly I would do it in a minute, but I am not convinced that that would do so," Sheehan said.

A campaign would have pitted her against California's senior senator, Dianne Feinstein, a Democrat who is one of the state's most popular politicians.

Although experts and polls suggest Feinstein, in office since 1992, will win reelection easily, a campaign by Sheehan would have provided her with a platform for her anti-war message.

Sheehan, 48, became a central figure in the U.S. anti-war movement last summer after she camped out outside President George W. Bush's Texas ranch to call for a withdrawal of U.S. forces. Her soldier son Casey was killed in Iraq in 2004.

Sheehan has continued to stay in the news. Last week, police arrested her at the House of Representatives shortly before Bush gave his annual State of the Union address because she was wearing a T-shirt with an anti-war slogan.

On January 29 she met Venezuela's left-wing president, Hugo Chavez, who also criticized Bush.

No Senate Run For Activist Cindy Sheehan (AP-Y2)

AP2, February 10, 2006

Peace activist Cindy Sheehan said Thursday she will not run against U.S. Sen. Dianne Feinstein (news, bio, voting record) in the Democratic primary.

Sheehan, who camped outside President Bush's ranch in Texas to protest the Iraq war, said she won't challenge the state's senior senator even though she thinks Feinstein hasn't done enough to oppose the war. Sheehan's 24-year-old son was killed in Iraq in 2004.

"I think I'm more effective on the outside than on the inside," Sheehan said.

During a trip to Venezuela last month, Sheehan said supporters had encouraged her to take on Feinstein in the June primary.

Sheehan, 48, was arrested last week before Bush's State of the Union address and ejected from the House gallery on a charge of unlawful conduct for wearing a T-shirt with an anti-war message. Capitol Police later dropped the charge, but Sheehan said Thursday she plans to sue over the incident.

Sheehan also said she plans to pitch her tent outside the president's ranch in April.

Steele's Words At Meeting Faulted (BSUN)

By Jennifer Skalka

The Baltimore Sun, February 10, 2006

Discussing his position on embryonic stem cell research with Baltimore Jewish leaders yesterday, Lt. Gov. Michael S. Steele said he is "concerned about the destruction of human life" and made a comparison between the controversial science and experiments done on Jews during the Holocaust.

"You of all folks know what happens when people decide they want to experiment on human beings, when they want to take your life and use it as a tool," said Steele, a Republican candidate for U.S. Senate, to a crowd of about 40 at a Baltimore Jewish Council board meeting. "I know that as well in my community, out of our experience with slavery, and so I'm very cautious when people say this is the best new thing, this is going to save lives."

Steele's remarks, which followed a well-received speech about his trip to Israel in November, came in response to a board member's question about Steele's stance on embryonic stem cell research. His answer stunned many in the audience.

"If the lieutenant governor was drawing a comparison between stem cell research and human medical experimentation during the Holocaust, he must understand the pain this kind of analogy would inflict on survivors and their families," Art Abramson, executive director of the Baltimore Jewish Council, said in a statement to The Sun. "We absolutely reject any

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comparisons between ethical and lifesaving medical research, and the horrors committed by the Nazis in their evil drive to create a master race. We welcome any clarification Lt. Gov. Steele can offer about his remarks."

Steele later issued a statement expanding on his comment.

"When I was asked the question about stem cell research, I had just finished speaking at length about my first trip to Israel and the powerful memories I had of my visit to the Holocaust museum there," Steele said. "Those memories have had a lasting impression on me, but in no way did I intend to equate the two or trivialize the pain and suffering of more than six million Jews."

Jewish Council board member Michele Lax said after the lunch that Steele's comments revealed a "total lack of sensitivity."

"I was just really shocked and outraged," said Lax, a retired attorney from Owings Mills. "I can't believe that he could make a comparison to the Nazis with embryonic stem cell research, which saves lives. It just shows you what his true colors are and how far right wing he is."

Sam Penn, a retired businessman and the board member who questioned Steele, said he thought the lieutenant governor's answer was "ludicrous."

"The Holocaust, they were killing people," Penn said. "Stem cell research, we want to help people."

Abba Poliakoff, a Baltimore attorney and board member, said that while he disagrees with Steele's position on embryonic stem cell research, he was not offended by his remarks.

"If a person has a strong moral and ethical belief, and he takes his guidance and he takes his lesson from what happened in the Holocaust, how could I fault the person?" said Poliakoff, who attended the lunch.

Myrna Cardin, wife of Rep. Benjamin L. Cardin, a Baltimore Democrat also running in the race for Senate, attended the luncheon in her role as past board president. Through a Cardin campaign spokesman, she declined to comment, but the congressman issued a statement.

"Michael Steele's comments were offensive to both millions of Americans who stand to benefit from this research and to Holocaust survivors and their families," the congressman said. "Michael Steele has it backward. This is not about experimenting on humans. It is about saving lives. "

A Catholic and former seminarian who often speaks about his faith, Steele espouses strong moral views and is opposed to the death penalty and abortion. The Catholic Church teaches that life begins at conception and opposes the use of embryos in scientific research, saying a human being is destroyed in the process.

In answering Penn's question about embryonic stem cell research, Steele said that "the governor and I have pretty squarely laid out where we are on that."

"I'm very concerned when we start tinkering around with life," Steele said during the council event, adding, "I'm very concerned about the destruction of life."

A spokesman for Gov. Robert L. Ehrlich Jr. did not return a call for comment.

Steele expressed support for research using adult stem cells but said embryonic stem cell research could be "a very slippery slope."

The Maryland General Assembly is debating state funding for stem cell research, with Democratic lawmakers proposing $25 million a year for five years for a plan that emphasizes embryonic research. Their legislation outlaws human cloning and commits to using only those embryos that would otherwise be discarded from fertility clinics.

Ehrlich has proposed $20 million for stem cell research, saying that science should determine what types of research are funded. The Maryland Technology Development Corp., a quasi-public agency that falls within the state Department of Business and Economic Development, would administer the grants under the governor's plan. Ehrlich has also promised $13.5 million for a new center for regenerative medicine in Baltimore.

Scientists believe stem cell research could produce cures for a range of debilitating illnesses such as Parkinson's and Alzheimer's diseases. But many conservatives, as well as leaders of the Catholic Church, echo what Steele said - that adult stem cell research shows promise, while embryonic, which uses cells harvested from human embryos, is unethical.

Curt I. Civin, a cancer research expert at the Johns Hopkins University, expressed disappointment with Steele, saying that it doesn't sound like he stands with the governor, who has indicated an openness to embryonic research.

"I certainly would reject any comparison between what stem cell researchers want to do and the Holocaust," Civin said. "What stem cell researchers want to do is learn about diseases. ... This is so unlike the medical horrors that were done during the Holocaust that I can't even begin to compare them. We're trying to save lives by doing this."

Douglas Greenberg, executive director of the University of Southern California Shoah Foundation Institute, a group that was founded by director Steven Spielberg and has recorded the testimony of 52,000 Holocaust survivors, said he believes that politicians should never use the Holocaust to make a contemporary political point. He said he was pleased that Steele revised his remarks.

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"What he originally said, whether he intended it to be or not, is an insult to those men and women who are still alive who survived these awful experiments," Greenberg said. "And also to the memory of 6 million murdered men and women and children."

In Nazi Germany, aides to Hitler conducted experiments on humans in hopes of producing a pure Aryan race, and killed millions of Jews, Gypsies and other minorities in ethnic-cleansing executions.

Bradley Wine, a member of Steele's Senate campaign finance committee and the Greater Washington chairman of the Republican Jewish Coalition, said that he knows the lieutenant governor well and that they have often discussed the shared experiences of Jews, Catholics and African-Americans. Wine also said he and Steele have discussed the "profound impact" his trip to Israel, an outreach effort to explore business opportunities with the state, had on him.

"I know that he would never utilize a reference to the Holocaust lightly or in a way designed to be political," Wine said.

No Joke: Maryland Democrats Will Honor Steele (WT)

By S.a. Miller

The Washington Times, February 10, 2006

ANNAPOLIS -- The Maryland Democratic Party has been relentless in criticizing Lt. Gov. Michael S. Steele in his run for U.S. Senate, but party officials say that won't stop them from paying homage to the conservative Republican during Black History Month.

"Michael Steele is an important figure in African-American history in Maryland. There is no question about it," said Derek Walker, executive director of the state Democratic Party.

"We should be proud of the achievements of African-Americans, regardless of what party they are from or what their background is," he said.

Mr. Steele, the first black elected to statewide office in Maryland, will be celebrated Monday as part of the state Democratic Party's campaign to honor a black Marylander each day this month, Mr. Walker said.

The party distributes a daily e-mail spotlighting the day's honoree.

When told of the party's plans, Mr. Steele said it sounded like a joke -- but added that he would be appreciative if the Democrats truly mean to honor him.

"I appreciate the honor, and I thank them for it," the lieutenant governor said.

In recent days, Democrats have scolded Mr. Steele for not taking a public stance on the nomination of U.S. Supreme Court Justice Samuel A. Alito Jr., for opposing the $1 increase to Maryland's minimum wage, for not criticizing President Bush's budget proposal and for being allied with congressional Republicans who received low civil-rights scores from the National Association for the Advancement of Colored People.

"We'll see what the next e-mail they send out looks like," Mr. Steele said.

Some black Democratic lawmakers said it is about time their party credited Mr. Steele for raising the profile of black Marylanders in state politics.

"I think it is a great idea," said Delegate Emmett C. Burns Jr., Baltimore County Democrat. "Michael Steele is an honorable man."

The party also plans to honor Kweisi Mfume, a Democrat and former NAACP leader who has been at odds with his party over its lackluster support for his Senate run.

Mfume campaign spokesman Dan Walter said it is "appropriate" that the party would honor Mr. Mfume and Mr. Steele.

Racial issues have overshadowed Maryland's Senate race -- one of the most closely watched contests in the nation -- as the Democratic Party struggles to shore up black votes lost to Mr. Steele and the Republican Party that backed him in 2002.

Black Democratic lawmakers said racially tinged attacks against Mr. Steele are fair because he is a conservative Republican, and key Democratic leaders -- such as gubernatorial candidates Baltimore Mayor Martin O'Malley and Montgomery County Executive Douglas M. Duncan, both white -- declined to repudiate their comments.

In addition, black Democrats have blamed Mr. Mfume's fundraising woes on their leaders' push to give the Senate nomination to Rep. Benjamin L. Cardin, a white Democrat and 10-term congressman.

Mr. Walker has said the party is "militantly neutral" about Democratic contenders seeking to replace retiring Sen. Paul S. Sarbanes.

Still, Democratic endorsements for Mr. Cardin and Mr. Mfume have divided closely along racial lines.

Largess Preceded Md. Vote On Wal-Mart (WP)

By John Wagner And Ann E. Marimow

The Washington Post, February 10, 2006

DOJ_NMG_0014170

Two labor unions pushing for legislation that could expand Wal-Mart's health benefits made campaign contributions to 48 members of the Maryland General Assembly in the month before the high-profile vote.

The contributions, totaling more than $36,000 in the run-up to the January vote, came to more than a quarter of the state's legislators from affiliates of the Service Employees International Union and the United Food and Commercial Workers International Union, according to analysis of campaign finance reports filed last month.

"They were obviously trying to get somebody's attention," Bobbie Walton, executive director of the watchdog group Common Cause Maryland, said of the two unions, which were pitted against the retailing giant on the issue.

The House and Senate decided last month, with just a few votes to spare, to override Gov. Robert L. Ehrlich Jr.'s veto of the bill setting a threshold for benefits provided by large employers.

Wal-Mart retained as many as a dozen Annapolis lobbyists for the fight, which drew national attention, and tried to sway public opinion through radio and newspaper ads. This week, a retailing association aligned with the company filed suit in an attempt to block the law.

But in the weeks before the override vote, Wal-Mart made only seven direct political contributions to lawmakers, one of which was returned, according to Maryland State Board of Elections records.

The final weeks before the legislature convenes are typically feverish ones for fundraising because Maryland law bans contributions during the 90-day sessions.

But donations from SEIU and UFCW, collectively, were more than seven times what the unions had given previously in the month before sessions started, dating back to 1999, the first year that contributions are recorded in a database maintained by the elections board.

Moreover, about a third of the lawmakers who received money in the weeks just before the session had not received any contributions from these union chapters before Ehrlich's veto of the bill last spring. All told, SEIU affiliates contributed $20,570 in the month before the vote, and UFCW affiliates contributed $16,050.

Combined, the contributions exceeded what the two unions gave lawmakers in the final months of the 2002 campaign, the last time state lawmakers stood for election.

"Our members have given in greater amount to our political action funds because they understand the importance of the upcoming election year, due in no small part to what they viewed as a list of unpopular vetoes made by the current governor," said Robert L. Moore, president of the SEIU chapter that serves Maryland and the District.

Aides to Ehrlich (R) suggested that the money was more evidence of the unions' role in muscling through the legislation, which requires employers with 10,000 or more workers to spend at least 8 percent of their payroll on health benefits -- or make a contribution to Medicaid, the state's health program for the poor. Wal-Mart is the only known Maryland employer that does not meet that obligation.

"There's no question. If you had eyes, you could see the sea of purple here," said Alan Friedman, Ehrlich's director of legislative relations, referring to the purple T-shirts worn by SEIU members present during debate over the bill, which was also championed by health care advocates.

The union efforts extended beyond campaign contributions. Days before the veto-override vote, the state chapter of the AFL-CIO announced that it would not endorse any lawmaker who did not support the override.

Other groups active in the debate included Wake-Up Wal-Mart and Wal-Mart Watch, two national organizations that monitor the company's business practices. Wake-Up Wal-Mart is funded by the UCFW, and Wal-Mart Watch receives money from the SEIU.

Among the lawmakers who received union contributions in the month before the session began was Del. Norman H. Conway (D-Wicomico), who said he sided with the unions last spring because of concerns about the state's rising Medicaid costs. But, he said, he was open to hearing Wal-Mart's case.

The day before the House voted to override the bill, he received a call from a Wal-Mart vice president in Arkansas. Conway wanted a guarantee that the company would build a proposed distribution plant with the potential to create hundreds of jobs in the county next to his rural district.

Conway said that he did not get the commitment and that he decided to stick with his original position.

Conway attributed the $1,500 in donations from two SEIU chapters more to his status as chairman of the Appropriations Committee than to his vote on the "Wal-Mart bill."

"Money doesn't influence me," he said. "I look at the issue and try to understand the impacts. I'm going to do what I ultimately think is the right thing."

Just before the session began Jan. 11, Del. Murray D. Levy (D-Charles), who voted against the bill last spring, received $100 apiece from SEIU and UFCW chapters.

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Levy said he was bombarded with phone calls and e-mails from both sides of the debate. Despite the pressure, Levy did not change his mind, because he said that going after one company was not a solution to the massive problem of health care.

Wal-Mart delivered just a handful of contributions, totaling $1,650, leading up to the session. And, in one case, the company's check was returned.

Del. Joseph J. Minnick (D-Baltimore County), who did not vote in April, said he was receptive to Wal-Mart's case that "government should not be in business's business."

He ultimately voted to override the veto, however, because he said companies should help pick up the cost of health care. When he realized that Wal-Mart had written him a check for a fundraiser just before the session began, he decided to give it back.

"If I don't support their issue, I shouldn't be accepting a contribution, plain and simple -- not only Wal-Mart, but anyone else."

An Old Way To Fight AIDS (LAT)

The Los Angeles Times, February 10, 2006

PRESIDENT BUSH HAS BEEN a reliable ally in the global fight against AIDS, proposing to increase federal funding to about $4 billion next year. With so much at stake, efficiency is vital, and according to a growing body of research, one procedure that is relatively inexpensive and can drastically reduce the transmission of AIDS is male circumcision.

Last fall, the first rigorous trial on the subject conducted in South Africa found that circumcised men are 60% less likely to contract HIV. Researchers, who halted the study early because the results were so convincing, suspect that the foreskin contains a concentration of cells that are easily infected by the virus. Similar studies in Uganda and Kenya are expected to release their preliminary findings this summer. If they're similar, as many predict, health officials and donor countries such as the U.S. should help increase access to a safe and affordable procedure that has gone out of favor in most of the world.

Globally, only a quarter of men are circumcised, and rates are exceptionally low in many areas where HIV is dangerously prevalent, including India, Asia and southern Africa. Even with the increased availability of antiretroviral drugs, AIDS is getting worse in many parts of the world. In 2005, there were 5 million new cases worldwide (including 700,000 children), and 3 million people died of the disease.

Since the South African study was released late last year, health officials in countries such as Botswana and Swaziland have begun phasing in adult and infant circumcision programs, and waiting lists for the procedure at clinics are growing. If public clinics are overrun, people may turn to rural doctors, in which case dangerous and even deadly infections could occur. There also is concern that newly circumcised men may increase risky behavior, so any circumcision program should be accompanied by a strong message reinforcing the need for safe sex.

To a lesser degree, the issue has relevance in the United States. Overall circumcision rates have fallen to just half of all men in recent years, and 16 states — including California — have cut funding for the surgery because of an incorrect belief that it has no medical benefit. Although HIV rates are considerably lower in the United States than in other countries, they are highest among minorities and the poor. HIV rates in those populations could climb once their children become sexually active.

The United States is to be commended for increasing its funding for HIV prevention in recent years. And the Group of 8 industrialized nations has promised to provide universal access to AIDS treatments by 2010. Properly planned circumcision programs should be part of both efforts.

Putin Considers Inviting Hamas Leaders To Moscow (NYT)

By Renwick McLean And Greg Myre

The New York Times, February 10, 2006

MADRID, Feb. 9 — Pulling away from an agreed American and European policy, President Vladimir V. Putin of Russia said Thursday that he was considering inviting the newly victorious leaders of the radical Palestinian Islamic group Hamas to Moscow to discuss solutions to the conflict in the Middle East.

He spoke during a day of chaos and violence in the Gaza Strip, where three armed Palestinians were killed as they attacked Israeli forces and Palestinian gunmen kidnapped an Egyptian diplomat. The kidnapping was the most serious attack against diplomats in Gaza since a United States diplomatic convoy was hit by a roadside bomb in October 2003, killing three security guards.

Speaking at a joint news conference in Madrid with Prime Minister José Luis Rodríguez Zapatero, Mr. Putin rejected suggestions that Russia join with the European Union and the United States in declaring Hamas, which won the Palestinian parliamentary elections on Jan. 25, a terrorist organization.

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"I am profoundly convinced that burning bridges in politics is the easiest thing to do, but it has no perspective, it has no future," he said. "Preserving our contacts with Hamas, we are willing in the near future to invite the authorities of Hamas to Moscow to carry out talks."

Hamas responded favorably on Thursday. "If we receive an official invitation to visit Russia, we will visit Russia," said Ismail Haniya, a senior Hamas leader, according to a Reuters report from Gaza City.

But Israeli officials said Mr. Putin's remarks conflicted with the ground rules for negotiations that Russia signed on to in London last month at a meeting of the so-called quartet on the Middle East, which also includes the United States, the European Union and the United Nations. They called on Hamas to renounce violence, disarm militias, recognize Israel and respect previous agreements with it, and implied that international aid would be cut off if changes were not made.

In New York, the Israeli foreign minister, Tzipi Livni, warned that any weakness in dealing with Hamas would "legitimize terror," according to the Israeli ambassador to the United Nations, Dan Gillerman.

At a lunch meeting with Secretary General Kofi Annan and the ambassadors of all five Security Council permanent members, Ms. Livni said, "Any show of weakness or hesitation on the part of any country and especially a member of the Security Council would only act to legitimize terror and give Hamas a feeling that maybe the international community was weakening," Mr. Gillerman reported.

A senior State Department official said that the administration was surprised and irritated by Mr. Putin's remarks, but that Russia had assured the United States that there would not be any senior-level contacts with Hamas. Asked about Mr. Putin's statement, the official said, "Frankly, it doesn't help."

A spokesman for the Russian Foreign Ministry, Mikhail Kamynin, said Russia would adhere to the approach agreed upon in London. Later Thursday, Russia's special Middle East envoy, Aleksandr Kalugin, said Moscow hoped to bring Hamas "up to international requirements" and draw it into dialogue with Israel, The Moscow Times reported.

While Mr. Putin seemed to catch the Bush administration and some others by surprise, it was not the first time he had voiced such an opinion. In a news conference late last month, after the Palestinian elections, he said Russia had "never regarded Hamas as a terrorist organization," and did not rule out financial aid for a Hamas-led government.

In Gaza, the Egyptian diplomat, Hussam el-Musli, was driving through Gaza City when two masked gunmen shot the tires of his vehicle, pulled him from his car and then drove away with him, according to witness accounts. No group claimed responsibility, and the motive was not clear.

Hamas condemned the kidnapping. But a spokesman, Sami Abu Zuhri, called the attacks along the Israeli border in which three Palestinians were killed "a natural response to the Israeli crimes," a reference to recent Israeli airstrikes that have killed Palestinian militants in Gaza.

The Palestinian leader, Mahmoud Abbas, also denounced the kidnapping, saying in a statement that it was "foreign to the traditions of the Palestinian people."

But Palestinian gunmen in Gaza have repeatedly seized Western journalists and aid workers in recent years, though all have been released unharmed, usually within a few hours. The kidnappers often say their motive is to get jobs in the Palestinian Authority security forces or to secure the release of jailed relatives and fellow militants.

The kidnappers are rarely, if ever, prosecuted by the Palestinian Authority. In some instances, the authority has released prisoners as demanded by the kidnappers. Still, Thursday's kidnapping was highly unusual because the target was from Egypt, a close ally of the Palestinians that often acts as a mediator between Israel and the authority.

Before dawn on Thursday, Israeli soldiers killed two armed Palestinians who attacked the Erez crossing on the Gaza-Israel border, the military said. Israel has been permitting 5,000 Palestinian workers to commute to Israel each day through the crossing, and virtually all pass through Erez during a hectic rush hour well before dawn.

About half of the workers had gone through Erez by 4 a.m. when the flood of laborers suddenly stopped, Israeli officials said. Israel security officers called their Palestinian counterparts, but did not receive a coherent explanation, they said. Then at 4:30 a.m., the two Palestinians attacked an Israeli military position with grenades and gunfire, the military said.

Responsibility for the attack was jointly claimed by Al Aksa Martyrs Brigades, which is part of Mr. Abbas's Fatah movement, and the Popular Resistance Committees, which includes militants from various groups.

Israel closed the crossing after the attack.

A few hours later and a short distance away, Israeli troops shot and killed one of two Palestinians who were planting a bomb along the border fence, according to the Israeli military.

In a separate development, nearly all the 137,000 Palestinian government employees received their overdue January paychecks on Thursday, Palestinian officials said. The Palestinian Authority needs more than $100 million to meet its monthly payroll, and pay is sometimes late.

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The authority could face even greater difficulties if Hamas takes over the government as expected in the next few weeks. Israel this week agreed to hand over $54 million in tax and customs revenues that it collected on behalf of the Palestinians, but said it would not continue the monthly transfer if Hamas came to power.

In another development on Thursday, Israeli radio reported that the Palestinian Authority had released dozens of members of the Islamic Jihad faction who were jailed in the West Bank town of Jericho. The authority has imprisoned some militants wanted by Israel, but Israel complains that they are routinely released after relatively short periods.

Putin To Issue Invite To Hamas Leaders (WP)

By Scott Wilson

The Washington Post, February 10, 2006

JERUSALEM, Feb. 9 -- Russian President Vladimir Putin indicated Thursday that he would soon invite the leaders of Hamas to visit Moscow, signaling the first crack in diplomatic efforts to isolate the radical Islamic group as it prepares to form the next Palestinian cabinet.

"Russia is maintaining contacts with the Hamas organization and intends in the near future to invite the leadership of this organization to Moscow," Putin said at a news conference during a visit to Madrid.

Putin's announcement drew a sharp rebuke from Israeli officials, who said it marked a break from the position held by the group known as the quartet -- Russia, the United States, the European Union and the United Nations -- since Hamas's victory in parliamentary elections last month.

"Israel supports the quartet position -- Russia being a full and active member of the quartet -- as expressed by [U.N. Secretary General] Kofi Annan in the days following the elections, that said Hamas is not a partner for a political dialogue unless, one, it recognizes Israel, two, it abandons terrorism, and three, it accepts the legitimacy of signed agreements," said Mark Regev, the Israeli Foreign Ministry spokesman.

In Washington, U.S. officials were caught off guard by Putin's comments and sought clarification from Russian officials. Like Regev, C. David Welch, the U.S. assistant secretary of state for Near Eastern affairs, noted to reporters that Russia was a member of the quartet and had agreed to the group's stance toward Hamas.

"These are the principles that were clearly articulated now several times by the quartet and again with Russian participation and agreement," Welch said. "We would expect that any meeting that occurs with any Palestinian representative, including Hamas, would emphasize these principles."

Hamas leaders, now touring Arab countries to outline their political program and seek financial support for the nearly bankrupt Palestinian Authority, indicated that they would accept Putin's invitation.

The Palestinian Authority's president, Mahmoud Abbas, is expected to ask Hamas, known formally as the Islamic Resistance Movement, to form the next cabinet when the legislature convenes next week. The movement won 74 of 132 parliamentary seats, imperiling the Palestinian Authority's lifeblood of foreign aid because the United States, Israel and other nations consider Hamas a terrorist organization for carrying out scores of attacks targeting Israeli civilians.

Israel has urged foreign governments to isolate a Palestinian Authority that includes Hamas until the movement recognizes the Jewish state's right to exist. But Hamas leaders have said they have no intention of doing so and would only consider a long-term truce with Israel if it withdraws from all territory it occupied in the 1967 Middle East war.

The Bush administration and European diplomats have publicly endorsed the Israeli position, but Putin's invitation opens a schism in that once-unified front. The quartet is the sponsor of the now-dormant peace plan known as the "road map," which envisions a two-state solution to the Israeli-Palestinian conflict. Hamas does not support that outcome.

In another development, the Palestinian Authority's attorney general, Ahmed Moghani, confirmed that he has frozen more than two dozen bank accounts of former government officials who have been implicated in a widening corruption investigation that dates back nearly a decade. Although the inquiry mostly covers the period when Yasser Arafat ran the Palestinian Authority, the preliminary results have been disclosed in recent days for political reasons.

Moghani has announced that at least $700 million and perhaps far more has been stolen from the Palestinian Authority since 1997. So far he has arrested at least 25 officials of the Fatah movement -- founded by Arafat and now led by Abbas -- which lost its monopoly on power in the Jan. 25 parliamentary elections. The inquiry has found that front companies, construction-contract kickbacks, phantom payrolls and other methods were used to steal perhaps more than $1 billion from the Palestinian Authority, most of it donated by foreign governments.

Abbas, commonly known as Abu Mazen, authorized the attorney general to announce the preliminary findings before Hamas, which campaigned on an anti-corruption platform, entered parliament. A technical team from the World Bank is also meeting with Palestinian officials to determine whether to release $300 million in emergency funds that the bank withheld from the Palestinian Authority last year after it failed to carry out specified reforms.

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"I think by doing this Abu Mazen would like to improve the reputation of Fatah, which is now almost totally destroyed," said Bassem Eid, director of the Palestinian Human Rights Monitoring Group. "In addition, he doesn't want the coming government of Hamas to look into this. Then he would be in trouble."

Also on Thursday, masked gunmen kidnapped the Egyptian military attache in the Gaza Strip a few hundred yards from his office. None of the various Palestinian armed groups asserted responsibility for the abduction. Egypt has played an important role in Gaza, serving as a broker between the various parties whose rivalry has sharpened since the elections.

Earlier in the day, Israeli soldiers killed three Palestinian gunmen in two separate attacks on the Erez crossing into Israel in northern Gaza. Israeli military officials said the men were armed with rifles and hand grenades.

Staff writer Glenn Kessler in Washington contributed to this report.

Putin Invites Hamas To Talks (WT/REU)

By Adrian Croft

The Washington Times, February 10, 2006

MADRID -- Russian President Vladimir Putin yesterday invited Hamas leaders to Moscow, saying his country -- unlike most of the West -- does not consider the winner in the Palestinian elections a terrorist organization.

"Maintaining our contacts with Hamas, we are ready in the near future to invite the Hamas authorities to Moscow to hold talks," Mr. Putin told a press conference in the Spanish capital, Madrid, where he was on a visit.

Ismail Haniyeh, a senior Hamas official, said in Gaza that leaders of the group, whose charter calls for Israel's destruction, "would be delighted" to visit Russia if Mr. Putin tendered a formal invitation.

Hamas, which won a crushing victory over the long-dominant Fatah party in an election on Jan. 25, is considered a terrorist organization by Washington.

Mr. Putin disagreed yesterday.

"We haven't considered Hamas a terrorist organization. Today, we must recognize that Hamas has reached power in Palestine as a result of legitimate elections and we must respect the choice of the Palestinian people," he said.

An Israeli government source voiced surprise at Mr. Putin's comments, calling them a departure from a position taken by a Quartet of international negotiators on Middle East peace, to which Russia belongs along with the United States, European Union and the United Nations.

Israeli Foreign Ministry spokesman Mark Regev said in Jerusalem that no talks should be held with Hamas until it recognized the Jewish state's right to exist and "renounced terror."

State Department spokesman Sean McCormack said in Washington that the Bush administration has "contacted the Russian government about what their intentions are."

"If there are any contacts between the Russian government and Hamas, we would expect that they would send that very clear message, both in public and private, that is contained in the Quartet statement," he said.

At a meeting in London on Jan. 30, Quartet representatives said the Palestinians risked losing international aid if Hamas did not renounce violence and recognize Israel. Hamas has rejected the demand.

A State Department official said Russia had not revealed Mr. Putin's plan to invite Hamas leaders at the Quartet meeting.

Russia's Foreign Ministry said the talks with Hamas will build on the group's agreement last month and will send Hamas a clear signal that it must make "responsible decisions."

"It needs to be stressed that our dialogue with Hamas will run along with contacts which leading regional parties, including Egypt, already have with this organization," the ministry said.

Russia's special Middle East envoy, Alexander Kalugin, was quoted by Itar-Tass news agency as saying Russia hoped to bring Hamas "up to international requirements" and draw it into dialogue with Israel.

In Gaza yesterday, Palestinian gunmen abducted an Egyptian military attache, the first kidnapping of a diplomat in the turbulent territory where militants hold sway.

The motive for the abduction of Egyptian diplomat Hussam el-Musli was not clear, and no one had taken responsibility.

Gaza has seen a rash of kidnappings since Israel's pullout in September, but foreigners seized by militants with grudges against the Palestinian Authority have been released quickly.

Death Penalty Asked For Beslan Raider, Reviving A Debate (NYT)

By Steven Lee Myers

The New York Times, February 10, 2006

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MOSCOW, Feb. 9 — A senior prosecutor on Thursday asked a court in southern Russia to sentence to death the only attacker known to have survived the siege of Middle School No. 1 in Beslan in September 2004. The request rekindles a contentious debate in Russia over capital punishment.

The deputy prosecutor general, Nikolai I. Shepel, made the request as he summed up the case against the defendant, Nurpashi Kulayev, after an emotionally wrought trial. Mr. Shepel said the gravity of the terrorist siege, which ended with the deaths of 331 hostages, warranted a penalty of death, despite a government moratorium on executions that has been in place since 1996.

His appeal came only two days after President Vladimir V. Putin reiterated his personal opposition to the death penalty but said he would move cautiously in seeking its final abolition by the Parliament — years after Russia committed to doing so.

"The court's decision should have a sobering effect on those who want to go down the path of terrorism, so that they know their only future is an unmarked grave," Mr. Shepel said in his remarks, shown on television.

The bloody siege in Beslan by Chechen militants, along with other terrorist attacks, has prompted some officials here to call for the restoration of capital punishment, at least for crimes as serious as terrorism. But such a step would contradict not only Russia's international commitments but also a Constitutional Court ruling in 1999 that declared the death penalty unconstitutional as long as jury trials were not universal.

Since that ruling, jury trials have been established in most regions, but they are used inconsistently. Mr. Kulayev is being tried before a panel of judges, for example.

Mr. Kulayev had admitted taking part in the attack on Beslan, in which the attackers rounded up more than 1,000 hostages at the school. But he denied responsibility for any of the deaths, most of which occurred when the siege ended on the third day in a convulsion of explosions and gunfire.

His trial, which began last summer, has provoked anger and grief among survivors and relatives of the Beslan victims, who wanted the trial to address broader issues.

On Thursday, with the prosecution wrapping up its case against Mr. Kulayev, several relatives announced a hunger strike, protesting that the trial was neither objective nor thorough. "The true culprits have not been named," said one, Ella Kesayeva, according to Interfax.

A verdict could be announced within days.

Russia's moratorium on capital punishment stems from an agreement President Boris N. Yeltsin made in 1996 as a condition for joining the Council of Europe, an organization of 46 nations that oversees legal, political and human rights issues. Government executions have reportedly not been carried out since then, and in 1999, Mr. Yeltsin commuted the death sentences of 716 prisoners.

But Russia did not submit legislation erasing the death penalty from its criminal code by 1999, as it had promised, and it is the only member of the European group that still has the death penalty on the books.

In an interview with Spanish journalists on Tuesday, Mr. Putin said he would defer to Parliament on the issue, but spoke against capital punishment, as he had before. "Any punishment has several goals," he said. "They include correction and retribution. There is no correction in the case of the death penalty, only retribution."

Even so, polls suggest that a majority of Russians favor the death penalty, as do some legislators, and that has stalled its abolition in Parliament. The Communist leader, Gennadi A. Zyuganov, said Thursday that the Beslan attack underscored the need for capital punishment.

Ella A. Pamfilova, Mr. Putin's human rights adviser, said government leaders needed to defy popular opinion on certain issues. "As for the death penalty," she told Interfax, "our society is already cruel enough."

Tensions Over Russia Set Tone At G-8 Meeting (WT)

By Michael Mainville

The Washington Times, February 10, 2006

MOSCOW -- A meeting of the Group of Eight finance ministers beginning today threatens to be overshadowed by tensions over President Vladimir Putin's record on democracy and Russia's reliability as an energy supplier.

The two-day session, attended by Treasury Secretary John W. Snow, is the first important meeting to be hosted by Russia in its role as this year's president of the powerful G-8 major industrial nations.

Energy security, education, efforts to fight infectious diseases and debt relief for poor countries are all on the agenda. But the tone has been set by Washington's public questioning of Russia's fitness to lead the group and Moscow's prickly response.

Despite its relatively small economy -- about the size of Portugal's -- Russia was added to the G-7 club of Britain, Canada, France, Germany, Italy, Japan and the United States in 1998.

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But the West's relationship with Russia has become strained since Mr. Putin moved in recent years to concentrate more power in the Kremlin. And despite some cooperation on containing Iran's nuclear ambitions, Mr. Putin's foreign policy has often been at odds with the West, especially with Russian support for autocratic regimes in Belarus and Uzbekistan.

On Sunday, Sen. John McCain called on G-8 leaders to boycott the group's July summit in St. Petersburg, Russia, saying the country "is neither a democracy nor one of the world's leading economies." He accused the Kremlin of being "in pursuit of autocracy at home and abroad."

Concerns about Russia's commitment to G-8 principles peaked after gas supplies to Ukraine were cut off on Jan. 1 in a price dispute between Moscow and a former ally that has taken a pro-Western stance. The move disrupted gas supplies to Europe, which buys about half its natural gas from Russia.

Moscow insisted it was simply asking Ukraine to pay fair market prices. But senior U.S. officials told The Washington Times this week they believe Russia is using its control of Soviet-era pipelines to hold down purchase prices in Central Asia while skimming huge profits through corrupt middlemen.

Repeated calls seeking comment from the Russian Embassy in Washington yesterday were not returned.

Secretary of State Condoleezza Rice publicly criticized Russia's actions in the Ukraine gas dispute last month, saying there was a "distance between Russian behavior" and "what would be expected of a responsible member of the G-8."

At a subsequent press conference with French Foreign Minister Philippe Douste-Blazy, Russian Foreign Minister Sergei Lavrov complained that a reporter had asked Mr. Douste-Blazy "if [he] wanted to join the criticism of Russia, and did not ask me if I wanted to join the criticism of the United States."

"It hasn't been a very successful start" to Moscow's tenure as G-8 chairman, said Lilia Shevtsova, a political analyst with the Moscow Carnegie Center.

"The dispute with Ukraine created a lot of concerns over Russia's role as an energy superpower at the same time as this unfortunate new law on [nongovernmental organizations] was passed."

Also in January, Mr. Putin signed a law imposing strict curbs on NGOs -- one of the few areas of public life outside state dominance after a Kremlin drive to consolidate control over parliament and regional governments, the media and strategic business sectors.

The London-based Foreign Policy Center, a prominent British think tank with links to Prime Minister Tony Blair, released a report last week saying Russia's presidency of the G-8 was "a PR disaster."

The center released what it called a "G-8 scorecard" -- assessing Russia according to 12 criteria tied to the G-8's founding declaration, including openness and freedom of speech, rule of law, and economic weight in the world. In no category did Russia score better than "sporadic compliance with G-8 norms" and in many instances it received the worst possible score.

"Russia's faltering chairmanship of the G-8 raises fundamental questions about whether Russia should be a member at all," the center's director, Stephen Twigg, said with the release of the report.

What! No Vodka? Pause In Production Has Russians Uneasy (WSJ)

By Guy Chazan

The Wall Street Journal, February 10, 2006

MOSCOW -- There was an eerie silence last week at ZAO Veda's vodka distillery, one of Russia's biggest. For the first time in its 10-year history, the plant stopped production. Bored workers kept busy by scrubbing down machinery with Ajax.

It was the same picture in towns and cities across Russia. The country's entire vodka industry ground to a halt, thanks to a Siberia-size bureaucratic snafu over a new tax on alcohol.

"This is unprecedented," said Yuri Lobanov, Veda's exasperated technical director, as he walked past empty conveyor belts. "We're losing a ton of money."

For the liquor industry, it has been a catastrophe. Rarely in its history has Russia stopped making vodka. Even during World War II, the Soviets churned out industrial quantities of the stuff.

So far, the disruption has had little effect on big cities like Moscow, where distributors, sensing trouble ahead, amassed huge stocks late last year. In remote regions, popular brands of vodka have vanished from store shelves.

"Our selection has shrunk, and we've had to raise prices," says Svetlana Matakayeva of the Alkon liquor store in Cherkessk, southern Russia. "Customers are beginning to complain."

In Moscow, drinkers shrug off the threat of shortages. "As long as they're still selling 95-proof antiseptic at the drugstore for 30 cents a bottle, we'll survive," says Mikhail Vasiliev, an accountant shopping for spirits at a Moscow supermarket.

Vodka is a national staple, as quintessentially Russian as caviar and the Bolshoi ballet. Each year, Russians knock back 9.1 liters of spirits a person, most of it vodka, according to beverage research company Canadean. Americans, in contrast, drink 4.9.

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The crisis began with a law passed last year to tighten state control of the alcohol industry and make life harder for the thousands of producers of counterfeit vodka that by some estimates still account for a third of the Russian market.

The law introduced a new excise stamp, the sticker that goes on all strong alcoholic beverages in Russia to prove tax has been paid on it. Tax authorities were supposed to start handing them out to distilleries Jan. 1, but regulations setting out how the new system works weren't drafted in time.

Desperate efforts by the liquor lobby to delay implementation came to nothing. The new, high-security stickers were printed and stockpiled, but the distillers couldn't get at them. Without them, they couldn't sell their alcohol.

Wineries have been affected, too. "It's absolutely absurd," says Vladimir Yegorov, deputy chief executive of a champagne factory in Nizhny Novgorod that also has been forced to stop work. "They've managed to shut down an entire sector, and it's not because of a power blackout or force majeure, but incompetent bureaucrats."

Mr. Yegorov's company has taken the unprecedented step of suing the government for "illegal conduct." He admits its chances of victory are slim. "It's more of a cry of desperation really," he says.

Though the law was part of a crackdown on fake vodka, it is the illegal producers who have benefited most from the crisis. Bootleg vodka with fake stamps now is filling the void left by legal distillers. That could spell trouble for Russia's public health system: According to official statistics, around 40,000 people die in Russia every year from poor-quality counterfeit vodka.

Russia's finance ministry, which has borne the brunt of the liquor barons' anger, says it isn't to blame. It says the original law was so badly written it needed major changes that weren't passed until December. Officials couldn't draft their instructions before then.

"For more than a week now, federal excise stamps have been given out to anyone who wants them," the ministry said in a statement late last month.

That is no consolation to importers. The new stamps for imported liquor haven't even been printed yet. That has led to massive disruptions in shipments of whiskey, rum and cognac to Russia -- one of the world's fastest-growing markets for premium spirits.

"The importers are out of business," says Alexander Romanov of the Alcoholic Beverages Committee of the Association of European Business. "There will definitely be a period of shortage."

Vodka -- which means "little water" in Russian -- has been part of the national fabric since it was invented here in the 14th century. Served straight and chilled, it is an essential attribute of any meal. Soviet soldiers were given shots to drink before they went into combat in World War II. Russian men often swig it at breakfast.

Soviet leader Mikhail Gorbachev earned the wrath of millions in the mid-1980s with his antialcohol drive, when liquor production and sales were drastically curbed. Industrial output rose, divorce rates fell and there were fewer accidents. Hardened alcoholics simply switched to toxic surrogates like bug spray and eau de Cologne.

The antibooze drive was finally ditched in the late 1980s, and as market reforms spawned new private-sector distilleries, the trickle of vodka became a torrent. Liquor production has nearly doubled in the past 10 years, to 1.32 billion liters last year from 706 million in 1996.

The current stoppage has been a disaster for the sector. Even huge state-owned giants like Kristall, Russia's biggest distillery, still are shuttered. Industry officials say Russia's treasury sacrificed $70 million in unpaid excise tax while producers sustained losses of $35 million. Exports have been largely unaffected: Russia's leading export brand, Stolichnaya, is bottled in neighboring Latvia.

Veda's distillery stood idle for four weeks as managers scrambled to get the new stamps. The plant lies in Kingisepp, a town of 54,000 a short drive from the Estonian border that is full of dreary Khrushchev-era apartment blocks and men playing at outdoor Internet casinos. Veda, Russia's second biggest vodka producer, set up the plant in 1996 in an old state-owned bakery, and it now is one of the town's biggest employers.

All of last month, the company produced nothing but still had to pay salaries and rent, as well as heating and lighting bills. It says it posted a loss of $2.5 million in the shutdown. "We're not oil men," says Zhanna Bulavchik, the company's commercial director, in her St. Petersburg office. "We can't sustain those kind of losses."

Veda got its new stamps and restarted production last Saturday. But ambitious plans to increase output 35% this year from 75 million liters in 2005 are in disarray.

Meanwhile, about half of Russia's distilleries still aren't working. "I've been in the business nine years and I've never seen anything like it," Ms. Bulavchik says.

U.S. To Shift Envoys To China, India (WP)

By Bradley Graham And Glenn Kessler

The Washington Post, February 10, 2006

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Russia, Germany to Lose Diplomatic Posts in Early Restructuring

China and India have emerged as the big winners -- and Russia and Germany as the top losers -- in the first round of a broad restructuring of U.S. diplomatic posts ordered by Secretary of State Condoleezza Rice.

Rice announced plans last month to shift hundreds of Foreign Service positions from Europe and other developed countries to more challenging assignments in Asia, the Middle East and elsewhere as part of an increased U.S. focus on battling terrorism and bolstering security in threatened regions. But the secretary and her aides released few details at the time.

Two State Department lists obtained by The Washington Post this week -- one showing which diplomatic positions will be eliminated, the other specifying which embassies and consulates are due to expand -- provide a clearer picture of the impact of the moves.

Of 61 positions slated for elimination in the initial batch, 10 will fall in Russia and seven in Germany. U.S. embassies in several other countries -- Belgium, Poland, Italy, Spain, Ukraine, Japan and Brazil -- will lose two or three posts. All told, 38 of the cuts will come in European nations.

On the plus side, of 74 new U.S. diplomatic positions, China will get 15, including a dozen at the U.S. Embassy in Beijing. India ranks second with 12 new posts, seven of them in New Delhi. And Indonesia is third with five new slots in Jakarta. Other countries that are to receive at least three more U.S. diplomatic slots include Nigeria, Israel, Lebanon, Vietnam, Tajikistan, Bolivia, Ecuador, Venezuela and Nicaragua.

The lists of closures and add-ons constitute just the beginning of a major rearrangement that State Department officials say will affect a substantial portion of the 6,400 Foreign Service positions. A senior State Department official involved in the planning said the first round grew out of assessments by regional bureaus of jobs they could "safely give up" and of "places where there was a crying, urgent need to have additional representation."

"This is a down payment for a shift that will probably take place over several years," the official said.

Rice has portrayed the restructuring as an essential feature of her larger "transformational diplomacy" campaign, which envisions a more active role for U.S. diplomats in fostering the growth of democratic states worldwide. Although the shifting of posts has been welcomed generally by the American Foreign Service Association representing U.S. diplomats, the potential scale of the change has unsettled some State Department employees.

"We're waiting to see just how far the secretary plans to go with this," said one Foreign Service officer who has discussed the plan with senior department officials.

One particular concern, the officer said, involves future levels of security and support for the expanded embassies and consulates. The new jobs listed so far have been confined to political, economic and public diplomacy positions. No mention has been made of additional security personnel to enhance protection, office management specialists to handle heavier administrative loads or technology experts to deal with computer problems and other technical issues.

Asked about this aspect, the senior State Department official said parallel plans are being drawn to provide extra support staff.

Some of the overseas posts on the initial cut list had been due to receive fresh replacement officers, who already had begun foreign language training or taken other steps to prepare for the positions. State Department officials say that fewer than 30 such "broken handshake" cases exist and that the affected officers are being helped to secure alternate assignments.

To find volunteers for the newly created positions, the State Department issued a memo last month advising Foreign Service personnel not to wait for the formal bidding process normally used to decide assignments. Instead, willing officers were encouraged to make their interest known to the relevant regional bureaus.

"Bureaus will be authorized to extend handshakes even before the positions appear" on the bid list, the memo said.

Dane Sees Greed And Politics In The Crisis (NYT)

By John Vinocur And Dan Bilefsky

The New York Times, February 10, 2006

COPENHAGEN, Feb. 9 — Prime Minister Anders Fogh Rasmussen said Thursday that attempts by European companies in the Middle East to disassociate themselves from Denmark or Danish products were "disgraceful."

At the same time, Mr. Rasmussen tried to shield the Bush administration and some of Denmark's partners in NATO from accusations that they had been tardy and overcautious in coming to Denmark's defense in the crisis, which he attributed more to attempts by Iran and Syria to cause diversions in the Middle East than to a few satirical cartoons depicting the Prophet Muhammad in a Danish newspaper.

Looking tired after what he acknowledged had been a difficult week, Mr. Rasmussen said in an interview that attempts to gain commercial advantage at Denmark's expense had struck at the hearts of all Danes.

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Mr. Rasmussen did not refer to a particular business organization or country. But his response came in reply to a question referring to attempts in the Arab world by companies associated with Nestlé, the Swiss food giant, and Carrefour, the French retailer, to distance themselves from Denmark. Danish industry estimates it has lost more than $55 million in sales in the Middle East since the furor began a week ago.

But the prime minister declined to criticize the Bush administration about its cautious defense of an ally. President Bush referred to his solidarity with Denmark for the first time on Wednesday, after five days of rioting in the Middle East against Danish interests.

"I have never doubted that Bush would stand up for Denmark," Mr. Rasmussen said. "He values faithfulness and loyalty. I was not surprised he decided to call me and express support."

Mr. Rasmussen reiterated that there would be no Danish apology for the cartoons. He brushed aside any suggestion that Denmark's policies requiring immigrants to accommodate themselves to Danish tradition were at fault, and asserted, "We are on the right track." More broadly, he said, "I see a very clear tendency that other European countries will go in our direction."

In light of statements here that Denmark had been abandoned in the early phase of the crisis, Mr. Rasmussen was asked if Parliament would maintain troops in Iraq and Afghanistan if it were asked to vote on the issue now. "The situation would be the same; we haven't changed," he said.

Mr. Rasmussen argued that the cartoon crisis had been hijacked by Middle Eastern interests using the caricatures for domestic ends.

He said Iran, isolated over its nuclear program, was using the cartoons to generate support in the Muslim world, while Syria, under investigation for the assassination of the former Lebanese prime minister, Rafik Hariri, was trying to cause a distraction. The Palestinian Authority, divided over the recent election of Hamas, was exploiting the cartoon crisis to unite its disparate elements, he said.

"We have religious extremists who exploit the situation and fuel the flames to pursue their own agenda," he said. "Religious extremists aim at destabilizing the situation in the whole region."

The issue will be discussed this week at a meeting of NATO defense ministers in Sicily, he said.

Mr. Rasmussen said he believed that Islam was compatible with democracy but argued that it was incumbent on Muslim immigrants in Denmark and Europe in general to embrace the liberal values of their adopted countries.

"Denmark is a liberal country," he said. "We do believe in individual liberty and freedom. People can live according to their own customs. However, I think we have to insist on respecting our core values, including freedom of expression, gender equality for women and men, and a clear distinction between politics and religion."

Mr. Rasmussen said the perception of Denmark in the Muslim world had been distorted by falsehoods spread by cellphone and Internet messages across the Middle East.

In particular, he said the government was re-evaluating relations with local Muslim leaders who traveled to the Middle East in December, stoking tensions by showing the cartoons to religious leaders.

Asked if he would have done anything differently in retrospect, Mr. Rasmussen said he had no regrets. "I don't think we could have done something in another way," he said. "We are witnessing events with deep sadness and disbelief. We are not used to it in Denmark."

Danish Premier Faults Iran, Syria (WP)

By Kevin Sullivan

The Washington Post, February 10, 2006

Governments Using Cartoon Controversy as 'Distraction' From Their Own Crises, He Says

COPENHAGEN, Feb. 9 -- Prime Minister Anders Fogh Rasmussen of Denmark said Thursday that the governments of Iran and Syria had intentionally inflamed Muslim protests against a Danish newspaper's publication of cartoons depicting the prophet Muhammad to distract attention from their own diplomatic crises.

"Syria and Iran have taken advantage of the situation because both countries are under international pressure," Rasmussen said in an interview that echoed statements Wednesday by Secretary of State Condoleezza Rice. Rasmussen also said he would "not exclude the possibility" that Syria had also been involved in violent protests in Beirut, the Lebanese capital.

"I think they have taken this opportunity to use this case and a small country like Denmark as a distraction," Rasmussen said. He alleged that Iran was trying to divert attention from international pressure over its nuclear program and Syria from allegations that it was behind the assassination of former Lebanese prime minister Rafiq Hariri.

"It is obvious that these events have now gone beyond the cartoons," he said, responding to a question about Rice's statements. "We are now facing an international crisis which has its roots in tensions in the Muslim world."

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Rasmussen said he held "the two governments responsible" for mobs that attacked and burned Danish embassies in Tehran and Damascus. He said Denmark had lodged formal protests with the two governments and was considering further "diplomatic steps," which he declined to specify.

Rasmussen, a right-of-center former economic affairs minister who was elected in November 2001, said he has watched the events of the past week in "disbelief and sadness." Protesters in countries in the Middle East and Asia have burned Danish flags, attacked Danish embassies and called for Danes to be beheaded and massacred for cartoons seen in the Muslim world as a grave insult to the most revered figure in Islam.

"We are seeing ourselves portrayed as an intolerant nation, as a nation hostile to Islam," Rasmussen said in his spacious corner office at the parliamentary palace. "And it's a false picture. I think it's fair to say that Denmark is one of the most open and tolerant countries in the world. We have a real freedom of religion and we do respect all religions."

Rasmussen, who received a phone call of support from President Bush on Tuesday, said he was pleased with Bush's recent statements condemning violence against Danish diplomatic missions.

"We consider ourselves a faithful and loyal ally of the United States and we appreciate very much to see this reciprocated in the support from the United States," Rasmussen said.

The Bush administration's statements on the situation have shifted. Initially, the administration condemned the cartoons as offensive, but now Bush and other officials are stressing their opposition to the widespread violence. Rasmussen said the administration's initial stance on the cartoons "caused some public debate in Denmark, whether it could be considered a support or not. . . . We do realize that this is also a balance for the United States."

Muslims have staged violent demonstrations against Denmark in Iraq and Afghanistan, where several people have died in protests. But Rasmussen said Denmark had no plans to withdraw or reduce its 530 troops in Iraq or 390 troops in Afghanistan because of that violence.

Throughout the crisis, Rasmussen has publicly said he was sorry that the cartoons had offended Muslims. But he has steadfastly refused to apologize for their publication, because, he said in the interview, "neither the government nor the Danish people can be held responsible for what is published in an independent newspaper."

During the growing global debate about freedom of expression -- and whether the Jyllands-Posten newspaper was wrong to publish the dozen cartoons -- Rasmussen has emerged as its unapologetic champion. "I think freedom of expression is the safeguard of all other freedoms," he said. "I consider freedom of expression the most important freedom of all."

Rasmussen said he supported free speech even when it was directed harshly at him. As Muslim anger has been channeled through the Internet, he has been the subject of unflattering cartoons and altered photos.

"I don't feel offended -- that's part of the game," Rasmussen said, laughing. "As a politician, I am used to caricatures. I think it's a question of culture and tradition and maybe one of the reasons why most Danes don't understand why cartoons can cause all this."

Rasmussen said he would not support an idea, suggested by a top official of the European Union this week, that the E.U. consider adopting a voluntary code of conduct for the press.

But Rasmussen said he did believe the government had a responsibility to limit some expression -- that which would incite violence or terrorism. Following his election, two months after the Sept. 11 attacks on New York and the Pentagon, one of his government's first acts was to pass an anti-terrorism law that prohibits instigating terrorism or offering advice to terrorists. That law was widely seen as one of Europe's toughest responses in a post-Sept. 11 debate over how far to restrict civil liberties in the name of fighting extremist violence.

"If the freedom of expression is oppressed or suppressed because of violence or the threat of violence, then freedom of expression is dead," he said. "Therefore, you must have certain limitations. It must be prohibited to incite violence or terrorism."

Many countries in Europe have laws banning racist hate speech that stem from their experiences with Nazi Germany and the Holocaust.

Rasmussen said Denmark has laws outlawing racist or blasphemous expressions. A group of 11 Muslim organizations used that law to sue the Jyllands-Posten newspaper after the cartoons were published in late September, but last month the prosecutor declined to go forward with the case, saying the cartoons did not violate those laws. The Muslim groups have appealed to Denmark's top prosecutor.

Freedom Of Speech Carries Responsibility, Annan Says (LAT)

By Maggie Farley, Times Staff Writer

The Los Angeles Times, February 10, 2006

His words are directed at publishers of cartoons of Islam's prophet that have sparked protests.

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UNITED NATIONS — Secretary-General Kofi Annan chastised newspapers Thursday that continue to publish cartoons depicting the prophet Muhammad in the face of the religious controversy the drawings have ignited.

"Honestly, I do not understand why any newspaper will publish the cartoons today," he told reporters at the United Nations. "It is insensitive, it is offensive, it is provocative, and they should see what has happened around the world.

"This does not mean that I am against freedom of speech, or freedom of the press," he added. "But as I have indicated in the past, freedom of speech is not a license. It does entail exercising responsibility and judgment."

Caricatures of Muhammad first appeared in the Danish right-leaning newspaper Jyllands-Posten last fall and have been reprinted in recent weeks elsewhere in Europe. Their appearance has triggered often-violent protests among Muslims.

The protests continued Thursday, with about 2,000 Muslims rallying in Dhaka, the capital of Bangladesh, Associated Press reported. Elsewhere, Malaysia's government indefinitely shut down a local newspaper for reprinting a cartoon of Muhammad, and Indonesia canceled badminton games against Denmark because of safety concerns, the news service reported.

When asked about claims this week by U.S. Secretary of State Condoleezza Rice that Syria and Iran had inflamed the controversy and incited protests, Annan told reporters that he had "no evidence to that effect."

He also condemned the violent response by demonstrators.

"They should not attack innocent civilians," he said. "They should not attack people who are not responsible for the publication of the cartoons."

At the United Nations, a group of Islamic nations Thursday introduced anti-defamation language into a founding document for a new U.N. Human Rights Council, which is being formed to replace the widely criticized U.N. Human Rights Commission based in Geneva.

The proposed text would "prevent instances of intolerance, discrimination, incitement of hatred and violence arising from any actions against religions, prophets and beliefs which threaten the enjoyment of human rights and fundamental freedoms."

The text also says that "defamation of religions and prophets is inconsistent with the right to freedom of expression" and urges states, organizations and the media to exercise "responsibility in promoting tolerance and respect for religious and cultural values."

Hamas Joins Call For Calm In Cartoon Row (AFP-Y2)

AFP, February 10, 2006

The radical Palestinian group Hamas joined voices for calm in the international furore sparked by cartoons of the Prophet Mohammed, as a Taliban commander in Afghanistan said 100 suicide bombers had volunteered.

Hamas "is prepared to play a role in calming the situation between the Islamic world and Western countries on condition that these countries commit themselves to putting an end to attacks against the feelings of Muslims," the organisation's leader Khaled Meshaal told a news conference.

His conciliatory tone came a day after he warned the Western press was "playing with fire" by publishing the cartoons which have led to riots around the world.

As Muslim protests over the cartoons subsided on Thursday, a Taliban commander in Afghanistan warned that 100 militants had enlisted as suicide bombers and Denmark said it feared for the safety of its troops in Iraq.

Mullah Dadullah, one of the Taliban's most senior military commanders, said his Islamic extremist group had also offered a reward of 100 kilograms (220 pounds) of gold to anyone who killed people responsible for the drawings.

Meanwhile Afghan authorities arrested more than 40 Pakistani workers for inciting violence Wednesday during a protest against the cartoons in which four people were killed.

The deaths in Qalat raised the death toll to 11 in five days of protests in Afghanistan against the cartoons. Two people have also died in protests in Somalia and Lebanon.

The cartoons, including one showing the Prophet Mohammed with a bomb in his turban, were first published in the Danish daily Jyllands-Posten in September, but have since been widely reprinted.

The newspaper's chief editor, Carsten Juste, said Thursday the culture editor who had decided to publish the cartoons, Flemming Rose, had been sent on holiday for an indefinite period "because nobody can bear the weight that is on his shoulders," according to the online edition of the Danish daily Politiken.

Danish military officials said the country's troops deployed in Iraq were keeping a low profile Thursday to avoid any clashes with Shiites during their holy mourning festival of Ashura.

Calls for calm came from many quarters Thursday after days of violent protests.

A senior figure at Al-Azhar, the highest authority in Sunni Islam, said it was time to move on from high emotion to constructive dialogue.

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"Quiet debate and dialogue, without passion" is the way forward, Ali al-Samman, who heads an interconfessional dialogue committee at the prestigious seat of learning in the Egyptian capital, said.

UN chief Kofi Annan again slammed the violence. "It is unfortunate that we all need to take steps to calm the situation and whatever the anger of those concerned, violence is not the answer," the secretary general told reporters.

Annan, asked whether he thought some governments were behind the violence, replied: "It's difficult for me to say. I have no evidence to that effect."

Russian President Vladimir Putin also called for cool: "The situation should be brought under control as soon as possible."

In Brussels, European Union justice commissioner Franco Frattini called for an urgent "relaunch of dialogue" with the Islamic world in response to the wave of protests.

Nearly 3,000 Danes by Thursday afternoon had signed an open letter calling for "peace with the Muslim world".

In Paris, close to 100 Arab and European academics, political and religious figures also issued a joint appeal for "moderation and wisdom" in the row.

However in Lebanon, the head of the country's Shiite movement Hezbollah insisted on an apology for the cartoons, as hundreds of thousands of Shiites gathered in southern Beirut to mark the Ashura festival.

"There will be no compromise before we receive an apology," Hassan Nasrallah told the crowds at the Shiite gathering.

Up to 15,000 South African Muslims also took to the streets in Cape Town, and handed over a petition to the Danish consulate.

The protestors sang Arabic songs and carried banners stating "Cartooning our prophet will earn you no profit" and "We will sacrifice our lives for our prophet."

The United States warned of potential violence during protests planned this week in Kenya's capital.

Kenyan Muslims have called for demonstrations, including a possible march on the Danish embassy in Nairobi.

The White House, meanwhile, insisted US President George W. Bush would go ahead with his planned trip to Pakistan in March despite widespread outrage over the cartoons there. Protesters burned his effigy Wednesday.

Egyptian writer and Nobel literature prize laureate Naguib Mahfouz said a boycott of Danish products was "the only option" for Muslims to retaliate.

"The world only understands the language of force," he told the English-language Al-Ahram Weekly.

Liberal Dutch politician Ayaan Hirsi Ali said the European press had been right to publish contentious cartoons of the Prophet Mohammed.

Ali, a close friend of Dutch filmmaker Theo van Gogh, who was killed by a Muslim extremist in 2004, said media who "lacked the courage to show their readers the caricatures" should be ashamed.

Somali-born Ali, who describes herself as "a dissident of Islam", told journalists in Berlin: "I am of the opinion that it was correct to publish the cartoons of Mohammed in Jyllands Posten and it was right to re-publish them in other papers across Europe.

"Shame on those politicians who stated that publishing and re-publishing the drawings was 'unnecessary', 'insensitive', 'disrespectful' and 'wrong'," she added, echoing the words of British Foreign Secretary Jack Straw.

Ali said it was wrong to expect people from other cultures to abide by the Muslim ban on depicting their prophet.

"Demanding that people who do not accept Mohammed's teachings should refrain from drawing him is not a request for respect but a demand for submission."

She listed numerous teachings of Mohammed which she rejected and said she believed there was a need to be critical of him to educate people.

"The prophet did and said good things. But I wish to defend the position that he was also disrespectful and insensitive to those who disagreed with him.

"I think it is right to make critical drawings and films of Mohammed."

Pope Meets Laura Bush, Says Worried About Terror (REU-Y2)

By Steve Holland

Reuters, February 10, 2006

Pope Benedict received U.S. First Lady Laura Bush on Thursday and told her that he was worried about terrorism around the world and violence sparked by the publication of cartoons of the Prophet Mohammad.

"He talked to me about the worries of terrorism, the worries right now about the violence in Beirut, Damascus and other cities," she told reporters after the meeting the Pope.

"His hope and certainly our hope (is) for peace and tolerance for each of us, to treat everyone else with respect," she said.

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Angry Muslims have demonstrated around the world over the cartoons, first published in Denmark, then Norway and several other countries in Europe and elsewhere.

The caricatures, including one showing the Prophet Mohammad wearing a bomb-shaped turban, have unleashed fury among many Muslims who consider any portrayal of their prophet as blasphemous, let alone one showing him as a terrorist.

The Vatican has already condemned the cartoons.

"I know that Muslims are offended with these cartoons. I understand their offence (but) on the other hand I don't think violence is the answer. I think everyone around the world needs to speak out and say 'lets stop the violence,'" she said.

The Pope told Mrs Bush that he hoped her stay in Italy for the start of the winter Olympics would be peaceful.

"We hope you will have a peaceful time," the Pope told Mrs Bush and her daughter Barbara when he welcomed them into his private study in the Vatican's Apostolic Palace.

Mrs Bush and Barbara, 24, are in Italy as head of the official U.S. delegation to the Turin games, which start on Friday.

The First Lady, Barbara and Francis Rooney, the U.S. ambassador to the Vatican, spoke privately for about 15 minutes in the Pope's study.

At the picture taking session afterwards Mrs Bush gave the Pope a silver bowl and he gave his visitors rosary beads and medals of his pontificate.

Mrs Bush is due to have lunch with Italian Prime Minister Silvio Berlusconi and visit a Rome hospital before heading to Turin for the start of the games.

She will also visit U.S. military personnel stationed at the Aviano air base in the north before returning to the United States.

First Lady Discusses Terrorism With Pope (AP)

By Nicole Winfield

AP, February 10, 2006

Laura Bush said Pope Benedict XVI expressed concern over violence linked to the prophet drawings in their meeting Thursday, with the pontiff calling for peace and tolerance.

"He talked to me about the worries of terrorism, the worries right now of the violence in Beirut and Damascus and other cities," Mrs. Bush said after the 20-minute audience in the pope's private library.

The pontiff, she said, also expressed his hope "and certainly our hope, for peace and for tolerance, for each of us to treat everyone else with respect."

Benedict also wished Mrs. Bush "a peaceful time" in Turin, where she is heading the official U.S. delegation to the Olympics.

"We're looking forward to the games," Mrs. Bush told the pope as she arrived for the meeting along with her daughter Barbara and the U.S. ambassador to the Holy See, Francis Rooney.

Mrs. Bush told reporters after the meeting that she understood the offense Muslims around the world feel about the publication in European newspapers of the caricatures of the Prophet Muhammad.

"On the other hand, I don't think violence is the answer. I think that everyone around the world needs to speak out and say 'Let's stop the violence.' It's really not necessary to get the point across that they were offended by those cartoons."

She said she and the pope discussed the violence briefly, although spoke at greater length about religion and the separation of church and state in the United States.

During the audience, Mrs. Bush gave Benedict a small silver bowl engraved with the U.S. presidential seal and the signatures of the president and first lady; the pope in turn gave the first lady and Barbara rosaries and Rooney a Vatican medal.

As she left, the first lady told the pope that the president "sends his best wishes." She said she would also relay the pope's good wishes back to him.

She wore a black suit and black lace mantilla, or head covering; Barbara, 24, wore a black skirt and top and high-heeled black boots.

The audience kicked off a visit that will take Mrs. Bush to Turin, where she is heading a U.S. Olympic delegation that includes former Olympians Dorothy Hamill, Kerri Strug, Eric Heiden, Debi Thomas and Herschel Walker. The games begin Friday and last through Feb. 26.

After the meeting at the Vatican, Mrs. Bush lunched with Italian Premier Silvio Berlusconi and visited a Rome hospital where she participated in a panel discussion on breast cancer. The event was organized by the Italian chapter of the Susan G. Komen Breast Cancer Foundation, founded by a friend of the first lady.

"Early detection is the only cure," Mrs. Bush told the crowd.

Swifter, Higher, Stronger, Safer? (WP)

DOJ_NMG_0014184

By Daniel Williams

The Washington Post, February 10, 2006

TURIN, Italy, Feb. 9 -- The worldwide Muslim protests against caricatures of Muhammad that appeared in a Danish newspaper last year have compounded Italy's security headaches for the Winter Olympics, which already suffer from possible disruption by local anti-globalization groups, opponents of a high-speed railway line and striking tram drivers.

Signs of concern are all over this town near Italy's northwest frontier. About 10,000 police from all over the country are patrolling boulevards and back alleys. Bomb-sniffing dogs stand guard at the airport, train station, stadiums and street corners. About 300 specially trained troops will patrol the nearby mountain sites on snowmobiles and skis. Airspace over Turin will be closed to anything with mechanical wings except for F-16s from the Italian air force that will zoom about during Friday's Opening Ceremonies and two surveillance planes supplied by NATO that will monitor wayward flights.

Missiles have been mounted around the city.

All that was in the works before the Muhammad cartoon unrest overwhelmed the local news. Because of the uproar, Interior Minister Giuseppe Pisanu, Italy's top official for civilian police and the intelligence corps, called an emergency meeting of security officials Monday regarding possible new threats. Pisanu said the riots and protests in the Middle East, Central Asia and Far East countries have been "carried out coldly with political ends. We mustn't forget that Islamic extremism is an essentially political movement that cynically uses religious values."

At least two Italian newspapers reprinted the Muhammad caricatures that included one showing the prophet of Islam wearing a turban shaped like a bomb.

Nonetheless, Pisanu said, homegrown violence is the most likely problem for the Olympics. "For the Olympics I fear the rising aggressiveness of anti-globalization protesters, anarchists and all the domestic subversion movements that are pursuing the Olympic spotlight. Unfortunately, these people have already done very serious damage to the image of our country," Pisanu said.

He was referring to the bumpy ride of the Olympic flame to Turin. Protesters blocked its passage in several Italian cities. In Genoa a few weeks ago, it had to travel by sea to arrive in town. The group of demonstrators include residents of towns near Turin who oppose construction of a railway tunnel through the Alps as part of a cross-European, high-speed train network. Assorted masked anti-globalization militants are protesting corporate sponsorship of the Olympics.

On a clear, sunny Thursday, the flame arrived in Turin and guest runners carried it along streets lined with cheering people. But the flame had to compete with unemployed laborers who held up self-described "fake torches" to protest layoffs at the local Fiat auto plant. Police surrounded anti-globalization demonstrators who tried to approach the route. Plenty of gesticulating broke out, but no violence.

More protests are planned for Friday, when the flame will once again navigate Turin.

On Tuesday, the country's president, Carlo Azeglio Ciampi, urged Italians to show a "sense of responsibility" and keep the Olympics incident-free. "For two weeks, Turin will be the capital of Italy," he said. "I am confident that everyone will work together for the Olympics."

Italian politicians took the message as an opportunity to point fingers at each other for trouble that had yet to break out. Italy is in the middle of heated campaigns for parliamentary elections scheduled for April. Pier Ferdinando Casini, who is a leader in Prime Minister Silvio Berlusconi's government, said it was up to the opposition, some of whom back the groups opposing the high-speed rail network, to head off any trouble. He called the opposition "irresponsible."

Romano Prodi, who is running against Berlusconi for prime minister, countered that he did not endorse disruption, but understood that the government "had done little" to resolve the problems of the tunnel with local residents.

Italian officials have long predicted that, with elections on the horizon, Italy would be the focus of a terrorist attack. Berlusconi supported the U.S.-led occupation of Iraq by dispatching about 3,000 soldiers to the southern Iraqi town of Nasiriyah. The Italians have begun a withdrawal, but it will not be complete until later this year.

In recent months, Italian authorities have deported about 30 Islamic militants they said were inciting violence, including an imam preaching in Turin. The Italians rely on wiretapping to keep tabs on terrorist suspects and their supporters. Officials say they have 2,000 people under close watch.

Turin is not the only possible target. Italy has several crowded tourist sites and Italy has intensified security at hundreds of them at a cost of more than $100 million.

Italy has significant experience in dealing with high-profile events. Officials cite the trouble-free funeral of Pope John Paul II last year as a prime example. On the other hand, violence broke out at a summit of the Group of Eight industrialized nations held in Genoa in 2001, which was marred by mob violence and vicious police counterattacks.

Pisanu described the Islamic threat as less to do with al Qaeda than with independent North African origin "Islamic-European" militant groups.

The security nerve center in Turin is called the National Center for Olympic Information. Spread around the city and Olympic sites are 21 operation rooms all linked together by sophisticated communications. Officials at the center said that athletes from any country involved in the wars in Iraq and Afghanistan are at risk. In all, there are 2,500 athletes in Turin scheduled to perform in front of a million spectators during the Games, which end Feb. 26.

Ciampi made a broader appeal on Thursday, calling for a worldwide "Olympic truce" during which no one would make war on anyone else, but instead "brotherhood prevails in the world."

The Ayatollah Joke Book (WP)

By Michael Kinsley

The Washington Post, February 10, 2006

Ayatollah Ali Khamenei, the noted wit, expert on freedom and unelected religious leader -- the leader who counts -- of Iran, observed the other day that in the West, "casting doubt or negating the genocide of the Jews is banned but insulting the beliefs of 1.5 billion Muslims is allowed." He apparently thought that this was a devastating point. Touche, Ayatollah Khamenei.

The worldwide fuss over 12 cartoon images of the prophet Muhammad (some mocking, some benign) that ran in a Danish newspaper has already killed a number of people. Many self-styled voices of Islam have made the bizarre comparison between showing pictures of Muhammad and expressing doubt about the Holocaust. A government-controlled Tehran newspaper announced a contest for cartoons about the Holocaust, asking "whether freedom of expression" applies to "the crimes committed by the United States and Israel." In a spirit of "see how you like it," a European Muslim group posted on the Web a cartoon of Anne Frank in bed with Hitler.

Muslim complaints about a Western double standard would be more telling if the factual premise were accurate. But it is not. In fact, it is nearly the opposite of the truth. Nothing is easier and more common in the West, including the United States, than criticizing the United States -- except for criticizing Israel. A few Western countries have stupid laws, erratically enforced, against denying the Holocaust, but that hasn't stopped Holocaust denial from becoming a literary industry and cultural phenomenon. Nevertheless, there has been no rioting about the historical reality of the Holocaust. No one has died over it.

Meanwhile, whatever point these European Muslims were making with their cartoon of Hitler and Anne Frank is more or less disproved by their very exercise. No one tried to stop them from putting the cartoon on the Web. The notion that jokes about Frank are beyond the pale is provably false. There's a play running in New York right now called "25 Questions for a Jewish Mother." It's a monologue written and acted by stand-up comic Judy Gold, who says on stage every night that her mother used to read to her from a pop-up version of Anne Frank's diary, and would say, "Pull the tab, Judith. Alive. Pull it again. Dead." Maybe you had to be there. But the New York Times reviewer called the play "fiercely funny, honest and moving" and did not demand that the author be executed or even admonished.

By contrast, in a spectacular exercise of self-censorship, almost every major newspaper in this country is refraining from publishing the controversial Danish cartoons, even though they are at the center of a major news story that these papers cover at length every day. An editorial in the Times on Wednesday said that not publishing the cartoons was "a reasonable choice" because they would offend many people and "are so easy to describe in words." As I write I am looking at a front-page photo in today's Times of Mariah Carey singing into a microphone. Words do it justice, I think.

Of course it is not Western values that are trampling freedom of expression, it is the ayatollah's own values, combined with the threat of violence. The other problem with his little joke about double standards, and with the whole, supposedly mordant, comparison between denying the Holocaust and portraying the prophet is that the offended Muslims do not want a world where people are free to do both. They don't even want a world where people are not free to do either, which would at least be consistent. They want a world where you may not portray Muhammad (even flatteringly, slaying infidels or whatnot), but you may deny the Holocaust all day long.

The bewildered prime minister of Denmark, trying to calm the whirlwind that has descended on his innocent, unsuspecting country, gets it spectacularly wrong when he reassures disgruntled Muslims that Denmark supports "freedom of religion" and is "one of the world's most tolerant and open societies." Tolerance, openness and freedom of religion are not what they have in mind.

A lively debate is going on about whether Islam really does forbid any portrayal of the prophet, however benign, or whether that is a recent innovation of some subset of the faithful with possible ulterior motives. This debate misses the point. Some Christians believe they are required to wear particular sorts of clothing. Some Jews and Muslims don't eat pork. They don't claim that their religion requires other people to wear special clothing or avoid eating pork. Tolerance and ecumenism can do only so much. They have nothing to offer a Muslim in Afghanistan who is personally insulted and enraged about an image that appears in a newspaper in Denmark.

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The shameful American position on all this is boilerplate endorsement of free expression combined with denunciation of the cartoons as an "unacceptable" insult. When three protesters died this week in a confrontation at a U.S. military base in Afghanistan, an American spokesman there said that Afghans "should judge us on what we're doing here, not on what some cartoonist is doing somewhere else." But the limits of free expression cannot be set by the sensitivities of people who don't believe in it. How can President Bush continue to ask young Americans to sacrifice their lives for freedom in the Muslim world, if he won't even defend freedom verbally when forces from that world are suppressing it in our own?

Curse Of The Moderates (WP)

By Charles Krauthammer

The Washington Post, February 10, 2006

As much of the Islamic world erupts in a studied frenzy over the Danish Muhammad cartoons, there are voices of reason being heard on both sides. Some Islamic leaders and organizations, while endorsing the demonstrators' sense of grievance and sharing their outrage, speak out against using violence as a vehicle of expression. Their Western counterparts -- intellectuals, including most of the major newspapers in the United States -- are similarly balanced: While, of course, endorsing the principle of free expression, they criticize the Danish newspaper for abusing that right by publishing offensive cartoons, and they declare themselves opposed, in the name of religious sensitivity, to doing the same.

God save us from the voices of reason.

What passes for moderation in the Islamic community -- "I share your rage but don't torch that embassy" -- is nothing of the sort. It is simply a cynical way to endorse the goals of the mob without endorsing its means. It is fraudulent because, while pretending to uphold the principle of religious sensitivity, it is interested only in this instance of religious insensitivity.

Have any of these "moderates" ever protested the grotesque caricatures of Christians and, most especially, Jews that are broadcast throughout the Middle East on a daily basis? The sermons on Palestinian TV that refer to Jews as the sons of pigs and monkeys? The Syrian prime-time TV series that shows rabbis slaughtering a gentile boy to ritually consume his blood? The 41-part (!) series on Egyptian TV based on that anti-Semitic czarist forgery (and inspiration of the Nazis), "The Protocols of the Elders of Zion," showing the Jews to be engaged in a century-old conspiracy to control the world?

A true Muslim moderate is one who protests desecrations of all faiths. Those who don't are not moderates but hypocrites, opportunists and agents for the rioters, merely using different means to advance the same goal: to impose upon the West, with its traditions of freedom of speech, a set of taboos that is exclusive to the Islamic faith. These are not defenders of religion but Muslim supremacists trying to force their dictates upon the liberal West.

And these "moderates" are aided and abetted by Western "moderates" who publish pictures of the Virgin Mary covered with elephant dung and celebrate the "Piss Christ" (a crucifix sitting in a jar of urine) as art deserving public subsidy, but who are seized with a sudden religious sensitivity when the subject is Muhammad.

Had they not been so hypocritical, one might defend their refusal to republish these cartoons on the grounds that news value can sometimes be trumped by good taste and sensitivity. After all, on grounds of basic decency, American newspapers generally -- and correctly -- do not publish pictures of dead bodies, whatever their news value.

There is a "sensitivity" argument for not having published the cartoons in the first place, back in September when they first appeared in that Danish newspaper. But it is not September. It is February. The cartoons have been published, and the newspaper, the publishers and Denmark itself have come under savage attack. After multiple arsons, devastating boycotts, and threats to cut off hands and heads, the issue is no longer news value, i.e., whether a newspaper needs to publish them to inform the audience about what is going on. The issue now is solidarity.

The mob is trying to dictate to Western newspapers, indeed Western governments, what is a legitimate subject for discussion and caricature. The cartoons do not begin to approach the artistic level of Salman Rushdie's prose, but that's not the point. The point is who decides what can be said and what can be drawn within the precincts of what we quaintly think of as the free world.

The mob has turned this into a test case for freedom of speech in the West. The German, French and Italian newspapers that republished these cartoons did so not to inform but to defy -- to declare that they will not be intimidated by the mob.

What is at issue is fear. The unspoken reason many newspapers do not want to republish is not sensitivity but simple fear. They know what happened to Theo van Gogh, who made a film about the Islamic treatment of women and got a knife through the chest with an Islamist manifesto attached.

The worldwide riots and burnings are instruments of intimidation, reminders of van Gogh's fate. The Islamic "moderates" are the mob's agents and interpreters, warning us not to do this again. And the Western "moderates" are their terrified collaborators who say: Don't worry, we won't. It's those Danes. We're clean. Spare us. Please.

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Hope Beyond The Rage? (WP)

By David Ignatius

The Washington Post, February 10, 2006

Looking at the cartoons, a non-Muslim wonders how they could possibly have given such offense. How could a few juvenile, satirical drawings of the prophet Muhammad have created a global crisis? It seems inexplicable, until you think about American reactions to a word we hesitate even to write for fear of giving offense, calling it instead the "n-word."

The African American experience reminds us that there is a rage so deep and abiding that it can be triggered by a small comment, an unintended slight, a remark perhaps meant as a joke but heard as a grievous insult. The legacy of slavery left behind that residue of anger. It created taboos that protect what Sigmund Freud described as the sacred totems of cultural identity. It established boundaries where outsiders -- in this case, white people -- are not allowed to venture. That's why the n-word is so powerful -- it is the symbol of the suffering that a people experienced at the hands of others.

By drawing this comparison, I don't mean to condone what Muslims are doing in their violent, deadly overreaction to a provocation by a foolish newspaper editor in Denmark. And I think the Muslim world could learn something about tolerance from African Americans. The United States still abounds with racist images, but blacks are no longer rioting in the streets or burning down buildings. With time, people have learned to deal with their anger in less self-destructive ways -- even, sometimes, to laugh about it.

This week, the African American cartoonist Aaron McGruder is running a series in his taboo-busting strip "The Boondocks" making fun of civil rights leader Al Sharpton's protests about racism. In Monday's strip, Huey Freeman muses to his friend: "Give me news of hope, Caesar. Tell me of the leaders who dare to stand against the grave dangers faced by this world. I crave inspiration." His pal Caesar looks up from his newspaper: "Says here Al Sharpton is protesting a cartoon for using the n-word." To which Huey responds: "I'm going back to bed."

Maybe the Muslim world will someday be able to laugh off slurs against the prophet Muhammad, but not now. The wounds are too raw; the sense of victimization is too immediate. I travel often to Muslim countries, and I am sometimes astonished at how hundreds of years of history can seem condensed into the present, so that every current injustice is magnified by the weight of every past one. I don't understand it, but then, I have to remind myself, I'm not a Muslim. I haven't lived it.

Hoping to understand this blood-knot of rage and intolerance, I called Randall Kennedy, a prominent African American professor of law at Harvard University. He is the author of a 2002 book that explores the intense emotions aroused by the n-word, which he actually dares to spell out in the book's title. He says he's not surprised that a cartoon, like a taboo word, can become a focus for rage. For African Americans, he explains, "there are all sorts of indignities and insults, but they're momentary and ambiguous." But when white people say the hateful word, "it crystallizes something that's often hard to discern."

"When people feel they're being disrespected, they respond in all sorts of ways, including very self-destructive ways," Kennedy observes. That said, he finds the Muslim reaction to the Danish cartoons unacceptable -- just as he thinks people overreact to the n-word. "Are we going to bleep out Richard Pryor's album? Are we going to scratch out every reference to the word in 'Huckleberry Finn'? I would say with respect that's what is happening here with the reaction to the cartoons."

Whenever I'm feeling really pessimistic about the world, I remind myself of the American civil rights movement. In the space of my lifetime, America has gone from a country of brutal racism and outright segregation to a place where black folks and white folks pretty much get along. We haven't abolished racism, but by working honestly at the problem, we've made real progress. Along the way, we experienced rage and violence: Our cities burned; our nation sometimes felt at war with itself. But we passed through that dark period into a brighter one.

I want to believe that Muslims and the West are in that kind of transition. We're in the rage phase -- the part of the story where black folks are torching cities, white governors are sending in the National Guard and the problems seem insoluble. But if people keep their heads, we will eventually pass from this crazy moment into a different one where a genuine reconciliation is possible. Let's face it: We are living the clash of civilizations, and it's likely that things won't get much better until they get a bit worse.

davidignatius@washpost.com

A Global View On Cartoons Debate (USAT)

USA Today, February 10, 2006

Ruth Wishart,

columnist, in The Herald, Glasgow, Scotland: "How on earth did we get here from there? From a batch of indifferently executed cartoons published over four months ago in a Danish newspaper to worldwide riots, death threats and the destruction of embassies? ... If we are to believe the editor of the small Danish newspaper who put a match to this now global conflagration,

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the motivation was merely to question whether or not people had become too scared of controversy and retaliation to speak and publish freely and frankly. Ironically, he has created not a new honesty but wholesale paranoia."

Arman-e Melli,

Kabul, Afghanistan, in an editorial: "The Muslim and Mojahed people of Afghanistan have the right to demonstrate and make the Western press realize that freedom of speech does not mean insulting the sacred beliefs of other religions. Looking at developments in the country, it is clear that the enemies of our people have exploited the religious beliefs of our people. They have changed the peaceful process of demonstrations into a violent one."

ABC,

newspaper, Madrid, in an editorial: "The problem is that the argument about 'freedom of expression' — or, in the end, any other freedom — is incomprehensible for those living in states where human rights, or basically the law, are in dire straits because of the autocratic nature of their leaders."

The People,

Nairobi, Kenya, in an editorial: "It is an issue of civil rights. In any society, there is an understanding that free speech should be used wisely so as not to provoke hostilities."

Fintan O'Toole,

columnist, for The Irish Times, Dublin: "Offense has to be taken as well as given. ... Money, success and power thicken the skin, and ours has been so hardened by our newly confident self-image that sticks and stones feel like tickles. Offense is subjective, not objective. Mass outbreaks of high dudgeon depend on the presence of two factors. One is a group with an agenda, looking for insults to exploit. The other is a wider group of people who feel so vulnerable to denigration that their feelings are available for exploitation. The Irish had those two factors 20 years ago. The Muslims have them now. The current conflict is not about religion, still less about a supposed clash of civilizations. It is about power and politics."

Politiken,

Copenhagen, Denmark, in an editorial: "The acts of violence arise from the internal tensions in Muslim societies; they show the desperation of people who see the world's cultural and economic development passing them by. The escalation of the crisis does not therefore have anything to do with Danish newspaper cartoons, and there is nothing that Denmark could have done to halt this development."

Can Dundar,

commentary in Milliyet newspaper, in Turkey: "Attacking values which people consider divine cannot be excused with the pretext of 'freedom of expression' ... The crisis seems to be getting bigger because of Europe's attitude."

Cape Argus,

Cape Town, South Africa, in an editorial: "The position of this newspaper was not to publish the offending cartoons because they would be an affront to our Muslim readers and are, quite simply, racist in their stereotyping of Arabs as people with hooked noses and as terrorists. But we also reject the notion that ... any group could, on a presumption, interdict our newspapers from publishing content."

The Nation,

Bangkok, in an editorial: "Instead of expending energy on defending freedom of expression or calling for deadly revenge, perhaps all parties should focus instead on our common decency, which is a prerequisite for rational debate. Surely for Western and Islamic civilizations, which have long been trying to come to terms with much worse atrocities over the centuries, offensive cartoons should not be all that difficult to let go of."

In Iranian Eyes, The 'Cross-Eyed British' Are To Blame (NYT)

By Michael Slackman

The New York Times, February 10, 2006

TEHRAN, Feb. 7 — The Embassy of Denmark was attacked and pelted with gasoline bombs two days in a row because of the caricatures of the Prophet Muhammad published in a Danish newspaper. The Austrian Embassy was stoned and all its windows were smashed for the same reason. The United States has been dubbed the World Oppressor, and Israel has always been at the top of the enemies list.

But to understand whom Iranians distrust most of all, you need only visit Bobby Sands Street. Named after the Irish republican who died of a hunger strike in 1981, the street runs right past the British Embassy in a busy neighborhood of Tehran.

A not-too-subtle finger in the eye.

"We have not seen anything other than bad things from the British since they stepped foot here 200 years ago," said Seyed Razi Abbassian, 72, a dealer in stamps and coins at a shop across from the street from the British Embassy. "We have no good memories of the British."

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In an often bitterly divided country, Mr. Abbassian's outlook is one that unites Iranians of many social, economic and political classes.

The idea that Britain is behind much of what goes wrong in Iran is not just a conspiracy theory but also a prism through which to view events. Indeed, America — the Great Satan itself — is often portrayed as merely a hapless, muscle-bound child manipulated by smarter, craftier, more deceitful forces in London.

One European diplomat said he once received a gift from an Iranian child: a drawing of America as a marionette with Britain pulling the strings.

"For 200 years we have had a political relationship with the British," said Mansoureh Ettehadie, a history professor and writer. "They have never been innocent. There is a feeling in Iran that is widespread, that the British have not been blameless."

As Ms. Ettehadie intimated, there are sound historical reasons for the Iranians to suspect the British. Early in the 20th century, she said, Britain tussled with France and Russia over control of the country, and Britain's success in the south, and in dominating the rich oil fields, left a bad taste. She said, for example, that for many years, Iran did not even have its own central bank, but had to rely on the Imperial Bank to issue currency.

And as every Iranian schoolchild knows, it was the British who engineered the coup that brought to power the dictatorial Reza Shah Pahlavi, who founded the hated dynasty that lasted until the Shiite revolution in 1979.

Distrust of Britain is so ingrained in the public psyche — especially among the older generation — that it has been joked about, written about and even dismissed as paranoia, but never done away with. One of the most popular novels in Iran, "My Uncle Napoleon," is a comic love story spoofing how Iranians see a British hand in all dark deeds.

The book popularized the phrase, "This is the job of the cross-eyed British," which is often used here with a smile, and a wink. It can be said when bombs go off, or when there is really bad traffic.

While many Iranians are adept at poking fun at their Brit-fixation, the prevailing view also serves to complicate already tense relations between London and Tehran over such matters as the Iranian nuclear program. One Western diplomat, who asked not to be identified so as not to inflame his host country, said Iranians often raised the specter of "historical inequities" with Britain in diplomatic meetings.

Recently, as the United States and Britain and other European partners pressed for Iran to be referred to the United Nations Security Council for its nuclear activities, Iranian officials accused the British of some recent bombings and deadly plane crashes in Iran.

In each case, government officials said that Britain was not working alone, but in tandem with Israel and the United States. Nevertheless, Britain was the ringmaster.

If there is an event that still angers many, it is the coup in 1953 that ousted the prime minister, Mohammed Mossadegh, and reinstalled Shah Mohammed Reza Pahlavi, who had fled the country. Although the Central Intelligence Agency was involved in ousting Mr. Mossadegh, sentiment here holds that British intelligence pulled the strings.

"The British were responsible for ending Mossadegh's rule," said Mustafa Jahangard, 26, who runs a fruit and vegetable store in central Tehran. Asked who is disliked more in Iran, the United States or Britain, Mr. Jahangard first drew a distinction between the American people, who "are good," and the American government, which "is bad." No such distinction was made for the British.

"The British win in this competition," he said. "England is even worse. They are sneaky."

The anger and suspicions are widespread, and widely discussed. On Jan. 31, Resalat, an Iranian daily, ran an article about the bombings in Ahvaz beneath the headline: "England's Hand in Measures Against Our National Security."

"Britain, the old colonizer, has a hand in all of these criminal measures," the article said. "Another trick of the government of the old colonizer, England, is that whenever its secret intentions — in conspiring against others — are somehow revealed, it takes totally friendly positions, that are against America's positions, regarding Iran; and when everything is back to normal, it follows up its previous hostile positions."

The British Embassy occupies a large compound in Tehran and is tucked back inside, behind a tall brick wall. Reza Razavi said he had run his pen store on a corner, on the other side of the wall, for 12 years, and had never, to his knowledge, had a British customer from the embassy. He said it was easy to believe that the British were up to no good because of recent charges made public by Russia about a British diplomat caught working as a spy — and of course the Mossadegh affair.

As for all the negative deeds Iranians attribute to the Americans, he said, "If you think about it, America was under the British as well."

For Americans, It Can Pay To Play In Iran's Court (WP)

By Karl Vick

The Washington Post, February 10, 2006

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Imports Pump Up Basketball's Popularity

TEHRAN -- Making himself as inconspicuous as a 7-foot-2 black man can be in Iran, Garth Joseph sidled up to the store counter. His air was at once playful and furtive. "Give me that good stuff," he whispered.

The clerk, a bespectacled woman dressed in a black head scarf, reached under the counter and brought forth a slab of pork: It was black-market bacon, absolutely illegal in the Islamic Republic of Iran and priced like the contraband it was.

"Fifteen dollars for bacon!" Joseph squawked, reaching into his sweats for his wad of green Iranian currency. "It's so much money, but I love bacon. I eat about two pounds of bacon a day in America."

But in America, Joseph warmed the bench during his only season in the National Basketball Association, hobbled by injuries and struggling for a place in a league moving away from the big man. And in Iran, he is huge in every way, the object of stares and delight not only for his gargantuan size, but also as the most conspicuous and highest-paid of the basketball players who left the United States to play the pivot along the "axis of evil," a grouping in which President Bush included the country where they have found their fortunes.

About 20 Americans play hoops for a living in Iran. They nurture pro careers that might not exist in the States, navigate a culture that offers precious few diversions in public -- though a lot more behind closed doors -- and, as much as possible, avoid politics. Iran is at the center of international concern for its nuclear ambitions and has remained notorious to the United States since 1979, when student radicals took over the U.S. Embassy in a siege that lasted 444 days. But for offshore ballplayers working for a paycheck, Iran is just another stop on an international circuit that quietly counterbalances the NBA's burgeoning import of players from Croatia, Congo and China, to name just the C's.

"One of my friends -- he's really like a cave man -- he says, 'Are they walking around with AKs?' " said Andre Pitts, a Texas native who plays point guard on the same team with Joseph, Saba Battery. "I said, 'If you came here, you wouldn't ever want to go back, the way they treat you.' "

Black-market bacon is the least of it. American players are paid from $60,000 to $200,000 a year to elevate a sport that in Iran ranks in public popularity behind soccer, volleyball and wrestling, in that order. The Americans are considered so special they are not even required to cover their tattoos with bandages, as their Iranian teammates do on game days. They are paid in dollars, which they must wire home through third countries because U.S. banks are prohibited by sanctions from doing business with Iran.

The Americans "cover up the weaknesses of the team and help basketball in the whole country," said Mustafa Hashemi, coach of Petrochimi, sponsored by the Petroleum Ministry in the southern city of Mahram, a city so devoid of acceptable restaurants that the Americans eat in a company cafeteria.

"It's like being at a camp," said Eddie Elisma, a New York native drafted in 1997 by the Seattle SuperSonics and now a Petrochimi team leader. "It's not as bad as you think."

In fact, inside a private home, life in Iran can be exactly the opposite of the public image. In Joseph's six months in Tehran, his most striking discovery has been the nation's double life. He first noticed it during Ramadan, the month when observant Muslims fast during daylight hours.

"They eat," Joseph declared. "They don't eat in public, but they eat.

"It's like I found out: A lot of things aren't done in public here. They're done, though."

On the streets of Tehran, for instance, many women glide along under the enveloping black chador that covers all but their faces. "Little ninjas walking around," Joseph said. "You can't look at them -- you're afraid they'll smack you."

About two weeks after arriving, he was invited inside an apartment in the prosperous, generally liberal north of Tehran. He watched as female guests arrived and peeled off their cloaks.

"Nice miniskirts," Joseph said, smiling at the memory. "You know, I'm married. But I'm lookin'."

And behind closed doors, the liquor flowed freely -- both the homemade vodka that has been produced in Iran since the 1979 revolution and the bottles of Smirnoff that have become readily available in recent years through discreet dealers.

"Do you like my liquor collection?" Pitts said, gesturing to the well-stocked alcove in his own apartment, sleekly decorated in blacks and whites.

For Americans playing offshore, any hardships are relative. Before arriving in Tehran last season, Pitts played in Turkey, Cyprus, Lebanon, Hong Kong and Syria, where he was a star. Joseph, whose brief time in the NBA was split between Toronto and Denver, arrived here after four seasons in China, where he once played an outdoor game at minus-20-degree temperatures on a dirt court.

"The Middle East -- based on what they read in The Post or see on CNN -- will scare most travelers off," said Jerald Wrightsil, who built a business representing U.S. players offshore after his own overseas career in the 1990s, when Eastern Europe was the new frontier. "But players chasing a paycheck, they're willing to take that chance."

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There have been perils. Stones sometimes rain down from the stands, said Pitts, adding that a fragment injured an eye of one teammate.

But players say the primary risk in Iran is being bored to death. The conservative Muslim clerics who prohibit the public sale of pork, proscribed by the Koran, do the same for alcohol. Women are required to cover their hair, and public mixing of the sexes is officially discouraged.

For the professional athlete, such strictness has its upside.

"It prolongs my career," said Pitts, recalling the night spots of secular Syria, where women sometimes danced on the bar. "I'm getting good rest."

But it's not for everyone. Joseph, a jocular extrovert, was flummoxed to find health clubs populated by only men.

"How do you live here without looking at women?" he asked. "What do you go to the weight room for?" Worse was learning that, in Iran, even beaches are segregated by sex.

He shook his head, just inches from the ceiling in his bleak, two-bedroom apartment overlooking the Sadr Expressway, its traffic roaring through the gray of Tehran in winter. The bed was in the living room, to be closer to the satellite television that players describe as their life-support system. "I never watch Iranian TV," Joseph said. "Always some military guy on."

On the coffee table: old issues of People and a basketball magazine. "Oh, I got to keep my place a little Americanized," he said. The one book in the room was The Essential Atlas of the World.

Joseph was saying that China at least had TGIFridays and Outback Steakhouses. Iran is simply more foreign. Boxes of tissues take the place of napkins, and bathroom light switches are outside the door. Clothes dryers are novelties. The lemon that restaurants put on the food makes everything taste the same. And cutlery?

"I ordered a steak and they bought me a spoon," Joseph said.

The Americans not only have adjusted to Iran's duality, they also abet it. Officially, Saba Battery -- a Tehran-based team that belongs to the Defense Ministry -- refuses to employ Americans. The pretense was imposed by its owner, an arm of a government that has no diplomatic relations with Washington and regularly renews the paint on the "Death to America" slogans still scattered around the capital.

Joseph's connection to the Great Satan is at least ambiguous. Though he lives outside Albany, N.Y., he remains a citizen of Dominica, the Caribbean island where he was born and raised.

But Pitts, born and raised in Seguin, Tex., is officially listed on the team roster as a citizen of Senegal. He even has a Senegalese passport, though he's not sure how he came by it.

"My agent got it for me," he said. "Basically, I'm here for the money."

Would Iranians Rally 'Round The Flag? (LAT)

By Edward N. Luttwak, Edward N. Luttwak Is A Senior Fellow At The Center For Strategic And International Studies In Washin

The Los Angeles Times, February 10, 2006

Various ethnic and religious factions might see little to gain in supporting Tehran if the country's nuclear facilities were bombed.

THERE MAY BE good reasons to oppose an air attack on Iran's nuclear installations at this time, but one of the arguments that is advanced most often is seriously flawed.

The argument is based on a familiar axiom that ruling regimes, even unpopular ones, are strengthened by such attacks because the bombarded nation rallies around its rulers. But this does not apply to Iran. It's true that when Germans, Japanese and Serbs, among others, were bombed, they did indeed support their leaders all the more because the attacks increased their sense of national solidarity.

Iran, however, is not a nation-state but rather a multinational empire dominated by Persians, much as the Soviet Union was once dominated by Russians. Except that in this case, the Persians only account for just over half the population of Iran (making them a smaller proportion than the Russians were even in the final days of the Soviet Union).

No scholar who studies Iran would dispute that there is a very strong Persian identity and pride of ownership in ruling Iran among the Persians, but only a very weak sense of Iranian participation among non-Persians. Iran is not like Lebanon, where the different communities often fight each other. Instead, Iran's minorities each resist the Persian-dominated central government. Just in the last month, guerrillas of Baluch nationality kidnapped soldiers in southeast Iran. Arabs of Khuzistan province next to Iraq detonated bombs in Ahwaz, and Kurds clashed with the rural police.

To the extent that the different nationalities each have their own identities and oppose the essentially Persian regime, they are likely to applaud external attacks on the nuclear installations rather than rally to the defense of their rulers.

So how does factional solidarity in Iran break down?

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The Kurds, who account for about 9% of the population, have been encouraged by the example of virtual Kurdish independence in Iraq next door. Their demands for autonomy are becoming more forceful, and something of an insurgency seems to have started. Very few Kurds are likely to rally around their Persian overlords.

Smaller nationalities that are known to be disaffected because of recent examples of violent resistance include the Arabs at 3% of Iran's population and the Baluch at 2%. Little is known of the intensity of the national sentiments of the Turkmen and Lurs (2% each), and still less of the Gilaki and Mazandarani (8% in all), who may be politically more assimilated simply because they speak Persian dialects.

Along with the Kurds, all the smaller nationalities amount to only a quarter of Iran's population; but Turkic-speaking Azeris add another 24% all by themselves. Many Azeri families in Tehran especially are believed to be thoroughly assimilated, but the more numerous Azeris farther north are not, and national revival and separatist groups have become increasingly active among them. Since Azerbaijan just across the border gained its independence from the Soviet Union, the Azeris have a national home of their own, and it is not Iran.

The religious extremism of Iran's regime has further fractured the nation's solidarity by discriminating not only against the non-Muslim Bahais, Christians, Jews and Zoroastrians who amount to only 2% of the total population, and are of yet smaller political significance, but also against the 9% or more who are Sunnis (who are not even allowed to have their own mosque in Tehran, where 1 million of them live).

So, all in all, at least half the population is unlikely to be motivated by feelings of solidarity with their rulers. Only among the Persians are many likely to react to an attack as the axiom prescribes; others might welcome the humiliation of their oppressors. The bombing of Iran's nuclear installations may still be a bad idea for other reasons, but not because it would strengthen the hold of its rulers. One may hope that Iran's rulers are not misled by their own propaganda and will therefore accept a diplomatic solution rather than gamble all on an irrelevant axiom.

For Venezuela, U.S., A (Very) Little Civility (WP)

By Pamela Constable

The Washington Post, February 10, 2006

After an especially ugly week in the hostile relationship between the Bush administration and the government of Venezuelan President Hugo Chavez, Venezuela's envoy here tried yesterday to salvage some civility, saying his country sought "mature and rational relations" with Washington and would remain a "reliable" source of energy to all foreign customers, including the United States.

The State Department responded in kind, with its spokesman saying Washington was "open to a good relationship with Venezuela" and hoped for a "positive one." The spokesman, Sean McCormack, said that the two countries were cooperating in the fight against drugs and that the administration was prepared to work with governments across the political spectrum, including those with "left-of-center" views.

But the exchange did little to dispel a growing sense among officials and analysts that the current political breach between Caracas and Washington -- still major oil trading partners and former longtime democratic allies -- is becoming potentially irreparable.

In the past week, Defense Secretary Donald H. Rumsfeld has compared Chavez to Adolf Hitler, and the administration's top intelligence official, John D. Negroponte, has condemned his ties with Iran and North Korea. Venezuela has expelled a U.S. naval attache on charges of spying, and Washington has expelled a senior Venezuelan diplomat in return.

Meanwhile, rumors have circulated in both capitals that the United States may put Venezuela on a list of states that sponsor terrorism, a designation that would make it ineligible for most U.S. aid and programs. A State Department spokesman yesterday declined to say whether such a move was being considered.

There were other signs that the antagonism was hardening between the United States and Chavez, a self-styled revolutionary leader and protege of Cuba's Fidel Castro. First elected president in 1998 and reelected in 2000, he survived a coup attempt two years later and has since repeatedly accused the United States of seeking to overthrow him. He has vowed to thwart a U.S.-backed hemispheric free-trade pact and forge an alternative economic pact within Latin America.

In an interview Wednesday, the senior State Department official for Latin America, Thomas A. Shannon Jr., described the U.S. differences with Chavez as "a battle of ideas . . . a battle that we shouldn't be afraid of." He depicted Chavez as a defiant but comic figure, "standing there and desperately taking swings at us. We must go around him and engage the rest of the region in our common positive agenda," he said.

Shannon, a scholarly diplomat, is viewed among Latin America experts here as less ideologically allergic to Chavez than his recent predecessors, and he said he hoped the two governments could find common ground on a number of issues. But

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yesterday, Venezuelan Ambassador Bernardo Alvarez complained that he had not been able to see Shannon, although he said he has traveled to several states to promote Venezuela's project to assist poor families through home heating oil subsidies.

"We are not against the United States. We are against certain policies of the United States, but we have a lot of important things in common," Alvarez told journalists. "We are not a threat to the national interests of the United States or anyone else. Why are they trying to portray us as anti-American?"

Several experts on U.S.-Latin American relations in Washington said both governments were to blame for the increasingly hostile rhetoric and plummeting relations. They suggested that provocative comments such as those made by Rumsfeld could play into Chavez's hands as he seeks to rally domestic support against a foreign enemy.

"The State Department is clearly attempting to set a different tone, but there are other voices in the administration that reflect knee-jerk Cold War thinking," said Julia Sweig, an associate scholar at the Council on Foreign Relations. "Chavez has figured out how to play those cards really well, but it would be a mistake to ascribe to individuals like Chavez and Castro the deep social cleavages in the region."

Otto Reich, a former senior State Department official who is now a private consultant, said that the Bush administration had largely refrained from verbal mud-slinging and that Chavez was responsible for provoking U.S. hostility. "We didn't start this," he said. "If there is going to be change, it has to come from the other side."

Reich said that there was little chance other Latin American leaders, even those with left-of-center views, would follow Chavez's leadership, but that Chavez could do serious regional harm. Those leaders should be "concerned that he is giving all of Latin America a bad name," Reich said. "The region badly needs foreign investment, and it doesn't help to have him running around with a red beret and incendiary rhetoric."

'New Populists' Vs. The West (CSM)

By Howard Lafranchi

The Christian Science Monitor, February 10, 2006

WASHINGTON - Some might call it the axle of anti-American populism.

With linchpins in Tehran on one end and Caracas on the other, a new brand of international populism is rising by fanning flames of division between Western powers and the "powerless" of the developing world.

Leaders, from Iran's President Mahmoud Ahmadinejad to Venezuela's President Hugo Chávez, are winning points at home by striking a nationalist and anti-American pose. Their method: Use the international stage to rail against what they see as a disconnect between the values espoused by the world's sole superpower and its actions.

· Mr. Ahmadinejad consolidates his domestic political power and wins support among several countries caught in America's cross hairs by pointing out that Washington accepts the nuclear status of Pakistan - which it needs on its side in the war on terror - while opposing Iran's program, which Iran insists is for power-generation only.

· Mr. Chávez, espousing a philosophy of "democratic socialism" in any international forum that will listen, accuses the United States of trying to overthrow his own democratically elected government. He fires up sympathetic crowds by branding "US imperialism [as] our real enemy."

Yet for all their heated rhetoric, the two leaders have a vision for the world, one that seeks to end the "sole superpower" reality. Beyond simply opposing America's robust exercise of power - a sentiment increasingly found in the developing world, especially - their aim is to join political forces to provide a significant counterweight in the international arena.

"There is no great level of love between Venezuela and Iran, but they both are seeking a multipolar world, and that's where the two of them find a point of intersection," says Miguel Tinker-Salas, a Latin America and US foreign-policy expert at Pomona College in Claremont, Calif.

The two leaders, though, are impelled by different motives. Chávez is motivated by an antiglobalization stance that vilifies Washington as the epicenter of market- oriented economics, says Thomas Carothers, an expert on democracy and rule of law at Carnegie Endowment for International Peace. Ahmadinejad's wrath, he says, is more focused on the Bush administration's agenda for secular democracy in the Middle East.

Russia's Vladimir Putin also belongs on the list, says Mr. Carothers, for his challenge to the West over its promotion of democracy in Russia and in the former Soviet neighboring countries.

"We're seeing on different fronts different leaders who are pushing back," he says, "with the idea of resisting the West." It is "no coincidence" that all three countries are "flush with oil money" that allows their leaders the luxury of promoting their causes, he adds. A risk of overreaction by the West

The West's response to the populists' challenge need not - indeed, should not - be uniform, some analysts say. Each presents a different challenge.

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"The Latin American populists like Chávez have a very limited capacity to do anything that threatens substantial harm to our interests, so it's key in those cases not to overreact," says Andrew Bacevich, director of the Center for International Relations at Boston University.

Iran, on the other hand, is different because of the "nuclear question" and "the importance we assign to stability in that region," he says. Iran plays a key role in events in both Iraq and Afghanistan.

In some current international controversies, it's the West, not simply America, that is in the line of fire - as with the Muslim world's fury over cartoons depicting the prophet Muhammad. But Chávez and Ahmadinejad, in particular, "are finding it pays politically to focus on the US," adds Mr. Tinker-Salas.

Iran lost no time this week announcing an end to cooperation on its nuclear program with the International Atomic Energy Agency, after the IAEA on Saturday approved a US-supported resolution that reports Iran to the United Nations Security Council.

Landing Iran in the Security Council was a goal of the Bush administration for at least two years. But the vote also revealed cracks in the international community and support for Iran - albeit from some at the top of Washington's blacklist. Syria, Venezuela, and Cuba all voted "no" on the IAEA resolution.

Iran's foreign minister will travel to Cuba and Venezuela this month in a bid to further cement support for Iran's battle against the "world oppressor" - the US. Ahmadinejad has established contact, too, with Evo Morales, the recently elected populist president of Bolivia. Rumsfeld takes a jab

The US is also caught in what State Department officials describe as a "tit-for-tat" imbroglio with Chávez. After Caracas expelled a military attaché assigned to the US Embassy on charges of spying, the US responded last Friday by expelling a Venezuelan diplomat.

The US action followed comments by Defense Secretary Donald Rumsfeld in which he likened Chávez to Adolf Hitler, saying both were "elected legally." The election of "populist" leaders like Chávez and Bolivia's new president, he added, "are worrisome."

Some experts caution against such riffs, saying they only play into the hands of the new populists, coming at a time when US standing in the world is low and more people seem to sympathize with challenges to American power.

"People see a certain hypocrisy in US actions, and what we're seeing from people like Chávez and Iran's president are attempts to exploit that," says Tinker-Salas.

"The US has a pretty good record of falling into this trap," adds Mr. Bacevich of Boston University. "The Bush administration has so overused the Hitler analogy that it's almost demeaning to history."

Iran's depiction of an "arrogant West" has "some echo" in parts of the developing world, he adds, but that doesn't mean Damascus, Havana, and Caracas are poised to lead a new anti-West movement.

Still, anti-Western sentiment shows signs of spreading, fed by economics, nationalism, or culture, says Carothers. That should give the US pause from "sparring" with the new populists, he says, "as tempting as that might be."

The current circumstances should also encourage the US to reduce its use of all foreign oil, he adds.

"It takes ready cash to fiddle with politics outside your borders," he says, "and thanks to oil prices that's something that all of these leaders have."

Candidate Of Haiti's Poor Leads In Early Tally With 61% Of Vote (NYT)

By Ginger Thompson

The New York Times, February 10, 2006

PORT-AU-PRINCE, Haiti, Feb. 9 — Unofficial electoral results that had been carried in by mules, trucks and helicopters from polling centers across the country appeared Thursday to give an early lead to René Préval, a former president considered a champion of the poor masses and a thorn in the side of the elite.

The Provisional Electoral Council announced Thursday night that Mr. Préval had won 61 percent of the 15 percent of the votes tabulated from the election Tuesday, including 67 percent of the votes counted so far in the department that includes Port-au-Prince.

While several of his opponents quietly began to move toward conceding, others cautioned that it was still too early to declare a winner, and the political hostilities that have kept this country near the brink of anarchy lingered in the air.

Heavily armed gang members who control some of the slums that are Mr. Préval's political strongholds have threatened violence if he is not declared the winner with more than 50 percent of the votes, thereby avoiding a runoff election. It was also from the slums that Mr. Préval's mentor, the former president, Jean-Bertrand Aristide, drew his political strength.

A spokesman for Charles-Henry Baker, a wealthy factory owner considered the candidate of the tiny elite, said his campaign had begun preparing charges of fraud to try to stop Mr. Préval from winning power.

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As Haiti, a country of 8.5 million people, braced for final results, which are not expected until this weekend, it was not easy to tell whether the nation was on the verge of its first real steps out of anarchy, or set to plunge into another cycle of political upheaval.

Ending the political fighting between the rich and the poor must be the first of a long list of priorities for its next president. And the question looming over Mr. Préval is whether a man whose previous term as president was overshadowed by Mr. Aristide, a polarizing political leader, is up to the task.

"Préval has to turn history upside down in Haiti," said Mark Schneider, of the International Crisis Group, a nonpartisan organization focusing on conflict resolution. "For decades, if not centuries, Haitian politics have been ruled by a take-no-prisoners mentality. The determination of the Haitian people to use the ballot to change their history became evident after the record turnout Tuesday. And if the early reports of a first round win turn out to be accurate, I would hope that René Préval knows that he cannot govern alone."

In an interview last month at his sister's house in Port-au-Prince, and then another this week in Marmelade, his father's hometown, Mr. Préval, a former bakery owner, said his priority would be to provide relief to the two-thirds of the population living in extreme poverty. His plans include what he described as a "universal public school program," and at least one free meal a day for poor children.

Mr. Préval also said he would investigate the cases of hundreds of prisoners who claim they are being held for political purposes, and would negotiate with gangs, rather than using only force against them, to end violence and lawlessness in slums like Cité Soleil.

"What do you prefer?" he asked. "An amnesty, or for people to keep dying?"

Mr. Préval said he that would recruit Haitian professionals overseas to help rebuild the government, and hinted that he had offered a job in his administration to a former presidential candidate, Dumarsais Siméus, a Haitian-born business magnate who was forced out of the race because he is an American citizen.

A chief objective of Mr. Préval's government, one of his advisers said, would be to attract more investment from the United States. In the last decade, the adviser said, United States investment in Haiti was less than $10 million, the amount invested in a single year in the neighboring Dominican Republic.

But Mr. Préval also suggested that he would reach out to his opponents among the middle and upper classes. He said that much of his campaign had been financed by the elite, and that he would appoint a prime minister from the political party that wins control of the parliament, which is highly unlikely to be his own.

"People know that I don't like to speak of myself," said Mr. Préval, 63. "But I think the first thing that people appreciate about me is that Préval has not stolen. Préval is not an assassin. Préval respects freedom. Préval is frank and honest.

"He says what he can and cannot do, and he doesn't make promises he cannot keep."

After graduating from college in Belgium, he lived in New York. "I always told my father I worked on Wall Street," Mr. Préval said of those years. "But I never told him I was a messenger. I used to think how my father would kill me if he saw me sweeping floors and making coffee."

By 1990, Mr. Préval had returned to Haiti and had opened a bakery that supplied bread to an orphanage run by Mr. Aristide, who was then a priest. When Mr. Aristide rose to power as Haiti's first elected president, he appointed Mr. Préval prime minister.

Haitians called the men the Twins. In voodoo, twins are believed to have an eternal bond and magical powers. And after Mr. Aristide was overthrown by a military coup, Mr. Préval went with him into exile.

When Mr. Aristide was restored to power in 1994, Mr. Préval returned with him. And with Mr. Aristide's blessing a year later, Mr. Préval was elected president a year later.

He was credited with supporting important human rights investigations that led to trials and convictions against high-ranking police and military officers involved in political assassinations.

But his government was crippled by a Parliament dominated by his opponents and meddling by his old ally, Mr. Aristide. And critics said his greatest single achievement was becoming the only president, in a country roiled by a long history of military coups, to finish a full term in office and peacefully turn over power.

Political observers said Mr. Préval, who served as president from 1996 to 2000, was not able to keep many promises during his last term in office.

A slight, unassuming, plain-talking agronomist, Mr. Préval had never been a high achiever before he stumbled into political power in the shadows of the extremely charismatic Mr. Aristide. And until now he had essentially stayed there.

His successor was Mr. Aristide. But by then, aides to Mr. Préval said, relations between the two had been severely strained, and Mr. Préval retired to his father's hometown, near the north coast.

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Then two years ago, another armed uprising, along with pressure by the United States, forced Mr. Aristide from power and pushed Haiti, the hemisphere's poorest country, close to collapse.

Political observers have said Mr. Préval was sought out by the United States and governments leading the United Nations Stabilization Mission struggling to restore order.

"I think Préval wants to show he's his own man, that he can leave his own legacy, and solve some of this country's worst problems," said Mr. Schneider, of the International Crisis Group. "Hopefully his opposition will recognize they don't have an option, for the sake of the country, but to cooperate."

Haitians Patiently Await Final Election Results (CSM)

By Danna Harman

The Christian Science Monitor, February 10, 2006

PORT-AU-PRINCE, HAITI - The streets remained empty Thursday, with shops closed, businesses boarded up, and schools locked: Haiti, as if holding its breath, waited patiently as the ballots continued to trickle in.

Final results from Tuesday's presidential election are expected over the weekend. At press time Thursday, partial returns show that René Préval had a comfortable lead over his 33 opponents - a finding that at least one of his rivals said was not acceptable.

With 9,000 UN troops and 5,000 Haitian police out in full force to maintain security, National Police Chief Mario Andersol warned of the possibility of violence, should candidates feel the vote wasn't going their way. Election day itself, despite massive disorganization, was generally peaceful - giving hope to many here that the entire exercise would be a success.

"We have gotten this far. Let's continue to be calm," begged Rosemond Pradel, secretary general of the Provisional Electoral Council (CEP).

The reason it has taken so long for the votes to be counted, explained Mr. Pradel, was that the ballots were still being ferried - by plane, truck, and even mule - from around the country to the vote tabulation center in Port-au-Prince, often over difficult terrain. Logistical and technical problems have beset Haiti's election, the first since President Jean-Bertrand Aristide was ousted two years ago.

Polling stations across Port-au-Prince - from the Cité Soleil slum to the upscale Petionville suburb - began posting results late Wednesday, most showing Préval with between 60 and 92 percent of the vote. Though Préval's support outside the capital is not as strong, his political adviser Bob Manuel told reporters he felt confident his candidate would win more than 50 percent of the votes nationwide, thus avoiding a run-off and becoming Haiti's next president.

Préval, an ally of Mr. Aristide, has remained secluded all week in his rural hometown of Marmelade and refused to comment on developments.

But candidate Charles Henri Baker, a wealthy businessman who, according to pre-election polling, is Préval's closest opponent, called the elections "a mess" Thursday and saidhis party was collecting evidence of fraud. "Even if you got ink on your finger, it was the kind that washed off on your pants when wet," he said. Pradel dismissed those claims, saying it was the same sort of ink used in all past Haitian elections.

"We have eyewitnesses to voters casting ballots up to eight times by going to different stations," Baker also charged in a phone interview. "This has to be looked into."

International election monitoring groups have said, however, that, despite minor irregularities, there was no credible evidence of widespread fraud. "Having been on the ground in Haiti observing the preparations and the elections, I would say it was a reasonably fair election," Knowlson Gift, Trinidad's Foreign Minister, told The Associated Press.

UN Secretary-General Kofi Annan, meanwhile, congratulated the Haitian people in a statement Wednesday in New York, saying he was pleased that, "compared to previous elections, [this one] ... was remarkably free from violence." The secretary-general appealed to all to respect the official results to be announced by the CEP and said it was "essential that all political and social actors come together in a spirit of national reconciliation and dialogue."

Baker, however, stressed there was "no way" he would consider partaking in a future Préval government. "[Préval's] morality and mine don't mix together. I am an honest person. I believe in the law. So I don't think we will be working together," said Baker, adding: "We will be in bad shape if he becomes president."

Even as the process of counting the votes and evaluating the election stretched on, and fears of future violence weighed down on Haiti, many here tried to begin discussing the next steps for the country.

"We have spent so long talking about ballots and IDs and polling stations - but what about the issues?" asked Maryse Kedar, a former minister under Préval, pointing at what many here have called a "substance-lite" election. "What are the new ideas that have come from this process? How are we going to fix Haiti?"

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"We remain very divided," said Jean-Junior Joseph, a spokesman for interim Prime Minister Gérard Latortue, who stressed that he hopes the elections do not end up adding to that divide. "This country really needs reconciliation and dialogue. That should be our first priority."

Europe's Energy Musketeers Must Stand Together (FT)

By Kazimierz Marcinkiewicz

Financial Times, February 10, 2006

In the past few weeks, European governments have faced growing pressure to fulfil one of their most basic functions as public authorities, namely to secure natural gas supplies for their national markets. Not only the countries of central and eastern Europe but also those in the Mediterranean basin, such as Italy, have been forced increasingly to limit natural gas consumption by their industries. Political ambitions, terrorism and even climatic conditions are now threatening the energy security outlook for most European Union member states as well as other countries.

On January 1, Gazprom, the Russian company, reduced the amount of natural gas transmitted to EU member states via Ukraine's transmission system. Basically, a dispute between third countries directly touched a number of EU members. More recently – due this time perhaps to climate conditions – natural gas supplies again have been limited.

The shortages provided tangible evidence of institutional weakness in European energy security structures. The citizens of affected countries expect effective responses from the EU. But up to now, the relevant governments have been unable to respond adequately because Europe lacks the necessary treaty provisions.

It must be underlined at this point that energy security is a fundamental matter: a cut to energy supplies leads to economic disequilibrium and causes losses across a range of sectors. The governments concerned must protect their citizens and industries against such a scenario. At the same time, we are fully aware that security comes at a price and that it brings its own value.

We cannot remain defenceless nor isolated amid this increasingly threatening situation. The long-term strategic interests of EU member states demand a new initiative. In Europe, there is a widespread feeling that EU countries should act in solidarity: after all, the Union is a vehicle for deeper economic co-operation. Yet, the field of energy security is not within the scope of the EU's competencies. This is a paradox. In 1950, it was precisely in the then-strategically important sector of coal energy that the great process of European integration began, resulting eventually in the European Coal and Steel Community. A few years later, Euratom, the European Atomic Energy Community, was created. The problems of energy security were thus at the very heart of the European integration process. We should remember this heritage.

Up to now, EU activity on the fringes of the energy security problem – for example in the security of natural gas supplies – has been market-related and has served mainly to achieve a single market for natural gas. This was intended to make it more secure. Yet, a difficulty here is in finding bridging solutions aimed at liberalisation of the market, a goal the European Commission rightly promotes, while emphasising the necessity of effective provision of energy security that rests upon EU member governments.

It is the right time, in my view, to suggest a common effort to face not only current but also future challenges. That is why I want to propose to our partners from the EU and the Nato alliance a treaty on energy security. It would be an expression of solidarity for all parties, uniting them in the face of any energy threat provoked by either a cut or a diminution of supply sources that may occur because of natural disasters, disruption of wide distribution and supply systems or political decisions by suppliers.

Such an energy security treaty could follow formulas contained in the 1949 Washington Treaty, an agreement that allowed for effective transatlantic co-operation, or provisions of the modified Treaty of Brussels that established the Western European Union in 1948.

A European energy security treaty along these lines could become a real tool that would give us some badly needed certainty, as well as security in crisis situations. That is why it is essential that the treaty contains a clearly and firmly stated guarantee clause based on the "musketeer principle": "All for one – one for all".

Our president is raising this issue today in Washington and I will shortly present an initiative that expands on this idea. It seems clear that Europe will continue to depend on external energy supplies. I am convinced that the latest – unprecedented – curtailment of natural gas supplies to the EU, in one of the harshest winters of recent years, created a sufficient predicament to encourage bold and firm action. An energy security treaty would give us ways and means to provide stability and security that we all wish for.

The writer is prime minister of Poland

Driving Toward Middle East Nukes In Our S.U.V.'s (NYT)

By Thomas L. Friedman

DOJ_NMG_0014198

The New York Times, February 10, 2006

LONDON

The world stands today at a very dangerous dividing line. It is the dividing line between the post-cold-war world, which we have known since 1989 — one of expanding democracy and free markets — and a post-post-cold-war world, which is unknown but almost certain to be a much less stable, prosperous and benign place.

I believe the questions that will determine whether we enter the post-post-cold-war world will come down to two: how India, China and Russia deal with Iran's nuclear ambitions, and how the West, particularly America, deals with $60-a-barrel oil.

Let me explain: if Iran develops a nuclear bomb, Saudi Arabia, Egypt and possibly other Sunni Arab states are bound to follow. The Sunni Arabs can overlook Israel's bomb, but they will never stand for the Persian Shiites having a bomb and them not. That's about brothers with a centuries-old rivalry. And if the Arab world starts to go nuclear, then you will see the crumbling of the whole global nuclear nonproliferation regime.

A world with so many nuclear powers, particularly in its primary oil-producing region, could only be a more dangerous and unstable place, compared with the post-cold-war world. Imagine Iran with $60-a-barrel oil to make all the mischief it wants, and a nuclear weapon to shield it from any retaliation. Indeed, if you want to know what the post-post-cold-war world would sound like, listen to Iran's poisonous president, Mahmoud Ahmadinejad. He was quoted in The Guardian of London the other day as saying: "Our enemies cannot do a damn thing. We do not need you at all. But you are in need of the Iranian nation."

I'm convinced that the only countries capable of getting Iran to back down — through diplomacy — are China, India and Russia. Europe is too weak, and America has already used every economic sanction it can on Iran. China, India and Russia have been great beneficiaries of the post-cold-war order, and the trade, economic development and exports it has made possible. That order was largely shaped and safeguarded by the United States, with China, India and Russia often getting a free ride.

But that order will continue only if China, India and Russia get over their reluctance to get too close to America and become real stakeholders in maintaining this post-cold-war world.

I want to share power and responsibility with them — starting with the three of them, which represent half of humanity, looking Iran in the eye and telling its leadership that they will join in any and all U.N. sanctions if Iran tries to build an A-bomb. That would get Tehran's attention.

As for America, its leadership task has shifted. If the Bush team continues to let Dick Cheney set its oil policy — one that will keep America dependent on crude oil — the post-cold-war democracy movement that was unleashed by the fall of the Berlin Wall will be either aborted, diluted or reversed. If regimes like those in Iran, Venezuela, Syria, Burma, Sudan and Nigeria have the benefit of 10 years of $60-a-barrel oil, whatever democratic tide President Bush thinks he is unleashing will be stymied. The worst regimes in the world will have the most power to support the most regressive political and religious trends.

I don't approve of the Danish newspaper cartoons mocking the Prophet Muhammad. Yes, you can see much worse in the Arab-Muslim press on any day. But why should the West get into that gutter? What I approve of even less are the blatant efforts to intimidate the world media that have printed these cartoons — an intimidation effort cynically fueled by Iran, Syria and its theocratic allies. What do you think will happen after a few more years of $60-a-barrel oil? You will see a radical arc from Iran to Syria to Hezbollah to Hamas — all financed by Iran — intimidating every moderate in the Muslim world.

A British official recalled for me that in 1946, the British foreign secretary, Ernest Bevin, remarked, "Give me 100,000 tons of coal and I will give you a foreign policy." What he meant was, Give me the energy source to heat the homes and run the businesses of Europe, and I will give you a rebuilt Europe.

Well, I say, Give me even $30-a-barrel oil and I will give you an Iranian regime that is a lot less smug — an Iran that will need to be tied into the world much more in order to create real jobs for its exploding population.

That's why we need an urgent national effort, starting with a gasoline tax, to move the U.S. economy onto a path of more fuel-efficient cars and renewable energy. If we do it, everyone will follow.

If we don't, then say hello to the post-post-cold-war world and say goodbye to the post-cold-war world. It was fun while it lasted.

Planned Economy As China's Trade Clout Grows, So Do Price-Fixing Accusations (WSJ)

By John R. Wilke And Kathy Chen

The Wall Street Journal, February 10, 2006

Ten years ago, China's pharmaceutical firms had a sliver of the world's market for vitamin C. Today, China is the OPEC of vitamin C.

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Chinese manufacturers currently supply more than 85% of the vitamin C used in the U.S. Just like the oil cartel, they can heavily influence world prices. After a 2001 agreement among China's four largest producers, spot prices for vitamin C rose to as high as $9 a kilogram from lows of less than $3.

Cooperation among competitors is illegal in the U.S. when it leads to higher prices for consumers. So far, about half a dozen civil antitrust suits have been filed against Chinese vitamin C manufacturers in various U.S. courts. Federal prosecutors in Texas are reviewing similar allegations, though the Justice Department hasn't yet decided whether or not to pursue criminal charges, people close to the inquiry say.

As China becomes ever more dominant in manufacturing, its ability to dictate the prices of industrial and consumer products is steadily rising. As a result, Chinese manufacturers are increasingly running afoul of Western antitrust law in products from vitamin C to a mineral used in steel production. These legal struggles could become another point of tension in the U.S.-China relationship, which has been tested by disagreements over matters from textile tariffs to the trade deficit.

Chinese companies deny breaking U.S. law and have hired U.S. law firms to mount a defense. The companies are expected to argue they are acting as agents of the Chinese government and therefore aren't subject to antitrust law. A Chinese industry executive says the companies raised prices to stave off accusations they were "dumping," or illegally selling products abroad at below cost to win market share.

There are signs the vitamin C model is migrating to other Chinese exports. In a meeting of Chinese makers of the pain reliever acetaminophen, the companies "fervently indicated their wish to use the example of vitamin C industry self-regulation," according to minutes posted on the group's Web site. Prices subsequently jumped 20%. Chinese makers of saccharin, rayon and magnesite -- a mineral used in steel production -- recently formed similar alliances. Magnesite producers also are being sued in the U.S.

In the case of saccharin, Chinese producers had been accused by the U.S. Commerce Department of dumping. Then in March 2003, five companies formed a "Saccharin Sub-committee" of the China Chamber of Commerce, a quasigovernment body. They declared that low prices no longer made sense now that they had overtaken their U.S. and South Korean rivals.

"Due to disorderly internal competition...various enterprises lost huge profits" and had to pay antidumping duties levied by the U.S., according to minutes of the meeting posted on the group's Web site. The companies agreed to raise export prices and said "self-regulation should continue into 2004 to prevent the mutual slaughtering of aggressive competition."

William Isaacson, a Washington lawyer who filed the first of the civil lawsuits against Chinese producers of vitamin C and magnesite, says these aren't isolated instances. "Once Chinese companies can control a market, this becomes their business model," he contends. His vitamin C case is pending in federal court in Brooklyn, N.Y. The magnesite case was filed in U.S. District Court in Newark, N.J.

American courts have been increasingly willing to claim jurisdiction across international borders in antitrust cases if harm can be shown to U.S. consumers. U.S. companies that use vitamin C include makers of dietary supplements, soft drinks and animal feed.

Monopolies remain active in parts of China's economy, even though price-fixing was formally outlawed in 1998. A sweeping new antimonopoly law is being drafted in Beijing. Its adoption has been slowed by squabbling among Chinese government agencies forced to give up the ability to set prices. It isn't clear if the new law would bar price collusion in the vitamin market.

China's state-run pharmaceutical companies began making vitamin C in 1958 catering to domestic demand. In the late 1970s, Chinese government researchers found a way to speed up the basic production process, which is done by fermenting ascorbic acid. Chinese companies then could make vitamin C in two steps rather than five, as was common in the West.

Looking Abroad

Vitamin C, thus, was among the first Western drugs for which China developed its own intellectual property and a clear cost advantage over foreign rivals. With its new technology, Chinese producers began to look for sales abroad. The promise of export profits attracted new producers. Production lines multiplied and volume soared.

Northeast Pharmaceutical Group Co. was one of the first to begin exporting. Based in the gritty industrial city of Shenyang, 800 miles northeast of Beijing, Northeast is among the biggest Chinese vitamin C producers and boasts that it is one of China's best-known pharmaceutical brands. It employs 8,000 workers making products from antibiotics to the AIDS drug AZT. Vitamin C is its best seller, with more than 15,000 tons a year under production.

China's vitamin makers got a big break in 1997, thanks to an earlier antitrust dispute. After a long investigation, the U.S. Justice Department accused European and Japanese companies of price-fixing in a dozen vitamins, including vitamin C. It became the largest-ever criminal antitrust case, resulting in nearly $1 billion in government fines and several jail terms for executives.

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With the European-Japanese cartel broken, Chinese companies flooded the market with low-price vitamin C, forcing plant closings and consolidation among European and Japanese firms. Chinese companies, who previously had been overshadowed by their bigger rivals, quickly captured much of the world market.

Prices fell sharply from the high of $12 a kilo established by the European and Japanese cartel members in 1996. By late 2001, competition pushed prices down to $2.80 a kilo. (A kilogram equals 2.2 pounds.)

People familiar with the matter say China's vitamin C makers were told at that time by the Chinese government to deal with Western complaints about price dumping. They say the companies took that to mean they should coordinate to raise prices.

Ma Xiaoye, director of independent think tank Shanghai Academy for World Watch and a former Chinese trade official, says the government routinely encourages Chinese companies to "coordinate" to avoid price wars that often spark antidumping charges, a practice he says is legal. He says these requests aren't binding and that the groups don't usually set specific prices.

Mr. Ma says these efforts often don't result in any agreement. "Vitamin C was an exception, because there are only a few companies," Mr. Ma says. "It was easier" for them to agree on an approach.

In November 2001, the four largest Chinese producers formed the Vitamin C Chapter of the China Chamber of Commerce of Medicines & Health Products Importers & Exporters. On its Chinese-language Web site, the chapter announced a "self-discipline agreement...to stabilize and raise export prices."

Soon after, spot prices for vitamin C shot up to as high as $7 a kilo. By 2003, rising demand and supply shortages pushed the price higher.

Guan Ningyun, legal director of the China Chamber of Commerce of Medicines & Health Products Importers & Exporters denies the group sets prices, saying in an interview that "it's the market force that pushes prices up."

The rise enticed a few Chinese producers to grab market share by cutting their prices, according to the U.S. civil suits. U.S. import data show a noticeable price dip in mid-2003.

In November, the Vitamin C trade group held an "emergency meeting" in which members again agreed not to cut prices, according to allegations in the U.S. civil suits. Spot prices rose to as high as $9 a kilo by the end of December. As U.S. lawyers readied lawsuits at the end of 2004, prices again drifted downward. It also is possible that some Chinese producers were backsliding on their promises. In recent months, as antitrust scrutiny increased, U.S. prices have fallen to as low as $3.80 a kilo.

Bulk purchasers of vitamin C in the U.S. were buffeted by the price swings. "We were paying about $4 a kilo, then within a year it was $8," says Bradley Reynolds, a vice president at Animal Science Products Inc., Nacogdoches, Texas, who says the higher costs hurt profits. The family-owned, feed-supplement company blends vitamins for customers from catfish farmers to pet-food makers.

Mr. Reynolds's family firm is a lead plaintiff in one of the civil lawsuits against the Chinese vitamin C makers. It was among the U.S. businesses that won damages in the European vitamin case. Though he won't divulge the amount, Mr. Reynolds says, "it wasn't near as much as they stole."

Livestock feed accounts for about 10% of U.S. vitamin C consumption. About a third goes to food and beverage makers, where it is used as a preservative as well as a nutrient. The rest is used in pharmaceuticals and diet supplements.

The proliferation of private antitrust suits against Chinese companies has brought teams of U.S. lawyers to China seeking to defend them. Attorneys looking to defend Chinese magnesite producers recently took part in a bake-off in Beijing. The first round included 30-minute pitches in an auditorium at the China Chamber of Commerce of Metals, Minerals & Chemicals. In later meetings, held in ornate ceremonial rooms over rounds of steaming chrysanthemum tea, lawyers made individual presentations about their defense strategy.

The Chinese executives rarely spoke, the U.S. participants say, but appeared to understand every word. Their Chinese lawyers quizzed the U.S. attorneys closely about U.S. law and cited the latest cases and law-review articles. A similar competition was held for law firms seeking to represent Chinese vitamin C manufacturers.

Some attorneys maintain that antitrust law still is largely an alien concept for Chinese companies. "China today is where Japan or [South] Korea were a decade ago -- they don't fully appreciate the seriousness of these lawsuits and possible criminal investigations," says Kirby Behre, a Washington, D.C., lawyer with Paul, Hastings Janofsky & Walker LLP, which has numerous clients in China.

James Serota, an attorney with Greenberg Traurig LLP in New York, who is representing Northeast Pharmaceutical, declines to comment, citing the pending civil cases. Other vitamin C makers who have been sued decline to comment. In the past, many have said they have done nothing wrong. North China Pharmaceutical Group Ltd. called the suits "groundless" in reports carried by Xinhua, the official China news agency, in June. In Xinhua reports, Shijiazhuang Pharmaceutical Group Ltd. said the suits were "deliberately provocative."

One Possible Defense

DOJ_NMG_0014201

A recent court filing by Northeast Pharmaceutical in a Massachusetts state court signals one possible defense. The filing says Northeast is "supervised and directed" by the Shenyang municipal government and should be treated by U.S. courts as an "agent or instrumentality" of the People's Republic of China.

Under international law, sovereign nations are immune from antitrust enforcement by another country. That is why lawsuits against the Organization of Petroleum Exporting Countries are routinely dismissed. Although they have a number of different shareholders, the vitamin C makers are overseen by state officials and a majority of their stock is still held by government groups, according to Northeast's court filing.

It isn't clear how close these ties remain. A high-level official in the local government office that oversees North China Pharmaceutical says the government no longer "interferes" in management. "We don't help set prices, that concept is 20 or 30 years old," says the official. "They do what it takes to earn money."

Plaintiffs' lawyers are expected to challenge the immunity defense on the grounds that it doesn't apply to companies indirectly owned by the state or state-owned companies that engage in purely commercial activity.

China's chambers of commerce could be major figures in the cases. Many of the price agreements were set up under their auspices. These days, the chambers awkwardly combine their old role in China's centrally planned economy, in which they set prices and market standards, with their new one as champion of the country's newly privatized businesses. In some ways, they symbolize the learning process the country is undergoing as it becomes a key player in global trade.

"China's chamber of commerce has two personalities," says Wang Ming, deputy dean of School of Public Policy & Management at Tsinghua University.

U.S. trial lawyers are examining other Chinese industries for evidence of price fixing. Two of the firms that filed cases against Chinese vitamin C makers -- Boies Schiller & Flexner LLP, and Cohen, Milstein Hausfeld & Toll PLLC -- earlier won settlements of $1.2 billion for U.S. businesses overcharged by the European vitamin cartel. They included drug giant Abbott Laboratories and cereal maker General Mills Inc.

The team of prosecutors and FBI agents looking into Chinese vitamin C is the same one responsible for breaking up the European vitamin cartel. But criminal price-fixing cases are extraordinarily difficult to prove. Witnesses and evidence are often beyond the reach of investigators. This case, in particular, would be fraught with political and economic complications.

"These civil suits are probably going to go forward," predicts Mr. Behre, the Paul, Hastings lawyer. "But whether or not the government decides to bring a criminal case becomes a political question."

Mr. Reynolds, the Texas feed-supplement maker, doesn't think it's all that complicated. "If China is going to be a world player, they've got to play by the rules."

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From: Miller, Charles S
Sent: Friday, February 10, 2006 11:18 AM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 2/10/06 Civil Division News

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Indian Country Today

February 10, 2006

Interior ordered to pay *Cobell* lawyers

by: David Melmer / Indian Country Today

WASHINGTON - The Department of the Interior was ordered by the U.S. District Court to pay attorneys' fees and expenses that have accumulated in the ongoing *Cobell v. Norton* case.

The total amount ordered paid by U.S. District Judge Royce Lamberth is more than $7 million. That money will come out of BIA and Interior accounts, and will affect tribal programs.

On Jan. 26, Interior Associate Deputy Secretary James Cason sent a letter to tribes notifying them that the court-mandated legal fee payment sent to *Cobell* attorneys on Jan. 18 would adversely affect tribal programs. He detailed where the $7 million would come from to forewarn them that some of their expectations may not be met this year.

The largest impact will be in the area of historical accounting, with a contribution of $2 million. That department, which focuses on identifying the rightful owners of special deposit accounts, was chosen because it would not be as difficult to move the work to a later and more protracted timeline.

"It's a matter of do we get them done this year or next year," Cason said.

Tribal attorneys who expect payment for work they have done for the Interior or BIA on water rights, boundary disputes or other issues may not be paid this year, Cason said. Most of that work is performed by the Justice Department, but from time to time tribal attorneys are asked to step in.

In numerous cases such as this, lawyers would do a lot of background work to make sure attorneys' fees would not be reimbursed out of tribal funds, John Dossett, general counsel for the National Congress of American Indians, said.

"In this case, none of that was done. I don't see [where] that happened. Tribes are concerned that money will come out of tribal programs, and it's clearly not what that fund is for," Dossett said.

Sen. Tim Johnson, D-S.D. and member of the Senate Committee on Indian Affairs, wrote in a response to Cason's letter: "I understand the Court's Order disturbed funding expectations; however, the inflammatory letter sent was an entirely unnecessary and inappropriate attempt to undermine the relationship between tribes and tribal members involved in the *Cobell v. Norton* case. It is my sincere hope that the Department revisits this decision and finds an adequate solution that fulfills its obligations to the first Americans."

NCAI President Joe Garcia called for a fair settlement to be negotiated soon and in good faith. During the annual State of the Indian Nations address on Jan. 30, Garcia said the decision to take funds from the BIA budget to comply with court orders to pay attorneys' fees "impedes our progress as tribal governments on nearly all other issues."

"Every year, the BIA budget gets cut. Every year we see somewhere from $100 million to $150 million taken out and moved over to Office of Special Trustee; that's a bigger concern. This issue of reimbursement of attorneys' fees is much smaller."

The majority of funds that will be paid to the *Cobell* attorneys will not come out of tribal programs. Cason said education and law enforcement are exempted.

"One of the problems the critics have not embraced is where you take the money from," Cason said, noting that there wasn't any money lying around that wasn't in use and that the department had to abide by the court order.

A 0.1 percent levy, which will generate $1 million, was imposed on most programs, including central office operations and tribal operations. In each case, the levy was small and broad-based, Cason said.

"We tried to spread the millions out so no one particular program took a big hit," Cason said.

"My advice to tribal leaders is, be careful. The financial environment has changed."

Some tribes will have an allocation reduced by $100. Cason said if that tribe works on a very slim margin, it would have a greater impact.

The BIA contributed $3 million to the attorneys' fee account, with $2 million of that coming from an account that would reimburse tribal attorneys and the other $1 million from the 0.1 percent levy.

The Cobell plaintiffs referred to the levy and fund distribution as a "cruel effort to inflict more pain on the victims of the government's long-acknowledged misbehavior." They claim the funds used to pay attorneys' fees come from areas that are designed to "punish Native Americans."

"Now that we have secured the rights to this accounting, and now that the government must pay the costs of that accounting, the Interior Department is planning to loot Indian accounts once again to cover up its misdeeds," said Eloise Cobell, lead plaintiff in the class action lawsuit.

The suit was filed nearly 10 years ago in an attempt to hold the government accountable and reconcile Individual Indian Money trust accounts for lease, royalties and other payments due tribal land owners. Cobell has stated that some $300 billion is at stake.

The Office of Special Trustee contributed $300,000 of funds that were planned for trust improvement activities; the Department of Treasury, another $2 million.

Cobell said the government could have found funds elsewhere to pay these legal fees. "They don't have to make Indians pay because they lost in court," she said.

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The government, by its own admission, has spent some $100 million defending this lawsuit. Cobell said the fees and expenses were planned and the plaintiffs made it clear two years ago they would be seeking the legal fees.

"It's an interesting irony; when we pay, they claim we are divisive and terrible," Cason said of Cobell's criticism.

"If they are so concerned about the money they should say, 'We don't want programs to be hurt, so don't pay this.' If there was some magical pot of money somewhere - I don't know where it is," Cason said.

The *Cobell* plaintiffs continue to claim the government cannot win this drawn-out litigation. A settlement compromise has been placed on the table for reimbursement to the IIM account-holders for $27.5 billion. That figure is disputed by the government. The Senate Indian Affairs Committee has held hearings on proposed legislation that will settle the lawsuit, but failed to include monetary funds in the legislation.

"There are side effects of the litigation. I think the tribes have been supportive, but as time goes by there are side effects to the budget," Dossett said.

A group of tribal leaders, in a recent meeting in Bismarck, N.D., offered another possible settlement figure that ranges from $13 to $27.5 billion.

"I have never seen a more blatant and transparent attempt to politicize this case in order to divide and conquer Indian country," Cobell said.

"The funds that were cut serve the nation's poorest peoples and we should do everything that we can to maintain and increase program funding for Indian Country, not cut funding," Johnson said. "There are clearly better alternatives than cutting program funding, and I am willing to pursue solutions at the legislative level that do not involve politicizing the *Cobell* litigation."

The amount to be taken from tribal programs will not have as much impact as the most recent budget submitted by President Bush, which cuts the BIA by $65 million.

Distribution of attorneys' fees:

* Dennis Gingold, lead plaintiff attorney: $2 million

* Thaddeus Holt: $491,000

* Mark Brown: $80,000

* Kilpatrick Stockton: $406,097

* Native American Rights Fund: $1.5 million

* Geoffrey Rempel: $40,000

* Stacy Gingold Bear: $8,000

Expenses related to the lawsuit:

* Price Waterhouse Coopers: $2.5 million

* Thaddeus Holt: $350

Total fees and expenses:

$7,066,471

END

CattleNetwork.com

2/9/06

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R-CALF: Litigation Against USDA Moves Toward Final Decision

(Billings, Mont.) – In its ongoing effort to maintain adequate import protections against the introduction of foreign animal diseases, R-CALF USA on Tuesday filed arguments with the U.S. District Court – District of Montana to support its request for oral arguments on, and full consideration of, its motion for summary judgment in the organization's litigation against USDA, specifically with regard to the agency's "BSE: Minimal Risk Regions and Importation of Commodities" rule (Final Rule).

"At this point, our case is fully briefed, and we must now wait for the District Court to review all the facts in this case and issue a decision on whether a final hearing will be held," explained R-CALF USA President Chuck Kiker. "We remain confident in our science and in our position and look forward to the Court's decision.

"USDA continues to make statements that stand in direct contradiction to the facts in the case, and, in our latest filing, we describe the surreal nature of USDA's BSE management – that is, the agency's pattern of making assertions based on limited or no evidence, and then sticking with those assertions, even in the face of solid evidence that proves USDA's assertions were incorrect," Kiker said. "For example, USDA continues to claim the Canadian ban on feeding ruminant protein to cattle is effective, even after another cow with BSE was detected just last month – a cow born 32 months after the implementation of Canada's feed ban.

"This is particularly surprising given that, in late 2004, USDA's own analysis of the risk of allowing imports from Canada relied on the fact that up until then, the BSE cases discovered among Canadian-born cattle were all in cattle that matured before Canada implemented its feed ban," Kiker pointed out. "USDA's risk analysis said if infected cattle had been born after the feed ban, that kind of situation would be evidence the ban is not effective in preventing the spread of BSE – but, USDA apparently has forgotten that conclusion in the face of just such evidence from the latest two BSE cases in Canada.

"USDA claims the prevalence of BSE in Canada is low, and even decreasing, despite the fact that Canada is detecting diseased cattle at a rate of about one case for every 20,000 head tested," said R-CALF USA CEO Bill Bullard. "Also, the age of diseased cattle in Canada is becoming younger, indicating a growing BSE problem, not a decreasing one.

"USDA claims its Final Rule ensures that no diseased cattle can enter the United States from Canada, while simultaneously, the agency is assisting the Canadian government in a search for the offspring of this latest diseased cow –all of which are under 30 months of age and therefore eligible for export to the United States," Bullard continued.

"In addition to USDA, the Canadian government, the American Meat Institute (AMI) and the National Meat Association (NMA) – joined by the Canadian and Alberta cattle associations – have filed motions in a desperate effort to discourage the District Court from conducting a thorough probe and in-depth review of the agency's Final Rule," Bullard noted.

R-CALF USA filed an objection to these third-party efforts to prevent U.S. cattlemen's concerns from being heard.

"The previous decision in this case dealt with the issue of a preliminary injunction, which was just that – preliminary," said Bullard. "The preliminary injunction does not resolve the case on the merits, and that's why R-CALF has asked the District Court to schedule a hearing in this matter. And now that all the written facts are before the District Court, a final hearing will provide the court the opportunity to consider, and issue a final decision on, the full merits of our case."

R-CALF is confident the events that have unfolded since the adverse decision last July by the U.S. 9th Circuit Court of Appeals – including the Food and Drug Administration's proposal to make needed improvements to the feed ban, USDA's abandonment of an age restriction for importing Japanese beef, reports from the Office of Inspector General that criticize USDA's management of BSE mitigation measures, as well as the discovery of a BSE-positive Canadian cow born years after the Canadian feed ban – all reinforce what R-CALF USA has said all along: USDA's Final Rule is premature, and additional, more stringent measures are needed before the United States should consider a relaxation of import restrictions for countries with ongoing BSE problems.

"We remain deeply concerned with USDA's stubborn refusal to respond to facts that demonstrate the inaccuracy of the agency's assumptions when it comes to protecting the U.S. cattle industry and U.S. consumers from BSE," Kiker emphasized.

END

Toronto Globe and Mail

February 10, 2006

RIM says 'work around' is free of patent risk

SIMON AVERY AND BARRIE MCKENNA

Research In Motion Ltd. says any worries U.S. customers have about the company's legal dispute with NTP Inc. can be overcome with a few clicks of the mouse.

With a judge scheduled in just two weeks to consider a shutdown of BlackBerry service in the United States, RIM said yesterday that it is in the final stages of preparing a new wireless e-mail system that will work around NTP patents.

Investors reacted positively, but legal and technical experts had mixed opinions as to what the strategy means for RIM, which last year failed to overturn on appeal a judgment that it infringed on NTP's technology.

Waterloo, Ont.-based RIM said the contingency involves special software that will circumvent the patent claims at the centre of the five year-old legal fight with Virginia-based NTP.

While the modification will require customers to download new software to their BlackBerrys, and corporate IT managers to upgrade the software on their BlackBerry servers, the workaround won't change the way the devices are used or administered, RIM said.

"RIM's workaround provides a contingency for our customers and partners and a counterbalance to NTP's threats. This will hopefully lead to more reasonable negotiations since NTP risks losing all future if the workaround is implemented." Jim Balsillie, RIM's chairman and co-chief executive officer, said in a news release.

The company, which first mentioned last November that it was developing a workaround, continued to give sketchy details. RIM said the system has "required substantial R&D effort" and the company has obtained a confidential opinion from "one of the world's largest law firms" that its new software will not infringe on any of the contested patents.

Lawyers for NTP expressed skepticism that RIM has found a way around a BlackBerry shutdown because it hasn't provided full technical details. "There's no new news here," said Kevin Anderson, an NTP lawyer. "This is the same thing they've been saying for months. Where's the beef?"

Andrew Seybold, an early consultant to RIM and president of Outlook 4Mobility, a consultancy and publishing firm, said the new system will likely keep e-mails flowing without users seeing a big difference. But behind the scenes, the new system will be moving e-mail traffic slightly differently.

"Talking theoretically, it means that maybe mail delivery will be a little slower. But it appears to me that the workaround will keep customers up and running," he said. "What I think it does more importantly is it gives [RIM] a stronger position to go back to the NTP folks and come up with a settlement."

A $450-million (U.S.) settlement announced last March fell apart in June. Since then the two sides appear to have made no material progress in talks, even though a court magistrate remains involved in the process. U.S. District Court Judge James Spencer has scheduled a hearing on injunctive relief and damages on Feb. 24.

The timing means the judge may issue a decision before the U.S. Patent and Trademark Office completes a re-examination of NTP's contested patents. The PTO has already rejected all of them on preliminary review.

RIM's workaround buys the company some time, increases its bargaining leverage with NTP, and may ease concerns among nervous customers, said law professor Martin Adelman, director of the intellectual property law program at George Washington University.

RIM's insistence that it can keep the BlackBerry service running with a workaround may actually increase the chances that Judge Spencer will grant NTP's request for an injunction, he said.

The U.S. Department of Justice has weighed in on the case, saying the BlackBerry is an essential communications device for parts of government and necessary for national security. That assertion puts added pressure on Judge Spencer. RIM's modification "would get him off the hook," Mr. Adelman said.

NTP is likely to challenge the legality of RIM's software fix, alleging that the changes also violate its patents.

Mike Abramsky, an analyst at RBC Dominion Securities Inc., said a workaround would be "risky" for RIM. The company risks introducing glitches to its highly reputable system and prolonging uncertainty that could help major rivals like Microsoft Corp., he said.

"The legal merits of the workaround will be challenged by NTP," said Rob Sanderson, an analyst with American Technology Research. "This could mean the legal battle continues for an extended period, perhaps years."

"The workaround seems to require users to incur a significant penalty for a less optimal service," said Brian Modoff, an analyst with Deutsche Bank Securities Inc.

RIM shares closed up $1.07 to $79.72 on the Toronto Stock Exchange.

END

CBS News

Feb. 9, 2006

Billions Wasted In Iraq?

(CBS) Some $8.8 billion dispersed for reconstruction efforts in Iraq is unaccounted for, says the U.S. official in charge of tracing it.

For a report to be broadcast this Sunday, Feb. 12, at 7 p.m. ET/PT,
60 Minutes correspondent Steve Kroft investigates the billions spent on reconstruction-related work, particularly money paid to a contractor, Custer Battles, now being sued for fraud.

Stuart Bowen, special inspector general for Iraq reconstruction, says $8.8 billion is unaccounted for because oversight on the part of the Coalition Provisional Authority, the entity governing Iraq after the war, "was relatively nonexistent."

The former number two man at the Coalition's transportation ministry, Frank Willis, concurs. "I would describe [the accounting system] as nonexistent." Without a financial infrastructure, checks and money transfers were not possible, so the Coalition kept billions in cash to pay for its multitude of projects. "Fresh, new, crisp, unspent, just-printed $100 bills. It was the Wild West," says Willis.

Such an atmosphere made it possible for billions to go missing and companies to defraud the Coalition. Custer Battles, a company quickly formed after the war to get reconstruction contracts, goes on trial next week, accused in a whistleblower suit by an ex-employee of bilking the U.S. government out of $50 million.

"[Custer Battles] wanted to open fraudulent companies overseas and inflate their invoices to the U.S. government," says the ex-employee, Robert Isakson. He says he refused to go along with the scheme and "two weeks later, apparently I heard they began exactly the fraud they described to me," he tells Kroft.

Willis remembers Custer Battles, which was formed by former Army Ranger Scott Custer and a failed congressional candidate, Mike Battles, who claimed to be active in the Republican party and have connections to the White House. "They came in with a can-do attitude, whether they could or not," he says. "They were not experienced. They didn't know what they were doing," says Willis.

They nevertheless got contracts and their work quickly drew complaints. "They failed miserably," says Col. Richard Ballard of a $16.8 million contract Custer Battles got to secure the Baghdad Airport. Col. Ballard, the inspector general for the Army in Iraq at the time, says the company failed to provide the X-ray equipment required by the contract.

"These were multi-million-dollar devices for which they received a considerable cash advance so that they could procure them, and then they never procured this equipment," says Col. Ballard. On a bomb-sniffing dog and trainer Custer Battles did procure, Col. Ballard says, "I think it was a guy and his pet, to be honest with you," he tells Kroft. The Colonel noted that the dog "would refuse to sniff the vehicles."

In a memo obtained by *60 Minutes*, the airport's director of security wrote to the Coalition: "Custer Battles has shown themselves to be unresponsive, uncooperative, incompetent, deceitful, manipulative and war profiteers. Other than that, they are swell fellows."

Instead of removing Custer Battles, the Coalition praised them and continued to give them contracts. One of those contracts involved procuring trucks for moving cash around the country – some of which were inoperative and had to be delivered via tow truck. "I don't really know [how they got away with it]," says British Col. Philip Wilkinson, to whom the trucks were delivered. "The assumption that we had was that they had to have high political top cover...," Col. Wilkinson tells Kroft.

Custer and Battles are now under federal investigation and declined to be interviewed. But in taped depositions, they disavowed any knowledge of fraudulent invoices outlined in the lawsuit.

END

NorthJersey.com

Friday, February 10, 2006

Feds put lid on bogus olive oil

By AMY KLEIN
STAFF WRITER

Federal agents who raided a Clifton warehouse Thursday weren't looking for the typical heroin mill or pile of laundered money.

They were after a more slippery stash.

The agents seized about 22,700 gallons of oil after the Food and Drug Administration found that the Hermes and San Giovanni brands had been substituting soybean oil for some of their extra virgin and pomace olive oil.

Olive oil is approximately five or six times more expensive than soybean oil, according to the FDA, which estimated the profit of the swap at $105,600.

"We will not permit New Jersey consumers to be defrauded," said U.S. Attorney Christopher J. Christie. "We should all have confidence that the products we purchase are what they purport to be."

The labels on the 3-liter tins of oil in 4,855 cases represented that each contained extra virgin olive oil or pomace olive oil, when in fact the tins contained quantities of soybean oil or a similar substance, federal authorities said.

In addition, the Hermes label states that its oil was imported from Greece, while a federal seizure warrant states it was packed in Italy, they said.

The oil will remain at the warehouse, belonging to Quivican Trucking Corp. on River Road in Clifton, while the U.S. Attorney's Office seeks a court order to have it destroyed.

"We're working with the company to rectify the situation," said FDA spokeswoman Cathy McDermott. "The FDA and Department of Justice will be working with the company to bring it to closure."

Prior to the seizure by U.S. marshals, the oil had been held at the warehouse under a state-ordered embargo that was requested by the FDA, McDermott said.

According to several online stores, a three-liter tin of Hermes extra virgin olive oil sells for about $17.

Hermes is owned and distributed by Krinos Foods, which is headquartered in Long Island City, N.Y. San Giovanni olive oil is distributed by DMK Marketing, LLC, based in East Moriches, N.Y.

It's not the first time Krinos Foods has been accused of adulterating its olive oil. In 1997, a similar seizure warrant was filed in New York for more than 1,700 cases of Hermes olive oil that had been mislabeled. The president of Krinos did not return calls for comment Thursday.

McDermott said the FDA learned about Krinos' latest apparent attempt to substitute another oil in its Hermes brand from a media report that exposed the alleged fraud.

END

Harvard Crimson

Published On Friday, February 10, 2006 5:12 AM

'Tawdry Shleifer Affair' Stokes Faculty Anger Toward Summers

By NICHOLAS M. CIARELLI and ANTON S. TROIANOVSKI

Crimson Staff Writers

Six months after the University paid $26.5 million to settle a government lawsuit implicating Harvard economist Andrei Shleifer, controversy over the case has erupted anew and fed the Faculty's current uprising against Shleifer's close friend, University President Lawrence H. Summers.

"I've been a member of this Faculty for over 45 years, and I am no longer easily shocked," is how Frederick H. Abernathy, the McKay professor of mechanical engineering, began his biting comments about the Shleifer case at Tuesday's fiery Faculty meeting.

But, Abernathy continued, "I was deeply shocked and disappointed by the actions of this University" in the Shleifer affair, which was detailed in a lengthy magazine article that jolted many professors out of their reading period slumber last month.

Shleifer, the Jones professor of economics, was found liable by a federal court in 2004 for conspiracy to defraud the U.S. government while leading a Harvard economic reform program in Russia as it transitioned to capitalism in the 1990s. Shleifer settled the case for $2 million.

The article, in the January issue of Institutional Investor magazine, suggests that Shleifer's relationship with Summers shielded the professor from the consequences of the scandal while at Harvard.

At Tuesday's meeting, many professors let out murmurs of disbelief when Summers said he was not sufficiently familiar with the facts of the case to comment on it.

"I have taken no role in Harvard's activities in the courts, nor...familiarized myself with the facts of the situation," Summers told Abernathy.

"Do you have no opinion of this situation?" Abernathy queried in response, having already stepped away from the microphone.

"I am not knowledgeable of the facts and circumstances to be able to express an opinion as a consequence of my recusal," Summers said, eliciting more murmurs from the audience.

'THERE MIGHT BE A SCANDAL'

The 18,000-word article, "How Harvard Lost Russia," by investigative journalist David McClintick '62, is a copious narrative of the activities of the Harvard Institute for International Development (HIID) in advising the Russian government while supported by funding from the State Department's Agency for International Development (AID).

Federal prosecutors have charged that Shleifer and his wife, hedge fund manager Nancy Zimmerman, violated State Department conflict-of-interest restrictions by investing in Russia beginning in 1994.

The U.S. government filed an 11-count lawsuit in September 2000 against the University, Shleifer, Zimmerman, former Harvard employee Jonathan Hay, and Hay's wife Elizabeth Hebert.

McClintick's article alleges that Summers knew that Shleifer and Zimmerman had been investing in Russia, but not that Summers knew specific details of the investments.

In an e-mail last night, Summers' spokesman reiterated the stance the president took at the Faculty meeting Tuesday, insisting that Summers could not comment because of his recusal.

"The president's position is that without specific knowledge of the arguments in evidence offered in the litigation from which he was recused, he is not in a position to comment on the matter," the spokesman, John D. Longbrake, wrote.

But in an August 1996 scene recounted in McClintick's article, Summers, then the deputy secretary of the Treasury, told the couple it would be "a good idea for Andrei to make sure he was operating within the rules of whatever legal arrangements he had with Harvard." Summers told Zimmerman she "should just think hard" about her activities, the story reported.

"There might be a scandal, and you could become embroiled," Summers told Zimmerman, according to the article. "The world's a shitty place."

'UNTHINKABLE'

Years later, after Summers became University president in 2001, he "was concerned to make sure that Professor Shleifer remained at Harvard" and expressed as much to then-Dean of the Faculty Jeremy R. Knowles, Summers testified in a 2002 deposition quoted in the article. Knowles later elevated Shleifer to an endowed professorship.

On June 28, 2004, a U.S. district court found Shleifer liable for conspiracy to defraud the U.S. government, and concluded that Harvard had breached its contract with the government. Under the settlement, announced in August, neither the University nor Shleifer admitted any liability.

But as became apparent at Tuesday's meeting, a number of professors remain unconvinced that Summers'—and Harvard's—hands are clean.

"The outcome of the tawdry Shleifer affair...would have been unthinkable—unthinkable—during the last two presidencies, but is all too characteristic of the present malaise," Agassiz Professor of Zoology Farish A. Jenkins Jr. told Summers at the meeting.

Abernathy said yesterday that he was not satisfied with Summers' response that he knew too little about the matter to comment on it.

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“I’m sure he’s more familiar with the facts than I am or you are,” Abernathy said. “I would have been very pleased had President Summers said that it was a sorry event in Harvard’s history but it’s behind us, and I have recused myself from it, and I’m not going to make any comments one way or the other.”

One of Shleifer’s colleagues, Professor of Economics David I. Laibson, yesterday expressed his department’s support for one of its stars.

“By any measure, he is on a Nobel Prize winning trajectory,” Laibson wrote in an e-mail. “We are very lucky to have Shleifer as a colleague. And that view is shared by everyone in our department.”

Shleifer yesterday declined to comment on McClintick’s article or on the meeting.

“I wasn’t there and I don’t have anything to say,” he wrote in an e-mail.

‘IS IT TRUE?’

McClintick, a former investigative reporter for The Wall Street Journal and the author of three books, said in a telephone interview last night that his research, which included two trips to Russia and a close reading of the “very revealing” court record, had helped shed light on the Shleifer affair by presenting a detailed account of the whole matter in a single article.

But until the story’s publication, many professors were wary of discussing the matter.

“There is a good deal of pent-up concern about this on the Harvard Faculty, but many Harvard Faculty members have been reluctant to speak out,” McClintick said. “Most of the conversations I had [with faculty] were away from Harvard Square, away from Cambridge, in people’s homes late at night.”

Now, thanks to McClintick’s article, the Shleifer matter is getting broader attention from observers.

“A number of people have contacted and asked me about [the article],” said Harry R. Lewis ’68, the McKay professor of computer science. “People I haven’t heard from in years...have called me up and said, ‘Is it true?’”

Lewis is writing a book about Harvard, which claims, in a passage quoted in McClintick’s piece, that the “relativism with which Harvard has dealt with the Shleifer case undermines Harvard’s moral authority over its students.”

Shleifer, meanwhile, remains a senior Faculty member with a coveted endowed professorship. Yet some Faculty members speculate that Harvard has pursued or is considering disciplinary action against him.

The group of professors that usually investigates complaints against Faculty members, the Committee on Professional Conduct, operates confidentially. But Abernathy said yesterday that outgoing Dean of the Faculty William C. Kirby told him that the committee may be examining the Shleifer case.

“Kirby said to me such things are normally heard by [the committee],” Abernathy said. “But his remark was noncommittal.”

Kirby’s spokesman, Robert Mitchell, declined to comment on that possibility, citing Faculty policy.

Yet even as much of the controversy surrounding the Shleifer affair centers on circumstantial evidence and speculation, it has provided ammunition for some of Summers’ most vocal critics.

J. Lorand Matory ’82, professor of anthropology and of African and African American studies, called Summers’ responses at the Faculty meeting to queries about the Shleifer matter “nothing short of disgusting.”

“He cares so little for Harvard’s name and Harvard’s mission to do good in the world,” Matory said of Summers. “I have come to the conclusion that he does not reason in the same way that most humans reason.”

END

Downtown Express (Manhattan)

Feb. 9, 2006

Federal judge ‘shocked’ by E.P.A. statements

By Ronda Kaysen

The activists who have been fighting the Environmental Protection Agency ever since Christine Todd Whitman told Downtown residents and workers after 9/11 that the air in their neighborhood was safe to breathe and they should come home and breathe it — despite a lack of evidence — finally had their day in court. But the victory, the first in a long line of setbacks, was bittersweet.

Last week, Judge Deborah A. Batts said Whitman, who was head of the E.P.A. at the time, used "conscience shocking" judgment when she assured people the air in Lower Manhattan was safe. The judge stripped the former New Jersey governor of her immunity in a class action lawsuit brought against her and the E.P.A. on behalf of Downtown residents and students who claim they were harmed by toxins from the dust. Batts, in ruling against the agency, singled Whitman out for a series of misleading statements she continued to make in the weeks after the attacks.

"No reasonable person would have thought that telling thousands of people that it was safe to return to Lower Manhattan, while knowing that such return could pose long-term health risks and other dire consequences, was conduct sanctioned by our laws," Batts wrote. "Whitman's deliberate and misleading statements made to the press… shocks the conscience."

Her ruling lays the groundwork for residents to sue both the E.P.A. and Whitman to force the agency to test Lower Manhattan, Brooklyn and New Jersey homes and offices, clean any remaining dust and debris, and fund a medical monitoring program.

Last week the coalition of residents, workers and elected officials celebrated a rare victory in a struggle that has been marred by repeated setbacks in the years since the incineration of the Trade Towers wreaked havoc on their neighborhood. Even in victory, the group was weary and apprehensive that anything positive might come of the recent decision.

"It is extremely frustrating, even outrageous, that we are here, once again, as a group," said Senator Hillary Clinton, speaking at a press conference after the ruling last week. "We didn't have a lot of tools at our disposal. Trying to persuade the White House and this administration to act in the best interests of Americans is a lonely, almost impossible task."

The senator's frustration was echoed by the plaintiffs on the case and other residents who have spent the last four and a half years struggling with little success to get the E.P.A. to clean Lower Manhattan.

"It's sort of a mix of sorrow and triumph," said Jo Polett, a plaintiff on the case. "It is a very sad thing that citizens have to sue their government to get them to do the right thing."

Although the ruling is a vindication for residents who have described their struggle with the E.P.A. as akin to shouting into an empty barrel, it does not ensure that anything will actually happen. "It's a positive step in the right direction but it's a shame that we still haven't had an adequate testing and cleanup in the last four years and we wonder if that will ever happen," said Catherine McVay Hughes, chairperson of Community Board 1's World Trade Center Redevelopment Committee. "We wished that this had happened earlier."

Hughes was the community liaison to a defunct E.P.A. panel created at the request of Senator Clinton to devise a testing and cleanup plan for Lower Manhattan. Residents worry that the toxic plume of dust that spread over Lower Manhattan and parts of Brooklyn and New Jersey after the attacks has settled into the air conditioning ducts of their homes and other inaccessible places, continuing to contaminate them with each passing year.

In December, E.P.A. dismantled the panel, ignoring the advice of its own panelists, and moved forward with a testing and cleanup plan that critics described as grossly inadequate.

Last month, E.P.A. Regional Administrator Alan Steinberg told City Councilmember Alan Gerson that he would not attend a City Council hearing to question the E.P.A. about its decision, insisting in a letter, "E.P.A.'s activities related to Lower Manhattan have already been widely disclosed."

But after Judge Batts' ruling, Steinberg's office reached out to Gerson and now says the administrator will meet with him in private. "I don't know if this has to do with the ruling," said Gerson, "But I'm assuming everything is interrelated."

For some residents, any validation was enough to give a long and lonely struggle a much-needed boost. "I was very excited to hear that someone was looking at the truth and acknowledging that people should be held responsible," said Diane Lapson, a plaintiff on the case and a resident at Independent Plaza North, a large apartment complex seven blocks north of the Trade Center. "I'm encouraged that somebody would finally acknowledge what we've been saying all along."

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Lapson, who is president of her tenants association, stayed at I.P.N. in the days after 9/11, assisting residents who could not leave. One of Lapson's neighbors approached her. His wife was pregnant with twins and he wondered if they should move out of the neighborhood. Despite assurances from the E.P.A., Lapson advised her neighbor to move. "If you pulverize two buildings. Where is it? Where's the building? It's in our A.C." Lapson, who stayed, now suffers from ongoing pulmonary complications.

Most recognize that the win will likely be short lived. "I assume they're going to appeal it as far as they can appeal it," said Clinton.

Whitman released a statement last week dismissing the judge's ruling as "completely inaccurate" and said she expected the Justice Department would appeal. "I firmly believe that the agency's findings that the air quality was safe were correct," she said in her statement.

Charles Miller, a spokesperson for the U.S. Dept. of Justice, said the department was still reviewing the court documents.

Polett, who suffers from ongoing pulmonary complications and often speaks in a raspy voice, said she felt a twinge of pity for Whitman. "For two seconds, I felt sorry for her that she got herself in a situation that she has no recourse but to keep lying," she said.

The day Judge Batts declared Whitman's actions "conscience shocking," in the same courthouse, another judge, Judge Alvin K. Hellerstein came to a very different conclusion about a similar case. A group of rescue workers and first responders also sued the E.P.A. and Whitman for misleading them about their safety at the site. Hellerstein dismissed the case in its entirety from the bench.

"It's basically the same animal, just different plaintiffs," Miller said in a telephone interview.

Jeanne Markey, who represents the residents in the case ruled by Batts had a very different assessment of how the two cases played out. "It's a different scenario when someone wants to put their child back in Stuyvesant High School," than someone who is a city workers working at a dangerous site.

[Both Hellerstein, 72, and Batts, 58, were appointed by President Clinton.]

Litigation is a slow moving beast and as months have turned into years since the attacks, residents wonder if a precious window of opportunity has been missed in the long struggle to see their homes tested and cleaned.

"This is all converging into a perfect storm," said Clinton. "We all know the clock is ticking."

U.S. Rep. Jerrold Nadler was more blunt. "This cover-up is an ongoing conspiracy to cause the shortening of lives of thousands of people in the city," he said at the press conference.

Hughes, a Financial District resident, hopes that the ruling will uncover "what people knew and when they knew it." But she spoke with an air of sadness. The E.P.A.'s response to Hurricane Katrina in the Gulf Coast has given her little hope that if another environmental disaster were to strike Lower Manhattan she could rely on the agency vested with the public's safety. "We wanted to believe that it was safe to come back to work, safe to come back to live, and safe to bring back our neighborhood," she said. "I doubt that much has changed in terms of environmental safety and health except that now people know that they're on their own."

END

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Williams, Jan

From: Williams, Jan

Sent: Monday, February 13, 2006 8:07 AM

To: /o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); Balfe, Robert; Biskupic, Steven (USAWIE); Bogden, Daniel (USANV); Brooks, Susan; Brownlee, John (USAVAW); Buchanan, MaryBeth (USAPAW); Canary, Leura G. (USAALM); Charlton, Paul (USAAZ); Chiara, Margaret M. (USAMIW); Christie, Christopher (USANJ); Colantuono, Thomas P. (USANH); Connolly, Colm (USADE); Corrente, Robert (USARI); Cummins, Bud (USAARE); Dugas, David R. (USALAM); Fitzgerald, Patrick J. (USAILN); Garcia, H; Garcia, Michael J (SDNY); Graves, Todd (USAMOW); Greenlee, Jim (USAMSN); Heavican, Michael (USANE); Heffelfinger, Tom (USAMN); Huber, David L. (USAKYW); Iglesias, David C. (USANM); Immergut, Karin (USAOR); Jenkins, Anthony; Kubo, Ed (USAHI); Lam, Carol (USACAS); Lampton, Dunn (USAMSS); Larson, Charles (USAIAN); Letten, James (USALAE); Lockhart, Gregory; Marino, Thomas (USAPAM); Martin, Alice (USAALN); Mauskopf, Roslynn; McDevitt, Jim A. (USAWAE); McKay, John (USAWAW); Mead, Matthew H. (USAWY); Meehan, Patrick (USAPAE); Melgren, Eric (USAKS); Mercer, Bill (USAMT); Miller, Gregory (USAFLN); Moss, Thomas (USAID); Murphy, Stephen J. (USAMIE); Nahmias, David (USAGAN); O'Connor, Kevin (USACT); O'Melia, Michael (USAAZ); Orwig, Matt (USATXE); Perez, Paul (USAFLM); Rapadas, Leonardo; Roper, Richard (USATXN); Rosenstein, Rod (USAMD); Ryan, Kevin (USACAN); Scott, McGregor (USACAE); Shappert, Gretchen (USANCW); Sperling, Sheldon J. (USAOKE); Suddaby, Glenn T. (USANYN); Sullivan, Michael (USAMA); Sutton, Johnny K. (USATXW); Vines, Jim (USATNM); Wagoner, Anna Mills S. (USANCM); Wainstein, Kenneth; Washington, Donald (USALAW); Whitaker, Matt (USAIAS); White, Greg (USAOHN); Whitney, Frank (USANCE); Wood, Lisa (USAGAS); Wood, Maxwell; Wrigley, Drew (USAND); Yang, Debra
(USACAC); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa

(USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford

Subject: The Morning Update: 2/13/06

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Importance: Low

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EST of Science and Technology

The White House | Washington, DC

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EST The White House | Washington, DC

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EST Private Residence | Washington, DC

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This Weekend From The White House

President's Radio Address <http://www.whitehouse.gov/news/releases/2006/02/20060211.html>

* In Focus: Medicare <http://www.whitehouse.gov/infocus/medicare/>

President Addresses House Republican Conference <http://www.whitehouse.gov/news/releases/200 6/02/20060210-2.html>

Setting The Record Straight: The New York Times Story On Hurricane Preparations <http://www.whitehouse.gov/news/releases/2006/02/20060210-3.html>

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- In Focus: Medicare

President Addresses House Republican Conference

Setting The Record Straight: The New York Times Story On Hurricane Preparations

- Setting The Record Straight

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: SUNDAY, FEBRUARY 12, 2006 7:45 AM EST

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TERRORISM NEWS:

"Aggressive" Inquiry Into Wiretapping Article "Rapidly Expanding." The New York Times (2/12, Johnston, 1.19M) reports, "Federal agents have interviewed officials at several of the country's law enforcement and national security agencies in a rapidly expanding criminal investigation into the circumstances surrounding a New York Times article published in December that disclosed the existence of a highly classified domestic eavesdropping program." The "people who have been interviewed and others in the government who have been briefed on the interviews said the investigation seemed to lay the groundwork for a grand jury inquiry that could lead to criminal charges," and "several officials described the investigation as aggressive and fast-moving." The case is considered "potentially far reaching because it places on a collision course constitutional principles that each side regards as paramount:" punishing those responsible for a serious security breach" against "confidentiality of sources and the ability to report on controversial national security issues free of government interference." Still, "some media lawyers believe that The Times has powerful legal arguments in defense of its reporting and in protecting its sources."

Rep. Wilson's Demand For Domestic Spying Briefing Seen As Sign Of Program's Low Popular Support. CQ Weekly (2/13, Horrigan) reports, "The Bush administration's domestic wiretapping program had a bad week on Capitol Hill, culminating in Pennsylvania Republican Arlen Specter, Senate Judiciary Committee Chairman's announcement of legislation to place the plan under judicial review from the Foreign Intelligence Surveillance Court." However, in "a more immediate political reversal" New Mexico Rep. Heather A. Wilson (R) "announced she was breaking ranks…to demand a full briefing on the program before the Intelligence Committee." She "is more than a little motivated this year to put some distance between herself and the White House, since she's waging one of the House's most competitive re-election bids." Wilson's "skepticism could well signal to similarly situated GOP incumbents that the White House program may not be drawing the popular support the president is banking on."

GOP Lawmakers Growing Restless Over Domestic Spying. Newsweek (2/12, Isikoff, Hosenball, Thomas) reports, "It is not yet clear how the public feels about warrantless wiretapping," but "the solons of Capitol Hill—and, increasingly, those in the Republican Party—are growing restless and ready to challenge the authority of the Bush White House," partly because "congressional egos and prerogatives are on the line. Members of both parties feel bullied by the sometimes high-handed treatment they get from the Bush administration, particularly from Vice President Dick Cheney," whose "attitude seems to be: bring it on." While "a senior White House official shrugged off the push-back from Republican lawmakers against warrantless eavesdropping," should it emerge "that the United States has been secretly spying on more seemingly innocent Americans, then the Bush administration really will have a problem, and it won't just be among ruffled lawmakers on Capitol Hill."

Brooks Proposes Solution To Domestic Spying Debate. David Brooks writes in his column in the New York Times (2/12, 1.19M), "We need the Gang of 14 back again, because another issue has ossified into abstract ideological debate:" National Security Agency wiretapping. A sustainable bipartisan solution "would be based on a series of truths:" the need for "aggressive intelligence programs to head off attacks;" that such "programs will not survive with the current level of Congressional disquiet;" and the understanding that "we can't throw the mess to the courts to resolve" The solution is to "exempt searches covered by the Bush program from the Foreign Intelligence Surveillance Act" but "give the intelligence committees oversight responsibilities for those programs. You toughen the penalties for anybody who dares to leak secrets about those programs" and let committee members know that if the United States is attacked, and they opposed programs that could have prevented that attack, then it will be their name in the headlines."

NYTimes Says Recent Revelations Emphasize Untrustworthiness Of Bush Administration. The New York Times (2/12, 1.19M) editorializes, "We can't think of a president who has gone to the American people more often than George W. Bush has to ask them to forget about things like democracy, judicial process and the balance of powers — and just trust him. We also can't think of a president who has deserved that trust less" as "last week produced a flood of evidence that vividly drove home the point." Attorney General

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Alberto Gonzales asserted that "the administration can be relied upon to police itself and hold the line between national security and civil liberties on its own," when, "in sworn testimony at his confirmation hearing last year, he dismissed as 'hypothetical' a question about whether he believed the president had the authority to conduct warrantless surveillance" when "Gonzales knew Mr. Bush was doing just that." Tim Golden of The Times reported that the US military "had taken to tying up and force-feeding the prisoners who had gone on hunger strikes by the dozens at Guantánamo Bay" even as "the administration continues to claim that it can be trusted to…decide in secret and on the president's whim who is to be jailed without charges, and to insist that Gitmo is filled with dangerous terrorists." Finally, "the next edition of the journal Foreign Affairs includes an article by the man in charge of intelligence on Iraq until last year, Paul Pillar, who said the administration cherry-picked intelligence to support a decision to invade that had already been made."

SC Paper Praises Sen. Graham For Making Clear The Arguments For Judicial Oversight. The Myrtle Beach Sun News (2/12) editorializes, "No flaming liberal or terrorism softy, Sen. Lindsey Graham, R-S.C., last week demolished President Bush's arguments that he needs the permission of neither Congress nor the courts to probe Americans' communications for links to terrorists," explaining that "Congress did not intend to give him authority to circumvent the 1978 Foreign Intelligence Surveillance Act and undertake domestic spying on his own authority" and "the Constitution clearly envisions a role for Congress and the courts in checking and balancing the president's undisputed constitutional war-making powers." He said it is "possible to have an effective spying program under FISA," and "if FISA as written is inadequate to the administration's needs…Congress could fix the problem without undermining the surveillance program or revealing operational details to the public." While "Bush and Vice President Dick Cheney lose no opportunity to reassure law-abiding Americans that erroneous federal persecution could never happen to them," the pair's "judgment is a poor substitute for independent judicial oversight via the FISA court," and "Graham deserves great credit for making this distinction clear."

Pakistani President Says US Airstrike Killed Zawahiri Relative, Wanted Terrorist. ABC World News Tonight (2/11, story 8, :15, Avila) reported, "The President of Pakistan said a missile strike on a terrorist hideout last month killed a close relative of al Qaeda's number two leader, Ayman al-Zawahiri, and another man wanted by the US. It is the first time Pakistan has provided details about the people that were killed in that attack." The CBS Evening News (2/11, story 7, :15. Mitchell) also reported the story.

The Washington Post/AP (2/12, Khan) adds, "Until now, President Gen. Pervez Musharraf had only said 'foreigners' died." Pakistani intelligence officials say "the two men were Midhat Mursi al-Sayid Umar and Abdul Rehman al-Maghribi," and that "sympathizers buried the five bodies at an undisclosed location that authorities have been unable to find."

Montana Judge Aides FBI In Collaring Would-Be Al Qaeda Accomplice. The CBS Evening News (2/11, story 8, 2:10, Mitchell) reported, "The FBI is investigating an alleged terrorist plot to attack oil facilities in this country. The alleged conspiracy might never have come to light if it had been for a judge with an interesting sideline." CBS (Pinkston) added, "By day, Shannen Rossmiller is a municipal court judge in the town of Montana. At home, she's also a wife, mother of three, and part-time cyber-sleuth, tracking down possible terrorists. For the second time in two years, Shannen Rossmiller is helping down Federal authorities track down terrorists, this time putting the FBI on to this man, 47-year-old Michael Curtis Reynolds. CBS news has learned Reynolds is in custody in Pennsylvania on weapons charges and may face more serious counts thanks to a tip from Judge Rossmiller." Rossmiller was "scanning terrorist Websites when she noticed a posting from Reynolds seeking $40,000 to why fuel trucks to blow up refineries in New Jersey and Wyoming and a section of the Alaska oil pipeline. Posing as an Alaska banker, Rossmiller promised the money, set up a date and time for the rendezvous near Pocatello, Idaho and notified the FBI. They set up a sting." Rossmiller: "He picked up the $40,000 in cash which he intended to use for his means to do what he had wanted to do or indicated he wanted to do with the Alaska pipeline and some other locations." Pinkston: "At Reynolds' Pennsylvania home, Federal authorities seized his computer and files that according to a court document spelled out his bomb plans. Back in 2004, Judge Rossmiller helped snare Washington state National Guardsman Ryan Anderson."

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The Philadelphia Inquirer (2/12, Lubrano, Shiffman, 423K) adds that Reynolds "has not been publicly charged with terrorism. But a federal prosecutor leveled that accusation during a December court hearing." While "Reynolds' lawyer, Philip Gelso, declined to comment," authorities say Reynolds told them he "was a patriot and intended to expose an al-Qaeda cell inside the United States."

The Philadelphia Inquirer (2/12, Lubrano, 423K) adds, "Rossmiller began trolling the Internet for potential terrorists after Sept. 11, 2001. Stunned and angered by the attacks on the United States, Rossmiller read the Koran, studied radical Islamic culture, and learned enough Arabic to lurk in chat rooms and ensnare jihadists. She had fractured her pelvis after slipping in the tub, and the convalescence afforded her the time to start her new avocation." An FBI agent in the Salt Lake City office "vouched for Rossmiller's credibility, saying, 'She's legitimate.'"

Moussaoui's Attorneys Contend Government Failed To Aggressive Investigate Him. The Washington Times/AP (2/12) reports that Zacarias Moussaoui's defense lawyers, in a closed hearing, "disclosed several details in the Jan. 5 hearing that go beyond and sometimes contradict what was disclosed in the September 11 commission report," including that "government correspondence shows 'the actual (redacted) information that essentially tells them in August that Moussaoui is a bin Ladenite who traveled to Afghanistan,'" and that "that the government explicitly barred one FBI agent in the summer of 2001 from interviewing Moussaoui or any member of Moussaoui's family for fear that such contact would alert al Qaeda to the government's investigation of two other al Qaeda terrorists." The "defense contends that the government knew more about the terrorists' plans than Moussaoui and still was unable to prevent the attacks." The US's knowledge of Moussaoui and his terrorist connections will be a key issue at his March 6 death-penalty trial."

Columnist Says Not Trying Moussaoui As "A Mere Terrorist" But Part of 9/11 Has Created A "Show Trial." Slate Columnist Dahlia Lithwick writes in an op-ed in the Washington Post (2/12, B3, 744K), "What's strange about Zacarias Moussaoui's courtroom outburst last week …is that the 'circus' comment came from the guy who's supposed to be crazy," and, "as is usually the case, if you unbraid the message from its wacky messenger, Moussaoui's claims ring true." After all, "Why is it that Moussaoui's story hasn't changed much in four years, while the government has downgraded him from hijacker to secret-keeper? It leads one inexorably to Moussaoui's last talking point: that this is a show trial," and "largely…because the administration has learned nothing from its dealings with the other captured terrorists -- about the need for clarity, humility and small but certain gains in court." Consider "the benefits of trying Moussaoui as a mere terrorist, rather than as a perpetrator of Sept. 11. For one thing his trial would appear fair, not just to the defendant,…but to the world, which would see that, when the charges actually correspond to the crime, the American court system works quite well."

FBI Probe Said To Have Infused Lodi Muslim Community With Fear, Suspicion. The Stockton (CA) Record (2/12, Hood) reports, "They notice when unfamiliar cars circle the block, drivers talking on cell phones. They notice when new residents move into nearby apartments that overlook their homes and are suspicious of door-to-door salespeople. That's life for members of Lodi's Muslim community in the eight months since two of their own were arrested, accused of ties to terrorists." In the wake of the FBI investigation that led to the arrest of Umer and Hamid Hayat on terrorism-related charges, "no one is above suspicion -- not of plotting terrorist attacks, but for being a federal agent or someone working for the government." The Record adds, "FBI Special Agent John Cauthen said if that's how Lodi's Muslims feel, it's not the FBI's doing. He said the FBI took pains to meet with anyone with concerns or complaints about the FBI's surveillance and conduct in Lodi. 'To say the investigation was different or the intent was to cause a chilling effect, it doesn't connect from where I'm sitting,' said Cauthen from his Sacramento office. 'We're not on a fishing expedition, hanging out in Lodi waiting for something to happen. We're just doing what's logical based on the evidence and facts in front of us.' But one of those who complained said the FBI used its highly visible presence to keep anyone from trying to help the Hayats' defense. 'It was clear intimidation, having the FBI around the mosque,' said Basim Elkarra, executive director of the Council for American-Islamic Relations' Sacramento Valley chapter. 'And it affected everyone. It was intimidation, and it worked. Some people feel it was a message to other Muslims.'"

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United Arab Emirates Firm Could Take Over Operations At 6 US Ports. The Washington Post (2/12, A17, Bridis, 744K) reports that Dubai Ports World, a United Arab Emirates company, "is poised to take over significant operations at" New York, New Jersey, Baltimore, New Orleans, Miami and Philadelphia "as part of a corporate sale, leaving a country" that "was an important operational and financial base for the hijackers who carried out the attacks against the World Trade Center and the Pentagon" on Sept. 11, 2001 "with influence over a maritime industry considered vulnerable to terrorism." However, "the Bush administration considers the UAE an important ally in the fight against terrorism…and is not objecting" to the sale of Peninsular and Oriental Steam Navigation Co.

HOMELAND RESPONSE:

House Investigators' Katrina Report Singles Out Chertoff, Homeland Security. The Washington Post (2/12, A1, Hsu, 744K) reports, "A blistering report by House investigators" says that "leaders from President Bush down disregarded ample warnings of the threat to New Orleans and did not execute emergency plans or share information that would have saved lives" in response to Hurricane Katrina. "A draft of the report…includes 90 findings of failures at all levels of government," and "lays primary fault with the passive reaction and misjudgments of top Bush aides, singling out Homeland Security Secretary Michael Chertoff, the Homeland Security Operations Center and the White House Homeland Security Council." It adds that "Regarding Bush…'earlier presidential involvement could have speeded the response' because he alone could have cut through all bureaucratic resistance," and his "televised statement on Sept. 1 that 'I don't think anybody anticipated the breach of the levees,'" does "not appear to be consistent with the advice and counsel one would expect to have been provided by a senior disaster professional," as "about 56 hours before Katrina made landfall, the National Weather Service and National Hurricane Center cited an 'extremely high probability' that New Orleans would be flooded and tens of thousands of residents killed."

Reuters (2/12) adds the report concludes that "the response to the disaster showed the government failed to learn from the September 11, 2001 hijacking attacks,."

LATimes Says Brown's Testimony Reveals Lessons. The Los Angeles Times (2/12, 958K) editorializes that Michael Brown's "testimony was more than just good political theater, however — it was a guided tour of a dysfunctional federal bureaucracy." He "painted a picture of an unresponsive White House that did not grasp the gravity of the situation in New Orleans" even as "FEMA's parent agency, the Department of Homeland Security, was too preoccupied with terrorism to be of much help on natural disasters." He also "illuminated two obvious yet fundamental problems that threaten anyone dwelling in particularly risky environs:" it is "hard to coordinate all the federal, state and local agencies involved in responding to a catastrophe" and "disaster plans are worthless if they're not implemented." Therefore, "communities across the country need to work with state and federal governments to define just how much they can and must do in the event of a catastrophe like Hurricane Katrina, as well as what precisely it will take for the feds to send in the cavalry."

New Orleans Still Seeking Sponsors For Mardi Gras. The New York Times (2/12, Rivlin, 1.19M) reports that New Orleans officials " boldly decided last fall to hold the parades of Mardi Gras, even though the city treasury was empty and large swaths of the town still lay in ruins. The price, though, was their demand that the beloved party abandon tradition and seek corporate sponsors," but "no corporation has come up with the $2 million the city was hoping to receive for the naming rights," and only Glad Products "has said it will contribute to the cause" with "an unspecified six-figure donation to the city and a gift of 100,000 trash bags." Should "no additional corporate sponsors step forward, the city will have to dig into its nonexistent treasury to pay for the celebration, which many officials say the city needs to raise its spirit and its economy." People "in the sponsorship business say the city should have started searching for corporate donors in August, when companies typically start thinking about their marketing budget for the coming year," and "many image-conscious corporations may be reluctant to lend their name to an event that often becomes a bacchanal."

Writer Says Bush Has "Written Off New Orleans." Writer Jennifer Moses argues in an op-ed in the Washington Post (2/12, B7, 744K), "In his State of the Union address" President Bush mentioned New Orleans, saying

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"$85 billion is a lot." However, "nothing close to $85 billion has been spent, and that's because most of it is tied up with something called the Stafford Act, which restricts the use of federal money for precisely the kind of things that Louisiana needs to recover, particularly housing relief." Bush "has largely written New Orleans off," and "the president's rejection of the bipartisan Baker plan… was tantamount to a death sentence." Then, "in an instance of double bind so mind-numbingly stupid that you have to think that Washington is run by a mob of sadists, the president's point man for Gulf Coast recovery, Donald Powell, recently urged Louisiana to use its share of federal funds to buy out uninsured homeowners living outside the flood plain" when "all of New Orleans, as well as most of South Louisiana as a whole, is both below sea level and within the federal levee system, meaning, again, that New Orleans-area homeowners get diddly squat."

WAR NEWS:

Roadside Bombs Now Responsible For 61% Of Coalition Deaths In Iraq. ABC World News Tonight (2/11, story 7, 2:40, Avila) reported on the "mounting danger of roadside bombs in Iraq the number of attacks on US and coalition troops using IEDs, or improvised explosive devices, doubled from the year before, to nearly 11,000. More importantly, they now account for some 61% of all combat deaths and 71% of the wounded. And for those soldiers who are lucky enough to survive, the recovery is long and difficult." ABC also profiled the experience of Marine Michael Berninger, who was hit by two roadside bombs. Berninger "volunteered to serve in Iraq. A truck driver, which is among the most dangerous jobs because of roadside bombs. In fact, Michael was in the war zone less than four months, yet, he was hit by bombs twice. The second time, shrapnel from the device damaged his spine." Berninger "now has a chest full of medals, including the Purple Heart, and wants to return to finish his mission in Iraq. But he came home with more than physical injuries. He now suffers from posttraumatic stress disorder, with debilitating nightmares and flashbacks."

Defense Department Delays Use Of IED Destroyer. The Los Angeles Times (2/12, Mazzetti, 958K) reports, "A new high-tech vehicle that destroys roadside bombs" called the Joint IED Neutralizer "has passed a series of U.S. military tests but has not yet been sent into battle," and "to many in the military, the delay in deploying the vehicles, which resemble souped-up, armor-plated golf carts, is a case study of the Pentagon's inability to bypass cumbersome peacetime procedures to meet the urgent demands of troops in the field." The Pentagon's IED task force sadi the JIN "required further testing, and...a decision to delay deployment had been made jointly by Pentagon officials and commanders in Iraq," but "the Marine Corps believes otherwise and recently decided to circumvent the testing schedule and send JIN units to…Iraq." The Defense Department and Secretary Donald H. Rumsfeld have "faced similar charges of failing to act quickly to protect soldiers in combat," including "complaints about the military's failure to provide sufficient body armor for soldiers and adequate armor for transport vehicles."

Motorcycle Bomb Explodes In Baghdad. The Washington Post/AP (2/12) reports, "A bomb rigged to a motorcycle exploded early Sunday outside a local restaurant in central Baghdad, wounding nine people," and "machine gun fire was heard shortly after."

Iraqi Shiites' Prime Minister Nomination Stalled. The New York Times (2/12, Worth, 1.19M) reports, "Shiite political leaders failed to agree Saturday on their nominee to be Iraq's new prime minister, saying they would take a vote on Sunday if efforts to pick a candidate by consensus had not succeeded by then." While "the Shiite United Iraqi Alliance…expected to formally nominate Adel Abdul Mahdi on Saturday," Iraq's current prime minister, Ibrahim al-Jaafari, "refused to withdraw his name from contention, and he still commands wide support in the Shiite ranks." Sami al-Askari, an independent Shiite member of the alliance, said that there will be "one more effort to pick a premier by consensus" on Sunday, before resorting to "a secret ballot, the results of which will be final."

The Washington Times/AP (2/12, Abdul-Zahra) adds that the vote was postponed "at the request of radical cleric Sheik Muqtada al-Sadr's faction." The Washington Post (2/12, Hernandez, Fekeiki, 744K) also covered this story.

Iraq's Leaders Must "Unite The Country," Khalilzad Writes. In a Los Angeles Times (2/12, 958K) op-ed piece headlined, "A Political Blueprint For Iraq.", US Ambassador Zalmay Khalilzad writes that "From the moment the US decided to remove the brutal regime of Saddam Hussein and help Iraqis establish a representative government, one of our key challenges has been enabling the leaders of Iraq's major communities to overcome their mistrust and fear of each other. This has not been easy." Khalilzad goes on to write that "this is a moment of opportunity. Thanks in part to systematic

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outreach efforts by the United States, Sunnis have undergone a sea change in attitude about participating in post-Hussein governance, culminating in their massive turnout in the December elections. They have come to understand that the US is not seeking to occupy their country permanently, and many have been convinced that protracted violence would destroy their country's future. To build on this progress, Iraq's leaders now need to agree on a process to unite the country."

Opposing Experts Agree Saddam's Trial Is "A Mess," Offer Different Solutions. The Minneapolis Star Tribune (2/12, Rosen, 424K) reports, "Curtis Doebbler is one of two American lawyers on Saddam Hussein's international legal defense team," and "Michael Scharf, a Case Western Reserve University law professor and former State Department official, heads an international team of war crimes experts advising the trial's inexperienced Iraqi judges and prosecutors." Both "agree on only one thing about the nearly four-month-old trial of the deposed dictator: It's a mess." Doebbler "blames the U.S. government," accusing it "of running -- and rigging -- the trial behind the scenes," while "Scharf blames Saddam and his attorneys, who he says are intent on turning the trial into a circus." Doebbler says "the only way to save Saddam's trial…is to start over under U.N. control somewhere outside Iraq." Scharf, however, says "the trial should continue in Iraq because the Iraqi people have told pollsters in overwhelming numbers that Saddam should be tried and judged by his countrymen."

Army Adds Incentives To Retain Needed Officers. The Washington Post (2/12, A12, Tyson, 744K) reports, "The Army, forecasting a shortage of" short 3,500 active-duty officers by 2007, "is boosting the incentives it offers to try to hold on to experienced commanders." Besides "speeding promotions and rolling out incentives to entice officers to stay, the Army is also using involuntary 545-day call-ups to compel inactive officers to leave civilian life for duty in Iraq." While "the looming officer shortage is part of a wider manpower crunch the Army faces stemming from the surge in demand for U.S. ground forces at home and overseas," it remains "distinct from the Army's recruiting difficulties, reflecting less a problem with signing up new officers than one of promoting and retaining experienced officers."

Army Doctors' Experience, Revised Procedures Leading To Fewer Iraq Deaths. The Los Angeles Times (2/12, Kraul, 958K) reports, "The knowledge that U.S. military doctors have gained in Iraq is helping them save the lives of more combat wounded than ever before." Because of "quicker medical evacuations, improved emergency room instruments and new surgical approaches…fewer injured service members are dying." The "military surgeons have generally changed their approach to critical trauma injuries by opting when possible for 'damage control surgery' rather than immediate major chest or abdominal intervention," and "the mortality rate among those wounded in Iraq is about 10%, compared with 20% in the 1991 Persian Gulf War, 24% in Vietnam and 30% in World War II, according to a recent issue of the New England Journal of Medicine." However, "the higher survival rate raises other issues…such as the quality of life for the increased number of troops with multiple amputations and disfiguring wounds."

Explosions In Iraq Can Lead To Amputations. The New York Times (2/12, A1, Macur, 1.19M) reports, "Explosions have killed 1,123 American service members in Iraq and have wounded at least 10 times more, often with a devastating combination of injuries -- ruptured organs and severed spines, obliterated limbs and burst eyeballs. Among the more than 16,653 Americans wounded in Iraq are 387 amputees." The "amputations, traumatic though they are, are often accompanied by painful complications." Most have an infection, and "about 20 percent of the amputees have had potentially serious blood clots." Then, "about half of them experience a condition in which bone grows at the site of amputation, called heterotopic ossification" which "can prevent proper fitting of a prosthesis or pierce the skin." Also, "the psychological effects of losing a limb, particularly for young, active military members, can be deep and lasting, a constant reminder of the war."

Columnist Criticizes Lack Of Psychiatric Support For Returning Veterans. Ann Louise Bardach, who writes the Interrogation column for Slate and is the author of 'Cuba Confidential, Love and Vengeance in Miami and Havana," writes in an op-ed in the Los Angeles Times (2/12, 958K), "Treatment of returning veterans is woefully inadequate, owing to a lack of funding. Although the VA acknowledges PTSD as a serious problem for returning veterans, VA hospitals around the country have sharply reduced their inpatient psychiatric beds." Meanwhile, "suicide…is an enormous and growing concern," as "the Army estimates that the suicide rate among Iraq veterans is one-third higher than

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the historical wartime average, owing to the psychological strains of no-holds-barred insurgency warfare. That means we're looking at a future blizzard of suicides without an adequate VA program in place to address the crisis." Even "thirty years after Vietnam, we seem to have learned very little."

Herring Says Military Contractors Are Winners From Iraq War. Hubert B. Herring writes in his column in the New York Times (2/12, 1.19M), "Some indisputable winners" in the Iraq war "are clear now: military contractors." If one "bought 100 shares of each of the top six military contractors at their lows of the last six years" it "would have cost $12,731.50. On Friday, it would have been worth three and a half times that: $44,417. Little wonder. Just look at the money machines these contractors have become as the war drags on."

CORPORATE SCANDALS:

Enron Prosecutors Face Challenge Over Credibility Of Witness Who Took Plea Deals. The Houston Chronicle (2/12, Fowler, Roper) reports, "When the case of former HealthSouth CEO Richard Scrushy went to trial last summer, the deck seemed stacked against him." The Chronicle continues, "Five former chief financial officers took the stand as government witnesses, giving powerful testimony that Scrushy personally orchestrated a $2.7 billion accounting fraud at the hospital chain. … But when the trial was over, Scrushy was acquitted. The reason? Jurors said the CFOs weren't credible." The Chronicle adds, "By highlighting so-called 'sweetheart deals' the CFOs made with prosecutors to reduce jail time they were facing and labeling them as "rats," Scrushy attorney Jim Parker painted the men as untrustworthy. … '(The jury) wouldn't trust them today to get their car parked,' Parker said." The Chronicle notes, "Former Enron executives Ken Lay and Jeff Skilling face a similar challenge in their criminal trial, with as many as 16 former Enron employees in government plea agreements. But there's a difference … With two exceptions, the defense won't simply demonize those with plea deals who end up testifying or call them rats. To prove their thesis that Enron was not a corrupt enterprise, the defense needs to show jurors the witnesses are good people who didn't really commit the crimes they admitted to but were pressured by the government. … It's a twist on an already tough tango, as prosecutors try to present credible witnesses, defense attorneys try to discredit them and prosecutors come back and try to mend any damage."

Defense Says "Feel" Of Enron Case Important. The AP (2/12, Hays) reports, "A few snippets of video and audio clips of Kenneth Lay and Jeffrey Skilling speaking to employees or Wall Street analysts don't really show who the former Enron Corp. chiefs were or what they did before the company crashed in scandal more than four years ago, their attorneys contend." The AP continues, "So the lawyers convinced a federal judge to let them give jurors in Lay's and Skilling's fraud and conspiracy trial a much bigger dose of the pair headlining employee meetings and conference calls with analysts. That means jurors have been sitting through several hours of video and audiotapes that include company cheerleading and detailed discussions of business issues unrelated to the criminal charges against the two men." The AP adds, "The defense teams say jurors get a better sense of Enron and the defendants when they see Lay getting standing ovations from employees and hear analysts fawning over Skilling's smarts. … 'The feel of a case is as important as the think of a case,'' Lay's lead lawyer, Michael Ramsey, said outside of court." The AP notes, "There's more to come Monday when Ramsey wraps up his cross-examination of the government's first witness, former Enron investor relations chief Mark Koenig, who will spend his seventh day on the witness stand."

CRIMINAL LAW:

Former Abramoff Colleague Confirms Contacts With Reid's Office. The AP (2/12) reports Ronald Platt, a former colleague of controversial lobbyist Jack Abramoff, "confirms he contacted Senate Democratic leader Harry Reid's office on behalf of the influential lobbyist but says he does not believe Abramoff's billing records accurately reflect the extent of his work." Platt, "a lobbyist who worked with Abramoff at the Greenberg Traurig firm between 2001 and 2004, said he contacted Reid's office in 2001, as the billing records show, about the timing of minimum wage legislation affecting one of Abramoff's clients, the Northern Mariana Islands." Platt said, "When Abramoff first arrived at Greenberg Traurig, I did a new colleague a favor by simply asking Reid staffers about when the minimum wage legislation affecting the Mariana Islands would be voted upon by the Senate. I communicated this to Abramoff."

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Former Mariana Clients Turn On Abramoff. CQ Weekly (2/13, Zeller) reports that in the mid 1990s, the Commonwealth of the Northern Mariana Islands "hired lobbyist Jack Abramoff to maintain its treasured exemptions from federal labor laws. The exemptions permit the commonwealth, a U.S. territory, to offer lucrative offshore shelter to American clothing manufacturers, who were then smarting from anti-sweatshop campaigns." By "setting up shop in the archipelago, U.S. textile concerns can plausibly plaster 'made in the U.S.A.' labels on their products, leaving conscience-stricken consumers with the impression that they are manufactured on the mainland — not on the rim of the Phillipine Sea." But now that Abramoff is "in bad moral odor — and awaiting sentencing for last month's fraud plea bargain — on American shores, the Marianas is undertaking its own reverse-engineering of its ethical image. In the mad rush among former Abramoff clients and associates to make it seem as though the disgraced lobbyist never did business with anyone, the territorial government is claiming that it, too, has been damaged by Abramoff's misdeeds — even though it's quite clear that he delivered just what the Islands wanted at the time." The "rather delicious irony in the Marianas case is that the two men making the most prominent denunciations of Abramoff now were among his lustiest supporters then."

Defense Attorney Says Laski Will Plead Not Guilty Today, Seek Plea Agreement. The AP (2/12) reports, "The lawyer representing former Chicago City Clerk James Laski said his client will plead not guilty Monday and wants to make a deal with the federal government. … Attorney Jeffrey Steinback said he will ask U.S. District Judge Charles Norgle for more time to negotiate a plea deal for Laski. Steinback said a deal seemed like the way to go after he reviewed transcripts of tapes the government made of Laski during its investigation." The AP notes, "Laski is the highest ranking official among 42 people charged in the federal investigation of corruption in Chicago government, which stemmed from a probe into a city program that awarded hauling jobs to trucking companies."

Hollywood Law Firm Helped Pellicano Pursue Trademark For Wiretap Device. The New York Times (2/12, Halbfinger, Weiner) reports, "Throughout the three-year federal investigation of Anthony Pellicano, the celebrity detective at the center of a huge Hollywood wiretapping scandal, the top-tier entertainment lawyer Bert Fields and his firm have insisted that they never knew their go-to investigator was secretly recording his targets' phone calls. But an indictment unsealed this week makes clear that Mr. Fields's firm…also played a central role in his pursuit of a trademark for the very device the government says he was using to wiretap his targets: a combination of computer hardware and software he called, aptly enough, Telesleuth. Brian Sun, a lawyer for Mr. Fields's firm, Greenberg, Glusker, Fields, Claman, Machtinger & Kinsella, said its lawyers believed that Mr. Pellicano intended to use Telesleuth on behalf of his many law-enforcement clients. Mr. Sun said the firm also believed that Telesleuth could not be used as a wiretapping device, although the participant in a call could use it to record a conversation."

Pellicano Charges Said To Show Need For Greater Private Eye Regulation. The Los Angeles Times (2/12, Hong) reports, "America's appetite for litigation, a rise in corporate snooping on employees, partners and rivals, and the trafficking of vast stores of private information on computer databases have fueled a boom in private investigations. The burgeoning industry and its darker practitioners have alarmed privacy advocates, federal regulators and legitimate investigators, who say the Pellicano case underscores the need for more public scrutiny of investigators and their employers. California has nearly 10,000 licensed private investigators, up from about 6,000 in 1990. As their ranks multiply, 'we're unable to tell the good players from the bad players,' said Robert H. Townsend, a Dana Point private investigator with 40 years' experience."

Former Reporter's Lawyers Subpoena Ovitz In Civil Suit. The Los Angeles Times (2/11, Krikorian, Blankstein) reports, "Attorneys for a former Los Angeles Times reporter allegedly threatened by indicted private investigator Anthony J. Pellicano have subpoenaed onetime Hollywood power player Michael Ovitz to provide a sworn deposition in her civil case. Lawyers for Anita Busch said they took the step after Monday's sweeping federal indictment charged that Pellicano and others accessed confidential police records to try to find embarrassing information about the reporter and dozens of others. Busch's civil lawsuit…accuses Pellicano and others, including former Los Angeles Police Sgt. Mark Arneson, of locating and threatening the reporter over unspecified stories about the entertainment business. … Noting how Ovitz has acknowledged cooperating with authorities, the attorneys said they hoped he would also help

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them determine who was behind the threat to Busch." They suspect it was Pellicano.

Rise In Violent Crime Over Petty Disputes Noted In Some Areas. The New York Times (2/12, Zernike, 1.19M) reports while "violent crime has been at historic lows nationwide and in cities like New York, Miami and Los Angeles, it is rising sharply" in Milwaukee "and in many other places across the country." While "such crime in the 1990's was characterized by battles over gangs and drug turf, the police say the current rise in homicides has been set off by something more bewildering: petty disputes that hardly seem the stuff of fistfights, much less gunfire or stabbings." Police Chief Nannette H. Hegerty of Milwaukee "calls it 'the rage thing.'" Hegerty said, "We're seeing a very angry population, and they don't go to fists anymore, they go right to guns." Nationally, the "homicide rate peaked in 1991, declined steadily after 1993 and has remained essentially flat since 1999. But in the first six months of 2005, according to preliminary statistics from the F.B.I., the number of homicides nationwide rose 2.1 percent, with the greatest increase, 4.9 percent, in the Midwest. Yet many cities have seen far steeper increases."

Catholic Church Under Fire For New Sex Abuse Scandal. NBC Nightly News (2/11, story 6, 2:30, Williams) reported, "Tonight, questions about real reform in the Catholic Church in the US. After the original sexual abuse accusations, churn leaders promised to clean up the parishes, but now there are fresh allegations and charges that church leaders ignored new warning signs and that again here children have paid the price." NBC (Stafford) added, "Reverend Daniel McCormick. To the boys he coached at a Catholic school in Chicago, he was Father Dan. To prosecutors here, he's now an accused child molester." The "outrage comes in part from the timeline in this case. A boy first reported Reverend McCormick to police back in August, but no charges were filed at the time. The priest was allowed to continue teaching and coaching for months until a second boy spoke out. Now, a third boy says he too was abused and the alleged abuse happened after church leaders learned of the first boys' allegations."

Hines Says Plame Investigation Hurts Bush Because He Won't Fire Those Involved. Cragg Hines writes in his column in the Houston Chronicle (2/12, 581K) that the question of firing the vice president "arises as we juxtapose a damning claim from Vice President Dick Cheney's former chief of staff, the indicted I. Lewis 'Scooter' Libby, against President Bush's once definitive determination to 'take appropriate action' if anyone in his administration leaked classified information." With his claims that his superiors authorized leaking Plame's name, "we have Libby reaching for Cheney's throat — at least as a pretrial tactic." This case "seeps its way closer to the Oval Office because an obstinate Bush will not keep his word and cut his losses" by firing people involved. Instead, he moves "the goal posts for what it takes to get the heave-ho."

CIVIL RIGHTS:

First Lady Criticizes Hillary Clinton For MLK Day Criticism Of Administration. At the Winter Olympics in Turin, Italy, First Lady Laura Bush yesterday said Sen. Hillary Clinton's criticism of the Bush Administration on Martin Luther King Day was "out of bounds." ABC World News Tonight (2/11, story 4, Avila) reported Mrs. Bush "made it clear that not all the bad blood between the Clinton and Bush families has been spilled…revealing a touch of anger about her predecessor, Senator Hillary Clinton." Mrs. Clinton has "apparently irritated the current First Lady with these remarks in a speech on Martin Luther King Day." Sen. Clinton: "So we have a culture of corruption. We have cronyism. We have incompetence. I predict to you that this Administration will go down in history as one of the worst that has ever governed our country." Asked by ABC's Robin Roberts if that was "just politics" or "fair game? Or is that out of bounds, a statement like that?" First Lady Laura Bush: "Well, of course I think it's out of bounds. But I think it's politics, it's certainly politics."

The AP (2/12) adds, "Mrs. Bush pointed out that former Presidents Bush and Clinton and her husband are part of a unique club that also includes the wives." The First Lady said, "We know what it's like to live in that house. We certainly know what it's like to have your husband criticized. … So I think there's a certain empathy that we might have for each other that we wouldn't have maybe for somebody else who said something like that." Reuters (2/12) also reports on the First Lady's comments.

Some Wonder About Bush Relationship With Clinton. The Houston Chronicle (2/12, Mason, 581K) in its "White House Watch" column speculates on what the

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atmosphere was like on Air Force One between the Bush's, the Clintons and RNC Chairman Ken Mehlman after Coretta Scott King's funeral. In addition to the latest jabs between them, "Bush also has been making perhaps one too many jokes lately about his father's partiality for former President Clinton, whom Bush now refers to as an extra brother." The Chronicle notes, "The tone and frequency of the jokes has some Washington insiders wondering if the president is somewhat miffed about the relationship." White House spokesman Scott McClellan said, "They had a good visit. … The president is glad to have his 'brother' traveling with us today."

Relationships Between Presidential Couples Examined. The AP (2/12, Woodward) in a Valentine's Day article notes, "Presidents and their wives have been an amorous lot, their White House years coming at the pinnacle of lives entwined. The men pursued and loved these women as intensely as they clawed to power and unleashed armies." One "no-nonsense woman, Barbara Bush, got a treacly note from her husband, George, asking her to show more affection for the television cameras in the 1988 campaign, like their opponents, the Dukakises." Bush 41 wrote, "Sweetsie…Please look at how Mike and Kitty do it. Try to be closer in more -- well er romantic -- on camera. I am practicing the loving look, and the creeping hand. Yours for better TV and more demonstrable affection. Your sweetie pie coo coo. Love 'ya GB."

Indiana Legislature Considering Extensive Abortion Consent Bill In Country. The Washington Post/AP (2/12, A10, Martin) reports that women "seeking an abortion in Indiana would be told that life begins at conception under a proposal that would give the state one of the furthest-reaching abortion consent laws in the country." Only South Dakota "has gone as far in what it orders doctors to tell women before they can get abortions, and that law has been blocked by a court." Supporters say "the legislation would provide women with key information before they make an irreversible decision, but critics argue it blurs the line between church and state and could infringe on doctors' First Amendment rights."

The Washington Times (2/12, 90K) also reports the AP story.

Federal Judge Selects CA Prison Health Chief. The Los Angeles Times (2/12, Warren) reports, "Ending a nationwide search, a federal judge has picked the top health official in Santa Clara County to take charge of California's deeply troubled prison healthcare system, sources familiar with the selection process said Saturday." The Times continues, "Bob Sillen, 63, is expected to be formally appointed as a federal receiver on Tuesday by U.S. District Judge Thelton Henderson. The San Francisco judge decided to act after concluding last July that 'extreme measures' were needed to fix a system that kills one inmate each week through medical incompetence or neglect." The Times adds, "The move effectively shifts power from state to federal authorities for all decisions related to inmate care — including medical staffing, treatment standards and contracts with outside hospitals. … Legal scholars said the appointment marks the first time a government operation of this size has been placed under a federal receiver. … This week, the sources said, Henderson will issue an order detailing the extraordinary powers Sillen will have in managing the system, which provides healthcare for 168,000 inmates and employs 6,000 people in 33 prisons."

Under Pressure From China, San Francisco Bars Religious Group From New Year's Parade. ABC World News Tonight (2/11, story 3, 2:20, Avila) reported the "final preparations are being made for America's oldest and largest Chinese new year's parade. This is the Chinese Year of the Dog, but in San Francisco, it can be called the year of the dog fight. Normally one of the most tolerant cities in America, San Francisco is in the middle of a bitter disagreement of who is allowed to march in tonight's annual parade." Falun Gong "a religious group outlawed by China, has been banned from the festivities." ABC (Rooney) added, "Falun Gong got its start only in 1992, and grew quickly. By 1999, the Chinese communist government denounced it as a dangerous cult. Members have been arrested, tortured, even executed. The Falun Gong claim they are persecuted in the US, as well as China." Falun Gong "and at least one city official say the Chinese Chamber of commerce here in San Francisco excluded the Falun Gong under pressure from the Chinese government." Chris Daly, San Francisco Board of Supervisers: "Mainland China has significant influence here in San Francisco, and other major American cities. It's not just me saying it. The United States Congress and in a concurrent resolution stated that." Falun Gong "has sued to be included in future parades.

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They say they have to be the voice of freedom here in the US for people who have no voice in China."

ANTITRUST:

Critics Worry About Wal-Mart's Plan To Move Into Banking Industry. The Washington Post (2/12, F1, Day, 744K) reports Wal-Mart "entered the grocery business in 1988 to compete with established names such as Kroger, Safeway and Albertsons, which had dominated food retailing for decades. Today Wal-Mart is America's biggest grocer, with 16 percent of the U.S. retail food market, and its sales continue to climb, even as dozens of grocery chains struggle." Congressional lawmakers "and federal regulators now face a tough question: Should they permit Wal-Mart to use a legal loophole to enter banking and potentially do in that arena what it has done to nearly every other consumer product and service it has touched?" The question "rattles bankers from Maine to California, even though the retailer no longer wants a full-service bank, only a limited-purpose one. It has whipped up longtime Wal-Mart critics, including labor unions, consumer groups and some congressmen on both sides of the aisle, who say the company is already too big, with too much power over the American economy, sometimes to the detriment of workers' pay and domestic jobs."

ENVIRONMENT/INDIAN AFFAIRS:

Kyoto Protocols Generate Projects In Developing Countries. The Los Angeles Times (2/12, Dickerson, 958K) reports, "Thanks to the Kyoto Protocol, the 1997 international treaty on climate change, efforts by industrialized countries to fight global warming are popping up in far-flung places like Villagran," a Mexican hamlet "about 40 miles southwest of the city of Queretero. Nearly 600 Kyoto-related projects are in the pipeline in the developing world, according to a recent tally by a Danish climate research center funded in part by the United Nations. About 40% of them are in Latin America, including hydroelectric power plants in Honduras and wind-powered turbines in Chile." The accord, "which the United States has not ratified, calls for reducing overall greenhouse-gas emissions by major industrialized countries in the period 2008-2012 to amounts at least 5% below 1990 levels." More than "150 nations have signed and ratified the treaty, but the burden to reduce emissions falls on about three dozen industrialized countries responsible for most of the climate mess. One way for industrialized countries to meet their reduction targets is to support environmental projects in developing regions. Dubbed the Clean Development Mechanism, it was designed to lower compliance costs for rich nations while funneling much-needed development to poor ones."

Georgia Jury Boosts Value Of Property Seized By Eminent Domain. The Los Angeles Times/AP (2/12) reports, "A jury has decided that a Georgia hospital is going to have to pay about five times what it offered if it wants to condemn a rental house where a frail, 93-year-old woman has lived for 26 years." The AP continues, "The jury said last week that Phoebe Putney Memorial Hospital would have to buy the 60-year-old brick duplex for $200,000 — it has been appraised at $50,000 to $60,000 — and give the tenant $51,000 to help her move. … 'It just proves that no one can assume absolute power over someone's life without having to answer to the legal system,' said lawyer Eddy Meeks, who represented the tenant, Julia Lemon, and the home's owner, Julie Montgomery." The AP adds, "Phoebe, southwest Georgia's largest hospital, pursued the property's condemnation last year so it could expand a child development center for employees' children. Phoebe officials said they might appeal the verdict. … Meeks said he might appeal the condemnation, which was approved by a court last year."

Mid-Atlantic, Northeast Hit By Major Snowstorm. The CBS Evening News (2/11, story 2, 4:00, Mitchell) reported, "Residents from Virginia to New England tonight are bracing for a raging nor'easter, packing blizzard conditions and dropping as much as 15 inches of snow in some areas." CBS (Chen) added, "We were beginning to think winter was going to skip right over us this year. January was the nation's warmest on record. That was certainly the case here in Washington. February was starting out mild, but as you can see, that's changing and quickly." Washington is "pretty excited about this but taking it seriously, as well. So much so that First Lady Laura Bush has delayed her return trip. She's been at the Olympics in Italy. She's delayed her trip home because of the weather, because they wanted to make sure it would be safe for her plane to land here."

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NBC Nightly News (2/11, lead story, 2:30, Williams) reported, "Good evening from Torino, Italy, where on the streets of this city, at the foot of the Italian Alps, there is not a bit of snow tonight. But where First Lady Laura Bush has decided to stay an extra night because of the weather back home." NBC (Dawson) added, "By Saturday afternoon, Delta, a major carrier in the Northeast, had already canceled dozens of flights and other airlines were expected to follow." Across the nation, "temperatures in January averaged nearly 40 degrees, eight and a half degrees above normal. Those warm temperatures have pushed energy demand in the US down by 20%. Good news given that oil prices are at record highs."

World News Tonight (2/11, story 5, :20, Avila) reported, "Outside the White House, across the Northeast, the story is snow and lots of it. As the first major storm takes aim, heavy snow is expected to make for blizzard conditions with more than a foot forecast for some cities. Delta Airlines is canceling flights at all major East Coast airports between Washington and Boston."

Backers, Foes Of Tribal Casinos Prepare For Meetings This Week. The Vancouver (WA) Columbian (2/12, Mize) reports, "This week's two meetings on the Cowlitz Tribe's casino project are supposed to be purely informational, a chance to discuss the complicated federal process for reviewing such requests and to answer questions." The Columbian continues, "Even so, supporters and opponents of the $510 million project west of La Center are rallying their forces as though sheer numbers and rhetorical thunder will determine who wins and who loses. … 'Lest anybody think people out here don't care,' said Tom Hunt, a spokesman for Citizens Against Reservation Shopping, a group formed in June to oppose the Cowlitz project. 'We want to show them they do care.'" The Columbian adds, "Cowlitz tribal leaders also want to make an impression on federal officials. … John Barnett, Cowlitz chairman, sent a letter to tribe members last month imploring them to turn out in force for a pizza dinner and rally before each meeting and to stay for the proceedings. 'Your tribe needs your help,' Barnett wrote in a Jan. 24 letter. 'These are two of the most critical meetings in our tribe's history. It is crucial that you, your family and your friends attend at least one of these meetings. Attendance at both meetings is even better.' … Emotions were ratcheted up another notch Friday when Kamie Biehl, founder of Stand Up For Clark County Citizens, announced she was stepping down as group chairwoman after allegedly receiving threats to herself and family. … Some of the contentiousness has even trickled back to Washington, D.C. Federal officials, realizing the potential for informational meetings to become caustic free-for-alls, were crafting ground rules late Friday afternoon."

FBI/DEA/ATF/USMS:

Tenth Church Burns In Alabama. NBC Nightly News (2/11, story 5, 2:10, Williams) reported that in Alabama, "another church is reported to be on fire tonight. That would make 10 churches burned this month, all of them in rural areas, all of them Baptist churches. While the FBI and other investigators search for those responsible, the congregations are searching for some way to move forward without fear." NBC (Mott) added, "Though the fire at the Spring Valley Baptist Church this past Tuesday burned out, it lit another kind of flame." Rep. Artur Davis: "If you think you scared somebody, you haven't scared anybody. If you think you've intimidated somebody, you haven't intimidated anybody." Mott: "There's confidence in rural Alabama, despite nine unsolved church arsons here since February 3, first in the central part of the state, then near its western border."

The Montgomery (AL) Advertiser (2/12, Linn) reports, "Federal and state authorities on Saturday responded to another Baptist church fire in rural Alabama, bringing the total to 10 in eight days." The Advertiser continues, "The fire, reported about 4:15 p.m. at Beaverton Free Will Baptist Church in Lamar County near the Mississippi line, had fully engulfed the church by the time firefighters arrived, said Cristal Oakes of the Lamar County Sheriff's Department. … The church near Beaverton is situated between 45 and 60 miles north of four Baptist churches that burned early Tuesday morning in rural Pickens, Greene and Sumter counties. … 'At this point we have not determined what the cause and origin of the fire is,' said Ronald Turk of the Bureau of Alcohol, Tobacco, Firearms and Explosives, the federal agency that investigates arson." The Advertiser adds, "Temperatures were predicted in the low 20s overnight, and authorities said the fire may have been an accident related to a heater. Some communities in the area had received a light dusting of snow. … Unlike five Baptist church fires in Bibb County on Feb. 3 and four in west Alabama on Tuesday this fire was reported during daylight hours. But like the others, the fire was in a rural community, where Baptist churches sit just

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off the beaten path -- churches like Mount Hebron's Pleasant Valley Baptist Church, which is just up a dirt road from some train tracks, past where jack rabbits forage at night."

TAX:

Trade Off Between Bush Tax Cuts And AMT Tax Seen As Necessary. The New York Times (2/12, Andrews, 1.19M) reports, "Never before has so much of the income tax code consisted of temporary measures. And never before has it been so inherently unsustainable." Almost "all of President Bush's tax cuts and credits…are set to expire by 2011." And "the huge volume of expiring tax cuts is set to collide with an equally expensive challenge that neither Mr. Bush nor the Congress has started to address," the alternative minimum tax, which "is now set to impose big tax increases on tens of millions of middle-income families over the next few years." The Times states, "If Mr. Bush's tax cuts are extended, but the A.M.T. is unchanged, tens of millions of people will face big new surcharges." And if the AMT "is frozen or simply repealed, Congress is likely to make up for the lost money by cutting back or eliminating scores of other tax breaks."

Taxpayers To Feel Pain Of AMT Tax. The New York Times (2/12, Johnston, 1.19M) reports, "After President Bush and Congress cut tax rates on dividends and long-term capital gains to a top rate of 15 percent in 2003, many investors bought stocks that make big cash payouts, expecting to benefit from lower taxes." But "it has not worked out that way. That is because your actual tax rate may not be the one that the politicians talked about or that the Internal Revenue Service prints on its tax forms." That's because the alternative minimum tax "has its own rules, including fewer deductions and just two tax rates, 26 percent and 28 percent. If the alternative tax is higher than the one you would owe under the regular tax system, you pay the higher bill." But while Bush "again called for making his tax cuts permanent" in his State of the Union speech "he said nothing about overhauling or repealing the alternative minimum tax."

CONGRESS-ADMINISTRATION:

Bush Touts Modernization Of Medicare, Admits Problems. President Bush urged senior citizens to sign up for the new Medicare drug program, saying it's a "good deal" and promising the government would address problems with its implementation. Bush's radio address was covered by the wire services and some local TV stations. The AP (2/12, Freking) reports Bush said the new Medicare prescription drug benefit "is helping a large majority of Medicare beneficiaries" but admitted "that some patients have experienced problems." Because of "competition, the program is getting cheaper for beneficiaries and taxpayers alike, Bush said." The AP notes, "The average premium that beneficiaries pay is now expected to be about $25 a month instead of $37, as projected last year. The typical senior citizen will pay about half of what he used to spend on prescription drugs," according to Bush. But, "the government also estimates that several hundred thousand low-income beneficiaries had trouble making the transition to the new program."

Reuters (2/12, Bohan) reports Bush said the "government was working to fix" the problems with the Medicare drug program but "insisted the program was a 'good deal' for seniors and encouraged more to sign up." Some Democrats have blamed the problems on "what they say was the excessive influence of private insurers and pharmacies in shaping the legislation. They view it as an issue on which Bush's Republican allies may be vulnerable in the 2006 elections. Sen. Hillary Rodham Clinton recently said "the best way to fix the problems might be to scrap the program and start over." Bush said HHS Secretary Mike Leavitt "has been traveling to several states to meet with governors about the drug benefit. He said officials were trying to make sure more information is shared by Medicare, the health plans and the states, and that it is up-to-date."

The Boston Globe (2/12, Easton, 484K) in an article on conservative dissatisfaction with Bush notes that at CPAC Rep. Tom Tancredo "drew big applause when he called for repealing the administration's costly prescription drug plan, which the president extolled in his Saturday radio address as 'a good deal for seniors.'"

And Bloomberg (2/12, Young) adds, "Fiscal conservatives usually aligned with Bush's Republican party have also assailed the president's embrace of an expansion to a government entitlement program." But "Bush was unapologetic, saying he 'was proud to sign this Medicare reform into law.'"

There was almost no local television coverage of the President's radio address praising the new Medicare D plan. Those stations that did cover it tended to note that Mr. Bush

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admitted there are problems as it starts up. An example: KLAS-TV Las Vegas (1/11, 6:38 p.m.) reported, "President Bush is praising the new prescription drug benefit initiative. During his weekly radio address today, Mr. Bush acknowledged that there are challenges with the Medicare program."

Bush Competitiveness Plan Seen As Having Widespread Support. The Los Angeles Times (2/12, Havemann, Simon, 958K) reports President Bush's "new American Competitiveness Initiative is triggering a stampede of bipartisan support. It could be one of the few administration initiatives to be enacted in this congressional election year." With last year's "Social Security push all but abandoned, Bush's domestic focus now is a much less ambitious effort: to prevent the United States from falling behind economic competitors in Asia and elsewhere, by providing federal support for math and science education and for basic research in the physical sciences." The "sour notes have been few and have come largely from critics who wish Bush's initiative had been more ambitious." Bush's "long-range plan calls for doubling the government's annual spending on physical science research over the next decade, from $9.8 billion this year to $19.5 billion in 2016. Bush's 2007 budget, sent to Congress last week, would provide a down payment of $910 million, an increase of 9.3%."

Bush Call For More Skilled Worker Visas Resonates With Silicon Valley Firms. The Los Angeles Times (2/12, Iritani, 958K) reports that President Bush's "recent call for more visas for skilled foreign workers increases the likelihood that relief is on the way for U.S. technology firms that say they are struggling to fill key positions." In a Feb. 2 speech at the Minnesota headquarters of 3M, Bush "called on Congress to be 'realistic' and 'reasonable' and expand the quota of H-1B visas, which are used to bring in skilled workers on a temporary basis." Silicon Valley companies "are among the most vocal advocates of H-1B reform. For decades, these companies attracted engineers, computer programmers and other professionals from around the globe. Now they say they are experiencing a reverse brain drain as skilled workers flock to the booming economies of China and India." Though the "debate in this country about outsourcing work overseas has quieted down in the United States, it remains a sensitive political issue. In December, an effort to get an H-1B visa expansion provision attached to a budget bill was defeated in Congress."

Spending, Immigration Concerns Fuel Conservative Anger At Bush. The Boston Globe (2/12, Easton, 484K) in its "Washington Briefing" column titled "A Wrathful Right Turns On Bush" reports, "The Republican family feud was laid bare in public last week at" CPAC. Conservative activists "are a notoriously cranky bunch, quick to pounce on politician friends who stray toward the center. But this year the spears aimed at George W. Bush were especially sharp." That "can't be a good sign for a White House hoping to maintain control of Congress next November when its one-time allies lump in the president with two of their perpetual bogeymen: John McCain and Ted Kennedy." The President's "budget-busting spending was a big reason for the foul mood. But two other issues captured the growing split between the president and a powerful conservative movement that twice helped him capture the Oval Office: immigration and the Medicare prescription drug plan."

The AP (2/12, Lester) reports that at CPAC conservative Republicans questioned whether Bush "is conservative enough when it comes to government spending and growth." Conservatives "are quite unhappy with Bush administration initiatives…and special spending projects from Congress that have ballooned the cost and scope of the federal government." Conservatives "feel that limited government overrides all other issues such as gun rights, pro-life policies and conservative judges. Yet, despite their unhappiness, Bush remains popular with this group, especially for his court appointments and handling of terrorism." ACU chairman David Keene said, "They like Bush. … But they are frustrated and disappointed with some things the administration has done." He "said conservatives are starting to look ahead at future leaders, accepting that they've gotten some of what they want from Bush.

Justice Department Reviewing Conduct Of Immigration Judges. The Los Angeles Times (2/12, Simmons, 958K) reports the "complaints of insensitive -- even abusive -- conduct by some U.S. immigration judges have prompted a broad federal review." Describing the "conduct of some judges as 'intemperate and even abusive,' U.S. Atty. Gen. Alberto R. Gonzales recently announced that the Justice Department was launching a comprehensive review of the nation's immigration courts." The review "will focus on the performance of the nation's 224 immigration judges, including 55 in California. Last year, the jurists, who are appointed by the attorney general, heard about 270,000

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cases, according to department statistics." The review "is being conducted by the deputy and associate attorneys general. It will assess the nature and scope of the problems within the system and recommend improvements, a Justice Department official said." The National Assn. of Immigration Judges "supports the review but believes that incidents of misconduct are rare, said Dana Leigh Marks, vice president of the organization."

NAFTA Seen As Fueling Illegal Drug Trade As Well. The Houston Chronicle (2/12, Pinkerton, 581K) reports that in Nuevo Laredo, the "five bridges spanning the green waters of the Rio Grande bustle with more than 21,000 cars, trucks and buses every day. This border town — and its American sister city across the river — see more than $100 billion in commerce rumble through every year. They're known as 'Los Dos Laredos,' and few dispute the towns are one of the great NAFTA success stories." But US drug agents "say that free trade with Mexico has had an ugly and unintended consequence: Just as legitimate business people have flocked to Nuevo Laredo, so have criminals. And they have quickly turned it into one of the most dangerous and violent towns along the U.S.-Mexico border, agents say." US drug agents "say they aren't surprised the city of 310,000 has become such a coveted outpost for smugglers. They've worried for years that free trade unwittingly fuels trafficking."

Assaults On Border Patrol Officers On The Rise. The Washington Post (2/12, C2, Barr, 744K) reports in its "Federal Diary" column that assaults "against Border Patrol officers appear to be on the increase -- from gunshots fired to rocks thrown." Homeland Security Secretary Michael Chertoff said, "Let me tell you, rockings are serious. You can get serious injuries when a rock . . . hits a Border Patrol agent." The Post adds according to David V. Aguilar, "the Border Patrol chief, there were 374 assaults against officers in fiscal 2004 and 778 assaults in fiscal 2005. Since Oct. 1, the start of the fiscal year, there have been 192." Chertoff and Aguilar "talked about the dangers faced by Border Patrol officers as part of a briefing on the president's new budget proposal. The Department of Homeland Security would receive a 6 percent increase in funding under President Bush 's plan, with a substantial part of the extra funds directed toward tightening border security and cracking down on smugglers and cartels."

Republicans Concerned Bush Budget Will Impact 2006 Elections. The Boston Globe (2/12, Klein, 484K) reports, "Republicans are expressing deep skepticism about President Bush's plans to cut social programs while promoting the extension of his tax cuts, saying the juxtaposition of the two GOP priorities could spur an election-year backlash." Bush's budget "is increasingly being met with criticism from both ideological poles of his party. Moderates are expressing concern about slashing popular programs that benefit the poor at the same time they're being asked to cut taxes on the rich, and conservatives are saying the proposal does not go far enough in controlling the record budget deficit." The "reaction to Bush's proposal this year was notably cool from members of his own party," and Republican Main Street Partnership executive director Sarah Chamberlain Resnick "said she sees at least one bright spot in the budget proposal: It will give moderates from districts that are heavily Democratic a chance to demonstrate their independence from Bush."

Sen. Menendez Faults Bush Budget For Burdening Middle Class. The AP (2/12, Gold) reports, "The budget proposed by President Bush adds to middle-class burdens while providing greater benefits for the wealthy and oil companies, Sen. Robert Menendez, D-N.J., said Saturday." Menendez said Bush's budget "will increase health insurance premiums and out-of-pocket costs through new schemes that will expand tax shelters for the healthy and the wealthy and drive up costs for the rest of us."

Coburn's Unwillingness To Support Earmarks Noted. In his Washington Post column (2/12, B7), George Will profiles Sen. Tom Coburn, the "most dangerous creature that can come to the Senate, someone simply uninterested in being popular. When House Speaker Dennis Hastert defends earmarks -- spending dictated by individual legislators for specific projects -- by saying that a member of Congress knows best where a stoplight ought to be placed, Coburn, in an act of lese-majeste, responds: Members of Congress are the least qualified to make such judgments." Coburn "came to the nation's attention last October when he proposed taking the $223 million earmarked for Alaska's 'Bridge to Nowhere' and using it to repair a New Orleans bridge destroyed by Hurricane Katrina." Because this "threat to Alaska also threatened Congress's code of comity -- mutual respect for everyone's parochial interests -- his proposal lost by 67 votes. But rather than do the decent thing -- apologize, tug his forelock and slink away chastened -- he refused to stop talking about it, made it an embarrassment to the Senate and

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catalyzed revulsion against spending that is both promiscuous and parochial."

Deficit Reduction Bill Includes Provision That Hikes Student Loan Interest Rates. ABC World News Tonight (2/11, story 6, 2:45, Avila) reported, "A warning for the college bound. Lock in your loan now, because the cost of money you borrow to pay for school is going up. This week, the government changed the rules for Federal loan programs. While students and parents can borrow more money, they will also face higher interest rates." ABC (Yang) added, "President Bush says the global economy means that America has to haven educated work force in order to remain competitive. But the President and the Republican Congress this week made going to college a little bit more expensive for millions of students." While a provision of the deficit reduction bill "makes more money available to more students, it raises interest rates on some loans by as much as 2%. That's on top of rising college costs, up 46% over the last five years." In his budget proposal, "Mr. Bush said he wanted to freeze Pell Grants, the money that goes to low income students. That proposal is already drawing opposition from both Republicans and Democrats in Congress."

And the AP (2/12, Gold) notes that in the Democratic weekend radio address Sen. Robert Menendez "said Bush's budget for 2007, released Monday, would increase college costs 'by locking in the largest student aid cut in the history of our nation.'"

User Fee Increases In Bush Budget Face Opposition. The AP (2/12, Taylor) reports, "President Bush hates new taxes, that's for sure. But tell that to airline passengers, higher-income veterans and owners of freighters using the St. Lawrence Seaway. They are among those hit up for billions of dollars under his new budget plan." Bush's budget "contains $3.5 billion in new user fees" which "would swell to $47.2 billion over five years, dunning taxpayers and industry to help pay for government services." But most "arrived on Capitol Hill dead as a doornail" because they "mostly are proposals rejected in the past."

Opponents Of Social Security Reform Surprised By Inclusion In Bush Budget. The Washington Times (2/12, Fagan, 90K) reports, "Opponents of President Bush's Social Security personal accounts plan were jolted into action last week when the proposal showed up in Mr. Bush's newest budget request." Bush "didn't push for it in his State of the Union address last month, instead calling for a bipartisan commission to study how best to reform the system -- a move that 'relieved' Democratic opponents of the plan such as Sen. Charles E. Schumer." Yet "that relief quickly dissipated Monday, opponents said, when they discovered Mr. Bush's 2007 budget proposal mentioned the plan." And "Republicans said Congress won't act on the proposal during this already highly charged election year." One House GOP leadership aide said that "it would be difficult for us to tackle this in a partisan election atmosphere." The Times notes, "Democrats said it was contradictory for Mr. Bush to suggest a bipartisan panel to explore various reform ideas while continuing to push his own plan." But "White House spokesman Trent Duffy disagreed, saying Mr. Bush's budget 'simply reiterated what he said all of last year' about his Social Security plan, and 'doesn't color in any way' the outcome of the bipartisan commission."

Brownstein Says Entitlement Reform Will Take Bipartisan Effort. Ron Brownstein in his column in the Los Angeles Times (2/12, 958K) writes that the failure of the 1995 Kerrey-Danforth entitlement commission "should caution President Bush, who pledged in his State of the Union address to appoint yet another commission on entitlements. A commission can be useful only if it recognizes that at this point, the solution to the entitlement problem doesn't require an intellectual breakthrough. It demands something even more rare these days: a political accommodation between the parties." Democrats need to agree to spending cuts and Republicans tax increases, but even then "Washington won't tame the entitlement problem without also slowing the overall increase in healthcare costs. … That won't happen without comprehensive healthcare reform, an issue Washington hasn't addressed since the collapse of Clinton's universal coverage plan in 1994.

Students Ignore Option To Benefit From NCLB Tutoring Program. The New York Times (2/12, A1, Saulny, 1.19M) in a front page story reports, "Four years after President Bush signed the landmark No Child Left Behind education law, vast numbers of students are not getting the tutoring that the law offers as one of its hallmarks." In New York City, "fewer than half of the 215,000 eligible students sought the free tutoring." And "New York's participation rate is better than the national average: across

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the country, roughly two million public school students were eligible for free tutoring in the school year that ended in 2004, according to the most recent data from the Department of Education, yet only 226,000 -- or nearly 12 percent -- received help." Educators "give multiple reasons for the problems: that the program is allotted too little federal money, is poorly advertised to parents, has too much complicated paperwork for signing up, and that it has not fully penetrated the most difficult neighborhoods, where there are high concentrations of poor, failing students."

Maryland Schools Face NCLB Deadline. The Washington Post (2/12, C1, Anderson, 744K) reports, "It has been eight years since Maryland told the Prince George's County school to shape up, or else. It has been four years since the federal government raised the pressure with a law meant to force shake-ups through aid and sanctions." But, "Charles Carroll Middle School has continued to fall short of state standards, even though the county has switched textbooks, changed principals three times and even assigned a 'turnaround specialist.'" Now "Maryland faces a question posed by the No Child Left Behind law: What happens when a school reaches the end of the line?" The Post notes, "Last week, the Bush administration offered one answer. It proposed $100 million to help parents with children in last-stage public schools move them to private schools or obtain tutoring. The proposal riled school-voucher opponents but underscored the issue's growing urgency."

House Republicans Meet In Cambridge, Maryland For Retreat. The New York Times (2/12, Hulse, 1.19M) reports House Republicans "descended in force upon" Cambridge, Maryland "for three days to ponder their political and policy future and ended up talking about 'the Force.'" At a retreat "intended to help them regain their footing after a corruption scandal and a leadership shake-up, about 180 lawmakers were treated to a film spoof that portrayed Republicans as the 'Star Wars' heroes being pursued by the evil Democratic empire led by 'Darth Nancy.' That would be" House Minority Leader Nancy Pelosi. The "short video, produced by the National Republican Congressional Committee, had the audience in stitches, according to those on hand. But it was also a tacit admission that House Republicans are in for an epic battle this November as they try to retain their majority in a midterm election cycle that has historically meant Congressional losses for the party in power." New Majority Leader Rep. John Boehner, "who served in the leadership during the heady days of the Republican takeover in 1994, put a lot of stock in the retreat's potential. After his election, he helped restructure the conference, saying he wanted to provide individual lawmakers with more opportunity to vent and voice their ambitions after years of top-down management of the House."

Boehner's Positions On Several Issues At Variance With Those Of Caucus. The Washington Post (2/12, A7, Weisman, 744K) reports that as Rep. Boehner "moves to unite his fractious House Republicans," he has "another issue to finesse: his own views on some key issues, which have clashed with the stance of much of the Republican Party. From illegal immigration to sanctions on China to an overhaul of the pension system, Boehner, as chairman of the House Committee on Education and the Workforce, took ardently pro-business positions that were contrary to those of many in his party. Religious conservatives -- examining his voting record -- see him as a policymaker driven by small-government economic concerns, not theirs." In the coming months, Boehner "must decide whether to stick to his well-established beliefs and try to bend his party's stance or give in to the majority of the majority party." In an interview, Boehner "vowed to lead by consensus," but he "also stood by his positions, especially on a tough illegal immigration bill that passed in December with overwhelming Republican support over Boehner's opposition." One provision "would mandate that every business verify the legality of every employee through the federal terrorism watch list and a database of Social Security numbers. For the bill's authors, the measure is central to choking off illegal immigrants' employment opportunities. To business groups and Boehner, it is unworkable."

With Boehner As Majority Leader, Luntz Is Out Of Favor. The Washington Post (2/12, A5, Cillizza, 744K) reports that at the House GOP retreat, Republican pollster Frank Luntz "was on the original schedule to make a presentation -- but he did not." Luntz said that "he was not disinvited from the retreat, only that his presentation was rescheduled." Sean Spicer, "a spokesman for House Republican Conference Chairman Deborah Pryce (Ohio), confirmed that Luntz did not appear at the retreat but will address House Republicans on Wednesday." But according to "several Republican party strategists, newly elected Majority Leader John A. Boehner (Ohio) made it clear to members that if Luntz was going to the retreat, he wouldn't be in attendance." Luntz was "instrumental in the creation of the

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'Contract With America' -- the document widely credited with delivering Republicans the House majority in 1994. Boehner's relationship (or lack thereof) with the pollster goes back -- at least -- to late 1998, when Boehner was seeking to hold onto his job as House GOP Conference chairman." Days before the GOP caucus "met to hold leadership elections, Boehner appeared on several Sunday talk shows making clear that he and Gingrich had often parted ways on strategy. Luntz said at the time that Boehner made a 'big mistake' by criticizing Gingrich, and he heaped praise on Rep. J.C. Watts (Okla.), who was challenging Boehner for the conference chairmanship. Watts beat Boehner -- throwing the Ohioan unceremoniously out of leadership."

Bush, Abramoff Appear In Same Photo. The CBS Evening News (2/11, story 3, :30, Mitchell) reported, "A photograph of President Bush in the company of disgraced lobbyist Jack Abramoff is posted on the Time magazine web site tonight. The photograph show Mr. Bush with his back to the camera, meeting a native American tribal chief in the executive office building back in May 2001. Jack Abramoff can be seen looking on from the background. President Bush has said he does not remember ever meeting with Abramoff."

Time (2/12, Zagroin, Cooper) reports the White House "has continued to assert that the President had no recollection of ever meeting Abramoff. When TIME reported in January that it had viewed unpublished photographs of Abramoff with Bush, aides responded that the pictures meant nothing since the President is photographed with thousands of supporters and White House visitors every year." Now, "finally, the first such photo has come to light. It shows a bearded Abramoff in the background as Bush greets an Abramoff client, Raul Garza, who was then the chairman of the Kickapoo Traditional Tribe of Texas; Bush senior advisor Karl Rove looks on. The photograph was provided to TIME by Mr. Garza." The meeting "took place in the Eisenhower Executive Office Building adjacent to the White House on May 9, 2001." White House Press Secretary Scott McClellan "said the White House had still found no record of Abramoff's presence but confirmed that it is Abramoff in the picture." This meeting, "however, was a relatively small gathering attended by some two dozen people, including Garza and another Indian tribal leader who was Abramoff's client. At least two tribes, the Coushatta of Louisiana and the Mississippi Band of Choctaw, contributed $25,000 each to the anti-tax group Americans for Tax Reform, which is headed by Grover Norquist, a well-known conservative ally of the White House."

The New York Times (2/12, Shenon, Bergman, 1.19M) reports the "first photograph to be published of the two men shows a small, partly obscured image of Mr. Abramoff looking on from the background as Mr. Bush greets a Texas Indian chief in May 2001. By itself, the picture hardly seems worthy of the White House's efforts to keep it out of the public eye." Abramoff "is little more than a blurry, bearded figure in the background at a gathering of about two dozen people. But it provides a window, albeit an opaque one, into Mr. Abramoff's efforts to sell himself to Indian tribes as a man of influence who could open the most secure doors in Washington to them. And it leaves unanswered questions about how Mr. Abramoff and the tribal leader, whom he was trying to sign as a client, gained access to a meeting with the president on the White House grounds that was ostensibly for a group of state legislators who were supporting Mr. Bush's 2001 tax cut plan."

The Washington Post/Bloomberg (2/12, A4) reports White House spokesman Scott McClellan "told Time that the photo does not change anything. 'The president has taken countless, tens of thousands of pictures at home and abroad over the last five years,' McClellan told Time. 'A photo like this has no relevance to the Justice Department's investigation.'" The AFP (2/12) reports the "publication of the photo came amid a mushrooming scandal of influence-peddling in Washington, and threatened to raise fresh questions about Abramoff's link to the Republican administration."

Leadership PACs Seen As Loophole For Members Of Congress. The Minneapolis Star Tribune (2/12, Talev, 424K) reports Alaska Rep. Don Young "gained notoriety last year as the chairman of the House Transportation Committee who secured more than $200 million for a 'bridge to nowhere' in his home state." But what was "less noticed was the Republican's support for projects elsewhere in the country favored by contributors to Midnight Sun, a political action committee." Young's leadership PAC, Midnight Sun's "treasurer is a lobbyist with a client list that includes transportation interests." In southeast Arkansas, "more than a dozen men and women connected to road paving and auto sales in and near Pine Bluff gave about $28,000 last March to Midnight Sun, on top of about $20,000

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to Young's reelection committee. When the highway bill passed a few months later, it had more than $200 million for their region over the next five years." Many campaign finance experts "see leadership PACs as part of the problem, a way to skirt campaign limits and hide special-interest ties." But few lawmakers "want to clamp down on a fundraising vehicle that is being increasingly relied on by politicians as other contribution limits have kicked in."

Crime Fighting Strategies Seen As Useful For Congressional Reform. In his Washington Post column (2/12, B1), Michael Grunwald says that with the falling crime rate, "nobody argues anymore that bad neighborhoods are doomed" except for one "here in Washington. It is enduring a crime wave unparalleled in recent memory, and even though its leaders are making noises about cleaning it up, many experts remain skeptical that its culture of recidivism can be reformed. Then again, the neighborhood in question, the U.S. Congress, has always inspired skepticism." As "new pay-for-policy allegations emerge about representatives with made-for-cartoon names like Doolittle, DeLay and Ney, conventional wisdom is congealing around the notion that Congress is what it is, and can't be changed. But that was once conventional wisdom about New York, too." Grunwald then considers several crime reduction strategies such as more visible Justice Department and Federal Election Commission enforcement presence on Capitol Hill.

DeLay Resumes Appropriations Committee Seat. The Houston Chronicle (2/12, Levine, 581K) reports Rep. Tom DeLay, R-Sugar Land, "is officially back on the House committee that oversees how the federal government spends its money. After giving up his post as House majority leader in January after a lobbying scandal and his indictment on campaign finance charges, DeLay last week regained his seat on the House Appropriations Committee." Now back "as a rank-and-file member, the lawmaker was assigned to two subcommittees — the panels that oversee the NASA budget and several federal agencies, including Justice, State and Homeland Security. His district includes the Johnson Space Center." DeLay, who has "never chaired a subcommittee and is not slated to do so now, will be among the most senior members of the panel."

Poll Shows 45% Think Bush Treated Same As Other Presidents By Media. The Houston Chronicle (2/12, Mason, 581K) in its "White House Watch" column notes, "A new CBS News/New York Times poll found that 45 percent of Americans asked think Bush gets about the same treatment from the media as other presidents." It also "found that 35 percent said reporters are tougher on him than on other presidents, and 18 percent said Bush has it easier. It would be interesting to hear what Bill Clinton thinks of these perceptions." Clinton "made a stop by the press cabin last week on Air Force One -- something Bush has done only once."

Hagel Independence From Bush May Prove Attractive To Conservatives. The New York Times Magazine (2/12, Lelyveld) in a lengthy examination of Sen. Chuck Hagel's prospects in a potential 2008 presidential campaign highlights Hagel's opposition to President Bush, in particular on Iraq. But on domestic issue Hagel also "broke with his party leadership to vote against the new prescription-drug program under Medicare, the No Child Left Behind bill and a big farm bill stuffed with incentives for corporate agriculture. Each, he felt, was ill conceived in practical terms and unwarranted as an expansion of federal mandates and spending. Only on the Bush tax cuts -- all of which he has supported -- has he been deaf to warnings about the consequences for the federal deficit. (Though, he says, he'd never take 'the pledge' to oppose any and all tax hikes.)" ACU chairman David Keene noted "that Hagel has taken a more conservative position than the Bush administration every time he has broken with it on a major issue." One "issue that could propel him into the campaign is not one on which candidacies normally rise or fall. Call it the issue of competence." But "while he doesn't exactly say that the current administration has been careless and incompetent, that theme cries out between the lines of much of what he does say. After the botched reconstruction of Iraq and the nonchalant response to the hurricane on the Gulf Coast, it's not a stretch to hear an implied critique when he says, as he did talking to local reporters in Ames, Iowa, last fall, that the president should 'stay focused on governing the country' and 'reach out to Congress.'"

Frist Seen As Distancing Himself From Bush. Robert Novak in his syndicated column (2/12) writes, "In recent national television appearances, Senate Majority Leader Bill Frist backed away from unequivocal support of President Bush in what Republican insiders viewed as preparation for a 2008 presidential run." Novak notes, "On

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NBC's 'Meet the Press' Jan. 29, Frist said, 'I would have probably put more troops in [Iraq] if the decision had been up to me.' He said the White House is not cooperating with Hurricane Katrina investigations by Congress. As for the Bush budget, he said: 'We are spending too much in Washington, D.C.' He suggested his and the White House's position in the Terri Schiavo case was wrong. On NBC's 'Today' program the next day, when asked about the administration's National Guard policy, Frist replied: 'I am opposed to cutting the Guard myself.'"

McCain Seeks Support For 2008 Campaign From Bush Network. The Washington Post (2/12, A1, Balz, 744K) in a front page story reports, "With a 2008 campaign in the offing," Sen. John McCain "has begun an intensive courtship of Bush's financial and political networks. His recent travels included a December swing through the heart of Bush country in Texas that put him in front of many of the president's leading supporters there." While "Republicans look toward 2008 and worry about maintaining the White House, a streak of pragmatism has drawn them to look again at a man who often has been an antagonist of the president and party leaders." In preparation "of a likely campaign, he appears eager to reach accommodation with longtime GOP adversaries. He has undertaken the kind of practical steps necessary to enhance his chances of winning the nomination, focusing on organizations in states critical to winning the GOP nomination and building relationships with Republicans who rejected him in 2000."

McCain Supporters Encouraged By Criticism Of Obama. Robert Novak in his syndicated column (2/12) writes, "Key supporters of Sen. John McCain's prospective bid for the 2008 Republican presidential nomination were delighted by his outburst against Sen. Barack Obama, the rising Democratic superstar." Novak adds, "The downside of McCain's outburst, say his supporters, is that it strengthens the perception that he may be too hot-tempered to serve as president."

Gingrich Gets Rousing Welcome At Conservative Conference. The AP (2/12, Lester) reports former Speaker Newt Gingrich "told cheering conservatives Saturday it is time to overhaul a balky, slow-moving government locked in the last century. Citing multiple government failures after Hurricane Katrina, the former House speaker said the government meltdown at all levels illustrated how badly government needs to be updated in all of its operations." Gingrich said, "The system failed, the city of New Orleans failed, the state of Louisiana failed and the government of the United States failed. When you see an American body on an American street sitting there for three days on television because the government can't collect the dead, something has failed." The Washington Times (2/12, 90K) also runs the AP story.

Congress Resists Smoking Bans. The New York Times (2/12, Kornblut, 1.19M) reports that when Washington's "citywide smoking ban takes effect here next month, at least one workplace in town will be spared: Congress, the beneficiary of a kind of diplomatic immunity for federal lawmakers." That is "excellent news" smokers such as Majority Leader John A. Boehner, cigar smoker Barney Frank, and struggling quitter Sherwood Boehlert. While the "rest of the country has turned against smoking with great zeal, Congress has stubbornly — some would say proudly — refused to bend. Smoking is still allowed in numerous indoor spaces in the Capitol, most noticeably in the gilded reception area where lawmakers crowd together during the long yeas and nays." Members are "uncharacteristically shy about discussing their smoking habits in a public domain where smoking is supposedly taboo." Yet in private, "some lawmakers have shown little desire to tamp down the addiction. In some corners, the right to smoke in Congress is seen as a last stand against political correctness, a bulwark against the antismoking fervor that swept the political universe during the Clinton years."

Rumsfeld Said To Have "Lost" In Effort To Change Pentagon Culture, Foreign Policy. In a Washington Post (2/12, B2, 744K) Outlook article reporter David Von Drehle says that if you "read closely in the barrage of weighty tomes" Defense Secretary Donald Rumsfeld and company "put out in recent days, you might discover that the Rumsfeld era is over, and Rumsfeld lost. The secretary had staked his tenure on two ideas. He wanted to change Pentagon culture, and he wanted the military to drive American foreign policy. Neither idea survived the week." First, the "signature effort of Rumsfeld's historic tenure -- his 'transformation' of the world's most powerful military -- melted away under the cover of the imposing Quadrennial Defense Review. In 92 dense pages it revealed that while America's troops will be called to perform new missions in countries

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around the globe, the entrenched forces in Washington, the contractors and the members of Congress, have survived Rumsfeld virtually unscathed." Another secret "hidden in plain sight in last week's $439 billion Pentagon request -- up nearly 7 percent from the wartime budget of fiscal 2006 -- was that the real sum is much higher. Military spending in the coming months will pass the half-trillion-dollar mark. That $439 billion doesn't include the ongoing costs of operations in Afghanistan and Iraq, for which the Pentagon will soon seek a 'supplemental appropriation' of at least $70 billion for the rest of this fiscal year and another $50 billion to start next year." Which "leads to last week's third secret. Iraq remains the urgent focus of America's largest deployed force; it is a key to U.S. foreign policy and determines the political terrain at home. But it has been reduced to the status of a troubled subsidiary in the corporate flow chart of Rumsfeld's Pentagon: off-budget for accounting purposes, and, apparently, incidental to future strategy."

OTHER NEWS:

Economic Reports May Prompt Stock Markets Sell-Offs. The New York Times (2/12, De Aenlle, 1.19M) reports Wall Street traders "will have a lot of information served to them this week, but in the opinion of Mike Williams, a strategist at Tocqueville Asset Management, they will find little of it palatable." Reports on "consumer activity (retail sales and consumer confidence), manufacturing (industrial production and capacity utilization) and the housing market (housing starts and building permits) will follow one another in quick succession, beginning on Tuesday." Williams "foresees readings ranging from neutral to favorable, showing a resumption of healthy economic growth after a subdued fourth quarter. But he is concerned that Wall Street will make the worst of a good situation and sell on the news."

Bull Market May Have Little Ground To Advance. The Los Angeles Times (2/12, Petruno, 958K) reports this "bull market hasn't surrendered much since it began more than three years ago. But that may be because it hasn't had a lot to give, at least in the case of blue-chip shares." The Standard & Poor's 500 index "lost 751 points, or 49%, in its slide from its record high on March 24, 2000, to its bear-market low of 776.76 on Oct. 9, 2002. Since the low, the index has recovered 490 points, or about two-thirds of what it lost." Historically, by the time "most bull markets have reached their fourth year they've recouped all of the previous bear-market loss, says Sam Stovall, investment strategist at S&P in New York. The cautious tone of this advance may be a big reason the S&P hasn't experienced as much as a 10% correction, or short-term pullback, in three years, Stovall says."

Full Employment Seen As Worthy Economic Goal. The New York Times (2/12, Uchitelle, 1.19M) reports many Americans "may not realize full employment was once a hotly pursued goal — a condition considered so important that many politicians wanted it legislated and not left to chance." These are "radical concepts today. Fear of another depression prompted the first debate, in the mid-1940's, and a steep recession contributed to the second, in the mid-1970's. Both bills, as finally enacted, failed to achieve their original goal. And as inflation rose in the late 70's, government shifted to fighting it, often at the expense of employment." Out of the "second Congressional debate came not full employment but a fear of it. The law that Congress finally enacted, the Humphrey-Hawkins Act of 1978, set full employment as a goal — along with low inflation. Soon, however, each was viewed as the enemy of the other and full employment, defined as the right to a job, lost out." The "late-90's hiring boom, approaching full employment, has lingered fondly in public memory. And now that the unemployment rate is falling once more — it dropped two-tenths of a percentage point last month, to 4.7 percent, its lowest level in four and a half years — there is talk again of somehow bringing back, if not full employment, then at least the late 90's version of it."

New Space Race Underway. The Los Angeles Times (2/12, Johnson, 958K) reports, "Thirty-four years after the last Apollo astronaut walked on the lunar surface, a new space race is underway. It will be a long race, with humans unlikely to set foot on the moon again in the next 10 to 15 years. But countries are gearing up to take their first steps." India's "20,000 space workers are readying a lunar orbital mission set for 2007. Japan plans to send a robotic rover to the lifeless rock by 2013, and the European Space Agency has a probe, SMART-1, orbiting the moon." Although many countries "are talking about sending people to the moon, only two, the United States and China, have set dates for manned lunar landings. NASA says its next manned mission will be as early as 2018; China says it wants to land 'taikonauts' — as

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Chinese astronauts are called — as early as 2017." Each country is "going for its own reasons — some commercial, some strategic, some for national pride. But if the plans come to fruition, the moon could become a busy extraterrestrial outpost for scientists, engineers and possibly ordinary citizens in the coming decades. It would also serve as a vital way station for man's long-dreamed-of trip to Mars." And "leading the way is the only country that has set foot there before, the United States."

Romney Tied For Third In Michigan 2008 Poll. The Boston Globe (2/12, Easton, 484K) in its "Washington Briefing" column notes, "On the Romney '08 front, a new Strategic Vision poll shows the Massachusetts governor tied for third with Newt Gingrich and George Allen among Michigan Republican voters asked to consider prospective presidential candidates." The leaders, "John McCain, at 37 percent, and Rudolph Giuliani, at 25 percent. Michigan -- Mitt Romney's childhood home and the state his father governed -- is considered key to a potential presidential run."

Warner Faces Hurdles In Building Name Recognition. The Washington Post (2/12, A9, Shear, 744K) reports, "A lot has changed for Mark R. Warner since he left behind the Virginia governorship and his 80 percent approval ratings to begin mulling a presidential campaign." Yet, "perhaps nothing more than this: At just 3 percent in a recent poll asking Democrats nationwide to rate their presidential preference, Warner has become an unknown overnight." So "Warner's purpose in New Hampshire is serious." Warner will "likely to be competing with such superstars as Sen. Hillary Rodham Clinton (D-N.Y.), who was preferred by more than 10 times as many Democratic voters in a CNN poll, and Sen. John F. Kerry (D-Mass.), who received more than 59 million votes in the 2004 presidential election." Similar to Sen. Chuck Hagel, Warner has made competence a theme, saying Republicans have "pushed competence to the side and made partisan loyalty the standard."

In a more positive story, Knight Ridder (2/12, Thomma) says Warner's message in New Hampshire that he's won in a "red state" and has a strong management style was well received "among party activists considering which candidate they'll work for." Former Rep. Dick Swett said, "Those in the know have a very high opinion of him." But "Warner only has the support of 2 percent of New Hampshire Democrats in a new poll, well back in the pack and far behind presumed frontrunner Sen. Hillary Rodham Clinton of New York."

Kerry Has Over $9M Left Over From 2004 Campaign. The Boston Globe (2/12, Easton, 484K) in its "Washington Briefing" column notes, "Last week The Briefing understated Senator John Kerry's campaign war chest. In addition to nearly $800,000 in his PAC and Senate committee, Kerry has $9.1 million left over from his 2004 primary campaign account." His aides say since the 2004 campaign Kerry "has doled out $3 million to Democratic candidates and organizations."

Pennsylvania GOP Endorses Swann For Governor. The Washington Post/AP (2/12, A4, Press) reports, "Pennsylvania's Republican Party leaders endorsed former Pittsburgh Steelers star Lynn Swann for governor Saturday, virtually guaranteeing that he will be the candidate to face Democratic incumbent Ed Rendell this fall." He won on "a unanimous voice vote during a meeting of the 300-plus-member Republican State Committee at a downtown hotel."

The Philadelphia Inquirer (2/12, Couloumbis, 423K) notes, "RNC chairman Ken Mehlman last week "said the national committee will send staff to Pennsylvania by the end of the month to help in the governor's race and U.S. Sen. Rick Santorum's reelection. 'We intend to work very hard with both campaigns,' he added." The Inquirer states, "It is a politically enviable position to be in." Observers say Swann "snagged the state GOP's favored-son status not because party heads came together to decide he was the best candidate to beat Rendell -- but because rank-and-file party members liked him, and rallied behind him." The Pittsburgh Post-Gazette (2/12, Barnes, 261K) also reports on Swann's endorsement.

Steele Offers Qualified Support For Stem Cell Research. The Washington Post (2/12, C3, Marimow, 744K) reports, "Maryland Lt. Gov. Michael S. Steele expressed qualified support yesterday for embryonic stem cell research, just days after causing an uproar by linking the science to medical experimentation during the Holocaust." He "used a radio interview to try to distance himself from the dust-up and expand his views on the controversial research. He offered several conditions of his support and gave one example of a type of research that some leading scientists in the field say is not practical at this point." He "cited research

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at the National Institutes of Health, which he said involved scientists extracting the cells they need 'without destroying the embryo.'" Yet, "several leading stem cell researchers…have said that technique is impractical for now."

Steele Silent On Top Issues. The Baltimore Sun (2/12, Skalka, 296K) reports, "Lt. Gov. Michael S. Steele announced his bid for U.S. Senate in October with a promise to be a different kind of candidate, to build bridges between citizens and government and to be a voice for all Marylanders." But "with debates raging on a series of national and state issues -- including the appointment of a new Supreme Court justice and the revision of minimum-wage laws -- Steele has stayed out of the fray." Steele said, "I don't need to talk about issues right now. … I need to establish a relationship with voters." But his "strategy of silence faltered last week when he compared embryonic stem cell research to the experiments done by Nazi doctors -- a flub that exposed him to harsh criticism, left him struggling to formulate a clear position on a politically vexing issue and led critics to question whether he had sufficient seasoning to ascend to the Senate."

Santorum, Casey Take Advantage Of Subsidized Air Travel. The Philadelphia Inquirer (2/12, Budoff, 423K) reports, "It's a tempting offer for the time-strapped elected official: fly by private jet, courtesy of a corporation, without the hassle of long lines and lost luggage." The Inquirer notes, "Sen. Rick Santorum (R., Pa.) took advantage of the perk 10 times in the last two years, paying more than $18,000 -- a fraction of the true cost of the flights -- to six companies with legislative interests before Congress, according to campaign-finance documents." Santorum's Democratic challenger, state Treasurer Robert Casey Jr., has called for closing the air travel loophole, but he also "had already charged through the loophole by accepting a jet ride from the Texas law firm of Baron & Budd in June to raise money and later repaying only the cost of a first-class ticket."

Minnesota Senate Race Attracts National Attention. The Minneapolis Star Tribune (2/12, Lopez, 424K) reports, "Minnesota voters this fall will fill one of the nation's few open seats in the U.S. Senate, and the 2006 contest already is attracting the money and attention of the rich and powerful across the country." Yet, "instead of the prize provoking a bloody free-for-all among Minnesota's most ambitious politicians, the field has cleared out early in both leading parties, with candidates dropping out and many high-profile names never entering." That "dearth of contestants may reflect national parties' and interest groups' increasingly aggressive intervention in Minnesota politics." As the election approaches "Minnesota voters are almost certain to see both a parade of big names and a blitz of national ads, many likely to be sponsored by organizations other than the candidates themselves." But currently the only candidates "are Hennepin County Attorney Amy Klobuchar and veterinarian Ford Bell on the DFL side and Republican Sixth District U.S. Rep. Mark Kennedy, who was anointed early on by GOP leaders and who faces only token opposition from retired minister Harold Shudlick."

Danforth Worries Religious Conservatives Taking Over GOP. The CBS Evening News (2/11, story 9, 3:15, Mitchell) reported, "It appears sometimes that issues of faith and politics are dividing Americans more frequently than ever. And one senior figure with a foot in both camps believes it's no accident. For tonight's weekend journal, Bill Whitaker talks to the Senate veteran who is known far and wide as St. Jack." Former Sen. John Danforth: "I am concerned about the Republican Party becoming in essence the party of the Christian conservatives." CBS (Whitaker) added, "This is no Republican basher speaking. It's party stalwart John Danforth, a lifelong Republican with rock solid conservative credentials." But, "now this faithful Republican is worried about the direction his party is taking." Danforth: "It makes the party seem exclusive, and I think it makes American politics meaner." Whitaker: "How did he come to this?" Danforth: "I was appalled by the Terri Schiavo case." Whitaker: "Seeing Republicans, who traditionally had stood for keeping government off citizens' backs, in this case pushing the Federal Government into such a personal affair." Whitaker: "Danforth's brother died of Lou Gehrig's disease, one of the many scientists believe stem cell research might cure. He's campaigning to convince Missouri to allow the research." Danforth: "I want cures to be found. They would say that cells in a petri dish are morally equivalent to an 11-year-old child. It is a statement based solely on a religious point of view."

Fish Says "Liberal Religion" Means Beliefs Not Taken Seriously. In a New York Times op-ed (2/12), Florida International University law professor Stanley Fish addresses

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the controversy caused by the publication of caricatures of Mohammed in the Danish and later European media, adding that the "first tenet of the liberal religion is that everything (at least in the realm of expression and ideas) is to be permitted, but nothing is to be taken seriously. This is managed by the familiar distinction — implied in the First Amendment's religion clause — between the public and private spheres. It is in the private sphere — the personal spaces of the heart, the home and the house of worship — that one's religious views are allowed full sway and dictate behavior." But in "the public sphere, the argument goes, one's religious views must be put forward with diffidence and circumspection. You can still have them and express them — that's what separates us from theocracies and tyrannies — but they should be worn lightly. Not only must there be no effort to make them into the laws of the land, but they should not be urged on others in ways that make them uncomfortable. What religious beliefs are owed — and this is a word that appears again and again in the recent debate — is 'respect'; nothing less, nothing more."

Robertson's Gaffes Draw Increasing Scrutiny. The Los Angeles Times (2/12, Fiore, 958K) profiles televangelist Pat Robertson, whose "famous fundraising prowess that has made him one of the world's most recognizable and influential televangelists. But lately the charismatic broadcaster is better known for something else — a series of controversial and incendiary remarks that have foisted him into the news. And the limelight has not been flattering." Robertson's "evangelical peers have branded him 'arrogant' for his comments, and students at the Christian university he founded worry that his candor could damage their school's credibility. The political left eagerly monitors his appearances on his spirits-raising morning show. What they find becomes fodder for talk-show monologues." Outspokenness "is nothing new" for Robertson, but "at age 75, and freed from the need to marshal political capital, Robertson seems even less restrained than ever. His verbal grenades sound more like bombs, and even those in the evangelical community are noticing."

Remote West Texas To Get Public Radio Station. The New York Times (2/12, Novovitch, 1.19M) reports "far West Texas, a 20,000-square-mile area," has been "been barren of broadcasting except for a few pirate stations and two small, low-wattage operations. A 100,000-watt station, the strongest FM signal allowed, with call letters KRTS (93.5 on the dial), will sign on Monday at 4 p.m. Central time when Dan Rather, the former CBS anchor and a native Texan, flips a switch, says a few ceremonial words then cuts away to the National Public Radio program 'All Things Considered.'" Marfa Public Radio "will be the first radio station offering national and world news to far West Texas, with a potential 50,000 listeners, counting travelers and residents, according to its president." Though Marfa "may seem an unlikely home for public radio," the "vast, sparsely populated region in recent years has attracted urban refugees who live or vacation here. Local residents had tried for decades to bring public radio to the area, but it was the influx of outsiders that helped them finally start a station."

Gore's Daughter Profiles Groundbreaking Women In New Book. The New York Times (2/12, Starr, 1.19M) reports Karenna Gore Schiff "a lawyer and former journalist, played a central role in Gore's 2000 presidential campaign. In 'Lighting the Way: Nine Women Who Changed Modern America,' Schiff writes that she decided to profile women who had spearheaded progressive change in part to mitigate the pain of that election loss."

Iran Threatens To Abandon Nonproliferation Treaty. The New York Times (2/12, Fathi, 1.19M) reports, "Iran's president warned on Saturday that Iran could withdraw from the Nuclear Nonproliferation Treaty if international pressure increased over its nuclear program. His threat was a significant escalation of the government's previous position that it would only stop complying with spot inspections of military installations and sites it has not declared to be part of its nuclear program." President Mahmoud Ahmadinejad told "tens of thousand of demonstrators who had gathered to mark the 27th anniversary of the Islamic revolution" that "The Islamic Republic has continued its program within the framework of the International Atomic Energy Agency and the nonproliferation treaty. ... But if we see that you want to use the NPT regulations to deprive us of our rights, know that the people will revise their policy in this regard. ... I ask our dear people to prepare themselves for a great struggle. Fasten your seat belts and pull up your sleeves."

UN Equipment Removed From Sites. The Washington Times/AP (2/12, Karimi) reports that "diplomats in Europe said the UN nuclear watchdog agency had stripped most of its surveillance equipment from Iranian nuclear sites.

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The diplomats, who asked for anonymity in exchange for revealing the confidential developments, said President Mahmoud Ahmadinejad's threat was part of retaliatory measures announced by Iran that have left the International Atomic Energy Agency with only the most basic means to monitor Iran's nuclear activities."

US Planning Iran Attacks, UK Paper Reports. AFP (2/12) reports, "US military strategists are reportedly drawing up plans for an attack on Iran as a last resort to stop the Islamic republic from developing nuclear weapons. In a front-page dispatch from Washington, the Sunday Telegraph newspaper in London said Central Command and Strategic Command planners were 'identifying targets, assessing weapon-loads and working on logistics for an operation.' The planners are reporting to the office of Defense Secretary Donald Rumsfeld with a view to having a military option if diplomatic efforts fail to put the brakes on Iran's suspected quest for nuclear weaponry. 'This is more than just the standard military contingency assessment,' the Sunday Telegraph quoted a senior Pentagon adviser as saying. 'This has taken on much greater urgency in recent months.'"

Experts Caution That Iran "Prepared To Retaliate" The Boston Globe (2/12, Bender, 484K) reports, "Iran is prepared to launch attacks using long-range missiles, secret commando units, and terrorist allies planted around the globe in retaliation for any strike on the country's nuclear facilities, according to new US intelligence assessments and military specialists." Military and intelligence analysts "warn that Iran -- which a recent US intelligence report described as 'more confident and assertive' than it has been since the early days of the 1979 Islamic revolution -- could unleash reprisals across the region, and perhaps even inside the United States, if the hard-line regime came under attack."

Khatami Predicts Higher Oil Prices If UN Sanctions Hit Iran. AFP (2/11) reported, "Former Iranian president Mohammad Khatami has warned of a rise in world oil prices if the United Nations imposes sanctions on Tehran over its disputed nuclear program. 'Currently the price of each barrel of oil is $70, and this high price has created many difficulties for the industrialized world," Khatami told reporters on the sidelines of an international conference on Islam and the West. 'The first effect of a sanction against Iran will be that this high price will even increase higher.'"

Muslim Protests Over Mohammed Cartoons Continue To Spread. The protests over the caricatures of the prophet Mohammed continue to spread in the Islamic world, and Denmark recalled its diplomats from Indonesia over fears of violence. NBC Nightly News (2/11, story 4, 2:20, Friesen) reported the Danes are "proud of their reputation as peace-loving and liberal-minded. Astonished, they're now the focus of so much Muslim rage." There was "more anger on the streets. In London and across Europe, the rallies noisy, but peaceful. Though in Indonesia, the mood is so hostile, today, Danish diplomats pulled out. They left Syria and Iran too as what officials described as concrete and serious threats. Iran's President asked why it's all right to insult Islam, but a crime to question the Holocaust? At the Olympics, Denmark's team is now under tight security, three-plainclothes guards escorting them yesterday. This is the worst political crisis Denmark has faced since the Second World War, made worse by emails and text messages spreading rumors and lies about the country through the Muslim world. One claiming Danes were burning the Koran in Copenhagen's main square. Danes have been told to avoid travel to Muslim countries. 15,000 people are canceling trips."

The CBS Evening News (2/11, story 5, :20, Mitchell) reported, "Denmark today pulled its diplomats out of Iran and Indonesia as Muslim protests over political cartoons satirizing the prophet Mohammed continued. Hundreds of Muslims in Jakarta, into their second week of protest there. In Paris, about 7,000 Muslims protested against French papers that reestablished the Danish caricatures. Thousands have also filled London's Trafalgar square in another peaceful protest."

Iran Blames US, Europe Over Offensive Cartoon. The AP (2/12, Karimi) reports, "Iran's hard-line president on Saturday accused the United States and Europe of being 'hostages of Zionism' and said they should pay a heavy price for the publication of caricatures of the Prophet Muhammad that have triggered worldwide protests." In a speech marking the 27th anniversary of the Islamic Revolution Saturday, Iranian President Mahmoud Ahmadinejad was quoted as saying, "Now in the West insulting the prophet is allowed, but questioning the Holocaust is considered a crime. ... We ask, why do you insult the prophet? The response is that it is a matter of freedom, while in fact they (who insult the founder of Islam) are hostages of the Zionists. And the people of the US and Europe should pay a heavy price for becoming hostages to Zionists." In its coverage, the Washington Post (2/12, A24, Jordan, 744K) notes, "Thousands of Muslims in London and other European cities rallied peacefully Saturday to condemn

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both published cartoons of the prophet Muhammad and the violent reactions to them. Men and women, some pushing babies in strollers, crowded into Trafalgar Square as speakers not only denounced the cartoons as an unacceptable insult to the holiest figure in Islam, but also condemned the burning of embassies in Syria and Lebanon, deaths in Afghanistan and other violence that has come in response."

Danish Diplomats Leave Iran, Indonesia. The Washington Times (2/12, Dispatches, 90K) reports, "Denmark said yesterday it had withdrawn diplomats and staff from Indonesia and Iran because of security threats, while Muslims held demonstrations in European cities and elsewhere over cartoons of the prophet Muhammad. Denmark ... warned Danes to leave Indonesia, saying they faced a 'significant and imminent danger' from an extremist group." The AP (2/12, Ritter) notes that Denmark's ambassador to Syria also was withdrawn, adding, "Danish embassy buildings in all three countries had been targeted by angry mobs protesting the publication of the caricatures in September."

In "Liberal Denmark," Cartoon Crisis Prompts Identity Crisis. The New York Times (2/12, Bilefsky, 1.19M) reports, "Ater rioting that has raged for weeks across the Muslim world after a Danish newspaper's publishing of caricatures of the Prophet Muhammad, Denmark has sunk even more deeply into an identity crisis. A country that once prided itself on having Europe's most open immigration policies and a generous welfare state is grappling with how to preserve its vaunted liberalism while remaining Danish. 'The furor over the cartoons has been a wake-up call for Danes,' says Flemming Rose, the cultural editor of the paper, Jyllands-Posten. ... 'We are used to seeing ourselves as a permissive and open society on the side of the good, and it is shocking to see Danes as objects of hate.'"

Philadelphia Paper Picketed Over Cartoon. The Philadelphia Inquirer (2/12, Fifield, Bahadur, 423K) reports, "Hundreds of Muslims chanted and carried banners and signs outside the Inquirer-Daily News Building yesterday, protesting The Inquirer's decision to reprint a caricature of the prophet Muhammad. Many said they thought that the paper had defamed their religion by publishing an image that has angered Muslims across the world and resulted in mass protests and the burning of Western embassies. Many Muslims consider any depiction of Muhammad to be sacrilegious." Meanwhile, the Pittsburgh Post-Gazette's (2/12,) Ann McFeatters notes, "The inflamed passions, violence and false allegations stoked by some sophomoric cartoons satirizing the revered Mohammed, such as one with his headdress drawn as a bomb with a lit fuse, first published four months ago in a Danish newspaper, should worry every rational human. It is not farfetched that the religious fervor of outraged Islamic fundamentalists could ignite even more hatred that would take generations to wipe out."

In its coverage, the Dallas Morning News (2/12, Weiss) reports, "The worldwide furor over anti-Muslim cartoons started out as a specifically Danish squabble. But what began with satirical cartoons of the prophet Muhammad has raised questions about freedom of expression, religious and cultural sensitivities, and political hypocrisy and violence in the name of faith." Most protests, "including this one in Philadelphia Saturday, have been more loud than violent."

Mideast Rage A Question Of "Justice." The New York Times (2/12, Slackman, 1.19M) reports, "While the West speaks of democracy and freedom, Muslims here tend to speak of justice. There is widespread feeling that the region's governments deny their people justice, and this feeling has been instrumental in the increased support for Islamists throughout the Middle East, whether the Muslim Brotherhood in Egypt, or Hamas among the Palestinians. 'It has reached to the point where Egyptians do not feel entitled to anything, and all they want is justice,' said Ibrahim Aslan, a leading Egyptian writer. 'Across history, in literature, Egyptian peasants asked for justice, not for freedom or democracy. Just justice. Social justice.' Islamists promise not just piety, but an end to corruption and misrule. That challenge helps explain the eagerness of established governments to pursue the conflict over the Danish cartoons — to increase their own credibility on religious issues and resist the Islamists' rising popularity."

"Why Not Publish These Cartoons," Columnist Asks. The Washington Post's (2/12, B6) Deborah Howell notes that "Hundreds of readers have asked why The Post hasn't reprinted the Danish cartoons of the prophet Muhammad that inflamed Muslims around the world, leading to deadly protests and the burning of embassies. Some readers questioned the Post's journalistic courage." Executive Editor Len Downie "made the decision, consulting with other top editors. The issue, he said, is one of journalistic judgment, not courage."

Riots Seen As Obscuring The Real Islam. The New York Times (2/12, 1.19M) guest columnist Emran Qureshi

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notes, "In a world of wrenching change, the Danish cartoon affair has widened a growing fissure between Islam and the West. The controversy comes at a time when many in the Islamic world view the war on terrorism as a war on Islam. They draw on memories of colonization and of the Crusades, when Western invaders ridiculed the Prophet Muhammad as an imposter. Sadly, the recent polarization obscures a rich humanistic tradition within Islam — one in which cosmopolitanism, pluralism and a spirit of open-minded inquiry once constituted a dominant ethos."

Old NYT Images Of Muhammad Appear "Gone For Good." In a feature story, the New York Times (2/12, Kifner, 1.19M) reports, "Deep in the bowels of this newspaper's old morgue ... is a folder with a photograph of a Persian miniature painting depicting the Angel Gabriel appearing to the Prophet Muhammad. It was used to illustrate an article about Islam in 1974. Taped on the back is a copy of an editor's note published two days later that said, 'Since it is an affront to Moslems to depict such likenesses, The Times expresses its regrets to those who were offended by the use of the photograph.' So controversy over depictions of Muhammad, like those that have led to demonstrations, destruction and death over cartoons published in a Danish newspaper, are not new. In truth, however, the depictions that caused some of the past protests were rather admiring."

Modern Checkpoints Mark Change For Palestinian Border Crossers. The Boston Globe (2/12, Frankel, 484K) reports, "All along the boundaries between Israel and the Palestinian territories, this is the new reality. As Israel moves ahead with its plan to complete a barrier separating Israeli and Palestinian towns, the burden of preventing terrorist infiltration into Israel is falling to the 28 checkpoints ... that Israel is building to accommodate the flow of people and goods." Bezalel Triber, a brigadier general in the reserves who is heading Israel's drive to build the crossings, was quoted as saying, "The point is to move to full remote control, where no [Israeli] should talk to a Palestinian or touch him. ... It is more respectful, it's better from a security standpoint and there is no friction between people."

Sharon Hospitalized For Emergency Surgery. Israeli Prime Minister Ariel Sharon was hospitalized for surgery for an abdominal condition that frequently affects comatose patients. ABC World News Tonight (2/11, lead story, 1:40, Avila) reported it was a "sudden and serious turn for the worse" for Sharon, but he is "is out of danger for now. This latest complication is considered a setback." Doctors "are saying it's almost certain Ariel Sharon has suffered severe brain damage and tonight, Israelis are coming to the realization that the chances of their Prime Minister recovering in a meaningful way is slipping away."

The CBS Evening News (2/11, story 4, 1:20, Mitchell) reported it was "another major setback for ailing Israeli Prime Minister Ariel Sharon." For "a while reports indicated Sharon was near death, but tonight the Prime Minister is said to be out of danger." Sharon is "still a political presence here, but it's hard not to think of and talk about Ariel Sharon in the past tense. He's been in a coma for more than a month now. Acting Prime Minister Ehud Olmert is not only leading the country and has been since Ariel Sharon went into that coma, he is leading the country now and he's also leading Ariel Sharon's party, the party that Ariel Sharon formed into elections, election they're expected to win easily next month."

NBC Nightly News (2/11, story 3, :20, Williams) reported, "In Israel, doctors say Prime Minister Ariel Sharon is out of immediate danger after emergency surgery this morning. The 77-year-old Sharon was rushed into surgery to remove part of his large intestine. This is his seventh operation since suffering a massive stroke five weeks ago. He remains in a coma."

The New York Times (2/12, Myre, 1.19M) reports, "Prime Minister Ariel Sharon of Israel underwent emergency surgery on his large intestine on Saturday and emerged in stable condition, though he remained in a coma, the Hadassah Ein Kerem Hospital said. ... Doctors observed that Mr. Sharon's abdomen was swollen, and after conducting a CT scan, he was taken into surgery on Saturday morning, Dr. Shlomo Mor-Yosef, the director of the hospital, said at a news conference." Hospital officials "initially said Mr. Sharon's life was in danger. But after the four-hour operation, Dr. Mor-Yosef said, 'The situation is serious, it is stable, it is critical, but there is no immediate danger to the life of Prime Minister Ariel Sharon.'" The Washington Post (2/12, Wilson, 744K) notes, "Sharon's sons, Omri and Gilad, rushed to the hilltop hospital early Saturday to be with their father, and his key advisers were there as well."

The Los Angeles Times (2/12, King, 958K) adds that "Sharon on Saturday survived his latest medical crisis — one that has served, somewhat poignantly, to underscore the degree to which the Israeli political torch has already passed

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to his successor, Ehud Olmert,' who "has assumed the leadership of Kadima, the centrist party Sharon founded weeks before his stroke." In an acknowledgment that Sharon had departed the political stage, his party was unable to give him even a symbolic place on its slate of candidates in the coming election."

The Washington Times (2/12, Mitnick, 90K) and also covers the story.

Hughes Diplomatic Office Rated As "Not Performing." The Houston Chronicle (2/12, Mason, 581K) in its "White House Watch" column notes a new government web site that tracks government program performance rates Karen Hughes' office of public diplomacy at the State Department as "not performing." Her "tenure at the State Department has been short and bumpy." Hughes "has no foreign policy background and has made a few gaffes -- such as dramatically overstating, during a trip to Indonesia, the number of people Saddam Hussein had gassed."

AFP (2/9) noted that the Internet site put together by the White House's Office of Management and Budget and heralded by Bush on Wednesday as a way to see 'whether or not a program is working.'"

Rumsfeld Strengthens Tunisia Ties. The Washington Post/Reuters (2/12, A26) reports, "Defense Secretary Donald H. Rumsfeld said on Saturday that the United States wants to strengthen military ties with Tunisia, Algeria and Morocco and played down the threat posed by al Qaeda in the three North African states. Rumsfeld arrived in Tunis after a NATO meeting in Sicily to begin a three-day visit to the Mahgreb -- his first to the region as defense secretary -- and praised Tunisia's support in the US campaign against global terrorism. 'They have been attacked by terrorists in this country,'" Rumsfeld said, adding, "They have felt the sting of that type of violence."

Mongolia Seeks To Improve Relations With US. The Washington Post (2/12, Cody, 744K) reports that squeezed between giants Russia and China, "Mongolia increasingly has forged relations with 'third neighbors,' more distant nations that can offset the influence of Moscow and Beijing. Japan has played the role prominently, becoming Mongolia's largest aid donor, and so have Germany and South Korea. But foremost among the third neighbors is the United States, the superpower that Mongolians have courted as an aid source and a counterweight to Russia's residual status and China's economic tentacles stretching across the Gobi Desert."

Syria Fills Cabinet Vacancies. Reuters (2/12) reports, "President Bashar al-Assad appointed interior and foreign ministers on Saturday, filling a major vacuum in his government as the country faces pressure over its role in Lebanon. A senior security officer, Bassam Abdel Majeed, was appointed as interior minister, and a career diplomat, Walid al-Moualem, was appointed to the foreign affairs portfolio, the state news agency announced." The main figure "gone from the cabinet is Farouq al-Shara, who had been foreign minister for 22 years. He was appointed vice president, a mostly ceremonial position."

Royal Feud Puts Moroccan Freedoms On Trial. The Washington Post (2/12, A1, Whitlock, 744K) reports, "The monarchy in this North African country dates back 1,200 years and has survived foreign invaders, civil wars and communist plots. Now it is confronted by a new threat: a grandmother who preaches nonviolence and democracy. This week, Moroccan prosecutors are scheduled to resume a criminal trial against Nadia Yassine, a leader of Justice and Charity, an underground Islamic movement that has become increasingly aggressive in testing the rule of King Mohammed VI. Yassine, 47, was charged last June with publicly criticizing the monarchy after she stated in a newspaper interview that the country would be better off as a republic than as a kingdom."

Avian Flu Found In Three European Union Countries. The CBS Evening News (2/11, story 6, :15, Mitchell) reported, "For the first time bird flu has spread to countries of the European Union. Officials said today the virus has been detected in dead wild swans in Greece and Italy as well as in Bulgaria. Officials say there is no immediate threat to human beings."

The New York Times (2/12, Rosenthal, 1.19M) reports, "The lethal A(H5N1) bird flu virus has been detected in wild birds in Italy and Greece, European officials announced yesterday, the first time its presence has been detected in the European Union. It was also detected in Bulgaria. The arrival of bird flu in Western Europe had been predicted for some months, since the virus has marched steadily from China, to Russia, to the Balkans and, in the last week, to West Africa. It is being carried by migrating birds, so all countries on their flight paths are vulnerable." The Washington Post/AP (2/12,

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A25, Sanminiatelli) notes that 'the announcement that the disease was detected in five swans in southern Italy came a day after the opening of the Winter Olympics in Turin, several hundred miles to the north. Italian officials said the virus had affected only wild birds and posed no immediate risk to people."

Keeping One's Distance May Be Key In Case Of Pandemic Flu. The New York Times (2/12, McNeil, 1.19M) reports, "If the avian flu goes pandemic while Tamiflu and vaccines are still in short supply, experts say, the only protection most Americans will have is 'social distancing,' which is the new politically correct way of saying 'quarantine.' But distancing also encompasses less drastic measures, like wearing face masks, staying out of elevators — and the bump. Such stratagems, those experts say, will rewrite the ways we interact, at least during the weeks when the waves of influenza are washing over us."

Africa "A Worrisome New Front." The New York Times (2/12, Rosenthal, McNeil, 1.19M) reports, "As epidemics go, it was a relatively small outbreak: 40,000 chickens died in mid-January on a commercial poultry farm in Nigeria. No humans seemed to have been infected. But to many experts on avian flu, it was the outbreak they had been dreading for months. It was the first time the fast-moving A(H5N1) virus had been reported in Africa. And while United Nations agencies are now scrambling to form medical and veterinary response and surveillance teams, scientists say its appearance there is deeply worrisome for two reasons. First, the continent is ill prepared to deal with epidemics, whether human or animal. Second, the Nigerian outbreak comes only a month or two before birds begin migrating north from Africa to Europe, which has so far been largely untouched by the virus."

Snow Optimistic On Russia WTO Candidacy.

Reuters (2/12) reports, "US Treasury Secretary John Snow told Russian President Vladimir Putin on Saturday Washington was committed to a speedy conclusion of talks on admitting Moscow to the World Trade Organization. ... 'On WTO let me assure you that we are committed to an early resolution,' Snow said in televised remarks at a meeting with Putin in the Kremlin. '"I think we are narrowing the differences and should be very close to resolution.'"

Energy Prices, Tight Oil Supply Pose Big Risk, G-8 Ministers Warn. The New York Times (2/12, Kramer, 1.19M) reports, "Finance ministers from the world's richest countries and Russia said Saturday that 'high and volatile' energy prices posed a risk to global economic growth that otherwise appeared solid." According to US Treasury Secretary John W. Snow, "We're all concerned about the risk of rising energy prices and what they do to global growth." The Washington Times (2/12, Mainville, 90K) notes the ministers' communiqué as saying, "Overall global growth remains solid, and this is expected to continue in 2006. ... Risks remain, including high and volatile energy prices." In its coverage, the Los Angeles Times (2/12, Holley, 958K) adds, "The communique lauds the rapid economic growth in recent years shown by Russia, ... and Russia's commitments to boost aid to poor countries and make early payments on its Soviet-era debt to the group of top lending nations known as the Paris Club."

Latin American Leaders Push Pipeline Plan.

The Washington Post (2/12, A24, Reel, 744K) reports, "South American leaders from Venezuela to Argentina are proposing to build the world's largest fuel pipeline across Latin America, and they hope it will deliver much more than natural gas: They portray the plan as the first blueprint for a new era of regional cooperation, greater independence from international markets and a more prominent voice on the world stage. President Hugo Chavez of Venezuela has labeled the proposal a 5,000-mile symbol of diminishing US influence in Latin America. Enthusiastic support for the project from regional heavyweights, including Brazil and Argentina, has prompted others to describe the project as the first true joint venture of a political coalition determined to forge a new South American identity."

US Rejects Morales Position On Coca.

The New York Times (2/12, Forero, 1.19M) reports newly elected Bolivian President Evo Morales "has not yet provided many details on his coca policy, except to say that his government will 'depenalize' coca cultivation and show zero tolerance toward trafficking: in other words, 'yes to coca, no to cocaine.' He has long opposed American eradication efforts and championed the coca leaf, which without significant processing has no mind-altering effects and is chewed here to mitigate hunger and increase stamina." The American government, "which for several administrations has contended that only aggressive eradication and interdiction will control trafficking, scoffs at Mr. Morales's ... stance. 'This idea that he's going to go after traffickers but letting the coca bloom is tough seeing as workable,' says a high-ranking

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Congressional aide in Washington who helps shape anti-drug policy, speaking on the condition of anonymity because he is not authorized to give statements. 'It's a naïve, pie-in-the-sky approach to let the flower bloom but interdict the bouquet.'"

In Election Limbo, Haiti Experiences "Fragile Peace." The New York Times (2/12, Thompson, 1.19M) reports, "The national elections, so long in coming, seem to have brought a fragile peace to the most troubled country in the hemisphere. Partial results gave a wide lead to René Préval, a former president who is considered a protégé to former President Jean-Bertrand Aristide. However, it remained unclear whether he would win the more than 50 percent of the vote to avoid a runoff."

The Los Angeles Times (2/12, Williams, Regnault, 958K) adds, "With one presidential term behind him and his campaign for a return to power undertaken with reluctance, Rene Preval has made clear he has no illusions about the daunting challenges that lie ahead for the next leader of Haiti. Torchbearer for the unfulfilled aims of his predecessor and ally, Jean-Bertrand Aristide, Preval may be uniquely positioned to re-energize the exiled president's followers in the thwarted mission of empowering the poor and steering this most backward of Western nations out of its historical rut of violence, illiteracy and injustice."

In Race For UN Leadership, "Many Names, Few Rules And Talk Of Asia's Turn." The New York Times (2/12, Hoge, 1.19M) reports, "Choosing a new secretary general may be the most telling single action the United Nations takes in 2006, but the organization is saddled with an ill-defined selection procedure that leaves the choice subject to 11th-hour compromises, great power maneuvers and regional rivalries. The most discussed candidates, at least at the moment, include a Jordanian prince, a Nobel laureate from East Timor, two Eastern European presidents, Sweden's most accomplished diplomat, a former Sri Lankan ambassador to Washington, a Harvard-trained Thai lawyer, a Canadian judge, South Korea's foreign minister and a Turkish economist. But if history is a guide, it is likely that none of them will emerge the winner and that the person who does is not being publicly discussed."

Italy Will Elect New Parliament In April. The Los Angeles Times (2/12, 958K) reports, "Italy dissolved its parliament and scheduled elections for early April, opening what promises to be a bitter campaign pitting Premier Silvio Berlusconi against a strong center-left opponent. Parliament ended two weeks later than originally planned after Berlusconi negotiated a delay that allowed his government to push through a flurry of legislation. It also allowed the premier to keep up a barrage of TV and radio appearances."

Bush Should Step Up On Darfur, WPost Says. In an editorial headlined "Mr. Bush And Genocide," the Washington Post (2/12, 744K) posits that "for the past 18 months, the Bush administration and its allies have clung to the fiction that they could stop the genocide in the Sudanese territory of Darfur by sending in African Union forces. On Thursday United Nations Secretary General Kofi Annan spoke the truth about these troops," saying "that the UN force that may replace the African Union had better be 'a completely different force and have a completely different concept of operation.' The issue is whether President Bush, who is due to meet Mr. Annan tomorrow, is willing to hear this message." The Post asks, "Will the administration accept Mr. Annan's appeal for an entirely more serious peacekeeping deployment? The administration is pushing for the creation of some kind of UN force but seems unsure whether it's willing to support a strong one."

Darfur Photos Show Troubled Land, People. In his biweekly column, New York Times (2/12,, 1.19M) columnist Nicholas Kristof writes, "On my fifth and last trip to Darfur, in November, I smuggled in 20 disposable cameras to hand out to these disposable people. While taking photos without a permit is illegal in Sudan, two aid groups agreed to distribute the cameras, teach the genocide survivors how to use them, and then send me the pictures (for their own protection, I'm not naming those aid groups)." Kristof continues, "The photos were taken in makeshift camps near the town of Zalingei where survivors have lived since fleeing their villages. ... These scenes reflect the banality of waiting — for food, for protection, for death. In short, such photos are a bit like those from the Warsaw Ghetto in the early 1940's." He concludes, "On Tuesday, Mr. Bush spoke movingly at the funeral of Coretta Scott King. I hope he'll look at these photos and ruminate on an observation of the Rev. Martin Luther King Jr.: 'Man's inhumanity to man is not only perpetrated by the vitriolic actions of those who are bad, it is also perpetrated by the vitiating inaction of those who are good.'"

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THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Bomb Buster For Iraq Hits Pentagon Snag."
"Vernon Shoo-Ins Shoo Outsiders."
"Dorms Fuel Jail Unrest."
"Keeping The Olympics On Edge."
"Shooting For The Moon, Once Again."
"In Campaign, Westly Seeks An Insider-Outsider Balance."

New York Times:
"Tutor Program Offered By Law Is Going Unused."
"Violent Crime Rising Sharply In Some Cities."
"Healing, With New Limbs And Fragile Dreams."
"Bolivia's Knot: No To Cocaine, But Yes To Coca."
"Eats Shoots, Leaves And Much Of Zoos' Budgets."
"Reform Jews Hope To Unmix Mixed Marriages."

Washington Post:
"A Hand Up In A System Full Of Letdowns."
"Report On Katrina Spreads Blame."
"For Possible '08 Run, McCain Is Courting Bush Loyalists."
"Feud With King Tests Freedoms In Morocco."
"TV When -- And Where -- You Want It."

Washington Times:
"G-8 Nations Cite Threat Of Energy Costs."
"Year's First Snow Hits Region."
"Sharon Undergoes Emergency Surgery."
"UAE Firm Eyeing U.S. Ports."
"Un-Pleasant Gentrification."

Atlanta Journal-Constitution:
"Hey, Aren't You A Famous Olympic Athlete?"
"Lenders Pull Out Wallets."
"The Eternal Eight."
"It's Not Easy Being A Democrat: 'They Even Took My Seat.'"

Dallas Morning News:
"And Baby Makes Two."
"Prepping To Fight A Deadly Flu."
"Fighter Start To Finish."
"He Helps Cupid's Arrow Hit Its Mark."
"Danger Escalates For Border Agents."

Houston Chronicle:
"Free Trade Fuels Drug Smuggling."
"Off To A Gold Start."
"Witnesses' Plea Deals Pose Delicate Challenge."
"Family Kept Grim Secret Too Long To Save Teketria."

Story Lineup From Last Night's Network News:
ABC: Sharon Hospitalized; Fossett-Record Flight; San Francisco-Chinese New Year's; Laura Bush-Hillary Clinton; Winter Weather; Student Loan Rates; Iraq-Roadside Bombs; Pakistan-US Missile Strike; Olympics; Olympics-Skiing Aerodynamics.
CBS: Fossett-Record Flight; Winter Weather; Bush-Abramoff Meeting; Sharon Hospitalized; Muslim Cartoon Protests; Avian Flu-Europe; Pakistan-US Missile Strike; FBI-Al Qaeda Plot; Danforth-Politics, Religion; UVA Basketball Coach-Cancer.
NBC: Winter Weather; Olympics; Sharon Hospitalized; Muslim Cartoon Protests; AL Church Fires; Catholic Church-Reform; Fossett-Record Flight; Oldest Olympian; Snowboarding-Half Pipes.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — No public schedule.
VICE PRESIDENT CHENEY — No public schedule.

US Senate: No public schedule.

US House: No scheduled events.

Other: UTILITY REGULATORS _ Winter meeting of the National Association of Regulatory Utility Commissioners. Location: Hyatt Regency-Washington on Capitol Hill, 400 New Jersey Ave. NW

LINCOLN BIRTHDAY _ 12 p.m. The National Park Service, Military District of Washington and the Lincoln Birthday National Commemorative Committee sponsor the 197th birthday anniversary of Abraham Lincoln. Location: Lincoln Memorial.

SISTER DOROTHY MEMORIAL _ 4:30 p.m. The Robert F. Kennedy Memorial Center for Human Rights and the Washington Office on Latin America host a vigil to commemorate one-year anniversary of the murder of American nun Sister Dorothy Stang. The vigil will feature brief remarks on Sister Dorothy's life and work, as well as the cultural challenges that she faced in the Brazilian Amazon. Participants include former Maryland Lt. Gov. Kathleen Kennedy Townsend and Reps. Tim Ryan, D-Ohio; Jim McGovern, D-Mass; and Mike Turner, R-Ohio. Location:

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Outside the campus chapel at Trinity University, 125 Michigan Ave. NE.

ABC _ THIS WEEK WITH GEORGE STEPHANOPOULOS _ Topic: Muslim cartoon controversy; Iran nuclear; and CIA leak investigation. Guests: Secretary of State Condoleezza Rice, and Sen. Joseph Biden, D-Del. Guest: Pittsburg Steelers star and hall of famer Lynn Swann speaks on his campaign to become Pennsylvania's first black governor. Topic: American Heart Association ``Go Red" campaign for women. Guest: Actress Sigourney Weaver.

CBS _ FACE THE NATION WITH BOB SCHIEFFER _ Interviews with Secretary of State Rice and Democratic National Committee Chairman Howard Dean.

CNN _ 11 a.m. - 1 p.m. LATE EDITION WITH WOLF BLITZER _ Topics: U.S. Intelligence; Iraq; Terrorism; Nuclear Nations. Guest: Sens. Chuck Hagel, R-NE., Foreign Relations Committee; Select Intelligence Committee; and Joseph Lieberman, D-Conn., Armed Services Committee; Homeland Security Committee. Topic: Iraq: The Next Chapter. Guest: Iyad Allawi, former Iraqi Interim Prime Minister, Iraqi Parliament member. Topics: Middle East Violence; Future of the Middle East. Guest: Nabil Fahmy, Egyptian Ambassador to the U.S.; Guest: Afif Safieh, Palestinian Representative to the U.S.; and Danny Ayalon, Israeli Ambassador to the U.S.

FOX _ FOX NEWS SUNDAY WITH CHRIS WALLACE _ Topic: President Bush says the war on terror is working, but some Democrats say the GOPs using the politics of fear to win in November. Guest: Sen. George Allen, R-Va. Topic: Was criticism of President Bush at Coretta Scott Kings funeral over the line? Well talk with the civil rights leader who took on the president and a former top White House aide. Guests: Rev. Joseph Lowery (Georgia Coalition for the Peoples Agenda) and Ron Christie (author, ``Black in the White House). Topic: A man who is in daily contact with Mars. Guest: Dr. John Grant, Geologist, National Air and Space Museum.

NBC _ MEET THE PRESS WITH TIM RUSSERT _ Topic: The debate over intelligence gathering. Guests: Sen. Pat Roberts, R-Kans., chairman, Intelligence Committee; former Sen. Tom Daschle, D-S.D., former Democratic Leader; and Reps. Peter Hoekstra, R-Mich., chairman, Intelligence Committee; and Jane Harman, ranking member, Intelligence Committee.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: SUNDAY, FEBRUARY 12, 2006 7:45 AM EST

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TERRORISM NEWS:

"Aggressive" Inquiry Into Wiretapping Article "Rapidly Expanding." The New York Times (2/12, Johnston, 1.19M) reports, "Federal agents have interviewed officials at several of the country's law enforcement and national security agencies in a rapidly expanding criminal investigation into the circumstances surrounding a New York Times article published in December that disclosed the existence of a highly classified domestic eavesdropping program." The "people who have been interviewed and others in the government who have been briefed on the interviews said the investigation seemed to lay the groundwork for a grand jury inquiry that could lead to criminal charges," and "several officials described the investigation as aggressive and fast-moving." The case is considered "potentially far reaching because it places on a collision course constitutional principles that each side regards as paramount:" punishing those responsible for a serious security breach" against "confidentiality of sources and the ability to report on controversial national security issues free of government interference." Still, "some media lawyers believe that The Times has powerful legal arguments in defense of its reporting and in protecting its sources."

Rep. Wilson's Demand For Domestic Spying Briefing Seen As Sign Of Program's Low Popular Support. CQ Weekly (2/13, Horrigan) reports, "The Bush administration's domestic wiretapping program had a bad week on Capitol Hill, culminating in Pennsylvania Republican Arlen Specter, Senate Judiciary Committee Chairman's announcement of legislation to place the plan under judicial review from the Foreign Intelligence Surveillance Court." However, in "a more immediate political reversal" New Mexico Rep. Heather A. Wilson (R) "announced she was breaking ranks…to demand a full briefing on the program before the Intelligence Committee." She "is more than a little motivated this year to put some distance between herself and the White House, since she's waging one of the House's most competitive re-election bids." Wilson's "skepticism could well signal to similarly situated GOP incumbents that the White House program may not be drawing the popular support the president is banking on."

GOP Lawmakers Growing Restless Over Domestic Spying. Newsweek (2/12, Isikoff, Hosenball, Thomas) reports, "It is not yet clear how the public feels about warrantless wiretapping," but "the solons of Capitol Hill—and, increasingly, those in the Republican Party—are growing restless and ready to challenge the authority of the Bush White House," partly because "congressional egos and prerogatives are on the line. Members of both parties feel bullied by the sometimes high-handed treatment they get from the Bush administration, particularly from Vice President Dick Cheney," whose "attitude seems to be: bring it on." While "a senior White House official shrugged off the push-back from Republican lawmakers against warrantless eavesdropping," should it emerge "that the United States has been secretly spying on more seemingly innocent Americans, then the Bush administration really will have a problem, and it won't just be among ruffled lawmakers on Capitol Hill."

Brooks Proposes Solution To Domestic Spying Debate. David Brooks writes in his column in the New York Times (2/12, 1.19M), "We need the Gang of 14 back again, because another issue has ossified into abstract ideological debate:" National Security Agency wiretapping. A sustainable bipartisan solution "would be based on a series of truths:" the need for "aggressive intelligence programs to head off attacks;" that such "programs will not survive with the current level of Congressional disquiet;" and the understanding that "we can't throw the mess to the courts to resolve" The solution is to "exempt searches covered by the Bush program from the Foreign Intelligence Surveillance Act" but "give the intelligence committees oversight responsibilities for those programs. You toughen the penalties for anybody who dares to leak secrets about those programs" and let committee members know that if the United States is attacked, and they opposed programs that could have prevented that attack, then it will be their name in the headlines."

NYTimes Says Recent Revelations Emphasize Untrustworthiness Of Bush Administration. The New York Times (2/12, 1.19M) editorializes, "We can't think of a president who has gone to the American people more often than George W. Bush has to ask them to forget about things like democracy, judicial process and the balance of powers — and just trust him. We also can't think of a president who has deserved that trust less" as "last week produced a flood of evidence that vividly drove home the point." Attorney General Alberto Gonzales asserted that "the administration can be relied upon to police itself and hold the line between national security and civil liberties on its own," when, "in sworn testimony at his confirmation hearing last year, he dismissed as 'hypothetical' a question about whether he believed the president had the authority to conduct warrantless surveillance" when "Gonzales knew Mr. Bush was doing just that." Tim Golden of The Times reported that the US military "had taken to tying up and force-feeding the prisoners who had gone on hunger strikes by the dozens at Guantánamo Bay" even as "the administration continues to claim that it can be trusted to…decide in secret and on the president's whim who is to be jailed without charges, and to

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insist that Gitmo is filled with dangerous terrorists." Finally, "the next edition of the journal Foreign Affairs includes an article by the man in charge of intelligence on Iraq until last year, Paul Pillar, who said the administration cherry-picked intelligence to support a decision to invade that had already been made."

SC Paper Praises Sen. Graham For Making Clear The Arguments For Judicial Oversight. The Myrtle Beach Sun News (2/12) editorializes, "No flaming liberal or terrorism softy, Sen. Lindsey Graham, R-S.C., last week demolished President Bush's arguments that he needs the permission of neither Congress nor the courts to probe Americans' communications for links to terrorists," explaining that "Congress did not intend to give him authority to circumvent the 1978 Foreign Intelligence Surveillance Act and undertake domestic spying on his own authority" and "the Constitution clearly envisions a role for Congress and the courts in checking and balancing the president's undisputed constitutional war-making powers." He said it is "possible to have an effective spying program under FISA," and "if FISA as written is inadequate to the administration's needs…Congress could fix the problem without undermining the surveillance program or revealing operational details to the public." While "Bush and Vice President Dick Cheney lose no opportunity to reassure law-abiding Americans that erroneous federal persecution could never happen to them," the pair's "judgment is a poor substitute for independent judicial oversight via the FISA court," and "Graham deserves great credit for making this distinction clear."

Pakistani President Says US Airstrike Killed Zawahiri Relative, Wanted Terrorist. ABC World News Tonight (2/11, story 8, :15, Avila) reported, "The President of Pakistan said a missile strike on a terrorist hideout last month killed a close relative of al Qaeda's number two leader, Ayman al-Zawahiri, and another man wanted by the US. It is the first time Pakistan has provided details about the people that were killed in that attack." The CBS Evening News (2/11, story 7, :15. Mitchell) also reported the story.

The Washington Post/AP (2/12, Khan) adds, "Until now, President Gen. Pervez Musharraf had only said 'foreigners' died." Pakistani intelligence officials say "the two men were Midhat Mursi al-Sayid Umar and Abdul Rehman al-Maghribi," and that "sympathizers buried the five bodies at an undisclosed location that authorities have been unable to find."

Montana Judge Aides FBI In Collaring Would-Be Al Qaeda Accomplice. The CBS Evening News (2/11, story 8, 2:10, Mitchell) reported, "The FBI is investigating an alleged terrorist plot to attack oil facilities in this country. The alleged conspiracy might never have come to light if it had been for a judge with an interesting sideline." CBS (Pinkston) added, "By day, Shannen Rossmiller is a municipal court judge in the town of Montana. At home, she's also a wife, mother of three, and part-time cyber-sleuth, tracking down possible terrorists. For the second time in two years, Shannen Rossmiller is helping down Federal authorities track down terrorists, this time putting the FBI on to this man, 47-year-old Michael Curtis Reynolds. CBS news has learned Reynolds is in custody in Pennsylvania on weapons charges and may face more serious counts thanks to a tip from Judge Rossmiller." Rossmiller was "scanning terrorist Websites when she noticed a posting from Reynolds seeking $40,000 to why fuel trucks to blow up refineries in New Jersey and Wyoming and a section of the Alaska oil pipeline. Posing as an Alaska banker, Rossmiller promised the money, set up a date and time for the rendezvous near Pocatello, Idaho and notified the FBI. They set up a sting." Rossmiller: "He picked up the $40,000 in cash which he intended to use for his means to do what he had wanted to do or indicated he wanted to do with the Alaska pipeline and some other locations." Pinkston: "At Reynolds' Pennsylvania home, Federal authorities seized his computer and files that according to a court document spelled out his bomb plans. Back in 2004, Judge Rossmiller helped snare Washington state National Guardsman Ryan Anderson."

The Philadelphia Inquirer (2/12, Lubrano, Shiffman, 423K) adds that Reynolds "has not been publicly charged with terrorism. But a federal prosecutor leveled that accusation during a December court hearing." While "Reynolds' lawyer, Philip Gelso, declined to comment," authorities say Reynolds told them he "was a patriot and intended to expose an al-Qaeda cell inside the United States."

The Philadelphia Inquirer (2/12, Lubrano, 423K) adds, "Rossmiller began trolling the Internet for potential terrorists after Sept. 11, 2001. Stunned and angered by the attacks on the United States, Rossmiller read the Koran, studied radical Islamic culture, and learned enough Arabic to lurk in chat rooms and ensnare jihadists. She had fractured her pelvis after slipping in the tub, and the convalescence afforded her the time to start her new avocation." An FBI agent in the Salt Lake City office "vouched for Rossmiller's credibility, saying, 'She's legitimate.'"

Moussaoui's Attorneys Contend Government Failed To Aggressive Investigate Him. The Washington Times/AP (2/12) reports that Zacarias Moussaoui's defense lawyers, in a closed hearing, "disclosed several details in the Jan. 5 hearing that go beyond and sometimes contradict what was disclosed in the September 11 commission report," including that "government

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correspondence shows 'the actual (redacted) information that essentially tells them in August that Moussaoui is a bin Ladenite who traveled to Afghanistan,'" and that "that the government explicitly barred one FBI agent in the summer of 2001 from interviewing Moussaoui or any member of Moussaoui's family for fear that such contact would alert al Qaeda to the government's investigation of two other al Qaeda terrorists." The "defense contends that the government knew more about the terrorists' plans than Moussaoui and still was unable to prevent the attacks." The US's knowledge of Moussaoui and his terrorist connections will be a key issue at his March 6 death-penalty trial."

Columnist Says Not Trying Moussaoui As "A Mere Terrorist" But Part of 9/11 Has Created A "Show Trial." Slate Columnist Dahlia Lithwick writes in an op-ed in the Washington Post (2/12, B3, 744K), "What's strange about Zacarias Moussaoui's courtroom outburst last week …is that the 'circus' comment came from the guy who's supposed to be crazy," and, "as is usually the case, if you unbraid the message from its wacky messenger, Moussaoui's claims ring true." After all, "Why is it that Moussaoui's story hasn't changed much in four years, while the government has downgraded him from hijacker to secret-keeper? It leads one inexorably to Moussaoui's last talking point: that this is a show trial," and "largely…because the administration has learned nothing from its dealings with the other captured terrorists -- about the need for clarity, humility and small but certain gains in court." Consider "the benefits of trying Moussaoui as a mere terrorist, rather than as a perpetrator of Sept. 11. For one thing his trial would appear fair, not just to the defendant,…but to the world, which would see that, when the charges actually correspond to the crime, the American court system works quite well."

FBI Probe Said To Have Infused Lodi Muslim Community With Fear, Suspicion. The Stockton (CA) Record (2/12, Hood) reports, "They notice when unfamiliar cars circle the block, drivers talking on cell phones. They notice when new residents move into nearby apartments that overlook their homes and are suspicious of door-to-door salespeople. That's life for members of Lodi's Muslim community in the eight months since two of their own were arrested, accused of ties to terrorists." In the wake of the FBI investigation that led to the arrest of Umer and Hamid Hayat on terrorism-related charges, "no one is above suspicion -- not of plotting terrorist attacks, but for being a federal agent or someone working for the government." The Record adds, "FBI Special Agent John Cauthen said if that's how Lodi's Muslims feel, it's not the FBI's doing. He said the FBI took pains to meet with anyone with concerns or complaints about the FBI's surveillance and conduct in Lodi. 'To say the investigation was different or the intent was to cause a chilling effect, it doesn't connect from where I'm sitting,' said Cauthen from his Sacramento office. 'We're not on a fishing expedition, hanging out in Lodi waiting for something to happen. We're just doing what's logical based on the evidence and facts in front of us.' But one of those who complained said the FBI used its highly visible presence to keep anyone from trying to help the Hayats' defense. 'It was clear intimidation, having the FBI around the mosque,' said Basim Elkarra, executive director of the Council for American-Islamic Relations' Sacramento Valley chapter. 'And it affected everyone. It was intimidation, and it worked. Some people feel it was a message to other Muslims.'"

United Arab Emirates Firm Could Take Over Operations At 6 US Ports. The Washington Post (2/12, A17, Bridis, 744K) reports that Dubai Ports World, a United Arab Emirates company, "is poised to take over significant operations at" New York, New Jersey, Baltimore, New Orleans, Miami and Philadelphia "as part of a corporate sale, leaving a country" that "was an important operational and financial base for the hijackers who carried out the attacks against the World Trade Center and the Pentagon" on Sept. 11, 2001 "with influence over a maritime industry considered vulnerable to terrorism." However, "the Bush administration considers the UAE an important ally in the fight against terrorism…and is not objecting" to the sale of Peninsular and Oriental Steam Navigation Co.

HOMELAND RESPONSE:

House Investigators' Katrina Report Singles Out Chertoff, Homeland Security. The Washington Post (2/12, A1, Hsu, 744K) reports, "A blistering report by House investigators" says that "leaders from President Bush down disregarded ample warnings of the threat to New Orleans and did not execute emergency plans or share information that would have saved lives" in response to Hurricane Katrina. "A draft of the report…includes 90 findings of failures at all levels of government," and "lays primary fault with the passive reaction and misjudgments of top Bush aides, singling out Homeland Security Secretary Michael Chertoff, the Homeland Security Operations Center and the White House Homeland Security Council." It adds that "Regarding Bush…'earlier presidential involvement could have speeded the response' because he alone could have cut through all bureaucratic resistance," and his "televised statement on Sept. 1 that 'I don't think anybody anticipated the breach of the levees,'" does "not appear to be consistent with the advice and counsel one would expect to have been provided by a senior disaster professional," as "about 56 hours before Katrina made landfall, the National Weather Service and National Hurricane Center cited an 'extremely

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high probability' that New Orleans would be flooded and tens of thousands of residents killed."

Reuters (2/12) adds the report concludes that "the response to the disaster showed the government failed to learn from the September 11, 2001 hijacking attacks,."

LATimes Says Brown's Testimony Reveals Lessons. The Los Angeles Times (2/12, 958K) editorializes that Michael Brown's "testimony was more than just good political theater, however — it was a guided tour of a dysfunctional federal bureaucracy." He "painted a picture of an unresponsive White House that did not grasp the gravity of the situation in New Orleans" even as "FEMA's parent agency, the Department of Homeland Security, was too preoccupied with terrorism to be of much help on natural disasters." He also "illuminated two obvious yet fundamental problems that threaten anyone dwelling in particularly risky environs:" it is "hard to coordinate all the federal, state and local agencies involved in responding to a catastrophe" and "disaster plans are worthless if they're not implemented." Therefore, "communities across the country need to work with state and federal governments to define just how much they can and must do in the event of a catastrophe like Hurricane Katrina, as well as what precisely it will take for the feds to send in the cavalry."

New Orleans Still Seeking Sponsors For Mardi Gras. The New York Times (2/12, Rivlin, 1.19M) reports that New Orleans officials " boldly decided last fall to hold the parades of Mardi Gras, even though the city treasury was empty and large swaths of the town still lay in ruins. The price, though, was their demand that the beloved party abandon tradition and seek corporate sponsors," but "no corporation has come up with the $2 million the city was hoping to receive for the naming rights," and only Glad Products "has said it will contribute to the cause" with "an unspecified six-figure donation to the city and a gift of 100,000 trash bags." Should "no additional corporate sponsors step forward, the city will have to dig into its nonexistent treasury to pay for the celebration, which many officials say the city needs to raise its spirit and its economy." People "in the sponsorship business say the city should have started searching for corporate donors in August, when companies typically start thinking about their marketing budget for the coming year," and "many image-conscious corporations may be reluctant to lend their name to an event that often becomes a bacchanal."

Writer Says Bush Has "Written Off New Orleans." Writer Jennifer Moses argues in an op-ed in the Washington Post (2/12, B7, 744K), "In his State of the Union address" President Bush mentioned New Orleans, saying "$85 billion is a lot." However, "nothing close to $85 billion has been spent, and that's because most of it is tied up with something called the Stafford Act, which restricts the use of federal money for precisely the kind of things that Louisiana needs to recover, particularly housing relief." Bush "has largely written New Orleans off," and "the president's rejection of the bipartisan Baker plan… was tantamount to a death sentence." Then, "in an instance of double bind so mind-numbingly stupid that you have to think that Washington is run by a mob of sadists, the president's point man for Gulf Coast recovery, Donald Powell, recently urged Louisiana to use its share of federal funds to buy out uninsured homeowners living outside the flood plain" when "all of New Orleans, as well as most of South Louisiana as a whole, is both below sea level and within the federal levee system, meaning, again, that New Orleans-area homeowners get diddly squat."

WAR NEWS:

Roadside Bombs Now Responsible For 61% Of Coalition Deaths In Iraq. ABC World News Tonight (2/11, story 7, 2:40, Avila) reported on the "mounting danger of roadside bombs in Iraq the number of attacks on US and coalition troops using IEDs, or improvised explosive devices, doubled from the year before, to nearly 11,000. More importantly, they now account for some 61% of all combat deaths and 71% of the wounded. And for those soldiers who are lucky enough to survive, the recovery is long and difficult." ABC also profiled the experience of Marine Michael Berninger, who was hit by two roadside bombs. Berninger "volunteered to serve in Iraq. A truck driver, which is among the most dangerous jobs because of roadside bombs. In fact, Michael was in the war zone less than four months, yet, he was hit by bombs twice. The second time, shrapnel from the device damaged his spine." Berninger "now has a chest full of medals, including the Purple Heart, and wants to return to finish his mission in Iraq. But he came home with more than physical injuries. He now suffers from posttraumatic stress disorder, with debilitating nightmares and flashbacks."

Defense Department Delays Use Of IED Destroyer. The Los Angeles Times (2/12, Mazzetti, 958K) reports, "A new high-tech vehicle that destroys roadside bombs" called the Joint IED Neutralizer "has passed a series of U.S. military tests but has not yet been sent into battle," and "to many in the military, the delay in deploying the vehicles, which resemble souped-up, armor-plated golf carts, is a case study of the Pentagon's inability to bypass cumbersome peacetime procedures to meet the urgent demands of troops in the field." The Pentagon's IED task force sadi the JIN "required further testing, and...a decision to delay deployment had been made jointly by Pentagon officials and commanders in Iraq," but "the Marine Corps believes otherwise and recently

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decided to circumvent the testing schedule and send JIN units to…Iraq." The Defense Department and Secretary Donald H. Rumsfeld have "faced similar charges of failing to act quickly to protect soldiers in combat," including "complaints about the military's failure to provide sufficient body armor for soldiers and adequate armor for transport vehicles."

Motorcycle Bomb Explodes In Baghdad. The Washington Post/AP (2/12) reports, "A bomb rigged to a motorcycle exploded early Sunday outside a local restaurant in central Baghdad, wounding nine people," and "machine gun fire was heard shortly after."

Iraqi Shiites' Prime Minister Nomination Stalled. The New York Times (2/12, Worth, 1.19M) reports, "Shiite political leaders failed to agree Saturday on their nominee to be Iraq's new prime minister, saying they would take a vote on Sunday if efforts to pick a candidate by consensus had not succeeded by then." While "the Shiite United Iraqi Alliance…expected to formally nominate Adel Abdul Mahdi on Saturday," Iraq's current prime minister, Ibrahim al-Jaafari, "refused to withdraw his name from contention, and he still commands wide support in the Shiite ranks." Sami al-Askari, an independent Shiite member of the alliance, said that there will be "one more effort to pick a premier by consensus" on Sunday, before resorting to "a secret ballot, the results of which will be final."

The Washington Times/AP (2/12, Abdul-Zahra) adds that the vote was postponed "at the request of radical cleric Sheik Muqtada al-Sadr's faction." The Washington Post (2/12, Hernandez, Fekeiki, 744K) also covered this story.

Iraq's Leaders Must "Unite The Country," Khalilzad Writes. In a Los Angeles Times (2/12, 958K) op-ed piece headlined, "A Political Blueprint For Iraq.", US Ambassador Zalmay Khalilzad writes that "From the moment the US decided to remove the brutal regime of Saddam Hussein and help Iraqis establish a representative government, one of our key challenges has been enabling the leaders of Iraq's major communities to overcome their mistrust and fear of each other. This has not been easy." Khalilzad goes on to write that "this is a moment of opportunity. Thanks in part to systematic outreach efforts by the United States, Sunnis have undergone a sea change in attitude about participating in post-Hussein governance, culminating in their massive turnout in the December elections. They have come to understand that the US is not seeking to occupy their country permanently, and many have been convinced that protracted violence would destroy their country's future. To build on this progress, Iraq's leaders now need to agree on a process to unite the country."

Opposing Experts Agree Saddam's Trial Is "A Mess," Offer Different Solutions. The Minneapolis Star Tribune (2/12, Rosen, 424K) reports, "Curtis Doebbler is one of two American lawyers on Saddam Hussein's international legal defense team," and "Michael Scharf, a Case Western Reserve University law professor and former State Department official, heads an international team of war crimes experts advising the trial's inexperienced Iraqi judges and prosecutors." Both "agree on only one thing about the nearly four-month-old trial of the deposed dictator: It's a mess." Doebbler "blames the U.S. government," accusing it "of running -- and rigging -- the trial behind the scenes," while "Scharf blames Saddam and his attorneys, who he says are intent on turning the trial into a circus." Doebbler says "the only way to save Saddam's trial…is to start over under U.N. control somewhere outside Iraq." Scharf, however, says "the trial should continue in Iraq because the Iraqi people have told pollsters in overwhelming numbers that Saddam should be tried and judged by his countrymen."

Army Adds Incentives To Retain Needed Officers. The Washington Post (2/12, A12, Tyson, 744K) reports, "The Army, forecasting a shortage of" short 3,500 active-duty officers by 2007, "is boosting the incentives it offers to try to hold on to experienced commanders." Besides "speeding promotions and rolling out incentives to entice officers to stay, the Army is also using involuntary 545-day call-ups to compel inactive officers to leave civilian life for duty in Iraq." While "the looming officer shortage is part of a wider manpower crunch the Army faces stemming from the surge in demand for U.S. ground forces at home and overseas," it remains "distinct from the Army's recruiting difficulties, reflecting less a problem with signing up new officers than one of promoting and retaining experienced officers."

Army Doctors' Experience, Revised Procedures Leading To Fewer Iraq Deaths. The Los Angeles Times (2/12, Kraul, 958K) reports, "The knowledge that U.S. military doctors have gained in Iraq is helping them save the lives of more combat wounded than ever before." Because of "quicker medical evacuations, improved emergency room instruments and new surgical approaches…fewer injured service members are dying." The "military surgeons have generally changed their approach to critical trauma injuries by opting when possible for 'damage control surgery' rather than immediate major chest or abdominal intervention," and "the mortality rate among those wounded in Iraq is about 10%, compared with 20% in the 1991 Persian Gulf War, 24% in Vietnam and 30% in World War II, according to a recent issue of the New England Journal of Medicine." However, "the higher survival rate raises other issues…such as the quality of life for the increased number of troops with multiple amputations and disfiguring wounds."

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Explosions In Iraq Can Lead To Amputations. The New York Times (2/12, A1, Macur, 1.19M) reports, "Explosions have killed 1,123 American service members in Iraq and have wounded at least 10 times more, often with a devastating combination of injuries -- ruptured organs and severed spines, obliterated limbs and burst eyeballs. Among the more than 16,653 Americans wounded in Iraq are 387 amputees." The "amputations, traumatic though they are, are often accompanied by painful complications." Most have an infection, and "about 20 percent of the amputees have had potentially serious blood clots." Then, "about half of them experience a condition in which bone grows at the site of amputation, called heterotopic ossification" which "can prevent proper fitting of a prosthesis or pierce the skin." Also, "the psychological effects of losing a limb, particularly for young, active military members, can be deep and lasting, a constant reminder of the war."

Columnist Criticizes Lack Of Psychiatric Support For Returning Veterans. Ann Louise Bardach, who writes the Interrogation column for Slate and is the author of 'Cuba Confidential, Love and Vengeance in Miami and Havana," writes in an op-ed in the Los Angeles Times (2/12, 958K), "Treatment of returning veterans is woefully inadequate, owing to a lack of funding. Although the VA acknowledges PTSD as a serious problem for returning veterans, VA hospitals around the country have sharply reduced their inpatient psychiatric beds." Meanwhile, "suicide…is an enormous and growing concern," as "the Army estimates that the suicide rate among Iraq veterans is one-third higher than the historical wartime average, owing to the psychological strains of no-holds-barred insurgency warfare. That means we're looking at a future blizzard of suicides without an adequate VA program in place to address the crisis." Even "thirty years after Vietnam, we seem to have learned very little."

Herring Says Military Contractors Are Winners From Iraq War. Hubert B. Herring writes in his column in the New York Times (2/12, 1.19M), "Some indisputable winners" in the Iraq war "are clear now: military contractors." If one "bought 100 shares of each of the top six military contractors at their lows of the last six years" it "would have cost $12,731.50. On Friday, it would have been worth three and a half times that: $44,417. Little wonder. Just look at the money machines these contractors have become as the war drags on."

CORPORATE SCANDALS:

Enron Prosecutors Face Challenge Over Credibility Of Witness Who Took Plea Deals. The Houston Chronicle (2/12, Fowler, Roper) reports, "When the case of former HealthSouth CEO Richard Scrushy went to trial last summer, the deck seemed stacked against him." The Chronicle continues, "Five former chief financial officers took the stand as government witnesses, giving powerful testimony that Scrushy personally orchestrated a $2.7 billion accounting fraud at the hospital chain. … But when the trial was over, Scrushy was acquitted. The reason? Jurors said the CFOs weren't credible." The Chronicle adds, "By highlighting so-called 'sweetheart deals' the CFOs made with prosecutors to reduce jail time they were facing and labeling them as "rats," Scrushy attorney Jim Parker painted the men as untrustworthy. … '(The jury) wouldn't trust them today to get their car parked,' Parker said." The Chronicle notes, "Former Enron executives Ken Lay and Jeff Skilling face a similar challenge in their criminal trial, with as many as 16 former Enron employees in government plea agreements. But there's a difference … With two exceptions, the defense won't simply demonize those with plea deals who end up testifying or call them rats. To prove their thesis that Enron was not a corrupt enterprise, the defense needs to show jurors the witnesses are good people who didn't really commit the crimes they admitted to but were pressured by the government. … It's a twist on an already tough tango, as prosecutors try to present credible witnesses, defense attorneys try to discredit them and prosecutors come back and try to mend any damage."

Defense Says "Feel" Of Enron Case Important. The AP (2/12, Hays) reports, "A few snippets of video and audio clips of Kenneth Lay and Jeffrey Skilling speaking to employees or Wall Street analysts don't really show who the former Enron Corp. chiefs were or what they did before the company crashed in scandal more than four years ago, their attorneys contend." The AP continues, "So the lawyers convinced a federal judge to let them give jurors in Lay's and Skilling's fraud and conspiracy trial a much bigger dose of the pair headlining employee meetings and conference calls with analysts. That means jurors have been sitting through several hours of video and audiotapes that include company cheerleading and detailed discussions of business issues unrelated to the criminal charges against the two men." The AP adds, "The defense teams say jurors get a better sense of Enron and the defendants when they see Lay getting standing ovations from employees and hear analysts fawning over Skilling's smarts. … 'The feel of a case is as important as the think of a case," Lay's lead lawyer, Michael Ramsey, said outside of court." The AP notes, "There's more to come Monday when Ramsey wraps up his cross-examination of the government's first witness, former Enron investor relations chief Mark Koenig, who will spend his seventh day on the witness stand."

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CRIMINAL LAW:

Former Abramoff Colleague Confirms Contacts With Reid's Office. The AP (2/12) reports Ronald Platt, a former colleague of controversial lobbyist Jack Abramoff, "confirms he contacted Senate Democratic leader Harry Reid's office on behalf of the influential lobbyist but says he does not believe Abramoff's billing records accurately reflect the extent of his work." Platt, "a lobbyist who worked with Abramoff at the Greenberg Traurig firm between 2001 and 2004, said he contacted Reid's office in 2001, as the billing records show, about the timing of minimum wage legislation affecting one of Abramoff's clients, the Northern Mariana Islands." Platt said, "When Abramoff first arrived at Greenberg Traurig, I did a new colleague a favor by simply asking Reid staffers about when the minimum wage legislation affecting the Mariana Islands would be voted upon by the Senate. I communicated this to Abramoff."

Former Mariana Clients Turn On Abramoff. CQ Weekly (2/13, Zeller) reports that in the mid 1990s, the Commonwealth of the Northern Mariana Islands "hired lobbyist Jack Abramoff to maintain its treasured exemptions from federal labor laws. The exemptions permit the commonwealth, a U.S. territory, to offer lucrative offshore shelter to American clothing manufacturers, who were then smarting from anti-sweatshop campaigns." By "setting up shop in the archipelago, U.S. textile concerns can plausibly plaster 'made in the U.S.A.' labels on their products, leaving conscience-stricken consumers with the impression that they are manufactured on the mainland — not on the rim of the Phillipine Sea." But now that Abramoff is "in bad moral odor — and awaiting sentencing for last month's fraud plea bargain — on American shores, the Marianas is undertaking its own reverse-engineering of its ethical image. In the mad rush among former Abramoff clients and associates to make it seem as though the disgraced lobbyist never did business with anyone, the territorial government is claiming that it, too, has been damaged by Abramoff's misdeeds — even though it's quite clear that he delivered just what the Islands wanted at the time." The "rather delicious irony in the Marianas case is that the two men making the most prominent denunciations of Abramoff now were among his lustiest supporters then."

Defense Attorney Says Laski Will Plead Not Guilty Today, Seek Plea Agreement. The AP (2/12) reports, "The lawyer representing former Chicago City Clerk James Laski said his client will plead not guilty Monday and wants to make a deal with the federal government. … Attorney Jeffrey Steinback said he will ask U.S. District Judge Charles Norgle for more time to negotiate a plea deal for Laski. Steinback said a deal seemed like the way to go after he reviewed transcripts of tapes the government made of Laski during its investigation." The AP notes, "Laski is the highest ranking official among 42 people charged in the federal investigation of corruption in Chicago government, which stemmed from a probe into a city program that awarded hauling jobs to trucking companies."

Hollywood Law Firm Helped Pellicano Pursue Trademark For Wiretap Device. The New York Times (2/12, Halbfinger, Weiner) reports, "Throughout the three-year federal investigation of Anthony Pellicano, the celebrity detective at the center of a huge Hollywood wiretapping scandal, the top-tier entertainment lawyer Bert Fields and his firm have insisted that they never knew their go-to investigator was secretly recording his targets' phone calls. But an indictment unsealed this week makes clear that Mr. Fields's firm…also played a central role in his pursuit of a trademark for the very device the government says he was using to wiretap his targets: a combination of computer hardware and software he called, aptly enough, Telesleuth. Brian Sun, a lawyer for Mr. Fields's firm, Greenberg, Glusker, Fields, Claman, Machtinger & Kinsella, said its lawyers believed that Mr. Pellicano intended to use Telesleuth on behalf of his many law-enforcement clients. Mr. Sun said the firm also believed that Telesleuth could not be used as a wiretapping device, although the participant in a call could use it to record a conversation."

Pellicano Charges Said To Show Need For Greater Private Eye Regulation. The Los Angeles Times (2/12, Hong) reports, "America's appetite for litigation, a rise in corporate snooping on employees, partners and rivals, and the trafficking of vast stores of private information on computer databases have fueled a boom in private investigations. The burgeoning industry and its darker practitioners have alarmed privacy advocates, federal regulators and legitimate investigators, who say the Pellicano case underscores the need for more public scrutiny of investigators and their employers. California has nearly 10,000 licensed private investigators, up from about 6,000 in 1990. As their ranks multiply, 'we're unable to tell the good players from the bad players,' said Robert H. Townsend, a Dana Point private investigator with 40 years' experience."

Former Reporter's Lawyers Subpoena Ovitz In Civil Suit. The Los Angeles Times (2/11, Krikorian, Blankstein) reports, "Attorneys for a former Los Angeles Times reporter allegedly threatened by indicted private investigator Anthony J. Pellicano have subpoenaed onetime Hollywood power player Michael Ovitz to provide a sworn deposition in her civil case. Lawyers for Anita Busch said they took the step after Monday's sweeping federal indictment charged that Pellicano and others accessed confidential police records to try to find embarrassing information about the reporter and dozens of others. Busch's civil lawsuit…accuses Pellicano and others,

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including former Los Angeles Police Sgt. Mark Arneson, of locating and threatening the reporter over unspecified stories about the entertainment business. … Noting how Ovitz has acknowledged cooperating with authorities, the attorneys said they hoped he would also help them determine who was behind the threat to Busch." They suspect it was Pellicano.

Rise In Violent Crime Over Petty Disputes Noted In Some Areas. The New York Times (2/12, Zernike, 1.19M) reports while "violent crime has been at historic lows nationwide and in cities like New York, Miami and Los Angeles, it is rising sharply" in Milwaukee "and in many other places across the country." While "such crime in the 1990's was characterized by battles over gangs and drug turf, the police say the current rise in homicides has been set off by something more bewildering: petty disputes that hardly seem the stuff of fistfights, much less gunfire or stabbings." Police Chief Nannette H. Hegerty of Milwaukee "calls it 'the rage thing.'" Hegerty said, "We're seeing a very angry population, and they don't go to fists anymore, they go right to guns." Nationally, the "homicide rate peaked in 1991, declined steadily after 1993 and has remained essentially flat since 1999. But in the first six months of 2005, according to preliminary statistics from the F.B.I., the number of homicides nationwide rose 2.1 percent, with the greatest increase, 4.9 percent, in the Midwest. Yet many cities have seen far steeper increases."

Catholic Church Under Fire For New Sex Abuse Scandal. NBC Nightly News (2/11, story 6, 2:30, Williams) reported, "Tonight, questions about real reform in the Catholic Church in the US. After the original sexual abuse accusations, churn leaders promised to clean up the parishes, but now there are fresh allegations and charges that church leaders ignored new warning signs and that again here children have paid the price." NBC (Stafford) added, "Reverend Daniel McCormick. To the boys he coached at a Catholic school in Chicago, he was Father Dan. To prosecutors here, he's now an accused child molester." The "outrage comes in part from the timeline in this case. A boy first reported Reverend McCormick to police back in August, but no charges were filed at the time. The priest was allowed to continue teaching and coaching for months until a second boy spoke out. Now, a third boy says he too was abused and the alleged abuse happened after church leaders learned of the first boys' allegations."

Hines Says Plame Investigation Hurts Bush Because He Won't Fire Those Involved. Cragg Hines writes in his column in the Houston Chronicle (2/12, 581K) that the question of firing the vice president "arises as we juxtapose a damning claim from Vice President Dick Cheney's former chief of staff, the indicted I. Lewis 'Scooter' Libby, against President Bush's once definitive determination to 'take appropriate action' if anyone in his administration leaked classified information." With his claims that his superiors authorized leaking Plame's name, "we have Libby reaching for Cheney's throat — at least as a pretrial tactic." This case "seeps its way closer to the Oval Office because an obstinate Bush will not keep his word and cut his losses" by firing people involved. Instead, he moves "the goal posts for what it takes to get the heave-ho."

CIVIL RIGHTS:

First Lady Criticizes Hillary Clinton For MLK Day Criticism Of Administration. At the Winter Olympics in Turin, Italy, First Lady Laura Bush yesterday said Sen. Hillary Clinton's criticism of the Bush Administration on Martin Luther King Day was "out of bounds." ABC World News Tonight (2/11, story 4, Avila) reported Mrs. Bush "made it clear that not all the bad blood between the Clinton and Bush families has been spilled…revealing a touch of anger about her predecessor, Senator Hillary Clinton." Mrs. Clinton has "apparently irritated the current First Lady with these remarks in a speech on Martin Luther King Day." Sen. Clinton: "So we have a culture of corruption. We have cronyism. We have incompetence. I predict to you that this Administration will go down in history as one of the worst that has ever governed our country." Asked by ABC's Robin Roberts if that was "just politics" or "fair game? Or is that out of bounds, a statement like that?" First Lady Laura Bush: "Well, of course I think it's out of bounds. But I think it's politics, it's certainly politics."

The AP (2/12) adds, "Mrs. Bush pointed out that former Presidents Bush and Clinton and her husband are part of a unique club that also includes the wives." The First Lady said, "We know what it's like to live in that house. We certainly know what it's like to have your husband criticized. … So I think there's a certain empathy that we might have for each other that we wouldn't have maybe for somebody else who said something like that." Reuters (2/12) also reports on the First Lady's comments.

Some Wonder About Bush Relationship With Clinton. The Houston Chronicle (2/12, Mason, 581K) in its "White House Watch" column speculates on what the atmosphere was like on Air Force One between the Bush's, the Clintons and RNC Chairman Ken Mehlman after Coretta Scott King's funeral. In addition to the latest jabs between them, "Bush also has been making perhaps one too many jokes lately about his father's partiality for former President Clinton, whom Bush now refers to as an extra brother." The Chronicle notes, "The tone and frequency of the jokes has some Washington insiders wondering if the president is

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somewhat miffed about the relationship." White House spokesman Scott McClellan said, "They had a good visit. … The president is glad to have his 'brother' traveling with us today."

Relationships Between Presidential Couples Examined. The AP (2/12, Woodward) in a Valentine's Day article notes, "Presidents and their wives have been an amorous lot, their White House years coming at the pinnacle of lives entwined. The men pursued and loved these women as intensely as they clawed to power and unleashed armies." One "no-nonsense woman, Barbara Bush, got a treacly note from her husband, George, asking her to show more affection for the television cameras in the 1988 campaign, like their opponents, the Dukakises." Bush 41 wrote, "Sweetsie…Please look at how Mike and Kitty do it. Try to be closer in more -- well er romantic -- on camera. I am practicing the loving look, and the creeping hand. Yours for better TV and more demonstrable affection. Your sweetie pie coo coo. Love 'ya GB."

Indiana Legislature Considering Extensive Abortion Consent Bill In Country. The Washington Post/AP (2/12, A10, Martin) reports that women "seeking an abortion in Indiana would be told that life begins at conception under a proposal that would give the state one of the furthest-reaching abortion consent laws in the country." Only South Dakota "has gone as far in what it orders doctors to tell women before they can get abortions, and that law has been blocked by a court." Supporters say "the legislation would provide women with key information before they make an irreversible decision, but critics argue it blurs the line between church and state and could infringe on doctors' First Amendment rights."

The Washington Times (2/12, 90K) also reports the AP story.

Federal Judge Selects CA Prison Health Chief. The Los Angeles Times (2/12, Warren) reports, "Ending a nationwide search, a federal judge has picked the top health official in Santa Clara County to take charge of California's deeply troubled prison healthcare system, sources familiar with the selection process said Saturday." The Times continues, "Bob Sillen, 63, is expected to be formally appointed as a federal receiver on Tuesday by U.S. District Judge Thelton Henderson. The San Francisco judge decided to act after concluding last July that 'extreme measures' were needed to fix a system that kills one inmate each week through medical incompetence or neglect." The Times adds, "The move effectively shifts power from state to federal authorities for all decisions related to inmate care — including medical staffing, treatment standards and contracts with outside hospitals. … Legal scholars said the appointment marks the first time a government operation of this size has been placed under a federal receiver. … This week, the sources said, Henderson will issue an order detailing the extraordinary powers Sillen will have in managing the system, which provides healthcare for 168,000 inmates and employs 6,000 people in 33 prisons."

Under Pressure From China, San Francisco Bars Religious Group From New Year's Parade. ABC World News Tonight (2/11, story 3, 2:20, Avila) reported the "final preparations are being made for America's oldest and largest Chinese new year's parade. This is the Chinese Year of the Dog, but in San Francisco, it can be called the year of the dog fight. Normally one of the most tolerant cities in America, San Francisco is in the middle of a bitter disagreement of who is allowed to march in tonight's annual parade." Falun Gong "a religious group outlawed by China, has been banned from the festivities." ABC (Rooney) added, "Falun Gong got its start only in 1992, and grew quickly. By 1999, the Chinese communist government denounced it as a dangerous cult. Members have been arrested, tortured, even executed. The Falun Gong claim they are persecuted in the US, as well as China." Falun Gong "and at least one city official say the Chinese Chamber of commerce here in San Francisco excluded the Falun Gong under pressure from the Chinese government." Chris Daly, San Francisco Board of Supervisers: "Mainland China has significant influence here in San Francisco, and other major American cities. It's not just me saying it. The United States Congress and in a concurrent resolution stated that." Falun Gong "has sued to be included in future parades. They say they have to be the voice of freedom here in the US for people who have no voice in China."

ANTITRUST:

Critics Worry About Wal-Mart's Plan To Move Into Banking Industry. The Washington Post (2/12, F1, Day, 744K) reports Wal-Mart "entered the grocery business in 1988 to compete with established names such as Kroger, Safeway and Albertsons, which had dominated food retailing for decades. Today Wal-Mart is America's biggest grocer, with 16 percent of the U.S. retail food market, and its sales continue to climb, even as dozens of grocery chains struggle." Congressional lawmakers "and federal regulators now face a tough question: Should they permit Wal-Mart to use a legal loophole to enter banking and potentially do in that arena what it has done to nearly every other consumer product and service it has touched?" The question "rattles bankers from Maine to California, even though the retailer no longer wants a full-service bank, only a limited-purpose one. It has whipped up longtime Wal-Mart critics, including labor unions, consumer groups and some congressmen on both

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sides of the aisle, who say the company is already too big, with too much power over the American economy, sometimes to the detriment of workers' pay and domestic jobs."

ENVIRONMENT/INDIAN AFFAIRS:

Kyoto Protocols Generate Projects In Developing Countries. The Los Angeles Times (2/12, Dickerson, 958K) reports, "Thanks to the Kyoto Protocol, the 1997 international treaty on climate change, efforts by industrialized countries to fight global warming are popping up in far-flung places like Villagran," a Mexican hamlet "about 40 miles southwest of the city of Queretero. Nearly 600 Kyoto-related projects are in the pipeline in the developing world, according to a recent tally by a Danish climate research center funded in part by the United Nations. About 40% of them are in Latin America, including hydroelectric power plants in Honduras and wind-powered turbines in Chile." The accord, "which the United States has not ratified, calls for reducing overall greenhouse-gas emissions by major industrialized countries in the period 2008-2012 to amounts at least 5% below 1990 levels." More than "150 nations have signed and ratified the treaty, but the burden to reduce emissions falls on about three dozen industrialized countries responsible for most of the climate mess. One way for industrialized countries to meet their reduction targets is to support environmental projects in developing regions. Dubbed the Clean Development Mechanism, it was designed to lower compliance costs for rich nations while funneling much-needed development to poor ones."

Georgia Jury Boosts Value Of Property Seized By Eminent Domain. The Los Angeles Times/AP (2/12) reports, "A jury has decided that a Georgia hospital is going to have to pay about five times what it offered if it wants to condemn a rental house where a frail, 93-year-old woman has lived for 26 years." The AP continues, "The jury said last week that Phoebe Putney Memorial Hospital would have to buy the 60-year-old brick duplex for $200,000 — it has been appraised at $50,000 to $60,000 — and give the tenant $51,000 to help her move. … 'It just proves that no one can assume absolute power over someone's life without having to answer to the legal system,' said lawyer Eddy Meeks, who represented the tenant, Julia Lemon, and the home's owner, Julie Montgomery." The AP adds, "Phoebe, southwest Georgia's largest hospital, pursued the property's condemnation last year so it could expand a child development center for employees' children. Phoebe officials said they might appeal the verdict. … Meeks said he might appeal the condemnation, which was approved by a court last year."

Mid-Atlantic, Northeast Hit By Major Snowstorm. The CBS Evening News (2/11, story 2, 4:00, Mitchell) reported, "Residents from Virginia to New England tonight are bracing for a raging nor'easter, packing blizzard conditions and dropping as much as 15 inches of snow in some areas." CBS (Chen) added, "We were beginning to think winter was going to skip right over us this year. January was the nation's warmest on record. That was certainly the case here in Washington. February was starting out mild, but as you can see, that's changing and quickly." Washington is "pretty excited about this but taking it seriously, as well. So much so that First Lady Laura Bush has delayed her return trip. She's been at the Olympics in Italy. She's delayed her trip home because of the weather, because they wanted to make sure it would be safe for her plane to land here."

NBC Nightly News (2/11, lead story, 2:30, Williams) reported, "Good evening from Torino, Italy, where on the streets of this city, at the foot of the Italian Alps, there is not a bit of snow tonight. But where First Lady Laura Bush has decided to stay an extra night because of the weather back home." NBC (Dawson) added, "By Saturday afternoon, Delta, a major carrier in the Northeast, had already canceled dozens of flights and other airlines were expected to follow." Across the nation, "temperatures in January averaged nearly 40 degrees, eight and a half degrees above normal. Those warm temperatures have pushed energy demand in the US down by 20%. Good news given that oil prices are at record highs."

World News Tonight (2/11, story 5, :20, Avila) reported, "Outside the White House, across the Northeast, the story is snow and lots of it. As the first major storm takes aim, heavy snow is expected to make for blizzard conditions with more than a foot forecast for some cities. Delta Airlines is canceling flights at all major East Coast airports between Washington and Boston."

Backers, Foes Of Tribal Casinos Prepare For Meetings This Week. The Vancouver (WA) Columbian (2/12, Mize) reports, "This week's two meetings on the Cowlitz Tribe's casino project are supposed to be purely informational, a chance to discuss the complicated federal process for reviewing such requests and to answer questions." The Columbian continues, "Even so, supporters and opponents of the $510 million project west of La Center are rallying their forces as though sheer numbers and rhetorical thunder will determine who wins and who loses. … 'Lest anybody think people out here don't care,' said Tom Hunt, a spokesman for Citizens Against Reservation Shopping, a group formed in June to oppose the Cowlitz project. 'We want to show them they do care.'" The Columbian adds, "Cowlitz tribal leaders also want to make an impression on federal officials. … John Barnett, Cowlitz

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chairman, sent a letter to tribe members last month imploring them to turn out in force for a pizza dinner and rally before each meeting and to stay for the proceedings. 'Your tribe needs your help,' Barnett wrote in a Jan. 24 letter. 'These are two of the most critical meetings in our tribe's history. It is crucial that you, your family and your friends attend at least one of these meetings. Attendance at both meetings is even better.' … Emotions were ratcheted up another notch Friday when Kamie Biehl, founder of Stand Up For Clark County Citizens, announced she was stepping down as group chairwoman after allegedly receiving threats to herself and family. … Some of the contentiousness has even trickled back to Washington, D.C. Federal officials, realizing the potential for informational meetings to become caustic free-for-alls, were crafting ground rules late Friday afternoon."

FBI/DEA/ATF/USMS:

Tenth Church Burns In Alabama. NBC Nightly News (2/11, story 5, 2:10, Williams) reported that in Alabama, "another church is reported to be on fire tonight. That would make 10 churches burned this month, all of them in rural areas, all of them Baptist churches. While the FBI and other investigators search for those responsible, the congregations are searching for some way to move forward without fear." NBC (Mott) added, "Though the fire at the Spring Valley Baptist Church this past Tuesday burned out, it lit another kind of flame." Rep. Artur Davis: "If you think you scared somebody, you haven't scared anybody. If you think you've intimidated somebody, you haven't intimidated anybody." Mott: "There's confidence in rural Alabama, despite nine unsolved church arsons here since February 3, first in the central part of the state, then near its western border."

The Montgomery (AL) Advertiser (2/12, Linn) reports, "Federal and state authorities on Saturday responded to another Baptist church fire in rural Alabama, bringing the total to 10 in eight days." The Advertiser continues, "The fire, reported about 4:15 p.m. at Beaverton Free Will Baptist Church in Lamar County near the Mississippi line, had fully engulfed the church by the time firefighters arrived, said Cristal Oakes of the Lamar County Sheriff's Department. … The church near Beaverton is situated between 45 and 60 miles north of four Baptist churches that burned early Tuesday morning in rural Pickens, Greene and Sumter counties. … 'At this point we have not determined what the cause and origin of the fire is,' said Ronald Turk of the Bureau of Alcohol, Tobacco, Firearms and Explosives, the federal agency that investigates arson." The Advertiser adds, "Temperatures were predicted in the low 20s overnight, and authorities said the fire may have been an accident related to a heater. Some communities in the area had received a light dusting of snow. … Unlike five Baptist church fires in Bibb County on Feb. 3 and four in west Alabama on Tuesday this fire was reported during daylight hours. But like the others, the fire was in a rural community, where Baptist churches sit just off the beaten path -- churches like Mount Hebron's Pleasant Valley Baptist Church, which is just up a dirt road from some train tracks, past where jack rabbits forage at night."

TAX:

Trade Off Between Bush Tax Cuts And AMT Tax Seen As Necessary. The New York Times (2/12, Andrews, 1.19M) reports, "Never before has so much of the income tax code consisted of temporary measures. And never before has it been so inherently unsustainable." Almost "all of President Bush's tax cuts and credits…are set to expire by 2011." And "the huge volume of expiring tax cuts is set to collide with an equally expensive challenge that neither Mr. Bush nor the Congress has started to address," the alternative minimum tax, which "is now set to impose big tax increases on tens of millions of middle-income families over the next few years." The Times states, "If Mr. Bush's tax cuts are extended, but the A.M.T. is unchanged, tens of millions of people will face big new surcharges." And if the AMT "is frozen or simply repealed, Congress is likely to make up for the lost money by cutting back or eliminating scores of other tax breaks."

Taxpayers To Feel Pain Of AMT Tax. The New York Times (2/12, Johnston, 1.19M) reports, "After President Bush and Congress cut tax rates on dividends and long-term capital gains to a top rate of 15 percent in 2003, many investors bought stocks that make big cash payouts, expecting to benefit from lower taxes." But "it has not worked out that way. That is because your actual tax rate may not be the one that the politicians talked about or that the Internal Revenue Service prints on its tax forms." That's because the alternative minimum tax "has its own rules, including fewer deductions and just two tax rates, 26 percent and 28 percent. If the alternative tax is higher than the one you would owe under the regular tax system, you pay the higher bill." But while Bush "again called for making his tax cuts permanent" in his State of the Union speech "he said nothing about overhauling or repealing the alternative minimum tax."

CONGRESS-ADMINISTRATION:

Bush Touts Modernization Of Medicare, Admits Problems. President Bush urged senior citizens to sign up for the new Medicare drug program, saying it's a "good deal" and promising the government would address problems with its implementation. Bush's radio address was covered by the

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wire services and some local TV stations. The AP (2/12, Freking) reports Bush said the new Medicare prescription drug benefit "is helping a large majority of Medicare beneficiaries" but admitted "that some patients have experienced problems." Because of "competition, the program is getting cheaper for beneficiaries and taxpayers alike, Bush said." The AP notes, "The average premium that beneficiaries pay is now expected to be about $25 a month instead of $37, as projected last year. The typical senior citizen will pay about half of what he used to spend on prescription drugs," according to Bush. But, "the government also estimates that several hundred thousand low-income beneficiaries had trouble making the transition to the new program."

Reuters (2/12, Bohan) reports Bush said the "government was working to fix" the problems with the Medicare drug program but "insisted the program was a 'good deal' for seniors and encouraged more to sign up." Some Democrats have blamed the problems on "what they say was the excessive influence of private insurers and pharmacies in shaping the legislation. They view it as an issue on which Bush's Republican allies may be vulnerable in the 2006 elections. Sen. Hillary Rodham Clinton recently said "the best way to fix the problems might be to scrap the program and start over." Bush said HHS Secretary Mike Leavitt "has been traveling to several states to meet with governors about the drug benefit. He said officials were trying to make sure more information is shared by Medicare, the health plans and the states, and that it is up-to-date."

The Boston Globe (2/12, Easton, 484K) in an article on conservative dissatisfaction with Bush notes that at CPAC Rep. Tom Tancredo "drew big applause when he called for repealing the administration's costly prescription drug plan, which the president extolled in his Saturday radio address as 'a good deal for seniors.'"

And Bloomberg (2/12, Young) adds, "Fiscal conservatives usually aligned with Bush's Republican party have also assailed the president's embrace of an expansion to a government entitlement program." But "Bush was unapologetic, saying he 'was proud to sign this Medicare reform into law.'"

There was almost no local television coverage of the President's radio address praising the new Medicare D plan. Those stations that did cover it tended to note that Mr. Bush admitted there are problems as it starts up. An example: KLAS-TV Las Vegas (1/11, 6:38 p.m.) reported, "President Bush is praising the new prescription drug benefit initiative. During his weekly radio address today, Mr. Bush acknowledged that there are challenges with the Medicare program."

Bush Competitiveness Plan Seen As Having Widespread Support. The Los Angeles Times (2/12, Havemann, Simon, 958K) reports President Bush's "new American Competitiveness Initiative is triggering a stampede of bipartisan support. It could be one of the few administration initiatives to be enacted in this congressional election year." With last year's "Social Security push all but abandoned, Bush's domestic focus now is a much less ambitious effort: to prevent the United States from falling behind economic competitors in Asia and elsewhere, by providing federal support for math and science education and for basic research in the physical sciences." The "sour notes have been few and have come largely from critics who wish Bush's initiative had been more ambitious." Bush's "long-range plan calls for doubling the government's annual spending on physical science research over the next decade, from $9.8 billion this year to $19.5 billion in 2016. Bush's 2007 budget, sent to Congress last week, would provide a down payment of $910 million, an increase of 9.3%."

Bush Call For More Skilled Worker Visas Resonates With Silicon Valley Firms. The Los Angeles Times (2/12, Iritani, 958K) reports that President Bush's "recent call for more visas for skilled foreign workers increases the likelihood that relief is on the way for U.S. technology firms that say they are struggling to fill key positions." In a Feb. 2 speech at the Minnesota headquarters of 3M, Bush "called on Congress to be 'realistic' and 'reasonable' and expand the quota of H-1B visas, which are used to bring in skilled workers on a temporary basis." Silicon Valley companies "are among the most vocal advocates of H-1B reform. For decades, these companies attracted engineers, computer programmers and other professionals from around the globe. Now they say they are experiencing a reverse brain drain as skilled workers flock to the booming economies of China and India." Though the "debate in this country about outsourcing work overseas has quieted down in the United States, it remains a sensitive political issue. In December, an effort to get an H-1B visa expansion provision attached to a budget bill was defeated in Congress."

Spending, Immigration Concerns Fuel Conservative Anger At Bush. The Boston Globe (2/12, Easton, 484K) in its "Washington Briefing" column titled "A Wrathful Right Turns On Bush" reports, "The Republican family feud was laid bare in public last week at" CPAC. Conservative activists "are a notoriously cranky bunch, quick to pounce on politician friends who stray toward the center. But this year the spears aimed at George W. Bush were especially sharp." That "can't be a good sign for a White House hoping to maintain control of Congress next November when its one-time allies lump in the president with two of their perpetual bogeymen: John McCain and Ted

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Kennedy." The President's "budget-busting spending was a big reason for the foul mood. But two other issues captured the growing split between the president and a powerful conservative movement that twice helped him capture the Oval Office: immigration and the Medicare prescription drug plan."

The AP (2/12, Lester) reports that at CPAC conservative Republicans questioned whether Bush "is conservative enough when it comes to government spending and growth." Conservatives "are quite unhappy with Bush administration initiatives…and special spending projects from Congress that have ballooned the cost and scope of the federal government." Conservatives "feel that limited government overrides all other issues such as gun rights, pro-life policies and conservative judges. Yet, despite their unhappiness, Bush remains popular with this group, especially for his court appointments and handling of terrorism." ACU chairman David Keene said, "They like Bush. … But they are frustrated and disappointed with some things the administration has done." He "said conservatives are starting to look ahead at future leaders, accepting that they've gotten some of what they want from Bush.

Justice Department Reviewing Conduct Of Immigration Judges. The Los Angeles Times (2/12, Simmons, 958K) reports the "complaints of insensitive -- even abusive -- conduct by some U.S. immigration judges have prompted a broad federal review." Describing the "conduct of some judges as 'intemperate and even abusive,' U.S. Atty. Gen. Alberto R. Gonzales recently announced that the Justice Department was launching a comprehensive review of the nation's immigration courts." The review "will focus on the performance of the nation's 224 immigration judges, including 55 in California. Last year, the jurists, who are appointed by the attorney general, heard about 270,000 cases, according to department statistics." The review "is being conducted by the deputy and associate attorneys general. It will assess the nature and scope of the problems within the system and recommend improvements, a Justice Department official said." The National Assn. of Immigration Judges "supports the review but believes that incidents of misconduct are rare, said Dana Leigh Marks, vice president of the organization."

NAFTA Seen As Fueling Illegal Drug Trade As Well. The Houston Chronicle (2/12, Pinkerton, 581K) reports that in Nuevo Laredo, the "five bridges spanning the green waters of the Rio Grande bustle with more than 21,000 cars, trucks and buses every day. This border town — and its American sister city across the river — see more than $100 billion in commerce rumble through every year. They're known as 'Los Dos Laredos,' and few dispute the towns are one of the great NAFTA success stories." But US drug agents "say that free trade with Mexico has had an ugly and unintended consequence: Just as legitimate business people have flocked to Nuevo Laredo, so have criminals. And they have quickly turned it into one of the most dangerous and violent towns along the U.S.-Mexico border, agents say." US drug agents "say they aren't surprised the city of 310,000 has become such a coveted outpost for smugglers. They've worried for years that free trade unwittingly fuels trafficking."

Assaults On Border Patrol Officers On The Rise. The Washington Post (2/12, C2, Barr, 744K) reports in its "Federal Diary" column that assaults "against Border Patrol officers appear to be on the increase -- from gunshots fired to rocks thrown." Homeland Security Secretary Michael Chertoff said, "Let me tell you, rockings are serious. You can get serious injuries when a rock . . . hits a Border Patrol agent." The Post adds according to David V. Aguilar, "the Border Patrol chief, there were 374 assaults against officers in fiscal 2004 and 778 assaults in fiscal 2005. Since Oct. 1, the start of the fiscal year, there have been 192." Chertoff and Aguilar "talked about the dangers faced by Border Patrol officers as part of a briefing on the president's new budget proposal. The Department of Homeland Security would receive a 6 percent increase in funding under President Bush 's plan, with a substantial part of the extra funds directed toward tightening border security and cracking down on smugglers and cartels."

Republicans Concerned Bush Budget Will Impact 2006 Elections. The Boston Globe (2/12, Klein, 484K) reports, "Republicans are expressing deep skepticism about President Bush's plans to cut social programs while promoting the extension of his tax cuts, saying the juxtaposition of the two GOP priorities could spur an election-year backlash." Bush's budget "is increasingly being met with criticism from both ideological poles of his party. Moderates are expressing concern about slashing popular programs that benefit the poor at the same time they're being asked to cut taxes on the rich, and conservatives are saying the proposal does not go far enough in controlling the record budget deficit." The "reaction to Bush's proposal this year was notably cool from members of his own party," and Republican Main Street Partnership executive director Sarah Chamberlain Resnick "said she sees at least one bright spot in the budget proposal: It will give moderates from districts that are heavily Democratic a chance to demonstrate their independence from Bush."

Sen. Menendez Faults Bush Budget For Burdening Middle Class. The AP (2/12, Gold) reports, "The budget proposed by President Bush adds to middle-class burdens while providing greater benefits for the wealthy and oil companies, Sen. Robert Menendez, D-N.J., said Saturday." Menendez said Bush's budget "will increase health insurance premiums and out-of-pocket costs through new schemes that will expand tax shelters for the healthy and the wealthy and drive up costs for the rest of us."

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Coburn's Unwillingness To Support Earmarks Noted. In his Washington Post column (2/12, B7), George Will profiles Sen. Tom Coburn, the "most dangerous creature that can come to the Senate, someone simply uninterested in being popular. When House Speaker Dennis Hastert defends earmarks -- spending dictated by individual legislators for specific projects -- by saying that a member of Congress knows best where a stoplight ought to be placed, Coburn, in an act of lese-majeste, responds: Members of Congress are the least qualified to make such judgments." Coburn "came to the nation's attention last October when he proposed taking the $223 million earmarked for Alaska's 'Bridge to Nowhere' and using it to repair a New Orleans bridge destroyed by Hurricane Katrina." Because this "threat to Alaska also threatened Congress's code of comity -- mutual respect for everyone's parochial interests -- his proposal lost by 67 votes. But rather than do the decent thing -- apologize, tug his forelock and slink away chastened -- he refused to stop talking about it, made it an embarrassment to the Senate and catalyzed revulsion against spending that is both promiscuous and parochial."

Deficit Reduction Bill Includes Provision That Hikes Student Loan Interest Rates. ABC World News Tonight (2/11, story 6, 2:45, Avila) reported, "A warning for the college bound. Lock in your loan now, because the cost of money you borrow to pay for school is going up. This week, the government changed the rules for Federal loan programs. While students and parents can borrow more money, they will also face higher interest rates." ABC (Yang) added, "President Bush says the global economy means that America has to haven educated work force in order to remain competitive. But the President and the Republican Congress this week made going to college a little bit more expensive for millions of students." While a provision of the deficit reduction bill "makes more money available to more students, it raises interest rates on some loans by as much as 2%. That's on top of rising college costs, up 46% over the last five years." In his budget proposal, "Mr. Bush said he wanted to freeze Pell Grants, the money that goes to low income students. That proposal is already drawing opposition from both Republicans and Democrats in Congress."

And the AP (2/12, Gold) notes that in the Democratic weekend radio address Sen. Robert Menendez "said Bush's budget for 2007, released Monday, would increase college costs 'by locking in the largest student aid cut in the history of our nation.'"

User Fee Increases In Bush Budget Face Opposition. The AP (2/12, Taylor) reports, "President Bush hates new taxes, that's for sure. But tell that to airline passengers, higher-income veterans and owners of freighters using the St. Lawrence Seaway. They are among those hit up for billions of dollars under his new budget plan." Bush's budget "contains $3.5 billion in new user fees" which "would swell to $47.2 billion over five years, dunning taxpayers and industry to help pay for government services." But most "arrived on Capitol Hill dead as a doornail" because they "mostly are proposals rejected in the past."

Opponents Of Social Security Reform Surprised By Inclusion In Bush Budget. The Washington Times (2/12, Fagan, 90K) reports, "Opponents of President Bush's Social Security personal accounts plan were jolted into action last week when the proposal showed up in Mr. Bush's newest budget request." Bush "didn't push for it in his State of the Union address last month, instead calling for a bipartisan commission to study how best to reform the system -- a move that 'relieved' Democratic opponents of the plan such as Sen. Charles E. Schumer." Yet "that relief quickly dissipated Monday, opponents said, when they discovered Mr. Bush's 2007 budget proposal mentioned the plan." And "Republicans said Congress won't act on the proposal during this already highly charged election year." One House GOP leadership aide said that "it would be difficult for us to tackle this in a partisan election atmosphere." The Times notes, "Democrats said it was contradictory for Mr. Bush to suggest a bipartisan panel to explore various reform ideas while continuing to push his own plan." But "White House spokesman Trent Duffy disagreed, saying Mr. Bush's budget 'simply reiterated what he said all of last year' about his Social Security plan, and 'doesn't color in any way' the outcome of the bipartisan commission."

Brownstein Says Entitlement Reform Will Take Bipartisan Effort. Ron Brownstein in his column in the Los Angeles Times (2/12, 958K) writes that the failure of the 1995 Kerrey-Danforth entitlement commission "should caution President Bush, who pledged in his State of the Union address to appoint yet another commission on entitlements. A commission can be useful only if it recognizes that at this point, the solution to the entitlement problem doesn't require an intellectual breakthrough. It demands something even more rare these days: a political accommodation between the parties." Democrats need to agree to spending cuts and Republicans tax increases, but even then "Washington won't tame the entitlement problem without also slowing the overall increase in healthcare costs. … That won't happen without comprehensive healthcare reform, an issue Washington hasn't addressed since the collapse of Clinton's universal coverage plan in 1994.

Students Ignore Option To Benefit From NCLB Tutoring Program. The New York Times (2/12, A1, Saulny, 1.19M) in a front page story reports, "Four years after

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President Bush signed the landmark No Child Left Behind education law, vast numbers of students are not getting the tutoring that the law offers as one of its hallmarks." In New York City, "fewer than half of the 215,000 eligible students sought the free tutoring." And "New York's participation rate is better than the national average: across the country, roughly two million public school students were eligible for free tutoring in the school year that ended in 2004, according to the most recent data from the Department of Education, yet only 226,000 -- or nearly 12 percent -- received help." Educators "give multiple reasons for the problems: that the program is allotted too little federal money, is poorly advertised to parents, has too much complicated paperwork for signing up, and that it has not fully penetrated the most difficult neighborhoods, where there are high concentrations of poor, failing students."

Maryland Schools Face NCLB Deadline. The Washington Post (2/12, C1, Anderson, 744K) reports, "It has been eight years since Maryland told the Prince George's County school to shape up, or else. It has been four years since the federal government raised the pressure with a law meant to force shake-ups through aid and sanctions." But, "Charles Carroll Middle School has continued to fall short of state standards, even though the county has switched textbooks, changed principals three times and even assigned a 'turnaround specialist.'" Now "Maryland faces a question posed by the No Child Left Behind law: What happens when a school reaches the end of the line?" The Post notes, "Last week, the Bush administration offered one answer. It proposed $100 million to help parents with children in last-stage public schools move them to private schools or obtain tutoring. The proposal riled school-voucher opponents but underscored the issue's growing urgency."

House Republicans Meet In Cambridge, Maryland For Retreat. The New York Times (2/12, Hulse, 1.19M) reports House Republicans "descended in force upon" Cambridge, Maryland "for three days to ponder their political and policy future and ended up talking about 'the Force.'" At a retreat "intended to help them regain their footing after a corruption scandal and a leadership shake-up, about 180 lawmakers were treated to a film spoof that portrayed Republicans as the 'Star Wars' heroes being pursued by the evil Democratic empire led by 'Darth Nancy.' That would be" House Minority Leader Nancy Pelosi. The "short video, produced by the National Republican Congressional Committee, had the audience in stitches, according to those on hand. But it was also a tacit admission that House Republicans are in for an epic battle this November as they try to retain their majority in a midterm election cycle that has historically meant Congressional losses for the party in power." New Majority Leader Rep. John Boehner, "who served in the leadership during the heady days of the Republican takeover in 1994, put a lot of stock in the retreat's potential. After his election, he helped restructure the conference, saying he wanted to provide individual lawmakers with more opportunity to vent and voice their ambitions after years of top-down management of the House."

Boehner's Positions On Several Issues At Variance With Those Of Caucus. The Washington Post (2/12, A7, Weisman, 744K) reports that as Rep. Boehner "moves to unite his fractious House Republicans," he has "another issue to finesse: his own views on some key issues, which have clashed with the stance of much of the Republican Party. From illegal immigration to sanctions on China to an overhaul of the pension system, Boehner, as chairman of the House Committee on Education and the Workforce, took ardently pro-business positions that were contrary to those of many in his party. Religious conservatives -- examining his voting record -- see him as a policymaker driven by small-government economic concerns, not theirs." In the coming months, Boehner "must decide whether to stick to his well-established beliefs and try to bend his party's stance or give in to the majority of the majority party." In an interview, Boehner "vowed to lead by consensus," but he "also stood by his positions, especially on a tough illegal immigration bill that passed in December with overwhelming Republican support over Boehner's opposition." One provision "would mandate that every business verify the legality of every employee through the federal terrorism watch list and a database of Social Security numbers. For the bill's authors, the measure is central to choking off illegal immigrants' employment opportunities. To business groups and Boehner, it is unworkable."

With Boehner As Majority Leader, Luntz Is Out Of Favor. The Washington Post (2/12, A5, Cillizza, 744K) reports that at the House GOP retreat, Republican pollster Frank Luntz "was on the original schedule to make a presentation -- but he did not." Luntz said that "he was not disinvited from the retreat, only that his presentation was rescheduled." Sean Spicer, "a spokesman for House Republican Conference Chairman Deborah Pryce (Ohio), confirmed that Luntz did not appear at the retreat but will address House Republicans on Wednesday." But according to "several Republican party strategists, newly elected Majority Leader John A. Boehner (Ohio) made it clear to members that if Luntz was going to the retreat, he wouldn't be in attendance." Luntz was "instrumental in the creation of the 'Contract With America' -- the document widely credited with delivering Republicans the House majority in 1994. Boehner's relationship (or lack thereof) with the pollster goes back -- at least -- to late 1998, when Boehner was seeking to hold onto his job as House GOP Conference chairman." Days before the GOP caucus "met to hold leadership

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elections, Boehner appeared on several Sunday talk shows making clear that he and Gingrich had often parted ways on strategy. Luntz said at the time that Boehner made a 'big mistake' by criticizing Gingrich, and he heaped praise on Rep. J.C. Watts (Okla.), who was challenging Boehner for the conference chairmanship. Watts beat Boehner -- throwing the Ohioan unceremoniously out of leadership."

Bush, Abramoff Appear In Same Photo. The CBS Evening News (2/11, story 3, :30, Mitchell) reported, "A photograph of President Bush in the company of disgraced lobbyist Jack Abramoff is posted on the Time magazine web site tonight. The photograph show Mr. Bush with his back to the camera, meeting a native American tribal chief in the executive office building back in May 2001. Jack Abramoff can be seen looking on from the background. President Bush has said he does not remember ever meeting with Abramoff."

Time (2/12, Zagroin, Cooper) reports the White House "has continued to assert that the President had no recollection of ever meeting Abramoff. When TIME reported in January that it had viewed unpublished photographs of Abramoff with Bush, aides responded that the pictures meant nothing since the President is photographed with thousands of supporters and White House visitors every year." Now, "finally, the first such photo has come to light. It shows a bearded Abramoff in the background as Bush greets an Abramoff client, Raul Garza, who was then the chairman of the Kickapoo Traditional Tribe of Texas; Bush senior advisor Karl Rove looks on. The photograph was provided to TIME by Mr. Garza." The meeting "took place in the Eisenhower Executive Office Building adjacent to the White House on May 9, 2001." White House Press Secretary Scott McClellan "said the White House had still found no record of Abramoff's presence but confirmed that it is Abramoff in the picture." This meeting, "however, was a relatively small gathering attended by some two dozen people, including Garza and another Indian tribal leader who was Abramoff's client. At least two tribes, the Coushatta of Louisiana and the Mississippi Band of Choctaw, contributed $25,000 each to the anti-tax group Americans for Tax Reform, which is headed by Grover Norquist, a well-known conservative ally of the White House."

The New York Times (2/12, Shenon, Bergman, 1.19M) reports the "first photograph to be published of the two men shows a small, partly obscured image of Mr. Abramoff looking on from the background as Mr. Bush greets a Texas Indian chief in May 2001. By itself, the picture hardly seems worthy of the White House's efforts to keep it out of the public eye." Abramoff "is little more than a blurry, bearded figure in the background at a gathering of about two dozen people. But it provides a window, albeit an opaque one, into Mr. Abramoff's efforts to sell himself to Indian tribes as a man of influence who could open the most secure doors in Washington to them. And it leaves unanswered questions about how Mr. Abramoff and the tribal leader, whom he was trying to sign as a client, gained access to a meeting with the president on the White House grounds that was ostensibly for a group of state legislators who were supporting Mr. Bush's 2001 tax cut plan."

The Washington Post/Bloomberg (2/12, A4) reports White House spokesman Scott McClellan "told Time that the photo does not change anything. 'The president has taken countless, tens of thousands of pictures at home and abroad over the last five years,' McClellan told Time. 'A photo like this has no relevance to the Justice Department's investigation.'" The AFP (2/12) reports the "publication of the photo came amid a mushrooming scandal of influence-peddling in Washington, and threatened to raise fresh questions about Abramoff's link to the Republican administration."

Leadership PACs Seen As Loophole For Members Of Congress. The Minneapolis Star Tribune (2/12, Talev, 424K) reports Alaska Rep. Don Young "gained notoriety last year as the chairman of the House Transportation Committee who secured more than $200 million for a 'bridge to nowhere' in his home state." But what was "less noticed was the Republican's support for projects elsewhere in the country favored by contributors to Midnight Sun, a political action committee." Young's leadership PAC, Midnight Sun's "treasurer is a lobbyist with a client list that includes transportation interests." In southeast Arkansas, "more than a dozen men and women connected to road paving and auto sales in and near Pine Bluff gave about $28,000 last March to Midnight Sun, on top of about $20,000 to Young's reelection committee. When the highway bill passed a few months later, it had more than $200 million for their region over the next five years." Many campaign finance experts "see leadership PACs as part of the problem, a way to skirt campaign limits and hide special-interest ties." But few lawmakers "want to clamp down on a fundraising vehicle that is being increasingly relied on by politicians as other contribution limits have kicked in."

Crime Fighting Strategies Seen As Useful For Congressional Reform. In his Washington Post column (2/12, B1), Michael Grunwald says that with the falling crime rate, "nobody argues anymore that bad neighborhoods are doomed" except for one "here in Washington. It is enduring a crime wave unparalleled in recent memory, and even though its leaders are making noises about cleaning it up, many experts remain skeptical that its culture of recidivism can be reformed. Then again, the neighborhood in question, the U.S. Congress, has always inspired skepticism." As "new pay-for-policy allegations emerge about representatives with

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made-for-cartoon names like Doolittle, DeLay and Ney, conventional wisdom is congealing around the notion that Congress is what it is, and can't be changed. But that was once conventional wisdom about New York, too." Grunwald then considers several crime reduction strategies such as more visible Justice Department and Federal Election Commission enforcement presence on Capitol Hill.

DeLay Resumes Appropriations Committee Seat. The Houston Chronicle (2/12, Levine, 581K) reports Rep. Tom DeLay, R-Sugar Land, "is officially back on the House committee that oversees how the federal government spends its money. After giving up his post as House majority leader in January after a lobbying scandal and his indictment on campaign finance charges, DeLay last week regained his seat on the House Appropriations Committee." Now back "as a rank-and-file member, the lawmaker was assigned to two subcommittees — the panels that oversee the NASA budget and several federal agencies, including Justice, State and Homeland Security. His district includes the Johnson Space Center." DeLay, who has "never chaired a subcommittee and is not slated to do so now, will be among the most senior members of the panel."

Poll Shows 45% Think Bush Treated Same As Other Presidents By Media. The Houston Chronicle (2/12, Mason, 581K) in its "White House Watch" column notes, "A new CBS News/New York Times poll found that 45 percent of Americans asked think Bush gets about the same treatment from the media as other presidents." It also "found that 35 percent said reporters are tougher on him than on other presidents, and 18 percent said Bush has it easier. It would be interesting to hear what Bill Clinton thinks of these perceptions." Clinton "made a stop by the press cabin last week on Air Force One -- something Bush has done only once."

Hagel Independence From Bush May Prove Attractive To Conservatives. The New York Times Magazine (2/12, Lelyveld) in a lengthy examination of Sen. Chuck Hagel's prospects in a potential 2008 presidential campaign highlights Hagel's opposition to President Bush, in particular on Iraq. But on domestic issue Hagel also "broke with his party leadership to vote against the new prescription-drug program under Medicare, the No Child Left Behind bill and a big farm bill stuffed with incentives for corporate agriculture. Each, he felt, was ill conceived in practical terms and unwarranted as an expansion of federal mandates and spending. Only on the Bush tax cuts -- all of which he has supported -- has he been deaf to warnings about the consequences for the federal deficit. (Though, he says, he'd never take 'the pledge' to oppose any and all tax hikes.)" ACU chairman David Keene noted "that Hagel has taken a more conservative position than the Bush administration every time he has broken with it on a major issue." One "issue that could propel him into the campaign is not one on which candidacies normally rise or fall. Call it the issue of competence." But "while he doesn't exactly say that the current administration has been careless and incompetent, that theme cries out between the lines of much of what he does say. After the botched reconstruction of Iraq and the nonchalant response to the hurricane on the Gulf Coast, it's not a stretch to hear an implied critique when he says, as he did talking to local reporters in Ames, Iowa, last fall, that the president should 'stay focused on governing the country' and 'reach out to Congress.'"

Frist Seen As Distancing Himself From Bush. Robert Novak in his syndicated column (2/12) writes, "In recent national television appearances, Senate Majority Leader Bill Frist backed away from unequivocal support of President Bush in what Republican insiders viewed as preparation for a 2008 presidential run." Novak notes, "On NBC's 'Meet the Press' Jan. 29, Frist said, 'I would have probably put more troops in [Iraq] if the decision had been up to me.' He said the White House is not cooperating with Hurricane Katrina investigations by Congress. As for the Bush budget, he said: 'We are spending too much in Washington, D.C.' He suggested his and the White House's position in the Terri Schiavo case was wrong. On NBC's 'Today' program the next day, when asked about the administration's National Guard policy, Frist replied: 'I am opposed to cutting the Guard myself.'"

McCain Seeks Support For 2008 Campaign From Bush Network. The Washington Post (2/12, A1, Balz, 744K) in a front page story reports, "With a 2008 campaign in the offing," Sen. John McCain "has begun an intensive courtship of Bush's financial and political networks. His recent travels included a December swing through the heart of Bush country in Texas that put him in front of many of the president's leading supporters there." While "Republicans look toward 2008 and worry about maintaining the White House, a streak of pragmatism has drawn them to look again at a man who often has been an antagonist of the president and party leaders." In preparation "of a likely campaign, he appears eager to reach accommodation with longtime GOP adversaries. He has undertaken the kind of practical steps necessary to enhance his chances of winning the nomination, focusing on organizations in states critical to winning the GOP nomination and building relationships with Republicans who rejected him in 2000."

McCain Supporters Encouraged By Criticism Of Obama. Robert Novak in his syndicated column (2/12) writes, "Key supporters of Sen. John McCain's prospective

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bid for the 2008 Republican presidential nomination were delighted by his outburst against Sen. Barack Obama, the rising Democratic superstar." Novak adds, "The downside of McCain's outburst, say his supporters, is that it strengthens the perception that he may be too hot-tempered to serve as president."

Gingrich Gets Rousing Welcome At Conservative Conference. The AP (2/12, Lester) reports former Speaker Newt Gingrich "told cheering conservatives Saturday it is time to overhaul a balky, slow-moving government locked in the last century. Citing multiple government failures after Hurricane Katrina, the former House speaker said the government meltdown at all levels illustrated how badly government needs to be updated in all of its operations." Gingrich said, "The system failed, the city of New Orleans failed, the state of Louisiana failed and the government of the United States failed. When you see an American body on an American street sitting there for three days on television because the government can't collect the dead, something has failed." The Washington Times (2/12, 90K) also runs the AP story.

Congress Resists Smoking Bans. The New York Times (2/12, Kornblut, 1.19M) reports that when Washington's "citywide smoking ban takes effect here next month, at least one workplace in town will be spared: Congress, the beneficiary of a kind of diplomatic immunity for federal lawmakers." That is "excellent news" smokers such as Majority Leader John A. Boehner, cigar smoker Barney Frank, and struggling quitter Sherwood Boehlert. While the "rest of the country has turned against smoking with great zeal, Congress has stubbornly — some would say proudly — refused to bend. Smoking is still allowed in numerous indoor spaces in the Capitol, most noticeably in the gilded reception area where lawmakers crowd together during the long yeas and nays." Members are "uncharacteristically shy about discussing their smoking habits in a public domain where smoking is supposedly taboo." Yet in private, "some lawmakers have shown little desire to tamp down the addiction. In some corners, the right to smoke in Congress is seen as a last stand against political correctness, a bulwark against the antismoking fervor that swept the political universe during the Clinton years."

Rumsfeld Said To Have "Lost" In Effort To Change Pentagon Culture, Foreign Policy. In a Washington Post (2/12, B2, 744K) Outlook article reporter David Von Drehle says that if you "read closely in the barrage of weighty tomes" Defense Secretary Donald Rumsfeld and company "put out in recent days, you might discover that the Rumsfeld era is over, and Rumsfeld lost. The secretary had staked his tenure on two ideas. He wanted to change Pentagon culture, and he wanted the military to drive American foreign policy. Neither idea survived the week." First, the "signature effort of Rumsfeld's historic tenure -- his 'transformation' of the world's most powerful military -- melted away under the cover of the imposing Quadrennial Defense Review. In 92 dense pages it revealed that while America's troops will be called to perform new missions in countries around the globe, the entrenched forces in Washington, the contractors and the members of Congress, have survived Rumsfeld virtually unscathed." Another secret "hidden in plain sight in last week's $439 billion Pentagon request -- up nearly 7 percent from the wartime budget of fiscal 2006 -- was that the real sum is much higher. Military spending in the coming months will pass the half-trillion-dollar mark. That $439 billion doesn't include the ongoing costs of operations in Afghanistan and Iraq, for which the Pentagon will soon seek a 'supplemental appropriation' of at least $70 billion for the rest of this fiscal year and another $50 billion to start next year." Which "leads to last week's third secret. Iraq remains the urgent focus of America's largest deployed force; it is a key to U.S. foreign policy and determines the political terrain at home. But it has been reduced to the status of a troubled subsidiary in the corporate flow chart of Rumsfeld's Pentagon: off-budget for accounting purposes, and, apparently, incidental to future strategy."

OTHER NEWS:

Economic Reports May Prompt Stock Markets Sell-Offs. The New York Times (2/12, De Aenlle, 1.19M) reports Wall Street traders "will have a lot of information served to them this week, but in the opinion of Mike Williams, a strategist at Tocqueville Asset Management, they will find little of it palatable." Reports on "consumer activity (retail sales and consumer confidence), manufacturing (industrial production and capacity utilization) and the housing market (housing starts and building permits) will follow one another in quick succession, beginning on Tuesday." Williams "foresees readings ranging from neutral to favorable, showing a resumption of healthy economic growth after a subdued fourth quarter. But he is concerned that Wall Street will make the worst of a good situation and sell on the news."

Bull Market May Have Little Ground To Advance. The Los Angeles Times (2/12, Petruno, 958K) reports this "bull market hasn't surrendered much since it began more than three years ago. But that may be because it hasn't had a lot to give, at least in the case of blue-chip shares." The Standard & Poor's 500 index "lost 751 points, or 49%, in its slide from its record high on March 24, 2000, to its bear-market low of 776.76 on Oct. 9, 2002. Since the low, the index has recovered 490 points, or about two-thirds of what it lost." Historically, by the time "most bull markets have

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reached their fourth year they've recouped all of the previous bear-market loss, says Sam Stovall, investment strategist at S&P in New York. The cautious tone of this advance may be a big reason the S&P hasn't experienced as much as a 10% correction, or short-term pullback, in three years, Stovall says."

Full Employment Seen As Worthy Economic Goal. The New York Times (2/12, Uchitelle, 1.19M) reports many Americans "may not realize full employment was once a hotly pursued goal — a condition considered so important that many politicians wanted it legislated and not left to chance." These are "radical concepts today. Fear of another depression prompted the first debate, in the mid-1940's, and a steep recession contributed to the second, in the mid-1970's. Both bills, as finally enacted, failed to achieve their original goal. And as inflation rose in the late 70's, government shifted to fighting it, often at the expense of employment." Out of the "second Congressional debate came not full employment but a fear of it. The law that Congress finally enacted, the Humphrey-Hawkins Act of 1978, set full employment as a goal — along with low inflation. Soon, however, each was viewed as the enemy of the other and full employment, defined as the right to a job, lost out." The "late-90's hiring boom, approaching full employment, has lingered fondly in public memory. And now that the unemployment rate is falling once more — it dropped two-tenths of a percentage point last month, to 4.7 percent, its lowest level in four and a half years — there is talk again of somehow bringing back, if not full employment, then at least the late 90's version of it."

New Space Race Underway. The Los Angeles Times (2/12, Johnson, 958K) reports, "Thirty-four years after the last Apollo astronaut walked on the lunar surface, a new space race is underway. It will be a long race, with humans unlikely to set foot on the moon again in the next 10 to 15 years. But countries are gearing up to take their first steps." India's "20,000 space workers are readying a lunar orbital mission set for 2007. Japan plans to send a robotic rover to the lifeless rock by 2013, and the European Space Agency has a probe, SMART-1, orbiting the moon." Although many countries "are talking about sending people to the moon, only two, the United States and China, have set dates for manned lunar landings. NASA says its next manned mission will be as early as 2018; China says it wants to land 'taikonauts' — as Chinese astronauts are called — as early as 2017." Each country is "going for its own reasons — some commercial, some strategic, some for national pride. But if the plans come to fruition, the moon could become a busy extraterrestrial outpost for scientists, engineers and possibly ordinary citizens in the coming decades. It would also serve as a vital way station for man's long-dreamed-of trip to Mars." And "leading the way is the only country that has set foot there before, the United States."

Romney Tied For Third In Michigan 2008 Poll. The Boston Globe (2/12, Easton, 484K) in its "Washington Briefing" column notes, "On the Romney '08 front, a new Strategic Vision poll shows the Massachusetts governor tied for third with Newt Gingrich and George Allen among Michigan Republican voters asked to consider prospective presidential candidates." The leaders, "John McCain, at 37 percent, and Rudolph Giuliani, at 25 percent. Michigan -- Mitt Romney's childhood home and the state his father governed -- is considered key to a potential presidential run."

Warner Faces Hurdles In Building Name Recognition. The Washington Post (2/12, A9, Shear, 744K) reports, "A lot has changed for Mark R. Warner since he left behind the Virginia governorship and his 80 percent approval ratings to begin mulling a presidential campaign." Yet, "perhaps nothing more than this: At just 3 percent in a recent poll asking Democrats nationwide to rate their presidential preference, Warner has become an unknown overnight." So "Warner's purpose in New Hampshire is serious." Warner will "likely to be competing with such superstars as Sen. Hillary Rodham Clinton (D-N.Y.), who was preferred by more than 10 times as many Democratic voters in a CNN poll, and Sen. John F. Kerry (D-Mass.), who received more than 59 million votes in the 2004 presidential election." Similar to Sen. Chuck Hagel, Warner has made competence a theme, saying Republicans have "pushed competence to the side and made partisan loyalty the standard."

In a more positive story, Knight Ridder (2/12, Thomma) says Warner's message in New Hampshire that he's won in a "red state" and has a strong management style was well received "among party activists considering which candidate they'll work for." Former Rep. Dick Swett said, "Those in the know have a very high opinion of him." But "Warner only has the support of 2 percent of New Hampshire Democrats in a new poll, well back in the pack and far behind presumed frontrunner Sen. Hillary Rodham Clinton of New York."

Kerry Has Over $9M Left Over From 2004 Campaign. The Boston Globe (2/12, Easton, 484K) in its "Washington Briefing" column notes, "Last week The Briefing understated Senator John Kerry's campaign war chest. In addition to nearly $800,000 in his PAC and Senate committee, Kerry has $9.1 million left over from his 2004 primary campaign account." His aides say since the 2004 campaign Kerry "has doled out $3 million to Democratic candidates and organizations."

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Pennsylvania GOP Endorses Swann For Governor. The Washington Post/AP (2/12, A4, Press) reports, "Pennsylvania's Republican Party leaders endorsed former Pittsburgh Steelers star Lynn Swann for governor Saturday, virtually guaranteeing that he will be the candidate to face Democratic incumbent Ed Rendell this fall." He won on "a unanimous voice vote during a meeting of the 300-plus-member Republican State Committee at a downtown hotel."

The Philadelphia Inquirer (2/12, Couloumbis, 423K) notes, "RNC chairman Ken Mehlman last week "said the national committee will send staff to Pennsylvania by the end of the month to help in the governor's race and U.S. Sen. Rick Santorum's reelection. 'We intend to work very hard with both campaigns,' he added." The Inquirer states, "It is a politically enviable position to be in." Observers say Swann "snagged the state GOP's favored-son status not because party heads came together to decide he was the best candidate to beat Rendell -- but because rank-and-file party members liked him, and rallied behind him." The Pittsburgh Post-Gazette (2/12, Barnes, 261K) also reports on Swann's endorsement.

Steele Offers Qualified Support For Stem Cell Research. The Washington Post (2/12, C3, Marimow, 744K) reports, "Maryland Lt. Gov. Michael S. Steele expressed qualified support yesterday for embryonic stem cell research, just days after causing an uproar by linking the science to medical experimentation during the Holocaust." He "used a radio interview to try to distance himself from the dust-up and expand his views on the controversial research. He offered several conditions of his support and gave one example of a type of research that some leading scientists in the field say is not practical at this point." He "cited research at the National Institutes of Health, which he said involved scientists extracting the cells they need 'without destroying the embryo.'" Yet, "several leading stem cell researchers…have said that technique is impractical for now."

Steele Silent On Top Issues. The Baltimore Sun (2/12, Skalka, 296K) reports, "Lt. Gov. Michael S. Steele announced his bid for U.S. Senate in October with a promise to be a different kind of candidate, to build bridges between citizens and government and to be a voice for all Marylanders." But "with debates raging on a series of national and state issues -- including the appointment of a new Supreme Court justice and the revision of minimum-wage laws -- Steele has stayed out of the fray." Steele said, "I don't need to talk about issues right now. … I need to establish a relationship with voters." But his "strategy of silence faltered last week when he compared embryonic stem cell research to the experiments done by Nazi doctors -- a flub that exposed him to harsh criticism, left him struggling to formulate a clear position on a politically vexing issue and led critics to question whether he had sufficient seasoning to ascend to the Senate."

Santorum, Casey Take Advantage Of Subsidized Air Travel. The Philadelphia Inquirer (2/12, Budoff, 423K) reports, "It's a tempting offer for the time-strapped elected official: fly by private jet, courtesy of a corporation, without the hassle of long lines and lost luggage." The Inquirer notes, "Sen. Rick Santorum (R., Pa.) took advantage of the perk 10 times in the last two years, paying more than $18,000 -- a fraction of the true cost of the flights -- to six companies with legislative interests before Congress, according to campaign-finance documents." Santorum's Democratic challenger, state Treasurer Robert Casey Jr., has called for closing the air travel loophole, but he also "had already charged through the loophole by accepting a jet ride from the Texas law firm of Baron & Budd in June to raise money and later repaying only the cost of a first-class ticket."

Minnesota Senate Race Attracts National Attention. The Minneapolis Star Tribune (2/12, Lopez, 424K) reports, "Minnesota voters this fall will fill one of the nation's few open seats in the U.S. Senate, and the 2006 contest already is attracting the money and attention of the rich and powerful across the country." Yet, "instead of the prize provoking a bloody free-for-all among Minnesota's most ambitious politicians, the field has cleared out early in both leading parties, with candidates dropping out and many high-profile names never entering." That "dearth of contestants may reflect national parties' and interest groups' increasingly aggressive intervention in Minnesota politics." As the election approaches "Minnesota voters are almost certain to see both a parade of big names and a blitz of national ads, many likely to be sponsored by organizations other than the candidates themselves." But currently the only candidates "are Hennepin County Attorney Amy Klobuchar and veterinarian Ford Bell on the DFL side and Republican Sixth District U.S. Rep. Mark Kennedy, who was anointed early on by GOP leaders and who faces only token opposition from retired minister Harold Shudlick."

Danforth Worries Religious Conservatives Taking Over GOP. The CBS Evening News (2/11, story 9, 3:15, Mitchell) reported, "It appears sometimes that issues of faith and politics are dividing Americans more frequently than ever. And one senior figure with a foot in both camps believes it's no accident. For tonight's weekend journal, Bill Whitaker talks to the Senate veteran who is known far and wide as St. Jack." Former Sen. John Danforth: "I am concerned about the Republican Party becoming in essence the party of the Christian conservatives." CBS (Whitaker)

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added, "This is no Republican basher speaking. It's party stalwart John Danforth, a lifelong Republican with rock solid conservative credentials." But, "now this faithful Republican is worried about the direction his party is taking." Danforth: "It makes the party seem exclusive, and I think it makes American politics meaner." Whitaker: "How did he come to this?" Danforth: "I was appalled by the Terri Schiavo case." Whitaker: "Seeing Republicans, who traditionally had stood for keeping government off citizens' backs, in this case pushing the Federal Government into such a personal affair." Whitaker: "Danforth's brother died of Lou Gehrig's disease, one of the many scientists believe stem cell research might cure. He's campaigning to convince Missouri to allow the research." Danforth: "I want cures to be found. They would say that cells in a petri dish are morally equivalent to an 11-year-old child. It is a statement based solely on a religious point of view."

Fish Says "Liberal Religion" Means Beliefs Not Taken Seriously. In a New York Times op-ed (2/12), Florida International University law professor Stanley Fish addresses the controversy caused by the publication of caricatures of Mohammed in the Danish and later European media, adding that the "first tenet of the liberal religion is that everything (at least in the realm of expression and ideas) is to be permitted, but nothing is to be taken seriously. This is managed by the familiar distinction — implied in the First Amendment's religion clause — between the public and private spheres. It is in the private sphere — the personal spaces of the heart, the home and the house of worship — that one's religious views are allowed full sway and dictate behavior." But in "the public sphere, the argument goes, one's religious views must be put forward with diffidence and circumspection. You can still have them and express them — that's what separates us from theocracies and tyrannies — but they should be worn lightly. Not only must there be no effort to make them into the laws of the land, but they should not be urged on others in ways that make them uncomfortable. What religious beliefs are owed — and this is a word that appears again and again in the recent debate — is 'respect'; nothing less, nothing more."

Robertson's Gaffes Draw Increasing Scrutiny. The Los Angeles Times (2/12, Fiore, 958K) profiles televangelist Pat Robertson, whose "famous fundraising prowess that has made him one of the world's most recognizable and influential televangelists. But lately the charismatic broadcaster is better known for something else — a series of controversial and incendiary remarks that have foisted him into the news. And the limelight has not been flattering." Robertson's "evangelical peers have branded him 'arrogant' for his comments, and students at the Christian university he founded worry that his candor could damage their school's credibility. The political left eagerly monitors his appearances on his spirits-raising morning show. What they find becomes fodder for talk-show monologues." Outspokenness "is nothing new" for Robertson, but "at age 75, and freed from the need to marshal political capital, Robertson seems even less restrained than ever. His verbal grenades sound more like bombs, and even those in the evangelical community are noticing."

Remote West Texas To Get Public Radio Station. The New York Times (2/12, Novovitch, 1.19M) reports "far West Texas, a 20,000-square-mile area," has been "been barren of broadcasting except for a few pirate stations and two small, low-wattage operations. A 100,000-watt station, the strongest FM signal allowed, with call letters KRTS (93.5 on the dial), will sign on Monday at 4 p.m. Central time when Dan Rather, the former CBS anchor and a native Texan, flips a switch, says a few ceremonial words then cuts away to the National Public Radio program 'All Things Considered.'" Marfa Public Radio "will be the first radio station offering national and world news to far West Texas, with a potential 50,000 listeners, counting travelers and residents, according to its president." Though Marfa "may seem an unlikely home for public radio," the "vast, sparsely populated region in recent years has attracted urban refugees who live or vacation here. Local residents had tried for decades to bring public radio to the area, but it was the influx of outsiders that helped them finally start a station."

Gore's Daughter Profiles Groundbreaking Women In New Book. The New York Times (2/12, Starr, 1.19M) reports Karenna Gore Schiff "a lawyer and former journalist, played a central role in Gore's 2000 presidential campaign. In 'Lighting the Way: Nine Women Who Changed Modern America,' Schiff writes that she decided to profile women who had spearheaded progressive change in part to mitigate the pain of that election loss."

Iran Threatens To Abandon Nonproliferation Treaty. The New York Times (2/12, Fathi, 1.19M) reports, "Iran's president warned on Saturday that Iran could withdraw from the Nuclear Nonproliferation Treaty if international pressure increased over its nuclear program. His threat was a significant escalation of the government's previous position that it would only stop complying with spot inspections of military installations and sites it has not declared to be part of its nuclear program." President Mahmoud Ahmadinejad told "tens of thousand of demonstrators who had gathered to mark the 27th anniversary of the Islamic revolution" that "The Islamic Republic has continued its program within the framework of the International Atomic Energy Agency and the nonproliferation treaty. ... But if we see that you want to use the NPT regulations to deprive us of our rights, know that the

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people will revise their policy in this regard. ... I ask our dear people to prepare themselves for a great struggle. Fasten your seat belts and pull up your sleeves."

UN Equipment Removed From Sites. The Washington Times/AP (2/12, Karimi) reports that "diplomats in Europe said the UN nuclear watchdog agency had stripped most of its surveillance equipment from Iranian nuclear sites. The diplomats, who asked for anonymity in exchange for revealing the confidential developments, said President Mahmoud Ahmadinejad's threat was part of retaliatory measures announced by Iran that have left the International Atomic Energy Agency with only the most basic means to monitor Iran's nuclear activities."

US Planning Iran Attacks, UK Paper Reports. AFP (2/12) reports, "US military strategists are reportedly drawing up plans for an attack on Iran as a last resort to stop the Islamic republic from developing nuclear weapons. In a front-page dispatch from Washington, the Sunday Telegraph newspaper in London said Central Command and Strategic Command planners were 'identifying targets, assessing weapon-loads and working on logistics for an operation.' The planners are reporting to the office of Defense Secretary Donald Rumsfeld with a view to having a military option if diplomatic efforts fail to put the brakes on Iran's suspected quest for nuclear weaponry. 'This is more than just the standard military contingency assessment,' the Sunday Telegraph quoted a senior Pentagon adviser as saying. 'This has taken on much greater urgency in recent months.'"

Experts Caution That Iran "Prepared To Retaliate" The Boston Globe (2/12, Bender, 484K) reports, "Iran is prepared to launch attacks using long-range missiles, secret commando units, and terrorist allies planted around the globe in retaliation for any strike on the country's nuclear facilities, according to new US intelligence assessments and military specialists." Military and intelligence analysts "warn that Iran -- which a recent US intelligence report described as 'more confident and assertive' than it has been since the early days of the 1979 Islamic revolution -- could unleash reprisals across the region, and perhaps even inside the United States, if the hard-line regime came under attack."

Khatami Predicts Higher Oil Prices If UN Sanctions Hit Iran. AFP (2/11) reported, "Former Iranian president Mohammad Khatami has warned of a rise in world oil prices if the United Nations imposes sanctions on Tehran over its disputed nuclear program. 'Currently the price of each barrel of oil is $70, and this high price has created many difficulties for the industrialized world," Khatami told reporters on the sidelines of an international conference on Islam and the West. 'The first effect of a sanction against Iran will be that this high price will even increase higher.'"

Muslim Protests Over Mohammed Cartoons Continue To Spread. The protests over the caricatures of the prophet Mohammed continue to spread in the Islamic world, and Denmark recalled its diplomats from Indonesia over fears of violence. NBC Nightly News (2/11, story 4, 2:20, Friesen) reported the Danes are "proud of their reputation as peace-loving and liberal-minded. Astonished, they're now the focus of so much Muslim rage." There was "more anger on the streets. In London and across Europe, the rallies noisy, but peaceful. Though in Indonesia, the mood is so hostile, today, Danish diplomats pulled out. They left Syria and Iran too as what officials described as concrete and serious threats. Iran's President asked why it's all right to insult Islam, but a crime to question the Holocaust? At the Olympics, Denmark's team is now under tight security, three-plainclothes guards escorting them yesterday. This is the worst political crisis Denmark has faced since the Second World War, made worse by emails and text messages spreading rumors and lies about the country through the Muslim world. One claiming Danes were burning the Koran in Copenhagen's main square. Danes have been told to avoid travel to Muslim countries. 15,000 people are canceling trips."

The CBS Evening News (2/11, story 5, :20, Mitchell) reported, "Denmark today pulled its diplomats out of Iran and Indonesia as Muslim protests over political cartoons satirizing the prophet Mohammed continued. Hundreds of Muslims in Jakarta, into their second week of protest there. In Paris, about 7,000 Muslims protested against French papers that reestablished the Danish caricatures. Thousands have also filled London's Trafalgar square in another peaceful protest."

Iran Blames US, Europe Over Offensive Cartoon. The AP (2/12, Karimi) reports, "Iran's hard-line president on Saturday accused the United States and Europe of being 'hostages of Zionism' and said they should pay a heavy price for the publication of caricatures of the Prophet Muhammad that have triggered worldwide protests." In a speech marking the 27th anniversary of the Islamic Revolution Saturday, Iranian President Mahmoud Ahmadinejad was quoted as saying, "Now in the West insulting the prophet is allowed, but questioning the Holocaust is considered a crime. ... We ask, why do you insult the prophet? The response is that it is a matter of freedom, while in fact they (who insult the founder of Islam) are hostages of the Zionists. And the people of the US and Europe should pay a heavy price for becoming hostages to Zionists." In its coverage, the Washington Post (2/12, A24, Jordan, 744K) notes, "Thousands of Muslims in London and other European cities rallied peacefully Saturday to condemn both published cartoons of the prophet Muhammad and the violent reactions to them. Men and women, some pushing babies in strollers, crowded into Trafalgar Square as speakers not only denounced the cartoons as an unacceptable insult to the holiest figure in Islam, but also condemned the burning of embassies in Syria and Lebanon,

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deaths in Afghanistan and other violence that has come in response."

Danish Diplomats Leave Iran, Indonesia. The Washington Times (2/12, Dispatches, 90K) reports, "Denmark said yesterday it had withdrawn diplomats and staff from Indonesia and Iran because of security threats, while Muslims held demonstrations in European cities and elsewhere over cartoons of the prophet Muhammad. Denmark ... warned Danes to leave Indonesia, saying they faced a 'significant and imminent danger' from an extremist group." The AP (2/12, Ritter) notes that Denmark's ambassador to Syria also was withdrawn, adding, "Danish embassy buildings in all three countries had been targeted by angry mobs protesting the publication of the caricatures in September."

In "Liberal Denmark," Cartoon Crisis Prompts Identity Crisis. The New York Times (2/12, Bilefsky, 1.19M) reports, "Ater rioting that has raged for weeks across the Muslim world after a Danish newspaper's publishing of caricatures of the Prophet Muhammad, Denmark has sunk even more deeply into an identity crisis. A country that once prided itself on having Europe's most open immigration policies and a generous welfare state is grappling with how to preserve its vaunted liberalism while remaining Danish. 'The furor over the cartoons has been a wake-up call for Danes,' says Flemming Rose, the cultural editor of the paper, Jyllands-Posten. ... 'We are used to seeing ourselves as a permissive and open society on the side of the good, and it is shocking to see Danes as objects of hate.'"

Philadelphia Paper Picketed Over Cartoon. The Philadelphia Inquirer (2/12, Fifield, Bahadur, 423K) reports, "Hundreds of Muslims chanted and carried banners and signs outside the Inquirer-Daily News Building yesterday, protesting The Inquirer's decision to reprint a caricature of the prophet Muhammad. Many said they thought that the paper had defamed their religion by publishing an image that has angered Muslims across the world and resulted in mass protests and the burning of Western embassies. Many Muslims consider any depiction of Muhammad to be sacrilegious." Meanwhile, the Pittsburgh Post-Gazette's (2/12,) Ann McFeatters notes, "The inflamed passions, violence and false allegations stoked by some sophomoric cartoons satirizing the revered Mohammed, such as one with his headdress drawn as a bomb with a lit fuse, first published four months ago in a Danish newspaper, should worry every rational human. It is not farfetched that the religious fervor of outraged Islamic fundamentalists could ignite even more hatred that would take generations to wipe out."

In its coverage, the Dallas Morning News (2/12, Weiss) reports, "The worldwide furor over anti-Muslim cartoons started out as a specifically Danish squabble. But what began with satirical cartoons of the prophet Muhammad has raised questions about freedom of expression, religious and cultural sensitivities, and political hypocrisy and violence in the name of faith." Most protests, "including this one in Philadelphia Saturday, have been more loud than violent."

Mideast Rage A Question Of "Justice." The New York Times (2/12, Slackman, 1.19M) reports, "While the West speaks of democracy and freedom, Muslims here tend to speak of justice. There is widespread feeling that the region's governments deny their people justice, and this feeling has been instrumental in the increased support for Islamists throughout the Middle East, whether the Muslim Brotherhood in Egypt, or Hamas among the Palestinians. 'It has reached to the point where Egyptians do not feel entitled to anything, and all they want is justice,' said Ibrahim Aslan, a leading Egyptian writer. 'Across history, in literature, Egyptian peasants asked for justice, not for freedom or democracy. Just justice. Social justice.' Islamists promise not just piety, but an end to corruption and misrule. That challenge helps explain the eagerness of established governments to pursue the conflict over the Danish cartoons — to increase their own credibility on religious issues and resist the Islamists' rising popularity."

"Why Not Publish These Cartoons," Columnist Asks. The Washington Post's (2/12, B6) Deborah Howell notes that "Hundreds of readers have asked why The Post hasn't reprinted the Danish cartoons of the prophet Muhammad that inflamed Muslims around the world, leading to deadly protests and the burning of embassies. Some readers questioned the Post's journalistic courage." Executive Editor Len Downie "made the decision, consulting with other top editors. The issue, he said, is one of journalistic judgment, not courage."

Riots Seen As Obscuring The Real Islam. The New York Times (2/12, 1.19M) guest columnist Emran Qureshi notes, "In a world of wrenching change, the Danish cartoon affair has widened a growing fissure between Islam and the West. The controversy comes at a time when many in the Islamic world view the war on terrorism as a war on Islam. They draw on memories of colonization and of the Crusades, when Western invaders ridiculed the Prophet Muhammad as an imposter. Sadly, the recent polarization obscures a rich humanistic tradition within Islam — one in which cosmopolitanism, pluralism and a spirit of open-minded inquiry once constituted a dominant ethos."

Old NYT Images Of Muhammad Appear "Gone For Good." In a feature story, the New York Times (2/12, Kifner, 1.19M) reports, "Deep in the bowels of this newspaper's old morgue ... is a folder with a photograph of a Persian miniature painting depicting the Angel Gabriel appearing to the Prophet Muhammad. It was used to illustrate an article about Islam in 1974. Taped on the back is a copy of an editor's note published two days later that said, 'Since it is an affront to Moslems to depict such likenesses, The Times expresses its regrets to those who were offended by the use of the

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photograph.' So controversy over depictions of Muhammad, like those that have led to demonstrations, destruction and death over cartoons published in a Danish newspaper, are not new. In truth, however, the depictions that caused some of the past protests were rather admiring."

Modern Checkpoints Mark Change For Palestinian Border Crossers. The Boston Globe (2/12, Frankel, 484K) reports, "All along the boundaries between Israel and the Palestinian territories, this is the new reality. As Israel moves ahead with its plan to complete a barrier separating Israeli and Palestinian towns, the burden of preventing terrorist infiltration into Israel is falling to the 28 checkpoints ... that Israel is building to accommodate the flow of people and goods." Bezalel Triber, a brigadier general in the reserves who is heading Israel's drive to build the crossings, was quoted as saying, "The point is to move to full remote control, where no [Israeli] should talk to a Palestinian or touch him. ... It is more respectful, it's better from a security standpoint and there is no friction between people."

Sharon Hospitalized For Emergency Surgery. Israeli Prime Minister Ariel Sharon was hospitalized for surgery for an abdominal condition that frequently affects comatose patients. ABC World News Tonight (2/11, lead story, 1:40, Avila) reported it was a "sudden and serious turn for the worse" for Sharon, but he is "is out of danger for now. This latest complication is considered a setback." Doctors "are saying it's almost certain Ariel Sharon has suffered severe brain damage and tonight, Israelis are coming to the realization that the chances of their Prime Minister recovering in a meaningful way is slipping away."

The CBS Evening News (2/11, story 4, 1:20, Mitchell) reported it was "another major setback for ailing Israeli Prime Minister Ariel Sharon." For "a while reports indicated Sharon was near death, but tonight the Prime Minister is said to be out of danger." Sharon is "still a political presence here, but it's hard not to think of and talk about Ariel Sharon in the past tense. He's been in a coma for more than a month now. Acting Prime Minister Ehud Olmert is not only leading the country and has been since Ariel Sharon went into that coma, he is leading the country now and he's also leading Ariel Sharon's party, the party that Ariel Sharon formed into elections, election they're expected to win easily next month."

NBC Nightly News (2/11, story 3, :20, Williams) reported, "In Israel, doctors say Prime Minister Ariel Sharon is out of immediate danger after emergency surgery this morning. The 77-year-old Sharon was rushed into surgery to remove part of his large intestine. This is his seventh operation since suffering a massive stroke five weeks ago. He remains in a coma."

The New York Times (2/12, Myre, 1.19M) reports, "Prime Minister Ariel Sharon of Israel underwent emergency surgery on his large intestine on Saturday and emerged in stable condition, though he remained in a coma, the Hadassah Ein Kerem Hospital said. ... Doctors observed that Mr. Sharon's abdomen was swollen, and after conducting a CT scan, he was taken into surgery on Saturday morning, Dr. Shlomo Mor-Yosef, the director of the hospital, said at a news conference." Hospital officials "initially said Mr. Sharon's life was in danger. But after the four-hour operation, Dr. Mor-Yosef said, 'The situation is serious, it is stable, it is critical, but there is no immediate danger to the life of Prime Minister Ariel Sharon.'" The Washington Post (2/12, Wilson, 744K) notes, "Sharon's sons, Omri and Gilad, rushed to the hilltop hospital early Saturday to be with their father, and his key advisers were there as well."

The Los Angeles Times (2/12, King, 958K) adds that "Sharon on Saturday survived his latest medical crisis — one that has served, somewhat poignantly, to underscore the degree to which the Israeli political torch has already passed to his successor, Ehud Olmert,' who "has assumed the leadership of Kadima, the centrist party Sharon founded weeks before his stroke." In an acknowledgment that Sharon had departed the political stage, his party was unable to give him even a symbolic place on its slate of candidates in the coming election."

The Washington Times (2/12, Mitnick, 90K) and also covers the story.

Hughes Diplomatic Office Rated As "Not Performing." The Houston Chronicle (2/12, Mason, 581K) in its "White House Watch" column notes a new government web site that tracks government program performance rates Karen Hughes' office of public diplomacy at the State Department as "not performing." Her "tenure at the State Department has been short and bumpy." Hughes "has no foreign policy background and has made a few gaffes -- such as dramatically overstating, during a trip to Indonesia, the number of people Saddam Hussein had gassed."

AFP (2/9) noted that the Internet site put together by the White House's Office of Management and Budget and heralded by Bush on Wednesday as a way to see 'whether or not a program is working.'"

Rumsfeld Strengthens Tunisia Ties. The Washington Post/Reuters (2/12, A26) reports, "Defense Secretary Donald H. Rumsfeld said on Saturday that the United States wants to strengthen military ties with Tunisia, Algeria and Morocco and played down the threat posed by al Qaeda in the three North African states. Rumsfeld arrived in Tunis after a NATO meeting in Sicily to begin a three-day visit to the Mahgreb -- his first to the region as defense secretary -- and praised Tunisia's support in the US campaign against global terrorism. 'They have been attacked by terrorists in

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this country,'" Rumsfeld said, adding, "They have felt the sting of that type of violence."

Mongolia Seeks To Improve Relations With US. The Washington Post (2/12, Cody, 744K) reports that squeezed between giants Russia and China, "Mongolia increasingly has forged relations with 'third neighbors,' more distant nations that can offset the influence of Moscow and Beijing. Japan has played the role prominently, becoming Mongolia's largest aid donor, and so have Germany and South Korea. But foremost among the third neighbors is the United States, the superpower that Mongolians have courted as an aid source and a counterweight to Russia's residual status and China's economic tentacles stretching across the Gobi Desert."

Syria Fills Cabinet Vacancies. Reuters (2/12) reports, "President Bashar al-Assad appointed interior and foreign ministers on Saturday, filling a major vacuum in his government as the country faces pressure over its role in Lebanon. A senior security officer, Bassam Abdel Majeed, was appointed as interior minister, and a career diplomat, Walid al-Moualem, was appointed to the foreign affairs portfolio, the state news agency announced." The main figure "gone from the cabinet is Farouq al-Shara, who had been foreign minister for 22 years. He was appointed vice president, a mostly ceremonial position."

Royal Feud Puts Moroccan Freedoms On Trial. The Washington Post (2/12, A1, Whitlock, 744K) reports, "The monarchy in this North African country dates back 1,200 years and has survived foreign invaders, civil wars and communist plots. Now it is confronted by a new threat: a grandmother who preaches nonviolence and democracy. This week, Moroccan prosecutors are scheduled to resume a criminal trial against Nadia Yassine, a leader of Justice and Charity, an underground Islamic movement that has become increasingly aggressive in testing the rule of King Mohammed VI. Yassine, 47, was charged last June with publicly criticizing the monarchy after she stated in a newspaper interview that the country would be better off as a republic than as a kingdom."

Avian Flu Found In Three European Union Countries. The CBS Evening News (2/11, story 6, :15, Mitchell) reported, "For the first time bird flu has spread to countries of the European Union. Officials said today the virus has been detected in dead wild swans in Greece and Italy as well as in Bulgaria. Officials say there is no immediate threat to human beings."

The New York Times (2/12, Rosenthal, 1.19M) reports, "The lethal A(H5N1) bird flu virus has been detected in wild birds in Italy and Greece, European officials announced yesterday, the first time its presence has been detected in the European Union. It was also detected in Bulgaria. The arrival of bird flu in Western Europe had been predicted for some months, since the virus has marched steadily from China, to Russia, to the Balkans and, in the last week, to West Africa. It is being carried by migrating birds, so all countries on their flight paths are vulnerable." The Washington Post/AP (2/12, A25, Sanminiatelli) notes that 'the announcement that the disease was detected in five swans in southern Italy came a day after the opening of the Winter Olympics in Turin, several hundred miles to the north. Italian officials said the virus had affected only wild birds and posed no immediate risk to people."

Keeping One's Distance May Be Key In Case Of Pandemic Flu. The New York Times (2/12, McNeil, 1.19M) reports, "If the avian flu goes pandemic while Tamiflu and vaccines are still in short supply, experts say, the only protection most Americans will have is 'social distancing,' which is the new politically correct way of saying 'quarantine.' But distancing also encompasses less drastic measures, like wearing face masks, staying out of elevators — and the bump. Such stratagems, those experts say, will rewrite the ways we interact, at least during the weeks when the waves of influenza are washing over us."

Africa "A Worrisome New Front." The New York Times (2/12, Rosenthal, McNeil, 1.19M) reports, "As epidemics go, it was a relatively small outbreak: 40,000 chickens died in mid-January on a commercial poultry farm in Nigeria. No humans seemed to have been infected. But to many experts on avian flu, it was the outbreak they had been dreading for months. It was the first time the fast-moving A(H5N1) virus had been reported in Africa. And while United Nations agencies are now scrambling to form medical and veterinary response and surveillance teams, scientists say its appearance there is deeply worrisome for two reasons. First, the continent is ill prepared to deal with epidemics, whether human or animal. Second, the Nigerian outbreak comes only a month or two before birds begin migrating north from Africa to Europe, which has so far been largely untouched by the virus."

Snow Optimistic On Russia WTO Candidacy. Reuters (2/12) reports, "US Treasury Secretary John Snow told Russian President Vladimir Putin on Saturday Washington was committed to a speedy conclusion of talks on admitting Moscow to the World Trade Organization. ... 'On WTO let me assure you that we are committed to an early resolution,' Snow said in televised remarks at a meeting with Putin in the Kremlin. '"I think we are narrowing the differences and should be very close to resolution.'"

Energy Prices, Tight Oil Supply Pose Big Risk, G-8 Ministers Warn. The New York Times (2/12, Kramer, 1.19M) reports, "Finance ministers from the world's richest

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countries and Russia said Saturday that 'high and volatile' energy prices posed a risk to global economic growth that otherwise appeared solid." According to US Treasury Secretary John W. Snow, "We're all concerned about the risk of rising energy prices and what they do to global growth." The Washington Times (2/12, Mainville, 90K) notes the ministers' communiqué as saying, "Overall global growth remains solid, and this is expected to continue in 2006. ... Risks remain, including high and volatile energy prices." In its coverage, the Los Angeles Times (2/12, Holley, 958K) adds, "The communique lauds the rapid economic growth in recent years shown by Russia, ... and Russia's commitments to boost aid to poor countries and make early payments on its Soviet-era debt to the group of top lending nations known as the Paris Club."

Latin American Leaders Push Pipeline Plan. The Washington Post (2/12, A24, Reel, 744K) reports, "South American leaders from Venezuela to Argentina are proposing to build the world's largest fuel pipeline across Latin America, and they hope it will deliver much more than natural gas: They portray the plan as the first blueprint for a new era of regional cooperation, greater independence from international markets and a more prominent voice on the world stage. President Hugo Chavez of Venezuela has labeled the proposal a 5,000-mile symbol of diminishing US influence in Latin America. Enthusiastic support for the project from regional heavyweights, including Brazil and Argentina, has prompted others to describe the project as the first true joint venture of a political coalition determined to forge a new South American identity."

US Rejects Morales Position On Coca. The New York Times (2/12, Forero, 1.19M) reports newly elected Bolivian President Evo Morales "has not yet provided many details on his coca policy, except to say that his government will 'depenalize' coca cultivation and show zero tolerance toward trafficking: in other words, 'yes to coca, no to cocaine.' He has long opposed American eradication efforts and championed the coca leaf, which without significant processing has no mind-altering effects and is chewed here to mitigate hunger and increase stamina." The American government, "which for several administrations has contended that only aggressive eradication and interdiction will control trafficking, scoffs at Mr. Morales's ... stance. 'This idea that he's going to go after traffickers but letting the coca bloom is tough seeing as workable,' says a high-ranking Congressional aide in Washington who helps shape anti-drug policy, speaking on the condition of anonymity because he is not authorized to give statements. 'It's a naïve, pie-in-the-sky approach to let the flower bloom but interdict the bouquet.'"

In Election Limbo, Haiti Experiences "Fragile Peace." The New York Times (2/12, Thompson, 1.19M) reports, "The national elections, so long in coming, seem to have brought a fragile peace to the most troubled country in the hemisphere. Partial results gave a wide lead to René Préval, a former president who is considered a protégé to former President Jean-Bertrand Aristide. However, it remained unclear whether he would win the more than 50 percent of the vote to avoid a runoff."

The Los Angeles Times (2/12, Williams, Regnault, 958K) adds, "With one presidential term behind him and his campaign for a return to power undertaken with reluctance, Rene Preval has made clear he has no illusions about the daunting challenges that lie ahead for the next leader of Haiti. Torchbearer for the unfulfilled aims of his predecessor and ally, Jean-Bertrand Aristide, Preval may be uniquely positioned to re-energize the exiled president's followers in the thwarted mission of empowering the poor and steering this most backward of Western nations out of its historical rut of violence, illiteracy and injustice."

In Race For UN Leadership, "Many Names, Few Rules And Talk Of Asia's Turn." The New York Times (2/12, Hoge, 1.19M) reports, "Choosing a new secretary general may be the most telling single action the United Nations takes in 2006, but the organization is saddled with an ill-defined selection procedure that leaves the choice subject to 11th-hour compromises, great power maneuvers and regional rivalries. The most discussed candidates, at least at the moment, include a Jordanian prince, a Nobel laureate from East Timor, two Eastern European presidents, Sweden's most accomplished diplomat, a former Sri Lankan ambassador to Washington, a Harvard-trained Thai lawyer, a Canadian judge, South Korea's foreign minister and a Turkish economist. But if history is a guide, it is likely that none of them will emerge the winner and that the person who does is not being publicly discussed."

Italy Will Elect New Parliament In April. The Los Angeles Times (2/12, 958K) reports, "Italy dissolved its parliament and scheduled elections for early April, opening what promises to be a bitter campaign pitting Premier Silvio Berlusconi against a strong center-left opponent. Parliament ended two weeks later than originally planned after Berlusconi negotiated a delay that allowed his government to push through a flurry of legislation. It also allowed the premier to keep up a barrage of TV and radio appearances."

Bush Should Step Up On Darfur, WPost Says. In an editorial headlined "Mr. Bush And Genocide," the Washington Post (2/12, 744K) posits that "for the past 18 months, the Bush administration and its allies have clung to

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the fiction that they could stop the genocide in the Sudanese territory of Darfur by sending in African Union forces. On Thursday United Nations Secretary General Kofi Annan spoke the truth about these troops," saying "that the UN force that may replace the African Union had better be 'a completely different force and have a completely different concept of operation.' The issue is whether President Bush, who is due to meet Mr. Annan tomorrow, is willing to hear this message." The Post asks, "Will the administration accept Mr. Annan's appeal for an entirely more serious peacekeeping deployment? The administration is pushing for the creation of some kind of UN force but seems unsure whether it's willing to support a strong one."

Darfur Photos Show Troubled Land, People. In his biweekly column, New York Times (2/12,, 1.19M) columnist Nicholas Kristof writes, "On my fifth and last trip to Darfur, in November, I smuggled in 20 disposable cameras to hand out to these disposable people. While taking photos without a permit is illegal in Sudan, two aid groups agreed to distribute the cameras, teach the genocide survivors how to use them, and then send me the pictures (for their own protection, I'm not naming those aid groups)." Kristof continues, "The photos were taken in makeshift camps near the town of Zalingei where survivors have lived since fleeing their villages. ... These scenes reflect the banality of waiting — for food, for protection, for death. In short, such photos are a bit like those from the Warsaw Ghetto in the early 1940's." He concludes, "On Tuesday, Mr. Bush spoke movingly at the funeral of Coretta Scott King. I hope he'll look at these photos and ruminate on an observation of the Rev. Martin Luther King Jr.: 'Man's inhumanity to man is not only perpetrated by the vitriolic actions of those who are bad, it is also perpetrated by the vitiating inaction of those who are good.'"

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Bomb Buster For Iraq Hits Pentagon Snag."
"Vernon Shoo-Ins Shoo Outsiders."
"Dorms Fuel Jail Unrest."
"Keeping The Olympics On Edge."
"Shooting For The Moon, Once Again."
"In Campaign, Westly Seeks An Insider-Outsider Balance."

New York Times:
"Tutor Program Offered By Law Is Going Unused."
"Violent Crime Rising Sharply In Some Cities."
"Healing, With New Limbs And Fragile Dreams."
"Bolivia's Knot: No To Cocaine, But Yes To Coca."
"Eats Shoots, Leaves And Much Of Zoos' Budgets."
"Reform Jews Hope To Unmix Mixed Marriages."

Washington Post:
"A Hand Up In A System Full Of Letdowns."
"Report On Katrina Spreads Blame."
"For Possible '08 Run, McCain Is Courting Bush Loyalists."
"Feud With King Tests Freedoms In Morocco."
"TV When -- And Where -- You Want It."

Washington Times:
"G-8 Nations Cite Threat Of Energy Costs."
"Year's First Snow Hits Region."
"Sharon Undergoes Emergency Surgery."
"UAE Firm Eyeing U.S. Ports."
"Un-Pleasant Gentrification."

Atlanta Journal-Constitution:
"Hey, Aren't You A Famous Olympic Athlete?"
"Lenders Pull Out Wallets."
"The Eternal Eight."
"It's Not Easy Being A Democrat: 'They Even Took My Seat.'"

Dallas Morning News:
"And Baby Makes Two."
"Prepping To Fight A Deadly Flu."
"Fighter Start To Finish."
"He Helps Cupid's Arrow Hit Its Mark."
"Danger Escalates For Border Agents."

Houston Chronicle:
"Free Trade Fuels Drug Smuggling."
"Off To A Gold Start."
"Witnesses' Plea Deals Pose Delicate Challenge."
"Family Kept Grim Secret Too Long To Save Teketria."

Story Lineup From Last Night's Network News:
ABC: Sharon Hospitalized; Fossett-Record Flight; San Francisco-Chinese New Year's; Laura Bush-Hillary Clinton; Winter Weather; Student Loan Rates; Iraq-Roadside Bombs; Pakistan-US Missile Strike; Olympics; Olympics-Skiing Aerodynamics.
CBS: Fossett-Record Flight; Winter Weather; Bush-Abramoff Meeting; Sharon Hospitalized; Muslim Cartoon Protests; Avian Flu-Europe; Pakistan-US Missile Strike; FBI-Al Qaeda Plot; Danforth-Politics, Religion; UVA Basketball Coach-Cancer.
NBC: Winter Weather; Olympics; Sharon Hospitalized; Muslim Cartoon Protests; AL Church Fires; Catholic Church-Reform; Fossett-Record Flight; Oldest Olympian; Snowboarding-Half Pipes.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — No public schedule.

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VICE PRESIDENT CHENEY — No public schedule.

US Senate: No public schedule.

US House: No scheduled events.

Other: UTILITY REGULATORS _ Winter meeting of the National Association of Regulatory Utility Commissioners. Location: Hyatt Regency-Washington on Capitol Hill, 400 New Jersey Ave. NW

LINCOLN BIRTHDAY _ 12 p.m. The National Park Service, Military District of Washington and the Lincoln Birthday National Commemorative Committee sponsor the 197th birthday anniversary of Abraham Lincoln. Location: Lincoln Memorial.

SISTER DOROTHY MEMORIAL _ 4:30 p.m. The Robert F. Kennedy Memorial Center for Human Rights and the Washington Office on Latin America host a vigil to commemorate one-year anniversary of the murder of American nun Sister Dorothy Stang. The vigil will feature brief remarks on Sister Dorothy's life and work, as well as the cultural challenges that she faced in the Brazilian Amazon. Participants include former Maryland Lt. Gov. Kathleen Kennedy Townsend and Reps. Tim Ryan, D-Ohio; Jim McGovern, D-Mass; and Mike Turner, R-Ohio. Location: Outside the campus chapel at Trinity University, 125 Michigan Ave. NE.

ABC _ THIS WEEK WITH GEORGE STEPHANOPOULOS _ Topic: Muslim cartoon controversy; Iran nuclear; and CIA leak investigation. Guests: Secretary of State Condoleezza Rice, and Sen. Joseph Biden, D-Del. Guest: Pittsburg Steelers star and hall of famer Lynn Swann speaks on his campaign to become Pennsylvania's first black governor. Topic: American Heart Association ``Go Red'' campaign for women. Guest: Actress Sigourney Weaver.

CBS _ FACE THE NATION WITH BOB SCHIEFFER _ Interviews with Secretary of State Rice and Democratic National Committee Chairman Howard Dean.

CNN _ 11 a.m. - 1 p.m. LATE EDITION WITH WOLF BLITZER _ Topics: U.S. Intelligence; Iraq; Terrorism; Nuclear Nations. Guest: Sens. Chuck Hagel, R-NE., Foreign Relations Committee; Select Intelligence Committee; and Joseph Lieberman, D-Conn., Armed Services Committee; Homeland Security Committee. Topic: Iraq: The Next Chapter. Guest: Iyad Allawi, former Iraqi Interim Prime Minister, Iraqi Parliament member. Topics: Middle East Violence; Future of the Middle East. Guest: Nabil Fahmy, Egyptian Ambassador to the U.S.; Guest: Afif Safieh, Palestinian Representative to the U.S.; and Danny Ayalon, Israeli Ambassador to the U.S.

FOX _ FOX NEWS SUNDAY WITH CHRIS WALLACE _ Topic: President Bush says the war on terror is working, but some Democrats say the GOPs using the politics of fear to win in November. Guest: Sen. George Allen, R-Va. Topic: Was criticism of President Bush at Coretta Scott Kings funeral over the line? Well talk with the civil rights leader who took on the president and a former top White House aide. Guests: Rev. Joseph Lowery (Georgia Coalition for the Peoples Agenda) and Ron Christie (author, ``Black in the White House). Topic: A man who is in daily contact with Mars. Guest: Dr. John Grant, Geologist, National Air and Space Museum.

NBC _ MEET THE PRESS WITH TIM RUSSERT _ Topic: The debate over intelligence gathering. Guests: Sen. Pat Roberts, R-Kans., chairman, Intelligence Committee; former Sen. Tom Daschle, D-S.D., former Democratic Leader; and Reps. Peter Hoekstra, R-Mich., chairman, Intelligence Committee; and Jane Harman, ranking member, Intelligence Committee.

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USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Monday, February 13, 2006 8:27 AM
To:	USDOJ- Office of Public Affairs
Subject:	Department of Justice News Clips for Saturday, February 11, 2006
Attachments:	dojclips060211.pdf; dojclips060211.doc

DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: SATURDAY, FEBRUARY 11, 2006 7:45 AM EST

TODAY'S EDITION

Terrorism News:

Private Groups Seek Domestic Spying Papers (AP) 4
Carter Allowed Surveillance In 1977 (WT) 4
ABA President Urges Bush To Obey Spy Laws (AP) 5
Bar Association To Oppose Domestic Spying (CHIST).....6
Americans Say President Shouldn't Suspend Rights (REU) 7
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TERRORISM NEWS:

Private Groups Seek Domestic Spying Papers (AP)

By Pete Yost

AP, February 11, 2006

A federal judge said Friday he was considering setting a deadline for the Justice Department to produce records on the Bush administration's warrantless surveillance program or to explain in court why it was refusing to do so.

U.S. District Judge Henry Kennedy said he was convinced the public would suffer irreparable harm if the government dragged its feet in a lawsuit filed over access to the documents.

The lawsuit was filed by three private groups who say the government is engaging in a pattern of delay and should be compelled to provide information on the underlying legal rationale for the surveillance and the scope of the eavesdropping program.

Congress is having difficulty getting the same information.

The Electronic Privacy Information Center, the American Civil Liberties Union and the National Security Archive asked for the material shortly after The New York Times revealed the eavesdropping on Dec. 16. The only response from the government was agreeing to put the requests on a fast track for decision-making.

Justice Department lawyer Rupa Bhattacharyya said the government would respond starting March 3, but she said she had no information on when the process might be completed.

The Freedom of Information Act says the government shall respond "as soon as practicable."

"Seven, eight, nine, 10 years? Is that the government's position?" Kennedy asked the Justice Department attorney.

Timing will depend on complexity, "and in this case there are a lot of complexities," Bhattacharyya said of the highly classified program.

David Sobel, an attorney representing the three groups, said the Bush administration was taking the position that putting FOIA requests on a fast track for consideration frees the government from a specific 20-day deadline for responding that applies to ordinary requests.

"The government is suggesting it's now open-ended," Sobel complained.

Given the highly classified nature of the program, the Bush administration is likely to withhold all information about it.

Part of the groups' effort is aimed at obtaining an index of what documents exist, enabling them to present arguments in court that some of the data be declassified and released to the public.

"It's fashionable to suggest that the courts don't have a significant role to play in these matters, but I urge the court to exercise its authority to hold the government accountable," Sobel told the judge.

Sobel was referring to the fact that the Bush administration bypassed the Foreign Intelligence Surveillance Court and is conducting the program without obtaining court warrants.

Several of Kennedy's colleagues at the federal courthouse who are current or former members of the intelligence court have expressed concern about the program.

Kennedy was appointed to the court by President Clinton in 1997.

Carter Allowed Surveillance In 1977 (WT)

By Charles Hurt

The Washington Times, February 11, 2006

Former President Jimmy Carter, who publicly rebuked President Bush's warrantless eavesdropping program this week during the funeral of Coretta Scott King and at a campaign event, used similar surveillance against suspected spies.

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"Under the Bush administration, there's been a disgraceful and illegal decision -- we're not going to the let the judges or the Congress or anyone else know that we're spying on the American people," Mr. Carter said Monday in Nevada when his son Jack announced his Senate campaign.

"And no one knows how many innocent Americans have had their privacy violated under this secret act," he said.

The next day at Mrs. King's high-profile funeral, Mr. Carter evoked a comparison to the Bush policy when referring to the "secret government wiretapping" of civil rights leader Martin Luther King.

But in 1977, Mr. Carter and his attorney general, Griffin B. Bell, authorized warrantless electronic surveillance used in the conviction of two men for spying on behalf of Vietnam.

The men, Truong Dinh Hung and Ronald Louis Humphrey, challenged their espionage convictions to the U.S. Court of Appeals for the 4th Circuit, which unanimously ruled that the warrantless searches did not violate the men's rights.

In its opinion, the court said the executive branch has the "inherent authority" to wiretap enemies such as terror plotters and is excused from obtaining warrants when surveillance is "conducted 'primarily' for foreign intelligence reasons."

That description, some Republicans say, perfectly fits the Bush administration's program to monitor calls from terror-linked people to the U.S.

The Truong case, however, involved surveillance that began in 1977, before the enactment of the Foreign Intelligence Surveillance Act (FISA), which established a secret court for granting foreign intelligence warrants.

Democrats and some Republicans in Congress say FISA guidelines, approved in 1978 when Mr. Carter was president, are the only way the president may conduct surveillance on U.S. soil.

Administration officials say the president has constitutional authority to conduct surveillance without warrants in the name of national security. The only way Congress could legitimately curtail that authority, they argue, is through an amendment to the Constitution.

The administration's view has been shared by previous Democrat administrations, including Mr. Carter's.

When Mr. Bell testified in favor of FISA, he told Congress that while the measure doesn't explicitly acknowledge the "inherent power of the president to conduct electronic surveillance," it "does not take away the power of the president under the Constitution."

Jamie S. Gorelick, deputy attorney general in the Clinton administration, agreed. In 1994 testimony before the House Permanent Select Committee on Intelligence, Miss Gorelick said case law supports the presidential authority to conduct warrantless searches and electronic surveillance for foreign intelligence purposes.

Earlier this week, however, Mr. Carter said it was "ridiculous" for Attorney General Alberto R. Gonzales to say the spying is justified by Article II of the Constitution.

Republicans say they welcome such criticism because it proves Democrats can't be trusted with national security.

"Just when you thought that the Democrats' image of being soft on defense issues couldn't get any worse, enter the sage wisdom of President Jimmy Carter to save the day," said Brian Nick, spokesman for the National Republican Senatorial Committee.

ABA President Urges Bush To Obey Spy Laws (AP)

By Anna Johnson

AP, February 11, 2006

The president of the nation's largest lawyers group said Friday that President Bush should comply with federal law when conducting electronic surveillance of Americans and refrain from scaring people into giving up their civil liberties in the fight against terrorism.

"Times of conflict have often put stress on America's liberties. It's a time when we get frightened and are tempted to take shortcuts with the Constitution," American Bar Association President Michael Greco said. "But I personally reject the false choice that is being offered Americans that they must give up their liberties to have security."

Greco, who spoke at the ABA's midyear meeting in Chicago, also released a proposal recommending that the association oppose further electronic surveillance in the U.S. for foreign intelligence purposes that does not comply with the 1978 Foreign

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Intelligence Surveillance Act. If the ABA's policy-making body approves it in a vote set for Monday, the proposal will become official policy of the 400,000-member group.

The proposal was recommended by an ABA task force that examined whether Bush was authorized to give the National Security Agency the power to eavesdrop on the international communications of Americans with suspected ties to terrorists without first obtaining warrants from a secretive court set up under FISA.

"We're calling on the president ... to explain to Congress what this program is about so Congress can exercise its constitutional duty of checking to make sure that the president's powers are being executed within the framework of the Constitution," Greco said.

The warrantless eavesdropping program has prompted a heated debate about presidential powers in the war on terror since it was first disclosed in December.

Bush on Friday continued his defense of the program, saying he concluded that it was needed to fill a gap in U.S security and that lawyers in the White House and at the Justice Department signed off on its legality.

Attorney General Alberto Gonzales insisted earlier this week during a Senate Judiciary Committee hearing that Bush was fully empowered to eavesdrop on Americans without warrants as part of the country's war on terror. He cautioned Congress not to end or alter the program.

But committee chairman Sen. Arlen Specter, R-Pa., suggested the program's legality be reviewed by a special federal court set up under FISA. Committee Democrats also have generally contended that Bush acted illegally in permitting the domestic surveillance.

Bar Association To Oppose Domestic Spying (CHIST)

By ABDON M. PALLASCH, Legal Affairs Reporter

Chicago Sun-Times, February 11, 2006

The American Bar Association is preparing to weigh in against President Bush's eavesdropping on telephone calls going into and out of America.

Contrary to polls showing Americans divided on the issue, "our poll shows that average Americans and legal scholars alike agree that the awesome power of the government to penetrate citizens' most private communications must not be held in one set of hands," ABA President Michael Greco said Friday at group's annual midyear meeting in Chicago. "To prevent the very human temptation to abuse the power, there must be checks and balances in the form of oversight by the courts and Congress."

The ABA will debate and vote Monday on a resolution calling on Bush to follow the law that requires him to go before a judge in a closed courtroom to get permission to eavesdrop.

"When the voice of the legal profession in the United States, the American Bar Association, with our 407,000 members has spoken on issues in the past, people have listened, and I'm gratified the administration has listened," Greco said.

Act amended '4 times since 9/11'

Attorney General Alberto Gonzales has complained to a U.S. congressional panel that following the "FISA" (Foreign Intelligence Surveillance Act) courts would not allow investigators the "nimbleness" to listen to all conversations involving al-Qaida members.

"If the president or the administration believe that FISA hampers their 'nimbleness' or their ability to move quickly, then this is a good reason to go back to Congress and say, 'We need more speed ... we need to amend the FISA act,'" Greco said. "Congress has amended the act four times since 9/11."

Asked if he thought Bush's announcement Thursday that the administration foiled an al-Qaida attack on Los Angeles weakened his argument against unapproved eavesdropping, Greco said, "The attack -- at this point the alleged attack -- on Los Angeles is disturbing, but it doesn't change the fact that neither now nor ever in the future should we be frightened into sacrificing constitutional freedoms because something happened or something is about to happen. I personally reject the false choice that is being offered Americans that they must give up their liberties to have security."

Justice Department officials could not be reached for comment.

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Asked if he thought Gonzales had the "legal acumen and knowledge" to be attorney general, Greco stood silent for a moment, then asked, "You think I should answer that question?"

Finally, he said, "The issue isn't whether the president can eavesdrop on calls from al-Qaida or to al-Qaida. The issue is whether he can wiretap calls without any accountability from Congress."

The ABA's poll of 1,000 people found 77 percent agreed the president should not be able to suspend constitutional rights without approval of a court or Congress. Earlier polls by other organizations found higher percentages of Americans willing to let the president eavesdrop on calls he thought might be related to al-Qaida.

Americans Say President Shouldn't Suspend Rights (REU)

By Andrew Stern

Reuters, February 11, 2006

Most Americans believe a president should not be allowed to suspend constitutional guarantees in order to fight terrorism, a poll released on Friday said.

The poll, taken for the American Bar Association in the wake of the controversy generated by President Bush's domestic spying program, found the public divided over whether government eavesdropping on personal communications could ever be justified.

"As our poll shows, and legal scholars agree, the awesome power of government to penetrate citizens' most private communications must not be held in one set of hands," Michael Greco, the group's president, told a news conference.

"To prevent the very human temptation to abuse this power there must be checks and balances in the form of oversight by the courts and Congress," he said.

"I personally reject the false choice that is being offered Americans that they must give up their liberties to have security. We must protect both, and we can protect both," he added.

With the administration refusing to provide details of the eavesdropping program, which was a closely held secret until recently, the extent of any violations are unclear, Greco said.

The program, authorized by Bush in 2001, allows the National Security Agency to monitor the international phone calls and e-mails of U.S. citizens to track people with suspected ties to al Qaeda and other militant groups.

The White House has said warrantless eavesdropping is legal under Bush's Constitutional powers as commander-in-chief and a congressional authorization for the use of military force adopted days after the September 11 attacks.

The program bypassed secret courts created under the 1978 Foreign Intelligence Surveillance Act that grant warrants. Greco said if those courts do not work as they should, the administration should ask Congress to amend the law.

The Harris Interactive telephone survey of 1,045 adults taken February 3-6 found that 77 percent have reservations about the fundamental issues raised by the eavesdropping controversy, the ABA said in releasing the survey.

Of that group, 52 percent agreed that a president should never be able to "suspend the constitutional freedoms of people like you." Another 25 percent said constitutional freedoms should never be suspended unless authorized by a court or Congress.

Only 18 percent said a president could lift constitutional guarantees any time if it was necessary to protect the country and another 5 percent said they did not know or declined to answer. The poll had a margin of error of plus or minus 3 points.

A second question asking what would justify government eavesdropping on personal communications without a search warrant or court order found 45 percent saying such action would never be justified.

A further 48 percent were divided, with 22 percent saying it would be OK based on "an anonymous tip that you may be helping to plan a terrorist attack in the United States" and 21 percent saying it would be justified based on "someone's suspicion that you may be sending money to a terrorist organization."

ABA delegates plan to vote on Monday on a policy proposal calling on Bush "to abide by our constitutional system of checks and balances and respect the roles of Congress and the judiciary in protecting national security consistent with the Constitution." It also calls for a halt to the eavesdropping.

The Shoe (Bomb) On The Other Foot (NSWK)

By Jonathan Alter

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Newsweek, February 11, 2006

President Bush's revelation about a foiled bomb plot shows the dangers of declassification for purely partisan purposes.

Poor Porter Goss. First, the longtime Florida congressman leaves his safe seat to become director of the CIA, only to find that he's been neutered by a new bureaucratic setup where he reports to John Negroponte, the director of national intelligence. Then he writes an op-ed piece decrying intelligence leaks in The New York Times on Friday, the exact same day as a story appears identifying today's biggest leaker of antiterrorism secrets in Washington—President George W. Bush.

For crass political reasons—namely to advance his position on the National Security Agency spying story—the president chose to use a speech to the National Guard Association to disclose details of a 2002 "shoe bomb" plot to blow up the U.S. Bank Tower, the tallest building in Los Angeles. While the plot had been revealed in general terms in the past, the White House this week arranged for Bush's counterterrorism adviser, Frances Fragos Townsend, to explain to reporters in a conference call exactly the kind of details that Goss claimed on the op-ed page helped the enemy. "We are at risk of losing a key battle," Goss wrote. "The battle to protect our classification system."

That system is at particular risk when it is exploited for political purposes. The president is allowed to declassify whatever he wants; that's one of the privileges of being president. So in this case—unlike the NSA's warrantless eavesdropping—there is no issue of Bush breaking the law. But let's be clear on what this was: a deliberate effort to use declassification for partisan purposes, in this case, defending the administration's policy on NSA surveillance, which Karl Rove says publicly will be a big part of the 2006 midterm campaign.

The White House made perfect political use of the twilight zone of intelligence. While Townsend did not explicitly claim that the NSA surveillance program had foiled the Los Angeles plot, she tried to imply that it might have played a role. "We use all available sources and methods in the intelligence community but we have to protect them," she told reporters. "So I'm not going to talk about what ones we did or didn't use in this particular case."

Let's get this straight. The president and administration officials will suddenly talk about details of the foiled plot—details that were highly classified until now. But they won't say if the controversial NSA program was involved. Given their new willingness to talk at length about the case, can anyone seriously doubt that had the NSA eavesdropping cracked this case, they would have mentioned that? Simply saying that the NSA helped foil the plot—if it had—would not have compromised "sources and methods." You can bet that if this were an NSA case, we'd know it.

The chronology of Bush's politicizing of intelligence goes something like this: First, the president discloses classified information without any good reason to do so. Why now? It's not as if Los Angeles is hosting the Olympics or under some new threat. (To understand how hurried and political this disclosure was, consider the fact that Los Angeles Mayor Antonio Villaraigosa, a Democrat, wasn't briefed on the foiled plot and has been stiffed in his efforts to meet with the president about homeland security in his city, a problem that New York City Mayor Michael Bloomberg and other Republican mayors do not have). Then, by implying without stating that the NSA may have been involved, the White House uses sensitivity about classified information as a shield against finding out whether the NSA is relevant to the Los Angeles plot in the first place.

Goss, meanwhile, is left hanging out to dry: he seems to be calling for more criminalization of intelligence leaks in one part of the paper while the president leaks like a sieve in the other. Elsewhere, he makes a big distinction between whistleblowers who seek accountability through proper channels (they're right) and those who go to the media (obviously wrong). Feeling some pressure three quarters into his op-ed piece to offer even one example of how media coverage has jeopardized an intelligence operation, Goss hauls out the same chestnut Bush used in a press conference last month—the revelation that Osama bin Laden's satellite phone had been tapped. The implication was that once the evil American media revealed this fact, bin Laden stopped using the phone and was harder to catch. In fact, bin Laden gave up his satphone after President Bill Clinton used coordinates from the phone to bomb him in 1998. It was Clinton's missiles, not the media, that convinced the Al Qaeda leader he needed a more secure way to communicate.

Will the White House get away with using intelligence as a political weapon? Probably. Imagine if it were Clinton, not Bush, who decided to reveal classified information about the plot against Los Angeles in a politically convenient way. The rightwing gabfests would be having a field day, as well they should. But now the shoe bomb is on the other foot.

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Terror Case In Buffalo Awaits Word On Wiretaps (NYT)

By David Staba

The New York Times, February 11, 2006

BUFFALO, Feb. 10 — A man accused of illegally wiring money to Yemen has asked a judge to determine whether any of the evidence against him was gathered secretly and without a warrant as part of the Bush administration's domestic surveillance program.

The suspect, Mohammed T. Albanna, 54, of Lackawanna, N.Y., just south of Buffalo, and two other men face charges that they ran a business that transferred $3.5 million from Yemeni-Americans to relatives in that country without the required permits.

Last month, Mr. Albanna's lawyer, Philip M. Marshal, asked Judge William M. Skretny of Federal District Court here to force prosecutors to reveal if secret surveillance by the National Security Agency was used. The no-warrant wiretaps were approved by President Bush after the Sept. 11, 2001, attacks to hunt for evidence of terrorist activity and are now the focus of a debate over the extent of executive power.

Last week, the judge ordered an assistant United States attorney, Timothy C. Lynch, to produce a response from the Justice Department in Washington by Feb. 27.

Mr. Marshall said Wednesday that he possessed no evidence that no-warrant eavesdropping was involved in the case, but made the request after news of the National Security Agency program was made public in December.

"I don't know if they're going to say yes, no or 'We're not going to say,' " Mr. Marshall said. "If they don't give an answer by Feb. 27, the judge has ordered that someone from the Justice Department appear in his court. The judge is going to want to know why."

Mr. Lynch, who has been involved with the prosecution since the three men were indicted in 2002, said he had no knowledge of secret eavesdropping in the case. Prosecutors have not suggested that Mr. Albanna or his co-defendants were involved in terrorism. "I told the judge the only investigative techniques I know that were used in this case were interviewing witnesses, intercepting express mail packages and using court-approved wiretaps," Mr. Lynch said.

Mr. Albanna, an American citizen who runs a business that supplies candy and cigarettes to stores in the Buffalo area, said he and his co-defendants were part of an informal system, known as hawala, used to send money to people in countries lacking sophisticated banking and communications technology.

He was a spokesman for the Yemeni community in Lackawanna during the prosecution of six men who traveled to Afghanistan and participated in an Al Qaeda training camp in the summer of 2001 before returning to the Buffalo area. All six pleaded guilty to supporting a terrorist organization and are in prison.

A seventh man, Jaber Elbaneh — Mr. Albanna's nephew — remained in Yemen and was charged in absentia. The Justice Department issued a $5 million reward for his capture in 2003.

Mr. Albanna said Mr. Elbaneh's relatives in Lackawanna believed that he has been in custody in Yemen since late that year.

Mr. Albanna was charged in the money-transfer case two months after the arrests of the six men made international headlines. He said Wednesday that he wondered if his high profile as a spokesman for those men was a factor in the federal investigation. "That's what we're trying to find out," he said.

Convict In Al Qaeda Plot Seeks Case Review (WT/AP)

By Matthew Barakat, Associated Press

The Washington Times, February 11, 2006

A Falls Church man convicted of joining al Qaeda and plotting to assassinate President Bush has joined the ranks of those seeking a review of their convictions based on concerns about Mr. Bush's post-September 11 eavesdropping program.

Attorneys for Ahmed Omar Abu Ali, 24, last week asked a federal judge to order prosecutors to divulge whether Abu Ali was ever a subject of the warrantless eavesdropping program that Mr. Bush ordered implemented shortly after the attacks in 2001. They also asked the judge to delay Abu Ali's Feb. 17 sentencing.

DOJ_NMG_0014298

Born in Houston and raised in Northern Virginia, Abu Ali traveled to Saudi Arabia to attend college and was arrested by the Saudis in June 2003. He admitted joining al Qaeda and discussing numerous terrorist plots, including a plan to assassinate Mr. Bush and to return to the United States as the leader of a terror cell.

Abu Ali said he had been tortured into a false confession, but a U.S. District Court jury in Alexandria rejected his claims and in November convicted him on all counts. He faces a mandatory minimum sentence of 20 years and up to life in prison.

It is not clear how Abu Ali's case would have been affected by the eavesdropping program, if at all. Court testimony indicated that the Saudis arrested Abu Ali on their own initiative as part of an investigation into the May 2003 bombings in Riyadh that killed more than 30 people.

An FBI agent testified that Abu Ali had been under investigation in the United States, but that investigation preceded September 11, 2001, when authorities were investigating a group of Muslim men who used paintball games as a means to train for holy war around the world.

The defense motion, though, argues that Abu Ali was a likely target of the National Security Agency eavesdropping program because he was under government surveillance while the program was in effect and because the eavesdropping focused on al Qaeda.

Also, the law requiring prosecutors to turn over evidence gained from wiretaps is broad, so it's possible that any wiretaps involving Abu Ali should have been disclosed to the defense even if their contents were not central to the issues at trial.

The defense also wrote a letter to prosecutors seeking details about any undisclosed surveillance. In response, prosecutor David Laufman wrote that the government sees "no basis to stay Mr. Abu Ali's sentencing."

Attention In N.S.A. Debate Turns To Telecom Industry (NYT)

By Scott Shane

The New York Times, February 11, 2006

WASHINGTON, Feb. 10 — Though much of official Washington has been caught up in the debate over the National Security Agency's domestic surveillance program, one set of major players has kept a discreet silence: the telecommunications corporations.

Some companies are said by current and former government officials to have provided the eavesdropping agency access to streams of telephone and Internet traffic entering and leaving the United States. The N.S.A. has used its powerful computers to search the masses of data for clues to terrorist plots and, without court warrants, zeroed in on some Americans for eavesdropping, those officials say.

Now the companies are in an awkward position, with members of Congress questioning them about their role in the eavesdropping. On Thursday two Democratic senators, Edward M. Kennedy of Massachusetts and Russell D. Feingold of Wisconsin, wrote to the chief executives of AT&T, Sprint Nextel and Verizon, asking them to confirm or deny a report in USA Today on Monday that said telecommunications executives had identified AT&T, Sprint and MCI (now part of Verizon) as partners of the agency.

The two senators demand information that, if it exists, would be highly classified: details of secret N.S.A. requests for help and the number of people whose communications were intercepted.

In a Feb. 2 reply to a similar query from Representative John Conyers Jr. of Michigan, the top Democrat on the House Judiciary Committee, AT&T offered a careful response. The two-paragraph note did not deny that the company was assisting the agency.

"Without commenting in any way on press reports," wrote Wayne Watts, AT&T's senior vice president and associate general counsel, "let me assure you that AT&T abides by all applicable laws, regulations and statutes in its operations and, in particular, with respect to requests for assistance from governmental authorities."

The Electronic Frontier Foundation, a nonprofit privacy group, has filed a class-action suit against AT&T maintaining that the company's cooperation with the agency is violating customers' privacy. The suit says the company is providing the N.S.A. "direct access" to its "key domestic telecommunications facilities," but does not offer proof.

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December's disclosure of the N.S.A. program and the corporate role in it has trained an unusual spotlight on the extensive and secret cooperation between the government and communications companies.

The companies routinely assist law enforcement and intelligence agencies with eavesdropping authorized by court warrants, a task streamlined by a 1994 law requiring a back door for the government in every new telephone technology. The law, called the Communications Assistance for Law Enforcement Act, or Calea, has created a thriving "lawful intercept" industry for technology to make eavesdropping easier.

But for decades such cooperation has sometimes gone further. Federal law permits companies to intercept calls or e-mail messages without a warrant and protects them from lawsuits if a "certification" is provided by the attorney general or his deputies stating that no warrant is needed.

Such certifications may have been provided to companies assisting the N.S.A. program, because President Bush has said that he authorized it in a secret executive order to operate without warrants. Mr. Bush has said the program is aimed at international communications of people in the United States who are suspected of links to Al Qaeda.

The companies "are going to want to see an explanation of why it's lawful," said Kenneth C. Bass III, a communications lawyer in Washington who worked closely with the N.S.A. as a Justice Department official from 1978 to 1981.

Corporate cooperation with the agency is one of the government's most sensitive secrets, and neither company representatives nor N.S.A. officials would discuss it. "If the carriers could talk about this, they'd say, 'We believe we're doing this on a legal basis, and we think this is an appropriate role for us,' " said Michael J. Kleeman, a veteran telecommunications entrepreneur now at the University of California, San Diego.

Mr. Kleeman and other experts say the kind of cooperation now being provided by the companies has long been customary and is mirrored in many other countries. American telephone executives have traditionally seen their companies' cooperation with intelligence agencies as a patriotic duty, industry officials say. The officials say they have not heard of companies' receiving regulatory breaks, contracts or other benefits for cooperation, both because a quid pro quo is not necessary and because it might expose the secret assistance.

The companies' ties to Washington are formidable. Once a year, 30 of the country's top telecommunications and Internet executives gather in the capital to talk with the government about national security topics like how phone systems can survive nuclear attack.

All members of the National Security Telecommunications Advisory Committee, as the group is known, have been given security clearances to discuss classified programs with senior domestic security, intelligence and White House officials. (Vice President Dick Cheney was at last year's meeting.) Asked whether the committee had discussed the N.S.A. eavesdropping, a committee spokesman, Steve Barrett, said in an e-mail message, "The N.S.T.A.C. is not involved in the gathering of intelligence."

The digital revolution has made government eavesdropping more dependent than ever on corporate cooperation, telecommunications experts say. For decades, the N.S.A. was able to snatch most communications out of the air, maintaining a network of dish antennas to capture traffic transmitted by commercial satellites. But most international traffic has shifted over the last two decades to undersea fiber-optic cables. While a tap can be placed surreptitiously on a cable, company cooperation makes it far easier to sort the thousands of digital messages carried simultaneously in it.

"If you're going to monitor traffic over a fiber cable, you really need the carrier's cooperation," said Jerry Lucas, a telecommunications veteran whose company, TeleStrategies Inc., runs a regular conference called "Intelligence Support Systems for Lawful Interception" where government officials meet company technicians to discuss eavesdropping issues.

As digital technology has grown more complex, the Calea law has made snooping easier, said Anthony M. Rutkowski, president of the Global Lawful Intercept Industry Forum, a group of companies that produce equipment to comply with Calea (pronounced kuh-LEE-uh) and similar foreign laws.

"I don't know of a vendor anywhere that hasn't built intercept capability into its equipment," Mr. Rutkowski said.

But the cost of adding intercept capability sometimes leads to resistance. Currently some companies are fighting a government effort to require intercept capability on the Internet phone service called Voice Over Internet Protocol, or V.O.I.P.

Mr. Rutkowski said the controversy over the N.S.A.'s current practices, like past controversies about domestic surveillance, might have value.

"The marvelous thing about the resilience of the system is that the pendulum does swing," Mr. Rutkowski said. "Eventually it creates a balance between the legitimate need of the government for information against the privacy rights of the citizens."

Justice Moves At Glacial Pace For `enemy Combatant' (CHIT)

By Andrew Zajac, Washington Bureau

Chicago Tribune, February 11, 2006

Unusual circumstances keep a terror suspect, arrested in Illinois in 2001, mired in legal limbo and held in a Navy brig hoping for day in court

WASHINGTON -- With the recent transfer of terror suspect Jose Padilla to a Miami jail to await trial, the sole remaining "enemy combatant" in the U.S., Ali Saleh Kahlab al-Marri, still sits in the Charleston Naval Brig, awaiting the outcome of a slow legal battle over how to dispense justice when an alleged terrorist is a legal alien.

In the eyes of the government, al-Marri is an Al Qaeda sleeper agent sent to the U.S. heartland to help the terrorist network's operatives get settled for follow-up attacks after Sept. 11, 2001.

His lawyers say al-Marri, 40, is an innocent civilian who legally came to the U.S. with his family to obtain a master's degree in engineering at Peoria's Bradley University.

Arrested in West Peoria in December 2001, al-Marri, a Qatari national, was declared an enemy combatant by President Bush on June 23, 2003, and has been held since then in solitary confinement at the South Carolina Navy brig. Al-Marri was effectively out of reach of the U.S. legal system until the Supreme Court declared in June 2004 that enemy combatants have some legal rights.

"Enemy combatant" is the name the Bush administration has used to label some terrorism suspects. These "combatants" reside in a kind of legal limbo, lacking rights traditionally assigned to criminal defendants and prisoners of war. The three enemy combatants initially held in the U.S.--the rest are imprisoned at Guantanamo Bay, Cuba--have been in a strange legal limbo, in part because of their differing circumstances.

Al-Marri and Padilla were arrested on American soil, but unlike al-Marri, Padilla is a U.S. citizen. A third combatant, Yaser Hamdi, was a U.S. citizen but was picked up on a battlefield in Afghanistan.

In addition to seeking a day in court, al-Marri has sued for relief from allegedly harsh and abusive detention. His lawsuit says he has been subjected to prolonged isolation and denial of basic necessities including bedding, clothing and medical care. The government denies mistreating him.

Cautionary tale

Al-Marri's predicament, and the glacial pace of its resolution, is a cautionary tale for millions of non-citizen legal U.S. residents, according to Jonathan Hafetz, one of his attorneys.

"The government can say, `We think you're a bad guy. We're just going to hold you because we think you are,'" said Hafetz of the Liberty and National Security Project at the Brennan Center for Justice in New York.

A federal court in South Carolina ruled in July that as a non-citizen, al-Marri could not simply demand that the government charge him with a crime or release him. The ruling noted the decision "does not close the door to this court to [al-Marri]," but it did not spell out what al-Marri needed to do to challenge his enemy combatant status.

In December, the court said al-Marri was entitled to "receive notice of the factual basis for his classification [as an enemy combatant], and a fair opportunity to rebut the government's factual assertions by presenting more persuasive evidence before a neutral decisionmaker."

But his lawyers say that standard, borrowed from the Supreme Court's June 2004 decision, stacks the deck against al-Marri because some of the evidence against him is secret and unavailable. And the public portion of the government's evidence consists of a sworn statement from a federal agent who did not have firsthand knowledge of the assertions about al-Marri's alleged ties to Al Qaeda, Hafetz said. The allegations include phone calls al-Marri made and material on his laptop.

"All the government has submitted to say they can hold him for the rest of his life is the statement of a single government agent who has no direct knowledge," Hafetz said.

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A Justice Department spokesman declined to comment on the case. But as in all enemy combatant cases, government lawyers in court papers call for giving the president a free hand in dealing with detainees. Their arguments in the al-Marri case lean heavily on the Supreme Court's June 2004 decision regarding Hamdi.

The justices ruled that Hamdi was entitled to a hearing to contest his enemy combatant status but that national security considerations justified compromises, including possibly the use of secondhand information not normally admissible in court.

Government lawyers argue that as a non-citizen U.S. resident, al-Marri cannot demand any more rights or protections than those contemplated for a citizen like Hamdi.

Different circumstances

But Hafetz said the Supreme Court's hearing framework seeks to avoid interference with military operations, a concern specific to the case of Hamdi, who was picked up on the Afghan battlefield. He said it should not apply to al-Marri, who was arrested in the U.S., where obstructing the military is not an issue.

The hearing envisioned for Hamdi never occurred. He was released and allowed to return home to Saudi Arabia in October 2004 after forfeiting his U.S. citizenship.

Padilla, likewise, has not faced a hearing on his enemy combatant status.

The one-time Chicago gang member was arrested at O'Hare International Airport in May 2002 and taken into federal custody. Bush later declared Padilla an enemy combatant, who was transferred to the brig in June 2002.

In a surprise development, Padilla in January was transferred from military control to the custody of the Justice Department in Miami to face terrorism-related charges unrelated to the allegations used to detain him as an enemy combatant.

Al-Marri, meanwhile, has not budged and, according to his lawyers, has not been interrogated in more than a year. Since being moved to the brig, he has not been permitted visits with family, including a wife and five children, who live in Saudi Arabia. A brother, Jarallah al-Marri, is detained at the Guantanamo Bay naval base.

Accusations against Ali al-Marri include that he made a series of telephone calls in late 2001 to a number in the United Arab Emirates used by suicide hijacker Mohammad Atta and others involved in the Sept. 11 attacks. The government says the phone number belonged to Mustafa Ahmed al-Hawsawi, an alleged Al Qaeda paymaster.

Al-Marri's lawyers say they want to know if any evidence against their client was collected through torture.

Al-Marri denies being a terrorist or committing any crimes.

A leading expert on military law faulted the government for delaying a resolution of enemy combatant claims.

"There's this sense that time has no value," said Eugene Fidell, president of the National Institute of Military Justice. "I think the government has to explain what its game plan is. The legal system is illusory for people in his position."

Fidell said federal judges need to be more assertive in establishing a clear process for handling cases of enemy combatants.

"In his [al-Marri's] case as in Padilla's, they were subject to the district court and then whisked out with no watchful eye over them," he said.

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Bail Denied For Brooklyn Bookseller Accused Of Financing Terrorism (NYT)

By Julia Preston

The New York Times, February 11, 2006

A federal judge denied bail yesterday to a Muslim bookseller from Brooklyn accused of plotting to buy arms for Islamic fighters in Afghanistan, saying the government appeared to have "very strong evidence" for the terror charges against him.

The judge, Loretta A. Preska, referred to transcripts of secretly recorded conversations between a government informer and the bookseller, Abdulrahman Farhane. Judge Preska said Mr. Farhane understood that he was talking about transferring funds to the Middle East "to purchase arms and equipment," which he knew would be used "for jihad against the United States and other Western powers."

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The evidence that prosecutors presented at Mr. Farhane's bail hearing, in United States District Court in Manhattan, added significant substance to the government's case against him and three other defendants, including Tarik Shah, a New York jazz musician and martial arts instructor who also is Muslim. Mr. Shah, 43, was arrested May 29 and charged with conspiring to teach martial arts to members of Al Qaeda. The tapes include conversations with Mr. Shah and Mr. Farhane about financial transfers.

The evidence bolstered the case against Mr. Shah. Based on an F.B.I. sting, prosecutors were accusing Mr. Shah of agreeing with an undercover F.B.I. informer to train Qaeda fighters in "hand-to-hand combat." But the government did not claim that Mr. Shah had met or had contact with any terrorist operative.

Now Mr. Farhane, a Moroccan-American who is 52, has emerged as the central figure in the case. According to Judge Preska, the prosecutors have audio recordings that capture him discussing specific ways to raise money and transfer it to Islamic fighters battling the United States forces in Afghanistan in the fall of 2001, after the Sept. 11 attacks.

Victor L. Hou, an assistant United States attorney, , said yesterday that Mr. Farhane had introduced Mr. Shah to the government informer at his bookstore. The informer recorded the conversations about financial transfers.

Also charged with terror conspiracy are Rafiq Sabir, a doctor from Florida, and Mahmud Faruq Brent, a paramedic from Washington, D.C. They and Mr. Shah have been detained without bail since their arrests.

In a letter on Thursday to Judge Preska, Mr. Hou wrote that Mr. Farhane, after he was arrested Oct. 26, told investigators that he had introduced Mr. Shah to the informer to help him "send money to jihadists overseas."

The prosecutors also cast new light yesterday on the role of the government informer, a Yemeni named Mohamed Alanssi, who set himself on fire in front of the White House in November 2004, apparently to protest his handling by F.B.I. agents. Mr. Alanssi was a witness in the case in Brooklyn last year that convicted a Yemeni sheik, Mohammed Ali Hassan al-Moayad, of financing terrorism.

Mr. Hou said that "the confidential source" — whom the defense has identified as Mr. Alanssi — first identified Mr. Farhane to the F.B.I. in the weeks after 9/11 as having "radical views of Islam." Starting in December 2001, Mr. Alanssi secretly recorded a series of conversations with Mr. Farhane, many of them at his Brooklyn bookstore. Judge Preska said recordings from the fall of 2001 make it clear that Mr. Farhane was talking about sending money for "wireless communications and advanced weapons" for Islamic fighters.

Michael Hueston, Mr. Farhane's lawyer, called his client a "family man" with six children, including two born in the United States. He questioned why prosecutors had waited since 2001 to arrest him if they regarded him as dangerous.

Mr. Hou grew impassioned when he sought to rebut a statement Mr. Farhane made in court on Wednesday, when he pleaded not guilty and said, "I love this country." Mr. Hou said wiretap recordings in March 2004 register Mr. Farhane as saying: "This is not a country where we should stay. The longer one stays here, the more people make you sick."

The prosecutor said a search of Mr. Farhane's home and store — the House of Knowledge, on Atlantic Avenue — had turned up address books showing that he had several criminal contacts. Karim El-Mejjati, a Moroccan who has been linked to terrorist bombings in Saudi Arabia and Casablanca, had once given Mr. Farhane's address as his own, Mr. Hou said. His book listed, among others, Abad Elfgeeh, who Mr. Hou said was a "money launderer" for Sheik al-Moayad.

Mr. Farhane was arrested in October on lesser charges of making false statements to the F.B.I. Prosecutors brought the terror financing charges against him this week.

U.S. Bookseller's Bail Revoked In Terror Case (FINDLAW/AP)

By Larry Neumeister, Associated Press Writer

AP, February 11, 2006

(AP) - NEW YORK-A bookstore owner accused of supporting terrorists was jailed without bail Friday after a prosecutor played taped conversations in which the man is heard advising not to think of America "as our country."

Abdulrahman Farhane, a 51-year-old U.S. citizen of Moroccan descent, was taken into custody and his $150,000 (â‚¬125,300) bail was revoked by U.S. District Judge Loretta A. Preska, who said her review of government evidence showed the nature of the case and quality of evidence was very serious.

"It appears the government has very strong evidence of the terrorism offenses charged," the jurist said before the red-bearded New York man was led away.

During two bail hearings this week, prosecutors were forced to reveal new details of the case against Farhane, 42-year-old musician Tarik Shah and two others.

When he was initially arrested in October, Farhane was charged with making false statements to the FBI. Shah was originally accused last spring of offering to train others in the martial arts, leading his lawyer to call it the "karate-chop case."

But an indictment returned earlier this week portrayed the case in more sinister terms, saying Farhane and Shah conspired in 2001 to help an FBI cooperating witness send money to aid Islamic militants fighting Americans in Afghanistan.

After reviewing conversations taped by the FBI in Farhane's bookstore in December 2001, the judge said the tapes "make it clear" that Farhane offered to help another man transfer money to the Middle East in 2001 even though he was told some of the money would be spent on communications and advanced weapons.

She said he also told the FBI after his arrest last fall that he knew some of the money might end up being used to fight U.S. forces in Afghanistan.

The judge announced her conclusions after Assistant U.S. Attorney Victor Hou tried to discredit Farhane's Wednesday comment in court that he did nothing wrong, insisting, "This is my country. I love my country."

Hou said a court-authorized telephone wiretap captured statements in 2004 in which he complained about America.

"We should not think of this as our country. This is not a country where we should stay," Hou said Farhane told another man on March 10, 2004. "The longer people stay here, the more people make you sick."

In an April 13, 2004, conversation, Hou said Farhane seemed to be applauding an attack on U.S. forces in Iraq when he said, "The Sunnis gave the U.S. military a lesson they won't forget."

The prosecutor said a man in a Jan. 16, 2004, telephone call with Farhane promised loyalty, saying, "I will kill for you."

He described Farhane as a dangerous facilitator who incites and inspires others and who brought Shah into the scheme because he believed the musician could help with ways to send money to the Middle East.

"You cannot trust him," Hou said.

In a letter to Preska, Hou said Farhane told the FBI last October that there was a duty for Muslims to wage violent jihad to repel invaders in Muslim lands.

Hou said the FBI also found address books belonging to Farhane that read like a "who's who of terrorism financiers in the United States" and then he identified several men who have been convicted and sentenced in U.S. terrorism cases.

He belittled the claims of love for America by the father of six children, saying "behind closed doors when he thinks nobody's listening, he's telling what he really believes."

Defense attorney Michael Hueston argued for continued bail, saying his client had obeyed restrictions since he was put on electronic monitoring after his Oct. 26 arrest.

Hueston said the absence of danger was illustrated by the government's failure to arrest his client between 2001 and last October and contended extensive taping of his client revealed no conversations in which he threatened U.S. forces.

"He's a family man," he said.

Hou suggested that law enforcement authorities waited to arrest Farhane in order to protect a wider investigation.

Terror Trial To Start Despite Late Evidence, Defense Lawyers Say (FINDLAW/AP)

By Don Thompson, Associated Press Writer

AP, February 11, 2006

(AP) - SACRAMENTO-Federal prosecutors have released mounds of documents and hundreds of hours of audiotapes to attorneys defending a father and son charged in a terrorism probe, but the defense said the last-minute flood of evidence will not delay the trial.

Jury selection is expected to begin Tuesday in the trials of Umer Hayat, 48, and his 23-year-old son, Hamid, both of Lodi. Their trials will run concurrently with separate juries.

DOJ_NMG_0014304

The U.S. attorney's office last week turned over 253 compact discs and 45 audiotapes with an estimated 990 hours of secretly recorded conversations - most in foreign languages - between the Hayats and a government informant.

This week, they turned over much more material, mostly documents, that the defense team is struggling to digest as it prepares for trial, said attorney Johnny Griffin III, who represents Umer Hayat.

Nonetheless, "we will not be seeking any types of continuances of the start of the trial," Griffin said Friday.

The government is required to turn over evidence the defense can use to question prosecution witnesses.

The Hayats are accused of lying to the FBI about Hamid Hayat attending a terrorist training camp in Pakistan in 2003 and 2004. Hamid Hayat also is charged with providing material support to terrorists by attending the camp and returning to the United States last May with the intent to commit terrorist acts.

Both men were arrested in June in the agricultural town about 35 miles south of Sacramento. They have denied the charges and are being held in Sacramento County Jail awaiting trial.

A Late Surprise For Lodi Defense (SACBEE)

By Denny Walsh, Bee Staff Writer

The Sacramento Bee, February 11, 2006

With terrorism trials near, new trove of evidence is revealed.

Shortly before the start of trials of Umer Hayat of Lodi and his son Hamid Hayat on terrorism-related charges, federal prosecutors dumped a huge load of tapes and a stack of FBI reports on defense attorneys.

In addition, they filed documents under seal and heavily redacted other documents to keep information secret.

The government's actions once again suggest it wants to delay the start of the trials in the highly publicized case. The trials, with two juries at the same time in the same courtroom, are scheduled to start Tuesday.

The government has gone to extraordinary lengths to keep information secret and repeatedly has sought to delay the trials of the two Lodi men charged with lying to the FBI about their alleged terrorist ties.

Umer Hayat, a 48-year-old Lodi ice cream truck driver, and his 23-year-old son Hamid have been in jail since June 5, in connection with an FBI terrorism investigation. In addition to accusations of false statements, Hamid Hayat is charged with supporting terrorism by attending an al-Qaida training camp in Pakistan.

Thirteen days before the start of Tuesday's trials, prosecutors gave defense lawyers 253 compact discs and 45 audiotapes containing an estimated 990 hours of surreptitiously recorded conversations involving the Hayats and an FBI informant dating back to April 30, 2003. A substantial portion of the recordings are in foreign languages.

While prosecutors said their actions were necessary, one defense attorney involved in several terrorism cases elsewhere says the actions indicate a troubling pattern.

San Diego attorney Mahir T. Sherif said the government's attitude has been to "do whatever it takes to get a conviction or get these people we are suspicious of out of the country. And if that means arresting them first and getting evidence later, so be it. That's the tone that has been set at the top of the federal executive branch."

The pattern, he said, is to arrest without proof beyond a reasonable doubt and, if the subjects are not deportable, then prosecutors "try to break them down to get a plea deal."

"The government wants to be able to say it thwarted another terrorist plot," Sherif said.

The prosecutors' last-ditch surrender of material could have prompted defense attorneys to ask U.S. District Judge Garland E. Burrell Jr. for more time to prepare for trial.

On at least five occasions since the Hayats were first indicted June 16, prosecutors have opposed defense efforts to get a speedy trial. And the government succeeded in postponing the initial Aug. 23 trial.

When prosecutors recently suggested defense attorneys obtain security clearances - a process that would take months - the Hayats' lawyers, Johnny Griffin III and Wazhma Mojaddidi, labeled the suggestion "insincere, unfounded and just another tactic by the government to force delays in this case."

The defense attorneys first invoked the federal Speedy Trial Act on July 1, asking for a trial within 70 days of the Hayats' arraignments. But, from the outset, the government opposed such requests.

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The prosecutors "obviously felt they would have had a hard time proving a case had it gone to trial within 70 days," Sherif said. "If they felt they could get a conviction by going to trial when the defense wanted to, they would not have hesitated."

To justify stopping the speedy trial clock, prosecutors and Burrell repeatedly cited time consumed in honoring the defense attorneys' requests that more than 40 federal, state and local government agencies be surveyed for whatever information may exist about the Hayats.

But the government felt no compulsion to comb the files of all the agencies listed in the defense requests, according to court papers.

In a July 6 motion to stop the speedy trial clock, prosecutors said they had asked only select federal agencies in the executive branch and intelligence community to review their files.

As to other federal agencies, the defense would have to present facts tending to show an agency is in possession of information helpful to the defense "before the government has an obligation to initiate a review," prosecutors said in the motion.

Further, prosecutors said, they have no obligation to search for information "in the custody, possession, and control of state or local law enforcement agencies."

Griffin, a former federal prosecutor, said the government had the responsibility to search for all relevant information about the defendants, even without the defense requests. And, he said, the government should have been ready for trial before it arrested the Hayats and fought to keep them in jail without bail.

The defense attorneys complained for months that they were not being given access in a timely fashion to information in the government's possession.

In a heated Aug. 5 debate before Burrell, a prosecutor argued that the government could not search for and retrieve all information relative to the Hayats by the Aug. 23 trial date.

"So, if they want to push the pause button," Griffin countered, "they want to stop (the speedy trial clock), they should dismiss the case. And if and when they're fully prepared to honor their discovery obligation, and therefore truly announce (they are) ready for trial, then let's try the case."

Two months later, when prosecutors S. Robert Tice-Raskin and Laura Ferris told the judge they still were not finished searching and retrieving information from the files of various federal intelligence agencies and asked for another delay, Mojaddidi told Burrell the prosecutors were "buying time to develop a case against our clients, which they do not yet have."

Running on a parallel track has been the prosecution's effort to keep secret material connected to the case, some of it unclassified by the government.

Prosecutors have met with Burrell in secret on a number of occasions and have submitted to him a steady stream of sealed documents, all under the authority of the federal Classified Information Procedures Act.

Prosecutors recently filed a series of motions - some heavily redacted - asking Burrell for "protective orders" covering unidentified material they were submitting to the judge.

In one motion, the prosecutors ask Burrell to order restrictions on the dissemination of unclassified information.

According to the motion, the information in question is contained in "sensitive declassified recorded conversations involving the defendants, (a) confidential witness and/or other individuals," and in "declassified imagery which the United States intends to use at trial in this matter. This imagery is highly sensitive."

"Disclosure of the sensitive information beyond the defense team should be precluded to avoid the risk of revealing U.S. government investigative tactics and techniques relating to both the recorded conversations and the imagery," the motion says. "Knowledge of such tactics and techniques could be employed by others to limit the success of future use of these various techniques."

After all the rhetoric about how the case implicates national security and classified information, prosecutors now acknowledge that their search yielded no classified documents they will use at trial.

What is classified, they say, is information needed to lay a foundation for what are described in court documents as four images of "the earth's surface and of the objects ... in the vicinity of Balakot, Pakistan." In other words, the details of how the images were obtained and processed are classified.

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Griffin and Mojaddidi have told the prosecutors and Burrell they don't care about the details of the images' origins, and they will not object to their admissibility. They also want the images admitted as evidence because they think it will help their clients in the eyes of the jurors.

Burrell has ordered Umer and Hamid Hayat tried before two juries at the same time.

Umer Hayat is charged in a grand jury indictment with lying to the FBI to conceal his alleged firsthand knowledge of terrorist training camps in his native Pakistan and his son's alleged training at one or more of the camps.

Hamid Hayat is charged in the same indictment with providing material support to terrorists by undergoing the training and re-entering this country to await instructions from unnamed others "to wage violent jihad against the United States."

The Hayats, both U.S. citizens, have pleaded not guilty. If convicted, Hamid Hayat faces a 23-year prison term and Umer Hayat faces an eight-year term.

After more than eight months of legal wrangling over defense access to information and the timing of the trials, the case still hangs primarily on confessions the two Lodi men allegedly made to FBI agents June 4. Their attorneys say those statements were made under duress.

Related graphic Lodi terror case [190k PDF]

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Would-be Terrorist Got Cold Feet After Sept. 11 (DMN/AP)

Associated Press

The Dallas Morning News, February 11, 2006

Malaysian officials say he had trained to pilot jet in West Coast attack

KUALA LUMPUR, Malaysia – A Malaysian man recruited by al-Qaeda to pilot a plane in a Sept. 11-style attack on the West Coast pulled out after observing the carnage of the 2001 assaults, Southeast Asian officials said Friday.

Malaysian engineer Zaini Zakaria was among three men al-Qaeda was preparing to take part in an attack in the U.S., the officials said. Mr. Zaini, 38, has been detained without trial under the Internal Security Act in Malaysia since he surrendered in December 2002.

On Thursday, President Bush outlined details of an alleged plot to hijack an airliner and fly it into a skyscraper in Los Angeles. He said that terrorists intended to use shoe bombs to break into the cockpit and fly the plane into the 73-story US Bank Tower downtown.

Mr. Bush said that cooperation between Washington and several Asian countries had helped to thwart the plan. "It took the combined efforts of several countries to break up this plot," he said.

The plan never appeared close to the stage where it could be put into execution. Scores of arrests after the Sept. 11, 2001, attacks severely curtailed al-Qaeda and its Southeast Asian affiliate, Jemaah Islamiyah.

Mr. Zaini, a native of the northeastern state of Kelantan, surrendered to Malaysian authorities in Kelantan in December 2002, said his former lawyer, Saiful Izham Ramli.

The two other men implicated in the attack plans were Zacarias Moussaoui, who is in U.S. custody, and Abderraouf Jdey, who remains at large with a $5 million U.S. bounty on his head.

Two Malaysian security officials, speaking on condition of anonymity because they were not authorized to discuss the issue with the media, said Mr. Zaini was the only suspect in the alleged plot known to be in Malaysian custody.

Mr. Zaini traveled to al-Qaeda camps in Afghanistan in 1999, where he met senior figures in the terrorist group, including an Indonesian, Riduan Isamuddin, also known as Hambali, one of the Malaysian security officials said. Mr. Isamuddin was arrested in 2003 in Thailand and is in U.S. custody.

After returning to Malaysia the same year, Mr. Zaini enrolled in a flight school and obtained a license to fly a small plane. He then began making inquiries in Australia about getting a license to fly a jet, the official said.

But Mr. Zaini was never told what his mission for al-Qaeda would be.

When he saw media coverage of the Sept. 11 attacks, he severed his ties with the militants, the official said.

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Mr. Zaini told Malaysian interrogators that he "didn't want that kind of jihad," the official said.

A second Malaysian security official said Mr. Zaini told his Malaysian interrogators that "he was not prepared to die as a martyr, so he backed out."

A possible "second wave" attack was mentioned briefly in the June 2004 U.S. National Commission report on the Sept. 11 attacks on the World Trade Center and the Pentagon. The report quoted Khalid Shaikh Mohammed, the reputed Sept. 11 mastermind, as saying "three potential pilots were recruited for the alleged second wave." It identified them as Mr. Moussaoui, Mr. Jdey and Mr. Zaini.

Mr. Mohammed, who was arrested in Pakistan in 2003, told his U.S. interrogators that "he was too busy with the 9/11 plot to plan the second wave of attacks," the report said.

Mr. Moussaoui, a Frenchman of Moroccan descent, has pleaded guilty in a U.S. court to conspiring to fly planes into buildings, and a jury is being selected to decide whether he is put to death or sentenced to life in prison.

The State Department is offering a reward of up to $5 million for information leading to the capture and conviction of Mr. Jdey, who was born in Tunisia but is a naturalized Canadian citizen.

Mr. Saiful, the former lawyer for Mr. Zaini, said his client never told his lawyers about taking flight classes, and his arrest records do not describe him as a pilot or being a suspect in a "second wave" attack.

He said authorities had sought Mr. Zaini mainly for his links with Jemaah Islamiyah, a common charge for which scores of suspects are being held in a high-security prison in Kamunting under a law that allows indefinite detention without trial.

Mr. Zaini's wife is from the Ulu Tiram district in southern Johor state, the site of a school where Mr. Isamuddin and other Indonesian terrorist leaders were thought to be based for some years.

In 2003, the U.S. ordered a freeze on Mr. Zaini's financial assets and those of several other suspects. His family is now so poor that they cannot afford to travel to Kamunting in central Malaysia to visit him, Mr. Saiful said.

Moussaoui Trial Difficult For Both Sides (MINNST)

By Greg Gordon

Minneapolis Star Tribune, February 11, 2006

A newly released transcript of a secret hearing revealed huge logistical problems in the trial of Zacarias Moussaoui

WASHINGTON, D.C. - Confessed Al-Qaida conspirator Zacarias Moussaoui refused for months to speak with his lawyers or to review key documents for his sentencing trial, prompting a federal judge to consider meeting privately with him and his lawyers, it was disclosed Friday.

U.S. District Judge Leonie Brinkema decided instead to order guards at the city jail in Alexandria, Va., to give court-appointed defense lawyers greater access to Moussaoui in hopes that communication would improve, according to a newly declassified transcript of a secret Jan. 5 court hearing.

Jury selection began this week in the sentencing trial to determine whether Moussaoui, who pled guilty last April to six counts of conspiring with the Sept. 11 suicide hijackers, will get the death penalty. Moussaoui's outbursts in front of prospective jurors created a new complication in the case.

A host of problems

In ordering release of the transcript, Brinkema offered a glimpse of huge, behind-the-scenes logistical problems plaguing the only U.S. prosecution stemming from the 2001 attacks on the World Trade Center and the Pentagon.

The transcript also revealed that Minneapolis FBI agent Harry Samit, one of two agents who arrested Moussaoui 3½ weeks before the attacks, will be a central witness for both prosecutors and defense lawyers. As many as seven Minneapolis FBI and immigration agents and personnel were listed as possible witnesses, along with two former FBI counter-terrorism chiefs, lawyers said.

During the closed hearing, Brinkema pressed defense lawyers to reduce the large number of classified documents they seek to introduce and urged prosecutors to assist them.

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She said she will require government security officers to stay on 24-hour call in case issues surrounding classified information arise. She said it is possible that impasses over sensitive material will force emergency reviews by a federal appeals court.

"I've got to remind both sides this case is going to look terrible and play terribly in the public's eye if we get it started and I have to have a three-day recess to resolve those matters or argue them before an appeals court," she said. "And we may lose this jury."

She conceded that both sides "are laboring under unbelievably difficult conditions."

He's not talking to his lawyers

Brinkema asked defense lawyers if they were communicating with Moussaoui.

"He's refused all correspondence from us, including packages," defense lawyer Alan Yamamoto replied.

Brinkema also said that when she finishes crafting substitutions for the classified statements of Al-Qaida captives whom Moussaoui sought to question, she would herself send them to Moussaoui for his review, so he cannot later claim that his rights were denied. "He tends to read things I send him," Brinkema said.

The case was hung up for two years over Moussaoui's demand for access to captives who support his contention that he knew nothing about the Sept. 11 plot.

Efforts to improve relations between Moussaoui, a 37-year-old Frenchman of Moroccan descent, and his lawyers apparently failed. On Monday, he disrupted each of four initial sessions with prospective jurors, denouncing his lawyers until he was ordered removed from the courtroom.

The judge has scheduled a public hearing Tuesday to discuss trial "logistics" and is expected to warn Moussaoui that he will be constrained or barred from the trial if his outbursts continue.

Greg Gordon is a correspondent in the Star Tribune Washington bureau.

'Vengeful Act' (NSWK)

By Jamie Reno

Newsweek, February 11, 2006

A family lawyer for Zacarias Moussaoui discusses the sanity and possible execution of 9/11's alleged '20th hijacker.'

Jury selection began in Alexandria, Va., this week in the federal death-penalty trial of Zacarias Moussaoui, the only person in the United States charged in the September 11, 2001, terrorist attacks. Arrested in August 2001, Moussaoui, whose incarceration has been marked by bizarre in-court outbursts and an uncooperative relationship with his attorneys, had insisted since 9/11 that he had nothing to do with the terrorist plot. But in April, he surprised everyone and changed his plea to guilty of conspiring to fly planes into U.S. buildings. Moussaoui now faces the death penalty or life in prison.

Moussaoui's mother, Aicha El-Wafi, who lives in France but plans to attend the trial when it begins next month, told reporters last year that her son is a "scapegoat" and that he pleaded guilty simply "to have peace." She also said her son should be "judged and convicted for what he did, and not because he is an Arab or an Islamist." El-Wafi's American attorney, Randy Hamud, a controversial civil-rights advocate who also represented several San Diego-based Middle Eastern students who were friendly with 9/11 terrorists Nawaf Alhazmi and Khalid Almidhar, remains in contact with Moussaoui's family. He spoke to NEWSWEEK about his belief that Moussaoui is "deranged" and a scapegoat. Excerpts:

NEWSWEEK: How would you describe Zacarias Moussaoui's mental state?

Randy Hamud: Over the years, his paranoia and delusional thoughts and words have skewed the whole of the proceedings. Khalid Shaikh Mohammed [the alleged mastermind of the attacks] has stated that Mr. Moussaoui wasn't included in the 9/11 plot because he was unstable, and he continues to be unstable.

Do you think he's mentally fit to stand trial?

No, I don't. How can he plead guilty to 9/11 when in the same breath he denied being a participant in that plot? It was not a rational decision or a shining moment in our jurisprudential system when the judge accepted such a preposterous plea.

But Moussaoui did plead guilty. Why should he not be given the death penalty or life in prison?

Because he never was a 9/11 player, has always maintained that he had nothing to do with 9/11, and even concurrently with his guilty plea, he denied he was a 9/11 player ... And because he was not a 9/11 player, he certainly does not deserve the ultimate penalty. With his professed membership and support of Al Qaeda, he's talked himself into 10 years in prison, not the death chamber. If he is executed for 9/11, it would be the vengeful act of a vengeful government.

What do you think of Moussaoui's defense attorneys?

He has a first-class team of defense lawyers who were battling the government, him and public opprobrium to cobble together his sound defense to the charges. Unfortunately, his impulsive guilty plea short-circuited their magnificent efforts.

What was your involvement with Moussaoui's defense team early on?

None, other than to interface with his mother and the defense team, and earlier on, on her behalf, to measure the skills of the defense team with a view toward retaining other counsel if they were not up to the task. I soon found that they were well qualified and committed to his defense.

What do you expect from the defense during this death-penalty trial?

They will have to present all evidence of mitigation and sympathy for Mr. Moussaoui, including his childhood, etc. Also, they will probably try to establish that he did not really know any details about 9/11 and could not have helped the government to prevent it if he had been cooperating, [that] before 9/11 the government itself knew more about the conspiracy and the conspirators than did Mr. Moussaoui; only bureaucratic bumbling prevented timely discovery of the plot.

What do you expect from the prosecution during this trial?

Inflammatory statements, testimony from the victims' families, every stratagem by which they can appeal to the passion and prejudices of the jury.

Do you think the Muslim world be watching this trial closely?

I think so, because he is on trial for his life. The recent conviction of imam [Abu Hamza] al-Masri in England [for charges including incitement to murder] has been overshadowed by the [Prophet Muhammad] cartoon controversy which has set the Islamic world aflame. When that settles down, Moussaoui"s trial should get lots of play on Al-Jazeera and the other Arabic and Middle East networks. Since Abu Ghraib and Guantanamo, nobody in the Middle East believes that Muslim Arabs are fairly treated anywhere in the U.S. or in any venue where the U.S. military calls the shots.

How does this trial compare and contrast to other trials around the world involving suspected terrorists and members of Al Qaeda?

In the other trials, there seems to be an actual nexus between the charges and the defendants. Not so here; he was not a 9/11 player even though he pled guilty to it. It's all a fantastic fantasy in which the court participated by accepting his plea because, I believe, it had finally lost patience with him and his outbursts.

How do you think the American public views Moussaoui?

As a demon and a pariah, just as the administration has depicted him since his arrest. Even that widely used photo of the clean-shaved, shaved-headed, "buff" Moussaoui is a grand illusion; in person, he is a meek, little man who is not buff, not menacing, and really looks nothing like that notorious photograph.

How did you come to represent Moussaoui's mother?

She learned of my work through the media and contacted me first in May of 2002 when Mr. Moussaoui was not cooperating with his lawyers. She asked me if I could try to help convince him to cooperate with his attorneys.

Do you believe, as Moussaoui's mother does, that Moussaoui is a scapegoat?

Yes, I do. He may be guilty of membership or sympathy for Al Qaeda, but he certainly was not a 9/11 player. That's the rub. The government failed to bring to the bar of justice any of the real 9/11 players, such as Khalid Shaik Mohammed, Ramzi bin al-Shibh, even Osama Bin Laden, and needs a scapegoat so it can gloat to the American people that it has captured and executed one of the culpable parties.

What is Moussaoui's mother's position at this point?

She is devastated. She's planning to come to the United States the first week in March when the actual trial begins. She was crushed when he pled guilty, because she knows he had nothing to do with 9/11.

I'm sure you realize that your opinions about this case are going to anger many Americans, right?

Not really. Americans usually like criminal defendants to be connected to the charges and usually don't like the thought of accepting the guilty plea of a deranged man who is clearly innocent of the actual charges against him. Remember, he was in jail on 9/11. And for a while during the period of his self-representation, his publicized written and oral tirades actually caught the attention and sympathies of several columnists and pundits who wondered aloud whether Mr. Moussaoui was "all there." He hasn't changed. We've changed. We're trying to execute someone for a crime which the government itself knows he did not commit. It's a dark chapter in our jurisprudential history. Hopefully it will be an exception rather than the new paradigm for the future.

Brit Treasury Chief Forms Terrorism Team (AP)

By TARIQ PANJA

Associated Press, February 11, 2006

LONDON (AP) -- British Treasury Chief Gordon Brown plans to assemble a team of financial experts to end terrorism funding streams - the equivalent of the intelligence experts who broke the Nazis' Enigma Code during World War II, his office said Friday.

In a speech Monday at the Royal United Services Institute for Defense and Security Studies- a professional forum concerned with national and international defense and security - Brown is expected to outline a series of measures aimed at cutting off terrorists' cash flow.

His comments come as the British parliament prepares for key votes on national ID cards and anti-terrorism legislation.

Brown is widely backed as the most likely candidate to take over from Prime Minister Tony Blair, who will not run in Britain's next general election. In Monday's speech, Brown is expected to say that in his role as finance minister, he has played a significant international security role.

"And I have discovered that this requires an international operation using modern methods of forensic accounting as imaginative and path-breaking for our times as the Enigma codebreakers at Bletchley Park achieved more than half a century ago," Brown will say, according to excerpts of the speech obtained by the Associated Press.

A spokesman for the Treasury, speaking on customary condition of anonymity, said the speech will focus on the balance between security and liberty.

In July 2005, 56 people - including four suicide bombers - died when London's transit system was attacked. Part of Brown's speech is expected to focus on the importance of strangling extremists' sources of money, and how that would help minimize the chances of further attacks.

Brown is also expected to outline intelligence evidence gathered by British security sources showing the funding and planning of terror attacks by global networks.

He is also planning to announce a review of the rules protecting charities from exploitation by extremist groups, and tougher action to prevent terrorists abusing bureaux de change and wire transfers.

Closer communication with banks to monitor suspicious transactions and a possible strengthening of the system for seizing assets will also be outlined by Brown.

Since Sept. 11, Britain has frozen $139 million in terrorist assets, including from over 100 organizations linked to al-Qaida, according to figures released by the Treasury Department.

Syrian Accused Of Planning 2003 Attacks (LAT)

From Times Wire Reports

The Los Angeles Times, February 11, 2006

A Syrian was charged with masterminding suicide bombings in 2003 that killed 58 people in Istanbul, and Turkish prosecutors claimed that Osama bin Laden personally ordered him to carry out attacks.

Loai Mohammed Haj Bakr Saqa, 32, was accused of serving as a point man between Al Qaeda and homegrown militants behind the series of suicide bombings in Istanbul in 2003, said the indictment.

It said Saqa had given the militants in Turkey about $170,000.

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Saqa had cosmetic surgery, according to a medical report, and operated by using an array of fake IDs and aliases even with Al Qaeda contacts, according to the indictment.

PATRIOT ACT:

GOP Accepts Patriot Act Compromise (WT)

By Stephen Dinan

The Washington Times, February 11, 2006

CAMBRIDGE, Md. -- Speaker J. Dennis Hastert said yesterday that House Republicans can accept the USA Patriot Act deal struck Thursday, and key Senate Democrats also endorsed the proposed changes as a good compromise.

"I think they were enough to make sure we can protect the American people," Mr. Hastert, Illinois Republican, told reporters as House Republicans were meeting on Maryland's Eastern Shore for their annual retreat.

Senate Minority Leader Harry Reid, who in December led a filibuster of the bill and boasted he had "killed" the last version, supports the new compromise, a spokesman for the Nevada Democrat said.

The announcements mean the bill, which extends the USA Patriot Act while adding a few new checks, is likely to clear final legislative hurdles and be sent to President Bush for his signature.

The House Republicans met with Mr. Bush for nearly two hours yesterday, most of it behind closed doors, to talk about their agenda and strategy going into November's congressional elections. During the meeting, Mr. Bush repeated his pledge to catch terrorists "dead or alive."

"Laura doesn't like me saying this, but I believe we do need to find al Qaeda, dead or alive," he said, according to a participant.

He also defended the National Security Agency surveillance program, telling the Republicans: "I wake up every morning thinking about a future attack and, therefore, a lot of my thinking and a lot of the decisions I make are based upon the attack that hurt us."

After weeks of rejecting calls for greater congressional oversight, Mr. Bush has agreed to allow briefings for all members of the intelligence committees. Previously just the "gang of eight" -- the top Republican and Democrat on the House and Senate intelligence committees, as well as the Republican and Democrat leaders in each chamber -- were briefed.

Rep. Heather A. Wilson, New Mexico Republican and a member of the House intelligence committee who had sought disclosure to the committee, stood up and thanked the president.

Mr. Hastert told reporters the expansion of the briefings was the right step, and when asked whether Congress would take action to rein in the activities, he defended them.

"It really comes down to what we do to keep this country safe," he said. "Somebody in this country, whether it is a foreign national or a citizen, talking to al Qaeda, somebody ought to know about it and why it is happening."

Republicans described the session as very open and extremely friendly. Rep. John T. Doolittle, California Republican, said Mr. Bush delivered "the equivalent of a post-graduate seminar on world diplomacy."

The president also defended the new Medicare prescription drug benefit, which took effect at the beginning of the year, saying there were bound to be some glitches in a program that has signed up 26 million seniors.

Mr. Bush tossed in a number of jokes, including several at his own expense: "If any of you are ever president, make sure you surround yourself with smart, capable people -- people smarter than you; in my case, it wasn't all that hard to find."

He also said he will not be swayed by low approval ratings.

"If I worried about the polls, I'd be laying on the ground in the fetal position," Mr. Bush said.

Despite the polls, House Republicans said there's no effort to try to separate themselves from him.

Rep. Thomas M. Reynolds of New York, chairman of the National Republican Congressional Committee, said among House Republicans Mr. Bush is "pretty well sought-after" to campaign in their districts.

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He said some Republicans, such as Rep. Rob Simmons of Connecticut, may not want to have Mr. Bush campaign in their district, but many Southern Democrats don't want House Minority Leader Nancy Pelosi, California Democrat, campaigning for them.

"I think it's a nice trade-off," he said.

Hastert Backs Compromise On Patriot Act (AP)

By Jim Abrams

AP, February 11, 2006

Legislation to renew the anti-terror Patriot Act was cleared for final congressional passage Friday when House Speaker Dennis Hastert blessed a day-old compromise between the White House and Senate Republicans.

Senate Democratic Leader Harry Reid also indicated he will vote for the bill when it comes to a vote, possibly next week.

The legislation gives federal agents expanded powers to investigate suspected terrorists in the United States, and the Bush administration has said it is one of the key weapons in the war on terror.

"I think they (the changes in the bill) were enough to make sure we can protect the American people," Hastert told reporters at Cambridge, Md., speaking of three revisions that the white House and Senate GOP holdouts announced on Thursday.

The House "should move forward with it as soon as the Senate" acts, he said. A short-term extension of the measure expires on March 10.

Passage of the bill was stalled late last year when four Senate Republicans joined Democrats in saying that it shortchanged civil liberties protections in the name of the war on terror.

Reid's spokesman, Jim Manley, said the Nevada Democrat intends to vote for the bill. The Senate's second-ranking Democrat, Sen. Richard Durbin of Illinois, is also among its supporters.

Judiciary Committee member Sen. Dianne Feinstein, D-Calif., also said the bill had been substantially improved by the changes and she would vote for it.

Any changes made would still have to be approved by the House, but Sen. Larry Craig, R-Idaho, another negotiator, said that with the Senate and the White House in concert, he thought the House would go along. He said he had consulted with House Judiciary Committee Chairman James Sensenbrenner, R-Wis. "There will be no additional negotiations," Craig said.

Sensenbrenner declined comment, but Hastert said he had discussed the bill with the chairman.

The changes, worked out over several weeks of talks, specifically with the office of White House counsel Harriet Miers, covered three main areas:

_Under the first, recipients of court-approved subpoenas for information in terrorist investigations would have the right to challenge a requirement that they refrain from telling anyone.

_The second removes a requirement that an individual provide the FBI with the name of an attorney consulted about a National Security Letter, which is a demand for records issued by administrators.

_The third clarifies that most libraries are not subject to National Security Letter demands for information about suspected terrorists.

White House spokesman Scott McClellan said the agreement would "continue to build upon the civil liberties protections that are in place but do so in a way that doesn't compromise our national security priorities."

But Sen. Russell Feingold, D-Wis., a leader in opposing the act, said he would continue to fight it.

He said the deal did not provide meaningful judicial review of gag orders because such review can only take place after a year has passed and can only be successful if the recipient proves the government acted in bad faith.

The deal also does not ensure that when government agents break into homes to do "sneak-and-peek" searches that it tells the owners of those homes, in most circumstances within seven days, as courts have said they should, Feingold added.

The law originally was passed within days of the attacks of Sept. 11, 2001, and the administration says it has been an important weapon in the government's arsenal for tracking suspected terrorists.

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Renewal of the law was blocked last year when critics said its provisions shortchanged civil liberties, particularly in the cases of individuals who were not suspected of terrorist activities themselves, but might have had innocent dealings with suspects.

Also at issue was concern over the government's ability to demand information from libraries.

As a result of the deadlock, lawmakers had to approve two temporary extensions of the old law. The current extension expires March 10.

Republicans said that with the changes, the chance would be remote that any library would have to turn over information.

But Democrats said the same provision made explicit that some libraries could be forced to turn over information, adding that existing law is vague on the subject.

Other than Sununu, the Republicans who had defied the president's wishes on the Patriot Act last December were Craig, Lisa Murkowski of Alaska and Chuck Hagel of Nebraska.

Hastert Backs Deal On USA Patriot Act (REU)

Reuters, February 11, 2006

House Speaker Dennis Hastert on Friday embraced a deal reached by a group of Senate Republicans and the White House to renew the USA Patriot Act, a centerpiece of President Bush's war on terrorism.

Hastert, an Illinois Republican, said once the Senate passes the measure, likely next week, the House would give it final congressional approval so Bush can sign it into law.

"If the Senate passes it, we'll pass it," Hastert told reporters at a retreat by House Republicans in Cambridge.

The deal, announced on Thursday, was designed to address demands for better protection of civil liberties.

The Patriot Act, initially enacted after the September 11 attacks, expanded the power of federal law enforcement to conduct wiretaps and secret searches and share information.

The pending legislation would make permanent 14 key provisions, now set to expire on March 10, and extend two others for four years.

While some Senate Democrats portrayed the White House-backed deal as failing to address civil liberties concerns adequately, several Senate Republicans and Democrats who had earlier balked at renewing the law now supported it.

One change would allow individuals to challenge gag orders when they have been subpoenaed to produce sensitive information on library, medical, education or gun-related records.

Another would clarify that traditional libraries would not be subjected to special subpoenas, which are not issued by judges, to gain records.

A group of Republican and Democratic senators combined in December to stage a filibuster, a procedural move that blocked a vote on an earlier House-passed measure to renew the act.

Since then, Congress approved two short-term extensions.

"It's time we get it done on a long-term basis," Hastert said.

Another Cave-In On The Patriot Act (NYT)

The New York Times, February 11, 2006

The Patriot Act has been one of the few issues on which Congress has shown backbone lately. Last year, it refused to renew expiring parts of the act until greater civil liberties protections were added. But key members of the Senate have now caved, agreeing to renew these provisions in exchange for only minimal improvements. At a time when the public is growing increasingly concerned about the lawlessness of the Bush administration's domestic spying, the Senate should insist that any reauthorization agreement do more to protect Americans against improper secret searches.

When the Patriot Act was passed after Sept. 11, 2001, Congress made some of its most far-reaching provisions temporary so it would be able to reconsider them later on. Those provisions were set to expire last December, but Congress agreed to a very short extension so greater civil liberties protections could be added. This week, four key Republican senators — later backed by two Democrats — said that they had agreed to a deal with the White House. It is one that does little to protect Americans from government invasions of their privacy.

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One of the most troubling aspects of the Patriot Act is the "gag order" imposed by Section 215, which prohibits anyone holding financial, medical and other private records of ordinary Americans from saying anything when the government issues a subpoena for those records. That means that a person whose records are being taken, and whose privacy is being invaded, has no way to know about the subpoena and no way to challenge it.

Rather than removing this gag order, the deal keeps it in place for a full year — too long for Americans to wait to learn that the government is spying on them. Even after a year, someone holding such records would have to meet an exceedingly high standard to get the gag order lifted. It is not clear that this change has much value at all.

The compromise also fails to address another problem with Section 215: it lets the government go on fishing expeditions, spying on Americans with no connection to terrorism or foreign powers. The act should require the government, in order to get a subpoena, to show that there is a connection between the information it is seeking and a terrorist or a spy.

But the deal would allow subpoenas in instances when there are reasonable grounds for simply believing that information is relevant to a terrorism investigation. That is an extremely low bar.

One of the most well-publicized objections to the Patriot Act is the fact that it allows the government to issue national security letters, an extremely broad investigative tool, to libraries, forcing them to turn over their patrons' Internet records. The wording of the compromise is unclear. If it actually says that national security letters cannot be used to get Internet records from libraries, that would be an improvement, but it is not clear that it does.

In late December, it looked as if there was bipartisan interest in the Senate for changing the worst Patriot Act provisions and standing up for Americans' privacy rights. Now the hope of making the needed improvements has faded considerably.

HOMELAND RESPONSE:

Mayor Miffed: The White House Never Calls (LAT)

By Steve Hymon

The Los Angeles Times, February 11, 2006

Los Angeles Mayor Antonio Villaraigosa's frustration at not being told personally by the White House about the details of the reported terror plot against the city's tallest building stems from a greater annoyance:

Nearly 7 1/2 months after taking office, Villaraigosa said Friday that he still has not succeeded in speaking or meeting with President Bush.

Villaraigosa said that his office contacted the White House on two occasions last summer to set up meetings with Bush when the mayor was traveling to Washington, but that the White House turned down both.

The mayor — who co-chaired John Kerry's campaign to unseat Bush in 2004 — said the only personal contact he has had with the president is a congratulatory letter he received after being elected last year. In the four-sentence letter, Bush wrote, "I look forward to working with you as we strive to make our nation safer, stronger and better."

If he could get a meeting, Villaraigosa said, he would talk to the president about how to better protect the nation's second-largest city against terrorist attacks.

"No question about it, I would like to talk to him about the issue of homeland security and the issue of first responders and the need of cities to be fully reimbursed for the new, added cost" of security, Villaraigosa said. "I want to make the case that this is draining other very important municipal needs."

Dana Perino, a White House press secretary, said the White House had received two requests from the mayor for a meeting: one in a letter, the other in an e-mail.

"Because of scheduling reasons, the mayor was offered meetings with top officials, and those offers were kindly declined" by the mayor's office, Perino said.

"The other thing I would say," she added, "is the president has encouraged members of the Cabinet to meet with the mayor of Los Angeles," and Homeland Security Secretary Michael Chertoff "was recently there. We want to work with the mayor, and we look forward to a good relationship with him."

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Villaraigosa was visibly upset Thursday after a Bush speech in which the president offered new details of an alleged plot by Al Qaeda operatives to hijack a plane and fly it into the U.S. Bank Tower downtown. The plot, Bush said, had been broken up.

The mayor complained Friday that, although his staff was notified of some details, he deserved a call himself. Homeland Security officials took umbrage at that comment, saying that Bush was only giving a speech and that there was no direct threat to Los Angeles at present.

The mayor has only to look at some of his counterparts to feel miffed:

Bush met with former Los Angeles Mayor James K. Hahn in January 2002 and again that April, when Hahn and mayors from other cities gathered with the president to discuss security issues.

Bush has also met with New York City Mayor Michael Bloomberg, a Republican, and Chicago Mayor Richard Daley, a Democrat, on several occasions.

In March 2001, less than two months after Bush took office, he met with Daley in Chicago.

"We had a long-ranging discussion, and I came just to introduce myself so he got to know me," said Bush, according to a transcript on the White House website. "And he now knows he can pick up the phone and call the White House any time he needs to."

Asked if he believed that Bush was ignoring him because of partisan politics, Villaraigosa said, "I hope not."

"One of the things that you noticed in my State of the Union [response] is that my comments were not partisan," the mayor said. "We distinguished between Democrats and Republicans, but ... I didn't spend a lot of time criticizing. I spent more time sharing a vision."

U.S. Concludes 'Cyber Storm' Mock Attacks (AP-Y2)

By Ted Bridis, Associated Press Writer

AP2, February 11, 2006

The government concluded its "Cyber Storm" wargame Friday, its biggest-ever exercise to test how it would respond to devastating attacks over the Internet from anti-globalization activists, underground hackers and bloggers.

Bloggers?

Participants confirmed parts of the worldwide simulation challenged government officials and industry executives to respond to deliberate misinformation campaigns and activist calls by Internet bloggers, online diarists whose "Web logs" include political rantings and musings about current events.

The Internet survived, even against fictional abuses against the world's computers on a scale typical for Fox's popular "24" television series. Experts depicted hackers who shut down electricity in 10 states, failures in vital systems for online banking and retail sales, infected discs mistakenly distributed by commercial software companies and critical flaws discovered in core Internet technology.

Some mock attacks were aimed at causing a "significant cyber disruption" that could seriously damage energy, transportation and health care industries and undermine public confidence, said George Foresman, an undersecretary at the Homeland Security Department.

There was no impact on the real Internet during the weeklong exercise. Government officials from the United States, Canada, Australia and England and executives from Microsoft, Cisco, Verisign and others said they were careful to simulate attacks only using isolated computers, working from basement offices at the Secret Services headquarters in downtown Washington.

The Homeland Security Department promised a full report on results from the exercise by summer.

Foresman likened his agency's role during any Internet attack to an orchestra conductor, coordinating responses from law enforcement, intelligence agencies, the military and private firms. The government's goal is a "symphony of preparedness," Foresman said.

Homeland Security coordinated the exercise. More than 115 government agencies, companies and organizations participated. They included the White House National Security Council, Justice Department, Defense Department, State Department, National Security Agency and CIA, which conducted its own cybersecurity exercise called "Silent Horizon" last May.

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An earlier cyberterrorism exercise called "Livewire" for Homeland Security and other federal agencies concluded there were serious questions over government's role during a cyberattack depending on who was identified as the culprit — terrorists, a foreign government or bored teenagers.

It also questioned whether the U.S. government would be able to detect the early stages of such an attack without significant help from private technology companies.

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On the Net:

Department of Homeland Security: http://www.dhs.gov

U.S. Officials Defend Ploys To Catch Immigrants (NYT)

By Steven Greenhouse

The New York Times, February 11, 2006

Despite criticism from advocates for immigrants, federal immigration officials said in recent days that they would not forswear the practice of impersonating occupational safety officials to round up illegal immigrants.

Last July, federal agents arrested 48 workers at Seymour Johnson Air Force Base in North Carolina on charges of being illegal immigrants after the agents tricked the workers into attending what was billed as a mandatory training session sponsored by the federal Occupational Safety and Health Administration.

Afterward, the federal Labor Department, North Carolina officials and immigrant and job safety advocates criticized the ploy. They argued that the sting might cause immigrant workers to distrust safety officials just as the authorities were stepping up efforts to reduce the disproportionately high injury rate among Hispanic workers.

Lawyers for several labor and immigrant groups said yesterday that they were dismayed that when they met with officials at Immigration and Customs Enforcement on Jan. 30, the officials refused to rule out again using a safety-related ruse to lure immigrant workers.

Marielena Hincapié, director of programs at the National Immigration Law Center, said, "They said they would not commit to not doing this anymore, despite the fact that this would have a chilling effect on workers."

Ana Avendano, a lawyer with the A.F.L.-C.I.O., also criticized immigration officials for not providing the assurances that safety advocates were seeking.

"We told them that the population of workers that we're dealing with is suffering the highest mortality rate and highest injury rate on the job," Ms. Avendano said. "If immigration officials are going to use OSHA as a ruse, all they will do is reduce the trust of workers to go to OSHA with concerns about safety problems."

Dean Boyd, a spokesman for Immigration and Customs Enforcement, emphasized that ruses were standard law enforcement policy. "We're not going to rule out valid investigative techniques," he said.

Mr. Boyd said that if immigration officials were to do such a sting in the future, it would be only after coordinating with federal safety officials.

OSHA officials repeated yesterday the stance they took after the July raid, saying the agency worked to build trust with Hispanic workers. They also said they did not condone using the agency's name in this type of ruse.

At a Senate hearing in October, Michael Chertoff, the secretary of homeland security, said it was appropriate to use ruses, but he added that those involving health and safety were not appropriate.

Mr. Boyd said the employment of illegal immigrants at sensitive facilities like military bases posed a serious threat to domestic security. He said that, given their illegal status, they might be vulnerable to exploitation by criminals or terrorists.

"That's why we're aggressively targeting these types of workers at sensitive facilities," Mr. Boyd said. "We've got an obligation under the law to do what we need to do to remove those people immediately from a position where they could do potential harm."

On Thursday, immigration agents arrested nine illegal immigrants who were working for a subcontractor at the Dugway Proving Ground, a military testing site southwest of Salt Lake City. Last month, immigration officials arrested 11 illegal immigrants at Tyndall Air Force Base near Panama City, Fla.

Arizona Plans To Tackle Illegal Aliens (WT)

DOJ_NMG_0014317

The Washington Times, February 11, 2006

PHOENIX (AP) -- Arizona has long been one of the busiest gateways for aliens trying to sneak into the country, and some lawmakers believe it's time to dispatch state police squads to catch those who slip past border agents.

The notion is gaining political traction as the public's frustration about the state's porous border with Mexico grows. Over the years, it was often resisted by officials who contended that stopping illegal entry should be the sole province of the federal government.

A state lawmaker has proposed a plan that includes $20 million for the Arizona Department of Public Safety to mount a 100-member squad to operate surveillance equipment, construct border barriers, target drug and immigrant smugglers and perhaps patrol the border.

"I'm not putting the handcuffs on. Whatever they need to do, they need to be doing," said Republican Rep. Russell Pearce, the plan's sponsor.

A different plan by Gov. Janet Napolitano, a Democrat, would have two state police squads focus on alien smuggling cases. Both plans offer millions of dollars to communities to thwart illegal entries, and money for combating gang-related border crime.

Arizona has been dogged by a heavy flow of illegal aliens since the government tightened enforcement in El Paso, Texas, and San Diego during the mid-1990s. The Border Patrol apprehended 725,093 illegal border crossers in Arizona in fiscal 2000, though the numbers declined after the September 11 terrorist attacks prompted heightened border security.

State police in Arizona already work near the border. An average of 27 state police officers are near the border at any given time, assisting federal authorities in looking for fugitives trying to leave the country and people attempting to bring ill-gotten cash and stolen vehicles into Mexico.

Advocates for state and local action said the idea will not fix Arizona's vast immigration problems, but would discourage some people from sneaking across the border.

"If the federal government isn't going to do the job and Arizona is footing billions of dollars a year for illegal aliens, it makes sense for the state to get involved," said Ira Mehlman, spokesman for the Federation for American Immigration Reform, which favors limits on immigration.

Opponents say racial profiling could increase if officers unfamiliar with immigration law were to try and enforce it. They also say it could make investigating crime harder in immigrant communities, because fewer aliens would cooperate with police for fear of being sent home. Local officers also lack understanding of complex immigration law, they say.

U.S. Cites Rise In Violence Along Border With Mexico (NYT)

By Rachel L. Swarns

The New York Times, February 11, 2006

WASHINGTON, Feb. 10 — Mexican criminal syndicates are stepping up their attacks on American agents patrolling the border as officials of the Homeland Security Department intensify efforts to stem the flow of immigrants and drugs into the United States, American officials said this week.

In recent months, scores of Border Patrol agents have been fired upon or pelted with large stones as well as with cloth-covered stones that have been doused with flammable liquid and set ablaze. Since October, agents have been attacked in more than 190 cases, officials said on Thursday.

Most of the attacks have occurred along the Mexican border near San Diego, but shootings have also been reported along the border in Texas near the cities of Laredo and McAllen. In the fiscal year that ended on Sept. 30, there were 778 attacks on agents, up from 374 in the previous fiscal year, Homeland Security Department officials said.

One stone struck an agent in the eye; a gunshot hit an agent in the leg. The officials could not say precisely how many officers had been injured in the attacks, which have originated from both sides of the border.

"This is what we're facing," said David V. Aguilar, the Border Patrol chief, who played a videotape at a news conference on Thursday that featured a patrol car riddled with bullets and agents scrambling for cover as stones rained down on them. "This is a very serious type of situation."

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The homeland security secretary, Michael Chertoff, who led the news conference, said officials planned to continue their efforts at securing the United States-Mexico border.

This week President Bush asked Congress to increase the Homeland Security Department's budget by nearly 6 percent. The Border Patrol would receive an extra $459 million to hire 1,500 new agents, bringing the total force to about 14,000. An additional $410 million would be allocated to add 6,700 beds for detainees so fewer illegal immigrants would have to be released before being deported. Another $100 million would be spent on cameras, sensors and other detection technology.

Mr. Chertoff said the department planned to focus on illegal immigrants from countries other than Mexico, who have typically been released after apprehension because of shortages of beds. Last fall, he expanded the use of summary deportations, a process known as expedited removal, in which illegal immigrants from countries other than Mexico are detained and then deported without seeing an immigration judge.

But officials have struggled to find space for family groups and remain unable to process illegal immigrants from El Salvador because of a court ruling from the 1980's, when civil war wracked that country, that requires officials to allow Salvadorans to see judges before deportation.

Nationwide, 18,207 illegal immigrants from countries other than Mexico, nearly 60 percent of the total apprehended, were released on their own recognizance in the first three months of this fiscal year.

Officials of the Homeland Security Department said they were making headway in detaining and deporting these illegal immigrants. They are also working on finding more space for families and battling to change the rule regarding Salvadorans.

As for the violence on the border, the officials said Mexico had deployed 300 federal officers along its side of the border to help out. But many of the Mexican gangs remain entrenched.

Last week, immigration officials announced that they had seized a cache of weapons, including materials for 33 explosive devices, assault weapons and machine gun assembly kits, in Laredo. Officials believe the weapons were intended for criminals in Mexico.

"These are very sophisticated, hardened criminals who will use violence to protect their criminal businesses," Mr. Chertoff said. "We've got to be prepared to deal very decisively with any violence directed at our Border Patrol agents."

Border Wall May Be Boon For Smugglers (DMN)

By Alfredo Corchado

The Dallas Morning News, February 11, 2006

If difficulty in moving illegal immigrants rises, so does price

AHUALULCO, Mexico – A bill to erect a wall to help keep illegal immigrants out of the U.S. has not been approved by Congress, but it probably can count on support from an unlikely constituency – people smugglers.

That's because along the border, and in places such as this town in San Luis Potosí state, smugglers expect that such a wall would lead to an increase in their business moving people across the Rio Grande.

Already some coyotes, as the smugglers are known, are pumping up their prices. The fee they charge to take a Mexican to Dallas, for instance, has increased from $1,200 to $1,500, some residents say.

"That's the way it is," said a smuggler who identified himself as Gregorio Prieto, as he played pool and negotiated with prospective clients at the Ahualulco Billiards hall near the town's central plaza.

"Any time the crossing gets harder, the price also goes up. Because nothing will stop the flow as long as Americans want their labor. They're just making it more difficult for the ilegales and more profitable for us."

In December, the House approved a bill that includes plans to erect 700 miles of physical barriers in key zones of the 2,000-mile U.S.-Mexico border. Advocates say the fence will keep out drug smugglers, terrorists and illegal immigrants, especially in high-volume areas.

AP Members of the Mexican congress tour the construction of a wall along the U.S.-Mexico border near Tijuana.

"A lot of the people coming across the border are criminals and potentially terrorists – people who have a mind to commit crimes against Americans and maybe to blow us all up and kill us," Rep. James Sensenbrenner said at a recent meeting with a sheriffs' coalition in Houston. The Wisconsin Republican is one of the bill's authors.

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Critics say the barriers would simply push traffic to weak points along the border.

The bill is awaiting action by the Senate, which is likely to reject the measure, analysts say.

But even the possibility of a wall is affecting informal commerce, such as traffic in Mexican beer and culinary delicacies like gorditas, corn tortillas fried and filled with some combination of meat, beans, cheese, potatoes and nopales, or cactus, that are popular with Mexicans.

One family that has made a business of sending homemade gorditas to Dallas is considering relocating to North Texas, in part over concern that a wall would hurt business.

Family matriarch Doña Constantina Rivera, who has long sent gorditas to her emigrant children in Dallas, says she may abandon the practice.

When Ms. Rivera's children left for Texas in the late 1990s, she tried to assuage their nostalgia for home, doing what came naturally: She baked gorditas and sent them off to her homesick offspring with the help of informal couriers who ferry goods across the border.

The gorditas were so tasty that other immigrants sought them out. Demand grew and so did the number of gorditas sent north, sometime hundreds a week.

But the informal business drew attention. When Ms. Rivera's gordita trade was featured on the front pages of Mexican newspapers and on television newscasts, San Luis Potosí state authorities tried to collect taxes from her.

She's fighting those efforts, arguing that the business doesn't generate enough to pay taxes.

Now, talk of a "Berlin Wall," as President Vicente Fox described the proposed barrier, has made the Rivera family so nervous that Ms. Rivera and other relatives are planning to move to Dallas before any barrier goes up. "Half our family lives in Dallas," said daughter Anita, 24. "No wall is going to separate us."

This would not be the first time American legislation significantly affected affairs on the Mexican side.

The Immigration Reform and Control Act of 1986 allowed millions of illegal immigrants residing in the U.S. to become legal permanent residents. But the amnesty bill also led to coyotes raising the prices they charged to smuggle people across the Rio Grande. Some Mexican families living in the U.S. were effectively fenced in, unable to move back and forth between the two countries.

After devaluation of the peso in 1994, the number of Mexicans trying to illegally cross the border increased, and the U.S. responded with a series of border-control operations, including Operation Hold the Line in Texas.

The operation, which involved the addition of hundreds of Border Patrol agents, was credited with reducing crime as well as illegal immigration into the El Paso area.

It also contributed to a significant increase in the death toll, critics said, as immigrants tried to cross in less heavily patrolled areas where the terrain was more dangerous. Last year, an estimated 500 Mexicans died trying to cross the border.

Now, the wall proposal has been drawing similar criticism.

"The bill is good business for the smuggling business," said Mexican Consul Juan Carlos Foncerrada Berumen in El Paso, who has heard reports of border crossers in the region. "Coyotes are good at exploiting and manipulating the news about a possible wall. This is good for business because they can justify raising the prices."

In Ahualulco, near a recently closed bar called Los Amigos del Norte (Friends of the North), shop owner Tomás Galabis, 66, said the talk on the street about border barriers has people stirred up.

"Even the bar owners left recently, afraid that the wall would keep them out," he said. "The risks have people nervous."

Playing pool at Ahualulco Billiards, Lázaro Rivas, 22, talked about the higher prices being charged by smugglers. "I'm planning to go to Dallas," he said, "but $1,500 is a lot of money. I'll still go, but I have to dig deeper to come up with the extra cash."

Rivera family members say they believe the time has come to make a move.

"If we don't leave now, it will be harder, and coyotes will take advantage of us," said 27-year-old Jesús, husband of Anita Rivera. "It's happened before."

Cross-Border Tunnel Found In San Diego (WP/AP)

DOJ_NMG_0014320

By The Associated Press

The Washington Post, February 11, 2006

SAN DIEGO -- An incomplete tunnel was found in the same area where investigators recently found one of the longest passages discovered beneath the U.S.-Mexico border, officials said.

The 3-foot-wide tunnel extended from just south of the border fence in Mexico to a point about 23 feet into the United States, ending at a concrete levee, Border Patrol spokesman Richard Kite said.

A patrol agent noticed a distortion in the road running along the border fence, and agents digging in the area found the tunnel Thursday, Kite said.

"It was only about six inches below the asphalt," he said.

A 2,400-foot tunnel linking a warehouse near the airport in Tijuana, Mexico, to another warehouse in San Diego was discovered last month.

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Information from: The San Diego Union-Tribune, http://www.uniontrib.com

More Medicines From Abroad Seized (LAT)

By Lisa Girion

The Los Angeles Times, February 11, 2006

The U.S. government apparently is stepping up seizures of cheap drugs ordered by Americans — mainly seniors — from abroad, Canadian pharmacies say.

The pharmacies, which sell drugs by mail and over the Internet, say their shipments are being intercepted by U.S. Customs officials around the country where foreign mail is handled.

"It's huge — we've had over 800 seizures in January," up from 15 in a typical month, said Barney Britton, president of Calgary-based MinitDrugs.

Other pharmacies reported four- to five-fold increases. An informal survey of 30 Canadian pharmacies that cater to American customers, conducted by a senior-citizen advocacy website, showed that the rise began in November, doubled in December and doubled again in January.

Health officials in Minnesota, the first of several states to make cheaper Canadian drugs more readily available to its residents, echoed the reports from north of the border. They said seizures increased in late December from less than 1% to about 4% of shipments, said Brian McClung, a spokesman for Minnesota Gov. Tim Pawlenty.

Ordering drugs from abroad is illegal. But U.S. Customs and Food and Drug Administration officials have generally allowed the practice, apart from occasional seizures designed to publicize potential risks.

Federal regulators say that policy hasn't changed — and there is no crackdown.

"It's not a special effort other than our normal enforcement," said Lynn Hollinger, a spokeswoman for U.S. Customs and Border Protection.

People whose drugs are seized are not cited and generally are able to get them replaced free of charge by the foreign pharmacy. But many customers are infuriated.

"It's despicable," said Samuel Robert Greenberg, a Laguna Niguel retiree who lost a package of anti-cholesterol pills and glaucoma eyedrops late last month. "They are playing with people's lives."

Greenberg, 73, said he and his wife had bought drugs from Canadian pharmacies for years without incident.

But if replacements for his Lipitor pills don't arrive by next week, Greenberg said, he will have to buy from a local pharmacy at a cost of about $3 a pill — a third more than he pays through the mail.

Greenberg said such seizures were a waste of government resources. "Forget about the heroin," Greenberg said. "They are going to stop the Lipitor."

Although the FDA has never taken enforcement action against an individual for ordering prescription drugs from abroad, it has conducted a handful of what it calls "blitzes" over the last five years in cooperation with the Customs Service at international mail centers.

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The FDA analyzed the drugs seized in those cases and publicized their findings in an effort to warn mail-order customers about the risks of getting the wrong medication, poor-quality substitutes or counterfeits.

Some Canadian pharmacy operators believe U.S. authorities timed the latest seizures to coincide with the Jan. 1 launch of Medicare's drug-discount program, which competes for the business of American seniors.

"I think, quite frankly, that [U.S. authorities] see an opportunity," said Britton of MinitDrugs. "They know that this would probably be the most vulnerable time for us."

Canadian pharmacies report declines of 10% to 30% in U.S. orders since the Medicare program began. But many seniors, particularly those whose drug needs are modest, find Canadian pharmacies are cheaper.

According to a Kaiser Family Foundation study published in 2004, 25% of eligible seniors — as many as 7.4 million people — could pay less buying drugs on their own. If too few seniors sign up for the Medicare drug plan, experts say, the program could run into financial trouble.

Most Canadian pharmacies accept the cost of replacing seized drugs to preserve an $800-million market that serves about 2 million U.S. customers. Over the last five years, less than 1% of all shipments have been seized, said Andy Troszok, president of the Canadian International Pharmacy Assn.

The association has not yet determined how much that rate has increased. But so far, he said, the seizures do not represent a serious threat.

"We are currently still chalking it up as the cost of doing business," said Troszok, who owns Extended Care Pharmacy in Calgary.

The pharmacies learn of the confiscations from customers who have received seizure notices. A customer also can use a tracking number to find out what happened.

A sudden, unannounced policy of increased enforcement — after years of looking the other way — would be irresponsible, Troszok said.

"It's an issue of patient safety," he said. "We're not talking about Viagra and narcotics abuse. We are talking about people with breast cancer, heart disease and diabetes and are established on medication. Who is going to be liable for these people going off medical regimens and suffering or even dying?"

Canadian pharmacies, which are able to purchase brand-name drugs at low wholesale prices negotiated with the purchasing power of the Canadian government, already had been adapting to increasing political and market pressure.

When major drug makers began curbing sales to Canadian pharmacies that shipped to the U.S., many began ordering in bulk from drug factories in Europe, India and Israel.

"The business just gets smarter and adapts," said Bill Pigden, business development manager for CanAmerica Global Health Services, a Winnipeg-based pharmacy.

Ex-FEMA Head Says White House Knew About Levees (LAT)

By Edwin Chen

The Los Angeles Times, February 11, 2006

WASHINGTON — The Bush administration's bungled response to Hurricane Katrina came under fresh scrutiny today amid revelations during a Senate hearing that senior White House officials had learned of the disastrous flooding in New Orleans a day earlier than they had previously indicated.

The testimony of Michael D. Brown, the ousted director of the Federal Emergency Management Agency, raised questions about whether top White House aides had kept President Bush fully abreast of the fast-breaking catastrophe after a levee breached on Aug. 29, allowing the waters of the Gulf of Mexico to cover huge portions of New Orleans.

Bush, who was vacationing at his ranch when Katrina struck, has taken considerable criticism — and has accepted responsibility — for his administration's slow response to the hurricane. But the latest information suggests that he may not have known the full dimensions of the unfolding disaster.

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Top administration aides, and Bush himself, have said that they had been caught off guard on Tuesday, Aug. 30, by the news of the levee breach and the subsequent flooding. Bush has recalled publicly that earlier that morning he felt a sense of relief, thinking that the city had "dodged the bullet."

But Brown told the Senate Homeland Security and Governmental Affairs Committee this morning that he had called a senior White House aide, most likely deputy chief of staff Joe Hagin, the previous evening, Monday, Aug. 29, to inform him of the levee break.

Brown, testifying under oath, was unable to say with total assurance that it was Hagin with whom he spoke that night, but said it "probably" was Hagin, a person with whom he had "a personal relationship." Brown added that he was fully confident that Hagin, who was with the president at his ranch, would inform Bush.

"I never worried about whether I talked directly to the president because I knew that in speaking to Joe I was talking directly to the president," Brown testified. "I told him we were realizing our worst nightmare," Brown added.

At the White House this morning, Press Secretary Scott McClellan defended the steps the president and his aides took, saying that ahead of the storm the administration had issued warnings and emergency declarations to speed assistance to the Gulf Coast. But, he acknowledged, "there were failures at all levels of government."

"The president was focused on saving lives," McClellan said.

As Brown recalled the sequence of events, a top FEMA staffer, Marty Bahamonde, first heard reports of the 17th Street levee breach on Monday morning. The aide took a helicopter tour and confirmed the situation around 5 p.m. Bahamonde then informed Brown.

Brown said he called the traveling White House in Crawford, Texas, almost immediately.

The apparent miscommunication over the levee breach was but one example of what committee Chairman Susan M. Collins (R-Me.) today called a glaring instance of an overall governmental response that was "riddled with missed opportunities, poor decision-making and failed leadership."

Collins' committee is winding down a five-month-long investigation of the government's response to Katrina, having held nearly 20 hearings, taking testimony from more than 200 witnesses and reviewing hundreds of thousands of government documents.

The Maine Republican said her committee hopes to fully understand the nature of "this enormous disconnect between what was happening on the ground — a city 80% flooded, uncontrolled levees, people dying, thousands of people waiting to be rescued — and the official reaction among many of the key leaders in Washington and in Northern Command that somehow New Orleans had dodged the bullet."

Collins said this morning that one lesson she already has learned is that there is "a strong correlation between effective leadership and effective response. Unfortunately, I have also found the converse to be true."

In his testimony, Brown also blamed FEMA's slow response on "a culture clash" between FEMA and its parent agency, the Department of Homeland Security, that he said was "doomed to failure."

Repeatedly, Brown said, top DHS officials rebuffed his pre-Katrina efforts to bolster FEMA's capacities in response to disasters.

Times staff writer James Gerstenzang contributed to this report.

Brown Blames Superiors For Response To Katrina (WP)

By Spencer S. Hsu

The Washington Post, February 11, 2006

Michael D. Brown, the former Federal Emergency Management Agency director, accused the Bush administration yesterday of setting the nation's disaster preparedness on a "path to failure" before Hurricane Katrina by overemphasizing the threat of terrorism, and of discounting warnings on the day the storm hit that a worst-case flood was enveloping New Orleans.

Brown called "a little disingenuous" and "just baloney" assertions by Homeland Security Secretary Michael Chertoff and other top Bush administration officials that they were unaware of the severity of the catastrophe for a day after Katrina struck on

Aug. 29. Investigators say their inaction delayed the launch of federal emergency measures, rescue efforts and aid to tens of thousands of stranded New Orleans residents.

Brown's highly charged testimony before a Senate investigative panel was a striking about-face from his comments to its House counterpart in September, when he was still on the administration payroll. At that time, Brown leveled his harshest criticism for what President Bush has called an "inadequate" response at Louisiana Gov. Kathleen Babineaux Blanco (D) and New Orleans Mayor C. Ray Nagin (D), who Brown said failed to fully evacuate the city and to forge a unified command.

His sometimes combative exchanges with senators also offered a rare glimpse of a former Bush official publicly criticizing the administration. He sharpened his earlier criticism and named people whom he had previously described only in general terms.

After the White House declined to offer Brown a legal defense of executive privilege, which would have allowed him not to testify to lawmakers, Brown said yesterday that Chertoff and his predecessor, Tom Ridge, paved the way for FEMA's Katrina failures by fomenting a "cultural clash" between FEMA and the Department of Homeland Security. DHS absorbed FEMA in 2003, and the head of the emergency agency stopped reporting to the president.

Internal turf wars siphoned away FEMA's disaster response capability and funding, Brown said. If not repaired, he said, the Department of Homeland Security is "doomed to fail, and that will fail the country."

Brown also cited a "disconnect" with Bush officials in the hours before and after Katrina hit. He said they were distracted by the fight against terrorism from the general threat posed by recurring natural disasters and from specific warnings that a direct hit by a projected Category 5 hurricane would swamp New Orleans and strand as many as 100,000 people.

Brown said he called and spoke at least twice on Aug. 29 with White House Deputy Chief of Staff Joseph Hagin or Chief of Staff Andrew H. Card Jr., telling them: "New Orleans is flooding; it's the worst-case scenario." But the message apparently did not get through to Homeland Security officials.

"They should have had awareness of it, because they were receiving the same information that we were," Brown said.

"Had there been a report coming out . . . that said, 'Yes, we've confirmed that a terrorist has blown up the 17th Street Canal levee,' then everybody would have jumped all over that and been trying to do everything they could," Brown said. "But because this was a natural disaster, that has become the stepchild within the Department of Homeland Security."

The Category 3 storm eventually killed 1,321 people, including 1,072 in Louisiana; displaced about 2 million people; and caused more than $150 billion in damage.

Speaking to reporters yesterday, White House spokesman Scott McClellan cited "conflicting reports" immediately after the storm hit. "Some were saying" the levee system "was overtopped," he said. "Some were saying it was breached. And, again, we knew of the flooding that was going on -- that's why our top priority was focused on saving lives."

Testifying after Brown, Matthew Broderick, the department's director of operations coordination, and Robert B. Stephan, assistant secretary for infrastructure protection, faulted Brown for failing to communicate with the chain of command.

"Mr. Brown should have picked up the phone and called the secretary right away," Broderick said.

Brown, who first received reports that city levees were failing at 10 a.m. on Aug. 29, said that he relayed them to headquarters for confirmation and alerted Hagin, who was with Bush at the president's Texas ranch as well as in Arizona and California that day.

Brown said he could not recall whether Bush was on the line, but he added: "I knew that in speaking to Joe, I was talking directly to the president." Brown later said that he did not ask Hagin for any particular help, and that he regretted not calling for military assistance the weekend before Katrina made landfall.

Brown, a Bush political loyalist who became the face of the government's failed response, said under questioning that he repeatedly asked the White House and other federal agencies for help, but that his authority was limited by FEMA's position within the Department of Homeland Security and that the agency's resources were overwhelmed.

He has been criticized for his lack of leadership after the storm, for his own lack of awareness of the developing crisis and for misstatements about conditions at New Orleans's convention center, where thousands were stranded without food and water. Leaked e-mails have portrayed Brown as more concerned with his public appearance and planned departure from FEMA than with disaster operations.

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Brown's deputy at FEMA, Patrick Rhode, testified yesterday that he participated in a conference call on the afternoon of Aug. 29 detailing catastrophic levee failures and alerted the department's Homeland Security Operations Center, which was feeding reports to the White House.

Senators released a timeline showing that authorities received 16 reports from federal, state and local agencies and the American Red Cross that New Orleans's levees had been breached between 8:30 a.m. and 6 p.m. on Aug. 29, though the Homeland Security Operations Center reported the opposite at 6 p.m.

A perplexed Sen. Susan Collins (R-Maine), chairman of the Senate investigation, asked why the official reaction of Washington and the military was that New Orleans had "dodged the bullet" despite reports from the ground that the city was 80 percent flooded, its levee system had failed and thousands faced death.

"All they had to do," Brown said, was listen to the Homeland Security teleconferences "and pay attention."

Collins singled out Chertoff and other department officials for a "lack of awareness" of fundamental emergency operations and a "slow, hesitant response." She said that though "DHS's playbook appears designed to distance" top officials from FEMA, they "must answer for decisions that they made or failed to make."

Under questioning, Brown said he did not directly brief Chertoff -- who was "gone or going to Atlanta" for an Aug. 30 event on the possible flu pandemic -- because "it would have wasted my time." He said he preferred to call Card or Hagin directly.

Sen. Robert F. Bennett (R-Utah) called Brown's remarks "staggering." He said they demonstrated "a dysfunctional department to a degree far greater than any we've seen."

After Brown spoke to the Senate, he was subpoenaed to reappear before House investigators.

Next week, Chertoff and Frances Fragos Townsend, the White House's homeland security adviser, are scheduled to discuss internal changes. And the House investigative committee is scheduled to issue its Katrina report.

Ex-FEMA Leader Faults Response By White House (NYT)

By Eric Lipton

The New York Times, February 11, 2006

WASHINGTON, Feb. 10 — Michael D. Brown, the former federal emergency management chief who became a ridiculed symbol of the Bush administration's flawed response to Hurricane Katrina, returned in anger to Capitol Hill on Friday and lashed back at his former superiors.

Mr. Brown said that he told a senior White House official early on of the New Orleans flooding, and that the administration was too focused on terrorism to respond properly to natural disasters.

Testifying before a Senate committee, Mr. Brown said he notified a senior White House official — who he said was probably Joe Hagin, the deputy White House chief of staff, but might have been Andrew H. Card Jr., the chief of staff — on the day the hurricane hit to report that it had turned into his "worst nightmare" and that New Orleans was flooding.

It was the first public identification of any White House official who was said to have directly received reports of extensive flooding on Monday, Aug. 29, the day Hurricane Katrina hit.

In the aftermath of the storm, administration officials said they were caught by surprise when they were told of the levee breach on Tuesday, Aug. 30. Mr. Hagin was the senior staff member with President Bush on the day the hurricane hit, when Mr. Bush was traveling in California.

Mr. Brown's politically charged appearance before the Senate Committee on Homeland Security and Governmental Affairs quickly divided the panel's members by party.

Several Republican senators peppered him with hostile questions and suggested he was trying to deflect the blame from his own failures.

In contrast, Mr. Brown drew a gentle, even warm response from Democrats who said he had unfairly been made a scapegoat by the administration, though last year it was frequently Mr. Brown himself who drew the most fire from Democrats in Washington.

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In contrast to low-key statements in the past, Mr. Brown, who resigned under pressure on Sept. 12 as director of the Federal Emergency Management Agency, was aggressively on the defensive, saying he was "sick and tired" of his remarks or e-mail messages being taken out of context or hearing that he lacked the leadership skills for his job.

Mr. Brown said it was "baloney" for Department of Homeland Security officials to claim they did not know of the extent of the flooding until Tuesday, because he and other FEMA officials had notified them the day before.

In response to questioning, Mr. Brown also said he believed he told the White House on Monday that a breach had occurred in the 17th Street Canal levee, passing on observations made by one of his staff members on the ground in New Orleans that day.

"Everything that we had planned about, worried about, that FEMA, frankly, had worried about for 10 years was coming true," Mr. Brown said he told the White House aide.

Scott McClellan, the White House press secretary, said Friday morning while the hearing was under way that the administration already knew the city was being flooded. Regardless of the call from Mr. Brown, there were conflicting reports about whether a levee had been breached, Mr. McClellan said.

"The top priority at that time was on saving lives; it was on search and rescue operations," Mr. McClellan said.

Mr. Brown said that he could not recall if he personally called the homeland security secretary, Michael Chertoff, to relay the account of the levee breach. Even if he had, Mr. Brown said, it would have been a waste of time because FEMA's role within the Homeland Security Department had been subordinated to fighting terror. As a result of that, he said, he was unable to quickly get the kind of action he needed, unless he called the White House staff.

The Bush administration, as a whole, he said, did not seem to care enough about natural disasters and had relegated natural disasters to a "stepchild" of national security.

"It is my belief," Mr. Brown told the senators, that if "we've confirmed that a terrorist has blown up the 17th Street Canal levee, then everybody would have jumped all over that and been trying to do everything they could."

Republicans, including Senator Susan Collins of Maine, the chairwoman, said Mr. Brown's disdain for the new domestic security structure left the department without crucial information it needed about what was happening in New Orleans. Senator Norm Coleman, Republican of Minnesota, said Mr. Brown was shifting attention away from his own lack of responsiveness to the disaster.

"You're not prepared to kind of put a mirror in front of your face and recognize your own inadequacies and say, 'You know something, I made some big mistakes. I wasn't focused. I didn't get things done,' " Mr. Coleman said.

The remark provoked Mr. Brown to raise his voice almost to a shout.

"What do you want me to say?" Mr. Brown said. "I have admitted to mistakes publicly. I've admitted to mistakes in hearings. What more, Senator Coleman, do you want from me?"

Mr. Coleman responded: "A little more candor would suffice."

Democrats, including Senator Frank R. Lautenberg of New Jersey and Daniel K. Akaka of Hawaii, said Mr. Brown was being made a scapegoat to deflect criticism from the White House.

"Keep your chin up and fight back," Mr. Lautenberg said.

Several senators, including Democrats, said they were surprised by Mr. Brown's inability to remember crucial details from the early days of the storm, including which White House aide he spoke with and whether Mr. Bush participated in the telephone call.

Mr. Brown also gave differing answers about whether he actually mentioned the levee breach to the White House. At first he said he could not recall whether he used those words but then later he said that he was sure Mr. Hagin or Mr. Card knew it and that he would have told one of them about the breach during the conversation.

He said he could not recall whether he told the White House aide that he needed any particular help — at a time when the city was flooding, thousands were packed into the Superdome without adequate supplies and others were beginning to climb to roofs or attics to avoid drowning.

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Two senior Homeland Security Department officials, who testified after Mr. Brown, said that his unwillingness to honor the chain of command and give regular updates to Mr. Chertoff or others in the department severely hampered the department's response.

"We have a president, we have a secretary that are seeing things on television, we're getting reports, what is going on down there?" said Gen. Matthew E. Broderick, who served as the director of the Homeland Security Department's information center in Washington during the storm, recalling his request to FEMA for more information.

Brown Defends His Role In Response To Katrina (WT/AP)

By Lara Jakes Jordan, Associated Press

The Washington Times, February 11, 2006

Former federal disaster chief Michael D. Brown said yesterday he told top Bush officials of massive flooding in New Orleans the day Katrina howled ashore and warned "we were realizing our worst nightmare."

More defiant than defensive, Mr. Brown told senators he dealt directly with White House officials the day of the Aug. 29 storm, including Chief of Staff Andrew H. Card Jr. and Deputy Chief of Staff Joe Hagin.

He also said officials from the Department of Homeland Security were getting regular briefings that day. Administration officials have said they did not realize the severe damage Katrina had caused until after the storm had passed.

Under oath, Mr. Brown told the Senate Homeland Security and Governmental Affairs Committee that he could not explain why his appeals failed to produce a faster response to the storm that killed 1,300, uprooted hundreds of thousands of Gulf Coast residents and caused tens of billions of dollars in damage.

"I expected them to cut every piece of red tape, do everything they could ... that I didn't want to hear anybody say that we couldn't do everything they humanly could to respond to this," Mr. Brown said about a video conference with administration officials -- in which President Bush briefly participated -- the day before Katrina hit. "Because I knew in my gut this was the bad one."

At an occasionally contentious White House briefing yesterday, Bush spokesman Scott McClellan said there were conflicting reports about the levees in the immediate aftermath of the storm.

"We knew of the flooding that was going on," Mr. McClellan said. "That's why our top priority was focused on saving lives. ... The cause of the flooding was secondary to that top priority and that's the way it should be."

Some senators suggested Mr. Brown, in his second Capitol Hill appearance since Katrina, look inward before pointing the finger elsewhere.

"You're not prepared to put a mirror in front of your face and recognize your own inadequacies," said Sen. Norm Coleman, Minnesota Republican. "Perhaps you may get a more sympathetic hearing if you had a willingness to confess your own sins in this."

Mr. Brown responded: "That's very easy for you to say sitting behind that dais and not being there in the middle of that disaster watching that human suffering and watching those people dying and trying to deal with those structural dysfunctionalities, even within the federal government."

Mr. Brown, who quit under fire as chief of the FEMA, agreed with some senators who characterized him as a scapegoat for government failures.

"I feel somewhat abandoned," Mr. Brown said.

Department of Homeland Security Secretary Michael Chertoff has said he did not know that New Orleans' levees were breached until Aug. 30. Mr. Bush at the time said, "I don't think anybody anticipated the breach of the levees."

Recounting conference calls that described initial damage reports the day Katrina struck, Mr. Brown scoffed at assertions that Homeland Security didn't know about the devastation's scope until the next day. He called those claims "just baloney."

The disjointed federal response, Mr. Brown said, was in part the result of FEMA being swallowed in 2003 by the newly created Homeland Security Department, which he said was focused on fighting terrorism.

Natural disasters "had become the stepchild of the Department of Homeland Security," he said. Had there been a report that "a terrorist had blown up the [New Orleans] 17th Street Canal levee, then everybody would have jumped all over that."

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Some senators attempted to trace the failures back to the White House.

"You quite appropriately and admirably wanted to get the word to the president as quickly as you could," said Sen. Joe Lieberman, Connecticut Democrat, asking about Mr. Brown's conversation with Mr. Hagin on the evening of Aug. 29. "Did you tell Mr. Hagin in that phone call that New Orleans was flooding?"

Mr. Brown answered: "I think I told him that we were realizing our worst nightmare, that everything we had planned about, worried about, that FEMA, frankly, had worried about for 10 years was coming true."

Sen. Robert F. Bennett, Utah Republican, suggested Mr. Brown may have delayed the federal response by cutting Homeland Security out of the loop about the levee failures and going straight to the White House.

"I think I now understand why Secretary Chertoff says he didn't know," Mr. Bennett said. "The reason he didn't know is because you didn't think it important to tell him."

Mr. Brown said he communicated directly with the White House instead of Homeland Security because FEMA's parent agency "just bogged things down."

After three hours of testimony, Mr. Brown was handed a subpoena ordering him to reappear in front of a House panel investigating the storm response. Mr. Brown is expected to be questioned by House investigators this weekend -- days before the panel is expected to release its findings on the storm.

Brown Blames Federal Infighting (BRA)

By GERARD SHIELDS

Baton Rouge Advocate, February 11, 2006

WASHINGTON — The former director of the Federal Emergency Management Agency told a U.S. Senate investigating committee on Friday that differences with his superiors became so widespread that they hampered the federal government's response to Hurricane Katrina.

Michael Brown also told the Senate Homeland Security and Governmental Affairs Committee that he alerted the White House and his bosses at the U.S. Department of Homeland Security of levee breaches in New Orleans a full day before they have acknowledged.

Brown said he called White House and Homeland Security officials the Monday afternoon after the hurricane hit. President Bush and Homeland Security Secretary Michael Chertoff have said that they did not know about the levee breaches until Tuesday.

Brown acknowledged that he did not directly call Chertoff, who was technically his supervisor.

"It would've wasted my time," Brown said. "DHS was an additional bureaucracy that would have slowed me down."

One committee member, U.S. Sen. Robert Bennett, R-Utah, called the revelation "staggering" and an example of dysfunction in the Homeland Security department.

"Now I know why Secretary Chertoff didn't know," Bennett said. "The reason he didn't know is because you didn't think it important to tell him."

White House spokesman Scott McClellan said Friday that news of flooding was coming into the White House but that there were conflicting reports.

U.S. Sen. Susan Collins, R-Maine, serves as chairwoman of the committee, and agreed that Brown's testimony signaled deficiencies in the agency designated to handle U.S. disasters.

"It also reflects the tensions between the two (agencies) that pre-dates the storm, tensions over resources, role and responsibilities within the department," she said.

FEMA, whose director in the past held a Cabinet position answerable to the president, was placed under the Department of Homeland Security in 2003. Brown, who was hired the same year, authorized two studies that found FEMA lacking in its ability to handle a natural disaster. The latest study and recommendations for improvement came out five months before Katrina hit on Aug. 29.

"We were never given the money and never given the resources to implement any of those recommendations," Brown said.

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Brown called putting FEMA under the Homeland Security department a "fatal flaw." He painted his division as secondary in a department more focused on preventing terrorist attacks than handling natural disasters.

"The cultural differences are so wide that FEMA cannot function in DHS," said Brown, who was eventually dismissed and now runs his own consulting business. "Because this was a natural disaster, it became the stepchild to national security."

Had there been a report that "a terrorist had blown up the 17th Street Canal levee, then everybody would have jumped all over that," Brown added.

Brown was designated principal federal official under the national response plan by Chertoff after the storm hit. The designation hampered Brown's ability to manage the aftermath, he said.

"You can't run a disaster that way," Brown said. "I was literally restrained by Secretary Chertoff and told to stay in Baton Rouge."

U.S. Sen. Norm Coleman, R-Minn., criticized Brown for failing to properly manage the storm's aftermath. He called the hurricane a "perfect storm of inadequate response."

"You'd get more of a sympathetic hearing if you were willing to confess your own sins," Coleman said. "Leadership makes a difference. You didn't provide that leadership."

Brown shot back, defending his actions.

"Senator, that's easy for you to say sitting behind that dais and not standing in the catastrophe and watching all the suffering," he said.

Other senators, including Democrats, said they believed that Brown was being wrongly blamed for the storm recovery faults by the Bush administration.

"You have been selected as the designated scapegoat," said U.S. Sen. Frank Lautenberg, D-N.J. "Keep your chin up and fight back."

But other witnesses at Friday's hearing also blamed Brown for much of the slow response.

Robert Stephan, assistant DHS secretary for infrastructure protection, said Brown failed under his designation as principal federal officer to establish a unified command structure of agencies involved.

"He continued to act as FEMA director as opposed to rising up to a higher level of responsibility," Stephan said.

Matthew Broderick, director of DHS operations coordination, indicated that he didn't believe the initial reports of broken levees and was pushed back by FEMA officials when trying to confirm them.

"We trusted that they would do the proper thing and keep us informed," Broderick said. "Mr. Brown should've picked up the phone and called the secretary right away."

Brown's one regret, he said, was not calling in the military before the hurricane made landfall.

"It's just a judgment I made," he said. "In hindsight, I wish I would've rolled the dice."

Also Friday, U.S. Sen. Mary L. Landrieu, D-La., released the following statement in response to Brown's testimony:

"Today's testimony is additional evidence that FEMA was not prepared before Katrina hit, just as it is not prepared today. The allegations raised at today's hearings are very troubling. They demand clear, immediate explanations.

"For months, this administration pointed fingers at others for their bungling. Now, they're pointing fingers at one another. All the while, FEMA remains anemic and the rebuilding they are managing remains inefficient, ineffective and slow.

"I am impressed by the strides taken by the Homeland Security Committee to get to the bottom of these mistakes. In particular, Sens. Collins and Lieberman should be commended for their focused efforts. We must all work together to reform and repair FEMA so our nation will be prepared before the next disaster, be it manmade or natural, occurs."

'We Were Realizing Our Worst Nightmare' (NOTP)

By Bruce Alpert

New Orleans Times-Picayune, February 11, 2006

Brown says he told White House of calamity

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WASHINGTON -- Two decisions by key federal officials not to share information led Washington to believe that New Orleans had "dodged the big one" in the hours after Hurricane Katrina made landfall, when in fact 80 percent of the city was flooding, Senate investigators believe.

Michael Brown, who was FEMA chief at the time, decided not to bring his appeals for Katrina relief directly to his superiors at the Department of Homeland Security after the storm, because he considered it a waste of time.

And the Homeland Security operations room coordinator decided not to notify department Secretary Michael Chertoff and President Bush on Aug. 29, the day the hurricane hit, of levee breaches that put much of New Orleans under water. The official said he considered the reports too sketchy.

Still, Brown, testifying Friday under oath, said officials should have known. On the night of Aug. 29, he said, he warned a top Bush administration official that "we were realizing our worst nightmare."

Brown told senators that he dealt directly with White House officials the day Katrina hit, including chief of staff Andrew Card and deputy chief of staff Joe Hagin. He also said that officials from the Homeland Security Department were getting regular briefings that day.

Sen. Susan Collins, chairwoman of the Senate Homeland Security and Government Affairs Committee, R-Maine, said the communications snafus could have contributed to the delays in bringing supplies to the city and federal troops to assist with search and rescue operations.

"What is so troubling is we have heard over and over again -- from top DHS officials, from top Department of Defense officials, from the leadership throughout the administration -- that they were simply unaware of how catastrophic the hurricane's impact had been because of the breaching of the levee," said Collins, R-Maine.

The 19th hearing by Collins' committee brought more attempts to deflect blame, with Brown saying his Homeland Security superiors devoted too much time to preparing for terrorist attacks instead of natural disasters, and the department saying that Brown failed to carry out his most important duty: to inform Chertoff and the president of the worsening situation in New Orleans.

Brown said it is "just baloney" and "a little disingenuous" for the Department of Homeland Security to say that it wasn't informed of the levee breaches Aug. 29, the day the hurricane struck.

Focused on terrorism

Brown, who served as director of the Federal Emergency Management Agency until his resignation two weeks after Katrina hit, suggested that the administration's emphasis on fighting terrorism may have been partly to blame for the slow response.

FEMA, he said, had become a stepchild at the newly created Department of Homeland Security. Had a terrorist "blown up the 17th Street Canal levee, then everybody would have jumped all over that," he said.

Brown was roundly criticized by some members of the Senate panel for what they considered a poor job of coordinating the government's response to the hurricane, but others said he made a convenient target for blame.

"You have been selected as the designated scapegoat," said Sen. Frank Lautenberg, D-N.J.

Lautenberg said he reached that conclusion because problems at FEMA persisted after Brown left, as exhibited by the delays in getting trailers to people in Louisiana and Mississippi who have requested them, and because the Bush administration had ignored Brown's request for more money to prepare for disasters such as Katrina.

"So Mr. Brown isn't on the payroll. . . . Who's responsible for not keeping up with our responsibilities? Somebody. And the fingers, no matter which way they try to point them, to me they point at the White House."

Shifting the blame

Sen. Joseph Lieberman, D-Conn., questioned Matthew Broderick, who was director of the Homeland Security Operations Center when Katrina hit and was responsible for keeping Chertoff and Bush updated on the hurricane.

Lieberman said he couldn't understand why Broderick, a retired brigadier general with the Marines, didn't report the levee breaches to Chertoff and the White House sooner than the morning of Aug. 30.

Broderick attributed the delay to conflicting reports from New Orleans, putting the blame largely on Brown and other FEMA officials, who he said were refusing to keep him updated. One FEMA official, he said, told him that the only information he would get would be the twice daily -- morning and evening -- official FEMA Hurricane Katrina update reports.

But Lieberman said he found the response inexplicable because there were reports from numerous federal agencies, including the National Weather Service and Transportation Security Administration, about levee breaks in New Orleans. A Senate investigator said Broderick should have "just turned on his TV."

No answer

Brown was asked to explain why it took two days to place an order for 500 buses that Gov. Kathleen Blanco had requested to rescue people from the Superdome and Ernest N. Morial Convention Center.

Brown said he could not give an explanation, except to say that the delays reflected a March 2005 report that found FEMA's system of controlling and tracking assets inadequate. Brown also mentioned a "brain drain" at FEMA caused by the retirement of many experienced officials, while Collins noted that a memo from senior officials in the agency complained that too many key jobs were filled with political appointees.

The former FEMA chief, who was subpoenaed Friday to give closed testimony this weekend to a House committee also investigating the slow response to Katrina, said he tried to take steps to improve the agency's preparedness but was rebuffed by Homeland Security superiors. For instance, he said, his request in the year before Katrina to get money to do a follow-up exercise, focused on a possible catastrophe in New Orleans, was ignored.

The disconnect between him and Chertoff couldn't be clearer. At one point after the hurricane struck, Brown testified, he was ordered to give Chertoff a briefing, and he assembled some of his top people.

"They spent the night getting their briefings together," Brown said. "And then they twiddled their thumbs for about and hour and a half, two hours that morning waiting for him to get off some phone calls or something. And I finally dismissed the briefers and just told them to go back to work. Because you can't have two people in control; either somebody's going to run the disaster or somebody's not going to run the disaster."

Brown under fire

Brown had some testy confrontations with senators.

"As I listen to your testimony, you're not prepared to, kind of, put a mirror in front of your face and recognize your own inadequacies and say, 'You know something? I made some big mistakes,' " said Sen. Norm Coleman, R-Minn.

Brown responded: "That's very easy for you to say sitting behind that dais and not being there in the middle of that disaster watching that human suffering and watching those people dying and trying to deal with those structural dysfunctionalities, even within the federal government."

Brown said he had admitted mistakes and told senators he spent some nights in his hotel room "crying and screaming" because he couldn't get the bureaucracy to respond to the tremendous suffering.

Sen. Robert Bennett, R-Utah, said that from Brown's testimony he has a sense why Chertoff reported not knowing immediately how bad things were in New Orleans. "The reason he didn't know is because you didn't think it important to tell him," Bennett said.

Brown said he preferred to deal directly with the White House, because he knew the Homeland Security bureaucracy was focused on terrorism, and asking it for help "just bogged things down."

White House spokesman Scott McClellan said there were conflicting reports about the levees in the immediate aftermath of the storm.

"We knew of the flooding that was going on," McClellan said. "That's why our top priority was focused on saving lives. . . . The cause of the flooding was secondary to that top priority, and that's the way it should be."

Sen. Mary Landrieu, D-La., said the testimony Friday showed that FEMA was not prepared before Katrina hit, "just as it is not prepared today."

"For months, this administration pointed fingers at others for their bungling," Landrieu said. "Now they're pointing fingers at one another. All the while, FEMA remains anemic and the rebuilding they are managing remains inefficient, ineffective and slow."

In all, according to a timeline released by the Senate Committee, 28 separate agencies had issued some kind of warning Aug. 29 about the flooding in metropolitan New Orleans resulting from levee breaches.

"It is clear that if the administration knew sooner that our levees had breached, they should have acted sooner," said Rep. William Jefferson, D-New Orleans.

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"By providing major federal resources immediately, the administration could have avoided the major loss of life and property with which our city must now cope. Obviously, the delay in federal action made the situation much worse."

. . . . . .

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The Associated Press contributed to this report.

Blame Over Response To Katrina Intensifies (HCHRON)

By SAMANTHA LEVINE

Houston Chronicle, February 11, 2006

Ex-FEMA chief, homeland security officials offer conflicting details at Senate hearing

WASHINGTON - A clash among top officials in the Bush administration led to heated rhetoric and a hard-to-pin-down story Friday about how the federal government bungled its response to Hurricane Katrina.

Contradicting earlier statements by the White House, former Federal Emergency Management Agency chief Michael Brown said he told President Bush and other White House officials on the day before the storm how bad things were going to be in New Orleans. He said video teleconference calls and e-mail on Aug. 29, the day the storm hit, relayed information about the devastating flooding.

"They were aware of what was going on," Brown said in a hearing before the Senate's homeland security committee.

"For them to claim that we didn't have awareness of it [the levee collapsing] is just baloney," Brown said.

But as Sen. Susan Collins, R-Maine, the committee chairwoman pointed out, President Bush and other senior administration officials have said that for hours after water pouring through broken levees inundated New Orleans, they thought the city had "dodged the bullet."

Indeed, two senior officials with the Department of Homeland Security told the panel Friday that Brown failed to provide live information to Homeland Security Secretary Michael Chertoff and did not set up the command centers required under the national emergency response plan.

Brown left us "virtually blind," said Robert Stephan, assistant secretary for infrastructure protection at the DHS.

But in another apparent contradiction, Bush spokesman Trent Duffy said Friday, "I completely reject any suggestion that the White House was not fully aware of the severity of the damage or the risk."

About 1,200 people died and thousands of homes were destroyed in the hurricane and the flooding it triggered.

Bush removed Brown from the Gulf Coast disaster zone about a week after the storm hit. Brown resigned three days later.

Senators stunnedBrown said the homeland security agency paid little attention to the storm because it is almost entirely focused on terrorist attacks.

He said DHS systematically denied funding to beef up FEMA's emergency preparations, and got little response when he discussed FEMA's shortcomings with White House officials, including Deputy Chief of Staff Joe Hagin and Chief of Staff Andy Card.

Duffy would not comment on conversations among administration officials.

Brown stunned the senators when he said he preferred to call Hagin rather than Chertoff about the storm because he found the DHS bureaucracy slow and frustrating.

Calling Chertoff, he said, "would have wasted my time" because the "culture was such that I didn't think that would have been effective and would have exacerbated the problem."

"That is a staggering statement," said Sen. Robert Bennett, R-Utah. "It demonstrates a dysfunctional department to a degree far greater than any we've seen."

When FEMA public affairs official Marty Bahamonde relayed desperate news of the flooding in New Orleans on the day of the storm, Brown said he called Hagin, who was with Bush at the president's ranch in Crawford.

"I think I told him that we were realizing our worst nightmare, that everything we had planned about, worried about, that FEMA, frankly, had worried about for 10 years was coming true," Brown said.

Testy exchangeSen. Norm Coleman, R-Minn., cast doubt on Brown's account.

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Coleman mentioned a much-publicized e-mail exchange in which Brown was told about the horror unfolding in New Orleans and responded, "Thanks for the update. Anything specific I need to do or tweak?"

Brown lashed out at Coleman, saying he was getting sick and tired of e-mail being taken out of context and that at the time, he had been doing many other things to respond to the emergency.

Coleman also accused Brown of being unwilling to "put a mirror in front of your face and recognize your own inadequacies."

"Senator, with all due respect, what do you want me to say?" Brown asked. "I have admitted to mistakes publicly. I've admitted to mistakes in hearings. What more, Senator Coleman, do you want from me? What do you want from me? I'm asking you. What do you want from me?"

The hearing was one of the last before the House and Senate complete their parallel investigations of how federal, state and local governments reacted to a storm that caused destruction that will take years and tens of billions of dollars to repair.

The House Government Reform Committee will release its report, which is expected to be harsh, on Wednesday. The Senate will release its report in mid-March.

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Brown Says He Gave Bush Aide Early Warning On La. Flooding (BOS)

By Charlie Savage

The Boston Globe, February 11, 2006

WASHINGTON -- Michael Brown, former director of the Federal Emergency Management Agency, said yesterday that he told a top aide to President Bush that New Orleans was being flooded on the same day that Hurricane Katrina hit land last year, raising new questions about the government's delayed response to the catastrophe.

Testifying before a Senate committee, Brown also characterized as "just baloney" contentions by top Homeland Security officials that they did not know the levees protecting New Orleans had collapsed until the day after the storm roared ashore. And, Brown said, he was being made a scapegoat for the Bush administration's flawed handling of FEMA.

"I feel somewhat abandoned," said Brown, the public face of the government's slow response in the early stage of the catastrophe.

Brown's testimony marked his first comments on the Katrina disaster since leaving the federal payroll in November, freeing him to speak more directly about communications between FEMA and the White House than when he testified last Sept. 27 before Congress. Although Brown had resigned under pressure two weeks before his testimony, he remained on the payroll as a consultant until November.

His testimony also came a day after Democrats on the Senate Homeland Security and Governmental Affairs Committee released a series of internal e-mails written during the crisis. The documents showed that FEMA e-mails warned Homeland Security Secretary Michael Chertoff's chief of staff about extensive flooding as early as 9:27 p.m. on Aug. 29, the day of the storm.

In the days after the levee breach, the federal government came under harsh criticism for delays in sending troops and supplies into the city amid concurrent leadership breakdowns at the state and local levels of government. Meanwhile, the situation for people trapped in the flooded city grew perilous.

Bush later said that he and others relaxed immediately after the storm, mistakenly believing that the city had weathered the hurricane without major problems. He and Chertoff continued their regularly scheduled events on Aug. 30, rather than immediately moving into crisis mode.

But in his testimony yesterday, Brown said he sounded the alarm with aides to top administration officials on the evening of Aug. 29, as soon as he learned the levees protecting New Orleans from catastrophic flooding were failing. He said he called Joe Hagin, the deputy White House chief of staff, who was with Bush at his ranch at Crawford, Texas, at the time.

"I think I told him that we were realizing our worst nightmare, that everything we had planned about, worried about, that FEMA, frankly, had worried about for 10 years, was coming true," Brown said. ". . . New Orleans is flooding. It's the worst-case scenario."

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But White House spokesman Scott McClellan rejected the contention that Bush understood the levee had breached earlier than the administration has acknowledged.

"There were conflicting reports coming in, in the initial aftermath of the storm, in regards to the levee system," he said.

"Some were saying it was overtopped, some were saying it was breached. And, again, we knew of the flooding that was going on; that's why our top priority was focused on saving lives. The cause of the flooding was secondary to that top priority, and that's the way it should be."

In later testimony yesterday, Robert Stephan, the Homeland Security assistant secretary for infrastructure protection, objected to criticism by senators that Brown's testimony and the FEMA e-mails showed that communications had broken down at the upper levels of the department. He said Brown erred by not conveying his message more urgently.

"If he's got a critical information piece, that's the whole nugget we're all waiting for confirming catastrophic flooding of the entire New Orleans downtown area, that to me is something that you don't just casually post to an e-mail and send to administrative headquarters somewhere light-years away," Stephan said. "You pick up the phone and say 'Boss, Secretary Chertoff, this is going down right here, this is serious, this is the one we were all waiting for.' Why did he not do that?"

Brown also said that structural changes to FEMA since it was folded into the new Department of Homeland Security after the terrorist attacks of Sept. 11, 2001, crippled the agency's ability to respond to a natural disaster. The department, he said, was narrowly focused on responding to a terrorist attack but insufficiently attuned to a natural disaster.

Brown said that in the months leading up to the hurricane, he had begged Chertoff and, before him, former Homeland Security Secretary Tom Ridge, for more funds for disaster planning and training exercises for FEMA, even proposing a New Orleans flood scenario. But he was turned down, he said, because natural disasters were "the stepchild" at Homeland Security.

"It's my belief that had there been a report . . . that a terrorist has blown up the 17th Street canal levee, then everybody would have jumped all over that and been trying to do everything they could," he said.

Brown Details Katrina Alerts (BSUN)

By Johanna Neuman

The Baltimore Sun, February 11, 2006

Ex-FEMA chief testifies he told White House, not Homeland Security, about scale of storm

WASHINGTON -- Former FEMA Director Michael D. Brown testified yesterday that, hours before Hurricane Katrina struck the Gulf Coast, he called President Bush directly and told him the storm was going to be "a catastrophe within a catastrophe." And the next day, with New Orleans levees collapsing, he called a senior White House aide to report "our worst nightmare" had occurred.

What Brown said he did not do was communicate with his superiors at the Department of Homeland Security, who had critical responsibilities for launching and overseeing the federal government's response to the rapidly unfolding tragedy. The Federal Emergency Management Agency is part of the Homeland Security Department, but Brown said he thought talking to his boss, Homeland Security Secretary Michael Chertoff, "would have wasted my time."

Yet members of the Senate Homeland Security and Governmental Affairs Committee, before which Brown testified yesterday, suggested that his decision to ignore his department and its established procedures reflected the kind of high-level communications breakdown that hamstrung Washington's response to Katrina.

Lower-level Homeland Security officials who had had operational responsibilities for dealing with the crisis agreed. They told the committee that they had repeatedly been hampered by a lack of information from FEMA about events on the ground.

"There was a prevailing attitude from Mr. Brown that he did not want Homeland Security to interfere with any of his operations or what he was doing," Matthew Broderick, director of operations coordination for the department, told the committee. "Mr. Brown should have picked up the telephone and called the secretary right away."

At one level, testimony at the Senate hearing was another round in the blame game that has raged over the past months as a mountain of evidence has accumulated on the shortcomings of the government's response to a disaster that claimed more than 1,300 lives, left tens of thousands of people homeless and inflicted billions of dollars in damage on the Gulf Coast.

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But the hearing also provided graphic evidence of how personal and bureaucratic rivalries among senior administration officials had taken precedence over effective response to the emergency. Brown, for example, devoted much of his testimony to denouncing the Homeland Security Department and complaining about the fact that his agency had been made a part of it.

The department was created after the Sept. 11 attacks as part of an effort to coordinate the far-flung government agencies responsible for dealing with catastrophic events -- natural disasters as well as terrorism.

Saying FEMA had become a "stepchild" in a department preoccupied with terrorism, Brown said, Homeland Security policies and decisions "put FEMA on a path to failure."

With Chertoff expected to testify Tuesday, his spokesman, William "Russ" Knocke, said that the secretary would not engage in a shouting match with Brown. "We're not interested in a point-by-point response," he said. "We're interested in lessons from [an] unprecedented storm season and applying those in a constructive way as [we] prepare for next storm season."

In his testimony, Brown asserted that he had been able to "cut through any interagency bureaucracy" by calling the White House instead of working with Homeland Security. Under questioning by members of the committee, however, Brown said that in his calls -- 30 calls to White House Chief of Staff Andrew H. Card Jr. or his deputy, Joe Hagin -- he had not asked the White House to take specific actions. Rather, he said, his goal was to keep the White House informed.

Asked about what he had told a senior White House official in an Aug. 29 call, Brown said: "Nothing specific, I just thought they needed to be aware."

In one key conversation with a senior White House official just after FEMA learned that the levees had failed, Brown said he reported that "our worst nightmare" had occurred but said he did not remember whether he had passed on that the levees had failed, dooming the city.

The White House, stung by suggestions that the president may have been slow to grasp the seriousness of the crisis, released a four-page briefing designed to show that he had responded quickly and appropriately. Among other things, the White House pointed out that on Aug. 28, the day before Katrina reached the coast, he had called Louisiana Gov. Kathleen Babineaux Blanco and urged her to issue a mandatory evacuation order for New Orleans and the area around it.

"He is concerned about the impact that this hurricane would have on our people. And he asked me to please ensure that there would be a mandatory evacuation," the White House quoted Blanco as saying in a CNN news report that day.

Evacuation efforts were bogged down because officials had failed to provide adequate transportation and other support for thousands of poor New Orleans residents who lacked means to move to safety on their own. The same was true for many hospital patients and nursing home residents, some of whom died when they were trapped by the floods that swept through the city.

Johanna Neuman writes for the Los Angeles Times.

Brown: I Warned White House As Katrina Hit (AP)

By Lara Jakes Jordan

AP, February 11, 2006

Former federal disaster chief Michael Brown, the face of the government's listless response to Hurricane Katrina, said Friday he told top Bush officials the day the storm howled ashore of massive flooding in New Orleans and warned "we were realizing our worst nightmare."

More defiant than defensive, Brown told senators he dealt directly with White House officials the day of the Aug. 29 storm, including chief of staff Andrew Card and deputy chief of staff Joe Hagin.

He also said the Homeland Security Department was among a half-dozen government agencies that received regular briefings that day from him and other officials by way of video conference calls. Administration officials have said they did not realize the severe damage Katrina had caused until after the storm had passed.

Under oath, Brown told the Senate Homeland Security and Governmental Affairs Committee that he could not explain why his appeals failed to produce a faster response.

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"I expected them to cut every piece of red tape, do everything they could ... that I didn't want to hear anybody say that we couldn't do everything they humanly could to respond to this," Brown said about a video conference with administration officials — in which President Bush briefly participated — the day before Katrina hit. "Because I knew in my gut this was the bad one."

In the end, the storm claimed more than 1,300 lives, uprooted hundreds of thousands more and caused tens of billions in damage. The devastation in New Orleans and other Gulf Coast communities left Americans with enduring images of their countrymen dying in flooded nursing homes and pleading for rescue from rooftops.

Brown, in his second Capitol Hill appearance since Katrina, told his side to the senators five months after he quit under fire as chief of the Federal Emergency Management Agency.

He agreed with some senators who characterized him as a scapegoat for government failures.

"I feel somewhat abandoned," said Brown,

Homeland Security Secretary Michael Chertoff has said he did not know that New Orleans' levees were breached until Aug. 30. Bush at the time said, "I don't think anybody anticipated the breach of the levees."

At an occasionally contentious White House briefing Friday, Bush spokesman Scott McClellan said there were conflicting reports about the levees in the immediate aftermath of the storm.

"We knew of the flooding that was going on," McClellan said. "That's why our top priority was focused on saving lives. ... The cause of the flooding was secondary to that top priority and that's the way it should be."

After three hours of testimony, Brown was handed a subpoena ordering him to reappear in front of a House panel investigating the storm response. Brown is expected to be questioned by House investigators this weekend — days before the panel is expected to release its findings on the storm.

Recounting conference calls that described initial damage reports the day Katrina hit, Brown scoffed at claims that Homeland Security didn't know about the devastation's scope until the next day. He called those claims "just baloney."

Some senators suggested Brown look inward before pointing the finger elsewhere.

"You're not prepared to put a mirror in front of your face and recognize your own inadequacies," said Norm Coleman, R-Minn. "Perhaps you may get a more sympathetic hearing if you had a willingness to confess your own sins in this."

Brown responded: "That's very easy for you to say sitting behind that dais and not being there in the middle of that disaster watching that human suffering and watching those people dying and trying to deal with those structural dysfunctionalities, even within the federal government."

The disjointed federal response, Brown said, was in part the result of FEMA being swallowed in 2003 by the newly created Homeland Security Department, which he said was focused on fighting terrorism.

Natural disasters "had become the stepchild of the Department of Homeland Security," he said. Had there been a report that "a terrorist had blown up the 17th Street Canal levee, then everybody would have jumped all over that," he added.

Some senators attempted to trace the failures back to the White House.

"You quite appropriately and admirably wanted to get the word to the president as quickly as you could," said Joe Lieberman, D-Conn., asking about Brown's conversation with Hagin on the evening of Aug. 29. "Did you tell Mr. Hagin in that phone call that New Orleans was flooding?"

Brown answered: "I think I told him that we were realizing our worst nightmare, that everything we had planned about, worried about, that FEMA, frankly, had worried about for 10 years was coming true."

Sen. Robert Bennett, R-Utah, suggested Brown may have delayed the federal response by cutting Homeland Security out of the loop about the levee failures and going straight to the White House.

"I think I now understand why Secretary Chertoff says he didn't know," Bennett said. "The reason he didn't know is because you didn't think it important to tell him."

Brown said he communicated directly with the White House instead of Homeland Security because FEMA's parent agency "just bogged things down."

White House 'warned Of Levee Breach' (FT)

By Andrei Postelnicu

DOJ_NMG_0014336

Financial Times, February 11, 2006

The White House was alerted of a breach in the New Orleans levee system on the night Hurricane Katrina struck the city, a former Bush administration official told US senators on Friday.

The testimony from Michael Brown, the former head of the Federal Emergency Management Agency, to a Senate committee clashes with White House statements that the administration had been taken by surprise by the levee failure.

Mr Brown, told the Senate's homeland security committee that he told Joseph Hagin, President Bush's deputy chief of staff, about the levee breach on the night of August 29th, as Katrina made landfall on New Orleans.

"I think I told him we were realising our worst nightmares," Mr Brown said. In response to inquiries about the president's awareness of the situation, Mr Brown said he thought "If I've told Joe Hagin or [chief of staff] Andy Card, I've told the president".

White House officials have said they did not know about the levee breach and subsequent flooding of New Orleans until the morning of Tuesday, August 30th. The Bush administration has come under sharp criticism for the delays in getting emergency supplies into New Orleans in Katrina's aftermath.

"For them [the White House] to claim that we didn't have awareness of it is just baloney," Mr Brown said.

The former official, who resigned less than two weeks after Katrina struck amid uproar about the US government response to the hurricane, also told lawmakers that he often bypassed Michael Chertoff, his boss at the Department of Homeland Security in favour of talking directly to the White House.

The revelations come as a five-month investigation into the hurricane response revealed in detail the chain of events that saw images of mosrly poor and black Americans in distress in a crippled city.

A Fema official who was in New Orleans emailed his supervisors in Washington to say conditions "are far more serious than media reports are currently reflecting", investigators found.

Mr Brown said that going through the chain of command at the homeland security department "would have been a waster of time". The department, which was created following the September 11th terrorist attacks, was "was an additional bureaucracy that was going to slow me down even more, and the way I got around that was dealing directly with the White House".

The remarks atracted retorts from senators describing the situation as "dysfunctional". While some admitted the "structural" deficiencies of the new department, they accused Mr Brown of a leadership failure which, combined with the structure, became a "perfect storm".

Mr Brown, whose appointment without obvious qualifications for the Fema job brought the White House under attack, sought to defend his record at the agency by mentioning previous responses to California wildfires and the crash of a space shuttle.

He told senators he was "sick and tired of emails taken out of context".

Brown Warned White House Before Katrina Struck (REU)

By Richard Cowan

Reuters, February 11, 2006

Former federal disaster chief Michael Brown told a U.S. Senate panel on Friday he warned President George W. Bush of impending catastrophe in New Orleans last summer and informed White House aides of dangerous flooding shortly after Hurricane Katrina struck.

Brown said on August 29, the day the hurricane hit, he relayed urgent reports that the city's levee pumps were failing, contradicting White House officials who have said they were unaware on August 29 the levees were no longer functioning.

With the pumps overwhelmed and the levees seriously breached, floodwaters overtook much of New Orleans in a natural disaster that killed about 1,200 people along the Gulf Coast.

On September 1, Bush said in a television interview, "I don't think anyone anticipated the breach of the levees."

Yet Connecticut Sen. Joseph Lieberman, the committee's ranking Democrat, cited a report from the National Weather Service at 9:14 a.m. on August 29 that at least one of the levees protecting the city was breached.

Brown, who headed the Federal Emergency Management Agency, said in his first detailed testimony about his contacts with Bush and top White House officials that he informed the White House that "we were realizing our worst nightmare."

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The Senate Homeland Security and Governmental Affairs Committee is investigating failures by federal, state and local officials to deal with the hurricane and particularly why the Bush administration was so slow to react to the emergency.

Brown blamed the poor federal response to Katrina in part on the absorption of FEMA into the Department of Homeland Security, which he said was focused on preventing terrorist attacks and neglected the threat of natural disasters. He urged it be set up as a separate agency once again.

In addition to one or two direct talks with Bush before the storm, Brown said he talked with White House officials about 30 times once Katrina hit land. Those conversations included White House Chief of Staff Andrew Card, Brown said, adding: "Sometimes the president would get on the phone."

Before agreeing to answer questions about his contacts with the White House, Brown sought assurances he would not be caught in a legal cross-fire over whether those conversations should be divulged.

Committee head Susan Collins, a Maine Republican, gave Brown a green light to testify, saying the White House was given the chance, but had not invoked executive privilege.

'UNMANAGEABLE SITUATION'

In his testimony, Brown said Homeland Security chief Michael Chertoff's sprawling agency was making Katrina response decisions contrary to his own. "It became an absolutely unmanageable situation," Brown said.

Brown emerged as the main scapegoat for the government's response. He was forced to resign shortly after the disaster.

Collins, who is leading the Senate probe of the government response, put some of the blame on Brown's shoulders. Following his testimony, Collins said Brown "let his poor relations" with Chertoff interfere with communications.

Some Democrats on the committee tried to lay blame squarely with the White House. "Keep your chin up. Fight back," Sen. Frank Lautenberg of New Jersey told Brown, adding that the Bush administration was handling hurricane reconstruction poorly.

Besides those killed, hundreds of thousands were made homeless in the storm, which devastated much of Louisiana, Mississippi and Alabama. Nearly six months later, many of those displaced do not know whether their homes will be rebuilt.

Bush was nearing the end of his monthlong summer vacation when the hurricane struck. He was on a working trip to Arizona and California on the day it hit and the day after, August 29 and August 30, and returned to Washington from his Texas ranch on August 31.

Brown's appearance before the Senate panel was followed by a subpoena to appear before the House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina. The panel is meeting this weekend.

"This will be a closed meeting. We want to get the information we need from Brown without causing a further media circus," said Tom Davis, a Republican from Virginia who chairs that committee.

(Additional reporting by Alan Elsner and Donna Smith)

Former FEMA Chief Blames Chertoff For Katrina Response (KRT)

By Seth Borenstein

Knight Ridder, February 11, 2006

WASHINGTON - As Hurricane Katrina's deadly floodwaters kept rising in New Orleans streets last August, the two top federal disaster chiefs feuded while other officials wouldn't talk to each other, according to testimony Friday at a Senate hearing.

In his first testimony since leaving the government payroll, former Federal Emergency Management Agency Director Michael Brown, who's been roundly criticized for his handling of Katrina, said he felt like a scapegoat for a government-wide failure and squarely blamed his boss, Homeland Security Secretary Michael Chertoff.

"I was literally constrained by Secretary Chertoff," Brown said. "My hands were tied."

Brown said he tried to bypass his boss and work directly with the White House, a tactic he said had worked in the past. But White House Chief of Staff Andrew Card told him he had to work with Chertoff, Brown said.

Chertoff, he said, wouldn't let him fly to the disaster scene from his Baton Rouge, La., base.

On Monday, Aug. 29, when the storm hit the Gulf Coast, Brown said Homeland Security officials continually downplayed alarming reports from a FEMA agent who said he saw massive levee breaches and flooding in New Orleans.

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Brown blamed the Bush administration's absorption with terrorism for its slow response to Katrina. He said that if his FEMA agent on the scene had confirmed "that a terrorist has blown up the 17th Street Canal levee, then everybody would have jumped all over that ... but because this was a natural disaster, that has become the stepchild within the Department of Homeland Security." FEMA is a subdivision of the Department of Homeland Security, but prior to 2003 was an independent agency.

Homeland Security officials weren't listening to how bad it was, Brown said. They were tuned into FEMA's video teleconferences (VTCs) along with White House officials, but didn't seem to get the message, he said.

White House spokesman Scott McClellan said Friday that the White House "knew of the flooding that was going on."

But Homeland Security officials told the Senate Governmental Affairs Committee that they didn't know about major flooding in New Orleans until Tuesday, Aug. 30.

Retired Gen. Matthew E. Broderick, who was in charge of the department's operations center, said he went home Monday thinking that there was little flooding and that "they seemed to be having a party in the French Quarter that evening."

"When we came in Tuesday, we realized this was serious,'" Broderick said.

Brown called Homeland Security officials' claims "a little disingenuous."

"All they had to do was listen to those VTCs and pay attention to these VTCs and they would have known what was going on," Brown said. "And in fact I e-mailed a White House official that evening about how bad it was."

Brown said the department claimed to be unaware of what was happening because "you know, they're off doing other things."

Two top Homeland Security officials denied that they weren't listening. They said that Brown wasn't talking to them and that he kept other FEMA officials from telling them what was going on.

But the Senate committee released a timeline of 26 notices that warned of horrible flooding in New Orleans before Tuesday morning.

By noon on Monday, five notices of flooding had been sent to Broderick's Homeland Security operations center or to the White House. By 6 p.m., 17 flooding notices had been sent. Despite the notices, the Homeland Security Operations Center's situation report said as of 6 p.m. that "preliminary reports indicate the levees in New Orleans have not been breached."

Broderick said he knew there was flooding, but said "we didn't know the degree." He blamed Brown and FEMA for using e-mail instead of making phone calls.

On Sept. 9, Chertoff replaced Brown as on-scene commander with Coast Guard Vice Adm. Thad Allen.

"The situation was dramatically turned around following the arrival of Vice Admiral Allen," said Robert Stephan, assistant secretary for infrastructure protection and the author of the nation's disaster plan.

Friday's hearing showed that FEMA and its Homeland Security overseers had "two different game plans," said Joe Myers, Florida's former emergency management chief. Brown seemed to be working from an old disaster-management plan that was used through 2004, while Chertoff's people were using a plan that had been put into effect in April 2005, he said.

Brown also told senators that FEMA became ineffective because there was too much bureaucracy.

Broderick's and Stephan's testimonies were a treasury of bureaucratic acronyms; they used 107 of them in their opening remarks. Asked if that symbolized excessive bureaucracy, Broderick said Homeland Security had added only four acronyms to the lexicon of disaster planning.

Katrina Hearings Put New Pressure On White House (WSJ)

By Robert Block

The Wall Street Journal, February 11, 2006

WASHINGTON -- Congressional hearings on Hurricane Katrina are increasingly pointing to bureaucratic failings at the Department of Homeland Security and the White House, putting new pressure on the White House to open up its records to legislators despite objections that such a move would undercut executive privilege.

The probe is also giving momentum to efforts, inside the administration and on Capitol Hill, to overhaul the Federal Emergency Management Agency.

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"While DHS's playbook appears designed to distance headquarters as much as possible from FEMA, the department's leaders must answer for decisions they made -- or failed to make -- that contributed to the problems," Susan Collins, the Republican senator from Maine who is chairing the Senate's Katrina investigation, said at hearings Friday.

So far, the Bush administration has invoked executive privilege and refused to share with the committee any of its documents about what actions the White House took during the disaster.

But the administration's wall of silence was breached yesterday by Michael Brown, the former FEMA director, who agreed to testify before the Senate Homeland Security and Government Affairs Committee. There, he said that his agency's mission was marginalized when it was swallowed by the newly created Homeland Security agency in 2003. He said he often complained to White House officials, including White House Chief of Staff Andrew Card, about the danger of undermining FEMA but they failed to act on his warnings.

Mr. Brown, who quit under fire just days after the storm slammed into the Gulf Coast, provided the first detailed look into communications between emergency-management officials and the White House after the hurricane, and pushed blame for the disaster closer to the president.

From the immediate disastrous aftermath of the storm until now, Bush administration officials have maintained that they had been caught completely by surprise when they were told on Tuesday, Aug. 30 -- a full day after the storm hit -- that the levees protecting New Orleans had broken, allowing floodwaters to swamp the city. At the time, President Bush said, "I don't think anybody anticipated the breach of the levees."

Department of Homeland Security officials also have said that they were unaware of the failure of the levees until Tuesday morning.

"I find it a little disingenuous," Mr. Brown said. "For them to claim that we didn't have awareness of it is just baloney."

The White House hasn't responded to yesterday's testimony.

While DHS officials acknowledge that the response to the storm was unacceptable, they have heaped much of the blame for the slow response on Mr. Brown, saying he failed to provide Homeland Security Secretary Michael Chertoff with up-to-date information.

"My obligation was to the White House and to make sure the president knows what's going on, and I did that," Mr. Brown said Friday. He said this was exactly the way he functioned during previous disasters, including the four hurricanes that hit Florida in 2004. Mr. Brown said that the DHS had robbed FEMA of resources and funds. "There was a cultural clash that didn't recognize the absolute inherent science of preparing for a disaster."

The White House has commissioned its own study into the Katrina fiasco that has been headed by Homeland Security Advisor Frances Fragos Townsend. Ms. Townsend is due to present some of her findings to state emergency managers meeting near Washington Saturday. Ms. Townsend is expected to be critical of DHS policies that stripped FEMA of many of its preparedness activities.

Sen. Collins has said that, when her investigation is over, she will propose legislation aimed at improving the country's emergency response and fixing problems inside the DHS.

Mr. Chertoff, meanwhile, is expected to try to pre-empt congressional action by announcing his own reorganization of FEMA in coming weeks.

Write to Robert Block at bobby.block@wsj.com6

Stormy Dean Slams Bush: Points Finger For Katrina Deaths (BOSH)

By Kimberly Atkins

Boston Herald, February 11, 2006

Howard Dean yesterday blamed President Bush for the deaths of thousands of Hurricane Katrina victims - prompting a swift rebuke from Republicans.

Appearing in Boston before members of the New England Press Association, the failed presidential candidate sharply criticized Bush for failing to respond to the disaster.

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"Michael Brown is testifying that he had direct contact with the (president's) chief of staff - as the levees were breaking," Dean said, referring to the former FEMA head's testimony before a congressional committee yesterday. "Thousands of people died in New Orleans because the president didn't pay attention and denied that he knew about it. . . . it turns out that wasn't true."

Dean - whose controversial one-year tenure as party chairman saw some Democratic leaders calling on him to tone down his rhetoric - called the Bush administration more corrupt than Richard Nixon's.

While Nixon obstructed justice to protect the presidency, "this administration has done more than that, they have leaked military secrets at a time of war to fulfill their political agenda," Dean said.

Danny Diaz, spokesman for the Republican National Committee, dismissed Dean's criticisms. "Howard Dean's Democratic Party lacks leadership, direction or anything substantive to add to national dialogue," Diaz said. "The reality is Democrats fail to have a political strategy that resonates with the American people and so they resort to political attacks."

Dean also said the Democratic Party needs to right itself if it hopes to have a shot of winning back the Oval Office, and that starts with taking a move from the GOP playbook and organizing more effectively from the bottom up.

The road to the White House, he said, starts with grassroots organizing in local races. He praised the campaign that helped Boston City Councilor Sam Yoon make history as the first Asian-American elected to the office.

"If we ever want to win again, it is not enough to have operatives in all 50 states," he said. "It is not enough to have a voting list as good as the Republicans. We have to stand up and say who we are."

Auditors Find Huge Fraud In FEMA Aid (NYT)

By Eric Lipton

The New York Times, February 11, 2006

WASHINGTON, Feb. 10 — Thousands of applicants for federal emergency relief money after Hurricanes Katrina and Rita used duplicate or invalid Social Security numbers or bogus addresses, suggesting that the $2.3 billion program was a victim of extensive fraud, a Congressional auditor will report Monday.

The examination of the so-called Expedited Assistance program determined that the Federal Emergency Management Agency failed to take even the most basic steps to confirm the identifies of about 1.4 million people who sought expedited cash assistance, leaving the program vulnerable to the "significant fraud and abuse," the Government Accountability Office intends to report.

The auditors did not try to estimate the total dollar amount of fraudulent claims. But the report says that FEMA itself had found that 900,000 of the 2.5 million applications for all forms of individual assistance were "potential duplicates."

Even when FEMA's automated computer system picked out what might be fraudulent applications, payments were at times still sent, says the advance testimony of Gregory D. Kutz, the managing director of the G.A.O.'s forensic audits unit.

The controls were so lax that auditors were able to secure their own $2,000 relief check by using "falsified identifies, bogus addresses and fabricated disaster stories," and then simply waiting for the money to arrive in the mail, says the report for the Senate Homeland Security and Governmental Affairs Committee, a copy of which was obtained by The New York Times.

Nicol Andrews, a FEMA spokeswoman, said the agency recognized there could be fraud. But Ms. Andrews said the priority was getting aid as fast as possible to hundreds of thousands of families in dire need.

"We took a calculated risk in a catastrophic situation," she said. "It was the right thing to do. Unfortunately, some may have cheated the system."

She added that some arrests have been made. The agency is also suspending payments to people suspected of trying to cheat the system.

Still, the auditors found signs of fraud nearly everywhere:

¶Nearly half of the 11,000 individuals who received special debit cards as payment — an approach used in the immediate aftermath of the storm in Texas — got a second $2,000 payment in emergency aid.

¶Inspections of 200 properties in Texas and Louisiana listed as home addresses turned up 80 that were vacant lots or nonexistent apartments.

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¶More than half of a group of 248 other applicants had used Social Security numbers that were never issued, belonged to dead people or did not match the name provided.

In one case, auditors found 17 individuals, some with the same last name and addresses, who used 34 bogus Social Security numbers to collect more than $103,000 in payments.

Auditors found isolated instances where the electronic debit cards were used to pay for "adult entertainment," a .45-caliber handgun, jewelry or bail bond services.

FEMA Tries To Pause La. Role (BRA)

By MIKE DUNNE

Baton Rouge Advocate, February 11, 2006

Agency says state not engaged enough in long-term planning

The Federal Emergency Management Agency has told Gov. Kathleen Blanco that state and local officials need to take on more leadership in planning Louisiana's long-term recovery.

This week, FEMA put out a notice to workers that it would put on "pause" the long-term recovery planning process known as ESF-14. It is designed to spur not only recovery but to build in elements that would avert or mitigate damages from future disasters.

FEMA told workers the pause was for at least two weeks. However, officials at the Louisiana Recovery Authority, the advisory partner in the process, were stumped when they started getting calls about the "pause."

Late Friday, LRA spokeswoman Pam Laborde said the "pause is on pause." Apparently, when word reached Blanco on Friday, she called Acting FEMA Director R. David Paulison to find out what was happening.

James McIntyre, a spokesman for the FEMA Baton Rouge recovery field office, said Blanco and Paulison "came to an agreement" to continue the process but "with state and local governments taking more ownership of the process and the federal government taking more of a support role than a lead role."

Earlier in the day, FEMA spokeswoman Nicol Andrews in Washington, D.C., said the long-term recovery planning process was "paused" because of a lack of "engagement" in the state.

The process has worked well in Florida and elsewhere after disasters and is working in Mississippi, but is not working in Louisiana, Andrews said.

Later in the day, McIntyre said FEMA and state officials will meet next week to work out how the state will take more ownership. He was unsure when that might happen.

Meanwhile, Blanco and the Legislature are meeting in another special session on hurricane recovery related issues.

Laborde said the LRA has "been an active partner" with FEMA, working in 26 parishes and using 50 state employees on the effort. The LRA Foundation generated extra private funds to hire a "dream team" of planners to advise the process. Planning meetings have been going on this week in Lake Charles and are planned for next week in Abbeville.

Local plans are due to the state by the end of March and will be put into a state plan that will address housing and community development, environmental and coastal issues, human services, transportation and infrastructure and economic development.

An environmental activist who has been following the process, Darryl Malek-Wiley of the Sierra Club, said midday Friday that, "I am very disappointed this process has been put on hold."

The state helped host a series of meetings in four states on Jan. 21 to get public input on what the recovery priorities should be. Levee protection, affordable housing, jobs and better schools surfaced as the main topics.

Malek-Wiley attended one of those meetings in San Antonio where people "were very engaged. I did hear that no public attended a meeting in Shreveport."

He questioned whether sufficient effort has been put into the process to reach out and engage residents.

The people attending in San Antonio, many of them evacuees bused to the meeting from shelters, "were pleased with the discussion" and the ability to take part in the process, he said.

The ESF-14 process is important because "any future federal dollars can be directed by this plan," Malek-Wiley said.

"At one session, a FEMA representative talked about building a new 20,000-unit housing development at Lapalco Boulevard and U.S. Highway 90 (on the west bank of Jefferson Parish) and we were able to point out that area is very low," Malek-Wiley said.

He and other activists want to ensure the plan is environmentally friendly.

U.S. Should Share Oil Royalties With States -Shell (REU)

By Tom Doggett

Reuters, February 11, 2006

The U.S. government should share more of the royalties it collects from energy companies for offshore oil and natural gas drilling with the states, particularly to help rebuild hurricane-ravaged Louisiana, a top Shell Oil executive said on Friday.

Gulf Coast states that have offshore drilling collect royalties for oil and gas production in the their waters which usually extend only a few miles from shore. Any exploration beyond that is in federal waters, where the government collects royalties that go to the general treasury to pay for various programs benefiting the whole country.

Marvin Odum, who is responsible for Shell's energy exploration and production businesses in the United States and the rest of the North and South America, said he supports efforts by the Gulf Coast states and local communities to get some of the federal oil and gas revenue.

"It's certainly something that we think the government can and should push through," Odum said in a interview with Reuters.

Louisiana Gov. Kathleen Blanco said this week she wants the government to give the state 50 percent of the federal offshore royalties to help repair coastal wetlands left vulnerable to hurricanes due to oil industry development.

While Odum supports revenue sharing, he would not comment on how much federal royalties Louisiana or any other state should get or what they should spend it on.

"That's between the states and the federal government, that's what they need to work out," he said. "Whether or not Louisiana would choose to use some of that money specifically for hurricane restoration and recovery, obviously that's a great need, that would be again a government decision."

Separately, Odum said "quite a bit" of the $15 billion that Shell's parent company, Royal Dutch Shell Plc, plans to spend worldwide this year for oil and gas exploration and production will be targeted for the United States.

While that amount reflects higher drilling and exploration costs, he said there will still be money for new investment. "It's a significant increase in activity worldwide," he said.

In the United States, he said Shell will focus on drilling for new oil in the deeper waters of the Gulf of Mexico and off the Alaskan coast, and developing natural gas resources from south Texas through the Rocky Mountain region.

The company will also invest in developing the vast oil shale resources in the Western United States, which the government estimates holds more than 1 trillion barrels of oil.

Oil shale is sedimentary rock containing organic material that can be crushed and heated to produce oil. The process is a costly one, and most U.S. oil shale projects were abandoned in the early 1980s when crude prices collapsed.

However, with oil prices expected to average above $60 a barrel in the next two years, oil shale development looks profitable again.

Odum said the company will know in about five years whether developing oil shale is commercially viable.

He said the government should open more offshore and onshore areas to drilling to help reduce U.S. reliance on foreign oil imports.

Odum declined to say whether President Bush's goal of cutting U.S. Mideast oil imports by 75 percent in 2025 could be reached.

However, he said even if more areas are opened to drilling the United States will still be heavily dependent on foreign suppliers to meet its energy needs over the next two decades. "I think that's a reasonable case," he said.

Katrina's Unclaimed To Get Hometown Burial (WP)

By Peter Whoriskey

The Washington Post, February 11, 2006

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City to Take Custody of Unclaimed Storm Victims

NEW ORLEANS -- Inside a fleet of refrigerated trucks parked an hour west of here lie the bodies of more than 200 unidentified or unclaimed victims of Hurricane Katrina.

"Some, we don't know who they are," said Chuck Smith, leader of the federal mortuary effort in Carville, La. "And with some, we can't locate the families, or the families are unable to make provisions."

The question now, five months after the storm, is what to do with the dead.

The makeshift morgue, a joint federal and state effort, is scheduled to close by the end of the month. And like virtually every other challenge facing this flooded metropolis, the funeral tasks have been complicated by the vast scale of the disaster and the difficulties of coordinating local, state and federal efforts.

Initially, state authorities had selected a four-acre cemetery site in Carville, and in preparation for the burials, had graded and planted the ground. A memorial was envisioned there.

But that did not sit well with many in New Orleans who argued that a proper burial includes the sense, spiritual and geographical, of "going home." Most of the dead come from the city.

"I told them we cannot be burying New Orleanians outside of New Orleans," Mayor C. Ray Nagin said of his protests to state officials.

The mayor said he also objected to the proposed use of wooden caskets, which "over time would have disintegrated into the earth," making it difficult to relocate remains if more identifications are made later.

So now the city will take custody of the dead. The trouble is that the city, already struggling with the burdens of hurricane recovery, must now scramble to build a mausoleum for the Katrina victims.

New Orleans officials met last week with FEMA officials to discuss the city's request for financial help to build the mausoleum, which is expected to cost about $400,000. A Federal Emergency Management Agency spokesman said FEMA is prepared to reimburse the city for at least some of the mausoleum expense.

It would be built at a publicly owned cemetery here, said the city's health director, Kevin Stephens, and made of some appropriate material, such as granite. The bodies will be held in metal caskets, and if one of the unidentified bodies within the mausoleum is later identified, it can easily be removed and placed elsewhere for burial.

The city is also working with a corporate donor who may contribute nearly $1 million to a memorial for the victims, Nagin said.

While the mausoleum is being planned and built, the bodies will be in the custody of a mortuary company that the city is choosing, Stephens said.

Katrina's dead have proved a large-scale logistical challenge. State officials, working with local coroners, have recovered 1,103 bodies.

Of those, 97 are still unidentified, and a large portion of those will be difficult to identify, state officials said, because investigators lack not only personal effects but also the locations where the bodies were recovered. Without those initial clues, it is difficult to know from whom to seek DNA samples to match the body with a family.

DNA has been used to make identifications in some cases, but the vast majority of bodies have been identified using more conventional techniques, with workers searching through flooded New Orleans dentists' offices and poring over soggy dental records.

"We're down to those we have no idea on," Smith said. "The ones that only DNA will get."

Once the bodies are identified, moreover, there is no guarantee that they can be released.

As of Friday, 106 bodies had been identified but remained on the trucks either because the families could not be located or because the families, who are scattered across the country, did not have the means to arrange a funeral.

"So many people have been completely displaced," said Bob Johannessen, a state spokesman. "A family that winds up in Buffalo, New York, may not have the wherewithal to claim a body and conduct a burial."

An array of complications has slowed the process of releasing and burying the bodies.

In four or five cases, the next of kin is mentally impaired. In 20 or more cases, the families are working with FEMA to receive money for burials. In others, the grief-stricken families are simply letting the government handle arrangements.

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"There are some who say just let the state take care of it," said Randy Lemoine, director of the call center where identifications are being coordinated. "We're talking about very poor families. Some are dragging their feet to see how the state will handle the process.

"Other families are still dealing with their own grief," he said. "They are struggling to get their personal affairs in order. It's heart-rending to hear their stories."

The mortuary team's task goes well beyond those killed by this year's hurricanes, too. An estimated 1,300 dead were displaced when caskets laid to rest long before the storm were swept away by floodwaters, officials said. One coffin in Cameron Parish was carried more than 33 miles by Hurricane Rita's storm surge. It was found beneath a highway overpass.

In this city, whose cemeteries and jazz funerals are a distinctive regional custom, the focus is on returning Katrina's victims.

"There is something about being buried in the place you lived and coming home," said Stephens, the city health director. "We need to bring closure. We really do need to bring closure."

WAR NEWS:

Iran "Making Mistake" With Iraq Meddling: Rumsfeld (REU-Y2)

By Will Dunham

Reuters, February 11, 2006

Defense Secretary Donald Rumsfeld, days after calling Iran the world's top state sponsor of terrorism, ratcheted up the pressure on Tehran on Friday with fresh accusations of interference in Iraq.

Rumsfeld, in Taormina, Sicily, for a meeting of NATO defense ministers, used an appearance in Europe for the second time in a week to talk tough over Iran, which the United States and European Union fear is covertly developing nuclear weapons.

Asked during a news conference about U.S. assertions that Iran, as well as Syria, supports insurgents in Iraq, Rumsfeld said: "We have undertaken a series of initiatives to try to persuade them that their behavior is harmful to a new Iraqi government and indeed harmful to the region. Thus far we've not been successful."

"I think they're making a mistake," Rumsfeld said, "although I can certainly understand that from their standpoint having a free and sovereign and democratic Iraq on their borders probably is not terribly encouraging to their type of government. So I can understand their resistance to that."

Rumsfeld did not make specific allegations of misconduct by either Iran or Syria relating to Iraq. In the past, U.S. officials have accused heavily Shi'ite Muslim Iran of encouraging radicalism among Iraq's majority Shi'ites and of allowing dangerous weaponry to pass into Iraq.

Iran's President Mahmoud Ahmadinejad has said such accusations are unfounded.

U.S. officials have also accused Syria of allowing foreign fighters and financing to flow across its border into Iraq. Syria says it is doing what it can and says Iraq and the United States have failed to control their own side of the border.

The United States has about 139,000 troops in Iraq fighting a tenacious insurgency nearly three years into the war.

IRAN NUCLEAR AMBITIONS DISCUSSED

Rumsfeld said that during a private meeting with Russian Defense Minister Sergei Ivanov in Taormina, the subject of Iran's nuclear ambitions came up, but refused to elaborate.

"I'm not going to get into substance of my conversation. It was a private meeting," Rumsfeld said.

At an annual security conference in Munich last Saturday, Rumsfeld accused Iran of being the world's "leading state sponsor of terrorism," a charge Iran swiftly rejected.

Iran has announced it would resume enrichment of nuclear fuel after the governing board of the International Atomic Energy Agency voted last weekend to report Iran to the U.N. Security Council over its nuclear program.

Iran insists its nuclear program is aimed at generating electricity, but the United States and European countries have said it is seeking to build an atomic arsenal.

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On the issue of Iran, British Defense Secretary John Reid said the resolve of Western powers should not be underestimated. "We must never, ever be in the position where ... we would never be prepared to stand up for what we believe in," Reid told a separate news conference.

Bush - Annan Meet At White House (UPI)

By ROLAND FLAMINI

United Press International, February 11, 2006

WASHINGTON, Feb. 10 (UPI) -- Kofi Annan's meeting with President George Bush on Monday represents the U.N. Secretary-General's return to Washington's good graces after the squabbles of the Iraq war, which Annan once declared illegal. His last White House visit was exactly two years ago. Since then, however, the Bush administration has mellowed towards the Secretary-General and enlisted U.N. help in re-shaping post-war Iraq, up to and including the December parliamentary elections.

Iraq will be high on Annan's talks agenda, notably the planned National Accord Conference, which the Arab League and the United Nations are "helping" the Iraqis to plan and convene. The purpose of the conference, which a senior U.S. official said could be held as early as March and will strive to include all Iraqi political parties and major institutions, is aimed at finalizing the emergence of the democratization of Iraq. A recent statement by the Arab League said the conference will confirm, "the unity, independence, and sovereignty of Iraq."

The same Arab League statement said the conference is also expected to call for the withdrawal of coalition forces, once Iraq's armed forces and police are able to handle the country's security situation. The senior American official said the call for a pullout was acceptable to Washington as long as no deadline was specified because, "The United States is against setting a time-table."

The Bush administration hopes the conference will help with its exit strategy; but with the United States not officially a participant in the discussions, the White House will once again turn to the U.N. to help to push the proceedings in the desired direction.

The violence across the Islamic world over the cartoons lampooning Mohammed is another item that has thrust itself into the bi-lateral agenda. Annan wants to launch a reconciliation campaign through the newly formed U.N. Alliance of Civilizations, run jointly by Spain and Turkey and designed to find solutions to just such cultural conflicts between the West and Islam.

Iran's insistence on enriching its own uranium in defiance of international opposition will also come up, if for no other reason than that it is a rare occasion when the United States, the European Union and the United Nations are walking in step. The ball will shortly be in Annan's court when the International Atomic Energy Agency, the U.N.'s nuclear watchdog, reports Iran to the U.N. Security Council for action.

Africa is another talking point for Annan, according to a U.N. source, particularly the Secretary-General's effort to persuade NATO, including the United States, to join a planned U.N. peacekeeping force that may take over from the African Union's troops in western Sudan's conflict-torn Darfur region.

The issue of reforming the world organization has dominated the U.N. for the past year, with the United States in the person of its pugnacious representative John Bolton taking the lead in pushing for change in several key areas, and many suspicious Third World countries resisting it as a form of growing American influence (the Bush administration says, why not? the United States foots a third of the U.N. bill). For example, a Human Rights Council is expected to replace the Geneva-based Human Rights Commission, but many member countries are resisting Washington's insistence that only countries with a good human rights record should be eligible for membership of the new body.

In a sense, the meeting brings together two lame ducks, both working against a countdown to leave their mark. Annan's second (and last) term as Secretary-General ends in Jan 2007, and Bush has barely 33 months left in office, but more important can't be re-elected. Annan is rendered lamer by the fallout from the multi-million dollar Oil for Food scandal, in which his son Kojo was implicated by an independent inquiry. At the very least the Secretary-General himself is criticized for not keeping a tighter rein on the program, which involved selling Iraqi oil and using the money to buy food and medicine for the Iraqis while the country was under U.N. sanctions.

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The Oil for Food program is not likely to come up directly, but it will be "in the room" when the president and Annan discuss U.S. proposals for management and oversight of the world body.

The issue of Annan's successor is not expected to come up either, according to the U.N. source. But a recent remark by Bolton that the United States does not regard as carved in stone the system of choosing the Secretary-General on the basis of a regional rotation has thrown an additional element of doubt into already complex and opaque selection process. Under the time-honored regional system, the new head of the U.N. should be from Asia. The Bush administration is said to favor an Eastern European candidate as a tribute to "New Europe's" support in the Iraq war. The White House favorite is former Polish president Aleksander Kwasniewski.

General Says Training Of Iraqi Troops Suffered From Poor Planning And Staffing (NYT)

By Thom Shanker

The New York Times, February 11, 2006

WASHINGTON, Feb. 10 — The American general in charge of training the new Iraqi military after Baghdad fell says the Bush administration's strategy to use those forces to replace departing American troops was hobbled from its belated start by poor prewar planning and insufficient staffing and equipment.

The account by Maj. Gen. Paul D. Eaton, who retired on Jan. 1 after 33 years in the Army, suggests that commanders in Iraq might by now have been much closer to President Bush's goal of withdrawing American forces if they had not lost so much time in the first year to begin building a capable Iraqi force.

General Eaton's views, drawn from an essay he is preparing for publication and from interviews in which he broke a long silence on the topic, were broadly affirmed by Pentagon and other civilian officials involved at the time. They agreed that the mission had also been slowed by conflicting visions from senior Pentagon and administration officials, civilian administrators in Baghdad and the former top commander of the military's Central Command, which carried out the invasion.

While he criticized others for decisions that led to what he called a false start, General Eaton accepted responsibility for the most visible setback in the training, when a battalion of the new Iraqi Army dissolved in April 2004 as it was sent into its first major battle. The Pentagon sent Lt. Gen. David H. Petraeus, who had commanded the 101st Airborne Division during the invasion and early occupation, to review the program and then to take over the training mission after General Eaton completed his yearlong tour.

"Paul Eaton and his team did an extraordinary amount for the Iraqi Security Force mission," said General Petraeus, now commander of the Army's Combined Arms Center at Fort Leavenworth, Kan. "They established a solid foundation on which we were able to build as the effort was expanded very substantially and resourced at a much higher level."

General Eaton was commander of all Army infantry training at Fort Benning, Ga., when he was told on May 9, 2003 — just over a week after President Bush's "mission accomplished" speech — to hurry to Baghdad, where he was to set up and then command an organization to rebuild Iraq's military.

"I was very surprised to receive a mission so vital to our exit strategy so late," the general said. "I would have expected this to have been done well before troops crossed the line of departure. That was my first reaction: 'We're a little late here.' "

Pentagon officials initially told him that rebuilding the army was their fifth priority for Iraqi security forces, falling behind the civil defense corps, the police, border forces and guards for government buildings, power plants and oil lines.

L. Paul Bremer III, chief of the occupation government, insisted that police training not fall under the military, but under his civil administration. Gen. Tommy R. Franks, who planned and carried out the invasion of Iraq, made sure that retraining and managing the Iraqi armed forces would not burden his war-fighting headquarters at Central Command, and insisted that the task be managed by a separate unit with its own staff and budget, General Eaton said.

Some major allies, alienated by American policies, also refused to contribute experienced military personnel, General Eaton said. In particular, Germany and France, which have taken part in rebuilding Afghanistan's military after the war in that country, declined to assist in Iraq to show their disagreement with the invasion.

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"We set out to man, train and equip an army for a country of 25 million — with six men," General Eaton said. He worked into the autumn with "a revolving door of individual loaned talent that would spend between two weeks and two months," he said, and never received even half the 250 professional staff members he had been promised.

The general's broad assessment of the problems he confronted was seconded by Walter B. Slocombe, sent by the Bush administration to Baghdad for six months to serve as the senior civilian adviser on national security and defense.

Mr. Slocombe, an under secretary of defense in the Clinton administration, said: "I have to agree with General Eaton, that it was hard to get the resources we needed out there. There was not a broad enough sense of urgency in Washington."

General Eaton said his small staff "thought we were going to build an army in a benign environment, that we were going to be able to incubate this army." The rise of a tenacious insurgency ultimately killed that hope, but at the start of his tour, the main problem was not the insurgency, which had not yet emerged in full force; it was the chaos that followed the invasion.

He arrived as looting swept Iraq, causing a bitter debate in Washington that focused on whether more American troops should have been committed to the occupation. He had to rebuild bases and barracks that had been stripped bare by looters.

Although the Iraqi Army had dissolved during the American-led invasion, the decision by Mr. Bremer and the Pentagon not to preserve or recall any complete Iraqi units meant the training task was bigger than expected.

It also left General Eaton without any Iraqi noncommissioned officers. Training an army without noncommissioned officers to serve as drill sergeants is like pitching a tent without poles.

He also found that a civilian contractor hired to conduct training would be incapable of imparting military skills and discipline — what he called "soldierization."

In a Sept. 5, 2003, briefing in Baghdad for Defense Secretary Donald H. Rumsfeld, General Eaton proposed speeding up the program by sending former Iraqi Army officers for training at a base in Jordan, and setting up a separate academy in Iraq for training noncommissioned officers. Mr. Rumsfeld approved the plan.

Scrounging the most basic equipment for the new Iraqi military was another problem. "We were told to find anything we needed for the soldiers — boots, canteens, rucksacks, belts, beds, blankets," General Eaton said. "We were directed to pull it from Iraqi sources where possible."

He said the most important accomplishments that first year were organizing the command structure, beginning construction of military bases across Iraq, setting up officer training in Jordan and the noncommissioned officer academy, and attracting troop contributions from nine nations.

But problems with the nascent security force became painfully clear when the first battalion of the new Iraqi Army ordered to fight insurgents ran away in April 2004 as it was being sent to Falluja to fight alongside allied forces against an uprising in the restive Sunni triangle west of Baghdad.

"The only serious mistake I committed was that I did not stop the employment of the Second Battalion in Falluja," General Eaton said. "This battalion had been originally recruited to defend Iraq from external enemies. And as they attempted to move over land to Falluja, they ran into a Shiite mob that fired into the trucks and cajoled these young Iraqi men for fighting with the occupier against their own citizens."

He said the Iraqis the Americans had selected "failed their leadership; they failed in contact."

Iraqis Certify Election Results On A Day Of More Violence (NYT)

By Sabrina Tavernise

The New York Times, February 11, 2006

BAGHDAD, Iraq, Feb. 10 — Iraqi officials certified the results of parliamentary elections on Friday, setting the country on a timeline for forming a new, permanent government, while the kidnappers of an American journalist issued a new deadline for killing her if their demands were not met.

The certification of the election began a series of deadlines that requires political leaders to choose a president, a prime minister and a cabinet within two months. But the negotiations are likely to be contentious, and few here expect them to be completed according to the timetable. It took three months for Iraqis to form an interim government last spring.

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The final election results, announced at a news conference in Baghdad, were unchanged from preliminary ones announced in January, in which an alliance of Shiite parties won the single largest portion in the 275-seat Parliament. Election officials said more than half of the total of 11.9 million voters on Dec. 15 were women, reflecting Iraq's demographic composition.

Al Rai, a satellite television station in Kuwait, reported that the captors of the American journalist Jill Carroll had set a Feb. 26 deadline to kill her. The station said Ms. Carroll was being held with a group of women in a house owned by one of the kidnappers in Baghdad. In a telephone interview from Kuwait, Jassem Boudai, the station's owner, said people who identified themselves as being close to the kidnappers had contacted the station and said they were now asking for the release of just one Iraqi woman from prison in exchange for Ms. Carroll. Before, they had demanded the release of all women in prison. Ms. Carroll has appeared in three videotapes since her Jan. 7 capture in western Baghdad.

The people who contacted the station claimed the kidnappers were part of the same group that took two Italian aid workers in September 2004, Mr. Boudai said. He said that a letter from Ms. Carroll had been received and that the station had delivered it to the authorities. The station also reported that the kidnappers claimed they had not killed Ms. Carroll's interpreter, Allan Enwiyah, who was shot dead at the scene of the kidnapping. It is not clear whether the group holding Ms. Carroll is the same one that abducted her.

Iraq was torn by fresh sectarian violence on Friday. A car bomb tore through a Sunni Arab mosque in southern Baghdad, killing at least 8 Sunni worshipers and wounding 22, an Interior Ministry official said. The blast spewed shrapnel into a crowd of worshipers around 1 p.m., said the official, who asked that his name not be used, as he was not authorized to speak publicly. The attack was unusual, in that it struck at a Sunni Arab target. Most large, lethal bombings have been aimed at Shiites.

Iraqi political leaders have 15 days to gather for the first session of Parliament, in which lawmakers will nominate a speaker and two deputies, and within another 15 days will choose a president. At the same session, the president will ask the largest holder of seats — the Shiites — for their choice for prime minister. The nominee will have 30 days to form a cabinet. The largest Shiite bloc is expected to announce its choice on Saturday.

Officials spent nearly two months counting the votes, even inviting an international team of experts to review allegations of fraud. But the extra time seemed to have paid off: Sunni Arabs, who staged protests after the election against what they said was evidence of fraud, gradually came to accept the results.

Sunni Arabs, thought to make up about 20 percent of Iraq's population, often say they are far more. But the vote, which drew broad participation from Sunnis, won them 21 percent of the seats in Parliament. "Everybody has moved on now," said Ashraf Jehangir Qazi, the United Nations envoy to Iraq. "But people by and large have accepted the results."

In other sectarian violence, gunmen kidnapped a Sunni Arab cleric, Adel Khalil Dawood al-Azzawi, the former imam of the Nuiami mosque, from his house on Thursday night, the ministry official said. On Friday, the American military announced the death of two marines, whose vehicle hit a homemade bomb near the western city of Falluja on Thursday.

Iraq's Shiites Near Pick For Prime Minister (WP)

By Nelson Hernandez

The Washington Post, February 11, 2006

Main Alliance Divided Between Incumbent Jafari and Deputy President Mahdi

BAGHDAD, Feb. 10 -- The Shiite religious coalition that won the most seats in December's parliamentary elections could announce its choice for prime minister as soon as Saturday, politicians said Friday, as Iraq's electoral commission released certified results of the vote.

The results, which are final, did not change the expectation that the next prime minister will come from the ranks of the United Iraqi Alliance, a coalition of Shiite religious parties, which won 128 out of 275 seats in the Dec. 15 elections. Two candidates from the coalition have taken center stage: Ibrahim Jafari, the current prime minister, and Adel Abdul Mahdi, a secular economist who is one of Iraq's two deputy presidents.

The alliance is divided, however, among its member parties over which man to put forward, Shiite politicians said. Jafari's support comes from his Dawa party and followers of Moqtada Sadr, a popular cleric. Abdul Mahdi's primary backer is his own

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party, the powerful Supreme Council for Islamic Revolution in Iraq. It is still unclear which way a number of smaller parties in the coalition will swing.

"We will try to decide who is the candidate by consensus," said Bahaa Araji, a member of Sadr's group. "If not, the alliance will appeal to voting tomorrow. It seems that Dr. Jafari is most likely getting the post."

Noting that each candidate thinks he is the best choice, Araji said, "This is what makes it difficult now to achieve the consensus."

Though Jafari might have a slight advantage within the alliance, his nomination would likely receive a cool reception among Iraq's other religious and ethnic groups. The Kurdish coalition, which won 53 seats, has often squabbled with Jafari over the issue of who will control the oil-rich northern city of Kirkuk. The leading Sunni Arab coalition, which won 44 seats, fears Jafari's religious bent and his party's ties to Iran, a Shiite theocracy.

"We don't have much influence over who they are going to choose for the post of prime minister," said Naseer Ani, a member of the Sunni coalition. "Mr. Jafari was and still is prime minister, but as we and others have seen, his government's performance was a failure in many respects: in security, services and so on. This we believe will affect his chances to be chosen again for the post if the matter reaches the stage of voting inside the alliance."

The Shiite leadership is hoping to avoid an internal battle over the nominee. In a sermon Friday at the Imam Ali mosque in Najaf, Sheik Sadr Udeen Qabanchi told worshipers that Shiite factions "must shape up to run the political process effectively without causing embarrassment to the religious authorities."

Once the new parliament convenes, which is required within two weeks now that the election results have been certified, its first order of business will be to choose a three-member presidency council, which then will put forward nominees for prime minister and other leadership positions. But the strongest parties typically negotiate in advance who will fill each post, and the Shiites' announcement of their pick for prime minister will open the way for choosing nominees for posts such as president, defense minister, interior minister and oil minister.

On Friday, the U.S. ambassador to Iraq repeated his hope that the new government would include Shiite, Sunni Arab, Kurdish and secular representatives.

"We hope that this will be a government based on national unity, formed without regard to sectarianism, committed to peace and with capable ministers who place loyalty to Iraq above that of loyalty to faction," Zalmay Khalilzad, the U.S. ambassador to Iraq, said in a statement. "These ministers should be dedicated to the defense of Iraqi democracy, not to party militias."

The gravity of the situation here was driven home once more by violence. Two Marines died of their wounds after their patrol in Fallujah, about 35 miles west of Baghdad, was hit by a roadside bomb Thursday, U.S. military authorities said in a statement Friday.

In Baghdad's Dora neighborhood, a car bomb exploded near a Sunni mosque Friday, killing at least eight people and wounding more than 20, police and witnesses at the scene said. Capt. Salam Ghadban, a spokesman for the Baghdad police, confirmed the number of casualties.

Witnesses said a parked car loaded with explosives was remotely detonated near the main gate of the Iskan al-Shaabi mosque in Dora, one of Baghdad's most violent districts.

"While I was about to leave the mosque, the explosion happened. We were panicked. I ran out immediately. I saw people shouting and crying. One man was crawling because he lost one leg," said Ihsan Ali, 28, as he stood near the wreckage of his car.

Another roadside bomb exploded in the Ghazaliya neighborhood, in western Baghdad, Ghadban said. Five Iraqi army soldiers were killed and two civilians were wounded, he said.

Correspondent Jonathan Finer and special correspondents Omar Fekeiki, Bassam Sebti and K.I. Ibrahim in Baghdad and Saad Sarhan in Najaf contributed to this report.

Shiite Coalition Struggles To Agree On A Prime Minister (KRT)

By Nancy A. Youssef

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Knight Ridder, February 11, 2006

BAGHDAD, Iraq - Iraq's leading Shiite Muslim political group showed signs of fracturing this week as it debated whether to choose a secular Shiite or a more religious leader to be the country's prime minister.

The next prime minister will play a crucial role in deciding how the new government tackles the largely Sunni Muslim insurgency, sectarian strife and the economic woes that plague the country. U.S. officials are hoping that Iraq's first permanent government since the fall of Saddam Hussein's dictatorship can stabilize the country, avert a civil war and allow American and other foreign troops to leave.

Members of the Shiite-dominated United Iraqi Alliance slate, which won 128 of the 275 seats in parliament, have narrowed their choice to two candidates, interim Prime Minister Ibrahim al-Jaafari, who has the backing of the slate's more religious voters, and Vice President Adil Abdel Mahdi, who's more secular.

The slate plans to make its choice Saturday, and that person will seek approval from the full National Assembly. Because the United Iraqi Alliance holds so many seats, its choice is likely to become the prime minister.

The race between al-Jaafari and Mahdi is a tough one. The United Iraqi Alliance, which is made up of four parties, is evenly split and has spent the last week wrangling over how to choose a candidate. The margin of victory could be as little as one vote, said Nasir al-Saadi, a member of the slate.

Choosing al-Jaafari would satisfy much of the United Iraqi Alliance's base, which wants the government to pursue a more Islamist agenda. The supporters of rebel Shiite cleric Muqtada al-Sadr, who represent nearly half of Baghdad, support al-Jaafari.

But the slate has promised to form a consensus government that all the country's sects embrace, including Sunni Arabs and Kurds. During his one-year tenure, al-Jaafari has angered the country's minority Sunnis, who charge that Iraq's predominantly Shiite military and security forces have targeted them for imprisonment and execution under his leadership.

Some Kurds say they support Mahdi and have been frustrated by al-Jaafari's strained relationship with Iraqi President Jalal Talabani, a Kurd. They also say al-Jaafari didn't do enough to meet Kurdish demands on key issues such as continued autonomy in their northern region.

"The elite look at Mahdi as someone who will build a modern government because of his enlightened thoughts. But Jaafari is much closer to the Shiite Islamic religious leadership," said Hazim Abdel Hamid al-Nuaimi, a professor of politics at al-Mustansiriya University. "Mahdi represents reform. And Jaafari represents the conservative line."

The United Iraqi Alliance members who oppose Mahdi say they were elected to install a more Islamic government, not a more secular one. And many in the slate are happy with the advances that Shiites have made in al-Jaafari's government.

The United Iraqi Alliance members never wanted to vote on their candidate, hoping that they could agree on a leader. They fear that the next prime minister may win support from only half the slate's members, but they reluctantly agreed to the vote because they worry that their lengthy debate is eroding the public's confidence, said Abbas al-Bayati, a member of the slate.

Government leaders conceded that the public had expected a list of candidates for prime minister by now, eight weeks after the Dec. 15 election. With so many Iraqis pinning their hopes on the new governing body, it's important they see efficiency, leaders said.

"Of course this delay is not in the interest of Iraq," said Faraj al-Haidari, a National Assembly member who represents a Kurdish slate. "It will disappoint the street. And all ministries now are on hold. They cannot make decisions to improve the daily life of Iraqis."

Without a candidate, the parties have had a difficult time choosing the rest of the government. Some candidates for key posts said they couldn't decide until they knew what kind of leader Iraq would have.

The prime minister "will define the platform," said Mithal Alusi, a candidate to lead the Ministry of Defense, who's said he won't consider the post until the slate spells out its agenda.

Knight Ridder Newspapers special correspondents Zaineb Obeid, Ahmed Mukhtar and Huda Ahmed contributed to this report from Baghdad.

Shi'ites To Choose Premier Nominee (WT)

By Sharon Behn

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The Washington Times, February 11, 2006

Iraq's majority Shi'ite coalition is to announce its nominee for the powerful post of prime minister this weekend, as certified election results released yesterday confirmed the Shi'ites' overwhelming victory at the polls.

Iraqi officials and U.S. sources said yesterday the nomination was likely to go to either Vice President Adil Abdul Mahdi of the powerful pro-Iranian Supreme Council for the Islamic Revolution in Iraq (SCIRI) or Prime Minister Ibrahim al-Jaafari of the Islamic Dawa party.

"Tomorrow we will see who will be prime minister," Karim al-Musawi, SCIRI's Washington-based spokesman said yesterday. He deemed Mr. Mahdi's chances of getting the top post as very good.

The formation of a new government -- which promises to be a much-stormier process -- will take place within the next "six to eight weeks," Mr. al-Musawi said.

U.S. Ambassador to Iraq Zalmay Khalilzad welcomed the results and called for "a government based on national unity, formed without regard to sectarianism, committed to peace and with capable ministers who place loyalty to Iraq above that of loyalty to faction."

The announcements did nothing to stem the daily sectarian violence in Iraq, as a car bomb exploded outside a Sunni mosque in Baghdad's Dora district, killing nine persons and wounding dozens.

The U.S. military announced that two Marines were killed the previous day by a roadside bomb near Fallujah, 40 miles west of Baghdad.

The Independent Electoral Commission of Iraq announced the certified results of the Dec. 15 vote after a protracted appeals process amid accusations of fraud and ballot-box stuffing.

According to the final tally, the Shi'ite United Iraqi Alliance won 128 seats; the Kurdish alliance got 53 seats; the Sunni Iraqi Accord Front won 44 seats; the secular list headed by former Prime Minister Iyad Allawi won 25 seats; the Sunni Iraqi Front for National Dialogue won 11 seats; the Kurdistan Islamic Union got five seats; and a smattering of smaller parties won nine seats.

The nomination of a prime minister is partly the result of pressure by American and British officials to move forward on the election results. Unofficial final results were released on Jan. 20.

"What we will probably see is the announcement of a [Shi'ite] alliance candidate, Adil Abdul Mahdi of SCIRI or Mr. al-Jaafari," said Jonathan Morrow of the Washington-based U.S. Institute of Peace.

According to Iraq's constitution, President Jalal Talabani must convene the new 275-seat parliament within two weeks of election certification.

In the next 90 days, parliament will elect a three-person presidency council, which, in turn, will appoint a prime minister. The prime minister then names a Cabinet, which must be confirmed by parliament.

In reality, close observers of the process say, there will be a lot of closed-door negotiations, and only when the whole package is decided will any announcements be made.

"Nothing will be agreed until it is all agreed," said Mr. Morrow, who is often in Iraq as a legal consultant to the constitutional process. Major horse-trading is expected among Sunni, Kurd and Shi'ite factions concerning key ministries.

SCIRI officials say senior ministry posts -- such as interior -- will remain in Shi'ite hands, while junior ministries would be parceled out among the minority Kurds and Sunnis.

U.S. officials see a new government as a prerequisite to quelling the Sunni-backed insurgency.

But Mr. Morrow cautioned that the deep Sunni antagonism to the new government of Iraq will not be resolved simply by seeing the people they voted for holding ministerial posts.

"Their anxiety is more deep-seated," he said. "It is based on the construction of the Iraqi state and on Sunni Arabs not getting their share of the oil revenues."

A SCIRI official, speaking on the condition of anonymity, agreed that tough negotiations are ahead. "The ministerial position distribution will be OK, but federalism and oil -- these are the obstacles in the road," he said in a telephone interview.

In Iraq, Carnage Amid Conciliation (LAT)

By Richard Boudreaux, Times Staff Writer

The Los Angeles Times, February 11, 2006

Nine die in bombing and shooting at a Sunni mosque. The Dec. 15 vote is certified and sectarian leaders ease confrontational stances.

BAGHDAD — A bomb exploded in a car parked 10 yards from a Sunni Muslim mosque Friday, killing eight worshipers in Iraq's deadliest attack during a week otherwise marked by conciliatory words between leaders of feuding religious sects.

The midday blast hit people leaving Iskan Shaabi Mosque after the main weekly prayer service in Baghdad's Dora neighborhood. Witnesses said bodies flew through the air and nearby cars went up in flames, sending smoke through the mosque's shattered windows. At least 22 people were wounded.

No group claimed responsibility. A Sunni Arab political party blamed foreign elements of the Sunni-led insurgency, which reportedly has been divided over whether to continue targeting civilians in its campaign against U.S. forces and Iraq's Shiite Muslim-led government.

Two Marines died after their patrol hit a roadside bomb Thursday near the embattled city of Fallouja, 35 miles west of Baghdad, the U.S. military announced.

Iraq's electoral commission certified final results for the Dec. 15 elections, setting the stage for U.S.-backed talks aimed at bringing minority Sunnis into a broad-based government and undercutting the insurgency.

In the run-up to the talks, Shiite and Sunni leaders have tempered their words and insurgents have diminished the scale of violence.

Shiites marked their most important religious holiday Thursday without suffering an insurgent attack such as the bombings that had marred it the previous two years.

During Friday prayers at Baghdad's Umm Qura Mosque, normally a font of hard-line Sunni rhetoric, Sheik Ali Sanad offered rare words of affection for Imam Hussein, the Shiite figure commemorated in Thursday's Ashura festivities. Sanad called on Sunnis and Shiites to honor Hussein's legacy by "stopping the bloodshed in Iraq … through honest dialogue."

The gesture echoed a call Wednesday by the largest Shiite party's leader, Abdelaziz Hakim, for greater respect for human rights by Iraq's Shiite-led police forces, whose alleged violent raids, arbitrary detentions and summary executions have enraged Sunnis.

One such incident blamed on police occurred in Baghdad late Thursday. Adel Khalil Dawoud, a Sunni cleric, was dragged from his home by at least 15 men in the uniform of the Interior Ministry's special forces, the cleric's brother said.

Dawoud had fled to Jordan to avoid sectarian attacks and recently returned. The Interior Ministry called the incident a kidnapping and denied that its forces were involved.

Citing such alleged police abuse, Sunni political leaders have demanded the removal of Interior Minister Bayan Jabr as a condition for joining the government. Jabr has incorporated members of his Badr Brigade, the sectarian militia of Hakim's Shiite party, into the ministry's police.

U.S. Ambassador Zalmay Khalilzad appeared to endorse the Sunni demand in a statement Friday, saying Cabinet ministers in the new government "should be dedicated to the defense of Iraqi democracy, not to party militias."

The mosque bombing did not fit the recent pattern of Shiite violence against Sunnis. Car bombs are a hallmark of Sunni guerrillas, aimed mainly at U.S. troops and Iraqi government targets and rarely used to kill civilians or blow up mosques.

But fighting has been reported in recent months between the foreign-led fighters of Al Qaeda in Iraq and their erstwhile home-grown allies. Gunmen have attacked Sunni tribal and religious leaders who broke with Al Qaeda to support the entry of the Iraqi Islamic Party and other Sunni groups in the December elections.

Ammar Wajuih, a spokesman for the Iraqi Islamic Party, said Friday's attack was "evidence that terrorists from outside the country … are trying to ignite sectarian violence among Iraqi people who want to live peacefully."

"We condemn this attack, just as we condemn attacks on Shiite mosques," he added.

Associated Press said one of its photographers saw several masked gunmen shouting "God is great!" drive up to the mosque an hour after the blast and fire into a crowd outside. A woman was killed, bringing the death toll to nine.

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The election results announced Friday did not alter uncertified returns released three weeks ago that gave the main Shiite alliance and its Kurdish coalition partners 181 of parliament's 275 seats, just short of the two-thirds majority required to form a government.

Two Sunni blocs got 55 seats. Talks aimed at drawing them and smaller parties into the government are expected to start as soon as the Shiite alliance, which is entitled to nominate the prime minister, settles an internal fight.

Vice President Adel Abdul Mehdi, whose secular outlook makes him more acceptable to Sunnis and other opposition groups, is challenging Ibrahim Jafari, the religious scholar now serving as prime minister.

Unless a decision is made by consensus, Shiite leaders say, their alliance's 128 members of parliament will vote as early as today.

"It's close," said Nasser Saadi, a member of the alliance. "If there's a difference, it's not more than one or two votes."

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Times staff writers Suhail Ahmad, Caesar Ahmed, Shamil Aziz, Saif Rasheed and Raheem Salman contributed to this report.

Neighborhood Peace A Casualty Of War (WP)

By Jonathan Finer

The Washington Post, February 11, 2006

As Battle Breaches Baghdad Haven, Shiites and Sunnis Unite

BAGHDAD -- To generations of its residents, the tightknit neighborhood known as Tobji was among this city's rare oases. People argued amiably in sidewalk cafes kept open until nearly midnight. Shiite and Sunni Muslims married into each other's families and lived side-by-side. Until recently, Iraq's police and army, with more than enough trouble spots to worry about, rarely came around.

It was a neighborhood, residents said, that lived up to its formal name, Salam, which means peace. But in volatile Baghdad, home to more than 5 million people, even stable sections sit a few stray shots from chaos. It took scarcely two months for the sectarian conflict consuming other corners of the capital to gain a foothold in Tobji.

It began, residents say, one November day when gunmen killed Majid Abdul Hussein, a local preacher and member of a powerful Shiite militia. Days later, a former member of Saddam Hussein's Sunni-led Baath Party was gunned down in broad daylight. Before locals realized it, they said, theirs had become yet another fractured community, a place nearly silent after dark save for the crackle of gunfire.

Then, on Jan. 23, men in camouflage uniforms rounded up 53 Tobji residents, nearly all of them Sunnis, in pre-dawn raids. Two people were killed. Other than two old men who were released days later, none of those taken have been heard from since.

Locals said the uniforms the gunmen wore and the vehicles they drove identified them as Interior Ministry police commandos, whose ranks are dominated by former members of Shiite factional militias. Since Iraq's Shiite majority first gained political power in elections a year ago, raids like the one in Tobji have taken place in neighborhoods in Baghdad and other Iraqi cities. They always target Sunni men, and witnesses always implicate the police.

Iraqi officials have denied any government role in the raids, blaming groups intent on destabilizing the country.

"It happens too often that people impersonate government forces, impersonate police," said Baghdad's governor, Hussein Taha, who oversees his province's police force. "When the terrorists feel chased in one area, they transfer to another and carry out operations there randomly, even if it affects civilians. That is what happened to Tobji."

Asked how many Tobji residents have died violently in recent months, Mariam Nouri, 27, whose family came to the neighborhood more than 50 years ago, counted them by name.

"There's Hussein, Firas, Abbas, Osama, Uday," said Nouri, a Sunni, whose brother, father and uncle were dragged from her home during the recent raid. Hardly pausing for breath, she ticked off 11 of the dead from memory. "It might be more like 15," she said. "There are some I've forgotten."

Sunni leaders have responded to the raids in Tobji, northwest of downtown, and in other Baghdad neighborhoods by calling on residents to defend themselves. Adnan Dulaimi, a prominent Sunni Arab politician, called for further unrest unless the

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country's next government puts police beyond the control of Shiite militias. The Iraqi Accordance Front, the country's dominant Sunni political group, warned Wednesday of "nationwide civil disobedience" unless what it termed "haphazard raids" were halted.

Observers in the capital say the destructive cycle of raids, denunciations and retaliatory violence represents the first tentative steps toward a wider sectarian conflict spreading like a virus from community to community.

"It started in Iskan, then Sadiya and Ghazaliya," said Abbas Lafta, 35, a Shiite resident of Tobji, citing once-tranquil Baghdad enclaves that have fallen like dominoes toward his neighborhood in the past year. "People used to move here to get away from those places. Now we are one of them."Neighborhood Checkpoints

Bounded by a highway overpass and a park with a scraggly dirt soccer field, Tobji got its name from the cramped commercial street, lined with vendors' stalls, that bisects the neighborhood. Dozens of sheep graze along a grassy median, snarling traffic near an open-air market.

On a recent weekday, side roads leading from a main thoroughfare were blocked with concrete barriers, and Iraqi soldiers operated a checkpoint at the top of one busy street. A second checkpoint on the neighborhood's southern edge was manned entirely by civilians, who watched cars intently as they departed. It was not always this way.

"It is like someone saw this was a safe place and wanted to provoke things," said Muthana Mahmoud, 43, who has lived in Tobji all his life.

Juliet Hadad, 41, a mother of six, said: "Before, when we lived normally, you would feel no tension here. Now we are scared, not just of Sunnis, but of our own people. I grounded my children. I don't let them go anywhere now."

As the conflict began to escalate late last year, eight people were killed in a two-week span following the country's Dec. 15 elections. But it was the Jan. 23 raid, Sunni and Shiite residents said, that did the most to inflame sectarian tension.

Residents said it began just after 4 a.m., as about 20 sport-utility vehicles and pickup trucks without license plates, resembling those driven by Iraq's police commandos, rumbled into the neighborhood bearing a force of nearly 200 armed men.

For the next three hours, the gunmen, many of them clad in yellow-and-gray camouflage uniforms, burst into Sunnis' homes, sometimes leaping from roof to roof, rounding up men and terrifying their families. They took their cell phones and cut landlines so residents could not call for help.

"They had beards, and their dialect sounded like they were from the south," said Mahmoud, who said three men leapt onto his roof from a neighbor's window. When his brother answered the door, one of the men asked him, "Are you Abu Abbas?"

"No," his brother said. "I don't know who that is."

"They blindfolded him and took him outside," Mahmoud said. "Then they came back for me. They took me up to the roof and held me over the edge by my feet. They only let me go when my mother came up, screaming."

Nouri thought her family would be safe, even though they are Sunnis, because her father and uncle work for Interior Ministry police units. But even after presenting their identification cards to the gunmen, they were detained.

"When my sister asked, 'Why, why are you taking them when they are like you?' they pointed their guns at her and hit her on the head," Nouri said. "I was cursing them and saying, 'God is my defender!' "

Down the street, two men who tried to defend their homes were killed. When the gunmen grabbed the wife of Bilal Ali Ghazal by the hair and pulled her toward their car, he grabbed a rifle and went to his roof, firing shots to try to draw help. An attacker in the street shot him in the stomach.

Ismael Egaidi killed one of the gunmen who entered his home before dying in a hail of bullets, residents said.

Desperate to find what became of the 51 men who were detained but never released, Tobji residents said they had made daily visits to Baghdad's Interior Ministry, only to be told there was no information. When word spread that seven bullet-riddled bodies had turned up in the Rustamiyah neighborhood, relatives of those detained in Tobji dashed to the morgue to look for familiar faces. They found none.

Residents say the government's denial of police involvement in the raid does not square with what they witnessed that night. The assailants were driving around Baghdad in a large convoy of sport-utility vehicles that locals recognized as those used by police since the late 1990s. They wore camouflage uniforms and carried Glock pistols, the same as those issued to police officers.

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"Explain to me how this can be anyone other than the Iraqi security forces," said Muhammed Majid, a Tobji resident. But even Majid acknowledged that he could not be sure who was responsible.Armed Citizens

With nowhere else to turn, Tobji residents intent on stopping the escalating violence are relying on one another. In recent weeks, both Sunnis and Shiites have contributed manpower to an 80-member neighborhood citizens force that patrols the streets alongside the Iraqi army, manning checkpoints and alerting soldiers to suspicious outsiders.

Neighbors have started collecting money to pay a small salary to the volunteers, who call themselves "the guardians."

When they first took to the streets in December, they were arrested and their guns confiscated by Iraqi police because they had no licenses to carry weapons. But after the January raid, they demanded, and were issued, badges from the Interior Ministry authorizing them to carry rifles.

"Some of them were in the military once, but they all know how to use guns," said Lafta, the 35-year-old neighborhood resident, who helps supervise the program. "Things have been a bit quieter since they got out there."

But many residents insist the neighborhood will never be the same.

"The politicians say, 'Defend yourself,' but how do you defend yourself against an army with machine guns and vehicles?" Mahmoud said. "The ones who defended themselves are the ones who got killed."

Residents said the influx of people fleeing other neighborhoods since 2003 has steadily driven up apartment rents. But now a migration out of Tobji is underway.

"I don't think we will ever get back what we had," Lafta said. "The number who were arrested was so large, and their relatives are so angry. They will not rest. They will always have hatred in their hearts. They will want to take more revenge. I know Shiites who have already gotten threatening letters. If I get one, I will leave."

Special correspondent Omar Fekeiki contributed to this report.

The Chiefs Of Baghdad (FT)

By Steve Negus

Financial Times, February 11, 2006

Eighteen months ago, the radical Iraqi Shia movement known as the Sadrists was at war with the country's interim government and its US backers in the streets of the holy city of Najaf while their young upstart leader Moqtada al-Sadr was a fugitive. Now the Sadrists are one of the partners in the United Iraqi Alliance, the Shia coalition that dominates government and is likely to be one of the most powerful forces shaping Iraqi politics in the next four years.

This may alarm many people outside Iraq, but the Sadrists are folk heroes in parts of Baghdad, perceived as tough but fair men who do the job that the government can't or won't do. Through an Iraqi colleague, whom I shall call Haydar, I came to learn about some of the things the Sadrists do through their "Mahdi Army", in particular a group that specialises in tracking down people kidnapped by Baghdad's criminal gangs.

Haydar is a proud father of 11, personally devout but well acquainted with the rougher and more roguish sides of life. In many ways he is an archetypal inhabitant of the east Baghdad slum of Sadr City. Laid out in the 1960s by populist dictator Abd al-Karim Qassem as a home for impoverished Shia migrants from the southern countryside, Sadr City was at first named "Revolution City" then changed to "Saddam City" after Saddam Hussein took power in 1979. Hussein had given the district his name, but little else. Its potholed roads are lined with open sewers choked with plastic bags. In the summer, smoke from burning trash combines with heat and dust to create an acrid haze that hangs over the city. In the winter, flooded drains overflow to form reeking pools of black muck. After the dictator was toppled by the US, the inhabitants of the slum lost little time in renaming it after Moqtada's father, the Ayatollah Mohammed Sadek al-Sadr, a venerated Shia cleric murdered by the old regime.

Sadr City is viewed by other Baghdadis as a den of gangsters. Haydar, however, is proud of his neighbourhood. It is, he admits, home to quite a few of Baghdad's criminal elements and is a good place to buy weapons or a forged passport. However, he points out, it is also one of the few places in Baghdad where I, a foreigner, can walk about without having to worry about being abducted either by ordinary criminals or by insurgents. Rory Carroll, a reporter for The Guardian newspaper might not attest to this too enthusiastically. In October a Sadrist faction abducted and held him for 36 hours in an attempt to exchange him for a prisoner held by the British, then released him. But the view that foreigners were not likely to be nabbed in Sadr City was widely

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shared among the Baghdad press corps at the time, and the reason was that the neighbourhood was to a large extent under the control of the Mahdi Army.

This is not what most of the rest of the world would think, associating as they do the Sadrists with the "militia" that fought the Americans in the summer of 2004. The Sadrists themselves are adamant that the Mahdi Army, despite its name, is not a militia, but a network of pious youth who, armed with their own private weapons, rose up when their leader was threatened. This doesn't explain why they still have commanders and units. Nonetheless, "militia" is a term of abuse these days and politicians say such things have no place in the new Iraq, so the fiction exists. As part of the deal under which the Mahdi Army stopped fighting in October 2004, Sadr said the movement would dissolve itself as a military institution and work as a political party and community movement, possibly "assisting the police" in keeping order in Sadr City.

It's not just the police who could do with assistance. Much of Iraq these days seems to be going the way of Sadr City. The state began to fail during the years of UN sanctions and the collapse of Saddam Hussein's regime completed the job. Iraqis usually have little faith in formal governmental institutions, and the institutions generally live down to their expectations. Local political or religious movements, with their armed back-up, are more legitimate and powerful than any minister cloistered in Baghdad.

Last year I went with Haydar to the site of an incident he had told me about - a kidnappers' safehouse, just off one of Sadr City's trash-strewn vacant lots. The owner, according to neighbours, was a decent guy, but had been enlisted or possibly coerced by his drinking buddies to watch over their captives. Ever since Hussein had released about 100,000 prison inmates on the eve of his regime's downfall, much of Iraq has been overrun by criminal gangs, and kidnapping for ransom - in addition to arms sales, drug dealing and subcontracting themselves out to insurgents - is one of the easiest ways to earn a living.

In this case the locals had informed on the kidnappers to the police, who raided the house and arrested them. Inexplicably the owner was released from policy custody soon thereafter, and the residents surmised that he had paid a bribe. They contacted the Mahdi Army, who raided the house and forced the police to keep the rest of the perpetrators in prison. "They are the real heroes, not the police," one of the residents told us. "They are the real champions of the people." True to its Robin Hood reputation, the Mahdi Army performed the "service" of ridding the area of kidnappers while asking for nothing in return. The Sadrists accept donations, but not quid pro quo.

We asked which Mahdi Army "sheikh" had taken charge of this operation and were given the nomme de guerre of Abu Jaafar. Although technically a fugitive from the Americans, who were hunting him because of his role in the 2004 fighting, Haydar found him after making a few inquiries. So, a few hours later, we met him in the group's own safe house, a small but clean apartment with doves warbling on the floor. Jaafar spoke to us surrounded by his jamaa, his personal following of about two dozen young men in the black button-down shirt and black trousers that have become the Mahdi Army's ad hoc uniform. For more than a year, this group had been in charge of tracking down gangs. In that time, four of their members were killed and four others permanently maimed.

The Mahdi Army is a young man's movement - Sadr himself is only in his thirties - but Jaafar, at 27, was a young leader even by Sadrist standards. With his well-trimmed beard and self-assurance, he resembles many other earnest and charismatic young men who have risen to positions of authority in Islamist movements across the Arab world. He was a former seminary student before taking command of the anti-gang squad. He eschews much of the lofty religious rhetoric and generalities favoured by other Sadrist clerics, which make conversations with them sometimes difficult. Instead, he seemed to relish relating the details, names and places of Iraq's underground.

"It's all about geography," Jaafar explains, beginning a narrative of his group's current case. The jamaa had been contacted by a Kurdish lawyer, whose teenaged son had been kidnapped. The boy had been taken in the south Baghdad district of Kerrada. Based on this, Jaafar decided to stake out a coffee house just off the neighbourhood's main shopping street, frequented by a man we shall call Mustafa, a Kurdish gangster with a finger in every dodgy pie in the area.

After several days, the Mahdi Army noticed Qais, a gangster from Sadr City known to be involved in kidnapping, enter the coffee shop to speak with Mustafa. This, they decided, was a likely suspect. They placed a tail on Qais and told the father to inform the gang he was ready to pay the ransom. Qais set up one fake drop after another, sending the father into Baghdad's streets night after night to make sure that he had not brought along gunmen. Qais did not notice, however, that he himself was

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under observation. The Mahdi Army decided that they had their man. When Qais set up the final drop-off the Mahdi Army decided to grab him.

One member of the jamaa, Mohammed, however jumped the gun. He and a colleague, Maytham, showed up before the other Sadrists. They leapt out of their car with pistols, but Qais, Mustafa and his men had machineguns. When the shooting stopped, both Sadrists and Qais had been hit. The gang, realising that the Mahdi Army were after them, scattered to the winds. Qais and Mohammed survived; Maytham was killed. "Mohammed was over-eager," said Jaafar with a certain weary resignation.

Three weeks later, at least some of the gang had been rounded up. Mustafa appears to have escaped to Kurdistan - the old men playing dominos in front of his favourite Kerrada coffee house, at any rate, told us that he had not been seen for a month. Several others, however, were now in the custody of the police, cooling their heels in Sadr City's al-Rafidain police station.

We were taken there by a man called Ali, one of Jaafar's lieutenants. Ali was clearly a hard guy. He has two martyrs in his family. His father was killed by Hussein in the 1991 Shia intifada that followed the first Gulf war. His brother was killed in another uprising that broke out when gunmen thought to be linked to the Hussein regime killed Ayatollah Mohammed Sadek al-Sadr, father of Moqtada and the founder of the movement in 1999. Ali and several of his friends, Kalashnikovs in hand, had personally arrested one of the three imprisoned gang members and had a certain proprietorial interest in the case.

We arrived in Sadr City amid reports that a car bomb had just been discovered on the city's outskirts. Mahdi Army militants were stopping anyone who looked like they were from out of town (including one of our cars) and checking vehicles for explosives. When we arrived at the station, Ali was shocked to find out that the gang suspects had been transferred to the Major Crimes Unit in another part of town. He immediately got on the phone to Jaafar - the police at Major Crimes were notorious for freeing suspects. Without the Mahdi Army keeping tabs on the case, Ali said, the police would be sure to let Qais' gang go.

We then walked into the station with Ali and asked the senior officer, a grizzled lieutenant, for the police version of the case. Somewhat reluctantly, the officer described, using the stilted language of an interior ministry press release, a "shared operation" in which the police and Mahdi Army "co-operated" to round up a gang "implicated in criminal activities". Ali was incensed - "Co-operated? All you did was transfer them to the Major Crimes Unit," he said to the lieutenant. The Mahdi Army were the ones who suffered a martyrdom, he pointed out to another policeman. "The police do nothing," he said, walking out of the station in disgust. "We are the authority here."

On the way home, I asked Haydar in what sorts of situations he himself might turn to the Mahdi Army. Certainly a kidnapping case, he said, also if there is stealing or gang activity going on in the neighbourhood. What about murder? I asked. Well, you might ask the Mahdi Army to mediate in a murder case, but if a relative is killed first you turn to your tribe. Even in Hussein's day, while the police might arrest and jail a murderer, the matter isn't over until either blood vengeance or blood money is obtained. There are two parallel systems of law enforcement in modern Iraq: the authorities keep order; your family gets you justice.

The Mahdi Army seems to fall somewhere between the two. Haydar described an incident he had seen at a wedding. One of the guests started firing his weapon into the air - a traditional way of celebrating, but one that is now considered a bit anti-social. The Mahdi Army showed up, and asked him to stop. The guest responded: "Who are you?" The Mahdi Army, having been insulted, switched from an ostensibly neutral order-keeper to an aggrieved party. Some 150 "brothers" pulled up, wanting to beat up the guest. Haydar and a tribal sheikh had to mediate to sort it out.

At various times, the Mahdi Army seems to have taken on the trappings of a state. It has run its own courts, for example - although these are more tribal-style arbiters of a dispute, rather than traditional criminal court magistrates. Perhaps more revealing is its attitude towards dealing out punishment. After the Mahdi Army withdrew from Najaf, the Iraqi military claimed to have discovered Sadrist-run prisons and torture chambers. However, if such places exist in Sadr City, they are a very well-kept secret. Haydar, for his part, does not believe they exist.

Nonetheless, the Mahdi Army has a reputation for vigilantism. Any messianic movement will attract both thugs and saints, and various combinations of the two. The Sadrists were known for attacks on gypsy encampments, which in Iraq often double as primitive semi-mobile brothels. Although they enjoyed some protection under Hussein, who had a weakness for gypsy dancing, they are now among the country's most vulnerable groups. The Sadrists also have a reputation in universities for intimidating their more secular-minded counterparts. I asked Haydar about a recent incident in Basra. The press had depicted it as a more or less unprovoked assault against a co-ed picnic, in which militiamen beat students - focusing particularly on the women - for daring to

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mingle the sexes in public. According to Haydar's version of events, culled from other Sadr City residents as well as relatives in Basra, the Mahdi Army had responded to locals' complaints about students behaving "inappropriately" in their neighbourhood. The Mahdi Army tried to get the students to disperse, were defied, and used force. According to Haydar, the Mahdi Army was upholding the social norm in a public place. "If you took a woman to a private place [and] someone intervenes, you're in the right - you could kill them right there," he explained. "If you do it in public and they intervene, then they're in the right."

Haydar is a devotee of Grand Ayatollah Ali al-Sistani, the most popular and influential Shia cleric in Iraq. He is the epitome of orthodox Shi'ism, which venerates scholarly knowledge. When the elder Ayatollah Sadr first emerged, many in Sistani's circle of clerics looked at him as having too little of the seminary about him, and too much of the street. And when the younger Sadr assumed control of the movement, he was years from becoming an ayatollah (in Shi'ism, the rough equivalent of a tenured full professor), and was more like a graduate student. The Grand Ayatollah never disrespected the younger Sadr in public, but many of his deputies showed no such compunction. One Sistani scholar suggested that the younger Sadr might be better off "finishing his studies" than meddling in politics. Others referred to his movement as a "phenomenon linked to unemployment".

Haydar has no doubt that the Mahdi Army contains a rough element, including, he believes, criminal gangs who appropriate the name as a cover for their activities. In his neighbourhood, however, he witnessed the other side of the Sadrist movement. Sadrist cadres took control of the area, fending off the chaos that engulfed much of Baghdad. They defended the suburb against Hussein's security thugs or the estimated 100,000 former inmates released from prison, thought to make up the bulk of the gangs that ravaged the rest of Baghdad. Sadrists brought in drinking water, paid the salaries to keep staff at work running the hospitals. "When no one was there to protect us, they protected us," Haydar says.

Several weeks later, Ali became his family's third martyr. He had been coming back to the safe house at midnight when he encountered a US checkpoint in the street. Having a pistol in his car, he panicked and ran. He was shot in the head, with the bullet reportedly taking much of his face away. He had been engaged to be married a week before. The funeral tent was packed with mourners, some in tribal dress, some in the black uniform of the Mahdi Army. Abu Jaafar kept order, restraining them at one point as a US patrol drove by. As the coffee was served, a religious chanter recited a poem over the sound system, addressed to the Hidden Imam, the Mahdi for whom the army is named, the one who will return to bring just rule to the world:

"Why do you wait, oh Imam?
These youths are killed for your religion and for your victory
A week after his engagement,
He sees how his companions gather in his honour.
The candle of youth is extinguished by the Americans."

As the day wore on, a stream of politicians arrived to pay their respects. Fatah al-Sheikh, a Sadrist who had run for and won a seat in parliament, gave an angry address calling for a full US withdrawal from Sadr City. The commander of the Mahdi Army also made an appearance, vowing to fight if the Americans returned in force. One particularly incongruous guest, sitting in the first rank of dignitaries among the black shirts, beards, robes and turbans, was a figure with a carefully trimmed moustache and a grey business suit. He was Mudhar Shawkat, a longtime associate of Ahmed Chalabi, onetime darling of the neo-conservatives in Washington and now Iraq's deputy prime minister. Chalabi, a staunch secularist but a stauncher opportunist, had currently thrown in his lot with the Sadrists and was said to be coaching Sadr on the finer points of statesmanship. Shawkat's address betrayed little of Chalabi's secular vision, nor his government's position that militias have no place in the new Iraq.

"All of those who know me," said Shawkat, "know that I am a Sadrist by thought, and Sadrist in my actions. The Sadrist trend is not an alliance or party, it is an Iraqi movement - the trend of those who have been dealt injustice, the trend of the black soil... If the Mahdi Army was allowed to defend Sadr City [by itself], it could be the safest city in Iraq."

As we drove away from the funeral, a police car loaded with armed officers came ploughing through traffic. In most of the rest of the city, the police force cars over by sticking their guns out the window, firing shots and shouting over a loudspeaker, "Out of the way!" However, these particular police were shouting, "Out of the way, brothers!" You could view this as a tribute to the neighbourhood's sense of shared struggle, but Haydar thought of it as an acknowledgment that this is one part of town where the state has to watch where it treads.

Steve Negus is the FT's Iraq correspondent.

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Tighter Borders Take A Toll In Iraq (WP)

By Ann Scott Tyson

The Washington Post, February 11, 2006

Success of Effort Against Smuggling Hits Villagers Hard

OM AL-KABARI, Iraq -- In this once-thriving smuggling village on Iraq's border with Syria, the last donkeys are dying.

Mothers complain they have no shoes for their children and only soup to feed them. Men sit idly playing checkers and bemoaning the night when American scout helicopters swooped overhead, spelling the end of their livelihoods.

"We could get around everything, but not the helicopters," sighed Mahmood Ahmed, 29, who, along with most of the men in this village of 400 people, admitted he was a smuggler. "We're having nightmares about them."

With their income shriveling, the smugglers could no longer afford food for the hundreds of donkeys they used to haul 30-gallon drums of benzene, cartons of cigarettes and other goods into Syria.

"There is no grass, no money to feed them. So they all died," said Yassin Ali, 39, pointing to a mangy, skeletal white donkey lying listless nearby.

The dramatic downturn in the fortunes of villages along the border is one sign that a surge of American and Iraqi troops into the region in recent months has sharply curtailed illegal traffic over the frontier, U.S. and Iraqi officials and local residents say.

U.S. commanders last year launched a plan to gain better control of Iraq's borders to try to stop the flow of outside fighters, weapons and cash to the Iraqi insurgency. Several thousand additional U.S. and Iraqi troops have been sent into regions near Syria since last summer to bolster a growing contingent of Iraqi border guards. Scores of border forts have been built or refurbished and manned, and there are plans to erect a double chain-link fence along the border during the coming year, according to U.S. and Iraqi officials.

"It's much more than just a line in the sand right now," said Lt. Col. Gregory Reilly of Sacramento, Calif., commander of a U.S. cavalry squadron that oversees about 115 miles of Iraq's northwestern border with Syria, from the Tigris River to the Euphrates. "It's not like a vast open border, not at all. It's a very difficult border to cross."

Syrian border police are also aggressively patrolling their side, Reilly said, in contrast with official statements in Washington accusing Damascus of lax control. "The Syrians are actually doing their job. They are more violent than we are. If they see someone, they will open up shooting," Reilly said as he walked along a dirt berm in view of Syrian guards several weeks ago. Iraqi officers said Syrian guards had recently shot at Iraqi border police, leading to skirmishes.

Controls have been tightened at official border-crossing points. At the town of Rabiyah, a 10-wheel cargo truck rumbled past a newly constructed Iraqi customs station toward a Syrian checkpoint marked by a huge portrait of Syria's late president Hafez Assad. A few months ago, the Iraqi entry point here was in disarray, U.S. and Iraqi officials said. Inbound and outbound traffic were mixed together. Iraqi guards had only five rifles, lacked ammunition and "had no idea what passport was fake and what was real," said Col. Fadel Shaaban Abas, commander of Iraqi customs police at Rabiyah.

"It was complete chaos. You had no idea who was coming and going," said Reilly, commander of 1st Squadron, 3rd Armored Cavalry Regiment, which finishes a year-long tour in Iraq this month. A suicide car bombing in late May closed the entry point for two weeks.

Today, up to 5,000 people, mostly on foot, and about 300 vehicles cross the border daily through divided lanes. Customs revenue has almost tripled. The 120 Iraqi customs police are armed with AK-47 assault rifles or pistols and are backed up by a new, 260-man police battalion, which arrived in December, Abas said. A U.S. customs team recently trained the police officers to spot false passports, and now they find three or four a day, said Staff Sgt. Robert Lowery of Naples, Fla.

Fighters from abroad -- both Iraqis who had left the country and some foreigners -- still manage to get into Iraq, but not simply by sneaking over the border, U.S. officials assert.

"The myth is that foreign fighters are crossing a porous border," said Maj. Chris Kennedy, executive officer with the 3rd Armored Cavalry. Instead, many of the incoming fighters can simply fly into Baghdad, using valid Iraqi passports made from "boxes and boxes" of blank passports shipped out of Iraq during Saddam Hussein's rule, Kennedy and other U.S. officers said. Iraqis are now posted at the border to listen for foreign accents, although many insurgents entering are Iraqis themselves, he said.

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But while U.S. officers are less worried about foreign fighters trying to sift through border villages, they express concern that the severe economic impact of shutting down smuggling routes could create a new breeding ground for insurgents in Iraq.

"The biggest fear is you have a financier who comes through and builds a cell" in an impoverished border village, said Reilly, who estimated that 100,000 people live in primarily Sunni Arab villages along the stretch of border he oversees.

In Om al-Kabari, Mahmood Ali, a father of six, said he considered smuggling to be one of the few legitimate alternatives for earning a living in the village, where drought has curtailed farming in recent years.

"It's a more honorable job than stealing or being an Ali Baba, or insurgent -- you're risking your life . . . to put food on the table," said Ali, squatting in a circle sharing tea with the other village men.

Smuggling, while always a local occupation, accelerated with the economic embargo imposed on Iraq in the 1990s and then skyrocketed when border controls collapsed after the overthrow of President Saddam Hussein in April 2003, villagers said. The smugglers would take out loans at the local sheep market or from goods distributors in the city of Mosul, 100 miles to the east. They would use the money to buy benzene or cartons of cigarettes, load up their donkeys and set out for the border at night in teams of three or four.

It was a risky trade, said Ahmed, who was once caught by Syrian forces, beaten and detained for nine months in a crowded Syrian jail. He said five men from the village had been killed by the Syrian army since 2003. "The Syrians, most of the time, don't detain you, they just shoot you," he said. "There are no warning shots at all."

Still, it was the most lucrative job around. If they successfully met up with buyers in Syria, the teams of smugglers could each make about $27 a month, an average income for Iraqis in the region.

But then last spring, the arrival of U.S. Kiowa scout helicopters, backed up by American and Iraqi ground forces, halted the smuggling spree.

"It was my black day," recalled Yassin Ali, the first of the villagers to be caught by U.S. forces. "All of a sudden we were moving one night and we didn't hear anything, and they turned on the lights." The smugglers froze, but after a minute, when the lights went off again, they tried to flee, thinking the helicopter had gone and the crew could no longer see them. "But it still saw us, even from afar, and they were right back on us," Ali said. "Then the Humvees came up."

Next to the village, an Iraqi border fort is now manned by 24 Iraqi police officers who live there and work in shifts. It is one of 56 forts with 2,700 border police now operating along the northwestern border in conjunction with U.S. and Iraqi troops. Equipped with new jeeps, pickup trucks mounted with machine guns, binoculars and night vision goggles, the police patrol the border around the clock.

"Before, there was no tracking . . . whatsoever, and they could go in day and night," said 1st Lt. Abrahim Assaf Khuder, a police company commander. Now Khuder estimates smuggling has dropped 95 percent, with fewer than three to five interdictions a week. "What really decreased the numbers is the choppers," he said.

The smugglers admit they still occasionally try to make it across the border, adding they are happy the U.S. helicopters don't shoot them. Unlike in the past, they say, they never carry weapons.

"What can we do? We have no jobs, no benzene, no clothes for our families, and the choppers are on our heads all the time. We can't even buy shoes for our kids," Mahmood Ali said, pointing to the bare feet of his 6-year-old son. Monthly rations of grain from the government -- about 20 pounds a person -- only come every four months, he said.

"These towns are in dire need," said Reilly, who has attempted to alleviate the damage from the smuggling crackdown by shipping pallets of food and water to the villages and planning two well-building projects. Reilly has also proposed creating a free-trade zone along the border. In a recent meeting with villagers, they pressed him for permission to cross one day a week. "Syria has to approve it," Reilly told them.

" Inshalla h ," they replied. God willing.

Carroll Kidnappers Reportedly Set Deadline (AP)

By Paul Garwood

Associated Press, February 11, 2006

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BAGHDAD, Iraq -- Kidnappers of American journalist Jill Carroll have threatened to kill her if their demands are not met by Feb. 26, the owner of a Kuwaiti TV station that has aired a new tape of the hostage said Friday.

Al Rai satellite station owner Jassem Boudai said the kidnappers set "more specific" demands than the release of all Iraqi women from prison, which the group laid down in the first videotape released last month. Boudai refused to elaborate.

He said that "sources close to the kidnappers" told the station Friday of the new deadline.

The small, privately owned station aired a tape Thursday showing Carroll, 28, appealing for her supporters to do whatever it takes to win her release "as quickly as possible."

The U.S. military has released five Iraqi women from detention but said the releases were routine and not part of any swap for Carroll. Five Iraqi women remain in U.S. military custody.

Friday's message was not conveyed in the latest videotape, but by "another method," Boudai said. He did not elaborate, and it was unclear whether he passed the latest demands along to authorities.

Boudai said the sources claimed Carroll, who was abducted in Baghdad on Jan. 7, "is in a safe house owned by one of the kidnappers in downtown Baghdad with a group of women."

He said the sources also claimed Carroll was in good psychological condition and was doing housework with the women in the place of her detention. The sources also said the kidnappers denied killing Carroll's translator when they abducted her at gunpoint, as has previously been reported.

Later Friday, Boudai told CNN that he believed Carroll's kidnappers were the same ones who seized two Italian aid workers in September 2004 and released them several weeks later. Italian media said a $1 million ransom was paid in that case.

"I think they are the same group who contacted us last year when the two Italian girls were kidnapped in Iraq," Boudai said.

The station on Friday also reported the latest threat by the kidnappers to kill Carroll, a freelance reporter for the Christian Science Monitor.

Monitor spokeswoman Ellen Tuttle declined comment on Friday.

Two previous tapes of Carroll were aired without audio by Qatar-based Al-Jazeera on Jan. 17 and Jan. 30. The first tape made by the kidnappers, who identified themselves as the "Revenge Brigades," included a threat to kill Carroll within 72 hours unless all Iraqi women were released from custody.

Security experts said kidnappers' choice of Al Rai for the latest tape indicated an effort to increase pressure on the U.S. government.

Al Rai broadcast the new 22-second video in its entirety and with Carroll's voice, unlike Al-Jazeera, which has a policy not to broadcast voices. She spoke of having sent two letters but did not say to whom.

"I am with the mujahedeen," she said. "I sent you a letter written by my hand, but you wanted more evidence, so we are sending you this letter now to prove I am with the mujahedeen."

An Al-Jazeera employee, who spoke on condition of anonymity because he is not authorized to make statements for the station, confirmed the first two videos referred to a letter. The station did not mention any letters when it aired the videotapes. It did report that the kidnappers were demanding the release of women held prisoner in Iraq.

When the new tape was delivered to Al Rai's Baghdad office, it was accompanied by a letter written by Carroll, the station said.

Boudai said his station gave U.S. authorities the letter, which he described only as "sensitive." The station did not reveal its contents, he said, out of concern for the reporter.

Before the latest threat was reported, State Department spokesman Sean McCormack said the United States continued "to make every effort to secure her release, to see that she's back safe and sound with her family and her co-workers."

Some analysts said Carroll's kidnappers used the relatively unknown station to get more of its message across and to avoid being tainted by Al-Jazeera's reputation as being biased toward insurgents.

Al-Jazeera came under criticism for airing videos showing al-Qaida in Iraq with hostages they soon beheaded. The station cut the tape when masked gunmen drew knives and moved toward their doomed victims.

Since then, Al-Jazeera has sought to air just enough material for news value without appearing to be a conduit for gruesome propaganda.

"There are a lot of question marks for insurgents at Al-Jazeera because they don't air all their tapes in entirety, or not immediately or sometimes not at all," said Mustafa al-Ani, director of terrorism studies at Gulf Research Center in the United Arab Emirates.

"But these small stations will jump at such opportunities because they aren't famous," he said. "Very few people had heard of Al Rai before that tape, but now people all over the United States know it."

A top U.S. media analyst said being able to get the full message out could put public pressure U.S. officials to question the Bush administration's approach to Iraq.

"These videos will prompt us to feel fear, hope, heightened anger or frustration about a matter as viewers will have little control over, and this could lead us to putting more pressure on our public officials," said Bob Steele of the Florida-based Poynter Institute for Media Studies.

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Associated Press writer Diana Elias contributed to this report from Kuwait City.

Ex-C.I.A. Official Says Iraq Data Was Distorted (NYT)

By Scott Shane

The New York Times, February 11, 2006

WASHINGTON, Feb. 10 — A C.I.A. veteran who oversaw intelligence assessments about the Middle East from 2000 to 2005 on Friday accused the Bush administration of ignoring or distorting the prewar evidence on a broad range of issues related to Iraq in its effort to justify the American invasion of 2003.

The views of Paul R. Pillar, who retired in October as national intelligence officer for the Near East and South Asia, echoed previous criticism from Democrats and from some administration officials, including Richard A. Clarke, the former White House counterterrorism adviser, and Paul H. O'Neill, the former treasury secretary.

But Mr. Pillar is the first high-level C.I.A. insider to speak out by name on the use of prewar intelligence. His article for the March-April issue of Foreign Affairs, which charges the administration with the selective use of intelligence about Iraq's unconventional weapons and the chances of postwar chaos in Iraq, was posted Friday on the journal's Web site after it was reported in The Washington Post.

"If the entire body of official intelligence on Iraq had a policy implication, it was to avoid war — or, if war was going to be launched, to prepare for a messy aftermath," Mr. Pillar wrote. "What is most remarkable about prewar U.S. intelligence on Iraq is not that it got things wrong and thereby misled policymakers; it is that it played so small a role in one of the most important U.S. policy decisions in decades."

In an interview on Friday, Mr. Pillar said he recognized that his views would become part of the highly partisan, three-year-old battle over the administration's reasons for going to war. But he said his goal in speaking publicly was to help repair what he called a "broken" relationship between the intelligence produced by the nation's spies and the way it is used by its leaders.

"There is ground to be replowed on Iraq," said Mr. Pillar, now a professor at Georgetown University. "But what is more important is to look at the whole intelligence-policy relationship and get a discussion and debate going to make sure what happened on Iraq doesn't happen again."

President Bush and his aides have denied that the Iraq intelligence was politicized. Stephen J. Hadley, the national security adviser, said in November, "Our statements about the threat posed by Saddam Hussein were based on the aggregation of intelligence from a number of sources, and represented the collective view of the intelligence community. Those judgments were shared by Republicans and Democrats alike."

Reports by the Senate Intelligence Committee and the presidential commission on weapons intelligence headed by Laurence H. Silberman, a senior federal judge, and Charles S. Robb, the former Virginia governor and senator, found that C.I.A. analysts had not been pressed to change their views. A second phase of the Senate committee review, on how administration officials used intelligence, has not been completed.

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Mr. Pillar alleged that the earlier studies had considered only "the crudest attempts at politicization" and that the real pressures were far more subtle. "Intelligence was misused publicly to justify decisions that had already been made," chiefly to topple Mr. Hussein in order to "shake up the sclerotic power structures of the Middle East," he wrote.

According to Mr. Pillar's account, the administration shaped the answers it got in part by repeatedly asking the same questions, about the threat posed by Iraqi weapons and about ties between Mr. Hussein and Al Qaeda. When intelligence analysts resisted, he wrote, some of the administration's allies accused Mr. Pillar and others of "trying to sabotage the president's policies."

In light of such accusations, he wrote, analysts began to "sugarcoat" their conclusions.

Mr. Pillar called for a formal declaration by Congress and the White House that intelligence should be clearly separated from policy. He proposed the creation of an independent office, modeled on the Government Accountability Office and the Congressional Budget Office, to assess the use of intelligence at the request of members of Congress.

Mr. Pillar suggested that the root of the problem might be that top intelligence officials serve at the pleasure of the president.

A C.I.A. spokeswoman, Jennifer Millerwise Dyck, said the agency had no comment.

Danielle Pletka, vice president for foreign and defense policy studies at the conservative American Enterprise Institute, said that the C.I.A. had long resisted intervention in Iraq, and that internal pressure on analysts to resist war was greater than any external pressure.

"If the C.I.A. had spent less time leaking its opinions, throughout the 1990's, opposed to any conflict with Iraq, and more time developing assets inside Iraq, the agency would have more credibility and better intelligence," said Ms. Pletka, who served for a decade, until 2002, as a Republican staff member on the Senate Foreign Relations Committee.

Misuse Of Prewar Data Is Alleged (BSUN)

By Cam Simpson

The Baltimore Sun, February 11, 2006

Ex-CIA official criticizes White House actions

WASHINGTON -- The former CIA official assigned to manage the U.S. government's secret intelligence assessments on Iraq says the Bush administration chose war first and then misleadingly used raw data to assemble a public case for its decision to invade.

Paul Pillar, the CIA's national intelligence officer for the Middle East and South Asia from 2000 to 2005, said the Bush administration also played on the nation's fears after the 2001 terrorist attacks, falsely linking al-Qaida to Saddam Hussein's government even though intelligence agencies had not produced any analysis supporting "the notion of an alliance" between the two.

Instead, Pillar writes in the next issue of the journal Foreign Affairs, connections were drawn between the terrorists and Iraq because "the administration wanted to hitch the Iraq expedition to the 'war on terror' and the threat the American public feared most, thereby capitalizing on the country's militant post-9/11 mood."

The specific critiques in Pillar's 4,500-word essay, "Intelligence, Policy and the War in Iraq," are not new. But it apparently is the first time such criticism has been publicly leveled by such a high-ranking intelligence official directly involved behind the scenes before, during or after the invasion of Iraq nearly three years ago.

Because of his position, Pillar would have had access to, and probably intimate knowledge of, nearly every piece of Iraq-related intelligence maintained by all federal agencies.

Pillar also writes in his essay that the administration went to war without considering any strategic-level intelligence assessments "on any aspect of Iraq" and that the intelligence community foreshadowed many post-Hussein woes, though the findings were largely ignored before the March 2003 invasion.

Excerpts from Pillar's article were first reported by The Washington Post yesterday. Foreign Affairs released a copy of the essay later in the day.

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Pillar, a career intelligence official, retired from the CIA last year and is a visiting professor at Georgetown University in Washington.

The White House did not respond specifically to Pillar's charges yesterday, but Frederick Jones, a spokesman for the National Security Council, pointed to previous administration statements defending its use of intelligence.

The administration first went on the offensive in the fall in an effort to thwart what President Bush, in a Veterans Day speech, called a "deeply irresponsible" effort "to rewrite the history of how that war began."

Jones said yesterday that the administration's prewar statements "about the threat posed by Saddam Hussein were based on the aggregation of intelligence from a number of sources and represented the collective view of the intelligence community."

But in his essay, the man responsible for coordinating the intelligence community's collective view of Iraq challenged the notion that the prevailing wisdom within the nation's spy services supported the decision to invade.

"If the entire body of official intelligence analysis on Iraq had a policy implication, it was to avoid war," Pillar wrote.

He also wrote that the Bush administration "used intelligence not to inform decision-making but to justify a decision already made," the decision to oust Hussein's government.

In making its case, the administration aggressively promoted pieces of "intelligence to win public support for its decision to go to war," Pillar wrote.

He also wrote that "this meant selectively adducing data - 'cherry-picking' - rather than using the intelligence community's own analytic judgments."

Although he acknowledged that the intelligence community was wrong about Iraq's capabilities to produce weapons of mass destruction, Pillar wrote that intelligence "was not what led to the war."

He saved some of his sharpest criticisms for the administration's repeated public statements in 2002 and 2003 about "links" between Iraq and al-Qaida, statements that have been repeated even though an independent commission that investigated the Sept. 11, 2001, attacks found no collaborative relationship between the two.

Pillar's allegations about the public use of selective intelligence on Iraq follows news that I. Lewis "Scooter" Libby Jr., Vice President Dick Cheney's former chief of staff, told a grand jury that he was authorized by his bosses to leak classified information about Iraq in the summer of 2003 to defend the administration's case for war.

Cam Simpson writes for the Chicago Tribune.

Ex-CIA Official Criticizes Use Of Intel (AP)

By Elisabeth Goodridge

AP, February 11, 2006

The Bush administration deliberately misused or ignored intelligence analysis in the buildup of the 2003 invasion into Iraq, according to a former top intelligence official.

Paul R. Pillar, who served as the National Intelligence Officer for Near East and South Asia from 2000 to 2005, also accused the administration of ignoring reports that Iraq would likely endure a violent transition period.

The administration "went to war without requesting — and evidently without being influenced by — any strategic-level intelligence assessments on any aspect of Iraq," Pillar wrote in an upcoming article of Foreign Affairs.

The White House did not immediately return a call for comment Friday.

Pillar said the administration drove intelligence officials to discover information that would help them meet their policy objectives.

"The Bush administration deviated from the professional standard not only in using policy to drive intelligence, but also in aggressively using intelligence to win public support for its decision to go to war," Pillar wrote. "This meant selectively adducing data -- 'cherry-picking' -- rather than using the intelligence community's own analytic judgments."

He also wrote that the intelligence community assessed that in Iraq, "war and occupation would boost political Islam and increase sympathy for terrorists' objectives."

House Minority Leader Harry Reid, D-Nev., called for an investigation Friday.

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"Evidence that the Bush White House manipulated and selectively declassified intelligence to wage a public relations campaign before, during and after the invasion of Iraq grows every day," he said.

Pillar served in the intelligence community for more than 20 years. He is now a professor at Georgetown University.

Book Casts Doubt On Case For War (LAT)

By John Daniszewski

The Los Angeles Times, February 11, 2006

Believing the evidence fell short, Bush discussed with Blair the possibility of inciting a conflict with Iraq, British author says.

LONDON — It was the end of January 2003. Secretary of State Colin L. Powell was five days away from giving a critical speech at the U.N. Security Council, laying out the case that Iraq was hiding weapons of mass destruction and posed a danger to world peace.

But huddled with aides at the White House, President Bush and British Prime Minister Tony Blair were not sure there was enough evidence to convince the Security Council. Without the council's explicit authorization, their plans for an invasion to depose Saddam Hussein could be difficult to defend under international law.

Bush proposed an alternative: paint a U.S. spy plane in United Nations colors and see if that didn't tempt Hussein's forces to shoot at it. In any case, he said, the war was "penciled in" for March 10 and the United States would go ahead with or without a second U.N. resolution.

Blair replied that he was "solidly with" the president.

That is the gist of an account of the Jan. 31, 2003, meeting contained in the new edition of "Lawless World," a book by British author Philippe Sands. He has not identified the writer of the memorandum on which the account is based, but British media reports say it was one of the aides in attendance: Sir David Manning, then security advisor to Blair and now the British ambassador in Washington.

A spokesman for Blair on Friday refused to address the allegations but repeated Downing Street's insistence that there was no decision to commit British forces to war in Iraq until after it was authorized by Parliament on March 18, two days before the invasion was launched.

A spokesman for Manning said the ambassador would not comment.

Sands, 45, is a professor of international law and a founding member of the Matrix law office in London, where Cherie Blair, the prime minister's wife, also works. His book, initially published last year, is not primarily about the decision to go to war in Iraq. Rather, it examines a range of issues in which, he argues, the Bush administration, with Britain's complicity, has undermined the "rules-based" international system built largely by the United States and Britain after World War II.

Sands said there was no doubt about the authenticity of the documents he quotes.

"They have not been denied, and they cannot be denied," he told the Los Angeles Times this week. Britain's Channel 4 News said it had seen the document outside Britain. The channel's Jon Snow presented excerpts in a broadcast last weekend.

The text, in Sands' view, shows that U.S. and British leaders had determined six weeks before the invasion to launch a war to disarm Hussein, even without explicit U.N. approval.

According to the secret notes of the meeting, as paraphrased in Sands' book and then quoted directly by Channel 4, Bush told Blair that "the U.S. was thinking of flying U2 reconnaissance aircraft with fighter cover over Iraq, painted in U.N. colors. If Saddam fires on them, he would be in breach" of U.N. resolutions.

Bush also was quoted as saying an Iraqi defector might make a public presentation about weapons of mass destruction in Iraq and that there was a small possibility the Iraqi leader would be assassinated.

The accounts say Bush promised to put the full weight of the United States behind getting another U.N. resolution, but if that failed, military action would follow anyway. He is also quoted as saying he believed that internecine warfare in Iraq was unlikely.

Blair is quoted as saying that a second Security Council resolution was desirable to "provide an insurance policy against the unexpected, and international cover — including with the Arabs." But he is also quoted as saying he was behind Bush.

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"The documents … indicate very clearly that neither man considered that the British or American governments had enough evidence," Sands said. "Why would the U.S. president and the British prime minister spend any time concocting ways of provoking a material breach if they knew they could prove Saddam had weapons of mass destruction?"

Sands contends that U.S. and British actions have eroded pillars of international relations such as the U.N. Charter, the Universal Declaration of Human Rights and the Geneva Convention, and that has made international action in Iraq more difficult.

"By ripping up the rule book, they undermined their ability to forge a consensus," he said.

Sands saw a "setting aside of the classical rules of international law, which basically say you can only use force in two circumstances: in self-defense or where the Security Council has authorized the use of force…. They never argued self-defense," he said. "So they argued that the Security Council had agreed to the use of force. I don't think there are many people who accept that argument."

Ian Gleeson, a spokesman for the British government, said the country had waited until March 18 to commit its forces and earlier pursued "all other avenues" to compel Hussein to disarm.

"Obviously, all these matters have been thoroughly investigated during the various inquiries we've had here, so we've got nothing further to add, and I am certainly not commenting directly on the book," Gleeson said.

When asked about the allegations in Washington last week, State Department spokesman Sean McCormack said: "Look, this is ground that has been plowed over and over and over again. The president and others couldn't have been more clear where we stood at that point in time with respect to seeking a diplomatic solution versus a military alternative."

Sands disagreed with the assertion that Blair's conduct had already been investigated, adding that the documents now coming out could form the basis of an impeachment motion against the British prime minister.

"He misled Parliament as to the state of his knowledge [about Hussein's weapons], and he misled Parliament as to the extent to which he had or had not committed to the U.S. president the United Kingdom's support, and that requires, at the very least, a full and thorough inquiry."

Ex-ambassador Says U.S. May Spend Decades In Iraq (COPLEY)

By PAUL E. KOSTYU, Copley Columbus bureau CHIEF

Copley News Service, February 11, 2006

COLUMBUS - Iraq is building into a civil war and the United States is at risk of being sucked into a battle lasting decades, said former U.S. Ambassador to Iraq Joseph Wilson.

Wilson, whose wife, Valerie Plame, was outed as a CIA operative allegedly by members of the Bush administration, said the United States has lost its political capital throughout the world.

“We’re in a period of instability,” he said. “9/11 was a terrible insult to us. It was an assault on everything we stand for, and it was an assault on what most of the world stands for.”

He said when the U.S. went into Afghanistan, “we had the world with us. We were still the city on the hill whether they agreed or disagreed with our policies.”

Now, the political dynamics of the Middle East have changed. “It was not a political change we anticipated when we got into this,” he said.

Consequently, the Iraq war has to be solved with the help of “a concert of nations” at the political table, not on the battlefield.

He said the nations should include Saudi Arabia, Jordan, Iran, Egypt, Kurds, Israel and Syria and their patrons, otherwise the battlefield becomes the solution.

“You cannot do it from Baghdad,” he told a gathering of newspaper executives Friday at the annual convention of the Ohio Newspaper Association. “You have to do it from outside.”

In the meantime, Wilson said, the focus of the U.S. military in Iraq has to change. He said it has to move away from “unnecessarily killing Arabs” because the more the U.S. military sides with one faction in Iraq, the more it becomes viewed as a mercenary force.

Instead, he said, the military should focus on things other than direct combat, including, for example, training an Iraqi national army, logistical support, intelligence gathering, policing streets, infrastructure needs and defending itself.

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Wilson said when President Bush says the war is not about oil, Israel or the manipulation of intelligence data, then "it must be one of those. We were sold on the threat to national security."

He said some people fear the world is seeing the beginning of a war that could last 30 to 100 years.

"War is so unpredictable and so long lasting," said Wilson, who was appointed ambassador by President George H.W. Bush.

He said the recent uproar in Muslim communities worldwide over the publishing in Europe of political cartoons about the Prophet Mohammed "is a symptom of an underlying emotion that we are involved in a modern-day crusade."

Wilson called columnist Bob Novak, who initially identified Plame as a CIA operative in a column, "a pawn in someone else's game. He's doing someone else's bidding." Novak spoke at last year's convention.

Wilson accused the Bush administration of using "lies, distortion and character assassination" to discredit him even after it understood Saddam Hussein did not have weapons of mass destruction.

"This is a debate about what sort of country we have," he said.

CORPORATE SCANDALS:

Executive Loses Case On Trading (NYT)

By Gretchen Morgenson

The New York Times, February 11, 2006

Another telecom titan has tumbled.

In one of the last of the major conflict-of-interest cases that rocked Wall Street nearly four years ago, a New York State judge has found that the former chief executive of McLeodUSA, a once highflying telecommunications company that has filed for bankruptcy twice since 2002, is liable for improper trading of hot new stock offerings during the technology stock boom.

Eliot Spitzer, the New York attorney general, sued the executive, Clark E. McLeod, and four other high-profile telecommunications executives in 2002, contending that they had steered investment banking business to Salomon Smith Barney in exchange for inflated ratings on their companies' stocks and hot new shares of other companies.

Mr. McLeod netted $9.96 million in profits on 34 stock allocations from 1997 to 2000, the court filings said. Salomon Smith Barney received more than $77 million in underwriting fees from McLeodUSA.

In a decision issued Thursday, Justice Richard B. Lowe III of New York State Supreme Court in Manhattan wrote that Mr. McLeod's acceptance of initial public offering shares from the same brokerage firm that his company used as an investment banker, a practice known as spinning, was "a sophisticated form of bribery."

He also found that because Mr. McLeod did not disclose his hot-stock grants and the profits generated by them, he misled both the investing public and his own company's board.

"We are gratified that New York courts have recognized that undisclosed stock spinning is illegal and deceives the public," Mr. Spitzer said in a statement. "This decision sends a message that executives who put their own interests ahead of their shareholders' will be held accountable."

Mr. McLeod, who lives in Cedar Rapids, Iowa, challenged Mr. Spitzer's assertions that his receipt of undisclosed hot stock offerings was illegal. His lawyer continued that challenge yesterday, calling the case against Mr. McLeod another example of overreaching by Mr. Spitzer.

"Clark McLeod is not Bernie Ebbers or anybody else of that ilk," said Harold K. Gordon, a partner at Jones Day in New York. "There is no evidence that there was any connection between Mr. McLeod's receipt of these I.P.O. shares and Salomon Smith Barney acting as the company's investment banker."

Stating that Justice Lowe erred in his decision, Mr. Gordon said Mr. McLeod would probably appeal.

The civil case against Mr. McLeod recalls the heady days of 1999 and 2000, when telecommunications companies like WorldCom and Qwest were stock market darlings and the men who ran them rock stars. A central figure in the case was Jack B. Grubman, the powerful Salomon Smith Barney telecommunications analyst who recommended McLeod-USA stock repeatedly to the public, even as it plummeted.

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Indeed, Mr. Spitzer contended that Mr. McLeod sold 2.2 million shares of his company's stock after Mr. Grubman began recommending it, realizing a profit of almost $100 million from the sales. Mr. Grubman was barred from the securities industry in 2002.

Mr. McLeod appears to have pursued the initial public offering shares aggressively. For example, Mr. McLeod testified that he personally asked for initial offering allocations from chief executives of several companies McLeodUSA did business with and that Salomon Smith Barney was going to offer to the public.

The court must schedule a hearing to set the amount of damages and restitution to be paid by Mr. McLeod.

The other executives sued by Mr. Spitzer for their initial public offering profits were Philip F. Anschutz, former chairman of Qwest Communications; Bernard J. Ebbers, former WorldCom chief executive; Joseph P. Nacchio, former chief executive of Qwest who will be tried this year on insider trading charges in Denver; and Stephen Garofalo, chief executive of Metromedia Fiber Networks.

All four have settled with the attorney general. Mr. Anschutz paid $4.4 million to settle; Mr. Nacchio paid $400,000; and Mr. Garofalo paid $1.5 million. The settlement with Mr. Ebbers, which has not yet been completed, will be a part of his global resolution involving the holders of stock and bonds who lost money when WorldCom collapsed.

Andrew J. Lorin, an assistant New York attorney general and enforcement section chief, argued the case before Justice Lowe. "McLeod reached out to Salomon Smith Barney to get these hot I.P.O. shares, which were like cash, while at the same time McLeod's company was sending tens of millions of dollars in banking business to S.S.B.," he said.

"It's simply wrong that an executive should receive these types of payments from a company vendor and that none of it was disclosed to the board or the shareholders."

Insurance Scandal (WSJ)

By Karen Richardson

The Wall Street Journal, February 11, 2006

Four Ex-Executives To Answer Charges

Three former top executives of Berkshire Hathaway Inc.'s General Re and one former American International Group Inc. executive are scheduled to be arraigned in federal district court in Alexandria, Va., Thursday on charges that they helped insurance giant AIG cook its books.

Absent from those proceedings -- and probably future court dates related to the matter -- will be former AIG Chief Executive Maurice R. "Hank" Greenberg, who was referred to as an "unindicted co-conspirator" by the grand jury that handed up the indictment.

Despite a year's worth of work digging through thousands of pages of documents and listening to hours of recorded conversations, prosecutors didn't find any hard evidence that Mr. Greenberg knew his company might have been committing a crime by entering into a questionable "finite reinsurance" transaction with General Re, according to people familiar with the government's case. Finite-reinsurance products allegedly can be used to burnish a company's financial results.

Some legal experts say it now looks unlikely that Mr. Greenberg will face criminal charges in the scandal that ultimately led to his ouster from the top job at AIG, unless some new evidence emerges against him. In April, Eliot Spitzer, the hard-charging New York attorney general who was also investigating AIG and Mr. Greenberg, told a television interviewer that his office had "powerful evidence" against the then-AIG CEO. But in November, Mr. Spitzer decided not to pursue criminal charges against Mr. Greenberg.

The federal grand jury in Virginia, however, delivered indictments two weeks ago against the three former General Re executives -- Ronald Ferguson, Elizabeth Monrad and Robert Graham -- as well as Christian Milton, AIG's former head of its U.S. reinsurance operations.

Justice Department prosecutors could still pursue Mr. Greenberg if one of those facing indictments were to offer up new evidence against him. But Mr. Milton's lawyer said in an interview two weeks ago that his client will plead not guilty and go to trial.

Last week, AIG's shares rallied after the insurance giant agreed to a $1.64 billion civil settlement with multiple regulators over fraud and other allegations related to the scandal.

Mr. Greenberg isn't expected to abandon his counterattack. The former AIG chief, who took part in the D-Day landing in Normandy, isn't known for backing down from a fight, and friends say he isn't about to back down from this one. An insurance agency owned by his C.V. Starr & Co. has been slapped with a restraining order aimed at preventing it from taking existing business away from AIG, pending arbitration. As a result, Mr. Greenberg may still get his day in court.

Write to Karen Richardson at karen.richardson@awsj.com5

Ex-Hollinger Official: Give Me My Stuff Back (CHIST)

By ERIC HERMAN, Staff Reporter

Chicago Sun-Times, February 11, 2006

Media mogul Conrad Black, who once controlled the company that owns the Chicago Sun-Times, ripped prosecutors Friday for blocking his access to treasured personal belongings.

Black, 61, faces charges he helped steal $84 million from Hollinger International, the company that owns the Sun-Times. The charges include obstruction of justice for allegedly removing documents from his Toronto office last year. At a court hearing Friday, prosecutors said they wanted to make sure the evidence stayed out of Black's reach. But a lawyer for Black said the material includes items with no relevance to the case, including a picture of Black's father.

After the hearing, Black said the items also include a bust of Marshal Ferdinand Foch -- a French military commander from World War I -- and a sketch of Maurice Duplessis, who served as premier of Quebec from 1936 to 1959. Black is the author of a 1976 biography of Duplessis.

CONRAD'S HERO

Marshal Ferdinand Foch (1851-1929) led the Allied forces in the last months of World War I and is credited by many historians with masterminding the victory over Germany. A career military man, Foch wrote books on war and taught at France's war college. Once war began, he argued for a unified command structure among Britain, Belgium and France -- a view that would be proved right.

In 1918, the Allies' leaders put Foch in charge of the Allied armies. Citing his determination, King Albert I of Belgium said, "that man could make the dead fight."

Foch waged relentless attacks against the German army in the summer of 1918, halting their advances until American troops arrived.

--Eric Herman

"There's a lot of nonsense going on here. This has absolutely no relevance to this case," Black said. "It's irritating. Come on, it would be irritating to you, wouldn't it? If you had pictures of your family, a picture of the guy you wrote a book about that his secretary gave you, that had been a present from his own parliamentary caucus?"

Black's interest in historical figures like Foch dates back to his childhood, when he was fascinated with Napoleon. In 2003 he published a second work of history, the 1,360-page Franklin Delano Roosevelt: Champion of Freedom.

Black has pleaded not guilty, and said Friday he wished he had an earlier trial date. The trial is scheduled to start in March 2007.

"I want to get on with it. . . . I want to expose this case for the complete fraud that it is," Black said.

Prosecutors have not had access to items from Black's Toronto office, either. Under a court order in Canada, they are being held by the accounting firm Ernst & Young.

At Friday's hearing, Judge Amy St. Eve ordered both sides not to remove the material until prosecutors obtained the evidence under an international treaty.

In May 2005, Black and his chauffeur removed 13 boxes of documents from his Toronto office. At the time, Black knew he was under investigation by the U.S. Securities and Exchange Commission as well as the Justice Department, prosecutors say. A Canadian court had issued an order barring the documents' destruction. A security camera captured the incident on video.

Black Eager To Proceed With Fraud Trial (FINDLAW/AP)

By Dave Carpenter, Ap Business Writer

AP, February 11, 2006

(AP) - CHICAGO-Former media tycoon Conrad Black said Friday he's eager to get on with his fraud and racketeering trial and reiterated his defiance of the case he has called a massive smear job against him.

Black isn't scheduled to go on trial until March 2007 on charges related to the alleged looting of more than $84 million from Hollinger International Inc. by high-level executives. But he said after making his third required appearance in U.S. District Court that he wishes it could start sooner.

"I want to get on with it," he told reporters after the status hearing. "I want to expose this case for the complete fraud that it is."

Attorneys for the two sides jockeyed over whether prosecutors followed proper procedure in subpoenaing documents and personal effects of Black and co-defendant John Boultbee, Hollinger's former chief financial officer, from Toronto-based parent firm Hollinger Inc.

Black's attorneys asked to have the subpoena quashed, claiming the request didn't go through Canadian authorities as required under a U.S.-Canada treaty.

Prosecutors withdrew the subpoena, acknowledging they did not fully adhere to the treaty because they wanted to move swiftly out of concern the documents would go missing. Judge Amy St. Eve ordered that no one attempt to remove the documents until the treaty has been complied with.

At issue are 13 boxes of documents that Black is alleged to have taken from Hollinger Inc.'s offices last May in defiance of a Canadian court order that no documents be removed without permission. Black subsequently returned the documents.

Black, Boultbee and two other former Hollinger executives - Peter Atkinson and Mark Kipnis - are charged with using their positions to plunder millions from Chicago-based Hollinger International, which formerly owned newspapers in Canada, London and Jerusalem and now holds Chicago-area papers. All have pleaded not guilty to the criminal charges.

Prosecutors had wanted to go to trial as soon as this fall, but St. Eve set it for March 5, 2007, because of a conflict with a terrorism trial she is due to preside over this fall.

If convicted on all counts, Black faces a maximum sentence of 95 years in prison, $7 million in fines and forfeiture of money that allegedly was obtained fraudulently.

The judge scheduled the next status hearing in the case for April 21.

Mistrial Declared In Second Cendant Fraud Case (FINDLAW/AP)

By Stephen Singer, Associated Press Writer

AP, February 11, 2006

(AP) - HARTFORD, Connecticut-Federal prosecutors are weighing whether to take another shot at former Cendant Corp. Chairman Walter Forbes who again saw fraud charges leveled against him fall apart in another mistrial.

A federal judge declared the mistrial Thursday - the second to date - in the accounting-fraud trial against Forbes, whose company whose company was ensnared in one of the first corporate scandals of the 1990s.

Forbes was accused of participating in a scheme that cost the company and investors more than $3 billion (â‚¬2.5 billion).

The jury in the second trial deliberated in Hartford for 27 days.

Jurors sent a note to U.S. District Judge Alvin W. Thompson Thursday morning saying they were deadlocked, Thompson's clerk said. Thompson, who had encouraged the jury to work through a previous deadlock, discussed the note with the jurors and then discharged them.

Defense attorney Brendan Sullivan had no comment after court Thursday. Federal prosecutors must decide whether to ask for a third trial. They said Thursday they were reviewing their options.

James W. Bergenn, a Hartford attorney and legal analyst on local television, said he would not be surprised if prosecutors sought a third trial.

"They almost never change their view even if they lose to a jury," said Bergenn, who is not involved in the case. "It's very, very, very rare that a prosecutor in my experience says, 'We were wrong.'"

In the most recent trial, prosecutors reduced the number of charges from 16 to four - conspiracy to commit securities fraud, securities fraud and two counts of false reporting to the U.S. Securities and Exchange Commission.

Forbes argued that he did not know about the fraud.

Jurors last year convicted Forbes' co-defendant, Cendant Vice Chairman E. Kirk Shelton, of conspiracy, mail fraud, wire fraud, securities fraud and making false statements to the SEC.

Shelton was sentenced to 10 years in prison and ordered to pay $3.27 billion (â,¬2.73 billion) in restitution to Cendant, including a balloon payment of $15 million (â,¬12.53 million) and monthly installments of $2,000 (â,¬1,670) after he is released from prison.

Prosecutors said Shelton inflated revenue by $500 million (â,¬417 million) at Cendant's predecessor, CUC International, to drive up the stock price. The fraud was reported in 1998, causing Cendant's market value to drop by $14 billion (â,¬12 billion) in one day.

CUC, which ran a membership-marketing operation, merged with HFS Inc., a travel and real-estate services company, to form Cendant. Its brands include Ramada, Howard Johnson, Avis, Coldwell Banker and Century 21.

The Cendant allegations were among the first in a series of corporate accounting scandals in recent years that sparked outrage among investors. At the time, the $3 billion fraud was the largest case of accounting fraud in the country, prosecutors said.

Forbes was chief executive of CUC and Shelton was president before CUC merged with HFS Inc. to form New York-based Cendant in December 1997.

CRIMINAL LAW:

Cheney Role Risks Political Fallout (WSJ)

By Anne Marie Squeo And John D. McKinnon

The Wall Street Journal, February 11, 2006

CIA-Leak Case May Hand War Critics Momentum, But Legal Issues Are Slim

WASHINGTON -- The disclosure that Vice President Dick Cheney may have authorized his former chief of staff to release classified information to justify the war in Iraq has political consequences for the White House, but the legal fallout may be muted.

Mr. Cheney, in his role as second-in-command of the country, has significant leeway, albeit not as much as the president, to declassify information. The information I. Lewis Libby, the chief of staff, said he was authorized by his superiors to discuss with reporters was the October 2002 National Intelligence Estimate titled "Iraq's Continuing Programs for Weapons of Mass Destruction."

The 90-page report, prepared by the National Intelligence Council for the director of the Central Intelligence Agency, was prepared in advance of the March 2003 invasion of Iraq and became the subject of intense focus in mid-2003, after weapons inspectors failed to find evidence that Saddam Hussein had been building such weapons. Mr. Libby has been indicted on charges of lying and obstruction of justice related to a federal probe into whether administration officials intentionally blew the cover of a CIA official.

"The president can declassify anything," William Banks, a Syracuse University law professor and expert on national-security law, said. While the president would have to amend his own executive order governing secrets in order to declassify something on the fly, that can be accomplished very informally, even orally and in secret. "He could do it on a cocktail napkin," Mr. Banks said.

The vice president's authority to declassify is less clear. Some legal scholars believe that Mr. Cheney would share in the president's authority, as an elected official. Alternatively, the president could delegate his declassification authority to the vice president.

"The classification system is rooted for the most part not in statute but in executive order. ...In the case of the NIE, the White House was free to declassify it at a moment's notice," said Steven Aftergood, director of the project on government secrecy at the Federation of American Scientists, which favors increased public access to government information.

On July 18, 2003, the administration, facing criticism for the intelligence used to justify the war, declassified an eight-page part of the NIE dubbed "key judgments" and conducted a lengthy background briefing with reporters to discuss it.

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As such, the trial of Mr. Libby, scheduled to start early next year, is likely to resurrect a sensitive issue for the Bush administration going into November's midterm congressional elections: the rationale for the Iraq war and tactics used to quell criticism.

The implication from the disclosure that Mr. Libby had authority to discuss sensitive intelligence matters with the press "is that the White House -- the vice president -- has been using his declassification authority as a way to advance the administration's political agenda," said Mr. Aftergood. "In other words, information that supports the administration's position on Iraq or whatever is selectively declassified and other information is not. That's not a criminal offense, but it's kind of sleazy."

The investigation into who leaked the identity of CIA agent Valerie Plame to the media continues, though Mr. Libby has been the only one charged. The five-count indictment against him doesn't actually allege he leaked Ms. Plame's name or that he disclosed classified information. Yet both factors are expected to factor into the government's case against him.

Special Prosecutor Patrick Fitzgerald disclosed Mr. Libby's authorization to release NIE information in a letter to Mr. Libby's defense team last month. That letter, which recapped discussions between the two sides in the case, was filed with the court as part of a motion to compel Mr. Fitzgerald to turn over information he had refused to provide. A judge is expected to rule on the matter in coming weeks.

Mr. Fitzgerald doesn't say in the court filings that Mr. Libby's superiors gave him permission to disclose Ms. Plame's identity. A 1982 federal law makes it illegal to intentionally blow the cover of a covert agent, potentially endangering the agent's life and those with whom the agent works. A spokesman for Mr. Fitzgerald declined comment.

Mr. Fitzgerald makes clear in his letter that his interest in mentioning the authorization isn't to show some motive or intent. Rather, he notes that Mr. Libby's discussions with reporters, where he is alleged to have discussed Ms. Plame's identity, are "inextricably linked" to the administration's efforts to shore up support for the war, in part by citing the intelligence report.

Mr. Libby's attorneys have said they don't plan to raise a defense based on authorization by superiors. In recent court filings, they have indicated that they are likely to focus on the demands of Mr. Libby's job and suggest that any inconsistencies between his testimony and other facts are the result of a mistake, not an intent to lie.

Ms. Plame, who has since retired from the CIA, was first named in a newspaper column by Robert Novak on July 14, 2003, that cited two senior administration officials. That article and subsequent ones discussed White House reaction to public criticism of the war a week earlier by Ms. Plame's husband, former ambassador Joseph Wilson. Mr. Wilson had been sent by the CIA to check out claims that Iraq had sought uranium ore, critical to making nuclear weapons, from Niger, and found no evidence to support that.

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Abramoff E-Mail Plays Up Bush Contacts (AP)

By Pete Yost

AP, February 11, 2006

Jack Abramoff had brief conversations with President Bush almost a dozen times and the president knew him well enough to make joking references to Abramoff's family, according to an e-mail the fallen lobbyist sent a magazine editor.

Bush "joked with me about a bunch of things, including details of my kids," Abramoff recalled of his contacts with the president.

The recipient of the e-mail, Washingtonian magazine editor Kim Eisler, confirmed its contents.

Bush's contacts with Abramoff — who has pleaded guilty in a fraud and bribery case and is cooperating with a public corruption investigation — have become an issue because the president has said he doesn't recall ever meeting the lobbyist.

Time magazine and the Washingtonian have reported the existence of about a half-dozen photos showing Abramoff and Bush together.

The president acknowledged having his picture taken with Abramoff but suggested the photos were of no significance because he is photographed with so many people. Bush said there was no reason to publicly release the photographs.

"I frankly don't even remember having my picture taken with the guy," Bush told a news conference on Jan. 26. "I don't know him."

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On Thursday, White House press secretary Scott McClellan said that "what the president said still stands."

Abramoff's e-mail states that Bush "has one of the best memories of any politician I have ever met." The e-mail said that Bush's ability to recall is one of his "trademarks, though of course he can't recall that he has a great memory!"

The e-mail adds, "Perhaps he has forgotten everything. Who knows."

On Friday, Eisler said that Abramoff made the comments more than two weeks ago in response to a question from the magazine editor, who wanted to double-check some information before appearing on a television show.

A liberal Web log, ThinkProgress, first disclosed the existence of the Abramoff-Eisler e-mails this week.

Three More Lawmakers Tied To Abramoff (AP)

By Toni Locy And Pete Yost

AP, February 11, 2006

Three members of Congress have been linked to efforts by lobbyist Jack Abramoff and a former General Services Administration official to secure leases of government property for Abramoff's clients, according to court filings by federal prosecutors on Friday.

The filings in U.S. District Court do not allege any wrongdoing by the elected officials but list them in documents portraying David Safavian, a former GSA chief of staff, as an active adviser to Abramoff, giving the lobbyists tips on how to use members of Congress to navigate the agency's bureaucracy.

Abramoff is cooperating with federal investigators in a wide-ranging probe of corruption on Capitol Hill that threatens several powerful members of Congress and their staff members. Last month, he pleaded guilty to federal charges of conspiracy, tax evasion and mail fraud.

Safavian is charged with lying to a GSA ethics officer when he said Abramoff was not seeking business with the agency at the time the lobbyist paid for Safavian and several others to go on a golf outing to Scotland in August 2002.

At the time of the trip, prosecutors said, Abramoff was trying to get GSA approval for leases of the Old Post Office Pavilion in Washington for an Indian tribe to develop and for federal property in Silver Spring, Md., for use by a Jewish school.

Two of the elected officials referred to in Friday's filings have been identified in published reports as Reps. Steven LaTourette, R-Ohio, and Don Young, R-Alaska. According to Roll Call, a Capitol Hill newspaper, the two representatives wrote to the GSA in September 2002, urging the agency to give preferential treatment to groups such as Indian tribes when evaluating development proposals for the Old Post Office.

LaTourette maintains he did nothing improper by advocating special opportunities for certain small businesses in areas known as HUBzones, or Historically Underutilized Business zones. His spokeswoman, Deborah Setliff, said that the letter was reviewed by Young's chief of staff and counsel and that it did not advocate any particular business over another.

A spokesman for Young did not return telephone calls.

Friday's filings by prosecutors refer to a third member of Congress, Rep. Shelly Moore Capito, R-W.Va. Her name appears in e-mails that suggest she was trying to help Abramoff secure a GSA lease for land in Silver Spring for a religious school.

Capito claims to know nothing about the effort. "The action taken by her former chief of staff was done without her knowledge, approval or consent," said her spokesman, Joel Brubaker. "She was not aware of any contact with GSA of any type on this matter."

Mark Johnson, Capito's former chief of staff, said he did not bring the issue to Capito's attention. He said he was contacted by Neil Volz, a colleague of Abramoff's and a former chief of staff for Rep. Bob Ney, R-Ohio.

Johnson said Volz asked him to check on the status of a project involving the GSA. Johnson said he believes he called a friend at the GSA but doesn't recall the outcome.

Prosecutors included the e-mails in documents filed in response to a request by Safavian's lawyers to dismiss the indictment against him. Safavian's lawyers want a federal judge to throw out the charges on grounds there is no evidence of wrongdoing.

In their filing, prosecutors laid out a series of contacts between Abramoff and Safavian that show the former GSA official gave inside information and advice to the lobbyist.

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Safavian used his personal e-mail during business hours to communicate with Abramoff several times, according to prosecutors. He also edited the draft of a letter that was probably sent under LaTourette and Young's names.

And Safavian advised Abramoff to tell his wife to use her maiden name during a meeting with GSA officials so she wouldn't draw attention to her politically connected husband's involvement in the project.

In a July 23, 2002, e-mail to a GSA official, Safavian discussed getting information about the Silver Spring site to Capito's office. But Volz discovered a complication the next day.

Volz told Abramoff that someone at the GSA wanted the congresswoman to put her request in writing. "We can't ask the most vulnerable Republican incumbent member of Congress in the House to put something in writing that can be made public," Volz wrote. "The congresswoman's office has already put the request in and you would think that would be enough!!!"

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Associated Press writer Mark Sherman contributed to this report.

Lobbyist Confirms Talks With Reids Office (AP)

AP, February 11, 2006

One of Jack Abramoff's ex-colleagues confirmed Friday he contacted Senate Democratic leader Harry Reid's office on behalf of the influential lobbyist but said he doesn't believe Abramoff's billing records accurately reflect the extent of his work.

Ronald Platt, a lobbyist who worked with Abramoff at the Greenberg Traurig firm between 2001 and 2004, said he contacted Reid's office in 2001, as the billing records show, about the timing of minimum wage legislation affecting Abramoff's Northern Mariana Islands client.

"When Abramoff first arrived at Greenberg Traurig, I did a new colleague a favor by simply asking Reid staffers about when the minimum wage legislation affecting the Mariana Islands would be voted upon by the Senate. I communicated this to Abramoff," Platt said in a statement e-mailed to The Associated Press.

AP reported Thursday that lobbying firm billing records obtained under public records law from the Northern Mariana Islands showed Abramoff billed the islands for 21 contacts in 2001 with Reid's office.

The records listed the minimum wage as the issue and Platt as the point of contact for most of those contacts. Platt had formally registered with the Senate in 2001 to lobby for the Marianas as well as some Abramoff tribal clients.

Reid's office confirmed this week it had "routine contact" with Platt over the years on lobbying issues such as the Marianas, tribes and other issues but said it could not verify all the contacts listed in the billing records.

In his statement, Platt sought to minimize the extent of his lobbying of Reid's office on behalf of Abramoff, who has pleaded guilty in a fraud and bribery case.

"These contacts were incidental, insofar as I simply bumped into Reid staffers at Democratic Party functions or occurred incidental to discussions regarding my clients, not Abramoff's," Platt said. "Any contacts that I may have had in regards to Abramoff's tribal clients would have been similarly incidental."

As for the 21 contacts listed in the billing records, Platt noted Abramoff has pleaded guilty to defrauding clients and said the references in the AP story were inaccurate. He was not more specific.

Audits of Abramoff's work for the Marianas during the 1990s, when he worked for the Preston Gates lobbying firm, concluded more than $1 million in expenses could not be substantiated.

However, the 2001 Marianas billing records cited by AP were similarly audited and the island's government raised no concerns. In fact, the island's auditor concluded Greenberg Traurig had provided "more lobbyist services ... in terms of time spent" for less money than had been seen in earlier years.

Platt also said the AP did not attempt to reach him for comment before its story moved Thursday.

AP contacted Platt's new lobbying firm in late December seeking to interview him about the billing records and was referred to Greenberg Traurig.

Platt also did not return two phone messages Friday renewing a request for an interview, sending an e-mail statement instead.

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Greenberg Traurig declined to comment. "Consistent with our ethical obligations to clients, our firm continues to cooperate fully with ongoing government investigations," the firm said.

Dem Leader Faces Increasing Scrutiny In Lobbyist Scandal (HCHRON)

By MICHAEL HEDGES

Houston Chronicle, February 11, 2006

Sen. Harry Reid helped lead the effort to portray DeLay as corrupt

WASHINGTON - Senate Minority Leader Harry Reid, who has helped lead the effort to paint Rep. Tom DeLay and the Republican Party as corrupt, faced increased criticism Friday about his extensive contacts with the lobbyist who set off the unfolding congressional ethics scandal.

Reid, D-Nev., who last month compared DeLay to a gangster for his connections with high-profile lobbyist Jack Abramoff, received $68,000 for his campaigns and political committees from Abramoff clients and associates.

Around the time of the contributions, Reid wrote letters to the U.S. Interior Department urging action that would benefit an Indian tribe client of Abramoff's. In addition, Reid's staff had extensive contacts with lobbyists working for Abramoff, according to documents and e-mails disclosed by the Associated Press.

The fresh revelations about Reid could undermine the Democrats' efforts to make what they call the GOP's "culture of corruption" a major issue in this year's congressional elections.

"The fact that he is a leader in the Senate and is going to have to be the spokesman for these things, it does make it a little harder and he may have to back off," said John Fortier, a political scholar at the conservative American Enterprise Institute.

Reid stuck to his stance Friday that he has no need to return or donate to charity the $68,000 in legal contributions from Abramoff's Indian gaming clients and lobbying associates of Abramoff.

"That would suggest the tribes themselves have done something wrong," said Jim Manley, a Reid spokesman.

Reid has a long and proud history as a member of the Indian affairs committee, Manley said.

Like DeLay, Reid has denied using his office to benefit Abramoff clients.

DeLay donated to charity $15,000 received directly from Abramoff and his wife, but has not returned money received from Indian clients associated with Abramoff.

On Jan. 13, Reid wrote in an opinion piece in the Houston Chronicle, "Our nation's capital has been overrun by organized crime — Tom DeLay style. The gangsters are the lobbyists, cronies and lawmakers who have banded together and abused their power to serve their own interests."

Michael Connelly, a spokesman for DeLay, said the Texas Republican now feels sorry for Reid: "Hypocrisy comes at a high price, and it looks like the senator's bill has come due."

Republican political groups were swift to label Reid a hypocrite.

"It's time for Senator Reid to stop the charade, cut a $68,000 check, and pronounce his ethics crusade dead in the water," said Brian Nick, spokesman for the National Republican Senate Committee.

Abramoff and associate Michael Scanlon, a former DeLay aide, have pleaded guilty to defrauding the tribes of roughly $66 million and are cooperating in a federal investigation of corruption in Congress.

At least 32 times before 2005, an Abramoff Indian gaming client or associate donated to Reid's campaign or political funds.

In March 2002, Reid urged Interior Secretary. Gale Norton to reject efforts by the Jena band of Choctaw Indians in Louisiana to get a casino license. He wrote a related letter to Norton in April 2003 as Abramoff lobbied for a rival tribe, the Louisiana Coushattas.

An Abramoff lobbying team that worked with Democrats met with top Reid staff members more than 20 times in 2001 on issues critical to Abramoff clients, according to invoices of Abramoff's lobbying firm obtained from government officials. Shortly before and after at least one meeting, Abramoff's law firm and an Abramoff deputy sent checks to Reid's re-election committee.

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Abramoff Pressed GSA Contact On Getting Land (WP)

By James V. Grimaldi And Susan Schmidt

DOJ_NMG_0014376

The Washington Post, February 11, 2006

Convicted lobbyist Jack Abramoff had more extensive discussions than previously disclosed with a top General Services Administration official regarding federal property the lobbyist sought to acquire around the time the two men went on a $130,000 golf trip to Scotland in 2002, according to papers filed by prosecutors in federal court yesterday.

Former GSA chief of staff David H. Safavian is charged with obstructing justice in telling investigators that Abramoff was not seeking business with his agency at the time he went on the golf trip, which was paid for by Abramoff's Indian tribal clients.

In their filing, prosecutors produced e-mails showing that Abramoff engaged in an aggressive campaign to secure for himself and clients the use of GSA-controlled property, including the Old Post Office in downtown Washington. Among his efforts, Abramoff considered trying to get a provision backing the land acquisition added to a bill being managed by House Administration Committee Chairman Robert W. Ney (R-Ohio), who also went with Abramoff on the golf trip, which prosecutors have called "lavish."

In an e-mail sent to a colleague the day after Abramoff and Safavian returned to the United States on a private jet, Abramoff said: "Had good chats with David during the trip. He wants us to push hard on this project [Old Post Office] and he thinks we can get it."

Safavian's attorney, Barbara Van Gelder, said the case should be dismissed because Abramoff had no real business before the government at the time of the trip. Van Gelder said the new e-mails merely show that Abramoff was seeking information from Safavian, a longtime friend and former colleague.

E-mails filed in 85 pages of exhibits yesterday detail an extensive interaction between the two. "It will be up to the jury to decide the strength of the Government's evidence," prosecutors said in arguing against Van Gelder's request that the court throw out the case.

The e-mails show how Abramoff and members of his team were strategizing among themselves and with Safavian about how to acquire or lease part of 600 acres of the Naval Surface Warfare Center-White Oak in Montgomery County. Abramoff wanted the property for a Jewish school he operated. He also wanted to gain use of the Old Post Office for a tribal client. A key strategy involved getting members of Congress, at Safavian's suggestion, to press the GSA on the issue.

At one point, Abramoff asked a member of his lobbying team, Neil G. Volz, if he could get a provision inserted into an election-reform bill to advance the acquisition of the land. The bill was sponsored by Ney, Volz's former boss.

Former Christian Coalition leader Ralph Reed was also on the trip with Abramoff, Ney, and Ney's chief of staff, William Heaton. Ney, who reported to the House that the trip was paid for by a think tank, is under investigation for allegedly promising to add a provision to the same bill for an Indian tribe attempting to reopen a shuttered Texas casino.

"If we were to craft something oblique, any chance of slipping into the election reform bill?" Abramoff asked Volz. "I know we are loading that up, but I thought I'd ask." Volz replied by saying he wanted to call Safavian at home to discuss it.

Ney's spokesman said he would not comment on Abramoff's e-mail "regarding a hypothetical legislative provision" in the bill. "I fail to see how anything involving Jack Abramoff could be given any degree of credibility," Brian J. Walsh said.

An attorney for Volz did not return a call.

Safavian's lawyer said that she does not think Abramoff even met with Safavian on the day the e-mails were exchanged, as Abramoff asserted in his e-mails. Abramoff, she said, was not technically seeking to do business with GSA. "What Jack Abramoff was doing was getting information to seek to do business," she said.

The total cost of the Scotland trip, which was paid for by funds Abramoff obtained from his Indian tribe lobbying clients, was more than $130,000. Safavian, who had told ethics officers he would reimburse all costs but airfare, gave Abramoff a check for $3,100 to cover his share of expenses associated with the trip, prosecutors said.

Abramoff's Charity Began At Home (LAT)

By Chuck Neubauer And Richard B. Schmitt

The Los Angeles Times, February 11, 2006

The lobbyist admits he used nonprofits to evade taxes, pad his pockets and bribe officials.

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WASHINGTON — In his own way, disgraced super-lobbyist Jack Abramoff engaged in many charitable endeavors over the course of his decade-long career as a Washington insider.

There was the time he laundered money through a religious group's accounts to try to bribe a congressional aide. He diverted funds from a youth athletic foundation to bankroll a golf junket for a congressman and to bolster the bank account of his Washington restaurant. He used two other nonprofits to line his own pockets with millions of dollars defrauded from clients.

Charities are supposed to advance the public interest, which is why they aren't taxed. But Abramoff, by his own admission, used them to evade taxes, enrich himself and bribe public officials, according to a plea agreement he signed with federal prosecutors in January.

"One of the most disturbing elements of this whole sordid story is the blatant misuse of charities in a scheme to peddle political influence," said Mark Everson, the commissioner of the Internal Revenue Service.

Abramoff's use and misuse of nonprofits played a key role in each of the three counts of his indictment: conspiracy, mail fraud and tax evasion. He admitted evading $1.7 million in income taxes over three years, in part by using nonprofits to conceal personal income from the IRS.

The fast-growing ranks of tax-exempt, nonprofit organizations are tailor-made for operators like Abramoff.

The number of tax-exempt groups in the United States has tripled over the last three decades, but nonprofit groups usually pay no tax, so there is little incentive for the IRS to keep an eye on them.

The lack of oversight is especially meaningful in Washington, where trade associations, public-interest groups and grass-roots lobbying organizations all have tax-exempt status under generous IRS rules designed to foster public debate. Members of Congress are also getting into the act and forming their own charities.

Abramoff and a partner, Michael P.S. Scanlon, a onetime aide to former House Majority Leader Tom Delay (R-Texas), admitted bilking Indian tribes out of tens of millions of dollars and attempting to bribe public officials. They used a network of charities and other nonprofits — some existing, some they created — to forge a full-service influence-peddling operation.

They included:

The Capital Athletic Foundation, created by Abramoff as a sports-oriented youth charity. He funded it with millions improperly diverted from his lobbying clients and treated it as his "personal piggy bank," a lawmaker said, spending money on pet projects that had nothing to do with its stated purpose.

The American International Center, a bogus "international think tank" at a beach house near Rehoboth Beach, Del. Abramoff and Scanlon used the center to collect millions from their lobbying clients and then send it to their personal bank accounts.

Toward Tradition, a nonprofit in Mercer Island, Wash., that promotes "traditional Judeo Christian values" and was used to help Abramoff funnel an alleged $50,000 bribe of an aide to Delay.

The National Center for Public Policy Research in Washington, an obscure conservative organization that Abramoff used to defraud an Indian tribe and an offshore gaming alliance of more than $2 million for his and Scanlon's personal enrichment.

Abramoff's story is not just one of clever fraudsters, but of the seeming willingness of some donors and charities to look the other way. They say that they too are victims, although some experts question whether they were diligent enough.

Rabbi Daniel Lapin, the head of Toward Tradition, said he had no reason to be suspicious of a gift from an Abramoff client called eLottery, even though his organization is avowedly anti-gambling. Abramoff, a former board member of the group, was considered a trusted friend.

"Toward Tradition and I interact with thousands of individuals and hundreds of organizations every year," he said in a statement. "It is just unrealistic to suppose that none of these relationships are ever going to become problematic. There was no reason for Toward Tradition to spurn Jack Abramoff's support."

But some experts say that charities ask for trouble when they accept gifts with strings attached.

"The moment the donor appears to have a vested interest in who I hire and how I conduct my business ... I think I have an obligation to look into that," said Diana Aviv, the president and chief executive of Independent Sector, a Washington-based coalition that lobbies on behalf of nonprofit groups.

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The story of Abramoff's misuse of charities and nonprofits was pieced together from his plea agreement, nonprofit tax returns, interviews, and emails and other documents released by the Senate Indian Affairs Committee, as well as testimony from the committee's hearings on Abramoff.

The Senate Finance Committee is investigating Abramoff's use of charities and other tax-exempt organizations, and has requested detailed information from the Capital Athletic Foundation and the National Center for Public Policy Research

Abramoff, a Republican activist since college, became a lobbyist when the GOP captured control of Congress in 1994. He was good at his job. Among his early handiwork was helping to preserve tax breaks for the $20-billion-a-year Indian gaming industry, which bankrolls schools, hospitals and tourist attractions for the tribes.

By the new millennium, he was viewed as one of the most powerful and effective lobbyists in Washington. In January 2001, he moved his lobbying business to the new Washington office of the Greenberg Traurig law firm of Miami, which would become the base for an even more aggressive operation.

Abramoff, by then secretly partnering with Scanlon, aggressively recruited new Indian tribes as clients. In addition to paying lobbying fees to Greenberg, Abramoff persuaded the tribes to send millions to Scanlon's consulting firm, Capitol Campaign Strategies, which performed "grass roots and public relations work" for inflated fees.

Through that arrangement, according to their guilty pleas, the men secretly split some $40 million they stole from the tribes between 2001 and 2004.

Less than a year into his new job, Abramoff engineered his first major fraud involving a charity, converting a $1-million check that one of his new tribal clients, the Coushatta Tribe of Louisiana, had written to Greenberg for lobbying services.

He convinced his new partners at Greenberg Traurig that the Coushatta intended the money as a contribution to a charitable organization, the Capital Athletic Foundation. Abramoff had organized the group a few years earlier. The law firm forwarded the money.

But he told Scanlon he wanted the money to first go through Greenberg to pump up its lobbying revenues so it did not drop out of the ranks of the top 10 lobbying firms. The tribe believed that the money was being used for lobbying or political activities on its behalf. Scanlon sent the tribe a fraudulent $1-million invoice on behalf of Greenberg -- misspelling it "Greenburg" — for "public affairs services." Greenberg had not authorized the invoice; the Coushatta had not authorized giving the money to the Capital Athletic Foundation.

Abramoff had thus achieved an unusual twofer: He defrauded the tribe out of its money using the false Greenberg invoice, and then shook the money loose from Greenberg by telling his partners that it was a charitable donation from the Coushatta.

"In my personal view, this payment reveals the extent of Mr. Abramoff's shamelessness," David Sickey, a Coushatta tribal council member, told a Senate panel investigating Abramoff last fall.

Getting money from the Coushatta was "an absolute cake walk," Scanlon emailed Abramoff.

Greenberg Traurig fired Abramoff nearly two years ago after learning of "conduct we found unacceptable," the firm said in a statement. The firm said it is cooperating with investigators.

Abramoff's spokesman had no comment for this story. Scanlon's attorney did not respond to written questions.

The Coushatta check was the first of several large payments that Abramoff and Scanlon diverted from clients, often by laundering the sums through friendly charities. Abramoff used the $1 million as seed money for the athletic foundation, which he had formed in 1999 and was apparently his favorite "charity." It was established with the stated mission of funding sports programs in the Washington area. But tax records show that little money went for that purpose.

Soon after the Coushatta check was received, for example, Abramoff and a business associate discussed in emails depositing the $1 million in a Maryland bank headed by a friendly banker to help "grease" the way for obtaining a favorable bank reference letter for an oil-drilling venture in Israel. They deposited the money in the athletic foundation's account at the bank in November 2001, but it is not clear whether he got his letter or what happened to the oil deal.

In early 2002, the bank account grew when another tribal client — the Mississippi Choctaws — made the first of two $500,000 payments to the athletic foundation. Tribal leaders testified that they had been led to believe it would be "passed through" to other organizations that would support grass-roots projects to educate voters about Indian gaming issues.

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Around the time the first $500,000 was received in the foundation's bank account, $200,000 was transferred out of the account to Livsar Enterprises, the holding company that Abramoff had set up to establish Signatures, the high-end restaurant he was getting ready to open the following month in Washington, the Times learned.

An email exchange with his restaurant partner showed that Abramoff had been anxiously awaiting the Choctaw money as they scrambled to get the restaurant opened. The Choctaw money arrived on Jan. 3. His partner wrote that night that a banker "really saved us today" by transferring money from the athletic foundation to the restaurant account. Money was transferred back a few weeks later.

The restaurant became a centerpiece of Abramoff's lobbying operation, where he wined and dined congressmen and their staffs as part of his acknowledged bribery schemes.

The athletic foundation gave Abramoff an aura of respectability around town. He once persuaded Washington Redskins owner Dan Snyder to lend his name to a fundraiser for the foundation, although the benefit never took place.

The athletic foundation also gave Abramoff access to millions for his pet causes, many of which dovetailed with his orthodox Jewish beliefs. The biggest beneficiary was Eshkol Academy, an Orthodox Jewish boys school he founded in Columbia, Md., which at least one of his sons attended. The foundation also sent $100,000 to an Israeli settler who ran a sniper training workshop for militant Jews.

Abramoff has admitted that he used the foundation to pay the $166,000 cost of a trip to play the storied St. Andrew's golf course in Scotland, which included Rep. Bob Ney (R-Ohio), two top aides and others.

Abramoff admitted in his plea agreement that the trip was part of a bribery scheme intended to offer "things of value" to Ney and his staff in exchange for a series of official acts. Ney, who has denied any wrongdoing, is under federal investigation.

Abramoff also acknowledged that in raising money toward the golf outing, he defrauded two clients that thought they were donating to an athletic foundation. He obtained $25,000 apiece from the Saginaw Chippewa Indian Tribe and SPI Spirits Group, the manufacturer of Stolichnaya vodka. Officials of the Chippewa tribe have said they made the donation because Abramoff told them it would impress DeLay.

There is no indication that DeLay knew his name was being used this way.

"The congressman would never allow his name to be used for nefarious purposes as is the case here," said Delay spokeswoman Shannon Flaherty.

Abramoff told a fellow lobbyist at Greenberg Traurig Tony Rudy, in an email that the athletic foundation was "a foundation doing some issues education." But another lobbyist at the firm, Todd Boulanger, suspected something was awry.

Asked by Rudy to help raise funds from the Chippewa, Boulanger responded in an email, "I'm sensing shadiness."

Rudy, a top aide to DeLay before going to work for Abramoff, figured in an earlier chapter of the lobbyist's saga.

It involved another node in Abramoff's network of nonprofits: Toward Tradition, the Judeo Christian group that supports "a moral public culture," according to its Web site.

In 2000, Abramoff got lobbying clients to give Toward Tradition $50,000 and he set the condition that it be used to hire Rudy's wife, when Rudy was on DeLay's staff. She was hired to organize a Washington political conference the nonprofit was planning.

Abramoff admitted in his plea bargain that the payment was intended to bribe the DeLay aide to help block legislative restrictions on internet gambling and increases in postal rates. The money came from eLottery, an internet lottery firm, and the Magazine Publishers Assn. The proposed internet restrictions were voted down, and the rate increases were slowed.

Both organizations said they didn't know what the money would ultimately be used for. They said the contributions were made at the direction of Abramoff and his lieutenants in the hope of burnishing the clients' images among conservatives in power in Washington.

Rudy did not respond to several requests for comment.

For all the money that was coursing through his operation, Abramoff seemed under constant financial stress because of the drain from his school and restaurant.

Moreover, some of his tribal clients were starting to balk at his stiff fees. But he managed to tide himself over, and nonprofits were once again the vehicle.

One was the National Center for Public Policy Research, a small conservative Washington think tank on whose board Abramoff had sat for years. It was run by his old friend Amy Ridenour.

"I completely trusted Jack," Ridenour told the Senate Indian Affairs Committee investigating Abramoff in June. She told them she now believes he lied to her and defrauded her organization and the tribe.

Abramoff used the group as a money laundromat.

In 2002, he had the Choctaws write a $1-million check to the center, purportedly to educate the public on the benefits of Indian gaming. He convinced Ridenour that the tribe wanted to donate $450,000 to the athletic foundation and pay $500,000 to Capitol Campaign Strategies, Scanlon's consulting firm, for the educational work. The final $50,000 would go to a businessman to run the program.

She later learned the $50,000 paid a personal debt of Abramoff's. She also said she hadn't realized Scanlon was sharing his fees with Abramoff, or that the tribe had not authorized the payment to the foundation.

At a hearing in June, Sen. John McCain (R-Ariz.) accused Abramoff and Scanlon of profiting by $1 million in this deal and committing what "appears to be a $1-million fraud."

In 2003, Abramoff used the center again to convert $1.25 million from an offshore gambling client to a company called Kaygold, which turned out to be his personal holding company. It operated from his home and had no other employees.

Meanwhile, Scanlon turned to the "global think tank" he had set up in 2001, the American International Center, a nonprofit based near a vacation home he owned on the Delaware shore and which had no discernible assets or expertise. McCain called it a "gigantic scam."

Scanlon and Abramoff had convinced the Coushatta that their profitable central Louisiana casino was endangered by competition from another tribe and the possibility that Texas would legalize casino gambling.

On April 9, 2003, the Coushattas paid the American International Center $2.3 million for political and grass-roots work. Four days later, Scanlon transferred $1.3 million to his consulting firm and $991,000 to Kaygold. Scanlon spent all but $15,000 of his share for work on his home and other personal expenses.

"Where it went after that, the committee cannot yet say," McCain said at the Indian Affairs Committee hearing in November. "What it can say, however, is that the Coushatta apparently received little of the intended benefits for the vast sums it paid."

Later in 2003, a tiny Alexandria, La., newspaper, the Town Talk, revealed that the Coushattas had paid Scanlon's company $13.7 million for public relations work, a grossly inflated sum. Members of the tribe began to suspect they had been duped.

In early 2004, the Washington Post revealed more details of the fraud, including the fact that four tribal clients had paid a staggering $31 million to Scanlon's company at Abramoff's recommendation, triggering the Senate investigation.

Last month, Abramoff pleaded guilty and agreed to cooperate in a wide-ranging corruption probe of members of Congress and their staffs. He faces nine to 11 years in prison and penalties totaling $26.7 million.

Scanlon, who pleaded guilty in November to conspiring to defraud the Indian tribes and to bribe public officials, also is cooperating with investigators.

Abramoff's charities are dormant. His restaurant business is closed. His Jewish academy has shut down and is being sued by its former teachers for back pay.

Reform Trend May Curb Casino Plans (MJS)

By STEVE SCHULTZE

Milwaukee Journal Sentinel, February 11, 2006

New gaming venues unlikely to open soon, experts say

A reform movement taking hold in Congress on the heels of a lobbying scandal and concern over tribal casino proliferation could hurt the odds for off-reservation casino plans for Kenosha, Beloit and Shullsburg.

Backers of those deals remain committed to pushing for casino approval decisions by the U.S. Bureau of Indian Affairs and say their deals should be exempt from any potential changes in the federal law governing off-reservation casinos.

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But congressional concern over disgraced Washington, D.C., lobbyist Jack Abramoff, who has pleaded guilty to bilking millions of dollars from his tribal clients, and efforts to curb new off-reservation casinos create more uncertainty about the Wisconsin deals.

"I don't think the climate is going to support any expanded gaming efforts by tribes," said Bruce Greene, a Boulder, Colo.-based Indian law expert.

Eric Eberhard, a Seattle lawyer with an extensive tribal gaming practice, said approval of any off-reservation casinos is unlikely for the next three years. Such plans have languished under President Bush, he said.

The lobbying scandal only makes things worse for such deals, Eberhard said.

At stake here are three longstanding off-reservation casino proposals by four tribes: the Menominee tribe's $808 million casino development for Kenosha; a joint proposal by the Bad River and St. Croix Chippewa bands for a $200 million casino in Beloit; and the Lac du Flambeau Chippewa tribe's application for a $110 million casino in Shullsburg, in southwestern Wisconsin.

Greene said the Abramoff scandal has heightened concern over tribal casinos, now a $19 billion-a-year industry. The Abramoff case was a lobbying scandal, however, not a casino scandal, said Greene, who doesn't represent any Wisconsin tribes. Abramoff was charged with diverting millions of dollars in fees from tribes in Louisiana and Michigan intent on preserving local casino monopolies.

Greene disagrees with critics who say rules are too loose on new off-reservation casinos. Greene also opposes efforts by U.S. Sen. John McCain (R-Ariz.) to clamp a moratorium on siting additional gambling parlors away from traditional reservations and impose tougher federal oversight.

McCain, chairman of the Senate Indian Affairs Committee, introduced a measure late last year that would amend the 1988 Indian Gaming Regulatory Act, a groundbreaking measure that spelled out authority for tribal casinos. Rep. Mike Rogers (R-Mich.) introduced a bill last month to impose a two-year moratorium on any new tribal casinos. Another casino reform measure is expected from Rep. Richard Pombo (R-Calif.).

McCain's proposal will likely inhibit federal action on pending casino plans, Greene said, "and it's already a god-awful ridiculously slow process."

In addition to the federal approval, the off-reservation deals also need concurrence by Gov. Jim Doyle, who has not said how he would act.

The Wisconsin off-reservation casino proposals are literally years in the making. The Menominee plan, by far the most ambitious, envisions a destination casino and conference center at the site of the Dairyland Greyhound Park racetrack.

It would be unfair to change the rules for the Menominee casino plan and others that have already been developed, said Evan Zeppos, a spokesman for the Menominee tribe.

The existing rules have worked well, requiring extensive public review and local support, he said. Only three off-reservation casinos nationally have gone through all required approvals since 1988, demonstrating the current law has not permitted a proliferation of off-reservation casinos, he said.

One of those three was the Forest County Potawatomi's Milwaukee casino, the state's most lucrative venue. Tribes in Washington state and Michigan also have won federal and state approvals for off-reservation casinos.

About 10 proposed off-reservation deals utilizing the same federal-state approval process are pending, including the three from Wisconsin, said George Skibine, the Bureau of Indian Affairs official in charge of reviewing the plans. A similar number of casino plans for tribes seeking federal recognition or restoration of tribal status also have been proposed.

Skibine said he didn't think the current political atmosphere changed how his agency looked at formally submitted off-reservation plans. "We just implement the law that's on the books now," Skibine said.

The Menominee tribe opposes the McCain bill unless it's amended to permit plans already submitted to the Bureau of Indian Affairs to proceed.

"Maybe it should be called the 'Jack Abramoff Act,' " Zeppos said of the McCain legislation, because it would accomplish what Abramoff sought for his tribal clients. "It eliminates all the competition for those big, rich tribes."

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The Menominee and Potawatomi tribes have clashed over the Kenosha proposal, with the Potawatomi arguing that it would unfairly cut into its business.

The tribes also part company on the need for casino reforms, with the Potawatomi tribe backing at least the stated intent of some of McCain's efforts.

"We like the direction Sen. McCain is heading," said Potawatomi tribal attorney Jeff Crawford. The Potawatomi would like to add requirements to the law of firm historic tribal ties to a proposed casino site, as well as greater scrutiny of casino developers.

Without such safeguards, casino location decisions are purely market-driven, Crawford said. The Potawatomi have criticized the Menominee plan, saying too much money from a Kenosha casino would be diverted to two key backers - non-Indian Kenosha businessman Dennis Troha and the Connecticut-based Mohegan tribe.

Troha and his family members have donated some $240,000 to Doyle or to Democratic soft money accounts that could be used for Doyle. Doyle's campaign also received $20,000 last year from people with ties to the Mohegans.

Joe Hunt, a spokesman for the Beloit casino project, also said it would be unfair for new laws to block that casino plan. The McCain bill "basically takes six years of work and tosses it out the window," he said.

The Bad River and St. Croix bands, both located in northwestern Wisconsin, aren't "reservation shopping" by seeking a casino site in Beloit because that community invited them, Hunt said.

"Neither Bad River nor St. Croix tribe is connected in any way to any Abramoff contribution anywhere - just so you know," Hunt said.

Lac du Flambeau tribal President Vicki Doud said in a statement that McCain's legislation would add additional unneeded obstacles to its Shullsburg plan.

"This continuous onslaught of our rights under Indian Gaming Regulatory Act is turning tribes into victims as opposed to the intended beneficiaries," Doud said.

A longstanding lawsuit by the owners of Dairyland Greyhound Park seeking to roll back casino gambling in Wisconsin also could impinge on the off-reservation casino plans. The suit says that a 1993 state constitutional amendment limiting gambling expansions should have prevented state-tribal agreements allowing casino games.

A decision in the case by the state Supreme Court is expected this year.

Executive Severance Is A Focus At Getty (NYT)

By Randy Kennedy And Carol Vogel

The New York Times, February 11, 2006

Amid a broad state inquiry into the finances of the J. Paul Getty Trust in Los Angeles, the nation's third-largest private foundation, questions are being raised about whether excessive severance packages were paid to two senior executives who resigned recently, former Getty officials with knowledge of the trust's finances said yesterday.

One of the executives, Deborah Gribbon — who left in the fall of 2004 as director of the Getty Museum after disputes with the trust's president, Barry Munitz — was paid $3 million on her resignation, almost nine times her base salary of $350,000, two former Getty officials said. The other executive, Jill Murphy, who served as Mr. Munitz's chief of staff, was paid $250,000 in severance when she agreed to leave late last year.

Information about the payments came to light a day after Mr. Munitz resigned as the trust's president and chief executive amid questions about his leadership and possible abuse of expenses and perks. The California attorney general's office is conducting a wide-ranging investigation into the trust's finances and into Mr. Munitz's actions.

The severance packages could prove troubling to the Getty because such payments might violate federal tax laws governing spending by nonprofit foundations, which specify that they must use their resources for the public good.

In December, the Council on Foundations, which represents more than 2,000 grant-making foundations and corporations, placed the Getty on probation as questions about its spending became public and the trust did not cooperate fully with an inquiry begun by the council. The council, which can censure or eject members, said it was looking into whether trust officials had used

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the trust's money for personal benefit; into a land deal between the trust and Eli Broad, a billionaire financier who is a friend of Mr. Munitz's; and into whether there was "inappropriate compensation for the foundation's C.E.O. and potential self-dealing."

The council has the power to look not only into Mr. Munitz's actions as the head of the trust but also into those of its other officials and of its entire board, which now has 14 members.

"Foundations are clearly in an era of public scrutiny because we are growing in size and service, and in public awareness," said Steve Gunderson, the council's president, who would not comment on the inquiry. Of Mr. Munitz's resignation, he said yesterday, "It sends a signal to this sector to take steps to police itself."

The Getty Trust announced on Thursday that Mr. Munitz, who had led the trust, one of the world's richest art organizations, for eight years, agreed to resign without a severance package and had also agreed to pay $250,000 to resolve "any continuing disputes" that the trust's board might have with him.

The board did not explain the nature of any disputes, but trust officials said that some of his expenses, perks and other costs should not have been charged to the trust. Mr. Munitz, one of the most highly paid nonprofit foundation presidents in the country, received an annual salary, benefits and perks worth more than $1 million.

According to former Getty employees, Ms. Murphy was given tremendous power by Mr. Munitz, who traveled frequently and was said to be disengaged from the trust's day-to-day activities for long periods. The former employees complained that she was difficult to deal with and impeded important decisions involving the museum and the trust's other arms: research, grant-making and conservation. Ms. Murphy did not return phone calls yesterday seeking comment.

For the last several months, the Getty has been under siege on several fronts. Its former antiquities curator, Marion True, is on trial in Italy on charges of trafficking in looted antiquities. She resigned last October amid questions about possible improprieties involving a real estate deal.

On Thursday, another former Getty employee with knowledge of the attorney general's inquiry said that investigators were looking into several instances in which Mr. Munitz had authorized grants or uses of the trust's money without obtaining proper approval. In some cases, the former employee said, the money was spent on pet projects of Mr. Munitz's, at least one involving chess, that had very little to do with the Getty's mission.

In interviews, Mr. Munitz has defended his actions and his spending, saying that his job required him to court powerful collectors and donors around the world. He has also stressed that the trust's board had approved all his expenses, including first-class air travel, stays at five-star hotels and a leased Porsche Cayenne.

Ms. Gribbon, who declined to comment when reached by phone yesterday, repeatedly clashed with Mr. Munitz after being named director of the museum in 2000, current and past employees have said. They said she became deeply frustrated that she was unable to make decisions about the museum's direction without Mr. Munitz's approval.

She became so unhappy, some former employees said, that she tried to persuade board members not to renew Mr. Munitz's contract when it was up for renewal in December 2003. But the board stood by Mr. Munitz. Three years remained on his contract when he resigned Thursday.

Getty Foundation Chief Resigns Amid Investigations (WP)

By Sonya Geis

The Washington Post, February 11, 2006

LOS ANGELES, Feb. 10 -- The head of the J. Paul Getty Trust, one of the nation's richest foundations, has abruptly resigned amid news of investigations into his spending of foundation money on international travel and luxury items.

The California attorney general's office, an internal committee organized by the Getty, and the Council on Foundations in Washington have all been investigating Barry Munitz, trust president and chief executive, who resigned on Thursday.

The Getty board of trustees said in a statement that Munitz will not receive a severance package and will pay $250,000 to the foundation "in order to resolve any continuing disputes with him."

Munitz's resignation is the latest in a series of high-profile blows to the $7 billion foundation, the third-largest in the nation, which oversees the gleaming white marble J. Paul Getty Museum in the Brentwood area of Los Angeles. Last year, Getty Museum antiquities curator Marion True was indicted in Italy on charges of trafficking in stolen art. She resigned in October after

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reports surfaced of an improper real estate deal. A number of high-level administrators have also left the Getty Museum in the past three years citing differences with Munitz.

In June, Munitz's spending came under scrutiny when the Los Angeles Times reported that he used Getty money to buy a $72,000 Porsche, fly first-class overseas with his wife, and stay in hotels charging $1,000 a night. He was also accused of seeking an increase in his pay, which was $1.2 million, while instituting budget cuts in the flagship Getty Museum. At the time, he acknowledged spending freely on travel and said the board of trustees had authorized all of his activities. In a letter to the board announcing his resignation, Munitz said: "I'm taking this action, after lengthy consideration, so both the institution and I can move forward."

The state attorney general's office opened an investigation of the trust in August. The Getty hired a prominent Los Angeles lawyer to investigate both Munitz's spending and charges that some of the Italian artworks owned by the Getty Museum are stolen pieces. Both investigations will look at a 2002 real estate deal that Munitz made with billionaire philanthropist Eli Broad.

The Council on Foundations is also conducting an investigation related to the sale of Getty property, Munitz's spending and compensation, and potential self-dealing. In December, the Council placed the Getty on probation over its failure to provide documents in a timely manner.

Edward Goldman, art critic for Los Angeles public radio station KCRW, blamed the accumulation of the Getty's troubles on an institutional culture that lacks transparency. "They are trying to build up a reputation as a scholarly museum," he said. "At same time, when something goes wrong, they act like a corporation. They hide behind barriers."

Munitz has overseen the trust since 1997, when he was hired days before the opening of a hilltop campus for the museum, library and art conservation offices. The museum's old home, the Getty Villa in Malibu, reopened last month, after $275 million in renovations, as a site for Greek and Roman art.

Munitz Steps Down As Head Of Getty Trust (LAT)

By Jason Felch, Ralph Frammolino And Robin Fields, Times Staff Writers

The Los Angeles Times, February 11, 2006

After criticism for lavish spending, the chief agrees to pay $250,000 and forfeit severance pay and benefits. He admits no wrongdoing.

Barry Munitz abruptly ended his controversial eight-year tenure as head of the J. Paul Getty Trust on Thursday, agreeing to resolve "any continuing disputes" by paying the Getty $250,000 and giving up severance pay and benefits that would have exceeded $1.2 million.

Munitz admitted no wrongdoing, and the trust did not specify the issues underlying his resignation. But the decision came after more than a year of relentless controversy at the Getty, much of which has centered on Munitz's leadership.

The Times reported in June that he had lavishly spent Getty funds on first-class international travel with his wife, approved grants to friends and associates, and lobbied for a raise while he ordered budget cuts and layoffs. The report triggered a continuing investigation by the state attorney general into whether Munitz's actions compromised the Getty's nonprofit status.

The resignation marked a stunning downfall for a man who brought extensive business and academic experience to the world's richest art institution, not to mention a bevy of friendships with Los Angeles' power elite. An advisor to Govs. Pete Wilson and Gray Davis and former head of the California State University system, Munitz counted billionaire Eli Broad and former Paramount Studios chief Sherry Lansing as close friends.

Late in 1997, he moved from Cal State to the trust, which includes the nation's third-richest private foundation, days before the opening of the Getty Center.

His departure came after more than three months of steadily increasing pressure. In late October, the Getty board announced that it had hired Los Angeles attorney Ronald L. Olson to conduct an independent review of the trust's operations. Olson's investigation would examine Munitz's spending as well as charges by Italian authorities that many of the Getty's prized antiquities had been looted from that country.

At the time, the Getty board chairman, John Biggs, issued a statement saying Olson's investigation was intended to ensure that "the board and each of its members and employees meets all legal requirements as well as the highest ethical standards."

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The board discussed Olson's findings at a meeting this past weekend. Biggs said Thursday that Munitz had suggested resigning a couple of weeks ago but "made a firm decision during the early part of this week."

Since then, Munitz had been negotiating with the board over "a severance arrangement that was satisfactory," Biggs said.

Under the terms of his contract, Munitz would have been entitled to a lump-sum payment equal to two years' worth of salary and benefits if he had resigned because he had been forced to take a pay cut, accept a lesser title or have his job definition changed without his consent.

But he would have received nothing if he left without reason. In the end, Biggs said, Munitz "voluntarily terminated without cause" and didn't ask for a buyout, "although I'm sure he would have liked to have had it if we offered."

Munitz, 64, did not return calls asking for comment. In the Getty's statement, he is quoted as saying, "I'm taking this action, after lengthy consideration, so both the institution and I can move forward."

Biggs would not comment on whether the departure related to the committee's findings but said the $250,000 payment by Munitz was a "ballpark" figure to cover "disputed items" that are part of the attorney general's review.

In return, Biggs said, the board agreed not to seek any other restitution for expenditures it believed were inappropriate. Munitz admitted no wrongdoing in connection with the payment.

"We're not going to go back and say there was any travel expense that he has to reimburse us for," Biggs said. "He's given us $250,000 and that, as far as we're concerned, takes care of it."

Munitz's departure was welcomed by many former Getty officials, some of whom left the trust over differences with his administration.

"Barry did the right thing. So did the trustees, who have obviously learned a lot," said John Walsh, who directed the Getty Museum from 1983 to 2000. "Now they need a president who cares about what the Getty does and understands its potential."

Walsh's successor, Deborah Gribbon, who in 2004 quit one of the most sought-after museum jobs in the country because of differences with Munitz, declined to comment.

"I'm sad for Barry," said Stephen Rountree, who worked as a high-ranking administrator at the Getty for more than 20 years before leaving in January 2003 to become president and chief executive of the Music Center of Los Angeles County.

Munitz "had many skills in terms of relationships with the board and a lot of creative ideas about wider partnerships between the Getty and institutions in Europe and in this country," Rountree said. But he added, "I think he's wise to have moved on…. We really need the Getty to be functioning without all these distractions."

Vocal Munitz critic Barbara Whitney said, "I cannot begin to imagine how happy and relieved the thousand people who work there are." In August 2004 she left her post as the Getty's associate director for administration and public affairs.

"There has been a lot of damage done, and I have a lot of confidence in people who work in that organization and hope that they'll not be so worn down," she said.

Munitz was controversial from the start. He arrived days before the opening of the Getty Center in 1997 and almost immediately announced major changes, eliminating two of the trust's seven programs and folding a third into the museum.

The shake-up embittered many longtime Getty employees. But many observers said it also focused the Getty on its strengths: the Getty Museum, with its antiquities and collection of pre-modern art; the Getty Research Institute; and the Getty Conservation Institute, widely respected for restoring art worldwide. Munitz also ramped up grant-giving by the Getty Foundation.

The overall thrust, Munitz said, was to "bring the Getty down the hill" by making it more accessible to the average citizen while instilling "a sense of economic reality" in the wealthy art institution.

Yet Munitz's own travel and executive expenses became more extravagant. He used Getty money to buy a $72,000 Porsche Cayenne, repeatedly flew first-class, stayed in $1,000-a-night hotels and had his assistants express-mail umbrellas when he traveled.

Under the tax code, nonprofits must use their resources for the public good. The Internal Revenue Service considers excessive pay, travel and perks to be "self-dealing": the illegal use of tax-exempt resources for private benefit.

While the line blurred between professional and personal expenses, Munitz also spent long stretches away from the Getty. In his absence, he delegated much of the day-to-day management to his chief of staff, Jill Murphy, a former waitress whom Munitz met at a Sacramento restaurant.

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She became the focus of bitterness and frustration among Getty veterans, who resented her no-nonsense style, youth and lack of an arts background.

Staff discontent boiled over in October 2004, when Gribbon quit over her differences with Munitz.

After The Times wrote about Munitz's free-spending ways, Sen. Charles E. Grassley (R-Iowa), chairman of the Senate Finance Committee, denounced the Getty board for "spending more time watching old episodes of 'Lifestyles of the Rich and Famous' than doing its job of protecting Getty's assets for charitable purposes."

The board has appointed Deborah Marrow, director of the Getty Foundation, to serve as interim president while it searches for a replacement for Munitz.

Times staff writers Christopher Reynolds and Mike Boehm contributed to this report.

Another Getty Milestone (LAT)

The Los Angeles Times, February 11, 2006

WHEN BARRY MUNITZ abruptly resigned on Thursday as head of the J. Paul Getty Trust, he said he hoped the breakup would let him and the nation's richest art institution "move forward." He got that half right. The change is critical to the Getty's progress, but Munitz himself was already moving freely and comfortably (if not forward) during his eight years as president and CEO of the Getty — jetting to and fro in the first-class cabin, on the deck of a rented yacht or behind the wheel of his company car, a Porsche SUV. The Getty board vigorously defended Munitz last year, but his lavish pay, perks and expenses drew an investigation by the California attorney general and rebukes from the chairman of the U.S. Senate Finance Committee.

The terms of Munitz's resignation — the third in a series of notable departures, following embattled antiquities head Marion True and board member Barbara Fleischman — suggest that the trustees may be getting serious about rebuilding the institute's reputation. Munitz not only won't collect at least $1.2 million in severance benefits that his contract promised, he'll pay the Getty about $250,000 to cover any lingering disputes. That's not a golden parachute, it's a kick out the door.

But ridding the Getty of Munitz is really just the start for the board. The trustees still must resolve accusations from foreign authorities about looted antiquities. They have to find a president who can restore the institution's integrity and morale while cultivating innovative leadership throughout the Getty, rather than accreting power and weeding out perceived enemies. And they must bring executive pay and perks back into line with the amounts paid by most nonprofit institutions.

The cloud of scandal hasn't dimmed the Getty's popularity. Reservations for the Getty Villa in Malibu, which reopened last month after a nine-year, $275-million renovation, are booked through July.

Instead, its effect has been on the Getty's image and, to some degree, on that of other museums and foundations across the country. Disclosures about Munitz's extravagant perks could have led the public to believe that charitable donations and subsidies are routinely used to pamper executives. That's one of the reasons the board's initial defense of Munitz last year was so troubling; in many ways, more than just the Getty's reputation was at stake. The Washington-based Council on Foundations, an association for philanthropies, placed the Getty on probation late last year in part to show that the institute's practices were atypical.

The trustees' support for Munitz ultimately evaporated in the face of a review by a law firm the board hired in October to address the attorney general's probe, the antiquities disputes and other controversies. The lawyers can help the institution get past those issues, allowing new museum director Michael Brand to focus on collecting and displaying art. It's the board's responsibility, however, to restore the public's faith that the Getty is using its vast resources for the public good.

U.S. Ambassador Hands Over Looted Art (MH)

By Stephen Graham

The Miami Herald, February 11, 2006

BERLIN - The United States returned three paintings stolen at the end of World War II to the mayor of the western German town that owned them.

U.S. Ambassador William Timken handed over the 19th-century works by Heinrich Buerkel to the mayor of Pirmasens at a ceremony Friday in Berlin.

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Officials say the three paintings, now valued at $125,000, were among works believed stolen on March 22, 1945, as U.S. forces pushed into Germany. They were recovered after they turned up in an auction in the United States last year.

"I am a strong believer that rightful owners of property should have their property," Timken said at a ceremony at the Amerika Haus U.S. cultural center. "They're your possessions."

Pirmasens Mayor Bernhard Matheis invited Timken to his town for next year's opening of a new building housing Buerkel's work. "It's an extraordinarily big day for Pirmasens," said Matheis. "These are very important paintings for our collection."

He said the works "symbolize and reflect a big part of our history" as well as good contemporary U.S.-German relations.

The museum moved the paintings to a school in 1942 to protect them from Allied bombing. On Sept. 19, 1945, the museum reported that about 50 paintings stored in the school's air-raid shelter had been lost "during the arrival of the American troops" six months earlier.

Timken said the town had been occupied at the end of the war by troops from the U.S. 66th Infantry Reserves and the 71st Infantry Division. However, Robert Wittman, an FBI agent who helped return the works, said it was impossible to say whether U.S. soldiers took the pictures.

According to the FBI, the three paintings were acquired by a New Jersey resident about 20 years after the war, and handed down to his daughter in the late 1980s. In October, the paintings were offered for sale by auctioneer William H. Bunch Auctions & Appraisals of Chadds Ford, Pa. German officials alerted the FBI after museum staff noticed that the paintings were up for sale.

The paintings are "Amalfi Cave," from about 1845; "After the Hunt," about 1830; and "The Horse Roundup," about 1861-63. They all depict outdoor scenes of rural life.

"Once the family found out they were stolen, they felt they had a moral obligation to return them," Wittman said after Friday's ceremony.He said the family, who have asked to remain anonymous, had received no payment for parting with the works.

German authorities gave the family a high-quality reproduction of their favorite, "Amalfi Cave," to replace the original that had hung in the family kitchen, Wittman said.

The issue of looted German art was last in the spotlight in the early 1990s, when two Texan residents were exposed trying to sell medieval treasures apparently looted by their brother, Army Lt. Joe T. Meador.

The works, including the "Samuhel Gospels," a ninth-century manuscript written in gold and a 16th-century prayer book, were returned to the town of Quedlinburg after the Meadors accepted a settlement worth about $2.75 million.

Inmate Charged In Slayings Of 2 Who Identified Him In '81 Robbery (COLDISP)

By Kevin Mayhood, THE COLUMBUS DISPATCH

Columbus Dispatch, February 10, 2006

A Columbus man used a gun to take revenge on two witnesses who helped send him to federal prison, authorities say.

Thomas A. Henderson, 55, now faces two charges and the possibility of the death penalty.

Henderson was indicted in federal court yesterday for the 1996 killing of Robert Earl Bass outside his Pickerington apartment and the 1998 death of Ecolia Washington outside her North Side home.

Both were shot early in the morning in their cars.

"This was just strictly retaliation on his part for the long sentence he served," said Columbus Police Sgt. Jeff Sacksteder, head of the coldcase squad.

Sacksteder said that Columbus police investigator Dennis Graul and FBI Special Agent Tim Creedon had worked on the case since 2003 and had put together the evidence for yesterday's indictment. He wouldn't offer other details.

Henderson is serving 20 years in the Elkton federal prison in Columbiana County. That incarceration is in connection with his guilty plea to 15 drug, money-laundering and firearms charges in 2002.

Authorities say the deaths in the 1990s occurred after Washington and Bass fingered Henderson in a 1981 bank robbery.

That year, Washington drove with Henderson from Columbus to visit Bass, who was in jail in Dade County, Fla. Along the way, they robbed a bank in Macon, Ga.

Henderson returned to Columbus with more than $100,000, according to news reports of the robbery.

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Police interviewed both Washington and Bass. Bass tied Henderson to the robbery; Washington, who was charged with helping with the robbery, ended up testifying against him.

Henderson was sentenced to 15 years in prison for it.

While in federal prison in Terre Haute, Ind., he was brought to Columbus on three counts of aggravated murder.

A former cellmate had told authorities that Henderson admitted fatally shooting three Columbus men: Anthony Hawkins, 24, during a dispute at Agler Road and Joyce Avenue in 1978; and Robert Catchings, 49, and Donald Beauford, 40, in Catchings' Richmond Avenue apartment in 1981.

In September 1982, Henderson pleaded guilty to voluntary manslaughter in the death of Hawkins. But Assistant Franklin County Prosecutor Patrick Sheeran dropped the other charges because he had no physical evidence or eyewitnesses.

Henderson was sentenced to seven to 25 years for the death, with the sentence running concurrently to the bank robbery term.

Sheeran, now a Common Pleas judge, wrote the parole authorities in 1982, asking that they keep Henderson in prison for at least 20 years.

"We all consider him extremely dangerous," he said at the time.

Henderson was released in 1995. Authorities say he then targeted the two people who had helped put him in prison.

Bass was 47 when he was found dead in his car outside 1665 Whitney Circle at about 1 a.m. Nov. 4, 1996. He had been shot in the back of the head.

Police had a number of suspects. Bass had provided information to prosecutors in the Lucasville prison riot trials, as well as against Henderson.

An East Side man briefly was charged with Bass's death in 1997 but released after police found evidence that contradicted a witness.

On Nov. 4, 1998, firefighters were called to a burning van across the street from 2148 Avalon Place. Washington's badly burned body was found inside. She'd been shot repeatedly from close range.

Sacksteder said police long suspected that Henderson had killed the pair, but "we just couldn't get the dots connected."

Henderson is charged with two counts of killing a witness and two counts of using a firearm in a crime.

If convicted, he could be sentenced to life in prison without parole or the death penalty. U.S. Attorney General Alberto Gonzales will decide whether prosecutors will pursue death.

Ex-Chinese Bank Managers, Wives Plead Not Guilty In Las Vegas (FINDLAW/AP)

By Ken Ritter, Associated Press Writer

AP, February 11, 2006

(AP) - LAS VEGAS-Two former Bank of China managers and their wives pleaded not guilty Friday to charges they embezzled $485 million (â,¬405 million) in China and tried to launder the money in Hong Kong, Canada and the United States.

Through interpreters and their lawyers, former bankers Xu Guojun, 47, and Xu Chaofan, 40, and their wives, Yu Ying Yi, 43, and, Kuang Wan Fang, 39, each pleaded not guilty to racketeering conspiracy, money laundering and transporting stolen money, plus visa and passport fraud. If convicted of all charges, each faces a maximum of 70 years in prison and a $1.5 million (â,¬1.25 million) fine.

Citing "new, far more wide-ranging charges" contained in a Jan. 31 superseding indictment, U.S. District Magistrate Judge Lawrence Leavitt canceled a trial scheduled later this month and set a March 27 trial date. But he said that likely will be changed due to the case's complexity.

Defense lawyer Lawrence Litman of Las Vegas, representing Fang, said outside court that the RICO and money laundering conspiracy allegations set the scene for federal prosecutors to have to prove the Chinese defendants committed crimes abroad.

"We're actually going to have a trial here about whether money was stolen in China, because that's the basis for all the charges," Litman said. "If they were convicted in China and then came here with the money, that would be different."

Fang's brother, Kwong Wa Po, 42, who also is named in the 15-count indictment remained a fugitive Friday. If convicted of all charges, he would face 40 years in prison and a $750,000 (â,¬626,566) fine.

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The four defendants, in shackles and jail uniforms, said they understood the charges against them, and each pleaded not guilty. They remain jailed following their arrests more than a year ago on a Sept. 21, 2004, indictment alleging they entered the United States using false identities and staged fake marriages with naturalized U.S. citizens.

Defense lawyers Mitchell Posin, representing Xu Chaofan, and Bret Whipple, representing Xu Guojun, have characterized their clients as pawns in a new era of U.S.-Chinese legal cooperation. They say they'll challenge efforts to hold the two men to U.S. banking standards and laws.

"We're also going to be challenging the reliability of any of the information coming out of China," Posin said. "We have rules and regulations. In China, there's always the danger that anything coming out is coming from the government."

Lawyer Travis Shetler, representing Yi, declined immediate comment.

The indictment alleges that Xu Guojun and his wife, Yi, and Xu Chaofan and his wife, Fang, were part of a racketeering and money laundering conspiracy dating to 1998.

They are accused of trying to launder more than $3 million (â,¬2.5 million) in Las Vegas by making deposits at four casinos, which can operate somewhat like banks. The casinos are not accused of wrongdoing.

The case stems from an investigation that led to the conviction of another former bank manager, Yu Zhendong, and his return to China from the United States in 2004 under a promise he wouldn't be executed. China frequently sentences defendants to death for nonviolent offenses.

The Bank of China is one of China's four biggest state-owned commercial banks.

CIVIL LAW:

Investors Win $371.7 Million Over Seizure Of Meritor Savings Bank (AP)

AP, February 11, 2006

PHILADELPHIA - A federal claims court judge on Friday awarded $371.7 million to investors who sued over the 1992 seizure of Meritor Savings Bank, successor to the 176-year-old Philadelphia Saving Fund Society.

U.S. Claims Court Judge Loren A. Smith in Washington also indicated that Meritor investors may deserve an additional $402 million, but he left that question to be resolved upon appeal.

Justice Department spokesman Charles Miller said government officials are still reviewing the decision and had not yet decided on a response.

Gary Hindes, whose New York investment firm is a major Meritor shareholder, said the decision would amount to $6.75 a share.

"It's not as good a victory as I'd want to have," Hindes said. "But at least we know we have a floor under us."

Investors sued in 1993 after the Federal Deposit Insurance Corp. seized Meritor although the government had promised to relax the bank's capital requirements in 1982 to induce it to rescue a failing bank, Western Savings Fund.

Smith ruled in 2003 that the FDIC had violated the 1982 agreement.

Investors' lawyer Thomas M. Buchanan contended that the bank could have become profitable again if the government, instead of forcing what he called an unwarranted takeover in December 1992, had let it "shrink gradually."

The case is one of a number accusing the government of bad faith in dealings with hard-pressed savings and loans in the 1980s and early 1990s.

The award, if it stands, would be the second-highest to date, but it is sure to be appealed, Buchanan said. A $909 million award in August 2002 to investors of a California bank was reduced on appeal to $381 million in 2004.

The judge indicated that he thought investors' claim to another $402 million had merit but precedents in the case were unclear and it would be "presumptuous" for him to award restitution. He said he would leave the parties to argue the matter in the federal circuit.

Shares of Meritor still trade and closed Friday at $4.45 in over-the-counter trading.

Trial Bar Cleanup (WSJ)

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The Wall Street Journal, February 11, 2006

It's amazing what a little courage from the bench can do to clean up the justice system. Now that word is out that most silicosis lawsuits are shams, ever more judges are helping to expose the corruption.

The latest is Florida state Judge David Krathen, who in a recent hearing rebuked plaintiffs lawyers for inventing silicosis suits, and declared "mind-boggling" the effect that phony suits were having on the "economic well-being of this country." He vowed to ride herd on the claims in his court, separating the good cases from the fake.

This isn't the way trial lawyers are used to being treated, and credit for this tougher approach goes in part to Texas federal Judge Janis Graham Jack. Judge Krathen made specific reference to the litigation Judge Jack presided over last year, in which she exposed how lawyers, doctors and X-ray screening companies had "manufactured" some 10,000 bogus silicosis suits "for money."

Of the 10,000 suits that Judge Jack sent back to state courts, more than half have already been dismissed -- often at the request of the lawyers who first filed them. Even the wizards of the plaintiffs bar are wary of re-entering court sporting discredited doctors and screening companies, many of which are now the focus of federal and Congressional investigations. Separate silicosis suits have also been dismissed in Ohio.

Those plaintiffs attorneys who continue to roll the dice are having to resort to ever more desperate practices. In the Florida case, lawyers rushed to file most of their claims the day before a new state statute curbing asbestos and silicosis suits took effect. They also filed all 111 in Broward County, which is notoriously friendly to the trial bar -- or at least it was until they met Judge Krathen, a former trial attorney himself.

The judge allowed defense attorneys to present what they'd uncovered so far about those 111 claims. The stunner was that 72% of the plaintiffs had filed both asbestosis and silicosis suits -- despite the medical rarity of having both ailments. Defense lawyers also noted that one of the X-ray screening firms (N&M) singled out in Judge Jack's courtroom also had a role in the Florida suits.

When a trial lawyer defended the practice of driving mobile X-ray vans to do mass screening, Judge Krathen cut him off, noting that N&M "reeks from fraud." He went on to say: "I'm offended, and I've practiced law for 30 years and now on the bench for three years, that lawyers resort to drive-up buses or vans, unmarked, to sit there, and it looks like . . . are involved in bilking our society and our institutions out of money for no valid reason."

The judge has since ordered the trial lawyers to pony up fact sheets about their clients. These questionnaires are arguably the most detailed a judge has ever requested in such a suit, demanding not only exhaustive information about plaintiffs' diagnoses, but specifics about any prior asbestos lawsuits.

Judge Krathen also took aim at the plaintiffs lawyers' scattershot approach to naming defendant companies -- 80 in all -- and demanded that their clients start identifying specific products that supposedly caused them harm. This was after a lawyer representing a construction-related firm called Vulcan Materials told the judge that while his company had been named in 17,000 claims, its products had only been positively identified by plaintiffs in 23. The lawyer estimated it can cost Vulcan up to $17,000 to get dismissed from a case.

The judge summed things up this way: "In the years I've practiced law, the toughest time was getting a good legitimate case bought into by the jury because of all the horrible publicity that comes out from the negative kind of stuff that goes on in [the Jack suit]. . . I'm concerned about the good clients, the good cases, and I'm concerned about the economic well-being of our economy and our companies that support jobs here in the U.S. . . I want this information [about patients and products] up front."

That's the sort of fair-minded approach that has unfortunately been missing from judges in the many years that the asbestos and silicosis blobs have been destroying honest companies and clogging courtrooms. It's good to see a few more judges standing up to the trial bar's transparent corruption.

CIVIL RIGHTS:

Dad Slams Attack On Bush At King Rite (CBS)

CBS, February 11, 2006

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(CBS) Former President George H.W. Bush has expressed dismay and anger at attacks on his son, President Bush, at the funeral for Coretta Scott King.

"In terms of the political shots at the president who was sitting there with his wife, I didn't like it and I thought it was kind of ugly frankly," the former president said in an exclusive radio interview with CBS News White House correspondent Peter Maer.

"Anybody that shoots at the president of the United States at a funeral, I just didn't appreciate that," Mr. Bush added. Listen to former President George H.W. BushFormer President Carter and the Rev. Joseph Lowery criticized the president during remarks they made at the King funeral in Atlanta.

The Rev. Lowery, who co-founded the Southern Christian Leadership Conference with Martin Luther King Jr., drew a roaring standing ovation when he said: "For war, billions more, but no more for the poor" - a takeoff on a line from a Stevie Wonder song. The comment drew head shakes from Mr. Bush and his father as theysat behind the pulpit.

Former President Carter brought up the government response to Katrina, saying, "We only have to recall the color of the faces of those in Louisiana, Alabama and Mississippi" to know that inequality exists. He also noted that the Kings once were "victims of secret government wiretapping" - echoing Mr. Bush's domestic spying program.

Former President Bush also had praise for his friend, Bill Clinton: "I thought President Clinton was maybe the best. It was his crowd. They talk about Bill Clinton being 'the first black president,' well when you walk into that church with 12,000 or whatever it was, I mean it was very clear who that crowd loved and respected."

The Associated Press contributed to this report.

Four Presidents And A Funeral (WSJ)

By PEGGY NOONAN

Wall Street Journal, February 11, 2006

A spirited tribute to Mrs. King--and to democracy

Listen, I watched the funeral of Coretta Scott King for six hours Tuesday, from the pre-service commentary to the very last speech, and it was wonderful--spirited and moving, rousing and respectful, pugnacious and loving. The old lions of the great American civil rights movement of the 20th century were there, and standing tall. The old lionesses, too. There was preaching and speechifying and at the end I thought: This is how democracy ought to be, ought to look every day--full of the joy of argument, and marked by the moral certainty that here you can say what you think.

There was nothing prissy, nothing sissy about it. A former president, a softly gray-haired and chronically dyspeptic gentleman who seems to have judged the world to be just barely deserving of his presence, pointedly insulted a sitting president who was, in fact, sitting right behind him. The Clintons unveiled their 2008 campaign. A rhyming preacher, one of the old lions, a man of warmth and stature, freely used the occasion to verbally bop the sitting president on the head.

So what? This was the authentic sound of a vibrant democracy doing its thing. It was the exact opposite of the frightened and prissy attitude that if you draw a picture I don't like, I'll have to kill you.

It was: We do free speech here.

That funeral honored us, and the world could learn a lot from watching it. The U.S. government should send all six hours of it throughout the World Wide Web and to every country on earth, because it said more about who we are than any number of decorous U.N. speeches and formal diplomatic declarations.

A moment for a distinction that must be made. Some have compared Mrs. King's funeral to the Paul Wellstone memorial. It was not like the Wellstone memorial, and you'd have to be as dim and false as Al Franken to say it was. The Wellstone memorial was marked not by joy but anger. It was at moments sour, even dark. There was famous booing.

The King funeral was nothing like this. It was gracious, full of applause and cheers and amens. It was loving even when it was political. It had spirit, not rage. That's part of why it was beautiful.

It was also beautiful because, as the first speaker, Bishop Eddie L. Long, senior pastor of the New Birth Missionary Baptist Church in Lithonia, Ga., said in almost his first words, "This is a worship. This is a celebration. This is a moment that we give to honor God."

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It was a religious service in which no one was afraid to talk about God. "Praise the Lord," and "Lord, we lift your name on high" and "How we love to sing your praises" rang through the room. Scripture was quoted, stories told. Blacks in America are not afraid to love Jesus the way they want to love him, to use the language and symbols they want to use. I want to kiss their hands for this. I also happen to honor the fact that, by and large, older blacks at least have not given way to 20th-century stoicism in their style of mourning. The Kennedys, who had too much experience with funerals, set the stoic style 40 years ago, and while it was elegant and moving in its own way, it left an entire nation thinking it was in rather poor taste to cry aloud and sob.

As for the speakers, no one has ever been or could be better than the Rev. Bernice King, who spoke of her mother's love, her mother's end, and the possible metaphorical meaning of the cancer that killed her.

The Rev. Joseph Lowery gave a beautiful poem about Martin being with Rosa in heaven and then finding out that Coretta was coming, and rushing to greet her at the pearly gates. Strike you as corny? Not me. It was beautiful because it was not only full of unselfconscious faith, it assumed unselfconscious faith on the part of the audience, and so was both an implicit compliment and a declaration of shared assumptions. The audience responded with amens and cheers. When he bopped the president over weapons of mass destruction, what seemed, on CNN, to be half the room stood and applauded.

When George Bush 41 followed him to the podium, he teased Mr. Lowery in a way that complimented his eloquence. People sometimes marvel at the grace of George H.W. Bush. He is a warm and gracious man, and he's old enough to appreciate the humor in everything. He's old enough to appreciate life. But it is also true that when you attack him or his son from the left he doesn't get mad because in his heart he kinda thinks you're right. Attack him from the right; you won't be overwhelmed by his bonhomie then.

President Bush was fine, his eloquence of the formal kind. He needs to find the place between High Rhetoric and off-the-cuff plainspeak. He always does one or the other. But there's a place in between, a place that's not fancy and not common, that would serve him well if he could find it.

Bill Clinton was, as always, the master. Say what you will, he is the only politician in America with the confidence to call Episcopalians "the frozen chosen" and know everyone will laugh and take no offense. Amid all the happy bombast he was the one who pointed at the casket and said, "There's a woman in there." He talked about Mrs. King in good strong plain terms. Yes, he caused a quarter-second of awkwardness when he said of the beautiful Coretta that even at age 75 she still had the goods, but in moments of exuberance we all forget our own history.

The real news was how the Clintons used the funeral to unveil how they will run in 2008: Together, side by side, with beautiful hairdos. I haven't seen them like this--both standing at the podium--since 1992, when they were new. In the years since, after the health-care failure and the Whitewater scandals, the West Wing attitude toward the president's wife was a quiet and respectful "Get that woman off the podium!" Not anymore. All is new again. Mrs. Clinton has clearly been working on her public speaking, and attempted to use her hands as her husband uses his, now in an emphasizing arc, now resting on her chest. But his are large, long and elegant, and hers are puffed and grasping.

Both Clintons spoke in the cadence and with the imagery of the Bible. Mrs. Clinton's first words, in which she referred to Mrs. King's brave decision to continue her husband's work after his murder, were steeped in religiosity. "As we are called, each of us must decide whether to answer that call by saying, 'Send me.'" She ended with, "The work of peace never ends. So we bid her earthly presence farewell. We wish her Godspeed on her homecoming. And we ask ourselves, 'Will we say, when the call comes, "Send me"?'"

Oh I think we will, Ms. Meanieface!

If you don't understand that Mrs. Clinton was rehearsing her 2008 announcement speech, then you are a child and must go home and have a nice cup of cocoa.

This is what is coming: I have had a blessed life. And like so many people I could choose, after all these years, a life of comfort. Watch it from the sidelines, tend to my own concerns, watch the garden grow. But our nation calls out. And if we are to be Americans we must meet the call. "Send me."

With Bill nodding beside her, his hands clasped prayerfully in front of him, nodding and working that jaw muscle he works when he wants you to notice, for just a second, how hard it is sometimes for him to contain his admiration.

God I love them.

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Apart from its beauty, dignity and fight, Mrs. King's funeral got me thinking about this: Did she know how much she was loved? It's hard for a person to know that. If only she could have gone to her own funeral, she would have known. I wonder if it wouldn't be good if somewhere along the way, just once in your life, you got to call your own funeral. Pick the church, the speakers, the music, sit in the pew, clap when they talk about how wonderful you were. Then afterwards have a long lunch and toast your memory. Then the next day you go to work as usual, but maybe in a different mood. I don't see why we don't do this. Is this a stupid thing to say? It's allowed. I've got free speech.

Ms. Noonan is a contributing editor of The Wall Street Journal and author of "John Paul the Great: Remembering a Spiritual Father," (Penguin, 2005), which you can order from the OpinionJournal bookstore. Her column appears Thursdays.

Racial Icons (NSWK)

By Eleanor Clift

Newsweek, February 11, 2006

President Bush deserves credit for sitting through the awkward moments at Coretta Scott King's funeral—and for his role in setting up an African-American history museum.

Southerners have a saying, "Bit dog always hollers." That's how Jody Powell, President Carter's former press secretary, responded when asked about criticism, coming mainly from Republicans, that Carter had overstepped the bounds of good taste in his eulogy of Coretta Scott King by mentioning that she and her husband had been illegally wiretapped. Carter did not imply that Republicans were responsible. Indeed it was President Kennedy and his brother Bobby who authorized the FBI's eavesdropping on Martin Luther King Jr.

Yet with Senate hearings going on in Washington on the legality of Bush's domestic-spying program, it was inescapable that people would make the connection to present-day abuses. The FISA law (Foreign Intelligence Surveillance Act) was signed into law by Carter, and he is justifiably angry about the way Bush brushes it aside as a troublesome bureaucratic impediment. Whether the funeral of a civil-rights icon was the right place and time to jab Bush is debatable, but it's not surprising given Carter's strong feelings.

Coretta King spoke out against the Iraq war and no doubt would have appreciated the occasional discordant political note in the rosy tributes paid to her. Bush deserves credit for sitting through it all despite the awkward moments and remaining good-natured and even eloquent in his eulogy. That evening he welcomed the Harlem Dance Theater to the White House for a special performance, and among the guests was Lonnie Bunch, the director of the National Museum of African-American History and Culture. "Hey, Bunch!" Bush said, clapping him on the back, a familiarity Bush earned when he signed legislation creating the museum in December '03. It had been a long time coming. Georgia Rep. John Lewis first introduced the legislation in 1988, and every year after that, to no avail. Even President Clinton, who's been called the first black president because of his close ties to the African-American community, couldn't get enough support in Congress for the museum.

Bush's museum action pulled off the seemingly impossible. With his re-election campaign looming and needing help to win more of the black vote, he mustered the votes to build the museum on federal land, and to provide $250 million, half what the proposed structure is expected to cost. Sure, there was political self-interest, but Bush is also personally committed. One of the first checks the Smithsonian got for the new African-American museum came from the president and his wife, Laura. Then the newly re-elected Bush directed a portion of the funds that went unspent by his Inaugural committee to the museum. That amounted to a cool $5 million. The African-American museum is still seven years off, but it's been awarded space on the Mall in Washington off Constitution Avenue between 14th and 15th Streets, an apt location since the 14th and 15th amendments to the Constitution secured civil rights for black Americans after slavery. Bunch promises the museum's exhibits will be "a lens into what it means to be an American," the optimism and resilience that are core values of the black experience along with the Gordian knot of race relations.

Bunch is off to a good start, but raising money is never easy, and there's strong competition from across the river in Virginia. Former governor Doug Wilder, now mayor of Richmond, was in Washington this week unveiling his plans for a National Slavery museum, and he's a lot farther along than anybody dreamed possible. He's got the land (32½ acres on the banks of the Rappahannock River in Fredericksburg, Va.) and he's got an acclaimed architect, Chen Chung Pei, son of the legendary I. M.

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Pei, whose vision includes the full-scale replica of a slave ship. Wilder is the grandson of slaves but he couldn't get his father to talk about the subject. "He would bite on his pipe so hard it almost snapped in two," Wilder recalls. His own interest was piqued on a visit to Goree Island, a slave transit point in the African nation of Senegal, when he looked out the "door of no return" where slaves would board the ship, and realized he was governor of a state where many of them were taken. He determined then their story had to be told, and what better place than in Virginia, which had more slaves than any other place.

Wilder is gambling that an illuminated sign with a slave ship at the exit off I-95 in Fredericksburg will draw visitors, and he resists the notion that he is competing with Washington. "You can't have too many [museums], and there's enough money to go around," he says, smiling. "Just give us ours." He's counting on what he calls "enlightened self-interest" from corporations who acknowledge past participation in slavery, "not reparations," he adds, "but acknowledgment of doing what is right." Actor Ben Vereen, who played Chicken George in "Roots," accompanied Wilder and put it more bluntly: "Corporate America, we need you now. We bought your cars—we smoked your cigarettes—now it's time to tally up." The U.S. National Slavery Museum is scheduled to open in 2007.

A Fitting Funeral For Mrs. King (WP)

By Colbert I. King

The Washington Post, February 11, 2006

Speech and expression are coming in for some hard knocks these days. Enraged Muslims are marching by the thousands over cartoons of the prophet Muhammad. The Post's editorial page is being pilloried for publishing an op-ed piece by a leader of the terrorist group Hamas and for publishing a cartoon that critics mistakenly describe as mocking military amputees. And now some conservative talking heads are out of sorts because of what was said from the pulpit of New Birth Missionary Baptist Church in Lithonia, Ga., during Coretta Scott King's funeral on Tuesday.

The fuss over the funeral is probably the silliest snit of all.

First, consider what took place. It wasn't a state funeral scripted by a 138-page detailed planning document, as in the case of Ronald Reagan's services. Neither was it a funeral for a cloistered, apolitical newcomer on the block.

Mrs. King and her late husband, the Rev. Martin Luther King Jr., were renowned proponents of nonviolence and racial and economic justice. They had close ties to peace and social action organizations. Mrs. King was a fixture at antiwar rallies. She was a dignified and reserved public figure, yes; a shrinking violet, no. To recall, she was arrested here in Washington at the South African Embassy in an anti-apartheid protest.

So it should have come as no surprise that during a six-hour funeral for a woman whose life was dedicated to the civil rights and peace movements -- and on a program with more than 35 participants -- a few would have something to say about racism, the futility of war, and military spending when it trumps the needs of the poor. That the outspoken critics happen to have been a preacher, an ex-president and a mayor, and that they did it in the presence of a sitting president, is hardly the outrageous act that conservative pundits have made it out to be.

They profess to be shocked , shocked, that a funeral service would touch on issues that were critical to the life's work of Mrs. King. Their ignorance also may be emblematic of the cultural gulf that separates many blacks and whites when it comes to the way in which we deal with death and its rituals.

There was no way on earth that four presidents, two planeloads of members of Congress and several high priests of black preacherdom could come together in a megachurch before an audience of 10,000, mostly black folks -- including celebrities, wannabes and pretenders to the civil rights throne -- all decked out in their Sunday finest, and not expect to have the event become, well, a tad extravagant rhetorically.

Besides, that's the way it often is at black Baptist home-going services.

At this stage in life, I attend far more funerals than weddings. Raised as a Baptist, I've been doing black funerals since childhood. Done my share of white funerals, too, especially since entering the white-collar world and becoming an Episcopalian or, as Bill Clinton playfully said Tuesday of President Bush the elder (also an Episcopalian), part of the "frozen chosen."

Now I must be careful here with generalizations, but Karla FC Holloway, a Duke University professor and author of African American mourning stories, has noted that white funerals, for the most part, tend to be short and restrained. Black Baptist

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services, on the other hand, historically have tended to be longer, elaborate, more spontaneous and a time to "get it said." That's what was going on in Atlanta.

How could a civil rights icon such as Coretta Scott King, a child of the Baptist Church, whose husband was shot dead, whose home was bombed, and whose own government attempted to smear her husband and break up her marriage, not have a home-going service that didn't bring out its share of freely and honestly expressed emotions?

These remarks were denounced as "political":

· The Rev. Joseph Lowery said, "We know now there were no weapons of mass destruction over there. . . . But Coretta knew and we knew that there are weapons of misdirection right here. . . . Millions without health insurance. Poverty abounds. For war billions more but no more for the poor. . . . Our marvelous presidents and governors come to mourn and praise . . . but in the morning will words become deeds that meet need?"

· Atlanta Mayor Shirley Franklin described Mrs. King as singing "for liberation, she sang for those who had no earthly reason to sing a song," using a voice heard "from the tin-top roofs of Soweto to the bomb shelters of Baghdad."

· Former president Jimmy Carter, aware of the current debate over domestic spying, said, "It was difficult for [the Kings] personally with the civil liberties of both husband and wife violated, and they became the targets of secret government wiretapping and other surveillance."

They drew strong applause and, in Lowery's case, a standing ovation.

Barbs because George W. Bush was sitting in the pulpit? Those remarks would have been delivered had the president been down in Crawford, Tex., or up in the White House. And as harsh as they were to conservative ears, they also served a useful purpose. For 10,000 mourners bearing a special kind of pain, those words had a cathartic effect. They became the vehicle through which emotional tensions in the church could surface, the means by which the assembled could give expression to what they were feeling deep down inside. Hence, the laughter, the cheers and loud roars.

George W. Bush -- no passionate orator himself but no political slouch when it comes to reading an audience, black, white or brown -- apparently got it.

Too bad some conservatives on the outside looking in, and caught in their own cramped world, did not.

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Affirmative Blackmail (WSJ)

By David E. Bernstein

The Wall Street Journal, February 11, 2006

According to its mission statement, a primary goal of the American Bar Association is to "promote respect for the law." In the interest of mandating racial preferences in admissions, however, the ABA is about to order law schools to do just the opposite -- in fact, to violate the law -- and is resorting to blackmail to achieve its end.

Meeting in Chicago today, the ABA's Council of the Section on Legal Education and Admissions to the Bar will vote on new "equal opportunity and diversity" standards. If they are approved, any law school that seeks to maintain or acquire ABA accreditation will be required to engage in racial preferences in hiring and admissions, regardless of any federal, state or local laws that prohibit of such policies. Since only graduates of ABA-accredited schools may take the bar exam in the vast majority of states, the association has, in effect, a legal monopoly on accreditation standards.

The new Standard 211, styled "Equal Opportunity and Diversity," would govern admissions and faculty hiring policies. It says nothing about treating people from different groups equally, and lots about "diversity" -- a code word for affirmative action preferences. "Consistent with sound legal education policy and the Standards," part (a) says that a law school must provide "full opportunities for the study of law and entry into the profession by members of underrepresented groups, particularly racial and ethnic minorities," and it must also commit "to having a student body that is diverse with respect to gender, race and ethnicity."

Part (b) says, "Consistent with sound educational policy and the Standards, a law school shall demonstrate by concrete action a commitment to having a faculty and staff that are diverse with respect to gender, race and ethnicity."

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This sounds innocuous, since law schools can reasonably differ on what constitutes "sound legal education policy." Some might think that the educational benefits of a racially heterogeneous student body justify significant racial preferences; others might give more weight to data showing significant educational costs resulting from preferences.

An empirical study by Richard Sander of UCLA, for example, confirms anecdotal evidence that student beneficiaries of such preferences tend to struggle in law school and end up at the bottom of their classes. Statistics published in the year 2000 also reveal that under current affirmative action policies, 42% of all African-American matriculants to law school either never graduate or never pass the bar (compared with 14% of whites). Some schools might conclude dooming a huge percentage of African-American students to failure is contrary to sound educational policy, and limit their "diversity" efforts to recruitment and retention.

That will not be possible, according to the "interpretations" of Standard 211, which have "equal weight" to the rules themselves. Interpretation 211-1 states that "the requirements of a constitutional provision or statute that purports to prohibit consideration of gender, race, ethnicity or national origin in admissions or employment decisions is not a justification for a school's non-compliance with Standard 211."

Racial preferences will thus generally be necessary to comply with Standard 211 -- despite the fact that several states, including California and Florida, ban race as a factor in law school admissions or hiring or both. Equally outrageous is Interpretation 211-2, which states that, "consistent with the Supreme Court's decision in Grutter v. Bollinger, a law school may use race and ethnicity in its admissions process to promote equal opportunity and diversity." This is a complete misstatement of the law, and the attorneys who wrote this are either incompetent or, more likely, intentionally dissembling.

First, Grutter held only that racial preferences in higher education are legal when used to promote diversity, not when used to promote equal opportunity. The Supreme Court has consistently disapproved of the use of racial preferences other than for either educational diversity, or to remedy past discrimination, and nothing in Grutter is to the contrary.

Second, Grutter did not hold that any law school may use race in its admissions process to promote racial diversity. Rather, the court stated that it was deferring to the Michigan Law School's "educational judgment that such diversity is essential to its educational mission." Other law schools may not share that educational judgment, particularly if the only way to achieve such diversity is by admitting underqualified minority students. Nothing in Grutter would permit such a law school to engage in racial preferences.

Ironically, left-wing lawyers and law professors used to scream that the Grutter litigation posed a threat to academic freedom by trying to prohibit law schools from tailoring the racial balance of their student bodies to enhance the students' educational experience. Now they want to use the heavy hand of ABA accreditation to deny academic freedom to law schools that would not choose racial preferences.

It's worth remembering that the fifth vote in Grutter was provided by Justice Sandra Day O'Connor, who apparently thought that her opinion would permit, but not require, law schools to use racial preferences for diversity purposes. Now that the ABA is trying to turn "may" into "must," one wonders whether Justice Samuel Alito will be similarly sympathetic to the assertion that allowing racial preferences in admissions enhances academic freedom.

An even greater irony, however, is the ABA's role in all of this. One can be quite certain that despite the plain language of the "interpretations" quoted above, the ABA will claim that it is not really trying to force law school faculties and administrations to violate both the law and their consciences in pursuit of racial "diversity." But in the past, ABA accreditation officials have bullied law schools into precisely that position, even in the absence of written authority backing their demands.

If passed, the new written standards will only embolden the accreditation bureaucracy, composed mainly of far-left law professors, to demand explicit racial preferences and implicit racial quotas -- all in brazen defiance of the law.

Mr. Bernstein, a professor at George Mason University School of Law, is the author of "You Can't Say That!: The Growing Threat to Civil Liberties from Antidiscrimination Law" (Cato, 2003).

ANTITRUST:

Senate Confirms Barnett As Assistant Attorney General (DOWJONES)

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Dow Jones, February 11, 2006

WASHINGTON -(Dow Jones)- The Senate on Friday confirmed Thomas O. Barnett as assistant attorney general for the Justice Department's antitrust division.

Barnett was confirmed by unanimous consent. He has held the job on an acting basis.

- By Siobhan Hughes, Dow Jones Newswires; 202-862-6654; Siobhan.Hughes@ dowjones.com

Microsoft Gets EU Scrutiny (BLOOM)

By MATTHEW NEWMAN, BLOOMBERG NEWS

Bloomberg, February 11, 2006

Complaints about upcoming Vista gathered by regulators

European regulators are reviewing complaints against Microsoft Corp. from computer makers concerned that the next version of the Windows operating system may prevent manufacturers from customizing the software.

The European Commission, the European Union's antitrust authority in Brussels, Belgium, is "monitoring" complaints about the software, called Vista, and hasn't started a formal inquiry, commission spokesman Jonathan Todd said in an e-mail.

"Approaches are being made about Vista by U.S. and non-U.S. companies," Philip Lowe, the top civil servant in the commission's competition department, said in an interview Friday in London, where he was attending a conference.

Microsoft, which is under regulatory scrutiny around the world, plans to start selling Vista later this year. The first new version of Windows for personal computers since 2001 also is attracting complaints in the United States, according to Justice Department court documents filed in Washington this week. The United States and the EU didn't identify the companies that complained.

Todd said the manufacturers have expressed "concerns" and haven't filed formal complaints. The commission can start new investigations on its own initiative and doesn't require competitors' complaints to do so.

Microsoft spokesman Tom Brookes declined to comment. Microsoft general counsel Brad Smith said Thursday that he's confident Vista doesn't infringe on a U.S. antitrust settlement agreement.

PC makers are looking to customize the first screen users see when turning on their computer, and may be concerned that Microsoft's Vista won't permit such changes, Nicholas Economides, an economics professor at New York University, said in an interview.

Regulators Approve Regis Acquisition (MINBIZ)

By John Vomhof Jr.

Minneapolis Business Journal, February 11, 2006

Regis Corp.'s $2.6 billion purchase of Alberto-Culver Co.'s Sally Beauty Co. retail chain received federal antitrust approval on Friday.

The Federal Trade Commission said officials completed their investigation of the deal without taking any action to block it.

Last month, Edina-based Regis agreed to buy Denton-based Sally Beauty chain for $2.2 billion in stock and $400 million in debt. The combined company will retain the name Regis Corp., with Sally Beauty becoming a subsidiary of Regis.

The deal will greatly expand Regis' presence in the retail sector. Sally Beauty, founded in 1964, has more than 2,400 Sally Beauty retail stores and 800 Beauty Systems group outlets; the company generated revenue of $2.25 billion in the year ending in September 2005.

Regis (NYSE: RGS) owns or franchises more than 11,000 salons, 90 hair restoration centers and 35 beauty schools worldwide.

The Minneapolis/St. Paul Business Journal is an affiliated publication of the Dallas Business Journal.

ENVIRONMENT/INDIAN AFFAIRS:

EPA Budget Cuts Trouble Environment Groups (AP)

DOJ_NMG_0014398

By John Heilprin

AP, February 11, 2006

Grants to state and local governments for land and water conservation would be cut 40 percent, and money for the Environmental Protection Agency's network of libraries for scientists would be slashed severely under President Bush's proposed budget.

By contrast, Bush next year would spend $322 million for "cooperative conservation" — up from $312 million the Congress approved last year — to encourage more private landowners to protect endangered species, conserve wildlife habitats and do other nature work traditionally done by government.

Other proposed increases are $50 million more for cleaner-burning diesel engines and $5 million more for drinking water improvements.

Cuts and proposals to sell some of the government's vast land holdings have upset environmentalists.

Early in his presidency, Bush called for restoring the federal Land and Water Conservation Fund to the full $900 million authorized by Congress. Last year, it was approved at $142 million. For 2007, he wants just $85 million in grants for creating and preserving non-federal parks, forest land and wildlife refuges, a 40 percent cut.

"This is the most troubling budget we've seen from this White House," said Heather Taylor, deputy legislative director for Natural Resources Defense Council.

The proposal sent to Congress this week would trim EPA's budget by nearly 5 percent, down to $7.2 billion, and the Interior Department's budget by 2.4 percent, to $9.1 billion.

Sen. James Jeffords, I-Vt., said it shows the environment isn't a Bush administration priority. "We cannot allow this dangerous trend to continue," said Jeffords, a senior member of the Senate Environment and Public Works Committee.

Interior Secretary Gale Norton and EPA Administrator Stephen Johnson said their budgets represent, within the context of reducing the federal deficit, a responsible allocation of resources that will still lead to environmental improvements.

One potential hole in the Interior budget is $312 million for an Office of Surface Mining program to reclaim abandoned mines. The money comes from coal mining fees set to expire in June. The Bush administration is asking Congress to reauthorize the fees.

"Nobody wants to see the program come to a halt," Norton said.

The budget also would cut $89 million from the National Park Service's nearly $2.6 billion budget.

Environmentalists contend a bigger danger is the administration's plan to raise $250 million over five years by selling 125,000 acres of the Bureau of Land Management's 261 million acres.

The lands are typically part of a "checkerboard" pattern of small parcels surrounded by suburban or urban areas, Interior officials say, and have been identified as holding little natural, historic, cultural or energy value.

The administration anticipates selling them for $2,000 an acre. The Forest Service plans to sell 170,000-200,000 acres in 41 states, according to The Wilderness Society.

Another proposal affects EPA's electronic catalog that keeps track of tens of thousands of agency documents and research studies, according to EPA internal memos. The agency would cut four-fifths of its library budget — from $2.5 million to $500,000. It pays for a network of dozens of libraries and reading rooms nationally.

"How are EPA scientists supposed to engage in cutting edge research when they cannot find what the agency has already done?" said Jeff Ruch, executive director of Public Employees for Environmental Responsibility, which obtained the EPA memos.

EPA spokeswoman Eryn Witcher said materials will still be available.

"EPA is working to modernize our antiquated system by streamlining our physical collections and making them available online to provide more information to a wider group of people, including scientists," she said.

Low-interest loans to states for treating wastewater, cutting other water pollution and managing watersheds would be cut by 22 percent, to $688 million.

Bush has requested $184 million for EPA's homeland security programs — including monitoring water supplies against terrorists and decontaminating buildings after chemical or biological attacks — and more than $100 million for its energy-related programs.

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Power Plant Would Reuse Carbon Dioxide (NYT)

By Matthew L. Wald

The New York Times, February 11, 2006

Subsidiaries of BP and Edison International said yesterday that they were planning to build a power plant that would run on oil residues, and that 90 percent of the carbon dioxide would be captured and pumped into an oil field, where it would help push more oil to the surface.

The $1 billion plant would be adjacent to a BP refinery in Carson, Calif., about 20 miles south of Los Angeles, and would be the first such plant in the country, the companies said. BP is already drawing up engineering plans for a plant in Scotland that would sequester its carbon dioxide in an underground oil-bearing formation; that plant is to run on natural gas.

The companies said they hoped to make a final decision on the plant in 2008 and have it running in 2011. It would qualify for a tax credit as a carbon-free energy source under the 2005 energy bill, company executives said.

The plant would run by mixing an oil residue, petroleum coke, in a chamber with steam and a controlled amount of oxygen. In this technique, called gasification, both the fuel and the water give up hydrogen atoms to form hydrogen gas. This process also produces carbon monoxide, which is converted to carbon dioxide, giving off heat to sustain the reaction.

The hydrogen is then burned in a turbine engine, the kind that electric companies normally run on natural gas, and the dominant combustion product is water. The carbon dioxide is compressed into a liquid and injected into an oil field.

Although the fuel is an oil residue, and not coal, the technology is the same as one mentioned by President Bush in his State of the Union speech on Jan. 31, in which he said, "We will invest more in zero-emission coal-fired plants."

When coal or other fuels are gasified, conventional pollutants like sulfur and carbon dioxide, which is believed to be responsible for climate change, can be removed before combustion, while the volume of gas is still relatively small.

Petroleum coke from the Carson refinery is usually trucked to the harbor and shipped to China, where it is burned for fuel.

As a nearly carbon-free source of electricity, the plant would compete with wind power. Its construction cost is about double the cost of a wind turbine, according to Theodore F. Craver Jr., the chairman and chief executive of Edison Mission Energy, an unregulated subsidiary of Edison International.

But the production of wind turbines cannot be scheduled, and they generally produce only about 30 percent as much electricity as they would by running around the clock; this plant will run 90 to 95 percent of the hours in a year, he said. And the Los Angeles Basin, where it is situated, is often short of power, he said.

Steve Westwell, chief executive of BP Alternative Energy, said that all of the technologies had already been demonstrated individually, including separating carbon dioxide from hydrogen, and pumping the carbon dioxide under pressure into the ground. One area in which the project would stretch existing technologies is in the turbine; hydrogen burns hotter than natural gas, and tends to make turbine blades brittle.

BP is seeking to put the carbon dioxide in oil fields owned by Occidental Petroleum.

Gov. Arnold Schwarzenegger, who attended the project announcement, said, "This will be the first plant of its kind in the whole country, and I think it is a perfect fit for our state."

Plan Unveiled For Hydrogen Power Plant (LAT)

By Elizabeth Douglass

The Los Angeles Times, February 11, 2006

Oil giant BP and Edison say they will spend $1 billion to build a nonpolluting facility in Carson. It is expected to be completed in 2011.

Oil giant BP and Edison International said Friday that they would spend $1 billion to build a one-of-a-kind hydrogen power plant in Carson to supply the region with badly needed electricity without polluting the air.

Slated for completion in 2011 next to BP's Carson oil refinery, the 500-megawatt facility would be the world's largest hydrogen-fired power plant, churning out enough electricity to serve more than 300,000 average homes, executives said at a news conference that drew Gov. Arnold Schwarzenegger and other state officials.

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But what sets the project apart is the unique way it would make electricity by using the refinery's leftovers while capturing the resulting carbon dioxide, the primary greenhouse gas linked to global warming, so the environment isn't harmed, the executives said.

BP America Inc. President Ross Pillari called the planned facility "the cleanest and greenest power plant in the United States." Alan Lloyd, secretary of the California Environmental Protection Agency, told the gathering that the plant would be so nonpolluting that "the only emissions are water vapor."

The state has been pushing to augment electricity supplies — considered particularly thin in Southern California — through the construction of power plants and the increased use of alternative, less-polluting energy sources.

The proposed plant would be "a very major step forward" in meeting the region's power needs, said John Bryson, chief executive of Rosemead-based Edison International, whose Southern California Edison utility provides electricity to more than 13 million customers. Another Edison unit, its unregulated Edison Mission Group, would own 49% of the project and London-based BP would own 51%.

Who would buy the power and what they would pay have yet to be determined, company executives said. One problem is price; the hydrogen plant will cost more to build than one using natural gas, and its electricity would be more expensive.

Most of the power plants built in the U.S. in recent years have been fueled by natural gas, a cleaner-burning fuel that remains relatively cheap despite price increases that have rivaled the run-up in the cost of crude oil. More than 40% of California's electricity is made with natural gas, and the state has launched ambitious efforts to reduce that dependence and to slash emissions of carbon dioxide and other greenhouse gases.

"It definitely costs more … and we're going to have to sell it in a competitive market," said Doug McFarlan, spokesman for Edison Mission Group. "Those are the questions that we need to sort through before we make a decision to apply for construction permits."

The companies acknowledged that the project relies to some extent on landing federal tax breaks and incentives for construction of gasification plants similar to theirs, such as those offered under the Federal Energy Policy Act of 2005.

"This is cutting-edge, but at a cost," said Michael Shames, executive director of San Diego-based Utility Consumers' Action Network. He said that building a natural gas-fired plant of the size contemplated by BP and Edison would cost about $400 million.

The proposed BP-Edison hydrogen plant would be fueled by petroleum coke, a coal-like refinery byproduct, and recycled water, which would be "gasified," or converted into two gases: hydrogen and carbon dioxide. The hydrogen would run turbines to produce the electricity.

About 90% of the carbon dioxide, a pollutant that typically is released into the air, would be collected and piped to local oil fields, where it would be injected into the ground to help retrieve hard-to-get oil. The carbon dioxide would be left underground.

"It is a perfect fit for our state," Schwarzenegger said. "I've always said you don't have to choose between a healthy environment and a healthy economy."

David Hawkins, climate center director at the Natural Resources Defense Council, called the project "the only way to make electricity from fossil fuels and protect the planet from global warming." But Hawkins, who attended Friday's news conference, added that "they need to make sure that this project is a good community neighbor."

In nearby Wilmington, Jesse Marquez, executive director of the Coalition for a Safe Environment, said his group "will definitely scrutinize the environmental report on it to assure the public that there will be no environmental impact to the community."

I'm For New Exploration And Production Of Oil (WSJ)

The Wall Street Journal, February 11, 2006

In regard to your Feb. 1 editorial "Oil Bashing, Round Two1" criticizing my proposal for a windfall profits rebate for consumers who are being price-gouged by the big oil companies:

The oil market is not a free market, and when price-gouging occurs, government has an obligation to stand up for consumers. The Journal disagrees. Fair enough. We can disagree about that.

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But when you claim that I oppose "new energy production in places where companies want to explore," it is not accurate. I support opening up Lease 181 in the Gulf of Mexico, which is part of the Outer Continental Shelf. I support building a new Alaska natural gas pipeline. I've voted for a whole range of incentives to encourage more domestic oil and natural production over the years.

My legislation would exempt oil companies from paying the excise tax that would fund the windfall profits rebate if they invest profits from oil sold for more than $40 a barrel in the exploration, drilling and production of new domestic supplies or to develop alternative domestic energy supplies.

I strongly support new exploration and production, even in some places now off limits and specifically in one of the places you say I do not.

Sen. Byron L. Dorgan (D., N.D.)

Washington

Kicking The Habit, All Over The World (LAT)

By Michael T. Klare, Michael T. Klare, A Professor At Hampshire College, Is The Author Of "Blood And Oil: The Dangers And

The Los Angeles Times, February 11, 2006

PRESIDENT BUSH was right to say that the United States is "addicted to oil" in his State of the Union address. For too long we have been consuming ever-greater quantities of the stuff without paying heed to the political, economic and environmental hazards involved. Bush also made some useful, if timid, suggestions on how to curb our insatiable thirst for oil. But he failed to address a critical aspect of the problem: Other countries, including China and India, are just as addicted to oil, and unless we strive to suppress their appetites along with our own, the problems we face will continue to multiply.

For decades, the United States has been the world's leading consumer of petroleum, devouring about one-fourth of the global supply daily. Although higher gasoline prices have weakened demand slightly, we are still expected to consume 27% more oil in 2025 than we do today, according to the latest Department of Energy projections. But an even greater increase in demand is expected from Asia. China's oil consumption is expected to rise by 97% between 2004 and 2025, and India's by 78%. The resulting demand crunch could easily overwhelm the global supply of petroleum.

In the U.S., oil demand is largely spurred by Americans' collective love affair with the automobile. We also own far more vehicles, on a per-capita basis, than any other large nation. But all indications are that Chinese and Indian consumers are beginning to emulate us: In 2001, 16 million Chinese owned private cars; by 2020, the number is expected to hit 130 million; India's ownership rate is expected to grow just as fast.

The rising demand for oil in rapidly developing countries has enormous implications for the United States. To begin with, it is driving up energy prices for American consumers. With global petroleum supplies tighter than they have been in decades, and China and India competing with the U.S. for available supplies, the price is bound to rise. A year ago, the Energy Department was predicting that oil prices would hover in the $30 to $35 a barrel range over the next 20 years; now it is projecting $50 to $55 a barrel for that same period. Some energy analysts expect prices to climb even higher, especially if China's economy continues to grow at 10% a year and the global supply of oil fails to keep pace.

But this is the least of our problems. In their quest for foreign sources of petroleum, China and India are buying up fields around the world and, in some cases, forging close ties with such states as Iran, Sudan, Uzbekistan and Venezuela, which are considered unfriendly or even hostile to the U.S.

"A more troubling aspect of the recent surge in overseas energy deals by China and India is their willingness to invest in countries that are pursuing policies that are harmful to global stability," Assistant Secretary of State E. Anthony Wayne told the Senate Foreign Relations Committee in July. For example, "both Chinese and Indian firms have reportedly been involved in oil and gas-sector deals in Iran that raise concerns under U.S. law and policy." This is especially true when such investment is accompanied by arms and military technology, as has been the case with Chinese links to Iran and Sudan.

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It is easy to condemn Beijing and New Delhi for such behavior, but it's hardly surprising that they're prepared to shop anywhere for oil. Under these circumstances, the world is likely to become increasingly well-armed and unstable, posing acute dangers for the U.S. whether or not we reduce our own consumption of petroleum.

And this is not the only danger we face. The U.S. is the leading emitter of carbon dioxide and other greenhouse gases into the atmosphere, thus heightening the risk of catastrophic climate change. If we implement Bush's proposed initiatives and consume less petroleum (which accounts for the largest share of our carbon emissions), we stand a chance of slowing climate change. But, according to the Energy Department, developing nations in Asia now account for about 19% of the world's oil-related carbon emissions (compared with 24% for the U.S.); by 2025, their share is projected to rise to 28%.

It follows from all this that it is not enough to curb the U.S. addiction to oil. We also need to work with China, India and other oil-addicted countries to curb their fast-growing demand. This means persuading the leaders of those countries to adopt the same sort of initiatives as those proposed by Bush. Even better, the president should invite them to join the U.S. in these efforts as equal partners. U.S. companies should also be encouraged to form partnerships with foreign firms to develop new energy alternatives and transportation systems that would spur economic growth in participating countries.

Yes, Americans are addicted to petroleum, but so are others around the world. Unless we work together to curb its harmful effects, we will all suffer from the resulting damage.

The Grass Station (NYT)

By Constance Casey

The New York Times, February 11, 2006

THOSE of us who labor in the garden got an unexpected thrill listening to the State of the Union last week when President Bush touted a plant, switch grass to be exact, as a way to "make our dependence on Middle Eastern oil a thing of the past."

How pleasing to see official presidential recognition of the usefulness and worthiness of this common member (panicum virgatum) of the millet family. Previously insufficiently appreciated in our capital, switch grass is inexpensive food for cattle, horses, sheep and goats. This deep-rooted perennial controls erosion by slowing down water run off and keeping beneficial sediments in the field, and it is habitat for songbirds, game birds and waterfowl.

And yes, ethanol can be made from switch grass, which grows in abundance on the prairies of the Great Plains. If grass had ambition (besides wanting to propagate), the panicum virgatum might see itself as a cure for global warming and a savior of the family farm. If burning compressed switch grass really does work to reduce the use of fossil fuels, it would reduce the carbon we release into the air. Then farmers could find new profits in growing the stuff. And the more, the better. Switch grass, like every other plant, takes carbon dioxide out of the air and uses it to build plant tissue. Fold that, Republicans, into your Clear Skies legislation.

Switch grass cleans water as well as air; its wide-spreading roots filter out pesticides, herbicides and excess fertilizer before they reach the waterways. Up in Manitoba, Canada, where they care deeply about staying warm, they're experimenting with stoves that burn pellets of switch grass.

Senator Joseph Lieberman, Democrat of Connecticut, recently recommended switch grass as a balm for international tension. It's likely we'll find ourselves competing with China for oil, he told the Council on Foreign Relations, so we'll need to look at other fuels. He suggested that tons of agricultural materials, like corn, sugar cane and switch grass, could be used "to create billions of barrels of new fuels."

At this point I wouldn't be surprised to hear someone say that switch grass is a cure for lower-back pain and nearsightedness.

Family farmers know that switch grass is easy to grow. It doesn't complain about growing in sand; it doesn't mind clay either. It's tolerant of floods as well as of droughts. It would work as part of the effort to restore the Louisiana wetlands that can help protect New Orleans from hurricanes.

Switch grass is native to most of North America, from Canada to Texas. The day after the State of the Union, the president joked that he might bring in a few extra dollars at his Crawford ranch by growing switch grass for fuel. Whoa, Mr. President, take a look next time you're trimming the brush: odds are you have plenty.

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Let's not forget that switch grass is beautiful and looks great in floral arrangements. On the very same day the president spoke, I got the latest Brooklyn Botanic Garden handbook, "Designing Borders for Sun and Shade," in the mail. The handbook strongly recommended switch grass as part of a perennial border. There's "Dallas Blues," "Alamo," and the prettiest, wine-red "Shenandoah." The handbook suggests combining switch grass with asters, sunflowers and black-eyed Susans for an all-native garden with a nice prairie feel.

To me, though this may seem at first unrelated, this is just one more reason that "America the Beautiful" should be our national anthem instead of that song with the bombs bursting in air. The clue to achieving clean fuel, clean air, clean water, world peace has been right there all the time in those "amber waves of grain."

Congress's Duty On Energy (NYT)

The New York Times, February 11, 2006

Senator Pete Domenici told a recent gathering of experts that if Congress is going to do anything useful this year about the two big energy-related questions of our time — oil dependency and global warming — it will have to focus on "four or five big things" instead of the usual laundry list of tax breaks, subsidies and modest research programs.

A New Mexico Republican who runs the Senate energy committee, Mr. Domenici has become something of a Senate visionary on energy policy. With Jeff Bingaman, a New Mexico Democrat, he co-sponsored a resolution that not only accepted the basic science of global warming but also endorsed mandatory controls on emissions of carbon dioxide. The realist in him knows that this Congress is unlikely to take either of the steps (much less both) that would be most likely to lower oil consumption as well as greenhouse gases: a big increase in fuel economy standards and a big gasoline tax.

But he is willing to entertain other incentives to produce fuel-efficient cars, to develop fuels other than gasoline — most likely ethanol, not just from corn but from other crops — and to build a new generation of power plants capable of capturing carbon dioxide before it goes into the atmosphere. Mr. Domenici's vision of the future also includes safer, less expensive nuclear plants, which have the virtue of generating no greenhouse gases.

There are several legislative vehicles at hand for achieving some of these objectives. One is the Fuel Choices for American Security Act of 2005. There are identical versions in both houses, each with broadly bipartisan sponsorship, including conservatives who would normally resist federal mandates but who believe that reducing oil consumption is an urgent matter of national security.

The bill would establish a goal for fuel savings of 2.5 million barrels a day (about what we now import from the Persian Gulf), increasing to 7.5 million barrels by 2025. It would also provide some of the means to get there, including serious production incentives for a new generation of cars and fuels.

Although the bill does not address other imperatives, like cleaner power plants, it would have a positive spillover effect on global warming because fuel-efficient cars and trucks would produce lower greenhouse gases. The question is whether Congress can focus on the big issues without engaging in the diversionary food fights that every energy bill seems to inspire.

It will be hard for someone not to raise red flags like drilling in the Arctic, or for Congress in general not to indulge its appetite for pork. But with even President Bush signing on (at least in speeches) to the need for a new energy future, this is not the time for business as usual.

Gov't Seeks $16M Unpaid Mine Safety Fines (AP)

By NANCY ZUCKERBROD

Associated Press, February 11, 2006

By , Writer WASHINGTON (AP) - Kentucky mine operator Stanley Osborne has accumulated more than $200,000 in safety fines since the 1980s, but the federal government has not been able to collect the money.

In a new approach, the Mine Safety and Health Administration filed suit against Osborne this month. "We just can't be chasing people around for these collection cases when they should be paying their civil penalties," said Thomas Mascolino, deputy associate solicitor at the Labor Department.

MSHA, part of the Labor Department, was owed more than $16 million in delinquent fines at the end of last year, said agency spokesman Dirk Fillpot. More than $11 million was for violations at coal mines.

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The problem isn't new, but it has gained attention following mining accidents that have left 21 miners dead so far this year.

West Virginia lawmakers have asked the Government Accountability Office, the investigative arm of Congress, to look into how the mine agency assesses and collects fines.

"It is critically important that penalties for serious violations be painful," the lawmakers said in a letter to the GAO.

But critics wonder how safety fines can be painful when they can go uncollected.

"The payment of fines assessed by MSHA is essentially voluntary," said Wes Addington, a lawyer at the Appalachian Citizens Law Center, which is based in Prestonsburg, Ky., and represents miners in discrimination cases.

Addington recently analyzed fines levied against companies in Kentucky - the nation's third-largest coal producer - and found there were one or more years during the past decade in which one-third of the state's underground mines paid little or none of their fines.

Fillpot said MSHA has collected 80 percent of the fines it has assessed in the past decade.

He said the agency first tries to collect the fines and after 180 days asks the Treasury Department to get involved. Treasury can ask collection agencies to go after the fines.

If an operator cannot be found, goes out of business or doesn't have the money, MSHA can write the debt off. The Internal Revenue Service can consider the money part of the operator's earned income, meaning it is taxable.

"The process needs to change," said Stephen Webber, who headed the mine agency's assessments office at the end of the Clinton administration and for a few years under the Bush administration.

"If mine operators are not paying their civil penalty assessments, they're not going to have the right attitude toward health and safety," Webber said. "They'll just get another assessment and not pay it."

Webber said he suggested to Labor Department lawyers that they shut down mines that had delinquent fines: "That would have an effect." But the idea was rejected, he said.

If a coal operator isn't fixing the problem for which he is cited, MSHA can shut down the part of the mine in question, said Mascolino. But he said the agency can't take that action just because fines haven't been paid.

"Our power to shut a portion of a mine is always directed to the finding of a current existing health and safety violation," he said.

Another option Webber supports is creation of a system by which mine operators would have to pay outstanding fines to renew permits. West Virginia has such a law, ensuring the state is paid, he said.

There is no similar federal permit system, Mascolino said.

"They don't have it, but they need it," said Webber, who thinks Congress ought to mandate the change.

In the case of Osborne, who has operated several mines in eastern Kentucky, the agency didn't go after old fines but asked the court to make Osborne post a bond for payment of future fines.

Mascolino said the goal is to make other operators think twice about ignoring fines.

"That's what this case is about," he said, adding that the legal strategy has been developing since last year, before the recent spate of mine accidents.

Osborne couldn't be reached for comment on the new suit. But he offered an explanation on the unpaid fines during a worker discrimination case last year, saying, "I don't have the money."

Miner representatives are skeptical, noting coal prices are up.

"Those operators that do not pay their fines in a timely manner, they should not be able to operate," said Dennis O'Dell, top safety expert at United Mine Workers of America. "They're making all kinds of money."

Hydra-Headed Hybrids (WP)

The Washington Post, February 11, 2006

IN NORTHERN VIRGINIA, the hybrid has become hydra-headed. As plenty of the region's commuters know, hybrid vehicles are the main culprit in the ever-worsening traffic in the region's carpool lanes. Thanks to a regulatory perk, hybrid drivers are allowed to use carpool lanes -- chiefly those on Interstate 95 -- without carrying a single passenger; that's a major reason Northern Virginia ranks just behind California as the nation's hottest market for hybrid sales.

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Obviously, it defeats the purpose of carpool lanes to flood them with passengerless hybrids. Realizing that, officials have long planned to end the sweet deal for hybrids this summer. But, incredibly, Virginia lawmakers have voted to prolong it. This is a supremely bad idea.

There is no mystery about hybrids' impact on the carpool lanes, known as HOV, or high-occupancy-vehicle, lanes. Introduced only five years ago, hybrids now account for at least 22 percent of rush-hour traffic on I-95's HOV lanes. That's even more than the 15 percent believed to be cheaters -- those in conventional cars who use the HOV lanes despite carrying no passengers. With hybrid sales soaring, the problem is getting worse in a hurry. There are already more than 11,700 hybrids on Virginia's roads -- triple the number three years ago -- and the vast majority of them are in Northern Virginia. At current trends another 5,000 will be added to the region's roads this year.

State incentives to drive hybrids once made some sense. Powered by battery as well as gasoline, hybrids are somewhat cleaner and more

fuel-efficient than their exclusively gasoline-powered cousins. When the state granted HOV access to hybrids starting in 2000, the idea was to strike a blow for the environment and against profligate gas consumption.

But that deal has outlived its usefulness. Hybrids' environmental advantages have diminished as stricter federal rules have required gas-powered cars to have cleaner engines, starting with 2004 models. The region's air quality, though still in need of improvement, has made major gains for more than a decade. Whatever marginal environmental benefits are realized by encouraging hybrid sales on the promise of HOV access, at this point the policy may be doing more harm than good. By slowing carpoolers and long-haul bus trips at rush hour, hybrids may well push frustrated commuters back into their own cars, increasing net emissions. By slowing traffic, hybrids threaten to kill the HOV system.

The hybrid invasion of carpool lanes must end. If that doesn't happen on schedule this summer, it will only become more difficult to do as pressure builds from the growing numbers of hybrid owners and dealers. Nonetheless, both houses of the General Assembly have passed legislation that would extend the deal by a year, until July 2007. The sponsor of one of the bills, Sen. Jeannemarie Devolites Davis (R-Fairfax), says it will maintain the status quo while Virginia and federal officials negotiate regulations governing how much HOV traffic is too much and how many passengerless hybrids are too many. But that is beside the point, which is that high-occupancy lanes are already being clogged by low-occupancy cars. Gov. Timothy M. Kaine (D) should veto the legislation. It's time to restore some rationality to the roads.

Tribal Land Issue Heating Up In Scott County (MINNST)

Minneapolis Star Tribune, February 11, 2006

As the tribe buys property, it shouldn't be allowed to put the holdings into a tax-exempt trust that takes land off property tax rolls and frees land from local land-use restrictions, some local officials say.

Anthony Lonetree, Star Tribune Outside the hotel-and-casino complex that has enriched the Shakopee Mdewakanton Sioux Community is a statue of an Indian chief with the quote: "Over these hills I once rode free upon my horse."

This is a people who love the land. Twenty-four years after bringing high-stakes gaming to Minnesota, the Mdewakanton Sioux tribe now is the biggest landowner in Scott County -- excluding agencies like the state Department of Natural Resources.

The tribe, determined to develop its property as it sees fit, is asking the federal government to move 760 acres off the property-tax rolls and into trust. Until then, the land is subject to local land-use controls, and that's unacceptable to Tribal Chairman Stanley Crooks.

"When you are sovereign, you determine what's best for you," he said. He described as "demeaning" a recent suggestion by Gov. Tim Pawlenty that tribal and local officials engage in talks to let some -- but not all -- of the land be put into trust.

Yet Scott County and other officials say local governments should continue to manage growth within one of the nation's fastest-growing counties -- and to share in the property-tax revenues that development would bring.

The dispute dates to the mid-1990s, and while it is to be decided at the federal level, perhaps within the next few months, it continues to roil emotions locally.

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In December, without advance public notice, the Prior Lake City Council voted to withdraw opposition to having 106 acres within that city put into trust for the tribe, spurring a battle between the county and the tribe in the commentary sections of local and daily newspapers.

The tribe also created and paid for a flier to be inserted in thousands of local papers accusing a Scott County commissioner of having stated in a commentary piece that the tribe was "unacceptable."

Stakes are high, County Administrator David Unmacht said. The federal government's decision could determine the fate of not just 760 acres, he said, but that of other recently acquired tribal parcels, as well -- taxable property now totaling an additional 750 acres. Considering that 640 acres equals one square mile, that's a lot of land.

If not in trust, tribal officials say, the fields will go undeveloped.

By its rules

The Shakopee Mdewakanton Sioux Community is sovereign in that it manages its affairs independent of most state and federal laws. But tribes also can be subject to limits set by Congress. For the Sioux, that means having a civil court but letting Scott County handle criminal matters.

For decades, poor tribes relied upon the federal government to put lands into trust to protect them from forfeiture.

Today, however, said David Wilkins, an American Indian Studies professor at the University of Minnesota, many tribes use gaming profits to buy back lands lost a century ago. In his view, the Bureau of Indian Affairs (BIA) should approve every application to put land in trust: "If we [as tribes] say, 'This will benefit us, trustee,' then do it," he said, referring to the basic nature of a trust relationship.

Whether a tribe is wealthy, he added, is irrelevant.

As a semi-sovereign nation, the Shakopee Mdewakanton Sioux Community does not disclose its financial records. But according to its website, Mystic Lake Casino Hotel now boasts of more than 4,000 slot machines and 100 blackjack tables, plus three hotel towers and a resort-styled golf course.

The tribe, too, is proud of its stewardship of the land. Prairies have been restored; its building codes are stringent, officials say.

Land is needed for housing tribal families, however. Two parcels in the trust application -- one in Shakopee and the other in Prior Lake -- would take the bulk of new residential development. The tribe also wants to move its powwow grounds and to develop a cultural center and new government center in Shakopee, as well.

In 1998, the tribe applied to have 593 acres put into trust, and the BIA rejected the application. It said then that the tribe's business acumen made it one of the nation's most successful Indian enterprises and it failed to show the need for the benefits that having land in trust could bring.

The decision will figure into current deliberations, said Terry Virden, director of the BIA's midwest regional office. But, so, too, he added, will other factors. Now, he said, there is more development near the reservation than in 1998, easing concerns about land-use pressures. Opposition seems less heated, too, he added.

Virden said a decision is expected within two months. If the agency had to its issue its decision today, he added, he doesn't know what it would be.

The county has said that if the tribe developed the parcels as proposed, local jurisdictions could lose $2.9 million a year in tax revenues. In 2005, the undeveloped parcels produced $65,642 in property taxes.

Local change

In Prior Lake, the decision to support the trust application prompted outrage among some citizens, who've begun a petition drive (at www.offthecouch.org) urging a new city policy opposing it.

During his State of the City address Monday, Mayor Jack Haugen apologized for the suddenness of the decision but not for the action itself.

Just four months ago, he had joined local officials in appearing before Virden to argue against the trust, and, in fact, helped lead the presentation. But, he said in a recent interview, he realized later "my heart wasn't in the position."

During the presentation, officials noted the tribe was entrenched in an "all or nothing" position. Talk to Crooks, and that seems clear: "There is no 'win-win' situation," he said of any talks. "Not for the tribe."

Interior Ordered To Pay Cobell Lawyers (ICT)

By David Melmer, Indian Country Today

Indian Country Today, February 10, 2006

WASINGTON - The Department of the Interior was ordered by the U.S. District Court to pay attorneys' fees and expenses that have accumulated in the ongoing Cobell v. Norton case.

The total amount ordered paid by U.S. District Judge Royce Lamberth is more than $7 million. That money will come out of BIA and Interior accounts, and will affect tribal programs.

On Jan. 26, Interior Associate Deputy Secretary James Cason sent a letter to tribes notifying them that the court-mandated legal fee payment sent to Cobell attorneys on Jan. 18 would adversely affect tribal programs. He detailed where the $7 million would come from to forewarn them that some of their expectations may not be met this year.

The largest impact will be in the area of historical accounting, with a contribution of $2 million. That department, which focuses on identifying the rightful owners of special deposit accounts, was chosen because it would not be as difficult to move the work to a later and more protracted timeline.

"It's a matter of do we get them done this year or next year," Cason said.

Tribal attorneys who expect payment for work they have done for the Interior or BIA on water rights, boundary disputes or other issues may not be paid this year, Cason said. Most of that work is performed by the Justice Department, but from time to time tribal attorneys are asked to step in.

In numerous cases such as this, lawyers would do a lot of background work to make sure attorneys' fees would not be reimbursed out of tribal funds, John Dossett, general counsel for the National Congress of American Indians, said.

"In this case, none of that was done. I don't see [where] that happened. Tribes are concerned that money will come out of tribal programs, and it's clearly not what that fund is for," Dossett said.

Sen. Tim Johnson, D-S.D. and member of the Senate Committee on Indian Affairs, wrote in a response to Cason's letter: "I understand the Court's Order disturbed funding expectations; however, the inflammatory letter sent was an entirely unnecessary and inappropriate attempt to undermine the relationship between tribes and tribal members involved in the Cobell v. Norton case. It is my sincere hope that the Department revisits this decision and finds an adequate solution that fulfills its obligations to the first Americans."

NCAI President Joe Garcia called for a fair settlement to be negotiated soon and in good faith. During the annual State of the Indian Nations address on Jan. 30, Garcia said the decision to take funds from the BIA budget to comply with court orders to pay attorneys' fees "impedes our progress as tribal governments on nearly all other issues."

"Every year, the BIA budget gets cut. Every year we see somewhere from $100 million to $150 million taken out and moved over to Office of Special Trustee; that's a bigger concern. This issue of reimbursement of attorneys' fees is much smaller."

The majority of funds that will be paid to the Cobell attorneys will not come out of tribal programs. Cason said education and law enforcement are exempted.

"One of the problems the critics have not embraced is where you take the money from," Cason said, noting that there wasn't any money lying around that wasn't in use and that the department had to abide by the court order.

A 0.1 percent levy, which will generate $1 million, was imposed on most programs, including central office operations and tribal operations. In each case, the levy was small and broad-based, Cason said.

"We tried to spread the millions out so no one particular program took a big hit," Cason said.

"My advice to tribal leaders is, be careful. The financial environment has changed."

Some tribes will have an allocation reduced by $100. Cason said if that tribe works on a very slim margin, it would have a greater impact.

The BIA contributed $3 million to the attorneys' fee account, with $2 million of that coming from an account that would reimburse tribal attorneys and the other $1 million from the 0.1 percent levy.

The Cobell plaintiffs referred to the levy and fund distribution as a "cruel effort to inflict more pain on the victims of the government's long-acknowledged misbehavior." They claim the funds used to pay attorneys' fees come from areas that are designed to "punish Native Americans."

"Now that we have secured the rights to this accounting, and now that the government must pay the costs of that accounting, the Interior Department is planning to loot Indian accounts once again to cover up its misdeeds," said Eloise Cobell, lead plaintiff in the class action lawsuit.

The suit was filed nearly 10 years ago in an attempt to hold the government accountable and reconcile Individual Indian Money trust accounts for lease, royalties and other payments due tribal land owners. Cobell has stated that some $300 billion is at stake.

The Office of Special Trustee contributed $300,000 of funds that were planned for trust improvement activities; the Department of Treasury, another $2 million.

Cobell said the government could have found funds elsewhere to pay these legal fees. "They don't have to make Indians pay because they lost in court," she said.

The government, by its own admission, has spent some $100 million defending this lawsuit. Cobell said the fees and expenses were planned and the plaintiffs made it clear two years ago they would be seeking the legal fees.

"It's an interesting irony; when we pay, they claim we are divisive and terrible," Cason said of Cobell's criticism.

"If they are so concerned about the money they should say, 'We don't want programs to be hurt, so don't pay this.' If there was some magical pot of money somewhere - I don't know where it is," Cason said.

The Cobell plaintiffs continue to claim the government cannot win this drawn-out litigation. A settlement compromise has been placed on the table for reimbursement to the IIM account-holders for $27.5 billion. That figure is disputed by the government. The Senate Indian Affairs Committee has held hearings on proposed legislation that will settle the lawsuit, but failed to include monetary funds in the legislation.

"There are side effects of the litigation. I think the tribes have been supportive, but as time goes by there are side effects to the budget," Dossett said.

A group of tribal leaders, in a recent meeting in Bismarck, N.D., offered another possible settlement figure that ranges from $13 to $27.5 billion.

"I have never seen a more blatant and transparent attempt to politicize this case in order to divide and conquer Indian country," Cobell said.

"The funds that were cut serve the nation's poorest peoples and we should do everything that we can to maintain and increase program funding for Indian Country, not cut funding," Johnson said. "There are clearly better alternatives than cutting program funding, and I am willing to pursue solutions at the legislative level that do not involve politicizing the Cobell litigation."

The amount to be taken from tribal programs will not have as much impact as the most recent budget submitted by President Bush, which cuts the BIA by $65 million.

Distribution of attorneys' fees:

* Dennis Gingold, lead plaintiff attorney: $2 million

Expenses related to the lawsuit:

* Price Waterhouse Coopers: $2.5 million
* Thaddeus Holt: $350

Total fees and expenses:

$7,066,471

Source: Interior Department Associate Deputy Secretary James Cason's Jan. 26 letter to tribal leaders.

FBI/DEA/ATF/USMS:

Drug Smuggling Air Marshals? (TIME)

By SALLY B. DONNELLY

Time, February 11, 2006

The arrest of a pair of agents on possible cocaine charges raises new concerns about the aviation security program

For a law enforcement agency that works hard to be invisible, the Federal Air Marshals have been generating a lot of attention lately. On Thursday, two of the agency's several thousand highly trained traveling armed guards were taken into custody in Houston. Although the US Attorney's office would not comment beyond acknowledging that the Air Marshals were arrested by agents from the Federal Bureau of Investigation and the Department of Homeland Security's Inspector General's office, Government sources tell TIME that the two Air Marshals, are allegedly involved with the possession or transportation of cocaine, and may have been paid several thousand dollars to move the drugs.

The marshals, one of whom is a former agent of the Drug Enforcement Administration, will likely appear in court to face criminal charges next week, and will almost certainly be suspended.

The incident comes only two months after two marshals shot and killed a man who claimed—falsely, as it turned out—to have a bomb while boarding an airplane in Miami. Although the official results of an investigation will not be complete until late spring, it is expected to conclude that the agents acted appropriately in their dealings with the passenger.

The arrest in Houston is a shock to an agency that plays an important role in aviation security. Although there have been air marshals flying for decades, on Sept. 11, 2001, the numbers had dwindled to only three dozen agents. After the attacks, the agency was drastically increased in size and many agents were drafted from other law enforcement agencies and local police departments.

New agents were-and are—subject to security screening and background checks similar to other federal law enforcement agencies, which are required to be updated only every five years.

Critics said the rush to expand allowed too many inexperienced men and women into the service, and there were reports of marshals clashing with airline personnel or other law enforcement agents. Aviation sources say the agency has spent the last few years weeding out poor performers, but the arrest of the two agents in Houston is sure to further stoke those concerns.

F.B.I. Raids In Puerto Rico (NYT/AP)

By The Associated Press

The New York Times, February 11, 2006

SAN JUAN, P.R., Feb. 10 (AP) — F.B.I. agents searched five homes and a business on Friday but made no arrests in an effort to thwart what the bureau said was a "domestic terrorist attack" planned by militants favoring independence for Puerto Rico.

The bureau said the investigation was focused on the Boricua Popular Army. The group, also known as the Macheteros or "cane cutters," was accused of bombings and attacks in the 1970's and 1980's. In September, F.B.I. agents killed Filiberto Ojeda Ríos, one of the group's leaders.

Everett Men Arrested In Connection To Fire (SEATIMES)

By Brian Alexander, Times Snohomish County Bureau

The Seattle Times, February 11, 2006

Two Everett men were jailed and two more suspects could be arrested soon in connection with a December fire that gutted a large condominium building under construction in downtown Edmonds.

The 21-year-old and 18-year-old men were arrested Thursday after they turned themselves in to police in Everett. They are being held in Snohomish County Jail on $75,000 bail each and might face federal charges, according to information released at a news conference Friday.

It was unclear what the motive was for the fire that burned down the 90,000-square-foot structure, at 505 Fifth Ave. S., on Dec. 17, but investigators said Friday it was unrelated to a local controversy about the building's size and height and it was not connected to ecoterrorism.

Neither of the men appeared to have significant local criminal records.

According to a probable-cause statement by an Edmonds police detective, a tip on the Bureau of Alcohol, Tobacco, Firearms and Explosives hotline identified the four suspects. The two men turned themselves in when they learned ATF investigators and police were on to them, said Kelvin Crenshaw, ATF special agent in charge.

During the investigation, an employee of the construction company was identified as an "associate" of the suspects, but the employee did not appear to be a suspect himself, according to the statement.

The employee then helped identify the men who were arrested Thursday, as well as two others, according to the detective's statement.

Authorities expect to arrest at least one of the two remaining suspects in the near future, said ATF spokeswoman Julianne Marshall.

Bruce Miyake, an assistant U.S. attorney, says he is considering whether to pursue federal charges against the people arrested in connection with the arson.

The minimum sentence for a federal arson conviction is five years, compared with less than two years for the state minimum, Miyake said.

A decision on the charges will be made by Monday, he said.

The break in the case was the result of tips and help from the public, Crenshaw said.

Bob Gregg, the building's owner, said he plans to rebuild "The Gregory" with nearly the same design and hopes it will be completed before the end of the year.

Gregg said he was "greatly relieved" to learn about the arrests, and it "brings some closure."

The estimated damage to the building was $4.5 million, Gregg said. Most of the building has already been torn down, but portions of the foundation that weren't damaged in the fire will be reused in the reconstruction.

The cause of the fire was previously undetermined because of part of a string of lights that couldn't be found in the wreckage of the fire, Crenshaw said. Without being able to find remains of the lights, investigators couldn't rule them out as a possible cause, he said.

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TAX:

Cheney Says New Unit Will Prove Tax Cuts Boost Revenue (WP)

By Nell Henderson

The Washington Post, February 11, 2006

Vice President Cheney said Thursday night that the verdict is in before the Bush administration's new tax analysis shop has even opened for business: Tax cuts boost federal government revenue.

That assertion won applause from his audience at the Conservative Political Action Conference, but it is a long-standing source of debate among many economists and tax experts at a time of rising federal budget deficits.

Cheney touted President Bush's recently announced proposal to create a tax analysis division as a move toward providing more evidence for the administration's side of the argument.

"The president's tax policies have strengthened the economy, as we knew they would," Cheney told the conference, according to a text posted on the White House's Web site. "And despite forecasts to the contrary, the tax cuts have translated into higher federal revenues."

Cheney said some forecasters have underestimated the degree to which tax cuts would stimulate economic growth and tax revenue.

"It's time to reexamine our assumptions and to consider using more dynamic analysis to measure the true impact of tax cuts on the American economy," Cheney said, explaining why Bush has proposed the new Treasury Department division. "The evidence is in, it's time for everyone to admit that sensible tax cuts increase economic growth and add to the federal treasury."

Bush's proposal, unveiled in his budget plan last week, comes as he is pushing Congress to make permanent the recent tax cuts that are scheduled to expire in coming years. The nonpartisan Congressional Budget Office predicted last month that the budget deficit would swell to $337 billion this year and that the red ink would end in 2012 only if the tax cuts were allowed to expire.

Treasury officials said yesterday that the president's proposed Division on Dynamic Analysis -- with a handful of employees and a $513,000 budget -- would go beyond the government's old "static" methods of analyzing proposed changes in tax policy

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only in terms of their direct effects on certain affected taxpayers. Instead, "dynamic" analysis looks at how tax changes cause consumers and businesses to behave differently in ways that affect the overall economy's growth.

For example, a tax break to encourage business investment might lower some individual companies' tax bills -- looking like a hit to Treasury revenue under a static analysis. But if that tax cut caused businesses to buy more equipment, hire more workers and increase profits, that might contribute to stronger overall economic growth -- causing the employees and companies to pay more in income, sales and other taxes over time.

Treasury officials said yesterday that they would not initially use their dynamic analysis for "scoring," or estimating the effects of tax changes on the government's tax receipts. But the department said in a statement: "It is envisioned that dynamic analysis eventually would evolve into dynamic scoring . . . (maybe within a year or two)."

Some tax-cut proponents contend that tax cuts can essentially pay for themselves by spurring such strong economic growth that the additional tax revenue more than offsets the money lost to the cuts.

Many economists dispute that, arguing that the effects of tax cuts depend on how they are structured, on economic circumstances and on many other variables.

"All economists agree tax policy has an effect on the economy. The hard thing is to figure out how to measure these effects in the real world," said Leonard E. Burman, co-director of the Urban Institute-Brookings Institution Tax Policy Center.

Both Congress's Joint Committee on Taxation and the CBO provide dynamic analyses of how tax changes are likely to affect the larger economy, but they do not use dynamic scoring in the budget process.

"I am a proponent of doing this," said Douglas Holtz-Eakin, a fellow at the Council on Foreign Relations who introduced dynamic analysis while he was CBO director.

But, he added, because of the challenges of developing good models and the difficulty of the findings, "there are limits to how useful it is as a policy tool."

White House Calls For New Tax-Cut Analysis Unit (WSJ)

By Robert Guy Matthews

The Wall Street Journal, February 11, 2006

WASHINGTON -- The Bush administration, in a maneuver in the long-running battle between proponents and critics of supply-side economics, said it wants to create a "dynamic analysis" unit within the Treasury's tax-policy office to determine how tax proposals would affect economic growth.

President Bush's 2007 budget, released earlier this week, proposed $513,000 to set up the office. If approved by Congress, the office's main task would be to determine the macroeconomic effects of proposed tax cuts.

For decades, adherents of supply-side economics have argued that cutting tax rates can pay for itself -- or come close -- by stimulating economic activity that generates more tax revenue. They have been frustrated that estimates by Treasury and congressional score-keepers don't reflect this approach.

Many mainstream economists, while acknowledging that tax cuts can have revenue-generating effects, challenge the magnitude of the effects that supply-siders predict.

The analyses produced by the new Treasury unit probably would bolster White House arguments that certain tax cuts generate hardier long-term economic growth. "They have been making the argument that tax cuts are essential for economic growth," said Eric Toder, a former Clinton administration Treasury tax economist now at Urban Institute, a think tank here. "I take it as some kind of indication that they are concerned that people are getting worried about budget deficits and the administration wants to provide more ammunition in support of their tax cuts."

Dynamic analysis means assessing the economic effects of tax or other legislative proposals on the macroeconomy and the federal budget, often with alternative sets of assumptions. It is a step toward the more controversial practice of dynamic scoring, using such analyses to estimate the effect that a proposed tax change will have on federal revenues. Dynamic scoring makes it easier to enact tax cuts because it reduces, and might even eliminate, the negative effect on federal revenues.

The Bush administration isn't proposing that the office engage in dynamic scoring. But some analysts said that creating a Treasury office for dynamic analysis would be a first step toward dynamic scoring. "I think this is a signal that if they do this

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dynamic analysis now, that in time they will do dynamic scoring," said Michael Graetz, a Yale Law School tax professor who was a Treasury official in the George H.W. Bush administration.

Robert Carroll, deputy assistant Treasury secretary for tax analysis said that there were no immediate plans to start dynamic scoring, but added that the administration hadn't ruled it out either. "We here at Treasury have to become more comfortable," he said. "The models are complicated and sensitivity is an issue." He added, "This seems to me, a very reasonable first step," he said.

The Congressional Budget Office and Joint Committee on Taxation, the official scorekeepers in Congress, conduct dynamic analyses, but don't use dynamic scoring to price tax proposals. Mr. Carroll said the assumptions that they use would be different than the assumptions used at Treasury and therefore another dynamic-analysis division is needed.

Mr. Carroll said he expects to offer a dynamic analysis of Mr. Bush's proposed $1.7 trillion in tax cuts in time for the midsession budget review later in the year. Mr. Carroll also said he expects the new office to work on the current tax-overhaul proposal put forth late last year by a panel commissioned by President Bush.

Write to Robert Guy Matthews at robertguy.matthews@wsj.com1

CONGRESS-ADMINISTRATION:

Bush Tells Nervous GOP To Focus On Economy (AP)

By David Espo

AP, February 11, 2006

President Bush told nervous lawmakers in his own party on Friday that Republicans should stress the economy and the war on terror as they move deeper into the election year.

Bush also defended his administration's program of warrantless wiretapping, and vowed to stay the course in the global campaign to wipe out terrorism, according to participants in a closed-door session. "Don't lose your nerve. I'm not going to lose mine," one member of his audience quoted him as saying.

Bush spent more than 90 minutes with House Republicans, gathered for a retreat at a resort on Maryland's Eastern Shore. He spoke near the midpoint of their three-day meeting, a blend of policy and politics that included the premiere of a tongue-in-cheek video modeled on Star Wars.

Shown to lawmakers on Thursday night, the video lampooned GOP political opponents as "The evil Democrat empire." California Rep. Nancy Pelosi (news, bio, voting record), the Democratic leader, was depicted as "Darth Nancy."

The "empire" soon struck back, as Pelosi and other Democrats announced that Star Wars director George Lucas would be appearing with them at a town hall-style meeting at the Capitol next week.

GOP leaders described the session with Bush as unusually wide-ranging. "He answered nearly every question under the sun," said Rep. Deborah Pryce (news, bio, voting record) of Ohio, and Speaker Dennis Hastert called it "an hour and a half of give and take."

Other officials said Bush was asked about the controversy surrounding the National Security Agency wiretapping program, about education, health care and immigration, and the polls that show a majority of people believe the country is on the wrong track.

Social Security, the issue that dominated Bush's agenda a year ago, did not come up, they said.

These officials spoke on condition of anonymity, saying they were not authorized to speak publicly about the event.

The president's own support in the polls is in the neighborhood of only 40 percent, and some Republicans are concerned about the drag that might have on their ability to retain control of the House in the November elections.

When asked about polls, Bush responded that if he worried about them, "I would be in the fetal position right now, which wouldn't be a pretty sight," one participant said. Participants in the meeting said he then described his own role as that of "educator in chief" who travels the country discussing the war on terror and the economy, and he recommended GOP lawmakers do likewise.

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According to those in the audience, he said policies he had advocated and Congress had approved had begun modernizing health care, and he cited laser eye surgery as an example of how competition can help lower costs.

White House aides had arranged for only the first few minutes of the session to be open to reporters. But an apparent mistake left a microphone on for longer than anticipated.

In the interim, he said, "I support the free press, let's just get them out of the room. ..."

"I want to share some thoughts with you before I answer your questions," he went on to the Republican House members. "First of all, I expect this conversation we're about to have to stay in the room. I know that's impossible in Washington."

He then moved to a defense of the NSA program that allows wiretaps without court warrants as part of certain terrorist investigations.

"I wake up every morning thinking about a future attack, and therefore, a lot of my thinking, and a lot of the decisions I make are based upon the attack that hurt us," Bush said.

Referring to the controversy surrounding whether the program is legal, he said, "We put constant checks on the program."

"I take my oath of office seriously. I swear to uphold the Constitution and laws of the United States," Bush said.

The Star Wars-style video was aired Thursday night, when Rep. Tom Reynolds of New York, chairman of the GOP campaign committee, briefed lawmakers on the party's midterm election prospects.

In comments to reporters on Friday, he conceded that historical trends and the polls portend difficulties. But he said Democrats must win 82 percent of the competitive seats on the ballot to gain a majority in November.

Ethics Scandals Cast Shadow On GOP Retreat (LAT)

By Richard Simon

The Los Angeles Times, February 11, 2006

CAMBRIDGE, Md. — "We are in trouble."

Rep. Paul D. Ryan (R-Wis.) made that comment a week ago, discussing his party's political fortunes. And his remark aptly summarized the attitude here Friday at a gathering of House Republicans.

In years past — especially since President Bush took office — these annual retreats have been celebratory affairs, with Republicans reveling in their success and plotting an aggressive legislative agenda.

This meeting, however, was marked by anxiety and uncertainty. The GOP House members, fresh from a leadership battle within their ranks, are divided over how the party should respond to ethics scandals roiling Capitol Hill.

And with Bush having backed off his prime legislative goal of a year ago — restructuring Social Security — and promoting no programs of similar scope, some Republican lawmakers wonder whether they need an improved strategy for this fall's congressional elections.

For Bush, who spoke to the assemblage at a riverside resort on Maryland's Eastern Shore, the campaign message was clear. He urged his fellow Republicans to run on a record that included more tax reductions, more cuts to the federal budget and a tough stance in the war on terrorism.

"We've got a record, and it's a record of accomplishment," Bush said before a closed-door question-and-answer session.

But, as indicated by Ryan's comment, new poll results have raised questions among many Republicans about whether the public will embrace the president's message.

A survey conducted Feb. 1-5 showed that by 50% to 41%, the public favored a Democratic House. And 31% of those interviewed said they viewed November's vote as a chance to cast a ballot against Bush.

The poll, conducted by the Pew Research Center for the People and the Press, has an error margin of plus or minus 3 to 4 percentage points.

"House Republicans are at some risk of losing their majority," said John J. Pitney, a professor at Claremont McKenna College. "The Democrats don't need a huge tide. A few good ripples could do the trick."

Rep. Jack Kingston of Georgia, a midlevel House GOP leader, said that to stem Democratic advances, Republicans intended to spotlight issues that connected "with the American dinner table." These include extending tax cuts enacted during Bush's first term that are due to expire this decade, and addressing energy prices.

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Another issue discussed at the retreat — but unlikely to be emphasized nationally — was immigration policy. Although most Republicans support tougher border controls, the party is riven over Bush's call for a guest-worker program.

The GOP meeting, which wraps up today, convened a week after House Republicans elected Rep. John A. Boehner of Ohio to succeed Rep. Tom DeLay of Texas as majority leader. DeLay left the post after he was indicted in his home state on money-laundering charges. In winning the race, Boehner upset a DeLay ally, Rep. Roy Blunt of Missouri.

Also shadowing the retreat were scandals involving former Rep. Randy "Duke" Cunningham (R-Rancho Santa Fe), who resigned late last year after pleading guilty to bribery, and lobbyist Jack Abramoff, a once-close associate of several GOP congressional leaders who pleaded guilty in January to corruption charges stemming from his business activities.

In a sign of a new wariness toward influence-peddling, lobbyists — welcomed at previous retreats — were barred from the grounds this year.

Several measures have been proposed in Congress that would tighten the guidelines governing lawmakers' dealings with lobbyists. House Republicans, however, are split over how far to go, and no consensus was expected to emerge from the retreat.

Some back a ban on lawmaker trips paid for by interest groups. There also is a push to end the long-standing practice of allowing House and Senate members to insert pet projects into spending bills — items often included at the behest of lobbyists.

Both proposals have sparked dissent. The privately funded trips are popular among lawmakers, and some say that a ban could deprive lawmakers of valuable fact-finding opportunities or shift the costs for such travel to the taxpayers.

Boehner, in a break with House Speaker J. Dennis Hastert (R-Ill.), is among those who have questioned the proposed travel ban.

And Rep. Thomas M. Reynolds (R-N.Y.), typifying a view held by many of his colleagues, said Friday that projects added to spending bills could be among a lawmaker's strongest assets at reelection time.

A newspaper in his area, he said, "believes that I ought to be bringing home the bacon."

Pitney, of Claremont McKenna, expressed skepticism that approval of new ethics rules would significantly affect the outcome of November's election.

"No matter what passes, the Democrats will say that it's not enough," he said.

Pointing to complaints about the new Medicare prescription drug program, Pitney said Republicans instead should be "working like crazy" to fix those problems.

Reynolds, chairman of the National Republican Congressional Committee, which helps House GOP candidates, dismissed the possible consequences of the cases involving Cunningham, DeLay and Abramoff (the latter's cooperation with federal investigators could cause legal woes for Republican lawmakers).

"I have never seen the actions of one member of Congress affect another member's outcome" in an election, Reynolds said.

Still, Reynolds said he was attempting to recruit Sen. John McCain (R-Ariz.), a champion of reform, to stump for House Republican candidates this fall.

Bush, in his speech, urged unified GOP support for initiatives he outlined in his State of the Union address last week: big boosts in funding for science and math education, increased research aimed at making the U.S. more competitive in the global economy, and faster development of alternative energy sources to reduce U.S. dependence on Middle Eastern oil.

At the start of his question-and-answer period, in remarks heard by reporters when microphones were left on, Bush defended the secret spying program he authorized after the Sept. 11 terrorist attacks. Some GOP senators have joined Democrats in questioning the legality of monitoring international phone calls and e-mails of people in the U.S. without obtaining court warrants.

Sept. 11 "changed the way I think," Bush said, echoing his previous comments on the issue. "I wake up every morning thinking about a future attack, and therefore, a lot of my thinking and a lot of the decisions I make are based upon the attack that hurt us."

Ryan, the Wisconsin congressman, on Friday sounded a more positive note about the party's direction than he had last week.

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"With a new [House] leadership team and a clear recognition that reform is essential to upholding our principles, I see real renewal occurring that is healthy and positive," he said.

Bush Rallies Scandal-rocked Republicans (REU)

By Thomas Ferraro

Reuters, February 11, 2006

President Bush was closely questioned by fellow Republicans on his policy on Iran, health care, immigration and other hot-button issues on Friday at a closed meeting meant to rally party members for this year's congressional elections.

Sources at a retreat of the scandal-rocked Republicans in the House of Representatives said Bush drew an ovation when he defended his program to eavesdrop without court warrants on Americans with suspected terrorist ties, a program that has been questioned by both Democrats and some Republicans.

But the sources, who asked not to be named as the meeting was formally closed, said lawmakers, anxious over polls showing waning faith in them and the president, pressed him on issues that could be critical in the November elections.

Many members of the president's party have voiced concerns about the $2.77 trillion federal budget that Bush proposed this week, which would boost defense spending but bring cuts in 141 domestic programs, from veterans health care to housing.

In brief opening remarks, which were public, Bush cited what he said had been major House accomplishments in 2006, including passage of bills on energy, bankruptcy, immigration and the anti-terrorism USA Patriot Act.

"And we're ready to lead again," Bush told the second day of a three-day meeting of House Republicans in Cambridge, Md., a two-hour bus ride from Washington. "We don't fear the future because we're going to shape the future."

Many senior lawmakers have been drawn into an investigation of powerful Republican lobbyist Jack Abramoff, who last month pleaded guilty to fraud and agreed to cooperate with investigators.

"GLITCHES" IN DRUGS PROGRAM

One Republican said Bush defended the new Medicare prescription drug program, whose introduction has drawn enormous criticism, saying, "When you enroll 26 million people into program in 30 days, there are going to be some glitches."

Many political analysts say public dissatisfaction over the ethics scandal, the Iraq war and other issues including health care, threatens the party's control of the House, which it has held since 1995.

Bush shrugged off the importance of opinion polls. One attendee at the meeting said he drew laughter by joking: "If I watched the poll numbers every day, I'd be lying in the fetal position. It wouldn't be a pretty sight." Bush said he acted on the basis of what he believes is right, not polls.

Bush again asserted that the domestic surveillance program was legal, and he drew support from House Speaker Dennis Hastert, who told reporters, "There are adequate protections."

"If somebody in this country, whether he is a foreign national or a citizen, is talking to al Qaeda somebody ought to know about it and know why it is happening," Hastert said.

House Republicans described their retreat as a chance to regroup and discuss their emerging legislative agenda, which they say will include lobbying and ethics reform.

The retreat was to end on Saturday after members and staff attend a seminar on the House's ethics rules. "I think it'll help ensure that members and staff live up to those rules," said House Majority Leader John Boehner of Ohio.

Boehner was elected House majority leader last week, replacing Rep. Tom DeLay, who was forced to step down from the leadership post last year after being indicted in his home state of Texas on campaign-related felony charges.

Bush Reveals Rationale Behind Surveillance (AP)

By Jennifer Loven

AP, February 11, 2006

President Bush defended his warrantless eavesdropping program Friday, saying during what he thought were private remarks that he concluded that spying on Americans was necessary to fill a gap in the United States' security.

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"I wake up every morning thinking about a future attack, and therefore, a lot of my thinking, and a lot of the decisions I make are based upon the attack that hurt us," Bush told the House Republican Caucus, which was in retreat at a luxury resort along the Choptank River on Maryland's Eastern Shore.

The president said he asked the National Security Agency to devise a way to gather intelligence on terrorists' potential activities, and the result was the super-secret spy outfit's program to monitor the international e-mails and phone calls of people inside the United States with suspected ties to terrorists overseas. Bush said lawyers in the White House and at the Justice Department signed off on the program's legality, and "we put constant checks on the program."

"I take my oath of office seriously. I swear to uphold the Constitution and laws of the United States," Bush said.

The president's comments on the NSA eavesdropping came after six minutes of remarks intended for public consumption. In them, Bush stroked lawmakers with thanks and gave a gentle push for his 2006 priorities in a scaled-back version of last month's State of the Union address.

"I'm looking forward to working with you. And I'm confident we'll continue the success we have had together," he said. "So I've come to say thanks for your hard work in the past and thanks for what we're going to do to make this country continue to be the greatest country on the face of the Earth."

He indirectly pressed his call — difficult in an election year — for Congress to approve $70 billion in savings from benefit programs such as Medicare, Medicaid, food stamps and payments to farmers over the next five years, and to cut dozens of other programs that the White House has determined don't produce results.

"It's hard work, to cut out and cut back on programs that don't work," Bush said. "Every program sounds beautiful in Washington, D.C. until you start analyzing the results."

Reporters then were ushered out — "I support the free press, let's just get them out of the room," Bush said — so the president could speak privately to his fellow Republicans.

"I want to share some thoughts with you before I answer your questions," said Bush, unaware that microphones were still on and were allowing those back in the White House press room to eavesdrop on his eavesdropping defense. "First of all, I expect this conversation we're about to have to stay in the room. I know that's impossible in Washington."

That was not to be — and it was telling that the president chose the controversial NSA program as the first topic to raise out of reporters' earshot. Even so, there was no substantive difference between those statements and the series of public speeches he has given recently on the program.

The eavesdropping program has come under fire from Republicans as well as Democrats. They argue that Bush already has the authority to monitor such communications through existing law that requires a warrant from a secret court set up to act quickly, or even after the fact. Bush has argued that the system isn't nimble enough.

The titular head of the Republican Party faced a House GOP Caucus in turmoil.

With most of Congress up for re-election in November, the House GOP is just off a bruising fight to replace former Majority Leader Tom DeLay, R-Texas, is grappling with reforming the time-honored congressional tradition of funding individual pet projects known as earmarks, and faces potentially damaging revelations in an ongoing public corruption investigation centered on a high-flying lobbyist with extensive ties to Republicans.

Though the lawmakers gave Bush a standing ovation and interrupted his remarks several times with applause, questions in the private setting typically are sharper than in public get-togethers.

White House press secretary Scott McClellan said that Bush kept his prepared remarks brief so that he would have extra time for the more freewheeling portion of the discussion, which went on for one hour and 40 minutes. Only the first few minutes of that — before any lawmakers' questions — were heard by reporters.

Bush Defends Spy Program In Speech At GOP Meeting (BSUN)

By Julie Hirschfeld Davis And Gwyneth K. Shaw

The Baltimore Sun, February 11, 2006

Budget, energy, education, health care also discussed at Md. retreat

CAMBRIDGE -- President Bush defended his warrantless eavesdropping program to House Republicans yesterday amid criticism by some in his own party, telling lawmakers the activities were legal and under constant review.

Bush described the National Security Agency wiretapping program as an outgrowth of his belief that "we must do everything in our power to protect the country," adding that he often thinks about the possibility of another terrorist attack.

His remarks came during what Bush intended to be a private session with about 180 Republicans gathered at a posh waterfront resort here for an annual agenda-setting retreat. But a technical glitch enabled reporters to hear the comments, which Bush opened by exhorting lawmakers to keep the discussion to themselves.

"I expect this conversation we're about to have to stay in the room. I know that's impossible in Washington," Bush said after reporters were escorted out of the ballroom where he spoke.

His off-camera defense of the eavesdropping program, which Democrats and some Republicans say should be subjected to court review, echoed Bush's public drive to rally support for it.

"September the 11th changed the way I think," Bush said. "I wake up every morning thinking about a future attack."

Bush argued that the eavesdropping, which tracks some communications inside the United States, passes legal muster.

"See, like you, I take my oath of office seriously. I swear to uphold the Constitution and laws of the United States," Bush said.

Bush spent more than 90 minutes in the closed-door session fielding questions from the members of Congress on such topics as energy policy and health care, as well as others that have divided the party, such as the NSA program and his immigration plan, a White House aide said.

Lawmakers, some in jeans or chinos as they relaxed with their families at the resort on the banks of the Choptank River, asked between 10 and 15 questions, one senior Republican aide estimated.

Bush was upbeat in his remarks to a Republican team struggling to regain its footing and protect its majority status amid ethics scandals and intraparty bickering.

The House Republicans swarmed around him for about a half-hour before he spoke, lining up with their children and spouses for handshakes and photographs.

In brief remarks before the news media representatives were ushered out, Bush urged the Republican House to enact an agenda of deep spending cuts, permanent tax cuts, tax breaks for private health care spending, alternative energy development, and improved math and science education.

Bush, whose sagging popularity could signal a problem for Republicans up for re-election this year, also acknowledged the difficulties they share.

"It's hard work to cut out and cut back on programs that don't work," he said during a six-minute speech packed with praise for the House members.

White House press secretary, Scott McClellan, said the president wanted to spend the bulk of his time answering Republicans' questions behind closed doors. McClellan added that Republicans "were very appreciative" that Bush spent "most of his time answering questions and talking about priorities that are most on the minds of the American people."

The president waited until he thought reporters were safely out of hearing range, however, before raising the NSA program, in a nod to its sensitivity and the party divisions it has exposed.

After Bush departed, Republican leaders told reporters he had left the House members optimistic about the year ahead.

"The president and the Congress share a very aggressive agenda," said House Speaker Dennis Hastert of Illinois.

Rep. John T. Doolittle of California said he was impressed with the detail and sophistication of Bush's remarks during a rare opportunity to see the president in a closed-door setting. He called it "the equivalent of a post-graduate seminar on world diplomacy."

One Republican aide who was present for the question-and-answer session described it as cordial, with some members offering glowing compliments before asking Bush a question.

Maryland's two Republican House members, Reps. Wayne T. Gilchrest and Roscoe G. Bartlett, did not attend the meeting. Gilchrest, whose district includes Cambridge, said he hoped to catch the closing session of the conference today at the Hyatt resort.

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Hastert and other party leaders said Bush's appearance would help crystallize discussions held during the conference, which included a session with White House budget chief Joshua B. Bolten after Bush returned to Washington.

Fiscal conservatives are pressing the party to take major steps to curtail government spending, and Bush's $2.77 trillion budget for the fiscal year beginning in October has not been enthusiastically embraced on Capitol Hill.

The retreat will continue until this afternoon, weather permitting, with a scheduled discussion of proposed changes to the rules governing lawmakers' interactions with lobbyists. The scandal enveloping Republican lobbyist Jack Abramoff has roiled Washington and prompted calls for reforms.

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Bush's Job Approval Stuck Near Bottom (AP)

By Will Lester

AP, February 11, 2006

President Bush's marks on overall job approval and for handling the economy are mired near their lowest levels despite a spike in consumer confidence over the past month, an AP-Ipsos poll found.

Bush's job approval is now at 40 percent and his approval on handling the economy at 39 percent. Those numbers haven't budged over the last month even with the public's confidence in the economy growing and the president delivering an upbeat State of the Union address.

Consumer confidence was measured at its highest level in 16 months in the RBC CASH index released Friday.

The AP-Ipsos poll found that the president has slightly improved his standing on handling foreign policy and terrorism to 47 percent. This comes as the public has grown more accepting of the administration's policy on domestic eavesdropping, with almost half now supporting it — up from 42 percent last month.

The president has been campaigning aggressively for that program over the last month, repeatedly telling people that eavesdropping on some international calls is legal and necessary in his war against terrorism.

The poll found low approval of Congress with 47 percent wanting Democrats to take control. Republican control was favored by 37 percent.

The telephone poll of 1,000 adults was conducted Monday through Wednesday and has a margin of error of plus or minus 3 percentage points.

Republican Speaks Up, Leading Others To Challenge Wiretaps (NYT)

By Sheryl Gay Stolberg

The New York Times, February 11, 2006

WASHINGTON, Feb. 10 — When Representative Heather A. Wilson broke ranks with President Bush on Tuesday to declare her "serious concerns" about domestic eavesdropping, she gave voice to what some fellow Republicans were thinking, if not saying.

Now they are speaking up — and growing louder.

In interviews over several days, Congressional Republicans have expressed growing doubts about the National Security Agency program to intercept international communications inside the United States without court warrants. A growing number of Republicans say the program appears to violate the Foreign Intelligence Surveillance Act, the 1978 law that created a court to oversee such surveillance, and are calling for revamping the FISA law.

Ms. Wilson and at least six other Republican lawmakers are openly skeptical about Mr. Bush's assertion that he has the inherent authority to order the wiretaps and that Congress gave him the power to do so when it authorized him to use military force after the Sept. 11, 2001, attacks.

The White House, in a turnabout, briefed the full House and Senate Intelligence Committee on the program this week, after Ms. Wilson, chairwoman of the subcommittee that oversees the N.S.A., had called for a full-scale Congressional investigation. But some Republicans say that is not enough.

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"I don't think that's sufficient," Senator Susan Collins, Republican of Maine, said. "There is considerable concern about the administration's just citing the president's inherent authority or the authorization to go to war with Iraq as grounds for conducting this program. It's a stretch."

The criticism became apparent on Monday, when Attorney General Alberto R. Gonzales was the sole witness before the Senate Judiciary Committee in a hearing on the legality of the eavesdropping. Mr. Gonzales faced tough questioning from 4 of the 10 Republicans on the panel, including its chairman, Senator Arlen Specter of Pennsylvania.

By week's end, after Ms. Wilson became the first Republican on either the House or the Senate Intelligence Committees to call for a Congressional inquiry, the critics had become a chorus. Senator Lisa Murkowski, Republican of Alaska, said the more she learned about the program, the more its "gray areas" concerned her.

Mr. Specter said he would draft legislation to put the issue in the hands of the intelligence surveillance court by having its judges rule on the constitutionality of the program.

Even Senator Orrin G. Hatch, the Utah Republican and Judiciary Committee member who has been a staunch supporter of the eavesdropping, said that although he did not think the law needed revising, Congress had to have more oversight.

"The administration has gone a long way in the last couple of days to assure people that this highly classified program is critical to the protection of the nation," Mr. Hatch said. "I think they've more than made a persuasive case. The real question is how do we have oversight?"

In part, the backlash is a symptom of Congressional muscle flexing; a sort of mutiny on Capitol Hill, where lawmakers have been frustrated by the way Mr. Bush boldly exercises his executive authority.

Senator Lindsey Graham, Republican of South Carolina, who has also criticized the program, said Ms. Wilson's comments were "a sign of a growing movement" by lawmakers to reassert the power of the legislature.

"This is sort of a Marbury v. Madison moment between the executive and the legislative branch," Mr. Graham said in a reference to the 1803 Supreme Court decision in which the court granted itself the power to declare laws unconstitutional.

"I think there's two things going on," said Mr. Graham, a Judiciary Committee member. "There's an abandonment of you-broke-the-law rhetoric by the Democrats and a more questioning attitude about what the law should be by the Republicans. And that merges for a very healthy debate."

Senator Chuck Hagel, Republican of Nebraska, said: "I don't think anyone wants any kind of constitutional showdown over this. We want the president to succeed, but the fact is we are a coequal branch of government and we have serious oversight responsibilities."

The White House insists that there is no need to amend the law, a position that a spokeswoman, Dana Perino, restated on Friday. But Mr. Bush also made clear on Friday that he was tuned in to the growing Republican angst. At a retreat with House Republicans in Cambridge, Md., he began private remarks by defending the legality of the eavesdropping, a White House pool report said.

Apparently thinking that his microphone had been turned off so reporters could not hear, the president told lawmakers that he wanted to "share some thoughts with you" before answering questions.

"I expect this conversation we're about to have to stay in the room," Mr. Bush began. "I know that's impossible in Washington."

He restated what he had said publicly, that the program was legal and necessary for the nation's safety.

"You've got to understand something about me," Mr. Bush said. "Sept. 11 changed the way I think. I told the people exactly what I felt at the time, and I still feel it, and that is we must do everything in our power to protect the country."

Ms. Wilson later stood up to pose a question, and many in the room braced for a confrontation, said an attendee who insisted on anonymity because the session was private.

But there was no showdown. Ms. Wilson simply thanked Mr. Bush and told him that everyone wanted to catch the terrorists.

At the age of 45, Ms. Wilson has considerable credentials in national security. She is a graduate of the Air Force Academy and a former Air Force officer. A Rhodes Scholar, Ms. Wilson obtained a master's degree and doctorate in international relations. She also worked as an arms control negotiator for the National Security Council under the first President Bush.

"I think that had an impact on the administration," she said. "They knew that people in Congress would listen to me on this."

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But Ms. Wilson, who represents a swing district in Albuquerque, also faces a tough re-election challenge from the attorney general of New Mexico, Patricia Madrid.

Representative Rahm Emanuel of Illinois, chairman of the Democratic Congressional Campaign Committee, said Ms. Wilson was most likely distancing herself from the White House to curry favor back home.

Yet Representative Jane Harman of California, the senior Democrat on the Intelligence Committee, said Ms. Wilson expressed private concerns to her about the eavesdropping last year, shortly after it became public.

"She was very concerned," said Ms. Harman, who has supported the program in the past but said she now believed that its legal underpinnings were weak. "She came to me, asking me what I thought."

Ms. Wilson said she decided to speak out this week because she had become increasingly "frustrated that the administration was not giving us the information we needed to do our job." With Mr. Gonzales unable or unwilling to answer questions at the Senate hearing, she said, there was no way to determine whether the surveillance law needed to be updated.

"I think the argument that somehow, in passing the use-of-force resolution, that that was authorizing the president and the administration free rein to do whatever they wanted to do, so long as they tied it to the war on terror, was a bit of a stretch," she said. "And I don't think that's what most members of Congress felt they were doing."

White House Effort To Defuse GOP Qualms On Security May Isolate Democrats (KRT)

By James Kuhnhenn

Knight Ridder, February 11, 2006

WASHINGTON - Twice this week the White House gave ground on issues of national security to appease dissident Republican lawmakers, an uncharacteristic retreat for a president who believes that the best defense is a good offense.

First, the Bush administration agreed to brief the full House and Senate Intelligence Committees on its domestic surveillance program, after refusing to do so for years. Then White House officials compromised on civil-liberties concerns that had blocked renewal of the Patriot Act.

The concessions yielded mixed results. The Patriot Act is now virtually assured of passage. But some Republicans still resist the secret domestic-surveillance program and insist on new legislation to resolve questions about whether it's constitutional.

The developments show that the White House can be forced to compromise even on national security when Republicans and Democrats demand it together. But they also demonstrate that if the White House can appease GOP dissidents, Democrats run the risk of being labeled soft on national security and may have to back down.

As both parties head into the 2006 congressional elections, the White House is trying to minimize divisions within the Republican Party. Democrats, meanwhile, are walking a fine line, supporting an aggressive stance against terrorism while calling for civil liberties protections.

For example, when Republicans announced Thursday that they'd brokered a Patriot Act deal with the White House, two of the Democratic Party's leaders, Sens. Harry Reid of Nevada and Richard Durbin of Illinois, welcomed the agreement as a positive step, even though many Democrats harbored reservations about it.

But Democrats continue to insist on an investigation into the domestic-spying program - with some calling the president's actions criminal - not least because they enjoy political cover from continued resistance to the program by some Republicans.

The White House welcomes the political fight.

"With an important election coming up, people need to know just how we view the most critical questions of national security," Vice President Dick Cheney told conservative activists this week.

In an interview with Knight Ridder on Friday, Reid took up the challenge.

"No matter what the president says about the American people supporting his absolute power to do whatever he wants in the fight against terrorism, that is not how the American people feel," the Senate Democratic leader said.

Polls indicate that the country is closely divided on the issue. The Pew Research Center for the People and the Press found this week that 54 percent believe it was proper for the government's secret National Security Agency to monitor calls and e-mails between U.S. residents and suspected terrorists without court warrants. Forty-three percent opposed it.

As a result, some Democrats aren't eager to fight President Bush on national security.

"The White House is defusing these issues among Republicans, but on the other hand they will use it as a wedge against Democrats," said Marshall Wittmann, an analyst at the centrist Democratic Leadership Council. "This issue will not be played with great subtlety come the fall. It will be, who do you want? The ACLU or the NSA to defend you?"

This week's congressional hearings kept Washington's focus on the spying program even as some Democrats tried to play up Republican lobbying scandals and cuts in Bush's budget.

Still, Reid said that Democrats wouldn't turn away from the debate over spying.

"People want the war on terrorism to be fought every way that they can. I agree with them," he said. "But there is no reason to do things that appear to be illegal and unconstitutional, as even Republicans say. We have significant support from the Republicans. ... These are real conservative Republicans saying slow down there."

Among the Republicans still raising questions about the program are Sens. Lindsey Graham of South Carolina, Arlen Specter of Pennsylvania and Mike DeWine of Ohio. In the House, Rep. Heather Wilson, R-N.M., a member of the House Intelligence Committee, pressed the White House to give her panel more details about the NSA program.

Even after the briefings, Republican critics didn't back down.

Specter said he'd propose legislation to require the program to be reviewed by the secret federal court that reviews government requests for warrants authorizing domestic spying.

DeWine said the intelligence committees need to continue oversight of the program, but he favors amending the law to let Bush continue.

"In an emergency, I believe the president of the United States has the authority to protect the American people," said DeWine. "After a certain period of time, it is right and prudent for the president to go to Congress to get specific statutory authorization to continue such a program. I think we, in all likelihood, have reached such a time."

RNC Chief Defends Domestic Wiretaps (WP)

By Dan Balz

The Washington Post, February 11, 2006

Mehlman Assails Democrats on Security Issues

Republican National Committee Chairman Ken Mehlman yesterday accused Democratic leaders of wanting to deny law enforcement officials the tools they need to defend against terrorism and criticized them for challenging President Bush's program of warrantless surveillance of potential terrorists.

In a sharply worded speech to the Conservative Political Action Conference, Mehlman said Republicans do not question the patriotism of the opposition party leaders, but he added, "These are people we know love their country. The question is: Can they protect it?"

Citing national security, the federal judiciary and the economy, Mehlman said Americans will have clear choices in the 2006 election. He urged his audience of conservative activists to take the GOP message directly to friends and neighbors, rather than trusting major news organizations that he said have failed to understand the appeal of conservative ideas and leaders.

"We can't depend on the . . . mainstream media to do it for us," he said. "They got Ronald Reagan wrong, just like Democrats did, and they're still getting conservatives wrong."

Democrats have accused GOP leaders of trying to play politics with national security issues and have pointed out that the administration's covert surveillance program has even drawn challenges from some Republicans.

Senate Majority Leader Bill Frist (R-Tenn.) spoke after Mehlman, and he promised that on June 5 he will bring to the floor a constitutional amendment to bar same-sex marriage, and pledged a May vote on eliminating the estate tax, items high on the conservative agenda.

Frist said the amendment is needed to protect the majority of Americans, whom he said oppose same-sex marriage, from "the whims of a few activist judges" who seek to "override the commonsense of the American people." He added, "When America's values are under attack, we need to act."

A similar amendment failed to win the necessary votes in 2004.

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Frist charged the Democrats with being leaderless and in the back pocket of liberal constituency groups such as MoveOn.org, NARAL Pro-Choice America and People for the American Way.

Claiming credit for the confirmation of Chief Justice John G. Roberts Jr., Justice Samuel A. Alito Jr. and several conservative judges filibustered by Democrats in the previous Congress, Frist said Democrats were not speaking for their constituents when they opposed Alito. "It looked to me like they were speaking for those far-left, liberal interest groups," he said.

RNC Chief Slams Democrats (WT)

By Bill Sammon

The Washington Times, February 11, 2006

Republican National Committee Chairman Ken Mehlman yesterday ridiculed Democrats and the "mainstream media," but said Republicans must embrace reform in order to win the 2006 elections.

"One of the oldest lessons in history is that power corrupts," Mr. Mehlman warned in a speech to the Conservative Political Action Conference in Washington.

"And if we are to learn from that particular lesson of history, then we must take a stand, right here, right now, against corruption," he added. "We must remember that public service is a sacred trust, and we cannot allow it to be sullied by anyone -- Democrat or Republican."

The acknowledgement was an attempt to counter the Democratic charge that Republicans are immersed in a "culture of corruption." In recent months, Rep. Tom DeLay, Texas Republican, has been indicted and Republican lobbyist Jack Abramoff, in a separate case, has pleaded guilty to corruption charges.

But Mr. Mehlman spent most of his speech excoriating Democrats and journalists. Less than a week after saying he detected "a lot of anger" in Sen. Hillary Rodham Clinton, Mr. Mehlman yesterday slammed the New York Democrat for advocating a rollback of President Bush's tax cuts.

"To support our troops in Iraq, guess how Hillary Clinton would pay for it?" he said. "Higher taxes."

Mr. Mehlman also went after House Minority Leader Nancy Pelosi, California Democrat, and Democratic National Committee Chairman Howard Dean for attacking the National Security Agency's (NSA) terrorist surveillance program.

"Do Nancy Pelosi and Howard Dean really think that when the NSA is listening in on terrorists planning attacks on America, they should hang up when those terrorists call their sleeper cells in the United States?" he said.

Mr. Mehlman also expressed incredulity that Senate Minority Leader Harry Reid, Nevada Democrat, was "proud when he announced last year, and I quote, 'We killed the Patriot Act.' "

"We do not and we never should question these Democrat leaders' patriotism," he added. "But we do question their judgment and we do question their ability to keep the American people safe."

Mr. Mehlman took an even tougher line against the press, which has been highly critical of the surveillance program.

"The media calls this program 'domestic spying,' " he said. "This is the same mainstream media that called a story based on forged documents 'fake but accurate.' "

It was a slap at CBS News, which in September 2004 used forged documents to question President Bush's military record. The scandal forced Dan Rather from his anchor chair and resulted in the firing of CBS producer Mary Mapes, among others.

"Between the time Ronald Reagan was elected and today, evening viewership of network news dropped from 52 million people to 29 million people," Mr. Mehlman said, drawing applause from his audience of mostly young conservatives. "During the same time daily newspaper readership has fallen from 67 percent to 52 percent.

"And our grass-roots efforts can fill the vacuum," he said. "The mainstream media just doesn't get it."

Republican Chief Outlines 2006 Strategy (AP)

By Barry Schweid

AP, February 11, 2006

Republican national chairman Ken Mehlman on Friday outlined a political strategy for 2006 to portray Democrats as too weak to protect the country and to bypass the mainstream media to spread the GOP message.

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Speaking at the Conservative Political Action Conference, Mehlman roused the crowd at a Washington hotel to cheers as he told them President Bush had finally responded to decades of terrorist attacks.

"For a generation, terrorists learned they could make war on free nations without fear of war in return," Mehlman said, adding that Bush understood how to respond. "On Sept. 12, the terrorists got war in return."

Bush's stance on fighting terror is popular with participants in this annual meeting of hard-line conservatives from around the country and so are his federal court appointments.

But many at this national conference question the Bush administration's spending, deficits, immigration policies, prescription drug plan and increased use of federal power.

The GOP chief said such questioning is healthy for the Republican Party and the conservative movement.

John R. Bolton, the U.S. ambassador to the United Nations, keynoted the conference dinner, sketching out the Bush administration's efforts to reform the U.N.

Bolton's targets included waste and abuse of peacekeeping operations reported by the U.N. itself that he said virtually matches in losses the amount the United States contributes to the operation.

He also condemned a "culture of anti-Semitism and anti-Israel" that he said was pervasive at the United Nations and includes offices that exist only as part of an anti-Israel network.

Turning to Iran, whose nuclear programs have been referred to the Security Council, for possible punitive action, Bolton said Iran should follow Libya's lead, which abandoned its pursuit of unconventional weapons and shipped the technology to a U.S. facility at Oak Ridge, Tenn. Bolton drew a laugh by saying the United States could find room at Oak Ridge for Iranian nuclear equipment, as well.

"Like Libya, they can come to the conclusion that their pursuit of nuclear weapons is more harmful than the elimination of the program," Bolton said.

The fight against terrorism is centered in Iraq, Mehlman said, and the only way to prevent terrorists from taking charge there is to stick it out and win.

He quoted Democratic chairman Howard Dean saying that the idea the United States can win in Iraq is wrong and reminded that Sen. John Kerry, D-Mass., accused American soldiers of "terrorizing women and children."

"Democratic leaders always seem to blame America first," Mehlman said, "especially when a Republican is in the White House."

Mehlman said the loss in popularity of the mainstream media — both the evening network news and daily newspapers — is an opportunity for conservatives. He pointed to the growing popularity of talk radio and blogging.

Senate Majority Leader Bill Frist told the group he plans to push for a Senate vote in May on the inheritance tax, called the "death tax" by conservatives. And he said he would push for a vote June 5 on "the marriage protection amendment" that seeks to amend the Constitution to define marriage as a union between a man and a woman.

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Associated Press writer Will Lester contributed to this report.

House Republicans Search For Legislative Plan (WSJ)

By Brody Mullins

The Wall Street Journal, February 11, 2006

CAMBRIDGE, Md. -- House Republicans, after internal consultations and a pep talk from President Bush, say they haven't yet settled on their election-year legislative agenda.

Newly installed Republican Majority Leader John Boehner of Ohio said the House caucus must first "bring our team together" after recent setbacks before developing a plan for the year. Only then can Republicans figure out "where we are going," he said.

During the party's three-day retreat here, private discussions focused on issues such as lowering taxes, reducing health-care costs, weaning the country off oil imports and bolstering homeland security. With the Justice Department investigation into lobbying and corruption, Republicans added ethics reform to their list.

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Mr. Bush, citing 2005 accomplishments such as bankruptcy legislation and a new Central American trade pact, told members, "We're ready to lead again." But the modest tenor of his remarks, which included no ambitious calls to action like last year's Social Security initiative, underscored reduced expectations as the party strives to hold its majority in November elections.

"We know that this is going to be a short legislative year," said Rep. Deborah Pryce (R., Ohio), who organized the retreat.

Party leaders said they wouldn't have a detailed legislative plan for a few more weeks. The retreat "is not about coming out of here with a 10-point plan," Mr. Boehner said.

In fact, Republicans are still wrapping up work they expected to finish last year, including a two-year extension of President Bush's 15% tax rates on capital gains and dividends, and a renewal of the Patriot Act, which was passed after Sept. 11 to strengthen the government's antiterror powers. Last week, Republicans reached a breakthrough on the Patriot Act and inched closer to enacting a budget-reduction bill. Party leaders hope to clear the capital-gains bill by month's end, but obstacles remain.

Beyond those leftovers, Republicans may find it difficult to make progress on other issues. Not long after House Speaker Dennis Hastert of Illinois unveiled a lobbying-overhaul package, it received criticism from other party leaders. Mr. Boehner, now the No. 2 House Republican under Mr. Hastert, called some of the provisions, such as a ban on privately funded travel, "childish." When Republican leaders proposed banning former-lawmakers-turned-lobbyists from the House floor and gym, they came under fire from senior Republicans, including Financial Services Committee Chairman Michael Oxley of Ohio.

Further complicating the lobbying-overhaul issue, Republicans hope to add provisions to the bill that would ban so-called 527 organizations from spending money on political campaigns. That issue could draw fire from Democrats. Such organizations are typically funded by unions and wealthy liberals and often support Democratic candidates.

Other issues on the agenda for this year could be just as complicated. President Bush called for Republicans to approve legislation to permanently extend his 2001 tax cuts on individuals. But New York Republican Rep. Tom Reynolds, the chairman of the House Republicans' campaign arm and a member of the House tax-writing committee, said there is little chance that the bill could clear the Senate.

Write to Brody Mullins at brody.mullins@wsj.com1

Results Of Poll On Public Attitude On Bush (AP)

By The Associated Press

AP, February 11, 2006

The Associated Press-Ipsos poll on public attitudes about President Bush and Congress, conducted Feb. 6-8, is based on telephone interviews with 1,000 adults from all states except Alaska and Hawaii.

Results were weighted to represent the population by demographic factors such as age, sex, region, race and income.

No more than one time in 20 should chance variations in the sample cause the results to vary by more than plus or minus 3 percentage points from the answers that would be obtained if all Americans were polled.

There are other sources of potential error in polls, including the wording and order of questions. Results may not total 100 percent because of rounding. An X signifies less than 1 percent.

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(Early January results are in parentheses)

1. Generally speaking, would you say things in this country are heading in the right direction, or are they off on the wrong track?

_Right direction, 35 percent (32)

_Wrong track, 61 percent (65)

_Not sure, 4 percent (3)

2. Overall, do you approve, disapprove or have mixed feelings about the way George W. Bush is handling his job as president?

_Approve, 40 percent (40)

_Disapprove, 57 percent (59)

_Mixed feelings, 2 percent (1)

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_Not sure, X percent (X)

3. And when it comes to handling the economy, do you approve or disapprove or have mixed feelings about the way George W. Bush is handling that issue?

_Approve, 40 percent (39)

_Disapprove, 58 percent (59)

_Mixed feelings, 2 percent (2)

4. And when it comes to domestic issues like health care, education and the environment, do you approve or disapprove or have mixed feelings about the way George W. Bush is handling that issue?

_Approve, 39 percent (35)

_Disapprove, 58 percent (62)

_Mixed feelings, 2 (2)

_Not sure, X percent (X)

5. When it comes to handling foreign policy issues and the war on terrorism, do you approve or disapprove or have mixed feelings about the way George W. Bush is handling that issue?

_Approve, 47 percent (44)

_Disapprove, 50 percent (54)

_Mixed feelings, 2 percent (1)

_Not sure, 1 percent (X)

6. When it comes to handling the situation in Iraq, do you approve or disapprove or have mixed feelings about the way George W. Bush is handling that issue?

_Approve, 38 percent (39)

_Disapprove, 60 percent (58)

_Mixed feelings, 1 percent (1)

_Not sure, 1 percent (X)

7. When it comes to Social Security, do you approve, disapprove or have mixed feelings about the way George W. Bush is handling that issue?

_Approve, 36 percent (35)

_Disapprove, 60 percent (60)

_Mixed feelings, 3 percent (2)

_Not sure, 1 percent (3)

8. Overall, do you approve, disapprove or have mixed feelings about the way Congress is handling its job?

_Approve, 35 percent (34)

_Disapprove, 61 percent (63)

_Mixed feelings, 2 percent (2)

_Not sure, 1 percent (1)

9. And if the election for Congress were held today, would you want to see the Republicans or Democrats win control of Congress?

_Republicans, 37 percent (36)

_Democrats, 47 percent (49)

_Neither (VOLUNTEERED), 13 percent (12)

_Not sure, 3 percent (3)

10. Should the Bush administration be required to get a warrant from a judge before monitoring phone and Internet communications between American citizens in the United States and suspected terrorists, or should the government be allowed to monitor such communications without getting a warrant?

_Should be required to get a warrant, 50 percent (56)

_Should be allowed to monitor without a warrant, 48 percent (42)

_Not sure, 2 percent (2)

Bob Barr, Bane Of The Right? (WP)

By Dana Milbank

The Washington Post, February 11, 2006

You could find just about everything at the annual Conservative Political Action Conference this week: the bumper sticker that says "Happiness is Hillary's face on a milk carton," the "Straight Pride" T-shirt, a ride on an F-22 Raptor simulator at the Lockheed exhibit, and beans from the Contra Cafe coffee company (slogan: "Wake up with freedom fighters").

As of midday yesterday, a silent auction netted $300 for lunch with activist Grover Norquist, $275 for a meal with the Heritage Foundation president and $1,000 for a hunting trip with the American Conservative Union chairman. But lunch with former congressman Bob Barr (R-Ga.), with an "estimated value" of $500, had a top bid of only $75 -- even with a signed copy of Barr's book, "The Meaning of Is," thrown in.

No surprise there. The former Clinton impeachment manager is the skunk at CPAC's party this year. He says President Bush is breaking the law by eavesdropping on U.S. citizens without warrants. And fellow conservatives, for the most part, don't want to hear it.

"You've heard of bear baiting? We're going to have, today, Barr baiting," R. Emmet Tyrell, a conservative publisher, announced as he introduced a debate Thursday between Barr and Viet Dinh, one of the authors of the USA Patriot Act.

"Are we losing our lodestar, which is the Bill of Rights?" Barr beseeched the several hundred conservatives at the Omni Shoreham in Woodley Park. "Are we in danger of putting allegiance to party ahead of allegiance to principle?"

Barr answered in the affirmative. "Do we truly remain a society that believes that . . . every president must abide by the law of this country?" he posed. "I, as a conservative, say yes. I hope you as conservatives say yes."

But nobody said anything in the deathly quiet audience. Barr merited only polite applause when he finished, and one man, Richard Sorcinelli, booed him loudly. "I can't believe I'm in a conservative hall listening to him say [Bush] is off course trying to defend the United States," Sorcinelli fumed.

Far more to this crowd's liking was Vice President Cheney, who stopped by CPAC late Thursday and suggested the surveillance program as a 2006 campaign issue. "With an important election coming up, people need to know just how we view the most critical questions of national security," he told the cheering crowd.

Dinh, now a Georgetown law professor, urged the CPAC faithful to carve out a Bush exception to their ideological principle of limited government. "The conservative movement has a healthy skepticism of governmental power, but at times, unfortunately, that healthy skepticism needs to yield," Dinh explained, invoking Osama bin Laden.

Dinh brought the crowd to a raucous ovation when he judged: "The threat to Americans' liberty today comes from al Qaeda and its associates and the people who would destroy America and her people, not the brave men and women who work to defend this country!"

It was the sort of tactic that has intimidated Democrats and the last few libertarian Republicans who question the program's legality. But Barr is not easily suppressed. During a 2002 Senate primary, he accidentally fired a pistol at a campaign event; at a charity event a decade earlier, he licked whipped cream from the chests of two women.

Barr wasn't going to get a lesson on patriotism from this young product of the Bush Justice Department. "That, folks, was a red herring," he announced. "This debate is very simple: It is a debate about whether or not we will remain a nation subject to and governed by the rule of law or the whim of men."

He invoked Goldwater and Reagan and even said he would support Bush's program if it had congressional support. But Barr was a prophet without honor in his own land. "Why does the FISA law trump the Constitution?" one woman demanded of him. "Why should a non-elected, non-briefed judge be able to veto our national security?"

Conservatives were sore that Barr put his disagreements with Bush in the pages of Time magazine. Another questioner scolded Barr for agreeing to introduce an Al Gore speech that was also sponsored by MoveOn.org. "I have nothing whatsoever to do with them," Barr pleaded.

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Still, the old prosecutor managed to elicit a crucial concession from Dinh: that the administration's case for its program comes down to saying "Trust me."

"None of us can make a conclusive assessment as to the wisdom of that program and its legality," Dinh acknowledged, "without knowing the full operational details. I do trust the president when he asserts that he has reviewed it carefully and therefore is convinced that there is full legal authority."

The crowd was against him, but Barr, leaving the event, claimed the clear conscience of a conservative. "I just told them what they need to know," he said.

Barr elaborated on his conundrum. "It's difficult," he acknowledged. "It's not about sex, which was very easy to explain."

Love him or hate him, you have to give Barr high marks for consistency. "Whether it's a sitting president when I was an impeachment manager, or a Republican president who has taken liberties with adherence to the law, to me the standard is the same," he said.

And, besides, who cares about a little criticism?

"No more than normal," Barr reported.

Political researcher Zachary A. Goldfarb contributed to this report.

Oops! - Bush Unaware Mikes Were Still On (AP)

AP, February 11, 2006

The eavesdropping tables were turned on President Bush on Friday. The president apparently believed he was speaking privately when he talked about listening in without a warrant on domestic communications with suspected al-Qaida terrorists overseas. But reporters were the ones doing the listening in this time.

The incident happened at a House Republican retreat. After six minutes of public remarks by the president, reporters were ushered out. "I support the free press, let's just get them out of the room," Bush said, intending to speak behind closed doors with fellow Republicans and take lawmakers' questions.

When reporters left, Bush spoke about the National Security Agency program that he authorized four years ago and which has drawn criticism from Democrats and Republicans alike.

However, the microphones stayed on for a few minutes. That allowed journalists back at the White House to eavesdrop on Bush's defense of the eavesdropping. His private statements were basically no different from what he's said in public.

"I want to share some thoughts with you before I answer your questions," Bush began. "First of all, I expect this conversation we're about to have to stay in the room. I know that's impossible in Washington."

He was right.

Smoking Dutch Cleanser (NYT)

By Maureen Dowd

The New York Times, February 11, 2006

Vice President Dick Cheney bitterly complains that national security leaks are endangering America. Unless, of course, he's doing the leaking, tapping Scooter Libby to reveal national security information to punish a political critic.

President Bush says he will not talk about specific security threats to America. Unless, of course, he needs to talk about a specific threat to Los Angeles to confuse the public and gain some cheap political advantage.

The White House says it has done everything possible to protect the homeland. Unless, of course, it hasn't. Then it can lie to hide the callous portrait of Incurious George in Crawford as New Orleans drowned.

The attorney general can claim that torture and warrantless wiretapping are legal, and can mislead Congress. Unless, of course, enough Republicans stand up and say, as Arlen Specter told The Washington Post, that if that lickspittle lawyer thinks all this is legal, "he's smoking Dutch Cleanser."

The president doesn't know the Indian Taker Jack Abramoff. Unless, of course, W. has met with him a dozen times, invited him to Crawford and joked with him about his kids.

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The Bushies can continue to claim that the invasion of Iraq was justified because Saddam was a threat to our security. Unless, of course, he wasn't, and the Cheney cabal was simply abusing the trust of Americans to push a wild-eyed political scheme.

At the Bush White House, the mere evocation of the word "terror" justifies breaking any law, contravening any convention, despoiling any ideal, electing any Republican and brushing off any failure to govern.

Asked yesterday by Senator Susan Collins why the administration had reacted in slo-mo on Katrina, with "people dying, people waiting to be rescued," Michael Brown replied that if FEMA had declared that a terrorist had blown up the 17th Street Canal levee, "then everybody would have jumped all over that and been trying to do everything they could."

Instead of just going after the 9/11 fiends, as W. promised with his bullhorn, the president and Vice President Strangelove have cynically played the terror card to accrue power and sidestep blame. They have twisted our values, mismanaged crises, fueled fundamentalist successes and violence around the world, and magnified a clash of civilizations.

It used to take an Israeli incursion to inflame the Arab world. Now all it takes is a cartoon in Denmark.

W. and Vice have wasted hundreds of billions of dollars, turning Iraq into a terrorist training ground, leaving the 9/11 villains at large, and letting cronies and losers botch the job of homeland security.

Brownie, one of the biggest boneheads in U.S. history, considered the homeland security chief, Michael Chertoff, so useless that he deliberately didn't call him right away about the suffering in New Orleans.

"The culture was such that I didn't think that would have been effective and would have exacerbated the problem, quite frankly," Brownie told the Republican senator Bob Bennett, who called the statement "staggering." A telephone call to his boss, Brownie said, "would have wasted my time."

The doofus who frittered away lives e-mailing colleagues about being a "fashion god" and wondering how he looked on television may have just been engaged in self-protective spin. Or has the Homeland Security Department simply created another set of paralyzing turf battles?

The most dysfunctional man in government is calling the government dysfunctional.

W.'s sophomoric "Brownie, you're doing a heck of a job" line makes even Brownie cringe. "Unfortunately," the former FEMA chief complained, "he called me 'Brownie' at the wrong time. Thanks a lot, sir."

In the new Foreign Affairs, Paul Pillar, who was a senior C.I.A. official overseeing Middle East intelligence assessments until October, says the obvious conclusion that should have been drawn from the intelligence on Iraq was that war was unnecessary. He says the White House "went to war without requesting — and evidently without being influenced by — any strategic-level intelligence assessments on any aspect of Iraq."

He calls the relationship between the intelligence community and the policy makers — you guessed it — politicized, damaged by bureaucratic rivalries and dysfunctional.

A final absurd junction of dysfunction was reached on Wednesday, when Republican Party leaders awarded Tom DeLay with a seat on the Appropriations subcommittee overseeing the Justice Department, which is investigating Jack Abramoff, including his connections to Tom DeLay.

Perfect.

Irresponsible Rhetoric, Again (WP)

The Washington Post, February 11, 2006

AMERICANS, OFTEN cynical about their political institutions and often for good reason, had cause last week to feel pretty good about their national legislature. On some tough policy challenges, Congress debated with seriousness, patriotism and some measure of bipartisanship. Senators came up with a compromise on the USA Patriot Act that, while not entirely satisfying to most, preserved the police powers the government says it needs while extending a bit more protection to civil liberties. They turned back an early effort to quash an asbestos relief bill that would replace a dysfunctional court process with a system designed to give sufferers of asbestos-related disease a real chance at relief. And senators and House members alike began exploring ways to evaluate President Bush's extralegal program of domestic surveillance and preserve the useful parts of it in a defensible legal framework.

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So you might think this was what Vice President Cheney had in mind when he told a Republican crowd on Thursday night, in reference to the surveillance program, that "a debate is now underway. At the very least, this debate has clarified where all of us stand on the issue."

Unfortunately, though, Mr. Cheney wasn't celebrating the reasoned process that Congress belatedly has embarked on. Instead he was engaging in the administration's tired practice of trying to choke off debate by suggesting that anyone who disagrees with President Bush basically doesn't want to fight the war on terrorism. Some Democrats have their own brand of irresponsible rhetoric when it comes to criticizing the president's policies. But the administration has patented the practice of taking a complicated policy issue and turning it into a club for the coming campaign: "And with an important election coming up, people need to know just how we view the most critical questions of national security, and how we propose to defend the nation that all of us, Republicans and Democrats, love and are privileged to serve," Mr. Cheney told a cheering crowd at the Conservative Political Action Conference. "As always, the president has made his thinking absolutely clear to the citizens of this land: If there are people inside our country talking with al Qaeda, we want to know about it, because we will not sit back and wait to be hit again."

This might be a fair gibe if Mr. Cheney's political opponents were against knowing who's talking with al Qaeda. But they're not. Both the Democrats whom the vice president caricatures, and the Republicans who he does not acknowledge also have doubts about the program, support responsible surveillance policies. They are looking for ways to allow surveillance to take place within the boundaries of the Constitution -- which ultimately would strengthen the defense and law enforcement value of any overheard conversations. They may not succeed, and the bipartisan good sense in evidence this week may not last. But we hope they won't be deterred by the vice president's mischaracterization of what's happening.

Gov't Budget Surplus Hits $21B For Jan. (AP)

By Martin Crutsinger

AP, February 11, 2006

The federal government ran a $21 billion budget surplus last month, the best January showing in four years, as both spending and tax receipts set records for the month.

The Treasury Department said the government spent $209 billion last month, a record amount for January and up 7.9 percent from January 2005. Government tax receipts, however, also set a record for the month of $230 billion, up 13.7 percent from January 2005.

The faster growth in receipts than in spending pushed the suplus for the month to $21 billion, more than double the $8.6 billion surplus the government recorded in January 2005. It was the biggest January surplus since $43.7 billion in 2002.

For the first four months of the budget year that began on Oct. 1, the deficit totals $98.3 billion, an improvement of 10.2 percent from last year's pace when the deficit totaled $319 billion.

The Bush administration on Monday estimated that the deficit for this year will hit a record in dollar terms of $423 billion, surpassing the old mark of $413 billion set in 2004. The administration blamed increased spending for hurricane relief and the costs of wars in Iraq and Afghanistan for the increase.

However, private economists believe the deficit, while up from last year, will be smaller than the administration's forecasts. Many forecasters are pegging this year's deficit at around $360 billion.

They note that the administration for the past two years has estimated a deficit for the current budget year that is significantly higher than other forecasts, allowing them to claim improvement at the end of the budget year.

President Bush has promised to cut the deficit in half by 2009, the year he will leave office. But that pledge is linked to a projected deficit of $521 billion for 2004 that never materialized.

Democrats Cry Foul Over Clerical Error In Bill (WT)

By Stephen Dinan

The Washington Times, February 11, 2006

CAMBRIDGE, Md. -- The budget cut bill President Bush signed on Wednesday did not pass both the House and Senate in identical form, and House Democrats now say that means it is not legitimately a law.

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Because of a clerical error, the version the House voted on had a different reimbursement time period in one section than the time period in the version that passed the Senate.

Rep. Charles B. Rangel of New York, the top Democrat on the Ways and Means Committee, called the law into question and sent a letter to House Speaker J. Dennis Hastert, Illinois Republican, demanding a new vote on the bill.

"I don't yet know exactly what happened and who is at fault, but it is clear that the legislation signed by the president on Wednesday is not what actually passed the House of Representatives on February 1," Mr. Rangel wrote in his letter.

The bill was the $39 billion budget reductions measure that Republican leaders have touted as a start toward fiscal discipline, but which Democrats said damaged health care programs and student loans.

It passed the Senate 50-50 on Dec. 21, with Vice President Dick Cheney breaking the tie, and passed the House 216-214 on Feb. 1.

After the Senate voted on the bill, aides said, a Senate clerk inadvertently changed the length of time Medicare would reimburse for certain medical equipment to be rented from 13 months to 36 months.

Congressional Quarterly reported that staffers discovered the error before the House passed the bill, but did not disclose the mistake until this week.

After the House vote, a Senate clerk changed the length of time back to 13 months and sent the bill to Mr. Bush under the signatures of Mr. Hastert and Senate President Pro Tem Ted Stevens, Alaska Republican, the presiding officers of each chamber. The Senate passed a resolution stating they meant to say 13 months in the bill.

Democratic senators said they would not stand in the way of the measure becoming law, Senate aides said.

However, House Democrats want to force another vote on the bill, which would be the third time in three months House Republicans will have voted to cut Medicare -- even though each vote was on the same basic measure.

Liberal activists said they want the process to be as difficult as possible for Republicans.

Cara Morris Stern, spokeswoman for the Emergency Campaign for America's Priorities, said lawyers in the group are looking at a legal challenge to the measure.

She said Republicans face a dilemma of having to vote again or "open up their actions to a very public scrutiny of a House mired in conflict and abuse of power."

Asked about the issue before Democrats made their challenge yesterday, Mr. Hastert seemed uncertain about whether there will have to be another vote.

"They're trying to work it out, and we'll see what happens," he said.

The Constitution requires in Article I that bills must pass the House and Senate, and that means "in precisely the same form," according to several research papers done for the Congressional Research Service.

William Eskridge Jr., the John A. Garver Professor of Jurisprudence at Yale Law School, said there is no precedent in case law that governs the situation.

He said there is a good argument that the process violated constitutional mandates for how a bill becomes a law, and said judges could go either way on whether the bill was properly signed into law.

But Mr. Eskridge said judges probably would dismiss a challenge by arguing the dispute is a political question best left to the elected branches to sort out.

"Judges would differ on that if they ever got their teeth into it, but the real answer is it would not be what judges call justiciable," he said.

Just-Passed Budget Bill May Be Challenged (AP)

By Andrew Taylor

AP, February 11, 2006

Opponents of a major budget bill just signed by President Bush are weighing a court challenge on the grounds that the measure is unconstitutional because it was amended after the House voted on it.

At issue is a provision involving the period of time the government pays to rent some types of durable medical equipment before medical suppliers transfer it to Medicare patients. The Senate voted for 13 months, as intended by Senate and House

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negotiators, but a Senate clerk erroneously put down 36 months in sending the bill back to the House for a final vote, and that's what the House approved Feb. 1.

By the time the bill was shipped to Bush, the number was back to 13 months as passed by the Senate but not the House.

The issue is arcane and technical, but the broader constitutional question is very simple. As anyone who passed high school civics knows, a bill can only become a law if the House and Senate pass it in identical form. That didn't happen in this case.

"That bill ... is actually not a properly enacted law," said Michael Gerhardt, a professor of constitutional law at the University of North Carolina School of Law. "It wouldn't surprise me if a court struck it down. That bill was not approved by the House."

"I don't yet know exactly what happened and who is at fault, but it is clear that the legislation signed by the president on Wednesday is not what actually passed the House of Representatives on February 1," said Rep. Charles Rangel, D-N.Y., the top Democrat on the House Ways and Means Committee.

Bush and his GOP allies on Capitol Hill consider the matter over.

But opponents of the bill are actively considering trying to get it struck down by the courts.

"There is a high probability that some legal action will be pursued," said Brad Woodhouse, spokesman for the Emergency Campaign for America's Priorities, a group of organizations opposing the budget bill, which contains $39 billion in cuts to Medicaid, Medicare, student loan subsidies and other programs. "Perhaps a temporary restraining order to stop the implementation and then broader legal action after that."

Legal experts say any court challenge would be on firm legal ground.

"Each house has to pass the whole law and the same law," said Alan Morrison, senior lecturer in law at Stanford University Law School. "This is a case where the Constitution is very clear."

Morrison was the lead attorney in the case to overturn the 1996 line item veto law, which was decided on the same elementary constitutional concept: that a law must pass the House and Senate in the same form and once signed by the president can only be changed by another law approved by all three parties.

The budget bill was one of the main accomplishments of Congress last year, as Republicans managed for the first time in eight years to take on the growth of federal benefit programs.

The measure blends modest cuts to Medicaid, Medicare and student loan subsidies with a renewal of the 1996 welfare reform bill and $10 billion in new revenues from auctioning television airwaves to wireless companies. There's also $1 billion in new spending to extend an income subsidy program for dairy farmers and a reprieve for physicians who had faced a 4 percent cut in Medicare fees.

Morrison said courts would take a dim view of the idea that it is OK for the Speaker of the House — who along with the Senate's President Pro Tempore signed the official copies of bills sent to the president — to endorse a bill that's different from what the House voted on. That could set a precedent that could be abused.

"It's not the mischief in this case that would cause the (Supreme) Court to be worried," Morrison said. "It's the next case or the case after that where there isn't a clerical mistake but there's an effort to deceive or change the result."

Recognizing the problem, the Senate on Wednesday passed a resolution just hours after Bush signed the bill confirming that the measure transmitted to the president was "deemed the true enrollment reflecting the intention of the Congress."

Legal experts, however, say the resolution doesn't solve the problem.

Even though Congress routinely passes so-called technical corrections bills fixing glitches in laws that it's already passed and even correcting bills before sending them to the White House, sending the president a bill that's passed House and Senate in different form just isn't done.

"I don't know that we've had a circumstance where the president may be signing a bill that one of the chambers didn't actually approve," said Gerhardt. "That's the unique wrinkle here."

If the law is struck down, Congress could go ahead and try to pass it again. But that would prove difficult since the spending cut plan advanced under fast-track budget rules that block Democrats from filibustering bills to death in the Senate.

Bush's Budget Cuts Elderly Nutrition Plan (AP)

DOJ_NMG_0014432

By Frederic J. Frommer

AP, February 11, 2006

The boxes arrive every month at churches, senior citizen centers and other sites for distribution to nearly a half-million poor elderly people. Each is stocked with a mix of nutritious foods such as cereal, peanut butter, fruit, vegetables and pasta. Sometimes volunteers deliver them right to people's homes.

Now President Bush wants to eliminate the program, one of 141 federal initiatives that his proposed new budget would scrap or cut dramatically. He is proposing to shift people in the Commodity Supplemental Food Program over to food stamps.

Defenders of the nutrition-in-a-box program say many elderly people are reluctant to sign up for food stamps, and, in any event, the commodity program often provides a more generous package.

"It really does come under the category, in the most extreme way, of balancing the budget on the backs of those who are most needy. And in this case we're not even balancing the budget," said Wisconsin Sen. Herb Kohl, the ranking Democrat on the Senate Appropriations agriculture subcommittee.

"I call it misplaced priorities. How do you justify doing something like this, while at the same time giving people like Herb Kohl huge tax cuts?" said Kohl, a multimillionaire.

The commodity program, run by the Agriculture Department, benefits mainly elderly people, although some new mothers and children also participate. The department wants to move recipients to food stamps in the fiscal year that begins Oct. 1. The program cost about $111 million this fiscal year, including a $4 million supplement for victims of Hurricane Katrina.

The program, which dates back to 1968, operates in 32 states and the District of Columbia.

Its lack of national reach is one reason the administration wants to eliminate it, according to USDA officials.

Kate Coler, the USDA's deputy undersecretary for Food, Nutrition and Consumer Services, said the department believes it can serve people more efficiently through food stamps and the Women, Infants and Children program, which are both nationwide.

"It's really a duplicative program," she said of CSFP.

But Tim Robertson, president of the National CSFP Association, which represents state and local organizations that administer the program, challenged the USDA's premise that people will switch over to food stamps.

"Seniors have repeatedly said they don't want to be on that program," Robertson said, because of the perceived stigma of using food stamps and the paperwork hassles.

The USDA's own statistics show that just 28 percent of seniors eligible for food stamps participate in the program.

Sherrie Tussler, executive director of the Hunger Task Force, which administers the program in Milwaukee, said the commodity program helps elderly people stretch their food-buying budget.

"Sometimes seniors are choosing between utility bills and prescription drugs and whether they get to eat," she said.

The Bush administration is proposing to provide CSFP beneficiaries with transitional food stamp benefits of $20 a month for six months, or until they are deemed eligible for food stamps, whichever comes first.

Sarah Mayek, 75, of Milwaukee, receives both the CSFP box and $10 a month for food stamps.

"You try to stretch your budget a little bit," Mayek said. Without CSFP, she said, "I would have to adjust. But I raised 11 children. I know how to cut corners."

Jean Daniel, a spokeswoman for the USDA's Food and Nutrition Service, said her agency is working to remove the perceived stigma. For example, she said, the agency is getting the word out that food stamp payments are now made by an electronic transfer card, not actual stamps.

"We try to make the point that this is not a welfare program, this is a nutritional assistance program," she said.

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Associated Press Food and Farm Writer Libby Quaid contributed to this story.

New House Leader Seeks To Rebuild Unity (AP)

By David Espo

AP, February 11, 2006

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House Republicans are on retreat on Maryland's peaceful Eastern Shore, seeking what newly elected Majority Leader John Boehner, R-Ohio, describes as "renewal and rebuilding" after a tough stretch in the Capitol.

Yet like a lot of vacationers, they've brought their problems with them.

Some are the product of the calendar, others more of their own making.

A controversy over earmarks — the congressional name for funding pet projects — is particularly intense. Especially since one GOP-led committee compiled a secret tally sheet showing earmark requests made by Republicans calling for reform.

"Earmarks have become the currency of corruption," Rep. Jeff Flake, R-Ariz., recently wrote Speaker Dennis Hastert, R-Ill. "We can't allow this to continue."

High on the list of challenges for the GOP is the annual drafting of a budget. President Bush's appearance on Friday's program was a reminder that he's calling for $70 billion in savings over five years from benefit programs such as Medicare, Medicaid, food stamps and payments to farmers.

Then there's the shadow of scandal, which in recent months has pushed Texas Rep. Tom DeLay from the leadership, Ohio Rep. Bob Ney from his committee chairmanship and California Rep. Randy Cunningham from Congress after a confession of bribe-taking. All are Republicans.

New York Rep. Tom Reynolds, the chairman of the GOP campaign committee, noted at a news conference that "2006 is also an election year."

A few hours later he provided a political briefing for the rank and file, a presentation that participants said later had lampooned Democratic leaders as Darth Vader and other "Star Wars" characters.

Internal divisions also have surfaced at a time Republicans — their poll numbers sagging — try to reclaim the mantle of reform that helped them win the majority more than a decade ago.

Fiscal conservatives are particularly determined to cut back on earmarks.

The practice, an old one, has mushroomed in recent years under Republican sponsorship, and the legislation backed by Flake and numerous other lawmakers is designed to trim it.

The measure would preserve the existence of earmarks, but for the first time allow critics to challenge them one by one on the House floor.

Flake, who issues a stream of news releases accusing his fellow lawmakers of wasteful spending, says the purpose is transparency in government. The theory is that forcing lawmakers to defend projects will expose them to ridicule and, eventually, the practice will ebb.

So far, the legislation has sparked an intense internal struggle pitting Republican against Republican.

The committee that controls the pursestrings compiled a list of earmarks requested last year by GOP lawmakers who favor Flake's bill.

The total was 717 requested earmarks, although none for Flake, for more than $4.5 billion.

The response was sharp.

"I am shocked that the Republican staff of a Republican-led committee in a Republican-majority Congress would do opposition research on a fellow Republican," first-term Rep. Lynn Westmoreland of Georgia wrote in a letter to fellow GOP lawmakers. "I do not see any other purpose behind the preparation of this report other than for it to be leaked to the press."

The Associated Press obtained copies of both the Appropriations Committee tally and the letter.

By committee count, Westmoreland requested 59 earmarks last year, for a total of $536 million. His office declined to release the entire list of projects he requested.

Spokesman Brian Robinson said that until the current system is changed, "we have to play by the rules that are in place — that's only fair to our constituents. Members don't release their request lists. We've released more than most would simply by saying that we sent the committee only 43 percent of the requests that came to our office."

Flake, in an interview, likened the tally sheet to a type of blackmail on the part of members of the House Appropriations Committee. Rank and file lawmakers are required to submit their requests in writing, thus creating a paper trail, he said. No such requirement is imposed on senior lawmakers, he added, including subcommittee chairmen with the power to insert or omit individual projects from the bills they draft.

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"It is no coincidence that the growth of earmarks has paralleled the monstrous increase in overall federal spending," he wrote recently in The New York Times.

Or that the subject is on the agenda for the Republican retreat.

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EDITOR'S NOTE — David Espo is chief congressional correspondent for The Associated Press.

Ethics Scandal Looms Over Republicans' Meeting (REU)

By Thomas Ferraro

Reuters, February 11, 2006

Republicans in the House of Representatives, rocked by ethics scandals, met in a secluded Maryland town on Thursday, hoping to regroup under new leadership and position themselves to retain power in November's elections.

A week after electing Rep. John Boehner of Ohio as majority leader to succeed indicted Texan Tom DeLay, Republicans opened a three-day retreat at a time when public opinion polls show broad discontent with Congress and the White House.

"I'm going to tell them they face challenges and opportunities," Republican Party Chairman Ken Mehlman said shortly before addressing the gathering at a waterfront hotel in Cambridge, a two-hour drive from Washington.

"I'm going to tell them that the public clearly wants reform -- that the public believes that the country needs to continue reforming things if we are going to be on the right track," Mehlman told reporters, referring to lobbying practices on Capitol Hill and such basics as health care, education and national security.

Lobbying scandals and Justice Department investigations involving Republican lawmakers and former aides threaten the party's control of the House, which it has held since 1995.

Boehner said the retreat would allow for a "period of renewal" and bonding. He said it would take time to unite his 231-member caucus on a lobbying reform package, one that party leaders said would seek input from Democrats.

"We're going to have, frankly, an ethics seminar for all our members and staff so that they know what the rules are, and I think it'll help ensure that members and staff live up to those rules," Boehner said.

REFORM OR OVERHAUL?

In the wake of a scandal involving Republican lobbyist Jack Abramoff, Boehner has called for more public disclosure of the relationships between lawmakers and lobbyists rather than a fundamental overhaul of the way Congress does business.

Unlike some of his colleagues, he is opposed to abolishing "earmark" spending for pet projects, urging instead more transparency.

A number of Republicans have been drawn into the investigation of Abramoff, who pleaded guilty last month to fraud charges and agreed to help prosecutors in their corruption probe.

Separately, Republican Randy Cunningham of California resigned from the House in November after pleading guilty to taking $2.4 million in bribes in exchange for help in securing Defense Department contracts.

Boehner was the surprise winner of a House Republican leadership election last week, defeating Roy Blunt of Missouri. DeLay was forced to step down as majority leader last year after he was indicted in Texas on campaign-related felony charges.

President George W. Bush was scheduled to address House Republicans on Friday. Bush was expected to focus on his $2.77 trillion proposed federal budget that would boost defense spending, slow Medicare's growth and cut domestic programs in an effort to soothe Republican frustrations over high deficits.

(Additional reporting by Richard Cowan)

A Wink And A Nod For Lobbying Reform (NYT)

The New York Times, February 11, 2006

A long string of scandals has raised questions about whether Capitol Hill is really run by the lawmakers or the lobbyists. The public has a right to expect reform, but so far the only sign of change is a new House majority leader — John Boehner of Ohio, a polished veteran of the big-money nexus who even pays his D.C. rent to a lobbyist-landlord.

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Mr. Boehner has been shockingly blasé about the need for Housecleaning. He's been signaling anxious colleagues that the whole issue should be directed toward the ultimate dead-letter office: the House ethics committee. This is the watchdog that was effectively put to sleep in the Tom DeLay era.

Other lawmakers are more properly alarmed and are proposing to graft some ethical spine onto Congress. In the Senate, Barack Obama of Illinois has proposed an ethics enforcement commission of former lawmakers and judges. That sparked a fit of pique from Senator John McCain, who seems to regard reform as private territory on which no freshman Democrat may trespass. Mr. McCain wants to zero in on "earmarking," the lawmakers' addiction to passing billions in hidden pork projects at the behest of lobbyists. There should be plenty of room for both ideas, and the two senators' developing rivalry for reform — already dubbed the "McBama" dynamic — is exactly the energy level Congress needs.

A worthwhile bipartisan proposal is expected next week from Representative Christopher Shays, Republican of Connecticut, and Martin Meehan, Democrat of Massachusetts. They want to create an office of public integrity to enforce stronger ethics and lobbying regulations in both houses. It would be staffed by nonpartisan professionals empowered to investigate and pursue complaints of impropriety from outside Congress and within it.

Easy money from special pleaders is at the heart of Congress's dilemma. A major bipartisan push from below is the only possibility of dragging leaders like Mr. Boehner to credible reform.

Censorship Is Alleged At NOAA (WP)

By Juliet Eilperin

The Washington Post, February 11, 2006

Scientists Afraid to Speak Out, NASA Climate Expert Reports

NEW YORK, Feb. 10 -- James E. Hansen, the NASA climate scientist who sparked an uproar last month by accusing the Bush administration of keeping scientific information from reaching the public, said Friday that officials at the National Oceanic and Atmospheric Administration are also muzzling researchers who study global warming.

Hansen, speaking in a panel discussion about science and the environment before a packed audience at the New School university, said that while he hopes his own agency will soon adopt a more open policy, NOAA insists on having "a minder" monitor its scientists when they discuss their findings with journalists.

"It seems more like Nazi Germany or the Soviet Union than the United States," said Hansen, prompting a round of applause from the audience. He added that while NOAA officials said they maintain the policy for their scientists' protection, "if you buy that one please see me at the break, because there's a bridge down the street I'd like to sell you."

NOAA Administrator Conrad C. Lautenbacher denied Hansen's charges, saying his agency requires its scientists to tell its press office about contacts with journalists but does not monitor their communications.

"My policy since I've been here is to have a free and open organization," Lautenbacher said. I encourage scientists to conduct peer-reviewed research and provide the honest results of those findings. I stand up for their right to say what they want."

Hansen prefaced his speech, which focused largely on how quickly humans must act in order to prevent irreversible climate change, by saying he was speaking as an individual. "I'm not speaking for the agency or the government," he said.

Most scientists who study climate change have concluded that Earth's current warming is being driven by the burning of fossil fuels. The administration does not question the link between human activity and climate change, but it has called for more research and supports solutions other than mandatory limits on carbon emissions.

After the panel discussion -- which also featured Princeton University professor Michael Oppenheimer, American Enterprise Institute fellow Steven Hayward and Stanford University professor Paul Ehrlich -- Hansen said he knows of NOAA scientists who are chafing at the administration's restrictions but are afraid to speak out.

New School President Bob Kerrey, a former Democratic senator from Nebraska, said he invited Hansen to speak because he was "very concerned" about what he called the administration's efforts to steer the debate over global warming: "It's not only inappropriate; it stifles the very debate we're trying to have today, and that we need to have on this issue."

Kerrey said of Hansen, "He's not a radical; he's a scientist who's studied the issue. Let the disagreement occur without stifling one side of the argument."

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After Hansen told the New York Times and The Washington Post in late January that political appointees at NASA had made it hard for him and other researchers to convey their findings on climate change to the public, NASA Administrator Michael D. Griffin e-mailed agency employees last week and vowed to support "scientific openness."

Griffin, who had been chastised by House Science Committee Chairman Sherwood L. Boehlert (R-N.Y.) over the issue earlier in the week, said he would draft a new policy that would respect scientists' right to speak out.

In an interview Friday, Boehlert -- who has met personally with Griffin and spoken on the phone with him several times since the controversy erupted last month -- said he was satisfied Griffin was taking the necessary steps.

"The administration should make it abundantly clear, as Michael Griffin did in his letter to NASA employees, that there will be no effort, in any way, shape or form, deliberate or hinted at, that would stifle a respected scientist working for the government, doing research paid for by the American taxpayers, from talking about their work," Boehlert said.

He added that he had not received "outpourings from the scientific community" alleging government censorship and that, to his knowledge, "there are no plans in place to intimidate or stifle science."

Also Friday, George C. Deutsch, 24, a NASA spokesman who resigned this week after allegations that he had edited scientists' writings to conform to administration views and tried to limit reporters' access to Hansen, e-mailed reporters to say there is a "culture war" in the government over climate change. Deutsch's resignation came after it was learned he had not graduated from Texas A&M University, as he claimed on his résumé.

"There is no pressure or mandate, from the Bush administration or elsewhere, to alter or water down scientific data at NASA, period," Deutsch said, adding that after being tasked to work with Hansen, "I quickly learned one thing: Dr. Hansen and his supporters have a very partisan agenda and ties reaching to the top of the Democratic Party.

"Anyone perceived to be a Republican, a Bush supporter or a Christian is singled out and labeled a threat to their views. I encourage anyone interested in this story to consider the other side, to consider Dr. Hansen's true motivations and to consider the dangerous implications of only hearing out one side of the global warming debate," Deutsch said.

And On The Eighth Day, God Went Green (NYT)

By John Tierney

The New York Times, February 11, 2006

And on the eighth day, God said, Let there be a thermostat for the heavens and the earth, and God saw that it was good. And God said, Let no man adjust it more than 2 degrees Fahrenheit, or 1 degree Celsius, until the end of time.

Now that evangelical Christians have joined the battle against global warming, we may as well acknowledge that America has one truly national religion: environmentalism.

Its tenets, already taken for granted in the blue states, were embraced this week by the Christian leaders who formed the Evangelical Climate Initiative. They haven't yet rewritten Genesis, but their advertising campaign warns of "millions of deaths" from biblical scourges — floods, droughts, pestilence — unless humans make a "sacred commitment" to stop global warming.

It may look odd for evangelicals to be taking up Hollywood's most fashionable cause, but the alliance makes perfect sense. Environmentalism has always fundamentally been a religion — "Calvinism minus God," in the words of Robert Nelson, a professor of environmental policy at the University of Maryland. He calls the global warming debate the latest example of environmentalist creationism.

The Puritans and other Calvinists believed that God was revealed not just in Scripture but also in the "Book of Nature." To them, the wilderness was an unchanged record of God's handiwork at "the Creation," offering a glimpse of the world before man's pride and sinfulness alienated him from nature and caused him to be expelled from Eden.

Environmentalists have had similar notions, starting with John Muir, who considered nature "a mirror reflecting the Creator." Al Gore urged the "moral courage" to secure "our place within creation." When Bruce Babbitt was secretary of the interior, he called plants and animals "a direct reflector of divinity," and he warned Americans not to "recklessly destroy the patterns of creation."

There is one large problem with this version of creationism. The world we see was not created in a week, and it has looked a lot different in the past.

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The forests that seemed divine to the Puritans and to Muir and Babbitt were not present at the Creation. They were merely the latest adaptation to changing climatic conditions and competition with other species, including humans — Indians had been managing the forests by cutting trees and setting fires. There is no such thing as a "natural" forest in America, Nelson writes, unless you reject creationism and define nature as "the Darwinian vision of unremitting struggle for survival."

Darwin's Book of Nature isn't as morally satisfying as Calvin's, at least not for those who enjoy berating Americans for their sinful desires to cut down trees and burn fossil fuels. But it does make for a clearer way to think about global warming. Instead of assuming that humans will be punished for tinkering with God's handiwork, you can consider the best strategy for our species' survival.

That means rejecting the assumption that we must immediately start atoning for our excesses. Solutions like the Kyoto treaty amount to expensive hair shirts that appeal to penitents but not necessarily to economists. Even economists who support the Kyoto treaty acknowledge that it will make only a small difference far in the future while imposing serious costs today.

And those costs seem too high to other economists, like the four Nobel laureates and their colleagues who met in Copenhagen in 2004 to study proposals to help the world's poor. The Copenhagen Consensus, as they called it, was that programs to slow global warming are one of the worst investments — far less worthwhile than programs to immediately combat disease and improve drinking water and sanitation.

Saving lives now makes more sense than spending large sums to avert biblical punishments that may never come. Scientists agree that the planet seems to be warming, but their models are so crude that they're unsure about how much it will heat up or how much damage will be done. There's a chance the warming could be mild enough to produce net benefits.

For now, the best strategy is to refine the forecasts and look for the cheapest and least painful ways to counteract global warming, including heretical ideas like geo-engineering schemes to cool the planet by blocking sunlight. It's hard today to imagine how that would be done — or how environmentalists would ever allow something so "unnatural." But maybe they could be convinced that we're just resetting God's thermostat back to the eighth day of Creation.

No Regrets For Miers (DMN)

By G. Robert Hillman

The Dallas Morning News, February 11, 2006

WASHINGTON – For Harriet Miers, her ill-fated nomination to the U.S. Supreme Court seems so long ago.

Even now, four months after President Bush turned to her, she isn't sure exactly how it came to be. Nor does she have any regrets about accepting the offer that faltered in a storm of opposition by conservatives within the Republican Party.

"There was a lot of noise," Ms. Miers acknowledged Thursday in her first interview since the nomination. "But there were also a lot of great moments."

Would she accept again?

"I not only would say 'yes' when called to this nature of service," said Ms. Miers, the top White House lawyer. "But I would recommend it to others, and I have."

By nearly any measure, though, it was tough sledding for the Dallas lawyer who followed Mr. Bush to the White House in 2001.

Previously, she had been the first woman to head the Texas and Dallas bar associations and had served one term on the Dallas City Council. But she had backed a few Democrats and had never been a judge, leaving some leading conservatives complaining about a lack of a legal paper trail that could use to rally support for her.

Also, many conservatives were unconvinced that she staunchly opposed abortion rights. She was quickly branded a crony because of her longtime legal work for Mr. Bush and his campaigns. And she was pilloried on late-night television and in newspaper editorial pages.

"I didn't see a lot of it," Ms. Miers said, sitting at the head of the conference table in her wood-paneled West Wing White House office.

"We tell nominees not to pay attention," she explained, referring to the instructions she routinely gives others, "and I did my best to do the same."

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She regrets, however, that "things that were being said about me made my brothers upset, or friends upset or whatever."

"But we understood it was a battle worth fighting," she said, "and that's what we were doing."

Ms. Miers allowed that "you always feel bad if you're the reason other people are having to spend time ... time that you know they have very important work to do."

"The process is very time consuming, both for the nominee and for those working with the nominee," she said.

As White House counsel, Ms. Miers manages the search and vetting of judicial nominees, including those for the Supreme Court. She was very much involved with the confirmation of John Roberts as chief justice and, later, her successor nominee, Samuel Alito.

He was confirmed by the Senate just last week, and there's already a picture of his ceremonial swearing in at the White House waiting to be hung in her outer office.

Even now, Ms. Miers continues updating the lists of potential nominees, among the pressing duties and issues that pass over her desk. They also include dealing with recent swirling controversy over the president's authorization of warrantless electronic surveillance of some Americans believed linked to terrorists.

Obviously, she acknowledged, it's become a "matter of great attention."

With Bush from start

Ms. Miers came to the White House with Mr. Bush at the start of his first term as staff secretary, a senior aide who manages the never-ending flow of paper to the president and other matters. Later, she moved up to deputy chief of staff for policy, then a year ago to White House counsel.

On Oct. 3, the president tapped her to replace retiring Justice Sandra Day O'Connor. Ms. Miers withdrew her nomination on Oct. 27 and, as she put it, "went right back to work" as the president's top lawyer.

Asked if she planned on staying through the president's second term, Ms. Miers replied in her well-honed, soft-spoken legal way: "We serve at the pleasure of the president."

Texas in her future?

Right now, she said, she envisions returning to Texas after leaving the White House, perhaps heading back into private legal practice. And she would not flatly rule out running again for public office.

"As a lawyer, I've learned never to say never," Ms. Miers said, making it clear, though, that she was not now contemplating any such run.

Asked if she might someday succeed Chief of Staff Andrew Card, who is in his sixth year at the White House, she simply praised him and said she looked forward to working with him.

Looking back on her nomination, which she said now seems "a very long time ago," Ms. Miers said she didn't learn until very late in the search that she was under consideration for the high court.

"I'm not even sure that I could recall," she said. "It sort of became apparent to me that I was being asked questions, or that it was a possibility."

"I am not aware of what happened, exactly how it happened, or who was involved," she said.

In any case, in short order, Mr. Card, who had asked one of her deputies to quietly check into Ms. Miers' background, clued her in, and the president discussed the job with her.

She said she had "some time," but "not a whole lot" to ponder the possibility and from the start took it quite seriously.

"I think that if you're called to serve your nation in a role like the Supreme Court," Ms. Miers said, "the answer should be yes, unless there are very good reasons why not."

Asked if she had particularly weighed the possibility because she would be replacing one of two women on the high court, Ms. Miers said, "I'm a lawyer, and I looked at this as a lawyer being asked to serve on the court."

She also dismissed the scathing criticism that she was unqualified.

"I said 'yes,' to the request to be considered," Ms. Miers said. "I recognize that my background was somewhat different than lots of members of the court presently serving – however, not so different from others who have served.

"I came from a background as a practicing lawyer, from public service and community service and growing up in an American experience of the sort I lived," she said. "And that type of background brings a dimension to the court that is important."

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Others, she noted, made the "judgment of the kind of person they were looking for, the kinds of qualities that they were looking for, the kind of experience that they were looking for."

"The decision to nominate me was not mine," she said, adding later: "It's the president's choice."

She had stepped aside, she said, "at the right time for the right reasons," citing senators' inquiries about her work for the president, which she said was protected by executive privilege.

"It had been made very clear to me that there were going to be requests that I knew no executive officer would have any business producing," she said. "It was too great an issue."

In defense of SMU

She also defended her Dallas alma mater, Southern Methodist University, against criticism during the confirmation process that its law school was no Ivy League institution.

"I'm grateful to the school for the education that they gave me," she said, noting that SMU had helped her financially when she faced dropping out to help support her family after her father was disabled by a stroke.

"I'm proud of the contribution the school makes through its undergraduate and graduate school," Ms. Miers said.

And, she said, she was heartened by the all the friends and acquaintances, some of them out of touch for years, who had rallied around her in what she called the "great moments" of her grueling ordeal.

"I had an opportunity to become reacquainted with people that, at different points in my life, meant a lot to me," Ms. Miers said. "It helped me underscore what it's like to be a lawyer and why you're a lawyer and the role lawyers play, both in the profession and in the community."

Roberts Off To Quiet Start At Court (AP)

By Gina Holland

AP, February 11, 2006

So far, Chief Justice John Roberts has led a harmonious Supreme Court, rallying colleagues to settle cases in the most limited, least controversial way. The question is whether that will last or has been just a short-term necessity for a changing court.

The first few months of Roberts' tenure have not been short on divisive issues: assisted suicide, abortion, capital punishment.

But cases decided so far have broken little new ground, and there have been no bitter dissents.

Of the court's 18 authored opinions so far, only two came from 5-4 votes. And three cases that were expected to split the court — on abortion, campaign finance and the rights of disabled inmates — were resolved unanimously without setting important precedent.

"One almost wonders why the court took the cases in the first place," Richard Pildes, a constitutional law professor at New York University, wrote online as he and other court watchers struggled over what to make of the early days of the Roberts era.

One explanation is the retirement of Sandra Day O'Connor, who was replaced Jan. 31 by Samuel Alito. The timing of the transition is awkward, because justices are nearly midway through a term and have heard arguments in more than half the cases they will rule on this year.

Alito may have to break ties in some pending cases, because whatever positions O'Connor took do not count anymore. It's not clear if any appeals have been deliberately held up to give Alito a chance to change the outcome.

"No court is going to reach out with huge decisions when it is quite clearly in transition," said Dennis Hutchinson, an expert on the Supreme Court at the University of Chicago.

Jay Sekulow, chief counsel for the conservative American Center for Law and Justice, predicted that the cautious decisions will continue even with Alito on the bench.

"This is a court that's going to move incrementally. That seems to be John Roberts' style," Sekulow said.

Roberts, who just turned 51, succeeded William H. Rehnquist, who died last fall at age 80.

As the court's leader, he oversees private meetings, presides during the argument sessions, and assigns the writing of opinions when he is in the majority.

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So far Roberts has disagreed with just two opinions, and he did not file his own dissent either time. One of the rulings upheld Oregon's one-of-a-kind assisted-suicide law from a challenge by the Bush administration. Another said states can be sued in bankruptcy proceedings.

In both, Roberts was on the same side as Justices Antonin Scalia and Clarence Thomas, the court's most conservative justices.

Roberts said during his Senate confirmation hearing in September that the chief justice should "act as a force to help bring about some cohesiveness and collegiality."

"I have told people, when pressed, that I prefer to be known as a modest judge," he also said.

The Roberts court, at this point, has been modest. Some examples, under his leadership the court:

_Dodged a decision on a parental abortion law from New Hampshire. On a 9-0 vote the justices said a lower court should reconsider whether the entire law was unconstitutional, or just part of it.

_Backed out of deciding whether a campaign finance law, in practice, violated free-speech rights of an anti-abortion group.

_Dismissed without explanation a police interrogation case.

_Passed up a chance to decide when inmates can use a federal disabilities law to sue states for not accommodating their disabilities.

Roberts, whose previous job was judge on the federal appeals court based in Washington, sometimes suggested ways that cases could be decided on limited grounds during the oral argument sessions.

"This is an even more extreme form of the kind of modest style of decision-making that Roberts had when he was on the D.C. Circuit," Pildes said in an interview. "One of the interesting issues to watch for now is whether this pattern will continue, or whether (now that) the court has a stable complement of justices it will shift back into issuing more sweeping opinions."

The first sign of the new court may come when justices meet for the first time with Alito instead of the moderate O'Connor. At the Feb. 21 session, justices could say whether they will hear arguments in several significant cases. Among them are the Bush administration's attempt to reinstate a ban on a type of late-term abortion and an appeal from an American terror suspect held without traditional legal rights.

The court also will have more rulings to announce. So far, Roberts has had just one opinion, although he likely has been working on several more during the court's monthlong recess.

"I imagine Roberts would like to be a consensus builder," said Stephen Wermiel, an American University law professor.

Political Skeletons, Cut And Pasted (NYT)

The New York Times, February 11, 2006

Staff members for a Republican congressman, carefully perusing his biography on Wikipedia — the free-form, online encyclopedia — recently happened upon the insertion that "he likes to beat his wife and children." The Web's collective form of fact-gathering tends to invite such sliming. But now, a more tricky problem is emerging: the editing of legislative biographies by staff members and loyalists devoted to gilding the incumbent.

The deletion of unattractive facts by apple-polishers became so obvious that Wikipedia's detectives temporarily blocked some Senate addresses from making entries. The electronic addresses of Senate offices turn out to be more easily traced than those of House members, so there is no comparable record of protective edits by lower house scriveners.

Senator Dianne Feinstein's net worth was mysteriously deleted from her biography, along with the $190,000 fine she had to pay for not disclosing that her husband had guaranteed her 1990 campaign loans. Wikinews, the encyclopedia's arm of corrective reporters, found Senator Joseph Biden's past problems with campaign plagiarism charges had evaporated, thanks to someone at one of his office computers. Members of Senator Norm Coleman's staff massaged a description of him as a liberal college Democrat; he morphed into an "activist," then merely an "active college student." A reference to Senator Tom Harkin's discredited claims to have flown combat missions in Vietnam disappeared.

An entry on Wikipedia is still almost guaranteed to be closer to reality than a compilation of campaign commercials. But when everybody is invited to contribute to lawmakers' biographies, the most interested participants are almost always going to be the people on their payrolls.

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OTHER NEWS:

In D.C. Visit, Perry Is Of Two Minds On Spending (HCHRON)

By BENNETT ROTH

Houston Chronicle, February 11, 2006

WASHINGTON - Texas Gov. Rick Perry showed Friday that he could be both a new-style conservative and an old-style politician.

He chided runaway Republican spending in a speech to fiscal hawks and then made the rounds of government agencies in search of federal aid for the state.

Perry spent much of a one-day visit to the nation's capital stating his case that Texas needed $2 billion for hurricane relief, as well as expedited funding for border-enforcement programs.

He began his day with an address crafted to appeal to the Conservative Political Action Conference, an influential group that has grown increasingly disenchanted with the spending policies of President Bush and the GOP-controlled Congress.

He accused the Republican lawmakers of allowing the federal deficit to explode as spending on entitlements such as Medicare and Social Security grow.

"The public expects Democrats to spend every dime in the Treasury and then ask for more because that's what Democrats do," said Perry, a former Democrat turned Republican.

"On the other hand, they elect Republicans to stop that from happening," he said, "and if Republicans keep spending like Democrats, the public will elect the real thing."

Perry denied that his appearance before the group — he was the only governor to address the conference — was an indication that he harbors national ambitions. The governor said he is focused on his re-election.

Donald Ely, a Republican state committeeman from Pennsylvania, said he would like to see Perry as a vice presidential candidate on ticket headed by Virginia Sen. George Allen in 2008.

"He's more conservative than George Bush," Ely said. "I'm not a Bush Republican. I'm a Reagan conservative."

In his speech, Perry only referred once to Bush, although not by name, praising his leadership in the war on terror. By contrast, he made five mentions of Reagan. Perry also suggested the federal government's priorities had been misplaced, with insufficient money allocated for border control.

The governor later met with a host of federal officials, including Homeland Security Secretary Michael Chertoff, to discuss speeding up federal border-enforcement grants to pay for overtime for local law enforcement officials and other pressing needs.

Kathy Walt, Perry's press secretary, said Homeland Security officials agreed to share information and intelligence so the state can better coordinate the deployment of state resources and security personnel to the border.

Although Walt said Perry did not raise the issue at the meeting with Chertoff, Texas stands to lose money if Congress approves a recommendation included in Bush's 2007 budget proposal to eliminate the State Criminal Alien Assistance Program. The program reimburses states and localities for some costs of jailing illegal immigrants.

Last year, Walt said, Texas received about $26 million from a $305 million appropriation. She said the state is expecting about $31 million from the $405 million approved for this year.

Perry discussed hurricane relief with Chertoff and with Sen. Thad Cochran, R-Miss., the chairman of the Senate Appropriation Committee.

Saying that that federal funding for Rita had fallen "substantially short" of what was needed, Perry urged lawmakers to include $2 billion in a supplemental spending bill to deal with the storm's aftermath.

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Talent Changes Stem-cell Stance (KCS)

By Matt Stearns And Steve Kraske

The Kansas City Star, February 11, 2006

DOJ_NMG_0014442

WASHINGTON — Sen. Jim Talent attempted an election-year pirouette Friday on stem-cell research, an issue that has split the Missouri Republican Party.

Talent withdrew his four-year support of federal legislation that would ban human cloning, including what opponents call embryonic therapeutic cloning that most researchers see as key to early stem-cell study. Talent's pro-life supporters adamantly oppose the technique.

In making his position change, the Missouri Republican sought to satisfy the pro-life camp by promoting a type of stem-cell research that "signals the end of ethical dilemmas in this type of research."

"If we can get the stem cells without the cloning, we render the current controversy scientifically obsolete," Talent said Friday in a half-hour Senate floor speech that was equal parts science lesson and politics.

Still, the Missouri Catholic Conference issued a scathing news release accusing Talent of abandoning his pro-life principles. And Missouri scientific leaders remained unhappy that Talent seemed to favor a type of research that is only in preliminary stages and is not being performed in Missouri.

Stem-cell research is a hot political issue in Missouri because supporters of embryonic stem-cell research — including many Republican business leaders in Kansas City and St. Louis — are trying to get an initiative on the November ballot that would prevent Missouri from enacting stricter laws on the research than the federal government would.

Talent's Democratic opponent, Claire McCaskill, supports the initiative. She had lambasted Talent for co-sponsoring the restrictive legislation, which was originally introduced by Sen. Sam Brownback, a Kansas Republican. The pro-life movement also opposes the initiative because they see all types of human cloning as violating their view of the sanctity of human life.

Talent would not say Friday whether he would support the ballot initiative, although he reiterated his basic support for the goals of the legislation he abandoned — specifically, the banning of cloning of human embryos, including those created solely for research purposes through a process called somatic cell nuclear transfer.

Instead, he sought to present what he called "a common ground solution" that would entail a more flexible regulatory ban on somatic cell nuclear transfer while increasing federal funding for a type of research known as altered nuclear transfer.

Altered nuclear transfer in theory creates "nonembryos" that contain embryonic stem cells. It gives the benefits of early stem-cell research without the cloning that is anathema to so many in the pro-life movement, Talent said.

"Science would have the stem cells it needs in a morally acceptable way that would allow for full federal funding of stem-cell research," Talent said. "The pro-life community would have an effective ban on human cloning. We would turn a zero-sum game into a win-win proposition for everyone."

Talent said he was trying to find "an island of unity in a sea of controversy."

William Hurlbut, a leading proponent of altered nuclear transfer research, said Friday: "You never create an embryo by this method. You never create a living human organism."

Even so, many in the pro-life movement view altered nuclear transfer as no more acceptable than the research they condemn as cloning. That is because the research still involves creating a blastocyst — a ball of cells — and crippling it in the petri dish to prevent it from growing into a human embryo.

"We have concerns about the intentional creation of what may be developmentally disabled human 'embryos' for the sole purpose of destroying them to harvest their stem cells," wrote Carrie Gordon Earll of Focus on the Family, a leading conservative group.

The pro-life movement also is confused by Talent's rationale for pulling his support for Brownback's bill.

Talent said he was concerned that the bill's wording would inadvertently ban altered nuclear transfer research that did not involve the cloning of human embryos.

Nonsense, said Richard Doerflinger, deputy director of pro-life activities for the U.S. Conference of Catholic Bishops, whose group helped Brownback write the bill.

"This doesn't make any sense to us," Doerflinger said. "The Brownback bill … clearly allows research other than cloning human embryos. … I think this man is very confused."

Talent did not tell Brownback that he was pulling support for the bill, an aide to the senator from Kansas said.

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Brownback would not comment Friday, but he has never said he considers altered nuclear transfer research to be ethically sound.

"There's been a lot of support for Jim Talent from the pro-life community," said Larry Weber, executive director of the Missouri Catholic Conference. "Today he stepped off that platform. At this point, it's essentially vacant with respect to the U.S. Senate election. His candidacy gave pro-life voters something they could gravitate towards. Unfortunately, it's just not there any more."

Missouri's scientific community wasn't thrilled either.

No researchers at Kansas City's Stowers Institute or St. Louis' Washington University currently do altered nuclear transfer research, said scientists at the state's two leading bioresearch centers.

"All federally allowed research with stem cells should proceed," said William Neaves, president of the Stowers Institute. "At this time, it's not possible to know which type of research would hold the most promise."

And it doesn't make sense at this time to tilt the playing field in favor of one type of research, especially for altered nuclear transfer, for which "there is no evidence this will work in people," said Steven Teitelbaum, a researcher at Washington University who uses stem cells in his research.

Talent pointed out in his speech that somatic cell nuclear transfer remains equally unproven in its medical efficacy.

McCaskill wasted no time in trying to exploit Talent's new position.

"Strong leaders need to have clarity," McCaskill said. "He appears to be in a fog."

The dual risks of being viewed as a flip-flopper on a high-profile issue and of antagonizing part of his base could prove politically fatal, said George Connor, a political scientist at Missouri State University.

"Instead of saying, 'This is what I believe,' and going out on the campaign trail and defending it, he's trying to have the best of both worlds."

"This is a very dangerous thing for Senator Talent," Connor added. "It could cost him the race. I just think it's an astounding mistake."

But Missouri Rep. Brian Yates, a Lee's Summit Republican, called it a smart move.

"I see where the senator is going," Yates said. "A lot of life sciences are still evolving. It may be premature to enact legislation to criminalize life sciences research without more information or without better definitions of what should be allowed. … I think it's probably a good thing to take a step back and review this issue."

Talent said in an interview following his speech that politics had nothing to do with his decision to abandon the Brownback bill and push for more altered nuclear transfer research. He said the decision was the result of a yearlong examination of the issues.

"It really is an attempt to get everybody to understand there are at least some areas where you can have what you want without denying the other side what they want," Talent said.

Still, he acknowledged he had waded into politically perilous waters.

"My wife says to me last night, 'Jim … two things are going to happen: Nobody's going to like it and they're all going to say you're doing it just for political reasons,' " Talent said. "And I said to her, 'Well, if nobody likes it, why in the world would I be doing it for political reasons?' "

Steele Apologizes For Holocaust Remarks (WP)

By Robert Barnes And Matthew Mosk

The Washington Post, February 11, 2006

Compared Stem Cell Research to Nazi Medical Experiments

Maryland Lt. Gov. Michael S. Steele profusely apologized yesterday for comments linking stem cell research to Nazi experimentation, but the offhand analogy could undermine what had been a concerted effort by the Republican to run for the U.S. Senate as a moderate "bridge" between Democrats and Republicans in his left-leaning state.

Steele issued apologies in a radio interview and in phone conversations with Jewish leaders in Baltimore and Washington, and then continued to express regret throughout a series of stops in Prince George's County.

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"I offended members of the Jewish community and members of the Maryland community," Steele said outside a Prince George's nursing home. "It was a remark that was an improper inference, because I never specifically said Holocaust. . . . And it did not reflect my attitude and my belief, and I am really sorry about the whole thing."

Besides offending those Steele was trying to befriend, some politicians and political observers said his remarks appeared to hurt him in several ways: putting him on the wrong side of a popular issue, reinforcing a worry among even some Republicans that he can be an accident-prone candidate in a high-profile race, and signaling to swing voters that he is more conservative than the almost-nonpartisan image he has cultivated.

"Some people could think he's not moderate . . . but a hard-right Republican," said University of Maryland Prof. Ronald Walters, who has been closely following Steele's campaign.

Keith Haller, who conducts polls for Maryland media and others, said his recent surveys show that Steele has "risen above the cacophony of partisan battles" in the state. "His popularity has been steadily soaring, so he certainly didn't need to engage on this issue, in such an awkward way."

In an appearance Thursday before the Baltimore Jewish Council, Steele responded to a question about stem cell research by saying he was "cautious" about the idea of "tinkering around with life," and added:

"Look, you of all folks know what happens when people decide they want to experiment on human beings, when they want to take your life and use it as a tool," Steele said, according to a recording of the event. "I know that as well from my community and our experience with slavery."

Jewish leaders, for the most part, accepted Steele's apology. Ron Halber, executive director of the Jewish Community Relations Council of Greater Washington, said he considered it an exercise of bad judgment by a good man.

"He understands his remarks were offensive," Halber said. "People in the Jewish community are upset about them. What was behind the words were not the feelings of a hatemonger, though."

His Democratic opponents were glad Steele apologized but sharp in their criticism.

"Michael Steele does not have the right to compare the lifesaving potential of stem cell research to the barbarity of the Holocaust," said Rep. Benjamin L. Cardin, one of several Democrats running to replace retiring Sen. Paul S. Sarbanes (D). "His remarks were offensive to the millions of Americans who stand to benefit [from] this research, as well as to Holocaust survivors and their families."

State Sen. Sharon M. Grosfeld (D-Montgomery), the daughter of a Holocaust survivor, said she was "shocked by the ignorance of the statement." Another Senate candidate, former congressman and former NAACP president Kweisi Mfume, said he also was offended by Steele's comments about slavery. "Any further comparison to equate slavery to stem cell research is a reach that I and others who are the descendants of slaves don't understand," he said.

Republican Gov. Robert L. Ehrlich Jr., who has recommended $20 million in state money for stem cell research but wants to let an outside panel decide which kind of cell research should be funded, tried to deflect criticism from his former running mate.

"I think after an adult, straight-up person makes a comment and then apologizes for the comment, unless you want to make a political deal out of it, or you want to cause some sort of political damage because you dislike his candidacy, what else can the guy do?" Ehrlich told the Associated Press.

Steele's Senate candidacy has been greatly aided by national Republican leaders, who recruited him to run believing he is the party's best hope. But Steele has studiously avoided following a GOP script in a state where President Bush is a help only in fundraising.

The stem cell issue is one in which Marylanders differ greatly from Bush and other prominent Republicans. Haller said that in his latest poll for the Baltimore Sun, 60 percent of the voters supported embryonic stem cell research; the state's increasingly important independent voters favored it 3 to 1, and even a plurality of Republicans are in favor.

Steele has cited his strong Catholic faith -- he spent several years as a seminarian -- in explaining his opposition to abortion and the death penalty, even though he said yesterday he does not let his religion enter into "policy discussions."

"It is a force in my life. I tried to share a little bit of that because most politicians get up and give you the pat, 30-second sound bite," Steele said. "I will continue to do that, but unfortunately in that process, there was an inference that was not right."

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Steele was elected Maryland's first statewide African American officeholder as Ehrlich's running mate and has not campaigned on his own for such a high-profile job. He has regretted off-the-cuff remarks before.

Last summer, when news reports broke that Ehrlich had held a fundraiser at an all-white country club, Steele said he didn't care because "I don't play golf. It's not an issue with me." A couple of weeks later, he changed his mind and said, "The core issue there is, the perception of discrimination is just as insidious as the reality of discrimination." He said his first answer was "flippant."

Staff writer Hamil R. Harris contributed to this report.

Steele Apologizes For Stem Cell Remarks (BSUN)

By Jennifer Skalka

The Baltimore Sun, February 11, 2006

Lt. governor calls Holocaust reference 'irresponsible'

In a quick move to stanch criticism of his remarks likening embryonic stem cell research to Nazi medical testing, Lt. Gov. Michael S. Steele apologized yesterday, saying his comments to Baltimore Jewish leaders do not reflect what is in his heart.

Steele, a Republican candidate for the U.S. Senate, said during a morning interview on WBAL Radio that he "made an unfortunate, irresponsible inference."

"I humbly apologize to everyone, certainly in that room and anyone who is now following this, because that is not where my heart or where my head is," Steele said.

"It was just unfortunate, and I am very sorry for anyone taking offense by the remarks."

Steele told the board of the Baltimore Jewish Council during a Thursday luncheon that "you of all folks know what happens when people decide they want to experiment on human beings, when they want to take your life and use it as a tool."

Democrats who are vying to oppose Steele in the fall weren't letting the gaffe go by yesterday -- a sign that the incident could become a factor in the campaign.

U.S. Rep. Benjamin L. Cardin, a Senate candidate, held a news conference in Annapolis to denounce Steele's remarks.

"Michael Steele opposes this life-saving research," Cardin said. "This is an appropriate issue for us to debate. ... Michael Steele is wrong on stem cell research, and he's wrong on other issues."

Three other Democratic Senate candidates -- Kweisi Mfume, former congressman and former head of the NAACP; Lise Van Susteren, a forensic psychiatrist; and American University professor Allan Lichtman -- issued statements critical of Steele.

So did a Democratic National Committee spokesman, who lambasted the head of the Republican National Committee for not repudiating Steele's remarks, calling his inaction "political hypocrisy at its worst."

Mfume originally condemned Steele's remarks, saying that there can be no comparison between stem cell research and "the reprehensible horrors committed by the Nazis against innocent men, women and children."

But he later added to his comments. "I'm glad to know that Mr. Steele has apologized for his remarks, and if the larger Jewish community is prepared to accept that, then we should move on," he said in a statement provided by a campaign spokesman.

Van Susteren was less forgiving. "Mr. Steele, do you know what it's like to tell the parent of a child with diabetes that we aren't doing everything we can to find a cure?" she said in statement emphasizing her medical background.

"Do you know what it's like to tell the child of an Alzheimer's patient that instead of helping, the government is putting up roadblocks? I do. ... It is a tragedy that those in power who could do something to alleviate suffering ... do not."

James Gimpel, a political science professor at the University of Maryland, College Park, said Steele's views about stem cell research are anchored in his Catholic religious beliefs, but that he can't be pleased with the attention they have attracted.

"His views on stem cell research are probably not that well known, and this was not exactly the best way to make them known," Gimpel said.

Still, he questioned whether Steele lost many votes this week because Jews tend to vote Democratic.

David A. Harris, deputy executive director of the National Jewish Democratic Council in Washington, disagreed.

"I think the conscience of many Marylanders will be deeply offended by what he said, and it's not limited to American Jews," Harris said.

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In addition to his radio apology, Steele phoned Art Abramson, executive director of the council, to apologize directly. Abramson said Steele offered to visit with the council again to make amends. Instead, Abramson suggested he send a letter, which he did.

In it, Steele calls the Holocaust "one of the world's darkest chapters."

"By remembering the uniqueness of this tragedy we hope we can prevent it from occurring ever again," Steele wrote. "I feel terrible for any pain I have caused by my inappropriate comments."

Abramson said he felt Steele's apology was "appropriately handled."

"I believe his apology was humble and sincere, and I accept it," Abramson said.

Gov. Robert L. Ehrlich Jr. said some people will try to use Steele's remarks to damage his Senate candidacy, but the governor praised Steele for apologizing and called him "a straight-up guy."

"Mike is very strong, and he is running strong in the polls, and there is a great deal of fear associated with this campaign because of his polling numbers and his excellent fundraising and his life story," the governor said.

"He is a real threat to this monopoly establishment."

For his part, Steele advised against using his statements for political purposes.

"I just hope that there is no grandstanding on this because this is a very sensitive issue, both with respect to the Holocaust and the memory of those affected there, but also the issue of stem cell [research]," Steele said during the radio interview.

In Annapolis, Cardin, flanked by Democratic lawmakers and his wife, Myrna Cardin, who attended the Jewish Council lunch, chided Steele for comparing stem cell research to what he called "the barbarity of the Holocaust."

Myrna Cardin said Steele's remarks were "quite horrifying." "Those were not the words that any of us ever wanted to hear," she told reporters.

The congressman was joined by Baltimore County Sen. Paula C. Hollinger and Baltimore Del. Samuel I. Rosenberg, the Democratic sponsors of bills to commit $25 million a year for five years to stem cell research, which scientists believe could hold the key to treatments or cures for many illnesses.

Their bills emphasize the importance of embryonic stem cell research. The governor's competing plan would dedicate $20 million to stem cell research, but it does not specify whether the funding would go to embryonic or adult stem cell proposals.

Ehrlich, who has said science should guide decisions about how the money will be distributed, has given the Maryland Technology Development Corporation, a quasi-public agency that falls within the Department of Business and Economic Development, the responsibility for determining who will get the money.

At the council luncheon, Steele suggested that he and Ehrlich were in agreement on stem cell research. "The governor and I have pretty squarely laid out where we are on that," Steele said.

Rosenberg said yesterday that given Steele's remarks to the council, the governor owes the public a firm explanation of his position on embryonic research.

Henry Fawell, an Ehrlich spokesman, responded that the governor "has supported government funding of stem cell research since he was a member of Congress. His plan allows for embryonic stem cell research funding."

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Sun reporters David Nitkin, Kelly Brewington and Lynn Anderson contributed to this article.

Seeing A Jungle In Congress, A Lion Of The Nixon Era Runs Again (NYT)

By John M. Broder

The New York Times, February 11, 2006

RUMSEY, Calif., Feb. 6 — As he shambles through his organic orange and olive groves here, Pete McCloskey hardly resembles the liberal lion he once was in Congress, the scourge of the Nixon White House and a father of the environmental movement. He wears beat-up denim clothes and high rubber boots as he imagines mucking out Congress as he does the stables of his prized Arabian horses.

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Yes, this is the same Pete McCloskey, now 78, the left-wing Republican from the San Francisco Bay Area who in the early 1970's thundered on the House floor for the impeachment of President Richard M. Nixon and demanded an immediate end to the Vietnam War, who helped create Earth Day and wrote the Endangered Species Act.

Now Mr. McCloskey, marching to a drummer perhaps only he hears, is taking on a powerful incumbent member of Congress of his own party, Richard W. Pombo, in a long-shot quest to return to Washington for one last hurrah. He accuses Mr. Pombo of being one of the most corrupt members of Congress, a tool of the deposed majority leader Tom DeLay and one of the biggest recipients of the largess of the lobbyist Jack Abramoff.

Mr. McCloskey said that he was challenging Mr. Pombo because he could not find anyone else to run against the seven-term incumbent from California's 11th Congressional District, which stretches from the East Bay suburbs of San Francisco into the agricultural San Joaquin Valley. Mr. McCloskey has rented a room in a house in Lodi to establish residency in the district, which does not include his farm outside Rumsey, about 90 miles northwest of Lodi.

This is the same Pete McCloskey who as a congressman criticized Israeli military operations, discussed the influence of Jewish money in American politics, spoke to a group of Holocaust deniers and urged negotiations with Yasir Arafat and creation of a Palestinian state long before American presidents and Israeli prime ministers were ready to do so.

The same Republican who ran for Senate in 1982 by disagreeing with President Ronald Reagan on nearly every major issue and who campaigned for John Kerry in 2004 against President Bush, the son of a man he considers a good friend.

Mr. McCloskey said he was motivated to run this time by Mr. Pombo's ties to Mr. DeLay and Mr. Abramoff and his acceptance of large campaign contributions from Indian tribes, land developers, sweatshop owners and oil companies. He strongly disapproves of Mr. Pombo's record as chairman of the House Resources Committee, where he has tried to revise the Endangered Species Act and open public lands to oil and mineral extraction.

"This man is an embarrassment," Mr. McCloskey said of Mr. Pombo. "He is Tom DeLay's handmaiden, he wants to privatize millions of acres of federal lands, and he believes the Supreme Court is a threat to our democracy. Those are fundamental enough reasons to make you want to defeat a guy."

Mr. Pombo and his advisers dismiss Mr. McCloskey as a carpetbagger, a crank and an egotist. They say he represents no threat to the incumbent, and they have, so far, swatted away his demand for public debates.

"He's not only out of the mainstream of the Republican Party, he's outside the mainstream of American society," said Wayne Johnson, Mr. Pombo's principal political consultant. "He's like Austin Powers, trapped in the 1970's."

Mr. Pombo declined to comment on the race.

Mr. McCloskey's old friends and allies said they were not surprised to see him enter the fray again. They said he had shown courage on the battlefield as a young Marine officer in Korea and in his political career, taking on the leadership of his own party, even challenging Nixon in the 1972 presidential primary.

Mr. McCloskey won one delegate in that race, the son of a friend.

"He's a guy that led six bayonet charges and was the highest-decorated second lieutenant in the Korean War," said Jim Johnson, a retired Republican member of Congress from Colorado who served with Mr. McCloskey. "He's fearless. And when he gets angry and gets onto something, he will do what he can to change it."

Kenneth L. Khachigian had a slightly different perspective. He was a young speechwriter in the Nixon White House who watched Mr. McCloskey's hopeless 1972 challenge with disdain and some amusement.

"He wasn't taken seriously at all," said Mr. Khachigian, now a political consultant in California. "He was more of a nuisance."

He said Mr. McCloskey's campaign for Congress this year was just as quixotic, adding: "He's looking for attention. And one way to get it is to go back to doing what he does best — ticking off fellow Republicans."

Mr. Pombo has a considerable advantage in money, with about $1.25 million in his campaign account and his political action committee, known as RichPAC.

Mr. McCloskey's campaign balance is $0. He said he was considering lending his campaign $50,000 of his own money — half his savings, he said — to get it off the ground. He admitted that he knew virtually nobody in the 11th Congressional District,

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but he said was planning to make up for that with shoe leather and a bus tour modeled on Senator John McCain's "Straight Talk Express."

Mr. McCloskey knows that his odds of winning the June 6 primary are long, but he is driven by the same fire that moved him during his 15 years in Congress that began in 1967 when he defeated Shirley Temple Black in a special election for a House seat representing a prosperous and liberal district in the area around Palo Alto now known as Silicon Valley.

He said he no longer recognized the Republican Party in which he served alongside such moderate and liberal luminaries as Mark O. Hatfield, Charles H. Percy and John V. Lindsay. He remembers with a nostalgic sigh being befriended by the moderate Republican rookie congressman from Houston, George Bush, when he arrived to take his seat in 1967. He and Mr. Bush still carry on a lively correspondence, although they differ strongly on the current president.

"What this campaign is about is which way does this Republican Party go," Mr. McCloskey said in an interview in the cluttered living room of his retirement farm.

He said neoconservatives — including his old friend and colleague Dick Cheney — had taken over the government and driven the nation into an ocean of red ink and a ruinous war in Iraq. He said he agreed with a fellow marine and former House colleague, Representative John P. Murtha, Democrat of Pennsylvania, that the nation should withdraw most of its troops from Iraq by year's end.

While his antiwar position and his views on the environment, abortion and gay rights (he is for them) could be popular in a Democratic primary in many Congressional districts, it is not likely to endear him to the voters of California's 11th, which has a preponderance of Republican voters and has easily returned Mr. Pombo to Washington since he was first elected in 1992.

Even so, Helen Hooper McCloskey, Mr. McCloskey's former press secretary and wife of 23 years, supports her husband's campaign, calling it a brave if somewhat foolhardy last act to restore his reputation and rescue the things he holds dear.

"He is an endangered species himself — the liberal Republican," she said.

Photo With Bush Helps Congressman's Rival (AP)

By T.a. Badger

AP, February 11, 2006

A photo of President Bush cupping the cheeks of Rep. Henry Cuellar at last week's State of the Union address has been the gift that keeps on giving for Cuellar's chief rival for the Democratic nomination.

The Washington Post picture of Cuellar beaming as the president holds his face is a boffo hit on the Internet, inspiring humorous-caption contests and accusations that Cuellar is a stealth Republican.

Cuellar's Democratic rival, Ciro Rodriguez, has produced a leaflet centered around the photo. It reads: "George Bush thinks Henry Cuellar is `chulo'" — Spanish slang for "pretty boy."

Before the picture came out, Rodriguez, a former congressman trying to regain the House seat he lost in 2004 to Cuellar, had been low on money, momentum and a memorable message.

But the Rodriguez campaign said the picture has generated more than $80,000 in contributions in little more than a week and given a major boost to his supporters a month before the Democratic primary.

"The saying goes, `A picture tells you a thousand words,'" Rodriguez said. "Well, in this case, it's gone beyond a thousand, especially on the dollars."

The photo flap became even richer when it was revealed that Cuellar listened to the State of the Union address while standing on the Republican side of the aisle. Cuellar also served briefly as Texas secretary of state under GOP Gov. Rick Perry

Colin Strother, a Cuellar spokesman, said that Cuellar is a true Democrat regardless of where he chose to listen to the speech, and that the photo is being blown out of proportion.

"Henry was far from the only Democrat to share a moment with the president that evening — he was just the one immortalized on camera," Strother said. "We're moving forward, and whatever Ciro chooses to do with the photo is up to his campaign."

Democrats Look For Gains In Governors' Races (REU)

By John Whitesides

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Reuters, February 11, 2006

Democrats are positioned for gains in governors' races in November and could capture governorships in many big battleground states, giving the party an early edge in the 2008 fight for the White House.

Republicans must defend 22 of the 36 governors' offices on the ballot in November, including eight states where the incumbent retired or is barred from running again. Democrats defend 14 governorships but only one in which the incumbent is not running.

The lopsided political map, along with a tough national election climate for Republicans, put Democrats in a strong position to pick up at least the four governorships needed for a national majority. Republicans hold 28 governorships to 22 for Democrats.

"The math is not in our favor this year," said Massachusetts Gov. Mitt Romney, chairman of the Republican Governors' Association, who is stepping down this year ahead of a potential 2008 presidential bid.

"Just looking at the math," he told Reuters. "We should lose four to six spots. But we expect to do better than the math would indicate."

New Mexico Gov. Bill Richardson, chairman of the Democratic Governors' Association and a candidate for re-election this year, said he anticipated a net gain of five or six governorships for his party.

"We think the states are the most fertile territory for Democrats and winning a majority of governorships in 2006 enhances our chances for winning the presidential election in 2008," Richardson, another potential White House candidate, told Reuters.

Among the biggest prizes in November's mid-term election, when control of Congress also will be at stake, are open governors' offices in Ohio, Florida, Massachusetts and New York, where incumbent Republicans are retiring.

Governorships held by Republicans in the key swing states of Nevada, Colorado and Arkansas, and the Democratic office in Iowa, also are open and up for grabs.

'CHALLENGING RACES'

"We have eight open seats and some of them are in places where Democrats have a solid voter lead," Romney said. "New York, Massachusetts, Ohio and even Arkansas, are places where we have to overcome a blue tide. Those are more challenging races for us."

Both parties crave the advantages offered by a sitting governor, particularly in years with a presidential race. Governors typically raise big money, muster a ready pool of volunteers and generate heavy local media coverage for national candidates.

A popular governor can be worth two percentage points or more to a viable White House candidate, analysts say, giving Democrats a sterling opportunity to lay the groundwork for 2008.

"It's not just the numbers that matter, it's the places," said Larry Sabato, a political analyst at the University of Virginia, pointing to the big swing states up for grabs in November. "The Democrats can set themselves up nicely for the 2008 presidential contest, assuming they nominate an electable candidate."

While national Republicans have suffered a series of recent setbacks, including the loss of two governors' races last year, scandals involving prominent party leaders and Bush's low approval ratings, Romney said they should not effect governors' races.

"People choose their governor based on state issues, not national issues," Romney said. "While the national attitude may color things at the margin, overwhelmingly governor's races are decided by the campaigns of the candidates themselves."

Incumbent Republican Gov. Arnold Schwarzenegger faces a tough re-election race in Democratic-leaning California, as do Republicans Bob Ehrlich in Maryland and Tim Pawlenty in Minnesota.

Democratic incumbents Ed Rendell in Pennsylvania, Jennifer Granholm in Michigan and Jim Doyle in Wisconsin also have potentially close elections, although their home states are Democratic-leaning.

Richardson pointed to six popular Democratic governors favored to win easy re-election in Republican-leaning states -- Kansas, Oklahoma, Arizona, Tennessee, Wyoming and himself in New Mexico -- as evidence of Democratic growth in red states.

"The Congress and the White House appear to be in gridlock," Richardson said. "The Democratic Party has to rebuild itself not from Washington down but from the states up. We have to be competitive in red states."

Motivation Behind Crime Study Questioned (WP)

By Matthew Mosk

The Washington Post, February 11, 2006

Ehrlich Administration Defends Project as Public Safety Officials Wonder if Goals Are Political

Gov. Robert L. Ehrlich Jr.'s administration has commissioned a criminologist to conduct an expedited audit of Maryland crime statistics, just as Ehrlich gears up for a reelection campaign that could put a spotlight on violence in Baltimore and Prince George's County.

Police in the five largest Maryland jurisdictions were notified last month that they would be asked to contribute data for a study that would be completed by Aug. 14, less than three months before Election Day.

"A full and accurate measure of these statistics is central to our mission of assisting victims and controlling and preventing crime," said Alex Ray, a spokesman for the Governor's Office of Crime Control and Prevention, which commissioned the study.

But public safety officials in several Maryland jurisdictions questioned whether the real goals of the project are political, given the expectation that if Baltimore Mayor Martin O'Malley is the Democratic Party nominee, Ehrlich will attempt to blame him for Baltimore's persistent crime woes.

"Nothing about this study adds up," said Kristen Mahoney, a high-ranking police official who advises O'Malley, one of two Democrats vying to challenge the Republican governor in November.

The University of Maryland professor who will conduct the study said yesterday that officials in the governor's crime control office approached him with the idea, recommended the timetable and said they will pay him $340,000.

That branch of the governor's office was the target of a federal investigation during the 2002 election season in which top officials there were accused of using grant money to help bolster Democratic Lt. Gov. Kathleen Kennedy Townsend's ties to constituent groups. An indictment of the agency's director was eventually dismissed.

The latest study has brought similar questions from officials in several jurisdictions under review. Officials questioned whether Ehrlich sanctioned the project and whether it was politically motivated.

A spokesman for Ehrlich said the governor was told of the proposal as part of a routine briefing from public safety agencies. "The governor does not make any decisions on grant proposals," added Henry Fawell, Ehrlich's deputy press secretary.

Baltimore police, for one, will not be helping, said the department's spokesman, Matt Jablow.

Prince George's County State's Attorney Glenn F. Ivey (D) called the steep price and quick turnaround time highly unusual, based on his past dealings with the crime prevention office.

"We've worked with them on grants for crime issues for the previous three years pretty closely, and I would have expected, for a grant of that magnitude, they would have touched base with us to see if we thought it would even be useful," Ivey said. "Reviewing all the statistics on crime would be extremely difficult to do, and do a good job, in six months."

The professor hired to conduct the study, Charles F. Wellford, said that if there is a political motive behind the project, he is not aware of it.

"It's certainly not my motive, and certainly not the intent," Wellford said. "It's not unusual for us to get called in to try to be an objective voice on what crime data are saying."

Wellford said it was not until he conducted a Jan. 24 meeting with police from several of the jurisdictions that he heard suspicions about the role politics might have played in getting the study going.

"I don't know if they were trying to pay me a compliment, but one of them said, 'If it weren't for your involvement, we would think politics was behind this,' " Wellford said.

Wellford's grant application says the project will review "how accurately [crime] is reported to the public." To do this, he said, he has hired a private survey firm to conduct thousands of telephone interviews with crime victims, and he will pore over data from the five jurisdictions.

Wellford said meeting the target date will require cooperation from the five police agencies.

Montgomery County Executive Douglas M. Duncan (D), another O'Malley rival who aims to campaign for governor in part by highlighting the crime problem in Baltimore, has asked his police department to cooperate fully.

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"This is absolutely something that needs to be done," said David Weaver, Duncan's communications director. "We look forward to seeing the results."

Trade Gap Hits Record For 4th Year In A Row (WP)

By Paul Blustein

The Washington Post, February 11, 2006

The U.S. trade deficit soared to a record in 2005 for the fourth year in a row, according to a government report released yesterday that provided a reminder of the dangers hovering over a generally robust economy.

The United States imported $725.8 billion more in goods and services than it exported last year, the Commerce Department said. That is up 17.5 percent from last year, and it is an all-time high not only in dollar terms but as a proportion of the economy; the figure is equal to 5.8 percent of gross domestic product.

For December alone, the trade gap increased to $65.7 billion from a revised $64.7 billion in November. That is the third-highest monthly deficit ever.

In some respects, the trade deficit reflects the strength of the U.S. economy, at least relative to other major trading partners.

Because U.S. economic growth has been rapid in recent years, American consumers are snapping up foreign goods of all kinds -- autos, electronics and clothing being some of the biggest categories. At the same time, relatively sluggish growth in economies such as the European Union and Japan has dampened demand for goods made in the United States. Thus even though U.S. exports rose 10.4 percent last year to $1.27 trillion, imports surged 12.9 percent to nearly $2 trillion.

But the gap worries many economists because it means the United States must borrow heavily from overseas. The dollars that Americans spend on imports are often invested by foreigners in the bonds of the U.S. Treasury and mortgage agencies such as Fannie Mae and Freddie Mac, so the more the trade deficit widens and the longer it persists, the greater U.S. indebtedness becomes. That is why some analysts fret about a scenario in which foreigners would sell off U.S. securities en masse, causing interest rates to soar and the global economy to fall into recession.

Nothing of the sort has materialized so far. On the contrary, overseas demand for U.S. investments last year was powerful enough to drive up the dollar against most major currencies.

"It's true that many of us have been concerned that foreigners will grow tired of financing these ever larger trade deficits, and so far there hasn't been much sign of that," said Jeffrey A. Frankel, a Harvard University economist who served on President Bill Clinton's Council of Economic Advisers.

"But there are plenty of reasons to be concerned," Frankel said. "We know [the trade deficit] means we're borrowing against the future, and that our children will have lower standards of living than they would otherwise. And just because a 'hard landing' hasn't happened yet doesn't mean it won't."

Furthermore, Frankel added, a big trade deficit generates pressure for protectionism. The report yesterday prompted many members of Congress and labor groups to step up their calls for a tougher U.S. trade policy and rollbacks in the free-trade deals negotiated in recent years.

"This trade deficit is unsustainable -- we cannot sit back as other nations produce the world's goods and we continue to lose family-supporting, middle class jobs," said Richard L. Trumka, the secretary-treasurer of the AFL-CIO, in a statement calling for Congress to "reject the flawed trade agreements" such as NAFTA and CAFTA.

Critics of the Bush administration's trade policies drew special attention to the mounting U.S. deficit with China, which rose 24.5 percent to $201.6 billion last year, the biggest gap the United States has ever posted with a single country. Lawmakers have been accusing China for some time of playing unfairly in global markets, especially by keeping the value of the Chinese currency, the yuan, at an artificially cheap level.

"Particularly disturbing is the news that our trade deficit with China is two and a half times bigger than it was when we signed a trade agreement with them in 2000," said Sen. Byron Dorgan (D-N.D.) in a statement, referring to the accord allowing Beijing to join the World Trade Organization. "That's pretty compelling evidence something has to change."

Although the gap with China accounts for more than a quarter of the total deficit, the imbalance is spread across a wide variety of trading partners.

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The U.S. trade deficit with the European Union was $122.4 billion last year; with Japan, it was $82.7 billion; with Canada, $76.5 billion; with Mexico, $50.1 billion; and with nations belonging to the Organization of Petroleum Exporting Countries, it was $92.7 billion.

The imbalances reinforce the view held by many economists that the widening trade deficit stems primarily from a reduction in U.S. national savings in recent years, including the deterioration in the federal budget deficit.

Because the budget deficit requires the government to borrow, it counts as a decline in national savings.

One important factor fueling the rise in last year's deficit was the rise in the price of imported oil. Imports of petroleum products rose 39 percent, to $251.6 billion.

That was by no means the whole story. Christian E. Weller, senior economist at the Center for American Progress, a Washington think tank, calculated that even if the deficit in petroleum had not increased, the overall gap still would have totaled a record $660 billion.

U.S. Trade Deficit Sets Record, With China And Oil The Causes (NYT)

By Vikas Bajaj

The New York Times, February 11, 2006

The United States trade deficit widened to a record $726 billion in 2005, the government reported yesterday, adding more fuel to the increasingly partisan debate between advocates of further globalization and those who contend that free trade is causing the loss of too many American manufacturing jobs.

Hitting its fourth consecutive annual record, the gap between exports and imports reached almost twice the level of 2001. It was driven by strong consumer demand for foreign goods and soaring energy prices that added tens of billions of dollars to the nation's bill for imported oil. The nation last had a trade surplus, of $12.4 billion, in 1975.

The continued growth in the trade deficit, particularly with China, is likely to renew a fight in Congress as early as this spring over President Bush's trade policies. Lawmakers have seized on the growing imbalance with China to call on the White House to take a harder line with Beijing over its currency practices.

But as long as the American economy is growing faster than most of its trading partners and energy prices stay at elevated levels, economists expect little improvement, and perhaps even a slight widening, in the trade imbalance this year.

"You would need a dramatic slowdown in domestic U.S. demand to bring down the U.S. trade deficit, and we think that is unlikely," said Dean Maki, chief United States economist at Barclays Capital in New York.

That means the nation will go deeper into debt with the rest of the world as Americans continue to rely on the strong flow of foreign money, particularly from central banks in Asia, to finance the trade gap. China, Japan and other foreign governments are some of the biggest holders of government securities, lending money to cover the substantial federal budget deficit and helping to keep interest rates and home mortgage costs here relatively low.

As a result, American consumers are able to spend more and save less.

Many economists say this situation is unsustainable over the long run, arguing that the United States could eventually face a harsh correction that would depress spending, increase the cost of borrowing and sharply lower the value of the dollar.

"There are certainly going to be inflows, the question is at what price?" said James O'Sullivan, an economist at UBS, an investment house. "As time goes on, it will become a little more difficult to attract foreign funds. That's another way of saying the dollar will fall."

But other economists argue that the huge trade gap mostly reflects stronger American growth and that money is flowing into the country at relatively low rates because of the attractiveness of the United States as a place to invest. They see little reason to fear a dollar crisis.

"As long as foreigners are willing to put their capital in the United States, we can sustain a trade deficit of 6 percent or more" of overall economic activity, said Phillip L. Swagel, a resident scholar at the American Enterprise Institute in Washington who served as a staff economist for President Bush's Council of Economic Advisers.

"It would be better that we saved more on our own," Mr. Swagel added, "but given that we aren't, I would rather have investment go on by foreign capital."

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For its part, the Bush administration urged caution on the deficit.

Commerce Secretary Carlos M. Gutierrez, touring an I.B.M. operation in North Carolina, told The Associated Press, "We can't overreact and make tactical choices that will hurt our economy."

As a share of the gross domestic product, the trade gap increased to 5.8 percent, from 5.3 percent in 2004 and 4.5 percent in 2003.

While most economists dismiss the importance of bilateral trade imbalances, it is the deficit with China that has set off the most political fireworks. That nation had the largest gap with the United States of any country, at $201.6 billion for the year, up 24.5 percent from 2004. In December, the deficit with China narrowed nearly 12 percent, to $16.3 billion.

Following increased pressure from the White House, the Chinese government allowed the yuan to rise by about 2 percent in July and allowed its currency to float in a narrow band. Since then the yuan, also known as the renminbi, has risen by an additional 0.7 percent. One dollar buys about 8.0505 yuan.

A stronger Chinese currency would make imports to the United States more expensive and American exports to that country cheaper. Most analysts agree the yuan would rise significantly if it were set free, but many experts also worry that many financial institutions in China are not strong enough to survive the shocks that might accompany a fully convertible currency.

In the Senate, Charles E. Schumer, Democrat of New York, and Lindsey Graham, Republican of South Carolina, have proposed imposing a 27.5 percent tariff on Chinese imports if the country does not allow its currency to appreciate further against the dollar. Late last year, the senators agreed to hold off on the measure after the Senate voted against stopping a floor vote on it.

Mr. Schumer said "there is a very strong likelihood that we will move our bill in March should the Chinese not show further movements."

"If you believe in free trade, you play by the rules," he said when asked if a protectionist tariff would hurt the American economy. "The long-term damage of the Chinese pegging their currency far exceeds any immediate benefits and almost every economist would agree with that. They might not agree with our methodology."

Experts note that a large portion of the deficit with China reflects its growing role as a hub for the assembly of goods as Asian manufacturers have shifted production there to save money. The overall deficit with Asia has changed little in recent years.

Bush administration officials have said they, too, would like to see the yuan appreciate further, but have contended that sanctions like a tariff would be counterproductive and would hurt consumers. This month, the Treasury Department urged the International Monetary Fund to improve its policing of currency manipulations by governments, without directly referring to China.

Treasury Secretary John W. Snow is expected to bring up the issue of exchange rates at a meeting of the Group of 8 finance ministers in Moscow this weekend.

But even some longstanding advocates of free trade are growing increasingly frustrated with China's intransigence on the currency front, warning that it may be inviting protectionist legislation by repeatedly deflecting Washington's requests.

"The administration," said C. Fred Bergsten of the Institute for International Economics in Washington, "has to let the Chinese know that it may not be able to stop it even though it doesn't want it."

While China draws most of the attention, perhaps the most important factor behind the swelling deficit last year was the rising cost of importing oil and other energy supplies. Trade in petroleum products accounted for 29 percent of the total deficit, up from 25 percent in 2004. Imports of petroleum goods climbed 39 percent, to $251.6 billion, after rising by 39 percent in 2004.

Over all, the deficit jumped nearly 18 percent in 2005 compared with the previous year. Excluding oil and other petroleum products, the trade gap grew by 10 percent.

After China, the United States' second-biggest deficit was with Japan, at $82.7 billion, up 9.4 percent, followed by Canada, a big supplier of oil and natural gas, at $76.5 billion, up 15.1 percent.

The deficit with members of the Organization of the Petroleum Exporting Countries increased by 29 percent, to $92.7 billion. For December, the trade deficit grew by 1.5 percent over the previous month, to $65.7 billion, as imports of computers, cars and airplanes rose and exports of planes, which had risen sharply in November, dropped. It was the third-largest monthly trade gap on record.

And with oil prices rising again, said Ashraf Laidi, chief currency analyst for the MG Financial Group in New York, "we can expect to see worse numbers to come."

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US Trade Deficit Balloons To Record $726bn (FT)

By Christopher Swann

Financial Times, February 11, 2006

The US trade deficit ballooned to a record $726bn in 2005, inflated by surging imports from China and soaring energy prices.

In December the US imported $65.7bn more than it exported, up from $64.7bn in November. The widening came in spite of a strong 2.1 per cent rise in exports. The increase was all the more impressive because volatile aircraft sales were down on the month. Imports grew by 1.9 per cent.

But with imports now almost 60 per cent larger than exports, American companies would have had to sell 3 per cent more abroad just to prevent the deficit from rising.

Over 2005, the deficit totalled 5.8 per cent of American national income. The current account deficit - a more inclusive measure that includes other income flows - was 6.5 per cent of national income.

Economists have long fretted that global investors will eventually become unwilling to finance the US deficit, without a fall in the dollar and a rise in US interest rates. So far, however, there has been no sign of demand for US assets weakening. Last year the dollar rose by 3.5 per cent on a trade weighted basis.

But Nigel Gault, the head of US analysis at Global Insight, a consultancy, said the risks were increasing to the US economy as the deficit continued to widen. “An accident has been a possibility for some time and the further we go down this road the greater the chances that it will come to an unhappy end,” he said.

The consultancy is expecting the trade deficit to rise further to $810bn this year. The politically sensitive bilateral deficit with China was $202bn in 2005 - a quarter of the total shortfall. The deficit was slightly lower on the month - falling from $18.5bn to $16.3bn.

US lawmakers have become increasingly restive over the rising deficit, threatening action unless China moves towards floating its undervalued currency and clamps down on theft of US intellectual property. Charles Schumer, a Senator from New York, has been proposing an increase in tariffs on Chinese goods to offset this alleged currency manipulation.

Imports of oil were less of a problem in December, falling to 311.5m barrels a day from 314. But during the course of the year, surging oil imports have blighted the trade figures.

Paul Ashworth, an analyst at Capital Economics, said the rising deficit with China was responsible for a third of the overall deterioration in 2005. “This will no doubt give protectionists in Congress some ammunition as the mid term elections approach,” he said.

Overall, the rising deficit detracted 1.2 per centage points from economic growth.

U.S. Trade Deficit Ballooned To A Record In 2005 (WSJ)

By Greg Hitt And Murray Hiebert

The Wall Street Journal, February 11, 2006

Widening Gap With China Likely to Revive Demands That Beijing Take Action

The nation's record $725.75 billion trade deficit last year, fed by a massive inflow of imports from China, is likely to aggravate protectionist sentiment in Congress and renew calls for Beijing to take steps to ease the imbalance.

The 2005 deficit -- 17.5% wider than the 2004 gap, according to a Commerce Department report released Friday -- comes at a time of high economic tensions between Beijing and Washington, and it produced an immediate reaction.

Sen. Charles Schumer, a New York Democrat and one of China's most vocal critics on Capitol Hill, said that "the numbers show the need for China to play fair." Indeed, the yawning trade gap, which came despite an improved performance by U.S. exporters, is expected to reignite a battle over policies that critics say keep China's currency artificially weak, giving its goods an unfair advantage in global markets and threatening U.S. jobs.

That battle seemed to subside last year after China allowed the value of its currency, which had been pegged to the dollar, to fluctuate in a narrow range against a basket of other currencies. Though the increase has been modest, the yuan closed Friday at its highest level against the dollar since the July revaluation.

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Even so, Mr. Schumer said that he and Sen. Lindsey Graham, a South Carolina Republican, may push next month for a Senate vote on their proposal to impose a 27.5% across-the-board tariff on Chinese goods if Beijing fails to do more to strengthen its currency. The senators have twice postponed votes on the measure, which enjoys wide support, to give the Bush administration more time to work with China on the issue. But Mr. Schumer said he is running out of patience. Sen. Graham plans to visit China in the spring to stress the depth of congressional concerns.

Oil also contributed to the gap. U.S. imports of petroleum products jumped 39.4% in 2005, as oil prices surged world-wide and refineries along the Gulf of Mexico were damaged by Hurricane Katrina.

But China commanded the bulk of the political attention. For the year, the U.S. deficit with China -- by far its largest gap with any single country -- rose to a record $201.62 billion, up more than 20% from $161.97 billion in 2004.

Despite the political heat generated by such numbers, the economic relationship between the U.S. and China is more complex than the figures indicate. For one thing, Commerce Department's data on trade between two countries includes only goods, not services, where American companies have a greater competitive edge. The U.S. ran a small overall surplus in services in 2005.

The U.S. and China also calculate the trade imbalance differently. Last month Beijing released figures suggesting its trade surplus with the U.S. was only $114.2 billion. Behind the discrepancy is the intermediary role Hong Kong plays in the shipment of goods, argued U.S. Federal Reserve Board analysts in a recent report. Washington counts in its trade figures with China goods shipped through Hong Kong, while Beijing doesn't count those transitory shipments.

Some analysts say all official statistics inflate the value of Chinese exports, because a growing number of U.S. and Asian companies now ship components to China for final assembly. However, China's export figures reflect the full value of those products, rather than the value added in China. More than 58% of China's total exports -- and 64% of its exports to the U.S. -- last year came from foreign companies or foreign joint ventures, according to China's General Administration of Customs.

Businesses in the U.S. and elsewhere also typically share in the profits reaped from marketing Chinese-made goods. For example, a bra produced in China by Ace Style for such labels as Vanity Fair or Calvin Klein retails at Wal-Mart for about $23. Chief Operating Officer Stephen Lo estimates that the Hong Kong-based manufacturer earns about 50 cents for each bra, while the retailer and brand owner earn $1.15 to $2.30 each. The remainder goes to covering production costs, as well as transport and other costs incurred by Wal-Mart Stores Inc.

While some smaller U.S. manufacturers complain about Chinese trade, major American multinationals -- which have benefited from the lower costs of producing and outsourcing there -- have been muted in their criticism. Meanwhile, a January study by the U.S.-China Business Council, which represents U.S. companies doing business in China, says that increased trade with China will lower prices, boosting real disposable income for American families by $1,000 a year between 2001 and 2010.

At the same time, the big U.S. trade deficit with China allows China to lend more money to the U.S. In the first 11 months of 2005, Chinese investors purchased a net $81 billion of U.S. bonds, which may have helped keep U.S. long-term interest rates down. Those kinds of benefits, however, do little to allay the widespread fears sparked by the painful changes wracking the U.S. economy as manufacturing and other high-wage jobs are shipped abroad.

Despite its free-trade leanings, the White House has started tapping into this angst. In his State of the Union speech, President Bush cited the challenge posed by China to justify a new initiative aimed at improving the competitiveness of American industry. Mr. Bush is proposing to boost spending on math and science education and to extend tax breaks supporting business research. Moreover, Mr. Bush's top trade negotiator, Rob Portman, is expected to embrace more aggressive use of trade remedies in his long-awaited "top to bottom" review of U.S. policy toward China. The review could be released as soon as next week.

On Capitol Hill, where lawmakers face election-year pressures, the climate is ripe for legislation that would toughen U.S. policy toward China. Just this week, leading House Democrats unveiled legislation to create a new prosecutor for trade disputes. And a bipartisan group of senators called for repeal of normal trade relations with Beijing, a move that would raise tariffs on goods shipped from mainland China.

The heightened tensions will add drama to Chinese President Hu Jintao's planned visit to Washington in April. China isn't likely to move aggressively to address currency concerns before then. But as pressure grows on Beijing, one "solution for the

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Chinese government...to narrow the trade deficit" would be to sign a series of business deals with U.S. companies, perhaps to buy additional civilian aircraft or for U.S. nuclear-energy equipment, said Yuan Gangming, a researcher at Tsinghua University's China and World Economy Center.

Beyond China, total U.S. imports of goods and services last year reached nearly $2 trillion, up $227.8 billion amid strong U.S. demand for foreign-made autos, consumer goods and industrial supplies, among other things. Exports totaled $1.271 trillion, up $119.7 billion, helped by sales of civilian aircraft, medical equipment and heavy machinery.

December's trade deficit was $65.67 billion, up slightly from November's revised $64.69 billion. Exports were $111.51 billion, up $2.3 billion from November. Imports rose $3.3 billion to $177.2 billion. Analysts said that, because the December gap was smaller than prior official estimates, the government might raise its estimate of fourth-quarter economic growth to a 1.3% annualized pace, up from the previously reported 1.1%.

---- Mei Fong, Kersten Zhang, Zhou Yang and Cui Rong contributed to this article.

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TODAY'S MARKETS (WSJ)

By SCOTT PATTERSON

The Wall Street Journal, February 11, 2006

Oil, Stocks Conclude Volatile Week

Despite Stock Gains,

Market Remains Wary

February 10, 2006 10:44 p.m.

Early Friday, stocks declined as oil prices moved higher. By the end of the day, stocks and oil had switched places, helping to cap a turbulent week on Wall Street with a moderate gain.

Analysts said the decline by oil prices helped ease investors' fears of another factor dragging on stocks: the Federal Reserve.

"Oil has been down all week," said Jay Suskind, director of trading at Ryan Beck. "There's been this fear of inflation, and with [oil prices falling], that takes some pressure out of inflation," leading to hopes that the Fed may not have to raise short-term rates higher than most investors feel comfortable with.

The Dow Jones Industrial Average rose 35.70 points to 10919.05, and is up 1.9% year to date. The Standard & Poor's 500-stock index gained 3.21 to 1266.99, up 1.5% for the year, and the Nasdaq Composite Index added 6.01 to 2261.88, up 2.6% this year.

Oil fell 78 cents to $61.84 a barrel on the New York Mercantile Exchange Friday, having declined four out of five days this week. For 2006, though, oil is still up 1.3%.

Gold futures, which have whipped around this week, sank $14.50 to $553.50 a troy ounce on the Comex division of the Nymex. For the week, gold is down $17.20 an ounce, or 3%. Gold, which is up 6.4% in 2006, has had six days of move of more than $10 so far this year, and half of those big swings came just this week.

Fed jitters could come back next week, though, when new chairman Ben Bernanke appears before Congress. If Mr. Bernanke sounds a hawkish tone about rates, investors will let the stock market have it.

Despite a strong showing this week, analysts are wary of stocks. The Dow industrials are on a Sisyphusian trek toward 11000 after cracking and losing that elusive level in January. Until blue-chip stocks make another move past 11000, strategists don't think the market can have a strong, sustained rally.

"This kind of churning action is fairly typical of late stage bull markets, and that's where I still think we are," said Kenneth Tower, chief market strategist at CyberTrader. "This bull market started in October 2002, and it's getting old."

Friday, the decline by oil helped investors look past a largely unsurprising government report that the U.S. trade deficit widened9 1.5% in December, hitting a record $725.76 billion for 2005, up 18% from $617.58 billion in 2004. December's $65.68 billion deficit was wider than the $64.70 billion gap expected. A brief rise in oil prices at the open added to the negative tone, though prices have since turned lower.

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Investors also kept their eye on the bond market a day after the first auction of 30-year Treasurys in five years. Strong demand for the "long" bond has dropped yields for more seasoned maturities lower than short-term bond yields, leaving the yield curve fully inverted. The two-year Treasury note fell 2/32 point to yield 4.69%, while the 30-year bond slid 21/32 point to yield 4.55%.

Economists are concerned about the inverted yield curve -- so called because the normally upward slope of yields plotted on a graph is reversed -- which in the past has been correlated with recessions. Weak appetite for short-term securities indicates concerns about the near-term strength of the economy. The curve inverted briefly in late 2005, triggering a stock selloff on Wall Street. In recent weeks, the inversion seems to be worsening.

In major market action:

Stocks rose10. On the New York Stock Exchange, where 1.71 billion shares traded, 1,721 stocks rose and 1,610 fell. On the Nasdaq Stock Market, where 2.04 billion shares traded, 1,358 rose and 1,613 declined.

Bonds declined11. The benchmark 10-year Treasury note fell 12/32, or $3.75 per $1,000 invested, to yield 4.588%. The 30-year bond slid 21/32 to yield 4.553%. Yields move inversely to prices.

The dollar was mixed.12 It traded at 117.80 yen, down from 118.76 yen late Thursday, while the euro fell to $1.1905 from $1.1981.

Stocks Close Higher On Rebound (LAT)

Times Wire Services

The Los Angeles Times, February 11, 2006

Concerns about Pfizer's profit warning and the U.S. trade deficit drag the Dow down most of the day. Major indexes end the week mixed.

Stocks rebounded from an earlier decline to post moderate gains Friday as investors looked past a mediocre outlook from Pfizer and a new record U.S. trade deficit. The major indexes finished the week mixed.

Pfizer's profit warning dragged the Dow Jones industrial average into negative territory for most of the day and added to traders' concerns about weak overall corporate earnings in 2006 amid a slowing economy. A fourth straight record trade deficit of $725.8 billion last year also left Wall Street wondering whether rising energy and import prices could spark domestic inflation.

But the market managed to recoup its losses and pressed higher late in the day, giving the Dow a sturdy advance this week. Analysts have been expecting volatility among stocks following January's rally and with no major events on the horizon to clarify investors' uncertainty about the economy.

Steven Goldman, chief market strategist for Weeden & Co., said traders were assessing the latest round of earnings reports and whether stocks are fairly priced — or even overpriced. He added that the widening gap between short- and long-term bond yields also stoked worries about a downturn.

"To me, valuation on the average stock has reached fully valued territories," Goldman said. "If you look at price-to-earnings-ratios, they're within 7% of the all-time high."

The Dow rose 35.70 points, or 0.3%, to 10,919.05, after losing as much as 63 points early in the session.

Broader stock indicators also reversed course to close higher. The Standard & Poor's 500 index gained 3.21 points, or 0.3%, to 1,266.99 and the Nasdaq composite index advanced 6.01 points, or 0.3%, to 2,261.88.

For the week, the Dow was up 1.2%, the S&P 500 added 0.2% and the Nasdaq slipped 0.03%.

U.S. Treasury yields rose as dealers braced for potentially troublesome comments from new Federal Reserve Chairman Ben S. Bernanke in testimony to Congress next week. Bond yields move in the opposite direction as prices.

In recent days the market has become more convinced that Bernanke's comments will be upbeat on the economy and thus bearish for bond prices, setting the stage for perhaps two more additional rate increases by the Fed.

The 10-year Treasury note rose to 4.59% from 4.54% on Thursday. Gold futures plunged $14.30 an ounce to $550.20.

Crude oil futures slipped following a report suggesting that high prices were starting to stifle demand. The drop came even as concerns about political unrest in oil-producing countries persisted, with a barrel of light crude losing 78 cents to $61.84 in New York trading.

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In other market highlights:

• Investors were unhappy with a lowered sales outlook for Pfizer's top-selling Lipitor cholesterol drug. The company's 2006 earnings forecast of $2 a share was 3 cents short of analysts' estimates. Pfizer dropped 66 cents to $25.68.

• Insurer Aon rallied $3.23, or 9.3%, to $38.11 for the best performance in the S&P 500. Its fourth-quarter net income surged to $224 million from $81 million on growth in its North American brokerage business, lower litigation expenses and a gain from the sale of a unit.

An index of insurers gained 1% for the fourth-best performance among 24 industry groups in the S&P 500. American International Group added 78 cents to $67.90, a day after agreeing to pay $1.6 billion to settle fraud and bid-rigging allegations.

• A gauge of energy shares retreated 0.5% for the worst performance among 10 industry groups in the S&P 500 as oil prices declined. Valero Energy, the biggest U.S. refiner, slid $2.33 to $50.65. Exxon Mobil fell 49 cents to $59.43.

• Oracle confirmed late Thursday that it would cut as many as 2,000 jobs as part of its effort to absorb its recent acquisition of Siebel Systems and issued earnings guidance in line with Wall Street forecasts. Oracle finished flat at $12.69.

Among other technology issues, Google added $3.84 to $362.61 and Apple Computer rose $2.36 to $67.31.

Proxmire Remembered For Humble Handshakes (MJS)

By STEVEN WALTERS

Milwaukee Journal Sentinel, February 11, 2006

State's leaders recall how longtime senator shaped politics

Madison - Former U.S. Sen. William Proxmire was remembered Friday as a Democratic Party pioneer, an everyman who tirelessly shook hands at sporting events and plant gates and who spent only $145 on his last re-election campaign in 1982.

In his 32 years in the Senate, Proxmire was a champion of taxpayers, a man of unquestioned integrity and someone who was not afraid to take on his own party's leaders, said speakers at the Capitol memorial service attended by more than 300.

Proxmire died Dec. 15 at the age of 90.

After Republican U.S. Sen. Joseph McCarthy died while in office in 1957, Proxmire won in an upset in a special election against the sitting Republican governor. That "made it safe for people to vote Democratic in this state," said U.S. Rep. Dave Obey (D-Wis.), the longest-serving member of the state's congressional delegation.

"He was the first to get to the promised land," Obey said.

Proxmire's refusal to take campaign contributions made him independent of all special-interest groups, Obey said. That's especially noteworthy, given the current influence-peddling scandals that have led to the conviction of Washington, D.C., lobbyist Jack Abramoff and investigations of other members of Congress, he said.

"Absolutely no one ever questioned Proxmire's integrity," Obey said.

Proxmire's 1957 win was a "breakthrough" for Democrats, said Gov. Jim Doyle. It ushered in 18 years of two of the nation's leading Democrats - Proxmire and Gaylord Nelson, who died July 3 - representing Wisconsin in the U.S. Senate, the governor added.

Proxmire won that U.S. Senate seat after three straight losing Democratic campaigns for governor.

Two Democratic members of Congress from Wisconsin, U.S. Sen. Russ Feingold and U.S. Rep. Ron Kind, remembered when Proxmire shook their hands as children outside sporting events. Kind said he was 11; Feingold, who was 9 when he first met Proxmire, said the senator shook so many hands that his own right hand sometimes bled.

When Proxmire told Kind, "I'm Bill Proxmire - your U.S. senator," Kind said, it triggered a "lifetime of fascination" with politics.

Kind later worked as an intern in Proxmire's Washington office and helped write some of the senator's speeches - including some of the 3,000 speeches he gave every day the Senate was in session calling for Congress to ratify an international anti-genocide treaty.

That treaty was finally ratified in 1986.

U.S. Sen. Herb Kohl (D-Wis.), who won Proxmire's seat in the Senate after his 1989 retirement, said Proxmire always returned one-third of his office expenses to taxpayers and cast 10,252 straight roll-call votes.

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Proxmire "was the last of the true populist politicians," Kohl said.

John Finerty, who served as Proxmire's campaign treasurer, said the senator spent $177 on his 1976 campaign and only $145 on his final campaign in 1982. All campaign donations were sent back, Finerty said.

Finerty said Proxmire's favorite factory gate was at the Allis-Chalmers plant on S. 70th St. in West Allis. Proxmire would shake the of hands of hundreds of factory workers entering and leaving the plant, then sprint to another parking lot to greet shift supervisors and managers, Finerty recalled.

Other speakers recalled Proxmire's legendary fitness - the staples of his diet were fruit, vegetables and freshly squeezed grapefruit juice, Finerty noted - and how he jogged 5 miles each day, including to and from work when he was in Washington.

His widow, Ellen Proxmire, said her husband waged a long, courageous battle with Alzheimer's disease.

As the disease progressed, she said in a taped tribute, "his world became smaller and smaller."

Of Mouse And Women (WP)

By Bob Thompson

The Washington Post, February 11, 2006

Karenna Gore Schiff Writes About Heroines Who Saved the Day

NEW YORK Let's begin with a brief case study in how the cynical, superficial American media (that's us) can distort the lives of political figures and their families.

We are talking with Karenna Gore Schiff about her new book, "Lighting the Way: Nine Women Who Changed Modern America." The smart, personable 32-year-old daughter of the Man Who Was Almost President tells us she wrote it as a kind of therapy, an antidote to the "punched-in-the-gut" feeling she got whenever she looked at the newspaper after the 2000 election.

We nod. Seems perfectly understandable.

She also wrote the book, she says, because ever since she was a little girl, she has wished there were "more female faces in the historical pantheon." She remembers sitting at her desk at Arlington's Oakridge Elementary School, looking at the chart of the presidents on the wall and wondering why they were all male.

We'll buy that. We've got daughters ourselves, don't we?

In fact, there isn't the slightest reason to doubt the sincerity of the motives that Schiff cites for launching her literary venture. But we have a problem with them anyway.

Her reasons are just a little too . . . reasonable . We start picturing that glazed look in our readers' eyes, the one that shows up just before they abandon us for the Boondocks and Zippy the Pinhead.

Ah, but then Schiff lets her guard down for an instant -- despite a lifetime of watching journalists turn Al and Tipper Gore into unrecognizable caricatures of the parents she knows and loves -- and lets slip something we can twist into a sexier lead.

Why did she really write this book? Hey, isn't it obvious?

It's because her mom wouldn't let her watch "Mighty Mouse" as a kid.

Hold that thought for a while. It may not be quite as ridiculous as it sounds.

* * *

As Schiff explains the origins of "Lighting the Way," she sips water in the living room of the Upper East Side apartment she shares with her husband, Drew, a physician, and their two children, 6-year-old Wyatt and 4-year-old Anna. Built-in bookcases line one wall. There's a ladder in case anyone needs to reach the upper shelves.

In November 2000, she says, she was exhausted from campaigning and looking to focus on her family. Still, she headed down to Washington now and then to be with her parents -- "sitting on the train or the shuttle and trying not to listen to all the conversations around me, because they were so painful" -- as her father contested the Florida election result.

Just losing would have been bad enough. But losing the way Al Gore lost . . . well, it was "a very dark time."

It got worse with 9/11 (Schiff and her family were in Manhattan that day) and the run-up to the invasion of Iraq. She was stunned by the way people who disagreed with the administration's decision to go to war or even questioned the way the war was to be conducted were "shut up and shouted down and pushed aside and more or less called traitors."

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Cynicism seemed a logical option, but she didn't want to go there; she had seen too much of it among her generational peers. Instead, she sought refuge in the American past. She would tell the stories of women -- maybe not presidents or even politicians, but public servants just the same -- who had changed the world for the better despite the scorn the "mainstream" heaps on dissenters.

Take anti-lynching crusader Ida B. Wells-Barnett. Born into slavery in 1862, she became the nation's leading agitator against the barbaric practice of stringing up black men for the merest hint of an offense -- never mind if it was false -- toward a white woman. Nothing seems easier today than to say that lynching is wrong, but that was a less-than-mainstream notion in the 1890s. Schiff cites editorials in this newspaper and the New York Times condemning Wells-Barnett for her "exaggerations," as The Post put it, and for her shameful failure to highlight black crimes against whites .

Take Alice Hamilton, a pioneer in occupational medicine. Hamilton "saw men and women poisoned and crippled by their work," as Schiff writes, and became "at the height of the Industrial Revolution, one of the only physicians who made workplac e safety her mission." In 1919, she became the first woman appointed to the Harvard faculty, though Schiff notes that the university barred its new hire from ever taking part in commencement or -- God forbid -- receiving "the treasured faculty football tickets."

Or take labor organizer Mary Harris "Mother" Jones, better known these days for lending her name to a left-wing magazine than for her efforts to confront the early 20th-century horrors of child labor. Mother Jones's personal story (she lost her husband and all four children to a yellow fever epidemic) fascinated Schiff, but she was equally concerned to sketch the forgotten context of Jones's activism.

"It was totally accepted by the leaders of the business and the political worlds that 8-, 10-, 11-year-olds were going into factories, working 12-hour days, getting maimed by machinery and poisoned by new chemical processes," she says. "There was no recourse and there was no accountability. They just blatantly defended that, saying, 'That's the free market.' "

Schiff writes about Septima Clark, whose "citizenship schools" were crucial to the success of the civil rights movement, and about Virginia Durr, who fought segregation from the other side of the color line. In addition to Durr's own accomplishments, she witnessed what Schiff calls "one of the most striking moments in United States history."

At a conference in Birmingham, first lady Eleanor Roosevelt was evicted by police when she sat down in the section reserved for blacks. Refusing to abandon the principle of integration, Roosevelt found a folding chair and plunked herself in the middle of the aisle separating black and white. The New York Times, which covered the Birmingham event, failed to mention this.

Four other formidable women round out Schiff's list. None is a household name. Schiff wanted to add faces to the pantheon, not just praise those already enshrined.

We ask what she found most surprising about the lives of these nine women who fought racism, child labor, industrial poisoning and the indifference of society toward the needs of the poor? The answer comes with a short laugh.

"I was surprised -- and sort of oddly exhilarated -- by the venom in the established media toward them," Schiff says.

* * *

So far, so good. There's one thing that has been nagging at us, however, and we need to politely bring it up.

"Mainstream" is clearly one of Schiff's favorite words -- and it mostly carries a negative connotation. The women featured in "Lighting the Way" struggle constantly against mainstream politicians, the mainstream press and mainstream thinking in general.

But isn't there something slightly odd about this choice, coming as it does from the daughter of a man sufficiently mainstream to win the popular vote in a national election?

We're not criticizing dad , we assure her. Yet we're talking about the son of a U.S. senator, a Harvard-educated family scion seemingly born to high office. We're talking about a congressman, senator and then a vice presidential candidate who balanced a centrist presidential ticket by carefully tipping it neither left nor right. We're talking . . .

Schiff politely interrupts to say she sees her family legacy -- differently.

When she first became politically aware, she explains, it was the middle of the Reagan era. "He was immensely popular," she reminds us, yet her father was saying that "he's taking the country in the wrong direction, he's ignoring things that are truly important." This had a big impact, even on a teen soon to enter a rebellious phase. Another relevant bit of family history --

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impressed on her "from early childhood" -- was her grandfather's U.S. Senate defeat in 1970 for being out of the Southern mainstream on Vietnam and civil rights. And by the way, have we checked out her dad's speech last month on wiretapping?

We promise to Google the speech later; we then shift gears slightly.

It's not only that Schiff's women seemed to operate further from the political mainstream than Al Gore has, we suggest. It's that they were mostly neck deep in humanity, fighting for people -- be they 8-year-old children sent to work in mills and mines, African Americans terrorized into second-class citizenship, or factory workers poisoned by lead dust. Gore's major concerns, from the arms race to the environment, gravitate more toward systems and abstractions.

"That is definitely accurate," Schiff says, and laughs. She won't cop to Gore-as-wooden-wonk stereotypes, though. He may not be "the schmoozy type," but that's something she happens to love about him.

Speaking of media distortions: Schiff recalls how her mother got typecast as a pro-censorship prude. This was back in the '80s, when she was pressuring the music industry to put parental advisories on its increasingly raunchy and violent products.

The media version "was just so unrecognizable," she says.

Maybe so, we're tempted to say, but what about that disturbing episode with the cartoon mouse?

* * *

Some of you out there might not remember Mighty Mouse, the non-Disney animated flying rodent whose motto was "Here I come to save the day!" Schiff doesn't even know if he shows up in reruns anymore. But the Mouse of Steel, as he was also known, was quite popular when she was 6 or 7 -- and she wasn't at all pleased when her mother told her she couldn't watch.

"I'm still a little bit upset about it," she says.

"It was a huge fight," the villain confirms when we call later to check out the story. "It was one of those things. I said no."

Sex and violence weren't the issue. It was a gender role thing.

"The theme of every episode was that the girl mouse would get into trouble somehow and be kidnapped," Schiff explains, "and then it would be 'Mighty Mouse to the rescue!' and he would come and rescue her and he would be kissing her at the end and she would be fawning all over him."

Tipper Gore says, "It was giving a message to my daughter. I wanted to change that."

Schiff's immediate response was to watch the forbidden cartoon at a friend's house whenever she could, scarfing "Wonder Bread and butter-and-sugar sandwiches" in defiance of the Healthy Food Police as well. But in the long run, her mother's point got through: "I still internalized that there was something to question there."

"She became a feminist at 11," Gore says. "When I say feminist, I'm talking about equality and awareness of perceptions of roles."

So there we have it. Obviously it was just a short step from confronting the gender implications of "Here I come to save the day!" to writing a book about women with the confidence and drive to, well, save the day themselves.

Ridiculous? Of course.

But maybe containing a hint of truth just the same.

For the mother-daughter conversation didn't stop with Mighty Mouse. "She was always reminding us to question how women were portrayed in movies or ads or whatever," Schiff says, "and encouraging us to think that we could do whatever we wanted." The three Gore girls got that message from their father, too.

Schiff went from somewhat shy kid in elementary school to confident high schooler who excelled in lacrosse, field hockey and competitive water skiing. She studied history and literature at Harvard and law at Columbia and did a bit of journalism in between.

Along the way, she went through what she calls a "bratty" phase with her mother. She couldn't help but notice that dad was the one with the big career.

"Why don't you work," she would ask, "you know, like my friend's mom?"

With children of her own, Schiff says she understands the conflicts better now. It's one of the things she tried to highlight in the lives of her nine women.

And her own life? When she looks into the future, what does she see?

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Maybe she'll do another book, she says, and maybe it, too, will be history related. (She has given some thought to her Tennessee homeboy, Davy Crockett.) She knows she needs time for her kids; she has already left one legal job in which even a part-time schedule was too demanding. But it's a measure of the way the world has changed since her mother and grandmother's day that she gets the do-you-think-about-running-for-office question all the time.

Schiff doesn't know, she tells us. She hasn't ruled it out. But her book, in part, is an exploration of other ways to be a public servant.

We offer no opinion, of course, but we do know this:

If she runs, she's in for a lot of tough questions about that flying mouse.

Rice: Russia Should Send Message To Hamas (AP)

By BARRY SCHWEID

AP, February 11, 2006

WASHINGTON - Secretary of State Condoleezza Rice urged Russian Foreign Minister Sergey Lavrov on Friday to send a clear, strong message in any meetings with Hamas officials that the militant group must stop terror attacks on Israel.

In response, State Department spokesman Sean McCormack said, Russian officials offered assurances that "they will send this very clear, strong signal" adopted by Russia along with the United States, the United Nations and the European Union in a joint statement approved in response to Hamas' strong showing in Palestinian parliamentary elections.

Russian President Vladimir Putin has invited Hamas officials to Moscow and, while no date has been set, McCormack said the assumption was the talks would be held. Israel has responded to the invitation with fury.

In Jerusalem, Israeli officials said Putin's invitation betrayed Israel and could strain relations between the two countries.

The statement adopted by the Quartet overseeing Mideast peace efforts does not address whether nations should meet with Hamas leaders, and governments are to decide for themselves, McCormack said. Egypt has been holding such meetings.

"The Russians made this decision," McCormack said.

For its part, the Bush administration has pledged to have no contact with Hamas until it renounces its call for Israel's overthrow and accepts the existence of the Jewish state.

Besides Rice's conversation with Lavrov, U.S. Ambassador to Russia William J. Burns has been in touch with the Russians to underscore the view that Hamas is a terrorist organization, McCormack said.

He said the U.S. message to Russia, and Egypt as well, is that "they be consistent in sending the same message to Hamas."

Putin made his overture to Hamas on Thursday during a visit to Spain.

"We have never considered Hamas a terrorist organization," he said. "Having maintained our contacts with the organization Hamas, we intend to invite their leaders to Moscow in the near future to search for solutions."

On Thursday night, Egypt's ambassador to Washington, a veteran observer of ups and downs in Middle East peacemaking, said that dismay over the election of Hamas to form a Palestinian government is symptomatic of memory loss.

Israelis and Palestinians in the past refused to recognize each other, Nabil Fahmy recalled, but a lot of people seem to have forgotten that.

Fahmy suggested there is a lesson to be learned from the fact that the two sides got past their hard-line positions and made headway toward a settlement.

In the current impasse, the rise to political power of the Palestinian group Hamas in recent elections has derailed any serious attempts at peacemaking.

But Fahmy said, "I would caution against those who say we cannot find a solution."

Reaching into the past to make his point, the ambassador recalled that the Palestine Liberation Organization for years refused to accept the existence of Israel, while late Israeli Prime Minister Golda Meir questioned whether there was an identifiable Palestinian people.

Ultimately, Palestinians came around to acknowledging Israel and Israel has accepted the principle of a Palestinian state.

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Fahmy said during a policy discussion at the Woodrow Wilson Center for International Scholars that Egypt was trying to counsel Hamas.

"You need to build on what has been achieved for the Palestinian people," he said.

Egypt is a classic example of an Arab country that turned itself around.

After several wars with Israel, Egypt in 1979 signed a peace treaty with the Jewish state. It exchanged its acceptance of Israel for return of all the land it had lost to Israel in those wars.

The peace treaty has held to this day.

Rice Talks To Russian Foreign Minister Over Hamas (REU)

By Sue Pleming

Reuters, February 11, 2006

Secretary of State Condoleezza Rice won assurances from Russia on Friday that Moscow would send a firm message to Hamas that the militant group must change if it wants world support, the State Department said.

Rice telephoned Russian Foreign Minister Sergei Lavrov on Friday to discuss Moscow's surprise plans to invite Palestinian election winner Hamas for talks, a move that irked Washington and was not discussed when Rice met Lavrov in London last week.

"We have been assured that should the Russian government meet with Hamas, that they would send that -- that the meeting would be with the intent of sending that clear, strong message," said State Department spokesman Sean McCormack.

The United States classifies Hamas as a terrorist body and has ruled out any direct contact until the militant group renounces violence, disarms militants and recognizes Israel.

The so-called Quartet of peace brokers between the Israelis and the Palestinians -- the United States, the United Nations, Russia and the European Union -- met in London last week and issued a statement threatening to cut aid if Hamas did not meet these conditions. Contacts with the group were not mentioned.

Hamas, which had a convincing win in the January 25 Palestinian election, has masterminded more than 60 suicide bombings against Israelis since 2000. It has rejected conditions laid down for getting aid and says they amount to blackmail.

France, in an apparent break with the United States, has signaled support for the Russian meeting and said such talks might advance the position of the Quartet.

Asked whether he thought Russia's planned meeting with Hamas and France's support highlighted a split in the Quartet in how to deal with Hamas, McCormack said individual nations had the right to choose whether they had any contact with the militant group.

But he stressed the Russians had not yet set a date for a meeting and a decision had not yet been taken over who might attend the discussions.

"What we have stated very clearly is that individual countries will make sovereign decisions about issues related to aid, issues related to contact," said McCormack.

The United States, which has given more than $1.5 billion in aid to the Palestinians since 1993, was working closely with the European Union to discuss legal and other issues connected to giving aid to the Palestinians.

Last year, the EU gave the Palestinian Authority 500 million euros ($615 million).

While the United States and other Quartet members have threatened cutting off aid to a Hamas-led government, they are looking at ways of channeling humanitarian help to the Palestinians without going through Hamas.

France Backs Putin On Speaking To Hamas (NYT)

By Joel Brinkley

The New York Times, February 11, 2006

WASHINGTON, Feb. 10 — France on Friday endorsed Russia's decision to hold talks on the Middle East conflict with Hamas, the radical Islamist Palestinian group, saying the discussion "can contribute to advancing our positions."

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Other European countries distanced themselves from the French statement, which appeared to be in defiance of the American and European view that Hamas is a terrorist organization and therefore should not be officially recognized. Israel condemned it. But the United States took a more cautious approach.

"Our position is not to tell the whole world that they can't talk to Hamas," said a senior State Department official, speaking on condition of anonymity. "That would be hard to enforce. The issue is less who's talking than what they are saying."

On Thursday, President Vladimir V. Putin of Russia said he was considering inviting Hamas, the winner of the Palestinian parliamentary elections on Jan. 25, to Moscow for talks, and on Friday the Kremlin confirmed that it would do so. Mr. Putin's remarks took the Bush administration and European leaders by surprise.

Israel reacted to the Russian decision with fury on Friday. Transportation Minister Meir Sheetrit called the Putin invitation "a real knife in the back."

But in Washington, a State Department spokesman, Sean McCormack, said Secretary of State Condoleezza Rice telephoned the Russian foreign minister, Sergey V. Lavrov, on Friday and was reassured to hear that the Russians would deliver a "clear, strong message" to Hamas.

The United States considers Hamas a terrorist group, and American officials are forbidden to talk to the organization. The European Union's policy on talks is not as clear, several officials and diplomats said in interviews. But none said their countries would talk with Hamas.

Foreign minister Frank-Walter Steinmeier of Germany is to go to Israel and the Palestinian territories on Sunday, but a German official insisted, "He is definitely not going to talk to Hamas."

A French diplomat said France "won't have contacts with Hamas," despite its statement of support for the Russian talks.

Speaking to reporters in Paris on Friday, Denis Simonneau, a French Foreign Ministry spokesman, said Russia had not informed European leaders of its intent to talk with Hamas. Still, he added, "we share with Russia the goal to bring Hamas to the positions which allow us to reach the goal of two states living in peace and security."

"As long as we remain within the framework of the goals and principles that we have set for ourselves, we consider that this initiative can contribute to advancing our positions" — specifically that Hamas disarm, renounce violence, recognize Israel and respect previous agreements with Israel.

Sabbath had begun in Israel by the time the French position became known in Jerusalem on Friday. But Daniel Ayalon, the Israeli ambassador to Washington, said in an interview, "I wish they would not have said anything about having a dialogue with terrorists."

Israeli officials in Jerusalem were less restrained when speaking on Friday about the Russian decision.

Housing Minister Zeev Boim said, "Putin is dancing with wolves."

Foreign Minister Tzipi Livni, returning from New York on Friday, said, "Every sign of weakness and of recognition will be interpreted by Hamas as legitimizing terror."

Egyptian Diplomat Is Released

GAZA, Saturday, Feb. 11 (Reuters) — An Egyptian military attaché kidnapped Thursday by gunmen in Gaza was released unharmed on Saturday, an Egyptian official in Gaza said.

A previously unknown militant group, calling itself the Free Men Brigades, had claimed responsibility for the kidnapping of the diplomat, Hussam al-Musli, demanding the release of all Palestinians held in Egyptian prisons.

The Egyptian official who had announced Mr. Musli's release would not discuss the circumstances.

Israel And US On Back Foot Over Hamas (FT)

By Guy Dinmore And Peter Spiegel

Financial Times, February 11, 2006

US and Israeli efforts to isolate Hamas diplomatically appeared to be further undermined on Friday as France cautiously endorsed a Russian offer of talks with the militant Palestinian group.

The Bush administration and Israel have refused to deal with Hamas – listed as a terrorist organisation by Washington and the European Union – which is forming a government following its victory in last month's Palestinian elections.

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US officials admit they were blindsided and dismayed by Vladimir Putin, the Russian president, when he proposed on Thursday inviting Hamas to Moscow for talks. The White House was left urging Russia to use the occasion to underscore the principles it had signed up to as a member of the international Quartet – made up of the US, Russia, the EU and the United Nations – that Hamas recognise Israel, renounce violence and endorse existing agreements.

US officials said they thought they had an understanding that no party would unilaterally talk to Hamas.

Meir Sheetrit, an Israeli cabinet minister, on Friday accused Mr Putin of "stabbing Israel in the back". But France said Russia's initiative could be positive as long as Moscow stuck to the Quartet's agreed principles.

Sergei Ivanov, the Russian defence minister, said all Quartet members would eventually have to deal with Hamas. "Hamas came to power as a result of a free, democratic election," he said at a Nato meeting in Sicily.

He added, however, that Russia remained troubled by Hamas's refusal to recognise Israel and to commit to resolve its disputes with the Jewish state peacefully.

Sergei Lavrov, Russian foreign minister, on Friday assured Condoleezza Rice, US secretary of state, that Moscow would send Hamas a "very clear, strong signal" that it must meet the conditions of the Quartet, the US State Department said.

Putin's Flexible Definition Of Terrorism (TIME)

By YURI ZARAKHOVICH

Time, February 11, 2006

The Russian leader welcomes Hamas, but jails a Chechnya human rights advocate

Who, exactly, counts as a terrorist? If you're Russian President Vladimir Putin, the definition might just depend on how close or far the "terror" is from Moscow. A court in the Nizhniy Novgorod regional center last week gave a suspended two year sentence to Stanislav Dmitriyevsky, Chair of the local Russian-Chechen Friendship Society, and editor of Rights Defense bulletin. Dmitriyevsky was found guilty of fomenting ethnic hatred, simply because in March 2004, he published an appeal by Chechen rebel leader Aslan Maskhadov — later killed by Russian security services — and Maskhadov's envoy in Europe, Akhmet Zakayev.

Maskhadov, you see, is officially a terrorist in the eyes of the Kremlin. Hamas, however, isn't. Putin said so at his Kremlin press-conference on Thursday, where he extended an invitation — eagerly accepted — to Hamas's leaders to Moscow for an official visit.

Putin's hospitality is understandable; after all, Russia does not have many friends. Those still left, like Belarus, or those now coming back after a long estrangement, like Uzbekistan, are ones who share Putin's views on how to deal with terror closer to home. Yesterday, the Uzbek authorities officially confirmed that a month ago they clamped a seven-year jail sentence on the lawyer and human rights activist Saidjahon Zainabitdinov. His official crimes were conspiring with terrorists and defaming the state. But Human Rights Watch and others believe that his real offense was telling the world — including in an interview with Time — the truth about the mass slaughter of hundreds of civilians in the Uzbek city of Andijan last May.

And so perhaps Hamas, if it wants to stay in Russia's good graces, should learn from this pattern. Terrorism is in the eye of the beholder — so if you can view the world through the cross-hairs of Putin's myopic lens, you'll do just fine.

The Face Of Hamas Rule May Not Include Its Own (LAT)

By Laura King, Times Staff Writer

The Los Angeles Times, February 11, 2006

Palestinian militants consider forming a government Israel and the U.S. could live with.

GAZA CITY — The militant group Hamas, facing the threat of diplomatic isolation and a precipitous drop in foreign aid when it assumes power, is exploring the possibility of taking a less visible role in the new Palestinian government than might be expected after its sweeping parliamentary election victory.

Though the shape of the new government is not yet clear, options being weighed by the Islamist organization include appointing a nonmember as prime minister and creating a Cabinet made up mostly of people from outside parliament rather than from the ranks of the group's newly elected lawmakers.

Israel, the United States and many Western countries have made it clear they will have no dealings with a Hamas government unless the group renounces its aim of Israel's destruction and disarms its military wing.

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However, quirks in the Palestinian parliamentary system, together with all sides' desire to advance their own pragmatic interests, could combine to offer a face-saving path forward, according to an array of analysts, Western diplomats and Israeli and Palestinian officials.

The coming weeks, in their view, could yield a nuanced new Israeli-Palestinian reality under which all parties can claim they are holding fast to their principles while managing to avoid a political confrontation that could trigger the collapse of the Palestinians' fragile economy and governing structure, an outcome almost no one desires.

"It will all depend, if it's finessed the right way, whether the Israeli government can perceive and extend to the public the perception that it is not actually dealing with Hamas," said Joseph Alpher, a former senior Israeli government advisor and editor of the Mideast affairs website http://www.bitterlemons.org .

In the Jan. 25 elections, Hamas won 74 seats in the 132-member Palestinian legislature that is to be sworn in Feb. 18. Under common parliamentary practice, the holder of such a substantial majority would be expected to pick one of its own as prime minister and to allocate itself most of the senior Cabinet positions.

However, the Hamas leadership, which held internal talks this week in Cairo, has signaled that it may opt for a behind-the-scenes role. Sources at the talks said the group might put forth Gaza businessman Jamal Khudairi — who ran as an independent, though with Hamas' endorsement — as its candidate for prime minister.

Shunning the limelight would give the group, whose formal name is the Islamic Resistance Movement, the advantage of deferring uncomfortable choices about its core beliefs and its self-described mission, which for many years was to kill as many Israelis as possible. Hamas dramatically scaled back its attacks more than a year ago, when it first began running in, and winning, Palestinian local elections.

The formation of a new Palestinian national government could be weeks away, and could even come after Israel's elections March 28. The centrist Kadima party, assembled by Israeli Prime Minister Ariel Sharon before he was felled by a massive stroke last month, holds a commanding lead in the polls, and its platform calls for steps leading to the creation of a Palestinian state.

U.S. law prohibits granting assistance to an organization such as Hamas, which is deemed a terrorist group by Washington. A Hamas-run government stands to lose hundreds of millions of dollars from the U.S. and other countries.

A major stumbling block to setting up a Palestinian government with which Israel and the United States would deal is that the defeated Fatah movement has so far refused to enter into a Cabinet alliance with Hamas. That seemingly rules out the participation of many West-friendly Palestinian officials whose political home has traditionally been Fatah.

But there are other potential scenarios.

One calls for the creation of a "technocrat" government, in which those in charge of day-to-day affairs would be professionals in their chosen fields rather than career politicians. Under Palestinian law, neither the prime minister nor members of the Cabinet are required to be lawmakers.

"This kind of outcome could give everyone a bit of breathing room," said Mahdi Abdul Hadi, who heads a prominent Palestinian think tank. In addition, he said, the idea of a professionally run government could have considerable appeal to Palestinian voters who cast their lot with Hamas primarily because they were fed up with Fatah's corruption and inefficiency.

Another possibility is tapping lawmakers aligned with neither Hamas nor Fatah to serve in the Cabinet. These include a number of internationally respected figures who could make a Hamas-appointed Cabinet far more palatable to the West and Israel.

Salam Fayyad, the highly regarded U.S.-educated former finance minister who ran on a small-party ticket in the recent elections, has reportedly been approached by Hamas intermediaries about the possibility of serving in a senior post. Ziad abu Amr, a prominent political scientist and onetime Fatah strategist who won a seat as an independent, has been mentioned as a potential foreign minister. Other lawmakers from smaller parties include Hanan Ashrawi, who is considered a moderate and is well known as a spokeswoman for the Palestinian cause.

None of these figures has spoken publicly of any potential role for themselves in government. Most have enormous ideological differences with Hamas and say they would refuse to work with the group unless it renounced its violent founding

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principles. Fayyad, for example, is reported by Israeli media to have told Hamas he could not serve unless the movement abandoned its goal of Israel's destruction.

In the wake of the election, Hamas leaders have explicitly rejected the idea of direct negotiations with the Jewish state. But almost every day, some Hamas policymaker also issues an ambiguous pronouncement regarding Israel's status in the group's eyes.

Ismail Haniya, who was the movement's top candidate in the parliamentary vote, was quoted this week as saying Israel's existence was an undeniable reality, if only because of its military might. "We really can't ignore the fact of a state that is equipped with F-16s," he said.

Israel, however, may harden its stance if it sees cracks in the consensus that Hamas must be shunned unless it recognizes the Jewish state's right to exist and disarms its military wing. On Friday, Israeli officials denounced Russian President Vladimir V. Putin's offer to meet with Hamas officials, with Cabinet minister Meir Sheetrit saying the invitation amounted to "stabbing Israel in the back."

While Hamas weighs its next moves, an important parallel development has been unfolding: an effort to strengthen the Palestinians' executive branch, led by Palestinian Authority President Mahmoud Abbas.

Since the elections, Abbas has been seeking to expand his powers in the most sensitive areas: diplomatic contacts with Israel and the rest of the world, the formulation of any peace overtures, and control of the Palestinian security forces.

In coming weeks, Abbas could also create new policy posts to keep key senior associates in positions of influence. And Abbas' aides point out that the Fatah-dominated Palestine Liberation Organization — not the Palestinian government — is the agreed-upon point of contact in any negotiations relating to eventual statehood. Until now, the two had been virtually the same entity.

Hamas has already warned Abbas against trying to usurp too much power at its expense.

Still, the group is aware of its vulnerabilities. Hamas knows its election performance was propelled largely by anger over Fatah corruption rather than a repudiation of peace hopes on Palestinians' part. The group also understands that its lopsided win was due in large part to the hybrid allocation of seats — half the elected lawmakers were from a national slate and half were from individual district races, where Hamas dominated the field.

In the overall popular vote, Hamas beat Fatah by only about 44% to 41%, with the remaining share going to smaller parties.

Whichever approach Hamas chooses will have pitfalls. Israeli officials and Western diplomats have made it clear they will not accept a "shadow government" in which Hamas too obviously plays the main policymaking role even if it abstains from accepting any senior official positions.

"I don't see a dead end here yet," said Uri Dromi, a former Israeli government spokesman who is now an analyst with the private Israel Democracy Institute. "I see a lot of maneuvering and rhetoric, and Hamas going out of their way to convince everyone they're not lunatics."

Hamas will still have to answer to its street followers, who helped bring it to power. But in determining what kind of government it will seek, the group has suddenly gone from playing to a relatively small audience to a worldwide one.

"It's a very delicate time," said Ghassan Khatib, the outgoing Palestinian planning minister. "But in the end, I think the right people for the job will be found."

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Special correspondent Fayed abu Shammalah in Cairo contributed to this report.

Cleaning Up Corruption Tops Palestinian Agenda (WT)

By Joshua Mitnick

The Washington Times, February 11, 2006

RAMALLAH, West Bank -- A series of corruption investigations has moved to the top of the Palestinian agenda after Hamas' campaign for clean government produced a rout of the ruling Fatah party in parliamentary elections last month.

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Attorney General Ahmed al-Moghani announced this week that he's pursuing 50 cases that could account for $700 million in lost funds. Palestinians say it's a significant first step, but it only scratches the surface of corruption that could implicate top security officials, private sector businessmen, nongovernmental organizations as well as Israelis.

Observers say pursuing such high-profile cases will require the joint political intervention of Palestinian Authority President Mahmoud Abbas and the newly victorious Hamas party. With a legal system that has been understaffed and subservient to the executive branch, the cases could take years to prosecute.

"The corruption is huge. It requires political will. I believe there is an understanding between [Mr. Abbas] and Hamas on the direction," said Samir Barghouti, an economist who has consulted for the European Union and the World Bank.

"The election indicated that the top issue that people want to deal with is corruption," he said.

Pursuing the corruption scandals is critical if Palestinians want to restore public trust in their self-rule government. It is also considered essential to restoring confidence of the community of international donors.

The Palestinians received about $5 billion in foreign aid over the past five years, and yet the Palestinian government is on the verge of bankruptcy, Nigel Roberts, World Bank country director for the West Bank and Gaza Strip, said in a recent interview with the Ha'aretz newspaper.

One of the cases being investigated focuses on an imaginary plan to build a pipe factory using $2 million from Italian donors and $4 million from the Palestinian Authority. The cases have pointed to workers in the Finance Ministry, and many expect them to implicate monopolies for withholding tax revenue.

"It's an accumulation of bad governance," said Sam Bahour, a Palestinian technology entrepreneur.

The announcement by the attorney general is seen as an attempt by Mr. Abbas to pre-empt a probe by Hamas, allowing him to save face of discredited Fatah.

Mr. Abbas promised to pursue corruption when he was elected a year ago, but ironically it was Hamas' landslide that stripped his ability to resist the inquiries.

Hamas officials have said that one out of every five government jobs in the government is fictitious -- a figure which would mean an annual loss of almost $200 million to the government. Observers say Hamas will need the cooperation of Mr. Abbas and other Fatah officials so the corruption inquires won't be perceived as an all-out purge.

"It would have been better to open the files before the elections," said Abed Fokaha, a newly elected parliament member from Hamas. "Abbas will [have to] treat this in the most serious manner possible. There is no way back."

Palestinians say the culture of corruption was brought to the West Bank and Gaza along with Palestinian Liberation Organization leader Yasser Arafat and his contemporaries in the wake of the peace accords that established self-rule a decade ago. A comptroller's report in 1997 suggested there was $300 million missing from Palestinian coffers, but Mr. Arafat's regime intimidated those who warned of graft.

Since then, parliamentary committees of inquiry, public petitions, and even Mr. Abbas' campaign platform have focused on corruption, but not one indictment has been served.

"Some people said, 'Let's not focus on internal issues. We need to focus on the occupation,' " said Omar Assaf, who ran for parliament with the Democratic Front for the Liberation of Palestine on an anti-corruption platform.

Mr. Assaf said he was summarily jailed in 1997 for two months because he accused Palestinian cigarette and petrol monopolies of withholding public money.

"Elsewhere in the world, if a government is labeled corrupt, they will be made accountable," he said. "But here no one has ever been made accountable."

Islamic University Is The Intellectual Center For Hamas (KRT)

By Dion Nissenbaum

Knight Ridder, February 11, 2006

GAZA CITY, Gaza Strip - The basement bookstore at Gaza City's Islamic University has everything a Palestinian student needs to get through the day, from pens and pencils to notebooks and munchies to power up for class.

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But the one-stop shop also features a few items that set the campus apart: Stacked at the entrance, alongside bootlegged video games and Harry Potter movies, are DVD tributes to Hamas "martyrs" killed in clandestine attacks on Israelis and recordings of fiery speeches by the Islamist militant group's spiritual leaders.

If Hamas' dramatic ascent to power in last month's Palestinian legislative elections was a political earthquake, Islamic University served as its intellectual epicenter. Virtually every major Hamas figure - living and dead - has taught or studied at the tranquil 25-acre campus in the heart of Gaza City, which some call Hamas U.

Sixteen members of the faculty, staff and university board of trustees will be part of the Hamas bloc in the new Palestinian Legislative Council, making up about one-fifth of the group's dominant majority. Many other incoming lawmakers, including some from the rival Fatah party, polished their political skills in these classrooms.

"Islamic University has been very rich soil for many leaders," said Dr. Jehad Hamad, a professor of political sociology at the rival Al Azhar University across the street.

Over the last 27 years, Islamic University has evolved from a rudimentary campus of tents for classrooms into a widely respected school with 17,000 students.

Here, politics and religion fuse to create a vibrant Hamas incubator that's succeeded in producing the new generation of Palestinian lawmakers.

The group's top political figure, Ismail Haniyeh, studied here. Gaza leader Mahmoud Zahar taught medicine. Jamila Shanty, the founder of the Hamas women's section, worked in the English department. Jamal Naji Khudari, the chairman of the university's board of trustees and an independent candidate backed by Hamas, is being talked about as perhaps the next prime minister.

Abdel Aziz Rantisi, one of the group's best-known leaders, served on the university faculty and denounced President Bush as an "enemy of Islam" at a campus rally a few weeks before Israel assassinated him in 2004. Ismail Abu Shanab, a Hamas political official whom Israel assassinated in 2003, served as the dean of one of the colleges. Mohammed Deif, who's considered the group's top bomb-maker, was a student here alongside Fatah leader Mohammed Dahlan, a newly elected lawmaker who's emerged as one of Hamas' most ardent adversaries.

Traces of Hamas are everywhere on campus. The modest university museum features framed congratulatory letters from "martyrs" Rantisi and Sheik Ahmed Yassin, the Hamas spiritual leader whom Israel also assassinated in 2004. A poster of Yassin hangs on the bookstore wall where the Hamas CDs and DVDs are sold. And the student council long has been dominated by Hamas.

Sitting in his expansive office in a new administration building paid for by Bahrain, Islamic University President Kamalain Shaath took in the Hamas political victory with a mix of optimism, joy and anxiety.

"I am proud to be part of this change," said Shaath, a quiet, Western-trained civil engineering professor. "But I have cautious pride, because this could give more trouble than fruit."

Like so many other institutions across the Gaza Strip and West Bank, Shaath said, his campus has been transformed into a Hamas stronghold, especially in the 15 years since Fatah leaders broke away to create the rival Al Azhar University, a fissure that's led to student clashes over the years.

"Islamic University was established as any other university, but gradually it became Hamas," Shaath said. "Hamas is affecting the whole community - and we are affected as well."

The university has flourished with aid from around the world, primarily from Arab nations but also from Europe, the World Bank and United States. Intel is launching a $1 million computer-training project this year. The U.S. Agency for International Development has paid for several projects, including a small clean-water program in 2004.

Anna-Maija Litvak, a spokeswoman for U.S. AID, said Islamic University had been "fully vetted" and had signed America's required anti-terrorism certificate before receiving any money.

"Financing higher education and training opportunities is part of our program, and Islamic University is one among many institutions that we fund," she said.

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Islamic University essentially operates as two parallel schools: one for the 10,000 women and one for the 7,000 men. Professors hold separate office hours so the halls will be filled with men one hour and women the next. The sexes have segregated cafeterias, classes and even entrances on opposite sides of the campus.

At the women's gate, security guards watch to make sure that students' head scarves don't reveal any hair and they are wearing the appropriate long, loose Islamic dresses. Sometimes the gate watchers hand out tissues to ensure that women don't come onto campus wearing makeup.

Becky Lewis, a University of South Carolina English professor who had a rare opportunity to teach at Islamic University for a semester in 1998 with her husband, said she was surprised when her female students took offense at a description of women wearing bathing suits in a John Updike short story.

After much debate about the story's message, the students decided to write to Updike, praising his writing but criticizing his description of women's bodies.

"They loved it in the end," Lewis said.

No one is quite sure where the new Hamas political era will lead. Some are in favor of a Cabinet dominated not by Hamas but by technocrats acceptable to the outside world. Others, such as 21-year-old Islamic University student Samia Hamaad, want to see the party they voted into power stick to their principles.

Wearing a white head scarf and veil that barely revealed her eyes, Hamaad said Israel should be worried about the incoming government because voters had chosen a strong voice for the Palestinian people.

"Where Islam is found, success is found," the young English major said. "We will help Hamas and trust Hamas to return all our lands - all the lands of Palestine."

Muslims' Fury Rages Unabated Over Cartoons (WP)

By Kevin Sullivan

The Washington Post, February 11, 2006

Demonstrators in 13 Countries Ignore Leaders' Appeals, Newspaper's Apology

COPENHAGEN, Feb. 10 -- Tens of thousands of Muslims took to the streets across Asia, Africa and the Middle East after weekly prayers on Friday, burning Danish flags and shouting anti-Danish and anti-American slogans in a continuing convulsion of anger over cartoons of the prophet Muhammad.

Demonstrators marched in at least 13 countries -- Kenya, Iran, India, Pakistan, Afghanistan, Malaysia, Sri Lanka, Bangladesh, Indonesia, the Philippines, Egypt, Israel and Jordan -- as the global wave of protests, spurred by a Danish newspaper's publication of cartoons depicting Islam's holiest figure and the reprinting of those cartoons in newspapers in other countries, headed toward a second consecutive weekend.

The protesters defied calls for calm from several prominent Muslim leaders and organizations as well as a statement of regret from Danish Prime Minister Anders Fogh Rasmussen and an apology by editors of the newspaper that originally published the cartoons. "The government has done what can be done," Rasmussen said in an interview Thursday. "Neither the government nor the Danish people can be held responsible for what is published in an independent newspaper. And neither the government nor the Danish people have any intention whatsoever to insult Muslims or any other religious community."

In Kenya, police shot and wounded at least one protester Friday as they tried to protect the Danish ambassador's residence. Thousands of demonstrators shouting "Kill Danes! Down with Denmark!" marched from Nairobi's largest mosque following Friday prayers. Riot police fired on a group of at least 200 people who had tried to reach the home of the Danish envoy, Bo Jensen.

"We've certainly heard their message and hope they will go home," Jensen told the Reuters news agency.

In Pakistan, more than 5,000 people demonstrated peacefully in Islamabad in the largest rally in the country since the controversy began. Another 2,000 protesters fought with police in the northwestern city of Peshawar.

In Kuala Lumpur, Malaysia, several thousand protesters marched from a mosque to the Danish Embassy, shouting, "Destroy Denmark! Destroy Israel! Destroy George Bush! Destroy America!" Others carried placards supporting an economic boycott that has almost halted Danish exports to the Middle East and North Africa.

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Addressing a large crowd, Malaysian Prime Minister Abdullah Ahmad Badawi described a "huge chasm that has emerged between the West and Islam," not simply because of the cartoons, he said, but because of Western policies regarding oil, Iraq, Afghanistan and the Israeli-Palestinian conflict.

In India, thousands of angry Muslims kicked, spat on and tore Danish flags and burned effigies in the capital, New Delhi, and in the Indian-controlled portion of Kashmir, the Associated Press reported. In Bangladesh, more than 5,000 Muslims marched on Denmark's embassy in the capital, Dhaka, shouting, "Death to those who degrade our beloved prophet!"

In the Middle East, about 2,000 women, young boys and older men marched around the Dome of the Rock shrine in Jerusalem chanting "Bin Laden, strike again!" Large crowds of protesters in Gaza fired gunshots into the air and burned Danish flags. Thousands clashed with police in Egypt.

About 2,000 Muslims marched in Jordan. Demonstrators in Tehran threw gasoline bombs at the French Embassy and shouted, "Death to France!" and, "Death to America!" Several French newspapers have reprinted some of the Danish cartoons.

The violence came despite calls for calm from Ayatollah Ahmad Khatami, a senior cleric.

"I am calling on all religious men not to attack the embassies of the foreigners," Khatami told worshipers in Tehran in comments broadcast live on state radio. "Chanting slogans, staging protests and condemning such measures are holy . . . but I feel that they want their embassies to be set on fire so they can say that they are innocent. Take this excuse away from them."

In Sweden, the government shut down the Web site of a far-right political party's newspaper after it briefly posted a cartoon of Muhammad. It was the first time a Western government has intervened to block a publication in the controversy over the cartoons, the BBC reported.

Richard Jomshof, editor of the newspaper, SD-Kuriren, which is published by the anti-immigration Swedish Democrats, said the action was illegal. Jomshof's paper had posted a cartoon showing Muhammad from the rear, looking into a mirror with his eyes blacked out. He said the cartoon was about self-censorship, but Swedish Foreign Minister Laila Freivalds called it "a provocation" by "a small group of extremists."

In Copenhagen, Flemming Rose, the culture editor of the Jyllands-Posten newspaper, which originally published the cartoons on Sept. 30, was told to take a two-week vacation. "There is no disagreement whatsoever between me and the company," Rose said in an interview. "I'm tired, I have been under huge pressure, and I am grateful to the paper for this time off."

Rose said this week that he intended to print cartoons of Jesus Christ and the Israel-Palestinian conflict. He said the idea was to show that his newspaper would direct satire against all religions. Rose also said he was considering printing cartoons about the Holocaust that an Iranian newspaper intended to publish.

The newspaper's editor in chief, Carsten Juste, later publicly contradicted those statements, and Rose agreed that they represented "an error in judgment."

In Norway on Friday, the editor of Magazinet, a Christian newspaper, apologized to Muslims for reprinting the cartoons, which had made Norway a target of Muslim attacks, including the burning of its embassy in Damascus, Syria. Vebjoern Selbekk, who had initially defended the Jan. 10 publication as an expression of press freedom, said at a news conference: "I address myself personally to the Muslim community to say that I am sorry that your religious feelings have been hurt. It was never our intent to hurt anyone." Selbekk, who said he had received more than 20 e-mailed death threats, then shook hands with Mohammed Hamdan, leader of the Islamic Council in Norway, who urged forgiveness and Selbekk's safety.

"Anyone who touches him touches us," Hamdan said. "Our prophet, Muhammad, has said that everyone can make mistakes, but the best is the one who expresses regret and asks for forgiveness."

Muslims Clash With Police Over Prophet Cartoons (WT/AP)

By Lee Keath, Associated Press

The Washington Times, February 11, 2006

CAIRO -- Thousands of worshippers emerging from Friday prayers demonstrated against drawings of the prophet Muhammad in the Mideast, Asia and Africa, clashing with police in some cities despite religious leaders' attempts to keep marches peaceful.

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In Kenya, police shot and wounded one person among about 200 demonstrators trying to march to the residence of Denmark's ambassador.

About 60 protesters in the Iranian capital, Tehran, threw firebombs at the French Embassy, shattering nearly every window on its street facade, even after a cleric at a prominent Iranian mosque urged people not to attack diplomatic missions.

"Down. Down with France. Down. Down with Israel," the crowd chanted. One firebomb exploded in the embassy and started a small blaze that was quickly extinguished.

The caricatures, one of which showed Muhammad with a bomb-shaped turban, were published first in a Danish paper in September, then reprinted in European papers in recent weeks in the name of press freedom.

Arab governments, Muslim clerics and newspaper columnists have been urging calm, fearing that recent weeks of violence have only increased anti-Islamic sentiment in the West.

Eleven persons have been killed in the protests, all of them during three days of riots this week in Afghanistan. A 12th person died yesterday in Nairobi, the Kenyan capital, when he was hit by an ambulance rushing away the wounded protester.

Denmark's ambassador to Syria announced yesterday he was leaving with his colleagues because the government was offering an "unacceptably low level" of protection following recent violent demonstrations.

In France, an umbrella group of Muslim organizations announced it was suing a French weekly which recently reprinted the cartoons and ran one of its own. The group, representing the country's 5 million Muslims, said it had unanimously voted to take the magazine Charlie Hebdo to court.

Protests appeared to ease in the Mideast in recent days, though the caricatures were brought up in Iran, Lebanon and Iraq as Shi'ite Muslims marked their holy day of Ashura.

But Friday prayers -- a frequent launching ground for political demonstrations -- brought a new wave of protests in Egypt, Jordan, the Palestinian territories and Morocco.

Egypt saw its most widespread protests yet, with thousands protesting in 21 of its 26 provinces, including in Cairo and the second-largest city, Alexandria.

Protests by Palestinians were smaller than in recent days, but vehement. Gunmen fired in the air as thousands marched in Gaza, while about 2,000 women, young boys and older men marched around the Dome of the Rock shrine in Jerusalem, chanting "Bin Laden, strike again" and burning a Danish flag.

In Pakistan, rallies erupted around the country after prayers with some protesters burning foreign-made cheese and breaking windows while others clashed with police.

Thousands also demonstrated in Malaysia, Bangladesh, India and Sri Lanka, although Syria and Lebanon, the scenes of earlier violence, were calm yesterday.

U.S. Seeks Right Tone In Cartoon Uproar (AP)

By Anne Gearan

AP, February 11, 2006

WASHINGTON -- For once, the United States is partly on the sidelines of a clash of ideas between the Muslim world and the West. But the Bush administration is being less than surefooted in responding to the uproar and deadly protests over cartoon images of the Prophet Muhammad that were deeply offensive to Muslims, analysts say.

In the second week of violent protests, tens of thousands of Muslims demonstrated around the world Friday. Iranian youths rioted outside the French Embassy in Tehran despite calls for calm by government and religious leaders.

In its first reaction more than a week ago, the State Department appeared to blame the European media for publishing the cartoons, instead of condemning the violence that resulted, although U.S. officials said their message was misconstrued and taken out of context.

Then, after days of careful statements supporting press freedoms while denouncing violence, President Bush suggested anew that the press had been irresponsible.

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"America's initial response was a bit lacking and regrettable, in that it actually sided with those who were offended as opposed to the Europeans, and particularly the Danes, who should have gotten unqualified support," said Reuel Marc Gerecht, a conservative foreign policy scholar at the American Enterprise Institute and the Project for a New American Century.

Both organizations have close ties to the Bush administration.

Gerecht blames Middle East specialists in the State Department for tending to placate antidemocratic Arab regimes and mute criticism that might inflame Muslim anger.

Other analysts gave Washington better marks for its response to what, at first, was an issue primarily affecting Denmark, then other European nations where media republished the Danish cartoons.

"The administration quite rightly struck a balanced tone, balancing freedom of expression with responsibility in the media," said Ibrahim Hooper, spokesman for the Council on American-Islamic Relations, a Muslim civil rights and advocacy group.

As protests turned deadly and European embassies were attacked in Damascus, the administration went on the offensive to accuse Syria and Iran of fomenting and profiting from violence.

"The world ought to call them on it," Secretary of State Condoleezza Rice said Wednesday.

Bush had earlier implicated Syria. Neither cited specific evidence, but spokesmen later pointed to numerous circumstantial factors, saying massive street protests could not occur in a near-totalitarian state like Syria without official participation.

The U.S. accusations are almost certainly on the mark, analysts said. But the finger-pointing also inserted the administration squarely into the controversy and may have fed the perception among Muslims that the United States was turning the protests to its own ends.

Hezbollah leader Sheik Hassan Nasrallah said Rice and Bush should "shut up," and Muslims should continue their protests.

"Where they started having difficulty, and helping to direct and bring anger toward the United States, was taking the position that this was exploitation by politicians," said Shibley Telhami, a Mideast scholar at the University of Maryland. "While it's true at some level, it comes across as if it's missing the force of it for the vast majority of Muslims."

Gerecht said the administration was right to speak out as the protests turned increasingly ugly, and as Arab government involvement seemed clear.

"What was slightly regrettable was that it took the administration a little bit of time to state the obvious," he said.

Analysts also said they do not detect much satisfaction within the administration that Europeans, not Americans, have caught the brunt of the anger. Many European governments parted company with Bush over the Iraq war, and polls show Europeans are often scornful of U.S. influence and motives overseas.

Europe and the United States both recognize that Muslim immigrants are often more assimilated in American society than they are in Europe, and that the U.S. has been the better for it, said Jon Alterman, Middle East program director at the Center for Strategic and International Studies.

"They all recognize that, so I don't think there's been much schadenfreude (taking pleasure in others' misfortune) that, 'Hey, the Europeans are taking it on the chin for a change,'" he said.

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EDITOR'S NOTE _ Anne Gearan covers diplomacy and foreign affairs for The Associated Press.

NATO Seeks Closer Ties With Middle East (AP)

By Paul Ames

AP, February 11, 2006

NATO defense ministers sought to calm Islamic anger over cartoons of the Prophet Muhammad at a counterterrorism meeting Friday with Arab countries and Israel.

The United States and other NATO nations have been seeking partners in fighting terrorism by building ties with friendly nations in North Africa and the Middle East.

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The meeting on counterterrorism cooperation with NATO's "Mediterranean partners" — Israel, Egypt, Algeria, Morocco, Tunisia, Jordan and Mauritania — was called before the cartoons sparked protests across the Muslim world. But the controversy drew attention Friday.

"What is important here is the word respect, respect for each others' values," NATO Secretary General Jaap de Hoop Scheffer said. "Violence cannot be the answer."

German Defense Minister Franz Josef Jung said: "De-escalation is the message we have today ... We need to make clear how important it is to have a dialogue between cultures."

Despite the conciliatory tone, de Hoop Scheffer made clear that tentative efforts to build ties with the Palestinians had been ended by Hamas' victory in parliamentary elections.

"Contacts with Hamas are out of the question," he told a news conference.

The NATO chief said Algeria, Morocco and Israel "had shown a keen interest" in joining NATO naval patrols to deter potential terrorist smuggling of explosives and other materials through the Mediterranean into Europe.

The NATO ministers stressed the need to modernize their alliance so it can confront new threats such as civil unrest — highlighted this week by attacks on its peacekeepers in Afghanistan by Muslim protesters enraged by the publication of the Muhammad caricatures.

Allies agreed to find the troops needed for the NATO Response Force — an elite unit of between 20,000 and 25,000 troops able to deploy anywhere in the world within five days — to meet an October deadline.

Russia also plans to join that mission. Defense Minister Sergei Ivanov came to Sicily accompanied by a cruiser so Russian sailors could train for the patrols with their NATO counterparts.

Ivanov sought to reassure NATO that Moscow's recent decision to deploy missiles to Belarus was not directed against the western alliance.

Russia said Thursday that it will deploy four air defense units capable of shooting down targets some 90 miles away, a military official said Thursday.

Russia has close ties with Belarus' authoritarian President Alexander Lukashenko, who has become a pariah in the West for his crackdown on opposition and independent media.

Ministers could not agree over the formation of a pooled fund to pay for costs associated with NATO missions. Under the current system, member countries foot the bills for their operations under NATO.

On the sidelines of the meeting, Dutch Defense Minister Henk Kamp told The Associated Press that the Netherlands may send as many as 1,500 troops to Afghanistan on its two-year mission to expand NATO's peacekeeping operation into one of the most dangerous parts of the country.

"This will be a risky task for the Dutch armed forces and we will send a strong task force," Kamp said. "In total 1,300 to 1500 Dutch soldiers including our air force personnel."

Previous estimates have suggested the Dutch commitment would be between 1,200-1,400 strong, but more may be needed when the Netherlands take on southern area headquarters tasks in Kandahar for six months.

Evangelical Christians Express Little Sympathy For Muslims' Outrage (KRT)

By Matt Stearns

Knight Ridder, February 11, 2006

WASHINGTON - Many conservative Christians have long regarded the media as enemy territory, where traditional values are at best misunderstood and often mocked.

So you might think they would relate sympathetically to Muslim outrage over the Danish cartoons depicting the prophet Muhammad with a bomb in his turban. That outrage has sparked violent protests throughout the Islamic world.

But concerns about the goals of radical Islamic leaders, a sense that a double standard pervades the Muslim media and a general distaste for organized violence have overridden any empathy most Christian conservatives might feel for angry Muslims.

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"Unfortunately, the protesters are hinting that the cartoonist might have been right," said the Rev. Ted Haggard, president of the National Association of Evangelicals. "They're killing fellow Muslims and destroying property. Maybe the radical protests are validating the cartoon instead of proving that cartoon wrong."

No Christian leader ever espoused violence to retaliate against "Piss Christ," the controversial 1989 artwork - a photograph of a crucifix submerged in urine - by Andres Serrano, even though that riled many Christians, noted Gary Bauer, president of American Values and a longtime leader among religious conservatives.

"I understand why any religious person would get upset if they think their faith is disparaged in a drawing or a cartoon," Bauer said. "But ... how can (the cartoons) engender a greater emotional reaction than the daily bombings and attacks by groups claiming to do them in the name of Allah?

"It doesn't look like a call for respect," Bauer concluded of the Muslims' protests. "It looks like a call for submission."

Indeed, many evangelical Christians see militant Islam replacing communism as the greatest global threat, said Allen Hertzke, professor of political science and director of religious studies at the University of Oklahoma.

"They see this phenomenon as part of an orchestrated effort by what they call Islamo-fascists to take over the Islamic world," Hertzke said.

Then there's the apparent double standard for acceptable religious satire in Muslim media, especially regarding Jews.

Jews are routinely lambasted and stereotyped in the Muslim media. Hertzke recalled a Syrian TV program shown in Jordan that depicted Jews using the blood of children to make matzo. A recent cartoon on a Muslim group's Web site showed Adolf Hitler in bed with Anne Frank, a teenage Jewish martyr during World War II, saying "Write this one in your diary, Anne."

"Many evangelicals have very positive views toward Jews, and evangelicals support Israel," said John Green, a professor at the University of Akron who specializes in religion and politics. "And it's interesting that in the protests of these cartoons, the language quickly turned anti-Semitic and anti-Israel. That sends up a red flag for evangelical Christians."

Christian conservatives also generally echo the views of the Bush administration, which condemned the Muslim violence but backed off early criticisms of the cartoons themselves. President Bush pointed out that such are the vagaries of life with a free press.

"The appreciation of pluralism is something that every religious group has to grow in," Haggard of the evangelicals' group said. "We evangelicals struggle with this issue every time we send one of our kids off to college. But we think pluralism is a high value. ... Radical Muslim extremists have to grasp that pluralism is a fact of life for all cultures. We're into a new world."

Danish Producers Feel Heat Of Cartoon Boycott (FT)

By Roula Khalaf And William Wallis

Financial Times, February 11, 2006

You have to squint at the fine print on a box of Lego to know that it comes from Denmark. But in the Middle East these days, Lego's international style branding is not enough to escape the fast-spreading consumer boycott of Danish goods.

Much of the world's attention over the past week has been on the violent protests - including those in Kenya, Malaysia and Turkey on Friday - against the publication of caricatures of the Prophet Mohammed that first appeared in Denmark's Jyllands-Posten newspaper. But in large parts of the Arab world, the consumer boycott of Danish goods is by far the most widespread popular reaction to the cartoons. Previous consumer boycotts in the Middle East (including the long-standing rejection of companies that do business in Israel) have been only briefly successful.

The recent boycott of American goods, after the launch of the "war on terror" and in the aftermath of the Iraq war, petered out, perhaps because of the ubiquitous nature of US products. In contrast Danish goods, limited in the Middle East to a few items including dairy products, butter, cream cheese, pharmaceuticals and Lego, have proved far easier to target.

The mobilisation has been impressive. Starting with calls from influential clerics in Saudi Arabia - as well as Sheikh Youssel al-Qardawi, the Qatar-based Egyptian preacher with a large following across the region - the boycott call was quickly taken up by newspapers and businesses across the Middle East and supported by chambers of commerce and other professional and religious groups.

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Peter Mandelson, the European Union's trade commissioner, has warned Saudi Arabia - the birthplace of the prophet and home to Islam's holiest shrines where the boycott has been most faithfully followed - that it would be taken before the World Trade Organisation if it encouraged the boycott. Riyadh says it is not encouraging the embargo.

Only a few governments, including Iran and Libya, have openly supported the action, with others distancing themselves from it but allowing protsets.

According to Khaled al-Maena, editor of the Jeddah-based Arab News, the boycott spread with postings on the internet and chain letters sent through telephone text messages, often by young people. "People also wrote letters to the editors demanding that we support the boycott and businessmen decided to stop buying and selling Danish products," he says.

Employees at one of Dubai's sprawling Carrefour hypermarkets say that blue cheese and Lego were removed from the shelves after customers flocked to return Danish goods they'd already purchased.

At the Alpha supermarket in the upmarket neighbourhood of Zamalek in Cairo, the boycott has been successful - all the Lego has been swept off the shelves. The manager of the supermarket says a decision was made by members of the general union of Egyptian chambers of commerce to adhere to the boycott.

The owner of another Egyptian toyshop that was still stocking Lego says she had not sold a single item in a week. But several people had come in with leaflets with listed Danish products including Lego, urging her to join the boycott. "They asked why am I stocking Lego. Am I not a Muslim," she says.

The boycott appears aimed at soliciting apologies from Europe, particularly the Danish government, for what many Muslims view as a deliberate western attempt to denigrate the image of the prophet.

"We'll wait and see what happens on the political front. The Danish newspaper has apologised. Now lets see if the [Danish] government will too and if these apologies will be accepted or not," says Mahmoud Amr, the general manager of Mansh, the Egyptian distributor of Lego. Raising awareness about the greatness of the prophet seems to be another objective of the commercial protest.

Religious edicts on websites dedicated to promoting Islam to back the boycott but also recommend that Muslim organisations arrange lectures, buy television time and send preachers abroad to teach the world about the virtues of Mohammed. A new organisation dedicated to defending the prophet was set up in Saudi Arabia this week and, in addition to keeping the boycott going, it is reportedly bringing legal action against Jyllands-Posten.

The impact on the Danish companies has yet to become fully apparent. Charlotte Simonsen, head of corporate communications at Lego, says the region represents only 1 per cent of its global sales. Some shops in Kuwait, Qatar and the UAE have removed products from their shelves but she insists there is "no evidence that this represents a wider phenomenon."

But Mr Amr says a week after the boycott began to take hold he halted import orders of Lego because of a collapse in demand. "The extent to which we have been affected is still not apparent yet. But many of our clients are calling and are bringing back the products. This is not the case with all shops but still this means we are badly affected."

Meanwhile Arla, Danish-Swedish dairy products supplier, says it has been losing about £1m a day because of the boycott with total losses close to £10m so far. But the boycott is also hurting local businesses that produce Danish products. Arla, for example, has now halted a £40m project for a dairy plant in Saudi Arabia endangering 800 jobs.

So far, the boycott has been largely confined to Danish goods but, with no apparent let up in the cartoon crisis, there have been some calls for extending it to Norway.

An opinion piece published this week in Arab News, suggested escalating the boycott to all western products to give the west time "to back down and apologise for the insults they have heaped upon our beloved prophet and to make sure it never, ever happens again." If Muslims around the world failed to take this proposal seriously, the writer concludes, they should be prepared to eat not only Danish cheese "but their own pride as well."

Additional reporting by Steve Negus in Dubai and Paivi Munter in Stockholm

For Danish Firms, Boycott In Mideast A 'Nightmare' (WP)

By Kevin Sullivan

The Washington Post, February 11, 2006

DOJ_NMG_0014477

Millions of Dollars in Sales Are Lost as Markets That Were Built Over Decades Disappear in Days

COPENHAGEN, Feb. 10 -- The Arla Foods plant in Riyadh, Saudi Arabia, which produces cheese and flavored yogurt drinks, sits idle and the company's 800 employees in the country have been sent home because of a Middle East boycott of Danish goods, following a Danish newspaper's publication of cartoons of the prophet Muhammad.

"It took us 40 years to build up our business in the Middle East, and five days to bring it to a total stop," said Astrid Nielsen, spokeswoman for the Danish company here. She said suspending operations at the Riyadh plant, the company's regional base, and a near-total boycott of the company's products have cost Arla about $1.7 million a day since Jan. 28.

The boycott of Danish goods, propelled by Muslim leaders and imams preaching in mosques, has brought exports of Danish products to the Middle East and North Africa to a virtual standstill. It has scuttled a flow of goods to the region that was worth about $1 billion in the first 10 months of 2005, according to government statistics.

The boycott has been less visible than the angry mobs around the world burning Danish flags, torching embassies and carrying placards calling for "Danish blood." But it has been just as unnerving for Danish business leaders, who have spent decades expanding their sales of food, pharmaceuticals, industrial equipment and other products into the Middle Eastern market.

"As Danes, we are still sort of in a situation where we are thinking this is just a nightmare," Nielsen said, "and we are going to wake up in a little while and find that this didn't happen. We can never hope to regain what we had, but we hope we can reestablish some of it. We have a huge task ahead of us."

Prime Minister Anders Fogh Rasmussen, in an interview Thursday, said the boycott was not a major threat to Denmark's economy.

"According to the latest figures, 3 percent of Danish exports go to the Muslim world," Rasmussen said. "So seen from an overall perspective, it is of minor importance on the Danish trade balance."

Rasmussen, a former economic affairs minister, said it was "too early to make a final assessment" about the long-term impact of the boycott and whether Middle Eastern consumers would eventually start buying Danish products again.

"From experience we know that trade may be resumed in a longer-term perspective," he said. "Danish industries are famous for their ability to adapt to new situations. And our competitiveness is very strong. Danish companies are in very good shape for the time being."

Still, Rasmussen noted that companies such as Arla that do extensive business in the Middle East and North Africa "may be affected very significantly."

"And I strongly regret that, of course, because Arla is not responsible for what is published in a Danish newspaper," said Rasmussen, who has repeatedly expressed regrets that Muslims have been offended by the cartoons of Muhammad, while saying he cannot apologize for what was printed in a private newspaper.

"You can't hold a whole nation responsible for what is published in a free and independent newspaper," Rasmussen said. "I do know that it is very difficult to understand for many people in the Arab streets, because they can hardly understand how free and independent media work. But that's our system. It is unfair to take Danish companies and employees hostage in this case, in an economic sense."

Those arguments carry little weight in places such as the al-Qiswani Supermarket in the West Bank town of Beit Hanina, where prominently displayed posters urge shoppers, "If you love the Prophet, join us in boycotting Danish products." The posters are surrounded by photos of Danish cheeses, powdered milk, chocolates and other products to be avoided.

The store's owner, Abed Qiswani, 42, said his revenue has dropped 5 percent because of the boycott, which he said has been uniformly followed. He used to sell a carton of Danish cheese a week, but now those products are being left untouched, along with products from some other European countries, including French cheeses and Scandinavian cereals.

Qiswani said that when he tried to return his back stock of Danish products, his supplier told him he had lost nearly $200,000 in canceled orders as a result of the boycott in the West Bank and Jerusalem.

"What has struck me most, though, is that little children come to the store and ask if this is a Danish product," Qiswani said. "Boycotting is a very good thing. Politics is always connected to the economy. The problem these European countries have now is with the Islamic giant, and they should think about who they mess with."

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Tariq Maslanani, 11, said he no longer buys French-made Laughing Cow cheese, his favorite, because a French newspaper also ran the cartoons.

"We cannot bear anybody cursing our prophet," said the sixth-grader.

Svend Roed Nielsen, head of trade policy at the Danish Foreign Ministry, said that in addition to daily consumer goods such as cheese and butter, there has been a noticeable drop in exports of pharmaceuticals and medicines to Muslim countries. He said that he was unsure of the exact loss but that those goods accounted for about $104 million in the first 10 months of last year. He said officials had heard that the expected signings of several contracts for Danish machinery and electronic goods had been postponed.

"Things are looking quite bad at the moment," said Keld Winther Rasmussen of the Danish Dairy Board. "We have products in the country we can't sell, in ships that we can't deliver, and products in dairy plants that we will have to find other markets for."

Rasmussen said dairy industry officials had hoped that Prime Minister Rasmussen's televised comments offering regrets for the offense caused to Muslims would improve the situation. "But so far that has had no impact," he said, adding that he hoped that Danish dairy exports to the Middle East would eventually restart. "We hope this is not the end. But we can see that it is going to take a very long time to regain our hold in the market. It could take years."

Bjarne Kristiansen, manager of a dairy in Aalborg, said exports to the Middle East account for 70 percent of his company's sales -- and that market has completely dried up since the boycott took hold. He said his company is losing sales of about 100 tons of feta cheese a week.

"If this continues, after two or three weeks we might have to stop production of feta cheese, which is our main production," he said. "Hopefully we won't have to close completely, but I don't know. It is a terrible situation."

Keld Pedersen, managing director of Nordex Food, said his company has lost 20 percent of its total sales, which normally go to the Middle East. He said the company has had to cut 15 jobs out of its workforce of 200.

"Maybe the government acted too late -- we all did," Pedersen said. "We were all very surprised about how quickly this situation developed. I can't fault the government's efforts now. But Denmark cannot do this alone, and it will not only be Denmark that suffers."

Pedersen said the Jyllands-Posten newspaper, which first published the Muhammad cartoons, "should have been more careful."

"Everyone has the right to freedom of speech, but you can't cry 'Fire! Fire!' in a cinema," he said. "But it's always easier to see these things after they have happened."

Pedersen said he is pessimistic that his company's Middle Eastern market, which it has been building for 25 years, will fully recover.

"I don't think it will ever be the same again," he said. "The consumers won't forget."

Special correspondents Alexandra Topping in London and Sufian Taha in Beit Hanina contributed to this report.

A Most Un-Danish Dane (FT)

By Päivi Munter

Financial Times, February 11, 2006

Denmark, the small north European nation traditionally known as a haven of liberalism, is struggling to find a 21st century strategy to deal with substantial immigration from Muslim countries. The response of the Scandinavian people has been to elect an “un-Danish” leader to protect their Danishness.

In sharp contrast to the laid-back and sociable image the Scandinavians have of themselves, Anders Fogh Rasmussen is a loner and a tough prime minister. Despite this – or perhaps for this reason – he is thought by most of his compatriots to be the right man to defend the cohesiveness of a small and homogeneous nation faced with a large minority that defies the culture of its adopted homeland.

At the end of the toughest week in the 53-year-old Mr Rasmussen’s political career – in which he pleaded to the entire Muslim world for an end to violence over Danish cartoons of the Prophet Mohammed – few cracks have appeared in the prime

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minister's support at home. Faced with the most serious international crisis to hit Denmark since the German occupation – in which the Danes successfully protected the country's Jewish minority – they stand behind the leader they respect, if not love.

Approval ratings for Mr Rasmussen, who was elected in 2001, have remained above 50 per cent, well ahead of any opposition politician. They have barely fallen since January, when the conflict over the cartoons, first published in the Danish paper Jyllands-Posten, erupted into a global stand-off between the west and the Muslim world.

Mr Rasmussen came to power on a platform that defied the traditional left-right boundaries in a country largely ruled according to social democratic principles. His centre-right coalition built its programme on two cornerstones: a tax freeze and strict restrictions on immigration. These, combined with a pledge to maintain Denmark's cradle-to-grave welfare state, constituted a radical new approach in Danish politics that secured the centre ground for Mr Rasmussen's party.

While the tax freeze has proved popular in high-tax Denmark, it is Mr Rasmussen's tough immigration policy he is best known for. Soon after his election, Mr Rasmussen set about severely curtailing the number of foreign migrants. The government passed laws making it difficult for residents to bring in spouses from outside the European Union – until then a commonly used avenue of immigration among ethnic minorities, the biggest of which are Turks, Iraqis and Lebanese.

Now a resident seeking to bring in a foreign spouse must be over 24 years of age, financially secure and have a lease on an apartment, while the couple must have a demonstrable "connection" to Denmark. These requirements make Danish immigration laws among the strictest in the European Union, a sharp departure from the country's liberal tradition.

While achieving the government's goal of dramatically reducing immigration, the law has caused considerable ill-feeling among Danish immigrants, who argue that the restrictions reflect a growing intolerance towards ethnic minorities and their culture and religion.

The immigration law has damaged Denmark's international standing, as residents married to foreigners – some of them ethnic Danes who find the rigid permit system humiliating – have been forced to emigrate or remain abroad. But the majority of Danes are staunch supporters of the policy, reflected in Mr Rasmussen's high approval ratings a year into his second term.

Danes began to see immigration as a threat to social harmony in the 1990s. A rapidly growing Muslim population that was nearing 200,000 stood out in a traditionally homogeneous country that lived off agriculture until the 1960s. Danes worried that a large part of the new minority was slow in adopting the Danish language and was living living on state benefits on the margins of society.

The growing fears about alien influences on Danish society found resonance in Mr Rasmussen, the son of a struggling farmer from Jutland, Denmark's agricultural heartland, which remains socially much more conformist than liberal Copenhagen.

Nostalgia for the era before mass immigration appears to drive one of the government's latest initiatives, too. A cultural canon, aimed at improving Danes' knowledge of their heritage, will determine the artistic works all school children must study.

Critics of Mr Rasmussen say the parochialism of his humble beginnings in the countryside has never quite left him. He may have earned plaudits for an efficient handling of Denmark's presidency of the EU four years ago, but Danish intellectuals like to joke about Mr Rasmussen's lack of sophistication and exposure to the wider world.

Peter Mose, author of the Handbook for Prime Ministers, says Mr Rasmussen's limitations in foreign policy may have contributed to the cartoon crisis, which has been brewing since September. While the publication of the drawings initially drew little attention, they spawned a controversy after Mr Rasmussen declined to meet a group of ambassadors from Muslim countries who were seeking to raise their concerns over the pictures, regarded as blasphemous by Muslims.

Many observers say Mr Rasmussen should have responded to the concerns early in order to pre-empt a crisis at a time when Denmark's participation in the Iraq war had already strained relations with its Muslim community. Instead, he resolutely defended Danes' right to freedom of expression.

"He is really good in the European context, but outside the EU he is more restricted. This is a problem when Denmark is pursuing an activist foreign policy, of which the war in Iraq is the best indication," Mr Mose says.

So far, however, this criticism is muted. Danes think the man they consider a straight shooter is the safest pair of hands to steer their small nation in a globalised world – even if he is seen by some as an oddball.

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Anne Sofie Kragh, author of a biography of Mr Rasmussen, says the prime minister is “one of the most peculiar people I have met”. According to the book, he had few friends as a child, but held a single-minded ambition to be a politician before the age of 10. He did not kiss a woman, it is claimed, until he was in his 20s.

“In Denmark, we like things to be relaxed, cosy and nice, whereas he seeks order and perfection. He’s far too ambitious to be a typical Dane, which is why he is seen as a strong leader,” Ms Kragh says.

Danish Cartoon Editor On Indefinite Leave (NYT)

By Dan Bilefsky

The New York Times, February 11, 2006

COPENHAGEN, Feb. 10 — Flemming Rose, the Danish editor whose decision to publish cartoons of the Prophet Muhammad helped provoke weeks of fury in the Muslim world, said in an interview on Friday that he was leaving his newspaper on indefinite vacation.

Mr. Rose, 47, stood by the decision of the newspaper, Jyllands-Posten, to publish the caricatures, citing freedom of the press. And he refused to apologize for the drawings, which were seen by many Muslims as sacrilegious and have prompted widespread protests, boycotts of Danish goods and the burning of Danish diplomatic missions in the Middle East.

He said in an interview, however, that the stress of recent events had given him sleepless nights.

"I am thankful that the newspaper has given me the chance to recover," said Mr. Rose, who is the newspaper's culture editor. "I am tired. In the middle of a crisis, you do not always recognize the tensions placed on you. I'm glad someone on the paper had the guts to make the decision to give me a break, because sometimes you want to keep on fighting."

The vacation announcement comes after weeks of violent clashes in Europe, Asia and the Middle East over the cartoons. At least 11 people have died.

After a brief lull on Thursday, demonstrations resumed as thousands of Muslims emerged from Friday Prayer and took to the streets in the Middle East, Asia and Africa, The Associated Press reported. The protests were mostly peaceful, but in Nairobi, Kenya, the police shot and wounded one person as officers tried to keep about 200 demonstrators from marching to the residence of Denmark's ambassador, The A.P. reported.

In Tehran about 60 protesters threw stones, firecrackers and firebombs at the French Embassy, shattering nearly every window on its street front, even after a prominent cleric urged people not to attack diplomatic missions.

Egypt had its largest protests yet, with demonstrations in most major cities. In El Mahalla el Kubra, security forces used tear gas and water cannons to break up a march of about 15,000 people after protesters threw rocks and attacked shops and cars.

Muslim leaders in Denmark said Mr. Rose's leave was unlikely to be enough to lessen tensions in the Muslim world.

"I am not his boss, but I would fire him," said Imam Abdul Wahid Pedersen, a prominent Muslim leader in Copenhagen. "What he did is disgraceful, and I can't even begin to understand what has gone on in his head."

In France, where the editor of France Soir — the first newspaper there to reprint all 12 cartoons — was fired last week, some Muslim leaders considered the fact that Mr. Rose had taken a leave a small victory.

"That's very good news," said Mohamed Henniche, president of the Union of Muslim Associations in a department northeast of Paris. "It shows that there is an evolution and that people recognize that offense has been caused."

After the publication of the cartoons in Denmark and Norway in September, and the republication last week by France Soir, the satirical French weekly Charlie Hebdo followed suit. Several Muslim organizations in France said they were planning legal action against Charlie Hebdo for incitement of hatred.

Mr. Rose acknowledged it had been a mistake to say in an interview with CNN on Wednesday that the paper intended to reprint Holocaust cartoons as part of a contest being sponsored by an Iranian newspaper. He said he had no intention to offend Jews, but had suggested publishing the Holocaust cartoons in order to document cultural satire in the Middle East for a Danish audience.

Mr. Rose also said he had erred in suggesting on Danish television that Jyllands-Posten should reprint previous cartoons satirizing Christians and Jews, including a drawing of the Star of David in the shape of a bomb by a cartoonist who drew one of the Muhammad cartoons.

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"I wanted to show that in Denmark we do not have an anti-Muslim bias and that we had published these cartoons before without having riots or boycotts of Danish goods in Israel or Christian countries," he said. Last Saturday, Jyllands-Posten did publish cartoons from the Arab world; one showed Auschwitz with a tower draped in the Israeli flag.

The paper apologized last week for offending Muslims, but has steadfastly stood by its decision to print the Muhammad cartoons.

"I feel sorry if Muslims feel offended and that was not the intention," Mr. Rose said. "But the cartoons were within the acceptable boundaries of free speech in Denmark."

The crisis began in early September when Mr. Rose commissioned the cartoons. He said he came up with the idea after the Danish writer Kare Bluitgen, the author of a children's book about religion, complained that she was having difficulty finding artists to illustrate a book about Muhammad because of fears of violent attacks by extremist Muslims.

Mr. Rose, a former war correspondent in Afghanistan and Iran, known for his fearlessness and trenchant views about immigration, was incensed, colleagues say.

He invited 25 newspaper cartoonists to draw a picture of Muhammad "how they saw him." Twelve cartoonists responded and their pictures were printed on Sept. 30. Mr. Rose said he knew that Islam barred depictions of the prophet because of concern that such images could lead to idolatry.

But he said nothing had prepared him for the reaction that followed.

An Update From France . . . (Remember Those Riots?) (WSJ)

By Theodore Dalrymple

The Wall Street Journal, February 11, 2006

LE VANS, France -- How has France changed since the two weeks of riots last November that should have shaken the country to the core?

The answer is not much. For the vast majority of the French, the riots were little more than a televisual event, to sit at home and watch on the small screen while relaxing after work. It was possible, after all, to travel the length and breadth of the country at the very height of the riots and not know that anything untoward was happening anywhere -- provided, of course, that one did not look at the television, listen to the radio, or read a newspaper or magazine.

The fact is that, for the time being, the banlieues -- the troubled suburbs -- are another country; they do things differently there.

Out of sight, out of mind: Insofar as the rioters had any coherent purpose or intention, it was to protest this peculiar, cold relationship with the rest of French society, but also -- paradoxically -- to defend it. On the one hand they wanted to catch the attention of their wicked stepmother, France; on the other, they wanted to warn her to keep her nose out of their affairs -- petty criminality and the abuse of women. (Remember that the riots were triggered by the deaths of two youths, interrupted by the police while they exercised their fundamental human right to break into warehouses.)

If they cannot be fully integrated into French society, les jeunes want to continue to be what they have hitherto been, which is, de facto, extraterritorial (except, of course, in the matter of social security payments). After all, their only other contact with the rest of French society is with the police, whom they see as an alien force that raids their territory from time to time and despises them. They want their own laws and their own hierarchy: brutal and stupid, no doubt, but at least their own.

The paralysis of the French state in the face of the challenge is almost total. This obese organism is all-powerful in the prevention of change, but utterly impotent in the initiation of change. True, there is a proposal that the curriculum vitae of applicants for posts should henceforth be evaluated by prospective employers without the name or photograph of the applicants attached so that the prospective employers cannot discriminate against applicants of sub-Saharan or North African origin. But whatever slight good this proposal might do, it assumes that the fundamental problem of French society is discrimination, which is not the case.

That is not to say that there is no discrimination. It has been estimated that, for any given level of qualification, there are twice as many unemployed French of African or North African origin as French whose ancestors really were les gaulois. This disregards the fact that in an open economy without formal legal barriers to advancement, discrimination never prevented any

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minority from advancing, and might even have strengthened determination to do so. The trouble is that the French economy is not a very open one, nor is it likely soon to become one. In an economy as centrally administered and directed as the French, piston -- influence -- is all-important. You have to know someone who knows someone: And it is this that allows discrimination to flourish and for elites constantly to renew themselves while shutting out new recruits.

The French still regard the open economy with horror. A recent poll suggests that, while two-thirds of the population accepted that reform was necessary, they also wanted to keep the advantages of the present system -- a short working week, early retirement for many, and almost invincible job protection. After years of assiduous propaganda, they believe that anything else will lead directly to the horrors of the United States: uninsured people dying of untreated diseases in the streets and, above all, riots.

The case of the state monopoly, EDF (Electricité de France) is instructive, and explains why any reform is so politically difficult. Employees of this vast organization work 32 hours per week; their meals are subsidized to the tune of 50%, their electricity and gas bills by 90%; they can retire at 55; they have the right to holidays at a fifth of their market value, and on average work the equivalent of eight months per year; and when their mother-in-law dies, they can take three days' paid leave to celebrate. These are not all their privileges, only some; so it is hardly surprising that when the government proposed the privatization of EDF, they went on strike. (The government caved in.) They did so in the name of "the defense of public service" -- and the French call the Anglo-Saxons hypocrites!

When a certain critical mass of such subsidy and special privilege for important sectors of the economy is reached, reform becomes impossible without explosion. The government has created an economic monster that it cannot tame, and that is now its master. In any case, periodic explosion has long been the means by which French society has undertaken major political and economic change. In the meantime, repression will become more necessary. For the moment, the banlieues are quiet: That is to say, only 100 cars a night are burned, and life elsewhere continues in its very pleasant way. But there is an underlying anxiety (the French take more tranquillizers than any other nation). No one believes that we have heard the last of les jeunes and of profound economic troubles. The last episode was but a very minor eruption of the social volcano. Every Frenchman believes that the question of a major eruption is not if, but when.

The mutual odium of the majority population and the children of immigrants in the banlieues has only worsened. Les jeunes are still humiliatingly dependent on a state and country that they have learned to hate, without there being any in which they might feel at home. This is a miserable existential condition, and renders their egos tenderly sensitive to the slightest insult. * * *

The only hopeful sign is the number of intelligent and hardworking young women from the banlieues who, despite everything, are able to find a place in the economy. They know that the only way they will ever escape from the control of the angry, inflamed, humiliated, violent and useless young men around them, primed by Islam to maltreat women, is by struggling for economic independence from them. They are very highly motivated.

The French do not go to the banlieues, but what they fear is that the banlieues will come to them. Perhaps it is starting to happen. My nephew and a friend of his were walking through the Bois de Vincennes, overlooked by elegant Parisian bourgeois apartment blocks, when they were set upon by two Africans and three Arabs. They were not badly injured, but at the hospital their mothers were told by the staff that such attacks, carried out not for gain but for the sheer pleasure of revenge upon the hated comfortable French, were now commonplace.

How strange it is to go to the bakery every day, and be charmed by the politeness of ordinary people and the suavity of everyday life in France, and yet be thinking concurrently that the time for some serious repression may not be far off!

Mr. Dalrymple, a contributing editor at City Journal, is the author, most recently, of "Our Culture, What's Left of It: The Mandarins and the Masses" (Ivan R. Dee, 2005).

Europe Can Take Pride In Defending Cartoons (NYT)

By Roger Cohen International Herald Tribune

The New York Times, February 11, 2006

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What should we call it? Anti-Denmarkism? Or anti-Danism? The fact is Denmark, with its bike-riding commuters and sensible social democracy, its dairy farms and Lego factory, never figured much in the hatred stakes. The right expression is elusive.

But I suppose one will have to be found now that four months of global gestation have birthed a cartoon conflagration offering proof, if any were needed, that something is rotten in the state of the world.

Of course, problems arising from perceived insults to the Prophet Muhammad are nothing new since political Islam entered its current effervescence. It was precisely on this charge, in 1989, that the author Salman Rushdie earned Ayatollah Khomeini's fatwa calling on "zealous Muslims" to kill him.

Still the fact that a dozen cartoons - drawings, really - of the Prophet Muhammad that appeared in the Danish daily Jyllands-Posten on Sept. 30, 2005, have led in these early weeks of 2006 to a dozen deaths in Afghanistan, the burning of the Danish Embassy in Beirut, riots in Gaza, and appeals for calm from the White House, suggests the rising anger between the West and the Islamic world.

Yes, anger. Western societies are increasingly exasperated at seeing the Muslim perpetrators of suicide bombings, beheadings and other violence against "infidels" or "apostates" justified or sanctified through references to Islamic texts, be they the Koran itself or the traditions of the Prophet.

These societies are ever more dismayed when they see Islamic radicals, be they from Al Qaeda or agents of Iran's permanent theocratic revolution, claiming to represent a more authentic or pure Islam than the great mass of moderate Muslims. And they wonder why that great mass seems so passive before this affront.

The West, particularly Europe, is also angry that some of the essential liberties and principles of its way of life - not least the equality of men and women, the rights of homosexuals, and freedom of speech - appear unacceptable to some of the growing but estranged Islamic communities in their midst.

The compatibility of a Western liberal, democratic society and Islam as a source of law is widely questioned, especially when the thuggery of a male street mob is a frequent expression of the political exploitation of that law.

As for the Islamic world, particularly in the Middle East, its accumulated frustrations of a post-colonial period marked generally by the imposition of the sorts of brutal one-party states defeated in Europe either in 1945 or 1989 have been sharpened by the West's occupations of Afghanistan and Iraq.

At some level, these Western invasions have revived the age-old confrontation between the Caliphate and Christendom, first experienced in Islam's initial period of expansion into Spain and other parts of Europe, later in defense against the Crusades.

The defense of a notion of pure Islam and Shariah law against what are portrayed as the modernizing and corrupting force of a valueless West identified with the United States, Israel and now Europe has become a powerful jihadist rallying cry.

Of course, it did not take the West's arrival in Afghanistan and Iraq to ignite these sentiments: the attack of Sept. 11, 2001, is proof of that. But the challenge of these inchoate democratic models to the repressive societies bordering them has provoked growing ferment.

Spontaneous demonstrations are an oxymoron in Syria: The holy outrage over the cartoons in the streets of Damascus reveals the lengths to which a regime that once massacred members of the Muslim Brotherhood will go. In Iran, and in the Gaza and West Bank of Hamas, the public fury is also one measure of political unease.

All this restiveness is naturally projected into the Muslim communities of Europe, whose sense of exclusion, justified perception of prejudice and under-representation in politics have produced strong resentments.

It is against this backdrop that the decision of Jyllands-Posten, and later other European papers, to publish the depictions of Muhammad must be seen. If the initial publication was a provocation, it was also a willed one, an act of defiance, a statement that Europe will not be cowed by fear into putting such sacrilegious images off limits.

As Denmark's principled prime minister, Anders Fogh Rasmussen, has put it: "I will never accept that respect for a religious stance leads to the curtailment of criticism, humor and satire in the press."

Rasmussen is right; Europe has to make clear where it stands on its freedoms. And what, say critics, of anti-Semitic cartoons, or insulting depictions of Roma? Why are they not published, too? Are images offensive to Muslims not just a reflection of Europe's disdain for Islam?

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These arguments might carry more weight if radical Islam were not one of the most potent global forces today, its fanatical followers invoking precisely the words or traditions of the Prophet to justify heinous acts.

By what right can such acts, and their supposed holy inspiration, be ruled unfit material for the political caricaturist or satirist? If moderate Muslims will not rise in unison against this abuse of their religion, it is inevitable that Western observers will seek to express their unease.

And what is to be made of all this outrage emanating from Arab societies where the caricaturing of the Jew is commonplace, the anti-Semitic tract "The Protocols of the Elders of Zion" finds wide credence, and certain media regularly express the view that the Holocaust never happened, or was exaggerated, or was a deserved fate for the Jews?

Repressive Middle East regimes have endured in part through such manipulation of their people's ire. In many respects, this outcry is just another example. It is precisely because the difficult Afghan and Iraqi experiments are also attempts to show respect for different religious and ethnic groups that they are creating such disquiet.

Part of that anger has now been channeled into Danish-inspired Muslim anti-Europeanism. But the burning of EU flags, rather than the Stars and Stripes, should be a source of pride to Europeans. It suggests that Europe stands for something after all.

Clash Of Civilization (WSJ)

The Wall Street Journal, February 11, 2006

As a way of addressing the Islamist threat to civil liberties in Europe, the Danish cartoons of the prophet Muhammad were hardly ideal. The right to mock a religion may be absolute, but so is the right to publish most forms of pornography: Neither is appropriate in a serious publication. That applies whether the religion is Islam, Christianity or any other, and whether the cartoons are being published for the first time or reprinted elsewhere as acts of solidarity in the face of an implied threat.

But after the attacks on Western embassies in Beirut, Damascus and Tehran, the murder of a Catholic priest in Turkey, the death of at least a dozen people throughout the Middle East in anti-Danish rioting and protests in Europe in which Muslim demonstrators urged a "real Holocaust" on the West, questions about press freedom seem almost quaint. What we are dealing with here is something else entirely.

That something else might be called the premodernism of much of modern-day Islam, meaning the apparent unwillingness of too many Muslims to place reason above "honor" and deal proportionately with intellectual provocations. The Western philosophical tradition is founded on the belief that the execution of Socrates for blaspheming the gods of Athens was an injustice. When British Muslims carry placards reading "Butcher those who mock Islam," they are making their differences with that tradition depressingly plain.

Such premodernism is also on display among those Muslims who have forgotten the reciprocal obligations that the principle of "respect for religion" requires. We'll take the Islamic clerical establishment at its word that Islam forbids pictorial depictions of Muhammad -- and look forward to their fatwas against the anti-Semitic caricatures routinely featured in the Arab and Persian press.

Yet mass demonstrations almost never represent mainstream public sentiment in the West. Why then should we take it as given that they do among Muslims? Every society has its silent majorities, but it's only in democracies that those majorities exercise a decisive influence. If Islamic societies seem premodern and violent, this surely has something to do with the fact that most Muslim countries today are places where there is no democracy; where silent majorities stay silent; where, to adapt W.H. Auden, "only the man behind the rifle has free speech."

So it has been in the case of the cartoons, which were first published in September, to the fairly muted protests of Danish Muslims. Ambassadors of 10 Muslim countries demanded that the Danish government "take all those responsible to task," apparently forgetting that, unlike in their own countries, Danish authorities do not serve as press censors. Around the same time, an Egyptian newspaper reprinted the cartoons without drawing any noticeable wrath from Muslim clerics.

It was only after a December meeting of the 56 member states of the Organization of Islamic Conferences -- all but a handful of which are dictatorships or absolute monarchies -- that the "outrage" really took wing. No surprise here: as Sari Hanafi of the American University in Beirut told the New York Times, these autocracies made use of the cartoons (the most offensive of which were fabrications) as a way of showing that the expansion of freedom and democracy in their countries would lead

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inevitably to the denigration of Islam. From there it was but a short hop to the airwaves of al-Jazeera (owned by the Emir of Qatar), whose in-house cleric, Yussuf Qaradawi, a member of the fundamentalist Muslim Brotherhood, issued a fatwa calling for a "day of anger."

Put simply, what we have witnessed isn't the proverbial rage of the Arab street. It's an orchestrated effort by illiberal regimes, colluding with fundamentalist clerics, to conjure the illusion of Muslim rage for their own political purposes. The Iranian mullahs seek to discredit Denmark as it assumes the rotating presidency of the U.N. Security Council, where Iran's nuclear program is being discussed. The secular Allawite regime in Syria wants to shore up its ties with the Sunni religious establishment, especially now that Bashar Assad's former vice president has declared a government in exile. The Saudis want to put behind them the latest stampede at the annual Hajj, where some 350 pilgrims were killed.

And in Europe, clerics and self-styled "community leaders" with close links to the Saudi government or the Brotherhood want to assert their dominance over populations that have yet to find their social or economic place in the mainstream of European life, as November's riots in France showed. The fact that European governments seem easily cowed by threats of violence has only made the problem worse.

In all the uproar, we find it telling that the two places where Muslim communities have shown restraint and moderation is in the United States and Iraq. American Muslims are overwhelmingly middle class, upwardly mobile and not very susceptible to the atavistic urgings of distant dictatorships. In Iraq, an unsilent majority has repeatedly made its views plain about the religious fanatics who demand to speak in their name. Just imagine the kind of anti-Western protests that would be taking place there now if Saddam were still in power.

There's a lesson in this for those who would have us believe that what this cartoon conflagration represents is a conflict of civilizations. There is a conflict all right, not between civilizations, but within one, and it pits those who would make Islam barbaric and those who would keep it civilized. In that struggle, the heirs of Socrates and the heirs of al-Farabi must make common cause.

US Worries Syria Still Blocking UN Hariri Inquiry (REU)

By Irwin Arieff

Reuters, February 11, 2006

Washington remains concerned about Syrian obstruction of a U.N. inquiry into the killing of a former Lebanese prime minister and is watching the matter closely, U.S. Ambassador John Bolton said on Friday.

Bolton spoke with reporters after meeting with Serge Brammertz, the Belgian prosecutor now leading the U.N. investigation of Rafik al-Hariri's assassination in a Beirut truck bombing last February 14.

Brammertz, the former deputy prosecutor of the Hague-based International Criminal Court, took over the investigation last month from German Detlev Mehlis, who had led the probe since June.

With the first anniversary of the murder rapidly nearing, no one has yet been formally accused of killing Hariri.

Several individuals identified as suspects have been detained by Lebanon, and Mehlis, in interim reports to the U.N. Security Council, has implicated senior Syrian intelligence officials and their Lebanese allies in his death.

Syria has repeatedly denied any role in the killing but promised full cooperation after a U.N. Security Council resolution adopted in October demanded it cooperate with the investigation or face unspecified further action.

Damascus has since allowed U.N. investigators to question several Syrian officials but has rejected a request to question Syrian President Bashar al-Assad, raising the possibility of a future showdown with the council.

Bolton said he did not want to discuss the specifics of his talks with Brammertz but told reporters:

"Our concern is that the Syrian obstruction of the Commission's investigation remains. And that is going to be an issue we watch very closely."

Asked when Brammertz would next report to the Security Council, Bolton said the investigator was "aware of the urgency of the situation ... that is in large measure occasioned by the deliberate obstruction of the crime scene of the Hariri assassination, and obstruction of justice that's going on."

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"I think any prosecutor would tell you that each day that goes by in the effort to reach a conclusion on the crime, makes it more difficult," he said.

Still, the U.N. investigative team has the resources and cooperation it needs from the government of Lebanon and was "continuing to make progress," he said.

Turin's Muslims Try To Keep A Low Profile (LAT)

By Tracy Wilkinson, Times Staff Writer

The Los Angeles Times, February 11, 2006

Some would protest the prophet cartoons but dare not, citing a fear of deportation. But others are using the Olympic Games to make a point.

TURIN, Italy — Like Muslims in many parts of the world, members of the Islamic community here in the host city of the Winter Olympics would gladly hit the streets to protest cartoons satirizing the prophet Muhammad.

But Muslims here say they have been under such fierce surveillance lately by Italian police that they don't dare.

"Either you shut up or you are sent away," said Abramo Haj, a Moroccan restaurateur who has lived in Italy for 26 years. He was standing on the sidewalk here outside a makeshift mosque whose vocal imam was expelled by Italian authorities in September.

Instead of protests by Muslims, Turin, in the run-up to the Olympics, has seen daily demonstrations by a diverse assortment of activists, environmentalists and leftists.

The largest demonstration yet came Friday, hours before the opening ceremonies of the Games. Hundreds of people gathered outside the University of Turin humanities building and along streets where runners bearing the Olympic flame were expected to pass. Repeatedly in recent days, protesters have managed to force the torchbearers to take detours en route to Turin.

Demonstrators sang protest songs, played drums that have come to symbolize the worldwide anti-globalization movement, waved Palestinian and Iraqi flags and burned a paper American flag. A huge red banner hung from the facade of the six-story university building proclaiming "Conflict lives here" — a play on the Olympics 2006 motto, "Passion lives here." Another banner declared: "Laura Bush, go home!" The first lady, who is heading the U.S. delegation to Turin, is scheduled to visit another part of the university today.

Still, the protests have remained relatively low-key. There have been no clashes with the police, who on Friday stood single file in riot gear with shields to block streets and prevent access to the flame's route.

And when Alberto Re, a famed Italian mountaineer, rappelled from the dome of Turin's landmark 500-foot-tall Mole Antonelliana carrying the flame in one hand, even some of the protesters paused and craned their necks to watch.

The demonstrators have a host of complaints: unemployment, a high-speed train that they say will ruin the environment, expensive Olympic venues that they say will become white elephants, corruption, the war in Iraq. Not every cause has an obvious Olympic link, but no matter.

"We are not against the concept of the Olympics; this is not a refusal of sports," said Mateo De Marchi, 19, who was handing out leaflets for the No-Olympics Committee. "It's against the structure of these Olympics … and the corruption," he said, referring to the way the Games have become dominated by big-spending multinational sponsors.

As he spoke, his comrades were lighting their own torch, made of aluminum foil, and using it to burn a Samsung banner.

"The Olympics will be a nice party," said Pino Larobina, 46, a worker at a Fiat-owned truck factory who was carrying an enormous red flag representing his labor union.

"But the fact is Turin is becoming a ghost town because of all the factories closing. When the Games are over, what will they have given the people of Turin, who each month cannot make ends meet?"

Protesters and other critics are especially incensed that Turin has spent $1.4 billion on the Games, which have a price tag of more than $4 billion. They believe that such extravagance will not translate into new jobs in an industrial city that relied so heavily on the now declining Fiat automaker.

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"We want to show the contradictions of the city," said university researcher Gippo Mukendi, 33, a communist who is helping organize the demonstrations. "On the one hand they have the Olympics, which makes the city look rich, but only a few people will earn money with the Olympics and nothing will really be left for the city."

Italian law enforcement, gearing up for the Games, spent many months focused on the possibility of terrorist attacks by Islamic radicals. Northern Italy has a large Muslim population, and a small number have been linked to international terrorist groups. Italian authorities say they have hundreds of potential troublemakers under surveillance. About 200 people suspected of belonging to terrorist cells have been deported in the last two years, officials say.

But more recently, the authorities have focused more closely on leftist groups and anti-globalization activists who seemed more determined to disrupt the Olympics.

On Friday, Interior Minister Giuseppe Pisanu again said the recent violence in the Middle East and South Asia over the cartoons could trigger an improvised attack by an individual. But, he said, neither Italy nor the foreign agencies assisting it had received indications of a planned action by terrorist groups.

The domestic "anarchists," as the government calls them, are a different matter, Pisanu told reporters in Rome. They seek "to take advantage, with spectacular acts, of the Olympics' world stage," he said. "We must take into account a general climate that is rather tense."

Italian Prime Minister Silvio Berlusconi, a right-wing politician running for reelection, said the anti-globalization demonstrators were "subversives" who should be stopped.

"The government could strike in a decisive way anyone who carries out subversive actions at the Olympics in Turin," he was quoted as telling a television talk show Thursday night.

More than 15,000 police officers and army troops, backed by NATO surveillance aircraft and an undisclosed number of Italian and foreign undercover agents, are patrolling Turin and the surrounding Alpine hills and valleys where the Olympics will unfold over the next two weeks.

US Mulling More Nuclear Talks Before Bush India Trip (BOS/REU)

The Boston Globe, February 11, 2006

WASHINGTON (Reuters) - The top U.S. negotiator on a landmark nuclear deal with India may soon visit New Delhi for talks on the troubled accord before President Bush visits South Asia next month, U.S. officials said on Friday.

The deal, agreed in principle last July, would give India access to long-denied civilian nuclear technology, including fuel and reactors, and the failure to resolve serious differences would mar Bush's trip, officials and experts say.

In exchange for access to the technology, India promised to separate its military and civilian nuclear facilities and open the civilian facilities to international inspection.

India's powerful nuclear establishment has raised objections to a "separation plan" the Americans insist must put more facilities under international supervision.

Undersecretary of State Nicholas Burns, the chief negotiator who was in New Delhi last month, has discussed with Secretary of State Condoleezza Rice making another trip over the next week or so, but they have not made a decision, a State Department official said.

"I think that's just the judgment that he and she have to make -- is this the right time for him to go," said the official, who spoke on condition of anonymity because of the sensitivity of the discussions.

Central to the debate is India's fast breeder reactor program, which would process plutonium from spent fuel from India's existing heavy water reactors.

The chief of India's Department of Atomic Energy Anil Kakodar has complained that putting this program under international monitors would "shackle" his scientists and leave the country dependent on imported uranium.

The landmark accord was agreed in principle last July 18 but negotiating the details has proven tougher than many officials and experts expected. Bush and India Prime Minister Manmohan Singh are both under domestic pressure to protect their respective interests.

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"It's doubtful" there will be a resolution of the issue before Bush visits New Delhi in March, a second U.S. official working on the issue told Reuters.

N.Korea Wants Talks With US On Crackdown: Envoy (REU)

Reuters, February 11, 2006

North Korea wants bilateral discussions with the United States over a crackdown on its finances and cannot return to nuclear talks until Washington ends sanctions, an Indonesian envoy said on Friday.

The last round of talks on ending Pyongyang's nuclear programs, which involve the two Koreas, China, Japan, Russia and the United States, was held in November.

Washington, Seoul and others have stressed the financial issue is a separate issue from the six-party talks.

"They indicated to me they are willing to resume the six-party talks provided the United States lift its financial sanctions that have been applied recently to North Korea," said Nana Sutresna, an Indonesian presidential envoy who visited North Korea earlier this week.

"North Korea has said they want to meet bilaterally on this issue," he told reporters.

Sutresna met top North Korean officials including Pyongyang's number two official Kim Yong-nam.

Washington has offered to brief North Korean officials on the legal basis of its crackdown on companies it suspects of helping North Korea in activities such as counterfeiting.

North Korea has indicated that a briefing was not a high-enough level for the discussions and has sought a meeting between U.S. and North Korean envoys to the six-party talks.

A spokesman for North Korea's Foreign Ministry said in December the briefing offer amounted to "backtracking from the agreement on holding talks to find a solution to the issue."

Indonesia has long ties with North Korea and has been trying to work as a mediator between the two Koreas.

Brazil Poised To Join The World's Nuclear Elite (KRT)

By Jack Chang

Knight Ridder, February 11, 2006

RIO DE JANEIRO, Brazil - While the world community scrutinizes Iran's nuclear plans, Latin America's biggest country is weeks away from taking a controversial step and firing up the region's first major uranium enrichment plant.

That move will make Brazil the ninth country to produce large amounts of enriched uranium, which can be used to generate nuclear energy and, when highly enriched, to make nuclear weapons.

Brazilians, who have long nurtured hopes of becoming a world superpower, are reacting with pride to the new facility in Resende, about 70 miles from Rio de Janeiro.

Other countries enriching uranium on an industrial scale are the United States, the United Kingdom, France, Germany, the Netherlands, Russia, China and Japan.

The plant initially will produce 60 percent of the nuclear fuel used by the country's two nuclear reactors. A third reactor is in the planning stages. The government hopes to increase production eventually to meet all of the reactors' needs and still have enough to export, Brazilian officials said.

"We want to build new power plants and grow our enrichment program to be self-sufficient," said Odair Dias Goncalves, the president of Brazil's National Nuclear Energy Commission. "In the whole world, there's a big reinvestment in this area. Countries are turning back to nuclear energy."

The Resende plant's inauguration had been set for Jan. 20, but was delayed because construction wasn't completed, Dias Goncalves said. The plant may begin uranium enrichment without the hoopla later this month, officials said.

Unlike Iran, Brazil is considered a good global citizen that isn't seeking nuclear weapons, although its military ran a secret program to develop a nuclear weapon as recently as the early 1990s.

Still, some U.S. observers fear Brazil's program will encourage more countries to make nuclear fuel, raising the danger of nuclear weapons proliferation.

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The United Nations nuclear watchdog, the International Atomic Energy Agency, earlier this month reported Iran to the U.N. Security Council for failing for three years to disclose all aspects of its nuclear program to agency inspectors. Iran responded by restricting IAEA inspections, a move that stymies efforts to determine whether it's producing fuel for power plants or developing nuclear weapons.

Brazil's nuclear fuel needs, more than 120 tons of enriched uranium a year, don't warrant the country launching an industrial facility like Resende, especially with global supplies of the material running high, said Lawrence Scheinman, a former U.S. arms control official.

"There really isn't much justification for new enrichment facilities unless countries have a very substantial number of reactors to be serviced and don't want to depend on outside suppliers," he said. "Neither Brazil nor Iran are in those positions."

Despite the criticisms, Brazil's program hasn't drawn the outcry that Iran's nuclear plans have. Disagreements between the IAEA and Brazilian officials in 2004 over access to the Resende facility were resolved within months.

Like Iran, Brazil has signed the Nuclear Non-Proliferation Treaty, the global agreement to prevent the spread of nuclear weapons. All of Brazil's 20 facilities using nuclear material are under IAEA safeguards.

Brazilian officials have worked closely with the IAEA throughout Resende's planning and construction, Dias Goncalves said. IAEA inspectors have visited the facility 32 times.

Iranian officials, on the other hand, hid their uranium enrichment work for 18 years and obtained much of their technology from a Pakistani-led smuggling ring. Iran's leaders also have called for the destruction of Israel and are known sponsors of terrorism.

"There is no way to doubt the intent of our plans because they are completely open," Dias Goncalves said. "We have to take account of every gram of uranium used."

The road to Resende did hit a few bumps in 2004 when Brazil refused to let inspectors view centrifuges used in the enrichment process, saying they had to protect Brazilian-designed innovations vulnerable to industrial espionage.

After months of negotiations, the two sides agreed to a confidential inspection regime, which is still in place, an IAEA official said.

That agreement allows IAEA inspectors to examine material coming in and out of the centrifuges but not the equipment itself, which is covered by opaque panels, said Edson Kuramoto, president of the non-governmental Brazilian Nuclear Energy Association.

Brazilian energy adviser Rogerio Cezar Cerqueira Leite said the Resende plant will allow Brazil to sell to growing markets for enriched uranium and fuel a domestic nuclear program that's bound to expand.

"Without enriched uranium, you don't have nuclear technology," Cerqueira Leite said. "It's not just national prestige. If you don't make it yourself, you will always be behind in the nuclear race."

Many Brazilians see the eventual opening of Resende as the first step in the country becoming a world leader in nuclear research, said Cerqueira Leite. Brazil has the world's sixth largest deposit of uranium.

Teamwork By State And Defense (WP)

The Washington Post, February 11, 2006

The Jan. 21 editorial "A Transformation at State?" inaccurately suggested a lack of cooperation between the Defense Department and the State Department's Office of Reconstruction and Stabilization. The collaboration has been superb.

As The Post reported late last year, Defense Secretary Donald H. Rumsfeld and Secretary of State Condoleezza Rice worked to secure funding in this year's defense authorization measure to support the deployment of State Department personnel in the event of crises. State now has $100 million this fiscal year and next to support such deployments.

In addition to its congressional efforts, the Pentagon has lent the State Department service members to provide military expertise. Combatant commands also have opened their exercises to State participation. Further, State and Defense officials jointly have developed concepts to deal with foreign contingencies.

These efforts hardly add up to a lack of cooperation. Instead, they illustrate a partnership worthy of the mutual respect our agencies have for one another.

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R. NICHOLAS BURNS
Undersecretary of State for Political Affairs
Department of State
ERIC S. EDELMAN
Undersecretary of Defense for Policy
Department of Defense
Washington

Rumsfeld Anxious Over Russian Arms Sales (FT)

By Demetri Sevastopulo And Peter Spiegel
Financial Times, February 11, 2006

Donald Rumsfeld, US defence secretary, on Friday expressed concerns about Russian arms sales but dismissed concerns that the US-Russian defence relationship was deteriorating.

"The US prefers that countries not sell weapons to countries on the terrorist list," Mr Rumsfeld said following a two-day meeting of Nato defence ministers in response to a question about Russian arms sales. Mr Rumsfeld said he was particularly concerned about arms sales to countries such as Iran and Syrian that the US says are supporting the insurgency in Iraq.

The Pentagon last week released a report which said the US "views with increasing concern [Russian] sales of disruptive weapons technologies abroad and actions that compromise the political and economic independence and territorial integrity".

US-Russia relations have recently deteriorated further following the decision by Moscow last month to cut off gas supplies to Ukraine. Last year, Russia angered the US when the Shanghai Co-operative Organisation – a group that comprises China, Russia, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan – called on US forces to withdraw from Central Asia.

In July, Uzbekistan ordered the US to withdraw from its Karshi-Khanabad (K2) base. The US is currently negotiating with Kyrgyzstan to continue using Manas air base outside Bishkek.

Mr Rumsfeld refused to discuss his private meeting on Friday with Sergei Ivanov, the Russian defence minister. But one US official said a separate meeting between Mr Ivanov and other Nato defence ministers was "the most candid discussion in a long time".

While Mr Rumsfeld raised concerns about the arms sales issue, he dismissed concerns that the relationship was deteriorating. Russia also recently announced it would sell air-defence missile systems to Belarus, an autocratic neighbour whose increasing closeness to Moscow has raised concerns. Mr Ivanov yesterday defended the sales, saying such anti-missile systems were sold by Russia to "dozens of countries throughout the world".

"It is in all its functions a defensive weapon and Belarus is an ally," Mr Ivanov said. "We have to recognise Belarus' right to defend itself. This has nothing to do with our relationship with Nato."

Several of Nato's defence ministers also pushed Mr Ivanov on Friday on Russia's cut-off of gas supplies to Ukraine, raising concerns that Moscow was using its energy assets as geo-strategic bargaining chips. Mr Ivanov defended Russia's position, saying it was only fair to force Kiev to pay market prices for Russian gas, arguing the dispute was "not only the suppliers responsibility".

On gas supplies, Mr Ivanov said Russia would continue to meet its contractual responsibilities. "We continue to sell gas at a loss to ourselves, but we certainly do not have any intention to rip up any contracts that run through 2006."

Mr Ivanov also acknowledged that he had discussed the idea of withdrawing from the Intermediate Nuclear Forces treaty with Mr Rumsfeld, but said neither Moscow nor Washington were currently considering the move.

"When we signed the treaty, nobody besides the US and USSR possessed these missiles," Mr Ivanov said. "I don't think anyone even in their worst dreams could imagine missile technology could spread so quickly. It's just a fact of life. I think you may see all countries have them except Russia and the US."

18 Killed As Militants Fight Russian Force In Town (NYT)

By Alexander Nurnberg
The New York Times, February 11, 2006

DOJ_NMG_0014491

MOSCOW, Feb. 10 — A clash between armed militants and security officers in a village in the Stavropol region of southwestern Russia ended Friday evening after more than 24 hours of sporadic fighting, with 12 militants and at least 6 security officers dead.

On Friday night, the local bureau of the Interior Ministry reported that the security operation, which officials said involved "routine preventive passport checking," was continuing. Officers searched other homes in the area, afraid that some militants might still be at large.

The clash ultimately involved about 300 law enforcement officers, including special forces with armored vehicles and other heavy weaponry. One civilian and five security officers were wounded and were hospitalized Friday evening.

According to official reports, the battle began in the village of Tukui-Mekteb as militants opened fire from inside a house, initially killing two police officers. They moved between buildings during the fighting.

Ramazan Khaldayev, a local resident, said the police had first appeared in the village as part of an investigative "mop up" operation. Mr. Khaldayev's home and a neighbor's were searched before gunfire broke out unexpectedly at another house, he said.

As the fight drew to a close on Friday, some security officials denied that they had been unprepared for a battle. The local branch of the Federal Security Service informed Interfax and other news agencies that security forces "had been following this group" as suspected terrorists for some time.

After the clash, security officials argued that they had successfully thwarted an impending terrorist attack. Viktor Barnash, director of the Stavropol region's Anti-Organized Crime Directorate, said the operation had "managed to prevent events of a terrorist nature that would have been similar to Beslan," the southern Russian city where 331 people, more than half of them children, died after a three-day siege by Chechen militants in 2004.

Stavropol has been largely unscathed by the conflict in neighboring Chechnya, but Tukui-Mekteb, which is near Neftekumsk, is not far from the war-torn republic and has been the site of counterterrorist operations in recent years. In February 2002 a militant blew himself up with a hand grenade when discovered by the police, and in September of that year an arms cache was discovered about nine miles from the village.

Trade Showdown Looms As S.Korea Tells US: "No Rice" (REU)

By Kang Shinhye

Reuters, February 11, 2006

South Korea said on Friday that rice should be excluded from a free trade pact with the United States, drawing a line in the debate on one of the most sensitive areas of upcoming talks between the economic powerhouses.

Washington and Seoul appear to be heading for a showdown on the issue even before the opening of formal negotiations on a free trade agreement, which is expected in May.

The chief U.S. agricultural negotiator said on Wednesday that Seoul must open its long-protected rice market under any deal.

But a top South Korean agriculture official said on Friday that the country was not going to back down on its demand for rice to be exempted.

"We will keep our principle of not giving up the rice market in the free trade talks with U.S.. The idea of being self-sufficient in rice has long been part of the national sentiment," Kim Duck-ho, director of Agriculture Ministry's free trade talks bureau told Reuters by telephone.

"The United States knows quite well that rice is a very sensitive issue in South Korea. If Washington keeps demanding the opening of the country's rice market, a free trade agreement between two countries would be very difficult to reach," another official of the ministry said.

Analysts said agriculture will be one of the toughest sectors for negotiation in the trade deal, especially because of intense opposition from South Korean farmers to liberalization.

South Korean farmers and activists have staged many violent protests against measures to open up the local farm market. They were also at the forefront of often-violent protests at a World Trade Organization meeting in Hong Kong two months ago.

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Two-way goods trade between the United States, the world's largest economy, and South Korea, ranked 11th in the world in 2004 by the World Bank, totaled more than $72.5 billion in 2004, with Seoul enjoying a $19.8 billion surplus, according to government figures.

The United States currently sells around $2.4 billion a year in agricultural products to South Korea, which has an average duty on farm products of 50 percent to 60 percent, according to a senior U.S. trade official.

A recent Korea Rural Economic Institute report said that U.S. agricultural exports to South Korea could more than double under a free trade pact, resulting in the loss of up to 130,000 jobs.

South Korea has agreed with nine rice-exporting countries to increase its quota of imported rice incrementally to 8 percent of its total consumption by 2014 from 4 percent in 2004.

In return for that deal, reached in 2004 under the auspices of the World Trade Organization, South Korea won an additional 10-year delay on implementing more extensive liberalization measures for its rice market.

Internet Censorship (WSJ)

By Amy Schatz

The Wall Street Journal, February 11, 2006

Web Firms Face Grilling on China

Executives from Google Inc. and other Internet companies head to Capitol Hill next week, where they will become feature players in an awkward debate: Are U.S. companies giving in to China too easily?

Last month, Google announced an agreement with the Chinese government to censor search results from its Chinese site. It was the latest Internet company to accede to the Chinese government's censorship restrictions, following Cisco Systems Inc., Microsoft Corp. and Yahoo Inc.

The hearing will likely produce more embarrassing publicity for the companies, and it may drive legislative momentum among lawmakers concerned about China's influence on the U.S. economy. Congressional aides are expecting a standing-room-only crowd, and the reception from politicians may be chilly.

"I was asked the question the other day, do U.S. corporations have the obligation to promote democracy? That's the wrong question," says Rep. Chris Smith, the New Jersey Republican and chairman of the House human-rights subcommittee that is holding the hearing. "It would be great if they would promote democracy. But they do have a moral imperative and a duty not to promote dictatorship."

Mr. Smith plans to introduce legislation next week that would impose restrictions on Internet companies seeking to expand into China but also provide some legal protection from Chinese demands.

The bill would require U.S. Internet companies to keep email servers used for Chinese traffic offshore. That would help prevent the Chinese government from compelling the release of Internet user data. The bill also calls for creation of an office inside the State Department that would make an annual determination about which countries are restricting Internet use. It would provide a framework for users to pursue legal action against U.S. Internet companies over privacy violations.

The disclosures about Internet companies cooperating with the Chinese government are having a wider political impact. Last week, Sens. Lindsey Graham, (R., S.C.) and Byron Dorgan (D., N.D.) cited Internet companies' efforts to help the Chinese government monitor citizens' online activity as a reason to permanently revoke China's most-favored-nation trading status.

Ironically, the controversy comes as Google, Yahoo and others are fighting for "Internet freedom" in the U.S. Google is resisting a Justice Department request for information on user searches to help prosecute violations of a federal child-pornography law. Meanwhile, the company has joined competitors to resist plans by telephone and cable companies keen on exerting more control over Internet lines, which has led to concerns about discrimination and content blocking.

Inside China's Angry Villages (LAT)

By Anthony Kuhn, Anthony Kuhn, The China Correspondent For National Public Radio, Recently Visited Panlong And Taishi

The Los Angeles Times, February 11, 2006

DOJ_NMG_0014493

AT A ROADSIDE store across the street from a kindergarten in Panlong village, a local man sat beside his motorcycle having a soft drink and chatting with a visiting reporter on the recent violence the village had experienced.

"Does political power really come from the barrel of a gun?" he asked, questioning Chairman Mao's famous dictum. "Is the gun pointed at the enemy or at the people?"

Such talk seems out of place in Panlong, in the heart of the Pearl River Delta. The delta is in southern Guangdong province, one of China's wealthiest, most industrialized regions. The Cantonese focus on making money instead of talking politics, and their resistance to central government control, is aptly summed up in the popular saying, "The sky is high and the emperor far away."

But Panlong is just the latest village in Guangdong to be racked by violent protests. Peasants blocked a highway to protest what they saw as inadequate compensation for land seized from them by the government. Riot police broke up the demonstration. Similar clashes erupted in December in Dongzhou village and last summer in Taishi village.

Is Guangdong's turbulent present a preview of the rest of the country's future? One recent academic study found that as industrialization and urbanization increase the demand for rural land, developed coastal provinces like Guangdong are increasingly becoming the site of violent clashes over land-use rights.

And unrest is clearly on the rise in China as a whole. There were 87,000 civil disturbances last year — 238 a day — compared with just 8,700 in 1993, according to police statistics. Many involve peasants protesting the confiscation of their land for development purposes, but they are often equally angry about environmental degradation and official corruption. Protests by the urban poor against large-scale layoffs and predatory developers are common.

The rural clashes are evidence of the government's failure to allow farmers the means to resolve their grievances through the press or the courts. They also bespeak a failure of the government's standard tactic for quelling mass dissent: punishing protest organizers while buying off rank-and-file demonstrators with concessions.

In the villages, it's not hard to see the tension below the calm surface. Police and security agents sit in booths at the entrances to Panlong and Taishi, although most people can enter during the day. Dongzhou reportedly remains surrounded by checkpoints where police search vehicles for fugitives.

But villagers are obviously fearful about telling their story to outsiders. Panlong locals speak of being hauled off to lengthy government-run "meetings" or "classes" aimed at forcing them to maintain silence about the clashes. Some village residents say police tap their phones. Chinese media have largely been barred from reporting on the clashes, and the local government has declined requests by foreign journalists to travel to these villages. I entered Panlong and Taishi freely but was picked up by police on my way out of both villages. Authorities deleted my digital pictures of Taishi. Reporting without official permission remains illegal in China.

Over the Chinese New Year, state-run television showed pictures of President Hu Jintao frying rice cakes in the impoverished old revolutionary base of Yan'an. His message was that China will build a prosperous "new socialist countryside" by investing in rural infrastructure and basic public services.

About time, say Chinese economists and rural experts, who have suggested such measures for years. Peasants account for two-thirds of China's population yet receive just 20% of all medical services and similarly low percentages of education and social security spending. Correcting this imbalance without offending urbanites will be a delicate task, to say the least.

Even if spending in rural regions is increased, much of it is unlikely to filter down to the peasants, given the endemic state of official corruption. Chinese experts are pessimistic about the central government's willingness to break the entrenched alliance of local business interests and corrupt officials. Until that happens, local officials will continue to pocket bribes in exchange for giving state-owned land to developers at cut-rate prices, leaving farmers landless, destitute and angry.

The government could do a lot to alleviate rural tensions by increasing farmers' rights: the right to move to the cities without being denied the same benefits as urban dwellers; the right to form farmers' associations to protect their interests; and the right to recall elected village officials who fail to represent those interests. Last year, residents of Taishi tried to exercise that very right, which is already enshrined in national law. The government responded with riot police.

Travel Restrictions Could Upset Trade, European Commission President Warns (PPG)

DOJ_NMG_0014494

By Dan Fitzpatrick, Pittsburgh Post-Gazette

Pittsburgh Post-Gazette, February 11, 2006

European Commission President Jose Manuel Barroso defended the relevancy of the 25-nation European Union and called for the United States to ease travel limitations on 10 new member countries in a speech at the University of Pittsburgh yesterday.

The restrictions -- which deny visa waivers to certain European citizens -- could upset transatlantic trade, he said.

Both the United States and Europe have "much to lose if protectionism rises and globalization's wings are clipped," said the commission president, speaking to a packed ballroom at Pitt's Alumni Hall in Oakland. "We need to ensure that the transatlantic economy remains competitive."

Business groups want the United States to open its visa-waiver program to Greece and nine other countries that joined the European Union in 2004, allowing applicants to stay here for three months without a visa.

Europe represents 7 percent of the world population but its exports and imports collectively represent more than 20 percent of all world trade. As many as 14 million jobs depend on the transatlantic relationship between Europe and the United States, Mr. Barroso said.

"I appreciate the efforts already made by the U.S. here but we must ... end this situation of discrimination against the new member states," added the former Portuguese premier.

As president of the European Commission, Mr. Barroso represents 457 million citizens and 25 countries. But following French and Dutch rejection last year of the European Union's first constitution, there are open questions about the future and effectiveness of the continental alliance. To be ratified, the charter needs approval of all 25 member states.

He admitted the French and Dutch votes prompted "much soul-searching" and that "scare stories" warned of paralysis or "even the end of the Union."

Beyond that, critics are concerned about Europe's sluggish economy, high unemployment rate and low productivity rates. There are divisions among the member countries as to solutions -- some want to keep social protections in place; others want more free-market reforms.

Responding to the questions of relevancy and addressing the ivory-tower image of the EU, Mr. Barroso said the Union needs to focus less on bureaucracy and be more responsive to the everyday problems of its citizens, emphasizing jobs, economic growth and the fight against terrorism and global pandemics.

He also wants European governments to put more money into education and research and adopt a common energy policy that emphasizes alternative fuels and reduces Europe's dependence on oil and natural gas.

"Europe needs to embrace change, and not forego the benefits of globalization," he said.

In response to a question from a student, Mr. Barroso said the Union also should do more to foster cultural and religious tolerance, oppose violence categorically and remain faithful to the principle of freedom of expression.

In closing remarks, Mr. Barroso encouraged the audience to think long-term about the Union and its sometimes slow integration efforts. It was only 60 years ago, he noted, that the Nazis' Polish concentration camps were liberated. And as recently as 15 years ago, several countries in Europe still were under totalitarian control.

Even 10 years ago, there was mass carnage in the Balkans.

"Now, we are 25 free democratic counties living together in peace."

G8 'fails To Meet Gleneagles Pledges On Debt' (FT)

By Fiona Symon

Financial Times, February 11, 2006

Group of Eight countries have so far failed to fulfil their high profile commitment to cancel all eligible heavily indebted poor countries' debts to the Industrial Development Agency, the International Monetary Fund and the African Development Fund, according to a report by Toronto University.

G8 countries have completed under half the policy goals they set themselves at the Gleneagles summit last year, according to the interim report published ahead of this weekend's meeting of finance ministers in Moscow.

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The university, which has been monitoring the group's compliance with its pledges since 1996, reported that overall compliance was nevertheless at the highest level in four years.

In the six months since Tony Blair, George Bush and their G8 counterparts convened in Scotland, their governments have satisfied the 21 priority commitments they made at the meeting 47.3 per cent of the time, the university's G8 Research Group calculated.

But on the issue of debt cancellation, which was the headline issue at the summit, all eight countries were awarded the lowest score of zero.

The report notes that some pledges take longer to fulfil than others and that the debt cancellation issue must be regarded as a work in progress. In previous surveys, however, pledges on debt relief have been awarded the highest compliance rates, so this interim score of zero marks a "significant shift", the report points out.

The G8 scored a perfect 100 per cent on implementing pledges on the Middle East, renewable energy and climate change, but less well, at 67 per cent, on commitments to help build Africa's capacity on trade and inward investment (67 per cent compliance).

On the Middle East, main commitment was the stimulation of a global financial contribution of up to $3bn a year over the next three years.

On renewable energy, the group's "perfect" compliance reflected leaders' commitments to develop markets for clean energy technologies, increase their availability in the developing world and help vulnerable communities adapt to climate change.

Compliance on supporting the Education for All initiative, as well as those geared towards the development of cleaner, more efficient and lower-emitting vehicles were tied at 56 per cent. But the pledge to reduce Iraq's debt by implementing the terms of the November 2004 Paris Club agreement was only 25 per cent achieved.

The US scored the highest rate of compliance overall, at 71 per cent, followed by the UK, with a score of 67 per cent. Russia was the only G8 country to score in the negative range with an interim score of -14 per cent.

University of Toronto: G8 Research Group: Interim Compliance Report, February 9 2006

NATO Commander Fears Rapid-reaction Force Delay (REU)

By Will Dunham And Mark John

Reuters, February 11, 2006

NATO's top commander of operations said on Friday he doubted whether the alliance would have enough troops to declare a long-heralded rapid reaction force fully operational in October as planned.

A delay to the 25,000-strong NATO Response Force (NRF) would be a setback to U.S.-backed efforts to turn the alliance that was Europe's Cold War protector into an outfit able to launch itself into crisis spots around the world at days' notice.

NATO Supreme Allied Commander Europe, Gen. James Jones, in an interview with Reuters at a meeting of NATO defense ministers in Sicily, said NATO allies still had not come up with the final 25 percent of the troops due to serve in the force.

"The reason I'm not confident is it isn't resourced now," Jones said, when asked if he was confident it would be fully operational by October.

"As things stand now, I can't say that, missing 25 percent of a force, that I have a great deal of confidence that we're going to generate 25 percent as if by magic. I'm hoping to get there," he added.

One observer at the talks said U.S. Defense Secretary Donald Rumsfeld had offered U.S. troops to help plug the gap. Rumsfeld did not allude to any promise at a final news conference but said he was confident the NRF would start on time at full strength.

Washington previously held back from offering many troops because it wants European allies to provide the bulk of the NRF. Major contributors currently include Italy, France, Spain, Germany, Britain, the Netherlands and Norway.

AFRICAN EXERCISE SCALED BACK

Jones also said the alliance would scale back the first major maneuvers for the force, first proposed by Rumsfeld in 2002, in the Atlantic island group of Cape Verde this June.

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"We've downscaled the operation in terms of some of the manpower, which is really what costs a lot of money," Jones said. He said some 6,000 troops would take part instead of a planned 8,000, insisting it would still be a valid test.

A trial run of the NRF this winter in delivering aid to victims of Pakistan's earthquake highlighted divisions in the 26-nation alliance over funding and deployment, something the ministers were due to discuss in Sicily.

"NATO must not fritter away its resources on tasks for which other organizations are better suited. Although we would not rule out future humanitarian missions, NATO's core role is military," said a French official who requested anonymity.

That view is shared by other European countries, notably Spain. But others such as United States and Britain insist that in setting up an airbridge to deliver thousands of tonnes of aid in Pakistan, the alliance showed its mettle in such situations.

Aside from differences on when the NRF should be deployed, some nations are also unhappy about the way it is funded.

Spain in particular is aggrieved that the Pakistan operation cost it some 16 million euros ($19 million) because it happened to be one of the countries whose turn it was to provide military resources to the NRF when the relief mission was launched.

It has called for more of the NRF's costs to be financed out of shared NATO funds. But Britain, Germany and France are wary of the principle of more common funding within NATO, arguing it could deter nations from investing in their own national forces.

"We have not yet found an answer to that question," de Hoop Scheffer told a news conference.

U.N. Staff To Speak With U.S. Attorney (MINNST)

By NICK WADHAMS, Associated Press Writer

Minneapolis Star Tribune, February 11, 2006

UNITED NATIONS (AP) - The United Nations has notified several employees that the U.S. Attorney's Office wants to interview them as part of an investigation into alleged corruption of its procurement division, according to a letter obtained Friday.

The letter from Maria Vicien Milburn, the director of the U.N. General Legal Division, does not outright ask the staffers to meet with the U.S. Attorney for the Southern District of New York, but says the U.N. "has a duty to cooperate" with investigations.

The Associated Press obtained the letter late Friday. The names of the recipients were not disclosed.

The criminal investigation into the U.N. procurement system has already led to a guilty plea from one U.N. employee, Alexander Yakovlev, who admitted in August to wire fraud and money laundering.

An audit by the U.N.'s Office of Internal Oversight Services in January found "substantial evidence of abuse in procurement for peacekeeping operations" that led to financial losses. In 2005, the U.N.'s Procurement Department handled almost $2 billion in purchasing for the peacekeeping department.

The letter, dated Wednesday, says that Secretary-General Kofi Annan has allowed the staffers in question to be interviewed "on a voluntary basis," with diplomatic immunity intact.

In mid-January, the United Nations ordered eight staff members to take paid leave as part of the investigation, including two senior procurement officials.

Press Freedom Boosted In Indonesia (WP)

By Ellen Nakashima

The Washington Post, February 11, 2006

Supreme Court Overturns Ruling Against Magazine Editor

JAKARTA, Indonesia, Feb. 10 -- In a ruling hailed by press freedom advocates, Indonesia's Supreme Court ruled Thursday that the editor of a prominent weekly magazine did not defame a powerful businessman. The court overturned a lower court ruling and threw out the editor's one-year prison sentence.

"This is good for press freedom in Indonesia," said Eddy Suprapto, president of the Alliance of Independent Journalists. "It's not just good for us, but for the people."

The central Jakarta district court had sentenced the editor, Bambang Harymurti, 48, to one year in prison in September 2004 for defamation and "inciting unrest" after the magazine, Tempo, published an article suggesting that Tomy Winata, a banking and real estate tycoon, could stand to gain from a suspicious fire that gutted a large market in Jakarta. An appeals court upheld the decision.

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In overturning the lower court decision, the Supreme Court set a precedent by using a 1999 press law rather than the criminal code to review the case. The press law is based on the public's right to be informed and on principles of fairness in reporting.

"The press is the fourth estate," and its function must be protected, said Justice Djoko Sarwoko.

Indonesian courts are not bound by precedent, but Harymurti and his defense team say they hope to use the decision to educate journalists, judges and prosecutors.

"I hope this will become like New York Times v. Sullivan ," said Harymurti, referring to a 1964 ruling that became a cornerstone of press freedom in the United States.

Indonesia's news media, lively if somewhat undisciplined, are trying to strengthen the institution of journalism in a society molded by decades of authoritarianism. Harymurti's appeal was a bright note in a period in which press freedom has been under fresh attack. Plaintiffs continue to sue reporters for up to $1 million in civil libel suits. A new regulation bans local broadcasters from directly relaying news from foreign television and radio stations. For the moment, though, Harymurti's supporters just want to enjoy the victory.

Tempo is often likened to Time magazine, and Harymurti's case drew international attention, with observers flying in from Australia, Asia and Europe to attend his trial.

The case's high profile was beneficial, said Janet Steele, a media professor at George Washington University who is in Jakarta on a Fulbright fellowship. "It made a lot of people think: Should a journalist ever go to prison for doing his job?"

Thursday "was just a really happy day," said Steele, author of "Wars Within," a book about Tempo during part of the 32-year rule of the former dictator Suharto.

Experts Fear Spread Of Avian Flu In Africa (KRT)

By Shashank Bengali

Knight Ridder, February 11, 2006

NAIROBI, Kenya - Nigerian authorities on Friday battled Africa's first known outbreak of deadly bird flu as experts warned that the virus already could have spread through farms in the country's rural north.

Health officials said they had quarantined large commercial poultry farms and had begun slaughtering poultry in three northern states where birds had been infected with the H5N1 virus, which can be lethal to humans.

They also bulldozed the ashes of 45,000 cremated chickens from a farm in Kaduna state, where the first outbreak was announced Wednesday.

No human cases have been reported in Nigeria. On Friday, two deaths were reported in China and Indonesia, adding to the 88 worldwide deaths previously confirmed by the World Health Organization since 2003.

With the virus having moved south from Europe and the Middle East in recent weeks, experts were closely watching developments in Nigeria, Africa's most populous country and a test for the continent's weak, underfunded public-health systems.

As it is in many African countries, poultry farming is a major industry in Nigeria and millions of people raise chickens in their backyards.

The virus can jump from birds to humans though close contact. If it mutates into a form that passes easily among humans, scientists fear that it could spark a global pandemic.

While Nigeria's response has won praise so far, experts were worried by news reports that tens of thousands of chickens had died mysteriously on large and small farms across northern Nigeria over the past month.

Boubar Seck, the West Africa bird-flu coordinator for the U.N. Food and Agriculture Organization, said that suggested that containment efforts might be too late.

The announcement Wednesday by the World Organization for Animal Health that the virus had landed in Nigeria came as the result of tests on birds that fell sick beginning Jan. 10.

It took that long for the samples to arrive at a laboratory in Italy and be analyzed. Meanwhile, Seck said, the virus probably was spreading.

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"We lost about three weeks," Seck said. "That's one of Africa's problems: We don't have the facilities. So while we were waiting, we don't know what was happening with the virus."

The Food and Agriculture Organization said Nigeria's neighboring countries should increase surveillance at their borders to keep out imported poultry. It called on Nigerian authorities to stop the movement of poultry and to close poultry markets in the affected states.

That's a major challenge in a country with a poultry population of 140 million, mostly free-ranging, according to Food and Agriculture Organization estimates.

The Nigerian government has launched a campaign to educate citizens about the virus and has offered farmers compensation for livestock losses. But some experts said that wouldn't persuade small-scale farmers - for whom chickens often are the only sources of income - to report sick birds immediately.

"On commercial farms the government compensation makes it easier to sacrifice birds," said E.B. Sonaiya, the president of the Nigerian branch of the World Poultry Science Association. "But the real problem is with free-ranging birds. They are all over."

Teams of experts from the World Health Organization and other international agencies have begun arriving to assist with the response. The United States has pledged $20 million in emergency aid, and the Food and Agriculture Organization and the U.S. Department of Agriculture have promised to send more than 1,000 sets of protective gear.

Europe 'still Not Ready For Flu Pandemic' (FT)

By Andrew Jack And Raphael Minder

Financial Times, February 11, 2006

If a flu pandemic were to hit Europe in the next few months, officials would struggle to cope with information overload and the absence of clear co-ordination and decision-making authority.

These were among the key lessons drawn from a secretive European Union-wide flu pandemic simulation held last November, the findings of which are being finalised ahead of a briefing to senior politicians in the weeks ahead.

"Common Ground", co-ordinated by the UK Health Protection Agency (HPA) on behalf of the European Commission, was designed to test the extent to which the EU could cope with a public health emergency.

Its findings will be particularly important as on Friday identified fresh outbreaks of the lethal H5N1 bird flu strain in Greece and Nigeria. China also reported its eighth human death from the virus.

Officials have stressed that the exercise was a considerable success, highlighting areas for improvement, and showing progress in areas identified as problems by a previous exercise.

But a number of participants have expressed concern with the shortcomings the simulation brought to light.

During the two-day simulation, participants drawn from government, international agencies and pharmaceutical companies across the EU struggled to discern what information was of value when a centralised computer network was inundated with reports of local outbreaks.

There was also confusion as to which agencies or governments would take critical decisions, such as the point at which vaccine manufacturers should switch from producing current seasonal flu doses to a pandemic strain.

A preliminary briefing obtained by the Financial Times stressed the need for "a simplification of the interaction between different co-ordinating institutions and agencies".

It also calls for efforts to improve "the functionality of the existing communications systems", the development of "visual information tools" and greater co-ordination between member states to share messages.

In a recent interview with the FT, Markos Kyprianou, the EU's health commissioner, lamented delays on the part of member states in informing Brussels about their preparations for seasonal vaccination. Orders had to be placed this month if vaccines were to be ready in time for next winter's flu, he said.

Mr Kyprianou said he fully recognised that responsibility for building up stocks was not a Brussels competence, but warned that Brussels could then not be asked to play a co-ordinating role – either for seasonal flu or for a possible emergency anti-viral stock for bird flu – if it was kept in the dark about national measures. "I need numbers,'' he said.

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¦ Following the discovery of infected swans in Greece, Brussels said on Friday that it had asked Greece to create a safety cordon, disinfect poultry farms and increase overall precautionary steps, pending the outcome of testing expected this weekend.

Bird Flu Spreads To Azerbaijan (NYT/REU)

By Reuters

The New York Times, February 11, 2006

BAKU (Reuters) - Avian flu was discovered in a new country on Friday with Azerbaijan finding the lethal H5N1 strain in wild birds floating dead on the Caspian Sea, and two more deaths from the virus were reported in China and Indonesia.

The virus was discovered in birds in the west African country of Nigeria earlier this week, extending what a senior United Nations official called a devastating spread from southern Asia over the past seven months.

Health experts are trying to warn people of the danger of a virus that is contracted through direct contact with infected birds. But episodes in countries as far apart as Nigeria and Iraq showed the struggle they face.

Nigerian poultry farm workers used their bare hands to throw dead chickens onto fires as village children stood by to watch in an area where H5N1 flu virus has been found.

In the southern Iraqi city of Amara, which is investigating a death that may have been caused by bird flu, children played among the dead fowl.

The World Health Organization (WHO) has already confirmed 88 human deaths since the virus re-emerged in late 2003 and the figure is steadily climbing.

Indonesia said a woman being treated for bird flu at a specialist Jakarta hospital had died and another patient was in critical condition.

The virus has also killed a 20-year-old woman farmer in the central Chinese province of Hunan, the Ministry of Health said.

There are fears the virus could mutate to a form where it can spread from human to human, sparking a pandemic in which millions could die.

David Nabarro, who heads the U.N. drive to contain the virus, said there was no evidence it had mutated to that point, but added: ``It's not far away."

SPREADING WESTWARDS

A senior scientist at the World Health Organization offered a glimmer of hope, saying a limited number of migratory birds appear to be spreading a single sub-strain of the H5N1 virus.

In theory, this could lower opportunities for the H5N1 to mutate into an easily transmissible form, according to Michael Perdue, an epidemiologist in WHO's global influenza programme.

``It could reduce the mutation level... You are less likely to have widespread mutation than if you had 20 strains hop-skotching across Asia."

Genetic sequencing of the virus found in chickens in northern Nigeria, completed late on Friday, showed it also closely matched that in poultry outbreaks in Turkey and China.

AZERBIAJAN HIT

Azerbaijan, a state that lies on a crossroads between Asia and Europe, reported its first outbreak of H5N1 on Friday.

Azerbaijan said the virus had been found in wild birds floating dead off its coast.

The birds were found in the Caspian Sea near the Absheron peninsula, which includes the capital Baku, and off the southern Massaly region, near the border with Iran, Emin Shakhbazov, deputy head of the country's veterinary service, told reporters.

Four children died in neighbouring Turkey last month from an outbreak of the virus.

NIGERIA CAMPAIGN

Villagers in Nigeria said their domestic poultry were dying too, reinforcing suspicions that bird flu may be present not only in large commercial farms but also in people's backyards in Africa's most populous country.

``We are working on this farm without taking care of our health, but what else can we do? We are calling on the government to come and help us," said Alhaj Danliti, the manager of the farm, which is a stone's throw away from the village.

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He said the farm had lost 10,000 chickens, almost its entire stock, and he did not know the nature of their disease. Several chickens collapsed and died with a yellow liquid leaking from their beaks.

Nigeria was urged to step up measures to control bird flu, clamp down on poultry trade and use culling, vaccination and movement controls where outbreaks occur.

``Control measures need to be intensified," the World Organization for Animal Health (OIE) and the U.N. Food and Agriculture Organization (FAO) said.

Preval's Lead Narrows In Haiti Election (REU)

By Jim Loney

Reuters, February 11, 2006

Former President Rene Preval could be headed for a runoff in Haiti's first election since Jean-Bertrand Aristide was ousted two years ago, according to the latest election results issued on Friday.

With about half the votes counted, Preval held 50.3 percent, just barely above the majority he would need to avoid a runoff on March 19. In results released on Thursday, Preval held 61 percent, when only 15 percent had been counted, and appeared on his way to an outright victory.

Another former president, Leslie Manigat, was in second place with 11.4 percent and industrialist Charles Baker held third with 8.3 percent, according to the results published on the Provisional Electoral Council's Web site.

Preval, a protege of Aristide and the favored candidate of Haiti's poor masses, was heavily favored to win Tuesday's election, in which Baker, the candidate of the impoverished Caribbean nation's wealthy elite, has asked for an investigation into possible fraud.

Baker said on Friday he had asked election officials to investigate whether people were allowed to vote more than once because voter lists were not followed. "We had a lot of (polling station) volunteers who said they saw people voting five times, seven times, eight times," he said.

International observers have said they saw some irregularities at polling stations but have not suggested the results were tainted by fraud.

A victory for Preval could prove unsettling to the United States, which worked to push Aristide from power two years ago. On Friday, Washington urged Preval, who maintained a low profile in his mountain hometown of Marmelade in the north, to oppose Aristide's return from exile in South Africa.

Preval inherited Aristide's strong support in the slums of Port-au-Prince and his possible victory concerned the wealthy elite who helped push Aristide from office.

Preval, who led the poorest nation in the Americas from 1996 to 2001, has not claimed victory. But he said earlier on Friday he was not surprised by the results known so far.

"During the campaign I felt the enthusiasm which would translate into a favorable vote for me," he told the Miami Herald and Reuters television in an interview.

Preval, 63, was president between the two terms of Aristide, a firebrand former Roman Catholic priest accused of despotism and corruption before he was driven out.

Although he has put some distance between himself and his mentor, Preval has said there is nothing to stop Aristide from returning to Haiti from his South African exile.

(Additional reporting by Oliver Ellrodt in Marmelade)

Awkward Start For Canada's New Leader (NYT)

By Clifford Krauss

The New York Times, February 11, 2006

TORONTO, Feb. 10 — Prime Minister Stephen Harper has gotten off to a shaky start in his first week in office, facing a rash of criticism for three cabinet appointments that appeared to compromise his past positions on making government more democratic and ethical.

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Mr. Harper, a Conservative, won a narrow victory and tenuous control of the House of Commons last month by promising that he would make Ottawa more accountable and that he would clean up after several Liberal Party scandals.

During the campaign Mr. Harper promised to halt the revolving door between the cabinet and lobbying firms, and work to transform the Senate, the upper house of Parliament, from an appointed body to an elected one.

While he was the leader of the opposition, he objected furiously last year when the Liberals lured one of his party's senior members into the cabinet days before a vote in Parliament that would probably have otherwise brought down the government of Paul Martin, who was the prime minister.

But this week Mr. Harper appointed an international trade minister who was elected only two weeks before as a Liberal, a defense minister who was once a lobbyist for military contractors and an unelected public works minister who must be appointed to the Senate to serve.

(Members of the cabinet must be members of Parliament; they are not subjected to ratification votes.)

Now conservative columnists are taking Mr. Harper to task for perceived hypocrisy, and members of the Conservative caucus who were passed over for cabinet posts are expressing bitterness.

"If you're going to break a promise, you might as well rub everyone's noses in it," wrote Andrew Coyne, an influential conservative columnist in The National Post. "He has demoralized his party's supporters. He has ruined whatever honeymoon he might have had with the press."

Mr. Harper defended his appointments as an attempt to bring the most qualified people into his cabinet.

He also said he wanted to include officials from Montreal and Vancouver, cities where the Conservatives won no seats in the House of Commons and that would have otherwise gone unrepresented.

"I expected some of the superficial criticism I've seen," he told The Vancouver Sun.

The most controversial of the appointments was of David L. Emerson of Vancouver, who was industry minister under Prime Minister Martin and was elected to the Commons last month on the Liberal Party ticket.

The local Liberal Party association has demanded that he return nearly $100,000 it spent on his campaign, resign and run as a Conservative in a special election. An online petition demanding his resignation has attracted thousands of signatures.

Mr. Emerson said he would not resign or return the money, arguing Wednesday in a conference call with reporters that he could best serve his constituents by giving them a voice in the cabinet as international trade minister. He said that he might run in the next election as a Conservative, but he also suggested that he was shaken by the sharp reaction to his party switch.

"If I knew politics would be as it has been, I wouldn't have run to begin with," he was quoted as saying. He said that his two children were being taunted in school over the issue.

Mr. Harper has promised that his first order of business will be enacting what he calls the Accountability Act, which would prohibit cabinet ministers and senior staff members from becoming lobbyists for five years after leaving office.

But his choice for defense minister is Gordon O'Connor, a retired brigadier general from Ontario, who from 1996 to early 2004 was a lobbyist for companies including Airbus, which hopes to sell tactical airlift aircraft to the Defense Ministry.

Conservatives note that the Accountability Act would not prohibit a former lobbyist from serving in government, and Mr. O'Connor said that he saw no conflict of interest.

Michael Fortier, a Conservative organizer in Montreal, did not run for the Commons in the last election. But Mr. Harper appointed him to the Senate so he could serve as public works minister.

The opposition parties are complaining that they will not be able to question Mr. Fortier on the floor of the House of Commons, as is customary with cabinet ministers, because he is not a member.

Countering criticism that he was backtracking from his promise to reform the Senate, Mr. Harper said that the appointment was only temporary and that Mr. Fortier would run for a Commons seat in the next general election.

Several members of the Conservative caucus in Parliament have criticized the cabinet choices, but most spoke behind closed doors or in comments to reporters that were strictly off the record.

One who spoke openly, Garth Turner of Ontario, reported to constituents in his blog that he had had an "unhappy" meeting with Mr. Harper afterward.

"Speaking of offices," he continued, "I'm expecting the whip will be assigning me a renovated washroom."

DOJ_NMG_0014502

Blair Seeks To Secure Political Legacy (AP)

By Danica Kirka

AP, February 11, 2006

BLACKPOOL, England -- Prime Minister Tony Blair on Friday urged his divided party to return to the core issues that unite it, appealing to delegates at Labour's centenary conference to back controversial reforms seen as a key test of his leadership.

Blair is struggling to rally his supporters behind reform proposals that have outraged some of the party faithful and spawned rebellion in his ranks.

He tried to overcome the divisions with a rhetorical appeal to the party's tradition of advocacy for working-class Britons, women and minorities, saying the best way to achieve long-held goals was to stay in power by enacting necessary and effective reforms.

"This is a moment to stand firm, to have faith that the changes we are making will, in time, work to our country's advantage and therefore to ours," he told cheering delegates. "Our party's history tells us that Labour is strongest when it is on the side of the people."

The prime minister worked to raise spirits flagging after a special election loss in a Scottish district that Labour easily won less than a year ago, although he didn't mention the election directly.

"We have to be the ones taking the hard decisions, meeting the challenges," Blair said. "That is how we won three elections. It is how we will, whatever the travails in government in the meantime, win a fourth term."

A Liberal Democrat defeated the Labour candidate in the Scottish vote Thursday night less than a year after a Labour candidate, who later died, won the seat by a 2-to-1 margin.

The defeat soured the mood of the conference in this aging coastal city, which will not decide key issues but offered Blair a chance to rally his party ahead of local government elections in May 2006.

His toughest domestic challenge lies in persuading the Labour faithful to accept reforms including a series of measures meant to improve Britain's state-funded schools.

Critics complain that state-backed schools are so inadequate that they thwart British competitiveness in the global economy.

Blair wants a return to a system granting schools more independence, and letting them be more selective about students they admit.

The mere notion has touched off a revolt in the Labour ranks, particularly among those who fear that spinning off more successful schools would set up a two-tiered system and bolster Britain's social divide.

Observers believe a defeat for the prime minister on the measures could set the stage for an early departure by Blair, who has said he will not stand for re-election.

"He could be defeated and go if he cannot get the education measures through," said Bill Jones, the author of the Dictionary of British Politics. "It would be such a huge political failure, he couldn't continue."

Blair also outlined his case for passing sensitive security laws facing Parliament next week, including a hotly debated measure on issuing national identification cards. Delegates packed into the conference hall often interrupted his remarks with applause _ particularly when he invoked the party's ethos of working for the common man.

"Everywhere our opponents seek to portray the government as out of steam," Blair said. "Yet, in reality, there is only one policy agenda in town: ours."

Even as Blair tries to shore up his position, he must consider his successor. Jones said that while treasury chief Gordon Brown is seen as the heir apparent, the transition may be far from smooth.

Other party stalwarts, such as Defense Secretary John Reid and Home Secretary Charles Clarke, may not be willing to step away quietly.

Labour's younger generation, such as David Miliband, Blair's former head of policy and now minister for communities and local government, may also stand, after long being touted as a future party leader.

Making Change From Revolution To Powerful Elite (WT)

DOJ_NMG_0014503

By David R. Sands, The Washington Times

The Washington Times, February 11, 2006

Just over a year ago, Yuri Lutsenko was manning the barricades and firing up the crowds in Kiev as a key tactician of Ukraine's "Orange Revolution."

This week, he was in Washington, meeting top U.S. officials and think tank scholars as the new government's minister of internal affairs, the most powerful law-enforcement post in the country.

"I was always sure that our democratic revolution would someday succeed, but I have to say never in my dreams did I consider that I would be one day sitting in this chair," Mr. Lutsenko said, speaking through an interpreter in an interview at the Ukrainian Embassy in Georgetown.

"I also think that a lot of the police officers who dealt with me when I was in the opposition never expected this either," the 42-year-old former electrical engineer added with a smile.

Mr. Lutsenko, a longtime activist against former President Leonid Kuchma, emerged as one of the most charismatic figures of the 2004-2005 Orange Revolution, which overturned a fraudulent presidential vote and vaulted pro-Western reformer Viktor Yushchenko to power.

With a street-rebel reputation and little administrative experience, Mr. Lutsenko was not the obvious choice to head one of the country's most powerful ministries, charged with everything from fighting corruption, terrorism and illegal immigration to overseeing Ukraine's widely resented traffic police.

"Frankly, it was absolutely unexpected for me when the president asked to take this post," he said.

He said the ministry has made good progress since he took over last February. Among his first acts were to dismiss the ministry's second in command, who heads the internal security forces, and the administrator of the traffic police.

About 2,500 police officers have been dismissed for failing to meet ministry standards and more than 600 criminal cases against officers have been referred to prosecutors, Mr. Lutsenko said. The ministry is also aggressively targeting official corruption.

Last month, three former Ukrainian police officers went on trial in the 2000 slaying of investigative journalist Georgy Gongadze. The long-stalled case proved critical in tarnishing Mr. Kuchma's rule both at home and abroad.

Mr. Lutsenko's Washington trip, which included meetings with top State Department, FBI and Department of Homeland Security officials, focused on joint cooperation on issues such as terrorism, immigration and narcotics trafficking. Kiev is also pressing for a bilateral extradition treaty, which the U.S. side has been reluctant to sign.

His trip came at a difficult moment for Mr. Yushchenko. In a nasty public break, his Orange Revolution ally, Prime Minister Yulia Tymoshenko, resigned as prime minister in August and is leading an independent bloc in hotly contested parliamentary elections next month.

Mr. Lutsenko acknowledged the uncertain political climate, but said he had no fears that the democratic, pro-Western ideals of the Orange Revolution were in danger.

"Politicians of every stripe in Ukraine now say they support those ideals," he said. "We have crossed the Rubicon and there is no going back."

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

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TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

Private Groups Seek Domestic Spying Papers (AP)

By Pete Yost

AP, February 11, 2006

A federal judge said Friday he was considering setting a deadline for the Justice Department to produce records on the Bush administration's warrantless surveillance program or to explain in court why it was refusing to do so.

U.S. District Judge Henry Kennedy said he was convinced the public would suffer irreparable harm if the government dragged its feet in a lawsuit filed over access to the documents.

The lawsuit was filed by three private groups who say the government is engaging in a pattern of delay and should be compelled to provide information on the underlying legal rationale for the surveillance and the scope of the eavesdropping program.

Congress is having difficulty getting the same information.

The Electronic Privacy Information Center, the American Civil Liberties Union and the National Security Archive asked for the material shortly after The New York Times revealed the eavesdropping on Dec. 16. The only response from the government was agreeing to put the requests on a fast track for decision-making.

Justice Department lawyer Rupa Bhattacharyya said the government would respond starting March 3, but she said she had no information on when the process might be completed.

The Freedom of Information Act says the government shall respond "as soon as practicable."

"Seven, eight, nine, 10 years? Is that the government's position?" Kennedy asked the Justice Department attorney.

Timing will depend on complexity, "and in this case there are a lot of complexities," Bhattacharyya said of the highly classified program.

David Sobel, an attorney representing the three groups, said the Bush administration was taking the position that putting FOIA requests on a fast track for consideration frees the government from a specific 20-day deadline for responding that applies to ordinary requests.

"The government is suggesting it's now open-ended," Sobel complained.

Given the highly classified nature of the program, the Bush administration is likely to withhold all information about it.

Part of the groups' effort is aimed at obtaining an index of what documents exist, enabling them to present arguments in court that some of the data be declassified and released to the public.

"It's fashionable to suggest that the courts don't have a significant role to play in these matters, but I urge the court to exercise its authority to hold the government accountable," Sobel told the judge.

Sobel was referring to the fact that the Bush administration bypassed the Foreign Intelligence Surveillance Court and is conducting the program without obtaining court warrants.

Several of Kennedy's colleagues at the federal courthouse who are current or former members of the intelligence court have expressed concern about the program.

Kennedy was appointed to the court by President Clinton in 1997.

Carter Allowed Surveillance In 1977 (WT)

By Charles Hurt

The Washington Times, February 11, 2006

Former President Jimmy Carter, who publicly rebuked President Bush's warrantless eavesdropping program this week during the funeral of Coretta Scott King and at a campaign event, used similar surveillance against suspected spies.

"Under the Bush administration, there's been a disgraceful and illegal decision -- we're not going to the let the judges or the Congress or anyone else know that we're spying on the American people," Mr. Carter said Monday in Nevada when his son Jack announced his Senate campaign.

"And no one knows how many innocent Americans have had their privacy violated under this secret act," he said.

The next day at Mrs. King's high-profile funeral, Mr. Carter evoked a comparison to the Bush policy when referring to the "secret government wiretapping" of civil rights leader Martin Luther King.

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But in 1977, Mr. Carter and his attorney general, Griffin B. Bell, authorized warrantless electronic surveillance used in the conviction of two men for spying on behalf of Vietnam.

The men, Truong Dinh Hung and Ronald Louis Humphrey, challenged their espionage convictions to the U.S. Court of Appeals for the 4th Circuit, which unanimously ruled that the warrantless searches did not violate the men's rights.

In its opinion, the court said the executive branch has the "inherent authority" to wiretap enemies such as terror plotters and is excused from obtaining warrants when surveillance is "conducted 'primarily' for foreign intelligence reasons."

That description, some Republicans say, perfectly fits the Bush administration's program to monitor calls from terror-linked people to the U.S.

The Truong case, however, involved surveillance that began in 1977, before the enactment of the Foreign Intelligence Surveillance Act (FISA), which established a secret court for granting foreign intelligence warrants.

Democrats and some Republicans in Congress say FISA guidelines, approved in 1978 when Mr. Carter was president, are the only way the president may conduct surveillance on U.S. soil.

Administration officials say the president has constitutional authority to conduct surveillance without warrants in the name of national security. The only way Congress could legitimately curtail that authority, they argue, is through an amendment to the Constitution.

The administration's view has been shared by previous Democrat administrations, including Mr. Carter's.

When Mr. Bell testified in favor of FISA, he told Congress that while the measure doesn't explicitly acknowledge the "inherent power of the president to conduct electronic surveillance," it "does not take away the power of the president under the Constitution."

Jamie S. Gorelick, deputy attorney general in the Clinton administration, agreed. In 1994 testimony before the House Permanent Select Committee on Intelligence, Miss Gorelick said case law supports the presidential authority to conduct warrantless searches and electronic surveillance for foreign intelligence purposes.

Earlier this week, however, Mr. Carter said it was "ridiculous" for Attorney General Alberto R. Gonzales to say the spying is justified by Article II of the Constitution.

Republicans say they welcome such criticism because it proves Democrats can't be trusted with national security.

"Just when you thought that the Democrats' image of being soft on defense issues couldn't get any worse, enter the sage wisdom of President Jimmy Carter to save the day," said Brian Nick, spokesman for the National Republican Senatorial Committee.

ABA President Urges Bush To Obey Spy Laws (AP)

By Anna Johnson

AP, February 11, 2006

The president of the nation's largest lawyers group said Friday that President Bush should comply with federal law when conducting electronic surveillance of Americans and refrain from scaring people into giving up their civil liberties in the fight against terrorism.

"Times of conflict have often put stress on America's liberties. It's a time when we get frightened and are tempted to take shortcuts with the Constitution," American Bar Association President Michael Greco said. "But I personally reject the false choice that is being offered Americans that they must give up their liberties to have security."

Greco, who spoke at the ABA's midyear meeting in Chicago, also released a proposal recommending that the association oppose further electronic surveillance in the U.S. for foreign intelligence purposes that does not comply with the 1978 Foreign Intelligence Surveillance Act. If the ABA's policy-making body approves it in a vote set for Monday, the proposal will become official policy of the 400,000-member group.

The proposal was recommended by an ABA task force that examined whether Bush was authorized to give the National Security Agency the power to eavesdrop on the international communications of Americans with suspected ties to terrorists without first obtaining warrants from a secretive court set up under FISA.

"We're calling on the president ... to explain to Congress what this program is about so Congress can exercise its constitutional duty of checking to make sure that the president's powers are being executed within the framework of the Constitution," Greco said.

The warrantless eavesdropping program has prompted a heated debate about presidential powers in the war on terror since it was first disclosed in December.

Bush on Friday continued his defense of the program, saying he concluded that it was needed to fill a gap in U.S security and that lawyers in the White House and at the Justice Department signed off on its legality.

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Attorney General Alberto Gonzales insisted earlier this week during a Senate Judiciary Committee hearing that Bush was fully empowered to eavesdrop on Americans without warrants as part of the country's war on terror. He cautioned Congress not to end or alter the program.

But committee chairman Sen. Arlen Specter, R-Pa., suggested the program's legality be reviewed by a special federal court set up under FISA. Committee Democrats also have generally contended that Bush acted illegally in permitting the domestic surveillance.

Bar Association To Oppose Domestic Spying (CHIST)

By ABDON M. PALLASCH, Legal Affairs Reporter

Chicago Sun-Times, February 11, 2006

The American Bar Association is preparing to weigh in against President Bush's eavesdropping on telephone calls going into and out of America.

Contrary to polls showing Americans divided on the issue, "our poll shows that average Americans and legal scholars alike agree that the awesome power of the government to penetrate citizens' most private communications must not be held in one set of hands," ABA President Michael Greco said Friday at group's annual midyear meeting in Chicago. "To prevent the very human temptation to abuse the power, there must be checks and balances in the form of oversight by the courts and Congress."

The ABA will debate and vote Monday on a resolution calling on Bush to follow the law that requires him to go before a judge in a closed courtroom to get permission to eavesdrop.

"When the voice of the legal profession in the United States, the American Bar Association, with our 407,000 members has spoken on issues in the past, people have listened, and I'm gratified the administration has listened," Greco said.

Act amended '4 times since 9/11'

Attorney General Alberto Gonzales has complained to a U.S. congressional panel that following the "FISA" (Foreign Intelligence Surveillance Act) courts would not allow investigators the "nimbleness" to listen to all conversations involving al-Qaida members.

"If the president or the administration believe that FISA hampers their 'nimbleness' or their ability to move quickly, then this is a good reason to go back to Congress and say, 'We need more speed ... we need to amend the FISA act,'" Greco said. "Congress has amended the act four times since 9/11."

Asked if he thought Bush's announcement Thursday that the administration foiled an al-Qaida attack on Los Angeles weakened his argument against unapproved eavesdropping, Greco said, "The attack -- at this point the alleged attack -- on Los Angeles is disturbing, but it doesn't change the fact that neither now nor ever in the future should we be frightened into sacrificing constitutional freedoms because something happened or something is about to happen. I personally reject the false choice that is being offered Americans that they must give up their liberties to have security."

Justice Department officials could not be reached for comment.

Asked if he thought Gonzales had the "legal acumen and knowledge" to be attorney general, Greco stood silent for a moment, then asked, "You think I should answer that question?"

Finally, he said, "The issue isn't whether the president can eavesdrop on calls from al-Qaida or to al-Qaida. The issue is whether he can wiretap calls without any accountability from Congress."

The ABA's poll of 1,000 people found 77 percent agreed the president should not be able to suspend constitutional rights without approval of a court or Congress. Earlier polls by other organizations found higher percentages of Americans willing to let the president eavesdrop on calls he thought might be related to al-Qaida.

Americans Say President Shouldn't Suspend Rights (REU)

By Andrew Stern

Reuters, February 11, 2006

Most Americans believe a president should not be allowed to suspend constitutional guarantees in order to fight terrorism, a poll released on Friday said.

The poll, taken for the American Bar Association in the wake of the controversy generated by President Bush's domestic spying program, found the public divided over whether government eavesdropping on personal communications could ever be justified.

"As our poll shows, and legal scholars agree, the awesome power of government to penetrate citizens' most private communications must not be held in one set of hands," Michael Greco, the group's president, told a news conference.

"To prevent the very human temptation to abuse this power there must be checks and balances in the form of oversight by the courts and Congress," he said.

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"I personally reject the false choice that is being offered Americans that they must give up their liberties to have security. We must protect both, and we can protect both," he added.

With the administration refusing to provide details of the eavesdropping program, which was a closely held secret until recently, the extent of any violations are unclear, Greco said.

The program, authorized by Bush in 2001, allows the National Security Agency to monitor the international phone calls and e-mails of U.S. citizens to track people with suspected ties to al Qaeda and other militant groups.

The White House has said warrantless eavesdropping is legal under Bush's Constitutional powers as commander-in-chief and a congressional authorization for the use of military force adopted days after the September 11 attacks.

The program bypassed secret courts created under the 1978 Foreign Intelligence Surveillance Act that grant warrants. Greco said if those courts do not work as they should, the administration should ask Congress to amend the law.

The Harris Interactive telephone survey of 1,045 adults taken February 3-6 found that 77 percent have reservations about the fundamental issues raised by the eavesdropping controversy, the ABA said in releasing the survey.

Of that group, 52 percent agreed that a president should never be able to "suspend the constitutional freedoms of people like you." Another 25 percent said constitutional freedoms should never be suspended unless authorized by a court or Congress.

Only 18 percent said a president could lift constitutional guarantees any time if it was necessary to protect the country and another 5 percent said they did not know or declined to answer. The poll had a margin of error of plus or minus 3 points.

A second question asking what would justify government eavesdropping on personal communications without a search warrant or court order found 45 percent saying such action would never be justified.

A further 48 percent were divided, with 22 percent saying it would be OK based on "an anonymous tip that you may be helping to plan a terrorist attack in the United States" and 21 percent saying it would be justified based on "someone's suspicion that you may be sending money to a terrorist organization."

ABA delegates plan to vote on Monday on a policy proposal calling on Bush "to abide by our constitutional system of checks and balances and respect the roles of Congress and the judiciary in protecting national security consistent with the Constitution." It also calls for a halt to the eavesdropping.

The Shoe (Bomb) On The Other Foot (NSWK)

By Jonathan Alter

Newsweek, February 11, 2006

President Bush's revelation about a foiled bomb plot shows the dangers of declassification for purely partisan purposes.

Poor Porter Goss. First, the longtime Florida congressman leaves his safe seat to become director of the CIA, only to find that he's been neutered by a new bureaucratic setup where he reports to John Negroponte, the director of national intelligence. Then he writes an op-ed piece decrying intelligence leaks in The New York Times on Friday, the exact same day as a story appears identifying today's biggest leaker of antiterrorism secrets in Washington—President George W. Bush.

For crass political reasons—namely to advance his position on the National Security Agency spying story—the president chose to use a speech to the National Guard Association to disclose details of a 2002 "shoe bomb" plot to blow up the U.S. Bank Tower, the tallest building in Los Angeles. While the plot had been revealed in general terms in the past, the White House this week arranged for Bush's counterterrorism adviser, Frances Fragos Townsend, to explain to reporters in a conference call exactly the kind of details that Goss claimed on the op-ed page helped the enemy. "We are at risk of losing a key battle," Goss wrote. "The battle to protect our classification system."

That system is at particular risk when it is exploited for political purposes. The president is allowed to declassify whatever he wants; that's one of the privileges of being president. So in this case—unlike the NSA's warrantless eavesdropping—there is no issue of Bush breaking the law. But let's be clear on what this was: a deliberate effort to use declassification for partisan purposes, in this case, defending the administration's policy on NSA surveillance, which Karl Rove says publicly will be a big part of the 2006 midterm campaign.

The White House made perfect political use of the twilight zone of intelligence. While Townsend did not explicitly claim that the NSA surveillance program had foiled the Los Angeles plot, she tried to imply that it might have played a role. "We use all available sources and methods in the intelligence community but we have to protect them," she told reporters. "So I'm not going to talk about what ones we did or didn't use in this particular case."

Let's get this straight. The president and administration officials will suddenly talk about details of the foiled plot—details that were highly classified until now. But they won't say if the controversial NSA program was involved. Given their new willingness to talk at length about the case, can anyone seriously doubt that had the NSA eavesdropping cracked this case, they would have mentioned that? Simply saying that the NSA helped foil the plot—if it had—would not have compromised "sources and methods." You can bet that if this were an NSA case, we'd know it.

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The chronology of Bush's politicizing of intelligence goes something like this: First, the president discloses classified information without any good reason to do so. Why now? It's not as if Los Angeles is hosting the Olympics or under some new threat. (To understand how hurried and political this disclosure was, consider the fact that Los Angeles Mayor Antonio Villaraigosa, a Democrat, wasn't briefed on the foiled plot and has been stiffed in his efforts to meet with the president about homeland security in his city, a problem that New York City Mayor Michael Bloomberg and other Republican mayors do not have). Then, by implying without stating that the NSA may have been involved, the White House uses sensitivity about classified information as a shield against finding out whether the NSA is relevant to the Los Angeles plot in the first place.

Goss, meanwhile, is left hanging out to dry: he seems to be calling for more criminalization of intelligence leaks in one part of the paper while the president leaks like a sieve in the other. Elsewhere, he makes a big distinction between whistleblowers who seek accountability through proper channels (they're right) and those who go to the media (obviously wrong). Feeling some pressure three quarters into his op-ed piece to offer even one example of how media coverage has jeopardized an intelligence operation, Goss hauls out the same chestnut Bush used in a press conference last month—the revelation that Osama bin Laden's satellite phone had been tapped. The implication was that once the evil American media revealed this fact, bin Laden stopped using the phone and was harder to catch. In fact, bin Laden gave up his satphone after President Bill Clinton used coordinates from the phone to bomb him in 1998. It was Clinton's missiles, not the media, that convinced the Al Qaeda leader he needed a more secure way to communicate.

Will the White House get away with using intelligence as a political weapon? Probably. Imagine if it were Clinton, not Bush, who decided to reveal classified information about the plot against Los Angeles in a politically convenient way. The rightwing gabfests would be having a field day, as well they should. But now the shoe bomb is on the other foot.

Terror Case In Buffalo Awaits Word On Wiretaps (NYT)

By David Staba

The New York Times, February 11, 2006

BUFFALO, Feb. 10 — A man accused of illegally wiring money to Yemen has asked a judge to determine whether any of the evidence against him was gathered secretly and without a warrant as part of the Bush administration's domestic surveillance program.

The suspect, Mohammed T. Albanna, 54, of Lackawanna, N.Y., just south of Buffalo, and two other men face charges that they ran a business that transferred $3.5 million from Yemeni-Americans to relatives in that country without the required permits.

Last month, Mr. Albanna's lawyer, Philip M. Marshal, asked Judge William M. Skretny of Federal District Court here to force prosecutors to reveal if secret surveillance by the National Security Agency was used. The no-warrant wiretaps were approved by President Bush after the Sept. 11, 2001, attacks to hunt for evidence of terrorist activity and are now the focus of a debate over the extent of executive power.

Last week, the judge ordered an assistant United States attorney, Timothy C. Lynch, to produce a response from the Justice Department in Washington by Feb. 27.

Mr. Marshall said Wednesday that he possessed no evidence that no-warrant eavesdropping was involved in the case, but made the request after news of the National Security Agency program was made public in December.

"I don't know if they're going to say yes, no or 'We're not going to say,' " Mr. Marshall said. "If they don't give an answer by Feb. 27, the judge has ordered that someone from the Justice Department appear in his court. The judge is going to want to know why."

Mr. Lynch, who has been involved with the prosecution since the three men were indicted in 2002, said he had no knowledge of secret eavesdropping in the case. Prosecutors have not suggested that Mr. Albanna or his co-defendants were involved in terrorism. "I told the judge the only investigative techniques I know that were used in this case were interviewing witnesses, intercepting express mail packages and using court-approved wiretaps," Mr. Lynch said.

Mr. Albanna, an American citizen who runs a business that supplies candy and cigarettes to stores in the Buffalo area, said he and his co-defendants were part of an informal system, known as hawala, used to send money to people in countries lacking sophisticated banking and communications technology.

He was a spokesman for the Yemeni community in Lackawanna during the prosecution of six men who traveled to Afghanistan and participated in an Al Qaeda training camp in the summer of 2001 before returning to the Buffalo area. All six pleaded guilty to supporting a terrorist organization and are in prison.

A seventh man, Jaber Elbaneh — Mr. Albanna's nephew — remained in Yemen and was charged in absentia. The Justice Department issued a $5 million reward for his capture in 2003.

Mr. Albanna said Mr. Elbaneh's relatives in Lackawanna believed that he has been in custody in Yemen since late that year.

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Mr. Albanna was charged in the money-transfer case two months after the arrests of the six men made international headlines. He said Wednesday that he wondered if his high profile as a spokesman for those men was a factor in the federal investigation. "That's what we're trying to find out," he said.

Convict In Al Qaeda Plot Seeks Case Review (WT/AP)

By Matthew Barakat, Associated Press

The Washington Times, February 11, 2006

A Falls Church man convicted of joining al Qaeda and plotting to assassinate President Bush has joined the ranks of those seeking a review of their convictions based on concerns about Mr. Bush's post-September 11 eavesdropping program.

Attorneys for Ahmed Omar Abu Ali, 24, last week asked a federal judge to order prosecutors to divulge whether Abu Ali was ever a subject of the warrantless eavesdropping program that Mr. Bush ordered implemented shortly after the attacks in 2001. They also asked the judge to delay Abu Ali's Feb. 17 sentencing.

Born in Houston and raised in Northern Virginia, Abu Ali traveled to Saudi Arabia to attend college and was arrested by the Saudis in June 2003. He admitted joining al Qaeda and discussing numerous terrorist plots, including a plan to assassinate Mr. Bush and to return to the United States as the leader of a terror cell.

Abu Ali said he had been tortured into a false confession, but a U.S. District Court jury in Alexandria rejected his claims and in November convicted him on all counts. He faces a mandatory minimum sentence of 20 years and up to life in prison.

It is not clear how Abu Ali's case would have been affected by the eavesdropping program, if at all. Court testimony indicated that the Saudis arrested Abu Ali on their own initiative as part of an investigation into the May 2003 bombings in Riyadh that killed more than 30 people.

An FBI agent testified that Abu Ali had been under investigation in the United States, but that investigation preceded September 11, 2001, when authorities were investigating a group of Muslim men who used paintball games as a means to train for holy war around the world.

The defense motion, though, argues that Abu Ali was a likely target of the National Security Agency eavesdropping program because he was under government surveillance while the program was in effect and because the eavesdropping focused on al Qaeda.

Also, the law requiring prosecutors to turn over evidence gained from wiretaps is broad, so it's possible that any wiretaps involving Abu Ali should have been disclosed to the defense even if their contents were not central to the issues at trial.

The defense also wrote a letter to prosecutors seeking details about any undisclosed surveillance. In response, prosecutor David Laufman wrote that the government sees "no basis to stay Mr. Abu Ali's sentencing."

Attention In N.S.A. Debate Turns To Telecom Industry (NYT)

By Scott Shane

The New York Times, February 11, 2006

WASHINGTON, Feb. 10 — Though much of official Washington has been caught up in the debate over the National Security Agency's domestic surveillance program, one set of major players has kept a discreet silence: the telecommunications corporations.

Some companies are said by current and former government officials to have provided the eavesdropping agency access to streams of telephone and Internet traffic entering and leaving the United States. The N.S.A. has used its powerful computers to search the masses of data for clues to terrorist plots and, without court warrants, zeroed in on some Americans for eavesdropping, those officials say.

Now the companies are in an awkward position, with members of Congress questioning them about their role in the eavesdropping. On Thursday two Democratic senators, Edward M. Kennedy of Massachusetts and Russell D. Feingold of Wisconsin, wrote to the chief executives of AT&T, Sprint Nextel and Verizon, asking them to confirm or deny a report in USA Today on Monday that said telecommunications executives had identified AT&T, Sprint and MCI (now part of Verizon) as partners of the agency.

The two senators demand information that, if it exists, would be highly classified: details of secret N.S.A. requests for help and the number of people whose communications were intercepted.

In a Feb. 2 reply to a similar query from Representative John Conyers Jr. of Michigan, the top Democrat on the House Judiciary Committee, AT&T offered a careful response. The two-paragraph note did not deny that the company was assisting the agency.

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"Without commenting in any way on press reports," wrote Wayne Watts, AT&T's senior vice president and associate general counsel, "let me assure you that AT&T abides by all applicable laws, regulations and statutes in its operations and, in particular, with respect to requests for assistance from governmental authorities."

The Electronic Frontier Foundation, a nonprofit privacy group, has filed a class-action suit against AT&T maintaining that the company's cooperation with the agency is violating customers' privacy. The suit says the company is providing the N.S.A. "direct access" to its "key domestic telecommunications facilities," but does not offer proof.

December's disclosure of the N.S.A. program and the corporate role in it has trained an unusual spotlight on the extensive and secret cooperation between the government and communications companies.

The companies routinely assist law enforcement and intelligence agencies with eavesdropping authorized by court warrants, a task streamlined by a 1994 law requiring a back door for the government in every new telephone technology. The law, called the Communications Assistance for Law Enforcement Act, or Calea, has created a thriving "lawful intercept" industry for technology to make eavesdropping easier.

But for decades such cooperation has sometimes gone further. Federal law permits companies to intercept calls or e-mail messages without a warrant and protects them from lawsuits if a "certification" is provided by the attorney general or his deputies stating that no warrant is needed.

Such certifications may have been provided to companies assisting the N.S.A. program, because President Bush has said that he authorized it in a secret executive order to operate without warrants. Mr. Bush has said the program is aimed at international communications of people in the United States who are suspected of links to Al Qaeda.

The companies "are going to want to see an explanation of why it's lawful," said Kenneth C. Bass III, a communications lawyer in Washington who worked closely with the N.S.A. as a Justice Department official from 1978 to 1981.

Corporate cooperation with the agency is one of the government's most sensitive secrets, and neither company representatives nor N.S.A. officials would discuss it. "If the carriers could talk about this, they'd say, 'We believe we're doing this on a legal basis, and we think this is an appropriate role for us,' " said Michael J. Kleeman, a veteran telecommunications entrepreneur now at the University of California, San Diego.

Mr. Kleeman and other experts say the kind of cooperation now being provided by the companies has long been customary and is mirrored in many other countries. American telephone executives have traditionally seen their companies' cooperation with intelligence agencies as a patriotic duty, industry officials say. The officials say they have not heard of companies' receiving regulatory breaks, contracts or other benefits for cooperation, both because a quid pro quo is not necessary and because it might expose the secret assistance.

The companies' ties to Washington are formidable. Once a year, 30 of the country's top telecommunications and Internet executives gather in the capital to talk with the government about national security topics like how phone systems can survive nuclear attack.

All members of the National Security Telecommunications Advisory Committee, as the group is known, have been given security clearances to discuss classified programs with senior domestic security, intelligence and White House officials. (Vice President Dick Cheney was at last year's meeting.) Asked whether the committee had discussed the N.S.A. eavesdropping, a committee spokesman, Steve Barrett, said in an e-mail message, "The N.S.T.A.C. is not involved in the gathering of intelligence."

The digital revolution has made government eavesdropping more dependent than ever on corporate cooperation, telecommunications experts say. For decades, the N.S.A. was able to snatch most communications out of the air, maintaining a network of dish antennas to capture traffic transmitted by commercial satellites. But most international traffic has shifted over the last two decades to undersea fiber-optic cables. While a tap can be placed surreptitiously on a cable, company cooperation makes it far easier to sort the thousands of digital messages carried simultaneously in it.

"If you're going to monitor traffic over a fiber cable, you really need the carrier's cooperation," said Jerry Lucas, a telecommunications veteran whose company, TeleStrategies Inc., runs a regular conference called "Intelligence Support Systems for Lawful Interception" where government officials meet company technicians to discuss eavesdropping issues.

As digital technology has grown more complex, the Calea law has made snooping easier, said Anthony M. Rutkowski, president of the Global Lawful Intercept Industry Forum, a group of companies that produce equipment to comply with Calea (pronounced kuh-LEE-uh) and similar foreign laws.

"I don't know of a vendor anywhere that hasn't built intercept capability into its equipment," Mr. Rutkowski said.

But the cost of adding intercept capability sometimes leads to resistance. Currently some companies are fighting a government effort to require intercept capability on the Internet phone service called Voice Over Internet Protocol, or V.O.I.P.

Mr. Rutkowski said the controversy over the N.S.A.'s current practices, like past controversies about domestic surveillance, might have value.

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"The marvelous thing about the resilience of the system is that the pendulum does swing," Mr. Rutkowski said. "Eventually it creates a balance between the legitimate need of the government for information against the privacy rights of the citizens."

Justice Moves At Glacial Pace For `enemy Combatant' (CHIT)

By Andrew Zajac, Washington Bureau

Chicago Tribune, February 11, 2006

Unusual circumstances keep a terror suspect, arrested in Illinois in 2001, mired in legal limbo and held in a Navy brig hoping for day in court

WASHINGTON -- With the recent transfer of terror suspect Jose Padilla to a Miami jail to await trial, the sole remaining "enemy combatant" in the U.S., Ali Saleh Kahlab al-Marri, still sits in the Charleston Naval Brig, awaiting the outcome of a slow legal battle over how to dispense justice when an alleged terrorist is a legal alien.

In the eyes of the government, al-Marri is an Al Qaeda sleeper agent sent to the U.S. heartland to help the terrorist network's operatives get settled for follow-up attacks after Sept. 11, 2001.

His lawyers say al-Marri, 40, is an innocent civilian who legally came to the U.S. with his family to obtain a master's degree in engineering at Peoria's Bradley University.

Arrested in West Peoria in December 2001, al-Marri, a Qatari national, was declared an enemy combatant by President Bush on June 23, 2003, and has been held since then in solitary confinement at the South Carolina Navy brig. Al-Marri was effectively out of reach of the U.S. legal system until the Supreme Court declared in June 2004 that enemy combatants have some legal rights.

"Enemy combatant" is the name the Bush administration has used to label some terrorism suspects. These "combatants" reside in a kind of legal limbo, lacking rights traditionally assigned to criminal defendants and prisoners of war. The three enemy combatants initially held in the U.S.--the rest are imprisoned at Guantanamo Bay, Cuba--have been in a strange legal limbo, in part because of their differing circumstances.

Al-Marri and Padilla were arrested on American soil, but unlike al-Marri, Padilla is a U.S. citizen. A third combatant, Yaser Hamdi, was a U.S. citizen but was picked up on a battlefield in Afghanistan.

In addition to seeking a day in court, al-Marri has sued for relief from allegedly harsh and abusive detention. His lawsuit says he has been subjected to prolonged isolation and denial of basic necessities including bedding, clothing and medical care. The government denies mistreating him.

Cautionary tale

Al-Marri's predicament, and the glacial pace of its resolution, is a cautionary tale for millions of non-citizen legal U.S. residents, according to Jonathan Hafetz, one of his attorneys.

"The government can say, `We think you're a bad guy. We're just going to hold you because we think you are,'" said Hafetz of the Liberty and National Security Project at the Brennan Center for Justice in New York.

A federal court in South Carolina ruled in July that as a non-citizen, al-Marri could not simply demand that the government charge him with a crime or release him. The ruling noted the decision "does not close the door to this court to [al-Marri]," but it did not spell out what al-Marri needed to do to challenge his enemy combatant status.

In December, the court said al-Marri was entitled to "receive notice of the factual basis for his classification [as an enemy combatant], and a fair opportunity to rebut the government's factual assertions by presenting more persuasive evidence before a neutral decisionmaker."

But his lawyers say that standard, borrowed from the Supreme Court's June 2004 decision, stacks the deck against al-Marri because some of the evidence against him is secret and unavailable. And the public portion of the government's evidence consists of a sworn statement from a federal agent who did not have firsthand knowledge of the assertions about al-Marri's alleged ties to Al Qaeda, Hafetz said. The allegations include phone calls al-Marri made and material on his laptop.

"All the government has submitted to say they can hold him for the rest of his life is the statement of a single government agent who has no direct knowledge," Hafetz said.

A Justice Department spokesman declined to comment on the case. But as in all enemy combatant cases, government lawyers in court papers call for giving the president a free hand in dealing with detainees. Their arguments in the al-Marri case lean heavily on the Supreme Court's June 2004 decision regarding Hamdi.

The justices ruled that Hamdi was entitled to a hearing to contest his enemy combatant status but that national security considerations justified compromises, including possibly the use of secondhand information not normally admissible in court.

Government lawyers argue that as a non-citizen U.S. resident, al-Marri cannot demand any more rights or protections than those contemplated for a citizen like Hamdi.

Different circumstances

But Hafetz said the Supreme Court's hearing framework seeks to avoid interference with military operations, a concern specific to the case of Hamdi, who was picked up on the Afghan battlefield. He said it should not apply to al-Marri, who was arrested in the U.S., where obstructing the military is not an issue.

The hearing envisioned for Hamdi never occurred. He was released and allowed to return home to Saudi Arabia in October 2004 after forfeiting his U.S. citizenship.

Padilla, likewise, has not faced a hearing on his enemy combatant status.

The one-time Chicago gang member was arrested at O'Hare International Airport in May 2002 and taken into federal custody. Bush later declared Padilla an enemy combatant, who was transferred to the brig in June 2002.

In a surprise development, Padilla in January was transferred from military control to the custody of the Justice Department in Miami to face terrorism-related charges unrelated to the allegations used to detain him as an enemy combatant.

Al-Marri, meanwhile, has not budged and, according to his lawyers, has not been interrogated in more than a year. Since being moved to the brig, he has not been permitted visits with family, including a wife and five children, who live in Saudi Arabia. A brother, Jarallah al-Marri, is detained at the Guantanamo Bay naval base.

Accusations against Ali al-Marri include that he made a series of telephone calls in late 2001 to a number in the United Arab Emirates used by suicide hijacker Mohammad Atta and others involved in the Sept. 11 attacks. The government says the phone number belonged to Mustafa Ahmed al-Hawsawi, an alleged Al Qaeda paymaster.

Al-Marri's lawyers say they want to know if any evidence against their client was collected through torture.

Al-Marri denies being a terrorist or committing any crimes.

A leading expert on military law faulted the government for delaying a resolution of enemy combatant claims.

"There's this sense that time has no value," said Eugene Fidell, president of the National Institute of Military Justice. "I think the government has to explain what its game plan is. The legal system is illusory for people in his position."

Fidell said federal judges need to be more assertive in establishing a clear process for handling cases of enemy combatants.

"In his [al-Marri's] case as in Padilla's, they were subject to the district court and then whisked out with no watchful eye over them," he said.

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Bail Denied For Brooklyn Bookseller Accused Of Financing Terrorism (NYT)

By Julia Preston

The New York Times, February 11, 2006

A federal judge denied bail yesterday to a Muslim bookseller from Brooklyn accused of plotting to buy arms for Islamic fighters in Afghanistan, saying the government appeared to have "very strong evidence" for the terror charges against him.

The judge, Loretta A. Preska, referred to transcripts of secretly recorded conversations between a government informer and the bookseller, Abdulrahman Farhane. Judge Preska said Mr. Farhane understood that he was talking about transferring funds to the Middle East "to purchase arms and equipment," which he knew would be used "for jihad against the United States and other Western powers."

The evidence that prosecutors presented at Mr. Farhane's bail hearing, in United States District Court in Manhattan, added significant substance to the government's case against him and three other defendants, including Tarik Shah, a New York jazz musician and martial arts instructor who also is Muslim. Mr. Shah, 43, was arrested May 29 and charged with conspiring to teach martial arts to members of Al Qaeda. The tapes include conversations with Mr. Shah and Mr. Farhane about financial transfers.

The evidence bolstered the case against Mr. Shah. Based on an F.B.I. sting, prosecutors were accusing Mr. Shah of agreeing with an undercover F.B.I. informer to train Qaeda fighters in "hand-to-hand combat." But the government did not claim that Mr. Shah had met or had contact with any terrorist operative.

Now Mr. Farhane, a Moroccan-American who is 52, has emerged as the central figure in the case. According to Judge Preska, the prosecutors have audio recordings that capture him discussing specific ways to raise money and transfer it to Islamic fighters battling the United States forces in Afghanistan in the fall of 2001, after the Sept. 11 attacks.

Victor L. Hou, an assistant United States attorney, , said yesterday that Mr. Farhane had introduced Mr. Shah to the government informer at his bookstore. The informer recorded the conversations about financial transfers.

Also charged with terror conspiracy are Rafiq Sabir, a doctor from Florida, and Mahmud Faruq Brent, a paramedic from Washington, D.C. They and Mr. Shah have been detained without bail since their arrests.

In a letter on Thursday to Judge Preska, Mr. Hou wrote that Mr. Farhane, after he was arrested Oct. 26, told investigators that he had introduced Mr. Shah to the informer to help him "send money to jihadists overseas."

The prosecutors also cast new light yesterday on the role of the government informer, a Yemeni named Mohamed Alanssi, who set himself on fire in front of the White House in November 2004, apparently to protest his handling by F.B.I. agents. Mr. Alanssi was a witness in the case in Brooklyn last year that convicted a Yemeni sheik, Mohammed Ali Hassan al-Moayad, of financing terrorism.

Mr. Hou said that "the confidential source" — whom the defense has identified as Mr. Alanssi — first identified Mr. Farhane to the F.B.I. in the weeks after 9/11 as having "radical views of Islam." Starting in December 2001, Mr. Alanssi secretly recorded a series of conversations with Mr. Farhane, many of them at his Brooklyn bookstore. Judge Preska said recordings from the fall of 2001 make it clear that Mr. Farhane was talking about sending money for "wireless communications and advanced weapons" for Islamic fighters.

Michael Hueston, Mr. Farhane's lawyer, called his client a "family man" with six children, including two born in the United States. He questioned why prosecutors had waited since 2001 to arrest him if they regarded him as dangerous.

Mr. Hou grew impassioned when he sought to rebut a statement Mr. Farhane made in court on Wednesday, when he pleaded not guilty and said, "I love this country." Mr. Hou said wiretap recordings in March 2004 register Mr. Farhane as saying: "This is not a country where we should stay. The longer one stays here, the more people make you sick."

The prosecutor said a search of Mr. Farhane's home and store — the House of Knowledge, on Atlantic Avenue — had turned up address books showing that he had several criminal contacts. Karim El-Mejjati, a Moroccan who has been linked to terrorist bombings in Saudi Arabia and Casablanca, had once given Mr. Farhane's address as his own, Mr. Hou said. His book listed, among others, Abad Elfgeeh, who Mr. Hou said was a "money launderer" for Sheik al-Moayad.

Mr. Farhane was arrested in October on lesser charges of making false statements to the F.B.I. Prosecutors brought the terror financing charges against him this week.

U.S. Bookseller's Bail Revoked In Terror Case (FINDLAW/AP)

By Larry Neumeister, Associated Press Writer

AP, February 11, 2006

(AP) - NEW YORK-A bookstore owner accused of supporting terrorists was jailed without bail Friday after a prosecutor played taped conversations in which the man is heard advising not to think of America "as our country."

Abdulrahman Farhane, a 51-year-old U.S. citizen of Moroccan descent, was taken into custody and his $150,000 (â‚¬125,300) bail was revoked by U.S. District Judge Loretta A. Preska, who said her review of government evidence showed the nature of the case and quality of evidence was very serious.

"It appears the government has very strong evidence of the terrorism offenses charged," the jurist said before the red-bearded New York man was led away.

During two bail hearings this week, prosecutors were forced to reveal new details of the case against Farhane, 42-year-old musician Tarik Shah and two others.

When he was initially arrested in October, Farhane was charged with making false statements to the FBI. Shah was originally accused last spring of offering to train others in the martial arts, leading his lawyer to call it the "karate-chop case."

But an indictment returned earlier this week portrayed the case in more sinister terms, saying Farhane and Shah conspired in 2001 to help an FBI cooperating witness send money to aid Islamic militants fighting Americans in Afghanistan.

After reviewing conversations taped by the FBI in Farhane's bookstore in December 2001, the judge said the tapes "make it clear" that Farhane offered to help another man transfer money to the Middle East in 2001 even though he was told some of the money would be spent on communications and advanced weapons.

She said he also told the FBI after his arrest last fall that he knew some of the money might end up being used to fight U.S. forces in Afghanistan.

The judge announced her conclusions after Assistant U.S. Attorney Victor Hou tried to discredit Farhane's Wednesday comment in court that he did nothing wrong, insisting, "This is my country. I love my country."

Hou said a court-authorized telephone wiretap captured statements in 2004 in which he complained about America.

"We should not think of this as our country. This is not a country where we should stay," Hou said Farhane told another man on March 10, 2004. "The longer people stay here, the more people make you sick."

In an April 13, 2004, conversation, Hou said Farhane seemed to be applauding an attack on U.S. forces in Iraq when he said, "The Sunnis gave the U.S. military a lesson they won't forget."

The prosecutor said a man in a Jan. 16, 2004, telephone call with Farhane promised loyalty, saying, "I will kill for you."

He described Farhane as a dangerous facilitator who incites and inspires others and who brought Shah into the scheme because he believed the musician could help with ways to send money to the Middle East.

"You cannot trust him," Hou said.

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In a letter to Preska, Hou said Farhane told the FBI last October that there was a duty for Muslims to wage violent jihad to repel invaders in Muslim lands.

Hou said the FBI also found address books belonging to Farhane that read like a "who's who of terrorism financiers in the United States" and then he identified several men who have been convicted and sentenced in U.S. terrorism cases.

He belittled the claims of love for America by the father of six children, saying "behind closed doors when he thinks nobody's listening, he's telling what he really believes."

Defense attorney Michael Hueston argued for continued bail, saying his client had obeyed restrictions since he was put on electronic monitoring after his Oct. 26 arrest.

Hueston said the absence of danger was illustrated by the government's failure to arrest his client between 2001 and last October and contended extensive taping of his client revealed no conversations in which he threatened U.S. forces.

"He's a family man," he said.

Hou suggested that law enforcement authorities waited to arrest Farhane in order to protect a wider investigation.

Terror Trial To Start Despite Late Evidence, Defense Lawyers Say (FINDLAW/AP)

By Don Thompson, Associated Press Writer

AP, February 11, 2006

(AP) - SACRAMENTO-Federal prosecutors have released mounds of documents and hundreds of hours of audiotapes to attorneys defending a father and son charged in a terrorism probe, but the defense said the last-minute flood of evidence will not delay the trial.

Jury selection is expected to begin Tuesday in the trials of Umer Hayat, 48, and his 23-year-old son, Hamid, both of Lodi. Their trials will run concurrently with separate juries.

The U.S. attorney's office last week turned over 253 compact discs and 45 audiotapes with an estimated 990 hours of secretly recorded conversations - most in foreign languages - between the Hayats and a government informant.

This week, they turned over much more material, mostly documents, that the defense team is struggling to digest as it prepares for trial, said attorney Johnny Griffin III, who represents Umer Hayat.

Nonetheless, "we will not be seeking any types of continuances of the start of the trial," Griffin said Friday.

The government is required to turn over evidence the defense can use to question prosecution witnesses.

The Hayats are accused of lying to the FBI about Hamid Hayat attending a terrorist training camp in Pakistan in 2003 and 2004. Hamid Hayat also is charged with providing material support to terrorists by attending the camp and returning to the United States last May with the intent to commit terrorist acts.

Both men were arrested in June in the agricultural town about 35 miles south of Sacramento. They have denied the charges and are being held in Sacramento County Jail awaiting trial.

A Late Surprise For Lodi Defense (SACBEE)

By Denny Walsh, Bee Staff Writer

The Sacramento Bee, February 11, 2006

With terrorism trials near, new trove of evidence is revealed.

Shortly before the start of trials of Umer Hayat of Lodi and his son Hamid Hayat on terrorism-related charges, federal prosecutors dumped a huge load of tapes and a stack of FBI reports on defense attorneys.

In addition, they filed documents under seal and heavily redacted other documents to keep information secret.

The government's actions once again suggest it wants to delay the start of the trials in the highly publicized case. The trials, with two juries at the same time in the same courtroom, are scheduled to start Tuesday.

The government has gone to extraordinary lengths to keep information secret and repeatedly has sought to delay the trials of the two Lodi men charged with lying to the FBI about their alleged terrorist ties.

Umer Hayat, a 48-year-old Lodi ice cream truck driver, and his 23-year-old son Hamid have been in jail since June 5, in connection with an FBI terrorism investigation. In addition to accusations of false statements, Hamid Hayat is charged with supporting terrorism by attending an al-Qaida training camp in Pakistan.

Thirteen days before the start of Tuesday's trials, prosecutors gave defense lawyers 253 compact discs and 45 audiotapes containing an estimated 990 hours of surreptitiously recorded conversations involving the Hayats and an FBI informant dating back to April 30, 2003. A substantial portion of the recordings are in foreign languages.

While prosecutors said their actions were necessary, one defense attorney involved in several terrorism cases elsewhere says the actions indicate a troubling pattern.

San Diego attorney Mahir T. Sherif said the government's attitude has been to "do whatever it takes to get a conviction or get these people we are suspicious of out of the country. And if that means arresting them first and getting evidence later, so be it. That's the tone that has been set at the top of the federal executive branch."

The pattern, he said, is to arrest without proof beyond a reasonable doubt and, if the subjects are not deportable, then prosecutors "try to break them down to get a plea deal."

"The government wants to be able to say it thwarted another terrorist plot," Sherif said.

The prosecutors' last-ditch surrender of material could have prompted defense attorneys to ask U.S. District Judge Garland E. Burrell Jr. for more time to prepare for trial.

On at least five occasions since the Hayats were first indicted June 16, prosecutors have opposed defense efforts to get a speedy trial. And the government succeeded in postponing the initial Aug. 23 trial.

When prosecutors recently suggested defense attorneys obtain security clearances - a process that would take months - the Hayats' lawyers, Johnny Griffin III and Wazhma Mojaddidi, labeled the suggestion "insincere, unfounded and just another tactic by the government to force delays in this case."

The defense attorneys first invoked the federal Speedy Trial Act on July 1, asking for a trial within 70 days of the Hayats' arraignments. But, from the outset, the government opposed such requests.

The prosecutors "obviously felt they would have had a hard time proving a case had it gone to trial within 70 days," Sherif said. "If they felt they could get a conviction by going to trial when the defense wanted to, they would not have hesitated."

To justify stopping the speedy trial clock, prosecutors and Burrell repeatedly cited time consumed in honoring the defense attorneys' requests that more than 40 federal, state and local government agencies be surveyed for whatever information may exist about the Hayats.

But the government felt no compulsion to comb the files of all the agencies listed in the defense requests, according to court papers.

In a July 6 motion to stop the speedy trial clock, prosecutors said they had asked only select federal agencies in the executive branch and intelligence community to review their files.

As to other federal agencies, the defense would have to present facts tending to show an agency is in possession of information helpful to the defense "before the government has an obligation to initiate a review," prosecutors said in the motion.

Further, prosecutors said, they have no obligation to search for information "in the custody, possession, and control of state or local law enforcement agencies."

Griffin, a former federal prosecutor, said the government had the responsibility to search for all relevant information about the defendants, even without the defense requests. And, he said, the government should have been ready for trial before it arrested the Hayats and fought to keep them in jail without bail.

The defense attorneys complained for months that they were not being given access in a timely fashion to information in the government's possession.

In a heated Aug. 5 debate before Burrell, a prosecutor argued that the government could not search for and retrieve all information relative to the Hayats by the Aug. 23 trial date.

"So, if they want to push the pause button," Griffin countered, "they want to stop (the speedy trial clock), they should dismiss the case. And if and when they're fully prepared to honor their discovery obligation, and therefore truly announce (they are) ready for trial, then let's try the case."

Two months later, when prosecutors S. Robert Tice-Raskin and Laura Ferris told the judge they still were not finished searching and retrieving information from the files of various federal intelligence agencies and asked for another delay, Mojaddidi told Burrell the prosecutors were "buying time to develop a case against our clients, which they do not yet have."

Running on a parallel track has been the prosecution's effort to keep secret material connected to the case, some of it unclassified by the government.

Prosecutors have met with Burrell in secret on a number of occasions and have submitted to him a steady stream of sealed documents, all under the authority of the federal Classified Information Procedures Act.

Prosecutors recently filed a series of motions - some heavily redacted - asking Burrell for "protective orders" covering unidentified material they were submitting to the judge.

In one motion, the prosecutors ask Burrell to order restrictions on the dissemination of unclassified information.

According to the motion, the information in question is contained in "sensitive declassified recorded conversations involving the defendants, (a) confidential witness and/or other individuals," and in "declassified imagery which the United States intends to use at trial in this matter. This imagery is highly sensitive."

"Disclosure of the sensitive information beyond the defense team should be precluded to avoid the risk of revealing U.S. government investigative tactics and techniques relating to both the recorded conversations and the imagery," the motion says.

"Knowledge of such tactics and techniques could be employed by others to limit the success of future use of these various techniques."

After all the rhetoric about how the case implicates national security and classified information, prosecutors now acknowledge that their search yielded no classified documents they will use at trial.

What is classified, they say, is information needed to lay a foundation for what are described in court documents as four images of "the earth's surface and of the objects ... in the vicinity of Balakot, Pakistan." In other words, the details of how the images were obtained and processed are classified.

Griffin and Mojaddidi have told the prosecutors and Burrell they don't care about the details of the images' origins, and they will not object to their admissibility. They also want the images admitted as evidence because they think it will help their clients in the eyes of the jurors.

Burrell has ordered Umer and Hamid Hayat tried before two juries at the same time.

Umer Hayat is charged in a grand jury indictment with lying to the FBI to conceal his alleged firsthand knowledge of terrorist training camps in his native Pakistan and his son's alleged training at one or more of the camps.

Hamid Hayat is charged in the same indictment with providing material support to terrorists by undergoing the training and re-entering this country to await instructions from unnamed others "to wage violent jihad against the United States."

The Hayats, both U.S. citizens, have pleaded not guilty. If convicted, Hamid Hayat faces a 23-year prison term and Umer Hayat faces an eight-year term.

After more than eight months of legal wrangling over defense access to information and the timing of the trials, the case still hangs primarily on confessions the two Lodi men allegedly made to FBI agents June 4. Their attorneys say those statements were made under duress.

Related graphic Lodi terror case [190k PDF]

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Would-be Terrorist Got Cold Feet After Sept. 11 (DMN/AP)

Associated Press

The Dallas Morning News, February 11, 2006

Malaysian officials say he had trained to pilot jet in West Coast attack

KUALA LUMPUR, Malaysia – A Malaysian man recruited by al-Qaeda to pilot a plane in a Sept. 11-style attack on the West Coast pulled out after observing the carnage of the 2001 assaults, Southeast Asian officials said Friday.

Malaysian engineer Zaini Zakaria was among three men al-Qaeda was preparing to take part in an attack in the U.S., the officials said. Mr. Zaini, 38, has been detained without trial under the Internal Security Act in Malaysia since he surrendered in December 2002.

On Thursday, President Bush outlined details of an alleged plot to hijack an airliner and fly it into a skyscraper in Los Angeles. He said that terrorists intended to use shoe bombs to break into the cockpit and fly the plane into the 73-story US Bank Tower downtown.

Mr. Bush said that cooperation between Washington and several Asian countries had helped to thwart the plan. "It took the combined efforts of several countries to break up this plot," he said.

The plan never appeared close to the stage where it could be put into execution. Scores of arrests after the Sept. 11, 2001, attacks severely curtailed al-Qaeda and its Southeast Asian affiliate, Jemaah Islamiyah.

Mr. Zaini, a native of the northeastern state of Kelantan, surrendered to Malaysian authorities in Kelantan in December 2002, said his former lawyer, Saiful Izham Ramli.

The two other men implicated in the attack plans were Zacarias Moussaoui, who is in U.S. custody, and Abderraouf Jdey, who remains at large with a $5 million U.S. bounty on his head.

Two Malaysian security officials, speaking on condition of anonymity because they were not authorized to discuss the issue with the media, said Mr. Zaini was the only suspect in the alleged plot known to be in Malaysian custody.

Mr. Zaini traveled to al-Qaeda camps in Afghanistan in 1999, where he met senior figures in the terrorist group, including an Indonesian, Riduan Isamuddin, also known as Hambali, one of the Malaysian security officials said. Mr. Isamuddin was arrested in 2003 in Thailand and is in U.S. custody.

After returning to Malaysia the same year, Mr. Zaini enrolled in a flight school and obtained a license to fly a small plane. He then began making inquiries in Australia about getting a license to fly a jet, the official said.

But Mr. Zaini was never told what his mission for al-Qaeda would be.

When he saw media coverage of the Sept. 11 attacks, he severed his ties with the militants, the official said.

Mr. Zaini told Malaysian interrogators that he "didn't want that kind of jihad," the official said.

A second Malaysian security official said Mr. Zaini told his Malaysian interrogators that "he was not prepared to die as a martyr, so he backed out."

A possible "second wave" attack was mentioned briefly in the June 2004 U.S. National Commission report on the Sept. 11 attacks on the World Trade Center and the Pentagon. The report quoted Khalid Shaikh Mohammed, the reputed Sept. 11 mastermind, as saying "three potential pilots were recruited for the alleged second wave." It identified them as Mr. Moussaoui, Mr. Jdey and Mr. Zaini.

Mr. Mohammed, who was arrested in Pakistan in 2003, told his U.S. interrogators that "he was too busy with the 9/11 plot to plan the second wave of attacks," the report said.

Mr. Moussaoui, a Frenchman of Moroccan descent, has pleaded guilty in a U.S. court to conspiring to fly planes into buildings, and a jury is being selected to decide whether he is put to death or sentenced to life in prison.

The State Department is offering a reward of up to $5 million for information leading to the capture and conviction of Mr. Jdey, who was born in Tunisia but is a naturalized Canadian citizen.

Mr. Saiful, the former lawyer for Mr. Zaini, said his client never told his lawyers about taking flight classes, and his arrest records do not describe him as a pilot or being a suspect in a "second wave" attack.

He said authorities had sought Mr. Zaini mainly for his links with Jemaah Islamiyah, a common charge for which scores of suspects are being held in a high-security prison in Kamunting under a law that allows indefinite detention without trial.

Mr. Zaini's wife is from the Ulu Tiram district in southern Johor state, the site of a school where Mr. Isamuddin and other Indonesian terrorist leaders were thought to be based for some years.

In 2003, the U.S. ordered a freeze on Mr. Zaini's financial assets and those of several other suspects. His family is now so poor that they cannot afford to travel to Kamunting in central Malaysia to visit him, Mr. Saiful said.

Moussaoui Trial Difficult For Both Sides (MINNST)

By Greg Gordon

Minneapolis Star Tribune, February 11, 2006

A newly released transcript of a secret hearing revealed huge logistical problems in the trial of Zacarias Moussaoui

WASHINGTON, D.C. - Confessed Al-Qaida conspirator Zacarias Moussaoui refused for months to speak with his lawyers or to review key documents for his sentencing trial, prompting a federal judge to consider meeting privately with him and his lawyers, it was disclosed Friday.

U.S. District Judge Leonie Brinkema decided instead to order guards at the city jail in Alexandria, Va., to give court-appointed defense lawyers greater access to Moussaoui in hopes that communication would improve, according to a newly declassified transcript of a secret Jan. 5 court hearing.

Jury selection began this week in the sentencing trial to determine whether Moussaoui, who pled guilty last April to six counts of conspiring with the Sept. 11 suicide hijackers, will get the death penalty. Moussaoui's outbursts in front of prospective jurors created a new complication in the case.

A host of problems

In ordering release of the transcript, Brinkema offered a glimpse of huge, behind-the-scenes logistical problems plaguing the only U.S. prosecution stemming from the 2001 attacks on the World Trade Center and the Pentagon.

The transcript also revealed that Minneapolis FBI agent Harry Samit, one of two agents who arrested Moussaoui 3½ weeks before the attacks, will be a central witness for both prosecutors and defense lawyers. As many as seven Minneapolis FBI and immigration agents and personnel were listed as possible witnesses, along with two former FBI counter-terrorism chiefs, lawyers said.

During the closed hearing, Brinkema pressed defense lawyers to reduce the large number of classified documents they seek to introduce and urged prosecutors to assist them.

She said she will require government security officers to stay on 24-hour call in case issues surrounding classified information arise. She said it is possible that impasses over sensitive material will force emergency reviews by a federal appeals court.

"I've got to remind both sides this case is going to look terrible and play terribly in the public's eye if we get it started and I have to have a three-day recess to resolve those matters or argue them before an appeals court," she said. "And we may lose this jury."

She conceded that both sides "are laboring under unbelievably difficult conditions."

He's not talking to his lawyers

Brinkema asked defense lawyers if they were communicating with Moussaoui.

"He's refused all correspondence from us, including packages," defense lawyer Alan Yamamoto replied.

Brinkema also said that when she finishes crafting substitutions for the classified statements of Al-Qaida captives whom Moussaoui sought to question, she would herself send them to Moussaoui for his review, so he cannot later claim that his rights were denied. "He tends to read things I send him," Brinkema said.

The case was hung up for two years over Moussaoui's demand for access to captives who support his contention that he knew nothing about the Sept. 11 plot.

Efforts to improve relations between Moussaoui, a 37-year-old Frenchman of Moroccan descent, and his lawyers apparently failed. On Monday, he disrupted each of four initial sessions with prospective jurors, denouncing his lawyers until he was ordered removed from the courtroom.

The judge has scheduled a public hearing Tuesday to discuss trial "logistics" and is expected to warn Moussaoui that he will be constrained or barred from the trial if his outbursts continue.

Greg Gordon is a correspondent in the Star Tribune Washington bureau.

'Vengeful Act' (NSWK)

By Jamie Reno

Newsweek, February 11, 2006

A family lawyer for Zacarias Moussaoui discusses the sanity and possible execution of 9/11's alleged '20th hijacker.'

Jury selection began in Alexandria, Va., this week in the federal death-penalty trial of Zacarias Moussaoui, the only person in the United States charged in the September 11, 2001, terrorist attacks. Arrested in August 2001, Moussaoui, whose incarceration has been marked by bizarre in-court outbursts and an uncooperative relationship with his attorneys, had insisted since 9/11 that he had nothing to do with the terrorist plot. But in April, he surprised everyone and changed his plea to guilty of conspiring to fly planes into U.S. buildings. Moussaoui now faces the death penalty or life in prison.

Moussaoui's mother, Aicha El-Wafi, who lives in France but plans to attend the trial when it begins next month, told reporters last year that her son is a "scapegoat" and that he pleaded guilty simply "to have peace." She also said her son should be "judged and convicted for what he did, and not because he is an Arab or an Islamist." El-Wafi's American attorney, Randy Hamud, a controversial civil-rights advocate who also represented several San Diego-based Middle Eastern students who were friendly with 9/11 terrorists Nawaf Alhazmi and Khalid Almidhar, remains in contact with Moussaoui's family. He spoke to NEWSWEEK about his belief that Moussaoui is "deranged" and a scapegoat. Excerpts:

NEWSWEEK: How would you describe Zacarias Moussaoui's mental state?

Randy Hamud: Over the years, his paranoia and delusional thoughts and words have skewed the whole of the proceedings. Khalid Shaikh Mohammed [the alleged mastermind of the attacks] has stated that Mr. Moussaoui wasn't included in the 9/11 plot because he was unstable, and he continues to be unstable.

Do you think he's mentally fit to stand trial?

No, I don't. How can he plead guilty to 9/11 when in the same breath he denied being a participant in that plot? It was not a rational decision or a shining moment in our jurisprudential system when the judge accepted such a preposterous plea.

But Moussaoui did plead guilty. Why should he not be given the death penalty or life in prison?

Because he never was a 9/11 player, has always maintained that he had nothing to do with 9/11, and even concurrently with his guilty plea, he denied he was a 9/11 player ... And because he was not a 9/11 player, he certainly does not deserve the ultimate penalty. With his professed membership and support of Al Qaeda, he's talked himself into 10 years in prison, not the death chamber. If he is executed for 9/11, it would be the vengeful act of a vengeful government.

What do you think of Moussaoui's defense attorneys?

He has a first-class team of defense lawyers who were battling the government, him and public opprobrium to cobble together his sound defense to the charges. Unfortunately, his impulsive guilty plea short-circuited their magnificent efforts.

What was your involvement with Moussaoui's defense team early on?

None, other than to interface with his mother and the defense team, and earlier on, on her behalf, to measure the skills of the defense team with a view toward retaining other counsel if they were not up to the task. I soon found that they were well qualified and committed to his defense.

What do you expect from the defense during this death-penalty trial?

They will have to present all evidence of mitigation and sympathy for Mr. Moussaoui, including his childhood, etc. Also, they will probably try to establish that he did not really know any details about 9/11 and could not have helped the government to prevent it if he had been cooperating, [that] before 9/11 the government itself knew more about the conspiracy and the conspirators than did Mr. Moussaoui; only bureaucratic bumbling prevented timely discovery of the plot.

What do you expect from the prosecution during this trial?

Inflammatory statements, testimony from the victims' families, every stratagem by which they can appeal to the passion and prejudices of the jury.

Do you think the Muslim world be watching this trial closely?

I think so, because he is on trial for his life. The recent conviction of imam [Abu Hamza] al-Masri in England [for charges including incitement to murder] has been overshadowed by the [Prophet Muhammad] cartoon controversy which has set the Islamic world aflame. When that settles down, Moussaoui"s trial should get lots of play on Al-Jazeera and the other Arabic and Middle East networks. Since Abu Ghraib and Guantanamo, nobody in the Middle East believes that Muslim Arabs are fairly treated anywhere in the U.S. or in any venue where the U.S. military calls the shots.

How does this trial compare and contrast to other trials around the world involving suspected terrorists and members of Al Qaeda?

In the other trials, there seems to be an actual nexus between the charges and the defendants. Not so here; he was not a 9/11 player even though he pled guilty to it. It's all a fantastic fantasy in which the court participated by accepting his plea because, I believe, it had finally lost patience with him and his outbursts.

How do you think the American public views Moussaoui?

As a demon and a pariah, just as the administration has depicted him since his arrest. Even that widely used photo of the clean-shaved, shaved-headed, "buff" Moussaoui is a grand illusion; in person, he is a meek, little man who is not buff, not menacing, and really looks nothing like that notorious photograph.

How did you come to represent Moussaoui's mother?

She learned of my work through the media and contacted me first in May of 2002 when Mr. Moussaoui was not cooperating with his lawyers. She asked me if I could try to help convince him to cooperate with his attorneys.

Do you believe, as Moussaoui's mother does, that Moussaoui is a scapegoat?

Yes, I do. He may be guilty of membership or sympathy for Al Qaeda, but he certainly was not a 9/11 player. That's the rub. The government failed to bring to the bar of justice any of the real 9/11 players, such as Khalid Shaik Mohammed, Ramzi bin al-Shibh, even Osama Bin Laden, and needs a scapegoat so it can gloat to the American people that it has captured and executed one of the culpable parties.

What is Moussaoui's mother's position at this point?

She is devastated. She's planning to come to the United States the first week in March when the actual trial begins. She was crushed when he pled guilty, because she knows he had nothing to do with 9/11.

I'm sure you realize that your opinions about this case are going to anger many Americans, right?

Not really. Americans usually like criminal defendants to be connected to the charges and usually don't like the thought of accepting the guilty plea of a deranged man who is clearly innocent of the actual charges against him. Remember, he was in jail on 9/11. And for a while during the period of his self-representation, his publicized written and oral tirades actually caught the attention and sympathies of several columnists and pundits who wondered aloud whether Mr. Moussaoui was "all there." He hasn't changed. We've changed. We're trying to execute someone for a crime which the government itself knows he did not commit. It's a dark chapter in our jurisprudential history. Hopefully it will be an exception rather than the new paradigm for the future.

Brit Treasury Chief Forms Terrorism Team (AP)

By TARIQ PANJA

Associated Press, February 11, 2006

LONDON (AP) -- British Treasury Chief Gordon Brown plans to assemble a team of financial experts to end terrorism funding streams - the equivalent of the intelligence experts who broke the Nazis' Enigma Code during World War II, his office said Friday.

In a speech Monday at the Royal United Services Institute for Defense and Security Studies- a professional forum concerned with national and international defense and security - Brown is expected to outline a series of measures aimed at cutting off terrorists' cash flow.

His comments come as the British parliament prepares for key votes on national ID cards and anti-terrorism legislation.

Brown is widely backed as the most likely candidate to take over from Prime Minister Tony Blair, who will not run in Britain's next general election. In Monday's speech, Brown is expected to say that in his role as finance minister, he has played a significant international security role.

"And I have discovered that this requires an international operation using modern methods of forensic accounting as imaginative and path-breaking for our times as the Enigma codebreakers at Bletchley Park achieved more than half a century ago," Brown will say, according to excerpts of the speech obtained by the Associated Press.

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A spokesman for the Treasury, speaking on customary condition of anonymity, said the speech will focus on the balance between security and liberty.

In July 2005, 56 people - including four suicide bombers - died when London's transit system was attacked. Part of Brown's speech is expected to focus on the importance of strangling extremists' sources of money, and how that would help minimize the chances of further attacks.

Brown is also expected to outline intelligence evidence gathered by British security sources showing the funding and planning of terror attacks by global networks.

He is also planning to announce a review of the rules protecting charities from exploitation by extremist groups, and tougher action to prevent terrorists abusing bureaux de change and wire transfers.

Closer communication with banks to monitor suspicious transactions and a possible strengthening of the system for seizing assets will also be outlined by Brown.

Since Sept. 11, Britain has frozen $139 million in terrorist assets, including from over 100 organizations linked to al-Qaida, according to figures released by the Treasury Department.

Syrian Accused Of Planning 2003 Attacks (LAT)

From Times Wire Reports

The Los Angeles Times, February 11, 2006

A Syrian was charged with masterminding suicide bombings in 2003 that killed 58 people in Istanbul, and Turkish prosecutors claimed that Osama bin Laden personally ordered him to carry out attacks.

Loai Mohammed Haj Bakr Saqa, 32, was accused of serving as a point man between Al Qaeda and homegrown militants behind the series of suicide bombings in Istanbul in 2003, said the indictment.

It said Saqa had given the militants in Turkey about $170,000.

Saqa had cosmetic surgery, according to a medical report, and operated by using an array of fake IDs and aliases even with Al Qaeda contacts, according to the indictment.

PATRIOT ACT:

GOP Accepts Patriot Act Compromise (WT)

By Stephen Dinan

The Washington Times, February 11, 2006

CAMBRIDGE, Md. -- Speaker J. Dennis Hastert said yesterday that House Republicans can accept the USA Patriot Act deal struck Thursday, and key Senate Democrats also endorsed the proposed changes as a good compromise.

"I think they were enough to make sure we can protect the American people," Mr. Hastert, Illinois Republican, told reporters as House Republicans were meeting on Maryland's Eastern Shore for their annual retreat.

Senate Minority Leader Harry Reid, who in December led a filibuster of the bill and boasted he had "killed" the last version, supports the new compromise, a spokesman for the Nevada Democrat said.

The announcements mean the bill, which extends the USA Patriot Act while adding a few new checks, is likely to clear final legislative hurdles and be sent to President Bush for his signature.

The House Republicans met with Mr. Bush for nearly two hours yesterday, most of it behind closed doors, to talk about their agenda and strategy going into November's congressional elections. During the meeting, Mr. Bush repeated his pledge to catch terrorists "dead or alive."

"Laura doesn't like me saying this, but I believe we do need to find al Qaeda, dead or alive," he said, according to a participant.

He also defended the National Security Agency surveillance program, telling the Republicans: "I wake up every morning thinking about a future attack and, therefore, a lot of my thinking and a lot of the decisions I make are based upon the attack that hurt us."

After weeks of rejecting calls for greater congressional oversight, Mr. Bush has agreed to allow briefings for all members of the intelligence committees. Previously just the "gang of eight" -- the top Republican and Democrat on the House and Senate intelligence committees, as well as the Republican and Democrat leaders in each chamber -- were briefed.

Rep. Heather A. Wilson, New Mexico Republican and a member of the House intelligence committee who had sought disclosure to the committee, stood up and thanked the president.

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Mr. Hastert told reporters the expansion of the briefings was the right step, and when asked whether Congress would take action to rein in the activities, he defended them.

"It really comes down to what we do to keep this country safe," he said. "Somebody in this country, whether it is a foreign national or a citizen, talking to al Qaeda, somebody ought to know about it and why it is happening."

Republicans described the session as very open and extremely friendly. Rep. John T. Doolittle, California Republican, said Mr. Bush delivered "the equivalent of a post-graduate seminar on world diplomacy."

The president also defended the new Medicare prescription drug benefit, which took effect at the beginning of the year, saying there were bound to be some glitches in a program that has signed up 26 million seniors.

Mr. Bush tossed in a number of jokes, including several at his own expense: "If any of you are ever president, make sure you surround yourself with smart, capable people -- people smarter than you; in my case, it wasn't all that hard to find."

He also said he will not be swayed by low approval ratings.

"If I worried about the polls, I'd be laying on the ground in the fetal position," Mr. Bush said.

Despite the polls, House Republicans said there's no effort to try to separate themselves from him.

Rep. Thomas M. Reynolds of New York, chairman of the National Republican Congressional Committee, said among House Republicans Mr. Bush is "pretty well sought-after" to campaign in their districts.

He said some Republicans, such as Rep. Rob Simmons of Connecticut, may not want to have Mr. Bush campaign in their district, but many Southern Democrats don't want House Minority Leader Nancy Pelosi, California Democrat, campaigning for them.

"I think it's a nice trade-off," he said.

Hastert Backs Compromise On Patriot Act (AP)

By Jim Abrams

AP, February 11, 2006

Legislation to renew the anti-terror Patriot Act was cleared for final congressional passage Friday when House Speaker Dennis Hastert blessed a day-old compromise between the White House and Senate Republicans.

Senate Democratic Leader Harry Reid also indicated he will vote for the bill when it comes to a vote, possibly next week.

The legislation gives federal agents expanded powers to investigate suspected terrorists in the United States, and the Bush administration has said it is one of the key weapons in the war on terror.

"I think they (the changes in the bill) were enough to make sure we can protect the American people," Hastert told reporters at Cambridge, Md., speaking of three revisions that the white House and Senate GOP holdouts announced on Thursday.

The House "should move forward with it as soon as the Senate" acts, he said. A short-term extension of the measure expires on March 10.

Passage of the bill was stalled late last year when four Senate Republicans joined Democrats in saying that it shortchanged civil liberties protections in the name of the war on terror.

Reid's spokesman, Jim Manley, said the Nevada Democrat intends to vote for the bill. The Senate's second-ranking Democrat, Sen. Richard Durbin of Illinois, is also among its supporters.

Judiciary Committee member Sen. Dianne Feinstein, D-Calif., also said the bill had been substantially improved by the changes and she would vote for it.

Any changes made would still have to be approved by the House, but Sen. Larry Craig, R-Idaho, another negotiator, said that with the Senate and the White House in concert, he thought the House would go along. He said he had consulted with House Judiciary Committee Chairman James Sensenbrenner, R-Wis. "There will be no additional negotiations," Craig said.

Sensenbrenner declined comment, but Hastert said he had discussed the bill with the chairman.

The changes, worked out over several weeks of talks, specifically with the office of White House counsel Harriet Miers, covered three main areas:

_Under the first, recipients of court-approved subpoenas for information in terrorist investigations would have the right to challenge a requirement that they refrain from telling anyone.

_The second removes a requirement that an individual provide the FBI with the name of an attorney consulted about a National Security Letter, which is a demand for records issued by administrators.

_The third clarifies that most libraries are not subject to National Security Letter demands for information about suspected terrorists.

White House spokesman Scott McClellan said the agreement would "continue to build upon the civil liberties protections that are in place but do so in a way that doesn't compromise our national security priorities."

But Sen. Russell Feingold, D-Wis., a leader in opposing the act, said he would continue to fight it.

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He said the deal did not provide meaningful judicial review of gag orders because such review can only take place after a year has passed and can only be successful if the recipient proves the government acted in bad faith.

The deal also does not ensure that when government agents break into homes to do "sneak-and-peek" searches that it tells the owners of those homes, in most circumstances within seven days, as courts have said they should, Feingold added.

The law originally was passed within days of the attacks of Sept. 11, 2001, and the administration says it has been an important weapon in the government's arsenal for tracking suspected terrorists.

Renewal of the law was blocked last year when critics said its provisions shortchanged civil liberties, particularly in the cases of individuals who were not suspected of terrorist activities themselves, but might have had innocent dealings with suspects.

Also at issue was concern over the government's ability to demand information from libraries.

As a result of the deadlock, lawmakers had to approve two temporary extensions of the old law. The current extension expires March 10.

Republicans said that with the changes, the chance would be remote that any library would have to turn over information.

But Democrats said the same provision made explicit that some libraries could be forced to turn over information, adding that existing law is vague on the subject.

Other than Sununu, the Republicans who had defied the president's wishes on the Patriot Act last December were Craig, Lisa Murkowski of Alaska and Chuck Hagel of Nebraska.

Hastert Backs Deal On USA Patriot Act (REU)

Reuters, February 11, 2006

House Speaker Dennis Hastert on Friday embraced a deal reached by a group of Senate Republicans and the White House to renew the USA Patriot Act, a centerpiece of President Bush's war on terrorism.

Hastert, an Illinois Republican, said once the Senate passes the measure, likely next week, the House would give it final congressional approval so Bush can sign it into law.

"If the Senate passes it, we'll pass it," Hastert told reporters at a retreat by House Republicans in Cambridge.

The deal, announced on Thursday, was designed to address demands for better protection of civil liberties.

The Patriot Act, initially enacted after the September 11 attacks, expanded the power of federal law enforcement to conduct wiretaps and secret searches and share information.

The pending legislation would make permanent 14 key provisions, now set to expire on March 10, and extend two others for four years.

While some Senate Democrats portrayed the White House-backed deal as failing to address civil liberties concerns adequately, several Senate Republicans and Democrats who had earlier balked at renewing the law now supported it.

One change would allow individuals to challenge gag orders when they have been subpoenaed to produce sensitive information on library, medical, education or gun-related records.

Another would clarify that traditional libraries would not be subjected to special subpoenas, which are not issued by judges, to gain records.

A group of Republican and Democratic senators combined in December to stage a filibuster, a procedural move that blocked a vote on an earlier House-passed measure to renew the act.

Since then, Congress approved two short-term extensions.

"It's time we get it done on a long-term basis," Hastert said.

Another Cave-In On The Patriot Act (NYT)

The New York Times, February 11, 2006

The Patriot Act has been one of the few issues on which Congress has shown backbone lately. Last year, it refused to renew expiring parts of the act until greater civil liberties protections were added. But key members of the Senate have now caved, agreeing to renew these provisions in exchange for only minimal improvements. At a time when the public is growing increasingly concerned about the lawlessness of the Bush administration's domestic spying, the Senate should insist that any reauthorization agreement do more to protect Americans against improper secret searches.

When the Patriot Act was passed after Sept. 11, 2001, Congress made some of its most far-reaching provisions temporary so it would be able to reconsider them later on. Those provisions were set to expire last December, but Congress agreed to a very short extension so greater civil liberties protections could be added. This week, four key Republican senators — later backed by two Democrats — said that they had agreed to a deal with the White House. It is one that does little to protect Americans from government invasions of their privacy.

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One of the most troubling aspects of the Patriot Act is the "gag order" imposed by Section 215, which prohibits anyone holding financial, medical and other private records of ordinary Americans from saying anything when the government issues a subpoena for those records. That means that a person whose records are being taken, and whose privacy is being invaded, has no way to know about the subpoena and no way to challenge it.

Rather than removing this gag order, the deal keeps it in place for a full year — too long for Americans to wait to learn that the government is spying on them. Even after a year, someone holding such records would have to meet an exceedingly high standard to get the gag order lifted. It is not clear that this change has much value at all.

The compromise also fails to address another problem with Section 215: it lets the government go on fishing expeditions, spying on Americans with no connection to terrorism or foreign powers. The act should require the government, in order to get a subpoena, to show that there is a connection between the information it is seeking and a terrorist or a spy.

But the deal would allow subpoenas in instances when there are reasonable grounds for simply believing that information is relevant to a terrorism investigation. That is an extremely low bar.

One of the most well-publicized objections to the Patriot Act is the fact that it allows the government to issue national security letters, an extremely broad investigative tool, to libraries, forcing them to turn over their patrons' Internet records. The wording of the compromise is unclear. If it actually says that national security letters cannot be used to get Internet records from libraries, that would be an improvement, but it is not clear that it does.

In late December, it looked as if there was bipartisan interest in the Senate for changing the worst Patriot Act provisions and standing up for Americans' privacy rights. Now the hope of making the needed improvements has faded considerably.

HOMELAND RESPONSE:

Mayor Miffed: The White House Never Calls (LAT)

By Steve Hymon

The Los Angeles Times, February 11, 2006

Los Angeles Mayor Antonio Villaraigosa's frustration at not being told personally by the White House about the details of the reported terror plot against the city's tallest building stems from a greater annoyance:

Nearly 7 1/2 months after taking office, Villaraigosa said Friday that he still has not succeeded in speaking or meeting with President Bush.

Villaraigosa said that his office contacted the White House on two occasions last summer to set up meetings with Bush when the mayor was traveling to Washington, but that the White House turned down both.

The mayor — who co-chaired John Kerry's campaign to unseat Bush in 2004 — said the only personal contact he has had with the president is a congratulatory letter he received after being elected last year. In the four-sentence letter, Bush wrote, "I look forward to working with you as we strive to make our nation safer, stronger and better."

If he could get a meeting, Villaraigosa said, he would talk to the president about how to better protect the nation's second-largest city against terrorist attacks.

"No question about it, I would like to talk to him about the issue of homeland security and the issue of first responders and the need of cities to be fully reimbursed for the new, added cost" of security, Villaraigosa said. "I want to make the case that this is draining other very important municipal needs."

Dana Perino, a White House press secretary, said the White House had received two requests from the mayor for a meeting: one in a letter, the other in an e-mail.

"Because of scheduling reasons, the mayor was offered meetings with top officials, and those offers were kindly declined" by the mayor's office, Perino said.

"The other thing I would say," she added, "is the president has encouraged members of the Cabinet to meet with the mayor of Los Angeles," and Homeland Security Secretary Michael Chertoff "was recently there. We want to work with the mayor, and we look forward to a good relationship with him."

Villaraigosa was visibly upset Thursday after a Bush speech in which the president offered new details of an alleged plot by Al Qaeda operatives to hijack a plane and fly it into the U.S. Bank Tower downtown. The plot, Bush said, had been broken up.

The mayor complained Friday that, although his staff was notified of some details, he deserved a call himself. Homeland Security officials took umbrage at that comment, saying that Bush was only giving a speech and that there was no direct threat to Los Angeles at present.

The mayor has only to look at some of his counterparts to feel miffed:

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Bush met with former Los Angeles Mayor James K. Hahn in January 2002 and again that April, when Hahn and mayors from other cities gathered with the president to discuss security issues.

Bush has also met with New York City Mayor Michael Bloomberg, a Republican, and Chicago Mayor Richard Daley, a Democrat, on several occasions.

In March 2001, less than two months after Bush took office, he met with Daley in Chicago.

"We had a long-ranging discussion, and I came just to introduce myself so he got to know me," said Bush, according to a transcript on the White House website. "And he now knows he can pick up the phone and call the White House any time he needs to."

Asked if he believed that Bush was ignoring him because of partisan politics, Villaraigosa said, "I hope not."

"One of the things that you noticed in my State of the Union [response] is that my comments were not partisan," the mayor said. "We distinguished between Democrats and Republicans, but ... I didn't spend a lot of time criticizing. I spent more time sharing a vision."

U.S. Concludes 'Cyber Storm' Mock Attacks (AP-Y2)

By Ted Bridis, Associated Press Writer

AP2, February 11, 2006

The government concluded its "Cyber Storm" wargame Friday, its biggest-ever exercise to test how it would respond to devastating attacks over the Internet from anti-globalization activists, underground hackers and bloggers.

Bloggers?

Participants confirmed parts of the worldwide simulation challenged government officials and industry executives to respond to deliberate misinformation campaigns and activist calls by Internet bloggers, online diarists whose "Web logs" include political rantings and musings about current events.

The Internet survived, even against fictional abuses against the world's computers on a scale typical for Fox's popular "24" television series. Experts depicted hackers who shut down electricity in 10 states, failures in vital systems for online banking and retail sales, infected discs mistakenly distributed by commercial software companies and critical flaws discovered in core Internet technology.

Some mock attacks were aimed at causing a "significant cyber disruption" that could seriously damage energy, transportation and health care industries and undermine public confidence, said George Foresman, an undersecretary at the Homeland Security Department.

There was no impact on the real Internet during the weeklong exercise. Government officials from the United States, Canada, Australia and England and executives from Microsoft, Cisco, Verisign and others said they were careful to simulate attacks only using isolated computers, working from basement offices at the Secret Services headquarters in downtown Washington.

The Homeland Security Department promised a full report on results from the exercise by summer.

Foresman likened his agency's role during any Internet attack to an orchestra conductor, coordinating responses from law enforcement, intelligence agencies, the military and private firms. The government's goal is a "symphony of preparedness," Foresman said.

Homeland Security coordinated the exercise. More than 115 government agencies, companies and organizations participated. They included the White House National Security Council, Justice Department, Defense Department, State Department, National Security Agency and CIA, which conducted its own cybersecurity exercise called "Silent Horizon" last May.

An earlier cyberterrorism exercise called "Livewire" for Homeland Security and other federal agencies concluded there were serious questions over government's role during a cyberattack depending on who was identified as the culprit — terrorists, a foreign government or bored teenagers.

It also questioned whether the U.S. government would be able to detect the early stages of such an attack without significant help from private technology companies.

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On the Net:

Department of Homeland Security: http://www.dhs.gov

U.S. Officials Defend Ploys To Catch Immigrants (NYT)

By Steven Greenhouse

The New York Times, February 11, 2006

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Despite criticism from advocates for immigrants, federal immigration officials said in recent days that they would not forswear the practice of impersonating occupational safety officials to round up illegal immigrants.

Last July, federal agents arrested 48 workers at Seymour Johnson Air Force Base in North Carolina on charges of being illegal immigrants after the agents tricked the workers into attending what was billed as a mandatory training session sponsored by the federal Occupational Safety and Health Administration.

Afterward, the federal Labor Department, North Carolina officials and immigrant and job safety advocates criticized the ploy. They argued that the sting might cause immigrant workers to distrust safety officials just as the authorities were stepping up efforts to reduce the disproportionately high injury rate among Hispanic workers.

Lawyers for several labor and immigrant groups said yesterday that they were dismayed that when they met with officials at Immigration and Customs Enforcement on Jan. 30, the officials refused to rule out again using a safety-related ruse to lure immigrant workers.

Marielena Hincapié, director of programs at the National Immigration Law Center, said, "They said they would not commit to not doing this anymore, despite the fact that this would have a chilling effect on workers."

Ana Avendano, a lawyer with the A.F.L.-C.I.O., also criticized immigration officials for not providing the assurances that safety advocates were seeking.

"We told them that the population of workers that we're dealing with is suffering the highest mortality rate and highest injury rate on the job," Ms. Avendano said. "If immigration officials are going to use OSHA as a ruse, all they will do is reduce the trust of workers to go to OSHA with concerns about safety problems."

Dean Boyd, a spokesman for Immigration and Customs Enforcement, emphasized that ruses were standard law enforcement policy. "We're not going to rule out valid investigative techniques," he said.

Mr. Boyd said that if immigration officials were to do such a sting in the future, it would be only after coordinating with federal safety officials.

OSHA officials repeated yesterday the stance they took after the July raid, saying the agency worked to build trust with Hispanic workers. They also said they did not condone using the agency's name in this type of ruse.

At a Senate hearing in October, Michael Chertoff, the secretary of homeland security, said it was appropriate to use ruses, but he added that those involving health and safety were not appropriate.

Mr. Boyd said the employment of illegal immigrants at sensitive facilities like military bases posed a serious threat to domestic security. He said that, given their illegal status, they might be vulnerable to exploitation by criminals or terrorists.

"That's why we're aggressively targeting these types of workers at sensitive facilities," Mr. Boyd said. "We've got an obligation under the law to do what we need to do to remove those people immediately from a position where they could do potential harm."

On Thursday, immigration agents arrested nine illegal immigrants who were working for a subcontractor at the Dugway Proving Ground, a military testing site southwest of Salt Lake City. Last month, immigration officials arrested 11 illegal immigrants at Tyndall Air Force Base near Panama City, Fla.

Arizona Plans To Tackle Illegal Aliens (WT)

The Washington Times, February 11, 2006

PHOENIX (AP) -- Arizona has long been one of the busiest gateways for aliens trying to sneak into the country, and some lawmakers believe it's time to dispatch state police squads to catch those who slip past border agents.

The notion is gaining political traction as the public's frustration about the state's porous border with Mexico grows. Over the years, it was often resisted by officials who contended that stopping illegal entry should be the sole province of the federal government.

A state lawmaker has proposed a plan that includes $20 million for the Arizona Department of Public Safety to mount a 100-member squad to operate surveillance equipment, construct border barriers, target drug and immigrant smugglers and perhaps patrol the border.

"I'm not putting the handcuffs on. Whatever they need to do, they need to be doing," said Republican Rep. Russell Pearce, the plan's sponsor.

A different plan by Gov. Janet Napolitano, a Democrat, would have two state police squads focus on alien smuggling cases. Both plans offer millions of dollars to communities to thwart illegal entries, and money for combating gang-related border crime.

Arizona has been dogged by a heavy flow of illegal aliens since the government tightened enforcement in El Paso, Texas, and San Diego during the mid-1990s. The Border Patrol apprehended 725,093 illegal border crossers in Arizona in fiscal 2000, though the numbers declined after the September 11 terrorist attacks prompted heightened border security.

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State police in Arizona already work near the border. An average of 27 state police officers are near the border at any given time, assisting federal authorities in looking for fugitives trying to leave the country and people attempting to bring ill-gotten cash and stolen vehicles into Mexico.

Advocates for state and local action said the idea will not fix Arizona's vast immigration problems, but would discourage some people from sneaking across the border.

"If the federal government isn't going to do the job and Arizona is footing billions of dollars a year for illegal aliens, it makes sense for the state to get involved," said Ira Mehlman, spokesman for the Federation for American Immigration Reform, which favors limits on immigration.

Opponents say racial profiling could increase if officers unfamiliar with immigration law were to try and enforce it. They also say it could make investigating crime harder in immigrant communities, because fewer aliens would cooperate with police for fear of being sent home. Local officers also lack understanding of complex immigration law, they say.

U.S. Cites Rise In Violence Along Border With Mexico (NYT)

By Rachel L. Swarns

The New York Times, February 11, 2006

WASHINGTON, Feb. 10 — Mexican criminal syndicates are stepping up their attacks on American agents patrolling the border as officials of the Homeland Security Department intensify efforts to stem the flow of immigrants and drugs into the United States, American officials said this week.

In recent months, scores of Border Patrol agents have been fired upon or pelted with large stones as well as with cloth-covered stones that have been doused with flammable liquid and set ablaze. Since October, agents have been attacked in more than 190 cases, officials said on Thursday.

Most of the attacks have occurred along the Mexican border near San Diego, but shootings have also been reported along the border in Texas near the cities of Laredo and McAllen. In the fiscal year that ended on Sept. 30, there were 778 attacks on agents, up from 374 in the previous fiscal year, Homeland Security Department officials said.

One stone struck an agent in the eye; a gunshot hit an agent in the leg. The officials could not say precisely how many officers had been injured in the attacks, which have originated from both sides of the border.

"This is what we're facing," said David V. Aguilar, the Border Patrol chief, who played a videotape at a news conference on Thursday that featured a patrol car riddled with bullets and agents scrambling for cover as stones rained down on them. "This is a very serious type of situation."

The homeland security secretary, Michael Chertoff, who led the news conference, said officials planned to continue their efforts at securing the United States-Mexico border.

This week President Bush asked Congress to increase the Homeland Security Department's budget by nearly 6 percent. The Border Patrol would receive an extra $459 million to hire 1,500 new agents, bringing the total force to about 14,000. An additional $410 million would be allocated to add 6,700 beds for detainees so fewer illegal immigrants would have to be released before being deported. Another $100 million would be spent on cameras, sensors and other detection technology.

Mr. Chertoff said the department planned to focus on illegal immigrants from countries other than Mexico, who have typically been released after apprehension because of shortages of beds. Last fall, he expanded the use of summary deportations, a process known as expedited removal, in which illegal immigrants from countries other than Mexico are detained and then deported without seeing an immigration judge.

But officials have struggled to find space for family groups and remain unable to process illegal immigrants from El Salvador because of a court ruling from the 1980's, when civil war wracked that country, that requires officials to allow Salvadorans to see judges before deportation.

Nationwide, 18,207 illegal immigrants from countries other than Mexico, nearly 60 percent of the total apprehended, were released on their own recognizance in the first three months of this fiscal year.

Officials of the Homeland Security Department said they were making headway in detaining and deporting these illegal immigrants. They are also working on finding more space for families and battling to change the rule regarding Salvadorans.

As for the violence on the border, the officials said Mexico had deployed 300 federal officers along its side of the border to help out. But many of the Mexican gangs remain entrenched.

Last week, immigration officials announced that they had seized a cache of weapons, including materials for 33 explosive devices, assault weapons and machine gun assembly kits, in Laredo. Officials believe the weapons were intended for criminals in Mexico.

"These are very sophisticated, hardened criminals who will use violence to protect their criminal businesses," Mr. Chertoff said. "We've got to be prepared to deal very decisively with any violence directed at our Border Patrol agents."

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Border Wall May Be Boon For Smugglers (DMN)

By Alfredo Corchado

The Dallas Morning News, February 11, 2006

If difficulty in moving illegal immigrants rises, so does price

AHUALULCO, Mexico – A bill to erect a wall to help keep illegal immigrants out of the U.S. has not been approved by Congress, but it probably can count on support from an unlikely constituency – people smugglers.

That's because along the border, and in places such as this town in San Luis Potosí state, smugglers expect that such a wall would lead to an increase in their business moving people across the Rio Grande.

Already some coyotes, as the smugglers are known, are pumping up their prices. The fee they charge to take a Mexican to Dallas, for instance, has increased from $1,200 to $1,500, some residents say.

"That's the way it is," said a smuggler who identified himself as Gregorio Prieto, as he played pool and negotiated with prospective clients at the Ahualulco Billiards hall near the town's central plaza.

"Any time the crossing gets harder, the price also goes up. Because nothing will stop the flow as long as Americans want their labor. They're just making it more difficult for the ilegales and more profitable for us."

In December, the House approved a bill that includes plans to erect 700 miles of physical barriers in key zones of the 2,000-mile U.S.-Mexico border. Advocates say the fence will keep out drug smugglers, terrorists and illegal immigrants, especially in high-volume areas.

AP Members of the Mexican congress tour the construction of a wall along the U.S.-Mexico border near Tijuana.

"A lot of the people coming across the border are criminals and potentially terrorists – people who have a mind to commit crimes against Americans and maybe to blow us all up and kill us," Rep. James Sensenbrenner said at a recent meeting with a sheriffs' coalition in Houston. The Wisconsin Republican is one of the bill's authors.

Critics say the barriers would simply push traffic to weak points along the border.

The bill is awaiting action by the Senate, which is likely to reject the measure, analysts say.

But even the possibility of a wall is affecting informal commerce, such as traffic in Mexican beer and culinary delicacies like gorditas, corn tortillas fried and filled with some combination of meat, beans, cheese, potatoes and nopales, or cactus, that are popular with Mexicans.

One family that has made a business of sending homemade gorditas to Dallas is considering relocating to North Texas, in part over concern that a wall would hurt business.

Family matriarch Doña Constantina Rivera, who has long sent gorditas to her emigrant children in Dallas, says she may abandon the practice.

When Ms. Rivera's children left for Texas in the late 1990s, she tried to assuage their nostalgia for home, doing what came naturally: She baked gorditas and sent them off to her homesick offspring with the help of informal couriers who ferry goods across the border.

The gorditas were so tasty that other immigrants sought them out. Demand grew and so did the number of gorditas sent north, sometime hundreds a week.

But the informal business drew attention. When Ms. Rivera's gordita trade was featured on the front pages of Mexican newspapers and on television newscasts, San Luis Potosí state authorities tried to collect taxes from her.

She's fighting those efforts, arguing that the business doesn't generate enough to pay taxes.

Now, talk of a "Berlin Wall," as President Vicente Fox described the proposed barrier, has made the Rivera family so nervous that Ms. Rivera and other relatives are planning to move to Dallas before any barrier goes up. "Half our family lives in Dallas," said daughter Anita, 24. "No wall is going to separate us."

This would not be the first time American legislation significantly affected affairs on the Mexican side.

The Immigration Reform and Control Act of 1986 allowed millions of illegal immigrants residing in the U.S. to become legal permanent residents. But the amnesty bill also led to coyotes raising the prices they charged to smuggle people across the Rio Grande. Some Mexican families living in the U.S. were effectively fenced in, unable to move back and forth between the two countries.

After devaluation of the peso in 1994, the number of Mexicans trying to illegally cross the border increased, and the U.S. responded with a series of border-control operations, including Operation Hold the Line in Texas.

The operation, which involved the addition of hundreds of Border Patrol agents, was credited with reducing crime as well as illegal immigration into the El Paso area.

It also contributed to a significant increase in the death toll, critics said, as immigrants tried to cross in less heavily patrolled areas where the terrain was more dangerous. Last year, an estimated 500 Mexicans died trying to cross the border.

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Now, the wall proposal has been drawing similar criticism.

"The bill is good business for the smuggling business," said Mexican Consul Juan Carlos Foncerrada Berumen in El Paso, who has heard reports of border crossers in the region. "Coyotes are good at exploiting and manipulating the news about a possible wall. This is good for business because they can justify raising the prices."

In Ahualulco, near a recently closed bar called Los Amigos del Norte (Friends of the North), shop owner Tomás Galabis, 66, said the talk on the street about border barriers has people stirred up.

"Even the bar owners left recently, afraid that the wall would keep them out," he said. "The risks have people nervous."

Playing pool at Ahualulco Billiards, Lázaro Rivas, 22, talked about the higher prices being charged by smugglers. "I'm planning to go to Dallas," he said, "but $1,500 is a lot of money. I'll still go, but I have to dig deeper to come up with the extra cash."

Rivera family members say they believe the time has come to make a move.

"If we don't leave now, it will be harder, and coyotes will take advantage of us," said 27-year-old Jesús, husband of Anita Rivera. "It's happened before."

Cross-Border Tunnel Found In San Diego (WP/AP)

By The Associated Press

The Washington Post, February 11, 2006

SAN DIEGO -- An incomplete tunnel was found in the same area where investigators recently found one of the longest passages discovered beneath the U.S.-Mexico border, officials said.

The 3-foot-wide tunnel extended from just south of the border fence in Mexico to a point about 23 feet into the United States, ending at a concrete levee, Border Patrol spokesman Richard Kite said.

A patrol agent noticed a distortion in the road running along the border fence, and agents digging in the area found the tunnel Thursday, Kite said.

"It was only about six inches below the asphalt," he said.

A 2,400-foot tunnel linking a warehouse near the airport in Tijuana, Mexico, to another warehouse in San Diego was discovered last month.

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Information from: The San Diego Union-Tribune, http://www.uniontrib.com

More Medicines From Abroad Seized (LAT)

By Lisa Girion

The Los Angeles Times, February 11, 2006

The U.S. government apparently is stepping up seizures of cheap drugs ordered by Americans — mainly seniors — from abroad, Canadian pharmacies say.

The pharmacies, which sell drugs by mail and over the Internet, say their shipments are being intercepted by U.S. Customs officials around the country where foreign mail is handled.

"It's huge — we've had over 800 seizures in January," up from 15 in a typical month, said Barney Britton, president of Calgary-based MinitDrugs.

Other pharmacies reported four- to five-fold increases. An informal survey of 30 Canadian pharmacies that cater to American customers, conducted by a senior-citizen advocacy website, showed that the rise began in November, doubled in December and doubled again in January.

Health officials in Minnesota, the first of several states to make cheaper Canadian drugs more readily available to its residents, echoed the reports from north of the border. They said seizures increased in late December from less than 1% to about 4% of shipments, said Brian McClung, a spokesman for Minnesota Gov. Tim Pawlenty.

Ordering drugs from abroad is illegal. But U.S. Customs and Food and Drug Administration officials have generally allowed the practice, apart from occasional seizures designed to publicize potential risks.

Federal regulators say that policy hasn't changed — and there is no crackdown.

"It's not a special effort other than our normal enforcement," said Lynn Hollinger, a spokeswoman for U.S. Customs and Border Protection.

People whose drugs are seized are not cited and generally are able to get them replaced free of charge by the foreign pharmacy. But many customers are infuriated.

"It's despicable," said Samuel Robert Greenberg, a Laguna Niguel retiree who lost a package of anti-cholesterol pills and glaucoma eyedrops late last month. "They are playing with people's lives."

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Greenberg, 73, said he and his wife had bought drugs from Canadian pharmacies for years without incident.

But if replacements for his Lipitor pills don't arrive by next week, Greenberg said, he will have to buy from a local pharmacy at a cost of about $3 a pill — a third more than he pays through the mail.

Greenberg said such seizures were a waste of government resources. "Forget about the heroin," Greenberg said. "They are going to stop the Lipitor."

Although the FDA has never taken enforcement action against an individual for ordering prescription drugs from abroad, it has conducted a handful of what it calls "blitzes" over the last five years in cooperation with the Customs Service at international mail centers.

The FDA analyzed the drugs seized in those cases and publicized their findings in an effort to warn mail-order customers about the risks of getting the wrong medication, poor-quality substitutes or counterfeits.

Some Canadian pharmacy operators believe U.S. authorities timed the latest seizures to coincide with the Jan. 1 launch of Medicare's drug-discount program, which competes for the business of American seniors.

"I think, quite frankly, that [U.S. authorities] see an opportunity," said Britton of MinitDrugs. "They know that this would probably be the most vulnerable time for us."

Canadian pharmacies report declines of 10% to 30% in U.S. orders since the Medicare program began. But many seniors, particularly those whose drug needs are modest, find Canadian pharmacies are cheaper.

According to a Kaiser Family Foundation study published in 2004, 25% of eligible seniors — as many as 7.4 million people — could pay less buying drugs on their own. If too few seniors sign up for the Medicare drug plan, experts say, the program could run into financial trouble.

Most Canadian pharmacies accept the cost of replacing seized drugs to preserve an $800-million market that serves about 2 million U.S. customers. Over the last five years, less than 1% of all shipments have been seized, said Andy Troszok, president of the Canadian International Pharmacy Assn.

The association has not yet determined how much that rate has increased. But so far, he said, the seizures do not represent a serious threat.

"We are currently still chalking it up as the cost of doing business," said Troszok, who owns Extended Care Pharmacy in Calgary.

The pharmacies learn of the confiscations from customers who have received seizure notices. A customer also can use a tracking number to find out what happened.

A sudden, unannounced policy of increased enforcement — after years of looking the other way — would be irresponsible, Troszok said.

"It's an issue of patient safety," he said. "We're not talking about Viagra and narcotics abuse. We are talking about people with breast cancer, heart disease and diabetes and are established on medication. Who is going to be liable for these people going off medical regimens and suffering or even dying?"

Canadian pharmacies, which are able to purchase brand-name drugs at low wholesale prices negotiated with the purchasing power of the Canadian government, already had been adapting to increasing political and market pressure.

When major drug makers began curbing sales to Canadian pharmacies that shipped to the U.S., many began ordering in bulk from drug factories in Europe, India and Israel.

"The business just gets smarter and adapts," said Bill Pigden, business development manager for CanAmerica Global Health Services, a Winnipeg-based pharmacy.

Ex-FEMA Head Says White House Knew About Levees (LAT)

By Edwin Chen

The Los Angeles Times, February 11, 2006

WASHINGTON — The Bush administration's bungled response to Hurricane Katrina came under fresh scrutiny today amid revelations during a Senate hearing that senior White House officials had learned of the disastrous flooding in New Orleans a day earlier than they had previously indicated.

The testimony of Michael D. Brown, the ousted director of the Federal Emergency Management Agency, raised questions about whether top White House aides had kept President Bush fully abreast of the fast-breaking catastrophe after a levee breached on Aug. 29, allowing the waters of the Gulf of Mexico to cover huge portions of New Orleans.

Bush, who was vacationing at his ranch when Katrina struck, has taken considerable criticism — and has accepted responsibility — for his administration's slow response to the hurricane. But the latest information suggests that he may not have known the full dimensions of the unfolding disaster.

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Top administration aides, and Bush himself, have said that they had been caught off guard on Tuesday, Aug. 30, by the news of the levee breach and the subsequent flooding. Bush has recalled publicly that earlier that morning he felt a sense of relief, thinking that the city had "dodged the bullet."

But Brown told the Senate Homeland Security and Governmental Affairs Committee this morning that he had called a senior White House aide, most likely deputy chief of staff Joe Hagin, the previous evening, Monday, Aug. 29, to inform him of the levee break.

Brown, testifying under oath, was unable to say with total assurance that it was Hagin with whom he spoke that night, but said it "probably" was Hagin, a person with whom he had "a personal relationship." Brown added that he was fully confident that Hagin, who was with the president at his ranch, would inform Bush.

"I never worried about whether I talked directly to the president because I knew that in speaking to Joe I was talking directly to the president," Brown testified. "I told him we were realizing our worst nightmare," Brown added.

At the White House this morning, Press Secretary Scott McClellan defended the steps the president and his aides took, saying that ahead of the storm the administration had issued warnings and emergency declarations to speed assistance to the Gulf Coast. But, he acknowledged, "there were failures at all levels of government."

"The president was focused on saving lives," McClellan said.

As Brown recalled the sequence of events, a top FEMA staffer, Marty Bahamonde, first heard reports of the 17th Street levee breach on Monday morning. The aide took a helicopter tour and confirmed the situation around 5 p.m. Bahamonde then informed Brown.

Brown said he called the traveling White House in Crawford, Texas, almost immediately.

The apparent miscommunication over the levee breach was but one example of what committee Chairman Susan M. Collins (R-Me.) today called a glaring instance of an overall governmental response that was "riddled with missed opportunities, poor decision-making and failed leadership."

Collins' committee is winding down a five-month-long investigation of the government's response to Katrina, having held nearly 20 hearings, taking testimony from more than 200 witnesses and reviewing hundreds of thousands of government documents.

The Maine Republican said her committee hopes to fully understand the nature of "this enormous disconnect between what was happening on the ground — a city 80% flooded, uncontrolled levees, people dying, thousands of people waiting to be rescued — and the official reaction among many of the key leaders in Washington and in Northern Command that somehow New Orleans had dodged the bullet."

Collins said this morning that one lesson she already has learned is that there is "a strong correlation between effective leadership and effective response. Unfortunately, I have also found the converse to be true."

In his testimony, Brown also blamed FEMA's slow response on "a culture clash" between FEMA and its parent agency, the Department of Homeland Security, that he said was "doomed to failure."

Repeatedly, Brown said, top DHS officials rebuffed his pre-Katrina efforts to bolster FEMA's capacities in response to disasters.

Times staff writer James Gerstenzang contributed to this report.

Brown Blames Superiors For Response To Katrina (WP)

By Spencer S. Hsu

The Washington Post, February 11, 2006

Michael D. Brown, the former Federal Emergency Management Agency director, accused the Bush administration yesterday of setting the nation's disaster preparedness on a "path to failure" before Hurricane Katrina by overemphasizing the threat of terrorism, and of discounting warnings on the day the storm hit that a worst-case flood was enveloping New Orleans.

Brown called "a little disingenuous" and "just baloney" assertions by Homeland Security Secretary Michael Chertoff and other top Bush administration officials that they were unaware of the severity of the catastrophe for a day after Katrina struck on Aug. 29. Investigators say their inaction delayed the launch of federal emergency measures, rescue efforts and aid to tens of thousands of stranded New Orleans residents.

Brown's highly charged testimony before a Senate investigative panel was a striking about-face from his comments to its House counterpart in September, when he was still on the administration payroll. At that time, Brown leveled his harshest criticism for what President Bush has called an "inadequate" response at Louisiana Gov. Kathleen Babineaux Blanco (D) and New Orleans Mayor C. Ray Nagin (D), who Brown said failed to fully evacuate the city and to forge a unified command.

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His sometimes combative exchanges with senators also offered a rare glimpse of a former Bush official publicly criticizing the administration. He sharpened his earlier criticism and named people whom he had previously described only in general terms.

After the White House declined to offer Brown a legal defense of executive privilege, which would have allowed him not to testify to lawmakers, Brown said yesterday that Chertoff and his predecessor, Tom Ridge, paved the way for FEMA's Katrina failures by fomenting a "cultural clash" between FEMA and the Department of Homeland Security. DHS absorbed FEMA in 2003, and the head of the emergency agency stopped reporting to the president.

Internal turf wars siphoned away FEMA's disaster response capability and funding, Brown said. If not repaired, he said, the Department of Homeland Security is "doomed to fail, and that will fail the country."

Brown also cited a "disconnect" with Bush officials in the hours before and after Katrina hit. He said they were distracted by the fight against terrorism from the general threat posed by recurring natural disasters and from specific warnings that a direct hit by a projected Category 5 hurricane would swamp New Orleans and strand as many as 100,000 people.

Brown said he called and spoke at least twice on Aug. 29 with White House Deputy Chief of Staff Joseph Hagin or Chief of Staff Andrew H. Card Jr., telling them: "New Orleans is flooding; it's the worst-case scenario." But the message apparently did not get through to Homeland Security officials.

"They should have had awareness of it, because they were receiving the same information that we were," Brown said.

"Had there been a report coming out . . . that said, 'Yes, we've confirmed that a terrorist has blown up the 17th Street Canal levee,' then everybody would have jumped all over that and been trying to do everything they could," Brown said. "But because this was a natural disaster, that has become the stepchild within the Department of Homeland Security."

The Category 3 storm eventually killed 1,321 people, including 1,072 in Louisiana; displaced about 2 million people; and caused more than $150 billion in damage.

Speaking to reporters yesterday, White House spokesman Scott McClellan cited "conflicting reports" immediately after the storm hit. "Some were saying" the levee system "was overtopped," he said. "Some were saying it was breached. And, again, we knew of the flooding that was going on -- that's why our top priority was focused on saving lives."

Testifying after Brown, Matthew Broderick, the department's director of operations coordination, and Robert B. Stephan, assistant secretary for infrastructure protection, faulted Brown for failing to communicate with the chain of command.

"Mr. Brown should have picked up the phone and called the secretary right away," Broderick said.

Brown, who first received reports that city levees were failing at 10 a.m. on Aug. 29, said that he relayed them to headquarters for confirmation and alerted Hagin, who was with Bush at the president's Texas ranch as well as in Arizona and California that day.

Brown said he could not recall whether Bush was on the line, but he added: "I knew that in speaking to Joe, I was talking directly to the president." Brown later said that he did not ask Hagin for any particular help, and that he regretted not calling for military assistance the weekend before Katrina made landfall.

Brown, a Bush political loyalist who became the face of the government's failed response, said under questioning that he repeatedly asked the White House and other federal agencies for help, but that his authority was limited by FEMA's position within the Department of Homeland Security and that the agency's resources were overwhelmed.

He has been criticized for his lack of leadership after the storm, for his own lack of awareness of the developing crisis and for misstatements about conditions at New Orleans's convention center, where thousands were stranded without food and water. Leaked e-mails have portrayed Brown as more concerned with his public appearance and planned departure from FEMA than with disaster operations.

Brown's deputy at FEMA, Patrick Rhode, testified yesterday that he participated in a conference call on the afternoon of Aug. 29 detailing catastrophic levee failures and alerted the department's Homeland Security Operations Center, which was feeding reports to the White House.

Senators released a timeline showing that authorities received 16 reports from federal, state and local agencies and the American Red Cross that New Orleans's levees had been breached between 8:30 a.m. and 6 p.m. on Aug. 29, though the Homeland Security Operations Center reported the opposite at 6 p.m.

A perplexed Sen. Susan Collins (R-Maine), chairman of the Senate investigation, asked why the official reaction of Washington and the military was that New Orleans had "dodged the bullet" despite reports from the ground that the city was 80 percent flooded, its levee system had failed and thousands faced death.

"All they had to do," Brown said, was listen to the Homeland Security teleconferences "and pay attention."

Collins singled out Chertoff and other department officials for a "lack of awareness" of fundamental emergency operations and a "slow, hesitant response." She said that though "DHS's playbook appears designed to distance" top officials from FEMA, they "must answer for decisions that they made or failed to make."

Under questioning, Brown said he did not directly brief Chertoff -- who was "gone or going to Atlanta" for an Aug. 30 event on the possible flu pandemic -- because "it would have wasted my time." He said he preferred to call Card or Hagin directly.

Sen. Robert F. Bennett (R-Utah) called Brown's remarks "staggering." He said they demonstrated "a dysfunctional department to a degree far greater than any we've seen."

After Brown spoke to the Senate, he was subpoenaed to reappear before House investigators.

Next week, Chertoff and Frances Fragos Townsend, the White House's homeland security adviser, are scheduled to discuss internal changes. And the House investigative committee is scheduled to issue its Katrina report.

Ex-FEMA Leader Faults Response By White House (NYT)

By Eric Lipton

The New York Times, February 11, 2006

WASHINGTON, Feb. 10 — Michael D. Brown, the former federal emergency management chief who became a ridiculed symbol of the Bush administration's flawed response to Hurricane Katrina, returned in anger to Capitol Hill on Friday and lashed back at his former superiors.

Mr. Brown said that he told a senior White House official early on of the New Orleans flooding, and that the administration was too focused on terrorism to respond properly to natural disasters.

Testifying before a Senate committee, Mr. Brown said he notified a senior White House official — who he said was probably Joe Hagin, the deputy White House chief of staff, but might have been Andrew H. Card Jr., the chief of staff — on the day the hurricane hit to report that it had turned into his "worst nightmare" and that New Orleans was flooding.

It was the first public identification of any White House official who was said to have directly received reports of extensive flooding on Monday, Aug. 29, the day Hurricane Katrina hit.

In the aftermath of the storm, administration officials said they were caught by surprise when they were told of the levee breach on Tuesday, Aug. 30. Mr. Hagin was the senior staff member with President Bush on the day the hurricane hit, when Mr. Bush was traveling in California.

Mr. Brown's politically charged appearance before the Senate Committee on Homeland Security and Governmental Affairs quickly divided the panel's members by party.

Several Republican senators peppered him with hostile questions and suggested he was trying to deflect the blame from his own failures.

In contrast, Mr. Brown drew a gentle, even warm response from Democrats who said he had unfairly been made a scapegoat by the administration, though last year it was frequently Mr. Brown himself who drew the most fire from Democrats in Washington.

In contrast to low-key statements in the past, Mr. Brown, who resigned under pressure on Sept. 12 as director of the Federal Emergency Management Agency, was aggressively on the defensive, saying he was "sick and tired" of his remarks or e-mail messages being taken out of context or hearing that he lacked the leadership skills for his job.

Mr. Brown said it was "baloney" for Department of Homeland Security officials to claim they did not know of the extent of the flooding until Tuesday, because he and other FEMA officials had notified them the day before.

In response to questioning, Mr. Brown also said he believed he told the White House on Monday that a breach had occurred in the 17th Street Canal levee, passing on observations made by one of his staff members on the ground in New Orleans that day.

"Everything that we had planned about, worried about, that FEMA, frankly, had worried about for 10 years was coming true," Mr. Brown said he told the White House aide.

Scott McClellan, the White House press secretary, said Friday morning while the hearing was under way that the administration already knew the city was being flooded. Regardless of the call from Mr. Brown, there were conflicting reports about whether a levee had been breached, Mr. McClellan said.

"The top priority at that time was on saving lives; it was on search and rescue operations," Mr. McClellan said.

Mr. Brown said that he could not recall if he personally called the homeland security secretary, Michael Chertoff, to relay the account of the levee breach. Even if he had, Mr. Brown said, it would have been a waste of time because FEMA's role within the Homeland Security Department had been subordinated to fighting terror. As a result of that, he said, he was unable to quickly get the kind of action he needed, unless he called the White House staff.

The Bush administration, as a whole, he said, did not seem to care enough about natural disasters and had relegated natural disasters to a "stepchild" of national security.

"It is my belief," Mr. Brown told the senators, that if "we've confirmed that a terrorist has blown up the 17th Street Canal levee, then everybody would have jumped all over that and been trying to do everything they could."

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Republicans, including Senator Susan Collins of Maine, the chairwoman, said Mr. Brown's disdain for the new domestic security structure left the department without crucial information it needed about what was happening in New Orleans. Senator Norm Coleman, Republican of Minnesota, said Mr. Brown was shifting attention away from his own lack of responsiveness to the disaster.

"You're not prepared to kind of put a mirror in front of your face and recognize your own inadequacies and say, 'You know something, I made some big mistakes. I wasn't focused. I didn't get things done,' " Mr. Coleman said.

The remark provoked Mr. Brown to raise his voice almost to a shout.

"What do you want me to say?" Mr. Brown said. "I have admitted to mistakes publicly. I've admitted to mistakes in hearings. What more, Senator Coleman, do you want from me?"

Mr. Coleman responded: "A little more candor would suffice."

Democrats, including Senator Frank R. Lautenberg of New Jersey and Daniel K. Akaka of Hawaii, said Mr. Brown was being made a scapegoat to deflect criticism from the White House.

"Keep your chin up and fight back," Mr. Lautenberg said.

Several senators, including Democrats, said they were surprised by Mr. Brown's inability to remember crucial details from the early days of the storm, including which White House aide he spoke with and whether Mr. Bush participated in the telephone call.

Mr. Brown also gave differing answers about whether he actually mentioned the levee breach to the White House. At first he said he could not recall whether he used those words but then later he said that he was sure Mr. Hagin or Mr. Card knew it and that he would have told one of them about the breach during the conversation.

He said he could not recall whether he told the White House aide that he needed any particular help — at a time when the city was flooding, thousands were packed into the Superdome without adequate supplies and others were beginning to climb to roofs or attics to avoid drowning.

Two senior Homeland Security Department officials, who testified after Mr. Brown, said that his unwillingness to honor the chain of command and give regular updates to Mr. Chertoff or others in the department severely hampered the department's response.

"We have a president, we have a secretary that are seeing things on television, we're getting reports, what is going on down there?" said Gen. Matthew E. Broderick, who served as the director of the Homeland Security Department's information center in Washington during the storm, recalling his request to FEMA for more information.

Brown Defends His Role In Response To Katrina (WT/AP)

By Lara Jakes Jordan, Associated Press

The Washington Times, February 11, 2006

Former federal disaster chief Michael D. Brown said yesterday he told top Bush officials of massive flooding in New Orleans the day Katrina howled ashore and warned "we were realizing our worst nightmare."

More defiant than defensive, Mr. Brown told senators he dealt directly with White House officials the day of the Aug. 29 storm, including Chief of Staff Andrew H. Card Jr. and Deputy Chief of Staff Joe Hagin.

He also said officials from the Department of Homeland Security were getting regular briefings that day. Administration officials have said they did not realize the severe damage Katrina had caused until after the storm had passed.

Under oath, Mr. Brown told the Senate Homeland Security and Governmental Affairs Committee that he could not explain why his appeals failed to produce a faster response to the storm that killed 1,300, uprooted hundreds of thousands of Gulf Coast residents and caused tens of billions of dollars in damage.

"I expected them to cut every piece of red tape, do everything they could ... that I didn't want to hear anybody say that we couldn't do everything they humanly could to respond to this," Mr. Brown said about a video conference with administration officials -- in which President Bush briefly participated -- the day before Katrina hit. "Because I knew in my gut this was the bad one."

At an occasionally contentious White House briefing yesterday, Bush spokesman Scott McClellan said there were conflicting reports about the levees in the immediate aftermath of the storm.

"We knew of the flooding that was going on," Mr. McClellan said. "That's why our top priority was focused on saving lives. ... The cause of the flooding was secondary to that top priority and that's the way it should be."

Some senators suggested Mr. Brown, in his second Capitol Hill appearance since Katrina, look inward before pointing the finger elsewhere.

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"You're not prepared to put a mirror in front of your face and recognize your own inadequacies," said Sen. Norm Coleman, Minnesota Republican. "Perhaps you may get a more sympathetic hearing if you had a willingness to confess your own sins in this."

Mr. Brown responded: "That's very easy for you to say sitting behind that dais and not being there in the middle of that disaster watching that human suffering and watching those people dying and trying to deal with those structural dysfunctionalities, even within the federal government."

Mr. Brown, who quit under fire as chief of the FEMA, agreed with some senators who characterized him as a scapegoat for government failures.

"I feel somewhat abandoned," Mr. Brown said.

Department of Homeland Security Secretary Michael Chertoff has said he did not know that New Orleans' levees were breached until Aug. 30. Mr. Bush at the time said, "I don't think anybody anticipated the breach of the levees."

Recounting conference calls that described initial damage reports the day Katrina struck, Mr. Brown scoffed at assertions that Homeland Security didn't know about the devastation's scope until the next day. He called those claims "just baloney."

The disjointed federal response, Mr. Brown said, was in part the result of FEMA being swallowed in 2003 by the newly created Homeland Security Department, which he said was focused on fighting terrorism.

Natural disasters "had become the stepchild of the Department of Homeland Security," he said. Had there been a report that "a terrorist had blown up the [New Orleans] 17th Street Canal levee, then everybody would have jumped all over that."

Some senators attempted to trace the failures back to the White House.

"You quite appropriately and admirably wanted to get the word to the president as quickly as you could," said Sen. Joe Lieberman, Connecticut Democrat, asking about Mr. Brown's conversation with Mr. Hagin on the evening of Aug. 29. "Did you tell Mr. Hagin in that phone call that New Orleans was flooding?"

Mr. Brown answered: "I think I told him that we were realizing our worst nightmare, that everything we had planned about, worried about, that FEMA, frankly, had worried about for 10 years was coming true."

Sen. Robert F. Bennett, Utah Republican, suggested Mr. Brown may have delayed the federal response by cutting Homeland Security out of the loop about the levee failures and going straight to the White House.

"I think I now understand why Secretary Chertoff says he didn't know," Mr. Bennett said. "The reason he didn't know is because you didn't think it important to tell him."

Mr. Brown said he communicated directly with the White House instead of Homeland Security because FEMA's parent agency "just bogged things down."

After three hours of testimony, Mr. Brown was handed a subpoena ordering him to reappear in front of a House panel investigating the storm response. Mr. Brown is expected to be questioned by House investigators this weekend -- days before the panel is expected to release its findings on the storm.

Brown Blames Federal Infighting (BRA)

By GERARD SHIELDS

Baton Rouge Advocate, February 11, 2006

WASHINGTON — The former director of the Federal Emergency Management Agency told a U.S. Senate investigating committee on Friday that differences with his superiors became so widespread that they hampered the federal government's response to Hurricane Katrina.

Michael Brown also told the Senate Homeland Security and Governmental Affairs Committee that he alerted the White House and his bosses at the U.S. Department of Homeland Security of levee breaches in New Orleans a full day before they have acknowledged.

Brown said he called White House and Homeland Security officials the Monday afternoon after the hurricane hit. President Bush and Homeland Security Secretary Michael Chertoff have said that they did not know about the levee breaches until Tuesday.

Brown acknowledged that he did not directly call Chertoff, who was technically his supervisor.

"It would've wasted my time," Brown said. "DHS was an additional bureaucracy that would have slowed me down."

One committee member, U.S. Sen. Robert Bennett, R-Utah, called the revelation "staggering" and an example of dysfunction in the Homeland Security department.

"Now I know why Secretary Chertoff didn't know," Bennett said. "The reason he didn't know is because you didn't think it important to tell him."

White House spokesman Scott McClellan said Friday that news of flooding was coming into the White House but that there were conflicting reports.

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U.S. Sen. Susan Collins, R-Maine, serves as chairwoman of the committee, and agreed that Brown's testimony signaled deficiencies in the agency designated to handle U.S. disasters.

"It also reflects the tensions between the two (agencies) that pre-dates the storm, tensions over resources, role and responsibilities within the department," she said.

FEMA, whose director in the past held a Cabinet position answerable to the president, was placed under the Department of Homeland Security in 2003. Brown, who was hired the same year, authorized two studies that found FEMA lacking in its ability to handle a natural disaster. The latest study and recommendations for improvement came out five months before Katrina hit on Aug. 29.

"We were never given the money and never given the resources to implement any of those recommendations," Brown said.

Brown called putting FEMA under the Homeland Security department a "fatal flaw." He painted his division as secondary in a department more focused on preventing terrorist attacks than handling natural disasters.

"The cultural differences are so wide that FEMA cannot function in DHS," said Brown, who was eventually dismissed and now runs his own consulting business. "Because this was a natural disaster, it became the stepchild to national security."

Had there been a report that "a terrorist had blown up the 17th Street Canal levee, then everybody would have jumped all over that," Brown added.

Brown was designated principal federal official under the national response plan by Chertoff after the storm hit. The designation hampered Brown's ability to manage the aftermath, he said.

"You can't run a disaster that way," Brown said. "I was literally restrained by Secretary Chertoff and told to stay in Baton Rouge."

U.S. Sen. Norm Coleman, R-Minn., criticized Brown for failing to properly manage the storm's aftermath. He called the hurricane a "perfect storm of inadequate response."

"You'd get more of a sympathetic hearing if you were willing to confess your own sins," Coleman said. "Leadership makes a difference. You didn't provide that leadership."

Brown shot back, defending his actions.

"Senator, that's easy for you to say sitting behind that dais and not standing in the catastrophe and watching all the suffering," he said.

Other senators, including Democrats, said they believed that Brown was being wrongly blamed for the storm recovery faults by the Bush administration.

"You have been selected as the designated scapegoat," said U.S. Sen. Frank Lautenberg, D-N.J. "Keep your chin up and fight back."

But other witnesses at Friday's hearing also blamed Brown for much of the slow response.

Robert Stephan, assistant DHS secretary for infrastructure protection, said Brown failed under his designation as principal federal officer to establish a unified command structure of agencies involved.

"He continued to act as FEMA director as opposed to rising up to a higher level of responsibility," Stephan said.

Matthew Broderick, director of DHS operations coordination, indicated that he didn't believe the initial reports of broken levees and was pushed back by FEMA officials when trying to confirm them.

"We trusted that they would do the proper thing and keep us informed," Broderick said. "Mr. Brown should've picked up the phone and called the secretary right away."

Brown's one regret, he said, was not calling in the military before the hurricane made landfall.

"It's just a judgment I made," he said. "In hindsight, I wish I would've rolled the dice."

Also Friday, U.S. Sen. Mary L. Landrieu, D-La., released the following statement in response to Brown's testimony:

"Today's testimony is additional evidence that FEMA was not prepared before Katrina hit, just as it is not prepared today. The allegations raised at today's hearings are very troubling. They demand clear, immediate explanations.

"For months, this administration pointed fingers at others for their bungling. Now, they're pointing fingers at one another. All the while, FEMA remains anemic and the rebuilding they are managing remains inefficient, ineffective and slow.

"I am impressed by the strides taken by the Homeland Security Committee to get to the bottom of these mistakes. In particular, Sens. Collins and Lieberman should be commended for their focused efforts. We must all work together to reform and repair FEMA so our nation will be prepared before the next disaster, be it manmade or natural, occurs."

'We Were Realizing Our Worst Nightmare' (NOTP)

By Bruce Alpert

New Orleans Times-Picayune, February 11, 2006

Brown says he told White House of calamity

WASHINGTON -- Two decisions by key federal officials not to share information led Washington to believe that New Orleans had "dodged the big one" in the hours after Hurricane Katrina made landfall, when in fact 80 percent of the city was flooding, Senate investigators believe.

Michael Brown, who was FEMA chief at the time, decided not to bring his appeals for Katrina relief directly to his superiors at the Department of Homeland Security after the storm, because he considered it a waste of time.

And the Homeland Security operations room coordinator decided not to notify department Secretary Michael Chertoff and President Bush on Aug. 29, the day the hurricane hit, of levee breaches that put much of New Orleans under water. The official said he considered the reports too sketchy.

Still, Brown, testifying Friday under oath, said officials should have known. On the night of Aug. 29, he said, he warned a top Bush administration official that "we were realizing our worst nightmare."

Brown told senators that he dealt directly with White House officials the day Katrina hit, including chief of staff Andrew Card and deputy chief of staff Joe Hagin. He also said that officials from the Homeland Security Department were getting regular briefings that day.

Sen. Susan Collins, chairwoman of the Senate Homeland Security and Government Affairs Committee, R-Maine, said the communications snafus could have contributed to the delays in bringing supplies to the city and federal troops to assist with search and rescue operations.

"What is so troubling is we have heard over and over again -- from top DHS officials, from top Department of Defense officials, from the leadership throughout the administration -- that they were simply unaware of how catastrophic the hurricane's impact had been because of the breaching of the levee," said Collins, R-Maine.

The 19th hearing by Collins' committee brought more attempts to deflect blame, with Brown saying his Homeland Security superiors devoted too much time to preparing for terrorist attacks instead of natural disasters, and the department saying that Brown failed to carry out his most important duty: to inform Chertoff and the president of the worsening situation in New Orleans.

Brown said it is "just baloney" and "a little disingenuous" for the Department of Homeland Security to say that it wasn't informed of the levee breaches Aug. 29, the day the hurricane struck.

Focused on terrorism

Brown, who served as director of the Federal Emergency Management Agency until his resignation two weeks after Katrina hit, suggested that the administration's emphasis on fighting terrorism may have been partly to blame for the slow response.

FEMA, he said, had become a stepchild at the newly created Department of Homeland Security. Had a terrorist "blown up the 17th Street Canal levee, then everybody would have jumped all over that," he said.

Brown was roundly criticized by some members of the Senate panel for what they considered a poor job of coordinating the government's response to the hurricane, but others said he made a convenient target for blame.

"You have been selected as the designated scapegoat," said Sen. Frank Lautenberg, D-N.J.

Lautenberg said he reached that conclusion because problems at FEMA persisted after Brown left, as exhibited by the delays in getting trailers to people in Louisiana and Mississippi who have requested them, and because the Bush administration had ignored Brown's request for more money to prepare for disasters such as Katrina.

"So Mr. Brown isn't on the payroll. . . . Who's responsible for not keeping up with our responsibilities? Somebody. And the fingers, no matter which way they try to point them, to me they point at the White House."

Shifting the blame

Sen. Joseph Lieberman, D-Conn., questioned Matthew Broderick, who was director of the Homeland Security Operations Center when Katrina hit and was responsible for keeping Chertoff and Bush updated on the hurricane.

Lieberman said he couldn't understand why Broderick, a retired brigadier general with the Marines, didn't report the levee breaches to Chertoff and the White House sooner than the morning of Aug. 30.

Broderick attributed the delay to conflicting reports from New Orleans, putting the blame largely on Brown and other FEMA officials, who he said were refusing to keep him updated. One FEMA official, he said, told him that the only information he would get would be the twice daily -- morning and evening -- official FEMA Hurricane Katrina update reports.

But Lieberman said he found the response inexplicable because there were reports from numerous federal agencies, including the National Weather Service and Transportation Security Administration, about levee breaks in New Orleans. A Senate investigator said Broderick should have "just turned on his TV."

No answer

Brown was asked to explain why it took two days to place an order for 500 buses that Gov. Kathleen Blanco had requested to rescue people from the Superdome and Ernest N. Morial Convention Center.

Brown said he could not give an explanation, except to say that the delays reflected a March 2005 report that found FEMA's system of controlling and tracking assets inadequate. Brown also mentioned a "brain drain" at FEMA caused by the retirement of many experienced officials, while Collins noted that a memo from senior officials in the agency complained that too many key jobs were filled with political appointees.

The former FEMA chief, who was subpoenaed Friday to give closed testimony this weekend to a House committee also investigating the slow response to Katrina, said he tried to take steps to improve the agency's preparedness but was rebuffed by Homeland Security superiors. For instance, he said, his request in the year before Katrina to get money to do a follow-up exercise, focused on a possible catastrophe in New Orleans, was ignored.

The disconnect between him and Chertoff couldn't be clearer. At one point after the hurricane struck, Brown testified, he was ordered to give Chertoff a briefing, and he assembled some of his top people.

"They spent the night getting their briefings together," Brown said. "And then they twiddled their thumbs for about and hour and a half, two hours that morning waiting for him to get off some phone calls or something. And I finally dismissed the briefers and just told them to go back to work. Because you can't have two people in control; either somebody's going to run the disaster or somebody's not going to run the disaster."

Brown under fire

Brown had some testy confrontations with senators.

"As I listen to your testimony, you're not prepared to, kind of, put a mirror in front of your face and recognize your own inadequacies and say, 'You know something? I made some big mistakes,' " said Sen. Norm Coleman, R-Minn.

Brown responded: "That's very easy for you to say sitting behind that dais and not being there in the middle of that disaster watching that human suffering and watching those people dying and trying to deal with those structural dysfunctionalities, even within the federal government."

Brown said he had admitted mistakes and told senators he spent some nights in his hotel room "crying and screaming" because he couldn't get the bureaucracy to respond to the tremendous suffering.

Sen. Robert Bennett, R-Utah, said that from Brown's testimony he has a sense why Chertoff reported not knowing immediately how bad things were in New Orleans. "The reason he didn't know is because you didn't think it important to tell him," Bennett said.

Brown said he preferred to deal directly with the White House, because he knew the Homeland Security bureaucracy was focused on terrorism, and asking it for help "just bogged things down."

White House spokesman Scott McClellan said there were conflicting reports about the levees in the immediate aftermath of the storm.

"We knew of the flooding that was going on," McClellan said. "That's why our top priority was focused on saving lives. . . . The cause of the flooding was secondary to that top priority, and that's the way it should be."

Sen. Mary Landrieu, D-La., said the testimony Friday showed that FEMA was not prepared before Katrina hit, "just as it is not prepared today."

"For months, this administration pointed fingers at others for their bungling," Landrieu said. "Now they're pointing fingers at one another. All the while, FEMA remains anemic and the rebuilding they are managing remains inefficient, ineffective and slow."

In all, according to a timeline released by the Senate Committee, 28 separate agencies had issued some kind of warning Aug. 29 about the flooding in metropolitan New Orleans resulting from levee breaches.

"It is clear that if the administration knew sooner that our levees had breached, they should have acted sooner," said Rep. William Jefferson, D-New Orleans.

"By providing major federal resources immediately, the administration could have avoided the major loss of life and property with which our city must now cope. Obviously, the delay in federal action made the situation much worse."

. . . . . .

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The Associated Press contributed to this report.

Blame Over Response To Katrina Intensifies (HCHRON)

By SAMANTHA LEVINE

Houston Chronicle, February 11, 2006

Ex-FEMA chief, homeland security officials offer conflicting details at Senate hearing

WASHINGTON - A clash among top officials in the Bush administration led to heated rhetoric and a hard-to-pin-down story Friday about how the federal government bungled its response to Hurricane Katrina.

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Contradicting earlier statements by the White House, former Federal Emergency Management Agency chief Michael Brown said he told President Bush and other White House officials on the day before the storm how bad things were going to be in New Orleans. He said video teleconference calls and e-mail on Aug. 29, the day the storm hit, relayed information about the devastating flooding.

"They were aware of what was going on," Brown said in a hearing before the Senate's homeland security committee.

"For them to claim that we didn't have awareness of it [the levee collapsing] is just baloney," Brown said.

But as Sen. Susan Collins, R-Maine, the committee chairwoman pointed out, President Bush and other senior administration officials have said that for hours after water pouring through broken levees inundated New Orleans, they thought the city had "dodged the bullet."

Indeed, two senior officials with the Department of Homeland Security told the panel Friday that Brown failed to provide live information to Homeland Security Secretary Michael Chertoff and did not set up the command centers required under the national emergency response plan.

Brown left us "virtually blind," said Robert Stephan, assistant secretary for infrastructure protection at the DHS.

But in another apparent contradiction, Bush spokesman Trent Duffy said Friday, "I completely reject any suggestion that the White House was not fully aware of the severity of the damage or the risk."

About 1,200 people died and thousands of homes were destroyed in the hurricane and the flooding it triggered.

Bush removed Brown from the Gulf Coast disaster zone about a week after the storm hit. Brown resigned three days later.

Senators stunnedBrown said the homeland security agency paid little attention to the storm because it is almost entirely focused on terrorist attacks.

He said DHS systematically denied funding to beef up FEMA's emergency preparations, and got little response when he discussed FEMA's shortcomings with White House officials, including Deputy Chief of Staff Joe Hagin and Chief of Staff Andy Card.

Duffy would not comment on conversations among administration officials.

Brown stunned the senators when he said he preferred to call Hagin rather than Chertoff about the storm because he found the DHS bureaucracy slow and frustrating.

Calling Chertoff, he said, "would have wasted my time" because the "culture was such that I didn't think that would have been effective and would have exacerbated the problem."

"That is a staggering statement," said Sen. Robert Bennett, R-Utah. "It demonstrates a dysfunctional department to a degree far greater than any we've seen."

When FEMA public affairs official Marty Bahamonde relayed desperate news of the flooding in New Orleans on the day of the storm, Brown said he called Hagin, who was with Bush at the president's ranch in Crawford.

"I think I told him that we were realizing our worst nightmare, that everything we had planned about, worried about, that FEMA, frankly, had worried about for 10 years was coming true," Brown said.

Testy exchangeSen. Norm Coleman, R-Minn., cast doubt on Brown's account.

Coleman mentioned a much-publicized e-mail exchange in which Brown was told about the horror unfolding in New Orleans and responded, "Thanks for the update. Anything specific I need to do or tweak?"

Brown lashed out at Coleman, saying he was getting sick and tired of e-mail being taken out of context and that at the time, he had been doing many other things to respond to the emergency.

Coleman also accused Brown of being unwilling to "put a mirror in front of your face and recognize your own inadequacies."

"Senator, with all due respect, what do you want me to say?" Brown asked. "I have admitted to mistakes publicly. I've admitted to mistakes in hearings. What more, Senator Coleman, do you want from me? What do you want from me? I'm asking you. What do you want from me?"

The hearing was one of the last before the House and Senate complete their parallel investigations of how federal, state and local governments reacted to a storm that caused destruction that will take years and tens of billions of dollars to repair.

The House Government Reform Committee will release its report, which is expected to be harsh, on Wednesday. The Senate will release its report in mid-March.

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Brown Says He Gave Bush Aide Early Warning On La. Flooding (BOS)

By Charlie Savage

The Boston Globe, February 11, 2006

WASHINGTON -- Michael Brown, former director of the Federal Emergency Management Agency, said yesterday that he told a top aide to President Bush that New Orleans was being flooded on the same day that Hurricane Katrina hit land last year, raising new questions about the government's delayed response to the catastrophe.

Testifying before a Senate committee, Brown also characterized as "just baloney" contentions by top Homeland Security officials that they did not know the levees protecting New Orleans had collapsed until the day after the storm roared ashore. And, Brown said, he was being made a scapegoat for the Bush administration's flawed handling of FEMA.

"I feel somewhat abandoned," said Brown, the public face of the government's slow response in the early stage of the catastrophe.

Brown's testimony marked his first comments on the Katrina disaster since leaving the federal payroll in November, freeing him to speak more directly about communications between FEMA and the White House than when he testified last Sept. 27 before Congress. Although Brown had resigned under pressure two weeks before his testimony, he remained on the payroll as a consultant until November.

His testimony also came a day after Democrats on the Senate Homeland Security and Governmental Affairs Committee released a series of internal e-mails written during the crisis. The documents showed that FEMA e-mails warned Homeland Security Secretary Michael Chertoff's chief of staff about extensive flooding as early as 9:27 p.m. on Aug. 29, the day of the storm.

In the days after the levee breach, the federal government came under harsh criticism for delays in sending troops and supplies into the city amid concurrent leadership breakdowns at the state and local levels of government. Meanwhile, the situation for people trapped in the flooded city grew perilous.

Bush later said that he and others relaxed immediately after the storm, mistakenly believing that the city had weathered the hurricane without major problems. He and Chertoff continued their regularly scheduled events on Aug. 30, rather than immediately moving into crisis mode.

But in his testimony yesterday, Brown said he sounded the alarm with aides to top administration officials on the evening of Aug. 29, as soon as he learned the levees protecting New Orleans from catastrophic flooding were failing. He said he called Joe Hagin, the deputy White House chief of staff, who was with Bush at his ranch at Crawford, Texas, at the time.

"I think I told him that we were realizing our worst nightmare, that everything we had planned about, worried about, that FEMA, frankly, had worried about for 10 years, was coming true," Brown said. ". . . New Orleans is flooding. It's the worst-case scenario."

But White House spokesman Scott McClellan rejected the contention that Bush understood the levee had breached earlier than the administration has acknowledged.

"There were conflicting reports coming in, in the initial aftermath of the storm, in regards to the levee system," he said.

"Some were saying it was overtopped, some were saying it was breached. And, again, we knew of the flooding that was going on; that's why our top priority was focused on saving lives. The cause of the flooding was secondary to that top priority, and that's the way it should be."

In later testimony yesterday, Robert Stephan, the Homeland Security assistant secretary for infrastructure protection, objected to criticism by senators that Brown's testimony and the FEMA e-mails showed that communications had broken down at the upper levels of the department. He said Brown erred by not conveying his message more urgently.

"If he's got a critical information piece, that's the whole nugget we're all waiting for confirming catastrophic flooding of the entire New Orleans downtown area, that to me is something that you don't just casually post to an e-mail and send to administrative headquarters somewhere light-years away," Stephan said. "You pick up the phone and say 'Boss, Secretary Chertoff, this is going down right here, this is serious, this is the one we were all waiting for.' Why did he not do that?"

Brown also said that structural changes to FEMA since it was folded into the new Department of Homeland Security after the terrorist attacks of Sept. 11, 2001, crippled the agency's ability to respond to a natural disaster. The department, he said, was narrowly focused on responding to a terrorist attack but insufficiently attuned to a natural disaster.

Brown said that in the months leading up to the hurricane, he had begged Chertoff and, before him, former Homeland Security Secretary Tom Ridge, for more funds for disaster planning and training exercises for FEMA, even proposing a New Orleans flood scenario. But he was turned down, he said, because natural disasters were "the stepchild" at Homeland Security.

"It's my belief that had there been a report . . . that a terrorist has blown up the 17th Street canal levee, then everybody would have jumped all over that and been trying to do everything they could," he said.

Brown Details Katrina Alerts (BSUN)

By Johanna Neuman

The Baltimore Sun, February 11, 2006

DOJ_NMG_0014543

Ex-FEMA chief testifies he told White House, not Homeland Security, about scale of storm

WASHINGTON -- Former FEMA Director Michael D. Brown testified yesterday that, hours before Hurricane Katrina struck the Gulf Coast, he called President Bush directly and told him the storm was going to be "a catastrophe within a catastrophe." And the next day, with New Orleans levees collapsing, he called a senior White House aide to report "our worst nightmare" had occurred.

What Brown said he did not do was communicate with his superiors at the Department of Homeland Security, who had critical responsibilities for launching and overseeing the federal government's response to the rapidly unfolding tragedy. The Federal Emergency Management Agency is part of the Homeland Security Department, but Brown said he thought talking to his boss, Homeland Security Secretary Michael Chertoff, "would have wasted my time."

Yet members of the Senate Homeland Security and Governmental Affairs Committee, before which Brown testified yesterday, suggested that his decision to ignore his department and its established procedures reflected the kind of high-level communications breakdown that hamstrung Washington's response to Katrina.

Lower-level Homeland Security officials who had had operational responsibilities for dealing with the crisis agreed. They told the committee that they had repeatedly been hampered by a lack of information from FEMA about events on the ground.

"There was a prevailing attitude from Mr. Brown that he did not want Homeland Security to interfere with any of his operations or what he was doing," Matthew Broderick, director of operations coordination for the department, told the committee. "Mr. Brown should have picked up the telephone and called the secretary right away."

At one level, testimony at the Senate hearing was another round in the blame game that has raged over the past months as a mountain of evidence has accumulated on the shortcomings of the government's response to a disaster that claimed more than 1,300 lives, left tens of thousands of people homeless and inflicted billions of dollars in damage on the Gulf Coast.

But the hearing also provided graphic evidence of how personal and bureaucratic rivalries among senior administration officials had taken precedence over effective response to the emergency. Brown, for example, devoted much of his testimony to denouncing the Homeland Security Department and complaining about the fact that his agency had been made a part of it.

The department was created after the Sept. 11 attacks as part of an effort to coordinate the far-flung government agencies responsible for dealing with catastrophic events -- natural disasters as well as terrorism.

Saying FEMA had become a "stepchild" in a department preoccupied with terrorism, Brown said, Homeland Security policies and decisions "put FEMA on a path to failure."

With Chertoff expected to testify Tuesday, his spokesman, William "Russ" Knocke, said that the secretary would not engage in a shouting match with Brown. "We're not interested in a point-by-point response," he said. "We're interested in lessons from [an] unprecedented storm season and applying those in a constructive way as [we] prepare for next storm season."

In his testimony, Brown asserted that he had been able to "cut through any interagency bureaucracy" by calling the White House instead of working with Homeland Security. Under questioning by members of the committee, however, Brown said that in his calls -- 30 calls to White House Chief of Staff Andrew H. Card Jr. or his deputy, Joe Hagin -- he had not asked the White House to take specific actions. Rather, he said, his goal was to keep the White House informed.

Asked about what he had told a senior White House official in an Aug. 29 call, Brown said: "Nothing specific, I just thought they needed to be aware."

In one key conversation with a senior White House official just after FEMA learned that the levees had failed, Brown said he reported that "our worst nightmare" had occurred but said he did not remember whether he had passed on that the levees had failed, dooming the city.

The White House, stung by suggestions that the president may have been slow to grasp the seriousness of the crisis, released a four-page briefing designed to show that he had responded quickly and appropriately. Among other things, the White House pointed out that on Aug. 28, the day before Katrina reached the coast, he had called Louisiana Gov. Kathleen Babineaux Blanco and urged her to issue a mandatory evacuation order for New Orleans and the area around it.

"He is concerned about the impact that this hurricane would have on our people. And he asked me to please ensure that there would be a mandatory evacuation," the White House quoted Blanco as saying in a CNN news report that day.

Evacuation efforts were bogged down because officials had failed to provide adequate transportation and other support for thousands of poor New Orleans residents who lacked means to move to safety on their own. The same was true for many hospital patients and nursing home residents, some of whom died when they were trapped by the floods that swept through the city.

Johanna Neuman writes for the Los Angeles Times.

Brown: I Warned White House As Katrina Hit (AP)

By Lara Jakes Jordan

AP, February 11, 2006

Former federal disaster chief Michael Brown, the face of the government's listless response to Hurricane Katrina, said Friday he told top Bush officials the day the storm howled ashore of massive flooding in New Orleans and warned "we were realizing our worst nightmare."

More defiant than defensive, Brown told senators he dealt directly with White House officials the day of the Aug. 29 storm, including chief of staff Andrew Card and deputy chief of staff Joe Hagin.

He also said the Homeland Security Department was among a half-dozen government agencies that received regular briefings that day from him and other officials by way of video conference calls. Administration officials have said they did not realize the severe damage Katrina had caused until after the storm had passed.

Under oath, Brown told the Senate Homeland Security and Governmental Affairs Committee that he could not explain why his appeals failed to produce a faster response.

"I expected them to cut every piece of red tape, do everything they could ... that I didn't want to hear anybody say that we couldn't do everything they humanly could to respond to this," Brown said about a video conference with administration officials — in which President Bush briefly participated — the day before Katrina hit. "Because I knew in my gut this was the bad one."

In the end, the storm claimed more than 1,300 lives, uprooted hundreds of thousands more and caused tens of billions in damage. The devastation in New Orleans and other Gulf Coast communities left Americans with enduring images of their countrymen dying in flooded nursing homes and pleading for rescue from rooftops.

Brown, in his second Capitol Hill appearance since Katrina, told his side to the senators five months after he quit under fire as chief of the Federal Emergency Management Agency.

He agreed with some senators who characterized him as a scapegoat for government failures.

"I feel somewhat abandoned," said Brown,

Homeland Security Secretary Michael Chertoff has said he did not know that New Orleans' levees were breached until Aug. 30. Bush at the time said, "I don't think anybody anticipated the breach of the levees."

At an occasionally contentious White House briefing Friday, Bush spokesman Scott McClellan said there were conflicting reports about the levees in the immediate aftermath of the storm.

"We knew of the flooding that was going on," McClellan said. "That's why our top priority was focused on saving lives. ... The cause of the flooding was secondary to that top priority and that's the way it should be."

After three hours of testimony, Brown was handed a subpoena ordering him to reappear in front of a House panel investigating the storm response. Brown is expected to be questioned by House investigators this weekend — days before the panel is expected to release its findings on the storm.

Recounting conference calls that described initial damage reports the day Katrina hit, Brown scoffed at claims that Homeland Security didn't know about the devastation's scope until the next day. He called those claims "just baloney."

Some senators suggested Brown look inward before pointing the finger elsewhere.

"You're not prepared to put a mirror in front of your face and recognize your own inadequacies," said Norm Coleman, R-Minn. "Perhaps you may get a more sympathetic hearing if you had a willingness to confess your own sins in this."

Brown responded: "That's very easy for you to say sitting behind that dais and not being there in the middle of that disaster watching that human suffering and watching those people dying and trying to deal with those structural dysfunctionalities, even within the federal government."

The disjointed federal response, Brown said, was in part the result of FEMA being swallowed in 2003 by the newly created Homeland Security Department, which he said was focused on fighting terrorism.

Natural disasters "had become the stepchild of the Department of Homeland Security," he said. Had there been a report that "a terrorist had blown up the 17th Street Canal levee, then everybody would have jumped all over that," he added.

Some senators attempted to trace the failures back to the White House.

"You quite appropriately and admirably wanted to get the word to the president as quickly as you could," said Joe Lieberman, D-Conn., asking about Brown's conversation with Hagin on the evening of Aug. 29. "Did you tell Mr. Hagin in that phone call that New Orleans was flooding?"

Brown answered: "I think I told him that we were realizing our worst nightmare, that everything we had planned about, worried about, that FEMA, frankly, had worried about for 10 years was coming true."

Sen. Robert Bennett, R-Utah, suggested Brown may have delayed the federal response by cutting Homeland Security out of the loop about the levee failures and going straight to the White House.

"I think I now understand why Secretary Chertoff says he didn't know," Bennett said. "The reason he didn't know is because you didn't think it important to tell him."

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Brown said he communicated directly with the White House instead of Homeland Security because FEMA's parent agency "just bogged things down."

White House 'warned Of Levee Breach' (FT)

By Andrei Postelnicu

Financial Times, February 11, 2006

The White House was alerted of a breach in the New Orleans levee system on the night Hurricane Katrina struck the city, a former Bush administration official told US senators on Friday.

The testimony from Michael Brown, the former head of the Federal Emergency Management Agency, to a Senate committee clashes with White House statements that the administration had been taken by surprise by the levee failure.

Mr Brown, told the Senate's homeland security committee that he told Joseph Hagin, President Bush's deputy chief of staff, about the levee breach on the night of August 29th, as Katrina made landfall on New Orleans.

"I think I told him we were realising our worst nightmares," Mr Brown said. In response to inquiries about the president's awareness of the situation, Mr Brown said he thought "If I've told Joe Hagin or [chief of staff] Andy Card, I've told the president".

White House officials have said they did not know about the levee breach and subsequent flooding of New Orleans until the morning of Tuesday, August 30th. The Bush administration has come under sharp criticism for the delays in getting emergency supplies into New Orleans in Katrina's aftermath.

"For them [the White House] to claim that we didn't have awareness of it is just baloney," Mr Brown said.

The former official, who resigned less than two weeks after Katrina struck amid uproar about the US government response to the hurricane, also told lawmakers that he often bypassed Michael Chertoff, his boss at the Department of Homeland Security in favour of talking directly to the White House.

The revelations come as a five-month investigation into the hurricane response revealed in detail the chain of events that saw images of mosrly poor and black Americans in distress in a crippled city.

A Fema official who was in New Orleans emailed his supervisors in Washington to say conditions "are far more serious than media reports are currently reflecting", investigators found.

Mr Brown said that going through the chain of command at the homeland security department "would have been a waster of time". The department, which was created following the September 11th terrorist attacks, was "was an additional bureaucracy that was going to slow me down even more, and the way I got around that was dealing directly with the White House".

The remarks atracted retorts from senators describing the situation as "dysfunctional". While some admitted the "structural" deficiencies of the new department, they accused Mr Brown of a leadership failure which, combined with the structure, became a "perfect storm".

Mr Brown, whose appointment without obvious qualifications for the Fema job brought the White House under attack, sought to defend his record at the agency by mentioning previous responses to California wildfires and the crash of a space shuttle.

He told senators he was "sick and tired of emails taken out of context".

Brown Warned White House Before Katrina Struck (REU)

By Richard Cowan

Reuters, February 11, 2006

Former federal disaster chief Michael Brown told a U.S. Senate panel on Friday he warned President George W. Bush of impending catastrophe in New Orleans last summer and informed White House aides of dangerous flooding shortly after Hurricane Katrina struck.

Brown said on August 29, the day the hurricane hit, he relayed urgent reports that the city's levee pumps were failing, contradicting White House officials who have said they were unaware on August 29 the levees were no longer functioning.

With the pumps overwhelmed and the levees seriously breached, floodwaters overtook much of New Orleans in a natural disaster that killed about 1,200 people along the Gulf Coast.

On September 1, Bush said in a television interview, "I don't think anyone anticipated the breach of the levees."

Yet Connecticut Sen. Joseph Lieberman, the committee's ranking Democrat, cited a report from the National Weather Service at 9:14 a.m. on August 29 that at least one of the levees protecting the city was breached.

Brown, who headed the Federal Emergency Management Agency, said in his first detailed testimony about his contacts with Bush and top White House officials that he informed the White House that "we were realizing our worst nightmare."

The Senate Homeland Security and Governmental Affairs Committee is investigating failures by federal, state and local officials to deal with the hurricane and particularly why the Bush administration was so slow to react to the emergency.

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Brown blamed the poor federal response to Katrina in part on the absorption of FEMA into the Department of Homeland Security, which he said was focused on preventing terrorist attacks and neglected the threat of natural disasters. He urged it be set up as a separate agency once again.

In addition to one or two direct talks with Bush before the storm, Brown said he talked with White House officials about 30 times once Katrina hit land. Those conversations included White House Chief of Staff Andrew Card, Brown said, adding: "Sometimes the president would get on the phone."

Before agreeing to answer questions about his contacts with the White House, Brown sought assurances he would not be caught in a legal cross-fire over whether those conversations should be divulged.

Committee head Susan Collins, a Maine Republican, gave Brown a green light to testify, saying the White House was given the chance, but had not invoked executive privilege.

'UNMANAGEABLE SITUATION'

In his testimony, Brown said Homeland Security chief Michael Chertoff's sprawling agency was making Katrina response decisions contrary to his own. "It became an absolutely unmanageable situation," Brown said.

Brown emerged as the main scapegoat for the government's response. He was forced to resign shortly after the disaster.

Collins, who is leading the Senate probe of the government response, put some of the blame on Brown's shoulders. Following his testimony, Collins said Brown "let his poor relations" with Chertoff interfere with communications.

Some Democrats on the committee tried to lay blame squarely with the White House. "Keep your chin up. Fight back," Sen. Frank Lautenberg of New Jersey told Brown, adding that the Bush administration was handling hurricane reconstruction poorly.

Besides those killed, hundreds of thousands were made homeless in the storm, which devastated much of Louisiana, Mississippi and Alabama. Nearly six months later, many of those displaced do not know whether their homes will be rebuilt.

Bush was nearing the end of his monthlong summer vacation when the hurricane struck. He was on a working trip to Arizona and California on the day it hit and the day after, August 29 and August 30, and returned to Washington from his Texas ranch on August 31.

Brown's appearance before the Senate panel was followed by a subpoena to appear before the House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina. The panel is meeting this weekend.

"This will be a closed meeting. We want to get the information we need from Brown without causing a further media circus," said Tom Davis, a Republican from Virginia who chairs that committee.

(Additional reporting by Alan Elsner and Donna Smith)

Former FEMA Chief Blames Chertoff For Katrina Response (KRT)

By Seth Borenstein

Knight Ridder, February 11, 2006

WASHINGTON - As Hurricane Katrina's deadly floodwaters kept rising in New Orleans streets last August, the two top federal disaster chiefs feuded while other officials wouldn't talk to each other, according to testimony Friday at a Senate hearing.

In his first testimony since leaving the government payroll, former Federal Emergency Management Agency Director Michael Brown, who's been roundly criticized for his handling of Katrina, said he felt like a scapegoat for a government-wide failure and squarely blamed his boss, Homeland Security Secretary Michael Chertoff.

"I was literally constrained by Secretary Chertoff," Brown said. "My hands were tied."

Brown said he tried to bypass his boss and work directly with the White House, a tactic he said had worked in the past. But White House Chief of Staff Andrew Card told him he had to work with Chertoff, Brown said.

Chertoff, he said, wouldn't let him fly to the disaster scene from his Baton Rouge, La., base.

On Monday, Aug. 29, when the storm hit the Gulf Coast, Brown said Homeland Security officials continually downplayed alarming reports from a FEMA agent who said he saw massive levee breaches and flooding in New Orleans.

Brown blamed the Bush administration's absorption with terrorism for its slow response to Katrina. He said that if his FEMA agent on the scene had confirmed "that a terrorist has blown up the 17th Street Canal levee, then everybody would have jumped all over that ... but because this was a natural disaster, that has become the stepchild within the Department of Homeland Security." FEMA is a subdivision of the Department of Homeland Security, but prior to 2003 was an independent agency.

Homeland Security officials weren't listening to how bad it was, Brown said. They were tuned into FEMA's video teleconferences (VTCs) along with White House officials, but didn't seem to get the message, he said.

White House spokesman Scott McClellan said Friday that the White House "knew of the flooding that was going on."

But Homeland Security officials told the Senate Governmental Affairs Committee that they didn't know about major flooding in New Orleans until Tuesday, Aug. 30.

Retired Gen. Matthew E. Broderick, who was in charge of the department's operations center, said he went home Monday thinking that there was little flooding and that "they seemed to be having a party in the French Quarter that evening."

"When we came in Tuesday, we realized this was serious,'" Broderick said.

Brown called Homeland Security officials' claims "a little disingenuous."

"All they had to do was listen to those VTCs and pay attention to these VTCs and they would have known what was going on," Brown said. "And in fact I e-mailed a White House official that evening about how bad it was."

Brown said the department claimed to be unaware of what was happening because "you know, they're off doing other things."

Two top Homeland Security officials denied that they weren't listening. They said that Brown wasn't talking to them and that he kept other FEMA officials from telling them what was going on.

But the Senate committee released a timeline of 26 notices that warned of horrible flooding in New Orleans before Tuesday morning.

By noon on Monday, five notices of flooding had been sent to Broderick's Homeland Security operations center or to the White House. By 6 p.m., 17 flooding notices had been sent. Despite the notices, the Homeland Security Operations Center's situation report said as of 6 p.m. that "preliminary reports indicate the levees in New Orleans have not been breached."

Broderick said he knew there was flooding, but said "we didn't know the degree." He blamed Brown and FEMA for using e-mail instead of making phone calls.

On Sept. 9, Chertoff replaced Brown as on-scene commander with Coast Guard Vice Adm. Thad Allen.

"The situation was dramatically turned around following the arrival of Vice Admiral Allen," said Robert Stephan, assistant secretary for infrastructure protection and the author of the nation's disaster plan.

Friday's hearing showed that FEMA and its Homeland Security overseers had "two different game plans," said Joe Myers, Florida's former emergency management chief. Brown seemed to be working from an old disaster-management plan that was used through 2004, while Chertoff's people were using a plan that had been put into effect in April 2005, he said.

Brown also told senators that FEMA became ineffective because there was too much bureaucracy.

Broderick's and Stephan's testimonies were a treasury of bureaucratic acronyms; they used 107 of them in their opening remarks. Asked if that symbolized excessive bureaucracy, Broderick said Homeland Security had added only four acronyms to the lexicon of disaster planning.

Katrina Hearings Put New Pressure On White House (WSJ)

By Robert Block

The Wall Street Journal, February 11, 2006

WASHINGTON -- Congressional hearings on Hurricane Katrina are increasingly pointing to bureaucratic failings at the Department of Homeland Security and the White House, putting new pressure on the White House to open up its records to legislators despite objections that such a move would undercut executive privilege.

The probe is also giving momentum to efforts, inside the administration and on Capitol Hill, to overhaul the Federal Emergency Management Agency.

"While DHS's playbook appears designed to distance headquarters as much as possible from FEMA, the department's leaders must answer for decisions they made -- or failed to make -- that contributed to the problems," Susan Collins, the Republican senator from Maine who is chairing the Senate's Katrina investigation, said at hearings Friday.

So far, the Bush administration has invoked executive privilege and refused to share with the committee any of its documents about what actions the White House took during the disaster.

But the administration's wall of silence was breached yesterday by Michael Brown, the former FEMA director, who agreed to testify before the Senate Homeland Security and Government Affairs Committee. There, he said that his agency's mission was marginalized when it was swallowed by the newly created Homeland Security agency in 2003. He said he often complained to White House officials, including White House Chief of Staff Andrew Card, about the danger of undermining FEMA but they failed to act on his warnings.

Mr. Brown, who quit under fire just days after the storm slammed into the Gulf Coast, provided the first detailed look into communications between emergency-management officials and the White House after the hurricane, and pushed blame for the disaster closer to the president.

From the immediate disastrous aftermath of the storm until now, Bush administration officials have maintained that they had been caught completely by surprise when they were told on Tuesday, Aug. 30 -- a full day after the storm hit -- that the levees protecting New Orleans had broken, allowing floodwaters to swamp the city. At the time, President Bush said, "I don't think anybody anticipated the breach of the levees."

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Department of Homeland Security officials also have said that they were unaware of the failure of the levees until Tuesday morning.

"I find it a little disingenuous," Mr. Brown said. "For them to claim that we didn't have awareness of it is just baloney."

The White House hasn't responded to yesterday's testimony.

While DHS officials acknowledge that the response to the storm was unacceptable, they have heaped much of the blame for the slow response on Mr. Brown, saying he failed to provide Homeland Security Secretary Michael Chertoff with up-to-date information.

"My obligation was to the White House and to make sure the president knows what's going on, and I did that," Mr. Brown said Friday. He said this was exactly the way he functioned during previous disasters, including the four hurricanes that hit Florida in 2004. Mr. Brown said that the DHS had robbed FEMA of resources and funds. "There was a cultural clash that didn't recognize the absolute inherent science of preparing for a disaster."

The White House has commissioned its own study into the Katrina fiasco that has been headed by Homeland Security Advisor Frances Fragos Townsend. Ms. Townsend is due to present some of her findings to state emergency managers meeting near Washington Saturday. Ms. Townsend is expected to be critical of DHS policies that stripped FEMA of many of its preparedness activities.

Sen. Collins has said that, when her investigation is over, she will propose legislation aimed at improving the country's emergency response and fixing problems inside the DHS.

Mr. Chertoff, meanwhile, is expected to try to pre-empt congressional action by announcing his own reorganization of FEMA in coming weeks.

Write to Robert Block at bobby.block@wsj.com6

Stormy Dean Slams Bush: Points Finger For Katrina Deaths (BOSH)

By Kimberly Atkins

Boston Herald, February 11, 2006

Howard Dean yesterday blamed President Bush for the deaths of thousands of Hurricane Katrina victims - prompting a swift rebuke from Republicans.

Appearing in Boston before members of the New England Press Association, the failed presidential candidate sharply criticized Bush for failing to respond to the disaster.

“Michael Brown is testifying that he had direct contact with the (president’s) chief of staff - as the levees were breaking,” Dean said, referring to the former FEMA head’s testimony before a congressional committee yesterday. “Thousands of people died in New Orleans because the president didn’t pay attention and denied that he knew about it. . . . it turns out that wasn’t true.”

Dean - whose controversial one-year tenure as party chairman saw some Democratic leaders calling on him to tone down his rhetoric - called the Bush administration more corrupt than Richard Nixon’s.

While Nixon obstructed justice to protect the presidency, “this administration has done more than that, they have leaked military secrets at a time of war to fulfill their political agenda,” Dean said.

Danny Diaz, spokesman for the Republican National Committee, dismissed Dean’s criticisms. “Howard Dean’s Democratic Party lacks leadership, direction or anything substantive to add to national dialogue,” Diaz said. “The reality is Democrats fail to have a political strategy that resonates with the American people and so they resort to political attacks.”

Dean also said the Democratic Party needs to right itself if it hopes to have a shot of winning back the Oval Office, and that starts with taking a move from the GOP playbook and organizing more effectively from the bottom up.

The road to the White House, he said, starts with grassroots organizing in local races. He praised the campaign that helped Boston City Councilor Sam Yoon make history as the first Asian-American elected to the office.

“If we ever want to win again, it is not enough to have operatives in all 50 states,” he said. “It is not enough to have a voting list as good as the Republicans. We have to stand up and say who we are.”

Auditors Find Huge Fraud In FEMA Aid (NYT)

By Eric Lipton

The New York Times, February 11, 2006

WASHINGTON, Feb. 10 — Thousands of applicants for federal emergency relief money after Hurricanes Katrina and Rita used duplicate or invalid Social Security numbers or bogus addresses, suggesting that the $2.3 billion program was a victim of extensive fraud, a Congressional auditor will report Monday.

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The examination of the so-called Expedited Assistance program determined that the Federal Emergency Management Agency failed to take even the most basic steps to confirm the identifies of about 1.4 million people who sought expedited cash assistance, leaving the program vulnerable to the "significant fraud and abuse," the Government Accountability Office intends to report.

The auditors did not try to estimate the total dollar amount of fraudulent claims. But the report says that FEMA itself had found that 900,000 of the 2.5 million applications for all forms of individual assistance were "potential duplicates."

Even when FEMA's automated computer system picked out what might be fraudulent applications, payments were at times still sent, says the advance testimony of Gregory D. Kutz, the managing director of the G.A.O.'s forensic audits unit.

The controls were so lax that auditors were able to secure their own $2,000 relief check by using "falsified identifies, bogus addresses and fabricated disaster stories," and then simply waiting for the money to arrive in the mail, says the report for the Senate Homeland Security and Governmental Affairs Committee, a copy of which was obtained by The New York Times.

Nicol Andrews, a FEMA spokeswoman, said the agency recognized there could be fraud. But Ms. Andrews said the priority was getting aid as fast as possible to hundreds of thousands of families in dire need.

"We took a calculated risk in a catastrophic situation," she said. "It was the right thing to do. Unfortunately, some may have cheated the system."

She added that some arrests have been made. The agency is also suspending payments to people suspected of trying to cheat the system.

Still, the auditors found signs of fraud nearly everywhere:

¶Nearly half of the 11,000 individuals who received special debit cards as payment — an approach used in the immediate aftermath of the storm in Texas — got a second $2,000 payment in emergency aid.

¶Inspections of 200 properties in Texas and Louisiana listed as home addresses turned up 80 that were vacant lots or nonexistent apartments.

¶More than half of a group of 248 other applicants had used Social Security numbers that were never issued, belonged to dead people or did not match the name provided.

In one case, auditors found 17 individuals, some with the same last name and addresses, who used 34 bogus Social Security numbers to collect more than $103,000 in payments.

Auditors found isolated instances where the electronic debit cards were used to pay for "adult entertainment," a .45-caliber handgun, jewelry or bail bond services.

FEMA Tries To Pause La. Role (BRA)

By MIKE DUNNE

Baton Rouge Advocate, February 11, 2006

Agency says state not engaged enough in long-term planning

The Federal Emergency Management Agency has told Gov. Kathleen Blanco that state and local officials need to take on more leadership in planning Louisiana's long-term recovery.

This week, FEMA put out a notice to workers that it would put on "pause" the long-term recovery planning process known as ESF-14. It is designed to spur not only recovery but to build in elements that would avert or mitigate damages from future disasters.

FEMA told workers the pause was for at least two weeks. However, officials at the Louisiana Recovery Authority, the advisory partner in the process, were stumped when they started getting calls about the "pause."

Late Friday, LRA spokeswoman Pam Laborde said the "pause is on pause." Apparently, when word reached Blanco on Friday, she called Acting FEMA Director R. David Paulison to find out what was happening.

James McIntyre, a spokesman for the FEMA Baton Rouge recovery field office, said Blanco and Paulison "came to an agreement" to continue the process but "with state and local governments taking more ownership of the process and the federal government taking more of a support role than a lead role."

Earlier in the day, FEMA spokeswoman Nicol Andrews in Washington, D.C., said the long-term recovery planning process was "paused" because of a lack of "engagement" in the state.

The process has worked well in Florida and elsewhere after disasters and is working in Mississippi, but is not working in Louisiana, Andrews said.

Later in the day, McIntyre said FEMA and state officials will meet next week to work out how the state will take more ownership. He was unsure when that might happen.

Meanwhile, Blanco and the Legislature are meeting in another special session on hurricane recovery related issues.

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Laborde said the LRA has “been an active partner” with FEMA, working in 26 parishes and using 50 state employees on the effort. The LRA Foundation generated extra private funds to hire a “dream team” of planners to advise the process. Planning meetings have been going on this week in Lake Charles and are planned for next week in Abbeville.

Local plans are due to the state by the end of March and will be put into a state plan that will address housing and community development, environmental and coastal issues, human services, transportation and infrastructure and economic development.

An environmental activist who has been following the process, Darryl Malek-Wiley of the Sierra Club, said midday Friday that, “I am very disappointed this process has been put on hold.”

The state helped host a series of meetings in four states on Jan. 21 to get public input on what the recovery priorities should be. Levee protection, affordable housing, jobs and better schools surfaced as the main topics.

Malek-Wiley attended one of those meetings in San Antonio where people “were very engaged. I did hear that no public attended a meeting in Shreveport.”

He questioned whether sufficient effort has been put into the process to reach out and engage residents.

The people attending in San Antonio, many of them evacuees bused to the meeting from shelters, “were pleased with the discussion” and the ability to take part in the process, he said.

The ESF-14 process is important because “any future federal dollars can be directed by this plan,” Malek-Wiley said.

“At one session, a FEMA representative talked about building a new 20,000-unit housing development at Lapalco Boulevard and U.S. Highway 90 (on the west bank of Jefferson Parish) and we were able to point out that area is very low,” Malek-Wiley said.

He and other activists want to ensure the plan is environmentally friendly.

U.S. Should Share Oil Royalties With States -Shell (REU)

By Tom Doggett

Reuters, February 11, 2006

The U.S. government should share more of the royalties it collects from energy companies for offshore oil and natural gas drilling with the states, particularly to help rebuild hurricane-ravaged Louisiana, a top Shell Oil executive said on Friday.

Gulf Coast states that have offshore drilling collect royalties for oil and gas production in the their waters which usually extend only a few miles from shore. Any exploration beyond that is in federal waters, where the government collects royalties that go to the general treasury to pay for various programs benefiting the whole country.

Marvin Odum, who is responsible for Shell's energy exploration and production businesses in the United States and the rest of the North and South America, said he supports efforts by the Gulf Coast states and local communities to get some of the federal oil and gas revenue.

"It's certainly something that we think the government can and should push through," Odum said in a interview with Reuters.

Louisiana Gov. Kathleen Blanco said this week she wants the government to give the state 50 percent of the federal offshore royalties to help repair coastal wetlands left vulnerable to hurricanes due to oil industry development.

While Odum supports revenue sharing, he would not comment on how much federal royalties Louisiana or any other state should get or what they should spend it on.

"That's between the states and the federal government, that's what they need to work out," he said. "Whether or not Louisiana would choose to use some of that money specifically for hurricane restoration and recovery, obviously that's a great need, that would be again a government decision."

Separately, Odum said "quite a bit" of the $15 billion that Shell's parent company, Royal Dutch Shell Plc, plans to spend worldwide this year for oil and gas exploration and production will be targeted for the United States.

While that amount reflects higher drilling and exploration costs, he said there will still be money for new investment. "It's a significant increase in activity worldwide," he said.

In the United States, he said Shell will focus on drilling for new oil in the deeper waters of the Gulf of Mexico and off the Alaskan coast, and developing natural gas resources from south Texas through the Rocky Mountain region.

The company will also invest in developing the vast oil shale resources in the Western United States, which the government estimates holds more than 1 trillion barrels of oil.

Oil shale is sedimentary rock containing organic material that can be crushed and heated to produce oil. The process is a costly one, and most U.S. oil shale projects were abandoned in the early 1980s when crude prices collapsed.

However, with oil prices expected to average above $60 a barrel in the next two years, oil shale development looks profitable again.

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Odum said the company will know in about five years whether developing oil shale is commercially viable.

He said the government should open more offshore and onshore areas to drilling to help reduce U.S. reliance on foreign oil imports.

Odum declined to say whether President Bush's goal of cutting U.S. Mideast oil imports by 75 percent in 2025 could be reached.

However, he said even if more areas are opened to drilling the United States will still be heavily dependent on foreign suppliers to meet its energy needs over the next two decades. "I think that's a reasonable case," he said.

Katrina's Unclaimed To Get Hometown Burial (WP)

By Peter Whoriskey

The Washington Post, February 11, 2006

City to Take Custody of Unclaimed Storm Victims

NEW ORLEANS -- Inside a fleet of refrigerated trucks parked an hour west of here lie the bodies of more than 200 unidentified or unclaimed victims of Hurricane Katrina.

"Some, we don't know who they are," said Chuck Smith, leader of the federal mortuary effort in Carville, La. "And with some, we can't locate the families, or the families are unable to make provisions."

The question now, five months after the storm, is what to do with the dead.

The makeshift morgue, a joint federal and state effort, is scheduled to close by the end of the month. And like virtually every other challenge facing this flooded metropolis, the funeral tasks have been complicated by the vast scale of the disaster and the difficulties of coordinating local, state and federal efforts.

Initially, state authorities had selected a four-acre cemetery site in Carville, and in preparation for the burials, had graded and planted the ground. A memorial was envisioned there.

But that did not sit well with many in New Orleans who argued that a proper burial includes the sense, spiritual and geographical, of "going home." Most of the dead come from the city.

"I told them we cannot be burying New Orleanians outside of New Orleans," Mayor C. Ray Nagin said of his protests to state officials.

The mayor said he also objected to the proposed use of wooden caskets, which "over time would have disintegrated into the earth," making it difficult to relocate remains if more identifications are made later.

So now the city will take custody of the dead. The trouble is that the city, already struggling with the burdens of hurricane recovery, must now scramble to build a mausoleum for the Katrina victims.

New Orleans officials met last week with FEMA officials to discuss the city's request for financial help to build the mausoleum, which is expected to cost about $400,000. A Federal Emergency Management Agency spokesman said FEMA is prepared to reimburse the city for at least some of the mausoleum expense.

It would be built at a publicly owned cemetery here, said the city's health director, Kevin Stephens, and made of some appropriate material, such as granite. The bodies will be held in metal caskets, and if one of the unidentified bodies within the mausoleum is later identified, it can easily be removed and placed elsewhere for burial.

The city is also working with a corporate donor who may contribute nearly $1 million to a memorial for the victims, Nagin said.

While the mausoleum is being planned and built, the bodies will be in the custody of a mortuary company that the city is choosing, Stephens said.

Katrina's dead have proved a large-scale logistical challenge. State officials, working with local coroners, have recovered 1,103 bodies.

Of those, 97 are still unidentified, and a large portion of those will be difficult to identify, state officials said, because investigators lack not only personal effects but also the locations where the bodies were recovered. Without those initial clues, it is difficult to know from whom to seek DNA samples to match the body with a family.

DNA has been used to make identifications in some cases, but the vast majority of bodies have been identified using more conventional techniques, with workers searching through flooded New Orleans dentists' offices and poring over soggy dental records.

"We're down to those we have no idea on," Smith said. "The ones that only DNA will get."

Once the bodies are identified, moreover, there is no guarantee that they can be released.

As of Friday, 106 bodies had been identified but remained on the trucks either because the families could not be located or because the families, who are scattered across the country, did not have the means to arrange a funeral.

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"So many people have been completely displaced," said Bob Johannessen, a state spokesman. "A family that winds up in Buffalo, New York, may not have the wherewithal to claim a body and conduct a burial."

An array of complications has slowed the process of releasing and burying the bodies.

In four or five cases, the next of kin is mentally impaired. In 20 or more cases, the families are working with FEMA to receive money for burials. In others, the grief-stricken families are simply letting the government handle arrangements.

"There are some who say just let the state take care of it," said Randy Lemoine, director of the call center where identifications are being coordinated. "We're talking about very poor families. Some are dragging their feet to see how the state will handle the process.

"Other families are still dealing with their own grief," he said. "They are struggling to get their personal affairs in order. It's heart-rending to hear their stories."

The mortuary team's task goes well beyond those killed by this year's hurricanes, too. An estimated 1,300 dead were displaced when caskets laid to rest long before the storm were swept away by floodwaters, officials said. One coffin in Cameron Parish was carried more than 33 miles by Hurricane Rita's storm surge. It was found beneath a highway overpass.

In this city, whose cemeteries and jazz funerals are a distinctive regional custom, the focus is on returning Katrina's victims.

"There is something about being buried in the place you lived and coming home," said Stephens, the city health director. "We need to bring closure. We really do need to bring closure."

WAR NEWS:

Iran "Making Mistake" With Iraq Meddling: Rumsfeld (REU-Y2)

By Will Dunham

Reuters, February 11, 2006

Defense Secretary Donald Rumsfeld, days after calling Iran the world's top state sponsor of terrorism, ratcheted up the pressure on Tehran on Friday with fresh accusations of interference in Iraq.

Rumsfeld, in Taormina, Sicily, for a meeting of NATO defense ministers, used an appearance in Europe for the second time in a week to talk tough over Iran, which the United States and European Union fear is covertly developing nuclear weapons.

Asked during a news conference about U.S. assertions that Iran, as well as Syria, supports insurgents in Iraq, Rumsfeld said: "We have undertaken a series of initiatives to try to persuade them that their behavior is harmful to a new Iraqi government and indeed harmful to the region. Thus far we've not been successful."

"I think they're making a mistake," Rumsfeld said, "although I can certainly understand that from their standpoint having a free and sovereign and democratic Iraq on their borders probably is not terribly encouraging to their type of government. So I can understand their resistance to that."

Rumsfeld did not make specific allegations of misconduct by either Iran or Syria relating to Iraq. In the past, U.S. officials have accused heavily Shi'ite Muslim Iran of encouraging radicalism among Iraq's majority Shi'ites and of allowing dangerous weaponry to pass into Iraq.

Iran's President Mahmoud Ahmadinejad has said such accusations are unfounded.

U.S. officials have also accused Syria of allowing foreign fighters and financing to flow across its border into Iraq. Syria says it is doing what it can and says Iraq and the United States have failed to control their own side of the border.

The United States has about 139,000 troops in Iraq fighting a tenacious insurgency nearly three years into the war.

IRAN NUCLEAR AMBITIONS DISCUSSED

Rumsfeld said that during a private meeting with Russian Defense Minister Sergei Ivanov in Taormina, the subject of Iran's nuclear ambitions came up, but refused to elaborate.

"I'm not going to get into substance of my conversation. It was a private meeting," Rumsfeld said.

At an annual security conference in Munich last Saturday, Rumsfeld accused Iran of being the world's "leading state sponsor of terrorism," a charge Iran swiftly rejected.

Iran has announced it would resume enrichment of nuclear fuel after the governing board of the International Atomic Energy Agency voted last weekend to report Iran to the U.N. Security Council over its nuclear program.

Iran insists its nuclear program is aimed at generating electricity, but the United States and European countries have said it is seeking to build an atomic arsenal.

On the issue of Iran, British Defense Secretary John Reid said the resolve of Western powers should not be underestimated. "We must never, ever be in the position where ... we would never be prepared to stand up for what we believe in," Reid told a separate news conference.

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Bush - Annan Meet At White House (UPI)

By ROLAND FLAMINI

United Press International, February 11, 2006

WASHINGTON, Feb. 10 (UPI) -- Kofi Annan's meeting with President George Bush on Monday represents the U.N. Secretary-General's return to Washington's good graces after the squabbles of the Iraq war, which Annan once declared illegal. His last White House visit was exactly two years ago. Since then, however, the Bush administration has mellowed towards the Secretary-General and enlisted U.N. help in re-shaping post-war Iraq, up to and including the December parliamentary elections.

Iraq will be high on Annan's talks agenda, notably the planned National Accord Conference, which the Arab League and the United Nations are "helping" the Iraqis to plan and convene. The purpose of the conference, which a senior U.S. official said could be held as early as March and will strive to include all Iraqi political parties and major institutions, is aimed at finalizing the emergence of the democratization of Iraq. A recent statement by the Arab League said the conference will confirm, "the unity, independence, and sovereignty of Iraq."

The same Arab League statement said the conference is also expected to call for the withdrawal of coalition forces, once Iraq's armed forces and police are able to handle the country's security situation. The senior American official said the call for a pullout was acceptable to Washington as long as no deadline was specified because, "The United States is against setting a time-table."

The Bush administration hopes the conference will help with its exit strategy; but with the United States not officially a participant in the discussions, the White House will once again turn to the U.N. to help to push the proceedings in the desired direction.

The violence across the Islamic world over the cartoons lampooning Mohammed is another item that has thrust itself into the bi-lateral agenda. Annan wants to launch a reconciliation campaign through the newly formed U.N. Alliance of Civilizations, run jointly by Spain and Turkey and designed to find solutions to just such cultural conflicts between the West and Islam.

Iran's insistence on enriching its own uranium in defiance of international opposition will also come up, if for no other reason than that it is a rare occasion when the United States, the European Union and the United Nations are walking in step. The ball will shortly be in Annan's court when the International Atomic Energy Agency, the U.N.'s nuclear watchdog, reports Iran to the U.N. Security Council for action.

Africa is another talking point for Annan, according to a U.N. source, particularly the Secretary-General's effort to persuade NATO, including the United States, to join a planned U.N. peacekeeping force that may take over from the African Union's troops in western Sudan's conflict-torn Darfur region.

The issue of reforming the world organization has dominated the U.N. for the past year, with the United States in the person of its pugnacious representative John Bolton taking the lead in pushing for change in several key areas, and many suspicious Third World countries resisting it as a form of growing American influence (the Bush administration says, why not? the United States foots a third of the U.N. bill). For example, a Human Rights Council is expected to replace the Geneva-based Human Rights Commission, but many member countries are resisting Washington's insistence that only countries with a good human rights record should be eligible for membership of the new body.

In a sense, the meeting brings together two lame ducks, both working against a countdown to leave their mark. Annan's second (and last) term as Secretary-General ends in Jan 2007, and Bush has barely 33 months left in office, but more important can't be re-elected. Annan is rendered lamer by the fallout from the multi-million dollar Oil for Food scandal, in which his son Kojo was implicated by an independent inquiry. At the very least the Secretary-General himself is criticized for not keeping a tighter rein on the program, which involved selling Iraqi oil and using the money to buy food and medicine for the Iraqis while the country was under U.N. sanctions.

The Oil for Food program is not likely to come up directly, but it will be "in the room" when the president and Annan discuss U.S. proposals for management and oversight of the world body.

The issue of Annan's successor is not expected to come up either, according to the U.N. source. But a recent remark by Bolton that the United States does not regard as carved in stone the system of choosing the Secretary-General on the basis of a regional rotation has thrown an additional element of doubt into already complex and opaque selection process. Under the time-honored regional system, the new head of the U.N. should be from Asia. The Bush administration is said to favor an Eastern European candidate as a tribute to "New Europe's" support in the Iraq war. The White House favorite is former Polish president Aleksander Kwasniewski.

General Says Training Of Iraqi Troops Suffered From Poor Planning And Staffing (NYT)

By Thom Shanker

DOJ_NMG_0014554

The New York Times, February 11, 2006

WASHINGTON, Feb. 10 — The American general in charge of training the new Iraqi military after Baghdad fell says the Bush administration's strategy to use those forces to replace departing American troops was hobbled from its belated start by poor prewar planning and insufficient staffing and equipment.

The account by Maj. Gen. Paul D. Eaton, who retired on Jan. 1 after 33 years in the Army, suggests that commanders in Iraq might by now have been much closer to President Bush's goal of withdrawing American forces if they had not lost so much time in the first year to begin building a capable Iraqi force.

General Eaton's views, drawn from an essay he is preparing for publication and from interviews in which he broke a long silence on the topic, were broadly affirmed by Pentagon and other civilian officials involved at the time. They agreed that the mission had also been slowed by conflicting visions from senior Pentagon and administration officials, civilian administrators in Baghdad and the former top commander of the military's Central Command, which carried out the invasion.

While he criticized others for decisions that led to what he called a false start, General Eaton accepted responsibility for the most visible setback in the training, when a battalion of the new Iraqi Army dissolved in April 2004 as it was sent into its first major battle. The Pentagon sent Lt. Gen. David H. Petraeus, who had commanded the 101st Airborne Division during the invasion and early occupation, to review the program and then to take over the training mission after General Eaton completed his yearlong tour.

"Paul Eaton and his team did an extraordinary amount for the Iraqi Security Force mission," said General Petraeus, now commander of the Army's Combined Arms Center at Fort Leavenworth, Kan. "They established a solid foundation on which we were able to build as the effort was expanded very substantially and resourced at a much higher level."

General Eaton was commander of all Army infantry training at Fort Benning, Ga., when he was told on May 9, 2003 — just over a week after President Bush's "mission accomplished" speech — to hurry to Baghdad, where he was to set up and then command an organization to rebuild Iraq's military.

"I was very surprised to receive a mission so vital to our exit strategy so late," the general said. "I would have expected this to have been done well before troops crossed the line of departure. That was my first reaction: 'We're a little late here.' "

Pentagon officials initially told him that rebuilding the army was their fifth priority for Iraqi security forces, falling behind the civil defense corps, the police, border forces and guards for government buildings, power plants and oil lines.

L. Paul Bremer III, chief of the occupation government, insisted that police training not fall under the military, but under his civil administration. Gen. Tommy R. Franks, who planned and carried out the invasion of Iraq, made sure that retraining and managing the Iraqi armed forces would not burden his war-fighting headquarters at Central Command, and insisted that the task be managed by a separate unit with its own staff and budget, General Eaton said.

Some major allies, alienated by American policies, also refused to contribute experienced military personnel, General Eaton said. In particular, Germany and France, which have taken part in rebuilding Afghanistan's military after the war in that country, declined to assist in Iraq to show their disagreement with the invasion.

"We set out to man, train and equip an army for a country of 25 million — with six men," General Eaton said. He worked into the autumn with "a revolving door of individual loaned talent that would spend between two weeks and two months," he said, and never received even half the 250 professional staff members he had been promised.

The general's broad assessment of the problems he confronted was seconded by Walter B. Slocombe, sent by the Bush administration to Baghdad for six months to serve as the senior civilian adviser on national security and defense.

Mr. Slocombe, an under secretary of defense in the Clinton administration, said: "I have to agree with General Eaton, that it was hard to get the resources we needed out there. There was not a broad enough sense of urgency in Washington."

General Eaton said his small staff "thought we were going to build an army in a benign environment, that we were going to be able to incubate this army." The rise of a tenacious insurgency ultimately killed that hope, but at the start of his tour, the main problem was not the insurgency, which had not yet emerged in full force; it was the chaos that followed the invasion.

He arrived as looting swept Iraq, causing a bitter debate in Washington that focused on whether more American troops should have been committed to the occupation. He had to rebuild bases and barracks that had been stripped bare by looters.

Although the Iraqi Army had dissolved during the American-led invasion, the decision by Mr. Bremer and the Pentagon not to preserve or recall any complete Iraqi units meant the training task was bigger than expected.

It also left General Eaton without any Iraqi noncommissioned officers. Training an army without noncommissioned officers to serve as drill sergeants is like pitching a tent without poles.

He also found that a civilian contractor hired to conduct training would be incapable of imparting military skills and discipline — what he called "soldierization."

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In a Sept. 5, 2003, briefing in Baghdad for Defense Secretary Donald H. Rumsfeld, General Eaton proposed speeding up the program by sending former Iraqi Army officers for training at a base in Jordan, and setting up a separate academy in Iraq for training noncommissioned officers. Mr. Rumsfeld approved the plan.

Scrounging the most basic equipment for the new Iraqi military was another problem. "We were told to find anything we needed for the soldiers — boots, canteens, rucksacks, belts, beds, blankets," General Eaton said. "We were directed to pull it from Iraqi sources where possible."

He said the most important accomplishments that first year were organizing the command structure, beginning construction of military bases across Iraq, setting up officer training in Jordan and the noncommissioned officer academy, and attracting troop contributions from nine nations.

But problems with the nascent security force became painfully clear when the first battalion of the new Iraqi Army ordered to fight insurgents ran away in April 2004 as it was being sent to Falluja to fight alongside allied forces against an uprising in the restive Sunni triangle west of Baghdad.

"The only serious mistake I committed was that I did not stop the employment of the Second Battalion in Falluja," General Eaton said. "This battalion had been originally recruited to defend Iraq from external enemies. And as they attempted to move over land to Falluja, they ran into a Shiite mob that fired into the trucks and cajoled these young Iraqi men for fighting with the occupier against their own citizens."

He said the Iraqis the Americans had selected "failed their leadership; they failed in contact."

Iraqis Certify Election Results On A Day Of More Violence (NYT)

By Sabrina Tavernise

The New York Times, February 11, 2006

BAGHDAD, Iraq, Feb. 10 — Iraqi officials certified the results of parliamentary elections on Friday, setting the country on a timeline for forming a new, permanent government, while the kidnappers of an American journalist issued a new deadline for killing her if their demands were not met.

The certification of the election began a series of deadlines that requires political leaders to choose a president, a prime minister and a cabinet within two months. But the negotiations are likely to be contentious, and few here expect them to be completed according to the timetable. It took three months for Iraqis to form an interim government last spring.

The final election results, announced at a news conference in Baghdad, were unchanged from preliminary ones announced in January, in which an alliance of Shiite parties won the single largest portion in the 275-seat Parliament. Election officials said more than half of the total of 11.9 million voters on Dec. 15 were women, reflecting Iraq's demographic composition.

Al Rai, a satellite television station in Kuwait, reported that the captors of the American journalist Jill Carroll had set a Feb. 26 deadline to kill her. The station said Ms. Carroll was being held with a group of women in a house owned by one of the kidnappers in Baghdad. In a telephone interview from Kuwait, Jassem Boudai, the station's owner, said people who identified themselves as being close to the kidnappers had contacted the station and said they were now asking for the release of just one Iraqi woman from prison in exchange for Ms. Carroll. Before, they had demanded the release of all women in prison. Ms. Carroll has appeared in three videotapes since her Jan. 7 capture in western Baghdad.

The people who contacted the station claimed the kidnappers were part of the same group that took two Italian aid workers in September 2004, Mr. Boudai said. He said that a letter from Ms. Carroll had been received and that the station had delivered it to the authorities. The station also reported that the kidnappers claimed they had not killed Ms. Carroll's interpreter, Allan Enwiyah, who was shot dead at the scene of the kidnapping. It is not clear whether the group holding Ms. Carroll is the same one that abducted her.

Iraq was torn by fresh sectarian violence on Friday. A car bomb tore through a Sunni Arab mosque in southern Baghdad, killing at least 8 Sunni worshipers and wounding 22, an Interior Ministry official said. The blast spewed shrapnel into a crowd of worshipers around 1 p.m., said the official, who asked that his name not be used, as he was not authorized to speak publicly. The attack was unusual, in that it struck at a Sunni Arab target. Most large, lethal bombings have been aimed at Shiites.

Iraqi political leaders have 15 days to gather for the first session of Parliament, in which lawmakers will nominate a speaker and two deputies, and within another 15 days will choose a president. At the same session, the president will ask the largest holder of seats — the Shiites — for their choice for prime minister. The nominee will have 30 days to form a cabinet. The largest Shiite bloc is expected to announce its choice on Saturday.

Officials spent nearly two months counting the votes, even inviting an international team of experts to review allegations of fraud. But the extra time seemed to have paid off: Sunni Arabs, who staged protests after the election against what they said was evidence of fraud, gradually came to accept the results.

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Sunni Arabs, thought to make up about 20 percent of Iraq's population, often say they are far more. But the vote, which drew broad participation from Sunnis, won them 21 percent of the seats in Parliament. "Everybody has moved on now," said Ashraf Jehangir Qazi, the United Nations envoy to Iraq. "But people by and large have accepted the results."

In other sectarian violence, gunmen kidnapped a Sunni Arab cleric, Adel Khalil Dawood al-Azzawi, the former imam of the Nuiami mosque, from his house on Thursday night, the ministry official said. On Friday, the American military announced the death of two marines, whose vehicle hit a homemade bomb near the western city of Falluja on Thursday.

Iraq's Shiites Near Pick For Prime Minister (WP)

By Nelson Hernandez

The Washington Post, February 11, 2006

Main Alliance Divided Between Incumbent Jafari and Deputy President Mahdi

BAGHDAD, Feb. 10 -- The Shiite religious coalition that won the most seats in December's parliamentary elections could announce its choice for prime minister as soon as Saturday, politicians said Friday, as Iraq's electoral commission released certified results of the vote.

The results, which are final, did not change the expectation that the next prime minister will come from the ranks of the United Iraqi Alliance, a coalition of Shiite religious parties, which won 128 out of 275 seats in the Dec. 15 elections. Two candidates from the coalition have taken center stage: Ibrahim Jafari, the current prime minister, and Adel Abdul Mahdi, a secular economist who is one of Iraq's two deputy presidents.

The alliance is divided, however, among its member parties over which man to put forward, Shiite politicians said. Jafari's support comes from his Dawa party and followers of Moqtada Sadr, a popular cleric. Abdul Mahdi's primary backer is his own party, the powerful Supreme Council for Islamic Revolution in Iraq. It is still unclear which way a number of smaller parties in the coalition will swing.

"We will try to decide who is the candidate by consensus," said Bahaa Araji, a member of Sadr's group. "If not, the alliance will appeal to voting tomorrow. It seems that Dr. Jafari is most likely getting the post."

Noting that each candidate thinks he is the best choice, Araji said, "This is what makes it difficult now to achieve the consensus."

Though Jafari might have a slight advantage within the alliance, his nomination would likely receive a cool reception among Iraq's other religious and ethnic groups. The Kurdish coalition, which won 53 seats, has often squabbled with Jafari over the issue of who will control the oil-rich northern city of Kirkuk. The leading Sunni Arab coalition, which won 44 seats, fears Jafari's religious bent and his party's ties to Iran, a Shiite theocracy.

"We don't have much influence over who they are going to choose for the post of prime minister," said Naseer Ani, a member of the Sunni coalition. "Mr. Jafari was and still is prime minister, but as we and others have seen, his government's performance was a failure in many respects: in security, services and so on. This we believe will affect his chances to be chosen again for the post if the matter reaches the stage of voting inside the alliance."

The Shiite leadership is hoping to avoid an internal battle over the nominee. In a sermon Friday at the Imam Ali mosque in Najaf, Sheik Sadr Udeen Qabanchi told worshipers that Shiite factions "must shape up to run the political process effectively without causing embarrassment to the religious authorities."

Once the new parliament convenes, which is required within two weeks now that the election results have been certified, its first order of business will be to choose a three-member presidency council, which then will put forward nominees for prime minister and other leadership positions. But the strongest parties typically negotiate in advance who will fill each post, and the Shiites' announcement of their pick for prime minister will open the way for choosing nominees for posts such as president, defense minister, interior minister and oil minister.

On Friday, the U.S. ambassador to Iraq repeated his hope that the new government would include Shiite, Sunni Arab, Kurdish and secular representatives.

"We hope that this will be a government based on national unity, formed without regard to sectarianism, committed to peace and with capable ministers who place loyalty to Iraq above that of loyalty to faction," Zalmay Khalilzad, the U.S. ambassador to Iraq, said in a statement. "These ministers should be dedicated to the defense of Iraqi democracy, not to party militias."

The gravity of the situation here was driven home once more by violence. Two Marines died of their wounds after their patrol in Fallujah, about 35 miles west of Baghdad, was hit by a roadside bomb Thursday, U.S. military authorities said in a statement Friday.

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In Baghdad's Dora neighborhood, a car bomb exploded near a Sunni mosque Friday, killing at least eight people and wounding more than 20, police and witnesses at the scene said. Capt. Salam Ghadban, a spokesman for the Baghdad police, confirmed the number of casualties.

Witnesses said a parked car loaded with explosives was remotely detonated near the main gate of the Iskan al-Shaabi mosque in Dora, one of Baghdad's most violent districts.

"While I was about to leave the mosque, the explosion happened. We were panicked. I ran out immediately. I saw people shouting and crying. One man was crawling because he lost one leg," said Ihsan Ali, 28, as he stood near the wreckage of his car.

Another roadside bomb exploded in the Ghazaliya neighborhood, in western Baghdad, Ghadban said. Five Iraqi army soldiers were killed and two civilians were wounded, he said.

Correspondent Jonathan Finer and special correspondents Omar Fekeiki, Bassam Sebti and K.I. Ibrahim in Baghdad and Saad Sarhan in Najaf contributed to this report.

Shiite Coalition Struggles To Agree On A Prime Minister (KRT)

By Nancy A. Youssef

Knight Ridder, February 11, 2006

BAGHDAD, Iraq - Iraq's leading Shiite Muslim political group showed signs of fracturing this week as it debated whether to choose a secular Shiite or a more religious leader to be the country's prime minister.

The next prime minister will play a crucial role in deciding how the new government tackles the largely Sunni Muslim insurgency, sectarian strife and the economic woes that plague the country. U.S. officials are hoping that Iraq's first permanent government since the fall of Saddam Hussein's dictatorship can stabilize the country, avert a civil war and allow American and other foreign troops to leave.

Members of the Shiite-dominated United Iraqi Alliance slate, which won 128 of the 275 seats in parliament, have narrowed their choice to two candidates, interim Prime Minister Ibrahim al-Jaafari, who has the backing of the slate's more religious voters, and Vice President Adil Abdel Mahdi, who's more secular.

The slate plans to make its choice Saturday, and that person will seek approval from the full National Assembly. Because the United Iraqi Alliance holds so many seats, its choice is likely to become the prime minister.

The race between al-Jaafari and Mahdi is a tough one. The United Iraqi Alliance, which is made up of four parties, is evenly split and has spent the last week wrangling over how to choose a candidate. The margin of victory could be as little as one vote, said Nasir al-Saadi, a member of the slate.

Choosing al-Jaafari would satisfy much of the United Iraqi Alliance's base, which wants the government to pursue a more Islamist agenda. The supporters of rebel Shiite cleric Muqtada al-Sadr, who represent nearly half of Baghdad, support al-Jaafari.

But the slate has promised to form a consensus government that all the country's sects embrace, including Sunni Arabs and Kurds. During his one-year tenure, al-Jaafari has angered the country's minority Sunnis, who charge that Iraq's predominantly Shiite military and security forces have targeted them for imprisonment and execution under his leadership.

Some Kurds say they support Mahdi and have been frustrated by al-Jaafari's strained relationship with Iraqi President Jalal Talabani, a Kurd. They also say al-Jaafari didn't do enough to meet Kurdish demands on key issues such as continued autonomy in their northern region.

"The elite look at Mahdi as someone who will build a modern government because of his enlightened thoughts. But Jaafari is much closer to the Shiite Islamic religious leadership," said Hazim Abdel Hamid al-Nuaimi, a professor of politics at al-Mustansiriya University. "Mahdi represents reform. And Jaafari represents the conservative line."

The United Iraqi Alliance members who oppose Mahdi say they were elected to install a more Islamic government, not a more secular one. And many in the slate are happy with the advances that Shiites have made in al-Jaafari's government.

The United Iraqi Alliance members never wanted to vote on their candidate, hoping that they could agree on a leader. They fear that the next prime minister may win support from only half the slate's members, but they reluctantly agreed to the vote because they worry that their lengthy debate is eroding the public's confidence, said Abbas al-Bayati, a member of the slate.

Government leaders conceded that the public had expected a list of candidates for prime minister by now, eight weeks after the Dec. 15 election. With so many Iraqis pinning their hopes on the new governing body, it's important they see efficiency, leaders said.

"Of course this delay is not in the interest of Iraq," said Faraj al-Haidari, a National Assembly member who represents a Kurdish slate. "It will disappoint the street. And all ministries now are on hold. They cannot make decisions to improve the daily life of Iraqis."

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Without a candidate, the parties have had a difficult time choosing the rest of the government. Some candidates for key posts said they couldn't decide until they knew what kind of leader Iraq would have.

The prime minister "will define the platform," said Mithal Alusi, a candidate to lead the Ministry of Defense, who's said he won't consider the post until the slate spells out its agenda.

Knight Ridder Newspapers special correspondents Zaineb Obeid, Ahmed Mukhtar and Huda Ahmed contributed to this report from Baghdad.

Shi'ites To Choose Premier Nominee (WT)

By Sharon Behn

The Washington Times, February 11, 2006

Iraq's majority Shi'ite coalition is to announce its nominee for the powerful post of prime minister this weekend, as certified election results released yesterday confirmed the Shi'ites' overwhelming victory at the polls.

Iraqi officials and U.S. sources said yesterday the nomination was likely to go to either Vice President Adil Abdul Mahdi of the powerful pro-Iranian Supreme Council for the Islamic Revolution in Iraq (SCIRI) or Prime Minister Ibrahim al-Jaafari of the Islamic Dawa party.

"Tomorrow we will see who will be prime minister," Karim al-Musawi, SCIRI's Washington-based spokesman said yesterday. He deemed Mr. Mahdi's chances of getting the top post as very good.

The formation of a new government -- which promises to be a much-stormier process -- will take place within the next "six to eight weeks," Mr. al-Musawi said.

U.S. Ambassador to Iraq Zalmay Khalilzad welcomed the results and called for "a government based on national unity, formed without regard to sectarianism, committed to peace and with capable ministers who place loyalty to Iraq above that of loyalty to faction."

The announcements did nothing to stem the daily sectarian violence in Iraq, as a car bomb exploded outside a Sunni mosque in Baghdad's Dora district, killing nine persons and wounding dozens.

The U.S. military announced that two Marines were killed the previous day by a roadside bomb near Fallujah, 40 miles west of Baghdad.

The Independent Electoral Commission of Iraq announced the certified results of the Dec. 15 vote after a protracted appeals process amid accusations of fraud and ballot-box stuffing.

According to the final tally, the Shi'ite United Iraqi Alliance won 128 seats; the Kurdish alliance got 53 seats; the Sunni Iraqi Accord Front won 44 seats; the secular list headed by former Prime Minister Iyad Allawi won 25 seats; the Sunni Iraqi Front for National Dialogue won 11 seats; the Kurdistan Islamic Union got five seats; and a smattering of smaller parties won nine seats.

The nomination of a prime minister is partly the result of pressure by American and British officials to move forward on the election results. Unofficial final results were released on Jan. 20.

"What we will probably see is the announcement of a [Shi'ite] alliance candidate, Adil Abdul Mahdi of SCIRI or Mr. al-Jaafari," said Jonathan Morrow of the Washington-based U.S. Institute of Peace.

According to Iraq's constitution, President Jalal Talabani must convene the new 275-seat parliament within two weeks of election certification.

In the next 90 days, parliament will elect a three-person presidency council, which, in turn, will appoint a prime minister. The prime minister then names a Cabinet, which must be confirmed by parliament.

In reality, close observers of the process say, there will be a lot of closed-door negotiations, and only when the whole package is decided will any announcements be made.

"Nothing will be agreed until it is all agreed," said Mr. Morrow, who is often in Iraq as a legal consultant to the constitutional process. Major horse-trading is expected among Sunni, Kurd and Shi'ite factions concerning key ministries.

SCIRI officials say senior ministry posts -- such as interior -- will remain in Shi'ite hands, while junior ministries would be parceled out among the minority Kurds and Sunnis.

U.S. officials see a new government as a prerequisite to quelling the Sunni-backed insurgency.

But Mr. Morrow cautioned that the deep Sunni antagonism to the new government of Iraq will not be resolved simply by seeing the people they voted for holding ministerial posts.

"Their anxiety is more deep-seated," he said. "It is based on the construction of the Iraqi state and on Sunni Arabs not getting their share of the oil revenues."

A SCIRI official, speaking on the condition of anonymity, agreed that tough negotiations are ahead. "The ministerial position distribution will be OK, but federalism and oil -- these are the obstacles in the road," he said in a telephone interview.

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In Iraq, Carnage Amid Conciliation (LAT)

By Richard Boudreaux, Times Staff Writer

The Los Angeles Times, February 11, 2006

Nine die in bombing and shooting at a Sunni mosque. The Dec. 15 vote is certified and sectarian leaders ease confrontational stances.

BAGHDAD — A bomb exploded in a car parked 10 yards from a Sunni Muslim mosque Friday, killing eight worshipers in Iraq's deadliest attack during a week otherwise marked by conciliatory words between leaders of feuding religious sects.

The midday blast hit people leaving Iskan Shaabi Mosque after the main weekly prayer service in Baghdad's Dora neighborhood. Witnesses said bodies flew through the air and nearby cars went up in flames, sending smoke through the mosque's shattered windows. At least 22 people were wounded.

No group claimed responsibility. A Sunni Arab political party blamed foreign elements of the Sunni-led insurgency, which reportedly has been divided over whether to continue targeting civilians in its campaign against U.S. forces and Iraq's Shiite Muslim-led government.

Two Marines died after their patrol hit a roadside bomb Thursday near the embattled city of Fallouja, 35 miles west of Baghdad, the U.S. military announced.

Iraq's electoral commission certified final results for the Dec. 15 elections, setting the stage for U.S.-backed talks aimed at bringing minority Sunnis into a broad-based government and undercutting the insurgency.

In the run-up to the talks, Shiite and Sunni leaders have tempered their words and insurgents have diminished the scale of violence.

Shiites marked their most important religious holiday Thursday without suffering an insurgent attack such as the bombings that had marred it the previous two years.

During Friday prayers at Baghdad's Umm Qura Mosque, normally a font of hard-line Sunni rhetoric, Sheik Ali Sanad offered rare words of affection for Imam Hussein, the Shiite figure commemorated in Thursday's Ashura festivities. Sanad called on Sunnis and Shiites to honor Hussein's legacy by "stopping the bloodshed in Iraq … through honest dialogue."

The gesture echoed a call Wednesday by the largest Shiite party's leader, Abdelaziz Hakim, for greater respect for human rights by Iraq's Shiite-led police forces, whose alleged violent raids, arbitrary detentions and summary executions have enraged Sunnis.

One such incident blamed on police occurred in Baghdad late Thursday. Adel Khalil Dawoud, a Sunni cleric, was dragged from his home by at least 15 men in the uniform of the Interior Ministry's special forces, the cleric's brother said.

Dawoud had fled to Jordan to avoid sectarian attacks and recently returned. The Interior Ministry called the incident a kidnapping and denied that its forces were involved.

Citing such alleged police abuse, Sunni political leaders have demanded the removal of Interior Minister Bayan Jabr as a condition for joining the government. Jabr has incorporated members of his Badr Brigade, the sectarian militia of Hakim's Shiite party, into the ministry's police.

U.S. Ambassador Zalmay Khalilzad appeared to endorse the Sunni demand in a statement Friday, saying Cabinet ministers in the new government "should be dedicated to the defense of Iraqi democracy, not to party militias."

The mosque bombing did not fit the recent pattern of Shiite violence against Sunnis. Car bombs are a hallmark of Sunni guerrillas, aimed mainly at U.S. troops and Iraqi government targets and rarely used to kill civilians or blow up mosques.

But fighting has been reported in recent months between the foreign-led fighters of Al Qaeda in Iraq and their erstwhile home-grown allies. Gunmen have attacked Sunni tribal and religious leaders who broke with Al Qaeda to support the entry of the Iraqi Islamic Party and other Sunni groups in the December elections.

Ammar Wajuih, a spokesman for the Iraqi Islamic Party, said Friday's attack was "evidence that terrorists from outside the country … are trying to ignite sectarian violence among Iraqi people who want to live peacefully."

"We condemn this attack, just as we condemn attacks on Shiite mosques," he added.

Associated Press said one of its photographers saw several masked gunmen shouting "God is great!" drive up to the mosque an hour after the blast and fire into a crowd outside. A woman was killed, bringing the death toll to nine.

The election results announced Friday did not alter uncertified returns released three weeks ago that gave the main Shiite alliance and its Kurdish coalition partners 181 of parliament's 275 seats, just short of the two-thirds majority required to form a government.

Two Sunni blocs got 55 seats. Talks aimed at drawing them and smaller parties into the government are expected to start as soon as the Shiite alliance, which is entitled to nominate the prime minister, settles an internal fight.

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Vice President Adel Abdul Mehdi, whose secular outlook makes him more acceptable to Sunnis and other opposition groups, is challenging Ibrahim Jafari, the religious scholar now serving as prime minister.

Unless a decision is made by consensus, Shiite leaders say, their alliance's 128 members of parliament will vote as early as today.

"It's close," said Nasser Saadi, a member of the alliance. "If there's a difference, it's not more than one or two votes."

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Times staff writers Suhail Ahmad, Caesar Ahmed, Shamil Aziz, Saif Rasheed and Raheem Salman contributed to this report.

Neighborhood Peace A Casualty Of War (WP)

By Jonathan Finer

The Washington Post, February 11, 2006

As Battle Breaches Baghdad Haven, Shiites and Sunnis Unite

BAGHDAD -- To generations of its residents, the tightknit neighborhood known as Tobji was among this city's rare oases. People argued amiably in sidewalk cafes kept open until nearly midnight. Shiite and Sunni Muslims married into each other's families and lived side-by-side. Until recently, Iraq's police and army, with more than enough trouble spots to worry about, rarely came around.

It was a neighborhood, residents said, that lived up to its formal name, Salam, which means peace. But in volatile Baghdad, home to more than 5 million people, even stable sections sit a few stray shots from chaos. It took scarcely two months for the sectarian conflict consuming other corners of the capital to gain a foothold in Tobji.

It began, residents say, one November day when gunmen killed Majid Abdul Hussein, a local preacher and member of a powerful Shiite militia. Days later, a former member of Saddam Hussein's Sunni-led Baath Party was gunned down in broad daylight. Before locals realized it, they said, theirs had become yet another fractured community, a place nearly silent after dark save for the crackle of gunfire.

Then, on Jan. 23, men in camouflage uniforms rounded up 53 Tobji residents, nearly all of them Sunnis, in pre-dawn raids. Two people were killed. Other than two old men who were released days later, none of those taken have been heard from since.

Locals said the uniforms the gunmen wore and the vehicles they drove identified them as Interior Ministry police commandos, whose ranks are dominated by former members of Shiite factional militias. Since Iraq's Shiite majority first gained political power in elections a year ago, raids like the one in Tobji have taken place in neighborhoods in Baghdad and other Iraqi cities. They always target Sunni men, and witnesses always implicate the police.

Iraqi officials have denied any government role in the raids, blaming groups intent on destabilizing the country.

"It happens too often that people impersonate government forces, impersonate police," said Baghdad's governor, Hussein Taha, who oversees his province's police force. "When the terrorists feel chased in one area, they transfer to another and carry out operations there randomly, even if it affects civilians. That is what happened to Tobji."

Asked how many Tobji residents have died violently in recent months, Mariam Nouri, 27, whose family came to the neighborhood more than 50 years ago, counted them by name.

"There's Hussein, Firas, Abbas, Osama, Uday," said Nouri, a Sunni, whose brother, father and uncle were dragged from her home during the recent raid. Hardly pausing for breath, she ticked off 11 of the dead from memory. "It might be more like 15," she said. "There are some I've forgotten."

Sunni leaders have responded to the raids in Tobji, northwest of downtown, and in other Baghdad neighborhoods by calling on residents to defend themselves. Adnan Dulaimi, a prominent Sunni Arab politician, called for further unrest unless the country's next government puts police beyond the control of Shiite militias. The Iraqi Accordance Front, the country's dominant Sunni political group, warned Wednesday of "nationwide civil disobedience" unless what it termed "haphazard raids" were halted.

Observers in the capital say the destructive cycle of raids, denunciations and retaliatory violence represents the first tentative steps toward a wider sectarian conflict spreading like a virus from community to community.

"It started in Iskan, then Sadiya and Ghazaliya," said Abbas Lafta, 35, a Shiite resident of Tobji, citing once-tranquil Baghdad enclaves that have fallen like dominoes toward his neighborhood in the past year. "People used to move here to get away from those places. Now we are one of them."Neighborhood Checkpoints

Bounded by a highway overpass and a park with a scraggly dirt soccer field, Tobji got its name from the cramped commercial street, lined with vendors' stalls, that bisects the neighborhood. Dozens of sheep graze along a grassy median, snarling traffic near an open-air market.

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On a recent weekday, side roads leading from a main thoroughfare were blocked with concrete barriers, and Iraqi soldiers operated a checkpoint at the top of one busy street. A second checkpoint on the neighborhood's southern edge was manned entirely by civilians, who watched cars intently as they departed. It was not always this way.

"It is like someone saw this was a safe place and wanted to provoke things," said Muthana Mahmoud, 43, who has lived in Tobji all his life.

Juliet Hadad, 41, a mother of six, said: "Before, when we lived normally, you would feel no tension here. Now we are scared, not just of Sunnis, but of our own people. I grounded my children. I don't let them go anywhere now."

As the conflict began to escalate late last year, eight people were killed in a two-week span following the country's Dec. 15 elections. But it was the Jan. 23 raid, Sunni and Shiite residents said, that did the most to inflame sectarian tension.

Residents said it began just after 4 a.m., as about 20 sport-utility vehicles and pickup trucks without license plates, resembling those driven by Iraq's police commandos, rumbled into the neighborhood bearing a force of nearly 200 armed men.

For the next three hours, the gunmen, many of them clad in yellow-and-gray camouflage uniforms, burst into Sunnis' homes, sometimes leaping from roof to roof, rounding up men and terrifying their families. They took their cell phones and cut landlines so residents could not call for help.

"They had beards, and their dialect sounded like they were from the south," said Mahmoud, who said three men leapt onto his roof from a neighbor's window. When his brother answered the door, one of the men asked him, "Are you Abu Abbas?"

"No," his brother said. "I don't know who that is."

"They blindfolded him and took him outside," Mahmoud said. "Then they came back for me. They took me up to the roof and held me over the edge by my feet. They only let me go when my mother came up, screaming."

Nouri thought her family would be safe, even though they are Sunnis, because her father and uncle work for Interior Ministry police units. But even after presenting their identification cards to the gunmen, they were detained.

"When my sister asked, 'Why, why are you taking them when they are like you?' they pointed their guns at her and hit her on the head," Nouri said. "I was cursing them and saying, 'God is my defender!' "

Down the street, two men who tried to defend their homes were killed. When the gunmen grabbed the wife of Bilal Ali Ghazal by the hair and pulled her toward their car, he grabbed a rifle and went to his roof, firing shots to try to draw help. An attacker in the street shot him in the stomach.

Ismael Egaidi killed one of the gunmen who entered his home before dying in a hail of bullets, residents said.

Desperate to find what became of the 51 men who were detained but never released, Tobji residents said they had made daily visits to Baghdad's Interior Ministry, only to be told there was no information. When word spread that seven bullet-riddled bodies had turned up in the Rustamiyah neighborhood, relatives of those detained in Tobji dashed to the morgue to look for familiar faces. They found none.

Residents say the government's denial of police involvement in the raid does not square with what they witnessed that night. The assailants were driving around Baghdad in a large convoy of sport-utility vehicles that locals recognized as those used by police since the late 1990s. They wore camouflage uniforms and carried Glock pistols, the same as those issued to police officers.

"Explain to me how this can be anyone other than the Iraqi security forces," said Muhammed Majid, a Tobji resident. But even Majid acknowledged that he could not be sure who was responsible.Armed Citizens

With nowhere else to turn, Tobji residents intent on stopping the escalating violence are relying on one another. In recent weeks, both Sunnis and Shiites have contributed manpower to an 80-member neighborhood citizens force that patrols the streets alongside the Iraqi army, manning checkpoints and alerting soldiers to suspicious outsiders.

Neighbors have started collecting money to pay a small salary to the volunteers, who call themselves "the guardians."

When they first took to the streets in December, they were arrested and their guns confiscated by Iraqi police because they had no licenses to carry weapons. But after the January raid, they demanded, and were issued, badges from the Interior Ministry authorizing them to carry rifles.

"Some of them were in the military once, but they all know how to use guns," said Lafta, the 35-year-old neighborhood resident, who helps supervise the program. "Things have been a bit quieter since they got out there."

But many residents insist the neighborhood will never be the same.

"The politicians say, 'Defend yourself,' but how do you defend yourself against an army with machine guns and vehicles?" Mahmoud said. "The ones who defended themselves are the ones who got killed."

Residents said the influx of people fleeing other neighborhoods since 2003 has steadily driven up apartment rents. But now a migration out of Tobji is underway.

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"I don't think we will ever get back what we had," Lafta said. "The number who were arrested was so large, and their relatives are so angry. They will not rest. They will always have hatred in their hearts. They will want to take more revenge. I know Shiites who have already gotten threatening letters. If I get one, I will leave."

Special correspondent Omar Fekeiki contributed to this report.

The Chiefs Of Baghdad (FT)

By Steve Negus

Financial Times, February 11, 2006

Eighteen months ago, the radical Iraqi Shia movement known as the Sadrists was at war with the country's interim government and its US backers in the streets of the holy city of Najaf while their young upstart leader Moqtada al-Sadr was a fugitive. Now the Sadrists are one of the partners in the United Iraqi Alliance, the Shia coalition that dominates government and is likely to be one of the most powerful forces shaping Iraqi politics in the next four years.

This may alarm many people outside Iraq, but the Sadrists are folk heroes in parts of Baghdad, perceived as tough but fair men who do the job that the government can't or won't do. Through an Iraqi colleague, whom I shall call Haydar, I came to learn about some of the things the Sadrists do through their "Mahdi Army", in particular a group that specialises in tracking down people kidnapped by Baghdad's criminal gangs.

Haydar is a proud father of 11, personally devout but well acquainted with the rougher and more roguish sides of life. In many ways he is an archetypal inhabitant of the east Baghdad slum of Sadr City. Laid out in the 1960s by populist dictator Abd al-Karim Qassem as a home for impoverished Shia migrants from the southern countryside, Sadr City was at first named "Revolution City" then changed to "Saddam City" after Saddam Hussein took power in 1979. Hussein had given the district his name, but little else. Its potholed roads are lined with open sewers choked with plastic bags. In the summer, smoke from burning trash combines with heat and dust to create an acrid haze that hangs over the city. In the winter, flooded drains overflow to form reeking pools of black muck. After the dictator was toppled by the US, the inhabitants of the slum lost little time in renaming it after Moqtada's father, the Ayatollah Mohammed Sadek al-Sadr, a venerated Shia cleric murdered by the old regime.

Sadr City is viewed by other Baghdadis as a den of gangsters. Haydar, however, is proud of his neighbourhood. It is, he admits, home to quite a few of Baghdad's criminal elements and is a good place to buy weapons or a forged passport. However, he points out, it is also one of the few places in Baghdad where I, a foreigner, can walk about without having to worry about being abducted either by ordinary criminals or by insurgents. Rory Carroll, a reporter for The Guardian newspaper might not attest to this too enthusiastically. In October a Sadrist faction abducted and held him for 36 hours in an attempt to exchange him for a prisoner held by the British, then released him. But the view that foreigners were not likely to be nabbed in Sadr City was widely shared among the Baghdad press corps at the time, and the reason was that the neighbourhood was to a large extent under the control of the Mahdi Army.

This is not what most of the rest of the world would think, associating as they do the Sadrists with the "militia" that fought the Americans in the summer of 2004. The Sadrists themselves are adamant that the Mahdi Army, despite its name, is not a militia, but a network of pious youth who, armed with their own private weapons, rose up when their leader was threatened. This doesn't explain why they still have commanders and units. Nonetheless, "militia" is a term of abuse these days and politicians say such things have no place in the new Iraq, so the fiction exists. As part of the deal under which the Mahdi Army stopped fighting in October 2004, Sadr said the movement would dissolve itself as a military institution and work as a political party and community movement, possibly "assisting the police" in keeping order in Sadr City.

It's not just the police who could do with assistance. Much of Iraq these days seems to be going the way of Sadr City. The state began to fail during the years of UN sanctions and the collapse of Saddam Hussein's regime completed the job. Iraqis usually have little faith in formal governmental institutions, and the institutions generally live down to their expectations. Local political or religious movements, with their armed back-up, are more legitimate and powerful than any minister cloistered in Baghdad.

Last year I went with Haydar to the site of an incident he had told me about - a kidnappers' safehouse, just off one of Sadr City's trash-strewn vacant lots. The owner, according to neighbours, was a decent guy, but had been enlisted or possibly coerced by his drinking buddies to watch over their captives. Ever since Hussein had released about 100,000 prison inmates on the eve of his regime's downfall, much of Iraq has been overrun by criminal gangs, and kidnapping for ransom - in addition to arms sales, drug dealing and subcontracting themselves out to insurgents - is one of the easiest ways to earn a living.

In this case the locals had informed on the kidnappers to the police, who raided the house and arrested them. Inexplicably the owner was released from policy custody soon thereafter, and the residents surmised that he had paid a bribe. They contacted the Mahdi Army, who raided the house and forced the police to keep the rest of the perpetrators in prison. "They are the real heroes, not the police," one of the residents told us. "They are the real champions of the people." True to its Robin Hood

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reputation, the Mahdi Army performed the "service" of ridding the area of kidnappers while asking for nothing in return. The Sadrists accept donations, but not quid pro quo.

We asked which Mahdi Army "sheikh" had taken charge of this operation and were given the nomme de guerre of Abu Jaafar. Although technically a fugitive from the Americans, who were hunting him because of his role in the 2004 fighting, Haydar found him after making a few inquiries. So, a few hours later, we met him in the group's own safe house, a small but clean apartment with doves warbling on the floor. Jaafar spoke to us surrounded by his jamaa, his personal following of about two dozen young men in the black button-down shirt and black trousers that have become the Mahdi Army's ad hoc uniform. For more than a year, this group had been in charge of tracking down gangs. In that time, four of their members were killed and four others permanently maimed.

The Mahdi Army is a young man's movement - Sadr himself is only in his thirties - but Jaafar, at 27, was a young leader even by Sadrist standards. With his well-trimmed beard and self-assurance, he resembles many other earnest and charismatic young men who have risen to positions of authority in Islamist movements across the Arab world. He was a former seminary student before taking command of the anti-gang squad. He eschews much of the lofty religious rhetoric and generalities favoured by other Sadrist clerics, which make conversations with them sometimes difficult. Instead, he seemed to relish relating the details, names and places of Iraq's underground.

"It's all about geography," Jaafar explains, beginning a narrative of his group's current case. The jamaa had been contacted by a Kurdish lawyer, whose teenaged son had been kidnapped. The boy had been taken in the south Baghdad district of Kerrada. Based on this, Jaafar decided to stake out a coffee house just off the neighbourhood's main shopping street, frequented by a man we shall call Mustafa, a Kurdish gangster with a finger in every dodgy pie in the area.

After several days, the Mahdi Army noticed Qais, a gangster from Sadr City known to be involved in kidnapping, enter the coffee shop to speak with Mustafa. This, they decided, was a likely suspect. They placed a tail on Qais and told the father to inform the gang he was ready to pay the ransom. Qais set up one fake drop after another, sending the father into Baghdad's streets night after night to make sure that he had not brought along gunmen. Qais did not notice, however, that he himself was under observation. The Mahdi Army decided that they had their man. When Qais set up the final drop-off the Mahdi Army decided to grab him.

One member of the jamaa, Mohammed, however jumped the gun. He and a colleague, Maytham, showed up before the other Sadrists. They leapt out of their car with pistols, but Qais, Mustafa and his men had machineguns. When the shooting stopped, both Sadrists and Qais had been hit. The gang, realising that the Mahdi Army were after them, scattered to the winds. Qais and Mohammed survived; Maytham was killed. "Mohammed was over-eager," said Jaafar with a certain weary resignation.

Three weeks later, at least some of the gang had been rounded up. Mustafa appears to have escaped to Kurdistan - the old men playing dominos in front of his favourite Kerrada coffee house, at any rate, told us that he had not been seen for a month. Several others, however, were now in the custody of the police, cooling their heels in Sadr City's al-Rafidain police station.

We were taken there by a man called Ali, one of Jaafar's lieutenants. Ali was clearly a hard guy. He has two martyrs in his family. His father was killed by Hussein in the 1991 Shia intifada that followed the first Gulf war. His brother was killed in another uprising that broke out when gunmen thought to be linked to the Hussein regime killed Ayatollah Mohammed Sadek al-Sadr, father of Moqtada and the founder of the movement in 1999. Ali and several of his friends, Kalashnikovs in hand, had personally arrested one of the three imprisoned gang members and had a certain proprietorial interest in the case.

We arrived in Sadr City amid reports that a car bomb had just been discovered on the city's outskirts. Mahdi Army militants were stopping anyone who looked like they were from out of town (including one of our cars) and checking vehicles for explosives. When we arrived at the station, Ali was shocked to find out that the gang suspects had been transferred to the Major Crimes Unit in another part of town. He immediately got on the phone to Jaafar - the police at Major Crimes were notorious for freeing suspects. Without the Mahdi Army keeping tabs on the case, Ali said, the police would be sure to let Qais' gang go.

We then walked into the station with Ali and asked the senior officer, a grizzled lieutenant, for the police version of the case. Somewhat reluctantly, the officer described, using the stilted language of an interior ministry press release, a "shared operation" in which the police and Mahdi Army "co-operated" to round up a gang "implicated in criminal activities". Ali was incensed - "Co-operated? All you did was transfer them to the Major Crimes Unit," he said to the lieutenant. The Mahdi Army were the ones who suffered a martyrdom, he pointed out to another policeman. "The police do nothing," he said, walking out of the station in disgust. "We are the authority here."

On the way home, I asked Haydar in what sorts of situations he himself might turn to the Mahdi Army. Certainly a kidnapping case, he said, also if there is stealing or gang activity going on in the neighbourhood. What about murder? I asked. Well, you might ask the Mahdi Army to mediate in a murder case, but if a relative is killed first you turn to your tribe. Even in Hussein's day, while the police might arrest and jail a murderer, the matter isn't over until either blood vengeance or blood money

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is obtained. There are two parallel systems of law enforcement in modern Iraq: the authorities keep order; your family gets you justice.

The Mahdi Army seems to fall somewhere between the two. Haydar described an incident he had seen at a wedding. One of the guests started firing his weapon into the air - a traditional way of celebrating, but one that is now considered a bit anti-social. The Mahdi Army showed up, and asked him to stop. The guest responded: "Who are you?" The Mahdi Army, having been insulted, switched from an ostensibly neutral order-keeper to an aggrieved party. Some 150 "brothers" pulled up, wanting to beat up the guest. Haydar and a tribal sheikh had to mediate to sort it out.

At various times, the Mahdi Army seems to have taken on the trappings of a state. It has run its own courts, for example - although these are more tribal-style arbiters of a dispute, rather than traditional criminal court magistrates. Perhaps more revealing is its attitude towards dealing out punishment. After the Mahdi Army withdrew from Najaf, the Iraqi military claimed to have discovered Sadrist-run prisons and torture chambers. However, if such places exist in Sadr City, they are a very well-kept secret. Haydar, for his part, does not believe they exist.

Nonetheless, the Mahdi Army has a reputation for vigilantism. Any messianic movement will attract both thugs and saints, and various combinations of the two. The Sadrists were known for attacks on gypsy encampments, which in Iraq often double as primitive semi-mobile brothels. Although they enjoyed some protection under Hussein, who had a weakness for gypsy dancing, they are now among the country's most vulnerable groups. The Sadrists also have a reputation in universities for intimidating their more secular-minded counterparts. I asked Haydar about a recent incident in Basra. The press had depicted it as a more or less unprovoked assault against a co-ed picnic, in which militiamen beat students - focusing particularly on the women - for daring to mingle the sexes in public. According to Haydar's version of events, culled from other Sadr City residents as well as relatives in Basra, the Mahdi Army had responded to locals' complaints about students behaving "inappropriately" in their neighbourhood. The Mahdi Army tried to get the students to disperse, were defied, and used force. According to Haydar, the Mahdi Army was upholding the social norm in a public place. "If you took a woman to a private place [and] someone intervenes, you're in the right - you could kill them right there," he explained. "If you do it in public and they intervene, then they're in the right."

Haydar is a devotee of Grand Ayatollah Ali al-Sistani, the most popular and influential Shia cleric in Iraq. He is the epitome of orthodox Shi'ism, which venerates scholarly knowledge. When the elder Ayatollah Sadr first emerged, many in Sistani's circle of clerics looked at him as having too little of the seminary about him, and too much of the street. And when the younger Sadr assumed control of the movement, he was years from becoming an ayatollah (in Shi'ism, the rough equivalent of a tenured full professor), and was more like a graduate student. The Grand Ayatollah never disrespected the younger Sadr in public, but many of his deputies showed no such compunction. One Sistani scholar suggested that the younger Sadr might be better off "finishing his studies" than meddling in politics. Others referred to his movement as a "phenomenon linked to unemployment".

Haydar has no doubt that the Mahdi Army contains a rough element, including, he believes, criminal gangs who appropriate the name as a cover for their activities. In his neighbourhood, however, he witnessed the other side of the Sadrist movement. Sadrist cadres took control of the area, fending off the chaos that engulfed much of Baghdad. They defended the suburb against Hussein's security thugs or the estimated 100,000 former inmates released from prison, thought to make up the bulk of the gangs that ravaged the rest of Baghdad. Sadrists brought in drinking water, paid the salaries to keep staff at work running the hospitals. "When no one was there to protect us, they protected us," Haydar says.

Several weeks later, Ali became his family's third martyr. He had been coming back to the safe house at midnight when he encountered a US checkpoint in the street. Having a pistol in his car, he panicked and ran. He was shot in the head, with the bullet reportedly taking much of his face away. He had been engaged to be married a week before. The funeral tent was packed with mourners, some in tribal dress, some in the black uniform of the Mahdi Army. Abu Jaafar kept order, restraining them at one point as a US patrol drove by. As the coffee was served, a religious chanter recited a poem over the sound system, addressed to the Hidden Imam, the Mahdi for whom the army is named, the one who will return to bring just rule to the world:

"Why do you wait, oh Imam?
These youths are killed for your religion and for your victory
A week after his engagement,
He sees how his companions gather in his honour.
The candle of youth is extinguished by the Americans."

As the day wore on, a stream of politicians arrived to pay their respects. Fatah al-Sheikh, a Sadrist who had run for and won a seat in parliament, gave an angry address calling for a full US withdrawal from Sadr City. The commander of the Mahdi Army also made an appearance, vowing to fight if the Americans returned in force. One particularly incongruous guest, sitting in the first rank of dignitaries among the black shirts, beards, robes and turbans, was a figure with a carefully trimmed moustache and a grey business suit. He was Mudhar Shawkat, a longtime associate of Ahmed Chalabi, onetime darling of the neo-

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conservatives in Washington and now Iraq's deputy prime minister. Chalabi, a staunch secularist but a stauncher opportunist, had currently thrown in his lot with the Sadrists and was said to be coaching Sadr on the finer points of statesmanship. Shawkat's address betrayed little of Chalabi's secular vision, nor his government's position that militias have no place in the new Iraq.

"All of those who know me," said Shawkat, "know that I am a Sadrist by thought, and Sadrist in my actions. The Sadrist trend is not an alliance or party, it is an Iraqi movement - the trend of those who have been dealt injustice, the trend of the black soil... If the Mahdi Army was allowed to defend Sadr City [by itself], it could be the safest city in Iraq."

As we drove away from the funeral, a police car loaded with armed officers came ploughing through traffic. In most of the rest of the city, the police force cars over by sticking their guns out the window, firing shots and shouting over a loudspeaker, "Out of the way!" However, these particular police were shouting, "Out of the way, brothers!" You could view this as a tribute to the neighbourhood's sense of shared struggle, but Haydar thought of it as an acknowledgment that this is one part of town where the state has to watch where it treads.

Steve Negus is the FT's Iraq correspondent.

Tighter Borders Take A Toll In Iraq (WP)

By Ann Scott Tyson

The Washington Post, February 11, 2006

Success of Effort Against Smuggling Hits Villagers Hard

OM AL-KABARI, Iraq -- In this once-thriving smuggling village on Iraq's border with Syria, the last donkeys are dying.

Mothers complain they have no shoes for their children and only soup to feed them. Men sit idly playing checkers and bemoaning the night when American scout helicopters swooped overhead, spelling the end of their livelihoods.

"We could get around everything, but not the helicopters," sighed Mahmood Ahmed, 29, who, along with most of the men in this village of 400 people, admitted he was a smuggler. "We're having nightmares about them."

With their income shriveling, the smugglers could no longer afford food for the hundreds of donkeys they used to haul 30-gallon drums of benzene, cartons of cigarettes and other goods into Syria.

"There is no grass, no money to feed them. So they all died," said Yassin Ali, 39, pointing to a mangy, skeletal white donkey lying listless nearby.

The dramatic downturn in the fortunes of villages along the border is one sign that a surge of American and Iraqi troops into the region in recent months has sharply curtailed illegal traffic over the frontier, U.S. and Iraqi officials and local residents say.

U.S. commanders last year launched a plan to gain better control of Iraq's borders to try to stop the flow of outside fighters, weapons and cash to the Iraqi insurgency. Several thousand additional U.S. and Iraqi troops have been sent into regions near Syria since last summer to bolster a growing contingent of Iraqi border guards. Scores of border forts have been built or refurbished and manned, and there are plans to erect a double chain-link fence along the border during the coming year, according to U.S. and Iraqi officials.

"It's much more than just a line in the sand right now," said Lt. Col. Gregory Reilly of Sacramento, Calif., commander of a U.S. cavalry squadron that oversees about 115 miles of Iraq's northwestern border with Syria, from the Tigris River to the Euphrates. "It's not like a vast open border, not at all. It's a very difficult border to cross."

Syrian border police are also aggressively patrolling their side, Reilly said, in contrast with official statements in Washington accusing Damascus of lax control. "The Syrians are actually doing their job. They are more violent than we are. If they see someone, they will open up shooting," Reilly said as he walked along a dirt berm in view of Syrian guards several weeks ago. Iraqi officers said Syrian guards had recently shot at Iraqi border police, leading to skirmishes.

Controls have been tightened at official border-crossing points. At the town of Rabiyah, a 10-wheel cargo truck rumbled past a newly constructed Iraqi customs station toward a Syrian checkpoint marked by a huge portrait of Syria's late president Hafez Assad. A few months ago, the Iraqi entry point here was in disarray, U.S. and Iraqi officials said. Inbound and outbound traffic were mixed together. Iraqi guards had only five rifles, lacked ammunition and "had no idea what passport was fake and what was real," said Col. Fadel Shaaban Abas, commander of Iraqi customs police at Rabiyah.

"It was complete chaos. You had no idea who was coming and going," said Reilly, commander of 1st Squadron, 3rd Armored Cavalry Regiment, which finishes a year-long tour in Iraq this month. A suicide car bombing in late May closed the entry point for two weeks.

Today, up to 5,000 people, mostly on foot, and about 300 vehicles cross the border daily through divided lanes. Customs revenue has almost tripled. The 120 Iraqi customs police are armed with AK-47 assault rifles or pistols and are backed up by a new, 260-man police battalion, which arrived in December, Abas said. A U.S. customs team recently trained the police officers to spot false passports, and now they find three or four a day, said Staff Sgt. Robert Lowery of Naples, Fla.

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Fighters from abroad -- both Iraqis who had left the country and some foreigners -- still manage to get into Iraq, but not simply by sneaking over the border, U.S. officials assert.

"The myth is that foreign fighters are crossing a porous border," said Maj. Chris Kennedy, executive officer with the 3rd Armored Cavalry. Instead, many of the incoming fighters can simply fly into Baghdad, using valid Iraqi passports made from "boxes and boxes" of blank passports shipped out of Iraq during Saddam Hussein's rule, Kennedy and other U.S. officers said. Iraqis are now posted at the border to listen for foreign accents, although many insurgents entering are Iraqis themselves, he said.

But while U.S. officers are less worried about foreign fighters trying to sift through border villages, they express concern that the severe economic impact of shutting down smuggling routes could create a new breeding ground for insurgents in Iraq.

"The biggest fear is you have a financier who comes through and builds a cell" in an impoverished border village, said Reilly, who estimated that 100,000 people live in primarily Sunni Arab villages along the stretch of border he oversees.

In Om al-Kabari, Mahmood Ali, a father of six, said he considered smuggling to be one of the few legitimate alternatives for earning a living in the village, where drought has curtailed farming in recent years.

"It's a more honorable job than stealing or being an Ali Baba, or insurgent -- you're risking your life . . . to put food on the table," said Ali, squatting in a circle sharing tea with the other village men.

Smuggling, while always a local occupation, accelerated with the economic embargo imposed on Iraq in the 1990s and then skyrocketed when border controls collapsed after the overthrow of President Saddam Hussein in April 2003, villagers said. The smugglers would take out loans at the local sheep market or from goods distributors in the city of Mosul, 100 miles to the east. They would use the money to buy benzene or cartons of cigarettes, load up their donkeys and set out for the border at night in teams of three or four.

It was a risky trade, said Ahmed, who was once caught by Syrian forces, beaten and detained for nine months in a crowded Syrian jail. He said five men from the village had been killed by the Syrian army since 2003. "The Syrians, most of the time, don't detain you, they just shoot you," he said. "There are no warning shots at all."

Still, it was the most lucrative job around. If they successfully met up with buyers in Syria, the teams of smugglers could each make about $27 a month, an average income for Iraqis in the region.

But then last spring, the arrival of U.S. Kiowa scout helicopters, backed up by American and Iraqi ground forces, halted the smuggling spree.

"It was my black day," recalled Yassin Ali, the first of the villagers to be caught by U.S. forces. "All of a sudden we were moving one night and we didn't hear anything, and they turned on the lights." The smugglers froze, but after a minute, when the lights went off again, they tried to flee, thinking the helicopter had gone and the crew could no longer see them. "But it still saw us, even from afar, and they were right back on us," Ali said. "Then the Humvees came up."

Next to the village, an Iraqi border fort is now manned by 24 Iraqi police officers who live there and work in shifts. It is one of 56 forts with 2,700 border police now operating along the northwestern border in conjunction with U.S. and Iraqi troops. Equipped with new jeeps, pickup trucks mounted with machine guns, binoculars and night vision goggles, the police patrol the border around the clock.

"Before, there was no tracking . . . whatsoever, and they could go in day and night," said 1st Lt. Abrahim Assaf Khuder, a police company commander. Now Khuder estimates smuggling has dropped 95 percent, with fewer than three to five interdictions a week. "What really decreased the numbers is the choppers," he said.

The smugglers admit they still occasionally try to make it across the border, adding they are happy the U.S. helicopters don't shoot them. Unlike in the past, they say, they never carry weapons.

"What can we do? We have no jobs, no benzene, no clothes for our families, and the choppers are on our heads all the time. We can't even buy shoes for our kids," Mahmood Ali said, pointing to the bare feet of his 6-year-old son. Monthly rations of grain from the government -- about 20 pounds a person -- only come every four months, he said.

"These towns are in dire need," said Reilly, who has attempted to alleviate the damage from the smuggling crackdown by shipping pallets of food and water to the villages and planning two well-building projects. Reilly has also proposed creating a free-trade zone along the border. In a recent meeting with villagers, they pressed him for permission to cross one day a week. "Syria has to approve it," Reilly told them.

" Inshalla h ," they replied. God willing.

Carroll Kidnappers Reportedly Set Deadline (AP)

By Paul Garwood

Associated Press, February 11, 2006

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BAGHDAD, Iraq -- Kidnappers of American journalist Jill Carroll have threatened to kill her if their demands are not met by Feb. 26, the owner of a Kuwaiti TV station that has aired a new tape of the hostage said Friday.

Al Rai satellite station owner Jassem Boudai said the kidnappers set "more specific" demands than the release of all Iraqi women from prison, which the group laid down in the first videotape released last month. Boudai refused to elaborate.

He said that "sources close to the kidnappers" told the station Friday of the new deadline.

The small, privately owned station aired a tape Thursday showing Carroll, 28, appealing for her supporters to do whatever it takes to win her release "as quickly as possible."

The U.S. military has released five Iraqi women from detention but said the releases were routine and not part of any swap for Carroll. Five Iraqi women remain in U.S. military custody.

Friday's message was not conveyed in the latest videotape, but by "another method," Boudai said. He did not elaborate, and it was unclear whether he passed the latest demands along to authorities.

Boudai said the sources claimed Carroll, who was abducted in Baghdad on Jan. 7, "is in a safe house owned by one of the kidnappers in downtown Baghdad with a group of women."

He said the sources also claimed Carroll was in good psychological condition and was doing housework with the women in the place of her detention. The sources also said the kidnappers denied killing Carroll's translator when they abducted her at gunpoint, as has previously been reported.

Later Friday, Boudai told CNN that he believed Carroll's kidnappers were the same ones who seized two Italian aid workers in September 2004 and released them several weeks later. Italian media said a $1 million ransom was paid in that case.

"I think they are the same group who contacted us last year when the two Italian girls were kidnapped in Iraq," Boudai said.

The station on Friday also reported the latest threat by the kidnappers to kill Carroll, a freelance reporter for the Christian Science Monitor.

Monitor spokeswoman Ellen Tuttle declined comment on Friday.

Two previous tapes of Carroll were aired without audio by Qatar-based Al-Jazeera on Jan. 17 and Jan. 30. The first tape made by the kidnappers, who identified themselves as the "Revenge Brigades," included a threat to kill Carroll within 72 hours unless all Iraqi women were released from custody.

Security experts said kidnappers' choice of Al Rai for the latest tape indicated an effort to increase pressure on the U.S. government.

Al Rai broadcast the new 22-second video in its entirety and with Carroll's voice, unlike Al-Jazeera, which has a policy not to broadcast voices. She spoke of having sent two letters but did not say to whom.

"I am with the mujahedeen," she said. "I sent you a letter written by my hand, but you wanted more evidence, so we are sending you this letter now to prove I am with the mujahedeen."

An Al-Jazeera employee, who spoke on condition of anonymity because he is not authorized to make statements for the station, confirmed the first two videos referred to a letter. The station did not mention any letters when it aired the videotapes. It did report that the kidnappers were demanding the release of women held prisoner in Iraq.

When the new tape was delivered to Al Rai's Baghdad office, it was accompanied by a letter written by Carroll, the station said.

Boudai said his station gave U.S. authorities the letter, which he described only as "sensitive." The station did not reveal its contents, he said, out of concern for the reporter.

Before the latest threat was reported, State Department spokesman Sean McCormack said the United States continued "to make every effort to secure her release, to see that she's back safe and sound with her family and her co-workers."

Some analysts said Carroll's kidnappers used the relatively unknown station to get more of its message across and to avoid being tainted by Al-Jazeera's reputation as being biased toward insurgents.

Al-Jazeera came under criticism for airing videos showing al-Qaida in Iraq with hostages they soon beheaded. The station cut the tape when masked gunmen drew knives and moved toward their doomed victims.

Since then, Al-Jazeera has sought to air just enough material for news value without appearing to be a conduit for gruesome propaganda.

"There are a lot of question marks for insurgents at Al-Jazeera because they don't air all their tapes in entirety, or not immediately or sometimes not at all," said Mustafa al-Ani, director of terrorism studies at Gulf Research Center in the United Arab Emirates.

"But these small stations will jump at such opportunities because they aren't famous," he said. "Very few people had heard of Al Rai before that tape, but now people all over the United States know it."

A top U.S. media analyst said being able to get the full message out could put public pressure U.S. officials to question the Bush administration's approach to Iraq.

"These videos will prompt us to feel fear, hope, heightened anger or frustration about a matter as viewers will have little control over, and this could lead us to putting more pressure on our public officials," said Bob Steele of the Florida-based Poynter Institute for Media Studies.

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Associated Press writer Diana Elias contributed to this report from Kuwait City.

Ex-C.I.A. Official Says Iraq Data Was Distorted (NYT)

By Scott Shane

The New York Times, February 11, 2006

WASHINGTON, Feb. 10 — A C.I.A. veteran who oversaw intelligence assessments about the Middle East from 2000 to 2005 on Friday accused the Bush administration of ignoring or distorting the prewar evidence on a broad range of issues related to Iraq in its effort to justify the American invasion of 2003.

The views of Paul R. Pillar, who retired in October as national intelligence officer for the Near East and South Asia, echoed previous criticism from Democrats and from some administration officials, including Richard A. Clarke, the former White House counterterrorism adviser, and Paul H. O'Neill, the former treasury secretary.

But Mr. Pillar is the first high-level C.I.A. insider to speak out by name on the use of prewar intelligence. His article for the March-April issue of Foreign Affairs, which charges the administration with the selective use of intelligence about Iraq's unconventional weapons and the chances of postwar chaos in Iraq, was posted Friday on the journal's Web site after it was reported in The Washington Post.

"If the entire body of official intelligence on Iraq had a policy implication, it was to avoid war — or, if war was going to be launched, to prepare for a messy aftermath," Mr. Pillar wrote. "What is most remarkable about prewar U.S. intelligence on Iraq is not that it got things wrong and thereby misled policymakers; it is that it played so small a role in one of the most important U.S. policy decisions in decades."

In an interview on Friday, Mr. Pillar said he recognized that his views would become part of the highly partisan, three-year-old battle over the administration's reasons for going to war. But he said his goal in speaking publicly was to help repair what he called a "broken" relationship between the intelligence produced by the nation's spies and the way it is used by its leaders.

"There is ground to be replowed on Iraq," said Mr. Pillar, now a professor at Georgetown University. "But what is more important is to look at the whole intelligence-policy relationship and get a discussion and debate going to make sure what happened on Iraq doesn't happen again."

President Bush and his aides have denied that the Iraq intelligence was politicized. Stephen J. Hadley, the national security adviser, said in November, "Our statements about the threat posed by Saddam Hussein were based on the aggregation of intelligence from a number of sources, and represented the collective view of the intelligence community. Those judgments were shared by Republicans and Democrats alike."

Reports by the Senate Intelligence Committee and the presidential commission on weapons intelligence headed by Laurence H. Silberman, a senior federal judge, and Charles S. Robb, the former Virginia governor and senator, found that C.I.A. analysts had not been pressed to change their views. A second phase of the Senate committee review, on how administration officials used intelligence, has not been completed.

Mr. Pillar alleged that the earlier studies had considered only "the crudest attempts at politicization" and that the real pressures were far more subtle. "Intelligence was misused publicly to justify decisions that had already been made," chiefly to topple Mr. Hussein in order to "shake up the sclerotic power structures of the Middle East," he wrote.

According to Mr. Pillar's account, the administration shaped the answers it got in part by repeatedly asking the same questions, about the threat posed by Iraqi weapons and about ties between Mr. Hussein and Al Qaeda. When intelligence analysts resisted, he wrote, some of the administration's allies accused Mr. Pillar and others of "trying to sabotage the president's policies."

In light of such accusations, he wrote, analysts began to "sugarcoat" their conclusions.

Mr. Pillar called for a formal declaration by Congress and the White House that intelligence should be clearly separated from policy. He proposed the creation of an independent office, modeled on the Government Accountability Office and the Congressional Budget Office, to assess the use of intelligence at the request of members of Congress.

Mr. Pillar suggested that the root of the problem might be that top intelligence officials serve at the pleasure of the president.

A C.I.A. spokeswoman, Jennifer Millerwise Dyck, said the agency had no comment.

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Danielle Pletka, vice president for foreign and defense policy studies at the conservative American Enterprise Institute, said that the C.I.A. had long resisted intervention in Iraq, and that internal pressure on analysts to resist war was greater than any external pressure.

"If the C.I.A. had spent less time leaking its opinions, throughout the 1990's, opposed to any conflict with Iraq, and more time developing assets inside Iraq, the agency would have more credibility and better intelligence," said Ms. Pletka, who served for a decade, until 2002, as a Republican staff member on the Senate Foreign Relations Committee.

Misuse Of Prewar Data Is Alleged (BSUN)

By Cam Simpson

The Baltimore Sun, February 11, 2006

Ex-CIA official criticizes White House actions

WASHINGTON -- The former CIA official assigned to manage the U.S. government's secret intelligence assessments on Iraq says the Bush administration chose war first and then misleadingly used raw data to assemble a public case for its decision to invade.

Paul Pillar, the CIA's national intelligence officer for the Middle East and South Asia from 2000 to 2005, said the Bush administration also played on the nation's fears after the 2001 terrorist attacks, falsely linking al-Qaida to Saddam Hussein's government even though intelligence agencies had not produced any analysis supporting "the notion of an alliance" between the two.

Instead, Pillar writes in the next issue of the journal Foreign Affairs, connections were drawn between the terrorists and Iraq because "the administration wanted to hitch the Iraq expedition to the 'war on terror' and the threat the American public feared most, thereby capitalizing on the country's militant post-9/11 mood."

The specific critiques in Pillar's 4,500-word essay, "Intelligence, Policy and the War in Iraq," are not new. But it apparently is the first time such criticism has been publicly leveled by such a high-ranking intelligence official directly involved behind the scenes before, during or after the invasion of Iraq nearly three years ago.

Because of his position, Pillar would have had access to, and probably intimate knowledge of, nearly every piece of Iraq-related intelligence maintained by all federal agencies.

Pillar also writes in his essay that the administration went to war without considering any strategic-level intelligence assessments "on any aspect of Iraq" and that the intelligence community foreshadowed many post-Hussein woes, though the findings were largely ignored before the March 2003 invasion.

Excerpts from Pillar's article were first reported by The Washington Post yesterday. Foreign Affairs released a copy of the essay later in the day.

Pillar, a career intelligence official, retired from the CIA last year and is a visiting professor at Georgetown University in Washington.

The White House did not respond specifically to Pillar's charges yesterday, but Frederick Jones, a spokesman for the National Security Council, pointed to previous administration statements defending its use of intelligence.

The administration first went on the offensive in the fall in an effort to thwart what President Bush, in a Veterans Day speech, called a "deeply irresponsible" effort "to rewrite the history of how that war began."

Jones said yesterday that the administration's prewar statements "about the threat posed by Saddam Hussein were based on the aggregation of intelligence from a number of sources and represented the collective view of the intelligence community."

But in his essay, the man responsible for coordinating the intelligence community's collective view of Iraq challenged the notion that the prevailing wisdom within the nation's spy services supported the decision to invade.

"If the entire body of official intelligence analysis on Iraq had a policy implication, it was to avoid war," Pillar wrote.

He also wrote that the Bush administration "used intelligence not to inform decision-making but to justify a decision already made," the decision to oust Hussein's government.

In making its case, the administration aggressively promoted pieces of "intelligence to win public support for its decision to go to war," Pillar wrote.

He also wrote that "this meant selectively adducing data - 'cherry-picking' - rather than using the intelligence community's own analytic judgments."

Although he acknowledged that the intelligence community was wrong about Iraq's capabilities to produce weapons of mass destruction, Pillar wrote that intelligence "was not what led to the war."

He saved some of his sharpest criticisms for the administration's repeated public statements in 2002 and 2003 about "links" between Iraq and al-Qaida, statements that have been repeated even though an independent commission that investigated the Sept. 11, 2001, attacks found no collaborative relationship between the two.

Pillar's allegations about the public use of selective intelligence on Iraq follows news that I. Lewis "Scooter" Libby Jr., Vice President Dick Cheney's former chief of staff, told a grand jury that he was authorized by his bosses to leak classified information about Iraq in the summer of 2003 to defend the administration's case for war.

Cam Simpson writes for the Chicago Tribune.

Ex-CIA Official Criticizes Use Of Intel (AP)

By Elisabeth Goodridge

AP, February 11, 2006

The Bush administration deliberately misused or ignored intelligence analysis in the buildup of the 2003 invasion into Iraq, according to a former top intelligence official.

Paul R. Pillar, who served as the National Intelligence Officer for Near East and South Asia from 2000 to 2005, also accused the administration of ignoring reports that Iraq would likely endure a violent transition period.

The administration "went to war without requesting — and evidently without being influenced by — any strategic-level intelligence assessments on any aspect of Iraq," Pillar wrote in an upcoming article of Foreign Affairs.

The White House did not immediately return a call for comment Friday.

Pillar said the administration drove intelligence officials to discover information that would help them meet their policy objectives.

"The Bush administration deviated from the professional standard not only in using policy to drive intelligence, but also in aggressively using intelligence to win public support for its decision to go to war," Pillar wrote. "This meant selectively adducing data -- 'cherry-picking' -- rather than using the intelligence community's own analytic judgments."

He also wrote that the intelligence community assessed that in Iraq, "war and occupation would boost political Islam and increase sympathy for terrorists' objectives."

House Minority Leader Harry Reid, D-Nev., called for an investigation Friday.

"Evidence that the Bush White House manipulated and selectively declassified intelligence to wage a public relations campaign before, during and after the invasion of Iraq grows every day," he said.

Pillar served in the intelligence community for more than 20 years. He is now a professor at Georgetown University.

Book Casts Doubt On Case For War (LAT)

By John Daniszewski

The Los Angeles Times, February 11, 2006

Believing the evidence fell short, Bush discussed with Blair the possibility of inciting a conflict with Iraq, British author says.

LONDON — It was the end of January 2003. Secretary of State Colin L. Powell was five days away from giving a critical speech at the U.N. Security Council, laying out the case that Iraq was hiding weapons of mass destruction and posed a danger to world peace.

But huddled with aides at the White House, President Bush and British Prime Minister Tony Blair were not sure there was enough evidence to convince the Security Council. Without the council's explicit authorization, their plans for an invasion to depose Saddam Hussein could be difficult to defend under international law.

Bush proposed an alternative: paint a U.S. spy plane in United Nations colors and see if that didn't tempt Hussein's forces to shoot at it. In any case, he said, the war was "penciled in" for March 10 and the United States would go ahead with or without a second U.N. resolution.

Blair replied that he was "solidly with" the president.

That is the gist of an account of the Jan. 31, 2003, meeting contained in the new edition of "Lawless World," a book by British author Philippe Sands. He has not identified the writer of the memorandum on which the account is based, but British media reports say it was one of the aides in attendance: Sir David Manning, then security advisor to Blair and now the British ambassador in Washington.

A spokesman for Blair on Friday refused to address the allegations but repeated Downing Street's insistence that there was no decision to commit British forces to war in Iraq until after it was authorized by Parliament on March 18, two days before the invasion was launched.

A spokesman for Manning said the ambassador would not comment.

Sands, 45, is a professor of international law and a founding member of the Matrix law office in London, where Cherie Blair, the prime minister's wife, also works. His book, initially published last year, is not primarily about the decision to go to war in Iraq. Rather, it examines a range of issues in which, he argues, the Bush administration, with Britain's complicity, has undermined the "rules-based" international system built largely by the United States and Britain after World War II.

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Sands said there was no doubt about the authenticity of the documents he quotes.

"They have not been denied, and they cannot be denied," he told the Los Angeles Times this week. Britain's Channel 4 News said it had seen the document outside Britain. The channel's Jon Snow presented excerpts in a broadcast last weekend.

The text, in Sands' view, shows that U.S. and British leaders had determined six weeks before the invasion to launch a war to disarm Hussein, even without explicit U.N. approval.

According to the secret notes of the meeting, as paraphrased in Sands' book and then quoted directly by Channel 4, Bush told Blair that "the U.S. was thinking of flying U2 reconnaissance aircraft with fighter cover over Iraq, painted in U.N. colors. If Saddam fires on them, he would be in breach" of U.N. resolutions.

Bush also was quoted as saying an Iraqi defector might make a public presentation about weapons of mass destruction in Iraq and that there was a small possibility the Iraqi leader would be assassinated.

The accounts say Bush promised to put the full weight of the United States behind getting another U.N. resolution, but if that failed, military action would follow anyway. He is also quoted as saying he believed that internecine warfare in Iraq was unlikely.

Blair is quoted as saying that a second Security Council resolution was desirable to "provide an insurance policy against the unexpected, and international cover — including with the Arabs." But he is also quoted as saying he was behind Bush.

"The documents … indicate very clearly that neither man considered that the British or American governments had enough evidence," Sands said. "Why would the U.S. president and the British prime minister spend any time concocting ways of provoking a material breach if they knew they could prove Saddam had weapons of mass destruction?"

Sands contends that U.S. and British actions have eroded pillars of international relations such as the U.N. Charter, the Universal Declaration of Human Rights and the Geneva Convention, and that has made international action in Iraq more difficult.

"By ripping up the rule book, they undermined their ability to forge a consensus," he said.

Sands saw a "setting aside of the classical rules of international law, which basically say you can only use force in two circumstances: in self-defense or where the Security Council has authorized the use of force…. They never argued self-defense," he said. "So they argued that the Security Council had agreed to the use of force. I don't think there are many people who accept that argument."

Ian Gleeson, a spokesman for the British government, said the country had waited until March 18 to commit its forces and earlier pursued "all other avenues" to compel Hussein to disarm.

"Obviously, all these matters have been thoroughly investigated during the various inquiries we've had here, so we've got nothing further to add, and I am certainly not commenting directly on the book," Gleeson said.

When asked about the allegations in Washington last week, State Department spokesman Sean McCormack said: "Look, this is ground that has been plowed over and over and over again. The president and others couldn't have been more clear where we stood at that point in time with respect to seeking a diplomatic solution versus a military alternative."

Sands disagreed with the assertion that Blair's conduct had already been investigated, adding that the documents now coming out could form the basis of an impeachment motion against the British prime minister.

"He misled Parliament as to the state of his knowledge [about Hussein's weapons], and he misled Parliament as to the extent to which he had or had not committed to the U.S. president the United Kingdom's support, and that requires, at the very least, a full and thorough inquiry."

Ex-ambassador Says U.S. May Spend Decades In Iraq (COPLEY)

By PAUL E. KOSTYU, Copley Columbus bureau CHIEF

Copley News Service, February 11, 2006

COLUMBUS - Iraq is building into a civil war and the United States is at risk of being sucked into a battle lasting decades, said former U.S. Ambassador to Iraq Joseph Wilson.

Wilson, whose wife, Valerie Plame, was outed as a CIA operative allegedly by members of the Bush administration, said the United States has lost its political capital throughout the world.

“We’re in a period of instability,” he said. “9/11 was a terrible insult to us. It was an assault on everything we stand for, and it was an assault on what most of the world stands for.”

He said when the U.S. went into Afghanistan, “we had the world with us. We were still the city on the hill whether they agreed or disagreed with our policies.”

Now, the political dynamics of the Middle East have changed. “It was not a political change we anticipated when we got into this,” he said.

Consequently, the Iraq war has to be solved with the help of “a concert of nations” at the political table, not on the battlefield.

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He said the nations should include Saudi Arabia, Jordan, Iran, Egypt, Kurds, Israel and Syria and their patrons, otherwise the battlefield becomes the solution.

"You cannot do it from Baghdad," he told a gathering of newspaper executives Friday at the annual convention of the Ohio Newspaper Association. "You have to do it from outside."

In the meantime, Wilson said, the focus of the U.S. military in Iraq has to change. He said it has to move away from "unnecessarily killing Arabs" because the more the U.S. military sides with one faction in Iraq, the more it becomes viewed as a mercenary force.

Instead, he said, the military should focus on things other than direct combat, including, for example, training an Iraqi national army, logistical support, intelligence gathering, policing streets, infrastructure needs and defending itself.

Wilson said when President Bush says the war is not about oil, Israel or the manipulation of intelligence data, then "it must be one of those. We were sold on the threat to national security."

He said some people fear the world is seeing the beginning of a war that could last 30 to 100 years.

"War is so unpredictable and so long lasting," said Wilson, who was appointed ambassador by President George H.W. Bush.

He said the recent uproar in Muslim communities worldwide over the publishing in Europe of political cartoons about the Prophet Mohammed "is a symptom of an underlying emotion that we are involved in a modern-day crusade."

Wilson called columnist Bob Novak, who initially identified Plame as a CIA operative in a column, "a pawn in someone else's game. He's doing someone else's bidding." Novak spoke at last year's convention.

Wilson accused the Bush administration of using "lies, distortion and character assassination" to discredit him even after it understood Saddam Hussein did not have weapons of mass destruction.

"This is a debate about what sort of country we have," he said.

CORPORATE SCANDALS:

Executive Loses Case On Trading (NYT)

By Gretchen Morgenson

The New York Times, February 11, 2006

Another telecom titan has tumbled.

In one of the last of the major conflict-of-interest cases that rocked Wall Street nearly four years ago, a New York State judge has found that the former chief executive of McLeodUSA, a once highflying telecommunications company that has filed for bankruptcy twice since 2002, is liable for improper trading of hot new stock offerings during the technology stock boom.

Eliot Spitzer, the New York attorney general, sued the executive, Clark E. McLeod, and four other high-profile telecommunications executives in 2002, contending that they had steered investment banking business to Salomon Smith Barney in exchange for inflated ratings on their companies' stocks and hot new shares of other companies.

Mr. McLeod netted $9.96 million in profits on 34 stock allocations from 1997 to 2000, the court filings said. Salomon Smith Barney received more than $77 million in underwriting fees from McLeodUSA.

In a decision issued Thursday, Justice Richard B. Lowe III of New York State Supreme Court in Manhattan wrote that Mr. McLeod's acceptance of initial public offering shares from the same brokerage firm that his company used as an investment banker, a practice known as spinning, was "a sophisticated form of bribery."

He also found that because Mr. McLeod did not disclose his hot-stock grants and the profits generated by them, he misled both the investing public and his own company's board.

"We are gratified that New York courts have recognized that undisclosed stock spinning is illegal and deceives the public," Mr. Spitzer said in a statement. "This decision sends a message that executives who put their own interests ahead of their shareholders' will be held accountable."

Mr. McLeod, who lives in Cedar Rapids, Iowa, challenged Mr. Spitzer's assertions that his receipt of undisclosed hot stock offerings was illegal. His lawyer continued that challenge yesterday, calling the case against Mr. McLeod another example of overreaching by Mr. Spitzer.

"Clark McLeod is not Bernie Ebbers or anybody else of that ilk," said Harold K. Gordon, a partner at Jones Day in New York. "There is no evidence that there was any connection between Mr. McLeod's receipt of these I.P.O. shares and Salomon Smith Barney acting as the company's investment banker."

Stating that Justice Lowe erred in his decision, Mr. Gordon said Mr. McLeod would probably appeal.

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The civil case against Mr. McLeod recalls the heady days of 1999 and 2000, when telecommunications companies like WorldCom and Qwest were stock market darlings and the men who ran them rock stars. A central figure in the case was Jack B. Grubman, the powerful Salomon Smith Barney telecommunications analyst who recommended McLeod- USA stock repeatedly to the public, even as it plummeted.

Indeed, Mr. Spitzer contended that Mr. McLeod sold 2.2 million shares of his company's stock after Mr. Grubman began recommending it, realizing a profit of almost $100 million from the sales. Mr. Grubman was barred from the securities industry in 2002.

Mr. McLeod appears to have pursued the initial public offering shares aggressively. For example, Mr. McLeod testified that he personally asked for initial offering allocations from chief executives of several companies McLeodUSA did business with and that Salomon Smith Barney was going to offer to the public.

The court must schedule a hearing to set the amount of damages and restitution to be paid by Mr. McLeod.

The other executives sued by Mr. Spitzer for their initial public offering profits were Philip F. Anschutz, former chairman of Qwest Communications; Bernard J. Ebbers, former WorldCom chief executive; Joseph P. Nacchio, former chief executive of Qwest who will be tried this year on insider trading charges in Denver; and Stephen Garofalo, chief executive of Metromedia Fiber Networks.

All four have settled with the attorney general. Mr. Anschutz paid $4.4 million to settle; Mr. Nacchio paid $400,000; and Mr. Garofalo paid $1.5 million. The settlement with Mr. Ebbers, which has not yet been completed, will be a part of his global resolution involving the holders of stock and bonds who lost money when WorldCom collapsed.

Andrew J. Lorin, an assistant New York attorney general and enforcement section chief, argued the case before Justice Lowe. "McLeod reached out to Salomon Smith Barney to get these hot I.P.O. shares, which were like cash, while at the same time McLeod's company was sending tens of millions of dollars in banking business to S.S.B.," he said.

"It's simply wrong that an executive should receive these types of payments from a company vendor and that none of it was disclosed to the board or the shareholders."

Insurance Scandal (WSJ)

By Karen Richardson

The Wall Street Journal, February 11, 2006

Four Ex-Executives To Answer Charges

Three former top executives of Berkshire Hathaway Inc.'s General Re and one former American International Group Inc. executive are scheduled to be arraigned in federal district court in Alexandria, Va., Thursday on charges that they helped insurance giant AIG cook its books.

Absent from those proceedings -- and probably future court dates related to the matter -- will be former AIG Chief Executive Maurice R. "Hank" Greenberg, who was referred to as an "unindicted co-conspirator" by the grand jury that handed up the indictment.

Despite a year's worth of work digging through thousands of pages of documents and listening to hours of recorded conversations, prosecutors didn't find any hard evidence that Mr. Greenberg knew his company might have been committing a crime by entering into a questionable "finite reinsurance" transaction with General Re, according to people familiar with the government's case. Finite-reinsurance products allegedly can be used to burnish a company's financial results.

Some legal experts say it now looks unlikely that Mr. Greenberg will face criminal charges in the scandal that ultimately led to his ouster from the top job at AIG, unless some new evidence emerges against him. In April, Eliot Spitzer, the hard-charging New York attorney general who was also investigating AIG and Mr. Greenberg, told a television interviewer that his office had "powerful evidence" against the then-AIG CEO. But in November, Mr. Spitzer decided not to pursue criminal charges against Mr. Greenberg.

The federal grand jury in Virginia, however, delivered indictments two weeks ago against the three former General Re executives -- Ronald Ferguson, Elizabeth Monrad and Robert Graham -- as well as Christian Milton, AIG's former head of its U.S. reinsurance operations.

Justice Department prosecutors could still pursue Mr. Greenberg if one of those facing indictments were to offer up new evidence against him. But Mr. Milton's lawyer said in an interview two weeks ago that his client will plead not guilty and go to trial.

Last week, AIG's shares rallied after the insurance giant agreed to a $1.64 billion civil settlement with multiple regulators over fraud and other allegations related to the scandal.

Mr. Greenberg isn't expected to abandon his counterattack. The former AIG chief, who took part in the D-Day landing in Normandy, isn't known for backing down from a fight, and friends say he isn't about to back down from this one. An insurance

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agency owned by his C.V. Starr & Co. has been slapped with a restraining order aimed at preventing it from taking existing business away from AIG, pending arbitration. As a result, Mr. Greenberg may still get his day in court.

Write to Karen Richardson at karen.richardson@awsj.com5

Ex-Hollinger Official: Give Me My Stuff Back (CHIST)

By ERIC HERMAN, Staff Reporter

Chicago Sun-Times, February 11, 2006

Media mogul Conrad Black, who once controlled the company that owns the Chicago Sun-Times, ripped prosecutors Friday for blocking his access to treasured personal belongings.

Black, 61, faces charges he helped steal $84 million from Hollinger International, the company that owns the Sun-Times. The charges include obstruction of justice for allegedly removing documents from his Toronto office last year. At a court hearing Friday, prosecutors said they wanted to make sure the evidence stayed out of Black's reach. But a lawyer for Black said the material includes items with no relevance to the case, including a picture of Black's father.

After the hearing, Black said the items also include a bust of Marshal Ferdinand Foch -- a French military commander from World War I -- and a sketch of Maurice Duplessis, who served as premier of Quebec from 1936 to 1959. Black is the author of a 1976 biography of Duplessis.

CONRAD'S HERO

Marshal Ferdinand Foch (1851-1929) led the Allied forces in the last months of World War I and is credited by many historians with masterminding the victory over Germany. A career military man, Foch wrote books on war and taught at France's war college. Once war began, he argued for a unified command structure among Britain, Belgium and France -- a view that would be proved right.

In 1918, the Allies' leaders put Foch in charge of the Allied armies. Citing his determination, King Albert I of Belgium said, "that man could make the dead fight."

Foch waged relentless attacks against the German army in the summer of 1918, halting their advances until American troops arrived.

--Eric Herman

"There's a lot of nonsense going on here. This has absolutely no relevance to this case," Black said. "It's irritating. Come on, it would be irritating to you, wouldn't it? If you had pictures of your family, a picture of the guy you wrote a book about that his secretary gave you, that had been a present from his own parliamentary caucus?"

Black's interest in historical figures like Foch dates back to his childhood, when he was fascinated with Napoleon. In 2003 he published a second work of history, the 1,360-page Franklin Delano Roosevelt: Champion of Freedom.

Black has pleaded not guilty, and said Friday he wished he had an earlier trial date. The trial is scheduled to start in March 2007.

"I want to get on with it. . . . I want to expose this case for the complete fraud that it is," Black said.

Prosecutors have not had access to items from Black's Toronto office, either. Under a court order in Canada, they are being held by the accounting firm Ernst & Young.

At Friday's hearing, Judge Amy St. Eve ordered both sides not to remove the material until prosecutors obtained the evidence under an international treaty.

In May 2005, Black and his chauffeur removed 13 boxes of documents from his Toronto office. At the time, Black knew he was under investigation by the U.S. Securities and Exchange Commission as well as the Justice Department, prosecutors say. A Canadian court had issued an order barring the documents' destruction. A security camera captured the incident on video.

Black Eager To Proceed With Fraud Trial (FINDLAW/AP)

By Dave Carpenter, Ap Business Writer

AP, February 11, 2006

(AP) - CHICAGO-Former media tycoon Conrad Black said Friday he's eager to get on with his fraud and racketeering trial and reiterated his defiance of the case he has called a massive smear job against him.

Black isn't scheduled to go on trial until March 2007 on charges related to the alleged looting of more than $84 million from Hollinger International Inc. by high-level executives. But he said after making his third required appearance in U.S. District Court that he wishes it could start sooner.

"I want to get on with it," he told reporters after the status hearing. "I want to expose this case for the complete fraud that it is."

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Attorneys for the two sides jockeyed over whether prosecutors followed proper procedure in subpoenaing documents and personal effects of Black and co-defendant John Boultbee, Hollinger's former chief financial officer, from Toronto-based parent firm Hollinger Inc.

Black's attorneys asked to have the subpoena quashed, claiming the request didn't go through Canadian authorities as required under a U.S.-Canada treaty.

Prosecutors withdrew the subpoena, acknowledging they did not fully adhere to the treaty because they wanted to move swiftly out of concern the documents would go missing. Judge Amy St. Eve ordered that no one attempt to remove the documents until the treaty has been complied with.

At issue are 13 boxes of documents that Black is alleged to have taken from Hollinger Inc.'s offices last May in defiance of a Canadian court order that no documents be removed without permission. Black subsequently returned the documents.

Black, Boultbee and two other former Hollinger executives - Peter Atkinson and Mark Kipnis - are charged with using their positions to plunder millions from Chicago-based Hollinger International, which formerly owned newspapers in Canada, London and Jerusalem and now holds Chicago-area papers. All have pleaded not guilty to the criminal charges.

Prosecutors had wanted to go to trial as soon as this fall, but St. Eve set it for March 5, 2007, because of a conflict with a terrorism trial she is due to preside over this fall.

If convicted on all counts, Black faces a maximum sentence of 95 years in prison, $7 million in fines and forfeiture of money that allegedly was obtained fraudulently.

The judge scheduled the next status hearing in the case for April 21.

Mistrial Declared In Second Cendant Fraud Case (FINDLAW/AP)

By Stephen Singer, Associated Press Writer

AP, February 11, 2006

(AP) - HARTFORD, Connecticut-Federal prosecutors are weighing whether to take another shot at former Cendant Corp. Chairman Walter Forbes who again saw fraud charges leveled against him fall apart in another mistrial.

A federal judge declared the mistrial Thursday - the second to date - in the accounting-fraud trial against Forbes, whose company whose company was ensnared in one of the first corporate scandals of the 1990s.

Forbes was accused of participating in a scheme that cost the company and investors more than $3 billion (â‚¬2.5 billion).

The jury in the second trial deliberated in Hartford for 27 days.

Jurors sent a note to U.S. District Judge Alvin W. Thompson Thursday morning saying they were deadlocked, Thompson's clerk said. Thompson, who had encouraged the jury to work through a previous deadlock, discussed the note with the jurors and then discharged them.

Defense attorney Brendan Sullivan had no comment after court Thursday. Federal prosecutors must decide whether to ask for a third trial. They said Thursday they were reviewing their options.

James W. Bergenn, a Hartford attorney and legal analyst on local television, said he would not be surprised if prosecutors sought a third trial.

"They almost never change their view even if they lose to a jury," said Bergenn, who is not involved in the case. "It's very, very, very rare that a prosecutor in my experience says, 'We were wrong.'"

In the most recent trial, prosecutors reduced the number of charges from 16 to four - conspiracy to commit securities fraud, securities fraud and two counts of false reporting to the U.S. Securities and Exchange Commission.

Forbes argued that he did not know about the fraud.

Jurors last year convicted Forbes' co-defendant, Cendant Vice Chairman E. Kirk Shelton, of conspiracy, mail fraud, wire fraud, securities fraud and making false statements to the SEC.

Shelton was sentenced to 10 years in prison and ordered to pay $3.27 billion (â‚¬2.73 billion) in restitution to Cendant, including a balloon payment of $15 million (â‚¬12.53 million) and monthly installments of $2,000 (â‚¬1,670) after he is released from prison.

Prosecutors said Shelton inflated revenue by $500 million (â‚¬417 million) at Cendant's predecessor, CUC International, to drive up the stock price. The fraud was reported in 1998, causing Cendant's market value to drop by $14 billion (â‚¬12 billion) in one day.

CUC, which ran a membership-marketing operation, merged with HFS Inc., a travel and real-estate services company, to form Cendant. Its brands include Ramada, Howard Johnson, Avis, Coldwell Banker and Century 21.

The Cendant allegations were among the first in a series of corporate accounting scandals in recent years that sparked outrage among investors. At the time, the $3 billion fraud was the largest case of accounting fraud in the country, prosecutors said.

Forbes was chief executive of CUC and Shelton was president before CUC merged with HFS Inc. to form New York-based Cendant in December 1997.

CRIMINAL LAW:

Cheney Role Risks Political Fallout (WSJ)

By Anne Marie Squeo And John D. McKinnon

The Wall Street Journal, February 11, 2006

CIA-Leak Case May Hand War Critics Momentum, But Legal Issues Are Slim

WASHINGTON -- The disclosure that Vice President Dick Cheney may have authorized his former chief of staff to release classified information to justify the war in Iraq has political consequences for the White House, but the legal fallout may be muted.

Mr. Cheney, in his role as second-in-command of the country, has significant leeway, albeit not as much as the president, to declassify information. The information I. Lewis Libby, the chief of staff, said he was authorized by his superiors to discuss with reporters was the October 2002 National Intelligence Estimate titled "Iraq's Continuing Programs for Weapons of Mass Destruction."

The 90-page report, prepared by the National Intelligence Council for the director of the Central Intelligence Agency, was prepared in advance of the March 2003 invasion of Iraq and became the subject of intense focus in mid-2003, after weapons inspectors failed to find evidence that Saddam Hussein had been building such weapons. Mr. Libby has been indicted on charges of lying and obstruction of justice related to a federal probe into whether administration officials intentionally blew the cover of a CIA official.

"The president can declassify anything," William Banks, a Syracuse University law professor and expert on national-security law, said. While the president would have to amend his own executive order governing secrets in order to declassify something on the fly, that can be accomplished very informally, even orally and in secret. "He could do it on a cocktail napkin," Mr. Banks said.

The vice president's authority to declassify is less clear. Some legal scholars believe that Mr. Cheney would share in the president's authority, as an elected official. Alternatively, the president could delegate his declassification authority to the vice president.

"The classification system is rooted for the most part not in statute but in executive order. ...In the case of the NIE, the White House was free to declassify it at a moment's notice," said Steven Aftergood, director of the project on government secrecy at the Federation of American Scientists, which favors increased public access to government information.

On July 18, 2003, the administration, facing criticism for the intelligence used to justify the war, declassified an eight-page part of the NIE dubbed "key judgments" and conducted a lengthy background briefing with reporters to discuss it.

As such, the trial of Mr. Libby, scheduled to start early next year, is likely to resurrect a sensitive issue for the Bush administration going into November's midterm congressional elections: the rationale for the Iraq war and tactics used to quell criticism.

The implication from the disclosure that Mr. Libby had authority to discuss sensitive intelligence matters with the press "is that the White House -- the vice president -- has been using his declassification authority as a way to advance the administration's political agenda," said Mr. Aftergood. "In other words, information that supports the administration's position on Iraq or whatever is selectively declassified and other information is not. That's not a criminal offense, but it's kind of sleazy."

The investigation into who leaked the identity of CIA agent Valerie Plame to the media continues, though Mr. Libby has been the only one charged. The five-count indictment against him doesn't actually allege he leaked Ms. Plame's name or that he disclosed classified information. Yet both factors are expected to factor into the government's case against him.

Special Prosecutor Patrick Fitzgerald disclosed Mr. Libby's authorization to release NIE information in a letter to Mr. Libby's defense team last month. That letter, which recapped discussions between the two sides in the case, was filed with the court as part of a motion to compel Mr. Fitzgerald to turn over information he had refused to provide. A judge is expected to rule on the matter in coming weeks.

Mr. Fitzgerald doesn't say in the court filings that Mr. Libby's superiors gave him permission to disclose Ms. Plame's identity. A 1982 federal law makes it illegal to intentionally blow the cover of a covert agent, potentially endangering the agent's life and those with whom the agent works. A spokesman for Mr. Fitzgerald declined comment.

Mr. Fitzgerald makes clear in his letter that his interest in mentioning the authorization isn't to show some motive or intent. Rather, he notes that Mr. Libby's discussions with reporters, where he is alleged to have discussed Ms. Plame's identity, are "inextricably linked" to the administration's efforts to shore up support for the war, in part by citing the intelligence report.

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Mr. Libby's attorneys have said they don't plan to raise a defense based on authorization by superiors. In recent court filings, they have indicated that they are likely to focus on the demands of Mr. Libby's job and suggest that any inconsistencies between his testimony and other facts are the result of a mistake, not an intent to lie.

Ms. Plame, who has since retired from the CIA, was first named in a newspaper column by Robert Novak on July 14, 2003, that cited two senior administration officials. That article and subsequent ones discussed White House reaction to public criticism of the war a week earlier by Ms. Plame's husband, former ambassador Joseph Wilson. Mr. Wilson had been sent by the CIA to check out claims that Iraq had sought uranium ore, critical to making nuclear weapons, from Niger, and found no evidence to support that.

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Abramoff E-Mail Plays Up Bush Contacts (AP)

By Pete Yost

AP, February 11, 2006

Jack Abramoff had brief conversations with President Bush almost a dozen times and the president knew him well enough to make joking references to Abramoff's family, according to an e-mail the fallen lobbyist sent a magazine editor.

Bush "joked with me about a bunch of things, including details of my kids," Abramoff recalled of his contacts with the president.

The recipient of the e-mail, Washingtonian magazine editor Kim Eisler, confirmed its contents.

Bush's contacts with Abramoff — who has pleaded guilty in a fraud and bribery case and is cooperating with a public corruption investigation — have become an issue because the president has said he doesn't recall ever meeting the lobbyist.

Time magazine and the Washingtonian have reported the existence of about a half-dozen photos showing Abramoff and Bush together.

The president acknowledged having his picture taken with Abramoff but suggested the photos were of no significance because he is photographed with so many people. Bush said there was no reason to publicly release the photographs.

"I frankly don't even remember having my picture taken with the guy," Bush told a news conference on Jan. 26. "I don't know him."

On Thursday, White House press secretary Scott McClellan said that "what the president said still stands."

Abramoff's e-mail states that Bush "has one of the best memories of any politician I have ever met." The e-mail said that Bush's ability to recall is one of his "trademarks, though of course he can't recall that he has a great memory!"

The e-mail adds, "Perhaps he has forgotten everything. Who knows."

On Friday, Eisler said that Abramoff made the comments more than two weeks ago in response to a question from the magazine editor, who wanted to double-check some information before appearing on a television show.

A liberal Web log, ThinkProgress, first disclosed the existence of the Abramoff-Eisler e-mails this week.

Three More Lawmakers Tied To Abramoff (AP)

By Toni Locy And Pete Yost

AP, February 11, 2006

Three members of Congress have been linked to efforts by lobbyist Jack Abramoff and a former General Services Administration official to secure leases of government property for Abramoff's clients, according to court filings by federal prosecutors on Friday.

The filings in U.S. District Court do not allege any wrongdoing by the elected officials but list them in documents portraying David Safavian, a former GSA chief of staff, as an active adviser to Abramoff, giving the lobbyists tips on how to use members of Congress to navigate the agency's bureaucracy.

Abramoff is cooperating with federal investigators in a wide-ranging probe of corruption on Capitol Hill that threatens several powerful members of Congress and their staff members. Last month, he pleaded guilty to federal charges of conspiracy, tax evasion and mail fraud.

Safavian is charged with lying to a GSA ethics officer when he said Abramoff was not seeking business with the agency at the time the lobbyist paid for Safavian and several others to go on a golf outing to Scotland in August 2002.

At the time of the trip, prosecutors said, Abramoff was trying to get GSA approval for leases of the Old Post Office Pavilion in Washington for an Indian tribe to develop and for federal property in Silver Spring, Md., for use by a Jewish school.

Two of the elected officials referred to in Friday's filings have been identified in published reports as Reps. Steven LaTourette, R-Ohio, and Don Young, R-Alaska. According to Roll Call, a Capitol Hill newspaper, the two representatives wrote to

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the GSA in September 2002, urging the agency to give preferential treatment to groups such as Indian tribes when evaluating development proposals for the Old Post Office.

LaTourette maintains he did nothing improper by advocating special opportunities for certain small businesses in areas known as HUBzones, or Historically Underutilized Business zones. His spokeswoman, Deborah Setliff, said that the letter was reviewed by Young's chief of staff and counsel and that it did not advocate any particular business over another.

A spokesman for Young did not return telephone calls.

Friday's filings by prosecutors refer to a third member of Congress, Rep. Shelly Moore Capito, R-W.Va. Her name appears in e-mails that suggest she was trying to help Abramoff secure a GSA lease for land in Silver Spring for a religious school.

Capito claims to know nothing about the effort. "The action taken by her former chief of staff was done without her knowledge, approval or consent," said her spokesman, Joel Brubaker. "She was not aware of any contact with GSA of any type on this matter."

Mark Johnson, Capito's former chief of staff, said he did not bring the issue to Capito's attention. He said he was contacted by Neil Volz, a colleague of Abramoff's and a former chief of staff for Rep. Bob Ney, R-Ohio.

Johnson said Volz asked him to check on the status of a project involving the GSA. Johnson said he believes he called a friend at the GSA but doesn't recall the outcome.

Prosecutors included the e-mails in documents filed in response to a request by Safavian's lawyers to dismiss the indictment against him. Safavian's lawyers want a federal judge to throw out the charges on grounds there is no evidence of wrongdoing.

In their filing, prosecutors laid out a series of contacts between Abramoff and Safavian that show the former GSA official gave inside information and advice to the lobbyist.

Safavian used his personal e-mail during business hours to communicate with Abramoff several times, according to prosecutors. He also edited the draft of a letter that was probably sent under LaTourette and Young's names.

And Safavian advised Abramoff to tell his wife to use her maiden name during a meeting with GSA officials so she wouldn't draw attention to her politically connected husband's involvement in the project.

In a July 23, 2002, e-mail to a GSA official, Safavian discussed getting information about the Silver Spring site to Capito's office. But Volz discovered a complication the next day.

Volz told Abramoff that someone at the GSA wanted the congresswoman to put her request in writing. "We can't ask the most vulnerable Republican incumbent member of Congress in the House to put something in writing that can be made public," Volz wrote. "The congresswoman's office has already put the request in and you would think that would be enough!!!"

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Associated Press writer Mark Sherman contributed to this report.

Lobbyist Confirms Talks With Reids Office (AP)

AP, February 11, 2006

One of Jack Abramoff's ex-colleagues confirmed Friday he contacted Senate Democratic leader Harry Reid's office on behalf of the influential lobbyist but said he doesn't believe Abramoff's billing records accurately reflect the extent of his work.

Ronald Platt, a lobbyist who worked with Abramoff at the Greenberg Traurig firm between 2001 and 2004, said he contacted Reid's office in 2001, as the billing records show, about the timing of minimum wage legislation affecting Abramoff's Northern Mariana Islands client.

"When Abramoff first arrived at Greenberg Traurig, I did a new colleague a favor by simply asking Reid staffers about when the minimum wage legislation affecting the Mariana Islands would be voted upon by the Senate. I communicated this to Abramoff," Platt said in a statement e-mailed to The Associated Press.

AP reported Thursday that lobbying firm billing records obtained under public records law from the Northern Mariana Islands showed Abramoff billed the islands for 21 contacts in 2001 with Reid's office.

The records listed the minimum wage as the issue and Platt as the point of contact for most of those contacts. Platt had formally registered with the Senate in 2001 to lobby for the Marianas as well as some Abramoff tribal clients.

Reid's office confirmed this week it had "routine contact" with Platt over the years on lobbying issues such as the Marianas, tribes and other issues but said it could not verify all the contacts listed in the billing records.

In his statement, Platt sought to minimize the extent of his lobbying of Reid's office on behalf of Abramoff, who has pleaded guilty in a fraud and bribery case.

"These contacts were incidental, insofar as I simply bumped into Reid staffers at Democratic Party functions or occurred incidental to discussions regarding my clients, not Abramoff's," Platt said. "Any contacts that I may have had in regards to Abramoff's tribal clients would have been similarly incidental."

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As for the 21 contacts listed in the billing records, Platt noted Abramoff has pleaded guilty to defrauding clients and said the references in the AP story were inaccurate. He was not more specific.

Audits of Abramoff's work for the Marianas during the 1990s, when he worked for the Preston Gates lobbying firm, concluded more than $1 million in expenses could not be substantiated.

However, the 2001 Marianas billing records cited by AP were similarly audited and the island's government raised no concerns. In fact, the island's auditor concluded Greenberg Traurig had provided "more lobbyist services ... in terms of time spent" for less money than had been seen in earlier years.

Platt also said the AP did not attempt to reach him for comment before its story moved Thursday.

AP contacted Platt's new lobbying firm in late December seeking to interview him about the billing records and was referred to Greenberg Traurig.

Platt also did not return two phone messages Friday renewing a request for an interview, sending an e-mail statement instead.

Greenberg Traurig declined to comment. "Consistent with our ethical obligations to clients, our firm continues to cooperate fully with ongoing government investigations," the firm said.

Dem Leader Faces Increasing Scrutiny In Lobbyist Scandal (HCHRON)

By MICHAEL HEDGES

Houston Chronicle, February 11, 2006

Sen. Harry Reid helped lead the effort to portray DeLay as corrupt

WASHINGTON - Senate Minority Leader Harry Reid, who has helped lead the effort to paint Rep. Tom DeLay and the Republican Party as corrupt, faced increased criticism Friday about his extensive contacts with the lobbyist who set off the unfolding congressional ethics scandal.

Reid, D-Nev., who last month compared DeLay to a gangster for his connections with high-profile lobbyist Jack Abramoff, received $68,000 for his campaigns and political committees from Abramoff clients and associates.

Around the time of the contributions, Reid wrote letters to the U.S. Interior Department urging action that would benefit an Indian tribe client of Abramoff's. In addition, Reid's staff had extensive contacts with lobbyists working for Abramoff, according to documents and e-mails disclosed by the Associated Press.

The fresh revelations about Reid could undermine the Democrats' efforts to make what they call the GOP's "culture of corruption" a major issue in this year's congressional elections.

"The fact that he is a leader in the Senate and is going to have to be the spokesman for these things, it does make it a little harder and he may have to back off," said John Fortier, a political scholar at the conservative American Enterprise Institute.

Reid stuck to his stance Friday that he has no need to return or donate to charity the $68,000 in legal contributions from Abramoff's Indian gaming clients and lobbying associates of Abramoff.

"That would suggest the tribes themselves have done something wrong," said Jim Manley, a Reid spokesman.

Reid has a long and proud history as a member of the Indian affairs committee, Manley said.

Like DeLay, Reid has denied using his office to benefit Abramoff clients.

DeLay donated to charity $15,000 received directly from Abramoff and his wife, but has not returned money received from Indian clients associated with Abramoff.

On Jan. 13, Reid wrote in an opinion piece in the Houston Chronicle, "Our nation's capital has been overrun by organized crime — Tom DeLay style. The gangsters are the lobbyists, cronies and lawmakers who have banded together and abused their power to serve their own interests."

Michael Connelly, a spokesman for DeLay, said the Texas Republican now feels sorry for Reid: "Hypocrisy comes at a high price, and it looks like the senator's bill has come due."

Republican political groups were swift to label Reid a hypocrite.

"It's time for Senator Reid to stop the charade, cut a $68,000 check, and pronounce his ethics crusade dead in the water," said Brian Nick, spokesman for the National Republican Senate Committee.

Abramoff and associate Michael Scanlon, a former DeLay aide, have pleaded guilty to defrauding the tribes of roughly $66 million and are cooperating in a federal investigation of corruption in Congress.

At least 32 times before 2005, an Abramoff Indian gaming client or associate donated to Reid's campaign or political funds.

In March 2002, Reid urged Interior Secretary. Gale Norton to reject efforts by the Jena band of Choctaw Indians in Louisiana to get a casino license. He wrote a related letter to Norton in April 2003 as Abramoff lobbied for a rival tribe, the Louisiana Coushattas.

An Abramoff lobbying team that worked with Democrats met with top Reid staff members more than 20 times in 2001 on issues critical to Abramoff clients, according to invoices of Abramoff's lobbying firm obtained from government officials. Shortly before and after at least one meeting, Abramoff's law firm and an Abramoff deputy sent checks to Reid's re-election committee.

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Abramoff Pressed GSA Contact On Getting Land (WP)

By James V. Grimaldi And Susan Schmidt

The Washington Post, February 11, 2006

Convicted lobbyist Jack Abramoff had more extensive discussions than previously disclosed with a top General Services Administration official regarding federal property the lobbyist sought to acquire around the time the two men went on a $130,000 golf trip to Scotland in 2002, according to papers filed by prosecutors in federal court yesterday.

Former GSA chief of staff David H. Safavian is charged with obstructing justice in telling investigators that Abramoff was not seeking business with his agency at the time he went on the golf trip, which was paid for by Abramoff's Indian tribal clients.

In their filing, prosecutors produced e-mails showing that Abramoff engaged in an aggressive campaign to secure for himself and clients the use of GSA-controlled property, including the Old Post Office in downtown Washington. Among his efforts, Abramoff considered trying to get a provision backing the land acquisition added to a bill being managed by House Administration Committee Chairman Robert W. Ney (R-Ohio), who also went with Abramoff on the golf trip, which prosecutors have called "lavish."

In an e-mail sent to a colleague the day after Abramoff and Safavian returned to the United States on a private jet, Abramoff said: "Had good chats with David during the trip. He wants us to push hard on this project [Old Post Office] and he thinks we can get it."

Safavian's attorney, Barbara Van Gelder, said the case should be dismissed because Abramoff had no real business before the government at the time of the trip. Van Gelder said the new e-mails merely show that Abramoff was seeking information from Safavian, a longtime friend and former colleague.

E-mails filed in 85 pages of exhibits yesterday detail an extensive interaction between the two. "It will be up to the jury to decide the strength of the Government's evidence," prosecutors said in arguing against Van Gelder's request that the court throw out the case.

The e-mails show how Abramoff and members of his team were strategizing among themselves and with Safavian about how to acquire or lease part of 600 acres of the Naval Surface Warfare Center-White Oak in Montgomery County. Abramoff wanted the property for a Jewish school he operated. He also wanted to gain use of the Old Post Office for a tribal client. A key strategy involved getting members of Congress, at Safavian's suggestion, to press the GSA on the issue.

At one point, Abramoff asked a member of his lobbying team, Neil G. Volz, if he could get a provision inserted into an election-reform bill to advance the acquisition of the land. The bill was sponsored by Ney, Volz's former boss.

Former Christian Coalition leader Ralph Reed was also on the trip with Abramoff, Ney, and Ney's chief of staff, William Heaton. Ney, who reported to the House that the trip was paid for by a think tank, is under investigation for allegedly promising to add a provision to the same bill for an Indian tribe attempting to reopen a shuttered Texas casino.

"If we were to craft something oblique, any chance of slipping into the election reform bill?" Abramoff asked Volz. "I know we are loading that up, but I thought I'd ask." Volz replied by saying he wanted to call Safavian at home to discuss it.

Ney's spokesman said he would not comment on Abramoff's e-mail "regarding a hypothetical legislative provision" in the bill. "I fail to see how anything involving Jack Abramoff could be given any degree of credibility," Brian J. Walsh said.

An attorney for Volz did not return a call.

Safavian's lawyer said that she does not think Abramoff even met with Safavian on the day the e-mails were exchanged, as Abramoff asserted in his e-mails. Abramoff, she said, was not technically seeking to do business with GSA. "What Jack Abramoff was doing was getting information to seek to do business," she said.

The total cost of the Scotland trip, which was paid for by funds Abramoff obtained from his Indian tribe lobbying clients, was more than $130,000. Safavian, who had told ethics officers he would reimburse all costs but airfare, gave Abramoff a check for $3,100 to cover his share of expenses associated with the trip, prosecutors said.

Abramoff's Charity Began At Home (LAT)

By Chuck Neubauer And Richard B. Schmitt

The Los Angeles Times, February 11, 2006

The lobbyist admits he used nonprofits to evade taxes, pad his pockets and bribe officials.

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WASHINGTON — In his own way, disgraced super-lobbyist Jack Abramoff engaged in many charitable endeavors over the course of his decade-long career as a Washington insider.

There was the time he laundered money through a religious group's accounts to try to bribe a congressional aide. He diverted funds from a youth athletic foundation to bankroll a golf junket for a congressman and to bolster the bank account of his Washington restaurant. He used two other nonprofits to line his own pockets with millions of dollars defrauded from clients.

Charities are supposed to advance the public interest, which is why they aren't taxed. But Abramoff, by his own admission, used them to evade taxes, enrich himself and bribe public officials, according to a plea agreement he signed with federal prosecutors in January.

"One of the most disturbing elements of this whole sordid story is the blatant misuse of charities in a scheme to peddle political influence," said Mark Everson, the commissioner of the Internal Revenue Service.

Abramoff's use and misuse of nonprofits played a key role in each of the three counts of his indictment: conspiracy, mail fraud and tax evasion. He admitted evading $1.7 million in income taxes over three years, in part by using nonprofits to conceal personal income from the IRS.

The fast-growing ranks of tax-exempt, nonprofit organizations are tailor-made for operators like Abramoff.

The number of tax-exempt groups in the United States has tripled over the last three decades, but nonprofit groups usually pay no tax, so there is little incentive for the IRS to keep an eye on them.

The lack of oversight is especially meaningful in Washington, where trade associations, public-interest groups and grass-roots lobbying organizations all have tax-exempt status under generous IRS rules designed to foster public debate. Members of Congress are also getting into the act and forming their own charities.

Abramoff and a partner, Michael P.S. Scanlon, a onetime aide to former House Majority Leader Tom Delay (R-Texas), admitted bilking Indian tribes out of tens of millions of dollars and attempting to bribe public officials. They used a network of charities and other nonprofits — some existing, some they created — to forge a full-service influence-peddling operation.

They included:

The Capital Athletic Foundation, created by Abramoff as a sports-oriented youth charity. He funded it with millions improperly diverted from his lobbying clients and treated it as his "personal piggy bank," a lawmaker said, spending money on pet projects that had nothing to do with its stated purpose.

The American International Center, a bogus "international think tank" at a beach house near Rehoboth Beach, Del. Abramoff and Scanlon used the center to collect millions from their lobbying clients and then send it to their personal bank accounts.

Toward Tradition, a nonprofit in Mercer Island, Wash., that promotes "traditional Judeo Christian values" and was used to help Abramoff funnel an alleged $50,000 bribe of an aide to Delay.

The National Center for Public Policy Research in Washington, an obscure conservative organization that Abramoff used to defraud an Indian tribe and an offshore gaming alliance of more than $2 million for his and Scanlon's personal enrichment.

Abramoff's story is not just one of clever fraudsters, but of the seeming willingness of some donors and charities to look the other way. They say that they too are victims, although some experts question whether they were diligent enough.

Rabbi Daniel Lapin, the head of Toward Tradition, said he had no reason to be suspicious of a gift from an Abramoff client called eLottery, even though his organization is avowedly anti-gambling. Abramoff, a former board member of the group, was considered a trusted friend.

"Toward Tradition and I interact with thousands of individuals and hundreds of organizations every year," he said in a statement. "It is just unrealistic to suppose that none of these relationships are ever going to become problematic. There was no reason for Toward Tradition to spurn Jack Abramoff's support."

But some experts say that charities ask for trouble when they accept gifts with strings attached.

"The moment the donor appears to have a vested interest in who I hire and how I conduct my business ... I think I have an obligation to look into that," said Diana Aviv, the president and chief executive of Independent Sector, a Washington-based coalition that lobbies on behalf of nonprofit groups.

The story of Abramoff's misuse of charities and nonprofits was pieced together from his plea agreement, nonprofit tax returns, interviews, and emails and other documents released by the Senate Indian Affairs Committee, as well as testimony from the committee's hearings on Abramoff.

The Senate Finance Committee is investigating Abramoff's use of charities and other tax-exempt organizations, and has requested detailed information from the Capital Athletic Foundation and the National Center for Public Policy Research

Abramoff, a Republican activist since college, became a lobbyist when the GOP captured control of Congress in 1994. He was good at his job. Among his early handiwork was helping to preserve tax breaks for the $20-billion-a-year Indian gaming industry, which bankrolls schools, hospitals and tourist attractions for the tribes.

By the new millennium, he was viewed as one of the most powerful and effective lobbyists in Washington. In January 2001, he moved his lobbying business to the new Washington office of the Greenberg Traurig law firm of Miami, which would become the base for an even more aggressive operation.

Abramoff, by then secretly partnering with Scanlon, aggressively recruited new Indian tribes as clients. In addition to paying lobbying fees to Greenberg, Abramoff persuaded the tribes to send millions to Scanlon's consulting firm, Capitol Campaign Strategies, which performed "grass roots and public relations work" for inflated fees.

Through that arrangement, according to their guilty pleas, the men secretly split some $40 million they stole from the tribes between 2001 and 2004.

Less than a year into his new job, Abramoff engineered his first major fraud involving a charity, converting a $1-million check that one of his new tribal clients, the Coushatta Tribe of Louisiana, had written to Greenberg for lobbying services.

He convinced his new partners at Greenberg Traurig that the Coushatta intended the money as a contribution to a charitable organization, the Capital Athletic Foundation. Abramoff had organized the group a few years earlier. The law firm forwarded the money.

But he told Scanlon he wanted the money to first go through Greenberg to pump up its lobbying revenues so it did not drop out of the ranks of the top 10 lobbying firms. The tribe believed that the money was being used for lobbying or political activities on its behalf. Scanlon sent the tribe a fraudulent $1-million invoice on behalf of Greenberg -- misspelling it "Greenburg" — for "public affairs services." Greenberg had not authorized the invoice; the Coushatta had not authorized giving the money to the Capital Athletic Foundation.

Abramoff had thus achieved an unusual twofer: He defrauded the tribe out of its money using the false Greenberg invoice, and then shook the money loose from Greenberg by telling his partners that it was a charitable donation from the Coushatta.

"In my personal view, this payment reveals the extent of Mr. Abramoff's shamelessness," David Sickey, a Coushatta tribal council member, told a Senate panel investigating Abramoff last fall.

Getting money from the Coushatta was "an absolute cake walk," Scanlon emailed Abramoff.

Greenberg Traurig fired Abramoff nearly two years ago after learning of "conduct we found unacceptable," the firm said in a statement. The firm said it is cooperating with investigators.

Abramoff's spokesman had no comment for this story. Scanlon's attorney did not respond to written questions.

The Coushatta check was the first of several large payments that Abramoff and Scanlon diverted from clients, often by laundering the sums through friendly charities. Abramoff used the $1 million as seed money for the athletic foundation, which he had formed in 1999 and was apparently his favorite "charity." It was established with the stated mission of funding sports programs in the Washington area. But tax records show that little money went for that purpose.

Soon after the Coushatta check was received, for example, Abramoff and a business associate discussed in emails depositing the $1 million in a Maryland bank headed by a friendly banker to help "grease" the way for obtaining a favorable bank reference letter for an oil-drilling venture in Israel. They deposited the money in the athletic foundation's account at the bank in November 2001, but it is not clear whether he got his letter or what happened to the oil deal.

In early 2002, the bank account grew when another tribal client — the Mississippi Choctaws — made the first of two $500,000 payments to the athletic foundation. Tribal leaders testified that they had been led to believe it would be "passed through" to other organizations that would support grass-roots projects to educate voters about Indian gaming issues.

Around the time the first $500,000 was received in the foundation's bank account, $200,000 was transferred out of the account to Livsar Enterprises, the holding company that Abramoff had set up to establish Signatures, the high-end restaurant he was getting ready to open the following month in Washington, the Times learned.

An email exchange with his restaurant partner showed that Abramoff had been anxiously awaiting the Choctaw money as they scrambled to get the restaurant opened. The Choctaw money arrived on Jan. 3. His partner wrote that night that a banker "really saved us today" by transferring money from the athletic foundation to the restaurant account. Money was transferred back a few weeks later.

The restaurant became a centerpiece of Abramoff's lobbying operation, where he wined and dined congressmen and their staffs as part of his acknowledged bribery schemes.

The athletic foundation gave Abramoff an aura of respectability around town. He once persuaded Washington Redskins owner Dan Snyder to lend his name to a fundraiser for the foundation, although the benefit never took place.

The athletic foundation also gave Abramoff access to millions for his pet causes, many of which dovetailed with his orthodox Jewish beliefs. The biggest beneficiary was Eshkol Academy, an Orthodox Jewish boys school he founded in Columbia, Md., which at least one of his sons attended. The foundation also sent $100,000 to an Israeli settler who ran a sniper training workshop for militant Jews.

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Abramoff has admitted that he used the foundation to pay the $166,000 cost of a trip to play the storied St. Andrew's golf course in Scotland, which included Rep. Bob Ney (R-Ohio), two top aides and others.

Abramoff admitted in his plea agreement that the trip was part of a bribery scheme intended to offer "things of value" to Ney and his staff in exchange for a series of official acts. Ney, who has denied any wrongdoing, is under federal investigation.

Abramoff also acknowledged that in raising money toward the golf outing, he defrauded two clients that thought they were donating to an athletic foundation. He obtained $25,000 apiece from the Saginaw Chippewa Indian Tribe and SPI Spirits Group, the manufacturer of Stolichnaya vodka. Officials of the Chippewa tribe have said they made the donation because Abramoff told them it would impress DeLay.

There is no indication that DeLay knew his name was being used this way.

"The congressman would never allow his name to be used for nefarious purposes as is the case here," said Delay spokeswoman Shannon Flaherty.

Abramoff told a fellow lobbyist at Greenberg Traurig Tony Rudy, in an email that the athletic foundation was "a foundation doing some issues education." But another lobbyist at the firm, Todd Boulanger, suspected something was awry.

Asked by Rudy to help raise funds from the Chippewa, Boulanger responded in an email, "I'm sensing shadiness."

Rudy, a top aide to DeLay before going to work for Abramoff, figured in an earlier chapter of the lobbyist's saga.

It involved another node in Abramoff's network of nonprofits: Toward Tradition, the Judeo Christian group that supports "a moral public culture," according to its Web site.

In 2000, Abramoff got lobbying clients to give Toward Tradition $50,000 and he set the condition that it be used to hire Rudy's wife, when Rudy was on DeLay's staff. She was hired to organize a Washington political conference the nonprofit was planning.

Abramoff admitted in his plea bargain that the payment was intended to bribe the DeLay aide to help block legislative restrictions on internet gambling and increases in postal rates. The money came from eLottery, an internet lottery firm, and the Magazine Publishers Assn. The proposed internet restrictions were voted down, and the rate increases were slowed.

Both organizations said they didn't know what the money would ultimately be used for. They said the contributions were made at the direction of Abramoff and his lieutenants in the hope of burnishing the clients' images among conservatives in power in Washington.

Rudy did not respond to several requests for comment.

For all the money that was coursing through his operation, Abramoff seemed under constant financial stress because of the drain from his school and restaurant.

Moreover, some of his tribal clients were starting to balk at his stiff fees. But he managed to tide himself over, and nonprofits were once again the vehicle.

One was the National Center for Public Policy Research, a small conservative Washington think tank on whose board Abramoff had sat for years. It was run by his old friend Amy Ridenour.

"I completely trusted Jack," Ridenour told the Senate Indian Affairs Committee investigating Abramoff in June. She told them she now believes he lied to her and defrauded her organization and the tribe.

Abramoff used the group as a money laundromat.

In 2002, he had the Choctaws write a $1-million check to the center, purportedly to educate the public on the benefits of Indian gaming. He convinced Ridenour that the tribe wanted to donate $450,000 to the athletic foundation and pay $500,000 to Capitol Campaign Strategies, Scanlon's consulting firm, for the educational work. The final $50,000 would go to a businessman to run the program.

She later learned the $50,000 paid a personal debt of Abramoff's. She also said she hadn't realized Scanlon was sharing his fees with Abramoff, or that the tribe had not authorized the payment to the foundation.

At a hearing in June, Sen. John McCain (R-Ariz.) accused Abramoff and Scanlon of profiting by $1 million in this deal and committing what "appears to be a $1-million fraud."

In 2003, Abramoff used the center again to convert $1.25 million from an offshore gambling client to a company called Kaygold, which turned out to be his personal holding company. It operated from his home and had no other employees.

Meanwhile, Scanlon turned to the "global think tank" he had set up in 2001, the American International Center, a nonprofit based near a vacation home he owned on the Delaware shore and which had no discernible assets or expertise. McCain called it a "gigantic scam."

Scanlon and Abramoff had convinced the Coushatta that their profitable central Louisiana casino was endangered by competition from another tribe and the possibility that Texas would legalize casino gambling.

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On April 9, 2003, the Coushattas paid the American International Center $2.3 million for political and grass-roots work. Four days later, Scanlon transferred $1.3 million to his consulting firm and $991,000 to Kaygold. Scanlon spent all but $15,000 of his share for work on his home and other personal expenses.

"Where it went after that, the committee cannot yet say," McCain said at the Indian Affairs Committee hearing in November. "What it can say, however, is that the Coushatta apparently received little of the intended benefits for the vast sums it paid."

Later in 2003, a tiny Alexandria, La., newspaper, the Town Talk, revealed that the Coushattas had paid Scanlon's company $13.7 million for public relations work, a grossly inflated sum. Members of the tribe began to suspect they had been duped.

In early 2004, the Washington Post revealed more details of the fraud, including the fact that four tribal clients had paid a staggering $31 million to Scanlon's company at Abramoff's recommendation, triggering the Senate investigation.

Last month, Abramoff pleaded guilty and agreed to cooperate in a wide-ranging corruption probe of members of Congress and their staffs. He faces nine to 11 years in prison and penalties totaling $26.7 million.

Scanlon, who pleaded guilty in November to conspiring to defraud the Indian tribes and to bribe public officials, also is cooperating with investigators.

Abramoff's charities are dormant. His restaurant business is closed. His Jewish academy has shut down and is being sued by its former teachers for back pay.

Reform Trend May Curb Casino Plans (MJS)

By STEVE SCHULTZE

Milwaukee Journal Sentinel, February 11, 2006

New gaming venues unlikely to open soon, experts say

A reform movement taking hold in Congress on the heels of a lobbying scandal and concern over tribal casino proliferation could hurt the odds for off-reservation casino plans for Kenosha, Beloit and Shullsburg.

Backers of those deals remain committed to pushing for casino approval decisions by the U.S. Bureau of Indian Affairs and say their deals should be exempt from any potential changes in the federal law governing off-reservation casinos.

But congressional concern over disgraced Washington, D.C., lobbyist Jack Abramoff, who has pleaded guilty to bilking millions of dollars from his tribal clients, and efforts to curb new off-reservation casinos create more uncertainty about the Wisconsin deals.

"I don't think the climate is going to support any expanded gaming efforts by tribes," said Bruce Greene, a Boulder, Colo.-based Indian law expert.

Eric Eberhard, a Seattle lawyer with an extensive tribal gaming practice, said approval of any off-reservation casinos is unlikely for the next three years. Such plans have languished under President Bush, he said.

The lobbying scandal only makes things worse for such deals, Eberhard said.

At stake here are three longstanding off-reservation casino proposals by four tribes: the Menominee tribe's $808 million casino development for Kenosha; a joint proposal by the Bad River and St. Croix Chippewa bands for a $200 million casino in Beloit; and the Lac du Flambeau Chippewa tribe's application for a $110 million casino in Shullsburg, in southwestern Wisconsin.

Greene said the Abramoff scandal has heightened concern over tribal casinos, now a $19 billion-a-year industry. The Abramoff case was a lobbying scandal, however, not a casino scandal, said Greene, who doesn't represent any Wisconsin tribes. Abramoff was charged with diverting millions of dollars in fees from tribes in Louisiana and Michigan intent on preserving local casino monopolies.

Greene disagrees with critics who say rules are too loose on new off-reservation casinos. Greene also opposes efforts by U.S. Sen. John McCain (R-Ariz.) to clamp a moratorium on siting additional gambling parlors away from traditional reservations and impose tougher federal oversight.

McCain, chairman of the Senate Indian Affairs Committee, introduced a measure late last year that would amend the 1988 Indian Gaming Regulatory Act, a groundbreaking measure that spelled out authority for tribal casinos. Rep. Mike Rogers (R-Mich.) introduced a bill last month to impose a two-year moratorium on any new tribal casinos. Another casino reform measure is expected from Rep. Richard Pombo (R-Calif.).

McCain's proposal will likely inhibit federal action on pending casino plans, Greene said, "and it's already a god-awful ridiculously slow process."

In addition to the federal approval, the off-reservation deals also need concurrence by Gov. Jim Doyle, who has not said how he would act.

The Wisconsin off-reservation casino proposals are literally years in the making. The Menominee plan, by far the most ambitious, envisions a destination casino and conference center at the site of the Dairyland Greyhound Park racetrack.

It would be unfair to change the rules for the Menominee casino plan and others that have already been developed, said Evan Zeppos, a spokesman for the Menominee tribe.

The existing rules have worked well, requiring extensive public review and local support, he said. Only three off-reservation casinos nationally have gone through all required approvals since 1988, demonstrating the current law has not permitted a proliferation of off-reservation casinos, he said.

One of those three was the Forest County Potawatomi's Milwaukee casino, the state's most lucrative venue. Tribes in Washington state and Michigan also have won federal and state approvals for off-reservation casinos.

About 10 proposed off-reservation deals utilizing the same federal-state approval process are pending, including the three from Wisconsin, said George Skibine, the Bureau of Indian Affairs official in charge of reviewing the plans. A similar number of casino plans for tribes seeking federal recognition or restoration of tribal status also have been proposed.

Skibine said he didn't think the current political atmosphere changed how his agency looked at formally submitted off-reservation plans. "We just implement the law that's on the books now," Skibine said.

The Menominee tribe opposes the McCain bill unless it's amended to permit plans already submitted to the Bureau of Indian Affairs to proceed.

"Maybe it should be called the 'Jack Abramoff Act,' " Zeppos said of the McCain legislation, because it would accomplish what Abramoff sought for his tribal clients. "It eliminates all the competition for those big, rich tribes."

The Menominee and Potawatomi tribes have clashed over the Kenosha proposal, with the Potawatomi arguing that it would unfairly cut into its business.

The tribes also part company on the need for casino reforms, with the Potawatomi tribe backing at least the stated intent of some of McCain's efforts.

"We like the direction Sen. McCain is heading," said Potawatomi tribal attorney Jeff Crawford. The Potawatomi would like to add requirements to the law of firm historic tribal ties to a proposed casino site, as well as greater scrutiny of casino developers.

Without such safeguards, casino location decisions are purely market-driven, Crawford said. The Potawatomi have criticized the Menominee plan, saying too much money from a Kenosha casino would be diverted to two key backers - non-Indian Kenosha businessman Dennis Troha and the Connecticut-based Mohegan tribe.

Troha and his family members have donated some $240,000 to Doyle or to Democratic soft money accounts that could be used for Doyle. Doyle's campaign also received $20,000 last year from people with ties to the Mohegans.

Joe Hunt, a spokesman for the Beloit casino project, also said it would be unfair for new laws to block that casino plan. The McCain bill "basically takes six years of work and tosses it out the window," he said.

The Bad River and St. Croix bands, both located in northwestern Wisconsin, aren't "reservation shopping" by seeking a casino site in Beloit because that community invited them, Hunt said.

"Neither Bad River nor St. Croix tribe is connected in any way to any Abramoff contribution anywhere - just so you know," Hunt said.

Lac du Flambeau tribal President Vicki Doud said in a statement that McCain's legislation would add additional unneeded obstacles to its Shullsburg plan.

"This continuous onslaught of our rights under Indian Gaming Regulatory Act is turning tribes into victims as opposed to the intended beneficiaries," Doud said.

A longstanding lawsuit by the owners of Dairyland Greyhound Park seeking to roll back casino gambling in Wisconsin also could impinge on the off-reservation casino plans. The suit says that a 1993 state constitutional amendment limiting gambling expansions should have prevented state-tribal agreements allowing casino games.

A decision in the case by the state Supreme Court is expected this year.

Executive Severance Is A Focus At Getty (NYT)

By Randy Kennedy And Carol Vogel

The New York Times, February 11, 2006

Amid a broad state inquiry into the finances of the J. Paul Getty Trust in Los Angeles, the nation's third-largest private foundation, questions are being raised about whether excessive severance packages were paid to two senior executives who resigned recently, former Getty officials with knowledge of the trust's finances said yesterday.

One of the executives, Deborah Gribbon — who left in the fall of 2004 as director of the Getty Museum after disputes with the trust's president, Barry Munitz — was paid $3 million on her resignation, almost nine times her base salary of $350,000, two former Getty officials said. The other executive, Jill Murphy, who served as Mr. Munitz's chief of staff, was paid $250,000 in severance when she agreed to leave late last year.

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Information about the payments came to light a day after Mr. Munitz resigned as the trust's president and chief executive amid questions about his leadership and possible abuse of expenses and perks. The California attorney general's office is conducting a wide-ranging investigation into the trust's finances and into Mr. Munitz's actions.

The severance packages could prove troubling to the Getty because such payments might violate federal tax laws governing spending by nonprofit foundations, which specify that they must use their resources for the public good.

In December, the Council on Foundations, which represents more than 2,000 grant-making foundations and corporations, placed the Getty on probation as questions about its spending became public and the trust did not cooperate fully with an inquiry begun by the council. The council, which can censure or eject members, said it was looking into whether trust officials had used the trust's money for personal benefit; into a land deal between the trust and Eli Broad, a billionaire financier who is a friend of Mr. Munitz's; and into whether there was "inappropriate compensation for the foundation's C.E.O. and potential self-dealing."

The council has the power to look not only into Mr. Munitz's actions as the head of the trust but also into those of its other officials and of its entire board, which now has 14 members.

"Foundations are clearly in an era of public scrutiny because we are growing in size and service, and in public awareness," said Steve Gunderson, the council's president, who would not comment on the inquiry. Of Mr. Munitz's resignation, he said yesterday, "It sends a signal to this sector to take steps to police itself."

The Getty Trust announced on Thursday that Mr. Munitz, who had led the trust, one of the world's richest art organizations, for eight years, agreed to resign without a severance package and had also agreed to pay $250,000 to resolve "any continuing disputes" that the trust's board might have with him.

The board did not explain the nature of any disputes, but trust officials said that some of his expenses, perks and other costs should not have been charged to the trust. Mr. Munitz, one of the most highly paid nonprofit foundation presidents in the country, received an annual salary, benefits and perks worth more than $1 million.

According to former Getty employees, Ms. Murphy was given tremendous power by Mr. Munitz, who traveled frequently and was said to be disengaged from the trust's day-to-day activities for long periods. The former employees complained that she was difficult to deal with and impeded important decisions involving the museum and the trust's other arms: research, grant-making and conservation. Ms. Murphy did not return phone calls yesterday seeking comment.

For the last several months, the Getty has been under siege on several fronts. Its former antiquities curator, Marion True, is on trial in Italy on charges of trafficking in looted antiquities. She resigned last October amid questions about possible improprieties involving a real estate deal.

On Thursday, another former Getty employee with knowledge of the attorney general's inquiry said that investigators were looking into several instances in which Mr. Munitz had authorized grants or uses of the trust's money without obtaining proper approval. In some cases, the former employee said, the money was spent on pet projects of Mr. Munitz's, at least one involving chess, that had very little to do with the Getty's mission.

In interviews, Mr. Munitz has defended his actions and his spending, saying that his job required him to court powerful collectors and donors around the world. He has also stressed that the trust's board had approved all his expenses, including first-class air travel, stays at five-star hotels and a leased Porsche Cayenne.

Ms. Gribbon, who declined to comment when reached by phone yesterday, repeatedly clashed with Mr. Munitz after being named director of the museum in 2000, current and past employees have said. They said she became deeply frustrated that she was unable to make decisions about the museum's direction without Mr. Munitz's approval.

She became so unhappy, some former employees said, that she tried to persuade board members not to renew Mr. Munitz's contract when it was up for renewal in December 2003. But the board stood by Mr. Munitz. Three years remained on his contract when he resigned Thursday.

Getty Foundation Chief Resigns Amid Investigations (WP)

By Sonya Geis

The Washington Post, February 11, 2006

LOS ANGELES, Feb. 10 -- The head of the J. Paul Getty Trust, one of the nation's richest foundations, has abruptly resigned amid news of investigations into his spending of foundation money on international travel and luxury items.

The California attorney general's office, an internal committee organized by the Getty, and the Council on Foundations in Washington have all been investigating Barry Munitz, trust president and chief executive, who resigned on Thursday.

The Getty board of trustees said in a statement that Munitz will not receive a severance package and will pay $250,000 to the foundation "in order to resolve any continuing disputes with him."

Munitz's resignation is the latest in a series of high-profile blows to the $7 billion foundation, the third-largest in the nation, which oversees the gleaming white marble J. Paul Getty Museum in the Brentwood area of Los Angeles. Last year, Getty

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Museum antiquities curator Marion True was indicted in Italy on charges of trafficking in stolen art. She resigned in October after reports surfaced of an improper real estate deal. A number of high-level administrators have also left the Getty Museum in the past three years citing differences with Munitz.

In June, Munitz's spending came under scrutiny when the Los Angeles Times reported that he used Getty money to buy a $72,000 Porsche, fly first-class overseas with his wife, and stay in hotels charging $1,000 a night. He was also accused of seeking an increase in his pay, which was $1.2 million, while instituting budget cuts in the flagship Getty Museum. At the time, he acknowledged spending freely on travel and said the board of trustees had authorized all of his activities. In a letter to the board announcing his resignation, Munitz said: "I'm taking this action, after lengthy consideration, so both the institution and I can move forward."

The state attorney general's office opened an investigation of the trust in August. The Getty hired a prominent Los Angeles lawyer to investigate both Munitz's spending and charges that some of the Italian artworks owned by the Getty Museum are stolen pieces. Both investigations will look at a 2002 real estate deal that Munitz made with billionaire philanthropist Eli Broad.

The Council on Foundations is also conducting an investigation related to the sale of Getty property, Munitz's spending and compensation, and potential self-dealing. In December, the Council placed the Getty on probation over its failure to provide documents in a timely manner.

Edward Goldman, art critic for Los Angeles public radio station KCRW, blamed the accumulation of the Getty's troubles on an institutional culture that lacks transparency. "They are trying to build up a reputation as a scholarly museum," he said. "At same time, when something goes wrong, they act like a corporation. They hide behind barriers."

Munitz has overseen the trust since 1997, when he was hired days before the opening of a hilltop campus for the museum, library and art conservation offices. The museum's old home, the Getty Villa in Malibu, reopened last month, after $275 million in renovations, as a site for Greek and Roman art.

Munitz Steps Down As Head Of Getty Trust (LAT)

By Jason Felch, Ralph Frammolino And Robin Fields, Times Staff Writers

The Los Angeles Times, February 11, 2006

After criticism for lavish spending, the chief agrees to pay $250,000 and forfeit severance pay and benefits. He admits no wrongdoing.

Barry Munitz abruptly ended his controversial eight-year tenure as head of the J. Paul Getty Trust on Thursday, agreeing to resolve "any continuing disputes" by paying the Getty $250,000 and giving up severance pay and benefits that would have exceeded $1.2 million.

Munitz admitted no wrongdoing, and the trust did not specify the issues underlying his resignation. But the decision came after more than a year of relentless controversy at the Getty, much of which has centered on Munitz's leadership.

The Times reported in June that he had lavishly spent Getty funds on first-class international travel with his wife, approved grants to friends and associates, and lobbied for a raise while he ordered budget cuts and layoffs. The report triggered a continuing investigation by the state attorney general into whether Munitz's actions compromised the Getty's nonprofit status.

The resignation marked a stunning downfall for a man who brought extensive business and academic experience to the world's richest art institution, not to mention a bevy of friendships with Los Angeles' power elite. An advisor to Govs. Pete Wilson and Gray Davis and former head of the California State University system, Munitz counted billionaire Eli Broad and former Paramount Studios chief Sherry Lansing as close friends.

Late in 1997, he moved from Cal State to the trust, which includes the nation's third-richest private foundation, days before the opening of the Getty Center.

His departure came after more than three months of steadily increasing pressure. In late October, the Getty board announced that it had hired Los Angeles attorney Ronald L. Olson to conduct an independent review of the trust's operations. Olson's investigation would examine Munitz's spending as well as charges by Italian authorities that many of the Getty's prized antiquities had been looted from that country.

At the time, the Getty board chairman, John Biggs, issued a statement saying Olson's investigation was intended to ensure that "the board and each of its members and employees meets all legal requirements as well as the highest ethical standards."

The board discussed Olson's findings at a meeting this past weekend. Biggs said Thursday that Munitz had suggested resigning a couple of weeks ago but "made a firm decision during the early part of this week."

Since then, Munitz had been negotiating with the board over "a severance arrangement that was satisfactory," Biggs said.

Under the terms of his contract, Munitz would have been entitled to a lump-sum payment equal to two years' worth of salary and benefits if he had resigned because he had been forced to take a pay cut, accept a lesser title or have his job definition changed without his consent.

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But he would have received nothing if he left without reason. In the end, Biggs said, Munitz "voluntarily terminated without cause" and didn't ask for a buyout, "although I'm sure he would have liked to have had it if we offered."

Munitz, 64, did not return calls asking for comment. In the Getty's statement, he is quoted as saying, "I'm taking this action, after lengthy consideration, so both the institution and I can move forward."

Biggs would not comment on whether the departure related to the committee's findings but said the $250,000 payment by Munitz was a "ballpark" figure to cover "disputed items" that are part of the attorney general's review.

In return, Biggs said, the board agreed not to seek any other restitution for expenditures it believed were inappropriate. Munitz admitted no wrongdoing in connection with the payment.

"We're not going to go back and say there was any travel expense that he has to reimburse us for," Biggs said. "He's given us $250,000 and that, as far as we're concerned, takes care of it."

Munitz's departure was welcomed by many former Getty officials, some of whom left the trust over differences with his administration.

"Barry did the right thing. So did the trustees, who have obviously learned a lot," said John Walsh, who directed the Getty Museum from 1983 to 2000. "Now they need a president who cares about what the Getty does and understands its potential."

Walsh's successor, Deborah Gribbon, who in 2004 quit one of the most sought-after museum jobs in the country because of differences with Munitz, declined to comment.

"I'm sad for Barry," said Stephen Rountree, who worked as a high-ranking administrator at the Getty for more than 20 years before leaving in January 2003 to become president and chief executive of the Music Center of Los Angeles County.

Munitz "had many skills in terms of relationships with the board and a lot of creative ideas about wider partnerships between the Getty and institutions in Europe and in this country," Rountree said. But he added, "I think he's wise to have moved on…. We really need the Getty to be functioning without all these distractions."

Vocal Munitz critic Barbara Whitney said, "I cannot begin to imagine how happy and relieved the thousand people who work there are." In August 2004 she left her post as the Getty's associate director for administration and public affairs.

"There has been a lot of damage done, and I have a lot of confidence in people who work in that organization and hope that they'll not be so worn down," she said.

Munitz was controversial from the start. He arrived days before the opening of the Getty Center in 1997 and almost immediately announced major changes, eliminating two of the trust's seven programs and folding a third into the museum.

The shake-up embittered many longtime Getty employees. But many observers said it also focused the Getty on its strengths: the Getty Museum, with its antiquities and collection of pre-modern art; the Getty Research Institute; and the Getty Conservation Institute, widely respected for restoring art worldwide. Munitz also ramped up grant-giving by the Getty Foundation.

The overall thrust, Munitz said, was to "bring the Getty down the hill" by making it more accessible to the average citizen while instilling "a sense of economic reality" in the wealthy art institution.

Yet Munitz's own travel and executive expenses became more extravagant. He used Getty money to buy a $72,000 Porsche Cayenne, repeatedly flew first-class, stayed in $1,000-a-night hotels and had his assistants express-mail umbrellas when he traveled.

Under the tax code, nonprofits must use their resources for the public good. The Internal Revenue Service considers excessive pay, travel and perks to be "self-dealing": the illegal use of tax-exempt resources for private benefit.

While the line blurred between professional and personal expenses, Munitz also spent long stretches away from the Getty. In his absence, he delegated much of the day-to-day management to his chief of staff, Jill Murphy, a former waitress whom Munitz met at a Sacramento restaurant.

She became the focus of bitterness and frustration among Getty veterans, who resented her no-nonsense style, youth and lack of an arts background.

Staff discontent boiled over in October 2004, when Gribbon quit over her differences with Munitz.

After The Times wrote about Munitz's free-spending ways, Sen. Charles E. Grassley (R-Iowa), chairman of the Senate Finance Committee, denounced the Getty board for "spending more time watching old episodes of 'Lifestyles of the Rich and Famous' than doing its job of protecting Getty's assets for charitable purposes."

The board has appointed Deborah Marrow, director of the Getty Foundation, to serve as interim president while it searches for a replacement for Munitz.

Times staff writers Christopher Reynolds and Mike Boehm contributed to this report.

Another Getty Milestone (LAT)

The Los Angeles Times, February 11, 2006

WHEN BARRY MUNITZ abruptly resigned on Thursday as head of the J. Paul Getty Trust, he said he hoped the breakup would let him and the nation's richest art institution "move forward." He got that half right. The change is critical to the Getty's progress, but Munitz himself was already moving freely and comfortably (if not forward) during his eight years as president and CEO of the Getty — jetting to and fro in the first-class cabin, on the deck of a rented yacht or behind the wheel of his company car, a Porsche SUV. The Getty board vigorously defended Munitz last year, but his lavish pay, perks and expenses drew an investigation by the California attorney general and rebukes from the chairman of the U.S. Senate Finance Committee.

The terms of Munitz's resignation — the third in a series of notable departures, following embattled antiquities head Marion True and board member Barbara Fleischman — suggest that the trustees may be getting serious about rebuilding the institute's reputation. Munitz not only won't collect at least $1.2 million in severance benefits that his contract promised, he'll pay the Getty about $250,000 to cover any lingering disputes. That's not a golden parachute, it's a kick out the door.

But ridding the Getty of Munitz is really just the start for the board. The trustees still must resolve accusations from foreign authorities about looted antiquities. They have to find a president who can restore the institution's integrity and morale while cultivating innovative leadership throughout the Getty, rather than accreting power and weeding out perceived enemies. And they must bring executive pay and perks back into line with the amounts paid by most nonprofit institutions.

The cloud of scandal hasn't dimmed the Getty's popularity. Reservations for the Getty Villa in Malibu, which reopened last month after a nine-year, $275-million renovation, are booked through July.

Instead, its effect has been on the Getty's image and, to some degree, on that of other museums and foundations across the country. Disclosures about Munitz's extravagant perks could have led the public to believe that charitable donations and subsidies are routinely used to pamper executives. That's one of the reasons the board's initial defense of Munitz last year was so troubling; in many ways, more than just the Getty's reputation was at stake. The Washington-based Council on Foundations, an association for philanthropies, placed the Getty on probation late last year in part to show that the institute's practices were atypical.

The trustees' support for Munitz ultimately evaporated in the face of a review by a law firm the board hired in October to address the attorney general's probe, the antiquities disputes and other controversies. The lawyers can help the institution get past those issues, allowing new museum director Michael Brand to focus on collecting and displaying art. It's the board's responsibility, however, to restore the public's faith that the Getty is using its vast resources for the public good.

U.S. Ambassador Hands Over Looted Art (MH)

By Stephen Graham

The Miami Herald, February 11, 2006

BERLIN - The United States returned three paintings stolen at the end of World War II to the mayor of the western German town that owned them.

U.S. Ambassador William Timken handed over the 19th-century works by Heinrich Buerkel to the mayor of Pirmasens at a ceremony Friday in Berlin.

Officials say the three paintings, now valued at $125,000, were among works believed stolen on March 22, 1945, as U.S. forces pushed into Germany. They were recovered after they turned up in an auction in the United States last year.

"I am a strong believer that rightful owners of property should have their property," Timken said at a ceremony at the Amerika Haus U.S. cultural center. "They're your possessions."

Pirmasens Mayor Bernhard Matheis invited Timken to his town for next year's opening of a new building housing Buerkel's work. "It's an extraordinarily big day for Pirmasens," said Matheis. "These are very important paintings for our collection."

He said the works "symbolize and reflect a big part of our history" as well as good contemporary U.S.-German relations.

The museum moved the paintings to a school in 1942 to protect them from Allied bombing. On Sept. 19, 1945, the museum reported that about 50 paintings stored in the school's air-raid shelter had been lost "during the arrival of the American troops" six months earlier.

Timken said the town had been occupied at the end of the war by troops from the U.S. 66th Infantry Reserves and the 71st Infantry Division. However, Robert Wittman, an FBI agent who helped return the works, said it was impossible to say whether U.S. soldiers took the pictures.

According to the FBI, the three paintings were acquired by a New Jersey resident about 20 years after the war, and handed down to his daughter in the late 1980s. In October, the paintings were offered for sale by auctioneer William H. Bunch Auctions & Appraisals of Chadds Ford, Pa. German officials alerted the FBI after museum staff noticed that the paintings were up for sale.

The paintings are "Amalfi Cave," from about 1845; "After the Hunt," about 1830; and "The Horse Roundup," about 1861-63. They all depict outdoor scenes of rural life.

"Once the family found out they were stolen, they felt they had a moral obligation to return them," Wittman said after Friday's ceremony.He said the family, who have asked to remain anonymous, had received no payment for parting with the works.

German authorities gave the family a high-quality reproduction of their favorite, "Amalfi Cave," to replace the original that had hung in the family kitchen, Wittman said.

The issue of looted German art was last in the spotlight in the early 1990s, when two Texan residents were exposed trying to sell medieval treasures apparently looted by their brother, Army Lt. Joe T. Meador.

The works, including the "Samuhel Gospels," a ninth-century manuscript written in gold and a 16th-century prayer book, were returned to the town of Quedlinburg after the Meadors accepted a settlement worth about $2.75 million.

Inmate Charged In Slayings Of 2 Who Identified Him In '81 Robbery (COLDISP)

By Kevin Mayhood, THE COLUMBUS DISPATCH

Columbus Dispatch, February 10, 2006

A Columbus man used a gun to take revenge on two witnesses who helped send him to federal prison, authorities say.

Thomas A. Henderson, 55, now faces two charges and the possibility of the death penalty.

Henderson was indicted in federal court yesterday for the 1996 killing of Robert Earl Bass outside his Pickerington apartment and the 1998 death of Ecolia Washington outside her North Side home.

Both were shot early in the morning in their cars.

"This was just strictly retaliation on his part for the long sentence he served," said Columbus Police Sgt. Jeff Sacksteder, head of the coldcase squad.

Sacksteder said that Columbus police investigator Dennis Graul and FBI Special Agent Tim Creedon had worked on the case since 2003 and had put together the evidence for yesterday's indictment. He wouldn't offer other details.

Henderson is serving 20 years in the Elkton federal prison in Columbiana County. That incarceration is in connection with his guilty plea to 15 drug, money-laundering and firearms charges in 2002.

Authorities say the deaths in the 1990s occurred after Washington and Bass fingered Henderson in a 1981 bank robbery.

That year, Washington drove with Henderson from Columbus to visit Bass, who was in jail in Dade County, Fla. Along the way, they robbed a bank in Macon, Ga.

Henderson returned to Columbus with more than $100,000, according to news reports of the robbery.

Police interviewed both Washington and Bass. Bass tied Henderson to the robbery; Washington, who was charged with helping with the robbery, ended up testifying against him.

Henderson was sentenced to 15 years in prison for it.

While in federal prison in Terre Haute, Ind., he was brought to Columbus on three counts of aggravated murder.

A former cellmate had told authorities that Henderson admitted fatally shooting three Columbus men: Anthony Hawkins, 24, during a dispute at Agler Road and Joyce Avenue in 1978; and Robert Catchings, 49, and Donald Beauford, 40, in Catchings' Richmond Avenue apartment in 1981.

In September 1982, Henderson pleaded guilty to voluntary manslaughter in the death of Hawkins. But Assistant Franklin County Prosecutor Patrick Sheeran dropped the other charges because he had no physical evidence or eyewitnesses.

Henderson was sentenced to seven to 25 years for the death, with the sentence running concurrently to the bank robbery term.

Sheeran, now a Common Pleas judge, wrote the parole authorities in 1982, asking that they keep Henderson in prison for at least 20 years.

"We all consider him extremely dangerous," he said at the time.

Henderson was released in 1995. Authorities say he then targeted the two people who had helped put him in prison.

Bass was 47 when he was found dead in his car outside 1665 Whitney Circle at about 1 a.m. Nov. 4, 1996. He had been shot in the back of the head.

Police had a number of suspects. Bass had provided information to prosecutors in the Lucasville prison riot trials, as well as against Henderson.

An East Side man briefly was charged with Bass's death in 1997 but released after police found evidence that contradicted a witness.

On Nov. 4, 1998, firefighters were called to a burning van across the street from 2148 Avalon Place. Washington's badly burned body was found inside. She'd been shot repeatedly from close range.

Sacksteder said police long suspected that Henderson had killed the pair, but "we just couldn't get the dots connected."

Henderson is charged with two counts of killing a witness and two counts of using a firearm in a crime.

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If convicted, he could be sentenced to life in prison without parole or the death penalty. U.S. Attorney General Alberto Gonzales will decide whether prosecutors will pursue death.

Ex-Chinese Bank Managers, Wives Plead Not Guilty In Las Vegas (FINDLAW/AP)

By Ken Ritter, Associated Press Writer

AP, February 11, 2006

(AP) - LAS VEGAS-Two former Bank of China managers and their wives pleaded not guilty Friday to charges they embezzled $485 million (â,¬405 million) in China and tried to launder the money in Hong Kong, Canada and the United States.

Through interpreters and their lawyers, former bankers Xu Guojun, 47, and Xu Chaofan, 40, and their wives, Yu Ying Yi, 43, and, Kuang Wan Fang, 39, each pleaded not guilty to racketeering conspiracy, money laundering and transporting stolen money, plus visa and passport fraud. If convicted of all charges, each faces a maximum of 70 years in prison and a $1.5 million (â,¬1.25 million) fine.

Citing "new, far more wide-ranging charges" contained in a Jan. 31 superseding indictment, U.S. District Magistrate Judge Lawrence Leavitt canceled a trial scheduled later this month and set a March 27 trial date. But he said that likely will be changed due to the case's complexity.

Defense lawyer Lawrence Litman of Las Vegas, representing Fang, said outside court that the RICO and money laundering conspiracy allegations set the scene for federal prosecutors to have to prove the Chinese defendants committed crimes abroad.

"We're actually going to have a trial here about whether money was stolen in China, because that's the basis for all the charges," Litman said. "If they were convicted in China and then came here with the money, that would be different."

Fang's brother, Kwong Wa Po, 42, who also is named in the 15-count indictment remained a fugitive Friday. If convicted of all charges, he would face 40 years in prison and a $750,000 (â,¬626,566) fine.

The four defendants, in shackles and jail uniforms, said they understood the charges against them, and each pleaded not guilty. They remain jailed following their arrests more than a year ago on a Sept. 21, 2004, indictment alleging they entered the United States using false identities and staged fake marriages with naturalized U.S. citizens.

Defense lawyers Mitchell Posin, representing Xu Chaofan, and Bret Whipple, representing Xu Guojun, have characterized their clients as pawns in a new era of U.S.-Chinese legal cooperation. They say they'll challenge efforts to hold the two men to U.S. banking standards and laws.

"We're also going to be challenging the reliability of any of the information coming out of China," Posin said. "We have rules and regulations. In China, there's always the danger that anything coming out is coming from the government."

Lawyer Travis Shetler, representing Yi, declined immediate comment.

The indictment alleges that Xu Guojun and his wife, Yi, and Xu Chaofan and his wife, Fang, were part of a racketeering and money laundering conspiracy dating to 1998.

They are accused of trying to launder more than $3 million (â,¬2.5 million) in Las Vegas by making deposits at four casinos, which can operate somewhat like banks. The casinos are not accused of wrongdoing.

The case stems from an investigation that led to the conviction of another former bank manager, Yu Zhendong, and his return to China from the United States in 2004 under a promise he wouldn't be executed. China frequently sentences defendants to death for nonviolent offenses.

The Bank of China is one of China's four biggest state-owned commercial banks.

CIVIL LAW:

Investors Win $371.7 Million Over Seizure Of Meritor Savings Bank (AP)

AP, February 11, 2006

PHILADELPHIA - A federal claims court judge on Friday awarded $371.7 million to investors who sued over the 1992 seizure of Meritor Savings Bank, successor to the 176-year-old Philadelphia Saving Fund Society.

U.S. Claims Court Judge Loren A. Smith in Washington also indicated that Meritor investors may deserve an additional $402 million, but he left that question to be resolved upon appeal.

Justice Department spokesman Charles Miller said government officials are still reviewing the decision and had not yet decided on a response.

Gary Hindes, whose New York investment firm is a major Meritor shareholder, said the decision would amount to $6.75 a share.

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"It's not as good a victory as I'd want to have," Hindes said. "But at least we know we have a floor under us."

Investors sued in 1993 after the Federal Deposit Insurance Corp. seized Meritor although the government had promised to relax the bank's capital requirements in 1982 to induce it to rescue a failing bank, Western Savings Fund.

Smith ruled in 2003 that the FDIC had violated the 1982 agreement.

Investors' lawyer Thomas M. Buchanan contended that the bank could have become profitable again if the government, instead of forcing what he called an unwarranted takeover in December 1992, had let it "shrink gradually."

The case is one of a number accusing the government of bad faith in dealings with hard-pressed savings and loans in the 1980s and early 1990s.

The award, if it stands, would be the second-highest to date, but it is sure to be appealed, Buchanan said. A $909 million award in August 2002 to investors of a California bank was reduced on appeal to $381 million in 2004.

The judge indicated that he thought investors' claim to another $402 million had merit but precedents in the case were unclear and it would be "presumptuous" for him to award restitution. He said he would leave the parties to argue the matter in the federal circuit.

Shares of Meritor still trade and closed Friday at $4.45 in over-the-counter trading.

Trial Bar Cleanup (WSJ)

The Wall Street Journal, February 11, 2006

It's amazing what a little courage from the bench can do to clean up the justice system. Now that word is out that most silicosis lawsuits are shams, ever more judges are helping to expose the corruption.

The latest is Florida state Judge David Krathen, who in a recent hearing rebuked plaintiffs lawyers for inventing silicosis suits, and declared "mind-boggling" the effect that phony suits were having on the "economic well-being of this country." He vowed to ride herd on the claims in his court, separating the good cases from the fake.

This isn't the way trial lawyers are used to being treated, and credit for this tougher approach goes in part to Texas federal Judge Janis Graham Jack. Judge Krathen made specific reference to the litigation Judge Jack presided over last year, in which she exposed how lawyers, doctors and X-ray screening companies had "manufactured" some 10,000 bogus silicosis suits "for money."

Of the 10,000 suits that Judge Jack sent back to state courts, more than half have already been dismissed -- often at the request of the lawyers who first filed them. Even the wizards of the plaintiffs bar are wary of re-entering court sporting discredited doctors and screening companies, many of which are now the focus of federal and Congressional investigations. Separate silicosis suits have also been dismissed in Ohio.

Those plaintiffs attorneys who continue to roll the dice are having to resort to ever more desperate practices. In the Florida case, lawyers rushed to file most of their claims the day before a new state statute curbing asbestos and silicosis suits took effect. They also filed all 111 in Broward County, which is notoriously friendly to the trial bar -- or at least it was until they met Judge Krathen, a former trial attorney himself.

The judge allowed defense attorneys to present what they'd uncovered so far about those 111 claims. The stunner was that 72% of the plaintiffs had filed both asbestosis and silicosis suits -- despite the medical rarity of having both ailments. Defense lawyers also noted that one of the X-ray screening firms (N&M) singled out in Judge Jack's courtroom also had a role in the Florida suits.

When a trial lawyer defended the practice of driving mobile X-ray vans to do mass screening, Judge Krathen cut him off, noting that N&M "reeks from fraud." He went on to say: "I'm offended, and I've practiced law for 30 years and now on the bench for three years, that lawyers resort to drive-up buses or vans, unmarked, to sit there, and it looks like . . . are involved in bilking our society and our institutions out of money for no valid reason."

The judge has since ordered the trial lawyers to pony up fact sheets about their clients. These questionnaires are arguably the most detailed a judge has ever requested in such a suit, demanding not only exhaustive information about plaintiffs' diagnoses, but specifics about any prior asbestos lawsuits.

Judge Krathen also took aim at the plaintiffs lawyers' scattershot approach to naming defendant companies -- 80 in all -- and demanded that their clients start identifying specific products that supposedly caused them harm. This was after a lawyer representing a construction-related firm called Vulcan Materials told the judge that while his company had been named in 17,000 claims, its products had only been positively identified by plaintiffs in 23. The lawyer estimated it can cost Vulcan up to $17,000 to get dismissed from a case.

The judge summed things up this way: "In the years I've practiced law, the toughest time was getting a good legitimate case bought into by the jury because of all the horrible publicity that comes out from the negative kind of stuff that goes on in [the

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Jack suit]. . . I'm concerned about the good clients, the good cases, and I'm concerned about the economic well-being of our economy and our companies that support jobs here in the U.S. . . I want this information [about patients and products] up front."

That's the sort of fair-minded approach that has unfortunately been missing from judges in the many years that the asbestos and silicosis blobs have been destroying honest companies and clogging courtrooms. It's good to see a few more judges standing up to the trial bar's transparent corruption.

CIVIL RIGHTS:

Dad Slams Attack On Bush At King Rite (CBS)

CBS, February 11, 2006

(CBS) Former President George H.W. Bush has expressed dismay and anger at attacks on his son, President Bush, at the funeral for Coretta Scott King.

"In terms of the political shots at the president who was sitting there with his wife, I didn't like it and I thought it was kind of ugly frankly," the former president said in an exclusive radio interview with CBS News White House correspondent Peter Maer.

"Anybody that shoots at the president of the United States at a funeral, I just didn't appreciate that," Mr. Bush added. Listen to former President George H.W. BushFormer President Carter and the Rev. Joseph Lowery criticized the president during remarks they made at the King funeral in Atlanta.

The Rev. Lowery, who co-founded the Southern Christian Leadership Conference with Martin Luther King Jr., drew a roaring standing ovation when he said: "For war, billions more, but no more for the poor" - a takeoff on a line from a Stevie Wonder song. The comment drew head shakes from Mr. Bush and his father as theysat behind the pulpit.

Former President Carter brought up the government response to Katrina, saying, "We only have to recall the color of the faces of those in Louisiana, Alabama and Mississippi" to know that inequality exists. He also noted that the Kings once were "victims of secret government wiretapping" - echoing Mr. Bush's domestic spying program.

Former President Bush also had praise for his friend, Bill Clinton: "I thought President Clinton was maybe the best. It was his crowd. They talk about Bill Clinton being 'the first black president,' well when you walk into that church with 12,000 or whatever it was, I mean it was very clear who that crowd loved and respected."

The Associated Press contributed to this report.

Four Presidents And A Funeral (WSJ)

By PEGGY NOONAN

Wall Street Journal, February 11, 2006

A spirited tribute to Mrs. King--and to democracy

Listen, I watched the funeral of Coretta Scott King for six hours Tuesday, from the pre-service commentary to the very last speech, and it was wonderful--spirited and moving, rousing and respectful, pugnacious and loving. The old lions of the great American civil rights movement of the 20th century were there, and standing tall. The old lionesses, too. There was preaching and speechifying and at the end I thought: This is how democracy ought to be, ought to look every day--full of the joy of argument, and marked by the moral certainty that here you can say what you think.

There was nothing prissy, nothing sissy about it. A former president, a softly gray-haired and chronically dyspeptic gentleman who seems to have judged the world to be just barely deserving of his presence, pointedly insulted a sitting president who was, in fact, sitting right behind him. The Clintons unveiled their 2008 campaign. A rhyming preacher, one of the old lions, a man of warmth and stature, freely used the occasion to verbally bop the sitting president on the head.

So what? This was the authentic sound of a vibrant democracy doing its thing. It was the exact opposite of the frightened and prissy attitude that if you draw a picture I don't like, I'll have to kill you.

It was: We do free speech here.

That funeral honored us, and the world could learn a lot from watching it. The U.S. government should send all six hours of it throughout the World Wide Web and to every country on earth, because it said more about who we are than any number of decorous U.N. speeches and formal diplomatic declarations.

A moment for a distinction that must be made. Some have compared Mrs. King's funeral to the Paul Wellstone memorial. It was not like the Wellstone memorial, and you'd have to be as dim and false as Al Franken to say it was. The Wellstone memorial was marked not by joy but anger. It was at moments sour, even dark. There was famous booing.

The King funeral was nothing like this. It was gracious, full of applause and cheers and amens. It was loving even when it was political. It had spirit, not rage. That's part of why it was beautiful.

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It was also beautiful because, as the first speaker, Bishop Eddie L. Long, senior pastor of the New Birth Missionary Baptist Church in Lithonia, Ga., said in almost his first words, "This is a worship. This is a celebration. This is a moment that we give to honor God."

It was a religious service in which no one was afraid to talk about God. "Praise the Lord," and "Lord, we lift your name on high" and "How we love to sing your praises" rang through the room. Scripture was quoted, stories told. Blacks in America are not afraid to love Jesus the way they want to love him, to use the language and symbols they want to use. I want to kiss their hands for this. I also happen to honor the fact that, by and large, older blacks at least have not given way to 20th-century stoicism in their style of mourning. The Kennedys, who had too much experience with funerals, set the stoic style 40 years ago, and while it was elegant and moving in its own way, it left an entire nation thinking it was in rather poor taste to cry aloud and sob.

As for the speakers, no one has ever been or could be better than the Rev. Bernice King, who spoke of her mother's love, her mother's end, and the possible metaphorical meaning of the cancer that killed her.

The Rev. Joseph Lowery gave a beautiful poem about Martin being with Rosa in heaven and then finding out that Coretta was coming, and rushing to greet her at the pearly gates. Strike you as corny? Not me. It was beautiful because it was not only full of unselfconscious faith, it assumed unselfconscious faith on the part of the audience, and so was both an implicit compliment and a declaration of shared assumptions. The audience responded with amens and cheers. When he bopped the president over weapons of mass destruction, what seemed, on CNN, to be half the room stood and applauded.

When George Bush 41 followed him to the podium, he teased Mr. Lowery in a way that complimented his eloquence. People sometimes marvel at the grace of George H.W. Bush. He is a warm and gracious man, and he's old enough to appreciate the humor in everything. He's old enough to appreciate life. But it is also true that when you attack him or his son from the left he doesn't get mad because in his heart he kinda thinks you're right. Attack him from the right; you won't be overwhelmed by his bonhomie then.

President Bush was fine, his eloquence of the formal kind. He needs to find the place between High Rhetoric and off-the-cuff plainspeak. He always does one or the other. But there's a place in between, a place that's not fancy and not common, that would serve him well if he could find it.

Bill Clinton was, as always, the master. Say what you will, he is the only politician in America with the confidence to call Episcopalians "the frozen chosen" and know everyone will laugh and take no offense. Amid all the happy bombast he was the one who pointed at the casket and said, "There's a woman in there." He talked about Mrs. King in good strong plain terms. Yes, he caused a quarter-second of awkwardness when he said of the beautiful Coretta that even at age 75 she still had the goods, but in moments of exuberance we all forget our own history.

The real news was how the Clintons used the funeral to unveil how they will run in 2008: Together, side by side, with beautiful hairdos. I haven't seen them like this--both standing at the podium--since 1992, when they were new. In the years since, after the health-care failure and the Whitewater scandals, the West Wing attitude toward the president's wife was a quiet and respectful "Get that woman off the podium!" Not anymore. All is new again. Mrs. Clinton has clearly been working on her public speaking, and attempted to use her hands as her husband uses his, now in an emphasizing arc, now resting on her chest. But his are large, long and elegant, and hers are puffed and grasping.

Both Clintons spoke in the cadence and with the imagery of the Bible. Mrs. Clinton's first words, in which she referred to Mrs. King's brave decision to continue her husband's work after his murder, were steeped in religiosity. "As we are called, each of us must decide whether to answer that call by saying, 'Send me.'" She ended with, "The work of peace never ends. So we bid her earthly presence farewell. We wish her Godspeed on her homecoming. And we ask ourselves, 'Will we say, when the call comes, "Send me"?'"

Oh I think we will, Ms. Meanieface!

If you don't understand that Mrs. Clinton was rehearsing her 2008 announcement speech, then you are a child and must go home and have a nice cup of cocoa.

This is what is coming: I have had a blessed life. And like so many people I could choose, after all these years, a life of comfort. Watch it from the sidelines, tend to my own concerns, watch the garden grow. But our nation calls out. And if we are to be Americans we must meet the call. "Send me."

With Bill nodding beside her, his hands clasped prayerfully in front of him, nodding and working that jaw muscle he works when he wants you to notice, for just a second, how hard it is sometimes for him to contain his admiration.

God I love them.

Apart from its beauty, dignity and fight, Mrs. King's funeral got me thinking about this: Did she know how much she was loved? It's hard for a person to know that. If only she could have gone to her own funeral, she would have known. I wonder if it wouldn't be good if somewhere along the way, just once in your life, you got to call your own funeral. Pick the church, the

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speakers, the music, sit in the pew, clap when they talk about how wonderful you were. Then afterwards have a long lunch and toast your memory. Then the next day you go to work as usual, but maybe in a different mood. I don't see why we don't do this. Is this a stupid thing to say? It's allowed. I've got free speech.

Ms. Noonan is a contributing editor of The Wall Street Journal and author of "John Paul the Great: Remembering a Spiritual Father," (Penguin, 2005), which you can order from the OpinionJournal bookstore. Her column appears Thursdays.

Racial Icons (NSWK)

By Eleanor Clift

Newsweek, February 11, 2006

President Bush deserves credit for sitting through the awkward moments at Coretta Scott King's funeral—and for his role in setting up an African-American history museum.

Southerners have a saying, "Bit dog always hollers." That's how Jody Powell, President Carter's former press secretary, responded when asked about criticism, coming mainly from Republicans, that Carter had overstepped the bounds of good taste in his eulogy of Coretta Scott King by mentioning that she and her husband had been illegally wiretapped. Carter did not imply that Republicans were responsible. Indeed it was President Kennedy and his brother Bobby who authorized the FBI's eavesdropping on Martin Luther King Jr.

Yet with Senate hearings going on in Washington on the legality of Bush's domestic-spying program, it was inescapable that people would make the connection to present-day abuses. The FISA law (Foreign Intelligence Surveillance Act) was signed into law by Carter, and he is justifiably angry about the way Bush brushes it aside as a troublesome bureaucratic impediment. Whether the funeral of a civil-rights icon was the right place and time to jab Bush is debatable, but it's not surprising given Carter's strong feelings.

Coretta King spoke out against the Iraq war and no doubt would have appreciated the occasional discordant political note in the rosy tributes paid to her. Bush deserves credit for sitting through it all despite the awkward moments and remaining good-natured and even eloquent in his eulogy. That evening he welcomed the Harlem Dance Theater to the White House for a special performance, and among the guests was Lonnie Bunch, the director of the National Museum of African-American History and Culture. "Hey, Bunch!" Bush said, clapping him on the back, a familiarity Bush earned when he signed legislation creating the museum in December '03. It had been a long time coming. Georgia Rep. John Lewis first introduced the legislation in 1988, and every year after that, to no avail. Even President Clinton, who's been called the first black president because of his close ties to the African-American community, couldn't get enough support in Congress for the museum.

Bush's museum action pulled off the seemingly impossible. With his re-election campaign looming and needing help to win more of the black vote, he mustered the votes to build the museum on federal land, and to provide $250 million, half what the proposed structure is expected to cost. Sure, there was political self-interest, but Bush is also personally committed. One of the first checks the Smithsonian got for the new African-American museum came from the president and his wife, Laura. Then the newly re-elected Bush directed a portion of the funds that went unspent by his Inaugural committee to the museum. That amounted to a cool $5 million. The African-American museum is still seven years off, but it's been awarded space on the Mall in Washington off Constitution Avenue between 14th and 15th Streets, an apt location since the 14th and 15th amendments to the Constitution secured civil rights for black Americans after slavery. Bunch promises the museum's exhibits will be "a lens into what it means to be an American," the optimism and resilience that are core values of the black experience along with the Gordian knot of race relations.

Bunch is off to a good start, but raising money is never easy, and there's strong competition from across the river in Virginia. Former governor Doug Wilder, now mayor of Richmond, was in Washington this week unveiling his plans for a National Slavery museum, and he's a lot farther along than anybody dreamed possible. He's got the land (32½ acres on the banks of the Rappahannock River in Fredericksburg, Va.) and he's got an acclaimed architect, Chen Chung Pei, son of the legendary I. M. Pei, whose vision includes the full-scale replica of a slave ship. Wilder is the grandson of slaves but he couldn't get his father to talk about the subject. "He would bite on his pipe so hard it almost snapped in two," Wilder recalls. His own interest was piqued on a visit to Goree Island, a slave transit point in the African nation of Senegal, when he looked out the "door of no return" where slaves would board the ship, and realized he was governor of a state where many of them were taken. He determined then their story had to be told, and what better place than in Virginia, which had more slaves than any other place.

Wilder is gambling that an illuminated sign with a slave ship at the exit off I-95 in Fredericksburg will draw visitors, and he resists the notion that he is competing with Washington. "You can't have too many [museums], and there's enough money to go around," he says, smiling. "Just give us ours." He's counting on what he calls "enlightened self-interest" from corporations who acknowledge past participation in slavery, "not reparations," he adds, "but acknowledgment of doing what is right." Actor Ben Vereen, who played Chicken George in "Roots," accompanied Wilder and put it more bluntly: "Corporate America, we need you

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now. We bought your cars—we smoked your cigarettes—now it's time to tally up." The U.S. National Slavery Museum is scheduled to open in 2007.

A Fitting Funeral For Mrs. King (WP)

By Colbert I. King

The Washington Post, February 11, 2006

Speech and expression are coming in for some hard knocks these days. Enraged Muslims are marching by the thousands over cartoons of the prophet Muhammad. The Post's editorial page is being pilloried for publishing an op-ed piece by a leader of the terrorist group Hamas and for publishing a cartoon that critics mistakenly describe as mocking military amputees. And now some conservative talking heads are out of sorts because of what was said from the pulpit of New Birth Missionary Baptist Church in Lithonia, Ga., during Coretta Scott King's funeral on Tuesday.

The fuss over the funeral is probably the silliest snit of all.

First, consider what took place. It wasn't a state funeral scripted by a 138-page detailed planning document, as in the case of Ronald Reagan's services. Neither was it a funeral for a cloistered, apolitical newcomer on the block.

Mrs. King and her late husband, the Rev. Martin Luther King Jr., were renowned proponents of nonviolence and racial and economic justice. They had close ties to peace and social action organizations. Mrs. King was a fixture at antiwar rallies. She was a dignified and reserved public figure, yes; a shrinking violet, no. To recall, she was arrested here in Washington at the South African Embassy in an anti-apartheid protest.

So it should have come as no surprise that during a six-hour funeral for a woman whose life was dedicated to the civil rights and peace movements -- and on a program with more than 35 participants -- a few would have something to say about racism, the futility of war, and military spending when it trumps the needs of the poor. That the outspoken critics happen to have been a preacher, an ex-president and a mayor, and that they did it in the presence of a sitting president, is hardly the outrageous act that conservative pundits have made it out to be.

They profess to be shocked , shocked, that a funeral service would touch on issues that were critical to the life's work of Mrs. King. Their ignorance also may be emblematic of the cultural gulf that separates many blacks and whites when it comes to the way in which we deal with death and its rituals.

There was no way on earth that four presidents, two planeloads of members of Congress and several high priests of black preacherdom could come together in a megachurch before an audience of 10,000, mostly black folks -- including celebrities, wannabes and pretenders to the civil rights throne -- all decked out in their Sunday finest, and not expect to have the event become, well, a tad extravagant rhetorically.

Besides, that's the way it often is at black Baptist home-going services.

At this stage in life, I attend far more funerals than weddings. Raised as a Baptist, I've been doing black funerals since childhood. Done my share of white funerals, too, especially since entering the white-collar world and becoming an Episcopalian or, as Bill Clinton playfully said Tuesday of President Bush the elder (also an Episcopalian), part of the "frozen chosen."

Now I must be careful here with generalizations, but Karla FC Holloway, a Duke University professor and author of African American mourning stories, has noted that white funerals, for the most part, tend to be short and restrained. Black Baptist services, on the other hand, historically have tended to be longer, elaborate, more spontaneous and a time to "get it said." That's what was going on in Atlanta.

How could a civil rights icon such as Coretta Scott King, a child of the Baptist Church, whose husband was shot dead, whose home was bombed, and whose own government attempted to smear her husband and break up her marriage, not have a home-going service that didn't bring out its share of freely and honestly expressed emotions?

These remarks were denounced as "political":

· The Rev. Joseph Lowery said, "We know now there were no weapons of mass destruction over there. . . . But Coretta knew and we knew that there are weapons of misdirection right here. . . . Millions without health insurance. Poverty abounds. For war billions more but no more for the poor. . . . Our marvelous presidents and governors come to mourn and praise . . . but in the morning will words become deeds that meet need?"

· Atlanta Mayor Shirley Franklin described Mrs. King as singing "for liberation, she sang for those who had no earthly reason to sing a song," using a voice heard "from the tin-top roofs of Soweto to the bomb shelters of Baghdad."

· Former president Jimmy Carter, aware of the current debate over domestic spying, said, "It was difficult for [the Kings] personally with the civil liberties of both husband and wife violated, and they became the targets of secret government wiretapping and other surveillance."

They drew strong applause and, in Lowery's case, a standing ovation.

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Barbs because George W. Bush was sitting in the pulpit? Those remarks would have been delivered had the president been down in Crawford, Tex., or up in the White House. And as harsh as they were to conservative ears, they also served a useful purpose. For 10,000 mourners bearing a special kind of pain, those words had a cathartic effect. They became the vehicle through which emotional tensions in the church could surface, the means by which the assembled could give expression to what they were feeling deep down inside. Hence, the laughter, the cheers and loud roars.

George W. Bush -- no passionate orator himself but no political slouch when it comes to reading an audience, black, white or brown -- apparently got it.

Too bad some conservatives on the outside looking in, and caught in their own cramped world, did not.

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Affirmative Blackmail (WSJ)

By David E. Bernstein

The Wall Street Journal, February 11, 2006

According to its mission statement, a primary goal of the American Bar Association is to "promote respect for the law." In the interest of mandating racial preferences in admissions, however, the ABA is about to order law schools to do just the opposite -- in fact, to violate the law -- and is resorting to blackmail to achieve its end.

Meeting in Chicago today, the ABA's Council of the Section on Legal Education and Admissions to the Bar will vote on new "equal opportunity and diversity" standards. If they are approved, any law school that seeks to maintain or acquire ABA accreditation will be required to engage in racial preferences in hiring and admissions, regardless of any federal, state or local laws that prohibit of such policies. Since only graduates of ABA-accredited schools may take the bar exam in the vast majority of states, the association has, in effect, a legal monopoly on accreditation standards.

The new Standard 211, styled "Equal Opportunity and Diversity," would govern admissions and faculty hiring policies. It says nothing about treating people from different groups equally, and lots about "diversity" -- a code word for affirmative action preferences. "Consistent with sound legal education policy and the Standards," part (a) says that a law school must provide "full opportunities for the study of law and entry into the profession by members of underrepresented groups, particularly racial and ethnic minorities," and it must also commit "to having a student body that is diverse with respect to gender, race and ethnicity."

Part (b) says, "Consistent with sound educational policy and the Standards, a law school shall demonstrate by concrete action a commitment to having a faculty and staff that are diverse with respect to gender, race and ethnicity."

This sounds innocuous, since law schools can reasonably differ on what constitutes "sound legal education policy." Some might think that the educational benefits of a racially heterogeneous student body justify significant racial preferences; others might give more weight to data showing significant educational costs resulting from preferences.

An empirical study by Richard Sander of UCLA, for example, confirms anecdotal evidence that student beneficiaries of such preferences tend to struggle in law school and end up at the bottom of their classes. Statistics published in the year 2000 also reveal that under current affirmative action policies, 42% of all African-American matriculants to law school either never graduate or never pass the bar (compared with 14% of whites). Some schools might conclude dooming a huge percentage of African-American students to failure is contrary to sound educational policy, and limit their "diversity" efforts to recruitment and retention.

That will not be possible, according to the "interpretations" of Standard 211, which have "equal weight" to the rules themselves. Interpretation 211-1 states that "the requirements of a constitutional provision or statute that purports to prohibit consideration of gender, race, ethnicity or national origin in admissions or employment decisions is not a justification for a school's non-compliance with Standard 211."

Racial preferences will thus generally be necessary to comply with Standard 211 -- despite the fact that several states, including California and Florida, ban race as a factor in law school admissions or hiring or both. Equally outrageous is Interpretation 211-2, which states that, "consistent with the Supreme Court's decision in Grutter v. Bollinger, a law school may use race and ethnicity in its admissions process to promote equal opportunity and diversity." This is a complete misstatement of the law, and the attorneys who wrote this are either incompetent or, more likely, intentionally dissembling.

First, Grutter held only that racial preferences in higher education are legal when used to promote diversity, not when used to promote equal opportunity. The Supreme Court has consistently disapproved of the use of racial preferences other than for either educational diversity, or to remedy past discrimination, and nothing in Grutter is to the contrary.

Second, Grutter did not hold that any law school may use race in its admissions process to promote racial diversity. Rather, the court stated that it was deferring to the Michigan Law School's "educational judgment that such diversity is essential to its educational mission." Other law schools may not share that educational judgment, particularly if the only way to achieve such

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diversity is by admitting underqualified minority students. Nothing in Grutter would permit such a law school to engage in racial preferences.

Ironically, left-wing lawyers and law professors used to scream that the Grutter litigation posed a threat to academic freedom by trying to prohibit law schools from tailoring the racial balance of their student bodies to enhance the students' educational experience. Now they want to use the heavy hand of ABA accreditation to deny academic freedom to law schools that would not choose racial preferences.

It's worth remembering that the fifth vote in Grutter was provided by Justice Sandra Day O'Connor, who apparently thought that her opinion would permit, but not require, law schools to use racial preferences for diversity purposes. Now that the ABA is trying to turn "may" into "must," one wonders whether Justice Samuel Alito will be similarly sympathetic to the assertion that allowing racial preferences in admissions enhances academic freedom.

An even greater irony, however, is the ABA's role in all of this. One can be quite certain that despite the plain language of the "interpretations" quoted above, the ABA will claim that it is not really trying to force law school faculties and administrations to violate both the law and their consciences in pursuit of racial "diversity." But in the past, ABA accreditation officials have bullied law schools into precisely that position, even in the absence of written authority backing their demands.

If passed, the new written standards will only embolden the accreditation bureaucracy, composed mainly of far-left law professors, to demand explicit racial preferences and implicit racial quotas -- all in brazen defiance of the law.

Mr. Bernstein, a professor at George Mason University School of Law, is the author of "You Can't Say That!: The Growing Threat to Civil Liberties from Antidiscrimination Law" (Cato, 2003).

ANTITRUST:

Senate Confirms Barnett As Assistant Attorney General (DOWJONES)

Dow Jones, February 11, 2006

WASHINGTON -(Dow Jones)- The Senate on Friday confirmed Thomas O. Barnett as assistant attorney general for the Justice Department's antitrust division.

Barnett was confirmed by unanimous consent. He has held the job on an acting basis.

- By Siobhan Hughes, Dow Jones Newswires; 202-862-6654; Siobhan.Hughes@ dowjones.com

Microsoft Gets EU Scrutiny (BLOOM)

By MATTHEW NEWMAN, BLOOMBERG NEWS

Bloomberg, February 11, 2006

Complaints about upcoming Vista gathered by regulators

European regulators are reviewing complaints against Microsoft Corp. from computer makers concerned that the next version of the Windows operating system may prevent manufacturers from customizing the software.

The European Commission, the European Union's antitrust authority in Brussels, Belgium, is "monitoring" complaints about the software, called Vista, and hasn't started a formal inquiry, commission spokesman Jonathan Todd said in an e-mail.

"Approaches are being made about Vista by U.S. and non-U.S. companies," Philip Lowe, the top civil servant in the commission's competition department, said in an interview Friday in London, where he was attending a conference.

Microsoft, which is under regulatory scrutiny around the world, plans to start selling Vista later this year. The first new version of Windows for personal computers since 2001 also is attracting complaints in the United States, according to Justice Department court documents filed in Washington this week. The United States and the EU didn't identify the companies that complained.

Todd said the manufacturers have expressed "concerns" and haven't filed formal complaints. The commission can start new investigations on its own initiative and doesn't require competitors' complaints to do so.

Microsoft spokesman Tom Brookes declined to comment. Microsoft general counsel Brad Smith said Thursday that he's confident Vista doesn't infringe on a U.S. antitrust settlement agreement.

PC makers are looking to customize the first screen users see when turning on their computer, and may be concerned that Microsoft's Vista won't permit such changes, Nicholas Economides, an economics professor at New York University, said in an interview.

Regulators Approve Regis Acquisition (MINBIZ)

By John Vomhof Jr.

DOJ_NMG_0014599

Minneapolis Business Journal, February 11, 2006

Regis Corp.'s $2.6 billion purchase of Alberto-Culver Co.'s Sally Beauty Co. retail chain received federal antitrust approval on Friday.

The Federal Trade Commission said officials completed their investigation of the deal without taking any action to block it.

Last month, Edina-based Regis agreed to buy Denton-based Sally Beauty chain for $2.2 billion in stock and $400 million in debt. The combined company will retain the name Regis Corp., with Sally Beauty becoming a subsidiary of Regis.

The deal will greatly expand Regis' presence in the retail sector. Sally Beauty, founded in 1964, has more than 2,400 Sally Beauty retail stores and 800 Beauty Systems group outlets; the company generated revenue of $2.25 billion in the year ending in September 2005.

Regis (NYSE: RGS) owns or franchises more than 11,000 salons, 90 hair restoration centers and 35 beauty schools worldwide.

The Minneapolis/St. Paul Business Journal is an affiliated publication of the Dallas Business Journal.

ENVIRONMENT/INDIAN AFFAIRS:

EPA Budget Cuts Trouble Environment Groups (AP)

By John Heilprin

AP, February 11, 2006

Grants to state and local governments for land and water conservation would be cut 40 percent, and money for the Environmental Protection Agency's network of libraries for scientists would be slashed severely under President Bush's proposed budget.

By contrast, Bush next year would spend $322 million for "cooperative conservation" — up from $312 million the Congress approved last year — to encourage more private landowners to protect endangered species, conserve wildlife habitats and do other nature work traditionally done by government.

Other proposed increases are $50 million more for cleaner-burning diesel engines and $5 million more for drinking water improvements.

Cuts and proposals to sell some of the government's vast land holdings have upset environmentalists.

Early in his presidency, Bush called for restoring the federal Land and Water Conservation Fund to the full $900 million authorized by Congress. Last year, it was approved at $142 million. For 2007, he wants just $85 million in grants for creating and preserving non-federal parks, forest land and wildlife refuges, a 40 percent cut.

"This is the most troubling budget we've seen from this White House," said Heather Taylor, deputy legislative director for Natural Resources Defense Council.

The proposal sent to Congress this week would trim EPA's budget by nearly 5 percent, down to $7.2 billion, and the Interior Department's budget by 2.4 percent, to $9.1 billion.

Sen. James Jeffords, I-Vt., said it shows the environment isn't a Bush administration priority. "We cannot allow this dangerous trend to continue," said Jeffords, a senior member of the Senate Environment and Public Works Committee.

Interior Secretary Gale Norton and EPA Administrator Stephen Johnson said their budgets represent, within the context of reducing the federal deficit, a responsible allocation of resources that will still lead to environmental improvements.

One potential hole in the Interior budget is $312 million for an Office of Surface Mining program to reclaim abandoned mines. The money comes from coal mining fees set to expire in June. The Bush administration is asking Congress to reauthorize the fees.

"Nobody wants to see the program come to a halt," Norton said.

The budget also would cut $89 million from the National Park Service's nearly $2.6 billion budget.

Environmentalists contend a bigger danger is the administration's plan to raise $250 million over five years by selling 125,000 acres of the Bureau of Land Management's 261 million acres.

The lands are typically part of a "checkerboard" pattern of small parcels surrounded by suburban or urban areas, Interior officials say, and have been identified as holding little natural, historic, cultural or energy value.

The administration anticipates selling them for $2,000 an acre. The Forest Service plans to sell 170,000-200,000 acres in 41 states, according to The Wilderness Society.

Another proposal affects EPA's electronic catalog that keeps track of tens of thousands of agency documents and research studies, according to EPA internal memos. The agency would cut four-fifths of its library budget — from $2.5 million to $500,000. It pays for a network of dozens of libraries and reading rooms nationally.

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"How are EPA scientists supposed to engage in cutting edge research when they cannot find what the agency has already done?" said Jeff Ruch, executive director of Public Employees for Environmental Responsibility, which obtained the EPA memos.

EPA spokeswoman Eryn Witcher said materials will still be available.

"EPA is working to modernize our antiquated system by streamlining our physical collections and making them available online to provide more information to a wider group of people, including scientists," she said.

Low-interest loans to states for treating wastewater, cutting other water pollution and managing watersheds would be cut by 22 percent, to $688 million.

Bush has requested $184 million for EPA's homeland security programs — including monitoring water supplies against terrorists and decontaminating buildings after chemical or biological attacks — and more than $100 million for its energy-related programs.

Power Plant Would Reuse Carbon Dioxide (NYT)

By Matthew L. Wald

The New York Times, February 11, 2006

Subsidiaries of BP and Edison International said yesterday that they were planning to build a power plant that would run on oil residues, and that 90 percent of the carbon dioxide would be captured and pumped into an oil field, where it would help push more oil to the surface.

The $1 billion plant would be adjacent to a BP refinery in Carson, Calif., about 20 miles south of Los Angeles, and would be the first such plant in the country, the companies said. BP is already drawing up engineering plans for a plant in Scotland that would sequester its carbon dioxide in an underground oil-bearing formation; that plant is to run on natural gas.

The companies said they hoped to make a final decision on the plant in 2008 and have it running in 2011. It would qualify for a tax credit as a carbon-free energy source under the 2005 energy bill, company executives said.

The plant would run by mixing an oil residue, petroleum coke, in a chamber with steam and a controlled amount of oxygen. In this technique, called gasification, both the fuel and the water give up hydrogen atoms to form hydrogen gas. This process also produces carbon monoxide, which is converted to carbon dioxide, giving off heat to sustain the reaction.

The hydrogen is then burned in a turbine engine, the kind that electric companies normally run on natural gas, and the dominant combustion product is water. The carbon dioxide is compressed into a liquid and injected into an oil field.

Although the fuel is an oil residue, and not coal, the technology is the same as one mentioned by President Bush in his State of the Union speech on Jan. 31, in which he said, "We will invest more in zero-emission coal-fired plants."

When coal or other fuels are gasified, conventional pollutants like sulfur and carbon dioxide, which is believed to be responsible for climate change, can be removed before combustion, while the volume of gas is still relatively small.

Petroleum coke from the Carson refinery is usually trucked to the harbor and shipped to China, where it is burned for fuel.

As a nearly carbon-free source of electricity, the plant would compete with wind power. Its construction cost is about double the cost of a wind turbine, according to Theodore F. Craver Jr., the chairman and chief executive of Edison Mission Energy, an unregulated subsidiary of Edison International.

But the production of wind turbines cannot be scheduled, and they generally produce only about 30 percent as much electricity as they would by running around the clock; this plant will run 90 to 95 percent of the hours in a year, he said. And the Los Angeles Basin, where it is situated, is often short of power, he said.

Steve Westwell, chief executive of BP Alternative Energy, said that all of the technologies had already been demonstrated individually, including separating carbon dioxide from hydrogen, and pumping the carbon dioxide under pressure into the ground. One area in which the project would stretch existing technologies is in the turbine; hydrogen burns hotter than natural gas, and tends to make turbine blades brittle.

BP is seeking to put the carbon dioxide in oil fields owned by Occidental Petroleum.

Gov. Arnold Schwarzenegger, who attended the project announcement, said, "This will be the first plant of its kind in the whole country, and I think it is a perfect fit for our state."

Plan Unveiled For Hydrogen Power Plant (LAT)

By Elizabeth Douglass

The Los Angeles Times, February 11, 2006

Oil giant BP and Edison say they will spend $1 billion to build a nonpolluting facility in Carson. It is expected to be completed in 2011.

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Oil giant BP and Edison International said Friday that they would spend $1 billion to build a one-of-a-kind hydrogen power plant in Carson to supply the region with badly needed electricity without polluting the air.

Slated for completion in 2011 next to BP's Carson oil refinery, the 500-megawatt facility would be the world's largest hydrogen-fired power plant, churning out enough electricity to serve more than 300,000 average homes, executives said at a news conference that drew Gov. Arnold Schwarzenegger and other state officials.

But what sets the project apart is the unique way it would make electricity by using the refinery's leftovers while capturing the resulting carbon dioxide, the primary greenhouse gas linked to global warming, so the environment isn't harmed, the executives said.

BP America Inc. President Ross Pillari called the planned facility "the cleanest and greenest power plant in the United States." Alan Lloyd, secretary of the California Environmental Protection Agency, told the gathering that the plant would be so nonpolluting that "the only emissions are water vapor."

The state has been pushing to augment electricity supplies — considered particularly thin in Southern California — through the construction of power plants and the increased use of alternative, less-polluting energy sources.

The proposed plant would be "a very major step forward" in meeting the region's power needs, said John Bryson, chief executive of Rosemead-based Edison International, whose Southern California Edison utility provides electricity to more than 13 million customers. Another Edison unit, its unregulated Edison Mission Group, would own 49% of the project and London-based BP would own 51%.

Who would buy the power and what they would pay have yet to be determined, company executives said. One problem is price; the hydrogen plant will cost more to build than one using natural gas, and its electricity would be more expensive.

Most of the power plants built in the U.S. in recent years have been fueled by natural gas, a cleaner-burning fuel that remains relatively cheap despite price increases that have rivaled the run-up in the cost of crude oil. More than 40% of California's electricity is made with natural gas, and the state has launched ambitious efforts to reduce that dependence and to slash emissions of carbon dioxide and other greenhouse gases.

"It definitely costs more … and we're going to have to sell it in a competitive market," said Doug McFarlan, spokesman for Edison Mission Group. "Those are the questions that we need to sort through before we make a decision to apply for construction permits."

The companies acknowledged that the project relies to some extent on landing federal tax breaks and incentives for construction of gasification plants similar to theirs, such as those offered under the Federal Energy Policy Act of 2005.

"This is cutting-edge, but at a cost," said Michael Shames, executive director of San Diego-based Utility Consumers' Action Network. He said that building a natural gas-fired plant of the size contemplated by BP and Edison would cost about $400 million.

The proposed BP-Edison hydrogen plant would be fueled by petroleum coke, a coal-like refinery byproduct, and recycled water, which would be "gasified," or converted into two gases: hydrogen and carbon dioxide. The hydrogen would run turbines to produce the electricity.

About 90% of the carbon dioxide, a pollutant that typically is released into the air, would be collected and piped to local oil fields, where it would be injected into the ground to help retrieve hard-to-get oil. The carbon dioxide would be left underground.

"It is a perfect fit for our state," Schwarzenegger said. "I've always said you don't have to choose between a healthy environment and a healthy economy."

David Hawkins, climate center director at the Natural Resources Defense Council, called the project "the only way to make electricity from fossil fuels and protect the planet from global warming." But Hawkins, who attended Friday's news conference, added that "they need to make sure that this project is a good community neighbor."

In nearby Wilmington, Jesse Marquez, executive director of the Coalition for a Safe Environment, said his group "will definitely scrutinize the environmental report on it to assure the public that there will be no environmental impact to the community."

I'm For New Exploration And Production Of Oil (WSJ)

The Wall Street Journal, February 11, 2006

In regard to your Feb. 1 editorial "Oil Bashing, Round Two1" criticizing my proposal for a windfall profits rebate for consumers who are being price-gouged by the big oil companies:

The oil market is not a free market, and when price-gouging occurs, government has an obligation to stand up for consumers. The Journal disagrees. Fair enough. We can disagree about that.

But when you claim that I oppose "new energy production in places where companies want to explore," it is not accurate. I support opening up Lease 181 in the Gulf of Mexico, which is part of the Outer Continental Shelf. I support building a new Alaska

natural gas pipeline. I've voted for a whole range of incentives to encourage more domestic oil and natural production over the years.

My legislation would exempt oil companies from paying the excise tax that would fund the windfall profits rebate if they invest profits from oil sold for more than $40 a barrel in the exploration, drilling and production of new domestic supplies or to develop alternative domestic energy supplies.

I strongly support new exploration and production, even in some places now off limits and specifically in one of the places you say I do not.

Sen. Byron L. Dorgan (D., N.D.)

Washington

Kicking The Habit, All Over The World (LAT)

By Michael T. Klare, Michael T. Klare, A Professor At Hampshire College, Is The Author Of "Blood And Oil: The Dangers And

The Los Angeles Times, February 11, 2006

PRESIDENT BUSH was right to say that the United States is "addicted to oil" in his State of the Union address. For too long we have been consuming ever-greater quantities of the stuff without paying heed to the political, economic and environmental hazards involved. Bush also made some useful, if timid, suggestions on how to curb our insatiable thirst for oil. But he failed to address a critical aspect of the problem: Other countries, including China and India, are just as addicted to oil, and unless we strive to suppress their appetites along with our own, the problems we face will continue to multiply.

For decades, the United States has been the world's leading consumer of petroleum, devouring about one-fourth of the global supply daily. Although higher gasoline prices have weakened demand slightly, we are still expected to consume 27% more oil in 2025 than we do today, according to the latest Department of Energy projections. But an even greater increase in demand is expected from Asia. China's oil consumption is expected to rise by 97% between 2004 and 2025, and India's by 78%. The resulting demand crunch could easily overwhelm the global supply of petroleum.

In the U.S., oil demand is largely spurred by Americans' collective love affair with the automobile. We also own far more vehicles, on a per-capita basis, than any other large nation. But all indications are that Chinese and Indian consumers are beginning to emulate us: In 2001, 16 million Chinese owned private cars; by 2020, the number is expected to hit 130 million; India's ownership rate is expected to grow just as fast.

The rising demand for oil in rapidly developing countries has enormous implications for the United States. To begin with, it is driving up energy prices for American consumers. With global petroleum supplies tighter than they have been in decades, and China and India competing with the U.S. for available supplies, the price is bound to rise. A year ago, the Energy Department was predicting that oil prices would hover in the $30 to $35 a barrel range over the next 20 years; now it is projecting $50 to $55 a barrel for that same period. Some energy analysts expect prices to climb even higher, especially if China's economy continues to grow at 10% a year and the global supply of oil fails to keep pace.

But this is the least of our problems. In their quest for foreign sources of petroleum, China and India are buying up fields around the world and, in some cases, forging close ties with such states as Iran, Sudan, Uzbekistan and Venezuela, which are considered unfriendly or even hostile to the U.S.

"A more troubling aspect of the recent surge in overseas energy deals by China and India is their willingness to invest in countries that are pursuing policies that are harmful to global stability," Assistant Secretary of State E. Anthony Wayne told the Senate Foreign Relations Committee in July. For example, "both Chinese and Indian firms have reportedly been involved in oil and gas-sector deals in Iran that raise concerns under U.S. law and policy." This is especially true when such investment is accompanied by arms and military technology, as has been the case with Chinese links to Iran and Sudan.

It is easy to condemn Beijing and New Delhi for such behavior, but it's hardly surprising that they're prepared to shop anywhere for oil. Under these circumstances, the world is likely to become increasingly well-armed and unstable, posing acute dangers for the U.S. whether or not we reduce our own consumption of petroleum.

And this is not the only danger we face. The U.S. is the leading emitter of carbon dioxide and other greenhouse gases into the atmosphere, thus heightening the risk of catastrophic climate change. If we implement Bush's proposed initiatives and consume less petroleum (which accounts for the largest share of our carbon emissions), we stand a chance of slowing climate change. But, according to the Energy Department, developing nations in Asia now account for about 19% of the world's oil-related carbon emissions (compared with 24% for the U.S.); by 2025, their share is projected to rise to 28%.

It follows from all this that it is not enough to curb the U.S. addiction to oil. We also need to work with China, India and other oil-addicted countries to curb their fast-growing demand. This means persuading the leaders of those countries to adopt the same sort of initiatives as those proposed by Bush. Even better, the president should invite them to join the U.S. in these efforts

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as equal partners. U.S. companies should also be encouraged to form partnerships with foreign firms to develop new energy alternatives and transportation systems that would spur economic growth in participating countries.

Yes, Americans are addicted to petroleum, but so are others around the world. Unless we work together to curb its harmful effects, we will all suffer from the resulting damage.

The Grass Station (NYT)

By Constance Casey

The New York Times, February 11, 2006

THOSE of us who labor in the garden got an unexpected thrill listening to the State of the Union last week when President Bush touted a plant, switch grass to be exact, as a way to "make our dependence on Middle Eastern oil a thing of the past."

How pleasing to see official presidential recognition of the usefulness and worthiness of this common member (panicum virgatum) of the millet family. Previously insufficiently appreciated in our capital, switch grass is inexpensive food for cattle, horses, sheep and goats. This deep-rooted perennial controls erosion by slowing down water run off and keeping beneficial sediments in the field, and it is habitat for songbirds, game birds and waterfowl.

And yes, ethanol can be made from switch grass, which grows in abundance on the prairies of the Great Plains. If grass had ambition (besides wanting to propagate), the panicum virgatum might see itself as a cure for global warming and a savior of the family farm. If burning compressed switch grass really does work to reduce the use of fossil fuels, it would reduce the carbon we release into the air. Then farmers could find new profits in growing the stuff. And the more, the better. Switch grass, like every other plant, takes carbon dioxide out of the air and uses it to build plant tissue. Fold that, Republicans, into your Clear Skies legislation.

Switch grass cleans water as well as air; its wide-spreading roots filter out pesticides, herbicides and excess fertilizer before they reach the waterways. Up in Manitoba, Canada, where they care deeply about staying warm, they're experimenting with stoves that burn pellets of switch grass.

Senator Joseph Lieberman, Democrat of Connecticut, recently recommended switch grass as a balm for international tension. It's likely we'll find ourselves competing with China for oil, he told the Council on Foreign Relations, so we'll need to look at other fuels. He suggested that tons of agricultural materials, like corn, sugar cane and switch grass, could be used "to create billions of barrels of new fuels."

At this point I wouldn't be surprised to hear someone say that switch grass is a cure for lower-back pain and nearsightedness.

Family farmers know that switch grass is easy to grow. It doesn't complain about growing in sand; it doesn't mind clay either. It's tolerant of floods as well as of droughts. It would work as part of the effort to restore the Louisiana wetlands that can help protect New Orleans from hurricanes.

Switch grass is native to most of North America, from Canada to Texas. The day after the State of the Union, the president joked that he might bring in a few extra dollars at his Crawford ranch by growing switch grass for fuel. Whoa, Mr. President, take a look next time you're trimming the brush: odds are you have plenty.

Let's not forget that switch grass is beautiful and looks great in floral arrangements. On the very same day the president spoke, I got the latest Brooklyn Botanic Garden handbook, "Designing Borders for Sun and Shade," in the mail. The handbook strongly recommended switch grass as part of a perennial border. There's "Dallas Blues," "Alamo," and the prettiest, wine-red "Shenandoah." The handbook suggests combining switch grass with asters, sunflowers and black-eyed Susans for an all-native garden with a nice prairie feel.

To me, though this may seem at first unrelated, this is just one more reason that "America the Beautiful" should be our national anthem instead of that song with the bombs bursting in air. The clue to achieving clean fuel, clean air, clean water, world peace has been right there all the time in those "amber waves of grain."

Congress's Duty On Energy (NYT)

The New York Times, February 11, 2006

Senator Pete Domenici told a recent gathering of experts that if Congress is going to do anything useful this year about the two big energy-related questions of our time — oil dependency and global warming — it will have to focus on "four or five big things" instead of the usual laundry list of tax breaks, subsidies and modest research programs.

A New Mexico Republican who runs the Senate energy committee, Mr. Domenici has become something of a Senate visionary on energy policy. With Jeff Bingaman, a New Mexico Democrat, he co-sponsored a resolution that not only accepted the basic science of global warming but also endorsed mandatory controls on emissions of carbon dioxide. The realist in him

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knows that this Congress is unlikely to take either of the steps (much less both) that would be most likely to lower oil consumption as well as greenhouse gases: a big increase in fuel economy standards and a big gasoline tax.

But he is willing to entertain other incentives to produce fuel-efficient cars, to develop fuels other than gasoline — most likely ethanol, not just from corn but from other crops — and to build a new generation of power plants capable of capturing carbon dioxide before it goes into the atmosphere. Mr. Domenici's vision of the future also includes safer, less expensive nuclear plants, which have the virtue of generating no greenhouse gases.

There are several legislative vehicles at hand for achieving some of these objectives. One is the Fuel Choices for American Security Act of 2005. There are identical versions in both houses, each with broadly bipartisan sponsorship, including conservatives who would normally resist federal mandates but who believe that reducing oil consumption is an urgent matter of national security.

The bill would establish a goal for fuel savings of 2.5 million barrels a day (about what we now import from the Persian Gulf), increasing to 7.5 million barrels by 2025. It would also provide some of the means to get there, including serious production incentives for a new generation of cars and fuels.

Although the bill does not address other imperatives, like cleaner power plants, it would have a positive spillover effect on global warming because fuel-efficient cars and trucks would produce lower greenhouse gases. The question is whether Congress can focus on the big issues without engaging in the diversionary food fights that every energy bill seems to inspire.

It will be hard for someone not to raise red flags like drilling in the Arctic, or for Congress in general not to indulge its appetite for pork. But with even President Bush signing on (at least in speeches) to the need for a new energy future, this is not the time for business as usual.

Gov't Seeks $16M Unpaid Mine Safety Fines (AP)

By NANCY ZUCKERBROD

Associated Press, February 11, 2006

By , Writer WASHINGTON (AP) - Kentucky mine operator Stanley Osborne has accumulated more than $200,000 in safety fines since the 1980s, but the federal government has not been able to collect the money.

In a new approach, the Mine Safety and Health Administration filed suit against Osborne this month. "We just can't be chasing people around for these collection cases when they should be paying their civil penalties," said Thomas Mascolino, deputy associate solicitor at the Labor Department.

MSHA, part of the Labor Department, was owed more than $16 million in delinquent fines at the end of last year, said agency spokesman Dirk Fillpot. More than $11 million was for violations at coal mines.

The problem isn't new, but it has gained attention following mining accidents that have left 21 miners dead so far this year.

West Virginia lawmakers have asked the Government Accountability Office, the investigative arm of Congress, to look into how the mine agency assesses and collects fines.

"It is critically important that penalties for serious violations be painful," the lawmakers said in a letter to the GAO.

But critics wonder how safety fines can be painful when they can go uncollected.

"The payment of fines assessed by MSHA is essentially voluntary," said Wes Addington, a lawyer at the Appalachian Citizens Law Center, which is based in Prestonsburg, Ky., and represents miners in discrimination cases.

Addington recently analyzed fines levied against companies in Kentucky - the nation's third-largest coal producer - and found there were one or more years during the past decade in which one-third of the state's underground mines paid little or none of their fines.

Fillpot said MSHA has collected 80 percent of the fines it has assessed in the past decade.

He said the agency first tries to collect the fines and after 180 days asks the Treasury Department to get involved. Treasury can ask collection agencies to go after the fines.

If an operator cannot be found, goes out of business or doesn't have the money, MSHA can write the debt off. The Internal Revenue Service can consider the money part of the operator's earned income, meaning it is taxable.

"The process needs to change," said Stephen Webber, who headed the mine agency's assessments office at the end of the Clinton administration and for a few years under the Bush administration.

"If mine operators are not paying their civil penalty assessments, they're not going to have the right attitude toward health and safety," Webber said. "They'll just get another assessment and not pay it."

Webber said he suggested to Labor Department lawyers that they shut down mines that had delinquent fines: "That would have an effect." But the idea was rejected, he said.

If a coal operator isn't fixing the problem for which he is cited, MSHA can shut down the part of the mine in question, said Mascolino. But he said the agency can't take that action just because fines haven't been paid.

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"Our power to shut a portion of a mine is always directed to the finding of a current existing health and safety violation," he said.

Another option Webber supports is creation of a system by which mine operators would have to pay outstanding fines to renew permits. West Virginia has such a law, ensuring the state is paid, he said.

There is no similar federal permit system, Mascolino said.

"They don't have it, but they need it," said Webber, who thinks Congress ought to mandate the change.

In the case of Osborne, who has operated several mines in eastern Kentucky, the agency didn't go after old fines but asked the court to make Osborne post a bond for payment of future fines.

Mascolino said the goal is to make other operators think twice about ignoring fines.

"That's what this case is about," he said, adding that the legal strategy has been developing since last year, before the recent spate of mine accidents.

Osborne couldn't be reached for comment on the new suit. But he offered an explanation on the unpaid fines during a worker discrimination case last year, saying, "I don't have the money."

Miner representatives are skeptical, noting coal prices are up.

"Those operators that do not pay their fines in a timely manner, they should not be able to operate," said Dennis O'Dell, top safety expert at United Mine Workers of America. "They're making all kinds of money."

Hydra-Headed Hybrids (WP)

The Washington Post, February 11, 2006

IN NORTHERN VIRGINIA, the hybrid has become hydra-headed. As plenty of the region's commuters know, hybrid vehicles are the main culprit in the ever-worsening traffic in the region's carpool lanes. Thanks to a regulatory perk, hybrid drivers are allowed to use carpool lanes -- chiefly those on Interstate 95 -- without carrying a single passenger; that's a major reason Northern Virginia ranks just behind California as the nation's hottest market for hybrid sales.

Obviously, it defeats the purpose of carpool lanes to flood them with passengerless hybrids. Realizing that, officials have long planned to end the sweet deal for hybrids this summer. But, incredibly, Virginia lawmakers have voted to prolong it. This is a supremely bad idea.

There is no mystery about hybrids' impact on the carpool lanes, known as HOV, or high-occupancy-vehicle, lanes. Introduced only five years ago, hybrids now account for at least 22 percent of rush-hour traffic on I-95's HOV lanes. That's even more than the 15 percent believed to be cheaters -- those in conventional cars who use the HOV lanes despite carrying no passengers. With hybrid sales soaring, the problem is getting worse in a hurry. There are already more than 11,700 hybrids on Virginia's roads -- triple the number three years ago -- and the vast majority of them are in Northern Virginia. At current trends another 5,000 will be added to the region's roads this year.

State incentives to drive hybrids once made some sense. Powered by battery as well as gasoline, hybrids are somewhat cleaner and more

fuel-efficient than their exclusively gasoline-powered cousins. When the state granted HOV access to hybrids starting in 2000, the idea was to strike a blow for the environment and against profligate gas consumption.

But that deal has outlived its usefulness. Hybrids' environmental advantages have diminished as stricter federal rules have required gas-powered cars to have cleaner engines, starting with 2004 models. The region's air quality, though still in need of improvement, has made major gains for more than a decade. Whatever marginal environmental benefits are realized by encouraging hybrid sales on the promise of HOV access, at this point the policy may be doing more harm than good. By slowing carpoolers and long-haul bus trips at rush hour, hybrids may well push frustrated commuters back into their own cars, increasing net emissions. By slowing traffic, hybrids threaten to kill the HOV system.

The hybrid invasion of carpool lanes must end. If that doesn't happen on schedule this summer, it will only become more difficult to do as pressure builds from the growing numbers of hybrid owners and dealers. Nonetheless, both houses of the General Assembly have passed legislation that would extend the deal by a year, until July 2007. The sponsor of one of the bills, Sen. Jeannemarie Devolites Davis (R-Fairfax), says it will maintain the status quo while Virginia and federal officials negotiate regulations governing how much HOV traffic is too much and how many passengerless hybrids are too many. But that is beside the point, which is that high-occupancy lanes are already being clogged by low-occupancy cars. Gov. Timothy M. Kaine (D) should veto the legislation. It's time to restore some rationality to the roads.

Tribal Land Issue Heating Up In Scott County (MINNST)

Minneapolis Star Tribune, February 11, 2006

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As the tribe buys property, it shouldn't be allowed to put the holdings into a tax-exempt trust that takes land off property tax rolls and frees land from local land-use restrictions, some local officials say.

Anthony Lonetree, Star Tribune Outside the hotel-and-casino complex that has enriched the Shakopee Mdewakanton Sioux Community is a statue of an Indian chief with the quote: "Over these hills I once rode free upon my horse."

This is a people who love the land. Twenty-four years after bringing high-stakes gaming to Minnesota, the Mdewakanton Sioux tribe now is the biggest landowner in Scott County -- excluding agencies like the state Department of Natural Resources.

The tribe, determined to develop its property as it sees fit, is asking the federal government to move 760 acres off the property-tax rolls and into trust. Until then, the land is subject to local land-use controls, and that's unacceptable to Tribal Chairman Stanley Crooks.

"When you are sovereign, you determine what's best for you," he said. He described as "demeaning" a recent suggestion by Gov. Tim Pawlenty that tribal and local officials engage in talks to let some -- but not all -- of the land be put into trust.

Yet Scott County and other officials say local governments should continue to manage growth within one of the nation's fastest-growing counties -- and to share in the property-tax revenues that development would bring.

The dispute dates to the mid-1990s, and while it is to be decided at the federal level, perhaps within the next few months, it continues to roil emotions locally.

In December, without advance public notice, the Prior Lake City Council voted to withdraw opposition to having 106 acres within that city put into trust for the tribe, spurring a battle between the county and the tribe in the commentary sections of local and daily newspapers.

The tribe also created and paid for a flier to be inserted in thousands of local papers accusing a Scott County commissioner of having stated in a commentary piece that the tribe was "unacceptable."

Stakes are high, County Administrator David Unmacht said. The federal government's decision could determine the fate of not just 760 acres, he said, but that of other recently acquired tribal parcels, as well -- taxable property now totaling an additional 750 acres. Considering that 640 acres equals one square mile, that's a lot of land.

If not in trust, tribal officials say, the fields will go undeveloped.

By its rules

The Shakopee Mdewakanton Sioux Community is sovereign in that it manages its affairs independent of most state and federal laws. But tribes also can be subject to limits set by Congress. For the Sioux, that means having a civil court but letting Scott County handle criminal matters.

For decades, poor tribes relied upon the federal government to put lands into trust to protect them from forfeiture.

Today, however, said David Wilkins, an American Indian Studies professor at the University of Minnesota, many tribes use gaming profits to buy back lands lost a century ago. In his view, the Bureau of Indian Affairs (BIA) should approve every application to put land in trust: "If we [as tribes] say, 'This will benefit us, trustee,' then do it," he said, referring to the basic nature of a trust relationship.

Whether a tribe is wealthy, he added, is irrelevant.

As a semi-sovereign nation, the Shakopee Mdewakanton Sioux Community does not disclose its financial records. But according to its website, Mystic Lake Casino Hotel now boasts of more than 4,000 slot machines and 100 blackjack tables, plus three hotel towers and a resort-styled golf course.

The tribe, too, is proud of its stewardship of the land. Prairies have been restored; its building codes are stringent, officials say.

Land is needed for housing tribal families, however. Two parcels in the trust application -- one in Shakopee and the other in Prior Lake -- would take the bulk of new residential development. The tribe also wants to move its powwow grounds and to develop a cultural center and new government center in Shakopee, as well.

In 1998, the tribe applied to have 593 acres put into trust, and the BIA rejected the application. It said then that the tribe's business acumen made it one of the nation's most successful Indian enterprises and it failed to show the need for the benefits that having land in trust could bring.

The decision will figure into current deliberations, said Terry Virden, director of the BIA's midwest regional office. But, so, too, he added, will other factors. Now, he said, there is more development near the reservation than in 1998, easing concerns about land-use pressures. Opposition seems less heated, too, he added.

Virden said a decision is expected within two months. If the agency had to its issue its decision today, he added, he doesn't know what it would be.

The county has said that if the tribe developed the parcels as proposed, local jurisdictions could lose $2.9 million a year in tax revenues. In 2005, the undeveloped parcels produced $65,642 in property taxes.

Local change

In Prior Lake, the decision to support the trust application prompted outrage among some citizens, who've begun a petition drive (at www.offthecouch.org) urging a new city policy opposing it.

During his State of the City address Monday, Mayor Jack Haugen apologized for the suddenness of the decision but not for the action itself.

Just four months ago, he had joined local officials in appearing before Virden to argue against the trust, and, in fact, helped lead the presentation. But, he said in a recent interview, he realized later "my heart wasn't in the position."

During the presentation, officials noted the tribe was entrenched in an "all or nothing" position. Talk to Crooks, and that seems clear: "There is no 'win-win' situation," he said of any talks. "Not for the tribe."

Interior Ordered To Pay Cobell Lawyers (ICT)

By David Melmer, Indian Country Today

Indian Country Today, February 10, 2006

WASINGTON - The Department of the Interior was ordered by the U.S. District Court to pay attorneys' fees and expenses that have accumulated in the ongoing Cobell v. Norton case.

The total amount ordered paid by U.S. District Judge Royce Lamberth is more than $7 million. That money will come out of BIA and Interior accounts, and will affect tribal programs.

On Jan. 26, Interior Associate Deputy Secretary James Cason sent a letter to tribes notifying them that the court-mandated legal fee payment sent to Cobell attorneys on Jan. 18 would adversely affect tribal programs. He detailed where the $7 million would come from to forewarn them that some of their expectations may not be met this year.

The largest impact will be in the area of historical accounting, with a contribution of $2 million. That department, which focuses on identifying the rightful owners of special deposit accounts, was chosen because it would not be as difficult to move the work to a later and more protracted timeline.

"It's a matter of do we get them done this year or next year," Cason said.

Tribal attorneys who expect payment for work they have done for the Interior or BIA on water rights, boundary disputes or other issues may not be paid this year, Cason said. Most of that work is performed by the Justice Department, but from time to time tribal attorneys are asked to step in.

In numerous cases such as this, lawyers would do a lot of background work to make sure attorneys' fees would not be reimbursed out of tribal funds, John Dossett, general counsel for the National Congress of American Indians, said.

"In this case, none of that was done. I don't see [where] that happened. Tribes are concerned that money will come out of tribal programs, and it's clearly not what that fund is for," Dossett said.

Sen. Tim Johnson, D-S.D. and member of the Senate Committee on Indian Affairs, wrote in a response to Cason's letter: "I understand the Court's Order disturbed funding expectations; however, the inflammatory letter sent was an entirely unnecessary and inappropriate attempt to undermine the relationship between tribes and tribal members involved in the Cobell v. Norton case. It is my sincere hope that the Department revisits this decision and finds an adequate solution that fulfills its obligations to the first Americans."

NCAI President Joe Garcia called for a fair settlement to be negotiated soon and in good faith. During the annual State of the Indian Nations address on Jan. 30, Garcia said the decision to take funds from the BIA budget to comply with court orders to pay attorneys' fees "impedes our progress as tribal governments on nearly all other issues."

"Every year, the BIA budget gets cut. Every year we see somewhere from $100 million to $150 million taken out and moved over to Office of Special Trustee; that's a bigger concern. This issue of reimbursement of attorneys' fees is much smaller."

The majority of funds that will be paid to the Cobell attorneys will not come out of tribal programs. Cason said education and law enforcement are exempted.

"One of the problems the critics have not embraced is where you take the money from," Cason said, noting that there wasn't any money lying around that wasn't in use and that the department had to abide by the court order.

A 0.1 percent levy, which will generate $1 million, was imposed on most programs, including central office operations and tribal operations. In each case, the levy was small and broad-based, Cason said.

"We tried to spread the millions out so no one particular program took a big hit," Cason said.

"My advice to tribal leaders is, be careful. The financial environment has changed."

Some tribes will have an allocation reduced by $100. Cason said if that tribe works on a very slim margin, it would have a greater impact.

The BIA contributed $3 million to the attorneys' fee account, with $2 million of that coming from an account that would reimburse tribal attorneys and the other $1 million from the 0.1 percent levy.

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The Cobell plaintiffs referred to the levy and fund distribution as a "cruel effort to inflict more pain on the victims of the government's long-acknowledged misbehavior." They claim the funds used to pay attorneys' fees come from areas that are designed to "punish Native Americans."

"Now that we have secured the rights to this accounting, and now that the government must pay the costs of that accounting, the Interior Department is planning to loot Indian accounts once again to cover up its misdeeds," said Eloise Cobell, lead plaintiff in the class action lawsuit.

The suit was filed nearly 10 years ago in an attempt to hold the government accountable and reconcile Individual Indian Money trust accounts for lease, royalties and other payments due tribal land owners. Cobell has stated that some $300 billion is at stake.

The Office of Special Trustee contributed $300,000 of funds that were planned for trust improvement activities; the Department of Treasury, another $2 million.

Cobell said the government could have found funds elsewhere to pay these legal fees. "They don't have to make Indians pay because they lost in court," she said.

The government, by its own admission, has spent some $100 million defending this lawsuit. Cobell said the fees and expenses were planned and the plaintiffs made it clear two years ago they would be seeking the legal fees.

"It's an interesting irony; when we pay, they claim we are divisive and terrible," Cason said of Cobell's criticism.

"If they are so concerned about the money they should say, 'We don't want programs to be hurt, so don't pay this.' If there was some magical pot of money somewhere - I don't know where it is," Cason said.

The Cobell plaintiffs continue to claim the government cannot win this drawn-out litigation. A settlement compromise has been placed on the table for reimbursement to the IIM account-holders for $27.5 billion. That figure is disputed by the government. The Senate Indian Affairs Committee has held hearings on proposed legislation that will settle the lawsuit, but failed to include monetary funds in the legislation.

"There are side effects of the litigation. I think the tribes have been supportive, but as time goes by there are side effects to the budget," Dossett said.

A group of tribal leaders, in a recent meeting in Bismarck, N.D., offered another possible settlement figure that ranges from $13 to $27.5 billion.

"I have never seen a more blatant and transparent attempt to politicize this case in order to divide and conquer Indian country," Cobell said.

"The funds that were cut serve the nation's poorest peoples and we should do everything that we can to maintain and increase program funding for Indian Country, not cut funding," Johnson said. "There are clearly better alternatives than cutting program funding, and I am willing to pursue solutions at the legislative level that do not involve politicizing the Cobell litigation."

The amount to be taken from tribal programs will not have as much impact as the most recent budget submitted by President Bush, which cuts the BIA by $65 million.

Distribution of attorneys' fees:

* Dennis Gingold, lead plaintiff attorney: $2 million

Expenses related to the lawsuit:

* Price Waterhouse Coopers: $2.5 million
* Thaddeus Holt: $350

Total fees and expenses:

$7,066,471

Source: Interior Department Associate Deputy Secretary James Cason's Jan. 26 letter to tribal leaders.

FBI/DEA/ATF/USMS:

Drug Smuggling Air Marshals? (TIME)

By SALLY B. DONNELLY

Time, February 11, 2006

The arrest of a pair of agents on possible cocaine charges raises new concerns about the aviation security program

For a law enforcement agency that works hard to be invisible, the Federal Air Marshals have been generating a lot of attention lately. On Thursday, two of the agency's several thousand highly trained traveling armed guards were taken into custody in Houston. Although the US Attorney's office would not comment beyond acknowledging that the Air Marshals were arrested by agents from the Federal Bureau of Investigation and the Department of Homeland Security's Inspector General's

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office, Government sources tell TIME that the two Air Marshals, are allegedly involved with the possession or transportation of cocaine, and may have been paid several thousand dollars to move the drugs.

The marshals, one of whom is a former agent of the Drug Enforcement Administration, will likely appear in court to face criminal charges next week, and will almost certainly be suspended.

The incident comes only two months after two marshals shot and killed a man who claimed—falsely, as it turned out—to have a bomb while boarding an airplane in Miami. Although the official results of an investigation will not be complete until late spring, it is expected to conclude that the agents acted appropriately in their dealings with the passenger.

The arrest in Houston is a shock to an agency that plays an important role in aviation security. Although there have been air marshals flying for decades, on Sept. 11, 2001, the numbers had dwindled to only three dozen agents. After the attacks, the agency was drastically increased in size and many agents were drafted from other law enforcement agencies and local police departments.

New agents were-and are—subject to security screening and background checks similar to other federal law enforcement agencies, which are required to be updated only every five years.

Critics said the rush to expand allowed too many inexperienced men and women into the service, and there were reports of marshals clashing with airline personnel or other law enforcement agents. Aviation sources say the agency has spent the last few years weeding out poor performers, but the arrest of the two agents in Houston is sure to further stoke those concerns.

F.B.I. Raids In Puerto Rico (NYT/AP)

By The Associated Press

The New York Times, February 11, 2006

SAN JUAN, P.R., Feb. 10 (AP) — F.B.I. agents searched five homes and a business on Friday but made no arrests in an effort to thwart what the bureau said was a "domestic terrorist attack" planned by militants favoring independence for Puerto Rico.

The bureau said the investigation was focused on the Boricua Popular Army. The group, also known as the Macheteros or "cane cutters," was accused of bombings and attacks in the 1970's and 1980's. In September, F.B.I. agents killed Filiberto Ojeda Ríos, one of the group's leaders.

Everett Men Arrested In Connection To Fire (SEATIMES)

By Brian Alexander, Times Snohomish County Bureau

The Seattle Times, February 11, 2006

Two Everett men were jailed and two more suspects could be arrested soon in connection with a December fire that gutted a large condominium building under construction in downtown Edmonds.

The 21-year-old and 18-year-old men were arrested Thursday after they turned themselves in to police in Everett. They are being held in Snohomish County Jail on $75,000 bail each and might face federal charges, according to information released at a news conference Friday.

It was unclear what the motive was for the fire that burned down the 90,000-square-foot structure, at 505 Fifth Ave. S., on Dec. 17, but investigators said Friday it was unrelated to a local controversy about the building's size and height and it was not connected to ecoterrorism.

Neither of the men appeared to have significant local criminal records.

According to a probable-cause statement by an Edmonds police detective, a tip on the Bureau of Alcohol, Tobacco, Firearms and Explosives hotline identified the four suspects. The two men turned themselves in when they learned ATF investigators and police were on to them, said Kelvin Crenshaw, ATF special agent in charge.

During the investigation, an employee of the construction company was identified as an "associate" of the suspects, but the employee did not appear to be a suspect himself, according to the statement.

The employee then helped identify the men who were arrested Thursday, as well as two others, according to the detective's statement.

Authorities expect to arrest at least one of the two remaining suspects in the near future, said ATF spokeswoman Julianne Marshall.

Bruce Miyake, an assistant U.S. attorney, says he is considering whether to pursue federal charges against the people arrested in connection with the arson.

The minimum sentence for a federal arson conviction is five years, compared with less than two years for the state minimum, Miyake said.

A decision on the charges will be made by Monday, he said.

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The break in the case was the result of tips and help from the public, Crenshaw said.

Bob Gregg, the building's owner, said he plans to rebuild "The Gregory" with nearly the same design and hopes it will be completed before the end of the year.

Gregg said he was "greatly relieved" to learn about the arrests, and it "brings some closure."

The estimated damage to the building was $4.5 million, Gregg said. Most of the building has already been torn down, but portions of the foundation that weren't damaged in the fire will be reused in the reconstruction.

The cause of the fire was previously undetermined because of part of a string of lights that couldn't be found in the wreckage of the fire, Crenshaw said. Without being able to find remains of the lights, investigators couldn't rule them out as a possible cause, he said.

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TAX:

Cheney Says New Unit Will Prove Tax Cuts Boost Revenue (WP)

By Nell Henderson

The Washington Post, February 11, 2006

Vice President Cheney said Thursday night that the verdict is in before the Bush administration's new tax analysis shop has even opened for business: Tax cuts boost federal government revenue.

That assertion won applause from his audience at the Conservative Political Action Conference, but it is a long-standing source of debate among many economists and tax experts at a time of rising federal budget deficits.

Cheney touted President Bush's recently announced proposal to create a tax analysis division as a move toward providing more evidence for the administration's side of the argument.

"The president's tax policies have strengthened the economy, as we knew they would," Cheney told the conference, according to a text posted on the White House's Web site. "And despite forecasts to the contrary, the tax cuts have translated into higher federal revenues."

Cheney said some forecasters have underestimated the degree to which tax cuts would stimulate economic growth and tax revenue.

"It's time to reexamine our assumptions and to consider using more dynamic analysis to measure the true impact of tax cuts on the American economy," Cheney said, explaining why Bush has proposed the new Treasury Department division. "The evidence is in, it's time for everyone to admit that sensible tax cuts increase economic growth and add to the federal treasury."

Bush's proposal, unveiled in his budget plan last week, comes as he is pushing Congress to make permanent the recent tax cuts that are scheduled to expire in coming years. The nonpartisan Congressional Budget Office predicted last month that the budget deficit would swell to $337 billion this year and that the red ink would end in 2012 only if the tax cuts were allowed to expire.

Treasury officials said yesterday that the president's proposed Division on Dynamic Analysis -- with a handful of employees and a $513,000 budget -- would go beyond the government's old "static" methods of analyzing proposed changes in tax policy only in terms of their direct effects on certain affected taxpayers. Instead, "dynamic" analysis looks at how tax changes cause consumers and businesses to behave differently in ways that affect the overall economy's growth.

For example, a tax break to encourage business investment might lower some individual companies' tax bills -- looking like a hit to Treasury revenue under a static analysis. But if that tax cut caused businesses to buy more equipment, hire more workers and increase profits, that might contribute to stronger overall economic growth -- causing the employees and companies to pay more in income, sales and other taxes over time.

Treasury officials said yesterday that they would not initially use their dynamic analysis for "scoring," or estimating the effects of tax changes on the government's tax receipts. But the department said in a statement: "It is envisioned that dynamic analysis eventually would evolve into dynamic scoring . . . (maybe within a year or two)."

Some tax-cut proponents contend that tax cuts can essentially pay for themselves by spurring such strong economic growth that the additional tax revenue more than offsets the money lost to the cuts.

Many economists dispute that, arguing that the effects of tax cuts depend on how they are structured, on economic circumstances and on many other variables.

"All economists agree tax policy has an effect on the economy. The hard thing is to figure out how to measure these effects in the real world," said Leonard E. Burman, co-director of the Urban Institute-Brookings Institution Tax Policy Center.

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Both Congress's Joint Committee on Taxation and the CBO provide dynamic analyses of how tax changes are likely to affect the larger economy, but they do not use dynamic scoring in the budget process.

"I am a proponent of doing this," said Douglas Holtz-Eakin, a fellow at the Council on Foreign Relations who introduced dynamic analysis while he was CBO director.

But, he added, because of the challenges of developing good models and the difficulty of the findings, "there are limits to how useful it is as a policy tool."

White House Calls For New Tax-Cut Analysis Unit (WSJ)

By Robert Guy Matthews

The Wall Street Journal, February 11, 2006

WASHINGTON -- The Bush administration, in a maneuver in the long-running battle between proponents and critics of supply-side economics, said it wants to create a "dynamic analysis" unit within the Treasury's tax-policy office to determine how tax proposals would affect economic growth.

President Bush's 2007 budget, released earlier this week, proposed $513,000 to set up the office. If approved by Congress, the office's main task would be to determine the macroeconomic effects of proposed tax cuts.

For decades, adherents of supply-side economics have argued that cutting tax rates can pay for itself -- or come close -- by stimulating economic activity that generates more tax revenue. They have been frustrated that estimates by Treasury and congressional score-keepers don't reflect this approach.

Many mainstream economists, while acknowledging that tax cuts can have revenue-generating effects, challenge the magnitude of the effects that supply-siders predict.

The analyses produced by the new Treasury unit probably would bolster White House arguments that certain tax cuts generate hardier long-term economic growth. "They have been making the argument that tax cuts are essential for economic growth," said Eric Toder, a former Clinton administration Treasury tax economist now at Urban Institute, a think tank here. "I take it as some kind of indication that they are concerned that people are getting worried about budget deficits and the administration wants to provide more ammunition in support of their tax cuts."

Dynamic analysis means assessing the economic effects of tax or other legislative proposals on the macroeconomy and the federal budget, often with alternative sets of assumptions. It is a step toward the more controversial practice of dynamic scoring, using such analyses to estimate the effect that a proposed tax change will have on federal revenues. Dynamic scoring makes it easier to enact tax cuts because it reduces, and might even eliminate, the negative effect on federal revenues.

The Bush administration isn't proposing that the office engage in dynamic scoring. But some analysts said that creating a Treasury office for dynamic analysis would be a first step toward dynamic scoring. "I think this is a signal that if they do this dynamic analysis now, that in time they will do dynamic scoring," said Michael Graetz, a Yale Law School tax professor who was a Treasury official in the George H.W. Bush administration.

Robert Carroll, deputy assistant Treasury secretary for tax analysis said that there were no immediate plans to start dynamic scoring, but added that the administration hadn't ruled it out either. "We here at Treasury have to become more comfortable," he said. "The models are complicated and sensitivity is an issue." He added, "This seems to me, a very reasonable first step," he said.

The Congressional Budget Office and Joint Committee on Taxation, the official scorekeepers in Congress, conduct dynamic analyses, but don't use dynamic scoring to price tax proposals. Mr. Carroll said the assumptions that they use would be different than the assumptions used at Treasury and therefore another dynamic-analysis division is needed.

Mr. Carroll said he expects to offer a dynamic analysis of Mr. Bush's proposed $1.7 trillion in tax cuts in time for the midsession budget review later in the year. Mr. Carroll also said he expects the new office to work on the current tax-overhaul proposal put forth late last year by a panel commissioned by President Bush.

Write to Robert Guy Matthews at robertguy.matthews@wsj.com1

CONGRESS-ADMINISTRATION:

Bush Tells Nervous GOP To Focus On Economy (AP)

By David Espo

AP, February 11, 2006

President Bush told nervous lawmakers in his own party on Friday that Republicans should stress the economy and the war on terror as they move deeper into the election year.

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Bush also defended his administration's program of warrantless wiretapping, and vowed to stay the course in the global campaign to wipe out terrorism, according to participants in a closed-door session. "Don't lose your nerve. I'm not going to lose mine," one member of his audience quoted him as saying.

Bush spent more than 90 minutes with House Republicans, gathered for a retreat at a resort on Maryland's Eastern Shore. He spoke near the midpoint of their three-day meeting, a blend of policy and politics that included the premiere of a tongue-in-cheek video modeled on Star Wars.

Shown to lawmakers on Thursday night, the video lampooned GOP political opponents as "The evil Democrat empire." California Rep. Nancy Pelosi (news, bio, voting record), the Democratic leader, was depicted as "Darth Nancy."

The "empire" soon struck back, as Pelosi and other Democrats announced that Star Wars director George Lucas would be appearing with them at a town hall-style meeting at the Capitol next week.

GOP leaders described the session with Bush as unusually wide-ranging. "He answered nearly every question under the sun," said Rep. Deborah Pryce (news, bio, voting record) of Ohio, and Speaker Dennis Hastert called it "an hour and a half of give and take."

Other officials said Bush was asked about the controversy surrounding the National Security Agency wiretapping program, about education, health care and immigration, and the polls that show a majority of people believe the country is on the wrong track.

Social Security, the issue that dominated Bush's agenda a year ago, did not come up, they said.

These officials spoke on condition of anonymity, saying they were not authorized to speak publicly about the event.

The president's own support in the polls is in the neighborhood of only 40 percent, and some Republicans are concerned about the drag that might have on their ability to retain control of the House in the November elections.

When asked about polls, Bush responded that if he worried about them, "I would be in the fetal position right now, which wouldn't be a pretty sight," one participant said. Participants in the meeting said he then described his own role as that of "educator in chief" who travels the country discussing the war on terror and the economy, and he recommended GOP lawmakers do likewise.

According to those in the audience, he said policies he had advocated and Congress had approved had begun modernizing health care, and he cited laser eye surgery as an example of how competition can help lower costs.

White House aides had arranged for only the first few minutes of the session to be open to reporters. But an apparent mistake left a microphone on for longer than anticipated.

In the interim, he said, "I support the free press, let's just get them out of the room. ..."

"I want to share some thoughts with you before I answer your questions," he went on to the Republican House members. "First of all, I expect this conversation we're about to have to stay in the room. I know that's impossible in Washington."

He then moved to a defense of the NSA program that allows wiretaps without court warrants as part of certain terrorist investigations.

"I wake up every morning thinking about a future attack, and therefore, a lot of my thinking, and a lot of the decisions I make are based upon the attack that hurt us," Bush said.

Referring to the controversy surrounding whether the program is legal, he said, "We put constant checks on the program."

"I take my oath of office seriously. I swear to uphold the Constitution and laws of the United States," Bush said.

The Star Wars-style video was aired Thursday night, when Rep. Tom Reynolds of New York, chairman of the GOP campaign committee, briefed lawmakers on the party's midterm election prospects.

In comments to reporters on Friday, he conceded that historical trends and the polls portend difficulties. But he said Democrats must win 82 percent of the competitive seats on the ballot to gain a majority in November.

Ethics Scandals Cast Shadow On GOP Retreat (LAT)

By Richard Simon

The Los Angeles Times, February 11, 2006

CAMBRIDGE, Md. — "We are in trouble."

Rep. Paul D. Ryan (R-Wis.) made that comment a week ago, discussing his party's political fortunes. And his remark aptly summarized the attitude here Friday at a gathering of House Republicans.

In years past — especially since President Bush took office — these annual retreats have been celebratory affairs, with Republicans reveling in their success and plotting an aggressive legislative agenda.

This meeting, however, was marked by anxiety and uncertainty. The GOP House members, fresh from a leadership battle within their ranks, are divided over how the party should respond to ethics scandals roiling Capitol Hill.

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And with Bush having backed off his prime legislative goal of a year ago — restructuring Social Security — and promoting no programs of similar scope, some Republican lawmakers wonder whether they need an improved strategy for this fall's congressional elections.

For Bush, who spoke to the assemblage at a riverside resort on Maryland's Eastern Shore, the campaign message was clear. He urged his fellow Republicans to run on a record that included more tax reductions, more cuts to the federal budget and a tough stance in the war on terrorism.

"We've got a record, and it's a record of accomplishment," Bush said before a closed-door question-and-answer session.

But, as indicated by Ryan's comment, new poll results have raised questions among many Republicans about whether the public will embrace the president's message.

A survey conducted Feb. 1-5 showed that by 50% to 41%, the public favored a Democratic House. And 31% of those interviewed said they viewed November's vote as a chance to cast a ballot against Bush.

The poll, conducted by the Pew Research Center for the People and the Press, has an error margin of plus or minus 3 to 4 percentage points.

"House Republicans are at some risk of losing their majority," said John J. Pitney, a professor at Claremont McKenna College. "The Democrats don't need a huge tide. A few good ripples could do the trick."

Rep. Jack Kingston of Georgia, a midlevel House GOP leader, said that to stem Democratic advances, Republicans intended to spotlight issues that connected "with the American dinner table." These include extending tax cuts enacted during Bush's first term that are due to expire this decade, and addressing energy prices.

Another issue discussed at the retreat — but unlikely to be emphasized nationally — was immigration policy. Although most Republicans support tougher border controls, the party is riven over Bush's call for a guest-worker program.

The GOP meeting, which wraps up today, convened a week after House Republicans elected Rep. John A. Boehner of Ohio to succeed Rep. Tom DeLay of Texas as majority leader. DeLay left the post after he was indicted in his home state on money-laundering charges. In winning the race, Boehner upset a DeLay ally, Rep. Roy Blunt of Missouri.

Also shadowing the retreat were scandals involving former Rep. Randy "Duke" Cunningham (R-Rancho Santa Fe), who resigned late last year after pleading guilty to bribery, and lobbyist Jack Abramoff, a once-close associate of several GOP congressional leaders who pleaded guilty in January to corruption charges stemming from his business activities.

In a sign of a new wariness toward influence-peddling, lobbyists — welcomed at previous retreats — were barred from the grounds this year.

Several measures have been proposed in Congress that would tighten the guidelines governing lawmakers' dealings with lobbyists. House Republicans, however, are split over how far to go, and no consensus was expected to emerge from the retreat.

Some back a ban on lawmaker trips paid for by interest groups. There also is a push to end the long-standing practice of allowing House and Senate members to insert pet projects into spending bills — items often included at the behest of lobbyists.

Both proposals have sparked dissent. The privately funded trips are popular among lawmakers, and some say that a ban could deprive lawmakers of valuable fact-finding opportunities or shift the costs for such travel to the taxpayers.

Boehner, in a break with House Speaker J. Dennis Hastert (R-Ill.), is among those who have questioned the proposed travel ban.

And Rep. Thomas M. Reynolds (R-N.Y.), typifying a view held by many of his colleagues, said Friday that projects added to spending bills could be among a lawmaker's strongest assets at reelection time.

A newspaper in his area, he said, "believes that I ought to be bringing home the bacon."

Pitney, of Claremont McKenna, expressed skepticism that approval of new ethics rules would significantly affect the outcome of November's election.

"No matter what passes, the Democrats will say that it's not enough," he said.

Pointing to complaints about the new Medicare prescription drug program, Pitney said Republicans instead should be "working like crazy" to fix those problems.

Reynolds, chairman of the National Republican Congressional Committee, which helps House GOP candidates, dismissed the possible consequences of the cases involving Cunningham, DeLay and Abramoff (the latter's cooperation with federal investigators could cause legal woes for Republican lawmakers).

"I have never seen the actions of one member of Congress affect another member's outcome" in an election, Reynolds said.

Still, Reynolds said he was attempting to recruit Sen. John McCain (R-Ariz.), a champion of reform, to stump for House Republican candidates this fall.

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Bush, in his speech, urged unified GOP support for initiatives he outlined in his State of the Union address last week: big boosts in funding for science and math education, increased research aimed at making the U.S. more competitive in the global economy, and faster development of alternative energy sources to reduce U.S. dependence on Middle Eastern oil.

At the start of his question-and-answer period, in remarks heard by reporters when microphones were left on, Bush defended the secret spying program he authorized after the Sept. 11 terrorist attacks. Some GOP senators have joined Democrats in questioning the legality of monitoring international phone calls and e-mails of people in the U.S. without obtaining court warrants.

Sept. 11 "changed the way I think," Bush said, echoing his previous comments on the issue. "I wake up every morning thinking about a future attack, and therefore, a lot of my thinking and a lot of the decisions I make are based upon the attack that hurt us."

Ryan, the Wisconsin congressman, on Friday sounded a more positive note about the party's direction than he had last week.

"With a new [House] leadership team and a clear recognition that reform is essential to upholding our principles, I see real renewal occurring that is healthy and positive," he said.

Bush Rallies Scandal-rocked Republicans (REU)

By Thomas Ferraro

Reuters, February 11, 2006

President Bush was closely questioned by fellow Republicans on his policy on Iran, health care, immigration and other hot-button issues on Friday at a closed meeting meant to rally party members for this year's congressional elections.

Sources at a retreat of the scandal-rocked Republicans in the House of Representatives said Bush drew an ovation when he defended his program to eavesdrop without court warrants on Americans with suspected terrorist ties, a program that has been questioned by both Democrats and some Republicans.

But the sources, who asked not to be named as the meeting was formally closed, said lawmakers, anxious over polls showing waning faith in them and the president, pressed him on issues that could be critical in the November elections.

Many members of the president's party have voiced concerns about the $2.77 trillion federal budget that Bush proposed this week, which would boost defense spending but bring cuts in 141 domestic programs, from veterans health care to housing.

In brief opening remarks, which were public, Bush cited what he said had been major House accomplishments in 2006, including passage of bills on energy, bankruptcy, immigration and the anti-terrorism USA Patriot Act.

"And we're ready to lead again," Bush told the second day of a three-day meeting of House Republicans in Cambridge, Md., a two-hour bus ride from Washington. "We don't fear the future because we're going to shape the future."

Many senior lawmakers have been drawn into an investigation of powerful Republican lobbyist Jack Abramoff, who last month pleaded guilty to fraud and agreed to cooperate with investigators.

"GLITCHES" IN DRUGS PROGRAM

One Republican said Bush defended the new Medicare prescription drug program, whose introduction has drawn enormous criticism, saying, "When you enroll 26 million people into program in 30 days, there are going to be some glitches."

Many political analysts say public dissatisfaction over the ethics scandal, the Iraq war and other issues including health care, threatens the party's control of the House, which it has held since 1995.

Bush shrugged off the importance of opinion polls. One attendee at the meeting said he drew laughter by joking: "If I watched the poll numbers every day, I'd be lying in the fetal position. It wouldn't be a pretty sight." Bush said he acted on the basis of what he believes is right, not polls.

Bush again asserted that the domestic surveillance program was legal, and he drew support from House Speaker Dennis Hastert, who told reporters, "There are adequate protections."

"If somebody in this country, whether he is a foreign national or a citizen, is talking to al Qaeda somebody ought to know about it and know why it is happening," Hastert said.

House Republicans described their retreat as a chance to regroup and discuss their emerging legislative agenda, which they say will include lobbying and ethics reform.

The retreat was to end on Saturday after members and staff attend a seminar on the House's ethics rules. "I think it'll help ensure that members and staff live up to those rules," said House Majority Leader John Boehner of Ohio.

Boehner was elected House majority leader last week, replacing Rep. Tom DeLay, who was forced to step down from the leadership post last year after being indicted in his home state of Texas on campaign-related felony charges.

Bush Reveals Rationale Behind Surveillance (AP)

DOJ_NMG_0014615

By Jennifer Loven
AP, February 11, 2006

President Bush defended his warrantless eavesdropping program Friday, saying during what he thought were private remarks that he concluded that spying on Americans was necessary to fill a gap in the United States' security.

"I wake up every morning thinking about a future attack, and therefore, a lot of my thinking, and a lot of the decisions I make are based upon the attack that hurt us," Bush told the House Republican Caucus, which was in retreat at a luxury resort along the Choptank River on Maryland's Eastern Shore.

The president said he asked the National Security Agency to devise a way to gather intelligence on terrorists' potential activities, and the result was the super-secret spy outfit's program to monitor the international e-mails and phone calls of people inside the United States with suspected ties to terrorists overseas. Bush said lawyers in the White House and at the Justice Department signed off on the program's legality, and "we put constant checks on the program."

"I take my oath of office seriously. I swear to uphold the Constitution and laws of the United States," Bush said.

The president's comments on the NSA eavesdropping came after six minutes of remarks intended for public consumption. In them, Bush stroked lawmakers with thanks and gave a gentle push for his 2006 priorities in a scaled-back version of last month's State of the Union address.

"I'm looking forward to working with you. And I'm confident we'll continue the success we have had together," he said. "So I've come to say thanks for your hard work in the past and thanks for what we're going to do to make this country continue to be the greatest country on the face of the Earth."

He indirectly pressed his call — difficult in an election year — for Congress to approve $70 billion in savings from benefit programs such as Medicare, Medicaid, food stamps and payments to farmers over the next five years, and to cut dozens of other programs that the White House has determined don't produce results.

"It's hard work, to cut out and cut back on programs that don't work," Bush said. "Every program sounds beautiful in Washington, D.C. until you start analyzing the results."

Reporters then were ushered out — "I support the free press, let's just get them out of the room," Bush said — so the president could speak privately to his fellow Republicans.

"I want to share some thoughts with you before I answer your questions," said Bush, unaware that microphones were still on and were allowing those back in the White House press room to eavesdrop on his eavesdropping defense. "First of all, I expect this conversation we're about to have to stay in the room. I know that's impossible in Washington."

That was not to be — and it was telling that the president chose the controversial NSA program as the first topic to raise out of reporters' earshot. Even so, there was no substantive difference between those statements and the series of public speeches he has given recently on the program.

The eavesdropping program has come under fire from Republicans as well as Democrats. They argue that Bush already has the authority to monitor such communications through existing law that requires a warrant from a secret court set up to act quickly, or even after the fact. Bush has argued that the system isn't nimble enough.

The titular head of the Republican Party faced a House GOP Caucus in turmoil.

With most of Congress up for re-election in November, the House GOP is just off a bruising fight to replace former Majority Leader Tom DeLay, R-Texas, is grappling with reforming the time-honored congressional tradition of funding individual pet projects known as earmarks, and faces potentially damaging revelations in an ongoing public corruption investigation centered on a high-flying lobbyist with extensive ties to Republicans.

Though the lawmakers gave Bush a standing ovation and interrupted his remarks several times with applause, questions in the private setting typically are sharper than in public get-togethers.

White House press secretary Scott McClellan said that Bush kept his prepared remarks brief so that he would have extra time for the more freewheeling portion of the discussion, which went on for one hour and 40 minutes. Only the first few minutes of that — before any lawmakers' questions — were heard by reporters.

Bush Defends Spy Program In Speech At GOP Meeting (BSUN)

By Julie Hirschfeld Davis And Gwyneth K. Shaw
The Baltimore Sun, February 11, 2006

Budget, energy, education, health care also discussed at Md. retreat

CAMBRIDGE -- President Bush defended his warrantless eavesdropping program to House Republicans yesterday amid criticism by some in his own party, telling lawmakers the activities were legal and under constant review.

Bush described the National Security Agency wiretapping program as an outgrowth of his belief that "we must do everything in our power to protect the country," adding that he often thinks about the possibility of another terrorist attack.

His remarks came during what Bush intended to be a private session with about 180 Republicans gathered at a posh waterfront resort here for an annual agenda-setting retreat. But a technical glitch enabled reporters to hear the comments, which Bush opened by exhorting lawmakers to keep the discussion to themselves.

"I expect this conversation we're about to have to stay in the room. I know that's impossible in Washington," Bush said after reporters were escorted out of the ballroom where he spoke.

His off-camera defense of the eavesdropping program, which Democrats and some Republicans say should be subjected to court review, echoed Bush's public drive to rally support for it.

"September the 11th changed the way I think," Bush said. "I wake up every morning thinking about a future attack."

Bush argued that the eavesdropping, which tracks some communications inside the United States, passes legal muster.

"See, like you, I take my oath of office seriously. I swear to uphold the Constitution and laws of the United States," Bush said.

Bush spent more than 90 minutes in the closed-door session fielding questions from the members of Congress on such topics as energy policy and health care, as well as others that have divided the party, such as the NSA program and his immigration plan, a White House aide said.

Lawmakers, some in jeans or chinos as they relaxed with their families at the resort on the banks of the Choptank River, asked between 10 and 15 questions, one senior Republican aide estimated.

Bush was upbeat in his remarks to a Republican team struggling to regain its footing and protect its majority status amid ethics scandals and intraparty bickering.

The House Republicans swarmed around him for about a half-hour before he spoke, lining up with their children and spouses for handshakes and photographs.

In brief remarks before the news media representatives were ushered out, Bush urged the Republican House to enact an agenda of deep spending cuts, permanent tax cuts, tax breaks for private health care spending, alternative energy development, and improved math and science education.

Bush, whose sagging popularity could signal a problem for Republicans up for re-election this year, also acknowledged the difficulties they share.

"It's hard work to cut out and cut back on programs that don't work," he said during a six-minute speech packed with praise for the House members.

White House press secretary, Scott McClellan, said the president wanted to spend the bulk of his time answering Republicans' questions behind closed doors. McClellan added that Republicans "were very appreciative" that Bush spent "most of his time answering questions and talking about priorities that are most on the minds of the American people."

The president waited until he thought reporters were safely out of hearing range, however, before raising the NSA program, in a nod to its sensitivity and the party divisions it has exposed.

After Bush departed, Republican leaders told reporters he had left the House members optimistic about the year ahead.

"The president and the Congress share a very aggressive agenda," said House Speaker Dennis Hastert of Illinois.

Rep. John T. Doolittle of California said he was impressed with the detail and sophistication of Bush's remarks during a rare opportunity to see the president in a closed-door setting. He called it "the equivalent of a post-graduate seminar on world diplomacy."

One Republican aide who was present for the question-and-answer session described it as cordial, with some members offering glowing compliments before asking Bush a question.

Maryland's two Republican House members, Reps. Wayne T. Gilchrest and Roscoe G. Bartlett, did not attend the meeting. Gilchrest, whose district includes Cambridge, said he hoped to catch the closing session of the conference today at the Hyatt resort.

Hastert and other party leaders said Bush's appearance would help crystallize discussions held during the conference, which included a session with White House budget chief Joshua B. Bolten after Bush returned to Washington.

Fiscal conservatives are pressing the party to take major steps to curtail government spending, and Bush's $2.77 trillion budget for the fiscal year beginning in October has not been enthusiastically embraced on Capitol Hill.

The retreat will continue until this afternoon, weather permitting, with a scheduled discussion of proposed changes to the rules governing lawmakers' interactions with lobbyists. The scandal enveloping Republican lobbyist Jack Abramoff has roiled Washington and prompted calls for reforms.

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Bush's Job Approval Stuck Near Bottom (AP)

By Will Lester

AP, February 11, 2006

President Bush's marks on overall job approval and for handling the economy are mired near their lowest levels despite a spike in consumer confidence over the past month, an AP-Ipsos poll found.

Bush's job approval is now at 40 percent and his approval on handling the economy at 39 percent. Those numbers haven't budged over the last month even with the public's confidence in the economy growing and the president delivering an upbeat State of the Union address.

Consumer confidence was measured at its highest level in 16 months in the RBC CASH index released Friday.

The AP-Ipsos poll found that the president has slightly improved his standing on handling foreign policy and terrorism to 47 percent. This comes as the public has grown more accepting of the administration's policy on domestic eavesdropping, with almost half now supporting it — up from 42 percent last month.

The president has been campaigning aggressively for that program over the last month, repeatedly telling people that eavesdropping on some international calls is legal and necessary in his war against terrorism.

The poll found low approval of Congress with 47 percent wanting Democrats to take control. Republican control was favored by 37 percent.

The telephone poll of 1,000 adults was conducted Monday through Wednesday and has a margin of error of plus or minus 3 percentage points.

Republican Speaks Up, Leading Others To Challenge Wiretaps (NYT)

By Sheryl Gay Stolberg

The New York Times, February 11, 2006

WASHINGTON, Feb. 10 — When Representative Heather A. Wilson broke ranks with President Bush on Tuesday to declare her "serious concerns" about domestic eavesdropping, she gave voice to what some fellow Republicans were thinking, if not saying.

Now they are speaking up — and growing louder.

In interviews over several days, Congressional Republicans have expressed growing doubts about the National Security Agency program to intercept international communications inside the United States without court warrants. A growing number of Republicans say the program appears to violate the Foreign Intelligence Surveillance Act, the 1978 law that created a court to oversee such surveillance, and are calling for revamping the FISA law.

Ms. Wilson and at least six other Republican lawmakers are openly skeptical about Mr. Bush's assertion that he has the inherent authority to order the wiretaps and that Congress gave him the power to do so when it authorized him to use military force after the Sept. 11, 2001, attacks.

The White House, in a turnabout, briefed the full House and Senate Intelligence Committee on the program this week, after Ms. Wilson, chairwoman of the subcommittee that oversees the N.S.A., had called for a full-scale Congressional investigation. But some Republicans say that is not enough.

"I don't think that's sufficient," Senator Susan Collins, Republican of Maine, said. "There is considerable concern about the administration's just citing the president's inherent authority or the authorization to go to war with Iraq as grounds for conducting this program. It's a stretch."

The criticism became apparent on Monday, when Attorney General Alberto R. Gonzales was the sole witness before the Senate Judiciary Committee in a hearing on the legality of the eavesdropping. Mr. Gonzales faced tough questioning from 4 of the 10 Republicans on the panel, including its chairman, Senator Arlen Specter of Pennsylvania.

By week's end, after Ms. Wilson became the first Republican on either the House or the Senate Intelligence Committees to call for a Congressional inquiry, the critics had become a chorus. Senator Lisa Murkowski, Republican of Alaska, said the more she learned about the program, the more its "gray areas" concerned her.

Mr. Specter said he would draft legislation to put the issue in the hands of the intelligence surveillance court by having its judges rule on the constitutionality of the program.

Even Senator Orrin G. Hatch, the Utah Republican and Judiciary Committee member who has been a staunch supporter of the eavesdropping, said that although he did not think the law needed revising, Congress had to have more oversight.

"The administration has gone a long way in the last couple of days to assure people that this highly classified program is critical to the protection of the nation," Mr. Hatch said. "I think they've more than made a persuasive case. The real question is how do we have oversight?"

In part, the backlash is a symptom of Congressional muscle flexing; a sort of mutiny on Capitol Hill, where lawmakers have been frustrated by the way Mr. Bush boldly exercises his executive authority.

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Senator Lindsey Graham, Republican of South Carolina, who has also criticized the program, said Ms. Wilson's comments were "a sign of a growing movement" by lawmakers to reassert the power of the legislature.

"This is sort of a Marbury v. Madison moment between the executive and the legislative branch," Mr. Graham said in a reference to the 1803 Supreme Court decision in which the court granted itself the power to declare laws unconstitutional.

"I think there's two things going on," said Mr. Graham, a Judiciary Committee member. "There's an abandonment of you-broke-the-law rhetoric by the Democrats and a more questioning attitude about what the law should be by the Republicans. And that merges for a very healthy debate."

Senator Chuck Hagel, Republican of Nebraska, said: "I don't think anyone wants any kind of constitutional showdown over this. We want the president to succeed, but the fact is we are a coequal branch of government and we have serious oversight responsibilities."

The White House insists that there is no need to amend the law, a position that a spokeswoman, Dana Perino, restated on Friday. But Mr. Bush also made clear on Friday that he was tuned in to the growing Republican angst. At a retreat with House Republicans in Cambridge, Md., he began private remarks by defending the legality of the eavesdropping, a White House pool report said.

Apparently thinking that his microphone had been turned off so reporters could not hear, the president told lawmakers that he wanted to "share some thoughts with you" before answering questions.

"I expect this conversation we're about to have to stay in the room," Mr. Bush began. "I know that's impossible in Washington."

He restated what he had said publicly, that the program was legal and necessary for the nation's safety.

"You've got to understand something about me," Mr. Bush said. "Sept. 11 changed the way I think. I told the people exactly what I felt at the time, and I still feel it, and that is we must do everything in our power to protect the country."

Ms. Wilson later stood up to pose a question, and many in the room braced for a confrontation, said an attendee who insisted on anonymity because the session was private.

But there was no showdown. Ms. Wilson simply thanked Mr. Bush and told him that everyone wanted to catch the terrorists.

At the age of 45, Ms. Wilson has considerable credentials in national security. She is a graduate of the Air Force Academy and a former Air Force officer. A Rhodes Scholar, Ms. Wilson obtained a master's degree and doctorate in international relations. She also worked as an arms control negotiator for the National Security Council under the first President Bush.

"I think that had an impact on the administration," she said. "They knew that people in Congress would listen to me on this."

But Ms. Wilson, who represents a swing district in Albuquerque, also faces a tough re-election challenge from the attorney general of New Mexico, Patricia Madrid.

Representative Rahm Emanuel of Illinois, chairman of the Democratic Congressional Campaign Committee, said Ms. Wilson was most likely distancing herself from the White House to curry favor back home.

Yet Representative Jane Harman of California, the senior Democrat on the Intelligence Committee, said Ms. Wilson expressed private concerns to her about the eavesdropping last year, shortly after it became public.

"She was very concerned," said Ms. Harman, who has supported the program in the past but said she now believed that its legal underpinnings were weak. "She came to me, asking me what I thought."

Ms. Wilson said she decided to speak out this week because she had become increasingly "frustrated that the administration was not giving us the information we needed to do our job." With Mr. Gonzales unable or unwilling to answer questions at the Senate hearing, she said, there was no way to determine whether the surveillance law needed to be updated.

"I think the argument that somehow, in passing the use-of-force resolution, that that was authorizing the president and the administration free rein to do whatever they wanted to do, so long as they tied it to the war on terror, was a bit of a stretch," she said. "And I don't think that's what most members of Congress felt they were doing."

White House Effort To Defuse GOP Qualms On Security May Isolate Democrats (KRT)

By James Kuhnhenn

Knight Ridder, February 11, 2006

WASHINGTON - Twice this week the White House gave ground on issues of national security to appease dissident Republican lawmakers, an uncharacteristic retreat for a president who believes that the best defense is a good offense.

First, the Bush administration agreed to brief the full House and Senate Intelligence Committees on its domestic surveillance program, after refusing to do so for years. Then White House officials compromised on civil-liberties concerns that had blocked renewal of the Patriot Act.

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The concessions yielded mixed results. The Patriot Act is now virtually assured of passage. But some Republicans still resist the secret domestic-surveillance program and insist on new legislation to resolve questions about whether it's constitutional.

The developments show that the White House can be forced to compromise even on national security when Republicans and Democrats demand it together. But they also demonstrate that if the White House can appease GOP dissidents, Democrats run the risk of being labeled soft on national security and may have to back down.

As both parties head into the 2006 congressional elections, the White House is trying to minimize divisions within the Republican Party. Democrats, meanwhile, are walking a fine line, supporting an aggressive stance against terrorism while calling for civil liberties protections.

For example, when Republicans announced Thursday that they'd brokered a Patriot Act deal with the White House, two of the Democratic Party's leaders, Sens. Harry Reid of Nevada and Richard Durbin of Illinois, welcomed the agreement as a positive step, even though many Democrats harbored reservations about it.

But Democrats continue to insist on an investigation into the domestic-spying program - with some calling the president's actions criminal - not least because they enjoy political cover from continued resistance to the program by some Republicans.

The White House welcomes the political fight.

"With an important election coming up, people need to know just how we view the most critical questions of national security," Vice President Dick Cheney told conservative activists this week.

In an interview with Knight Ridder on Friday, Reid took up the challenge.

"No matter what the president says about the American people supporting his absolute power to do whatever he wants in the fight against terrorism, that is not how the American people feel," the Senate Democratic leader said.

Polls indicate that the country is closely divided on the issue. The Pew Research Center for the People and the Press found this week that 54 percent believe it was proper for the government's secret National Security Agency to monitor calls and e-mails between U.S. residents and suspected terrorists without court warrants. Forty-three percent opposed it.

As a result, some Democrats aren't eager to fight President Bush on national security.

"The White House is defusing these issues among Republicans, but on the other hand they will use it as a wedge against Democrats," said Marshall Wittmann, an analyst at the centrist Democratic Leadership Council. "This issue will not be played with great subtlety come the fall. It will be, who do you want? The ACLU or the NSA to defend you?"

This week's congressional hearings kept Washington's focus on the spying program even as some Democrats tried to play up Republican lobbying scandals and cuts in Bush's budget.

Still, Reid said that Democrats wouldn't turn away from the debate over spying.

"People want the war on terrorism to be fought every way that they can. I agree with them," he said. "But there is no reason to do things that appear to be illegal and unconstitutional, as even Republicans say. We have significant support from the Republicans. ... These are real conservative Republicans saying slow down there."

Among the Republicans still raising questions about the program are Sens. Lindsey Graham of South Carolina, Arlen Specter of Pennsylvania and Mike DeWine of Ohio. In the House, Rep. Heather Wilson, R-N.M., a member of the House Intelligence Committee, pressed the White House to give her panel more details about the NSA program.

Even after the briefings, Republican critics didn't back down.

Specter said he'd propose legislation to require the program to be reviewed by the secret federal court that reviews government requests for warrants authorizing domestic spying.

DeWine said the intelligence committees need to continue oversight of the program, but he favors amending the law to let Bush continue.

"In an emergency, I believe the president of the United States has the authority to protect the American people," said DeWine. "After a certain period of time, it is right and prudent for the president to go to Congress to get specific statutory authorization to continue such a program. I think we, in all likelihood, have reached such a time."

RNC Chief Defends Domestic Wiretaps (WP)

By Dan Balz

The Washington Post, February 11, 2006

Mehlman Assails Democrats on Security Issues

Republican National Committee Chairman Ken Mehlman yesterday accused Democratic leaders of wanting to deny law enforcement officials the tools they need to defend against terrorism and criticized them for challenging President Bush's program of warrantless surveillance of potential terrorists.

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In a sharply worded speech to the Conservative Political Action Conference, Mehlman said Republicans do not question the patriotism of the opposition party leaders, but he added, "These are people we know love their country. The question is: Can they protect it?"

Citing national security, the federal judiciary and the economy, Mehlman said Americans will have clear choices in the 2006 election. He urged his audience of conservative activists to take the GOP message directly to friends and neighbors, rather than trusting major news organizations that he said have failed to understand the appeal of conservative ideas and leaders.

"We can't depend on the . . . mainstream media to do it for us," he said. "They got Ronald Reagan wrong, just like Democrats did, and they're still getting conservatives wrong."

Democrats have accused GOP leaders of trying to play politics with national security issues and have pointed out that the administration's covert surveillance program has even drawn challenges from some Republicans.

Senate Majority Leader Bill Frist (R-Tenn.) spoke after Mehlman, and he promised that on June 5 he will bring to the floor a constitutional amendment to bar same-sex marriage, and pledged a May vote on eliminating the estate tax, items high on the conservative agenda.

Frist said the amendment is needed to protect the majority of Americans, whom he said oppose same-sex marriage, from "the whims of a few activist judges" who seek to "override the commonsense of the American people." He added, "When America's values are under attack, we need to act."

A similar amendment failed to win the necessary votes in 2004.

Frist charged the Democrats with being leaderless and in the back pocket of liberal constituency groups such as MoveOn.org, NARAL Pro-Choice America and People for the American Way.

Claiming credit for the confirmation of Chief Justice John G. Roberts Jr., Justice Samuel A. Alito Jr. and several conservative judges filibustered by Democrats in the previous Congress, Frist said Democrats were not speaking for their constituents when they opposed Alito. "It looked to me like they were speaking for those far-left, liberal interest groups," he said.

RNC Chief Slams Democrats (WT)

By Bill Sammon

The Washington Times, February 11, 2006

Republican National Committee Chairman Ken Mehlman yesterday ridiculed Democrats and the "mainstream media," but said Republicans must embrace reform in order to win the 2006 elections.

"One of the oldest lessons in history is that power corrupts," Mr. Mehlman warned in a speech to the Conservative Political Action Conference in Washington.

"And if we are to learn from that particular lesson of history, then we must take a stand, right here, right now, against corruption," he added. "We must remember that public service is a sacred trust, and we cannot allow it to be sullied by anyone -- Democrat or Republican."

The acknowledgement was an attempt to counter the Democratic charge that Republicans are immersed in a "culture of corruption." In recent months, Rep. Tom DeLay, Texas Republican, has been indicted and Republican lobbyist Jack Abramoff, in a separate case, has pleaded guilty to corruption charges.

But Mr. Mehlman spent most of his speech excoriating Democrats and journalists. Less than a week after saying he detected "a lot of anger" in Sen. Hillary Rodham Clinton, Mr. Mehlman yesterday slammed the New York Democrat for advocating a rollback of President Bush's tax cuts.

"To support our troops in Iraq, guess how Hillary Clinton would pay for it?" he said. "Higher taxes."

Mr. Mehlman also went after House Minority Leader Nancy Pelosi, California Democrat, and Democratic National Committee Chairman Howard Dean for attacking the National Security Agency's (NSA) terrorist surveillance program.

"Do Nancy Pelosi and Howard Dean really think that when the NSA is listening in on terrorists planning attacks on America, they should hang up when those terrorists call their sleeper cells in the United States?" he said.

Mr. Mehlman also expressed incredulity that Senate Minority Leader Harry Reid, Nevada Democrat, was "proud when he announced last year, and I quote, 'We killed the Patriot Act.' "

"We do not and we never should question these Democrat leaders' patriotism," he added. "But we do question their judgment and we do question their ability to keep the American people safe."

Mr. Mehlman took an even tougher line against the press, which has been highly critical of the surveillance program.

"The media calls this program 'domestic spying,' " he said. "This is the same mainstream media that called a story based on forged documents 'fake but accurate.' "

It was a slap at CBS News, which in September 2004 used forged documents to question President Bush's military record. The scandal forced Dan Rather from his anchor chair and resulted in the firing of CBS producer Mary Mapes, among others.

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"Between the time Ronald Reagan was elected and today, evening viewership of network news dropped from 52 million people to 29 million people," Mr. Mehlman said, drawing applause from his audience of mostly young conservatives. "During the same time daily newspaper readership has fallen from 67 percent to 52 percent.

"And our grass-roots efforts can fill the vacuum," he said. "The mainstream media just doesn't get it."

Republican Chief Outlines 2006 Strategy (AP)

By Barry Schweid

AP, February 11, 2006

Republican national chairman Ken Mehlman on Friday outlined a political strategy for 2006 to portray Democrats as too weak to protect the country and to bypass the mainstream media to spread the GOP message.

Speaking at the Conservative Political Action Conference, Mehlman roused the crowd at a Washington hotel to cheers as he told them President Bush had finally responded to decades of terrorist attacks.

"For a generation, terrorists learned they could make war on free nations without fear of war in return," Mehlman said, adding that Bush understood how to respond. "On Sept. 12, the terrorists got war in return."

Bush's stance on fighting terror is popular with participants in this annual meeting of hard-line conservatives from around the country and so are his federal court appointments.

But many at this national conference question the Bush administration's spending, deficits, immigration policies, prescription drug plan and increased use of federal power.

The GOP chief said such questioning is healthy for the Republican Party and the conservative movement.

John R. Bolton, the U.S. ambassador to the United Nations, keynoted the conference dinner, sketching out the Bush administration's efforts to reform the U.N.

Bolton's targets included waste and abuse of peacekeeping operations reported by the U.N. itself that he said virtually matches in losses the amount the United States contributes to the operation.

He also condemned a "culture of anti-Semitism and anti-Israel" that he said was pervasive at the United Nations and includes offices that exist only as part of an anti-Israel network.

Turning to Iran, whose nuclear programs have been referred to the Security Council, for possible punitive action, Bolton said Iran should follow Libya's lead, which abandoned its pursuit of unconventional weapons and shipped the technology to a U.S. facility at Oak Ridge, Tenn. Bolton drew a laugh by saying the United States could find room at Oak Ridge for Iranian nuclear equipment, as well.

"Like Libya, they can come to the conclusion that their pursuit of nuclear weapons is more harmful than the elimination of the program," Bolton said.

The fight against terrorism is centered in Iraq, Mehlman said, and the only way to prevent terrorists from taking charge there is to stick it out and win.

He quoted Democratic chairman Howard Dean saying that the idea the United States can win in Iraq is wrong and reminded that Sen. John Kerry, D-Mass., accused American soldiers of "terrorizing women and children."

"Democratic leaders always seem to blame America first," Mehlman said, "especially when a Republican is in the White House."

Mehlman said the loss in popularity of the mainstream media — both the evening network news and daily newspapers — is an opportunity for conservatives. He pointed to the growing popularity of talk radio and blogging.

Senate Majority Leader Bill Frist told the group he plans to push for a Senate vote in May on the inheritance tax, called the "death tax" by conservatives. And he said he would push for a vote June 5 on "the marriage protection amendment" that seeks to amend the Constitution to define marriage as a union between a man and a woman.

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Associated Press writer Will Lester contributed to this report.

House Republicans Search For Legislative Plan (WSJ)

By Brody Mullins

The Wall Street Journal, February 11, 2006

CAMBRIDGE, Md. -- House Republicans, after internal consultations and a pep talk from President Bush, say they haven't yet settled on their election-year legislative agenda.

Newly installed Republican Majority Leader John Boehner of Ohio said the House caucus must first "bring our team together" after recent setbacks before developing a plan for the year. Only then can Republicans figure out "where we are going," he said.

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During the party's three-day retreat here, private discussions focused on issues such as lowering taxes, reducing health-care costs, weaning the country off oil imports and bolstering homeland security. With the Justice Department investigation into lobbying and corruption, Republicans added ethics reform to their list.

Mr. Bush, citing 2005 accomplishments such as bankruptcy legislation and a new Central American trade pact, told members, "We're ready to lead again." But the modest tenor of his remarks, which included no ambitious calls to action like last year's Social Security initiative, underscored reduced expectations as the party strives to hold its majority in November elections.

"We know that this is going to be a short legislative year," said Rep. Deborah Pryce (R., Ohio), who organized the retreat.

Party leaders said they wouldn't have a detailed legislative plan for a few more weeks. The retreat "is not about coming out of here with a 10-point plan," Mr. Boehner said.

In fact, Republicans are still wrapping up work they expected to finish last year, including a two-year extension of President Bush's 15% tax rates on capital gains and dividends, and a renewal of the Patriot Act, which was passed after Sept. 11 to strengthen the government's antiterror powers. Last week, Republicans reached a breakthrough on the Patriot Act and inched closer to enacting a budget-reduction bill. Party leaders hope to clear the capital-gains bill by month's end, but obstacles remain.

Beyond those leftovers, Republicans may find it difficult to make progress on other issues. Not long after House Speaker Dennis Hastert of Illinois unveiled a lobbying-overhaul package, it received criticism from other party leaders. Mr. Boehner, now the No. 2 House Republican under Mr. Hastert, called some of the provisions, such as a ban on privately funded travel, "childish." When Republican leaders proposed banning former-lawmakers-turned-lobbyists from the House floor and gym, they came under fire from senior Republicans, including Financial Services Committee Chairman Michael Oxley of Ohio.

Further complicating the lobbying-overhaul issue, Republicans hope to add provisions to the bill that would ban so-called 527 organizations from spending money on political campaigns. That issue could draw fire from Democrats. Such organizations are typically funded by unions and wealthy liberals and often support Democratic candidates.

Other issues on the agenda for this year could be just as complicated. President Bush called for Republicans to approve legislation to permanently extend his 2001 tax cuts on individuals. But New York Republican Rep. Tom Reynolds, the chairman of the House Republicans' campaign arm and a member of the House tax-writing committee, said there is little chance that the bill could clear the Senate.

Write to Brody Mullins at brody.mullins@wsj.com1

Results Of Poll On Public Attitude On Bush (AP)

By The Associated Press

AP, February 11, 2006

The Associated Press-Ipsos poll on public attitudes about President Bush and Congress, conducted Feb. 6-8, is based on telephone interviews with 1,000 adults from all states except Alaska and Hawaii.

Results were weighted to represent the population by demographic factors such as age, sex, region, race and income.

No more than one time in 20 should chance variations in the sample cause the results to vary by more than plus or minus 3 percentage points from the answers that would be obtained if all Americans were polled.

There are other sources of potential error in polls, including the wording and order of questions. Results may not total 100 percent because of rounding. An X signifies less than 1 percent.

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(Early January results are in parentheses)

1. Generally speaking, would you say things in this country are heading in the right direction, or are they off on the wrong track?

_Right direction, 35 percent (32)

_Wrong track, 61 percent (65)

_Not sure, 4 percent (3)

2. Overall, do you approve, disapprove or have mixed feelings about the way George W. Bush is handling his job as president?

_Approve, 40 percent (40)

_Disapprove, 57 percent (59)

_Mixed feelings, 2 percent (1)

_Not sure, X percent (X)

3. And when it comes to handling the economy, do you approve or disapprove or have mixed feelings about the way George W. Bush is handling that issue?

_Approve, 40 percent (39)

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_Disapprove, 58 percent (59)
_Mixed feelings, 2 percent (2)
4. And when it comes to domestic issues like health care, education and the environment, do you approve or disapprove or have mixed feelings about the way George W. Bush is handling that issue?
_Approve, 39 percent (35)
_Disapprove, 58 percent (62)
_Mixed feelings, 2 (2)
_Not sure, X percent (X)
5. When it comes to handling foreign policy issues and the war on terrorism, do you approve or disapprove or have mixed feelings about the way George W. Bush is handling that issue?
_Approve, 47 percent (44)
_Disapprove, 50 percent (54)
_Mixed feelings, 2 percent (1)
_Not sure, 1 percent (X)
6. When it comes to handling the situation in Iraq, do you approve or disapprove or have mixed feelings about the way George W. Bush is handling that issue?
_Approve, 38 percent (39)
_Disapprove, 60 percent (58)
_Mixed feelings, 1 percent (1)
_Not sure, 1 percent (X)
7. When it comes to Social Security, do you approve, disapprove or have mixed feelings about the way George W. Bush is handling that issue?
_Approve, 36 percent (35)
_Disapprove, 60 percent (60)
_Mixed feelings, 3 percent (2)
_Not sure, 1 percent (3)
8. Overall, do you approve, disapprove or have mixed feelings about the way Congress is handling its job?
_Approve, 35 percent (34)
_Disapprove, 61 percent (63)
_Mixed feelings, 2 percent (2)
_Not sure, 1 percent (1)
9. And if the election for Congress were held today, would you want to see the Republicans or Democrats win control of Congress?
_Republicans, 37 percent (36)
_Democrats, 47 percent (49)
_Neither (VOLUNTEERED), 13 percent (12)
_Not sure, 3 percent (3)
10. Should the Bush administration be required to get a warrant from a judge before monitoring phone and Internet communications between American citizens in the United States and suspected terrorists, or should the government be allowed to monitor such communications without getting a warrant?
_Should be required to get a warrant, 50 percent (56)
_Should be allowed to monitor without a warrant, 48 percent (42)
_Not sure, 2 percent (2)

Bob Barr, Bane Of The Right? (WP)

By Dana Milbank
The Washington Post, February 11, 2006
You could find just about everything at the annual Conservative Political Action Conference this week: the bumper sticker that says "Happiness is Hillary's face on a milk carton," the "Straight Pride" T-shirt, a ride on an F-22 Raptor simulator at the Lockheed exhibit, and beans from the Contra Cafe coffee company (slogan: "Wake up with freedom fighters").
As of midday yesterday, a silent auction netted $300 for lunch with activist Grover Norquist, $275 for a meal with the Heritage Foundation president and $1,000 for a hunting trip with the American Conservative Union chairman. But lunch with

former congressman Bob Barr (R-Ga.), with an "estimated value" of $500, had a top bid of only $75 -- even with a signed copy of Barr's book, "The Meaning of Is," thrown in.

No surprise there. The former Clinton impeachment manager is the skunk at CPAC's party this year. He says President Bush is breaking the law by eavesdropping on U.S. citizens without warrants. And fellow conservatives, for the most part, don't want to hear it.

"You've heard of bear baiting? We're going to have, today, Barr baiting," R. Emmet Tyrell, a conservative publisher, announced as he introduced a debate Thursday between Barr and Viet Dinh, one of the authors of the USA Patriot Act.

"Are we losing our lodestar, which is the Bill of Rights?" Barr beseeched the several hundred conservatives at the Omni Shoreham in Woodley Park. "Are we in danger of putting allegiance to party ahead of allegiance to principle?"

Barr answered in the affirmative. "Do we truly remain a society that believes that . . . every president must abide by the law of this country?" he posed. "I, as a conservative, say yes. I hope you as conservatives say yes."

But nobody said anything in the deathly quiet audience. Barr merited only polite applause when he finished, and one man, Richard Sorcinelli, booed him loudly. "I can't believe I'm in a conservative hall listening to him say [Bush] is off course trying to defend the United States," Sorcinelli fumed.

Far more to this crowd's liking was Vice President Cheney, who stopped by CPAC late Thursday and suggested the surveillance program as a 2006 campaign issue. "With an important election coming up, people need to know just how we view the most critical questions of national security," he told the cheering crowd.

Dinh, now a Georgetown law professor, urged the CPAC faithful to carve out a Bush exception to their ideological principle of limited government. "The conservative movement has a healthy skepticism of governmental power, but at times, unfortunately, that healthy skepticism needs to yield," Dinh explained, invoking Osama bin Laden.

Dinh brought the crowd to a raucous ovation when he judged: "The threat to Americans' liberty today comes from al Qaeda and its associates and the people who would destroy America and her people, not the brave men and women who work to defend this country!"

It was the sort of tactic that has intimidated Democrats and the last few libertarian Republicans who question the program's legality. But Barr is not easily suppressed. During a 2002 Senate primary, he accidentally fired a pistol at a campaign event; at a charity event a decade earlier, he licked whipped cream from the chests of two women.

Barr wasn't going to get a lesson on patriotism from this young product of the Bush Justice Department. "That, folks, was a red herring," he announced. "This debate is very simple: It is a debate about whether or not we will remain a nation subject to and governed by the rule of law or the whim of men."

He invoked Goldwater and Reagan and even said he would support Bush's program if it had congressional support. But Barr was a prophet without honor in his own land. "Why does the FISA law trump the Constitution?" one woman demanded of him. "Why should a non-elected, non-briefed judge be able to veto our national security?"

Conservatives were sore that Barr put his disagreements with Bush in the pages of Time magazine. Another questioner scolded Barr for agreeing to introduce an Al Gore speech that was also sponsored by MoveOn.org. "I have nothing whatsoever to do with them," Barr pleaded.

Still, the old prosecutor managed to elicit a crucial concession from Dinh: that the administration's case for its program comes down to saying "Trust me."

"None of us can make a conclusive assessment as to the wisdom of that program and its legality," Dinh acknowledged, "without knowing the full operational details. I do trust the president when he asserts that he has reviewed it carefully and therefore is convinced that there is full legal authority."

The crowd was against him, but Barr, leaving the event, claimed the clear conscience of a conservative. "I just told them what they need to know," he said.

Barr elaborated on his conundrum. "It's difficult," he acknowledged. "It's not about sex, which was very easy to explain."

Love him or hate him, you have to give Barr high marks for consistency. "Whether it's a sitting president when I was an impeachment manager, or a Republican president who has taken liberties with adherence to the law, to me the standard is the same," he said.

And, besides, who cares about a little criticism?

"No more than normal," Barr reported.

Political researcher Zachary A. Goldfarb contributed to this report.

Oops! - Bush Unaware Mikes Were Still On (AP)

AP, February 11, 2006

DOJ_NMG_0014625

The eavesdropping tables were turned on President Bush on Friday. The president apparently believed he was speaking privately when he talked about listening in without a warrant on domestic communications with suspected al-Qaida terrorists overseas. But reporters were the ones doing the listening in this time.

The incident happened at a House Republican retreat. After six minutes of public remarks by the president, reporters were ushered out. "I support the free press, let's just get them out of the room," Bush said, intending to speak behind closed doors with fellow Republicans and take lawmakers' questions.

When reporters left, Bush spoke about the National Security Agency program that he authorized four years ago and which has drawn criticism from Democrats and Republicans alike.

However, the microphones stayed on for a few minutes. That allowed journalists back at the White House to eavesdrop on Bush's defense of the eavesdropping. His private statements were basically no different from what he's said in public.

"I want to share some thoughts with you before I answer your questions," Bush began. "First of all, I expect this conversation we're about to have to stay in the room. I know that's impossible in Washington."

He was right.

Smoking Dutch Cleanser (NYT)

By Maureen Dowd

The New York Times, February 11, 2006

Vice President Dick Cheney bitterly complains that national security leaks are endangering America. Unless, of course, he's doing the leaking, tapping Scooter Libby to reveal national security information to punish a political critic.

President Bush says he will not talk about specific security threats to America. Unless, of course, he needs to talk about a specific threat to Los Angeles to confuse the public and gain some cheap political advantage.

The White House says it has done everything possible to protect the homeland. Unless, of course, it hasn't. Then it can lie to hide the callous portrait of Incurious George in Crawford as New Orleans drowned.

The attorney general can claim that torture and warrantless wiretapping are legal, and can mislead Congress. Unless, of course, enough Republicans stand up and say, as Arlen Specter told The Washington Post, that if that lickspittle lawyer thinks all this is legal, "he's smoking Dutch Cleanser."

The president doesn't know the Indian Taker Jack Abramoff. Unless, of course, W. has met with him a dozen times, invited him to Crawford and joked with him about his kids.

The Bushies can continue to claim that the invasion of Iraq was justified because Saddam was a threat to our security. Unless, of course, he wasn't, and the Cheney cabal was simply abusing the trust of Americans to push a wild-eyed political scheme.

At the Bush White House, the mere evocation of the word "terror" justifies breaking any law, contravening any convention, despoiling any ideal, electing any Republican and brushing off any failure to govern.

Asked yesterday by Senator Susan Collins why the administration had reacted in slo-mo on Katrina, with "people dying, people waiting to be rescued," Michael Brown replied that if FEMA had declared that a terrorist had blown up the 17th Street Canal levee, "then everybody would have jumped all over that and been trying to do everything they could."

Instead of just going after the 9/11 fiends, as W. promised with his bullhorn, the president and Vice President Strangelove have cynically played the terror card to accrue power and sidestep blame. They have twisted our values, mismanaged crises, fueled fundamentalist successes and violence around the world, and magnified a clash of civilizations.

It used to take an Israeli incursion to inflame the Arab world. Now all it takes is a cartoon in Denmark.

W. and Vice have wasted hundreds of billions of dollars, turning Iraq into a terrorist training ground, leaving the 9/11 villains at large, and letting cronies and losers botch the job of homeland security.

Brownie, one of the biggest boneheads in U.S. history, considered the homeland security chief, Michael Chertoff, so useless that he deliberately didn't call him right away about the suffering in New Orleans.

"The culture was such that I didn't think that would have been effective and would have exacerbated the problem, quite frankly," Brownie told the Republican senator Bob Bennett, who called the statement "staggering." A telephone call to his boss, Brownie said, "would have wasted my time."

The doofus who frittered away lives e-mailing colleagues about being a "fashion god" and wondering how he looked on television may have just been engaged in self-protective spin. Or has the Homeland Security Department simply created another set of paralyzing turf battles?

The most dysfunctional man in government is calling the government dysfunctional.

W.'s sophomoric "Brownie, you're doing a heck of a job" line makes even Brownie cringe. "Unfortunately," the former FEMA chief complained, "he called me 'Brownie' at the wrong time. Thanks a lot, sir."

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In the new Foreign Affairs, Paul Pillar, who was a senior C.I.A. official overseeing Middle East intelligence assessments until October, says the obvious conclusion that should have been drawn from the intelligence on Iraq was that war was unnecessary. He says the White House "went to war without requesting — and evidently without being influenced by — any strategic-level intelligence assessments on any aspect of Iraq."

He calls the relationship between the intelligence community and the policy makers — you guessed it — politicized, damaged by bureaucratic rivalries and dysfunctional.

A final absurd junction of dysfunction was reached on Wednesday, when Republican Party leaders awarded Tom DeLay with a seat on the Appropriations subcommittee overseeing the Justice Department, which is investigating Jack Abramoff, including his connections to Tom DeLay.

Perfect.

Irresponsible Rhetoric, Again (WP)

The Washington Post, February 11, 2006

AMERICANS, OFTEN cynical about their political institutions and often for good reason, had cause last week to feel pretty good about their national legislature. On some tough policy challenges, Congress debated with seriousness, patriotism and some measure of bipartisanship. Senators came up with a compromise on the USA Patriot Act that, while not entirely satisfying to most, preserved the police powers the government says it needs while extending a bit more protection to civil liberties. They turned back an early effort to quash an asbestos relief bill that would replace a dysfunctional court process with a system designed to give sufferers of asbestos-related disease a real chance at relief. And senators and House members alike began exploring ways to evaluate President Bush's extralegal program of domestic surveillance and preserve the useful parts of it in a defensible legal framework.

So you might think this was what Vice President Cheney had in mind when he told a Republican crowd on Thursday night, in reference to the surveillance program, that "a debate is now underway. At the very least, this debate has clarified where all of us stand on the issue."

Unfortunately, though, Mr. Cheney wasn't celebrating the reasoned process that Congress belatedly has embarked on. Instead he was engaging in the administration's tired practice of trying to choke off debate by suggesting that anyone who disagrees with President Bush basically doesn't want to fight the war on terrorism. Some Democrats have their own brand of irresponsible rhetoric when it comes to criticizing the president's policies. But the administration has patented the practice of taking a complicated policy issue and turning it into a club for the coming campaign: "And with an important election coming up, people need to know just how we view the most critical questions of national security, and how we propose to defend the nation that all of us, Republicans and Democrats, love and are privileged to serve," Mr. Cheney told a cheering crowd at the Conservative Political Action Conference. "As always, the president has made his thinking absolutely clear to the citizens of this land: If there are people inside our country talking with al Qaeda, we want to know about it, because we will not sit back and wait to be hit again."

This might be a fair gibe if Mr. Cheney's political opponents were against knowing who's talking with al Qaeda. But they're not. Both the Democrats whom the vice president caricatures, and the Republicans who he does not acknowledge also have doubts about the program, support responsible surveillance policies. They are looking for ways to allow surveillance to take place within the boundaries of the Constitution -- which ultimately would strengthen the defense and law enforcement value of any overheard conversations. They may not succeed, and the bipartisan good sense in evidence this week may not last. But we hope they won't be deterred by the vice president's mischaracterization of what's happening.

Gov't Budget Surplus Hits $21B For Jan. (AP)

By Martin Crutsinger

AP, February 11, 2006

The federal government ran a $21 billion budget surplus last month, the best January showing in four years, as both spending and tax receipts set records for the month.

The Treasury Department said the government spent $209 billion last month, a record amount for January and up 7.9 percent from January 2005. Government tax receipts, however, also set a record for the month of $230 billion, up 13.7 percent from January 2005.

The faster growth in receipts than in spending pushed the suplus for the month to $21 billion, more than double the $8.6 billion surplus the government recorded in January 2005. It was the biggest January surplus since $43.7 billion in 2002.

For the first four months of the budget year that began on Oct. 1, the deficit totals $98.3 billion, an improvement of 10.2 percent from last year's pace when the deficit totaled $319 billion.

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The Bush administration on Monday estimated that the deficit for this year will hit a record in dollar terms of $423 billion, surpassing the old mark of $413 billion set in 2004. The administration blamed increased spending for hurricane relief and the costs of wars in Iraq and Afghanistan for the increase.

However, private economists believe the deficit, while up from last year, will be smaller than the administration's forecasts. Many forecasters are pegging this year's deficit at around $360 billion.

They note that the administration for the past two years has estimated a deficit for the current budget year that is significantly higher than other forecasts, allowing them to claim improvement at the end of the budget year.

President Bush has promised to cut the deficit in half by 2009, the year he will leave office. But that pledge is linked to a projected deficit of $521 billion for 2004 that never materialized.

Democrats Cry Foul Over Clerical Error In Bill (WT)

By Stephen Dinan

The Washington Times, February 11, 2006

CAMBRIDGE, Md. -- The budget cut bill President Bush signed on Wednesday did not pass both the House and Senate in identical form, and House Democrats now say that means it is not legitimately a law.

Because of a clerical error, the version the House voted on had a different reimbursement time period in one section than the time period in the version that passed the Senate.

Rep. Charles B. Rangel of New York, the top Democrat on the Ways and Means Committee, called the law into question and sent a letter to House Speaker J. Dennis Hastert, Illinois Republican, demanding a new vote on the bill.

"I don't yet know exactly what happened and who is at fault, but it is clear that the legislation signed by the president on Wednesday is not what actually passed the House of Representatives on February 1," Mr. Rangel wrote in his letter.

The bill was the $39 billion budget reductions measure that Republican leaders have touted as a start toward fiscal discipline, but which Democrats said damaged health care programs and student loans.

It passed the Senate 50-50 on Dec. 21, with Vice President Dick Cheney breaking the tie, and passed the House 216-214 on Feb. 1.

After the Senate voted on the bill, aides said, a Senate clerk inadvertently changed the length of time Medicare would reimburse for certain medical equipment to be rented from 13 months to 36 months.

Congressional Quarterly reported that staffers discovered the error before the House passed the bill, but did not disclose the mistake until this week.

After the House vote, a Senate clerk changed the length of time back to 13 months and sent the bill to Mr. Bush under the signatures of Mr. Hastert and Senate President Pro Tem Ted Stevens, Alaska Republican, the presiding officers of each chamber. The Senate passed a resolution stating they meant to say 13 months in the bill.

Democratic senators said they would not stand in the way of the measure becoming law, Senate aides said.

However, House Democrats want to force another vote on the bill, which would be the third time in three months House Republicans will have voted to cut Medicare -- even though each vote was on the same basic measure.

Liberal activists said they want the process to be as difficult as possible for Republicans.

Cara Morris Stern, spokeswoman for the Emergency Campaign for America's Priorities, said lawyers in the group are looking at a legal challenge to the measure.

She said Republicans face a dilemma of having to vote again or "open up their actions to a very public scrutiny of a House mired in conflict and abuse of power."

Asked about the issue before Democrats made their challenge yesterday, Mr. Hastert seemed uncertain about whether there will have to be another vote.

"They're trying to work it out, and we'll see what happens," he said.

The Constitution requires in Article I that bills must pass the House and Senate, and that means "in precisely the same form," according to several research papers done for the Congressional Research Service.

William Eskridge Jr., the John A. Garver Professor of Jurisprudence at Yale Law School, said there is no precedent in case law that governs the situation.

He said there is a good argument that the process violated constitutional mandates for how a bill becomes a law, and said judges could go either way on whether the bill was properly signed into law.

But Mr. Eskridge said judges probably would dismiss a challenge by arguing the dispute is a political question best left to the elected branches to sort out.

"Judges would differ on that if they ever got their teeth into it, but the real answer is it would not be what judges call justiciable," he said.

DOJ_NMG_0014628

Just-Passed Budget Bill May Be Challenged (AP)

By Andrew Taylor

AP, February 11, 2006

Opponents of a major budget bill just signed by President Bush are weighing a court challenge on the grounds that the measure is unconstitutional because it was amended after the House voted on it.

At issue is a provision involving the period of time the government pays to rent some types of durable medical equipment before medical suppliers transfer it to Medicare patients. The Senate voted for 13 months, as intended by Senate and House negotiators, but a Senate clerk erroneously put down 36 months in sending the bill back to the House for a final vote, and that's what the House approved Feb. 1.

By the time the bill was shipped to Bush, the number was back to 13 months as passed by the Senate but not the House.

The issue is arcane and technical, but the broader constitutional question is very simple. As anyone who passed high school civics knows, a bill can only become a law if the House and Senate pass it in identical form. That didn't happen in this case.

"That bill ... is actually not a properly enacted law," said Michael Gerhardt, a professor of constitutional law at the University of North Carolina School of Law. "It wouldn't surprise me if a court struck it down. That bill was not approved by the House."

"I don't yet know exactly what happened and who is at fault, but it is clear that the legislation signed by the president on Wednesday is not what actually passed the House of Representatives on February 1," said Rep. Charles Rangel, D-N.Y., the top Democrat on the House Ways and Means Committee.

Bush and his GOP allies on Capitol Hill consider the matter over.

But opponents of the bill are actively considering trying to get it struck down by the courts.

"There is a high probability that some legal action will be pursued," said Brad Woodhouse, spokesman for the Emergency Campaign for America's Priorities, a group of organizations opposing the budget bill, which contains $39 billion in cuts to Medicaid, Medicare, student loan subsidies and other programs. "Perhaps a temporary restraining order to stop the implementation and then broader legal action after that."

Legal experts say any court challenge would be on firm legal ground.

"Each house has to pass the whole law and the same law," said Alan Morrison, senior lecturer in law at Stanford University Law School. "This is a case where the Constitution is very clear."

Morrison was the lead attorney in the case to overturn the 1996 line item veto law, which was decided on the same elementary constitutional concept: that a law must pass the House and Senate in the same form and once signed by the president can only be changed by another law approved by all three parties.

The budget bill was one of the main accomplishments of Congress last year, as Republicans managed for the first time in eight years to take on the growth of federal benefit programs.

The measure blends modest cuts to Medicaid, Medicare and student loan subsidies with a renewal of the 1996 welfare reform bill and $10 billion in new revenues from auctioning television airwaves to wireless companies. There's also $1 billion in new spending to extend an income subsidy program for dairy farmers and a reprieve for physicians who had faced a 4 percent cut in Medicare fees.

Morrison said courts would take a dim view of the idea that it is OK for the Speaker of the House — who along with the Senate's President Pro Tempore signed the official copies of bills sent to the president — to endorse a bill that's different from what the House voted on. That could set a precedent that could be abused.

"It's not the mischief in this case that would cause the (Supreme) Court to be worried," Morrison said. "It's the next case or the case after that where there isn't a clerical mistake but there's an effort to deceive or change the result."

Recognizing the problem, the Senate on Wednesday passed a resolution just hours after Bush signed the bill confirming that the measure transmitted to the president was "deemed the true enrollment reflecting the intention of the Congress."

Legal experts, however, say the resolution doesn't solve the problem.

Even though Congress routinely passes so-called technical corrections bills fixing glitches in laws that it's already passed and even correcting bills before sending them to the White House, sending the president a bill that's passed House and Senate in different form just isn't done.

"I don't know that we've had a circumstance where the president may be signing a bill that one of the chambers didn't actually approve," said Gerhardt. "That's the unique wrinkle here."

If the law is struck down, Congress could go ahead and try to pass it again. But that would prove difficult since the spending cut plan advanced under fast-track budget rules that block Democrats from filibustering bills to death in the Senate.

DOJ_NMG_0014629

Bush's Budget Cuts Elderly Nutrition Plan (AP)

By Frederic J. Frommer

AP, February 11, 2006

The boxes arrive every month at churches, senior citizen centers and other sites for distribution to nearly a half-million poor elderly people. Each is stocked with a mix of nutritious foods such as cereal, peanut butter, fruit, vegetables and pasta. Sometimes volunteers deliver them right to people's homes.

Now President Bush wants to eliminate the program, one of 141 federal initiatives that his proposed new budget would scrap or cut dramatically. He is proposing to shift people in the Commodity Supplemental Food Program over to food stamps.

Defenders of the nutrition-in-a-box program say many elderly people are reluctant to sign up for food stamps, and, in any event, the commodity program often provides a more generous package.

"It really does come under the category, in the most extreme way, of balancing the budget on the backs of those who are most needy. And in this case we're not even balancing the budget," said Wisconsin Sen. Herb Kohl, the ranking Democrat on the Senate Appropriations agriculture subcommittee.

"I call it misplaced priorities. How do you justify doing something like this, while at the same time giving people like Herb Kohl huge tax cuts?" said Kohl, a multimillionaire.

The commodity program, run by the Agriculture Department, benefits mainly elderly people, although some new mothers and children also participate. The department wants to move recipients to food stamps in the fiscal year that begins Oct. 1. The program cost about $111 million this fiscal year, including a $4 million supplement for victims of Hurricane Katrina.

The program, which dates back to 1968, operates in 32 states and the District of Columbia.

Its lack of national reach is one reason the administration wants to eliminate it, according to USDA officials.

Kate Coler, the USDA's deputy undersecretary for Food, Nutrition and Consumer Services, said the department believes it can serve people more efficiently through food stamps and the Women, Infants and Children program, which are both nationwide.

"It's really a duplicative program," she said of CSFP.

But Tim Robertson, president of the National CSFP Association, which represents state and local organizations that administer the program, challenged the USDA's premise that people will switch over to food stamps.

"Seniors have repeatedly said they don't want to be on that program," Robertson said, because of the perceived stigma of using food stamps and the paperwork hassles.

The USDA's own statistics show that just 28 percent of seniors eligible for food stamps participate in the program.

Sherrie Tussler, executive director of the Hunger Task Force, which administers the program in Milwaukee, said the commodity program helps elderly people stretch their food-buying budget.

"Sometimes seniors are choosing between utility bills and prescription drugs and whether they get to eat," she said.

The Bush administration is proposing to provide CSFP beneficiaries with transitional food stamp benefits of $20 a month for six months, or until they are deemed eligible for food stamps, whichever comes first.

Sarah Mayek, 75, of Milwaukee, receives both the CSFP box and $10 a month for food stamps.

"You try to stretch your budget a little bit," Mayek said. Without CSFP, she said, "I would have to adjust. But I raised 11 children. I know how to cut corners."

Jean Daniel, a spokeswoman for the USDA's Food and Nutrition Service, said her agency is working to remove the perceived stigma. For example, she said, the agency is getting the word out that food stamp payments are now made by an electronic transfer card, not actual stamps.

"We try to make the point that this is not a welfare program, this is a nutritional assistance program," she said.

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Associated Press Food and Farm Writer Libby Quaid contributed to this story.

New House Leader Seeks To Rebuild Unity (AP)

By David Espo

AP, February 11, 2006

House Republicans are on retreat on Maryland's peaceful Eastern Shore, seeking what newly elected Majority Leader John Boehner, R-Ohio, describes as "renewal and rebuilding" after a tough stretch in the Capitol.

Yet like a lot of vacationers, they've brought their problems with them.

Some are the product of the calendar, others more of their own making.

DOJ_NMG_0014630

A controversy over earmarks — the congressional name for funding pet projects — is particularly intense. Especially since one GOP-led committee compiled a secret tally sheet showing earmark requests made by Republicans calling for reform.

"Earmarks have become the currency of corruption," Rep. Jeff Flake, R-Ariz., recently wrote Speaker Dennis Hastert, R-Ill. "We can't allow this to continue."

High on the list of challenges for the GOP is the annual drafting of a budget. President Bush's appearance on Friday's program was a reminder that he's calling for $70 billion in savings over five years from benefit programs such as Medicare, Medicaid, food stamps and payments to farmers.

Then there's the shadow of scandal, which in recent months has pushed Texas Rep. Tom DeLay from the leadership, Ohio Rep. Bob Ney from his committee chairmanship and California Rep. Randy Cunningham from Congress after a confession of bribe-taking. All are Republicans.

New York Rep. Tom Reynolds, the chairman of the GOP campaign committee, noted at a news conference that "2006 is also an election year."

A few hours later he provided a political briefing for the rank and file, a presentation that participants said later had lampooned Democratic leaders as Darth Vader and other "Star Wars" characters.

Internal divisions also have surfaced at a time Republicans — their poll numbers sagging — try to reclaim the mantle of reform that helped them win the majority more than a decade ago.

Fiscal conservatives are particularly determined to cut back on earmarks.

The practice, an old one, has mushroomed in recent years under Republican sponsorship, and the legislation backed by Flake and numerous other lawmakers is designed to trim it.

The measure would preserve the existence of earmarks, but for the first time allow critics to challenge them one by one on the House floor.

Flake, who issues a stream of news releases accusing his fellow lawmakers of wasteful spending, says the purpose is transparency in government. The theory is that forcing lawmakers to defend projects will expose them to ridicule and, eventually, the practice will ebb.

So far, the legislation has sparked an intense internal struggle pitting Republican against Republican.

The committee that controls the pursestrings compiled a list of earmarks requested last year by GOP lawmakers who favor Flake's bill.

The total was 717 requested earmarks, although none for Flake, for more than $4.5 billion.

The response was sharp.

"I am shocked that the Republican staff of a Republican-led committee in a Republican-majority Congress would do opposition research on a fellow Republican," first-term Rep. Lynn Westmoreland of Georgia wrote in a letter to fellow GOP lawmakers. "I do not see any other purpose behind the preparation of this report other than for it to be leaked to the press."

The Associated Press obtained copies of both the Appropriations Committee tally and the letter.

By committee count, Westmoreland requested 59 earmarks last year, for a total of $536 million. His office declined to release the entire list of projects he requested.

Spokesman Brian Robinson said that until the current system is changed, "we have to play by the rules that are in place — that's only fair to our constituents. Members don't release their request lists. We've released more than most would simply by saying that we sent the committee only 43 percent of the requests that came to our office."

Flake, in an interview, likened the tally sheet to a type of blackmail on the part of members of the House Appropriations Committee. Rank and file lawmakers are required to submit their requests in writing, thus creating a paper trail, he said. No such requirement is imposed on senior lawmakers, he added, including subcommittee chairmen with the power to insert or omit individual projects from the bills they draft.

"It is no coincidence that the growth of earmarks has paralleled the monstrous increase in overall federal spending," he wrote recently in The New York Times.

Or that the subject is on the agenda for the Republican retreat.

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EDITOR'S NOTE — David Espo is chief congressional correspondent for The Associated Press.

Ethics Scandal Looms Over Republicans' Meeting (REU)

By Thomas Ferraro

Reuters, February 11, 2006

Republicans in the House of Representatives, rocked by ethics scandals, met in a secluded Maryland town on Thursday, hoping to regroup under new leadership and position themselves to retain power in November's elections.

DOJ_NMG_0014631

A week after electing Rep. John Boehner of Ohio as majority leader to succeed indicted Texan Tom DeLay, Republicans opened a three-day retreat at a time when public opinion polls show broad discontent with Congress and the White House.

"I'm going to tell them they face challenges and opportunities," Republican Party Chairman Ken Mehlman said shortly before addressing the gathering at a waterfront hotel in Cambridge, a two-hour drive from Washington.

"I'm going to tell them that the public clearly wants reform -- that the public believes that the country needs to continue reforming things if we are going to be on the right track," Mehlman told reporters, referring to lobbying practices on Capitol Hill and such basics as health care, education and national security.

Lobbying scandals and Justice Department investigations involving Republican lawmakers and former aides threaten the party's control of the House, which it has held since 1995.

Boehner said the retreat would allow for a "period of renewal" and bonding. He said it would take time to unite his 231-member caucus on a lobbying reform package, one that party leaders said would seek input from Democrats.

"We're going to have, frankly, an ethics seminar for all our members and staff so that they know what the rules are, and I think it'll help ensure that members and staff live up to those rules," Boehner said.

REFORM OR OVERHAUL?

In the wake of a scandal involving Republican lobbyist Jack Abramoff, Boehner has called for more public disclosure of the relationships between lawmakers and lobbyists rather than a fundamental overhaul of the way Congress does business.

Unlike some of his colleagues, he is opposed to abolishing "earmark" spending for pet projects, urging instead more transparency.

A number of Republicans have been drawn into the investigation of Abramoff, who pleaded guilty last month to fraud charges and agreed to help prosecutors in their corruption probe.

Separately, Republican Randy Cunningham of California resigned from the House in November after pleading guilty to taking $2.4 million in bribes in exchange for help in securing Defense Department contracts.

Boehner was the surprise winner of a House Republican leadership election last week, defeating Roy Blunt of Missouri. DeLay was forced to step down as majority leader last year after he was indicted in Texas on campaign-related felony charges.

President George W. Bush was scheduled to address House Republicans on Friday. Bush was expected to focus on his $2.77 trillion proposed federal budget that would boost defense spending, slow Medicare's growth and cut domestic programs in an effort to soothe Republican frustrations over high deficits.

(Additional reporting by Richard Cowan)

A Wink And A Nod For Lobbying Reform (NYT)

The New York Times, February 11, 2006

A long string of scandals has raised questions about whether Capitol Hill is really run by the lawmakers or the lobbyists. The public has a right to expect reform, but so far the only sign of change is a new House majority leader — John Boehner of Ohio, a polished veteran of the big-money nexus who even pays his D.C. rent to a lobbyist-landlord.

Mr. Boehner has been shockingly blasé about the need for Housecleaning. He's been signaling anxious colleagues that the whole issue should be directed toward the ultimate dead-letter office: the House ethics committee. This is the watchdog that was effectively put to sleep in the Tom DeLay era.

Other lawmakers are more properly alarmed and are proposing to graft some ethical spine onto Congress. In the Senate, Barack Obama of Illinois has proposed an ethics enforcement commission of former lawmakers and judges. That sparked a fit of pique from Senator John McCain, who seems to regard reform as private territory on which no freshman Democrat may trespass. Mr. McCain wants to zero in on "earmarking," the lawmakers' addiction to passing billions in hidden pork projects at the behest of lobbyists. There should be plenty of room for both ideas, and the two senators' developing rivalry for reform — already dubbed the "McBama" dynamic — is exactly the energy level Congress needs.

A worthwhile bipartisan proposal is expected next week from Representative Christopher Shays, Republican of Connecticut, and Martin Meehan, Democrat of Massachusetts. They want to create an office of public integrity to enforce stronger ethics and lobbying regulations in both houses. It would be staffed by nonpartisan professionals empowered to investigate and pursue complaints of impropriety from outside Congress and within it.

Easy money from special pleaders is at the heart of Congress's dilemma. A major bipartisan push from below is the only possibility of dragging leaders like Mr. Boehner to credible reform.

Censorship Is Alleged At NOAA (WP)

By Juliet Eilperin

The Washington Post, February 11, 2006

DOJ_NMG_0014632

Scientists Afraid to Speak Out, NASA Climate Expert Reports

NEW YORK, Feb. 10 -- James E. Hansen, the NASA climate scientist who sparked an uproar last month by accusing the Bush administration of keeping scientific information from reaching the public, said Friday that officials at the National Oceanic and Atmospheric Administration are also muzzling researchers who study global warming.

Hansen, speaking in a panel discussion about science and the environment before a packed audience at the New School university, said that while he hopes his own agency will soon adopt a more open policy, NOAA insists on having "a minder" monitor its scientists when they discuss their findings with journalists.

"It seems more like Nazi Germany or the Soviet Union than the United States," said Hansen, prompting a round of applause from the audience. He added that while NOAA officials said they maintain the policy for their scientists' protection, "if you buy that one please see me at the break, because there's a bridge down the street I'd like to sell you."

NOAA Administrator Conrad C. Lautenbacher denied Hansen's charges, saying his agency requires its scientists to tell its press office about contacts with journalists but does not monitor their communications.

"My policy since I've been here is to have a free and open organization," Lautenbacher said. I encourage scientists to conduct peer-reviewed research and provide the honest results of those findings. I stand up for their right to say what they want."

Hansen prefaced his speech, which focused largely on how quickly humans must act in order to prevent irreversible climate change, by saying he was speaking as an individual. "I'm not speaking for the agency or the government," he said.

Most scientists who study climate change have concluded that Earth's current warming is being driven by the burning of fossil fuels. The administration does not question the link between human activity and climate change, but it has called for more research and supports solutions other than mandatory limits on carbon emissions.

After the panel discussion -- which also featured Princeton University professor Michael Oppenheimer, American Enterprise Institute fellow Steven Hayward and Stanford University professor Paul Ehrlich -- Hansen said he knows of NOAA scientists who are chafing at the administration's restrictions but are afraid to speak out.

New School President Bob Kerrey, a former Democratic senator from Nebraska, said he invited Hansen to speak because he was "very concerned" about what he called the administration's efforts to steer the debate over global warming: "It's not only inappropriate; it stifles the very debate we're trying to have today, and that we need to have on this issue."

Kerrey said of Hansen, "He's not a radical; he's a scientist who's studied the issue. Let the disagreement occur without stifling one side of the argument."

After Hansen told the New York Times and The Washington Post in late January that political appointees at NASA had made it hard for him and other researchers to convey their findings on climate change to the public, NASA Administrator Michael D. Griffin e-mailed agency employees last week and vowed to support "scientific openness."

Griffin, who had been chastised by House Science Committee Chairman Sherwood L. Boehlert (R-N.Y.) over the issue earlier in the week, said he would draft a new policy that would respect scientists' right to speak out.

In an interview Friday, Boehlert -- who has met personally with Griffin and spoken on the phone with him several times since the controversy erupted last month -- said he was satisfied Griffin was taking the necessary steps.

"The administration should make it abundantly clear, as Michael Griffin did in his letter to NASA employees, that there will be no effort, in any way, shape or form, deliberate or hinted at, that would stifle a respected scientist working for the government, doing research paid for by the American taxpayers, from talking about their work," Boehlert said.

He added that he had not received "outpourings from the scientific community" alleging government censorship and that, to his knowledge, "there are no plans in place to intimidate or stifle science."

Also Friday, George C. Deutsch, 24, a NASA spokesman who resigned this week after allegations that he had edited scientists' writings to conform to administration views and tried to limit reporters' access to Hansen, e-mailed reporters to say there is a "culture war" in the government over climate change. Deutsch's resignation came after it was learned he had not graduated from Texas A&M University, as he claimed on his résumé.

"There is no pressure or mandate, from the Bush administration or elsewhere, to alter or water down scientific data at NASA, period," Deutsch said, adding that after being tasked to work with Hansen, "I quickly learned one thing: Dr. Hansen and his supporters have a very partisan agenda and ties reaching to the top of the Democratic Party.

"Anyone perceived to be a Republican, a Bush supporter or a Christian is singled out and labeled a threat to their views. I encourage anyone interested in this story to consider the other side, to consider Dr. Hansen' s true motivations and to consider the dangerous implications of only hearing out one side of the global warming debate," Deutsch said.

And On The Eighth Day, God Went Green (NYT)

By John Tierney

The New York Times, February 11, 2006

DOJ_NMG_0014633

And on the eighth day, God said, Let there be a thermostat for the heavens and the earth, and God saw that it was good. And God said, Let no man adjust it more than 2 degrees Fahrenheit, or 1 degree Celsius, until the end of time.

Now that evangelical Christians have joined the battle against global warming, we may as well acknowledge that America has one truly national religion: environmentalism.

Its tenets, already taken for granted in the blue states, were embraced this week by the Christian leaders who formed the Evangelical Climate Initiative. They haven't yet rewritten Genesis, but their advertising campaign warns of "millions of deaths" from biblical scourges — floods, droughts, pestilence — unless humans make a "sacred commitment" to stop global warming.

It may look odd for evangelicals to be taking up Hollywood's most fashionable cause, but the alliance makes perfect sense. Environmentalism has always fundamentally been a religion — "Calvinism minus God," in the words of Robert Nelson, a professor of environmental policy at the University of Maryland. He calls the global warming debate the latest example of environmentalist creationism.

The Puritans and other Calvinists believed that God was revealed not just in Scripture but also in the "Book of Nature." To them, the wilderness was an unchanged record of God's handiwork at "the Creation," offering a glimpse of the world before man's pride and sinfulness alienated him from nature and caused him to be expelled from Eden.

Environmentalists have had similar notions, starting with John Muir, who considered nature "a mirror reflecting the Creator." Al Gore urged the "moral courage" to secure "our place within creation." When Bruce Babbitt was secretary of the interior, he called plants and animals "a direct reflector of divinity," and he warned Americans not to "recklessly destroy the patterns of creation."

There is one large problem with this version of creationism. The world we see was not created in a week, and it has looked a lot different in the past.

The forests that seemed divine to the Puritans and to Muir and Babbitt were not present at the Creation. They were merely the latest adaptation to changing climatic conditions and competition with other species, including humans — Indians had been managing the forests by cutting trees and setting fires. There is no such thing as a "natural" forest in America, Nelson writes, unless you reject creationism and define nature as "the Darwinian vision of unremitting struggle for survival."

Darwin's Book of Nature isn't as morally satisfying as Calvin's, at least not for those who enjoy berating Americans for their sinful desires to cut down trees and burn fossil fuels. But it does make for a clearer way to think about global warming. Instead of assuming that humans will be punished for tinkering with God's handiwork, you can consider the best strategy for our species' survival.

That means rejecting the assumption that we must immediately start atoning for our excesses. Solutions like the Kyoto treaty amount to expensive hair shirts that appeal to penitents but not necessarily to economists. Even economists who support the Kyoto treaty acknowledge that it will make only a small difference far in the future while imposing serious costs today.

And those costs seem too high to other economists, like the four Nobel laureates and their colleagues who met in Copenhagen in 2004 to study proposals to help the world's poor. The Copenhagen Consensus, as they called it, was that programs to slow global warming are one of the worst investments — far less worthwhile than programs to immediately combat disease and improve drinking water and sanitation.

Saving lives now makes more sense than spending large sums to avert biblical punishments that may never come. Scientists agree that the planet seems to be warming, but their models are so crude that they're unsure about how much it will heat up or how much damage will be done. There's a chance the warming could be mild enough to produce net benefits.

For now, the best strategy is to refine the forecasts and look for the cheapest and least painful ways to counteract global warming, including heretical ideas like geo-engineering schemes to cool the planet by blocking sunlight. It's hard today to imagine how that would be done — or how environmentalists would ever allow something so "unnatural." But maybe they could be convinced that we're just resetting God's thermostat back to the eighth day of Creation.

No Regrets For Miers (DMN)

By G. Robert Hillman

The Dallas Morning News, February 11, 2006

WASHINGTON – For Harriet Miers, her ill-fated nomination to the U.S. Supreme Court seems so long ago.

Even now, four months after President Bush turned to her, she isn't sure exactly how it came to be. Nor does she have any regrets about accepting the offer that faltered in a storm of opposition by conservatives within the Republican Party.

"There was a lot of noise," Ms. Miers acknowledged Thursday in her first interview since the nomination. "But there were also a lot of great moments."

Would she accept again?

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"I not only would say 'yes' when called to this nature of service," said Ms. Miers, the top White House lawyer. "But I would recommend it to others, and I have."

By nearly any measure, though, it was tough sledding for the Dallas lawyer who followed Mr. Bush to the White House in 2001.

Previously, she had been the first woman to head the Texas and Dallas bar associations and had served one term on the Dallas City Council. But she had backed a few Democrats and had never been a judge, leaving some leading conservatives complaining about a lack of a legal paper trail that could use to rally support for her.

Also, many conservatives were unconvinced that she staunchly opposed abortion rights. She was quickly branded a crony because of her longtime legal work for Mr. Bush and his campaigns. And she was pilloried on late-night television and in newspaper editorial pages.

"I didn't see a lot of it," Ms. Miers said, sitting at the head of the conference table in her wood-paneled West Wing White House office.

"We tell nominees not to pay attention," she explained, referring to the instructions she routinely gives others, "and I did my best to do the same."

She regrets, however, that "things that were being said about me made my brothers upset, or friends upset or whatever."

"But we understood it was a battle worth fighting," she said, "and that's what we were doing."

Ms. Miers allowed that "you always feel bad if you're the reason other people are having to spend time ... time that you know they have very important work to do."

"The process is very time consuming, both for the nominee and for those working with the nominee," she said.

As White House counsel, Ms. Miers manages the search and vetting of judicial nominees, including those for the Supreme Court. She was very much involved with the confirmation of John Roberts as chief justice and, later, her successor nominee, Samuel Alito.

He was confirmed by the Senate just last week, and there's already a picture of his ceremonial swearing in at the White House waiting to be hung in her outer office.

Even now, Ms. Miers continues updating the lists of potential nominees, among the pressing duties and issues that pass over her desk. They also include dealing with recent swirling controversy over the president's authorization of warrantless electronic surveillance of some Americans believed linked to terrorists.

Obviously, she acknowledged, it's become a "matter of great attention."

With Bush from start

Ms. Miers came to the White House with Mr. Bush at the start of his first term as staff secretary, a senior aide who manages the never-ending flow of paper to the president and other matters. Later, she moved up to deputy chief of staff for policy, then a year ago to White House counsel.

On Oct. 3, the president tapped her to replace retiring Justice Sandra Day O'Connor. Ms. Miers withdrew her nomination on Oct. 27 and, as she put it, "went right back to work" as the president's top lawyer.

Asked if she planned on staying through the president's second term, Ms. Miers replied in her well-honed, soft-spoken legal way: "We serve at the pleasure of the president."

Texas in her future?

Right now, she said, she envisions returning to Texas after leaving the White House, perhaps heading back into private legal practice. And she would not flatly rule out running again for public office.

"As a lawyer, I've learned never to say never," Ms. Miers said, making it clear, though, that she was not now contemplating any such run.

Asked if she might someday succeed Chief of Staff Andrew Card, who is in his sixth year at the White House, she simply praised him and said she looked forward to working with him.

Looking back on her nomination, which she said now seems "a very long time ago," Ms. Miers said she didn't learn until very late in the search that she was under consideration for the high court.

"I'm not even sure that I could recall," she said. "It sort of became apparent to me that I was being asked questions, or that it was a possibility."

"I am not aware of what happened, exactly how it happened, or who was involved," she said.

In any case, in short order, Mr. Card, who had asked one of her deputies to quietly check into Ms. Miers' background, clued her in, and the president discussed the job with her.

She said she had "some time," but "not a whole lot" to ponder the possibility and from the start took it quite seriously.

"I think that if you're called to serve your nation in a role like the Supreme Court," Ms. Miers said, "the answer should be yes, unless there are very good reasons why not."

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Asked if she had particularly weighed the possibility because she would be replacing one of two women on the high court, Ms. Miers said, "I'm a lawyer, and I looked at this as a lawyer being asked to serve on the court."

She also dismissed the scathing criticism that she was unqualified.

"I said 'yes,' to the request to be considered," Ms. Miers said. "I recognize that my background was somewhat different than lots of members of the court presently serving – however, not so different from others who have served.

"I came from a background as a practicing lawyer, from public service and community service and growing up in an American experience of the sort I lived," she said. "And that type of background brings a dimension to the court that is important."

Others, she noted, made the "judgment of the kind of person they were looking for, the kinds of qualities that they were looking for, the kind of experience that they were looking for."

"The decision to nominate me was not mine," she said, adding later: "It's the president's choice."

She had stepped aside, she said, "at the right time for the right reasons," citing senators' inquiries about her work for the president, which she said was protected by executive privilege.

"It had been made very clear to me that there were going to be requests that I knew no executive officer would have any business producing," she said. "It was too great an issue."

In defense of SMU

She also defended her Dallas alma mater, Southern Methodist University, against criticism during the confirmation process that its law school was no Ivy League institution.

"I'm grateful to the school for the education that they gave me," she said, noting that SMU had helped her financially when she faced dropping out to help support her family after her father was disabled by a stroke.

"I'm proud of the contribution the school makes through its undergraduate and graduate school," Ms. Miers said.

And, she said, she was heartened by the all the friends and acquaintances, some of them out of touch for years, who had rallied around her in what she called the "great moments" of her grueling ordeal.

"I had an opportunity to become reacquainted with people that, at different points in my life, meant a lot to me," Ms. Miers said. "It helped me underscore what it's like to be a lawyer and why you're a lawyer and the role lawyers play, both in the profession and in the community."

Roberts Off To Quiet Start At Court (AP)

By Gina Holland

AP, February 11, 2006

So far, Chief Justice John Roberts has led a harmonious Supreme Court, rallying colleagues to settle cases in the most limited, least controversial way. The question is whether that will last or has been just a short-term necessity for a changing court.

The first few months of Roberts' tenure have not been short on divisive issues: assisted suicide, abortion, capital punishment.

But cases decided so far have broken little new ground, and there have been no bitter dissents.

Of the court's 18 authored opinions so far, only two came from 5-4 votes. And three cases that were expected to split the court — on abortion, campaign finance and the rights of disabled inmates — were resolved unanimously without setting important precedent.

"One almost wonders why the court took the cases in the first place," Richard Pildes, a constitutional law professor at New York University, wrote online as he and other court watchers struggled over what to make of the early days of the Roberts era.

One explanation is the retirement of Sandra Day O'Connor, who was replaced Jan. 31 by Samuel Alito. The timing of the transition is awkward, because justices are nearly midway through a term and have heard arguments in more than half the cases they will rule on this year.

Alito may have to break ties in some pending cases, because whatever positions O'Connor took do not count anymore. It's not clear if any appeals have been deliberately held up to give Alito a chance to change the outcome.

"No court is going to reach out with huge decisions when it is quite clearly in transition," said Dennis Hutchinson, an expert on the Supreme Court at the University of Chicago.

Jay Sekulow, chief counsel for the conservative American Center for Law and Justice, predicted that the cautious decisions will continue even with Alito on the bench.

"This is a court that's going to move incrementally. That seems to be John Roberts' style," Sekulow said.

Roberts, who just turned 51, succeeded William H. Rehnquist, who died last fall at age 80.

As the court's leader, he oversees private meetings, presides during the argument sessions, and assigns the writing of opinions when he is in the majority.

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So far Roberts has disagreed with just two opinions, and he did not file his own dissent either time. One of the rulings upheld Oregon's one-of-a-kind assisted-suicide law from a challenge by the Bush administration. Another said states can be sued in bankruptcy proceedings.

In both, Roberts was on the same side as Justices Antonin Scalia and Clarence Thomas, the court's most conservative justices.

Roberts said during his Senate confirmation hearing in September that the chief justice should "act as a force to help bring about some cohesiveness and collegiality."

"I have told people, when pressed, that I prefer to be known as a modest judge," he also said.

The Roberts court, at this point, has been modest. Some examples, under his leadership the court:

_Dodged a decision on a parental abortion law from New Hampshire. On a 9-0 vote the justices said a lower court should reconsider whether the entire law was unconstitutional, or just part of it.

_Backed out of deciding whether a campaign finance law, in practice, violated free-speech rights of an anti-abortion group.

_Dismissed without explanation a police interrogation case.

_Passed up a chance to decide when inmates can use a federal disabilities law to sue states for not accommodating their disabilities.

Roberts, whose previous job was judge on the federal appeals court based in Washington, sometimes suggested ways that cases could be decided on limited grounds during the oral argument sessions.

"This is an even more extreme form of the kind of modest style of decision-making that Roberts had when he was on the D.C. Circuit," Pildes said in an interview. "One of the interesting issues to watch for now is whether this pattern will continue, or whether (now that) the court has a stable complement of justices it will shift back into issuing more sweeping opinions."

The first sign of the new court may come when justices meet for the first time with Alito instead of the moderate O'Connor. At the Feb. 21 session, justices could say whether they will hear arguments in several significant cases. Among them are the Bush administration's attempt to reinstate a ban on a type of late-term abortion and an appeal from an American terror suspect held without traditional legal rights.

The court also will have more rulings to announce. So far, Roberts has had just one opinion, although he likely has been working on several more during the court's monthlong recess.

"I imagine Roberts would like to be a consensus builder," said Stephen Wermiel, an American University law professor.

Political Skeletons, Cut And Pasted (NYT)

The New York Times, February 11, 2006

Staff members for a Republican congressman, carefully perusing his biography on Wikipedia — the free-form, online encyclopedia — recently happened upon the insertion that "he likes to beat his wife and children." The Web's collective form of fact-gathering tends to invite such sliming. But now, a more tricky problem is emerging: the editing of legislative biographies by staff members and loyalists devoted to gilding the incumbent.

The deletion of unattractive facts by apple-polishers became so obvious that Wikipedia's detectives temporarily blocked some Senate addresses from making entries. The electronic addresses of Senate offices turn out to be more easily traced than those of House members, so there is no comparable record of protective edits by lower house scriveners.

Senator Dianne Feinstein's net worth was mysteriously deleted from her biography, along with the $190,000 fine she had to pay for not disclosing that her husband had guaranteed her 1990 campaign loans. Wikinews, the encyclopedia's arm of corrective reporters, found Senator Joseph Biden's past problems with campaign plagiarism charges had evaporated, thanks to someone at one of his office computers. Members of Senator Norm Coleman's staff massaged a description of him as a liberal college Democrat; he morphed into an "activist," then merely an "active college student." A reference to Senator Tom Harkin's discredited claims to have flown combat missions in Vietnam disappeared.

An entry on Wikipedia is still almost guaranteed to be closer to reality than a compilation of campaign commercials. But when everybody is invited to contribute to lawmakers' biographies, the most interested participants are almost always going to be the people on their payrolls.

OTHER NEWS:

In D.C. Visit, Perry Is Of Two Minds On Spending (HCHRON)

By BENNETT ROTH

Houston Chronicle, February 11, 2006

DOJ_NMG_0014637

WASHINGTON - Texas Gov. Rick Perry showed Friday that he could be both a new-style conservative and an old-style politician.

He chided runaway Republican spending in a speech to fiscal hawks and then made the rounds of government agencies in search of federal aid for the state.

Perry spent much of a one-day visit to the nation's capital stating his case that Texas needed $2 billion for hurricane relief, as well as expedited funding for border-enforcement programs.

He began his day with an address crafted to appeal to the Conservative Political Action Conference, an influential group that has grown increasingly disenchanted with the spending policies of President Bush and the GOP-controlled Congress.

He accused the Republican lawmakers of allowing the federal deficit to explode as spending on entitlements such as Medicare and Social Security grow.

"The public expects Democrats to spend every dime in the Treasury and then ask for more because that's what Democrats do," said Perry, a former Democrat turned Republican.

"On the other hand, they elect Republicans to stop that from happening," he said, "and if Republicans keep spending like Democrats, the public will elect the real thing."

Perry denied that his appearance before the group — he was the only governor to address the conference — was an indication that he harbors national ambitions. The governor said he is focused on his re-election.

Donald Ely, a Republican state committeeman from Pennsylvania, said he would like to see Perry as a vice presidential candidate on ticket headed by Virginia Sen. George Allen in 2008.

"He's more conservative than George Bush," Ely said. "I'm not a Bush Republican. I'm a Reagan conservative."

In his speech, Perry only referred once to Bush, although not by name, praising his leadership in the war on terror. By contrast, he made five mentions of Reagan. Perry also suggested the federal government's priorities had been misplaced, with insufficient money allocated for border control.

The governor later met with a host of federal officials, including Homeland Security Secretary Michael Chertoff, to discuss speeding up federal border-enforcement grants to pay for overtime for local law enforcement officials and other pressing needs.

Kathy Walt, Perry's press secretary, said Homeland Security officials agreed to share information and intelligence so the state can better coordinate the deployment of state resources and security personnel to the border.

Although Walt said Perry did not raise the issue at the meeting with Chertoff, Texas stands to lose money if Congress approves a recommendation included in Bush's 2007 budget proposal to eliminate the State Criminal Alien Assistance Program. The program reimburses states and localities for some costs of jailing illegal immigrants.

Last year, Walt said, Texas received about $26 million from a $305 million appropriation. She said the state is expecting about $31 million from the $405 million approved for this year.

Perry discussed hurricane relief with Chertoff and with Sen. Thad Cochran, R-Miss., the chairman of the Senate Appropriation Committee.

Saying that that federal funding for Rita had fallen "substantially short" of what was needed, Perry urged lawmakers to include $2 billion in a supplemental spending bill to deal with the storm's aftermath.

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Talent Changes Stem-cell Stance (KCS)

By Matt Stearns And Steve Kraske

The Kansas City Star, February 11, 2006

WASHINGTON — Sen. Jim Talent attempted an election-year pirouette Friday on stem-cell research, an issue that has split the Missouri Republican Party.

Talent withdrew his four-year support of federal legislation that would ban human cloning, including what opponents call embryonic therapeutic cloning that most researchers see as key to early stem-cell study. Talent's pro-life supporters adamantly oppose the technique.

In making his position change, the Missouri Republican sought to satisfy the pro-life camp by promoting a type of stem-cell research that "signals the end of ethical dilemmas in this type of research."

"If we can get the stem cells without the cloning, we render the current controversy scientifically obsolete," Talent said Friday in a half-hour Senate floor speech that was equal parts science lesson and politics.

Still, the Missouri Catholic Conference issued a scathing news release accusing Talent of abandoning his pro-life principles. And Missouri scientific leaders remained unhappy that Talent seemed to favor a type of research that is only in preliminary stages and is not being performed in Missouri.

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Stem-cell research is a hot political issue in Missouri because supporters of embryonic stem-cell research — including many Republican business leaders in Kansas City and St. Louis — are trying to get an initiative on the November ballot that would prevent Missouri from enacting stricter laws on the research than the federal government would.

Talent's Democratic opponent, Claire McCaskill, supports the initiative. She had lambasted Talent for co-sponsoring the restrictive legislation, which was originally introduced by Sen. Sam Brownback, a Kansas Republican. The pro-life movement also opposes the initiative because they see all types of human cloning as violating their view of the sanctity of human life.

Talent would not say Friday whether he would support the ballot initiative, although he reiterated his basic support for the goals of the legislation he abandoned — specifically, the banning of cloning of human embryos, including those created solely for research purposes through a process called somatic cell nuclear transfer.

Instead, he sought to present what he called "a common ground solution" that would entail a more flexible regulatory ban on somatic cell nuclear transfer while increasing federal funding for a type of research known as altered nuclear transfer.

Altered nuclear transfer in theory creates "nonembryos" that contain embryonic stem cells. It gives the benefits of early stem-cell research without the cloning that is anathema to so many in the pro-life movement, Talent said.

"Science would have the stem cells it needs in a morally acceptable way that would allow for full federal funding of stem-cell research," Talent said. "The pro-life community would have an effective ban on human cloning. We would turn a zero-sum game into a win-win proposition for everyone."

Talent said he was trying to find "an island of unity in a sea of controversy."

William Hurlbut, a leading proponent of altered nuclear transfer research, said Friday: "You never create an embryo by this method. You never create a living human organism."

Even so, many in the pro-life movement view altered nuclear transfer as no more acceptable than the research they condemn as cloning. That is because the research still involves creating a blastocyst — a ball of cells — and crippling it in the petri dish to prevent it from growing into a human embryo.

"We have concerns about the intentional creation of what may be developmentally disabled human 'embryos' for the sole purpose of destroying them to harvest their stem cells," wrote Carrie Gordon Earll of Focus on the Family, a leading conservative group.

The pro-life movement also is confused by Talent's rationale for pulling his support for Brownback's bill.

Talent said he was concerned that the bill's wording would inadvertently ban altered nuclear transfer research that did not involve the cloning of human embryos.

Nonsense, said Richard Doerflinger, deputy director of pro-life activities for the U.S. Conference of Catholic Bishops, whose group helped Brownback write the bill.

"This doesn't make any sense to us," Doerflinger said. "The Brownback bill … clearly allows research other than cloning human embryos. … I think this man is very confused."

Talent did not tell Brownback that he was pulling support for the bill, an aide to the senator from Kansas said.

Brownback would not comment Friday, but he has never said he considers altered nuclear transfer research to be ethically sound.

"There's been a lot of support for Jim Talent from the pro-life community," said Larry Weber, executive director of the Missouri Catholic Conference. "Today he stepped off that platform. At this point, it's essentially vacant with respect to the U.S. Senate election. His candidacy gave pro-life voters something they could gravitate towards. Unfortunately, it's just not there any more."

Missouri's scientific community wasn't thrilled either.

No researchers at Kansas City's Stowers Institute or St. Louis' Washington University currently do altered nuclear transfer research, said scientists at the state's two leading bioresearch centers.

"All federally allowed research with stem cells should proceed," said William Neaves, president of the Stowers Institute. "At this time, it's not possible to know which type of research would hold the most promise."

And it doesn't make sense at this time to tilt the playing field in favor of one type of research, especially for altered nuclear transfer, for which "there is no evidence this will work in people," said Steven Teitelbaum, a researcher at Washington University who uses stem cells in his research.

Talent pointed out in his speech that somatic cell nuclear transfer remains equally unproven in its medical efficacy.

McCaskill wasted no time in trying to exploit Talent's new position.

"Strong leaders need to have clarity," McCaskill said. "He appears to be in a fog."

The dual risks of being viewed as a flip-flopper on a high-profile issue and of antagonizing part of his base could prove politically fatal, said George Connor, a political scientist at Missouri State University.

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"Instead of saying, 'This is what I believe,' and going out on the campaign trail and defending it, he's trying to have the best of both worlds."

"This is a very dangerous thing for Senator Talent," Connor added. "It could cost him the race. I just think it's an astounding mistake."

But Missouri Rep. Brian Yates, a Lee's Summit Republican, called it a smart move.

"I see where the senator is going," Yates said. "A lot of life sciences are still evolving. It may be premature to enact legislation to criminalize life sciences research without more information or without better definitions of what should be allowed. … I think it's probably a good thing to take a step back and review this issue."

Talent said in an interview following his speech that politics had nothing to do with his decision to abandon the Brownback bill and push for more altered nuclear transfer research. He said the decision was the result of a yearlong examination of the issues.

"It really is an attempt to get everybody to understand there are at least some areas where you can have what you want without denying the other side what they want," Talent said.

Still, he acknowledged he had waded into politically perilous waters.

"My wife says to me last night, 'Jim … two things are going to happen: Nobody's going to like it and they're all going to say you're doing it just for political reasons,' " Talent said. "And I said to her, 'Well, if nobody likes it, why in the world would I be doing it for political reasons?' "

Steele Apologizes For Holocaust Remarks (WP)

By Robert Barnes And Matthew Mosk

The Washington Post, February 11, 2006

Compared Stem Cell Research to Nazi Medical Experiments

Maryland Lt. Gov. Michael S. Steele profusely apologized yesterday for comments linking stem cell research to Nazi experimentation, but the offhand analogy could undermine what had been a concerted effort by the Republican to run for the U.S. Senate as a moderate "bridge" between Democrats and Republicans in his left-leaning state.

Steele issued apologies in a radio interview and in phone conversations with Jewish leaders in Baltimore and Washington, and then continued to express regret throughout a series of stops in Prince George's County.

"I offended members of the Jewish community and members of the Maryland community," Steele said outside a Prince George's nursing home. "It was a remark that was an improper inference, because I never specifically said Holocaust. . . . And it did not reflect my attitude and my belief, and I am really sorry about the whole thing."

Besides offending those Steele was trying to befriend, some politicians and political observers said his remarks appeared to hurt him in several ways: putting him on the wrong side of a popular issue, reinforcing a worry among even some Republicans that he can be an accident-prone candidate in a high-profile race, and signaling to swing voters that he is more conservative than the almost-nonpartisan image he has cultivated.

"Some people could think he's not moderate . . . but a hard-right Republican," said University of Maryland Prof. Ronald Walters, who has been closely following Steele's campaign.

Keith Haller, who conducts polls for Maryland media and others, said his recent surveys show that Steele has "risen above the cacophony of partisan battles" in the state. "His popularity has been steadily soaring, so he certainly didn't need to engage on this issue, in such an awkward way."

In an appearance Thursday before the Baltimore Jewish Council, Steele responded to a question about stem cell research by saying he was "cautious" about the idea of "tinkering around with life," and added:

"Look, you of all folks know what happens when people decide they want to experiment on human beings, when they want to take your life and use it as a tool," Steele said, according to a recording of the event. "I know that as well from my community and our experience with slavery."

Jewish leaders, for the most part, accepted Steele's apology. Ron Halber, executive director of the Jewish Community Relations Council of Greater Washington, said he considered it an exercise of bad judgment by a good man.

"He understands his remarks were offensive," Halber said. "People in the Jewish community are upset about them. What was behind the words were not the feelings of a hatemonger, though."

His Democratic opponents were glad Steele apologized but sharp in their criticism.

"Michael Steele does not have the right to compare the lifesaving potential of stem cell research to the barbarity of the Holocaust," said Rep. Benjamin L. Cardin, one of several Democrats running to replace retiring Sen. Paul S. Sarbanes (D). "His remarks were offensive to the millions of Americans who stand to benefit [from] this research, as well as to Holocaust survivors and their families."

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State Sen. Sharon M. Grosfeld (D-Montgomery), the daughter of a Holocaust survivor, said she was "shocked by the ignorance of the statement." Another Senate candidate, former congressman and former NAACP president Kweisi Mfume, said he also was offended by Steele's comments about slavery. "Any further comparison to equate slavery to stem cell research is a reach that I and others who are the descendants of slaves don't understand," he said.

Republican Gov. Robert L. Ehrlich Jr., who has recommended $20 million in state money for stem cell research but wants to let an outside panel decide which kind of cell research should be funded, tried to deflect criticism from his former running mate.

"I think after an adult, straight-up person makes a comment and then apologizes for the comment, unless you want to make a political deal out of it, or you want to cause some sort of political damage because you dislike his candidacy, what else can the guy do?" Ehrlich told the Associated Press.

Steele's Senate candidacy has been greatly aided by national Republican leaders, who recruited him to run believing he is the party's best hope. But Steele has studiously avoided following a GOP script in a state where President Bush is a help only in fundraising.

The stem cell issue is one in which Marylanders differ greatly from Bush and other prominent Republicans. Haller said that in his latest poll for the Baltimore Sun, 60 percent of the voters supported embryonic stem cell research; the state's increasingly important independent voters favored it 3 to 1, and even a plurality of Republicans are in favor.

Steele has cited his strong Catholic faith -- he spent several years as a seminarian -- in explaining his opposition to abortion and the death penalty, even though he said yesterday he does not let his religion enter into "policy discussions."

"It is a force in my life. I tried to share a little bit of that because most politicians get up and give you the pat, 30-second sound bite," Steele said. "I will continue to do that, but unfortunately in that process, there was an inference that was not right."

Steele was elected Maryland's first statewide African American officeholder as Ehrlich's running mate and has not campaigned on his own for such a high-profile job. He has regretted off-the-cuff remarks before.

Last summer, when news reports broke that Ehrlich had held a fundraiser at an all-white country club, Steele said he didn't care because "I don't play golf. It's not an issue with me." A couple of weeks later, he changed his mind and said, "The core issue there is, the perception of discrimination is just as insidious as the reality of discrimination." He said his first answer was "flippant."

Staff writer Hamil R. Harris contributed to this report.

Steele Apologizes For Stem Cell Remarks (BSUN)

By Jennifer Skalka

The Baltimore Sun, February 11, 2006

Lt. governor calls Holocaust reference 'irresponsible'

In a quick move to stanch criticism of his remarks likening embryonic stem cell research to Nazi medical testing, Lt. Gov. Michael S. Steele apologized yesterday, saying his comments to Baltimore Jewish leaders do not reflect what is in his heart.

Steele, a Republican candidate for the U.S. Senate, said during a morning interview on WBAL Radio that he "made an unfortunate, irresponsible inference."

"I humbly apologize to everyone, certainly in that room and anyone who is now following this, because that is not where my heart or where my head is," Steele said.

"It was just unfortunate, and I am very sorry for anyone taking offense by the remarks."

Steele told the board of the Baltimore Jewish Council during a Thursday luncheon that "you of all folks know what happens when people decide they want to experiment on human beings, when they want to take your life and use it as a tool."

Democrats who are vying to oppose Steele in the fall weren't letting the gaffe go by yesterday -- a sign that the incident could become a factor in the campaign.

U.S. Rep. Benjamin L. Cardin, a Senate candidate, held a news conference in Annapolis to denounce Steele's remarks.

"Michael Steele opposes this life-saving research," Cardin said. "This is an appropriate issue for us to debate. ... Michael Steele is wrong on stem cell research, and he's wrong on other issues."

Three other Democratic Senate candidates -- Kweisi Mfume, former congressman and former head of the NAACP; Lise Van Susteren, a forensic psychiatrist; and American University professor Allan Lichtman -- issued statements critical of Steele.

So did a Democratic National Committee spokesman, who lambasted the head of the Republican National Committee for not repudiating Steele's remarks, calling his inaction "political hypocrisy at its worst."

Mfume originally condemned Steele's remarks, saying that there can be no comparison between stem cell research and "the reprehensible horrors committed by the Nazis against innocent men, women and children."

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But he later added to his comments. "I'm glad to know that Mr. Steele has apologized for his remarks, and if the larger Jewish community is prepared to accept that, then we should move on," he said in a statement provided by a campaign spokesman.

Van Susteren was less forgiving. "Mr. Steele, do you know what it's like to tell the parent of a child with diabetes that we aren't doing everything we can to find a cure?" she said in statement emphasizing her medical background.

"Do you know what it's like to tell the child of an Alzheimer's patient that instead of helping, the government is putting up roadblocks? I do. ... It is a tragedy that those in power who could do something to alleviate suffering ... do not."

James Gimpel, a political science professor at the University of Maryland, College Park, said Steele's views about stem cell research are anchored in his Catholic religious beliefs, but that he can't be pleased with the attention they have attracted.

"His views on stem cell research are probably not that well known, and this was not exactly the best way to make them known," Gimpel said.

Still, he questioned whether Steele lost many votes this week because Jews tend to vote Democratic.

David A. Harris, deputy executive director of the National Jewish Democratic Council in Washington, disagreed.

"I think the conscience of many Marylanders will be deeply offended by what he said, and it's not limited to American Jews," Harris said.

In addition to his radio apology, Steele phoned Art Abramson, executive director of the council, to apologize directly. Abramson said Steele offered to visit with the council again to make amends. Instead, Abramson suggested he send a letter, which he did.

In it, Steele calls the Holocaust "one of the world's darkest chapters."

"By remembering the uniqueness of this tragedy we hope we can prevent it from occurring ever again," Steele wrote. "I feel terrible for any pain I have caused by my inappropriate comments."

Abramson said he felt Steele's apology was "appropriately handled."

"I believe his apology was humble and sincere, and I accept it," Abramson said.

Gov. Robert L. Ehrlich Jr. said some people will try to use Steele's remarks to damage his Senate candidacy, but the governor praised Steele for apologizing and called him "a straight-up guy."

"Mike is very strong, and he is running strong in the polls, and there is a great deal of fear associated with this campaign because of his polling numbers and his excellent fundraising and his life story," the governor said.

"He is a real threat to this monopoly establishment."

For his part, Steele advised against using his statements for political purposes.

"I just hope that there is no grandstanding on this because this is a very sensitive issue, both with respect to the Holocaust and the memory of those affected there, but also the issue of stem cell [research]," Steele said during the radio interview.

In Annapolis, Cardin, flanked by Democratic lawmakers and his wife, Myrna Cardin, who attended the Jewish Council lunch, chided Steele for comparing stem cell research to what he called "the barbarity of the Holocaust."

Myrna Cardin said Steele's remarks were "quite horrifying." "Those were not the words that any of us ever wanted to hear," she told reporters.

The congressman was joined by Baltimore County Sen. Paula C. Hollinger and Baltimore Del. Samuel I. Rosenberg, the Democratic sponsors of bills to commit $25 million a year for five years to stem cell research, which scientists believe could hold the key to treatments or cures for many illnesses.

Their bills emphasize the importance of embryonic stem cell research. The governor's competing plan would dedicate $20 million to stem cell research, but it does not specify whether the funding would go to embryonic or adult stem cell proposals.

Ehrlich, who has said science should guide decisions about how the money will be distributed, has given the Maryland Technology Development Corporation, a quasi-public agency that falls within the Department of Business and Economic Development, the responsibility for determining who will get the money.

At the council luncheon, Steele suggested that he and Ehrlich were in agreement on stem cell research. "The governor and I have pretty squarely laid out where we are on that," Steele said.

Rosenberg said yesterday that given Steele's remarks to the council, the governor owes the public a firm explanation of his position on embryonic research.

Henry Fawell, an Ehrlich spokesman, responded that the governor "has supported government funding of stem cell research since he was a member of Congress. His plan allows for embryonic stem cell research funding."

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Sun reporters David Nitkin, Kelly Brewington and Lynn Anderson contributed to this article.

Seeing A Jungle In Congress, A Lion Of The Nixon Era Runs Again (NYT)

By John M. Broder

The New York Times, February 11, 2006

RUMSEY, Calif., Feb. 6 — As he shambles through his organic orange and olive groves here, Pete McCloskey hardly resembles the liberal lion he once was in Congress, the scourge of the Nixon White House and a father of the environmental movement. He wears beat-up denim clothes and high rubber boots as he imagines mucking out Congress as he does the stables of his prized Arabian horses.

Yes, this is the same Pete McCloskey, now 78, the left-wing Republican from the San Francisco Bay Area who in the early 1970's thundered on the House floor for the impeachment of President Richard M. Nixon and demanded an immediate end to the Vietnam War, who helped create Earth Day and wrote the Endangered Species Act.

Now Mr. McCloskey, marching to a drummer perhaps only he hears, is taking on a powerful incumbent member of Congress of his own party, Richard W. Pombo, in a long-shot quest to return to Washington for one last hurrah. He accuses Mr. Pombo of being one of the most corrupt members of Congress, a tool of the deposed majority leader Tom DeLay and one of the biggest recipients of the largess of the lobbyist Jack Abramoff.

Mr. McCloskey said that he was challenging Mr. Pombo because he could not find anyone else to run against the seven-term incumbent from California's 11th Congressional District, which stretches from the East Bay suburbs of San Francisco into the agricultural San Joaquin Valley. Mr. McCloskey has rented a room in a house in Lodi to establish residency in the district, which does not include his farm outside Rumsey, about 90 miles northwest of Lodi.

This is the same Pete McCloskey who as a congressman criticized Israeli military operations, discussed the influence of Jewish money in American politics, spoke to a group of Holocaust deniers and urged negotiations with Yasir Arafat and creation of a Palestinian state long before American presidents and Israeli prime ministers were ready to do so.

The same Republican who ran for Senate in 1982 by disagreeing with President Ronald Reagan on nearly every major issue and who campaigned for John Kerry in 2004 against President Bush, the son of a man he considers a good friend.

Mr. McCloskey said he was motivated to run this time by Mr. Pombo's ties to Mr. DeLay and Mr. Abramoff and his acceptance of large campaign contributions from Indian tribes, land developers, sweatshop owners and oil companies. He strongly disapproves of Mr. Pombo's record as chairman of the House Resources Committee, where he has tried to revise the Endangered Species Act and open public lands to oil and mineral extraction.

"This man is an embarrassment," Mr. McCloskey said of Mr. Pombo. "He is Tom DeLay's handmaiden, he wants to privatize millions of acres of federal lands, and he believes the Supreme Court is a threat to our democracy. Those are fundamental enough reasons to make you want to defeat a guy."

Mr. Pombo and his advisers dismiss Mr. McCloskey as a carpetbagger, a crank and an egotist. They say he represents no threat to the incumbent, and they have, so far, swatted away his demand for public debates.

"He's not only out of the mainstream of the Republican Party, he's outside the mainstream of American society," said Wayne Johnson, Mr. Pombo's principal political consultant. "He's like Austin Powers, trapped in the 1970's."

Mr. Pombo declined to comment on the race.

Mr. McCloskey's old friends and allies said they were not surprised to see him enter the fray again. They said he had shown courage on the battlefield as a young Marine officer in Korea and in his political career, taking on the leadership of his own party, even challenging Nixon in the 1972 presidential primary.

Mr. McCloskey won one delegate in that race, the son of a friend.

"He's a guy that led six bayonet charges and was the highest-decorated second lieutenant in the Korean War," said Jim Johnson, a retired Republican member of Congress from Colorado who served with Mr. McCloskey. "He's fearless. And when he gets angry and gets onto something, he will do what he can to change it."

Kenneth L. Khachigian had a slightly different perspective. He was a young speechwriter in the Nixon White House who watched Mr. McCloskey's hopeless 1972 challenge with disdain and some amusement.

"He wasn't taken seriously at all," said Mr. Khachigian, now a political consultant in California. "He was more of a nuisance."

He said Mr. McCloskey's campaign for Congress this year was just as quixotic, adding: "He's looking for attention. And one way to get it is to go back to doing what he does best — ticking off fellow Republicans."

Mr. Pombo has a considerable advantage in money, with about $1.25 million in his campaign account and his political action committee, known as RichPAC.

Mr. McCloskey's campaign balance is $0. He said he was considering lending his campaign $50,000 of his own money — half his savings, he said — to get it off the ground. He admitted that he knew virtually nobody in the 11th Congressional District, but he said was planning to make up for that with shoe leather and a bus tour modeled on Senator John McCain's "Straight Talk Express."

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Mr. McCloskey knows that his odds of winning the June 6 primary are long, but he is driven by the same fire that moved him during his 15 years in Congress that began in 1967 when he defeated Shirley Temple Black in a special election for a House seat representing a prosperous and liberal district in the area around Palo Alto now known as Silicon Valley.

He said he no longer recognized the Republican Party in which he served alongside such moderate and liberal luminaries as Mark O. Hatfield, Charles H. Percy and John V. Lindsay. He remembers with a nostalgic sigh being befriended by the moderate Republican rookie congressman from Houston, George Bush, when he arrived to take his seat in 1967. He and Mr. Bush still carry on a lively correspondence, although they differ strongly on the current president.

"What this campaign is about is which way does this Republican Party go," Mr. McCloskey said in an interview in the cluttered living room of his retirement farm.

He said neoconservatives — including his old friend and colleague Dick Cheney — had taken over the government and driven the nation into an ocean of red ink and a ruinous war in Iraq. He said he agreed with a fellow marine and former House colleague, Representative John P. Murtha, Democrat of Pennsylvania, that the nation should withdraw most of its troops from Iraq by year's end.

While his antiwar position and his views on the environment, abortion and gay rights (he is for them) could be popular in a Democratic primary in many Congressional districts, it is not likely to endear him to the voters of California's 11th, which has a preponderance of Republican voters and has easily returned Mr. Pombo to Washington since he was first elected in 1992.

Even so, Helen Hooper McCloskey, Mr. McCloskey's former press secretary and wife of 23 years, supports her husband's campaign, calling it a brave if somewhat foolhardy last act to restore his reputation and rescue the things he holds dear.

"He is an endangered species himself — the liberal Republican," she said.

Photo With Bush Helps Congressman's Rival (AP)

By T.a. Badger

AP, February 11, 2006

A photo of President Bush cupping the cheeks of Rep. Henry Cuellar at last week's State of the Union address has been the gift that keeps on giving for Cuellar's chief rival for the Democratic nomination.

The Washington Post picture of Cuellar beaming as the president holds his face is a boffo hit on the Internet, inspiring humorous-caption contests and accusations that Cuellar is a stealth Republican.

Cuellar's Democratic rival, Ciro Rodriguez, has produced a leaflet centered around the photo. It reads: "George Bush thinks Henry Cuellar is `chulo'" — Spanish slang for "pretty boy."

Before the picture came out, Rodriguez, a former congressman trying to regain the House seat he lost in 2004 to Cuellar, had been low on money, momentum and a memorable message.

But the Rodriguez campaign said the picture has generated more than $80,000 in contributions in little more than a week and given a major boost to his supporters a month before the Democratic primary.

"The saying goes, `A picture tells you a thousand words,'" Rodriguez said. "Well, in this case, it's gone beyond a thousand, especially on the dollars."

The photo flap became even richer when it was revealed that Cuellar listened to the State of the Union address while standing on the Republican side of the aisle. Cuellar also served briefly as Texas secretary of state under GOP Gov. Rick Perry

Colin Strother, a Cuellar spokesman, said that Cuellar is a true Democrat regardless of where he chose to listen to the speech, and that the photo is being blown out of proportion.

"Henry was far from the only Democrat to share a moment with the president that evening — he was just the one immortalized on camera," Strother said. "We're moving forward, and whatever Ciro chooses to do with the photo is up to his campaign."

Democrats Look For Gains In Governors' Races (REU)

By John Whitesides

Reuters, February 11, 2006

Democrats are positioned for gains in governors' races in November and could capture governorships in many big battleground states, giving the party an early edge in the 2008 fight for the White House.

Republicans must defend 22 of the 36 governors' offices on the ballot in November, including eight states where the incumbent retired or is barred from running again. Democrats defend 14 governorships but only one in which the incumbent is not running.

The lopsided political map, along with a tough national election climate for Republicans, put Democrats in a strong position to pick up at least the four governorships needed for a national majority. Republicans hold 28 governorships to 22 for Democrats.

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"The math is not in our favor this year," said Massachusetts Gov. Mitt Romney, chairman of the Republican Governors' Association, who is stepping down this year ahead of a potential 2008 presidential bid.

"Just looking at the math," he told Reuters. "We should lose four to six spots. But we expect to do better than the math would indicate."

New Mexico Gov. Bill Richardson, chairman of the Democratic Governors' Association and a candidate for re-election this year, said he anticipated a net gain of five or six governorships for his party.

"We think the states are the most fertile territory for Democrats and winning a majority of governorships in 2006 enhances our chances for winning the presidential election in 2008," Richardson, another potential White House candidate, told Reuters.

Among the biggest prizes in November's mid-term election, when control of Congress also will be at stake, are open governors' offices in Ohio, Florida, Massachusetts and New York, where incumbent Republicans are retiring.

Governorships held by Republicans in the key swing states of Nevada, Colorado and Arkansas, and the Democratic office in Iowa, also are open and up for grabs.

'CHALLENGING RACES'

"We have eight open seats and some of them are in places where Democrats have a solid voter lead," Romney said. "New York, Massachusetts, Ohio and even Arkansas, are places where we have to overcome a blue tide. Those are more challenging races for us."

Both parties crave the advantages offered by a sitting governor, particularly in years with a presidential race. Governors typically raise big money, muster a ready pool of volunteers and generate heavy local media coverage for national candidates.

A popular governor can be worth two percentage points or more to a viable White House candidate, analysts say, giving Democrats a sterling opportunity to lay the groundwork for 2008.

"It's not just the numbers that matter, it's the places," said Larry Sabato, a political analyst at the University of Virginia, pointing to the big swing states up for grabs in November. "The Democrats can set themselves up nicely for the 2008 presidential contest, assuming they nominate an electable candidate."

While national Republicans have suffered a series of recent setbacks, including the loss of two governors' races last year, scandals involving prominent party leaders and Bush's low approval ratings, Romney said they should not effect governors' races.

"People choose their governor based on state issues, not national issues," Romney said. "While the national attitude may color things at the margin, overwhelmingly governor's races are decided by the campaigns of the candidates themselves."

Incumbent Republican Gov. Arnold Schwarzenegger faces a tough re-election race in Democratic-leaning California, as do Republicans Bob Ehrlich in Maryland and Tim Pawlenty in Minnesota.

Democratic incumbents Ed Rendell in Pennsylvania, Jennifer Granholm in Michigan and Jim Doyle in Wisconsin also have potentially close elections, although their home states are Democratic-leaning.

Richardson pointed to six popular Democratic governors favored to win easy re-election in Republican-leaning states -- Kansas, Oklahoma, Arizona, Tennessee, Wyoming and himself in New Mexico -- as evidence of Democratic growth in red states.

"The Congress and the White House appear to be in gridlock," Richardson said. "The Democratic Party has to rebuild itself not from Washington down but from the states up. We have to be competitive in red states."

Motivation Behind Crime Study Questioned (WP)

By Matthew Mosk

The Washington Post, February 11, 2006

Ehrlich Administration Defends Project as Public Safety Officials Wonder if Goals Are Political

Gov. Robert L. Ehrlich Jr.'s administration has commissioned a criminologist to conduct an expedited audit of Maryland crime statistics, just as Ehrlich gears up for a reelection campaign that could put a spotlight on violence in Baltimore and Prince George's County.

Police in the five largest Maryland jurisdictions were notified last month that they would be asked to contribute data for a study that would be completed by Aug. 14, less than three months before Election Day.

"A full and accurate measure of these statistics is central to our mission of assisting victims and controlling and preventing crime," said Alex Ray, a spokesman for the Governor's Office of Crime Control and Prevention, which commissioned the study.

But public safety officials in several Maryland jurisdictions questioned whether the real goals of the project are political, given the expectation that if Baltimore Mayor Martin O'Malley is the Democratic Party nominee, Ehrlich will attempt to blame him for Baltimore's persistent crime woes.

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"Nothing about this study adds up," said Kristen Mahoney, a high-ranking police official who advises O'Malley, one of two Democrats vying to challenge the Republican governor in November.

The University of Maryland professor who will conduct the study said yesterday that officials in the governor's crime control office approached him with the idea, recommended the timetable and said they will pay him $340,000.

That branch of the governor's office was the target of a federal investigation during the 2002 election season in which top officials there were accused of using grant money to help bolster Democratic Lt. Gov. Kathleen Kennedy Townsend's ties to constituent groups. An indictment of the agency's director was eventually dismissed.

The latest study has brought similar questions from officials in several jurisdictions under review. Officials questioned whether Ehrlich sanctioned the project and whether it was politically motivated.

A spokesman for Ehrlich said the governor was told of the proposal as part of a routine briefing from public safety agencies. "The governor does not make any decisions on grant proposals," added Henry Fawell, Ehrlich's deputy press secretary.

Baltimore police, for one, will not be helping, said the department's spokesman, Matt Jablow.

Prince George's County State's Attorney Glenn F. Ivey (D) called the steep price and quick turnaround time highly unusual, based on his past dealings with the crime prevention office.

"We've worked with them on grants for crime issues for the previous three years pretty closely, and I would have expected, for a grant of that magnitude, they would have touched base with us to see if we thought it would even be useful," Ivey said. "Reviewing all the statistics on crime would be extremely difficult to do, and do a good job, in six months."

The professor hired to conduct the study, Charles F. Wellford, said that if there is a political motive behind the project, he is not aware of it.

"It's certainly not my motive, and certainly not the intent," Wellford said. "It's not unusual for us to get called in to try to be an objective voice on what crime data are saying."

Wellford said it was not until he conducted a Jan. 24 meeting with police from several of the jurisdictions that he heard suspicions about the role politics might have played in getting the study going.

"I don't know if they were trying to pay me a compliment, but one of them said, 'If it weren't for your involvement, we would think politics was behind this,' " Wellford said.

Wellford's grant application says the project will review "how accurately [crime] is reported to the public." To do this, he said, he has hired a private survey firm to conduct thousands of telephone interviews with crime victims, and he will pore over data from the five jurisdictions.

Wellford said meeting the target date will require cooperation from the five police agencies.

Montgomery County Executive Douglas M. Duncan (D), another O'Malley rival who aims to campaign for governor in part by highlighting the crime problem in Baltimore, has asked his police department to cooperate fully.

"This is absolutely something that needs to be done," said David Weaver, Duncan's communications director. "We look forward to seeing the results."

Trade Gap Hits Record For 4th Year In A Row (WP)

By Paul Blustein

The Washington Post, February 11, 2006

The U.S. trade deficit soared to a record in 2005 for the fourth year in a row, according to a government report released yesterday that provided a reminder of the dangers hovering over a generally robust economy.

The United States imported $725.8 billion more in goods and services than it exported last year, the Commerce Department said. That is up 17.5 percent from last year, and it is an all-time high not only in dollar terms but as a proportion of the economy; the figure is equal to 5.8 percent of gross domestic product.

For December alone, the trade gap increased to $65.7 billion from a revised $64.7 billion in November. That is the third-highest monthly deficit ever.

In some respects, the trade deficit reflects the strength of the U.S. economy, at least relative to other major trading partners.

Because U.S. economic growth has been rapid in recent years, American consumers are snapping up foreign goods of all kinds -- autos, electronics and clothing being some of the biggest categories. At the same time, relatively sluggish growth in economies such as the European Union and Japan has dampened demand for goods made in the United States. Thus even though U.S. exports rose 10.4 percent last year to $1.27 trillion, imports surged 12.9 percent to nearly $2 trillion.

But the gap worries many economists because it means the United States must borrow heavily from overseas. The dollars that Americans spend on imports are often invested by foreigners in the bonds of the U.S. Treasury and mortgage agencies such

as Fannie Mae and Freddie Mac, so the more the trade deficit widens and the longer it persists, the greater U.S. indebtedness becomes. That is why some analysts fret about a scenario in which foreigners would sell off U.S. securities en masse, causing interest rates to soar and the global economy to fall into recession.

Nothing of the sort has materialized so far. On the contrary, overseas demand for U.S. investments last year was powerful enough to drive up the dollar against most major currencies.

"It's true that many of us have been concerned that foreigners will grow tired of financing these ever larger trade deficits, and so far there hasn't been much sign of that," said Jeffrey A. Frankel, a Harvard University economist who served on President Bill Clinton's Council of Economic Advisers.

"But there are plenty of reasons to be concerned," Frankel said. "We know [the trade deficit] means we're borrowing against the future, and that our children will have lower standards of living than they would otherwise. And just because a 'hard landing' hasn't happened yet doesn't mean it won't."

Furthermore, Frankel added, a big trade deficit generates pressure for protectionism. The report yesterday prompted many members of Congress and labor groups to step up their calls for a tougher U.S. trade policy and rollbacks in the free-trade deals negotiated in recent years.

"This trade deficit is unsustainable -- we cannot sit back as other nations produce the world's goods and we continue to lose family-supporting, middle class jobs," said Richard L. Trumka, the secretary-treasurer of the AFL-CIO, in a statement calling for Congress to "reject the flawed trade agreements" such as NAFTA and CAFTA.

Critics of the Bush administration's trade policies drew special attention to the mounting U.S. deficit with China, which rose 24.5 percent to $201.6 billion last year, the biggest gap the United States has ever posted with a single country. Lawmakers have been accusing China for some time of playing unfairly in global markets, especially by keeping the value of the Chinese currency, the yuan, at an artificially cheap level.

"Particularly disturbing is the news that our trade deficit with China is two and a half times bigger than it was when we signed a trade agreement with them in 2000," said Sen. Byron Dorgan (D-N.D.) in a statement, referring to the accord allowing Beijing to join the World Trade Organization. "That's pretty compelling evidence something has to change."

Although the gap with China accounts for more than a quarter of the total deficit, the imbalance is spread across a wide variety of trading partners.

The U.S. trade deficit with the European Union was $122.4 billion last year; with Japan, it was $82.7 billion; with Canada, $76.5 billion; with Mexico, $50.1 billion; and with nations belonging to the Organization of Petroleum Exporting Countries, it was $92.7 billion.

The imbalances reinforce the view held by many economists that the widening trade deficit stems primarily from a reduction in U.S. national savings in recent years, including the deterioration in the federal budget deficit.

Because the budget deficit requires the government to borrow, it counts as a decline in national savings.

One important factor fueling the rise in last year's deficit was the rise in the price of imported oil. Imports of petroleum products rose 39 percent, to $251.6 billion.

That was by no means the whole story. Christian E. Weller, senior economist at the Center for American Progress, a Washington think tank, calculated that even if the deficit in petroleum had not increased, the overall gap still would have totaled a record $660 billion.

U.S. Trade Deficit Sets Record, With China And Oil The Causes (NYT)

By Vikas Bajaj

The New York Times, February 11, 2006

The United States trade deficit widened to a record $726 billion in 2005, the government reported yesterday, adding more fuel to the increasingly partisan debate between advocates of further globalization and those who contend that free trade is causing the loss of too many American manufacturing jobs.

Hitting its fourth consecutive annual record, the gap between exports and imports reached almost twice the level of 2001. It was driven by strong consumer demand for foreign goods and soaring energy prices that added tens of billions of dollars to the nation's bill for imported oil. The nation last had a trade surplus, of $12.4 billion, in 1975.

The continued growth in the trade deficit, particularly with China, is likely to renew a fight in Congress as early as this spring over President Bush's trade policies. Lawmakers have seized on the growing imbalance with China to call on the White House to take a harder line with Beijing over its currency practices.

But as long as the American economy is growing faster than most of its trading partners and energy prices stay at elevated levels, economists expect little improvement, and perhaps even a slight widening, in the trade imbalance this year.

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"You would need a dramatic slowdown in domestic U.S. demand to bring down the U.S. trade deficit, and we think that is unlikely," said Dean Maki, chief United States economist at Barclays Capital in New York.

That means the nation will go deeper into debt with the rest of the world as Americans continue to rely on the strong flow of foreign money, particularly from central banks in Asia, to finance the trade gap. China, Japan and other foreign governments are some of the biggest holders of government securities, lending money to cover the substantial federal budget deficit and helping to keep interest rates and home mortgage costs here relatively low.

As a result, American consumers are able to spend more and save less.

Many economists say this situation is unsustainable over the long run, arguing that the United States could eventually face a harsh correction that would depress spending, increase the cost of borrowing and sharply lower the value of the dollar.

"There are certainly going to be inflows, the question is at what price?" said James O'Sullivan, an economist at UBS, an investment house. "As time goes on, it will become a little more difficult to attract foreign funds. That's another way of saying the dollar will fall."

But other economists argue that the huge trade gap mostly reflects stronger American growth and that money is flowing into the country at relatively low rates because of the attractiveness of the United States as a place to invest. They see little reason to fear a dollar crisis.

"As long as foreigners are willing to put their capital in the United States, we can sustain a trade deficit of 6 percent or more" of overall economic activity, said Phillip L. Swagel, a resident scholar at the American Enterprise Institute in Washington who served as a staff economist for President Bush's Council of Economic Advisers.

"It would be better that we saved more on our own," Mr. Swagel added, "but given that we aren't, I would rather have investment go on by foreign capital."

For its part, the Bush administration urged caution on the deficit.

Commerce Secretary Carlos M. Gutierrez, touring an I.B.M. operation in North Carolina, told The Associated Press, "We can't overreact and make tactical choices that will hurt our economy."

As a share of the gross domestic product, the trade gap increased to 5.8 percent, from 5.3 percent in 2004 and 4.5 percent in 2003.

While most economists dismiss the importance of bilateral trade imbalances, it is the deficit with China that has set off the most political fireworks. That nation had the largest gap with the United States of any country, at $201.6 billion for the year, up 24.5 percent from 2004. In December, the deficit with China narrowed nearly 12 percent, to $16.3 billion.

Following increased pressure from the White House, the Chinese government allowed the yuan to rise by about 2 percent in July and allowed its currency to float in a narrow band. Since then the yuan, also known as the renminbi, has risen by an additional 0.7 percent. One dollar buys about 8.0505 yuan.

A stronger Chinese currency would make imports to the United States more expensive and American exports to that country cheaper. Most analysts agree the yuan would rise significantly if it were set free, but many experts also worry that many financial institutions in China are not strong enough to survive the shocks that might accompany a fully convertible currency.

In the Senate, Charles E. Schumer, Democrat of New York, and Lindsey Graham, Republican of South Carolina, have proposed imposing a 27.5 percent tariff on Chinese imports if the country does not allow its currency to appreciate further against the dollar. Late last year, the senators agreed to hold off on the measure after the Senate voted against stopping a floor vote on it.

Mr. Schumer said "there is a very strong likelihood that we will move our bill in March should the Chinese not show further movements."

"If you believe in free trade, you play by the rules," he said when asked if a protectionist tariff would hurt the American economy. "The long-term damage of the Chinese pegging their currency far exceeds any immediate benefits and almost every economist would agree with that. They might not agree with our methodology."

Experts note that a large portion of the deficit with China reflects its growing role as a hub for the assembly of goods as Asian manufacturers have shifted production there to save money. The overall deficit with Asia has changed little in recent years.

Bush administration officials have said they, too, would like to see the yuan appreciate further, but have contended that sanctions like a tariff would be counterproductive and would hurt consumers. This month, the Treasury Department urged the International Monetary Fund to improve its policing of currency manipulations by governments, without directly referring to China.

Treasury Secretary John W. Snow is expected to bring up the issue of exchange rates at a meeting of the Group of 8 finance ministers in Moscow this weekend.

But even some longstanding advocates of free trade are growing increasingly frustrated with China's intransigence on the currency front, warning that it may be inviting protectionist legislation by repeatedly deflecting Washington's requests.

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"The administration," said C. Fred Bergsten of the Institute for International Economics in Washington, "has to let the Chinese know that it may not be able to stop it even though it doesn't want it."

While China draws most of the attention, perhaps the most important factor behind the swelling deficit last year was the rising cost of importing oil and other energy supplies. Trade in petroleum products accounted for 29 percent of the total deficit, up from 25 percent in 2004. Imports of petroleum goods climbed 39 percent, to $251.6 billion, after rising by 39 percent in 2004.

Over all, the deficit jumped nearly 18 percent in 2005 compared with the previous year. Excluding oil and other petroleum products, the trade gap grew by 10 percent.

After China, the United States' second-biggest deficit was with Japan, at $82.7 billion, up 9.4 percent, followed by Canada, a big supplier of oil and natural gas, at $76.5 billion, up 15.1 percent.

The deficit with members of the Organization of the Petroleum Exporting Countries increased by 29 percent, to $92.7 billion. For December, the trade deficit grew by 1.5 percent over the previous month, to $65.7 billion, as imports of computers, cars and airplanes rose and exports of planes, which had risen sharply in November, dropped. It was the third-largest monthly trade gap on record.

And with oil prices rising again, said Ashraf Laidi, chief currency analyst for the MG Financial Group in New York, "we can expect to see worse numbers to come."

US Trade Deficit Balloons To Record $726bn (FT)

By Christopher Swann

Financial Times, February 11, 2006

The US trade deficit ballooned to a record $726bn in 2005, inflated by surging imports from China and soaring energy prices.

In December the US imported $65.7bn more than it exported, up from $64.7bn in November. The widening came in spite of a strong 2.1 per cent rise in exports. The increase was all the more impressive because volatile aircraft sales were down on the month. Imports grew by 1.9 per cent.

But with imports now almost 60 per cent larger than exports, American companies would have had to sell 3 per cent more abroad just to prevent the deficit from rising.

Over 2005, the deficit totalled 5.8 per cent of American national income. The current account deficit - a more inclusive measure that includes other income flows - was 6.5 per cent of national income.

Economists have long fretted that global investors will eventually become unwilling to finance the US deficit, without a fall in the dollar and a rise in US interest rates. So far, however, there has been no sign of demand for US assets weakening. Last year the dollar rose by 3.5 per cent on a trade weighted basis.

But Nigel Gault, the head of US analysis at Global Insight, a consultancy, said the risks were increasing to the US economy as the deficit continued to widen. “An accident has been a possibility for some time and the further we go down this road the greater the chances that it will come to an unhappy end,” he said.

The consultancy is expecting the trade deficit to rise further to $810bn this year. The politically sensitive bilateral deficit with China was $202bn in 2005 - a quarter of the total shortfall. The deficit was slightly lower on the month - falling from $18.5bn to $16.3bn.

US lawmakers have become increasingly restive over the rising deficit, threatening action unless China moves towards floating its undervalued currency and clamps down on theft of US intellectual property. Charles Schumer, a Senator from New York, has been proposing an increase in tariffs on Chinese goods to offset this alleged currency manipulation.

Imports of oil were less of a problem in December, falling to 311.5m barrels a day from 314. But during the course of the year, surging oil imports have blighted the trade figures.

Paul Ashworth, an analyst at Capital Economics, said the rising deficit with China was responsible for a third of the overall deterioration in 2005. “This will no doubt give protectionists in Congress some ammunition as the mid term elections approach,” he said.

Overall, the rising deficit detracted 1.2 per centage points from economic growth.

U.S. Trade Deficit Ballooned To A Record In 2005 (WSJ)

By Greg Hitt And Murray Hiebert

The Wall Street Journal, February 11, 2006

Widening Gap With China Likely to Revive Demands That Beijing Take Action

The nation's record $725.75 billion trade deficit last year, fed by a massive inflow of imports from China, is likely to aggravate protectionist sentiment in Congress and renew calls for Beijing to take steps to ease the imbalance.

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The 2005 deficit -- 17.5% wider than the 2004 gap, according to a Commerce Department report released Friday -- comes at a time of high economic tensions between Beijing and Washington, and it produced an immediate reaction.

Sen. Charles Schumer, a New York Democrat and one of China's most vocal critics on Capitol Hill, said that "the numbers show the need for China to play fair." Indeed, the yawning trade gap, which came despite an improved performance by U.S. exporters, is expected to reignite a battle over policies that critics say keep China's currency artificially weak, giving its goods an unfair advantage in global markets and threatening U.S. jobs.

That battle seemed to subside last year after China allowed the value of its currency, which had been pegged to the dollar, to fluctuate in a narrow range against a basket of other currencies. Though the increase has been modest, the yuan closed Friday at its highest level against the dollar since the July revaluation.

Even so, Mr. Schumer said that he and Sen. Lindsey Graham, a South Carolina Republican, may push next month for a Senate vote on their proposal to impose a 27.5% across-the-board tariff on Chinese goods if Beijing fails to do more to strengthen its currency. The senators have twice postponed votes on the measure, which enjoys wide support, to give the Bush administration more time to work with China on the issue. But Mr. Schumer said he is running out of patience. Sen. Graham plans to visit China in the spring to stress the depth of congressional concerns.

Oil also contributed to the gap. U.S. imports of petroleum products jumped 39.4% in 2005, as oil prices surged world-wide and refineries along the Gulf of Mexico were damaged by Hurricane Katrina.

But China commanded the bulk of the political attention. For the year, the U.S. deficit with China -- by far its largest gap with any single country -- rose to a record $201.62 billion, up more than 20% from $161.97 billion in 2004.

Despite the political heat generated by such numbers, the economic relationship between the U.S. and China is more complex than the figures indicate. For one thing, Commerce Department's data on trade between two countries includes only goods, not services, where American companies have a greater competitive edge. The U.S. ran a small overall surplus in services in 2005.

The U.S. and China also calculate the trade imbalance differently. Last month Beijing released figures suggesting its trade surplus with the U.S. was only $114.2 billion. Behind the discrepancy is the intermediary role Hong Kong plays in the shipment of goods, argued U.S. Federal Reserve Board analysts in a recent report. Washington counts in its trade figures with China goods shipped through Hong Kong, while Beijing doesn't count those transitory shipments.

Some analysts say all official statistics inflate the value of Chinese exports, because a growing number of U.S. and Asian companies now ship components to China for final assembly. However, China's export figures reflect the full value of those products, rather than the value added in China. More than 58% of China's total exports -- and 64% of its exports to the U.S. -- last year came from foreign companies or foreign joint ventures, according to China's General Administration of Customs.

Businesses in the U.S. and elsewhere also typically share in the profits reaped from marketing Chinese-made goods. For example, a bra produced in China by Ace Style for such labels as Vanity Fair or Calvin Klein retails at Wal-Mart for about $23. Chief Operating Officer Stephen Lo estimates that the Hong Kong-based manufacturer earns about 50 cents for each bra, while the retailer and brand owner earn $1.15 to $2.30 each. The remainder goes to covering production costs, as well as transport and other costs incurred by Wal-Mart Stores Inc.

While some smaller U.S. manufacturers complain about Chinese trade, major American multinationals -- which have benefited from the lower costs of producing and outsourcing there -- have been muted in their criticism. Meanwhile, a January study by the U.S.-China Business Council, which represents U.S. companies doing business in China, says that increased trade with China will lower prices, boosting real disposable income for American families by $1,000 a year between 2001 and 2010.

At the same time, the big U.S. trade deficit with China allows China to lend more money to the U.S. In the first 11 months of 2005, Chinese investors purchased a net $81 billion of U.S. bonds, which may have helped keep U.S. long-term interest rates down. Those kinds of benefits, however, do little to allay the widespread fears sparked by the painful changes wracking the U.S. economy as manufacturing and other high-wage jobs are shipped abroad.

Despite its free-trade leanings, the White House has started tapping into this angst. In his State of the Union speech, President Bush cited the challenge posed by China to justify a new initiative aimed at improving the competitiveness of American industry. Mr. Bush is proposing to boost spending on math and science education and to extend tax breaks supporting business research. Moreover, Mr. Bush's top trade negotiator, Rob Portman, is expected to embrace more aggressive use of trade remedies in his long-awaited "top to bottom" review of U.S. policy toward China. The review could be released as soon as next week.

On Capitol Hill, where lawmakers face election-year pressures, the climate is ripe for legislation that would toughen U.S. policy toward China. Just this week, leading House Democrats unveiled legislation to create a new prosecutor for trade disputes. And a bipartisan group of senators called for repeal of normal trade relations with Beijing, a move that would raise tariffs on goods shipped from mainland China.

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The heightened tensions will add drama to Chinese President Hu Jintao's planned visit to Washington in April. China isn't likely to move aggressively to address currency concerns before then. But as pressure grows on Beijing, one "solution for the Chinese government...to narrow the trade deficit" would be to sign a series of business deals with U.S. companies, perhaps to buy additional civilian aircraft or for U.S. nuclear-energy equipment, said Yuan Gangming, a researcher at Tsinghua University's China and World Economy Center.

Beyond China, total U.S. imports of goods and services last year reached nearly $2 trillion, up $227.8 billion amid strong U.S. demand for foreign-made autos, consumer goods and industrial supplies, among other things. Exports totaled $1.271 trillion, up $119.7 billion, helped by sales of civilian aircraft, medical equipment and heavy machinery.

December's trade deficit was $65.67 billion, up slightly from November's revised $64.69 billion. Exports were $111.51 billion, up $2.3 billion from November. Imports rose $3.3 billion to $177.2 billion. Analysts said that, because the December gap was smaller than prior official estimates, the government might raise its estimate of fourth-quarter economic growth to a 1.3% annualized pace, up from the previously reported 1.1%.

---- Mei Fong, Kersten Zhang, Zhou Yang and Cui Rong contributed to this article.

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TODAY'S MARKETS (WSJ)

By SCOTT PATTERSON

The Wall Street Journal, February 11, 2006

Oil, Stocks Conclude Volatile Week

Despite Stock Gains,

Market Remains Wary

February 10, 2006 10:44 p.m.

Early Friday, stocks declined as oil prices moved higher. By the end of the day, stocks and oil had switched places, helping to cap a turbulent week on Wall Street with a moderate gain.

Analysts said the decline by oil prices helped ease investors' fears of another factor dragging on stocks: the Federal Reserve.

"Oil has been down all week," said Jay Suskind, director of trading at Ryan Beck. "There's been this fear of inflation, and with [oil prices falling], that takes some pressure out of inflation," leading to hopes that the Fed may not have to raise short-term rates higher than most investors feel comfortable with.

The Dow Jones Industrial Average rose 35.70 points to 10919.05, and is up 1.9% year to date. The Standard & Poor's 500-stock index gained 3.21 to 1266.99, up 1.5% for the year, and the Nasdaq Composite Index added 6.01 to 2261.88, up 2.6% this year.

Oil fell 78 cents to $61.84 a barrel on the New York Mercantile Exchange Friday, having declined four out of five days this week. For 2006, though, oil is still up 1.3%.

Gold futures, which have whipped around this week, sank $14.50 to $553.50 a troy ounce on the Comex division of the Nymex. For the week, gold is down $17.20 an ounce, or 3%. Gold, which is up 6.4% in 2006, has had six days of move of more than $10 so far this year, and half of those big swings came just this week.

Fed jitters could come back next week, though, when new chairman Ben Bernanke appears before Congress. If Mr. Bernanke sounds a hawkish tone about rates, investors will let the stock market have it.

Despite a strong showing this week, analysts are wary of stocks. The Dow industrials are on a Sisyphusian trek toward 11000 after cracking and losing that elusive level in January. Until blue-chip stocks make another move past 11000, strategists don't think the market can have a strong, sustained rally.

"This kind of churning action is fairly typical of late stage bull markets, and that's where I still think we are," said Kenneth Tower, chief market strategist at CyberTrader. "This bull market started in October 2002, and it's getting old."

Friday, the decline by oil helped investors look past a largely unsurprising government report that the U.S. trade deficit widened9 1.5% in December, hitting a record $725.76 billion for 2005, up 18% from $617.58 billion in 2004. December's $65.68 billion deficit was wider than the $64.70 billion gap expected. A brief rise in oil prices at the open added to the negative tone, though prices have since turned lower.

Investors also kept their eye on the bond market a day after the first auction of 30-year Treasurys in five years. Strong demand for the "long" bond has dropped yields for more seasoned maturities lower than short-term bond yields, leaving the yield curve fully inverted. The two-year Treasury note fell 2/32 point to yield 4.69%, while the 30-year bond slid 21/32 point to yield 4.55%.

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Economists are concerned about the inverted yield curve -- so called because the normally upward slope of yields plotted on a graph is reversed -- which in the past has been correlated with recessions. Weak appetite for short-term securities indicates concerns about the near-term strength of the economy. The curve inverted briefly in late 2005, triggering a stock selloff on Wall Street. In recent weeks, the inversion seems to be worsening.

In major market action:

Stocks rose10. On the New York Stock Exchange, where 1.71 billion shares traded, 1,721 stocks rose and 1,610 fell. On the Nasdaq Stock Market, where 2.04 billion shares traded, 1,358 rose and 1,613 declined.

Bonds declined11. The benchmark 10-year Treasury note fell 12/32, or $3.75 per $1,000 invested, to yield 4.588%. The 30-year bond slid 21/32 to yield 4.553%. Yields move inversely to prices.

The dollar was mixed.12 It traded at 117.80 yen, down from 118.76 yen late Thursday, while the euro fell to $1.1905 from $1.1981.

Stocks Close Higher On Rebound (LAT)

Times Wire Services

The Los Angeles Times, February 11, 2006

Concerns about Pfizer's profit warning and the U.S. trade deficit drag the Dow down most of the day. Major indexes end the week mixed.

Stocks rebounded from an earlier decline to post moderate gains Friday as investors looked past a mediocre outlook from Pfizer and a new record U.S. trade deficit. The major indexes finished the week mixed.

Pfizer's profit warning dragged the Dow Jones industrial average into negative territory for most of the day and added to traders' concerns about weak overall corporate earnings in 2006 amid a slowing economy. A fourth straight record trade deficit of $725.8 billion last year also left Wall Street wondering whether rising energy and import prices could spark domestic inflation.

But the market managed to recoup its losses and pressed higher late in the day, giving the Dow a sturdy advance this week. Analysts have been expecting volatility among stocks following January's rally and with no major events on the horizon to clarify investors' uncertainty about the economy.

Steven Goldman, chief market strategist for Weeden & Co., said traders were assessing the latest round of earnings reports and whether stocks are fairly priced — or even overpriced. He added that the widening gap between short- and long-term bond yields also stoked worries about a downturn.

"To me, valuation on the average stock has reached fully valued territories," Goldman said. "If you look at price-to-earnings-ratios, they're within 7% of the all-time high."

The Dow rose 35.70 points, or 0.3%, to 10,919.05, after losing as much as 63 points early in the session.

Broader stock indicators also reversed course to close higher. The Standard & Poor's 500 index gained 3.21 points, or 0.3%, to 1,266.99 and the Nasdaq composite index advanced 6.01 points, or 0.3%, to 2,261.88.

For the week, the Dow was up 1.2%, the S&P 500 added 0.2% and the Nasdaq slipped 0.03%.

U.S. Treasury yields rose as dealers braced for potentially troublesome comments from new Federal Reserve Chairman Ben S. Bernanke in testimony to Congress next week. Bond yields move in the opposite direction as prices.

In recent days the market has become more convinced that Bernanke's comments will be upbeat on the economy and thus bearish for bond prices, setting the stage for perhaps two more additional rate increases by the Fed.

The 10-year Treasury note rose to 4.59% from 4.54% on Thursday. Gold futures plunged $14.30 an ounce to $550.20.

Crude oil futures slipped following a report suggesting that high prices were starting to stifle demand. The drop came even as concerns about political unrest in oil-producing countries persisted, with a barrel of light crude losing 78 cents to $61.84 in New York trading.

In other market highlights:

· Investors were unhappy with a lowered sales outlook for Pfizer's top-selling Lipitor cholesterol drug. The company's 2006 earnings forecast of $2 a share was 3 cents short of analysts' estimates. Pfizer dropped 66 cents to $25.68.

· Insurer Aon rallied $3.23, or 9.3%, to $38.11 for the best performance in the S&P 500. Its fourth-quarter net income surged to $224 million from $81 million on growth in its North American brokerage business, lower litigation expenses and a gain from the sale of a unit.

An index of insurers gained 1% for the fourth-best performance among 24 industry groups in the S&P 500. American International Group added 78 cents to $67.90, a day after agreeing to pay $1.6 billion to settle fraud and bid-rigging allegations.

· A gauge of energy shares retreated 0.5% for the worst performance among 10 industry groups in the S&P 500 as oil prices declined. Valero Energy, the biggest U.S. refiner, slid $2.33 to $50.65. Exxon Mobil fell 49 cents to $59.43.

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· Oracle confirmed late Thursday that it would cut as many as 2,000 jobs as part of its effort to absorb its recent acquisition of Siebel Systems and issued earnings guidance in line with Wall Street forecasts. Oracle finished flat at $12.69.

Among other technology issues, Google added $3.84 to $362.61 and Apple Computer rose $2.36 to $67.31.

Proxmire Remembered For Humble Handshakes (MJS)

By STEVEN WALTERS

Milwaukee Journal Sentinel, February 11, 2006

State's leaders recall how longtime senator shaped politics

Madison - Former U.S. Sen. William Proxmire was remembered Friday as a Democratic Party pioneer, an everyman who tirelessly shook hands at sporting events and plant gates and who spent only $145 on his last re-election campaign in 1982.

In his 32 years in the Senate, Proxmire was a champion of taxpayers, a man of unquestioned integrity and someone who was not afraid to take on his own party's leaders, said speakers at the Capitol memorial service attended by more than 300.

Proxmire died Dec. 15 at the age of 90.

After Republican U.S. Sen. Joseph McCarthy died while in office in 1957, Proxmire won in an upset in a special election against the sitting Republican governor. That "made it safe for people to vote Democratic in this state," said U.S. Rep. Dave Obey (D-Wis.), the longest-serving member of the state's congressional delegation.

"He was the first to get to the promised land," Obey said.

Proxmire's refusal to take campaign contributions made him independent of all special-interest groups, Obey said. That's especially noteworthy, given the current influence-peddling scandals that have led to the conviction of Washington, D.C., lobbyist Jack Abramoff and investigations of other members of Congress, he said.

"Absolutely no one ever questioned Proxmire's integrity," Obey said.

Proxmire's 1957 win was a "breakthrough" for Democrats, said Gov. Jim Doyle. It ushered in 18 years of two of the nation's leading Democrats - Proxmire and Gaylord Nelson, who died July 3 - representing Wisconsin in the U.S. Senate, the governor added.

Proxmire won that U.S. Senate seat after three straight losing Democratic campaigns for governor.

Two Democratic members of Congress from Wisconsin, U.S. Sen. Russ Feingold and U.S. Rep. Ron Kind, remembered when Proxmire shook their hands as children outside sporting events. Kind said he was 11; Feingold, who was 9 when he first met Proxmire, said the senator shook so many hands that his own right hand sometimes bled.

When Proxmire told Kind, "I'm Bill Proxmire - your U.S. senator," Kind said, it triggered a "lifetime of fascination" with politics.

Kind later worked as an intern in Proxmire's Washington office and helped write some of the senator's speeches - including some of the 3,000 speeches he gave every day the Senate was in session calling for Congress to ratify an international anti-genocide treaty.

That treaty was finally ratified in 1986.

U.S. Sen. Herb Kohl (D-Wis.), who won Proxmire's seat in the Senate after his 1989 retirement, said Proxmire always returned one-third of his office expenses to taxpayers and cast 10,252 straight roll-call votes.

Proxmire "was the last of the true populist politicians," Kohl said.

John Finerty, who served as Proxmire's campaign treasurer, said the senator spent $177 on his 1976 campaign and only $145 on his final campaign in 1982. All campaign donations were sent back, Finerty said.

Finerty said Proxmire's favorite factory gate was at the Allis-Chalmers plant on S. 70th St. in West Allis. Proxmire would shake the of hands of hundreds of factory workers entering and leaving the plant, then sprint to another parking lot to greet shift supervisors and managers, Finerty recalled.

Other speakers recalled Proxmire's legendary fitness - the staples of his diet were fruit, vegetables and freshly squeezed grapefruit juice, Finerty noted - and how he jogged 5 miles each day, including to and from work when he was in Washington.

His widow, Ellen Proxmire, said her husband waged a long, courageous battle with Alzheimer's disease.

As the disease progressed, she said in a taped tribute, "his world became smaller and smaller."

Of Mouse And Women (WP)

By Bob Thompson

The Washington Post, February 11, 2006

Karenna Gore Schiff Writes About Heroines Who Saved the Day

NEW YORK Let's begin with a brief case study in how the cynical, superficial American media (that's us) can distort the lives of political figures and their families.

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We are talking with Karenna Gore Schiff about her new book, "Lighting the Way: Nine Women Who Changed Modern America." The smart, personable 32-year-old daughter of the Man Who Was Almost President tells us she wrote it as a kind of therapy, an antidote to the "punched-in-the-gut" feeling she got whenever she looked at the newspaper after the 2000 election.

We nod. Seems perfectly understandable.

She also wrote the book, she says, because ever since she was a little girl, she has wished there were "more female faces in the historical pantheon." She remembers sitting at her desk at Arlington's Oakridge Elementary School, looking at the chart of the presidents on the wall and wondering why they were all male.

We'll buy that. We've got daughters ourselves, don't we?

In fact, there isn't the slightest reason to doubt the sincerity of the motives that Schiff cites for launching her literary venture. But we have a problem with them anyway.

Her reasons are just a little too . . . reasonable . We start picturing that glazed look in our readers' eyes, the one that shows up just before they abandon us for the Boondocks and Zippy the Pinhead.

Ah, but then Schiff lets her guard down for an instant -- despite a lifetime of watching journalists turn Al and Tipper Gore into unrecognizable caricatures of the parents she knows and loves -- and lets slip something we can twist into a sexier lead.

Why did she really write this book? Hey, isn't it obvious?

It's because her mom wouldn't let her watch "Mighty Mouse" as a kid.

Hold that thought for a while. It may not be quite as ridiculous as it sounds.

* * *

As Schiff explains the origins of "Lighting the Way," she sips water in the living room of the Upper East Side apartment she shares with her husband, Drew, a physician, and their two children, 6-year-old Wyatt and 4-year-old Anna. Built-in bookcases line one wall. There's a ladder in case anyone needs to reach the upper shelves.

In November 2000, she says, she was exhausted from campaigning and looking to focus on her family. Still, she headed down to Washington now and then to be with her parents -- "sitting on the train or the shuttle and trying not to listen to all the conversations around me, because they were so painful" -- as her father contested the Florida election result.

Just losing would have been bad enough. But losing the way Al Gore lost . . . well, it was "a very dark time."

It got worse with 9/11 (Schiff and her family were in Manhattan that day) and the run-up to the invasion of Iraq. She was stunned by the way people who disagreed with the administration's decision to go to war or even questioned the way the war was to be conducted were "shut up and shouted down and pushed aside and more or less called traitors."

Cynicism seemed a logical option, but she didn't want to go there; she had seen too much of it among her generational peers. Instead, she sought refuge in the American past. She would tell the stories of women -- maybe not presidents or even politicians, but public servants just the same -- who had changed the world for the better despite the scorn the "mainstream" heaps on dissenters.

Take anti-lynching crusader Ida B. Wells-Barnett. Born into slavery in 1862, she became the nation's leading agitator against the barbaric practice of stringing up black men for the merest hint of an offense -- never mind if it was false -- toward a white woman. Nothing seems easier today than to say that lynching is wrong, but that was a less-than-mainstream notion in the 1890s. Schiff cites editorials in this newspaper and the New York Times condemning Wells-Barnett for her "exaggerations," as The Post put it, and for her shameful failure to highlight black crimes against whites .

Take Alice Hamilton, a pioneer in occupational medicine. Hamilton "saw men and women poisoned and crippled by their work," as Schiff writes, and became "at the height of the Industrial Revolution, one of the only physicians who made workplace safety her mission." In 1919, she became the first woman appointed to the Harvard faculty, though Schiff notes that the university barred its new hire from ever taking part in commencement or -- God forbid -- receiving "the treasured faculty football tickets."

Or take labor organizer Mary Harris "Mother" Jones, better known these days for lending her name to a left-wing magazine than for her efforts to confront the early 20th-century horrors of child labor. Mother Jones's personal story (she lost her husband and all four children to a yellow fever epidemic) fascinated Schiff, but she was equally concerned to sketch the forgotten context of Jones's activism.

"It was totally accepted by the leaders of the business and the political worlds that 8-, 10-, 11-year-olds were going into factories, working 12-hour days, getting maimed by machinery and poisoned by new chemical processes," she says. "There was no recourse and there was no accountability. They just blatantly defended that, saying, 'That's the free market.' "

Schiff writes about Septima Clark, whose "citizenship schools" were crucial to the success of the civil rights movement, and about Virginia Durr, who fought segregation from the other side of the color line. In addition to Durr's own accomplishments, she witnessed what Schiff calls "one of the most striking moments in United States history."

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At a conference in Birmingham, first lady Eleanor Roosevelt was evicted by police when she sat down in the section reserved for blacks. Refusing to abandon the principle of integration, Roosevelt found a folding chair and plunked herself in the middle of the aisle separating black and white. The New York Times, which covered the Birmingham event, failed to mention this.

Four other formidable women round out Schiff's list. None is a household name. Schiff wanted to add faces to the pantheon, not just praise those already enshrined.

We ask what she found most surprising about the lives of these nine women who fought racism, child labor, industrial poisoning and the indifference of society toward the needs of the poor? The answer comes with a short laugh.

"I was surprised -- and sort of oddly exhilarated -- by the venom in the established media toward them," Schiff says.

* * *

So far, so good. There's one thing that has been nagging at us, however, and we need to politely bring it up.

"Mainstream" is clearly one of Schiff's favorite words -- and it mostly carries a negative connotation. The women featured in "Lighting the Way" struggle constantly against mainstream politicians, the mainstream press and mainstream thinking in general.

But isn't there something slightly odd about this choice, coming as it does from the daughter of a man sufficiently mainstream to win the popular vote in a national election?

We're not criticizing dad , we assure her. Yet we're talking about the son of a U.S. senator, a Harvard-educated family scion seemingly born to high office. We're talking about a congressman, senator and then a vice presidential candidate who balanced a centrist presidential ticket by carefully tipping it neither left nor right. We're talking . . .

Schiff politely interrupts to say she sees her family legacy -- differently.

When she first became politically aware, she explains, it was the middle of the Reagan era. "He was immensely popular," she reminds us, yet her father was saying that "he's taking the country in the wrong direction, he's ignoring things that are truly important." This had a big impact, even on a teen soon to enter a rebellious phase. Another relevant bit of family history -- impressed on her "from early childhood" -- was her grandfather's U.S. Senate defeat in 1970 for being out of the Southern mainstream on Vietnam and civil rights. And by the way, have we checked out her dad's speech last month on wiretapping?

We promise to Google the speech later; we then shift gears slightly.

It's not only that Schiff's women seemed to operate further from the political mainstream than Al Gore has, we suggest. It's that they were mostly neck deep in humanity, fighting for people -- be they 8-year-old children sent to work in mills and mines, African Americans terrorized into second-class citizenship, or factory workers poisoned by lead dust. Gore's major concerns, from the arms race to the environment, gravitate more toward systems and abstractions.

"That is definitely accurate," Schiff says, and laughs. She won't cop to Gore-as-wooden-wonk stereotypes, though. He may not be "the schmoozy type," but that's something she happens to love about him.

Speaking of media distortions: Schiff recalls how her mother got typecast as a pro-censorship prude. This was back in the '80s, when she was pressuring the music industry to put parental advisories on its increasingly raunchy and violent products.

The media version "was just so unrecognizable," she says.

Maybe so, we're tempted to say, but what about that disturbing episode with the cartoon mouse?

* * *

Some of you out there might not remember Mighty Mouse, the non-Disney animated flying rodent whose motto was "Here I come to save the day!" Schiff doesn't even know if he shows up in reruns anymore. But the Mouse of Steel, as he was also known, was quite popular when she was 6 or 7 -- and she wasn't at all pleased when her mother told her she couldn't watch.

"I'm still a little bit upset about it," she says.

"It was a huge fight," the villain confirms when we call later to check out the story. "It was one of those things. I said no."

Sex and violence weren't the issue. It was a gender role thing.

"The theme of every episode was that the girl mouse would get into trouble somehow and be kidnapped," Schiff explains, "and then it would be 'Mighty Mouse to the rescue!' and he would come and rescue her and he would be kissing her at the end and she would be fawning all over him."

Tipper Gore says, "It was giving a message to my daughter. I wanted to change that."

Schiff's immediate response was to watch the forbidden cartoon at a friend's house whenever she could, scarfing "Wonder Bread and butter-and-sugar sandwiches" in defiance of the Healthy Food Police as well. But in the long run, her mother's point got through: "I still internalized that there was something to question there."

"She became a feminist at 11," Gore says. "When I say feminist, I'm talking about equality and awareness of perceptions of roles."

So there we have it. Obviously it was just a short step from confronting the gender implications of "Here I come to save the day!" to writing a book about women with the confidence and drive to, well, save the day themselves.

Ridiculous? Of course.

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But maybe containing a hint of truth just the same.

For the mother-daughter conversation didn't stop with Mighty Mouse. "She was always reminding us to question how women were portrayed in movies or ads or whatever," Schiff says, "and encouraging us to think that we could do whatever we wanted." The three Gore girls got that message from their father, too.

Schiff went from somewhat shy kid in elementary school to confident high schooler who excelled in lacrosse, field hockey and competitive water skiing. She studied history and literature at Harvard and law at Columbia and did a bit of journalism in between.

Along the way, she went through what she calls a "bratty" phase with her mother. She couldn't help but notice that dad was the one with the big career.

"Why don't you work," she would ask, "you know, like my friend's mom?"

With children of her own, Schiff says she understands the conflicts better now. It's one of the things she tried to highlight in the lives of her nine women.

And her own life? When she looks into the future, what does she see?

Maybe she'll do another book, she says, and maybe it, too, will be history related. (She has given some thought to her Tennessee homeboy, Davy Crockett.) She knows she needs time for her kids; she has already left one legal job in which even a part-time schedule was too demanding. But it's a measure of the way the world has changed since her mother and grandmother's day that she gets the do-you-think-about-running-for-office question all the time.

Schiff doesn't know, she tells us. She hasn't ruled it out. But her book, in part, is an exploration of other ways to be a public servant.

We offer no opinion, of course, but we do know this:

If she runs, she's in for a lot of tough questions about that flying mouse.

Rice: Russia Should Send Message To Hamas (AP)

By BARRY SCHWEID

AP, February 11, 2006

WASHINGTON - Secretary of State Condoleezza Rice urged Russian Foreign Minister Sergey Lavrov on Friday to send a clear, strong message in any meetings with Hamas officials that the militant group must stop terror attacks on Israel.

In response, State Department spokesman Sean McCormack said, Russian officials offered assurances that "they will send this very clear, strong signal" adopted by Russia along with the United States, the United Nations and the European Union in a joint statement approved in response to Hamas' strong showing in Palestinian parliamentary elections.

Russian President Vladimir Putin has invited Hamas officials to Moscow and, while no date has been set, McCormack said the assumption was the talks would be held. Israel has responded to the invitation with fury.

In Jerusalem, Israeli officials said Putin's invitation betrayed Israel and could strain relations between the two countries.

The statement adopted by the Quartet overseeing Mideast peace efforts does not address whether nations should meet with Hamas leaders, and governments are to decide for themselves, McCormack said. Egypt has been holding such meetings.

"The Russians made this decision," McCormack said.

For its part, the Bush administration has pledged to have no contact with Hamas until it renounces its call for Israel's overthrow and accepts the existence of the Jewish state.

Besides Rice's conversation with Lavrov, U.S. Ambassador to Russia William J. Burns has been in touch with the Russians to underscore the view that Hamas is a terrorist organization, McCormack said.

He said the U.S. message to Russia, and Egypt as well, is that "they be consistent in sending the same message to Hamas."

Putin made his overture to Hamas on Thursday during a visit to Spain.

"We have never considered Hamas a terrorist organization," he said. "Having maintained our contacts with the organization Hamas, we intend to invite their leaders to Moscow in the near future to search for solutions."

On Thursday night, Egypt's ambassador to Washington, a veteran observer of ups and downs in Middle East peacemaking, said that dismay over the election of Hamas to form a Palestinian government is symptomatic of memory loss.

Israelis and Palestinians in the past refused to recognize each other, Nabil Fahmy recalled, but a lot of people seem to have forgotten that.

Fahmy suggested there is a lesson to be learned from the fact that the two sides got past their hard-line positions and made headway toward a settlement.

In the current impasse, the rise to political power of the Palestinian group Hamas in recent elections has derailed any serious attempts at peacemaking.

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But Fahmy said, "I would caution against those who say we cannot find a solution."

Reaching into the past to make his point, the ambassador recalled that the Palestine Liberation Organization for years refused to accept the existence of Israel, while late Israeli Prime Minister Golda Meir questioned whether there was an identifiable Palestinian people.

Ultimately, Palestinians came around to acknowledging Israel and Israel has accepted the principle of a Palestinian state.

Fahmy said during a policy discussion at the Woodrow Wilson Center for International Scholars that Egypt was trying to counsel Hamas.

"You need to build on what has been achieved for the Palestinian people," he said.

Egypt is a classic example of an Arab country that turned itself around.

After several wars with Israel, Egypt in 1979 signed a peace treaty with the Jewish state. It exchanged its acceptance of Israel for return of all the land it had lost to Israel in those wars.

The peace treaty has held to this day.

Rice Talks To Russian Foreign Minister Over Hamas (REU)

By Sue Pleming

Reuters, February 11, 2006

Secretary of State Condoleezza Rice won assurances from Russia on Friday that Moscow would send a firm message to Hamas that the militant group must change if it wants world support, the State Department said.

Rice telephoned Russian Foreign Minister Sergei Lavrov on Friday to discuss Moscow's surprise plans to invite Palestinian election winner Hamas for talks, a move that irked Washington and was not discussed when Rice met Lavrov in London last week.

"We have been assured that should the Russian government meet with Hamas, that they would send that -- that the meeting would be with the intent of sending that clear, strong message," said State Department spokesman Sean McCormack.

The United States classifies Hamas as a terrorist body and has ruled out any direct contact until the militant group renounces violence, disarms militants and recognizes Israel.

The so-called Quartet of peace brokers between the Israelis and the Palestinians -- the United States, the United Nations, Russia and the European Union -- met in London last week and issued a statement threatening to cut aid if Hamas did not meet these conditions. Contacts with the group were not mentioned.

Hamas, which had a convincing win in the January 25 Palestinian election, has masterminded more than 60 suicide bombings against Israelis since 2000. It has rejected conditions laid down for getting aid and says they amount to blackmail.

France, in an apparent break with the United States, has signaled support for the Russian meeting and said such talks might advance the position of the Quartet.

Asked whether he thought Russia's planned meeting with Hamas and France's support highlighted a split in the Quartet in how to deal with Hamas, McCormack said individual nations had the right to choose whether they had any contact with the militant group.

But he stressed the Russians had not yet set a date for a meeting and a decision had not yet been taken over who might attend the discussions.

"What we have stated very clearly is that individual countries will make sovereign decisions about issues related to aid, issues related to contact," said McCormack.

The United States, which has given more than $1.5 billion in aid to the Palestinians since 1993, was working closely with the European Union to discuss legal and other issues connected to giving aid to the Palestinians.

Last year, the EU gave the Palestinian Authority 500 million euros ($615 million).

While the United States and other Quartet members have threatened cutting off aid to a Hamas-led government, they are looking at ways of channeling humanitarian help to the Palestinians without going through Hamas.

France Backs Putin On Speaking To Hamas (NYT)

By Joel Brinkley

The New York Times, February 11, 2006

WASHINGTON, Feb. 10 — France on Friday endorsed Russia's decision to hold talks on the Middle East conflict with Hamas, the radical Islamist Palestinian group, saying the discussion "can contribute to advancing our positions."

Other European countries distanced themselves from the French statement, which appeared to be in defiance of the American and European view that Hamas is a terrorist organization and therefore should not be officially recognized. Israel condemned it. But the United States took a more cautious approach.

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"Our position is not to tell the whole world that they can't talk to Hamas," said a senior State Department official, speaking on condition of anonymity. "That would be hard to enforce. The issue is less who's talking than what they are saying."

On Thursday, President Vladimir V. Putin of Russia said he was considering inviting Hamas, the winner of the Palestinian parliamentary elections on Jan. 25, to Moscow for talks, and on Friday the Kremlin confirmed that it would do so. Mr. Putin's remarks took the Bush administration and European leaders by surprise.

Israel reacted to the Russian decision with fury on Friday. Transportation Minister Meir Sheetrit called the Putin invitation "a real knife in the back."

But in Washington, a State Department spokesman, Sean McCormack, said Secretary of State Condoleezza Rice telephoned the Russian foreign minister, Sergey V. Lavrov, on Friday and was reassured to hear that the Russians would deliver a "clear, strong message" to Hamas.

The United States considers Hamas a terrorist group, and American officials are forbidden to talk to the organization. The European Union's policy on talks is not as clear, several officials and diplomats said in interviews. But none said their countries would talk with Hamas.

Foreign minister Frank-Walter Steinmeier of Germany is to go to Israel and the Palestinian territories on Sunday, but a German official insisted, "He is definitely not going to talk to Hamas."

A French diplomat said France "won't have contacts with Hamas," despite its statement of support for the Russian talks.

Speaking to reporters in Paris on Friday, Denis Simonneau, a French Foreign Ministry spokesman, said Russia had not informed European leaders of its intent to talk with Hamas. Still, he added, "we share with Russia the goal to bring Hamas to the positions which allow us to reach the goal of two states living in peace and security."

"As long as we remain within the framework of the goals and principles that we have set for ourselves, we consider that this initiative can contribute to advancing our positions" — specifically that Hamas disarm, renounce violence, recognize Israel and respect previous agreements with Israel.

Sabbath had begun in Israel by the time the French position became known in Jerusalem on Friday. But Daniel Ayalon, the Israeli ambassador to Washington, said in an interview, "I wish they would not have said anything about having a dialogue with terrorists."

Israeli officials in Jerusalem were less restrained when speaking on Friday about the Russian decision.

Housing Minister Zeev Boim said, "Putin is dancing with wolves."

Foreign Minister Tzipi Livni, returning from New York on Friday, said, "Every sign of weakness and of recognition will be interpreted by Hamas as legitimizing terror."

Egyptian Diplomat Is Released

GAZA, Saturday, Feb. 11 (Reuters) — An Egyptian military attaché kidnapped Thursday by gunmen in Gaza was released unharmed on Saturday, an Egyptian official in Gaza said.

A previously unknown militant group, calling itself the Free Men Brigades, had claimed responsibility for the kidnapping of the diplomat, Hussam al-Musli, demanding the release of all Palestinians held in Egyptian prisons.

The Egyptian official who had announced Mr. Musli's release would not discuss the circumstances.

Israel And US On Back Foot Over Hamas (FT)

By Guy Dinmore And Peter Spiegel

Financial Times, February 11, 2006

US and Israeli efforts to isolate Hamas diplomatically appeared to be further undermined on Friday as France cautiously endorsed a Russian offer of talks with the militant Palestinian group.

The Bush administration and Israel have refused to deal with Hamas – listed as a terrorist organisation by Washington and the European Union – which is forming a government following its victory in last month's Palestinian elections.

US officials admit they were blindsided and dismayed by Vladimir Putin, the Russian president, when he proposed on Thursday inviting Hamas to Moscow for talks. The White House was left urging Russia to use the occasion to underscore the principles it had signed up to as a member of the international Quartet – made up of the US, Russia, the EU and the United Nations – that Hamas recognise Israel, renounce violence and endorse existing agreements.

US officials said they thought they had an understanding that no party would unilaterally talk to Hamas.

Meir Sheetrit, an Israeli cabinet minister, on Friday accused Mr Putin of "stabbing Israel in the back". But France said Russia's initiative could be positive as long as Moscow stuck to the Quartet's agreed principles.

Sergei Ivanov, the Russian defence minister, said all Quartet members would eventually have to deal with Hamas. "Hamas came to power as a result of a free, democratic election," he said at a Nato meeting in Sicily.

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He added, however, that Russia remained troubled by Hamas's refusal to recognise Israel and to commit to resolve its disputes with the Jewish state peacefully.

Sergei Lavrov, Russian foreign minister, on Friday assured Condoleezza Rice, US secretary of state, that Moscow would send Hamas a "very clear, strong signal" that it must meet the conditions of the Quartet, the US State Department said.

Putin's Flexible Definition Of Terrorism (TIME)

By YURI ZARAKHOVICH

Time, February 11, 2006

The Russian leader welcomes Hamas, but jails a Chechnya human rights advocate

Who, exactly, counts as a terrorist? If you're Russian President Vladimir Putin, the definition might just depend on how close or far the "terror" is from Moscow. A court in the Nizhniy Novgorod regional center last week gave a suspended two year sentence to Stanislav Dmitriyevsky, Chair of the local Russian-Chechen Friendship Society, and editor of Rights Defense bulletin. Dmitriyevsky was found guilty of fomenting ethnic hatred, simply because in March 2004, he published an appeal by Chechen rebel leader Aslan Maskhadov — later killed by Russian security services — and Maskhadov's envoy in Europe, Akhmet Zakayev.

Maskhadov, you see, is officially a terrorist in the eyes of the Kremlin. Hamas, however, isn't. Putin said so at his Kremlin press-conference on Thursday, where he extended an invitation — eagerly accepted — to Hamas's leaders to Moscow for an official visit.

Putin's hospitality is understandable; after all, Russia does not have many friends. Those still left, like Belarus, or those now coming back after a long estrangement, like Uzbekistan, are ones who share Putin's views on how to deal with terror closer to home. Yesterday, the Uzbek authorities officially confirmed that a month ago they clamped a seven-year jail sentence on the lawyer and human rights activist Saidjahon Zainabitdinov. His official crimes were conspiring with terrorists and defaming the state. But Human Rights Watch and others believe that his real offense was telling the world — including in an interview with Time — the truth about the mass slaughter of hundreds of civilians in the Uzbek city of Andijan last May.

And so perhaps Hamas, if it wants to stay in Russia's good graces, should learn from this pattern. Terrorism is in the eye of the beholder — so if you can view the world through the cross-hairs of Putin's myopic lens, you'll do just fine.

The Face Of Hamas Rule May Not Include Its Own (LAT)

By Laura King, Times Staff Writer

The Los Angeles Times, February 11, 2006

Palestinian militants consider forming a government Israel and the U.S. could live with.

GAZA CITY — The militant group Hamas, facing the threat of diplomatic isolation and a precipitous drop in foreign aid when it assumes power, is exploring the possibility of taking a less visible role in the new Palestinian government than might be expected after its sweeping parliamentary election victory.

Though the shape of the new government is not yet clear, options being weighed by the Islamist organization include appointing a nonmember as prime minister and creating a Cabinet made up mostly of people from outside parliament rather than from the ranks of the group's newly elected lawmakers.

Israel, the United States and many Western countries have made it clear they will have no dealings with a Hamas government unless the group renounces its aim of Israel's destruction and disarms its military wing.

However, quirks in the Palestinian parliamentary system, together with all sides' desire to advance their own pragmatic interests, could combine to offer a face-saving path forward, according to an array of analysts, Western diplomats and Israeli and Palestinian officials.

The coming weeks, in their view, could yield a nuanced new Israeli-Palestinian reality under which all parties can claim they are holding fast to their principles while managing to avoid a political confrontation that could trigger the collapse of the Palestinians' fragile economy and governing structure, an outcome almost no one desires.

"It will all depend, if it's finessed the right way, whether the Israeli government can perceive and extend to the public the perception that it is not actually dealing with Hamas," said Joseph Alpher, a former senior Israeli government advisor and editor of the Mideast affairs website http://www.bitterlemons.org .

In the Jan. 25 elections, Hamas won 74 seats in the 132-member Palestinian legislature that is to be sworn in Feb. 18. Under common parliamentary practice, the holder of such a substantial majority would be expected to pick one of its own as prime minister and to allocate itself most of the senior Cabinet positions.

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However, the Hamas leadership, which held internal talks this week in Cairo, has signaled that it may opt for a behind-the-scenes role. Sources at the talks said the group might put forth Gaza businessman Jamal Khudairi — who ran as an independent, though with Hamas' endorsement — as its candidate for prime minister.

Shunning the limelight would give the group, whose formal name is the Islamic Resistance Movement, the advantage of deferring uncomfortable choices about its core beliefs and its self-described mission, which for many years was to kill as many Israelis as possible. Hamas dramatically scaled back its attacks more than a year ago, when it first began running in, and winning, Palestinian local elections.

The formation of a new Palestinian national government could be weeks away, and could even come after Israel's elections March 28. The centrist Kadima party, assembled by Israeli Prime Minister Ariel Sharon before he was felled by a massive stroke last month, holds a commanding lead in the polls, and its platform calls for steps leading to the creation of a Palestinian state.

U.S. law prohibits granting assistance to an organization such as Hamas, which is deemed a terrorist group by Washington. A Hamas-run government stands to lose hundreds of millions of dollars from the U.S. and other countries.

A major stumbling block to setting up a Palestinian government with which Israel and the United States would deal is that the defeated Fatah movement has so far refused to enter into a Cabinet alliance with Hamas. That seemingly rules out the participation of many West-friendly Palestinian officials whose political home has traditionally been Fatah.

But there are other potential scenarios.

One calls for the creation of a "technocrat" government, in which those in charge of day-to-day affairs would be professionals in their chosen fields rather than career politicians. Under Palestinian law, neither the prime minister nor members of the Cabinet are required to be lawmakers.

"This kind of outcome could give everyone a bit of breathing room," said Mahdi Abdul Hadi, who heads a prominent Palestinian think tank. In addition, he said, the idea of a professionally run government could have considerable appeal to Palestinian voters who cast their lot with Hamas primarily because they were fed up with Fatah's corruption and inefficiency.

Another possibility is tapping lawmakers aligned with neither Hamas nor Fatah to serve in the Cabinet. These include a number of internationally respected figures who could make a Hamas-appointed Cabinet far more palatable to the West and Israel.

Salam Fayyad, the highly regarded U.S.-educated former finance minister who ran on a small-party ticket in the recent elections, has reportedly been approached by Hamas intermediaries about the possibility of serving in a senior post. Ziad abu Amr, a prominent political scientist and onetime Fatah strategist who won a seat as an independent, has been mentioned as a potential foreign minister. Other lawmakers from smaller parties include Hanan Ashrawi, who is considered a moderate and is well known as a spokeswoman for the Palestinian cause.

None of these figures has spoken publicly of any potential role for themselves in government. Most have enormous ideological differences with Hamas and say they would refuse to work with the group unless it renounced its violent founding principles. Fayyad, for example, is reported by Israeli media to have told Hamas he could not serve unless the movement abandoned its goal of Israel's destruction.

In the wake of the election, Hamas leaders have explicitly rejected the idea of direct negotiations with the Jewish state. But almost every day, some Hamas policymaker also issues an ambiguous pronouncement regarding Israel's status in the group's eyes.

Ismail Haniya, who was the movement's top candidate in the parliamentary vote, was quoted this week as saying Israel's existence was an undeniable reality, if only because of its military might. "We really can't ignore the fact of a state that is equipped with F-16s," he said.

Israel, however, may harden its stance if it sees cracks in the consensus that Hamas must be shunned unless it recognizes the Jewish state's right to exist and disarms its military wing. On Friday, Israeli officials denounced Russian President Vladimir V. Putin's offer to meet with Hamas officials, with Cabinet minister Meir Sheetrit saying the invitation amounted to "stabbing Israel in the back."

While Hamas weighs its next moves, an important parallel development has been unfolding: an effort to strengthen the Palestinians' executive branch, led by Palestinian Authority President Mahmoud Abbas.

Since the elections, Abbas has been seeking to expand his powers in the most sensitive areas: diplomatic contacts with Israel and the rest of the world, the formulation of any peace overtures, and control of the Palestinian security forces.

In coming weeks, Abbas could also create new policy posts to keep key senior associates in positions of influence. And Abbas' aides point out that the Fatah-dominated Palestine Liberation Organization — not the Palestinian government — is the agreed-upon point of contact in any negotiations relating to eventual statehood. Until now, the two had been virtually the same entity.

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Hamas has already warned Abbas against trying to usurp too much power at its expense.

Still, the group is aware of its vulnerabilities. Hamas knows its election performance was propelled largely by anger over Fatah corruption rather than a repudiation of peace hopes on Palestinians' part. The group also understands that its lopsided win was due in large part to the hybrid allocation of seats — half the elected lawmakers were from a national slate and half were from individual district races, where Hamas dominated the field.

In the overall popular vote, Hamas beat Fatah by only about 44% to 41%, with the remaining share going to smaller parties.

Whichever approach Hamas chooses will have pitfalls. Israeli officials and Western diplomats have made it clear they will not accept a "shadow government" in which Hamas too obviously plays the main policymaking role even if it abstains from accepting any senior official positions.

"I don't see a dead end here yet," said Uri Dromi, a former Israeli government spokesman who is now an analyst with the private Israel Democracy Institute. "I see a lot of maneuvering and rhetoric, and Hamas going out of their way to convince everyone they're not lunatics."

Hamas will still have to answer to its street followers, who helped bring it to power. But in determining what kind of government it will seek, the group has suddenly gone from playing to a relatively small audience to a worldwide one.

"It's a very delicate time," said Ghassan Khatib, the outgoing Palestinian planning minister. "But in the end, I think the right people for the job will be found."

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Special correspondent Fayed abu Shammalah in Cairo contributed to this report.

Cleaning Up Corruption Tops Palestinian Agenda (WT)

By Joshua Mitnick

The Washington Times, February 11, 2006

RAMALLAH, West Bank -- A series of corruption investigations has moved to the top of the Palestinian agenda after Hamas' campaign for clean government produced a rout of the ruling Fatah party in parliamentary elections last month.

Attorney General Ahmed al-Moghani announced this week that he's pursuing 50 cases that could account for $700 million in lost funds. Palestinians say it's a significant first step, but it only scratches the surface of corruption that could implicate top security officials, private sector businessmen, nongovernmental organizations as well as Israelis.

Observers say pursuing such high-profile cases will require the joint political intervention of Palestinian Authority President Mahmoud Abbas and the newly victorious Hamas party. With a legal system that has been understaffed and subservient to the executive branch, the cases could take years to prosecute.

"The corruption is huge. It requires political will. I believe there is an understanding between [Mr. Abbas] and Hamas on the direction," said Samir Barghouti, an economist who has consulted for the European Union and the World Bank.

"The election indicated that the top issue that people want to deal with is corruption," he said.

Pursuing the corruption scandals is critical if Palestinians want to restore public trust in their self-rule government. It is also considered essential to restoring confidence of the community of international donors.

The Palestinians received about $5 billion in foreign aid over the past five years, and yet the Palestinian government is on the verge of bankruptcy, Nigel Roberts, World Bank country director for the West Bank and Gaza Strip, said in a recent interview with the Ha'aretz newspaper.

One of the cases being investigated focuses on an imaginary plan to build a pipe factory using $2 million from Italian donors and $4 million from the Palestinian Authority. The cases have pointed to workers in the Finance Ministry, and many expect them to implicate monopolies for withholding tax revenue.

"It's an accumulation of bad governance," said Sam Bahour, a Palestinian technology entrepreneur.

The announcement by the attorney general is seen as an attempt by Mr. Abbas to pre-empt a probe by Hamas, allowing him to save face of discredited Fatah.

Mr. Abbas promised to pursue corruption when he was elected a year ago, but ironically it was Hamas' landslide that stripped his ability to resist the inquiries.

Hamas officials have said that one out of every five government jobs in the government is fictitious -- a figure which would mean an annual loss of almost $200 million to the government. Observers say Hamas will need the cooperation of Mr. Abbas and other Fatah officials so the corruption inquires won't be perceived as an all-out purge.

"It would have been better to open the files before the elections," said Abed Fokaha, a newly elected parliament member from Hamas. "Abbas will [have to] treat this in the most serious manner possible. There is no way back."

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Palestinians say the culture of corruption was brought to the West Bank and Gaza along with Palestinian Liberation Organization leader Yasser Arafat and his contemporaries in the wake of the peace accords that established self-rule a decade ago. A comptroller's report in 1997 suggested there was $300 million missing from Palestinian coffers, but Mr. Arafat's regime intimidated those who warned of graft.

Since then, parliamentary committees of inquiry, public petitions, and even Mr. Abbas' campaign platform have focused on corruption, but not one indictment has been served.

"Some people said, 'Let's not focus on internal issues. We need to focus on the occupation,' " said Omar Assaf, who ran for parliament with the Democratic Front for the Liberation of Palestine on an anti-corruption platform.

Mr. Assaf said he was summarily jailed in 1997 for two months because he accused Palestinian cigarette and petrol monopolies of withholding public money.

"Elsewhere in the world, if a government is labeled corrupt, they will be made accountable," he said. "But here no one has ever been made accountable."

Islamic University Is The Intellectual Center For Hamas (KRT)

By Dion Nissenbaum

Knight Ridder, February 11, 2006

GAZA CITY, Gaza Strip - The basement bookstore at Gaza City's Islamic University has everything a Palestinian student needs to get through the day, from pens and pencils to notebooks and munchies to power up for class.

But the one-stop shop also features a few items that set the campus apart: Stacked at the entrance, alongside bootlegged video games and Harry Potter movies, are DVD tributes to Hamas "martyrs" killed in clandestine attacks on Israelis and recordings of fiery speeches by the Islamist militant group's spiritual leaders.

If Hamas' dramatic ascent to power in last month's Palestinian legislative elections was a political earthquake, Islamic University served as its intellectual epicenter. Virtually every major Hamas figure - living and dead - has taught or studied at the tranquil 25-acre campus in the heart of Gaza City, which some call Hamas U.

Sixteen members of the faculty, staff and university board of trustees will be part of the Hamas bloc in the new Palestinian Legislative Council, making up about one-fifth of the group's dominant majority. Many other incoming lawmakers, including some from the rival Fatah party, polished their political skills in these classrooms.

"Islamic University has been very rich soil for many leaders," said Dr. Jehad Hamad, a professor of political sociology at the rival Al Azhar University across the street.

Over the last 27 years, Islamic University has evolved from a rudimentary campus of tents for classrooms into a widely respected school with 17,000 students.

Here, politics and religion fuse to create a vibrant Hamas incubator that's succeeded in producing the new generation of Palestinian lawmakers.

The group's top political figure, Ismail Haniyeh, studied here. Gaza leader Mahmoud Zahar taught medicine. Jamila Shanty, the founder of the Hamas women's section, worked in the English department. Jamal Naji Khudari, the chairman of the university's board of trustees and an independent candidate backed by Hamas, is being talked about as perhaps the next prime minister.

Abdel Aziz Rantisi, one of the group's best-known leaders, served on the university faculty and denounced President Bush as an "enemy of Islam" at a campus rally a few weeks before Israel assassinated him in 2004. Ismail Abu Shanab, a Hamas political official whom Israel assassinated in 2003, served as the dean of one of the colleges. Mohammed Deif, who's considered the group's top bomb-maker, was a student here alongside Fatah leader Mohammed Dahlan, a newly elected lawmaker who's emerged as one of Hamas' most ardent adversaries.

Traces of Hamas are everywhere on campus. The modest university museum features framed congratulatory letters from "martyrs" Rantisi and Sheik Ahmed Yassin, the Hamas spiritual leader whom Israel also assassinated in 2004. A poster of Yassin hangs on the bookstore wall where the Hamas CDs and DVDs are sold. And the student council long has been dominated by Hamas.

Sitting in his expansive office in a new administration building paid for by Bahrain, Islamic University President Kamalain Shaath took in the Hamas political victory with a mix of optimism, joy and anxiety.

"I am proud to be part of this change," said Shaath, a quiet, Western-trained civil engineering professor. "But I have cautious pride, because this could give more trouble than fruit."

Like so many other institutions across the Gaza Strip and West Bank, Shaath said, his campus has been transformed into a Hamas stronghold, especially in the 15 years since Fatah leaders broke away to create the rival Al Azhar University, a fissure that's led to student clashes over the years.

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"Islamic University was established as any other university, but gradually it became Hamas," Shaath said. "Hamas is affecting the whole community - and we are affected as well."

The university has flourished with aid from around the world, primarily from Arab nations but also from Europe, the World Bank and United States. Intel is launching a $1 million computer-training project this year. The U.S. Agency for International Development has paid for several projects, including a small clean-water program in 2004.

Anna-Maija Litvak, a spokeswoman for U.S. AID, said Islamic University had been "fully vetted" and had signed America's required anti-terrorism certificate before receiving any money.

"Financing higher education and training opportunities is part of our program, and Islamic University is one among many institutions that we fund," she said.

Islamic University essentially operates as two parallel schools: one for the 10,000 women and one for the 7,000 men. Professors hold separate office hours so the halls will be filled with men one hour and women the next. The sexes have segregated cafeterias, classes and even entrances on opposite sides of the campus.

At the women's gate, security guards watch to make sure that students' head scarves don't reveal any hair and they are wearing the appropriate long, loose Islamic dresses. Sometimes the gate watchers hand out tissues to ensure that women don't come onto campus wearing makeup.

Becky Lewis, a University of South Carolina English professor who had a rare opportunity to teach at Islamic University for a semester in 1998 with her husband, said she was surprised when her female students took offense at a description of women wearing bathing suits in a John Updike short story.

After much debate about the story's message, the students decided to write to Updike, praising his writing but criticizing his description of women's bodies.

"They loved it in the end," Lewis said.

No one is quite sure where the new Hamas political era will lead. Some are in favor of a Cabinet dominated not by Hamas but by technocrats acceptable to the outside world. Others, such as 21-year-old Islamic University student Samia Hamaad, want to see the party they voted into power stick to their principles.

Wearing a white head scarf and veil that barely revealed her eyes, Hamaad said Israel should be worried about the incoming government because voters had chosen a strong voice for the Palestinian people.

"Where Islam is found, success is found," the young English major said. "We will help Hamas and trust Hamas to return all our lands - all the lands of Palestine."

Muslims' Fury Rages Unabated Over Cartoons (WP)

By Kevin Sullivan

The Washington Post, February 11, 2006

Demonstrators in 13 Countries Ignore Leaders' Appeals, Newspaper's Apology

COPENHAGEN, Feb. 10 -- Tens of thousands of Muslims took to the streets across Asia, Africa and the Middle East after weekly prayers on Friday, burning Danish flags and shouting anti-Danish and anti-American slogans in a continuing convulsion of anger over cartoons of the prophet Muhammad.

Demonstrators marched in at least 13 countries -- Kenya, Iran, India, Pakistan, Afghanistan, Malaysia, Sri Lanka, Bangladesh, Indonesia, the Philippines, Egypt, Israel and Jordan -- as the global wave of protests, spurred by a Danish newspaper's publication of cartoons depicting Islam's holiest figure and the reprinting of those cartoons in newspapers in other countries, headed toward a second consecutive weekend.

The protesters defied calls for calm from several prominent Muslim leaders and organizations as well as a statement of regret from Danish Prime Minister Anders Fogh Rasmussen and an apology by editors of the newspaper that originally published the cartoons. "The government has done what can be done," Rasmussen said in an interview Thursday. "Neither the government nor the Danish people can be held responsible for what is published in an independent newspaper. And neither the government nor the Danish people have any intention whatsoever to insult Muslims or any other religious community."

In Kenya, police shot and wounded at least one protester Friday as they tried to protect the Danish ambassador's residence. Thousands of demonstrators shouting "Kill Danes! Down with Denmark!" marched from Nairobi's largest mosque following Friday prayers. Riot police fired on a group of at least 200 people who had tried to reach the home of the Danish envoy, Bo Jensen.

"We've certainly heard their message and hope they will go home," Jensen told the Reuters news agency.

In Pakistan, more than 5,000 people demonstrated peacefully in Islamabad in the largest rally in the country since the controversy began. Another 2,000 protesters fought with police in the northwestern city of Peshawar.

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In Kuala Lumpur, Malaysia, several thousand protesters marched from a mosque to the Danish Embassy, shouting, "Destroy Denmark! Destroy Israel! Destroy George Bush! Destroy America!" Others carried placards supporting an economic boycott that has almost halted Danish exports to the Middle East and North Africa.

Addressing a large crowd, Malaysian Prime Minister Abdullah Ahmad Badawi described a "huge chasm that has emerged between the West and Islam," not simply because of the cartoons, he said, but because of Western policies regarding oil, Iraq, Afghanistan and the Israeli-Palestinian conflict.

In India, thousands of angry Muslims kicked, spat on and tore Danish flags and burned effigies in the capital, New Delhi, and in the Indian-controlled portion of Kashmir, the Associated Press reported. In Bangladesh, more than 5,000 Muslims marched on Denmark's embassy in the capital, Dhaka, shouting, "Death to those who degrade our beloved prophet!"

In the Middle East, about 2,000 women, young boys and older men marched around the Dome of the Rock shrine in Jerusalem chanting "Bin Laden, strike again!" Large crowds of protesters in Gaza fired gunshots into the air and burned Danish flags. Thousands clashed with police in Egypt.

About 2,000 Muslims marched in Jordan. Demonstrators in Tehran threw gasoline bombs at the French Embassy and shouted, "Death to France!" and, "Death to America!" Several French newspapers have reprinted some of the Danish cartoons.

The violence came despite calls for calm from Ayatollah Ahmad Khatami, a senior cleric.

"I am calling on all religious men not to attack the embassies of the foreigners," Khatami told worshipers in Tehran in comments broadcast live on state radio. "Chanting slogans, staging protests and condemning such measures are holy . . . but I feel that they want their embassies to be set on fire so they can say that they are innocent. Take this excuse away from them."

In Sweden, the government shut down the Web site of a far-right political party's newspaper after it briefly posted a cartoon of Muhammad. It was the first time a Western government has intervened to block a publication in the controversy over the cartoons, the BBC reported.

Richard Jomshof, editor of the newspaper, SD-Kuriren, which is published by the anti-immigration Swedish Democrats, said the action was illegal. Jomshof's paper had posted a cartoon showing Muhammad from the rear, looking into a mirror with his eyes blacked out. He said the cartoon was about self-censorship, but Swedish Foreign Minister Laila Freivalds called it "a provocation" by "a small group of extremists."

In Copenhagen, Flemming Rose, the culture editor of the Jyllands-Posten newspaper, which originally published the cartoons on Sept. 30, was told to take a two-week vacation. "There is no disagreement whatsoever between me and the company," Rose said in an interview. "I'm tired, I have been under huge pressure, and I am grateful to the paper for this time off."

Rose said this week that he intended to print cartoons of Jesus Christ and the Israel-Palestinian conflict. He said the idea was to show that his newspaper would direct satire against all religions. Rose also said he was considering printing cartoons about the Holocaust that an Iranian newspaper intended to publish.

The newspaper's editor in chief, Carsten Juste, later publicly contradicted those statements, and Rose agreed that they represented "an error in judgment."

In Norway on Friday, the editor of Magazinet, a Christian newspaper, apologized to Muslims for reprinting the cartoons, which had made Norway a target of Muslim attacks, including the burning of its embassy in Damascus, Syria. Vebjoern Selbekk, who had initially defended the Jan. 10 publication as an expression of press freedom, said at a news conference: "I address myself personally to the Muslim community to say that I am sorry that your religious feelings have been hurt. It was never our intent to hurt anyone." Selbekk, who said he had received more than 20 e-mailed death threats, then shook hands with Mohammed Hamdan, leader of the Islamic Council in Norway, who urged forgiveness and Selbekk's safety.

"Anyone who touches him touches us," Hamdan said. "Our prophet, Muhammad, has said that everyone can make mistakes, but the best is the one who expresses regret and asks for forgiveness."

Muslims Clash With Police Over Prophet Cartoons (WT/AP)

By Lee Keath, Associated Press

The Washington Times, February 11, 2006

CAIRO -- Thousands of worshippers emerging from Friday prayers demonstrated against drawings of the prophet Muhammad in the Mideast, Asia and Africa, clashing with police in some cities despite religious leaders' attempts to keep marches peaceful.

In Kenya, police shot and wounded one person among about 200 demonstrators trying to march to the residence of Denmark's ambassador.

About 60 protesters in the Iranian capital, Tehran, threw firebombs at the French Embassy, shattering nearly every window on its street facade, even after a cleric at a prominent Iranian mosque urged people not to attack diplomatic missions.

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"Down. Down with France. Down. Down with Israel," the crowd chanted. One firebomb exploded in the embassy and started a small blaze that was quickly extinguished.

The caricatures, one of which showed Muhammad with a bomb-shaped turban, were published first in a Danish paper in September, then reprinted in European papers in recent weeks in the name of press freedom.

Arab governments, Muslim clerics and newspaper columnists have been urging calm, fearing that recent weeks of violence have only increased anti-Islamic sentiment in the West.

Eleven persons have been killed in the protests, all of them during three days of riots this week in Afghanistan. A 12th person died yesterday in Nairobi, the Kenyan capital, when he was hit by an ambulance rushing away the wounded protester.

Denmark's ambassador to Syria announced yesterday he was leaving with his colleagues because the government was offering an "unacceptably low level" of protection following recent violent demonstrations.

In France, an umbrella group of Muslim organizations announced it was suing a French weekly which recently reprinted the cartoons and ran one of its own. The group, representing the country's 5 million Muslims, said it had unanimously voted to take the magazine Charlie Hebdo to court.

Protests appeared to ease in the Mideast in recent days, though the caricatures were brought up in Iran, Lebanon and Iraq as Shi'ite Muslims marked their holy day of Ashura.

But Friday prayers -- a frequent launching ground for political demonstrations -- brought a new wave of protests in Egypt, Jordan, the Palestinian territories and Morocco.

Egypt saw its most widespread protests yet, with thousands protesting in 21 of its 26 provinces, including in Cairo and the second-largest city, Alexandria.

Protests by Palestinians were smaller than in recent days, but vehement. Gunmen fired in the air as thousands marched in Gaza, while about 2,000 women, young boys and older men marched around the Dome of the Rock shrine in Jerusalem, chanting "Bin Laden, strike again" and burning a Danish flag.

In Pakistan, rallies erupted around the country after prayers with some protesters burning foreign-made cheese and breaking windows while others clashed with police.

Thousands also demonstrated in Malaysia, Bangladesh, India and Sri Lanka, although Syria and Lebanon, the scenes of earlier violence, were calm yesterday.

U.S. Seeks Right Tone In Cartoon Uproar (AP)

By Anne Gearan

AP, February 11, 2006

WASHINGTON -- For once, the United States is partly on the sidelines of a clash of ideas between the Muslim world and the West. But the Bush administration is being less than surefooted in responding to the uproar and deadly protests over cartoon images of the Prophet Muhammad that were deeply offensive to Muslims, analysts say.

In the second week of violent protests, tens of thousands of Muslims demonstrated around the world Friday. Iranian youths rioted outside the French Embassy in Tehran despite calls for calm by government and religious leaders.

In its first reaction more than a week ago, the State Department appeared to blame the European media for publishing the cartoons, instead of condemning the violence that resulted, although U.S. officials said their message was misconstrued and taken out of context.

Then, after days of careful statements supporting press freedoms while denouncing violence, President Bush suggested anew that the press had been irresponsible.

"America's initial response was a bit lacking and regrettable, in that it actually sided with those who were offended as opposed to the Europeans, and particularly the Danes, who should have gotten unqualified support," said Reuel Marc Gerecht, a conservative foreign policy scholar at the American Enterprise Institute and the Project for a New American Century.

Both organizations have close ties to the Bush administration.

Gerecht blames Middle East specialists in the State Department for tending to placate antidemocratic Arab regimes and mute criticism that might inflame Muslim anger.

Other analysts gave Washington better marks for its response to what, at first, was an issue primarily affecting Denmark, then other European nations where media republished the Danish cartoons.

"The administration quite rightly struck a balanced tone, balancing freedom of expression with responsibility in the media," said Ibrahim Hooper, spokesman for the Council on American-Islamic Relations, a Muslim civil rights and advocacy group.

As protests turned deadly and European embassies were attacked in Damascus, the administration went on the offensive to accuse Syria and Iran of fomenting and profiting from violence.

"The world ought to call them on it," Secretary of State Condoleezza Rice said Wednesday.

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Bush had earlier implicated Syria. Neither cited specific evidence, but spokesmen later pointed to numerous circumstantial factors, saying massive street protests could not occur in a near-totalitarian state like Syria without official participation.

The U.S. accusations are almost certainly on the mark, analysts said. But the finger-pointing also inserted the administration squarely into the controversy and may have fed the perception among Muslims that the United States was turning the protests to its own ends.

Hezbollah leader Sheik Hassan Nasrallah said Rice and Bush should "shut up," and Muslims should continue their protests.

"Where they started having difficulty, and helping to direct and bring anger toward the United States, was taking the position that this was exploitation by politicians," said Shibley Telhami, a Mideast scholar at the University of Maryland. "While it's true at some level, it comes across as if it's missing the force of it for the vast majority of Muslims."

Gerecht said the administration was right to speak out as the protests turned increasingly ugly, and as Arab government involvement seemed clear.

"What was slightly regrettable was that it took the administration a little bit of time to state the obvious," he said.

Analysts also said they do not detect much satisfaction within the administration that Europeans, not Americans, have caught the brunt of the anger. Many European governments parted company with Bush over the Iraq war, and polls show Europeans are often scornful of U.S. influence and motives overseas.

Europe and the United States both recognize that Muslim immigrants are often more assimilated in American society than they are in Europe, and that the U.S. has been the better for it, said Jon Alterman, Middle East program director at the Center for Strategic and International Studies.

"They all recognize that, so I don't think there's been much schadenfreude (taking pleasure in others' misfortune) that, 'Hey, the Europeans are taking it on the chin for a change,'" he said.

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EDITOR'S NOTE _ Anne Gearan covers diplomacy and foreign affairs for The Associated Press.

NATO Seeks Closer Ties With Middle East (AP)

By Paul Ames

AP, February 11, 2006

NATO defense ministers sought to calm Islamic anger over cartoons of the Prophet Muhammad at a counterterrorism meeting Friday with Arab countries and Israel.

The United States and other NATO nations have been seeking partners in fighting terrorism by building ties with friendly nations in North Africa and the Middle East.

The meeting on counterterrorism cooperation with NATO's "Mediterranean partners" — Israel, Egypt, Algeria, Morocco, Tunisia, Jordan and Mauritania — was called before the cartoons sparked protests across the Muslim world. But the controversy drew attention Friday.

"What is important here is the word respect, respect for each others' values," NATO Secretary General Jaap de Hoop Scheffer said. "Violence cannot be the answer."

German Defense Minister Franz Josef Jung said: "De-escalation is the message we have today ... We need to make clear how important it is to have a dialogue between cultures."

Despite the conciliatory tone, de Hoop Scheffer made clear that tentative efforts to build ties with the Palestinians had been ended by Hamas' victory in parliamentary elections.

"Contacts with Hamas are out of the question," he told a news conference.

The NATO chief said Algeria, Morocco and Israel "had shown a keen interest" in joining NATO naval patrols to deter potential terrorist smuggling of explosives and other materials through the Mediterranean into Europe.

The NATO ministers stressed the need to modernize their alliance so it can confront new threats such as civil unrest — highlighted this week by attacks on its peacekeepers in Afghanistan by Muslim protesters enraged by the publication of the Muhammad caricatures.

Allies agreed to find the troops needed for the NATO Response Force — an elite unit of between 20,000 and 25,000 troops able to deploy anywhere in the world within five days — to meet an October deadline.

Russia also plans to join that mission. Defense Minister Sergei Ivanov came to Sicily accompanied by a cruiser so Russian sailors could train for the patrols with their NATO counterparts.

Ivanov sought to reassure NATO that Moscow's recent decision to deploy missiles to Belarus was not directed against the western alliance.

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Russia said Thursday that it will deploy four air defense units capable of shooting down targets some 90 miles away, a military official said Thursday.

Russia has close ties with Belarus' authoritarian President Alexander Lukashenko, who has become a pariah in the West for his crackdown on opposition and independent media.

Ministers could not agree over the formation of a pooled fund to pay for costs associated with NATO missions. Under the current system, member countries foot the bills for their operations under NATO.

On the sidelines of the meeting, Dutch Defense Minister Henk Kamp told The Associated Press that the Netherlands may send as many as 1,500 troops to Afghanistan on its two-year mission to expand NATO's peacekeeping operation into one of the most dangerous parts of the country.

"This will be a risky task for the Dutch armed forces and we will send a strong task force," Kamp said. "In total 1,300 to 1500 Dutch soldiers including our air force personnel."

Previous estimates have suggested the Dutch commitment would be between 1,200-1,400 strong, but more may be needed when the Netherlands take on southern area headquarters tasks in Kandahar for six months.

Evangelical Christians Express Little Sympathy For Muslims' Outrage (KRT)

By Matt Stearns

Knight Ridder, February 11, 2006

WASHINGTON - Many conservative Christians have long regarded the media as enemy territory, where traditional values are at best misunderstood and often mocked.

So you might think they would relate sympathetically to Muslim outrage over the Danish cartoons depicting the prophet Muhammad with a bomb in his turban. That outrage has sparked violent protests throughout the Islamic world.

But concerns about the goals of radical Islamic leaders, a sense that a double standard pervades the Muslim media and a general distaste for organized violence have overridden any empathy most Christian conservatives might feel for angry Muslims.

"Unfortunately, the protesters are hinting that the cartoonist might have been right," said the Rev. Ted Haggard, president of the National Association of Evangelicals. "They're killing fellow Muslims and destroying property. Maybe the radical protests are validating the cartoon instead of proving that cartoon wrong."

No Christian leader ever espoused violence to retaliate against "Piss Christ," the controversial 1989 artwork - a photograph of a crucifix submerged in urine - by Andres Serrano, even though that riled many Christians, noted Gary Bauer, president of American Values and a longtime leader among religious conservatives.

"I understand why any religious person would get upset if they think their faith is disparaged in a drawing or a cartoon," Bauer said. "But ... how can (the cartoons) engender a greater emotional reaction than the daily bombings and attacks by groups claiming to do them in the name of Allah?

"It doesn't look like a call for respect," Bauer concluded of the Muslims' protests. "It looks like a call for submission."

Indeed, many evangelical Christians see militant Islam replacing communism as the greatest global threat, said Allen Hertzke, professor of political science and director of religious studies at the University of Oklahoma.

"They see this phenomenon as part of an orchestrated effort by what they call Islamo-fascists to take over the Islamic world," Hertzke said.

Then there's the apparent double standard for acceptable religious satire in Muslim media, especially regarding Jews.

Jews are routinely lambasted and stereotyped in the Muslim media. Hertzke recalled a Syrian TV program shown in Jordan that depicted Jews using the blood of children to make matzo. A recent cartoon on a Muslim group's Web site showed Adolf Hitler in bed with Anne Frank, a teenage Jewish martyr during World War II, saying "Write this one in your diary, Anne."

"Many evangelicals have very positive views toward Jews, and evangelicals support Israel," said John Green, a professor at the University of Akron who specializes in religion and politics. "And it's interesting that in the protests of these cartoons, the language quickly turned anti-Semitic and anti-Israel. That sends up a red flag for evangelical Christians."

Christian conservatives also generally echo the views of the Bush administration, which condemned the Muslim violence but backed off early criticisms of the cartoons themselves. President Bush pointed out that such are the vagaries of life with a free press.

"The appreciation of pluralism is something that every religious group has to grow in," Haggard of the evangelicals' group said. "We evangelicals struggle with this issue every time we send one of our kids off to college. But we think pluralism is a high value. ... Radical Muslim extremists have to grasp that pluralism is a fact of life for all cultures. We're into a new world."

Danish Producers Feel Heat Of Cartoon Boycott (FT)

By Roula Khalaf And William Wallis

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Financial Times, February 11, 2006

You have to squint at the fine print on a box of Lego to know that it comes from Denmark. But in the Middle East these days, Lego's international style branding is not enough to escape the fast-spreading consumer boycott of Danish goods.

Much of the world's attention over the past week has been on the violent protests - including those in Kenya, Malaysia and Turkey on Friday - against the publication of caricatures of the Prophet Mohammed that first appeared in Denmark's Jyllands-Posten newspaper. But in large parts of the Arab world, the consumer boycott of Danish goods is by far the most widespread popular reaction to the cartoons. Previous consumer boycotts in the Middle East (including the long-standing rejection of companies that do business in Israel) have been only briefly successful.

The recent boycott of American goods, after the launch of the "war on terror" and in the aftermath of the Iraq war, petered out, perhaps because of the ubiquitous nature of US products. In contrast Danish goods, limited in the Middle East to a few items including dairy products, butter, cream cheese, pharmaceuticals and Lego, have proved far easier to target.

The mobilisation has been impressive. Starting with calls from influential clerics in Saudi Arabia - as well as Sheikh Youssel al-Qardawi, the Qatar-based Egyptian preacher with a large following across the region - the boycott call was quickly taken up by newspapers and businesses across the Middle East and supported by chambers of commerce and other professional and religious groups.

Peter Mandelson, the European Union's trade commissioner, has warned Saudi Arabia - the birthplace of the prophet and home to Islam's holiest shrines where the boycott has been most faithfully followed - that it would be taken before the World Trade Organisation if it encouraged the boycott. Riyadh says it is not encouraging the embargo.

Only a few governments, including Iran and Libya, have openly supported the action, with others distancing themselves from it but allowing protsets.

According to Khaled al-Maena, editor of the Jeddah-based Arab News, the boycott spread with postings on the internet and chain letters sent through telephone text messages, often by young people. "People also wrote letters to the editors demanding that we support the boycott and businessmen decided to stop buying and selling Danish products," he says.

Employees at one of Dubai's sprawling Carrefour hypermarkets say that blue cheese and Lego were removed from the shelves after customers flocked to return Danish goods they'd already purchased.

At the Alpha supermarket in the upmarket neighbourhood of Zamalek in Cairo, the boycott has been successful - all the Lego has been swept off the shelves. The manager of the supermarket says a decision was made by members of the general union of Egyptian chambers of commerce to adhere to the boycott.

The owner of another Egyptian toyshop that was still stocking Lego says she had not sold a single item in a week. But several people had come in with leaflets with listed Danish products including Lego, urging her to join the boycott. "They asked why am I stocking Lego. Am I not a Muslim," she says.

The boycott appears aimed at soliciting apologies from Europe, particularly the Danish government, for what many Muslims view as a deliberate western attempt to denigrate the image of the prophet.

"We'll wait and see what happens on the political front. The Danish newspaper has apologised. Now lets see if the [Danish] government will too and if these apologies will be accepted or not," says Mahmoud Amr, the general manager of Mansh, the Egyptian distributor of Lego. Raising awareness about the greatness of the prophet seems to be another objective of the commercial protest.

Religious edicts on websites dedicated to promoting Islam to back the boycott but also recommend that Muslim organisations arrange lectures, buy television time and send preachers abroad to teach the world about the virtues of Mohammed. A new organisation dedicated to defending the prophet was set up in Saudi Arabia this week and, in addition to keeping the boycott going, it is reportedly bringing legal action against Jyllands-Posten.

The impact on the Danish companies has yet to become fully apparent. Charlotte Simonsen, head of corporate communications at Lego, says the region represents only 1 per cent of its global sales. Some shops in Kuwait, Qatar and the UAE have removed products from their shelves but she insists there is "no evidence that this represents a wider phenomenon."

But Mr Amr says a week after the boycott began to take hold he halted import orders of Lego because of a collapse in demand. "The extent to which we have been affected is still not apparent yet. But many of our clients are calling and are bringing back the products. This is not the case with all shops but still this means we are badly affected."

Meanwhile Arla, Danish-Swedish dairy products supplier, says it has been losing about £1m a day because of the boycott with total losses close to £10m so far. But the boycott is also hurting local businesses that produce Danish products. Arla, for example, has now halted a £40m project for a dairy plant in Saudi Arabia endangering 800 jobs.

So far, the boycott has been largely confined to Danish goods but, with no apparent let up in the cartoon crisis, there have been some calls for extending it to Norway.

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An opinion piece published this week in Arab News, suggested escalating the boycott to all western products to give the west time “to back down and apologise for the insults they have heaped upon our beloved prophet and to make sure it never, ever happens again.” If Muslims around the world failed to take this proposal seriously, the writer concludes, they should be prepared to eat not only Danish cheese “but their own pride as well.”

Additional reporting by Steve Negus in Dubai and Paivi Munter in Stockholm

For Danish Firms, Boycott In Mideast A 'Nightmare' (WP)

By Kevin Sullivan

The Washington Post, February 11, 2006

Millions of Dollars in Sales Are Lost as Markets That Were Built Over Decades Disappear in Days

COPENHAGEN, Feb. 10 -- The Arla Foods plant in Riyadh, Saudi Arabia, which produces cheese and flavored yogurt drinks, sits idle and the company's 800 employees in the country have been sent home because of a Middle East boycott of Danish goods, following a Danish newspaper's publication of cartoons of the prophet Muhammad.

"It took us 40 years to build up our business in the Middle East, and five days to bring it to a total stop," said Astrid Nielsen, spokeswoman for the Danish company here. She said suspending operations at the Riyadh plant, the company's regional base, and a near-total boycott of the company's products have cost Arla about $1.7 million a day since Jan. 28.

The boycott of Danish goods, propelled by Muslim leaders and imams preaching in mosques, has brought exports of Danish products to the Middle East and North Africa to a virtual standstill. It has scuttled a flow of goods to the region that was worth about $1 billion in the first 10 months of 2005, according to government statistics.

The boycott has been less visible than the angry mobs around the world burning Danish flags, torching embassies and carrying placards calling for "Danish blood." But it has been just as unnerving for Danish business leaders, who have spent decades expanding their sales of food, pharmaceuticals, industrial equipment and other products into the Middle Eastern market.

"As Danes, we are still sort of in a situation where we are thinking this is just a nightmare," Nielsen said, "and we are going to wake up in a little while and find that this didn't happen. We can never hope to regain what we had, but we hope we can reestablish some of it. We have a huge task ahead of us."

Prime Minister Anders Fogh Rasmussen, in an interview Thursday, said the boycott was not a major threat to Denmark's economy.

"According to the latest figures, 3 percent of Danish exports go to the Muslim world," Rasmussen said. "So seen from an overall perspective, it is of minor importance on the Danish trade balance."

Rasmussen, a former economic affairs minister, said it was "too early to make a final assessment" about the long-term impact of the boycott and whether Middle Eastern consumers would eventually start buying Danish products again.

"From experience we know that trade may be resumed in a longer-term perspective," he said. "Danish industries are famous for their ability to adapt to new situations. And our competitiveness is very strong. Danish companies are in very good shape for the time being."

Still, Rasmussen noted that companies such as Arla that do extensive business in the Middle East and North Africa "may be affected very significantly."

"And I strongly regret that, of course, because Arla is not responsible for what is published in a Danish newspaper," said Rasmussen, who has repeatedly expressed regrets that Muslims have been offended by the cartoons of Muhammad, while saying he cannot apologize for what was printed in a private newspaper.

"You can't hold a whole nation responsible for what is published in a free and independent newspaper," Rasmussen said. "I do know that it is very difficult to understand for many people in the Arab streets, because they can hardly understand how free and independent media work. But that's our system. It is unfair to take Danish companies and employees hostage in this case, in an economic sense."

Those arguments carry little weight in places such as the al-Qiswani Supermarket in the West Bank town of Beit Hanina, where prominently displayed posters urge shoppers, "If you love the Prophet, join us in boycotting Danish products." The posters are surrounded by photos of Danish cheeses, powdered milk, chocolates and other products to be avoided.

The store's owner, Abed Qiswani, 42, said his revenue has dropped 5 percent because of the boycott, which he said has been uniformly followed. He used to sell a carton of Danish cheese a week, but now those products are being left untouched, along with products from some other European countries, including French cheeses and Scandinavian cereals.

Qiswani said that when he tried to return his back stock of Danish products, his supplier told him he had lost nearly $200,000 in canceled orders as a result of the boycott in the West Bank and Jerusalem.

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"What has struck me most, though, is that little children come to the store and ask if this is a Danish product," Qiswani said. "Boycotting is a very good thing. Politics is always connected to the economy. The problem these European countries have now is with the Islamic giant, and they should think about who they mess with."

Tariq Maslanani, 11, said he no longer buys French-made Laughing Cow cheese, his favorite, because a French newspaper also ran the cartoons.

"We cannot bear anybody cursing our prophet," said the sixth-grader.

Svend Roed Nielsen, head of trade policy at the Danish Foreign Ministry, said that in addition to daily consumer goods such as cheese and butter, there has been a noticeable drop in exports of pharmaceuticals and medicines to Muslim countries. He said that he was unsure of the exact loss but that those goods accounted for about $104 million in the first 10 months of last year. He said officials had heard that the expected signings of several contracts for Danish machinery and electronic goods had been postponed.

"Things are looking quite bad at the moment," said Keld Winther Rasmussen of the Danish Dairy Board. "We have products in the country we can't sell, in ships that we can't deliver, and products in dairy plants that we will have to find other markets for."

Rasmussen said dairy industry officials had hoped that Prime Minister Rasmussen's televised comments offering regrets for the offense caused to Muslims would improve the situation. "But so far that has had no impact," he said, adding that he hoped that Danish dairy exports to the Middle East would eventually restart. "We hope this is not the end. But we can see that it is going to take a very long time to regain our hold in the market. It could take years."

Bjarne Kristiansen, manager of a dairy in Aalborg, said exports to the Middle East account for 70 percent of his company's sales -- and that market has completely dried up since the boycott took hold. He said his company is losing sales of about 100 tons of feta cheese a week.

"If this continues, after two or three weeks we might have to stop production of feta cheese, which is our main production," he said. "Hopefully we won't have to close completely, but I don't know. It is a terrible situation."

Keld Pedersen, managing director of Nordex Food, said his company has lost 20 percent of its total sales, which normally go to the Middle East. He said the company has had to cut 15 jobs out of its workforce of 200.

"Maybe the government acted too late -- we all did," Pedersen said. "We were all very surprised about how quickly this situation developed. I can't fault the government's efforts now. But Denmark cannot do this alone, and it will not only be Denmark that suffers."

Pedersen said the Jyllands-Posten newspaper, which first published the Muhammad cartoons, "should have been more careful."

"Everyone has the right to freedom of speech, but you can't cry 'Fire! Fire!' in a cinema," he said. "But it's always easier to see these things after they have happened."

Pedersen said he is pessimistic that his company's Middle Eastern market, which it has been building for 25 years, will fully recover.

"I don't think it will ever be the same again," he said. "The consumers won't forget."

Special correspondents Alexandra Topping in London and Sufian Taha in Beit Hanina contributed to this report.

A Most Un-Danish Dane (FT)

By Päivi Munter

Financial Times, February 11, 2006

Denmark, the small north European nation traditionally known as a haven of liberalism, is struggling to find a 21st century strategy to deal with substantial immigration from Muslim countries. The response of the Scandinavian people has been to elect an “un-Danish” leader to protect their Danishness.

In sharp contrast to the laid-back and sociable image the Scandinavians have of themselves, Anders Fogh Rasmussen is a loner and a tough prime minister. Despite this – or perhaps for this reason – he is thought by most of his compatriots to be the right man to defend the cohesiveness of a small and homogeneous nation faced with a large minority that defies the culture of its adopted homeland.

At the end of the toughest week in the 53-year-old Mr Rasmussen’s political career – in which he pleaded to the entire Muslim world for an end to violence over Danish cartoons of the Prophet Mohammed – few cracks have appeared in the prime minister’s support at home. Faced with the most serious international crisis to hit Denmark since the German occupation – in which the Danes successfully protected the country’s Jewish minority – they stand behind the leader they respect, if not love.

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Approval ratings for Mr Rasmussen, who was elected in 2001, have remained above 50 per cent, well ahead of any opposition politician. They have barely fallen since January, when the conflict over the cartoons, first published in the Danish paper Jyllands-Posten, erupted into a global stand-off between the west and the Muslim world.

Mr Rasmussen came to power on a platform that defied the traditional left-right boundaries in a country largely ruled according to social democratic principles. His centre-right coalition built its programme on two cornerstones: a tax freeze and strict restrictions on immigration. These, combined with a pledge to maintain Denmark's cradle-to-grave welfare state, constituted a radical new approach in Danish politics that secured the centre ground for Mr Rasmussen's party.

While the tax freeze has proved popular in high-tax Denmark, it is Mr Rasmussen's tough immigration policy he is best known for. Soon after his election, Mr Rasmussen set about severely curtailing the number of foreign migrants. The government passed laws making it difficult for residents to bring in spouses from outside the European Union – until then a commonly used avenue of immigration among ethnic minorities, the biggest of which are Turks, Iraqis and Lebanese.

Now a resident seeking to bring in a foreign spouse must be over 24 years of age, financially secure and have a lease on an apartment, while the couple must have a demonstrable "connection" to Denmark. These requirements make Danish immigration laws among the strictest in the European Union, a sharp departure from the country's liberal tradition.

While achieving the government's goal of dramatically reducing immigration, the law has caused considerable ill-feeling among Danish immigrants, who argue that the restrictions reflect a growing intolerance towards ethnic minorities and their culture and religion.

The immigration law has damaged Denmark's international standing, as residents married to foreigners – some of them ethnic Danes who find the rigid permit system humiliating – have been forced to emigrate or remain abroad. But the majority of Danes are staunch supporters of the policy, reflected in Mr Rasmussen's high approval ratings a year into his second term.

Danes began to see immigration as a threat to social harmony in the 1990s. A rapidly growing Muslim population that was nearing 200,000 stood out in a traditionally homogeneous country that lived off agriculture until the 1960s. Danes worried that a large part of the new minority was slow in adopting the Danish language and was living living on state benefits on the margins of society.

The growing fears about alien influences on Danish society found resonance in Mr Rasmussen, the son of a struggling farmer from Jutland, Denmark's agricultural heartland, which remains socially much more conformist than liberal Copenhagen.

Nostalgia for the era before mass immigration appears to drive one of the government's latest initiatives, too. A cultural canon, aimed at improving Danes' knowledge of their heritage, will determine the artistic works all school children must study.

Critics of Mr Rasmussen say the parochialism of his humble beginnings in the countryside has never quite left him. He may have earned plaudits for an efficient handling of Denmark's presidency of the EU four years ago, but Danish intellectuals like to joke about Mr Rasmussen's lack of sophistication and exposure to the wider world.

Peter Mose, author of the Handbook for Prime Ministers, says Mr Rasmussen's limitations in foreign policy may have contributed to the cartoon crisis, which has been brewing since September. While the publication of the drawings initially drew little attention, they spawned a controversy after Mr Rasmussen declined to meet a group of ambassadors from Muslim countries who were seeking to raise their concerns over the pictures, regarded as blasphemous by Muslims.

Many observers say Mr Rasmussen should have responded to the concerns early in order to pre-empt a crisis at a time when Denmark's participation in the Iraq war had already strained relations with its Muslim community. Instead, he resolutely defended Danes' right to freedom of expression.

"He is really good in the European context, but outside the EU he is more restricted. This is a problem when Denmark is pursuing an activist foreign policy, of which the war in Iraq is the best indication," Mr Mose says.

So far, however, this criticism is muted. Danes think the man they consider a straight shooter is the safest pair of hands to steer their small nation in a globalised world – even if he is seen by some as an oddball.

Anne Sofie Kragh, author of a biography of Mr Rasmussen, says the prime minister is "one of the most peculiar people I have met". According to the book, he had few friends as a child, but held a single-minded ambition to be a politician before the age of 10. He did not kiss a woman, it is claimed, until he was in his 20s.

"In Denmark, we like things to be relaxed, cosy and nice, whereas he seeks order and perfection. He's far too ambitious to be a typical Dane, which is why he is seen as a strong leader," Ms Kragh says.

Danish Cartoon Editor On Indefinite Leave (NYT)

By Dan Bilefsky

The New York Times, February 11, 2006

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COPENHAGEN, Feb. 10 — Flemming Rose, the Danish editor whose decision to publish cartoons of the Prophet Muhammad helped provoke weeks of fury in the Muslim world, said in an interview on Friday that he was leaving his newspaper on indefinite vacation.

Mr. Rose, 47, stood by the decision of the newspaper, Jyllands-Posten, to publish the caricatures, citing freedom of the press. And he refused to apologize for the drawings, which were seen by many Muslims as sacrilegious and have prompted widespread protests, boycotts of Danish goods and the burning of Danish diplomatic missions in the Middle East.

He said in an interview, however, that the stress of recent events had given him sleepless nights.

"I am thankful that the newspaper has given me the chance to recover," said Mr. Rose, who is the newspaper's culture editor. "I am tired. In the middle of a crisis, you do not always recognize the tensions placed on you. I'm glad someone on the paper had the guts to make the decision to give me a break, because sometimes you want to keep on fighting."

The vacation announcement comes after weeks of violent clashes in Europe, Asia and the Middle East over the cartoons. At least 11 people have died.

After a brief lull on Thursday, demonstrations resumed as thousands of Muslims emerged from Friday Prayer and took to the streets in the Middle East, Asia and Africa, The Associated Press reported. The protests were mostly peaceful, but in Nairobi, Kenya, the police shot and wounded one person as officers tried to keep about 200 demonstrators from marching to the residence of Denmark's ambassador, The A.P. reported.

In Tehran about 60 protesters threw stones, firecrackers and firebombs at the French Embassy, shattering nearly every window on its street front, even after a prominent cleric urged people not to attack diplomatic missions.

Egypt had its largest protests yet, with demonstrations in most major cities. In El Mahalla el Kubra, security forces used tear gas and water cannons to break up a march of about 15,000 people after protesters threw rocks and attacked shops and cars.

Muslim leaders in Denmark said Mr. Rose's leave was unlikely to be enough to lessen tensions in the Muslim world.

"I am not his boss, but I would fire him," said Imam Abdul Wahid Pedersen, a prominent Muslim leader in Copenhagen. "What he did is disgraceful, and I can't even begin to understand what has gone on in his head."

In France, where the editor of France Soir — the first newspaper there to reprint all 12 cartoons — was fired last week, some Muslim leaders considered the fact that Mr. Rose had taken a leave a small victory.

"That's very good news," said Mohamed Henniche, president of the Union of Muslim Associations in a department northeast of Paris. "It shows that there is an evolution and that people recognize that offense has been caused."

After the publication of the cartoons in Denmark and Norway in September, and the republication last week by France Soir, the satirical French weekly Charlie Hebdo followed suit. Several Muslim organizations in France said they were planning legal action against Charlie Hebdo for incitement of hatred.

Mr. Rose acknowledged it had been a mistake to say in an interview with CNN on Wednesday that the paper intended to reprint Holocaust cartoons as part of a contest being sponsored by an Iranian newspaper. He said he had no intention to offend Jews, but had suggested publishing the Holocaust cartoons in order to document cultural satire in the Middle East for a Danish audience.

Mr. Rose also said he had erred in suggesting on Danish television that Jyllands-Posten should reprint previous cartoons satirizing Christians and Jews, including a drawing of the Star of David in the shape of a bomb by a cartoonist who drew one of the Muhammad cartoons.

"I wanted to show that in Denmark we do not have an anti-Muslim bias and that we had published these cartoons before without having riots or boycotts of Danish goods in Israel or Christian countries," he said. Last Saturday, Jyllands-Posten did publish cartoons from the Arab world; one showed Auschwitz with a tower draped in the Israeli flag.

The paper apologized last week for offending Muslims, but has steadfastly stood by its decision to print the Muhammad cartoons.

"I feel sorry if Muslims feel offended and that was not the intention," Mr. Rose said. "But the cartoons were within the acceptable boundaries of free speech in Denmark."

The crisis began in early September when Mr. Rose commissioned the cartoons. He said he came up with the idea after the Danish writer Kare Bluitgen, the author of a children's book about religion, complained that she was having difficulty finding artists to illustrate a book about Muhammad because of fears of violent attacks by extremist Muslims.

Mr. Rose, a former war correspondent in Afghanistan and Iran, known for his fearlessness and trenchant views about immigration, was incensed, colleagues say.

He invited 25 newspaper cartoonists to draw a picture of Muhammad "how they saw him." Twelve cartoonists responded and their pictures were printed on Sept. 30. Mr. Rose said he knew that Islam barred depictions of the prophet because of concern that such images could lead to idolatry.

But he said nothing had prepared him for the reaction that followed.

An Update From France . . . (Remember Those Riots?) (WSJ)

By Theodore Dalrymple

The Wall Street Journal, February 11, 2006

LE VANS, France -- How has France changed since the two weeks of riots last November that should have shaken the country to the core?

The answer is not much. For the vast majority of the French, the riots were little more than a televisual event, to sit at home and watch on the small screen while relaxing after work. It was possible, after all, to travel the length and breadth of the country at the very height of the riots and not know that anything untoward was happening anywhere -- provided, of course, that one did not look at the television, listen to the radio, or read a newspaper or magazine.

The fact is that, for the time being, the banlieues -- the troubled suburbs -- are another country; they do things differently there.

Out of sight, out of mind: Insofar as the rioters had any coherent purpose or intention, it was to protest this peculiar, cold relationship with the rest of French society, but also -- paradoxically -- to defend it. On the one hand they wanted to catch the attention of their wicked stepmother, France; on the other, they wanted to warn her to keep her nose out of their affairs -- petty criminality and the abuse of women. (Remember that the riots were triggered by the deaths of two youths, interrupted by the police while they exercised their fundamental human right to break into warehouses.)

If they cannot be fully integrated into French society, les jeunes want to continue to be what they have hitherto been, which is, de facto, extraterritorial (except, of course, in the matter of social security payments). After all, their only other contact with the rest of French society is with the police, whom they see as an alien force that raids their territory from time to time and despises them. They want their own laws and their own hierarchy: brutal and stupid, no doubt, but at least their own.

The paralysis of the French state in the face of the challenge is almost total. This obese organism is all-powerful in the prevention of change, but utterly impotent in the initiation of change. True, there is a proposal that the curriculum vitae of applicants for posts should henceforth be evaluated by prospective employers without the name or photograph of the applicants attached so that the prospective employers cannot discriminate against applicants of sub-Saharan or North African origin. But whatever slight good this proposal might do, it assumes that the fundamental problem of French society is discrimination, which is not the case.

That is not to say that there is no discrimination. It has been estimated that, for any given level of qualification, there are twice as many unemployed French of African or North African origin as French whose ancestors really were les gaulois. This disregards the fact that in an open economy without formal legal barriers to advancement, discrimination never prevented any minority from advancing, and might even have strengthened determination to do so. The trouble is that the French economy is not a very open one, nor is it likely soon to become one. In an economy as centrally administered and directed as the French, piston -- influence -- is all-important. You have to know someone who knows someone: And it is this that allows discrimination to flourish and for elites constantly to renew themselves while shutting out new recruits.

The French still regard the open economy with horror. A recent poll suggests that, while two-thirds of the population accepted that reform was necessary, they also wanted to keep the advantages of the present system -- a short working week, early retirement for many, and almost invincible job protection. After years of assiduous propaganda, they believe that anything else will lead directly to the horrors of the United States: uninsured people dying of untreated diseases in the streets and, above all, riots.

The case of the state monopoly, EDF (Electricité de France) is instructive, and explains why any reform is so politically difficult. Employees of this vast organization work 32 hours per week; their meals are subsidized to the tune of 50%, their electricity and gas bills by 90%; they can retire at 55; they have the right to holidays at a fifth of their market value, and on average work the equivalent of eight months per year; and when their mother-in-law dies, they can take three days' paid leave to celebrate. These are not all their privileges, only some; so it is hardly surprising that when the government proposed the privatization of EDF, they went on strike. (The government caved in.) They did so in the name of "the defense of public service" -- and the French call the Anglo-Saxons hypocrites!

When a certain critical mass of such subsidy and special privilege for important sectors of the economy is reached, reform becomes impossible without explosion. The government has created an economic monster that it cannot tame, and that is now its master. In any case, periodic explosion has long been the means by which French society has undertaken major political and economic change. In the meantime, repression will become more necessary. For the moment, the banlieues are quiet: That is to say, only 100 cars a night are burned, and life elsewhere continues in its very pleasant way. But there is an underlying anxiety (the French take more tranquillizers than any other nation). No one believes that we have heard the last of les jeunes and of

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profound economic troubles. The last episode was but a very minor eruption of the social volcano. Every Frenchman believes that the question of a major eruption is not if, but when.

The mutual odium of the majority population and the children of immigrants in the banlieues has only worsened. Les jeunes are still humiliatingly dependent on a state and country that they have learned to hate, without there being any in which they might feel at home. This is a miserable existential condition, and renders their egos tenderly sensitive to the slightest insult. * * *

The only hopeful sign is the number of intelligent and hardworking young women from the banlieues who, despite everything, are able to find a place in the economy. They know that the only way they will ever escape from the control of the angry, inflamed, humiliated, violent and useless young men around them, primed by Islam to maltreat women, is by struggling for economic independence from them. They are very highly motivated.

The French do not go to the banlieues, but what they fear is that the banlieues will come to them. Perhaps it is starting to happen. My nephew and a friend of his were walking through the Bois de Vincennes, overlooked by elegant Parisian bourgeois apartment blocks, when they were set upon by two Africans and three Arabs. They were not badly injured, but at the hospital their mothers were told by the staff that such attacks, carried out not for gain but for the sheer pleasure of revenge upon the hated comfortable French, were now commonplace.

How strange it is to go to the bakery every day, and be charmed by the politeness of ordinary people and the suavity of everyday life in France, and yet be thinking concurrently that the time for some serious repression may not be far off!

Mr. Dalrymple, a contributing editor at City Journal, is the author, most recently, of "Our Culture, What's Left of It: The Mandarins and the Masses" (Ivan R. Dee, 2005).

Europe Can Take Pride In Defending Cartoons (NYT)

By Roger Cohen International Herald Tribune

The New York Times, February 11, 2006

What should we call it? Anti-Denmarkism? Or anti-Danism? The fact is Denmark, with its bike-riding commuters and sensible social democracy, its dairy farms and Lego factory, never figured much in the hatred stakes. The right expression is elusive.

But I suppose one will have to be found now that four months of global gestation have birthed a cartoon conflagration offering proof, if any were needed, that something is rotten in the state of the world.

Of course, problems arising from perceived insults to the Prophet Muhammad are nothing new since political Islam entered its current effervescence. It was precisely on this charge, in 1989, that the author Salman Rushdie earned Ayatollah Khomeini's fatwa calling on "zealous Muslims" to kill him.

Still the fact that a dozen cartoons - drawings, really - of the Prophet Muhammad that appeared in the Danish daily Jyllands-Posten on Sept. 30, 2005, have led in these early weeks of 2006 to a dozen deaths in Afghanistan, the burning of the Danish Embassy in Beirut, riots in Gaza, and appeals for calm from the White House, suggests the rising anger between the West and the Islamic world.

Yes, anger. Western societies are increasingly exasperated at seeing the Muslim perpetrators of suicide bombings, beheadings and other violence against "infidels" or "apostates" justified or sanctified through references to Islamic texts, be they the Koran itself or the traditions of the Prophet.

These societies are ever more dismayed when they see Islamic radicals, be they from Al Qaeda or agents of Iran's permanent theocratic revolution, claiming to represent a more authentic or pure Islam than the great mass of moderate Muslims. And they wonder why that great mass seems so passive before this affront.

The West, particularly Europe, is also angry that some of the essential liberties and principles of its way of life - not least the equality of men and women, the rights of homosexuals, and freedom of speech - appear unacceptable to some of the growing but estranged Islamic communities in their midst.

The compatibility of a Western liberal, democratic society and Islam as a source of law is widely questioned, especially when the thuggery of a male street mob is a frequent expression of the political exploitation of that law.

As for the Islamic world, particularly in the Middle East, its accumulated frustrations of a post-colonial period marked generally by the imposition of the sorts of brutal one-party states defeated in Europe either in 1945 or 1989 have been sharpened by the West's occupations of Afghanistan and Iraq.

At some level, these Western invasions have revived the age-old confrontation between the Caliphate and Christendom, first experienced in Islam's initial period of expansion into Spain and other parts of Europe, later in defense against the Crusades.

The defense of a notion of pure Islam and Shariah law against what are portrayed as the modernizing and corrupting force of a valueless West identified with the United States, Israel and now Europe has become a powerful jihadist rallying cry.

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Of course, it did not take the West's arrival in Afghanistan and Iraq to ignite these sentiments: the attack of Sept. 11, 2001, is proof of that. But the challenge of these inchoate democratic models to the repressive societies bordering them has provoked growing ferment.

Spontaneous demonstrations are an oxymoron in Syria: The holy outrage over the cartoons in the streets of Damascus reveals the lengths to which a regime that once massacred members of the Muslim Brotherhood will go. In Iran, and in the Gaza and West Bank of Hamas, the public fury is also one measure of political unease.

All this restiveness is naturally projected into the Muslim communities of Europe, whose sense of exclusion, justified perception of prejudice and under-representation in politics have produced strong resentments.

It is against this backdrop that the decision of Jyllands-Posten, and later other European papers, to publish the depictions of Muhammad must be seen. If the initial publication was a provocation, it was also a willed one, an act of defiance, a statement that Europe will not be cowed by fear into putting such sacrilegious images off limits.

As Denmark's principled prime minister, Anders Fogh Rasmussen, has put it: "I will never accept that respect for a religious stance leads to the curtailment of criticism, humor and satire in the press."

Rasmussen is right; Europe has to make clear where it stands on its freedoms. And what, say critics, of anti-Semitic cartoons, or insulting depictions of Roma? Why are they not published, too? Are images offensive to Muslims not just a reflection of Europe's disdain for Islam?

These arguments might carry more weight if radical Islam were not one of the most potent global forces today, its fanatical followers invoking precisely the words or traditions of the Prophet to justify heinous acts.

By what right can such acts, and their supposed holy inspiration, be ruled unfit material for the political caricaturist or satirist? If moderate Muslims will not rise in unison against this abuse of their religion, it is inevitable that Western observers will seek to express their unease.

And what is to be made of all this outrage emanating from Arab societies where the caricaturing of the Jew is commonplace, the anti-Semitic tract "The Protocols of the Elders of Zion" finds wide credence, and certain media regularly express the view that the Holocaust never happened, or was exaggerated, or was a deserved fate for the Jews?

Repressive Middle East regimes have endured in part through such manipulation of their people's ire. In many respects, this outcry is just another example. It is precisely because the difficult Afghan and Iraqi experiments are also attempts to show respect for different religious and ethnic groups that they are creating such disquiet.

Part of that anger has now been channeled into Danish-inspired Muslim anti-Europeanism. But the burning of EU flags, rather than the Stars and Stripes, should be a source of pride to Europeans. It suggests that Europe stands for something after all.

Clash Of Civilization (WSJ)

The Wall Street Journal, February 11, 2006

As a way of addressing the Islamist threat to civil liberties in Europe, the Danish cartoons of the prophet Muhammad were hardly ideal. The right to mock a religion may be absolute, but so is the right to publish most forms of pornography: Neither is appropriate in a serious publication. That applies whether the religion is Islam, Christianity or any other, and whether the cartoons are being published for the first time or reprinted elsewhere as acts of solidarity in the face of an implied threat.

But after the attacks on Western embassies in Beirut, Damascus and Tehran, the murder of a Catholic priest in Turkey, the death of at least a dozen people throughout the Middle East in anti-Danish rioting and protests in Europe in which Muslim demonstrators urged a "real Holocaust" on the West, questions about press freedom seem almost quaint. What we are dealing with here is something else entirely.

That something else might be called the premodernism of much of modern-day Islam, meaning the apparent unwillingness of too many Muslims to place reason above "honor" and deal proportionately with intellectual provocations. The Western philosophical tradition is founded on the belief that the execution of Socrates for blaspheming the gods of Athens was an injustice. When British Muslims carry placards reading "Butcher those who mock Islam," they are making their differences with that tradition depressingly plain.

Such premodernism is also on display among those Muslims who have forgotten the reciprocal obligations that the principle of "respect for religion" requires. We'll take the Islamic clerical establishment at its word that Islam forbids pictorial depictions of Muhammad -- and look forward to their fatwas against the anti-Semitic caricatures routinely featured in the Arab and Persian press.

Yet mass demonstrations almost never represent mainstream public sentiment in the West. Why then should we take it as given that they do among Muslims? Every society has its silent majorities, but it's only in democracies that those majorities exercise a decisive influence. If Islamic societies seem premodern and violent, this surely has something to do with the fact that

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most Muslim countries today are places where there is no democracy; where silent majorities stay silent; where, to adapt W.H. Auden, "only the man behind the rifle has free speech."

So it has been in the case of the cartoons, which were first published in September, to the fairly muted protests of Danish Muslims. Ambassadors of 10 Muslim countries demanded that the Danish government "take all those responsible to task," apparently forgetting that, unlike in their own countries, Danish authorities do not serve as press censors. Around the same time, an Egyptian newspaper reprinted the cartoons without drawing any noticeable wrath from Muslim clerics.

It was only after a December meeting of the 56 member states of the Organization of Islamic Conferences -- all but a handful of which are dictatorships or absolute monarchies -- that the "outrage" really took wing. No surprise here: as Sari Hanafi of the American University in Beirut told the New York Times, these autocracies made use of the cartoons (the most offensive of which were fabrications) as a way of showing that the expansion of freedom and democracy in their countries would lead inevitably to the denigration of Islam. From there it was but a short hop to the airwaves of al-Jazeera (owned by the Emir of Qatar), whose in-house cleric, Yussuf Qaradawi, a member of the fundamentalist Muslim Brotherhood, issued a fatwa calling for a "day of anger."

Put simply, what we have witnessed isn't the proverbial rage of the Arab street. It's an orchestrated effort by illiberal regimes, colluding with fundamentalist clerics, to conjure the illusion of Muslim rage for their own political purposes. The Iranian mullahs seek to discredit Denmark as it assumes the rotating presidency of the U.N. Security Council, where Iran's nuclear program is being discussed. The secular Allawite regime in Syria wants to shore up its ties with the Sunni religious establishment, especially now that Bashar Assad's former vice president has declared a government in exile. The Saudis want to put behind them the latest stampede at the annual Hajj, where some 350 pilgrims were killed.

And in Europe, clerics and self-styled "community leaders" with close links to the Saudi government or the Brotherhood want to assert their dominance over populations that have yet to find their social or economic place in the mainstream of European life, as November's riots in France showed. The fact that European governments seem easily cowed by threats of violence has only made the problem worse.

In all the uproar, we find it telling that the two places where Muslim communities have shown restraint and moderation is in the United States and Iraq. American Muslims are overwhelmingly middle class, upwardly mobile and not very susceptible to the atavistic urgings of distant dictatorships. In Iraq, an unsilent majority has repeatedly made its views plain about the religious fanatics who demand to speak in their name. Just imagine the kind of anti-Western protests that would be taking place there now if Saddam were still in power.

There's a lesson in this for those who would have us believe that what this cartoon conflagration represents is a conflict of civilizations. There is a conflict all right, not between civilizations, but within one, and it pits those who would make Islam barbaric and those who would keep it civilized. In that struggle, the heirs of Socrates and the heirs of al-Farabi must make common cause.

US Worries Syria Still Blocking UN Hariri Inquiry (REU)

By Irwin Arieff

Reuters, February 11, 2006

Washington remains concerned about Syrian obstruction of a U.N. inquiry into the killing of a former Lebanese prime minister and is watching the matter closely, U.S. Ambassador John Bolton said on Friday.

Bolton spoke with reporters after meeting with Serge Brammertz, the Belgian prosecutor now leading the U.N. investigation of Rafik al-Hariri's assassination in a Beirut truck bombing last February 14.

Brammertz, the former deputy prosecutor of the Hague-based International Criminal Court, took over the investigation last month from German Detlev Mehlis, who had led the probe since June.

With the first anniversary of the murder rapidly nearing, no one has yet been formally accused of killing Hariri.

Several individuals identified as suspects have been detained by Lebanon, and Mehlis, in interim reports to the U.N. Security Council, has implicated senior Syrian intelligence officials and their Lebanese allies in his death.

Syria has repeatedly denied any role in the killing but promised full cooperation after a U.N. Security Council resolution adopted in October demanded it cooperate with the investigation or face unspecified further action.

Damascus has since allowed U.N. investigators to question several Syrian officials but has rejected a request to question Syrian President Bashar al-Assad, raising the possibility of a future showdown with the council.

Bolton said he did not want to discuss the specifics of his talks with Brammertz but told reporters:

"Our concern is that the Syrian obstruction of the Commission's investigation remains. And that is going to be an issue we watch very closely."

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Asked when Brammertz would next report to the Security Council, Bolton said the investigator was "aware of the urgency of the situation ... that is in large measure occasioned by the deliberate obstruction of the crime scene of the Hariri assassination, and obstruction of justice that's going on."

"I think any prosecutor would tell you that each day that goes by in the effort to reach a conclusion on the crime, makes it more difficult," he said.

Still, the U.N. investigative team has the resources and cooperation it needs from the government of Lebanon and was "continuing to make progress," he said.

Turin's Muslims Try To Keep A Low Profile (LAT)

By Tracy Wilkinson, Times Staff Writer

The Los Angeles Times, February 11, 2006

Some would protest the prophet cartoons but dare not, citing a fear of deportation. But others are using the Olympic Games to make a point.

TURIN, Italy — Like Muslims in many parts of the world, members of the Islamic community here in the host city of the Winter Olympics would gladly hit the streets to protest cartoons satirizing the prophet Muhammad.

But Muslims here say they have been under such fierce surveillance lately by Italian police that they don't dare.

"Either you shut up or you are sent away," said Abramo Haj, a Moroccan restaurateur who has lived in Italy for 26 years. He was standing on the sidewalk here outside a makeshift mosque whose vocal imam was expelled by Italian authorities in September.

Instead of protests by Muslims, Turin, in the run-up to the Olympics, has seen daily demonstrations by a diverse assortment of activists, environmentalists and leftists.

The largest demonstration yet came Friday, hours before the opening ceremonies of the Games. Hundreds of people gathered outside the University of Turin humanities building and along streets where runners bearing the Olympic flame were expected to pass. Repeatedly in recent days, protesters have managed to force the torchbearers to take detours en route to Turin.

Demonstrators sang protest songs, played drums that have come to symbolize the worldwide anti-globalization movement, waved Palestinian and Iraqi flags and burned a paper American flag. A huge red banner hung from the facade of the six-story university building proclaiming "Conflict lives here" — a play on the Olympics 2006 motto, "Passion lives here." Another banner declared: "Laura Bush, go home!" The first lady, who is heading the U.S. delegation to Turin, is scheduled to visit another part of the university today.

Still, the protests have remained relatively low-key. There have been no clashes with the police, who on Friday stood single file in riot gear with shields to block streets and prevent access to the flame's route.

And when Alberto Re, a famed Italian mountaineer, rappelled from the dome of Turin's landmark 500-foot-tall Mole Antonelliana carrying the flame in one hand, even some of the protesters paused and craned their necks to watch.

The demonstrators have a host of complaints: unemployment, a high-speed train that they say will ruin the environment, expensive Olympic venues that they say will become white elephants, corruption, the war in Iraq. Not every cause has an obvious Olympic link, but no matter.

"We are not against the concept of the Olympics; this is not a refusal of sports," said Mateo De Marchi, 19, who was handing out leaflets for the No-Olympics Committee. "It's against the structure of these Olympics … and the corruption," he said, referring to the way the Games have become dominated by big-spending multinational sponsors.

As he spoke, his comrades were lighting their own torch, made of aluminum foil, and using it to burn a Samsung banner.

"The Olympics will be a nice party," said Pino Larobina, 46, a worker at a Fiat-owned truck factory who was carrying an enormous red flag representing his labor union.

"But the fact is Turin is becoming a ghost town because of all the factories closing. When the Games are over, what will they have given the people of Turin, who each month cannot make ends meet?"

Protesters and other critics are especially incensed that Turin has spent $1.4 billion on the Games, which have a price tag of more than $4 billion. They believe that such extravagance will not translate into new jobs in an industrial city that relied so heavily on the now declining Fiat automaker.

"We want to show the contradictions of the city," said university researcher Gippo Mukendi, 33, a communist who is helping organize the demonstrations. "On the one hand they have the Olympics, which makes the city look rich, but only a few people will earn money with the Olympics and nothing will really be left for the city."

Italian law enforcement, gearing up for the Games, spent many months focused on the possibility of terrorist attacks by Islamic radicals. Northern Italy has a large Muslim population, and a small number have been linked to international terrorist

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groups. Italian authorities say they have hundreds of potential troublemakers under surveillance. About 200 people suspected of belonging to terrorist cells have been deported in the last two years, officials say.

But more recently, the authorities have focused more closely on leftist groups and anti-globalization activists who seemed more determined to disrupt the Olympics.

On Friday, Interior Minister Giuseppe Pisanu again said the recent violence in the Middle East and South Asia over the cartoons could trigger an improvised attack by an individual. But, he said, neither Italy nor the foreign agencies assisting it had received indications of a planned action by terrorist groups.

The domestic "anarchists," as the government calls them, are a different matter, Pisanu told reporters in Rome. They seek "to take advantage, with spectacular acts, of the Olympics' world stage," he said. "We must take into account a general climate that is rather tense."

Italian Prime Minister Silvio Berlusconi, a right-wing politician running for reelection, said the anti-globalization demonstrators were "subversives" who should be stopped.

"The government could strike in a decisive way anyone who carries out subversive actions at the Olympics in Turin," he was quoted as telling a television talk show Thursday night.

More than 15,000 police officers and army troops, backed by NATO surveillance aircraft and an undisclosed number of Italian and foreign undercover agents, are patrolling Turin and the surrounding Alpine hills and valleys where the Olympics will unfold over the next two weeks.

US Mulling More Nuclear Talks Before Bush India Trip (BOS/REU)

The Boston Globe, February 11, 2006

WASHINGTON (Reuters) - The top U.S. negotiator on a landmark nuclear deal with India may soon visit New Delhi for talks on the troubled accord before President Bush visits South Asia next month, U.S. officials said on Friday.

The deal, agreed in principle last July, would give India access to long-denied civilian nuclear technology, including fuel and reactors, and the failure to resolve serious differences would mar Bush's trip, officials and experts say.

In exchange for access to the technology, India promised to separate its military and civilian nuclear facilities and open the civilian facilities to international inspection.

India's powerful nuclear establishment has raised objections to a "separation plan" the Americans insist must put more facilities under international supervision.

Undersecretary of State Nicholas Burns, the chief negotiator who was in New Delhi last month, has discussed with Secretary of State Condoleezza Rice making another trip over the next week or so, but they have not made a decision, a State Department official said.

"I think that's just the judgment that he and she have to make -- is this the right time for him to go," said the official, who spoke on condition of anonymity because of the sensitivity of the discussions.

Central to the debate is India's fast breeder reactor program, which would process plutonium from spent fuel from India's existing heavy water reactors.

The chief of India's Department of Atomic Energy Anil Kakodar has complained that putting this program under international monitors would "shackle" his scientists and leave the country dependent on imported uranium.

The landmark accord was agreed in principle last July 18 but negotiating the details has proven tougher than many officials and experts expected. Bush and India Prime Minister Manmohan Singh are both under domestic pressure to protect their respective interests.

"It's doubtful" there will be a resolution of the issue before Bush visits New Delhi in March, a second U.S. official working on the issue told Reuters.

N.Korea Wants Talks With US On Crackdown: Envoy (REU)

Reuters, February 11, 2006

North Korea wants bilateral discussions with the United States over a crackdown on its finances and cannot return to nuclear talks until Washington ends sanctions, an Indonesian envoy said on Friday.

The last round of talks on ending Pyongyang's nuclear programs, which involve the two Koreas, China, Japan, Russia and the United States, was held in November.

Washington, Seoul and others have stressed the financial issue is a separate issue from the six-party talks.

"They indicated to me they are willing to resume the six-party talks provided the United States lift its financial sanctions that have been applied recently to North Korea," said Nana Sutresna, an Indonesian presidential envoy who visited North Korea earlier this week.

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"North Korea has said they want to meet bilaterally on this issue," he told reporters.

Sutresna met top North Korean officials including Pyongyang's number two official Kim Yong-nam.

Washington has offered to brief North Korean officials on the legal basis of its crackdown on companies it suspects of helping North Korea in activities such as counterfeiting.

North Korea has indicated that a briefing was not a high-enough level for the discussions and has sought a meeting between U.S. and North Korean envoys to the six-party talks.

A spokesman for North Korea's Foreign Ministry said in December the briefing offer amounted to "backtracking from the agreement on holding talks to find a solution to the issue."

Indonesia has long ties with North Korea and has been trying to work as a mediator between the two Koreas.

Brazil Poised To Join The World's Nuclear Elite (KRT)

By Jack Chang

Knight Ridder, February 11, 2006

RIO DE JANEIRO, Brazil - While the world community scrutinizes Iran's nuclear plans, Latin America's biggest country is weeks away from taking a controversial step and firing up the region's first major uranium enrichment plant.

That move will make Brazil the ninth country to produce large amounts of enriched uranium, which can be used to generate nuclear energy and, when highly enriched, to make nuclear weapons.

Brazilians, who have long nurtured hopes of becoming a world superpower, are reacting with pride to the new facility in Resende, about 70 miles from Rio de Janeiro.

Other countries enriching uranium on an industrial scale are the United States, the United Kingdom, France, Germany, the Netherlands, Russia, China and Japan.

The plant initially will produce 60 percent of the nuclear fuel used by the country's two nuclear reactors. A third reactor is in the planning stages. The government hopes to increase production eventually to meet all of the reactors' needs and still have enough to export, Brazilian officials said.

"We want to build new power plants and grow our enrichment program to be self-sufficient," said Odair Dias Goncalves, the president of Brazil's National Nuclear Energy Commission. "In the whole world, there's a big reinvestment in this area. Countries are turning back to nuclear energy."

The Resende plant's inauguration had been set for Jan. 20, but was delayed because construction wasn't completed, Dias Goncalves said. The plant may begin uranium enrichment without the hoopla later this month, officials said.

Unlike Iran, Brazil is considered a good global citizen that isn't seeking nuclear weapons, although its military ran a secret program to develop a nuclear weapon as recently as the early 1990s.

Still, some U.S. observers fear Brazil's program will encourage more countries to make nuclear fuel, raising the danger of nuclear weapons proliferation.

The United Nations nuclear watchdog, the International Atomic Energy Agency, earlier this month reported Iran to the U.N. Security Council for failing for three years to disclose all aspects of its nuclear program to agency inspectors. Iran responded by restricting IAEA inspections, a move that stymies efforts to determine whether it's producing fuel for power plants or developing nuclear weapons.

Brazil's nuclear fuel needs, more than 120 tons of enriched uranium a year, don't warrant the country launching an industrial facility like Resende, especially with global supplies of the material running high, said Lawrence Scheinman, a former U.S. arms control official.

"There really isn't much justification for new enrichment facilities unless countries have a very substantial number of reactors to be serviced and don't want to depend on outside suppliers," he said. "Neither Brazil nor Iran are in those positions."

Despite the criticisms, Brazil's program hasn't drawn the outcry that Iran's nuclear plans have. Disagreements between the IAEA and Brazilian officials in 2004 over access to the Resende facility were resolved within months.

Like Iran, Brazil has signed the Nuclear Non-Proliferation Treaty, the global agreement to prevent the spread of nuclear weapons. All of Brazil's 20 facilities using nuclear material are under IAEA safeguards.

Brazilian officials have worked closely with the IAEA throughout Resende's planning and construction, Dias Goncalves said. IAEA inspectors have visited the facility 32 times.

Iranian officials, on the other hand, hid their uranium enrichment work for 18 years and obtained much of their technology from a Pakistani-led smuggling ring. Iran's leaders also have called for the destruction of Israel and are known sponsors of terrorism.

"There is no way to doubt the intent of our plans because they are completely open," Dias Goncalves said. "We have to take account of every gram of uranium used."

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The road to Resende did hit a few bumps in 2004 when Brazil refused to let inspectors view centrifuges used in the enrichment process, saying they had to protect Brazilian-designed innovations vulnerable to industrial espionage.

After months of negotiations, the two sides agreed to a confidential inspection regime, which is still in place, an IAEA official said.

That agreement allows IAEA inspectors to examine material coming in and out of the centrifuges but not the equipment itself, which is covered by opaque panels, said Edson Kuramoto, president of the non-governmental Brazilian Nuclear Energy Association.

Brazilian energy adviser Rogerio Cezar Cerqueira Leite said the Resende plant will allow Brazil to sell to growing markets for enriched uranium and fuel a domestic nuclear program that's bound to expand.

"Without enriched uranium, you don't have nuclear technology," Cerqueira Leite said. "It's not just national prestige. If you don't make it yourself, you will always be behind in the nuclear race."

Many Brazilians see the eventual opening of Resende as the first step in the country becoming a world leader in nuclear research, said Cerqueira Leite. Brazil has the world's sixth largest deposit of uranium.

Teamwork By State And Defense (WP)

The Washington Post, February 11, 2006

The Jan. 21 editorial "A Transformation at State?" inaccurately suggested a lack of cooperation between the Defense Department and the State Department's Office of Reconstruction and Stabilization. The collaboration has been superb.

As The Post reported late last year, Defense Secretary Donald H. Rumsfeld and Secretary of State Condoleezza Rice worked to secure funding in this year's defense authorization measure to support the deployment of State Department personnel in the event of crises. State now has $100 million this fiscal year and next to support such deployments.

In addition to its congressional efforts, the Pentagon has lent the State Department service members to provide military expertise. Combatant commands also have opened their exercises to State participation. Further, State and Defense officials jointly have developed concepts to deal with foreign contingencies.

These efforts hardly add up to a lack of cooperation. Instead, they illustrate a partnership worthy of the mutual respect our agencies have for one another.

R. NICHOLAS BURNS
Undersecretary of State for Political Affairs
Department of State
ERIC S. EDELMAN
Undersecretary of Defense for Policy
Department of Defense
Washington

Rumsfeld Anxious Over Russian Arms Sales (FT)

By Demetri Sevastopulo And Peter Spiegel

Financial Times, February 11, 2006

Donald Rumsfeld, US defence secretary, on Friday expressed concerns about Russian arms sales but dismissed concerns that the US-Russian defence relationship was deteriorating.

“The US prefers that countries not sell weapons to countries on the terrorist list,” Mr Rumsfeld said following a two-day meeting of Nato defence ministers in response to a question about Russian arms sales. Mr Rumsfeld said he was particularly concerned about arms sales to countries such as Iran and Syrian that the US says are supporting the insurgency in Iraq.

The Pentagon last week released a report which said the US “views with increasing concern [Russian] sales of disruptive weapons technologies abroad and actions that compromise the political and economic independence and territorial integrity”.

US-Russia relations have recently deteriorated further following the decision by Moscow last month to cut off gas supplies to Ukraine. Last year, Russia angered the US when the Shanghai Co-operative Organisation – a group that comprises China, Russia, Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan – called on US forces to withdraw from Central Asia.

In July, Uzbekistan ordered the US to withdraw from its Karshi-Khanabad (K2) base. The US is currently negotiating with Kyrgyzstan to continue using Manas air base outside Bishkek.

Mr Rumsfeld refused to discuss his private meeting on Friday with Sergei Ivanov, the Russian defence minister. But one US official said a separate meeting between Mr Ivanov and other Nato defence ministers was “the most candid discussion in a long time”.

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While Mr Rumsfeld raised concerns about the arms sales issue, he dismissed concerns that the relationship was deteriorating. Russia also recently announced it would sell air-defence missile systems to Belarus, an autocratic neighbour whose increasing closeness to Moscow has raised concerns. Mr Ivanov yesterday defended the sales, saying such anti-missile systems were sold by Russia to "dozens of countries throughout the world".

"It is in all its functions a defensive weapon and Belarus is an ally," Mr Ivanov said. "We have to recognise Belarus' right to defend itself. This has nothing to do with our relationship with Nato."

Several of Nato's defence ministers also pushed Mr Ivanov on Friday on Russia's cut-off of gas supplies to Ukraine, raising concerns that Moscow was using its energy assets as geo-strategic bargaining chips. Mr Ivanov defended Russia's position, saying it was only fair to force Kiev to pay market prices for Russian gas, arguing the dispute was "not only the suppliers responsibility".

On gas supplies, Mr Ivanov said Russia would continue to meet its contractual responsibilities. "We continue to sell gas at a loss to ourselves, but we certainly do not have any intention to rip up any contracts that run through 2006."

Mr Ivanov also acknowledged that he had discussed the idea of withdrawing from the Intermediate Nuclear Forces treaty with Mr Rumsfeld, but said neither Moscow nor Washington were currently considering the move.

"When we signed the treaty, nobody besides the US and USSR possessed these missiles," Mr Ivanov said. "I don't think anyone even in their worst dreams could imagine missile technology could spread so quickly. It's just a fact of life. I think you may see all countries have them except Russia and the US."

18 Killed As Militants Fight Russian Force In Town (NYT)

By Alexander Nurnberg

The New York Times, February 11, 2006

MOSCOW, Feb. 10 — A clash between armed militants and security officers in a village in the Stavropol region of southwestern Russia ended Friday evening after more than 24 hours of sporadic fighting, with 12 militants and at least 6 security officers dead.

On Friday night, the local bureau of the Interior Ministry reported that the security operation, which officials said involved "routine preventive passport checking," was continuing. Officers searched other homes in the area, afraid that some militants might still be at large.

The clash ultimately involved about 300 law enforcement officers, including special forces with armored vehicles and other heavy weaponry. One civilian and five security officers were wounded and were hospitalized Friday evening.

According to official reports, the battle began in the village of Tukui-Mekteb as militants opened fire from inside a house, initially killing two police officers. They moved between buildings during the fighting.

Ramazan Khaldayev, a local resident, said the police had first appeared in the village as part of an investigative "mop up" operation. Mr. Khaldayev's home and a neighbor's were searched before gunfire broke out unexpectedly at another house, he said.

As the fight drew to a close on Friday, some security officials denied that they had been unprepared for a battle. The local branch of the Federal Security Service informed Interfax and other news agencies that security forces "had been following this group" as suspected terrorists for some time.

After the clash, security officials argued that they had successfully thwarted an impending terrorist attack. Viktor Barnash, director of the Stavropol region's Anti-Organized Crime Directorate, said the operation had "managed to prevent events of a terrorist nature that would have been similar to Beslan," the southern Russian city where 331 people, more than half of them children, died after a three-day siege by Chechen militants in 2004.

Stavropol has been largely unscathed by the conflict in neighboring Chechnya, but Tukui-Mekteb, which is near Neftekumsk, is not far from the war-torn republic and has been the site of counterterrorist operations in recent years. In February 2002 a militant blew himself up with a hand grenade when discovered by the police, and in September of that year an arms cache was discovered about nine miles from the village.

Trade Showdown Looms As S.Korea Tells US: "No Rice" (REU)

By Kang Shinhye

Reuters, February 11, 2006

South Korea said on Friday that rice should be excluded from a free trade pact with the United States, drawing a line in the debate on one of the most sensitive areas of upcoming talks between the economic powerhouses.

Washington and Seoul appear to be heading for a showdown on the issue even before the opening of formal negotiations on a free trade agreement, which is expected in May.

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The chief U.S. agricultural negotiator said on Wednesday that Seoul must open its long-protected rice market under any deal.

But a top South Korean agriculture official said on Friday that the country was not going to back down on its demand for rice to be exempted.

"We will keep our principle of not giving up the rice market in the free trade talks with U.S.. The idea of being self-sufficient in rice has long been part of the national sentiment," Kim Duck-ho, director of Agriculture Ministry's free trade talks bureau told Reuters by telephone.

"The United States knows quite well that rice is a very sensitive issue in South Korea. If Washington keeps demanding the opening of the country's rice market, a free trade agreement between two countries would be very difficult to reach," another official of the ministry said.

Analysts said agriculture will be one of the toughest sectors for negotiation in the trade deal, especially because of intense opposition from South Korean farmers to liberalization.

South Korean farmers and activists have staged many violent protests against measures to open up the local farm market. They were also at the forefront of often-violent protests at a World Trade Organization meeting in Hong Kong two months ago.

Two-way goods trade between the United States, the world's largest economy, and South Korea, ranked 11th in the world in 2004 by the World Bank, totaled more than $72.5 billion in 2004, with Seoul enjoying a $19.8 billion surplus, according to government figures.

The United States currently sells around $2.4 billion a year in agricultural products to South Korea, which has an average duty on farm products of 50 percent to 60 percent, according to a senior U.S. trade official.

A recent Korea Rural Economic Institute report said that U.S. agricultural exports to South Korea could more than double under a free trade pact, resulting in the loss of up to 130,000 jobs.

South Korea has agreed with nine rice-exporting countries to increase its quota of imported rice incrementally to 8 percent of its total consumption by 2014 from 4 percent in 2004.

In return for that deal, reached in 2004 under the auspices of the World Trade Organization, South Korea won an additional 10-year delay on implementing more extensive liberalization measures for its rice market.

Internet Censorship (WSJ)

By Amy Schatz

The Wall Street Journal, February 11, 2006

Web Firms Face Grilling on China

Executives from Google Inc. and other Internet companies head to Capitol Hill next week, where they will become feature players in an awkward debate: Are U.S. companies giving in to China too easily?

Last month, Google announced an agreement with the Chinese government to censor search results from its Chinese site. It was the latest Internet company to accede to the Chinese government's censorship restrictions, following Cisco Systems Inc., Microsoft Corp. and Yahoo Inc.

The hearing will likely produce more embarrassing publicity for the companies, and it may drive legislative momentum among lawmakers concerned about China's influence on the U.S. economy. Congressional aides are expecting a standing-room-only crowd, and the reception from politicians may be chilly.

"I was asked the question the other day, do U.S. corporations have the obligation to promote democracy? That's the wrong question," says Rep. Chris Smith, the New Jersey Republican and chairman of the House human-rights subcommittee that is holding the hearing. "It would be great if they would promote democracy. But they do have a moral imperative and a duty not to promote dictatorship."

Mr. Smith plans to introduce legislation next week that would impose restrictions on Internet companies seeking to expand into China but also provide some legal protection from Chinese demands.

The bill would require U.S. Internet companies to keep email servers used for Chinese traffic offshore. That would help prevent the Chinese government from compelling the release of Internet user data. The bill also calls for creation of an office inside the State Department that would make an annual determination about which countries are restricting Internet use. It would provide a framework for users to pursue legal action against U.S. Internet companies over privacy violations.

The disclosures about Internet companies cooperating with the Chinese government are having a wider political impact. Last week, Sens. Lindsey Graham, (R., S.C.) and Byron Dorgan (D., N.D.) cited Internet companies' efforts to help the Chinese government monitor citizens' online activity as a reason to permanently revoke China's most-favored-nation trading status.

Ironically, the controversy comes as Google, Yahoo and others are fighting for "Internet freedom" in the U.S. Google is resisting a Justice Department request for information on user searches to help prosecute violations of a federal child-

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pornography law. Meanwhile, the company has joined competitors to resist plans by telephone and cable companies keen on exerting more control over Internet lines, which has led to concerns about discrimination and content blocking.

Inside China's Angry Villages (LAT)

By Anthony Kuhn, Anthony Kuhn, The China Correspondent For National Public Radio, Recently Visited Panlong And Taishi

The Los Angeles Times, February 11, 2006

AT A ROADSIDE store across the street from a kindergarten in Panlong village, a local man sat beside his motorcycle having a soft drink and chatting with a visiting reporter on the recent violence the village had experienced.

"Does political power really come from the barrel of a gun?" he asked, questioning Chairman Mao's famous dictum. "Is the gun pointed at the enemy or at the people?"

Such talk seems out of place in Panlong, in the heart of the Pearl River Delta. The delta is in southern Guangdong province, one of China's wealthiest, most industrialized regions. The Cantonese focus on making money instead of talking politics, and their resistance to central government control, is aptly summed up in the popular saying, "The sky is high and the emperor far away."

But Panlong is just the latest village in Guangdong to be racked by violent protests. Peasants blocked a highway to protest what they saw as inadequate compensation for land seized from them by the government. Riot police broke up the demonstration. Similar clashes erupted in December in Dongzhou village and last summer in Taishi village.

Is Guangdong's turbulent present a preview of the rest of the country's future? One recent academic study found that as industrialization and urbanization increase the demand for rural land, developed coastal provinces like Guangdong are increasingly becoming the site of violent clashes over land-use rights.

And unrest is clearly on the rise in China as a whole. There were 87,000 civil disturbances last year — 238 a day — compared with just 8,700 in 1993, according to police statistics. Many involve peasants protesting the confiscation of their land for development purposes, but they are often equally angry about environmental degradation and official corruption. Protests by the urban poor against large-scale layoffs and predatory developers are common.

The rural clashes are evidence of the government's failure to allow farmers the means to resolve their grievances through the press or the courts. They also bespeak a failure of the government's standard tactic for quelling mass dissent: punishing protest organizers while buying off rank-and-file demonstrators with concessions.

In the villages, it's not hard to see the tension below the calm surface. Police and security agents sit in booths at the entrances to Panlong and Taishi, although most people can enter during the day. Dongzhou reportedly remains surrounded by checkpoints where police search vehicles for fugitives.

But villagers are obviously fearful about telling their story to outsiders. Panlong locals speak of being hauled off to lengthy government-run "meetings" or "classes" aimed at forcing them to maintain silence about the clashes. Some village residents say police tap their phones. Chinese media have largely been barred from reporting on the clashes, and the local government has declined requests by foreign journalists to travel to these villages. I entered Panlong and Taishi freely but was picked up by police on my way out of both villages. Authorities deleted my digital pictures of Taishi. Reporting without official permission remains illegal in China.

Over the Chinese New Year, state-run television showed pictures of President Hu Jintao frying rice cakes in the impoverished old revolutionary base of Yan'an. His message was that China will build a prosperous "new socialist countryside" by investing in rural infrastructure and basic public services.

About time, say Chinese economists and rural experts, who have suggested such measures for years. Peasants account for two-thirds of China's population yet receive just 20% of all medical services and similarly low percentages of education and social security spending. Correcting this imbalance without offending urbanites will be a delicate task, to say the least.

Even if spending in rural regions is increased, much of it is unlikely to filter down to the peasants, given the endemic state of official corruption. Chinese experts are pessimistic about the central government's willingness to break the entrenched alliance of local business interests and corrupt officials. Until that happens, local officials will continue to pocket bribes in exchange for giving state-owned land to developers at cut-rate prices, leaving farmers landless, destitute and angry.

The government could do a lot to alleviate rural tensions by increasing farmers' rights: the right to move to the cities without being denied the same benefits as urban dwellers; the right to form farmers' associations to protect their interests; and the right to recall elected village officials who fail to represent those interests. Last year, residents of Taishi tried to exercise that very right, which is already enshrined in national law. The government responded with riot police.

Travel Restrictions Could Upset Trade, European Commission President Warns (PPG)

DOJ_NMG_0014683

By Dan Fitzpatrick, Pittsburgh Post-Gazette

Pittsburgh Post-Gazette, February 11, 2006

European Commission President Jose Manuel Barroso defended the relevancy of the 25-nation European Union and called for the United States to ease travel limitations on 10 new member countries in a speech at the University of Pittsburgh yesterday.

The restrictions -- which deny visa waivers to certain European citizens -- could upset transatlantic trade, he said.

Both the United States and Europe have "much to lose if protectionism rises and globalization's wings are clipped," said the commission president, speaking to a packed ballroom at Pitt's Alumni Hall in Oakland. "We need to ensure that the transatlantic economy remains competitive."

Business groups want the United States to open its visa-waiver program to Greece and nine other countries that joined the European Union in 2004, allowing applicants to stay here for three months without a visa.

Europe represents 7 percent of the world population but its exports and imports collectively represent more than 20 percent of all world trade. As many as 14 million jobs depend on the transatlantic relationship between Europe and the United States, Mr. Barroso said.

"I appreciate the efforts already made by the U.S. here but we must ... end this situation of discrimination against the new member states," added the former Portuguese premier.

As president of the European Commission, Mr. Barroso represents 457 million citizens and 25 countries. But following French and Dutch rejection last year of the European Union's first constitution, there are open questions about the future and effectiveness of the continental alliance. To be ratified, the charter needs approval of all 25 member states.

He admitted the French and Dutch votes prompted "much soul-searching" and that "scare stories" warned of paralysis or "even the end of the Union."

Beyond that, critics are concerned about Europe's sluggish economy, high unemployment rate and low productivity rates. There are divisions among the member countries as to solutions -- some want to keep social protections in place; others want more free-market reforms.

Responding to the questions of relevancy and addressing the ivory-tower image of the EU, Mr. Barroso said the Union needs to focus less on bureaucracy and be more responsive to the everyday problems of its citizens, emphasizing jobs, economic growth and the fight against terrorism and global pandemics.

He also wants European governments to put more money into education and research and adopt a common energy policy that emphasizes alternative fuels and reduces Europe's dependence on oil and natural gas.

"Europe needs to embrace change, and not forego the benefits of globalization," he said.

In response to a question from a student, Mr. Barroso said the Union also should do more to foster cultural and religious tolerance, oppose violence categorically and remain faithful to the principle of freedom of expression.

In closing remarks, Mr. Barroso encouraged the audience to think long-term about the Union and its sometimes slow integration efforts. It was only 60 years ago, he noted, that the Nazis' Polish concentration camps were liberated. And as recently as 15 years ago, several countries in Europe still were under totalitarian control.

Even 10 years ago, there was mass carnage in the Balkans.

"Now, we are 25 free democratic counties living together in peace."

G8 'fails To Meet Gleneagles Pledges On Debt' (FT)

By Fiona Symon

Financial Times, February 11, 2006

Group of Eight countries have so far failed to fulfil their high profile commitment to cancel all eligible heavily indebted poor countries' debts to the Industrial Development Agency, the International Monetary Fund and the African Development Fund, according to a report by Toronto University.

G8 countries have completed under half the policy goals they set themselves at the Gleneagles summit last year, according to the interim report published ahead of this weekend's meeting of finance ministers in Moscow.

The university, which has been monitoring the group's compliance with its pledges since 1996, reported that overall compliance was nevertheless at the highest level in four years.

In the six months since Tony Blair, George Bush and their G8 counterparts convened in Scotland, their governments have satisfied the 21 priority commitments they made at the meeting 47.3 per cent of the time, the university's G8 Research Group calculated.

But on the issue of debt cancellation, which was the headline issue at the summit, all eight countries were awarded the lowest score of zero.

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The report notes that some pledges take longer to fulfil than others and that the debt cancellation issue must be regarded as a work in progress. In previous surveys, however, pledges on debt relief have been awarded the highest compliance rates, so this interim score of zero marks a “significant shift”, the report points out.

The G8 scored a perfect 100 per cent on implementing pledges on the Middle East, renewable energy and climate change, but less well, at 67 per cent, on commitments to help build Africa's capacity on trade and inward investment (67 per cent compliance).

On the Middle East, main commitment was the stimulation of a global financial contribution of up to $3bn a year over the next three years.

On renewable energy, the group's “perfect” compliance reflected leaders' commitments to develop markets for clean energy technologies, increase their availability in the developing world and help vulnerable communities adapt to climate change.

Compliance on supporting the Education for All initiative, as well as those geared towards the development of cleaner, more efficient and lower-emitting vehicles were tied at 56 per cent. But the pledge to reduce Iraq's debt by implementing the terms of the November 2004 Paris Club agreement was only 25 per cent achieved.

The US scored the highest rate of compliance overall, at 71 per cent, followed by the UK, with a score of 67 per cent. Russia was the only G8 country to score in the negative range with an interim score of -14 per cent.

University of Toronto: G8 Research Group: Interim Compliance Report, February 9 2006

NATO Commander Fears Rapid-reaction Force Delay (REU)

By Will Dunham And Mark John

Reuters, February 11, 2006

NATO's top commander of operations said on Friday he doubted whether the alliance would have enough troops to declare a long-heralded rapid reaction force fully operational in October as planned.

A delay to the 25,000-strong NATO Response Force (NRF) would be a setback to U.S.-backed efforts to turn the alliance that was Europe's Cold War protector into an outfit able to launch itself into crisis spots around the world at days' notice.

NATO Supreme Allied Commander Europe, Gen. James Jones, in an interview with Reuters at a meeting of NATO defense ministers in Sicily, said NATO allies still had not come up with the final 25 percent of the troops due to serve in the force.

"The reason I'm not confident is it isn't resourced now," Jones said, when asked if he was confident it would be fully operational by October.

"As things stand now, I can't say that, missing 25 percent of a force, that I have a great deal of confidence that we're going to generate 25 percent as if by magic. I'm hoping to get there," he added.

One observer at the talks said U.S. Defense Secretary Donald Rumsfeld had offered U.S. troops to help plug the gap. Rumsfeld did not allude to any promise at a final news conference but said he was confident the NRF would start on time at full strength.

Washington previously held back from offering many troops because it wants European allies to provide the bulk of the NRF. Major contributors currently include Italy, France, Spain, Germany, Britain, the Netherlands and Norway.

AFRICAN EXERCISE SCALED BACK

Jones also said the alliance would scale back the first major maneuvers for the force, first proposed by Rumsfeld in 2002, in the Atlantic island group of Cape Verde this June.

"We've downscaled the operation in terms of some of the manpower, which is really what costs a lot of money," Jones said. He said some 6,000 troops would take part instead of a planned 8,000, insisting it would still be a valid test.

A trial run of the NRF this winter in delivering aid to victims of Pakistan's earthquake highlighted divisions in the 26-nation alliance over funding and deployment, something the ministers were due to discuss in Sicily.

"NATO must not fritter away its resources on tasks for which other organizations are better suited. Although we would not rule out future humanitarian missions, NATO's core role is military," said a French official who requested anonymity.

That view is shared by other European countries, notably Spain. But others such as United States and Britain insist that in setting up an airbridge to deliver thousands of tonnes of aid in Pakistan, the alliance showed its mettle in such situations.

Aside from differences on when the NRF should be deployed, some nations are also unhappy about the way it is funded.

Spain in particular is aggrieved that the Pakistan operation cost it some 16 million euros ($19 million) because it happened to be one of the countries whose turn it was to provide military resources to the NRF when the relief mission was launched.

It has called for more of the NRF's costs to be financed out of shared NATO funds. But Britain, Germany and France are wary of the principle of more common funding within NATO, arguing it could deter nations from investing in their own national forces.

"We have not yet found an answer to that question," de Hoop Scheffer told a news conference.

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U.N. Staff To Speak With U.S. Attorney (MINNST)

By NICK WADHAMS, Associated Press Writer

Minneapolis Star Tribune, February 11, 2006

UNITED NATIONS (AP) - The United Nations has notified several employees that the U.S. Attorney's Office wants to interview them as part of an investigation into alleged corruption of its procurement division, according to a letter obtained Friday.

The letter from Maria Vicien Milburn, the director of the U.N. General Legal Division, does not outright ask the staffers to meet with the U.S. Attorney for the Southern District of New York, but says the U.N. "has a duty to cooperate" with investigations.

The Associated Press obtained the letter late Friday. The names of the recipients were not disclosed.

The criminal investigation into the U.N. procurement system has already led to a guilty plea from one U.N. employee, Alexander Yakovlev, who admitted in August to wire fraud and money laundering.

An audit by the U.N.'s Office of Internal Oversight Services in January found "substantial evidence of abuse in procurement for peacekeeping operations" that led to financial losses. In 2005, the U.N.'s Procurement Department handled almost $2 billion in purchasing for the peacekeeping department.

The letter, dated Wednesday, says that Secretary-General Kofi Annan has allowed the staffers in question to be interviewed "on a voluntary basis," with diplomatic immunity intact.

In mid-January, the United Nations ordered eight staff members to take paid leave as part of the investigation, including two senior procurement officials.

Press Freedom Boosted In Indonesia (WP)

By Ellen Nakashima

The Washington Post, February 11, 2006

Supreme Court Overturns Ruling Against Magazine Editor

JAKARTA, Indonesia, Feb. 10 -- In a ruling hailed by press freedom advocates, Indonesia's Supreme Court ruled Thursday that the editor of a prominent weekly magazine did not defame a powerful businessman. The court overturned a lower court ruling and threw out the editor's one-year prison sentence.

"This is good for press freedom in Indonesia," said Eddy Suprapto, president of the Alliance of Independent Journalists. "It's not just good for us, but for the people."

The central Jakarta district court had sentenced the editor, Bambang Harymurti, 48, to one year in prison in September 2004 for defamation and "inciting unrest" after the magazine, Tempo, published an article suggesting that Tomy Winata, a banking and real estate tycoon, could stand to gain from a suspicious fire that gutted a large market in Jakarta. An appeals court upheld the decision.

In overturning the lower court decision, the Supreme Court set a precedent by using a 1999 press law rather than the criminal code to review the case. The press law is based on the public's right to be informed and on principles of fairness in reporting.

"The press is the fourth estate," and its function must be protected, said Justice Djoko Sarwoko.

Indonesian courts are not bound by precedent, but Harymurti and his defense team say they hope to use the decision to educate journalists, judges and prosecutors.

"I hope this will become like New York Times v. Sullivan ," said Harymurti, referring to a 1964 ruling that became a cornerstone of press freedom in the United States.

Indonesia's news media, lively if somewhat undisciplined, are trying to strengthen the institution of journalism in a society molded by decades of authoritarianism. Harymurti's appeal was a bright note in a period in which press freedom has been under fresh attack. Plaintiffs continue to sue reporters for up to $1 million in civil libel suits. A new regulation bans local broadcasters from directly relaying news from foreign television and radio stations. For the moment, though, Harymurti's supporters just want to enjoy the victory.

Tempo is often likened to Time magazine, and Harymurti's case drew international attention, with observers flying in from Australia, Asia and Europe to attend his trial.

The case's high profile was beneficial, said Janet Steele, a media professor at George Washington University who is in Jakarta on a Fulbright fellowship. "It made a lot of people think: Should a journalist ever go to prison for doing his job?"

Thursday "was just a really happy day," said Steele, author of "Wars Within," a book about Tempo during part of the 32-year rule of the former dictator Suharto.

Experts Fear Spread Of Avian Flu In Africa (KRT)

By Shashank Bengali

DOJ_NMG_0014686

Knight Ridder, February 11, 2006

NAIROBI, Kenya - Nigerian authorities on Friday battled Africa's first known outbreak of deadly bird flu as experts warned that the virus already could have spread through farms in the country's rural north.

Health officials said they had quarantined large commercial poultry farms and had begun slaughtering poultry in three northern states where birds had been infected with the H5N1 virus, which can be lethal to humans.

They also bulldozed the ashes of 45,000 cremated chickens from a farm in Kaduna state, where the first outbreak was announced Wednesday.

No human cases have been reported in Nigeria. On Friday, two deaths were reported in China and Indonesia, adding to the 88 worldwide deaths previously confirmed by the World Health Organization since 2003.

With the virus having moved south from Europe and the Middle East in recent weeks, experts were closely watching developments in Nigeria, Africa's most populous country and a test for the continent's weak, underfunded public-health systems.

As it is in many African countries, poultry farming is a major industry in Nigeria and millions of people raise chickens in their backyards.

The virus can jump from birds to humans though close contact. If it mutates into a form that passes easily among humans, scientists fear that it could spark a global pandemic.

While Nigeria's response has won praise so far, experts were worried by news reports that tens of thousands of chickens had died mysteriously on large and small farms across northern Nigeria over the past month.

Boubar Seck, the West Africa bird-flu coordinator for the U.N. Food and Agriculture Organization, said that suggested that containment efforts might be too late.

The announcement Wednesday by the World Organization for Animal Health that the virus had landed in Nigeria came as the result of tests on birds that fell sick beginning Jan. 10.

It took that long for the samples to arrive at a laboratory in Italy and be analyzed. Meanwhile, Seck said, the virus probably was spreading.

"We lost about three weeks," Seck said. "That's one of Africa's problems: We don't have the facilities. So while we were waiting, we don't know what was happening with the virus."

The Food and Agriculture Organization said Nigeria's neighboring countries should increase surveillance at their borders to keep out imported poultry. It called on Nigerian authorities to stop the movement of poultry and to close poultry markets in the affected states.

That's a major challenge in a country with a poultry population of 140 million, mostly free-ranging, according to Food and Agriculture Organization estimates.

The Nigerian government has launched a campaign to educate citizens about the virus and has offered farmers compensation for livestock losses. But some experts said that wouldn't persuade small-scale farmers - for whom chickens often are the only sources of income - to report sick birds immediately.

"On commercial farms the government compensation makes it easier to sacrifice birds," said E.B. Sonaiya, the president of the Nigerian branch of the World Poultry Science Association. "But the real problem is with free-ranging birds. They are all over."

Teams of experts from the World Health Organization and other international agencies have begun arriving to assist with the response. The United States has pledged $20 million in emergency aid, and the Food and Agriculture Organization and the U.S. Department of Agriculture have promised to send more than 1,000 sets of protective gear.

Europe 'still Not Ready For Flu Pandemic' (FT)

By Andrew Jack And Raphael Minder

Financial Times, February 11, 2006

If a flu pandemic were to hit Europe in the next few months, officials would struggle to cope with information overload and the absence of clear co-ordination and decision-making authority.

These were among the key lessons drawn from a secretive European Union-wide flu pandemic simulation held last November, the findings of which are being finalised ahead of a briefing to senior politicians in the weeks ahead.

"Common Ground", co-ordinated by the UK Health Protection Agency (HPA) on behalf of the European Commission, was designed to test the extent to which the EU could cope with a public health emergency.

Its findings will be particularly important as on Friday identified fresh outbreaks of the lethal H5N1 bird flu strain in Greece and Nigeria. China also reported its eighth human death from the virus.

Officials have stressed that the exercise was a considerable success, highlighting areas for improvement, and showing progress in areas identified as problems by a previous exercise.

But a number of participants have expressed concern with the shortcomings the simulation brought to light.

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During the two-day simulation, participants drawn from government, international agencies and pharmaceutical companies across the EU struggled to discern what information was of value when a centralised computer network was inundated with reports of local outbreaks.

There was also confusion as to which agencies or governments would take critical decisions, such as the point at which vaccine manufacturers should switch from producing current seasonal flu doses to a pandemic strain.

A preliminary briefing obtained by the Financial Times stressed the need for "a simplification of the interaction between different co-ordinating institutions and agencies".

It also calls for efforts to improve "the functionality of the existing communications systems", the development of "visual information tools" and greater co-ordination between member states to share messages.

In a recent interview with the FT, Markos Kyprianou, the EU's health commissioner, lamented delays on the part of member states in informing Brussels about their preparations for seasonal vaccination. Orders had to be placed this month if vaccines were to be ready in time for next winter's flu, he said.

Mr Kyprianou said he fully recognised that responsibility for building up stocks was not a Brussels competence, but warned that Brussels could then not be asked to play a co-ordinating role – either for seasonal flu or for a possible emergency anti-viral stock for bird flu – if it was kept in the dark about national measures. "I need numbers,'' he said.

¦ Following the discovery of infected swans in Greece, Brussels said on Friday that it had asked Greece to create a safety cordon, disinfect poultry farms and increase overall precautionary steps, pending the outcome of testing expected this weekend.

Bird Flu Spreads To Azerbaijan (NYT/REU)

By Reuters

The New York Times, February 11, 2006

BAKU (Reuters) - Avian flu was discovered in a new country on Friday with Azerbaijan finding the lethal H5N1 strain in wild birds floating dead on the Caspian Sea, and two more deaths from the virus were reported in China and Indonesia.

The virus was discovered in birds in the west African country of Nigeria earlier this week, extending what a senior United Nations official called a devastating spread from southern Asia over the past seven months.

Health experts are trying to warn people of the danger of a virus that is contracted through direct contact with infected birds. But episodes in countries as far apart as Nigeria and Iraq showed the struggle they face.

Nigerian poultry farm workers used their bare hands to throw dead chickens onto fires as village children stood by to watch in an area where H5N1 flu virus has been found.

In the southern Iraqi city of Amara, which is investigating a death that may have been caused by bird flu, children played among the dead fowl.

The World Health Organization (WHO) has already confirmed 88 human deaths since the virus re-emerged in late 2003 and the figure is steadily climbing.

Indonesia said a woman being treated for bird flu at a specialist Jakarta hospital had died and another patient was in critical condition.

The virus has also killed a 20-year-old woman farmer in the central Chinese province of Hunan, the Ministry of Health said.

There are fears the virus could mutate to a form where it can spread from human to human, sparking a pandemic in which millions could die.

David Nabarro, who heads the U.N. drive to contain the virus, said there was no evidence it had mutated to that point, but added: ``It's not far away."

SPREADING WESTWARDS

A senior scientist at the World Health Organizationoffered a glimmer of hope, saying a limited number of migratory birds appear to be spreading a single sub-strain of the H5N1 virus.

In theory, this could lower opportunities for the H5N1 to mutate into an easily transmissible form, according to Michael Perdue, an epidemiologist in WHO's global influenza programme.

``It could reduce the mutation level... You are less likely to have widespread mutation than if you had 20 strains hop-skotching across Asia."

Genetic sequencing of the virus found in chickens in northern Nigeria, completed late on Friday, showed it also closely matched that in poultry outbreaks in Turkey and China.

AZERBIAJAN HIT

Azerbaijan, a state that lies on a crossroads between Asia and Europe, reported its first outbreak of H5N1 on Friday.

Azerbaijan said the virus had been found in wild birds floating dead off its coast.

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The birds were found in the Caspian Sea near the Absheron peninsula, which includes the capital Baku, and off the southern Massaly region, near the border with Iran, Emin Shakhbazov, deputy head of the country's veterinary service, told reporters.

Four children died in neighbouring Turkey last month from an outbreak of the virus.

NIGERIA CAMPAIGN

Villagers in Nigeria said their domestic poultry were dying too, reinforcing suspicions that bird flu may be present not only in large commercial farms but also in people's backyards in Africa's most populous country.

``We are working on this farm without taking care of our health, but what else can we do? We are calling on the government to come and help us," said Alhaj Danliti, the manager of the farm, which is a stone's throw away from the village.

He said the farm had lost 10,000 chickens, almost its entire stock, and he did not know the nature of their disease. Several chickens collapsed and died with a yellow liquid leaking from their beaks.

Nigeria was urged to step up measures to control bird flu, clamp down on poultry trade and use culling, vaccination and movement controls where outbreaks occur.

``Control measures need to be intensified," the World Organization for Animal Health (OIE) and the U.N. Food and Agriculture Organization (FAO) said.

Preval's Lead Narrows In Haiti Election (REU)

By Jim Loney

Reuters, February 11, 2006

Former President Rene Preval could be headed for a runoff in Haiti's first election since Jean-Bertrand Aristide was ousted two years ago, according to the latest election results issued on Friday.

With about half the votes counted, Preval held 50.3 percent, just barely above the majority he would need to avoid a runoff on March 19. In results released on Thursday, Preval held 61 percent, when only 15 percent had been counted, and appeared on his way to an outright victory.

Another former president, Leslie Manigat, was in second place with 11.4 percent and industrialist Charles Baker held third with 8.3 percent, according to the results published on the Provisional Electoral Council's Web site.

Preval, a protege of Aristide and the favored candidate of Haiti's poor masses, was heavily favored to win Tuesday's election, in which Baker, the candidate of the impoverished Caribbean nation's wealthy elite, has asked for an investigation into possible fraud.

Baker said on Friday he had asked election officials to investigate whether people were allowed to vote more than once because voter lists were not followed. "We had a lot of (polling station) volunteers who said they saw people voting five times, seven times, eight times," he said.

International observers have said they saw some irregularities at polling stations but have not suggested the results were tainted by fraud.

A victory for Preval could prove unsettling to the United States, which worked to push Aristide from power two years ago. On Friday, Washington urged Preval, who maintained a low profile in his mountain hometown of Marmelade in the north, to oppose Aristide's return from exile in South Africa.

Preval inherited Aristide's strong support in the slums of Port-au-Prince and his possible victory concerned the wealthy elite who helped push Aristide from office.

Preval, who led the poorest nation in the Americas from 1996 to 2001, has not claimed victory. But he said earlier on Friday he was not surprised by the results known so far.

"During the campaign I felt the enthusiasm which would translate into a favorable vote for me," he told the Miami Herald and Reuters television in an interview.

Preval, 63, was president between the two terms of Aristide, a firebrand former Roman Catholic priest accused of despotism and corruption before he was driven out.

Although he has put some distance between himself and his mentor, Preval has said there is nothing to stop Aristide from returning to Haiti from his South African exile.

(Additional reporting by Oliver Ellrodt in Marmelade)

Awkward Start For Canada's New Leader (NYT)

By Clifford Krauss

The New York Times, February 11, 2006

DOJ_NMG_0014689

TORONTO, Feb. 10 — Prime Minister Stephen Harper has gotten off to a shaky start in his first week in office, facing a rash of criticism for three cabinet appointments that appeared to compromise his past positions on making government more democratic and ethical.

Mr. Harper, a Conservative, won a narrow victory and tenuous control of the House of Commons last month by promising that he would make Ottawa more accountable and that he would clean up after several Liberal Party scandals.

During the campaign Mr. Harper promised to halt the revolving door between the cabinet and lobbying firms, and work to transform the Senate, the upper house of Parliament, from an appointed body to an elected one.

While he was the leader of the opposition, he objected furiously last year when the Liberals lured one of his party's senior members into the cabinet days before a vote in Parliament that would probably have otherwise brought down the government of Paul Martin, who was the prime minister.

But this week Mr. Harper appointed an international trade minister who was elected only two weeks before as a Liberal, a defense minister who was once a lobbyist for military contractors and an unelected public works minister who must be appointed to the Senate to serve.

(Members of the cabinet must be members of Parliament; they are not subjected to ratification votes.)

Now conservative columnists are taking Mr. Harper to task for perceived hypocrisy, and members of the Conservative caucus who were passed over for cabinet posts are expressing bitterness.

"If you're going to break a promise, you might as well rub everyone's noses in it," wrote Andrew Coyne, an influential conservative columnist in The National Post. "He has demoralized his party's supporters. He has ruined whatever honeymoon he might have had with the press."

Mr. Harper defended his appointments as an attempt to bring the most qualified people into his cabinet.

He also said he wanted to include officials from Montreal and Vancouver, cities where the Conservatives won no seats in the House of Commons and that would have otherwise gone unrepresented.

"I expected some of the superficial criticism I've seen," he told The Vancouver Sun.

The most controversial of the appointments was of David L. Emerson of Vancouver, who was industry minister under Prime Minister Martin and was elected to the Commons last month on the Liberal Party ticket.

The local Liberal Party association has demanded that he return nearly $100,000 it spent on his campaign, resign and run as a Conservative in a special election. An online petition demanding his resignation has attracted thousands of signatures.

Mr. Emerson said he would not resign or return the money, arguing Wednesday in a conference call with reporters that he could best serve his constituents by giving them a voice in the cabinet as international trade minister. He said that he might run in the next election as a Conservative, but he also suggested that he was shaken by the sharp reaction to his party switch.

"If I knew politics would be as it has been, I wouldn't have run to begin with," he was quoted as saying. He said that his two children were being taunted in school over the issue.

Mr. Harper has promised that his first order of business will be enacting what he calls the Accountability Act, which would prohibit cabinet ministers and senior staff members from becoming lobbyists for five years after leaving office.

But his choice for defense minister is Gordon O'Connor, a retired brigadier general from Ontario, who from 1996 to early 2004 was a lobbyist for companies including Airbus, which hopes to sell tactical airlift aircraft to the Defense Ministry.

Conservatives note that the Accountability Act would not prohibit a former lobbyist from serving in government, and Mr. O'Connor said that he saw no conflict of interest.

Michael Fortier, a Conservative organizer in Montreal, did not run for the Commons in the last election. But Mr. Harper appointed him to the Senate so he could serve as public works minister.

The opposition parties are complaining that they will not be able to question Mr. Fortier on the floor of the House of Commons, as is customary with cabinet ministers, because he is not a member.

Countering criticism that he was backtracking from his promise to reform the Senate, Mr. Harper said that the appointment was only temporary and that Mr. Fortier would run for a Commons seat in the next general election.

Several members of the Conservative caucus in Parliament have criticized the cabinet choices, but most spoke behind closed doors or in comments to reporters that were strictly off the record.

One who spoke openly, Garth Turner of Ontario, reported to constituents in his blog that he had had an "unhappy" meeting with Mr. Harper afterward.

"Speaking of offices," he continued, "I'm expecting the whip will be assigning me a renovated washroom."

Blair Seeks To Secure Political Legacy (AP)

By Danica Kirka

AP, February 11, 2006

DOJ_NMG_0014690

BLACKPOOL, England -- Prime Minister Tony Blair on Friday urged his divided party to return to the core issues that unite it, appealing to delegates at Labour's centenary conference to back controversial reforms seen as a key test of his leadership.

Blair is struggling to rally his supporters behind reform proposals that have outraged some of the party faithful and spawned rebellion in his ranks.

He tried to overcome the divisions with a rhetorical appeal to the party's tradition of advocacy for working-class Britons, women and minorities, saying the best way to achieve long-held goals was to stay in power by enacting necessary and effective reforms.

"This is a moment to stand firm, to have faith that the changes we are making will, in time, work to our country's advantage and therefore to ours," he told cheering delegates. "Our party's history tells us that Labour is strongest when it is on the side of the people."

The prime minister worked to raise spirits flagging after a special election loss in a Scottish district that Labour easily won less than a year ago, although he didn't mention the election directly.

"We have to be the ones taking the hard decisions, meeting the challenges," Blair said. "That is how we won three elections. It is how we will, whatever the travails in government in the meantime, win a fourth term."

A Liberal Democrat defeated the Labour candidate in the Scottish vote Thursday night less than a year after a Labour candidate, who later died, won the seat by a 2-to-1 margin.

The defeat soured the mood of the conference in this aging coastal city, which will not decide key issues but offered Blair a chance to rally his party ahead of local government elections in May 2006.

His toughest domestic challenge lies in persuading the Labour faithful to accept reforms including a series of measures meant to improve Britain's state-funded schools.

Critics complain that state-backed schools are so inadequate that they thwart British competitiveness in the global economy.

Blair wants a return to a system granting schools more independence, and letting them be more selective about students they admit.

The mere notion has touched off a revolt in the Labour ranks, particularly among those who fear that spinning off more successful schools would set up a two-tiered system and bolster Britain's social divide.

Observers believe a defeat for the prime minister on the measures could set the stage for an early departure by Blair, who has said he will not stand for re-election.

"He could be defeated and go if he cannot get the education measures through," said Bill Jones, the author of the Dictionary of British Politics. "It would be such a huge political failure, he couldn't continue."

Blair also outlined his case for passing sensitive security laws facing Parliament next week, including a hotly debated measure on issuing national identification cards. Delegates packed into the conference hall often interrupted his remarks with applause _ particularly when he invoked the party's ethos of working for the common man.

"Everywhere our opponents seek to portray the government as out of steam," Blair said. "Yet, in reality, there is only one policy agenda in town: ours."

Even as Blair tries to shore up his position, he must consider his successor. Jones said that while treasury chief Gordon Brown is seen as the heir apparent, the transition may be far from smooth.

Other party stalwarts, such as Defense Secretary John Reid and Home Secretary Charles Clarke, may not be willing to step away quietly.

Labour's younger generation, such as David Miliband, Blair's former head of policy and now minister for communities and local government, may also stand, after long being touted as a future party leader.

Making Change From Revolution To Powerful Elite (WT)

By David R. Sands, The Washington Times

The Washington Times, February 11, 2006

Just over a year ago, Yuri Lutsenko was manning the barricades and firing up the crowds in Kiev as a key tactician of Ukraine's "Orange Revolution."

This week, he was in Washington, meeting top U.S. officials and think tank scholars as the new government's minister of internal affairs, the most powerful law-enforcement post in the country.

"I was always sure that our democratic revolution would someday succeed, but I have to say never in my dreams did I consider that I would be one day sitting in this chair," Mr. Lutsenko said, speaking through an interpreter in an interview at the Ukrainian Embassy in Georgetown.

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"I also think that a lot of the police officers who dealt with me when I was in the opposition never expected this either," the 42-year-old former electrical engineer added with a smile.

Mr. Lutsenko, a longtime activist against former President Leonid Kuchma, emerged as one of the most charismatic figures of the 2004-2005 Orange Revolution, which overturned a fraudulent presidential vote and vaulted pro-Western reformer Viktor Yushchenko to power.

With a street-rebel reputation and little administrative experience, Mr. Lutsenko was not the obvious choice to head one of the country's most powerful ministries, charged with everything from fighting corruption, terrorism and illegal immigration to overseeing Ukraine's widely resented traffic police.

"Frankly, it was absolutely unexpected for me when the president asked to take this post," he said.

He said the ministry has made good progress since he took over last February. Among his first acts were to dismiss the ministry's second in command, who heads the internal security forces, and the administrator of the traffic police.

About 2,500 police officers have been dismissed for failing to meet ministry standards and more than 600 criminal cases against officers have been referred to prosecutors, Mr. Lutsenko said. The ministry is also aggressively targeting official corruption.

Last month, three former Ukrainian police officers went on trial in the 2000 slaying of investigative journalist Georgy Gongadze. The long-stalled case proved critical in tarnishing Mr. Kuchma's rule both at home and abroad.

Mr. Lutsenko's Washington trip, which included meetings with top State Department, FBI and Department of Homeland Security officials, focused on joint cooperation on issues such as terrorism, immigration and narcotics trafficking. Kiev is also pressing for a bilateral extradition treaty, which the U.S. side has been reluctant to sign.

His trip came at a difficult moment for Mr. Yushchenko. In a nasty public break, his Orange Revolution ally, Prime Minister Yulia Tymoshenko, resigned as prime minister in August and is leading an independent bloc in hotly contested parliamentary elections next month.

Mr. Lutsenko acknowledged the uncertain political climate, but said he had no fears that the democratic, pro-Western ideals of the Orange Revolution were in danger.

"Politicians of every stripe in Ukraine now say they support those ideals," he said. "We have crossed the Rubicon and there is no going back."

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From: [redacted]@judiciary-rep.senate.gov
Sent: Monday, February 13, 2006 10:06 AM
To: Gorsuch, Neil M; [redacted]
Subject: Kyl Feb 9 Record statement
Attachments: tmp.htm; Kyl EC p.1.pdf; Kyl EC p.2.pdf; Kyl EC p.3.pdf; Kyl EC p.4.pdf

Here are the four separate pages of Sen. Kyl's recent statement regarding the Graham amendment, as those pages appear in the Congressional Record. Note that as of the beginning of this year, citations to the Record begin with volume number 152. (As opposed to last December's 151 Cong. Rec. ___.)

But I will also continue to strongly oppose any reauthorization of the PATRIOT Act that does not protect the rights and freedoms of law-abiding Americans with no connection to terrorism. This deal does not meet that standard; it doesn't even come close.

The PATRIOT Act conference report, combined with the few changes announced today, does not address the core issues that our bipartisan group of Senators have been concerned about for the last several years. The modest but critical changes we have been pushing are not included. I am not talking about new issues. We are talking about the same issues that concerned us when we first introduced the SAFE Act more than 2 years ago to fix the PATRIOT Act. And we have laid them out in detail in several different letters over the past few months.

First, and most importantly, the deal does not ensure that the government can only obtain the library, medical and other sensitive business records of people who have some link to suspected terrorists. This is the section 215 issue, which has been at the center of this debate over the PATRIOT Act. Section 215 of the PATRIOT Act allows the government to obtain secret court orders in domestic intelligence investigations to get all kinds of business records about people, including not just library records but also medical records and various other types of business records. The Senate bill that this body passed by unanimous consent back in July would have ensured that the government cannot use this power to go after someone who has no connection whatsoever to a terrorist or spy or their activities. The conference report replaces the Senate test with a simple relevance standard, which is not adequate protection against a fishing expedition. And the deal struck today leaves that provision of the conference report unchanged.

Second, the deal does not provide meaningful judicial review of the gag orders placed on recipients of section 215 business records orders and National Security Letters. Under the deal, such review can only take place after a year has passed and can only be successful if the recipient proves that that government has acted in bad faith. The deal ignores the serious first amendment problem with the gag rule under current law. In fact, it arguably makes the law worse in this area.

And third, the deal does not ensure that when government agents secretly break into the homes of Americans to do a so-called sneak and peek search, they tell the owners of those homes in most circumstances within 7 days, as courts have said they should, and as the Senate bill did.

As I understand it, this deal only makes a few small changes. It would permit judicial review of a section 215 gag order, but under conditions that would make it very difficult for anyone to obtain meaningful judicial review. It would state specifically that the government can serve National Security Letters on libraries if the library comes within the current requirements of the NSL statute, a provision that as I read it, just restates current law. And it would clarify that people who receive a National Security Letter would not have to tell the FBI if they consult with an attorney. This last change is a positive step, but it is only one relatively minor change.

So this deal comes nowhere near the significant, but very reasonable, changes in the law that I believe are a necessary part of any reauthorization package. We weren't asking for much. We weren't even asking for changes that would get us close to the bill that this body passed without objection last July. But the White House would not be reasonable and has forced a deal that is not satisfactory in an effort to serve their partisan purposes. I will oppose it, and I will fight it.

ENEMY COMBATANTS

Mr. KYL. Mr. President, I rise today to put into the RECORD a letter that Senator GRAHAM and I recently sent to the Attorney General, and to respond to misrepresentations that have been made in the press and by others regarding the circumstances of the enactment of the Graham amendment to last year's Defense Authorization bill. The letter responds to similar misleading attacks that were made against the Justice Department at the beginning of this year. My office has received several inquiries about this letter, which was sent to the Attorney General on January 18. So that anyone interested in this matter might review the letter, I will ask to have it printed in the RECORD.

I ordinarily would not comment on the meaning of legislation that already has been enacted into law. In this case, however, there has been a considerable amount of post-enactment commentary by others on the meaning of the Graham amendment. Much of this commentary insinuates that the Administration and the backers of the amendment are violating an agreement with members of the minority by characterizing the amendment as governing pending litigation. Since the enactment of the Graham amendment last December, some critics have begun to paint a revisionist history of this legislation. In this new account, the Graham amendment supposedly was intentionally modified by the Senate so as not to affect pending litigation. Also in this version of events, Senators relied on representations that the amendment was modified to carve out pending litigation when they voted in favor of its final passage. This conspiracy theory is without foundation.

For those unfamiliar with the Graham amendment, the disputed provision in the legislation changes the Federal habeas code by adding a subsection providing as follows: ''Except as provided in section 1005 of the Detainee Treatment Act of 2005, no court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the Department of Defense at Guantanamo Bay, Cuba.'' The amendment also provides that ''[t]his section shall take effect on the date of the enactment of this Act.'' In addition, the amendment establishes substantive standards for limited judicial review of CSRT determinations and military-commission decisions, and provides that the paragraphs creating those review standards ''shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act.''

Some critics now assert that nothing in the amendment prevents pre-enactment habeas actions from going forward in their previous form. For reasons explained in the letter to the Attorney General, I believe that such an interpretation is untenable. In addition to the points made in the letter, I would also add the following: the amendment states that the changes that it makes to the habeas code ''shall take effect on the date of the enactment of this Act.'' If the current pack habeas cases are allowed to go forward in their current form, the law's provision that ''no court, justice, or judge shall have jurisdiction'' to hear those cases in that form will not be effective on the date of the law's enactment. Rather, the courts still would have jurisdiction over these cases after the date of enactment, and the law's all-encompassing jurisdictional bar would become effective only when the current litigation would exhaust itself—a date that likely would come only years in the future. Such a result would not be consistent with the requirement that the law's total jurisdictional prohibition ''take effect of the date of the enactment of this Act.''

Of those critics who argue that the amendment carves out pre-enactment habeas cases, I would simply ask, what part of ''no court, justice or judge'' do you not understand? How could this language possibly be more comprehensive? And how could any Senator possibly have been misled as to its effect?

Some of the recent criticism of the amendment in the press has taken a new tack. A few critics have begun to suggest that even if the legislative text of the Graham amendment does wipe out the pending habeas cases, Senators were affirmatively misled about this aspect of the final amendment. The allegation is that Senators were led to understand that the amendment that they were voting on would not affect pending cases. I have reviewed the legislative record from the days leading up to the vote on final passage of the Graham amendment, and find this suggestion wanting. Allow me to describe what was actually said about the original version of the amendment—the Graham/Kyl amendment—as well as the final version, the Graham/Levin/Kyl amendment, prior to their passage.

On November 10, Senator LEVIN stated with regard to the original Graham/Kyl amendment, ''I read the language as to how broad it is. It eliminates explicitly any appeal: No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus, and that is the way an appeal goes to a court from one of these people. It is eliminated.'' (151 Cong. Rec. S12665.) Similarly, later that day, Senator BINGAMAN characterized the original Graham amendment as follows: ''It essentially denies all courts anywhere the right to consider any petition from any prisoner being held at Guantanamo Bay.'' (151 Cong. Rec. S12667.) And later, on November 15, Senator DURBIN said the following about the original Graham/Kyl amendment: ''the amendment would eliminate habeas for detainees at Guantanamo Bay. . . . It would strip Federal courts, including the U.S. Supreme Court, of the right to hear any challenge to any practice at Guantanamo Bay, other than a one-time appeal to the D.C. Circuit. . . . It applies retroactively, and therefore also likely would prevent the Supreme Court from ruling on the merits of the Hamdan case, a pending challenge to the legality of the administration's military commissions.'' (151 Cong. Rec. S12799.)

Thus from the beginning, Senators recognized and emphasized to their colleagues that the original Graham amendment language was comprehensive. They also recognized and emphasized that the amendment barred pending cases from going forward, including the Hamdan case in the Supreme Court. These aspects of the original amendment not only were generally acknowledged, but were a point of controversy during the Senate debate.

Had the subsequent Graham/Levin/Kyl amendment departed from the original amendment by carving out pending cases, this would have been a momentous change. Aside from the fact that such a change would have gutted the amendment, it also would addressed one of the issues about which opposing Senators had expressed sharp concern. Surely, had such a change been made or even intended to be made, the fact would have been noted. Instead, it is the dog that did not bark.

First, neither Senator GRAHAM nor I ever said anything in the days leading up to the final vote on the amendment that could possibly suggest to anyone that the modified amendment exempted pending cases. Senator GRAHAM is the lead sponsor and I am an original cosponsor of the amendment that passed the Senate on November 10. We controlled the amendment. No one was in a better position than we were to describe what the amendment does and does not do. Had such a major change to the amendment been made, it is inconceivable that one of us would not at least have commented on it. No such comment or even the suggestion of such a change was made by either one of us.

Indeed, the few statements that Senator GRAHAM did make prior to passage of Graham/Levin/Kyl that describe the amendment's reach tend to confirm that the amendment does not treat detainees differently based on when they filed their claims. For example, on the evening of November 14, when the final amendment was introduced, Senator GRAHAM noted that ''[i]nstead of having unlimited habeas corpus opportunities under the Constitution, we give every enemy combatant, all 500, a chance to go to Federal court, the Circuit Court of Appeals for the District of Columbia.'' (151 Cong. Rec. S12754.) ''What we have done, working with Senators LEVIN, KYL, and others, we have created that same type of appeals process for all military commission decisions.'' Ibid.

During that same evening, Senator LEVIN also commented on the new amendment. Although he said that the amendment did not ''strip jurisdiction'' from the courts, he made clear that he meant that jurisdiction remained in place because the pending cases—including challenges to military-commission decisions—could go forward as claims invoking the substantive review standards of the new amendment. Senator LEVIN stated: ''What we have done in this amendment, we have said that the standards in the amendment will be applied in pending cases, but the amendment will not trip the courts of jurisdiction over those cases. For instance, the Supreme Court jurisdiction in Hamdan is not affected.'' (151 Cong. Rec. S12755.) Again, later: ''what our amendment does, as soon as it is enacted and the enactment is effective, it provides that the standards we set forth in our amendment will be the substantive standards which we would expect would be applied in all cases, including cases which are pending as of the effective date of this amendment.'' Ibid. And again: ''because it would not strip courts of jurisdiction over these matters where they have taken jurisdiction, it does, again, apply the substantive law and assume that the courts would apply the substantive law if this amendment is agreed to.'' Ibid.

Whether the amendment, by barring one type of claim and authorizing another type to take its place, strips the courts of jurisdiction, is, to some extent, a matter of perspective. It is a question of whether the glass is half empty or half full. On the operative issue, however, Senator LEVIN's remarks on November 14 are consistent not only with my own and Senator GRAHAM's characterization of the amendment (see, e.g. 151 Cong. Rec. S14263), but also with the interpretation now advanced by the Justice Department: that the current claims can go forward, but only as claims for review under the substantive standards created by the new act.

It bears mention that the revised amendment's authorization of judicial review of military-commission decisions, though narrow and venue-restricted, was a substantial departure from the original amendment. As Senator LEVIN had emphasized on November 10, the original amendment ''eliminates court review of the sentences of enemy combatants before these commissions.'' (151 Cong. Rec. S12664.) He stated that the amendment even ''eliminates the appeal of a conviction that led to a capital offense.'' (151 Cong. Rec. S12665.) Under the original Graham amendment, no appeal of any kind would have been permitted from the military-commission verdict in the Hamdan case.

The revised amendment does allow limited appeals of final military-commission decisions. In fact, this change was described to Senators as the principal difference between the original and revised Graham amendments. Senator LEVIN noted on the morning of November 15, before the vote on Graham/Levin/Kyl:

> The amendment which was approved last Thursday, which is the one now awaiting this amendment, would have provided for review only for status determinations and not of convictions by military commissions. . . . One of the reasons I voted against the amendment last Thursday is that it did not provide for that direct judicial review of convictions by military commissions. That is the major change in the amendment before the Senate, the so-called Graham-Levin-Kyl amendment which is before the Senate. There are a number of other changes as well, but of all the changes, what this amendment does is add . . . a direct appeal for convictions by military commissions. (151 Cong. Rec. S12754.)

Other Senators speaking about the amendment prior to the final vote did not even view the detainee's glass as half full. On the morning of November 15, Senator SPECTER exhorted his colleagues to oppose the amendment, stating: ''On the face of the Graham amendment, it . . . even takes away jurisdiction from the Supreme Court of the United States.'' (151 Cong. Rec. S12799.) He later stated that the amendment would ''strip Federal courts of the authority to consider a habeas petition from detainees being held in U.S. custody as enemy combatants,'' (151 Cong. Rec. 12801), and reiterated that the Graham/Levin/Kyl amendment was an amendment ''which on the face takes away jurisdiction of the Supreme Court of the United States.'' Ibid. Senator SPECTER's remarks should at least have placed any Senator on inquiry notice that the final amendment might affect pending cases.

Finally, Senator DURBIN also spoke about the final Graham amendment prior to the vote. As I mentioned earlier, on the morning of November 15, Senator DURBIN expressed concern that the original Graham/Kyl amendment's jurisdictional bar would apply ''retroactively,'' and that it ''likely would prevent the Supreme Court from ruling on the merits of the Hamdan case.'' (151 Cong. Rec. S12799.) Almost immediately after these words, Senator DURBIN also commented on the revised Graham amendment. He stated:

The Graham-Levin substitute amendment would somewhat improve the underlying amendment by expanding the scope of review in the D.C. Circuit Court to include whether CSRT's are legal, but not whether a particular detainee's detention is legal. It would also allow for post-conviction review of military commission convictions. However, the amendment would still eliminate habeas review and overrule Rasul.

(151 Cong. Rec. S12799.) Again, no suggestion was made that the new amendment might carve out pending cases, despite the Senator's expressed concern about retroactivity. The Senator gave no hint that he expected the new amendment to treat pending cases any differently than did the old amendment. Senator DURBIN does not appear to have been misled about the effect of the final Graham amendment, nor did he mislead anyone else.

To be sure, two statements that do appear in the RECORD prior to the final vote on the Graham amendment both assert that the amendment would not ''strip jurisdiction''—and both of these statements are unleavened by Senator LEVIN's accompanying clarification that pending cases would proceed under the substantive review standards of the new law. Both of these statements, however, appear to have been introduced into the record following the final vote—both refer to that vote in the past tense. Neither Senator thus could have misled other Members about the effect of the amendment prior to the vote. Senator KERRY made clear in his statement that his remarks were made only after the November 15 vote: ''Today, I voted in favor of Senator BINGAMAN's amendment No. 2523, because it would have preserved judicial review . . . When the Bingaman amendment failed, I voted for a second-degree amendment.'' (151 Cong. Rec. S12799.) Similarly, Senator REID also emphasized that his statement did not precede the actual vote: ''the Senate has voted to deny the availability of habeas corpus to individuals held by the United States at Guantanamo Bay, Cuba. I rise to explain . . . my votes in favor of the Bingaman amendment and the Graham-Levin amendment earlier today.'' (151 Cong. Rec. S12802.) Neither of these statements was part of the information that was presented to Senators prior to the final vote on the Graham amendment.

To summarize, the legislative record is utterly devoid of any evidence that Senators were led to believe that the Graham/Levin/Kyl amendment would carve out pending cases. Prior to the vote, several Senators spoke of the original amendment's breadth and the fact that it would terminate pending cases. Senator GRAHAM, drawing no distinction between pre- and post-enactment filers, stated that the revised amendment would apply a uniform standard to all 500 Guantanamo detainees. Senator LEVIN made clear that ''the standards we set forth in our amendment will be the substantive standards which we would expect would be applied in all cases, including cases which are pending as of the effective date of this amendment.'' Senator SPECTER pointedly warned that the final amendment would ''strip Federal courts of the authority to consider a habeas petition from detainees'' and ''even take[] away jurisdiction from the Supreme Court of the United States.'' Other Members who condemned the original amendment for terminating pending cases gave no hint that they viewed the new amendment any differently. Quite simply, there is no evidence that anyone misled anyone else about the fact that the Graham amendment would only allow pending cases to go forward under the limited review standards of the new law.

On November 15, the Graham/Levin/Kyl amendment passed the Senate by a vote of 84–14. That same day, the entire Defense Authorization bill passed the Senate by unanimous consent and the Senate appointed conferees. One month later, on December 16, the House and Senate conferees agreed to file a conference report. In the days that followed, a new slew of statements were made in the Senate and even in the House commenting on the meaning of the Graham amendment. Many of these statements are simply the usual effort by the losers of legislative battles to rewrite legislative history. The majority of the Senators, for example, who announced in these statements that the Graham amendment was not intended to affect pending cases also were among the 14 Senators who voted against the final Graham/Levin/Kyl compromise. No one can seriously suggest that these members relied on any representations made by the backers of the amendment. And more importantly, given the marked disagreement between the statements that were made at this late stage about the effect of the amendment on pending cases, no one could justifiably have relied upon one view rather than another to learn what the amendment does. Rather, it is up to members to examine the actual language of the amendment.

I hope that this review of the circumstances of the enactment of the Graham amendment will put to rest any accusation that members of Congress were misled about the amendment's impact on pending cases. Whether the amendment does in fact govern pending cases is another matter. For the reasons expressed here and in the January 18 letter to the Attorney General, I believe that it does so, but that, of course, is a matter for the courts to decide. In the event that the courts concur with my and Senator GRAHAM's interpretation of the amendment, however, no Member should be heard to complain that they were led to believe that the amendment would operate differently.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 18, 2006.

Hon. ALBERTO GONZALES,
Attorney General, U.S. Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: We understand that the Justice Department has been criticized recently in the press and by members of Congress for asserting in court proceedings that a provision in the Fiscal Year 2006 Defense appropriations bill that regulates legal actions brought by Guantanamo detainees—the so-called ''Graham Amendment''—affects pending litigation. Critics contend that the Administration's actions violate an agreement with Members of Congress by arguing that the Graham Amendment makes no exception for pending cases.

We are the lead sponsor and an original cosponsor of the Graham Amendment. We write to assure you that the attorneys under your supervision have correctly interpreted the disputed provision.

The Graham Amendment states in relevant part that ''effect[ive] on the date of enactment of this Act,'' except pursuant to special review procedures specified in the Act, ''no court, justice, or judge shall have jurisdiction to hear or consider'' a habeas application or any other action relating to the detention of a Guantanamo detainee. All Members of the Senate had access to this language before the Senate voted on the final Graham Amendment and the final Defense appropriations bill. The language cannot reasonably be construed to leave intact any power in the courts to entertain the current barrage of habeas petitions and other actions brought by Guantanamo detainees. The Defense appropriations bill was signed into law on December 30, 2005. As of that date, literally ''no court, justice, or judge'' has jurisdiction to entertain these lawsuits. That is what we intended.

Had we intended to preserve some power in the courts to continue to hear the current flurry of legal actions, we would have done so. We did not. Moreover, as we made clear when the final defense bill passed the Senate, we are well aware that for over a century, American courts consistently have interpreted legislation removing a court's jurisdiction over a type of case to also remove its ability to hear pending cases. Surely, this long line of precedent negates any ambiguity as to the effect of the Graham Amendment on pending cases.

We also note that a contrary interpretation of the Amendment's effect would be inconsistent with the structure of the Amendment. As mentioned above, other sections of the Graham Amendment create special standards and procedures for judicial review of the detention and trial of Guantanamo detainees. The Amendment also states that these special standards and procedures shall apply not only to relevant claims filed after enactment, but also those ''*pending on* . . . the date of the enactment of this Act.'' (Emphasis added.) Obviously, no claim pending at the time of enactment sought to invoke the review standards created by the same Act. This provision calls on the courts and parties to construe pending actions that challenge either the fact of detention or a military trial as requests for review pursuant to the special standards in the new law. And just as obviously, if all pending lawsuits were exempted from the new law, no pending case would be governed by the new review standards. To adopt the construction advocated by the critics—that courts retain jurisdiction to continue to hear all current lawsuits in their current form—would render the statutory language applying the new standards to pending cases a dead letter.

The original Graham-Kyl Amendment stated that its jurisdiction-removing provisions

''apply to [actions] pending on or after the date of the enactment of this Act.'' This language later was replaced with language specifying that the Amendment ''shall take effect on the date of the enactment of this Act.'' There were two reasons for this substitution: first, the jurisdiction-removing provision technically does not apply any new standards to the pending cases. Rather, it eliminates the forum in which those cases can be heard. Second, the original language ''applying'' jurisdiction removal to pending cases appeared to require that those cases be dismissed outright. Such a result would have conflicted with subparagraph (h)(2), which is designed to allow current cases to continue in the D.C. Circuit as requests for review pursuant to the new standards. Altering the effective-date language eliminated this internal inconsistency and clarified that, rather than requiring that pending cases be dismissed, the new law allows the courts to construe those cases as requests for review under the new standards and, where necessary, transfer them to the appropriate forum.

This is all that we intended by this modification of the Graham Amendment's effective-date language and, more importantly, this is all that the language does. Nothing in this modification preserves any jurisdiction in the courts to continue the current actions in their present form after the date of the enactment of the Act.

To the extent that anyone construing the Graham Amendment might be tempted to subordinate actual statutory text to expressions of Senators' private intent, two points are in order: first, we are two of the three cosponsors on the ''Graham-Levin-Kyl Amendment'' that was introduced in the Senate on November 14, and one of us is the lead sponsor. Both of us made clear in the Congressional Record at the time that the final law passed the Senate that we understood, in light of standard rules of statutory construction, that removal of jurisdiction would eliminate pending cases—the same interpretation now espoused by the Justice Department.

In addition, on November 14, the other cosponsor of the amendment, Senator Levin, stated that ''[w]hat our Amendment does, as soon as it is enacted and the enactment is effective, it provides that the substantive standards we set forth in our Amendment will be the substantive standards which we would expect would be applied in all cases, including cases which are pending as of the effective date of this Amendment.'' 151 Cong. Rec. 12755. He also stated that day: ''the standards in the Amendment will be applied in pending cases.'' Ibid. The effective-date and pending-claims language in the Amendment introduced on November 14 is identical to that in the enacted statute. Thus, on the day of introduction, all three original cosponsors of the Graham Amendment understood it to operate in the same way: the pending Guantanamo cases can go forward, but only under the special review standards and procedures established by the Amendment.

Finally, we should comment on the various other legislative statements purporting to explain the intent behind the Graham Amendment. By our count, at least nine Members of the minority have introduced statements in the Congressional Record announcing that the Graham Amendment was meant to have no effect on pending litigation. For the record, the only one of these Members who played any role in crafting the Amendment is Senator Levin. Negotiations with Senator Levin resulted in a substantial expansion of the scope of the judicial review permitted under the special review procedures established by the Amendment. None of the other Members commenting on the intent behind the Amendment's effective-date subsection played any significant drafting role of which we are aware. Indeed, some of these minority Members who purport to define the authorial intent also complain that the Amendment was ''negotiated largely behind closed doors by the White House and a select few majority Members of Congress'' (151 Cong. Rec. 12201), or that ''all negotiations on this provision have occurred in back rooms, without the involvement of the vast majority of Congress, and without even consulting most of the conferees.'' 151 Cong. Rec. 14170. Such complaints are not consistent with the ''insider'' perspective that these Members purport to share with the reader. Several of these Members also are among the 14 Senators who even voted against the final Graham-Levin-Kyl Amendment when it was offered in the Senate on November 15. Clearly, it would be inappropriate to allow those who opposed the amendment to define the intent of the authors of the amendment.

Of course, more important than any private intent harbored by any Member of Congress is the actual legislative text that was passed by both houses of Congress and signed into law by the President. As we noted previously, absent repudiation by the federal courts of over a century of precedent construing like statutes, the Graham Amendment unambiguously eliminates the federal courts' power to hear Guantanamo detainees' cases in their current form. Notwithstanding the accusations made by some critics, your litigators have, in our view, properly interpreted the Graham Amendment. And, at the end of the day, we anticipate that the courts will make these jurisdictional determinations in accord with their own rules, procedures, precedent, and the plain language of the statute.

Sincerely,

LINDSEY O. GRAHAM,
U.S. Senator.
JON KYL,
U.S. Senator.

GLOBAL NUCLEAR ENERGY PARTNERSHIP

Mr. CRAIG. Mr. President, I rise today to express my agreement with President Bush's belief that our country's security depends in large part on a diverse energy portfolio, one that is not overly reliant on any one energy source, especially sources of foreign origin. I agree with the President that this country is overly dependent on foreign oil. Consistent with that belief, the Bush administration has just announced a potentially far-reaching energy program known as the Global Nuclear Energy Partnership or GNEP. This program provides a wide-reaching, long-term plan for establishing a robust and sustainable future for nuclear energy in this country and abroad.

The Global Nuclear Energy Partnership promises to provide abundant energy, without emitting greenhouse gases; to recycle used nuclear fuel in order to minimize waste; to safely and securely allow developing nations to deploy nuclear power to meet their energy needs, while reducing proliferation risks; to assure maximum energy recovery from still-valuable used nuclear fuel; and to allow the U.S. to rely on a single geologic waste repository for the rest of this century.

Nuclear energy currently provides about 20 percent of this Nation's electricity, and does so without emitting any carbon, greenhouse gases, or other air pollutants. All the waste generated by commercial nuclear powerplants is securely managed and destined for safe, permanent disposal in a geologic repository.

However, according to current law, that repository can contain only slightly more than the amount of waste already stored at existing reactor sites. Even if the law is changed, the repository at Yucca Mountain can only accommodate about the amount of spent nuclear fuel that will be generated by the existing reactors in this country over their lifetimes. If nuclear power is to have a future in this country, even to maintain its current 20 percent share of electricity generation, either a second repository will need to be developed soon—with many more to follow—or an alternative means of managing this waste is needed.

After a single use, spent nuclear fuel retains more than 95 percent of its energy potential. That energy potential could be tapped by reprocessing the spent fuel, recycling the useable part and disposing of the rest as waste, which makes up only about 3–4 percent of the spent fuel. This could substantially reduce the amount of long-lived nuclear waste requiring burial in a geologic repository, and could extend the lifetime of the Yucca Mountain repository many fold.

But efforts to recycle spent fuel were abandoned in this country back in the 1970s, largely because of concerns about nuclear proliferation. Those concerns stemmed from the fact that, at that time, the method used to recycle spent fuel, the ''PUREX'' process, separated out pure plutonium, which might be used to construct a nuclear bomb.

During the 30-plus years since then, the U.S. has—through research at its National Laboratories—made considerable progress in developing new methods for reprocessing spent fuel that are much less prone to proliferation risks, because they do not separate out pure plutonium, but keep it mixed with other actinides. This mixture is not readily used for nuclear weapons.

Reintroducing recycling into this country's strategy for managing spent fuel is a major change in policy, and one that deserves serious discussion. That discussion should be based on fact and not emotion; should address current technologies, not those from more than a generation ago; and should consider reasonable alternatives to maintaining nuclear energy as a viable part of our Nation's energy supply.

And what reasonable alternatives are there? Total electricity consumption in the U.S. is projected to increase by about 40 percent by 2025. Wind and solar energy cannot provide large-scale, base-load electricity, because they are intermittent energy sources. Hydro provides about 10 percent of our electricity right now, but building new

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Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Monday, February 13, 2006 11:49 AM
To:	Garre, Gregory G; Katsas, Gregory (CIV)
Subject:	FW: Kyl Feb 9 Record statement
Attachments:	tmp.htm; Kyl EC p.1.pdf; Kyl EC p.2.pdf; Kyl EC p.3.pdf; Kyl EC p.4.pdf

fyi

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov [mailto: [redacted]@judiciary-rep.senate.gov]
Sent: Monday, February 13, 2006 10:06 AM
To: Gorsuch, Neil M [redacted]
Subject: Kyl Feb 9 Record statement

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But I will also continue to strongly oppose any reauthorization of the PATRIOT Act that does not protect the rights and freedoms of law-abiding Americans with no connection to terrorism. This deal does not meet that standard; it doesn't even come close.

The PATRIOT Act conference report, combined with the few changes announced today, does not address the core issues that our bipartisan group of Senators have been concerned about for the last several years. The modest but critical changes we have been pushing are not included. I am not talking about new issues. We are talking about the same issues that concerned us when we first introduced the SAFE Act more than 2 years ago to fix the PATRIOT Act. And we have laid them out in detail in several different letters over the past few months.

First, and most importantly, the deal does not ensure that the government can only obtain the library, medical and other sensitive business records of people who have some link to suspected terrorists. This is the section 215 issue, which has been at the center of this debate over the PATRIOT Act. Section 215 of the PATRIOT Act allows the government to obtain secret court orders in domestic intelligence investigations to get all kinds of business records about people, including not just library records but also medical records and various other types of business records. The Senate bill that this body passed by unanimous consent back in July would have ensured that the government cannot use this power to go after someone who has no connection whatsoever to a terrorist or spy or their activities. The conference report replaces the Senate test with a simple relevance standard, which is not adequate protection against a fishing expedition. And the deal struck today leaves that provision of the conference report unchanged.

Second, the deal does not provide meaningful judicial review of the gag orders placed on recipients of section 215 business records orders and National Security Letters. Under the deal, such review can only take place after a year has passed and can only be successful if the recipient proves that that government has acted in bad faith. The deal ignores the serious first amendment problem with the gag rule under current law. In fact, it arguably makes the law worse in this area.

And third, the deal does not ensure that when government agents secretly break into the homes of Americans to do a so-called sneak and peek search, they tell the owners of those homes in most circumstances within 7 days, as courts have said they should, and as the Senate bill did.

As I understand it, this deal only makes a few small changes. It would permit judicial review of a section 215 gag order, but under conditions that would make it very difficult for anyone to obtain meaningful judicial review. It would state specifically that the government can serve National Security Letters on libraries if the library comes within the current requirements of the NSL statute, a provision that as I read it, just restates current law. And it would clarify that people who receive a National Security Letter would not have to tell the FBI if they consult with an attorney. This last change is a positive step, but it is only one relatively minor change.

So this deal comes nowhere near the significant, but very reasonable, changes in the law that I believe are a necessary part of any reauthorization package. We weren't asking for much. We weren't even asking for changes that would get us close to the bill that this body passed without objection last July. But the White House would not be reasonable and has forced a deal that is not satisfactory in an effort to serve their partisan purposes. I will oppose it, and I will fight it.

ENEMY COMBATANTS

Mr. KYL. Mr. President, I rise today to put into the RECORD a letter that Senator GRAHAM and I recently sent to the Attorney General, and to respond to misrepresentations that have been made in the press and by others regarding the circumstances of the enactment of the Graham amendment to last year's Defense Authorization bill. The letter responds to similar misleading attacks that were made against the Justice Department at the beginning of this year. My office has received several inquiries about this letter, which was sent to the Attorney General on January 18. So that anyone interested in this matter might review the letter, I will ask to have it printed in the RECORD.

I ordinarily would not comment on the meaning of legislation that already has been enacted into law. In this case, however, there has been a considerable amount of post-enactment commentary by others on the meaning of the Graham amendment. Much of this commentary insinuates that the Administration and the backers of the amendment are violating an agreement with members of the minority by characterizing the amendment as governing pending litigation. Since the enactment of the Graham amendment last December, some critics have begun to paint a revisionist history of this legislation. In this new account, the Graham amendment supposedly was intentionally modified by the Senate so as not to affect pending litigation. Also in this version of events, Senators relied on representations that the amendment was modified to carve out pending litigation when they voted in favor of its final passage. This conspiracy theory is without foundation.

For those unfamiliar with the Graham amendment, the disputed provision in the legislation changes the Federal habeas code by adding a subsection providing as follows: ''Except as provided in section 1005 of the Detainee Treatment Act of 2005, no court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the Department of Defense at Guantanamo Bay, Cuba.'' The amendment also provides that ''[t]his section shall take effect on the date of the enactment of this Act.'' In addition, the amendment establishes substantive standards for limited judicial review of CSRT determinations and military-commission decisions, and provides that the paragraphs creating those review standards ''shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act.''

Some critics now assert that nothing in the amendment prevents pre-enactment habeas actions from going forward in their previous form. For reasons explained in the letter to the Attorney General, I believe that such an interpretation is untenable. In addition to the points made in the letter, I would also add the following: the amendment states that the changes that it makes to the habeas code ''shall take effect on the date of the enactment of this Act.'' If the current pack habeas cases are allowed to go forward in their current form, the law's provision that ''no court, justice, or judge shall have jurisdiction'' to hear those cases in that form will not be effective on the date of the law's enactment. Rather, the courts still would have jurisdiction over these cases after the date of enactment, and the law's all-encompassing jurisdictional bar would become effective only when the current litigation would exhaust itself—a date that likely would come only years in the future. Such a result would not be consistent with the requirement that the law's total jurisdictional prohibition ''take effect of the date of the enactment of this Act.''

Of those critics who argue that the amendment carves out pre-enactment habeas cases, I would simply ask, what part of ''no court, justice or judge'' do you not understand? How could this language possibly be more comprehensive? And how could any Senator possibly have been misled as to its effect?

Some of the recent criticism of the amendment in the press has taken a new tack. A few critics have begun to suggest that even if the legislative text of the Graham amendment does wipe out the pending habeas cases, Senators were affirmatively misled about this aspect of the final amendment. The allegation is that Senators were led to understand that the amendment that they were voting on would not affect pending cases. I have reviewed the legislative record from the days leading up to the vote on final passage of the Graham amendment, and find this suggestion wanting. Allow me to describe what was actually said about the original version of the amendment—the Graham/Kyl amendment—as well as the final version, the Graham/Levin/Kyl amendment, prior to their passage.

On November 10, Senator LEVIN stated with regard to the original Graham/Kyl amendment, ''I read the language as to how broad it is. It eliminates explicitly any appeal: No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus, and that is the way an appeal goes to a court from one of these people. It is eliminated.'' (151 Cong. Rec. S12665.) Similarly, later that day, Senator BINGAMAN characterized the original Graham amendment as follows: ''It essentially denies all courts anywhere the right to consider any petition from any prisoner being held at Guantanamo Bay.'' (151 Cong. Rec. S12667.) And later, on November 15, Senator DURBIN said the following about the original Graham/Kyl amendment: ''the amendment would eliminate habeas for detainees at Guantanamo Bay. . . . It would strip Federal courts, including the U.S. Supreme Court, of the right to hear any challenge to any practice at Guantanamo Bay, other than a one-time appeal to the D.C. Circuit. . . . It applies retroactively, and therefore also likely would prevent the Supreme Court from ruling on the merits of the Hamdan case, a pending challenge to the legality of the administration's military commissions.'' (151 Cong. Rec. S12799.)

Thus from the beginning, Senators recognized and emphasized to their colleagues that the original Graham amendment language was comprehensive. They also recognized and emphasized that the amendment barred pending cases from going forward, including the Hamdan case in the Supreme Court. These aspects of the original amendment not only were generally acknowledged, but were a point of controversy during the Senate debate.

Had the subsequent Graham/Levin/Kyl amendment departed from the original amendment by carving out pending cases, this would have been a momentous change. Aside from the fact that such a change would have gutted the amendment, it also would addressed one of the issues about which opposing Senators had expressed sharp concern. Surely, had such a change been made or even intended to be made, the fact would have been noted. Instead, it is the dog that did not bark.

First, neither Senator GRAHAM nor I ever said anything in the days leading up to the final vote on the amendment that could possibly suggest to anyone that the modified amendment exempted pending cases. Senator GRAHAM is the lead sponsor and I am an original cosponsor of the amendment that passed the Senate on November 10. We controlled the amendment. No one was in a better position than we were to describe what the amendment does and does not do. Had such a major change to the amendment been made, it is inconceivable that one of us would not at least have commented on it. No such comment or even the suggestion of such a change was made by either one of us.

Indeed, the few statements that Senator GRAHAM did make prior to passage of Graham/Levin/Kyl that describe the amendment's reach tend to confirm that the amendment does not treat detainees differently based on when they filed their claims. For example, on the evening of November 14, when the final amendment was introduced, Senator GRAHAM noted that ''[i]nstead of having unlimited habeas corpus opportunities under the Constitution, we give every enemy combatant, all 500, a chance to go to Federal court, the Circuit Court of Appeals for the District of Columbia.'' (151 Cong. Rec. S12754.) ''What we have done, working with Senators LEVIN, KYL, and others, we have created that same type of appeals process for all military commission decisions.'' Ibid.

During that same evening, Senator LEVIN also commented on the new amendment. Although he said that the amendment did not ''strip jurisdiction'' from the courts, he made clear that he meant that jurisdiction remained in place because the pending cases—including challenges to military-commission decisions—could go forward as claims invoking the substantive review standards of the new amendment. Senator LEVIN stated: ''What we have done in this amendment, we have said that the standards in the amendment will be applied in pending cases, but the amendment will not trip the courts of jurisdiction over those cases. For instance, the Supreme Court jurisdiction in Hamdan is not affected.'' (151 Cong. Rec. S12755.) Again, later: ''what our amendment does, as soon as it is enacted and the enactment is effective, it provides that the standards we set forth in our amendment will be the substantive standards which we would expect would be applied in all cases, including cases which are pending as of the effective date of this amendment.'' Ibid. And again: ''because it would not strip courts of jurisdiction over these matters where they have taken jurisdiction, it does, again, apply the substantive law and assume that the courts would apply the substantive law if this amendment is agreed to.'' Ibid.

Whether the amendment, by barring one type of claim and authorizing another type to take its place, strips the courts of jurisdiction, is, to some extent, a matter of perspective. It is a question of whether the glass is half empty or half full. On the operative issue, however, Senator LEVIN's remarks on November 14 are consistent not only with my own and Senator GRAHAM's characterization of the amendment (see, e.g. 151 Cong. Rec. S14263), but also with the interpretation now advanced by the Justice Department: that the current claims can go forward, but only as claims for review under the substantive standards created by the new act.

It bears mention that the revised amendment's authorization of judicial review of military-commission decisions, though narrow and venue-restricted, was a substantial departure from the original amendment. As Senator LEVIN had emphasized on November 10, the original amendment ''eliminates court review of the sentences of enemy combatants before these commissions.'' (151 Cong. Rec. S12664.) He stated that the amendment even ''eliminates the appeal of a conviction that led to a capital offense.'' (151 Cong. Rec. S12665.) Under the original Graham amendment, no appeal of any kind would have been permitted from the military-commission verdict in the Hamdan case.

The revised amendment does allow limited appeals of final military-commission decisions. In fact, this change was described to Senators as the principal difference between the original and revised Graham amendments. Senator LEVIN noted on the morning of November 15, before the vote on Graham/Levin/Kyl:

> The amendment which was approved last Thursday, which is the one now awaiting this amendment, would have provided for review only for status determinations and not of convictions by military commissions. . . . One of the reasons I voted against the amendment last Thursday is that it did not provide for that direct judicial review of convictions by military commissions. That is the major change in the amendment before the Senate, the so-called Graham-Levin-Kyl amendment which is before the Senate. There are a number of other changes as well, but of all the changes, what this amendment does is add . . . a direct appeal for convictions by military commissions. (151 Cong. Rec. S12754.)

Other Senators speaking about the amendment prior to the final vote did not even view the detainee's glass as half full. On the morning of November 15, Senator SPECTER exhorted his colleagues to oppose the amendment, stating: ''On the face of the Graham amendment, it . . . even takes away jurisdiction from the Supreme Court of the United States.'' (151 Cong. Rec. S12799.) He later stated that the amendment would ''strip Federal courts of the authority to consider a habeas petition from detainees being held in U.S. custody as enemy combatants,'' (151 Cong. Rec. 12801), and reiterated that the Graham/Levin/Kyl amendment was an amendment ''which on the face takes away jurisdiction of the Supreme Court of the United States.'' Ibid. Senator SPECTER's remarks should at least have placed any Senator on inquiry notice that the final amendment might affect pending cases.

Finally, Senator DURBIN also spoke about the final Graham amendment prior to the vote. As I mentioned earlier, on the morning of November 15, Senator DURBIN expressed concern that the original Graham/Kyl amendment's jurisdictional bar would apply ''retroactively,'' and that it ''likely would prevent the Supreme Court from ruling on the merits of the Hamdan case.'' (151 Cong. Rec. S12799.) Almost immediately after these words, Senator DURBIN also commented on the revised Graham amendment. He stated:

The Graham-Levin substitute amendment would somewhat improve the underlying amendment by expanding the scope of review in the D.C. Circuit Court to include whether CSRT's are legal, but not whether a particular detainee's detention is legal. It would also allow for post-conviction review of military commission convictions. However, the amendment would still eliminate habeas review and overrule Rasul.

(151 Cong. Rec. S12799.) Again, no suggestion was made that the new amendment might carve out pending cases, despite the Senator's expressed concern about retroactivity. The Senator gave no hint that he expected the new amendment to treat pending cases any differently than did the old amendment. Senator DURBIN does not appear to have been misled about the effect of the final Graham amendment, nor did he mislead anyone else.

To be sure, two statements that do appear in the RECORD prior to the final vote on the Graham amendment both assert that the amendment would not ''strip jurisdiction''—and both of these statements are unleavened by Senator LEVIN's accompanying clarification that pending cases would proceed under the substantive review standards of the new law. Both of these statements, however, appear to have been introduced into the record following the final vote—both refer to that vote in the past tense. Neither Senator thus could have misled other Members about the effect of the amendment prior to the vote. Senator KERRY made clear in his statement that his remarks were made only after the November 15 vote: ''Today, I voted in favor of Senator BINGAMAN's amendment No. 2523, because it would have preserved judicial review . . . When the Bingaman amendment failed, I voted for a second-degree amendment.'' (151 Cong. Rec. S12799.) Similarly, Senator REID also emphasized that his statement did not precede the actual vote: ''the Senate has voted to deny the availability of habeas corpus to individuals held by the United States at Guantanamo Bay, Cuba. I rise to explain . . . my votes in favor of the Bingaman amendment and the Graham-Levin amendment earlier today.'' (151 Cong. Rec. S12802.) Neither of these statements was part of the information that was presented to Senators prior to the final vote on the Graham amendment.

To summarize, the legislative record is utterly devoid of any evidence that Senators were led to believe that the Graham/Levin/Kyl amendment would carve out pending cases. Prior to the vote, several Senators spoke of the original amendment's breadth and the fact that it would terminate pending cases. Senator GRAHAM, drawing no distinction between pre- and post-enactment filers, stated that the revised amendment would apply a uniform standard to all 500 Guantanamo detainees. Senator LEVIN made clear that ''the standards we set forth in our amendment will be the substantive standards which we would expect would be applied in all cases, including cases which are pending as of the effective date of this amendment.'' Senator SPECTER pointedly warned that the final amendment would ''strip Federal courts of the authority to consider a habeas petition from detainees'' and ''even take[] away jurisdiction from the Supreme Court of the United States.'' Other Members who condemned the original amendment for terminating pending cases gave no hint that they viewed the new amendment any differently. Quite simply, there is no evidence that anyone misled anyone else about the fact that the Graham amendment would only allow pending cases to go forward under the limited review standards of the new law.

On November 15, the Graham/Levin/Kyl amendment passed the Senate by a vote of 84–14. That same day, the entire Defense Authorization bill passed the Senate by unanimous consent and the Senate appointed conferees. One month later, on December 16, the House and Senate conferees agreed to file a conference report. In the days that followed, a new slew of statements were made in the Senate and even in the House commenting on the meaning of the Graham amendment. Many of these statements are simply the usual effort by the losers of legislative battles to rewrite legislative history. The majority of the Senators, for example, who announced in these statements that the Graham amendment was not intended to affect pending cases also were among the 14 Senators who voted against the final Graham/Levin/Kyl compromise. No one can seriously suggest that these members relied on any representations made by the backers of the amendment. And more importantly, given the marked disagreement between the statements that were made at this late stage about the effect of the amendment on pending cases, no one could justifiably have relied upon one view rather than another to learn what the amendment does. Rather, it is up to members to examine the actual language of the amendment.

I hope that this review of the circumstances of the enactment of the Graham amendment will put to rest any accusation that members of Congress were misled about the amendment's impact on pending cases. Whether the amendment does in fact govern pending cases is another matter. For the reasons expressed here and in the January 18 letter to the Attorney General, I believe that it does so, but that, of course, is a matter for the courts to decide. In the event that the courts concur with my and Senator GRAHAM's interpretation of the amendment, however, no Member should be heard to complain that they were led to believe that the amendment would operate differently.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 18, 2006.

Hon. ALBERTO GONZALES,
Attorney General, U.S. Department of Justice, Washington, DC.

DEAR MR. ATTORNEY GENERAL: We understand that the Justice Department has been criticized recently in the press and by members of Congress for asserting in court proceedings that a provision in the Fiscal Year 2006 Defense appropriations bill that regulates legal actions brought by Guantanamo detainees—the so-called ''Graham Amendment''—affects pending litigation. Critics contend that the Administration's actions violate an agreement with Members of Congress by arguing that the Graham Amendment makes no exception for pending cases.

We are the lead sponsor and an original cosponsor of the Graham Amendment. We write to assure you that the attorneys under your supervision have correctly interpreted the disputed provision.

The Graham Amendment states in relevant part that ''effect[ive] on the date of enactment of this Act,'' except pursuant to special review procedures specified in the Act, ''no court, justice, or judge shall have jurisdiction to hear or consider'' a habeas application or any other action relating to the detention of a Guantanamo detainee. All Members of the Senate had access to this language before the Senate voted on the final Graham Amendment and the final Defense appropriations bill. The language cannot reasonably be construed to leave intact any power in the courts to entertain the current barrage of habeas petitions and other actions brought by Guantanamo detainees. The Defense appropriations bill was signed into law on December 30, 2005. As of that date, literally ''no court, justice, or judge'' has jurisdiction to entertain these lawsuits. That is what we intended.

Had we intended to preserve some power in the courts to continue to hear the current flurry of legal actions, we would have done so. We did not. Moreover, as we made clear when the final defense bill passed the Senate, we are well aware that for over a century, American courts consistently have interpreted legislation removing a court's jurisdiction over a type of case to also remove its ability to hear pending cases. Surely, this long line of precedent negates any ambiguity as to the effect of the Graham Amendment on pending cases.

We also note that a contrary interpretation of the Amendment's effect would be inconsistent with the structure of the Amendment. As mentioned above, other sections of the Graham Amendment create special standards and procedures for judicial review of the detention and trial of Guantanamo detainees. The Amendment also states that these special standards and procedures shall apply not only to relevant claims filed after enactment, but also those ''*pending on* . . . the date of the enactment of this Act.'' (Emphasis added.) Obviously, no claim pending at the time of enactment sought to invoke the review standards created by the same Act. This provision calls on the courts and parties to construe pending actions that challenge either the fact of detention or a military trial as requests for review pursuant to the special standards in the new law. And just as obviously, if all pending lawsuits were exempted from the new law, no pending case would be governed by the new review standards. To adopt the construction advocated by the critics—that courts retain jurisdiction to continue to hear all current lawsuits in their current form—would render the statutory language applying the new standards to pending cases a dead letter.

The original Graham-Kyl Amendment stated that its jurisdiction-removing provisions

''apply to [actions] pending on or after the date of the enactment of this Act.'' This language later was replaced with language specifying that the Amendment ''shall take effect on the date of the enactment of this Act.'' There were two reasons for this substitution: first, the jurisdiction-removing provision technically does not apply any new standards to the pending cases. Rather, it eliminates the forum in which those cases can be heard. Second, the original language ''applying'' jurisdiction removal to pending cases appeared to require that those cases be dismissed outright. Such a result would have conflicted with subparagraph (h)(2), which is designed to allow current cases to continue in the D.C. Circuit as requests for review pursuant to the new standards. Altering the effective-date language eliminated this internal inconsistency and clarified that, rather than requiring that pending cases be dismissed, the new law allows the courts to construe those cases as requests for review under the new standards and, where necessary, transfer them to the appropriate forum.

This is all that we intended by this modification of the Graham Amendment's effective-date language and, more importantly, this is all that the language does. Nothing in this modification preserves any jurisdiction in the courts to continue the current actions in their present form after the date of the enactment of the Act.

To the extent that anyone construing the Graham Amendment might be tempted to subordinate actual statutory text to expressions of Senators' private intent, two points are in order: first, we are two of the three cosponsors on the ''Graham-Levin-Kyl Amendment'' that was introduced in the Senate on November 14, and one of us is the lead sponsor. Both of us made clear in the Congressional Record at the time that the final law passed the Senate that we understood, in light of standard rules of statutory construction, that removal of jurisdiction would eliminate pending cases—the same interpretation now espoused by the Justice Department.

In addition, on November 14, the other cosponsor of the amendment, Senator Levin, stated that ''[w]hat our Amendment does, as soon as it is enacted and the enactment is effective, it provides that the substantive standards we set forth in our Amendment will be the substantive standards which we would expect would be applied in all cases, including cases which are pending as of the effective date of this Amendment.'' 151 Cong. Rec. 12755. He also stated that day: ''the standards in the Amendment will be applied in pending cases.'' Ibid. The effective-date and pending-claims language in the Amendment introduced on November 14 is identical to that in the enacted statute. Thus, on the day of introduction, all three original cosponsors of the Graham Amendment understood it to operate in the same way: the pending Guantanamo cases can go forward, but only under the special review standards and procedures established by the Amendment.

Finally, we should comment on the various other legislative statements purporting to explain the intent behind the Graham Amendment. By our count, at least nine Members of the minority have introduced statements in the Congressional Record announcing that the Graham Amendment was meant to have no effect on pending litigation. For the record, the only one of these Members who played any role in crafting the Amendment is Senator Levin. Negotiations with Senator Levin resulted in a substantial expansion of the scope of the judicial review permitted under the special review procedures established by the Amendment. None of the other Members commenting on the intent behind the Amendment's effective-date subsection played any significant drafting role of which we are aware. Indeed, some of these minority Members who purport to define the authorial intent also complain that the Amendment was ''negotiated largely behind closed doors by the White House and a select few majority Members of Congress'' (151 Cong. Rec. 12201), or that ''all negotiations on this provision have occurred in back rooms, without the involvement of the vast majority of Congress, and without even consulting most of the conferees.'' 151 Cong. Rec. 14170. Such complaints are not consistent with the ''insider'' perspective that these Members purport to share with the reader. Several of these Members also are among the 14 Senators who even voted against the final Graham-Levin-Kyl Amendment when it was offered in the Senate on November 15. Clearly, it would be inappropriate to allow those who opposed the amendment to define the intent of the authors of the amendment.

Of course, more important than any private intent harbored by any Member of Congress is the actual legislative text that was passed by both houses of Congress and signed into law by the President. As we noted previously, absent repudiation by the federal courts of over a century of precedent construing like statutes, the Graham Amendment unambiguously eliminates the federal courts' power to hear Guantanamo detainees' cases in their current form. Notwithstanding the accusations made by some critics, your litigators have, in our view, properly interpreted the Graham Amendment. And, at the end of the day, we anticipate that the courts will make these jurisdictional determinations in accord with their own rules, procedures, precedent, and the plain language of the statute.

Sincerely,

LINDSEY O. GRAHAM,
U.S. Senator.
JON KYL,
U.S. Senator.

GLOBAL NUCLEAR ENERGY PARTNERSHIP

Mr. CRAIG. Mr. President, I rise today to express my agreement with President Bush's belief that our country's security depends in large part on a diverse energy portfolio, one that is not overly reliant on any one energy source, especially sources of foreign origin. I agree with the President that this country is overly dependent on foreign oil. Consistent with that belief, the Bush administration has just announced a potentially far-reaching energy program known as the Global Nuclear Energy Partnership or GNEP. This program provides a wide-reaching, long-term plan for establishing a robust and sustainable future for nuclear energy in this country and abroad.

The Global Nuclear Energy Partnership promises to provide abundant energy, without emitting greenhouse gases; to recycle used nuclear fuel in order to minimize waste; to safely and securely allow developing nations to deploy nuclear power to meet their energy needs, while reducing proliferation risks; to assure maximum energy recovery from still-valuable used nuclear fuel; and to allow the U.S. to rely on a single geologic waste repository for the rest of this century.

Nuclear energy currently provides about 20 percent of this Nation's electricity, and does so without emitting any carbon, greenhouse gases, or other air pollutants. All the waste generated by commercial nuclear powerplants is securely managed and destined for safe, permanent disposal in a geologic repository.

However, according to current law, that repository can contain only slightly more than the amount of waste already stored at existing reactor sites. Even if the law is changed, the repository at Yucca Mountain can only accommodate about the amount of spent nuclear fuel that will be generated by the existing reactors in this country over their lifetimes. If nuclear power is to have a future in this country, even to maintain its current 20 percent share of electricity generation, either a second repository will need to be developed soon—with many more to follow—or an alternative means of managing this waste is needed.

After a single use, spent nuclear fuel retains more than 95 percent of its energy potential. That energy potential could be tapped by reprocessing the spent fuel, recycling the useable part and disposing of the rest as waste, which makes up only about 3–4 percent of the spent fuel. This could substantially reduce the amount of long-lived nuclear waste requiring burial in a geologic repository, and could extend the lifetime of the Yucca Mountain repository many fold.

But efforts to recycle spent fuel were abandoned in this country back in the 1970s, largely because of concerns about nuclear proliferation. Those concerns stemmed from the fact that, at that time, the method used to recycle spent fuel, the ''PUREX'' process, separated out pure plutonium, which might be used to construct a nuclear bomb.

During the 30-plus years since then, the U.S. has—through research at its National Laboratories—made considerable progress in developing new methods for reprocessing spent fuel that are much less prone to proliferation risks, because they do not separate out pure plutonium, but keep it mixed with other actinides. This mixture is not readily used for nuclear weapons.

Reintroducing recycling into this country's strategy for managing spent fuel is a major change in policy, and one that deserves serious discussion. That discussion should be based on fact and not emotion; should address current technologies, not those from more than a generation ago; and should consider reasonable alternatives to maintaining nuclear energy as a viable part of our Nation's energy supply.

And what reasonable alternatives are there? Total electricity consumption in the U.S. is projected to increase by about 40 percent by 2025. Wind and solar energy cannot provide large-scale, base-load electricity, because they are intermittent energy sources. Hydro provides about 10 percent of our electricity right now, but building new

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, February 13, 2006 11:49 AM
To: [redacted]@judiciary-rep.senate.gov'
Subject: RE: Kyl Feb 9 Record statement

Thanks!

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov [mailto [redacted]@judiciary-rep.senate.gov]
Sent: Monday, February 13, 2006 10:06 AM
To: Gorsuch, Neil M [redacted]
Subject: Kyl Feb 9 Record statement

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[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Monday, February 13, 2006 12:52 PM
To: Gorsuch, Neil M
Subject: FW: CFR speech on Friday
Attachments: tmp.htm

See any issues?

> -----Original Message-----
> From: [redacted] DoD OGC
> Sent: Monday, February 13, 2006 11:13
> To: [redacted] CIV, OASD-PA; [redacted] DoD OGC
> Cc: [redacted] CIV, OSD
> Subject: RE: CFR speech on Friday
>
> [redacted] I see no objection, but we also need [redacted] review.
>
[redacted]
>
> -----Original Message-----
> From: [redacted] CIV, OASD-PA
> Sent: Monday, February 13, 2006 10:51 AM
> To: [redacted] DoD OGC
> Cc: [redacted], CIV, OSD
> Subject: CFR speech on Friday
>
> [redacted]
>
> Please see attached. I think they are okay if I sign it but wanted to > make sure.
>
> [redacted]
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> ON-THE-RECORD and MEDIA RELEASE
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> I understand that my remarks at the Council on Foreign Relations event > scheduled for Friday,

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> I waive any financial remuneration or other consideration for subsequent > use of my remarks.
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> _____
> Signature
> Donald Rumsfeld
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> _____
> Date
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[redacted]
>
> [redacted]office
> [redacted]cell
> [redacted]@osd.mil
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>

See any issues?

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From: [redacted] DoD OGC

Sent: Monday, February 13, 2006 11:13

To: [redacted] CIV, OASD-PA; [redacted] DoD OGC

Cc: [redacted] CIV, OSD

Subject: RE: CFR speech on Friday

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[redacted]

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Sent: Monday, February 13, 2006 10:51 AM

To: [redacted] DoD OGC

Cc: [redacted] CIV, OSD

Subject: CFR speech on Friday

[redacted]

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[redacted]

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ON-THE-RECORD and MEDIA RELEASE

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will be *on-the-record.*

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_____

Signature
Donald Rumsfeld

_____

Date

[redacted]

[redacted] *office*
cell
[redacted]*@osd.mil*

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, February 13, 2006 1:28 PM
To: [redacted]@dodgc.osd.mil'
Cc: Elwood, Courtney
Subject: RE: CFR speech on Friday

I don't any issue with this but wonder whether or not the AG signed something like it. Am adding Courtney Elwood of OAG in the hope she can tell us what precedent says on this!

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto [redacted]@dodgc.osd.mil]
Sent: Monday, February 13, 2006 12:52 PM
To: Gorsuch, Neil M
Subject: FW: CFR speech on Friday

See any issues?

> -----Original Message-----
> From: [redacted] DoD OGC
> Sent: Monday, February 13, 2006 11:13
> To: [redacted] OASD-PA; [redacted] DoD OGC
> Cc: [redacted] CIV, OSD
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, February 13, 2006 1:35 PM
To: Elwood, Courtney; [redacted]@dodgc.osd.mil'
Subject: RE: CFR speech on Friday

Thanks!

-----Original Message-----
From: Elwood, Courtney
Sent: Monday, February 13, 2006 1:33 PM
To: Gorsuch, Neil M; [redacted]@dodgc.osd.mil'
Subject: Re: CFR speech on Friday

Yes, my recollection is that the AG did sign something like this on [redacted].

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: [redacted]@dodgc.osd.mil' <[redacted]@dodgc.osd.mil>
CC: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Mon Feb 13 13:28:28 2006
Subject: RE: CFR speech on Friday

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Subject: FW: CFR speech on Friday

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> Signature
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> _____
> Date
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office
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USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Tuesday, February 14, 2006 8:04 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing for Tuesday, February 14, 2006
Attachments:	agnb060214.pdf; agnb060214.doc

THE ATTORNEY GENERAL'S NEWS BRIEFING

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, FEBRUARY 14, 2006 7:45 AM EST

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TERRORISM NEWS:

ABA Says Bush Exceeded His Constitutional Powers In NSA Surveillance Program. The American Bar Association yesterday denounced President Bush's domestic surveillance program, saying he exceeded his constitutional powers. The AP (2/14, Johnson) reports that the ABA "adopted a policy opposing any future government use of electronic surveillance in the United States for foreign intelligence purposes without first obtaining warrants from a special court set up under the 1978 Foreign Intelligence Surveillance Act. The 400,000-member ABA said that if the president believes the FISA is inadequate to protect Americans, he should to ask Congress to amend the act. … The ABA has urged Congress to affirm that when it authorized Bush to go to war, it did not intend to endorse warrantless spying."

Reuters (2/14, Conlon) reports, "The association's resolution calls on Bush 'to abide by the limitations which the Constitution imposes on a President' to make sure national security is protected in a way that is consistent with constitutional guarantees. It opposes 'any future electronic surveillance inside the United States by any U.S. government agency for foreign intelligence purposes that does not comply with provisions of the Foreign Intelligence Surveillance Act.'"

WLKY-TV Louisville (2/14, 5:41 a.m.) reported, "The nation's largest group of lawyers will not stand behind President Bush's domestic surveillance program. The American Bar Association accuses the President of exceeding his powers under the Constitution, this despite the fact that Attorney General Alberto Gonzales, a member of the bar, defends the…program. The spying program has been highly controversial since it was disclosed in December."

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GOP Pollster Says Democrats Reflexively Oppose Anything Bush Supports. David Winston president of the GOP polling firm The Winston Group, writes in Roll Call (2/14) that former Senate Minority Leader Tom Daschle and Rep. Jane Harman, the ranking member on the House Intelligence Committee claim Democrats "were briefed on many occasions about the National Security Agency foreign terrorist surveillance program, but they simply had no avenue open to them to express their deep concerns about its legality. … How about picking up the phone and calling the president, the vice president, House Intelligence Chairman Pete Hoekstra (R-Mich.), Senate Intelligence Chairman Pat Roberts (R-Kan.), Speaker Dennis Hastert (R-Ill.), Defense Secretary Donald Rumsfeld, then-National Security Adviser Condoleezza Rice, House Minority Leader Nancy Pelosi (D-Calif.), Senate Minority Leader Harry Reid (D-Nev.) or the head of the NSA surveillance program?" Winston adds that Democrats "simply have been unable to come to terms with what they believe, deep down, as a party about national security. They have no ideas, no alternatives, so they try to pass off criticism as content." Democrats have also "become so irrationally angry about Bush that they reflexively oppose anything the President is for."

Padilla Attorneys Challenge Validity Of Government Evidence. The Miami Daily Business Review (2/14, Kay) reports, "The jihadist training form that accused terrorist operative Jose Padilla allegedly filled out before heading to an Afghanistan camp may be a fake and requires fingerprint analysis, his defense attorneys say." The Review continues, "In an appeal of a pretrial detention order denying bond, the defense tries to debunk several pieces of prosecution evidence against Padilla and lay out some of its case for the so-called 'dirty bomber.' ... The court papers were filed last week in preparation for the detention appeal to be argued Friday before U.S. District Judge Marcia Cooke. Padilla's defense attorneys are trying to get the accused terrorist released on bond." The Review adds, "Prosecutors were expected to reply in writing to the defense's renewed request for bond before the hearing. … The trial of Padilla and co-defendants charged with providing material support, money and fighters for Muslim terrorists around the world is scheduled to start in September before Cooke and may take six months. … Padilla is accused of going to Afghanistan to attend a terrorist training camp. The U.S. citizen was charged in November after spending more than three years in military custody as an 'enemy combatant' without any charges filed against him."

ABA Denounces NSA Surveillance Program. The AP (2/14, Johnson) reports, "The American Bar Association denounced President Bush's warrantless domestic surveillance program Monday, accusing him of exceeding his powers under the Constitution." The AP continues, "The nation's largest organization of lawyers adopted a policy opposing any future government use of electronic surveillance in the United States for foreign intelligence purposes without first obtaining warrants from a special court set up under the 1978 Foreign Intelligence Surveillance Act." The AP adds, "The 400,000-member ABA said that if the president believes the FISA is inadequate to protect Americans, he should ask Congress to amend the act. … Bush and his administration have defended the warrantless eavesdropping, saying it is needed to fill a gap in U.S. security and is allowable under both the president's constitutional powers and the congressional measure authorizing him to go to war in September 2001."

US Seeks Extradition Of Suspect From 1985 TWA Hijacking. CNN.com (2/14, Labott, Rotatori) reports, "The United States has formally asked the Lebanese government to extradite a Lebanese man accused of killing a U.S. Navy diver during an infamous 1985 hijacking, State Department officials and the victim's family said Monday." CNN continues, "Mohammed Ali Hamadi was released from a German prison in December after serving 19 years for his role in the hijacking of TWA Flight 847. … During the 17-day ordeal, U.S. Navy diver Robert Stethem, 23, was beaten and shot dead and his body dumped on a tarmac in Beirut -- an image captured by television cameras and shown around the world." CNN adds, "Officials said Jeffrey Feltman, the U.S. ambassador to Lebanon, has asked Lebanese authorities on several occasions to arrest Hamadi and turn him over to the United States for trial even though the two countries do not have a formal extradition treaty. … Feltman submitted a formal written request for Hamadi's extradition to Lebanese Prime Minister Fouad Siniora last week. … Hamadi was captured in 1987 in Frankfurt, Germany, and convicted for his role in the hijacking. He was paroled in December, and a German court allowed him to return to Lebanon. … The United States wanted Germany to turn over Hamadi to face a series of charges related to the hijacking, including one

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charge that could potentially carry the death penalty. But Hamadi is not likely to face a death sentence if he is extradited, according to the Justice Department."

Jury Selection Begins Today For Hayat Trial. The AP (2/14, Thompson) reports jury selection for the trial of Hamid and Umer Hayat on terror-related charges is scheduled to begin today in Sacramento, and "it is expected to provide answers to Lodi residents who have worried about whether their town…harbored a network of terrorists. 'Everyone was wondering, is there a terrorist cell?' Lodi Mayor Susan Hitchcock said. … 'I would imagine most people would like there to be more to the case than lying,' Hitchcock said. 'But that's not to minimize the fact that the younger man (allegedly) attended a terrorist training camp with an eye to harming American citizens.'" The AP notes, "Defense attorneys say their clients were pressured by investigators and should have had attorneys and interpreters present when they confessed. 'When Umer Hayat told the FBI on several occasions that he did not know of any terrorist training camps and his son did not attend any terrorist training camps, those were true statements,' Umer Hayat's attorney, Johnny Griffin III, said Monday. 'Concerning additional statements he made, we will demonstrate to the jury the circumstances under which those statements were made and why they were made.'"

The Lodi News-Sentinel (2/13, Bohm) reports, "Much of the evidence has yet to be revealed in public. Prosecutors contacted more than 30 national agencies to see if they had information, some of it classified because national security was involved. Hamid Hayat, who caught authorities' attention because his name was on a no-fly list, is charged with one count of providing material support — himself — to terrorists and three counts of lying to the FBI about knowledge and involvement with a terrorist training camp in Pakistan. His father, Umer Hayat, is charged with two counts of lying to the FBI."

Elbaneh Family Surprised, Worried By Escape From Yemeni Prison. The AP (2/14, Thompson) reports the escape of alleged Lackawanna al Qaeda cell member Jaber Elbaneh from a Yemeni prison "is puzzling to his U.S. relatives, leaving them wondering why someone who surrendered on his own would turn around and flee custody. … With Elbaneh again a fugitive, the hefty reward is again up for grabs, leaving the family fearing for his life." FBI Buffalo SAC Peter Ahearn "said he was not aware of any recent attempts by Elbaneh to contact relatives here. 'If any family members are contacted, for his safety they should contact us,' he said. 'He is running with a crowd of what we believe are extremely dangerous known terrorists,' Ahearn said." CNN notes, "FBI officials said they consider Elbaneh dangerous. 'Given the circumstances of what he's charged with and where it seems he's fled, we certainly would consider him armed and dangerous,' said Paul Moskal, an FBI spokesman."

Judge Bars US From Handing Citizen Over To Iraq. The AP (2/13, Sherman) reports, "A federal judge on Monday ordered the U.S. military not to hand over to the Iraqi government a U.S. citizen suspected of being a senior associate of insurgent leader Abu Musab al-Zarqawi." The AP continues, "The case of Shawqi Omar is the latest legal fight that tests the limits on the Bush administration's power to keep Americans it has identified as terrorists out of U.S. courts." The AP adds, "U.S. District Judge Ricardo Urbina of Washington granted a request from Omar's family to keep him in military custody in Iraq while Urbina decides whether the 44-year-old Kuwaiti native should have his case heard in a U.S. court. A temporary order preventing Omar's transfer had been set to expire Monday. … The Justice Department was reviewing the ruling, said department spokesman Brian Roehrkasse. … Omar has not been charged with a crime nor given access to a lawyer since being arrested at his home in Baghdad in October 2004."

Fitzgerald Seeks Phone Records Of Two NYTimes Reporters. Federal appeals court judges questioned a prosecutor seeking the phone record of two New York Times reporters. The New York Times (2/14, Liptak, 1.19M) reports, "In the case under consideration yesterday, [prosecutor Patrick] Fitzgerald is seeking the phone records of the two Times reporters to determine who told them about impending searches of Islamic charities in Illinois and Texas in December 2001. The reporters, Philip Shenon and Judith Miller, contacted the charities before the searches for what the paper said was routine news gathering." The Times adds, "The questioning yesterday, at the United States Court of Appeals for the Second Circuit, was largely sympathetic to the reporters' positions."

The AP (2/14, Neumeister) reports, "Federal officials said the records were needed for a grand jury investigation of

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government leaks in Illinois. But the Times sued in 2004, asking the lower court to order the government to stop its pursuit of the records. … Judge Robert Sweet agreed, ruling last year that the Justice Department had failed to prove it could not conduct the probe without the phone calls." The AP notes, "During arguments before the appeals court Monday, government lawyer James P. Fleissner said Sweet's ruling was inappropriate, especially since it concerned a case in Illinois, not New York. … Times attorney Floyd Abrams said the challenge was properly brought in Manhattan, where the newspaper is based. He said the newspaper does not know if the government obtained the records."

Pentagon Analyst Says Atta Appeared In Able Danger Database 13 Times. An exclusive report in the New York Post (2/14, Lathem, 624K) reports, "An active-duty military intelligence analyst has told congressional investigators that 9/11 pilot Mohamed Atta surfaced 13 times in a controversial Pentagon computer program before he executed the attacks, The Post has learned. Congressional sources said last night that an officer in the Pentagon's secretive Land Information Warfare Center told the staff of Rep. Curt Weldon (R-Pa.) about the computer hits. The revelation is significant because the 9/11 commission has asserted that Atta was not on the intelligence community's radar screen before the attacks. … The fact that the program flagged Atta should have provided a lead that apparently wasn't followed, observers say."

Rumsfeld Says Terror Groups Unlikely To Gain Foothold In North Africa. Defense Secretary Donald Rumsfeld finished three days of talks in Morocco, Algeria and Tunisia saying the possibility of al Qaeda or similar groups gaining a foothold in the countries is "extremely low." Reuters (2/14, Dunham) reports that Rumsfeld told reporters, I think each of these three countries certainly stands out as examples of countries where they've taken a lot of steps to show that they can live in peace and successfully deal with the problem of extremism," adding, "I think that each of those three countries are managing their affairs -- their internal affairs -- in a way that makes that an extremely low possibility."

The AP (2/14, Burns) reports that Rumsfeld said Algeria, Morocco and Tunisia had created "an environment that's inhospitable to terrorism."

Terror Victims' Conference Opens In Spain. The CBS Evening News (2/13, story 9, 0:10, Schieffer) reported, "An international conference for survivors of terror attacks and victims' families opened today in Spain. 600 people from the United States and a half dozen other countries will talk about their experiences and about ways to fight terrorism."

UN Report Criticizes US Treatment Of Guantanamo Detainees. A draft report from a group of UN human rights investigators says the Bush Administration's treatment of prisoners Guantanamo Bay violates international law and in some cases constitutes a from of torture. NBC Nightly News (2/13, story 8, 2:20, Williams) reported that US officials "say the report is based on hearsay." NBC (Myers) added, "The draft report by independent UN experts concludes that Guantanamo Bay should be closed immediately and detainees either put on trial or released. The report claims that US practices at Gitmo violate detainees' physical and mental health and in some cases constitute torture." The report is "most critical of excessive violence when detainees are force fed during hunger strikes and allegedly shackled and beaten while being moved. It says both practices amount to torture. A top State Department official was furious." Sean McCormack, State Department spokesman: "These are people who never went to Guantanamo Bay, so this is baseless assertion." The report "now must be considered by the UN Commission on Human Rights, which critics say has a questionable track record. They note that three years ago, the commission was chaired by Libya, long accused of abusing human rights."

The Washington Post (2/14, A9, Lynch, 744K) reports, "The findings emerged from an 18-month investigation that included interviews with former U.S. prisoners in France, Spain and Britain and lawyers and relatives of detainees. The report concluded that some practices -- including the force-feeding of hunger strikers – 'must be assessed as amounting to torture.'"

LATimes Says Guantanamo Prison Should Be Closed. The Los Angeles Times (2/14, 958K) editorializes, "It is time to close the U.S. military prison in Guantanamo Bay. The detainees there, numbering about 500, should be tried in court or released. It is inhumane to hold them indefinitely in a place where torture is not uncommon and due process is absent." The Times adds, "For detainees at Guantanamo, legal proceedings appear to resemble Salem witchcraft trials.

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Presumption of guilt and tarring by association abound, while the rules of evidence are perfunctory. These are not the American values our soldiers are fighting for."

Blair Push For British ID Cards Advances. The New York Times (2/14, Cowell, 1.19M) reports, "The government of Prime Minister Tony Blair faced down its opposition on Monday in a politically charged vote in the House of Commons on a plan to introduce mandatory national identification cards. The vote moved Britain closer to the use of such cards but did not make clear precisely when that would be." Blair's government "won the vote, 310 to 279. A defeat would have been Mr. Blair's fourth humiliation in Parliament since the general election last year -- and since taking power in 1997 -- raising doubts about his authority in his third term of office." The Times adds, "In the vote on Monday, the Commons rejected an amendment from the House of Lords that would have made optional, instead of mandatory, a plan to require Britons to be given national identity cards when they apply for passports. But in a compromise worked out among the legislators, Parliament will have to pass another law to make the new rules binding."

In Saudi Arabia, Gore Says US Abused Arabs After 9/11 Attacks. Fox News' Special Report (2/13, Hume) reported that former Vice President Al Gore "took his political attacks to foreign soil yesterday when he accused the United States of terrible abuses against Arabs after the September 11 attacks. Speaking in Saudi Arabia, he said the Bush Administration was playing into al Qaeda's hands by blocking Saudi visa applications and Saudis were rounded up and held under conditions that were unforgivable. He criticized current visa laws as well."

King Calls Gore Remarks "Disgraceful." The New York Post (2/14, Orin, 624K) reports, "House Homeland Security Chairman Peter King yesterday blasted Al Gore as 'disgraceful' for claiming that President Bush committed 'terrible abuses' against Arabs after 9/11 and is wrongly barring Saudi visitors. 'Since 15 of the 19 hijackers on 9/11 were Saudis, it would have been irresponsible for us not to impose strict conditions. It's just common sense. Al Gore seems to have gone off the deep end,' said Rep. King (R-L.I.). 'It certainly answers the question of what Al Gore would have done if he'd been president on 9/11. He would have apologized to Saudi Arabia. Either he's lost it or he's putting his hatred of Bush ahead of America's security.'"

HOMELAND RESPONSE:

Two Air Marshals Charged With Attempting To Smuggle Cocaine. ABC World News Tonight (2/13, story 8, :20, Gibson) reported, "In Houston, two Federal Air Marshals are under arrest for smuggling cocaine. Homeland Security Department investigators say a confidential informant offered the Marshals $15,000. In return, they would move the drugs through security at Bush Intercontinental Airport and on to a flight bound for Las Vegas."

USA Today (2/14, Levin, 2.31M) reports US air marshals Shawn Ray Nguyen, 38, and Burlie L. Sholar III, 32, both of Houston, "were charged Monday with trying to smuggle cocaine by using their ability to skirt airport security." They "are accused of making a deal to smuggle 33 pounds of cocaine past airport security in Houston and fly it to Las Vegas, according to an affidavit unsealed in a hearing in federal court in Houston. … Nguyen, who worked for five years as a Drug Enforcement Administration agent before joining the marshals in 2002, allegedly demanded a fee of $5,000 to $7,000 per kilogram of cocaine he transported."

The AP (2/14) reports Nguyen and Sholar "were arrested Thursday after an informant delivered 33 pounds of cocaine and $15,000 in 'up front money' to Nguyen's Houston home, authorities said." They "face 10 years to life in prison and a $4 million fine if convicted."

Cable TV Coverage. CNN (2/13, 4:30 p.m.) reported, "] Two US air marshals appear in court today on federal drug charges. The US attorney's office in Houston says they were arrested Thursday after a government informant delivered 15 kilograms of cocaine and $15,000 to one of the marshals. They allegedly agreed to smuggle…cocaine through airport security."

Local TV Coverage. KABC-TV, Los Angeles (2/13, 5:00 p.m.) reported, "Two air marshals were arrested, charged with using their badges to help them transport drugs. … The two agreed to smuggle 15 kilos of cocaine."

WGN-TV, Chicago (2/13, 8:00 a.m.) reported, "Two federal air marshals have been arrested in Houston and may be charged with smuggling cocaine. 'Time' magazine is reporting the marshals may have been paid several thousand dollars to move the drugs. One of the marshals is a former agent with the Drug Enforcement Administration."

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KHOU-TV, Houston (2/13, 5:00 p.m.) reported, "Two federal air marshals face serious criminal charges tonight, accused of agreeing to use their badges to smuggle drugs past airport security. Thirty-eight-year-old Shawn Ray Nguyen was handcuffed entering the federal court this morning. Thirty-two-year-old Burlie Sholar is behind him with his back to us."

KHWB-TV, Houston (2/13, 9:00 p.m.) reported, "Two Houston-based air marshals have been busted for allegedly trying to transport cocaine on their flights. … Both men had been air marshals since 2001."

KRIV-TV, Houston (2/13, 9:00 p.m.) reported, "Two federal air marshals arrested on drug charges made their first court appearance today. … Prosecutors say they have an airtight case. Reporter: The two have long law enforcement careers, but somewhere they crossed the line from cop to alleged criminal. … If they are convicted, these two air marshals could spend anywhere from ten years to life behind bars. … The two were arrested together Thursday after investigators say 15 kilograms of cocaine and $15,000 were delivered to Nguyen's house."

Chertoff Touts Risk Management Approach To Homeland Security Funding. In an op-ed in the Wall Street Journal (2/14, Chertoff, 2.11M) titled "There Is No Perfect Security," Homeland Security Secretary Michael Chertoff writes that the budget announced by President Bush last week, which requests a 6% increase for the Department of Homeland Security, "recognizes that in order to protect our country and defend our freedoms, we must continue to focus resources on the areas that pose the greatest risk. That is why, among the funding increases, we expect to devote an additional $80 million to the Urban Areas Security Initiative, a program that awards grants to our state and local partners based on a strict assessment of risk and need. This process of assessing risk and setting priorities should be familiar to those in the private sector." Chertoff continues, "We acknowledge, however, that while most people support risk management in theory, enthusiasm tends to diminish once it is applied in practice. … In a free and open society, we simply cannot protect every person against every risk at every moment in every place. There is no perfect security." Chertoff states, "The most effective and fair strategy for securing our homeland -- whether at our borders, our ports, our airports or our chemical facilities -- is tough-minded, common-sense distribution of resources through risk management."

Bush Budget Increases Funding For Domestic Nuclear Detection Office. USA Today (2/14, Hall, 2.31M) reports, "The Bush administration is ramping up efforts to prevent terrorists from smuggling radiological material into the country that could be used to set off a 'dirty bomb' or even a nuclear weapon, according to the Homeland Security Department. Plans call for a new radiation detection test site deep in the Nevada desert, more detectors at the nation's seaports and border crossings and a 70% budget increase for Homeland Security's Domestic Nuclear Detection Office (DNDO). The initiative comes amid chilling threats made last month by al-Qaeda leader Osama bin Laden." President Bush's budget seeks "$535.7 million for the DNDO, which is responsible for preventing radiological or nuclear weapons from getting into the country. That includes $178 million for new radiation detectors and $100 million for the development of equipment used by agents along the nation's borders and at events such as presidential inaugurations and Super Bowl games. To test that equipment, Homeland Security is working at the storied Nevada Test Site, where the US government tested nuclear weapons for more than four decades."

New Mexico Town Serves As Terror Attack Training Ground For First Responders. The CBS Evening News (2/13, story 10, 2:30, Schieffer) reported, "Well, fighting terrorism has become a way of life in one small town here in the United States. Playas, New Mexico has been turned into a real world school for dealing with an attack." CBS (Bowers) added that in Playas, New Mexico, "SWAT teams from across the country drop from the skies and storm quiet side streets in search of terrorists, where crowded buses are blown up by suicide bombers and residents don't even bat an eye. They play along." New Mexico Tech "runs of one of the nation's foremost anti-terror training programs and decided to turn this ghost town into the centerpiece of its operation." Two years ago, "the university shelled out $5 million to buy the town lock, stock and barrel. The school has been developing weapons and programs to counter suicide bombers since the Japanese kamikaze pilots of World War II." In "just the last eight years, 40,000 police, fire and emergency personnel have gone through the program, a thousand of them here at Playas. But this kind of training

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doesn't come cheap. The cost to Homeland Security runs upwards of $20 million a year."

House GOP Report Blasts Administration, Chertoff On Katrina Response. A House panel investigating the Federal Government response to Hurricane Katrina blasted the Department of Homeland Security's handling of the disaster, and singled out Secretary Michael Chertoff for criticism. The criticism was seen by media sources as especially noteworthy because the report, due out on Wednesday, was written by House Republicans. ABC lead with the story, while CBS and NBC ran it just after their lead reports on the Vice President's hunting accident.

ABC World News Tonight (2/13, lead story, 2:55, Gibson) reported, "When Republicans issue a scathing report on the Administration, that's a bit of a surprise. Later this week, a Republican-led investigation will brand the Bush Administration response to Hurricane Katrina a national failure. The language of condemnation is some of the strongest heard in a long time." ABC (Raddatz) added, "The report is still in draft form. But it's hard to imagine the final version could be any worse." The committee "points a finger directly at the head of Homeland Security, Michael Chertoff. As the President's principal disaster adviser, they say, Chertoff executed his responsibilities late, ineffectively, or not at all."

The CBS Evening News (2/13, story 3, 2:15, Attkisson) reported Secretary Chertoff "came out swinging today. First he had a few choice words apparently aimed at his former FEMA director, Michael Brown, who criticized him in a Senate hearing on Friday." Homeland Security Secretary Michael Chertoff: "There is no place for a lone ranger in emergency response." Attkisson: "Then, Chertoff went on the offense, announcing that FEMA will be revamped in an effort to avoid another Katrina-like performance. The plan includes hiring up to 1500 people and improving high-level communications. But if Chertoff was hoping to get out in front of an expected grilling at a Senate hearing tomorrow, he may be too late. He also takes it on the chin in a scathing new report on the House side. A draft of the report to be released Wednesday is particularly hard on Chertoff, saying he 'executed (critical) responsibilities late, ineffectively or not at all.'"

NBC Nightly News (2/13, story 3, 2:05, Reid) reported, "With a report from Republicans calling the response to Hurricane Katrina a national failure, the spotlight today focused on the Administration official increasingly facing the blame." Michael Chertoff, Secretary of Homeland Security: "I'm accountable and accept responsibility for the performance of the entire department." Reid: "Some Democrats say the report should recommend Chertoff be dismissed from the Department of Homeland Security."

Chertoff Said To Be "Looking Increasingly Imperiled." The Wall Street Journal (2/14, King, McKinnon, 2.11M) reports, "Mr. Chertoff's remarks come amid questions of whether DHS, with its 184,000 employees and 22 agencies, will ever supply the efficiencies its supporters promised when it was created after the 2001 attacks." Meanwhile, "Mr. Chertoff is looking increasingly imperiled as criticism of his performance swirls in Democratic and Republican quarters. The White House's assessment, still in draft form, is said to be scathing in critiquing DHS's management of FEMA and its poor leadership during Katrina. House Republicans prepared to release a 600-page report that calls the response to Katrina 'a national disgrace' across every level of government, but lays much of the blame at Mr. Chertoff's feet." The Journal adds, "A Democratic response to the report praised the critique of Mr. Chertoff's performance but said it should 'draw the logical conclusion' and call for Mr. Chertoff's dismissal. The White House rejected that idea."

CQ (2/13, Starks) reported, "Homeland Security Secretary Michael Chertoff is scheduled to appear before the Senate Homeland Security and Governmental Affairs Committee on Tuesday for what is certain to be a rough round of questioning by lawmakers who are preparing their own report on the government's bungled response to the storm." CQ added that both the Senate and House "committees have developed premises that point more to failures of leadership than failures of government structure. Joseph I. Lieberman of Connecticut, the ranking Democrat on the Senate panel, said 'some of this goes to the president, looking at the people he has around him.' Indeed, Chertoff is one Bush administration official who has found himself in the cross hairs. Charlie Melancon and William J. Jefferson of Louisiana, two Democrats who violated the House Democrats' boycott of the select panel, went as far as to call for Chertoff's removal, in 'additional views" on the committee's final report." However, "Calls for Chertoff's removal have not spread to Republicans, said House Homeland Security Chairman Peter T. King, R-N.Y., who added that he believed Chertoff is still the right man for the job."

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CNN's The Situation Room (2/13, Meserve) reported, "The minority report from Democrats on the House Select Committee says Michael Chertoff should be removed from office for his missteps during Hurricane Katrina. The draft majority report does not go to that extreme, but does say that Chertoff executed his responsibilities 'late, ineffectually, or not at all,' even though the effects of the storm had been predicted in a table top exercise called Hurricane Pam. … Speaking to emergency managers today, Mr. Chertoff acknowledged the response to the storm had been unacceptable." Chertoff: "I want to be clear. As the secretary of Homeland Security, I am accountable and accept responsibility for the performance of the entire department, good and bad. I also have the responsibility to fix what went wrong so we can meet the President's expectations and the public's expectations for helping disaster victims as quickly and effectively as possible."

CNN's Lou Dobbs Tonight (2/13, Dobbs), in its lead story, reported, "We begin tonight with scathing criticism Homeland Security Secretary Michael Chertoff and other officials for their slow response to hurricane Katrina. A draft congressional report says there was a failure of leadership at all levels of government. The report says Chertoff was detached and former FEMA director Michael Brown was clueless. Chertoff today rejected suggestions his Department of Homeland Security was too focused on terrorism to respond effectively to the natural disaster." CNN added, "Though the report notes a failure of leadership at every level, it's most withering criticism is directed at Homeland Security Secretary Michael Chertoff who it says executed his responsibilities late, ineffectively or not at all."

Chertoff, Townsend Acknowledge Mistakes. Meanwhile, responding yesterday to criticism from House investigators and former FEMA director Michael Brown, Homeland Security Secretary Michael Chertoff and White House homeland security adviser Frances Fragos Townsend acknowledged mistakes made during the response to hurricane Katrina, while promising improvements in disaster response. Under the headline "White House Strongly Defends Katrina Role," the AP (2/14, Jordan) reports, "The Bush administration on Monday pushed back hard against Katrina-response criticism leveled by ex-disaster agency chief Michael Brown and congressional investigators. 'I reject outright the suggestion that President Bush was anything less than fully involved,'" said Townsend." Meanwhile, "Both Townsend and Chertoff took swipes at Brown, who resigned under pressure in September as head of the Federal Emergency Management Agency. 'There is no place for a lone ranger in emergency management,' said Chertoff, whose Department of Homeland Security is FEMA's parent agency." The AP notes, "On Monday, Brown defended his performance. 'For Secretary Chertoff to claim that I failed to keep him informed belies the numerous telephone calls and e-mails between me and him prior to, during and after landfall' of the storm, Brown said in an e-mail to The Associated Press." A similar AP story appeared under the headline "Angry White House Lashes Out At Katrina Critics."

The Washington Post (2/14, A1, Hsu, 744K) reports, "The Bush administration acknowledged its mistakes yesterday and promised anew to re-engineer the nation's homeland security agencies in the aftermath of Hurricane Katrina, scrambling to contain the damage from sharp criticism by House investigators and testimony by the former head of the Federal Emergency Management Agency. President Bush's homeland security adviser, Frances Fragos Townsend, addressing 50 state emergency managers at a meeting in Alexandria, previewed results of a government-wide review due later this month that she said would make more than 100 recommendations to improve disaster response." Meanwhile, "In his own speech to the National Emergency Management Association's mid-year meeting of state officials, Homeland Security Secretary Michael Chertoff responded to concerns from the group and other critics, repeating the administration's commitment to defend against natural and man-made hazards." However, Chertoff "largely accepted 90 findings of flaws at every level of government by a draft House report to be released tomorrow, including many directed at him."

Chertoff Announces FEMA Reforms. The Los Angeles Times (2/14, Chen, 958K) reports, "Under fire for his department's inept response to Hurricane Katrina, Homeland Security Secretary Michael Chertoff today announced broad changes in the way the Federal Emergency Management Agency and its parent agency will respond to future natural disasters. Chertoff's announcement came as government investigators laid out for lawmakers on Capitol Hill new details about how FEMA, through waste, mismanagement and accounting flaws, misspent millions of dollars in public funds." He "announced the hiring of 1,500 full-time disaster preparedness coordinators, the creation of 'reconnaissance teams' to report on disaster conditions from the location, and the establishment of a database of approved private firms that

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would quickly provide vital services, such as debris removal." Chertoff said, "I want to tell you I unequivocally and strongly reject this attempt to drive a wedge between our concerns about terrorism and our concerns about natural disasters."

The New York Times (2/14, Lipton, 1.19M) reports, "the federal government's top three domestic security and disaster relief officials vowed to fix flaws in the nation's emergency response programs. 'I am accountable and accept responsibility for the performance of the entire department, good and bad,' the homeland security secretary, Michael Chertoff told local and state disaster officials at a conference in Alexandria, Va. 'I also have the responsibility to fix what went wrong.' The changes will include a cadre of new disaster response workers who will be available to respond quickly to any natural disaster or terrorist attack, Mr. Chertoff said, which could number as many as 1,500, a department official said."

The Financial Times (2/14, Alden) reports, "The changes outlined on Monday involve improving Fema's logistical capabilities, improving internal communications, and strengthening the ability to identify and aid disaster victims quickly. In separate congressional testimony on Monday, the independent General Accountability Office and the Department of Homeland Security's inspector-general, its internal watchdog, said hundreds of millions and even billions of dollars had been wasted in the aftermath of Katrina."

Townsend Says Federal Officials Must Re-Earn Public Confidence. CNN's The Situation Room (2/13, Malveaux) reported, "The White House is under no illusion about just the very bad perception that people have of the White House, of FEMA, of Homeland Security. This is coming from the President's own Homeland Security adviser, Fran Townsend, before a group of first responders. … She said that we must restore and re-earn your confidence and trust so that when someone says 'I am from the federal government and I am here to help,' you can believe it and not laugh."

Incompetence, Not System Flaws, Seen As Cause Of Katrina Failures. The Christian Science Monitor (2/14, Grier, 61K) reports Chertoff's reforms "are all well and good, say some experts. As the response to hurricane Katrina showed, the federal government's preparation for disasters has been so poor that there's much room for improvement. But refurbishment of the bureaucracy alone may not address what a new inquiry called the root causes of the Katrina-response disaster - inattentiveness, incompetence, and lack of common sense." The Monitor continues, "Given events such as the government's weak response to Katrina, 'reform' is often the first watchword, as if perfection of process is always the answer." However, "general lack of focus can't be ordered or, or legislated. Process problems probably weren't the cause of the government's slow recognition of the unfolding disaster of the New Orleans flooding. Evidence of that was on the TV screen, for all to see; it just took too long for its implications to sink in at the White House and Department of Homeland Security headquarters."

USA Today Says FEMA Needs Better Leadership. Under the headline "Changes At FEMA Can't Erase Hurricane Disgrace," USA Today (2/14, 2.31M) editorializes, "Congressional Democrats have suggested breaking FEMA out of Chertoff's department and having its chief report directly to the president. But that makes no sense because FEMA would also be on the front line of any response to terrorist attack. Avoiding a replay of what happened after Katrina is a lot more dependent on competent leadership, adequate funding and open lines of communication than on where FEMA is located in the bureaucracy. The report by the House task force says the federal response to Katrina was marked by 'fecklessness, flailing and organizational paralysis.' If that's what the White House's supposed allies on Capitol Hill are saying, it's going to take more than realigning FEMA's organization chart to fix what's wrong."

WPost Stresses Importance Of Learning From Katrina Mistakes. The Washington Post (2/14, A14, 744K) editorializes that the House investigation of the government's preparation for and response to Hurricane Katrina "paints a picture of federal incompetence that you'd think a chief executive would want to study and learn from. If the White House's first reaction is anything to go by, President Bush wasn't initially all that concerned. The report reveals how poorly federal officials -- including Homeland Security Secretary Michael Chertoff -- understood their own National Response Plan, a set of bureaucratic responses that should have been second nature to officials in the Department of Homeland Security and the Federal Emergency Management Agency." However, "it was less than clear that the White House initially wanted to know what exactly went wrong. A White House spokesman told Post reporter Spencer S. Hsu that he wouldn't comment on an early version of the report, partly because the White House was working on its own investigation and partly because, 'The president is less interested in yesterday, and more interested with today and tomorrow . . . so that we can be better prepared for next time.'

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But it's going to be very difficult to be 'prepared for next time' if the president is not interested in the 'yesterday' described in the House's investigation."

GAO, DOJ Find Rampant Waste, Fraud In FEMA Hurricane Relief Programs. ABC World News Tonight (2/13, story 3, :10, Gibson) reported, "Today, the Justice Department said prosecutors have filed charges against more than 200 people accused of scams related to the Gulf Coast hurricanes."

The Washington Post (2/14, A9, Whoriskey, 744K) reports, "Tens of thousands of people received aid from the Federal Emergency Management Agency using possibly fraudulent identities because the relief effort did not perform routine checks that might have flagged such activity, government investigators said yesterday. The extent of the fraud in the $6 billion evacuee-assistance effort has not been calculated, but it could reach hundreds of millions of dollars, investigators told the Senate Homeland Security and Governmental Affairs Committee, and it appears that the losses were limited only by the thieves' ingenuity. 'It was a mess. It was a system that was wide open to fraud,' said Gregory D. Kutz, who led the investigation for the Government Accountability Office." The Post adds, "The report came amid a stream of revelations yesterday regarding questionable activity during the relief effort -- including $438-a-night lodging in New York, emergency meals being sold on eBay, and emergency checks being used to buy adult entertainment and weapons. But the main focus of yesterday's testimony was FEMA's lack of financial controls as it doled out $2,000 checks to people who said they were affected by the storm."

The AP (2/14, Yen) reports, "The government squandered millions of dollars in Katrina disaster aid, including handing $2,000 debit cards to people who gave phony Social Security numbers and used the money for such items as a $450 tattoo, auditors said Monday. .. Overcharges, poor accounting and abuses will take 'months or years' to rectify, the Government Accountability Office and the Homeland Security Department's inspector general concluded in preliminary reports on how billions of dollars in taxpayer money is being spent. The Federal Emergency Management Agency recognizes it 'made many, many mistakes,' and is working on improvement, said Homeland Security inspector general Richard Skinner. 'But they're not where they should be. In some cases, the government will have little legal recourse to recoup payments to contractors for payments.'"

Knight Ridder (2/14, O'Matz) reports, "As of mid-December," FEMA "had distributed almost $5.4 billion to Gulf Coast hurricane victims, including $2.3 billion in fast-track payments of $2,000 each for families displaced by the storms. Auditors for the Government Accountability Office found FEMA signed off on most emergency claims without ever verifying damage and failed to confirm the identities of applicants filing by phone. In at least 1,000 cases, people succeeded in collecting aid using the Social Security numbers of dead people, the GAO discovered. And although the $2,000 payments were limited to one per household, auditors found that FEMA gave duplicate payments to 5,000 individuals who had already collected $2,000 each in debit cards."

USA Today (2/14, Hall, 2.31M) reports, "The allegations that the Federal Emergency Management Agency has wasted hundreds of millions of dollars on a host of bungled efforts to help evacuees were in a pair of reports to senators investigating the government's response to the disaster." Sen. Susan Collins, chairwoman of the Senate Homeland Security committee, "called the reports a 'fresh indictment' of FEMA. She said investigators uncovered 'shocking examples of absent safeguards and wasted tax dollars.'"

Reuters (2/14, Smith) reports Monday's "revelations were the latest in a barrage of criticism directed at both the U.S. Federal Emergency Management Agency and Department of Homeland Security, whose leader, Michael Chertoff, on Monday outlined steps he would take to better prepare his agency." Reuters continues, "Richard Skinner, the inspector general of the Department of Homeland Security, told the committee that FEMA purchased 24,967 manufactured homes at a cost of $857.8 million to temporarily house Katrina victims. But most of those homes are unused and the government is paying to store them, he said."

DHS IG Details Problems With Trailers, Overpriced Hotel Rooms. The Washington Post (2/14, A9, Whoriskey, 744K) reports Richard L. Skinner, the inspector general of the Homeland Security Department, "noted that FEMA may have purchased too many manufactured houses, given the housing needs, and that FEMA is now paying to store and maintain them at various places nationwide. … He also said that in many cases, FEMA was paying relatively reasonable prices to house evacuees in hotels, but some rooms cost

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more than $150 a night, and as late as December, FEMA was paying $364 per night for a hotel in San Diego and $339 per night for a New Orleans hotel." The AP (2/14, Yen) reports, "Federal money…paid for $375-a-day beachfront condos and 10,777 trailers that were stuck in mud and unusable."

Thousands Of FEMA Trailers Sit Unused As Louisianans Seek Homes. The New York Times (2/14, Lipton, 1.19M) reports, "Mobile homes worth hundreds of millions of dollars are deteriorating in a muddy field in Arkansas and may never be used to house victims of Hurricane Katrina because of a dispute over where to install them, federal officials acknowledged Monday. Only about 2,700 of the 25,000 mobile homes ordered at a cost of $850 million have been installed, and at least 10,000 are sitting in Hope, Ark., according to documents and statements from Federal Emergency Management Agency officials. Though about 55,000 Louisiana families are still waiting for a manufactured housing unit, the mobile homes may never be used because FEMA policy prohibits them from being installed in flood-prone coastal areas, federal officials said. … 'If sites for those mobile homes are not approved in Louisiana, it is possible they will never be used for hurricane relief,' said Nicol Andrews, a FEMA spokesman."

Fox News' Special Report (2/13, Hume) reported, "For a while are, after hurricane Katrina the chief complaint was there was not enough federal help. Now the question is what the money bought and didn't buy in the weeks and months after the storm." Fox continued, "On a day when a federal judge ruled the government is within its rights to remove 12,000 Katrina victims from their hotel rooms, senators heard testimony that thousands of badly needed FEMA trailers and modular homes are literally stuck in the mud, hundreds of miles from the scene of the disaster."

Hotels May Be Investigated For Alleged Price-Gouging. Meanwhile, USA Today (2/14, McCoy, 2.31M) reports, "Congressional committee testimony that luxury hotels billed the federal government up to $438 a night for Hurricane Katrina evacuees raised the prospect of a potential price-gouging investigation Monday." Skinner said in a statement that "FEMA eventually set a rate cap." However, "his staff found that FEMA in December still paid up to $364 a night for rooms in San Diego, and up to $339 a night for New Orleans rooms. … Sen. Joseph Lieberman, D-Conn., and other Democrats on the Senate panel asked whether the facilities could be investigated for potential price-gouging."

Thousands Of Katrina Victims Checking Out Of Hotel Rooms. ABC World News Tonight (2/13, story 2, 2:10, Gibson) reported, "Things have just gotten tougher for thousands of families displaced and left homeless by Katrina. 12,000 families had to move out of government-paid-for hotel rooms today, after FEMA stopped paying for them. And another 8,000 families will face the same fate by March 1st." ABC (Pinto) added, "FEMA says it spent $542 million on hotel rooms so far and provided rental assistance to 770,000 families, but the process has been fraught with trouble. $850 million worth of trailers remain unused in Arkansas, unfit for use in flood plains. And FEMA admits there were problems locating those in need."

The AP (2/14, Callimachi) reports, "About 12,000 families made homeless by last year's hurricanes began checking out of their federally funded hotel rooms around the country Monday after a federal judge let FEMA stop paying directly for their stays. The Federal Emergency Management Agency promised the evacuees from Hurricanes Katrina and Rita that they will still receive federal rent assistance that they can put toward hotel stays or other housing. But the agency will no longer pay for their hotel rooms directly." Also Monday, U.S. District Judge Stanwood Duval had denied a request from the evacuees' attorneys for "a last-minute reprieve" to continue hotel payments.

The New York Times (2/14, Dewan, 1.19M) reports, "Thousands of evacuees from Hurricane Katrina became transients again on Monday, wheeling their entire lives onto the street on luggage carts or dragging bulging garbage bags through hotel lobbies, when the federal government stopped paying their hotel bills." The Times adds, "none of the two dozen or so evacuees losing their hotel benefits who were interviewed in New Orleans in the past two days had a permanent place to go."

Attorneys Try To Stop Katrina Evictions. The AP (2/14, Foster) reports, "Lawyers asked for a temporary restraining order Sunday to stop the evictions of 12,000 families left homeless by hurricanes Katrina and Rita from hotels across the nation on Monday. … 'We have provided the court with statements from people showing they have not been treated fairly by FEMA,' said Bill Quigley, an assistant dean of the Loyola University Law School, who with civil rights attorney Tracie Washington filed the motion." The AP continues, "The attorneys delivered the papers to the home of federal judge Stanley Duvall. It was not immediately clear when he would act on the motion. … The 12,000 families

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made homeless by last year's storms are scheduled to be forced out of their federally funded hotel rooms Monday, the Federal Emergency Management Agency announced Saturday. … That amounts to about 40,000 people, Quigley said, many of whom have not received trailers as promised and some who did not find out about the eviction until the beginning of the month. … 'Under our reading of the judge's orders they should be allowed to stay until the beginning of March,' Quigley said. 'We think FEMA is just trying to clear the books and not taking a careful or compassionate look at these people.'" The AP notes, "Of those departing on Monday, FEMA officials said 10,500 families, or 88 percent, have received rent-assistance checks from the agency, said Libby Turner, FEMA's transitional housing director. The cash can be used to pay for an apartment or to continue their hotel stays. It can also be put toward fixing their ruined homes."

WAR NEWS:

Iran, Not US, Said To Be "Reshaping" Post-Saddam Iraq. The Wall Street Journal (2/14, A1, Solomon, 2.11M) reports Administration "officials who promoted war with Iraq envisioned Americans reshaping the country in their own image after the war. Instead, the reshaping is increasingly being carried out by Iran -- the same nation that has provoked a diplomatic furor over its nuclear ambitions. Iran's influence is most apparent in Iraqi politics…but it also emerges in many areas of Iraqi life that get less notice," including investment, NGO work and media training. The Journal adds, "While Tehran has little motive now to throw Iraq into further turmoil, its ability to do so could undermine the Bush administration's attempt to stop Iran's nuclear program. … If Iran wished to make life difficult for the U.S. and its troops in Iraq, it might draw on the support of Iraqi Shiite leaders. … Iran's influence inside Iraq also is threatening to exacerbate Shiite-Sunni tensions across the Middle East." The Journal says "U.S. military planners did little to stop Iran from spreading its influence in Iraq after Saddam Hussein fell. … On the political front, teams of Iranian volunteers traveled to Iraq to instruct Shiite activists in mobilizing mosques and clerics for a big turnout. … Many of the Shiite politicians and Islamic scholars who quickly rose to lead post-Saddam Iraq -- such as Prime Minister Jaafari and Ayatollah Abdul Aziz al-Hakim -- are men who were persecuted under Mr. Hussein's rule and exiled to Tehran."

Iran Puts Off Russian Offer, Resumes Uranium Enrichment. Meanwhile, the New York Times (2/14, Fathi, Landler, 1.19M) reports, "Iran announced Monday that it had postponed talks on letting Russia enrich its uranium, a proposal that Russia had offered as a way to resolve the dispute over Iran's nuclear ambitions."

The Financial Times (2/14, Smyth) reports, "Tehran also resumed enriching uranium at its Natanz plant in defiance of the recent vote by the" IAEA. "The resumption came a day after Gholam-Ali Haddad-Adel, Iran's parliamentary speaker, said Tehran was about to restart 'nuclear research activities' at Natanz. The AP (2/14, Karimi) reports a senior diplomat in Vienna, Austria said, "Uranium gas has been fed into three machines." The diplomat "spoke on condition of anonymity because he was not authorized to comment on the matter."

In its coverage, the Washington Post (2/14, A10, Moore, 744K) quotes Assistant Secretary McCormack saying the "US government was waiting for confirmation. ... 'If true, certainly, it would be another indication that Iran is seeking confrontation rather than negotiation with the international community.' McCormack noted that the IAEA resolution said Iran 'had to return to a suspension moratorium of all their enrichment-related activities. And unfortunately, they seem to have now, apparently, gone off in the other direction.'" The Los Angeles Times (2/14, Rubin, 958K) runs a similar story.

Annan Urges Bush Not To "Escalate" Tensions. The Washington Times (2/14, A1, Sammon, 90K) reports, "UN Secretary-General Kofi Annan yesterday warned President Bush not to 'escalate' tensions over Iran's nuclear ambitions because the world wants to 'find a way out of this crisis.'"

Annan was asked on CNN's The Situation Room (2/13) if it is acceptable for Iran to develop nuclear weapons. Annan said, "I think the rules are very clear. Iran can develop peaceful nuclear -- peaceful -- other nuclear energy, peaceful uses of nuclear energy, but not nuclear bombs. And this is what the whole debate is about." Asked what the UN is going to do to stop Iran from becoming a nuclear weapons power, Annan said, "I think first of all, the Atomic Agency in Vienna is dealing with this. And between now and end of the month, they are preparing a report, working with Iranians, monitoring the situation, and will give a report to the agency at the end of the month. There will be a meeting in March, where, dependent on the nature of the report, if, indeed, Iran is not meeting its obligations on the NPT, its obligation on the IAEA,

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it will be referred to the Security Council for appropriate action." Asked what the next step beyond diplomatic or economic sanctions would be to pressure Iran, Annan said, "That would be for the council to decide. But, obviously, the -- the council doesn't -- these are some of the arsenal that the council has. But it will be up to the council to decide what the next step should be. And I think it will depend very much on the report. If the report is a negative one, then, the council has a -- a tough, an urgent decision to take. If it is a report that indicates that, despite the public pronouncements, the situation is either frozen or it's -- or they see prospects of full cooperation with the agency, the council will have to factor that in."

USA Today (2/14, Page, 2.31M) reports, "Americans are deeply worried about the possibility that Iran will develop nuclear weapons and use them against the USA, a USA TODAY/CNN/Gallup Poll finds, but they also fear that the Bush administration will be 'too quick' to order military action against Iran. Nearly 7 of 10 of those surveyed over the weekend say they are concerned that the United States will move prematurely to use force, but they also seem to recognize the quandary that policymakers face." There is "almost as much concern that the Bush administration won't do enough to prevent Iran from gaining a nuclear arsenal."

Iran Reminds Some Of North Korea. In an analytical piece, the AP (2/14, Jahn) reports, "Veiled Iranian threats to quit the Nonproliferation Treaty conjure up the case of North Korea, which announced it had atomic weapons shortly after walking away from the treaty. But while the North escaped punishment by the UN Security Council, any move by Iran to break out of the pact will likely bring a tougher response."

Jaafari Win Said To Highlight Sadr's Growing Influence. The Washington Times (2/14, Behn, 90K) reports, "The selection of Ibrahim al-Jaafari to stay on as Iraq's prime minister exposes stresses within his Shi'ite coalition and the growing political importance of militant conservative cleric Muqtada al-Sadr. The backing of Sheik al-Sadr, whose followers captured about one-quarter of the Shi'ite alliance's 128 seats in the new parliament, proved critical in a weekend vote of caucus members to determine who would be prime minister." The Times adds, "The selection of Mr. al-Jaafari surprised many who saw him as a largely ineffectual leader in the current government, unable to control the brutal insurgency, armed party militias bent on sectarian killings and rampant corruption. In exchange for his support, Sheik al-Sadr is expected to request that his followers receive greater control over the social and economic future of Iraq through the ministries of Health, Education and Transportation."

NYTimes Criticizes Selection Of Al-Jaafari. The New York Times (2/14, 1.19M) editorializes, "In selecting Ibrahim al-Jaafari as its nominee for a second prime ministerial term, the dominant Shiite bloc has betrayed the hopes of all those who have wanted Iraq's first constitutionally elected government to make a fresh start at reunifying the country, rebuilding the economy and putting an end to the beating, torture and murder of civilians by Shiite militia members in and out of the official security forces. Mr. Jaafari has been a spectacular failure on all these fronts over the past 10 months. He is unlikely to do a better job if he gets the job a second time."

US Expects To Finish Handoff Of Responsibility To Iraqi Army By 2007. USA Today (2/14, Jervis, 2.31M) reports, "The US military says 40% of Iraq's combat battalions are effective enough to have taken the lead role in fighting the insurgency, a key measure for determining when US forces can withdraw." The US military "expects to complete the handover of responsibility to nearly all of Iraq's army by the end of the year, meaning Iraq's military will rely on US troops primarily for logistical support and for providing airstrikes and heavy artillery. The main fighting will be conducted by Iraqis." USA Today adds, "Currently, 40 of Iraq's 102 battalions have taken over security in the areas where they operate, Col. James Greer, chief of staff for the US military command responsible for training Iraqi troops, said in an interview."

Kristof Says US Should Set Timetable For Iraq Withdrawal. Nicholas Kristof writes in the New York Times (2/14, 1.19M), "Here's the single most depressing tidbit I've seen from Iraq lately: a new poll has found that among Sunni Arab Iraqis, 88 percent support violent attacks on U.S. troops. … So how should we handle this? First, we should announce unequivocally that we will not keep American military bases in Iraqi territory. Second, we should announce a target date for the withdrawal of all U.S. combat forces from Iraq -- say, the last day of 2007." Kristof adds that a "two-year timetable for withdrawal would give Iraqi security forces time to consolidate power, and would weaken the strongest card the insurgents have: the argument that they're protecting the motherland from imperialist Yankee crusaders. A timetable

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would also put pressure on Iraqi politicians to cooperate and govern, and it would make the U.S. more of a partner and less of a national scapegoat."

Suicide Bomber Kills 10 Iraqis. The AP (2/14, Reid) reports, "A suicide bomber blew himself up Monday after joining a line of Iraqis waiting for government checks in a mostly Shiite district of Baghdad, killing 10 people and wounding about 40 -- including women and children." The attack "occurred as more than 70 people lined up at a bank to receive government checks to compensate for incomplete food rations."

Judge Forces Saddam, Accomplices To Attend Trial. The Los Angeles Times (2/14, Daragahi, 958K) reports, "Saddam Hussein and his co-defendants, one in his pajamas, were forced to appear in court today without their attorneys and face witnesses reluctant to testify against them in a messy trial session marked by frequent shouting matches between the judge and the defendants." The Times adds, "Amid the chaotic din of the three-hour session, the prosecution managed to present several documents suggesting the upper echelons of Hussein's government and security apparatus knew about and directed the persecution of villagers in Dujayl, where the former Iraqi president was the target of a 1982 assassination attempt."

The CBS Evening News (2/13, story 5, 2:05, Dozier) added, "It's not often you get to see a former dictator sporting a jacket over a robe and bedroom slippers, or one of his former henchman in an undershirt and pajama bottoms but this event was come as you are, like it or not. 'You forced us here today,' Saddam said. 'Why?' According to the chief judge, because he could; he cited a little-known Iraqi law that says defendants can be compelled to attend trial. The unhappy group shouted, sulked, slept; even prayed," but "they did proceed, with the defendants present to hear the evidence against them. That's bound to quiet critics who think the trial must be moved to an impartial venue like The Hague. And a second major complaint may soon be laid to rest. Some critics claimed it would be near impossible to prove Saddam himself ordered the killing of 140 men and boys after a failed assassination attempt against him in northern Iraq. But legal experts believe documents presented today do help link the accused with the crime. Little of that international legal debate though is going on here, where most Iraqis are more worried about their own fate than their old leaders." USA Today/AP (2/14), New York Times (2/14, Worth, 1.19M), Reuters (2/14) and Washington Post (2/14, A11, Hernandez, 744K) run similar reports.

Federal Judge Rules US Cannot Transfer Detainee To Iraqi Custody. The New York Times (2/14, Lewis, 1.19M) reports, "A federal judge ruled on Monday that the Bush administration could not transfer a United States citizen held by the military in Iraq to Iraqi civilian custody." In his ruling, Judge Ricardo M. Urbina of Federal District Court in Washington "rejected arguments made last week by Justice Department lawyers that the courts had no jurisdiction because the man, Shawqi Ahmad Omar, was not technically in United States custody." In his ruling, Judge Urbina "minimized as 'legalistic' the government's argument that Mr. Omar was actually in the custody of the 27-nation Multi-National Force in Iraq, of which the United States was only a part."

British Military Officials Arrest Man In Connection To Abuse Tape. The New York Times (2/14, 1.19M) reports, "British military officials arrested a man on Monday in connection with accusations that British soldiers savagely kicked, butted and beat Iraqi teenagers at a British military compound in 2004." A spokeswoman for the Ministry of Defense "would not identify the man, who has not been charged with a crime, or say whether he was a serving soldier." The accusations "stem from a home video, said to have been made by a British officer in Basra, in southern Iraq, which is said to show the attacks."

Report Says Iraq Deadliest Country For Journalists In Last 25 Years. A report to be released today by the Committee to Protect Journalists is expected to release a report today that says Iraq has become the deadliest country for journalists in the last 25 years. The New York Times (2/14, Seelye, 1.19M) reports, "Twenty-two journalists were killed in Iraq in 2005, bringing the total to 61 since the American invasion in March 2003. That number surpasses the 58 journalists killed in the Algerian conflict from 1993 to 1996."

Iraq Halts Purchases Of Australian Wheat. The New York Times (2/14, Bonner, 1.19M) reports, "Iraq has suspended the purchase of wheat from the Australian wheat export company AWB pending an Australian royal commission investigation into allegations that AWB paid more

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than $200 million in kickbacks to Saddam Hussein's government from 1999 through 2003, in violation of United Nations sanctions. Iraq's move is certain to please American wheat farmers. U.S. Wheat Associates, a trade association representing American wheat growers, had urged the American-led Coalition Provisional Authority in Iraq to take similar action after Mr. Hussein was toppled in 2003, and has led an effort to have AWB investigated."

In 1999, Iraq Rejected UN Resolution On Weapons Inspectors. In its "History Lessons" column, the Washington Times (2/14, 90K) excerpts a December 18, 1999 Voice of America report, which reported, "Iraq has strongly condemned a United Nations resolution designed to send weapons inspectors back into Iraq in exchange for the suspension of U.N. sanctions. … The government in Baghdad has refused to admit arms inspectors since last December, when the United States and Britain launched air strikes against Iraq." Iraqi Deputy Prime Minister Tariq Aziz "said Iraq is ready to face the consequences of rejecting the new resolution."

Four US Soldiers Killed In Roadside Bombing In Afghanistan. ABC World News Tonight (2/13, story 6, :20, Vargas) reported, "A roadside bomb killed four American soldiers in Uruzgan province. The Taliban is claiming responsibility for the attack. Violence is on the rise in Afghanistan. Last week, 89 people were killed there, surpassing the 55 lives that were lost in Iraq."

The CBS Evening News (2/13, story 4, 0:40, Schieffer) reported, "It is the worst loss for US forces there since September. It happened in Afghanistan's central mountains north of Kandahar, a hotbed of Taliban rebels. The American patrol was hit first by a roadside bomb, then by small arms and rocket fire." The AP (2/14, Cooney) and New York Times (2/14, Gall, 1.19M), among other sources, run similar reports this morning.

Cartoon Protests Called Barometer Of Afghan Frustration. The Christian Science Monitor (2/14, Baldauf, 61K) reports that diplomats, government officials and aid workers in Kabul are describing Afghanistan with phrases like, "narco state, political disillusionment, military stalemate, donor fatigue, American military pullout. Tie it all together, and it's a picture that suggests Afghanistan could be reverting back to a failed state. None of these issues is new, with the exception of the US decision to start drawing down its forces in Afghanistan and the expected arrival of NATO forces this summer. Yet four years after the government of President Hamid Karzai came to power, these various factors seem to be converging, with explosive results." The Monitor adds, "The cartoon protests of the past week - which have been the deadliest in the Islamic world - are largely a barometer of domestic frustrations. In the streets of Kabul, Laghman, Maimana, and Bagram, protesters turned their anger on the US, the West, and 'the dog-washers' -- a derisive term for the expatriate Afghan technocrats who have returned to top posts in the government."

Musharraf Said To Be Facing Multiple Challenges. USA Today (2/14, Wiseman, 2.31M) reports that Pakistan's President Pervez Musharaf is at a crossroads. Everywhere he turns, "there's trouble. To the north, unmanned U.S. aircraft have allegedly violated Pakistan's skies in search of al-Qaeda fugitives, firing missiles at suspected terrorist sanctuaries, killing villagers and outraging the Pakistani public. To the south, rebellious tribal militias battle his soldiers, even firing a couple of rockets at Musharraf himself and wounding one of his top generals. To the west, pro-Taliban forces are resurgent along the border with Afghanistan. To the east, arch-rival India is ignoring Musharraf's peace proposals, apparently convinced that time is on its side in the dispute over divided Kashmir." USA adds, "Musharraf's problems are America's, too. … A weakened Musharraf could find it more difficult to ignore anti-American public opinion, crack down on Islamic extremists and pursue terrorist suspects along the Afghan border." Musharraf "denies he's in trouble. He told Indian television last month, 'I am the strongest at the moment, politically.'"

Marines Adapt Cold War Weapons For Warfare In Iraq. The Washington Times (2/14, Axe, 90K) reports that Marine Corps aviators in Iraq "are adapting Cold War airplanes and traditional tactics to a new kind of warfare -- snooping for insurgents and terrorists who hide among innocent Iraqis, and taking out pinpoint targets in hectic urban fighting. … To keep the traditional promise of Marines aviation to support the men on the ground, aviators have adapted. Jets designed to jam enemy radar now are jamming the radio signals that detonate IEDs. And bombers are trading some of their ordnance for new sensors that can spot insurgents in crowded cities."

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US Military Uses Video Game Technology To Train Soldiers For Combat. A front page story in the Washington Post (2/14, A1, Vargas, 744K) reports on the use of video game technology to train US soldiers for combat. The Post adds that "computer simulations -- as military officials prefer to call them -- have transformed the way the United States military fights wars, as well as soldiers' ways of killing."

DOJ:

Analysts Have Mixed Reaction To Proposed DOJ, DHS Budgets. Federal Computer Week (2/14, Arnone) reports, "The Bush administration's budget requests for the Homeland Security and Justice departments contain a mix of good and bad proposals for improving how the departments use information technology, analysts say." FCW continues, "The DHS budget request calls for $42.7 billion in fiscal 2007, a nearly 6 percent increase from fiscal 2006. The IT portion of the department's budget would increase 21.2 percent, from $3.6 billion this year to a proposed $4.4 billion in fiscal 2007. The budget reflects an emphasis on preparedness, information sharing, transportation security, border security and departmental organization. … The Justice budget request would fund improvements in the management, storage, sharing and security of information. The FBI would sharply increase IT spending to improve its intelligence and information-sharing capabilities." FCW adds, "The federal government would spend a lot of money to address fundamental problems that have lingered for years, said Warren Suss, president of Suss Consulting. … The Integrated Wireless Network will improve secure wireless communication, Suss said. The Homeland Security Information Network will enhance information sharing with state and local first responders. … The $1 million the FBI would spend on service-oriented architecture would be a 'harbinger of things to come,' Suss said. An important governmentwide tool, SOA would make department networks more powerful to ensure that users of large government IT systems have the responsiveness and performance they need." FCW notes, "Not all the analysts' observations were positive. The DHS budget request would cut the Emergency Management Performance Grant program by $13 million to $170 million for fiscal 2007. … Alan Webber, senior analyst for government at Forrester Research, said he expects to see other agencies cut back their IT budgets this summer for the money to go to DHS and DOJ. That would take money away from many programs that are not war-related but are critical for working Americans, he said. … The administration should pressure Justice and DHS to spend their IT money wisely and not hand them blank checks just because the departments are protecting the country, he said."

CORPORATE SCANDALS:

Enron Jury Hears Tapes Of Conference Calls. USA Today (2/14, Farrell) reports, "Jurors in the government's trial of former Enron CEOs Ken Lay and Jeff Skilling listened Monday to almost two hours of conference calls from October of 2001, a period when the energy giant's facade of invincibility began to crumble." USA continues, "In one recording, Lay says $1 billion in losses for the third quarter of 2001 are 'non-recurring,' and assures analysts that Enron's underlying businesses are strong. But in the same call, he announces that Enron had to reduce its shareholder equity by $1.2 billion in order to close down a 'financing vehicle' that had come to alarm investors because of its lack of transparency. … 'We've cleaned up some items that clouded our performance,' Lay declared to a largely supportive group of Wall Street analysts in the Oct. 16 call, adding that he hoped the company's 'expanded disclosure' would halt the slide in the company's stock price. … But the issue of the 'financing vehicles' would not go away. In the days following the conference call, The Wall Street Journal reported that Enron's CFO, Andrew Fastow, made millions in profits from a private partnership he formed purely to buy and sell Enron assets."

Reuters (2/13, Daily, Babington) reports, "Speculation about Enron's troubles were swirling on Wall Street long before the company reported a massive loss triggering its downfall, hardly the sign of an elaborate scheme to deceive investors, a defense lawyer argued on Monday." Reuters continues, "The assertion struck at the heart of the government's argument that top Enron executives for months hid the company's myriad problems plaguing the once high-flying energy company that spiraled into bankruptcy in late 2001." Reuters adds, "As the trial entered its third week, former Enron CEO Kenneth Lay's lawyer Michael Ramsey pointed to analyst reports that suggested Wall Street knew of troubles brewing at Enron well before it announced its weak third quarter performance in 2001. … Sparring with prosecution witness Mark Koenig, Enron's former investor relations chief, Ramsey also replayed a tape of the earnings

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conference call in which Lay described the company's quarterly loss of more than $600 million, a $1.01 billion write-down in asset values and reduction in investors equity of $1.2 billion. … Ramsey said one analyst had speculated the company would take an even larger asset write-down on its struggling water and broadband Internet business, and that the company's stock rose after the news."

Rice Could Be Key Witness For Government. The Wall Street Journal (2/14, Emshwiller, Mcwilliams) reports, "Though he hasn't taken the stand in the criminal trial of former Enron Corp. top executives Kenneth Lay and Jeffrey Skilling, Kenneth Rice has already sworn under oath that Mr. Skilling took part in misleading the public about a key company business operation." The Journal continues, "Today's anticipated appearance of Mr. Rice, a former top Enron official and close Skilling associate, comes as the trial's first witness, former Enron investor-relations chief Mark Koenig, completed his seventh day of testimony. Mr. Lay's lead attorney, Michael Ramsey, continued to challenge Mr. Koenig's claims that Enron had improperly manipulated its reported financial results. Mr. Ramsey also continued to present the defense case that Enron had been a healthy company whose December 2001 collapse resulted from a market 'panic.' … Mr. Koenig is expected to complete his testimony this morning, and anticipation has begun to turn toward Mr. Rice, the former head of Enron's once highly promoted telecommunications unit, known as Enron Broadband Services. In July 2004, Mr. Rice pleaded guilty to one count of securities fraud in connection with his public statements about EBS and agreed to cooperate with the government in hopes of obtaining leniency at sentencing."

Koenig Said To Have Helped Defense. The New York Times (2/14, Barrionuevo) reports, "At first glance, Mark E. Koenig appeared to be the perfect lead-off witness for the government in the criminal trial of Jeffrey K. Skilling and Kenneth L. Lay, Enron's former chief executives. … Clean-cut and articulate, Mr. Koenig, 50, ran investor relations for Enron and was a polished performer on Wall Street who was present at many of the crucial discussions, prosecutors say, where Mr. Skilling and Mr. Lay lied to the public about Enron's true financial condition in the days leading up to its spectacular collapse in late 2001." The Times continues, "But after seven days on the stand, including four days of withering cross-examination, Mr. Koenig may have served to advance the defense's argument as much, if not more, than the government's. Indeed, by using Mr. Koenig broadly to cover many aspects of the far-ranging case, some outside lawyers argued, the government opened the door to the defense to lay out its own contention that Mr. Skilling and Mr. Lay did nothing wrong. And they allowed the defense lawyers to showcase Enron's former top executives favorably to the jurors through hours of audio and video tapes."

Judge Upbraids Counsel In AIG Suit On Request To Make Documents "Disappear."

The New York Law Journal (2/14, Lin) reports, "A federal judge in Manhattan has blasted a pair of private equity executives, both of whom are also lawyers, for asking him to make allegations against them 'disappear' after the settlement of a suit that accused them of 'fundamentally dishonest behavior.'" The Journal continues, "American International Group Inc. filed suit Feb 1. against two former top executives of its AIG Capital Partners private equity arm, Chief Executive Peter Yu and General Counsel William Jarosz. The insurance giant accused them of stealing confidential client information from AIG computers to help them launch a new private equity fund. … The parties settled under confidential terms last week, a day after a forensic computer specialist submitted a declaration that Yu appeared to have accessed thousands of documents on AIG computers in the weeks following his termination last April." The Journal adds, "As part of the settlement, David S. Golub, the lawyer for the two executives, asked Southern District of New York Judge Lewis A. Kaplan at a hearing last Wednesday to vacate and then seal an earlier temporary restraining order (TRO) issued against the defendants. … 'I'm quite uncertain, literally uncertain as to whether I want to be a party to that,' the judge responded. … According to a transcript of the hearing, Kaplan expressed concern about the swiftness of the settlement following the introduction of forensic evidence showing Yu 'plugged his laptop into the AIG system and took the crown jewels, loosely speaking.' … 'The minute that assertion was made and the evidence placed before me,' the judge continued, 'Mr. Golub, like the good lawyer that I know him to be, picked up the phone, called his client and faced with what, if there were any truth to the allegations, could be a disaster for the defendants, suddenly the case was settled, and now the defendants are saying "make it disappear".'"

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CRIMINAL LAW:

Former DOJ Official Aids Israel Lobbyists' Defense. The Washington Post (2/14, A4, Pincus, 744K) reports Viet D. Dinh, the "former head of the Justice Department's Office of Legal Policy helped write a memorandum of law calling for dismissal of Espionage Act charges against two pro-Israel lobbyists, arguing that, in receiving leaked classified information and relaying it to others, they were doing what reporters, think-tank experts and congressional staffers 'do perhaps hundreds of times every day.'" Dinh, who "helped draft the USA Patriot Act after the Sept. 11, 2001, attacks, has joined with lawyers defending Steven J. Rosen and Keith Weissman, former employees of the American Israel Public Affairs Committee (AIPAC), who last year became the first non-U.S. government employees to be indicted for allegedly violating provisions of the Espionage Act." The Defense memo says, "Never has a lobbyist, reporter, or any other non-government employee been charged . . . for receiving oral information the government alleges to be national defense material as part of that person's normal First Amendment protected activities."

US Issues New Subpoena In Abramoff Probe. The National Journal (2/13, Stone) reports, "Federal investigators have issued a subpoena for documents relating to the U.S. Family Network, a sign that the influence-peddling probe into the activities of convicted lobbyist Jack Abramoff continues to expand. The U.S. Family Network, a now-defunct grassroots advocacy group that had ties to Rep. Tom DeLay R-Texas, reportedly obtained most of its funding in the late 1990s from key Abramoff clients." The Journal continues, "The U.S. Family Network, a group that promoted itself as 'pro-family' and advocating 'moral fitness,' was closely affiliated with Tom DeLay and his aides, particularly Ed Buckham. … Sources familiar with the Justice Department-led probe say that one area of interest to investigators is $15,600 that the U.S. Family Network paid in 1999 to Liberty Consulting, a firm run by Lisa Rudy, the wife of Tony Rudy, who was a deputy chief of staff to DeLay before becoming a lobbying colleague of Abramoff's." The Journal adds, "Tony Rudy was one of two former Hill staffers identified in Abramoff's January plea-bargain agreement with the Justice Department as having provided Abramoff with legislative help in exchange for gifts and other financial favors. … The U.S. Family Network, which existed for five years and raised about $2.5 million, was set up in 1996 by Ed Buckham, who was DeLay's chief of staff at the time. … The total of $15,600 was delivered in three payments in 1999 to Liberty Consulting before Rudy left DeLay's office and joined Abramoff in early 2001 as a lobbyist at the firm Greenberg Traurig, according to a source familiar with the group's operations. The timing of the payments is significant, sources say, because investigators have been focusing on what favors Abramoff may have provided to public officials in exchange for their help on client matters."

Judge Releases Search Warrants In Entiwistle Case. The AP (2/14, Lavoie) reports, "A British man charged with killing his wife and infant daughter trolled the Internet just before the slayings, looking for escort services and other Web sites offering help finding sexual partners, according to search warrant documents released Monday." The AP continues, "Authorities said Neil Entwistle, 27, also did research online about ways to kill people and how to commit suicide in the four days before his wife, Rachel, and 9-month-old daughter, Lillian, were shot to death in their suburban home on Jan. 20. … Entwistle was arrested in England last week and charged with first-degree murder in a case that has drawn widespread media attention in both the United States and United Kingdom." The AP adds, "He did not fight extradition, and British authorities signed an order Friday authorizing his return to Massachusetts. U.S. Marshals will bring him back to Massachusetts this week, but his travel arrangements were unknown. … Investigators said a search of Entwistle's computer revealed he did Internet searches seeking information about suicide, euthanasia and 'killing people with a knife,' on Jan. 16 and 17. … The same week, he obtained the names and addresses of various escort services in the Boston and Worcester areas, including 'Eye Candy Entertainment,' 'Sweet Temptations' and 'Exotic Express.' He visited a Web site called 'Adult Friend Finder,' which investigators said helps subscribers find sexual partners through Internet chat rooms, personal ads and other services, investigators said. … Prosecutors said last week in an arrest warrant affidavit that they believe Entwistle killed his wife and daughter because he was despondent after accumulating tens of thousands of dollars in debt, and that he had expressed 'a dissatisfaction with his sex life.'"

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Five Government Agencies Reviewing Classified Material For Libby Trial. The AP (2/14, Locy) reports, "Five government agencies are reviewing classified evidence that…Libby may want to use at his trial to fight perjury and obstruction-of-justice charges, according to a court transcript made public Monday. During a Feb. 3 hearing, Special Prosecutor Patrick Fitzgerald told a federal judge that the review of classified materials is being done by the CIA, National Security Council, National Security Agency, State Department and several components within the White House, including the offices of the president and vice president." The AP adds, "The outcome of those reviews will determine whether the case against Libby, Vice President Dick Cheney's former chief of staff, gets bogged down in a legal battle pitting the government's desire to protect national security secrets against a defendant's right to a fair trial."

Dean Reiterates Call For Cheney's Ouster. CNN's The Situation Room (2/13, Blitzer) reported that DNC Chairman Howard Dean "is pressing his contention that Dick Cheney should resign if, it turns out, he ordered a top aide to leak classified information. Former Cheney chief of staff Lewis 'Scooter' Libby reportedly told the grand jury in the CIA leak case he leaked the classified memo in defense of the invasion of Iraq." Dean: "Vice President Cheney has, in fact, ordered the leaking of political information -- of intelligence information. That means that he has to step aside. We don't know if it's true. But he's been accused of it. If it's true, he has to step aside."

Former Janitor Testifies He Gave Ryan Contributions After Receiving Campaign Funds. The Chicago Tribune (2/14, O'Connor, 643K) reports former secretary of state's office janitor Donald Skoda "testified Monday he voluntarily gave…cash to Ryan at Christmas for years but acknowledged on cross-examination that the gifts usually came after Ryan's campaign sent him $50." After a prosecutor "showed him records indicating he had been given $50 apiece in December of 1996, 1998, 1999, 2000 and 2001," Skoda "admitted he cashed or deposited the $50 check and then gave Ryan $15 to $25. Skoda said he didn't work on any of Ryan's campaigns." Later yesterday, The Tribune adds, Assistant U.S. Atty. Zachary Fardon "contended outside the jury's presence that a former Ryan lawyer — now interim U.S. attorney for southern Illinois — made inaccurate and untrue claims about an FBI interview of Ryan in 2001. U.S. Atty. Edward McNally is scheduled to testify Wednesday for the defense. … Fardon recounted how the prosecution had McNally's former law firm…disqualified from representing Citizens for Ryan after its indictment in 2002 because of conflicts of interest from representing dozens of other witnesses in the federal investigation. … Fardon said McNally's alleged bias against the prosecution team 'should be fair game' in the cross-examination." The AP (2/14, Robinson) also reports on Skoda's testimony and the prosecutors' reservations about Fardon.

Handwriting Expert Testifies Campbell Signature On Disputed Contract. The Atlanta Journal-Constitution (Scott, Warren, 430K) reports handwriting expert David Moore "testified Monday that it was former Atlanta Mayor Bill Campbell's signature on contracts worth about $80 million that went to a company prosecutors say had paid off the mayor." The defense "denied that Campbell signed documents in 2001 extending the United Water contract and suggested that the signatures may have been forged." The Journal-Constitution notes, "Prosecutors say that United Water paid for a $12,000 getaway to Paris that Campbell took with his then girlfriend Marion Brooks." The Journal-Constitution adds that also on Monday, "Atlanta municipal clerk Rhonda Dauphin Johnson testified that Campbell didn't initially disclose thousands of dollars from city contractors for speaking engagements. After the FBI initiated a probe, Campbell amended his campaign disclosure forms to include a $5,000 speaking fee from Sable Communications in 1996 and $10,000 from Oracle Corp. in 1998, Johnson said."

WXIA-TV Atlanta (2/13, Carnes, King) reports on its Web site from a story broadcast Monday, "For years, Campbell has insisted that the signatures on the documents are not his," but Moore "compared the signatures in question with others on official city documents" and "testified that while he found variations from signature to signature, he also found similarities. … Campbell's lawyers pointed to the wide variations on city documents between one Bill Campbell and another. Attorney Jerry Froelich asked the handwriting expert, 'Did they tell you other people were writing Bill Campbell's signature.' Moore replied, 'I don't recall.'"

Jury Selection Begins Today For First "Tennessee Waltz" Trial. WTVF-TV Nashville (2/13) reports on its Web site, "Jury selection is expected to get underway Tuesday in Chattanooga for the first trial from the

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Operation Tennessee Waltz sting. Hamilton County Commissioner William Cotton is charged with taking bribes of more than $4,000 in return for promising to help a fake company created by the FBI." The Chattanoogan (2/14) adds, "Former County School Board member Charles Love will not testify against…Cotton in his bribery trial that starts Tuesday morning, officials said. Prosecutor John MacCoon also said that Love…was not working with the FBI at a time when tapes were made of conversations between him and Cotton." The Chattanoogan notes, "Judge Edgar said he expects to have a jury seated by late Tuesday morning or early in the afternoon. Then opening statements will be given and the testimony will start." MacCoon "said he plans to call former FBI agent Bill Curtis in regards to the conviction of a prior commissioner on similar charges."

House Panel Declines To Pursue Probe Against DeBerry. The AP (2/14, Tanner) reports, "An ethics complaint against Tennessee House Speaker Pro Tem Lois DeBerry for accepting cash from an undercover investigator died in the House Ethics Committee Monday. It was the second time the committee failed to move forward on the complaint alleging DeBerry broke House ethics rules by accepting $200 at a casino from an FBI agent working with the Tennessee Waltz public corruption investigation."

Newton Says Ethics Reform Bill Will Curb Corruption. The AP (2/14) reports, "Gov. Phil Bredesen and good government advocates praised Tennessee lawmakers for passing an ethics reform bill, but a former legislator who pleaded guilty in a federal bribery sting said 'they did nothing.'" Former state Rep. Chris Newton "admitted that he took bribes to sponsor legislation and got caught in the undercover Tennessee Waltz operation. The ethics reform bill fails to curtail the influence of big spending special interests in elections and it doesn't adequately extend the jurisdiction of the new state ethics commission, Newton said."

Gotti Says Concern For Family Motivated Him To Turn Down Plea Deal. The AP (2/14) reports, "Facing a retrial on racketeering charges, the son of late mob boss John Gotti says he is willing to go in front of a new jury for the sake of his family. … 'When I see my children, I know everything's at stake,' John A. 'Junior' Gotti told The New York Post in an interview published Monday. 'We can't lose. There's too many lives at stake here.'" The AP continues, "Gotti, 41, is charged with ordering a botched 1992 plot to abduct Curtis Sliwa, a radio show host and founder of the Guardian Angels crime-fighting group, in retaliation for his on-air rants against Gotti's father. Sliwa was shot but recovered. … The younger Gotti was acquitted in September on a securities fraud charge, and a judge declared a mistrial on the more serious racketeering counts, including kidnapping. But three months later, U.S. District Judge Shira Scheindlin rejected Gotti's request to be acquitted of the racketeering charge. Jury selection for the retrial was set to begin Tuesday." The AP adds, "Gotti told the Post that family considerations prompted him to turn down a plea deal that would have sent him to prison for less time. … 'My wife was a major obstacle. She said, "If you do it, we're through. We need you in this house,:"' he said. … Gotti, whose mob boss father was sentenced to life in prison in 1992 and died there 10 years later, expressed confidence that he would be truly vindicated at the end of the retrial. … At Gotti's first trial, defense attorneys managed to win a hung jury by arguing that the younger Gotti had left organized crime in the late 1990s. Prosecutors dismissed the claim, saying Gotti used his name to rise in the crime organization and gave orders and collected kickbacks beyond 1999."

Bahamas Man Pleads Guilty In US To Operating Ponzi Scheme. The Bahama Journal (2/11) reports Eric E. Resteiner of Lyford Cay on was convicted Friday "in a U.S. federal court of defrauding more than 50 investors out of $47 million through an elaborate Ponzi scheme that was, in part, principally operated in The Bahamas." Resteiner "pleaded guilty to seven counts of wire and mail fraud. … In operating the scheme, Resteiner told prospective investors various lies to encourage their investment in the alleged high rate of return investment that was alleged to have presented no risk to investors, according to the prosecution's case. These representations, and others made by Resteiner to lure other to invest, said prosecutors, were false and fraudulent." The Journal notes, "Many of his victims were reportedly members of the Church of Christ Scientist, who were lured in by virtue of his position within in the church."

Former Connecticut Governor Returns Home After 10 Months In Prison. The New York Times (2/14, Stowe) reports, "A thinner, more subdued John G. Rowland, Connecticut's former governor, returned to his home here on Monday afternoon after being released on Friday from a federal prison camp where he served more

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than 10 months after pleading guilty to corruption charges." The Times continues, "Shortly after Mr. Rowland and his wife, Patricia, arrived at their ranch home in a gray sport utility vehicle at 3:45, they emerged to speak to a knot of reporters and photographers at the edge of their driveway. 'It's good to be back, but I still have a long way to go,' he said, holding his wife's hand. … 'It's been a long year for everybody, not just for us, but for everybody in the state,' he said, dressed in jeans and a green sweater, and having lost weight but gained some gray hair. He was cordial, shaking hands with one of the television reporters, but he refrained from making any of his trademark quips." The Times notes, "He expressed gratitude for the support he and his family received from people in the state, and said he hoped to spend as much time as possible with his family. … Mr. Rowland, 48, a Republican elected to three terms, entered the Loretto Federal Correctional Institution in southwestern Pennsylvania in April after he admitted that he had accepted $107,000 in gifts and vacations from people doing business with the state. While in prison, he taught job skills to about 50 inmates."

The AP (2/14, Haigh) reports, "A subdued and introspective citizen John G. Rowland, who admits the past 10 months in a federal prison camp have humbled him, said Monday he was prepared to begin the next phase of his life with 'blind faith.' … The former governor and congressman, once considered a star in the national Republican Party, said he has no plans for his future other than reconnecting with family and friends, and completing his four months of home confinement."

Maryland High Court Overturns Death Sentence For Baltimore Man. The Baltimore Sun (2/14, Mcmenamin) reports, "The state's highest court ordered a new sentencing hearing Monday for a Baltimore man who had been sentenced to death in the killing of his girlfriend's young daughter." The Sun continues, "In a decision so lengthy and complex that one lawyer compared it to a phone book, the Maryland Court of Appeals provided different reasons for overturning Jamaal K. Abeokuto's death sentence. … Three judges decided that Abeokuto's decision to have a judge determine his punishment did not amount to a 'knowing and voluntary waiver' of his right to be sentenced by a jury. Two of those judges, and another, agreed -- as they have in the last several death penalty cases to come before the court -- with a legal argument that Maryland's death penalty sentencing procedure is flawed." The Sun adds, "The votes of those four judges amounted to a majority of the seven-member panel that was enough to rescind the death sentence of Abeokuto, 26, who was convicted of the 2002 killing of 8-year-old Marciana Ringo. … In one opinion issued Monday, three judges found that Abeokuto did not knowingly or voluntarily waive his right to a jury sentencing because the trial judge failed to ascertain whether Abeokuto was still taking anti-psychotic medication and, if so, whether he was experiencing any side effects that might cloud his ability to understand the proceedings. … But Harford County State's Attorney Joseph I. Cassilly, who prosecuted Abeokuto, said he was 'very puzzled' by the court's decisions. … 'If you read the decision and you look at the votes, the state won on every issue and yet we still somehow lose on the bottom-line decision,' he said. 'It doesn't make sense to me.'"

The Washington Post (2/14, B8, Rich) reports, "The Court of Appeals ruling, ordering a new sentencing hearing that could result in a different outcome, continues a trend in Maryland in which, in less than six years, the number of condemned inmates has dropped from 18 to now five. Although the state executed two inmates in that period, the decline is attributable largely to appellate rulings that, as the court did yesterday, grant prisoners new trials or sentencings because of legal flaws in the initial proceedings. … In two separate opinions, a majority of the court held that Jamaal K. Abeokuto's sentence should be vacated. The result was somewhat unusual, however, because no four judges -- the number required to form a majority -- found a common basis to support the reversal. … Rather, three found that Abeokuto was not questioned rigorously enough before he was permitted to waive his right to be sentenced by a jury. Two of those three, plus one other, agreed on a different appellate claim, finding that the state's burden of proof in seeking capital punishment is unconstitutionally low." The Post notes, "Abeokuto, now 26, was found guilty of abducting Marciana Ringo in December 2002 from her Baltimore home and taking her to a wooded area in Harford County, where he killed her by slitting her throat and kicking her head. Prosecutors presented DNA and other forensic evidence linking Abeokuto to the crime, including his saliva and fingerprint on a ransom note demanding that $5,000 be placed in the men's bathroom at a park in Baltimore 'or the girl dies.'"

Ohio GOP Fundraiser Charged On 53 Counts In Coin Scandal. The Wall Street Journal/AP

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(2/14) reports coin dealer Tom Noe, a "prominent Republican Party fund-raiser" in Ohio, was charged with "theft and money laundering in an investigation of a controversial state investment in rare coins that has embroiled Republicans in scandal during an election year." The 53 charges against Noe "conclude a 10-month investigation by state and federal prosecutors into the $50 million rare coin investment Mr. Noe managed for the state insurance fund for injured workers."

The Columbus Dispatch (2/14, Niquette) notes, "The charges include engaging in a pattern of corrupt activity, 11 counts of theft, 11 of money laundering, 8 of tampering with records and 22 of forgery. … Also indicted in the scheme was Timothy H. LaPointe, Noe's partner in the coin business, who was named in seven counts. He was charged with engaging in a pattern of corrupt acitivity and six counts of tampering with records, said the indictment filed in Lucas County Common Pleas Court.

Former Virginia Sheriff Pleads No Contest To Larceny, Embezzlement Charges. The Potomac News (2/14, Seal) reports, "A two year-investigation into former Prince William County Sheriff E. Lee Stoffregen III ended" Monday "with a deal: If he returns a high-powered assault rifle he took when he left office and pays back county money used to throw his retirement party, then larceny and embezzlement charges will be dropped." Stoffregen pleaded no contest to the charges yesterday. The News notes, "For prosecutors, the plea deal was a way to avoid what could have been a long and costly trial, said Commonwealth's Attorney Matthew J. Britton, a King George County prosecutor brought in to try the case. Because of the case's complexity and the time that'd elapsed since the alleged crimes occurred, there was the possibility of a hung jury or acquittal, Britton said. … Stoffregen was indicted after a lengthy corruption investigation by local authorities, state police and the Federal Bureau of Investigation, but the gun theft and embezzlement charges were the only claims that could be substantiated, Britton said."

Computer Industry Leaders Gather For Security Conference Today. In a widely-distribution, Reuters (2/14, Kahn) reports from San Francisco, "Major security vendors will likely focus on broader protections for consumers and businesses at a major industry conference this week as computer hackers increasingly look for financial gain rather than online fame, analysts say. The RSA Conference begins on Tuesday with a speech by Microsoft Corp. Chairman Bill Gates, who some analysts expect, will talk about his company's plans for pushing into the security market aimed at large companies." Reuters adds, "Chief executives including John Chambers of Cisco Systems Inc., John Thompson of Symantec, Stratton Sclavos of VeriSign Corp., Scott McNealy of Sun Microsystems Inc. are also set to speak. FBI Director Robert Mueller will give a keynote speech on Wednesday about how law enforcement agencies are working to fight organized cybercrime."

200 Security Experts Participate In Florida Cyber Crime Summit. The St. Petersburg (FL) Times (2/14, Gussow) reports on "the Cyber Security Summit held last week at Raymond James Financial" in St. Petersburg. "The summit, sponsored by the FBI, the University of South Florida and Raymond James, attracted more than 200 security experts, law enforcement officials and academics. While progress was reported on the security front, there was no escaping one theme: The problem isn't going away any time soon. 'The threats we face are more diverse than ever,' said Carl Whitehead, special agent in charge of the FBI's Tampa office." The Times notes, "In addition to the usual suspects of spam, viruses, phishing, pharming and hacking, a few newer terms turned up, as well as tactics. … 'Reshippers' are sometimes unwitting participants, lured many times by 'work at home' ads. … 'There's always someone who's going to bite on something,' said the FBI's Dan Larkin of the Internet Crime Complaint Center."

CIVIL LAW:

Reid Willing To Consider Asbestos Lawsuit Curbs. Reuters (2/14, Cornwell) reports Senate Minority Leader Harry Reid said "he would consider backing curbs on some asbestos lawsuits if the chamber would scuttle legislation removing all claims from court and paying victims from a $140 billion trust fund." Reid "urged senators to 'get this bill off the floor' ahead of a major procedural vote, that could come as early as Tuesday, over whether the industry-funded trust could cost taxpayers in violation of budget rules." Reid said an "alternative to the national fund would be to keep asbestos claims in court, but revise the medical criteria so that only claims involving serious disease go forward."

Senators To Clash On Point Of Order Vote On Asbestos Bill. The Washington Post (2/14, A13, Murray,

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Babington, 744K) reports the Senate asbestos bill "faces a make-or-break vote today, as Republican and Democratic opponents of the legislation attempt to block it as a potential drain on the federal treasury." The bill would "create a $140 billion fund financed by asbestos companies and their insurers to pay exposure victims based on their level of illness. Fiscal conservatives worry that if the fund ever runs dry, the government would be on the hook for the remaining payments. Many Democrats are expected to join the procedural challenge as a way to stop the bill, which is strongly opposed by one of their closest political allies, the Association of Trial Lawyers of America."

CQ (2/13, Stern) reports Senate Majority Leader Bill Frist "filed for cloture on an asbestos trust fund bill Monday night, but opponents of the legislation are hoping they can knock it down cleanly even before the vote on that motion." The effort by Frist "to invoke cloture and limit debate on the bill could become meaningless depending on what happens with a budget point of order lodged against the bill." Opponents of the legislation "are confident they have the votes to sustain the budget point of order, according to Senate aides. However, the bill's chief sponsors, Arlen Specter, R-Pa., chairman of the Judiciary Committee, and ranking Democrat Patrick J. Leahy of Vermont, pointed to a Congressional Budget Office (CBO) analysis released Monday that found the trust fund would not increase the federal deficit."

Roll Call (2/14, Pierce) reports, "Bipartisanship could reign supreme this week as the Senate looks to wrap up debate on an asbestos trust fund bill. But it may fall short of the kind of cross-aisle cooperation that good government-types like to crow about." Two "opposing bipartisan coalitions are set to clash today over a procedural vote that could presage the end of the line for the asbestos measure, which seeks to put an end to lawsuits that allege asbestos-related illnesses, while setting up a privately funded $140 billion trust fund to compensate those asbestos victims." The procedural vote, "scheduled for this afternoon, will address whether to waive a budget point of order brought by Sen. John Ensign (R-Nev.). Ensign argues that the bill could bust budget caps, even though the measure stipulates that funding must come from private entities, not from taxpayers." Supporters of the bill "need 60 votes to waive the point of order. If they can't muster 60 votes, the bill effectively will be dead, and Senate Majority Leader Bill Frist (R-Tenn.) will likely move on to the debate over reauthorizing portions of the USA PATRIOT Act." The vote "will likely come down to which GOP conservatives are willing to vote with the bill's backers on the budget point of order even though they oppose the bill itself."

WSJournal Says Trust Fund Bill Worse Than Asbestos Legal Quagmire. The Wall Street Journal (2/14, 2.11M) says in an editorial that, "Sometimes the only thing worse than a big economic problem is a Congressional attempt to fix it. That's the case with Arlen Specter's $140 billion asbestos trust fund, which faces a crucial test today in the Senate. If it fails to get 60 votes on a procedural budget vote, the bill is probably dead for this year." Congress "helped to create this mess by easing bankruptcy rules in 1994 that gave far more leverage to the trial bar in asbestos bankruptcy court. The answer to such legal abuse is to fix the laws that allow it, not pass the buck onto a trust fund that may ultimately be financed by billions of bucks from taxpayers."

NYTimes Says Bill Holds Promise For Asbestos Victims. The New York Times (2/14, 1.19M) says in an editorial that opponents of the asbestos bill "plan a procedural vote today to derail the bill. Senators who care about the plight of ill asbestos victims and their families will not lend their votes to this sham." An "unusual alliance of trial lawyers, manufacturers and insurance companies is trying to defeat the change, and the promise it holds for the hardest-hit victims of asbestos diseases."

CIVIL RIGHTS:

FBI Arrests Florida Man On Human Trafficking Charges. Under the headline "FBI Nabs Fort Myers Man In Human Trafficking Case," The Naples Daily News (2/14, Zeitlin) reports Eliseo Escalante Santizo of Fort Myers "was picked up by the FBI today on a U.S. grand jury indictment accusing him of human trafficking after authorities say he sold two young Mexican females to a man who tried to force them into prostitution in Immokalee, authorities said. … Doug Molloy, chief assistant U.S. Attorney, said federal authorities and the Collier County Sheriff's Office are still looking for the other man named in the indictment." The women "escaped before they were forced to have sex, he said. 'They were brave enough to flee,' Molloy said. 'This is an organized delivery system.'"

Inmate Dies After Racial Fight In Los Angeles Jail. The AP (2/14, Prengaman) reports, "Sheriff's officials worked Monday to transfer hundreds of Los

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Angeles County jail inmates to the California state corrections system as continuing racial brawls led to the second prisoner death this month." The AP continues, "About 200 inmates, mostly parole violaters and those awaiting transfer to state prison, have already been moved out, and another 400 were expected to be transferred this week, said Los Angeles County sheriff's Chief Marc Klugman, head of America's largest jail system. … 'We are in the process of getting all the prisoners we can out of here and into the state prison system,' Klugman said Monday." The AP adds, "The latest inmate death occurred Sunday afternoon after a fight between four Hispanic and two black prisoners in a six-man cell at the downtown Men's Central Jail. … A 38-year-old black inmate collapsed and died after the fight. Another black inmate was killed Feb. 4 in racial fighting at the Pitchess Detention Center's North Facility in Castaic, north of Los Angeles. … In Sunday's incident deputies broke up the fight with verbal commands, and removed the injured black prisoner when he complained of pain, Deputy Alba Yates said."

Frist Says Senate Will Vote On Gay Marriage Amendment In June. CNN's The Situation Room (2/13, Henry) reported, "Senate Majority Leader Bill Frist confirms to CNN he will have a vote on a Constitutional amendment banning same sex marriage the first week of June, a move likely to fail but guaranteed to spark a fiery debate in this election year. Senator Frist knows the vote is going to fail. What's the point? Basically, this is a wedge issue. He knows it's going to whip up conservatives heading into the midterms and it's going to put moderate Democrats on the defensive. Democrats also charge that Senator Frist is trying to woo voters before the 2008 presidential campaign. Of course Republican aides deny that. They say this is all about getting this issue front and center and not letting up on it."

US Said To Be Underestimating Costs Of "Don't Ask, Don't Tell." The Washington Post (2/14, A4, White, 744K) reports a University of California report scheduled for release today says "the financial costs to the U.S. military for discharging and replacing gay service members under the nation's 'don't ask, don't tell' policy are nearly twice what the government estimated last year, with taxpayers covering at least $364 million in associated funds over the policy's first decade." A UC-Santa Barbara group "examining the cost of the policy found that a Government Accountability Office study last year underestimated the costs of firing approximately 9,500 service members between 1994 and 2003 for homosexuality. The GAO, which acknowledged difficulties in coming up with its number, estimated a cost of at least $190.5 million for the same time period. The new estimate is 91 percent higher." Although it "did not take a stance on the effectiveness of the policy, the California 'blue ribbon commission' -- which included former defense secretary William J. Perry and 11 professors and defense experts -- found that the military has put millions of dollars into recruiting and training new soldiers and officers to replace those who were removed from their jobs in the services because they were openly gay."

Pentagon Will Miss Deadline For Women-In-Combat Review. The Washington Times (2/14, Scarborough, 90K) reports, "The Pentagon will miss Congress' March 31 deadline for certifying that the Army's reorganization of war-fighting brigades is abiding by its rule that women not serve in direct land combat or in support units that embed in those units, according to an internal memo. … According to an internal Pentagon memo, the review has been assigned to the Rand Corp., a research organization frequently tapped by the military to study specific issues. The memo says Rand will need until Dec. 31, a nine-month extension."

Army Chaplain Silenced After Criticizing Prayer Policy. The Washington Times (2/14, Duin, 90K) reports, "An evangelical chaplain serving in Iraq has been forbidden to preach at chapel services after his comments about military intolerance toward certain Christian expressions got him into hot water with the Army. Capt. Jonathan Stertzbach, a field artillery chaplain with the Army's 10th Mountain Division in Iraq, was silenced soon after his comments appeared in a Jan. 23 article in The Washington Times. The chaplain criticized one of his supervisors, Lt. Col. Phillip Wright of Fort Drum in New York, by name and gave details about how chaplains of all faiths were being pressured to offer up only nonsectarian prayers. Contacted in Iraq yesterday by The Times, Capt. Stertzbach confirmed he had been silenced." The Times adds, "His silencing elicited a strong protest letter from Rep. Walter B. Jones, North Carolina Republican, to Army Inspector General Lt. Gen. Stanley Green, demanding an investigation into whether Capt. Stertzbach was 'illegally removed' from preaching duties."

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Ohio Board Of Education Likely To Challenge Intelligent Design Curriculum. The New York Times (2/14, Rudoren, 1.19M) reports, "A majority of members on the Board of Education of Ohio, the first state to single out evolution for 'critical analysis' in science classes more than three years ago, are expected on Tuesday to challenge a model biology lesson plan they consider an excuse to teach the tenets of the disputed theory of intelligent design." Such a reversal "would be the most significant in a series of developments signaling a sea change across the country against intelligent design" since a federal judge ruled in December that "teaching the theory in the public schools of Dover, Pa., was unconstitutional."

Dionne Says Local NY Official Finding New Ground On Abortion Question. In his Washington Post (2/14, A15, 744K) column, E.J. Dionne writes, "For many staunch supporters and opponents of abortion rights, the search for a third way on the issue seems like so much phony political positioning." But there is "a new argument on abortion that may establish a more authentic middle ground. It would use government not to outlaw abortion altogether but to reduce its likelihood." Last May, Nassau County, New York, County Executive Thomas Suozzi "gave an important speech calling on both sides to create 'a better world where there are fewer unplanned pregnancies, and where women who face unplanned pregnancies receive greater support and where men take more responsibility for their actions.' … I have more sympathy than most liberals with the right-to-life movement because I believe most right-to-lifers are animated not by sexism or some punitive attitude toward sexuality but by a genuine desire to defend the defenseless. … That's why I hope Tom Suozzi finds imitators, and allies on both sides of the question."

ANTITRUST:

New DOJ Antitrust Chief Faces Tough Decisions. The Wall Street Journal (2/14, Wilke, 2.11M) reports that as the Justice Department's "new antitrust chief," Thomas Barnett "will face a flood of possible mergers, including Whirlpool Corp.'s pending $1.7 billion buyout of Maytag Corp. He is also directing an assault on price-fixing, from the otter-pelt brokers busted last month to international investigations of corporate collusion in plastics, chemicals and commodities." Barnett said, "If a merger is likely to harm consumer welfare, based on the law and economics, we will challenge those deals." Barnett said his "top priority will be fighting criminal cartels, 'which Justice [Antonin] Scalia once called the 'supreme evil' of antitrust.'" The Journal adds Barnett "faces tough decisions. A deadline looms on whether to challenge the merger of Whirlpool and Maytag, which would dominate the market for washing machines and dryers -- or accept Whirlpool's claim that the two companies face rising foreign competition and price cutting in a fast-changing market." Another deal "in the pipeline is Inco Ltd.'s $10.8 billion takeover of its largest rival, Falconbridge Ltd. Opponents -- including some major industrial companies -- fear it will let Inco raise prices in certain segments of the nickel market."

DOJ Will Extend Review Of Whirlpool-Maytag Merger. The AP (2/14) reports, "The U.S. Justice Department will extend its review of Whirlpool Corp.'s proposed $1.79 billion acquisition of rival appliance-maker Maytag Corp., the companies say." The AP continues, "Whirlpool and Maytag said Monday that they will not close the deal until March 30 without Justice Department approval. … Combining the competing appliance makers would create a market giant producing half of the nation's dishwashers and more than 70 percent of its clothes washers and dryers. … 'This is a complex and rapidly changing industry, and it is not surprising that some additional time is required to fully understand and fairly evaluate it,' Jeff M. Fettig, Whirlpool chairman and chief executive, said in a news release." The AP notes, "Before the extension, Whirlpool and Maytag had agreed to delay closing the deal until Feb. 27 to give the Justice Department time to complete its investigation."

Reuters (2/13, Kaplan, Jacobs) reports, "Antitrust concerns are centered on the U.S. market for laundry appliances, particularly the amount of control a combined Whirlpool-Maytag would have in washers and dryers. … Whirlpool and Maytag said they extended a February 27 deadline for the Justice Department's antitrust investigation until March 30 to allow the department to complete its investigation of the deal's impact on competition. … The announcement came as Justice Department lawyers are seeking sworn statements from competitors and retailers about how the combination of the rivals would affect competition, according to sources speaking on condition of

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anonymity." Reuters adds, "Department lawyers are expected to make a recommendation within weeks, two sources close to the matter said. … The depositions signal that the department is making preparations in the event that antitrust officials decide to go to court to stop the proposed $1.7 billion deal, which would form the world's largest appliance maker. … The sources cautioned that no decisions have been made."

Dow Jones (2/14) reports, "Whirlpool Chief Executive Jeff Fettig said, 'We appreciate the work of the Department of Justice staff to date and will continue to work with them cooperatively as they complete their review.' … He termed the latest extension by the two big appliance makers as 'simply a continuation of the review process.'"

The Financial Times (2/14, Kirchgaessner) reports, "Whirlpool's lead attorney on the transaction yesterday said the extension was 'not an unusual event' and that he remained 'confident' the deal would close 'rapidly' once the probe was completed. … James Rill, a former senior antitrust official at the Department of Justice who represents Whirlpool, said the company was discussing the deal with staff-level officials at the DoJ, indicating that talks did not yet involve Thomas Barnett, the head of the department's antitrust division. … Mr Rill acknowledged that the DoJ was preparing a potential lawsuit against the deal, but emphasised that such actions were not unusual while staff were considering a merger. He also declined to comment on whether or not the parties were discussing potential divestitures to satisfy antitrust concerns."

The Boston Business Journal (2/14) also reports this story.

Spate Of Mergers Good News For Antitrust Firms. The National Law Journal (2/14, Moline) reports, "The deal economy might be said to have suffered an embarrassment of riches last year. Except that no one seemed embarrassed." The Journal continues, "Corporate America was delighted to throw around pots of cash and equity during 2005, continuing a mergers and acquisitions spree that began the year before. The value of M&A deals increased by some 32 percent, according to Thomson Financial. If that didn't quite match the 47 percent boost in activity in 2004, it pushed the value of announced deals involving U.S. targets past $1.1 trillion, so no one was complaining. … 'The private equity market has probably never been more flush,' said Robert E. Spatt, a corporate partner at Simpson Thacher & Bartlett's home office in New York. … That expressed the mood across the board. The last time U.S. M&A activity exceeded $1 trillion was in 2000, when it hit $1.6 trillion." The Journal adds, "Cadwalader, Wickersham & Taft partner Dennis Block presided over a discussion with top bankers during a recent conference in New York and reported: 'All of them believe 2005 was a terrific year and 2006 ought to be even better.' … Block was one of the attorneys on the year's biggest deal: He represented Procter & Gamble Co. in reaching an agreement to buy Gillette Co. for $57.2 billion. Spatt worked on that same deal, representing Gillette's financial advisers. Spatt also advised financier Goldman Sachs & Co. in ConocoPhillips' $36.5 billion acquisition of Burlington Resources Inc., an oil and gas holding company based in Houston, the year's second-biggest deal. … In fact, Spatt's firm had a hand in three of the top 10 mergers and acquisitions in 2005, according to Thomson Financial. Simpson Thacher worked on 116 deals in all, worth $308.8 billion, making it the top M&A legal adviser of the year. Second-place finisher Wachtell, Lipton, Rosen & Katz of New York advised on 64 deals (including five of the top 10) worth $258.9 billion."

Merrill In Talks To Acquire Stake In BlackRock. The Wall Street Journal (2/13, Berman, Smith) reports, "Merrill Lynch & Co. is in advanced talks to acquire a large minority stake in money manager BlackRock Inc. for about $8 billion, people familiar with the matter said, in a deal that would create a $1 trillion fund-management colossus and transform the venerable Wall Street firm." The Journal continues, "Such a deal could be a coup for Merrill, coming just a few weeks after the end in late January of similar talks between Morgan Stanley and BlackRock. But that deal would have entailed Morgan Stanley's obtaining a majority stake in BlackRock, while Merrill was willing to accept a stake of less than 50% and less apparent control than Morgan Stanley sought." The Journal adds, "Final terms were still being worked out over the weekend, these people said yesterday, and while an announcement could come by tomorrow or Wednesday, it is also possible the deal may not be completed. As now envisioned, Merrill would swap its massive funds-management business for a roughly 49% stake in BlackRock, which has an $8.4 billion market value."

BlackRock Shares Up After Report Of Talks. Bloomberg (2/14) reports, "Shares of BlackRock Inc., the No. 3 U.S. manager of bond funds, had their biggest gain in

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almost four years after the Wall Street Journal said Merrill Lynch & Co. is in talks to acquire a stake in the fund-management company." Bloomberg continues, "Merrill may announce as soon as tomorrow an agreement to exchange its $544 billion money-management arm for a 49 percent stake of New York-based BlackRock, said a person familiar with the matter. The Journal and New York Times reported the talks late yesterday. BlackRock jumped 11 percent to $146 at 11:27 a.m. in New York Stock Exchange composite trading." Bloomberg adds, "The deal would form a fund-management company with about $1 trillion in assets, combining BlackRock's focus on institutional investors with Merrill's position as the world's biggest brokerage for individuals. The stake may also help Merrill Chief Executive Officer E. Stanley O'Neal outpace Morgan Stanley CEO John Mack, who ended talks with BlackRock last month because shares of the money manager became too expensive. Merrill and Morgan pursue the same kinds of clients and both have investment banks, brokerages and asset-management units."

Reuters (2/13) reports, "A deal would create a company with $1 trillion in assets under management, the most of any publicly traded company. .. A BlackRock deal would be more strategically compelling than the alleged Merrill deal with Morgan Stanley, Buckingham Research said in a note to investors."

Inco-Falconbridge Deal Raises Antitrust Concerns. Dow Jones (2/14) reports, "Canadian mining company Inco Ltd.'s planned $10.8 billion takeover of rival Falconbridge Ltd. is facing antitrust problems because of its potential stranglehold over a nickel alloy that can withstand the heat of jet engines, people familiar with the matter said Monday." Dow Jones continues, "If regulators allow the deal, the combined Canadian mining companies would become the world's largest nickel producer, surpassing Russia's OAO Norilsk Nickel. … However, defense contractors, specialty nickel makers, and a rival nickel miner, France's Eramet SA, have complained to regulators that the two Canadian companies will control more than 90% of the high-grade nickel needed to make the so-called super alloys." Dow Jones notes, "Even though Inco and Falconbridge have offered to divest a smelter in Norway, the deal's opponents say it won't be enough to avoid antitrust problems, setting the stage for a showdown between the companies and regulators. … The potential concentration in the nickel market comes at a sensitive time. Strong demand in China has sent nickel prices skyward in recent years. … Defense contractors, among the main users of nickel super alloys, are raising national security worries. The U.S. Department of Defense is lobbying the Department of Justice to take a hard line on the deal, a lawyer for a major U.S. military supplier said. In November, the Department of Justice asked the companies for more detailed information on deal. The U.S. Department of Justice doesn't comment on pending antitrust cases."

ENVIRONMENT/INDIAN AFFAIRS:

Bodman Says DOE No Longer Has Estimate For Yucca Mountain Opening. The New York Times (2/14, Wald, 1.19M) reports the Energy Department "no longer has an estimate of when it can open the nuclear waste repository that it wants to build at Yucca Mountain, 90 miles northwest of Las Vegas, and it may never have an accurate prediction of the cost," Energy Secretary Samuel Bodman said. At a "nuclear power industry conference," Bodman said "his department was redoing research and design for Yucca, which was supposed to start accepting civilian power-plant waste in 1998. But it is a first-of-a-kind project, making cost estimates difficult, he said, and the best that the department may be able to do is publish an estimate with a very wide range of error." The "last date given for its planned opening, provided a year ago, was 2012. The department is facing lawsuits from utilities that want to recover extra costs created by the delay."

Conservative Groups Call For Curbs On Greenhouse Gas Emissions. The Christian Science Monitor (2/14, Spotts, 61K) writes, "From evangelicals to students to business groups, climate change is a rising political concern. Global warming isn't just a 'blue state' issue anymore. From the Rocky Mountain West to the Southeast, influential red-state voices are beginning to call for more concerted efforts at local, state, and federal levels to curb greenhouse-gas emissions. And they are prodding Washington to address the challenge of adapting to the effects of global warming." While the issue is often "framed in economic terms - either the costs of disasters or the opportunities of turning native switch-grass into ethanol fuels" -- Christian groups see it as "a 'pro-life' position in accord with the Gospels, which call on Christians to care for the poor.

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The group noted that projected effects of global warming are likely to have the most impact on the poor, worldwide."

Bald Eagle Gets Closer To Removal From Endangered List. The New York Times (2/14, Barringer, 1.19M) reports that the bald eagle "moved several steps closer" to removal from the list of threatened or endangered species Monday as the Fish and Wildlife Service "announced a series of decisions toward declaring the bird's population safely restored, effectively jump-starting a process that stalled several years ago." The agency "issued new voluntary guidelines for ways to protect eagles' nests and feeding grounds, and it defined some regulatory terms that determine the protection of the eagles under existing laws."

WPost Pleased By Smoking Ban's Progress In Virginia Legislature. The Washington Post (2/14, A14, 744K) editorializes, "In Virginia, where tobacco has been king for the better part of four centuries, the throne has suddenly gone wobbly. By a 21 to 18 vote, the state Senate moved yesterday to ban smoking in bars, restaurants and virtually all other enclosed public places. … While the smoking ban's fate in Virginia's House of Delegates is uncertain, the import of the upper house's action is clear: The arguments against smoking bans are crumpling faster than a spent pack of Winstons. … With luck, the good word will go forth from Virginia and register quickly in neighboring Maryland, where the state legislature is scheduled to hold a key hearing today on banning smoking in restaurants and bars. … The tide is turning in favor of a rational policy under which government regulates a potent risk to public health."

Abramoff Questions Ensnare Pombo. The Los Angeles Times (2/14, Boxall, 958K) reports that while California Republican Rep. Richard Pombo has finally gotten a bill through the House "that would eliminate habitat protections on more than 150 million acres" after more than a decade of effort, he "finds himself on the defensive, with his ideology increasingly viewed as extreme and his connections to industry and to disgraced lobbyist Jack Abramoff under scrutiny." Pombo "is a tax-cutting, anti-abortion, anti-gun-control conservative," but the Endangered Species Act is his "political obsession. He has argued that it puts 'endangered flies, beetles, rats and shellfish' before people." But "instead of focusing on carrying his win to the Senate, he finds himself facing questions about his efforts on behalf of Abramoff clients."

Tribes Feel Senate Indian Affairs Panel Neglecting Key Issues. Roll Call (2/14, Stanton) reports that when Sen. John McCain today opens a hearing of the Indian Affairs committee he chairs on President Bush's budget, "it will mark the first time since July that his committee has focused on issues of broad significance other than gambling or the Jack Abramoff lobbying scandal. That seven-month stretch has irked much of the tribal community, which feels that serious issues affecting American Indians are being ignored by the panel and its chairman, a likely presidential candidate in 2008." Tribal leaders and lobbyists say that while such matters "are valid issues for the committee to ponder, they add that they're concerned by McCain's seeming preoccupation with them and lack of focus on issues such as education, housing and health care that have a wider impact in Indian country."

New FEC Member Wants Tighter Restrictions On Tribal Contributions. The Hill (2/14, Schor) reports Federal Election Commission member Hans von Spakovsky, installed by President Bush "in a controversial recess appointment" last month, is calling for stricter regulations on political contributions from Indian tribes. Von Spakovsky says tribes "should have to adhere to the same contribution limits as individuals do, using stronger rhetoric than two fellow FEC members who testified at last week's Senate Indian Affairs Committee hearing on the applicability of federal election law to tribal donations." A "prominent Republican party election counsel" sent around an advance copy of von Spakovsky's statement, "along with a gleeful endorsement of the new commissioner's stance on tribal election regulations and a dig" at McCain. … 'This is MY friend at FEC,' the GOP counsel wrote, referring to von Spakovsky. 'The new Commissioner [whom] John McCain has been attacking. … He is GREAT!!!'"

FBI/DEA/ATF/USMS:

ATF Cautious About SUV Sightings At Alabama Church Fires. The AP (2/14, Reeves) reports, "Agents trying to solve 10 church arsons in Alabama are reminding themselves of a lesson from the Washington-area sniper shootings, when a white van turned into a red herring for investigators." The AP continues, "Back in 2002, public attention became riveted on white vans and panel trucks as witnesses reported seeing the big, boxy vehicles

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near spots where shootings were occurring. Yet the two suspects were finally captured in something entirely different - a blue Chevrolet Caprice. … In the fire investigation in rural Alabama, agents are worried the same thing could happen with dark-colored sport-utility vehicles." The AP adds, "Two witnesses reported seeing a dark SUV outside a church the night of the first fires, and the media quickly reported the description. Since then, witnesses have reported seeing dark SUVs near several other churches that burned. … Jim Cavanaugh, regional director of the Bureau of Alcohol, Tobacco and Firearms, said Monday all the sightings may be accurate. But, Cavanaugh said, witnesses have reported seeing other kinds of vehicles, too - a fact that may not be making it across to the public. … The concern, Cavanaugh said, is that people become so intent on spotting one type of vehicle that they miss other vehicles that could be important to the case. … 'We don't want to have a white van,' said Cavanaugh, who is leading the ATF probe of the arsons and was also involved in the sniper investigation. 'I have firsthand knowledge of what that is like. We are being cautious.'"

Doctor Accused Of Writing Illegal Steroid Prescriptions To Plead Guilty. The AP (2/14) reports from Columbia, South Carolina that a doctor "accused of writing illegal steroid prescriptions to football players has agreed to plead to one federal conspiracy charge as part of a plea agreement. Alternative medicine physician James Shortt will plead guilty to one count of conspiracy to distribute anabolic steroids and human growth hormone. In exchange, prosecutors will drop 42 similar counts against the West Columbia doctor, according to papers filed Monday in U.S. District Court in South Carolina. … The indictment didn't specify who received the drugs Shortt prescribed. But a person familiar with the indictment said they were current and former members of the Carolina Panthers, bodybuilders and at least one police officer. The source spoke to The Associated Press on the condition of anonymity because the investigation was ongoing, and did not name players."

Mailed Marijuana Seized In Florida Following DEA Tip. Florida's North Port Sun Herald (2/14) reports, "The Charlotte County Sheriff's Narcotics Unit intercepted two FedEx packages containing compact bricks of pot mailed from Arizona to an unidentified Punta Gorda address Friday. Local officials were tipped off about the suspicious packages by the U.S. Drug Enforcement Agency last week. … They found two huge blocks of marijuana weighing a combined 46 pounds. … The shippers tried to mask the scent by wrapping the pressed weed in birthday gift paper, plastic and cardboard smeared with peanut butter, and baby wipes doused with liquid soap. … There was no one to receive the packages when detectives tried to deliver them to the Punta Gorda address they were mailed to. Sheriff's Office spokesman Bob Carpenter said the boxes appear to have been mailed to a fictitious person."

Convicted Meth Makers In North Carolina To Pay Restitution To DEA. The Marion McDowell News (2/13) reports, "A judge sentenced 16 indicted meth makers and distributors to a combined total of nearly 132 years in federal prison last week and ordered them to pay restitution of more than $29,000 to the U.S. Drug Enforcement Administration (DEA) for the cost of cleaning up labs seized during the course of the investigation. Detective Shanon Smith of the McDowell County Sheriff's Office said 12 of the 16 were arrested following a four-year investigation into illegal clandestine manufacture and distribution of methamphetamine in McDowell County. Assisting the Sheriff's Office in the probe were members of the Marion and Old Fort police departments, the DEA, the N.C. State Bureau of Investigation (SBI) and the U.S. Attorney's Office."

Man Gets Life Sentence In Georgia Cocaine, Meth Case. The Gwinnett (GA) Daily Post (2/14) reports "A former high school football star was sentenced to life in prison in connection with a Barrow County drug ring that netted 40 arrests. Ronald Perry Moon, 49, of Commerce, who held the Georgia high school rushing record before it was broken by Herschel Walker in 1979, was sentenced in federal court Friday on charges related to the selling of cocaine and methamphetamine. … Between 1983 and 1996, Moon was convicted four times of drug charges, which led to the severe sentence Friday of life without the possibility of parole, Nahmias said. About a year ago, Statham Mayor Robert Bridges contacted the Drug Enforcement Administration and the Georgia Bureau of Investigation seeking help in getting drugs off the city streets. … According to U.S. Attorney's Office officials, Moon met with an undercover DEA agent on Feb. 11, 2005, in Winder and sold the agent packages of crack cocaine and powder cocaine for $5,600. Later, Moon arranged for the agent to meet other

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people at a house in Commerce, where the agent purchased methamphetamine for $4,000."

Six East African Gang Members Arrested In Seattle. The Seattle Times (2/14, Green) reports, "Six men with ties to an East African gang operating in Seattle's University District have been charged with drug trafficking and firearms violations in U.S. District Court, the latest in a series of arrests since August that have netted drugs, cash and weapons." The Times continues, "The arrests were announced at a news conference this morning. Seattle police Chief Gil Kerlikowske said the gang, known as the East African Posse, is responsible for terrorizing residents and students living around the University of Washington. … There are at least six other cases now pending in U.S. District Court as a result of the months-long investigation that's been dubbed 'Operation End Game' the chief said. In addition to 'open-air drug dealing,' especially on the Ave, members of the East African Posse are suspected of kidnappings, assaults and prostitution. Kerlikowske said his detectives are also looking at links between the gang and at least one unsolved homicide."

The Seattle Post-Intelligencer (2/14, Castro) reports, "The arrests were announced at a press conference this morning. … 'We think we've made a significant impact,' said Kelvin Crenshaw, special agent in charge of the Seattle Field Division of the Bureau of Alcohol, Tobacco, Firearms and Explosives." The P-I adds, "Officials with the ATF, the FBI, the U.S. Attorney's Office and Seattle police announced the recent arrests of six men with connections to the East African Posse. … The gang has been active in the Seattle region for years, police said. They said its members include naturalized citizens from Somalia, Ethiopia and Eritrea."

Arab Family Claims US Targeted Them After 9/11. The AP (2/14) reports, "Faris Shalash was led in shackles last August from his family's grocery store just four days before his wedding. His brother, Eyad, an honors student at the University of South Carolina, lost an internship with a Fortune 500 company. … Federal authorities had charged the brothers and others with conspiring to sell thousands of dollars worth of drugs. Then last month prosecutors unexpectedly asked a judge to drop the charges without explanation and without apology. … The family thinks they know why. … 'It all comes down to Sept. 11 and us being of Arab descent,' said Eyad Shalash, 23, whose father is a Palestinian immigrant who has been an American citizen for 27 years. 'That's what triggered them to start watching us.'" The AP continues, "Prosecutors say ethnicity had nothing to do with it, although eight of the 10 people indicted were of Middle Eastern or Arab descent. … Assistant U.S. Attorney Brent Alan Gray said there is 'absolutely no evidence' the defendants were targeted because of their descent. He would not discuss the probe or why the charges were dropped. … 'Sometimes the way we view evidence changes as the case progresses,' Gray said. 'When that change occurs, it is incumbent upon the government to give the benefit of the doubt to the defendant.'" The AP notes, "Andy Savage, the attorney for Faris Shalash, 24, said the probe apparently started after the 2001 terrorist attacks. … An investigation into money flowing to the Middle East apparently passed from one agency to another before the Bureau of Alcohol, Tobacco, Firearms and Explosives started a drug probe, he said. … Search warrant affidavits alleged a government informant made six drug buys at the grocery store. … But attorneys for the defendants found the evidence thin. They said the case was built on the word of an informant who had a history of lying and criminal charges and that surveillance tapes did not support his version of events."

TAX:

IRS Offers Leniency For Firms That Marketed Abusive Tax Shelters. The New York Times (2/14, Browning, 1.19M) reports the Internal Revenue Service is "making an unusual offer of leniency to firms that made and sold questionable tax shelters: come forward, pay penalties and turn over information, and you may avoid criminal prosecution." The offer is "being made to accounting firms, law firms, banks and investment firms that have created and sold tax shelters that the I.R.S. considers bogus, as well as to firms that carried out the financial transactions that underpin such shelters." Questionable shelters "have been sold to thousands of wealthy investors in recent years. Under the offer, the firms must disclose the names of those investors." But the offer says "firms that do not come forward face larger fines and possible criminal prosecution."

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CONGRESS-ADMINISTRATION:

Media Continue To Question Disclosure Of Accidental Cheney Shooting. Media reports last night and this morning depict a White House "on the defensive" over Vice President Cheney's accidental shooting of 78-year-old Republican attorney, Harry Whittington. Even as the incident becomes fodder for late-night comics, reporters continue to raise questions about the delay in the disclosure of the information to the press. The Washington Post (2/14, A1, VandeHei, Moreno, 744K) reports President Bush and White House Deputy Chief of Staff Karl Rove "were told of the shooting Saturday night but deferred to Cheney on providing information to the public, White House aides said. In what one official described as a break with the White House practice of disclosing such high-level mishaps immediately, Cheney waited more than 14 hours after the shooting to disclose it publicly." USA Today (2/14, Jackson, 2.31M) says Bush "declined to take questions after a Monday meeting with United Nations Secretary-General Kofi Annan." Cheney "avoided comment by leaving the meeting before reporters were brought in."

At a "contentious" press briefing yesterday, White House press secretary Scott McClellan was grilled by reporters about the timeline of the incident and the White House's knowledge of it. As the New York Times (2/14, Bumiller, 1.19M) reports, "Aside from Harry Whittington, the 78-year-old Texas lawyer who was in stable condition after being peppered with shotgun pellets by Mr. Cheney, the person who had the worst time on Monday was Mr. McClellan." Reuters (2/14, Wilson) reports McClellan said "the vice president's staff did not tell reporters about the accident on Saturday because they were concerned about getting Whittington medical attention and were still gathering facts."

However, many stories are portraying the handling of the shooting as exemplifying the White House's "instinct for secrecy," as the Financial Times (2/14, Daniel) puts it. Similarly, the Los Angeles Times (2/14, Miller, Gerstenzang, Chen, 958K) reports "the Bush White House and the president himself are known for limiting information to not only the press but also to members of Congress, as seen in the debate over the domestic surveillance program by the National Security Agency and the congressional investigation of the administration's handling of the Hurricane Katrina disaster." The Baltimore Sun (2/14, Davis, 296K) says the incident "aftermath dramatized the poor relations with the news media that have plagued Cheney since the start of the administration. The 18-hour gap between the shooting…and when the vice president's office spoke to reporters about it fed stereotypes about Cheney, often portrayed as grouchy and secretive." It was also "the most recent instance of Cheney becoming the public face of the Bush administration's tight-lipped ways and a further blow to a vice president who took a beating last fall with the indictment and resignation of his top aide." The Washington Times (2/14, Curl, 90K) reports White House "reporters were angered when the news was reported first by a Corpus Christi newspaper." The New York Times (2/14, Kornblut, Blumenthal, 1.19M) runs a similar report under the headline "No End To Questions In Cheney Hunting Accident," in which it says the White House "sought with little success on Monday to quell an uproar" over the shooting.

Moreover, it has been disclosed Cheney lacked the proper hunting credentials at the time of the accident. The Los Angeles Times (2/14, Riccardi, Gerstenzang, 958K) reports, "Although he broke no laws…Cheney did not have proper hunting credentials when he accidentally shot a fellow hunter at a private ranch last weekend, authorities said Monday." Cheney "will receive a warning citation for failing to purchase the required $7 stamp for bird hunting, the Texas Department of Parks and Wildlife said in a statement. The stamp is a new requirement, and the department has issued verbal warnings to many hunters who were unaware they needed it." In a statement last night, Cheney's office "said his staffers had not known about the stamp requirement and that Cheney had sent a $7 check to Texas to cover the cost."

The story was the lead on CBS and NBC, while ABC ran it prominently in the first half of its newscast; each network also ran a follow-up story. NBC Nightly News (2/13, lead story, 3:45, Williams) reported, "Many have called it a plotline right out of 'Saturday Night Live.' The truth is, it's a serious matter, and there's a lot of information we still don't know about what happened on a private Texas ranch on Saturday when Vice President Dick Cheney accidentally shot a member of his hunting party." NBC (Gregory) added, "Tonight, the White House is on the defensive, trying to explain exactly how the Vice President accidentally shot someone and why Mr. Cheney decided to wait so long before he notified anyone." At "today's often contentious press briefing, the question remained -- why did the Vice President sit on this information?" NBC Nightly News (2/13, story 2, 1:15, Williams) also ran an excerpt of the press briefing and said it

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"got rough" as "reporters took on White House spokesman Scott McClellan."

The CBS Evening News (2/13, lead story, 2:15, Cowan) reported, "Doctors say 78-year-old Harold Whittington is making a speedy recovery but will likely walk out of the hospital with most of the birdshot the Vice President gave him. … Of course there is nothing criminal here, but it sure is embarrassing." The CBS Evening News (2/13, story 2, 3:05, Axelrod) also reported, "It fell to White House spokesman Scott McClellan to explain and he was talking to a group that wasn't exactly buying." McClellan: "The information that was coming from his team on the ground with him, and they're just providing an initial report, an accident has taken place, and they may not know all the facts at that point, Bill." Axelrod: "Apparently the decisions affecting who knew what when weren't being made at the White House by the President; they were being made on the ground in Texas by the Vice President."

ABC World News Tonight (2/13, story 5, 2:10, Vargas) ran a portion of the White House press briefing, and asked, "Does the public have a right to know when the Vice President is involved in an incident like this?" Stephanopoulos: "I think they do. He's the second-most powerful person in the country. Number two, he was involved in an accidental shooting that put someone in the intensive care unit that was being investigated by local law enforcement. By any definition, that qualifies as news. When there's news involving the President or the Vice President, it should come from the White House and the Vice President's office."

Fox News' Special Report (2/13, Cameron) reported that White House reporters are "outraged that the incident was not disclosed until Sunday." Fox noted that there is "no shortage of White House staffers who say the information could have been made public perhaps more efficiently, but it was the Vice President who pulled the trigger and his decision as to how it should be disclosed."

CNN's The Situation Room (2/13, Blitzer) reported McClellan "was pummeled with questions today about how and when the details of the accidental shooting by Vice President Dick Cheney were made public." CNN (Bash) added that "this was a controversial issue from the start, exactly how the information got out and why it took about 24 hours for that to happen." McClellan "got pummeled with those questions today." McClellan "made it clear that he would have handled this differently." McClellan: "I did not know who was involved in that hunting accident. It wasn't until very early Sunday morning that I found out that the Vice President was involved in this accident. And of course, in a position like mine, I was urging that that information be made available as quickly as possible, and the Vice President's office was working to get that information out."

Late-night comics zeroed in on Cheney last night. The Los Angeles Times (2/14, Gold, 958K) reports that on NBC's "The Tonight Show," Jay Leno "devoted most of his monologue to the hunting accident. 'I guess the guy is going to be OK,' Leno said. 'When the ambulance got there, out of force of habit they put Cheney on the stretcher. … Cheney's defense is that he was aiming at a quail when he shot the guy -- which means that Cheney now has the worst aim of anyone in the White House since Bill Clinton." On Comedy Central, "The Daily Show's" Jon Stewart "offered a little historical perspective, noting that Whittington was the first person to be shot by a vice president since Alexander Hamilton. 'Hamilton, of course, shot in a duel with Aaron Burr over issues of honor, integrity and political maneuvering,' Stewart said. 'Whittington? Mistaken for a bird.'"

The Wall Street Journal (2/14, Barnes, 2.11M) reports, "The timing could have been worse, however, for NBC: Due to Olympics coverage, a new episode of 'Saturday Night Live' won't air until March 4." The Journal quotes David Letterman saying last night, "Good news ladies and gentleman, we have finally located weapons of mass destruction. It's Dick Cheney. … We can't get Bin Laden, but we nailed a 78-year-old attorney." USA Today (2/14, Oldenburg, 2.31M) also reports that yesterday, "radio shows were playing Junior Walker & the All-Stars' Shotgun, George Clooney brought it up at the Oscar luncheon in Los Angeles" and "bloggers were all over it, and late-night comics opened with it."

Washington, DC, insiders also had a field day at Cheney's expense. The Washington Post (2/14, C1, Leibovich, 744K) reports the incident "provided a laugh bounty for gallows humorists, particularly those of the anti-Bush persuasion. Have at 'em, kids: 'Bush-Quail '06,' cracked Democratic strategist Jenny Backus. 'The CIA assured Cheney that Harry Whittington was actually a pheasant,' added Democratic speechwriter Jeff Nussbaum. 'The worst part is, he was aiming at the special prosecutor,' contributed John Kerry spokesman David Wade." Democratic staffers on the Hill "could be heard singing a parody of Aerosmith's 'Janie's Got a Gun,' using the words 'Cheney's got a gun.' Or marveling at how 'Republicans really don't like lawyers, do they?' or circulating a quote from

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Bush, in a 2000 interview with the Houston Chronicle, in which he hailed Cheney as 'somebody who is going to shoot straight with the American people.'"

The AP (2/14, Pickler) reports Cheney "apparently broke the No. 1 rule of hunting: be sure of what you're shooting at." Hunting "safety experts interviewed Monday agreed it would have been a good idea for Whittington to announce himself -- something he apparently didn't do, according to a witness. But they stressed that the shooter is responsible for knowing his surroundings and avoiding hitting other people." Time (2/14, Burger) reports on its website, "The cardinal rule of hunting could not be more simple: Don't shoot the people (or the dogs). If there's anyone in Washington who knows this, one would have thought it would be…Cheney."

Stephen Hunter writes in the Washington Post (2/14, C1, 744K), "Some may say of Cheney: He was really unlucky. I say: He was really lucky. He was lucky to be so superb a wing shot that he carried a shotgun in 28-gauge rather than 12-gauge. That probably saved Harry Whittington's life."

Columnist Eugene Robinson writes in the Washington Post (2/14, A15, 744K), "I told you people Dick Cheney was dangerous. Let's all wish a full and speedy recovery for Harry Whittington, the man Cheney accidentally shot on Saturday while they were out in the Texas boonies hunting quail. As for the trigger-happy vice president, let's hope he takes this unfortunate episode as a hint to pack up his shotgun and go home. Lord knows he's done enough. The man is out of control. Then again, out-of-control is the way this whole administration operates: Ready, fire, aim. Global war on terrorism, global war on poultry, what's the difference? You see something moving, shoot it. … It was radio host Tom Joyner who came up with Cheney's Valentine's Day poem: Roses are red, Violets are blue, Say something I don't like, And I'll shoot you, too."

Texas Agency Report Contradicts White House Account Of Hunting Accident. In its "Washington Whispers" column on its web site, the Wall Street Journal (2/13, 2.11M) reported, "The Texas Parks and Wildlife Department's incident report on Vice President Dick Cheney's accidental shooting of a hunting partner Saturday pins the blame largely on Cheney. In evaluating 'contributing factors,' the game warden checked off the box: 'Victim covered by shooter who was swinging on game.' In its summary, the report says that 78-year-old Harry Whittington 'downed a bird and went to retrieve it. While he was out of the hunting line another covey was flushed and Cheney swung on a bird and fired striking Whittington in the face, neck and chest at approximately 30 yards.' … The game warden's report contradicts earlier claims from the White House and Katharine Armstrong, the owner of the Texas ranch where the shooting occurred. Earlier Monday, the White House cited Armstrong's view that Whittington was at fault."

Whittington Will Be Moved Out Of Intensive Care Unit. CNN's The Situation Room (2/13, Lavandera) reported that Whittington's condition "is improving so much so that he will be moved out of the intensive care unit here at this hospital in Corpus Christi and moved into another room…in the regular part of the hospital, if you will. The medical checkups will continue routinely because of his condition. Of course, infection is a concern, but doctors here, as you just heard, are very confident with his situation." The Houston Chronicle (2/14, Pinkerton, 581K) also says Whittington "is recovering rapidly."

Leahy Says He "Got Off Easy" In Encounter With Cheney. Roll Call (2/14, Akers) reports in its "Heard on the Hill" column, "He never thought he'd say it, but Sen. Patrick Leahy (D-Vt.) no longer thinks it's such a big deal that Vice President Cheney told him to go you-know-what himself on the Senate floor last year. Considering what happened to poor Harry Whittington (who remained in stable condition yesterday) this past weekend, Cheney's shot at Leahy could have been a lot worse. 'In retrospect it looks like I got off easy,' Leahy joked, referring to Cheney's accidental shooting of his buddy and campaign contributor."

NYTimes Says Cheney Behaved "Like A Teenager." The New York Times (2/14, 1.19M) editorializes, "Let's see. The vice president of the United States accidentally shot someone while bird-hunting on a Texas ranch. It took the White House nearly 24 hours to share that information with the rest of the nation because Dick Cheney thought it would be better for the ranch's owner to give the story to the local newspaper first. And by the way, it was all the victim's fault. That's their story, and they're sticking with it." The Times adds, "The vice president appears to have behaved like a teenager who thinks that if he keeps quiet about the wreck, no one will notice that the family car is missing its right door. The administration's communications department has proved that its skills at actually communicating are so rusty it can't get a minor police-blotter story straight. And the White House, in trying to cover up the cover-up, has once again demonstrated that it would rather look inept than open."

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WPost Says Failure To Disclose Shooting On Saturday "Disturbing." Under the headline "When the Veep Shoots Someone," the Washington Post (2/14, 744K) editorializes, "How is it that the vice president of the United States can shoot and wound someone and the American public doesn't learn of it until 18 hours later -- and then only because the owner of the location where the event occurred decided the next day to tell a local reporter?" The White House "has no satisfactory answer; neither does the vice president's office. … That was no private citizen who pulled the trigger, sending someone to the hospital. That act, though accidental -- and doubtless both agonizing and embarrassing -- was committed by the country's second-highest public official. Neither Mr. Cheney nor the White House gets to pick and choose when to disclose a shooting. Saturday's incident required immediate public disclosure -- a fact so elementary that the failure to act properly is truly disturbing in its implications."

Bush Budget Would Kill Popular Health Projects. The Washington Post (2/14, A3, Connolly, 744K) reports President Bush has "requested billions more to prepare for potential disasters such as a biological attack or an influenza epidemic, but his proposed budget for next year would zero out popular health projects that supporters say target more mundane, but more certain, killers." The budget proposes to "eliminate federal programs that support inner-city Indian health clinics, defibrillators in rural areas, an educational campaign about Alzheimer's disease, centers for traumatic brain injuries, and a nationwide registry for Lou Gehrig's disease. It would cut close to $1 billion in health care grants to states and would kill the entire budget of the Christopher and Dana Reeve Paralysis Resource Center."

Deficit Reduction Bill Eases Rules For Prepaid Tuition Plans. USA Today (2/14, 2.31M) reports a measure "tucked deep in the deficit-reduction bill President Bush signed last week is a Valentine for parents who use 'prepaid tuition' plans to save for college." The change "will make it easier for families who use these plans to qualify for financial aid. But that doesn't mean these plans are a sweet deal for everyone." Such plans "lock in future tuition costs at state colleges and universities by paying a lump sum or making payments. At a time when annual tuition costs are rising at double-digit rates, that's an appealing feature." In the "past, federal aid to a family was reduced, dollar-for-dollar by the amount the family withdrew from a prepaid plan. Under the new law, the formula will treat prepaid plans the same way it treats 529 college savings plans — as the parents' asset. Under the federal aid formula, only 5.64% of parents' assets are considered available for college costs."

Budget Shows Government Will Forgo $7 Billion In Oil, Gas Royalties. The New York Times (2/14, Andrews, 1.19M) reports the Federal Government is "on the verge of one of the biggest giveaways of oil and gas in American history, worth an estimated $7 billion over five years." New projections, "buried in the Interior Department's just-published budget plan, anticipate that the government will let companies pump about $65 billion worth of oil and natural gas from federal territory over the next five years without paying any royalties to the government. Based on the administration figures, the government will give up more than $7 billion in payments between now and 2011." The companies are "expected to get the largess, known as royalty relief, even though the administration assumes that oil prices will remain above $50 a barrel throughout that period."

Democrats Split On Strategy To Fix Deficit Reduction Bill Typo. The Hill (2/14, Young) reports House and Senate Democratic leaders "are divided on how to resolve the constitutional issues dogging the budget-reconciliation bill signed by President Bush on Wednesday." House Democrats "are sending signals that they will not accede to the Republican leadership's evident desire to execute a quick fix. Clerical errors led to the House's passing slightly different language than the Senate did." But Senate Minority Leader Harry Reid has "already signed off on the favored Republican strategy of adopting a concurrent resolution emphasizing that the legislation endorsed by the president represents the intent of Congress. The Senate agreed to the resolution Wednesday night under unanimous consent several hours after the president signed the budget bill." But House Minority Leader Nancy Pelosi "is said to be considering an effort to obstruct the GOP leadership's expected effort to get a unanimous-consent agreement through the House this week." House Republicans "have not indicated exactly what they plan to do, but aides have downplayed the significance of the problem."

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GAO Report Shows Administration Spent $1.6 Billion On Public Relations. The Washington Post (2/14, A13, Lee, 744K) reports "good press" is worth "about $1.6 billion" to the Bush Administration. That is "how much seven federal departments spent from 2003 through the second quarter of 2005 on 343 contracts with public relations firms, advertising agencies, media organizations and individuals, according to a new Government Accountability Office report." The 154-page report "provides the most comprehensive look to date at the scope of federal spending in an area that generated substantial controversy last year. Congressional Democrats asked the GAO to look into federal public relations contracts last spring at the height of the furor over government-sponsored prepackaged news and journalism-for-sale." The new report "reveals that federal public relations spending goes far beyond 'video news releases.' The contracts covered the waterfront, from a $6.3 million agreement to help the Department of Homeland Security educate Americans about how to respond to terrorist attacks; to a $647,350 contract to assist the Transportation Security Administration in producing video news releases and media tours on the subject of airport security procedures; to a $6,600 contract to train managers at the Bureau of Reclamation in dealing with the media."

Commission To Evaluate No Child Left Behind Education Reforms. USA Today (2/14, Toppo, 2.31M) reports that after "four years of complaints from parents, teachers and administrators about President Bush's No Child Left Behind education reform plan, a bipartisan commission is being created to take a 'hard, independent look' at the law's problems and its promises." The Commission on No Child Left Behind, "to be announced today, will travel the USA, holding public field hearings and roundtables and culminating in Washington, D.C., in September. The commission will send recommendations to Congress before the law's expected renewal in 2007." Supported by the Aspen Institute, "a Washington, D.C., think tank, the panel will be co-chaired by former Georgia governor Roy Barnes and former Health and Human Services Secretary Tommy Thompson."

Some Experts Back Larger Class Sizes, Higher Pay For Teachers. The Washington Post (2/14, A8, Mathews, 744K) reports some experts are asking why "are educators and politicians so bent on reducing class sizes? Wouldn't it be better to let classes get bigger? Then schools could reduce the number of teachers, keep good ones….and pay them more." The idea "seems odd to many. But some scholars and administrators say raising class sizes and teacher pay might improve achievement." Saul Cooperman, "a former New Jersey education commissioner, said in the newspaper Education Week recently that if schools established a class size of 30 to 35 in all grades except third grade and below, they would, for the same money, be able to raise the average teacher salary from $50,000 to more than $75,000."

Conservatives Want Faster Action On Judicial Nominations. The Hill (2/14, Bolton) reports conservatives "on and off Capitol Hill are urging Senate Republican leaders to renew the push to nominate and confirm right-wing jurists to the federal bench just two weeks after Samuel Alito's confirmation to the Supreme Court." Three conservative members of the Judiciary Committee, Sens. Jeff Sessions (R-Ala.), John Cornyn (R-Texas) and Tom Coburn (R-Okla.), and "conservative activists are growing impatient with the pace of judicial nominations." Sessions and Republican activists "say that there is a backlog of vacancies and that the Bush administration needs to act more quickly in sending conservative nominees to the Senate for consideration. In addition, they say, the judiciary panel needs to act on appellate nominees that have languished on the Hill for years." Sessions said, "I think we're in a bit of a hold on nominees. I'm concerned that the White House has not submitted nominations for the vacancies and the nominations they've submitted haven't been acted on."

Doctors, Pharmacists Say Medicare Benefit Limits Drug Availability. The New York Times (2/14, Pear, 1.19M) reports doctors and pharmacists "say many drugs theoretically covered by the new Medicare drug benefit are not readily available because of insurers' restrictions and requirements." The benefit is "administered by scores of companies under contract to Medicare. Each plan has its own list of covered drugs, known as a formulary. Drug plans require doctors and patients to obtain 'prior authorization' for certain drugs on their formularies." One plan "may have 25 or 30 forms for prior authorization for different drugs. Most states have at least 40 Medicare drug plans." Doctors say the "diverse requirements are onerous and can delay or deny access to needed medications. But insurers say the

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requirements save money and promote the proper use of the medications."

Frist Faces Moderates' Opposition On Medicare Growth Curbs. Roll Call (2/14, Stanton) reports that despite "receiving support from Senate Majority Leader Bill Frist (R-Tenn.), President Bush's plan to cut the rate of growth in Medicare spending is likely to face significant opposition in the Senate, particularly from a small group of moderate lawmakers and vulnerable incumbents who are loath to reduce funding for the health care entitlement for older Americans, Senate aides said Monday." In an interview last week, Frist "said he backed Bush's call for reforms to Medicare and vowed to include curbs on spending in this year's budget bill as a way of funding an extension to the president's tax cut package." But his "decision to move forward with curbs on Medicare drew a quick reaction from Democrats." GOP sources said that with Democrats "largely united against reining in Medicare spending, Frist will have to convince Moderate Republicans that cuts in the growth of Medicare's price tag can be achieved without harm to beneficiaries, GOP sources said."

House GOP Faces Tough Legislative Battles As Elections Approach. The Hill (2/14, O'Connor) reports House Republicans are facing a "number of legislative hurdles as they prepare for next November's elections." The parts is "divided over immigration and lobbying reform, both of which could loom large in the midterms if left unaddressed. And GOP leaders in both chambers are searching for an issue around which their members can rally this year." Meanwhile, a "showdown" is likely between "leaders and conservatives who want earmark reform and an overhaul of the budget process and the reluctance of vulnerable members who want to avoid votes that might upset constituents."

Boehner's Rise May Mean End Of "Attack Dog" Style In GOP Leadership. The Hill (2/14, Kaplan) reports House Republicans are wondering whether Majority Leader John Boehner "can skewer Democrats" the way Tom DeLay did when he was in the leadership. At the same time, the conference is "unsure that such an attack dog is necessary at all." House GOP leaders "like Dennis Hastert, Roy Blunt, and Deborah Pryce are seen as unlikely pit bulls, while in the Senate, Bill Frist and Mitch McConnell fall into the same camp as Hastert and Blunt, aides add, and they say Sen. Rick Santorum (Pa.), a hard-knuckled and reliable Republican in a tight reelection race against an anti-abortion Catholic Democrat, has recently softened his image." House GOP Conference Vice Chairman Jack Kingston said, "Part of John Boehner's calling is to be himself, to be smooth and diplomatic but conservative. He has the ability to take a conservative issue and put a warm, handsome face on it. It's a different style."

Days Of All-Southern House GOP Leadership End. Roll Call (2/14, Butler) notes Boehner's rise means the House GOP has "switched from the all-Southern leadership team that brought them to power during the revolution of 1994 to an all-Midwestern one." While the GOP "was born in the Midwest…over the past three decades, the core of the Republican Party has migrated south."

McCain Earmark Bill Gathers Support Even As Obstacles Mount. The Hill (2/14, Allen) reports Sen. John McCain's new earmark reform proposal is "quickly gathering support from unelected critics of pork-barrel spending, but even some of those supporters acknowledge that the measure ignores the lion's share of the federal budget and faces powerful obstacles to enactment." The bill would "establish Senate points of order against spending directives that have not been approved by authorizing committees, an initiative that would result in a broad transfer of power from appropriators to authorizers." Neither McCain nor any of the bill's 10 co-sponsors is a member of the Appropriations Committee. Majority Leader Bill Frist said the McCain bill "will at least begin that debate" on earmarks, but added that earmark reform should "focus on disclosure." Minority Leader Harry Reid said he "supports increased transparency but argued that efforts such as McCain's should not be limited to earmarks in appropriations bills."

Washington Lobbyists Spent $1.16 Billion In First Half Of 2005. The Wall Street Journal (2/14, Mullins, 2.11M) reports corporations and special interests "spent a total of $1.16 billion to lobby Washington in the first half of 2005, setting a record." The nonpartisan tracker PoliticalMoneyLine said spending on lobbying "rose $85 million, or 8%, between January and June 30, 2005, compared with the previous six-month period. Corporations, trade associations, lawyers and unions spent about $6.5 million a day to lobby Congress and the Bush administration

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during the latest period." AARP, the largest lobby, "spent $27.8 million on lobbying" during the period "mainly to defeat the Social Security plan. That was a $23.8 million increase in lobbying expenditures for the group." Second-ranked General Electric "spent half as much to lobby on issues such as asbestos-litigation overhaul and tax policy," while the National Committee to Preserve Social Security and Medicare spent $6.3 million. Other big spenders "include the local telephone industry's trade group, the United States Telecom Association, ($11.4 million); the American Medical Association ($9.5 million); Freddie Mac ($7.3 million); Altria Group Inc. ($6.7 million); and the American Hospital Association ($6.3 million)."

Lobbying Likely To Continue To Thrive. The Washington Post (2/14, A1, Birnbaum, 744K) writes that the "return on investment in lobbying is often so substantial that experts and insiders agree that Washington's influence industry will continue to thrive no matter how lawmakers decide to rein it in." While Congress "is crafting restrictions on lobbyists this year," House Majority Leader John Boehner has said he prefers "more disclosure" without travel and meal restrictions, and "legislation under discussion would not eliminate earmarks entirely. No one on Capitol Hill is suggesting a ban on lobbying, a change that would run counter to the First Amendment to the Constitution. As a result, 'lobbying will continue to grow,' said Stephen J. Wayne, a political scientist at Georgetown University."

Expert Offers Mixed Assessment Of Pentagon Quadrennial Defense Review. In a Wall Street Journal (2/14, 2.11M) op-ed, Center for Strategic and Budgetary Assessments Executive Director Andrew Krepinevich examines the Pentagon's Quadrennial Defense Review, writing that "how well it lived up to expectations can be determined by the answers to three questions. Did the QDR identify the major existing and emerging challenges to America's security? The report gets high marks here. … Are defense resources adequate to address these new challenges? They are not. … How well does the proposed defense program address the existing and emerging threats to national security? Given the magnitude of the changes over the last four years, and with the prospect of more to come, one would expect major changes in our military forces and equipment." But the "QDR leaves U.S. forces equipped primarily for traditional warfare. … Having provided an accurate diagnosis of the new challenges confronting the nation, and made a modest downpayment on addressing them, the Pentagon's leadership has not made the decisions needed to reorient the military. But these decisions must be made, for as Francis Bacon noted: 'He who will not apply new remedies must expect new evils.'"

Weather Service To Offer Early Retirements To Some Employees. The Washington Post (2/14, B2, Barr, 744K) reports in its "Federal Diary" column, "In an effort to trim payroll costs, the National Weather Service plans to offer early retirement to about 1,000 employees, including staff members at the National Hurricane Center in Miami. Greg Romano , a Weather Service spokesman, said the agency predicts that only 50 employees will take the offer, based on experience. …The plan to offer early retirements awaits approval by the Office of Personnel Management, Romano said. He emphasized that the agency could refuse early-retirement requests from employees who hold critical jobs, such as forecasters and hurricane experts." The Post adds, "Sen. Bill Nelson (D-Fla.) -- a member of the Senate Commerce, Science and Transportation Committee, which oversees the Weather Service -- called the early-out plan 'wrongheaded budget thinking.'"

Mineta Criticizes Singer's Failure To Use Car Seat For Baby. The Washington Post (2/14, C3, Argetsinger, Roberts, 744K) in its "The Reliable Source" column that Transportation Secretary Norman Mineta "weighed in on Britney Spears's now-infamous drive through Malibu last week with her baby on her lap: It was a very bad thing, he says. 'Her actions still send the wrong message to millions of her fans,' Mineta said at a Philadelphia event yesterday marking Child Passenger Safety Week."

Bush Approval Rating Falls To 39% In Gallup Poll. CNN's The Situation Room (2/13, Blitzer) reported, "Our new CNN/USA Today/Gallup poll shows the President job approval rating back down to 39 percent, the first time he's been under 40 percent since November of last year. Mr. Bush's rating had held at about 43 percent throughout the month of January."

OTHER NEWS:

White House Predicts Continued Economic Growth. USA Today (2/14, 2.31M) reports, "President

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Bush credited innovation and an efficient US workforce for the nation's good economic health, and he predicted another year of solid growth. 'The United States economy continues to demonstrate remarkable resilience, flexibility and growth,' the president wrote in his annual economic report to Congress." The economy "grew by 3.1% last year, as measured by gross domestic product from the fourth quarter of 2004 to the fourth quarter of 2005. The report projects 3.4% growth this year and 3.3% growth in 2007."

The Washington Post (2/14, D1, Henderson, 744K) reports White House economists "said yesterday that the US economy should continue to grow at a healthy pace in the years ahead, even as they warned that the housing market is likely to cool and energy prices may spike in response to supply disruptions." Congressional Democrats "countered that the president's economic report failed to justify his proposals." White House economists, "like many of their counterparts on Wall Street, also expect unemployment to remain low this year, around 5 percent, and for inflation to stay 'moderate and stable,' the report said." The New York Times (2/14, 1.19M) runs a similar, brief story.

Meanwhile, the Wall Street Journal (2/14, lp, 2.11M) titled its report "Report Plays Down Economic Woes," and says, "The US's rock-bottom personal-saving rate and record trade deficit aren't major worries, the White House said in its latest economic review. Striking a more optimistic tone than many economists, the Economic Report of the President said the decline in the personal-saving rate last year to post-Depression lows 'may not be cause for alarm.'" It "blamed much of the trade deficit on other countries that save too much, rather than the US saving too little."

Stocks Down. USA Today/AP (2/14, Wang) reports, "Stocks sagged Monday as a lack of economic news returned investors' focus to inflation and interest rates ahead of comments from new Federal Reserve Chairman Ben Bernanke later this week." The Dow Jones industrial average declined 26.73 points, or 0.2%, to 10,892.32. The Standard & Poor's 500 index lost 4.13 points, or 0.3%, to 1262.86. The Nasdaq composite "had the worst day, dropping 22.07 points, or 1.0%, to 2239.81." The Wall Street Journal (2/14, Patterson, 2.11M) also reports the stock numbers.

CSX To Pay $2 Million To Settle Claims From 2001 Baltimore Tunnel Fire. The Baltimore Sun (2/14, Dresser) reports, "Four and a half years after a derailment and fire in the Howard Street Tunnel created havoc downtown, CSX Transportation Inc. has agreed to pay Baltimore $2 million to settle the city's lawsuit against the railroad company." The Sun continues, "Mayor Martin O'Malley and CSX Corp.'s chairman and chief executive officer, Michael J. Ward, said the railroad will defray the city's costs from the fire and the cleanup without either side admitting fault in the July 2001 accident. … 'Rather than continuing to litigate, both parties have agreed to dedicate shared resources and energy to further enhance safety and security in the city,' O'Malley and Ward said in a state ment Monday announcing the settlement." The Sun adds, "City Solicitor Ralph S. Tyler said the deal achieves the purposes of Baltimore's $10 million federal lawsuit against the Jacksonville, Fla.- based CSX Transportation, the rail unit of CSX Corp. … 'By this settlement, the city has recovered substantially all the expenses incurred as a result of the derailment and fire,' Tyler said. … He noted that CSX had previously agreed to pay more than $300,000 in overtime for city workers. The agreement does not include payment of legal expenses, but Tyler said the city handled the case using in-house lawyers rather than retaining outside counsel."

George Lucas To Appear With House Democrats Today. The Hill (2/14, Dufour) reports that "four days after House Republicans lampooned their rivals with a 'Star Wars'-themed film," director George Lucas "will make a rare Hill appearance today" alongside House Minority Leader Nancy Pelosi and other House Democrats. At last week's House GOP retreat, "a short video, produced by the National Republican Congressional Committee, depicted GOPers as the virtuous rebels, being pursued by 'Darth Nancy' and her imperial henchmen. … Lucas's appearance proves that 'the Force is with House Democrats' this year, Pelosi spokeswoman Jennifer Crider said before adding that 'Democrats' might be more appropriate because 'our Senate colleagues are doing very well, too.' Lucas, who doesn't hide his Democratic leanings, has been critical of Republican administrations going back to Nixon."

Lobbyist Launches Anti-Union Media Campaign. The New York Times (2/14, Greenhouse, 1.19M) reports Richard Berman, a "longtime lobbyist for the restaurant and beverage industry," has created the "Center for Union Facts," offering a "highly visible attack against organized labor" just as unions "are trying to pick themselves up after suffering a schism and years of decline." His group

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"ran full-page advertisements in national newspapers yesterday and started a Web site, UnionFacts.com, asserting that many unions are corrupt and have hurt airlines, steel makers and automakers." The Washington Post (2/14, D3, Joyce, 744K) adds that Berman "is also executive director of the Center for Consumer Freedom, a decade-old group founded with tobacco company and restaurant money to fight smoking curbs in restaurants. He is also founder of the American Beverage Institute, which fights restrictions on alcohol use, and the Employment Policies Institute Foundation, which has argued against raising the minimum wage."

Professor Says Angry Political Rhetoric Infecting General Population. In a Wall Street Journal (2/14, 2.11M) op-ed, Arthur Brooks of Syracuse University writes, "Overheated political rhetoric has become so ordinary that most of us don't even take it seriously. But we should. When one party's chairman calls the other party 'criminal' (as one actually did recently, and the other might before this page goes to press), he is hoping to pull people to the fringe where they will be reliable voters. There is some evidence that this tactic is working: The percentage of people willing to say they are 'extremely liberal' or 'extremely conservative' is higher than it has been in over 30 years. And the data tell us that the people with these strong views often display a disturbing lack of compassion and ethics in their personal relations. As such, angry politics may be spilling over into our broader culture. … It may or may not be that extreme politics is by itself what makes a person angry and uncompassionate; but it certainly cannot be improving the situation."

US, Israel Discuss Ways To Oust Hamas. The New York Times (2/14, Erlanger, 1.19M) reports, "The United States and Israel are discussing ways to destabilize the Palestinian government so that newly elected Hamas officials will fail and elections will be called again, according to Israeli officials and Western diplomats. The intention is to starve the Palestinian Authority of money and international connections to the point where, some months from now, its president, Mahmoud Abbas, is compelled to call a new election. The hope is that Palestinians will be so unhappy with life under Hamas that they will return to office a reformed and chastened Fatah movement." The Times adds, "The officials and diplomats, who said this approach was being discussed at the highest levels of the State Department and the Israeli government, spoke on condition of anonymity because they are not authorized to speak publicly on the issue. They say Hamas will be given a choice: recognize Israel's right to exist, forswear violence and accept previous Palestinian-Israeli agreements -- as called for by the United Nations and the West -- or face isolation and collapse."

Cohen Blasts Putin Plan To Meet With Hamas Leaders. Richard Cohen writes in the Washington Post (2/14, A15, 744K), "Russian President Vladimir Putin said he was considering inviting the leaders of Hamas to Moscow for talks, and almost immediately, and predictably, the French pronounced this a wonderful idea." Putin would do so "without Hamas's renouncing its intention to obliterate Israel. Russia and, in a way, France would overlook this salty language because, as we are so often told, they are realists and we Americans -- chuckle, chuckle -- are dreamers. In the real world, you have to talk to your enemies." When it comes to Hamas, "Putin is willing to embrace it all -- political wing, terrorist wing: It makes no difference to him."

Bush, Annan Say Larger Peacekeeping Force Is Needed In Sudan. The Washington Post (2/14, A12, Fletcher, 744K) reports, "President Bush and U.N. Secretary General Kofi Annan agreed on the need for a bigger, more mobile peacekeeping force in Sudan's troubled Darfur region during a White House meeting yesterday, but Annan made no specific requests for U.S. military help. Speaking to reporters after the Oval Office session, Annan said it is premature to ask for more than a general commitment from the United States until the United Nations determines what it needs for the planned peacekeeping force in Darfur." Bush, "speaking to reporters after the Oval Office meeting, pointed out that he recently met with Rebecca Garang, the widow of John Garang, the vice president of Sudan. Garang was killed in a helicopter crash last summer, not long after a peace accord marked the end to two decades of civil war in southern Sudan. 'She and I had a long discussion not only about the Darfur region, but about implementing' the fragile peace accords, Bush said."

The New York Times (2/14, Sanger, 1.19M) reports that Annan "made clear that he believed the United States would have to play a significant role in deploying a new kind of peacekeeping force in the Darfur region of Sudan. … 'We did agree that we need a much more effective force on the ground' to replace African Union troops now in Darfur, Mr.

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Annan said after leaving the White House. He described the proposed force as 'well-trained, well-equipped troops from Western countries, from third world countries' who have participated in other peacekeeping operations." The Times adds, "The reality, administration officials said, is that the troops would not be likely to arrive in the region for another year. But the import of the Monday meeting, said one senior official, is that 'the president signed on to the concept and understood that we will need Western assets and the U.S. would have to be part of it.'"

Prime Minister Says Denmark Is Being Portrayed Unfairly. The AP (2/14, Ritter) reports, "Denmark's prime minister complained Monday that his nation had been unfairly portrayed as intolerant in the international furor over the Prophet Muhammad cartoons, and his foreign minister said a government apology would be pointless. After meeting with a newly formed network of moderate Muslims, Prime Minister Anders Fogh Rasmussen called for peaceful dialogue to defuse Denmark's biggest international crisis since World War II." Danish Foreign Minister Per Stig Moeller "told The Associated Press the government had no reason to apologize for the drawings first published in one of Denmark's largest newspapers."

USA Today (2/14, Stinson, Hampson, 2.31M) reports, "The cartoons' publication was not merely an academic exercise in freedom of speech, but something that reflects underlying tensions racking Europe. Those include Muslim immigration and assimilation, and fear of terrorism -- especially after the bombings in Madrid in 2004 and London last year." USA adds, "Islamic reaction to the cartoons is not entirely a spontaneous cry from the heart, but one manipulated by various Muslim political and religious leaders to advance their agendas by targeting Israel, democracy and rival strains of Islam."

Annan Says Violent Protests "Unacceptable." UN Secretary General Kofi Annan was asked on CNN's The Situation Room (2/13) about the recent protests and violence over political cartoons depicting Mohammad. Annan said "First of all, let me say that the violence we have seen is unacceptable. It is a wrong reaction to the offense and the insult that the Muslims -- the Muslim world feels about the cartoon. I have said, very clearly, that it was insensitive to publish those cartoons. I am for freedom of expression. I am for freedom of press. But that right has to be exercised with some sensitivity, some respect, for religion of others. And it entails responsibility and judgment. And, so, the fact that -- that they -- they feel offended by that should not allow any country or any group of people to attack innocent people and to destroy foreign legations. And, so, I would urge all governments and all people with influence, secular and religious, to ensure that we calm the situation and do not allow it to get out of hand."

Iranian Paper's Holocaust Cartoon Contest Has An Entry. The AP (2/14, Karimi) reports, "An Iranian newspaper's contest for cartoons about the Holocaust, launched Monday in response to a series of caricatures about the Prophet Mohammed, has already drawn at least one entry, the paper said. Hamshahri, one of Iran's top five newspapers, said its contest was a test of the Western world's readiness to print cartoons about the Nazi slaughter of 6 million Jews in World War II. It called for cartoons under the title: 'What is the Limit of Western Freedom of Expression?'" The AP adds, "The first entry in the Iranian contest depicts a man smoking a cigarette and wearing a blue and white striped prison uniform, with a tall wall and guard tower in the background. The man, with a mustache and several days growth of beard, is wearing a white keffiyeh and is holding his right hand over his forehead and eyes. On his chest is a red Muslim crescent with a letter 'P.' Below that is the number 7256, the significance of which was not immediately clear, although Israel is said to be holding about 8,000 Palestinian prisoners."

Dutch Openly Discuss Implications Of Muslim Immigration. The New York Times (2/14, 1.19M) reprints and International Herald Tribune story which reports, "Post-politically correct Europe starts here. It loops north to Denmark. These days, it branches east, although less distinctly, to Germany. But in the Netherlands the words are free, and inhibitions about describing and dealing with the problems caused by immigration, particularly from Islamic countries, are largely gone." The Times adds, "For a decade, anyone expressing concern about projections that Amsterdam would have a Muslim majority by 2020 (about 65 percent of its young people now have Islamic backgrounds) risked disgrace as a closet fascist. Now the Dutch discuss the implications of similar population projections and similar time frames for cities like Rotterdam and The Hague without cramped circumlocution. In comparison, direct official- and politician-speak in places like Britain, France and Spain shies from the idea that failed national policies

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accommodating (or avoiding) Muslim integration have been factors in the most confidence-shaking European events of the new century."

Young Macedonian Muslims Embrace Conservative Interpretation Of Islam. The Christian Science Monitor (2/14, Deliso, 61K) reports that for many Muslims in Macedonia, "the Ottoman Empire's Islamic legacy still endures. However, some say Arab rivals are seeking to undermine it." The tensions "are being felt throughout Macedonia's growing Muslim community ahead of its elections later this month for a new national leader, or reis. Tapping into young Muslims' disdain for the older generation, which many see as corrupt, bureaucratic, and uneducated, fundamentalists -- pejoratively referred to as Wahhabis -- are turning some in the younger generation toward more conservative interpretations of Islam." Since Macedonia's independence in 1991, "the fundamentalists have established a small but persistent presence. With their long black beards and wives veiled head-to-toe in black, they are conspicuous in this fairly liberal society. Their secrecy and self-isolation have also raised suspicions of outside funding."

Film Highlights Differing Perceptions Of US In Turkey. The New York Times (2/14, Arsu, 1.19M) reports that the film "Valley of the Wolves — Iraq," which "opened last week in movie theaters in Turkey, Austria and Germany, is a Rambo-like action story involving Turkish gunmen who seek revenge against a tyrannical occupying army. In this version, however, at $10 million the most expensive movie ever made in Turkey, the enemy is no oppressive third-world dictatorship. The commander's name is Sam — as in uncle — and the opposing forces are the Americans, who are being punished for offenses against Turkish as well as Iraqi pride and honor." The film "has highlighted a growing discrepancy in how America is seen in Turkey. Officially, the two governments have been enjoying much improved relations after a low point in 2003, when Turkey refused to allow American troops to operate from its territory to invade Iraq. On the street, however, public opinion of America has been steadily declining since the invasion and the disclosures about the abuse at Abu Ghraib and the 'rendition' and torture of suspected members of Al Qaeda in secret prisons."

Mubarak Calls For Two-Year Postponement Of Egyptian Elections. The New York Times (2/14, Slackman, 1.19M) reports that Egyptian President Hosni Mubarak "has moved to postpone for two years local elections that were scheduled for April, turning away from a promise made during his recent presidential race to promote democratic practices, Egyptian analysts and political leaders said Monday. Thousands of local council positions were to be on the ballot." The move "was widely seen as an effort to preserve the governing National Democratic Party's monopoly on power at a time when its grip has begun to falter. It was also seen as an effort to block the banned Muslim Brotherhood, which made unprecedented gains in recent parliamentary elections, from promoting an independent candidate for president in 2011."

EU Threatens Trade Sanctions Against US. The Financial Times (2/14, Beattie, Minder) reports, "The European Union is threatening to reimpose trade sanctions on the US unless Congress eliminates the vestiges of a tax break for US exporters that was ruled illegal on Monday by the World Trade Organisation. In the latest twist in an eight-year saga, the WTO's appellate body said Washington's attempts to eliminate the tax break were insufficient. … The Foreign Sales Corporation (FSC) scheme and its successor, the 'extra-territorial income' (ETI) provision, refunded taxes paid by US corporations on earnings from exports. … Boeing is one of the main beneficiaries of the legislation. In a separate WTO case, the EU is targeting state subsidies to Boeing while the US is bidding to have subsidies for Airbus, Boeing's European rival, ruled illegal."

The New York Times (2/14, Meller, 1.19M) reports, "The ruling is the second in four years involving tax breaks that the United States granted to 6,000 exporters, including Boeing, Microsoft and General Electric, initially under the Foreign Sales Corporation program and subsequently under the American Jobs Creation Act."

The Wall Street Journal (2/14, Miller, 2.11M) reports, "Yesterday's decision affects tax breaks on export income, provided by the American Jobs Creation Act, which benefit corporations such as Caterpillar Inc., Microsoft Corp. and Boeing Co. The WTO panel said the 2004 measure, which was drafted in part to address earlier adverse WTO rulings, had failed to bring U.S. tax rules into line with trade agreements. If the U.S. fails to change the rules within 90 days, the EU is entitled to resume up to $4 billion per year in

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penalties against U.S. goods that it suspended a year ago. If sanctions resume, the EU is expected to apply 14% tariff rates on a group of goods, rising to 17% if the U.S. fails to respond. Based on current trade flows, U.S. companies would pay about $600 million per year in penalties."

CQ (2/13, Crittenden) reported, "Any changes to the provisions affected by the WTO ruling would have to be made by Congress, but [Sen. Charles] Grassley suggested that is unlikely to happen. 'I doubt Congress will revisit this legislation,' Grassley said. Rep. Benjamin L. Cardin, a Democrat from Maryland, on Monday urged lawmakers to address the issue, saying he would introduce legislation aimed at ensuring fairness in international tax laws."

Banks To Sever Ties With North Korea. The Wall Street Journal (2/14, Fairclough, 2.11M) reports, "The threat of U.S. sanctions against a Macau bank that allegedly helped North Korea launder money and pass forged dollars has persuaded other lenders to sever ties with the communist country, dealing a significant blow to its financial system and economy, diplomats and bankers say. … Cut off by Banco Delta Asia, North Korean banks and traders are having difficulty finding other lenders to conduct their overseas business, according to bankers and businessmen. That is pinching consumer-goods imports, an important part of the North Korean government's move to allow freer markets."

Senior Tories Will Seek To Mend Fences With GOP On US Trip. The Financial Times (2/14, Hall) reports, "Senior members of the Conservative's shadow cabinet travel to Washington this week seeking to mend fences with the White House in what they bill as 'government to future government' meetings with the Bush administration. The trip marks a concerted effort to close a rift with senior Republicans that opened under Michael Howard, David Cameron's predecessor as leader, over his criticism of Tony Blair's handling of the war in Iraq." The Times adds, "Between them, William Hague, shadow foreign secretary; George Osborne, shadow chancellor; and Liam Fox, shadow defence secretary, are expected to hold talks with Condoleezza Rice, US secretary of state; John Snow, Treasury secretary; Ben Bernanke, the new chairman of the Federal Reserve; and Karl Rove, President George W. Bush's chief political adviser."

VOA To Concentrate Resources On Middle East. The Washington Post (2/14, A13, Lee, 744K) reports, "The Voice of America plans to silence many of its radio broadcasts in English and several other languages as the agency concentrates more resources on the Middle East and countries central to the U.S. effort against terrorism. The Broadcasting Board of Governors, which oversees the government-owned broadcasting service, announced the moves last week, citing tight budgets and the need to focus on the most pressing national security threats. Its plans arose despite proposed budget increases of 13 percent for the U.S.-sponsored Middle East Broadcasting Networks and 5.3 percent for the VOA."

Haitian Protests Over Vote Counting Process Turn Violent. The CBS Evening News (2/13, story 8, 0:30, Schieffer) reported, "Violence erupted today in Haiti during protests against the vote counting process in last week's presidential election. Protestors invaded a hotel used by election officials and observers. Helicopters evacuated some of them, but South Africa's Bishop Desmond Tutu stayed and appealed for calm. One protestor was killed but UN troops denied they shot him."

The Financial Times (2/14, Editor) reports the "partial results released last week suggested that Rene Preval would comfortably exceed the 50 per cent plus one vote needed for a first round victory. But over the past three days Mr Preval's vote has fallen as votes from more remote and more conservative areas have been counted." Preval's followers "have alleged fraud, even though their candidate – with 48.7 per cent of the vote compared with 11.8 per cent for his nearest rival – would seem to be well placed to win a second round run-off scheduled to take place next month."

The New York Times (2/14, Thompson, 1.19M) reports Preval's campaign advisers "raised questions about an estimated 8 percent of the tabulation sheets that electoral authorities reported as missing or destroyed, but it was unclear whether Mr. Préval would challenge the results." Carolyn Cooley, "a spokeswoman for the United States Embassy, said in an interview that foreign diplomats, including the American ambassador, Tim Carney, had started talks with Mr. Préval. Some said the talks were aimed at seeking a settlement that would keep this poor, broken country from descending back into anarchy."

The Washington Post (2/14, A1, Roig-Franzia, 744K) reports, "Hoping to quell the unrest, Preval -- who is far ahead of all rivals with 90 percent of votes counted -- flew to the capital late Monday on a U.N. helicopter from his home town

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in a remote mountain village. Preval had urged calm in recent days, but he had also stoked emotions among followers by accusing Haiti's electoral commission of lowering his vote total to force him into a runoff and by mockingly singing, 'They're stealing our votes,' on his porch."

The Christian Science Monitor (2/14, Harman, 61K) reports that even "with the vote almost certainly going to another round, Préval seems most likely to become Haiti's next leader. With 90 percent of the votes counted at press time, Leslie Manigat was coming in a distant second with only 11.8 percent. Haitians now are looking ahead to how Préval will try to bridge an entrenched rich-poor gap and bring security to this troubled nation."

The Washington Times/AP (2/14) reports that in "the middle-class Tabarre neighborhood, Associated Press journalists saw the body of a man in a Preval T-shirt. Dozens of witnesses said Jordanian U.N. peacekeepers in a jeep had opened fire, killing two persons and wounding four. The body of the second reported victim was not seen."

House Panel Examines Web Companies' Role In Chinese Censorship. The Christian Science Monitor (2/14, MacDonald, 61K) reports that on Wednesday, a House committee "will look into high-profile cases where Microsoft, Google, and Yahoo worked with China to restrict access to material or reveal the identity of users with dissident postings. Cisco is also implicated. But lawmakers eager to end such cooperation may find it hard to do so, at least in Yahoo's case." An October deal "may insulate the Internet giant. Because it gave up a majority stake of its China service to a Chinese company, Yahoo argues that decisions about cooperating with Chinese officials lie with that company, which has obligations to obey Beijing, not Washington." That move "has human rights activists fuming, especially after last week, when Paris-based watchdog group Reporters Without Borders (RWB) charged Yahoo with helping authorities in 2003 to capture Li Zhi, an anticorruption reformer now serving an eight-year prison term." Some in Congress "are fuming about the practice. 'It's like turning Anne Frank over to the Nazis,' says Rep. Christopher Smith (R) of New Jersey, chairman of the House Subcommittee on Africa, Global Human Rights and International Operations, one of two subcommittees jointly holding Wednesday's hearings."

Growing Chinese Trade Deficit Could Increase Political Criticism. The Wall Street Journal (2/14, Hiebert, 2.11M) reports China's exports to the US "roared ahead in January, potentially giving fresh ammunition to critics of China's trade policies amid continued testy trade relations between" the two countries. Chinese exports "surged 28% last month from a year earlier to $64.99 billion, China's Ministry of Commerce said. Imports jumped 25% to $55.5 billion during the same period, the ministry said. Economists warned that the January figures could be distorted because of the weeklong Lunar New Year holiday, which began at the end of last month, as Chinese companies scrambled to export more in a shorter period." Still, the January export data "could further stoke criticism in the U.S. and among China's other major trading partners. The U.S. reported Friday that its trade deficit with China surged 25% to $201.63 billion in 2005 from the previous year. This prompted new calls from members of Congress and U.S. manufacturing associations for the Bush administration to press China to allow its currency to appreciate further."

China Seeks To Increase Use Of Alternative Energy. The Wall Street Journal (2/14, Oster, 2.11M) reports China, the "world's second-biggest consumer of oil, aims to cut its oil and coal dependency and increase its use of alternative-energy sources such as wind, solar and nuclear power over the next five years." China "unveiled its energy plans yesterday as part of its proposed economic-development plan for 2006-2010." But industry analysts "said the goal could be tough to achieve. Chinese consumers are buying more and more cars, and China's economy, which is expected to grow nearly 9% this year, is much less energy efficient than the economies of more-developed countries." China's "new energy plan reflects Beijing's concern about the rising cost of energy and the country's growing dependence on imported oil."

Putin Said To Be Ruling According To KGB Instincts. In his Wall Street Journal column (2/14), George Melloan says Russian President Vladimir Putin's "baser instincts have been on display in recent weeks, perhaps because he is buoyed by the high prices for Russia's main exports, oil and gas. On a visit to Spain's socialist Prime Minister Jose Luis Rodriguez Zapatero Thursday he said the Hamas terrorists who won the recent Palestinian election will be welcome in Moscow. So much for the efforts of his U.S.

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and European 'road map' partners to keep Hamas at arm's length until it promises peaceful coexistence with Israel." Maybe "energy riches have gone to Mr. Putin's head. But he also seems to have been badly shaken by the Orange Revolution in Ukraine of just over a year ago. His response has been to further crack down on free expression in Russia and use strong-arm tactics against former members of the Russian empire." In Soviet times, "when the empire was threatened the Russians sent tanks, as to Hungary in 1956, Czechoslovakia in 1968 and the borders of Poland in 1981. Today they use other methods, such as cutting off gas supplies to Ukraine in the dead of winter and -- so Georgian President Mikhail Saakashvili believes -- arranging the sabotage of energy infrastructure serving his tiny state." Russia, "of course, denies any political pressure," but it is "hard to live down a KGB past."

OECD Report Says Europe In Economic Decline. In a column in the Washington Post (2/14, A15, 744K), Fareed Zakaria says, "Cartoons and riots made the headlines in Europe last week, but a far less fiery event, the publication of an academic study, may shed greater light on the future of the continent." The Organization for Economic Cooperation and Development (OECD), "headquartered in Paris, released a report, 'Going for Growth,' that details economic prospects in the industrial world. It is 160 pages long and written in bland, cautious, scholarly prose. But the conclusion is clear: Europe is in deep trouble. These days we all talk about the rise of Asia and the challenge to America, but it may well turn out that the most consequential trend of the next decade will be the economic decline of Europe." If "present trends continue, the chief economist at the OECD argues, in 20 years the average U.S. citizen will be twice as rich as the average Frenchman or German." The "decline of Europe means a world with a greater diffusion of power and a lessened ability to create international norms and rules of the road. It also means that America's superpower status will linger."

Castro Blamed For Detention Of Cuban Dentists In Bahamas. The Wall Street Journal (2/14, 2.11M) says in an editorial that Fidel Castro's "depredations inside Cuba are by now well known. But less widely appreciated is how Fidel sometimes manages to imprison Cubans in other domiciles even once they've escaped his government's clutches." A "tragic example is the case of two Cuban dentists who have been held in squalid conditions at a detention center in Nassau, Bahamas for almost 10 months. The two have immigration visas to enter the U.S. and join their spouses and children who live here legally. But the one thing holding up their release for the past 10 months has been, you guessed it, El Maximo Lider."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"Critics Of Jails Voice Alarm."
"Foe Of Endangered Species Act On Defensive Over Abramoff."
"1 Killing, Many Stories."
"South Korean Cloning Scandal Takes Toll On Whistle-Blowers."
"Cheney Lacked $7 Hunting Credential."
"Munitz Promise Angered Board."
"Japanese Subcompacts, With Room For Profit."

USA Today:

"U.S. Role In Iraq Security Shifting."
"Lack Of Public Defenders May Force New Orleans To Free Accused Felons."
"Cartoon Crisis Frames Europe's Conflict Within."

New York Times:

"U.S. And Israelis Are Said To Talk Of Hamas Ouster."
"U.S. Royalty Plan To Give Windfall To Oil Companies."
"No End To Questions In Cheney Hunting Accident."
"Egypt Pushes 2-Year Delay In Local Vote."
"As Monsters Go, This Storm Had A Lighter Tread."
"U.S. Snowboarders Rule Again At Winter Games."

Washington Post:

"Disaster Response Changes Promised."
"Computer Games Play Role In Combat Training."
"White House Deferred To Cheney On Shooting."
"In Major Shift, Va. Senate Backs Smoking Ban For Restaurants."
"Haitians Angry Over Election Take To Streets."
"Clients' Rich Rewards Keep K Street Lobbyists Thriving."

Washington Times:

"FEMA Wasted Millions In Katrina Aid."
"Annan Calls For U.S. Calm On Iran."

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"Chaos Grips Haiti Capital."
"Women-In-Combat Review Will Not Make Deadline."
"Surprise Hinted At In Diana Inquiry."
"With All My Love, Mr. President."
"Army Silences Chaplain After Prayer Criticism."

Detroit Free Press:
"GM To Pump Millions Into State."
"Cheney Broke A Key Hunting Rule."
"Wait Times And Fees Likely To Climb."
"Too Few Teach Math, Science."

Atlanta Journal-Constitution:
"Love And Baseball."
"Fee on Illegals' Funds Sought."
"Critics Say Perdue Education Budget Hurts Old, Disabled."
"White House Goes On Defensive After Hunting Accident."
"First Lady Of Southern Cooking Dies."

Dallas Morning News:
"The Education Of Margaret Spellings."
"Oil, Gas Firms To Get $7 Billion Break."
"Cheney Had No Stamp To Hunt Quail."
"Illegal Labor Could Cost Firms In Court."

Story Lineup From Last Night's Network News:
ABC: House GOP-Katrina Report; Katrina Victims-Hotels; Hurricane Scams; Cheney Hunting Accident; Cheney Accident-Media; Afghanistan-US KIAs; Northeast Snowstorm; Air Marshals-Drug Smuggling; Hormone Therapy; Olympics; Kwan Retires.
CBS: Cheney Hunting Accident; Cheney Accident-White House; Hurricane Katrina-Chertoff; Afghanistan-American KIAs; Saddam Hussein's Trial; US KIA; Northeast Snowstorm; Haiti-Election Protests; Spain-Terrorism Conference; New Mexico-Anti-Terrorism Training; Northern Slave Cemeteries.
NBC: Cheney Accident-White House; Cheney Accident-Media; Hurricane Katrina-Chertoff; Northeast Snowstorm; Olympic Games-Injuries; Olympic Games-Results; Figure Skating-Rules Change; Guantanamo-UN Report; Olympics-Pronunciation Debate.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Hurricane Katrina Response; Hurricane Evacuees-Hotel Stays; Cheney-Hunting Accident; Northeast Snowstorm; Wall Street.
NPR: Iran-Nuclear Program; ABA-Domestic Surveillance; UK-National ID Cards; Hurricane Response; Northeast Snowstorm; Winter Olympics.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH — Participates in photo opportunity and makes remarks with NCAA Football Champion Texas Longhorns, South Lawn, open press; meets with President's Council on Service and Civic Participation, Oval Office, stills at top; Attends Valentine's Day Social Dinner with Mrs. Bush, East Room, closed press; attends entertainment with Mrs. Bush, East Room, pool coverage.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: 9:30 a.m. ARMED SERVICES _ Full Committee. Hearing on the FY07 defense authorization. Army Secretary Francis Harvey, Army Chief of Staff Gen. Peter Schoomaker. Location: Room 106, Dirksen.

10 a.m. BANKING, HOUSING AND URBAN AFFAIRS _ Full Committee. Confirmation hearing on pending nominations. Location: Room 538, Dirksen.

10 a.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Full Committee. Hearing on state and local issues and municipal communications networks. Robert Sahr, Commissioner, South Dakota Public Utilities Commission; Diane Munns, Commissioner, Iowa Utilities Board; President, National Association of Regulatory Utility Commissioners; John Perkins, President, National Association of State Utility Consumer Advocates; Michael F. Altschul, Senior Vice President and General Counsel, CTIA-The Wireless Association; Douglas A. Boone, Chief Executive Officer, Premier Communications; Donald Berryman, President of Municipal Networks, EarthLink, Inc.; Dianah L. Neff, Chief Information Officer, City of Philadelphia. Location: Room 562, Dirksen.

10 a.m. ENERGY AND NATURAL RESOURCES _ Full Committee. Hearing on the Energy Information Administration's annual outlook on trends and issues in energy markets. Guy Caruso, Administrator, Energy Information Administration. Location: Room 366, Dirksen.

10 a.m. FOREIGN RELATIONS _ Full Committee. Hearing on the FY07 budget. Secretary of State Rice. Location: Room 216, Hart.

10 a.m. HEALTH, EDUCATION, LABOR AND PENSIONS _ Full Committee. Roundtable discussion on the Ryan White CARE Act. Elizabeth Duke, Administrator, Health

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Resources and Services Administration. Location: Room 430, Dirksen.

10 a.m. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ Full Committee. Hearing on the Department of Homeland Security's preparedness and response to hurricanes Katrina and Rita. DHS Secretary Chertoff. Location: Room 342, Dirksen.

10 a.m. VETERANS AFFAIRS _ Full Committee. Hearing on the FY07 budget for the DVA. VA Secretary Nicholson; various department officials; Peter Gaytan, American Legion; Dennis Cullinan, VFW; Brian Lawrence, Disabled American Veterans; Carl Blake, Paralyzed Verans of America; David Greineder, AMVETS. Location: Room 418, Russell.

2:30 p.m. ARMED SERVICES _ Readiness and Management Support Subcommittee. Hearing on contractor incentive in the FY07 budget. Undersecretary of Defense Kenneth Kreig; Comptroller General David Walker. Location: Room 222, Russell.

2:30 p.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Trade, Tourism and Economic Development Subcommittee. Hearing on Canadian softwood lumber dispute. Undersecretary of Commerce Frank Lavin; Deputy USTR Susan Schwab; Steve Swanson, Coalition for Fair Lumber Imports; Bill Kluting, Western Council of Industrial Workers/United Brotherhood of Carpenters; Barry Rutenberg, National Association of Homebuilders. Location: Room 562, Dirksen.

2:30 p.m. HEALTH, EDUCATION, LABOR AND PENSIONS _ Retirement Security and Aging Subcommittee. Hearing on reauthorization of the Older Americans Act. Location: Room 430, Dirksen.

2:30 p.m. INDIAN AFFAIRS _ Full Committee. Hearing on the FY07 budget request for Indian programs. Location: Room 485, Russell.

US House: FLOOR SCHEDULE _ 2 p.m. Meets for legislative business. Highlights: Suspensions (4 bills): 1) H.Con.Res. 322 - Expressing the Sense of Congress regarding the contribution of the USO to the morale and welfare of our servicemen and women of our armed forces and their families; 2) H.Res. 629 - Supporting the goals and ideals of a Day of Hearts, Congenital Heart Defect Day in order to increase awareness about congenital heart defects, and for other purposes; 3) H.R. 4152 - Raymond J. Salmon Post Office Designation Act; 4) S. 1989 - Holly A. Charette Post Office Designation Act.

10 a.m. VETERANS AFFAIRS _ Economic Opportunity Subcommittee. Hearing on the FY07 budget. Location: Room 334, Cannon.

1 p.m. GOVERNMENT REFORM _ National Security, Emerging Threats and International Relations Subcommittee. Hearing on whistleblowers following 9/11. Army Spc. Samuel J. Provance; Army Reserve Lt. Col. Anthony Shaffer; Michael German, whistleblower formerly with FBI; Russell Tice - whistleblower formerly with National Security Agency; Richard J. Levernier, whistleblower with Department of Energy; attorney Mark S. Zaid; Beth Daley, Project on Government Oversight; Tom Devine, Government Accountability Project; William G. Weaver, National Security Whistleblowers Coalition; James McVay, Office of the Special Counsel; Justice Department Inspector General Glenn A. Fine; Energy Department Inspector General Gregory H. Friedman; Thomas Gimble, acting inspector general, Defense Department. Location: Room 2154, Rayburn.

2 p.m. BUDGET _ Full Committee. Hearing on the FY07 budget. Members of Congress. Location: Room 210, Cannon.

2 p.m. INTERNATIONAL RELATIONS _ Oversight and Investigations Subcommittee. Hearing on the Chinese influence in U.S. foreign policy. Steve Mosher, president, Population Research Institute; Nancy Menges, widow of Constantine C. Menges, author of ``China: The Gathering Threat;" Christopher Brown, Hudson Institute; Perry Pickert, faculty member, Joint Military Intelligence College; Alan Tonelson, U.S. Business and Industry Council Educational Foundation; Arthur Waldron, University of Pennsylvania; Ross Terrill, Research Associate, Fairbank Center for East Asian Research, Harvard University. Location: Room 2172, Rayburn.

2 p.m. VETERANS AFFAIRS _ Health Subcommittee. Hearing on FY 2007 VA budget requests for the education, vocational rehabilitation, and loan guarantee programs. Ron Aument, Deputy Under Secretary for Benefits, Department of Veterans Affairs; Dennis Douglass, Acting Director of Education Service, Veterans Benefits Administration; Judith Caden, Director of Vocational Rehabilitation and Employment Service, Veterans Benefits Administration; Keith Pedigo, Director of Loan Guaranty Service, Veterans Benefits Administration; Scott Denniston, Director Office of Small and Disadvantaged Business Utilization, Department of Veterans Affairs; Joy Ilem, Assistant National Legislative Director, Disabled American Veterans; Joseph Sharpe, Deputy

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Director, National Economic Commission, The American Legion. Location: Room 334, Cannon.

5:30 p.m. ARMED SERVICES _ Full Committee. Markup of pending legislation. Location: Room 2118, Rayburn.

6 p.m. INTERNATIONAL RELATIONS _ Europe and Emerging Threats Subcommittee. Markup of H. Res. ___- Expressing support for the efforts of the people of the Republic of Belarus to establish a full democracy, the rule of law, and respect for human rights and urging the government of Belarus to conduct free and fair presidential elections in 2006. Location: Room 2200, Rayburn.

Other: AARP _ AARP holds its public policy meeting. Highlights: 8:30 a.m. Former HHS Secretary Tommy Thompson. 9:30 a.m. WellPoint CEO Leonard Schaeffer. 12 p.m. Sen. Hillary Clinton. Location: Polaris Room, Reagan Trade Center.

GLOBAL AGRICULTURE _ 7:45 a.m. - 4:30 p.m. The Carnegie Endowment for International Peace co-hosts a global policy forum, ``The Global Market for Agriculture: Can the U.S. Succeed?" Highlights: 8:15 a.m. Keynote address by Sen. Saxby Chambliss, R-Ga., Agriculture Committee chairman. 9 a.m. Panel discussion, ``The Negotiating Challenges Ahead for Doha," with Ambassadors Roberto Abdenur, Embassy of Brazil; Dennis Richardson, Embassy of Australia; John Bruton, EU Delegation to the U.S. 10:15 a.m. Panel discussion, ``A Doha Deal and the 2007 Farm Bill: Domestic Challenges, Opportunities and Outlook for U.S. Agriculture," with Constance Tipton, International Dairy Foods Association; Jay Truitt, National Cattlemen's Beef Association; and Barbara Spangler, Wheat Exports and Trade Education Committee; and Don Phillips, American Sugar Alliance. 11 a.m. Panel discussion, ``The Global Agricultural Marketplace in 2016 and Beyond: U.S. Agriculture in a Changing World," with James Wiesemeyer, Informa Economics; Dan Griswold, Director for Trade Policy Studies, CATO Institute; Sandra Polaski, Senior Associate, Carnegie Endowment for International Peace; and Sherman Katz, Senior Associate, Carnegie Endowment for International Peace, Moderator. 12:30 p.m. Keynote lunchheon address by Mike Johanns, Secretary of Agriculture. Location: Carnegie Endowment for International Peace, 1779 Massachusetts Ave. NW.

PAYMENTS INDUSTRY _ 8:30 a.m. - 2 p.m. The American Enterprise Institute and Brookings Institution Joint Center for Regulatory Studies hold a symposium on the future of the payments industry. Highlights: 12:15 p.m. Rep. Richard Baker. Location: Room B-340, Rayburn.

MOUSSAOUI _ 8:30 a.m. There will be a pre-trial hearing to discuss logistics in the case of Zacarias Moussaoui. Location: US District Courthouse, 401 Courthouse Square, Alexandria, Va. Notes: Moussaoui will attend this hearing.

TALK SHOWS-CONSERVATIVISM _ 9:30 a.m. Media Matters for America holds a press briefing to release the findings of its first in-depth study, which the group says show that conservative voices significantly outweighed progressive voices on the Sunday shows throughout former President Bill Clintons second term (1997-2000), and President George W. Bush's first term (2001-2004), and 2005. Location: National Press Club, Zenger Room.

IRAN NUCLEAR _ 9:30 a.m. - 12 p.m. The Heritage Foundation hosts a discussion, ``Preventing a Nuclear-Armed Iran: Will Russia and China Really Help? Keynote speaker is Sen. Sam Brownback, R-Kan. Other participants are: Ilan Berman, Vice President for Policy, American Foreign Policy Council; Dr. Stephen J. Blank, Research Professor, U.S. Army War College; Peter Brookes, Senior Fellow in National Security Affairs and Director, Asian Studies Center, The Heritage Foundation; Leland R. Miller, attorney, Sidley Austin Brown & Wood, LLP; James A. Phillips, Research Fellow, Middle East Studies, The Heritage Foundation; Igor A. Zevelev, Washington Bureau Chief, Russian News Information Agency Novosti. Location: The Heritage Foundation's Lehrman Auditorium, 214 Massachusetts Ave. NE.

NO CHILD LEFT BEHIND _ 10 a.m. Former HHS Secretary Tommy Thompson and former Georgia Gov. Roy Barnes hold a news conference to announce the bipartisan and independent Commission on No Child left Behind. Location: Room 2261, Rayburn.

INNOVATION _ 11 a.m. House Democrats, including Nancy Pelosi, George Miller, Hilda Solis and Kendrick Meek hold a town hall meeting with filmmaker George Lucas to discuss the need to create a new generation of innovators that reflects the diversity of the nation. Location: Room HC-5, Capitol.

MUSLIMS-CARTOON CONTROVERSY _ 12 p.m. The Council on American-Islamic Relations (CAIR) holds a news conference to launch a major educational effort focusing on the life and legacy of Islam's Prophet Muhammad in

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response to the cartoon controversy. Location: National Press Club, Lisagor Room.

WELDON-ABLE DANGER _ 12 p.m. Rep. Curt Weldon, R-Pa., vice chairman of the House Armed Services and Homeland Security Committees, holds a press conference in advance of Wednesday's House Armed Services joint subcommittee hearing on the Able Danger - a Department of Defense planning effort prior to 9/11 tasked to identify and target the linkages and relationships of Al-Qaeda worldwide. Location: House Radio/TV Gallery.

DEMOCRATS _ 12:30 p.m. The Democratic Policy Committee holds a closed meeting. Location: Room S-211, Capitol. Notes: Stakeout note: Gallery escort for policy luncheons leaves between 12:15-12:30 p.m. from the Ohio Clock Corridor.

MORIAL _ 12:30 p.m. Urban League President Marc Morial addresses a National Press Club Luncheon. Location: National Press Club.

REPUBLICANS _ 12:30 p.m. The Republican Policy Committee holds a closed meeting. Location: Room S-207, Capitol.

ENERGY _ 2 p.m. The Environmental and Energy Study Institute and the Northeast-Midwest congressional and Senate coalitions hold a briefing on the impact of the FY07 budget on energy efficiency and renewable energy programs. Location: Room 628, Dirksen.

HOYER _ 2 p.m. House Democratic Whip Steny Hoyer holds a pen and pad only briefing. Location: Room H-306, Capitol.

OLDER AMERICANS _ 2:30 p.m. Sen. Mike Enzi, R-Wyo., chairman of the Senate Health, Education, Labor and Pensions Committee (HELP Committee) today announced the following Retirement Security and Aging Subcommittee roundtable. Sen. Mike DeWine, R-Ohoio, will chair the roundtable. Location: Room SD-430, Dirksen Senate Office Building.

UNION SHIFT _ 2:30 p.m. The Laborers' International Union of North America and the International Union of Operating Engineers hold a telephone news conference to announce a major organizational shift that will impact construction workers and the construction industry. Contacts: Richard Greer, 202-215-1562.

DEMOCRATS-KATRINA _ 2:45 p.m. Senators Hillary Rodham Clinton, Mary Landrieu, and Ken Salazar holds a press conference to call for renewed attention to Hurricane Katrina. Location: Senate Radio/TV Gallery.

DEMOCRATS-EMERGENCY RESPONSE _ 4 p.m. Homeland Security Ranking Democrat Bennie G. Thompson and other members of Congress participate in a discussion with the emergency responder community about what they describe as ``the crippling effects that the president's budget will likely have on their ability to protect our communities." Location: Room HC-9, Capitol.

HOMELAND SECURITY-DEMOCRATS _ 4 p.m. House Democrats hold a dialogue with the emergency responder community on the impact of the FY07 budget on protection of their communities. Participants include Rep. Bennie Thompson, General President Harold Schaitberger of the International Association of Fire Fighters, Tim Richardson of the Fraternal Order of Police, and Steve Lenkert of the International Brotherhood of Police Officers. Location: Room HC-9, Capitol.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, FEBRUARY 14, 2006 7:45 AM EST

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TERRORISM NEWS:

ABA Says Bush Exceeded His Constitutional Powers In NSA Surveillance Program. The American Bar Association yesterday denounced President Bush's domestic surveillance program, saying he exceeded his constitutional powers. The AP (2/14, Johnson) reports that the ABA "adopted a policy opposing any future government use of electronic surveillance in the United States for foreign intelligence purposes without first obtaining warrants from a special court set up under the 1978 Foreign Intelligence Surveillance Act. The 400,000-member ABA said that if the president believes the FISA is inadequate to protect Americans, he should to ask Congress to amend the act. … The ABA has urged Congress to affirm that when it authorized Bush to go to war, it did not intend to endorse warrantless spying."

Reuters (2/14, Conlon) reports, "The association's resolution calls on Bush 'to abide by the limitations which the Constitution imposes on a President' to make sure national security is protected in a way that is consistent with constitutional guarantees. It opposes 'any future electronic surveillance inside the United States by any U.S. government agency for foreign intelligence purposes that does not comply with provisions of the Foreign Intelligence Surveillance Act.'"

WLKY-TV Louisville (2/14, 5:41 a.m.) reported, "The nation's largest group of lawyers will not stand behind President Bush's domestic surveillance program. The American Bar Association accuses the President of exceeding his powers under the Constitution, this despite the fact that Attorney General Alberto Gonzales, a member of the bar, defends the…program. The spying program has been highly controversial since it was disclosed in December."

GOP Pollster Says Democrats Reflexively Oppose Anything Bush Supports. David Winston president of the GOP polling firm The Winston Group, writes in Roll Call (2/14) that former Senate Minority Leader Tom Daschle and Rep. Jane Harman, the ranking member on the House Intelligence Committee claim Democrats "were briefed on many occasions about the National Security Agency foreign terrorist surveillance program, but they simply had no avenue open to them to express their deep concerns about its legality. … How about picking up the phone and calling the president, the vice president, House Intelligence Chairman Pete Hoekstra (R-Mich.), Senate Intelligence Chairman Pat Roberts (R-Kan.), Speaker Dennis Hastert (R-Ill.), Defense Secretary Donald Rumsfeld, then-National Security Adviser Condoleezza Rice, House Minority Leader Nancy Pelosi (D-Calif.), Senate Minority Leader Harry Reid (D-Nev.) or the head of the NSA surveillance program?" Winston adds that Democrats "simply have been unable to come to terms with what they believe, deep down, as a party about national security. They have no ideas, no alternatives, so they try to pass off criticism as content." Democrats have also "become so irrationally angry about Bush that they reflexively oppose anything the President is for."

Padilla Attorneys Challenge Validity Of Government Evidence. The Miami Daily Business Review (2/14, Kay) reports, "The jihadist training form that accused terrorist operative Jose Padilla allegedly filled out before heading to an Afghanistan camp may be a fake and requires fingerprint analysis, his defense attorneys say." The Review continues, "In an appeal of a pretrial detention order denying bond, the defense tries to debunk several pieces of prosecution evidence against Padilla and lay out some of its case for the so-called 'dirty bomber.' ... The court papers were filed last week in preparation for the detention appeal to be argued Friday before U.S. District Judge Marcia Cooke. Padilla's defense attorneys are trying to get the accused terrorist released on bond." The Review adds, "Prosecutors were expected to reply in writing to the defense's renewed request for bond before the hearing. … The trial of Padilla and co-defendants charged with providing material support, money and fighters for Muslim terrorists around the world is scheduled to start in September before Cooke and may take six months. … Padilla is accused of going to Afghanistan to attend a terrorist training camp. The U.S. citizen was charged in November after spending more than three years in military custody as an 'enemy combatant' without any charges filed against him."

ABA Denounces NSA Surveillance Program. The AP (2/14, Johnson) reports, "The American Bar Association denounced President Bush's warrantless domestic surveillance program Monday, accusing him of exceeding his powers under the Constitution." The AP continues, "The nation's largest organization of lawyers adopted a policy opposing any future government use of electronic surveillance in the United States for foreign intelligence purposes without first obtaining warrants from a special court set up under the 1978 Foreign Intelligence Surveillance Act." The AP adds, "The 400,000-member ABA said that if the president believes the FISA is inadequate to protect Americans, he should ask Congress to amend the act. … Bush and his administration have defended the warrantless eavesdropping, saying it is needed to fill a gap in U.S. security and is allowable under both the president's

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constitutional powers and the congressional measure authorizing him to go to war in September 2001."

US Seeks Extradition Of Suspect From 1985 TWA Hijacking. CNN.com (2/14, Labott, Rotatori) reports, "The United States has formally asked the Lebanese government to extradite a Lebanese man accused of killing a U.S. Navy diver during an infamous 1985 hijacking, State Department officials and the victim's family said Monday." CNN continues, "Mohammed Ali Hamadi was released from a German prison in December after serving 19 years for his role in the hijacking of TWA Flight 847. … During the 17-day ordeal, U.S. Navy diver Robert Stethem, 23, was beaten and shot dead and his body dumped on a tarmac in Beirut -- an image captured by television cameras and shown around the world." CNN adds, "Officials said Jeffrey Feltman, the U.S. ambassador to Lebanon, has asked Lebanese authorities on several occasions to arrest Hamadi and turn him over to the United States for trial even though the two countries do not have a formal extradition treaty. … Feltman submitted a formal written request for Hamadi's extradition to Lebanese Prime Minister Fouad Siniora last week. … Hamadi was captured in 1987 in Frankfurt, Germany, and convicted for his role in the hijacking. He was paroled in December, and a German court allowed him to return to Lebanon. … The United States wanted Germany to turn over Hamadi to face a series of charges related to the hijacking, including one charge that could potentially carry the death penalty. But Hamadi is not likely to face a death sentence if he is extradited, according to the Justice Department."

Jury Selection Begins Today For Hayat Trial. The AP (2/14, Thompson) reports jury selection for the trial of Hamid and Umer Hayat on terror-related charges is scheduled to begin today in Sacramento, and "it is expected to provide answers to Lodi residents who have worried about whether their town…harbored a network of terrorists. 'Everyone was wondering, is there a terrorist cell?' Lodi Mayor Susan Hitchcock said. … 'I would imagine most people would like there to be more to the case than lying,' Hitchcock said. 'But that's not to minimize the fact that the younger man (allegedly) attended a terrorist training camp with an eye to harming American citizens.'" The AP notes, "Defense attorneys say their clients were pressured by investigators and should have had attorneys and interpreters present when they confessed. 'When Umer Hayat told the FBI on several occasions that he did not know of any terrorist training camps and his son did not attend any terrorist training camps, those were true statements,' Umer Hayat's attorney, Johnny Griffin III, said Monday. 'Concerning additional statements he made, we will demonstrate to the jury the circumstances under which those statements were made and why they were made.'"

The Lodi News-Sentinel (2/13, Bohm) reports, "Much of the evidence has yet to be revealed in public. Prosecutors contacted more than 30 national agencies to see if they had information, some of it classified because national security was involved. Hamid Hayat, who caught authorities' attention because his name was on a no-fly list, is charged with one count of providing material support — himself — to terrorists and three counts of lying to the FBI about knowledge and involvement with a terrorist training camp in Pakistan. His father, Umer Hayat, is charged with two counts of lying to the FBI."

Elbaneh Family Surprised, Worried By Escape From Yemeni Prison. The AP (2/14, Thompson) reports the escape of alleged Lackawanna al Qaeda cell member Jaber Elbaneh from a Yemeni prison "is puzzling to his U.S. relatives, leaving them wondering why someone who surrendered on his own would turn around and flee custody. … With Elbaneh again a fugitive, the hefty reward is again up for grabs, leaving the family fearing for his life." FBI Buffalo SAC Peter Ahearn "said he was not aware of any recent attempts by Elbaneh to contact relatives here. 'If any family members are contacted, for his safety they should contact us,' he said. 'He is running with a crowd of what we believe are extremely dangerous known terrorists,' Ahearn said." CNN notes, "FBI officials said they consider Elbaneh dangerous. 'Given the circumstances of what he's charged with and where it seems he's fled, we certainly would consider him armed and dangerous,' said Paul Moskal, an FBI spokesman."

Judge Bars US From Handing Citizen Over To Iraq. The AP (2/13, Sherman) reports, "A federal judge on Monday ordered the U.S. military not to hand over to the Iraqi government a U.S. citizen suspected of being a senior associate of insurgent leader Abu Musab al-Zarqawi." The AP continues, "The case of Shawqi Omar is the latest legal fight that tests the limits on the Bush administration's power to keep Americans it has identified as terrorists out of U.S. courts." The AP adds, "U.S. District Judge Ricardo Urbina of Washington granted a request from Omar's family to keep him in military custody in Iraq while Urbina decides whether the 44-year-old Kuwaiti native should have his case heard in a U.S. court. A temporary order preventing Omar's transfer had been set to expire Monday. … The Justice Department was reviewing the ruling, said department spokesman Brian Roehrkasse. … Omar has not been charged with a crime nor given access to a lawyer since being arrested at his home in Baghdad in October 2004."

Fitzgerald Seeks Phone Records Of Two NYTimes Reporters. Federal appeals court judges

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questioned a prosecutor seeking the phone record of two New York Times reporters. The New York Times (2/14, Liptak, 1.19M) reports, "In the case under consideration yesterday, [prosecutor Patrick] Fitzgerald is seeking the phone records of the two Times reporters to determine who told them about impending searches of Islamic charities in Illinois and Texas in December 2001. The reporters, Philip Shenon and Judith Miller, contacted the charities before the searches for what the paper said was routine news gathering." The Times adds, "The questioning yesterday, at the United States Court of Appeals for the Second Circuit, was largely sympathetic to the reporters' positions."

The AP (2/14, Neumeister) reports, "Federal officials said the records were needed for a grand jury investigation of government leaks in Illinois. But the Times sued in 2004, asking the lower court to order the government to stop its pursuit of the records. … Judge Robert Sweet agreed, ruling last year that the Justice Department had failed to prove it could not conduct the probe without the phone calls." The AP notes, "During arguments before the appeals court Monday, government lawyer James P. Fleissner said Sweet's ruling was inappropriate, especially since it concerned a case in Illinois, not New York. … Times attorney Floyd Abrams said the challenge was properly brought in Manhattan, where the newspaper is based. He said the newspaper does not know if the government obtained the records."

Pentagon Analyst Says Atta Appeared In Able Danger Database 13 Times. An exclusive report in the New York Post (2/14, Lathem, 624K) reports, "An active-duty military intelligence analyst has told congressional investigators that 9/11 pilot Mohamed Atta surfaced 13 times in a controversial Pentagon computer program before he executed the attacks, The Post has learned. Congressional sources said last night that an officer in the Pentagon's secretive Land Information Warfare Center told the staff of Rep. Curt Weldon (R-Pa.) about the computer hits. The revelation is significant because the 9/11 commission has asserted that Atta was not on the intelligence community's radar screen before the attacks. … The fact that the program flagged Atta should have provided a lead that apparently wasn't followed, observers say."

Rumsfeld Says Terror Groups Unlikely To Gain Foothold In North Africa. Defense Secretary Donald Rumsfeld finished three days of talks in Morocco, Algeria and Tunisia saying the possibility of al Qaeda or similar groups gaining a foothold in the countries is "extremely low." Reuters (2/14, Dunham) reports that Rumsfeld told reporters, I think each of these three countries certainly stands out as examples of countries where they've taken a lot of steps to show that they can live in peace and successfully deal with the problem of extremism," adding, "I think that each of those three countries are managing their affairs -- their internal affairs -- in a way that makes that an extremely low possibility."

The AP (2/14, Burns) reports that Rumsfeld said Algeria, Morocco and Tunisia had created "an environment that's inhospitable to terrorism."

Terror Victims' Conference Opens In Spain. The CBS Evening News (2/13, story 9, 0:10, Schieffer) reported, "An international conference for survivors of terror attacks and victims' families opened today in Spain. 600 people from the United States and a half dozen other countries will talk about their experiences and about ways to fight terrorism."

UN Report Criticizes US Treatment Of Guantanamo Detainees. A draft report from a group of UN human rights investigators says the Bush Administration's treatment of prisoners Guantanamo Bay violates international law and in some cases constitutes a from of torture. NBC Nightly News (2/13, story 8, 2:20, Williams) reported that US officials "say the report is based on hearsay." NBC (Myers) added, "The draft report by independent UN experts concludes that Guantanamo Bay should be closed immediately and detainees either put on trial or released. The report claims that US practices at Gitmo violate detainees' physical and mental health and in some cases constitute torture." The report is "most critical of excessive violence when detainees are force fed during hunger strikes and allegedly shackled and beaten while being moved. It says both practices amount to torture. A top State Department official was furious." Sean McCormack, State Department spokesman: "These are people who never went to Guantanamo Bay, so this is baseless assertion." The report "now must be considered by the UN Commission on Human Rights, which critics say has a questionable track record. They note that three years ago, the commission was chaired by Libya, long accused of abusing human rights."

The Washington Post (2/14, A9, Lynch, 744K) reports, "The findings emerged from an 18-month investigation that included interviews with former U.S. prisoners in France, Spain and Britain and lawyers and relatives of detainees. The report concluded that some practices -- including the force-feeding of hunger strikers – 'must be assessed as amounting to torture.'"

LATimes Says Guantanamo Prison Should Be Closed. The Los Angeles Times (2/14, 958K) editorializes, "It is time to close the U.S. military prison in Guantanamo Bay. The detainees there, numbering about 500, should be tried in court or released. It is inhumane to hold them indefinitely in a place where torture is not uncommon and due process is absent." The Times adds, "For detainees at Guantanamo, legal proceedings appear to resemble Salem

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witchcraft trials. Presumption of guilt and tarring by association abound, while the rules of evidence are perfunctory. These are not the American values our soldiers are fighting for."

Blair Push For British ID Cards Advances. The New York Times (2/14, Cowell, 1.19M) reports, "The government of Prime Minister Tony Blair faced down its opposition on Monday in a politically charged vote in the House of Commons on a plan to introduce mandatory national identification cards. The vote moved Britain closer to the use of such cards but did not make clear precisely when that would be." Blair's government "won the vote, 310 to 279. A defeat would have been Mr. Blair's fourth humiliation in Parliament since the general election last year -- and since taking power in 1997 -- raising doubts about his authority in his third term of office." The Times adds, "In the vote on Monday, the Commons rejected an amendment from the House of Lords that would have made optional, instead of mandatory, a plan to require Britons to be given national identity cards when they apply for passports. But in a compromise worked out among the legislators, Parliament will have to pass another law to make the new rules binding."

In Saudi Arabia, Gore Says US Abused Arabs After 9/11 Attacks. Fox News' Special Report (2/13, Hume) reported that former Vice President Al Gore "took his political attacks to foreign soil yesterday when he accused the United States of terrible abuses against Arabs after the September 11 attacks. Speaking in Saudi Arabia, he said the Bush Administration was playing into al Qaeda's hands by blocking Saudi visa applications and Saudis were rounded up and held under conditions that were unforgivable. He criticized current visa laws as well."

King Calls Gore Remarks "Disgraceful." The New York Post (2/14, Orin, 624K) reports, "House Homeland Security Chairman Peter King yesterday blasted Al Gore as 'disgraceful' for claiming that President Bush committed 'terrible abuses' against Arabs after 9/11 and is wrongly barring Saudi visitors. 'Since 15 of the 19 hijackers on 9/11 were Saudis, it would have been irresponsible for us not to impose strict conditions. It's just common sense. Al Gore seems to have gone off the deep end,' said Rep. King (R-L.I.). 'It certainly answers the question of what Al Gore would have done if he'd been president on 9/11. He would have apologized to Saudi Arabia. Either he's lost it or he's putting his hatred of Bush ahead of America's security.'"

HOMELAND RESPONSE:

Two Air Marshals Charged With Attempting To Smuggle Cocaine. ABC World News Tonight (2/13, story 8, :20, Gibson) reported, "In Houston, two Federal Air Marshals are under arrest for smuggling cocaine. Homeland Security Department investigators say a confidential informant offered the Marshals $15,000. In return, they would move the drugs through security at Bush Intercontinental Airport and on to a flight bound for Las Vegas."

USA Today (2/14, Levin, 2.31M) reports US air marshals Shawn Ray Nguyen, 38, and Burlie L. Sholar III, 32, both of Houston, "were charged Monday with trying to smuggle cocaine by using their ability to skirt airport security." They "are accused of making a deal to smuggle 33 pounds of cocaine past airport security in Houston and fly it to Las Vegas, according to an affidavit unsealed in a hearing in federal court in Houston. … Nguyen, who worked for five years as a Drug Enforcement Administration agent before joining the marshals in 2002, allegedly demanded a fee of $5,000 to $7,000 per kilogram of cocaine he transported."

The AP (2/14) reports Nguyen and Sholar "were arrested Thursday after an informant delivered 33 pounds of cocaine and $15,000 in 'up front money' to Nguyen's Houston home, authorities said." They "face 10 years to life in prison and a $4 million fine if convicted."

Cable TV Coverage. CNN (2/13, 4:30 p.m.) reported, "] Two US air marshals appear in court today on federal drug charges. The US attorney's office in Houston says they were arrested Thursday after a government informant delivered 15 kilograms of cocaine and $15,000 to one of the marshals. They allegedly agreed to smuggle…cocaine through airport security."

Local TV Coverage. KABC-TV, Los Angeles (2/13, 5:00 p.m.) reported, "Two air marshals were arrested, charged with using their badges to help them transport drugs. … The two agreed to smuggle 15 kilos of cocaine."

WGN-TV, Chicago (2/13, 8:00 a.m.) reported, "Two federal air marshals have been arrested in Houston and may be charged with smuggling cocaine. 'Time' magazine is reporting the marshals may have been paid several thousand dollars to move the drugs. One of the marshals is a former agent with the Drug Enforcement Administration."

KHOU-TV, Houston (2/13, 5:00 p.m.) reported, "Two federal air marshals face serious criminal charges tonight, accused of agreeing to use their badges to smuggle drugs past airport security. Thirty-eight-year-old Shawn Ray Nguyen was handcuffed entering the federal court this morning. Thirty-two-year-old Burlie Sholar is behind him with his back to us."

KHWB-TV, Houston (2/13, 9:00 p.m.) reported, "Two Houston-based air marshals have been busted for allegedly trying to transport cocaine on their flights. … Both men had been air marshals since 2001."

KRIV-TV, Houston (2/13, 9:00 p.m.) reported, "Two federal air marshals arrested on drug charges made their first court appearance today. … Prosecutors say they have an

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airtight case. Reporter: The two have long law enforcement careers, but somewhere they crossed the line from cop to alleged criminal. … If they are convicted, these two air marshals could spend anywhere from ten years to life behind bars. … The two were arrested together Thursday after investigators say 15 kilograms of cocaine and $15,000 were delivered to Nguyen's house."

Chertoff Touts Risk Management Approach To Homeland Security Funding. In an op-ed in the Wall Street Journal (2/14, Chertoff, 2.11M) titled "There Is No Perfect Security," Homeland Security Secretary Michael Chertoff writes that the budget announced by President Bush last week, which requests a 6% increase for the Department of Homeland Security, "recognizes that in order to protect our country and defend our freedoms, we must continue to focus resources on the areas that pose the greatest risk. That is why, among the funding increases, we expect to devote an additional $80 million to the Urban Areas Security Initiative, a program that awards grants to our state and local partners based on a strict assessment of risk and need. This process of assessing risk and setting priorities should be familiar to those in the private sector." Chertoff continues, "We acknowledge, however, that while most people support risk management in theory, enthusiasm tends to diminish once it is applied in practice. … In a free and open society, we simply cannot protect every person against every risk at every moment in every place. There is no perfect security." Chertoff states, "The most effective and fair strategy for securing our homeland -- whether at our borders, our ports, our airports or our chemical facilities -- is tough-minded, common-sense distribution of resources through risk management."

Bush Budget Increases Funding For Domestic Nuclear Detection Office. USA Today (2/14, Hall, 2.31M) reports, "The Bush administration is ramping up efforts to prevent terrorists from smuggling radiological material into the country that could be used to set off a 'dirty bomb' or even a nuclear weapon, according to the Homeland Security Department. Plans call for a new radiation detection test site deep in the Nevada desert, more detectors at the nation's seaports and border crossings and a 70% budget increase for Homeland Security's Domestic Nuclear Detection Office (DNDO). The initiative comes amid chilling threats made last month by al-Qaeda leader Osama bin Laden." President Bush's budget seeks "$535.7 million for the DNDO, which is responsible for preventing radiological or nuclear weapons from getting into the country. That includes $178 million for new radiation detectors and $100 million for the development of equipment used by agents along the nation's borders and at events such as presidential inaugurations and Super Bowl games. To test that equipment, Homeland Security is working at the storied Nevada Test Site, where the US government tested nuclear weapons for more than four decades."

New Mexico Town Serves As Terror Attack Training Ground For First Responders. The CBS Evening News (2/13, story 10, 2:30, Schieffer) reported, "Well, fighting terrorism has become a way of life in one small town here in the United States. Playas, New Mexico has been turned into a real world school for dealing with an attack." CBS (Bowers) added that in Playas, New Mexico, "SWAT teams from across the country drop from the skies and storm quiet side streets in search of terrorists, where crowded buses are blown up by suicide bombers and residents don't even bat an eye. They play along." New Mexico Tech "runs of one of the nation's foremost anti-terror training programs and decided to turn this ghost town into the centerpiece of its operation." Two years ago, "the university shelled out $5 million to buy the town lock, stock and barrel. The school has been developing weapons and programs to counter suicide bombers since the Japanese kamikaze pilots of World War II." In "just the last eight years, 40,000 police, fire and emergency personnel have gone through the program, a thousand of them here at Playas. But this kind of training doesn't come cheap. The cost to Homeland Security runs upwards of $20 million a year."

House GOP Report Blasts Administration, Chertoff On Katrina Response. A House panel investigating the Federal Government response to Hurricane Katrina blasted the Department of Homeland Security's handling of the disaster, and singled out Secretary Michael Chertoff for criticism. The criticism was seen by media sources as especially noteworthy because the report, due out on Wednesday, was written by House Republicans. ABC lead with the story, while CBS and NBC ran it just after their lead reports on the Vice President's hunting accident.

ABC World News Tonight (2/13, lead story, 2:55, Gibson) reported, "When Republicans issue a scathing report on the Administration, that's a bit of a surprise. Later this week, a Republican-led investigation will brand the Bush Administration response to Hurricane Katrina a national failure. The language of condemnation is some of the strongest heard in a long time." ABC (Raddatz) added, "The report is still in draft form. But it's hard to imagine the final version could be any worse." The committee "points a finger directly at the head of Homeland Security, Michael Chertoff. As the President's principal disaster adviser, they say, Chertoff executed his responsibilities late, ineffectively, or not at all."

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The CBS Evening News (2/13, story 3, 2:15, Attkisson) reported Secretary Chertoff "came out swinging today. First he had a few choice words apparently aimed at his former FEMA director, Michael Brown, who criticized him in a Senate hearing on Friday." Homeland Security Secretary Michael Chertoff: "There is no place for a lone ranger in emergency response." Attkisson: "Then, Chertoff went on the offense, announcing that FEMA will be revamped in an effort to avoid another Katrina-like performance. The plan includes hiring up to 1500 people and improving high-level communications. But if Chertoff was hoping to get out in front of an expected grilling at a Senate hearing tomorrow, he may be too late. He also takes it on the chin in a scathing new report on the House side. A draft of the report to be released Wednesday is particularly hard on Chertoff, saying he 'executed (critical) responsibilities late, ineffectively or not at all.'"

NBC Nightly News (2/13, story 3, 2:05, Reid) reported, "With a report from Republicans calling the response to Hurricane Katrina a national failure, the spotlight today focused on the Administration official increasingly facing the blame." Michael Chertoff, Secretary of Homeland Security: "I'm accountable and accept responsibility for the performance of the entire department." Reid: "Some Democrats say the report should recommend Chertoff be dismissed from the Department of Homeland Security."

Chertoff Said To Be "Looking Increasingly Imperiled." The Wall Street Journal (2/14, King, McKinnon, 2.11M) reports, "Mr. Chertoff's remarks come amid questions of whether DHS, with its 184,000 employees and 22 agencies, will ever supply the efficiencies its supporters promised when it was created after the 2001 attacks." Meanwhile, "Mr. Chertoff is looking increasingly imperiled as criticism of his performance swirls in Democratic and Republican quarters. The White House's assessment, still in draft form, is said to be scathing in critiquing DHS's management of FEMA and its poor leadership during Katrina. House Republicans prepared to release a 600-page report that calls the response to Katrina 'a national disgrace' across every level of government, but lays much of the blame at Mr. Chertoff's feet." The Journal adds, "A Democratic response to the report praised the critique of Mr. Chertoff's performance but said it should 'draw the logical conclusion' and call for Mr. Chertoff's dismissal. The White House rejected that idea."

CQ (2/13, Starks) reported, "Homeland Security Secretary Michael Chertoff is scheduled to appear before the Senate Homeland Security and Governmental Affairs Committee on Tuesday for what is certain to be a rough round of questioning by lawmakers who are preparing their own report on the government's bungled response to the storm." CQ added that both the Senate and House "committees have developed premises that point more to failures of leadership than failures of government structure. Joseph I. Lieberman of Connecticut, the ranking Democrat on the Senate panel, said 'some of this goes to the president, looking at the people he has around him.' Indeed, Chertoff is one Bush administration official who has found himself in the cross hairs. Charlie Melancon and William J. Jefferson of Louisiana, two Democrats who violated the House Democrats' boycott of the select panel, went as far as to call for Chertoff's removal, in 'additional views" on the committee's final report." However, "Calls for Chertoff's removal have not spread to Republicans, said House Homeland Security Chairman Peter T. King, R-N.Y., who added that he believed Chertoff is still the right man for the job."

CNN's The Situation Room (2/13, Meserve) reported, "The minority report from Democrats on the House Select Committee says Michael Chertoff should be removed from office for his missteps during Hurricane Katrina. The draft majority report does not go to that extreme, but does say that Chertoff executed his responsibilities 'late, ineffectually, or not at all,' even though the effects of the storm had been predicted in a table top exercise called Hurricane Pam. … Speaking to emergency managers today, Mr. Chertoff acknowledged the response to the storm had been unacceptable." Chertoff: "I want to be clear. As the secretary of Homeland Security, I am accountable and accept responsibility for the performance of the entire department, good and bad. I also have the responsibility to fix what went wrong so we can meet the President's expectations and the public's expectations for helping disaster victims as quickly and effectively as possible."

CNN's Lou Dobbs Tonight (2/13, Dobbs), in its lead story, reported, "We begin tonight with scathing criticism Homeland Security Secretary Michael Chertoff and other officials for their slow response to hurricane Katrina. A draft congressional report says there was a failure of leadership at all levels of government. The report says Chertoff was detached and former FEMA director Michael Brown was clueless. Chertoff today rejected suggestions his Department of Homeland Security was too focused on terrorism to respond effectively to the natural disaster." CNN added, "Though the report notes a failure of leadership at every level, it's most withering criticism is directed at Homeland Security Secretary Michael Chertoff who it says executed his responsibilities late, ineffectively or not at all."

Chertoff, Townsend Acknowledge Mistakes. Meanwhile, responding yesterday to criticism from House investigators and former FEMA director Michael Brown, Homeland Security Secretary Michael Chertoff and White House homeland security adviser Frances Fragos Townsend acknowledged mistakes made during the response to hurricane Katrina, while promising improvements in disaster response. Under the headline "White House Strongly Defends Katrina Role," the AP (2/14, Jordan) reports, "The Bush administration on Monday pushed back hard against

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Katrina-response criticism leveled by ex-disaster agency chief Michael Brown and congressional investigators. 'I reject outright the suggestion that President Bush was anything less than fully involved,'" said Townsend." Meanwhile, "Both Townsend and Chertoff took swipes at Brown, who resigned under pressure in September as head of the Federal Emergency Management Agency. 'There is no place for a lone ranger in emergency management,' said Chertoff, whose Department of Homeland Security is FEMA's parent agency." The AP notes, "On Monday, Brown defended his performance. 'For Secretary Chertoff to claim that I failed to keep him informed belies the numerous telephone calls and e-mails between me and him prior to, during and after landfall' of the storm, Brown said in an e-mail to The Associated Press." A similar AP story appeared under the headline "Angry White House Lashes Out At Katrina Critics."

The Washington Post (2/14, A1, Hsu, 744K) reports, "The Bush administration acknowledged its mistakes yesterday and promised anew to re-engineer the nation's homeland security agencies in the aftermath of Hurricane Katrina, scrambling to contain the damage from sharp criticism by House investigators and testimony by the former head of the Federal Emergency Management Agency. President Bush's homeland security adviser, Frances Fragos Townsend, addressing 50 state emergency managers at a meeting in Alexandria, previewed results of a government-wide review due later this month that she said would make more than 100 recommendations to improve disaster response." Meanwhile, "In his own speech to the National Emergency Management Association's mid-year meeting of state officials, Homeland Security Secretary Michael Chertoff responded to concerns from the group and other critics, repeating the administration's commitment to defend against natural and man-made hazards." However, Chertoff "largely accepted 90 findings of flaws at every level of government by a draft House report to be released tomorrow, including many directed at him."

Chertoff Announces FEMA Reforms. The Los Angeles Times (2/14, Chen, 958K) reports, "Under fire for his department's inept response to Hurricane Katrina, Homeland Security Secretary Michael Chertoff today announced broad changes in the way the Federal Emergency Management Agency and its parent agency will respond to future natural disasters. Chertoff's announcement came as government investigators laid out for lawmakers on Capitol Hill new details about how FEMA, through waste, mismanagement and accounting flaws, misspent millions of dollars in public funds." He "announced the hiring of 1,500 full-time disaster preparedness coordinators, the creation of 'reconnaissance teams' to report on disaster conditions from the location, and the establishment of a database of approved private firms that would quickly provide vital services, such as debris removal." Chertoff said, "I want to tell you I unequivocally and strongly reject this attempt to drive a wedge between our concerns about terrorism and our concerns about natural disasters."

The New York Times (2/14, Lipton, 1.19M) reports, "the federal government's top three domestic security and disaster relief officials vowed to fix flaws in the nation's emergency response programs. 'I am accountable and accept responsibility for the performance of the entire department, good and bad,' the homeland security secretary, Michael Chertoff told local and state disaster officials at a conference in Alexandria, Va. 'I also have the responsibility to fix what went wrong.' The changes will include a cadre of new disaster response workers who will be available to respond quickly to any natural disaster or terrorist attack, Mr. Chertoff said, which could number as many as 1,500, a department official said."

The Financial Times (2/14, Alden) reports, "The changes outlined on Monday involve improving Fema's logistical capabilities, improving internal communications, and strengthening the ability to identify and aid disaster victims quickly. In separate congressional testimony on Monday, the independent General Accountability Office and the Department of Homeland Security's inspector-general, its internal watchdog, said hundreds of millions and even billions of dollars had been wasted in the aftermath of Katrina."

Townsend Says Federal Officials Must Re-Earn Public Confidence. CNN's The Situation Room (2/13, Malveaux) reported, "The White House is under no illusion about just the very bad perception that people have of the White House, of FEMA, of Homeland Security. This is coming from the President's own Homeland Security adviser, Fran Townsend, before a group of first responders. … She said that we must restore and re-earn your confidence and trust so that when someone says 'I am from the federal government and I am here to help,' you can believe it and not laugh."

Incompetence, Not System Flaws, Seen As Cause Of Katrina Failures. The Christian Science Monitor (2/14, Grier, 61K) reports Chertoff's reforms "are all well and good, say some experts. As the response to hurricane Katrina showed, the federal government's preparation for disasters has been so poor that there's much room for improvement. But refurbishment of the bureaucracy alone may not address what a new inquiry called the root causes of the Katrina-response disaster - inattentiveness, incompetence, and lack of common sense." The Monitor continues, "Given events such as the government's weak response to Katrina, 'reform' is often the first watchword, as if perfection of process is always the answer." However, "general lack of focus can't be ordered or, or legislated. Process problems probably weren't the cause of the government's slow recognition of the unfolding disaster of the New Orleans flooding. Evidence of that was on the TV screen, for all to see; it just took too long

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for its implications to sink in at the White House and Department of Homeland Security headquarters."

USA Today Says FEMA Needs Better Leadership. Under the headline "Changes At FEMA Can't Erase Hurricane Disgrace," USA Today (2/14, 2.31M) editorializes, "Congressional Democrats have suggested breaking FEMA out of Chertoff's department and having its chief report directly to the president. But that makes no sense because FEMA would also be on the front line of any response to terrorist attack. Avoiding a replay of what happened after Katrina is a lot more dependent on competent leadership, adequate funding and open lines of communication than on where FEMA is located in the bureaucracy. The report by the House task force says the federal response to Katrina was marked by 'fecklessness, flailing and organizational paralysis.' If that's what the White House's supposed allies on Capitol Hill are saying, it's going to take more than realigning FEMA's organization chart to fix what's wrong."

WPost Stresses Importance Of Learning From Katrina Mistakes. The Washington Post (2/14, A14, 744K) editorializes that the House investigation of the government's preparation for and response to Hurricane Katrina "paints a picture of federal incompetence that you'd think a chief executive would want to study and learn from. If the White House's first reaction is anything to go by, President Bush wasn't initially all that concerned. The report reveals how poorly federal officials -- including Homeland Security Secretary Michael Chertoff -- understood their own National Response Plan, a set of bureaucratic responses that should have been second nature to officials in the Department of Homeland Security and the Federal Emergency Management Agency." However, "it was less than clear that the White House initially wanted to know what exactly went wrong. A White House spokesman told Post reporter Spencer S. Hsu that he wouldn't comment on an early version of the report, partly because the White House was working on its own investigation and partly because, 'The president is less interested in yesterday, and more interested with today and tomorrow . . . so that we can be better prepared for next time.' But it's going to be very difficult to be 'prepared for next time' if the president is not interested in the 'yesterday' described in the House's investigation."

GAO, DOJ Find Rampant Waste, Fraud In FEMA Hurricane Relief Programs. ABC World News Tonight (2/13, story 3, :10, Gibson) reported, "Today, the Justice Department said prosecutors have filed charges against more than 200 people accused of scams related to the Gulf Coast hurricanes."

The Washington Post (2/14, A9, Whoriskey, 744K) reports, "Tens of thousands of people received aid from the Federal Emergency Management Agency using possibly fraudulent identities because the relief effort did not perform routine checks that might have flagged such activity, government investigators said yesterday. The extent of the fraud in the $6 billion evacuee-assistance effort has not been calculated, but it could reach hundreds of millions of dollars, investigators told the Senate Homeland Security and Governmental Affairs Committee, and it appears that the losses were limited only by the thieves' ingenuity. 'It was a mess. It was a system that was wide open to fraud,' said Gregory D. Kutz, who led the investigation for the Government Accountability Office." The Post adds, "The report came amid a stream of revelations yesterday regarding questionable activity during the relief effort -- including $438-a-night lodging in New York, emergency meals being sold on eBay, and emergency checks being used to buy adult entertainment and weapons. But the main focus of yesterday's testimony was FEMA's lack of financial controls as it doled out $2,000 checks to people who said they were affected by the storm."

The AP (2/14, Yen) reports, "The government squandered millions of dollars in Katrina disaster aid, including handing $2,000 debit cards to people who gave phony Social Security numbers and used the money for such items as a $450 tattoo, auditors said Monday. .. Overcharges, poor accounting and abuses will take 'months or years' to rectify, the Government Accountability Office and the Homeland Security Department's inspector general concluded in preliminary reports on how billions of dollars in taxpayer money is being spent. The Federal Emergency Management Agency recognizes it 'made many, many mistakes,' and is working on improvement, said Homeland Security inspector general Richard Skinner. 'But they're not where they should be. In some cases, the government will have little legal recourse to recoup payments to contractors for payments.'"

Knight Ridder (2/14, O'Matz) reports, "As of mid-December," FEMA "had distributed almost $5.4 billion to Gulf Coast hurricane victims, including $2.3 billion in fast-track payments of $2,000 each for families displaced by the storms. Auditors for the Government Accountability Office found FEMA signed off on most emergency claims without ever verifying damage and failed to confirm the identities of applicants filing by phone. In at least 1,000 cases, people succeeded in collecting aid using the Social Security numbers of dead people, the GAO discovered. And although the $2,000 payments were limited to one per household, auditors found that FEMA gave duplicate payments to 5,000 individuals who had already collected $2,000 each in debit cards."

USA Today (2/14, Hall, 2.31M) reports, "The allegations that the Federal Emergency Management Agency has wasted hundreds of millions of dollars on a host of bungled efforts to help evacuees were in a pair of reports to senators investigating the government's response to the disaster."

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Sen. Susan Collins, chairwoman of the Senate Homeland Security committee, "called the reports a 'fresh indictment' of FEMA. She said investigators uncovered 'shocking examples of absent safeguards and wasted tax dollars.'"

Reuters (2/14, Smith) reports Monday's "revelations were the latest in a barrage of criticism directed at both the U.S. Federal Emergency Management Agency and Department of Homeland Security, whose leader, Michael Chertoff, on Monday outlined steps he would take to better prepare his agency." Reuters continues, "Richard Skinner, the inspector general of the Department of Homeland Security, told the committee that FEMA purchased 24,967 manufactured homes at a cost of $857.8 million to temporarily house Katrina victims. But most of those homes are unused and the government is paying to store them, he said."

DHS IG Details Problems With Trailers, Overpriced Hotel Rooms. The Washington Post (2/14, A9, Whoriskey, 744K) reports Richard L. Skinner, the inspector general of the Homeland Security Department, "noted that FEMA may have purchased too many manufactured houses, given the housing needs, and that FEMA is now paying to store and maintain them at various places nationwide. … He also said that in many cases, FEMA was paying relatively reasonable prices to house evacuees in hotels, but some rooms cost more than $150 a night, and as late as December, FEMA was paying $364 per night for a hotel in San Diego and $339 per night for a New Orleans hotel." The AP (2/14, Yen) reports, "Federal money…paid for $375-a-day beachfront condos and 10,777 trailers that were stuck in mud and unusable."

Thousands Of FEMA Trailers Sit Unused As Louisianans Seek Homes. The New York Times (2/14, Lipton, 1.19M) reports, "Mobile homes worth hundreds of millions of dollars are deteriorating in a muddy field in Arkansas and may never be used to house victims of Hurricane Katrina because of a dispute over where to install them, federal officials acknowledged Monday. Only about 2,700 of the 25,000 mobile homes ordered at a cost of $850 million have been installed, and at least 10,000 are sitting in Hope, Ark., according to documents and statements from Federal Emergency Management Agency officials. Though about 55,000 Louisiana families are still waiting for a manufactured housing unit, the mobile homes may never be used because FEMA policy prohibits them from being installed in flood-prone coastal areas, federal officials said. … 'If sites for those mobile homes are not approved in Louisiana, it is possible they will never be used for hurricane relief,' said Nicol Andrews, a FEMA spokesman."

Fox News' Special Report (2/13, Hume) reported, "For a while are, after hurricane Katrina the chief complaint was there was not enough federal help. Now the question is what the money bought and didn't buy in the weeks and months after the storm." Fox continued, "On a day when a federal judge ruled the government is within its rights to remove 12,000 Katrina victims from their hotel rooms, senators heard testimony that thousands of badly needed FEMA trailers and modular homes are literally stuck in the mud, hundreds of miles from the scene of the disaster."

Hotels May Be Investigated For Alleged Price-Gouging. Meanwhile, USA Today (2/14, McCoy, 2.31M) reports, "Congressional committee testimony that luxury hotels billed the federal government up to $438 a night for Hurricane Katrina evacuees raised the prospect of a potential price-gouging investigation Monday." Skinner said in a statement that "FEMA eventually set a rate cap." However, "his staff found that FEMA in December still paid up to $364 a night for rooms in San Diego, and up to $339 a night for New Orleans rooms. … Sen. Joseph Lieberman, D-Conn., and other Democrats on the Senate panel asked whether the facilities could be investigated for potential price-gouging."

Thousands Of Katrina Victims Checking Out Of Hotel Rooms. ABC World News Tonight (2/13, story 2, 2:10, Gibson) reported, "Things have just gotten tougher for thousands of families displaced and left homeless by Katrina. 12,000 families had to move out of government-paid-for hotel rooms today, after FEMA stopped paying for them. And another 8,000 families will face the same fate by March 1st." ABC (Pinto) added, "FEMA says it spent $542 million on hotel rooms so far and provided rental assistance to 770,000 families, but the process has been fraught with trouble. $850 million worth of trailers remain unused in Arkansas, unfit for use in flood plains. And FEMA admits there were problems locating those in need."

The AP (2/14, Callimachi) reports, "About 12,000 families made homeless by last year's hurricanes began checking out of their federally funded hotel rooms around the country Monday after a federal judge let FEMA stop paying directly for their stays. The Federal Emergency Management Agency promised the evacuees from Hurricanes Katrina and Rita that they will still receive federal rent assistance that they can put toward hotel stays or other housing. But the agency will no longer pay for their hotel rooms directly." Also Monday, U.S. District Judge Stanwood Duval had denied a request from the evacuees' attorneys for "a last-minute reprieve" to continue hotel payments.

The New York Times (2/14, Dewan, 1.19M) reports, "Thousands of evacuees from Hurricane Katrina became transients again on Monday, wheeling their entire lives onto the street on luggage carts or dragging bulging garbage bags through hotel lobbies, when the federal government stopped paying their hotel bills." The Times adds, "none of the two dozen or so evacuees losing their hotel benefits who were interviewed in New Orleans in the past two days had a permanent place to go."

Attorneys Try To Stop Katrina Evictions. The AP (2/14, Foster) reports, "Lawyers asked for a temporary

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restraining order Sunday to stop the evictions of 12,000 families left homeless by hurricanes Katrina and Rita from hotels across the nation on Monday. … 'We have provided the court with statements from people showing they have not been treated fairly by FEMA,' said Bill Quigley, an assistant dean of the Loyola University Law School, who with civil rights attorney Tracie Washington filed the motion." The AP continues, "The attorneys delivered the papers to the home of federal judge Stanley Duvall. It was not immediately clear when he would act on the motion. … The 12,000 families made homeless by last year's storms are scheduled to be forced out of their federally funded hotel rooms Monday, the Federal Emergency Management Agency announced Saturday. … That amounts to about 40,000 people, Quigley said, many of whom have not received trailers as promised and some who did not find out about the eviction until the beginning of the month. … 'Under our reading of the judge's orders they should be allowed to stay until the beginning of March,' Quigley said. 'We think FEMA is just trying to clear the books and not taking a careful or compassionate look at these people.'" The AP notes, "Of those departing on Monday, FEMA officials said 10,500 families, or 88 percent, have received rent-assistance checks from the agency, said Libby Turner, FEMA's transitional housing director. The cash can be used to pay for an apartment or to continue their hotel stays. It can also be put toward fixing their ruined homes."

WAR NEWS:

Iran, Not US, Said To Be "Reshaping" Post-Saddam Iraq. The Wall Street Journal (2/14, A1, Solomon, 2.11M) reports Administration "officials who promoted war with Iraq envisioned Americans reshaping the country in their own image after the war. Instead, the reshaping is increasingly being carried out by Iran -- the same nation that has provoked a diplomatic furor over its nuclear ambitions. Iran's influence is most apparent in Iraqi politics…but it also emerges in many areas of Iraqi life that get less notice," including investment, NGO work and media training. The Journal adds, "While Tehran has little motive now to throw Iraq into further turmoil, its ability to do so could undermine the Bush administration's attempt to stop Iran's nuclear program. … If Iran wished to make life difficult for the U.S. and its troops in Iraq, it might draw on the support of Iraqi Shiite leaders. … Iran's influence inside Iraq also is threatening to exacerbate Shiite-Sunni tensions across the Middle East." The Journal says "U.S. military planners did little to stop Iran from spreading its influence in Iraq after Saddam Hussein fell. … On the political front, teams of Iranian volunteers traveled to Iraq to instruct Shiite activists in mobilizing mosques and clerics for a big turnout. … Many of the Shiite politicians and Islamic scholars who quickly rose to lead post-Saddam Iraq -- such as Prime Minister Jaafari and Ayatollah Abdul Aziz al-Hakim -- are men who were persecuted under Mr. Hussein's rule and exiled to Tehran."

Iran Puts Off Russian Offer, Resumes Uranium Enrichment. Meanwhile, the New York Times (2/14, Fathi, Landler, 1.19M) reports, "Iran announced Monday that it had postponed talks on letting Russia enrich its uranium, a proposal that Russia had offered as a way to resolve the dispute over Iran's nuclear ambitions."

The Financial Times (2/14, Smyth) reports, "Tehran also resumed enriching uranium at its Natanz plant in defiance of the recent vote by the" IAEA. "The resumption came a day after Gholam-Ali Haddad-Adel, Iran's parliamentary speaker, said Tehran was about to restart 'nuclear research activities' at Natanz. The AP (2/14, Karimi) reports a senior diplomat in Vienna, Austria said, "Uranium gas has been fed into three machines." The diplomat "spoke on condition of anonymity because he was not authorized to comment on the matter."

In its coverage, the Washington Post (2/14, A10, Moore, 744K) quotes Assistant Secretary McCormack saying the "US government was waiting for confirmation. ... 'If true, certainly, it would be another indication that Iran is seeking confrontation rather than negotiation with the international community.' McCormack noted that the IAEA resolution said Iran 'had to return to a suspension moratorium of all their enrichment-related activities. And unfortunately, they seem to have now, apparently, gone off in the other direction.'" The Los Angeles Times (2/14, Rubin, 958K) runs a similar story.

Annan Urges Bush Not To "Escalate" Tensions. The Washington Times (2/14, A1, Sammon, 90K) reports, "UN Secretary-General Kofi Annan yesterday warned President Bush not to 'escalate' tensions over Iran's nuclear ambitions because the world wants to 'find a way out of this crisis.'"

Annan was asked on CNN's The Situation Room (2/13) if it is acceptable for Iran to develop nuclear weapons. Annan said, "I think the rules are very clear. Iran can develop peaceful nuclear -- peaceful -- other nuclear energy, peaceful uses of nuclear energy, but not nuclear bombs. And this is what the whole debate is about." Asked what the UN is going to do to stop Iran from becoming a nuclear weapons power, Annan said, "I think first of all, the Atomic Agency in Vienna is dealing with this. And between now and end of the month, they are preparing a report, working with Iranians, monitoring the situation, and will give a report to the agency at the end of the month. There will be a meeting in March, where, dependent on the nature of the report, if, indeed, Iran is not meeting its obligations on the NPT, its obligation on the IAEA, it will be referred to the Security Council for appropriate action." Asked what the next step beyond diplomatic or economic sanctions would be to pressure Iran, Annan said, "That would be for the council to decide. But, obviously, the --

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the council doesn't -- these are some of the arsenal that the council has. But it will be up to the council to decide what the next step should be. And I think it will depend very much on the report. If the report is a negative one, then, the council has a -- a tough, an urgent decision to take. If it is a report that indicates that, despite the public pronouncements, the situation is either frozen or it's -- or they see prospects of full cooperation with the agency, the council will have to factor that in."

USA Today (2/14, Page, 2.31M) reports, "Americans are deeply worried about the possibility that Iran will develop nuclear weapons and use them against the USA, a USA TODAY/CNN/Gallup Poll finds, but they also fear that the Bush administration will be 'too quick' to order military action against Iran. Nearly 7 of 10 of those surveyed over the weekend say they are concerned that the United States will move prematurely to use force, but they also seem to recognize the quandary that policymakers face." There is "almost as much concern that the Bush administration won't do enough to prevent Iran from gaining a nuclear arsenal."

Iran Reminds Some Of North Korea. In an analytical piece, the AP (2/14, Jahn) reports, "Veiled Iranian threats to quit the Nonproliferation Treaty conjure up the case of North Korea, which announced it had atomic weapons shortly after walking away from the treaty. But while the North escaped punishment by the UN Security Council, any move by Iran to break out of the pact will likely bring a tougher response."

Jaafari Win Said To Highlight Sadr's Growing Influence. The Washington Times (2/14, Behn, 90K) reports, "The selection of Ibrahim al-Jaafari to stay on as Iraq's prime minister exposes stresses within his Shi'ite coalition and the growing political importance of militant conservative cleric Muqtada al-Sadr. The backing of Sheik al-Sadr, whose followers captured about one-quarter of the Shi'ite alliance's 128 seats in the new parliament, proved critical in a weekend vote of caucus members to determine who would be prime minister." The Times adds, "The selection of Mr. al-Jaafari surprised many who saw him as a largely ineffectual leader in the current government, unable to control the brutal insurgency, armed party militias bent on sectarian killings and rampant corruption. In exchange for his support, Sheik al-Sadr is expected to request that his followers receive greater control over the social and economic future of Iraq through the ministries of Health, Education and Transportation."

NYTimes Criticizes Selection Of Al-Jaafari. The New York Times (2/14, 1.19M) editorializes, "In selecting Ibrahim al-Jaafari as its nominee for a second prime ministerial term, the dominant Shiite bloc has betrayed the hopes of all those who have wanted Iraq's first constitutionally elected government to make a fresh start at reunifying the country, rebuilding the economy and putting an end to the beating, torture and murder of civilians by Shiite militia members in and out of the official security forces. Mr. Jaafari has been a spectacular failure on all these fronts over the past 10 months. He is unlikely to do a better job if he gets the job a second time."

US Expects To Finish Handoff Of Responsibility To Iraqi Army By 2007. USA Today (2/14, Jervis, 2.31M) reports, "The US military says 40% of Iraq's combat battalions are effective enough to have taken the lead role in fighting the insurgency, a key measure for determining when US forces can withdraw." The US military "expects to complete the handover of responsibility to nearly all of Iraq's army by the end of the year, meaning Iraq's military will rely on US troops primarily for logistical support and for providing airstrikes and heavy artillery. The main fighting will be conducted by Iraqis." USA Today adds, "Currently, 40 of Iraq's 102 battalions have taken over security in the areas where they operate, Col. James Greer, chief of staff for the US military command responsible for training Iraqi troops, said in an interview."

Kristof Says US Should Set Timetable For Iraq Withdrawal. Nicholas Kristof writes in the New York Times (2/14, 1.19M), "Here's the single most depressing tidbit I've seen from Iraq lately: a new poll has found that among Sunni Arab Iraqis, 88 percent support violent attacks on U.S. troops. … So how should we handle this? First, we should announce unequivocally that we will not keep American military bases in Iraqi territory. Second, we should announce a target date for the withdrawal of all U.S. combat forces from Iraq -- say, the last day of 2007." Kristof adds that a "two-year timetable for withdrawal would give Iraqi security forces time to consolidate power, and would weaken the strongest card the insurgents have: the argument that they're protecting the motherland from imperialist Yankee crusaders. A timetable would also put pressure on Iraqi politicians to cooperate and govern, and it would make the U.S. more of a partner and less of a national scapegoat."

Suicide Bomber Kills 10 Iraqis. The AP (2/14, Reid) reports, "A suicide bomber blew himself up Monday after joining a line of Iraqis waiting for government checks in a mostly Shiite district of Baghdad, killing 10 people and wounding about 40 -- including women and children." The attack "occurred as more than 70 people lined up at a bank to receive government checks to compensate for incomplete food rations."

Judge Forces Saddam, Accomplices To Attend Trial. The Los Angeles Times (2/14, Daragahi, 958K) reports, "Saddam Hussein and his co-defendants, one in his pajamas, were forced to appear in court today without their

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attorneys and face witnesses reluctant to testify against them in a messy trial session marked by frequent shouting matches between the judge and the defendants." The Times adds, "Amid the chaotic din of the three-hour session, the prosecution managed to present several documents suggesting the upper echelons of Hussein's government and security apparatus knew about and directed the persecution of villagers in Dujayl, where the former Iraqi president was the target of a 1982 assassination attempt."

The CBS Evening News (2/13, story 5, 2:05, Dozier) added, "It's not often you get to see a former dictator sporting a jacket over a robe and bedroom slippers, or one of his former henchman in an undershirt and pajama bottoms but this event was come as you are, like it or not. 'You forced us here today,' Saddam said. 'Why?' According to the chief judge, because he could; he cited a little-known Iraqi law that says defendants can be compelled to attend trial. The unhappy group shouted, sulked, slept; even prayed," but "they did proceed, with the defendants present to hear the evidence against them. That's bound to quiet critics who think the trial must be moved to an impartial venue like The Hague. And a second major complaint may soon be laid to rest. Some critics claimed it would be near impossible to prove Saddam himself ordered the killing of 140 men and boys after a failed assassination attempt against him in northern Iraq. But legal experts believe documents presented today do help link the accused with the crime. Little of that international legal debate though is going on here, where most Iraqis are more worried about their own fate than their old leaders." USA Today/AP (2/14), New York Times (2/14, Worth, 1.19M), Reuters (2/14) and Washington Post (2/14, A11, Hernandez, 744K) run similar reports.

Federal Judge Rules US Cannot Transfer Detainee To Iraqi Custody. The New York Times (2/14, Lewis, 1.19M) reports, "A federal judge ruled on Monday that the Bush administration could not transfer a United States citizen held by the military in Iraq to Iraqi civilian custody." In his ruling, Judge Ricardo M. Urbina of Federal District Court in Washington "rejected arguments made last week by Justice Department lawyers that the courts had no jurisdiction because the man, Shawqi Ahmad Omar, was not technically in United States custody." In his ruling, Judge Urbina "minimized as 'legalistic' the government's argument that Mr. Omar was actually in the custody of the 27-nation Multi-National Force in Iraq, of which the United States was only a part."

British Military Officials Arrest Man In Connection To Abuse Tape. The New York Times (2/14, 1.19M) reports, "British military officials arrested a man on Monday in connection with accusations that British soldiers savagely kicked, butted and beat Iraqi teenagers at a British military compound in 2004." A spokeswoman for the Ministry of Defense "would not identify the man, who has not been charged with a crime, or say whether he was a serving soldier." The accusations "stem from a home video, said to have been made by a British officer in Basra, in southern Iraq, which is said to show the attacks."

Report Says Iraq Deadliest Country For Journalists In Last 25 Years. A report to be released today by the Committee to Protect Journalists is expected to release a report today that says Iraq has become the deadliest country for journalists in the last 25 years. The New York Times (2/14, Seelye, 1.19M) reports, "Twenty-two journalists were killed in Iraq in 2005, bringing the total to 61 since the American invasion in March 2003. That number surpasses the 58 journalists killed in the Algerian conflict from 1993 to 1996."

Iraq Halts Purchases Of Australian Wheat. The New York Times (2/14, Bonner, 1.19M) reports, "Iraq has suspended the purchase of wheat from the Australian wheat export company AWB pending an Australian royal commission investigation into allegations that AWB paid more than $200 million in kickbacks to Saddam Hussein's government from 1999 through 2003, in violation of United Nations sanctions. Iraq's move is certain to please American wheat farmers. U.S. Wheat Associates, a trade association representing American wheat growers, had urged the American-led Coalition Provisional Authority in Iraq to take similar action after Mr. Hussein was toppled in 2003, and has led an effort to have AWB investigated."

In 1999, Iraq Rejected UN Resolution On Weapons Inspectors. In its "History Lessons" column, the Washington Times (2/14, 90K) excerpts a December 18, 1999 Voice of America report, which reported, "Iraq has strongly condemned a United Nations resolution designed to send weapons inspectors back into Iraq in exchange for the suspension of U.N. sanctions. … The government in Baghdad has refused to admit arms inspectors since last December, when the United States and Britain launched air strikes against Iraq." Iraqi Deputy Prime Minister Tariq Aziz "said Iraq is ready to face the consequences of rejecting the new resolution."

Four US Soldiers Killed In Roadside Bombing In Afghanistan. ABC World News Tonight (2/13, story 6, :20, Vargas) reported, "A roadside bomb killed four American soldiers in Uruzgan province. The Taliban is claiming responsibility for the attack. Violence is on the rise in Afghanistan. Last week, 89 people were killed there, surpassing the 55 lives that were lost in Iraq."

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The CBS Evening News (2/13, story 4, 0:40, Schieffer) reported, "It is the worst loss for US forces there since September. It happened in Afghanistan's central mountains north of Kandahar, a hotbed of Taliban rebels. The American patrol was hit first by a roadside bomb, then by small arms and rocket fire." The AP (2/14, Cooney) and New York Times (2/14, Gall, 1.19M), among other sources, run similar reports this morning.

Cartoon Protests Called Barometer Of Afghan Frustration. The Christian Science Monitor (2/14, Baldauf, 61K) reports that diplomats, government officials and aid workers in Kabul are describing Afghanistan with phrases like, "narco state, political disillusionment, military stalemate, donor fatigue, American military pullout. Tie it all together, and it's a picture that suggests Afghanistan could be reverting back to a failed state. None of these issues is new, with the exception of the US decision to start drawing down its forces in Afghanistan and the expected arrival of NATO forces this summer. Yet four years after the government of President Hamid Karzai came to power, these various factors seem to be converging, with explosive results." The Monitor adds, "The cartoon protests of the past week - which have been the deadliest in the Islamic world - are largely a barometer of domestic frustrations. In the streets of Kabul, Laghman, Maimana, and Bagram, protesters turned their anger on the US, the West, and 'the dog-washers' -- a derisive term for the expatriate Afghan technocrats who have returned to top posts in the government."

Musharraf Said To Be Facing Multiple Challenges. USA Today (2/14, Wiseman, 2.31M) reports that Pakistan's President Pervez Musharaf is at a crossroads. Everywhere he turns, "there's trouble. To the north, unmanned U.S. aircraft have allegedly violated Pakistan's skies in search of al-Qaeda fugitives, firing missiles at suspected terrorist sanctuaries, killing villagers and outraging the Pakistani public. To the south, rebellious tribal militias battle his soldiers, even firing a couple of rockets at Musharraf himself and wounding one of his top generals. To the west, pro-Taliban forces are resurgent along the border with Afghanistan. To the east, arch-rival India is ignoring Musharraf's peace proposals, apparently convinced that time is on its side in the dispute over divided Kashmir." USA adds, "Musharraf's problems are America's, too. … A weakened Musharraf could find it more difficult to ignore anti-American public opinion, crack down on Islamic extremists and pursue terrorist suspects along the Afghan border." Musharraf "denies he's in trouble. He told Indian television last month, 'I am the strongest at the moment, politically.'"

Marines Adapt Cold War Weapons For Warfare In Iraq. The Washington Times (2/14, Axe, 90K) reports that Marine Corps aviators in Iraq "are adapting Cold War airplanes and traditional tactics to a new kind of warfare -- snooping for insurgents and terrorists who hide among innocent Iraqis, and taking out pinpoint targets in hectic urban fighting. … To keep the traditional promise of Marines aviation to support the men on the ground, aviators have adapted. Jets designed to jam enemy radar now are jamming the radio signals that detonate IEDs. And bombers are trading some of their ordnance for new sensors that can spot insurgents in crowded cities."

US Military Uses Video Game Technology To Train Soldiers For Combat. A front page story in the Washington Post (2/14, A1, Vargas, 744K) reports on the use of video game technology to train US soldiers for combat. The Post adds that "computer simulations -- as military officials prefer to call them -- have transformed the way the United States military fights wars, as well as soldiers' ways of killing."

DOJ:

Analysts Have Mixed Reaction To Proposed DOJ, DHS Budgets. Federal Computer Week (2/14, Arnone) reports, "The Bush administration's budget requests for the Homeland Security and Justice departments contain a mix of good and bad proposals for improving how the departments use information technology, analysts say." FCW continues, "The DHS budget request calls for $42.7 billion in fiscal 2007, a nearly 6 percent increase from fiscal 2006. The IT portion of the department's budget would increase 21.2 percent, from $3.6 billion this year to a proposed $4.4 billion in fiscal 2007. The budget reflects an emphasis on preparedness, information sharing, transportation security, border security and departmental organization. … The Justice budget request would fund improvements in the management, storage, sharing and security of information. The FBI would sharply increase IT spending to improve its intelligence and information-sharing capabilities." FCW adds, "The federal government would spend a lot of money to address fundamental problems that have lingered for years, said Warren Suss, president of Suss Consulting. … The Integrated Wireless Network will improve secure wireless communication, Suss said. The Homeland Security Information Network will enhance information sharing with state and local first responders. … The $1 million the FBI would spend on service-oriented architecture would be a 'harbinger of things to come,' Suss said. An important governmentwide tool, SOA would make department networks more powerful to ensure that users of large government IT systems have the responsiveness and performance they need." FCW notes, "Not all the analysts' observations were positive. The DHS budget request would cut the Emergency Management Performance Grant program by $13 million to

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$170 million for fiscal 2007. … Alan Webber, senior analyst for government at Forrester Research, said he expects to see other agencies cut back their IT budgets this summer for the money to go to DHS and DOJ. That would take money away from many programs that are not war-related but are critical for working Americans, he said. … The administration should pressure Justice and DHS to spend their IT money wisely and not hand them blank checks just because the departments are protecting the country, he said."

CORPORATE SCANDALS:

Enron Jury Hears Tapes Of Conference Calls.

USA Today (2/14, Farrell) reports, "Jurors in the government's trial of former Enron CEOs Ken Lay and Jeff Skilling listened Monday to almost two hours of conference calls from October of 2001, a period when the energy giant's facade of invincibility began to crumble." USA continues, "In one recording, Lay says $1 billion in losses for the third quarter of 2001 are 'non-recurring,' and assures analysts that Enron's underlying businesses are strong. But in the same call, he announces that Enron had to reduce its shareholder equity by $1.2 billion in order to close down a 'financing vehicle' that had come to alarm investors because of its lack of transparency. … 'We've cleaned up some items that clouded our performance,' Lay declared to a largely supportive group of Wall Street analysts in the Oct. 16 call, adding that he hoped the company's 'expanded disclosure' would halt the slide in the company's stock price. … But the issue of the 'financing vehicles' would not go away. In the days following the conference call, The Wall Street Journal reported that Enron's CFO, Andrew Fastow, made millions in profits from a private partnership he formed purely to buy and sell Enron assets."

Reuters (2/13, Daily, Babington) reports, "Speculation about Enron's troubles were swirling on Wall Street long before the company reported a massive loss triggering its downfall, hardly the sign of an elaborate scheme to deceive investors, a defense lawyer argued on Monday." Reuters continues, "The assertion struck at the heart of the government's argument that top Enron executives for months hid the company's myriad problems plaguing the once high-flying energy company that spiraled into bankruptcy in late 2001." Reuters adds, "As the trial entered its third week, former Enron CEO Kenneth Lay's lawyer Michael Ramsey pointed to analyst reports that suggested Wall Street knew of troubles brewing at Enron well before it announced its weak third quarter performance in 2001. … Sparring with prosecution witness Mark Koenig, Enron's former investor relations chief, Ramsey also replayed a tape of the earnings conference call in which Lay described the company's quarterly loss of more than $600 million, a $1.01 billion write-down in asset values and reduction in investors equity of $1.2 billion. … Ramsey said one analyst had speculated the company would take an even larger asset write-down on its struggling water and broadband Internet business, and that the company's stock rose after the news."

Rice Could Be Key Witness For Government. The Wall Street Journal (2/14, Emshwiller, Mcwilliams) reports, "Though he hasn't taken the stand in the criminal trial of former Enron Corp. top executives Kenneth Lay and Jeffrey Skilling, Kenneth Rice has already sworn under oath that Mr. Skilling took part in misleading the public about a key company business operation." The Journal continues, "Today's anticipated appearance of Mr. Rice, a former top Enron official and close Skilling associate, comes as the trial's first witness, former Enron investor-relations chief Mark Koenig, completed his seventh day of testimony. Mr. Lay's lead attorney, Michael Ramsey, continued to challenge Mr. Koenig's claims that Enron had improperly manipulated its reported financial results. Mr. Ramsey also continued to present the defense case that Enron had been a healthy company whose December 2001 collapse resulted from a market 'panic.' … Mr. Koenig is expected to complete his testimony this morning, and anticipation has begun to turn toward Mr. Rice, the former head of Enron's once highly promoted telecommunications unit, known as Enron Broadband Services. In July 2004, Mr. Rice pleaded guilty to one count of securities fraud in connection with his public statements about EBS and agreed to cooperate with the government in hopes of obtaining leniency at sentencing."

Koenig Said To Have Helped Defense. The New York Times (2/14, Barrionuevo) reports, "At first glance, Mark E. Koenig appeared to be the perfect lead-off witness for the government in the criminal trial of Jeffrey K. Skilling and Kenneth L. Lay, Enron's former chief executives. … Clean-cut and articulate, Mr. Koenig, 50, ran investor relations for Enron and was a polished performer on Wall Street who was present at many of the crucial discussions, prosecutors say, where Mr. Skilling and Mr. Lay lied to the public about Enron's true financial condition in the days leading up to its spectacular collapse in late 2001." The Times continues, "But after seven days on the stand, including four days of withering cross-examination, Mr. Koenig may have served to advance the defense's argument as much, if not more, than the government's. Indeed, by using Mr. Koenig broadly to cover many aspects of the far-ranging case, some outside lawyers argued, the government opened the door to the defense to lay out its own contention that Mr. Skilling and Mr. Lay did nothing wrong. And they allowed the defense lawyers to showcase Enron's former top executives favorably to the jurors through hours of audio and video tapes."

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Judge Upbraids Counsel In AIG Suit On Request To Make Documents "Disappear." The New York Law Journal (2/14, Lin) reports, "A federal judge in Manhattan has blasted a pair of private equity executives, both of whom are also lawyers, for asking him to make allegations against them 'disappear' after the settlement of a suit that accused them of 'fundamentally dishonest behavior.'" The Journal continues, "American International Group Inc. filed suit Feb 1. against two former top executives of its AIG Capital Partners private equity arm, Chief Executive Peter Yu and General Counsel William Jarosz. The insurance giant accused them of stealing confidential client information from AIG computers to help them launch a new private equity fund. … The parties settled under confidential terms last week, a day after a forensic computer specialist submitted a declaration that Yu appeared to have accessed thousands of documents on AIG computers in the weeks following his termination last April." The Journal adds, "As part of the settlement, David S. Golub, the lawyer for the two executives, asked Southern District of New York Judge Lewis A. Kaplan at a hearing last Wednesday to vacate and then seal an earlier temporary restraining order (TRO) issued against the defendants. … 'I'm quite uncertain, literally uncertain as to whether I want to be a party to that,' the judge responded. … According to a transcript of the hearing, Kaplan expressed concern about the swiftness of the settlement following the introduction of forensic evidence showing Yu 'plugged his laptop into the AIG system and took the crown jewels, loosely speaking.' … 'The minute that assertion was made and the evidence placed before me,' the judge continued, 'Mr. Golub, like the good lawyer that I know him to be, picked up the phone, called his client and faced with what, if there were any truth to the allegations, could be a disaster for the defendants, suddenly the case was settled, and now the defendants are saying "make it disappear".'"

CRIMINAL LAW:

Former DOJ Official Aids Israel Lobbyists' Defense. The Washington Post (2/14, A4, Pincus, 744K) reports Viet D. Dinh, the "former head of the Justice Department's Office of Legal Policy helped write a memorandum of law calling for dismissal of Espionage Act charges against two pro-Israel lobbyists, arguing that, in receiving leaked classified information and relaying it to others, they were doing what reporters, think-tank experts and congressional staffers 'do perhaps hundreds of times every day.'" Dinh, who "helped draft the USA Patriot Act after the Sept. 11, 2001, attacks, has joined with lawyers defending Steven J. Rosen and Keith Weissman, former employees of the American Israel Public Affairs Committee (AIPAC), who last year became the first non-U.S. government employees to be indicted for allegedly violating provisions of the Espionage Act." The Defense memo says, "Never has a lobbyist, reporter, or any other non-government employee been charged . . . for receiving oral information the government alleges to be national defense material as part of that person's normal First Amendment protected activities."

US Issues New Subpoena In Abramoff Probe. The National Journal (2/13, Stone) reports, "Federal investigators have issued a subpoena for documents relating to the U.S. Family Network, a sign that the influence-peddling probe into the activities of convicted lobbyist Jack Abramoff continues to expand. The U.S. Family Network, a now-defunct grassroots advocacy group that had ties to Rep. Tom DeLay R-Texas, reportedly obtained most of its funding in the late 1990s from key Abramoff clients." The Journal continues, "The U.S. Family Network, a group that promoted itself as 'pro-family' and advocating 'moral fitness,' was closely affiliated with Tom DeLay and his aides, particularly Ed Buckham. … Sources familiar with the Justice Department-led probe say that one area of interest to investigators is $15,600 that the U.S. Family Network paid in 1999 to Liberty Consulting, a firm run by Lisa Rudy, the wife of Tony Rudy, who was a deputy chief of staff to DeLay before becoming a lobbying colleague of Abramoff's." The Journal adds, "Tony Rudy was one of two former Hill staffers identified in Abramoff's January plea-bargain agreement with the Justice Department as having provided Abramoff with legislative help in exchange for gifts and other financial favors. … The U.S. Family Network, which existed for five years and raised about $2.5 million, was set up in 1996 by Ed Buckham, who was DeLay's chief of staff at the time. … The total of $15,600 was delivered in three payments in 1999 to Liberty Consulting before Rudy left DeLay's office and joined Abramoff in early 2001 as a lobbyist at the firm Greenberg Traurig, according to a source familiar with the group's operations. The timing of the payments is significant, sources say, because investigators have been focusing on what favors Abramoff may have provided to public officials in exchange for their help on client matters."

Judge Releases Search Warrants In Entiwistle Case. The AP (2/14, Lavoie) reports, "A British man charged with killing his wife and infant daughter trolled the Internet just before the slayings, looking for escort services and other Web sites offering help finding sexual partners, according to search warrant documents released Monday." The AP continues, "Authorities said Neil Entwistle, 27, also did research online about ways to kill people and how to commit suicide in the four days before his wife, Rachel, and 9-month-old daughter, Lillian, were shot to death in their suburban home on Jan. 20. … Entwistle was arrested in

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England last week and charged with first-degree murder in a case that has drawn widespread media attention in both the United States and United Kingdom." The AP adds, "He did not fight extradition, and British authorities signed an order Friday authorizing his return to Massachusetts. U.S. Marshals will bring him back to Massachusetts this week, but his travel arrangements were unknown. … Investigators said a search of Entwistle's computer revealed he did Internet searches seeking information about suicide, euthanasia and 'killing people with a knife,' on Jan. 16 and 17. … The same week, he obtained the names and addresses of various escort services in the Boston and Worcester areas, including 'Eye Candy Entertainment,' 'Sweet Temptations' and 'Exotic Express.' He visited a Web site called 'Adult Friend Finder,' which investigators said helps subscribers find sexual partners through Internet chat rooms, personal ads and other services, investigators said. … Prosecutors said last week in an arrest warrant affidavit that they believe Entwistle killed his wife and daughter because he was despondent after accumulating tens of thousands of dollars in debt, and that he had expressed 'a dissatisfaction with his sex life.'"

Five Government Agencies Reviewing Classified Material For Libby Trial. The AP (2/14, Locy) reports, "Five government agencies are reviewing classified evidence that…Libby may want to use at his trial to fight perjury and obstruction-of-justice charges, according to a court transcript made public Monday. During a Feb. 3 hearing, Special Prosecutor Patrick Fitzgerald told a federal judge that the review of classified materials is being done by the CIA, National Security Council, National Security Agency, State Department and several components within the White House, including the offices of the president and vice president." The AP adds, "The outcome of those reviews will determine whether the case against Libby, Vice President Dick Cheney's former chief of staff, gets bogged down in a legal battle pitting the government's desire to protect national security secrets against a defendant's right to a fair trial."

Dean Reiterates Call For Cheney's Ouster. CNN's The Situation Room (2/13, Blitzer) reported that DNC Chairman Howard Dean "is pressing his contention that Dick Cheney should resign if, it turns out, he ordered a top aide to leak classified information. Former Cheney chief of staff Lewis 'Scooter' Libby reportedly told the grand jury in the CIA leak case he leaked the classified memo in defense of the invasion of Iraq." Dean: "Vice President Cheney has, in fact, ordered the leaking of political information -- of intelligence information. That means that he has to step aside. We don't know if it's true. But he's been accused of it. If it's true, he has to step aside."

Former Janitor Testifies He Gave Ryan Contributions After Receiving Campaign Funds. The Chicago Tribune (2/14, O'Connor, 643K) reports former secretary of state's office janitor Donald Skoda "testified Monday he voluntarily gave…cash to Ryan at Christmas for years but acknowledged on cross-examination that the gifts usually came after Ryan's campaign sent him $50." After a prosecutor "showed him records indicating he had been given $50 apiece in December of 1996, 1998, 1999, 2000 and 2001," Skoda "admitted he cashed or deposited the $50 check and then gave Ryan $15 to $25. Skoda said he didn't work on any of Ryan's campaigns." Later yesterday, The Tribune adds, Assistant U.S. Atty. Zachary Fardon "contended outside the jury's presence that a former Ryan lawyer — now interim U.S. attorney for southern Illinois — made inaccurate and untrue claims about an FBI interview of Ryan in 2001. U.S. Atty. Edward McNally is scheduled to testify Wednesday for the defense. … Fardon recounted how the prosecution had McNally's former law firm…disqualified from representing Citizens for Ryan after its indictment in 2002 because of conflicts of interest from representing dozens of other witnesses in the federal investigation. … Fardon said McNally's alleged bias against the prosecution team 'should be fair game' in the cross-examination." The AP (2/14, Robinson) also reports on Skoda's testimony and the prosecutors' reservations about Fardon.

Handwriting Expert Testifies Campbell Signature On Disputed Contract. The Atlanta Journal-Constitution (Scott, Warren, 430K) reports handwriting expert David Moore "testified Monday that it was former Atlanta Mayor Bill Campbell's signature on contracts worth about $80 million that went to a company prosecutors say had paid off the mayor." The defense "denied that Campbell signed documents in 2001 extending the United Water contract and suggested that the signatures may have been forged." The Journal-Constitution notes, "Prosecutors say that United Water paid for a $12,000 getaway to Paris that Campbell took with his then girlfriend Marion Brooks." The Journal-Constitution adds that also on Monday, "Atlanta municipal clerk Rhonda Dauphin Johnson testified that Campbell didn't initially disclose thousands of dollars from city contractors for speaking engagements. After the FBI initiated a probe, Campbell amended his campaign disclosure forms to include a $5,000 speaking fee from Sable Communications in 1996 and $10,000 from Oracle Corp. in 1998, Johnson said."

WXIA-TV Atlanta (2/13, Carnes, King) reports on its Web site from a story broadcast Monday, "For years, Campbell has insisted that the signatures on the documents are not his," but Moore "compared the signatures in question

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with others on official city documents" and "testified that while he found variations from signature to signature, he also found similarities. … Campbell's lawyers pointed to the wide variations on city documents between one Bill Campbell and another. Attorney Jerry Froelich asked the handwriting expert, 'Did they tell you other people were writing Bill Campbell's signature.' Moore replied, 'I don't recall.'"

Jury Selection Begins Today For First "Tennessee Waltz" Trial. WTVF-TV Nashville (2/13) reports on its Web site, "Jury selection is expected to get underway Tuesday in Chattanooga for the first trial from the Operation Tennessee Waltz sting. Hamilton County Commissioner William Cotton is charged with taking bribes of more than $4,000 in return for promising to help a fake company created by the FBI." The Chattanoogan (2/14) adds, "Former County School Board member Charles Love will not testify against…Cotton in his bribery trial that starts Tuesday morning, officials said. Prosecutor John MacCoon also said that Love…was not working with the FBI at a time when tapes were made of conversations between him and Cotton." The Chattanoogan notes, "Judge Edgar said he expects to have a jury seated by late Tuesday morning or early in the afternoon. Then opening statements will be given and the testimony will start." MacCoon "said he plans to call former FBI agent Bill Curtis in regards to the conviction of a prior commissioner on similar charges."

House Panel Declines To Pursue Probe Against DeBerry. The AP (2/14, Tanner) reports, "An ethics complaint against Tennessee House Speaker Pro Tem Lois DeBerry for accepting cash from an undercover investigator died in the House Ethics Committee Monday. It was the second time the committee failed to move forward on the complaint alleging DeBerry broke House ethics rules by accepting $200 at a casino from an FBI agent working with the Tennessee Waltz public corruption investigation."

Newton Says Ethics Reform Bill Will Curb Corruption. The AP (2/14) reports, "Gov. Phil Bredesen and good government advocates praised Tennessee lawmakers for passing an ethics reform bill, but a former legislator who pleaded guilty in a federal bribery sting said 'they did nothing.'" Former state Rep. Chris Newton "admitted that he took bribes to sponsor legislation and got caught in the undercover Tennessee Waltz operation. The ethics reform bill fails to curtail the influence of big spending special interests in elections and it doesn't adequately extend the jurisdiction of the new state ethics commission, Newton said."

Gotti Says Concern For Family Motivated Him To Turn Down Plea Deal. The AP (2/14) reports, "Facing a retrial on racketeering charges, the son of late mob boss John Gotti says he is willing to go in front of a new jury for the sake of his family. … 'When I see my children, I know everything's at stake,' John A. 'Junior' Gotti told The New York Post in an interview published Monday. 'We can't lose. There's too many lives at stake here.'" The AP continues, "Gotti, 41, is charged with ordering a botched 1992 plot to abduct Curtis Sliwa, a radio show host and founder of the Guardian Angels crime-fighting group, in retaliation for his on-air rants against Gotti's father. Sliwa was shot but recovered. … The younger Gotti was acquitted in September on a securities fraud charge, and a judge declared a mistrial on the more serious racketeering counts, including kidnapping. But three months later, U.S. District Judge Shira Scheindlin rejected Gotti's request to be acquitted of the racketeering charge. Jury selection for the retrial was set to begin Tuesday." The AP adds, "Gotti told the Post that family considerations prompted him to turn down a plea deal that would have sent him to prison for less time. … 'My wife was a major obstacle. She said, "If you do it, we're through. We need you in this house,:"' he said. … Gotti, whose mob boss father was sentenced to life in prison in 1992 and died there 10 years later, expressed confidence that he would be truly vindicated at the end of the retrial. … At Gotti's first trial, defense attorneys managed to win a hung jury by arguing that the younger Gotti had left organized crime in the late 1990s. Prosecutors dismissed the claim, saying Gotti used his name to rise in the crime organization and gave orders and collected kickbacks beyond 1999."

Bahamas Man Pleads Guilty In US To Operating Ponzi Scheme. The Bahama Journal (2/11) reports Eric E. Resteiner of Lyford Cay on was convicted Friday "in a U.S. federal court of defrauding more than 50 investors out of $47 million through an elaborate Ponzi scheme that was, in part, principally operated in The Bahamas." Resteiner "pleaded guilty to seven counts of wire and mail fraud. … In operating the scheme, Resteiner told prospective investors various lies to encourage their investment in the alleged high rate of return investment that was alleged to have presented no risk to investors, according to the prosecution's case. These representations, and others made by Resteiner to lure other to invest, said prosecutors, were false and fraudulent." The Journal notes, "Many of his victims were reportedly members of the Church of Christ Scientist, who were lured in by virtue of his position within in the church."

Former Connecticut Governor Returns Home After 10 Months In Prison. The New York Times (2/14, Stowe) reports, "A thinner, more subdued John G. Rowland, Connecticut's former governor, returned to his home here on Monday afternoon after being released on Friday from a federal prison camp where he served more than 10 months after pleading guilty to corruption charges."

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The Times continues, "Shortly after Mr. Rowland and his wife, Patricia, arrived at their ranch home in a gray sport utility vehicle at 3:45, they emerged to speak to a knot of reporters and photographers at the edge of their driveway. 'It's good to be back, but I still have a long way to go,' he said, holding his wife's hand. … 'It's been a long year for everybody, not just for us, but for everybody in the state,' he said, dressed in jeans and a green sweater, and having lost weight but gained some gray hair. He was cordial, shaking hands with one of the television reporters, but he refrained from making any of his trademark quips." The Times notes, "He expressed gratitude for the support he and his family received from people in the state, and said he hoped to spend as much time as possible with his family. … Mr. Rowland, 48, a Republican elected to three terms, entered the Loretto Federal Correctional Institution in southwestern Pennsylvania in April after he admitted that he had accepted $107,000 in gifts and vacations from people doing business with the state. While in prison, he taught job skills to about 50 inmates."

The AP (2/14, Haigh) reports, "A subdued and introspective citizen John G. Rowland, who admits the past 10 months in a federal prison camp have humbled him, said Monday he was prepared to begin the next phase of his life with 'blind faith.' … The former governor and congressman, once considered a star in the national Republican Party, said he has no plans for his future other than reconnecting with family and friends, and completing his four months of home confinement."

Maryland High Court Overturns Death Sentence For Baltimore Man. The Baltimore Sun (2/14, Mcmenamin) reports, "The state's highest court ordered a new sentencing hearing Monday for a Baltimore man who had been sentenced to death in the killing of his girlfriend's young daughter." The Sun continues, "In a decision so lengthy and complex that one lawyer compared it to a phone book, the Maryland Court of Appeals provided different reasons for overturning Jamaal K. Abeokuto's death sentence. … Three judges decided that Abeokuto's decision to have a judge determine his punishment did not amount to a 'knowing and voluntary waiver' of his right to be sentenced by a jury. Two of those judges, and another, agreed -- as they have in the last several death penalty cases to come before the court -- with a legal argument that Maryland's death penalty sentencing procedure is flawed." The Sun adds, "The votes of those four judges amounted to a majority of the seven-member panel that was enough to rescind the death sentence of Abeokuto, 26, who was convicted of the 2002 killing of 8-year-old Marciana Ringo. … In one opinion issued Monday, three judges found that Abeokuto did not knowingly or voluntarily waive his right to a jury sentencing because the trial judge failed to ascertain whether Abeokuto was still taking anti-psychotic medication and, if so, whether he was experiencing any side effects that might cloud his ability to understand the proceedings. … But Harford County State's Attorney Joseph I. Cassilly, who prosecuted Abeokuto, said he was 'very puzzled' by the court's decisions. … 'If you read the decision and you look at the votes, the state won on every issue and yet we still somehow lose on the bottom-line decision,' he said. 'It doesn't make sense to me.'"

The Washington Post (2/14, B8, Rich) reports, "The Court of Appeals ruling, ordering a new sentencing hearing that could result in a different outcome, continues a trend in Maryland in which, in less than six years, the number of condemned inmates has dropped from 18 to now five. Although the state executed two inmates in that period, the decline is attributable largely to appellate rulings that, as the court did yesterday, grant prisoners new trials or sentencings because of legal flaws in the initial proceedings. … In two separate opinions, a majority of the court held that Jamaal K. Abeokuto's sentence should be vacated. The result was somewhat unusual, however, because no four judges -- the number required to form a majority -- found a common basis to support the reversal. … Rather, three found that Abeokuto was not questioned rigorously enough before he was permitted to waive his right to be sentenced by a jury. Two of those three, plus one other, agreed on a different appellate claim, finding that the state's burden of proof in seeking capital punishment is unconstitutionally low." The Post notes, "Abeokuto, now 26, was found guilty of abducting Marciana Ringo in December 2002 from her Baltimore home and taking her to a wooded area in Harford County, where he killed her by slitting her throat and kicking her head. Prosecutors presented DNA and other forensic evidence linking Abeokuto to the crime, including his saliva and fingerprint on a ransom note demanding that $5,000 be placed in the men's bathroom at a park in Baltimore 'or the girl dies.'"

Ohio GOP Fundraiser Charged On 53 Counts In Coin Scandal. The Wall Street Journal/AP (2/14) reports coin dealer Tom Noe, a "prominent Republican Party fund-raiser" in Ohio, was charged with "theft and money laundering in an investigation of a controversial state investment in rare coins that has embroiled Republicans in scandal during an election year." The 53 charges against Noe "conclude a 10-month investigation by state and federal prosecutors into the $50 million rare coin investment Mr. Noe managed for the state insurance fund for injured workers."

The Columbus Dispatch (2/14, Niquette) notes, "The charges include engaging in a pattern of corrupt activity, 11 counts of theft, 11 of money laundering, 8 of tampering with records and 22 of forgery. … Also indicted in the scheme was Timothy H. LaPointe, Noe's partner in the coin business, who was named in seven counts. He was charged with

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engaging in a pattern of corrupt acitivity and six counts of tampering with records, said the indictment filed in Lucas County Common Pleas Court.

Former Virginia Sheriff Pleads No Contest To Larceny, Embezzlement Charges. The Potomac News (2/14, Seal) reports, "A two year-investigation into former Prince William County Sheriff E. Lee Stoffregen III ended" Monday "with a deal: If he returns a high-powered assault rifle he took when he left office and pays back county money used to throw his retirement party, then larceny and embezzlement charges will be dropped." Stoffregen pleaded no contest to the charges yesterday. The News notes, "For prosecutors, the plea deal was a way to avoid what could have been a long and costly trial, said Commonwealth's Attorney Matthew J. Britton, a King George County prosecutor brought in to try the case. Because of the case's complexity and the time that'd elapsed since the alleged crimes occurred, there was the possibility of a hung jury or acquittal, Britton said. … Stoffregen was indicted after a lengthy corruption investigation by local authorities, state police and the Federal Bureau of Investigation, but the gun theft and embezzlement charges were the only claims that could be substantiated, Britton said."

Computer Industry Leaders Gather For Security Conference Today. In a widely-distribution, Reuters (2/14, Kahn) reports from San Francisco, "Major security vendors will likely focus on broader protections for consumers and businesses at a major industry conference this week as computer hackers increasingly look for financial gain rather than online fame, analysts say. The RSA Conference begins on Tuesday with a speech by Microsoft Corp. Chairman Bill Gates, who some analysts expect, will talk about his company's plans for pushing into the security market aimed at large companies." Reuters adds, "Chief executives including John Chambers of Cisco Systems Inc., John Thompson of Symantec, Stratton Sclavos of VeriSign Corp., Scott McNealy of Sun Microsystems Inc. are also set to speak. FBI Director Robert Mueller will give a keynote speech on Wednesday about how law enforcement agencies are working to fight organized cybercrime."

200 Security Experts Participate In Florida Cyber Crime Summit. The St. Petersburg (FL) Times (2/14, Gussow) reports on "the Cyber Security Summit held last week at Raymond James Financial" in St. Petersburg. "The summit, sponsored by the FBI, the University of South Florida and Raymond James, attracted more than 200 security experts, law enforcement officials and academics. While progress was reported on the security front, there was no escaping one theme: The problem isn't going away any time soon. 'The threats we face are more diverse than ever,' said Carl Whitehead, special agent in charge of the FBI's Tampa office." The Times notes, "In addition to the usual suspects of spam, viruses, phishing, pharming and hacking, a few newer terms turned up, as well as tactics. … 'Reshippers' are sometimes unwitting participants, lured many times by 'work at home' ads. … 'There's always someone who's going to bite on something,' said the FBI's Dan Larkin of the Internet Crime Complaint Center."

CIVIL LAW:

Reid Willing To Consider Asbestos Lawsuit Curbs. Reuters (2/14, Cornwell) reports Senate Minority Leader Harry Reid said "he would consider backing curbs on some asbestos lawsuits if the chamber would scuttle legislation removing all claims from court and paying victims from a $140 billion trust fund." Reid "urged senators to 'get this bill off the floor' ahead of a major procedural vote, that could come as early as Tuesday, over whether the industry-funded trust could cost taxpayers in violation of budget rules." Reid said an "alternative to the national fund would be to keep asbestos claims in court, but revise the medical criteria so that only claims involving serious disease go forward."

Senators To Clash On Point Of Order Vote On Asbestos Bill. The Washington Post (2/14, A13, Murray, Babington, 744K) reports the Senate asbestos bill "faces a make-or-break vote today, as Republican and Democratic opponents of the legislation attempt to block it as a potential drain on the federal treasury." The bill would "create a $140 billion fund financed by asbestos companies and their insurers to pay exposure victims based on their level of illness. Fiscal conservatives worry that if the fund ever runs dry, the government would be on the hook for the remaining payments. Many Democrats are expected to join the procedural challenge as a way to stop the bill, which is strongly opposed by one of their closest political allies, the Association of Trial Lawyers of America."

CQ (2/13, Stern) reports Senate Majority Leader Bill Frist "filed for cloture on an asbestos trust fund bill Monday night, but opponents of the legislation are hoping they can knock it down cleanly even before the vote on that motion." The effort by Frist "to invoke cloture and limit debate on the bill could become meaningless depending on what happens with a budget point of order lodged against the bill." Opponents of the legislation "are confident they have the votes to sustain the budget point of order, according to Senate aides. However, the bill's chief sponsors, Arlen Specter, R-Pa., chairman of the Judiciary Committee, and ranking Democrat Patrick J. Leahy of Vermont, pointed to a Congressional Budget Office (CBO) analysis released Monday that found the trust fund would not increase the federal deficit."

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Roll Call (2/14, Pierce) reports, "Bipartisanship could reign supreme this week as the Senate looks to wrap up debate on an asbestos trust fund bill. But it may fall short of the kind of cross-aisle cooperation that good government-types like to crow about." Two "opposing bipartisan coalitions are set to clash today over a procedural vote that could presage the end of the line for the asbestos measure, which seeks to put an end to lawsuits that allege asbestos-related illnesses, while setting up a privately funded $140 billion trust fund to compensate those asbestos victims." The procedural vote, "scheduled for this afternoon, will address whether to waive a budget point of order brought by Sen. John Ensign (R-Nev.). Ensign argues that the bill could bust budget caps, even though the measure stipulates that funding must come from private entities, not from taxpayers." Supporters of the bill "need 60 votes to waive the point of order. If they can't muster 60 votes, the bill effectively will be dead, and Senate Majority Leader Bill Frist (R-Tenn.) will likely move on to the debate over reauthorizing portions of the USA PATRIOT Act." The vote "will likely come down to which GOP conservatives are willing to vote with the bill's backers on the budget point of order even though they oppose the bill itself."

WSJournal Says Trust Fund Bill Worse Than Asbestos Legal Quagmire. The Wall Street Journal (2/14, 2.11M) says in an editorial that, "Sometimes the only thing worse than a big economic problem is a Congressional attempt to fix it. That's the case with Arlen Specter's $140 billion asbestos trust fund, which faces a crucial test today in the Senate. If it fails to get 60 votes on a procedural budget vote, the bill is probably dead for this year." Congress "helped to create this mess by easing bankruptcy rules in 1994 that gave far more leverage to the trial bar in asbestos bankruptcy court. The answer to such legal abuse is to fix the laws that allow it, not pass the buck onto a trust fund that may ultimately be financed by billions of bucks from taxpayers."

NYTimes Says Bill Holds Promise For Asbestos Victims. The New York Times (2/14, 1.19M) says in an editorial that opponents of the asbestos bill "plan a procedural vote today to derail the bill. Senators who care about the plight of ill asbestos victims and their families will not lend their votes to this sham." An "unusual alliance of trial lawyers, manufacturers and insurance companies is trying to defeat the change, and the promise it holds for the hardest-hit victims of asbestos diseases."

CIVIL RIGHTS:

FBI Arrests Florida Man On Human Trafficking Charges. Under the headline "FBI Nabs Fort Myers Man In Human Trafficking Case," The Naples Daily News (2/14, Zeitlin) reports Eliseo Escalante Santizo of Fort Myers "was picked up by the FBI today on a U.S. grand jury indictment accusing him of human trafficking after authorities say he sold two young Mexican females to a man who tried to force them into prostitution in Immokalee, authorities said. … Doug Molloy, chief assistant U.S. Attorney, said federal authorities and the Collier County Sheriff's Office are still looking for the other man named in the indictment." The women "escaped before they were forced to have sex, he said. 'They were brave enough to flee,' Molloy said. 'This is an organized delivery system.'"

Inmate Dies After Racial Fight In Los Angeles Jail. The AP (2/14, Prengaman) reports, "Sheriff's officials worked Monday to transfer hundreds of Los Angeles County jail inmates to the California state corrections system as continuing racial brawls led to the second prisoner death this month." The AP continues, "About 200 inmates, mostly parole violaters and those awaiting transfer to state prison, have already been moved out, and another 400 were expected to be transferred this week, said Los Angeles County sheriff's Chief Marc Klugman, head of America's largest jail system. … 'We are in the process of getting all the prisoners we can out of here and into the state prison system,' Klugman said Monday." The AP adds, "The latest inmate death occurred Sunday afternoon after a fight between four Hispanic and two black prisoners in a six-man cell at the downtown Men's Central Jail. … A 38-year-old black inmate collapsed and died after the fight. Another black inmate was killed Feb. 4 in racial fighting at the Pitchess Detention Center's North Facility in Castaic, north of Los Angeles. … In Sunday's incident deputies broke up the fight with verbal commands, and removed the injured black prisoner when he complained of pain, Deputy Alba Yates said."

Frist Says Senate Will Vote On Gay Marriage Amendment In June. CNN's The Situation Room (2/13, Henry) reported, "Senate Majority Leader Bill Frist confirms to CNN he will have a vote on a Constitutional amendment banning same sex marriage the first week of June, a move likely to fail but guaranteed to spark a fiery debate in this election year. Senator Frist knows the vote is going to fail. What's the point? Basically, this is a wedge issue. He knows it's going to whip up conservatives heading into the midterms and it's going to put moderate Democrats on the defensive. Democrats also charge that Senator Frist is trying to woo voters before the 2008 presidential campaign. Of course Republican aides deny that. They say this is all about getting this issue front and center and not letting up on it."

US Said To Be Underestimating Costs Of "Don't Ask, Don't Tell." The Washington Post (2/14,

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A4, White, 744K) reports a University of California report scheduled for release today says "the financial costs to the U.S. military for discharging and replacing gay service members under the nation's 'don't ask, don't tell' policy are nearly twice what the government estimated last year, with taxpayers covering at least $364 million in associated funds over the policy's first decade." A UC-Santa Barbara group "examining the cost of the policy found that a Government Accountability Office study last year underestimated the costs of firing approximately 9,500 service members between 1994 and 2003 for homosexuality. The GAO, which acknowledged difficulties in coming up with its number, estimated a cost of at least $190.5 million for the same time period. The new estimate is 91 percent higher." Although it "did not take a stance on the effectiveness of the policy, the California 'blue ribbon commission' -- which included former defense secretary William J. Perry and 11 professors and defense experts -- found that the military has put millions of dollars into recruiting and training new soldiers and officers to replace those who were removed from their jobs in the services because they were openly gay."

Pentagon Will Miss Deadline For Women-In-Combat Review. The Washington Times (2/14, Scarborough, 90K) reports, "The Pentagon will miss Congress' March 31 deadline for certifying that the Army's reorganization of war-fighting brigades is abiding by its rule that women not serve in direct land combat or in support units that embed in those units, according to an internal memo. … According to an internal Pentagon memo, the review has been assigned to the Rand Corp., a research organization frequently tapped by the military to study specific issues. The memo says Rand will need until Dec. 31, a nine-month extension."

Army Chaplain Silenced After Criticizing Prayer Policy. The Washington Times (2/14, Duin, 90K) reports, "An evangelical chaplain serving in Iraq has been forbidden to preach at chapel services after his comments about military intolerance toward certain Christian expressions got him into hot water with the Army. Capt. Jonathan Stertzbach, a field artillery chaplain with the Army's 10th Mountain Division in Iraq, was silenced soon after his comments appeared in a Jan. 23 article in The Washington Times. The chaplain criticized one of his supervisors, Lt. Col. Phillip Wright of Fort Drum in New York, by name and gave details about how chaplains of all faiths were being pressured to offer up only nonsectarian prayers. Contacted in Iraq yesterday by The Times, Capt. Stertzbach confirmed he had been silenced." The Times adds, "His silencing elicited a strong protest letter from Rep. Walter B. Jones, North Carolina Republican, to Army Inspector General Lt. Gen. Stanley Green, demanding an investigation into whether Capt. Stertzbach was 'illegally removed' from preaching duties."

Ohio Board Of Education Likely To Challenge Intelligent Design Curriculum. The New York Times (2/14, Rudoren, 1.19M) reports, "A majority of members on the Board of Education of Ohio, the first state to single out evolution for 'critical analysis' in science classes more than three years ago, are expected on Tuesday to challenge a model biology lesson plan they consider an excuse to teach the tenets of the disputed theory of intelligent design." Such a reversal "would be the most significant in a series of developments signaling a sea change across the country against intelligent design" since a federal judge ruled in December that "teaching the theory in the public schools of Dover, Pa., was unconstitutional."

Dionne Says Local NY Official Finding New Ground On Abortion Question. In his Washington Post (2/14, A15, 744K) column, E.J. Dionne writes, "For many staunch supporters and opponents of abortion rights, the search for a third way on the issue seems like so much phony political positioning." But there is "a new argument on abortion that may establish a more authentic middle ground. It would use government not to outlaw abortion altogether but to reduce its likelihood." Last May, Nassau County, New York, County Executive Thomas Suozzi "gave an important speech calling on both sides to create 'a better world where there are fewer unplanned pregnancies, and where women who face unplanned pregnancies receive greater support and where men take more responsibility for their actions.' … I have more sympathy than most liberals with the right-to-life movement because I believe most right-to-lifers are animated not by sexism or some punitive attitude toward sexuality but by a genuine desire to defend the defenseless. … That's why I hope Tom Suozzi finds imitators, and allies on both sides of the question."

ANTITRUST:

New DOJ Antitrust Chief Faces Tough Decisions. The Wall Street Journal (2/14, Wilke, 2.11M) reports that as the Justice Department's "new antitrust chief," Thomas Barnett "will face a flood of possible mergers, including Whirlpool Corp.'s pending $1.7 billion buyout of Maytag Corp. He is also directing an assault on price-fixing, from the otter-pelt brokers busted last month to international investigations of corporate collusion in plastics, chemicals and commodities." Barnett said, "If a merger is likely to harm consumer welfare, based on the law and economics, we will challenge those deals." Barnett said his "top priority will be

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fighting criminal cartels, 'which Justice [Antonin] Scalia once called the 'supreme evil' of antitrust.'" The Journal adds Barnett "faces tough decisions. A deadline looms on whether to challenge the merger of Whirlpool and Maytag, which would dominate the market for washing machines and dryers -- or accept Whirlpool's claim that the two companies face rising foreign competition and price cutting in a fast-changing market." Another deal "in the pipeline is Inco Ltd.'s $10.8 billion takeover of its largest rival, Falconbridge Ltd. Opponents -- including some major industrial companies -- fear it will let Inco raise prices in certain segments of the nickel market."

DOJ Will Extend Review Of Whirlpool-Maytag Merger. The AP (2/14) reports, "The U.S. Justice Department will extend its review of Whirlpool Corp.'s proposed $1.79 billion acquisition of rival appliance-maker Maytag Corp., the companies say." The AP continues, "Whirlpool and Maytag said Monday that they will not close the deal until March 30 without Justice Department approval. … Combining the competing appliance makers would create a market giant producing half of the nation's dishwashers and more than 70 percent of its clothes washers and dryers. … 'This is a complex and rapidly changing industry, and it is not surprising that some additional time is required to fully understand and fairly evaluate it,' Jeff M. Fettig, Whirlpool chairman and chief executive, said in a news release." The AP notes, "Before the extension, Whirlpool and Maytag had agreed to delay closing the deal until Feb. 27 to give the Justice Department time to complete its investigation."

Reuters (2/13, Kaplan, Jacobs) reports, "Antitrust concerns are centered on the U.S. market for laundry appliances, particularly the amount of control a combined Whirlpool-Maytag would have in washers and dryers. … Whirlpool and Maytag said they extended a February 27 deadline for the Justice Department's antitrust investigation until March 30 to allow the department to complete its investigation of the deal's impact on competition. … The announcement came as Justice Department lawyers are seeking sworn statements from competitors and retailers about how the combination of the rivals would affect competition, according to sources speaking on condition of anonymity." Reuters adds, "Department lawyers are expected to make a recommendation within weeks, two sources close to the matter said. … The depositions signal that the department is making preparations in the event that antitrust officials decide to go to court to stop the proposed $1.7 billion deal, which would form the world's largest appliance maker. … The sources cautioned that no decisions have been made."

Dow Jones (2/14) reports, "Whirlpool Chief Executive Jeff Fettig said, 'We appreciate the work of the Department of Justice staff to date and will continue to work with them cooperatively as they complete their review.' … He termed the latest extension by the two big appliance makers as 'simply a continuation of the review process.'"

The Financial Times (2/14, Kirchgaessner) reports, "Whirlpool's lead attorney on the transaction yesterday said the extension was 'not an unusual event' and that he remained 'confident' the deal would close 'rapidly' once the probe was completed. … James Rill, a former senior antitrust official at the Department of Justice who represents Whirlpool, said the company was discussing the deal with staff-level officials at the DoJ, indicating that talks did not yet involve Thomas Barnett, the head of the department's antitrust division. … Mr Rill acknowledged that the DoJ was preparing a potential lawsuit against the deal, but emphasised that such actions were not unusual while staff were considering a merger. He also declined to comment on whether or not the parties were discussing potential divestitures to satisfy antitrust concerns."

The Boston Business Journal (2/14) also reports this story.

Spate Of Mergers Good News For Antitrust Firms. The National Law Journal (2/14, Moline) reports, "The deal economy might be said to have suffered an embarrassment of riches last year. Except that no one seemed embarrassed." The Journal continues, "Corporate America was delighted to throw around pots of cash and equity during 2005, continuing a mergers and acquisitions spree that began the year before. The value of M&A deals increased by some 32 percent, according to Thomson Financial. If that didn't quite match the 47 percent boost in activity in 2004, it pushed the value of announced deals involving U.S. targets past $1.1 trillion, so no one was complaining. … 'The private equity market has probably never been more flush,' said Robert E. Spatt, a corporate partner at Simpson Thacher & Bartlett's home office in New York. … That expressed the mood across the board. The last time U.S. M&A activity exceeded $1 trillion was in 2000, when it hit $1.6 trillion." The Journal adds, "Cadwalader, Wickersham & Taft partner Dennis Block presided over a discussion with top bankers during a recent conference in New York and reported: 'All of them believe 2005 was a terrific year and 2006 ought to be even better.' … Block was one of the attorneys on the year's biggest deal: He represented Procter & Gamble Co. in reaching an agreement to buy Gillette Co. for $57.2 billion. Spatt worked on that same deal, representing Gillette's financial advisers. Spatt also advised financier Goldman Sachs & Co. in ConocoPhillips' $36.5 billion acquisition of Burlington Resources Inc., an oil and gas holding company based in Houston, the year's second-biggest deal. … In fact, Spatt's

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firm had a hand in three of the top 10 mergers and acquisitions in 2005, according to Thomson Financial. Simpson Thacher worked on 116 deals in all, worth $308.8 billion, making it the top M&A legal adviser of the year. Second-place finisher Wachtell, Lipton, Rosen & Katz of New York advised on 64 deals (including five of the top 10) worth $258.9 billion."

Merrill In Talks To Acquire Stake In BlackRock. The Wall Street Journal (2/13, Berman, Smith) reports, "Merrill Lynch & Co. is in advanced talks to acquire a large minority stake in money manager BlackRock Inc. for about $8 billion, people familiar with the matter said, in a deal that would create a $1 trillion fund-management colossus and transform the venerable Wall Street firm." The Journal continues, "Such a deal could be a coup for Merrill, coming just a few weeks after the end in late January of similar talks between Morgan Stanley and BlackRock. But that deal would have entailed Morgan Stanley's obtaining a majority stake in BlackRock, while Merrill was willing to accept a stake of less than 50% and less apparent control than Morgan Stanley sought." The Journal adds, "Final terms were still being worked out over the weekend, these people said yesterday, and while an announcement could come by tomorrow or Wednesday, it is also possible the deal may not be completed. As now envisioned, Merrill would swap its massive funds-management business for a roughly 49% stake in BlackRock, which has an $8.4 billion market value."

BlackRock Shares Up After Report Of Talks. Bloomberg (2/14) reports, "Shares of BlackRock Inc., the No. 3 U.S. manager of bond funds, had their biggest gain in almost four years after the Wall Street Journal said Merrill Lynch & Co. is in talks to acquire a stake in the fund-management company." Bloomberg continues, "Merrill may announce as soon as tomorrow an agreement to exchange its $544 billion money-management arm for a 49 percent stake of New York-based BlackRock, said a person familiar with the matter. The Journal and New York Times reported the talks late yesterday. BlackRock jumped 11 percent to $146 at 11:27 a.m. in New York Stock Exchange composite trading." Bloomberg adds, "The deal would form a fund-management company with about $1 trillion in assets, combining BlackRock's focus on institutional investors with Merrill's position as the world's biggest brokerage for individuals. The stake may also help Merrill Chief Executive Officer E. Stanley O'Neal outpace Morgan Stanley CEO John Mack, who ended talks with BlackRock last month because shares of the money manager became too expensive. Merrill and Morgan pursue the same kinds of clients and both have investment banks, brokerages and asset-management units."

Reuters (2/13) reports, "A deal would create a company with $1 trillion in assets under management, the most of any publicly traded company. .. A BlackRock deal would be more strategically compelling than the alleged Merrill deal with Morgan Stanley, Buckingham Research said in a note to investors."

Inco-Falconbridge Deal Raises Antitrust Concerns. Dow Jones (2/14) reports, "Canadian mining company Inco Ltd.'s planned $10.8 billion takeover of rival Falconbridge Ltd. is facing antitrust problems because of its potential stranglehold over a nickel alloy that can withstand the heat of jet engines, people familiar with the matter said Monday." Dow Jones continues, "If regulators allow the deal, the combined Canadian mining companies would become the world's largest nickel producer, surpassing Russia's OAO Norilsk Nickel. … However, defense contractors, specialty nickel makers, and a rival nickel miner, France's Eramet SA, have complained to regulators that the two Canadian companies will control more than 90% of the high-grade nickel needed to make the so-called super alloys." Dow Jones notes, "Even though Inco and Falconbridge have offered to divest a smelter in Norway, the deal's opponents say it won't be enough to avoid antitrust problems, setting the stage for a showdown between the companies and regulators. … The potential concentration in the nickel market comes at a sensitive time. Strong demand in China has sent nickel prices skyward in recent years. … Defense contractors, among the main users of nickel super alloys, are raising national security worries. The U.S. Department of Defense is lobbying the Department of Justice to take a hard line on the deal, a lawyer for a major U.S. military supplier said. In November, the Department of Justice asked the companies for more detailed information on deal. The U.S. Department of Justice doesn't comment on pending antitrust cases."

ENVIRONMENT/INDIAN AFFAIRS:

Bodman Says DOE No Longer Has Estimate For Yucca Mountain Opening. The New York Times (2/14, Wald, 1.19M) reports the Energy Department "no longer has an estimate of when it can open the nuclear waste repository that it wants to build at Yucca Mountain, 90 miles northwest of Las Vegas, and it may never have an accurate prediction of the cost," Energy Secretary Samuel Bodman said. At a "nuclear power industry conference," Bodman said "his department was redoing research and design for Yucca, which was supposed to start accepting civilian power-plant waste in 1998. But it is a first-of-a-kind project, making cost estimates difficult, he said, and the best that the department may be able to do is publish an estimate with a very wide range of error." The "last date given for its planned opening, provided a year ago, was 2012. The department is facing

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lawsuits from utilities that want to recover extra costs created by the delay."

Conservative Groups Call For Curbs On Greenhouse Gas Emissions. The Christian Science Monitor (2/14, Spotts, 61K) writes, "From evangelicals to students to business groups, climate change is a rising political concern. Global warming isn't just a 'blue state' issue anymore. From the Rocky Mountain West to the Southeast, influential red-state voices are beginning to call for more concerted efforts at local, state, and federal levels to curb greenhouse-gas emissions. And they are prodding Washington to address the challenge of adapting to the effects of global warming." While the issue is often "framed in economic terms - either the costs of disasters or the opportunities of turning native switch-grass into ethanol fuels" -- Christian groups see it as "a 'pro-life' position in accord with the Gospels, which call on Christians to care for the poor. The group noted that projected effects of global warming are likely to have the most impact on the poor, worldwide."

Bald Eagle Gets Closer To Removal From Endangered List. The New York Times (2/14, Barringer, 1.19M) reports that the bald eagle "moved several steps closer" to removal from the list of threatened or endangered species Monday as the Fish and Wildlife Service "announced a series of decisions toward declaring the bird's population safely restored, effectively jump-starting a process that stalled several years ago." The agency "issued new voluntary guidelines for ways to protect eagles' nests and feeding grounds, and it defined some regulatory terms that determine the protection of the eagles under existing laws."

WPost Pleased By Smoking Ban's Progress In Virginia Legislature. The Washington Post (2/14, A14, 744K) editorializes, "In Virginia, where tobacco has been king for the better part of four centuries, the throne has suddenly gone wobbly. By a 21 to 18 vote, the state Senate moved yesterday to ban smoking in bars, restaurants and virtually all other enclosed public places. … While the smoking ban's fate in Virginia's House of Delegates is uncertain, the import of the upper house's action is clear: The arguments against smoking bans are crumpling faster than a spent pack of Winstons. … With luck, the good word will go forth from Virginia and register quickly in neighboring Maryland, where the state legislature is scheduled to hold a key hearing today on banning smoking in restaurants and bars. … The tide is turning in favor of a rational policy under which government regulates a potent risk to public health."

Abramoff Questions Ensnare Pombo. The Los Angeles Times (2/14, Boxall, 958K) reports that while California Republican Rep. Richard Pombo has finally gotten a bill through the House "that would eliminate habitat protections on more than 150 million acres" after more than a decade of effort, he "finds himself on the defensive, with his ideology increasingly viewed as extreme and his connections to industry and to disgraced lobbyist Jack Abramoff under scrutiny." Pombo "is a tax-cutting, anti-abortion, anti-gun-control conservative," but the Endangered Species Act is his "political obsession. He has argued that it puts 'endangered flies, beetles, rats and shellfish' before people." But "instead of focusing on carrying his win to the Senate, he finds himself facing questions about his efforts on behalf of Abramoff clients."

Tribes Feel Senate Indian Affairs Panel Neglecting Key Issues. Roll Call (2/14, Stanton) reports that when Sen. John McCain today opens a hearing of the Indian Affairs committee he chairs on President Bush's budget, "it will mark the first time since July that his committee has focused on issues of broad significance other than gambling or the Jack Abramoff lobbying scandal. That seven-month stretch has irked much of the tribal community, which feels that serious issues affecting American Indians are being ignored by the panel and its chairman, a likely presidential candidate in 2008." Tribal leaders and lobbyists say that while such matters "are valid issues for the committee to ponder, they add that they're concerned by McCain's seeming preoccupation with them and lack of focus on issues such as education, housing and health care that have a wider impact in Indian country."

New FEC Member Wants Tighter Restrictions On Tribal Contributions. The Hill (2/14, Schor) reports Federal Election Commission member Hans von Spakovsky, installed by President Bush "in a controversial recess appointment" last month, is calling for stricter regulations on political contributions from Indian tribes. Von Spakovsky says tribes "should have to adhere to the same contribution limits as individuals do, using stronger rhetoric than two fellow FEC members who testified at last week's Senate Indian Affairs Committee hearing on the applicability of federal election law to tribal donations." A "prominent Republican party election counsel" sent around an advance copy of von Spakovsky's statement, "along with a gleeful endorsement of the new commissioner's stance on tribal election regulations and a dig" at McCain. … 'This is MY friend at FEC,' the GOP counsel wrote, referring to von Spakovsky. 'The new Commissioner [whom] John McCain has been attacking. … He is GREAT!!!'"

FBI/DEA/ATF/USMS:

ATF Cautious About SUV Sightings At Alabama Church Fires. The AP (2/14, Reeves) reports, "Agents

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trying to solve 10 church arsons in Alabama are reminding themselves of a lesson from the Washington-area sniper shootings, when a white van turned into a red herring for investigators." The AP continues, "Back in 2002, public attention became riveted on white vans and panel trucks as witnesses reported seeing the big, boxy vehicles near spots where shootings were occurring. Yet the two suspects were finally captured in something entirely different - a blue Chevrolet Caprice. … In the fire investigation in rural Alabama, agents are worried the same thing could happen with dark-colored sport-utility vehicles." The AP adds, "Two witnesses reported seeing a dark SUV outside a church the night of the first fires, and the media quickly reported the description. Since then, witnesses have reported seeing dark SUVs near several other churches that burned. … Jim Cavanaugh, regional director of the Bureau of Alcohol, Tobacco and Firearms, said Monday all the sightings may be accurate. But, Cavanaugh said, witnesses have reported seeing other kinds of vehicles, too - a fact that may not be making it across to the public. … The concern, Cavanaugh said, is that people become so intent on spotting one type of vehicle that they miss other vehicles that could be important to the case. … 'We don't want to have a white van,' said Cavanaugh, who is leading the ATF probe of the arsons and was also involved in the sniper investigation. 'I have firsthand knowledge of what that is like. We are being cautious.'"

Doctor Accused Of Writing Illegal Steroid Prescriptions To Plead Guilty. The AP (2/14) reports from Columbia, South Carolina that a doctor "accused of writing illegal steroid prescriptions to football players has agreed to plead to one federal conspiracy charge as part of a plea agreement. Alternative medicine physician James Shortt will plead guilty to one count of conspiracy to distribute anabolic steroids and human growth hormone. In exchange, prosecutors will drop 42 similar counts against the West Columbia doctor, according to papers filed Monday in U.S. District Court in South Carolina. … The indictment didn't specify who received the drugs Shortt prescribed. But a person familiar with the indictment said they were current and former members of the Carolina Panthers, bodybuilders and at least one police officer. The source spoke to The Associated Press on the condition of anonymity because the investigation was ongoing, and did not name players."

Mailed Marijuana Seized In Florida Following DEA Tip. Florida's North Port Sun Herald (2/14) reports, "The Charlotte County Sheriff's Narcotics Unit intercepted two FedEx packages containing compact bricks of pot mailed from Arizona to an unidentified Punta Gorda address Friday. Local officials were tipped off about the suspicious packages by the U.S. Drug Enforcement Agency last week. … They found two huge blocks of marijuana weighing a combined 46 pounds. … The shippers tried to mask the scent by wrapping the pressed weed in birthday gift paper, plastic and cardboard smeared with peanut butter, and baby wipes doused with liquid soap. … There was no one to receive the packages when detectives tried to deliver them to the Punta Gorda address they were mailed to. Sheriff's Office spokesman Bob Carpenter said the boxes appear to have been mailed to a fictitious person."

Convicted Meth Makers In North Carolina To Pay Restitution To DEA. The Marion McDowell News (2/13) reports, "A judge sentenced 16 indicted meth makers and distributors to a combined total of nearly 132 years in federal prison last week and ordered them to pay restitution of more than $29,000 to the U.S. Drug Enforcement Administration (DEA) for the cost of cleaning up labs seized during the course of the investigation. Detective Shanon Smith of the McDowell County Sheriff's Office said 12 of the 16 were arrested following a four-year investigation into illegal clandestine manufacture and distribution of methamphetamine in McDowell County. Assisting the Sheriff's Office in the probe were members of the Marion and Old Fort police departments, the DEA, the N.C. State Bureau of Investigation (SBI) and the U.S. Attorney's Office."

Man Gets Life Sentence In Georgia Cocaine, Meth Case. The Gwinnett (GA) Daily Post (2/14) reports "A former high school football star was sentenced to life in prison in connection with a Barrow County drug ring that netted 40 arrests. Ronald Perry Moon, 49, of Commerce, who held the Georgia high school rushing record before it was broken by Herschel Walker in 1979, was sentenced in federal court Friday on charges related to the selling of cocaine and methamphetamine. … Between 1983 and 1996, Moon was convicted four times of drug charges, which led to the severe sentence Friday of life without the possibility of parole, Nahmias said. About a year ago, Statham Mayor Robert Bridges contacted the Drug Enforcement Administration and the Georgia Bureau of Investigation seeking help in getting drugs off the city streets. … According to U.S. Attorney's Office officials, Moon met with an undercover DEA agent on Feb. 11, 2005, in Winder and sold the agent packages of crack cocaine and powder cocaine for $5,600. Later, Moon arranged for the agent to meet other people at a house in Commerce, where the agent purchased methamphetamine for $4,000."

Six East African Gang Members Arrested In Seattle. The Seattle Times (2/14, Green) reports, "Six men with ties to an East African gang operating in Seattle's University District have been charged with drug trafficking

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and firearms violations in U.S. District Court, the latest in a series of arrests since August that have netted drugs, cash and weapons." The Times continues, "The arrests were announced at a news conference this morning. Seattle police Chief Gil Kerlikowske said the gang, known as the East African Posse, is responsible for terrorizing residents and students living around the University of Washington. … There are at least six other cases now pending in U.S. District Court as a result of the months-long investigation that's been dubbed 'Operation End Game' the chief said. In addition to 'open-air drug dealing,' especially on the Ave, members of the East African Posse are suspected of kidnappings, assaults and prostitution. Kerlikowske said his detectives are also looking at links between the gang and at least one unsolved homicide."

The Seattle Post-Intelligencer (2/14, Castro) reports, "The arrests were announced at a press conference this morning. … 'We think we've made a significant impact,' said Kelvin Crenshaw, special agent in charge of the Seattle Field Division of the Bureau of Alcohol, Tobacco, Firearms and Explosives." The P-I adds, "Officials with the ATF, the FBI, the U.S. Attorney's Office and Seattle police announced the recent arrests of six men with connections to the East African Posse. … The gang has been active in the Seattle region for years, police said. They said its members include naturalized citizens from Somalia, Ethiopia and Eritrea."

Arab Family Claims US Targeted Them After 9/11. The AP (2/14) reports, "Faris Shalash was led in shackles last August from his family's grocery store just four days before his wedding. His brother, Eyad, an honors student at the University of South Carolina, lost an internship with a Fortune 500 company. … Federal authorities had charged the brothers and others with conspiring to sell thousands of dollars worth of drugs. Then last month prosecutors unexpectedly asked a judge to drop the charges without explanation and without apology. … The family thinks they know why. … 'It all comes down to Sept. 11 and us being of Arab descent,' said Eyad Shalash, 23, whose father is a Palestinian immigrant who has been an American citizen for 27 years. 'That's what triggered them to start watching us.'" The AP continues, "Prosecutors say ethnicity had nothing to do with it, although eight of the 10 people indicted were of Middle Eastern or Arab descent. … Assistant U.S. Attorney Brent Alan Gray said there is 'absolutely no evidence' the defendants were targeted because of their descent. He would not discuss the probe or why the charges were dropped. … 'Sometimes the way we view evidence changes as the case progresses,' Gray said. 'When that change occurs, it is incumbent upon the government to give the benefit of the doubt to the defendant.'" The AP notes, "Andy Savage, the attorney for Faris Shalash, 24, said the probe apparently started after the 2001 terrorist attacks. … An investigation into money flowing to the Middle East apparently passed from one agency to another before the Bureau of Alcohol, Tobacco, Firearms and Explosives started a drug probe, he said. … Search warrant affidavits alleged a government informant made six drug buys at the grocery store. … But attorneys for the defendants found the evidence thin. They said the case was built on the word of an informant who had a history of lying and criminal charges and that surveillance tapes did not support his version of events."

TAX:

IRS Offers Leniency For Firms That Marketed Abusive Tax Shelters. The New York Times (2/14, Browning, 1.19M) reports the Internal Revenue Service is "making an unusual offer of leniency to firms that made and sold questionable tax shelters: come forward, pay penalties and turn over information, and you may avoid criminal prosecution." The offer is "being made to accounting firms, law firms, banks and investment firms that have created and sold tax shelters that the I.R.S. considers bogus, as well as to firms that carried out the financial transactions that underpin such shelters." Questionable shelters "have been sold to thousands of wealthy investors in recent years. Under the offer, the firms must disclose the names of those investors." But the offer says "firms that do not come forward face larger fines and possible criminal prosecution."

CONGRESS-ADMINISTRATION:

Media Continue To Question Disclosure Of Accidental Cheney Shooting. Media reports last night and this morning depict a White House "on the defensive" over Vice President Cheney's accidental shooting of 78-year-old Republican attorney, Harry Whittington. Even as the incident becomes fodder for late-night comics, reporters continue to raise questions about the delay in the disclosure of the information to the press. The Washington Post (2/14, A1, VandeHei, Moreno, 744K) reports President Bush and White House Deputy Chief of Staff Karl Rove "were told of the shooting Saturday night but deferred to Cheney on providing information to the public, White House aides said. In what one official described as a break with the White House practice of disclosing such high-level mishaps immediately, Cheney waited more than 14 hours after the shooting to disclose it publicly." USA Today (2/14, Jackson, 2.31M) says Bush "declined to take questions after a Monday meeting with United Nations Secretary-General Kofi Annan."

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Cheney "avoided comment by leaving the meeting before reporters were brought in."

At a "contentious" press briefing yesterday, White House press secretary Scott McClellan was grilled by reporters about the timeline of the incident and the White House's knowledge of it. As the New York Times (2/14, Bumiller, 1.19M) reports, "Aside from Harry Whittington, the 78-year-old Texas lawyer who was in stable condition after being peppered with shotgun pellets by Mr. Cheney, the person who had the worst time on Monday was Mr. McClellan." Reuters (2/14, Wilson) reports McClellan said "the vice president's staff did not tell reporters about the accident on Saturday because they were concerned about getting Whittington medical attention and were still gathering facts."

However, many stories are portraying the handling of the shooting as exemplifying the White House's "instinct for secrecy," as the Financial Times (2/14, Daniel) puts it. Similarly, the Los Angeles Times (2/14, Miller, Gerstenzang, Chen, 958K) reports "the Bush White House and the president himself are known for limiting information to not only the press but also to members of Congress, as seen in the debate over the domestic surveillance program by the National Security Agency and the congressional investigation of the administration's handling of the Hurricane Katrina disaster." The Baltimore Sun (2/14, Davis, 296K) says the incident "aftermath dramatized the poor relations with the news media that have plagued Cheney since the start of the administration. The 18-hour gap between the shooting…and when the vice president's office spoke to reporters about it fed stereotypes about Cheney, often portrayed as grouchy and secretive." It was also "the most recent instance of Cheney becoming the public face of the Bush administration's tight-lipped ways and a further blow to a vice president who took a beating last fall with the indictment and resignation of his top aide." The Washington Times (2/14, Curl, 90K) reports White House "reporters were angered when the news was reported first by a Corpus Christi newspaper." The New York Times (2/14, Kornblut, Blumenthal, 1.19M) runs a similar report under the headline "No End To Questions In Cheney Hunting Accident," in which it says the White House "sought with little success on Monday to quell an uproar" over the shooting.

Moreover, it has been disclosed Cheney lacked the proper hunting credentials at the time of the accident. The Los Angeles Times (2/14, Riccardi, Gerstenzang, 958K) reports, "Although he broke no laws…Cheney did not have proper hunting credentials when he accidentally shot a fellow hunter at a private ranch last weekend, authorities said Monday." Cheney "will receive a warning citation for failing to purchase the required $7 stamp for bird hunting, the Texas Department of Parks and Wildlife said in a statement. The stamp is a new requirement, and the department has issued verbal warnings to many hunters who were unaware they needed it." In a statement last night, Cheney's office "said his staffers had not known about the stamp requirement and that Cheney had sent a $7 check to Texas to cover the cost."

The story was the lead on CBS and NBC, while ABC ran it prominently in the first half of its newscast; each network also ran a follow-up story. NBC Nightly News (2/13, lead story, 3:45, Williams) reported, "Many have called it a plotline right out of 'Saturday Night Live.' The truth is, it's a serious matter, and there's a lot of information we still don't know about what happened on a private Texas ranch on Saturday when Vice President Dick Cheney accidentally shot a member of his hunting party." NBC (Gregory) added, "Tonight, the White House is on the defensive, trying to explain exactly how the Vice President accidentally shot someone and why Mr. Cheney decided to wait so long before he notified anyone." At "today's often contentious press briefing, the question remained -- why did the Vice President sit on this information?" NBC Nightly News (2/13, story 2, 1:15, Williams) also ran an excerpt of the press briefing and said it "got rough" as "reporters took on White House spokesman Scott McClellan."

The CBS Evening News (2/13, lead story, 2:15, Cowan) reported, "Doctors say 78-year-old Harold Whittington is making a speedy recovery but will likely walk out of the hospital with most of the birdshot the Vice President gave him. … Of course there is nothing criminal here, but it sure is embarrassing." The CBS Evening News (2/13, story 2, 3:05, Axelrod) also reported, "It fell to White House spokesman Scott McClellan to explain and he was talking to a group that wasn't exactly buying." McClellan: "The information that was coming from his team on the ground with him, and they're just providing an initial report, an accident has taken place, and they may not know all the facts at that point, Bill." Axelrod: "Apparently the decisions affecting who knew what when weren't being made at the White House by the President; they were being made on the ground in Texas by the Vice President."

ABC World News Tonight (2/13, story 5, 2:10, Vargas) ran a portion of the White House press briefing, and asked, "Does the public have a right to know when the Vice President is involved in an incident like this?" Stephanopoulos: "I think they do. He's the second-most powerful person in the country. Number two, he was involved in an accidental shooting that put someone in the intensive care unit that was being investigated by local law enforcement. By any definition, that qualifies as news. When there's news involving the President or the Vice President, it should come from the White House and the Vice President's office."

Fox News' Special Report (2/13, Cameron) reported that White House reporters are "outraged that the incident was not disclosed until Sunday." Fox noted that there is "no

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shortage of White House staffers who say the information could have been made public perhaps more efficiently, but it was the Vice President who pulled the trigger and his decision as to how it should be disclosed."

CNN's The Situation Room (2/13, Blitzer) reported McClellan "was pummeled with questions today about how and when the details of the accidental shooting by Vice President Dick Cheney were made public." CNN (Bash) added that "this was a controversial issue from the start, exactly how the information got out and why it took about 24 hours for that to happen." McClellan "got pummeled with those questions today." McClellan "made it clear that he would have handled this differently." McClellan: "I did not know who was involved in that hunting accident. It wasn't until very early Sunday morning that I found out that the Vice President was involved in this accident. And of course, in a position like mine, I was urging that that information be made available as quickly as possible, and the Vice President's office was working to get that information out."

Late-night comics zeroed in on Cheney last night. The Los Angeles Times (2/14, Gold, 958K) reports that on NBC's "The Tonight Show," Jay Leno "devoted most of his monologue to the hunting accident. 'I guess the guy is going to be OK,' Leno said. 'When the ambulance got there, out of force of habit they put Cheney on the stretcher. … Cheney's defense is that he was aiming at a quail when he shot the guy -- which means that Cheney now has the worst aim of anyone in the White House since Bill Clinton." On Comedy Central, "The Daily Show's" Jon Stewart "offered a little historical perspective, noting that Whittington was the first person to be shot by a vice president since Alexander Hamilton. 'Hamilton, of course, shot in a duel with Aaron Burr over issues of honor, integrity and political maneuvering,' Stewart said. 'Whittington? Mistaken for a bird.'"

The Wall Street Journal (2/14, Barnes, 2.11M) reports, "The timing could have been worse, however, for NBC: Due to Olympics coverage, a new episode of 'Saturday Night Live' won't air until March 4." The Journal quotes David Letterman saying last night, "Good news ladies and gentleman, we have finally located weapons of mass destruction. It's Dick Cheney. … We can't get Bin Laden, but we nailed a 78-year-old attorney." USA Today (2/14, Oldenburg, 2.31M) also reports that yesterday, "radio shows were playing Junior Walker & the All-Stars' Shotgun, George Clooney brought it up at the Oscar luncheon in Los Angeles" and "bloggers were all over it, and late-night comics opened with it."

Washington, DC, insiders also had a field day at Cheney's expense. The Washington Post (2/14, C1, Leibovich, 744K) reports the incident "provided a laugh bounty for gallows humorists, particularly those of the anti-Bush persuasion. Have at 'em, kids: 'Bush-Quail '06,' cracked Democratic strategist Jenny Backus. 'The CIA assured Cheney that Harry Whittington was actually a pheasant,' added Democratic speechwriter Jeff Nussbaum. 'The worst part is, he was aiming at the special prosecutor,' contributed John Kerry spokesman David Wade." Democratic staffers on the Hill "could be heard singing a parody of Aerosmith's 'Janie's Got a Gun,' using the words 'Cheney's got a gun.' Or marveling at how 'Republicans really don't like lawyers, do they?' or circulating a quote from Bush, in a 2000 interview with the Houston Chronicle, in which he hailed Cheney as 'somebody who is going to shoot straight with the American people.'"

The AP (2/14, Pickler) reports Cheney "apparently broke the No. 1 rule of hunting: be sure of what you're shooting at." Hunting "safety experts interviewed Monday agreed it would have been a good idea for Whittington to announce himself -- something he apparently didn't do, according to a witness. But they stressed that the shooter is responsible for knowing his surroundings and avoiding hitting other people." Time (2/14, Burger) reports on its website, "The cardinal rule of hunting could not be more simple: Don't shoot the people (or the dogs). If there's anyone in Washington who knows this, one would have thought it would be…Cheney."

Stephen Hunter writes in the Washington Post (2/14, C1, 744K), "Some may say of Cheney: He was really unlucky. I say: He was really lucky. He was lucky to be so superb a wing shot that he carried a shotgun in 28-gauge rather than 12-gauge. That probably saved Harry Whittington's life."

Columnist Eugene Robinson writes in the Washington Post (2/14, A15, 744K), "I told you people Dick Cheney was dangerous. Let's all wish a full and speedy recovery for Harry Whittington, the man Cheney accidentally shot on Saturday while they were out in the Texas boonies hunting quail. As for the trigger-happy vice president, let's hope he takes this unfortunate episode as a hint to pack up his shotgun and go home. Lord knows he's done enough. The man is out of control. Then again, out-of-control is the way this whole administration operates: Ready, fire, aim. Global war on terrorism, global war on poultry, what's the difference? You see something moving, shoot it. … It was radio host Tom Joyner who came up with Cheney's Valentine's Day poem: Roses are red, Violets are blue, Say something I don't like, And I'll shoot you, too."

Texas Agency Report Contradicts White House Account Of Hunting Accident. In its "Washington Whispers" column on its web site, the Wall Street Journal (2/13, 2.11M) reported, "The Texas Parks and Wildlife Department's incident report on Vice President Dick Cheney's accidental shooting of a hunting partner Saturday pins the blame largely on Cheney. In evaluating 'contributing factors,' the game warden checked off the box: 'Victim covered by shooter who was swinging on game.' In its summary, the report says that 78-year-old Harry Whittington 'downed a bird

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and went to retrieve it. While he was out of the hunting line another covey was flushed and Cheney swung on a bird and fired striking Whittington in the face, neck and chest at approximately 30 yards.' … The game warden's report contradicts earlier claims from the White House and Katharine Armstrong, the owner of the Texas ranch where the shooting occurred. Earlier Monday, the White House cited Armstrong's view that Whittington was at fault."

Whittington Will Be Moved Out Of Intensive Care Unit. CNN's The Situation Room (2/13, Lavandera) reported that Whittington's condition "is improving so much so that he will be moved out of the intensive care unit here at this hospital in Corpus Christi and moved into another room…in the regular part of the hospital, if you will. The medical checkups will continue routinely because of his condition. Of course, infection is a concern, but doctors here, as you just heard, are very confident with his situation." The Houston Chronicle (2/14, Pinkerton, 581K) also says Whittington "is recovering rapidly."

Leahy Says He "Got Off Easy" In Encounter With Cheney. Roll Call (2/14, Akers) reports in its "Heard on the Hill" column, "He never thought he'd say it, but Sen. Patrick Leahy (D-Vt.) no longer thinks it's such a big deal that Vice President Cheney told him to go you-know-what himself on the Senate floor last year. Considering what happened to poor Harry Whittington (who remained in stable condition yesterday) this past weekend, Cheney's shot at Leahy could have been a lot worse. 'In retrospect it looks like I got off easy,' Leahy joked, referring to Cheney's accidental shooting of his buddy and campaign contributor."

NYTimes Says Cheney Behaved "Like A Teenager." The New York Times (2/14, 1.19M) editorializes, "Let's see. The vice president of the United States accidentally shot someone while bird-hunting on a Texas ranch. It took the White House nearly 24 hours to share that information with the rest of the nation because Dick Cheney thought it would be better for the ranch's owner to give the story to the local newspaper first. And by the way, it was all the victim's fault. That's their story, and they're sticking with it." The Times adds, "The vice president appears to have behaved like a teenager who thinks that if he keeps quiet about the wreck, no one will notice that the family car is missing its right door. The administration's communications department has proved that its skills at actually communicating are so rusty it can't get a minor police-blotter story straight. And the White House, in trying to cover up the cover-up, has once again demonstrated that it would rather look inept than open."

WPost Says Failure To Disclose Shooting On Saturday "Disturbing." Under the headline "When the Veep Shoots Someone," the Washington Post (2/14, 744K) editorializes, "How is it that the vice president of the United States can shoot and wound someone and the American public doesn't learn of it until 18 hours later -- and then only because the owner of the location where the event occurred decided the next day to tell a local reporter?" The White House "has no satisfactory answer; neither does the vice president's office. … That was no private citizen who pulled the trigger, sending someone to the hospital. That act, though accidental -- and doubtless both agonizing and embarrassing -- was committed by the country's second-highest public official. Neither Mr. Cheney nor the White House gets to pick and choose when to disclose a shooting. Saturday's incident required immediate public disclosure -- a fact so elementary that the failure to act properly is truly disturbing in its implications."

Bush Budget Would Kill Popular Health Projects. The Washington Post (2/14, A3, Connolly, 744K) reports President Bush has "requested billions more to prepare for potential disasters such as a biological attack or an influenza epidemic, but his proposed budget for next year would zero out popular health projects that supporters say target more mundane, but more certain, killers." The budget proposes to "eliminate federal programs that support inner-city Indian health clinics, defibrillators in rural areas, an educational campaign about Alzheimer's disease, centers for traumatic brain injuries, and a nationwide registry for Lou Gehrig's disease. It would cut close to $1 billion in health care grants to states and would kill the entire budget of the Christopher and Dana Reeve Paralysis Resource Center."

Deficit Reduction Bill Eases Rules For Prepaid Tuition Plans. USA Today (2/14, 2.31M) reports a measure "tucked deep in the deficit-reduction bill President Bush signed last week is a Valentine for parents who use 'prepaid tuition' plans to save for college." The change "will make it easier for families who use these plans to qualify for financial aid. But that doesn't mean these plans are a sweet deal for everyone." Such plans "lock in future tuition costs at state colleges and universities by paying a lump sum or making payments. At a time when annual tuition costs are rising at double-digit rates, that's an appealing feature." In the "past, federal aid to a family was reduced, dollar-for-dollar by the amount the family withdrew from a prepaid plan. Under the new law, the formula will treat prepaid plans the same way it treats 529 college savings plans — as the parents' asset. Under the federal aid formula, only 5.64% of parents' assets are considered available for college costs."

Budget Shows Government Will Forgo $7 Billion In Oil, Gas Royalties. The New York Times (2/14, Andrews, 1.19M) reports the Federal Government is "on the verge of one of the biggest giveaways of oil and gas in American history, worth an estimated $7 billion over five years." New projections, "buried in the Interior Department's

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just-published budget plan, anticipate that the government will let companies pump about $65 billion worth of oil and natural gas from federal territory over the next five years without paying any royalties to the government. Based on the administration figures, the government will give up more than $7 billion in payments between now and 2011." The companies are "expected to get the largess, known as royalty relief, even though the administration assumes that oil prices will remain above $50 a barrel throughout that period."

Democrats Split On Strategy To Fix Deficit Reduction Bill Typo. The Hill (2/14, Young) reports House and Senate Democratic leaders "are divided on how to resolve the constitutional issues dogging the budget-reconciliation bill signed by President Bush on Wednesday." House Democrats "are sending signals that they will not accede to the Republican leadership's evident desire to execute a quick fix. Clerical errors led to the House's passing slightly different language than the Senate did." But Senate Minority Leader Harry Reid has "already signed off on the favored Republican strategy of adopting a concurrent resolution emphasizing that the legislation endorsed by the president represents the intent of Congress. The Senate agreed to the resolution Wednesday night under unanimous consent several hours after the president signed the budget bill." But House Minority Leader Nancy Pelosi "is said to be considering an effort to obstruct the GOP leadership's expected effort to get a unanimous-consent agreement through the House this week." House Republicans "have not indicated exactly what they plan to do, but aides have downplayed the significance of the problem."

GAO Report Shows Administration Spent $1.6 Billion On Public Relations. The Washington Post (2/14, A13, Lee, 744K) reports "good press" is worth "about $1.6 billion" to the Bush Administration. That is "how much seven federal departments spent from 2003 through the second quarter of 2005 on 343 contracts with public relations firms, advertising agencies, media organizations and individuals, according to a new Government Accountability Office report." The 154-page report "provides the most comprehensive look to date at the scope of federal spending in an area that generated substantial controversy last year. Congressional Democrats asked the GAO to look into federal public relations contracts last spring at the height of the furor over government-sponsored prepackaged news and journalism-for-sale." The new report "reveals that federal public relations spending goes far beyond 'video news releases.' The contracts covered the waterfront, from a $6.3 million agreement to help the Department of Homeland Security educate Americans about how to respond to terrorist attacks; to a $647,350 contract to assist the Transportation Security Administration in producing video news releases and media tours on the subject of airport security procedures; to a $6,600 contract to train managers at the Bureau of Reclamation in dealing with the media."

Commission To Evaluate No Child Left Behind Education Reforms. USA Today (2/14, Toppo, 2.31M) reports that after "four years of complaints from parents, teachers and administrators about President Bush's No Child Left Behind education reform plan, a bipartisan commission is being created to take a 'hard, independent look' at the law's problems and its promises." The Commission on No Child Left Behind, "to be announced today, will travel the USA, holding public field hearings and roundtables and culminating in Washington, D.C., in September. The commission will send recommendations to Congress before the law's expected renewal in 2007." Supported by the Aspen Institute, "a Washington, D.C., think tank, the panel will be co-chaired by former Georgia governor Roy Barnes and former Health and Human Services Secretary Tommy Thompson."

Some Experts Back Larger Class Sizes, Higher Pay For Teachers. The Washington Post (2/14, A8, Mathews, 744K) reports some experts are asking why "are educators and politicians so bent on reducing class sizes? Wouldn't it be better to let classes get bigger? Then schools could reduce the number of teachers, keep good ones….and pay them more." The idea "seems odd to many. But some scholars and administrators say raising class sizes and teacher pay might improve achievement." Saul Cooperman, "a former New Jersey education commissioner, said in the newspaper Education Week recently that if schools established a class size of 30 to 35 in all grades except third grade and below, they would, for the same money, be able to raise the average teacher salary from $50,000 to more than $75,000."

Conservatives Want Faster Action On Judicial Nominations. The Hill (2/14, Bolton) reports conservatives "on and off Capitol Hill are urging Senate Republican leaders to renew the push to nominate and confirm right-wing jurists to the federal bench just two weeks after Samuel Alito's confirmation to the Supreme Court." Three conservative members of the Judiciary Committee, Sens. Jeff Sessions (R-Ala.), John Cornyn (R-Texas) and Tom Coburn (R-Okla.), and "conservative activists are growing impatient with the pace of judicial nominations." Sessions and Republican activists "say that there is a backlog of vacancies and that the Bush administration needs to act more quickly in sending conservative nominees to the Senate for consideration. In addition, they say, the judiciary panel needs to act on appellate nominees that have languished on the Hill for years." Sessions said, "I think we're in a bit of a

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hold on nominees. I'm concerned that the White House has not submitted nominations for the vacancies and the nominations they've submitted haven't been acted on."

Doctors, Pharmacists Say Medicare Benefit Limits Drug Availability. The New York Times (2/14, Pear, 1.19M) reports doctors and pharmacists "say many drugs theoretically covered by the new Medicare drug benefit are not readily available because of insurers' restrictions and requirements." The benefit is "administered by scores of companies under contract to Medicare. Each plan has its own list of covered drugs, known as a formulary. Drug plans require doctors and patients to obtain 'prior authorization' for certain drugs on their formularies." One plan "may have 25 or 30 forms for prior authorization for different drugs. Most states have at least 40 Medicare drug plans." Doctors say the "diverse requirements are onerous and can delay or deny access to needed medications. But insurers say the requirements save money and promote the proper use of the medications."

Frist Faces Moderates' Opposition On Medicare Growth Curbs. Roll Call (2/14, Stanton) reports that despite "receiving support from Senate Majority Leader Bill Frist (R-Tenn.), President Bush's plan to cut the rate of growth in Medicare spending is likely to face significant opposition in the Senate, particularly from a small group of moderate lawmakers and vulnerable incumbents who are loath to reduce funding for the health care entitlement for older Americans, Senate aides said Monday." In an interview last week, Frist "said he backed Bush's call for reforms to Medicare and vowed to include curbs on spending in this year's budget bill as a way of funding an extension to the president's tax cut package." But his "decision to move forward with curbs on Medicare drew a quick reaction from Democrats." GOP sources said that with Democrats "largely united against reining in Medicare spending, Frist will have to convince Moderate Republicans that cuts in the growth of Medicare's price tag can be achieved without harm to beneficiaries, GOP sources said."

House GOP Faces Tough Legislative Battles As Elections Approach. The Hill (2/14, O'Connor) reports House Republicans are facing a "number of legislative hurdles as they prepare for next November's elections." The parts is "divided over immigration and lobbying reform, both of which could loom large in the midterms if left unaddressed. And GOP leaders in both chambers are searching for an issue around which their members can rally this year." Meanwhile, a "showdown" is likely between "leaders and conservatives who want earmark reform and an overhaul of the budget process and the reluctance of vulnerable members who want to avoid votes that might upset constituents."

Boehner's Rise May Mean End Of "Attack Dog" Style In GOP Leadership. The Hill (2/14, Kaplan) reports House Republicans are wondering whether Majority Leader John Boehner "can skewer Democrats" the way Tom DeLay did when he was in the leadership. At the same time, the conference is "unsure that such an attack dog is necessary at all." House GOP leaders "like Dennis Hastert, Roy Blunt, and Deborah Pryce are seen as unlikely pit bulls, while in the Senate, Bill Frist and Mitch McConnell fall into the same camp as Hastert and Blunt, aides add, and they say Sen. Rick Santorum (Pa.), a hard-knuckled and reliable Republican in a tight reelection race against an anti-abortion Catholic Democrat, has recently softened his image." House GOP Conference Vice Chairman Jack Kingston said, "Part of John Boehner's calling is to be himself, to be smooth and diplomatic but conservative. He has the ability to take a conservative issue and put a warm, handsome face on it. It's a different style."

Days Of All-Southern House GOP Leadership End. Roll Call (2/14, Butler) notes Boehner's rise means the House GOP has "switched from the all-Southern leadership team that brought them to power during the revolution of 1994 to an all-Midwestern one." While the GOP "was born in the Midwest…over the past three decades, the core of the Republican Party has migrated south."

McCain Earmark Bill Gathers Support Even As Obstacles Mount. The Hill (2/14, Allen) reports Sen. John McCain's new earmark reform proposal is "quickly gathering support from unelected critics of pork-barrel spending, but even some of those supporters acknowledge that the measure ignores the lion's share of the federal budget and faces powerful obstacles to enactment." The bill would "establish Senate points of order against spending directives that have not been approved by authorizing committees, an initiative that would result in a broad transfer of power from appropriators to authorizers." Neither McCain nor any of the bill's 10 co-sponsors is a member of the Appropriations Committee. Majority Leader Bill Frist said the McCain bill "will at least begin that debate" on earmarks, but added that earmark reform should "focus on disclosure." Minority Leader Harry Reid said he "supports increased transparency but argued that efforts such as McCain's should not be limited to earmarks in appropriations bills."

Washington Lobbyists Spent $1.16 Billion In First Half Of 2005. The Wall Street Journal (2/14, Mullins, 2.11M) reports corporations and special interests "spent a total of $1.16 billion to lobby Washington in the first

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half of 2005, setting a record." The nonpartisan tracker PoliticalMoneyLine said spending on lobbying "rose $85 million, or 8%, between January and June 30, 2005, compared with the previous six-month period. Corporations, trade associations, lawyers and unions spent about $6.5 million a day to lobby Congress and the Bush administration during the latest period." AARP, the largest lobby, "spent $27.8 million on lobbying" during the period "mainly to defeat the Social Security plan. That was a $23.8 million increase in lobbying expenditures for the group." Second-ranked General Electric "spent half as much to lobby on issues such as asbestos-litigation overhaul and tax policy," while the National Committee to Preserve Social Security and Medicare spent $6.3 million. Other big spenders "include the local telephone industry's trade group, the United States Telecom Association, ($11.4 million); the American Medical Association ($9.5 million); Freddie Mac ($7.3 million); Altria Group Inc. ($6.7 million); and the American Hospital Association ($6.3 million)."

Lobbying Likely To Continue To Thrive. The Washington Post (2/14, A1, Birnbaum, 744K) writes that the "return on investment in lobbying is often so substantial that experts and insiders agree that Washington's influence industry will continue to thrive no matter how lawmakers decide to rein it in." While Congress "is crafting restrictions on lobbyists this year," House Majority Leader John Boehner has said he prefers "more disclosure" without travel and meal restrictions, and "legislation under discussion would not eliminate earmarks entirely. No one on Capitol Hill is suggesting a ban on lobbying, a change that would run counter to the First Amendment to the Constitution. As a result, 'lobbying will continue to grow,' said Stephen J. Wayne, a political scientist at Georgetown University."

Expert Offers Mixed Assessment Of Pentagon Quadrennial Defense Review. In a Wall Street Journal (2/14, 2.11M) op-ed, Center for Strategic and Budgetary Assessments Executive Director Andrew Krepinevich examines the Pentagon's Quadrennial Defense Review, writing that "how well it lived up to expectations can be determined by the answers to three questions. Did the QDR identify the major existing and emerging challenges to America's security? The report gets high marks here. … Are defense resources adequate to address these new challenges? They are not. … How well does the proposed defense program address the existing and emerging threats to national security? Given the magnitude of the changes over the last four years, and with the prospect of more to come, one would expect major changes in our military forces and equipment." But the "QDR leaves U.S. forces equipped primarily for traditional warfare. … Having provided an accurate diagnosis of the new challenges confronting the nation, and made a modest downpayment on addressing them, the Pentagon's leadership has not made the decisions needed to reorient the military. But these decisions must be made, for as Francis Bacon noted: 'He who will not apply new remedies must expect new evils.'"

Weather Service To Offer Early Retirements To Some Employees. The Washington Post (2/14, B2, Barr, 744K) reports in its "Federal Diary" column, "In an effort to trim payroll costs, the National Weather Service plans to offer early retirement to about 1,000 employees, including staff members at the National Hurricane Center in Miami. Greg Romano , a Weather Service spokesman, said the agency predicts that only 50 employees will take the offer, based on experience. …The plan to offer early retirements awaits approval by the Office of Personnel Management, Romano said. He emphasized that the agency could refuse early-retirement requests from employees who hold critical jobs, such as forecasters and hurricane experts." The Post adds, "Sen. Bill Nelson (D-Fla.) -- a member of the Senate Commerce, Science and Transportation Committee, which oversees the Weather Service -- called the early-out plan 'wrongheaded budget thinking.'"

Mineta Criticizes Singer's Failure To Use Car Seat For Baby. The Washington Post (2/14, C3, Argetsinger, Roberts, 744K) in its "The Reliable Source" column that Transportation Secretary Norman Mineta "weighed in on Britney Spears's now-infamous drive through Malibu last week with her baby on her lap: It was a very bad thing, he says. 'Her actions still send the wrong message to millions of her fans,' Mineta said at a Philadelphia event yesterday marking Child Passenger Safety Week."

Bush Approval Rating Falls To 39% In Gallup Poll. CNN's The Situation Room (2/13, Blitzer) reported, "Our new CNN/USA Today/Gallup poll shows the President job approval rating back down to 39 percent, the first time he's been under 40 percent since November of last year. Mr. Bush's rating had held at about 43 percent throughout the month of January."

OTHER NEWS:

White House Predicts Continued Economic Growth. USA Today (2/14, 2.31M) reports, "President Bush credited innovation and an efficient US workforce for the nation's good economic health, and he predicted another year of solid growth. 'The United States economy continues to demonstrate remarkable resilience, flexibility and growth,' the president wrote in his annual economic report to

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Congress." The economy "grew by 3.1% last year, as measured by gross domestic product from the fourth quarter of 2004 to the fourth quarter of 2005. The report projects 3.4% growth this year and 3.3% growth in 2007."

The Washington Post (2/14, D1, Henderson, 744K) reports White House economists "said yesterday that the US economy should continue to grow at a healthy pace in the years ahead, even as they warned that the housing market is likely to cool and energy prices may spike in response to supply disruptions." Congressional Democrats "countered that the president's economic report failed to justify his proposals." White House economists, "like many of their counterparts on Wall Street, also expect unemployment to remain low this year, around 5 percent, and for inflation to stay 'moderate and stable,' the report said." The New York Times (2/14, 1.19M) runs a similar, brief story.

Meanwhile, the Wall Street Journal (2/14, Ip, 2.11M) titled its report "Report Plays Down Economic Woes," and says, "The US's rock-bottom personal-saving rate and record trade deficit aren't major worries, the White House said in its latest economic review. Striking a more optimistic tone than many economists, the Economic Report of the President said the decline in the personal-saving rate last year to post-Depression lows 'may not be cause for alarm.'" It "blamed much of the trade deficit on other countries that save too much, rather than the US saving too little."

Stocks Down. USA Today/AP (2/14, Wang) reports, "Stocks sagged Monday as a lack of economic news returned investors' focus to inflation and interest rates ahead of comments from new Federal Reserve Chairman Ben Bernanke later this week." The Dow Jones industrial average declined 26.73 points, or 0.2%, to 10,892.32. The Standard & Poor's 500 index lost 4.13 points, or 0.3%, to 1262.86. The Nasdaq composite "had the worst day, dropping 22.07 points, or 1.0%, to 2239.81." The Wall Street Journal (2/14, Patterson, 2.11M) also reports the stock numbers.

CSX To Pay $2 Million To Settle Claims From 2001 Baltimore Tunnel Fire. The Baltimore Sun (2/14, Dresser) reports, "Four and a half years after a derailment and fire in the Howard Street Tunnel created havoc downtown, CSX Transportation Inc. has agreed to pay Baltimore $2 million to settle the city's lawsuit against the railroad company." The Sun continues, "Mayor Martin O'Malley and CSX Corp.'s chairman and chief executive officer, Michael J. Ward, said the railroad will defray the city's costs from the fire and the cleanup without either side admitting fault in the July 2001 accident. … 'Rather than continuing to litigate, both parties have agreed to dedicate shared resources and energy to further enhance safety and security in the city,' O'Malley and Ward said in a state ment Monday announcing the settlement." The Sun adds, "City Solicitor Ralph S. Tyler said the deal achieves the purposes of Baltimore's $10 million federal lawsuit against the Jacksonville, Fla.- based CSX Transportation, the rail unit of CSX Corp. … 'By this settlement, the city has recovered substantially all the expenses incurred as a result of the derailment and fire,' Tyler said. … He noted that CSX had previously agreed to pay more than $300,000 in overtime for city workers. The agreement does not include payment of legal expenses, but Tyler said the city handled the case using in-house lawyers rather than retaining outside counsel."

George Lucas To Appear With House Democrats Today. The Hill (2/14, Dufour) reports that "four days after House Republicans lampooned their rivals with a 'Star Wars'-themed film," director George Lucas "will make a rare Hill appearance today" alongside House Minority Leader Nancy Pelosi and other House Democrats. At last week's House GOP retreat, "a short video, produced by the National Republican Congressional Committee, depicted GOPers as the virtuous rebels, being pursued by 'Darth Nancy' and her imperial henchmen. … Lucas's appearance proves that 'the Force is with House Democrats' this year, Pelosi spokeswoman Jennifer Crider said before adding that 'Democrats' might be more appropriate because 'our Senate colleagues are doing very well, too.' Lucas, who doesn't hide his Democratic leanings, has been critical of Republican administrations going back to Nixon."

Lobbyist Launches Anti-Union Media Campaign. The New York Times (2/14, Greenhouse, 1.19M) reports Richard Berman, a "longtime lobbyist for the restaurant and beverage industry," has created the "Center for Union Facts," offering a "highly visible attack against organized labor" just as unions "are trying to pick themselves up after suffering a schism and years of decline." His group "ran full-page advertisements in national newspapers yesterday and started a Web site, UnionFacts.com, asserting that many unions are corrupt and have hurt airlines, steel makers and automakers." The Washington Post (2/14, D3, Joyce, 744K) adds that Berman "is also executive director of the Center for Consumer Freedom, a decade-old group founded with tobacco company and restaurant money to fight smoking curbs in restaurants. He is also founder of the American Beverage Institute, which fights restrictions on alcohol use, and the Employment Policies Institute Foundation, which has argued against raising the minimum wage."

Professor Says Angry Political Rhetoric Infecting General Population. In a Wall Street Journal (2/14, 2.11M) op-ed, Arthur Brooks of Syracuse University writes, "Overheated political rhetoric has become

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so ordinary that most of us don't even take it seriously. But we should. When one party's chairman calls the other party 'criminal' (as one actually did recently, and the other might before this page goes to press), he is hoping to pull people to the fringe where they will be reliable voters. There is some evidence that this tactic is working: The percentage of people willing to say they are 'extremely liberal' or 'extremely conservative' is higher than it has been in over 30 years. And the data tell us that the people with these strong views often display a disturbing lack of compassion and ethics in their personal relations. As such, angry politics may be spilling over into our broader culture. … It may or may not be that extreme politics is by itself what makes a person angry and uncompassionate; but it certainly cannot be improving the situation."

US, Israel Discuss Ways To Oust Hamas. The New York Times (2/14, Erlanger, 1.19M) reports, "The United States and Israel are discussing ways to destabilize the Palestinian government so that newly elected Hamas officials will fail and elections will be called again, according to Israeli officials and Western diplomats. The intention is to starve the Palestinian Authority of money and international connections to the point where, some months from now, its president, Mahmoud Abbas, is compelled to call a new election. The hope is that Palestinians will be so unhappy with life under Hamas that they will return to office a reformed and chastened Fatah movement." The Times adds, "The officials and diplomats, who said this approach was being discussed at the highest levels of the State Department and the Israeli government, spoke on condition of anonymity because they are not authorized to speak publicly on the issue. They say Hamas will be given a choice: recognize Israel's right to exist, forswear violence and accept previous Palestinian-Israeli agreements -- as called for by the United Nations and the West -- or face isolation and collapse."

Cohen Blasts Putin Plan To Meet With Hamas Leaders. Richard Cohen writes in the Washington Post (2/14, A15, 744K), "Russian President Vladimir Putin said he was considering inviting the leaders of Hamas to Moscow for talks, and almost immediately, and predictably, the French pronounced this a wonderful idea." Putin would do so "without Hamas's renouncing its intention to obliterate Israel. Russia and, in a way, France would overlook this salty language because, as we are so often told, they are realists and we Americans -- chuckle, chuckle -- are dreamers. In the real world, you have to talk to your enemies." When it comes to Hamas, "Putin is willing to embrace it all -- political wing, terrorist wing: It makes no difference to him."

Bush, Annan Say Larger Peacekeeping Force Is Needed In Sudan. The Washington Post (2/14, A12, Fletcher, 744K) reports, "President Bush and U.N. Secretary General Kofi Annan agreed on the need for a bigger, more mobile peacekeeping force in Sudan's troubled Darfur region during a White House meeting yesterday, but Annan made no specific requests for U.S. military help. Speaking to reporters after the Oval Office session, Annan said it is premature to ask for more than a general commitment from the United States until the United Nations determines what it needs for the planned peacekeeping force in Darfur." Bush, "speaking to reporters after the Oval Office meeting, pointed out that he recently met with Rebecca Garang, the widow of John Garang, the vice president of Sudan. Garang was killed in a helicopter crash last summer, not long after a peace accord marked the end to two decades of civil war in southern Sudan. 'She and I had a long discussion not only about the Darfur region, but about implementing' the fragile peace accords, Bush said."

The New York Times (2/14, Sanger, 1.19M) reports that Annan "made clear that he believed the United States would have to play a significant role in deploying a new kind of peacekeeping force in the Darfur region of Sudan. … 'We did agree that we need a much more effective force on the ground' to replace African Union troops now in Darfur, Mr. Annan said after leaving the White House. He described the proposed force as 'well-trained, well-equipped troops from Western countries, from third world countries' who have participated in other peacekeeping operations." The Times adds, "The reality, administration officials said, is that the troops would not be likely to arrive in the region for another year. But the import of the Monday meeting, said one senior official, is that 'the president signed on to the concept and understood that we will need Western assets and the U.S. would have to be part of it.'"

Prime Minister Says Denmark Is Being Portrayed Unfairly. The AP (2/14, Ritter) reports, "Denmark's prime minister complained Monday that his nation had been unfairly portrayed as intolerant in the international furor over the Prophet Muhammad cartoons, and his foreign minister said a government apology would be pointless. After meeting with a newly formed network of moderate Muslims, Prime Minister Anders Fogh Rasmussen called for peaceful dialogue to defuse Denmark's biggest international crisis since World War II." Danish Foreign Minister Per Stig Moeller "told The Associated Press the government had no reason to apologize for the drawings first published in one of Denmark's largest newspapers."

USA Today (2/14, Stinson, Hampson, 2.31M) reports, "The cartoons' publication was not merely an academic exercise in freedom of speech, but something that reflects underlying tensions racking Europe. Those include Muslim immigration and assimilation, and fear of terrorism -- especially after the bombings in Madrid in 2004 and London

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last year." USA adds, "Islamic reaction to the cartoons is not entirely a spontaneous cry from the heart, but one manipulated by various Muslim political and religious leaders to advance their agendas by targeting Israel, democracy and rival strains of Islam."

Annan Says Violent Protests "Unacceptable." UN Secretary General Kofi Annan was asked on CNN's The Situation Room (2/13) about the recent protests and violence over political cartoons depicting Mohammad. Annan said "First of all, let me say that the violence we have seen is unacceptable. It is a wrong reaction to the offense and the insult that the Muslims -- the Muslim world feels about the cartoon. I have said, very clearly, that it was insensitive to publish those cartoons. I am for freedom of expression. I am for freedom of press. But that right has to be exercised with some sensitivity, some respect, for religion of others. And it entails responsibility and judgment. And, so, the fact that -- that they -- they feel offended by that should not allow any country or any group of people to attack innocent people and to destroy foreign legations. And, so, I would urge all governments and all people with influence, secular and religious, to ensure that we calm the situation and do not allow it to get out of hand."

Iranian Paper's Holocaust Cartoon Contest Has An Entry. The AP (2/14, Karimi) reports, "An Iranian newspaper's contest for cartoons about the Holocaust, launched Monday in response to a series of caricatures about the Prophet Mohammed, has already drawn at least one entry, the paper said. Hamshahri, one of Iran's top five newspapers, said its contest was a test of the Western world's readiness to print cartoons about the Nazi slaughter of 6 million Jews in World War II. It called for cartoons under the title: 'What is the Limit of Western Freedom of Expression?'" The AP adds, "The first entry in the Iranian contest depicts a man smoking a cigarette and wearing a blue and white striped prison uniform, with a tall wall and guard tower in the background. The man, with a mustache and several days growth of beard, is wearing a white keffiyeh and is holding his right hand over his forehead and eyes. On his chest is a red Muslim crescent with a letter 'P.' Below that is the number 7256, the significance of which was not immediately clear, although Israel is said to be holding about 8,000 Palestinian prisoners."

Dutch Openly Discuss Implications Of Muslim Immigration. The New York Times (2/14, 1.19M) reprints and International Herald Tribune story which reports, "Post-politically correct Europe starts here. It loops north to Denmark. These days, it branches east, although less distinctly, to Germany. But in the Netherlands the words are free, and inhibitions about describing and dealing with the problems caused by immigration, particularly from Islamic countries, are largely gone." The Times adds, "For a decade, anyone expressing concern about projections that Amsterdam would have a Muslim majority by 2020 (about 65 percent of its young people now have Islamic backgrounds) risked disgrace as a closet fascist. Now the Dutch discuss the implications of similar population projections and similar time frames for cities like Rotterdam and The Hague without cramped circumlocution. In comparison, direct official- and politician-speak in places like Britain, France and Spain shies from the idea that failed national policies accommodating (or avoiding) Muslim integration have been factors in the most confidence-shaking European events of the new century."

Young Macedonian Muslims Embrace Conservative Interpretation Of Islam. The Christian Science Monitor (2/14, Deliso, 61K) reports that for many Muslims in Macedonia, "the Ottoman Empire's Islamic legacy still endures. However, some say Arab rivals are seeking to undermine it." The tensions "are being felt throughout Macedonia's growing Muslim community ahead of its elections later this month for a new national leader, or reis. Tapping into young Muslims' disdain for the older generation, which many see as corrupt, bureaucratic, and uneducated, fundamentalists -- pejoratively referred to as Wahhabis -- are turning some in the younger generation toward more conservative interpretations of Islam." Since Macedonia's independence in 1991, "the fundamentalists have established a small but persistent presence. With their long black beards and wives veiled head-to-toe in black, they are conspicuous in this fairly liberal society. Their secrecy and self-isolation have also raised suspicions of outside funding."

Film Highlights Differing Perceptions Of US In Turkey. The New York Times (2/14, Arsu, 1.19M) reports that the film "Valley of the Wolves — Iraq," which "opened last week in movie theaters in Turkey, Austria and Germany, is a Rambo-like action story involving Turkish gunmen who seek revenge against a tyrannical occupying army. In this version, however, at $10 million the most expensive movie ever made in Turkey, the enemy is no oppressive third-world dictatorship. The commander's name is Sam — as in uncle — and the opposing forces are the Americans, who are being punished for offenses against Turkish as well as Iraqi pride and honor." The film "has highlighted a growing discrepancy in how America is seen in Turkey. Officially, the two governments have been enjoying much improved relations after a low point in 2003, when Turkey refused to allow American troops to operate from its territory to invade Iraq. On the street, however, public opinion of America has been steadily declining since the invasion and the disclosures about the abuse at Abu Ghraib and the 'rendition' and torture of suspected members of Al Qaeda in secret prisons."

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Mubarak Calls For Two-Year Postponement Of Egyptian Elections. The New York Times (2/14, Slackman, 1.19M) reports that Egyptian President Hosni Mubarak "has moved to postpone for two years local elections that were scheduled for April, turning away from a promise made during his recent presidential race to promote democratic practices, Egyptian analysts and political leaders said Monday. Thousands of local council positions were to be on the ballot." The move "was widely seen as an effort to preserve the governing National Democratic Party's monopoly on power at a time when its grip has begun to falter. It was also seen as an effort to block the banned Muslim Brotherhood, which made unprecedented gains in recent parliamentary elections, from promoting an independent candidate for president in 2011."

EU Threatens Trade Sanctions Against US. The Financial Times (2/14, Beattie, Minder) reports, "The European Union is threatening to reimpose trade sanctions on the US unless Congress eliminates the vestiges of a tax break for US exporters that was ruled illegal on Monday by the World Trade Organisation. In the latest twist in an eight-year saga, the WTO's appellate body said Washington's attempts to eliminate the tax break were insufficient. … The Foreign Sales Corporation (FSC) scheme and its successor, the 'extra-territorial income' (ETI) provision, refunded taxes paid by US corporations on earnings from exports. … Boeing is one of the main beneficiaries of the legislation. In a separate WTO case, the EU is targeting state subsidies to Boeing while the US is bidding to have subsidies for Airbus, Boeing's European rival, ruled illegal."

The New York Times (2/14, Meller, 1.19M) reports, "The ruling is the second in four years involving tax breaks that the United States granted to 6,000 exporters, including Boeing, Microsoft and General Electric, initially under the Foreign Sales Corporation program and subsequently under the American Jobs Creation Act."

The Wall Street Journal (2/14, Miller, 2.11M) reports, "Yesterday's decision affects tax breaks on export income, provided by the American Jobs Creation Act, which benefit corporations such as Caterpillar Inc., Microsoft Corp. and Boeing Co. The WTO panel said the 2004 measure, which was drafted in part to address earlier adverse WTO rulings, had failed to bring U.S. tax rules into line with trade agreements. If the U.S. fails to change the rules within 90 days, the EU is entitled to resume up to $4 billion per year in penalties against U.S. goods that it suspended a year ago. If sanctions resume, the EU is expected to apply 14% tariff rates on a group of goods, rising to 17% if the U.S. fails to respond. Based on current trade flows, U.S. companies would pay about $600 million per year in penalties."

CQ (2/13, Crittenden) reported, "Any changes to the provisions affected by the WTO ruling would have to be made by Congress, but [Sen. Charles] Grassley suggested that is unlikely to happen. 'I doubt Congress will revisit this legislation,' Grassley said. Rep. Benjamin L. Cardin, a Democrat from Maryland, on Monday urged lawmakers to address the issue, saying he would introduce legislation aimed at ensuring fairness in international tax laws."

Banks To Sever Ties With North Korea. The Wall Street Journal (2/14, Fairclough, 2.11M) reports, "The threat of U.S. sanctions against a Macau bank that allegedly helped North Korea launder money and pass forged dollars has persuaded other lenders to sever ties with the communist country, dealing a significant blow to its financial system and economy, diplomats and bankers say. … Cut off by Banco Delta Asia, North Korean banks and traders are having difficulty finding other lenders to conduct their overseas business, according to bankers and businessmen. That is pinching consumer-goods imports, an important part of the North Korean government's move to allow freer markets."

Senior Tories Will Seek To Mend Fences With GOP On US Trip. The Financial Times (2/14, Hall) reports, "Senior members of the Conservative's shadow cabinet travel to Washington this week seeking to mend fences with the White House in what they bill as 'government to future government' meetings with the Bush administration. The trip marks a concerted effort to close a rift with senior Republicans that opened under Michael Howard, David Cameron's predecessor as leader, over his criticism of Tony Blair's handling of the war in Iraq." The Times adds, "Between them, William Hague, shadow foreign secretary; George Osborne, shadow chancellor; and Liam Fox, shadow defence secretary, are expected to hold talks with Condoleezza Rice, US secretary of state; John Snow, Treasury secretary; Ben Bernanke, the new chairman of the Federal Reserve; and Karl Rove, President George W. Bush's chief political adviser."

VOA To Concentrate Resources On Middle East. The Washington Post (2/14, A13, Lee, 744K) reports, "The Voice of America plans to silence many of its radio broadcasts in English and several other languages as the agency concentrates more resources on the Middle East and countries central to the U.S. effort against terrorism. The Broadcasting Board of Governors, which oversees the government-owned broadcasting service, announced the moves last week, citing tight budgets and the need to focus on the most pressing national security threats. Its plans arose despite proposed budget increases of 13 percent for the U.S.-sponsored Middle East Broadcasting Networks and 5.3 percent for the VOA."

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Haitian Protests Over Vote Counting Process Turn Violent. The CBS Evening News (2/13, story 8, 0:30, Schieffer) reported, "Violence erupted today in Haiti during protests against the vote counting process in last week's presidential election. Protestors invaded a hotel used by election officials and observers. Helicopters evacuated some of them, but South Africa's Bishop Desmond Tutu stayed and appealed for calm. One protestor was killed but UN troops denied they shot him."

The Financial Times (2/14, Editor) reports the "partial results released last week suggested that Rene Preval would comfortably exceed the 50 per cent plus one vote needed for a first round victory. But over the past three days Mr Preval's vote has fallen as votes from more remote and more conservative areas have been counted." Preval's followers "have alleged fraud, even though their candidate – with 48.7 per cent of the vote compared with 11.8 per cent for his nearest rival – would seem to be well placed to win a second round run-off scheduled to take place next month."

The New York Times (2/14, Thompson, 1.19M) reports Preval's campaign advisers "raised questions about an estimated 8 percent of the tabulation sheets that electoral authorities reported as missing or destroyed, but it was unclear whether Mr. Préval would challenge the results." Carolyn Cooley, "a spokeswoman for the United States Embassy, said in an interview that foreign diplomats, including the American ambassador, Tim Carney, had started talks with Mr. Préval. Some said the talks were aimed at seeking a settlement that would keep this poor, broken country from descending back into anarchy."

The Washington Post (2/14, A1, Roig-Franzia, 744K) reports, "Hoping to quell the unrest, Preval -- who is far ahead of all rivals with 90 percent of votes counted -- flew to the capital late Monday on a U.N. helicopter from his home town in a remote mountain village. Preval had urged calm in recent days, but he had also stoked emotions among followers by accusing Haiti's electoral commission of lowering his vote total to force him into a runoff and by mockingly singing, 'They're stealing our votes,' on his porch."

The Christian Science Monitor (2/14, Harman, 61K) reports that even "with the vote almost certainly going to another round, Préval seems most likely to become Haiti's next leader. With 90 percent of the votes counted at press time, Leslie Manigat was coming in a distant second with only 11.8 percent. Haitians now are looking ahead to how Préval will try to bridge an entrenched rich-poor gap and bring security to this troubled nation."

The Washington Times/AP (2/14) reports that in "the middle-class Tabarre neighborhood, Associated Press journalists saw the body of a man in a Preval T-shirt. Dozens of witnesses said Jordanian U.N. peacekeepers in a jeep had opened fire, killing two persons and wounding four. The body of the second reported victim was not seen."

House Panel Examines Web Companies' Role In Chinese Censorship. The Christian Science Monitor (2/14, MacDonald, 61K) reports that on Wednesday, a House committee "will look into high-profile cases where Microsoft, Google, and Yahoo worked with China to restrict access to material or reveal the identity of users with dissident postings. Cisco is also implicated. But lawmakers eager to end such cooperation may find it hard to do so, at least in Yahoo's case." An October deal "may insulate the Internet giant. Because it gave up a majority stake of its China service to a Chinese company, Yahoo argues that decisions about cooperating with Chinese officials lie with that company, which has obligations to obey Beijing, not Washington." That move "has human rights activists fuming, especially after last week, when Paris-based watchdog group Reporters Without Borders (RWB) charged Yahoo with helping authorities in 2003 to capture Li Zhi, an anticorruption reformer now serving an eight-year prison term." Some in Congress "are fuming about the practice. 'It's like turning Anne Frank over to the Nazis,' says Rep. Christopher Smith (R) of New Jersey, chairman of the House Subcommittee on Africa, Global Human Rights and International Operations, one of two subcommittees jointly holding Wednesday's hearings."

Growing Chinese Trade Deficit Could Increase Political Criticism. The Wall Street Journal (2/14, Hiebert, 2.11M) reports China's exports to the US "roared ahead in January, potentially giving fresh ammunition to critics of China's trade policies amid continued testy trade relations between" the two countries. Chinese exports "surged 28% last month from a year earlier to $64.99 billion, China's Ministry of Commerce said. Imports jumped 25% to $55.5 billion during the same period, the ministry said. Economists warned that the January figures could be distorted because of the weeklong Lunar New Year holiday, which began at the end of last month, as Chinese companies scrambled to export more in a shorter period." Still, the January export data "could further stoke criticism in the U.S. and among China's other major trading partners. The U.S. reported Friday that its trade deficit with China surged 25% to $201.63 billion in 2005 from the previous year. This prompted new calls from members of Congress and U.S. manufacturing associations for the Bush administration to press China to allow its currency to appreciate further."

China Seeks To Increase Use Of Alternative Energy. The Wall Street Journal (2/14, Oster, 2.11M) reports China, the "world's second-biggest consumer of oil, aims to cut its oil and coal dependency and increase its use

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of alternative-energy sources such as wind, solar and nuclear power over the next five years." China "unveiled its energy plans yesterday as part of its proposed economic-development plan for 2006-2010." But industry analysts "said the goal could be tough to achieve. Chinese consumers are buying more and more cars, and China's economy, which is expected to grow nearly 9% this year, is much less energy efficient than the economies of more-developed countries." China's "new energy plan reflects Beijing's concern about the rising cost of energy and the country's growing dependence on imported oil."

Putin Said To Be Ruling According To KGB Instincts. In his Wall Street Journal column (2/14), George Melloan says Russian President Vladimir Putin's "baser instincts have been on display in recent weeks, perhaps because he is buoyed by the high prices for Russia's main exports, oil and gas. On a visit to Spain's socialist Prime Minister Jose Luis Rodriguez Zapatero Thursday he said the Hamas terrorists who won the recent Palestinian election will be welcome in Moscow. So much for the efforts of his U.S. and European 'road map' partners to keep Hamas at arm's length until it promises peaceful coexistence with Israel." Maybe "energy riches have gone to Mr. Putin's head. But he also seems to have been badly shaken by the Orange Revolution in Ukraine of just over a year ago. His response has been to further crack down on free expression in Russia and use strong-arm tactics against former members of the Russian empire." In Soviet times, "when the empire was threatened the Russians sent tanks, as to Hungary in 1956, Czechoslovakia in 1968 and the borders of Poland in 1981. Today they use other methods, such as cutting off gas supplies to Ukraine in the dead of winter and -- so Georgian President Mikhail Saakashvili believes -- arranging the sabotage of energy infrastructure serving his tiny state." Russia, "of course, denies any political pressure," but it is "hard to live down a KGB past."

OECD Report Says Europe In Economic Decline. In a column in the Washington Post (2/14, A15, 744K), Fareed Zakaria says, "Cartoons and riots made the headlines in Europe last week, but a far less fiery event, the publication of an academic study, may shed greater light on the future of the continent." The Organization for Economic Cooperation and Development (OECD), "headquartered in Paris, released a report, 'Going for Growth,' that details economic prospects in the industrial world. It is 160 pages long and written in bland, cautious, scholarly prose. But the conclusion is clear: Europe is in deep trouble. These days we all talk about the rise of Asia and the challenge to America, but it may well turn out that the most consequential trend of the next decade will be the economic decline of Europe." If "present trends continue, the chief economist at the OECD argues, in 20 years the average U.S. citizen will be twice as rich as the average Frenchman or German." The "decline of Europe means a world with a greater diffusion of power and a lessened ability to create international norms and rules of the road. It also means that America's superpower status will linger."

Castro Blamed For Detention Of Cuban Dentists In Bahamas. The Wall Street Journal (2/14, 2.11M) says in an editorial that Fidel Castro's "depredations inside Cuba are by now well known. But less widely appreciated is how Fidel sometimes manages to imprison Cubans in other domiciles even once they've escaped his government's clutches." A "tragic example is the case of two Cuban dentists who have been held in squalid conditions at a detention center in Nassau, Bahamas for almost 10 months. The two have immigration visas to enter the U.S. and join their spouses and children who live here legally. But the one thing holding up their release for the past 10 months has been, you guessed it, El Maximo Lider."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Critics Of Jails Voice Alarm."
"Foe Of Endangered Species Act On Defensive Over Abramoff."
"1 Killing, Many Stories."
"South Korean Cloning Scandal Takes Toll On Whistle-Blowers."
"Cheney Lacked $7 Hunting Credential."
"Munitz Promise Angered Board."
"Japanese Subcompacts, With Room For Profit."

USA Today:
"U.S. Role In Iraq Security Shifting."
"Lack Of Public Defenders May Force New Orleans To Free Accused Felons."
"Cartoon Crisis Frames Europe's Conflict Within."

New York Times:
"U.S. And Israelis Are Said To Talk Of Hamas Ouster."
"U.S. Royalty Plan To Give Windfall To Oil Companies."
"No End To Questions In Cheney Hunting Accident."
"Egypt Pushes 2-Year Delay In Local Vote."
"As Monsters Go, This Storm Had A Lighter Tread."
"U.S. Snowboarders Rule Again At Winter Games."

Washington Post:
"Disaster Response Changes Promised."

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"Computer Games Play Role In Combat Training."
"White House Deferred To Cheney On Shooting."
"In Major Shift, Va. Senate Backs Smoking Ban For Restaurants."
"Haitians Angry Over Election Take To Streets."
"Clients' Rich Rewards Keep K Street Lobbyists Thriving."

Washington Times:
"FEMA Wasted Millions In Katrina Aid."
"Annan Calls For U.S. Calm On Iran."
"Chaos Grips Haiti Capital."
"Women-In-Combat Review Will Not Make Deadline."
"Surprise Hinted At In Diana Inquiry."
"With All My Love, Mr. President."
"Army Silences Chaplain After Prayer Criticism."

Detroit Free Press:
"GM To Pump Millions Into State."
"Cheney Broke A Key Hunting Rule."
"Wait Times And Fees Likely To Climb."
"Too Few Teach Math, Science."

Atlanta Journal-Constitution:
"Love And Baseball."
"Fee on Illegals' Funds Sought."
"Critics Say Perdue Education Budget Hurts Old, Disabled."
"White House Goes On Defensive After Hunting Accident."
"First Lady Of Southern Cooking Dies."

Dallas Morning News:
"The Education Of Margaret Spellings."
"Oil, Gas Firms To Get $7 Billion Break."
"Cheney Had No Stamp To Hunt Quail."
"Illegal Labor Could Cost Firms In Court."

Story Lineup From Last Night's Network News:
ABC: House GOP-Katrina Report; Katrina Victims-Hotels; Hurricane Scams; Cheney Hunting Accident; Cheney Accident-Media; Afghanistan-US KIAs; Northeast Snowstorm; Air Marshals-Drug Smuggling; Hormone Therapy; Olympics; Kwan Retires.
CBS: Cheney Hunting Accident; Cheney Accident-White House; Hurricane Katrina-Chertoff; Afghanistan-American KIAs; Saddam Hussein's Trial; US KIA; Northeast Snowstorm; Haiti-Election Protests; Spain-Terrorism Conference; New Mexico-Anti-Terrorism Training; Northern Slave Cemeteries.
NBC: Cheney Accident-White House; Cheney Accident-Media; Hurricane Katrina-Chertoff; Northeast Snowstorm; Olympic Games-Injuries; Olympic Games-Results; Figure Skating-Rules Change; Guantanamo-UN Report; Olympics-Pronunciation Debate.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Hurricane Katrina Response; Hurricane Evacuees-Hotel Stays; Cheney-Hunting Accident; Northeast Snowstorm; Wall Street.
NPR: Iran-Nuclear Program; ABA-Domestic Surveillance; UK-National ID Cards; Hurricane Response; Northeast Snowstorm; Winter Olympics.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Participates in photo opportunity and makes remarks with NCAA Football Champion Texas Longhorns, South Lawn, open press; meets with President's Council on Service and Civic Participation, Oval Office, stills at top; Attends Valentine's Day Social Dinner with Mrs. Bush, East Room, closed press; attends entertainment with Mrs. Bush, East Room, pool coverage.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: 9:30 a.m. ARMED SERVICES _ Full Committee. Hearing on the FY07 defense authorization. Army Secretary Francis Harvey, Army Chief of Staff Gen. Peter Schoomaker. Location: Room 106, Dirksen.

10 a.m. BANKING, HOUSING AND URBAN AFFAIRS _ Full Committee. Confirmation hearing on pending nominations. Location: Room 538, Dirksen.

10 a.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Full Committee. Hearing on state and local issues and municipal communications networks. Robert Sahr, Commissioner, South Dakota Public Utilities Commission; Diane Munns, Commissioner, Iowa Utilities Board; President, National Association of Regulatory Utility Commissioners; John Perkins, President, National Association of State Utility Consumer Advocates; Michael F. Altschul, Senior Vice President and General Counsel, CTIA-The Wireless Association; Douglas A. Boone, Chief Executive Officer, Premier Communications; Donald Berryman, President of Municipal Networks, EarthLink, Inc.; Dianah L. Neff, Chief Information Officer, City of Philadelphia. Location: Room 562, Dirksen.

10 a.m. ENERGY AND NATURAL RESOURCES _ Full Committee. Hearing on the Energy Information Administration's annual outlook on trends and issues in energy markets. Guy Caruso, Administrator, Energy Information Administration. Location: Room 366, Dirksen.

10 a.m. FOREIGN RELATIONS _ Full Committee. Hearing on the FY07 budget. Secretary of State Rice. Location: Room 216, Hart.

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10 a.m. HEALTH, EDUCATION, LABOR AND PENSIONS _ Full Committee. Roundtable discussion on the Ryan White CARE Act. Elizabeth Duke, Administrator, Health Resources and Services Administration. Location: Room 430, Dirksen.

10 a.m. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ Full Committee. Hearing on the Department of Homeland Security's preparedness and response to hurricanes Katrina and Rita. DHS Secretary Chertoff. Location: Room 342, Dirksen.

10 a.m. VETERANS AFFAIRS _ Full Committee. Hearing on the FY07 budget for the DVA. VA Secretary Nicholson; various department officials; Peter Gaytan, American Legion; Dennis Cullinan, VFW; Brian Lawrence, Disabled American Veterans; Carl Blake, Paralyzed Verans of America; David Greineder, AMVETS. Location: Room 418, Russell.

2:30 p.m. ARMED SERVICES _ Readiness and Management Support Subcommittee. Hearing on contractor incentive in the FY07 budget. Undersecretary of Defense Kenneth Kreig; Comptroller General David Walker. Location: Room 222, Russell.

2:30 p.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Trade, Tourism and Economic Development Subcommittee. Hearing on Canadian softwood lumber dispute. Undersecretary of Commerce Frank Lavin; Deputy USTR Susan Schwab; Steve Swanson, Coalition for Fair Lumber Imports; Bill Kluting, Western Council of Industrial Workers/United Brotherhood of Carpenters; Barry Rutenberg, National Association of Homebuilders. Location: Room 562, Dirksen.

2:30 p.m. HEALTH, EDUCATION, LABOR AND PENSIONS _ Retirement Security and Aging Subcommittee. Hearing on reauthorization of the Older Americans Act. Location: Room 430, Dirksen.

2:30 p.m. INDIAN AFFAIRS _ Full Committee. Hearing on the FY07 budget request for Indian programs. Location: Room 485, Russell.

US House: FLOOR SCHEDULE _ 2 p.m. Meets for legislative business. Highlights: Suspensions (4 bills): 1) H.Con.Res. 322 - Expressing the Sense of Congress regarding the contribution of the USO to the morale and welfare of our servicemen and women of our armed forces and their families; 2) H.Res. 629 - Supporting the goals and ideals of a Day of Hearts, Congenital Heart Defect Day in order to increase awareness about congenital heart defects, and for other purposes; 3) H.R. 4152 - Raymond J. Salmon Post Office Designation Act; 4) S. 1989 - Holly A. Charette Post Office Designation Act.

10 a.m. VETERANS AFFAIRS _ Economic Opportunity Subcommittee. Hearing on the FY07 budget. Location: Room 334, Cannon.

1 p.m. GOVERNMENT REFORM _ National Security, Emerging Threats and International Relations Subcommittee. Hearing on whistleblowers following 9/11. Army Spc. Samuel J. Provance; Army Reserve Lt. Col. Anthony Shaffer; Michael German, whistleblower formerly with FBI; Russell Tice - whistleblower formerly with National Security Agency; Richard J. Levernier, whistleblower with Department of Energy; attorney Mark S. Zaid; Beth Daley, Project on Government Oversight; Tom Devine, Government Accountability Project; William G. Weaver, National Security Whistleblowers Coalition; James McVay, Office of the Special Counsel; Justice Department Inspector General Glenn A. Fine; Energy Department Inspector General Gregory H. Friedman; Thomas Gimble, acting inspector general, Defense Department. Location: Room 2154, Rayburn.

2 p.m. BUDGET _ Full Committee. Hearing on the FY07 budget. Members of Congress. Location: Room 210, Cannon.

2 p.m. INTERNATIONAL RELATIONS _ Oversight and Investigations Subcommittee. Hearing on the Chinese influence in U.S. foreign policy. Steve Mosher, president, Population Research Institute; Nancy Menges, widow of Constantine C. Menges, author of ``China: The Gathering Threat;" Christopher Brown, Hudson Institute; Perry Pickert, faculty member, Joint Military Intelligence College; Alan Tonelson, U.S. Business and Industry Council Educational Foundation; Arthur Waldron, University of Pennsylvania; Ross Terrill, Research Associate, Fairbank Center for East Asian Research, Harvard University. Location: Room 2172, Rayburn.

2 p.m. VETERANS AFFAIRS _ Health Subcommittee. Hearing on FY 2007 VA budget requests for the education, vocational rehabilitation, and loan guarantee programs. Ron Aument, Deputy Under Secretary for Benefits, Department of Veterans Affairs; Dennis Douglass, Acting Director of Education Service, Veterans Benefits Administration; Judith Caden, Director of Vocational Rehabilitation and Employment Service, Veterans Benefits Administration; Keith Pedigo, Director of Loan Guaranty Service, Veterans Benefits Administration; Scott Denniston, Director Office of Small and Disadvantaged Business Utilization, Department of Veterans Affairs; Joy Ilem, Assistant National Legislative Director, Disabled American Veterans; Joseph Sharpe, Deputy Director, National Economic Commission, The American Legion. Location: Room 334, Cannon.

5:30 p.m. ARMED SERVICES _ Full Committee. Markup of pending legislation. Location: Room 2118, Rayburn.

6 p.m. INTERNATIONAL RELATIONS _ Europe and Emerging Threats Subcommittee. Markup of H. Res. ___- Expressing support for the efforts of the people of the Republic of Belarus to establish a full democracy, the rule of law, and respect for human rights and urging the government

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of Belarus to conduct free and fair presidential elections in 2006. Location: Room 2200, Rayburn.

Other: AARP _ AARP holds its public policy meeting. Highlights: 8:30 a.m. Former HHS Secretary Tommy Thompson. 9:30 a.m. WellPoint CEO Leonard Schaeffer. 12 p.m. Sen. Hillary Clinton. Location: Polaris Room, Reagan Trade Center.

GLOBAL AGRICULTURE _ 7:45 a.m. - 4:30 p.m. The Carnegie Endowment for International Peace co-hosts a global policy forum, ``The Global Market for Agriculture: Can the U.S. Succeed?" Highlights: 8:15 a.m. Keynote address by Sen. Saxby Chambliss, R-Ga., Agriculture Committee chairman. 9 a.m. Panel discussion, ``The Negotiating Challenges Ahead for Doha," with Ambassadors Roberto Abdenur, Embassy of Brazil; Dennis Richardson, Embassy of Australia; John Bruton, EU Delegation to the U.S. 10:15 a.m. Panel discussion, ``A Doha Deal and the 2007 Farm Bill: Domestic Challenges, Opportunities and Outlook for U.S. Agriculture," with Constance Tipton, International Dairy Foods Association; Jay Truitt, National Cattlemen's Beef Association; and Barbara Spangler, Wheat Exports and Trade Education Committee; and Don Phillips, American Sugar Alliance. 11 a.m. Panel discussion, ``The Global Agricultural Marketplace in 2016 and Beyond: U.S. Agriculture in a Changing World," with James Wiesemeyer, Informa Economics; Dan Griswold, Director for Trade Policy Studies, CATO Institute; Sandra Polaski, Senior Associate, Carnegie Endowment for International Peace; and Sherman Katz, Senior Associate, Carnegie Endowment for International Peace, Moderator. 12:30 p.m. Keynote lunchheon address by Mike Johanns, Secretary of Agriculture. Location: Carnegie Endowment for International Peace, 1779 Massachusetts Ave. NW.

PAYMENTS INDUSTRY _ 8:30 a.m. - 2 p.m. The American Enterprise Institute and Brookings Institution Joint Center for Regulatory Studies hold a symposium on the future of the payments industry. Highlights: 12:15 p.m. Rep. Richard Baker. Location: Room B-340, Rayburn.

MOUSSAOUI _ 8:30 a.m. There will be a pre-trial hearing to discuss logistics in the case of Zacarias Moussaoui. Location: US District Courthouse, 401 Courthouse Square, Alexandria, Va. Notes: Moussaoui will attend this hearing.

TALK SHOWS-CONSERVATIVISM _ 9:30 a.m. Media Matters for America holds a press briefing to release the findings of its first in-depth study, which the group says show that conservative voices significantly outweighed progressive voices on the Sunday shows throughout former President Bill Clintons second term (1997-2000), and President George W. Bush's first term (2001-2004), and 2005. Location: National Press Club, Zenger Room.

IRAN NUCLEAR _ 9:30 a.m. - 12 p.m. The Heritage Foundation hosts a discussion, ``Preventing a Nuclear-Armed Iran: Will Russia and China Really Help? Keynote speaker is Sen. Sam Brownback, R-Kan. Other participants are: Ilan Berman, Vice President for Policy, American Foreign Policy Council; Dr. Stephen J. Blank, Research Professor, U.S. Army War College; Peter Brookes, Senior Fellow in National Security Affairs and Director, Asian Studies Center, The Heritage Foundation; Leland R. Miller, attorney, Sidley Austin Brown & Wood, LLP; James A. Phillips, Research Fellow, Middle East Studies, The Heritage Foundation; Igor A. Zevelev, Washington Bureau Chief, Russian News Information Agency Novosti. Location: The Heritage Foundation's Lehrman Auditorium, 214 Massachusetts Ave. NE.

NO CHILD LEFT BEHIND _ 10 a.m. Former HHS Secretary Tommy Thompson and former Georgia Gov. Roy Barnes hold a news conference to announce the bipartisan and independent Commission on No Child left Behind. Location: Room 2261, Rayburn.

INNOVATION _ 11 a.m. House Democrats, including Nancy Pelosi, George Miller, Hilda Solis and Kendrick Meek hold a town hall meeting with filmmaker George Lucas to discuss the need to create a new generation of innovators that reflects the diversity of the nation. Location: Room HC-5, Capitol.

MUSLIMS-CARTOON CONTROVERSY _ 12 p.m. The Council on American-Islamic Relations (CAIR) holds a news conference to launch a major educational effort focusing on the life and legacy of Islam's Prophet Muhammad in response to the cartoon controversy. Location: National Press Club, Lisagor Room.

WELDON-ABLE DANGER _ 12 p.m. Rep. Curt Weldon, R-Pa., vice chairman of the House Armed Services and Homeland Security Committees, holds a press conference in advance of Wednesday's House Armed Services joint subcommittee hearing on the Able Danger - a Department of Defense planning effort prior to 9/11 tasked to identify and target the linkages and relationships of Al-Qaeda worldwide. Location: House Radio/TV Gallery.

DEMOCRATS _ 12:30 p.m. The Democratic Policy Committee holds a closed meeting. Location: Room S-211, Capitol. Notes: Stakeout note: Gallery escort for policy luncheons leaves between 12:15-12:30 p.m. from the Ohio Clock Corridor.

MORIAL _ 12:30 p.m. Urban League President Marc Morial addresses a National Press Club Luncheon. Location: National Press Club.

REPUBLICANS _ 12:30 p.m. The Republican Policy Committee holds a closed meeting. Location: Room S-207, Capitol.

ENERGY _ 2 p.m. The Environmental and Energy Study Institute and the Northeast-Midwest congressional and

DOJ_NMG_0014808

Senate coalitions hold a briefing on the impact of the FY07 budget on energy efficiency and renewable energy programs. Location: Room 628, Dirksen.

HOYER _ 2 p.m. House Democratic Whip Steny Hoyer holds a pen and pad only briefing. Location: Room H-306, Capitol.

OLDER AMERICANS _ 2:30 p.m. Sen. Mike Enzi, R-Wyo., chairman of the Senate Health, Education, Labor and Pensions Committee (HELP Committee) today announced the following Retirement Security and Aging Subcommittee roundtable. Sen. Mike DeWine, R-Ohoio, will chair the roundtable. Location: Room SD-430, Dirksen Senate Office Building.

UNION SHIFT _ 2:30 p.m. The Laborers' International Union of North America and the International Union of Operating Engineers hold a telephone news conference to announce a major organizational shift that will impact construction workers and the construction industry. Contacts: Richard Greer, 202-215-1562.

DEMOCRATS-KATRINA _ 2:45 p.m. Senators Hillary Rodham Clinton, Mary Landrieu, and Ken Salazar holds a press conference to call for renewed attention to Hurricane Katrina. Location: Senate Radio/TV Gallery.

DEMOCRATS-EMERGENCY RESPONSE _ 4 p.m. Homeland Security Ranking Democrat Bennie G. Thompson and other members of Congress participate in a discussion with the emergency responder community about what they describe as ``the crippling effects that the president's budget will likely have on their ability to protect our communities.'' Location: Room HC-9, Capitol.

HOMELAND SECURITY-DEMOCRATS _ 4 p.m. House Democrats hold a dialogue with the emergency responder community on the impact of the FY07 budget on protection of their communities. Participants include Rep. Bennie Thompson, General President Harold Schaitberger of the International Association of Fire Fighters, Tim Richardson of the Fraternal Order of Police, and Steve Lenkert of the International Brotherhood of Police Officers. Location: Room HC-9, Capitol.

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Williams, Jan

From: Williams, Jan

Sent: Tuesday, February 14, 2006 9:02 AM

To: Scolinos, Tasia; Jezierski, Crystal; Barnett, Thomas O.; Bradbury, Steve; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Block, Jonathan; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bradbury, Steve; Bucholtz, Jeffrey (CIV); Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Flores, Robert; Friedrich, Matthew; Garre, Gregory G; Gillis, John; Gober, Chris; Goodling, Monica; Gorsuch, Neil M; Hagle, Timothy; Hagy, David, W.; Harris, Greg; Herraiz, Domingo S.; Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward.(USAILS); McNeil, Tucker (OPA); Meron, Daniel (CIV); Miranda, Matthew; Mitchell, Cranston J. (USPC); Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Murray, Fred F. (TAX); Nelson, Carrie; Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peterson, Evan; Potter, Janet; Roe, Price (OCIO); Roehrkasse, Brian; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Spagnoli, Deborah A. (USPC); Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Warren, Julie; Woodruff, William; /o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Beck, Cherith (USAARE); Bianco, Joseph F.; Burch, Victoria; Cook, Marita L. (USAWY); David, Matt; Freeman, Sharee (CRT); Gambatesa, Donald (USMS); Glut, Martha (USANE); Golden, Lois; Greg Harris; Harris, Gregory; Henke, Tracy (SMO); Jezierski, Crystal; Jordan, Theresa (USADE); Kessler, Elizabeth A; McKee, Cindy (USAKS); McNally, Edward; Mercer, Bill (ODAG); Metcalf, Mark H (CRT); Neumayr, Mary (ENRD); Peed, Carl; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roper, Matt M; Rosenberg, Chuck; Scolinos, Tasia; Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Voris, Natalie (USAEO); Williams, Jan

Subject: The Morning Update: 2/14/06

Attachments: tmp.htm

Attachments: tmp.htm
Importance: Low

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From Today's Morning Headlines

In The 2006 Economic Report Of The President, President Bush Praises America's Innovative And Efficient Workers. "Innovative and efficient workers are important contributors to the economy's good health, now and in the future, President Bush said Monday as he projected another year of solid economic growth. To build upon U.S. worker productivity and keep the economy flourishing, Mr. Bush made a fresh pitch in his annual economic report to Congress for sharpening the country's competitive edge. He also renewed his call to lawmakers to make his tax cuts permanent. 'Our economy's

edge. He also renewed his call to lawmakers to make his tax cuts permanent. 'Our economy's fundamental strength comes from the ingenuity and hard work of our workers <http://www.post-gazette.com/pg/06044/654777.stm> ,' Mr. Bush wrote in the introduction to the report, which examines economic conditions as well as challenges." (Jeannine Aversa, "Bush: Innovative Workers Important To Economy's Good Health," The Associated Press, 2/13/06)

Economic Report Of The President: "The Economy Has Shifted From Recovery To Sustained Expansion." "White House economists said yesterday that the U.S. economy should continue to grow at a healthy pace in the years ahead, even as they warned that the housing market is likely to cool and energy prices may spike in response to supply disruptions. 'The economy has shifted from recovery to sustained expansion,' the Council of Economic Advisers wrote in its annual Economic Report of the President, which was sent to Congress yesterday. 'Prospects remain good for continued growth in the years ahead <http://www.washingtonpost.com/wp-dyn/content/article/2006/02/13/AR2006021301904.html> .'" (Nell Henderson, "Healthy Economic Growth Predicted," The Washington Post, 2/14/06)

Homeland Security Officials Preview Improvements To Disaster Response.
"President Bush's homeland security adviser, Frances Fragos Townsend, addressing 50 state emergency managers at a meeting in Alexandria, previewed results of a government-wide review due later this month that she said would make more than 100 recommendations to improve disaster response. They will include stronger mandatory evacuation policies, closer military involvement in homeland security, and larger regional FEMA offices to work with governors and mayors of large cities. 'It was the president who acknowledged the response to Hurricane Katrina was insufficient, and it was the president who first sought the lessons learned, <http://www.washingtonpost.com/wp-dyn/content/article/2006/02/13/AR2006021300679_pf.html> ' said Townsend, who, as head of the Homeland Security Council, is leading the review ordered by Bush." (Spencer Hsu, "Disaster Response Changes Promised," The Washington Post, 2/14/06)

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* In Focus: Global Diplomacy <http://www.whitehouse.gov/news/>

President Congratulates Chicago White Sox, 2005 World Series Champions <http://www.whitehouse.gov/news/releases/2006/02/20060213-3.html>

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Statement By The Office Of The Vice President

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Calvert, Chris (CIV)

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Sent:	Tuesday, February 14, 2006 12:01 PM
To:	Agarwal, Asheesh (CIV); Bahr, Dorothy (CIV); Baxter, Felix (CIV); Bordeaux, JoAnn (CIV); Bucholtz, Jeffrey (CIV); Calvert, Chris (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davis, Deborah J; Eubanks, Sharon (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Fishback, David (CIV); Flentje, August (CIV); Fowler, Liane (SMO); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Goldberg, Arthur (CIV); Gorsuch, Neil M; Gray, Towanda (CIV); Hertz, Michael (CIV); Hollis, Robert (CIV); Hudson, Lewis (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jennings, Geraldine (CIV); Katsas, Gregory (CIV); Keener, Donald (CIV); Kent, Alexander (CIV); Kohl, Christine (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Liner, Linda (CIV); Lloyd, Shirley (CIV); Lucas, Regina E. (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Schiffer, Stuart (CIV); Shaw, Aloma A; Swenson, Lily F; Thirolf, Eugene; Williams, Angela (CIV); Williams, Toni (CIV); Willis, Kerry (CIV); Zwick, Ken (CIV)
Subject:	2/14/06 CIV Weekly Report to the AG
Attachments:	CivDivWkly0214.wpd

Attached is this week's Civil Division report.

Chris Calvert
OAAG, Civil Division
U.S. Dep't of Justice
Main - Room 3141
Direct Dial: 202.514.5713
FAX: 202.514.8071

U.S. Department of Justice

Civil Division

Assistant Attorney General *Washington, D.C. 20530*

February 14, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE ACTING DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Peter D. Keisler
Assistant Attorney General

SUBJECT: Civil Division Weekly Report to the Attorney General

A. NEXT WEEK

· No items to report.

B. THIS WEEK

· ***Court Upholds Food and Drug Administration's Approach to Generic Drug Applications***
Apotex Inc. v. Food and Drug Administration [D.D.C.]. On February 13, the court upheld the patent-based approach of the Food and Drug Administration (FDA) to generic drug applications made prior to the Medicare Modernization Act. The Food, Drug, and Cosmetic Act provides a reward to the generic drug applicant first to challenge an innovator company's patent by requiring FDA to delay approval of subsequent generic applications for 180 days. FDA awards a separate exclusivity period for each patent that is challenged. Generic drug maker Apotex sought immediate approval to market a generic version of Prilosec – a drug for which FDA found another company was eligible for 180-day exclusivity. Apotex argued that FDA cannot award more than one period of exclusivity for each drug product, but the court agreed with FDA. Apotex's approach had

support from a previous district court decision and could have forced FDA to change positions in numerous drug approvals.

C. LAST WEEK

- ***Third Circuit Denies Government's Panel Rehearing Petition Asking Court to Retract Assumption that Virtually All Parolees Are In Proceedings***
  Zheng Zheng v. Gonzales [3d Cir.]. On January 31, the Court denied the government's panel petition. The Court held that the regulation at 8 C.F.R. 1245.1(c)(8) making parolees ineligible for adjustment contradicted the statute. A factor in the Court's reasoning was the belief that virtually all parolees are in proceedings and therefore barred from adjustment by the regulation. The rehearing petition pointed out that this premise was inaccurate.

- ***Eighth Circuit Upholds Denial of Asylum but Reverses Determination on Crime Involving Moral Turpitude***
  Reyes-Morales v. Gonzales [8th Cir.]. On January 31, the Eighth Circuit found the denial of asylum supported by substantial evidence but remanded the case for consideration of the alien's application for suspension of deportation. The Court upheld the Immigration Judge's holding that the alien did not have a well-founded fear of future persecution despite past persecution stemming from tensions between El Salvador's military and guerilla fighters during the civil war, and held that the Immigration Judge's failure to expressly consider petitioner's eligibility for asylum based on the severity of his past persecution was harmless since the Board addressed the alien's claim. Nevertheless, the Court concluded that the alien's conviction for making harassing telephone calls was not a crime involving moral turpitude and should not bar him from relief under NACARA, because the statute lacked the necessary mens rea requirement.

- ***Seventh Circuit Holds that Alien's Guilty Plea and Admission of Loss Are Sufficient Evidence to Determine that Conviction Constitutes an Aggravated Felony***
  Iysheh v. Gonzales [7th Cir.]. On February 1, the Seventh Circuit dismissed the petition for review for lack of jurisdiction after determining that the evidence supported a finding that the alien was convicted of an aggravated felony. The Court found that, because the record of conviction clearly showed that the alien had pled guilty to the entirety of count

one of the indictment, which included a count of defrauding a financial institution, and the alien admitted that the amount of loss involved exceeded $10,000, the Board properly determined that the alien was convicted of an aggravated felony, to wit, an offense involving fraud causing a loss greater than $10,000.

- ***Sixth Circuit Holds that It Has Jurisdiction to Review Denial of Continuance but Affirms on the Merits***
  Abu-Khaliel v. Gonzales [6th Cir.]. On February 1, the Sixth Circuit held that it had jurisdiction to review an Immigration Judge's denial of a continuance. The Court determined it had jurisdiction by reasoning that Congress gave Immigration Judges, not the Attorney General, the authority to conduct removal proceedings and grant/deny continuances; therefore, that authority is not covered by the jurisdictional bar over matters specified by the statute to be within the Attorney General's discretionary authority. On the merits, the Court found that there was no abuse of discretion by the Immigration Judge in denying the alien's request for a continuance.

- ***Eighth Circuit Determines that Alien Failed to Raise Reviewable Constitutional Challenge to Agency's Discretionary Denial of Cancellation of Removal***
  Meraz-Reyes v. Gonzales [8th Cir.]. On February 1, 2006, the Eighth Circuit denied the petition for review from the agency's discretionary denial of cancellation of removal. The Court rejected the alien's argument that the Court could review substantial constitutional challenges to the INA, noting that an alien "may not create the jurisdiction that Congress chose to remove simply by cloaking an abuse of discretion argument in constitutional garb."

- ***Second Circuit Upholds Denial of Asylum, Withholding of Removal and CAT Protection***
  Qyteza, et al. v. Gonzales [2nd Cir.] On February 2, the Second Circuit upheld the agency's denial of asylum, withholding of removal and CAT protection. Although Court determined that the Immigration Judge erred in part of her analysis of the alien's credibility, it held that remand would be futile because substantial evidence supports the Immigration Judge's error-free determinations, those determinations support the ultimate adverse credibility determination, and despite the error, the Court concluded with confidence that the Immigration Judge would reach the same result were the case remanded.

- ***Motion to Dismiss Damages Claims Brought by Former Guantanamo Detainees Is Granted in Part and Deferred in Part by U.S. District Court for the District of Columbia***
  Rasul v. Rumsfeld, et al. [D.D.C.]. Plaintiffs, four British citizens who were detained at Guantanamo until March 2004, sought damages from senior Department of Defense officials for their alleged violation of the Geneva Conventions, the law of nations, the Fifth and Eighth Amendments to the U.S. Constitution, and the Religious Freedom Restoration Act (RFRA). The court held that plaintiffs' claims under international law and the Geneva Conventions were barred by the Westfall Act because plaintiffs had not exhausted their administrative remedies. As for the constitutional claims, the court skipped the first prong in the qualified immunity inquiry because the issue of whether the Guantanamo detainees may avail themselves of the protections afforded by the U.S.

Constitution is currently before the D.C. Circuit. Turning instead to the second step of the inquiry, the court determined that plaintiffs' reliance on decisions, like *Rasul v. Bush*, that were rendered after their release from Guantanamo precluded any showing that defendants violated clearly established constitutional law. This obliged dismissal of plaintiffs' *Bivens* claims. Finally, the court ordered supplemental briefing on plaintiffs' claim under RFRA.

- ***Substantive Due Process Class Action Claim Brought by Search and Rescue Workers at Ground Zero Is Dismissed***
  Lombardi, et al. v. Whitman, et al. [S.D.N.Y.]. This action was brought against several former and current government officials by plaintiffs purporting to represent a class of persons that worked at Ground Zero – the area in the vicinity of where the World Trade Towers stood – following the terrorist attacks of September 11, 2001. The defendants are: Christine Todd Whitman, former Environmental Protection Agency (EPA) Administrator; Eileen McGinnis, former EPA Chief of Staff; William Muszynski, former EPA Acting Regional Administrator; James L. Connaughton, Chairman, White House Council on Environmental Quality (WHCEQ); Samuel Thernstrom, former WHCEQ Associate Director; and John Henshaw, former Occupational Safety and Health Administration Assistant Secretary. The plaintiffs alleged that the defendant officials violated the plaintiffs' rights under the Due Process Clause by taking actions that caused or encouraged them to perform search, recovery, clean-up, and other work at Ground Zero immediately after the terrorist attacks, despite the defendants' awareness that there were dangerous chemicals in the air at Ground Zero. On February 2, the court granted the defendants' motion to dismiss, holding that the constitutional claims of two of the plaintiffs were precluded by special factors that prevented the court from recognizing the claims, and that the defendants were entitled to qualified immunity with respect to the constitutional claims of the remaining three defendants.

- ***Former EPA Officials' Motion to Dismiss Substantive Due Process Class Action Claim Based upon the EPA's Response to the 9/11 Terrorist Attacks Is Denied***
  Benzman, et al. v. Whitman, et al. [S.D.N.Y.]. This action was brought against former Environmental Protection Agency officials Christine Todd Whitman and Marianne L. Horinko by plaintiffs purporting to represent a class of residents, students, and workers in the areas of "Lower Manhattan" and portions of Brooklyn, New York. The plaintiffs alleged that the defendants violated their rights under the Due Process Clause through the issuance of false statements concerning the air quality in the areas impacted by the destruction of the World Trade Center on September 11, 2001. On February 2, the court denied the defendants' motion to dismiss on the basis of qualified immunity and found that the plaintiffs' complaint alleged the violation of a constitutional right that was clearly established at the time of the defendants' alleged actions. The matter is currently under consideration by Civil Appellate to determine whether to recommend immediate appeal of the qualified immunity issue.

- ***D.C. Circuit Dismisses as Moot a Challenge to Anthrax Vaccination Program***
  John Doe #1, et al. v. Rumsfeld [D.C. Cir.; D.D.C.]. On February 9, the D.C. Circuit (Randolph, Tatel, Griffith) issued an unpublished order dismissing as moot a challenge to the Department of Defense's anthrax vaccination program. At issue in the appeal was an injunction issued by the district court which prohibited the Department of Defense from

administering the anthrax vaccine, but the injunction by its terms continued only until the Food and Drug Administration classified the vaccine as safe and effective for use against inhalation anthrax. The Food and Drug Administration issued that order on December 19, 2005. Consequently, the United States Court of Appeals for the District of Columbia Circuit found that the injunction dissolved by its own terms, and therefore the appeal is moot. The court remanded to the district court for further consideration, including whether the district court's decision upon which the injunction was based should be vacated.

- ***In Interlocutory Appeal, Third Circuit Rules that Review of the Food and Drug Administration's Regulation Banning Dietary Supplements Containing Ephedra Is Limited to Administrative Record, and Agency's Legal and Factual Conclusions Are Entitled to Deference***
  NVE, Inc. v. Department of Health and Human Services, et al. [3rd Cir.; D.N.J.]. On February 7, the Third Circuit (Rendell, Fuentes, and Garth) held that judicial review of a regulation promulgated by the Food and Drug Administration under the Dietary Supplement Health and Education Act, which bans dietary supplements containing ephedra because they present an "unreasonable risk of illness or injury" and therefore are "adulterated," is limited to the administrative record, and discovery is not permitted. The court concluded that review of such rulemaking action is pursuant to the Administrative Procedure Act, and that Dietary Supplement Health and Education Act's direction that a court "decide any issue" under the statute's adulteration provision "on a de novo basis" pertains only to enforcement actions brought by the agency. In a *sua sponte* ruling that should be helpful in defending against other challenges to the ban on ephedra, the court also held that, in this rulemaking context, "the normal rules for judicial deference" apply to the Food and Drug Administration's interpretation of the statute and factual findings.

- ***Third Circuit Rules that Unsuccessful Deportation Proceeding Does Not Collaterally Estop the Government from Bringing New Removal Proceedings Predicated on Alien's Subsequent Convictions***
  Duvall v. Attorney General [3rd Cir., E.D. Pa.]. On February 7, the Third Circuit (Rendell, Fisher, Greenberg) ruled that collateral estoppel did not prevent the government from proving that an individual respondent in removal proceedings is an alien, even though the government failed to carry its burden of proof on that issue in prior proceedings against the same individual. Because the judge-made doctrine of collateral estoppel is a well-established common-law adjudicatory principle, the court ruled that Congress is presumed to have intended its application in removal proceedings in the absence of any contrary indication in the Immigration and Nationality Act. While the doctrine would normally preclude relitigation of the respondent's alienage, the court held that the respondent's subsequent convictions for new crimes permitted the government to bring new removal proceedings because precluding those proceedings would run contrary to Congress's intent that aliens convicted of serious crimes should be removed from the country.

- ***Indiana Pharmaceutical Firm Eli Lilly Pleads Guilty and Agrees to Pay $36 Million to Settle Claims Related to Unlawful Drug Promotion***
  United States v. Eli Lilly and Company [S.D. Ind.]. On February 9, Indiana pharmaceutical firm Eli Lilly and Company pled guilty to violating the Food, Drug, and

Cosmetic Act by illegally marketing its osteoporosis drug Evista. Lilly pled guilty to distributing Evista that was misbranded because the drug's labeling lacked adequate directions for use for all of its intended uses. Lilly promoted Evista for a range of unapproved uses, including preventing breast cancer and reducing the risk of cardiovascular disease. The court also entered a civil consent decree settling civil charges of misbranding Evista. Lilly agreed to pay the government a total of $36 million, including $6 million in criminal fines, an asset forfeiture of $6 million, and $24 million in equitable disgorgement. The Consent Decree bars Lilly from promoting Evista for any unapproved use, and requires Lilly to hire an Independent Review Organization to review Lilly's systems and policies relating to promoting Evista.

- ***New Suit Challenges Federal Interpretation of Expungement under Gun Control Law***
  Kegler v. ATF [D.Wy.]. A lawsuit has been filed challenging a Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) interpretation of a Wyoming expungement statute, which ATF concludes does not meet the federal standard for expungement. Plaintiff was convicted in 2001 of a misdemeanor for domestic violence in Wyoming state court. Under the Brady Act, he would be prohibited from purchasing firearms unless he receives a pardon, set aside, or expungement of his conviction. While Wyoming has enacted an expungement law, it continues to allow expunged convictions to be used by criminal justice and law enforcement agencies. ATF interprets the Wyoming law as being insufficient to meet the federal definition of expungement for purposes of the Gun Control Act. A complicating factor is that Congress amended the Gun Control Act in 1986 to look to state law, in part, to determine whether an individual is under a conviction for purposes of federal law. On the merits, this case thus presents the question of whether, in light of the 1986 amendments, a federal definition of expungement controls. Because the plaintiff, however, has not attempted to purchase firearms and appears to claim no fear of prosecution, significant jurisdictional issues also exist.

- ***Court Dismisses Sunshine Act Challenge to Notice of Equal Employment Opportunity Commission Meeting***
  American Federation of Government Employees, AFL-CIO v. Equal Employment Opportunity Commission [D.D.C.]. On February 2, Judge Royce C. Lamberth granted our motion to dismiss. Plaintiff sought declaratory and injunctive relief, claiming that the Equal Employment Opportunity Commission had violated the provisions of the Sunshine Act by failing to provide sufficient notice of a meeting on the agency's regulatory agenda. The court noted that the statute allowed for a shortened public notice period if a majority of the agency's members determine that agency business so requires. Although such an exception to the statutory notice period cannot be used routinely, here plaintiff did not allege that the agency resorts to the exception as a matter of routine. The court's February 6 order dismissed the action with prejudice.

- ***Court of Appeals for the Federal Circuit Holds,* En Banc*, that Presidential Safeguard Determinations Are Immune from Judicial Review***
  Motion Systems Corporation v. Bush [Fed. Cir.]. On February 10, 2006, the court issued an *en banc* decision holding that no right to judicial review exists for determinations by the President regarding the imposition of statutory "safeguards" against imports. The court reasoned that the Supreme Court's decisions, including *Dalton v. Specter*, and

Franklin v. Massachusetts, superceded previous Federal Circuit case law and established that the courts lack jurisdiction to entertain challenges to the President's statutory determinations. Because the court concluded that it lacked jurisdiction, the court likewise dismissed claims against the United States Trade Representative because the Trade Representative only provided a recommendation to the President but did not make any decisions itself.

- **En Banc** ***Federal Circuit Concludes that Petitioners Must Establish Jurisdiction by Preponderance of the Evidence in Involuntary Action Cases***
  Garcia v. Department of Homeland Security, [Fed. Cir.]. On February 10, 2006, the court, sitting *en banc*, reaffirmed its prior *en banc* decision in *Cruz v. Department of the Navy,* 934 F.2d 1240 (Fed. Cir. 1991), and held that, in involuntary action cases before the Merit Systems Protection Board (MSPB), a petitioner must establish by a preponderance of the evidence that an involuntary adverse action occurred before the board acquires jurisdiction to consider the merits of the case. Unlike most adverse action cases before the MSPB, claims of an involuntary adverse action typically involve instances where an employee's action, e.g., resignation, was voluntarily taken, and therefore not an appealable adverse action, but was later claimed by the employee to have been forced by the agency and, consequently, became an appealable adverse action. This holding, clarifying the appropriate jurisdictional standard, is important for two reasons. First, it reaffirms the fact that voluntary decisions are not reviewable by the MSPB absent some heightened showing by the employee. Second, it requires the proof of an actual adverse action before the MSPB assumes jurisdiction to entertain other related, pendent claims, most notably in the so-called "mixed cases," which permit the board to entertain claims of discrimination only in the context of an otherwise appealable adverse action. This decision reaffirms the primacy of the EEO process to resolve pure claims of discrimination.

- ***Corporate Express Pays Over $5 Million to Resolve Potential Liability under the False Claims Act***
  United States ex rel. Safina Office Products v. Office Depot [D.D.C.]. Corporate Express has agreed to pay $5.02 million to settle a *qui tam* suit alleging that it submitted false claims when it sold office supply products that were manufactured in countries not designated by the Trade Agreements Act, to United States Government agencies through its multiple award schedule contract with the General Services Administration (GSA). A competitor of the company, Safina Office Products, brought the *qui tam* suit against multiple office supply companies that had schedule contracts with GSA. All the other defendants have either settled with the government or had the claims against them voluntarily dismissed by the relators after we declined to intervene. The Corporate Express settlement brings the government's total recovery in this case to more than $27 million.

- ***Federal Circuit Holds that State Income Taxes Incurred by Shareholder of Subchapter S Corporation Are Not Allowable Costs of Corporation***
  Information Systems & Networks Corp. v. United States [Fed. Cir.]. In a February 6, 2006 decision, the court reversed and remanded a decision of the Court of Federal Claims, *Information Systems & Networks Corp. v. United States*, 48 Fed. Cl. 265 (2000), which had held that 48 C.F.R. § 31.205-41 allowed Information Systems & Networks

Corporation (ISN) , a Subchapter S corporation, to recover the cost of payments, made by a shareholder, of state taxes incurred on ISN's corporate income. The Federal Circuit held that the trial court improperly permitted reimbursement of these costs because the corporation was exempt from taxation on its income, and because the state tax costs were paid by the shareholder, not the S-corporation.

- ***Trial Court Awards $372 Million, Rejects $3.6 Billion Claimed by Former Meritor Shareholders***
  Slattery v. United States [C.F.C.] On February 10, 2006, Senior Judge Smith issued his opinion upon damages in, No. 93-280C. *Slattery* is a shareholder derivative suit for breach of contract relating to the Meritor Savings Bank (Meritor), once the largest savings bank in the United States. In connection with a 1982 merger, Meritor's predecessor and the Federal Deposit Insurance Corporation (FDIC) entered into an agreement allowing the resulting institution to treat nearly $800 million in resulting goodwill as an asset for regulatory capital purposes and to amortize the goodwill over a 15-year period. Previously, Judge Smith concluded that the FDIC had breached the "goodwill" contract three times by regulatory actions inconsistent with the terms of the contract. In its February 10th opinion, the court awarded $371,733,059 to plaintiffs: $276 million in expectancy damages (the market capitalization of Meritor at the time of the first breach, plus a control premium of 50 per cent); $28.4 million in "wounded bank" damages (costs incurred in divesting assets and consulting fees); and $67.3 million in non-overlapping restitution damages (Meritor's net payments to the government as a result of the merger). The court denied the remainder of plaintiffs' $2.94 billion restitution claim, despite finding that the merger saved the FDIC $402 million. The court also rejected the plaintiffs' $650.6 million claim for reliance/cost of performance damages. *Slattery* is unique among the "goodwill" cases in that it involves claims that the FDIC entered into and breached contracts through regulatory actions; the *Winstar* cases, by contrast, involve claims that the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 breached goodwill contracts entered into by thrift regulatory agencies.

D. LONG RANGE EVENTS

- ***D.C. Circuit Schedules Oral Argument in Appeal Involving Department of Homeland Security's Human Resources Regulations***
  National Treasury Employees Union, et al. v. Michael Chertoff, Secretary of Homeland Security, et al. [D.C. Cir.; D.D.C.]. In this facial challenge brought by several federal labor unions, the district court upheld in part and struck down in part recent regulations, jointly issued by the Department of Homeland Security and the Office of Personnel Management, creating a new human resources management system for the Department of Homeland Security. While upholding significant portions of the regulations, the district court found fault with (among other things) their treatment of collective bargaining and with the new role prescribed for the Federal Labor Relations Authority in DHS matters. Both sides have appealed and have filed briefs on an expedited schedule, and the United States Court of Appeal for the District of Columbia Circuit has now set oral argument for April 6, 2006, before Judges Randolph, Griffith, and Edwards.

Contact: COL Sharon Riley, Counsel, 514-3886

Sampson, Kyle

From: Sampson, Kyle
Sent: Tuesday, February 14, 2006 4:19 PM
To: Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Block, Jonathan; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bradbury, Steve; Bucholtz, Jeffrey (CIV); Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Flores, Robert; Friedrich, Matthew; Garre, Gregory G; Gillis, John; Gober, Chris; Goodling, Monica; Gorsuch, Neil M; Hagle, Timothy; Hagy, David, W.; Harris, Greg; Herraiz, Domingo S.; Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward.(USAILS); McNeil, Tucker (OPA); Meron, Daniel (CIV); Miranda, Matthew; Mitchell, Cranston J. (USPC); Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Murray, Fred F. (TAX); Nelson, Carrie; Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peterson, Evan; Potter, Janet; Roe, Price (OCIO); Roehrkasse, Brian; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Spagnoli, Deborah A. (USPC); Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Warren, Julie; Woodruff, William; Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford
Subject: Mark your calendar!

Appointees,

In his recent State of the Union address, President Bush made clear that we are serving America during a consequential period of history -- and that the only way to protect our people, to secure the peace, and to control our Nation's destiny is by strong leadership. Tomorrow, at 11am, our strong leader, Attorney General Alberto R. Gonzales, will mark his one-year anniversary as Attorney General and set forth his

priorities for the coming year with remarks in the Great Hall. All appointees are invited and encouraged to attend this special address, as your partnership in the coming year will be crucial to our continued efforts to increase the freedom, security, and safety of our families, communities, and Nation. Please note that everyone should be present and seated by 10:50am. It is my honor to serve with you, and I look forward to seeing you there.

Kyle

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Tuesday, February 14, 2006 6:56 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
February 14, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

TOMORROW'S EXPECTED NEWS STORIES:

Attorney General Alberto Gonzales
The Attorney General met with National Review editor Rich Lowry to discuss key Department issues, his first year as Attorney General, and his priorities for the upcoming year.

Brief filed in Gonzales v. Carhart (OPA)
Today, the Department of Justice filed a supplemental brief with the Supreme Court of the United States in *Gonzales v. Carhart*, a challenge to the partial birth abortion ban act. The brief alerts the court to the decisions of two other circuits in challenges to the act, and argues that in light of those decisions, the court ought to grant cert in this case.

Enron Trial (Criminal)
Jeff Skilling's attorney, Daniel Petrocelli, completed re-cross examination of Mark Koenig. The government called Ken Rice, former head of Enron Broadband services, to the stand. Sean Berkowitz conducted the examination for the government.

Justice Department Sues to Bar Father and Daughter in Kansas from Preparing Tax Returns (Tax)
The Justice Department filed suit today to stop Harrold E. Jones and Evelyn Johnson from preparing tax returns for others. The civil complaint, filed in federal court in Wichita, alleges that the father-and-daughter team have repeatedly created fictitious businesses that they have used to fraudulently inflate customers' tax deductions. According to the complaint, the IRS has audited a sample of more than 5,000 customer returns that Jones and Johnson prepared for tax years 1999 through 2003. The complaint states that 97 percent of the audits resulted in additional taxes owed. False and fraudulent returns the pair prepared have cost the federal treasury more than $12 million, according to an IRS estimate contained in the complaint. Jones has been preparing tax returns for about 50 years.

Media Inquiry into Air Cargo Investigation (Antitrust)
DOJ has received numerous phone calls regarding a statement issued by British Airways stating that they have received a request for information from both the European Commission and the

United States Department of Justice relating to alleged cartel activity involving British Airways and a number of other airlines and cargo operators.

Talking Points

- DOJ is investigating the possibility of anticompetitive practices in the air cargo industry. We are coordinating with the European Union and other foreign competition authorities.

Media Inquiry into Maytag/Whirlpool Merger (Antitrust)
Several reporters have called in response to Maytag-Whirlpool's joint announcement that they have agreed with the Antitrust Division to a limited extension of time to complete the review of the proposed acquisition.

Talking Point

- DOJ is looking into the proposed transaction.

Microsoft Status Conference (Antitrust)
Stories are expected tomorrow from *Reuters*, *Federal Times*, and several hi-tech publications about the Microsoft Status Conference held today in the U.S. District Court for the District of Columbia.

New York Post (FBI)
The *New York Post* will run a story tomorrow on the National Counterterrorism Center, the Terrorist Screening Center and the FBI.

Media Inquiry on FBI Asset Forfeiture (DOJ/FBI)
Chris Palmeri from *Business Week* is writing a story about FBI asset forfeiture. The reporter was referred to DOJ Public Affairs for comment.

Asian Organized Crime (FBI)
Today CNN interviewed FBI Senior Special Agent Charlie Cunningham on Asian Organized Crime.

Former Warden Arrested for Civil Rights Violations (FBI)
In Honolulu today, Mika Kelemete, the former Warden for the Tafuna Correctional Facility (TCF) in American Samoa, was arrested for civil rights violations. FBI investigation revealed that Kelemete directed officers from TCF to handcuff an inmate to a tent pole. Once the inmate was restrained, Kelemete struck the inmate with a wooden board on the head, neck, and upper back. After this beating, the inmate was placed in a maximum security cell and denied medical attention.

Hurricanes' Katrina and Rita Fraud Subpoenas (FBI)
In New Orleans today, subpoenas were served to Phil Capitano, Mayor of Kenner, Louisiana; his Chief of Staff, Phil Ramon; seven city council members; and several other individuals to elicit testimony regarding possible contract fraud related to Hurricanes' Katrina and Rita.

WEDNESDAY'S EXPECTED EVENTS/RELEASES:

The Attorney General will outline the top priorities for the Department of Justice for the upcoming year and highlight recent accomplishments of the Department in an address to Department employees at 11:00 A.M.

The Attorney General will participate in interviews with NPR, the *Los Angeles Times*, the *Chicago Tribune* and the *Washington Post* on his first year as Attorney General and the Department's priorities for the upcoming year.

USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Wednesday, February 15, 2006 8:04 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing for Wednesday, February 15, 2006
Attachments:	agnb060215.pdf; agnb060215.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, FEBRUARY 15, 2006 7:45 AM EST

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TERRORISM NEWS:

White House Pressuring Senate Not To Investigate NSA Program. The Washington Post (2/15, A3, Babington, 744K) reports, "Congress appeared ready to launch an investigation into the Bush administration's warrantless domestic surveillance program last week, but an all-out White House lobbying campaign has dramatically slowed the effort and may kill it, key Republican and Democratic sources said yesterday. The Senate intelligence committee is scheduled to vote tomorrow on a Democratic-sponsored motion to start an inquiry. … Two committee Democrats said the panel -- made up of eight Republicans and seven Democrats -- was clearly leaning in favor of the motion last week but now is closely divided and possibly inclined against it." The two unnamed Democrats "attributed the shift to last week's closed briefings given by top administration officials to the full House and Senate intelligence committees, and to private appeals to wavering GOP senators by officials, including Vice President Cheney."

Congress Urged To Enact New Statute. In an op-ed for the Wall Street Journal (2/15, 2.11M) Federal judge Richard Posner writes, "The best, and probably the only, way to end the debate over the propriety of the National Security Agency's conducting electronic surveillance outside the framework of the Foreign Intelligence Surveillance Act is for Congress to enact a new statute. … It is a mistake to think that the only way to prevent abuses of a surveillance program is by requiring warrants. Congress could enact a statute that would subject warrantless electronic surveillance to tight oversight and specific legal controls."

CNN Producer Takes Rare Look Inside FISA Court. CNN.com (2/15) posts an article about the FISA court by Henry Schuster, a senior producer in CNN's Investigative Unit and author of 'Hunting Eric Rudolph,', who has been covering terrorism for more than a decade. Schuster writes, "America's secret court sits in a nondescript corridor on an upper floor of the Justice Department building, closed off from public view and now, some believe, regarded as increasingly irrelevant by the Bush administration. … The FISA court began issuing warrants in 1979 in the wake of a series of intelligence-related scandals earlier that decade and the one before, including the FBI's spying on the Rev. Martin Luther King Jr. … Even though the FISA court did what other courts do -- approved requests for wiretaps in conditions of secrecy -- the aura of national security and the lack of information about the court and the targets of those warrants gave it a certain mystique, to the point where it became known as America's secret court. … The fact that the actual courtroom was protected by an electronic cone of silence to prevent eavesdropping only seemed to add to the flavor." Schuster continues, "Judges appointed by the chief justice of the United States would hear proposals for warrants from the FBI and other agencies. One of them was Judge Royce Lamberth, a straight-talking Texan selected to preside over the FISA court from 1995 to 2002. … 'The FISA judges have

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got to be comfortable that this is something we've got to do for our national security. There's no political shenanigans going on here,' he told me. … I had the rare chance to hear about FISA from Lamberth during a recent conference in Washington. He said he is the only FISA judge, past or present, comfortable enough to talk about the court."

NCTC List Of Suspected Terrorists Contains As Many As 325,000 Names. The Washington Post (2/15, A1, Pincus, Eggen, 744K) reports, "The National Counterterrorism Center maintains a central repository of 325,000 names of international terrorism suspects or people who allegedly aid them, a number that has more than quadrupled since the fall of 2003, according to counterterrorism officials. The list kept by the NCTC…contains a far greater number of international terrorism suspects and associated names in a single government database than has previously been disclosed. Because the same person may appear under different spellings or aliases, the true number of people is estimated to be more than 200,000, according to NCTC officials." U.S. citizens "make up 'only a very, very small fraction' of that number, said an administration official, who spoke on the condition of anonymity because of his agency's policies." An NCTC official refused to say how many on the list…are U.S. citizens."

Potential Jurors In Hayat Trial Questioned About Terrorism. The AP (2/15, Thompson) reports, "The trial of a father and son charged with lying about the younger man attending a terror training camp in Pakistan began Tuesday, with potential jurors questioned about terrorism and whether they knew anyone who died during the September 2001 attacks." The AP continues, "Umer Hayat, 48, and his 23-year-old son, Hamid, have been in custody since their arrest last June, shortly after the son returned to the United States after nearly two years in Pakistan. An affidavit released in Washington, D.C., when Hamid Hayat was arrested said he planned to attack hospitals and supermarkets." The AP adds, "The Hayats are the only people charged criminally in a federal investigation of the Pakistani community in Lodi, an agricultural town about 35 miles south of Sacramento. They are being tried together but before separate juries because their statements to investigators purportedly incriminate each other in lying to the FBI. … U.S. District Court Judge Garland E. Burrell Jr. seated a jury of eight women and four men for Umer Hayat's trial, but those jurors are not due back in court until Feb. 21. Burrell said he expected to pick a separate jury to hear the case against Hamid Hayat on Wednesday and scheduled opening statements for Thursday."

Sealed Court File Allegedly Given To Newspaper. The San Francisco Chronicle (2/14, Bulwa) reports, "The high-profile trial of a Lodi father and son accused of terrorist ties, scheduled to begin today with jury selection, took on added intrigue Monday with the disclosure that federal agents have questioned court clerks and news reporters while investigating the alleged leak of a secret case file." The Chronicle continues, "FBI agents and a federal prosecutor questioned clerks on the fourth floor of the U.S. District Court in Sacramento last week about their handling of sealed documents from the prosecution of Umer Hayat and his son, Hamid Hayat, said attorneys Mark Reichel and Joseph Wiseman, who were hired to represent clerks." The Chronicle adds, "The investigators also contacted three reporters at the Sacramento Bee newspaper and said they were investigating the leak of documents, said executive editor Rick Rodriguez, who declined further comment. … In the trial, jurors must decide whether Hamid Hayat, 23, is guilty of supporting terrorists by attending a training camp in Pakistan in 2003 and 2004. He is also charged with lying to FBI agents about it. Umer Hayat, a 48-year-old ice cream truck driver, is charged with lying to the FBI about his son's alleged training. … Their attorneys said the younger man did not go to a camp at all. … The two attorneys representing clerks said they believe the government is trying to intimidate the media in a controversial case. A few court clerks answered questions, Reichel said, but 16 opted to hire counsel. A third attorney representing a clerk, Krista Hart, said investigators asked clerks to give fingerprints and undergo polygraph tests. … FBI Special Agent Karen Ernst, an agency spokeswoman, confirmed Monday that the government was investigating 'a leak of a sealed court document to the Sacramento Bee' but stressed that the clerk's office was not the only focus. She said the probe has been going on for some time and is not related to the trial."

Moussaoui Barred From Jury Selection. CNN's The Situation Room (2/14, Blitzer) reported, "Confessed al Qaeda conspirator Zacarias Moussaoui won't be allowed in court while a jury is selected to determine

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whether he'll face the death penalty. The judge barred Moussaoui in the courtroom after repeated outbursts."

ABC World News Tonight (2/14, story 6, :25, Gibson) reported, "Last week he was expelled four times for similar outbursts."

The Los Angeles Times (2/15, Serrano, 958K) reports U.S. District Judge Leonie M. Brinkema "ordered Moussaoui removed from the courtroom and taken to his holding cell in the federal courthouse building here. He will be allowed to monitor the next three weeks of jury selection via a television hookup."

USA Today (2/15, Willing, 2.31M) reports, "Before he was escorted from court Tuesday, the French national once again argued that his trial was unfair, and he showed more of the angry, abusive behavior that has characterized his court appearances and legal filings for much of the past four years. … Moussaoui, born in France to Moroccan parents, demanded that court papers stop describing him as French. 'I stand here as a Muslim only. I do not stand here with a nation of homosexual crusaders.'"

The Washington Times (2/15, Seper, 90K) reports Moussaoui "refused to be quiet during yesterday's hearing, instead reading from a handwritten speech and berating the judge for what he described as violating his civil rights. He accused Judge Brinkema of 'trying to organize my death for four years.' Moussaoui again denounced his court-appointed attorneys.'

The Washington Post (2/15, A9, Markon, 744K) reports, "Jury selection resumes today with questioning of individual jurors by the judge and continues until opening statements in the trial, set for March 6. The trial is scheduled to last one to three months."

The New York Times (2/15, Lewis, 1.19M) reports Brinkema said Moussaoui "might be allowed to return to the courtroom after a jury was seated."

The AP (2/15, Sniffen) reports, "After verbally sparring with Moussaoui for about 15 minutes," Judge Brinkema "ordered that he must watch the remainder of jury selection on closed-circuit television from his courthouse cell. That could take until March 6, when opening statements are scheduled. … Brinkema said her main purpose in Tuesday's hearing was to determine 'how Mr. Moussaoui plans to behave: ... whether you plan to remain quiet ... or whether you plan to make speeches.' … Moussaoui was ejected four times on Feb. 6 when he denounced his court-appointed lawyers in front of four separate groups of prospective jurors. Some 500 northern Virginia residents filled out questionnaires that day about their attitudes toward the case, the death penalty, Muslims and the FBI."

Reuters (2/15, Charles) reports that Judge Brinkema "called a hearing on Tuesday -- one day before direct jury questioning is set to begin -- mainly to ask Moussaoui if he could behave during jury selection. … Dressed in a white knit cap and green prisoner jumpsuit, the French citizen of Moroccan descent did not respond directly but proceeded to make further outbursts. … 'I want to make it known, like I've been trying for the last four years ... that these people are not my lawyers,' he said forcefully. He went on to call each of his lawyers a derogatory name. … 'I am al Qaeda,' he said. 'You, you, you -- for me you are the enemy,' he added, gesturing to his lawyers. … Brinkema stopped Moussaoui from continuing and said: 'Mr. Moussaoui, you are the biggest enemy of yourself.'"

Judge Orders Deportation Of Iraqi Tied To Al Qaeda. The Washington Times (2/15, Seper, 90K) reports, 'A federal immigration judge in Seattle yesterday ordered the deportation of an Iraqi national with ties to a senior al Qaeda operative suspected of helping plan the attack on the USS Cole in Yemen in 2000 and the bombings of U.S. embassies in Kenya and Tanzania in 1998. U.S. Immigration and Customs Enforcement (ICE) spokesman Dean Boyd said U.S. Immigration Judge Kenneth Josephson ordered Sam Malkandi of Kirkland, Wash., removed from the United States. … Mr. Boyd said ICE attorneys accused Mr. Malkandi of committing fraud against the U.S. government to obtain immigration benefits for himself and his family. He said the attorneys also introduced evidence, some of which was referenced in the September 11 commission report, that Mr. Malkandi used fraud in an attempt to obtain a U.S. visa for Tawfiq bin Attash, a one-legged al Qaeda operative also known as 'Khallad.'"

Sheik Mohamed's Defense Blasts Government Case. The Seattle Post-Intelligencer (2/15, Shukovsky) reports, "Witnesses for the imam of a Rainier Valley mosque accused of connections with terrorist organizations portrayed one government witness Tuesday as a vindictive liar and contradicted FBI assertions that Abrahim Sheik Mohamed is a fund-raiser for radical Islamic holy war. Federal agents with the FBI's Joint Terrorism Task Force arrested Mohamed Nov. 14 at Sea-Tac Airport as he was

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getting off a domestic flight. He was charged not with a terrorism-related crime, but with the immigration violation of lying on his application for asylum from his war-torn home in Somalia, where competing tribal groups killed each other based on clan membership." ICE prosecutors say Mohamed "lied about being a member of an oppressed minority clan, about his country of origin, his educational background and what languages he speaks. But much of the lengthy bond hearing to determine whether Mohamed can be released pending resolution of the case has focused on his alleged role as a fund-raiser for terrorist organizations operation in Somalia and Ethiopia."

Report Suggests US Fund Large-Scale Propaganda Campaign In The Mideast. USA Today (2/15, Diamond, 2.31M) reports, "The United States should launch a major covert information campaign to promote the nation's image in the Middle East and sow division among radical Muslim groups, according to a West Point critique of U.S. terrorism policy. The strategy, amounting to a secret campaign for hearts and minds, could involve paying for favorable publications and schools that promote moderate Islamic philosophies. … The authors of the unpublished report, civilian scholars Jarret Brachman and William McCants, confirmed the authenticity of the report obtained by USA TODAY. Though not an official U.S. military document, it has circulated widely among U.S. intelligence officials and officers on the Pentagon's Joint Staff. The authors regularly brief Pentagon officials on terrorism issues."

Saudi Government Accused Of Exporting "Anti-Western" Texts. In an op-ed for the Washington Times (2/15, 90K) Matthew Mainen, a policy analyst at the Institute for Gulf Affairs, writes, "Recently, a number of anti-Western texts, many of which were distributed by the Saudi Embassy, were discovered among authentic Muslim works at prominent Muslim institutions in the United States. This tactic carried out by extremists within the Saudi government represents an invasion on two fronts: the Muslim religion and the sovereignty of the United States. Although there is no evidence that Saudi Arabia has directly sponsored terrorism, it nonetheless is the largest contributor to the faith that breads it: Wahhabism."

PATRIOT ACT:

Patriot Act Deal Sparks Editorial Comment. The Palm Beach Post (FL) (2/15) editorializes, "'I think Congress has failed the country in many ways,' including allowing the administration 'to completely overpower the debate based on, "I'm the commander in chief, and I know what's best."' Thus spoke Sen. Chuck Hagel last month, reports The New York Times. Yet the Nebraska Republican and potential presidential candidate last week blessed the proposal to renew flawed provisions of the Patriot Act, saying, 'This is an accommodation that I think we can be proud of.' … With that, Sen. Hagel and three other GOP senators scuttled what had been a bipartisan effort to bring the anti-terrorism law in line with the Constitution. Democrats, too, hardly are blameless in failing to ensure the basic protections that the bill was temporarily extended to incorporate. The pattern is all too familiar: The all-terrorism, all-the-time White House manipulates the nation's fear, and Congress caves." The Post adds, "It is un-American to give one branch of government the unfettered license the president keeps claiming. To grant this administration more 'trust us' authority is inconceivable in the light of such appalling abuses as its domestic wiretapping without court approval. Rather than yield the administration more extraordinary power, Congress should insist on more oversight. Otherwise, Congress emboldens an administration that has proven masterful at playing all sides against the others for wafer-thin approval to get its way — and, when it doesn't get its way, simply doing what it wants anyway."

The Orange County (CA) Register (2/14) editorializes, "Four Republican senators, led by Sen. John Sununu of New Hampshire, who helped to hold up renewal of certain controversial portions of the USA Patriot Act in December, say they have reached an agreement with the White House on a compromise. That compromise still doesn't provide sufficient safeguards for important civil liberties." The Register continues, "This new compromise would give recipients of subpoenas for information in terrorist-related investigations the right to challenge government orders not to inform anyone - after a year. It would remove a requirement that any individual who is given what is called a National Security Letter demand for records inform the FBI of the name of any attorney consulted about whether or how to comply. And it would clarify that most libraries are not subject to National

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Security Letter demands for records of clients using Internet facilities. … These would be desirable changes, but not enough to protect civil liberties sufficiently. As former Georgia Republican Rep. Bob Barr noted, under these provisions 'investigators can [still]conduct government-sanctioned fishing expeditions.' Mr. Barr wants the government to have to prove there is evidence of some connection to terrorist activity or a terrorist organization before demanding such a broad range of records. … We agree. Congress should be in no hurry to approve this inadequate proposal."

HOMELAND RESPONSE:

Agencies Investigate Laser Lights Shined At Planes Landing In Detroit. ClickOnDetroit.com (2/14) reports, "Police are on alert after more than a dozen pilots reported someone shining a laser light at the plane while descending into Metro Airport. The incident occurred in the Dearborn and Dearborn Heights areas, where 16 pilots reported seeing the laser pointer lights near the tower." The lights were apparently "being flashed at planes on their final approach into the Detroit area." The FBI and FAA are investigating. The Detroit News (2/15) reports the FAA "received reports of 16 incidents of pilots complaining that between 5:50 and 6:30 p.m. Monday, someone flashed laser beams at their aircraft as they descended, said Elizabeth Isham Cory, the agency's deputy director of public affairs for the Great Lakes Region. 'We treat it as a very serious matter,' FBI Special Agent Dawn Clenney said. 'Laser beams can disorient pilots responsible for an airplane full of passengers.'" Clenney said "pointing laser beams at airplanes could be considered a terrorist act under the law and anyone caught doing it could face charges carrying up top 20 years in prison and a fine."

White House Says Bush Has Not Considered Asking Chertoff To Step Down. The AP (2/15) reports, "President Bush has full confidence in Michael Chertoff and has not considered asking the homeland security secretary to step down after criticism of his performance on Hurricane Katrina, the White House said Tuesday. 'Secretary Chertoff is doing a great job,' White House press secretary Scott McClellan said, answering a reporter's question about Chertoff. 'The president appreciates his strong leadership.'" The AP notes, "A Republican-written House report blamed government-wide ineptitude for mishandling Katrina relief. A report by Congress' investigative arm, the Government Accountability Office, reached similar conclusions and singled out Chertoff for delays."

Under the headline "Some Wonder If Chertoff Can Survive," the Los Angeles Times (2/15, Neuman, 958K) reports "as evidence mounts of the department's botched response to Hurricane Katrina, Chertoff's reputation has been impugned. Now some question whether he can survive in the job. The most telling sign of how much heat the Homeland Security secretary is under may be that members of his own party are throwing logs on the fire. 'It's fair to say that he's vulnerable,' said Republican Sen. Norm Coleman of Minnesota, a member of the Senate Homeland Security and Governmental Affairs Committee, which has been investigating the government's response to Katrina for several months." Meanwhile, "The White House came to Chertoff's defense Tuesday, its words reminiscent of President Bush's praise for Michael D. Brown, the head of the Federal Emergency Management Agency who was forced to resign when his mishandling of the disaster became known." The Times adds, "A big part of Chertoff's problem is that Brown's shortcomings are judged to have been so apparent when measured against the death and destruction of Hurricane Katrina that blaming him for the government's failings may be politically insufficient."

Senate Panel To Grill Chertoff On Government's Katrina Response. The CBS Evening News (2/14, story 4, 2:30, Schieffer) reported, "A Senate committee" probing "what went wrong with Hurricane Katrina is holding" Chertoff "accountable and…he may have a hard time coming up with acceptable answers." CBS (Attkisson) added, "The Senate committee investigating Katrina problems purposely saved Chertoff for last. They used the previous hearings to build a Katrina timeline. Tomorrow, they plan to grill Chertoff about it and try to get him to fill in some blanks. For instance, Saturday August 27, two days before landfall, FEMA prepared a briefing predicting thousands of deaths in a worst-case scenario. Did Chertoff know and if so, why didn't he move then to activate all kinds of systems to get an aggressive response rolling? Sunday, August 27: Katrina's just offshore. A noon video teleconference with President Bush, Chertoff and other high-level officials; there's no doubt catastrophe is coming. What was Chertoff doing to take action between the calls? But most intriguing of all, something both Democrats and Republicans call a mystery, is the case of the missing

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transcript on Monday, August 29." Senators "asked Chertoff's department for transcripts of all the Katrina video teleconferences but didn't get one for the critical day when Katrina made landfall." Sen. Lieberman: "We asked them where is it? They said, first, it's lost. Then they said we just can't find it. I'd like to know what happened on that teleconference." Attkisson: "Amid all the criticism, reporters asked the White House spokesman if Chertoff should step down." Scott McClellan, White House Press Secretary: "No. In fact, Secretary Chertoff is doing a great job at the Homeland Security Department. The President appreciates his strong leadership."

Experts Say Proposed FEMA Reforms Don't Go Far Enough. The Washington Post (2/15, A4, Hsu, 744K) reports, "In proposing to bolster the Federal Emergency Management Agency by creating a full-time response force of 1,500 people and expanding 10 regional offices, White House homeland security adviser Frances Fragos Townsend and Homeland Security Secretary Michael Chertoff are grappling again with FEMA's long-term future, a question at the heart of the nation's disaster preparedness." Meanwhile, "Several experts and officials in touch with the Bush administration say the changes proposed Monday -- adding reconnaissance teams, improving vendor databases and strengthening claims management -- only scratch the surface of needed changes. What Chertoff announced 'was a necessary step but not sufficient. I expect him to go further,' said Richard A. Falkenrath, a former Bush White House official and a senior fellow at the Brookings Institution who was an original architect of the Homeland Security Department. … James Jay Carafano of the Heritage Foundation agreed that the administration's preview Monday 'doesn't really solve the problem,' which is the ability to push help in the critical first 72 hours of a crisis and unify the government under one command."

Democrats "Pleasantly Surprised" Over Committee's Report On Katrina Response. Roll Call (2/15, Kornacki) reports that though House Democratic leaders initially "scoffed" at the select committee investigating the response to hurricane Katrina, "branding the GOP-led investigation a 'sham' and refusing to appoint Members," the report expected from the committee today "will portray the response as sluggish and ineffective, with particularly harsh words reserved for Homeland Security Secretary Michael Chertoff, according to draft copies circulated earlier in the week. 'I'm pleasantly surprised,' Minority Whip Steny Hoyer (D-Md.) admitted on Tuesday." However, "the Democrats are still free to…contend that the report, as one aide suggested, 'painted in broad strokes instead of connecting all the dots.' Indeed, in the 'additional comments' section, the Democrats who participated argue for Chertoff's dismissal, a remedy not endorsed by the Republicans. From a purely political standpoint, Democrats may have a rare opportunity to double their payday in the message wars, piling on with additional critiques even after the media has reported the damning nature of the report."

The Hill (2/15, Hearn) reports, "House Democratic leaders had mixed reactions yesterday" to the report. "Having asserted many times last fall that the committee was a 'sham' and would go soft on the administration, Democrats had to soften their rhetoric yesterday and praise the committee's work while still renewing earlier calls for a nonpartisan, independent commission to investigate the government's bungled response to the storm. Democratic Leader Pelosi (Calif.) said the report, which faults the response of top administration officials such as Homeland Security Secretary Michael Chertoff, represented 'a vote of no confidence in the Bush administration's ability to keep America safe.' Yet she said much work is left to be done."

SBA Seeks Additional Funds For Gulf Coast. The Wall Street Journal (2/15, Rogers, 2.11M) reports, "The Small Business Administration, running out of money for disaster relief on the Gulf Coast, is pressing for additional funds to support an estimated $6.8 billion in new loans for homeowners and businesses there." The SBA "estimates it needs $1 billion more and is asking for action this week before lawmakers leave for the Presidents Day recess. The situation is unusual both because of the size of the request and because the White House, under attack for failing to respond to Hurricane Katrina more quickly, hasn't been more clear, Republicans say, about the need for funds. Speaker Dennis Hastert (R., Ill.) said last evening that the House would initiate a bill, possibly as early as today, to meet the SBA's needs. But given their annoyance, the House and Senate Appropriations committees expect to provide only enough to meet loan demands through the end of April."

Meanwhile, CQ (2/14, Higa) reported, "The House is expected to pass a spending measure Wednesday that would redirect $1 billion in previously appropriated Federal Emergency Management Agency (FEMA) funds to the Small Business Administration's (SBA) disaster loan program. Because the FEMA funds were appropriated shortly after

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Hurricane Katrina struck last August, the measure (HR 4745) would not affect the budget deficit."

WAR NEWS:

Basra Severs Ties With UK Authorities. Iraq's Basra province has severed all ties with British authorities in reaction to video footage showing British soldiers beating and kicking Iraqi youths. The AP (2/15) reports, "With outrage over the video mounting, the governing council for Basra province, which includes Iraq's huge southern oil fields, announced it was cutting all ties with British military and civilian operations in the province, where Britain's contingent in Iraq of more than 8,000 servicemembers is headquartered. The Basra police chief, Maj. Gen. Hassan Suwadi, said Iraqi security forces would cease joint patrols with the British military in the province to protest the alleged abuse." The CBS Evening News (2/14, story 8, 0:10, Schieffer) reported that in Basra, "angry protesters marched to the British Consulate to demand punishment for British soldiers shown beating Iraqis in a recently released videotape."

Saddam Says He Is On A Hunger Strike. Saddam Hussein and his half brother yesterday disrupted their trial, with the former dictator announcing he and his co-defendants had begun a hunger strike. The Iraqi judge's inability to control the proceedings is leading to questions about the new government's ability to conduct a fair trial. ABC World News Tonight (2/14, story 5, 2:15, Gibson) reported, "In Iraq, once again, Saddam Hussein has turned his trial into a circus. Today, the former Iraqi leader marched into court and announced that he and several of his co-defendants had begun a hunger strike. It was his latest attempt to gain control of the proceedings. And the judge hasn't been able, or perhaps willing, to stop it." ABC (Kerley) added, "The chaos in the courtroom has captivated many, but has also proved disappointing for Iraqis." Iraqi law "does allow the removal of defendants, but the judge has resisted doing so, fearing that would play into Saddam's game plan." Prof. Fawaz Gerges, Sarah Lawrence College: "I think Saddam Hussein has won every, single round in this trial." Kerley: "From the beginning, this trial has been about power and politics. And from the defendants' box, Saddam is playing successfully to his Sunni supporters."

The CBS Evening News (2/14, story 7, 0:10, Schieffer) reported, "At Saddam Hussein's trial, the former dictator came up with something new again, announcing he's now on a hunger strike. Saddam claims he has not eaten in three days."

The Los Angeles Times (2/14, Daragahi, 958K) reported on its web site, ."Defendants have been using the trial as a stage for political antics, and today was no exception. Toward the end of the session, Hussein lambasted the 'Americans and Zionists' and, in a segment that was edited, the version broadcast to viewers with a 20-minute delay urged Iraqis to fight the 'occupier.'"

The Washington Post (2/15, A14, Hernandez, Fekeiki, 744K) reports, "In an otherwise subdued session, Hussein told Judge Raouf Rasheed Abdel-Rahman that he had not eaten in three days, and three of his co-defendants said they also had refused to eat. Court authorities would not confirm whether Hussein was really on a hunger strike." The Post adds, "During testimony Tuesday, three former officials of Hussein's government pleaded ignorance when questioned about the killing of more than 140 Iraqis from the town of Dujail after a failed assassination attempt against Hussein there in 1982."

The New York Times (2/15, Wong, 1.19M) reports that "the prosecutor's three witnesses appeared reluctant to testify, and their statements failed to bolster any case against Mr. Hussein. The prosecution is trying to prove that Mr. Hussein and the other seven defendants were responsible for the torture and executions of 148 men and boys in the Shiite village of Dujail, where a small group of men tried to assassinate Mr. Hussein in 1982. The prosecutors must establish a chain of command that clearly links Mr. Hussein and his colleagues to the torture and killings."

Ibrahim Denies Any Role In Dujail Crackdown. The AP (2/15) reports, "Saddam Hussein's former intelligence chief, again wearing pajamas in court as a protest, on Tuesday became the first defendant in the ousted president's trial to speak at length about the charges of executions and imprisonment of Shiites in the 1980s. Barzan Ibrahim, who is also Saddam's half brother, denied any part in the crackdown against residents of Dujail, a mainly Shiite town north of Baghdad, after a 1982 assassination attempt against Saddam there. Speaking in an orderly way from the defendants' pen, Ibrahim said he went to Dujail on the day that gunmen opened fire on Saddam's motorcade, then returned to the village the following day. He claimed he ordered the release of more than 80 detainees held in the town."

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Army IG Looking Into Iraq Friendly-Fire Death. The Washington Post (2/15, A16, White, 744K) reports, "The Army inspector general's office has launched a review of a friendly-fire case at a security checkpoint in Iraq that claimed the life of a young Ohio soldier, Army officials said. Spec. Jesse R. Buryj's death from a gunshot to the back led to a series of investigations by the United States and Poland. Soldiers from both countries were manning a traffic circle in Karbala in May 2004 when a suspicious dump truck crashed through barriers and ignored warnings to stop. A bullet hit Buryj, 21, as he fell from the turret of his Humvee after the truck -- which was carrying an unarmed driver and passenger -- collided with it during the nighttime incident. … Buryj's family, in Canton, Ohio, was told he died in a car accident. His parents did not learn the truth until nearly a year later, after they asked President Bush for help. 'The IG will review the matter to determine if proper policies and procedures were followed,' said Col. Joseph Curtin, a top Army spokesman at the Pentagon. He said the review is not an official 'investigation.'"

Jafari Outlines Plans For Iraqi Government. The Los Angeles Times (2/15, Daragahi, Salman, 958K) reports that Iraqi Prime Minister Ibrahim Jafari yesterday outlined plans "to build a broad-based government to tackle the country's woeful security conditions.' Jafari "faced widespread criticism for being ineffective and controlling during his 10-month tenure as the country's top executive. He acknowledged his previous administration's weaknesses and vowed to listen to those outside his political circle in forming a government." Jafari "did not spell out any major proposed changes for his administration, but said he would tighten the screws on ministers, who he suggested had been spending too much time out of the country."

WSJournal Calls Jafari Nomination A "Positive Step." The Wall Street Journal (2/15, 2.11M) editorializes that the selection of Ibrahim al-Jaafari as the Shiite Alliance's candidate to serve as Iraq's Prime Minister for the next four years is "the latest positive step in Iraqi political development -- which includes two elections, negotiations to write a new and liberal constitution and a successful referendum on that document. We'll let the cynics decided if this qualifies as 'Jeffersonian,' or merely Iraqi pragmatism, but whatever it is we'll call it progress."

US Marine Killed By Roadside Bomb West Of Baghdad. The CBS Evening News (2/14, story 6, 0:05, Schieffer) reported, "In Iraq today, another US Marine was killed in action by a roadside bomb west of Baghdad."

Sixty-One Journalists Have Been Killed In Iraq War. The CBS Evening News (2/14, story 9, 0:30, Schieffer) reported, "The war in Iraq has become one of the deadliest wars for journalists in modern times. A report today from the Committee to Protect Journalists say 61 journalists have been killed in Iraq since the war began three years ago. That is approaching the 63 reported killed in ten years of war in Vietnam and Cambodia and the 69 in all of World War II."

Lincoln Group Grew On "Exaggerated Claims" About Abilities, Connections. The New York Times (2/15, Cloud, 1.19M) reports on the Lincoln Group, which started as two men, Christian Bailey and Paige Craig, living in a half-renovated Washington group house, and now "works out of elegant offices along Pennsylvania Avenue and sponsors polo matches in Virginia horse country." The Post reports that the company's rise "has been built in part by exaggerated claims about its abilities and connections, according to interviews with more than a dozen current and former Lincoln Group employees and associates, and a review of company documents." Bailey "defends his company's record, saying, 'Lincoln Group successfully executes challenging assignments.' He added that 'teams are created from the best available resources.'" Lincoln "won its contracts after claiming to have partnerships with major media and advertising companies, former government officials with extensive Middle East experience, and ex-military officers with background in intelligence and psychological warfare, the documents show. But some of those companies and individuals say their associations were fleeting. Lincoln has also run into problems delivering on work for the military after its partnerships with more experienced firms fell apart, company documents and interviews indicate."

Helicopters Carry Soldiers, Civilians Around Iraq War Zone. Doug Smith writes in the Los Angeles Times (2/15, 958K) about "the awesome complexity of the system that moves soldiers around a war zone the size of California" in Iraq. With "the roads too dangerous for routine travel, about 100 helicopters serve as taxis for soldiers and

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civilians on U.S. business, carrying them to and from scores of far-flung bases with names like Courage, Danger, Liberty and War Horse. There are no flight schedules. For security reasons, the military does not disclose details on the number of flights or routes. The Army press office in Baghdad says routes are made up daily in response to need. Any flight can be canceled on short notice because of combat action."

USAID Helping Establish Olive Orchards In Iraq. The Washington Times (2/15, McCaslin, 90K) reports in its "Inside the Beltway" column that the U.S. Agency for International Development "is helping establish olive orchards in eight regions' of Iraq, "seeing olive production as 'a potentially important cash crop for Iraqi farmers.' We're told that USAID is helping Iraq's Ministry of Agriculture plant 16 demonstration orchards, using thousands of saplings that it hopes one day will branch into symbols of peace."

In 2000, NYTimes Warned Saddam Sought To Revive Weapons Projects. In its "History Lessons" column, the Washington Times (2/15, 90K) excerpts a New York Times from January 27, 2000 , which stated, "The further the world gets from the Gulf War, the more it seems willing to let [Saddam] Hussein revive his deadly weapons projects. … The United States and its European allies may later regret that they were not more energetic in enforcing Iraq's disarmament obligations."

Iraqis Celebrate Version Of Valentine's Day. The CBS Evening News (2/14, story 15, 1:40, Schieffer) reported, "It is not the first place you think of when you think of Valentine's Day but it turns out the holiday is celebrated in, of all places, Iraq. The Iraqis have given it another name, but even in wartime, there's no mistaking what's going on." CBS (Dozier) added, "Here in Iraq, Valentine's Day is known as the Day of Love. Baghdad's florists are working overtime. It seems the one thing Sunnis, Shiites and Kurds can all agree on is romance. Iraqi couples are giving new meaning to the phrase love will find a way."

Afghan Bombings Appear To Be Launched By Taliban From Pakistan. The New York Times (2/15, Gall, 1.19M) reports, "Arrests and interrogations of suspects in a recent series of suicide bombings in Afghanistan show that the attacks have been orchestrated from Pakistan by members of the ousted Taliban government with little interference by the Pakistani authorities, Afghan officials say. In taped interviews by an Afghan interrogator, two Afghans and three Pakistanis who were among 21 people arrested in recent weeks described their roles in the attacks, which have killed at least 70 people in the last three months, most of them Afghan civilians but also international peacekeepers, a Canadian diplomat and a dozen Afghan police officers and soldiers. … The tape appears to confirm Afghan officials' suspicions that the suicide bombings, which are largely a recent phenomenon in Afghanistan, were generated outside Afghanistan, and in particular from neighboring Pakistan. It was shown to The New York Times by an Afghan official who asked not to be identified because of the diplomatic implications of the contents."

Officials Nearing Deal On Afghan Gas Pipeline. The Christian Science Monitor (2/15, Baldauf, 61K) reports, "If all goes well this week, Afghanistan may soon be on its way to having a gas pipeline going through its territory. The ninth meeting of oil ministers for Turkmenistan, Afghanistan, and Pakistan started Tuesday in Ashkabad, Turkmenistan's capital. And according to Afghan officials, the three countries are closer than ever to a deal. … Even India is interested in the project, and Indian officials will be attending the Ashkabad meeting as observers." The Monitor adds, "For Afghanistan, this project could be a welcome source of jobs and income. After the three-year construction period, annual revenue for the Afghan government would reach around $350 million to $450 million. This is less than the $2.2 billion in Afghanistan's illicit opium economy, but it has the advantage of being clean."

Return Of Sharia Called A "Troubling Sign" For Afghan Female Lawmakers. The Christian Science Monitor (2/15, Baldauf, 61K) reports that for Afghanistan's female parliamentarians "hoping to improve the lot of women in this conservative Islamic country, the return of sharia rules - even if they are not specifically stated in the Constitution - is a troubling sign indeed. After all, it was this very same sharia principle that the conservative Taliban regime used to prevent women from going to school, to market, and to work." Under sharia, "the notion of mahram-e sharaii, or male chaperones, allows for women to travel for more than three days if they are accompanied with a male relative. Because mahram-e sharaii has not been introduced as a bill, it is impossible to know just how much parliamentarian support it has. But with an estimated 50

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percent of the lower house claiming past experience as fighters in the anti-Soviet jihad, and current affiliation with Islamist parties, it's clear that conservative interpretations of Islamic life have a strong political hold."

NATO Allies Have Reduced Militaries Since 9/11. The Washington Times (2/15, Scarborough, 90K) reports, "America's major NATO allies have cut military manpower and defense funds as a share of their economies since the September 11 attacks, in sharp contrast with the United States, which embarked on deficit spending to boost arms outlays to fight global terrorists. The downward trend is raising alarms inside the Pentagon, which needs the allies' help to battle al Qaeda and other militants in Afghanistan, Iraq and other trouble spots. A comparison of force structures in 2001 and 2005 showed countries such as Britain, Canada, France, Italy, Poland, Spain and Germany cut their active-duty forces, according to statistics compiled by the London-based International Institute for Strategic Studies. At the same time, the United States increased its ranks from 1.37 million to 1.42 million." The Times adds, "Defense Secretary Donald H. Rumsfeld, who once referred to France and Germany as "old Europe" during their vocal opposition to the war that ousted Iraqi dictator Saddam Hussein, has stepped into the dangerous arena of criticizing Western allies before. But this time, he is doing it diplomatically as he tries to explain the dangers of declining defense budgets in the age of global terror, which has struck NATO countries Turkey, Great Britain and Spain, as well as the United States. At last week's NATO defense ministers' conference in Munich, Mr. Rumsfeld gently prodded his colleagues to rethink defense spending after he detailed the job ahead."

Army Revamps Boot Camp Procedures. A front page story in the Wall Street Journal (2/15, Jaffe, 2.11M) reports on "big changes sweeping Boot Camp" as the Army, fights through "one of its biggest recruiting doubts." The Journal adds, "Once-feared drill sergeants have been ordered to yell less and mentor more. … New privates are getting more sleep and personal time. Even the way soldiers eat has changed. Drill sergeants long ordered overweight soldiers to stay away from soda and desserts. Today, soldiers at Fort Leonard Wood fill out a survey about their boot-camp experience that asks, among other questions, if they liked the food, whether they were 'allowed to eat everything on the menu, including dessert,' and whether there was enough for seconds. Recruits still must meet the same basic standards and pass the same tests for physical fitness and marksmanship to graduate, say Army officials. But more variable criteria that in the past might get a recruit expelled -- such as whether a drill sergeant thinks a recruit has the discipline and moral values to be a soldier -- have been jettisoned."

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Minnesota US Attorney To Resign. The AP (2/15, Forliti) reports that Minnesota "U.S. Attorney Tom Heffelfinger, just weeks after wrapping up his investigation into the worst U.S. school shooting since Columbine, announced Tuesday that he will step down at the end of the month and return to private practice." The AP continues, "Heffelfinger, who was appointed to the post shortly after the Sept. 11 terrorist attacks, said he was stepping down for personal and family reasons. While the shooting at Red Lake High School was not a reason for his departure, he said, the case did play a role in the timing of it. … 'It was very clear to me personally that I was not going to quit this job until after I met with the victims of the tragedy,' he said. 'This was a very difficult decision.'" The AP adds, "Heffelfinger oversaw his office's investigation into the March 21 shooting that claimed 10 lives on the Red Lake Indian Reservation in far northern Minnesota. Just two weeks ago, Heffelfinger presented the findings of his investigation to victims' family members and some tribal officials. … Heffelfinger was criticized by some families for not sharing more information about the investigation."

North Carolina US Attorney Tapped For Federal Bench. The AP (2/15) reports, "The top federal prosecutor for the eastern third of North Carolina was nominated Tuesday by President Bush for a lifetime appointment to the federal court hearing cases from the state's western third." The AP continues, "Frank Whitney, 46, and his family still live in Charlotte. He would succeed Judge Brent McKnight, who died in November 2004 of esophageal cancer. … Whitney, a former Mecklenburg County Republican Party chairman, had the backing of the state's two Republican senators, Elizabeth Dole and Richard Burr." The AP adds, "Whitney spent 11 years as a federal prosecutor in Charlotte until Bush named him U.S. attorney for the state's eastern district in 2002. … As U.S. attorney, Whitney has

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overseen the public corruption prosecutions of former U.S. Rep. Frank Ballance and former state Agriculture Commissioner Meg Scott Phipps. The Phipps case, which involved illegal campaign contributions and rigging of bids to operate the state fair midway in Raleigh, led to Phipps' resignation and prison time for the former commissioner."

CORPORATE SCANDALS:

Former Enron Official Testifies Skilling Hid Broadband Unit's Status From Board. USA Today (2/15, Farrell) reports, "Former Enron CEO Jeff Skilling not only hid the sorry condition of the company's broadband operations from investors and analysts, but also hid that information from the company's board of directors, a former Enron executive testified here Tuesday." USA continues, 'Ken Rice, who served as CEO of Enron Broadband Services (EBS) from 1999 to 2001, testified that after preparing a presentation he planned to make about his unit to Enron's board of directors on May 1, 2001, he 'discussed it with Mr. Skilling, and he asked me not to give that presentation.' … Instead, Rice said, he made a presentation to the board that was not fully candid about the disastrous state of broadband's operations." USA adds, "Rice's assertions capped nearly a full day of testimony about EBS, a business unit launched with significant hype during the dot-com bubble. Prosecutors contend that by portraying Enron Broadband as a unit with huge growth potential, Skilling and former Enron chairman Ken Lay misled the investing public."

The Wall Street Journal (2/15, Emshwiller, Mcwilliams) reports, "Rice testified that Mr. Skilling, while Enron's president, made misleading statements about the telecommunications unit to stock analysts in 2001. Mr. Skilling also pushed the telecommunications unit, which was called Enron Broadband Services, to come up with financial projections that were more optimistic than warranted by business conditions, he alleged. Mr. Rice added that Mr. Skilling had also directed him to be less than fully candid when making a presentation about Enron Broadband to Enron's board in May 2001. … Messrs. Skilling and Lay are in their third week of what is expected to be a months-long trial on conspiracy and fraud charges stemming from the December 2001 collapse of Enron. Some of the charges in the case stem from alleged misstatements about Enron Broadband, which was devised to provide high-speed telecommunications services to businesses and homes." The Journal adds, "Mr. Rice is the second government witness to take the stand. Like the initial witness, former Enron investor-relations chief Mark Koenig, Mr. Rice has pleaded guilty to an Enron-related crime and is testifying under a government cooperation agreement that he hopes will lead to a reduction of any prison sentence. … Mr. Rice said Enron Broadband never lived up to the high hopes for the unit that were presented to the public in 2000 and early 2001 by Mr. Skilling and others. The unit was never profitable, he testified, and by early 2001 was suffering from high costs and little revenue."

The New York Times (2/15, Barrionuevo) reports that Rice "testified that Mr. Skilling misled analysts time and again by portraying Enron's broadband unit as surviving a meltdown in the telecommunications business. … In truth, Mr. Rice said, the situation had become so dire that Enron was forced to lay off employees and drastically cut costs. When the business needed to meet earnings targets, it turned to complex financial structures like LJM, a secretive, off-the-books partnership run by the chief financial officer, Andrew S. Fastow, and other transactions that sacrificed future revenue to book current earnings, he testified. … Mr. Rice's testimony strongly supported that of the government's first witness, Mark E. Koenig, the former head of investor relations, who described misleading statements Mr. Skilling made to Wall Street analysts to ensure that Enron's stock would not be affected by bad news about the broadband unit's performance. … But Mr. Rice, who had a close relationship with Mr. Skilling stretching back a decade, described several private meetings with the former chief executive where, he said, Mr. Skilling steadfastly refused to come clean with the unit's failings."

Bloomberg (2/15, Feeley) reports that Rice testified "that he questioned the use of a partnership set up by former Chief Financial Officer Andrew Fastow to help make his unit's 1999 earnings targets. Rice said he told Skilling using such off-the-books entities for Enron-related deals 'looked goofy.' … 'Mr. Skilling explained that it was something that would facilitate getting transactions done,' Rice said during his first day of testimony … 'He said we needed to do it so that we weren't being stuck by the banks at the last minute to get transactions done.' … Lay, 63, and Skilling, 52, have said they weren't involved in the off-the-books partnership transactions, which they said were overseen by Fastow. The CFO, who has pleaded guilty to fraud charges stemming from Enron's

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collapse, is accused of reaping at least $25 million in illegal profits from Enron- related deals with his partnerships."

The Los Angeles Times (2/15, Mulligan) reports, "Preparing for in-house budgeting meetings for 2001, Rice's EBS subordinates examined their pending deals and expenses and estimated that the unit would lose $489 million in 2001. The climate, Rice testified, was one of sharply rising expenses and a depressed telecommunications market in which few customers would sign the long-term 'bandwidth' contracts that were supposed to be EBS' bread-and-butter business. … Bandwidth refers to the capacity for sending data over the Internet. Enron, which had pioneered gas and electricity trading, thought that it could trade bandwidth — and eventually other commodities — on the same model. EBS was important to Enron's image as an increasingly high-tech company that should command a far higher stock market valuation than other competitors in the energy business."

Reuters (2/15) and the AP (2/14, Hays) also reports on Rice's testimony.

More Commentary. In a column for the Wall Street Journal (2/15), Holman Jenkins writes, "The Enron trial is underway, and may justice be done, amen. For our millions of tax dollars, however, we pray for a parting of the mists around Jeff Skilling's weird, abrupt resignation from the company in August 2001. … There's no doubt that, from a dramaturgical point of view, the resignation is a key to the story. Mr. Skilling was credited with building the Enron trading machine from scratch. He had just formally been awarded the title of CEO, a driven Type A, arrogant, smart, full of blustery camaraderie with his protégés. In our current adopted posture of amorality, we don't care whether he goes to jail. All we want to know is what was going through his multileveled little mind." Jenkins continues, "As told to the press, he wanted to spend time with his kids, slow down, smell the roses. He was concerned about his health. In an off-key note, he told the Journal he might have stayed if Enron's share price hadn't turned south. The more he talked, the clearer it became that no one at Enron had the slightest idea why he was leaving, even as the stock price cratered on the news. … We admit to finding this theory tempting: Mr. Skilling, from the moment he decided on resignation, has been engaged in a high-wire bluff to avoid accountability for Fastow's actions, including his incredibly nervy decision to testify under oath before a Congressional panel even as Mr. Lay did the normal thing and heeded his lawyer's advice to plead the Fifth." Jenkins adds, "Juries, immersed in the evidence for months at a time, have a way of popping out with verdicts that leave the kibitzers confounded. Still, if Mr. Skilling walks, his most brilliant career move may well have been resigning and handing over the hot seat to Ken Lay so the government would feel compelled to muddy its case by indicting him too."

Corporate Scandals Have Had Little Effect On Public Perception. In a column in Roll Call (2/15), Karlyn Bowman, a resident fellow specializing in public opinion and polls at the American Enterprise Institute, writes, "Views about business — and many other key institutions — were unusually positive during the good economic times of the late 1990s. Now, after a flurry of corporate scandals, have more negative views about the business sector set in, or have Americans gotten past the run of CEO misdeeds? … In Pew's 1999 question, 73 percent of respondents said they had a very or mostly favorable opinion of business corporations. Business did take a short-term hit when scandals involving Enron and WorldCom broke in late 2001. More recently, business and other institutions have suffered from a generally sour mood in the public." Bowman continues, "Specifically, in Pew's December question, 57 percent had a favorable opinion of business. Gallup's data shows high confidence in big business dropping from 28 percent in the spring of 2001 to 20 percent in the spring of 2002. It's 22 percent today. … In reality, despite the modest dips in support, public attentiveness to business scandals was never especially high. A November 2003 Pew Research Center report concluded that the business scandals had a 'minimal impact' on public opinion. There are several reasons. … First, people didn't think the kind of behavior they saw at Enron would happen at their own companies. … Second, people have long been wary of the honesty and ethics of big business, and in that sense, the scandals were nothing new. … Nor did the scandals prove particularly harmful to one party or the other. Americans think that both parties are too close to big business. The lack of a partisan cast appears to have dulled the political impact."

Retirees' Initiative May Cut Executive Pay At Lucent. The Wall Street Journal (2/15, Silver) reports, "In recent years, Lucent Technologies Inc.'s retirees have seen many of their benefits cut. Now they are fighting back -- proposing to rein in the compensation of the executives doing the cutting." The Journal continues, "Lucent's shareholders today are voting on a proposal to restrict the pay of the top brass. The proxy proposal, which was put forward by retirees,

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would make 75% of executive stock grants dependent on the telecom-equipment maker's performance. It is partly a reaction to last year's sharp increase in the bonus of Lucent's chief executive, Patricia F. Russo." The Journal adds, "It isn't just happening at Lucent. Retirees from a range of companies including Verizon Communications Inc., General Electric Co., International Business Machines Corp., Prudential Financial Inc. and Qwest Communications International Inc. are presenting proposals to restrict executive compensation. The retirees are motivated partly by concerns that the value of their nest eggs can crack when the value of their companies' stocks drops. … This is actually the second attempt for the Lucent proposal. Last year a similar proposal by retirees received very strong support from shareholders, according to Patrick McGurn of Institutional Shareholder Services, a firm that advises shareholders on corporate proxy votes and is recommending they support this proposal."

Regulation Of Securities Litigation Said To Require Tightening. In an op-ed for the Wall Street Journal (2/15, 2.11M) Kenneth Lehn, former SEC chief economist, writes, "We just marked the 10th anniversary of the Private Securities Litigation Reform Act (PSLRA), which attempted to curb abuses in securities class-action litigation by eliminating so-called 'professional plaintiffs' and instituting more-stringent pleading standards. While the PSLRA has discouraged some meritless lawsuits, the evidence suggests that our private securities-litigation system still needs additional reform. … Almost one-third of the companies in the Nasdaq Biotech Index and more than one-half of the firms in the Nasdaq Internet Index have been targets of federal class-action securities lawsuits since the enactment of the PSLRA. Insofar that some, if not most, of these suits are driven more by the volatility of these companies' stock prices than they are by fraud, these suits have a disruptive effect on important high-growth industries."

CRIMINAL LAW:

Abramoff Sought Rove's Aid To Arrange Malaysia Meeting. The Los Angeles Times (2/15, Hamburger, Wallsten, 958K) reports that when the government of then-Prime Minister Mahathir Mohamad of Malaysia sought a meeting with President Bush, "it followed the same strategy as many other well-heeled interests in Washington: It called on lobbyist Jack Abramoff for help." Abramoff "contacted presidential advisor Karl Rove on at least four occasions to help arrange a meeting, the witness said." Abramoff "received $1.2 million from the Malaysian government for his lobbying services in 2001 and 2002, the former associate said. Documents obtained by Senate investigators appear to confirm at least $900,000 of that amount." It is "not clear how central Abramoff was in arranging the Oval Office session. The White House says the meeting was arranged through normal channels. But it was clear, the former associate said, that Abramoff took credit for it. His reputation for close relationships with the White House and congressional officials enabled him to charge stratospheric fees from his lobbying clients — and the president's meeting with Malaysia's prime minister enhanced that reputation." The Malaysia episode "sheds new light on the practices of Abramoff, the man at the center of a burgeoning corruption scandal, and suggests closer ties than previously acknowledged between the disgraced lobbyist and the highest levels of the Bush White House." Apart from "the direct contacts between Rove and Abramoff, the former associate's description of the Malaysia episode was backed by another former Abramoff associate and by documents released last year by the Senate Indian Affairs Committee. Both said Abramoff talked of his access to Rove and cited his relationship with Susan Ralston, Rove's administrative assistant. Before joining the White House staff, Ralston was an assistant to Abramoff."

GOP Senators' Support For Disclosure Of White House Abramoff Contacts Noted. The Washington Post (2/15, 744K), in an editorial, asks, "Why doesn't the White House just release information about [Jack] Abramoff's meetings and other visits there? This is a man who has pleaded guilty to trying to bribe public officials. The White House says he turned up for a "few staff level meetings" and two Hanukkah parties. Whom did he meet? About what? Sensible members of Mr. Bush's own party agree." The Post quotes Sen. John Thune: "I'm one who believes that more is better, in terms of disclosure and transparency. … And so I'd be a big advocate for making records that are out there available." The Post adds that Sen. Chuck Hagel "was even blunter. 'Get it out. Get it out,' Mr. Hagel said. 'I mean, disclosure is the real issue. Whether it's campaign finance issues, whether it's ethics issues, whether it's lobbying issues, disclosure is the best and most effective way to deal with all of

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these things.' Elementary, you would think. But not for this White House."

Lawmakers To Reintroduce Internet Gambling Ban Blocked By Abramoff. Roll Call (2/15, Bresnahan) reports Rep. Bob Goodlatte (R-Va.) "and other lawmakers on Thursday will re-introduce legislation to ban Internet gambling, a proposal that was blocked nearly six years ago through the efforts of former lobbyist Jack Abramoff, allegedly with help from then-House Majority Whip Tom DeLay (R-Texas) and one of his former top aides." Goodlatte and Reps. Rick Boucher (D-Va.), Frank Wolf (R-Va.) "and other lawmakers as they re-introduce the Internet Gambling Prohibition Act. While Goodlatte's office did not release details on the proposal, the legislation considered by the House in 2000 would have banned nearly all use of the Internet for gambling purposes."

3rd Circuit Clarifies Rules For Warrantless Searches. The Legal Intelligencer (2/15, Duffy) reports, "Police may not 'manufacture' an emergency situation to justify the warrantless search of a hotel room, a divided panel of the 3rd U.S. Circuit Court of Appeals has ruled." The Intelligencer continues, "The decision in United States v. Coles overturns a conviction for possession of crack cocaine and sharpens a split among the federal circuits in cases where police claim that a warrantless search was justified by 'exigent circumstances.'" The Intelligencer adds, "Prosecutors argued that the search of Terrence Coles' hotel room was valid because police heard rustling sounds and a flushing toilet soon after they announced their presence and therefore feared that evidence was being destroyed. … But defense attorney Jeffrey M. Lindy urged the court to focus on earlier events and argued that the police had no excuse for failing to obtain a warrant prior to approaching the hotel door in the first place. … Voting 2-1, the court agreed with Lindy and held that the investigative tactics used by the officers had 'impermissibly manufactured the exigency.' … Senior U.S. Circuit Judge Leonard I. Garth noted that the agents at first used 'subterfuge' to gain entry to the hotel room by falsely claiming they were 'room service,' and later that they were maintenance workers sent to fix a leak. … It was only after those two attempts failed, Garth noted, that the officers identified themselves as police and then heard the toilet flushing. … 'In identifying themselves as hotel personnel providing "room service" or "maintenance," the police resorted to subterfuge, clearly manifesting their intention to mislead the occupants into believing that they were not police officers,' Garth wrote in an opinion joined by 3rd Circuit Judge Julio M. Fuentes."

Ex-FBI Agent Takes Stand In First Tennessee Waltz Trial. The AP (2/14) reports retired FBI agent Joseph Carroll testified Tuesday "that he took at least two Tennessee lawmakers to a yacht party in Miami while posing as an executive for a fake company seeking favorable legislation." Carroll "did not identify the two who attended the party in 2004. He testified at the trial of Hamilton County Commissioner William Cotton. He is accused of conspiring with former lobbyist Charles Love to obtain about $4,800 in bribes in return for supporting a resolution to benefit E-Cycle, a phony company the FBI created to seek government favors. Carroll worked on the Tennessee Waltz investigation that led to charges against seven current or former elected officials and two so-called 'bag men.'" Another AP (2/14, Poovey) story reports that the Cotton trial is the first Tennessee Waltz case to come to court.

NewsChannel9.com (2/14, Grant) of Chattanooga, Tennessee, reports prosecutors say Cotton and ex-Hamilton County School Board member Charles Love "took bribes, discussed how to do it and not get caught." The Chattanoogan (2/15) reports that a "jury of five women and seven men as well as two male alternates was chosen late Tuesday morning, then opening statements were given prior to the lunch break. Three of the jurors are black." The Washington Times (2/15, Seper) also runs a brief item on the beginning of the trial.

Ethics Complaint Against DeBerry Dies. The Tennessean (2/15, Seibert) reports, "An ethics complaint against Tennessee House Speaker Pro Tem Lois DeBerry, D-Memphis, died in the House Ethics Committee yesterday. Because seven votes are needed to launch an investigation, and only six on the Democratic-controlled committee voted in favor, committee chairwoman Rep. Kim McMillan, D-Clarksville, said, 'I declare the matter concluded.' The vote was the second time the committee failed to act on the complaint alleging DeBerry broke House ethics rules by accepting $200 at a casino from an undercover FBI agent. Actions of the committee require seven votes to pass. DeBerry took the money and other gifts during a trip to Tunica, Miss., that turned out to be part of the FBI's Operation Tennessee Waltz bribery sting. The undercover operation has

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since resulted in nine arrests, but DeBerry is not among them."

Campbell Trial Continues, With Testimony Still Not Linking Mayor Directly To Bribes. The Atlanta Journal-Constitution (2/15, Warren, Scott) reports that as the trial of ex-Atlanta Mayor Bill Campbell continued, there was "more testimony...about lewd body positions of strippers, machine guns and arson than about any evidence" directly linking Campbell to bribes. Government witnesses again testified that "thousands of dollars in bribes were passed directly to Campbell's former aide Dewey Clark -- not to the mayor himself. In four weeks of testimony, Clark has been the only witness who has said cash bribes from city contractors were passed directly to the mayor's hands." Clark testified that he passed money from strip club owner Michael Childs, "an admitted arsonist and convicted felon whom the FBI caught plotting to beat up Campbell after the mayor didn't approve the liquor license."

Prosecution Will Not Be Allowed To Present Evidence On Wallets. 11Alive.com (2/14, Carnes) of Atlanta reports, "Government prosecutors in the corruption trial of former Atlanta mayor Bill Campbell will not be allowed to present evidence about two wallets filled with cash." The government today planned to present witnesses Vertis McManis and Joe Reid, "who admit they handled the cash bribes. The government's theory is that one wallet was given to Campbell." But Judge Richard Storey r"uled there was no evidence that Campbell got the money, and ruled the testimony would not be allowed."

Prejean Defends Ryan As "Man Of Honesty And Integrity." The AP (2/14, Robinson) reports capital punishment opponent Sister Helen Prejean "took the stand at George Ryan's conspiracy trial Tuesday and described the former Illinois governor as 'a man of honesty and integrity.'" Prejean testified, "I find in him a man who is willing to look at public policy issues, even if it means growth and change." Judge Rebecca Pallmeyer "barred" Prejean "from mentioning the issue that brought her together with Ryan -- the movement to repeal the death penalty in America. Pallmeyer ruled the issue was irrelevant to charges that Ryan steered big-money state contracts and leases to friends and got free vacations and gifts in return."

Janitor Skoda Also Got Share Of Cash. The AP (2/14) reports Ryan "wasn't the only one who got a share of the cash flowing around the Statehouse in Springfield over the Christmas holidays when he was governor. The janitor once portrayed as a possible victim of a plan to grind cash Christmas gifts for Ryan out of low-paid state employees said Monday that he was sharing in the yuletide money, himself, and the source was the governor's own campaign fund." Janitor Don Skoda "acknowledged that he would receive $50 checks from Citizens for Ryan just before Christmas and make a cash gift to Ryan of $15 or $25."

Real Estate Expert Defends Ryan On Property Appraisal. The AP (2/14) reports real estate expert Hugh Edfors told jurors that Illinois "got a good deal on property it leased from the former governor's host on annual free vacations in Jamaica." Edfors said "another appraiser who testified for the government used flawed methods in concluding that the state paid too much under the lease. The building in South Holland was owned by businessman Harry Klein. He treated Ryan, his wife and some of his supporters to free vacations in Jamaica for years when Ryan was secretary of state." Ryan's lawyers say Ryan "wasn't doing Klein a special favor because the taxpayers paid the going rate."

Akron Attorneys Say FBI Has Contacted Them Regarding Petro Allegations. The AP (2/14) reports Akron attorneys Jack Morrison and Ray Weber, "who say their firms lost much of their legal work for the state because they refused to donate to Attorney General Jim Petro's campaign," said they "have been contacted by the FBI about the accusations." Weber said he spoke with the FBI last week about his allegations." Kim Norris, a spokeswoman for Petro, said, "No one has contacted us, nor do we expect to be contacted, regarding these false, politically motivated allegations." Petro is now running for governor. FBI Cleveland office spokesman Scott Wilson would not comment. The Cleveland Plain Dealer (2/15, Wendling, Theis) reports, "The FBI has opened an inquiry into a report" that Petro "took lucrative state legal work away from two Akron law firms after their principals refused to contribute to his campaign." FBI spokesman Scott Wilson "would not comment, but Weber said the agents called the interview a 'fact-finding' inquiry. Morrison said an agent told him it was part of a continuing probe."

California Prison Guard Found Guilty Of Aiding Neo-Nazi Gang. The AP (2/15) reports ex-California Institute for Men prison guard Shayne Allyn Ziska

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"was convicted Tuesday of aiding a white supremacist inmate gang known as the Nazi Low Riders." Prosecutors said Ziska "helped the gang distribute methamphetamine, heroin and other drugs" at the Chino prison. He was "convicted of participating in a corrupt organization's conspiracy, violent crime in the aid of racketeering and deprivation of rights under color of law," and was also found guilty of allowing a gang member to stab another prisoner. The Press-Enterprise (CA) (2/15, McGavin) reports Ziska "faces a maximum of 50 years in federal prison when he is sentenced May 8."

US Argues Cubans Were Fairly Convicted In 2001. The AP (2/15, Dell'orto) reports, "Prosecutors and defense lawyers sparred Tuesday over whether five Cuban intelligence agents could have received a fair trial in Miami at the same time the community was focused on the politically charged case of young Elian Gonzalez." The AP continues, "Prosecutors urged the 11th U.S. Circuit Court of Appeals to deny the agents' request for a new trial because there was no evidence jurors had any prejudice about their guilt or innocence. … 'Nothing indicates that any member of the jury was influenced by anything going on outside,' said Assistant U.S. Attorney David Buckner." The AP adds, "Defense lawyers argued that the events surrounding Elian inflamed the community, making it impossible for jurors to be impartial about any case involving Cuba. The then-5-year-old boy was found clinging to an inner tube in November 1999 after a boat carrying would-be migrants capsized in a storm. His mother died, and after a court battle waged by his anti-Castro relatives in Miami, Elian was handed over to his Cuban father by the U.S. government in 2000. … The five Cuban agents were convicted in Miami in 2001 of being unregistered foreign agents. … A three-judge panel of the 11th Circuit threw out all the convictions in August, ruling that pretrial publicity combined with pervasive anti-Castro feeling in Miami didn't allow for a fair trial. The government asked the full appeals court to reconsider."

Texas Set To Execute Convicted Killer. The AP (2/15, Graczyk) reports, "A 32-year-old man convicted of robbing and killing a taxi cab driver 14 years ago is set to be executed Wednesday night." The AP continues, "Clyde Smith, who was also linked to the fatal shooting of another Houston cab driver, will be killed for the murder of David Jacobs. … 'I wasn't there when he was killed,' Smith said in a recent interview at the Texas Department of Criminal Justice Polunsky Unit, home to the state's death row. 'I got there afterward.'" The AP adds, "Smith, who once worked as a security guard, would be the fourth prisoner put to death this year in Texas and the second of three scheduled for execution this month in the nation's busiest capital punishment state. … Lawyers for Smith filed a clemency petition with the Texas Board of Pardons and Paroles in hopes of stopping the punishment. … In earlier appeals, lawyers pointed out federal judges agreed Smith may have had poor legal help during his trial and that he suffered significant abuse as a child, which they said was not pursued by his trial defense team."

Judge Rules California Must Alter Execution Protocol. The Los Angeles Times (2/15, Sahagun) reports, "A federal judge today refused to delay death row inmate Michael Morales' Feb. 21 execution, but told prison officials they would have to change how they administer the lethal injection that kills him." The Times continues, "In his ruling, Judge Jeremy Fogel said officials either must kill Morales with barbiturates alone, or provide an anesthesiologist or other medical professional to monitor that the prisoner is unconscious before they deliver a fatal dose of a heart-stopping chemical. … Fogel acknowledged that the change would probably prolong the execution, but said Morales had raised legitimate questions that the state's procedures are excessively painful, relying in part on problems encountered during the recent executions of Stanley Tookie Williams and Clarence Ray Allen."

The AP (2/15, Kravets) reports, "Fogel said he was concerned inmates are conscious and undergoing extreme pain once a paralyzing agent and then heart-stopping medication begin coursing through their veins. … If the state declines to choose either new option, Fogel said he would stay the execution and have hearings on whether California's injection protocol was cruel and unusual punishment, a violation of the U.S. Constitution. … 'The present action concerns the narrow question of whether the evidence before the court demonstrates that defendants' administration of California's lethal-injection protocol creates an undo risk that plaintiff will suffer excessive pain when he is executed,' Fogel wrote. 'While the court finds that plaintiff has raised substantial questions in this regard, it also concludes that those questions may be addressed effectively by means other than a stay of execution.'"

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Reuters (2/15) reports, "Morales was convicted in 1983 of murdering a 17-year-old woman with a hammer to her head and then by stabbing her. He also had sex with her unconscious body."

Judge Will Not Release Maryland Police Officer Charged With Threats. The AP (2/14) reports, "A federal judge has refused to release a western Maryland police officer charged with making bomb threats and anthrax threats in Hagerstown." Jeffrey Shifler's preliminary hearing is scheduled for February 27 in Baltimore. Authorities say the threats "began four months after he was fired from the Hagerstown Police Department in November 2003 for falsifying payroll records. Shifler later joined the police force in the nearby town of Boonsboro, which has suspended him without pay." The FBI arrested Shifler last week.

Bank Robbing Becomes "Crime Of Desperation." The Philadelphia Inquirer (2/15, Wood) writes, "John Dillinger robbed dozens of banks, stole enormous sums of money, and became Public Enemy No. 1 in the 1930s. Dillinger, Sutton, and the other infamous crooks of the era captured the nation's imagination. They were front-page news. Today's bank robber still makes news, but for different reasons. 'Bank robbery is a crime of desperation, not a crime of passion,' said Jerri Williams, spokeswoman for the FBI in Philadelphia. 'And where does that desperation come from? Drugs. Gambling. Mental illness.'" Of the bank robbers "arrested in 2004, the last year for which complete statistics were available, 45 percent were addicted to drugs, Williams said."

FBI May Take Over Philadelphia Union Organizer Beating Case. The Philadelphia Inquirer (2/15, Von Bergen) reports, "The FBI may take over the investigation into the beating of five union organizers at the Philadelphia Airport Marriott last Wednesday. The men, who were from the Transport Workers Union, were beaten, allegedly by members of the rival International Association of Machinists during a meeting at the hotel. Investigators from the Philadelphia police and the FBI are to meet today to see which agency will handle the investigation, said Lt. John Walker of the Southwest Detective Division. The TWU had sought federal involvement. The unions are in competition to represent baggage handlers and fleet-service workers at US Airways, which merged last year with America West Airlines."

Reynolds Was Fired From Job "Just Days Before" FBI Arrest. The Philadelphia Inquirer (2/15, Shiffman, Lubrano) reports, "A Wilkes-Barre man labeled a terrorist by a federal prosecutor was fired from his job in southern Idaho just days before the FBI arrested him there, a company official said yesterday. 'We got rid of him after about a week,' said Mark Mendiola, spokesman for AMI Semiconductor. 'He was terminated for performance and work-ethic issues.' Mendiola declined to elaborate. It was among a handful of new details to emerge in the case of Michael Curtis Reynolds, arrested Dec. 5 in an FBI sting in which authorities say he was led to believe that he was plotting with an al-Qaeda operative to attack U.S. pipelines and oil refineries." Reynolds "is being held in the Lackawanna County jail on unrelated grenade charges. However, as The Inquirer reported Sunday, federal authorities believe he was attempting to commit terrorist acts when he was arrested. That disclosure was made during a Dec. 19 detention hearing at the federal courthouse in Wilkes-Barre. Yesterday, Reynolds' sister and mother issued their first statement about the case. They said they had 'been estranged from Michael for some time now' and referred further questions to the FBI. 'That's all we're going to say for forever,' the four-line statement read."

Convicted Florida Child-Killer Pleads For Judge To Spare His Life. The AP (2/15, Stacy) reports, "A weeping Joseph Smith apologized Tuesday for the abduction, rape and murder of 11-year-old Carlie Brucia two years ago, telling a judge he had taken large amounts of cocaine and heroin that day in hopes of killing himself." The AP continues, "Smith told Circuit Judge Andrew Owens, who will sentence him to death or life in prison, 'I do not ask for mercy for myself. The only thing I can see to give me a life sentence is for my family. I do not want to see them hurt any further.'" The AP adds, "Carlie was abducted while walking home from school in February 2004, an attack that was caught on a car wash surveillance tape and broadcast nationwide. … Friends and even Smith's brother said they recognized the burly mechanic grabbing the young girl's wrist on the tape as Smith. A jury found the 39-year-old guilty last November and recommended by a 10-2 vote that he be executed. … Owens will ultimately sentence Smith on March

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15. Under Florida law, he must give the jury's death sentence recommendation 'great weight.'"

Prison Volunteer Thought To Be Accessory To Kansas City Escapee. ABC World News Tonight (2/14, story 9, 2:05, Gibson) reported, "There's been a bizarre prison break outside of Kansas City, that has police looking across the Midwest for a convicted murderer and wondering how he could escape. Police believe he has help from someone, a middle-aged housewife from the outside, who seems the most unlikely of accomplices." ABC (Reynolds) added, "The Safe Harbor prison dogs program sounded like a big success. Inmates at the medium-security Lansing Correctional Facility were designated to train unwanted or abused pets for adoption. The inmates seemed to like it." The "program involving about 70 dogs was started by 48-year-old housewife Toby Young, who became a trusted prison volunteer." 27-year-old John Manard was one of her "dog handlers. Convicted of first-degree murder, he was serving a life sentence." So, on Sunday afternoon, "when Manard and Young escaped in this van, prison officials were stunned." The two "may have had a head start because officials didn't think at first they were together. But now, undisclosed evidence has led them to conclude that Toby Young was a willing accomplice."

Federal Investigators Focus On Ovitz In Pellicano Probe. The New York Times (2/15, Halbfinger, Weiner) reports, "Federal authorities have engaged in a far more extensive investigation than was previously known of the ties between Michael S. Ovitz, the former Hollywood power player, and Anthony Pellicano, the celebrity private detective who was indicted on federal wiretapping charges." Ovitz "has been called before a grand jury to testify about his dealings and conversations with Mr. Pellicano, who pleaded not guilty to charges that were unsealed last week in a 110-count indictment. Government prosecutors have also examined Mr. Ovitz's legal fight with Cathy Schulman, a producer who once ran the film operation of his failed talent conglomerate Artists Management Group, and who sued him after leaving the operation in April 2002." According to an attorney involved in the case, "Schulman told F.B.I. agents in an interview in June 2004 of conversations in which Mr. Ovitz recounted to her details of her private discussions with major Hollywood figures as soon as a day after they had occurred, and told her that he had sources who could provide him with such information." USA Today (2/15, Kasindorf) writes that the "latest buzz around Hollywood, aside from the Oscars, is who could be ensnared next by a federal grand jury probe" into Pellicano's activities. The FBI "has questioned lawyers, talent agents, studio executives and stars, including Sylvester Stallone, Warren Beatty and Garry Shandling. Pellicano allegedly eavesdropped on Stallone's phone calls and obtained law enforcement computer records illegally on Shandling and former Saturday Night Live star Kevin Nealon."

Hacker From London May Be Prosecuted As Enemy Combatant. The AP (2/15) reports, "A Briton accused of mounting the largest ever successful hack of US government computer networks could be prosecuted as an 'enemy combatant' under US anti-terror laws, an expert witness told his extradition hearing Tuesday. Gary McKinnon, 40, of London, is wanted in the U.S. over allegations that he illegally accessed 97 computers, including U.S. Army, Air Force, Navy and NASA systems, causing $700,000 in damages."

Reuters (2/14, Johnson) reports, "Prosecutors say he hacked into sensitive networks over a one-year period from February 2002 and caused $700,000 (400,000 pounds) worth of damage, after crippling U.S. defence systems in the wake of the September 11, 2001 attacks. If found guilty, Mckinnon could face up to $1.75 million in fines and 60 years in jail."

BBC News (2/14) reports, "His lawyers want US authorities to give reassurances he will not get a military order and face being sent to Guantanamo Bay with no prospect of parole. … In total, Mr McKinnon is said to have accessed 53 US Army computers, 26 US Navy computers, 16 Nasa computers, one US Department of Defence computer and one US Air Force computer."

ZDNet UK (2/15, Barker) reports, "McKinnon told ZDNet UK in July 2005 that his actions were prompted by an interesting in the US space programme and the search for extraterrestrial life. … The US prosecution team alleges that McKinnon hacked into sensitive equipment over a one-year period from February 2002 and caused $700,000 worth of damage. McKinnon, though, denies causing serious damage. Although McKinnon was arrested in the UK shortly after his hacking activities were first exposed, he was released under caution. Since being charged by the US authorities he has been banned from using the Internet."

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Texas Tech Student Indicted In Operation Copycat. The AP (2/14) reports, "A Texas Tech University student faces federal charges of conspiracy to commit copyright infringement after allegedly reproducing and distributing pirated movies, games and software." Matthew Thompson was indicted after a "two-year undercover FBI operation targeting the originators of pirated material on the Internet, according to court documents. … He and the nine others named in the indictment are scheduled to be arraigned Feb. 22 in a San Jose, Calif., courtroom." FBI spokeswoman LaRea Quy said the indictment "was part of a continuing investigation, Operation Copycat, that involved one of the largest operations of pirating software, movies and games."

Cyberstalking Law Seen As Annoyance To Some, Danger To Others. USA Today (2/15, Willing) reports, "It didn't get much publicity, but an anti-stalking bill passed by Congress recently makes it a federal crime to 'annoy' someone over the Internet. … And that's really beginning to bug some people. … 'It's a stupid law that has slipped in under the radar,' says Clinton Fein, a San Francisco-based artist who runs annoy.com, a website that he says offers 'unique and irreverent' commentary on politics and culture. 'Who says what's officially annoying? Is that a business we really want our government to be in?'" USA continues, "The law makes it a crime to anonymously 'annoy, abuse, threaten or harass' another person over the Internet. … Rep. Jim McDermott of Washington inserted the provision into legislation that reauthorized the federal Violence Against Women Act. It carries a prison sentence of up to two years and an unspecified fine for those convicted of violations. President Bush signed the bill into law Jan. 5. … McDermott said he was prompted to act by the case of Joelle Ligon, a Seattle woman who was sent menacing e-mails, falsely accused of résumé-padding in messages to co-workers and impersonated in sex-oriented Internet chat rooms from 1998 to 2003." USA notes, "Some of the communications were traced to a former boyfriend in South Carolina. He was sentenced to five years of probation and 500 hours of community service after he was prosecuted under a federal telecommunications law that protects against harassment. … To eliminate questions over whether phone law applied to the Internet, McDermott pressed for the new legislation. The language 'annoy, abuse, threaten or harass' was taken directly from the telephone law. … Mike DeCesare, a spokesman for McDermott, says the new law is not intended to curb free speech. … 'This is about bad people doing bad things. … It relates to somebody who does something to somebody else,' he says. 'It's not about posting something on a message board. It's got to be direct, one-to-one communication.'"

CIVIL LAW:

Security Agency Whistleblowers Seek Enhanced Protections. The Government Executive (2/15, Strohm) reports, "Whistleblowers who have alleged misconduct or criminal activity at national security agencies told lawmakers Tuesday that they have been retaliated against for their disclosures, and urged stronger rights for both federal employees and contractors reporting wrongdoing." GE continues, "In an unusual move, whistleblowers from the FBI, National Security Agency, Defense Department and Energy Department were allowed to testify before the House Government Reform National Security, Emerging Threats and International Relations Subcommittee. Congressional committees usually hear from senior agency managers, not rank-and-file employees." GE adds, "The whistleblowers recounted their allegations and how they were retaliated against, in some cases by having their security clearances revoked or their careers ruined. They said agency managers seemed more focused on cover-ups and retaliation than investigating allegations or addressing exposed problems. … 'I became a whistleblower not out of choice, but out of necessity -- necessity to tell the truth,' said Army Lt. Col. Anthony Shaffer, who said he was retaliated against after reporting pre-9/11 intelligence failures. … Shaffer is scheduled to testify in a closed session Wednesday before the House Armed Services Committee. Rep. Curt Weldon, R-Pa., said the session will be 'a hearing that is going to change . . . the nature of this city.'"

The AP (2/15, Shrader) reports, "Five government whistleblowers said Tuesday they had faced retaliation for calling attention to alleged government wrongs, such as prisoner abuse in Iraq and illegal surveillance at the National Security Agency. … They told their stories to the House Government Reform Committee's national security subcommittee, whose chairman, Rep. Chris Shays, R-Conn., indicated an interest in altering the law to better protect national-security whistleblowers." The AP continues, "Shays said they are vulnerable to unique forms of retaliation,

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including suspension or revocation of security clearance, which can have the same 'chilling effect' as demotion or firing. … 'The system is broken,' Shays said." The AP adds, "In written testimony, inspectors general from the Defense, Justice and Energy departments said complaints of reprisals involving security clearances were rare. … 'The allegations were either not substantiated or were closed after a preliminary inquiry determined there was insufficient evidence to warrant a full investigation,' acting Defense Department Inspector General Thomas Gimble said. … The five whistleblowers, who have made headlines before, offered their stories at Tuesday's hearing. Many described their inspector general as ineffective or co-opted by the security offices."

Senate Blocks Asbestos Bill. USA Today (2/15, 2.31M) reports, "The Senate voted Tuesday to send an asbestos-compensation bill back to a committee because it violates budget rules. The vote was 58-41. Sixty votes were needed to move the bill forward. It was 'the key vote on this bill,' said Senate Minority Leader Harry Reid, D-Nev." Majority Leader Bill Frist "said before the vote that 'if we are unsuccessful this week in addressing asbestos, that's it for this year.'"

The Financial Times (2/15, Waldmeir) reports, "Lobbyists close to the legislation said some members of Congress might try to put forward a different asbestos bill this year." But "they said the passage of such legislation would be a long shot."

The Washington Post (2/15, A3, Murray, 744K) reports, "After the vote, Sen. Patrick J. Leahy (Vt.), the ranking Democrat on the Senate Judiciary Committee and a co-author of the bill, told reporters that the proposed fund is not dead and that he had counted the vote of one absent senator -- Daniel K. Inouye (D-Hawaii) -- for his side." Republicans also "said that they might be able to flip the vote of one of the 11 GOP senators who sided with Democrats to defeat the legislation."

The Wall Street Journal (2/15, Mullins, 2.11M) reports, "Even if Mr. Specter had prevailed, he faced more challenges in the days ahead. Mr. Reid and Senate Democrats planned to launch a filibuster against the bill, forcing Mr. Specter to again find 60 votes to defeat his opponents." The Journal adds, "Among the Republicans who voted against Mr. Specter were Sens. Judd Gregg of New Hampshire, James Inhofe of Oklahoma and John McCain of Arizona. Democrats voting to defeat the bill were Mr. Reid and Sens. John Kerry of Massachusetts, Ben Nelson of Nebraska and Kent Conrad of North Dakota. The Democrats who supported Mr. Specter included Sen. Patrick Leahy of Vermont."

The New York Times (2/15, Labaton, 1.19M), Washington Times (2/15, Hurt, 90K), Los Angeles Times (2/15, Peterson, 958K) and Roll Call (2/15, Pierce, Newmyer), among other newspapers, also report the story.

CIVIL RIGHTS:

9th Circuit Panel Hears Arguments On Boy Scouts' Use Of Public Parks. The AP (2/15, Chavez) reports, "An attorney for the Boys Scouts of America and a lawyer from the Bush administration's Justice Department told an appellate court panel Tuesday that a lower court erred when it ruled that San Diego was promoting religion by granting the youth organization long-term leases to city parklands." The AP continues, "George Davidson, an attorney for the Boy Scouts, said the group has no theology and only holds the position that children should 'do duty to God' in order to become productive citizens. The organization has few references to religion in its manual and has a practice of 'punting it back to parents and religious leaders' when it comes to religious matters, Davidson told the court." The AP adds, "Eric Treene, a Justice Department lawyer in the Civil Rights Division, told the three-judge panel of the 9th Circuit Court of Appeals that the Scouts have a nondiscrimination policy when it comes to who can use its space and the city has more than 120 leases with other groups who use park areas in exchange for maintenance and improvements. … The Boy Scouts has been the target of preferential treatment lawsuits since the U.S. Supreme Court in June 2000 ruled that the organization has a constitutional right to exclude openly gay men from serving as troop leaders and because it compels members to swear an oath of duty to God. … The American Civil Liberties Union sued San Diego and the Boy Scouts of America over the leases in August 2000 on behalf of a lesbian couple and an agnostic couple, each with scouting-age sons."

DOJ Probes Decrease In Georgia County's Student Population. WTVM-TV, Columbus, GA (2/15) reports, "Schools in Barbour County are becoming predominately black. … A problem Superintendent Vic Adkinson is out to change. 'From a legal sense, the status-

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quo cannot be continued where an open enrollment is allowed and students are allowed to come and it's being selected cased on, whether it's been based on race, academic performance or socio-economic status. You know it's got to stop,' says Barbour County Superintendent, Vic Adkinson." WTVM-TV continues, "During the past few years Adkinson says he's seen a decrease in the student population in Barbour County. Many of those students he says have transferred to the Dale County School System. … A problem that has prompted an investigation by the U.S. Justice Department. … Information released by its Civil Rights Division says during the 2004-05 school year Barbour County enrolled 1,222 students... of whom 94% were black and only 63 students were white. We're told Dale County accepted 168 students from Barbour County...of those, 78% were white and all were allowed to transfer. … 'The Justice Department has asked them to stop accepting students and to give them a response on how they're going to deal with the students that they have now that are from Barbour County,' says Adkinson."

DOJ Challenges South Carolina Primary Election System. The AP (2/15, Davenport) reports, "The U.S. Justice Department is challenging the way South Carolina conducts primaries and that could change the long-used calendar for primary runoffs that now come two weeks after the first round of voting." The AP continues, "A spokesman for the Justice Department said Tuesday the agency is enforcing laws intended to make sure people living overseas or serving in the military abroad have the same opportunity to vote as those living here. Several states, including South Carolina, were asked several months ago to show how they would make sure ballots were sent and received in time to be counted, Justice Department spokesman Eric Holland said." The AP adds, "He would not say whether the agency is considering an injunction against South Carolina that could delay primaries. 'We're working with those states to resolve those issues,' Holland said. … Sen. Larry Martin, R-Pickens, said he wanted to rush a bill through the Senate to avoid the potential for a federal injunction on the issue that could delay the June 13 primary and plans for runoff voting on June 27. … Martin said the legislation he was introducing would delay any primary runoff by two weeks, pushing it back to a month after the primary."

Study Finds Bush Education Policy Benefits Whites Over Poor Minorities. Reuters (2/15, Szep) reports a Harvard University study shows President George W. Bush's No Child Left Behind education policy "has in some cases benefited white middle-class children over blacks and other minorities in poorer regions." The study said "political compromises forged between some states and the federal government have allowed schools in some predominantly white districts to dodge penalties faced by regions with larger ethnic minority populations." Instead of "uniform standards, the policy has allowed various states to negotiate treaties and bargains to reduce the number of schools and districts identified as failing, said the study by Harvard University's Civil Rights Project."

Judge Grants One Week For Hawaii Youth Facility Injunction Agreement. The Honolulu Star-Bulletin (2/15, Reyes) reports, "A federal judge has given attorneys one week to draft an injunction to protect lesbians, gays, bisexuals and transgender wards at the Hawaii Youth Correctional Facility until a lawsuit alleging abuse and harassment of such inmates can be decided." The Star-Bulletin continues, "Attorneys for the state and the American Civil Liberties Union of Hawaii say they are far apart on an agreement but will try to negotiate something by next Tuesday's deadline. … When asked whether he was confident that an agreement could be reached, Attorney General Mark Bennett flatly replied, 'No.' … 'I'm not confident that we can reach an agreement on the language of an injunction, no, but we'll certainly try,' Bennett said. 'We've been trying; it didn't succeed. We'll try some more.'" The Star-Bulletin adds, "Lois Perrin, legal director for the ACLU of Hawaii, echoed his sentiments. … 'We're certainly willing to try and come up with agreed-upon language,' Perrin said. 'Our objective here is to ensure that the discrimination and harassment of (lesbian, gay, bisexual and transgender) wards at HYCF is fixed and that it's fixed promptly.' … The ACLU sued in September on behalf of three former wards who alleged they were harassed and abused because of their actual or perceived gender identity and that administrators knew of the problems but did nothing to stop it. … U.S. District Judge J. Michael Seabright ordered the injunction last week, finding that there was enough evidence to support their claims."

Overcrowding, Gang Activity Make Los Angeles Jails A Pressure-Cooker. The Christian Science Monitor (2/15, Wood) reports, "Riots that rocked Los

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Angeles County jails this month can be attributed to overcrowding, say some criminal-justice analysts. Other observers cite rising gang conflicts between blacks and Hispanics throughout the L.A. area, which they say are increasingly spilling into a jail system ill-equipped to deal with it. To still others, blame lies with a society eager to punish wayward young men harshly, with little thought to the fact that they will one day be released to walk the streets." The Monitor continues, "Whichever explanation hits closest to the truth, the violence in the nation's largest jail system - which has involved 2,000 inmates and resulted in two deaths and nearly 100 serious injuries - points to rising pressures inside the jails and the challenges of containing them. On Monday, jail authorities, who have come under fire for not quelling the violence, began transferring hundreds of county jail inmates to state prisons in a bid to separate the most violent offenders from the general jail population. … The riots, which began Feb. 4 at a correctional facility 40 miles north of Los Angeles in Castaic, involved dormitories of more than 100 men, who attacked one another in succession and tossed beds from balconies. Inmates beat a black prisoner to death at Castaic's biggest jail, Pitchess Detention Center. Fighting broke out last week at the two smaller jails at Pitchess. Despite lockdowns of facilities across the county - meaning restricted movement inside and limited visitation - similar incidents followed. A second inmate died Sunday after a racially motivated fight at Men's Central Jail.

Practice Of Placing Inmates Of Different Threat Levels Together Questioned. The Los Angeles Times (2/15, Garvey, Leonard) reports, "A black inmate who died Sunday after a fight with Latino cellmates at Men's Central Jail had been placed in a group cell with inmates considered serious security threats, despite repeated warnings to sheriff's officials that mixing nonviolent and violent inmates can be deadly." The Times continues, "The death brought new criticism of the Sheriff's Department, which has struggled to calm racially charged violence in the jail system. It has faced scrutiny in the past for killings inside the jails when high-risk and lower-risk inmates are placed together." The Times adds, "Sean Anthony Thompson, 38, had been arrested last week on suspicion of drug possession after he ran a stop sign in Long Beach. Jailers designated Thompson, the father of three, a 'moderate security risk' because he had previous convictions for nonviolent felonies. Authorities said he was attacked after coming to the aid of a 63-year-old black cellmate, also charged with drug possession, who was threatened by three younger Latino inmates trying to take over a bunk bed that had the best light for reading. A fourth Latino in the cell did not take part in the attack." The Times notes, "Deputies had classified the three Latinos as so-called 'level 8s' — the second-highest threat level in the county's inmate classification system and a designation given to inmates with a history of assaults or escapes. The men — ages 18, 21 and 25 — were in jail on such charges as robbery, felony assault with a gun and a parole violation on a previous attempted-murder conviction, Sheriff's Department sources said. … The Sheriff's Department continues to combine inmates of notably different threat levels even though the practice was deemed 'not permissible' under any circumstances in a confidential report to the Los Angeles County Board of Supervisors more than a year ago that raised numerous safety concerns about the jail's use of security classifications."

Ohio Board of Education Eliminates Intelligent Design Standards. USA Today (2/15, Toppo, 2.31M) reports, "In the first major vote since a federal judge ruled last year that intelligent design can't be taught in public schools, the Ohio Board of Education voted Tuesday to eliminate science standards that asked students to apply a "critical analysis" to Darwin's theory of evolution." Scientists "had assailed the Ohio standards as an attempt to repackage intelligent design and introduce religious principles into science class. Intelligent design holds that life on Earth is so complex that it could have been created only by an 'intelligent designer' such as God."

The New York Times (2/15, Rudoren, 1.19M) reports, "The board, which became the first in the nation to single out evolution for special scrutiny under the academic standards it adopted in 2002, stripped the language from the curriculum partly out of fear of a lawsuit in the wake of a December ruling by a federal judge that teaching intelligent design in the Dover, Pa., public schools was unconstitutional." While the Ohio lesson plan "does not mention intelligent design, which posits that life is too complex to be explained by evolution alone, critics contend that the critical analysis language is simply design in disguise."

Ehrlich Pledges To Veto Bill To Restore Voting Rights To Felons. The Washington Times (2/15, Miller, 90K) reports Gov. Robert L. Ehrlich Jr. "yesterday vowed to veto a bill that would restore voting rights to felons, including the state's most violent criminals, immediately upon

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their release from prison." Ehrlich said, "I don't think you reward the franchise to those who commit the most horrific crimes. Full restoration of every right is inappropriate." The Times adds dozens of Maryland House Democrats "have co-sponsored legislation that would allow about 150,000 murderers, rapists, robbers and other felons to vote this year, and the state Democratic Party has endorsed the bill." The bill's lead sponsor -- Delegate Salima Siler Marriott, Baltimore Democrat – "said yesterday that Mr. Ehrlich's position reinforces the racist underpinnings of the state law that denies the vote to felons, of whom about 85,000 are black."

Proposed Frederick Douglass Statue Sparks Dispute In Maryland. The Washington Post (2/15, B3, Milloy) reports, "A kind of Civil War reenactment is underway in Talbot County on Maryland's Eastern Shore. A proposed statue of Frederick Douglass, the county's most famous native son, would be located near a Confederate memorial on the courthouse lawn. And to the dismay of some residents, the memorial to Douglass would be bigger." The Post continues, "Renowned sculptor Ed Dwight, at the request of a group of local activists known as Fred's Army, has come up with a preliminary design that takes up nearly a fifth of the courthouse lawn and would render the Confederate memorial little more than a pigeon perch by comparison. … Battle lines have been drawn. … 'The policy adopted by the county is that any new statue would not exceed the proportions or dimensions of other statues,' Philip C. Foster, a member of the Talbot County Council, told me. 'And anyone who didn't die in a war would not be acknowledged as greater than those who did.'" The Post notes, "The Confederate memorial, 13 feet high and erected about 1913 in honor of 'the Talbot Boys,' is the only statue on the courthouse lawn. The cherubic-looking soldier holds a Confederate flag. The initials C.S.A., for Confederate States of America, are engraved on the pedestal. … Veterans groups and others have argued that the courthouse lawn is 'hallowed ground' and should be reserved for war veterans. And they insist that race is not an issue, which, to a certain extent, is true. Fred's Army is racially mixed. And one or two black residents are said to have sided with those who oppose placing a statue of Douglass on the lawn. … But the notion that a memorial to an influential statesman and anti-slavery activist should be no greater than what is, in effect, a monument to slavery, is heavily freighted with race. And the objection that Douglass was not a war veteran discounts his role in the deadly struggle for racial equality."

ANTITRUST:

Global Raids Part Of Air Cargo Price-Fixing Probe. The Wall Street Journal (2/15, Michaels, Wilke) reports, "Several major air-cargo carriers were raided by U.S. and European antitrust enforcers as part of a trans-Atlantic investigation into possible price-fixing and collusion in air cargo, officials said." The Journal continues, "Federal Bureau of Investigation agents raided British Airways facilities at New York's Kennedy Airport yesterday morning, confiscating computers and gathering documents, one official said; similar searches of airlines' facilities took place in Chicago, Miami, San Francisco and Long Beach, Calif. The European Commission conducted its own raids at the same time, saying it had carried out 'unannounced inspections' of airline facilities and offices in Europe." The Journal adds, "A spokeswoman for the U.S. Justice Department said the antitrust division was coordinating with the European Union and 'investigating the possibility of anticompetitive practices in the air-cargo industry.' … Although neither authority specified which carriers are under investigation, British Airways, freight carrier Cargolux Airlines International of Luxembourg and units of Air France-KLM said they had been asked for information related to alleged anticompetitive activities, though they declined to comment further. German airline Lufthansa said it was cooperating with authorities."

The AP (2/15, Wardell) reports, "British Airways, Air France, KLM, Lufthansa and Luxembourg's Cargolux Airlines all confirmed they were cooperating with authorities investigating the pricing practices in the industry. … The largest U.S. airline, AMR Corp.'s American Airlines, also said it has received a subpoena from the Justice Department as part of an investigation into practices in the air-cargo industry. … American was not been told it was a target of the investigation 'and unlike some other airlines,' didn't receive a search warrant, spokesman Tim Wagner said. He said the Fort Worth, Texas-based airline would cooperate fully with investigators." The AP notes, "Justice Department spokeswoman Gina Talamona said that U.S. investigators are working with the EU and other authorities to investigate possible 'anti-competitive behavior.'"

Reuters (2/14, Lawsky, Pelofsky) reports, "It is against the law in most countries for companies to collude to set

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prices or divide territory. It is standard practice for antitrust authorities in Europe, the United States and other countries to coordinate simultaneous raids on suspects in cartel cases. … The European Commission said it had conducted raids and while it declined to name the targets, Scandinavian airline SAS revealed it had been raided. … British Airways Plc, Air France KLM, and freight airline Cargolux said they were asked for information related to alleged cartel activity. German carrier Lufthansa also said it would cooperate with the probe."

The Fort Worth Star-Telegram (2/15, Banstetter) reports, "The U.S. Department of Justice has subpoenaed American Airlines in conjunction with an investigation into pricing practices in the air cargo industry, American officials said Tuesday. … The subpoena was served by the department's antitrust division, said a spokesman, Tim Wagner. It came amid a European Union probe into possible anti-competitive practices within the European air cargo industry." The Star-Telegram adds, "American and most other airlines have implemented fuel surcharges on cargo operations during the past year to help offset the rising cost of jet fuel. American's cargo operations brought in about $622 million last year, down slightly from $625 million the previous year."

Bloomberg (2/15) reports, "Japan Airlines Corp. and Cathay Pacific Airways Ltd. said they are among at least 10 global airlines under investigation by European and U.S. regulators into possible price fixing in the air cargo market. … The push for 'the investigation is probably from the U.S.' because 'the basic rule in America is Thou Shall Not Fix Prices,' said Jim Eckes, managing director of Hong Kong-based Indoswiss Aviation, which advises global airlines. 'It looks like a very sizeable investigation' and 'the EU will be very determined to stamp out this sort of thing.'"

Bloomberg (2/15, Newman) reports, "Antitrust officials entered the offices of carriers in several EU states to investigate, the Brussels-based European Commission said in a statement today. 'The commission has reason to believe that the companies concerned may have violated' EU cartel rules. … Under EU law, the commission can fine companies accused of operating a cartel as much as 10 percent of their annual sales. It typically opts for about 2 percent to 3 percent of sales."

The Financial Times (2/15, Buck, Done, Kirchgaessner) reports, "It is understood that among the issues under investigation by the Commission is the way the industry imposes surcharges on air freight rates for items such as fuel, security and war risk. … The targeted groups could face financial penalties if they are found guilty of operating a price-fixing or market-sharing cartel." The Times adds, "Under EU legislation, the Commission can impose cartel fines of up to 10 per cent of a company's global annual turnover – though Brussels normally settles for a lower penalty. … The US Department of Justice said it was also investigating the industry. 'I can confirm that the antitrust division is investigating the possibility of anticompetitive practices in the air cargo industry. We are co-ordinating with the EU and other foreign competition authorities,' a spokeswoman said."

The London Times (2/15, Jameson) reports, "British Airways revealed that it was under investigation in a statement to the London Stock Exchange. The airline said that it had received a request for information from the Commission and the United States Justice Department 'relating to alleged cartel activity involving BA and a number of other airlines and cargo operators. British Airways' policy is to conduct its business in full compliance with all the applicable competition laws. BA is assisting the EC and the US Department of Justice with their investigation,' the statement said. … Air France, KLM, Lufthansa, SAS and Cargolux, a cargo specialist, also confirmed that they had been visited by European officials. The Commission uses such inspections as a first step in investigations into suspected cartels. However, it pointed out that a raid on any premises does not mean that the company is guilty of anti-competitive behaviour, nor does it prejudge the outcome of the investigation itself."

Reuters (2/14) reports, "United Parcel Service Inc. said on Tuesday that it has not been contacted by the European Commission in connection with a probe into possible anti-competitive activity. … 'We have received no communications on this issue,' said UPS spokesman Norman Black." Reuters adds, "He added that UPS, the world's largest package delivery company, had also received no contact from the U.S. Justice Department, which is coordinating with the EU and other foreign competition authorities."

Record Labels Are New Focus Of New York Antitrust Probe. CNET News (2/15, Borland) reports, "New York State Attorney General Eliot Spitzer has sent record labels a new round of subpoenas in his investigation of online-music pricing, music industry sources said Tuesday."

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CNET continues, "The second inquiry, following an initial round of subpoenas issued in late December, is more tightly focused on the issue of the labels' digital download activities, sources said. Labels had previously expressed concern to Spitzer's office that the original subpoenas were too broad, sources said." CNET adds, "Warner Music Group said in a federal securities filing Tuesday that it received a second subpoena from the New York office Feb. 3. The company did not provide details other than to say Spitzer was investigating whether digital download pricing practices had violated state and federal antitrust laws. … 'We intend to cooperate fully with the Attorney General's inquiry,' the label said in its filing. … Spitzer's inquiry has reopened some old tensions between the record labels, which control wholesale digital music prices, and the online companies that use that content in their own businesses."

Microsoft Confident New Data Code Will Satisfy EU. Bloomberg (2/15, Newman, O'Reilly) reports, "Microsoft Corp. will tell European Union regulators today of its plan to provide new source code data for the Windows operating system in an effort to avoid a $2.4 million daily fine." Bloomberg continues, "Microsoft also said it will ask for a hearing when it replies to EU demands for complete and accurate data that will help rival software makers. The EU set today as the deadline for receiving Microsoft's plan. … 'We are really, we think, fully complying with the decrees of the European Union,' Microsoft Chief Executive Steve Ballmer said Tuesday at the 3GSM World Congress in Barcelona, Spain. 'We are trying to work with the commission to ensure they agree we have taken the right steps.'" Bloomberg adds, "Separately, the company told a U.S. court Tuesday that it will license its source code to speed compliance with a 2001 antitrust settlement with the U.S. government. … The European Commission, the EU's antitrust regulator, warned Microsoft in December that the company would be fined unless it provided information to help competitors develop network software that can communicate with Windows-based systems. … The company is 'confident of the sufficiency, completeness and usability of the documentation provided so far,' Horacio Gutierrez, Microsoft's associate general counsel, told reporters in Brussels, Belgium, Tuesday."

Phone Companies Seek Senate Action On Video-Franchising. The Wall Street Journal (2/15, Schatz, Grant, 2.11M) reports, "The nation's telecommunications laws -- written 10 years ago, before phone calls and TV programs moved over the Internet -- were scheduled for an overhaul by Congress this year. But with the prospects of a major rewrite dim, the nation's biggest phone companies are pushing for a simpler measure: rules that allow them to bypass local governments for approval to offer television service." Today, at a Senate hearing, Verizon and AT&T "will make a pitch for congressional action on national video-franchising rules, which would allow phone companies to roll out video services to compete with cable providers more quickly."

ENVIRONMENT:

Jury Finds Against Rockwell, Dow Chemical In Plutonium Contamination Suit. The AP (2/15, Sarche) reports, "Ruling in 16-year-old case, a federal jury recommended Tuesday that Dow Chemical Co. and the former Rockwell International Corp. pay $553.9 million to thousands of property owners who claimed their land was contaminated by plutonium from the former Rocky Flats nuclear weapons plant. The jury concluded the two companies damaged private property around the site through negligence that caused 'class members to be exposed to plutonium and (placed) them at some increased risk of health problems.' The lawsuit was filed in 1990 on behalf of 13,000 people. The jury also said the damage from the radioactive material may never go away." The AP adds, "The verdict called for punitive damages of $110.8 million against Dow Chemical and $89.4 million against Rockwell. The jury also recommended the companies pay some $352 million in actual damages. The final award is likely to be less because of limits in state and federal law, but could still reach $352 million after US District Judge John Kane reviews the verdict, said Louise Roselle, an attorney for some of the plaintiffs."

Southern States Feel Slighted By Heating Assistance Program. CQ (2/14, Wayne) reports some Southern governors are "complaining that their states are treated unfairly by a federal home energy subsidy program, adding a possible regional complication to efforts by Northern Republicans to boost spending that already faces resistance from budget hawks." The Low Income Home Energy Assistance Program (LIHEAP), "created in 1981, has long been a sore point for Southern states. The program always has been geared toward subsidizing winter heating bills in the

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Northeast and Midwest, rather than summer air-conditioning bills in the South." Escalating "energy prices are raising the temperature on the dispute. The state of Georgia, for example, plans to spend $10 million of state revenue this year — up from $3 million last year — to supplement its share of LIHEAP, said Heather Hedrick, a spokeswoman for Georgia Republican Gov. Sonny Perdue." Northern Republican senators "led by Olympia J. Snowe of Maine are trying to win at least $1 billion extra for LIHEAP in fiscal 2006. Snowe and her allies already have encountered resistance from at least one Republican senator, Jeff Sessions of Alabama, who GOP aides say is blocking the proposed bill because of its expense. And now Snowe also faces the concerns of Southern governors, like Perdue, who say her legislation would do little to help their states or state budgets."

Ethanol Not Reducing Motorists' Fuel Bills. USA Today (2/15, Healey, 2.31M) reports the "heavily promoted alcohol fuel called E85 might cut America's oil use and help support US agriculture, but it's not reducing motorists' fuel bills. It's boosting them significantly." The "price of E85 — a fuel that's 85% ethanol made from grain and 15% conventional gasoline -- is higher than that of gasoline, even though E85 has only 72% as much energy. The U.S. Department of Energy says a vehicle has to use 1.4 times as much E85 as gasoline to go the same distance." At some Nebraska stations, "E85 was $2.19 a gallon Tuesday, while gasoline with 10% ethanol — a common substitute for unleaded regular in the Midwest -- was $2.06."

Chambliss Warns Next Farm Bill Will Be Less Generous. CQ (2/14, Hunter) reports Sen. Saxby Chambliss, Chairman of the Senate Agriculture Committee, "warned Tuesday that increasing budget pressures and a changing global trade environment mean that the next farm bill will be less generous than the current law." Sen. Chambliss said, "I can say without question that we are going to have less money to deal with than we did in 2002. That means we are going to have to change the direction of some programs." Speaking to a "group of policy analysts and ambassadors attending a policy forum at the Carnegie Endowment for International Peace," Chambliss said "US farmers and ranchers will have to be more innovative and trade-oriented." Chambliss said "a recent World Trade Organization (WTO) ruling against an American cotton subsidy program is indicative of issues that upcoming farm legislation must address." The WTO has "ruled that the subsidy violates international trade rules. The United States has pressed other countries to eliminate high import tariffs and quotas, but the WTO has put its emphasis on ending trade-distorting subsidies."

FBI/DEA/ATF/USMS:

Church Fires Spark Alabama's Largest Manhunt. The New York Times (2/15, Noles) reports, "In the largest manhunt in Alabama since the bombing of a Birmingham abortion clinic in 1998, 200 law enforcement officers are working to solve the arson that has damaged or destroyed 10 rural churches this month. … 'The initial forensic work is done,' Special Agent Eric Kehn, a spokesman for the Bureau of Alcohol, Tobacco, Firearms and Explosives, said Tuesday. 'Now we are just working the scene, and it is a big scene. We are out and about, in the community, pursuing leads. To date, we have over 400 of them, and we take them all seriously.'" The Times continues, "The investigative team, formally the Alabama Church Fires Task Force, has set up headquarters at the Tuscaloosa Regional Airport. It is led by Jim Cavanaugh, a 30-year veteran of the firearms bureau who heads its Nashville field division." The Times adds, "Mr. Cavanaugh's agents, teamed with the F.B.I., the Alabama Bureau of Investigation, the office of the state fire marshal and local sheriffs' departments, have fanned out across western and central Alabama, where all 10 fires were set. And, in hopes that the arsonists will contact them, the investigators have set up a phone line and an e-mail address. … The firearms bureau's initial response to the church fires came on Feb. 3, just hours after the first five, with the deployment of a Critical Incident Management Response Team, which established an organizational framework for the investigation."

Man Arrested In Alleged Alabama Copycat Fire. The AP (2/15, Reeves) reports, "A man described as mentally disturbed was jailed Tuesday on suspicion of setting fire to an abandoned church in what authorities said was a copycat of the recent church arsons in rural Alabama." The AP continues, "Calhoun County Sheriff Larry Amerson said the arrest was 'absolutely not' otherwise linked to the fires that have destroyed or damaged 10 rural Baptist churches since Feb. 3 in central and west Alabama. … The man lived beside the old White Plains Church of God, where flames heavily damaged a storage room Monday night, and has a brother

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who is a volunteer firefighter, Calhoun County Chief Deputy Matthew Wade said. … 'He wanted to see his brother put out a fire,' Wade said." The AP adds, "Amerson said investigators believe the suspect, whom he identified as Jason Phillips, 21, also started several brush fires after watching news coverage of the church arsons. … 'In that sense, it is a copycat case,' Amerson said. … Agents with the federal Bureau of Alcohol, Tobacco, Firearms and Explosives said no arrests have been made in the other blazes, all of which have been ruled arson."

DEA Stops $12 Million Cocaine Deal In Ohio. The WDTN-TV, Dayton, Ohio (2/14) reports on its Web site, "Police took millions of dollars of drugs in a huge drug bust Tuesday. More than 110 kilos of cocaine were grabbed by DEA agents on State Route 202…in Huber Heights after watching a deal go down. 'Last week the DEA received some information from credible sources that a large amount of cocaine was coming into the Dayton area,' explained Russ Neville of the Drug Enforcement Administration. 'We watched them make an exchange. Driving off of I-70, then getting off at 202, traveling north.' Three people were arrested and are currently in jail. Neville estimated the value of the drugs at $12 million dollars."

The Dayton Daily News (2/15) reports, "The bust is the second largest involving cocaine in the region's history. … Because I-70 and I-75 intersect here, the area long has been a popular transfer point for traffickers moving cocaine to Columbus, Indianapolis, Lexington, Cincinnati and West Virginia. The FBI, U.S. Immigration and Customs Enforcement, Huber Heights police, the patrol and drug task forces in Montgomery, Greene and Warren counties helped in the bust."

Local TV Coverage. WHIO-TV, Dayton (2/14, 11:00 p.m.) reported, "Agents were tipped off that 110 kilos of cocaine were on their way from Columbus to Dayton. Agents watched the drugs trade hands and followed the three cars involved. They pulled two of them over on 202 in Huber Heights and arrested three men."

WRGT-TV, Dayton (2/14, 10:00 p.m.) reported, "Three people are under arrest and over 100 kilos of cocaine are off the streets after a bust this afternoon in Huber Heights. Police had been keeping surveillance on the suspects from Columbus. They say the three picked up a shipment of cocaine from a fourth suspect on Executive Boulevard. Once the suspects drove off, police arrested them after a traffic stop on Troy Pike. The cocaine has a street value of over 12 million dollars. … Police are still searching for the fourth suspect in the case, who sped away after the drug deal."

WDTN-TV, Dayton (2/14, 11:00 p.m.) reported, "Millions of dollars worth of cocaine is off the streets tonight. Task forces teamed up making the bust on old troy pike near 70, in Huber Heights. … Last week, the DEA received some information from a credible source [about a] large amount of cocaine coming into the Dayton area. The DEA found 110 kilos of cocaine wrapped and packed in boxes. They say it's worth about 12 million dollars on the streets. Three people were put under arrest."

US Indicts Five In Hells Angels Case. The AP (2/15, Geranios) reports, "A federal grand jury on Tuesday indicted five members or associates of the Hells Angels Motorcycle Club in various crimes. Two of the men were charged specifically in the 2001 slaying of a man in Arlington, Wash." The AP continues, "Spokane chapter president Richard Allen Fabel, 48, also known as Smilin' Rick, was charged with racketeering and conspiracy to racketeer. He is accused of directing other gang members to engage in murder, attempted murder, intimidation, extortion, robbery and trafficking in stolen motor vehicles and motor vehicle parts. … The men, who were arrested Tuesday, will be tried in Seattle, where the indictment was unsealed." The AP adds, "The others indicted were Ricky Jenks, 28, of Spokane; Rodney Lee Rollness, 45, of Snohomish; Joshua Binder, 30, of North Bend; and Paul Foster, 49, of Arlington. … Fabel and Jenks appeared Tuesday in Spokane before U.S. Magistrate Cynthia Imbrogno, who ruled the two should remain in jail until a bail hearing on Thursday. Fabel had asked for a bail hearing immediately. … 'It's Valentine's Day. Have a heart, for once,' Fabel joked to Assistant U.S. Attorney Jared Kimbell, who said the government was not prepared for an immediate bail hearing. … Rollness and Binder appeared in federal court in Seattle, and had bail hearings set for Friday. Foster was scheduled to make his first court appearance on Wednesday."

DHS Spokesman Says Air Marshals Accused Of Drug Smuggling Had Thorough Background Checks. The Houston Chronicle (2/15) reports that ex-colleagues are surprised that federal sky marshals Burlie L. Sholar, and Shawn Ray Nguyen of Houston are "accused of conspiring to use their positions as air marshals to smuggle 15 kilograms, or 33 pounds, of

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cocaine on an airliner flying from Houston to Las Vegas." David Adams, spokesman for the Department of Homeland Security, "said Sholar and Nguyen both were subjected to thorough background checks that gave them a top-secret security clearance. The background checks conducted by the Office of Personnel Management typically include a review of previous employment, criminal and credit background checks, and interviews of acquaintances by field agents, Adams said. The field agent reports are reviewed by other officials. Once approved, agents must be reinvestigated every five years, he said."

Coca Products At Morales Inaugural Dinner, Legal Coca Leaf Importer Called "Media-Shy". Reuters (2/14) reports, "It is not often that the menu of a presidential inaugural dinner provides insight into a country's development plans. But it did at the inauguration of Bolivia's Evo Morales last month -- the fare included coca cake, coca cookies, coca wine and coca sweets. Served to some 300 local and foreign dignitaries in the airy grand hall of the presidential palace, the coca-based menu served notice that the new Bolivian government will try to win international legitimacy for the coca leaf and make it an export commodity. … Most medical opinion holds that coca leaf, as opposed to the cocaine extracted from it, is neither addictive nor harmful. The leaf's use as a mild stimulant and hunger suppressant dates back thousands of years. … Complaints about the lack of rational argument on coca leaf are echoed up and down the Chapare, the tropical region where Morales launched his political career by leading coca growers in protests against U.S.-financed efforts to eradicate the coca plant." Reuters continues, "The only legal importer of coca leaf into the United States is the Stepan Co. of Maywood, New Jersey, a company so media-shy it has no public relations department or spokesperson. Telephone inquiries yield pregnant pauses and the suggestion that databases and public records can provide the details Stepan declines to divulge. According to public records and published reports, Stepan imports coca leaves -- around 380,000 pounds (172,000 kg) a year -- under an agreement with the U.S. Drug Enforcement Administration (DEA) which has to be renewed every year. The latest application to import coca leaves was filed on March 29, 2005, and needs to be renewed next month."

Morales Accepts Re-election As Leader Of Coca Farmers Union. The AP (2/15) reports, "President Evo Morales accepted re-election as leader of Bolivia's largest coca farmers union Tuesday, despite saying earlier he would step down from the post. Morales, who was inaugurated as Bolivia's first Indian president three weeks ago, traveled to the central city of Cochabamba to thank the union members and defend his decision to remain their leader in the face of 'enemies (who) have made negative comments.' … On Monday, the cocaleros picked him to fill the union's top job for the 10th year running. Opposition politicians have criticized Morales' continued involvement. 'The president is making a mistake that could damage the image of the country," said Senator Tito Hoz de Villa. 'He's no longer a union leader, but president of all Bolivians.'"

US-Mexico Border Violence Said To Be Escalating With Increased Law Enforcement. In the Christian Science Monitor (2/15) Kris Axtman writes, First came an armed standoff between Texas lawmen and drug smugglers disguised as Mexican soldiers. Next, federal officials seized a stockpile of heavy-duty weaponry - assault rifles, hand grenades, and improvised explosive devices - along the Rio Grande. Then a Mexican police reporter was critically wounded after intruders fired more than 60 rounds into the newspaper's offices. These three incidents in as many weeks dramatize the rising violence along the US-Mexico border. Drug traffickers are becoming more brazen and expanding their operations to include smuggling people. Even as President Bush proposes to beef up border security, these attacks are renewing the debate over how best to keep criminals - perhaps even terrorists - from crossing into the United States. … Ever since Mexican President Vicente Fox declared war on drug cartels last year, border violence has escalated. … Part of the rise in violence stems from increased US law enforcement at the border, which is creating a more desperate drug smuggler, many experts say. But it also is rising because these drug smugglers are becoming heavily involved in the lucrative people-smuggling business and are using the same violent tactics to evade law enforcement."

Some Border Security Proposals Called Dangerous, Self Defeating. In USA Today (2/15) Ruben Navarrette writes, "The trouble is that some proposed solutions — from putting troops on the border to denying citizenship to the children of illegal immigrants — bring to mind the old saying about the cure being worse than the disease. That includes this one: Allowing local police to enforce federal immigration law. This dangerous and self-

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defeating concept is popular with those who think that law enforcement officers are interchangeable, and that one badge is as good as another."

IMMIGRATION:

Man Pleads Guilty To Helping Illegal Immigrants Get Tennessee Drivers Licenses. The Knoxville News Sentinel (2/15, Satterfield) reports Claudio Galvan pleaded guilty to "shuttling -- for $700 a pop -- as many as 98 illegal immigrants in six months to Tennessee to get driver's licenses." Galvan, "himself an illegal immigrant already deported at least once, admitted at a hearing before U.S. District Court Judge Tom Varlan that he was the leader of a conspiracy to procure Tennessee driver's licenses for other illegal immigrants." Court records show Galvan "charged other illegal immigrants $700 to take them from Georgia to a driver's license testing center in Maryville and also helped them obtain fake documents needed to show proof of Tennessee residency. It was the second such shuttle service using East Tennessee testing centers shut down by the FBI in less than a year."

TAX:

DOJ To Enter Deferred Prosecution Agreement With German Bank Over Tax Shelters. Dow Jones (2/15) reports, "German bank Bayerische Hypo & Vereinsbank AG, known as HVB, will pay $29.6 million to the federal government as part of a deferred prosecution agreement in the Justice Department's probe into fraudulent tax shelters, prosecutors said Tuesday." Dow Jones continues, "At a hearing in federal court in Manhattan, prosecutors from the U.S. Attorney's office in Manhattan said the bank's payment includes nearly $16.2 million in disgorgement and forfeiture, as well as more than $6.9 million in restitution. Payment must be made by Feb. 17. … The agreement runs for 18 months. If the bank doesn't violate it during that time, it will likely avoid prosecution. … The bank also has agreed to restrictions on certain types of business and will implement an ethics and compliance program in its U.S. business." Dow Jones adds, "As part of the agreement, the government filed a criminal information against the bank, charging it with one count of conspiracy. … U.S. District Judge Alvin K. Hellerstein accepted the agreement at Tuesday's hearing. … In a statement, Chris Wrenn, HVB's chief operations officer in the U.S., said, 'HVB has cooperated fully with the government's investigation and will continue to do so. We have already begun to implement the actions mandated by the [deferred prosecution agreement.] We are pleased to have reached this settlement and can now focus more fully on our core businesses.'"

The New York Times (2/15, Browning) reports, "The development is the latest in a widening inquiry of accounting firms, lawyers and now banks. Yesterday, Germany's second-largest bank, HVB Group, agreed to pay nearly $30 million in a plea bargain with federal prosecutors over four types of tax shelters, averting an indictment. … The criminal investigation of the banks is being conducted by the United States attorney's office in Manhattan and follows its investigation into the accounting firm KPMG's role in the creation and sale of bogus tax shelters. In August, KPMG avoided indictment by agreeing to pay $456 million. Seventeen former KPMG employees and two others have been indicted on charges of plotting to defraud the Internal Revenue Service through the creation and sale of four tax shelters. All 19 are fighting the charges."

IRS Estimates Annual Uncollected Taxes Total $345 Billion. The Wall Street Journal (2/15, Herman, 2.11M) reports, "New government estimates of revenue losses from uncollected taxes are likely to increase pressure on the Internal Revenue Service for tougher enforcement measures. The IRS yesterday issued revised estimates of the nation's 'tax gap,' the difference between what taxpayers should be paying and what they actually do pay." The IRS "estimated the 'gross' tax gap at $345 billion a year." IRS officials "say they already have taken major steps. They have increased the number of audits of people making $100,000 or more, and they have intensified their crackdown on what they consider to be abusive tax shelters, or transactions with no real purpose other than dodging taxes. They have stepped up scrutiny of family limited partnerships, a popular technique for cutting estate and gift taxes. And they have increased efforts to pursue 'nonfilers,' people who should be filing tax returns but aren't."

The New York Times (2/15, Johnston, 1.19M) reports I.R.S. commissioner, Mark W. Everson "acknowledged that the estimate is probably low because the I.R.S. looked only at individuals and small unincorporated businesses. It has not revised its estimates of tax cheating by corporations, large

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estates and by firms that do not hire their workers directly but instead contract with an employee leasing firm."

The Washington Post (2/15, D2, Crenshaw, 744K) reports, "The biggest component of the tax gap attributable to individuals is underreported income from business activities for which there is no third-party reporting comparable to the W-2 reports of wages that employers send to the IRS. Such underreported income -- including rents, royalties, partnerships and the income of self-employed people -- totaled $109 billion. Exaggerated deductions accounted for $14 billion of the 2001 gap."

IRS Ruling Allows Families To Prepay Multiple Years Of Tuition. The Wall Street Journal (2/15, Herman, Silverman) reports, "Bolstered by a recent IRS ruling, a small but increasing number of wealthy individuals are cutting their tax bills by prepaying family members' tuition bills for multiple years." The Journal continues, "Tax advisers say this technique could be a smart move for people with large estates who want to pay for a student's tuition and fear they might not live long enough to pay the bills as they come due each year. This way, they can help their families deal with soaring education costs and skirt hefty federal estate and gift taxes. But the technique is also proving popular with younger, healthy individuals." The Journal adds, "Private schools and colleges are seeing more relatives adopting the strategy, and some are now actively encouraging families to prepay tuition bills, which at some elite private schools can run nearly $30,000 a year -- and even more at some colleges."

Senate Votes To Extend Tax Cuts. The Wall Street Journal (2/15, Mullins, 2.11M) reports Republicans "took a step toward extending lower tax rates on investments when a majority of senators for the first time in this session of Congress signaled that they support the idea." The Senate voted 53-47 "in support of a two-year extension of President Bush's 15% rates on capital gains and dividends. By the same margin, senators said the final tax bill should both lower tax rates on capital gains and dividends and exempt millions of middle-income Americans from the alternative minimum tax." The votes were "on a procedural motion and won't have any effect over the final tax bill," but "they put a majority of senators on the record as supporting an extension of lower tax rates on capital gains and dividends." Of the Senate's 55 Republicans, "three voted against the rate extensions: Sens. Lincoln Chafee of Rhode Island, Olympia Snowe of Maine and John Warner of Virginia. Democrat Ben Nelson of Nebraska voted with Republicans."

Grassley Says House Republicans Need To Offset Tax Cuts. CQ (2/14, Schatz) reports Senate Finance Committee Chairman Charles E. Grassley "staked out his negotiating position Tuesday for the conference on a $70 billion tax cut package, telling House Republicans they will have to accept revenue-raising offsets if they hope to see the Senate clear the final version of the bill." The Senate "appointed conferees Tuesday, clearing the way for formal negotiations on the stalled tax cut package (HR 4297). Conferees are unlikely to meet before lawmakers leave town Feb. 17 for the Presidents Day recess, but they hope to reach a deal before the March recess." On Tuesday, Grassley "argued on the Senate floor that revenue-raising provisions will need to be part of the final tax package in order to make room under a $70 billion cost ceiling for all of the cut extensions that are priorities of the House and Senate. That includes a $21 billion, two-year extension of the capital gains and dividends provision, about $15 billion worth of non-controversial short-term business tax 'extenders' and a $31 billion Senate-endorsed provision blunting the effect of the alternative minimum tax (AMT) on middle-income taxpayers."

Snow Defends Capital Gains, Dividend Tax Cuts. In a Wall Street Journal op-ed (2/15), Treasury Secretary John Snow says that by "nearly every conventional statistical measure, the American economy is performing very well today -- continued economic growth; a strong employment market; household wealth is at historic highs; inflation has been kept in check; interest rates are still low by historic standards." While "many factors contributed to the improved performance of the economy" since 2001, "the tax reductions on capital have been at the heart of the progress we have seen." By "lowering the cost of capital, the president's proposals improved the inherent efficiency of the economy." Snow adds, "It concerns me that some in Congress are today looking to increase taxes on capital gains and dividends. Worse yet, there have been suggestions that the administration should choose between protecting the middle class from the Alternative Minimum Tax and extending the low rates on capital gains and dividends."

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CONGRESS-ADMINISTRATION:

Bush, Cheney Staffs Said To Be At Odds Over Handling Of Shooting Accident. Media reports indicate there is a growing split within the White House between the staffs of the President and the Vice President over the handling of last weekend's accidental shooting. "People inside the White House" are said to be "livid" about Vice President Cheney's handling of the incident, said the CBS Evening News (2/14, story 3, 1:35, Borger), adding "a source that I can characterize as close to this Administration" said, "It's no longer about indulging Dick Cheney's views of press management." Instead, the source "says it's now about Iraq and Katrina and a range of other issues that play into the public's views of this Administration's arrogance. And this source calls this a terrible mishandling. He says that it's going to just give voice to the Administration's critics." Borger added that "privately, signals are being sent into the Vice President's office that this has been handled badly and that perhaps the Vice President himself does need to come out and say something about it." The "staffs of the President and the Vice President could be on a collision course."

The New York Times (2/15, Sanger, 1.19M), in a similar report, also says "the tension between President Bush's staff and Mr. Cheney's has been palpable, with White House officials whispering to reporters about how they tried to handle the news of the shooting differently. … The past three days have underscored, in public, what has always been clear in the Bush White House: Mr. Cheney plays by rules of his own making. It is the freedom that only a political figure who knows he is in his last job -- he often says he will never run again -- can get away with."

NBC Nightly News (2/14, lead story, 3:45, Gregory) reported, "Here at the White House, aides have done little to hide their disagreement with the Vice President and his staff over the handling of this whole matter."

The Washington Post (2/15, A1, VandeHei, Baker, 744K) runs a front-page story titled "Cheney's Response A Concern In GOP," in which it says "Cheney's slow and unapologetic public response…is turning the quail-hunting mishap into a political liability for the Bush administration and is prompting senior White House officials to press Cheney to publicly address the issue as early as today, several prominent Republicans said yesterday." The Post adds, "White House aides said Bush has not pressured Cheney to disclose more details about the shooting or to apologize. One person close to both men said that Bush is the only person in the White House who could persuade Cheney to change strategy and that even high-level White House aides are reluctant to take on the vice president's office."

Fox News' Special Report (2/14, Cameron) reported, "Fox News has learned that going back to Saturday after the hunting accident, senior white house officials on the President's staff believed the information would be disclosed Saturday night. It was the Vice President who changed course. The first time we may hear from Mr. Cheney is Friday. He is scheduled to speak to the Wyoming state legislature."

CNN's The Situation Room (2/14, Todd) reported, "Another political headache, another brushback with the media, and another round of a familiar question: Has Dick Cheney tipped the balance and become more trouble for this President than he's worth? … New York Daily News bureau chief Tom DeFrank has covered the vice president since 1974, when, he says, Dick Cheney was more accessible than his boss, a young White House chief of staff named Donald Rumsfeld. DeFrank believes Cheney's influence with…Bush had eroded -- too much cumulative political backlash, he says, starting with Cheney's secret meetings with energy executives while forming the nation's energy policy, his history with Halliburton, the company accused of questionable government contracts in rebuilding Iraq, the CIA leak scandal, and one seminal moment. … But Republican strategists say that lightning-rod quality makes Cheney more valuable in rallying the conservative base, and the president who campaigned as a Washington outsider still needs him. … Those who know and have covered Dick Cheney say, in weighing all of those assets and liabilities, we should allow for one more consideration, that Dick Cheney doesn't care what the press and politicos think. He has no political ambition beyond January 2009." The CBS Evening News (2/14, story 2, 2:10, Schieffer) also said Cheney, "never a big fan of the media to begin with, really couldn't care less what reporters think of him now."

Print coverage of Cheney's handling of the incident turned even more negative than it was on Tuesday. For example, the Baltimore Sun (2/15, Davis, 296K) says the incident "has tarnished Cheney's image and highlighted his penchant for secrecy, while thrusting Bush's top aides, including press secretary Scott McClellan, into a tug of war

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with the news media." Knight Ridder (2/15, Thomma) says "Cheney turned a tragic hunting accident into a public relations disaster by maintaining his business-as-usual approach to his life: that it's nobody's business." And the AP (2/15, Raum) reports, "At the start of the Bush presidency, Dick Cheney was viewed as the grown-up, the seasoned hand to guide an inexperienced president. Now, he's the center of controversy." The shooting "presents a new problem for the White House as it seeks to repair damaged credibility in a midterm election year in which continued GOP control of Congress hangs in the balance."

Whittington Heart Attack Triggers More Questions About White House Secrecy. Harold Whittington, the 78-year-old Texas attorney who was accidentally shot during a hunting expedition with Vice President Dick Cheney, suffered a mild heart attack caused by a birdshot pellet lodged in his heart. White House spokesman Scott McClellan was aware of Whittington's complication, but did not disclose it during his morning press briefing. As the CBS Evening News (2/14, story 2, 2:10, Schieffer) put it, "These have not been the best of days for White House Press Secretary Scott McClellan. Reporters tore him apart for waiting a full day to disclose any of this." ABC World News Tonight (2/14, story 3, 2:35, Raddatz) reported on "stinging criticism from former White House spokesman, Marlin Fitzwater. Fitzwater told Editor and Publisher, he was 'appalled by the whole handling of this.' And President Bush's first press secretary, Ari Fleischer, told the magazine, 'It could have and should have been handled differently.'"

NBC Nightly News (2/14, lead story, 3:45, Gregory) said there are "still unanswered questions surrounding Saturday's shooting. Why did the local sheriff in Kennedy County, Texas, wait 14 hours to interview the Vice President? His office didn't return repeated phone calls today, but the Secret Service and the Vice President's Office insist Mr. Cheney was available immediately for questioning. Another question -- did the Vice President follow hunting safety guidelines? His office and one witness suggested Whittington was at fault because he failed to alert Cheney that he was rejoining the hunting party after searching for a downed bird. But experts say the burden is on the shooter."

Whittington's turn for the worse was the lead on each of the networks. ABC World News Tonight (2/14, lead story, 2:40, Vargas) reported, "Tonight, doctors say his condition is stable and they're keeping him in the hospital for another week." ABC (von Fremd) added, "After doctors discovered Whittington's condition this morning, they performed a cardiac catheterization, inserting a thin probe through an artery into his heart and into his coronary arteries. They discovered his arteries are clear. But the procedure cannot pinpoint the location of the BB."

In a follow-up, ABC World News Tonight (2/14, story 2, 1:00, Johnson) reported, "The heart attack, so-called, was actually caused by the damage caused by the buck shot. Not by the blockage of the coronary arteries. They were clean on tests today. That's good news. But until we know exactly where this buck shot is, and what it might lead to, we have to say the possibilities are everywhere from totally benign, to unlikely but possibly fatal."

The CBS Evening News (2/14, lead story, 2:15, Schieffer) reported, "Tonight, the jokes have stopped and the whole thing has turned serious." CBS (Cowan) added, "In a story that was shocking from the beginning, today's announcement by doctors for the Vice President's hunting partner put everything in a whole new light." The "news couldn't have been more different than yesterday. If the BB went that far in, it seems like this is a bit more of a serious-type wound than what we originally thought." The "single BB that is lodged in Mr. Whittington's heart muscle is miniscule compared even to a penny, but judging from the accident report from Texas Parks and Wildlife officials, the greatest concentration of the blast was right over Mr. Whittington's chest."

NBC Nightly News (2/14, lead story, 3:45, Williams) reported, "A bizarre story took an even more bizarre turn today when a man hospitalized in Texas suffered a mild heart attack because of a birdshot pellet that moved into his heart." In a follow-up, NBC Nightly News (2/14, story 2, 2:10, Bazell) reported, "Doctors who treat a lot of gunshot wounds say this one could potentially get worse."

USA Today (2/15, 4A, Sternberg, 2.31M) reports that doctors said "the greatest risk facing Harry Whittington, 78, the lawyer shot by Vice President Cheney in a hunting accident, is that a shotgun pellet lodged near his heart could travel elsewhere and cause more damage." However, they added that "it would be riskier to remove the pellet, causing more damage, than to leave it in place in the hope that the body will safely wall it off with scar tissue." The New York Times (2/15, Bumiller, Kornblut, 1.19M), Washington Post (2/15, A1, Moreno, Brown, 744K), Reuters (2/15, Franks), AP (2/15, Brezosky, Pickler) and Knight Ridder (2/15, Hutcheson),

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among other sources, also run stories on Whittington's heart attack.

The Los Angeles Times (2/15, Riccardi, Gerstenzang, 958K) reports Cheney "was attending an intelligence briefing on Capitol Hill today when he received news of Whittington's heart attack. He returned quickly to the White House, canceling plans to lunch with Republican senators." Sen. Trent Lott, who attended the intelligence briefing, "said he joked with Cheney about the hunting accident before the vice president learned the victim had taken a turn for the worse. Cheney laughed 'a little' at the joke, Lott said, declining to repeat his witticism."

There was widespread local television coverage of shooting. The stories focused upon Mr. Whittington's heart attack, but many also noted criticism over the delay in releasing the information and how the White House is handling it. Also, stations occasionally raised the issue of possible charges should Whittington die, and a possible civil suit. Some examples: WAGA-TV Atlanta (2/14, 10:08 p.m.) reported, "The shooting has triggered some sharp criticism, much of it aimed at Mr. Cheney, who waited more than 24 hours before disclosing details about the hunting accident."

KPNX-TV Phoenix (2/14, 5:16 p.m.) reported, "Cheney's decision on Saturday at the Texas ranch not to be in touch with the news media until Sunday, decision not reversed by President Bush, has P.R. experts shaking their heads."

CBET-TV Detroit (2/14, 11:01 p.m.) reported, "Cheney hasn't said anything publicly, but for two days now there have been persistent questions about why he or the White House didn't tell reporters about the accident sooner, questions the White House was sidestepping today."

WGCL-TV Atlanta (2/14, 11:01 p.m.) reported, "The Vice President never said anything publicly about the shooting or new development the heart attack and again that didn't sit well with the White House press corp, still angry over the 24-hour delay over the release of shooting."

WCCO-TV Minneapolis (2/14, 10:04 p.m.) reported, "Vice president Cheney and the Bush administration are still keeping quiet about the accident."

KWGN-TV Denver (2/14, 9:18 p.m.) reported, "Turns out White House spokesman Scott McClellan knew that Whittington's condition had taken a turn, even as reporters were grilling him. McClellan now says he didn't feel like he had all the facts about Whittington's heart attack he wanted to let the hospital speak first. Democrats complain this whole episode shows how little the Bush administration cares about keeping the public informed."

KHWB-TV Houston (2/14, 9:11 p.m.) reported, "Scott McClellan knew Whittington's condition had taken a turn, but he kept quiet despite his assurance Monday that, 'I think it's always important to get information out as quickly as possible.'"

WEWS-TV Cleveland (2/14, 11:42 p.m.) reported, "The White House briefing room has been a pretty contentious place over the last couple of days."

KPHO-TV Phoenix (2/14, 6:43 p.m.) reported, "Senate minority leader Harry Reed says an explanation is needed for the 24-hour delay in releasing information about the shooting. He says it's time the American people heard from the Vice President."

McClellan's Quip Noted. The AP (2/15, Pickler) reports, "The White House has decided that the best way to deal with…Cheney's shooting accident is to joke about it." McClellan "quipped Tuesday that the burnt orange school colors of the University of Texas championship football team that was visiting the White House shouldn't be confused for hunter's safety wear." Also, "Florida Gov. Jeb Bush, took a similar jab after slapping an orange sticker on his chest from the Florida Farm Bureau that read, 'No Farmers, No Food,'" saying, "I'm a little concerned that Dick Cheney is going to walk in." The New York Times (2/15, Bumiller, Kornblut, 1.19M) adds Whittington's "downturn…significantly changed the tone of the White House reaction to the hunting accident," and, at his noon briefing, McClellan's "tone was serious, even as he was at times impatient with the persistent questions about the shooting." The Washington Post (2/15, A2, Milbank, 744K) also describes the morning briefing and McClellan's joke.

Cheney's Office Issues Detailed Statement On Whittington Shooting. CNN's The Situation Room (2/14, Bash) reported that Cheney issued "the first statement acknowledging that he accidentally shot Harry Whittington and that was about and because of the change in Mr. Whittington's condition, because he had a minor heart attack." The statement "was striking in the fact that it gave such detail -- striking departure from the way the Vice President's office generally operates, talking in detail and even giving specific times every step of the way and when he found out that Mr. Whittington's condition changed, that he was here at the White House when he heard he was going to get a test."

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Democrats Criticize Cheney As GOP Worries About Impact On Agenda. The Wall Street Journal (2/15, McKinnon, Hitt, 2.11M) reports, "Democrats stepped up their rhetoric, particularly over the White House's delay in making the incident public and the vice president's continued public silence. Senate Minority Leader Harry Reid criticized the administration's secretive nature and said, 'It's time the American people heard from the vice president.'" Republicans "privately expressed concern that the incident is distracting from President Bush's agenda just after he announced a number of initiatives in his State of the Union address." The Wall Street Journal (2/14, 2.11M) also reported in its "Washington Wire" column on its web site, "Worries are mounting among Republicans about…Cheney's hunting accident after his hunting partner has a heart attack caused by birdshot from the mishap." News of Harry Whittington's heart attack "vexes party strategists who fear the accident will be a continuing distraction from the party's 2006 agenda." Democrats "said the incident has already come to symbolize administration stumbles, and is interfering with President Bush's attempt to recover from an unhappy 2005." The Journal added, "Senior Bush advisers dismissed suggestions of political fallout."

The Washington Times/AFP (2/15) reports, "Sen. Hillary Rodham Clinton, New York Democrat, called 'troubling' the day's wait before the public announcement." Said Clinton, "A tendency of this administration -- from the top all the way to the bottom -- is to withhold information...to refuse to be forthcoming about information that is of significance and relevance to the jobs that all of you do." Sen. Charles E. Schumer "said the time has come for the vice president to hold a press conference -- which Mr. Schumer estimated would be the vice president's first in some four years -- to clear the air." USA Today (2/15, Jackson, 2.31M) reports Schumer "sent Cheney a letter urging him to hold a news conference to discuss such controversies as the shooting and last year's indictment of his chief of staff."

Hunters Says Cheney Is To Blame In Accident. The Washington Times (2/15, Curl, 90K) reports, "Experienced hunters yesterday said…Cheney alone bears the blame for a weekend mishap in which he accidentally shot a hunting companion in the face and chest with a shotgun. Every local hunter interviewed by The Washington Times yesterday said the vice president violated hunting's cardinal rule: Never pull the trigger unless you are 100 percent sure of your target. And, they said, he violated Rule No. 2, as well: Never swing on game outside the safe zone of fire." The hunters also "said their opinions on blame would be held by any experienced hunter and had been shared among shooters in recent days." Lea Anne McBride, Mr. Cheney's spokeswoman, "dodged questions about the hunters' comments."

New York Legislature Moving Forward On "Cheney's Law." The New York Times (2/15, Cooper, 1.19M) reports that in the New York state legislature, "a bill on hunting safety that has been introduced in several legislative sessions but never became law has been christened 'Cheney's Law' by several Republican senators." The bill "would make it a felony to leave the scene of a hunting accident, passed out of the Senate Codes Committee yesterday." However, "officials have said that Mr. Cheney did not leave the scene after he shot the lawyer, but stayed with him while he received medical treatment."

Whittington Was "Pivotal" In Building Texas GOP's Strength. The New York Times (2/15, Romero, 1.19M) profiles Whittington, reporting, "Before Vice President Dick Cheney sprayed him with birdshot in a hunting accident over the weekend, Mr. Whittington, 78, was known largely for his pivotal role in building the Republican Party in Texas into a powerhouse." He "accompanied the patrician George H. W. Bush around Texas during Mr. Bush's unsuccessful race for the Senate in 1964 and has remained a figure in Republican politics ever since, raising money and advancing the ambitions of the party's office seekers."

Coleman Says People Should "Step Back From The Politics." Sen. Norm Coleman was asked on CNN's The Situation Room (2/14) if he wants to hear anything from Cheney on the specifics of what happened. Coleman said, "You know, at some point. Listen, you know, people wonder, why we didn't hear about it earlier? I understand it. I -- you know, I -- I kind of watched a little bit of the press reaction yesterday. But, I think, on a personal level, right now, you got somebody who wounded somebody in an accident, in a hunting accident. And, at some point, he might want to talk about that. But, you know, don't forget, the Vice President's a man. And so, I got to tell you, I -- my prayers are with the Vice President. My prayers are obviously with the person who got shot. It's a terrible, terrible thing. I have known folks who have been involved in accidents like this. And it's a great burden. It's very, very difficult. So, we have got our Vice President of the United States was involved in an accidental shooting of

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somebody. Let's take a step back from the politics for the moment."

O'Reilly Says Cheney's Reluctance To Brief Press Was "Predictable." Bill O'Reilly said on Fox News' The O'Reilly Factor (2/14), "Cheney has a well-known press phobia. Why is it surprising to anyone that he would delay announcement of the accident so it missed the Sunday papers and chat shows? Now, if the story had any implications other than the poor man getting hurt…I would have been all over Cheney. But, again, the Vice President's hunting accident affects no one. Means nothing. And his reluctance to brief the press about it is predictable. Of course, Cheney should have known that the anti-Bush press would make a big deal out of this and the Vice President has given his enemies more ammunition, pardon the pun. Once again his secret style hurts him. But some of our competitors are spending hours talking about this Cheney misfire which seems absurd and today their anger seemed to be growing."

National Review Calls On Cheney To Make Public Appearance. In an editorial published online yesterday (2/14) afternoon, the editors of the National Review wrote, "It was a mistake not to alert the national press of the incident immediately. … With Harry Whittington having suffered a minor heart attack Tuesday morning, and still in intensive care 72 hours after the shooting, the perception that the vice president is downplaying the seriousness of the incident and not playing straight is going to be stronger than ever. There is a risk that the administration will sustain significant political damage from the controversy. Cheney himself should make a public appearance on the matter, and the sooner the better. He should get himself with a respected national anchor — perhaps Brit Hume of Fox News — as soon as this evening to express his regret and explain in his own words what happened. He should stop relying on press aides who were not present at the accident to tell his side of the story."

More Commentary. USA Today (2/15, 2.31M) editorializes, "Cheney has plenty of high-priced public relations experts on his payroll to give him advice, so he probably doesn't needs ours. But for what it's worth: Go to Corpus Christi. Comfort your friend. Hold a news conference in the hospital parking lot. Explain what happened. Express anguish. Take responsibility. That won't end all the jokes, but it might take the sting out of many of them."

Under the headline "Cheney's Coverup," the Wall Street Journal (2/15, 2.11M) editorializes, "In the name of media solidarity, and in the interest of restraining the Imperial Presidency, we have put together the following coverup timeline with crucial questions that deserve to be answered: 5:30 p.m., Saturday (all times Central Standard Time). Mr. Cheney sprays Harry Whittington with birdshot, and the Secret Service immediately informs local police. Who is Harry Whittington and whom does he lobby for? Does he know Scooter Libby? 6:30 p.m. White House Chief of Staff Andy Card informs President Bush that there's been a hunting accident involving the Vice President's party. Did Mr. Bush ask followup questions? Was he intellectually curious?" The Journal also asks, "Has [Katharine Armstrong, owner of the ranch] ever worked for Halliburton?" The editorial concludes, "As for the Beltway press corps, it has once again earned the esteem in which it is held by the American public."

David Ignatius writes in the Washington Post (2/15, A21, 744K) reports, "There is a temptation that seeps into the souls of even the most righteous politicians and leads them to bend the rules, and eventually the truth, to suit the political needs of the moment. That arrogance of power is on display with the Bush administration. The most vivid example is the long delay in informing the country that…Cheney had accidentally shot a man last Saturday while hunting in Texas."

Maureen Dowd writes in the New York Times (2/15, 1.19M), "Presidential staff members and lawmakers speculated yesterday about whether Shooter would resign and make room for Condi if Mr. Whittington did not survive. His death would trigger a more thorough police investigation and probably a grand jury. 'Are you crazy?' one Republican senator told a reporter. 'He'd never quit.' …. The shooter in chief can't quit because he is the administration. Who'd even tell him to quit? If necessary, he'd probably make W. take the fall."

Tony Blankley writes in the Washington Times (2/15, 90K), "As I understand the profound concern of the ever alert White House reporters, they smell a constitutional crisis because the shooting party failed to alert the media of the accidental shooting down in Corpus Christi, Texas. Well, actually they did alert the Corpus Christi media -- but that didn't count. Unless the exalted ones have been formally informed by an official government press secretary, no public communication has technically occurred." Blankley adds the incident "exemplified" that "we have in the White House at the most elite level of American journalism, self-absorbed, self-important men and women who stand on their prerogatives even over marginal and inconsequential matters."

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Alito Hires Former DOJ Attorney, Ashcroft Aide, As Clerk. The Washington Post (2/15, A12, Lane) reports, "Justice Samuel A. Alito Jr. has hired one of the architects of then-Attorney General John D. Ashcroft's policies to serve as his law clerk at the Supreme Court for the rest of the current term, the court announced yesterday." The Post continues, "Adam G. Ciongoli, 37, a senior vice president at Time Warner Inc., served as counselor to Ashcroft from 2001 to 2003. He attended Georgetown University Law Center, clerked for Alito at the Philadelphia-based U.S. Court of Appeals for the 3rd Circuit from 1995 to 1996, and helped prepare the justice for his recent confirmation hearings." The Post adds, "Ciongoli was an aide to Ashcroft during Ashcroft's years as a senator and then came to the Justice Department, where he advised Ashcroft on terrorism issues in the aftermath of the Sept. 11, 2001, attacks. Among the issues he worked on were the detention of thousands of terrorism suspects in the United States and the use of military tribunals to try them. … Ciongoli's appointment, which will last about five months, is unusual: Though there has been a slight trend at the court toward hiring law clerks with a few years of work experience, the vast majority of clerks are recent law school graduates. … Among those who have come to the court after working elsewhere, none in recent memory had held a government position as senior as Ciongoli's at the Justice Department, where he was widely regarded as one of Ashcroft's closest confidants. … Perhaps the closest parallel to Ciongoli's appointment was the 2002 appointment of Rachel Brand, then associate White House counsel, to serve as a law clerk to Justice Anthony M. Kennedy. Brand is now assistant attorney general for legal policy."

Scalia Says Those Who Believe In "Living Constitution" Are "Idiots." USA Today (2/15, 2.31M) reports, "Supreme Court Justice Antonin Scalia said people who believe in a 'living Constitution' that changes with the times are 'idiots.'" In a speech to the Federalist Society in Puerto Rico, Scalia said "the argument of flexibility (says) the Constitution…has to change with society. But you would have to be an idiot to believe that. The Constitution is not a living organism, it is a legal document. It says something and doesn't say other things."

Officials Seek To Reassure Senators On Medicare Drug Plan. The Hill (2/15, Bolton) reports Senate Republicans "met with senior Bush administration officials in private yesterday afternoon to discuss their concerns with the Medicare prescription-drug program and to prepare for the escalated Democratic attacks on the program expected next week during the recess." Democratic "leaders and strategists last week had urged lawmakers to launch a barrage of criticisms against the drug program." Yesterday, about "30 Republican lawmakers sat down with Mike Leavitt, the secretary of the Department of Health and Human Services, and Mark McClellan, the administrator for the Centers for Medicare and Medicaid Services (CMS)." Lawmakers "asked the officials about two major criticisms of the drug plan, which was the legislative centerpiece of President Bush's first term: that the drug plan offers too many programs and as a result is too confusing for seniors, and that it has a hole in a coverage. Drug costs between $2,250 and $5,100 a year are generally not covered by the program." Senior senators "such as Pete Domenici (N.M.) and Larry Craig (Idaho) said the program is fundamentally sound and will help many senior citizens."

Study Says Amount Of Faith-Based Grants Declined From 2002 To 2004. The Washington Post (2/15, A5, Cooperman, 744K) reports that "the amount of direct federal grants to faith-based organizations declined from 2002 to 2004, according to a major new study released yesterday. White House officials immediately disputed the findings. They said they will release their own figures next month showing an increase in federal funding for religious groups." The study by the nonpartisan Roundtable on Religion and Social Welfare Policy "examined 28,000 grants made by nine federal agencies over three years. It found that religious charities got an unchanging share -- about 18 percent -- of the money awarded each year. But because the total pie of available funding shrank by more than $230 million over the three years, the slice that went to religious groups also declined, from $670 million in fiscal 2002 to $626 million in fiscal 2004. At the same time, the study found that the initiative has succeeded in encouraging more religious groups to apply for funding, and the number receiving grants rose almost 15 percent."

Grassley Says Senate May Not Raise US Debt Limit Until Mid-March. Reuters (2/15, Cowan) reports Senate Finance Committee Chairman Charles Grassley said the Senate "might wait until mid-March to raise the U.S. borrowing limit, despite Treasury Department warnings that the government could exceed the current cap

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within days." Sen. Grassley "said that if the Senate does not raise the $8.18 trillion debt limit this week before the start of a weeklong recess, it would vote before the next recess tentatively set for March 18." On Monday, a Treasury Department spokesman "said the federal government was on track to hit the current debt ceiling by mid-February. If U.S. borrowing authority is not lifted soon, the Treasury Department could use such extraordinary measures as dipping into several government funds to avoid default, as it has in the past." Grassley "told Reuters the goal would be to get the debt limit legislation passed 'with the least debate.'"

GOP Lawmakers Hedge On Need For Second Deficit Reduction Package. CQ (2/14, Dennis) reports Republican lawmakers "continued to hedge Tuesday on whether they will attempt to clear another budget savings package this year as moderates and fiscal conservatives tussle over the need for more spending cuts." Majority Leader John Boehner said, "A little too early to tell yet. We've had a lot of conversations, but we've got to have a lot more conversations before we get to that point." CQ adds President Bush "proposed $71 billion in reductions to entitlement programs over five years in his fiscal 2007 budget, along with nearly $15 billion in cuts to 141 discretionary programs, but some GOP lawmakers are hesitant to go through another difficult round of reductions." Senate Finance Chairman Charles E. Grassley, R-Iowa, "said Tuesday that a budget reconciliation package of tax cuts likely would be needed to pass legislation expanding health care savings accounts. He said he would be ready to tackle more savings from Medicare and other programs if Republicans came together behind the idea."

House Democrats Seek New Vote On Deficit Reduction Bill Over Typo. Roll Call (2/15, Yachnin) reports House Democrats, "asserting the budget reconciliation measure signed into law last week is constitutionally unsound, called on the chamber's Republican leadership Tuesday to hold a new vote on the bill." In a letter to Speaker Dennis Hastert, Minority Leader Nancy Pelosi "and an additional seven senior Democratic Members, charged a clerical error has created a 'constitutional problem' in upholding the $39 billion deficit reduction bill." A clerical mistake in the House version of the bill "made to a Medicare provision resulted in the chambers approving technically different versions of the legislation. Because of that error, the version of the bill signed into law has not been approved by the House."

HSAs Seen As Least Likely Bush Initiative To Pass. The Wall Street Journal (2/14, 2.11M) reported in its "Washington Wire" column on its web site, "Political insiders in both parties consider HSAs the least likely of the President's major domestic initiatives to pass when budget provisions run the congressional gauntlet, beginning with today's Budget Committee sessions."

Columnist Addresses New Claim Of White House Interference In NASA Study. In her column on the Washington Post (2/15, A21, 744K) Anne Applebaum writes, "Two weeks ago, after news broke that a NASA press officer had resigned amid revelations that he'd tried to muffle the agency's top climate scientist, I got several such calls. ... Here's what I learned. The story begins with the publication of an article – 'Potential Environmental Impact of a Hydrogen Economy on the Stratosphere' -- in the June 2003 issue of the journal Science… The five authors, all affiliated at the time with the prestigious California Institute of Technology, wanted to explore the potential long-term impact of hydrogen fuel cells on the Earth's atmosphere." But "their research… didn't exactly mesh with the hype. According to their model, tiny leaks from hydrogen cells, if such cells are ever mass-produced, could cause serious environmental damage." The study, she wrote, noted that leakage could probably be minimized. "NASA, which had helped pay for the research, prepared a news release and news conference on the paper. Abruptly, both were canceled. Although 'we often hear that releases are held up for political reasons,' one NASA employee told me, 'that one was a surprise: It went all the way to the top and then got killed.' In fact, the release and the conference were 'killed' by the White House Office of Science and Technology Policy. An official there told me this was because the office wanted to give Energy Department scientists a chance to respond to the study before it was publicized… All of that part of the story is confirmed. The rest -- the story of how none of the scientists ever got government grants for further research on this subject -- is complicated by rumor and hearsay." She mentioned that "another eminent scientist who does related research, Mark Jacobson of Stanford University" said he disagreed with results and methodology of that study and maybe grant reviewers did too.

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Independence Of Bush Fed Nominees Seen As Issue. The Washington Post (2/15, D3, Henderson, 744K) reports President Bush's "decision to elevate three former administration economic advisers to the Federal Reserve Board prompted questions yesterday about whether they would be able to steer the economy independently of the White House they have served." Bush's most recent Fed nominees, Randall S. Kroszner and Kevin M. Warsh, "would join Ben S. Bernanke, who became chairman of the Fed earlier this month after serving for six months as chairman of Bush's Council of Economic Advisers. Bernanke is scheduled to testify today before the House Financial Services Committee in his first public appearance on Capitol Hill as Fed chief." Thomas Schlesinger, executive director of the Financial Markets Center, a "nonprofit group that monitors the Fed," said if Kroszner and Warsh "are confirmed by the Senate, it will mark the first time in many years that three of the seven Fed board members will have recently served in the White House that appointed them." Schlesinger said, "This creates more of a burden on Bernanke and company to prove they're not taking their cues from [White House Deputy Chief of Staff] Karl Rove."

Kroszner, Warsh Not Yet Sold On Inflation Targets. The Wall Street Journal (2/15, lp, 2.11M) reports Fed nominees Kroszner and Warsh "expressed qualified support for an inflation target, suggesting Chairman Ben Bernanke has more work to do before the central bank adopts one." Kroszner said the Fed "must 'provide clarity and transparency about monetary policy making and processes,'" adding a target "is one possible way to increase transparency." Warsh said, "The markets might well see [a target] as additional clarity and provide some incremental benefit going forward. That's a deliberation I look forward to participating in." The Journal adds current FOMC members "are split on support for a target. The fact the two nominees may also need convincing suggests adoption isn't a forgone conclusion."

The New York Times/Bloomberg (2/15) reports that in their testimony to the Senate Banking Committee, Kroszner and Warsh said "that controlling inflation was the best way to keep the United States economy growing." The Times adds Bush's nomination of Warsh, "a lawyer by training who would become one of only two members of the Fed's seven-member board of governors without a Ph.D. in economics, has been greeted by criticism and bewilderment by some former Fed officials and economists. They point to his political connections and inexperience, and say the White House could have found a better-known, more qualified choice."

CQ (2/14, Crittenden) reports the nominees "received praise from both sides of the aisle at a sparsely attended Senate Banking Committee hearing Tuesday." The Banking panel "does not have a schedule for voting on the nominees, though a spokesman said there was an 'outside chance' a vote could occur by the end of the week. After the panel votes, the full Senate then would vote on the nominations." Panel members "also appeared to go out of their way to praise Warsh, a lawyer who serves as a special assistant to President Bush on economic policy issues. He previously was executive director at investment bank Morgan Stanley."

Bernanke's Testimony Seen As Chance To Establish Credibility. The New York Times (2/15, 1.19M) says in an editorial that new Fed Chairman Ben Bernanke "delivers his first report to Congress today, covering interest rate policy and the Fed's economic forecast for this year and next. It's a big moment for Mr. Bernanke, and perhaps for the economy. The new chairman's success at establishing his Street cred will be a big factor in controlling that most unpredictable of economic forces: market psychology."

Bernanke's "Upbeat View" Of US Trade Deficit Questioned. In his column for the Washington Post (2/15, 744K) Steven Pearlstein writes the White House Council of Economic Advisers "decided to have a bit of fun with the record $726 billion trade deficit. At nearly 6 percent of gross domestic product, a deficit that large would in be treated in most other countries like the economic equivalent of Defcon 3. But rather than dwell on the negative, those wry PhDs framed their analysis not as consumption exceeding production (the so-called current account deficit), but as a consequence of cheap foreign capital financing our profligacy (the capital account surplus, which by definition is its mirror image). … This upbeat view of the trade deficit reflects the thinking of outgoing CEA chairman Ben Bernanke, who thinks that the root cause of the world's massive economic imbalances is that the rest of the world is producing and saving too much, not that Americans are producing and saving too little."

Senate Cancels Hearings For Today. The New York Times (2/15, Stolberg, 1.19M) reports, "Four cabinet secretaries, including Secretary of State Condoleezza Rice, an Army general and the secretary of the Army were supposed to testify Tuesday morning" before Senate committees "at

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hearings on matters including Hurricane Katrina and the Bush administration's proposed budget for foreign affairs." But their "invitations were rescinded and the hearings canceled when the Senate majority leader, Bill Frist of Tennessee, scheduled a marathon series of 16 votes on amendments to a pending tax bill — all of them, both parties agree, intended more to score political points than to make policy. Ultimately, most of those votes were canceled." Sen. Trent Lott said, "I look around and think, 'Am I the only one who thinks this is stupid?'" The Times adds Sen. Ted Stevens said, "It's sort of arrogant of us, isn't it, scheduling them and then not keeping our appointments?" The Times adds, "Stupid, perhaps. Arrogant, maybe. But not entirely out of character for the Senate, where roll-call votes are frequently held late into the night and schedules can change at a moment's notice. Still, some said the organizational chaos was worse than usual, and this being Washington in an election year, many fingers were being pointed."

Westmoreland, Lewis Settle Row Over Earmark Leak. Roll Call (2/15, Yachnin) reports one of the "first squabbles to erupt in the growing debate over earmark reform appears to have subsided, after freshman Rep. Lynn Westmoreland (R-Ga.) met with House Appropriations Chairman Jerry Lewis (R-Calif.) over the weekend." Westmoreland "lashed out at the Appropriations panel in a 'Dear Colleague' letter last week, following the leaking of a committee report that detailed the earmark requests of several dozen Members who have signed on as co-sponsors of earmark reform legislation sponsored by Rep. Jeff Flake (R-Ariz.)." Westmoreland aide Brian Robinson said, "The chairman spoke to him and said it was not done with his knowledge or permission, and it was done on the staff level." Roll Call adds that while it "remains unclear whether the source of the leaked information will be reprimanded, it appears that the matter has been settled for now."

Federal Employees Beat Private-Sector Bidder For NIH Job. The Washington Post (2/15, B2, Barr, 744K) reports in its "Federal Diary" column, "One of the largest job reviews at the National Institutes of Health has ended, with about 380 federal employees involved in property management prevailing in a competition against a private-sector bidder. The job competition began in October 2002 and involved a group of employees who provide services in property management and operations, construction management and central utilities. NIH said that the employee team won when the government's proposal, known as a 'most efficient organization,' was determined to be the lowest-cost plan." The Post adds, "The NIH's statement did not say how much money would be saved by keeping the work in the agency."

FirstGov.gov Updates Search Capabilities. The Washington Post (2/15, A19, Mayer, 744K) reports the "comprehensive one-stop federal Web site" FirstGov.gov, "which has won innovation awards for being consumer-friendly, has just been updated to make it easier for consumers, businesses and federal employees to find a mind-boggling array of information. … FirstGov launched a powerful new search engine last month, expanding the number of accessible documents from 8 million to 40 million, including more state and local Web sites."

OTHER NEWS:

Dow Closes Above 11,000 On Retail Sales, Oil Prices. ABC World News Tonight (2/14, story 8, :25, Gibson) reported, "The government said, today, that Americans went on a post-holiday shopping spree. Retail sales soared 2.3% last month. That's more than double the forecast. It seems mild weather and Christmas gift cards brought a lot of shoppers to the malls." ABC added that those news and "slumping oil prices cheered Wall Street. The Dow Jones Industrial Average was up 136 points today, closing above 11,000 for the first time in more than a month." The Financial Times (2/15, Balls, Swann) reports "there were signs of underlying strength in spending across virtually all sectors, setting up a strong start to the year after weak consumer spending growth in the fourth quarter."

USA Today (2/15, Hagenbaugh, 2.31M) notes "retail sales rose at the fastest pace in more than four years in January." The Wall Street Journal (2/15, Conkey, 2.11M) also reports on the sales report under the headline "Retail Sales Surge 2.3%, Underlining Economy's Health." The Washington Times (2/15, Hill, 90K) runs a similar story, titled "Retail Sales See Best Gains Since Late '99." The New York Times (2/15, Bajaj, Barbaro, 1.19M) also reports the story.

The CBS Evening News (2/14, story 12, 0:15, Schieffer) reported, "Falling oil prices helped to give Wall Street a big boost today. The Dow industrials gained 136 points [to close

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at 11,028.39]. The NASDAQ was up 22 [to close at 2,262.17]."

USA Today (2/15, Shell, 2.31M) reports the stock gain "surprised some market strategists because it occurred on the eve of new Federal Reserve Chairman Ben Bernanke's first testimony before Congress today and Thursday."

The Wall Street Journal (2/15, Patterson, 2.11M) says "light, sweet crude fell $1.67 to $59.57 a barrel on the New York Mercantile Exchange. Gold for April delivery rose $6.80 to $548.90 an ounce on the Nymex. Treasury prices declined. Energy sensitive stocks jumped as crude-oil prices declined again."

Oil Companies Get $7 Billion Royalty Windfall. The CBS Evening News (2/14, story 11, 1:45, Schieffer) reported, "The price of oil fell below $60 a barrel today for the first time this year. Rising supplies have been sending prices down and you're seeing the price of gasoline fall as well. Even so, oil companies are coming off a record year of profits and now they are in for a big windfall from the government." CBS (Mason) added, "That giveaway from the government amounts to a staggering $7 billion. Remember the late '90s when gas was cheap? Back then, the government offered incentives to the big oil companies to drill in the deep waters of the Gulf of Mexico." The Interior Department "says those incentives worked, pushing oil production up about 400% in the Gulf over the past decade. And for the lucky companies who signed leases then, no royalty payments on the oil they pumped in Federal waters. So today, with crude now selling for $60 a barrel, the oil companies could save $7 billion in government royalties over the next five years according to one estimate. And in Congress, where the Deep Water Royalty Relief Act passed a decade ago, Jack Kingston is one Republican who thinks the deal gave away too much."

The New York Times (2/15, Andrews, 1.19M) reports Democratic lawmakers "and the White House both said on Tuesday that oil and gas companies should not receive lucrative incentives when energy prices are near record highs." The Interior Department "forecasts that energy companies will produce about $65 billion worth of oil and gas in federal waters in the Gulf of Mexico on which they will not pay any royalties to taxpayers." But Administration officials "say their hands are tied on the royalties by laws dating back to 1996 and then sweetened by the Clinton administration." Senate Democrats Ron Wyden and Maria Cantwell "said that they were drafting legislation to change the government's rules." In the House, "four leading Democrats said they would introduce a bill this week to stop the incentives immediately." Rep. Edward J. Markey said, "The American people are getting stood up and hung out to dry." The Times adds, "But while Mr. Markey and other Democrats blamed the Bush administration, White House officials sharply retorted that the incentives stemmed largely from specific decisions that the Clinton administration made in 1998 and 1999."

CQ (2/14, Tollefson) reports the news that oil companies "could reap billions of dollars in royalty relief on oil produced in the Gulf of Mexico in the next five years have put the industry back in congressional cross hairs just months after top oil executives testified before lawmakers amid a flurry of calls for a windfall profits tax." Key GOP lawmakers "offered a more muted response but said they also are tracking the issue. 'I think it's a little early for us to get involved,' said Sen. Pete V. Domenici, R-N.M., chairman of the Energy and Natural Resources Committee."

Hubbard Says Government Should Collect "Appropriate" Oil Royalties. The Christian Science Monitor (2/15, Cook, 61K) reports on yesterday's "Monitor Breakfast" with Allan Hubbard, assistant to the president for economic policy and director of the National Economic Council. On "reports that current law will allow oil companies to pump $65 billion worth of oil and gas from federal lands without paying royalties," Hubbard said, "As the President has said, when you have oil ... north of $40 [a barrel] ... you don't need to be providing incentives to oil and gas companies to drill and we should be collecting the appropriate amount of royalties."

Lobby Firms Had Strong Revenue Growth In 2005. The Hill (2/15, Snyder, Young) reports lobbyists had "a banner 2005, the year before simmering controversies involving Jack Abramoff and former Rep. Randy 'Duke' Cunningham (R-Calif.) boiled over outside the Beltway and brought new pressures on Capitol Hill to keep lobbyists at arm's length. Early returns on end-of-year revenues show strong growth all along Washington's lobbying corridor." Several "well-known firms reported a revenue jump greater than 20 percent, including Barbour Griffith & Rogers, Quinn Gillespie & Associates, the Federalist Group and the Livingston Group, as a series of policy and legislative efforts brought new business to K Street, from Social Security reform to a national energy plan to the budget bill." Top earner

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Patton Boggs "reported an even better 2005. It made $37 million last year, up from roughly $31 million it took in in 2004." Cassidy & Associates, "which ended 2004 number two, reported more modest growth. It had revenues of $28.34 million in 2005, up from $27 million in 2004. Akin Gump Strauss Hauer & Feld, number three, reported revenues of $28.58 for the year, up from its $27.6 million in 2004." With Congress "eyeing new curbs on earmarks and congressional travel in response to scandals, 2005 could wind up being a high-water mark for the lobbying industry."

Hackett Drops Out Of Ohio Senate Race. Fox News' Special Report (2/14, Garrett) reported, "Democrat Paul Hackett, a Marine and Iraq war veteran, quit the [Ohio] Senate race and accused top Beltway Democrats of forcing him out. Harry Reid and New York's Chuck Schumer first lobbied him to enter the race, promising hefty financial backing, then double crossed him. … Reid acknowledged persuading Hackett to run, but denied muscling him out. … A spokesman for Schumer also denied Hackett's charge."

Reuters (2/14) reports Hackett "said he was under heavy party pressure to end his Senate race and clear the way for Democratic Rep. Sherrod Brown to face vulnerable Republican incumbent Sen. Mike DeWine in November." Said Hackett, "I made this decision reluctantly, only after repeated requests by party leaders, as well as behind the scenes machinations that were intended to hurt my campaign." The AP (2/15, Sewell) reports Hackett said in an interview, "My donor base and host base on both coasts was contacted by elected officials and asked to stop giving. … The original promise to me from Schumer was that I would have no financial concerns. It went from that to Senator Schumer actually working against my ability to raise money."

USA Today (2/15, 2.31M) adds DSCC "committee spokesman Phil Singer said neither the campaign committee nor Schumer 'reached out to donors to ask them to take sides in this race.'" Singer "praised Hackett for making a 'statesman-like decision' that would help the party in an important race."

The Washington Post (2/15, A10, Cillizza, 744K) reports, "Democrats are heavily targeting DeWine this fall because of the political upheaval involving state Republicans -- the result of scandals surrounding outgoing Gov. Bob Taft (R) and one of his chief fundraisers. Liberal blogs, which are largely credited with building Hackett into a national force, were divided on his decision and its ramifications." Meanwhile, "Republicans sought to paint Hackett's withdrawal as a blow to Democrats' chances in November. 'Hackett was controversial and said some nutty stuff, but he had the potential to play in the middle,' said National Republican Senatorial Committee spokesman Dan Ronayne. 'Sherrod Brown has a long record, and it is more liberal than Dennis Kucinich's -- that's a real tough sell to make to mainstream Ohioans.'"

Roll Call (2/15, Whittington, Kurtz) says Hackett's "abrupt withdrawal from the Ohio Senate race late Monday sparked an outcry from some liberal activists and at least one group supporting candidates who are military veterans -- even though some Democratic leaders are privately relieved because they think it avoids a bloody primary." Hackett's departure from the Senate race "comes as military veterans in a handful of lower-profile races around the country have been subtly or not-so-subtly pushed aside in favor of candidates who are viewed as stronger general election nominees."

Two Construction Unions Leave AFL-CIO. The New York Times (2/15, Greenhouse, 1.19M) reports the national labor movement "suffered a new split yesterday when two major construction unions — the laborers and the operating engineers — announced that they were quitting the Building and Construction Trades Department of the A.F.L.-C.I.O." The unions "also said they would soon announce the creation of a rival building trades group, the National Construction Alliance, that would include the carpenters, the bricklayers, the iron workers and the Teamsters. The new group, officials from the two unions said, would have more than 1.5 million members and would be more vigorous than the Building and Construction Trades Department in unionizing construction workers."

Failure To Provide Retirees' Benefits Seen As "Theft." In an op-ed for USA Today (2/15, 2.31M) Edward McElroy, president of the American Federation of Teachers, writes, "Retirees' health care bills have come due, and the Governmental Accounting Standards Board's new rules are showing what the real costs are. … Hard-working people earned these benefits over many years, deferring compensation until now. Employers need to honor their contractual obligations. Violating these promises is nothing short of theft."

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Iran Restarts Small-Scale Uranium Enrichment. The CBS Evening News (2/14, story 5, 2:05, Schieffer) reported, "The long-running dispute over Iran's nuclear program took another bad turn today. Iran said it has put its main uranium enrichment plant back to work. That moves Iran one step closer to building a nuclear weapon." CBS (Martin) added the move still leaves Iran "a long way from having enough material to build a bomb, but Nicholas Burns, the State Department's number three official, says that tiny step has large consequences." Nicholas Burns, Under Secretary of State for Political Affairs: "That is a bright red line that the international community has laid before the Iranians. Countries all over the world have voted to say that Iran should turn back from the step they took today." CBS noted, "US intelligence estimates Iran is still five to ten years away from building a bomb."

Reuters (2/15) reports an IAEA official said Iran "has begun feeding uranium hexafluoride gas into centrifuges at its pilot nuclear fuel enrichment facility at Natanz, an official close to the U.N. nuclear watchdog agency said on Tuesday. He said IAEA inspectors had observed Iranian scientists putting UF6 gas into a 'very small number' of centrifuges, machines that can turn uranium into fuel for nuclear reactors or, if enriched to high levels, atomic bombs. The head of Iran's atomic program, Gholamreza Aghazadeh, said the enrichment begun at Natanz was on a 'small and laboratory scale', the ISNA students news agency reported soon after."

The Christian Science Monitor (2/15, Grier, 61K) also reports Javad Vaeidi, a senior Iranian nuclear negotiator "told reporters in Tehran that work has resumed at Iran's main enrichment plant at Natanz. The work is preliminary, and the amount of enriched uranium it might produce would be small, as Iran's existing enrichment cascade is only an experimental one. To produce usable amounts of enrichment material, Iran must still construct a larger facility, said Vaedi."

Reuters (2/15, Hafezi) reports Russia and France "called on Iran to cease 'all activities connected with enrichment and processing' of nuclear fuel. Their joint statement was issued by the Kremlin during a visit to Moscow by French Prime Minister Dominique de Villepin." Germany and China "called separately for more diplomacy on the nuclear row with Iran." German Defense Minister Franz Josef Jung said: "A military solution is not being discussed right now. I hope that if the international community stands together we can find a solution."

The Financial Times (2/15, Smyth) reports the EU "applauded Moscow's initiative." Benita Ferrero-Waldner, EU external relations commissioner, said Russia was "playing a constructive role in the search for a diplomatic solution."

White House Says Iran Is Choosing "Defiance And Confrontation." The Washington Post (2/15, A1, Moore, 744K) reports, "Monitors from the International Atomic Energy Agency confirmed during inspections Tuesday that Iran had begun the first small-scale steps in the years-long process of enriching uranium that could be used for nuclear power, or eventually weapons production, according to a Western diplomat close to the U.N. nuclear watchdog agency. … Iran's announcements and the IAEA monitoring team's findings increased pressure on the U.N. Security Council to take action against Iran for breaching international agreements on its nuclear program, diplomats in Vienna said." White House press secretary Scott McClellan "said Iran was 'continuing to choose defiance and confrontation over cooperation and diplomacy.'"

Iran To Resume Talks With Russia Next Week. The AP (2/15, Dareini) reports Vaeidi "also told reporters that Iran would resume negotiations with Moscow on Feb. 20 over its plan to enrich Iranian uranium on Russian soil — a proposal designed to allay fears that Iran will build nuclear weapons. … The negotiations with Russia had been due to resume Thursday, but Iran said Monday they were postponed indefinitely. Vaeidi gave no indication whether Iran was looking more favorably at the plan now that international pressure over its nuclear program was increasing. Iran has repeatedly said the Russian plan can be complementary to Iran's nuclear program but that Tehran would not accept any requirement to scrap uranium enrichment in Natanz." In a piece for Time.com (2/15), Yuri Zarakhovich writes that in negotiating with Iran, Russia "risks ending up unpaid, friendless — and facing a volatile nuclear neighbor, connected to terrorist groups and armed with Russian weapons, right on her unstable southern border."

Iranians Said To Be Often Less Pious Than They Appear. The New York Times (2/15, Slackman, 1.19M) reports Iran "often feels otherworldly, caught someplace between an 'anything goes' attitude and the intense restrictions and scrutiny of a religious government. … Public profile is important and so, if Iranians chose not to fast during Ramadan, well, O.K., but they were expected to eat in the privacy of their homes. After centuries in which Shiites were permitted to hide aspects of their faith in order to protect

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themselves against discrimination, a practice called Taqiyah, the principle seems to have etched its way into the national character. Appearance is often valued more highly than truthfulness."

White House Denies Plotting With Israel To Overthrow Hamas. The New York Times (2/15, Weisman, 1.19M) reports American and Israeli officials said they "had no plans to oust" Hamas from power. White House press secretary Scott McClellan "dismissed any reports 'about some sort of plan that was talking about forcing Hamas from power so that there could be new elections.'" State Department spokesman Sean McCormack said, "The bottom line is that there is no U.S.-Israeli plan, project, plot, conspiracy to destabilize or undermine a future Palestinian government." McClellan and McCormack "spoke in response to an article in The New York Times on Tuesday in which American and Israeli officials and diplomats said they were discussing ways to destabilize the Palestinian government, with the intention of forcing new elections." The Times adds, "What there was, Mr. McClellan and Mr. McCormack said, was a threat to cut off aid to the Palestinians if Hamas does not renounce violence, recognize Israel and accept previous agreements." Daniel Ayalon, the Israeli ambassador to the United States, said, "We emphasize that we do not want to harm the Palestinian people, and that it is their choice whether to abide by international norms or become a terrorist entity."

The Washington Times (2/15, Kralev, 90K) reports U.S. officials "said they relied on their public comments to send a message to Hamas because they do not deal directly with the group, which the United States, Israel and the European Union consider a terrorist organization. 'The strategy is public,' Israeli Foreign Ministry spokesman Mark Regev said in Jerusalem. 'There is nothing secret about it. It's to present the incoming Palestinian leadership with a clear choice: conform to international norms of behavior, recognize Israel's right to exist, renounce terrorism and accept signed agreements' by the Palestinian Authority. Various anonymous Israeli officials were quoted by the Israeli press and international wire service reports yesterday as saying that their strategy was to starve the Hamas government and engineer its demise."

Hamas Looks To Europe And Arab World For Financial Support. The New York Times' Thomas Friedman (2/15) writes, "Some Israelis anticipate that a cash-starved Hamas-led government will lead to chaos, and…new elections. I don't think it will be so simple. The sense I got from Hamas officials here is that Hamas will be low-key and patient, trying to rule as long as possible without money from abroad, working on improving Palestinian governance and hoping that Palestinian society will remain steadfast — and that the Arab world and Europe will somehow intervene to keep Israel and the U.S. from depriving Hamas of its legitimate mandate."

NYTimes Decries Alleged Destabilization Plot. The New York Times (2/15, 1.19M) editorializes, "America and Israel have to walk a very narrow line in defining their relations with a democratically elected Palestinian government built around Hamas, a party that not only endorses terrorism but also commits it. They cannot possibly give political recognition or financial aid to such a government. … That defines the right side of the line. On the wrong side lies the kind of deliberate destabilization that, according to a report by our Times colleague Steven Erlanger, Washington and Jerusalem are now discussing. That would involve a joint American-Israeli campaign to undermine a Hamas government by putting impossible demands on it, starving it of money and putting even greater restrictions on the Palestinians with an eye toward forcing new elections that might propel the defeated and discredited Fatah Party back to power."

WSJournal Contends US And Israel Ought To Isolate Hamas. The Wall Street Journal (2/15, 2.11M) editorializes, "Neither President Bush nor acting Israeli Prime Minister Ehud Olmert have made any secret of their intention to isolate Hamas and deprive the Palestinian Authority of funds once Hamas assumes the reins of government. Nor is there any shame in doing so: Donors have the right to impose conditions on their beneficiaries, and so far Hamas has rejected international calls that it disarm, forswear terrorism and accept the legitimacy of the Jewish state. … By refusing to render Hamas respectable, the U.S. and Israel aren't punishing the Palestinians. They're educating them."

Sharon's Son Sentenced To Nine Months In Prison For Campaign Violations. The New York Times (2/15, Erlanger, 1.19M) reports Ariel Sharon's son Omri Sharon, a former member of the Israeli Parliament, "was sentenced Tuesday to nine months in jail after he pleaded guilty to illegally raising more than $1.3 million for one of his father's political campaigns. But because…Ariel Sharon, is comatose after a major stroke, a Tel Aviv court allowed Omri

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Sharon to delay the start of his jail term until at least Aug. 31. He was also sentenced to nine months of probation, to begin after he leaves jail, and fined $66,700. In November, Omri Sharon, 41, entered a guilty plea to charges of falsifying corporate documents, perjury and violating party financing laws during a campaign in 1999 for the leadership of the Likud Party. Under a plea agreement, prosecutors dropped charges of fraud and breach of trust but demanded imprisonment on the other counts. He resigned his seat in Parliament in January. His father was not implicated in the case."

Cartoon Protests Leave Two Dead In Pakistan. ABC World News Tonight (2/14, story 4, :20, Gibson) reported, "Overseas, there were violent demonstrations in Pakistan today against those cartoons, those cartoons of the prophet Mohammad, that many are calling blasphemous. Two people died and many for injured when security guards fired into a crowd rampaging through the city of Lahore. The demonstrators damaged dozens of shops and torched four buildings housing Western businesses."

NBC Nightly News (2/14, story 5, 0:30, Williams) reported, "Today Pakistan saw its worst violence yet, stemming from those caricatures of the prophet Mohammed. 15,000 people took the streets of Lahore, setting fire to a government building and several Western-owned businesses there."

USA Today (2/15, 2.31M) reports, "Thousands of people rampaged through two cities Tuesday in Pakistan's worst violence in response to caricatures of the prophet Mohammed. In Lahore, guards fatally shot two protesters trying to force their way into a bank, Interior Minister Aftab Khan Sherpao said. Mobs burned a government building, a hotel, two banks and a KFC. A Citibank, Holiday Inn and Pizza Hut were vandalized. In the capital, Islamabad, 400 students stormed the heavily guarded diplomatic enclave, brandishing sticks and throwing stones. They were dispersed with tear gas, and no foreigners were hurt."

The Washington Post (2/15, A14, Lancaster, 744K) reports, "In Islamabad, the Pakistani capital, hundreds of young men pushed past security guards and made their way into the heart of the main enclave for foreign embassies. They vandalized cars, smashed windows at a branch of the British bank Standard Chartered and shouted slogans such as 'Expel European Ambassadors' and 'Death to Denmark,' the country where the cartoons originally were published in a newspaper. The Danish Embassy is outside the enclave." Pakistani President Pervez Musharraf "has strongly condemned the cartoons, and a number of peaceful protests have been held across the country.'

Italian Minister Puts Cartoon On T-Shirts. Reuters (2/15, Balmer) reports, "Italy's Reform Minister Roberto Calderoli has had T-shirts made emblazoned with cartoons of the Prophet Mohammad in a move that could embarrass Prime Minister Silvio Berlusconi's government. Calderoli, a member of the anti-immigrant Northern League party, told Ansa news agency on Tuesday that the West had to stand up against Islamist extremists and offered to hand out T-shirts to anyone who wanted them."

US Regards Blasphemy As A "Strictly Religious Issue." The Washington Post (2/15, C1, Tucker, 744K) reports, "America's fascinations with comedy, narrative drama, religious fervor and free speech routinely produce the edgy and the heretical in culture both high and low. Sometimes it's protested, sometimes it's boycotted, but the right to be religiously offended is the right to be a modern American." Blasphemy "had been an offense in Western society since the Greeks," but "such convictions came to an end in the 20th century. Civil libertarians in this country began to regard blasphemy as a strictly religious issue, and the courts agreed. … Since then, the image and topic of Christ has been subjected to almost every indignity imaginable.'

Author Says Officials Encourage Idea That Cartoons Were A Deliberate Provocation. Author Kamila Shamsie writes in the New York Times (2/15, 1.19M), "I've heard that line countless times in Karachi lately about the Danish cartoon controversy, including from journalists who fiercely guard their own right to work without censorship. There is nothing but condemnation here for European newspapers' publication of the cartoons. … The idea that the cartoons were a deliberate provocation to get us to behave badly is being encouraged by officialdom: various political groups have condemned 'the planned conspiracy by the West to instigate the Muslims'; the Foreign Office has said the cartoons are part of 'sinister agendas'; the chief minister of the country's most religiously conservative province, himself a leading member of the religious alliance that gains much of its popularity from its anti-Western stance, has said the cartoons are aimed at bringing about 'the clash of civilizations.'" Shamsie adds that her father noted, "'For us to start believing Europe is represented by its right-wing fanatics

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would be as wrong as for them to believe Islam is represented by our right-wing fanatics.' But until someone finds a way to turn 'Muslims don't riot' and 'Europeans don't conspire' into news stories, there doesn't seem any easy way to avoid precisely such confusion."

Author Sees Southeast Asian Muslims' Differences With Arab Muslims. Author Karim Raslan writes in the New York Times (2/15, 1.19M), "Southeast Asian Muslims have not been roiled by a clash of civilizations. Rather, people like me — Western-trained, English-speaking and constantly traveling — have begun to see the subtle differences that fracture our civilizations from within. Whether we are conservative or liberal, many of us are appalled and angered by the stupidity and insensitivity of the Danish newspaper cartoons. But that doesn't mean we've taken leave of our senses. … We generally believe that anger and violence are self-defeating. The region's moderate leaders, like Malaysia's prime minister, Abdullah Badawi, and Indonesia's president, Susilo Bambang Yudhoyono, exemplify this belief. … To be sure, there have been some copycat demonstrations in Kuala Lumpur and Jakarta, as well as attacks on the Danish and American consulates in Indonesia's second-largest city, Surabaya. But the extensive violence and ugly rhetoric we are seeing broadcast from elsewhere in the Muslim world point to differences between the Arab-Muslim heartland and the Indo-Malay periphery."

On Anniversary Of Hariri's Death, Lebanon Is Deeply Divided. The Christian Science Monitor (2/15, Blanford, 61K) reports, "Lebanon's Cedar revolutionaries returned to the streets here Tuesday, transforming the city center into a swaying sea of red and white national flags as the country marked the anniversary of the assassination of former Prime Minister Rafik Hariri." However, "the participants were mainly Christians, Sunni Muslims, and Druze. Other than formal delegations, Lebanon's Shiites, the largest of the country's sects, were absent, underlining Lebanon's deep political and sectarian divisions," as it is "split by a resurgent sectarianism, threatened by a growing Al Qaeda presence, and torn by competing political visions over the future direction of the country. This country is once more becoming a battleground in a broader struggle for control of the Middle East, pitting the axis of Iran, Syria, and Lebanon's powerful Hizbullah organization against the influence of the West, chiefly the US, Britain, and France."

Turkey's Parliament Leader, PM's Wife Praise Anti-American Film. The Washington Times (2/15, Birch, 90K) reports, "A new film riding on a wave of anti-Americanism is attracting record audiences in Turkey and has drawn approving comments from the wife of Prime Minister Recep Tayyip Erdogan" while "Turkish parliament leader Bulent Arinc praised its 'realism.'" Three days after its release, "Valley of the Wolves: Iraq" had been seen "by 1.2 million people, a 40 percent increase on the previous viewing record."

Bush Proposes Cuts For Family Planning In Foreign Aid. The New York Times (2/15, Dugger, 1.19M) reports that President Bush "is for the first time proposing sharp cuts in financing for international family planning programs that the White House had described as one of the best ways to prevent abortion." Under his "new budget proposal, financing would fall 18 percent, from $436 million this year to $357 million," and it is "stirring strong opposition from nonprofit groups and Democrats on the House and Senate appropriations subcommittees responsible for foreign aid."

Dramatic Events Illustrate Rise In Violence Along US-Mexico Border. The Christian Science Monitor (2/15, Axtman, 61K) reports, "First came an armed standoff between Texas lawmen and drug smugglers disguised as Mexican soldiers. Next, federal officials seized a stockpile of heavy-duty weaponry - assault rifles, hand grenades, and improvised explosive devices - along the Rio Grande. Then a Mexican police reporter was critically wounded after intruders fired more than 60 rounds into the newspaper's offices. These three incidents in as many weeks dramatize the rising violence along the US-Mexico border." The Monitor continues, "Ever since Mexican President Vicente Fox declared war on drug cartels last year, border violence has escalated. 'There has been an over 100 percent increase in the last fiscal year in border violence aimed at our Border Patrol agents, and that ranges from gunshots fired across the border to rocks being thrown, sometimes flaming rocks,' said Homeland Security Secretary Michael Chertoff last week. … Part of the rise in violence stems from increased US law enforcement at the border, which is creating a more desperate drug smuggler, many experts say. But it also is rising because these drug smugglers are becoming heavily involved in the lucrative

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people-smuggling business and are using the same violent tactics to evade law enforcement," according to T.J. Bonner, president of the National Border Patrol Council.

Columnist Says Allowing Police To Handle Immigration Law Could Backfire. Ruben Navarrette, in a column appearing in USA Today (2/15, 2.31M) writes, "I'm convinced that immigrants -- whatever their status -- are America's most valuable import. Yet I wasn't raised to take lightly things such as border security or the breaking of laws. The trouble is that some proposed solutions — from putting troops on the border to denying citizenship to the children of illegal immigrants — bring to mind the old saying about the cure being worse than the disease. That includes this one: Allowing local police to enforce federal immigration law." Navarrette says, "Once street officers become surrogate immigration agents, all is lost. Whatever amount of trust the police department has built with immigrant communities will deteriorate. The possibility of racial profiling will increase. An initiative intended to combat crime could easily backfire and fuel it instead if immigrants are too scared to report crimes committed against them." Navarette adds that you can't get tough on illegal immigrants "without first getting tough on those who hire them."

Preval Claims "Gross Fraud" In Haitian Elections, Urges Peaceful Protest. USA Today/AP (2/15) reports, "Leading presidential candidate Rene Preval claimed Tuesday that 'gross errors' and likely fraud marred the vote that saw him fall just short of a first-round victory. He also urged supporters to protest peacefully, a day after at least one pro-Preval demonstrator was killed," and "called on followers to remove all roadblocks so people can get to work." However, "United Nations spokesman David Wimhurst said no evidence of fraud was detected in the vote," and "the U.N. Security Council urged Haitians to respect election results." The U.N. peacekeeping mission was extended for six months.

The New York Times (2/15, Thompson, Bracken, 1.19M) adds, "The warnings and calls for calm, live on radio and television stations, seemed to have almost immediate effects. Leaders of the interim government and foreign diplomats worked on plans for a review of the tabulations. United Nations troops began clearing away junked cars, heavy boulders and burning tires blocking the main thoroughfares." Preval's "camp offered no numbers or documents to refute conclusively the results," but "suspicions seemed to focus on an estimated 85,000 blank votes and 120,000 voided ballots, of about 2.2 million votes that election officials said had been cast." Also, residents of Cité Soleil "said they found mounds of ballots dumped there, most supporting Mr. Préval," but "the discovery had not been confirmed."

The Washington Post (2/15, A14, Roig-Franzia, 744K) adds, "Preval accused 'provocateurs' in the opposition of trying to stir up his loyalists in an attempt to isolate and discredit them in the eyes of international observers. Preval's supporters, however, appeared largely responsible for the chaos."

The AP (2/15, Jacobs) adds, "Haiti's interim government ordered a review of election results," which "is the first formal step to investigate possible fraud or irregularities committed during last week's vote and the counting process." Michel Brunache, chief of staff of interim President Boniface Alexandre, said it "will be conducted by a commission comprised of the president's office, the electoral council and Preval's party."

Portman Calls For Creation Of China Task Force. The CBS Evening News (2/14, story 13, 0:20, Schieffer) reported, "The government said today it will tighten enforcement of US trade laws regarding China following a six-month review of the two countries' trading relationship. Last year the US trade deficit with China topped $201 billion, a record that critics blame in part on cheating and unfair practices by the Chinese."

US Trade Representative Rob Portman yesterday called for the establishment of a China Enforcement Task Force under the US Trade Representative to counterweigh Chinese exports, which, USA Today (2/15, Smith, 2.31M) reports "the government says benefit from illegal state subsidies and lax controls on counterfeiters." Last year, "the U.S. trade deficit with China was nearly $202 billion. Moving to head off congressional criticism of the relationship, Portman outlined a policy of more muscular U.S. negotiations with China bolstered by the administration's willingness to seek legal sanctions against China at the World Trade Organization."

The Wall Street Journal (2/15, Hitt, Hiebert, 2.11M) reports, "Warning of a 'corrosive effect on political support' in the U.S. for trade with China, Mr. Portman flags concern with Beijing's 'unreported and extensive' industry subsidies, and a network of trade barriers that he says keep out U.S. exports

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and helped fuel a record U.S. trade deficit. That deficit reached $725.75 billion in 2005." The Journal adds that the proposed task force "will focus on the preparation and handling of potential WTO cases with China.' It "will be headed by a new chief counsel for China trade enforcement."

The New York Times (2/15, Bajaj, 1.19M) reports that while Portman used "stern language," he "did not ask for or threaten any specific sanctions against the Chinese, an omission that will not escape the notice of both Democratic and Republican lawmakers who have been calling for the administration to take a far tougher line with China."

The Washington Post (2/15, D5, Blustein, 744K) reports that Portman's pledge to exert more pressure on China "drew praise from big business but scorn from congressional Democrats, who complained it was nothing more than rhetoric." The "only concrete measures proposed in the report involved procedural and personnel matters."

Internet Companies To Defend China Policies To Lawmakers. The CBS Evening News (2/14, story 14, 2:50, Schieffer) reported, "Members of Congress will consider another aspect of America's relationship with China tomorrow at a hearing on Chinese censorship of the Internet. It will focus on allegations that US companies have knuckled under to the Chinese government, including Google, Yahoo, and Microsoft." CBS (Petersen) added, "Doing business in China means doing it China's way. Google has a new site for Chinese users and what a difference a country can make. Here is how it should work. Here in our office in Tokyo, where the Internet is not censored, you go to Google. You type in something like Tiananmen Square. When the results come up, you can click on what Google has found and get the story of what happened that June day in 1989. But now, here in our office in China, we're trying the same search on Google, and here is what comes up. It says the page is not available. This little cartoon figure reminds users that China has 30,000 Internet police monitoring the web, sometimes with help from US companies. Yahoo is accused of giving authorities files and emails that resulted in prosecutions."

The Washington Post (2/15, D1, Noguchi, 744K) reports, "Yahoo Inc., Google Inc. and Microsoft Corp. will go on Capitol Hill today to defend corporate policies for dealing with China that they say balance business interests with human-rights concerns. In testimony before the House subcommittee on Africa, Global Human Rights and International Operations and the subcommittee on Asia and the Pacific, Yahoo plans to argue that the presence of the Internet does good for closed societies even when censored or restricted. But some human rights advocates plan to testify that corporate America is abnegating its ethical responsibilities by complying with Chinese law. Others expected to testify include network-equipment maker Cisco Systems Inc. and representatives from the State Department."

Smith Measure Would Bar Censorship Of Political, Religious Terms. The New York Times (2/15, Zeller, 1.19M) reports, that Rep. Chris Smith, chairman of the House Subcommittee on Africa, Global Human Rights and International Operations "plans to introduce legislation by week's end that would restrict an Internet company's ability to censor or filter basic political or religious terms -- even if that puts the company at odds with local laws in the countries where it now operates. … Mr. Smith's legislation, called the Global Online Freedom Act, however, would render much of what the Internet companies are currently doing in China illegal."

Prominent Chinese Figures Criticize Closing Of News Journal. The New York Times (2/15, Kahn, 1.19M) reports, "A dozen former Communist Party officials and senior scholars, including a onetime secretary to Mao, a party propaganda chief and the retired bosses of some of the country's most powerful newspapers, have denounced the recent closing of a prominent news journal, helping to fuel a growing backlash against censorship. A public letter issued by the prominent figures, dated Feb. 2 but circulated to journalists in Beijing on Tuesday, appeared to add momentum to a campaign by a few outspoken editors against micromanagement, personnel shuffles and an ever-expanding blacklist of banned topics imposed on China's newspapers, magazines, television stations and Web sites by the party's secretive Propaganda Department. The letter criticized the department's order on Jan. 24 to shut down Freezing Point, a popular journal of news and opinion, as an example of 'malignant management' and an 'abuse of power' that violates China's constitutional guarantee of free speech."

Official Likens China's Internet Policing To US, Europe. In a separate story, the New York Times (2/15, Kahn, 1.19M) reports that a senior official responsible for managing China's internet said Chinese authorities "are determined to stop 'harmful information' from spreading through the Web, but the controls it places on Web sites and Internet service providers do not differ much from those

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employed by the United States and European countries." The official "did not directly dispute the contention of many critics that China operates a vast and technologically sophisticated firewall to protect the ruling Communist Party against what it views as Web-based threats to its authority. But he sought to put the country's Web-policing operation in the best possible light, emphasizing that China's Internet minders abided strictly by laws and regulations that in some cases have been modeled on American and European statutes."

WPost Says China's Power Carries "Broad Responsibilities." The Washington Post (2/15, A20, 744K) editorializes, "Since joining the World Trade Organization in 2001, China has proved serious about honoring its commitments. … But China is treating its WTO commitments as a ceiling, not a floor. It appears unwilling to modify its behavior in other areas, and this may strain its relations with the United States." China "is now too big to get away with a minimalist definition of its obligations to the outside world. Its currency policies affect global trade imbalances. Its intellectual property protections affect the value of copyrights worldwide. Its 100 million Internet users are bound to attract the attention of Western advocates of free speech and their allies in Congress. Riches and power bring broad responsibilities."

Canada's Conservative PM's Pledge On Marriage Worries Gay Couples. USA Today (2/15, Dube, 2.31M) reports that Canada's Conservative prime minister Stephen Harper "has pledged to hold a vote in Parliament on overturning Canada's same-sex marriage law," so "gay and lesbian couples have been hurrying to wed ever since Harper started gaining momentum before last month's elections," as "Harper has said if the law is overturned, he will not try to invalidate same-sex marriages that already have taken place." However, "his party does not have a majority of seats in the House of Commons" and "it's unclear whether he has the votes to overturn same-sex marriage legislation." Still, "both sides agree that if Parliament overturns the law, the courts will decide the matter," and "Harper has vowed not to override the Supreme Court (permitted under Canadian law) if it rules same-sex marriage is a fundamental human right."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Urgent Appeal For Jail Safety."
"Around Iraq In 4 Days."
"Housing Search Is Expensive For Getty."
"Abramoff Bragged Of Ties To Rove."
"A Fearful Lebanon Marks Ex-Premier's Slaying."
"Hunter Suffers Setback As Criticism Of Cheney Grows."

USA Today:
"A Dream House, Sans Spouse: More Single Women Buy Their Own Homes."
"Quieter Presence Urged In Mideast."
"Cheney Stays Mum On Hunting Accident."

New York Times:
"Fellow Hunter Shot By Cheney Suffers Setback."
"Quick Rise For Purveyors Of Propaganda In Iraq."
"Beijing Censors Taken To Task In Party Circles."
"Afghan Attacks Tied To Taliban, Point To Pakistan."
"What Fuel Bills? U.S. Consumers Still Spending."
"A Cancer Drug Shows Promise, At A Price That Many Can't Pay."

Washington Post:
"Cheney's Response A Concern In GOP."
"Shotgun Pellet Causes Cardiac Event In Victim."
"Iran Restarts Uranium Program."
"Young Skier Makes A Thrilling Arrival."
"325,000 Names On Terrorist List."
"Inner Suburbs Fall Through The Cracks."

Washington Times:
"Retail Sales See Best Gains Since Late '99."
"Ehrlich To Veto Bill On Felons."
"NATO Allies Cut Military Since 9/11."
"Shooting By Cheney Was Typical Accident."
"The Show Must Go On."
"Official In U.S. Deny Plot On Hamas."
"Turin Olympics Bring A Little Faith To The Field."

Detroit Free Press:
"A Rebirth On The City's Riverfront."
"Smuggling Ring Shows Border Lapses."

Atlanta Journal-Constitution:
"Crippled Poverty Tax Board To Meet."
"Most States' Utility Panels Have An Adversary System."
"Big On Worship."
"Assembly OKs Child Care Credit."
"N.J. Bull Terrier Collars Dog World's Top Trophy."

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Dallas Morning News:
"Man Shot By VP Has Heart Attack."
"Downtown Land-Swap Deal Fizzles."
"Residents Fear Lives May Collapse."

Houston Chronicle:
"Young At Heart Of Celebration."
"Man Shot By Cheney Has Complications."
"Hot Ligety."
"Witness: Skilling's Pressure Fed Stock Deception."
"Dyslexic Children Given A Helping Hand On TAKS."
"Afghan Linked To Taliban From Pakistan."

Story Lineup From Last Night's Network News:
ABC: Cheney Hunting Accident; Whittington's Health; White House-Whittington's Health; Muslim Cartoon Protests; Saddam Trial; Moussaoui Hearing; Tulane Hospital Reopens; Consumer Spending; Kansas City Prison Break; Olympic Results; Marriage Health.
CBS: Cheney Hunting Accident; Cheney Accident-Media; Cheney Press Management-Analysis; Hurricane Katrina-Chertoff; Iran-Nuclear Program; Iraq-US KIA; Saddam Trial; Iraq-Basra Protests; Iraq-Journalist Deaths; Iraq-Marine Hero; Oil Companies-Government Giveaway; Stock Markets; US-China Trade Laws; China-Internet Censorship; Iraq-Valentine's Day.
NBC: Cheney Hunting Accident; Whittington's Health; Tulane Hospital Reopens; FEMA-Katrina Evacuees; Muslim Cartoon Protests; Lebanon-Hariri Anniversary; Olympics-Miller Interview; Olympics-Results; Olympic Athletes-Technology; Snowstorm Rating Scale; AAA-Booster Seat Study; WWII Soldier's Obit; Torino-Chocolate Industry.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Cheney Hunting Accident; Hurricane Katrina Response; CA-Death Penalty Ruling.
CBS: Hurricane Katrina Response; Pakistan-Cartoon Riots; CA-Death Penalty Ruling; Cheney Hunting Accident; Seattle-Emergency Airplane Landing; Powerball; Westminster Dog Show; Wall Street.
NPR: UK Troops-Afghanistan; Pakistan-Cartoon Riots; US, Israel-Hamas Plot; OH-Intelligent Design; Cheney Hunting Accident; Hurricane Katrina Response; France-Union Protests; UK-Smoking Ban.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH — Breakfast with bicameral and bipartisan congressional leadership, Oval Office, The White House, closed press; makes remarks on health care, Wendys International, Inc., corporate headquarters, Dublin, Ohio; participates in Signing of H.R. 4636 - The Federal Deposit Insurance Reform Conforming Amendments Act of 2005, Oval Office, The White House; participates in a meeting on Health Savings Accounts, Wendys International, Inc. Corporate Headquarters, Dublin, Ohio.

VICE PRESIDENT CHENEY — No public schedule.

LAURA BUSH — Participates in a discussion recognizing American Heart Month, Carolinas Medical Center, Charlotte, NC; speaks at the event; speaks at a Jr. Rangers Event, Biltmore Hotel, Coral Gables, Fla.

US Senate: 9 a.m. FOREIGN RELATIONS _ Full Committee. Closed briefing and hearing on nuclear weapons in Iran. Location: Room S-407, Capitol.

9:30 a.m. ARMED SERVICES _ Full Committee. Confirmation hearing on pending nominations. Location: Room 106, Dirksen.

9:30 a.m. ENVIRONMENT AND PUBLIC WORKS _ Full Committee. Votes on pending nominations. Location: Room 628, Dirksen.

9:35 a.m. ENVIRONMENT AND PUBLIC WORKS _ Full Committee. Hearing on the FY07 EPA budget. Location: Room 628, Dirksen.

9:45 a.m. FOREIGN RELATIONS _ Hearing on foreign policy priorities, nominations and president's proposed budget. Witnesses include Secretary of State Condoleezza Rice. Location: Room 216, Hart.

10 a.m. BANKING, HOUSING AND URBAN AFFAIRS _ Full Committee. Hearing on the rebuilding needs in Hurricane Katrina-impacted areas. Donald Powell, federal coordinator of Gulf Coast rebuilding; HUD Secretary Jackson; David Garratt, FEMA; Martin J. Gruenberg, FDIC; Herbert Mitchell, SBA. Location: Room 538, Dirksen.

10 a.m. BUDGET _ Full committee. Hearing on understanding the causes of and solutions to addressing the federal tax gap. IRS Commissioner Mark W. Everson; Comptroller General David Walker; Nina Olson, National

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Taxpayer Advocate, Taxpayer Advocate Service. Location: Room SD-608, Dirksen.

10 a.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Full Committee. Hearing on video franchising. Verizon CEO Ivan Seidenberg; AT&T CEO Edward Whitacre, Jr.; Thomas M. Rutledge, chief operating officer, Cablevision Systems Corp.; Brad Evans, CEO, Cavalier Telephone; Lori Panzino-Tillery, president, National Association of Telecommunications Officers and Advisors; Anthony T. Riddle, executive director, Alliance for Community Media; Gene Kimmelman, Consumers Union; Gigi Sohn, Public Knowledge. Location: Room 562, Dirksen.

10 a.m. HEALTH, EDUCATION, LABOR AND PENSIONS _ Employment and Workplace Safety Subcommittee. Roundtable discussion on mine safety technology. Bob Campman, President, Grace Industries; Pat Droppleman, President, Ocenco Corporation; R. Larry Grayson, University of Missouri-Rolla; Wes Kenneweg, President, Draeger Industries; Jeffery Kohler, National Institute for Occupational Safety & Health; Roy Nutter, West Virginia University; Dennis ODell, Administrator, Health and Safety Programs, UMWA; Sam Shearer, President, CSE Corporation; Starnes Walker, Technical Director, Office of Naval Research, U.S. Navy; Gary Zamel, President, Mine Site Technologies Pty. Ltd. Location: Room 430, Dirksen.

10 a.m. JUDICIARY _ Full Committee. Hearing on pending nominations. Location: Room 226, Dirksen.

10:30 a.m. APPROPRIATIONS _ Legislative Branch Subcommittee. Oversight hearing on the progress of the Capitol Visitors Center. Architect of the Capitol Alan Hantman; Bernard Ungar and Terrell Dorn, both of the GAO; Robert Hixon, Jr., project executive. Location: Room 138, Dirksen.

10:30 a.m. ENERGY AND NATURAL RESOURCES _ Full Committee. Hearing on the Protecting America's Competitive Edge Act.Richard Orbach, Director, Office of Science, Energy Department; Charles Vest, President Emeritus, MIT; Luis Proenza, President, University of Akron. Location: Room 366, Dirksen.

11:15 a.m. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ Full Committee. Hearing on the Department of Homeland Security's preparedness and response to hurricanes Katrina and Rita. DHS Secretary Chertoff. Location: Room 342, Dirksen.

2:30 p.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Full Committee. Hearing on nanotechnology developments. Clayton Teague, Director, National Nanotechnology Coordinating Office; Richard Buckius, National Science Foundation; Jeffrey Schloss, co-chairman, Nanomedicine Roadmap Initiative, NIH; Mark Davis, California Institute of Technology; J. Clarence Davies, Woodrow Wilson International Center for Scholars; Timothy Swager, MIT; Alan Gotcher, president, Altair Nanotechnologies Inc.; Todd Hylton, Science Applications International Corp.; Bryant Linares, president, Apollo Diamond Inc. Location: Room 562, Dirksen.

2:30 p.m. ENERGY AND NATURAL RESOURCES _ Public Lands and Forests Subcommittee. Hearing on plans for fire retardant aircraft in federal fire fighting efforts. USDA Undersecretary Mark Rey; Deputy Assistant Interior Secretary Nina Rose Hatfield; James Hall, co-chair, Blue Ribbon Report of Aerial Fire Fighting Safety; Texas State Forester James Hull. Location: Room 366, Dirksen.

2:30 p.m. SELECT INTELLIGENCE _ Full Committee. Closed briefing on pending matters. Location: Room 219, Hart.

US House: FLOOR SCHEDULE _ 10 a.m. Meets for legislative business. Highlights: Suspensions (4 bills): 1) S.Con.Res. 79 - A concurrent resolution expressing the sense of Congress that no United States assistance should be provided directly to the Palestinian Authority if any representative political party holding a majority of parliamentary seats within the Palestinian Authority maintains a position calling for the destruction of Israel. 2) H.Con.Res. 300 - Paying tribute to Shirley Horn in recognition of her many achievements and contributions to the world of jazz and American culture. 3) S. 2275 - National Flood Insurance Program Enhanced Borrowing Authority Act of 2006. 4) H.R. 4745 - Making supplemental appropriations for Fiscal Year 2006 for the Small Business Administration`s disaster loans program, and for other purposes.

9:30 a.m. APPROPRIATIONS _ Agriculture Subcommittee. Hearing on the FY07 USDA budget. Secretrary Johanns. Location: Room 2362, Rayburn.

10 a.m. APPROPRIATIONS _ Interior Subcommittee. Hearing on the FY07 budget for the Woodrow Wilson Center. Director Lee Hamilton. Location: Room B-308, Rayburn.

10 a.m. APPROPRIATIONS _ Military Quality of Life Subcommittee. Hearing on the DOD budget, with Undersecretary of Defense Tina Jonas, Deputy Undersecretary Phil Grone. Location: Room H-143, Capitol.

10 a.m. ARMED SERVICES _ Full Committee. Hearing on the FY07 defense authorization. Army Secretary Francis

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Harvey, Army Chief of Staff Gen. Peter Schoomaker. Location: Room 2118, Rayburn.

10 a.m. ENERGY AND COMMERCE _ Commerce, Trade and Consumer Protection Subcommittee. Hearing on credit card interchange fees. Attorney Timothny Muris; Henry Armour, National Association of Convenience Stores; Karen Kerrigan, Small Business and Entrepreneurship Council; Edward Mierzwinski, U.S. Public Interest Research Group. Location: Room 2123, Rayburn.

10 a.m. FINANCIAL SERVICES _ Full Committee. Hearing on the semi-annual report of the Federal Reserve System. Fed Chairman Ben Bernanke. Location: Room 2128, Rayburn.

10 a.m. HOMELAND SECURITY _ Emergency Preparedness, Science and Technology Subcommittee. Hearing on the status of interoperable communications. Casey L. Perry, Wisconsin state trooper, and chairman, National Troopers Coalition; Tim Bradley, senior deputy state fire marshal, North Carolina; Diane Linderman, American Public Works Association; William Moroney, United Telecom Council; William W. Pinsky, Ochsner Clinic Foundation. Location: Room 311, Cannon.

10 a.m. INTERNATIONAL RELATIONS _ Africa, Global Human Rights and International Operations Subcommittee and Asia and the Pacific Subcommittee. Joint hearing on the Internet in China. James Keith, State Department; Deputy Assistant Secretary of State David Gross; Mark Chandler, Cisco Systems; Jack Krumholtz, Microsoft; Michael Callahan, Yahoo; Elliott Schrage, Google; Lucie Morillon, Reporters Without Borders; Harry Wu, publisher, China Information Center; Libby Liu, president, Radio Free Asia; Xiao Qiang, director, China Internet Project, University of California, Berkeley; Sharon Hom, Human Rights in China. Location: Room 2172, Rayburn.

10 a.m. JUDICIARY _ Full Committee. Markup of pending legislation. Location: Room 2141, Rayburn.

10 a.m. SCIENCE _ Full Committee. Hearing on the FY07 budget for science and technology programs. John Marburger III, director, White House Office of Science and Technology Policy; Energy Secretary Bodman; Arden Bement, director, National Science Foundation; Charles McQueary, undersecretary of Homeland Security; Deputy Commerce Secretary David Sampson. Location: Room 2318, Rayburn.

10 a.m. TRANSPORTATION AND INFRASTRUCTURE _ Aviation Subcommittee. Hearing on commercial jet fuel supply. John D. Shages, Deputy Assistant Energy Secretary; Michael A. Cirillo, Federal Aviation Administration; John Heimlich, Air Transport Association of America; John Felmy, American Petroleum Institute; Jeffrey Hawk, Boeing Company. Location: Room 2167, Rayburn.

10:30 a.m. VETERANS AFFAIRS _ Full Committee. Hearing on the legislative agenda, views and priorities for Veterans Service Organizations, with representatives of Disabled American Veterans, Veterans of Foreign Wars, AMVETS, The American Legion. Jewish War Veterans, Blinded Veterans Association, Non Commissioned Officers Association, Military Order of the Purple Heart and Paralyzed Veterans of America. Location: Room 334, Cannon.

10:30 a.m. WAYS AND MEANS _ Full Committee. Hearing on the FY07 budget proposal. Treasury Secretary Snow. Location: Room 1100, Longworth. Notes: Immediately following the hearing with Snow, the committee will markup the views and estimates letter to the Budget Committee.

12 p.m. SELECT INTELLIGENCE _ Oversight Subcommittee. Closed briefing on the intelligence value of interrogation. Location: Room H-405, Capitol.

1:30 p.m. APPROPRIATIONS _ Military Quality of Life Subcommittee. Hearing on quality of life for senior enlisted personnel. Sgt. Major of the Army Kenneth Preston, Master Chief Petty Office of the Navy Terry Scott; Sgt. Major of the Marine Corps John Estrada, Chief Master Sergeant of the Air Force Gerald Murray. Location: Room 2362, Rayburn.

1:30 p.m. WAYS AND MEANS _ Full Committee. Hearing on the U.S. trade agenda. USTR Robert Portman. Location: Room 1100, Longworth.

2 p.m. APPROPRIATIONS _ Homeland Security Subcommittee. Hearing on FY07 appropriations ror security and management operations in DHS. Secretary Chertoff. Location: Room 2359, Rayburn.

2 p.m. BUDGET _ Full Committee. Hearing on domestic entitlements and the budget. Comptroller General David Walker and former CBO Director Douglas Holtz-Eakin. Location: Room 210, Cannon.

2 p.m. ENERGY AND COMMERCE _ Full Committee. Hearing on health care priorities in the FY07 budget. HHS Secretary Heavitt. Location: Room 2123, Rayburn.

2 p.m. GOVERNMENT REFORM _ Energy and Resources Subcommittee. Hearing on the EPA's critical use exemption for methyl bromide. William Wehrum, EPA; Michelle Castellano, Mellano and Co.; James Bair, North

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American Millers' Association; David Doniger, National Resources Defense Council. Location: Room 2203, Rayburn.

2 p.m. GOVERNMENT REFORM _ Federalism and the Census Subcommittee. Hearing on challenges to the public housing system in the 21st Century. Former HUD Secretary Henry Cisneros; former Rep. Rick Lazio, JPMorgan Chase Bank; David G. Wood, GAO; Conrad Egan, National Housing Conference; Rod Solomon, former deputy assistant secretary of Housing and Urban Development; Alexander von Hoffman, Harvard University; Edgar O. Olsen, University of Virginia; Renee L. Glover, Atlanta Housing Authority. Location: Room 2247, Rayburn.

2 p.m. HOMELAND SECURITY _ Intelligence, Information Sharing and Terrorism Risk Assessment Subcommittee. Hearing on the FY07 budget for the Office of Intelligence and Analysis of DHS. Charlie Allen, DHS. Location: Room 311, Cannon.

2 p.m. RESOURCES _ National Parks Subcommittee. Oversight hearing on the NPS 2006 draft management policies and proposed changes to Director's Order 21. Location: Room 1324, Longworth.

2 p.m. SELECT KATRINA RESPONSE INVESTIGATION _ Full Committee. Meeting to consider its final report in Room 2154, Rayburn. Location: Room 2154, Rayburn. Notes: At 2:30 p.m. Chairman Tom Davis releases the report in room 2154.

2 p.m. TRANSPORTATION AND INFRASTRUCTURE _ Highways, Transit and Pipelines Subcommittee. Hearing on the FY07 budget proposal impacts SAFETEA LU. Deputy Assistant Treasury Secretary Robert Carroll; Assistant Transportation Secretary Phyllis Scheinberg. Location: Room 2167, Rayburn.

2:30 p.m. ARMED SERVICES _ Strategic Forces Subcommittee and Terrorism, Unconventional Threats and Capabilities Subcommittee. Joint hearing on the Able Danger intelligence operation. Location: Room 2118, Rayburn.

4 p.m. JUDICIARY _ Crime, Terrorism and Homeland Security Subcommittee. Markup of H.R. 1704, Second Chance Act of 2005, followed by oversight hearing of gun show sales enforcement by BATFE. Location: Room 2141, Rayburn.

5 p.m. HOMELAND SECURITY _ Economic Security, Infrastructure Protection, and Cybersecurity Subcommittee. Hearing on Adm. Thomas Collins, Commandant, U.S. Coast Guard. Location: Room 311, Cannon.

Other: AARP _ AARP holds its public policy meeting. Highlights: 8:30 a.m. Session on pensions and savings, with Peter Orszag of Brookings Institution, Nell Hennessy of Fiduciary Counselors; David John of Heritage Foundation. 10 a.m. Session on tech issues and the senior divide Location: Polaris Room, Reagan Trade Center.

CONGRESS-TRADE _ 8 a.m. The Washington International Trade Association holds a discussion of the 2006 congressional trade agenda, with congressional staff. Location: Amphitheater, conference level, Reagan Trade Center. Notes: Discussion is off the record.

HOUSE DEMOCRATS _ 9 a.m. Closed meeting of the House Democratic Caucus. Location: Room 345, Cannon.

HOUSE REPUBLICANS _ 9 a.m. Closed meeting of the House GOP Conference. Location: Capitol Hill Club. Notes: News availability about 10 a.m. following the meeting with House Speaker Hastert, others, on homeland security. Lobby of 310 1st St. SE. Contact: Betsy Andres, 202-226-9000.

MOUSSAOUI _ 9:30 a.m. Groups of jurors return to the courthouse to be questioned individually in the trial of Zacarias Moussaoui. Location: Courtroom 700, U.S. District Court, Alexandria.

US-INDIA NUCLEAR _ 9:30 a.m. The Arms Control Association holds a news briefing on the U.S.-India nuclear cooperation deal. Location: 1779 Massachusetts Ave. NW.

DEMOCRATS-KATRINA _ 10 a.m. Democratic Leader Nancy Pelosi, Democratic Whip Steny Hoyer, Democratic Caucus Chairman James E. Clyburn, and Democratic Caucus Vice Chairman John B. Larson will discuss Hurricane Katrina and the pending report from the Select Committee on Katrina immediately following the weekly Democratic Caucus meeting. Location: Outside Room 345, Cannon Building.

EARMARK REFORM _ 11 a.m. Reps. Jeff Flake, Jim Cooper, Charles Bass and Dennis Cardoza hold a briefing on earmark reform. Location: Room 1334, Longworth.

GONZALES-PRIORITIES _ 11 a.m. Attorney General Alberto R. Gonzales will outline the top priorities for the Department of Justice for the upcoming year and highlight recent accomplishments of the Department in an address to Department employees. Location: Great Hall, Department of Justice, 950 Pennsylvania Ave. NW. Media must enter the Department at the center entrance on Constitution Avenue, between Ninth and Tenth Streets.

AFGHANISTAN _ 12 p.m. The U.S. Trade and Development Agency presents its 2005 Country of the Year

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honor to Afghanistan, with Amb. Said Tayeb Jawad. Location: Room 1539, Longworth.

ARAB TELEVISION _ 12 p.m. Jihad Ballout, Director, Media Relations at Al Arabiya New Channel in Dubai, speaks on the role of Arabic news networks in framing political debate at a session sponsored by the Middle East Institute. Location: 1761 N St. NW.

BUDGET OUTLOOK _ 12 p.m. National Economists Club hosts John Irons, director of Tax and Budget Policy, Center for American Progress. He'll discuss ``The Long Term Budget Outlook. Most economic experts agree that the current path of fiscal policy--with substantial deficits, growing spending obligations, and shrinking revenue--is unsustainable. But what will the adjustment look like? One reasonable solution would require adjustments on both the spending and the tax side, and significant revenue increases will likely be necessary. The link between the need for more revenue and the need for sweeping tax reform will likely drive a national debate on fiscal policy for years to come. Dr. Irons talk will focus on the long-term health of our nation's finances, and explore the implications for fiscal policy and tax reform both now and in the future. Location: Chinatown Gardens, 618 H St. NW.

IRAN _ 1 p.m. Congressional briefing on the threats, challenges and prospects for change in Iran. Location: Cannon Caucus Room.

MEDICARE RX BENEFIT _ 1 p.m. Senators Durbin, Stabenow, and Congressman Dingell hold a press conference on the Medicare prescription drug benefit. Location: Room S-324, Capitol.

RURAL TELECOM _ 1:30 p.m. The House Congressional Rural Caucus holds a forum on various telecom-related issues. Location: Room 1302, Longworth.

GENERIC RX DRUGS _ 2:45 p.m. Senators Debbie Stabenow and Trent Lott hold a news conference to unveil legislation to make generic prescription drugs more available and reduce drug prices. Location: Senate Radio/TV Gallery.

ISLAM-CARTOONS _ 4 p.m. American University professors hold a discussion on communication issues surrounding Danish cartoons about Islam. Location: Kay Spiritual Life Center, 4400 Massachusetts Ave. NW.

MIDEAST-ECONOMICS _ 4:30 p.m. Reps. Ben Chandler, Phil English, Darrell Issa, William Jefferson, Gregory Meeks and Paul Ryan, along with USTR Robert Portman, announce creation of the Congressional Middle East Economic Partnership Caucus. Location: Room B-318, Rayburn.

ABSHIRE _ 5:30 p.m. Georgetown University awards an honorary degree to David Abshire, president of the Center for the Study of the Presidency. Location: Gaston Hall, 3rd floor, Healy Hall, Georgetown University.

HOMELAND SECURITY _ 5:30 p.m. The Heritage Foundation holds a reception with DHS Undersecretary George Foresman. Location: Allison Foyer, 7th floor, 214 Massachusetts Ave. NE.

HUMAN RIGHTS _ 5:30 p.m. Meeting to announce expansion of the Congressional Human Rights Caucus to include senators. Location: Room 345, Cannon.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: WEDNESDAY, FEBRUARY 15, 2006 7:45 AM EST

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TERRORISM NEWS:

White House Pressuring Senate Not To Investigate NSA Program. The Washington Post (2/15, A3, Babington, 744K) reports, "Congress appeared ready to launch an investigation into the Bush administration's warrantless domestic surveillance program last week, but an all-out White House lobbying campaign has dramatically slowed the effort and may kill it, key Republican and Democratic sources said yesterday. The Senate intelligence committee is scheduled to vote tomorrow on a Democratic-sponsored motion to start an inquiry. … Two committee Democrats said the panel -- made up of eight Republicans and seven Democrats -- was clearly leaning in favor of the motion last week but now is closely divided and possibly inclined against it." The two unnamed Democrats "attributed the shift to last week's closed briefings given by top administration officials to the full House and Senate intelligence committees, and to private appeals to wavering GOP senators by officials, including Vice President Cheney."

Congress Urged To Enact New Statute. In an op-ed for the Wall Street Journal (2/15, 2.11M) Federal judge Richard Posner writes, "The best, and probably the only, way to end the debate over the propriety of the National Security Agency's conducting electronic surveillance outside the framework of the Foreign Intelligence Surveillance Act is for Congress to enact a new statute. … It is a mistake to think that the only way to prevent abuses of a surveillance program is by requiring warrants. Congress could enact a statute that would subject warrantless electronic surveillance to tight oversight and specific legal controls."

CNN Producer Takes Rare Look Inside FISA Court. CNN.com (2/15) posts an article about the FISA court by Henry Schuster, a senior producer in CNN's Investigative Unit and author of 'Hunting Eric Rudolph,', who has been covering terrorism for more than a decade. Schuster writes, "America's secret court sits in a nondescript corridor on an upper floor of the Justice Department building, closed off from public view and now, some believe, regarded as increasingly irrelevant by the Bush administration. … The FISA court began issuing warrants in 1979 in the wake of a series of intelligence-related scandals earlier that decade and the one before, including the FBI's spying on the Rev. Martin Luther King Jr. … Even though the FISA court did what other courts do -- approved requests for wiretaps in conditions of secrecy -- the aura of national security and the lack of information about the court and the targets of those warrants gave it a certain mystique, to the point where it became known as America's secret court. … The fact that the actual courtroom was protected by an electronic cone of silence to prevent eavesdropping only seemed to add to the flavor." Schuster continues, "Judges appointed by the chief justice of the United States would hear proposals for warrants from the FBI and other agencies. One of them was Judge Royce Lamberth, a straight-talking Texan selected to preside over the FISA court from 1995 to 2002. … 'The FISA judges have got to be comfortable that this is something we've got to do for our national security. There's no political shenanigans going on here,' he told me. … I had the rare chance to hear about FISA from Lamberth during a recent conference in Washington. He said he is the only FISA judge, past or present, comfortable enough to talk about the court."

NCTC List Of Suspected Terrorists Contains As Many As 325,000 Names. The Washington Post (2/15, A1, Pincus, Eggen, 744K) reports, "The National Counterterrorism Center maintains a central repository of 325,000 names of international terrorism suspects or people who allegedly aid them, a number that has more than quadrupled since the fall of 2003, according to counterterrorism officials. The list kept by the NCTC…contains a far greater number of international terrorism suspects and associated names in a single government database than has previously been disclosed. Because the same person may appear under different spellings or aliases, the true number of people is estimated to be more than 200,000, according to NCTC officials." U.S. citizens "make up 'only a very, very small fraction' of that number, said an administration official, who spoke on the condition of anonymity because of his agency's policies." An NCTC official refused to say how many on the list…are U.S. citizens."

Potential Jurors In Hayat Trial Questioned About Terrorism. The AP (2/15, Thompson) reports, "The trial of a father and son charged with lying about the younger man attending a terror training camp in Pakistan began Tuesday, with potential jurors questioned about terrorism and whether they knew anyone who died during the September 2001 attacks." The AP continues, "Umer Hayat, 48, and his 23-year-old son, Hamid, have been in custody since their arrest last June, shortly after the son returned to the United States after nearly two years in Pakistan. An affidavit released in Washington, D.C., when Hamid Hayat was arrested said he planned to attack hospitals and supermarkets." The AP adds, "The Hayats are the only people charged criminally in a federal investigation of the Pakistani community in Lodi, an agricultural town about 35 miles south of Sacramento. They are being tried together but before separate juries because their statements to investigators purportedly incriminate each other in lying to the FBI. … U.S. District Court Judge Garland E. Burrell Jr. seated a jury of eight women and four men for Umer Hayat's trial, but those jurors are not due back in court until Feb. 21. Burrell said he expected to pick a separate jury to hear the

case against Hamid Hayat on Wednesday and scheduled opening statements for Thursday."

Sealed Court File Allegedly Given To Newspaper. The San Francisco Chronicle (2/14, Bulwa) reports, "The high-profile trial of a Lodi father and son accused of terrorist ties, scheduled to begin today with jury selection, took on added intrigue Monday with the disclosure that federal agents have questioned court clerks and news reporters while investigating the alleged leak of a secret case file." The Chronicle continues, "FBI agents and a federal prosecutor questioned clerks on the fourth floor of the U.S. District Court in Sacramento last week about their handling of sealed documents from the prosecution of Umer Hayat and his son, Hamid Hayat, said attorneys Mark Reichel and Joseph Wiseman, who were hired to represent clerks." The Chronicle adds, "The investigators also contacted three reporters at the Sacramento Bee newspaper and said they were investigating the leak of documents, said executive editor Rick Rodriguez, who declined further comment. … In the trial, jurors must decide whether Hamid Hayat, 23, is guilty of supporting terrorists by attending a training camp in Pakistan in 2003 and 2004. He is also charged with lying to FBI agents about it. Umer Hayat, a 48-year-old ice cream truck driver, is charged with lying to the FBI about his son's alleged training. … Their attorneys said the younger man did not go to a camp at all. … The two attorneys representing clerks said they believe the government is trying to intimidate the media in a controversial case. A few court clerks answered questions, Reichel said, but 16 opted to hire counsel. A third attorney representing a clerk, Krista Hart, said investigators asked clerks to give fingerprints and undergo polygraph tests. … FBI Special Agent Karen Ernst, an agency spokeswoman, confirmed Monday that the government was investigating 'a leak of a sealed court document to the Sacramento Bee' but stressed that the clerk's office was not the only focus. She said the probe has been going on for some time and is not related to the trial."

Moussaoui Barred From Jury Selection. CNN's The Situation Room (2/14, Blitzer) reported, "Confessed al Qaeda conspirator Zacarias Moussaoui won't be allowed in court while a jury is selected to determine whether he'll face the death penalty. The judge barred Moussaoui in the courtroom after repeated outbursts."

ABC World News Tonight (2/14, story 6, :25, Gibson) reported, "Last week he was expelled four times for similar outbursts."

The Los Angeles Times (2/15, Serrano, 958K) reports U.S. District Judge Leonie M. Brinkema "ordered Moussaoui removed from the courtroom and taken to his holding cell in the federal courthouse building here. He will be allowed to monitor the next three weeks of jury selection via a television hookup."

USA Today (2/15, Willing, 2.31M) reports, "Before he was escorted from court Tuesday, the French national once again argued that his trial was unfair, and he showed more of the angry, abusive behavior that has characterized his court appearances and legal filings for much of the past four years. … Moussaoui, born in France to Moroccan parents, demanded that court papers stop describing him as French. 'I stand here as a Muslim only. I do not stand here with a nation of homosexual crusaders.'"

The Washington Times (2/15, Seper, 90K) reports Moussaoui "refused to be quiet during yesterday's hearing, instead reading from a handwritten speech and berating the judge for what he described as violating his civil rights. He accused Judge Brinkema of 'trying to organize my death for four years.' Moussaoui again denounced his court-appointed attorneys.'

The Washington Post (2/15, A9, Markon, 744K) reports, "Jury selection resumes today with questioning of individual jurors by the judge and continues until opening statements in the trial, set for March 6. The trial is scheduled to last one to three months."

The New York Times (2/15, Lewis, 1.19M) reports Brinkema said Moussaoui "might be allowed to return to the courtroom after a jury was seated."

The AP (2/15, Sniffen) reports, "After verbally sparring with Moussaoui for about 15 minutes," Judge Brinkema "ordered that he must watch the remainder of jury selection on closed-circuit television from his courthouse cell. That could take until March 6, when opening statements are scheduled. … Brinkema said her main purpose in Tuesday's hearing was to determine 'how Mr. Moussaoui plans to behave: ... whether you plan to remain quiet ... or whether you plan to make speeches.' … Moussaoui was ejected four times on Feb. 6 when he denounced his court-appointed lawyers in front of four separate groups of prospective jurors. Some 500 northern Virginia residents filled out questionnaires that day about their attitudes toward the case, the death penalty, Muslims and the FBI."

Reuters (2/15, Charles) reports that Judge Brinkema "called a hearing on Tuesday -- one day before direct jury questioning is set to begin -- mainly to ask Moussaoui if he could behave during jury selection. … Dressed in a white knit cap and green prisoner jumpsuit, the French citizen of Moroccan descent did not respond directly but proceeded to make further outbursts. … 'I want to make it known, like I've been trying for the last four years ... that these people are not my lawyers,' he said forcefully. He went on to call each of his lawyers a derogatory name. … 'I am al Qaeda,' he said. 'You, you, you -- for me you are the enemy,' he added, gesturing to his lawyers. … Brinkema stopped Moussaoui from continuing and said: 'Mr. Moussaoui, you are the biggest enemy of yourself.'"

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Judge Orders Deportation Of Iraqi Tied To Al Qaeda. The Washington Times (2/15, Seper, 90K) reports, 'A federal immigration judge in Seattle yesterday ordered the deportation of an Iraqi national with ties to a senior al Qaeda operative suspected of helping plan the attack on the USS Cole in Yemen in 2000 and the bombings of U.S. embassies in Kenya and Tanzania in 1998. U.S. Immigration and Customs Enforcement (ICE) spokesman Dean Boyd said U.S. Immigration Judge Kenneth Josephson ordered Sam Malkandi of Kirkland, Wash., removed from the United States. … Mr. Boyd said ICE attorneys accused Mr. Malkandi of committing fraud against the U.S. government to obtain immigration benefits for himself and his family. He said the attorneys also introduced evidence, some of which was referenced in the September 11 commission report, that Mr. Malkandi used fraud in an attempt to obtain a U.S. visa for Tawfiq bin Attash, a one-legged al Qaeda operative also known as 'Khallad.'"

Sheik Mohamed's Defense Blasts Government Case. The Seattle Post-Intelligencer (2/15, Shukovsky) reports, "Witnesses for the imam of a Rainier Valley mosque accused of connections with terrorist organizations portrayed one government witness Tuesday as a vindictive liar and contradicted FBI assertions that Abrahim Sheik Mohamed is a fund-raiser for radical Islamic holy war. Federal agents with the FBI's Joint Terrorism Task Force arrested Mohamed Nov. 14 at Sea-Tac Airport as he was getting off a domestic flight. He was charged not with a terrorism-related crime, but with the immigration violation of lying on his application for asylum from his war-torn home in Somalia, where competing tribal groups killed each other based on clan membership." ICE prosecutors say Mohamed "lied about being a member of an oppressed minority clan, about his country of origin, his educational background and what languages he speaks. But much of the lengthy bond hearing to determine whether Mohamed can be released pending resolution of the case has focused on his alleged role as a fund-raiser for terrorist organizations operation in Somalia and Ethiopia."

Report Suggests US Fund Large-Scale Propaganda Campaign In The Mideast. USA Today (2/15, Diamond, 2.31M) reports, "The United States should launch a major covert information campaign to promote the nation's image in the Middle East and sow division among radical Muslim groups, according to a West Point critique of U.S. terrorism policy. The strategy, amounting to a secret campaign for hearts and minds, could involve paying for favorable publications and schools that promote moderate Islamic philosophies. … The authors of the unpublished report, civilian scholars Jarret Brachman and William McCants, confirmed the authenticity of the report obtained by USA TODAY. Though not an official U.S. military document, it has circulated widely among U.S. intelligence officials and officers on the Pentagon's Joint Staff. The authors regularly brief Pentagon officials on terrorism issues."

Saudi Government Accused Of Exporting "Anti-Western" Texts. In an op-ed for the Washington Times (2/15, 90K) Matthew Mainen, a policy analyst at the Institute for Gulf Affairs, writes, "Recently, a number of anti-Western texts, many of which were distributed by the Saudi Embassy, were discovered among authentic Muslim works at prominent Muslim institutions in the United States. This tactic carried out by extremists within the Saudi government represents an invasion on two fronts: the Muslim religion and the sovereignty of the United States. Although there is no evidence that Saudi Arabia has directly sponsored terrorism, it nonetheless is the largest contributor to the faith that breads it: Wahhabism."

PATRIOT ACT:

Patriot Act Deal Sparks Editorial Comment. The Palm Beach Post (FL) (2/15) editorializes, "'I think Congress has failed the country in many ways,' including allowing the administration 'to completely overpower the debate based on, "I'm the commander in chief, and I know what's best."' Thus spoke Sen. Chuck Hagel last month, reports The New York Times. Yet the Nebraska Republican and potential presidential candidate last week blessed the proposal to renew flawed provisions of the Patriot Act, saying, 'This is an accommodation that I think we can be proud of.' … With that, Sen. Hagel and three other GOP senators scuttled what had been a bipartisan effort to bring the anti-terrorism law in line with the Constitution. Democrats, too, hardly are blameless in failing to ensure the basic protections that the bill was temporarily extended to incorporate. The pattern is all too familiar: The all-terrorism, all-the-time White House manipulates the nation's fear, and Congress caves." The Post adds, "It is un-American to give one branch of government the unfettered license the president keeps claiming. To grant this administration more 'trust us' authority is inconceivable in the light of such appalling abuses as its domestic wiretapping without court approval. Rather than yield the administration more extraordinary power, Congress should insist on more oversight. Otherwise, Congress emboldens an administration that has proven masterful at playing all sides against the others for wafer-thin approval to get its way — and, when it doesn't get its way, simply doing what it wants anyway."

The Orange County (CA) Register (2/14) editorializes, "Four Republican senators, led by Sen. John Sununu of New Hampshire, who helped to hold up renewal of certain controversial portions of the USA Patriot Act in December,

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say they have reached an agreement with the White House on a compromise. That compromise still doesn't provide sufficient safeguards for important civil liberties." The Register continues, "This new compromise would give recipients of subpoenas for information in terrorist-related investigations the right to challenge government orders not to inform anyone - after a year. It would remove a requirement that any individual who is given what is called a National Security Letter demand for records inform the FBI of the name of any attorney consulted about whether or how to comply. And it would clarify that most libraries are not subject to National Security Letter demands for records of clients using Internet facilities. … These would be desirable changes, but not enough to protect civil liberties sufficiently. As former Georgia Republican Rep. Bob Barr noted, under these provisions 'investigators can [still]conduct government-sanctioned fishing expeditions.' Mr. Barr wants the government to have to prove there is evidence of some connection to terrorist activity or a terrorist organization before demanding such a broad range of records. … We agree. Congress should be in no hurry to approve this inadequate proposal."

HOMELAND RESPONSE:

Agencies Investigate Laser Lights Shined At Planes Landing In Detroit. ClickOnDetroit.com (2/14) reports, "Police are on alert after more than a dozen pilots reported someone shining a laser light at the plane while descending into Metro Airport. The incident occurred in the Dearborn and Dearborn Heights areas, where 16 pilots reported seeing the laser pointer lights near the tower." The lights were apparently "being flashed at planes on their final approach into the Detroit area." The FBI and FAA are investigating. The Detroit News (2/15) reports the FAA "received reports of 16 incidents of pilots complaining that between 5:50 and 6:30 p.m. Monday, someone flashed laser beams at their aircraft as they descended, said Elizabeth Isham Cory, the agency's deputy director of public affairs for the Great Lakes Region. 'We treat it as a very serious matter,' FBI Special Agent Dawn Clenney said. 'Laser beams can disorient pilots responsible for an airplane full of passengers.'" Clenney said "pointing laser beams at airplanes could be considered a terrorist act under the law and anyone caught doing it could face charges carrying up top 20 years in prison and a fine."

White House Says Bush Has Not Considered Asking Chertoff To Step Down. The AP (2/15) reports, "President Bush has full confidence in Michael Chertoff and has not considered asking the homeland security secretary to step down after criticism of his performance on Hurricane Katrina, the White House said Tuesday. 'Secretary Chertoff is doing a great job,' White House press secretary Scott McClellan said, answering a reporter's question about Chertoff. 'The president appreciates his strong leadership.'" The AP notes, "A Republican-written House report blamed government-wide ineptitude for mishandling Katrina relief. A report by Congress' investigative arm, the Government Accountability Office, reached similar conclusions and singled out Chertoff for delays."

Under the headline "Some Wonder If Chertoff Can Survive," the Los Angeles Times (2/15, Neuman, 958K) reports "as evidence mounts of the department's botched response to Hurricane Katrina, Chertoff's reputation has been impugned. Now some question whether he can survive in the job. The most telling sign of how much heat the Homeland Security secretary is under may be that members of his own party are throwing logs on the fire. 'It's fair to say that he's vulnerable,' said Republican Sen. Norm Coleman of Minnesota, a member of the Senate Homeland Security and Governmental Affairs Committee, which has been investigating the government's response to Katrina for several months." Meanwhile, "The White House came to Chertoff's defense Tuesday, its words reminiscent of President Bush's praise for Michael D. Brown, the head of the Federal Emergency Management Agency who was forced to resign when his mishandling of the disaster became known." The Times adds, "A big part of Chertoff's problem is that Brown's shortcomings are judged to have been so apparent when measured against the death and destruction of Hurricane Katrina that blaming him for the government's failings may be politically insufficient."

Senate Panel To Grill Chertoff On Government's Katrina Response. The CBS Evening News (2/14, story 4, 2:30, Schieffer) reported, "A Senate committee" probing "what went wrong with Hurricane Katrina is holding" Chertoff "accountable and…he may have a hard time coming up with acceptable answers." CBS (Attkisson) added, "The Senate committee investigating Katrina problems purposely saved Chertoff for last. They used the previous hearings to build a Katrina timeline. Tomorrow, they plan to grill Chertoff about it and try to get him to fill in some blanks. For instance, Saturday August 27, two days before landfall, FEMA prepared a briefing predicting thousands of deaths in a worst-case scenario. Did Chertoff know and if so, why didn't he move then to activate all kinds of systems to get an aggressive response rolling? Sunday, August 27: Katrina's just offshore. A noon video teleconference with President Bush, Chertoff and other high-level officials; there's no doubt catastrophe is coming. What was Chertoff doing to take action between the calls? But most intriguing of all, something both Democrats and Republicans call a mystery, is the case of the missing transcript on Monday, August 29." Senators "asked Chertoff's department for transcripts of all

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the Katrina video teleconferences but didn't get one for the critical day when Katrina made landfall." Sen. Lieberman: "We asked them where is it? They said, first, it's lost. Then they said we just can't find it. I'd like to know what happened on that teleconference." Attkisson: "Amid all the criticism, reporters asked the White House spokesman if Chertoff should step down." Scott McClellan, White House Press Secretary: "No. In fact, Secretary Chertoff is doing a great job at the Homeland Security Department. The President appreciates his strong leadership."

Experts Say Proposed FEMA Reforms Don't Go Far Enough. The Washington Post (2/15, A4, Hsu, 744K) reports, "In proposing to bolster the Federal Emergency Management Agency by creating a full-time response force of 1,500 people and expanding 10 regional offices, White House homeland security adviser Frances Fragos Townsend and Homeland Security Secretary Michael Chertoff are grappling again with FEMA's long-term future, a question at the heart of the nation's disaster preparedness." Meanwhile, "Several experts and officials in touch with the Bush administration say the changes proposed Monday -- adding reconnaissance teams, improving vendor databases and strengthening claims management -- only scratch the surface of needed changes. What Chertoff announced 'was a necessary step but not sufficient. I expect him to go further,' said Richard A. Falkenrath, a former Bush White House official and a senior fellow at the Brookings Institution who was an original architect of the Homeland Security Department. … James Jay Carafano of the Heritage Foundation agreed that the administration's preview Monday 'doesn't really solve the problem,' which is the ability to push help in the critical first 72 hours of a crisis and unify the government under one command."

Democrats "Pleasantly Surprised" Over Committee's Report On Katrina Response. Roll Call (2/15, Kornacki) reports that though House Democratic leaders initially "scoffed" at the select committee investigating the response to hurricane Katrina, "branding the GOP-led investigation a 'sham' and refusing to appoint Members," the report expected from the committee today "will portray the response as sluggish and ineffective, with particularly harsh words reserved for Homeland Security Secretary Michael Chertoff, according to draft copies circulated earlier in the week. 'I'm pleasantly surprised,' Minority Whip Steny Hoyer (D-Md.) admitted on Tuesday." However, "the Democrats are still free to…contend that the report, as one aide suggested, 'painted in broad strokes instead of connecting all the dots.' Indeed, in the 'additional comments' section, the Democrats who participated argue for Chertoff's dismissal, a remedy not endorsed by the Republicans. From a purely political standpoint, Democrats may have a rare opportunity to double their payday in the message wars, piling on with additional critiques even after the media has reported the damning nature of the report."

The Hill (2/15, Hearn) reports, "House Democratic leaders had mixed reactions yesterday" to the report. "Having asserted many times last fall that the committee was a 'sham' and would go soft on the administration, Democrats had to soften their rhetoric yesterday and praise the committee's work while still renewing earlier calls for a nonpartisan, independent commission to investigate the government's bungled response to the storm. Democratic Leader Pelosi (Calif.) said the report, which faults the response of top administration officials such as Homeland Security Secretary Michael Chertoff, represented 'a vote of no confidence in the Bush administration's ability to keep America safe.' Yet she said much work is left to be done."

SBA Seeks Additional Funds For Gulf Coast. The Wall Street Journal (2/15, Rogers, 2.11M) reports, "The Small Business Administration, running out of money for disaster relief on the Gulf Coast, is pressing for additional funds to support an estimated $6.8 billion in new loans for homeowners and businesses there." The SBA "estimates it needs $1 billion more and is asking for action this week before lawmakers leave for the Presidents Day recess. The situation is unusual both because of the size of the request and because the White House, under attack for failing to respond to Hurricane Katrina more quickly, hasn't been more clear, Republicans say, about the need for funds. Speaker Dennis Hastert (R., Ill.) said last evening that the House would initiate a bill, possibly as early as today, to meet the SBA's needs. But given their annoyance, the House and Senate Appropriations committees expect to provide only enough to meet loan demands through the end of April."

Meanwhile, CQ (2/14, Higa) reported, "The House is expected to pass a spending measure Wednesday that would redirect $1 billion in previously appropriated Federal Emergency Management Agency (FEMA) funds to the Small Business Administration's (SBA) disaster loan program. Because the FEMA funds were appropriated shortly after Hurricane Katrina struck last August, the measure (HR 4745) would not affect the budget deficit."

WAR NEWS:

Basra Severs Ties With UK Authorities. Iraq's Basra province has severed all ties with British authorities in reaction to video footage showing British soldiers beating and kicking Iraqi youths. The AP (2/15) reports, "With outrage over the video mounting, the governing council for Basra province, which includes Iraq's huge southern oil fields, announced it was cutting all ties with British military and civilian operations in the province, where Britain's contingent in Iraq of more than 8,000 servicemembers is headquartered.

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The Basra police chief, Maj. Gen. Hassan Suwadi, said Iraqi security forces would cease joint patrols with the British military in the province to protest the alleged abuse." The CBS Evening News (2/14, story 8, 0:10, Schieffer) reported that in Basra, "angry protesters marched to the British Consulate to demand punishment for British soldiers shown beating Iraqis in a recently released videotape."

Saddam Says He Is On A Hunger Strike. Saddam Hussein and his half brother yesterday disrupted their trial, with the former dictator announcing he and his co-defendants had begun a hunger strike. The Iraqi judge's inability to control the proceedings is leading to questions about the new government's ability to conduct a fair trial. ABC World News Tonight (2/14, story 5, 2:15, Gibson) reported, "In Iraq, once again, Saddam Hussein has turned his trial into a circus. Today, the former Iraqi leader marched into court and announced that he and several of his co-defendants had begun a hunger strike. It was his latest attempt to gain control of the proceedings. And the judge hasn't been able, or perhaps willing, to stop it." ABC (Kerley) added, "The chaos in the courtroom has captivated many, but has also proved disappointing for Iraqis." Iraqi law "does allow the removal of defendants, but the judge has resisted doing so, fearing that would play into Saddam's game plan." Prof. Fawaz Gerges, Sarah Lawrence College: "I think Saddam Hussein has won every, single round in this trial." Kerley: "From the beginning, this trial has been about power and politics. And from the defendants' box, Saddam is playing successfully to his Sunni supporters."

The CBS Evening News (2/14, story 7, 0:10, Schieffer) reported, "At Saddam Hussein's trial, the former dictator came up with something new again, announcing he's now on a hunger strike. Saddam claims he has not eaten in three days."

The Los Angeles Times (2/14, Daragahi, 958K) reported on its web site, ."Defendants have been using the trial as a stage for political antics, and today was no exception. Toward the end of the session, Hussein lambasted the 'Americans and Zionists' and, in a segment that was edited, the version broadcast to viewers with a 20-minute delay urged Iraqis to fight the 'occupier.'"

The Washington Post (2/15, A14, Hernandez, Fekeiki, 744K) reports, "In an otherwise subdued session, Hussein told Judge Raouf Rasheed Abdel-Rahman that he had not eaten in three days, and three of his co-defendants said they also had refused to eat. Court authorities would not confirm whether Hussein was really on a hunger strike." The Post adds, "During testimony Tuesday, three former officials of Hussein's government pleaded ignorance when questioned about the killing of more than 140 Iraqis from the town of Dujail after a failed assassination attempt against Hussein there in 1982."

The New York Times (2/15, Wong, 1.19M) reports that "the prosecutor's three witnesses appeared reluctant to testify, and their statements failed to bolster any case against Mr. Hussein. The prosecution is trying to prove that Mr. Hussein and the other seven defendants were responsible for the torture and executions of 148 men and boys in the Shiite village of Dujail, where a small group of men tried to assassinate Mr. Hussein in 1982. The prosecutors must establish a chain of command that clearly links Mr. Hussein and his colleagues to the torture and killings."

Ibrahim Denies Any Role In Dujail Crackdown. The AP (2/15) reports, "Saddam Hussein's former intelligence chief, again wearing pajamas in court as a protest, on Tuesday became the first defendant in the ousted president's trial to speak at length about the charges of executions and imprisonment of Shiites in the 1980s. Barzan Ibrahim, who is also Saddam's half brother, denied any part in the crackdown against residents of Dujail, a mainly Shiite town north of Baghdad, after a 1982 assassination attempt against Saddam there. Speaking in an orderly way from the defendants' pen, Ibrahim said he went to Dujail on the day that gunmen opened fire on Saddam's motorcade, then returned to the village the following day. He claimed he ordered the release of more than 80 detainees held in the town."

Army IG Looking Into Iraq Friendly-Fire Death. The Washington Post (2/15, A16, White, 744K) reports, "The Army inspector general's office has launched a review of a friendly-fire case at a security checkpoint in Iraq that claimed the life of a young Ohio soldier, Army officials said. Spec. Jesse R. Buryj's death from a gunshot to the back led to a series of investigations by the United States and Poland. Soldiers from both countries were manning a traffic circle in Karbala in May 2004 when a suspicious dump truck crashed through barriers and ignored warnings to stop. A bullet hit Buryj, 21, as he fell from the turret of his Humvee after the truck -- which was carrying an unarmed driver and passenger -- collided with it during the nighttime incident. … Buryj's family, in Canton, Ohio, was told he died in a car accident. His parents did not learn the truth until nearly a year later, after they asked President Bush for help. 'The IG will review the matter to determine if proper policies and procedures were followed,' said Col. Joseph Curtin, a top Army spokesman at the Pentagon. He said the review is not an official 'investigation.'"

Jafari Outlines Plans For Iraqi Government. The Los Angeles Times (2/15, Daragahi, Salman, 958K) reports that Iraqi Prime Minister Ibrahim Jafari yesterday outlined plans "to build a broad-based government to tackle the country's woeful security conditions.' Jafari "faced widespread criticism for being ineffective and controlling

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during his 10-month tenure as the country's top executive. He acknowledged his previous administration's weaknesses and vowed to listen to those outside his political circle in forming a government." Jafari "did not spell out any major proposed changes for his administration, but said he would tighten the screws on ministers, who he suggested had been spending too much time out of the country."

WSJournal Calls Jafari Nomination A "Positive Step." The Wall Street Journal (2/15, 2.11M) editorializes that the selection of Ibrahim al-Jaafari as the Shiite Alliance's candidate to serve as Iraq's Prime Minister for the next four years is "the latest positive step in Iraqi political development -- which includes two elections, negotiations to write a new and liberal constitution and a successful referendum on that document. We'll let the cynics decided if this qualifies as 'Jeffersonian,' or merely Iraqi pragmatism, but whatever it is we'll call it progress."

US Marine Killed By Roadside Bomb West Of Baghdad. The CBS Evening News (2/14, story 6, 0:05, Schieffer) reported, "In Iraq today, another US Marine was killed in action by a roadside bomb west of Baghdad."

Sixty-One Journalists Have Been Killed In Iraq War. The CBS Evening News (2/14, story 9, 0:30, Schieffer) reported, "The war in Iraq has become one of the deadliest wars for journalists in modern times. A report today from the Committee to Protect Journalists say 61 journalists have been killed in Iraq since the war began three years ago. That is approaching the 63 reported killed in ten years of war in Vietnam and Cambodia and the 69 in all of World War II."

Lincoln Group Grew On "Exaggerated Claims" About Abilities, Connections. The New York Times (2/15, Cloud, 1.19M) reports on the Lincoln Group, which started as two men, Christian Bailey and Paige Craig, living in a half-renovated Washington group house, and now "works out of elegant offices along Pennsylvania Avenue and sponsors polo matches in Virginia horse country." The Post reports that the company's rise "has been built in part by exaggerated claims about its abilities and connections, according to interviews with more than a dozen current and former Lincoln Group employees and associates, and a review of company documents." Bailey "defends his company's record, saying, 'Lincoln Group successfully executes challenging assignments.' He added that 'teams are created from the best available resources.'" Lincoln "won its contracts after claiming to have partnerships with major media and advertising companies, former government officials with extensive Middle East experience, and ex-military officers with background in intelligence and psychological warfare, the documents show. But some of those companies and individuals say their associations were fleeting. Lincoln has also run into problems delivering on work for the military after its partnerships with more experienced firms fell apart, company documents and interviews indicate."

Helicopters Carry Soldiers, Civilians Around Iraq War Zone. Doug Smith writes in the Los Angeles Times (2/15, 958K) about "the awesome complexity of the system that moves soldiers around a war zone the size of California" in Iraq. With "the roads too dangerous for routine travel, about 100 helicopters serve as taxis for soldiers and civilians on U.S. business, carrying them to and from scores of far-flung bases with names like Courage, Danger, Liberty and War Horse. There are no flight schedules. For security reasons, the military does not disclose details on the number of flights or routes. The Army press office in Baghdad says routes are made up daily in response to need. Any flight can be canceled on short notice because of combat action."

USAID Helping Establish Olive Orchards In Iraq. The Washington Times (2/15, McCaslin, 90K) reports in its "Inside the Beltway" column that the U.S. Agency for International Development "is helping establish olive orchards in eight regions' of Iraq, "seeing olive production as 'a potentially important cash crop for Iraqi farmers.' We're told that USAID is helping Iraq's Ministry of Agriculture plant 16 demonstration orchards, using thousands of saplings that it hopes one day will branch into symbols of peace."

In 2000, NYTimes Warned Saddam Sought To Revive Weapons Projects. In its "History Lessons" column, the Washington Times (2/15, 90K) excerpts a New York Times from January 27, 2000 , which stated, "The further the world gets from the Gulf War, the more it seems willing to let [Saddam] Hussein revive his deadly weapons projects. … The United States and its European allies may later regret that they were not more energetic in enforcing Iraq's disarmament obligations."

Iraqis Celebrate Version Of Valentine's Day. The CBS Evening News (2/14, story 15, 1:40, Schieffer) reported, "It is not the first place you think of when you think of Valentine's Day but it turns out the holiday is celebrated in, of all places, Iraq. The Iraqis have given it another name, but even in wartime, there's no mistaking what's going on." CBS (Dozier) added, "Here in Iraq, Valentine's Day is known as the Day of Love. Baghdad's florists are working overtime. It seems the one thing Sunnis, Shiites and Kurds can all agree on is romance. Iraqi couples are giving new meaning to the phrase love will find a way."

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Afghan Bombings Appear To Be Launched By Taliban From Pakistan. The New York Times (2/15, Gall, 1.19M) reports, "Arrests and interrogations of suspects in a recent series of suicide bombings in Afghanistan show that the attacks have been orchestrated from Pakistan by members of the ousted Taliban government with little interference by the Pakistani authorities, Afghan officials say. In taped interviews by an Afghan interrogator, two Afghans and three Pakistanis who were among 21 people arrested in recent weeks described their roles in the attacks, which have killed at least 70 people in the last three months, most of them Afghan civilians but also international peacekeepers, a Canadian diplomat and a dozen Afghan police officers and soldiers. … The tape appears to confirm Afghan officials' suspicions that the suicide bombings, which are largely a recent phenomenon in Afghanistan, were generated outside Afghanistan, and in particular from neighboring Pakistan. It was shown to The New York Times by an Afghan official who asked not to be identified because of the diplomatic implications of the contents."

Officials Nearing Deal On Afghan Gas Pipeline. The Christian Science Monitor (2/15, Baldauf, 61K) reports, "If all goes well this week, Afghanistan may soon be on its way to having a gas pipeline going through its territory. The ninth meeting of oil ministers for Turkmenistan, Afghanistan, and Pakistan started Tuesday in Ashkabad, Turkmenistan's capital. And according to Afghan officials, the three countries are closer than ever to a deal. … Even India is interested in the project, and Indian officials will be attending the Ashkabad meeting as observers." The Monitor adds, "For Afghanistan, this project could be a welcome source of jobs and income. After the three-year construction period, annual revenue for the Afghan government would reach around $350 million to $450 million. This is less than the $2.2 billion in Afghanistan's illicit opium economy, but it has the advantage of being clean."

Return Of Sharia Called A "Troubling Sign" For Afghan Female Lawmakers. The Christian Science Monitor (2/15, Baldauf, 61K) reports that for Afghanistan's female parliamentarians "hoping to improve the lot of women in this conservative Islamic country, the return of sharia rules - even if they are not specifically stated in the Constitution - is a troubling sign indeed. After all, it was this very same sharia principle that the conservative Taliban regime used to prevent women from going to school, to market, and to work." Under sharia, "the notion of mahram-e sharaii, or male chaperones, allows for women to travel for more than three days if they are accompanied with a male relative. Because mahram-e sharaii has not been introduced as a bill, it is impossible to know just how much parliamentarian support it has. But with an estimated 50 percent of the lower house claiming past experience as fighters in the anti-Soviet jihad, and current affiliation with Islamist parties, it's clear that conservative interpretations of Islamic life have a strong political hold."

NATO Allies Have Reduced Militaries Since 9/11. The Washington Times (2/15, Scarborough, 90K) reports, "America's major NATO allies have cut military manpower and defense funds as a share of their economies since the September 11 attacks, in sharp contrast with the United States, which embarked on deficit spending to boost arms outlays to fight global terrorists. The downward trend is raising alarms inside the Pentagon, which needs the allies' help to battle al Qaeda and other militants in Afghanistan, Iraq and other trouble spots. A comparison of force structures in 2001 and 2005 showed countries such as Britain, Canada, France, Italy, Poland, Spain and Germany cut their active-duty forces, according to statistics compiled by the London-based International Institute for Strategic Studies. At the same time, the United States increased its ranks from 1.37 million to 1.42 million." The Times adds, "Defense Secretary Donald H. Rumsfeld, who once referred to France and Germany as "old Europe" during their vocal opposition to the war that ousted Iraqi dictator Saddam Hussein, has stepped into the dangerous arena of criticizing Western allies before. But this time, he is doing it diplomatically as he tries to explain the dangers of declining defense budgets in the age of global terror, which has struck NATO countries Turkey, Great Britain and Spain, as well as the United States. At last week's NATO defense ministers' conference in Munich, Mr. Rumsfeld gently prodded his colleagues to rethink defense spending after he detailed the job ahead."

Army Revamps Boot Camp Procedures. A front page story in the Wall Street Journal (2/15, Jaffe, 2.11M) reports on "big changes sweeping Boot Camp" as the Army, fights through "one of its biggest recruiting doubts." The Journal adds, "Once-feared drill sergeants have been ordered to yell less and mentor more. … New privates are getting more sleep and personal time. Even the way soldiers eat has changed. Drill sergeants long ordered overweight soldiers to stay away from soda and desserts. Today, soldiers at Fort Leonard Wood fill out a survey about their boot-camp experience that asks, among other questions, if they liked the food, whether they were 'allowed to eat everything on the menu, including dessert,' and whether there was enough for seconds. Recruits still must meet the same basic standards and pass the same tests for physical fitness and marksmanship to graduate, say Army officials. But more variable criteria that in the past might get a recruit expelled -- such as whether a drill sergeant thinks a recruit has the discipline and moral values to be a soldier -- have been jettisoned."

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Minnesota US Attorney To Resign. The AP (2/15, Forliti) reports that Minnesota "U.S. Attorney Tom Heffelfinger, just weeks after wrapping up his investigation into the worst U.S. school shooting since Columbine, announced Tuesday that he will step down at the end of the month and return to private practice." The AP continues, "Heffelfinger, who was appointed to the post shortly after the Sept. 11 terrorist attacks, said he was stepping down for personal and family reasons. While the shooting at Red Lake High School was not a reason for his departure, he said, the case did play a role in the timing of it. … 'It was very clear to me personally that I was not going to quit this job until after I met with the victims of the tragedy,' he said. 'This was a very difficult decision.'" The AP adds, "Heffelfinger oversaw his office's investigation into the March 21 shooting that claimed 10 lives on the Red Lake Indian Reservation in far northern Minnesota. Just two weeks ago, Heffelfinger presented the findings of his investigation to victims' family members and some tribal officials. … Heffelfinger was criticized by some families for not sharing more information about the investigation."

North Carolina US Attorney Tapped For Federal Bench. The AP (2/15) reports, "The top federal prosecutor for the eastern third of North Carolina was nominated Tuesday by President Bush for a lifetime appointment to the federal court hearing cases from the state's western third." The AP continues, "Frank Whitney, 46, and his family still live in Charlotte. He would succeed Judge Brent McKnight, who died in November 2004 of esophageal cancer. … Whitney, a former Mecklenburg County Republican Party chairman, had the backing of the state's two Republican senators, Elizabeth Dole and Richard Burr." The AP adds, "Whitney spent 11 years as a federal prosecutor in Charlotte until Bush named him U.S. attorney for the state's eastern district in 2002. … As U.S. attorney, Whitney has overseen the public corruption prosecutions of former U.S. Rep. Frank Ballance and former state Agriculture Commissioner Meg Scott Phipps. The Phipps case, which involved illegal campaign contributions and rigging of bids to operate the state fair midway in Raleigh, led to Phipps' resignation and prison time for the former commissioner."

CORPORATE SCANDALS:

Former Enron Official Testifies Skilling Hid Broadband Unit's Status From Board. USA Today (2/15, Farrell) reports, "Former Enron CEO Jeff Skilling not only hid the sorry condition of the company's broadband operations from investors and analysts, but also hid that information from the company's board of directors, a former Enron executive testified here Tuesday." USA continues, 'Ken Rice, who served as CEO of Enron Broadband Services (EBS) from 1999 to 2001, testified that after preparing a presentation he planned to make about his unit to Enron's board of directors on May 1, 2001, he 'discussed it with Mr. Skilling, and he asked me not to give that presentation.' … Instead, Rice said, he made a presentation to the board that was not fully candid about the disastrous state of broadband's operations." USA adds, "Rice's assertions capped nearly a full day of testimony about EBS, a business unit launched with significant hype during the dot-com bubble. Prosecutors contend that by portraying Enron Broadband as a unit with huge growth potential, Skilling and former Enron chairman Ken Lay misled the investing public."

The Wall Street Journal (2/15, Emshwiller, Mcwilliams) reports, "Rice testified that Mr. Skilling, while Enron's president, made misleading statements about the telecommunications unit to stock analysts in 2001. Mr. Skilling also pushed the telecommunications unit, which was called Enron Broadband Services, to come up with financial projections that were more optimistic than warranted by business conditions, he alleged. Mr. Rice added that Mr. Skilling had also directed him to be less than fully candid when making a presentation about Enron Broadband to Enron's board in May 2001. … Messrs. Skilling and Lay are in their third week of what is expected to be a months-long trial on conspiracy and fraud charges stemming from the December 2001 collapse of Enron. Some of the charges in the case stem from alleged misstatements about Enron Broadband, which was devised to provide high-speed telecommunications services to businesses and homes." The Journal adds, "Mr. Rice is the second government witness to take the stand. Like the initial witness, former Enron investor-relations chief Mark Koenig, Mr. Rice has pleaded guilty to an Enron-related crime and is testifying under a government cooperation agreement that he hopes will lead to a reduction of any prison sentence. … Mr. Rice said Enron Broadband never lived up to the high hopes for the unit that were presented to the public in 2000 and early 2001 by Mr. Skilling and others. The unit was never profitable, he testified, and by early 2001 was suffering from high costs and little revenue."

The New York Times (2/15, Barrionuevo) reports that Rice "testified that Mr. Skilling misled analysts time and again by portraying Enron's broadband unit as surviving a meltdown in the telecommunications business. … In truth, Mr. Rice said, the situation had become so dire that Enron was forced to lay off employees and drastically cut costs. When the business needed to meet earnings targets, it turned to complex financial structures like LJM, a secretive, off-the-books partnership run by the chief financial officer, Andrew S. Fastow, and other transactions that sacrificed future revenue

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to book current earnings, he testified. … Mr. Rice's testimony strongly supported that of the government's first witness, Mark E. Koenig, the former head of investor relations, who described misleading statements Mr. Skilling made to Wall Street analysts to ensure that Enron's stock would not be affected by bad news about the broadband unit's performance. … But Mr. Rice, who had a close relationship with Mr. Skilling stretching back a decade, described several private meetings with the former chief executive where, he said, Mr. Skilling steadfastly refused to come clean with the unit's failings."

Bloomberg (2/15, Feeley) reports that Rice testified "that he questioned the use of a partnership set up by former Chief Financial Officer Andrew Fastow to help make his unit's 1999 earnings targets. Rice said he told Skilling using such off-the-books entities for Enron-related deals 'looked goofy.' … 'Mr. Skilling explained that it was something that would facilitate getting transactions done,' Rice said during his first day of testimony … 'He said we needed to do it so that we weren't being stuck by the banks at the last minute to get transactions done.' … Lay, 63, and Skilling, 52, have said they weren't involved in the off-the-books partnership transactions, which they said were overseen by Fastow. The CFO, who has pleaded guilty to fraud charges stemming from Enron's collapse, is accused of reaping at least $25 million in illegal profits from Enron- related deals with his partnerships."

The Los Angeles Times (2/15, Mulligan) reports, "Preparing for in-house budgeting meetings for 2001, Rice's EBS subordinates examined their pending deals and expenses and estimated that the unit would lose $489 million in 2001. The climate, Rice testified, was one of sharply rising expenses and a depressed telecommunications market in which few customers would sign the long-term 'bandwidth' contracts that were supposed to be EBS' bread-and-butter business. … Bandwidth refers to the capacity for sending data over the Internet. Enron, which had pioneered gas and electricity trading, thought that it could trade bandwidth — and eventually other commodities — on the same model. EBS was important to Enron's image as an increasingly high-tech company that should command a far higher stock market valuation than other competitors in the energy business."

Reuters (2/15) and the AP (2/14, Hays) also reports on Rice's testimony.

More Commentary. In a column for the Wall Street Journal (2/15), Holman Jenkins writes, "The Enron trial is underway, and may justice be done, amen. For our millions of tax dollars, however, we pray for a parting of the mists around Jeff Skilling's weird, abrupt resignation from the company in August 2001. … There's no doubt that, from a dramaturgical point of view, the resignation is a key to the story. Mr. Skilling was credited with building the Enron trading machine from scratch. He had just formally been awarded the title of CEO, a driven Type A, arrogant, smart, full of blustery camaraderie with his protégés. In our current adopted posture of amorality, we don't care whether he goes to jail. All we want to know is what was going through his multileveled little mind." Jenkins continues, "As told to the press, he wanted to spend time with his kids, slow down, smell the roses. He was concerned about his health. In an off-key note, he told the Journal he might have stayed if Enron's share price hadn't turned south. The more he talked, the clearer it became that no one at Enron had the slightest idea why he was leaving, even as the stock price cratered on the news. … We admit to finding this theory tempting: Mr. Skilling, from the moment he decided on resignation, has been engaged in a high-wire bluff to avoid accountability for Fastow's actions, including his incredibly nervy decision to testify under oath before a Congressional panel even as Mr. Lay did the normal thing and heeded his lawyer's advice to plead the Fifth." Jenkins adds, "Juries, immersed in the evidence for months at a time, have a way of popping out with verdicts that leave the kibitzers confounded. Still, if Mr. Skilling walks, his most brilliant career move may well have been resigning and handing over the hot seat to Ken Lay so the government would feel compelled to muddy its case by indicting him too."

Corporate Scandals Have Had Little Effect On Public Perception. In a column in Roll Call (2/15), Karlyn Bowman, a resident fellow specializing in public opinion and polls at the American Enterprise Institute, writes, "Views about business — and many other key institutions — were unusually positive during the good economic times of the late 1990s. Now, after a flurry of corporate scandals, have more negative views about the business sector set in, or have Americans gotten past the run of CEO misdeeds? … In Pew's 1999 question, 73 percent of respondents said they had a very or mostly favorable opinion of business corporations. Business did take a short-term hit when scandals involving Enron and WorldCom broke in late 2001. More recently, business and other institutions have suffered from a generally sour mood in the public." Bowman continues, "Specifically, in Pew's December question, 57 percent had a favorable opinion of business. Gallup's data shows high confidence in big business dropping from 28 percent in the spring of 2001 to 20 percent in the spring of 2002. It's 22 percent today. … In reality, despite the modest dips in support, public attentiveness to business scandals was never especially high. A November 2003 Pew Research Center report concluded that the business scandals had a 'minimal impact' on public opinion. There are several reasons. … First, people didn't think the kind of behavior they saw at Enron would happen at their own companies. … Second, people have long been wary of the honesty and ethics of big business, and in that sense, the scandals were nothing new. … Nor did the scandals prove particularly harmful to one party or the other. Americans think that both

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parties are too close to big business. The lack of a partisan cast appears to have dulled the political impact."

Retirees' Initiative May Cut Executive Pay At Lucent. The Wall Street Journal (2/15, Silver) reports, "In recent years, Lucent Technologies Inc.'s retirees have seen many of their benefits cut. Now they are fighting back -- proposing to rein in the compensation of the executives doing the cutting." The Journal continues, "Lucent's shareholders today are voting on a proposal to restrict the pay of the top brass. The proxy proposal, which was put forward by retirees, would make 75% of executive stock grants dependent on the telecom-equipment maker's performance. It is partly a reaction to last year's sharp increase in the bonus of Lucent's chief executive, Patricia F. Russo." The Journal adds, "It isn't just happening at Lucent. Retirees from a range of companies including Verizon Communications Inc., General Electric Co., International Business Machines Corp., Prudential Financial Inc. and Qwest Communications International Inc. are presenting proposals to restrict executive compensation. The retirees are motivated partly by concerns that the value of their nest eggs can crack when the value of their companies' stocks drops. … This is actually the second attempt for the Lucent proposal. Last year a similar proposal by retirees received very strong support from shareholders, according to Patrick McGurn of Institutional Shareholder Services, a firm that advises shareholders on corporate proxy votes and is recommending they support this proposal."

Regulation Of Securities Litigation Said To Require Tightening. In an op-ed for the Wall Street Journal (2/15, 2.11M) Kenneth Lehn, former SEC chief economist, writes, "We just marked the 10th anniversary of the Private Securities Litigation Reform Act (PSLRA), which attempted to curb abuses in securities class-action litigation by eliminating so-called 'professional plaintiffs' and instituting more-stringent pleading standards. While the PSLRA has discouraged some meritless lawsuits, the evidence suggests that our private securities-litigation system still needs additional reform. … Almost one-third of the companies in the Nasdaq Biotech Index and more than one-half of the firms in the Nasdaq Internet Index have been targets of federal class-action securities lawsuits since the enactment of the PSLRA. Insofar that some, if not most, of these suits are driven more by the volatility of these companies' stock prices than they are by fraud, these suits have a disruptive effect on important high-growth industries."

CRIMINAL LAW:

Abramoff Sought Rove's Aid To Arrange Malaysia Meeting. The Los Angeles Times (2/15, Hamburger, Wallsten, 958K) reports that when the government of then-Prime Minister Mahathir Mohamad of Malaysia sought a meeting with President Bush, "it followed the same strategy as many other well-heeled interests in Washington: It called on lobbyist Jack Abramoff for help." Abramoff "contacted presidential advisor Karl Rove on at least four occasions to help arrange a meeting, the witness said." Abramoff "received $1.2 million from the Malaysian government for his lobbying services in 2001 and 2002, the former associate said. Documents obtained by Senate investigators appear to confirm at least $900,000 of that amount." It is "not clear how central Abramoff was in arranging the Oval Office session. The White House says the meeting was arranged through normal channels. But it was clear, the former associate said, that Abramoff took credit for it. His reputation for close relationships with the White House and congressional officials enabled him to charge stratospheric fees from his lobbying clients — and the president's meeting with Malaysia's prime minister enhanced that reputation." The Malaysia episode "sheds new light on the practices of Abramoff, the man at the center of a burgeoning corruption scandal, and suggests closer ties than previously acknowledged between the disgraced lobbyist and the highest levels of the Bush White House." Apart from "the direct contacts between Rove and Abramoff, the former associate's description of the Malaysia episode was backed by another former Abramoff associate and by documents released last year by the Senate Indian Affairs Committee. Both said Abramoff talked of his access to Rove and cited his relationship with Susan Ralston, Rove's administrative assistant. Before joining the White House staff, Ralston was an assistant to Abramoff."

GOP Senators' Support For Disclosure Of White House Abramoff Contacts Noted. The Washington Post (2/15, 744K), in an editorial, asks, "Why doesn't the White House just release information about [Jack] Abramoff's meetings and other visits there? This is a man who has pleaded guilty to trying to bribe public officials. The White House says he turned up for a "few staff level meetings" and two Hanukkah parties. Whom did he meet? About what? Sensible members of Mr. Bush's own party agree." The Post quotes Sen. John Thune: "I'm one who believes that more is better, in terms of disclosure and transparency. … And so I'd be a big advocate for making records that are out there available." The Post adds that Sen. Chuck Hagel "was even blunter. 'Get it out. Get it out,' Mr. Hagel said. 'I mean, disclosure is the real issue. Whether it's campaign finance

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issues, whether it's ethics issues, whether it's lobbying issues, disclosure is the best and most effective way to deal with all of these things.' Elementary, you would think. But not for this White House."

Lawmakers To Reintroduce Internet Gambling Ban Blocked By Abramoff. Roll Call (2/15, Bresnahan) reports Rep. Bob Goodlatte (R-Va.) "and other lawmakers on Thursday will re-introduce legislation to ban Internet gambling, a proposal that was blocked nearly six years ago through the efforts of former lobbyist Jack Abramoff, allegedly with help from then-House Majority Whip Tom DeLay (R-Texas) and one of his former top aides." Goodlatte and Reps. Rick Boucher (D-Va.), Frank Wolf (R-Va.) "and other lawmakers as they re-introduce the Internet Gambling Prohibition Act. While Goodlatte's office did not release details on the proposal, the legislation considered by the House in 2000 would have banned nearly all use of the Internet for gambling purposes."

3rd Circuit Clarifies Rules For Warrantless Searches. The Legal Intelligencer (2/15, Duffy) reports, "Police may not 'manufacture' an emergency situation to justify the warrantless search of a hotel room, a divided panel of the 3rd U.S. Circuit Court of Appeals has ruled." The Intelligencer continues, "The decision in United States v. Coles overturns a conviction for possession of crack cocaine and sharpens a split among the federal circuits in cases where police claim that a warrantless search was justified by 'exigent circumstances.'" The Intelligencer adds, "Prosecutors argued that the search of Terrence Coles' hotel room was valid because police heard rustling sounds and a flushing toilet soon after they announced their presence and therefore feared that evidence was being destroyed. … But defense attorney Jeffrey M. Lindy urged the court to focus on earlier events and argued that the police had no excuse for failing to obtain a warrant prior to approaching the hotel door in the first place. … Voting 2-1, the court agreed with Lindy and held that the investigative tactics used by the officers had 'impermissibly manufactured the exigency.' … Senior U.S. Circuit Judge Leonard I. Garth noted that the agents at first used 'subterfuge' to gain entry to the hotel room by falsely claiming they were 'room service,' and later that they were maintenance workers sent to fix a leak. … It was only after those two attempts failed, Garth noted, that the officers identified themselves as police and then heard the toilet flushing. … 'In identifying themselves as hotel personnel providing "room service" or "maintenance," the police resorted to subterfuge, clearly manifesting their intention to mislead the occupants into believing that they were not police officers,' Garth wrote in an opinion joined by 3rd Circuit Judge Julio M. Fuentes."

Ex-FBI Agent Takes Stand In First Tennessee Waltz Trial. The AP (2/14) reports retired FBI agent Joseph Carroll testified Tuesday "that he took at least two Tennessee lawmakers to a yacht party in Miami while posing as an executive for a fake company seeking favorable legislation." Carroll "did not identify the two who attended the party in 2004. He testified at the trial of Hamilton County Commissioner William Cotton. He is accused of conspiring with former lobbyist Charles Love to obtain about $4,800 in bribes in return for supporting a resolution to benefit E-Cycle, a phony company the FBI created to seek government favors. Carroll worked on the Tennessee Waltz investigation that led to charges against seven current or former elected officials and two so-called 'bag men.'" Another AP (2/14, Poovey) story reports that the Cotton trial is the first Tennessee Waltz case to come to court.

NewsChannel9.com (2/14, Grant) of Chattanooga, Tennessee, reports prosecutors say Cotton and ex-Hamilton County School Board member Charles Love "took bribes, discussed how to do it and not get caught." The Chattanoogan (2/15) reports that a "jury of five women and seven men as well as two male alternates was chosen late Tuesday morning, then opening statements were given prior to the lunch break. Three of the jurors are black." The Washington Times (2/15, Seper) also runs a brief item on the beginning of the trial.

Ethics Complaint Against DeBerry Dies. The Tennessean (2/15, Seibert) reports, "An ethics complaint against Tennessee House Speaker Pro Tem Lois DeBerry, D-Memphis, died in the House Ethics Committee yesterday. Because seven votes are needed to launch an investigation, and only six on the Democratic-controlled committee voted in favor, committee chairwoman Rep. Kim McMillan, D-Clarksville, said, 'I declare the matter concluded.' The vote was the second time the committee failed to act on the complaint alleging DeBerry broke House ethics rules by accepting $200 at a casino from an undercover FBI agent. Actions of the committee require seven votes to pass. DeBerry took the money and other gifts during a trip to Tunica, Miss., that turned out to be part of the FBI's Operation Tennessee Waltz bribery sting. The undercover operation has since resulted in nine arrests, but DeBerry is not among them."

Campbell Trial Continues, With Testimony Still Not Linking Mayor Directly To Bribes. The Atlanta Journal-Constitution (2/15, Warren, Scott) reports that as the trial of ex-Atlanta Mayor Bill Campbell continued, there was "more testimony…about lewd body positions of strippers, machine guns and arson than about any evidence" directly linking Campbell to bribes. Government witnesses again testified that "thousands of dollars in bribes were passed

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directly to Campbell's former aide Dewey Clark -- not to the mayor himself. In four weeks of testimony, Clark has been the only witness who has said cash bribes from city contractors were passed directly to the mayor's hands." Clark testified that he passed money from strip club owner Michael Childs, "an admitted arsonist and convicted felon whom the FBI caught plotting to beat up Campbell after the mayor didn't approve the liquor license."

Prosecution Will Not Be Allowed To Present Evidence On Wallets. 11Alive.com (2/14, Carnes) of Atlanta reports, "Government prosecutors in the corruption trial of former Atlanta mayor Bill Campbell will not be allowed to present evidence about two wallets filled with cash." The government today planned to present witnesses Vertis McManis and Joe Reid, "who admit they handled the cash bribes. The government's theory is that one wallet was given to Campbell." But Judge Richard Storey r"uled there was no evidence that Campbell got the money, and ruled the testimony would not be allowed."

Prejean Defends Ryan As "Man Of Honesty And Integrity." The AP (2/14, Robinson) reports capital punishment opponent Sister Helen Prejean "took the stand at George Ryan's conspiracy trial Tuesday and described the former Illinois governor as 'a man of honesty and integrity.'" Prejean testified, "I find in him a man who is willing to look at public policy issues, even if it means growth and change." Judge Rebecca Pallmeyer "barred" Prejean "from mentioning the issue that brought her together with Ryan -- the movement to repeal the death penalty in America. Pallmeyer ruled the issue was irrelevant to charges that Ryan steered big-money state contracts and leases to friends and got free vacations and gifts in return."

Janitor Skoda Also Got Share Of Cash. The AP (2/14) reports Ryan "wasn't the only one who got a share of the cash flowing around the Statehouse in Springfield over the Christmas holidays when he was governor. The janitor once portrayed as a possible victim of a plan to grind cash Christmas gifts for Ryan out of low-paid state employees said Monday that he was sharing in the yuletide money, himself, and the source was the governor's own campaign fund." Janitor Don Skoda "acknowledged that he would receive $50 checks from Citizens for Ryan just before Christmas and make a cash gift to Ryan of $15 or $25."

Real Estate Expert Defends Ryan On Property Appraisal. The AP (2/14) reports real estate expert Hugh Edfors told jurors that Illinois "got a good deal on property it leased from the former governor's host on annual free vacations in Jamaica." Edfors said "another appraiser who testified for the government used flawed methods in concluding that the state paid too much under the lease. The building in South Holland was owned by businessman Harry Klein. He treated Ryan, his wife and some of his supporters to free vacations in Jamaica for years when Ryan was secretary of state." Ryan's lawyers say Ryan "wasn't doing Klein a special favor because the taxpayers paid the going rate."

Akron Attorneys Say FBI Has Contacted Them Regarding Petro Allegations. The AP (2/14) reports Akron attorneys Jack Morrison and Ray Weber, "who say their firms lost much of their legal work for the state because they refused to donate to Attorney General Jim Petro's campaign," said they "have been contacted by the FBI about the accusations." Weber said he spoke with the FBI last week about his allegations." Kim Norris, a spokeswoman for Petro, said, "No one has contacted us, nor do we expect to be contacted, regarding these false, politically motivated allegations." Petro is now running for governor. FBI Cleveland office spokesman Scott Wilson would not comment. The Cleveland Plain Dealer (2/15, Wendling, Theis) reports, "The FBI has opened an inquiry into a report" that Petro "took lucrative state legal work away from two Akron law firms after their principals refused to contribute to his campaign." FBI spokesman Scott Wilson "would not comment, but Weber said the agents called the interview a 'fact-finding' inquiry. Morrison said an agent told him it was part of a continuing probe."

California Prison Guard Found Guilty Of Aiding Neo-Nazi Gang. The AP (2/15) reports ex-California Institute for Men prison guard Shayne Allyn Ziska "was convicted Tuesday of aiding a white supremacist inmate gang known as the Nazi Low Riders." Prosecutors said Ziska "helped the gang distribute methamphetamine, heroin and other drugs" at the Chino prison. He was "convicted of participating in a corrupt organization's conspiracy, violent crime in the aid of racketeering and deprivation of rights under color of law," and was also found guilty of allowing a gang member to stab another prisoner. The Press-Enterprise (CA) (2/15, McGavin) reports Ziska "faces a maximum of 50 years in federal prison when he is sentenced May 8."

US Argues Cubans Were Fairly Convicted In 2001. The AP (2/15, Dell'orto) reports, "Prosecutors and defense lawyers sparred Tuesday over whether five Cuban intelligence agents could have received a fair trial in Miami at the same time the community was focused on the politically charged case of young Elian Gonzalez." The AP continues, "Prosecutors urged the 11th U.S. Circuit Court of Appeals to deny the agents' request for a new trial because there was no evidence jurors had any prejudice about their guilt or innocence. … 'Nothing indicates that any member of the jury was influenced by anything going on outside,' said Assistant U.S. Attorney David Buckner." The AP adds, "Defense

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lawyers argued that the events surrounding Elian inflamed the community, making it impossible for jurors to be impartial about any case involving Cuba. The then-5-year-old boy was found clinging to an inner tube in November 1999 after a boat carrying would-be migrants capsized in a storm. His mother died, and after a court battle waged by his anti-Castro relatives in Miami, Elian was handed over to his Cuban father by the U.S. government in 2000. … The five Cuban agents were convicted in Miami in 2001 of being unregistered foreign agents. … A three-judge panel of the 11th Circuit threw out all the convictions in August, ruling that pretrial publicity combined with pervasive anti-Castro feeling in Miami didn't allow for a fair trial. The government asked the full appeals court to reconsider."

Texas Set To Execute Convicted Killer. The AP (2/15, Graczyk) reports, "A 32-year-old man convicted of robbing and killing a taxi cab driver 14 years ago is set to be executed Wednesday night." The AP continues, "Clyde Smith, who was also linked to the fatal shooting of another Houston cab driver, will be killed for the murder of David Jacobs. … 'I wasn't there when he was killed,' Smith said in a recent interview at the Texas Department of Criminal Justice Polunsky Unit, home to the state's death row. 'I got there afterward.'" The AP adds, "Smith, who once worked as a security guard, would be the fourth prisoner put to death this year in Texas and the second of three scheduled for execution this month in the nation's busiest capital punishment state. … Lawyers for Smith filed a clemency petition with the Texas Board of Pardons and Paroles in hopes of stopping the punishment. … In earlier appeals, lawyers pointed out federal judges agreed Smith may have had poor legal help during his trial and that he suffered significant abuse as a child, which they said was not pursued by his trial defense team."

Judge Rules California Must Alter Execution Protocol. The Los Angeles Times (2/15, Sahagun) reports, "A federal judge today refused to delay death row inmate Michael Morales' Feb. 21 execution, but told prison officials they would have to change how they administer the lethal injection that kills him." The Times continues, "In his ruling, Judge Jeremy Fogel said officials either must kill Morales with barbiturates alone, or provide an anesthesiologist or other medical professional to monitor that the prisoner is unconscious before they deliver a fatal dose of a heart-stopping chemical. … Fogel acknowledged that the change would probably prolong the execution, but said Morales had raised legitimate questions that the state's procedures are excessively painful, relying in part on problems encountered during the recent executions of Stanley Tookie Williams and Clarence Ray Allen."

The AP (2/15, Kravets) reports, "Fogel said he was concerned inmates are conscious and undergoing extreme pain once a paralyzing agent and then heart-stopping medication begin coursing through their veins. … If the state declines to choose either new option, Fogel said he would stay the execution and have hearings on whether California's injection protocol was cruel and unusual punishment, a violation of the U.S. Constitution. … 'The present action concerns the narrow question of whether the evidence before the court demonstrates that defendants' administration of California's lethal-injection protocol creates an undo risk that plaintiff will suffer excessive pain when he is executed,' Fogel wrote. 'While the court finds that plaintiff has raised substantial questions in this regard, it also concludes that those questions may be addressed effectively by means other than a stay of execution.'"

Reuters (2/15) reports, "Morales was convicted in 1983 of murdering a 17-year-old woman with a hammer to her head and then by stabbing her. He also had sex with her unconscious body."

Judge Will Not Release Maryland Police Officer Charged With Threats. The AP (2/14) reports, "A federal judge has refused to release a western Maryland police officer charged with making bomb threats and anthrax threats in Hagerstown." Jeffrey Shifler's preliminary hearing is scheduled for February 27 in Baltimore. Authorities say the threats "began four months after he was fired from the Hagerstown Police Department in November 2003 for falsifying payroll records. Shifler later joined the police force in the nearby town of Boonsboro, which has suspended him without pay." The FBI arrested Shifler last week.

Bank Robbing Becomes "Crime Of Desperation." The Philadelphia Inquirer (2/15, Wood) writes, "John Dillinger robbed dozens of banks, stole enormous sums of money, and became Public Enemy No. 1 in the 1930s. Dillinger, Sutton, and the other infamous crooks of the era captured the nation's imagination. They were front-page news. Today's bank robber still makes news, but for different reasons. 'Bank robbery is a crime of desperation, not a crime of passion,' said Jerri Williams, spokeswoman for the FBI in Philadelphia. 'And where does that desperation come from? Drugs. Gambling. Mental illness.'" Of the bank robbers "arrested in 2004, the last year for which complete statistics were available, 45 percent were addicted to drugs, Williams said."

FBI May Take Over Philadelphia Union Organizer Beating Case. The Philadelphia Inquirer (2/15, Von Bergen) reports, "The FBI may take over the investigation into the beating of five union organizers at the

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Philadelphia Airport Marriott last Wednesday. The men, who were from the Transport Workers Union, were beaten, allegedly by members of the rival International Association of Machinists during a meeting at the hotel. Investigators from the Philadelphia police and the FBI are to meet today to see which agency will handle the investigation, said Lt. John Walker of the Southwest Detective Division. The TWU had sought federal involvement. The unions are in competition to represent baggage handlers and fleet-service workers at US Airways, which merged last year with America West Airlines."

Reynolds Was Fired From Job "Just Days Before" FBI Arrest. The Philadelphia Inquirer (2/15, Shiffman, Lubrano) reports, "A Wilkes-Barre man labeled a terrorist by a federal prosecutor was fired from his job in southern Idaho just days before the FBI arrested him there, a company official said yesterday. 'We got rid of him after about a week,' said Mark Mendiola, spokesman for AMI Semiconductor. 'He was terminated for performance and work-ethic issues.' Mendiola declined to elaborate. It was among a handful of new details to emerge in the case of Michael Curtis Reynolds, arrested Dec. 5 in an FBI sting in which authorities say he was led to believe that he was plotting with an al-Qaeda operative to attack U.S. pipelines and oil refineries." Reynolds "is being held in the Lackawanna County jail on unrelated grenade charges. However, as The Inquirer reported Sunday, federal authorities believe he was attempting to commit terrorist acts when he was arrested. That disclosure was made during a Dec. 19 detention hearing at the federal courthouse in Wilkes-Barre. Yesterday, Reynolds' sister and mother issued their first statement about the case. They said they had 'been estranged from Michael for some time now' and referred further questions to the FBI. 'That's all we're going to say for forever,' the four-line statement read."

Convicted Florida Child-Killer Pleads For Judge To Spare His Life. The AP (2/15, Stacy) reports, "A weeping Joseph Smith apologized Tuesday for the abduction, rape and murder of 11-year-old Carlie Brucia two years ago, telling a judge he had taken large amounts of cocaine and heroin that day in hopes of killing himself." The AP continues, "Smith told Circuit Judge Andrew Owens, who will sentence him to death or life in prison, 'I do not ask for mercy for myself. The only thing I can see to give me a life sentence is for my family. I do not want to see them hurt any further.'" The AP adds, "Carlie was abducted while walking home from school in February 2004, an attack that was caught on a car wash surveillance tape and broadcast nationwide. … Friends and even Smith's brother said they recognized the burly mechanic grabbing the young girl's wrist on the tape as Smith. A jury found the 39-year-old guilty last November and recommended by a 10-2 vote that he be executed. … Owens will ultimately sentence Smith on March 15. Under Florida law, he must give the jury's death sentence recommendation 'great weight.'"

Prison Volunteer Thought To Be Accessory To Kansas City Escapee. ABC World News Tonight (2/14, story 9, 2:05, Gibson) reported, "There's been a bizarre prison break outside of Kansas City, that has police looking across the Midwest for a convicted murderer and wondering how he could escape. Police believe he has help from someone, a middle-aged housewife from the outside, who seems the most unlikely of accomplices." ABC (Reynolds) added, "The Safe Harbor prison dogs program sounded like a big success. Inmates at the medium-security Lansing Correctional Facility were designated to train unwanted or abused pets for adoption. The inmates seemed to like it." The "program involving about 70 dogs was started by 48-year-old housewife Toby Young, who became a trusted prison volunteer." 27-year-old John Manard was one of her "dog handlers. Convicted of first-degree murder, he was serving a life sentence." So, on Sunday afternoon, "when Manard and Young escaped in this van, prison officials were stunned." The two "may have had a head start because officials didn't think at first they were together. But now, undisclosed evidence has led them to conclude that Toby Young was a willing accomplice."

Federal Investigators Focus On Ovitz In Pellicano Probe. The New York Times (2/15, Halbfinger, Weiner) reports, "Federal authorities have engaged in a far more extensive investigation than was previously known of the ties between Michael S. Ovitz, the former Hollywood power player, and Anthony Pellicano, the celebrity private detective who was indicted on federal wiretapping charges." Ovitz "has been called before a grand jury to testify about his dealings and conversations with Mr. Pellicano, who pleaded not guilty to charges that were unsealed last week in a 110-count indictment. Government prosecutors have also examined Mr. Ovitz's legal fight with Cathy Schulman, a producer who once ran the film operation of his failed talent conglomerate Artists Management Group, and who sued him after leaving the operation in April 2002." According to an attorney involved in the case, "Schulman told F.B.I. agents in an interview in June 2004 of conversations in which Mr. Ovitz recounted to her details of her private discussions with major Hollywood figures as soon as a day after they had occurred, and told her that he had sources who could provide him with such information." USA Today (2/15, Kasindorf) writes that the "latest buzz around Hollywood, aside from the Oscars, is who could be ensnared next by a federal grand jury probe" into Pellicano's activities. The FBI "has questioned lawyers,

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talent agents, studio executives and stars, including Sylvester Stallone, Warren Beatty and Garry Shandling. Pellicano allegedly eavesdropped on Stallone's phone calls and obtained law enforcement computer records illegally on Shandling and former Saturday Night Live star Kevin Nealon."

Hacker From London May Be Prosecuted As Enemy Combatant. The AP (2/15) reports, "A Briton accused of mounting the largest ever successful hack of US government computer networks could be prosecuted as an 'enemy combatant' under US anti-terror laws, an expert witness told his extradition hearing Tuesday. Gary McKinnon, 40, of London, is wanted in the U.S. over allegations that he illegally accessed 97 computers, including U.S. Army, Air Force, Navy and NASA systems, causing $700,000 in damages."

Reuters (2/14, Johnson) reports, "Prosecutors say he hacked into sensitive networks over a one-year period from February 2002 and caused $700,000 (400,000 pounds) worth of damage, after crippling U.S. defence systems in the wake of the September 11, 2001 attacks. If found guilty, Mckinnon could face up to $1.75 million in fines and 60 years in jail."

BBC News (2/14) reports, "His lawyers want US authorities to give reassurances he will not get a military order and face being sent to Guantanamo Bay with no prospect of parole. … In total, Mr McKinnon is said to have accessed 53 US Army computers, 26 US Navy computers, 16 Nasa computers, one US Department of Defence computer and one US Air Force computer."

ZDNet UK (2/15, Barker) reports, "McKinnon told ZDNet UK in July 2005 that his actions were prompted by an interesting in the US space programme and the search for extraterrestrial life. … The US prosecution team alleges that McKinnon hacked into sensitive equipment over a one-year period from February 2002 and caused $700,000 worth of damage. McKinnon, though, denies causing serious damage. Although McKinnon was arrested in the UK shortly after his hacking activities were first exposed, he was released under caution. Since being charged by the US authorities he has been banned from using the Internet."

Texas Tech Student Indicted In Operation Copycat. The AP (2/14) reports, "A Texas Tech University student faces federal charges of conspiracy to commit copyright infringement after allegedly reproducing and distributing pirated movies, games and software." Matthew Thompson was indicted after a "two-year undercover FBI operation targeting the originators of pirated material on the Internet, according to court documents. … He and the nine others named in the indictment are scheduled to be arraigned Feb. 22 in a San Jose, Calif., courtroom." FBI spokeswoman LaRea Quy said the indictment "was part of a continuing investigation, Operation Copycat, that involved one of the largest operations of pirating software, movies and games."

Cyberstalking Law Seen As Annoyance To Some, Danger To Others. USA Today (2/15, Willing) reports, "It didn't get much publicity, but an anti-stalking bill passed by Congress recently makes it a federal crime to 'annoy' someone over the Internet. … And that's really beginning to bug some people. … 'It's a stupid law that has slipped in under the radar,' says Clinton Fein, a San Francisco-based artist who runs annoy.com, a website that he says offers 'unique and irreverent' commentary on politics and culture. 'Who says what's officially annoying? Is that a business we really want our government to be in?'" USA continues, "The law makes it a crime to anonymously 'annoy, abuse, threaten or harass' another person over the Internet. … Rep. Jim McDermott of Washington inserted the provision into legislation that reauthorized the federal Violence Against Women Act. It carries a prison sentence of up to two years and an unspecified fine for those convicted of violations. President Bush signed the bill into law Jan. 5. … McDermott said he was prompted to act by the case of Joelle Ligon, a Seattle woman who was sent menacing e-mails, falsely accused of résumé-padding in messages to co-workers and impersonated in sex-oriented Internet chat rooms from 1998 to 2003." USA notes, "Some of the communications were traced to a former boyfriend in South Carolina. He was sentenced to five years of probation and 500 hours of community service after he was prosecuted under a federal telecommunications law that protects against harassment. … To eliminate questions over whether phone law applied to the Internet, McDermott pressed for the new legislation. The language 'annoy, abuse, threaten or harass' was taken directly from the telephone law. … Mike DeCesare, a spokesman for McDermott, says the new law is not intended to curb free speech. … 'This is about bad people doing bad things. … It relates to somebody who does something to somebody else,' he says. 'It's not about posting something on a message board. It's got to be direct, one-to-one communication.'"

CIVIL LAW:

Security Agency Whistleblowers Seek Enhanced Protections. The Government Executive (2/15, Strohm) reports, "Whistleblowers who have alleged misconduct or criminal activity at national security agencies told lawmakers Tuesday that they have been retaliated against for their disclosures, and urged stronger rights for both federal employees and contractors reporting wrongdoing." GE continues, "In an unusual move,

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whistleblowers from the FBI, National Security Agency, Defense Department and Energy Department were allowed to testify before the House Government Reform National Security, Emerging Threats and International Relations Subcommittee. Congressional committees usually hear from senior agency managers, not rank-and-file employees." GE adds, "The whistleblowers recounted their allegations and how they were retaliated against, in some cases by having their security clearances revoked or their careers ruined. They said agency managers seemed more focused on cover-ups and retaliation than investigating allegations or addressing exposed problems. … 'I became a whistleblower not out of choice, but out of necessity -- necessity to tell the truth,' said Army Lt. Col. Anthony Shaffer, who said he was retaliated against after reporting pre-9/11 intelligence failures. … Shaffer is scheduled to testify in a closed session Wednesday before the House Armed Services Committee. Rep. Curt Weldon, R-Pa., said the session will be 'a hearing that is going to change . . . the nature of this city.'"

The AP (2/15, Shrader) reports, "Five government whistleblowers said Tuesday they had faced retaliation for calling attention to alleged government wrongs, such as prisoner abuse in Iraq and illegal surveillance at the National Security Agency. … They told their stories to the House Government Reform Committee's national security subcommittee, whose chairman, Rep. Chris Shays, R-Conn., indicated an interest in altering the law to better protect national-security whistleblowers." The AP continues, "Shays said they are vulnerable to unique forms of retaliation, including suspension or revocation of security clearance, which can have the same 'chilling effect' as demotion or firing. … 'The system is broken,' Shays said." The AP adds, "In written testimony, inspectors general from the Defense, Justice and Energy departments said complaints of reprisals involving security clearances were rare. … 'The allegations were either not substantiated or were closed after a preliminary inquiry determined there was insufficient evidence to warrant a full investigation,' acting Defense Department Inspector General Thomas Gimble said. … The five whistleblowers, who have made headlines before, offered their stories at Tuesday's hearing. Many described their inspector general as ineffective or co-opted by the security offices."

Senate Blocks Asbestos Bill. USA Today (2/15, 2.31M) reports, "The Senate voted Tuesday to send an asbestos-compensation bill back to a committee because it violates budget rules. The vote was 58-41. Sixty votes were needed to move the bill forward. It was 'the key vote on this bill,' said Senate Minority Leader Harry Reid, D-Nev." Majority Leader Bill Frist "said before the vote that 'if we are unsuccessful this week in addressing asbestos, that's it for this year.'"

The Financial Times (2/15, Waldmeir) reports, "Lobbyists close to the legislation said some members of Congress might try to put forward a different asbestos bill this year." But "they said the passage of such legislation would be a long shot."

The Washington Post (2/15, A3, Murray, 744K) reports, "After the vote, Sen. Patrick J. Leahy (Vt.), the ranking Democrat on the Senate Judiciary Committee and a co-author of the bill, told reporters that the proposed fund is not dead and that he had counted the vote of one absent senator -- Daniel K. Inouye (D-Hawaii) -- for his side." Republicans also "said that they might be able to flip the vote of one of the 11 GOP senators who sided with Democrats to defeat the legislation."

The Wall Street Journal (2/15, Mullins, 2.11M) reports, "Even if Mr. Specter had prevailed, he faced more challenges in the days ahead. Mr. Reid and Senate Democrats planned to launch a filibuster against the bill, forcing Mr. Specter to again find 60 votes to defeat his opponents." The Journal adds, "Among the Republicans who voted against Mr. Specter were Sens. Judd Gregg of New Hampshire, James Inhofe of Oklahoma and John McCain of Arizona. Democrats voting to defeat the bill were Mr. Reid and Sens. John Kerry of Massachusetts, Ben Nelson of Nebraska and Kent Conrad of North Dakota. The Democrats who supported Mr. Specter included Sen. Patrick Leahy of Vermont."

The New York Times (2/15, Labaton, 1.19M), Washington Times (2/15, Hurt, 90K), Los Angeles Times (2/15, Peterson, 958K) and Roll Call (2/15, Pierce, Newmyer), among other newspapers, also report the story.

CIVIL RIGHTS:

9th Circuit Panel Hears Arguments On Boy Scouts' Use Of Public Parks. The AP (2/15, Chavez) reports, "An attorney for the Boys Scouts of America and a lawyer from the Bush administration's Justice Department told an appellate court panel Tuesday that a lower court erred when it ruled that San Diego was promoting religion by granting the youth organization long-term leases to city parklands." The AP continues, "George Davidson, an attorney for the Boy Scouts, said the group has no theology and only holds the position that children should 'do duty to God' in order to become productive citizens. The organization has few references to religion in its manual and has a practice of 'punting it back to parents and religious leaders' when it comes to religious matters, Davidson told the court." The AP adds, "Eric Treene, a Justice Department lawyer in the Civil Rights Division, told the three-judge panel of the 9th Circuit Court of Appeals that the Scouts have a nondiscrimination policy when it comes to who can use its space and the city has more than 120 leases with other

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groups who use park areas in exchange for maintenance and improvements. … The Boy Scouts has been the target of preferential treatment lawsuits since the U.S. Supreme Court in June 2000 ruled that the organization has a constitutional right to exclude openly gay men from serving as troop leaders and because it compels members to swear an oath of duty to God. … The American Civil Liberties Union sued San Diego and the Boy Scouts of America over the leases in August 2000 on behalf of a lesbian couple and an agnostic couple, each with scouting-age sons."

DOJ Probes Decrease In Georgia County's Student Population. WTVM-TV, Columbus, GA (2/15) reports, "Schools in Barbour County are becoming predominately black. … A problem Superintendent Vic Adkinson is out to change. 'From a legal sense, the status-quo cannot be continued where an open enrollment is allowed and students are allowed to come and it's being selected cased on, whether it's been based on race, academic performance or socio-economic status. You know it's got to stop,' says Barbour County Superintendent, Vic Adkinson." WTVM-TV continues, "During the past few years Adkinson says he's seen a decrease in the student population in Barbour County. Many of those students he says have transferred to the Dale County School System. … A problem that has prompted an investigation by the U.S. Justice Department. … Information released by its Civil Rights Division says during the 2004-05 school year Barbour County enrolled 1,222 students... of whom 94% were black and only 63 students were white. We're told Dale County accepted 168 students from Barbour County...of those, 78% were white and all were allowed to transfer. … 'The Justice Department has asked them to stop accepting students and to give them a response on how they're going to deal with the students that they have now that are from Barbour County,' says Adkinson."

DOJ Challenges South Carolina Primary Election System. The AP (2/15, Davenport) reports, "The U.S. Justice Department is challenging the way South Carolina conducts primaries and that could change the long-used calendar for primary runoffs that now come two weeks after the first round of voting." The AP continues, "A spokesman for the Justice Department said Tuesday the agency is enforcing laws intended to make sure people living overseas or serving in the military abroad have the same opportunity to vote as those living here. Several states, including South Carolina, were asked several months ago to show how they would make sure ballots were sent and received in time to be counted, Justice Department spokesman Eric Holland said." The AP adds, "He would not say whether the agency is considering an injunction against South Carolina that could delay primaries. 'We're working with those states to resolve those issues,' Holland said. … Sen. Larry Martin, R-Pickens, said he wanted to rush a bill through the Senate to avoid the potential for a federal injunction on the issue that could delay the June 13 primary and plans for runoff voting on June 27. … Martin said the legislation he was introducing would delay any primary runoff by two weeks, pushing it back to a month after the primary."

Study Finds Bush Education Policy Benefits Whites Over Poor Minorities. Reuters (2/15, Szep) reports a Harvard University study shows President George W. Bush's No Child Left Behind education policy "has in some cases benefited white middle-class children over blacks and other minorities in poorer regions." The study said "political compromises forged between some states and the federal government have allowed schools in some predominantly white districts to dodge penalties faced by regions with larger ethnic minority populations." Instead of "uniform standards, the policy has allowed various states to negotiate treaties and bargains to reduce the number of schools and districts identified as failing, said the study by Harvard University's Civil Rights Project."

Judge Grants One Week For Hawaii Youth Facility Injunction Agreement. The Honolulu Star-Bulletin (2/15, Reyes) reports, "A federal judge has given attorneys one week to draft an injunction to protect lesbians, gays, bisexuals and transgender wards at the Hawaii Youth Correctional Facility until a lawsuit alleging abuse and harassment of such inmates can be decided." The Star-Bulletin continues, "Attorneys for the state and the American Civil Liberties Union of Hawaii say they are far apart on an agreement but will try to negotiate something by next Tuesday's deadline. … When asked whether he was confident that an agreement could be reached, Attorney General Mark Bennett flatly replied, 'No.' … 'I'm not confident that we can reach an agreement on the language of an injunction, no, but we'll certainly try,' Bennett said. 'We've been trying; it didn't succeed. We'll try some more.'" The Star-Bulletin adds, "Lois Perrin, legal director for the ACLU of Hawaii, echoed his sentiments. … 'We're certainly willing to try and come up with agreed-upon language,' Perrin said. 'Our objective here is to ensure that the discrimination and harassment of (lesbian, gay, bisexual and transgender) wards at HYCF is fixed and that it's fixed promptly.' … The ACLU sued in September on behalf of three former wards who alleged they were harassed and abused because of their actual or perceived gender identity and that administrators knew of the problems but did nothing to stop it. … U.S. District Judge J. Michael Seabright ordered the injunction last

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week, finding that there was enough evidence to support their claims."

Overcrowding, Gang Activity Make Los Angeles Jails A Pressure-Cooker. The Christian Science Monitor (2/15, Wood) reports, "Riots that rocked Los Angeles County jails this month can be attributed to overcrowding, say some criminal-justice analysts. Other observers cite rising gang conflicts between blacks and Hispanics throughout the L.A. area, which they say are increasingly spilling into a jail system ill-equipped to deal with it. To still others, blame lies with a society eager to punish wayward young men harshly, with little thought to the fact that they will one day be released to walk the streets." The Monitor continues, "Whichever explanation hits closest to the truth, the violence in the nation's largest jail system - which has involved 2,000 inmates and resulted in two deaths and nearly 100 serious injuries - points to rising pressures inside the jails and the challenges of containing them. On Monday, jail authorities, who have come under fire for not quelling the violence, began transferring hundreds of county jail inmates to state prisons in a bid to separate the most violent offenders from the general jail population. … The riots, which began Feb. 4 at a correctional facility 40 miles north of Los Angeles in Castaic, involved dormitories of more than 100 men, who attacked one another in succession and tossed beds from balconies. Inmates beat a black prisoner to death at Castaic's biggest jail, Pitchess Detention Center. Fighting broke out last week at the two smaller jails at Pitchess. Despite lockdowns of facilities across the county - meaning restricted movement inside and limited visitation - similar incidents followed. A second inmate died Sunday after a racially motivated fight at Men's Central Jail.

Practice Of Placing Inmates Of Different Threat Levels Together Questioned. The Los Angeles Times (2/15, Garvey, Leonard) reports, "A black inmate who died Sunday after a fight with Latino cellmates at Men's Central Jail had been placed in a group cell with inmates considered serious security threats, despite repeated warnings to sheriff's officials that mixing nonviolent and violent inmates can be deadly." The Times continues, "The death brought new criticism of the Sheriff's Department, which has struggled to calm racially charged violence in the jail system. It has faced scrutiny in the past for killings inside the jails when high-risk and lower-risk inmates are placed together." The Times adds, "Sean Anthony Thompson, 38, had been arrested last week on suspicion of drug possession after he ran a stop sign in Long Beach. Jailers designated Thompson, the father of three, a 'moderate security risk' because he had previous convictions for nonviolent felonies. Authorities said he was attacked after coming to the aid of a 63-year-old black cellmate, also charged with drug possession, who was threatened by three younger Latino inmates trying to take over a bunk bed that had the best light for reading. A fourth Latino in the cell did not take part in the attack." The Times notes, "Deputies had classified the three Latinos as so-called 'level 8s' — the second-highest threat level in the county's inmate classification system and a designation given to inmates with a history of assaults or escapes. The men — ages 18, 21 and 25 — were in jail on such charges as robbery, felony assault with a gun and a parole violation on a previous attempted-murder conviction, Sheriff's Department sources said. … The Sheriff's Department continues to combine inmates of notably different threat levels even though the practice was deemed 'not permissible' under any circumstances in a confidential report to the Los Angeles County Board of Supervisors more than a year ago that raised numerous safety concerns about the jail's use of security classifications."

Ohio Board of Education Eliminates Intelligent Design Standards. USA Today (2/15, Toppo, 2.31M) reports, "In the first major vote since a federal judge ruled last year that intelligent design can't be taught in public schools, the Ohio Board of Education voted Tuesday to eliminate science standards that asked students to apply a "critical analysis" to Darwin's theory of evolution." Scientists "had assailed the Ohio standards as an attempt to repackage intelligent design and introduce religious principles into science class. Intelligent design holds that life on Earth is so complex that it could have been created only by an 'intelligent designer' such as God."

The New York Times (2/15, Rudoren, 1.19M) reports, "The board, which became the first in the nation to single out evolution for special scrutiny under the academic standards it adopted in 2002, stripped the language from the curriculum partly out of fear of a lawsuit in the wake of a December ruling by a federal judge that teaching intelligent design in the Dover, Pa., public schools was unconstitutional." While the Ohio lesson plan "does not mention intelligent design, which posits that life is too complex to be explained by evolution alone, critics contend that the critical analysis language is simply design in disguise."

Ehrlich Pledges To Veto Bill To Restore Voting Rights To Felons. The Washington Times (2/15, Miller, 90K) reports Gov. Robert L. Ehrlich Jr. "yesterday vowed to veto a bill that would restore voting rights to felons, including the state's most violent criminals, immediately upon their release from prison." Ehrlich said, "I don't think you reward the franchise to those who commit the most horrific crimes. Full restoration of every right is inappropriate." The Times adds dozens of Maryland House Democrats "have co-sponsored legislation that would allow about 150,000

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murderers, rapists, robbers and other felons to vote this year, and the state Democratic Party has endorsed the bill." The bill's lead sponsor -- Delegate Salima Siler Marriott, Baltimore Democrat – "said yesterday that Mr. Ehrlich's position reinforces the racist underpinnings of the state law that denies the vote to felons, of whom about 85,000 are black."

Proposed Frederick Douglass Statue Sparks Dispute In Maryland. The Washington Post (2/15, B3, Milloy) reports, "A kind of Civil War reenactment is underway in Talbot County on Maryland's Eastern Shore. A proposed statue of Frederick Douglass, the county's most famous native son, would be located near a Confederate memorial on the courthouse lawn. And to the dismay of some residents, the memorial to Douglass would be bigger." The Post continues, "Renowned sculptor Ed Dwight, at the request of a group of local activists known as Fred's Army, has come up with a preliminary design that takes up nearly a fifth of the courthouse lawn and would render the Confederate memorial little more than a pigeon perch by comparison. … Battle lines have been drawn. … 'The policy adopted by the county is that any new statue would not exceed the proportions or dimensions of other statues,' Philip C. Foster, a member of the Talbot County Council, told me. 'And anyone who didn't die in a war would not be acknowledged as greater than those who did.'" The Post notes, "The Confederate memorial, 13 feet high and erected about 1913 in honor of 'the Talbot Boys,' is the only statue on the courthouse lawn. The cherubic-looking soldier holds a Confederate flag. The initials C.S.A., for Confederate States of America, are engraved on the pedestal. … Veterans groups and others have argued that the courthouse lawn is 'hallowed ground' and should be reserved for war veterans. And they insist that race is not an issue, which, to a certain extent, is true. Fred's Army is racially mixed. And one or two black residents are said to have sided with those who oppose placing a statue of Douglass on the lawn. … But the notion that a memorial to an influential statesman and anti-slavery activist should be no greater than what is, in effect, a monument to slavery, is heavily freighted with race. And the objection that Douglass was not a war veteran discounts his role in the deadly struggle for racial equality."

ANTITRUST:

Global Raids Part Of Air Cargo Price-Fixing Probe. The Wall Street Journal (2/15, Michaels, Wilke) reports, "Several major air-cargo carriers were raided by U.S. and European antitrust enforcers as part of a trans-Atlantic investigation into possible price-fixing and collusion in air cargo, officials said." The Journal continues, "Federal Bureau of Investigation agents raided British Airways facilities at New York's Kennedy Airport yesterday morning, confiscating computers and gathering documents, one official said; similar searches of airlines' facilities took place in Chicago, Miami, San Francisco and Long Beach, Calif. The European Commission conducted its own raids at the same time, saying it had carried out 'unannounced inspections' of airline facilities and offices in Europe." The Journal adds, "A spokeswoman for the U.S. Justice Department said the antitrust division was coordinating with the European Union and 'investigating the possibility of anticompetitive practices in the air-cargo industry.' … Although neither authority specified which carriers are under investigation, British Airways, freight carrier Cargolux Airlines International of Luxembourg and units of Air France-KLM said they had been asked for information related to alleged anticompetitive activities, though they declined to comment further. German airline Lufthansa said it was cooperating with authorities."

The AP (2/15, Wardell) reports, "British Airways, Air France, KLM, Lufthansa and Luxembourg's Cargolux Airlines all confirmed they were cooperating with authorities investigating the pricing practices in the industry. … The largest U.S. airline, AMR Corp.'s American Airlines, also said it has received a subpoena from the Justice Department as part of an investigation into practices in the air-cargo industry. … American was not been told it was a target of the investigation 'and unlike some other airlines,' didn't receive a search warrant, spokesman Tim Wagner said. He said the Fort Worth, Texas-based airline would cooperate fully with investigators." The AP notes, "Justice Department spokeswoman Gina Talamona said that U.S. investigators are working with the EU and other authorities to investigate possible 'anti-competitive behavior.'"

Reuters (2/14, Lawsky, Pelofsky) reports, "It is against the law in most countries for companies to collude to set prices or divide territory. It is standard practice for antitrust authorities in Europe, the United States and other countries to coordinate simultaneous raids on suspects in cartel cases. … The European Commission said it had conducted raids and while it declined to name the targets, Scandinavian airline SAS revealed it had been raided. … British Airways Plc, Air France KLM, and freight airline Cargolux said they were asked for information related to alleged cartel activity. German carrier Lufthansa also said it would cooperate with the probe."

The Fort Worth Star-Telegram (2/15, Banstetter) reports, "The U.S. Department of Justice has subpoenaed American Airlines in conjunction with an investigation into pricing practices in the air cargo industry, American officials said Tuesday. … The subpoena was served by the department's antitrust division, said a spokesman, Tim Wagner. It came amid a European Union probe into possible anti-competitive practices within the European air cargo industry." The Star-Telegram adds, "American and most other

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airlines have implemented fuel surcharges on cargo operations during the past year to help offset the rising cost of jet fuel. American's cargo operations brought in about $622 million last year, down slightly from $625 million the previous year."

Bloomberg (2/15) reports, "Japan Airlines Corp. and Cathay Pacific Airways Ltd. said they are among at least 10 global airlines under investigation by European and U.S. regulators into possible price fixing in the air cargo market. … The push for 'the investigation is probably from the U.S.' because 'the basic rule in America is Thou Shall Not Fix Prices,' said Jim Eckes, managing director of Hong Kong-based Indoswiss Aviation, which advises global airlines. 'It looks like a very sizeable investigation' and 'the EU will be very determined to stamp out this sort of thing.'"

Bloomberg (2/15, Newman) reports, "Antitrust officials entered the offices of carriers in several EU states to investigate, the Brussels-based European Commission said in a statement today. 'The commission has reason to believe that the companies concerned may have violated' EU cartel rules. … Under EU law, the commission can fine companies accused of operating a cartel as much as 10 percent of their annual sales. It typically opts for about 2 percent to 3 percent of sales."

The Financial Times (2/15, Buck, Done, Kirchgaessner) reports, "It is understood that among the issues under investigation by the Commission is the way the industry imposes surcharges on air freight rates for items such as fuel, security and war risk. … The targeted groups could face financial penalties if they are found guilty of operating a price-fixing or market-sharing cartel." The Times adds, "Under EU legislation, the Commission can impose cartel fines of up to 10 per cent of a company's global annual turnover – though Brussels normally settles for a lower penalty. … The US Department of Justice said it was also investigating the industry. 'I can confirm that the antitrust division is investigating the possibility of anticompetitive practices in the air cargo industry. We are co-ordinating with the EU and other foreign competition authorities,' a spokeswoman said."

The London Times (2/15, Jameson) reports, "British Airways revealed that it was under investigation in a statement to the London Stock Exchange. The airline said that it had received a request for information from the Commission and the United States Justice Department 'relating to alleged cartel activity involving BA and a number of other airlines and cargo operators. British Airways' policy is to conduct its business in full compliance with all the applicable competition laws. BA is assisting the EC and the US Department of Justice with their investigation,' the statement said. … Air France, KLM, Lufthansa, SAS and Cargolux, a cargo specialist, also confirmed that they had been visited by European officials. The Commission uses such inspections as a first step in investigations into suspected cartels. However, it pointed out that a raid on any premises does not mean that the company is guilty of anti-competitive behaviour, nor does it prejudge the outcome of the investigation itself."

Reuters (2/14) reports, "United Parcel Service Inc. said on Tuesday that it has not been contacted by the European Commission in connection with a probe into possible anti-competitive activity. … 'We have received no communications on this issue,' said UPS spokesman Norman Black." Reuters adds, "He added that UPS, the world's largest package delivery company, had also received no contact from the U.S. Justice Department, which is coordinating with the EU and other foreign competition authorities."

Record Labels Are New Focus Of New York Antitrust Probe. CNET News (2/15, Borland) reports, "New York State Attorney General Eliot Spitzer has sent record labels a new round of subpoenas in his investigation of online-music pricing, music industry sources said Tuesday." CNET continues, "The second inquiry, following an initial round of subpoenas issued in late December, is more tightly focused on the issue of the labels' digital download activities, sources said. Labels had previously expressed concern to Spitzer's office that the original subpoenas were too broad, sources said." CNET adds, "Warner Music Group said in a federal securities filing Tuesday that it received a second subpoena from the New York office Feb. 3. The company did not provide details other than to say Spitzer was investigating whether digital download pricing practices had violated state and federal antitrust laws. … 'We intend to cooperate fully with the Attorney General's inquiry,' the label said in its filing. … Spitzer's inquiry has reopened some old tensions between the record labels, which control wholesale digital music prices, and the online companies that use that content in their own businesses."

Microsoft Confident New Data Code Will Satisfy EU. Bloomberg (2/15, Newman, O'Reilly) reports, "Microsoft Corp. will tell European Union regulators today of its plan to provide new source code data for the Windows operating system in an effort to avoid a $2.4 million daily fine." Bloomberg continues, "Microsoft also said it will ask for a hearing when it replies to EU demands for complete and accurate data that will help rival software makers. The EU set today as the deadline for receiving Microsoft's plan. … 'We are really, we think, fully complying with the decrees of the European Union,' Microsoft Chief Executive Steve Ballmer said Tuesday at the 3GSM World Congress in Barcelona, Spain. 'We are trying to work with the commission to ensure they agree we have taken the right steps.'" Bloomberg adds, "Separately, the company told a U.S. court Tuesday that it will

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license its source code to speed compliance with a 2001 antitrust settlement with the U.S. government. … The European Commission, the EU's antitrust regulator, warned Microsoft in December that the company would be fined unless it provided information to help competitors develop network software that can communicate with Windows-based systems. … The company is 'confident of the sufficiency, completeness and usability of the documentation provided so far,' Horacio Gutierrez, Microsoft's associate general counsel, told reporters in Brussels, Belgium, Tuesday."

Phone Companies Seek Senate Action On Video-Franchising. The Wall Street Journal (2/15, Schatz, Grant, 2.11M) reports, "The nation's telecommunications laws -- written 10 years ago, before phone calls and TV programs moved over the Internet -- were scheduled for an overhaul by Congress this year. But with the prospects of a major rewrite dim, the nation's biggest phone companies are pushing for a simpler measure: rules that allow them to bypass local governments for approval to offer television service." Today, at a Senate hearing, Verizon and AT&T "will make a pitch for congressional action on national video-franchising rules, which would allow phone companies to roll out video services to compete with cable providers more quickly."

ENVIRONMENT:

Jury Finds Against Rockwell, Dow Chemical In Plutonium Contamination Suit. The AP (2/15, Sarche) reports, "Ruling in 16-year-old case, a federal jury recommended Tuesday that Dow Chemical Co. and the former Rockwell International Corp. pay $553.9 million to thousands of property owners who claimed their land was contaminated by plutonium from the former Rocky Flats nuclear weapons plant. The jury concluded the two companies damaged private property around the site through negligence that caused 'class members to be exposed to plutonium and (placed) them at some increased risk of health problems.' The lawsuit was filed in 1990 on behalf of 13,000 people. The jury also said the damage from the radioactive material may never go away." The AP adds, "The verdict called for punitive damages of $110.8 million against Dow Chemical and $89.4 million against Rockwell. The jury also recommended the companies pay some $352 million in actual damages. The final award is likely to be less because of limits in state and federal law, but could still reach $352 million after US District Judge John Kane reviews the verdict, said Louise Roselle, an attorney for some of the plaintiffs."

Southern States Feel Slighted By Heating Assistance Program. CQ (2/14, Wayne) reports some Southern governors are "complaining that their states are treated unfairly by a federal home energy subsidy program, adding a possible regional complication to efforts by Northern Republicans to boost spending that already faces resistance from budget hawks." The Low Income Home Energy Assistance Program (LIHEAP), "created in 1981, has long been a sore point for Southern states. The program always has been geared toward subsidizing winter heating bills in the Northeast and Midwest, rather than summer air-conditioning bills in the South." Escalating "energy prices are raising the temperature on the dispute. The state of Georgia, for example, plans to spend $10 million of state revenue this year — up from $3 million last year — to supplement its share of LIHEAP, said Heather Hedrick, a spokeswoman for Georgia Republican Gov. Sonny Perdue." Northern Republican senators "led by Olympia J. Snowe of Maine are trying to win at least $1 billion extra for LIHEAP in fiscal 2006. Snowe and her allies already have encountered resistance from at least one Republican senator, Jeff Sessions of Alabama, who GOP aides say is blocking the proposed bill because of its expense. And now Snowe also faces the concerns of Southern governors, like Perdue, who say her legislation would do little to help their states or state budgets."

Ethanol Not Reducing Motorists' Fuel Bills. USA Today (2/15, Healey, 2.31M) reports the "heavily promoted alcohol fuel called E85 might cut America's oil use and help support US agriculture, but it's not reducing motorists' fuel bills. It's boosting them significantly." The "price of E85 — a fuel that's 85% ethanol made from grain and 15% conventional gasoline -- is higher than that of gasoline, even though E85 has only 72% as much energy. The U.S. Department of Energy says a vehicle has to use 1.4 times as much E85 as gasoline to go the same distance." At some Nebraska stations, "E85 was $2.19 a gallon Tuesday, while gasoline with 10% ethanol — a common substitute for unleaded regular in the Midwest -- was $2.06."

Chambliss Warns Next Farm Bill Will Be Less Generous. CQ (2/14, Hunter) reports Sen. Saxby Chambliss, Chairman of the Senate Agriculture Committee, "warned Tuesday that increasing budget pressures and a changing global trade environment mean that the next farm bill will be less generous than the current law." Sen. Chambliss said, "I can say without question that we are going to have less money to deal with than we did in 2002. That means we are going to have to change the direction of some programs." Speaking to a "group of policy analysts and ambassadors attending a policy forum at the Carnegie Endowment for International Peace," Chambliss said "US

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farmers and ranchers will have to be more innovative and trade-oriented." Chambliss said "a recent World Trade Organization (WTO) ruling against an American cotton subsidy program is indicative of issues that upcoming farm legislation must address." The WTO has "ruled that the subsidy violates international trade rules. The United States has pressed other countries to eliminate high import tariffs and quotas, but the WTO has put its emphasis on ending trade-distorting subsidies."

FBI/DEA/ATF/USMS:

Church Fires Spark Alabama's Largest Manhunt. The New York Times (2/15, Noles) reports, "In the largest manhunt in Alabama since the bombing of a Birmingham abortion clinic in 1998, 200 law enforcement officers are working to solve the arson that has damaged or destroyed 10 rural churches this month. … 'The initial forensic work is done,' Special Agent Eric Kehn, a spokesman for the Bureau of Alcohol, Tobacco, Firearms and Explosives, said Tuesday. 'Now we are just working the scene, and it is a big scene. We are out and about, in the community, pursuing leads. To date, we have over 400 of them, and we take them all seriously.'" The Times continues, "The investigative team, formally the Alabama Church Fires Task Force, has set up headquarters at the Tuscaloosa Regional Airport. It is led by Jim Cavanaugh, a 30-year veteran of the firearms bureau who heads its Nashville field division." The Times adds, "Mr. Cavanaugh's agents, teamed with the F.B.I., the Alabama Bureau of Investigation, the office of the state fire marshal and local sheriffs' departments, have fanned out across western and central Alabama, where all 10 fires were set. And, in hopes that the arsonists will contact them, the investigators have set up a phone line and an e-mail address. … The firearms bureau's initial response to the church fires came on Feb. 3, just hours after the first five, with the deployment of a Critical Incident Management Response Team, which established an organizational framework for the investigation."

Man Arrested In Alleged Alabama Copycat Fire. The AP (2/15, Reeves) reports, "A man described as mentally disturbed was jailed Tuesday on suspicion of setting fire to an abandoned church in what authorities said was a copycat of the recent church arsons in rural Alabama." The AP continues, "Calhoun County Sheriff Larry Amerson said the arrest was 'absolutely not' otherwise linked to the fires that have destroyed or damaged 10 rural Baptist churches since Feb. 3 in central and west Alabama. … The man lived beside the old White Plains Church of God, where flames heavily damaged a storage room Monday night, and has a brother who is a volunteer firefighter, Calhoun County Chief Deputy Matthew Wade said. … 'He wanted to see his brother put out a fire,' Wade said." The AP adds, "Amerson said investigators believe the suspect, whom he identified as Jason Phillips, 21, also started several brush fires after watching news coverage of the church arsons. … 'In that sense, it is a copycat case,' Amerson said. … Agents with the federal Bureau of Alcohol, Tobacco, Firearms and Explosives said no arrests have been made in the other blazes, all of which have been ruled arson."

DEA Stops $12 Million Cocaine Deal In Ohio. The WDTN-TV, Dayton, Ohio (2/14) reports on its Web site, "Police took millions of dollars of drugs in a huge drug bust Tuesday. More than 110 kilos of cocaine were grabbed by DEA agents on State Route 202…in Huber Heights after watching a deal go down. 'Last week the DEA received some information from credible sources that a large amount of cocaine was coming into the Dayton area,' explained Russ Neville of the Drug Enforcement Administration. 'We watched them make an exchange. Driving off of I-70, then getting off at 202, traveling north.' Three people were arrested and are currently in jail. Neville estimated the value of the drugs at $12 million dollars."

The Dayton Daily News (2/15) reports, "The bust is the second largest involving cocaine in the region's history. … Because I-70 and I-75 intersect here, the area long has been a popular transfer point for traffickers moving cocaine to Columbus, Indianapolis, Lexington, Cincinnati and West Virginia. The FBI, U.S. Immigration and Customs Enforcement, Huber Heights police, the patrol and drug task forces in Montgomery, Greene and Warren counties helped in the bust."

Local TV Coverage. WHIO-TV, Dayton (2/14, 11:00 p.m.) reported, "Agents were tipped off that 110 kilos of cocaine were on their way from Columbus to Dayton. Agents watched the drugs trade hands and followed the three cars involved. They pulled two of them over on 202 in Huber Heights and arrested three men."

WRGT-TV, Dayton (2/14, 10:00 p.m.) reported, "Three people are under arrest and over 100 kilos of cocaine are off the streets after a bust this afternoon in Huber Heights. Police had been keeping surveillance on the suspects from Columbus. They say the three picked up a shipment of cocaine from a fourth suspect on Executive Boulevard. Once the suspects drove off, police arrested them after a traffic stop on Troy Pike. The cocaine has a street value of over 12 million dollars. … Police are still searching for the fourth suspect in the case, who sped away after the drug deal."

WDTN-TV, Dayton (2/14, 11:00 p.m.) reported, "Millions of dollars worth of cocaine is off the streets tonight. Task forces teamed up making the bust on old troy pike near 70, in Huber Heights. … Last week, the DEA received some information from a credible source [about a] large amount of cocaine coming into the Dayton area. The DEA found 110 kilos of cocaine wrapped and packed in boxes. They say it' s

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worth about 12 million dollars on the streets. Three people were put under arrest."

US Indicts Five In Hells Angels Case. The AP (2/15, Geranios) reports, "A federal grand jury on Tuesday indicted five members or associates of the Hells Angels Motorcycle Club in various crimes. Two of the men were charged specifically in the 2001 slaying of a man in Arlington, Wash." The AP continues, "Spokane chapter president Richard Allen Fabel, 48, also known as Smilin' Rick, was charged with racketeering and conspiracy to racketeer. He is accused of directing other gang members to engage in murder, attempted murder, intimidation, extortion, robbery and trafficking in stolen motor vehicles and motor vehicle parts. … The men, who were arrested Tuesday, will be tried in Seattle, where the indictment was unsealed." The AP adds, "The others indicted were Ricky Jenks, 28, of Spokane; Rodney Lee Rollness, 45, of Snohomish; Joshua Binder, 30, of North Bend; and Paul Foster, 49, of Arlington. … Fabel and Jenks appeared Tuesday in Spokane before U.S. Magistrate Cynthia Imbrogno, who ruled the two should remain in jail until a bail hearing on Thursday. Fabel had asked for a bail hearing immediately. … 'It's Valentine's Day. Have a heart, for once,' Fabel joked to Assistant U.S. Attorney Jared Kimbell, who said the government was not prepared for an immediate bail hearing. … Rollness and Binder appeared in federal court in Seattle, and had bail hearings set for Friday. Foster was scheduled to make his first court appearance on Wednesday."

DHS Spokesman Says Air Marshals Accused Of Drug Smuggling Had Thorough Background Checks. The Houston Chronicle (2/15) reports that ex-colleagues are surprised that federal sky marshals Burlie L. Sholar, and Shawn Ray Nguyen of Houston are "accused of conspiring to use their positions as air marshals to smuggle 15 kilograms, or 33 pounds, of cocaine on an airliner flying from Houston to Las Vegas." David Adams, spokesman for the Department of Homeland Security, "said Sholar and Nguyen both were subjected to thorough background checks that gave them a top-secret security clearance. The background checks conducted by the Office of Personnel Management typically include a review of previous employment, criminal and credit background checks, and interviews of acquaintances by field agents, Adams said. The field agent reports are reviewed by other officials. Once approved, agents must be reinvestigated every five years, he said."

Coca Products At Morales Inaugural Dinner, Legal Coca Leaf Importer Called "Media-Shy". Reuters (2/14) reports, "It is not often that the menu of a presidential inaugural dinner provides insight into a country's development plans. But it did at the inauguration of Bolivia's Evo Morales last month -- the fare included coca cake, coca cookies, coca wine and coca sweets. Served to some 300 local and foreign dignitaries in the airy grand hall of the presidential palace, the coca-based menu served notice that the new Bolivian government will try to win international legitimacy for the coca leaf and make it an export commodity. … Most medical opinion holds that coca leaf, as opposed to the cocaine extracted from it, is neither addictive nor harmful. The leaf's use as a mild stimulant and hunger suppressant dates back thousands of years. … Complaints about the lack of rational argument on coca leaf are echoed up and down the Chapare, the tropical region where Morales launched his political career by leading coca growers in protests against U.S.-financed efforts to eradicate the coca plant." Reuters continues, "The only legal importer of coca leaf into the United States is the Stepan Co. of Maywood, New Jersey, a company so media-shy it has no public relations department or spokesperson. Telephone inquiries yield pregnant pauses and the suggestion that databases and public records can provide the details Stepan declines to divulge. According to public records and published reports, Stepan imports coca leaves -- around 380,000 pounds (172,000 kg) a year -- under an agreement with the U.S. Drug Enforcement Administration (DEA) which has to be renewed every year. The latest application to import coca leaves was filed on March 29, 2005, and needs to be renewed next month."

Morales Accepts Re-election As Leader Of Coca Farmers Union. The AP (2/15) reports, "President Evo Morales accepted re-election as leader of Bolivia's largest coca farmers union Tuesday, despite saying earlier he would step down from the post. Morales, who was inaugurated as Bolivia's first Indian president three weeks ago, traveled to the central city of Cochabamba to thank the union members and defend his decision to remain their leader in the face of 'enemies (who) have made negative comments.' … On Monday, the cocaleros picked him to fill the union's top job for the 10th year running. Opposition politicians have criticized Morales' continued involvement. 'The president is making a mistake that could damage the image of the country," said Senator Tito Hoz de Villa. 'He's no longer a union leader, but president of all Bolivians.'"

US-Mexico Border Violence Said To Be Escalating With Increased Law Enforcement. In the Christian Science Monitor (2/15) Kris Axtman writes, First came an armed standoff between Texas lawmen and drug smugglers disguised as Mexican soldiers. Next, federal officials seized a stockpile of heavy-duty weaponry - assault rifles, hand grenades, and improvised explosive devices - along the Rio Grande. Then a Mexican police reporter was

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critically wounded after intruders fired more than 60 rounds into the newspaper's offices. These three incidents in as many weeks dramatize the rising violence along the US-Mexico border. Drug traffickers are becoming more brazen and expanding their operations to include smuggling people. Even as President Bush proposes to beef up border security, these attacks are renewing the debate over how best to keep criminals - perhaps even terrorists - from crossing into the United States. … Ever since Mexican President Vicente Fox declared war on drug cartels last year, border violence has escalated. … Part of the rise in violence stems from increased US law enforcement at the border, which is creating a more desperate drug smuggler, many experts say. But it also is rising because these drug smugglers are becoming heavily involved in the lucrative people-smuggling business and are using the same violent tactics to evade law enforcement."

Some Border Security Proposals Called Dangerous, Self Defeating. In USA Today (2/15) Ruben Navarrette writes, "The trouble is that some proposed solutions — from putting troops on the border to denying citizenship to the children of illegal immigrants — bring to mind the old saying about the cure being worse than the disease. That includes this one: Allowing local police to enforce federal immigration law. This dangerous and self-defeating concept is popular with those who think that law enforcement officers are interchangeable, and that one badge is as good as another."

IMMIGRATION:

Man Pleads Guilty To Helping Illegal Immigrants Get Tennessee Drivers Licenses. The Knoxville News Sentinel (2/15, Satterfield) reports Claudio Galvan pleaded guilty to "shuttling -- for $700 a pop -- as many as 98 illegal immigrants in six months to Tennessee to get driver's licenses." Galvan, "himself an illegal immigrant already deported at least once, admitted at a hearing before U.S. District Court Judge Tom Varlan that he was the leader of a conspiracy to procure Tennessee driver's licenses for other illegal immigrants." Court records show Galvan "charged other illegal immigrants $700 to take them from Georgia to a driver's license testing center in Maryville and also helped them obtain fake documents needed to show proof of Tennessee residency. It was the second such shuttle service using East Tennessee testing centers shut down by the FBI in less than a year."

TAX:

DOJ To Enter Deferred Prosecution Agreement With German Bank Over Tax Shelters. Dow Jones (2/15) reports, "German bank Bayerische Hypo & Vereinsbank AG, known as HVB, will pay $29.6 million to the federal government as part of a deferred prosecution agreement in the Justice Department's probe into fraudulent tax shelters, prosecutors said Tuesday." Dow Jones continues, "At a hearing in federal court in Manhattan, prosecutors from the U.S. Attorney's office in Manhattan said the bank's payment includes nearly $16.2 million in disgorgement and forfeiture, as well as more than $6.9 million in restitution. Payment must be made by Feb. 17. … The agreement runs for 18 months. If the bank doesn't violate it during that time, it will likely avoid prosecution. … The bank also has agreed to restrictions on certain types of business and will implement an ethics and compliance program in its U.S. business." Dow Jones adds, "As part of the agreement, the government filed a criminal information against the bank, charging it with one count of conspiracy. … U.S. District Judge Alvin K. Hellerstein accepted the agreement at Tuesday's hearing. … In a statement, Chris Wrenn, HVB's chief operations officer in the U.S., said, 'HVB has cooperated fully with the government's investigation and will continue to do so. We have already begun to implement the actions mandated by the [deferred prosecution agreement.] We are pleased to have reached this settlement and can now focus more fully on our core businesses.'"

The New York Times (2/15, Browning) reports, "The development is the latest in a widening inquiry of accounting firms, lawyers and now banks. Yesterday, Germany's second-largest bank, HVB Group, agreed to pay nearly $30 million in a plea bargain with federal prosecutors over four types of tax shelters, averting an indictment. … The criminal investigation of the banks is being conducted by the United States attorney's office in Manhattan and follows its investigation into the accounting firm KPMG's role in the creation and sale of bogus tax shelters. In August, KPMG avoided indictment by agreeing to pay $456 million. Seventeen former KPMG employees and two others have been indicted on charges of plotting to defraud the Internal Revenue Service through the creation and sale of four tax shelters. All 19 are fighting the charges."

IRS Estimates Annual Uncollected Taxes Total $345 Billion. The Wall Street Journal (2/15, Herman, 2.11M) reports, "New government estimates of revenue losses from uncollected taxes are likely to increase pressure on the Internal Revenue Service for tougher enforcement measures. The IRS yesterday issued revised estimates of the nation's 'tax gap,' the difference between what taxpayers should be paying and what they actually do pay." The IRS "estimated the 'gross' tax gap at $345 billion a year." IRS officials "say they already have taken major steps. They have increased the number of audits of people making $100,000 or

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more, and they have intensified their crackdown on what they consider to be abusive tax shelters, or transactions with no real purpose other than dodging taxes. They have stepped up scrutiny of family limited partnerships, a popular technique for cutting estate and gift taxes. And they have increased efforts to pursue 'nonfilers,' people who should be filing tax returns but aren't."

The New York Times (2/15, Johnston, 1.19M) reports I.R.S. commissioner, Mark W. Everson "acknowledged that the estimate is probably low because the I.R.S. looked only at individuals and small unincorporated businesses. It has not revised its estimates of tax cheating by corporations, large estates and by firms that do not hire their workers directly but instead contract with an employee leasing firm."

The Washington Post (2/15, D2, Crenshaw, 744K) reports, "The biggest component of the tax gap attributable to individuals is underreported income from business activities for which there is no third-party reporting comparable to the W-2 reports of wages that employers send to the IRS. Such underreported income -- including rents, royalties, partnerships and the income of self-employed people -- totaled $109 billion. Exaggerated deductions accounted for $14 billion of the 2001 gap."

IRS Ruling Allows Families To Prepay Multiple Years Of Tuition. The Wall Street Journal (2/15, Herman, Silverman) reports, "Bolstered by a recent IRS ruling, a small but increasing number of wealthy individuals are cutting their tax bills by prepaying family members' tuition bills for multiple years." The Journal continues, "Tax advisers say this technique could be a smart move for people with large estates who want to pay for a student's tuition and fear they might not live long enough to pay the bills as they come due each year. This way, they can help their families deal with soaring education costs and skirt hefty federal estate and gift taxes. But the technique is also proving popular with younger, healthy individuals." The Journal adds, "Private schools and colleges are seeing more relatives adopting the strategy, and some are now actively encouraging families to prepay tuition bills, which at some elite private schools can run nearly $30,000 a year -- and even more at some colleges."

Senate Votes To Extend Tax Cuts. The Wall Street Journal (2/15, Mullins, 2.11M) reports Republicans "took a step toward extending lower tax rates on investments when a majority of senators for the first time in this session of Congress signaled that they support the idea." The Senate voted 53-47 "in support of a two-year extension of President Bush's 15% rates on capital gains and dividends. By the same margin, senators said the final tax bill should both lower tax rates on capital gains and dividends and exempt millions of middle-income Americans from the alternative minimum tax." The votes were "on a procedural motion and won't have any effect over the final tax bill," but "they put a majority of senators on the record as supporting an extension of lower tax rates on capital gains and dividends." Of the Senate's 55 Republicans, "three voted against the rate extensions: Sens. Lincoln Chafee of Rhode Island, Olympia Snowe of Maine and John Warner of Virginia. Democrat Ben Nelson of Nebraska voted with Republicans."

Grassley Says House Republicans Need To Offset Tax Cuts. CQ (2/14, Schatz) reports Senate Finance Committee Chairman Charles E. Grassley "staked out his negotiating position Tuesday for the conference on a $70 billion tax cut package, telling House Republicans they will have to accept revenue-raising offsets if they hope to see the Senate clear the final version of the bill." The Senate "appointed conferees Tuesday, clearing the way for formal negotiations on the stalled tax cut package (HR 4297). Conferees are unlikely to meet before lawmakers leave town Feb. 17 for the Presidents Day recess, but they hope to reach a deal before the March recess." On Tuesday, Grassley "argued on the Senate floor that revenue-raising provisions will need to be part of the final tax package in order to make room under a $70 billion cost ceiling for all of the cut extensions that are priorities of the House and Senate. That includes a $21 billion, two-year extension of the capital gains and dividends provision, about $15 billion worth of non-controversial short-term business tax 'extenders' and a $31 billion Senate-endorsed provision blunting the effect of the alternative minimum tax (AMT) on middle-income taxpayers."

Snow Defends Capital Gains, Dividend Tax Cuts. In a Wall Street Journal op-ed (2/15), Treasury Secretary John Snow says that by "nearly every conventional statistical measure, the American economy is performing very well today -- continued economic growth; a strong employment market; household wealth is at historic highs; inflation has been kept in check; interest rates are still low by historic standards." While "many factors contributed to the improved performance of the economy" since 2001, "the tax reductions on capital have been at the heart of the progress we have seen." By "lowering the cost of capital, the president's proposals improved the inherent efficiency of the economy." Snow adds, "It concerns me that some in Congress are today looking to increase taxes on capital gains and dividends. Worse yet, there have been suggestions that the administration should choose between protecting the middle class from the Alternative Minimum Tax and extending the low rates on capital gains and dividends."

CONGRESS-ADMINISTRATION:

Bush, Cheney Staffs Said To Be At Odds Over Handling Of Shooting Accident. Media reports

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indicate there is a growing split within the White House between the staffs of the President and the Vice President over the handling of last weekend's accidental shooting. "People inside the White House" are said to be "livid" about Vice President Cheney's handling of the incident, said the CBS Evening News (2/14, story 3, 1:35, Borger), adding "a source that I can characterize as close to this Administration" said, "It's no longer about indulging Dick Cheney's views of press management." Instead, the source "says it's now about Iraq and Katrina and a range of other issues that play into the public's views of this Administration's arrogance. And this source calls this a terrible mishandling. He says that it's going to just give voice to the Administration's critics." Borger added that "privately, signals are being sent into the Vice President's office that this has been handled badly and that perhaps the Vice President himself does need to come out and say something about it." The "staffs of the President and the Vice President could be on a collision course."

The New York Times (2/15, Sanger, 1.19M), in a similar report, also says "the tension between President Bush's staff and Mr. Cheney's has been palpable, with White House officials whispering to reporters about how they tried to handle the news of the shooting differently. … The past three days have underscored, in public, what has always been clear in the Bush White House: Mr. Cheney plays by rules of his own making. It is the freedom that only a political figure who knows he is in his last job -- he often says he will never run again -- can get away with."

NBC Nightly News (2/14, lead story, 3:45, Gregory) reported, "Here at the White House, aides have done little to hide their disagreement with the Vice President and his staff over the handling of this whole matter."

The Washington Post (2/15, A1, VandeHei, Baker, 744K) runs a front-page story titled "Cheney's Response A Concern In GOP," in which it says "Cheney's slow and unapologetic public response…is turning the quail-hunting mishap into a political liability for the Bush administration and is prompting senior White House officials to press Cheney to publicly address the issue as early as today, several prominent Republicans said yesterday." The Post adds, "White House aides said Bush has not pressured Cheney to disclose more details about the shooting or to apologize. One person close to both men said that Bush is the only person in the White House who could persuade Cheney to change strategy and that even high-level White House aides are reluctant to take on the vice president's office."

Fox News' Special Report (2/14, Cameron) reported, "Fox News has learned that going back to Saturday after the hunting accident, senior white house officials on the President's staff believed the information would be disclosed Saturday night. It was the Vice President who changed course. The first time we may hear from Mr. Cheney is Friday. He is scheduled to speak to the Wyoming state legislature."

CNN's The Situation Room (2/14, Todd) reported, "Another political headache, another brushback with the media, and another round of a familiar question: Has Dick Cheney tipped the balance and become more trouble for this President than he's worth? … New York Daily News bureau chief Tom DeFrank has covered the vice president since 1974, when, he says, Dick Cheney was more accessible than his boss, a young White House chief of staff named Donald Rumsfeld. DeFrank believes Cheney's influence with…Bush had eroded -- too much cumulative political backlash, he says, starting with Cheney's secret meetings with energy executives while forming the nation's energy policy, his history with Halliburton, the company accused of questionable government contracts in rebuilding Iraq, the CIA leak scandal, and one seminal moment. … But Republican strategists say that lightning-rod quality makes Cheney more valuable in rallying the conservative base, and the president who campaigned as a Washington outsider still needs him. … Those who know and have covered Dick Cheney say, in weighing all of those assets and liabilities, we should allow for one more consideration, that Dick Cheney doesn't care what the press and politicos think. He has no political ambition beyond January 2009." The CBS Evening News (2/14, story 2, 2:10, Schieffer) also said Cheney, "never a big fan of the media to begin with, really couldn't care less what reporters think of him now."

Print coverage of Cheney's handling of the incident turned even more negative than it was on Tuesday. For example, the Baltimore Sun (2/15, Davis, 296K) says the incident "has tarnished Cheney's image and highlighted his penchant for secrecy, while thrusting Bush's top aides, including press secretary Scott McClellan, into a tug of war with the news media." Knight Ridder (2/15, Thomma) says "Cheney turned a tragic hunting accident into a public relations disaster by maintaining his business-as-usual approach to his life: that it's nobody's business." And the AP (2/15, Raum) reports, "At the start of the Bush presidency, Dick Cheney was viewed as the grown-up, the seasoned hand to guide an inexperienced president. Now, he's the center of controversy." The shooting "presents a new problem for the White House as it seeks to repair damaged credibility in a midterm election year in which continued GOP control of Congress hangs in the balance."

Whittington Heart Attack Triggers More Questions About White House Secrecy. Harold Whittington, the 78-year-old Texas attorney who was accidentally shot during a hunting expedition with Vice President Dick Cheney, suffered a mild heart attack caused by a birdshot pellet lodged in his heart. White House spokesman Scott McClellan was aware of Whittington's complication, but did not disclose it during his morning press briefing. As the CBS Evening News (2/14,

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story 2, 2:10, Schieffer) put it, "These have not been the best of days for White House Press Secretary Scott McClellan. Reporters tore him apart for waiting a full day to disclose any of this." ABC World News Tonight (2/14, story 3, 2:35, Raddatz) reported on "stinging criticism from former White House spokesman, Marlin Fitzwater. Fitzwater told Editor and Publisher, he was 'appalled by the whole handling of this.' And President Bush's first press secretary, Ari Fleischer, told the magazine, 'It could have and should have been handled differently.'"

NBC Nightly News (2/14, lead story, 3:45, Gregory) said there are "still unanswered questions surrounding Saturday's shooting. Why did the local sheriff in Kennedy County, Texas, wait 14 hours to interview the Vice President? His office didn't return repeated phone calls today, but the Secret Service and the Vice President's Office insist Mr. Cheney was available immediately for questioning. Another question -- did the Vice President follow hunting safety guidelines? His office and one witness suggested Whittington was at fault because he failed to alert Cheney that he was rejoining the hunting party after searching for a downed bird. But experts say the burden is on the shooter."

Whittington's turn for the worse was the lead on each of the networks. ABC World News Tonight (2/14, lead story, 2:40, Vargas) reported, "Tonight, doctors say his condition is stable and they're keeping him in the hospital for another week." ABC (von Fremd) added, "After doctors discovered Whittington's condition this morning, they performed a cardiac catheterization, inserting a thin probe through an artery into his heart and into his coronary arteries. They discovered his arteries are clear. But the procedure cannot pinpoint the location of the BB."

In a follow-up, ABC World News Tonight (2/14, story 2, 1:00, Johnson) reported, "The heart attack, so-called, was actually caused by the damage caused by the buck shot. Not by the blockage of the coronary arteries. They were clean on tests today. That's good news. But until we know exactly where this buck shot is, and what it might lead to, we have to say the possibilities are everywhere from totally benign, to unlikely but possibly fatal."

The CBS Evening News (2/14, lead story, 2:15, Schieffer) reported, "Tonight, the jokes have stopped and the whole thing has turned serious." CBS (Cowan) added, "In a story that was shocking from the beginning, today's announcement by doctors for the Vice President's hunting partner put everything in a whole new light." The "news couldn't have been more different than yesterday. If the BB went that far in, it seems like this is a bit more of a serious-type wound than what we originally thought." The "single BB that is lodged in Mr. Whittington's heart muscle is miniscule compared even to a penny, but judging from the accident report from Texas Parks and Wildlife officials, the greatest concentration of the blast was right over Mr. Whittington's chest."

NBC Nightly News (2/14, lead story, 3:45, Williams) reported, "A bizarre story took an even more bizarre turn today when a man hospitalized in Texas suffered a mild heart attack because of a birdshot pellet that moved into his heart." In a follow-up, NBC Nightly News (2/14, story 2, 2:10, Bazell) reported, "Doctors who treat a lot of gunshot wounds say this one could potentially get worse."

USA Today (2/15, 4A, Sternberg, 2.31M) reports that doctors said "the greatest risk facing Harry Whittington, 78, the lawyer shot by Vice President Cheney in a hunting accident, is that a shotgun pellet lodged near his heart could travel elsewhere and cause more damage." However, they added that "it would be riskier to remove the pellet, causing more damage, than to leave it in place in the hope that the body will safely wall it off with scar tissue." The New York Times (2/15, Bumiller, Kornblut, 1.19M), Washington Post (2/15, A1, Moreno, Brown, 744K), Reuters (2/15, Franks), AP (2/15, Brezosky, Pickler) and Knight Ridder (2/15, Hutcheson), among other sources, also run stories on Whittington's heart attack.

The Los Angeles Times (2/15, Riccardi, Gerstenzang, 958K) reports Cheney "was attending an intelligence briefing on Capitol Hill today when he received news of Whittington's heart attack. He returned quickly to the White House, canceling plans to lunch with Republican senators." Sen. Trent Lott, who attended the intelligence briefing, "said he joked with Cheney about the hunting accident before the vice president learned the victim had taken a turn for the worse. Cheney laughed 'a little' at the joke, Lott said, declining to repeat his witticism."

There was widespread local television coverage of shooting. The stories focused upon Mr. Whittington's heart attack, but many also noted criticism over the delay in releasing the information and how the White House is handling it. Also, stations occasionally raised the issue of possible charges should Whittington die, and a possible civil suit. Some examples: WAGA-TV Atlanta (2/14, 10:08 p.m.) reported, "The shooting has triggered some sharp criticism, much of it aimed at Mr. Cheney, who waited more than 24 hours before disclosing details about the hunting accident."

KPNX-TV Phoenix (2/14, 5:16 p.m.) reported, "Cheney's decision on Saturday at the Texas ranch not to be in touch with the news media until Sunday, decision not reversed by President Bush, has P.R. experts shaking their heads."

CBET-TV Detroit (2/14, 11:01 p.m.) reported, "Cheney hasn't said anything publicly, but for two days now there have been persistent questions about why he or the White House didn't tell reporters about the accident sooner, questions the White House was sidestepping today."

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WGCL-TV Atlanta (2/14, 11:01 p.m.) reported, "The Vice President never said anything publicly about the shooting or new development the heart attack and again that didn't sit well with the White House press corp, still angry over the 24-hour delay over the release of shooting."

WCCO-TV Minneapolis (2/14, 10:04 p.m.) reported, "Vice president Cheney and the Bush administration are still keeping quiet about the accident."

KWGN-TV Denver (2/14, 9:18 p.m.) reported, "Turns out White House spokesman Scott McClellan knew that Whittington's condition had taken a turn, even as reporters were grilling him. McClellan now says he didn't feel like he had all the facts about Whittington's heart attack he wanted to let the hospital speak first. Democrats complain this whole episode shows how little the Bush administration cares about keeping the public informed."

KHWB-TV Houston (2/14, 9:11 p.m.) reported, "Scott McClellan knew Whittington's condition had taken a turn, but he kept quiet despite his assurance Monday that, 'I think it's always important to get information out as quickly as possible.'"

WEWS-TV Cleveland (2/14, 11:42 p.m.) reported, "The White House briefing room has been a pretty contentious place over the last couple of days."

KPHO-TV Phoenix (2/14, 6:43 p.m.) reported, "Senate minority leader Harry Reed says an explanation is needed for the 24-hour delay in releasing information about the shooting. He says it's time the American people heard from the Vice President."

McClellan's Quip Noted. The AP (2/15, Pickler) reports, "The White House has decided that the best way to deal with…Cheney's shooting accident is to joke about it." McClellan "quipped Tuesday that the burnt orange school colors of the University of Texas championship football team that was visiting the White House shouldn't be confused for hunter's safety wear." Also, "Florida Gov. Jeb Bush, took a similar jab after slapping an orange sticker on his chest from the Florida Farm Bureau that read, 'No Farmers, No Food,'" saying, "I'm a little concerned that Dick Cheney is going to walk in." The New York Times (2/15, Bumiller, Kornblut, 1.19M) adds Whittington's "downturn…significantly changed the tone of the White House reaction to the hunting accident," and, at his noon briefing, McClellan's "tone was serious, even as he was at times impatient with the persistent questions about the shooting." The Washington Post (2/15, A2, Milbank, 744K) also describes the morning briefing and McClellan's joke.

Cheney's Office Issues Detailed Statement On Whittington Shooting. CNN's The Situation Room (2/14, Bash) reported that Cheney issued "the first statement acknowledging that he accidentally shot Harry Whittington and that was about and because of the change in Mr. Whittington's condition, because he had a minor heart attack." The statement "was striking in the fact that it gave such detail -- striking departure from the way the Vice President's office generally operates, talking in detail and even giving specific times every step of the way and when he found out that Mr. Whittington's condition changed, that he was here at the White House when he heard he was going to get a test."

Democrats Criticize Cheney As GOP Worries About Impact On Agenda. The Wall Street Journal (2/15, McKinnon, Hitt, 2.11M) reports, "Democrats stepped up their rhetoric, particularly over the White House's delay in making the incident public and the vice president's continued public silence. Senate Minority Leader Harry Reid criticized the administration's secretive nature and said, 'It's time the American people heard from the vice president.'" Republicans "privately expressed concern that the incident is distracting from President Bush's agenda just after he announced a number of initiatives in his State of the Union address." The Wall Street Journal (2/14, 2.11M) also reported in its "Washington Wire" column on its web site, "Worries are mounting among Republicans about…Cheney's hunting accident after his hunting partner has a heart attack caused by birdshot from the mishap." News of Harry Whittington's heart attack "vexes party strategists who fear the accident will be a continuing distraction from the party's 2006 agenda." Democrats "said the incident has already come to symbolize administration stumbles, and is interfering with President Bush's attempt to recover from an unhappy 2005." The Journal added, "Senior Bush advisers dismissed suggestions of political fallout."

The Washington Times/AFP (2/15) reports, "Sen. Hillary Rodham Clinton, New York Democrat, called 'troubling' the day's wait before the public announcement." Said Clinton, "A tendency of this administration -- from the top all the way to the bottom -- is to withhold information...to refuse to be forthcoming about information that is of significance and relevance to the jobs that all of you do." Sen. Charles E. Schumer "said the time has come for the vice president to hold a press conference -- which Mr. Schumer estimated would be the vice president's first in some four years -- to clear the air." USA Today (2/15, Jackson, 2.31M) reports Schumer "sent Cheney a letter urging him to hold a news conference to discuss such controversies as the shooting and last year's indictment of his chief of staff."

Hunters Says Cheney Is To Blame In Accident. The Washington Times (2/15, Curl, 90K) reports, "Experienced hunters yesterday said…Cheney alone bears the blame for a weekend mishap in which he accidentally shot a hunting companion in the face and chest with a shotgun. Every local hunter interviewed by The Washington Times yesterday said the vice president violated hunting's cardinal rule: Never pull the trigger unless you are 100 percent sure of your target. And, they said, he violated Rule No. 2, as well: Never swing

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on game outside the safe zone of fire." The hunters also "said their opinions on blame would be held by any experienced hunter and had been shared among shooters in recent days." Lea Anne McBride, Mr. Cheney's spokeswoman, "dodged questions about the hunters' comments."

New York Legislature Moving Forward On "Cheney's Law." The New York Times (2/15, Cooper, 1.19M) reports that in the New York state legislature, "a bill on hunting safety that has been introduced in several legislative sessions but never became law has been christened 'Cheney's Law' by several Republican senators." The bill "would make it a felony to leave the scene of a hunting accident, passed out of the Senate Codes Committee yesterday." However, "officials have said that Mr. Cheney did not leave the scene after he shot the lawyer, but stayed with him while he received medical treatment."

Whittington Was "Pivotal" In Building Texas GOP's Strength. The New York Times (2/15, Romero, 1.19M) profiles Whittington, reporting, "Before Vice President Dick Cheney sprayed him with birdshot in a hunting accident over the weekend, Mr. Whittington, 78, was known largely for his pivotal role in building the Republican Party in Texas into a powerhouse." He "accompanied the patrician George H. W. Bush around Texas during Mr. Bush's unsuccessful race for the Senate in 1964 and has remained a figure in Republican politics ever since, raising money and advancing the ambitions of the party's office seekers."

Coleman Says People Should "Step Back From The Politics." Sen. Norm Coleman was asked on CNN's The Situation Room (2/14) if he wants to hear anything from Cheney on the specifics of what happened. Coleman said, "You know, at some point. Listen, you know, people wonder, why we didn't hear about it earlier? I understand it. I -- you know, I -- I kind of watched a little bit of the press reaction yesterday. But, I think, on a personal level, right now, you got somebody who wounded somebody in an accident, in a hunting accident. And, at some point, he might want to talk about that. But, you know, don't forget, the Vice President's a man. And so, I got to tell you, I -- my prayers are with the Vice President. My prayers are obviously with the person who got shot. It's a terrible, terrible thing. I have known folks who have been involved in accidents like this. And it's a great burden. It's very, very difficult. So, we have got our Vice President of the United States was involved in an accidental shooting of somebody. Let's take a step back from the politics for the moment."

O'Reilly Says Cheney's Reluctance To Brief Press Was "Predictable." Bill O'Reilly said on Fox News' The O'Reilly Factor (2/14), "Cheney has a well-known press phobia. Why is it surprising to anyone that he would delay announcement of the accident so it missed the Sunday papers and chat shows? Now, if the story had any implications other than the poor man getting hurt…I would have been all over Cheney. But, again, the Vice President's hunting accident affects no one. Means nothing. And his reluctance to brief the press about it is predictable. Of course, Cheney should have known that the anti-Bush press would make a big deal out of this and the Vice President has given his enemies more ammunition, pardon the pun. Once again his secret style hurts him. But some of our competitors are spending hours talking about this Cheney misfire which seems absurd and today their anger seemed to be growing."

National Review Calls On Cheney To Make Public Appearance. In an editorial published online yesterday (2/14) afternoon, the editors of the National Review wrote, "It was a mistake not to alert the national press of the incident immediately. … With Harry Whittington having suffered a minor heart attack Tuesday morning, and still in intensive care 72 hours after the shooting, the perception that the vice president is downplaying the seriousness of the incident and not playing straight is going to be stronger than ever. There is a risk that the administration will sustain significant political damage from the controversy. Cheney himself should make a public appearance on the matter, and the sooner the better. He should get himself with a respected national anchor — perhaps Brit Hume of Fox News — as soon as this evening to express his regret and explain in his own words what happened. He should stop relying on press aides who were not present at the accident to tell his side of the story."

More Commentary. USA Today (2/15, 2.31M) editorializes, "Cheney has plenty of high-priced public relations experts on his payroll to give him advice, so he probably doesn't needs ours. But for what it's worth: Go to Corpus Christi. Comfort your friend. Hold a news conference in the hospital parking lot. Explain what happened. Express anguish. Take responsibility. That won't end all the jokes, but it might take the sting out of many of them."

Under the headline "Cheney's Coverup," the Wall Street Journal (2/15, 2.11M) editorializes, "In the name of media solidarity, and in the interest of restraining the Imperial Presidency, we have put together the following coverup timeline with crucial questions that deserve to be answered: 5:30 p.m., Saturday (all times Central Standard Time). Mr. Cheney sprays Harry Whittington with birdshot, and the Secret Service immediately informs local police. Who is Harry Whittington and whom does he lobby for? Does he know Scooter Libby? 6:30 p.m. White House Chief of Staff Andy Card informs President Bush that there's been a hunting accident involving the Vice President's party. Did Mr. Bush ask followup questions? Was he intellectually curious?" The Journal also asks, "Has [Katharine Armstrong, owner of the ranch] ever worked for Halliburton?" The editorial concludes, "As for the Beltway press corps, it has once again earned the esteem in which it is held by the American public."

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David Ignatius writes in the Washington Post (2/15, A21, 744K) reports, "There is a temptation that seeps into the souls of even the most righteous politicians and leads them to bend the rules, and eventually the truth, to suit the political needs of the moment. That arrogance of power is on display with the Bush administration. The most vivid example is the long delay in informing the country that…Cheney had accidentally shot a man last Saturday while hunting in Texas."

Maureen Dowd writes in the New York Times (2/15, 1.19M), "Presidential staff members and lawmakers speculated yesterday about whether Shooter would resign and make room for Condi if Mr. Whittington did not survive. His death would trigger a more thorough police investigation and probably a grand jury. 'Are you crazy?' one Republican senator told a reporter. 'He'd never quit.' …. The shooter in chief can't quit because he is the administration. Who'd even tell him to quit? If necessary, he'd probably make W. take the fall."

Tony Blankley writes in the Washington Times (2/15, 90K), "As I understand the profound concern of the ever alert White House reporters, they smell a constitutional crisis because the shooting party failed to alert the media of the accidental shooting down in Corpus Christi, Texas. Well, actually they did alert the Corpus Christi media -- but that didn't count. Unless the exalted ones have been formally informed by an official government press secretary, no public communication has technically occurred." Blankley adds the incident "exemplified" that "we have in the White House at the most elite level of American journalism, self-absorbed, self-important men and women who stand on their prerogatives even over marginal and inconsequential matters."

Alito Hires Former DOJ Attorney, Ashcroft Aide, As Clerk. The Washington Post (2/15, A12, Lane) reports, "Justice Samuel A. Alito Jr. has hired one of the architects of then-Attorney General John D. Ashcroft's policies to serve as his law clerk at the Supreme Court for the rest of the current term, the court announced yesterday." The Post continues, "Adam G. Ciongoli, 37, a senior vice president at Time Warner Inc., served as counselor to Ashcroft from 2001 to 2003. He attended Georgetown University Law Center, clerked for Alito at the Philadelphia-based U.S. Court of Appeals for the 3rd Circuit from 1995 to 1996, and helped prepare the justice for his recent confirmation hearings." The Post adds, "Ciongoli was an aide to Ashcroft during Ashcroft's years as a senator and then came to the Justice Department, where he advised Ashcroft on terrorism issues in the aftermath of the Sept. 11, 2001, attacks. Among the issues he worked on were the detention of thousands of terrorism suspects in the United States and the use of military tribunals to try them. … Ciongoli's appointment, which will last about five months, is unusual: Though there has been a slight trend at the court toward hiring law clerks with a few years of work experience, the vast majority of clerks are recent law school graduates. … Among those who have come to the court after working elsewhere, none in recent memory had held a government position as senior as Ciongoli's at the Justice Department, where he was widely regarded as one of Ashcroft's closest confidants. … Perhaps the closest parallel to Ciongoli's appointment was the 2002 appointment of Rachel Brand, then associate White House counsel, to serve as a law clerk to Justice Anthony M. Kennedy. Brand is now assistant attorney general for legal policy."

Scalia Says Those Who Believe In "Living Constitution" Are "Idiots." USA Today (2/15, 2.31M) reports, "Supreme Court Justice Antonin Scalia said people who believe in a 'living Constitution' that changes with the times are 'idiots.'" In a speech to the Federalist Society in Puerto Rico, Scalia said "the argument of flexibility (says) the Constitution…has to change with society. But you would have to be an idiot to believe that. The Constitution is not a living organism, it is a legal document. It says something and doesn't say other things."

Officials Seek To Reassure Senators On Medicare Drug Plan. The Hill (2/15, Bolton) reports Senate Republicans "met with senior Bush administration officials in private yesterday afternoon to discuss their concerns with the Medicare prescription-drug program and to prepare for the escalated Democratic attacks on the program expected next week during the recess." Democratic "leaders and strategists last week had urged lawmakers to launch a barrage of criticisms against the drug program." Yesterday, about "30 Republican lawmakers sat down with Mike Leavitt, the secretary of the Department of Health and Human Services, and Mark McClellan, the administrator for the Centers for Medicare and Medicaid Services (CMS)." Lawmakers "asked the officials about two major criticisms of the drug plan, which was the legislative centerpiece of President Bush's first term: that the drug plan offers too many programs and as a result is too confusing for seniors, and that it has a hole in a coverage. Drug costs between $2,250 and $5,100 a year are generally not covered by the program." Senior senators "such as Pete Domenici (N.M.) and Larry Craig (Idaho) said the program is fundamentally sound and will help many senior citizens."

Study Says Amount Of Faith-Based Grants Declined From 2002 To 2004. The Washington Post (2/15, A5, Cooperman, 744K) reports that "the amount of direct federal grants to faith-based organizations declined from 2002 to 2004, according to a major new study released yesterday. White House officials immediately disputed the

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findings. They said they will release their own figures next month showing an increase in federal funding for religious groups." The study by the nonpartisan Roundtable on Religion and Social Welfare Policy "examined 28,000 grants made by nine federal agencies over three years. It found that religious charities got an unchanging share -- about 18 percent -- of the money awarded each year. But because the total pie of available funding shrank by more than $230 million over the three years, the slice that went to religious groups also declined, from $670 million in fiscal 2002 to $626 million in fiscal 2004. At the same time, the study found that the initiative has succeeded in encouraging more religious groups to apply for funding, and the number receiving grants rose almost 15 percent."

Grassley Says Senate May Not Raise US Debt Limit Until Mid-March. Reuters (2/15, Cowan) reports Senate Finance Committee Chairman Charles Grassley said the Senate "might wait until mid-March to raise the U.S. borrowing limit, despite Treasury Department warnings that the government could exceed the current cap within days." Sen. Grassley "said that if the Senate does not raise the $8.18 trillion debt limit this week before the start of a weeklong recess, it would vote before the next recess tentatively set for March 18." On Monday, a Treasury Department spokesman "said the federal government was on track to hit the current debt ceiling by mid-February. If U.S. borrowing authority is not lifted soon, the Treasury Department could use such extraordinary measures as dipping into several government funds to avoid default, as it has in the past." Grassley "told Reuters the goal would be to get the debt limit legislation passed 'with the least debate.'"

GOP Lawmakers Hedge On Need For Second Deficit Reduction Package. CQ (2/14, Dennis) reports Republican lawmakers "continued to hedge Tuesday on whether they will attempt to clear another budget savings package this year as moderates and fiscal conservatives tussle over the need for more spending cuts." Majority Leader John Boehner said, "A little too early to tell yet. We've had a lot of conversations, but we've got to have a lot more conversations before we get to that point." CQ adds President Bush "proposed $71 billion in reductions to entitlement programs over five years in his fiscal 2007 budget, along with nearly $15 billion in cuts to 141 discretionary programs, but some GOP lawmakers are hesitant to go through another difficult round of reductions." Senate Finance Chairman Charles E. Grassley, R-Iowa, "said Tuesday that a budget reconciliation package of tax cuts likely would be needed to pass legislation expanding health care savings accounts. He said he would be ready to tackle more savings from Medicare and other programs if Republicans came together behind the idea."

House Democrats Seek New Vote On Deficit Reduction Bill Over Typo. Roll Call (2/15, Yachnin) reports House Democrats, "asserting the budget reconciliation measure signed into law last week is constitutionally unsound, called on the chamber's Republican leadership Tuesday to hold a new vote on the bill." In a letter to Speaker Dennis Hastert, Minority Leader Nancy Pelosi "and an additional seven senior Democratic Members, charged a clerical error has created a 'constitutional problem' in upholding the $39 billion deficit reduction bill." A clerical mistake in the House version of the bill "made to a Medicare provision resulted in the chambers approving technically different versions of the legislation. Because of that error, the version of the bill signed into law has not been approved by the House."

HSAs Seen As Least Likely Bush Initiative To Pass. The Wall Street Journal (2/14, 2.11M) reported in its "Washington Wire" column on its web site, "Political insiders in both parties consider HSAs the least likely of the President's major domestic initiatives to pass when budget provisions run the congressional gauntlet, beginning with today's Budget Committee sessions."

Columnist Addresses New Claim Of White House Interference In NASA Study. In her column on the Washington Post (2/15, A21, 744K) Anne Applebaum writes, "Two weeks ago, after news broke that a NASA press officer had resigned amid revelations that he'd tried to muffle the agency's top climate scientist, I got several such calls. ... Here's what I learned. The story begins with the publication of an article – 'Potential Environmental Impact of a Hydrogen Economy on the Stratosphere' -- in the June 2003 issue of the journal Science… The five authors, all affiliated at the time with the prestigious California Institute of Technology, wanted to explore the potential long-term impact of hydrogen fuel cells on the Earth's atmosphere." But "their research… didn't exactly mesh with the hype. According to their model, tiny leaks from hydrogen cells, if such cells are ever mass-produced, could cause serious environmental damage." The study, she wrote, noted that leakage could probably be minimized. "NASA, which had helped pay for the research, prepared a news release and news conference on the paper. Abruptly, both were canceled. Although 'we often hear that releases are held up for political reasons,' one NASA employee told me, 'that one was a surprise: It went all the way to the top and then got killed.' In fact, the release and the conference were 'killed' by the White House Office of Science and Technology Policy. An official there told me this was because the office wanted to give Energy Department

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scientists a chance to respond to the study before it was publicized… All of that part of the story is confirmed. The rest -- the story of how none of the scientists ever got government grants for further research on this subject -- is complicated by rumor and hearsay." She mentioned that "another eminent scientist who does related research, Mark Jacobson of Stanford University" said he disagreed with results and methodology of that study and maybe grant reviewers did too.

Independence Of Bush Fed Nominees Seen As Issue. The Washington Post (2/15, D3, Henderson, 744K) reports President Bush's "decision to elevate three former administration economic advisers to the Federal Reserve Board prompted questions yesterday about whether they would be able to steer the economy independently of the White House they have served." Bush's most recent Fed nominees, Randall S. Kroszner and Kevin M. Warsh, "would join Ben S. Bernanke, who became chairman of the Fed earlier this month after serving for six months as chairman of Bush's Council of Economic Advisers. Bernanke is scheduled to testify today before the House Financial Services Committee in his first public appearance on Capitol Hill as Fed chief." Thomas Schlesinger, executive director of the Financial Markets Center, a "nonprofit group that monitors the Fed," said if Kroszner and Warsh "are confirmed by the Senate, it will mark the first time in many years that three of the seven Fed board members will have recently served in the White House that appointed them." Schlesinger said, "This creates more of a burden on Bernanke and company to prove they're not taking their cues from [White House Deputy Chief of Staff] Karl Rove."

Kroszner, Warsh Not Yet Sold On Inflation Targets. The Wall Street Journal (2/15, Ip, 2.11M) reports Fed nominees Kroszner and Warsh "expressed qualified support for an inflation target, suggesting Chairman Ben Bernanke has more work to do before the central bank adopts one." Kroszner said the Fed "must 'provide clarity and transparency about monetary policy making and processes,'" adding a target "is one possible way to increase transparency." Warsh said, "The markets might well see [a target] as additional clarity and provide some incremental benefit going forward. That's a deliberation I look forward to participating in." The Journal adds current FOMC members "are split on support for a target. The fact the two nominees may also need convincing suggests adoption isn't a forgone conclusion."

The New York Times/Bloomberg (2/15) reports that in their testimony to the Senate Banking Committee, Kroszner and Warsh said "that controlling inflation was the best way to keep the United States economy growing." The Times adds Bush's nomination of Warsh, "a lawyer by training who would become one of only two members of the Fed's seven-member board of governors without a Ph.D. in economics, has been greeted by criticism and bewilderment by some former Fed officials and economists. They point to his political connections and inexperience, and say the White House could have found a better-known, more qualified choice."

CQ (2/14, Crittenden) reports the nominees "received praise from both sides of the aisle at a sparsely attended Senate Banking Committee hearing Tuesday." The Banking panel "does not have a schedule for voting on the nominees, though a spokesman said there was an 'outside chance' a vote could occur by the end of the week. After the panel votes, the full Senate then would vote on the nominations." Panel members "also appeared to go out of their way to praise Warsh, a lawyer who serves as a special assistant to President Bush on economic policy issues. He previously was executive director at investment bank Morgan Stanley."

Bernanke's Testimony Seen As Chance To Establish Credibility. The New York Times (2/15, 1.19M) says in an editorial that new Fed Chairman Ben Bernanke "delivers his first report to Congress today, covering interest rate policy and the Fed's economic forecast for this year and next. It's a big moment for Mr. Bernanke, and perhaps for the economy. The new chairman's success at establishing his Street cred will be a big factor in controlling that most unpredictable of economic forces: market psychology."

Bernanke's "Upbeat View" Of US Trade Deficit Questioned. In his column for the Washington Post (2/15, 744K) Steven Pearlstein writes the White House Council of Economic Advisers "decided to have a bit of fun with the record $726 billion trade deficit. At nearly 6 percent of gross domestic product, a deficit that large would in be treated in most other countries like the economic equivalent of Defcon 3. But rather than dwell on the negative, those wry PhDs framed their analysis not as consumption exceeding production (the so-called current account deficit), but as a consequence of cheap foreign capital financing our profligacy (the capital account surplus, which by definition is its mirror image). … This upbeat view of the trade deficit reflects the thinking of outgoing CEA chairman Ben Bernanke, who thinks that the root cause of the world's massive economic imbalances is that the rest of the world is producing and saving too much, not that Americans are producing and saving too little."

Senate Cancels Hearings For Today. The New York Times (2/15, Stolberg, 1.19M) reports, "Four cabinet secretaries, including Secretary of State Condoleezza Rice, an Army general and the secretary of the Army were supposed to testify Tuesday morning" before Senate committees "at hearings on matters including Hurricane Katrina and the Bush administration's proposed budget for foreign affairs." But their "invitations were rescinded and the

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hearings canceled when the Senate majority leader, Bill Frist of Tennessee, scheduled a marathon series of 16 votes on amendments to a pending tax bill — all of them, both parties agree, intended more to score political points than to make policy. Ultimately, most of those votes were canceled." Sen. Trent Lott said, "I look around and think, 'Am I the only one who thinks this is stupid?'" The Times adds Sen. Ted Stevens said, "It's sort of arrogant of us, isn't it, scheduling them and then not keeping our appointments?" The Times adds, "Stupid, perhaps. Arrogant, maybe. But not entirely out of character for the Senate, where roll-call votes are frequently held late into the night and schedules can change at a moment's notice. Still, some said the organizational chaos was worse than usual, and this being Washington in an election year, many fingers were being pointed."

Westmoreland, Lewis Settle Row Over Earmark Leak. Roll Call (2/15, Yachnin) reports one of the "first squabbles to erupt in the growing debate over earmark reform appears to have subsided, after freshman Rep. Lynn Westmoreland (R-Ga.) met with House Appropriations Chairman Jerry Lewis (R-Calif.) over the weekend." Westmoreland "lashed out at the Appropriations panel in a 'Dear Colleague' letter last week, following the leaking of a committee report that detailed the earmark requests of several dozen Members who have signed on as co-sponsors of earmark reform legislation sponsored by Rep. Jeff Flake (R-Ariz.)." Westmoreland aide Brian Robinson said, "The chairman spoke to him and said it was not done with his knowledge or permission, and it was done on the staff level." Roll Call adds that while it "remains unclear whether the source of the leaked information will be reprimanded, it appears that the matter has been settled for now."

Federal Employees Beat Private-Sector Bidder For NIH Job. The Washington Post (2/15, B2, Barr, 744K) reports in its "Federal Diary" column, "One of the largest job reviews at the National Institutes of Health has ended, with about 380 federal employees involved in property management prevailing in a competition against a private-sector bidder. The job competition began in October 2002 and involved a group of employees who provide services in property management and operations, construction management and central utilities. NIH said that the employee team won when the government's proposal, known as a 'most efficient organization,' was determined to be the lowest-cost plan." The Post adds, "The NIH's statement did not say how much money would be saved by keeping the work in the agency."

FirstGov.gov Updates Search Capabilities. The Washington Post (2/15, A19, Mayer, 744K) reports the "comprehensive one-stop federal Web site" FirstGov.gov, "which has won innovation awards for being consumer-friendly, has just been updated to make it easier for consumers, businesses and federal employees to find a mind-boggling array of information. … FirstGov launched a powerful new search engine last month, expanding the number of accessible documents from 8 million to 40 million, including more state and local Web sites."

OTHER NEWS:

Dow Closes Above 11,000 On Retail Sales, Oil Prices. ABC World News Tonight (2/14, story 8, :25, Gibson) reported, "The government said, today, that Americans went on a post-holiday shopping spree. Retail sales soared 2.3% last month. That's more than double the forecast. It seems mild weather and Christmas gift cards brought a lot of shoppers to the malls." ABC added that those news and "slumping oil prices cheered Wall Street. The Dow Jones Industrial Average was up 136 points today, closing above 11,000 for the first time in more than a month." The Financial Times (2/15, Balls, Swann) reports "there were signs of underlying strength in spending across virtually all sectors, setting up a strong start to the year after weak consumer spending growth in the fourth quarter."

USA Today (2/15, Hagenbaugh, 2.31M) notes "retail sales rose at the fastest pace in more than four years in January." The Wall Street Journal (2/15, Conkey, 2.11M) also reports on the sales report under the headline "Retail Sales Surge 2.3%, Underlining Economy's Health." The Washington Times (2/15, Hill, 90K) runs a similar story, titled "Retail Sales See Best Gains Since Late '99." The New York Times (2/15, Bajaj, Barbaro, 1.19M) also reports the story.

The CBS Evening News (2/14, story 12, 0:15, Schieffer) reported, "Falling oil prices helped to give Wall Street a big boost today. The Dow industrials gained 136 points [to close at 11,028.39]. The NASDAQ was up 22 [to close at 2,262.17]."

USA Today (2/15, Shell, 2.31M) reports the stock gain "surprised some market strategists because it occurred on the eve of new Federal Reserve Chairman Ben Bernanke's first testimony before Congress today and Thursday."

The Wall Street Journal (2/15, Patterson, 2.11M) says "light, sweet crude fell $1.67 to $59.57 a barrel on the New York Mercantile Exchange. Gold for April delivery rose $6.80 to $548.90 an ounce on the Nymex. Treasury prices declined. Energy sensitive stocks jumped as crude-oil prices declined again."

Oil Companies Get $7 Billion Royalty Windfall. The CBS Evening News (2/14, story 11, 1:45, Schieffer) reported, "The price of oil fell below $60 a barrel today for the first time this year. Rising supplies have been sending prices

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down and you're seeing the price of gasoline fall as well. Even so, oil companies are coming off a record year of profits and now they are in for a big windfall from the government." CBS (Mason) added, "That giveaway from the government amounts to a staggering $7 billion. Remember the late '90s when gas was cheap? Back then, the government offered incentives to the big oil companies to drill in the deep waters of the Gulf of Mexico." The Interior Department "says those incentives worked, pushing oil production up about 400% in the Gulf over the past decade. And for the lucky companies who signed leases then, no royalty payments on the oil they pumped in Federal waters. So today, with crude now selling for $60 a barrel, the oil companies could save $7 billion in government royalties over the next five years according to one estimate. And in Congress, where the Deep Water Royalty Relief Act passed a decade ago, Jack Kingston is one Republican who thinks the deal gave away too much."

The New York Times (2/15, Andrews, 1.19M) reports Democratic lawmakers "and the White House both said on Tuesday that oil and gas companies should not receive lucrative incentives when energy prices are near record highs." The Interior Department "forecasts that energy companies will produce about $65 billion worth of oil and gas in federal waters in the Gulf of Mexico on which they will not pay any royalties to taxpayers." But Administration officials "say their hands are tied on the royalties by laws dating back to 1996 and then sweetened by the Clinton administration." Senate Democrats Ron Wyden and Maria Cantwell "said that they were drafting legislation to change the government's rules." In the House, "four leading Democrats said they would introduce a bill this week to stop the incentives immediately." Rep. Edward J. Markey said, "The American people are getting stood up and hung out to dry." The Times adds, "But while Mr. Markey and other Democrats blamed the Bush administration, White House officials sharply retorted that the incentives stemmed largely from specific decisions that the Clinton administration made in 1998 and 1999."

CQ (2/14, Tollefson) reports the news that oil companies "could reap billions of dollars in royalty relief on oil produced in the Gulf of Mexico in the next five years have put the industry back in congressional cross hairs just months after top oil executives testified before lawmakers amid a flurry of calls for a windfall profits tax." Key GOP lawmakers "offered a more muted response but said they also are tracking the issue. 'I think it's a little early for us to get involved,' said Sen. Pete V. Domenici, R-N.M., chairman of the Energy and Natural Resources Committee."

Hubbard Says Government Should Collect "Appropriate" Oil Royalties. The Christian Science Monitor (2/15, Cook, 61K) reports on yesterday's "Monitor Breakfast" with Allan Hubbard, assistant to the president for economic policy and director of the National Economic Council. On "reports that current law will allow oil companies to pump $65 billion worth of oil and gas from federal lands without paying royalties," Hubbard said, "As the President has said, when you have oil ... north of $40 [a barrel] ... you don't need to be providing incentives to oil and gas companies to drill and we should be collecting the appropriate amount of royalties."

Lobby Firms Had Strong Revenue Growth In 2005. The Hill (2/15, Snyder, Young) reports lobbyists had "a banner 2005, the year before simmering controversies involving Jack Abramoff and former Rep. Randy 'Duke' Cunningham (R-Calif.) boiled over outside the Beltway and brought new pressures on Capitol Hill to keep lobbyists at arm's length. Early returns on end-of-year revenues show strong growth all along Washington's lobbying corridor." Several "well-known firms reported a revenue jump greater than 20 percent, including Barbour Griffith & Rogers, Quinn Gillespie & Associates, the Federalist Group and the Livingston Group, as a series of policy and legislative efforts brought new business to K Street, from Social Security reform to a national energy plan to the budget bill." Top earner Patton Boggs "reported an even better 2005. It made $37 million last year, up from roughly $31 million it took in in 2004." Cassidy & Associates, "which ended 2004 number two, reported more modest growth. It had revenues of $28.34 million in 2005, up from $27 million in 2004. Akin Gump Strauss Hauer & Feld, number three, reported revenues of $28.58 for the year, up from its $27.6 million in 2004." With Congress "eyeing new curbs on earmarks and congressional travel in response to scandals, 2005 could wind up being a high-water mark for the lobbying industry."

Hackett Drops Out Of Ohio Senate Race. Fox News' Special Report (2/14, Garrett) reported, "Democrat Paul Hackett, a Marine and Iraq war veteran, quit the [Ohio] Senate race and accused top Beltway Democrats of forcing him out. Harry Reid and New York's Chuck Schumer first lobbied him to enter the race, promising hefty financial backing, then double crossed him. … Reid acknowledged persuading Hackett to run, but denied muscling him out. … A spokesman for Schumer also denied Hackett's charge."

Reuters (2/14) reports Hackett "said he was under heavy party pressure to end his Senate race and clear the way for Democratic Rep. Sherrod Brown to face vulnerable Republican incumbent Sen. Mike DeWine in November." Said Hackett, "I made this decision reluctantly, only after repeated requests by party leaders, as well as behind the scenes machinations that were intended to hurt my campaign." The AP (2/15, Sewell) reports Hackett said in an interview, "My donor base and host base on both coasts was contacted by elected officials and asked to stop giving. … The original promise to me from Schumer was that I would have no financial concerns. It went from that to Senator Schumer actually working against my ability to raise money."

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USA Today (2/15, 2.31M) adds DSCC "committee spokesman Phil Singer said neither the campaign committee nor Schumer 'reached out to donors to ask them to take sides in this race.'" Singer "praised Hackett for making a 'statesman-like decision' that would help the party in an important race."

The Washington Post (2/15, A10, Cillizza, 744K) reports, "Democrats are heavily targeting DeWine this fall because of the political upheaval involving state Republicans -- the result of scandals surrounding outgoing Gov. Bob Taft (R) and one of his chief fundraisers. Liberal blogs, which are largely credited with building Hackett into a national force, were divided on his decision and its ramifications." Meanwhile, "Republicans sought to paint Hackett's withdrawal as a blow to Democrats' chances in November. 'Hackett was controversial and said some nutty stuff, but he had the potential to play in the middle,' said National Republican Senatorial Committee spokesman Dan Ronayne. 'Sherrod Brown has a long record, and it is more liberal than Dennis Kucinich's -- that's a real tough sell to make to mainstream Ohioans.'"

Roll Call (2/15, Whittington, Kurtz) says Hackett's "abrupt withdrawal from the Ohio Senate race late Monday sparked an outcry from some liberal activists and at least one group supporting candidates who are military veterans -- even though some Democratic leaders are privately relieved because they think it avoids a bloody primary." Hackett's departure from the Senate race "comes as military veterans in a handful of lower-profile races around the country have been subtly or not-so-subtly pushed aside in favor of candidates who are viewed as stronger general election nominees."

Two Construction Unions Leave AFL-CIO. The New York Times (2/15, Greenhouse, 1.19M) reports the national labor movement "suffered a new split yesterday when two major construction unions — the laborers and the operating engineers — announced that they were quitting the Building and Construction Trades Department of the A.F.L.-C.I.O." The unions "also said they would soon announce the creation of a rival building trades group, the National Construction Alliance, that would include the carpenters, the bricklayers, the iron workers and the Teamsters. The new group, officials from the two unions said, would have more than 1.5 million members and would be more vigorous than the Building and Construction Trades Department in unionizing construction workers."

Failure To Provide Retirees' Benefits Seen As "Theft." In an op-ed for USA Today (2/15, 2.31M) Edward McElroy, president of the American Federation of Teachers, writes, "Retirees' health care bills have come due, and the Governmental Accounting Standards Board's new rules are showing what the real costs are. … Hard-working people earned these benefits over many years, deferring compensation until now. Employers need to honor their contractual obligations. Violating these promises is nothing short of theft."

Iran Restarts Small-Scale Uranium Enrichment. The CBS Evening News (2/14, story 5, 2:05, Schieffer) reported, "The long-running dispute over Iran's nuclear program took another bad turn today. Iran said it has put its main uranium enrichment plant back to work. That moves Iran one step closer to building a nuclear weapon." CBS (Martin) added the move still leaves Iran "a long way from having enough material to build a bomb, but Nicholas Burns, the State Department's number three official, says that tiny step has large consequences." Nicholas Burns, Under Secretary of State for Political Affairs: "That is a bright red line that the international community has laid before the Iranians. Countries all over the world have voted to say that Iran should turn back from the step they took today." CBS noted, "US intelligence estimates Iran is still five to ten years away from building a bomb."

Reuters (2/15) reports an IAEA official said Iran "has begun feeding uranium hexafluoride gas into centrifuges at its pilot nuclear fuel enrichment facility at Natanz, an official close to the U.N. nuclear watchdog agency said on Tuesday. He said IAEA inspectors had observed Iranian scientists putting UF6 gas into a 'very small number' of centrifuges, machines that can turn uranium into fuel for nuclear reactors or, if enriched to high levels, atomic bombs. The head of Iran's atomic program, Gholamreza Aghazadeh, said the enrichment begun at Natanz was on a 'small and laboratory scale', the ISNA students news agency reported soon after."

The Christian Science Monitor (2/15, Grier, 61K) also reports Javad Vaeidi, a senior Iranian nuclear negotiator "told reporters in Tehran that work has resumed at Iran's main enrichment plant at Natanz. The work is preliminary, and the amount of enriched uranium it might produce would be small, as Iran's existing enrichment cascade is only an experimental one. To produce usable amounts of enrichment material, Iran must still construct a larger facility, said Vaedi."

Reuters (2/15, Hafezi) reports Russia and France "called on Iran to cease 'all activities connected with enrichment and processing' of nuclear fuel. Their joint statement was issued by the Kremlin during a visit to Moscow by French Prime Minister Dominique de Villepin." Germany and China "called separately for more diplomacy on the nuclear row with Iran." German Defense Minister Franz Josef Jung said: "A military solution is not being discussed right now. I hope that if the international community stands together we can find a solution."

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The Financial Times (2/15, Smyth) reports the EU "applauded Moscow's initiative." Benita Ferrero-Waldner, EU external relations commissioner, said Russia was "playing a constructive role in the search for a diplomatic solution."

White House Says Iran Is Choosing "Defiance And Confrontation." The Washington Post (2/15, A1, Moore, 744K) reports, "Monitors from the International Atomic Energy Agency confirmed during inspections Tuesday that Iran had begun the first small-scale steps in the years-long process of enriching uranium that could be used for nuclear power, or eventually weapons production, according to a Western diplomat close to the U.N. nuclear watchdog agency. … Iran's announcements and the IAEA monitoring team's findings increased pressure on the U.N. Security Council to take action against Iran for breaching international agreements on its nuclear program, diplomats in Vienna said." White House press secretary Scott McClellan "said Iran was 'continuing to choose defiance and confrontation over cooperation and diplomacy.'"

Iran To Resume Talks With Russia Next Week. The AP (2/15, Dareini) reports Vaeidi "also told reporters that Iran would resume negotiations with Moscow on Feb. 20 over its plan to enrich Iranian uranium on Russian soil — a proposal designed to allay fears that Iran will build nuclear weapons. … The negotiations with Russia had been due to resume Thursday, but Iran said Monday they were postponed indefinitely. Vaeidi gave no indication whether Iran was looking more favorably at the plan now that international pressure over its nuclear program was increasing. Iran has repeatedly said the Russian plan can be complementary to Iran's nuclear program but that Tehran would not accept any requirement to scrap uranium enrichment in Natanz." In a piece for Time.com (2/15), Yuri Zarakhovich writes that in negotiating with Iran, Russia "risks ending up unpaid, friendless — and facing a volatile nuclear neighbor, connected to terrorist groups and armed with Russian weapons, right on her unstable southern border."

Iranians Said To Be Often Less Pious Than They Appear. The New York Times (2/15, Slackman, 1.19M) reports Iran "often feels otherworldly, caught someplace between an 'anything goes' attitude and the intense restrictions and scrutiny of a religious government. … Public profile is important and so, if Iranians chose not to fast during Ramadan, well, O.K., but they were expected to eat in the privacy of their homes. After centuries in which Shiites were permitted to hide aspects of their faith in order to protect themselves against discrimination, a practice called Taqiyah, the principle seems to have etched its way into the national character. Appearance is often valued more highly than truthfulness."

White House Denies Plotting With Israel To Overthrow Hamas. The New York Times (2/15, Weisman, 1.19M) reports American and Israeli officials said they "had no plans to oust" Hamas from power. White House press secretary Scott McClellan "dismissed any reports 'about some sort of plan that was talking about forcing Hamas from power so that there could be new elections.'" State Department spokesman Sean McCormack said, "The bottom line is that there is no U.S.-Israeli plan, project, plot, conspiracy to destabilize or undermine a future Palestinian government." McClellan and McCormack "spoke in response to an article in The New York Times on Tuesday in which American and Israeli officials and diplomats said they were discussing ways to destabilize the Palestinian government, with the intention of forcing new elections." The Times adds, "What there was, Mr. McClellan and Mr. McCormack said, was a threat to cut off aid to the Palestinians if Hamas does not renounce violence, recognize Israel and accept previous agreements." Daniel Ayalon, the Israeli ambassador to the United States, said, "We emphasize that we do not want to harm the Palestinian people, and that it is their choice whether to abide by international norms or become a terrorist entity."

The Washington Times (2/15, Kralev, 90K) reports U.S. officials "said they relied on their public comments to send a message to Hamas because they do not deal directly with the group, which the United States, Israel and the European Union consider a terrorist organization. 'The strategy is public,' Israeli Foreign Ministry spokesman Mark Regev said in Jerusalem. 'There is nothing secret about it. It's to present the incoming Palestinian leadership with a clear choice: conform to international norms of behavior, recognize Israel's right to exist, renounce terrorism and accept signed agreements' by the Palestinian Authority. Various anonymous Israeli officials were quoted by the Israeli press and international wire service reports yesterday as saying that their strategy was to starve the Hamas government and engineer its demise."

Hamas Looks To Europe And Arab World For Financial Support. The New York Times' Thomas Friedman (2/15) writes, "Some Israelis anticipate that a cash-starved Hamas-led government will lead to chaos, and…new elections. I don't think it will be so simple. The sense I got from Hamas officials here is that Hamas will be low-key and patient, trying to rule as long as possible without money from abroad, working on improving Palestinian governance and hoping that Palestinian society will remain steadfast — and that the Arab world and Europe will somehow intervene to keep Israel and the U.S. from depriving Hamas of its legitimate mandate."

NYTimes Decries Alleged Destabilization Plot. The New York Times (2/15, 1.19M) editorializes, "America and Israel have to walk a very narrow line in defining their relations with a democratically elected Palestinian government built around Hamas, a party that not only

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endorses terrorism but also commits it. They cannot possibly give political recognition or financial aid to such a government. … That defines the right side of the line. On the wrong side lies the kind of deliberate destabilization that, according to a report by our Times colleague Steven Erlanger, Washington and Jerusalem are now discussing. That would involve a joint American-Israeli campaign to undermine a Hamas government by putting impossible demands on it, starving it of money and putting even greater restrictions on the Palestinians with an eye toward forcing new elections that might propel the defeated and discredited Fatah Party back to power."

WSJournal Contends US And Israel Ought To Isolate Hamas. The Wall Street Journal (2/15, 2.11M) editorializes, "Neither President Bush nor acting Israeli Prime Minister Ehud Olmert have made any secret of their intention to isolate Hamas and deprive the Palestinian Authority of funds once Hamas assumes the reins of government. Nor is there any shame in doing so: Donors have the right to impose conditions on their beneficiaries, and so far Hamas has rejected international calls that it disarm, forswear terrorism and accept the legitimacy of the Jewish state. … By refusing to render Hamas respectable, the U.S. and Israel aren't punishing the Palestinians. They're educating them."

Sharon's Son Sentenced To Nine Months In Prison For Campaign Violations. The New York Times (2/15, Erlanger, 1.19M) reports Ariel Sharon's son Omri Sharon, a former member of the Israeli Parliament, "was sentenced Tuesday to nine months in jail after he pleaded guilty to illegally raising more than $1.3 million for one of his father's political campaigns. But because…Ariel Sharon, is comatose after a major stroke, a Tel Aviv court allowed Omri Sharon to delay the start of his jail term until at least Aug. 31. He was also sentenced to nine months of probation, to begin after he leaves jail, and fined $66,700. In November, Omri Sharon, 41, entered a guilty plea to charges of falsifying corporate documents, perjury and violating party financing laws during a campaign in 1999 for the leadership of the Likud Party. Under a plea agreement, prosecutors dropped charges of fraud and breach of trust but demanded imprisonment on the other counts. He resigned his seat in Parliament in January. His father was not implicated in the case."

Cartoon Protests Leave Two Dead In Pakistan.

ABC World News Tonight (2/14, story 4, :20, Gibson) reported, "Overseas, there were violent demonstrations in Pakistan today against those cartoons, those cartoons of the prophet Mohammad, that many are calling blasphemous. Two people died and many for injured when security guards fired into a crowd rampaging through the city of Lahore. The demonstrators damaged dozens of shops and torched four buildings housing Western businesses."

NBC Nightly News (2/14, story 5, 0:30, Williams) reported, "Today Pakistan saw its worst violence yet, stemming from those caricatures of the prophet Mohammed. 15,000 people took the streets of Lahore, setting fire to a government building and several Western-owned businesses there."

USA Today (2/15, 2.31M) reports, "Thousands of people rampaged through two cities Tuesday in Pakistan's worst violence in response to caricatures of the prophet Mohammed. In Lahore, guards fatally shot two protesters trying to force their way into a bank, Interior Minister Aftab Khan Sherpao said. Mobs burned a government building, a hotel, two banks and a KFC. A Citibank, Holiday Inn and Pizza Hut were vandalized. In the capital, Islamabad, 400 students stormed the heavily guarded diplomatic enclave, brandishing sticks and throwing stones. They were dispersed with tear gas, and no foreigners were hurt."

The Washington Post (2/15, A14, Lancaster, 744K) reports, "In Islamabad, the Pakistani capital, hundreds of young men pushed past security guards and made their way into the heart of the main enclave for foreign embassies. They vandalized cars, smashed windows at a branch of the British bank Standard Chartered and shouted slogans such as 'Expel European Ambassadors' and 'Death to Denmark,' the country where the cartoons originally were published in a newspaper. The Danish Embassy is outside the enclave." Pakistani President Pervez Musharraf "has strongly condemned the cartoons, and a number of peaceful protests have been held across the country.'

Italian Minister Puts Cartoon On T-Shirts. Reuters (2/15, Balmer) reports, "Italy's Reform Minister Roberto Calderoli has had T-shirts made emblazoned with cartoons of the Prophet Mohammad in a move that could embarrass Prime Minister Silvio Berlusconi's government. Calderoli, a member of the anti-immigrant Northern League party, told Ansa news agency on Tuesday that the West had to stand up against Islamist extremists and offered to hand out T-shirts to anyone who wanted them."

US Regards Blasphemy As A "Strictly Religious Issue." The Washington Post (2/15, C1, Tucker, 744K) reports, "America's fascinations with comedy, narrative drama, religious fervor and free speech routinely produce the edgy and the heretical in culture both high and low. Sometimes it's protested, sometimes it's boycotted, but the right to be religiously offended is the right to be a modern American." Blasphemy "had been an offense in Western society since the Greeks," but "such convictions came to an end in the 20th century. Civil libertarians in this country began to regard blasphemy as a strictly religious issue, and the courts agreed. … Since then, the image and topic of Christ has been subjected to almost every indignity imaginable.'

Author Says Officials Encourage Idea That Cartoons Were A Deliberate Provocation. Author Kamila

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Shamsie writes in the New York Times (2/15, 1.19M), "I've heard that line countless times in Karachi lately about the Danish cartoon controversy, including from journalists who fiercely guard their own right to work without censorship. There is nothing but condemnation here for European newspapers' publication of the cartoons. … The idea that the cartoons were a deliberate provocation to get us to behave badly is being encouraged by officialdom: various political groups have condemned 'the planned conspiracy by the West to instigate the Muslims'; the Foreign Office has said the cartoons are part of 'sinister agendas'; the chief minister of the country's most religiously conservative province, himself a leading member of the religious alliance that gains much of its popularity from its anti-Western stance, has said the cartoons are aimed at bringing about 'the clash of civilizations.'" Shamsie adds that her father noted, "'For us to start believing Europe is represented by its right-wing fanatics would be as wrong as for them to believe Islam is represented by our right-wing fanatics.' But until someone finds a way to turn 'Muslims don't riot' and 'Europeans don't conspire' into news stories, there doesn't seem any easy way to avoid precisely such confusion."

Author Sees Southeast Asian Muslims' Differences With Arab Muslims. Author Karim Raslan writes in the New York Times (2/15, 1.19M), "Southeast Asian Muslims have not been roiled by a clash of civilizations. Rather, people like me — Western-trained, English-speaking and constantly traveling — have begun to see the subtle differences that fracture our civilizations from within. Whether we are conservative or liberal, many of us are appalled and angered by the stupidity and insensitivity of the Danish newspaper cartoons. But that doesn't mean we've taken leave of our senses. … We generally believe that anger and violence are self-defeating. The region's moderate leaders, like Malaysia's prime minister, Abdullah Badawi, and Indonesia's president, Susilo Bambang Yudhoyono, exemplify this belief. … To be sure, there have been some copycat demonstrations in Kuala Lumpur and Jakarta, as well as attacks on the Danish and American consulates in Indonesia's second-largest city, Surabaya. But the extensive violence and ugly rhetoric we are seeing broadcast from elsewhere in the Muslim world point to differences between the Arab-Muslim heartland and the Indo-Malay periphery."

On Anniversary Of Hariri's Death, Lebanon Is Deeply Divided. The Christian Science Monitor (2/15, Blanford, 61K) reports, "Lebanon's Cedar revolutionaries returned to the streets here Tuesday, transforming the city center into a swaying sea of red and white national flags as the country marked the anniversary of the assassination of former Prime Minister Rafik Hariri." However, "the participants were mainly Christians, Sunni Muslims, and Druze. Other than formal delegations, Lebanon's Shiites, the largest of the country's sects, were absent, underlining Lebanon's deep political and sectarian divisions," as it is "split by a resurgent sectarianism, threatened by a growing Al Qaeda presence, and torn by competing political visions over the future direction of the country. This country is once more becoming a battleground in a broader struggle for control of the Middle East, pitting the axis of Iran, Syria, and Lebanon's powerful Hizbullah organization against the influence of the West, chiefly the US, Britain, and France."

Turkey's Parliament Leader, PM's Wife Praise Anti-American Film. The Washington Times (2/15, Birch, 90K) reports, "A new film riding on a wave of anti-Americanism is attracting record audiences in Turkey and has drawn approving comments from the wife of Prime Minister Recep Tayyip Erdogan" while "Turkish parliament leader Bulent Arinc praised its 'realism.'" Three days after its release, "Valley of the Wolves: Iraq" had been seen "by 1.2 million people, a 40 percent increase on the previous viewing record."

Bush Proposes Cuts For Family Planning In Foreign Aid. The New York Times (2/15, Dugger, 1.19M) reports that President Bush "is for the first time proposing sharp cuts in financing for international family planning programs that the White House had described as one of the best ways to prevent abortion." Under his "new budget proposal, financing would fall 18 percent, from $436 million this year to $357 million," and it is "stirring strong opposition from nonprofit groups and Democrats on the House and Senate appropriations subcommittees responsible for foreign aid."

Dramatic Events Illustrate Rise In Violence Along US-Mexico Border. The Christian Science Monitor (2/15, Axtman, 61K) reports, "First came an armed standoff between Texas lawmen and drug smugglers disguised as Mexican soldiers. Next, federal officials seized a stockpile of heavy-duty weaponry - assault rifles, hand grenades, and improvised explosive devices - along the Rio Grande. Then a Mexican police reporter was critically wounded after intruders fired more than 60 rounds into the newspaper's offices. These three incidents in as many weeks dramatize the rising violence along the US-Mexico border." The Monitor continues, "Ever since Mexican President Vicente Fox declared war on drug cartels last year, border violence has escalated. 'There has been an over 100 percent increase in the last fiscal year in border violence aimed at our Border Patrol agents, and that ranges from gunshots fired across the border to rocks being thrown, sometimes flaming rocks,' said Homeland Security Secretary

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Michael Chertoff last week. … Part of the rise in violence stems from increased US law enforcement at the border, which is creating a more desperate drug smuggler, many experts say. But it also is rising because these drug smugglers are becoming heavily involved in the lucrative people-smuggling business and are using the same violent tactics to evade law enforcement," according to T.J. Bonner, president of the National Border Patrol Council.

Columnist Says Allowing Police To Handle Immigration Law Could Backfire. Ruben Navarrette, in a column appearing in USA Today (2/15, 2.31M) writes, "I'm convinced that immigrants -- whatever their status -- are America's most valuable import. Yet I wasn't raised to take lightly things such as border security or the breaking of laws. The trouble is that some proposed solutions — from putting troops on the border to denying citizenship to the children of illegal immigrants — bring to mind the old saying about the cure being worse than the disease. That includes this one: Allowing local police to enforce federal immigration law." Navarrette says, "Once street officers become surrogate immigration agents, all is lost. Whatever amount of trust the police department has built with immigrant communities will deteriorate. The possibility of racial profiling will increase. An initiative intended to combat crime could easily backfire and fuel it instead if immigrants are too scared to report crimes committed against them." Navarette adds that you can't get tough on illegal immigrants "without first getting tough on those who hire them."

Preval Claims "Gross Fraud" In Haitian Elections, Urges Peaceful Protest. USA Today/AP (2/15) reports, "Leading presidential candidate Rene Preval claimed Tuesday that 'gross errors' and likely fraud marred the vote that saw him fall just short of a first-round victory. He also urged supporters to protest peacefully, a day after at least one pro-Preval demonstrator was killed," and "called on followers to remove all roadblocks so people can get to work." However, "United Nations spokesman David Wimhurst said no evidence of fraud was detected in the vote," and "the U.N. Security Council urged Haitians to respect election results." The U.N. peacekeeping mission was extended for six months.

The New York Times (2/15, Thompson, Bracken, 1.19M) adds, "The warnings and calls for calm, live on radio and television stations, seemed to have almost immediate effects. Leaders of the interim government and foreign diplomats worked on plans for a review of the tabulations. United Nations troops began clearing away junked cars, heavy boulders and burning tires blocking the main thoroughfares." Preval's "camp offered no numbers or documents to refute conclusively the results," but "suspicions seemed to focus on an estimated 85,000 blank votes and 120,000 voided ballots, of about 2.2 million votes that election officials said had been cast." Also, residents of Cité Soleil "said they found mounds of ballots dumped there, most supporting Mr. Préval," but "the discovery had not been confirmed."

The Washington Post (2/15, A14, Roig-Franzia, 744K) adds, "Preval accused 'provocateurs' in the opposition of trying to stir up his loyalists in an attempt to isolate and discredit them in the eyes of international observers. Preval's supporters, however, appeared largely responsible for the chaos."

The AP (2/15, Jacobs) adds, "Haiti's interim government ordered a review of election results," which "is the first formal step to investigate possible fraud or irregularities committed during last week's vote and the counting process." Michel Brunache, chief of staff of interim President Boniface Alexandre, said it "will be conducted by a commission comprised of the president's office, the electoral council and Preval's party."

Portman Calls For Creation Of China Task Force. The CBS Evening News (2/14, story 13, 0:20, Schieffer) reported, "The government said today it will tighten enforcement of US trade laws regarding China following a six-month review of the two countries' trading relationship. Last year the US trade deficit with China topped $201 billion, a record that critics blame in part on cheating and unfair practices by the Chinese."

US Trade Representative Rob Portman yesterday called for the establishment of a China Enforcement Task Force under the US Trade Representative to counterweigh Chinese exports, which, USA Today (2/15, Smith, 2.31M) reports "the government says benefit from illegal state subsidies and lax controls on counterfeiters." Last year, "the U.S. trade deficit with China was nearly $202 billion. Moving to head off congressional criticism of the relationship, Portman outlined a policy of more muscular U.S. negotiations with China bolstered by the administration's willingness to seek legal sanctions against China at the World Trade Organization."

The Wall Street Journal (2/15, Hitt, Hiebert, 2.11M) reports, "Warning of a 'corrosive effect on political support' in the U.S. for trade with China, Mr. Portman flags concern with Beijing's 'unreported and extensive' industry subsidies, and a network of trade barriers that he says keep out U.S. exports and helped fuel a record U.S. trade deficit. That deficit reached $725.75 billion in 2005." The Journal adds that the proposed task force "will focus on the preparation and handling of potential WTO cases with China.' It "will be headed by a new chief counsel for China trade enforcement."

The New York Times (2/15, Bajaj, 1.19M) reports that while Portman used "stern language," he "did not ask for or

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threaten any specific sanctions against the Chinese, an omission that will not escape the notice of both Democratic and Republican lawmakers who have been calling for the administration to take a far tougher line with China."

The Washington Post (2/15, D5, Blustein, 744K) reports that Portman's pledge to exert more pressure on China "drew praise from big business but scorn from congressional Democrats, who complained it was nothing more than rhetoric." The "only concrete measures proposed in the report involved procedural and personnel matters."

Internet Companies To Defend China Policies To Lawmakers. The CBS Evening News (2/14, story 14, 2:50, Schieffer) reported, "Members of Congress will consider another aspect of America's relationship with China tomorrow at a hearing on Chinese censorship of the Internet. It will focus on allegations that US companies have knuckled under to the Chinese government, including Google, Yahoo, and Microsoft." CBS (Petersen) added, "Doing business in China means doing it China's way. Google has a new site for Chinese users and what a difference a country can make. Here is how it should work. Here in our office in Tokyo, where the Internet is not censored, you go to Google. You type in something like Tiananmen Square. When the results come up, you can click on what Google has found and get the story of what happened that June day in 1989. But now, here in our office in China, we're trying the same search on Google, and here is what comes up. It says the page is not available. This little cartoon figure reminds users that China has 30,000 Internet police monitoring the web, sometimes with help from US companies. Yahoo is accused of giving authorities files and emails that resulted in prosecutions."

The Washington Post (2/15, D1, Noguchi, 744K) reports, "Yahoo Inc., Google Inc. and Microsoft Corp. will go on Capitol Hill today to defend corporate policies for dealing with China that they say balance business interests with human-rights concerns. In testimony before the House subcommittee on Africa, Global Human Rights and International Operations and the subcommittee on Asia and the Pacific, Yahoo plans to argue that the presence of the Internet does good for closed societies even when censored or restricted. But some human rights advocates plan to testify that corporate America is abnegating its ethical responsibilities by complying with Chinese law. Others expected to testify include network-equipment maker Cisco Systems Inc. and representatives from the State Department."

Smith Measure Would Bar Censorship Of Political, Religious Terms. The New York Times (2/15, Zeller, 1.19M) reports, that Rep. Chris Smith, chairman of the House Subcommittee on Africa, Global Human Rights and International Operations "plans to introduce legislation by week's end that would restrict an Internet company's ability to censor or filter basic political or religious terms -- even if that puts the company at odds with local laws in the countries where it now operates. … Mr. Smith's legislation, called the Global Online Freedom Act, however, would render much of what the Internet companies are currently doing in China illegal."

Prominent Chinese Figures Criticize Closing Of News Journal. The New York Times (2/15, Kahn, 1.19M) reports, "A dozen former Communist Party officials and senior scholars, including a onetime secretary to Mao, a party propaganda chief and the retired bosses of some of the country's most powerful newspapers, have denounced the recent closing of a prominent news journal, helping to fuel a growing backlash against censorship. A public letter issued by the prominent figures, dated Feb. 2 but circulated to journalists in Beijing on Tuesday, appeared to add momentum to a campaign by a few outspoken editors against micromanagement, personnel shuffles and an ever-expanding blacklist of banned topics imposed on China's newspapers, magazines, television stations and Web sites by the party's secretive Propaganda Department. The letter criticized the department's order on Jan. 24 to shut down Freezing Point, a popular journal of news and opinion, as an example of 'malignant management' and an 'abuse of power' that violates China's constitutional guarantee of free speech."

Official Likens China's Internet Policing To US, Europe. In a separate story, the New York Times (2/15, Kahn, 1.19M) reports that a senior official responsible for managing China's internet said Chinese authorities "are determined to stop 'harmful information' from spreading through the Web, but the controls it places on Web sites and Internet service providers do not differ much from those employed by the United States and European countries." The official "did not directly dispute the contention of many critics that China operates a vast and technologically sophisticated firewall to protect the ruling Communist Party against what it views as Web-based threats to its authority. But he sought to put the country's Web-policing operation in the best possible light, emphasizing that China's Internet minders abided strictly by laws and regulations that in some cases have been modeled on American and European statutes."

WPost Says China's Power Carries "Broad Responsibilities." The Washington Post (2/15, A20, 744K) editorializes, "Since joining the World Trade Organization in 2001, China has proved serious about honoring its commitments. … But China is treating its WTO commitments as a ceiling, not a floor. It appears unwilling to modify its behavior in other areas, and this may strain its relations with the United States." China "is now too big to get away with a minimalist definition of its obligations to the outside world. Its currency policies affect global trade imbalances. Its

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intellectual property protections affect the value of copyrights worldwide. Its 100 million Internet users are bound to attract the attention of Western advocates of free speech and their allies in Congress. Riches and power bring broad responsibilities."

Canada's Conservative PM's Pledge On Marriage Worries Gay Couples. USA Today (2/15, Dube, 2.31M) reports that Canada's Conservative prime minister Stephen Harper "has pledged to hold a vote in Parliament on overturning Canada's same-sex marriage law," so "gay and lesbian couples have been hurrying to wed ever since Harper started gaining momentum before last month's elections," as "Harper has said if the law is overturned, he will not try to invalidate same-sex marriages that already have taken place." However, "his party does not have a majority of seats in the House of Commons" and "it's unclear whether he has the votes to overturn same-sex marriage legislation." Still, "both sides agree that if Parliament overturns the law, the courts will decide the matter," and "Harper has vowed not to override the Supreme Court (permitted under Canadian law) if it rules same-sex marriage is a fundamental human right."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Urgent Appeal For Jail Safety."
"Around Iraq In 4 Days."
"Housing Search Is Expensive For Getty."
"Abramoff Bragged Of Ties To Rove."
"A Fearful Lebanon Marks Ex-Premier's Slaying."
"Hunter Suffers Setback As Criticism Of Cheney Grows."

USA Today:
"A Dream House, Sans Spouse: More Single Women Buy Their Own Homes."
"Quieter Presence Urged In Mideast."
"Cheney Stays Mum On Hunting Accident."

New York Times:
"Fellow Hunter Shot By Cheney Suffers Setback."
"Quick Rise For Purveyors Of Propaganda In Iraq."
"Beijing Censors Taken To Task In Party Circles."
"Afghan Attacks Tied To Taliban, Point To Pakistan."
"What Fuel Bills? U.S. Consumers Still Spending."
"A Cancer Drug Shows Promise, At A Price That Many Can't Pay."

Washington Post:
"Cheney's Response A Concern In GOP."
"Shotgun Pellet Causes Cardiac Event In Victim."
"Iran Restarts Uranium Program."
"Young Skier Makes A Thrilling Arrival."
"325,000 Names On Terrorist List."
"Inner Suburbs Fall Through The Cracks."

Washington Times:
"Retail Sales See Best Gains Since Late '99."
"Ehrlich To Veto Bill On Felons."
"NATO Allies Cut Military Since 9/11."
"Shooting By Cheney Was Typical Accident."
"The Show Must Go On."
"Official In U.S. Deny Plot On Hamas."
"Turin Olympics Bring A Little Faith To The Field."

Detroit Free Press:
"A Rebirth On The City's Riverfront."
"Smuggling Ring Shows Border Lapses."

Atlanta Journal-Constitution:
"Crippled Poverty Tax Board To Meet."
"Most States' Utility Panels Have An Adversary System."
"Big On Worship."
"Assembly OKs Child Care Credit."
"N.J. Bull Terrier Collars Dog World's Top Trophy."

Dallas Morning News:
"Man Shot By VP Has Heart Attack."
"Downtown Land-Swap Deal Fizzles."
"Residents Fear Lives May Collapse."

Houston Chronicle:
"Young At Heart Of Celebration."
"Man Shot By Cheney Has Complications."
"Hot Ligety."
"Witness: Skilling's Pressure Fed Stock Deception."
"Dyslexic Children Given A Helping Hand On TAKS."
"Afghan Linked To Taliban From Pakistan."

Story Lineup From Last Night's Network News:
ABC: Cheney Hunting Accident; Whittington's Health; White House-Whittington's Health; Muslim Cartoon Protests; Saddam Trial; Moussaoui Hearing; Tulane Hospital Reopens; Consumer Spending; Kansas City Prison Break; Olympic Results; Marriage Health.
CBS: Cheney Hunting Accident; Cheney Accident-Media; Cheney Press Management-Analysis; Hurricane Katrina-Chertoff; Iran-Nuclear Program; Iraq-US KIA; Saddam Trial; Iraq-Basra Protests; Iraq-Journalist Deaths; Iraq-Marine Hero; Oil Companies-Government Giveaway; Stock Markets; US-China Trade Laws; China-Internet Censorship; Iraq-Valentine's Day.
NBC: Cheney Hunting Accident; Whittington's Health; Tulane Hospital Reopens; FEMA-Katrina Evacuees; Muslim Cartoon Protests; Lebanon-Hariri Anniversary; Olympics-Miller Interview; Olympics-Results; Olympic Athletes-Technology; Snowstorm Rating Scale; AAA-Booster Seat Study; WWII Soldier's Obit; Torino-Chocolate Industry.

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Story Lineup From This Morning's Radio News Broadcasts:

ABC: Cheney Hunting Accident; Hurricane Katrina Response; CA-Death Penalty Ruling.

CBS: Hurricane Katrina Response; Pakistan-Cartoon Riots; CA-Death Penalty Ruling; Cheney Hunting Accident; Seattle-Emergency Airplane Landing; Powerball; Westminster Dog Show; Wall Street.

NPR: UK Troops-Afghanistan; Pakistan-Cartoon Riots; US, Israel-Hamas Plot; OH-Intelligent Design; Cheney Hunting Accident; Hurricane Katrina Response; France-Union Protests; UK-Smoking Ban.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Breakfast with bicameral and bipartisan congressional leadership, Oval Office, The White House, closed press; makes remarks on health care, Wendys International, Inc., corporate headquarters, Dublin, Ohio; participates in Signing of H.R. 4636 - The Federal Deposit Insurance Reform Conforming Amendments Act of 2005, Oval Office, The White House; participates in a meeting on Health Savings Accounts, Wendys International, Inc. Corporate Headquarters, Dublin, Ohio.

VICE PRESIDENT CHENEY — No public schedule.

LAURA BUSH — Participates in a discussion recognizing American Heart Month, Carolinas Medical Center, Charlotte, NC; speaks at the event; speaks at a Jr. Rangers Event, Biltmore Hotel, Coral Gables, Fla.

US Senate: 9 a.m. FOREIGN RELATIONS _ Full Committee. Closed briefing and hearing on nuclear weapons in Iran. Location: Room S-407, Capitol.

9:30 a.m. ARMED SERVICES _ Full Committee. Confirmation hearing on pending nominations. Location: Room 106, Dirksen.

9:30 a.m. ENVIRONMENT AND PUBLIC WORKS _ Full Committee. Votes on pending nominations. Location: Room 628, Dirksen.

9:35 a.m. ENVIRONMENT AND PUBLIC WORKS _ Full Committee. Hearing on the FY07 EPA budget. Location: Room 628, Dirksen.

9:45 a.m. FOREIGN RELATIONS _ Hearing on foreign policy priorities, nominations and president's proposed budget. Witnesses include Secretary of State Condoleezza Rice. Location: Room 216, Hart.

10 a.m. BANKING, HOUSING AND URBAN AFFAIRS _ Full Committee. Hearing on the rebuilding needs in Hurricane Katrina-impacted areas. Donald Powell, federal coordinator of Gulf Coast rebuilding; HUD Secretary Jackson; David Garratt, FEMA; Martin J. Gruenberg, FDIC; Herbert Mitchell, SBA. Location: Room 538, Dirksen.

10 a.m. BUDGET _ Full committee. Hearing on understanding the causes of and solutions to addressing the federal tax gap. IRS Commissioner Mark W. Everson; Comptroller General David Walker; Nina Olson, National Taxpayer Advocate, Taxpayer Advocate Service. Location: Room SD-608, Dirksen.

10 a.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Full Committee. Hearing on video franchising. Verizon CEO Ivan Seidenberg; AT&T CEO Edward Whitacre, Jr.; Thomas M. Rutledge, chief operating officer, Cablevision Systems Corp.; Brad Evans, CEO, Cavalier Telephone; Lori Panzino-Tillery, president, National Association of Telecommunications Officers and Advisors; Anthony T. Riddle, executive director, Alliance for Community Media; Gene Kimmelman, Consumers Union; Gigi Sohn, Public Knowledge. Location: Room 562, Dirksen.

10 a.m. HEALTH, EDUCATION, LABOR AND PENSIONS _ Employment and Workplace Safety Subcommittee. Roundtable discussion on mine safety technology. Bob Campman, President, Grace Industries; Pat Droppleman, President, Ocenco Corporation; R. Larry Grayson, University of Missouri-Rolla; Wes Kenneweg, President, Draeger Industries; Jeffery Kohler, National Institute for Occupational Safety & Health; Roy Nutter, West Virginia University; Dennis ODell, Administrator, Health and Safety Programs, UMWA; Sam Shearer, President, CSE Corporation; Starnes Walker, Technical Director, Office of Naval Research, U.S. Navy; Gary Zamel, President, Mine Site Technologies Pty. Ltd. Location: Room 430, Dirksen.

10 a.m. JUDICIARY _ Full Committee. Hearing on pending nominations. Location: Room 226, Dirksen.

10:30 a.m. APPROPRIATIONS _ Legislative Branch Subcommittee. Oversight hearing on the progress of the Capitol Visitors Center. Architect of the Capitol Alan Hantman; Bernard Ungar and Terrell Dorn, both of the GAO; Robert Hixon, Jr., project executive. Location: Room 138, Dirksen.

10:30 a.m. ENERGY AND NATURAL RESOURCES _ Full Committee. Hearing on the Protecting America's Competitive Edge Act.Richard Orbach, Director, Office of Science, Energy Department; Charles Vest, President Emeritus, MIT; Luis Proenza, President, University of Akron. Location: Room 366, Dirksen.

11:15 a.m. HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS _ Full Committee. Hearing on the Department of Homeland Security's preparedness and response to hurricanes Katrina and Rita. DHS Secretary Chertoff. Location: Room 342, Dirksen.

2:30 p.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Full Committee. Hearing on nanotechnology developments. Clayton Teague, Director,

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National Nanotechnology Coordinating Office; Richard Buckius, National Science Foundation; Jeffrey Schloss, co-chairman, Nanomedicine Roadmap Initiative, NIH; Mark Davis, California Institute of Technology; J. Clarence Davies, Woodrow Wilson International Center for Scholars; Timothy Swager, MIT; Alan Gotcher, president, Altair Nanotechnologies Inc.; Todd Hylton, Science Applications International Corp.; Bryant Linares, president, Apollo Diamond Inc. Location: Room 562, Dirksen.

2:30 p.m. ENERGY AND NATURAL RESOURCES _ Public Lands and Forests Subcommittee. Hearing on plans for fire retardant aircraft in federal fire fighting efforts. USDA Undersecretary Mark Rey; Deputy Assistant Interior Secretary Nina Rose Hatfield; James Hall, co-chair, Blue Ribbon Report of Aerial Fire Fighting Safety; Texas State Forester James Hull. Location: Room 366, Dirksen.

2:30 p.m. SELECT INTELLIGENCE _ Full Committee. Closed briefing on pending matters. Location: Room 219, Hart.

US House: FLOOR SCHEDULE _ 10 a.m. Meets for legislative business. Highlights: Suspensions (4 bills): 1) S.Con.Res. 79 - A concurrent resolution expressing the sense of Congress that no United States assistance should be provided directly to the Palestinian Authority if any representative political party holding a majority of parliamentary seats within the Palestinian Authority maintains a position calling for the destruction of Israel. 2) H.Con.Res. 300 - Paying tribute to Shirley Horn in recognition of her many achievements and contributions to the world of jazz and American culture. 3) S. 2275 - National Flood Insurance Program Enhanced Borrowing Authority Act of 2006. 4) H.R. 4745 - Making supplemental appropriations for Fiscal Year 2006 for the Small Business Administration`s disaster loans program, and for other purposes.

9:30 a.m. APPROPRIATIONS _ Agriculture Subcommittee. Hearing on the FY07 USDA budget. Secretrary Johanns. Location: Room 2362, Rayburn.

10 a.m. APPROPRIATIONS _ Interior Subcommittee. Hearing on the FY07 budget for the Woodrow Wilson Center. Director Lee Hamilton. Location: Room B-308, Rayburn.

10 a.m. APPROPRIATIONS _ Military Quality of Life Subcommittee. Hearing on the DOD budget, with Undersecretary of Defense Tina Jonas, Deputy Undersecretary Phil Grone. Location: Room H-143, Capitol.

10 a.m. ARMED SERVICES _ Full Committee. Hearing on the FY07 defense authorization. Army Secretary Francis Harvey, Army Chief of Staff Gen. Peter Schoomaker. Location: Room 2118, Rayburn.

10 a.m. ENERGY AND COMMERCE _ Commerce, Trade and Consumer Protection Subcommittee. Hearing on credit card interchange fees. Attorney Timothny Muris; Henry Armour, National Association of Convenience Stores; Karen Kerrigan, Small Business and Entrepreneurship Council; Edward Mierzwinski, U.S. Public Interest Research Group. Location: Room 2123, Rayburn.

10 a.m. FINANCIAL SERVICES _ Full Committee. Hearing on the semi-annual report of the Federal Reserve System. Fed Chairman Ben Bernanke. Location: Room 2128, Rayburn.

10 a.m. HOMELAND SECURITY _ Emergency Preparedness, Science and Technology Subcommittee. Hearing on the status of interoperable communications. Casey L. Perry, Wisconsin state trooper, and chairman, National Troopers Coalition; Tim Bradley, senior deputy state fire marshal, North Carolina; Diane Linderman, American Public Works Association; William Moroney, United Telecom Council; William W. Pinsky, Ochsner Clinic Foundation. Location: Room 311, Cannon.

10 a.m. INTERNATIONAL RELATIONS _ Africa, Global Human Rights and International Operations Subcommittee and Asia and the Pacific Subcommittee. Joint hearing on the Internet in China. James Keith, State Department; Deputy Assistant Secretary of State David Gross; Mark Chandler, Cisco Systems; Jack Krumholtz, Microsoft; Michael Callahan, Yahoo; Elliott Schrage, Google; Lucie Morillon, Reporters Without Borders; Harry Wu, publisher, China Information Center; Libby Liu, president, Radio Free Asia; Xiao Qiang, director, China Internet Project, University of California, Berkeley; Sharon Hom, Human Rights in China. Location: Room 2172, Rayburn.

10 a.m. JUDICIARY _ Full Committee. Markup of pending legislation. Location: Room 2141, Rayburn.

10 a.m. SCIENCE _ Full Committee. Hearing on the FY07 budget for science and technology programs. John Marburger III, director, White House Office of Science and Technology Policy; Energy Secretary Bodman; Arden Bement, director, National Science Foundation; Charles McQueary, undersecretary of Homeland Security; Deputy Commerce Secretary David Sampson. Location: Room 2318, Rayburn.

10 a.m. TRANSPORTATION AND INFRASTRUCTURE _ Aviation Subcommittee. Hearing on commercial jet fuel supply. John D. Shages, Deputy Assistant Energy Secretary; Michael A. Cirillo, Federal Aviation Administration; John Heimlich, Air Transport Association of America; John Felmy, American Petroleum Institute; Jeffrey Hawk, Boeing Company. Location: Room 2167, Rayburn.

10:30 a.m. VETERANS AFFAIRS _ Full Committee. Hearing on the legislative agenda, views and priorities for Veterans Service Organizations, with representatives of Disabled American Veterans, Veterans of Foreign Wars, AMVETS, The American Legion. Jewish War Veterans, Blinded Veterans Association, Non Commissioned Officers Association, Military Order of the Purple Heart and Paralyzed Veterans of America. Location: Room 334, Cannon.

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10:30 a.m. WAYS AND MEANS _ Full Committee. Hearing on the FY07 budget proposal. Treasury Secretary Snow. Location: Room 1100, Longworth. Notes: Immediately following the hearing with Snow, the committee will markup the views and estimates letter to the Budget Committee.

12 p.m. SELECT INTELLIGENCE _ Oversight Subcommittee. Closed briefing on the intelligence value of interrogation. Location: Room H-405, Capitol.

1:30 p.m. APPROPRIATIONS _ Military Quality of Life Subcommittee. Hearing on quality of life for senior enlisted personnel. Sgt. Major of the Army Kenneth Preston, Master Chief Petty Office of the Navy Terry Scott; Sgt. Major of the Marine Corps John Estrada, Chief Master Sergeant of the Air Force Gerald Murray. Location: Room 2362, Rayburn.

1:30 p.m. WAYS AND MEANS _ Full Committee. Hearing on the U.S. trade agenda. USTR Robert Portman. Location: Room 1100, Longworth.

2 p.m. APPROPRIATIONS _ Homeland Security Subcommittee. Hearing on FY07 appropriations ror security and management operations in DHS. Secretary Chertoff. Location: Room 2359, Rayburn.

2 p.m. BUDGET _ Full Committee. Hearing on domestic entitlements and the budget. Comptroller General David Walker and former CBO Director Douglas Holtz-Eakin. Location: Room 210, Cannon.

2 p.m. ENERGY AND COMMERCE _ Full Committee. Hearing on health care priorities in the FY07 budget. HHS Secretary Heavitt. Location: Room 2123, Rayburn.

2 p.m. GOVERNMENT REFORM _ Energy and Resources Subcommittee. Hearing on the EPA's critical use exemption for methyl bromide. William Wehrum, EPA; Michelle Castellano, Mellano and Co.; James Bair, North American Millers' Association; David Doniger, National Resources Defense Council. Location: Room 2203, Rayburn.

2 p.m. GOVERNMENT REFORM _ Federalism and the Census Subcommittee. Hearing on challenges to the public housing system in the 21st Century. Former HUD Secretary Henry Cisneros; former Rep. Rick Lazio, JPMorgan Chase Bank; David G. Wood, GAO; Conrad Egan, National Housing Conference; Rod Solomon, former deputy assistant secretary of Housing and Urban Development; Alexander von Hoffman, Harvard University; Edgar O. Olsen, University of Virginia; Renee L. Glover, Atlanta Housing Authority. Location: Room 2247, Rayburn.

2 p.m. HOMELAND SECURITY _ Intelligence, Information Sharing and Terrorism Risk Assessment Subcommittee. Hearing on the FY07 budget for the Office of Intelligence and Analysis of DHS. Charlie Allen, DHS. Location: Room 311, Cannon.

2 p.m. RESOURCES _ National Parks Subcommittee. Oversight hearing on the NPS 2006 draft management policies and proposed changes to Director's Order 21. Location: Room 1324, Longworth.

2 p.m. SELECT KATRINA RESPONSE INVESTIGATION _ Full Committee. Meeting to consider its final report in Room 2154, Rayburn. Location: Room 2154, Rayburn. Notes: At 2:30 p.m. Chairman Tom Davis releases the report in room 2154.

2 p.m. TRANSPORTATION AND INFRASTRUCTURE _ Highways, Transit and Pipelines Subcommittee. Hearing on the FY07 budget proposal impacts SAFETEA LU. Deputy Assistant Treasury Secretary Robert Carroll; Assistant Transportation Secretary Phyllis Scheinberg. Location: Room 2167, Rayburn.

2:30 p.m. ARMED SERVICES _ Strategic Forces Subcommittee and Terrorism, Unconventional Threats and Capabilities Subcommittee. Joint hearing on the Able Danger intelligence operation. Location: Room 2118, Rayburn.

4 p.m. JUDICIARY _ Crime, Terrorism and Homeland Security Subcommittee. Markup of H.R. 1704, Second Chance Act of 2005, followed by oversight hearing of gun show sales enforcement by BATFE. Location: Room 2141, Rayburn.

5 p.m. HOMELAND SECURITY _ Economic Security, Infrastructure Protection, and Cybersecurity Subcommittee. Hearing on Adm. Thomas Collins, Commandant, U.S. Coast Guard. Location: Room 311, Cannon.

Other: AARP _ AARP holds its public policy meeting. Highlights: 8:30 a.m. Session on pensions and savings, with Peter Orszag of Brookings Institution, Nell Hennessy of Fiduciary Counselors; David John of Heritage Foundation. 10 a.m. Session on tech issues and the senior divide Location: Polaris Room, Reagan Trade Center.

CONGRESS-TRADE _ 8 a.m. The Washington International Trade Association holds a discussion of the 2006 congressional trade agenda, with congressional staff. Location: Amphitheater, conference level, Reagan Trade Center. Notes: Discussion is off the record.

HOUSE DEMOCRATS _ 9 a.m. Closed meeting of the House Democratic Caucus. Location: Room 345, Cannon.

HOUSE REPUBLICANS _ 9 a.m. Closed meeting of the House GOP Conference. Location: Capitol Hill Club. Notes: News availability about 10 a.m. following the meeting with House Speaker Hastert, others, on homeland security. Lobby of 310 1st St. SE. Contact: Betsy Andres, 202-226-9000.

MOUSSAOUI _ 9:30 a.m. Groups of jurors return to the courthouse to be questioned individually in the trial of Zacarias Moussaoui. Location: Courtroom 700, U.S. District Court, Alexandria.

US-INDIA NUCLEAR _ 9:30 a.m. The Arms Control Association holds a news briefing on the U.S.-India nuclear cooperation deal. Location: 1779 Massachusetts Ave. NW.

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DEMOCRATS-KATRINA _ 10 a.m. Democratic Leader Nancy Pelosi, Democratic Whip Steny Hoyer, Democratic Caucus Chairman James E. Clyburn, and Democratic Caucus Vice Chairman John B. Larson will discuss Hurricane Katrina and the pending report from the Select Committee on Katrina immediately following the weekly Democratic Caucus meeting. Location: Outside Room 345, Cannon Building.

EARMARK REFORM _ 11 a.m. Reps. Jeff Flake, Jim Cooper, Charles Bass and Dennis Cardoza hold a briefing on earmark reform. Location: Room 1334, Longworth.

GONZALES-PRIORITIES _ 11 a.m. Attorney General Alberto R. Gonzales will outline the top priorities for the Department of Justice for the upcoming year and highlight recent accomplishments of the Department in an address to Department employees. Location: Great Hall, Department of Justice, 950 Pennsylvania Ave. NW. Media must enter the Department at the center entrance on Constitution Avenue, between Ninth and Tenth Streets.

AFGHANISTAN _ 12 p.m. The U.S. Trade and Development Agency presents its 2005 Country of the Year honor to Afghanistan, with Amb. Said Tayeb Jawad. Location: Room 1539, Longworth.

ARAB TELEVISION _ 12 p.m. Jihad Ballout, Director, Media Relations at Al Arabiya New Channel in Dubai, speaks on the role of Arabic news networks in framing political debate at a session sponsored by the Middle East Institute. Location: 1761 N St. NW.

BUDGET OUTLOOK _ 12 p.m. National Economists Club hosts John Irons, director of Tax and Budget Policy, Center for American Progress. He'll discuss ``The Long Term Budget Outlook. Most economic experts agree that the current path of fiscal policy--with substantial deficits, growing spending obligations, and shrinking revenue--is unsustainable. But what will the adjustment look like? One reasonable solution would require adjustments on both the spending and the tax side, and significant revenue increases will likely be necessary. The link between the need for more revenue and the need for sweeping tax reform will likely drive a national debate on fiscal policy for years to come. Dr. Irons talk will focus on the long-term health of our nation's finances, and explore the implications for fiscal policy and tax reform both now and in the future. Location: Chinatown Gardens, 618 H St. NW.

IRAN _ 1 p.m. Congressional briefing on the threats, challenges and prospects for change in Iran. Location: Cannon Caucus Room.

MEDICARE RX BENEFIT _ 1 p.m. Senators Durbin, Stabenow, and Congressman Dingell hold a press conference on the Medicare prescription drug benefit. Location: Room S-324, Capitol.

RURAL TELECOM _ 1:30 p.m. The House Congressional Rural Caucus holds a forum on various telecom-related issues. Location: Room 1302, Longworth.

GENERIC RX DRUGS _ 2:45 p.m. Senators Debbie Stabenow and Trent Lott hold a news conference to unveil legislation to make generic prescription drugs more available and reduce drug prices. Location: Senate Radio/TV Gallery.

ISLAM-CARTOONS _ 4 p.m. American University professors hold a discussion on communication issues surrounding Danish cartoons about Islam. Location: Kay Spiritual Life Center, 4400 Massachusetts Ave. NW.

MIDEAST-ECONOMICS _ 4:30 p.m. Reps. Ben Chandler, Phil English, Darrell Issa, William Jefferson, Gregory Meeks and Paul Ryan, along with USTR Robert Portman, announce creation of the Congressional Middle East Economic Partnership Caucus. Location: Room B-318, Rayburn.

ABSHIRE _ 5:30 p.m. Georgetown University awards an honorary degree to David Abshire, president of the Center for the Study of the Presidency. Location: Gaston Hall, 3rd floor, Healy Hall, Georgetown University.

HOMELAND SECURITY _ 5:30 p.m. The Heritage Foundation holds a reception with DHS Undersecretary George Foresman. Location: Allison Foyer, 7th floor, 214 Massachusetts Ave. NE.

HUMAN RIGHTS _ 5:30 p.m. Meeting to announce expansion of the Congressional Human Rights Caucus to include senators. Location: Room 345, Cannon.

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TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

Congressional Probe Of NSA Spying Is In Doubt (WP)

By Charles Babington
The Washington Post, February 15, 2006

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Congress appeared ready to launch an investigation into the Bush administration's warrantless domestic surveillance program last week, but an all-out White House lobbying campaign has dramatically slowed the effort and may kill it, key Republican and Democratic sources said yesterday.

The Senate intelligence committee is scheduled to vote tomorrow on a Democratic-sponsored motion to start an inquiry into the recently revealed program in which the National Security Agency eavesdrops on an undisclosed number of phone calls and e-mails involving U.S. residents without obtaining warrants from a secret court. Two committee Democrats said the panel -- made up of eight Republicans and seven Democrats -- was clearly leaning in favor of the motion last week but now is closely divided and possibly inclined against it.

They attributed the shift to last week's closed briefings given by top administration officials to the full House and Senate intelligence committees, and to private appeals to wavering GOP senators by officials, including Vice President Cheney. "It's been a full-court press," said a top Senate Republican aide who asked to speak only on background -- as did several others for this story -- because of the classified nature of the intelligence committees' work.

Lawmakers cite senators such as Olympia J. Snowe (R-Maine) to illustrate the administration's success in cooling congressional zeal for an investigation. On Dec. 20, she was among two Republicans and two Democrats who signed a letter expressing "our profound concern about recent revelations that the United States Government may have engaged in domestic electronic surveillance without appropriate legal authority." The letter urged the Senate's intelligence and judiciary committees to "jointly undertake an inquiry into the facts and law surrounding these allegations."

In an interview yesterday, Snowe said, "I'm not sure it's going to be essential or necessary" to conduct an inquiry "if we can address the legislative standpoint" that would provide oversight of the surveillance program. "We're learning a lot and we're going to learn more," she said.

She cited last week's briefings before the full House and Senate intelligence committees by Attorney General Alberto R. Gonzales and former NSA director Michael V. Hayden.

"The administration has obviously gotten the message that they need to be more forthcoming," Snowe said.

Before the New York Times disclosed the NSA program in mid-December, administration briefings regarding it were highly secret and limited to eight lawmakers: the top Republican and Democratic leader of the House and Senate, respectively, and the top Republican and Democrat on the House and Senate intelligence committees.

The White House characterized last week's closed-door briefings to the full committees as a significant concession and a sign of the administration's respect for Congress and its oversight responsibilities. Many Democrats dismissed the briefings as virtually useless, but senators said yesterday they appear to have played a big role in slowing momentum for an inquiry.

John D. Rockefeller IV (D-W.Va.), the Senate intelligence committee's vice chairman, has drafted a motion calling for a wide-ranging inquiry into the surveillance program, according to congressional sources who have seen it. Rockefeller declined to be interviewed yesterday.

Sources close to Rockefeller say he is frustrated by what he sees as heavy-handed White House efforts to dissuade Republicans from supporting his measure. They noted that Cheney conducted a Republicans-only meeting on intelligence matters in the Capitol yesterday.

Senate intelligence committee member Mike DeWine (R-Ohio) said in an interview that he supports the NSA program and would oppose a congressional investigation. He said he is drafting legislation that would "specifically authorize this program" by excluding it from the 1978 Foreign Intelligence Surveillance Act, which established a secret court to consider government requests for wiretap warrants in anti-terrorist investigations.

The administration would be required to brief regularly a small, bipartisan panel drawn from the House and Senate intelligence committees, DeWine said, and the surveillance program would require congressional reauthorization after five years to remain in place.

Snowe said she is inclined to support DeWine's plan. Sen. Chuck Hagel (R-Neb.), who also signed the Dec. 20 letter seeking an inquiry, said yesterday that the FISA law should be amended to include the NSA program and to provide for congressional oversight.

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As for Rockefeller's bid, Hagel said: "If some kind of inquiry would be beneficial to getting a resolution to this issue, then sure, we should look at it. But if the inquiry is just some kind of a punitive inquiry that really is not focused on finding a way out of this, then I'm not so sure that I would support that."

A New Surveillance Act (WSJ)

By Richard A. Posner

The Wall Street Journal, February 15, 2006

The best, and probably the only, way to end the debate over the propriety of the National Security Agency's conducting electronic surveillance outside the framework of the Foreign Intelligence Surveillance Act is for Congress to enact a new statute.

The administration is right to point out that FISA, enacted in 1978 -- long before the danger of global terrorism was recognized and electronic surveillance was transformed by the digital revolution -- is dangerously obsolete. It retains value as a framework for monitoring the communications of known terrorists, but it is hopeless as a framework for detecting terrorists. It requires that surveillance be conducted pursuant to warrants based on probable cause to believe that the target of surveillance is a terrorist, when the desperate need is to find out who is a terrorist.

Critics of the NSA's program point out that surveillance not cabined by a probable-cause requirement produces many false positives (intercepts that prove upon investigation to have no intelligence value). That is not a sound criticism.

National security intelligence is a search for the needle in a haystack. The intelligence services must cast a wide net with a fine mesh to catch the clues that may enable the next attack to be prevented. The initial trolling for clues is done by computer search programs, which do not invade privacy because search programs are not sentient beings. The programs pick out a tiny percentage of communications to be read by (human) intelligence officers, and a small subset of these will turn out to have intelligence value and spur an investigation. Some of these may be communications to which a U.S. citizen is a party.

The program is vital, given the terrorist menace, which is real and not abating. It may be thanks to such programs, as well as to other counterterrorist operations, that we have been spared a repetition of 9/11. We mustn't let our guard down, basking in the false assurance created by the lapse of time since the last attack. But the legality of the program has been called into question, and fears have been expressed about its impact on civil liberties.

These concerns can be addressed without gutting the program. But not by relaxing the standard for obtaining a warrant. Instead of requiring probable cause to believe the target a terrorist, FISA could be amended to require merely reasonable suspicion. But even that would be too restrictive. And the lower the standard for getting a warrant, the less of a filter a warrant requirement creates. If all that the government is required to state in its application is that it thinks an interception might yield intelligence information, judges will have no basis for refusing to grant the application. * * *

It is a mistake to think that the only way to prevent abuses of a surveillance program is by requiring warrants. Congress could enact a statute that would subject warrantless electronic surveillance to tight oversight and specific legal controls, as follows:

1. Oversight: The new statute would --

(a) Create a steering committee for national security electronic surveillance composed of the attorney general, the director of national intelligence, the secretary of homeland security (chairman), and a senior or retired federal judge or justice appointed by the chief justice of the United States. The committee would monitor all such surveillance to assure compliance with the Constitution and laws.

(b) Require the NSA to submit to the FISA court, every six months, a list of the names and other identifying information of all persons whose communications had been intercepted without a warrant in the previous six months, with a brief statement of why these individuals had been targeted. If the court concluded that an interception had been inappropriate, it would so report to the steering committee and the congressional intelligence committees.

2. Specific controls: The statute would --

(a) Authorize "national security electronic surveillance" outside FISA's existing framework, provided that Congress declared a national emergency and the president certified that such surveillance was necessary in the national interest. Warrants would

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continue to be required for all physical searches and for all electronic surveillance for which FISA's existing probable-cause requirement could be satisfied.

(b) Define "national security" narrowly, excluding "ecoterrorism," animal-rights terrorism, and other forms of political violence that, though criminal and deplorable, do not endanger the nation.

(c) Sunset after five years, or sooner if the declaration of national emergency was rescinded.

(d) Forbid any use of intercepted information for any purpose other than "national security" as defined in the statute (point b above). Thus the information could not be used as evidence or leads in a prosecution for ordinary crime. There would be heavy criminal penalties for violating this provision, to allay concern that "wild talk" picked up by electronic surveillance would lead to criminal investigations unrelated to national security.

(e) Require responsible officials to certify to the FISA court annually that there had been no violations of the statute during the preceding year. False certification would be punishable as perjury.

(f) Bar lawsuits challenging the legality of the NSA's current warrantless surveillance program. Such lawsuits would distract officials from their important duties, to no purpose given the new statute.

Mr. Posner is a judge on the U.S. Seventh Circuit Court of Appeals and a senior lecturer in law at the University of Chicago Law School.

Inside America's Secret Court (CNN)

By Henry Schuster

CNN.com, February 15, 2006

Editor's note: Henry Schuster, a senior producer in CNN's Investigative Unit and author of "Hunting Eric Rudolph," has been covering terrorism for more than a decade. Each week in "Tracking Terror," he reports on people and organizations driving international and domestic terrorism, and efforts to combat them.

WASHINGTON (CNN) -- America's secret court sits in a nondescript corridor on an upper floor of the Justice Department building, closed off from public view and now, some believe, regarded as increasingly irrelevant by the Bush administration.

Its formal name is the Foreign Intelligence Surveillance Court, though in recent hearings and reports about the dispute over warrantless wiretapping, it is usually referred to as the FISA (Foreign Intelligence Surveillance Act) court.

The FISA court began issuing warrants in 1979 in the wake of a series of intelligence-related scandals earlier that decade and the one before, including the FBI's spying on the Rev. Martin Luther King Jr.

Congress created the court with the idea that it would hear and rule in secret on requests for wiretaps, primarily those involving foreign intelligence agencies.

Because the U.S. was still deep in the Cold War, foreign spying, not terrorism, was the main concern.

Even though the FISA court did what other courts do -- approved requests for wiretaps in conditions of secrecy -- the aura of national security and the lack of information about the court and the targets of those warrants gave it a certain mystique, to the point where it became known as America's secret court.

The fact that the actual courtroom was protected by an electronic cone of silence to prevent eavesdropping only seemed to add to the flavor.A rare inside look

Judges appointed by the chief justice of the United States would hear proposals for warrants from the FBI and other agencies. One of them was Judge Royce Lamberth, a straight-talking Texan selected to preside over the FISA court from 1995 to 2002.

"The FISA judges have got to be comfortable that this is something we've got to do for our national security. There's no political shenanigans going on here," he told me.

I had the rare chance to hear about FISA from Lamberth during a recent conference in Washington. He said he is the only FISA judge, past or present, comfortable enough to talk about the court.

Lamberth explained the procedures for getting a FISA warrant (which since 1995 also allows for surreptitious entry for searches and seizures, known as "sneak and peek").

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"We're presented with affidavits like we would do any other search warrant or wiretap warrant in a regular criminal case," he said. "We have the agent there who is knowledgeable of the case at the time we are authorizing the activity, and I think the process has worked well.

"It is like any other criminal case: The defense is not represented at this time because it's an investigation at that time."

Terrorism began to replace spying as the court's main workload during Lamberth's tenure.

"I was chief judge of the court at the time of 9/11," he said. "I had done many [Osama] bin Laden wiretaps before 9/11. We knew that bin Laden was a problem long before 9/11."

Lamberth spoke about the night after two U.S. embassies in Africa were bombed by al Qaeda in 1998.

"I authorized five wiretaps that night in my living room at 3 o'clock in the morning at a hearing I conducted at home that led to some of the most productive evidence that was used in the trials in New York of the terrorists who set off those bombs, the bin Laden associates who set off the bombs in Africa."Not nimble enough?

Our conversation took place in early December, before the revelations that the Bush administration was bypassing FISA and ordering wiretaps without court warrants.

The FISA court was never interested in statistics or playing the numbers game.

-- Judge Royce Lamberth

Lamberth made no direct reference to the dispute, though a recent report in the Washington Post makes it clear that he was aware of the domestic spying program and was unhappy with it.

Pre-9/11, the most frequently heard complaint about FISA and the court was that warrants were approved routinely.

Lamberth disagreed, saying the court was not a rubberstamp for the government.

"The FISA court was never interested in statistics or playing the numbers game. So that, many times, an application would be presented and not initially approved or disapproved, but the government would be told to get additional information on this or that, and I would look at it again."

But after 9/11, the criticisms came from a different direction. It was revealed that FBI agents failed to get a FISA warrant to search the computer of al Qaeda suspect Zacarias Moussaoui before 9/11, because they felt the FISA process was too difficult.

Lamberth said the problem wasn't with FISA: "We had already defined al Qaeda as a foreign power in many previous applications, so there was no problem if they been able to tie Moussaoui with al Qaeda or acting for al Qaeda, they could have obtained the warrant."

The Patriot Act changed FISA in several ways. It became easier to get a warrant for someone like Moussaoui who might appear to be a "lone wolf" rather than an agent of a specific group, and government prosecutors began getting easier access to FISA warrants.'Need for speed'

The most significant challenge to the court has come from the Bush administration and is at the heart of the warrantless wiretapping dispute.

Despite provisions that allow the government to begin a wiretap 72 hours before seeking a FISA warrant, and giving the president 15 days after a declaration of war before seeking warrants, the Bush administration decided it need more flexibility.

FISA was a valuable tool, Attorney General Alberto Gonzales told Congress last week, but it wasn't always fast enough.

"The terrorist surveillance program operated by the [National Security Agency] requires the maximum in speed and agility, since even a very short delay may make the difference between success and failure in preventing the next attack," he said. "And we cannot afford to fail."

He also criticized the procedures necessary to get a FISA warrant.

"If, however, those same intelligence officers had to navigate through the FISA process for each of these intercepts, that would necessarily introduce a significant factor of delay, and there would be critical holes in our early warning system."

Already one FISA judge has resigned from the court, apparently unhappy that it is being bypassed. And many of the senators who listened to Gonzales expressed skepticism about the surveillance program.

That issue notwithstanding, the FISA court is still busy. There are more requests coming in than ever before, more than 1,750 during 2004. That's almost 150 per month.

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Twenty-seven years after the FISA court was created, it will finally soon move into its own home at the U.S. District Courthouse in Washington. The question facing it is its own relevance.

325,000 Names On Terrorism List (WP)

By Walter Pincus And Dan Eggen

The Washington Post, February 15, 2006

The National Counterterrorism Center maintains a central repository of 325,000 names of international terrorism suspects or people who allegedly aid them, a number that has more than quadrupled since the fall of 2003, according to counterterrorism officials.

The list kept by the National Counterterrorism Center (NCTC) -- created in 2004 to be the primary U.S. terrorism intelligence agency -- contains a far greater number of international terrorism suspects and associated names in a single government database than has previously been disclosed. Because the same person may appear under different spellings or aliases, the true number of people is estimated to be more than 200,000, according to NCTC officials.

U.S. citizens make up "only a very, very small fraction" of that number, said an administration official, who spoke on the condition of anonymity because of his agency's policies. "The vast majority are non-U.S. persons and do not live in the U.S.," he added. An NCTC official refused to say how many on the list -- put together from reports supplied by the CIA, the FBI, the National Security Agency (NSA) and other agencies -- are U.S. citizens.

The NSA is a key provider of information for the NCTC database, although officials refused to say how many names on the list are linked to the agency's controversial domestic eavesdropping effort. Under the program, the NSA has conducted wiretaps on an unknown number of U.S. citizens without warrants.

The government has been trying to streamline what counterterrorism officials say are more than 26 terrorism-related databases compiled by agencies throughout the intelligence and law enforcement communities. Names from the NCTC list are provided to the FBI's Terrorist Screening Center (TSC), which in turn provides names for watch lists maintained by the Transportation Security Administration and other agencies.

Civil liberties advocates and privacy experts said they were troubled by the size of the NCTC database, and they said it further heightens their concerns that such government terrorism lists include the names of large numbers of innocent people. Timothy Sparapani, legislative counsel for privacy rights at the American Civil Liberties Union, called the numbers "shocking but, unfortunately, not surprising."

"We have lists that are having baby lists at this point; they're spawning faster than rabbits," Sparapani said. "If we have over 300,000 known terrorists who want to do this country harm, we've got a much bigger problem than deciding which names go on which list. But I highly doubt that is the case."

Asked whether the names in the repository were collected through the NSA's domestic intelligence intercept program, the NCTC official said, "Our database includes names of known and suspected international terrorists provided by all intelligence community organizations, including NSA."

Attorney General Alberto R. Gonzales told the Senate Judiciary Committee last week that he could not discuss specifics but said: "Information is collected, information is retained and information disseminated in a way to protect the privacy interests of all Americans."

The NCTC name repository began under its predecessor agency in 2003 with 75,000 names, and it continues to grow. The center was created as part of a broad reorganization of U.S. intelligence agencies after the failure to disrupt the Sept. 11, 2001, attacks. It is the main agency for analyzing and integrating terrorism intelligence and is under direction of Director of National Intelligence John D. Negroponte.

Its central database is the hub of an elaborate network of terrorism-related databases throughout the federal bureaucracy. Terrorism-related names and other data are sent to the NCTC under standards set by Homeland Security Presidential Directive 6, signed by President Bush in September 2003, according to a senior NCTC official. The directive calls upon agencies to supply data only about people who are "known or appropriately suspected to be . . . engaged in conduct constituting, in preparation for, in aid of, or related to terrorism."

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"We work on the basis that information reported to us has been collected in accordance with those guidelines," Vice Adm. John Scott Redd, the center's director, said in a statement.

Analysts at the NCTC review all incoming names and can reject them if they do not have an apparent link to international terrorists, officials said. "That is not common, but it does happen," an NCTC official said, citing as examples a domestic or foreign drug dealer or a member of a U.S.-based extremist group, when neither has any sign of international terrorist connections.

The NCTC then sends a subset of the repository list to the FBI's screening center, and each entry includes a reference "to how the individual is associated with international terrorism," according to a June 2005 report by Justice Department Inspector General Glenn A. Fine. This reference is assigned one of 25 codes such as "Member of a Foreign Terrorist Organization," "Hijacker" or "Has Engaged in Terrorism," according to the report. The report also notes that the codes are split in two categories: "Individuals who are considered armed and dangerous and those who are not."

Fine's office criticized the TSC for including nearly 32,000 records of people in the "armed and dangerous" category but giving them the lowest handling code, which means that no report needs to be sent back to the FBI if they are encountered in the United States by law enforcement officers.

The TSC consolidates NCTC data on individuals associated with foreign terrorism with the FBI's purely domestic terrorism data to create a unified, unclassified terrorist watch list. The TSC, in turn, provides, for official use only, a version giving each person's name, country, date of birth, photos and other data to the Transportation Security Agency for its no-fly list, the State Department for its visa program, the Department of Homeland Security for border crossings, and the National Crime Information Center for distribution to police.

Shannon Moran, a spokeswoman for the FBI screening center, declined to answer detailed questions about the center's work, including how many names are on its list, how many U.S. citizens are included and whether the FBI database includes names linked to the NSA program. Fine's office reported last year that the FBI database contained more than 270,000 names, including a large number of people associated with domestic terrorist movements such as radical environmentalists and neo-Nazi white supremacists.

"If being placed on a list means in practice that you will be denied a visa, barred entry, put on the no-fly list, targeted for pretextual prosecutions, etc., then the sweep of the list and the apparent absence of any way to clear oneself certainly raises problems," said David D. Cole, a Georgetown University law professor who has been sharply critical of the Bush administration's anti-terrorism policies.

The growth of terrorist-related data networks within the U.S. intelligence community has greatly accelerated since Sept. 11, 2001. Before the al Qaeda attacks on the World Trade Center and the Pentagon, there were databases containing terrorist identities at the CIA, Defense Intelligence Agency, FBI and State Department. In addition there were 13 independent watch lists, but the lists or databases were not interoperable.

Currently, according to an NCTC official, there are 26 classified data networks carrying terrorism material. In a December 2005 interview on Federal News Radio, Redd said his agency "is really the only place in government and certainly in the intelligence community where all counterterrorism intelligence comes together." He also said that analyses of terrorism issues from all 15 intelligence agencies come into the NCTC, which then puts them on its Web site.

"What that means," Redd said, "is about 5,000 analysts around the counterterrorist intelligence community can pull up that Web site and see . . . what every other agency has as well, assuming they have the clearances."

Marc Rotenberg, executive director of the Electronic Privacy Information Center, said the size of the NCTC list and other terrorism-related databases underscores the severity of the "false positive" problem, in which innocent people -- including members of Congress -- have been stopped for questioning or halted from flying because their names are wrongly included or are similar to suspects' names.

"One of the seemingly unsolvable problems is what do you do when someone is wrongly put on this watch list," Rotenberg said. "If there are that many people on the list, a lot of them probably shouldn't be there. But how are they ever going to get off?"

Potential Jurors In Trial Of Father, Son Asked About Terrorism (AP)

By Don Thompson

AP, February 15, 2006

SACRAMENTO - The trial of a father and son charged with lying about the younger man attending a terror training camp in Pakistan began Tuesday, with potential jurors questioned about terrorism and whether they knew anyone who died during the September 2001 attacks.

Umer Hayat, 48, and his 23-year-old son, Hamid, have been in custody since their arrest last June, shortly after the son returned to the United States after nearly two years in Pakistan. An affidavit released in Washington, D.C., when Hamid Hayat was arrested said he planned to attack hospitals and supermarkets.

The Hayats are the only people charged criminally in a federal investigation of the Pakistani community in Lodi, an agricultural town about 35 miles south of Sacramento. They are being tried together but before separate juries because their statements to investigators purportedly incriminate each other in lying to the FBI.

U.S. District Court Judge Garland E. Burrell Jr. seated a jury of eight women and four men for Umer Hayat's trial, but those jurors are not due back in court until Feb. 21. Burrell said he expected to pick a separate jury to hear the case against Hamid Hayat on Wednesday and scheduled opening statements for Thursday.

Much of the testimony and evidence will be shared and both juries will often be in the courtroom simultaneously, attorneys said. Before the first jury was selected, defense attorneys and prosecutors quizzed potential jurors about their views on terrorism, Islam and immigration.

"We're trying to find folks who can truly, truly, truly be fair ... in a case with these types of charges," Umer Hayat's attorney, Johnny Griffin III, told potential jurors.

Umer Hayat, an ice cream vendor, is charged with two counts of making false statements to FBI agents and faces eight years in prison if convicted.

His son is charged with three counts of making false statements to the FBI about attending the camp and with providing material support to terrorists. If convicted, he faces up to 31 years in prison.

The jury pool was called from throughout an extensive region stretching from the Oregon border to Bakersfield.

Potential jurors were asked if they lost anyone in the Sept. 11, 2001, attacks, speak any Middle Eastern languages, or have any prejudices against Muslims or Pakistanis.

In his questioning, Griffin asked for their initial impressions when they heard the case was about terrorism. Some said they immediately thought of the attacks 4 1/2 years ago on the World Trade Center, the Pentagon and the jetliner that crashed in a Pennsylvania field.

One said that associates of hers had been accused falsely of being terrorists. Another, later dismissed, told the judge about losing "two relatives to terrorism."

In their questioning, prosecutors disclosed that investigators paid a cooperating witness who infiltrated Lodi's Pakistani community a few months after the 2001 attacks. The amount of compensation has not been disclosed, but jurors were asked if they were bothered by a paid informant.

The informant is key to the government's case. He recorded about 1,000 hours of conversations, including several with Hamid Hayat before he went to Pakistan in April 2003 and after he arrived there. The informant grew so close to the Hayat family that he sometimes slept at their home.

Prosecutors allege that Hamid Hayat told the informant he intended to train with terrorists. His family said in earlier interviews and court hearings that he went to attend a religious school and find a wife.

Griffin has said his client told the truth to investigators when he denied knowing of any terrorist camps and denied that his son attended one. Umer Hayat changed his story under pressure and without a lawyer or interpreter present, Griffin said.

Prosecutors also disclosed that four mysterious images that had been a focus of pretrial motions for months are satellite photographs of locations in Pakistan. Prosecutors have said defense attorneys would have to get security clearances before they could learn how the images were obtained.

The government also said it may call 28 witnesses but gave no details about who they were.

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The Hayats were dressed in dark suits with their hair and beards cropped close - a contrast to the bushy facial hair they once wore. Neither spoke as they listened passively to three interpreters who took turns as jurors were selected.

Among the bystanders in the courtroom were Umer Hayat's wife and another son, as well as Hamid Hayat's cousin.

Federal investigators began focusing on the Pakistani community in and around Lodi shortly after the 2001 terror attacks. About 2,500 people of Pakistani descent call the area home, most descendants of laborers who began arriving in the early 1900s to work in the area's orchards and packing plants.

Federal investigators questioned the Hayats after the younger man returned to the United States from Pakistan last May.

Prosecutors say Hamid Hayat failed a lie-detector test and admitted attending one terrorist camp for three days in 2000 and a second for three to six months in 2003 and 2004. They also say he returned to the U.S. intent on attacking hospitals and supermarkets.

FBI agents say they found a book titled "Virtues of Jihad" during a search of his bedroom.

Two Muslim clerics and the son of one of the imams arrested during the same investigation were not criminally charged but were deported to Pakistan over immigration violations.

SACRAMENTO Court Clerks, Reporters Queried About Lodi Terror Case Leak Sealed Court File Was Allegedly Given To Sacramento Bee (SFC)

By Demian Bulwa, Chronicle Staff Writer

San Francisco Chronicle, February 14, 2006

Sacramento -- The high-profile trial of a Lodi father and son accused of terrorist ties, scheduled to begin today with jury selection, took on added intrigue Monday with the disclosure that federal agents have questioned court clerks and news reporters while investigating the alleged leak of a secret case file.

FBI agents and a federal prosecutor questioned clerks on the fourth floor of the U.S. District Court in Sacramento last week about their handling of sealed documents from the prosecution of Umer Hayat and his son, Hamid Hayat, said attorneys Mark Reichel and Joseph Wiseman, who were hired to represent clerks.

The investigators also contacted three reporters at the Sacramento Bee newspaper and said they were investigating the leak of documents, said executive editor Rick Rodriguez, who declined further comment.

In the trial, jurors must decide whether Hamid Hayat, 23, is guilty of supporting terrorists by attending a training camp in Pakistan in 2003 and 2004. He is also charged with lying to FBI agents about it. Umer Hayat, a 48-year-old ice cream truck driver, is charged with lying to the FBI about his son's alleged training.

Their attorneys said the younger man did not go to a camp at all.

The two attorneys representing clerks said they believe the government is trying to intimidate the media in a controversial case. A few court clerks answered questions, Reichel said, but 16 opted to hire counsel. A third attorney representing a clerk, Krista Hart, said investigators asked clerks to give fingerprints and undergo polygraph tests.

"It's disconcerting to see this," Wiseman said, "because one can view this as a strong-arm attempt by the government to silence the media." Referring to other recent investigations of media leaks, he added, "This is probably the highest-profile terrorism case in the country right now. I think it's going to get messier before it's over."

FBI Special Agent Karen Ernst, an agency spokeswoman, confirmed Monday that the government was investigating "a leak of a sealed court document to the Sacramento Bee" but stressed that the clerk's office was not the only focus. She said the probe has been going on for some time and is not related to the trial.

The investigation comes on the heels of other highly publicized probes that have pitted the media against the Bush administration. Most recently, the Justice Department began looking into whether the New York Times was illegally given information about a controversial wiretapping program.

The Sacramento Bee, in a story published July 8, referred to "federal court documents obtained by The Bee" that contained details about the investigation that had not been made public. Many of the allegations mentioned in the story, written by Stephen Magagnini and Dorothy Korber, were later revealed in court hearings and filings by prosecutors.

Reporter Denny Walsh, who works in an office on the fourth floor of the courthouse, was the third reporter contacted, Rodriguez said.

Lawyers today will begin selecting a pair of juries, one for each of the defendants, in a trial that is expected to last 10 weeks and is seen as a window onto hit-and-miss efforts by U.S. authorities to thwart terrorist attacks. Testimony will be heard on Tuesdays, Wednesdays and Thursdays.

Authorities have said that Hamid Hayat, who was arrested in June after returning to Lodi from Pakistan, was to receive attack orders from two Muslim clerics who were in Lodi on religious-worker visas. The clerics agreed to be deported to their native Pakistan last year rather than fight immigration charges. Their attorney said they had no ties to terrorism.

Hamid Hayat's attorney, Wazhma Mojaddidi, said the young man was manipulated during FBI interviews. "The government charged these guys without a case and now they're going to trial without a case," she said, adding, "It's clear that our guys were not the targets of this investigation. The investigation was so much bigger."

The "meat of the case" remains FBI interviews with the father and son in which they allegedly confess, prosecutor Laura Ferris said during a pre-trial hearing. The government is also expected to call a cooperating witness -- a young Pakistani American man who befriended the Lodi clerics and Hamid Hayat, who he surreptitiously tape-recorded as far back as August 2002.

Moussaoui Permanently Barred From Jury Selection (LAT)

By Richard A. Serrano

The Los Angeles Times, February 15, 2006

ALEXANDRIA, Va. — A federal judge today permanently banned Zacarias Moussaoui from the remainder of the jury selection proceedings in his trial after the self-admitted Al Qaeda fighter once again rudely interrupted court proceedings, lashing out at his defense lawyers and the judge and angrily declaring: "God curse you and America!"

Her patience at an end, U.S. District Judge Leonie M. Brinkema ordered Moussaoui removed from the courtroom and taken to his holding cell in the federal courthouse building here. He will be allowed to monitor the next three weeks of jury selection via a television hookup.

The 37-year-old Moussaoui, a French citizen of Moroccan descent, started the proceedings today much as he did on Feb. 6, when some 500 potential jurors were brought into court in four groups to begin filling out questionnaires. Each time, he disrupted the process, swore allegiance to Al Qaeda and was whisked away at Brinkema's insistence.

Today's hearing was set up for the judge to go over the individual jury selection process. She began by saying her "main reason" was to "determine how Mr. Moussaoui plans to behave." He wasted no time telling her.

Speaking in Arabic and English, Moussaoui rose and called the proceedings nothing more than my "organized death." In April he pleaded guilty to capital murder for participating in the Sept. 11 terrorist plot, but also claimed that he was being recruited to fly an airplane into the White House at a later date. The question now is whether he should be sentenced to death or life in prison with no parole.

Moussaoui started today by disavowing any allegiance to France, calling it a "nation of homosexual Crusaders." He said, "I tell you I am a Muslim.... I am not a frog."

Brinkema could not silence him.

"Today is my death, today is my death," he repeated, angry that the judge would not excuse his defense lawyers and let him represent himself.

"If I don't make sure that these people are not going to represent me, I know that I am dead, OK?"

But even then, Moussaoui said, he did not expect justice. "You own everything," he told the judge and the lawyers seated around him. "You are America — the defense, the judge, the attackers. These people are American. I'm Al Qaeda. I'm a sworn enemy of you. You, you, you, you. For me, you are enemy."

Then, aiming at President Bush, Moussaoui said, "Your own commander in chief says he wants to launch a revenge against terrorists."

The judge warned him that such outbursts were inappropriate.

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"Mr. Moussaoui," she said, "you are the biggest enemy of yourself."

She ordered him removed, and he said: "God curse you and America!"

The judge already has ruled that Moussaoui comprehends the gravity of his situation despite his guilty plea to capital murder.

Some observers believe his outbursts only affirm that he is mentally unstable, an argument for appeal should he be sentenced to death. It also could convince the jury not to execute an insane man.

But his behavior also could help the government in that he repeatedly proclaims himself a dedicated Al Qaeda fighter and a sworn enemy to America.

"It could cut either way," said Carl Tobias, a professor at the University of Richmond School of Law in Virginia.

The judge could bar Moussaoui from the trial itself, something that has been done in other high-profile cases.

Charles Manson and three female devotees were removed at times from their trial in Los Angeles 35 years ago in the Tate-La Bianca murder case when they began singing, chanting and disparaging the judge. All four were convicted.

Moussaoui Kicked Out Of Court After Tirades (USAT)

By Richard Willing

USA Today, February 15, 2006

ALEXANDRIA, Va. — Confessed al-Qaeda member Zacarias Moussaoui, on trial to determine whether he should be executed for his connection to the 9/11 conspiracy, was kicked out of a federal courtroom Tuesday after refusing the judge's request that he "sit quietly."

Judge Leonie Brinkema ruled that Moussaoui, 37, "forfeited his right to be present" in court today, when his court-appointed attorneys — to whom he refuses to speak — begin questioning prospective jurors. Moussaoui will watch the hearing on closed-circuit TV.

Before he was escorted from court Tuesday, the French national once again argued that his trial was unfair, and he showed more of the angry, abusive behavior that has characterized his court appearances and legal filings for much of the past four years. When the court last met Feb. 6, Moussaoui was removed four times for such behavior.

"You own everything — the defense, the judge, the attack," Moussaoui told Brinkema, the latter term an apparent reference to the prosecution. "I am al-Qaeda, your sworn enemy."

Brinkema answered, "Mr. Moussaoui, you are the biggest enemy of yourself."

Moussaoui also hurled slurs at his lawyers, calling one "KKK" and another — Japanese-American Alan Yamamoto — a "geisha." He accused Brinkema of "trying to organize my death."

Moussaoui, born in France to Moroccan parents, demanded that court papers stop describing him as French. "I stand here as a Muslim only. I do not stand here with a nation of homosexual crusaders." As he left the courtroom less than five minutes after the session began, he said, "God's curse on America."

Moussaoui, who appeared in court Tuesday wearing a green prison jumpsuit and a white knit cap, was arrested on immigration charges in August 2001 in Minnesota, after instructors at a private flight school reported he was acting suspiciously. Moussaoui, they told investigators, wanted to learn how to maneuver a jet, but not how to take off.

When Moussaoui was charged with terrorism conspiracy in December 2001, then-attorney general John Ashcroft vowed to make Moussaoui answer for the Sept. 11, 2001, attacks.

Last April, Moussaoui pleaded guilty to conspiring with al-Qaeda. He said he was aware of the 9/11 plot but was not a part of it. His assignment from Osama bin Laden, Moussaoui said, was to fly a hijacked jet into the White House on a later date.

In filings, prosecutors have said they plan to use parts of Moussaoui's statement in which he acknowledges having lied to federal agents after his arrest to conceal the 9/11 plot to argue that Moussaoui is responsible for more than 2,500 deaths and should be executed.

Moussaoui's lawyers have suggested they will argue that he knew little of value and that the government's tepid response to pre-9/11 terrorism warnings raises questions about whether it would have acted even if he had cooperated.

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Testimony is scheduled to begin March 6. Jurors will be asked to decide whether Moussaoui should be executed or receive a life sentence.

Judge Ousts Moussaoui Again (WT)

By Jerry Seper

The Washington Times, February 15, 2006

Admitted al Qaeda terrorist Zacarias Moussaoui was barred yesterday from the federal courtroom where jurors are being selected for the sentencing phase of the death-penalty case after he again disrupted the proceedings.

U.S. District Judge Leonie Brinkema ordered Moussaoui removed from the courtroom during a hearing to determine "whether you plan to remain quiet ... or whether you plan to make speeches," telling the 37-year-old French citizen of Moroccan descent "you are the biggest enemy of yourself."

Moussaoui, proclaiming his allegiance to al Qaeda, was removed four times from the courtroom last week during the opening round of jury selection to determine whether the only person charged in the U.S. in the September 11 attacks should be put to death.

Moussaoui refused to be quiet during yesterday's hearing, instead reading from a handwritten speech and berating the judge for what he described as violating his civil rights. He accused Judge Brinkema of "trying to organize my death for four years."

Moussaoui again denounced his court-appointed attorneys and charged that President Bush had begun "a new campaign of revenge against terrorists." He also told the judge he was not French, saying, "I stand here as a Muslim only."

"God curse you and America," Moussaoui said as he was led from the courtroom. He will watch jury selection from his cell at the courthouse.

He pleaded guilty in April to conspiring with the 19 terrorists who slammed four hijacked jetliners into the World Trade Center, the Pentagon and a Pennsylvania field, killing nearly 3,000 people. In his plea, he said he conspired with members of al Qaeda to commit acts of terrorism and aircraft piracy and to murder U.S. citizens.

But he denied direct involvement in the September 11 attacks, saying he had been training for a separate mission to fly a 747 aircraft into the White House. Jury selection is expected to take a month.

Moussaoui was detained by FBI agents on immigration charges in Minneapolis on Aug. 16, 2001. At the time of his arrest, he had in his possession knives, binoculars, a hand-held aviation radio, Boeing 747 flight manuals and computer programs on flight simulation, pilot procedures and aerial pesticide application.

Trial in the sentencing question is scheduled to begin March 6.

Today, groups of a dozen prospective jurors will return to the courthouse to be questioned individually by the judge. The sessions will continue for two to three weeks, until 85 prospective jurors have been qualified.

The government charged in a six-count indictment that Moussaoui conspired with other members and associates of al Qaeda to "unlawfully, willfully and knowingly" kill and maim persons within the United States, and to create a "substantial risk of serious bodily injury to other persons" by destroying and damaging structures, transportation sites and others targets.

Judge Bars Moussaoui From Courtroom (WP)

By Jerry Markon

The Washington Post, February 15, 2006

After another outburst, Zacarias Moussaoui was banned by a federal judge yesterday from attending the remainder of jury selection at his death penalty hearing after the judge told the Sept. 11 conspirator, "Mr. Moussaoui, you are the biggest enemy of yourself."

Last week, U.S. District Judge Leonie M. Brinkema ejected Moussaoui four times on the first day that prospective jurors were brought into court. As Moussaoui entered the federal courtroom for a routine hearing in Alexandria yesterday, warily scanning the room and wearing a white knit cap, Brinkema laid down the rules.

"The main purpose of this hearing is to determine how Mr. Moussaoui plans to behave," she said, and if he plans "to remain quiet or . . . try to make speeches."

"I know, I know your story," Moussaoui interjected in heavily French-accented English, as Brinkema vowed to eject him again if he didn't remain silent during jury selection.

Moussaoui then took the podium and criticized President Bush for mounting what he called a "a new campaign, a revenge against terrorists." He lambasted his own attorneys -- with whom he does not speak -- calling one a "federal lawyer," another, a "KKK [Ku Klux Klan] lawyer" and a third, a "geisha."

"Mr. Moussaoui," Brinkema responded, "I am not going to permit you to use a public federal courthouse to malign your attorneys."

"You have been trying to organize my death for four years," Moussaoui told the judge, who in 2003 delayed the case by ruling that Moussaoui was ineligible for the death penalty. Her ruling was overturned on appeal.

Moussaoui then told Brinkema: "You own everything in America, the defense, the judge . . . These people are Americans. I am al Qaeda. For me, you are enemy."

"Mr. Moussaoui, you are the biggest enemy of yourself," Brinkema retorted before saying: "Are you going to sit quietly and let us do some business, or are you going to continue to try to talk?"

"I'm going to leave," Moussaoui said.

"Yes, you are," Brinkema replied as she announced that Moussaoui would watch the rest of jury selection on a television monitor from a secure area in the courthouse. Moussaoui then walked out in the custody of U.S. marshals, telling them, "I'm going, I'm going."

"We have some business to take care of," Brinkema said as Moussaoui left the courtroom.

"Yes, taking care of my death, yes," Moussaoui replied.

Moussaoui is the only person convicted in the United States in connection with the Sept. 11, 2001, terrorist attacks. A jury is being chosen to decide whether he lives or dies.

Jury selection resumes today with questioning of individual jurors by the judge and continues until opening statements in the trial, set for March 6. The trial is scheduled to last one to three months.

Legal experts have said Brinkema is on firm ground in ejecting Moussaoui. Defendants have a constitutional right to be at their trial, but the U.S. Supreme Court has allowed judges to expel or even bind and gag disruptive defendants to maintain order in courtrooms.

Measures taken by other judges around the country have included sealing a defendant's mouth shut with duct tape and forcing defendants to wear an electric shock-producing stun device. Sources have said that Moussaoui has been equipped during court appearances with a stun device, which is fitted under his clothing.

A deputy equipped with a small remote control stands ready to administer jolts of electricity if violence is threatened.

Moussaoui, 37, is a French citizen of Moroccan descent, although he said in court yesterday: "I'm not French and never have been French. I stand here as a Muslim only." He pleaded guilty in April to conspiracy charges as part of an al Qaeda plot that led to the attacks on the World Trade Center in New York and the Pentagon in Arlington County, just a few miles from the federal courthouse.

When he pleaded, Moussaoui said Osama bin Laden had personally instructed him to fly a plane into the White House, but he denied that he was involved in the Sept. 11 hijackings. Jurors will first decide whether he is eligible for the death penalty. If he is, they will then decide whether he gets life in prison or is put to death.

Judge Ejects 9/11 Suspect After Outburst (NYT)

By Neil A. Lewis

The New York Times, February 15, 2006

ALEXANDRIA, Va., Feb. 14 — A federal trial judge ejected Zacarias Moussaoui from the courtroom on Tuesday after his latest outburst and said he could observe the next weeks of his trial only from a closed-circuit television system in a nearby cell.

The judge, Leonie M. Brinkema, ordered that Mr. Moussaoui, the only person to stand trial in America in connection with the Sept. 11 terrorist attacks, be barred from the courtroom during jury selection. Defense lawyers and prosecutors are expected

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to spend the next few weeks questioning and screening 500 residents of Northern Virginia to choose the jury that will decide whether Mr. Moussaoui is sentenced to death or life without parole.

After entering the courtroom on Tuesday, Mr. Moussaoui declared his loyalty to Al Qaeda and said he needed to be allowed to explain why he believed that the lawyers assigned to defend him were conspiring with the judge and the prosecution to execute him. "If I can't make speech, I am dead," he said.

As he was led from the courtroom by federal marshals, Mr. Moussaoui shouted, "God curse America."

Judge Brinkema said Mr. Moussaoui, a 37-year-old resident of France who is of Moroccan heritage, might be allowed to return to the courtroom after a jury was seated.

Mr. Moussaoui pleaded guilty to six felony counts in connection with the Sept. 11 attacks, but he has said he intends to fight the death penalty.

On Tuesday, Judge Brinkema began by telling Mr. Moussaoui that the main purpose of the session was to determine whether he would sit quietly or would insist on "making speeches."

Mr. Moussaoui, wearing a dark-green prison jumpsuit, took the lectern and criticized his court-appointed lawyers in insulting terms.

He said he should not be referred to in court papers as a French citizen. "I stand here as a Muslim," he said. "I am an enemy of France."

When he told Judge Brinkema that his lawyers were his enemies, she replied, "Mr. Moussaoui, you are the biggest enemy of yourself."

Prof. Craig M. Bradley of the Indiana University School of Law at Bloomington said ejecting an unruly defendant was appropriate because "the law recognizes that a defendant can't bring his own trial to a grinding halt through his own misbehavior."

Disruptive Again, Moussaoui Is Barred From Court During Jury Selection (AP)

By Michael J. Sniffen, ASSOCIATED PRESS

AP, February 15, 2006

ALEXANDRIA, Va. – Confessed al-Qaeda conspirator Zacarias Moussaoui again disrupted his sentencing trial with insults and epithets Tuesday and was barred from the courtroom while a jury is selected to decide whether he is put to death or imprisoned for life.

After verbally sparring with Moussaoui for about 15 minutes, U.S. District Judge Leonie Brinkema ordered that he must watch the remainder of jury selection on closed-circuit television from his courthouse cell. That could take until March 6, when opening statements are scheduled.

Brinkema said her main purpose in Tuesday's hearing was to determine “how Mr. Moussaoui plans to behave: ... whether you plan to remain quiet ... or whether you plan to make speeches.”

Moussaoui was ejected four times on Feb. 6 when he denounced his court-appointed lawyers in front of four separate groups of prospective jurors. Some 500 northern Virginia residents filled out questionnaires that day about their attitudes toward the case, the death penalty, Muslims and the FBI.

The 37-year-old Frenchman of Moroccan descent pleaded guilty last April to conspiring with al-Qaeda to fly aircraft into U.S. buildings but has denied any role in the Sept. 11, 2001, attacks on the World Trade Center and the Pentagon. Moussaoui claims to have been training to fly a 747 jetliner into the White House as part of a subsequent plot.

When Brinkema asked how he would behave, Moussaoui walked to the lectern and pulled out what appeared to be a handwritten speech. “You have been trying to organize my death for four years,” Moussaoui told her.

Clad in a white knit cap and green prison jump suit with “prisoner” in white block letters on the back, Moussaoui launched into another attack on his lawyers and in the process offered diatribes against President Bush and the French people.

At various points, he called Bush “a crusader” who was “launching a new campaign of revenge against terrorists.”

Despite his French citizenship, he said in French-accented English: “I'm not French. ... I stand here as a Muslim only. I do not stand here with a nation of homosexual crusaders.”

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Brinkema repeatedly tried to quiet him. But Moussaoui complained that for four years she had denied him a chance to explain his objections to the lawyers. “Today is my day,” he plunged on. “If I can't make sure that those people are not going to represent me, I know that I am dead.”

He referred to his three attorneys as a “federal lawyer,” a “KKK” (Ku Klux Klan) and a “geisha.”

Brinkema sternly broke in: “I'm not going to permit you to use a federal courtroom to malign your lawyers.”

Without raising his voice, Moussaoui responded, “You own everything – the defense, the judge, the attack (prosecutors). I am al-Qaeda. I am your sworn enemy.”

Brinkema: “Mr. Moussaoui, you are the biggest enemy of yourself.”

Again she asked if he would remain quiet or leave.

Moussaoui: “I'm going to leave.”

“God curse you and America,” Moussaoui said as marshals accompanied him out.

Brinkema ruled Moussaoui had forfeited his right to be present for jury selection but said she might reconsider if he later agreed to behave.

Despite requests from news media, Brinkema ruled that no copies of exhibits admitted into evidence – including videotaped depositions from some witnesses and summaries of interrogations of captured al-Qaeda leaders – will be made public during the trial. She said jurors might be contaminated by uncontrolled exposure to the material.

“Moreover, some exhibits may be declassified only for the limited purpose of being discussed in court and shown to the jury without unrestricted public access,” she added. She said she would decide after trial which exhibits to release.

Brinkema also said Moussaoui's mother, expected to visit from France, could watch on television in an overflow room where her translator would not disrupt proceedings.

Lawyers begin questioning individual jurors Wednesday.

On Capitol Hill, Rep. Curt Weldon, R-Pa., said he would fight a defense subpoena to testify on what he's learned about a military intelligence operation named Able Danger that he says identified some 9/11 hijackers well before the attacks.

“I think Moussaoui is a thug. I think he deserves to be given the harshest punishment,” Weldon said. “If they were going to use me, I don't want to be used.”

Defense attorneys did not immediately respond to calls asking whether they would still try to enforce the subpoena.

Associated Press writer Matthew Barakat contributed to this report.

Moussaoui Barred From Courtroom (REU)

By Deborah Charles

Reuters, February 15, 2006

ALEXANDRIA, Virginia -- After another outburst in court, a federal judge barred September 11 conspirator Zacarias Moussaoui on Tuesday from being present during upcoming jury selection for a trial to decide if he gets the death penalty.

For the second week in a row, Moussaoui exclaimed "I am al Qaeda" before being escorted out of the courtroom. Last week Moussaoui made several outbursts in four separate sessions with potential jurors, prompting his expulsion each time.

Moussaoui has frequently interrupted the only U.S. case brought in connection with the attacks with outbursts in court.

U.S. District Judge Leonie Brinkema called a hearing on Tuesday -- one day before direct jury questioning is set to begin -- mainly to ask Moussaoui if he could behave during jury selection.

Dressed in a white knit cap and green prisoner jumpsuit, the French citizen of Moroccan descent did not respond directly but proceeded to make further outbursts.

"I want to make it known, like I've been trying for the last four years ... that these people are not my lawyers," he said forcefully. He went on to call each of his lawyers a derogatory name.

"I am al Qaeda," he said. "You, you, you -- for me you are the enemy," he added, gesturing to his lawyers.

Brinkema stopped Moussaoui from continuing and said: "Mr. Moussaoui, you are the biggest enemy of yourself."

She gave him the option of sitting down quietly during the jury selection process, or of watching the proceedings on closed-circuit television in a cell in the courthouse.

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Moussaoui went on to complain about his lawyers then said he wanted to leave the courtroom.

"You're going to take care of my death," he yelled as he was lead out of the courtroom by the marshals.

"God curse you and America!" he added from outside the courtroom.

Brinkema ordered that Moussaoui would not be allowed to attend the jury selection process in court, which starts on Wednesday and continues until final jury selection and opening statements in the trial on March 6.

JURY TO CONSIDER DEATH PENALTY

In April, against the advice of his lawyers, Moussaoui pleaded guilty to six charges against him in connection with the September 11 attacks that killed about 3,000 people.

A jury is being selected for the penalty phase of the trial to determine whether he will be executed or sentenced to life in prison.

Last week about 500 prospective jurors began the unusually long selection process, completing 49-page questionnaires that included questions about al Qaeda, the September 11 attacks and terrorism.

Brinkema also asked them if Moussaoui's outbursts had any impact on their ability to serve on the jury.

Brinkema is trying to seat an impartial jury of 12 people and 6 alternates for the trial that is being held only a few miles from the Pentagon -- one of the targets on September 11.

Moussaoui's mother, Aicha el-Wafi, plans to attend the trial and be assisted by an interpreter. The trial could last several months.

Jurors first must determine whether Moussaoui intentionally lied to the FBI in interviews before September 11 about his knowledge of the plan to hijack planes.

If the jury decides he did lie, preventing the government from possibly stopping the attacks, another phase of the trial will be held to see whether Moussaoui should be given the death penalty or life in prison. If the jury finds he did not lie, he faces a sentence of life in prison.

Judge Orders Iraqi Deported (WT)

By Jerry Seper

The Washington Times, February 15, 2006

A federal immigration judge in Seattle yesterday ordered the deportation of an Iraqi national with ties to a senior al Qaeda operative suspected of helping plan the attack on the USS Cole in Yemen in 2000 and the bombings of U.S. embassies in Kenya and Tanzania in 1998.

U.S. Immigration and Customs Enforcement (ICE) spokesman Dean Boyd said U.S. Immigration Judge Kenneth Josephson ordered Sam Malkandi of Kirkland, Wash., removed from the United States. Judge Josephson based his decision on evidence presented by ICE attorneys during hearings that concluded earlier this month, Mr. Boyd said.

Mr. Boyd said ICE attorneys accused Mr. Malkandi of committing fraud against the U.S. government to obtain immigration benefits for himself and his family.

He said the attorneys also introduced evidence, some of which was referenced in the September 11 commission report, that Mr. Malkandi used fraud in an attempt to obtain a U.S. visa for Tawfiq bin Attash, a one-legged al Qaeda operative also known as "Khallad." A trusted lieutenant and former bodyguard of al Qaeda founder Osama bin Laden, bin Attash is suspected of planning the embassy bombings and the Cole attack.

Mr. Boyd said the evidence linking Mr. Malkandi to the al Qaeda operative surfaced in 2003 after bin Attash was captured in Karachi, Pakistan, and turned over to U.S. authorities.

The September 11 commission report said bin Attash told U.S. officials in August 2003 that a person in Bothell, Wash., whose name sounded like "Barzan," had tried to help him obtain a visa to enter the United States. U.S. officials concluded that "Barzan" was a Bothell man named Sarbaz Mohammad, who changed his name to Sam Malkandi in 2001.

Mr. Boyd said an investigation by ICE and FBI agents on the Seattle Joint Terrorism Task Force determined that "Barzan" and Mr. Malkandi were the same person. Among other things, he said, federal agents were able to obtain documents showing

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that Mr. Malkandi had made arrangements with a clinic in Bellevue, Wash., for bin Attash, under an alias, to obtain a new prosthetic foot in 1999.

Bin Attash was never able to come to the United States because his visa application was denied, Mr. Boyd said.

ICE agents arrested Mr. Malkandi in August on fraud charges. He was accused of falsely claiming to have been incarcerated in Iran for possession of prohibited political materials, which originally qualified him for refugee status to enter the United States in June 1998.

"We are gratified that justice has prevailed in this case," said Dorothy Stefan, chief counsel for ICE in Seattle.

Under the law, Mr. Malkandi has 30 days to appeal Judge Josephson's decision. In the meantime, ICE continues to hold him without bail.

Witnesses For Seattle Imam Rip Into Prosecution's Case (SEAPI)

By PAUL SHUKOVSKY, P-I REPORTER

Seattle Post-Intelligencer, February 15, 2006

TACOMA -- Witnesses for the imam of a Rainier Valley mosque accused of connections with terrorist organizations portrayed one government witness Tuesday as a vindictive liar and contradicted FBI assertions that Abrahim Sheik Mohamed is a fund-raiser for radical Islamic holy war.

Federal agents with the FBI's Joint Terrorism Task Force arrested Mohamed Nov. 14 at Sea-Tac Airport as he was getting off a domestic flight.

He was charged not with a terrorism-related crime, but with the immigration violation of lying on his application for asylum from his war-torn home in Somalia, where competing tribal groups killed each other based on clan membership.

Federal Immigration and Customs Enforcement prosecutors say Mohamed lied about being a member of an oppressed minority clan, about his country of origin, his educational background and what languages he speaks. But much of the lengthy bond hearing to determine whether Mohamed can be released pending resolution of the case has focused on his alleged role as a fund-raiser for terrorist organizations operation in Somalia and Ethiopia.

One witness, Bashir Hussein, who ran an African restaurant near Mohamed's Abu Bakr Mosque on Rainier Avenue, told the court in earlier proceedings that every week at the mosque between $50,000 and $100,000 was raised for al-Itihaad a-Islamiya, a Somali terrorist organization to which he said Mohamed belongs.

But the treasurer of the mosque, Osman Deria Egal, said yesterday that Mohamed "has nothing to do with" handling the mosque's money, which is controlled by a board of directors on which Egal sits.

And in a break in the proceedings outside the courtroom at the ICE detention center in Tacoma, Egal broke into laughter at what he perceives to be the government's ludicrous contention that between $50,000 and $100,000 was raised.

Two witnesses provided what Mohamed's lawyer, Hilary Han, later called "the motivation for (Bashir Hussein's) lies" about his client.

Both Abdullahi Fara and Ahmed Hassani recounted an incident in which Hussein asked the imam to grant him an Islamic divorce decree.

The witnesses said that when Mohamed refused to give him the document because of alleged failures by Hussein to carry out certain duties to his ex-wife, Hussein exploded in anger at the imam.

Immigration will rule later on whether Mohamed can be released on bond.

P-I reporter Paul Shukovsky can be reached at 206-448-8072 or paulshukovsky@seattlepi.com.

Quieter Presence Urged In Mideast Terror (USAT)

By John Diamond

USA Today, February 15, 2006

WASHINGTON — The United States should launch a major covert information campaign to promote the nation's image in the Middle East and sow division among radical Muslim groups, according to a West Point critique of U.S. terrorism policy.

The strategy, amounting to a secret campaign for hearts and minds, could involve paying for favorable publications and schools that promote moderate Islamic philosophies.

The report also proposes using Muslim allies, or at least groups hostile to the more militant Islamic movements, to exploit ideological rifts within terrorist groups.

Through it all, however, "it is essential that the U.S. hand not be seen," said the report by the Combating Terrorism Center at the U.S. military academy.

The authors of the unpublished report, civilian scholars Jarret Brachman and William McCants, confirmed the authenticity of the report obtained by USA TODAY. Though not an official U.S. military document, it has circulated widely among U.S. intelligence officials and officers on the Pentagon's Joint Staff. The authors regularly brief Pentagon officials on terrorism issues.

The report, completed Monday, says the United States should rely on "proxies" for military action in the Middle East if force is necessary.

"Direct engagement with the United States has been good for the jihadi movement," the authors argue, because it reinforces the perception in the Middle East of the United States as an anti-Islamic crusader.

"The United States should avoid direct, large-scale military action in the Middle East."

Such action, the report says, "rallies the locals behind the movement, drains the United States of resources and puts pressure" on allied regimes.

Titled "Stealing al-Qaeda's Playbook," the report is based on a detailed study of jihadist writings and communications and is meant to help better understand the enemy, Brachman said in an interview.

The current U.S. anti-terrorist strategy is reactive, the authors argue in briefing slides accompanying the report. They dub the strategy, "Whack-a-Terrorist," after the carnival game Whack-a-Mole.

Retired general Wayne Downing, the center's chairman and a former head of Special Operations Command, has been advising Defense Secretary Donald Rumsfeld on ways to make the command more effective against terrorist groups.

In the report's foreword, Downing writes that although U.S. intelligence agencies have devoted more resources to translating jihadi texts and broadcasts, they don't have enough people to pay enough attention "to the most useful texts" they have collected.

Last year, the U.S. Special Operations Command issued $300 million in contracts for three companies to spread pro-American propaganda without revealing the U.S. connections.

One contractor, the Lincoln Group, became the focus of a Pentagon investigation in December because of reports it had paid Iraqi newspapers to publish pro-U.S. stories as part of a U.S. information warfare strategy in Iraq.

Wahhabism In America (WT)

By Matthew Mainen

The Washington Times, February 15, 2006

Traditionally in international politics, the word "invasion" is used to describe a situation in which a state forcefully penetrates the territory of another. But in a world in which non-state actors, especially terrorist organizations, play an increasing role in international politics, the word "invasion" can be used to describe far subtler actions.

Recently, a number of anti-Western texts, many of which were distributed by the Saudi Embassy, were discovered among authentic Muslim works at prominent Muslim institutions in the United States. This tactic carried out by extremists within the Saudi government represents an invasion on two fronts: the Muslim religion and the sovereignty of the United States. Although there is no evidence that Saudi Arabia has directly sponsored terrorism, it nonetheless is the largest contributor to the faith that breads it: Wahhabism, a fringe Islamic sect created more than 1,000 years after the time of Muhammad.

When such ideas posing as authentic Islam enter the United States, it can only serve to sabotage long-lasting American values. If the goal of social upheaval is achieved, it will be far more damaging than any incendiary device used in acts of terror.

The threat posed by Saudi Arabia's interference in America's religious affairs is not to be taken lightly, and requires immediate attention at the high levels of office.

The First Amendment guarantees religious freedom in the United States. Nearly 200 years after the Bill of Rights was ratified, the ideals of religious freedom and tolerance were codified in the International Convention of Civil and Political Rights. Although attempting to argue that Saudi Arabia is legally bound to respect religious tolerance is an arduous task, there is another

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option: Saudi Arabia, like all other countries, is legally bound to respect the sovereignty of the United States. By playing a direct role in the distribution of texts designed to erode domestic religious harmony, Saudi Arabia is illegally interfering with America's internal affairs.

Wahhabism, especially as it attempts to influence American Muslims, is best described as a cult and should be dealt with as one. After all, fatwas published in materials distributed by the Saudi Embassy exhibit signs of fundamental cult practices. Muslims living in the United States are instructed to progressively isolate themselves for the sake of their purity. First, they must have almost no contact with non-Muslims. After this separation is complete, they are then instructed to distance themselves from Muslims who do not share the extreme beliefs of Wahhabism. Finally, they are to undergo a breaking down of their identities; such practices as celebrating a birthday are strictly forbidden. Young Muslims looking for spiritual guidance are duped into believing that these distorted teachings are the true path of Islam.

Once a person is stripped of their identity and the included morals, he becomes a puppet to the masters of whichever ideology is controlling him. None of the September 11 hijackers were born terrorists; they went through a similar process as what is being advocated to American Muslims by Saudi religious leaders. Cults, when they become dangerous to society, are not protected by the Constitution or international convention, and neither is Saudi Arabia's role in bringing the philosophy of this cult to the United States.

In response to Wahhabist terrorism, non-Muslim Americans will often misdirect their aggression against Islam as a whole instead of the fringe faith. An increased amount of acts of intolerance against peaceful Muslim communities such as the burning of Korans in front of mosques is evidence of this. Thus, the Wahhabist claim that the West is waging a war against Islam becomes a fulfilled prophecy, giving extremists an opportunity to recruit more adherents at the expense of mainstream Islam. Once the belief of victimization becomes prevalent, acts of intolerance on the part of Muslims are all the more likely to occur. Thus, the cycle repeats itself, and at each successive stage, the prospects of violence increase.

So far, the American Muslim community has almost single-handedly protected the United States from such social turmoil by reporting to the proper authorities when they find extremist texts. But without the help of a higher power, the U.S. government, there is nothing guaranteeing that mainstream Muslim institutions will forever remain impervious to this invasion.

Even at the height of the Cold War, the Soviet Union was unable to penetrate the United States with its ideology to the degree Saudi Arabia has. This issue cannot be ignored, as Wahhabist infiltration of mainstream Islam in the United States affects all people, not just Muslims. The foundation of terrorism is not the tools used to carry out attacks but its driving philosophy. The American Muslim community recognizes this; it is time the U.S. government recognize the same.

Matthew Mainen is a policy analyst at the Institute for Gulf Affairs.

PATRIOT ACT:

Editorial: Patriot Act Still Flawed (PALMBEACHP)

Palm Beach Post (FL), February 15, 2006

"I think Congress has failed the country in many ways," including allowing the administration "to completely overpower the debate based on, 'I'm the commander in chief, and I know what's best.' " Thus spoke Sen. Chuck Hagel last month, reports The New York Times. Yet the Nebraska Republican and potential presidential candidate last week blessed the proposal to renew flawed provisions of the Patriot Act, saying, "This is an accommodation that I think we can be proud of."

With that, Sen. Hagel and three other GOP senators scuttled what had been a bipartisan effort to bring the anti-terrorism law in line with the Constitution. Democrats, too, hardly are blameless in failing to ensure the basic protections that the bill was temporarily extended to incorporate. The pattern is all too familiar: The all-terrorism, all-the-time White House manipulates the nation's fear, and Congress caves.

Is it enough that there have been some changes to the hastily concocted 2001 law for which the president insisted on all-or-nothing renewal? Not when those changes, as holdout Sen. Russell Feingold, D-Wis., maintains, are insignificant. The proposed revision still sanctions secret government fishing expeditions into Americans' private records without proof of any connection to a suspected terrorist, spy or illegal activity.

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And as conservatives such as former Rep. Bob Barr, R-Ga., note, the new agreement also finesses a First Amendment violation prohibiting businesses, agencies and individuals from mentioning that the government subpoenaed your private records. In theory, the gag order now is limited to one year. Even then, you cannot be told of the subpoena that invaded your privacy, much less challenge it, if the government says the disclosure would harm national security or diplomatic relations.

It is un-American to give one branch of government the unfettered license the president keeps claiming. To grant this administration more "trust us" authority is inconceivable in the light of such appalling abuses as its domestic wiretapping without court approval. Rather than yield the administration more extraordinary power, Congress should insist on more oversight. Otherwise, Congress emboldens an administration that has proven masterful at playing all sides against the others for wafer-thin approval to get its way — and, when it doesn't get its way, simply doing what it wants anyway.

Editorial: Poor Patriot Compromise (OCR)

Orange County (CA) Register, February 14, 2006

Four Republican senators, led by Sen. John Sununu of New Hampshire, who helped to hold up renewal of certain controversial portions of the USA Patriot Act in December, say they have reached an agreement with the White House on a compromise. That compromise still doesn't provide sufficient safeguards for important civil liberties.

The Patriot Act, cobbled together from Clinton administration and federal law enforcement proposals to give government more power - proposals rejected by the Republican Congress through the 1990s - was passed within weeks of the 9/11 terrorist attacks. Sixteen of the most controversial provisions of the act were slated to "sunset" - or expire – at the end of last year unless approved again by Congress.

A coalition of liberal and conservative civil-liberties advocates held up approval based on objections to a few provisions, and the act has been temporarily renewed twice, most recently until March 10.

This new compromise would give recipients of subpoenas for information in terrorist-related investigations the right to challenge government orders not to inform anyone - after a year. It would remove a requirement that any individual who is given what is called a National Security Letter demand for records inform the FBI of the name of any attorney consulted about whether or how to comply. And it would clarify that most libraries are not subject to National Security Letter demands for records of clients using Internet facilities.

These would be desirable changes, but not enough to protect civil liberties sufficiently. As former Georgia Republican Rep. Bob Barr noted, under these provisions "investigators can [still]conduct government-sanctioned fishing expeditions." Mr. Barr wants the government to have to prove there is evidence of some connection to terrorist activity or a terrorist organization before demanding such a broad range of records.

We agree. Congress should be in no hurry to approve this inadequate proposal.

HOMELAND RESPONSE:

Pilots Report Seeing Laser Lights While Flying (CLICKDET)

ClickonDetroit, February 15, 2006

FBI, FAA, Police Are Investigating

Police are on alert after more than a dozen pilots reported someone shining a laser light at the plane while descending into Metro Airport.

The incident occurred in the Dearborn and Dearborn Heights areas, where 16 pilots reported seeing the laser pointer lights near the tower at Metro Airport, Local 4 reported.

Apparently the lights were being flashed at planes on their final approach into the Detroit area. The first instance reported was near the Home Depot in Dearborn Heights, then a short time after the light originated from a neighborhood near Telegraph Road and Lehigh Road, according to police.

Police say shining a laser pointer at a plane is a felony and could lead to a dangerous situation.

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"Just be a small laser, when it goes up into the cockpit, then it really can blind the pilot," said Capt. Lee Gavin, Dearborn Heights Police Department.

The same incident occurred about six months ago, Local 4 reported.

The Federal Bureau of Investigation and the FAA are investigating, and local police have assigned additional patrol vehicles to the reported areas, according to the station's reports.

Pilots Report Laser Flashes (DEN)

Detroit News, February 15, 2006

Feds vow to get tough after complaints about 16 incidents as planes land at Metro Airport.

ROMULUS -- Federal authorities are vowing to get tough with anyone interfering with commercial aircraft by shining laser beams at airplanes during landing approaches at Detroit Metropolitan Airport.

The Federal Aviation Administration received reports of 16 incidents of pilots complaining that between 5:50 and 6:30 p.m. Monday, someone flashed laser beams at their aircraft as they descended, said Elizabeth Isham Cory, the agency's deputy director of public affairs for the Great Lakes Region.

"We treat it as a very serious matter," FBI Special Agent Dawn Clenney said. "Laser beams can disorient pilots responsible for an airplane full of passengers."

Clenney said pointing laser beams at airplanes could be considered a terrorist act under the law and anyone caught doing it could face charges carrying up top 20 years in prison and a fine. Monday's incidents were the second at Metro in the last six months.

Capt. Lee Gavin said Dearborn Heights police investigated a similar complaint at the airport last fall before turning the matter over to the FBI.

On Monday, Gavin said, the department got two calls from the airport tower after pilots reported beams of light coming from a neighborhood at Michigan and Gulley and an area at Telegraph and Lehigh about three-quarters of a mile away.

Officers from Dearborn and Dearborn Heights searched a parking lot at a Home Depot store on Michigan and the other location but found nothing suspicious.

He said the complaint last fall centered on the Michigan-Gulley area.

"If it's just kids or some irresponsible adults, they should be warned that this is a serious matter and will be treated as such," Gavin said.

Federal agents have investigated a rash of similar incidents nationwide in the last year.

In December 2004, the FBI and the Homeland Security Department notified law enforcement agencies that terrorists have explored using lasers as weapons.

Last November, a 39-year-old New Jersey man, David Banach, pleaded guilty to a felony charge of willfully interfering with a "craft involved in mass transportation" for hitting a private jet three times with a laser beam as it flew at 3,000 feet.

Banach claimed he was playing with his 7-year-old daughter, using a green laser to point out stars and light up trees and homes of neighbors.

He was charged with interfering with a flight crew, a violation of the USA Patriot Act, and with lying to federal officers. He could have faced 20 years in prison under the antiterrorist Patriot Act.

Banach was scheduled to be sentenced today in federal court in Newark. While he is not expected to receive prison time because of his plea, he will have the felony on his record for life, authorities said.

White House Firmly Behind Chertoff (AP)

The AP, February 14, 2006

President Bush has full confidence in Michael Chertoff and has not considered asking the homeland security secretary to step down after criticism of his performance on Hurricane Katrina, the White House said Tuesday.

"Secretary Chertoff is doing a great job," White House press secretary Scott McClellan said, answering a reporter's question about Chertoff. "The president appreciates his strong leadership. He is someone who is committed to doing everything he can to

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protect the American people and to continuing to take steps to make sure we are better prepared to respond to the threats that we face."

A Republican-written House report blamed government-wide ineptitude for mishandling Katrina relief. A report by Congress' investigative arm, the Government Accountability Office, reached similar conclusions and singled out Chertoff for delays.

Former FEMA chief Michael Brown told a Senate panel last week that he dealt directly with the White House in Katrina's aftermath rather than with what he described as a bumbling Homeland Security bureaucracy. Brown said the agency under Chertoff's leadership was preoccupied with terror threats at the expense of preparing for natural disasters.

Days after Katrina struck, Brown quit FEMA under fire.

The Bush administration has been pushing back aggressively against the criticism from Brown and congressional investigators.

Some Wonder If Chertoff Can Survive (LAT)

By Johanna Neuman

The Los Angeles Times, February 15, 2006

WASHINGTON — A year ago, when Michael Chertoff was brought in to run the Department of Homeland Security, he was hailed by Republicans and Democrats as the epitome of competence and good judgment. At his confirmation hearing, one Democratic senator called him "the right man for this job." The Senate confirmed him, 98 to 0.

But as evidence mounts of the department's botched response to Hurricane Katrina, Chertoff's reputation has been impugned. Now some question whether he can survive in the job. The most telling sign of how much heat the Homeland Security secretary is under may be that members of his own party are throwing logs on the fire.

"It's fair to say that he's vulnerable," said Republican Sen. Norm Coleman of Minnesota, a member of the Senate Homeland Security and Governmental Affairs Committee, which has been investigating the government's response to Katrina for several months. Chertoff, Coleman said, "came in with really high expectations. He was a star. Now his halo has been diminished."

Today, one year to the day after he was sworn in, Chertoff is scheduled to testify before the committee — and is expected to face tough questioning. (He was originally scheduled to appear Tuesday, but the hearing was delayed.) Sen. Joe Lieberman (D-Conn.), the committee member who praised Chertoff as the right man for the job, expressed dismay Tuesday over how the department had responded to Katrina.

"We have found enough pre-landfall warnings of Hurricane Katrina's destructive force to warrant a full-bore emergency response from the top levels of the federal government before the storm struck," Lieberman said. "It is inconceivable to me how the response could have been so weak."

The White House came to Chertoff's defense Tuesday, its words reminiscent of President Bush's praise for Michael D. Brown, the head of the Federal Emergency Management Agency who was forced to resign when his mishandling of the disaster became known.

"Chertoff is doing a great job," White House spokesman Scott McClellan said in answer to a reporter's question. "The president appreciates his strong leadership." Chertoff, McClellan said, "is someone who is committed to doing everything he can to protect the American people and to continuing to take steps to make sure we are better prepared to respond to the threats that we face."

In September, the president — visiting New Orleans a few days after the storm hit — said to Brown, "Brownie, you're doing a heck of a job." Ten days later, Brown resigned under pressure. FEMA is part of the Homeland Security Department, and Brown reported to Chertoff.

Upcoming reports on the government's disaster response effort are likely to hold more bad news for Chertoff.

A select committee investigating Katrina in the GOP-controlled House plans to issue a 600-page report today that accuses Homeland Security of having a "blinding lack of situational awareness and disjointed decision making" that "needlessly compounded and prolonged Katrina's horrors."

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The president's domestic security advisor, Frances Townsend, who is heading the White House inquiry on Katrina, is also about to make her report public. A draft version is said to pin much of the blame for the government's ineffectual response on weak management in Chertoff's department.

A big part of Chertoff's problem is that Brown's shortcomings are judged to have been so apparent when measured against the death and destruction of Hurricane Katrina that blaming him for the government's failings may be politically insufficient.

As Coleman put it: "Chertoff should have known that his battleground commander didn't have command."

Chertoff has embarked on a campaign to restore his reputation. Monday he outlined plans to better integrate FEMA into Homeland Security. And defenders note that in August, before Katrina hit, Chertoff unveiled what he called a "second-stage review," in which he described a planned reorganization of his department that included strengthening FEMA.

"Our responsibilities certainly include not only fighting the forces of terrorism, but also fighting the forces of natural disasters," he said at the time.

Homeland Security press secretary William "Russ" Knocke said Tuesday that, "unlike some, the secretary's focus is on preparing FEMA for the next storm season and dramatically strengthening preparedness in our country."

Some domestic security experts said that to blame Chertoff was missing the point. James J. Carafano, a senior research fellow at the Heritage Foundation, a conservative think tank, said the House committee report showed that when Katrina hit, there was no effective national structure for disaster response.

"Headlines are asking whether we should be pointing the finger at Chertoff or Brown, but the point is there's a whole slew of problems they identified," he said. "I don't think the response would have been much different no matter who it was, because we lack the capacity."

Given the political climate in Washington, in which Republicans are beginning to worry that the problems of the Bush administration might become their own, Chertoff may still be vulnerable.

"If pressure builds on the administration to find a second scapegoat, it's Michael Chertoff," said Paul C. Light, a New York University professor of government organization.

At the same time, "it takes an awful lot for President Bush to remove a Cabinet officer," said Norman J. Ornstein, a political analyst for the American Enterprise Institute. Citing the case of former Treasury Secretary Paul H. O'Neill, Ornstein said, "Usually it takes signs of insubordination. If you have demonstrated loyalty, the president will bend over backward to keep you."

Experts Question Proposed FEMA Changes (WP)

By Spencer S. Hsu

The Washington Post, February 15, 2006

In proposing to bolster the Federal Emergency Management Agency by creating a full-time response force of 1,500 people and expanding 10 regional offices, White House homeland security adviser Frances Fragos Townsend and Homeland Security Secretary Michael Chertoff are grappling again with FEMA's long-term future, a question at the heart of the nation's disaster preparedness.

Should the government's best-known response agency remain a relatively small, 2,500-worker force largely focused on processing disaster claims and coordinating federal help in a crisis?

Or should it be beefed up into a more muscular agency -- a "FEMA on steroids," as planners envisioned in creating the Department of Homeland Security in 2003 -- one capable of being on the ground when required?

Several experts and officials in touch with the Bush administration say the changes proposed Monday -- adding reconnaissance teams, improving vendor databases and strengthening claims management -- only scratch the surface of needed changes.

What Chertoff announced "was a necessary step but not sufficient. I expect him to go further," said Richard A. Falkenrath, a former Bush White House official and a senior fellow at the Brookings Institution who was an original architect of the Homeland Security Department. "It's cultural change [with FEMA] and leadership, and they need more resources, there's just no question."

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James Jay Carafano of the Heritage Foundation agreed that the administration's preview Monday "doesn't really solve the problem," which is the ability to push help in the critical first 72 hours of a crisis and unify the government under one command. Both tasks are now beyond FEMA's power, he said.

The real question is whether to shift FEMA from what Falkenrath called "a very pliant posture" of waiting for state and local leaders to ask for help in a disaster, to a more aggressive role without trampling on governors and mayors.

Overall, Townsend and Chertoff began to sketch out their vision in speeches to 50 state emergency managers Monday. In a speech titled "Transforming National Preparedness," Townsend embraced the notion of including state, local and federal agency personnel in bigger FEMA regional offices. That would be a variation on a plan championed by Chertoff's predecessor, Tom Ridge, but rejected largely because of cost.

Without saying that FEMA would be put in charge, Townsend said the Homeland Security Department will play a more robust role in forging a "culture of preparedness," partly by becoming a tougher enforcer of state and local homeland security grants. By the end of 2006, more than $18 billion will have been committed to improve state and local preparedness since the Sept. 11, 2001, terrorist attacks.

Fewer than half the states say they are prepared to respond to a catastrophic disaster, according to a Homeland Security Department analysis, the Associated Press reported. Asked to assess their plans to respond to a catastrophe, 20 states said they felt confident, 14 states said they were somewhat confident, while 13 reported they were not confident. Only five states said they were confident that their evacuation plans would work during a catastrophe.

Bush's $2.8 trillion 2007 budget would require state and local governments to report more fully on how they spend their money. But it also would trim funds for state and local programs by nearly 10 percent.

While the White House says it wants to increase FEMA discretionary spending by $363 million next year, all but $68 million would go to mandatory programs and disaster funds. The agency's main initiatives would add 220 workers.

FEMA's troubles are making it difficult to find a successor for Acting Director R. David Paulison. State members of the National Emergency Management Association with whom Townsend and Chertoff met said that several members have discussed the job of FEMA chief but expressed little interest. Former California emergency services director Richard A. Andrews has declined an offer.

Democrats 'Pleasantly Surprised' By Katrina Report (RC)

By Steve Kornacki

Roll Call, February 15, 2006

When a select committee was empanelled in mid-September to examine the federal response to Hurricane Katrina, House Democratic leaders scoffed, branding the GOP-led investigation a "sham" and refusing to appoint Members.

But when that committee's report is formally unveiled today, it will portray the response as sluggish and ineffective, with particularly harsh words reserved for Homeland Security Secretary Michael Chertoff, according to draft copies circulated earlier in the week.

"I'm pleasantly surprised," Minority Whip Steny Hoyer (D-Md.) admitted on Tuesday. "I think it's an honest assessment of the egregious incompetence with which the crisis of Katrina was addressed by the administration."

Despite some dissent from within the Democratic Caucus, Democratic leaders boycotted the committee chaired by Rep. Tom Davis (R-Va.) because it did not give equal representation to both parties. In part, the boycott was aimed at ratcheting up public pressure for a bipartisan Katrina commission, modeled after the 9/11 commission co-chaired by Tom Kean and ex-Rep. Lee Hamilton (D-Ind.).

With their leadership's blessing, three Gulf Coast region Democrats — Reps. Charlie Melancon (La.), William Jefferson (La.) and Gene Taylor (Miss.) — joined the committee anyway, arguing that they owed it to their constituents to take part.

The report is already generating headlines because of its tone, considered unusually critical of the Bush administration, given the past reluctance of House Republicans to pursue similar investigations.

Some Democrats feel the leadership's posture effectively put Davis and the committee in a box, forcing them to criticize the response in strong terms or risk being accused of living up to the Democrats' cries that their work would amount to a whitewash.

And yet the Democrats are still free to make that claim, to contend that the report, as one aide suggested, "painted in broad strokes instead of connecting all the dots." Indeed, in the "additional comments" section, the Democrats who participated argue for Chertoff's dismissal, a remedy not endorsed by the Republicans.

From a purely political standpoint, Democrats may have a rare opportunity to double their payday in the message wars, piling on with additional critiques even after the media has reported the damning nature of the report.

"Even a Republican Congress that has refused to perform any oversight of the Bush Administration had to conclude that the response to Katrina was a 'national failure,'" Minority Leader Nancy Pelosi (D-Calif.) said in a release in today.

"Still, the Davis Committee report is incomplete and leaves the American people with too many unanswered questions and absolutely no accountability."

Pelosi renewed her call for a 9/11-style commission.

But, given the bluntness of the report, Republicans also could advance the argument that Democrats forfeited their right to criticize by not fully participating in the committee's work.

"I'm pleased the Democrats didn't take part," Hoyer said Tuesday. "It will be hard for the administration to say this is an ad hominem partisan political attack."

House Dems Are Rethinking 'sham' Panel (HILL)

By Josephine Hearn

The Hill, February 15, 2006

House Democratic leaders had mixed reactions yesterday to a sharply critical report on the federal government's bungled response to Hurricane Katrina, as Rep. Nancy Pelosi called it "incomplete" while Rep. Steny Hoyer said he was "pleasantly surprised" by the findings.

The report was compiled by the Republican-dominated select committee on Hurricane Katrina, a panel that Democrats have officially boycotted on the grounds that a Republican-led committee would not be tough enough in criticizing the administration's mishandling of the disaster. Government Reform Committee Chairman Tom Davis (R-Va.) led the House investigation.

Having asserted many times last fall that the committee was a "sham" and would go soft on the administration, Democrats had to soften their rhetoric yesterday and praise the committee's work while still renewing earlier calls for a nonpartisan, independent commission to investigate the government's bungled response to the storm.

Democratic Leader Pelosi (Calif.) said the report, which faults the response of top administration officials such as Homeland Security Secretary Michael Chertoff, represented "a vote of no confidence in the Bush administration's ability to keep America safe."

Yet she said much work is left to be done.

"The Davis Committee report is incomplete and leaves the American people with too many unanswered questions and absolutely no accountability," she said.

A Davis spokesperson declined to comment.

The report called the Katrina response "a national failure, an abdication of the most solemn obligation to provide for the common welfare" and "a failure of leadership," according to a summary document leaked to news organizations Sunday. The committee will officially release the report today.

Hoyer (Md.), the House's No. 2 Democrat, declined to denigrate the report itself, saying that he is glad it took the administration to task.

"I am pleasantly surprised. I think it is an honest assessment of the egregious incompetency with which the crisis of Katrina was addressed by this administration."

He went on to reaffirm his support of Democrats' decision to boycott the panel.

"I am very pleased that Democrats didn't participate. It will be hard for the administration to say this is another ad hominem partisan attack."

"A report that was not as stark as this would not have been believable," he added.

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Pelosi protested the creation of the select committee last fall, declining to name Democrats to the panel unless Republicans agreed to create an independent investigatory commission. However, she allowed three Gulf Coast Democrats — Reps. William Jefferson (La.), Charlie Melancon (La.) and Gene Taylor (Miss.) — to participate informally since their districts fell in the path of the storm. The committee will officially expire March 15.

Democrats have long complained that Republicans have failed to provide substantive oversight of the administration.

Pelosi's daily talking points dealt entirely with the Katrina report yesterday.

"The American people†— especially Katrina survivors — are paying for the Republican corruption," the talking points read. "Republicans hold no one in the Bush Administration accountable. Americans can't afford to gamble their security on the same Bush Administration team that mismanaged Katrina."

Melancon and Jefferson released a Democratic response to the select committee's report, praising many of the document's conclusions but asserting that the panel was reluctant to assign blame.

"For all it accomplished … the Select Committee adopted an approach that largely eschews direct accountability," the Louisiana Democrats wrote. "The majority report rarely assesses how these problems occurred, why they were not corrected sooner and who in particular was responsible."

On Monday, Melancon called on Chertoff to resign.

Several members of the committee participated in a congressional delegation to coastal Louisiana and Mississippi on Jan. 19 and 20. Davis, Melancon, Taylor, Jefferson and Reps. Cynthia McKinney (D-Ga.) and Bill Shuster (R-Pa.) attended.

Democrats on the panel were upset that Davis never subpoenaed the White House. The committee did subpoena the Defense Department, although Democrats complained that the department never fully complied with that order.

SBA Seeks Additional Funding For Gulf Coast Disaster Loans (WSJ)

By David Rogers

The Wall Street Journal, February 15, 2006

WASHINGTON -- The Small Business Administration, running out of money for disaster relief on the Gulf Coast, is pressing for additional funds to support an estimated $6.8 billion in new loans for homeowners and businesses there.

In response to Katrina and last year's other hurricanes, Congress less than two months ago approved $441 million for SBA loan subsidies. But the agency estimates it needs $1 billion more and is asking for action this week before lawmakers leave for the Presidents Day recess.

The situation is unusual both because of the size of the request and because the White House, under attack for failing to respond to Hurricane Katrina more quickly, hasn't been more clear, Republicans say, about the need for funds.

Speaker Dennis Hastert (R., Ill.) said last evening that the House would initiate a bill, possibly as early as today, to meet the SBA's needs. But given their annoyance, the House and Senate Appropriations committees expect to provide only enough to meet loan demands through the end of April.

The White House's Office of Management and Budget has yet to submit a formal request for the needed money. The SBA itself avoided any mention of its funding crisis in a Feb. 7 news release on the disaster-loan program. "SBA Breaks Disaster Loan Record; More than $4 Billion Approved in the Gulf Region," was the headline of that release.

But at the same time, SBA Administrator Hector Barreto was writing Congress Feb. 1 to warn that his funds would soon be exhausted. The administrator wrote again Feb. 8, stating, "Immediate action is needed by the Congress to provide funds to SBA to avoid an interruption in loan assistance to qualified applicants."

SBA officials, who once feared a cutoff next Tuesday, say their funds will be exhausted this month. House Appropriations staff indicated that between $700 million and $900 million in new money will be provided in the new bill. And the House must also act on a separate, Senate-passed Katrina measure, raising the federal flood-insurance program's borrowing by $2.7 billion to $21.2 billion to meet claims from the storms.

Thus far, the SBA estimates that it has approved $4.3 billion in disaster loans but predicts the total demand will be in excess of $11 billion. Loans to cover physical damage to business and economic losses account for a quarter of the total. The

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greater share of the loans goes to homeowners, who are included in the disaster-relief program. Their larger-than-expected uninsured losses have helped balloon the total.

In preparing its earlier estimates, SBA officials said, they correctly predicted the number of loan applications, which is running close to 400,000. But while a typical disaster home loan in the past ran near $32,000, uninsured losses from Hurricane Katrina are far higher and result in loans averaging closer to $68,000.

The SBA estimates it has 4,000 employees dedicated to assist disaster victims and says loans are being approved at a record pace. The agency hit the $2 billion mark Dec. 30 but was at $3 billion slightly more than two weeks later and reached $3.6 billion by the end of January.

WAR NEWS:

Iraqi Province Cuts Ties With British (USAT/AP)

By The Associated Press

USA Today, February 15, 2006

BASRA, Iraq — More than 1,000 protesters burned a British flag Tuesday, and the regional administration in Iraq's main southern province severed all ties with British authorities over video footage showing British soldiers allegedly beating and kicking Iraqi youths.

In London, the British Defense Ministry announced the arrest of two more people in connection with the images. Another person — apparently the man who shot the video — was arrested Monday.

Protesters, many of them supporters of radical Shiite cleric Muqtada al-Sadr, marched on the British Consulate in Basra, where they burned the flag and shouted slogans against the alleged abuse of the youths during a riot Jan. 10, 2004, in the southern city of Amarah.

Protesters held banners reading "No, no to Tony Blair" and "Try the British soldiers involved in this aggression."

With outrage over the video mounting, the governing council for Basra province, which includes Iraq's huge southern oil fields, announced it was cutting all ties with British military and civilian operations in the province, where Britain's contingent in Iraq of more than 8,000 servicemembers is headquartered.

The Basra police chief, Maj. Gen. Hassan Suwadi, said Iraqi security forces would cease joint patrols with the British military in the province to protest the alleged abuse.

"We condemn the abuse of the British forces and demand the British government to adopt legal procedures as soon as possible to punish its soldiers who carried out the abuse," Suwadi said.

Elsewhere, gunmen killed 11 Shiite farmers north of Baghdad, including eight members of one family, officials told the Associated Press. An American Marine was killed and six coalition personnel were wounded in two attacks in Baghdad.

In Amarah, about 100 miles north of Basra, two Iraqis who claimed to have been beaten on the video — Bassem Shaker and Tariq Abdul-Razzak — told reporters they would seek compensation from Britain, which occupied Iraq for decades after the country was established following World War I.

The beatings allegedly occurred during a violent protest in Amarah by hundreds of people demanding jobs. Six people were killed and 11 injured, according to reports then.

"I was one of 250 unemployed people demonstrating in the street in 2004, but when we reached the governor's office we were surprised by the presence of the British forces," Shaker said. "We started throwing stones at them because we believed that they were behind all our misery."

Shaker said British troops "were beating us with fists and batons and were kicking us" before taking the prisoners to a British base "where they also beat us and frightened us with dogs before releasing us before sunset."

He said he didn't report the treatment because he didn't think officials would listen.

"Those troops humiliated us," Shaker said.

Hussein Tells Court He's On A Hunger Strike (LAT)

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By Borzou Daragahi

The Los Angeles Times, February 15, 2006

BAGHDAD — Saddam Hussein and his co-defendants said in court today that they have embarked on a jailhouse hunger strike to protest their trial on charges of violating the human rights of Shiite Muslim villagers.

"For the past three days, we've been on a hunger strike against you and your masters," Hussein, dressed in his crisp black suit and appearing more subdued than usual, told the judge as he walked into the courtroom.

Again today, the prosecution stumbled and struggled as it sought to tie Hussein and his entourage to the horrific acts of violence and cruelty inflicted upon the villagers of Dujayl after a 1982 attempt to assassinate Hussein while he visited the town.

Three witnesses compelled to testify repeatedly contradicted written statements collected by chief investigator Raid Juhi, the young lawyer who has become the public spokesman for the Iraqi High Tribunal.

After a session that barely clocked three hours, the judge adjourned the trial until Feb. 28 without giving any reason for the two-week recess.

Western officials close to the tribunal have candidly voiced frustration at the trial's slow pace, and the sense that judges have little awareness of the financial and human resources expended each time the proceedings drag on.

Three defendants, Hussein, his half brother Barzan Ibrahim Hasan and former judicial chief Awad Hamed Bandar, said they were on a hunger strike.

Juhi, speaking to reporters after the court adjourned, declined to confirm or deny whether any defendants were refusing to eat. But he pointed out that Hasan had brought bottled water with him into the courtroom.

Defendants have been using the trial as a stage for political antics, and today was no exception. Toward the end of the session, Hussein lambasted the "Americans and Zionists" and, in a segment that was edited, the version broadcast to viewers with a 20-minute delay urged Iraqis to fight the "occupier."

"I urge Iraqis that everyone should fight and defend his country," he said.

The proceedings have been conducted with court-appointed defense attorneys ever since Hussein and his allies' lawyers walked out of the courtroom several weeks ago. Defendants, some of them disheveled, were ordered to appear in the courtroom Monday.

The prosecution team alleges that Hussein and his underlings directed a years-long campaign of torture, imprisonment and execution against the men, women and children of Dujayl.

The five former regime loyalists, compelled to take the witness stand over the past two days, have been able to corroborate few of the prosecutions claims — or even verify documents they have signed.

Prosecutors attempted to use the first witness, a former officer who testified anonymously, to place former intelligence chief Hasan at the agency's Baghdad headquarters the night of the Dujayl incident.

But he repeatedly said he wasn't at the scene, and had only "heard" Hasan was directing operations there against the Shiite village 40 miles to the north.

"Everyone in the department knows that the head of the intelligence directorate is responsible for such actions and leading everything," he told the court. "Everyone on the street knows that."

Afterward, Hasan gave his own version, claiming he obtained the release of 80 people who had been wrongly detained by authorities.

He said he didn't want a repeat of what happened when the late Syrian leader Hafez Assad was the victim of an assassination attempt.

"There was only one thing on my mind," said Hasan, who wore the same rumpled long-sleeve undershirt he wore in court Monday. "When Assad had an attempt against his life, they took helicopters, the army, and took revenge. I said to myself, 'I should not act the same. I should not be violent.'"

One witness, Fadhel Azzawi, a former Iraqi ambassador to Moscow and intelligence official, said he didn't know what was in the statement that Juhi presented to him to sign.

"I signed because I didn't have my eyeglasses," he said. "I didn't see the word. I told [Juhi], 'Frankly, I didn't see what I was signing.' "

Hussein Tells Tribunal He Is On A Hunger Strike (WP)

By Nelson Hernandez And Omar Fekeiki

The Washington Post, February 15, 2006

BAGHDAD, Feb. 14 -- Saddam Hussein on Tuesday told the court overseeing his case that he had started a hunger strike in protest of the tribunal's new chief judge, who has vowed to stop the outbursts that have frequently interrupted the former Iraqi dictator's trial.

In an otherwise subdued session, Hussein told Judge Raouf Rasheed Abdel-Rahman that he had not eaten in three days, and three of his co-defendants said they also had refused to eat. Court authorities would not confirm whether Hussein was really on a hunger strike.

During testimony Tuesday, three former officials of Hussein's government pleaded ignorance when questioned about the killing of more than 140 Iraqis from the town of Dujail after a failed assassination attempt against Hussein there in 1982.

The trial will resume Feb. 28.

The court's chief investigative judge, Raeed Juhi, called the hunger strike claim "an administrative problem" at a news conference following the session. "The court is trying to find out and is working to solve it with the responsible authorities who keep the accused in custody," he said.

While the court investigated Hussein and his co-defendants, ordinary Iraqis reckoned with the chaos that has followed his overthrow by a U.S.-led coalition in 2003. Gunmen killed at least nine farmers from the same family and wounded two others in the city of Balad, about 50 miles north of Baghdad, Iraqi police and hospital officials said Tuesday.

Police Lt. Basim Baldawi said armed men in two cars opened fire on the victims while they were working on their farm. News service reports of the same attack said 11 people had been killed, including a 5-year-old boy. Among the dead was Hussein Sarhan Hiyali, a tribal leader in the predominantly Shiite area, according to the reports.

At least five other Iraqis across the country were killed in mortar and gunfire attacks Tuesday, including an Iraqi army major and his son, according to statements by U.S. and Iraqi military authorities.

The latest session of Hussein's trial was among the calmest of the dozen held so far, possibly a result of Abdel-Rahman's stern warnings that disorder in the court would no longer be tolerated. Though Hussein entered the courtroom calling out, "Long live the holy warriors!" and told Abdel-Rahman to hit himself in the head with his gavel, he was silent for much of the proceedings.

Hussein's half brother, Barzan Ibrahim, who attended court for the second day wearing his pajamas, took up the spotlight. Looking like an overgrown child in the adult-size crib that houses the defendants, the former intelligence chief waved a water bottle and pointedly reminded Abdel-Rahman that "I am not your servant."

Ibrahim also spoke for the first time about what he had done after finding out about the assassination attempt in Dujail, a town north of Baghdad. He said he had released 80 people who had been wrongfully detained by police and apologized to each of them.

"There was only one thing in my mind," Ibrahim said. When an attempt was made on the life of Hafez Assad, then the president of Syria, he said, "they took helicopters, the army, and took revenge. I said to myself, 'I should not act the same. I should not be violent.' "

In previous sessions, witnesses have described brutal abuse at the hands of Ibrahim's agents following the Dujail incident. On Tuesday prosecutors tried, largely without success, to link Ibrahim and Hussein to documents related to the massacre. All three of the day's witnesses -- a former provincial governor, a secretary to Hussein and an anonymous intelligence officer -- testified that they knew nothing about what happened after the assassination attempt.

"You were so close to the defendant Saddam Hussein, and yet you do not know anything about it?" the prosecuting judge asked Hamed Youssef Hamadi, who served as a secretary to Hussein.

"Yes, I swore an oath to tell the truth, and that is the truth," Hamadi answered.

Elsewhere in Iraq, residents of Basra and Baqubah demonstrated against the British presence in the country two days after the release of a video depicting British soldiers beating a group of teenage Iraqis. The Basra city council said it was cutting off all cooperation with coalition forces because of the video, according to Maj. Peter Cripps, a British military spokesman.

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It was the second time in recent weeks that tension has flared between the British and the government of Basra in southern Iraq. The council recently protested the British detention of several local police officers. The British said they detained the officers because of suspected connections to the Shiite militias that have infiltrated the police in Basra.

In London, the British defense minister announced Tuesday that three people had been arrested in connection with the video. The BBC said Cpl. Martin Webster of the 1st Battalion, Light Infantry, was among those arrested. Webster is apparently the man who shot the footage and is heard taunting the teenagers as they are beaten, the news service reported.

Hussein, Gleeful, Badgers The Judge And Declares A Hunger Strike Over His Treatment (NYT)

By Edward Wong

The New York Times, February 15, 2006

BAGHDAD, Iraq, Feb. 14 — A defiant Saddam Hussein marched into court on Tuesday and declared that he and his co-defendants had begun a hunger strike to protest their treatment by those overseeing their trial.

Mr. Hussein, dressed in a dark suit and appearing more composed than he had the previous day, went on to insult the presiding judge and smile gleefully at impish exchanges between his half-brother, Barzan Ibrahim al-Tikriti, and the prosecutor's three reluctant witnesses, all formerly senior officials under Mr. Hussein.

"We have been on a hunger strike for the past three days in protest of the treatment by you and your masters," Mr. Hussein said to Judge Raouf Abdel-Rahman, who was appointed last month to replace a judge who had resigned. As the exchange heated up, the judge rapped on the table to call the court to order, prompting Mr. Hussein to say, "You should knock your head with your gavel."

Later, Mr. Ibrahim, draped in a white undershirt, said, "I've been on strike for the past few days. You brought me here in my pajamas."

Mr. Hussein and Mr. Ibrahim both appeared robust, with Mr. Ibrahim going off on lengthy, meandering monologues and talking down to the judge and witnesses. Mr. Hussein did not put forward any conditions for ending his hunger strike. Asked about the strike, a spokesman for the court said it was looking into the circumstances.

"The administrative side is trying to find out about this issue and find a way to solve it," the spokesman, Raad Juhi, said after the Tuesday session. "As you have seen yourself, the accused are in good health and Barzan had bottled water."

Mr. Hussein's comments represented his latest attempt to disrupt a trial that has been plagued by political in-fighting, assassinations of lawyers and a judge, and ambiguous witness testimony. Earlier this month, Mr. Hussein and the main co-defendants were ejected from the court by Judge Abdel-Rahman for boisterous behavior. They then pledged to boycott the trial, missed several sessions and only reappeared on Monday after being coerced back into the courtroom.

Human rights observers have raised new concerns about the credibility of the trial, given the fact that the defendants' lawyers have also decided to boycott the proceedings, forcing the court to appoint substitute lawyers for Mr. Hussein and the other defendants.

On Tuesday, the prosecutor's three witnesses appeared reluctant to testify, and their statements failed to bolster any case against Mr. Hussein. The prosecution is trying to prove that Mr. Hussein and the other seven defendants were responsible for the torture and executions of 148 men and boys in the Shiite village of Dujail, where a small group of men tried to assassinate Mr. Hussein in 1982. The prosecutors must establish a chain of command that clearly links Mr. Hussein and his colleagues to the torture and killings.

The three-hour session on Tuesday ended at 2:45 p.m. and was adjourned until Feb. 28.

The session took place as violence exploded in parts of central and northern Iraq, resulting in at least 15 deaths on Tuesday. Crowds in the south protested the mistreatment of detainees by British soldiers, prompted by the release of a video last week showing British soldiers kicking and beating several young Iraqi men during a demonstration in January 2004 in the southern city of Amara. The British government has vowed to investigate and has arrested at least one soldier.

The provincial council of the southern port city of Basra said Tuesday that the council was severing ties with the British forces, which control the far south. In Basra, animosity toward the British has been growing in the last several months over

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attempts by the British to arrest Iraqi police officers suspected of having ties to hostile militias, and attacks against the British military have been on the rise.

Much of the violence has been attributed to members of the Mahdi Army, the militia that answers to the firebrand Shiite cleric Moktada al-Sadr.

On Tuesday afternoon, thousands of protesters flooded Basra's streets to call for the British to cede responsibility for security to Iraqi forces. Leaders in Basra also called for a boycott of Danish goods, in retaliation for the satirical cartoons depicting the Prophet Muhammad that first appeared in a Danish newspaper last September and have ignited outrage across the Islamic world.

The deadliest attack on Tuesday took place at 7 a.m. outside the predominantly Shiite town of Balad, where gunmen in two cars opened fire on a group of farmers, killing at least 11 and wounding at least two, an Interior Ministry official said.

In the evening, a mortar shell landed on a house in the predominantly Sunni Arab neighborhood of Ghazaliya, killing two civilians, the official said. Another round landed on a house in the Sunni area of Jihad, injuring two.

In the town of Taji, north of Baghdad, gunmen killed an Iraqi Army major and his son on Tuesday morning, the American military said. A police colonel was shot dead on Monday evening in southern Baghdad as he was shopping, the Interior Ministry official said. Also on Monday, the police discovered four bodies in two areas of Baghdad; all of the dead had been handcuffed, blindfolded and shot in the head.

A similar body was found Tuesday morning in the town of Latifiya, an insurgent stronghold south of Baghdad.

Iraqi and American officials have been hoping that the trial of Mr. Hussein would help quell some of the violence, by demonstrating that Mr. Hussein and his co-defendants are broken men. Instead, Mr. Hussein has used every opportunity to grandstand, inspiring fierce loyalty in some Sunni Arabs.

On Tuesday, as the trial got under way, Mr. Hussein exclaimed, "Long live the Arab nation!"

Saddam's Half Brother Denies Role In Killings (USAT/AP)

By The Associated Press

USA Today, February 15, 2006

BAGHDAD — Saddam Hussein's former intelligence chief, again wearing pajamas in court as a protest, on Tuesday became the first defendant in the ousted president's trial to speak at length about the charges of executions and imprisonment of Shiites in the 1980s.

Barzan Ibrahim, who is also Saddam's half brother, denied any part in the crackdown against residents of Dujail, a mainly Shiite town north of Baghdad, after a 1982 assassination attempt against Saddam there.

Speaking in an orderly way from the defendants' pen, Ibrahim said he went to Dujail on the day that gunmen opened fire on Saddam's motorcade, then returned to the village the following day. He claimed he ordered the release of more than 80 detainees held in the town.

“I released all the detainees inside the hall — more than 80 persons. I swear to God I said goodbye to them one by one and apologized,” he said.

After those two visits, Ibrahim continued, “I never heard of Dujail ever again. I never got a report on it. It was all handed over to the General Security Services,” a separate agency.

In previous sessions, some prosecution witnesses — Dujail residents arrested in the crackdown — have testified that Ibrahim was personally involved in torturing them.

If convicted in the killing of nearly 150 Shiites from Dujail, Saddam and his seven co-defendants could face death by hanging.

In a show-stealing gesture earlier Tuesday, Saddam and three co-defendants, including Ibrahim, said they have launched a hunger strike to protest the chief judge in their trial.

Saddam said he had not eaten in three days, while Ibrahim said he had been on strike for two days. Two other defendants, Awad Bandar and former vice president Taha Yassin Ramadan, also said they were on a hunger strike.

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Their claims could not be independently confirmed. Although the defendants are in Iraq's legal custody, they are being held in a U.S. military detention facility. No comment was immediately available from the U.S. military.

Since the trial began, Saddam and Ibrahim have expressed only contempt for the court, interrupting it with outbursts, arguments and insults.

Tuesday's session began in much the same way. Saddam entered and shouted his support for Iraqi insurgents, yelling "Long live the mujahedin!" Later, during the testimony, he shouted, "I say to all Iraqis: Fight and liberate your country!"

He argued with Chief Judge Raouf Abdel-Rahman, at one point telling the judge, "Hit your own head with that gavel."

Abdel-Rahman, who took over the court last month, has tried to impose order in a court where outbursts and abuse, mostly by Saddam and Ibrahim, have frequently overshadowed the proceedings.

After nearly three hours of testimony, Abdel-Rahman adjourned the trial until Feb. 28.

Army IG Reviewing Soldier's Death By Friendly Fire In Iraq (WP)

By Josh White

The Washington Post, February 15, 2006

The Army inspector general's office has launched a review of a friendly-fire case at a security checkpoint in Iraq that claimed the life of a young Ohio soldier, Army officials said.

Spec. Jesse R. Buryj's death from a gunshot to the back led to a series of investigations by the United States and Poland. Soldiers from both countries were manning a traffic circle in Karbala in May 2004 when a suspicious dump truck crashed through barriers and ignored warnings to stop. A bullet hit Buryj, 21, as he fell from the turret of his Humvee after the truck -- which was carrying an unarmed driver and passenger -- collided with it during the nighttime incident.

Investigations determined Buryj most likely was hit by friendly fire. U.S. officials said Polish troops probably were responsible for his death, while Polish officials vehemently denied that their troops could have shot him. Critical evidence that could have answered the question was not collected, according to investigative reports.

Buryj's family, in Canton, Ohio, was told he died in a car accident. His parents did not learn the truth until nearly a year later, after they asked President Bush for help.

"The IG will review the matter to determine if proper policies and procedures were followed," said Col. Joseph Curtin, a top Army spokesman at the Pentagon. He said the review is not an official "investigation."

After The Washington Post published an article about Buryj's death last month, Polish officials privately complained to the Pentagon that they were unaware that the United States blamed Polish troops for the shooting. It was a rift U.S. officials sought to prevent early in their investigation, which cited the incident's international sensitivities.

"Because they didn't do a proper job after the accident, finding the truth now would be simply impossible," said Marek Purowski, a spokesman at the Polish Embassy, who noted that U.S. officials did not collect weapons in Iraq to compare with ballistics evidence from the bullet that hit Buryj. "It's not our doing, it's not our responsibility. It's not the first story where there are some differences. It happens, even among friends."

Peggy Buryj, Jesse's mother, said she met with Sen. Mike DeWine (R-Ohio) on Saturday morning and learned that Army Secretary Francis J. Harvey had assured him that an IG review is underway. Army officials confirmed the review this week but declined to elaborate.

"I don't know what they can do now, because it is what it is," Peggy Buryj said of her son's death, now nearly two years ago. "I don't have any faith that they're ever going to get to the bottom of it. I just want them to admit that things weren't right. I'd like an apology. I have no expectations now."

Peggy Buryj, who met Bush on a campaign stop in 2004 and was asked to appear in a Bush campaign commercial before the election, said no one from the Bush administration has contacted her since her son's story became public. An Army casualty assistance officer called her to offer a meeting with the medical examiner who handled her son's case, but she said she wants access to higher-ranking officials.

Iraqi Premier Outlines His Plans For A More Inclusive Government (LAT)

By Borzou Daragahi And Raheem Salman

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The Los Angeles Times, February 15, 2006

BAGHDAD — Prime Minister Ibrahim Jafari outlined plans Tuesday to build a broad-based government to tackle the country's woeful security conditions.

Jafari, newly named as his Shiite Muslim coalition's candidate to continue leading the country for the next four years, faced widespread criticism for being ineffective and controlling during his 10-month tenure as the country's top executive. He acknowledged his previous administration's weaknesses and vowed to listen to those outside his political circle in forming a government.

"Any failure or frustration about a minister will be reflected on the government as a whole," he told reporters. "Any party in the government has the right and duty to discuss candidates. No doubt, we will consider all the different parties which form the parliament."

Jafari did not spell out any major proposed changes for his administration, but said he would tighten the screws on ministers, who he suggested had been spending too much time out of the country.

"The manner of work, the pace, the centralization of the government … all will witness a qualitative leap," he said.

Jafari, a 58-year-old physician and theologian who has been active in Islamic politics for four decades, faces daunting challenges. Skeptical political blocs already are allying against him. Followers of Shiite cleric Muqtada Sadr within Jafari's coalition demand more radical measures from the government.

The coalition made Jafari its choice for prime minister by a single vote in an election Sunday.

His work will proceed amid sectarian violence that claimed at least 11 lives Tuesday in the Shiite city of Balad, where gunmen attacked a group of farmers. Several large roadside bombs rocked the capital, injuring half a dozen Iraqis.

Jafari said that improving the country's dire security circumstances would be his top priority. But many Iraqis and Western officials regard his government as part of the problem. Another faction in his coalition, followers of Shiite cleric Abdelaziz Hakim, has control of the Interior Ministry, which members of the Sunni Muslim minority have accused of spawning death squads.

The Shiite coalition, which controls 130 of the 275 seats in parliament, cannot form a government without a two-thirds majority of lawmakers and needs to build a coalition with Kurds, secular Iraqis or Sunni Arabs.

Kurdish leaders opposed Jafari and have complicated his task of assembling a government. They say Jafari didn't grant President Jalal Talabani, a Kurd, more than a ceremonial role and failed to invoke a constitutional article calling for the return of dispossessed Kurds to the oil-rich city of Kirkuk.

Jafari said he felt sympathy for the displaced Kurds but urged patience.

"We have a constitution and a law," he said. "My success, values and morals aren't based on my feelings but on how well I can apply the constitution and the law."

Now Kurds say they won't form a government without the participation of the Iraqi National List, the coalition of former Prime Minister Iyad Allawi, a secular Shiite.

"We think that it's important not to exclude anybody," Talabani said Tuesday at a news conference with Hakim. "We believe the Iraqi List has struggled against Saddam Hussein and includes many individuals who struggled against the tyrant regime."

Sunni Arabs, with 55 seats in the parliament, and Allawi's followers have allied to form a bloc with the goal of preventing Shiites and Kurds from remaking Iraq as a country divided into federal regions. Their alliance could complicate efforts by Jafari to draw at least some Sunnis into a ruling coalition.

The Shiite Choice (WSJ)

The Wall Street Journal, February 15, 2006

It's become a cliche in some circles that Iraq won't be ready for "Jeffersonian" democracy any time soon. And maybe not. But the more we watch the political developments that the U.S. is fostering in Iraq, the more we see the kind of compromise and debate that are crucial to democratic progress.

The latest news is the orderly election this weekend of Ibrahim al-Jaafari as the Shiite Alliance's candidate to serve as Prime Minister for the next four years. Mr. Jaafari has been Prime Minister since the election of Iraq's interim government in January 2005, and he won the permanent nod by a single vote over Adel Abdel Mahdi of the Supreme Council for the Islamic

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Revolution in Iraq (Sciri). Mr. Mahdi, in turn, gracefully accepted defeat and congratulated Mr. Jaafari. "You should console me in this situation," Mr. Jaafari replied. "This is a big burden and a position of difficulties." He's certainly right about the latter.

Mr. Jaafari has been criticized as a weak leader. But to be fair, his government has only had a short time in office and has suffered from the stigma of being temporary. If he now goes on to win approval by Iraq's full parliament, his legitimacy will not be questioned and he'll have a fairer chance to show what he can do.

Though not the most inspiring of political personalities, Mr. Jaafari is well-liked by the Iraqi public and by his fellow political leaders. He delegates power and is willing to trust the skills of those around him. He has also never been associated with even a hint of corruption. And far from being a reformed Baathist, he has an untainted record of courageous opposition to Saddam Hussein's regime.

Of all the Shiite Alliance's conceivable choices for the post, Mr. Jaafari is also the least beholden to Iran. U.S. diplomats seemed to favor Mr. Mahdi for some reason. But unlike Sciri, Mr. Jaafari and his Dawa Party don't seem dependent on Tehran and are unquestionably indigenous Iraqi patriots.

Mr. Jaafari can also call upon a strong team already in office. We're particularly impressed with Defense Minister Saddoun Dulaimi, a Sunni brought in by the Shiite Alliance despite the Sunni boycott of the January 2005 vote. Mr. Dulaimi has overseen the growth of the Iraqi Army into a better fighting force and he is also uncorrupt and free of any ties to the Sunni insurgents. Another face who could return is Deputy Prime Minister Ahmed Chalabi. Although he didn't win a seat after leaving the Shiite Alliance to lead his own slate for December's vote, he has a good working relationship with Mr. Jaafari, as well as managerial skills and knowledge of financial markets.

Some degree of continuity will be important. The U.S. decision to cashier the postwar Governing Council in favor of Ayad Allawi and a team of unknowns in June 2004 -- only to see Mr. Jaafari and the Governing Council's other leaders win Iraq's first two elections -- was unnecessarily disruptive and delayed the development of Iraqi institutions. The exception here is the Interior Ministry, which Mr. Jaafari delegated to Sciri and which has been credibly accused of mistreating some Sunni prisoners. That has to be cleaned up.

Speaking of Mr. Allawi, we hope he will stay in Iraq to lead the loyal opposition if he doesn't get a post in the new government. Many secular-minded Iraqis gave their votes to Mr. Allawi believing he was the U.S.-favored candidate, and they deserve a strong voice in parliament.

But whatever happens on that front, we trust that the closely divided vote in favor of Mr. Jaafari will allay Western fears of Iraq's domination by a monolithic, Iranian-linked Shiite bloc. The Shiite Alliance is a very uneasy coalition that includes leaders like Mr. Jaafari, Sciri's Abdul Aziz al-Hakim and rebel cleric Moqtada al-Sadr, who don't always get along.

And watching them all as a source of moral authority is the Grand Ayatollah Ali Sistani, who has also shown himself to be an Iraqi patriot who opposes the imposition of an Iranian-style clerical government. In any case, the Alliance lacks the two-thirds majority in parliament to impose its will, so compromise with Kurdish, Sunni and secular Shiites will be essential to successful governance.

Mr. Jaafari's nomination for Prime Minister is the latest positive step in Iraqi political development -- which includes two elections, negotiations to write a new and liberal constitution and a successful referendum on that document. We'll let the cynics decided if this qualifies as "Jeffersonian," or merely Iraqi pragmatism, but whatever it is we'll call it progress.

Quick Rise For Purveyors Of Propaganda In Iraq (NYT)

By David S. Cloud

The New York Times, February 15, 2006

WASHINGTON, Feb. 14 — Two years ago, Christian Bailey and Paige Craig were living in a half-renovated Washington group house, with a string of failed startup companies behind them.

Mr. Bailey, a boyish-looking Briton, and Mr. Craig, a chain-smoking former Marine sergeant, then began winning multimillion-dollar contracts with the United States military to produce propaganda in Iraq.

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Now their company, Lincoln Group, works out of elegant offices along Pennsylvania Avenue and sponsors polo matches in Virginia horse country. Mr. Bailey recently bought a million-dollar Georgetown row house. Mr. Craig drives a Jaguar and shows up for interviews accompanied by his "director of security," a beefy bodyguard.

The company's rise, though, has been built in part by exaggerated claims about its abilities and connections, according to interviews with more than a dozen current and former Lincoln Group employees and associates, and a review of company documents.

In collecting government money, Lincoln has followed a blueprint taught to Mr. Bailey by Daniel S. Peña Sr., a retired American businessman who described Mr. Bailey as a protégé.

Federal contracts in Washington can supply easy seed capital for a struggling entrepreneur, Mr. Peña says he advised a youthful Mr. Bailey in the mid-1990's when the two men started a short-lived technology company. "I told him, 'When in trouble, go to D.C.,' and the kid listened," Mr. Peña said.

Mr. Bailey defends his company's record, saying, "Lincoln Group successfully executes challenging assignments." He added that "teams are created from the best available resources."

Lincoln won its contracts after claiming to have partnerships with major media and advertising companies, former government officials with extensive Middle East experience, and ex-military officers with background in intelligence and psychological warfare, the documents show. But some of those companies and individuals say their associations were fleeting.

Lincoln has also run into problems delivering on work for the military after its partnerships with more experienced firms fell apart, company documents and interviews indicate. The firm has continued to bid for new business from the Pentagon and has hired two Washington lobbying firms to promote itself on Capitol Hill and with the Bush administration.

"They appear very professional on the surface, then you dig a little deeper and you find that they are pretty amateurish," said Jason Santamaria, a former Marine officer whom the company once described as a "strategic adviser."

The company's work in Iraq, where Mr. Bailey and Mr. Craig visit from time to time to direct operations, is facing growing scrutiny.

The Pentagon's inspector general last month opened an audit of Lincoln Group's contracts there, according to two Defense Department officials. A separate inquiry ordered by Gen. George W. Casey Jr., the top American commander in Iraq, after disclosures late last year that Lincoln Group paid Iraqi publications to run one-sided stories by American soldiers, has been completed but not made public, military officials said.

A spokesman for General Casey, Lt. Col. Barry Johnson, declined to comment on Lincoln Group, citing the ongoing investigation.

In interviews, Mr. Bailey, 30, and Mr. Craig, 31, said they had succeeded by anticipating the military's need for help communicating with and influencing the Iraqi public, just as the insurgency was building. "We saw that it was very hard for the U.S. to do that work," Mr. Bailey said. "They didn't do media and outreach very well. We had local offices in a tough environment where traditional U.S. contractors would not operate."

He disputed suggestions that Lincoln had experienced difficulty delivering on work for the military, saying the firm had "successfully executed" more than 20 contracts from the Defense Department.

Lincoln's roster of advisers and other businesses assisting it has continually changed, Mr. Craig said, because "our work in often hostile environments has occasionally proved to be too risky or challenging for some of our partners."

Little in Mr. Bailey's background indicated he would end up doing propaganda work in Iraq. Born in Britain as Christian Jozefowicz, he changed his name when he graduated from Oxford University and moved to San Francisco during the late-1990's dot-com boom.

There he founded or advised several companies and plunged into the Silicon Valley social scene, according to Mr. Bailey and several friends and former business associates. Among the companies were Express Action, a company that planned to develop an Internet service to calculate duties on overseas purchases, and Motion Power, which intended to invent a shoe that would generate its own electrical power to run portable consumer devices.

"You would have been proud had you seen this 23-year-old kid pitching, with no product, no customers, no business plan," Mr. Bailey wrote in a letter to Mr. Peña, describing how he raised $15 million from investors for Express Action.

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Mr. Bailey later moved to New York and sought investors for an investment fund, according to documents filed with the National Futures Association. In 2003, he moved to Washington.

Mr. Craig's path to the capital began when he dropped out of West Point to pursue, he says, his interests in business and national security.

Enlisting in the Marines in 1995, he began working in military intelligence. He earned an undergraduate degree in information technology while stationed in Okinawa and Australia through the University of Maryland and a masters in business administration from National University, which runs academic programs on military bases. He left the Marines in 2000.

By 2004, Mr. Bailey had moved into Mr. Craig's house near downtown Washington, and the two had formed the company that eventually became Lincoln Group.

Their original goal was to make money exploiting Iraq's most obvious surplus — its shattered infrastructure. But those efforts faltered.

A project to export scrap metal fell apart after the Iraqi government banned scrap exports in 2004, Mr. Bailey said. A pile of scrap metal, purchased with a loan from an Indonesian bank, has been sitting in Basra ever since, according to two ex-employees. Like several other former Lincoln workers, they asked to remain anonymous because they had signed confidentiality agreements with the company or still dealt with the firm.

Lincoln also spent about $50,000 for two portable brick-making machines from Texas. The company had hoped to set up a brick plant near Mosul, where the demand for construction materials was vast, according to a presentation Mr. Bailey made to potential investors in Dubai. The machines, though, were principally designed for homeowners or small contractors. Lincoln would not comment on the project.

Eventually, Lincoln began working with the American military, which was spending millions on contractors for a broad range of services. The firm rented a one-story house inside the Green Zone, the heavily fortified government compound in central Baghdad. Furnished with two sofas and a sheet of plywood that served as a desk, the house had a single telephone and an overloaded electrical outlet.

Lincoln formed a partnership with The Rendon Group, a Washington company with close ties to the Bush administration, and won a $5 million Pentagon contract to help inform Iraqis about the American-led effort to defeat the insurgency and form a new government. One contract requirement was to get Iraqi publications to run articles written by the military, according to several ex-Lincoln employees.

Rendon soon dropped out and Lincoln handled the contract alone. But the company had fewer than two dozen workers and little experience with public relations, according to several ex-employees.

Problems arose from the start. In a 2004 briefing to the military, Lincoln conceded that it was "not yet fully staffed" and that "media monitoring software" required by the contract was "not ready."

And the government did not provide that much work at first. The military's public affairs office produced only a few articles a day during that period, one Lincoln ex-employee said. A small State Department contract to assist small businesses had just been cancelled, he said, and the firm was having difficulty making its payroll.

Lincoln lacked the armored vehicles or security guards employed by more established contractors. When venturing outside the Green Zone, employees would grab weapons and climb into one of two beat-up Proton sedans, which employees were told were chosen to blend in with dilapidated Iraqi vehicles on the streets.

After winning a small contract from the Marines to do polling, the company hired Iraqis to go door-to-door in Anbar Province with questionnaires. To protect themselves from possible insurgent reprisals, they were told to say they were working for an Iraqi university, according to a former Lincoln employee.

Last August, gunmen came to the home of one of the Iraqi workers, killing him and three others, according to an ex-employee. Mr. Bailey said it was not clear whether the killing was related to the polling, but the company decided to move a Lincoln office staffed by Iraqis in downtown Baghdad to a less noticeable location.

Back in the United States, Mr. Bailey and Mr. Craig worked to drum up more business.

In late 2004, Mr. Craig traveled to Fort Bragg, N.C., to meet with officers of the 18th Airborne Corps, which was preparing take over management of Lincoln's public affairs contract in Iraq, according to a former employee and company documents.

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Despite the problems with the existing work, Lincoln said it could assist the military in the more secretive realm of "information operations," according to a transcript of the briefing. Unlike public affairs work, information operations are meant to influence and help defeat foreign adversaries, using deception, if necessary.

The briefing also touted the firm's "strategic advisers," including Mr. Santamaria, the former Marine officer, who received a master's degree from the Wharton business school and was co-author of a business book called "The Marine Corps Way."

Mr. Santamaria said he reviewed several investment proposals for Lincoln during a two-week association in late 2004. But after becoming "concerned about their methods," he said, "I severed ties with them as quickly as I could."

A Lincoln spokesman, William Dixon, said "it was a mistake" to include Mr. Santamaria's name in the December briefing because he was no longer affiliated with the company.

Lincoln may simply have been following another principle taught by Mr. Peña. "How do you create an instant track record?" Mr. Peña says he told Mr. Bailey. "You joint-venture with someone who has a track record."

Early last summer, military commanders made Lincoln Group the main civilian contractor for carrying out an aggressive propaganda campaign in Anbar Province, known as the Western Mission project. Over the next several months, the military transferred tens of millions of dollars to Lincoln for the project, records show.

The company hired dozens of employees, including academics and former military personnel, as well as hundreds of contract workers in Iraq and elsewhere, a number that fluctuates by contract requirements, according to Mr. Dixon, the Lincoln spokesman.

With the new duties came substantial new requirements, including producing television and radio ads, buying newspaper ads and placing many more articles in the Iraqi press. The military also approved paying Iraqi editors to run stories, according to ex-Lincoln employees.

Lincoln also enlisted the New York advertising executive Jerry Della Femina, chairman of Della Femina Rothschild Jeary & Partners. Mr. Della Femina said he was introduced to Mr. Craig last spring by a Washington lobbyist.

Mr. Della Femina said his firm "did a great deal of work" on advertising ideas for Lincoln to present to the military's Special Operations Command, which last summer was soliciting bids for contracts, potentially worth millions, for psychological operations.

Lincoln listed Mr. Della Femina as a "creative director" in materials presented last spring at a meeting with Special Operations officers in Tampa. But Mr. Della Femina said his firm pulled out before executing any of the ideas. Three months after ending the collaboration, Mr. Della Femina said, he discovered that Lincoln's Web site listed him as one of its partners.

"I was surprised that they had our name on their Web site in the first place," he said.

After he asked that his name be removed, Mr. Craig said, "we honored his request within the week."

By that time, Lincoln had already been notified by Special Operations Command that it and two other companies had been chosen to compete for work under the contract.

Lincoln later told Special Operations Command that one of its principal subcontractors was Omnicom Group Inc. of New York, an advertising and marketing conglomerate. A proposal signed by Mr. Bailey in October said Lincoln "has exploited the extensive experience and expertise of the Omnicom Group."

But Pat Sloan, an Omnicom spokeswoman, said she could find no evidence it has ever worked with Lincoln Group. "We're not aware of any relationship with Lincoln Group," she said. She noted that Omnicom had once owned 49 percent of Mr. Della Femina's agency but had sold the stake in early 2005. Michael J. Jeary, president of Mr. Della Femina's agency, said Lincoln's claim of Omnicom as a subcontractor was an "honest mistake" because he had never told the firm Omnicom had sold its minority stake.

Although Lincoln Group's work in Iraq is now under scrutiny in two Pentagon investigations, the firm is hunting for more government work. Last month, Mr. Bailey attended a going-away reception at the Virginia condominium of a mid-level government employee on her way to a new job at the American Embassy in Baghdad. Her job: overseeing contracts.

Around Iraq In 4 Days (LAT)

By Doug Smith

The Los Angeles Times, February 15, 2006

BAGHDAD — U.S. Army historian Sherman Fleek came to Iraq to write the official record of postwar reconstruction. With thousands of projects underway across the country, there was a sense of urgency to his research.

From Baghdad, he decided, his first venture would be to head north to review work on an academy for Iraqi army officer candidates in Mosul. He gave himself two days to get there, do the research and return, figuring that would be sufficient for the 450-mile round-trip in a Black Hawk helicopter cruising at 145 mph.

But Fleek, a retired lieutenant colonel who teaches military history, was about to become acquainted with the awesome complexity of the system that moves soldiers around a war zone the size of California. With the roads too dangerous for routine travel, about 100 helicopters serve as taxis for soldiers and civilians on U.S. business, carrying them to and from scores of far-flung bases with names like Courage, Danger, Liberty and War Horse.

There are no flight schedules. For security reasons, the military does not disclose details on the number of flights or routes. The Army press office in Baghdad says routes are made up daily in response to need. Any flight can be canceled on short notice because of combat action.

The transit system is a hybrid of military and civilian styles, with hundreds of contract employees working alongside men and women in uniform in makeshift flight operations offices. Passenger manifests are drawn up by computer, but the flights are posted on whiteboards.

If your name is on the list, you will usually get a seat. But most travelers are like Fleek, flying "space available," the military equivalent of "standby."

Because the carrier is the U.S. Army and not JetBlue, a simple ride from Point A to Point B can be a gantlet of inscrutable procedures, unbelievable discomforts, lose-lose choices and long, cold waits.

14:30 Saturday. Baghdad.

Fleek's mission begins at Landing Zone Washington, a field of concrete in the fortified Green Zone, where Black Hawks swoop down in pairs all day long, like airport limousines.

A distant roar announces the arrival of Fleek's flight. Two dark shapes appear in the hazy winter sky, hover, and gently sink to the pavement, unleashing a blast of wind that rips at clothing and obliterates speech.

The flight crews, two members to a helicopter, slide back the passenger doors and beckon to Fleek, another civilian and more than a dozen soldiers. A small group was in Baghdad for a conference. Others are heading back to their posts after leave. One by one they clamber up, swinging M-16s, duffle bags, backpacks and other odd-sized boxes of weaponry and personal belongings.

It takes nearly 20 minutes, blades whirring the whole time, to get passengers snuggled into the helicopters, four each to a bank of canvas sling seats. Baggage is piled in the cavity between the copter's machine guns, on the floor between the riders and on their laps. Further burdened by 30-pound body armor and helmets, the passengers can do little but move their hands. The whine of engines and the battering sound of blades preclude conversation.

Everyone stares ahead blankly, some no doubt pondering the risks ahead. More than 30 U.S. military helicopters have gone down over Iraq since 2003.

The Black Hawks lift off in unison. Cruising about 200 feet off the ground, they afford a dizzying picture of Baghdad rooftops, then fields and mud-and-stone villages. Twenty minutes later, they touch down for refueling. With hand signals, the flight crews direct all passengers to a waiting area behind a concrete wall for 10 minutes.

The next leg is just a hop from the fueling stop to the landing zone on the other side of Forward Operating Base Balad, a transit crossroad north of Baghdad and the end of the line for the flight.

Two hours of daylight left Saturday. FOB Balad. Distance traveled: 45 miles.

Fleek, a former Army helicopter pilot who has lost the battle of the midline but still retains a stride worthy of Gen. Patton, follows the others down a muddy road to the flight operations office in a trailer under camouflage. A young woman behind the counter checks her computer and gives Fleek the bad news. The next flight to Mosul will not be until the next morning, at 08:20.

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For such situations, a bus from the flight operations center drives the stranded to a distant barracks for the night. But with a savvy honed by 27 years in the Army, Fleek does better. He chats up some public affairs officers from the flight. Their hospitality includes a semiprivate bunk, an evening of spirited conversation and a wake-up knock.

The knock comes at 06:00. Check-in is 06:50, apparently leaving time for a stroll to the dining facility before the 08:20 flight. When Fleek returns to the flight office at 07:20, the other passengers are gone. There was a 07:10 roll call, and then they were all bused to the landing zone.

"Wait right here," commands a stern young woman with a walkie-talkie.

A few minutes later, a bus pulls up. When it reaches the landing pad, near a helicopter that is already loaded with its rotors turning, the flight chief gives Fleek a look that could be understood even through his black plastic visor: You're late. After that, Fleek would never leave line again.

The helicopters take off into brisk morning air that grows colder as they climb. There is a stop at FOB Speicher near Saddam Hussein's hometown, Tikrit, to let soldiers on and off. The final leg, over low mountain ranges and stretches of wheat fields, lasts a bone-aching two hours, then ends in a familiar pattern: A refueling stop and a short hop to the flight operations center at FOB Diamondback on the south side of Mosul.

Six hours of daylight left Sunday. Mosul. Distance traveled: 170 miles.

After an hour of futile dialing on a field telephone, Fleek finally gets through by e-mail to the Army Corps of Engineers' tiny detachment on the giant base. In a few moments, Master Sgt. Tawna Ayers, who had waited for Fleek the night before, arrives in a mud-splattered SUV.

Ayers drives Fleek to a trailer where she says he can make himself comfortable until the convoy arrives to take him to his destination, FOB Courage, on the north side of the city. He has missed the morning convoy. At 15:00, Fleek reaches Courage, with just enough time to get a bunk and dinner. There will be no more travel that day.

09:00 Monday. Mosul.

The trip to the officer training academy north of the city goes smoothly, and after a brief tour, Fleek is ready for the journey back. It is early afternoon, time enough, with luck, for a quick flight to Baghdad.

But instead of taking Fleek to the airfield, his convoy pulls into another base. Fleek will have to catch the afternoon shuttle from there back to Diamondback, a Stryker convoy leaving at 14:30.

The Stryker troop carrier is a heavily armored steel box on wheels with just enough headroom for soldiers to sit on two unpadded benches. A video monitor provides the only outside contact as the engine revs and the box lurches forward. Muscles strain to anticipate the jerking turns. Rumps turn numb before the 20-minute drive is over.

15:00 Monday.

FOB Diamondback. Distance traveled: 15 miles.

When the vehicle thuds to a stop, Ayers is waiting again. Fleek learns there are no more flights to Baghdad that day, the third day of his trip. But at 10:20 Tuesday, he can catch a one-hour flight on a C-130 transport plane.

"I'll take it," he said.

07:00 Tuesday. Mosul.

Fleek awakes in good spirits. But then he comes face to face with the one person who can make the difficult impossible: an unmotivated civilian contract employee.

"I need your passport and orders," the clerk says.

For the first time, Fleek's frustration boils over. Heatedly, he says he has flown halfway across Iraq without either. It makes no difference to the civilian.

In a flurry of cellphone calls, Ayers determines that orders can be produced.

But the clerk won't budge on the passport. Sometimes, he says, the flight skips Baghdad, and instead goes on to Kuwait. He says he has been chewed out before and he isn't going to let it happen again.

That leaves Fleek with two options: take a helicopter that afternoon back to Speicher outside Tikrit with the hope of a night connection to Baghdad, or wait a day for a Baghdad flight that might be full.

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It's no choice, really. Fleek takes the bird in hand. Daylight is fading over Tikrit when the Black Hawk touches down on the pavement at Speicher.

17:00 Tuesday. FOB Speicher. Distance traveled: 120 miles.

Fleek strides into a cylindrical tent that houses flight operations and receives the usual good-news-bad-news. There is a flight at 19:00 to Balad, but the waiting list is overflowing with the names of soldiers stranded the night before.

Fleek gets a burger at the base's imitation Main Street of fast-food eateries and returns to flight operations.

In the darkness, he takes his place near the end of a line of 27, three more than the capacity of two Black Hawks, even if they arrive empty.

At 19:00, his spirits lift when a giant form descends from the night sky.

"It's a Chinook," Fleek says gleefully. "It holds 40 people."

The emotion is fleeting. Shouting over the jet whine and prop blast, the flight leader informs the ground crew that most of the space is filled with cargo and there is room for only a dozen passengers.

Fifteen don't make it, and Fleet is among them. They trudge with their gear back to the tent to find out when the next flight will be. Most are told it will be 21:00 the next day, more than 24 hours away. With polite acceptance, the soldiers step into the night to find their bunks.

The young operations officer is telling Fleek he should return at midnight to get his name at the top of the waiting list. But his luck suddenly turns. The flight leader of the Chinook appears at the door.

"I need three for Balad," he says in a tone that means, "Right now." Miraculously, Fleek has gone from last to first in line.

Minutes later, he is packed in the cold, dark chamber of the helicopter, immobile with soldiers on either side, their baggage forming a wall at their feet. Huge boxes loom in the rear. The rotors blow frigid gusts of wind through the fuselage, biting through Fleek's soft jacket.

The helicopter rises, then flies lumberingly, slower than a Black Hawk. In flight, the wind mercifully stops and the fuselage grows comfortably warm. Fleek gives a satisfied thumbs-up. He believes the goal is near.

Then the Chinook touches down.

"Kirkuk," the flight leader yelled.

18:30 Tuesday. Kirkuk. Distance traveled: 70 miles — in the wrong direction.

This is just a cargo stop. The bay door opens. Eerie shafts of light from a tractor's headlights illuminate the fuselage as half a dozen men struggle to unload boxes and put others in their place. The work goes on for 20 minutes. Again, the rotors are blowing bone-chilling wind over passengers staring silently at one another.

When the Chinook takes off, it makes a short hop to a refueling field, where the passengers sit motionless another 20 minutes.

Then it hops to another part of the base to let a soldier off.

One more hour in the air and Fleek lands in Balad.

22:00 Tuesday.

FOB Balad. Distance traveled: 105 miles.

First comes the cargo stop, with more shuffling of boxes, then Fleek finally is deposited at the flight operations shack he left three days earlier.

He is told the next flight to Baghdad will leave at 07:10. He has missed dinner. There will be time for five hours of sleep and no chance for breakfast.

"I'll take it," he says.

The knock comes at 05:00. At 06:00, Fleek stands in the dark beside a blast wall. He waits an hour as the crew prepares the craft and day dawns over Balad.

The flight is cold but short.

08:10 Wednesday

Fleek steps onto the tarmac at Landing Zone Washington. His five-hour round-trip has taken four days.

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Inside The Beltway (WT)

By John McCaslin

The Washington Times, February 15, 2006

Pass the tweezers

As one gun rights advocate describes the crime scene, James and Sarah Brady, founders of the Brady Campaign to Prevent Gun Violence, were "dancing in blood" after Vice President Dick Cheney's hunting accident over the weekend.

(Perhaps one day I'll write about a well-known Washington reporter who peppered a fellow columnist with shotgun blast after aiming low at an elusive bird.)

Mr. Brady, the former White House press secretary wounded alongside President Reagan by John Hinckley Jr., said after the vice president's embarrassing bird hunt: "Now I understand why Dick Cheney keeps asking me to go hunting with him."

Reacts Joe Waldron, executive director of the Citizens Committee for the Right to Keep and Bear Arms: "Only Jim Brady would be allowed by the mainstream press to make such a crude and crass comment and not be called down for it."

'Blood brothers'

On Feb. 3, the day she left for Iraq, Laura Ingraham received a phone call from Vice President Dick Cheney challenging the radio talk-show host to report what is "actually happening on the ground."

Back broadcasting from her Capitol Hill studio yesterday after one week on Iraqi soil, Miss Ingraham feels she accomplished that mission: meeting, interviewing and sharing meals with U.S. and Iraqi troops, Sunnis, Kurds and Shia alike.

At one point, described as a nationally syndicated radio first, she hosted a live call-in segment from Camp Victory in Baghdad, where a crowd of American soldiers talked one-on-one to an audience that listened in on 325 radio stations.

What stands out the most from her trip?

"The genuine brotherhood that I saw between the Iraqi forces and their American military trainers," the radio host told Inside the Beltway. "I mean, these guys are like blood brothers over there. You've even got Iraqi soldiers writing to the wives and families of the American military."

Otherwise, she points to a widespread fear among Iraqi citizens that U.S. troops will pull out of Iraq too soon and former dictator Saddam Hussein will regain power.

"It's a real concern," says Miss Ingraham, who is sympathetic to the fear. "I mean, come on, Saddam has made a travesty of his trial."

Soul lubricant

Greeks insist it was given to them by the goddess Athena. Thomas Jefferson said it was a gift from heaven. Former President George H.W. Bush didn't say where he thought the olive tree came from, but rest assured he likes olives so much that he stokes his martinis with four of the ovoid fruits.

Where are we going with this?

How about Iraq. Uncle Sam knows that the highest-quality olive production occurs in areas that have mild winters and long, hot, dry summers. So the U.S. Agency for International Development is helping establish olive orchards in eight regions of the war-torn country, seeing olive production as "a potentially important cash crop for Iraqi farmers."

We're told that USAID is helping Iraq's Ministry of Agriculture plant 16 demonstration orchards, using thousands of saplings that it hopes one day will branch into symbols of peace.

Food historian Patricia Solley, editor of SoupSong.com, says the "calming and healing properties" of olives have been documented since the beginning of time.

"In the Mideast, the story is told of Adam suffering from pain and complaining to God," she writes. "At that, Gabriel descended from heaven with an olive tree, presented it to Adam, and said, 'Plant it, then pick the fruit and press out its oil. It will cure your pain and all sickness.'

"Indeed, early Mideast civilizations believed it would cure every illness except death. And to this day, many drink half a cup of olive oil before breakfast to keep all systems well-lubricated," according to Mrs. Solley.

Where credit is due

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"Where is the love, especially on Valentine's Day?" writes our friend Kevin McCauley, editor of the online version of O'Dwyer PR (odwyerpr.com), which monitors the public relations world from high atop New York's Madison Avenue.

Mr. McCauley, who frequently appears in Inside the Beltway, had sent us yesterday's item about Washingtonian David Keene landing the Algerian government image-improvement contract, but our original credit to him was accidentally dropped from the column. He can expect flowers and dark chocolates next year.

History Lessons (WT)

The Washington Times, February 15, 2006

From New York Times Editorial, Jan. 27, 2000:

The United Nations Security Council's compromise choice of Hans Blix as the new chief weapons inspector for Iraq is a disturbing sign that the international community lacks the determination to rebuild an effective inspection system in Iraq... The further the world gets from the Gulf War, the more it seems willing to let [Saddam] Hussein revive his deadly weapons projects... With the Clinton administration unwilling to fight for a stronger nominee... Mr. Blix may be an unavoidable choice. But the problem of Iraq weapons development is not going to go away. The United States and its European allies may later regret that they were not more energetic in enforcing Iraq's disarmament obligations.

Afghan Suicide Bombings, Tied To Taliban, Point To Pakistan (NYT)

By Carlotta Gall

The New York Times, February 15, 2006

KANDAHAR, Afghanistan, Feb. 12 — Arrests and interrogations of suspects in a recent series of suicide bombings in Afghanistan show that the attacks have been orchestrated from Pakistan by members of the ousted Taliban government with little interference by the Pakistani authorities, Afghan officials say.

In taped interviews by an Afghan interrogator, two Afghans and three Pakistanis who were among 21 people arrested in recent weeks described their roles in the attacks, which have killed at least 70 people in the last three months, most of them Afghan civilians but also international peacekeepers, a Canadian diplomat and a dozen Afghan police officers and soldiers.

In the tape, the men described a fairly low-budget network that begins with the recruitment of young bombers in the sprawling Pakistani port city of Karachi. The bombers are moved to safe houses in the border towns of Quetta and Chaman, and then transferred into Afghanistan, where they are provided with cars and explosives and sent out to find a target.

The tape appears to confirm Afghan officials' suspicions that the suicide bombings, which are largely a recent phenomenon in Afghanistan, were generated outside Afghanistan, and in particular from neighboring Pakistan. It was shown to The New York Times by an Afghan official who asked not to be identified because of the diplomatic implications of the contents.

A Taliban spokesman, Qari Yousuf Ahmadi, dismissed the claims of the Afghan government. "This is a propaganda campaign of the government," he said by satellite telephone from an unknown location. "Our mujahedeen don't send one group to one area so they can be found and arrested. Our mujahedeen send different people to different areas at different times."

He added that there was no need to recruit Pakistanis for the attacks. "They are all Afghans," he said of the suicide bombers.

But Afghan officials said the confessions provided the proof they needed to demand action from Pakistan. "I think there is a factory for these bombers," said Asadullah Khaled, the governor of Kandahar Province, where 15 attacks have occurred in the last three months.

President Hamid Karzai is traveling to Pakistan on Wednesday specifically to raise the issue with President Pervez Musharraf and in speeches to Parliament and officers at a military academy as well.

"If you are the ones blowing yourselves up, why are you making the explosion in front of the police headquarters, where people like you are standing in front getting passports?" Mr. Karzai said, addressing the bombers rhetorically, in a televised speech to elders from southern Afghanistan last week.

He has spoken increasingly of the need to tackle the problem at the source. Anti-Pakistan sentiment has been rising in Afghanistan, and a popular refrain is that if the hand of Pakistan were cut, the Taliban, many of whom fled over the border when they were ousted in late 2001, would be no more.

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"Most of the attackers are non-Afghans," the governor of Kandahar, Mr. Khaled, said Saturday at a memorial service for 14 victims of the latest bombing. "We have proof, we have prisoners," he added. "We have addresses, we have cassettes."

Pakistani officials in the past have said the Pakistanis arrested in Afghanistan are usually illiterate laborers looking for work.

Judging by the tape, Pakistan appeared to be the base for the terror network, however. In the interviews, all of the men appeared to speak freely, some expressing regret for what they had done. Only one showed some nervousness, though the interrogations seemed relatively relaxed.

Three of the men, speaking in Urdu, said they were Pakistanis and had been recruited as bombers.

Two of the men, Akhtar Ali and Sajjad, who only gave one name, said they had been recruited by a man named Jamal, who was working for the Taliban and who owns a bookstore in Karachi. Sajjad had been staying with his brother in Karachi when Jamal showed him video cassettes in which Muslim clerics urged listeners to go and fight a holy war and earn a sure way to paradise.

"I was doing nothing, walking around, playing cricket and football," Sajjad said, adding in reference to a senior cleric: "The maulavi sahib talked to me and showed me a cassette, so I got involved. They were talking on the cassettes and telling us to do this and that, telling me to kill Americans."

Mr. Ali, who is from Karachi and who looked to be in his late 20's, said he received training to fight five years ago, when the Taliban were still in power, but never went to Afghanistan. Muslim clerics speaking on the video cassettes persuaded him to go this time, he said.

"I heard from the clerics there that if you fight jihad, you would go to paradise," he said. "There are cassettes there and they say: 'There is jihad against non-Muslims.' "

The third man, who gave his name as Abdullah, said he had come from Peshawar but was working in Karachi when recruited by a co-worker named Iqbal. "Iqbal was talking of fighting against Americans, he was talking of going to fight jihad there," Abdullah said in his interview. "I said I cannot do it. Iqbal persuaded me."

Separately the three men were sent to Quetta, they said in the tapes, and put in touch with an Afghan member of the Taliban, Abdul Hadi, who had a house in the border town of Chaman. Sajjad was on his second trip in; his first attempt was aborted when the man preparing the car in Kabul blew himself up.

Sajjad and Mr. Ali were arrested with their Afghan facilitator, Nur ul-Baqi, as they drove into Kandahar.

Abdullah, a man with a hard direct gaze, said he had been given shelter for two days in Afghanistan and provided with a car filled with explosives and two gas cylinders. "My other friend told me which button to press," he said.

He was caught by the police on the edge of Kandahar in a car laden with explosives and tried to detonate them as the police stopped him, the interrogator said on the tape. Abdullah denied that and said he had had a change of heart and stopped his car.

The interrogations also indicated that the network behind the men was made up of Afghan Taliban, many of them living in Pakistan. Mr. Baqi, the Afghan courier arrested with Mr. Ali and Sajjad, said on the tape that he had brought four would-be bombers into the country, taking them from Mr. Hadi in Chaman and delivering them to various people in Afghanistan who set them up with cars and explosives.

He said he had brought in one bomber called Imran from Pakistan's North-West Frontier Province, who blew himself up on the road near the Kandahar airport. The other bomber did not go through with his attack, Mr. Baqi said.

He gave names and details of other bombers who had been taken to Kabul and one to Herat to carry out attacks, and of the Afghans who helped them. Among them were an Afghan husband-and-wife team who blew themselves up on the Jalalabad road on the east side of Kabul.

"Most of the attackers are Pakistanis; I can tell you 99 percent are Pakistani," he said. He said he had not seen any Arabs coming through.

Mr. Hadi provided the money to purchase cars, one for $2,000, Mr. Baqi said. He said he had asked Mr. Hadi several times where the money had come from. "It is coming from the sky," was the reply.

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"They are getting their logistics there, so it is obvious that Pakistan is also giving them money, in my opinion," Mr. Baqi said, adding that he and the other Afghan Taliban had free movement in Pakistan. "The people who are bringing anarchy in Afghanistan, the Pakistanis don't say anything to them," he said.

Hafiz Bismillah, the last man on the tape, said he was from Panjwai district, just 30 minutes southwest of here. Wearing glasses and a white prayer cap, he was the only one who appeared jittery in his interview.

Mr. Baqi had brought Imran, the bomber, to his house, and he had stayed with them, he said. "We knew he was going to do a suicide mission," he said. "We gave him a place to stay." The police found 80 mines inside large blue plastic barrels at his house, he said.

Afghan Gas Pipeline Nears Reality (CSM)

By Scott Baldauf

The Christian Science Monitor, February 15, 2006

KABUL, AFGHANISTAN - If all goes well this week, Afghanistan may soon be on its way to having a gas pipeline going through its territory.

The ninth meeting of oil ministers for Turkmenistan, Afghanistan, and Pakistan started Tuesday in Ashkabad, Turkmenistan's capital. And according to Afghan officials, the three countries are closer than ever to a deal.

"When I met with the Turkmenistan vice president, and with [Afghan President Hamid] Karzai, and with President Pervez Musharraf, they all said this is a very good project, and it will have a good effect on the regional economy," says Mir Sediq, Afghanistan's minister for mines and industry.

Even India is interested in the project, and Indian officials will be attending the Ashkabad meeting as observers. "Manmohan Singh told me, 'We have a population of 1.3 billion people, and we cannot continue to grow without power," says Mr. Sediq. "One or two pipelines are not enough. We'll need three or four.' "

From the time it was first proposed in the early 1990s, after the fall of the Soviet Union, the 1,000-mile-long Turkmenistan-Afghanistan-Pakistan pipeline project, or TAP, has always had a certain unrealistic aura to it. Clearly Pakistan has a growing need for energy. Just as clearly, Turkmenistan has a lot of natural gas. The dilemma has always been Afghanistan: Would you put a gas pipeline through a country with a raging civil war?

For much of the 1990s, American oil company Unocal answered "yes," and hired Afghan consultants - such as the soon-to-be president Hamid Karzai; soon-to-be US ambassador to Kabul, Zalmay Khalilzad; and soon-to-be minister of Mines and Industry Sediq - to help negotiate with tribal chiefs and militia warlords. Eventually, Unocal shelved the project, in part because of the Taliban's intransigence, and in part because of pressure from human rights groups for trying to do business with them.

But with the fall of the Taliban in late 2001, and the support of foreign forces to keep relative peace, Afghanistan has suddenly turned into a "safe" investment choice, at least from the perspective of the oil industry. That is the assessment of the Asian Development Bank, which recently commissioned a study that gave its support to the TAP. Security is an issue, the ADB report says, but an issue that can be resolved with a few protective measures.

Then there's Pakistan: Will it be able to consume enough of Turkmenistan's gas for the project to be viable? At the time the TAP was first proposed, Pakistan's economy was growing at 4.5 percent a year. Today, its growth rate is estimated at 8.5 percent. Pakistani energy officials estimate that they will run out of domestic gas supplies in 2010.

The final cost of the project is currently estimated at $3.7 billion, up from the $2.5 billion price tag estimated in the 1990s. Unocal is now out of the picture, replaced by Argentine energy company Bridas.

For Afghanistan, this project could be a welcome source of jobs and income. After the three-year construction period, annual revenue for the Afghan government would reach around $350 million to $450 million.

This is less than the $2.2 billion in Afghanistan's illicit opium economy, but it has the advantage of being clean.

Afghan Parliament Debates Chaperones For Women (CSM)

By Scott Baldauf

The Christian Science Monitor, February 15, 2006

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KABUL, AFGHANISTAN - When Afghan parliamentarians went to London earlier this month to participate in a major donor's conference, it was a milestone of sorts, with a presidency and Parliament working side by side to solve the nation's problems.

But for Al-Hajj Abdul Jabbar Shalgarai, a conservative legislator, the trip was distinctly un-Islamic. He saw the participation of two Afghan women parliamentarians - who traveled without their husbands - as a breach of the law.

So while President Hamid Karzai and his delegation were securing promises of aid, Mr. Shalgarai told his fellow parliamentarians that they were all obliged to follow the Islamic sharia law, which forbids women - including women parliamentarians - from taking long journeys without being accompanied by a male member of the family.

"This country is the Islamic Republic of Afghanistan, and the Constitution says that nothing can be done in Afghanistan that is against sharia law," says Shalgarai, recalling his statements in Parliament. "I don't want to pass a new law into the Constitution; we already have a law, and it is in sharia."

It was a debate that was bound to happen in Afghanistan sooner or later, a clash of two different visions of Islamic society, one traditional, the other modern. But for female parliamentarians hoping to improve the lot of women in this conservative Islamic country, the return of sharia rules - even if they are not specifically stated in the Constitution - is a troubling sign indeed. After all, it was this very same sharia principle that the conservative Taliban regime used to prevent women from going to school, to market, and to work.

"This is not just for women in Parliament, this will create a big problem for all women of Afghanistan," says Safiya Sadiqi, a female parliamentarian from the Pashtun-dominated Nangrahar Province.

"We have international donors who emphasize funding on women's development. They won't be happy to see this backward trend," says Sadiqi, who attended the London conference after being nominated by Parliament to go. "It means probably that soon women can't go to school alone, can't go to market alone, can't work alone." After three days, chaperones needed

Under sharia, the notion of mahram-e sharaii, or male chaperones, allows for women to travel for more than three days if they are accompanied with a male relative. Because mahram-e sharaii has not been introduced as a bill, it is impossible to know just how much parliamentarian support it has. But with an estimated 50 percent of the lower house claiming past experience as fighters in the anti-Soviet jihad, and current affiliation with Islamist parties, it's clear that conservative interpretations of Islamic life have a strong political hold.

"As Muslims, we have a strong book, the Holy Koran, and we believe in the Koran, we don't believe in the Constitution," says Haji Ahmed Fareid, a religious scholar and parliamentarian. "We have given women the right to educate themselves, to take part in government, to participate in political life. But there are special rules."

Haji Fareid says that Westerners pay so much attention to women's rights in Islamic nations, but rarely give Islam credit for the rights it gives to women, such as the guarantee from husbands that they will provide clothes, food, and shelter for their wives, as well as the right of inheritance.

"In some countries, the women work outside the house, and then come home and they have to cook, and wash clothes, and look after the children too," he says. "In Western cultures, women are equal to a pack of chewing gum. You can see their images on a box of soap or a bottle of shampoo. That makes women just a part of business."

Similarly, Shalgarai says the rule of mahram-e sharaii is actually intended as a protection of women.

"If a woman is on a three-day journey, far from home, and she falls sick, who will look after her?" asks Shalgarai. "If someone else's woman is sitting in the same row of seats as you, well, human beings have different drives, including sexual drives. Sometimes these cannot be controlled. This is to save the dignity of women." Selective application of the rules?

Yet women parliamentarians say that such stringent interpretations of the Koran are not appropriate for a modern Afghanistan.

"Islam is a social religion, it is good, and broad, and it covers everything in our lives," says Sahera Sharif, a female Parliamentarian from Khost. "But unfortunately, when there are rules that affect men and women equally, the men in our society only address these rules toward women."

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Zeefunun Safi, another parliamentarian, agrees. "If my husband accepts me, and lets me travel and be a member of parliament, then who are you not to accept me?"

Yet she acknowledges that some women parliamentarians may end up supporting mahram-e sharaii, if it ever is introduced as a bill. "There are lots of women in Parliament against this, but they have to support it, because people will say, 'You are not our representative, get out of Parliament.' "

NATO Allies Cut Military Since 9/11 (WT)

By Rowan Scarborough

The Washington Times, February 15, 2006

America's major NATO allies have cut military manpower and defense funds as a share of their economies since the September 11 attacks, in sharp contrast with the United States, which embarked on deficit spending to boost arms outlays to fight global terrorists.

The downward trend is raising alarms inside the Pentagon, which needs the allies' help to battle al Qaeda and other militants in Afghanistan, Iraq and other trouble spots.

A comparison of force structures in 2001 and 2005 showed countries such as Britain, Canada, France, Italy, Poland, Spain and Germany cut their active-duty forces, according to statistics compiled by the London-based International Institute for Strategic Studies. At the same time, the United States increased its ranks from 1.37 million to 1.42 million.

More telling is the share of each countries' gross domestic product (GDP) that is devoted to defense expenditures. The U.S. share has gone from 3 percent to 3.7 percent since September 11, 2001, while other NATO nations collectively have dipped from 2.02 percent to 1.8 percent, according to the Pentagon. Twelve years ago, NATO, excluding the United States, devoted 2.5 percent of GDP to defense.

Defense Secretary Donald H. Rumsfeld, who once referred to France and Germany as "old Europe" during their vocal opposition to the war that ousted Iraqi dictator Saddam Hussein, has stepped into the dangerous arena of criticizing Western allies before. But this time, he is doing it diplomatically as he tries to explain the dangers of declining defense budgets in the age of global terror, which has struck NATO countries Turkey, Great Britain and Spain, as well as the United States.

At last week's NATO defense ministers' conference in Munich, Mr. Rumsfeld gently prodded his colleagues to rethink defense spending after he detailed the job ahead.

"This commitment cannot be done on the cheap," he said. "It's always easier for all of us to use our scarce tax dollars to meet some of the desires and appetites we have at home. But unless we invest in defense and security, the reality is that our homelands can be at risk."

The lack of NATO spending can show up in war. The alliance's 1998 air assault on Serbia was carried out by American warplanes in virtually all strike missions. Other countries had not invested money in the smart munitions needed to hit targets in Belgrade and on the battlefield.

Defense officials say European countries are short on capabilities for unmanned spy planes, cargo airlift, countermine technology and precision-guided weapons. All these shortfalls can affect U.S. troops relying on NATO forces to complement operations overseas in places such as the Balkans, Afghanistan and Iraq.

Retired Army Gen. George Joulwan, NATO's supreme commander in the mid-1990s, said Europe has to be convinced that the war on terror involves a commitment to global operations.

"This is just not the United States in the fight but civilization as they know it," Gen. Joulwan said. "You've go to get them educated to a degree that they understand this is a global war and give them a voice in the process. The initiatives agreed to in Prague in 2002 by all the heads of state need to be fulfilled."

It was in Prague that Europe, prodded by President Bush, agreed to improve defense spending. But the goals remain unmet today, defense officials say.

NATO is taking a historic step later this year when it moves far outside its treaty area and takes command of coalition forces in Afghanistan in the fight against Taliban and al Qaeda.

British Defense Minister John Reid sees NATO at a testing point.

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"If we're going to make sure that NATO is a true force in the world, then we Europeans have to step up to the mark and make sure that we are contributing not only towards the discussions in NATO, which are very important, but also the resources, the types of troops that are necessary for today's world," Mr. Reid said.

Marching Orders To Keep Recruits, Boot Camp Gets A Gentle Revamp (WSJ)

By Greg Jaffe

The Wall Street Journal, February 15, 2006

FORT LEONARD WOOD, Mo. -- New recruits used to be welcomed to boot camp here with the "shark attack." For decades, drill sergeants in wide-brim hats would swarm around the fresh-off-the-bus privates, shouting orders. Some rattled recruits would make mistakes. A few would cry.

Today, the Army is opting for a quieter approach. "I told my drill sergeants to stop the nonsense," says Col. Edward Daly, whose basic-training brigade graduates about 11,000 soldiers a year. Last fall, Col. Daly began meeting with all new recruits shortly after they arrive at boot camp to thank them. "We sincerely appreciate the fact that you swore an oath and got on a bus and did it in a time of war," he recently told an incoming class. "That's a big, big deal." He usually is accompanied by two male and two female soldiers, who can answer questions the recruits may have.

"The idea is to get rid of the anxiety and worry," Col. Daly says.

The new welcome is a window on the big changes sweeping boot camp, the Army's nine-week basic training. For most of its existence, boot camp was a place where drill sergeants would weed out the weak and turn psychologically soft civilians into hardened soldiers. But the Army, fighting through one of its biggest recruiting droughts, now is shifting tactics. Boot camp -- that iconic American experience -- may never be the same.

Once-feared drill sergeants have been ordered to yell less and mentor more. "Before, our drill sergeants' attitude was 'you better meet my standard or else.' Now it's 'I am going to do all I can to assist you in meeting the Army standard,' " says Command Sgt. Maj. William McDaniel, the senior enlisted soldier here.

New privates are getting more sleep and personal time. Even the way soldiers eat has changed. Drill sergeants long ordered overweight soldiers to stay away from soda and desserts. Today, soldiers at Fort Leonard Wood fill out a survey about their boot-camp experience that asks, among other questions, if they liked the food, whether they were "allowed to eat everything on the menu, including dessert," and whether there was enough for seconds.

Recruits still must meet the same basic standards and pass the same tests for physical fitness and marksmanship to graduate, say Army officials. But more variable criteria that in the past might get a recruit expelled -- such as whether a drill sergeant thinks a recruit has the discipline and moral values to be a soldier -- have been jettisoned. "Now it doesn't matter what the drill sergeant thinks. We work off of the written standard," says Capt. Christopher Meng, who oversees a company of 11 drill sergeants and about 200 recruits at the base.

The new approach is helping the Army graduate more of its recruits. Last month, only 23 recruits failed to make the cut at Fort Leonard Wood's largest basic-training brigade, compared with 183 in January 2004. Army-wide, about 11% of recruits currently flunk out in their first six months of training, down from 18% last May.

Full Potential

Senior Army officials say attrition has fallen because the new techniques are helping more soldiers reach their full potential. "This generation responds to a more positive leadership approach. They want to serve and they want people to show respect for that decision," says Maj. Gen. Randal Castro, the commanding general at Fort Leonard Wood. Smarter training also is preventing injuries, Army doctors say.

Some drill sergeants worry that the "kinder and gentler approach" -- as drill sergeants have dubbed the changes -- is producing softer soldiers. "If the privates can't handle the stress of a drill sergeant yelling at them, how will they handle the stress of bullets flying over their head?" asked Staff Sgt. Clayton Nagel as he watched his recruits file past him in the Fort Leonard Wood dining hall. "War is stressful. I think we overcorrected."

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The Army's decision to overhaul basic training came last spring. The service was having a hard time bringing in new recruits. It ultimately missed its 2005 recruiting goals for active-duty troops by 7,000 soldiers, or 8%, and National Guard soldiers by 13,000 or 20%.

Meanwhile, boot-camp attrition was climbing. New soldiers brought in to replace those who were tossed out weren't much better. "We realized that the further you go into the barrel, the lower the quality," says Col. Kevin Shwedo, a senior officer in the Army's Training and Doctrine Command in Virginia.

A team of 20 officers from the Army's training command was formed to figure out how the service could help more soldiers survive the first six months. They consulted sociologists and psychiatrists and even flew in MTV's senior vice president of strategy and planning, in search of fresh ideas for motivating today's youth.

The changes, put in place this fall at all five of the Army's basic-training camps, are apparent the moment recruits step off the bus at Fort Leonard Wood. On a chilly Tuesday in January, about 200 new recruits in white Army sweat suits filed into a big auditorium on the base for one of Col. Daly's welcome-to-the-Army talks. Staff Sgt. Mike Gilmore grabbed a microphone and told the recruits what was going to happen: "The brigade commander is going to talk to you. He is a colonel. He is way up here. You are way down here," Sgt. Gilmore explained.

He then coached the recruits on how to spring to attention when Col. Daly entered the room. "When I say 'attention,' you stand up. That's it. You don't say nothing. You do it quietly as possible."

"Attention!" Sgt. Gilmore ordered. The recruits rose slowly and unevenly.

"Could we all just stand up together?" Sgt. Gilmore said, sounding more let down than angry. "It would look so much nicer."

A few minutes later, Col. Daly, a Special Forces soldier who served in Afghanistan and was awarded a Purple Heart after being wounded in the U.S. invasion of Panama, strode into the room. He told the recruits to take a deep breath and a swig from their canteens. "There is no problem that you might have that in last 230 years the Army hasn't already heard," he said.

The recruits then got 40 minutes to fire questions at the four privates accompanying Col. Daly. One recruit asked if any of the privates had failed the Army's physical-fitness test. (Two struggled with it but eventually passed.) Others wanted to know how often they got to talk on the phone (once a week), how long they got for showers (five minutes) and how many hours of sleep they got a night (8 hours). A few asked if they had any regrets about enlisting. All four said no.

Too Easy

After the session, Pvt. Angela Holmquest, one of the privates brought in to answer questions, said she worried that basic training had become too easy. "The drill sergeants tell us we are in the low-stress Army. I'd rather be in the old Army. When we need to lock it up and work together as a team we can. But we should be more disciplined than we are," she said.

In recent months, the Army has told drill sergeants to back off the recruits in the dining halls as well. A few months ago, sergeants would hover over new recruits, rushing them through meals, quizzing them about Army regulations and chastising them for minor infractions like carrying their drinking glass with one hand instead of two.

The dining hall still is far from relaxing. But drill sergeants no longer shout at recruits. They aren't allowed to order overweight privates to skip dessert. At first, some drill sergeants refused to embrace the new directive. "There was a lot of balking on the dessert rule," says Capt. Meng, who oversees 11 drill sergeants. "I have had to say, 'Don't even mention it.' "

The Army also has cut the amount of running troops do in boot camp by more than 60% in the past three years. "A lot of these kids have never done P.E. or sports. We were injuring too many by running too much," says Col. Greg Jolissaint, an Army physician with the command that sets baseline standards for boot camp.

Instead of running, privates do more calisthenics and stretching. They also are spending more time learning the basic combat tasks they will need in Iraq or Afghanistan, such as how to spot a roadside bomb. Last month, Sgt. First Class Kevin Staddie, who spent a year in Iraq, was teaching soldiers how to move through a city under enemy fire. Suddenly he called a halt to the exercise. A private who was slithering on his belly lost his only canteen. Sgt. Staddie asked the private if he knew the temperature in Baghdad in August.

"It is 115 degrees," the sergeant said in an even voice. "Will you give me a solemn promise that you'll do a better job securing your canteen? You'll get a whole lot further."

The private nodded and rushed to continue the exercise.

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Soldiers also get a few more chances to succeed, say drill sergeants. Not long after she arrived at boot camp, Pvt. Starr Mosley was accused by another soldier of writing letters home when she was supposed to be training. Her drill sergeant ordered the 18-year-old private to crawl on her belly through the barracks and chant: "I will not write letters in the war room."

Pvt. Mosley, who said she wasn't writing letters, refused. The Army offered her a fresh start in a new platoon. There she struggled to meet the service's marksmanship standards, her drill sergeant says. Sgt. Darren Baker, her new drill sergeant, spent hours coaching her. "Without him I would have quit," Pvt. Mosley says. "He was down there in the dirt helping me."

A year ago, a drill sergeant wouldn't have taken as much time working with one struggling soldier. Today it is part of the job. "We're all working more one-on-one with the privates," Sgt. Baker says.

Soldiers with certain medical conditions get more help as well. Recruits with mild asthma now are allowed to carry inhalers with them. Privates who come to the Army with a history of mild depression now can take Paxil or Zoloft. Both changes, pushed through last fall, are "contributing to the lower attrition overall," says Col. Jolissaint, the physician.

Some basic-training facilities also are setting up special units for soldiers who are hurt or out of shape. In August, Col. Daly created a "Warrior Rehab" unit for injured recruits. Before the unit's creation, soldiers hurt during training often would go home to heal. The vast majority never came back.

Soldiers in Warrior Rehab practice marksmanship, take classes on map reading and do low-impact workouts in the base's indoor pool. So far, 170 soldiers have passed through the program. Only 30 have quit basic training.

Last month, about 40 members of the unit gathered in their barracks for a class on how to ambush the enemy with an M-18 Claymore antipersonnel mine. The troops included Pvt. Matthew Brent, a 29-year-old former hotel manager, who enlisted because he "wanted a personal challenge." He came to boot camp overweight at 5-foot-10, 220 pounds and quickly went down with tendinitis in his ankle. In his five months in Warrior Rehab, Pvt. Brent has lost 57 pounds.

Next to him was Pvt. Richard Hodgson, who has been with the rehab unit since it started in August, trying to recover from stress fractures. He was having doubts about his ability to stick it out. "I've just lost my motivation. I was supposed to have graduated in September and I am still stuck here," he said. The sergeants in Warrior Rehab have been working hard to convince him to stay. "I've had a few mother-son type conversations with him," says Staff Sgt. Nicole Waters, one of the drill sergeants. "We talk about his goals in life. This job is a lot more mental than the typical drill sergeant job."

Not all Army commanders have embraced the new approach to basic training. Col. Daly says one of the 14 company commanders he oversees is a "gung-ho combat arms officer, who right now is just killing me."

Recently, one of that commander's recruits brought a round of live ammunition back from the rifle range, which isn't allowed. The bullet was found by a drill sergeant in the barracks common room. As punishment, the commander ordered the entire unit, which numbers 60 soldiers, to don their helmets when eating in the dining facility. He then threatened to send all the privates, who were just two weeks from graduation, back to the beginning of basic training.

Col. Daly bristled when he heard about the threat. "I am not going to keep 60 soldiers back because one guy made a mistake," the colonel says he told the commander.

Instead, Col. Daly ordered the commander to have his drill sergeants do a better job of searching the recruits' pockets for extra ammunition when they leave the range.

"The commander's leadership style has got to change," says Col. Daly, noting that the commander's recruits have gone absent without leave at more than twice the rate of any other unit in the past two months.

Even among those units that have embraced the new approach, there is debate about whether the changes have been too much, too fast. "It's a hot topic," says Capt. Meng, another one of Col. Daly's company commanders.

Like many of his fellow commanders, Capt. Meng spent a year in Iraq, in a tour that ended in 2004. He was second in command of a 100-soldier armor company. In the past six months, the West Point graduate has been in the forefront in reducing attrition, overseeing drill sergeants and recruits.

Last month, a few dozen of Capt. Meng's privates clambered onto olive-green trucks for one of their final boot-camp exercises. The troops, traveling in an Iraq-style convoy, were "hit" by a series of smoke-spewing roadside bombs. Enemy fighters, represented by pop-up targets, sprung from nearby prairie grass. A broad-shouldered drill sergeant ordered a counterattack.

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Instead of leaping off the back of the truck, as they would in a typical exercise, or in actual combat, the privates waited about 10 seconds for someone to walk to the back of the truck and place a ladder on its rear bumper. They then climbed down the 5-foot drop, one at a time.

Falling Short

Capt. Meng conceded it wasn't realistic. He said the Army couldn't afford to have privates twist ankles and wrench knees just a few days before their final physical fitness test. "A few months ago attrition was seen as a good thing," he says. "It meant we were sending higher quality troops to the Army."

Now he says he is racking his brain for new ways to motivate more soldiers who are falling short of the Army's standards. He recently petitioned Col. Daly to let his troops have an extra half-hour of sleep on top of the 30 minutes of additional shuteye all recruits were granted last fall. Standard boot camp sleeping hours are now 9 p.m. to 5 a.m. His troops rise at 5:30 a.m.

"It has been great for morale," Capt. Meng says. "A soldier's happiness is directly proportional to the amount of sleep he gets."

The Iraq veteran says his boot-camp troops are in many ways better prepared for combat than their predecessors were. They spend far more time working with their M-16 rifles and more time in the field training on critical combat tasks like defending a base camp from insurgent attacks.

Asked if his soldiers are as disciplined and tough as their predecessors, Capt. Meng pauses. "There are some who feel we are not sending as high a quality soldier to the Army....I am not smart enough to tell you," he says.

In the near term, he has other worries. "The commanding general's No. 1 priority here is to support the war," he says. "In order to do that right now we have to graduate more privates."

DOJ:

U.S. Attorney Heffelfinger, After Red Lake Probe, To Resign (AP)

By Amy Forliti

AP, February 15, 2006

MINNEAPOLIS - U.S. Attorney Tom Heffelfinger, just weeks after wrapping up his investigation into the worst U.S. school shooting since Columbine, announced Tuesday that he will step down at the end of the month and return to private practice.

Heffelfinger, who was appointed to the post shortly after the Sept. 11 terrorist attacks, said he was stepping down for personal and family reasons. While the shooting at Red Lake High School was not a reason for his departure, he said, the case did play a role in the timing of it.

"It was very clear to me personally that I was not going to quit this job until after I met with the victims of the tragedy," he said. "This was a very difficult decision."

Heffelfinger oversaw his office's investigation into the March 21 shooting that claimed 10 lives on the Red Lake Indian Reservation in far northern Minnesota. Just two weeks ago, Heffelfinger presented the findings of his investigation to victims' family members and some tribal officials.

Heffelfinger was criticized by some families for not sharing more information about the investigation.

Although he did not make the findings public, relatives who heard the presentation said Heffelfinger told them as many as 39 people had some sort of advance warning of 16-year-old Jeff Weise's plans to open fire at Red Lake High School. Weise killed nine people on the reservation, including seven at the high school, before taking his own life.

The only person prosecuted was Louis Jourdain, 17, the son of the tribal chairman. The teen admitted to exchanging threatening communications with Weise.

Francis Brun, the father of Derrick Brun, who was killed in the shooting, said he was surprised to learn Heffelfinger was stepping down. Though Brun has been critical of the investigation since no one else has been prosecuted, he said he held no ill will toward Heffelfinger.

"I'm just not too happy with the federal court system," he said.

The reservation is a sovereign nation, so crimes committed there are tried in federal court, rather than by state authorities.

Heffelfinger said he worked hard to address issues on the reservation such as family violence, Indian gaming and gangs and drugs. When he returns to private practice, he plans to focus on Indian law, among other things.

This was Heffelfinger's second stint as U.S. Attorney; he also served under President Bush's father, former President George H.W. Bush.

In a news release, Heffelfinger pointed to several prominent issues while he was U.S. Attorney, including the shootings at Red Lake and school violence, methamphetamine cases, gang violence associated with drugs, white collar crime and terrorism.

During his tenure, his office prosecuted Mohammed Abdullah Warsame, a Minneapolis student charged with conspiracy to provide material support to al-Qaeda, and Mohamad Elzahabi, a Minneapolis resident who allegedly lied to federal agents about the shipment of electronics to Pakistan. Those cases are still pending.

Heffelfinger said he balanced the country's priority of battling terrorism with the traditional duties of a federal prosecutor. After the terrorist attacks, Heffelfinger said, the role of the U.S. Attorney's Office grew from that of the government's lawyer to one of the lead agencies in the prevention of terrorist attacks.

"It's really two events that kind of drove the agenda of Tom's tenure," said B. Todd Jones, now a defense lawyer who served as U.S. Attorney for Minnesota from 1998 to 2001. "One at the front end, which was 9-11. ... The other was the tragedy at Red Lake."

David Lillehaug, the U.S. Attorney for Minnesota from 1994 to 1998, said Heffelfinger faced three big challenges during his tenure: the Red Lake shootings, the growth of methamphetamine cases and terrorism. "He dealt with all of them with tenacity and made considerable progress," Lillehaug said.

Attorney General Alberto Gonzales will name an interim replacement until President Bush appoints a new U.S. Attorney for Minnesota, Heffelfinger said. He said he expects the entire process to take six to nine months.

When Heffelfinger was selected, he was on a list of finalists forwarded to the White House by U.S. Rep. Jim Ramstad. Ramstad took the lead because Minnesota didn't have a Republican U.S. senator and he was the GOP congressman with the most seniority.

This time, Ramstad's office and Republican Sen. Norm Coleman's office said they expect Coleman to be the go-to guy for compiling a list.

There are 93 U.S. attorneys in the United States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands. They are appointed by the president, with the advice and consent of the Senate.

Raleigh-based U.S. Attorney Nominated For Federal Bench (AP)

AP, February 15, 2006

RALEIGH, N.C. — The top federal prosecutor for the eastern third of North Carolina was nominated Tuesday by President Bush for a lifetime appointment to the federal court hearing cases from the state's western third.

Frank Whitney, 46, and his family still live in Charlotte. He would succeed Judge Brent McKnight, who died in November 2004 of esophageal cancer.

Whitney, a former Mecklenburg County Republican Party chairman, had the backing of the state's two Republican senators, Elizabeth Dole and Richard Burr.

Whitney spent 11 years as a federal prosecutor in Charlotte until Bush named him U.S. attorney for the state's eastern district in 2002.

As U.S. attorney, Whitney has overseen the public corruption prosecutions of former U.S. Rep. Frank Ballance and former state Agriculture Commissioner Meg Scott Phipps. The Phipps case, which involved illegal campaign contributions and rigging of bids to operate the state fair midway in Raleigh, led to Phipps' resignation and prison time for the former commissioner.

Ballance, who retired from Congress in the middle of his first term, pleaded guilty to a federal conspiracy charge linked to mishandling of money by a charitable foundation he ran.

Whitney's office is now handling the prosecution of David Passaro, a former Army Special Forces soldier and CIA contractor charged with beating an Afghan prisoner who later died in custody. Passaro is the first civilian prosecuted on charges of mistreating a military detainee in the U.S. war on terrorism, and the first American charged under the Patriot Act.

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Whitney's office also has emphasized terrorism prevention, gun-crime and corporate fraud prosecutions, and civil rights and environmental cases. Dole's office said Whitney has increased prosecutions for violent crimes by more than 250 percent.

"I was honored to recommend Frank Whitney and am very pleased with his nomination," Dole said in a prepared statement.

A former military intelligence officer and paratrooper with more than 20 years in the Army and reserves, Whitney spent two months of 2004 on active duty serving as a judge advocate — or military lawyer — assigned to the U.S. Army Special Operations Command at Fort Bragg. He then spent three weeks on reserve duty in Panama.

Whitney is a graduate of Wake Forest and the University of North Carolina-Chapel Hill business and law schools.

Dole and Burr have recommended to the president that Whitney be succeeded by his top assistant, George Holding.

CORPORATE SCANDALS:

Witness: Skilling Hid Enron Unit's Status From Board (USAT)

By Greg Farrell

USA Today, February 15, 2006

HOUSTON — Former Enron CEO Jeff Skilling not only hid the sorry condition of the company's broadband operations from investors and analysts, but also hid that information from the company's board of directors, a former Enron executive testified here Tuesday.

Ken Rice, who served as CEO of Enron Broadband Services (EBS) from 1999 to 2001, testified that after preparing a presentation he planned to make about his unit to Enron's board of directors on May 1, 2001, he "discussed it with Mr. Skilling, and he asked me not to give that presentation."

Instead, Rice said, he made a presentation to the board that was not fully candid about the disastrous state of broadband's operations.

Rice's assertions capped nearly a full day of testimony about EBS, a business unit launched with significant hype during the dot-com bubble. Prosecutors contend that by portraying Enron Broadband as a unit with huge growth potential, Skilling and former Enron chairman Ken Lay misled the investing public.

In every quarter during the two-year period that he ran the troubled unit, Rice testified that Enron had to resort to accounting gimmicks, asset sales and speculative investments for EBS to show the revenue growth that Skilling had promised to the public.

Even after announcing a 20-year agreement with Blockbuster Video to deliver movies on demand to customers via the Internet, the only way EBS could generate revenue on the deal was to "monetize" future earnings, Rice said.

Although he didn't like the practice, it became habit-forming. When EBS was going to miss its earnings targets for the first quarter of 2001, Rice testified that the division took "one more hit of crack cocaine" by entering a deal that allowed EBS to book future revenue immediately.

"I felt we were so addicted to quarterly earnings, we were selling our future earnings potential to make the numbers. If you continue to do that, sooner or later, you're not going to have future revenues," the 47-year-old Nebraska native testified.

Prosecutors allege that when losses at EBS became too big to hide, Skilling suddenly quit in August of 2001, leaving Lay to pilot the company during its final months before it collapsed into bankruptcy. Defense lawyers insist Enron was doing just fine when Skilling left and that his decision to step down as CEO after just six months wasn't a surprise.

But Rice testified that when EBS was finally folded into the company's profitable trading unit in July of 2001, he met with Skilling to tell him he was resigning. Skilling urged him to stay, Rice testified, saying he "was going to leave within a couple of years, and he wanted me to stay around."

Skilling Misled Public, Enron Jurors Are Told (WSJ)

By John R. Emshwiller And Gary McWilliams

The Wall Street Journal, February 15, 2006

DOJ_NMG_0014995

HOUSTON -- The former chief of Enron Corp.'s telecommunications unit told jurors in the criminal trial of former top two executives Jeffrey Skilling and Kenneth Lay that Mr. Skilling took part in misleading the public about the unit's financial health and business prospects.

Kenneth Rice testified that Mr. Skilling, while Enron's president, made misleading statements about the telecommunications unit to stock analysts in 2001. Mr. Skilling also pushed the telecommunications unit, which was called Enron Broadband Services, to come up with financial projections that were more optimistic than warranted by business conditions, he alleged. Mr. Rice added that Mr. Skilling had also directed him to be less than fully candid when making a presentation about Enron Broadband to Enron's board in May 2001.

Messrs. Skilling and Lay are in their third week of what is expected to be a months-long trial on conspiracy and fraud charges stemming from the December 2001 collapse of Enron. Some of the charges in the case stem from alleged misstatements about Enron Broadband, which was devised to provide high-speed telecommunications services to businesses and homes.

Mr. Rice is the second government witness to take the stand. Like the initial witness, former Enron investor-relations chief Mark Koenig, Mr. Rice has pleaded guilty to an Enron-related crime and is testifying under a government cooperation agreement that he hopes will lead to a reduction of any prison sentence.

Mr. Rice said Enron Broadband never lived up to the high hopes for the unit that were presented to the public in 2000 and early 2001 by Mr. Skilling and others. The unit was never profitable, he testified, and by early 2001 was suffering from high costs and little revenue.

In late 2000, Enron Broadband officials estimated that the unit's loss for 2001 would be about $110 million, but Mr. Skilling directed that they lower the estimate to $65 million, Mr. Rice testified. The Enron president said the lower estimate would show investors that Enron Broadband was "progressing," said Mr. Rice, who added that he didn't feel the more optimistic number was achievable.

In early January 2001, Mr. Rice said he asked Mr. Skilling to raise the $65 million loss projection. "Mr. Skilling told me we really needed to stick with that number," asserted Mr. Rice. "He said we were getting a lot of pressure from analysts" on Enron's financial performance and "we didn't need any more bad news." Later that month, the $65 million loss estimate was given to Wall Street analysts.

As he testified, the 47-year-old former executive, with close-cropped hair, often gestured with his hands and turned to the jury to explain points. He appeared to avoid gazing at his former bosses at the defense table.

As problems continued to mount for Enron Broadband in early 2001, Enron held a special conference call with analysts on March 23 to calm market jitters, Mr. Rice said. There, Mr. Skilling made a number of misleadingly optimistic comments about Enron Broadband, he alleged. For instance, he inaccurately said that the unit's two main business areas were growing fast, Mr. Rice said.

Indeed, Mr. Rice said that much of the revenue that Enron Broadband did report came from deals with an outside partnership, known as LJM2, that was run and partly owned by Enron's then chief financial officer, Andrew Fastow. Mr. Rice said a roughly $100 million asset sale in 2000 was done with Mr. Fastow's partnership because "we couldn't find anyone else to buy it" from Enron Broadband at a profit. Without that deal, he added, Enron Broadband wouldn't have achieved its financial targets for the year.

The government alleges that the LJM operation was used to help manipulate Enron's reported financial results in a number of troubled business areas.

The government's questioning of Mr. Rice is expected to conclude today. That will be followed by cross-examination by defense attorneys.

Ex-Enron Chief Lied Often About Web Unit, Witness Says (NYT)

By Alexei Barrionuevo

The New York Times, February 15, 2006

HOUSTON, Feb. 14 — Jeffrey K. Skilling repeatedly lied about the state of Enron's struggling broadband Internet business and stubbornly refused to lower earnings targets, even when it became abundantly clear that the business lacked customers and deals that could generate revenue, the former head of the broadband unit testified Tuesday.

Kenneth D. Rice, taking the stand on Tuesday as the second witness in the criminal trial of the former Enron executives Mr. Skilling and Kenneth L. Lay, testified that Mr. Skilling misled analysts time and again by portraying Enron's broadband unit as surviving a meltdown in the telecommunications business.

In truth, Mr. Rice said, the situation had become so dire that Enron was forced to lay off employees and drastically cut costs. When the business needed to meet earnings targets, it turned to complex financial structures like LJM, a secretive, off-the-books partnership run by the chief financial officer, Andrew S. Fastow, and other transactions that sacrificed future revenue to book current earnings, he testified.

Mr. Rice ran the broadband business from mid-1999 until July 2001, when he left Enron.

"We had no customers and no deal flow," he said, "and we were spending $100 million a quarter."

Mr. Rice's testimony strongly supported that of the government's first witness, Mark E. Koenig, the former head of investor relations, who described misleading statements Mr. Skilling made to Wall Street analysts to ensure that Enron's stock would not be affected by bad news about the broadband unit's performance.

But Mr. Rice, who had a close relationship with Mr. Skilling stretching back a decade, described several private meetings with the former chief executive where, he said, Mr. Skilling steadfastly refused to come clean with the unit's failings.

If Tuesday's appearance on the stand was a difficult moment for Mr. Rice, he did not let on. Mr. Rice was once part of Mr. Skilling's inner circle. After Mr. Skilling joined Enron in 1990, they traveled together on exotic vacations to remote corners of Mexico and the Australian outback.

Mr. Rice said he earned $40 million to $50 million during his last 10 years at Enron. But as head of the broadband unit, he soon found himself in the cross hairs of prosecutors investigating the collapse of Enron in December 2001. After he was indicted on 37 counts, he pleaded guilty to one count of securities fraud and has cooperated with the government. He faces up to 10 years in prison.

Mr. Rice testified in a matter-of-fact tone, rarely making eye contact with Mr. Skilling, who sat up straight and looked on intently as Mr. Rice accused him of lie after lie.

Prosecutor Sean M. Berkowitz, in a jarring departure from seven days of often repetitious testimony by Mr. Koenig, questioned Mr. Rice at a breakneck pace.

Mr. Rice, 47, joined Enron's predecessor company, Internorth, in 1980 in Omaha. In 1999, Mr. Skilling asked him to run a stand-alone business in broadband. The idea was to create a fiber optic network and trade bandwidth capacity much like Enron traded natural gas and electricity. Enron also planned to charge content providers to use its network to send movies to customers.

Mr. Skilling saw the broadband business as a way to increase Enron's profit and share price. Mr. Skilling was obsessed with Enron's stock price, and installed stock tickers everywhere, from the Enron building's elevators to the parking garage, Mr. Rice said. The day Enron's broadband strategy was announced in January 2000, the stock price rose to $65 a share, from $50.

But the business struggled almost from the beginning, Mr. Rice said. By early 2001, desperate to bolster the unit's revenue, Enron tried to sell a chunk of its fiber optic network to Microsoft's Hotmail group. Microsoft's chief executive, Steven A. Ballmer, declined the offer in a conference call in January 2001 with Mr. Rice and Mr. Skilling.

Mr. Rice said that he lingered in Mr. Skilling's office and told him he was concerned about broadband's ability to meet its earnings targets, which included a promised loss of $65 million for the year. Mr. Rice argued the loss could be twice as large, but Mr. Skilling insisted Mr. Rice stick to the rosier outlook. "He said we had a lot of pressure from analysts," Mr. Rice said, "and he didn't need any more bad news."

As the performance continued to decline, Mr. Skilling agreed to reassign or terminate 240 of the unit's employees. But while Mr. Skilling told broadband employees in Portland, Ore., that the cuts reflected broad cost problems, he told analysts that the move was a simple downsizing and that the division's core businesses were doing well.

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Mr. Rice said he later accepted an offer to sell some of broadband's underperforming assets to entities like LJM, which permitted Enron to minimize its losses. But Mr. Rice said he told Mr. Skilling and others that he thought it inappropriate that the company's chief financial officer, Mr. Fastow, was running LJM.

After a crucial, 20-year deal in which Blockbuster customers could use Enron's broadband network to download videos was terminated in March 2001, Enron's broadband business had virtually no customers.

Mr. Rice said he then learned of yet another plan that would permit the division to find earnings by selling future revenue from the contract.

"One more hit of crack cocaine on these earnings," Mr. Rice said. With its options for earnings growth dimming, Enron tried in the spring of 2001 to merge the unit with another telecommunications company. When Mr. Rice and Mr. Skilling decided to scuttle one potential deal, Mr. Rice said, it was clear to him that more drastic measures, including an outright termination of the business, would be necessary.

Mr. Skilling nevertheless pressured Mr. Rice to give a rosier presentation about the unit to analysts in the second-quarter conference call. "I had put together a presentation that was more candid, and Mr. Skilling asked me not to give that presentation," Mr. Rice said.

By July 2001, Mr. Rice had had enough, he testified. He told Mr. Skilling he was quitting but agreed to stay on the payroll until November, when some stock options would vest. On Aug. 1, the two old friends met for lunch. Minutes later, Mr. Skilling revealed that he had decided to leave the company, stunning Mr. Rice.

Mr. Skilling told Mr. Rice "he really wasn't having fun and had personal reasons for wanting to leave." The men spent much of the rest of the lunch talking about Mr. Skilling's plan to buy a boat and sail around the world. "It was more like a ship," Mr. Rice said, "a big boat that you could put cars on and maybe a helicopter."

That afternoon, Mr. Rice went back to his office and started to sell Enron stock.

Enron's Skilling Backed Off-Book Partnerships, Rice Testifies (BLOOM)

By Jef Feeley

Bloomberg, February 15, 2006

Feb. 14 (Bloomberg) -- The former head of Enron Corp.'s broadband unit testified today that ex-Chief Executive Officer Jeffrey Skilling backed use of off-the-books partnerships to handle Enron transactions over objections of other officials.

Kenneth Rice, who ran Enron Broadband Services for two years, said at the trial of Skilling and former Chairman Kenneth Lay that he questioned the use of a partnership set up by former Chief Financial Officer Andrew Fastow to help make his unit's 1999 earnings targets. Rice said he told Skilling using such off-the-books entities for Enron-related deals ``looked goofy."

``Mr. Skilling explained that it was something that would facilitate getting transactions done," Rice said during his first day of testimony at Skilling and Lay' fraud and conspiracy trial in Houston. ``He said we needed to do it so that we weren't being stuck by the banks at the last minute to get transactions done."

Lay, 63, and Skilling, 52, have said they weren't involved in the off-the-books partnership transactions, which they said were overseen by Fastow. The CFO, who has pleaded guilty to fraud charges stemming from Enron's collapse, is accused of reaping at least $25 million in illegal profits from Enron- related deals with his partnerships.

Prosecutors contend Lay and Skilling, the company's former chief executive officer, orchestrated a ``wide-ranging" fraud that led to Enron's collapse. They inflated earnings by hiding billions in debt and losses in Fastow's partnerships and deceived investors about Enron's financial performance, prosecutors told jurors in opening arguments.

Lawyers for Skilling and Lay counter that prosecutors are seeking to criminalize normal business practices and that the executives were the victims of thieving subordinates, such as Fastow.

Guilty Plea

Rice, 47, pleaded guilty in 2004 to securities fraud and faces 10 years in prison when he is sentenced after the trial. He testified today that he first learned about some Fastow partnerships called LJM when the first was set up in 1999. Fastow created the entities, named for his wife and sons, to buy poorly performing Enron assets or invest in company deals.

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The broadband unit didn't have any business with LJM until the second quarter of 2000, when the subsidiary decided to sell $90 million in fiber-optic wire to LJM, Rice said. Broadband officials needed the $55 million in earnings generated by the deal to meet quarterly targets, he added.

``We couldn't find anyone else to buy it for more than we had in it," Rice noted.

Defense lawyers have described Fastow as a ``crook" who hid the fees from Skilling, Lay and the company's board of directors. They've also said Fastow's partnerships were blessed by the company's lawyers, accountants and directors, and disclosed in Enron's securities filings.

Earlier Testimony

Mark Koenig, Enron's former head of investor relations, testified yesterday that Rice wasn't the only official to question the company's use of the partnerships.

Among Enron executives who challenged Fastow's involvement in the partnerships were Richard B. Buy, the chief risk officer; Jeffrey McMahon, treasurer until he was replaced in 2000; and former chief financial officer Ray Bowen, Koenig said.

Investors also were calling with concerns over the partnerships and a possible conflict of interest, Koenig said. He wrapped up his testimony today.

Koenig pleaded guilty in August 2004 to a single count of aiding and abetting securities fraud in connection with Enron's collapse and faces a maximum sentence of 10 years in prison.

Lay is charged with seven counts of fraud and conspiracy, plus four counts of bank fraud that will be tried separately after his first trial. Skilling faces 31 counts of fraud, conspiracy and insider trading.

Enron had more than $68 billion in market value before it filed the second-largest bankruptcy in U.S. history in December 2001, wiping out thousands of jobs and at least $1 billion in retirement funds almost overnight. Investors suing the company claim the fraud led to at least $25 billion in losses.

The case is U.S. v. Skilling, No. 04-cr-25, U.S. District Court, Southern District of Texas (Houston).

Enron Internet Chief Tells Of Disinformation Campaign (LAT)

By Thomas S. Mulligan, Times Staff Writer

The Los Angeles Times, February 15, 2006

HOUSTON — The former head of Enron Corp.'s vaunted Internet unit today described his constant struggle to portray the faltering operation as a fast-growing business that would soon become a profit powerhouse.

Kenneth D. Rice, 47, the second government witness in the fraud and conspiracy trial of Enron's former top two executives, said that defendant Jeffrey K. Skilling, then Enron's chief operating officer, pressured him in 2000 and early 2001 to accept wildly unrealistic performance targets for Enron Broadband Services in order to help persuade Wall Street analysts that EBS was a big success in the making.

Preparing for in-house budgeting meetings for 2001, Rice's EBS subordinates examined their pending deals and expenses and estimated that the unit would lose $489 million in 2001. The climate, Rice testified, was one of sharply rising expenses and a depressed telecommunications market in which few customers would sign the long-term "bandwidth" contracts that were supposed to be EBS' bread-and-butter business.

Bandwidth refers to the capacity for sending data over the Internet. Enron, which had pioneered gas and electricity trading, thought that it could trade bandwidth — and eventually other commodities — on the same model. EBS was important to Enron's image as an increasingly high-tech company that should command a far higher stock market valuation than other competitors in the energy business.

At a November 2000 meeting of Enron's top corporate executives, Rice testified that Skilling told him to accept a loss target of only $65 million — $424 million lower.

Co-lead prosecutor Sean M. Berkowitz asked Rice why he agreed to a target he thought he had no chance of meeting?

"I didn't feel like I had any choice," he said.

Rice told the federal jury that during a major business outlook conference in January 2001, he lied to and misled an audience of analysts and investors to make them think that EBS was on target for achieving its modest loss number.

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It was those actions that led to the single securities fraud charge to which Rice pleaded guilty in 2004, agreeing to cooperate with the federal investigation.

Rice also testified today about a telephone conversation in mid-1999 in which he had complained to Skilling about a new partnership, known as LJM, that had been created to do certain deals with Enron and would be run by Andrew Fastow, Enron's chief financial officer.

The deal was criticized within Enron because it seemed to pose a conflict of interest for Fastow to simultaneously run the outside partnership and hold a high executive position at Enron.

Rice said Skilling told him that he favored the arrangement because it would give Enron an alternate source of financing apart from banks.

Rice said he wasn't persuaded by his boss' rationale.

"I thought it looked goofy," he testified.

However, LJM later proved to be a godsend to Enron Broadband Services, agreeing to several deals during 2000 that helped EBS achieve its public business goals. In the second quarter of 2000, LJM bought $90 million to $100 million worth of "dark fiber," or unused telecommunications lines, to generate a $55-million gain for the unit, Rice said. At that time, in the midst of the telecom industry meltdown, no other buyer would have been willing to make such a deal, according to Rice.

Skilling co-defendant Kenneth L. Lay, Enron's former chairman, faces multiple felony counts of fraud and conspiracy. If convicted, they could spend decades in prison.

Skilling Wanted Giant Boat Post-Enron--former Exec (REU)

Reuters, February 15, 2006

HOUSTON, Feb 14 (Reuters) - Former Enron CEO Jeffrey Skilling planned to sail around the world in a large boat that could hold cars and even a helicopter after he left Enron, a former top executive testified on Tuesday.

"All I remember was that it was almost like a ship," said Kenneth Rice, recalling a conversation with his long-time friend Skilling. "It was a big boat you could put cars on and maybe a helicopter."

Skilling is unlikely to be able to do that any time soon, as he stands on trial alongside former CEO Kenneth Lay on charges of fraud that led to Enron's collapse in December 2001.

The tough-talking Skilling surprised Wall Street by resigning for personal reasons in August 2001, just a few months before Enron reported massive losses and collapsed in a heap of debt and shadowy partnerships.

Two weeks before the public announcement, Rice says Skilling told him of his decision to leave Enron during a lunch meeting at a fancy Italian restaurant in Houston.

The two later chatted in depth about Skilling's future plans, including his sailing ambitions, Rice said.

Rice, who oversaw Enron's failed broadband business, came up with his own plans when he heard Skilling would leave.

"I went to my office and sold stock," Rice testified.

Thousands of Enron employees and shareholders bitterly complain that top Enron executives made off with millions while they lost their life savings.

Witness: Skilling Aimed To Please Wall St. (AP)

By KRISTEN HAYS, The Associated Press

AP, February 15, 2006

HOUSTON (AP) — A former top trader who once enjoyed a place in former Enron Corp. chief Jeffrey Skilling's inner circle testified Tuesday that Skilling set earnings targets to please Wall Street and then expected division heads to meet them.

Skilling also led an effort in early 1999 to redefine Enron as a company with consistent growth rather than a trading company with less predictable growth because analysts who influence stock prices supported stability, said Kenneth Rice, the prosecution's second witness in the fraud and conspiracy trial of Skilling and Enron founder Kenneth Lay.

"Mr. Skilling told me on several occasions our stock would get whacked" if the market perceived Enron as a trading company, Rice said Tuesday, his first day on the witness stand.

He said Enron's obsession with maintaining a lofty stock price fueled efforts to maintain Wall Street support.

Prosecutors contend Lay and Skilling lied about Enron's financial health when they knew complicated finance structures hid debt and inflated profits. The defense teams say negative publicity and loss of market confidence — not fraud — fueled the company's collapse.

Rice ran Enron's highly touted broadband unit before it crashed into bankruptcy proceedings with the parent in December 2001. He pleaded guilty to securities fraud in July 2004.

He said the broadband unit never lived up to its hype, had paltry cash flow and millions in losses after he, Skilling and others unveiled it with much fanfare at a January 2000 analyst conference.

But when he told Skilling in late 2000 that 2001 losses would reach $110 million — almost double the $60 million in losses for 2000 — Skilling told him to limit them to $65 million.

Rice said he felt he had no choice but to agree, even though the business was flailing.

"Mr. Skilling would simply say, in fact he did say, 'This is the number, this is what the number is going to be,'" Rice said.

Rice appeared comfortable, though he focused on jurors or prosecutor Sean Berkowitz rather than the defendants. Skilling watched him intently, while Lay took notes. Rice had yet to be questioned by the defense.

He described Skilling as a hands-on boss, who saw broadband as an important venture that could help increase Enron's stock price.

Rice said the broadband unit struggled in 2000 and 2001 to contain losses at the level Skilling told Wall Street to expect and show progress in gaining market share.

But the unit's two missions — creation of an Internet bandwidth trading market and streaming video into homes through a fledgling broadband network — never gained strength, Rice said. Few if any trading partners existed as the telecommunications industry bottomed out, and video streaming never surpassed the testing stage.

So the unit often met earnings targets by selling inoperative fiber-optic cable or "monetizing" a 20-year contract with Blockbuster Inc. to provide video-on-demand by selling an interest in its future revenue. The Blockbuster deal later flopped.

Rice said he called the monetizations "crack cocaine" because Enron was addicted to meeting quarterly earnings targets even if it meant selling future revenue potential.

Rice also said a partnership called LJM, set up by former Enron Chief Financial Officer Andrew Fastow, "looked goofy to me." The partnership, separate from Enron, was created to conduct transactions to help the energy company meet its earnings targets.

Rice said he asked Skilling whether it was proper for a partnership run by Enron's CFO to conduct deals with Enron. He said Skilling explained that LJM could do transactions fast and that he thought "it was an important thing for Enron to do."

Despite his concerns, Rice's unit turned to LJM to meet earnings targets. LJM bought $90 million in inoperative fiber in the second quarter of 2000.

In March 2001 Skilling told analysts in a conference call that the broadband unit had "strong growth as far as people, budgets, the whole thing."

"The reality was we were cutting people" in broadband and the unit was spending $100 million per quarter without bringing in any significant cash, Rice said. He stopped short of saying Skilling lied.

Rice was more explicit last year when he testified in the 2005 fraud and conspiracy trial of five former broadband executives. Rice said that he, Skilling and most of the defendants in that case lied when they told analysts in January 2000 that the network was up and running when it wasn't, to generate Wall Street buzz and inflate the company's stock price.

Within two days of the conference, Enron's stock price leaped from $54 a share to $72.

A videotape of Skilling's presentation played during the broadband trial showed he alternated between saying what the network could do at the time and what it would do in the future.

That trial ended with acquittals on some counts, and jurors hung on others. Those defendants are to be retried in three separate cases this year.

Rice said he decided in July 2001 to leave Enron when the broadband unit was to be folded into the larger trading division. Skilling asked him to stay, and they both would leave in "a couple of years," Rice said.

About two weeks later, Skilling told Rice that he was going to resign in mid-August.

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He said Skilling also told him about plans to get a boat and travel the world.

"All I remember is, it was more like a ship," Rice said. "It was a big boat you could put cars on and maybe a helicopter."

Getting To The Bottom Of Enron (WSJ)

By Holman W. Jenkins, Jr.

The Wall Street Journal, February 15, 2006

The Enron trial is underway, and may justice be done, amen. For our millions of tax dollars, however, we pray for a parting of the mists around Jeff Skilling's weird, abrupt resignation from the company in August 2001.

There's no doubt that, from a dramaturgical point of view, the resignation is a key to the story. Mr. Skilling was credited with building the Enron trading machine from scratch. He had just formally been awarded the title of CEO, a driven Type A, arrogant, smart, full of blustery camaraderie with his protégés. In our current adopted posture of amorality, we don't care whether he goes to jail. All we want to know is what was going through his multileveled little mind.

Did he sit upright one night and realize he'd lost control of Andrew Fastow, the company's chief financial officer? Did he notice the Fastow black box was beginning to emit strange noises, odors, an occasional wisp of greasy smoke, suggesting all was not right inside?

Did he know Fastow and a close aide had fattened their own wallets with tens of millions at Enron's expense as the price for arranging transactions to conceal losses on various Enron-owned assets that had declined in value? Was his resignation a sublime stratagem to make sure somebody else -- Ken Lay -- would be presiding over Enron when the revelations that Mr. Skilling was fleeing became public?

Recall the clamminess of the news that crossed the wires on Aug. 14, 2001. As told to the press, he wanted to spend time with his kids, slow down, smell the roses. He was concerned about his health. In an off-key note, he told the Journal he might have stayed if Enron's share price hadn't turned south. The more he talked, the clearer it became that no one at Enron had the slightest idea why he was leaving, even as the stock price cratered on the news.

We admit to finding this theory tempting: Mr. Skilling, from the moment he decided on resignation, has been engaged in a high-wire bluff to avoid accountability for Fastow's actions, including his incredibly nervy decision to testify under oath before a Congressional panel even as Mr. Lay did the normal thing and heeded his lawyer's advice to plead the Fifth.

Alas, the Justice Department's Enron Task Force seems unwilling to get to the bottom of Enron, preferring to frame the trial in Houston as a "pump and dump" case, in which Mr. Skilling and Ken Lay talked up the failing company's shares while selling their own. The implicit narrative: Mr. Lay and Mr. Skilling are rich and Enron collapsed, so they must be guilty of something that amounts to not announcing to the world that Enron was destined to collapse.

Missing, though, is an important element of narrative credibility in Mr. Lay's case, since his stock sales seem to have been involuntary, forced by margin calls. He even forked over $10 million in cash, his signing bonus for returning as CEO, to prevent further liquidation of his soon-to-be-worthless shares. That one is born every minute might seem betokened, furthermore, by Mr. Lay's very presence as co-defendant with Mr. Skilling in the dock. He's there, it's easy to suspect, mainly because failing to indict Mr. Lay (former friend of President Bush) would have subjected the Enron Task Force to Democratic charges of political favoritism.

Mr. Skilling, after all, persuaded the board to approve Fastow's role in outside companies created to do deals with Enron. He knew some of these transactions, the Raptors, accounted for much of Enron's reported profits in two successive years. He was apparently incurious about how much Fastow was pocketing from his non-arm's length dealings with Enron. When a company insider, Sherron Watkins, finally determined to blow the whistle, she went not to Mr. Skilling but to Mr. Lay. And so forth.

In its first two weeks, though, the trial has already numbed the jury with, in essence, a debate between a former Enron flack, with limited understanding of the company's financials, and Mr. Skilling's and Mr. Lay's lawyers over whether the executives had been on defensible grounds in making certain statements about the company's earnings and revenues in desultory conference calls with analysts and fund managers.

Even the mainstream press has turned a skeptical eye on the government's tactic of naming more than 100 "unindicted co-conspirators," frightening many former Enron executives and outside advisors away from testifying for the defense. All this is done,

we suspect, more to protect the government's case against Mr. Lay than its case again Mr. Skilling: Just one more way in which the prosecution may end up hurting itself by needlessly conflating a weak story about Mr. Lay with a plausible one about Mr. Skilling -- that he gave Fastow too much rope and then ran away in full cognizance of what he had begotten, making fools of Mr. Lay, and the board.

Given the inherent difficulties of accounting fraud trials, you'd have thought the prosecution would have seized the opportunity to present a case that any jury could understand: Andrew Fastow was stealing and Mr. Skilling knew, but looked the other way because Fastow's activities were propping up Enron's stock price and reported profits.

Juries, immersed in the evidence for months at a time, have a way of popping out with verdicts that leave the kibitzers confounded. Still, if Mr. Skilling walks, his most brilliant career move may well have been resigning and handing over the hot seat to Ken Lay so the government would feel compelled to muddy its case by indicting him too.

What Enron Fallout? Business Hits A Bump, But It's Only Modest (RC)

By Karlyn Bowman

Roll Call, February 15, 2006

Views about business — and many other key institutions — were unusually positive during the good economic times of the late 1990s. Now, after a flurry of corporate scandals, have more negative views about the business sector set in, or have Americans gotten past the run of CEO misdeeds?

In Pew's 1999 question, 73 percent of respondents said they had a very or mostly favorable opinion of business corporations. Business did take a short-term hit when scandals involving Enron and WorldCom broke in late 2001. More recently, business and other institutions have suffered from a generally sour mood in the public.

Specifically, in Pew's December question, 57 percent had a favorable opinion of business. Gallup's data shows high confidence in big business dropping from 28 percent in the spring of 2001 to 20 percent in the spring of 2002. It's 22 percent today.

In reality, despite the modest dips in support, public attentiveness to business scandals was never especially high. A November 2003 Pew Research Center report concluded that the business scandals had a "minimal impact" on public opinion. There are several reasons.

First, people didn't think the kind of behavior they saw at Enron would happen at their own companies. For example, in six polls conducted by Gallup and UBS since April 2002, more than 80 percent said that the people who run their companies are honest and ethical.

Second, people have long been wary of the honesty and ethics of big business, and in that sense, the scandals were nothing new. Twenty-eight percent told Zogby in July 2002 that the revelations were "relatively new," but 64 percent said that they were commonplace.

Nor did the scandals prove particularly harmful to one party or the other. Americans think that both parties are too close to big business. The lack of a partisan cast appears to have dulled the political impact.

People wanted the wrongdoers punished, but there is no evidence that they wanted to clamp down on business in any significant new way.

A Businessman for President? When asked by Fox News and Opinion Dynamics in early February who they would rather see as our next president, 33 percent said a businessman, 21 percent a general, 21 percent a career politician — and 2 percent an actor.

Congress' Ratings. Pew's Feb. 1-5 poll finds the public's views of Congress "at their lowest point in a decade," with 47 percent expressing an unfavorable opinion, and 44 a favorable one.

Trade Talks. Americans have long been ambivalent about foreign trade, which they like in principle, but worry about in practice.

The Jan. 20-25 CBS News/New York Times poll shows that 67 percent — a number virtually unchanged from the 69 percent recorded in 1996 — say the effects of trade on the economy are good. Twenty percent said the effects are bad.

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At the same time, 64 percent (compared to 63 percent in 1996) say trade restrictions are necessary to protect domestic industries.

Of those with less than a high school education, 52 percent say the effects of free trade on the economy are good, compared to 84 percent of those with a postgraduate degree who say the same thing.

Measuring by income levels shows much of the same pattern. Still, 60 percent of those with incomes under $50,000 a year say it is a good thing for the economy.

Blog Readership. When Gallup asked Internet users in early December how they use the Internet, 67 percent said they frequently send or read e-mail. Twenty percent said they did this occasionally and 13 percent said they did it rarely or never.

As for reading Web logs, 9 percent said they did this frequently and 11 percent occasionally (two categories that collectively represent about 40 million Americans), while 79 percent said they rarely or never read blogs.

A third said they spend more than one hour a day using the Internet.

A Woman for President. In 1937, Gallup asked people whether they would vote for a woman for president if she were qualified "in every other respect" (a question that would never be asked today and one which Gallup soon changed). A third of those surveyed said yes.

In the January 20-25 CBS News poll, 92 percent said they would vote for a woman for president if she were qualified for the job. A smaller majority, 55 percent, said they thought America was ready to elect a woman president, while 38 percent said it wasn't.

The early February Fox News/Opinion Dynamics poll asked about a group of potential candidates and found that 39 percent said a female candidate would most likely be elected first, followed by an African American (20 percent), a Jew (12 percent), and a Hispanic (6 percent).

Karlyn Bowman is a resident fellow specializing in public opinion and polls at the American Enterprise Institute.

Street Sleuth Revenge Of The Retirees May Cut Pay At Lucent (WSJ)

By Sara Silver

The Wall Street Journal, February 15, 2006

In recent years, Lucent Technologies Inc.'s retirees have seen many of their benefits cut. Now they are fighting back -- proposing to rein in the compensation of the executives doing the cutting.

Lucent's shareholders today are voting on a proposal to restrict the pay of the top brass. The proxy proposal, which was put forward by retirees, would make 75% of executive stock grants dependent on the telecom-equipment maker's performance. It is partly a reaction to last year's sharp increase in the bonus of Lucent's chief executive, Patricia F. Russo.

It isn't just happening at Lucent. Retirees from a range of companies including Verizon Communications Inc., General Electric Co., International Business Machines Corp., Prudential Financial Inc. and Qwest Communications International Inc. are presenting proposals to restrict executive compensation. The retirees are motivated partly by concerns that the value of their nest eggs can crack when the value of their companies' stocks drops.

"In these years of corporate tumult, which has seen many great companies turn into shells of their former selves, one thing has remained constant -- ever-rising levels of executive and board compensation," said Joanne Raschke, who filed the Lucent proposal. She holds 6,200 shares of stock in Lucent, a legacy of her husband Ken's 36 years with its predecessor companies.

This is actually the second attempt for the Lucent proposal. Last year a similar proposal by retirees received very strong support from shareholders, according to Patrick McGurn of Institutional Shareholder Services, a firm that advises shareholders on corporate proxy votes and is recommending they support this proposal.

Last year's proposal actually received a slim 50.2% majority of votes cast. However, abstentions are routinely counted as "no" votes, which caused the proposal to fail.

Mr. McGurn expects this year's proposal to receive vigorous shareholder support. "The board didn't do anything substantively last year to respond to that vote," Mr. McGurn said. "That will drive strong support for it again this year."

At Lucent, retirees are frustrated by the elimination of a benefit that paid up to a one-year salary to the spouse upon the death of a retired employee, and by lower company contributions for medical-insurance premiums. They have been vigorous

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critics of CEO Russo's pay: In 2005, Ms. Russo was awarded a $3.6 million bonus on top of a base salary of $1.2 million, and was granted an additional $8.7 million in restricted stock and options. In 2004, she was awarded a $1.95 million bonus on top of her $1.2 million salary, $4.6 million in restricted stock plus $4.8 million in options. Lucent notes that all of the options remain below the exercise price.

Lucent says that the actions were necessary to return to profitability, and that Ms. Russo's compensation was in part a reward for moving the company into the black in 2004 and 2005. "We believe that our long-term compensation plans are aligned with the interests of shareholders," said Mary Ward, a spokeswoman, adding that half of senior executives' compensation comes from Lucent shares whose value is based on its operating performance.

Lucent's stock is widely held, and retirees represent only a fraction of overall shareholders. Yesterday the stock closed at $2.83, up six cents, or 2.2%, in 4 p.m. composite trading on the New York Stock Exchange.

U.S. companies have been retreating from their decades-long practice of offering a well-funded retirement for long-time employees. Scores of companies have cut health benefits for retirees, and in recent months, General Motors Corp., IBM and Verizon have joined a wave of companies freezing the level of pension benefits for certain employees.

But even as retiree benefits are being cut, compensation for executives has risen: The median compensation for a chief executive officer in a Standard & Poor's 500 company was $6 million in 2004, up more than 13% from 2003, according to the Corporate Library.

While unions were among the first groups to take to shareholder activism, the retiree groups are largely run by former managers and technical staff, smarting at their diminished voice and the company's often adversarial stance to retiree questions. "We built the company and have been cooperative with them, and we want the dialogue and some answers," said Dick Ciocca, president of the Philadelphia-based National Association of Prudential Retirees. "Executive compensation was where we could get their attention."

The group has submitted a proposal to require shareholder approval of "golden parachutes," or severance payments, for departing executives. These kinds of proposals have had the most success, says Carol Bowie, director of governance research for Institutional Shareholder Services, based in Washington. Companies such as Lucent and Verizon voluntarily incorporated this demand after strong support for proposals that they later negotiated off the ballot.

Other retiree groups are seeking better disclosure of executive pay.

Janet Krueger, a 52-year-old software consultant who quit IBM after 23 years, will resubmit her proposal from last year requiring IBM to fully disclose what executives are paid, including the value of their pensions, retiree benefits and deferred compensation. Although IBM hasn't yet published its proxy proposals for this year, last year it opposed the resolution, saying the company complied with Securities and Exchange Commission requirements.

Private Insecurities (WSJ)

By Kenneth M. Lehn

The Wall Street Journal, February 15, 2006

We just marked the 10th anniversary of the Private Securities Litigation Reform Act (PSLRA), which attempted to curb abuses in securities class-action litigation by eliminating so-called "professional plaintiffs" and instituting more-stringent pleading standards. While the PSLRA has discouraged some meritless lawsuits, the evidence suggests that our private securities-litigation system still needs additional reform.

Take a look at the numbers. Since the passage of the PSLRA, the size of securities class-action settlements and the number of companies involved in this litigation have grown substantially. Data compiled by Laura Simmons and Ellen Ryan of Cornerstone Research show that the total inflation-adjusted value of securities class-action settlements increased to $9.6 billion in 2005 from $150 million in 1997. Over the same period, the average inflation-adjusted size of settlements increased over sevenfold, to $78 million from $10.7 million. These increases are largely driven by the proliferation of "mega-settlements" in excess of $100 million, such as last year's WorldCom settlement of more than $6 billion.

Data compiled by the Stanford Law School and Cornerstone Research also show that the percentage of listed companies that were defendants in federal securities class-actions has increased rather steadily from 0.8% in 1996 to 1.5% in 1997, and to

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over 2% in each year between 1998 and 2005. A disproportionate amount of post-PSLRA class-action suits have been targeted at companies that are large or and have volatile stock prices. Some 60% of the companies in the Dow Jones Industrial Index have been sued in securities class-actions since 1999, including Proctor & Gamble, Johnson & Johnson, Pfizer and Intel, which have remarkable records at creating shareholder value. None of them were defendants in the period from 1995 to 1999.

Almost one-third of the companies in the Nasdaq Biotech Index and more than one-half of the firms in the Nasdaq Internet Index have been targets of federal class-action securities lawsuits since the enactment of the PSLRA. Insofar that some, if not most, of these suits are driven more by the volatility of these companies' stock prices than they are by fraud, these suits have a disruptive effect on important high-growth industries.

Almost none of these lawsuits ever go to trial. Most are settled, even if a company feels that the case is without merit, because the risks and costs of going to trial are great. For example, suppose that a class-action suit is brought against a company with alleged damages of $1 billion. If the defendant believes there is only a 10% probability that the plaintiffs will prevail, the defendant faces an expected judgment of $100 million (i.e., 10% times $1 billion). In this simple example, it would be more rational to settle the suit, even for as much as $99.9 million. Hence, even frivolous suits are settled for large amounts.

A recent study, by Prof. Anjan Thakor of Washington University and Jeffrey Nielsen and David Gulley of Navigant Consulting, followed trades by 2,394 institutional investors and class-action settlements since the enactment of the PSLRA in 1995. It reveals a fundamental problem: The compensation investors receive in settlements of federal securities class-actions does not correspond to the harm investors incur from alleged securities fraud. In the post-PSLRA system, large diversified institutional investors are often overcompensated as a result of a class-action while smaller, undiversified investors, including individual "Ma and Pa" types, are not.

Once a class-action settlement has been paid, the study found, 40% of institutional investors have realized a net benefit. That is because the present system creates asymmetrical payoffs for diversified investors: They receive distributions from settlements when they are harmed by securities fraud but they do not have to pay back any gains they receive from securities fraud.

So what should be done to fix the current system of private securities litigation?

• First, defendants are not currently allowed to appeal motions to dismiss federal class-action securities suits. Congress should pass legislation allowing them to do so.

• Second, damages should be calculated in terms of the per-share inflation of a company's stock price due to alleged fraud, not in terms of aggregate damages. Estimates of aggregate damages require estimates of the number of shares that were purchased during the class period at an allegedly inflated price and subsequently held or sold at a price after the alleged fraud is discovered. But there is no scientifically valid way of estimating the number of these shares. Instead of using untested models that often result in highly inflated aggregate damages, damages should be thought of in terms of per-share inflation, with investors required to come forward to prove their claims.

• Third, the current system of compensation in private securities litigation should take into account what investors receive from the relatively new Fair Funds, which are an outgrowth of Sarbanes-Oxley. Under Sarbox, the Securities and Exchange Commission is allowed to pool disgorgement and civil monetary penalties that defendants pay in settlements to it. The SEC then attempts to distribute the monies in the Fair Funds to investors who were harmed by the defendants' actions. If the total distributions made to harmed investors under the Fair Fund exceed the total damage investors incurred because of the alleged fraud, then investors should not be allowed to collect damages in private securities litigation.

PSLRA improved our system of private securities litigation a bit, but it has not proven to be the panacea that many had hoped for 10 years ago. Congress and the White House ought to build on its modest success with reforms that will lead to a fairer and more efficient system.

Mr. Lehn, Samuel A. McCullough Professor of Finance in the Katz School of Business at the University of Pittsburgh, was the chief economist of the Securities and Exchange Commission from 1987 to 1991.

CRIMINAL LAW:

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Abramoff Bragged Of Ties To Rove (LAT)

By Tom Hamburger And Peter Wallsten

The Los Angeles Times, February 15, 2006

WASHINGTON — When the government of Malaysia sought to repair its tarnished image in the U.S. by arranging a meeting between President Bush and its controversial prime minister in 2002, it followed the same strategy as many other well-heeled interests in Washington: It called on lobbyist Jack Abramoff for help.

It was a tall order. The then-prime minister, Mahathir Mohamad, had been chastised by the Clinton administration for repeated anti-Semitic statements and for jailing political opponents. But it was important to the Malaysians, according to a former Abramoff associate who attended meetings with the Malaysian ambassador and the lobbyist.

Abramoff contacted presidential advisor Karl Rove on at least four occasions to help arrange a meeting, the witness said.

Finally, the former associate said, Rove's office called to tell Abramoff that the Malaysian leader soon would be getting an official White House invitation.

Neither the former Abramoff associate nor any others who spoke about the Malaysian contacts wanted their names used, out of fear they might damage future business opportunities.

In May 2002, Mahathir met with Bush in the Oval Office; his photograph with the president was beamed around the world.

Abramoff received $1.2 million from the Malaysian government for his lobbying services in 2001 and 2002, the former associate said. Documents obtained by Senate investigators appear to confirm at least $900,000 of that amount.

It's not clear how central Abramoff was in arranging the Oval Office session. The White House says the meeting was arranged through normal channels.

But it was clear, the former associate said, that Abramoff took credit for it. His reputation for close relationships with the White House and congressional officials enabled him to charge stratospheric fees from his lobbying clients — and the president's meeting with Malaysia's prime minister enhanced that reputation.

The Malaysia episode sheds new light on the practices of Abramoff, the man at the center of a burgeoning corruption scandal, and suggests closer ties than previously acknowledged between the disgraced lobbyist and the highest levels of the Bush White House.

Abramoff has pleaded guilty to improperly influencing members of Congress and their aides — offering foreign travel and other benefits and later seeking favors from some of them. He often routed lobbying fees through nonprofit organizations to evade taxes or hide the sources of the funds.

The Malaysian payments were made to the American International Center, a bogus think tank that an Abramoff partner, Michael P.S. Scanlon, set up at a Delaware beach house. Abramoff and Scanlon have admitted using the center to collect millions from their lobbying clients.

By routing the money in that way, Abramoff identified his client on federal lobbying disclosure forms as the Delaware-based center and avoided having to register with the Justice Department as an agent of a foreign government.

After the Malaysian leader's White House meeting, the former associate said, Abramoff was invited to a dinner honoring the prime minister at the Malaysian Embassy and was given a seat near the head table.

At least one other Washington lobbying firm — Alexander Strategies, which was run by an Abramoff friend and former chief of staff to then-House Majority Leader Tom DeLay (R-Texas) — was compensated during this period for helping boost Malaysia's reputation in Washington. That firm was also given credit in some circles for helping to arrange the White House meeting and separate trips for leading members of Congress, including DeLay and several Democrats, to Malaysia.

The former associate was the only person to observe Abramoff's direct contacts with Rove, and he heard only Abramoff's end of the conversation. He recalled Abramoff picking up his ringing cellphone, looking at the caller identification and saying, "It's Karl." Abramoff listened for a few seconds and gave the former associate the thumbs-up sign. Abramoff then closed his phone and said the official invitation was forthcoming. "Call the ambassador," he said.

Apart from the direct contacts between Rove and Abramoff, the former associate's description of the Malaysia episode was backed by another former Abramoff associate and by documents released last year by the Senate Indian Affairs Committee.

Both said Abramoff talked of his access to Rove and cited his relationship with Susan Ralston, Rove's administrative assistant. Before joining the White House staff, Ralston was an assistant to Abramoff.

One of the former associates said Abramoff referred to Ralston as his "implant" in the White House.

A White House spokeswoman, Erin Healy, said Tuesday that Rove had "no recollection" of any conversations with Abramoff regarding the Malaysian meeting.

She said the meeting was arranged through "normal staffing channels."

The meeting took place as Malaysian and U.S. officials were discussing that nation's participation in the post-Sept. 11 campaign against terrorism. Malaysia is a heavily Muslim country.

"At the time [Mahathir] was Asia's longest-serving prime minister and an influential Islamic leader," Healy said. "The president met with him to discuss Malaysia's role in the war on terrorism."

Healy said Rove considered Abramoff a "casual acquaintance."

White House officials said Ralston's hiring had nothing to do with her prior association with Abramoff. Healy said she was a "valued member of the White House team."

Although White House officials have taken pains to distance Bush and his aides from Abramoff, hoping to shield the president from the scandal's political fallout, former associates say Abramoff often bragged of his ties to the highest levels of the administration.

One lobbyist recalls Abramoff's frequent refrain when confronting important legislative issues: "I'll call Karl on that."

The Malaysian Embassy did not respond to requests for comment on Abramoff's work.

Bills from the American International Center to the Malaysian Embassy have been turned over to a Senate committee investigating Abramoff's representation of Indian tribes, which he has admitted to defrauding.

Lobbying records show that Abramoff's firm, Greenberg Traurig, received hundreds of thousands of dollars from the center but did not disclose that the funds originated with the government of Malaysia.

According to one of Abramoff's former associates, Abramoff said he did not need to disclose Malaysia as a client on federal lobbying disclosure forms — or to register as a foreign agent with the Justice Department — because the money had come from the American International Center.

Abramoff's lawyer, Abbe Lowell, declined to comment on any aspect of Abramoff's work for Malaysia.

The failure of Abramoff and his colleagues at Greenberg Traurig to register as foreign agents was initially a topic of interest to the Justice Department, which is investigating Abramoff's contacts with lawmakers and executive branch officials as part of an ongoing fraud and bribery case. Abramoff has pleaded guilty in that case and is helping federal prosecutors. But a person familiar with that inquiry said the issue had not been pursued recently, perhaps because the law had many loopholes.

This person, who asked not to be identified because he was not authorized to discuss an ongoing investigation, said Abramoff's relationship with Rove had "not been a matter of any great significance" in the Justice Department inquiry.

The Oval Office meeting with Mahathir, on May 14, 2002, was publicly warm, with Bush praising Mahathir for his "friendship" and "strong support" in the war on terrorism.

The meeting rehabilitated the Malaysian leader's reputation only temporarily, and the appearance of friendliness between the two emerged as a political headache for Bush.

Eight months after the meeting, Mahathir surprised the opening session of the World Economic Forum in Davos, Switzerland, by warning the U.S. against its looming invasion of Iraq — "out-terrorizing the terrorists," he called it.

Later that year, he said the U.S. was fighting terrorism "through attacking Muslim countries and Muslims, whether they are guilty or not."

He went on to make anti-Semitic comments, charging that "Jews rule this world" and get "others to fight and die for them."

Democrats charged that Bush was slow to rebuke the prime minister.

In October 2003, he pulled Mahathir aside at an international economic conference to express his disapproval, calling the remarks "wrong" and "divisive," according to a White House spokesman.

Mahathir later emerged as an issue in Bush's reelection campaign, as Republicans aggressively courted Jewish voters.

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One such GOP outreach featured Mahathir pictured beside Democratic presidential nominee Sen. John F. Kerry and Palestinian leader Yasser Arafat above a Kerry quote in which he said "foreign leaders" wanted him to win the election. The campaign mailer suggested Mahathir and Arafat, "renowned for their hatred of the Jewish people," supported Kerry.

On one occasion, Abramoff — an orthodox Jew and a supporter of Israel — was asked whether he was comfortable representing a country led by a man known for anti-Semitic comments.

Abramoff responded, "They pay their bills on time."

Jack Who? (WP)

The Washington Post, February 15, 2006

It's not, as photos for a superlobbyist's power wall go, a terribly impressive shot: President Bush, his back to the camera, shaking the hand of Raul Garza, chief of the Kickapoo tribe of Texas. In the foreground, Karl Rove, smiling at a 2001 White House meeting to promote the president's tax cuts. And there at the back of the room, only his slightly blurry head visible, the chief's lobbyist: Jack Abramoff. Which, of course -- along with the refusal of the Bush administration to release information about what Mr. Abramoff was doing at the White House, how often he was there and with whom -- is what makes the picture a big deal.

Kim Eisler of Washingtonian magazine has reported that the disgraced lobbyist met with Mr. Bush almost a dozen times over the past five years and was invited to the president's ranch in Crawford, Tex., in 2003. According to Mr. Abramoff, who raised at least $100,000 for Mr. Bush's reelection, the president was once well acquainted enough with the lobbyist (or at least well briefed enough) to inquire about his twins. But now, as in the photo, Mr. Abramoff somehow has gone blurry in Mr. Bush's memory. The president doesn't recall meeting or posing for pictures with him.

Mr. Rove's memory is fuzzy, too, as luck would have it. His name, according to the Associated Press, was rather routinely dropped by Mr. Abramoff as his big White House contact. Mr. Abramoff's former assistant, Susan Ralston, went to the White House to work for Mr. Rove, and, the Associated Press reported yesterday, Mr. Rove's office helped set up a 2002 meeting between Mr. Bush and the prime minister of Malaysia, another Abramoff client. One Abramoff business associate reported being in the lobbyist's office when Mr. Rove's office called to confirm the meeting.

All of this recalls the question we've been asking for a few weeks now: Why doesn't the White House just release information about Mr. Abramoff's meetings and other visits there? This is a man who has pleaded guilty to trying to bribe public officials. The White House says he turned up for a "few staff level meetings" and two Hanukkah parties. Whom did he meet? About what?

Sensible members of Mr. Bush's own party agree. "I'm one who believes that more is better, in terms of disclosure and transparency," Sen. John Thune (R-S.D.) said on "Fox News Sunday." "And so I'd be a big advocate for making records that are out there available." Mr. Bush, said Rep. Mike Pence (R-Ind.), "is a man of unimpeachable integrity. The American people have profound confidence in him. And as Abraham Lincoln said, 'Give the people the facts and republican governance perhaps will be saved.' " Sen. Chuck Hagel (R-Neb.), speaking on ABC's "This Week," was even blunter. "Get it out. Get it out," Mr. Hagel said. "I mean, disclosure is the real issue. Whether it's campaign finance issues, whether it's ethics issues, whether it's lobbying issues, disclosure is the best and most effective way to deal with all of these things."

Elementary, you would think. But not for this White House.

After Abramoff, Internet Gambling Ban Returns (RC)

By John Bresnahan

Roll Call, February 15, 2006

Rep. Bob Goodlatte (R-Va.) and other lawmakers on Thursday will re-introduce legislation to ban Internet gambling, a proposal that was blocked nearly six years ago through the efforts of former lobbyist Jack Abramoff, allegedly with help from then-House Majority Whip Tom DeLay (R-Texas) and one of his former top aides.

Goodlatte will be joined on Thursday by Reps. Rick Boucher (D-Va.), Frank Wolf (R-Va.) and other lawmakers as they re-introduce the Internet Gambling Prohibition Act. While Goodlatte's office did not release details on the proposal, the legislation considered by the House in 2000 would have banned nearly all use of the Internet for gambling purposes.

In a press statement announcing his intention to re-introduce the bill, Goodlatte acknowledged the role Abramoff played in stopping the bill six years ago: "The original legislation received support from more than 60 percent of the House of

Representatives but fell victim to Abramoff's campaign of misinformation and lacked the two-thirds required for passage under suspension of the rules. Abramoff's total disregard for the legislative process has allowed Internet gambling to continue thriving and it's now a $12 billion industry."

According to the plea agreement Abramoff reached with the Justice Department in early January, Abramoff allegedly sought and received assistance from Tony Rudy, deputy chief of staff to DeLay, at that time the Majority Whip, in blocking the Internet gambling bill. In return, Abramoff allegedly steered $50,000 in 2000 and 2001 through a nonprofit group he was affiliated with to Rudy's wife. Rudy was not named in Abramoff's plea deal, instead being referred to as "Staffer A," although media reports have confirmed his identity. "The total amount paid to the wife of Staffer A was obtained from clients that would and did benefit from Staffer A's official actions regarding the legislation on [I]nternet gambling" and another issue. Rudy has not been charged in the ongoing Abramoff probe.

Rudy allegedly advised Abramoff on how to block the legislation, which was placed on the suspension calendar by House GOP leaders, despite clear majority support for the proposal. Bills considered under suspension need two-thirds support, or 270 votes, to pass, and the Goodlatte bill received only 245 votes when the House considered it on July 17, 2000.

DeLay went on a trip to Scotland with Abramoff in May 2000, shortly before the Internet gambling ban came to the House floor. According to The Washington Post, DeLay's trip, nominally paid for by the National Center for Public Policy Research, was in fact funded at least in part by eLottery, an Abramoff client that was paying the one-time lobbying superstar hundreds of thousands of dollars to defeat the Goodlatte bill.

DeLay has denied any wrongdoing in regards to his dealings with Abramoff, although he had to step down as Majority Leader following Abramoff's decision on Jan. 3 to plead guilty to federal corruption charges. Facing a tough re-election battle, DeLay has told GOP constituents in his district that he and Abramoff were not that close.

3rd Circuit Weighs In On Warrantless Searches (LAW)

By Shannon P. Duffy, The Legal Intelligencer

Legal Intelligencer, February 15, 2006

Police may not "manufacture" an emergency situation to justify the warrantless search of a hotel room, a divided panel of the 3rd U.S. Circuit Court of Appeals has ruled.

The decision in United States v. Coles overturns a conviction for possession of crack cocaine and sharpens a split among the federal circuits in cases where police claim that a warrantless search was justified by "exigent circumstances."

Prosecutors argued that the search of Terrence Coles' hotel room was valid because police heard rustling sounds and a flushing toilet soon after they announced their presence and therefore feared that evidence was being destroyed.

But defense attorney Jeffrey M. Lindy urged the court to focus on earlier events and argued that the police had no excuse for failing to obtain a warrant prior to approaching the hotel door in the first place.

Voting 2-1, the court agreed with Lindy and held that the investigative tactics used by the officers had "impermissibly manufactured the exigency."

Senior U.S. Circuit Judge Leonard I. Garth noted that the agents at first used "subterfuge" to gain entry to the hotel room by falsely claiming they were "room service," and later that they were maintenance workers sent to fix a leak.

It was only after those two attempts failed, Garth noted, that the officers identified themselves as police and then heard the toilet flushing.

"In identifying themselves as hotel personnel providing 'room service' or 'maintenance,' the police resorted to subterfuge, clearly manifesting their intention to mislead the occupants into believing that they were not police officers," Garth wrote in an opinion joined by 3rd Circuit Judge Julio M. Fuentes.

"At the very least," Garth wrote, "the actions of the officers at this time demonstrated that the police had no intention of merely investigating matters further or perhaps obtaining consent to search. As the record plainly indicates, the officers decided to enter [the] room ... without a warrant. It was that decision to conduct a warrantless entry and search of the room, without any urgent need to do so, that impermissibly created the very exigency relied upon by the government in this case."

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Garth noted that the police had Coles' room under constant surveillance and had no reason to believe that Coles had detected their presence.

But in dissent, 3rd Circuit Judge Jane R. Roth complained that the majority was misreading a U.S. Supreme Court decision and that its holding "imposes a standard for police behavior that is not derived from the Constitution."

Roth said she would have upheld the search because none of the actions by police had violated the Fourth Amendment prior to their hearing the flushing toilet.

According to court papers, Coles checked into the Hawthorne Suites Hotel in Philadelphia in June 2002, initially saying he was staying for a weekend, but later saying he would stay for 10 days.

After about a week, a hotel manager sought out Coles to discuss payment and let himself into Coles' room to determine if it was still occupied.

The manager testified that he called the FBI because he suspected he had seen evidence of drug dealing, including plastic bags, vials and a white substance.

When agents arrived, the manager unlocked Coles' room and allowed the agents to enter.

Prosecutors conceded that the first entry by the officers was illegal and insisted they were not relying on anything seen during that search.

Instead, they said, police set up a surveillance post in a room across the hall and later watched as Coles and another man entered the room, one carrying a backpack.

Garth found that the officers then decided to enter the room despite not having a warrant, but that their first attempts at subterfuge failed.

When an officer knocked and announced that he was "room service," Coles told him he had not ordered anything and refused to open the door.

The same officer later knocked again and said he was from maintenance and was sent to fix a reported leak. But Coles again refused to open the door, saying there was no leak.

Finally, the officer knocked a third time, more forcefully, identifying himself as a police officer and telling the occupants to "open the door, this is the police."

At that point, officers testified that they heard the sounds of rustling and running footsteps. One officer attempted to open the door using an electronic passkey, but was unable to gain access because there was a bar latch over the door.

After partially opening the door, officers said they heard the sound of a toilet flushing and the sounds of more running.

Coles eventually opened the door, and officers testified that they discovered several containers of crack cocaine and $2,000 in cash.

After Coles was indicted, Lindy moved to suppress the search, but Chief U.S. District Judge Harvey Bartle III refused, concluding that police had exigent circumstances -- the imminent destruction of the evidence -- that justified the warrantless search.

Now the 3rd Circuit has reversed, finding that an exigent circumstances rationale cannot be used where police themselves unreasonably create the emergency.

Garth found that since the police already had probable cause -- based on the hotel manager's statements -- they could have obtained a search warrant.

Prosecutors argued that the police properly used a "knock and talk" investigative tactic and forced their way into the room only when they became aware that Coles and his cohort were destroying evidence.

Garth disagreed, saying that since police already had all the probable cause they needed, they had "no legitimate reason to utilize the 'knock and talk' procedure."

The evidence, Garth said, showed there was "no urgency or need for the officers to take immediate action."

Instead, Garth said, it was only when the officers knocked on the door the third time and announced their presence that they heard sounds indicating that evidence was being flushed down the toilet.

"But that exigency did not arise naturally or from reasonable police investigative tactics," Garth said. "Quite to the contrary, the officers, after their pretextual announcements had failed to gain entry to [the] room ... deliberately created the exigency by knocking on the door ... and demanding entry."

But in dissent, Roth complained that "the majority's decision to focus the exigency analysis on the subjective intent of the investigating officers, and the subsequent, haphazard reaction the investigation generates on the part of the alleged criminal, produces the 'could've, should've, would've' analysis that is so anathema to our judicial role."

Roth said the majority had ignored the point that "knocking and attempting to engage a person in conversation are not violations of the Fourth Amendment," and likewise that entry into a dwelling in the face of exigent circumstances when the police have probable cause is also not a violation of the Fourth Amendment.

"The majority feels, however, that these two otherwise constitutional actions performed in sequence are greater than the sum of their parts and, therefore, constitute a violation of the Fourth Amendment because the police could have and, consequently, should have waited to obtain a warrant," Roth wrote.

Roth said she would have taken a different approach, focusing on the legality of each instance in which the police interacted with Coles.

"Since none of the three interactions violated the Fourth Amendment, and since entry was made only on hearing the toilet flushing, I would affirm the district court's denial of Coles' motion to suppress the physical evidence," Roth wrote.

FBI Operative In Waltz Says Legislators Attended Party In Miami (AP)

AP, February 15, 2006

A former federal agent testified today in Chattanooga that he took at least two Tennessee lawmakers to a yacht party in Miami while posing as an executive for a fake company seeking favorable legislation.

Joseph Carroll, an FBI retiree, did not identify the two who attended the party in 2004.

He testified at the trial of Hamilton County Commissioner William Cotton. He is accused of conspiring with former lobbyist Charles Love to obtain about $4,800 in bribes in return for supporting a resolution to benefit E-Cycle, a phony company the FBI created to seek government favors.

Carroll worked on the Tennessee Waltz investigation that led to charges against seven current or former elected officials and two so-called "bag men."

Earlier today, prosecutor John MacCoon said Cotton took bribes from a courier, or "bagman," in what he called "a corrupt politician's dream."

First Trial In Tenn. Corruption Starts (AP)

By Bill Poovey

AP, February 15, 2006

CHATTANOOGA, Tenn. -- The first trial in a public corruption sting dubbed the "Tennessee Waltz" started Tuesday, with a federal prosecutor telling jurors secretly recorded tapes would show how a county commissioner took bribes.

Hamilton County Commissioner William Cotton is accused of taking $4,750 in bribes in return for supporting a resolution to benefit a phony company created by the FBI.

Cotton, 58, is charged with attempted extortion and conspiracy to attempt extortion.

Seven officials _ including five current or former state lawmakers _ have been indicted in connection with the undercover sting that became public in May. The scandal lead to a special session of the Legislature, which passed a sweeping ethics reform bill earlier this month creating an independent ethics commission, restricting lobbyists and capping cash political contributions.

In his opening statement at the trial Tuesday, Assistant U.S. Attorney John MacCoon said Cotton took bribes from a courier, or "bagman," in what he called "a corrupt politician's dream."

Cotton's attorney, Hank Hill, countered that the prosecution's case would not offer any testimony from the alleged bagman, Charles Love, a former lobbyist who pleaded guilty to delivering payoffs to a state senator.

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"The one thing missing from the government's proof is Love," Hill said. "They have chosen not to bring him in. They have chosen not to indict him in this case."

William Cotton Trial Is Underway (WTVC-TV)

By Tracie Grant

WTVC-TV, Channel 9, February 15, 2006

By mid-morning a jury was picked to hear the case against William Cotton...

Shortly after that, attorneys presented their sides of the public corruption case. Both with very different takes on the charges, the proof and what allegedly happened between William Cotton and Charles Love.

The Government says they will show that Hamilton County Commissioner William Cotton knowingly took $4,750 in bribe money for favorable legislation and tried to cover it up. The defense says that no FBI undercover agent ever directly gave money to Cotton and told the jury they would hear a lot of inuendios but no actual proof of corruption.

Prosecutors say Cotton and Hamilton County former school board member Charles Love took bribes, discussed how to do it and not get caught. Leamon Pierce was at the courthouse today to back him up. The Government says Love went to South Florida working as a consulatant for E-Cycle Management, a computer recycling company when in reality it was a front for the FBI sting.

The Government says Love met with E Cycle Management at the Palms Hotel in South Miami Beach and five to six people indicted in Operation Tennessee Waltz including State Legislators met on a luxury yacht but not William Cotton.

The Defenses strategy includes not calling Love to testify, believing that Cotton felt the deal was legitimate, and to disreguard phrases from the undercover agents. The Government says it will show Love and Cotton discussing how to split the money, how much they would get, and how to use it. And how they split $6,000 in a Nashville meeting.

The agent who posed as management of the E Cycle Corporation testified this afternoon and said that Love was in fact untruthful. The Government says that Love had no knowledge that he was wirtetapped and that the sting was underway. If Cotton is convicted, he is looking at a range of zero to twenty years on each of these three counts.

The trial is expected to wrap up this Thursday.

Cotton Called "Corrupt Politician" Who Took Bribes (CHATT)

Chattanoogan, February 15, 2006

Attorney Hill Says Taped Comments Of Commissioner "Taken Out Of Context"

Prosecutor John MacCoon told a federal jury Tuesday that County Commissioner William Cotton is "a corrupt politician" who took bribes from a bogus company that turned out to be operated by the FBI.

In the first trial in the FBI's wide-ranging "Operation Tennessee Waltz," the prosecutor said tapes of Cotton and former County School Board member Charles Love revealed that they considered the operation was something "that fell into their lap. They did what corrupt politicians do. They talked about splitting up the money and how much they were going to get."

But defense attorney Hank Hill said Cotton statements on the tape that appear to be incriminating are "taken out of context." He said Cotton was actually counseling Love about being above board and asking for checks instead of cash.

Attorney Hill lambasted Love as "a con man, a thief and a liar. He even conned the FBI. He stole from the government."

Judge Allan Edgar is overseeing the trial in which Cotton faces a charge of bribery conspiracy and two counts of attempted extortion. He could face up to 20 years in prison if convicted.

A jury of five women and seven men as well as two male alternates was chosen late Tuesday morning, then opening statements were given prior to the lunch break. Three of the jurors are black.

Prosecutor MacCoon told the jurors, "You are about to see public corruption - politicians caught in the act of taking bribes."

He said the sting operation started in West Tennessee, then was expanded across the state, bringing charges against state legislators, including Sen. Ward Crutchfield, down to county officials.

Prosecutor MacCoon said a bogus company called E-Cycle Management was set up by FBI agents. The firm purported to be in the business of paying governments for used electronic equipment, then shipping the equipment overseas for recycling. He said the agents offered money to legislators and commissioners for favorable legislation.

He told the jury that the probe eventually led to those, including Love and Cotton, "who were willing to take a little money to grease the skids."

He said a state legislator told E-Cycle that Charles Love is "the guy to see in East Tennessee. He can fix you up with certain people."

The prosecutor said Love "identified certain people who were willing to take bribes. One he identified was William Cotton."

He said Love eventually "took bundles of bribe money to William Cotton."

He said two FBI agents who took the names of Joe Carson and John Morrow began working with Love and Cotton. He said the agents were wired, and he said they later got a court order to bug Love's cellphone. He said Love was not working with the government during the probe.

Prosecutor MacCoon said Love and Cotton "worked on getting their story straight," and he said, "William Cotton for $1,700 said he's ready to move on it."

He said Love was to set up an office and get monthly payments from E-Cycle.

The prosecutor said "Morrow" met with Love and Cotton at the Southside Grill in Chattanooga on Jan. 20, 2005, and passed Love an envelope containing $3,500 in cash while they were at a table eating. He said Love gave Cotton half the money out in the parking lot, then Cotton called to thank "Morrow," telling him, "You got a friend for life, Doc."

He said Cotton later said to Love, "You can tell your boys to get ready to bring that package in here. I hope it's bigger than the first one."

Prosecutor MacCoon said Cotton admonished Love about being so open about getting the cash, saying he should have gotten the envelope at the Southside Grill in the restroom rather than at the table.

He said Cotton told Love "that's how they got Gass." The prosecutor said that referred to the late Charles Gass, a County Commissioner who was convicted in 1988 of bribery in the same courtroom where Cotton is being tried.

Cotton stated, "I don't trust nobody."

The prosecutor said the jurors will see a video of $6,000 being passed to Love and Cotton in an envelope at a meeting last Feb. 21. He said in exchange "Cotton agreed to push the E-Cycle agenda before the County Commission."

He said Cotton once again called to thank the E-Cycle representative, who asked, "Is there any doubt you can do it?" Cotton replied, "Unless I get struck by lightning." Cotton said, "I'll do my part. I will do what I can to get it through."

Attorney Hill told the jury that one person is missing from the trial - Charles Love. He said, "They've chosen not to bring him in to testify and chosen not to indict him in this case." Love pleaded guilty earlier on other aspects of Operation Tennessee Waltz and is awaiting sentencing.

Attorney Hill said Love "is their bagman, not William Cotton's."

He said the E-Cycle pitch sounded "like a fantastic idea - a win-win." He said governments were going to get paid for items they were having to pay to get rid of, and it would also help free up landfill space.

He said County Mayor Claude Ramsey had one meeting with E-Cycle, and he said, "Great, guys, this is a niche. I love this kind of entrepreneurial spirit."

Attorney Hill said, "It was never the case that Claude Ramsey did anything improper. There is no indication that William Cotton did either."

He said the legislator who led the agents to Love was former Rep. Brenda Turner. But he said Ms. Turner advised them to "stay away from Charles Love. He's dangerous."

Joe Carroll, a retired FBI agent, testified that he took a contract position with the FBI to take part in the sting. He said the FBI had information on bribes going to government officials. He said, "We decided the best way to go about it was to set up a dummy company."

He said E-Cycle Management was to be based in Atlanta with offices in Memphis and Nashville. It was to ship used electronic equipment to the port of New Orleans for shipment to the Phillipines, where the equipment was to be reworked and resold.

He said it actually "made no sense from a business point of view."

He said another FBI agent was the vice president and a third was chief financial officer.

Agt. Carroll said the group found a contact in West Tennessee who introduced them to a number of legislators, including some who agreed to accept bribes.

He said it was during a meeting with then-Rep. Turner that he met Love, who was working in her campaign. He said, "Shortly thereafter, he contacted me about being our representative in East Tennessee."

Agt. Carroll said, "We basically interviewed Mr. Love to determine -being a lobbyist who had various contacts - could he lead us to criminal wrongdoing that he was either involved in or had knowledge of."

He said Love began to introduce them to legislators "who would take bribes for assisting us in passing favorable legislation." He said E-Cycle "made several payoffs to legislators in this area."

Agt. Carroll said it was learned that Love "on occasions would steal money from us and not give the total payment to legislators. We watched Mr. Love as closely as possible through various means."

He said the legislators would get "half or whatever Mr. Love decided to keep for himself."

Agt. Carroll said he got Love to confirm several times the amounts he had allegedly given to others, but he said he did not believe all that money actually did get transferred to those it was intended for.

He said during one conversation with Love the subject came up about Hamilton County officials. He said Love brought up Cotton's name several times.

He said Love said he "was on good terms with about four county commissioners." He listed Cotton, JoAnne Favors, Richard Casavant and Charlotte Vandergriff."

On cross examination, attorney Hill said, "You fooled a lot of people." The agent answered, "I was playing a role."

He said some of the legislators Love took E-Cycle to "didn't require any money." He said in those cases, no money was paid.

He was asked if Love is "a con man." He said, "Mr. Love is a lobbyist. Mr. Love is well liked."

He said it was set up that Love would get monthly payments from E-Cycle. He told of Love being among a group invited to a meeting on a large yacht at Miami, and he said Love was put up at the Palms Hotel.

A video was shown of a meeting with Love at the Marriott in Chattanooga. It shows Love being handed bundles of $100 bills.

The agent said Love "was to give money to a representative at dinner that night."

Prosecutors said they could make Love available as a witness if the defense wanted him. Attorney Hill said it was too late at this point. He said he was advised Love is working at an auto plant in Birmingham, but he didn't know exactly where.

A tape was played of a conversation between Agt. Carroll and Love in Miami. Agt. Carroll, posing as the E-Cycle president, mentioned several legislators that Love was working with, including Sen. Crutchfield, state Sen. David Fowler, R-Signal Mountain; state Sen. Jeff Miller, R-Cleveland, Rep. Tre Hargett, R-Memphis, and several others.

According to the tape, $3,000 had been paid by E-Cycle to Sen. Crutchfield.

They joked about Sen. Crutchfield being paid $150,000 as an attorney for the County School Board, while not handling many of their cases. He actually was paid $53,985.

He said in one conversation with Love he emphasized that he was "trying to get him directed where the FBI wanted to concentrate - not to solicit payments - but on people he had made payments to in the past."

Brian Burns, who is with the FBI in Memphis, said he is "the case agent who initiated the Tennessee Waltz investigation."

He said the initial focus was "on some corruption in the Juvenile Court Clerk's office in Memphis." He said an individual who had been paying bribes agreed to begin working with the FBI.

He said it grew to a probe of "basically systematic corruption through various levels of government throughout Tennessee."

Agt. Burns said during the sting the FBI "was not allowed to visit government officials, throw money at them and see if they take it." He said the focus was on those viewed to be "pre-disposed to criminal conduct."

He said Love made a statement to an informant on tape that "in the past he had made bribe payments."

Agt. Burns said it was decided to wiretap Love's phone. He said that is a drastic action that is not often taken. He said it requires several levels of review, including the main FBI office in Washington, and a federal judge must approve it. He said the wiretap order is for 30 days, and a report must be given to the judge every 10 days.

He said the wiretap for the Love phone was obtained Jan. 11, 2005, and it was renewed for a second month. He said a conversation was taped between Love and Cotton on Jan. 16, 2005.

On the tape, Love explained to Cotton about the E-Cycle operation. Cotton said he served as telecommunications chairman of a seven-state group, and he might get some business for E-Cycle there. He also said he had contacts in cities like Cleveland and Knoxville, noting that a deputy in the mayor's office in Knoxville is a relative of his aide, Sandra Weaver.

Love said he was being supplied $1,700 by E-Cycle to set up an office. He said he wanted to rent a portion of the building owned by Cotton at 3801 Alton Park Blvd.

Judge Orders Iraqi Deported (WT)

By Jerry Seper, The Washington Times

The Washington Times, February 15, 2006

A federal immigration judge in Seattle yesterday ordered the deportation of an Iraqi national with ties to a senior al Qaeda operative suspected of helping plan the attack on the USS Cole in Yemen in 2000 and the bombings of U.S. embassies in Kenya and Tanzania in 1998.

U.S. Immigration and Customs Enforcement (ICE) spokesman Dean Boyd said U.S. Immigration Judge Kenneth Josephson ordered Sam Malkandi of Kirkland, Wash., removed from the United States. Judge Josephson based his decision on evidence presented by ICE attorneys during hearings that concluded earlier this month, Mr. Boyd said.

Mr. Boyd said ICE attorneys accused Mr. Malkandi of committing fraud against the U.S. government to obtain immigration benefits for himself and his family.

He said the attorneys also introduced evidence, some of which was referenced in the September 11 commission report, that Mr. Malkandi used fraud in an attempt to obtain a U.S. visa for Tawfiq bin Attash, a one-legged al Qaeda operative also known as "Khallad." A trusted lieutenant and former bodyguard of al Qaeda founder Osama bin Laden, bin Attash is suspected of planning the embassy bombings and the Cole attack.

Mr. Boyd said the evidence linking Mr. Malkandi to the al Qaeda operative surfaced in 2003 after bin Attash was captured in Karachi, Pakistan, and turned over to U.S. authorities.

The September 11 commission report said bin Attash told U.S. officials in August 2003 that a person in Bothell, Wash., whose name sounded like "Barzan," had tried to help him obtain a visa to enter the United States. U.S. officials concluded that "Barzan" was a Bothell man named Sarbaz Mohammad, who changed his name to Sam Malkandi in 2001.

Mr. Boyd said an investigation by ICE and FBI agents on the Seattle Joint Terrorism Task Force determined that "Barzan" and Mr. Malkandi were the same person. Among other things, he said, federal agents were able to obtain documents showing that Mr. Malkandi had made arrangements with a clinic in Bellevue, Wash., for bin Attash, under an alias, to obtain a new prosthetic foot in 1999.

Bin Attash was never able to come to the United States because his visa application was denied, Mr. Boyd said.

ICE agents arrested Mr. Malkandi in August on fraud charges. He was accused of falsely claiming to have been incarcerated in Iran for possession of prohibited political materials, which originally qualified him for refugee status to enter the United States in June 1998.

"We are gratified that justice has prevailed in this case," said Dorothy Stefan, chief counsel for ICE in Seattle.

Under the law, Mr. Malkandi has 30 days to appeal Judge Josephson's decision. In the meantime, ICE continues to hold him without bail.

Committee Vote Drops Matter Of DeBerry Cash (TENN)

By TRENT SEIBERT, Staff Writer

Tennessean, February 15, 2006

An ethics complaint against Tennessee House Speaker Pro Tem Lois DeBerry, D-Memphis, died in the House Ethics Committee yesterday.

Because seven votes are needed to launch an investigation, and only six on the Democratic-controlled committee voted in favor, committee chairwoman Rep. Kim McMillan, D- Clarksville, said, "I declare the matter concluded."

The vote was the second time the committee failed to act on the complaint alleging DeBerry broke House ethics rules by accepting $200 at a casino from an undercover FBI agent. Actions of the committee require seven votes to pass.

DeBerry took the money and other gifts during a trip to Tunica, Miss., that turned out to be part of the FBI's Operation Tennessee Waltz bribery sting. The undercover operation has since resulted in nine arrests, but DeBerry is not among them.

DeBerry's admission in late July that she took money from E-Cycle was a reversal of what she had told The Tennessean two weeks before when she said she had taken no cash from the company.

"No, no," DeBerry said in a July 13 interview.

"I mean, cash would have been a red flag, anyway. And you learn from other people that have gone through this kind of stuff, and you know that any time somebody offers you cash, that a red flag ... should have gone up."

In her first committee appearance, she told the Ethics Committee in a prepared statement that her trip was a "lapse in judgment."

A partisan vote in that committee delayed action on DeBerry.

In addition, the committee delayed until Thursday acting on an ethics complaint against Rep. Judd Matheny, R-Tullahoma.

Matheny is accused by Rep. Phillip Pinion, D-Union City, of ethics violations because he directed a company from his district to distribute contributions to key legislators a week after accepting a $5,000 campaign contribution from it.

Included with the checks was a letter from Matheny written on his campaign stationery.

Matheny has said he did nothing wrong and was merely helping a constituent in his district. •

Witnesses: Didn't See Mayor Get Cash (AJC)

By Beth Warren , Jeffry Scott, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, February 15, 2006

There was more testimony Tuesday about lewd body positions of strippers, machine guns and arson than about any evidence directly linking former Atlanta Mayor Bill Campbell to bribes.

Once again, government witnesses testified that thousands of dollars in bribes were passed directly to Campbell's former aide Dewey Clark — not to the mayor himself.

In four weeks of testimony, Clark has been the only witness who has said cash bribes from city contractors were passed directly to the mayor's hands.

Prosecutors say Clark was a key bagman who squeezed city contractors on behalf of Campbell and handed the cash to the mayor for use on exotic trips with girlfriends and gambling jaunts with buddies.

Campbell insists he is innocent, and his defense team has portrayed Clark as a greedy wannabe who used the mayor's name to line his own pockets.

Clark testified that he also passed money from Atlanta strip club owner Michael Childs, who wanted the mayor to approve a liquor license for a controversial new night club, Strawberries.

Childs, an admitted arsonist and convicted felon whom the FBI caught plotting to beat up Campbell after the mayor didn't approve the liquor license, has yet to appear on the stand.

Instead, prosecutors Tuesday called Childs' former attorney, Alan Begner, who testified that the club owner told him he had passed a bribe through Clark to the mayor.

"Childs said he was giving money to the mayor through Dewey," Begner said.

As in the case of several other witnesses who have been called by the prosecution, Begner acknowledged under cross-examination that he didn't know whether the money ever made it to the mayor.

Defense attorney Billy Martin also set out to question Childs' credibility given his criminal past, which includes a bribery conviction and a prison sentence for setting fire to competing strip clubs.

Prosecutors have argued that Campbell sat on Childs' liquor license application for Strawberries for nearly eight months, which infuriated Childs.

Former City Attorney Hakim Hilliard testified Tuesday that Childs complained, "I gave the mayor $50,000 to his campaign, and I don't know why he's doing this to me."

Hilliard said Childs identified Dewey Clark as the one who passed the money on to the mayor.

Hilliard said he had his doubts about Childs' story, but he called the city attorney's office to report the allegation against the mayor just in case.

Prosecutors allege that the mayor retaliated and revoked the liquor license at Childs' Club Nikki V.I.P. and denied his liquor license request for Strawberries.

Martin, however, said the mayor opposed Childs' strip clubs for several reasons, including allegations of body positions of strippers so lewd they were illegal, two shootings — including one fatality — and suspected cocaine dealing, prostitution and pimping.

Another witness, businessman George Greene, formerly the owner of city contractor Sable Communications, testified Tuesday that he had given bribes to Clark, who was living in the basement apartment of the mayor's Inman Park home, with the understanding that Clark was giving it to Campbell.

Greene, however, said he never directly gave Campbell money, although he did once have a coded conversation with the mayor, asking him if he had recieved the "package" — a $750 bribe — that he had given to Clark.

He said the mayor looked annoyed and told him: "Next time that happens, you call."

On cross-examination by Martin, Greene said the mayor never asked him for a bribe or talked about bribes.

"Did you know if that money [$750] ever left Dewey's pocket?" Martin asked.

"No," Greene said.

Prosecution Dealt Blow In Trial (WXIA)

WXIA-TV, February 15, 2006

Government prosecutors in the corruption trial of former Atlanta mayor Bill Campbell will not be allowed to present evidence about two wallets filled with cash.

The government had planned to present two witnesses on Wednesday, Vertis McManis and Joe Reid, who admit they handled the cash bribes. The government's theory is that one wallet was given to Campbell.

But on Tuesday afternoon, Judge Richard Storey ruled there was no evidence that Campbell got the money, and ruled the testimony would not be allowed.

Earlier in the day on Tuesday, government witness George Greene testified about bribes he said he gave a bagman that were intended for Campbell.

Green says he gave Campbell $5,000, calling it a bribe disguised as a speaking fee. Green has previously served jail time for bribing Fulton County officials.

Green testified that on occasion, Campbell associate Dewey Clark would approach him and say that the mayor needed money. Green told the jury that on three occasions, he provided money.

A second witness shed some doubt on other allegations of bribes. Former Atlanta city attorney Hakim Hilliard testified he talked to Clark.

On the stand, Hilliard said, “I asked how he knew Dewey gave the money to the mayor. He looked puzzled and said, ‘I trust Dewey’.”

When Campbell’s lawyers queried Hilliard on cross-examination, asking if he believed Clark, Hilliard replied, “In my mind, I questioned it.”

The Campbell trial is now in its fourth week.

Author Testifies In Illinois Governor Case (BOS/AP)

By Mike Robinson, Associated Press Writer

The Boston Globe, February 15, 2006

CHICAGO --The nun whose best seller "Dead Man Walking" marked her as a leading opponent of capital punishment took the stand at George Ryan's conspiracy trial Tuesday and described the former Illinois governor as "a man of honesty and integrity."

"I find in him a man who is willing to look at public policy issues, even if it means growth and change," Sister Helen Prejean testified during Ryan's racketeering and conspiracy trial.

Federal Judge Rebecca R. Pallmeyer barred the 66-year-old nun from mentioning the issue that brought her together with Ryan -- the movement to repeal the death penalty in America.

Pallmeyer ruled the issue was irrelevant to charges that Ryan steered big-money state contracts and leases to friends and got free vacations and gifts in return.

Prejean testified that she had repeatedly met with Ryan to discuss "public policy" and "social policy" issues.

Under cross-examination by lead prosecutor Patrick M. Collins, Prejean flashed humor.

"As a product of Catholic education, it's every schoolboy's dream to cross-examine a nun," Collins said with a broad grin.

"You'd better mind your p's and q's, young man, or Sister Godzilla will haunt you for the rest of your life," Prejean said as the courtroom cracked up.

Questioned further, she admitted that she was unfamiliar with the charges against Ryan and knew nothing about his relations with co-defendant Larry Warner and other friends and lobbyists who prosecutors allege showered him with valuables.

Ryan and Warner say they did nothing illegal when Ryan was secretary of state for eight years in the 1990s and governor for four years starting in 1999.

Before leaving office in January 2003, Ryan commuted the death sentences of 167 inmates to life in prison and pardoned four others, declaring the state's capital justice system "haunted by the demon of error." Three years earlier he halted all executions in Illinois over fears that a flawed system had led to the wrongful convictions of 13 death row inmates.

"Dead Man Walking," published in 1993, tells the story of Prejean's work as spiritual adviser to a death row inmate. It later was made into a movie.

Janitor Got Holiday Cash (AP)

AP, February 15, 2006

CHICAGO (AP) — George Ryan wasn't the only one who got a share of the cash flowing around the Statehouse in Springfield over the Christmas holidays when he was governor.

The janitor once portrayed as a possible victim of a plan to grind cash Christmas gifts for Ryan out of low-paid state employees said Monday that he was sharing in the yuletide money, himself, and the source was the governor's own campaign fund.

"No arms were twisted," janitor Don Skoda told Ryan's racketeering and fraud trial.

Although his memory was hazy at first, Skoda eventually acknowledged that he would receive $50 checks from Citizens for Ryan just before Christmas and make a cash gift to Ryan of $15 or $25.

His testimony at Ryan's corruption trial put a new light on a controversy that arose two weeks ago when word of the cash Christmas gifts state employees gave Ryan first surfaced.

Real Estate Expert Says Ryan's Pal Gave State A Good Deal On Lease (AP)

AP, February 15, 2006

CHICAGO A real estate expert testifying at George Ryan's fraud trial says the state got a good deal on property it leased from the former governor's host on annual free vacations in Jamaica.Hugh Edfors told jurors today that another appraiser who testified for the government used flawed methods in concluding that the state paid too much under the lease.The building in South Holland was owned by businessman Harry Klein. He treated Ryan, his wife and some of his supporters to free vacations in Jamaica for years when Ryan was secretary of state.Prosecutors contend Ryan was paying Klein back for his hospitality when he leased the South Holland property as a truck drivers licensing center.But Ryan's defense attorneys say Ryan wasn't doing Klein a special favor because the taxpayers paid the going rate.

Paper Report Possible Petro Probe (AP)

AP, February 15, 2006

COLUMBUS, Ohio (AP) - Two Akron lawyers who say their firms lost much of their legal work for the state because they refused to donate to Attorney General Jim Petro's campaign said they have been contacted by the FBI about the accusations.

Attorney Ray Weber said Tuesday that he spoke with FBI officials last week about his allegations first published Jan. 29 in The (Cleveland) Plain Dealer.

Jack Morrison, who says Petro told him that his firm would lose state legal contracts because of donations to another candidate in the 2002 race, told the Dayton Daily News he was scheduled to speak with Akron FBI officials on Wednesday.

Petro, a Republican candidate for governor, has denied the accusations. Spokeswoman Kim Norris said federal authorities have not contacted his office.

"No one has contacted us, nor do we expect to be contacted, regarding these false, politically motivated allegations," Norris said.

Scott Wilson, spokesman for the FBI's Cleveland office, would not comment.

Morrison, a lawyer with the Akron firm Amer Cunningham, has said Petro told him at a campaign fundraiser that he would lose his state work but would have a chance to get it back if he made contributions.

Messages were left Tuesday seeking further comment from Morrison.

Amer Cunningham received $356,827 in state legal work in fiscal 2003, but the amount fell to $29,368 last year, The Plain Dealer's analysis of state records showed.

Weber's firm, Renner Kenner Greive Bobak Taylor & Weber, received $3.7 million in state contracts from 1999 to 2003. In 2004, that dropped to $300.

Weber said he believes his firm lost its patent work for the University of Akron and Kent State University because it refused a series of fundraising requests from Petro's campaign.

"I've never met him, I have nothing against him personally, but I think what he did with the intellectual property of these two universities was somewhat outrageous," Weber said.

Petro has said the firms lost work because of their ties to Summit County GOP Chairman Alex Arshinkoff. Morrison is Arshinkoff's personal attorney.

In the past, the state work had been awarded on the suggestion Arshinkoff, Norris said. Petro cut back on the firms' work on the recommendation of his deputy who said continually giving the same offices contracts could damage his reputation for independence and integrity.

Petro's campaign also was accused of trading campaign donations for state legal work in an affidavit filed in December in Cuyahoga County Common Pleas Court. In that statement, Columbus attorney Kevin O'Brien said Petro's chief fundraiser, Amy Gravengaard, told him legal work for the state was available for a $25,000 donation.

Petro's campaign said the allegation was false, and Gravengaard denied it.

FBI Probes Petro Contract Charges (CLPD)

By Ted Wendling And Sandy Theis, Plain Dealer Bureau

The Cleveland Plain Dealer, February 15, 2006

Lawyers: No campaign aid, no work

Columbus

-- The FBI has opened an inquiry into a report that Ohio Attorney General Jim Petro took lucrative state legal work away from two Akron law firms after their principals refused to contribute to his campaign.

Akron lawyers Jack Morrison and Ray Weber said they have been contacted by FBI agents and the Summit County prosecutor's office as a result of comments they made in a Jan. 29 Plain Dealer story.

Both lawyers said Petro punished them in 2002 for not supporting his campaign by withdrawing special-counsel contracts they had received from former Attorney General Betty Montgomery to handle patent and intellectual- property mat ters.

Weber said two FBI agents interviewed him for two hours on Thursday. Morrison said he agreed to meet with agents today.

FBI spokesman Scott Wilson would not comment, but Weber said the agents called the interview a "fact-finding" inquiry. Morrison said an agent told him it was part of a continuing probe.

"He said, We're not initiating a new investigation; this is part of an ongoing matter,' " Morrison said.

Petro's spokeswoman, Kim Norris, said Petro is neither surprised nor alarmed by the inquiry. Petro denies the charges and contends that they were ginned up by Summit County Republican Party Chairman Alex Arshinkoff, with whom Petro has feuded, to damage Petro's campaign for governor. Morrison is Arshinkoff's personal attorney.

"I don't think it's unusual that they would contact anybody who made comments in the paper, but that does not mean there is an investigation under way," Norris said. "No one has contacted us, nor do we expect to be contacted because these are politically motivated allegations."

Petro has been dogged by complaints that he has used the special counsel program as a fund-raising ATM, collecting hundreds of thousands of dollars from lawyers after awarding them unbid contracts.

Greg Coleridge, a member of an Akron social-justice organization who has been outspoken on campaign finance reform, noted that Columbus attorney Kevin O'Brien previously provided a sworn affidavit alleging that Petro's fund-raiser offered him special-counsel work in exchange for campaign contributions.

In complaints that Coleridge filed Jan. 31 with the Justice Department and Franklin County prosecutor, he also accused Petro of "laundering" campaign money through county party accounts.

Records obtained by The Plain Dealer show that Petro and other GOP officeholders have circumvented contribution limits by directing donors to give millions of dollars to state and county parties with the understanding that the money would be earmarked for their campaigns.

Morrison is the first person to publicly accuse Petro of personally overseeing a pay-to-play scheme.

"He said, I want you to know that you and your firm are going to be very unhappy with me next year,' " Morrison said. " I've got to support those who were loyal to me, and you weren't. You supported [former state Treasurer Joe] Deters, and as a consequence you're going to lose all your work, but if you guys want to get on board . . . you can make some contributions, but you're going to sit out a year.'

"I looked at him and I said, So blow the winds of politics. Sometimes you win and sometimes you lose.'

"

To reach this Plain Dealer reporter:

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Calif. Prison Guard Convicted Of Aiding Racist Prison Gang (AP)

AP, February 15, 2006

LOS ANGELES -- A former prison guard was convicted Tuesday of aiding a white supremacist inmate gang known as the Nazi Low Riders.

Prosecutors said Shayne Allyn Ziska, 44, helped the gang distribute methamphetamine, heroin and other drugs at the California Institute for Men in Chino.

Ziska was convicted of participating in a corrupt organization's conspiracy, violent crime in the aid of racketeering and deprivation of rights under color of law, said federal prosecutor Adam D. Kamenstein said.

He also was found Ziska guilty of allowing a gang member to stab an inmate.

Ziska faces up to 50 years in federal prison when he is sentenced May 8.

Ziska was placed on administrative leave from the prison in 2000 because of a California Department of Corrections investigation that was later turned over to the FBI.

Kamenstein declined to say what prompted the probe.

Ex-guard Convicted In Gang Case (RPE)

By GREGOR McGAVIN, The Press-Enterprise

Riverside (CA) Press-Enterprise, February 15, 2006

A former prison guard from Fontana was found guilty Tuesday on federal racketeering charges for helping a white-supremacist gang deal drugs and assault other inmates at the California Institution for Men in Chino.

Shayne Allyn Ziska, 44, faces a maximum of 50 years in federal prison when he is sentenced May 8.

Prosecutors said Ziska, who worked at the prison from 1984 until 2000, helped the Nazi Low Riders deal heroin and methamphetamine inside the prison in the 1990s and let gang members jump two inmates, stabbing one underneath the eye and slicing another's neck.

After a two-week trial at U.S. District Court in Los Angeles, District Judge Terry Hatter Jr. found Ziska guilty of federal conspiracy and racketeering and depriving inmates of their rights.

"He helped them do what they wanted to do in prison and they helped him do what he wanted to do," Assistant U.S. Attorney Adam Kamenstein said by telephone.

Kamenstein said prosecutors do not believe Ziska profited monetarily from aiding the gang.

"We believe that the defendant shared in the philosophy and ideology" of the racist gang, he said.

According to the Anti-Defamation League, the Nazi Low Riders originated in California's juvenile prison system in the 1970s and gained power by an alliance with the Aryan Brotherhood, an older white-supremacist prison gang.

Ziska's conviction is the latest in an FBI effort to weaken the Nazi Low Riders' power within the prison system. The federal Department of Justice said the gang is responsible for a large number of the crimes committed by white inmates.

A continuing investigation has led to at least a dozen indictments, including eight convictions, according to the U.S. attorney's office.

Kamenstein would not say whether other guards at the Chino prison have been investigated.

He said 10 former inmates from Chino -- including former Nazi Low Riders and skinheads -- and two guards testifed against Ziska.

Ziska, who was placed on administrative leave in 2000, had worked in the prison's reception area, where inmates are taken before they are assigned to permanent housing.

Reach Gregor McGavin at (909) 806-3069 or gmcgavin@PE.com

Attorneys Argue Cubans Denied Fair Trial (FINDLAW/AP)

By Giovanna Dell'orto, Associated Press Writer

AP, February 15, 2006

(AP) - ATLANTA-Prosecutors and defense lawyers sparred Tuesday over whether five Cuban intelligence agents could have received a fair trial in Miami at the same time the community was focused on the politically charged case of young Elian Gonzalez.

Prosecutors urged the 11th U.S. Circuit Court of Appeals to deny the agents' request for a new trial because there was no evidence jurors had any prejudice about their guilt or innocence.

"Nothing indicates that any member of the jury was influenced by anything going on outside," said Assistant U.S. Attorney David Buckner.

Defense lawyers argued that the events surrounding Elian inflamed the community, making it impossible for jurors to be impartial about any case involving Cuba. The then-5-year-old boy was found clinging to an inner tube in November 1999 after a boat carrying would-be migrants capsized in a storm. His mother died, and after a court battle waged by his anti-Castro relatives in Miami, Elian was handed over to his Cuban father by the U.S. government in 2000.

The five Cuban agents were convicted in Miami in 2001 of being unregistered foreign agents.

A three-judge panel of the 11th Circuit threw out all the convictions in August, ruling that pretrial publicity combined with pervasive anti-Castro feeling in Miami didn't allow for a fair trial. The government asked the full appeals court to reconsider.

The five men have acknowledged being Cuban agents, but said they were spying not on the United States but on U.S.-based exile groups planning terrorist actions against the Castro government.

Defense attorney Richard Klugh suggested the government's case inflamed anti-Castro passions because it focused on the agents' intent to disrupt the exile community.

"Nothing could be more offensive," Klugh told the 11th Circuit. "The case played to themes other than crime and espionage."

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Buckner insisted the trial was fair because the court took "vigorous and ultimately successful steps" to select and isolate jurors - none of whom was of Cuban ancestry.

The five defendants - Gerardo Hernandez; Rene Gonzalez; Antonio Guerrero; Fernando Gonzalez, also known as Ruben Campa; and Ramon Labanino, also known as Luis Medina - remain in prison. Hernandez also was convicted of conspiracy to commit murder in the deaths of four Miami-based exile pilots shot down by Cuban aircraft in 1996.

Convicted Killer Of Taxi Driver Set To Be Executed In Texas Wednesday (FINDLAW/AP)

By Michael Graczyk, Associated Press Writer

AP, February 15, 2006

(AP) - LIVINGSTON, Texas-A 32-year-old man convicted of robbing and killing a taxi cab driver 14 years ago is set to be executed Wednesday night.

Clyde Smith, who was also linked to the fatal shooting of another Houston cab driver, will be killed for the murder of David Jacobs.

"I wasn't there when he was killed," Smith said in a recent interview at the Texas Department of Criminal Justice Polunsky Unit, home to the state's death row. "I got there afterward."

Smith, who once worked as a security guard, would be the fourth prisoner put to death this year in Texas and the second of three scheduled for execution this month in the nation's busiest capital punishment state.

Lawyers for Smith filed a clemency petition with the Texas Board of Pardons and Paroles in hopes of stopping the punishment.

In earlier appeals, lawyers pointed out federal judges agreed Smith may have had poor legal help during his trial and that he suffered significant abuse as a child, which they said was not pursued by his trial defense team.

"Nevertheless, ... courts concluded that Smith must shoulder the consequences," Clint Broden, Smith's appeals lawyers, said.

At his trial, defense attorneys presented no witnesses.

"I had no idea how the system worked," Smith said from death row. "All I knew was what I saw on TV. It's much different."

Harris County district attorney Joe Owmby, who prosecuted the case, said defense lawyers "had nothing to work with except ... to discredit the witnesses that we did have."

Owmby said Jacobs used to carry a Bible with him in his cab and spoke of his religion to passengers.

"He would witness to people in his taxi if the conversation came up," Owmby recalled.

Two women, girlfriends of Smith, testified against him. One of them said she was in the cab when he committed one of the slayings.

"Things always went wrong when I was associated with people," said Smith, who was 18 at the time of the slayings. "I didn't actually kill anyone, but it's possible I could be killed by the state."

Smith was 18 at the time of the killing and had been in Houston about 10 months. His mother lived in Mississippi, where he dropped out of school in the ninth grade.

He said from death row that the last time he saw a relative, among them four brothers and a sister, was in 1991. He also has a daughter, about 18, who has no contact with him.

"I didn't want her to be exposed to this," he said.

One of his girlfriends called a crime tip line that led police to Smith, who later confessed to detectives about the Feb. 7, 1992, slaying of Jacobs, 45, and the similar shooting and robbery six weeks later of another cab driver, Victor Bilton, a confession he said he made after police wore him down.

"I realize how bad that looked, because the two were so similar," he said of the two slayings. "But at the same time, I still maintain I didn't kill those persons."

Owmby disagrees.

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"He is a cold-blooded, remorseless individual who could have contributed to society, but decided to take the lives of two people who were important to a lot of people just by being who they were - hardworking people who drove cabs and lived good lives in Houston," Owmby said.

Texas Department of Criminal Justice execution schedule: http://www.tdcj.state.tx.us/stat/scheduledexecutions.htm

Judge Orders A Kinder Execution (LAT)

By Louis Sahagun

The Los Angeles Times, February 15, 2006

A federal judge today refused to delay death row inmate Michael Morales' Feb. 21 execution, but told prison officials they would have to change how they administer the lethal injection that kills him.

In his ruling, Judge Jeremy Fogel said officials either must kill Morales with barbiturates alone, or provide an anesthesiologist or other medical professional to monitor that the prisoner is unconscious before they deliver a fatal dose of a heart-stopping chemical.

Fogel acknowledged that the change would probably prolong the execution, but said Morales had raised legitimate questions that the state's procedures are excessively painful, relying in part on problems encountered during the recent executions of Stanley Tookie Williams and Clarence Ray Allen.

Lawyers had requested that Fogel stop the Morales execution by arguing that lethal injection is not always a rapid, pleasant way of producing unconsciousness and painless death.

California corrections officials now execute condemned inmates with a combination of three chemicals: sodium pentothal, a short-acting barbiturate; pancurium bromide, which paralyzes all voluntary muscles; and potassium chloride, which causes cardiac arrest.

In theory, the sodium pentothal renders the inmate unconscious long enough for the potassium chloride to kill him. Without the sodium pentothal, the injection of potassium chloride would cause intense burning pain. With it, state lawyers argue, the inmate feels nothing.

Although lethal injections have been used for more than a quarter century, Morales' lawyers argued that they violate the Constitution's ban on "cruel and unusual punishment."

In recent weeks, the U.S. Supreme Court has temporarily blocked executions in two Florida cases to allow time for lower court judges to consider arguments against lethal injection.

Morales' lawyers argued that recent executions have gone awry. On Dec. 13, a profusely sweating prison nurse poked Williams' muscular arm 12 minutes before finding a vein to deliver the toxic cocktail. In Allen's execution, he required a second dose of potassium chloride to stop his heart.

On Monday, Fogel asked the Department of Corrections whether it would be feasible to proceed with the execution using only the bromide chemical.

Morales, 46, of Stockton, was convicted in 1983 of murdering Terri Winchell, 17, who was found beaten, stabbed and raped in a secluded San Joaquin County vineyard.

Fogel's ruling is expected to be appealed to the U.S. 9th Circuit Court of Appeals and the U.S. Supreme Court, possibly by this weekend.

The U.S. Supreme Court has never found any method of execution to be unconstitutional. Fogel has previously rejected two other challenges to lethal injection, but those rulings were based primarily on procedural grounds.

Morales' lawyers in the San Jose case are David A. Senior of Los Angeles, John R. Grele of San Francisco and Richard P. Steinken of Chicago.

Earlier this week, former Whitewater independent counsel Kenneth Starr and Senior withdrew unreliable affidavits — purportedly from jurors — which had been submitted to Gov. Arnold Schwarzenegger as part of a parallel bid to spare Morales.

The bulk of the documents supporting clemency for Morales were denounced by prosecutors as forgeries. Senior withdrew the papers, saying they should not affect central issues in the appeal.

DOJ_NMG_0015024

Judge Rules California Must Alter Protocol For Executions (AP)

By David Kravets

AP, February 15, 2006

SAN FRANCISCO - A federal judge ruled Tuesday that California must change its lethal injection method for the execution of Michael Morales next week because the current mix of drugs may constitute cruel and unusual punishment.

U.S. District Judge Jeremy Fogel in San Jose declined to immediately postpone Morales' Feb. 21 scheduled execution, but he ordered the state to either have an expert present to ensure he's unconscious from a sedative or replace a three-drug death potion with a lethal dose of barbiturate.

Fogel said he was concerned inmates are conscious and undergoing extreme pain once a paralyzing agent and then heart-stopping medication begin coursing through their veins.

If the state declines to choose either new option, Fogel said he would stay the execution and have hearings on whether California's injection protocol was cruel and unusual punishment, a violation of the U.S. Constitution.

"The present action concerns the narrow question of whether the evidence before the court demonstrates that defendants' administration of California's lethal-injection protocol creates an undo risk that plaintiff will suffer excessive pain when he is executed," Fogel wrote. "While the court finds that plaintiff has raised substantial questions in this regard, it also concludes that those questions may be addressed effectively by means other than a stay of execution."

Fogel said his decision "preserves both the state's interest in proceeding with plaintiff's execution and plaintiff's constitutional right not to be subject to an undo risk of extreme pain."

Nathan Barankin, spokesman for Attorney General Bill Lockyer, said the office was reviewing the decision and was not immediately prepared to comment. On Monday, it told Fogel that it rejected those two proposals.

Attorneys for Morales alleged a mistake in the sedation process might mean he would appear unconscious, but internally would succumb to excruciating pain once the paralyzing and death agents were administered.

David Senior, one of Morales' attorneys, said he was mulling the decision.

"To me, telling them they have to change the protocol indicates that it is a constitutional violation or he wouldn't be telling him to change the protocol," Senior said.

Morales, 46 of Stockton was convicted in 1983 of murdering Terri Winchell, 17, who was found beaten, stabbed and raped in a secluded vineyard.

Fogel said he decided to change California's injection protocol because, at the end of the day, neither "the death penalty nor lethal injection as a means of execution would be abolished."

The U.S. Supreme Court has upheld executions in general despite the pain they might cause inmates, but has never directly addressed whether alleged pain in lethal injections is unconstitutionally excessive and can be avoided.

Todd Spitzer, R-Orange, a death penalty supporter, was relieved that Fogel did not declare lethal injection unconstitutional.

"I think you should always evaluate the medical science on what is an appropriate lethal injection," he said.

Thirty-six of the 38 states that have capital punishment use a lethal injection procedure similar to California's.

The state switched to lethal injection after a California judge ruled that San Quentin State Prison's gas chamber was cruel and unusual punishment.

The case is Morales v. Hickman, 06-219.

Judge Sets Conditions For Next Calif. Execution (REU)

Reuters, February 15, 2006

SAN FRANCISCO (Reuters) - A U.S. federal judge on Tuesday declined to stay the execution of a California murderer because of his claim lethal injection constitutes cruel and unusual punishment but set conditions on how the process must be conducted.

After rejecting similar arguments in two previous cases, U.S. District Judge Jeremy Fogel said prison authorities must either alter composition of the lethal chemicals or set up procedures to assure the prisoner is unconscious when the lethal chemicals start flowing.

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"Many other courts have reviewed lethal-injection protocols similar to California's," the judge wrote in his order. "To date, no court has found either lethal injection in general or a specific lethal-injection protocol in particular to be unconstitutional."

Judge Fogel expressed concern however that the administration of the chemicals, which should be lethal very quickly, sometimes takes several minutes before the prisoner dies.

The decision sets specific conditions for the scheduled February 21 execution of Michael Morales, 46, at San Quentin State Prison.

Morales was convicted in 1983 of murdering a 17-year-old woman with a hammer to her head and then by stabbing her. He also had sex with her unconscious body.

Police Officer Kept Jailed On Threats Charges (AP)

AP, February 15, 2006

(AP) BALTIMORE A federal judge has refused to release a western Maryland police officer charged with making bomb threats and anthrax threats in Hagerstown.

Jeffrey Shifler is scheduled for a preliminary hearing February 27th in U-S District Court in Baltimore. But the U-S attorney's office says that appearance would be canceled if Shifler were to be indicted in the interim.

The FBI arrested the 41-year-old defendant Thursday. Authorities say the threats began four months after he was fired from the Hagerstown Police Department in November 2003 for falsifying payroll records.

Shifler later joined the police force in the nearby town of Boonsboro, which has suspended him without pay.

Authorities allege he made 14 anonymous telephone calls and sent at least nine anonymous letters, many containing racial slurs. The threats targeted 25 people and institutions, including five public officials, schools, public office buildings and low-income housing complexes.

Desperation, Not Bravado (PHI)

By Sam Wood

The Philadelphia Inquirer, February 15, 2006

Alvin Jumpp had a good job teaching history at South Philadelphia's Audenried High School, a wife who loved him, a comfortable home in the South Jersey suburbs - and $310,000 in debt.

His life sank into a tailspin of drinking, depression, and thoughts of suicide. Jumpp decided to put on a ski mask and rob a bank.

But in an age when a man with a computer can steal much more than a man with a gun, the typical bank holdup is no longer the big score it was in the Depression era, when a character like Willie Sutton knocked over dozens of banks in a career that earned perhaps $2 million.

Today's robbers average $1,400 per heist, authorities say, and police catch six out of 10. Only homicide has a higher clearance rate.

To understand why anyone would challenge such odds - placing bank customers and employees at risk and ignoring sophisticated security cameras, man-traps, marked bills, and exploding dye packs - take a look at Jumpp.

He is typical of the region's modern-day robber - an otherwise ordinary man overwhelmed by debt or addiction.

Jumpp, 56, graduated from the University of Pennsylvania and was beloved at Audenried. He was married to a middle school principal, father of two adult sons, active in his church, and known to students for his generosity.

In 2001, he fell behind on the mortgage for his Mount Laurel home. He was buried in debt from 16 credit cards, he said.

"No one, including my wife, knew of my financial difficulties," Jumpp said in one of a series of prison letters about his robbery career. "To make matters worse I started to drink heavily. I sank into a deep depression. It was under these circumstances that I committed the crime."

He chose the Farmers & Mechanics Bank near his home, where he had been a customer for almost 15 years.

He approached a teller and, with his hand covered by a bag, pointed his index finger in the shape of a gun.

"Hold your hands up!" Jumpp ordered the teller, according to prosecutors. He pushed two yellow shopping bags across the counter and ordered them filled with money.

It worked. He got away.

No one was more surprised than Jumpp.

"Several staff and patrons who I knew well recognized me," Jumpp said. "Nobody, however, could believe that it was me or refused to believe it was me."

So he robbed the same bank again. And a third time. He deposited more than $17,600 of the bank's marked money into his account at the same bank.

He got caught because a teller finally recognized his native Caribbean accent.

Jumpp said he was relieved.

"What I have done went against the grain of my values and beliefs," he wrote from prison in Minersville, Pa., where he is serving a five-year, three-month sentence.

"Sometimes when I reflect, I still wonder how I brought myself to rob a bank. Me, rob a bank? Impossible. But it's true. I'm in prison."

John Dillinger robbed dozens of banks, stole enormous sums of money, and became Public Enemy No. 1 in the 1930s. Dillinger, Sutton, and the other infamous crooks of the era captured the nation's imagination. They were front-page news.

Today's bank robber still makes news, but for different reasons.

"Bank robbery is a crime of desperation, not a crime of passion," said Jerri Williams, spokeswoman for the FBI in Philadelphia. "And where does that desperation come from? Drugs. Gambling. Mental illness."

Of the bank robbers arrested in 2004, the last year for which complete statistics were available, 45 percent were addicted to drugs, Williams said.

Most modern bank robbers are "quite timorous," said James Gilligan, director of the Center for the Study and Prevention of Violence at Penn.

"They're often so frightened, that, like people in combat, they'll lose control of their sphincters," he said.

Gilligan said he considered bank robbery, like other violent crimes, a public health problem.

"When we talk about bank robbers, consider this: No normal person would behave that way," he said. "Most violent criminals are suffering from an undiagnosed and untreated mental illness."

Consider some recent high-profile bank robberies:

Greg Hogan, 19, a Lehigh University sophomore and president of the Class of 2008, was charged with robbing an Allentown bank in December after racking up a $5,000 poker debt on the Internet.

Twin 14-year-old girls from South Jersey were convicted of robbing a bank with toy guns in October 2002 at the Shore, trying to raise money to stave off foreclosure on the family's home. Their mother was convicted of driving the getaway car.

Honors student Chad L. Wegkamp was sentenced to 35 years for an August 2001 holdup at a bank across the street from a Virginia sheriff's office. Wegkamp, a paranoid schizophrenic, said he needed the money to pay for surgery to reduce the size of his scrotum. His sentence was suspended, and he was released to a halfway house after serving three years in a federal prison.

Then there's Phillip Dwayne Fuller, a tall, gangly man with thick eyeglasses who spent 91/2 years in prison for robbing 10 banks in the Philadelphia region in the early 1990s.

Now he's back behind bars for robbing 14 more.

"I was broke," he said. "I needed the money."

Fuller, 41, a self-described pathological gambler, said in letters from prison that he had robbed banks to pay gambling debts. He chose banks, he said, because "unlike liquor stores, someone's not going to have a shotgun behind the counter."

Soon after he was released in August 2003, he got depressed. His wife wouldn't allow him to see his two children. His parents wanted no part of him. There was no program to treat his gambling habit at the halfway house.

So he started doing what made him feel good - gambling.

He met a bookie through a fellow inmate. In a couple of weeks, he racked up a $15,000 debt betting on baseball.

He resumed robbing banks. He hired a car service for each stickup and tipped the drivers up to $1,000.

"What was used was either a Town Car sedan or in two robberies a BMW," he said.

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One driver took him to seven heists. He'd call the car service and ride around until he saw a bank he liked - usually a Commerce Bank.

"They had the least amount of obstacles," Fuller said. "They made it easy."

He'd pick the least-threatening teller. He'd smile and try to look benign as he passed notes that read: "Give me all the money" or "Give me all the big bills, 100s, 50s, 20s."

The tellers were terrified.

So was Fuller.

"I just wanted to get out of there," he said. "I was thinking, 'I wish she would just hurry up' and 'I hope she don't push no alarms.' "

After a month of bank holdups in New Jersey, Pennsylvania, Connecticut and New York, his luck ran out.

FBI agents tracked the license plate on one of the getaway vehicles to the car service. Agents grabbed Fuller in September 2003 as he left the Hotel Grand Union in Manhattan.

Now he is serving 11 years without parole at the federal penitentiary in Allenwood, Pa.

He desperately wants "to be normal."

"Bank robbery is not a sophisticated crime. But people who need money in a hurry, like myself, are apt to turn to it," Fuller said. "A desperate person can go into a bank and three to five minutes later will have enough money to alleviate his problems."

FBI May Probe Beating Of 5 Organizers (PHI)

By Jane M. Von Bergen

The Philadelphia Inquirer, February 15, 2006

The FBI may take over the investigation into the beating of five union organizers at the Philadelphia Airport Marriott last Wednesday.

The men, who were from the Transport Workers Union, were beaten, allegedly by members of the rival International Association of Machinists during a meeting at the hotel.

Investigators from the Philadelphia police and the FBI are to meet today to see which agency will handle the investigation, said Lt. John Walker of the Southwest Detective Division. The TWU had sought federal involvement.

The unions are in competition to represent baggage handlers and fleet-service workers at US Airways, which merged last year with America West Airlines.

Yesterday, Robert Roach Jr., the machinists' union's general vice president, sent a letter to members condemning violence without going into specifics about whether the union had a role in the beatings.

The TWU represents about 2,400 baggage handlers originally with America West, while the machinists represent original US Airways baggage handlers, the majority. Many work in Philadelphia, a US Airways hub. The organizers were in Philadelphia campaigning for a potential election.

Roach's letter said IAM members "may have heard reports that a Transport Workers Union organizing meeting in Philadelphia last week apparently led to allegations of an assault involving IAM members... ."

"Foremost, the IAM does not advocate or condone violence," Roach wrote. The union, he said, will cooperate fully with law enforcement officials. "At the same time," he said, "this matter won't be resolved through the rumor mill or prejudgment."

Roach said the union would fulfill "its legal obligations to represent any member who may be charged by US Airways with violating company rules and regulations."

About 9:30 a.m. last Wednesday, three men identifying themselves as IAM officials warned five TWU organizers to leave the hotel and the city, according to an affidavit filed with the National Mediation Board by one of the TWU organizers. A few minutes later, 25 men entered the room and began throwing chairs, glasses, tables - and punches - according to the affidavit. Two of the TWU organizers were beaten badly enough that they went by ambulance to Methodist Hospital.

Hotel videotape captured the men in the hotel corridors, but not what happened inside the meeting room. US Airways officials were able to identify all those on tape, police said.

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Walker said the police had completed their investigation and had sent a report to the Philadelphia District Attorney's Office for a decision on whether to prosecute. The decision will also depend on whether the FBI takes over the case.

Details Of Accused Terrorist Emerge (PHI)

By John Shiffman And Alfred Lubrano

The Philadelphia Inquirer, February 15, 2006

A Wilkes-Barre man labeled a terrorist by a federal prosecutor was fired from his job in southern Idaho just days before the FBI arrested him there, a company official said yesterday.

"We got rid of him after about a week," said Mark Mendiola, spokesman for AMI Semiconductor. "He was terminated for performance and work-ethic issues." Mendiola declined to elaborate.

It was among a handful of new details to emerge in the case of Michael Curtis Reynolds, arrested Dec. 5 in an FBI sting in which authorities say he was led to believe that he was plotting with an al-Qaeda operative to attack U.S. pipelines and oil refineries.

Reynolds, 47, is being held in the Lackawanna County jail on unrelated grenade charges. However, as The Inquirer reported Sunday, federal authorities believe he was attempting to commit terrorist acts when he was arrested. That disclosure was made during a Dec. 19 detention hearing at the federal courthouse in Wilkes-Barre.

Yesterday, Reynolds' sister and mother issued their first statement about the case. They said they had "been estranged from Michael for some time now" and referred further questions to the FBI.

"That's all we're going to say for forever," the four-line statement read.

Meanwhile, the Times-Tribune of Scranton reported yesterday that Reynolds wrote a letter to the newspaper in which he denied that he was a terrorist or planned to hurt anyone.

The letter's authenticity could not be confirmed, said the newspaper's assistant metro editor, Chris Imperiale. Janine M. Donate, acting warden of the Lackawanna County jail, saw the envelope and said a prison stamp looked legitimate, but she said she had not seen the letter.

The Times-Tribune reported that the letter was received Monday but was postmarked Friday, a day before The Inquirer's report hit newsstands.

The two-page, typewritten letter says in part: "They are trying to come up with charges under the Patriot Act against me, as I used the Internet to try and catch a person that I had believed to be a terrorist and hand them over to the proper authorities."

The letter also refers to three children and child-support debts: "So I sit here while lawyers play with my life, waiting for what they invent for charges, hoping that I can be released to settle my debt before I have another legal issue."

Also yesterday, Drew Outhouse, the former chief of the fire department in the Westchester, N.Y., community where Reynolds grew up, said that Reynolds attempted to kill his parents in a fire he set in 1978.

Outhouse, then a captain with the Croton Falls Fire Department, said that Reynolds - around 20 at the time - unsuccessfully tried to use propane, cans of oil-based paint, and a detonator to burn down the house as his parents slept.

"It was surreal, like Rod Serling was there," Outhouse recalled. "It was midnight, it happened 30 years ago, but it sticks with you.

"Crazy as it sounds, he didn't get charged with much," Outhouse said. "His father went to bat for him and got the charges knocked down. You try to kill your mother and father - that's kind of bad."

Reynolds was convicted of attempted arson, and was sentenced to a conditional discharge, Outhouse said.

He also said that Reynolds was dubbed the "Phantom of the Hallways" in the yearbook of North Salem High School, from which he graduated in 1976. "He sort of blended in with everyone else," Outhouse said. "It said in the yearbook he wanted to be a doctor someday."

At Reynolds' December detention hearing, a prosecutor laid out some of the FBI evidence of terrorism.

According to a transcript, Assistant U.S. Attorney John Gurganus Jr. said that Reynolds was "attempting to provide material aid to [the] al-Qaeda terrorist group."

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"What we're talking about is not only the grenade that he had but his activities... to assist al-Qaeda in the planning and the destruction of fuel facilities," Gurganus said. "And he was doing it as a plan to disrupt governmental function, to change the government's actions in foreign countries and to impact on the national debate about the war."

Reached at his office in Scranton, Gurganus declined to comment. Reynolds' lawyer, Philip Gelso, also declined to comment.

Reynolds' arrest capped a six-week FBI sting operation in which he was drawn to a meeting with a purported al-Qaeda operative in southern Idaho, where authorities say he expected to receive $40,000 to finance the alleged plot.

The al-Qaeda contact was actually Shannen Rossmiller, a 36-year-old judge who lives in Conrad, Mont. She was working for the FBI.

After his arrest, authorities said, Reynolds tried to disavow any intent to conspire with al-Qaeda.

"The first things he tried to claim was that he was not a terrorist," Gurganus said in court, that "... this was just an effort on his behalf to lure al-Qaeda in, that he was later going to communicate to this company that he previously worked for, and that they were going to somehow effect some takedown."

Gurganus said agents didn't believe him.

"He then admitted that he had, indeed, provided two target cities in Pennsylvania and New York for these terror cells, one being in Benton, Pa., and the other in Newark, N.J.," the prosecutor said. "And there was talk of this in the e-mails that he had left there."

Gurganus said agents asked him why he would send information on bombs to terrorists.

"He responded that he only gave them some plans and that he was not going to give them all the plans," Gurganus said.

Fla. Killer Asks Judge To Spare His Life (FINDLAW/AP)

By Mitch Stacy, Associated Press Writer

AP, February 15, 2006

(AP) - SARASOTA, Fla.-A weeping Joseph Smith apologized Tuesday for the abduction, rape and murder of 11-year-old Carlie Brucia two years ago, telling a judge he had taken large amounts of cocaine and heroin that day in hopes of killing himself.

Smith told Circuit Judge Andrew Owens, who will sentence him to death or life in prison, "I do not ask for mercy for myself. The only thing I can see to give me a life sentence is for my family. I do not want to see them hurt any further."

Carlie was abducted while walking home from school in February 2004, an attack that was caught on a car wash surveillance tape and broadcast nationwide.

Friends and even Smith's brother said they recognized the burly mechanic grabbing the young girl's wrist on the tape as Smith. A jury found the 39-year-old guilty last November and recommended by a 10-2 vote that he be executed.

Owens will ultimately sentence Smith on March 15. Under Florida law, he must give the jury's death sentence recommendation "great weight."

Smith told Owens during the second day of the sentencing hearing Tuesday that he had been a heroin addict since he was 19 and had unsuccessfully tried to quit several times. He said his wife had kicked him out of their home in January 2004, he had lost his job and, in the hours before abducting Carlie, he tried to overdose.

"I just wanted to die that day," he said. But, he said, "I take responsibility of my crimes."

Defense attorney Adam Tebrugge on Monday cited medical records as early as 1992 showing Smith had been involuntarily admitted to a hospital, and said Smith also had been arrested at least 13 times since 1993, mostly on drug offenses.

Smith's 15-year-old niece, identified only as KS because of her age, also testified about his character, saying Monday that she enjoyed seeing Smith at family holidays and barbecues and walking dogs together.

But Carlie's friends and family members talked of the desperation and grief the man had caused.

Carlie's mother, Susan Schorpen, could not appear because she is jailed on drug charges, but in a letter read by prosecutor Debra Riva, Schorpen said she had institutionalized herself three times, and was trying to self-medicate with drugs to numb the pain of losing her daughter.

Noel Gilliland, Carlie's former sixth-grade teacher, said two of the girl's friends failed the sixth grade after her slaying.

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"Carlie's future and life have been stolen from her and from her family," her aunt Lori Brucia said on behalf of the girl's grandmother, Andrea Brucia. "We will never know her as a teenager.

"Our family is forever broken. Our nightmares about what you've done to her - our hearts will never heal."

Broader Inquiry Examines Ovitz Ties To Detective (NYT)

By David M. Halbfinger And Allison Hope Weiner

The New York Times, February 15, 2006

LOS ANGELES, Feb. 14 — Federal authorities have engaged in a far more extensive investigation than was previously known of the ties between Michael S. Ovitz, the former Hollywood power player, and Anthony Pellicano, the celebrity private detective who was indicted on federal wiretapping charges.

Mr. Ovitz has been called before a grand jury to testify about his dealings and conversations with Mr. Pellicano, who pleaded not guilty to charges that were unsealed last week in a 110-count indictment.

Government prosecutors have also examined Mr. Ovitz's legal fight with Cathy Schulman, a producer who once ran the film operation of his failed talent conglomerate Artists Management Group, and who sued him after leaving the operation in April 2002.

According to a lawyer involved in the case, Ms. Schulman told F.B.I. agents in an interview in June 2004 of conversations in which Mr. Ovitz recounted to her details of her private discussions with major Hollywood figures as soon as a day after they had occurred, and told her that he had sources who could provide him with such information.

The lawyer said Ms. Schulman told investigators that on Dec. 1, 2001, she had met secretly with Ron Meyer, the head of Universal Studios, to discuss issues involving a joint venture partner, Studio Canal, and Artists Management.

The next day, Ms. Schulman told the F.B.I., Mr. Ovitz confronted her about the meeting. Ms. Schulman asked how he knew about it, to which Mr. Ovitz responded: "I have eyes and ears everywhere. There's nothing you can do that I won't find out about."

Lawyers for Mr. Ovitz say he remains only a witness in the case.

"Michael has answered all the questions of the government on more than one occasion," said Bart H. Williams, Mr. Ovitz's lawyer.

"He never knew about or asked Pellicano to use illegal means to obtain information at any time with respect to any person," Mr. Williams said.

And James Ellis, a lawyer for Mr. Ovitz at Artists Management, said both he and Mr. Ovitz learned about Ms. Schulman's private talks with Mr. Meyer and others through office gossip after her own secretary told co-workers about them.

The far-reaching government inquiry has sent shudders through the upper reaches of the entertainment industry, where Mr. Pellicano was often employed by top-ranked lawyers and executives. Investigators have made clear their belief that at least some of the ex-detective's clients were aware of and benefited from his illicit methods.

Officials have looked closely at Mr. Pellicano's work for Bert Fields of the Greenberg, Glusker law firm, which has a long roster of star clients, and at lawsuits in which Mr. Fields used the investigator to help, among others, Brad Grey, who at the time headed the Brillstein-Grey management agency and now is the chairman of Paramount Pictures. Mr. Fields and Mr. Grey have repeatedly denied any knowledge of Mr. Pellicano's illicit activities.

No major Hollywood figure is among the seven individuals indicted so far. But investigators and lawyers in the case have indicated that further charges are expected, possibly as early as this week.

Mr. Ovitz, who founded and ran the Creative Artists Agency, spent a difficult 14 months as president of the Walt Disney Company in the mid-1990's, and sold Artists Management under financial pressure in 2002. He was involved in disputes with several people who were listed among the victims of Mr. Pellicano in the Feb. 1 indictment.

Those people, who were all at odds with Mr. Ovitz in the period of 2001 and 2002, even as his management company was struggling and then collapsing, subsequently either were wiretapped or their names were illegally checked in law-enforcement databases, prosecutors say.

The indictment of Mr. Pellicano names at least six people who were adversaries of Mr. Ovitz when they came under Mr. Pellicano's scrutiny.

¶From January 1999 on, Mr. Ovitz's former protégés at Creative Artists, including the top agents Bryan Lourd and Kevin Huvane, waged open war on his new company, Artists Management, first by refusing to share clients with A.M.G., and then by recruiting clients and employees to leave Artists Management. On Aug. 10, 2001, prosecutors say, Mr. Pellicano had a police source illegally check motor-vehicle records on Mr. Lourd and Mr. Huvane.

¶From March 22 to May 8, 2002, Bernard Weinraub, a New York Times reporter, and Anita Busch, a freelance reporter, collaborated on seven articles about Mr. Ovitz's financial troubles. On May 16, prosecutors say, Mr. Pellicano had a police source illegally run Mr. Weinraub's and Ms. Busch's names through the F.B.I.'s National Crime Information Center database. Ms. Busch was also wiretapped by Mr. Pellicano, prosecutors say.

¶Arthur Bernier, who was fired by Artists Management Group in 2001, sued it and Mr. Ovitz for $500,000 on April 19, 2002. Three weeks later, prosecutors say, Mr. Pellicano had Mr. Bernier's background checked in the N.C.I.C. database.

¶James Casey, a so-called street agent for National Basketball Association players, sued Artists Management and Mr. Ovitz on March 27, 2002 for $450,000. Seven weeks later, prosecutors say, Mr. Pellicano had Mr. Casey's background checked.

Mr. Ovitz's representatives have previously said that Mr. Ovitz's only dealings with Mr. Pellicano were through an outside law firm, Gorry Meyer & Rudd, that represented Mr. Ovitz and Artists Management in the lawsuits brought by Mr. Bernier and Mr. Casey, and that the law firm had elected to hire Mr. Pellicano after Mr. Ovitz had declined to choose from among a list of investigators the firm recommended to him.

But two lawyers in the case confirmed that Mr. Ovitz was questioned by the federal grand jury last summer about his conversations with Mr. Pellicano, some of which were secretly recorded by the private detective. Mr. Ovitz's lawyer, Mr. Williams, declined to discuss Mr. Ovitz's grand jury testimony.

Timothy Gorry and Christopher Rudd, partners in Gorry, Meyer & Rudd, which handled the Bernier and Casey lawsuits, did not return phone calls to their offices Tuesday.

Gorry, Meyer & Rudd also successfully defended the actor Steven Seagal in a defamation case in December 2001. In July 2002, the firm sued Mr. Seagal to collect an unpaid bill of more than $260,000. In litigation over that bill, it was revealed that the firm had hired Mr. Pellicano to help it collect from Mr. Seagal.

The link to Mr. Seagal is doubly intriguing because Ms. Busch, who had written the New York Times articles on Mr. Ovitz with Mr. Weinraub, took a job at The Los Angeles Times in June 2002 and began investigating Mr. Seagal's former producing partner. On June 19, 2002, Ms. Busch was threatened by someone who put a note on her car saying "STOP," and she initially believed the threat was connected to her coverage of Mr. Seagal.

Ms. Busch later covered Ms. Schulman's dealings with Mr. Ovitz, including her lawsuit. Ms. Schulman claimed she was fired on Feb. 14, 2002, after telling auditors from Vivendi Universal, a venture partner through its Studio Canal unit with Artists Management, that Mr. Ovitz had misused Vivendi's money. (An arbitration award to Mr. Ovitz was overturned; the case is pending.)

The lawyer involved in the case said Ms. Schulman told the F.B.I. that a few days after her meeting with Mr. Meyer, she met secretly with Mr. Lourd, of Creative Artists, at his home. Again, the next day, Mr. Ovitz confronted her about the meeting, which Ms. Schulman denied having attended and said she believed it was impossible for Mr. Ovitz to have known about. "You can't deny anything," Mr. Ovitz replied, Ms. Schulman told investigators.

Private Eye's Arrest Causes L.A. Jitters (USAT)

By Martin Kasindorf, Usa Today

USA Today, February 15, 2006

LOS ANGELES — The latest buzz around Hollywood, aside from the Oscars, is who could be ensnared next by a federal grand jury probe into alleged wiretapping by the "private investigator to the stars."

Celebrity private eye Anthony Pellicano, 61, was indicted last week on charges of racketeering, wiretapping and conspiracy. He pleaded innocent. Five co-defendants also pleaded not guilty Tuesday. The 110-count indictment alleges that Pellicano's clients in business and divorce disputes gained unfair advantages from "confidential, embarrassing or incriminating" information he gleaned from snooping.

Though the indictment relieved many in Hollywood because it didn't mention any A-list figures who hired Pellicano, bigwigs in the entertainment industry "are not out of the woods yet," says Jesse Hiestand, legal affairs reporter for The Hollywood Reporter, a trade newspaper. "Prosecutors are still on the track of some higher targets."

Assistant U.S. Attorney Daniel Saunders says the indictment came from a three-year investigation that's continuing. The FBI has questioned lawyers, talent agents, studio executives and stars, including Sylvester Stallone, Warren Beatty and Garry Shandling.

Pellicano allegedly eavesdropped on Stallone's phone calls and obtained law enforcement computer records illegally on Shandling and former Saturday Night Live star Kevin Nealon. Pellicano allegedly bribed police officers and telephone-company workers to help him dig up dirt, according to the indictment.

Pellicano's indictment casts a spotlight on Hollywood's hardball tactics in scaring off lawsuits or winning them, says Nikke Finke, entertainment-business columnist for LA Weekly. "There's a real underbelly of Hollywood," she says. "There's drugs, there's sex, there's blackmail, there's bullying."

Some prominent people "are scared to death" about the inquiry, says Victor Sherman, a former lawyer for Pellicano. "The lawyers that may have used Anthony's services are scared, and (their) clients are concerned because their suits might be overturned."

Sandra Carradine, 58, the former wife of actor Keith Carradine, pleaded guilty last month to charges that she lied to the FBI when she denied knowing that Pellicano was tapping phones to help her divorce case.

'The presumption is that he never will talk'

Several Hollywood players have been drawn into the fray:

• Bert Fields is a lawyer whose firm has retained Pellicano for years. Fields, in a 2003 written statement to the news media, described himself as a "subject" of the investigation. He has represented Beatty, Tom Cruise, Michael Jackson and film executive Jeffrey Katzenberg. "I have never in any case had anything to do with illegal wiretapping," Fields said.

• Brad Grey, chairman of Paramount Motion Pictures Group, has denied knowledge of wiretapping. Grey formerly managed the careers of Brad Pitt and other stars. Pellicano worked on Grey's behalf in several business lawsuits.

• Michael Ovitz is the former head of Creative Artists Agency and No. 2 executive of the Walt Disney Co. Several alleged victims of Pellicano had links to Ovitz. James Ellis, a lawyer for Ovitz, has said he "fully cooperated" in answering FBI questions.

FBI agents have been investigating Pellicano's activities since they arrested him on weapons charges in December 2002. In 2003, he pleaded guilty to illegally possessing explosives and served 30 months in prison. Since his indictment last week, he has been in jail without bail.

Sherman, a lawyer for Pellicano in the weapons case, contends the Justice Department threw the new charges at Pellicano "to get him to turn on other people." Pellicano has said his clients are innocent and he won't cooperate.

Pellicano's testimony would be crucial to prove that clients ordered him to act illegally. "The presumption is that he never will talk. People who know him say that," says Peter Bart, editor-in-chief of Variety and a former vice president of Paramount Pictures.

Sherman says Pellicano avoided telling clients how he worked. "Anthony always did things very mysteriously. ... It was an aura that he perfected to make his services seem extraordinarily effective."

Still, in Hollywood "it's a very nervous time," says Laurie Levenson, a professor at Loyola Law School in Los Angeles. She says lawyers who hired Pellicano are more worried than their celebrity clients, who are "probably pretty well-shielded."

Known as 'Tony Fortune' and 'the pelican'

Pellicano, raised in Cicero, Ill., started a private-detective firm under the Hollywood-style alias Tony Fortune in Chicago in 1974. He wrote an episode of TV's Magnum P.I. in 1980. A defense lawyer in auto executive John DeLorean's trial on cocaine-dealing charges brought Pellicano to California in 1983. After DeLorean was acquitted, Pellicano, an electronics expert, got assignments from so many high-profile clients that Entertainment Weekly in 1993 ranked him as one of the most powerful people in Hollywood.

Pellicano, who liked girlfriends to call him "the Pelican," cultivated a tough-guy reputation. Profiled by GQ in 1992, he said he had engaged in blackmail and had beaten a man with a baseball bat.

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Pellicano's legal problems began in 2002. Los Angeles Times reporter Anita Busch was working on a story about actor Steven Seagal and a business partner with alleged links to the Mob. The reporter found a bullet hole in her car wind shield, along with a dead fish, a rose and a note that said "stop."

An ex-con told an FBI informant that Pellicano had hired him on Seagal's behalf to scare the journalist off the story, court documents say. Last year, Los Angeles County charged Pellicano with criminally threatening Busch. That case is pending.

In connection with the Busch incident, the FBI searched Pellicano's office in late 2002. Agents seized hand grenades and plastic explosive. A week after Pellicano was arrested and accused of weapons violations, another search turned up audiotapes that he allegedly had amassed through wiretaps since 1997.

Briton Accused Of Hacking U.S. Networks Could Be Prosecuted Under Terror Laws (WSJ/AP)

Associated Press

The Wall Street Journal, February 15, 2006

LONDON -- A Briton accused of mounting the largest ever successful hack of U.S. government computer networks could be prosecuted as an "enemy combatant" under U.S. anti-terror laws, an expert witness told his extradition hearing Tuesday.

Gary McKinnon, 40, of London, is wanted in the U.S. over allegations that he illegally accessed 97 computers, including U.S. Army, Air Force, Navy and NASA systems, causing $700,000 in damages.

Mr. McKinnon's lawyer, Edward Lawson, told Bow Street Magistrates Court the suspect could face prosecution by a military commission if he is sent for trial to the U.S., under powers ushered in following the Sept. 11 attacks.

Mr. Lawson said he is continuing to seek safeguards to ensure President George W. Bush isn't able to deem the ex-computer administrator an enemy combatant. Such a designation would leave him vulnerable to indefinite detention and trial by military commission.

Expert witness Thomas Loflin III, a U.S. civil rights lawyer testifying for Mr. McKinnon, said the court must be given a diplomatic note of assurance by the U.S. before it can be satisfied any extradition wouldn't result in such a scenario.

Mark Summers, an attorney for the U.S. government, told the court an assistant U.S. attorney from the eastern district of Virginia had sworn an affidavit pledging that Mr. McKinnon will be put before a civilian court.

He said the assurance should guarantee the suspect wasn't made the subject of a military order -- usually reserved for suspects accused of involvement in terrorism.

Some detainees are held at a U.S. military prison in Guantanamo Bay, Cuba.

Mr. McKinnon is accused of hacking into U.S. government computers in 14 states, including two at the Pentagon, between February 2001 and March 2002.

At an earlier hearing, McKinnon's lawyers claimed he had been carrying out his actions to expose lax computer security and because of his belief that the U.S. is withholding information about UFOs.

Though Mr. McKinnon was able to view sensitive details about naval munitions and shipbuilding, he didn't access classified information, an investigation found.

Mr. Loflin told the court the alleged hacker faces up to 60 years in prison if convicted on eight counts. The suspect would face a lengthy jail term if a district court applied sentencing rules brought in to penalize those connected with terrorism, he said.

The case is expected to continue until Thursday and will included testimony from British human rights lawyer Clive Stafford-Smith.

Computer Hacker Fights Extradition To US (REU)

By Chris Johnson

Reuters, February 14, 2006

LONDON (Reuters) - A British computer enthusiast accused by the U.S. government of the world's "biggest military hack of all time" began a court fight against extradition to the United States on Tuesday.

Gary Mckinnon was arrested last June following charges by U.S. prosecutors that he illegally accessed 97 government computers -- including Pentagon, U.S. army and navy and NASA systems.

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Prosecutors say he hacked into sensitive networks over a one-year period from February 2002 and caused $700,000 (400,000 pounds) worth of damage, after crippling U.S. defence systems in the wake of the September 11, 2001 attacks.

If found guilty, Mckinnon could face up to $1.75 million in fines and 60 years in jail.

Mckinnon's lawyers say he might be prosecuted under military law if he were sent to the United States and could be subjected to "special administrative measures" such as solitary confinement and other tactics to persuade him to plead guilty.

He could even face the prospect of being sent to Guantanamo Bay with no chance of parole, they say.

Bow Street Magistrates' Court in London is expected to hear from Clive Stafford-Smith, a human rights lawyer who acts on behalf of detainees in Guantanamo Bay.

Mckinnon -- whose hacking name was Solo -- admits gaining access to U.S. government computers but denies he caused any damage. His supporters say the U.S. government should be grateful to him for highlighting its security shortcomings.

U.S. prosecutors say there is no evidence Mckinnon downloaded classified information or forwarded files to foreign governments.

At the time of the indictment, Paul McNulty, U.S. Attorney for the Eastern District of Virginia, said: "Mr McKinnon is charged with the biggest military computer hack of all time."

Mckinnon, from Wood Green in north London, was released on bail in July 2005 and banned from using the Internet.

The 40-year-old appeared relaxed in court where he was supported by more than a dozen friends and supporters.

Governments have become increasingly nervous over hackers in recent years and there have been several high profile prosecutions.

One of the allegations relates to McKinnon deleting files from computers at a U.S. naval station during a critical time following the September 11, attacks, rendering the base's network of computers inoperable.

'Hacker' Extradition Case Reopens (BBC)

BBC News, February 14, 2006

Gary McKinnon's lawyer says he "vigorously contests" the claims The extradition hearing of a British man accused of hacking into the US military computer system has resumed.

Gary McKinnon, 40, is accused of causing damage to 97 US government computers estimated at £370,000.

His lawyers want US authorities to give reassurances he will not get a military order and face being sent to Guantanamo Bay with no prospect of parole.

Mr McKinnon, of Wood Green, north London, is contesting extradition at Bow Street Magistrates' Court.

He is alleged to have infiltrated the military system from his home computer between February 2001 and March 2002.

In total, Mr McKinnon is said to have accessed 53 US Army computers, 26 US Navy computers, 16 Nasa computers, one US Department of Defence computer and one US Air Force computer.

Intimidation claim

The entire network of more than 300 computers at US Naval Weapons Station Earle, in New Jersey, is said to have been left inoperable after Mr McKinnon deleted files.

The prosecution alleges that his ultimate goal was to gain access to the US military classified information network.

At a hearing last July, Mark Summers, representing the US government, claimed Mr McKinnon's conduct was "intentional and calculated to influence and affect the US government by intimidation and coercion".

Computer programmer Mr McKinnon, who was granted bail at the July hearing, could face more than 45 years in prison in the US.

Mr McKinnon was first arrested in 2002 but action against him was discontinued before extradition proceedings began.

Extradition Hearing Begins Over Nasa Hacker (ZDNET)

By Colin Barker

ZDNet UK, February 15, 2006

Gary McKinnon has begun what could be his final battle to avoid extradition to the US and decades in prison

Gary McKinnon began the next stage in his fight against extradition to the US to face charges of hacking US Army, Navy, Air Force and NASA computers on Tuesday.

The British hacker is facing extradition to the US on charges of hacking and causing damage to US defence sites. If found guilty he could face over $1m in fines and 60 years in jail.

When the US request for extradition was first made, McKinnon admitted that the prospect of facing court in the US "terrified him". Now he faces a hearing scheduled to last three days to see if he will remain a free man.

McKinnon was arrested in June last year on charges of computer fraud, and claims that he had illegally accessed 97 US Government computers. McKinnon told ZDNet UK in July 2005 that his actions were prompted by an interesting in the US space programme and the search for extraterrestrial life.

The US prosecution team alleges that McKinnon hacked into sensitive equipment over a one-year period from February 2002 and caused $700,000 worth of damage. McKinnon, though, denies causing serious damage.

Although McKinnon was arrested in the UK shortly after his hacking activities were first exposed, he was released under caution. Since being charged by the US authorities he has been banned from using the Internet.

Texas Tech Student Accused In Federal Sweep (AP)

Associated Press

AP, February 15, 2006

A Texas Tech University student faces federal charges of conspiracy to commit copyright infringement after allegedly reproducing and distributing pirated movies, games and software.

Matthew Thompson, 22, a sophomore computer science major, was indicted on the felony charges after a two-year undercover FBI operation targeting the originators of pirated material on the Internet, according to court documents.

A message left at Thompson's Lubbock residence was not immediately returned Tuesday.

He and the nine others named in the indictment are scheduled to be arraigned Feb. 22 in a San Jose, Calif., courtroom.

FBI spokeswoman LaRea Quy said the indictment was part of a continuing investigation, Operation Copycat, that involved one of the largest operations of pirating software, movies and games.

"It was the biggest site in the United States _ probably the biggest in the world," Quy said.

Thompson was indicted in late January on charges of conspiracy to violate federal copyright law and violating the No Electronic Theft Act.

Also indicted on the same charges was a Spring man, Johnny Russell, 34. He declined to comment Tuesday and his attorney, Peter Goldscheider, did not immediately return a call.

If convicted on both counts, Thompson and Russell face a maximum eight years in prison and five years supervised release, Assistant U.S. Attorney Mark Krotoski said.

Court documents describe an exclusive network of users protected by a system of passwords and invitation-only access the users believed would help them fly under the radar of law enforcement agencies.

The government believes the 10 men, ages 19 to 34, were a source for illegally copyrighted materials distributed across the Internet, according to the indictment.

Ten of 15 people accused earlier have been convicted.

Cyberstalking Law Opens Debate On What's Annoying (USAT)

By Richard Willing

USA Today, February 15, 2006

WASHINGTON — It didn't get much publicity, but an anti-stalking bill passed by Congress recently makes it a federal crime to “annoy” someone over the Internet.

And that's really beginning to bug some people.

“It's a stupid law that has slipped in under the radar,” says Clinton Fein, a San Francisco-based artist who runs annoy.com, a website that he says offers “unique and irreverent” commentary on politics and culture. “Who says what's officially annoying? Is that a business we really want our government to be in?”

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The law makes it a crime to anonymously "annoy, abuse, threaten or harass" another person over the Internet.

Rep. Jim McDermott of Washington inserted the provision into legislation that reauthorized the federal Violence Against Women Act. It carries a prison sentence of up to two years and an unspecified fine for those convicted of violations. President Bush signed the bill into law Jan. 5.

McDermott said he was prompted to act by the case of Joelle Ligon, a Seattle woman who was sent menacing e-mails, falsely accused of résumé-padding in messages to co-workers and impersonated in sex-oriented Internet chat rooms from 1998 to 2003.

Some of the communications were traced to a former boyfriend in South Carolina. He was sentenced to five years of probation and 500 hours of community service after he was prosecuted under a federal telecommunications law that protects against harassment.

To eliminate questions over whether phone law applied to the Internet, McDermott pressed for the new legislation. The language "annoy, abuse, threaten or harass" was taken directly from the telephone law.

Mike DeCesare, a spokesman for McDermott, says the new law is not intended to curb free speech.

"This is about bad people doing bad things. … It relates to somebody who does something to somebody else," he says. "It's not about posting something on a message board. It's got to be direct, one-to-one communication."

No one has been prosecuted under the new law, DeCesare says.

Critics aren't satisfied. Fein says it is unclear whether the law refers to annoying "conduct" or simply an e-mail whose message irritates its recipient.

"No one knows what this means," Fein says. "That in itself has a chilling effect."

Barry Steinhardt, a lawyer who specializes in privacy issues at the American Civil Liberties Union in New York City, says the new law's chief problem is the "subjective nature" of the word annoy. "Words like threaten, harass and abuse can be defined by what a reasonable person understands them to mean," he says. "Anyone who's ever had their spam filter stop something they wanted, or let something through that they didn't, knows that deciding what is annoying is something else again."

He says the ACLU is considering whether to ask a federal court to declare the new law unconstitutional because it's too vague.

A scholar who specializes in cyber law says the law could be difficult to overturn. Susan Brenner, a University of Dayton law professor and a consultant to the Secret Service on cyber laws, says courts likely would read "annoy" together with the words that follow it — "abuse, threaten or harass" — and conclude that the law refers to specific behavior.

In 2004, the U.S. Court of Appeals for the 6th Circuit used that reasoning to uphold the conviction of Erik Bowker, an Ohio man who had stalked a Youngstown television reporter via telephone.

But in 1999, a federal appeals court in Washington, D.C., ruled that a man could not be prosecuted for "annoying" conduct because he had telephoned the U.S. attorney seven times to complain about a case that had been brought against him. The calls, the court found, were political speech protected by the First Amendment.

David Hudson, a lawyer with the First Amendment Center, a speech-rights advocacy group in Nashville, says the different ways that courts have interpreted the word "annoy" make the new anti-stalking law "ripe for a challenge."

CIVIL LAW:

Security Agency Whistleblowers Seek Stronger Protections (GOVEXEC)

By Chris Strohm

Government Executive, February 15, 2006

Whistleblowers who have alleged misconduct or criminal activity at national security agencies told lawmakers Tuesday that they have been retaliated against for their disclosures, and urged stronger rights for both federal employees and contractors reporting wrongdoing.

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In an unusual move, whistleblowers from the FBI, National Security Agency, Defense Department and Energy Department were allowed to testify before the House Government Reform National Security, Emerging Threats and International Relations Subcommittee. Congressional committees usually hear from senior agency managers, not rank-and-file employees.

The whistleblowers recounted their allegations and how they were retaliated against, in some cases by having their security clearances revoked or their careers ruined. They said agency managers seemed more focused on cover-ups and retaliation than investigating allegations or addressing exposed problems.

"I became a whistleblower not out of choice, but out of necessity -- necessity to tell the truth," said Army Lt. Col. Anthony Shaffer, who said he was retaliated against after reporting pre-9/11 intelligence failures.

Shaffer is scheduled to testify in a closed session Wednesday before the House Armed Services Committee. Rep. Curt Weldon, R-Pa., said the session will be "a hearing that is going to change . . . the nature of this city."

Weldon said Congress needs to pass legislation to protect workers who come forward with critical information.

"If we don't fix the problem . . . then we're sending a signal to every other employee in the federal government not to speak up," Weldon said. "If we don't take action, we're all in danger."

Other whistleblowers said their allegations were never fully investigated.

"I'm here today to tell you about a system that is broken," said Mike German, who resigned from the FBI after reporting that bureau agents and managers mishandled a major counterterrorism case in 2002 and falsified records. The Justice Department inspector general confirmed German's allegations that the case was mishandled and records were falsified, and that he was retaliated against after making his allegations. But the IG said the case was not a counterterrorism case.

"I am here not because I think you can help me," German said. "I am here because your actions are needed to fix a broken system before another counterterrorism investigation is about to fail."

He added: "This is not a question of balancing security interests against liberty interests. It's a mater of competence and accountability."

Army Spc. Samuel Provance said he believes the military has covered up the extent of abuses at the Abu Ghraib prison in Iraq, and has not adequately investigated those abuses. Provance was one of the first military soldiers to come forward with allegations of abuse at the prison.

"I am concerned about what the Army is becoming," he said. "Honor cannot be achieved by lies and scapegoating. Honor depends on the truth."

Several lawmakers said they would support new legislation to give stronger protections to employees and contractors at national security and intelligence agencies. Those employees are exempt from protections under the 1989 Whistleblower Protection Act.

"Seldom in our history has the need for the whistleblower's unfiltered voice been more urgent, particularly in the realms of national security and intelligence," said subcommittee chairman Rep. Christopher Shays, R-Conn. "But those with whom we trust the nation's secrets are too often treated like second-class citizens when it comes to asserting their rights to speak truth to power."

By a party-line vote, the House Government Reform Committee rejected a measure last fall that would have provided stronger protections for national security whistleblowers. At the time, committee Chairman Rep. Tom Davis, R-Va., said he did not know enough about national security issues.

Some whistleblower advocates were outraged over Davis' statement, especially since his committee includes a subcommittee on national security.

"My hope is that ... we can work together on a bipartisan basis to introduce new legislation that will provide national security whistleblowers with basic protections," Rep. Henry Waxman, D-Calif., said during Tuesday's hearing. "No one with a security clearance should have to fear that his or her clearance can be pulled in retaliation for truthfully reporting corruption or abuse."

Panel Weighs Whistleblower Law Changes (AP)

By KATHERINE SHRADER, Associated Press Writer

AP, February 15, 2006

WASHINGTON — Five government whistleblowers said Tuesday they had faced retaliation for calling attention to alleged government wrongs, such as prisoner abuse in Iraq and illegal surveillance at the National Security Agency.

They told their stories to the House Government Reform Committee's national security subcommittee, whose chairman, Rep. Chris Shays, R-Conn., indicated an interest in altering the law to better protect national-security whistleblowers.

Shays said they are vulnerable to unique forms of retaliation, including suspension or revocation of security clearance, which can have the same "chilling effect" as demotion or firing.

"The system is broken," Shays said.

In written testimony, inspectors general from the Defense, Justice and Energy departments said complaints of reprisals involving security clearances were rare.

"The allegations were either not substantiated or were closed after a preliminary inquiry determined there was insufficient evidence to warrant a full investigation," acting Defense Department Inspector General Thomas Gimble said.

The five whistleblowers, who have made headlines before, offered their stories at Tuesday's hearing. Many described their inspector general as ineffective or co-opted by the security offices.

Army Spc. Samuel Provance laid out what he considers to be a pattern of systemic abuses at Iraq's Abu Ghraib prison. He said his rank was reduced for disobeying orders not to speak about mistreatment he saw at the prison.

Russ Tice, a former NSA analyst, has called attention to possible constitutional abuses and security breaches at NSA. He said he was given psychological evaluations deeming him mentally unstable, and his clearance was revoked. He's now unemployed.

Lt. Col. Anthony Shaffer says the Defense Intelligence Agency has made a series of allegations against him since he disclosed information about a program known as Able Danger. He says the program identified four Sept. 11 hijackers before the attack. Government officials have raised doubts about his claims, which are the subject of another hearing Wednesday.

Richard Levernier, a retired Energy Department nuclear security specialist, said he lost his security clearance and effectively his job for giving the media an unclassified report about shortfalls in nuclear security.

And former FBI special agent Michael German said the Justice Department's inspector general found his claims of a botched terrorism investigation in Florida were substantiated. He says he faced retaliatory actions, some of which the inspector general also found.

In the written statements from the inspectors general, many of the whistleblowers' individual claims were not addressed.

"Whistleblowers who raise good-faith allegations of misconduct about activities at their agencies play an important role in ensuring transparency and accountability throughout government," Justice Department Inspector General Glenn Fine said.

Senate Votes To Send Back Asbestos Bill (USAT)

USA Today, February 15, 2006

The Senate voted Tuesday to send an asbestos-compensation bill back to a committee because it violates budget rules. The vote was 58-41. Sixty votes were needed to move the bill forward. It was “the key vote on this bill,” said Senate Minority Leader Harry Reid, D-Nev.

Majority Leader Bill Frist, R-Tenn., said before the vote that “if we are unsuccessful this week in addressing asbestos, that's it for this year.”

The measure, sponsored by Judiciary Committee Chairman Arlen Specter, R-Pa., would shield manufacturers and insurance companies from asbestos lawsuits by taking injury claims out of the courts and paying them from a $140 billion fund financed by asbestos companies and their insurers. Sen. John Ensign, R-Nev., who led the challenge, said claims would drain the fund and leave taxpayers responsible for billions of dollars.

A House version of the bill would allow asbestos lawsuits to go forward only if claimants meet certain medical criteria. Asbestos is a fibrous mineral used until the mid-1970s in insulation and fireproofing. Inhaled fibers have been linked to cancer and other diseases.

White House says Chertoffhas Bush's full support

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President Bush has full confidence in Michael Chertoff and has not considered asking the Homeland Security secretary to step down after criticism of his performance on Hurricane Katrina, White House press secretary Scott McClellan said.

Former FEMA director Michael Brown told a Senate panel last week that the agency under Chertoff's leadership was preoccupied with terrorism threats at the expense of preparing for natural disasters. A Republican-written House report blamed government-wide ineptitude for mishandled relief efforts.

Scalia scoffs at ideaof 'living Constitution'

Supreme Court Justice Antonin Scalia said people who believe in a "living Constitution" that changes with the times are "idiots."

In a speech to the Federalist Society in Puerto Rico, Scalia said "the argument of flexibility (says) the Constitution … has to change with society. But you would have to be an idiot to believe that. The Constitution is not a living organism, it is a legal document. It says something and doesn't say other things."

Scalia said his philosophy of the document, "originalism," has no room for personal beliefs.

US Senate Vote Kills $140bn Asbestos Bill (FT)

By Patti Waldmeir

Financial Times, February 15, 2006

Legislation to resolve the asbestos litigation crisis failed in the US Senate on Tuesday night, dashing hopes that Congress would step in where the US courts have failed to compensate victims and halt litigation that has bankrupted scores of US companies.

The Senate voted by 58 to 41 on a procedural motion put forward by Democrats to block the bill, which would have established a $140bn compensation fund for asbestos victims. Sixty votes would have been needed to defeat the motion.

Senator Bill Frist, the top Republican, said before the vote that there would be no chance of a congressional fix for the asbestos crisis this year if senators rejected the bill.

Lobbyists close to the legislation said some members of Congress might try to put forward a different asbestos bill this year.

But they said the passage of such legislation would be a long shot.

Lawmakers on the influential Senate judiciary committee have been working for years to write a bipartisan bill to tackle the asbestos litigation crisis, which has cost more than $70bn and bankrupted nearly 80 companies.

The bill would have set up a fund to pay asbestos victims on a no-fault basis, while limiting the exposure of companies and insurers to lawsuits. The fund would have been managed by the federal government but privately financed by asbestos defendants and insurers.

It was defeated on Tuesday night on the grounds that it would have increased the federal budget deficit, in spite of the fact that the Congressional Budget Office said on Monday that the fund would not require federal money.

Senator John Cornyn, a Texas Republican, is now expected to introduce a bill to curb asbestos claims by allowing people to file only if they meet certain medical criteria. A similar bill has been introduced in the House. The prospects for early passage of such legislation are considered slim.

Senate Foes Block Proposed Trust Fund For Asbestos Victims (WP)

By Shailagh Murray

The Washington Post, February 15, 2006

In a cliffhanger procedural vote, the Senate derailed legislation to create a trust fund for asbestos victims, a victory for Democrats and their trial-lawyer allies who waged a relentless campaign to defeat a bill that took five years to negotiate.

Supporters of the bill, including most Republicans and some Democrats, held out hope for a return to the legislation after it failed, in a 58 to 41 vote, to gain the support of 60 senators needed to overcome a challenge over its potential budgetary impact. "We believe there is overwhelming support for this bill," said Senate Majority Leader Bill Frist (R-Tenn.), who had switched his vote from a "yes" to a "no" to leave open the option of bringing the bill back to the floor, if and when a yes vote can be mustered.

After the vote, Sen. Patrick J. Leahy (Vt.), the ranking Democrat on the Senate Judiciary Committee and a co-author of the bill, told reporters that the proposed fund is not dead and that he had counted the vote of one absent senator -- Daniel K. Inouye

(D-Hawaii) -- for his side. Republicans also said that they might be able to flip the vote of one of the 11 GOP senators who sided with Democrats to defeat the legislation.

But despite an unusually intensive effort by Leahy and the bill's principal author, Senate Judiciary Committee Chairman Arlen Specter (R-Pa.), to make the fund work, critics have argued it is too complicated and financially risky to advance much beyond the Senate -- should it ever manage to pass that chamber. GOP Sens. George Allen and John W. Warner of Virginia voted for it.

The debate did shine some light on one of the most intractable problems facing the legal system: the thousands of asbestos-exposure claims that are the churning through the courts. Sen. Richard J. Durbin (Ill.), the No. 2 Democrat in the Senate and a leading opponent of the trust fund, acknowledged that "significant changes in the existing tort system" are needed, and that all the principals -- including the trial lawyers who sought to defeat the proposed fund -- must give ground.

"We have to find a reasonable way to help those victims," Durbin said. He suggested reviving an approach, which Republicans had not advanced for years, to establish medical criteria for asbestos lawsuits within the current system. Trial lawyers opposed that approach, as did most Democrats, which is one reason the fund idea became popular.

"We should put our heads together," Durbin said. "I don't know if we can reach an agreement, but I sure want to try." He added that the current legislation "was a clash of the special-interest titans on both sides."

The trust fund bill created unlikely coalitions, both within the Senate and among the many interest groups with a stake in the outcome. Yesterday's vote to block the fund was brought by fiscal conservatives, who feared that it would eventually run out of money, leaving the federal government to pay claims. They were joined by most Democrats, including Sens. Barbara A. Mikulski and Paul S. Sarbanes of Maryland, who believed the fund gave short shrift to certain types of victims and who faced intense lobbying from one of the Democratic Party's wealthiest and most influential political allies, the Association of Trial Lawyers of America.

The alliance "is a little strange," said Sen. John Ensign (R-Nev.), a conservative who raised the budget objection. "I feel a little uncomfortable in this position, to be honest with you."

A new Congressional Budget Office examination of the bill did little to clear up the debate. In a letter from acting Director Donald B. Marron to Senate Budget Committee Chairman Judd Gregg (R-N.H.), the CBO estimated that payments, start-up costs and other expenses would total $64 billion over 10 years, 2006 to 2015, while the fund would collect an estimated $58 billion from asbestos companies, insurance firms and existing private trust funds.

Because the 10-year corporate income-tax receipts would also decline by an estimated $1.1 billion, from contributors paying into the fund, the CBO estimated a net revenue shortfall of about $7 billion. "I believe this bill is fiscally irresponsible to the taxpayers and the future," Ensign said.

Opponents also argued that the legislation is incomplete. Sen. Kent Conrad (N.D.), the ranking Democrat on the Budget Committee, said the CBO did not take into account dormant claims, claims that do not fit into specific categories of illness and claims from family members of exposure victims.

Conrad cited a section of the Senate bill that states that "an asbestos claimant who meets the requirements . . . shall be entitled to an award." If private funding were to ever run out, Conrad said, it would fall to the federal government to make good on that promise. "Are these all just words or numbers on a page, or does this have some real-world consequence?" Conrad asked.

But the CBO letter concluded that because the bill exempts the federal government from financial liability, "the legislation would be deficit-neutral over the life of the fund." Leahy underscored that sentence in a four-page statement on the budget challenge. He asserted that "this is not a federal entitlement program." Leahy later stressed on the Senate floor: "It just does not add to debt."

Asbestos Trust Fund Bill Is Defeated (WSJ)

By Brody Mullins

The Wall Street Journal, February 15, 2006

WASHINGTON -- A handful of Republicans joined most Democrats in dealing a deathblow last night to a $140 billion asbestos-litigation overhaul bill on Capitol Hill.

DOJ_NMG_0015041

On a 58-41 vote, supporters of the asbestos bill failed to muster the 60 votes needed to clear a procedural hurdle raised by their opponents.

After the vote, Senate Majority Leader Bill Frist's office said that Republicans may bring the legislation back to the Senate floor later this year. Earlier in the day, Mr. Frist told reporters that this was the only week he would devote to the bill on the Senate floor.

However, proponents are unlikely to be successful this year. As it languished on Capitol Hill, a growing number of states, including Texas, have approved their own asbestos-overhaul laws that many U.S. corporations and insurance companies find favorable.

The bill under consideration in the Senate sought to revise the asbestos-litigation system by creating a $140 billion trust fund to pay health-care and other costs incurred by Americans injured by asbestos. The fund would be paid for primarily by companies with asbestos liabilities and their insurance companies.

Large U.S. manufacturers of asbestos and some insurance companies backed the bill because it would have reduced the amount of money they would have to pay in asbestos liabilities through the legal system.

But a growing number of smaller manufacturers and insurers opposed the legislation because it would increase the amount of money they would have to pay. Most trial lawyers also opposed the bill.

Since the early 1970s, industry has paid $70 billion to settle 730,000 asbestos claims, according to a recent Rand Corp. survey. At least 77 companies have filed for bankruptcy-court protection because of asbestos liability.

Sen. Arlen Specter of Pennsylvania crafted legislation that won the backing of a coalition of Republicans and Democrats. Mr. Specter argued that the bill would help asbestos victims receive compensation for their illnesses and give companies certainty about how much they would owe.

But the bill was attacked by an odd coalition of conservative Republicans like Sen. Sam Brownback of Kansas, who believed the trust fund was too generous, and liberal Democrats like Sen. Edward Kennedy of Massachusetts, who said the bill was a giveaway to big business.

"It does not provide a reliable guarantee of just compensation to the enormous number of workers who are suffering from asbestos-induced disease," Mr. Kennedy said last week.

Opponents of the bill defeated it by raising a procedural motion that required Mr. Specter to find 60 senators to support the bill, rather than the usual 51 votes. Using a parliamentary tactic, opponents noted that the asbestos trust fund would need to borrow federal funds at the beginning to get off the ground, a violation of the chamber's budget rules.

Even if Mr. Specter had prevailed, he faced more challenges in the days ahead. Mr. Reid and Senate Democrats planned to launch a filibuster against the bill, forcing Mr. Specter to again find 60 votes to defeat his opponents.

Last night, Mr. Specter held out hope for the bill. He said Sen. Daniel Inouye of Hawaii was the one senator who didn't vote, and had planned to vote with Mr. Specter on the bill. According to Mr. Specter, Mr. Inouye left the Capitol because his wife was sick. With Mr. Inouye's and Mr. Frist's votes, the bill would have the requisite 60 votes. Mr. Frist had changed his vote to oppose the bill, so under Senate rules he would be able to bring the bill back to the Senate floor.

Among the Republicans who voted against Mr. Specter were Sens. Judd Gregg of New Hampshire, James Inhofe of Oklahoma and John McCain of Arizona. Democrats voting to defeat the bill were Mr. Reid and Sens. John Kerry of Massachusetts, Ben Nelson of Nebraska and Kent Conrad of North Dakota. The Democrats who supported Mr. Specter included Sen. Patrick Leahy of Vermont.

Asbestos Bill Is Sidelined By The Senate (NYT)

By Stephen Labaton

The New York Times, February 15, 2006

WASHINGTON, Feb. 14 — The Senate decided on Tuesday night to all but kill legislation to create a $140 billion fund to compensate victims of asbestos poisoning.

DOJ_NMG_0015042

Supporters of the measure, led by Senator Arlen Specter, Republican of Pennsylvania, fell just short of the 60 votes needed to waive a budget objection raised about the legislation. The final vote was 58 to 41, and with powerful interests on both sides it did not break down along party lines.

Senator Bill Frist, the Republican majority leader and a strong supporter of the legislation, changed his vote from yes to no at the last moment so he would have the option of calling for a recount "at some later date," he said.

Still, advocates for the measure held out hope that they could reverse the outcome. On Tuesday night, Senator Specter, its chief sponsor, issued a statement that the one senator who was absent from the chamber, Daniel K. Inouye, Democrat of Hawaii, had told him he would vote to waive the budget objection but he had gone home because his wife was ill.

"We will have him on the motion to reconsider," Mr. Specter said, "and we may change another vote or two, so we may win this one yet."

Nonetheless, the vote meant that the courts were likely to remain the primary forum for processing thousands of asbestos cases in the foreseeable future.

President Bush has made changes in the treatment of asbestos claims a legislative priority, and the Senate action was a major setback for the White House.

The bill, more than two years in the making, became a casualty of powerful business interests opposed to it, as well as of a forceful coalition of conservative and liberal senators. The conservatives argued that the measure could lead to a new and expensive federal entitlement program. The liberals maintained that the asbestos fund was not large enough to compensate victims and was a bailout for asbestos companies and their insurers.

Supporters said the bill was needed to compensate victims and their families, alleviate a crisis among manufacturers and deal with a growing number of cases in the courts.

An estimated 10,000 people die each year from exposure to asbestos, primarily in the workplace. Dozens of companies have sought bankruptcy protection to control their asbestos-related legal costs.

And by many estimates, about 60 percent of the money available to compensate victims is going to lawyers for the plaintiffs or the companies. The courts, facing growing numbers of asbestos cases, have repeatedly called on Congress for a legislative solution.

The measure failed in large part because of opposition from some asbestos makers and insurers, as well as from trial lawyers and labor unions. Some companies opposed to the legislation declared that they were being forced to pay too much into a new compensation fund, while the unions and trial lawyers saw the bill as a bailout without enough money for the victims.

Senator John Ensign, Republican of Nevada, lodged the procedural objection to the bill. He maintained that it violated a Congressional limit on spending. Conservatives have raised concerns that the fund could be insufficient and therefore require a federal bailout. Liberals also hold that the fund is insufficient, but say that is because manufacturers and insurers are not being required to contribute enough.

Earlier in the day, Senator Frist said he would not try to resurrect the legislation if it ran into obstacles this week. "If we are unsuccessful this week in addressing asbestos," he said, "that is it for this year."

Asbestos has been widely used as an insulation and construction material, and exposure to it in the workplace may not manifest itself in harmful ways until decades later. It can cause illnesses ranging in severity from relatively mild to lethal.

A study issued in May by the Rand Institute for Civil Justice found that more than 730,000 people in the United States had filed compensation claims for asbestos-related injuries from the early 1970's through the end of 2002, costing businesses and insurance companies more than $70 billion.

The legislation shunted aside on Tuesday night had been intended to replace the current civil court approach to compensating victims with a no-fault program financed by manufacturers and their insurers and run by a new compensation office at the Labor Department.

The bill would restrict asbestos victims in bringing their claims to court and limit the liability of manufacturers and insurers, but require them to make contributions to the fund.

It would set up a schedule of payments, based on the severity of the illness, ranging from $25,000 for breathing impairments to as much as $1.1 million for victims of mesothelioma, an often fatal cancer of the lungs.

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Fees for lawyers would be limited to 5 percent of final awards.

Both supporters and opponents of the legislation relied on a new analysis by the Congressional Budget Office to support their positions. Senator Specter emphasized the budget office's conclusion that the legislation "would be deficit-neutral over the life of the fund."

But the opponents, including trial lawyers' groups and some manufacturers and insurers, pointed to other parts of the budget office analysis showing that its effect would not be deficit-neutral if the administrator of the $140 billion fund had to borrow heavily or if courts ruled that there was a government obligation to pay victims despite the terms of the bill.

The fund in its initial years would be financed through significant borrowing, and critics of the legislation have raised concerns about its impact if some asbestos companies were unable to meet their payments.

Illustrative of the complex political calculations on Tuesday were opposing statements by the two Democratic senators from California.

Dianne Feinstein, one of 20 sponsors, said that while the bill was not perfect, it was necessary to compensate victims and reduce high court costs. She disputed the argument that taxpayers would ultimately have to bail out the trust fund, saying asbestos victims would be able to return to the courts if it did not have enough money.

But Senator Barbara Boxer said that the bill was giving asbestos victims false hope. "Companies will go into bankruptcy," she warned. "It's a giant nightmare.

"I am very fearful that a lot of people who are going to depend on this trust fund will find out that it is not all it is cracked up to be. "The bill promises the moon. But it will not even deliver a sliver of the moon."

Senate Defeats Asbestos Trust-fund Legislation (WT)

By Charles Hurt

The Washington Times, February 15, 2006

Liberals and conservatives in the Senate joined together last night to stop legislation that would have created a massive trust fund for victims of exposure to asbestos.

Years in the drafting, the bill is disliked by conservatives who fear that the costs will be passed on to taxpayers and by liberals who worry that victims will lose their rights to sue companies that, however unwittingly, exposed workers to a substance now known to cause cancer.

The key vote, on a procedural issue, was initially 59-40 in favor, one short of the 60 votes required, effectively killing the bill. Ten Republicans joined 30 Democrats to block the measure.

Sen. Daniel K. Inouye, Hawaii Democrat, could have given the bill the needed 60th vote but missed last night's roll call.

Once Senate Majority Leader Bill Frist realized that the bill would fail, he switched his vote to "no" for reasons of parliamentary procedure -- giving himself the right to raise the bill for another vote. The final official result was 58-41.

The Tennessee Republican said he did so "to keep a heartbeat, at least, in this piece of legislation, because it is so important to victims, to our economy, to jobs."

Sen. John Ensign, Nevada Republican, a fiscal conservative, raised a point of order, saying that the legislation would break future spending caps, meaning 60 votes are required to approve the bill.

Senate Judiciary Committee Chairman Arlen Specter said after the vote that Mr. Inouye would have secured victory for the bill.

"As John Paul Jones said, 'We have just begun to fight,' " he said. "Senator Inouye told me he would vote to overrule the point of order, which would have provided the 60th vote and victory, but he went home because his wife was sick. We will have him on the motion to reconsider, and we may change another vote or two, so we may win this one yet."

After voting against the bill, Senate Minority Whip Richard J. Durbin, Illinois Democrat, said: "I hope now we can work together in a bipartisan basis to find some accommodation, not to create a trust fund in an amount that's never been established."

Supporters argued, however, that the bill is a bipartisan one, authored by Mr. Specter, Pennsylvania Republican, and Sen. Patrick J. Leahy of Vermont, the ranking Senate Judiciary Committee Democrat.

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The bill would create a $140 billion trust fund to compensate the victims of asbestos exposure. The money would come from the employers and their insurance companies.

Sen. Orrin G. Hatch, Utah Republican, a supporter of the bill, criticized opponents of the bill for blocking the measure without offering an alternative.

"For the past decade, there has been a thundering silence from too many on the other side of the aisle," said the former chairman of the Senate Judiciary Committee. "They are quick to criticize what has been suggested, but not once in more than a decade have they proposed their own solution. Not once have they come up with one idea that might possibly help solve this crisis."

Among the Republicans who bucked the leadership were some of the chamber's most fiscally conservative members, such as Sen. Jim DeMint, a freshman from South Carolina.

"This bill fails to solve the real problem, which is our out-of-control junk-lawsuit system, and simply trades one flawed system for another," he said.

"We have a serious problem with asbestos litigation that has already forced 70 American companies into bankruptcy and cost over 60,000 Americans their jobs. But creating a multibillion-dollar government entitlement program that punishes taxpayers and rewards trial lawyers is not the answer."

Senate Kills Fund For Asbestos Victims (LAT)

By Jonathan Peterson

The Los Angeles Times, February 15, 2006

WASHINGTON — The Senate rejected a new plan Tuesday to compensate asbestos victims, apparently dooming a proposed $140-billion fund that would have handled claims now battled out in court.

Under the legislation, asbestos makers and their insurers would have contributed to a trust fund to pay claims for illnesses in amounts from $25,000 to $1.1 million. But the measure faced attacks on several fronts.

Trial lawyers and their Democratic allies argued that efforts to take claims out of the courts threatened the ability of victims to obtain sufficient restitution.

Fiscal conservatives feared that the approach would set up a federal entitlement program, along the lines of "black lung" compensation, with insufficient limits on payments and a growing bill for taxpayers.

The final vote was 58 to 41, with advocates of the asbestos legislation failing to get the 60 votes needed to beat back a procedural challenge. Proponents of the bill, who initially had 59 votes, said they might try again, but they were sobered by a defeat that included votes of Democrats and Republicans.

"The consequence of the vote tonight is that victims who are in need are not going to receive fair and just compensation," Senate Majority Leader Bill Frist (R-Tenn.) said after the vote. "They deserve it. They need it."

At the end, Frist shifted his vote from yes to no, a parliamentary maneuver that he said would enable him to bring the matter up again if he chose.

By all accounts, the outcome was a stinging defeat for advocates of the plan and raised questions about the approach that had been painstakingly established by a coalition of Republicans and Democrats in the Senate Judiciary Committee.

The vote was over a technical issue — whether the proposed $140-billion fund would exceed budgetary limits. Proponents argued it would not, noting the fund was to be financed by private companies and insurance firms. They also cited a recent analysis by the Congressional Budget Office that the fund would not expand the federal deficit over the long haul.

"It's abundantly clear that this legislation will not be a burden on the United States Treasury," Sen. Dianne Feinstein (D-Calif.) said.

Opponents maintained that the fund was insufficient for long-term asbestos claims and could ultimately saddle taxpayers with new costs or leave claimants in limbo if the money ran out.

"In addition to being unfair to victims, the bill is unfair to the federal taxpayer," said Sen. Harry Reid (D-Nev.), the Senate minority leader, who led the opposition. The bill, he added, "may be well-intentioned, but it is ill-conceived."

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Supporters sought to establish a system for asbestos claims that would be similar to the workers' compensation program for workplace injuries. Workers would not have to prove that their symptoms were caused by a particular exposure to asbestos.

Sen. Arlen Specter (R-Pa.), chairman of the Judiciary Committee, had urged senators to keep the bill alive and invited colleagues to address their concerns by amending the measure in the coming days.

"To have it rejected on a technicality is just a terrible waste of so much time and effort," Specter said of the bill that had passed in committee in May.

Afterward, Sen. Richard J. Durbin (D-Ill.), an opponent of the measure, tried to sound a conciliatory tone.

"We have to find a reasonable way to help these victims," he said. "I don't know if we can reach an agreement, but I sure want to try."

Asbestos Bill Blocked Again (RC)

By Emily Pierce And Tory Newmyer

Roll Call, February 15, 2006

The Senate killed a controversial asbestos trust fund bill Tuesday night, but Senate Majority Leader Bill Frist (R-Tenn.) vowed to bring the measure up again soon, indicating he believes he is only one vote short of prevailing.

The potential death of the bill last night leaves the backers of multimillion-dollar lobbying campaigns on both sides of the bill scrambling to reposition themselves and pursue new methods of curbing asbestos-related lawsuits.

In a vote, the outcome of which remained uncertain even while the Senate roll was being called, 30 Democrats voted with 11 Republicans to block the bill from moving forward. Supporters, who drew only 58 votes, needed 60 to overcome the procedural hurdle. Frist at the last minute voted with opponents so that he might be able to demand a revote at a later date.

Sen. Daniel Inouye (D-Hawaii) was absent from the vote, and Frist said "that absentee vote could have made the difference" in keeping the bill alive. As of press time, it was unclear what Inouye's vote would have been had he been present, although there were some hints that he would have allowed it to go forward.

Frist spokeswoman Amy Call said the Majority Leader considers the bill "still alive" but it was unclear whether Frist would call for another vote this week or after next week's Presidents Day recess.

The bill would put an end to asbestos-related lawsuits, while establishing a privately funded $140 billion trust to compensate those who claim illnesses caused by exposure to the deadly fibers.

The vote was on a budget point of order brought by Sen. John Ensign (R-Nev.). Ensign and his backers argue that the trust fund will not be adequately financed and would eventually require taxpayer funds to keep it solvent.

Even before votes were cast Tuesday evening, lobbyists on both sides of the debate were mulling the consequences of the bill's defeat and beginning to plot their next moves.

A broad array of corporations have spent tens of millions of dollars promoting the trust fund approach, but speaking privately, lobbyists for those interests said they were unsure where they would go from here.

"Everybody's just been focused on the votes," one lobbyist said. Another added: "Nobody is even speculating at this point. At a minimum, we'll have to let this stuff digest, and then figure out our next steps."

Meanwhile, the assortment of odd bedfellows lined up against the trust fund appears ready to split now that the measure may be dead. The trial lawyers' lobby and some corporate opponents of the bill could forgo a legislative fix altogether and support simply allowing asbestos cases to return to the court system, while many of the business and insurance companies working against the bill are ready to push Congress to establish medical criteria that asbestos claimants must meet before heading to court.

"We are strongly in favor of a good medical criteria bill," said Tom O'Brien, chairman of the Coalition for Asbestos Reform, the lead business-backed group opposing the trust fund. He pointed to measures crafted by Sen. John Cornyn (R-Texas) and Rep. Chris Cannon (R-Utah) as starting points.

In fact, Cornyn said he wants to keep the issue alive even if the measure is filibustered, by pursuing a bill that allows only individuals with asbestos-related illnesses to bring suits against companies that manufactured or sold asbestos products.

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Cornyn said he has talked with Senate Minority Leader Harry Reid (D-Nev.) and Minority Whip Dick Durbin (D-Ill.) about pursuing a bill that lays out the medical criteria for people allowed to bring suits.

"If we could take up the Texas medical criteria bill, then that's something they could live with," said Cornyn, referencing a medical criteria measure enacted in Texas last year.

But Frist dismissed Cornyn's medical criteria measure, noting that last week's vote on a similar proposal that did not precisely mirror the Texas law was overwhelmingly defeated on the Senate floor.

"We brought medical criteria to the floor, and it got 27 votes," Frist said.

Indeed, Democrats, including Reid and Durbin, opposed Cornyn's original medical criteria amendment, largely because they have been focused on eliminating the bill's trust fund provisions and because they sought changes in Cornyn's approach.

But Cornyn said Democratic opposition was changing rapidly. "One of the consequences of filing the medical criteria amendment early [in the asbestos bill debate] is that it got a lot of people thinking about it," Cornyn said.

The National Taxpayers Union, one of several nonprofits active in the debate, is looking ahead to the House, where the group hopes the medical-criteria approach will gain steam. And the National Association of Mutual Insurance Companies, a group claiming 1,400 members, plans to promote the approach during 35 days of Capitol Hill visits it has planned for spring and early summer.

It is unclear what method the biggest labor umbrella group, the AFL-CIO, will back. Early in negotiations around the trust fund bill, the labor group was supportive and eager to stem the job losses from the tide of asbestos-related bankruptcies. But the organization dropped its backing for the measure after the specifics emerged.

Bill Samuel, the group' s director of legislation, said the AFL-CIO could support a "properly designed trust fund."

"Everyone needs to take a deep breath right now," Samuel said. "The two sides are pretty dug in, and that's not the best atmosphere for legislating."

Both sides have spent the week coordinating sprawling teams of lobbyists with frequent conference calls. The Asbestos Alliance, a group of old-line manufacturers and insurers backing the bill, has held joint calls with the team from the Asbestos Study Group, which includes companies with less direct ties to their asbestos liabilities, such as Viacom, Pfizer and General Electric.

"There are calls all day, all the time," said one lobbyist familiar with the groups. Lobbyists on the calls discuss target lists and divvy up new assignments.

On the other side, lobbyists for the Coalition for Asbestos Reform had been calling in new information to a war room the group set up in the downtown offices of lobbying and public relations firm Fleishmann-Hillard.

"The guys at Fleishmann-Hillard have their hands on the knobs," CAR's O'Brien said. "They keep the data together and run everything through me to the people who are active."

All the outside help has not come cheap. Recent disclosures show K Streeters working on asbestos issues pulled in some of the largest lobbying receipts for the first half of last year. The law firm Swidler Berlin had the single largest lobbying contract in town — worth $4.8 million through the first half of 2005 — for its work for the Asbestos Study Group, according to PoliticalMoneyLine.com. Sonnenschein Nath and Rosenthal claimed the fourth-most lucrative contract for its work on asbestos. It earned $1.2 million lobbying for Federal Mogul Corp., a bankrupt auto parts manufacturer.

CIVIL RIGHTS:

Lawyers Argue That Boy Scouts Deserve Space At San Diego Parks (AP)

By PAUL CHAVEZ, Associated Press Writer

AP, February 15, 2006

LOS ANGELES -- An attorney for the Boys Scouts of America and a lawyer from the Bush administration's Justice Department told an appellate court panel Tuesday that a lower court erred when it ruled that San Diego was promoting religion by granting the youth organization long-term leases to city parklands.

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George Davidson, an attorney for the Boy Scouts, said the group has no theology and only holds the position that children should "do duty to God" in order to become productive citizens. The organization has few references to religion in its manual and has a practice of "punting it back to parents and religious leaders" when it comes to religious matters, Davidson told the court.

Eric Treene, a Justice Department lawyer in the Civil Rights Division, told the three-judge panel of the 9th Circuit Court of Appeals that the Scouts have a nondiscrimination policy when it comes to who can use its space and the city has more than 120 leases with other groups who use park areas in exchange for maintenance and improvements.

The Boy Scouts has been the target of preferential treatment lawsuits since the U.S. Supreme Court in June 2000 ruled that the organization has a constitutional right to exclude openly gay men from serving as troop leaders and because it compels members to swear an oath of duty to God.

The American Civil Liberties Union sued San Diego and the Boy Scouts of America over the leases in August 2000 on behalf of a lesbian couple and an agnostic couple, each with scouting-age sons.

U.S. District Judge Napoleon Jones Jr. ruled in July 2003 that San Diego acted improperly when it leased 18 acres of Balboa Park camp space to the Scouts. The judge ruled that the group is a religious organization and the lease violated the federal establishment clause that prohibits the government promotion of religion.

The city's action was an implicit endorsement of the Scouts' "inherently religious programs and practices," Jones ruled.

The same judge later ruled that the Scouts' lease with the city for a separate aquatics center at Fiesta Island in Mission Bay Park also was illegal.

Jones said the city has shown preferential treatment to the Boy Scouts, "an admittedly religious, albeit nonsectarian, and discriminatory organization," because it had negotiated exclusively with the Scouts for the lease of the aquatics center.

The Scouts had leased the half-acre Fiesta Island property since 1987 at no charge. The group spent $2 million to build the aquatics center and provided for its maintenance.

The Balboa Park camp was developed by the Scouts after World War II and in 1957 the group signed a 50-year lease with the city. The lawsuit was brought after the City Council voted to extend the lease for 25 years.

Mark Danis, an attorney for the plaintiffs, told the appellate court Tuesday that the Boy Scouts reserves six weeks during the height of summer for itself on Fiesta Island and other groups have "inferior access" to both sites. The group also has its local headquarters on the site, he said.

"San Diego city land can't be used as the headquarters of a discriminatory organization," Danis said outside court. "This organization kicks people out if they don't believe in God and our clients are agnostics, they chose to not believe in God, and they can't use city land on an equal basis with Boy Scouts."

The Bush administration in March 2004 filed a friend of the court brief arguing that even though Boy Scouts believes in God and members take an oath to do their duty to God, the group is not a religious organization.

The panel did not release a decision, which typically isn't announced until three to six months following the hearing of arguments.

U.S. Justice Department Investigates Decrease In Student Population (WTVM-TV)

WTVM-TV, Columbus, GA, February 15, 2006

Schools in Barbour County are becoming predominately black.

A problem Superintendent Vic Adkinson is out to change. "From a legal sense, the status-quo cannot be continued where an open enrollment is allowed and students are allowed to come and it's being selected cased on, whether it's been based on race, academic performance or socio-economic status. You know it's got to stop," says Barbour County Superintendent, Vic Adkinson.

During the past few years Adkinson says he's seen a decrease in the student population in Barbour County. Many of those students he says have transferred to the Dale County School System.

A problem that has prompted an investigation by the U.S. Justice Department.

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Information released by its Civil Rights Division says during the 2004-05 school year Barbour County enrolled 1,222 students... of whom 94% were black and only 63 students were white. We're told Dale County accepted 168 students from Barbour County...of those, 78% were white and all were allowed to transfer.

"The Justice Department has asked them to stop accepting students and to give them a response on how they're going to deal with the students that they have now that are from Barbour County," says Adkinson.

Gloria Witcher has worked for the Barbour County School District for 33-years.

She says the school district is changing for the better and that every child receives a quality education in all of the county schools. "I think the school district is getting a bad rap because of ignorance, ignorance meaning not knowing a lot of people don't know about the shcools and don't know about the system and hear from others," says Witcher.

Adkinson says students crossing county lines for Dale County are costing his school system more than one million dollars annually.

Federal Government May Challenge South Carolina Primary (AP)

By JIM DAVENPORT, Associated Press Writer

AP, February 15, 2006

The U.S. Justice Department is challenging the way South Carolina conducts primaries and that could change the long-used calendar for primary runoffs that now come two weeks after the first round of voting.

A spokesman for the Justice Department said Tuesday the agency is enforcing laws intended to make sure people living overseas or serving in the military abroad have the same opportunity to vote as those living here. Several states, including South Carolina, were asked several months ago to show how they would make sure ballots were sent and received in time to be counted, Justice Department spokesman Eric Holland said.

He would not say whether the agency is considering an injunction against South Carolina that could delay primaries. "We're working with those states to resolve those issues," Holland said.

Sen. Larry Martin, R-Pickens, said he wanted to rush a bill through the Senate to avoid the potential for a federal injunction on the issue that could delay the June 13 primary and plans for runoff voting on June 27.

Martin said the legislation he was introducing would delay any primary runoff by two weeks, pushing it back to a month after the primary.

Without the delay, there "most likely would be an effort to enjoin our primaries," Martin said.

State Election Commission Director Marci Andino was not immediately available to talk about the situation.

While the agency knows of no formal complaints on the issue, "we have known that this has been an issue for some voters for some time," spokesman Chris Whitmire said.

"We have taken steps to address the problem," he said.

For instance, the state already sends blank ballots to be used for runoff voting and has set up systems that let voters return ballots by fax or electronically, Whitmire said.

"The Department of Justice is still concerned about it and has indicated again that if something isn't done about it, they will seek some relief through the courts," Whitmire said.

Harvard Study Blasts Bush Education Policy (REU-Y2)

By Jason Szep

Reuters, February 14, 2006

President George W. Bush's No Child Left Behind education policy has in some cases benefited white middle-class children over blacks and other minorities in poorer regions, a Harvard University study showed on Tuesday.

Political compromises forged between some states and the federal government have allowed schools in some predominantly white districts to dodge penalties faced by regions with larger ethnic minority populations, the study said.

Bush's 2001 No Child Left Behind Act was meant to introduce national standards to an education system where only two-thirds of teenagers graduate from high school, a proportion that slides to 50 percent for black Americans and Hispanics.

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But instead of uniform standards, the policy has allowed various states to negotiate treaties and bargains to reduce the number of schools and districts identified as failing, said the study by Harvard University's Civil Rights Project.

"There's a very uneven effect. There are no clear uniform standards that are governing No Child Left Behind. If one state gets one thing, another state can do something else," the study's lead author, Gail Sunderman, said in an interview.

In Washington, a bipartisan commission announced on Tuesday that it was being created to take a "hard, independent look" at the law's problems and promises, and then make recommendations to Congress before the law's expected renewal in 2007.

Under No Child Left Behind, children in every racial and demographic group in every school must improve their scores on standardized tests in math and English each year. Failure to achieve annual progress can lead to sanctions against schools.

Children in poorly performing schools can switch schools if space is available. In extreme cases, schools can be closed.

But a surge in the number of schools identified as "needing improvement," including many considered top performers in their state, has stirred opposition to the law nationwide -- from a legal challenge in Connecticut to a rebellion by state legislators in staunchly Republican Utah.

The 60-page study examines letters sent by the Department of Education to all 50 states on how each state can administer the law and on their accountability plans.

Forty-nine states have taken some action to amend the law or been granted waivers to provisions in No Child Left Behind, the study said. "The problem with this approach is that it does not affect all schools equally," said Sunderman. "No two states are now subject to the same requirements."

In one example the study cites, states in rural Midwestern regions were granted extensions to deadlines to meet requirements on teacher qualifications that were unavailable to poorer rural regions with greater numbers of black Americans and ethnic minorities in southeast and southwest states.

"The policy is essentially a product of negotiation, of power and discretion, not law," Gary Orfield, director of Harvard's Civil Rights Project, said in the report.

Chad Colby, a spokesman for the U.S. Department of Education, called Harvard's study "misinformed" and "flawed." "We leave it up to the states to determine how they are going to get there. It's exactly the opposite of one-size-fits-all."

Judge Allows Week To Craft Youth Facility Injunction (HSB)

By B.J. Reyes

Honolulu Star-Bulletin, February 15, 2006

A federal judge has given attorneys one week to draft an injunction to protect lesbians, gays, bisexuals and transgender wards at the Hawaii Youth Correctional Facility until a lawsuit alleging abuse and harassment of such inmates can be decided.

Attorneys for the state and the American Civil Liberties Union of Hawaii say they are far apart on an agreement but will try to negotiate something by next Tuesday's deadline.

When asked whether he was confident that an agreement could be reached, Attorney General Mark Bennett flatly replied, "No."

"I'm not confident that we can reach an agreement on the language of an injunction, no, but we'll certainly try," Bennett said. "We've been trying; it didn't succeed. We'll try some more."

Lois Perrin, legal director for the ACLU of Hawaii, echoed his sentiments.

"We're certainly willing to try and come up with agreed-upon language," Perrin said. "Our objective here is to ensure that the discrimination and harassment of (lesbian, gay, bisexual and transgender) wards at HYCF is fixed and that it's fixed promptly."

The ACLU sued in September on behalf of three former wards who alleged they were harassed and abused because of their actual or perceived gender identity and that administrators knew of the problems but did nothing to stop it.

U.S. District Judge J. Michael Seabright ordered the injunction last week, finding that there was enough evidence to support their claims.

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He left it up to the state and the ACLU to draft the injunction to be consistent with any agreement reached between the state and the U.S. Department of Justice over reform at the youth prison. An agreement on a three-year plan to improve conditions at the facility was announced the same day as Seabright's injunction ruling.

If the two sides cannot reach an agreement on an injunction, Seabright said he would issue one himself.

Bennett said the ACLU's proposed language was too broad and not specific enough to inform workers at the youth prison of what they would be barred from doing.

The state also objected to having a monitor appointed by the court to oversee the policies and procedures being implemented to prevent abuse and harassment of wards.

Bennett noted that as part of the negotiated agreement with the Justice Department, the state has retained a national expert on secured youth facilities who will work with the state to implement the agreed-upon reforms.

Perrin said she wanted to make sure that any expert retained by the state has experience working with "vulnerable" youths, and in particular experience working with lesbian, gay, bisexual and transgender youths.

She said her main objection to the state's injunction proposal was that it "doesn't have a lot of teeth."

"It does not set forth any sort of comprehensible deadline," she said. "It doesn't have any intermediate benchmarks to determine when policies and procedures need to be in place."

Behind L.A. Jail Clashes: Rising Pressures (CSM)

By Daniel B. Wood

The Christian Science Monitor, February 15, 2006

LOS ANGELES - Riots that rocked Los Angeles County jails this month can be attributed to overcrowding, say some criminal-justice analysts. Other observers cite rising gang conflicts between blacks and Hispanics throughout the L.A. area, which they say are increasingly spilling into a jail system ill-equipped to deal with it. To still others, blame lies with a society eager to punish wayward young men harshly, with little thought to the fact that they will one day be released to walk the streets.

Whichever explanation hits closest to the truth, the violence in the nation's largest jail system - which has involved 2,000 inmates and resulted in two deaths and nearly 100 serious injuries - points to rising pressures inside the jails and the challenges of containing them. On Monday, jail authorities, who have come under fire for not quelling the violence, began transferring hundreds of county jail inmates to state prisons in a bid to separate the most violent offenders from the general jail population.

The riots, which began Feb. 4 at a correctional facility 40 miles north of Los Angeles in Castaic, involved dormitories of more than 100 men, who attacked one another in succession and tossed beds from balconies. Inmates beat a black prisoner to death at Castaic's biggest jail, Pitchess Detention Center. Fighting broke out last week at the two smaller jails at Pitchess. Despite lockdowns of facilities across the county - meaning restricted movement inside and limited visitation - similar incidents followed. A second inmate died Sunday after a racially motivated fight at Men's Central Jail.

Investigators initially said nonjailed members of the Mexican mafia ordered Latino inmates to attack black prisoners in retaliation for an earlier attack, outside of jail, on a Latino by black gang members in Los Angeles. Inmate-on-inmate attacks at the Castaic facility have nearly doubled since 2003, officials said. Violence between blacks and Latinos has tripled on the streets since the 1990s, as the Latino population has increased and moved into black neighborhoods. Overcrowding: a national problem

Though the Los Angeles County system is the one now under the microscope, law-enforcement officials say rising violence and overcrowding in prisons and jails are a national problem.

"The explosions of violence we are seeing in Los Angeles are systemic nationwide," says Terry Jungel, past president of the National Sheriffs Association. Years of get-tough-on-crime policies have emphasized rhetoric over funding, and strict confinement instead of programs to address prisoner problems or conditions, he says. "You are taking the troublemakers and rule-breakers of society all together in a confined space with close contact in an environment that was not designed for more violent criminals or for long periods of incarceration."

What might help ease tensions are programs that provide outlets for prisoners under stress - from more exercise time to anger-management classes - and for greater help for prisoners upon release from jail, some say.

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"No one really knows yet exactly how this started, but it is clear that this is an opportunity to do everything we can to keep it from happening again," says Lita Herron, director of Mothers on the March, a community-based group that addresses crime and punishment issues in L.A. "There's no question this city has turned its back on incarcerated youth and turned our jails into a byproduct of such neglect. Now, we've seen the consequences of what happens if we continue to do nothing about it." Possible solutions

In recent years, L.A. County Sheriff Lee Baca twice tried, unsuccessfully, to get voters to approve sales-tax increases to upgrade facilities and staff.

Others suggest jail officials should segregate inmates by their proclivity toward violence, instead of by race or gang affiliation. And they say voluntary and state-funded counseling programs can help prisoners overcome the problems that landed them in jail, including drugs and domestic violence. Physical activities can keep inmates from going stir-crazy.

"There are places in L.A. County jails where people of all races and security risk are housed in dorms and getting along just fine," says Jody Kent, coordinator of the Jails Project at the ACLU of Southern California. "What is the difference? There are physical fitness programs to keep them from remaining in a tight space that would agitate anyone and ... educational programs that don't necessarily require extra staffing or supervision."

The public, however, is more concerned about punishing offenders than rehabilitating them, say Mr. Jungel and others.

"It is always hard to define the line between social retribution and meeting the needs of the inmate without appearing to have the comfort of a country club," says Jungel. "We are finding that incarceration costs more than Americans are currently willing to pay. But we are also finding that if we don't pay for the price of security, the price of no security is even higher."

Urgent Appeal For Jail Safety (LAT)

By Megan Garvey And Jack Leonard, Times Staff Writers

The Los Angeles Times, February 15, 2006

Supervisors want to know why inmates of varying threat levels are placed together, a practice called 'not permissible' a year ago.

A black inmate who died Sunday after a fight with Latino cellmates at Men's Central Jail had been placed in a group cell with inmates considered serious security threats, despite repeated warnings to sheriff's officials that mixing nonviolent and violent inmates can be deadly.

The death brought new criticism of the Sheriff's Department, which has struggled to calm racially charged violence in the jail system. It has faced scrutiny in the past for killings inside the jails when high-risk and lower-risk inmates are placed together.

Sean Anthony Thompson, 38, had been arrested last week on suspicion of drug possession after he ran a stop sign in Long Beach. Jailers designated Thompson, the father of three, a "moderate security risk" because he had previous convictions for nonviolent felonies. Authorities said he was attacked after coming to the aid of a 63-year-old black cellmate, also charged with drug possession, who was threatened by three younger Latino inmates trying to take over a bunk bed that had the best light for reading. A fourth Latino in the cell did not take part in the attack.

Deputies had classified the three Latinos as so-called "level 8s" — the second-highest threat level in the county's inmate classification system and a designation given to inmates with a history of assaults or escapes. The men — ages 18, 21 and 25 — were in jail on such charges as robbery, felony assault with a gun and a parole violation on a previous attempted-murder conviction, Sheriff's Department sources said.

The Sheriff's Department continues to combine inmates of notably different threat levels even though the practice was deemed "not permissible" under any circumstances in a confidential report to the Los Angeles County Board of Supervisors more than a year ago that raised numerous safety concerns about the jail's use of security classifications.

That report by Merrick Bobb, who oversees the Sheriff's Department for the supervisors, was commissioned after the killing of five inmates over seven months in late 2003 and early 2004 — with three of the deaths blamed on victims being housed with more violent offenders.

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Thompson's death marks the second time in three months that a jail inmate has died after being placed with more dangerous inmates. In November, a mentally ill man was stomped to death by violent gang members in a room with no supervision at Men's Central Jail in downtown Los Angeles.

Sheriff's officials acknowledged the practice is dangerous.

"We won't be doing that in the future. We're going to stop that," said Marc Klugman, head of the Correctional Services Division.

But he said the mixing of moderate-security threat inmates with more violent offenders will continue through the end of March, when jailers will be able to shift high-risk offenders to facilities such as the Twin Towers jail downtown.

In heated questioning of sheriff's jail officials at Tuesday's board meeting, county supervisors warned that they were facing massive liability if such mismatches continue.

"We are in a war," said Supervisor Mike Antonovich. "As we delay these ideas … we continue to provide a threat to the safety of our sheriff's personnel and other inmates who are in those facilities…. Somehow, you have a week of rioting, there can't be a greater sense of urgency for us to make timely decisions to bring on the additional personnel and make the necessary changes."

Supervisor Gloria Molina expressed growing frustration with the sheriff's effort to reduce jail violence in a testy exchange with Klugman during Tuesday's board meeting.

"Everything that's going on in our communities is coming into our jails in a concentrated form," Klugman said. "I agree with you that we need to do better. We're trying to do better."

That prompted Molina to retort: "That really leaves me almost hopeless about some of the issues that are going on…. Right now, we are creating a real Band-Aid operation out there."

Bobb called the dynamics in the six-man cell at Men's Central Jail where Thompson died "a tinderbox." He said that not only was the mixing of security levels dangerous, but the matchup of four Latino inmates to two black inmates was in itself a problem, particularly more than a week into large-scale racial rioting in the jail system.

"I am dismayed," Bobb said Tuesday, adding that he did not understand why changes recommended more than a year ago were still not implemented.

Sheriff Lee Baca is an elected official, not an appointee of the Board of Supervisors, although he and other sheriff's officials regularly appear before the board to answer questions. The supervisors fund the Sheriff's Department out of county revenue.

Thompson wasn't even in the system when rioting began at Pitchess Detention Center in Castaic on Feb. 4. He was stopped three days later by Long Beach police for allegedly running a stop sign and was arrested after officers found a small rock-like substance believed to be cocaine.

He pleaded not guilty Thursday to one felony count of possession of a controlled substance, according to the Los Angeles County district attorney's office. His bail was set at $35,000 and he was transferred to county jail.

Thompson's sister, Trina Thompson, said deputies did not tell her the other inmates were more dangerous.

They told her that her brother, a large man who suffered from high blood pressure and chronic asthma, tried to protect the older black cellmate.

"They shouldn't have placed that old man in there with those high security risk Latinos," she said. "My brother was outnumbered."

Sheriff's officials said one of the four Latinos, a 30-year-old man charged with spousal rape and ranked a moderate security risk, did not participate in the fight.

Thompson complained of chest pains and shortness of breath after deputies broke up the disturbance. He died a short time later.

His autopsy was performed Monday, but Los Angeles County coroner's officials said the results would not be released until toxicology tests come back, probably in six to eight weeks. Sheriff's homicide detectives are investigating the case.

Thompson's longtime girlfriend, Joey Dasecke, 37, of Bellflower, said she did not learn what had happened to her companion of seven years until she tried to check on his whereabouts using the jail's Internet inmate finder Monday. On the site she saw Thompson listed as "deceased."

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Criminal court records show a few drug possession charges for Thompson that date back to the early 1990s. Dasecke said he had had some problems with drugs but she knew of no instance when he had been violent.

At Tuesday's board meeting, Antonovich faulted sheriff's officials for the slow progress in recruiting deputies and attempts to improve security in the jails.

Reacting to news that Thompson had been housed alongside much more dangerous inmates, Antonovich said: "Doesn't that indicate that it's not working?"

Though no new major disturbances have occurred since Sunday, the riots and fights had gone on for the previous nine days, involving thousands of jail inmates.

In addition to Thompson's death, a black inmate was beaten to death in the first riot and more than 100 inmates have been injured, some seriously.

Sheriff's officials told county supervisors that they would not segregate inmates by either gangs or race.

Chief Sammy L. Jones, who heads the department's custodial division, said the jails do not have the space to properly separate gangs — an action that would leave many beds empty in dorms assigned to particular gangs.

Supervisors Zev Yaroslavsky and Don Knabe called on their colleagues to stop blaming sheriff's officials for the jail's problems, noting that the department was in the middle of revamping the way it decides where inmates should be housed.

"There's plenty of blame to go round," Yaroslavsky said, addressing sheriff's officials. "But I think that these guys are problem solvers."

Times staff writer Cynthia Cho contributed to this report.

Evolution Supporters Win In Ohio (USAT)

By Greg Toppo

USA Today, February 15, 2006

In the first major vote since a federal judge ruled last year that intelligent design can't be taught in public schools, the Ohio Board of Education voted Tuesday to eliminate science standards that asked students to apply a “critical analysis” to Darwin's theory of evolution.

Scientists had assailed the Ohio standards as an attempt to repackage intelligent design and introduce religious principles into science class. Intelligent design holds that life on Earth is so complex that it could have been created only by an “intelligent designer” such as God.

Tuesday's 11-4 vote rejected a short passage that said students should be able to “describe how scientists continue to investigate and critically analyze aspects of evolutionary theory.”

The board also rejected a model biology lesson that critics said promoted intelligent design. Three board members who voted in January to keep the optional lesson were absent Tuesday, and supporters of the materials said they would force a new vote to get the material back into students' hands.

In December, U.S. District Judge John E. Jones rebuked supporters of intelligent design, saying a 2004 effort by the Dover, Pa., school board to challenge Darwin violated the constitutional separation of church and state and was a thinly veiled attempt to introduce religion into science class.

Ohio Gov. Bob Taft called for the state board review earlier this month and warned members that he expected them to defend evolution. Board member Martha Wise, a 28-year member of the state board who had pushed for Tuesday's vote, later said she was “ecstatic.”

Wise, 72, a Methodist who says she believes in creationism, says the principle should not be taught in science class.

“I believe that religion and teaching of church and God should be done at home, should be done at church and can be done in any other classroom besides science.”

Taft, a Republican, set the stage for the vote earlier this month when he said intelligent design shouldn't be advocated by the state board.

He also challenged board members to keep evolution in the education standards, which guide educators' decisions on how to build lessons.

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Four state board members are up for reappointment at the end of the year. Taft told The (Cleveland) Plain Dealer, “I want to know what their views are before I decide whether to reappoint them.”

Ohio Board Undoes Stand On Evolution (NYT)

By Jodi Rudoren

The New York Times, February 15, 2006

COLUMBUS, Ohio, Feb. 14 — The Ohio Board of Education voted 11 to 4 Tuesday to toss out a mandate that 10th-grade biology classes include critical analysis of evolution and an accompanying model lesson plan, dealing the intelligent design movement its second serious defeat in two months.

The board, which became the first in the nation to single out evolution for special scrutiny under the academic standards it adopted in 2002, stripped the language from the curriculum partly out of fear of a lawsuit in the wake of a December ruling by a federal judge that teaching intelligent design in the Dover, Pa., public schools was unconstitutional.

While the Ohio lesson plan does not mention intelligent design, which posits that life is too complex to be explained by evolution alone, critics contend that the critical analysis language is simply design in disguise.

"This lesson is bad news, the 'critically analyze' wording is bad news," Martha W. Wise, the board member who offered the emergency motion, told her colleagues during 90 minutes of contentious debate here Tuesday afternoon. "It is deeply unfair to the children of this state to mislead them about the nature of science."

Darwin's defenders celebrated the reversal as a sign of a backlash against the inroads made last year by critics of evolution. But leaders of the Discovery Institute, the intellectual home of intelligent design, warned that Ohio's move would create a backlash of its own.

"It's an outrageous slap in the face to the citizens of Ohio," said John G. West, associate director of the Center for Science and Culture at the institute, referring to several polls that show public support for criticism of evolution in science classes.

"The effort to try to suppress ideas that you dislike, to use the government to suppress ideas you dislike, has a failed history," Mr. West said. "Do they really want to be on the side of the people who didn't want to let John Scopes talk or who tried to censor Galileo?"

But Eugenie C. Scott, director of the National Center for Science Education, called the Ohio vote "a significant victory" and said it should give pause to school districts and states considering changes in how evolution is taught.

The Discovery Institute had offered Ohio as a national model for its "teach the controversy" approach on evolution. Kansas, Minnesota, New Mexico and Pennsylvania have adopted similar "critical analysis" standards, and the South Carolina Board of Education is scheduled to vote next month on whether to add a similar phrase to its curriculum guidelines.

"This language from Ohio, the critically-analyze-evolution type language, is sprouting up all over, in both the local level, as well as with other state standards," Ms. Scott said. "The Ohio board has recognized its error, and other school districts should not make that same error."

The model lesson plan is voluntary, and it is unclear how many of Ohio's 613 local school districts use it. At Tuesday's meeting, Robin C. Hovis, a board member who urged its deletion, said that "we allow a Dover risk to remain if we leave this lesson plan on the shelf."

The vote followed Mrs. Wise's failed effort last month to kill the lesson plan, after which Gov. Bob Taft, a Republican, called for a legal review of the lesson in light of the Dover ruling. On Tuesday, a board member who supports the critical-analysis approach tried to pre-empt Mrs. Wise's motion by asking the attorney general to take a formal look, but defenders of evolution prevailed in a parliamentary maneuver.

Michael Cochran, one of three lawyers on the 19-member board, criticized Mrs. Wise's supporters as undoing a lengthy process that had led to adoption of the standards with an emergency motion on an afternoon that four members, three of whom support the lesson, were absent.

"It is absolutely disgraceful that we've had this for three years, and we can't wait another month," Mr. Cochran said. "I think that's by design. Not intelligent design, but by design."

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Deborah Owens Fink, who along with Mr. Cochran voted against eliminating the critical-analysis language, said after the meeting that the vote was just another round in the culture war, not a knockout.

"There are no permanent victories in politics," Ms. Fink said. "You do not get paradigm shifts overnight. Whether the ultimate victory is today or it's tomorrow or it's two years from now, people demand that they get open discussion of this issue."

Ehrlich To Veto Bill On Felons (WT)

By S.a. Miller

The Washington Times, February 15, 2006

ANNAPOLIS -- Gov. Robert L. Ehrlich Jr. yesterday vowed to veto a bill that would restore voting rights to felons, including the state's most violent criminals, immediately upon their release from prison.

"I don't think you reward the franchise to those who commit the most horrific crimes," Mr. Ehrlich, a Republican, told The Washington Times. "Full restoration of every right is inappropriate."

Dozens of House Democrats have co-sponsored legislation that would allow about 150,000 murderers, rapists, robbers and other felons to vote this year, and the state Democratic Party has endorsed the bill.

The bill's lead sponsor -- Delegate Salima Siler Marriott, Baltimore Democrat -- said yesterday that Mr. Ehrlich's position reinforces the racist underpinnings of the state law that denies the vote to felons, of whom about 85,000 are black.

Mrs. Marriott, who is black, said Mr. Ehrlich's sentiment "reflects the thinking" of Carter Glass, a delegate to the Virginia Constitutional Convention of 1901 who said felon disenfranchisement aims to "eliminate the darkie as a political factor."

"We all were raised in a racist society," said Mrs. Marriott, stressing that she was not calling Mr. Ehrlich a racist. "Let us be clear about what were the intentions of these laws."

Mr. Ehrlich said he would not "indulge her" by responding to her comments.

"There are white felons. Every issue isn't a racial issue around here," said the governor, who is seeking re-election.

Democratic lawmakers have attributed the Marriott bill's popularity to their party's aim to oust Mr. Ehrlich and secure black votes after Lt. Gov. Michael S. Steele, a Republican, in 2002 became the first black to win statewide office in Maryland.

According to Justice Maryland, a penal reform group that supports voting rights for felons, about 60 percent of Maryland felons are black and likely Democrats.

Ex-convicts could decide this year's election. Mr. Ehrlich won the 2002 gubernatorial race by about 66,000 votes, and the contest this year is expected to be even closer.

Neither of the Democratic gubernatorial candidates -- Baltimore Mayor Martin O'Malley and Montgomery County Executive Douglas M. Duncan -- has taken a position on immediately restoring felons' voting rights. Mr. O'Malley has said he favors a waiting period after prison before giving felons the vote.

Mr. Ehrlich said he is convinced that some Democrats are backing the bill for "purely partisan purposes."

"The vast majority of Marylanders would share my concern with the issue [and] would support my veto," he said.

The bill, which has more than half the 71 House votes needed for passage, has died in the General Assembly for three consecutive years. However, it appears to have momentum in both chambers this year.

"Once they have paid their debt to society, clearly they should be able to vote," Senate President Thomas V. Mike Miller Jr., Prince George's Democrat, said yesterday.

House Speaker Michael E. Busch, Anne Arundel Democrat, said the issue warrants study.

"It's obvious this [Democratic] leadership is tilting strongly left," Mr. Ehrlich said. "Maryland is a much more moderate state."

Sen. Andrew P. Harris, Baltimore County Republican and minority whip, said his caucus overwhelmingly shares the governor's view.

"Violent offenders give up the [voting] right when they commit a violent crime against another person," he said.

House Republican leaders also have said that most of the caucus would oppose the bill.

However, the Democratic majority is large enough in both chambers to pass the bill without Republican support.

Maryland is one of 11 states that disenfranchise some felons for life. The others are Alabama, Arizona, Delaware, Florida, Kentucky, Mississippi, Nevada, Tennessee, Virginia and Wyoming.

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Virginia Gov. Mark Warner, a Democrat, restored the voting rights of 3,414 felons on a case-by-case basis -- more than any other governor of the 11 states with restrictions.

Douglass Still Battling The Old South (WP)

By Courtland Milloy

The Washington Post, February 15, 2006

A kind of Civil War reenactment is underway in Talbot County on Maryland's Eastern Shore. A proposed statue of Frederick Douglass, the county's most famous native son, would be located near a Confederate memorial on the courthouse lawn. And to the dismay of some residents, the memorial to Douglass would be bigger.

Renowned sculptor Ed Dwight, at the request of a group of local activists known as Fred's Army, has come up with a preliminary design that takes up nearly a fifth of the courthouse lawn and would render the Confederate memorial little more than a pigeon perch by comparison.

Battle lines have been drawn.

"The policy adopted by the county is that any new statue would not exceed the proportions or dimensions of other statues," Philip C. Foster, a member of the Talbot County Council, told me. "And anyone who didn't die in a war would not be acknowledged as greater than those who did."

The Confederate memorial, 13 feet high and erected about 1913 in honor of "the Talbot Boys," is the only statue on the courthouse lawn. The cherubic-looking soldier holds a Confederate flag. The initials C.S.A., for Confederate States of America, are engraved on the pedestal.

Veterans groups and others have argued that the courthouse lawn is "hallowed ground" and should be reserved for war veterans. And they insist that race is not an issue, which, to a certain extent, is true. Fred's Army is racially mixed. And one or two black residents are said to have sided with those who oppose placing a statue of Douglass on the lawn.

But the notion that a memorial to an influential statesman and anti-slavery activist should be no greater than what is, in effect, a monument to slavery, is heavily freighted with race. And the objection that Douglass was not a war veteran discounts his role in the deadly struggle for racial equality.

"I don't concern myself with the Talbot Boys, except to say that if there can be a statue that represents what the Confederacy stood for, then we should be able to have a statue that represents what Douglass stood for," said Moonyene Jackson-Amis, a member of the City Council in Easton, the county seat, and a self-proclaimed "soldier" in Fred's Army.

The memorial would be a landscaped mini-plaza, about 35 feet long and 25 feet wide, with a border of bronze panels that depict various periods in Douglass's life. At the center would be a bronze statue of Douglass standing, on a pedestal, as high as the Confederate statue: 13 feet.

In 2004, the County Council voted 3 to 2 in favor of having a statue of Douglass at the courthouse. Foster cast the deciding vote. But his support is no longer assured.

Asked about Foster's concern that the proposed Douglass memorial might be too large, Jackson-Amis replied: "The only guideline we received was that the memorial could not be over 13 feet tall, no higher than the Confederate statue. We abided by that. Now they seem to be backpedaling."

There are numerous references to Douglass in Talbot County. If you drive along Route 303 in northeastern Talbot, you'll come to a marker noting the spot where he was born a slave on Feb. 14, 1818. A cabin used to be just off the road, but it's long gone. All that remains is a clump of trees.

During a recent Black History Month program in Easton, historian Bernard Demczuk told the audience that the absence of a monument to Douglass in Talbot was no accident.

"Black history was, essentially, 'disrecognized' in many rural areas," he said. "This phenomenon of the invisibility of black history is a Southern-styled, genteel form of white supremacy . . . as a legacy of slavery."

The Confederate memorial includes the names of Talbot residents who fought under the Stars and Bars even though Maryland remained in the Union. The first name on the list is Adm. Franklin Buchanan, a former commandant of the Washington Navy Yard, who defected to the Confederacy and fought for the South as a naval commander during the Battle of Mobile.

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"He was a slave owner, a wealthy plantation owner, whose house is not far from here," Demczuk said. "Buchanan invited Jefferson Davis [the president of the Confederacy] to his plantation to recuperate after the Civil War. This guy was a major traitor, and to have his name at the top of a monument in Talbot County is an insult."

Not having a monument to Douglass even more so.

ANTITRUST:

U.S., EU Probe Airlines For Price-Fixing On Cargo (WSJ)

By Daniel Michaels And John R. Wilke

The Wall Street Journal, February 15, 2006

Several major air-cargo carriers were raided by U.S. and European antitrust enforcers as part of a trans-Atlantic investigation into possible price-fixing and collusion in air cargo, officials said.

Federal Bureau of Investigation agents raided British Airways facilities at New York's Kennedy Airport yesterday morning, confiscating computers and gathering documents, one official said; similar searches of airlines' facilities took place in Chicago, Miami, San Francisco and Long Beach, Calif. The European Commission conducted its own raids at the same time, saying it had carried out "unannounced inspections" of airline facilities and offices in Europe.

A spokeswoman for the U.S. Justice Department said the antitrust division was coordinating with the European Union and "investigating the possibility of anticompetitive practices in the air-cargo industry."

Although neither authority specified which carriers are under investigation, British Airways, freight carrier Cargolux Airlines International of Luxembourg and units of Air France-KLM said they had been asked for information related to alleged anticompetitive activities, though they declined to comment further. German airline Lufthansa said it was cooperating with authorities.

In the U.S., AMR Corp. said its American Airlines cargo division received a subpoena from U.S. antitrust officials, though it said it wasn't told it was a target of the investigation and hadn't received a search warrant. UAL Corp., parent of United Airlines, said officials visited its cargo office in Frankfurt, though it didn't discuss further details. Atlas Air Worldwide Holdings Inc. said its Polar Air Cargo unit received a formal request for information from U.S. officials. The three said they would cooperate.

Japan Airlines said that its offices in Frankfurt and New York were searched and that it will cooperate.

None of the airlines have been accused of wrongdoing.

According to a statement by Scandinavian Airlines Systems, which said its offices were raided, European officials are investigating whether airlines have cooperated illegally on routes both within Europe and outside the EU since 2000. The statement didn't specify any airlines. SAS said the practices under investigation involved agreements regarding certain surcharges to offset external cost increases.

These include fuel surcharges, security measures after the Sept. 11, 2001, terrorist attacks in the U.S. and the increased cost of war-risk insurance following the start of military action in Iraq in 2003, SAS said. The airline added, however, that it sees no reason to suspect any violations of antitrust laws.

EU regulators said the raids were just the beginning of an investigation and don't mean that the companies raided will be found guilty or fined.

It remains unclear by what mechanism the airlines may have illegally cooperated. Since the global airline crisis that followed the Sept. 11, 2001, terrorist attacks, carriers have sought to pass increased costs along to customers. In the price-sensitive passenger-airline market, this has been difficult, although many carriers -- especially outside the U.S. -- have imposed passenger fuel surcharges.

Cargo shippers, which use both dedicated cargo airlines and cargo space in the bellies of passenger planes, have routinely paid fuel surcharges, even before Sept. 11, 2001. Cargo shippers have passed that cost, normally set as a fee per ton of cargo, along to their customers.

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The European Commission can penalize companies as much as 10% of their annual global sales if they find evidence of price-fixing and faces no strict deadline to complete a cartel investigation. In the U.S., price-fixing is a criminal offense carrying stiff fines and possible jail sentences for executives.

European regulators have stepped up cooperation with the Justice Department in recent years, resulting in a rise in global-cartel cases. Under what are known as leniency rules, a cartel participant who blows the whistle and agrees to provide evidence against the others can receive immunity. It isn't clear if one of the airlines involved in the investigation acted as a whistle-blower.

In 2002, the EU changed its policy to mirror U.S. law. A lack of trans-Atlantic coordination had discouraged international cartel participants from self-reporting illegal activity for fear that a confession in one jurisdiction could lead to legal jeopardy in another, U.S. and EU antitrust officials have said.

Regulators Launch Probe Of Cargo Carriers (AP)

By Jane Wardell, AP Business Writer

AP, February 15, 2006

U.S., Europe Regulators Launch Probe of Cargo Carriers, Examine Possible Price Fixing in Industry

LONDON (AP) -- U.S. and European regulators have launched a probe of trans-Atlantic cargo carriers, examining possible price fixing in the air cargo industry.

The European Commission carried out surprise inspections Tuesday at several major Europeans airlines, while the U.S. Justice Department issued subpoenas.

British Airways, Air France, KLM, Lufthansa and Luxembourg's Cargolux Airlines all confirmed they were cooperating with authorities investigating the pricing practices in the industry.

The largest U.S. airline, AMR Corp.'s American Airlines, also said it has received a subpoena from the Justice Department as part of an investigation into practices in the air-cargo industry.

American was not been told it was a target of the investigation "and unlike some other airlines," didn't receive a search warrant, spokesman Tim Wagner said. He said the Fort Worth, Texas-based airline would cooperate fully with investigators.

United Airlines, a unit of UAL Corp., said its United Cargo office in Frankfurt, Germany received an inquiry from European authorities.

"We are giving the European authorities our full cooperation in this matter," spokesman Jeff Green said in an e-mail to The Associated Press. "United conducts its business in full compliance with European rules and regulations."

In Houston, a spokeswoman for Continental Airlines Inc. said that carrier had not received a subpoena.

Also Tuesday, Justice Department officials searched Japan Airlines' cargo offices at New York's JFK International Airport, airline spokesman Steve Pearlman said Wednesday in Tokyo. EU officials also searched JAL offices in Frankfurt.

In a brief statement to the London Stock Exchange, British Airways PLC said it had received a request for information from both the European Commission and the Department of Justice and was assisting in the probe.

Justice Department spokeswoman Gina Talamona said that U.S. investigators are working with the EU and other authorities to investigate possible "anti-competitive behavior."

Patrick Jeanne, a spokesman for cargo airline Cargolux Airlines International SA, said the carrier had been visited Tuesday by EU inspectors.

KLM spokesman Hugo Baas confirmed KLM is included in the probe and that investigators were at the company today. He said KLM is extending "full cooperation, and we have all the faith in the outcome of the investigation."

Lufthansa AG and Air France issued similar statements pledging cooperation. KLM and Air France are part of Air France-KLM Group.

The EC said surprise inspections are a preliminary step in investigations into suspected cartels.

"The fact that the European Commission carries out such inspections does not mean that the companies are guilty of anti-competitive behavior nor does it prejudge the outcome of the investigation itself," it said in a statement.

It provided no further detail of what was being examined and put no time frame on the completion of its investigation.

BA said its policy is "to conduct its business in full compliance with all the applicable competition laws."

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The airline said it had no immediate comment beyond its statement.

LAN Cargo, the cargo division of Chile's flag airline LAN Chile, said Tuesday that U.S. government officials appeared at its Miami office as part of the probe.

The company said in a statement that "it is giving maximum cooperation to the authorities in charge of the investigation."

UPDATE 4-Airlines Raided In EU, U.S. Cargo Probe (REU)

By David Lawsky and Jeremy Pelofsky

Reuters, February 14, 2006

BRUSSELS/WASHINGTON, Feb 14 (Reuters) - U.S. and European officials raided airlines on both sides of the Atlantic on Tuesday in an investigation of possible price-fixing of freight shipments by passenger and cargo airlines.

The European Union's executive arm and the U.S. Justice Department conducted searches of some leading passenger airlines' cargo operations in Europe and around the United States, and other airlines were asked for information related to the probe.

"The Commission has reason to believe that the companies concerned may have violated (a European Union) treaty, which prohibits practices such as price fixing," the European Commission said in a statement.

In Washington, the U.S. Justice Department said it was also participating in the probe. "We're coordinating with the EU and other foreign competition authorities," said spokeswoman Gina Talamona, declining to provide more details.

U.S. law enforcement officials said searches took place in New York; Chicago; Miami; Boca Raton, Florida; San Francisco; and Long Beach, California.

It is against the law in most countries for companies to collude to set prices or divide territory. It is standard practice for antitrust authorities in Europe, the United States and other countries to coordinate simultaneous raids on suspects in cartel cases.

The European Commission said it had conducted raids and while it declined to name the targets, Scandinavian airline SAS (SAS.ST: Quote, Profile, Research) revealed it had been raided.

"We don't feel there is any reason for concern, but this will have to be verified," spokesman Hans Ollongren said.

British Airways Plc (BAY.L: Quote, Profile, Research), Air France KLM (AIRF.PA: Quote, Profile, Research), and freight airline Cargolux said they were asked for information related to alleged cartel activity. German carrier Lufthansa (LHAG.DE: Quote, Profile, Research) also said it would cooperate with the probe.

Search warrants were executed at KLM and Air France cargo terminals at Chicago's O'Hare International Airport, according to FBI spokesman Ross Rice. "No arrests were made, no charges have been filed," he said.

"Everything is sealed so we can't talk about it," said another law enforcement official with knowledge of the matter when asked about the search warrants.

The world's two biggest airlines, AMR Corp.'s (AMR.N: Quote, Profile, Research) American Airlines and UAL Corp.'s (UAUA.O: Quote, Profile, Research) United Airlines, both said they received inquiries as part of the probe.

No. 1 carrier American said it has been subpoenaed by Justice Department investigators but said it has not been told that it is a target of the investigation and has not received a search warrant, like some other carriers.

"American intends to cooperate fully with the DOJ's investigation," said Tim Wagner, an airline spokesman.

United said its cargo office in Frankfurt received an inquiry from European authorities.

Polar Air Cargo Inc., a unit of Atlas Air Worldwide Holdings Inc., said it received a request for information as well.

Cargo outfits FedEx(FDX.N: Quote, Profile, Research), UPS (UPS.N: Quote, Profile, Research) and Deutsche Post's (DPWGn.DE: Quote, Profile, Research) express courier DHL said they were not included in the probe.

Cargo receipts are a reliable stream of revenue for passenger airlines, which carry mail and other packages in the belly of planes.

Revenue for most passenger airlines has been growing with rebounding travel but high costs linked to soaring fuel prices have led to big losses.

In response to higher fuel costs, airlines have previously said they would hike fuel surcharges on freight shipments.

"Generally speaking in these types of circumstances what they're looking for is documents, laptop computers, electronic records, that would reveal evidence of some sort of collusion to which the authorities have been alerted," said James Loftis, an antitrust lawyer with the firm Gibson, Dunn & Crutcher LLP. (Additional reporting by Michael Smith and Jason Neely in London; Jeff Mason in Brussels; Simon Johnson in Copenhagen; Andreas Moeser in Frankfurt; John Crawley, Peter Kaplan and Jim Vicini in Washington)

American Confirms Federal Probe Over Pricing Practices (FWST)

By Trebor Banstetter

The Fort Worth Star-Telegram, February 15, 2006

FORT WORTH — The U.S. Department of Justice has subpoenaed American Airlines in conjunction with an investigation into pricing practices in the air cargo industry, American officials said Tuesday.

The subpoena was served by the department's antitrust division, said a spokesman, Tim Wagner. It came amid a European Union probe into possible anti-competitive practices within the European air cargo industry.

"American has not been notified that it is a target of the investigation," he said. "Unlike some other airlines, (American) has not received a search warrant."

He added that the Fort Worth-based airline "intends to cooperate fully with the (department's) investigation."

On Tuesday, investigators with the European Union raided the offices of British Airways, Air France-KLM and Deutsche Lufthansa, according to a Bloomberg News report.

Officials with United Airlines confirmed that they also were cooperating with investigators on the issue.

American and most other airlines have implemented fuel surcharges on cargo operations during the past year to help offset the rising cost of jet fuel. American's cargo operations brought in about $622 million last year, down slightly from $625 million the previous year.

Shares of AMR Corp., American's parent company, rose 93 cents, or about 4 percent, to close at $24.96 in trading Tuesday.

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http://www.dfw.com

Japan Air, Cathay Pacific In EU's Air Cargo Probes (Update1) (BLOOM)

Bloomberg, February 15, 2006

Feb. 15 (Bloomberg) -- Japan Airlines Corp. and Cathay Pacific Airways Ltd. said they are among at least 10 global airlines under investigation by European and U.S. regulators into possible price fixing in the air cargo market.

European Union investigators yesterday raided the offices of Japan Airlines, British Airways Plc, Deutsche Lufthansa AG and Air France-KLM Group, according to the carriers. Hong Kong-based Cathay Pacific said its offices in Frankfurt, Los Angeles and San Francisco were included in the probes.

The push for ``the investigation is probably from the U.S." because ``the basic rule in America is Thou Shall Not Fix Prices," said Jim Eckes, managing director of Hong Kong-based Indoswiss Aviation, which advises global airlines. ``It looks like a very sizeable investigation" and ``the EU will be very determined to stamp out this sort of thing."

The global air freight industry, which expanded 12 percent in 2004 to 37.6 million tons of cargo, is under scrutiny for the way rates are set. Under EU law, the European Commission can impose a fine of as much as 10 percent of annual sales on companies found to be operating a cartel. It typically opts for about 2 percent to 3 percent of sales.

``The commission has reason to believe that the companies concerned may have violated" EU cartel rules, according to a statement yesterday by the Brussels-based commission.

FedEx Corp., the second-largest U.S. package delivery company, said it has not been contacted by the commission, according to an e-mail today by spokeswoman Julia Khong.

Request for Information

AMR Corp.'s American Airlines unit received a subpoena while UAL Corp.'s United Airlines received an ``inquiry'' from EU officials through its United Cargo office in Frankfurt, according to the carrier's spokesman Jeff Green.

``We are cooperating with the investigation,'' Tokyo-based Japan Airline's spokeswoman Yuko Takahashi said by phone today, confirming the company's Frankfurt office was raided yesterday. The airline's shares fell as much as 1.2 percent to 323 yen and traded at 324 yen after four directors demanded for the resignation of Chief Executive Officer Toshiyuki Shinmachi to take the blame for the carrier's poor performance. Shinmachi rejected the demand.

``Cartel Activity''

U.S. Justice Department and European officials requested information on ``cartel activity'' involving British Airways and a number of other airlines and cargo operators, the London-based carrier said in Regulatory News Service statement.

``The antitrust division is investigating the possibility of anticompetitive practices in the air cargo industry,'' the U.S. Justice Department's spokeswoman Gina Talamona said yesterday.

The largest EY cartel fine was 462 million euros ($550 million) levied against Roche Holding AG in 2001 for fixing the price of vitamins.

Polar Air Cargo, a unit of Atlas Air Worldwide Holdings Inc., also received a request for information related to the probe from the U.S. government. It's fully cooperating, the company said in a regulatory filing.

LAN Cargo, a division of Chile's LAN Airlines SA, said in an e-mail that investigators arrived yesterday at its offices in Miami in connection with the investigation. LAN Cargo said its operations haven't been affected.

``Cathay Pacific is in cooperation with the European Commission and U.S. Department of Justice in respect of their investigation into air cargo operations,'' the Hong Kong airline said today. ``The airline is in strict compliance with the applicable legislation in all of its operating market.''

Cathay Pacific's shares rose 1.8 percent to HK$14.35 at 12:29 p.m. in Hong Kong.

Investigations in Korea

Separately, South Korea's two largest carriers said they were visited yesterday by the nation's Fair Trade Commission.

Korean Air Lines Co., the world's biggest carrier of international air freight in 2004, had its office at Gimpo raided, said the Seoul-based company's spokesman Lee Hyoung Woo.

Asiana Airlines, South Korea's second-biggest airline, also got a visit, said spokesman Kim Hyung Jin.

Neither airline said what the investigation was for. The South Korean Fair Trade Commission's spokesman Park Hyun Chul declined to say if its investigation was connected to the joint probes by the EU and the U.S. Justice Department.

Korean Air's shares rose 4.1 percent to 30,500 won while Asiana shares rose 2.7 percent to 7,560 won in Seoul.

To contact the reporter on this story: Naoko Fujimura in Tokyo on nfujimura@bloomberg.net Last Updated: February 14, 2006 23:33 EST

EU Raids British Airways, Lufthansa In Cargo Probe (Update9) (BLOOM)

By Matthew Fletcher Matthew Newman

Bloomberg, February 15, 2006

Feb. 14 (Bloomberg) -- European Union investigators raided the offices of British Airways Plc, Deutsche Lufthansa AG, Air France-KLM Group and several competitors in a probe with the U.S. Justice Department of price fixing in the air cargo market.

Antitrust officials entered the offices of carriers in several EU states to investigate, the Brussels-based European Commission said in a statement today. ``The commission has reason to believe that the companies concerned may have violated'' EU cartel rules. American Airlines said it was subpoenaed, and United Airlines said it was contacted as part of the probe.

Under EU law, the commission can fine companies accused of operating a cartel as much as 10 percent of their annual sales. It typically opts for about 2 percent to 3 percent of sales.

``It's the first time that the commission has investigated the airline industry,'' Jacques Bourgeois, a partner in the Brussels office of Akin Gump Strauss Hauer & Feld and a former commission official, said in a telephone interview. ``The airline industry operates worldwide. From a trustbuster's point of view, it makes sense to cooperate with other antitrust authorities.''

British Airways and Lufthansa said they're assisting with the probe. U.S. and European officials requested information on ``cartel activity'' involving the London-based airline and a number of other airlines and cargo operators, British Airways said in Regulatory News Service statement.

``The antitrust division is investigating the possibility of anticompetitive practices in the air cargo industry,'' said Gina Talamona, a Justice Department spokeswoman.

Coordination

The agency is coordinating its efforts with the EU and other foreign competition authorities, she said. Talamona declined to comment on details of the probe.

Lufthansa said its cargo unit, the world's second-largest air-freight carrier, is cooperating with the investigation and that it would give no further information on the matter.

Air France is also part of the European Commission's investigation and will cooperate fully, said spokeswoman Brigitte Barrand. Air France is Europe's largest airline.

The largest EU cartel fine was 462 million euros ($550 million) levied against Roche Holding AG in 2001 for fixing the price of vitamins.

U.S. Carriers

The cargo division of AMR Corp.'s American Airlines also received a subpoena, company spokesman Tim Wagner said in an e- mail. ``American has not been notified that it is a target of the investigation, and unlike some other airlines, has not received a search warrant,'' he said.

UAL Corp., parent of United Airlines, received an ``inquiry'' from EU officials through its United Cargo office in Frankfurt, spokesman Jeff Green said in an e-mail. ``United conducts its business in Europe in full compliance with European rules and regulations,'' and the airline is cooperating, he said.

Polar Air Cargo, a unit of Atlas Air Worldwide Holdings Inc., also received a request for information related to the probe from the U.S. government. It's fully cooperating, the company said in a regulatory filing.

Continental Airlines Inc. didn't receive a subpoena, spokeswoman Julie King said in an interview.

Delta Air Lines Inc. spokesman Anthony Black said he couldn't immediately comment on the investigation.

LAN Cargo, a division of Chile's LAN Airlines SA, said in an e-mail that investigators arrived today at its offices in Miami in connection with the investigation. LAN Cargo said its operations haven't been affected.

Cathay Pacific Airways Ltd. and Japan Airlines Corp. were also part of the investigation, the Associated Press reported.

Cargolux

Cargolux Airlines International SA, a Luxembourg-based freight carrier, is also being investigated by the European Commission, spokesman Patrick Jeanne said in a telephone interview.

``It's just started today, so we don't have any specifics to give you,'' Jeanne said.

Cargolux is Europe's largest all-cargo carrier with a fleet of 14 Boeing 747 freighters and 90 destinations in its network, according to the company's Web site. The privately held airline posted sales of $1.2 billion in 2004.

Lufthansa Cargo, based in Frankfurt, operates a fleet of 19 MD-11F freighters and uses space in the bellies of the Lufthansa passenger airline's planes as well. It carried 1.74 million tons of freight in 2005 to 512 destinations worldwide.

Air France-KLM in the year ended March 31 had cargo revenue of 2.49 billion euros. British Airways' cargo operations generated 482 million pounds ($835 million) in sales, or 6.2 percent of group revenue, over the same period.

Airlines Raided In Cargo Price Cartel Probe (FT)

By Tobias Buck In Brussels, Kevin Done In London And Stephanie Kirchgaessner In Washington

Financial Times, February 15, 2006

European and US antitrust officials on Tuesday raided the offices of British Airways, Lufthansa, Air France-KLM, Cargolux and other air-cargo companies as part of a transatlantic cartel probe.

The European Commission said its officials had “carried out unannounced inspections at the premises of several air cargo carriers in several EU member states”.

The Brussels-based regulator said it had "reason to believe that the companies concerned may have violated" European rules prohibiting price-fixing and other cartel abuses.

It is understood that among the issues under investigation by the Commission is the way the industry imposes surcharges on air freight rates for items such as fuel, security and war risk.

The targeted groups could face financial penalties if they are found guilty of operating a price-fixing or market-sharing cartel.

Under EU legislation, the Commission can impose cartel fines of up to 10 per cent of a company's global annual turnover – though Brussels normally settles for a lower penalty.

The US Department of Justice said it was also investigating the industry. "I can confirm that the antitrust division is investigating the possibility of anticompetitive practices in the air cargo industry. We are co-ordinating with the EU and other foreign competition authorities," a spokeswoman said.

The Commission never reveals the names of the companies it has raided, but several groups said they were under investigation or had received "requests for information".

BA said it had received information requests both from the Commission and the US Department of Justice. It is understood that antitrust officials raided the British carrier's offices at Heathrow airport and in New York.

Lufthansa issued a statement saying cartel authorities were investigating the air cargo sector and that the group would "fully support" the inquiries. It did not say explicitly whether Lufthansa offices had been raided.

Other companies that confirmed they were part of the investigation are: Cargolux, the Luxembourg-based group; SAS, the Scandinavian carrier; and Air France-KLM.

FedEx and UPS, the leading air cargo operators by revenue, said they had not been contacted and Deutsche Post said its carrier, DHL, was not targeted, Reuters reported.

Lufthansa and Air France-KLM are the biggest cargo carriers among the network airlines, each achieving revenues in 2004 of about $2.9bn (€2.4bn). Air cargo at BA accounted for £482m (€702m), or 6 per cent of total group revenues in the 12 months to March 2005.

The regulator stressed on Tuesday that the "fact that the European Commission carries out such inspections does not mean that the companies are guilty of anticompetitive behaviour nor does it prejudge the outcome of the investigation itself".

BA Among Airlines Raided In Cartel Inquiry (TIMES)

By Angela Jameson

London Times, February 15, 2006

BRITISH AIRWAYS premises were raided yesterday by officials from the European Commission, over suspicions of price-fixing in its cargo business.

The British airline was one of at least ten airlines that were subject to surprise visits from the Commission, which suspects cartel activity among several air cargo carriers operating from European Union member states.

British Airways revealed that it was under investigation in a statement to the London Stock Exchange. The airline said that it had received a request for information from the Commission and the United States Justice Department "relating to alleged cartel activity involving BA and a number of other airlines and cargo operators. British Airways' policy is to conduct its business in full compliance with all the applicable competition laws. BA is assisting the EC and the US Department of Justice with their investigation," the statement said.

Air France, KLM, Lufthansa, SAS and Cargolux, a cargo specialist, also confirmed that they had been visited by European officials. The Commission uses such inspections as a first step in investigations into suspected cartels. However, it pointed out that a raid on any premises does not mean that the company is guilty of anti-competitive behaviour, nor does it prejudge the outcome of the investigation itself.

The cartel investigation could drag on for months as there is no deadline to complete price-fixing inquiries. The duration of the case depends on several factors, including its complexity, the extent of subjects' co-operation and whether they exercise their rights to a defence.

DOJ_NMG_0015064

Cartel activity in the United States is a criminal offence and can result in long prison terms, while in the EU companies face fines that are capped at 10 per cent of annual turnover.

UPS Says Not Contacted Over Cartel Probe (REU)

Reuters, February 14, 2006

CHICAGO (Reuters) - United Parcel Service Inc. (UPS.N: Quote, Profile, Research) said on Tuesday that it has not been contacted by the European Commission in connection with a probe into possible anti-competitive activity.

"We have received no communications on this issue," said UPS spokesman Norman Black.

He added that UPS, the world's largest package delivery company, had also received no contact from the U.S. Justice Department, which is coordinating with the EU and other foreign competition authorities.

Officials at the European Commission said on Tuesday that they had raided several air cargo carriers on suspicion of cartel activity.

New York Focuses Antitrust Probe Of Record Labels (CNET)

By John Borland, Staff Writer, CNET News.com

CNET News, February 15, 2006

New York State Attorney General Eliot Spitzer has sent record labels a new round of subpoenas in his investigation of online-music pricing, music industry sources said Tuesday.

The second inquiry, following an initial round of subpoenas issued in late December, is more tightly focused on the issue of the labels' digital download activities, sources said. Labels had previously expressed concern to Spitzer's office that the original subpoenas were too broad, sources said.

Warner Music Group said in a federal securities filing Tuesday that it received a second subpoena from the New York office Feb. 3. The company did not provide details other than to say Spitzer was investigating whether digital download pricing practices had violated state and federal antitrust laws.

"We intend to cooperate fully with the Attorney General's inquiry," the label said in its filing.

A representative for Spitzer's office declined to comment on the investigation.

Spitzer's inquiry has reopened some old tensions between the record labels, which control wholesale digital music prices, and the online companies that use that content in their own businesses.

In the early days of digital music, Web companies routinely complained that labels were acting unfairly, ultimately helping trigger a federal antitrust investigation into labels' online activities. That investigation closed without any evidence of illegal behavior being unearthed.

The New York investigation comes after several music executives, from companies, have said they want to move away from the universal 99 cent price tag for song downloads and toward a model more like offline record stores, where prices can vary up or down.

Digital-music companies, some of which have also received subpoenas in Spitzer's investigation, have previously said they expected at least one major record label to begin experimenting with variable wholesale pricing early this year. That could be put on hold as a result of Spitzer's actions, however.

A California class action lawsuit has also been filed against the record labels in San Diego on the issue of download pricing, shortly after Spitzer's investigation was initially reported, according to Warner's securities filing.

Microsoft Hopes New Data Code Will Satisfy EU (BLOOM)

By MATTHEW NEWMAN AND CARY O'REILLY, BLOOMBERG NEWS

Bloomberg, February 15, 2006

Today is deadline for regulators to receive plan

Microsoft Corp. will tell European Union regulators today of its plan to provide new source code data for the Windows operating system in an effort to avoid a $2.4 million daily fine.

DOJ_NMG_0015065

Microsoft also said it will ask for a hearing when it replies to EU demands for complete and accurate data that will help rival software makers. The EU set today as the deadline for receiving Microsoft's plan.

"We are really, we think, fully complying with the decrees of the European Union," Microsoft Chief Executive Steve Ballmer said Tuesday at the 3GSM World Congress in Barcelona, Spain. "We are trying to work with the commission to ensure they agree we have taken the right steps."

Separately, the company told a U.S. court Tuesday that it will license its source code to speed compliance with a 2001 antitrust settlement with the U.S. government.

The European Commission, the EU's antitrust regulator, warned Microsoft in December that the company would be fined unless it provided information to help competitors develop network software that can communicate with Windows-based systems.

The company is "confident of the sufficiency, completeness and usability of the documentation provided so far," Horacio Gutierrez, Microsoft's associate general counsel, told reporters in Brussels, Belgium, Tuesday.

After Microsoft's response to European regulators today, the commission will set a date for a private hearing. The regulator will then draft a decision, which will be discussed at a meeting of EU member governments and other interested parties.

That process may last three to four months.

Microsoft also is appealing the commission's antitrust decision at the European Court of First Instance in Luxembourg.

A hearing will be held between April 24 and 28.

Bells Take TV Ambitions Straight To Congress (WSJ)

By Amy Schatz And Peter Grant

The Wall Street Journal, February 15, 2006

WASHINGTON -- The nation's telecommunications laws -- written 10 years ago, before phone calls and TV programs moved over the Internet -- were scheduled for an overhaul by Congress this year. But with the prospects of a major rewrite dim, the nation's biggest phone companies are pushing for a simpler measure: rules that allow them to bypass local governments for approval to offer television service.

At a Senate hearing today, Verizon Communications Inc. Chief Executive Ivan Seidenberg and AT&T Inc. CEO Ed Whitacre will make a pitch for congressional action on national video-franchising rules, which would allow phone companies to roll out video services to compete with cable providers more quickly.

The phone companies want to avoid what cable companies have had to do for years: negotiate with local governments for permission to offer TV service. Phone companies say that it will take years to get such permission, and that local politicians use the process to extract money for community improvements, such as landscaping in parks.

The Bells are eager to change the rules so they can better compete with cable companies, which offer Internet phone service and are eroding phone companies' consumer business. Another pressure: investor skepticism about the Bells' likelihood of success in profitably snagging market share from cable and satellite companies, despite spending billions of dollars to lay fiber-optic lines.

Telecom executives have found a receptive audience for changing the rules among key House and Senate lawmakers, and in certain states such as Indiana and Virginia, where lawmakers have been open to the idea on the condition that revenue to communities from franchising contracts isn't cut.

In addition, Kevin Martin, the Republican chairman of the Federal Communications Commission, has been a quiet ally. Under his direction, the FCC is exploring how it might help the Bells and ease video-franchising rules without congressional involvement. It's not clear that the FCC has the authority to do that under current law. Last week, Mr. Martin took his colleagues on a field trip to Keller, Texas, to visit Verizon's new TV facilities. On the same day, the FCC unveiled a report on the state of video competition, bolstering the Bells' argument and stating that cable companies continue to dominate, serving 69.4% of customers who pay for TV and don't rely on free over-the-air broadcasts.

"We're suggesting there may be a better opportunity to take pieces of a comprehensive package and move them along. One thing where there seems to be substantial support is in video franchising," says Tom Tauke, a former congressman from

Iowa and Verizon's executive vice president of public affairs, policy and communications. In pushing for narrow legislation, the phone companies -- among the biggest donors to politicians -- are running up against another lobbying powerhouse: the cable industry. Talks between phone and cable lobbyists about a compromise for a bill that addresses only video franchising haven't been successful.

"Undoubtedly, every stakeholder in this process has their priorities, and no doubt all wish they could address them on a stand-alone basis," says Kyle McSlarrow, president of the National Cable & Telecommunications Association, the cable industry's lobbying group.

The phone companies were dealt a setback last week when Republican Sen. Conrad Burns of Montana and Sen. Daniel Inouye of Hawaii, the Commerce Committee's ranking Democrat, introduced a cable-friendly "statement of principles" that recognizes the right of local communities to be part of the cable-franchising process.

Meanwhile, influential lawmakers continue to press for sweeping telecom legislation that also includes revamping the Universal Service Fund, which subsidizes phone services in rural or low-income areas and is a sacred cow in Washington. Rep. Joe Barton, the Texas Republican who chairs the House Energy and Commerce Committee, could release a draft bill by mid-March. His counterpart in the Senate, Ted Stevens of Alaska, is still holding hearings and hasn't endorsed any of the various telecom proposals but told reporters yesterday he could envision passing a narrow video-franchising bill.

For now, the phone companies' best bet may be in state capitals instead of on Capitol Hill. Legislation to streamline the franchise-approval process for phone companies passed in Texas last year, is gaining traction in three statehouses and is in early stages in a handful of others.

Most advanced are bills in the Virginia legislature that have been passed by both houses and are the product of a compromise between the state's cable operators and Verizon, the state's largest telephone company. They would enable a phone company to offer video service within 75 days of beginning discussions with a municipality, as long as it makes given commitments, such as offering service to 65% of the area's households within seven years.

Even more attractive to phone companies is legislation in Indiana that was passed by the state Senate this month and the telecommunications committee in the Indiana House earlier this week. That measure, which is part of a broader telecom-overhaul package, would set up a process by which the state, rather than local governments, could issue franchises. Unlike Virginia, recipients wouldn't be required to offer a certain percentage of residents service over a fixed period of time.

Measures supported by phone companies have been introduced in Kansas, Missouri and South Carolina, where a bill recently was approved by a House panel. A draft measure based on the Texas law that passed last year was introduced last week.

Not all the state franchising legislation, though, is favored by telephone companies. In New Jersey, two bills that didn't succeed in the last legislative session have been reintroduced. But neither currently is supported by Verizon, the largest phone company in the state, one because of its strict build-out requirements and the second because of other provisions.

ENVIRONMENT:

Jury Says Dow, Rockwell Should Pay $553.9M To Colo Landowners (AP)

By Jon Sarche

AP, February 15, 2006

DENVER - Ruling in 16-year-old case, a federal jury recommended Tuesday that Dow Chemical Co. and the former Rockwell International Corp. pay $553.9 million to thousands of property owners who claimed their land was contaminated by plutonium from the former Rocky Flats nuclear weapons plant.

The jury concluded the two companies damaged private property around the site through negligence that caused "class members to be exposed to plutonium and (placed) them at some increased risk of health problems." The lawsuit was filed in 1990 on behalf of 13,000 people.

The jury also said the damage from the radioactive material may never go away.

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"It's been a long time, 16 years in court and finally we got an answer that we wanted that tells the truth about Rocky Flats," Richard Bartlett, one of the plaintiffs told Denver station KCNC-TV.

The verdict called for punitive damages of $110.8 million against Dow Chemical and $89.4 million against Rockwell. The jury also recommended the companies pay some $352 million in actual damages.

The final award is likely to be less because of limits in state and federal law, but could still reach $352 million after U.S. District Judge John Kane reviews the verdict, said Louise Roselle, an attorney for some of the plaintiffs.

The verdict was "a real testament to the courage of these citizens who stood up and said this is wrong," said Bruce DeBoskey, who spent 12 years on the case before leaving to become regional director of the Anti-Defamation League.

"These citizens deserved to be compensated for their losses," he said. "This isn't a windfall, this is making up for what these people lost."

Dow said in a statement it would appeal, saying the judge improperly instructed the jury. The company said property values in the area have increased and scientific studies have showed no harm to residents' health or property. Defense attorney David Bernick, who represented Dow and Rockwell, said both companies feel there are clear grounds for appeal.

Attorneys have said the government would cover any damages and legal bills for the companies because they were contractors operating the sprawling Cold War site near Denver on behalf of the Energy Department.

A department spokesman did not immediately return an after-hours message.

Jury deliberations in the class-action lawsuit took 18 days and followed a four-month trial. The suit claimed the plant contaminated neighboring land, driving down property values.

The now-defunct site made plutonium triggers for nuclear warheads for decades before it was closed in 1989. Much of the 6,240-acre site will be transformed into a wildlife refuge and last year, a contractor declared a 10-year, $7 billion cleanup project complete.

Rockwell, based in Milwaukee and now known as Rockwell Automation, and Midland, Mich.-based Dow Chemical operated the plant at separate times under contract with the government.

The lawsuit claimed they intentionally mishandled radioactive waste for decades and then tried to cover it up. Defense attorney Bernick said claims of a cover-up were wrongheaded and that contamination offsite was unintentional and minuscule.

After the verdict, Bernick said the judge made significant mistakes in instructing the jury.

"The instructions made it apparent the judge was applying an extreme view of the law," he said.

Among other things, Bernick said, the jury was allowed to award damages if it determined the companies were responsible for even one atom of plutonium on the plaintiffs' properties. He also said the judge wrongly allowed certain testimony, including claims that the Energy Department was a conspirator.

Dow operated the plant from the 1950s until 1975; Rockwell ran it from 1975 until the plant was shut down.

Bernick also said he was concerned by the dismissal of a second juror after deliberations began, suggesting the juror might have been in the minority and under significant pressure from other jurors. He said the jury voted 8-2 on a number of points in its verdict.

Another juror had been dismissed in early January. Attorneys would not comment on the reasons for the dismissals, and court documents did not explain.

At trial, attorneys for the landowners presented a study showing higher rates of lung cancer near the plant. Bernick dismissed the cancer claims as "junk science," saying the study didn't indicate how long the patients had lived near Rocky Flats.

In 1992, Rockwell pleaded guilty and agreed to pay an $18.5 million fine for water quality and other violations at Rocky Flats. It admitted it stored hazardous waste without a permit, and that it stored the wastes in containers that leaked, and that its actions caused hazardous waste to wind up in reservoirs that supplied drinking water to nearby cities.

The settlement culminated a lengthy investigation dubbed "Operation Desert Glow" in which FBI agents secretly monitored the discharge of pollutants into streams and the burning of hazardous waste at Rocky Flats.

Federal agents charged in an affidavit unsealed after a June 6, 1989, raid that Rockwell and Energy Department officials were aware of environmental violations and sought to conceal them.

DOJ_NMG_0015068

"The government chose to fight their own citizens," Roselle said. "This case points to the way the government ran the weapons complex: with complete disregard for the rights of the neighbor."

Cost Of E85 Fuel Is Higher Than Gasoline (USAT)

By James R. Healey

USA Today, February 15, 2006

The heavily promoted alcohol fuel called E85 might cut America's oil use and help support U.S. agriculture, but it's not reducing motorists' fuel bills. It's boosting them significantly.

The price of E85 — a fuel that's 85% ethanol made from grain and 15% conventional gasoline — is higher than that of gasoline, even though E85 has only 72% as much energy. The U.S. Department of Energy says a vehicle has to use 1.4 times as much E85 as gasoline to go the same distance.

At some Nebraska stations, E85 was $2.19 a gallon Tuesday, while gasoline with 10% ethanol — a common substitute for unleaded regular in the Midwest — was $2.06. “This doesn't make sense,” says Wayne Davis, a division manager at fuel company Bosselman, based in Grand Island, Neb. “Our customers are saying, ‘I'm not going to buy E85, which is better for the environment and the economy, unless it's cheaper.' We're seeing E85 just sit.”

President Bush, in his State of the Union speech Jan. 31, promoted ethanol as a way to help reduce Middle East oil imports 75% by 2025.

Ford Motor and General Motors are working with fuel companies to boost the number of E85 stations in the Midwest. The two automakers say they will build about 600,000 vehicles this year with the special equipment needed to use E85. About 5 million already are on the road. All that emphasis could be negated by pricing.

“Price dictates demand. Period,” says Dave Lybarger, who sells E85 at one of his two Petro Plus stations in Garnett, Kan.

He was selling E85 for $1.94 a gallon Tuesday, and conventional gasoline for $2.19. “If you get it 40 cents under, you start attracting new business. If you get to just 10 under, you start to lose some (E85) business,” he says.

Nationwide average price for gasoline has sunk to $2.286 per gallon, according to travel group AAA's daily report.

To be an even-up energy value, E85 would have to sell for 72% of that, $1.646.

But E85 wholesale prices have jumped to more than $2, so retailers can't afford to sell it for that.

The price of ethanol has been driven up because major oil refiners are suddenly buying in bulk. They're stocking up on ethanol as a replacement for MTBE, a petroleum-based additive suspected of causing cancer. MTBE and ethanol boost the octane of gasoline and can reduce pollution.

MTBE isn't officially banned, but oil companies are switching to avoid lawsuits.

“Gasoline with MTBE in it will become like gasoline with anthrax in it within the next 90 days,” predicts Tom Kloza, veteran analyst at the Oil Price Information Service.

FBI/DEA/ATF/USMS:

U.S. Mounts A Vast Hunt For Church Arsonists (NYT)

By Jim Noles

The New York Times, February 15, 2006

TUSCALOOSA, Ala., Feb. 14 — In the largest manhunt in Alabama since the bombing of a Birmingham abortion clinic in 1998, 200 law enforcement officers are working to solve the arson that has damaged or destroyed 10 rural churches this month.

"The initial forensic work is done," Special Agent Eric Kehn, a spokesman for the Bureau of Alcohol, Tobacco, Firearms and Explosives, said Tuesday. "Now we are just working the scene, and it is a big scene. We are out and about, in the community, pursuing leads. To date, we have over 400 of them, and we take them all seriously."

The investigative team, formally the Alabama Church Fires Task Force, has set up headquarters at the Tuscaloosa Regional Airport. It is led by Jim Cavanaugh, a 30-year veteran of the firearms bureau who heads its Nashville field division.

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Mr. Cavanaugh's agents, teamed with the F.B.I., the Alabama Bureau of Investigation, the office of the state fire marshal and local sheriffs' departments, have fanned out across western and central Alabama, where all 10 fires were set. And, in hopes that the arsonists will contact them, the investigators have set up a phone line and an e-mail address.

The firearms bureau's initial response to the church fires came on Feb. 3, just hours after the first five, with the deployment of a Critical Incident Management Response Team, which established an organizational framework for the investigation.

Members of that team, Mr. Cavanaugh said, "are the behind-the-scenes guys."

"They don't get on TV," he said, "but they are absolutely critical to our efforts."

More visible resources came with the arrival of a pair of arson investigation trucks, teams of agents trained in "cause and origin" analysis and forensic chemists. Accelerant detection dogs — Labrador retrievers that had flunked out of guide-dog training because of excessive inquisitiveness — also scoured the burned churches.

After gathering evidence, the task force has shifted its focus to "tracking leads and linking intelligence," Mr. Cavanaugh said. It has also built a computerized database of potential evidence.

As the investigators continued pursuing the case Tuesday, a 21-year-old man was jailed on suspicion of setting an additional fire, which damaged a storage room Monday night at an abandoned church in White Plains, in northeastern Alabama. But the authorities called that episode a copycat of the 10 others. The Calhoun County sheriff, Larry Amerson, said it was "absolutely not" linked to the other fires.

Witness accounts and behavioral profiles have described the suspects in those fires as two white men in their 20's or 30's.

"These men," Mr. Cavanaugh said, "may be driving a dark S.U.V., possibly a Nissan Pathfinder."

But he added that with more than one man most likely involved, they could be driving multiple vehicles.

"We don't want to focus on an S.U.V. and fall victim to the white-van syndrome," he said, referring to what proved to be a misplaced focus on a white van during the investigation of a series of sniper attacks in the Washington area in October 2002.

The state fire marshal, Richard Montgomery, said the investigation had special meaning to task force members.

"It's personal," he said. "You don't hurt kids. You don't hurt old folks. And you don't burn churches."

Man Arrested In Alleged Copycat Fire (AP-Y2)

By Jay Reeves, Associated Press Writer

AP2, February 15, 2006

A man described as mentally disturbed was jailed Tuesday on suspicion of setting fire to an abandoned church in what authorities said was a copycat of the recent church arsons in rural Alabama.

Calhoun County Sheriff Larry Amerson said the arrest was "absolutely not" otherwise linked to the fires that have destroyed or damaged 10 rural Baptist churches since Feb. 3 in central and west Alabama.

The man lived beside the old White Plains Church of God, where flames heavily damaged a storage room Monday night, and has a brother who is a volunteer firefighter, Calhoun County Chief Deputy Matthew Wade said.

"He wanted to see his brother put out a fire," Wade said.

Amerson said investigators believe the suspect, whom he identified as Jason Phillips, 21, also started several brush fires after watching news coverage of the church arsons.

"In that sense, it is a copycat case," Amerson said.

Agents with the federal Bureau of Alcohol, Tobacco, Firearms and Explosives said no arrests have been made in the other blazes, all of which have been ruled arson.

Phillips will be charged with setting fire to the old church and torching a truck that was burned earlier at a field near his home, authorities said. He said Phillips' firefighter brother was not charged.

Amerson said Phillips is believed to be either mentally retarded or mentally ill.

DEA Busts Up A Major Coke Deal (KDTN-TV)

By Laura Borchers

WDTN-TV, February 15, 2006

Police took millions of dollars of drugs in a huge drug bust Tuesday.

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More than 110 kilos of cocaine were grabbed by DEA agents on State Route 202, just north of Interstate 70 in Huber Heights after watching a deal go down.

"Last week the DEA received some information from credible sources that a large amount of cocaine was coming into the Dayton area," explained Russ Neville of the Drug Enforcement Administration. "We watched them make an exchange. Driving off of I-70, then getting off at 202, traveling north."

Three people were arrested and are currently in jail.

Neville estimated the value of the drugs at $12 million dollars.

$12M In Cocaine Seized Hundreds Of Pounds Of Coke Grabbed In Huber Heights (DDN)

By Steve Bennish

The Dayton (OH) Daily News, February 15, 2006

HUBER HEIGHTS | U.S. Drug Enforcement Administration agents Tuesday seized 242½ pounds of cocaine that has a street value the DEA estimated at $12 million.

A drug deal was observed in the parking lot of a business on Executive Boulevard and agents pounced as the car that received the drugs and the vehicle escorting it drove off, said Russell Neville, resident agent in charge of the DEA's Dayton office.

Agents arrested two men and a woman, Neville said.

The three, traveling from the Columbus area, are in the Montgomery County Jail, Neville said.

The drugs, in two heavy-duty cardboard boxes, tested positive for cocaine.

The bust is the second largest involving cocaine in the region's history.

On Feb. 7, 1993, an Ohio Highway Patrol trooper seized about 491 pounds of cocaine from a motor home along Interstate 70, five miles west of Englewood.

This latest investigation began after a tip that a major drug exchange would occur.

Agents tracked the vehicles from Columbus to Dayton, Neville said.

Agents watched the boxes being passed between one vehicle and the car from Columbus.

The vehicle carrying the two men who delivered the drugs got away as agents focused on the drug-carrying vehicle, he said.

Officers are searching for the delivery vehicle.

Because I-70 and I-75 intersect here, the area long has been a popular transfer point for traffickers moving cocaine to Columbus, Indianapolis, Lexington, Cincinnati and West Virginia, Neville said.

The FBI, U.S. Immigration and Customs Enforcement, Huber Heights police, the patrol and drug task forces in Montgomery, Greene and Warren counties helped in the bust.

Authorities Indict Five Men In Hells Angels Case (AP)

By NICHOLAS K. GERANIOS, Associated Press

AP, February 15, 2006

A federal grand jury on Tuesday indicted five members or associates of the Hells Angels Motorcycle Club in various crimes. Two of the men were charged specifically in the 2001 slaying of a man in Arlington, Wash.

Spokane chapter president Richard Allen Fabel, 48, also known as Smilin' Rick, was charged with racketeering and conspiracy to racketeer. He is accused of directing other gang members to engage in murder, attempted murder, intimidation, extortion, robbery and trafficking in stolen motor vehicles and motor vehicle parts.

The men, who were arrested Tuesday, will be tried in Seattle, where the indictment was unsealed.

The others indicted were Ricky Jenks, 28, of Spokane; Rodney Lee Rollness, 45, of Snohomish; Joshua Binder, 30, of North Bend; and Paul Foster, 49, of Arlington.

Fabel and Jenks appeared Tuesday in Spokane before U.S. Magistrate Cynthia Imbrogno, who ruled the two should remain in jail until a bail hearing on Thursday. Fabel had asked for a bail hearing immediately.

"It's Valentine's Day. Have a heart, for once," Fabel joked to Assistant U.S. Attorney Jared Kimbell, who said the government was not prepared for an immediate bail hearing.

Rollness and Binder appeared in federal court in Seattle, and had bail hearings set for Friday. Foster was scheduled to make his first court appearance on Wednesday.

Jenks is a member of the Hells Angels who is charged with conspiracy to racketeer and the racketeering offenses of robbery and extortion, plus sale of a stolen Harley Davidson motorcycle. If convicted, he and Fabel both face maximum penalties of life in prison and $250,000 fines.

Fabel's attorney, Bevan Maxey, said his client was being targeted because of his leadership of the Spokane-based Washington Nomads chapter of the motorcycle gang. Law enforcement officers broke down the door of the Spokane clubhouse during a Tuesday morning raid.

"Because of his position, quite often he gets blamed for things that other people get involved in," Maxey said.

Rollness and Binder are former members of the state chapter who left the Hells Angels in 2003, the indictment said.

They are charged with two counts of violent crime in aid of racketeering in the slaying of Michael Eugene Walsh, 47, in Arlington, on July 21, 2001. That charge carries the possibility of the death sentence.

Rollness and Binder are also charged with interfering with commerce by threats or violence in the January 2004 attempted robbery of a Monroe resident. Rollness is also charged with two counts of witness tampering, accused of intimidating the alleged victim of that offense.

Foster is a former associate of the Hells Angels who is charged with being an accessory after the fact. He is accused of assisting Rollness and Binder in covering up the Walsh slaying, the indictment said. Walsh was last seen at a party at Foster's home in July 2001.

The arrests follow an extensive investigation by the Monroe Police Department, Washington State Patrol, Snohomish County sheriff's office, the FBI and other agencies.

The Monroe Police Department in early 2004 began investigating the alleged involvement of Hells Angels in selling stolen motorcycles and parts, according to a news release from the U.S. Justice Department.

That investigation eventually led to an investigation into the Walsh slaying.

Fabel and Jenks are also under a separate indictment in federal court in Nevada for their alleged involvement in a fight and shootout between the Hells Angels and Mongols motorcycle gangs at a casino in Laughlin, Nev., on April 27, 2002. Three people died.

Both Fabel and Jenks were released on bond in that case and their trials are pending.

The Washington Nomads is the only chapter of the Hells Angels in Washington, and Fabel has been president since 1996. The indictment called the group "a highly organized criminal enterprise."

Drug Charges Shock Peers (HCHRON)

By HARVEY RICE

The Houston Chronicle, February 15, 2006

Ex-colleagues say sky marshal was a good officer

Burlie L. Sholar III was a good policeman and a good U.S. officer in the eyes of his peers before he and another federal sky marshal were arrested on drug charges last week.

"I'm just surprised that he would be involved in this alleged activity," said former Homeland Security Department agent Danny Stanley, now assistant chief of the Fort Pickett Police Department in Virginia.

Sholar, 32, and Shawn Ray Nguyen, 38, both of Houston, are accused of conspiring to use their positions as air marshals to smuggle 15 kilograms, or 33 pounds, of cocaine on an airliner flying from Houston to Las Vegas.

Stanley said Sholar was a good friend whom he first met in Washington, D.C., when Stanley worked for the Metropolitan Police Department and Sholar worked for the U.S. Capitol Police.

He said he and Sholar were friends for about two years before Sholar left the Capitol Police to join the Los Angeles Police Department.

Sgt. Kimberly Schneider of the Capitol Police did not respond to a request for information about Sholar's employment.

Officer Sara Faden of the LAPD said Sholar joined the department in 1996 and resigned for personal reasons in 2001.

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"To my knowledge he had a respectable record," Faden said.

David Adams, spokesman for the Department of Homeland Security, said Sholar was hired as an air marshal in 2001.

Stanley renewed his acquaintance with Sholar after taking a job as an agent with Homeland Security in 2002, he said.

"I knew him quite well and the allegations surprised me," Stanley said. "It certainly surprised myself and other co-workers."

He said he had received numerous phone calls from agents who worked with Sholar, all expressing disbelief.

Nguyen was an agent with the Houston office of the Drug Enforcement Administration from 1997 to 2002 and left voluntarily to become an air marshal, DEA spokesman Ray D'Alessio said.

D'Alessio said Nguyen was in good standing when he left the agency.

Adams said Sholar and Nguyen both were subjected to thorough background checks that gave them a top-secret security clearance.

The background checks conducted by the Office of Personnel Management typically include a review of previous employment, criminal and credit background checks, and interviews of acquaintances by field agents, Adams said.

The field agent reports are reviewed by other officials. Once approved, agents must be reinvestigated every five years, he said.

Federal court records show that Nguyen filed for bankruptcy two weeks after becoming an air marshal in 2002.

He had a total debt of $203,000, including a $108,500 mortgage and more than $50,000 in credit card debt, records show.

Nguyen listed a former wife and three children in his filing.

There is no indication that his bankruptcy was a factor in his decision to begin associating with a person he knew had a criminal history and ties to a drug trafficker, as alleged in the criminal complaint.

Nguyen began giving the person, referred to only as a cooperating witness, thousands of dollars in cash to invest in drug transactions, according to the complaint against him and Sholar.

The informant recorded incriminating conversations with Nguyen and helped investigators from the FBI and Homeland Security's Office of the Inspector General set up a phony drug transaction that led to their arrest, the complaint says.

FEATURE-Bolivia's Coca: From Cottage Industry To Mass Export? (/REU)

By Bernd Debusmann, Special Correspondent

Reuters, February 15, 2006

LA PAZ, Bolivia, Feb 14 Reuters - It is not often that the menu of a presidential inaugural dinner provides insight into a country's development plans. But it did at the inauguration of Bolivia's Evo Morales last month -- the fare included coca cake, coca cookies, coca wine and coca sweets.

Served to some 300 local and foreign dignitaries in the airy grand hall of the presidential palace, the coca-based menu served notice that the new Bolivian government will try to win international legitimacy for the coca leaf and make it an export commodity.

That could well stir controversy because, aside from being used as a flavoring and in traditional remedies, leaves from the coca plant are also the raw material for cocaine. The U.S. government has for years funded efforts to eradicate coca crops in Latin American countries.

While the leftists elected to power in Bolivia have been sharply critical of U.S. capitalism, they share some of the U.S. business community's views on the relative rank of export markets.

"We need, and we can, develop markets for our coca," said congresswoman Leonilda Zurita, a coca grower and close associate of Morales. "China is particularly important. The Chinese like herbs and they'll like our coca tea."

Closer to home, Morales -- the first former coca grower to run a country and Bolivia's first indigenous president -- wants to work out an export agreement with Argentina, where chewing the coca leaf is legal but its importation is not.

Coca leaf was declared an illegal narcotic in the 1961 U.N. Single Convention on Narcotic Drugs, along with cocaine, heroin, opium and morphine and a host of chemical drugs. The convention came into force in 1964.

Most medical opinion holds that coca leaf, as opposed to the cocaine extracted from it, is neither addictive nor harmful. The leaf's use as a mild stimulant and hunger suppressant dates back thousands of years.

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Taking coca leaf off the U.N. list was one of the main planks of Morales's election campaign. His moves as president are being followed closely, not only by his core constituency in Bolivia but also in Colombia and Peru, where there are fledgling coca-based legal industries.

In Colombia, a group of Nasa Indians have started marketing a rival for Coca Cola called Coca Sek. A Peruvian company makes a coca-based energy drink called Vortex, and there is a line of packaged coca cookies. Coca-based products in Bolivia include shampoo, face cream, coca tea bags and pills to cure altitude sickness. When used as a flavoring, coca gives foods an herbal tang.

COTTAGE INDUSTRY OF LEGAL COCA PRODUCTS

The scale of coca production is tiny, no more than cottage industries for local markets. But growers and officials say their assertions that the leaf is beneficial and nutritious deserve more respect than they have received in the past.

Foreign Minister David Choquehuanca said recently that coca should be part of the breakfast in Bolivian schools because it contained more calcium than milk, a remark which made worldwide headlines but drew more chuckles than nods.

But three Harvard researchers -- James Duke, David Aulik and Timothy Plowman -- came to similar conclusions in an extensive 1975 study which said 100 grams of coca leaf matched or exceeded the U.S. recommended daily dose of calcium, iron, phosphorous, vitamin A and riboflavin.

"The debate over coca has not been very rational," said a diplomat from the European Community, which has agreed to contribute 420,000 euros ($500,000) to a study to establish the size of the legal market for coca in Bolivia.

Complaints about the lack of rational argument on coca leaf are echoed up and down the Chapare, the tropical region where Morales launched his political career by leading coca growers in protests against U.S.-financed efforts to eradicate the coca plant.

"We need to make the world understand that coca and cocaine are different things," said Anacleto Rodriguez, a leader of the coca growers' union in Morales' home village of Villa 14 de Septiembre. "We need to open minds. Alcohol and tobacco, very harmful substances, are traded freely. Why not coca?"

In all three coca-growing countries, the Coca-Cola Co regularly features in conversations about coca and is usually cited as evidence for Western hypocrisy.

U.N. CONVENTION MADE EXCEPTION FOR COCA COLA

The 1961 U.N. convention contains a clause -- article 27 -- Latin Americans believe was specifically introduced for the benefit of the Coca-Cola Co <KO.N>.

It says: "The parties may permit the use of coca leaves for the preparation of a flavoring agent, which shall not contain any alkaloids, and to the extent necessary for such use, may permit the production, import, export, trade in and possession of such leaves."

Coca-Cola, maker of the world's best-selling soft drink, routinely declines comment on coca, saying the drink's ingredients are secret. But Coca-Cola spokespeople have said the company does not buy coca leaves, which is technically correct.

The only legal importer of coca leaf into the United States is the Stepan Co. of Maywood, New Jersey, a company so media-shy it has no public relations department or spokesperson. Telephone inquiries yield pregnant pauses and the suggestion that databases and public records can provide the details Stepan declines to divulge.

According to public records and published reports, Stepan imports coca leaves -- around 380,000 pounds (172,000 kg) a year -- under an agreement with the U.S. Drug Enforcement Administration (DEA) which has to be renewed every year. The latest application to import coca leaves was filed on March 29, 2005, and needs to be renewed next month.

Stepan is the only company in the U.S. registered to import coca and produce cocaine.

Stepan turns part of the leaves into cocaine, largely for use as a local anesthetic in dentistry and ear, nose and throat surgery. The other part is turned into a flavoring extract for Coca-Cola, in a process which removes the active ingredient for cocaine.

CHANGE OF CONVENTION UNLIKELY

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The next opportunity to amend the 1961 convention would be a meeting of the U.N. Economic and Social Council in Vienna in 2008. Diplomats view as extremely remote the possibility of a global consensus on changing the blacklist of substances.

U.S. officials also tend to scoff at suggestions that there is a sizable potential market for coca-based products, notwithstanding a billion-dollar global industry for dietary supplements. There are some coca-based formulations meant to help dieters, but none are distributed widely yet.

Despite such skepticism, Morales has vowed to fight for what he calls the "de-criminalization" of coca. His former comrades in the coca growers' federation talk of a rosy commercial future for legal coca products.

One possibility they mention would be an internationally marketed natural version of the potency-enhacing drug Viagra and similar medications.

At the coca museum in La Paz, the world's only, a poster of a statuette from the Capuli culture, which flourished in Colombia and Ecuador from 850 to 1500 A.D., explains why there are such hopes.

The statuette is of a sitting man, his right cheek bulging with what appears to be a wad of coca leaves. His penis is of such monumental size that it rises above his head. "Learn to chew coca!!" reads the poster's legend.

Bolivian Coca Farmers Re - Elect Morales (AP)

By The Associated Press

AP, February 15, 2006

LA PAZ, Bolivia (AP) -- President Evo Morales accepted re-election as leader of Bolivia's largest coca farmers union Tuesday, despite saying earlier he would step down from the post.

Morales, who was inaugurated as Bolivia's first Indian president three weeks ago, traveled to the central city of Cochabamba to thank the union members and defend his decision to remain their leader in the face of "enemies (who) have made negative comments."

"A president of Bolivia can also be a union leader, and that's our difference from the traditional parties," Morales told a gathering of "cocaleros," or coca farmers, from the Chapare region.

Morales rose to political power after joining the union in the 1980s, later leading the sometimes-violent struggle against Washington-backed coca eradication policies.

On Monday, the cocaleros picked him to fill the union's top job for the 10th year running.

Opposition politicians have criticized Morales' continued involvement.

"The president is making a mistake that could damage the image of the country," said Senator Tito Hoz de Villa. "He's no longer a union leader, but president of all Bolivians."

Morales announced his decision to step down in a speech Saturday before the opening session of the union gathering. He also asked the coca growers to respect a 2004 agreement that limited cultivation of the leaf.

Morales has guaranteed the farmers will be allowed to grow just under half an acre of coca per family in Chapare, as established by a deal struck under the government of former president Carlos Mesa.

Coca is the basic ingredient of cocaine, but it also has traditional religious and medical uses in Bolivia.

Rising Tide Of Border Crime And Violence (CSM)

By Kris Axtman

The Christian Science Monitor, February 15, 2006

HOUSTON - First came an armed standoff between Texas lawmen and drug smugglers disguised as Mexican soldiers. Next, federal officials seized a stockpile of heavy-duty weaponry - assault rifles, hand grenades, and improvised explosive devices - along the Rio Grande. Then a Mexican police reporter was critically wounded after intruders fired more than 60 rounds into the newspaper's offices.

These three incidents in as many weeks dramatize the rising violence along the US-Mexico border. Drug traffickers are becoming more brazen and expanding their operations to include smuggling people. Even as President Bush proposes to beef

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up border security, these attacks are renewing the debate over how best to keep criminals - perhaps even terrorists - from crossing into the United States.

"As long as our law-enforcement resources at the border are primarily occupied with millions of laborers, it will be impossible to intercept the thousands of criminals who are also exploiting our borders," T.J. Bonner, president of the National Border Patrol Council, told a US House subcommittee last week.

Ever since Mexican President Vicente Fox declared war on drug cartels last year, border violence has escalated.

"There has been an over 100 percent increase in the last fiscal year in border violence aimed at our Border Patrol agents, and that ranges from gunshots fired across the border to rocks being thrown, sometimes flaming rocks," said Homeland Security Secretary Michael Chertoff last week.

In this fiscal year, which began Oct. 1, the Border Patrol has recorded 192 assaults against its officers. Drug criminals more desperate

Part of the rise in violence stems from increased US law enforcement at the border, which is creating a more desperate drug smuggler, many experts say.

But it also is rising because these drug smugglers are becoming heavily involved in the lucrative people-smuggling business and are using the same violent tactics to evade law enforcement, Mr. Bonner says.

Some observers also worry that these criminal smugglers could team up with terrorists wanting to infiltrate the US.

"There is not only great concern that the drug trade is becoming more aggressive, but that terrorist organizations are seeking to exploit our porous border," said Texas Gov. Rick Perry last week while announcing a new state initiative, dubbed Operation Rio Grande. It involves redirecting equipment and manpower from state agencies to the border.

And while Mr. Bush's proposed budget is a step in the right direction with respect to border security, more is needed, said Governor Perry. He traveled to Washington late last week to add his voice to the chorus of Texas sheriffs already lobbying Congress for help.

Bush's budget calls for a 6 percent increase for the Department of Homeland Security, which would include 1,500 more Border Patrol agents, 6,700 new beds in detention facilities, and a significant increase in the number of cameras, sensors, and surveillance equipment along the border.

But some immigration experts say the boost in Border Patrol agents is a waste of resources without a more comprehensive approach.

"We've overspent on migration control at the border, so continued spending in this area is of declining value. We are getting less bang for our buck," says Marc Rosenblum, a visiting scholar at the Migration Policy Institute in Washington. "We need to look for more effective ways to control immigration and not simply to concentrate more resources at the border."

But where to put those resources - and whether to crack down on all illegal immigrants or focus on the most dangerous ones - remains the subject of intense debate. Critics see Bush budget paradox

Those calling for a general crackdown see a contradiction in the White House's budget plan.

"For five years President Bush has been talking about the war on terrorism. But it's all offense and no defense," says Mark Krikorian, executive director for the Center for Immigration Studies in Washington. "And immigration control is the most important defensive tool in this kind of conflict."

He says the budget makes clear that Bush continues to ignore workplace enforcement, one of the main ways to check people's immigration status from inside the country.

Indeed, his budget proposes to spend $100 million more on a program to let immigrants come in as temporary workers than on forcing employers to verify the immigration status of their workers, Mr. Krikorian says. "You can't let in the Mexican dishwasher and keep out the Saudi suicide bomber. Immigration enforcement needs to be comprehensive."

But others say the terrorist threat is overblown.

"There is a real tendency to conflate immigration and terrorism," says Mr. Rosenblum of the Migration Policy Institute. "But almost all immigrants come here without any dark agenda."

In his view, a temporary-worker program would ease the pressure on the Border Patrol so that law enforcement could spend more time spotting terrorist types.

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"Instead of spending billions of dollars busting nannies and gardeners, we ought to be analyzing the ways terrorists actually move," he says.

Misguided Border Patrolling (USAT)

By Ruben Navarrette

USA Today, February 15, 2006

Because I'm not just the grandson of a Mexican immigrant but also the son of a retired cop, my views on illegal immigration are complicated. I'm convinced that immigrants — whatever their status — are America's most valuable import. Yet I wasn't raised to take lightly things such as border security or the breaking of laws.

The trouble is that some proposed solutions — from putting troops on the border to denying citizenship to the children of illegal immigrants — bring to mind the old saying about the cure being worse than the disease. That includes this one: Allowing local police to enforce federal immigration law.

This dangerous and self-defeating concept is popular with those who think that law enforcement officers are interchangeable, and that one badge is as good as another. As proponents of this approach see it, police chase down criminals (including illegal immigrants) and it makes no difference whether their jurisdiction is local, state or federal.

Some advocates even want to require local police to enforce immigration law — something opposed by many police associations, including the International Association of Chiefs of Police. The Clear Law Enforcement for Criminal Alien Removal (CLEAR) Act, introduced in 2003 by Rep. Charles Norwood, R-Ga., and reintroduced in 2005, would enlist state and local law enforcement agencies in the enforcement of federal immigration laws. It passed in the House of Representatives as part of a larger immigration bill but has yet to be decided in the Senate.

The wrong answer

A mandate from Washington would be the worst possible thing. This is a decision best left to local and state authorities. We can only hope they make the right one.

In Costa Mesa, Calif., city officials recently made the wrong decision.

At the urging of Mayor Allan Mansoor, the City Council in December voted to authorize local police officers to be trained to enforce immigration law. That makes Costa Mesa, which is an hour's drive south of Los Angeles, the first city in the USA to take this road.

It probably won't be the last. State police agencies in Florida and Alabama and the county sheriff's department in Orange County, where Costa Mesa is located, have sought a "memorandum of understanding" from the U.S. Immigration Customs Enforcement agency to train their officers to enforce immigration law. An official at ICE told USA TODAY that there are at least 10 more pending inquiries from local authorities in New England, the South and the Midwest — all of them aiming to take immigration law into their own hands.

In Costa Mesa, officials seem to want a crackdown limited to what Mansoor calls "criminal offenders," or suspects of wrongdoing beyond entering the country illegally.

That includes gang activity. In fact, it's significant that of the first 40 officers for whom the city wants to seek training, most are detectives, gang specialists and jail personnel. Mansoor says that there won't be any sweeps or raids on employers, and that police will not be targeting illegal immigrants.

Those are some silver linings. Another would be if Costa Mesa's experiment excluded beat cops. Once street officers become surrogate immigration agents, all is lost. Whatever amount of trust the police department has built with immigrant communities will deteriorate. The possibility of racial profiling will increase. An initiative intended to combat crime could easily backfire and fuel it instead if immigrants are too scared to report crimes committed against them.

The root of the problem

Besides, let's not forget how Costa Mesa found itself in this predicament. Mansoor says that it's because the federal government has failed to do its duty.

Nonsense. If illegal immigrants are congregating in Costa Mesa — and thousands of U.S. cities like it — there's only one reason. It's because people in those places have decided they cannot live without the cheap and readily available labor supplied

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by illegal immigrants. Those are the real culprits — the teachers and engineers and soccer moms who love that they can afford upper-class perks (nannies, gardeners and housekeepers) on middle-class wages.

Those are the folks Mansoor and the city should crack down on if they want to solve this problem. At least one other city in California has tried issuing fines to employers who pluck day laborers off streets.

Personally, the cop's son in me would like to see a three-strikes law: The first time you hire an illegal immigrant, you get a warning. The second time, you get a $10,000 fine. The third, you get a week in jail. Currently, the law says you're not in trouble unless you "knowingly" hire an illegal immigrant. But after your third offense, shouldn't you be in the know?

Americans want to get tough on illegal immigrants. Fine. But you can't do that without first getting tough on those who hire them.

I'm probably naïve. Politicians know what they can get away with and what they can't. Immigrants who don't vote and can't speak English are not a threat. But employers of cheap labor who are singled out for prosecution can retaliate by spending money to defeat politicians and elect their opponents. That part isn't complicated. Never has been.

Ruben Navarrette is a member of the editorial board of The San Diego Union-Tribune and a nationally syndicated columnist with The Washington Post Writers Group.

IMMIGRATION:

License Scam Ends In Plea (KNOXNS)

By Jamie Satterfield

Knoxville News Sentinel (TN), February 15, 2006

Man admits helping illegal immigrants

A man pleaded guilty Tuesday to shuttling - for $700 a pop - as many as 98 illegal immigrants in six months to Tennessee to get driver's licenses.

Claudio Galvan, himself an illegal immigrant already deported at least once, admitted at a hearing before U.S. District Court Judge Tom Varlan that he was the leader of a conspiracy to procure Tennessee driver's licenses for other illegal immigrants.

In a plea bargain negotiated by federal prosecutors Will Mackie and Jeff Theodore and Assistant Federal Defender Kim Tollison, Galvan agreed to confess arranging trips for "over 29 but less than 99 illegal aliens to Tennessee" from June to December last year.

The actual figure could be higher, because the number of illegal immigrants involved in the conspiracy determines, in part, Galvan's punishment and was part of the plea bargaining process.

According to court records, Galvan charged other illegal immigrants $700 to take them from Georgia to a driver's license testing center in Maryville and also helped them obtain fake documents needed to show proof of Tennessee residency.

It was the second such shuttle service using East Tennessee testing centers shut down by the FBI in less than a year. The Tennessee Bureau of Investigation recently uncovered a third operation involving testing centers in Middle Tennessee.

Federal prosecutors contend Tennessee is a draw for license-seeking illegal immigrants because of its driver's certificate program, one of only two in the nation that allow people to get a license without proving U.S. citizenship. The other is in Utah.

Under the program, a potential licensee need only show some sort of proof of residency in Tennessee for the past 30 days. Galvan helped provide illegal immigrants with faked proof.

The driver's certificates are not supposed to be used for identification. However, court records show, illegal immigrants are able to use the certificates as identification in a variety of ways that further cloak their lack of legal residency in the United States.

Also pleading guilty in Galvan's case was Armando Rodriguez-Riveros, who admitted transporting Galvan's illegal customers from Georgia to East Tennessee. Both men face less than two years in prison and deportation.

Federal Magistrate Judge Clifford Shirley on Tuesday sentenced five of Galvan's customers, nabbed by the FBI as part of the agency's probe of the shuttling service, to time served, paving the way for their deportation.

Jamie Satterfield may be reached at 865-342-6308.

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TAX:

DOJ:Bank HVB To Enter Deferred Prosecution Pact With Government (DOWJONES)

Dow Jones, February 15, 2006

NEW YORK -(Dow Jones)- German bank Bayerische Hypo & Vereinsbank AG, known as HVB, will pay $29.6 million to the federal government as part of a deferred prosecution agreement in the Justice Department's probe into fraudulent tax shelters, prosecutors said Tuesday.

At a hearing in federal court in Manhattan, prosecutors from the U.S. Attorney's office in Manhattan said the bank's payment includes nearly $16.2 million in disgorgement and forfeiture, as well as more than $6.9 million in restitution. Payment must be made by Feb. 17.

The agreement runs for 18 months. If the bank doesn't violate it during that time, it will likely avoid prosecution.

The bank also has agreed to restrictions on certain types of business and will implement an ethics and compliance program in its U.S. business.

As part of the agreement, the government filed a criminal information against the bank, charging it with one count of conspiracy.

U.S. District Judge Alvin K. Hellerstein accepted the agreement at Tuesday's hearing.

In a statement, Chris Wrenn, HVB's chief operations officer in the U.S., said, "HVB has cooperated fully with the government's investigation and will continue to do so. We have already begun to implement the actions mandated by the [deferred prosecution agreement.] We are pleased to have reached this settlement and can now focus more fully on our core businesses."

The company said it had already begun steps to exit the tax-shelter business, improve its management controls and enhance oversight in its tax department prior to the government's investigation.

Prosecutors have alleged that HVB, from 1996 to 2003, engaged in a scheme to help high-net-worth individuals in the U.S. avoid paying income taxes, including acting as a purported lender for transactions that did little more than create a tax loss for those individuals.

The government said those individuals were able to avoid paying $500 million in income taxes as a result of the creation of about $1.8 billion in phony tax losses.

Last year, Domenick DeGiorgio, a former HVB executive, pleaded guilty to fraud, conspiracy and tax-evasion charges, including an allegedly fraudulent tax shelter marketed by KPMG LLP known as "Bond Linked Issue Premium Structure," or Blips.

DeGiorgio is expected to be a witness for the government in its criminal tax- evasion case against a group of former KPMG LLP partners and others, which is scheduled to go to trial later this year.

Prosecutors have alleged that those former KPMG tax partners and other individuals participated in a scheme to sell fraudulent tax shelters that allowed wealthy individuals to avoid paying at least $2.5 billion in taxes.

Blips were one of the transactions in which HVB admitted to participating as part of the deferred prosecution agreement on Tuesday.

-By Chad Bray, Dow Jones Newswires; 212-227-2017; chad.bray@dowjones.com

Tax Inquiry Said To Include German Bank (NYT)

By Lynnley Browning

The New York Times, February 15, 2006

Federal prosecutors in Manhattan are investigating Deutsche Bank's role in questionable tax shelters that helped wealthy investors evade billions of dollars in taxes, according to people briefed on the case.

The development is the latest in a widening inquiry of accounting firms, lawyers and now banks. Yesterday, Germany's second-largest bank, HVB Group, agreed to pay nearly $30 million in a plea bargain with federal prosecutors over four types of tax shelters, averting an indictment.

A spokeswoman for Deutsche Bank, Germany's largest bank, declined to comment yesterday.

The criminal investigation of the banks is being conducted by the United States attorney's office in Manhattan and follows its investigation into the accounting firm KPMG's role in the creation and sale of bogus tax shelters. In August, KPMG avoided indictment by agreeing to pay $456 million. Seventeen former KPMG employees and two others have been indicted on charges of plotting to defraud the Internal Revenue Service through the creation and sale of four tax shelters. All 19 are fighting the charges.

The settlement with HVB includes a strongly worded admission of "criminal wrongdoing" by the bank. In the agreement, HVB acknowledged that it conspired to defraud the United States government, committed tax evasion, caused false and fraudulent tax to be filed, and assisted in the preparation of false returns. HVB, the statement said, worked with KPMG and certain unnamed law firms and investment firms to participate in fraudulent tax shelter transactions.

"KPMG and HVB have admitted that they and their co-conspirators used false and misleading documentation to cheat the government out of billions of dollars in taxes owed by America's wealthiest citizens," the United States attorney, Michael J. Garcia, said in a statement. He called the tax shelters in question "nothing more than fictions designed to enable privileged taxpayers to avoid paying their fair share."

HVB, under its agreement with prosecutors, will pay nearly $30 million in fines and penalties stemming from its work on four questionable tax shelters sold to investors over 1996 through 2003 that cost the Treasury $500 million in unpaid taxes.

The deal, which lasts 18 months, allows HVB to avoid a criminal trial if it abides by the terms of the agreement, which include cooperating with the widening investigation.

In a statement, HVB said yesterday that it "has cooperated fully with the government's investigation, and will continue to do so."

Government investigators at the Justice Department and the I.R.S. who are investigating questionable tax shelters have said that a network of banks, law firms, accounting firms and investment firms worked together from the mid-1990's through 2003 to create and sell abusive shelters and carry out financial transactions underpinning them.

The agreement with HVB covers four tax shelters known as blips, cards, 357c and common trust funds. All four shelters involve generating phony losses that were then used by investors to evade income tax by offsetting legitimate gains on other income.

Blips required complex financial transactions, which HVB carried out. Prosecutors said yesterday that those transactions were essentially "non-bona fide loans" to investors that generated phony tax losses permitting "illegal tax benefits." Over 1999 and 2000, HVB carried out transactions for 29 blips that generated at least $5.1 billion in phony tax losses, according to a statement of admitted facts accompanying the deferred prosecution agreement.

For that same blips shelter, however, Deutsche Bank played a much bigger role. The bank made 56 blips "loans" over 1999 and 2000, earning fees of $44 million, according to testimony by a former Deutsche Bank employee during hearings by the Senate's Permanent Subcommittee on Investigations in 2003.

That same Senate report said that after a 1999 meeting between unnamed HVB employees and an employee of an investment firm, "HVB was put in touch with Deutsche Bank" regarding loans underpinning the shelter.

No court has ever ruled blips or the three other tax shelters in question illegal. Still, the I.R.S. has never considered the shelters valid.

The criminal investigation in Manhattan adds to Deutsche Bank's legal problems. In late December, a German federal court ruled that the bank's chief executive, Josef Ackermann, would be tried again in a criminal case. Mr. Ackermann, who was a director at a telecommunications company, Mannesmann, during a takeover battle with Vodafone of Britain, had been acquitted in 2004 of charges that he broke the law by awarding rich bonuses to top Mannesmann executives.

And Deutsche Bank is a defendant in numerous civil lawsuits filed by former clients who bought blips and other tax shelters. David Deary, a lawyer in Dallas who represents about 350 investors involved in more than half a dozen complaints, said yesterday that "Deutsche Bank was a major player in the tax shelter market and was involved in all aspects of the tax shelter market, including designing, heavily promoting and implementing a wide variety of tax shelters."

HVB Group, which was born in 1835 as Bavaria's state bank, has more than 2,000 branches in more than 40 countries. In June, it agreed to be acquired by UniCredito of Italy for $18.7 billion.

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Last August, a former HVB employee in New York, Domenick DeGiorgio, pleaded guilty to tax fraud over his work with tax shelters, including blips.

HVB's admission of wrongdoing was made by its head of United States operations, Gabrielle Falger, and was accepted by Judge Alvin K. Hellerstein of the Federal District Court in Manhattan. HVB also agreed not to develop or sell certain tax-related transactions or strategies

No separate enforcement action has been taken by the Federal Reserve, which regulates foreign banking entities in the United States, according to Deborah Lagomarsino, an agency spokeswoman.

Uncollected Taxes Reach $290 Billion (WSJ)

By Tom Herman

The Wall Street Journal, February 15, 2006

New government estimates of revenue losses from uncollected taxes are likely to increase pressure on the Internal Revenue Service for tougher enforcement measures.

The IRS yesterday issued revised estimates of the nation's "tax gap," the difference between what taxpayers should be paying and what they actually do pay. The study suggests that individuals represent by far the biggest part of the problem, especially self-employed workers and others whose earnings aren't reported to the government and where taxes aren't withheld.

Getting precise numbers is exceptionally difficult, since nobody knows for sure how much income isn't reported in the U.S. Also, millions of people who should be filing tax returns aren't doing so. But the IRS study, the most detailed of its kind in many years, came up with two ways of looking at the issue.

First, the IRS estimated the "gross" tax gap at $345 billion a year. Its earlier estimate put the gap in a range of $312 billion to $353 billion, based on an analysis of data for tax-year 2001. That represents the difference between what taxpayers should have paid and what they did pay "on a timely basis." Then, after including $55 billion generated from IRS-enforcement efforts and other late payments, the net tax gap stood at $290 billion. That is also at the high end of the previous estimated range of $257 billion to $298 billion.

Lawmakers quickly expressed dismay. Sen. Max Baucus, a Montana Democrat and a member of the Senate Finance Committee, said the administration's budget plans "won't take any real bite out of this unacceptable tax gap." He also said, "It's time for a comprehensive plan to go after scofflaws and tax cheats big and small, who are contributing to the deficit by not contributing their fair share."

IRS officials say they already have taken major steps. They have increased the number of audits of people making $100,000 or more, and they have intensified their crackdown on what they consider to be abusive tax shelters, or transactions with no real purpose other than dodging taxes. They have stepped up scrutiny of family limited partnerships, a popular technique for cutting estate and gift taxes. And they have increased efforts to pursue "nonfilers," people who should be filing tax returns but aren't.

The administration recently proposed legislation that officials say will help narrow the tax gap. For example, the president proposed requiring debit- and credit-card issuers to report to the IRS the gross reimbursements paid to certain businesses. They also want to clarify when employee-leasing companies can be held liable for their clients' federal employment taxes.

"The vast majority of Americans pay their taxes accurately and are shortchanged by those who don't pay their fair share," IRS Commissioner Mark W. Everson said yesterday in a statement. "The magnitude of the tax gap highlights the critical role of enforcement in keeping our system of tax administration healthy."

IRS spokesman Bruce Friedland said yesterday that the agency estimates there were 13.6 million nonfilers for 2001.

Tax Cheating Has Gone Up, Two Federal Studies Find (NYT)

By David Cay Johnston

The New York Times, February 15, 2006

Historically, when income tax rates fall, so does tax cheating. But that is not what happened after President Bush started cutting taxes five years ago.

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A new report by the Commerce Department found that Americans failed to report more than a trillion dollars in income on their 2003 tax returns. That was a 37 percent increase in unreported income from 2000.

In a separate report, the Internal Revenue Service looked at both unreported income and improper deductions and concluded that Americans shortchanged the government by $345 billion in 2001 — an amount almost equal to the projected federal budget deficit for 2007.

The report, released yesterday by the I.R.S. commissioner, Mark W. Everson, was the agency's first estimate in 15 years of the gap between what Americans owed in taxes and what they paid. The I.R.S. report concluded that proprietors of small businesses, investors and farmers cheated the most. Workers who had 99 percent of their wages reported to the government and taxes withheld from their paychecks were the least likely to cheat.

Mr. Everson acknowledged that the estimate is probably low because the I.R.S. looked only at individuals and small unincorporated businesses. It has not revised its estimates of tax cheating by corporations, large estates and by firms that do not hire their workers directly but instead contract with an employee leasing firm.

The ability of the I.R.S. to enforce the tax laws has steadily eroded in the last 17 years as its ranks of auditors have been trimmed by about a third, the tax code has become more complex and new laws have been enacted to protect taxpayer rights.

In his proposed budget for 2007, Mr. Bush laid out a five-point plan to reduce the underpayment of taxes by $350 million a year, an amount equal to a tenth of a penny per dollar of the unpaid taxes.

A more serious effort to reduce the tax gap appears unlikely, two senators said yesterday.

Senator Charles E. Grassley, the Iowa Republican who is chairman of the Senate Finance Committee — which has held hearings on the issues of unpaid taxes, abusive tax shelters and criminal tax evasion — said it would take more than what Mr. Bush had proposed to make a meaningful dent.

"It's easy for politicians to stand on the soap box and criticize the tax gap," Senator Grassley said, "but I find it's pretty lonely when I need people to join me and get their hands dirty and try to solve these problems."

Senator Max Baucus, Democrat of Montana, the committee's ranking minority member, dismissed the Bush proposal as weak.

"The administration's budget plans won't take any real bite out of this unacceptable tax gap — it just nibbles at this crisis while the deficit grows," Senator Baucus said.

"It's time for a comprehensive plan to go after scofflaws and tax cheats big and small, who are contributing to the deficit by not contributing their fair share," he said.

The Senate Budget Committee will hold a hearing today on reducing the gap between taxes owed and taxes paid.

The I.R.S. estimate was based on a detailed study of 46,000 individual income tax returns.

Mr. Everson said that about 10 million people did not file returns, costing the government about $27 billion in revenue. Another 10 million had incomes so modest that they were not required to file. About 130 million returns were filed. Cheating on business income was "a problem 50 times larger" than cheating by wage earners, Mr. Everson said.

The biggest single revenue loss came from proprietors of unincorporated businesses, who typically file a Schedule C with their tax return, who shorted the government an estimated $68 billion in 2001. Cheating by partnerships, most of whose members are wealthy professionals or investors, was put at $22 billion, while cheating by landlords and those collecting royalties was estimated at $13 billion.

In percentage terms, farmers cheated the most, the I.R.S. said, failing to pay the government $6 billion, or 72 percent of the taxes they should have.

IRS Was Underpaid $345 Billion In '01 (WP)

By Albert B. Crenshaw

The Washington Post, February 15, 2006

Through cheating and mistakes, U.S. taxpayers shortchanged the government $345 billion in 2001, and though $55 million of that was eventually paid late or tracked down by the Internal Revenue Service, the rest was never collected, the IRS said yesterday.

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The figures indicate that the nation's "tax gap," the difference between the amount Americans should pay on income from legal activities and the amount they do pay, is at the high end of the range that the IRS had estimated.

Most of the estimate is based on recent data -- including an analysis of 46,000 randomly chosen personal returns from 2001 -- but some relies on older information, so the true gap "could very well be higher," Internal Revenue Commissioner Mark W. Everson said yesterday.

He said the figures are "a snapshot of 2001" and that the gap could be different today because of changes in tax policy and growth of the economy. However, he said the agency considers the 2001 figures a good guide to where to look for unpaid taxes and will allocate its enforcement efforts accordingly.

Individual taxpayers account for a majority of the gap -- $197 billion in 2001 -- and most of that is the result of unreported or underreported income rather than overstated deductions or improperly claimed credits.

The biggest component of the tax gap attributable to individuals is underreported income from business activities for which there is no third-party reporting comparable to the W-2 reports of wages that employers send to the IRS. Such underreported income -- including rents, royalties, partnerships and the income of self-employed people -- totaled $109 billion.

Exaggerated deductions accounted for $14 billion of the 2001 gap.

IRS officials said the findings are in line with previous research, including the last round of audits in the Taxpayer Compliance Measurement Program, in 1988. Those audits were criticized as intrusive and were barred by Congress in the late 1990s.

Overall, Everson said, about "85 percent of the money is coming in correctly." Of the missing amounts, "we do not have specific conclusions about how much is willful" cheating and how much is "lack of understanding of the code," he said.

Complexity of the tax law contributes to noncompliance, Everson said, both by confusing taxpayers and by providing "opportunities for skirting the line."

The lowest level of compliance for any group was by farmers, who misreported 72 percent of their income (or losses), though they accounted for only $6 billion of the gap.

Underreported capital gains -- profits from sales of stocks, bonds or other assets -- accounted for $11 billion.

Wage income, which is reported to the IRS by employers, has a 99 percent compliance rate.

Everson noted that the Bush administration's budget proposes that federal, state and local governments report to the IRS payments they make to purchase goods and services.

The administration has also asked Congress to require debit and credit card issuers to report aggregate payments to merchants each year.

"What we are proposing is there be . . . some limited additional reporting to get after this large piece of the tax gap," Everson said.

The last time there was a change in reporting, in 1986 when taxpayers were required to provide Social Security numbers for dependents, 5 million dependents vanished, Everson recalled.

"We believe there will be an impact from reporting," he said.

IRS Backs Novel Way To Avoid Gift Taxes (WSJ)

By Tom Herman And Rachel Emma Silverman

The Wall Street Journal, February 15, 2006

Bolstered by a recent IRS ruling, a small but increasing number of wealthy individuals are cutting their tax bills by prepaying family members' tuition bills for multiple years.

Tax advisers say this technique could be a smart move for people with large estates who want to pay for a student's tuition and fear they might not live long enough to pay the bills as they come due each year. This way, they can help their families deal with soaring education costs and skirt hefty federal estate and gift taxes. But the technique is also proving popular with younger, healthy individuals.

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Private schools and colleges are seeing more relatives adopting the strategy, and some are now actively encouraging families to prepay tuition bills, which at some elite private schools can run nearly $30,000 a year -- and even more at some colleges.

"I've had about half a dozen clients do it," says Susan C. Frunzi, a partner at the law firm Schulte Roth & Zabel LLP in New York. She says the longest prepayment period was about four or five years. It isn't just being used by grandparents, either: Ms. Frunzi says some clients have done it for nieces and nephews -- or the children of friends who are less well off. Her firm has even prepared a sample prepayment agreement for one of the schools it represents.

The tactic deftly addresses two powerful developments: the soaring cost of education and the huge impending transfer of intergenerational wealth. The parents of boomers are poised to transfer an unprecedented amount of money when they die, and to many, finding tax-efficient ways to share that wealth while they are still alive is an important priority.

"It's becoming a very popular way of avoiding estate taxes," says Bruce Amsbary, business manger of the Rivers School in Weston, Mass., which has seen a rise in multiyear prepayments over the past few years.

The strategy is also beginning to attract more attention among tax professionals. The American Institute of Certified Public Accountants recently said that for people primarily interested in transferring wealth, prepayments provide a method of paying for multiple years of tuition "while keeping the taxpayer's annual exclusion amounts available for other gifts."

One of the main attractions of the direct-prepayment strategy is its simplicity. There is no need to hire a lawyer to draft complex trusts or other sophisticated wealth-transfer techniques. For those skittish about the technique, there are some tax-efficient alternatives, such as funding a 529 college-savings plan; setting up a Health and Education Exclusion Trust, which can pay for multiple generations of heirs; or simply directly paying annual tuition costs each year. (See the chart for some alternative ways to pay for someone's education.)

A recently released private-letter ruling by the Internal Revenue Service is fueling more interest in the subject among tax lawyers and other financial advisers. In the ruling, the IRS told a taxpayer that prepayments of multiple years of tuition for the taxpayer's grandchildren wouldn't be considered a gift for tax purposes. The taxpayer in question proposed prepaying tuition bills for each of six grandchildren through 12th grade.

Under current law, you can hand out as much as $12,000 a year per person to anyone you want without even having to report it to the IRS. Yet it doesn't count against that annual limit if you pay for someone else's tuition or medical expenses, no matter how large your payments may be -- as long as those payments are made directly to the educational institution or medical-services provider.

Thus, you can move large amounts of money out of your estate tax-free, without even having to report your gifts to the IRS -- and without eating into any of your estate tax or lifetime gift-tax exclusion amounts. (The lifetime gift-tax exclusion amount is $1 million. The basic federal estate-tax exclusion amount is $2 million this year, although one spouse typically can leave everything to the other spouse free of estate tax. However, there may be state tax factors to consider.)

Many grandparents long have taken advantage of this provision by making direct payments to schools for a single year of tuition. The IRS's latest ruling gives additional assurance that prepayments for multiple years also would be acceptable.

The prepayments the IRS ruled on didn't entitle the grandparent to any tuition discounts. All tuition payments would be nonrefundable -- a crucial point, according to tax experts -- and, once paid, would become the school's "sole property," even if the students stopped going to that school. They wouldn't entitle them to "any additional rights or privileges over any other student" -- and also wouldn't guarantee enrollment.

There are some risks to the multiyear approach. The child may refuse to attend the school, may transfer out, may get expelled -- or drop out. A possible solution, according to one accountant, would be to arrange ahead of time with the first school to have the tuition money transferred directly to a second school in case the child transfers. Thus, if you are considering prepaying, be sure to ask the school for details of its policy. But the IRS hasn't specifically addressed this issue, and some lawyers think that such an agreement may not pass IRS muster.

Some schools, including colleges such as Harvard and Middlebury and prep schools such as Phillips Academy in Andover, Mass., offer special prepaid plans designed to lock in tuition rates upfront, but many are refundable. Before you sign up, check with a tax expert and have him or her examine the fine print to make sure it wouldn't lead to unintended tax consequences.

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A number of schools report receiving prepayments. For example, within the past two or three years, the Brentwood School in Los Angeles has received prepayments by about four or five grandparents, says Mary Sidell of Brentwood, which has 992 students from kindergarten through grade 12. One prepaid for several children for 10-12 years in advance, she says.

In 2002, the Saint James School, in Montgomery, Ala., drafted an official prepayment agreement as an alternative, and tax-efficient, way for students' family members or friends to pay school costs. "Did you know? Grandparents and others who would like to legally avoid the federal gift tax on large amounts of money can do so by prepaying tuition for their grandchildren or any child for that matter," said a school newsletter sent to students' families.

Only one person, so far, has taken advantage of the school's prepayment agreement, a grandfather. He was in poor health when he decided to fund two of his grandchildren's education for a couple of years. "The money didn't end up in his estate at all," says William Furr, Saint James's controller and business manager. "It was a really good move on his part."

Even with the risks, this could still be a smart move for some people -- but is best suited for those who are concerned they might not live long enough to pay each year's tuition as it comes up, could afford to part with the money permanently, are comfortable the child will complete education at that school and are willing for the school to keep the money in any event.

The ruling confirms the gist of an IRS technical advice memorandum issued in 1999 based on slightly different facts. That memo and the new IRS private-letter ruling apply only to the specific taxpayers involved and aren't supposed to be cited as precedent. But tax advisers say the new ruling is helpful anyway because it offers the IRS's latest thinking on the subject -- and provides additional comfort to anyone who might fear the IRS now might have a different opinion than in 1999. * * *

SPECULATION HEATS UP about possible estate-tax changes.

Senate Majority Leader Bill Frist of Tennessee recently said he will renew efforts to win approval for legislation to repeal permanently the federal estate tax, which he and other Republican leaders refer to as the "death tax." Investment analysts see permanent repeal as highly unlikely this year. "This has little chance of passage," says Andy Laperriere of ISI Group, a research and brokerage firm.

But there still may be a compromise that would include raising the basic estate-tax exclusion, now $2 million, to somewhere between $3.5 million and $5 million -- and cutting the top tax rate, now 46%. * * *

BRIEFS: Ohio's tax amnesty offer, which began Jan. 1, is scheduled to run through today. ... Federal estate and gift-tax revenue rose to about $8.02 billion in the four months ended Jan. 31 from $7.93 billion in the year-earlier period.

Extension Of Bush Tax Rates Wins Support Of Republican Senators (WSJ)

By Brody Mullins

The Wall Street Journal, February 15, 2006

WASHINGTON -- Republicans took a step toward extending lower tax rates on investments when a majority of senators for the first time in this session of Congress signaled that they support the idea.

Senators yesterday voted 53-47 in support of a two-year extension of President Bush's 15% rates on capital gains and dividends. By the same margin, senators said the final tax bill should both lower tax rates on capital gains and dividends and exempt millions of middle-income Americans from the alternative minimum tax.

While yesterday's votes were on a procedural motion and won't have any effect over the final tax bill, they put a majority of senators on the record as supporting an extension of lower tax rates on capital gains and dividends. "It...has been our belief that a majority of senators support extending the lower tax rates on capital gains and dividends. The Senate's vote reaffirms our belief," said Richard Hunt, a securities-industry lobbyist.

Of the Senate's 55 Republicans, three voted against the rate extensions: Sens. Lincoln Chafee of Rhode Island, Olympia Snowe of Maine and John Warner of Virginia. Democrat Ben Nelson of Nebraska voted with Republicans.

Democrats have argued that Republicans should focus on preventing U.S. citizens from having to pay higher taxes under the alternative minimum tax before dealing with the rates on investments. "Let's make sure that relief from the onerous and family-unfriendly AMT happens now," said Sen. Max Baucus of Montana, the ranking Democrat on the Finance Committee. "And let's defer on extending expensive tax breaks for investors until a later day."

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The 15% rates on capital gains and dividends were enacted as part of President Bush's 2003 tax cut bill and don't expire until the end of 2008. Mr. Bush and most Republicans say the lower tax rates on investments have helped fuel economic growth for the past few years. Even though the lower rates don't expire for a few years, Republicans say that failing to act now will add uncertainty to financial markets.

"Extending these provisions now is necessary to provide certainty for investors and businesses and is essential to the continued growth of the economy and the creation of new jobs," Senate Majority Leader Bill Frist of Tennessee wrote yesterday in a letter to the lawmakers who will negotiate a final bill.

The House made the capital gains and dividends extensions the centerpiece of a $70 billion, five-year tax bill approved at the end of 2005. But Sen. Snowe, a moderate Republican, blocked a similar extension in the Senate version of the bill. Instead, the Senate bill would prevent middle-class taxpayers from paying the AMT, at a cost of $30 billion. The House bill doesn't include AMT relief because Republicans in that chamber approved a separate tax bill that protects the middle class from the AMT.

The Senate and House bills also extend for one year billions of dollars of tax incentives for individuals to save for retirement and for businesses to invest in research and development.

Republican leaders in the House and Senate want to approve a final tax bill that both extends the lower capital gains and dividends rates by two years and guards against the AMT. The issue is how to move such a package through Congress. Republicans could include the capital gains and dividends language in the broader $70 billion tax bill and approve the AMT as a standalone bill. Or they could include both provisions in one bill -- along with a renewal of the expiring tax incentives -- by cutting the capital gains and dividends extension to one year.

Republicans in the House and Senate are scheduled to begin negotiations on their competing bills this week before leaving Washington for the President's Day recess. They hope to have a final bill ready by early March.

The Heart Of The Economy (WSJ)

By John W. Snow

The Wall Street Journal, February 15, 2006

By nearly every conventional statistical measure, the American economy is performing very well today -- continued economic growth; a strong employment market; household wealth is at historic highs; inflation has been kept in check; interest rates are still low by historic standards.

But this was not the case three years ago. The economy was still struggling with the head winds from the economic downturn that began in 2000, the impact of the terrorist attacks, and the excesses of the late '90s -- seen most glaringly in the bursting of the equity-market high-tech bubble.

While officially the recession had ended in late 2001, the pace of the recovery was too slow. Growth was anemic, business confidence low and -- of critical importance -- capital investment was way down. As a result job growth was nonexistent.

President Bush recognized that something needed to be done to overcome those headwinds and, in particular, to create a more favorable climate for capital investment that would result in job creation. To do so he sent Congress far-reaching proposals to encourage capital formation by lowering taxes on investment returns. Congress responded with the Jobs and Growth Act, which was signed into law in May 2003.

Since then we have seen a remarkable turn-around in the economy. After nine consecutive declining quarters of real annual business investment, we have had 10 straight quarters of rising business investment. This business expansion led to a substantial increase in employment. In the intervening period, some 4.7 million new jobs have been created and the unemployment rate -- 6.3% in 2003 -- today stands at 4.7%, lower than the average of the 1970s, '80s and '90s.

While many factors contributed to the improved performance of the economy, the tax reductions on capital have been at the heart of the progress we have seen.

The president's proposals didn't simply provide a short-term stimulus. They did provide a stimulus, but they also did far more: By lowering the cost of capital, the president's proposals improved the inherent efficiency of the economy. We know that you always get less of something you tax. By lowering the taxes on capital, the proposals encouraged increased long-term

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investment. Increased long-term investment in turn improves the long-term outlook of the economy. It makes the economy more productive. With additional capital, labor output rises. And with rising labor output the demand for labor increases.

Sound monetary policy from the Fed complemented the tax cuts, of course. The combined effect was essentially an unleashing of the economic power that rises so naturally in a free-market economy. That power comes, at its roots, from risk-takers and investment capital.

With 4.7 million new jobs created and fully half of all households benefiting from the lower tax on dividends alone, there can be no doubt that lower taxes on investment benefited the majority of the American people quite directly.

It concerns me that some in Congress are today looking to increase taxes on capital gains and dividends. Worse yet, there have been suggestions that the administration should choose between protecting the middle class from the Alternative Minimum Tax and extending the low rates on capital gains and dividends.

In both cases, the middle class is at serious risk; choosing one or other is not an option. An AMT fix must be approved by the Congress for 2006 and eventually find a permanent remedy through fundamental tax reform, and the lower rates on investment must hold. Increasing those taxes would damage economic growth, hurt job creation, and raise taxes on half of all American households. * * *

Keep in mind that the typical investor today, according to the Securities Industry Association, is a middle-class person saving for retirement with a household income of about $65,000.

If Congress fails to extend the 15% rate on capital gains and dividends, what harm will it bring to our economy? To me, the answer is very straightforward: Raising tax rates on capital gains and dividends would strike at the heart of the economy with damaging long-term effects on economic growth. A slowdown in investment would be inevitable, and a slowdown in job growth almost certain to follow.

The role of government is to put in place the foundations for American innovators and workers to do the real work that propels the economy forward. A pillar of that foundation is the low tax rates on capital gains and dividends that ultimately translate into higher living standards for all Americans. Congress owes it not just to the 91 million Americans who own equities, but to all Americans who benefit from a strong and growing economy to keep this pillar of growth in place and extend the 15% rate on capital gains and dividends.

Mr. Snow is the U.S. Treasury secretary.

CONGRESS-ADMINISTRATION:

Handling Of Accident Creates Tension Between White House Staffs (NYT)

By David E. Sanger

The New York Times, February 15, 2006

WASHINGTON, Feb. 14 — When the White House press secretary, Scott McClellan, came to the press room just before 10 a.m. Tuesday and suggested he was wearing an orange tie to avoid a stray shot from Vice President Dick Cheney, it seemed to signal an effort to defuse the accidental-shooting story with a laugh.

But by midday, it was clear that the staffs of the president and the vice president had failed to communicate. Just after arriving at work around 7:45 a.m., Mr. Cheney learned that the man he had shot, Harry M. Whittington, was about to undergo a medical procedure on his heart because his injuries were more serious than earlier believed, Mr. Cheney's spokeswoman said.

No one in Mr. Cheney's office passed the word to Mr. McClellan, senior officials at the White House said, adding that the press secretary would never have joked about the shooting accident if he had known about the turn of events involving Mr. Whittington.

It was the latest example of the degree to which Mr. Cheney's habit of living in his own world in the Bush White House — surrounded by his own staff, relying on his own instincts, saying as little as possible — had backfired since the accident in Texas on Saturday. Mr. Cheney's staff members have kept their comments to chronological details and to repeating the vice president's written statements.

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The tension between President Bush's staff and Mr. Cheney's has been palpable, with White House officials whispering to reporters about how they tried to handle the news of the shooting differently. Mr. McClellan, while being careful not to cross Mr. Cheney or his aides directly, has made a point of reminding reporters of how he dealt with Mr. Bush's bicycle accident last summer, when the president collided with a Scottish policeman at the G-8 summit.

"I immediately briefed the press on how the accident had happened, and the condition of the police officer," who was taken to the hospital with minor injuries, Mr. McClellan said.

His message was clear: There was a procedure for conveying this kind of news, and it was not followed in this case.

The past three days have underscored, in public, what has always been clear in the Bush White House: Mr. Cheney plays by rules of his own making. It is the freedom that only a political figure who knows he is in his last job — he often says he will never run again — can get away with.

"What he did was not an irrational thing," said Mary Matalin, Mr. Cheney's former communications adviser, who spoke to him Sunday morning. "This was a very close friend this happened to. Everyone was shaken up about it. When I spoke to him, it was all about Harry, worrying about him," not whether he should get a statement out, or let his South Texas host tell a local newspaper.

To others, though, it is a telling example of the cocoon Mr. Cheney has created within the White House.

Even at the most secure meetings in the White House situation room, Mr. Cheney tends to ask questions but leave the participants guessing about his own views — largely, his colleagues say they suspect, for fear of leaks. His movements, once hidden for security reasons, are now often cloaked out of habit. Several senior members of the administration said they were not told of the shooting accident until late Sunday.

Several White House officials said no one among the White House staff, including the chief of staff, Andrew H. Card Jr., felt empowered to dictate how news of the accident would be handled.

Presumably Mr. Bush could have declared how the news would be disseminated, something he does often on policy matters. Until this week, the periodic disconnect between Mr. Cheney's office and the rest of the White House has been the source of grumbling, but rarely open tension. The most notable exception came in August 2002, when Mr. Cheney, delivering a speech about Iraq, spoke so disparagingly about the utility of past United Nations weapons inspections that he left the impression that the administration would never again use inspections in an effort to assess the threat of Saddam Hussein.

In fact, Mr. Bush had decided to try to send inspectors back in, at least for a while, and it was left to Condoleezza Rice, then the national security adviser, to call Mr. Cheney and get him to strike that wording from a speech he was giving a few days later.

In the past five years, Mr. Cheney has grown accustomed to having a power center of his own, with his own miniature version of a national security council staff. It conducts policy debates that often happen parallel those among Mr. Bush's staff.

But the team Mr. Cheney relies on has changed in recent months. The departure of I. Lewis Libby Jr., who was indicted late last year on charges stemming from the investigation into the leak of a C.I.A. officer's name, left Mr. Cheney without one of his chief confidantes. His most recent communications chief, Steve Schmidt, also departed, to run the re-election campaign of Gov. Arnold Schwarzenegger of California.

It was unclear if their presence would have made a difference last weekend, when the accident was not disclosed publicly for more than 18 hours. Some former White House officials put the blame for that squarely on Mr. Cheney.

Marlin Fitzwater, who was press secretary to the first President Bush (when Mr. Cheney served as defense secretary), said he was "appalled" at how the vice president handled the news of a serious accident.

"The responsibility for handling this, of course, was Cheney's," Mr. Fitzwater was quoted as saying in the online edition of Editor and Publisher. "What he should have done was call his press secretary and tell her what happened, and she then would have gotten a hold of the doctor and asked him what happened."

A full account could have been put out "in about two hours on Saturday," he said.

Ari Fleischer, Mr. McClellan's predecessor, said Tuesday that he suspected the reason Mr. Cheney failed to say anything publicly was because he viewed the hunting trip and the accident as part of his private life, not his public one.

"If this had been a question of fundamental policy," Mr. Fleischer said, "the president's staff and the veep's staff would have gotten together."

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Cheney's Response A Concern In GOP (WP)

By Jim Vandehei And Peter Baker

The Washington Post, February 15, 2006

Vice President Cheney's slow and unapologetic public response to the accidental shooting of a 78-year-old Texas lawyer is turning the quail-hunting mishap into a political liability for the Bush administration and is prompting senior White House officials to press Cheney to publicly address the issue as early as today, several prominent Republicans said yesterday.

The Republicans said Cheney should have immediately disclosed the shooting Saturday night to avoid even the suggestion of a coverup and should have offered a public apology for his role in accidentally shooting Harry Whittington, a GOP lawyer from Austin. Whittington was hospitalized Saturday night in Corpus Christi, Tex., and was moved back into the intensive-care unit after suffering an abnormal heart rhythm yesterday morning.

"I cannot believe he does not look back and say this should have been handled differently," said Vin Weber, a former Republican congressman from Minnesota who is close to the White House. Weber said Cheney "made it a much bigger issue than it needed to be."

Marlin Fitzwater, a former Republican White House spokesman, told Editor & Publisher magazine that Cheney "ignored his responsibility to the American people."

The episode is turning into a defining moment for Cheney, a vice president who has operated with enormous clout to shape White House policy while avoiding public scrutiny over the past five years.

President Bush has allowed Cheney to become perhaps the most powerful vice president in history and has provided him with unparalleled autonomy. Early in Bush's first term, Cheney developed the administration's energy policy, largely behind closed doors, and then heavily influenced Iraq policy after the Sept. 11, 2001, attacks.

No evidence has emerged to suggest that the shooting was anything more than a hunting accident, but the spectacle of the vice president wounding a prominent Republican at an exclusive Texas ranch has become the punch line for politicians and comedians alike, and has penetrated the popular culture through late-night television. Sen. Trent Lott (R-Miss.) said he referred to Cheney as the "shooter in chief" in a meeting with members of Congress yesterday morning. It has also raised anew criticism of Cheney's operating style.

Cheney has avoided public comment on the shooting other than to release two short statements. One stated that he would be issued a warning for not paying a $7 hunting fee in Texas; the other, released by his office yesterday, detailed when he learned of Whittington's worsening condition and said his "thoughts and prayers are with Mr. Whittington and his family."

Whittington suffered an irregular heartbeat yesterday after a shotgun pellet in his chest traveled to his heart, according to hospital officials in Corpus Christi.

Some current and former White House officials said Cheney's refusal to address the issue or accept any blame has the potential to become a political problem for Bush because it reinforces the image of a secretive and above-the-law White House. Top White House aides are pressuring Cheney to discuss the incident as early as today, according to people familiar with the matter.

Cheney, a former House member, White House chief of staff and corporate executive, is dismissive of the national media and unfazed by criticism and unflattering publicity. Bush picked Cheney as vice president in large part because of his lack of political ambitions and his ability to keep confidences.

"If I read Dick Cheney right, he's got to be just devastated" by the shooting incident, said Robert H. Michel, a former House Republican leader from Illinois and a longtime friend. But Michel said he is mystified that the vice president has not come out in public to express his feelings.

"I guess he's so measured with what he does say personally, but boy, I'd think on something of this nature, you'd let your feelings [be] known," Michel said.

In general, Michel said, Cheney has "enclosed" his personal feelings so tightly to avoid showing them in public. "I guess that discipline upon himself is probably the thing that holds him back." Cheney, he added, is virtually immune to public criticism and image problems: "I don't think he really cares."

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Former senator Alan K. Simpson, a fellow Wyoming Republican who hunts with Cheney, said the vice president decided when he was defense secretary during the Persian Gulf War that journalists ask "stupid questions" and distort things, and so he probably sees no need to publicly explain himself.

"Whatever he does, Dick will do it his own way, because whatever he does, it will be the subject of ridicule," Simpson said.

That disregard for public approval, though, can become a problem for the White House, according to veteran presidential aides from both parties. "When the vice president is immune to politics and tone-deaf to politics, as Vice President Cheney has shown himself to be at various stages along the way, then his perspective on this kind of situation isn't as sharp," said Ronald A. Klain, chief of staff to Vice President Al Gore.

Despite a string of political embarrassments linked to Cheney, including not finding weapons of mass destruction in Iraq, the indictment of the vice president's chief of staff in the CIA leak case and now the shooting, he remains a powerful force inside the White House.

A testament to his power is the deference Bush showed Cheney in the handling of last weekend's shooting episode. White House aides said Bush has not pressured Cheney to disclose more details about the shooting or to apologize.

One person close to both men said that Bush is the only person in the White House who could persuade Cheney to change strategy and that even high-level White House aides are reluctant to take on the vice president's office. That left White House press secretary Scott McClellan to be battered by reporters on national television.

"This is one of the challenges of having a high-profile, very powerful vice president inside the White House," said Klain, who added: "The disadvantage is when something negative happens involving the vice president, it is much harder for the White House staff to step in and exert control."

Typically, the relationships between vice presidents and White House staffs are fraught with politics and personal ambitions because nearly every modern vice president has used the position as a launching pad for his own campaign for the top job. With Cheney, Republicans have often boasted that no such dynamic would get in the way because he does not covet the presidency. Cheney has said he will never run for president.

Nonetheless, the relationship has become increasingly complicated. With no political future of his own at stake, Cheney seems indifferent to public perceptions of him. He prefers not to talk with reporters, favoring red-meat speeches before friendly audiences such as last week's Conservative Political Action Committee gathering or call-in chats to conservative radio hosts such as Rush Limbaugh, Laura Ingraham and Sean Hannity.

His approval rating dropped to an all-time low of 36 percent in November, according to a CNN-USA Today-Gallup poll, before rebounding to 41 percent last month. Although White House officials disagree, some outside Republicans wonder whether he has lost influence because his aggressive promotion of the Iraq war led to the CIA leak case and the indictment of his chief of staff, I. Lewis "Scooter" Libby, who resigned after being charged.

Mary Matalin, a Cheney adviser who has helped him deal with the shooting fallout, rejected suggestions that the White House's handling of the incident might result in political damage. "We have a history replete with evidence to the contrary," she said. "Every time we've had predictions of monumental liability, it never occurred."

Cheney Victim Suffers Setback (BSUN)

By Julie Hirschfeld Davis

The Baltimore Sun, February 15, 2006

WASHINGTON -- Harry M. Whittington, the 78-year-old hunter accidentally shot by Vice President Dick Cheney, was back in intensive care Tuesday after suffering a mild heart attack, as questions continued to swirl around the White House's handling of the incident.

Doctors treating Whittington said a shotgun pellet lodged in his chest had triggered what they described as a "silent heart attack." He was reported in stable condition at the Corpus Christi hospital where he has been treated since the shooting on Saturday.

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Cheney, who as of Tuesday night had yet to comment publicly on the accident, was quoted in a statement from his office as saying that he had spoken with Whittington after learning of his condition and that "his thoughts and prayers" are with the Austin attorney.

Doctors who briefed reporters at an afternoon news conference outside Christus Spohn Hospital Corpus Christi- Memorial said Whittington did not experience chest pains or other classic symptoms of a heart attack. They said the pellet, which they had decided to leave in place rather than remove, had caused inflammation of the heart muscle that caused a temporary blockage of blood flow.

Dr. David Blanchard, chief of emergency medicine at the hospital, said doctors were "very, very optimistic" that Whittington would make a full recovery.

Still, the heart attack revealed that Cheney's misfire, first regarded as more embarrassing than life-threatening, had potentially put his victim's health in greater danger, after doctors and White House officials had initially described Whittington as cheerfully on the mend from minor injuries.

It also derailed a concerted White House effort to move past the hunting episode, which has tarnished Cheney's image and highlighted his penchant for secrecy, while thrusting Bush's top aides, including press secretary Scott McClellan, into a tug of war with the news media.

Cheney's office -- under blistering fire for failing to make a public announcement about the shooting -- reversed course and issued a detailed statement about his concern for Whittington.

It recounted a phone call Cheney made to Whittington after learning of his condition, in which the vice president wished him well "and asked if there was anything he needed." Cheney "said that he stood ready to assist," the statement said.

"Mr. Whittington's spirits were good, but obviously his situation deserves the careful monitoring that his doctors are providing," the release said

Doctors said Whittington was expected to remain in the hospital for a week for treatment and observation.

Doctors in Washington, whom Blanchard described as White House physicians, have been consulting with cardiologists at Christus Spohn. Blanchard said they had agreed that it would be in the elderly patient's best interests to treat him with "medical therapy," rather than surgery, "with all the attendant risks of anesthesia [and] the possibility of all other things that could happen."

Cheney learned of the change in Whittington's condition Tuesday morning and watched part of the televised hospital news conference, the statement from his office said. After the briefing, he placed a call to Whittington.

Even as the White House struggled for a second straight day to defend its handling of the shooting, McClellan continued to withhold details. He was informed of Whittington's heart troubles before his televised briefing and before the Corpus Christi news conference in which they were disclosed but did not mention the developments during the 27-minute exchange, which was dominated by questions about the hunting accident.

"You're welcome to continue to focus on these issues," McClellan told reporters. "I'm moving on."

McClellan later said he did not reveal the change in Whittington's condition because "it's not appropriate for me" to do so. "I'm not his doctor; that's for his doctor to talk about." He also said there were "privacy issues" preventing him from commenting.

As the focus turned to Whittington's health, new details continued to emerge about what took place on the 50,000-acre southeast Texas ranch where the accident occurred.

Katherine Armstrong, a lobbyist whose family owns the ranch, indicated in interviews that she and members of her family, not Cheney, had decided it was necessary to inform the public about the incident.

After making that decision over breakfast Sunday morning, she and her mother, Anne Armstrong, a former top Republican official, "ran it by" Cheney, Katherine Armstrong told The Dallas Morning News. She added that Cheney "said something along the lines of, 'You all do whatever you are comfortable with.'"

Katherine Armstrong has lobbied the Bush administration on agriculture issues and lobbied the White House last year on South Korean policy on behalf of South Korean clients, according to federal records. Other guests present for the hunting party included Pamela Willeford, the U.S. ambassador to Switzerland, and her husband George Willeford III, major donors to Bush.

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The sheriff's office in Kenedy County, where the Armstrong Ranch is located, issued a news release about Saturday's incident saying that "there was no alcohol, or misconduct involved" and that "this department is fully satisfied that this was no more than a hunting accident."

Carlos Valdez, the district attorney who prosecutes criminal cases in Kenedy County, said he had yet to speak with sheriff's officials but is satisfied with what he knows of their investigation.

"I haven't seen anything that indicates a need for further investigation as of this point," Valdez said.

Valdez said his office is concerned about Whittington's well- being, and that if the man were to die, he would "ask the sheriff for a copy of his report and a copy of his investigation for us to review to see if any further action is necessary. That's the only thing different that we would do."

In Corpus Christi, doctors said they had performed a cardiac catheterization on Whittington, a procedure used to discover whether arteries around the heart are blocked and there has been damage to heart function.

Johns Hopkins University cardiologist Rick Lang said the patient probably has a good prognosis. This kind of problem usually resolves on its own within one or two weeks, he said.

Heart attacks that produce no outward symptoms are "fairly common," Lang said, accounting for up to 25 percent of all heart attacks, according to a recent study. These injuries are usually discovered after the heart attack, when an EKG reveals that the heart's pattern of electrical activity has changed.

Doctors were unsure precisely where the birdshot near Whittington's heart had lodged, Blanchard said.

Dr. Mandeep Mehra, chief of cardiology at the University of Maryland School of Medicine, said the pellet might have ended up in the pericardium, the heart's protective covering. If so, it could have inflamed the covering, and inflammation can spread to the heart's chambers.

"This can lead to rhythm disturbances," known as atrial fibrillations, he said. He said they usually subside within 48 hours.

Lang and Mehra agreed with Whittington's medical team that removing the pellet is probably not the best course.

"Trying to take it out is more usually hazardous than leaving it alone," Mehra said.

"We've seen this often," he added. "The treatment is often relatively conservative. The prognosis is generally pretty good."

Cheney's Missteps Turned Accident Into P.r. Disaster, Experts Say (KRT)

By Steven Thomma

Knight Ridder, February 14, 2006

WASHINGTON - Vice President Dick Cheney turned a tragic hunting accident into a public relations disaster by maintaining his business-as-usual approach to his life: that it's nobody's business.

His refusal to announce his involvement in the shooting irritated an already suspicious press corps and even prompted some Republicans to complain. And his failure to make a more public show of his regret over his friend's injury might have enhanced his image among many as an aloof and remote man, according to experts in political public relations and corporate crisis management.

To weather the political storm now, some experts said Cheney should show more candor, perhaps by taking questions at a press conference. Yet at least one expert said that wouldn't help. Others advised patience, saying that the story and the uproar would fade if and when the victim, Texas attorney Harry Whittington, recovers.

"The temptation is to say there is a textbook way to handle this sort of thing. There isn't," said Peter Mirijanian, a corporate public relations consultant who specializes in crisis management and has worked for several Democrats in the past.

Most experts agreed, however, that Cheney should have announced the shooting Saturday evening when it occurred and that he should have issued a public statement of his concern for his friend's well-being.

"I am appalled by the whole handling of this," Marlin Fitzwater, who served the elder President Bush as White House press secretary, told Editor and Publisher magazine Tuesday.

He recalled that when the elder Bush once collapsed at the Camp David presidential retreat, "the statement was on the wires before the helicopter had left to take him to the hospital. I can't believe they didn't have a similar plan here. It is all Cheney; he is the key that has to start this."

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Cheney is secretive to the point of defiance about his public and private life. He refused to say, for example, which energy industry representatives he met with when drafting the administration's proposed energy policy. He often doesn't release his schedule. His trip to Texas for the hunting trip wasn't announced.

"Their bunker mentality hurts them at a time like this," said Dan Gerstein, a Democratic public relations consultant. "Cheney should go out publicly and take responsibility. He should say, `There was no wrongdoing, but I made a mistake and I will do everything I can to help Whittington.' I haven't seen any expression directly from the vice president."

Cheney hasn't appeared publicly since the shooting. His office issued a statement Tuesday that didn't quote Cheney directly but said, "The vice president said that his thoughts and prayers are with Mr. Whittington and his family."

Mirijanian said he didn't expect Cheney to hold a press conference. " I don't think he'd be a great asset," he said. "It wouldn't help the situation."

He said Cheney had already decided that it's not necessary to "feed the media beast every day." If that makes the news media angry, so be it.

"The fact that the White House press corps is very hungry for information isn't necessarily a negative to the supporters of the president and vice president," Mirijanian said. "This White House is very good at triangulating the press. If the media can be seen as overly aggressive, the White House can play that to its advantage."

This White House has shown it can wait out a political storm. Mirijanian recalled the pressure last year for President Bush to meet with anti-war protester Cindy Sheehan outside his Texas ranch.

"They took a beating," he said. "And after a while, it subsided."

A veteran Republican public relations consultant, who spoke on condition of anonymity for fear of alienating the White House, said Cheney erred first by not announcing the shooting, then by allowing it to be announced to a local Texas newspaper rather than to the national press.

"That fed a lot of mistrust that was already there. It raised the story to a level it might not otherwise have reached," the consultant said.

Then the White House erred by trying to ease the tension with humor early Tuesday. That was a mistake even before it was announced that Whittington had suffered a minor heart attack, the Republican said.

Now that the damage has been done, the consultant said, it's best for Cheney and the White House to ride it out.

"They're almost over it now. I don't know that they need to say much more about it now."

Analysis: Cheney Forced Onto Center Stage (AP-Y2)

By Tom Raum

AP2, February 14, 2006

At the start of the Bush presidency, Dick Cheney was viewed as the grown-up, the seasoned hand to guide an inexperienced president. Now, he's the center of controversy.

His accidental shooting of a hunting companion and the administration's fumbles in getting out the word underscore the secrecy and near independence under which the vice president operates — and it all sent the White House scrambling on Tuesday to find the right tone when the victim's condition took a turn for the worse.

After first defensively fielding questions on why disclosure of the Saturday shooting was delayed until the next day, Press Secretary Scott McClellan joked about the situation with reporters at his morning briefing. Later, he turned somber after doctors in Corpus Christi, Texas, said the Austin lawyer shot by Cheney — Henry Whittington, 78 — had suffered a minor heart attack after birdshot from Cheney's blast migrated to his heart.

"If you want to continue to spend time on that, that's fine," McClellan told reporters pressing him on the shooting incident. "We're moving on to the priorities of the American people. That's where our focus is."

The shooting presents a new problem for the White House as it seeks to repair damaged credibility in a midterm election year in which continued GOP control of Congress hangs in the balance.

Cheney, 65, whose "favorable" rating was just 24 percent in a recent CBS-New York Times poll, has found himself in other storms swirling around the Bush presidency.

His strong insistence that Saddam Hussein had weapons of mass destruction helped build the case for the U.S. invasion of Iraq. He also has played the role of point man in the National Security Agency's warrantless wiretapping program in the war on terror.

And, more recently, his indicted former chief of staff — I. Lewis "Scooter" Libby — testified to a grand jury about being authorized to disclose classified information to the press in the CIA leak case "by his superiors," according to court documents. Democrats have demanded to know whether Cheney was one of those superiors.

"These things become symptoms of a broader disquiet with Cheney," said Paul C. Light, professor of public service at New York University.

Among moderate and liberal Americans, "there is such an anger toward Cheney," Light said. "There are people who believed he pulled the trigger figuratively on a lot of things. Vice presidents can get away with hitting people with golf balls, but they can't get away with shooting people with shotguns."

Questions linger over why so much time passed before Saturday's shooting was made public and before Cheney and members of his party were interviewed by local law enforcement.

Cheney himself has uttered no words publicly about the mishap, avoiding reporters during a visit to Capitol Hill on Tuesday for meetings with lawmakers. His office issued a terse, unsigned statement describing Whittington's condition and saying that Cheney had phoned him from the White House.

Whittington's "spirits were good, but obviously his situation deserves the careful monitoring that his doctors are providing," the statement said.

Unlike the president, who is accompanied by a news media pool whenever he travels in public, Cheney repeatedly makes unannounced trips around town and around the country — as he did with his weekend hunting excursion in south Texas, and again on his trip to the Capitol on Tuesday.

Cheney remains popular with the GOP conservative base. Ed Goeas, a Republican pollster and strategist, said that all vice presidents have to overcome the fact that "you never get the benefit of the doubt for the good things you do, and never any lack of blame for the bad things."

He said he expects the controversy to pass, especially if Whittington makes a full recovery.

If the shooting victim's condition worsens, that could increase the seriousness of the incident, and bring more scrutiny to bear on what exactly happened on the private Texas ranch.

"But if somehow the president considers Cheney gets to be a liability, I think that getting rid of him or encouraging him to step down would cause problems for the Republicans with their base," said Ross Baker, a Rutgers University political scientist.

"And Cheney is like a member of the Bush family. The president would no sooner push Cheney overboard than he would Jeb," Baker said, referring to Bush brother Jeb Bush, the governor of Florida.

Pellet Near Heart Could Do More Damage (USAT)

By Steve Sternberg

USA Today, February 15, 2006

The greatest risk facing Harry Whittington, 78, the lawyer shot by Vice President Cheney in a hunting accident, is that a shotgun pellet lodged near his heart could travel elsewhere and cause more damage, doctors said Tuesday.

The pellet apparently migrated to Whittington's heart, causing heart rhythm disturbances and the muscle damage that signals a “silent” heart attack, David Blanchard, emergency room director at Christus Spohn Hospital Corpus Christi-Memorial in Corpus Christi, Texas, told reporters Tuesday in a briefing.

“We knew that he had some birdshot very close to the heart from the get-go,” he said. “There's always the risk they can move.”

Doctors said it would be riskier to remove the pellet, causing more damage, than to leave it in place in the hope that the body will safely wall it off with scar tissue.

Blanchard said Cheney's shotgun blast peppered Whittington's face, neck and chest with anywhere from a few to 200 pellets, each one less than a tenth of an inch in diameter. Because pellets are small, their location is hard to pinpoint.

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"We feel at this point very strongly that all of the other birdshot that is within him are not problematic," he said. "It's this one that we're worried about."

Heart surgeon Mehmet Oz of Columbia University's New York Presbyterian Hospital, agreed: "The fact that it moved is concerning," because it could move again, this time to the brain or elsewhere.

Shotgun wounds are different from wounds caused by handguns or rifles. Unless the shotgun is fired at close range, the lower-velocity pellets pack less destructive power than bullets. "They go in a wide area, usually in a spray pattern, and they don't cause serious problems," said Dan Sleeman, a trauma surgeon at Jackson Memorial Medical Center in Miami. "We don't really chase pellets."

Infection is a risk in any kind of gunshot wound, because projectiles carry dirt into a wound. Blanchard said Whittington is being treated with antibiotics.

In this case, Oz said, birdshot most likely pierced the pericardium, the protective sac that surrounds the heart, and may have lodged in the heart-muscle wall.

An injury to the pericardium could inflame the heart, leading to an erratic heartbeat, Oz said. If birdshot entered the heart's wall, he said, the damage would release enzymes that signal a heart attack.

Doctors sent Whittingon for cardiac catheterization to detect blocked or leaky arteries. Doctors threaded a thin tube from Whittington's groin up into the arteries near his heart. They injected a dye, so they could monitor his blood flow patterns. The tests disclosed that his arteries are healthy, Blanchard said.

"Of course, the individual in question has been under stress," says Mandeep Mehra, director of cardiology at the University of Maryland. "And of course, stress alone can cause a heart attack."

Fellow Hunter Shot By Cheney Suffers Setback (NYT)

By Elisabeth Bumiller And Anne E. Kornblut

The New York Times, February 15, 2006

WASHINGTON, Feb. 14 — The 78-year-old lawyer shot by Vice President Dick Cheney in a hunting accident over the weekend suffered a minor heart attack early Tuesday caused by birdshot lodged in his heart, hospital officials in Texas said.

The lawyer, Harry M. Whittington, was moved back into the intensive care unit at Christus Spohn Hospital in Corpus Christi, Tex., to be monitored for up to a week in case the birdshot shifted or additional pellets in his body moved into other organs, the officials said at a televised news conference. Dr. David Blanchard, the emergency room chief, estimated that Mr. Whittington had more than 5 but "probably less than 150 to 200" pellets lodged in his body.

Dr. Blanchard said that the hospital's cardiologists were optimistic that the metallic pellet in Mr. Whittington's heart would not travel farther and that he would be able to function normally. They said they did not consider the other pellets in his body problematic, and they currently have no plans to remove them.

Mr. Cheney's office, in its first official announcement about the incident, released a statement shortly after 2:30 p.m. Eastern time saying that the vice president's "thoughts and prayers are with Mr. Whittington and his family" and that Mr. Cheney had spoken by telephone to Mr. Whittington an hour earlier.

"The vice president wished Mr. Whittington well and asked if there was anything he needed," the statement said. "The vice president said that he stood ready to assist."

The statement added that Mr. Whittington's spirits were "good," but "obviously his situation deserves the careful monitoring that his doctors are providing."

The downturn in Mr. Whittington's health significantly changed the tone of the White House reaction to the hunting accident. In Texas, Carlos Valdez, the district attorney in Kleberg County, said a fatality would immediately spur a new report from the local sheriff and, most likely, a grand jury investigation.

At the White House, Scott McClellan, the president's spokesman, began his day unaware of Mr. Whittington's heart attack. After being battered by reporters on Monday for the delay in the White House's providing information about the accident, Mr. McClellan opened his first briefing on Tuesday making light of the incident, as the late-night comics had done.

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Mr. McClellan joked that the Texas Longhorns, the N.C.A.A. football champions who were at the White House to meet with the president, would be in their team color, orange, and "the orange that they're wearing is not because they're concerned that the vice president will be there."

Continuing the play on orange, the color hunters wear as a safety precaution to avoid being shot, Mr. McClellan held up his own orange and gray tie. "That's why I'm wearing it," he said, to laughter.

But by the time of Mr. McClellan's noon briefing, when the press secretary was aware of Mr. Whittington's downturn but did not disclose it to reporters, his tone was serious, even as he was at times impatient with the persistent questions about the shooting. "If you want to continue to spend time on that, that's fine," Mr. McClellan said. "We're moving on to the priorities of the American people."

Mr. Cheney's aides said he first learned of the change in Mr. Whittington's condition when he arrived at his West Wing office about 7:40 a.m. Tuesday, shortly after doctors in Corpus Christi said that they had picked up an irregular heartbeat from Mr. Whittington on their morning rounds.

Doctors said that the pellet, which they had known since the accident was near Mr. Whittington's heart, had evidently moved into the heart muscle, causing "some quivering" called atrial fibrillation. Mr. Whittington, who was shot by Mr. Cheney on Saturday and moved out of intensive care on Monday, was immediately put back into intensive care.

Mr. Cheney was told, his statement said, that Mr. Whittington would need a cardiac catheterization to determine the condition of his heart. The procedure was performed about 10 a.m. Eastern time. The vice president then continued his schedule for the day, but changed his plans when his chief of staff informed him during a Capitol Hill national security briefing that Mr. Whittington's doctors were about to hold a televised news conference.

Senator Trent Lott, who had teased the vice president about the accident during the briefing, said Mr. Cheney immediately returned to the White House to watch the news conference. "He didn't look like he was having a whole lot of fun," said Mr. Lott, Republican of Mississippi.

Local officials have not considered any charges in the shooting because no one in the hunting party, including the victim, has accused Mr. Cheney of wrongdoing.

"Everybody that I've heard so far has said it was an accident," said Mr. Valdez, who holds an elected position and is a Democrat. "The victim probably told the sheriff's department it was an accident."

Mr. Valdez added, "Now, if the worst happens and the man happens to die, we would take an additional step."

Under the law, even an accidental hunting fatality can result in criminal charges. Mr. Cheney could be charged with negligence, defined as failing to understand the dangers involved and disregarding them, or recklessness, defined as understanding the dangers and disregarding them.

After some initial confusion about what steps the local police had taken to investigate the shooting on Saturday, Secret Service officials said on Tuesday that they had offered to make the vice president available for an interview as quickly as possible but that the local sheriff had agreed to wait until Sunday.

Eric Zahren, a Secret Service spokesman, said the shooting occurred at 5:50 p.m. Central time, slightly later than the White House had said at first. After helping Mr. Whittington into an ambulance, the agents in Mr. Cheney's security detail returned to their command post on the hunting ranch by 6:30 p.m. The Secret Service supervisor in McAllen, Tex., had called the sheriff in Kenedy County to tell him about the shooting by 7 p.m., Mr. Zahren said.

The Secret Service supervisor arranged with the sheriff for Mr. Cheney to be interviewed at the ranch at 10 a.m. Sunday, Mr. Zahren said. But the vice president's office changed the time to 8 a.m.

While there were reports, some from the sheriff himself, that a deputy had been dispatched to the ranch on Saturday night and been turned away, Mr. Zahren said that some local police officers had heard about the shooting on a scanner when an ambulance was sent to pick up Mr. Whittington. They showed up at the ranch unsolicited. Private guards, not Secret Service agents, Mr. Zahren said, turned the police away because they did not know anything had occurred.

The White House first learned of the shooting, Mr. McClellan said Tuesday, when someone from the vice president's party called the Situation Room shortly after the accident occurred. But whoever called — Mr. McClellan would not identify the person

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— said only that there had been a hunting accident involving the vice president, not that Mr. Cheney had himself shot Mr. Whittington.

The Situation Room staff then passed that information to Andrew H. Card Jr., the White House chief of staff, who contacted President Bush. Mr. Card also called Karl Rove, the deputy chief of staff, who called one of the ranch's owners, Katharine Armstrong. Ms. Armstrong told Mr. Rove that the vice president had shot Mr. Whittington, and Mr. Rove then called Mr. Bush about 8 p.m. Eastern time with that news.

Victim Suffers Heart Ailment; Shotgun Pellet Cited As Cause (WP)

By Sylvia Moreno And David Brown

The Washington Post, February 15, 2006

CORPUS CHRISTI, Tex., Feb. 14 -- The Austin lawyer accidentally shot by Vice President Cheney during a weekend quail hunt developed an abnormal heart rhythm Tuesday after a piece of birdshot in his chest moved, sending him back to intensive care.

The rhythm, which was not considered life-threatening, required a cardiac catheterization and will keep Harry Whittington, 78, in the hospital for a week, but hospital officials said he was alert and stable and will recover.

"He will have the full life that the Lord intended him to have," said David Blanchard, medical director of emergency room services at Christus Spohn Memorial Hospital.

The worsening of Whittington's condition came as law enforcement authorities offered new details about the shooting, which occurred late Saturday afternoon at the private 50,000-acre Armstrong Ranch but was not made public until Sunday.

In an interview, Kenedy County Sheriff Ramon Salinas III said Charles Kirk, one of his captains, informed him of an "accidental shooting" about 5:30 p.m. Central time Saturday. Kirk told him that he had been summoned to the ranch to escort an ambulance to a hospital in nearby Kingsville.

About 10 minutes later, Salinas said, a Secret Service agent traveling with Cheney called him on his cell phone to say there had been a hunting accident involving the vice president; he did not name the victim.

When Kirk arrived at the ranch, the ambulance had already left. He called the sheriff to tell him that it had departed and that a federal Border Patrol agent, guarding the gate because Cheney was there, knew nothing about the accident.

Salinas said he called a worker he knew lived on the ranch and asked him for information. The ranch hand, a former county sheriff, called back and described the incident as a hunting accident. Salinas said he decided to send an investigator in the morning because he knew the victim was being hospitalized and he felt assured that it was an accident. Within minutes, the Secret Service agent who had called him called back and asked him to send an investigator at 8 a.m. Central time Sunday.

Chief Deputy Gilbert San Miguel Jr. was dispatched the next morning and spoke to Cheney and other members of the hunting party. Cheney "just explained to me what happened," he said, adding that the vice president characterized the incident as a "hunting accident."

San Miguel would not disclose any other details from the interview.

"After what [Cheney] told us, we concluded it was an accident," Salinas said. "All [San Miguel] had left to do was talk to the victim." San Miguel and another sheriff's deputy spoke to Whittington in the hospital Monday morning.

"He did inform me this was an accident," said San Miguel, who also declined to provide details from that interview.

"Once the victim told him it was an accident, what else do you do?" Salinas said. He said that written reports of the incident will be completed in several days and that they will then be made public.

Salinas and San Miguel said they went to the site of the shooting. They said Whittington had been standing in the bed of a dried pond, several feet downhill from where Cheney and another hunter, Pamela Pitzer Willeford, the U.S. ambassador to Switzerland and Liechtenstein, were standing as they were shooting quail. "He was standing in a low-lying area, and they were out in front on higher ground," Salinas said. The vehicle carrying two other members of the hunting party "was directly behind the vice president and everybody else, from what we were told."

With the wind gusting and the sun setting behind where Whittington was walking, it could have been hard to see and hear him, Salinas said.

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The lawyer's heart condition Tuesday led Blanchard and hospital Administrator Peter Banko to say Whittington had suffered a "mild heart attack." However, their description of events does not fit that of a heart attack as that term is generally used.

Blanchard said a single shotgun pellet that was lodged in Whittington's chest had moved and had come into contact with the surface of his heart. Inflammation of the heart muscle disturbed the electrical circuitry between the upper and lower heart chambers, triggering atrial fibrillation.

That condition affects 2.3 million Americans and is most common in the elderly. It causes an irregular heartbeat that is often faster than normal and frequently produces a feeling of breathlessness, though Blanchard said Whittington reportedly had no symptoms.

Physicians prescribe drugs to slow the heart rate and blood thinners to prevent clots from forming in the atria or upper chambers of the heart. Often, a normal rhythm returns spontaneously. If it does not, physicians can try various maneuvers, including electrical shock.

Although the condition is rare, there are many cases of people surviving after objects penetrate their hearts or move there from elsewhere in the body.

A case reported in the British journal Heart in 1992 described a 68-year-old man who had a fainting spell because of an abnormal heart rhythm. An X-ray showed a rifle slug in the chamber of his right ventricle. The man had fought on the Russian front in World War II and had been wounded five times, the last in the left side of his neck below the jaw. The bullet, according to the journal, had not been removed and, 48 years later, it had traveled to his heart.

In 1997, Swedish physicians described a 45-year-old woman who woke up with fatigue and atrial fibrillation. An X-ray revealed an inch-long metal pin in her right ventricle. It had been used to wire together a bone in her left hand 31 months earlier. Chest surgeons removed it.

Three years ago, a team of Indian physicians reported the case of a 30-year-old man with multiple shotgun-pellet injuries. While he was being prepared for eye surgery, an electrocardiogram revealed a heart attack that had caused him no symptoms. A single pellet was found blocking the downstream end of his right coronary artery.

Cheney Victim Suffers Heart Attack (REU-Y2)

By Jeff Franks

Reuters, February 14, 2006

The Texas lawyer accidentally shot by U.S. Vice President Dick Cheney during a weekend quail hunt suffered a minor heart attack on Tuesday when some of the birdshot still in his body lodged near his heart, a hospital spokesman said.

Harry Whittington, 78, was moved into intensive care and ordered to stay in the Corpus Christi, Texas, hospital for at least another seven days to monitor his condition, said Christus Spohn Memorial Hospital spokesman Peter Banko.

The news suddenly gave a serious edge to the incident that the White House had begun making light of on Tuesday after tense exchanges with the press the day before over failure to disclose the shooting for almost a full day.

Dr. David Blanchard, the hospital's emergency room chief, said at a news conference doctors noted an irregular heartbeat during a morning examination of Whittington and it was determined he was having a minor heart attack.

He was moved into the hospital's intensive care unit and underwent cardiac catheterization for his quivering heart.

"We picked up an irregular heartbeat. At no time did he have any chest pain, the classic signs of a heart attack or anything like that," Blanchard said.

Whittington, a Republican stalwart in Texas, was peppered by an estimated 200 pellets on Saturday when the shotgun-wielding Cheney whirled to shoot a covey of quail on a southern Texas ranch and hit Whittington instead.

Cheney spoke to him by telephone from Washington on Tuesday after watching a televised hospital news conference on Whittington's health setback.

"The vice president wished Mr. Whittington well and asked if there was anything he needed," Cheney's office said in a statement. Cheney has not spoken publicly about the incident.

Doctors and officials had assured the press that Whittington suffered only minor wounds, but Blanchard said on Tuesday, "We knew he had some birdshot very near to the heart from the get-go."

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At least one of those pellets had gotten close enough to the heart to cause "irritability," which led to Tuesday's heart attack, he said.

Blanchard said doctors would have to keep a close eye on the birdshot in case it continues to move.

Trauma surgeon Soumitra Eachempati at New York Presbyterian Hospital/Weil Cornell Medical Center said the moving pellet could require an operation.

"Since the pellet just moved into the heart area, it might be necessary to do open heart surgery," he said.

CONTROVERSY OVER DISCLOSURE

The story blew up into a major controversy because news of the shooting only came out on Sunday, nearly 24 hours after it occurred, when ranch owner Katharine Armstrong, also a Republican stalwart and lobbyist, called the Corpus Christi Caller-Times to report it.

Neither the White House nor Cheney's staff disclosed the accident, saying the primary concern had been making sure Whittington received proper care.

After the shooting, he was immediately treated by emergency personnel with Cheney and eventually flown by helicopter to the Corpus Christi hospital. The vice president did not accompany him.

Before news of Whittington's setback, White House spokesman Scott McClellan opened a Tuesday briefing with a one-liner about the Cheney mishap when he previewed a White House appearance later in the day by the orange-jerseyed University of Texas football team.

Hunters often wear orange vests so they will be visible to other hunters.

"The orange that they're wearing is not because they're concerned that the vice president may be there -- although that's why I'm wearing it," joked McClellan, who was wearing an orange necktie.

He did not repeat the joke at a later televised briefing, nor did he disclose information he knew of Whittington's new health problems.

The sheriff's department in Kenedy County, where the 50,000 acre Armstrong ranch is located, said on Monday it had found no misconduct in the incident.

Hunter Shot By Cheney Has Heart Attack (AP-Y2)

By Lynn Brezosky And Nedra Pickler

AP2, February 14, 2006

The 78-year-old lawyer wounded by Vice President Dick Cheney in a hunting accident suffered a mild heart attack Tuesday after a shotgun pellet in his chest traveled to his heart, hospital officials said.

Harry Whittington was immediately moved back to the intensive care unit and will be watched for a week to make sure more of the metal pellets do not reach other vital organs. He was reported in stable condition.

Whittington suffered a "silent heart attack" — obstructed blood flow, but without the classic heart-attack symptoms of pain and pressure, according to doctors at Christus Spohn Hospital Corpus Christi-Memorial.

The doctors said they decided to treat the situation conservatively and leave the pellet alone rather than operate to remove it. They said they are highly optimistic Whittington will recover and live a healthy life with the pellet in him.

Asked whether the pellet could move farther into his heart and become fatal, hospital officials said that was a hypothetical question they could not answer.

Hospital officials said they were not concerned about the six to 200 other pieces of birdshot that might still be lodged in Whittington's body. Cheney was using 7 1/2 shot from a 28-gauge shotgun. Shotgun pellets are typically made of steel or lead; the pellets in 7 1/2 shot are just under a tenth of an inch in diameter.

Cheney watched the news conference where doctors described Whittington's complications. Then the vice president called him, wished him well and asked if there was anything that he needed.

"The vice president said that he stood ready to assist. Mr. Whittington's spirits were good, but obviously his situation deserves the careful monitoring that his doctors are providing," the vice president's office said in a statement.

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Cheney, an experienced hunter, has not spoken publicly about the accident, which took place Saturday night while the vice president was aiming for a quail. Critics of the Bush administration called for more answers from the Cheney himself.

Whittington has said through hospital officials that he does not want to comment on the shooting. A young man at Whittington's Austin home who identified himself as his grandson said Tuesday he did not have time to talk to a reporter and closed the door.

The furor over the accident and the White House delay in making it public are "part of the secretive nature of this administration," said Senate Democratic Leader Harry Reid of Nevada. "I think it's time the American people heard from the vice president."

Before hospital officials announced details of Whittington's condition, the hunting accident had produced a raft of Cheney jokes on late-night television.

"I think Cheney is starting to lose it," Jay Leno said. "After he shot the guy he screamed, `Anyone else want to call domestic wiretapping illegal?!'"

On Tuesday morning, the White House spokesman briefly joined in the merriment, joking that the orange school colors of the visiting University of Texas championship football team should not be mistaken for hunters' safety gear.

"The orange that they're wearing is not because they're concerned that the vice president may be there," press secretary Scott McClellan said. "That's why I'm wearing it."

Hospital officials said they knew that Whittington had some birdshot near his heart and that there was a chance it could move closer since scar tissue had not had time to harden and hold the pellet in place.

After Whittington developed an irregular heartbeat, doctors performed a cardiac catheterization, in which a thin, flexible tube is inserted into the heart, to diagnose his condition, said Peter Banko, the administrator at the hospital.

The shot was either touching or embedded in the heart muscle near the top chambers, called the atria, officials said. Two things resulted:

_It caused inflammation that pushed on the heart in a way to temporarily block blood flow, what the doctors called a "silent heart attack." This is not a traditional heart attack where an artery is blocked. They said Whittington's arteries, in fact, were healthy.

_It irritated the atria, caused an irregular heartbeat known as atrial fibrillation, which is not immediately life-threatening. But it must be treated because it can spur blood clots to form. Most cases can be corrected with medication.

White House physicians helped advise on the course of treatment, hospital officials said.

Texas officials said the shooting was an accident and no charges were brought against the vice president.

A Texas Parks and Wildlife Department report issued Monday said Whittington was retrieving a downed bird and stepped out of the hunting line he was sharing with Cheney. "Another covey was flushed and Cheney swung on a bird and fired, striking Whittington in the face, neck and chest at approximately 30 yards," the report said.

Hunter Shot By Cheney Suffers Heart Attack, Remains At Risk (KRT)

By Ron Hutcheson

Knight Ridder, February 14, 2006

WASHINGTON - Vice President Dick Cheney's hunting incident took on a more serious edge Tuesday when the shooting victim suffered a heart attack caused by Cheney's errant birdshot.

Doctors said Austin, Texas, lawyer Harry Whittington, 78, remained at risk from a pellet embedded in his heart muscle. The birdshot triggered a mild heart attack and forced Whittington to undergo a cardiac catheterization. The procedure is typically used to look for arterial blockages or other problems.

"Some of the birdshot appears to have moved and lodged into part of his heart in what we would say is a minor heart attack," said Peter Banko, the administrator of Christus Spohn Hospital Corpus Christi-Memorial, at a news conference. David Blanchard, the hospital's chief of emergency care, said Whittington suffered "a silent heart attack" that lacked many of the typical symptoms.

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Cheney is unlikely to face any criminal charges because law enforcement officials have found no evidence of wrongdoing, experts on Texas hunting laws said.

"It's a straight-forward accident. The facts are not going to change," said Tom Harvey, a spokesman for the Texas Parks and Wildlife Department. "There's not going to be criminal wrongdoing."

According to witnesses, Cheney accidentally shot Whittington in the face, neck and chest on Saturday after the Austin lawyer strayed from the vice president's group during a quail hunt at a South Texas ranch. By their testimony, Cheney failed to honor the first rule of hunting, as posted by the National Rifle Association and other pro-hunting groups: Be sure of your target and that you can fire safely into the area beyond it before you pull the trigger.

Cheney, who has his own history of heart trouble, called Whittington Tuesday at his hospital room in Corpus Christi, Texas, to offer his best wishes, according to a statement issued by the vice president's office.

"Mr. Whittington's spirits were good," the statement added, "but obviously his situation deserves the careful monitoring his doctors are providing."

Whittington's health setback was the latest twist in an incident that has drawn reactions ranging from laughter to anger. The chuckling that peaked on late-night talk shows Monday was echoed by the White House Tuesday morning before word of Whittington's condition snuffed out the laughter.

Before he was aware that Whittington's condition had worsened, White House spokesman Scott McClellan took note that the national champion University of Texas football team would be visiting President Bush later Tuesday, and he attempted some shooting-related humor.

Observing that the team colors are burnt orange and white, he said, "The orange that they're wearing is not because they're concerned that the vice president may be there."

Later, McClellan sparred for a second straight day with journalists frustrated that the public had been kept in the dark about the shooting for almost a day.

The incident happened shortly before 5 p.m. Saturday EST, but the first public acknowledgment came about 18 hours later - and only then because Katharine Armstrong, Cheney's host in Texas, thought she should call the local paper, the Corpus Christi Caller-Times. The story broke nationally about 3:45 p.m. EST on Sunday after the local paper posted it on its Web site.

After initially expressing sympathy with media complaints about the slow notification, McClellan on Tuesday belittled questions about the shooting.

"If you want to continue to spend time on that, that's fine," he told reporters who pressed him to explain the delay. "We're moving on to the priorities of the American people."

Before Whittington's setback Tuesday, late-night TV comedians had a field day with the shooting incident Monday night.

"I think Dick Cheney is starting to lose it," Jay Leno said on NBC. "After he shot the guy, he screamed, `Anyone else want to call domestic wiretapping illegal?'"

For more information about hunting safety, visit the National Rifle Association at www.nra.org, the Texas Parks and Wildlife Department at www.tpwd.state.tx.us, and the International Hunter Education Association at www.ihea.com. For the first two sites, key in the search words "hunter safety" to access the rules.

Man Shot By Cheney Suffers Heart Irregularity (LAT)

By Nicholas Riccardi And James Gerstenzang

The Los Angeles Times, February 15, 2006

CORPUS CHRISTI, Texas — The man shot by Vice President Dick Cheney experienced a heart irregularity after birdshot moved into his heart muscle and will remain hospitalized for another week, doctors reported today.

A pellet from Cheney's gun migrated near the heart, and caused "irritability to the heart muscle," said Dr. David Blanchard, who is treating the man.

Blanchard said the result is that the heart "is beating irregularly. It's basically like a short circuit."

The doctor referred to the victim, 78-year-old lawyer Harry Whittington, as having "a silent, or minor heart attack."

Blanchard said the patient has a strong heart and is doing well.

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A hospital spokesman said the chances that "one problematic birdshot" would migrate as it has toward Whittington's heart are "one in 99.99."

Cheney was attending an intelligence briefing on Capitol Hill today when he received news of Whittington's heart attack. He returned quickly to the White House, canceling plans to lunch with Republican senators.

Sen. Trent Lott (R-Miss.), who attended the intelligence briefing, said he joked with Cheney about the hunting accident before the vice president learned the victim had taken a turn for the worse.

Cheney laughed "a little" at the joke, Lott said, declining to repeat his witticism. "He didn't look like he was having a whole lot of fun with it. Obviously, he feels badly" about the incident.

Lott said he has been quail hunting with Cheney and the vice president is "a good shot." The senator said watching the vice president shoot a 28-gauge shotgun convinced him to buy a similar one.

"I went hunting with him and he never shot me," Lott joked, before adding on a more serious note: "He's a great shot. He's a very good sportsman. He dresses the part. He wears the proper clothes. He's very careful about getting in the proper line. I feel very comfortable hunting with him. I'm a lot more dangerous than he is."

Sen. Patrick Leahy (D-Vt.), who was once on the receiving end of a vice presidential obscenity on the floor of the Senate, quipped: "In retrospect, it looks like I got off easy."

The accident occurred on a ranch Saturday when the vice president wheeled to shoot at a covey of quail and accidentally sprayed Whittington with shotgun pellets, authorities said.

"This was a hunting accident," said Gilbert San Miguel, chief deputy of the Kenedy County Sheriff's Office. "There was no alcohol or misconduct."

But the incident has reverberated worldwide: "Cheney Bags a Lawyer" was the headline in the Herald of Glasgow, Scotland.

And it has forced a White House already under fire for secrecy to explain why it made no mention of the shooting until the ranch owner disclosed it to a local newspaper, 18 hours after the incident.

White House Press Secretary Scott McClellan said Monday that the "first priority was making sure that Harry Whittington was getting the medical care that he needed. And I think that's where everybody's attention should have been focused, and was focused, when the hunting accident took place."

Still, McClellan deflected the blame away from the vice president, noting that Whittington left the hunt line to retrieve a downed quail and was approaching Cheney from behind.

"The protocol was not followed by Mr. Whittington when it came to notifying the others that he was there," McClellan said. "And so, you know, unfortunately these type of hunting accidents happen from time to time."

But hunting experts said that although Whittington should have made his location clear, the vice president should have been keeping track of his companions.

"You're hunting together. You need to know where everyone is," said Lawrence G. Keane, general counsel of the National Shooting Sports Foundation.

Jeff Hart, an Austin lawyer who hunts quail in Texas, said: "If you pull the trigger, you're responsible for it, no matter what In hunting, the shooter is responsible for knowing where the shot is going. That's the bottom line."

Cheney — known for having testy relations with the media — on Monday came under criticism from Democrats and Republicans who said the White House should have disclosed the incident immediately.

"It's news, and it reflects an attitude in this White House of holding back information, of being too clever by half and being secretive," columnist Robert Novak said on Fox News.

"On the face of it, this looks like something the administration felt the public had no right to know," Joe Lockhart, who was President Clinton's press secretary, said in an interview. "I don't think there's going to be a bunch of people sitting around saying: 'I wonder why they waited to tell us.' But what they will be saying is: 'I wonder what else they're not telling us.'"

Whittington, a prominent Austin lawyer, and the vice president arrived for a weekend hunting trip Friday night at the 50,000-acre Armstrong Ranch, a well-known retreat for wealthy Texas Republicans 95 miles southwest of Corpus Christi.

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The party of 11 hunters set out in two trucks Saturday morning, driving around the mesquite-dotted property and shooting quail until about 12:30 p.m., said Anne Armstrong, co-owner of the ranch. Then they broke for a lunch of antelope, jicama salad and camp bread, washed down with Dr. Pepper.

After lunch, the group split up. Cheney, Whittington and Pamela Pitzer Willeford, U.S. ambassador to Switzerland, went with two of Armstrong's daughters and pursued quail for several more hours. It was at dusk that Whittington shot a bird and went to retrieve it, taking him behind the vice president.

The medical team that travels with Cheney immediately began ministering to Whittington, who was bleeding profusely from wounds to his face, neck and chest, witnesses said. They packed Whittington into Cheney's ambulance and drove him to a hospital.

The injuries did not appear to be life-threatening, Armstrong said, because the ambulance paused on the road for several minutes to allow Whittington's wife to join them.

After being stabilized at a hospital in Kingsville, Whittington was evacuated by helicopter to a larger facility in Corpus Christi — where he was placed in the intensive care unit. The Secret Service reported the shooting to the Kenedy County Sheriff's Office; no one from that agency interviewed Cheney until Sunday morning.

The Secret Service said it had turned away one sheriff's deputy at the ranch the night of the accident because arrangements had been made for Cheney to be interviewed the following morning, Associated Press said.

Armstrong said Cheney had spoken with her Saturday evening about disclosing the incident to the public. "We knew word would get out," she said. He urged her to tell friends and family first, before word leaked out to the media.

Late Sunday morning, her daughter, Katharine Armstrong, called a reporter from the Corpus Christi Caller-Times, which then reported the shooting on its website.

Peter Banko, administrator of Christos Spohn Memorial Hospital in Corpus Christi, where Whittington was recuperating, said the injured hunter was cracking jokes — and was baffled by all the publicity. "He's a true Southern gentleman," Banko said of Whittington at a Monday news conference. "He's really amazed, I think, at all the hoopla over this."

Whittington is a fixture in Texas politics, having worked in Republican campaigns dating to John G. Tower's senatorial run in the 1960s. He's known nowadays for a decades-long battle to prevent the city of Austin from building a parking garage over a downtown block that his family owns. The dispute is still being litigated.

The shooting has aroused sympathy for Cheney in South Texas, where many locals hunt and accept that there is always the risk of an accident. "If it happens every once in a while, we're not alarmed by it," Carlos Valdez, the local district attorney, said of nonfatal accidental shootings.

There were 30 hunting accidents last year in Texas, which issued 1.1 million hunting licenses.

"You can't name a sport where accidents don't happen," said Leroy Sisco, chief executive of the Texas Trophy Hunters Assn., who said he had been inadvertently sprayed by birdshot several times. "Everybody who hunts understands. It's just an accident and, thank God, it's not a serious accident."

White House Finds Humor In Hunting Mishap (AP-Y2)

By Nedra Pickler, Associated Press Writer

AP2, February 14, 2006

The White House has decided that the best way to deal with Vice President Dick Cheney's shooting accident is to joke about it.

President Bush's spokesman quipped Tuesday that the burnt orange school colors of the University of Texas championship football team that was visiting the White House shouldn't be confused for hunter's safety wear.

"The orange that they're wearing is not because they're concerned that the vice president may be there," joked White House press secretary Scott McClellan, following the lead of late-night television comedians. "That's why I'm wearing it."

The president's brother, Florida Gov. Jeb Bush, took a similar jab after slapping an orange sticker on his chest from the Florida Farm Bureau that read, "No Farmers, No Food."

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"I'm a little concerned that Dick Cheney is going to walk in," the governor cracked during an appearance in Tampa Monday.

Cheney, an experienced hunter, has not been joking or saying anything publicly at all about the accident Saturday, when he accidentally sprayed a hunting partner with shotgun pellets when aiming for a quail.

The Texas Parks and Wildlife Department issued a report Monday that found the main factor contributing to the accident was a "hunter's judgment factor." No other secondary factors were found to have played a role.

The department gave Cheney and the victim, prominent Republican attorney Harry Whittington, warning citations for breaking Texas hunting law by failing to buy a $7 stamp allowing them to shoot upland game birds. A department spokesman said warnings are being issued in most cases because the stamp requirement only went into effect five months ago and many hunters weren't aware of it.

Cheney's office said Monday night in a statement that Cheney had a $125 nonresident hunting license and has sent a $7 check to cover the cost of the stamp. "The staff asked for all permits needed, but was not informed of the $7 upland game bird stamp requirement," the statement said.

The state's report said Whittington was retrieving a downed bird and stepped out of the hunting line he was sharing with Cheney. "Another covey was flushed and Cheney swung on a bird and fired, striking Whittington in the face, neck and chest at approximately 30 yards," the report said.

Whittington, who had been in stable condition after being moved from intensive care, suffered "a minor heart attack" Tuesday morning, hospital officials said. He was immediately moved back to the intensive care unit for further treatment, said Peter Banko, the administrator at Christus Spohn Hospital Corpus Christi-Memorial in Texas.

Banko said there was an irregularity in the heartbeat caused by a pellet, and doctors performed a cardiac catheterization. Whittington expressed a desire to leave the hospital, but Banko said he would probably stay for another week to make sure more shot doesn't move to other organs or to other part of his body.

Katharine Armstrong, owner of the ranch where the shooting occurred, said it happened toward the end of the hunt, when it was still sunny but as darkness was encroaching and they were preparing to go inside. She said Whittington made a mistake by not announcing that he had walked up to rejoin the hunting line, and Cheney didn't see him as he tried to down a bird.

Armstrong said she saw Cheney's security detail running toward the scene. "The first thing that crossed my mind was he had a heart problem," she told The Associated Press.

She said Cheney stayed "close but cool" while the agents and medical personnel treated Whittington, then took him by ambulance to the hospital. Later, the hunting group sat down for dinner while Whittington was being treated, receiving updates from a family member at the hospital. Armstrong described Cheney's demeanor during dinner as "very worried" about Whittington.

Pamela Willeford, the U.S. ambassador to Switzerland, another member of the hunting party, told The Dallas Morning News for a story in Tuesday's editions that she and Cheney didn't realize Whittington had picked up a bird and caught up with them.

Willeford said she has hunted with Cheney before and would again.

"He's a great shot. He's very safety conscious. This is something that unfortunately was a bad accident and when you're with a group like that, he's safe or safer than all the rest of us," she said.

But the accident raised questions about Cheney's adherence to hunting safety practices and the White House's failure to disclose the accident in a timely way.

Several hunting safety experts interviewed agreed it would have been a good idea for Whittington to announce himself. But every expert stressed that the shooter is responsible for avoiding other people.

Bush was told about Cheney's involvement in the accident shortly before 8 p.m. Saturday — about an hour after it occurred — but the White House did not disclose the accident until Sunday afternoon, and then only in response to press questions.

Facing a press corps upset that news had been withheld, press secretary Scott McClellan said, "I think you can always look back at these issues and look at how to do a better job."

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On the Net:

DOJ_NMG_0015104

White House: http://www.whitehouse.gov

Orange Morning Gives Way To A Darker Afternoon (WP)

By Dana Milbank

The Washington Post, February 15, 2006

White House press secretary Scott McClellan was in fine fettle yesterday morning when he strode smiling into the briefing room and made a joke about Vice President Cheney's hunting accident.

President Bush, he announced, would be on the South Lawn to honor the national champion University of Texas Longhorns, whose football jerseys are burnt orange and white. "The orange they're wearing is not because they are concerned that the vice president will be there," the spokesman deadpanned.

The reporters, who had tormented a stone-faced McClellan about the episode on Monday, guffawed at his newfound levity. "Although," McClellan continued, pointing to his orange tie and eyeing the loaded-for-bear reporters, "that's why I'm wearing it."

But the stand-up routine ended abruptly when McClellan returned two hours later for the afternoon briefing. The joking spokesman had been replaced by flack in full scandal mode, informing the questioners that he would indulge the silliness no more and was, instead, pressing on with the people's business.

"If you all want to continue focus on this, you all can spend your time on it," he said icily. "We're going to keep focusing on the pressing priorities of the American people. . . . You're welcome to continue to focus on these issues. I'm moving on." Nine times the press secretary announced to the cameras that he was going ahead with the people's "priorities," regardless of what the feckless journalists were asking about.

Why the quick switch in tone? Unbeknownst to the reporters -- but well beknownst to McClellan -- the White House had been informed before the second briefing that the shooting victim, Harry Whittington, had suffered a heart attack and had undergone a cardiac procedure because a pellet from the vice presidential shotgun was in his heart. Suddenly, the White House had more than an embarrassment on its hands.

Even without knowledge of Whittington's setback, the journalists wouldn't play along. "This is our briefing; we get to ask the questions," David Sanger of the New York Times fired back. NBC's David Gregory lectured: "Don't tell us that you're giving us complete answers when you're not actually answering the questions."

McClellan dared the reporters to question him about the accident, informing them that "the American people want us to spend our time" on other matters. But even McClellan couldn't get the misfire out of his head. Asked about oil company royalties, he noted that "we limited and imposed triggers at the beginning of the administration to cut off relief." Triggers?

As the briefing proceeded, the spokesman became snippier. "It is what it is," he said of the shooting, "and I think it's time to move on for the American people." By the time ABC's Anne Compton rose with the last question, McClellan was suppressing a grin. "It's time to focus on the priorities of the American people," he said one final time. Then, departing for the Texas football event, he flashed the school's "Hook 'em, 'Horns" sign.

But as Bush and McClellan went to greet the Longhorns, Whittington's doctor was heading to the microphones in Corpus Christi, Tex., to deliver the bad news. It was open season on Cheney.

Senate Minority Leader Harry M. Reid (D-Nev.) joined in, remarking after lunch with his caucus that the matter "is part of the secretive nature of this administration" and that "they keep things pretty close to the chest." Aides said the thoracic pun was not intentional.

The vice presidential misfire revived all the old Cheney gossip. In the morning, NBC's Kelly O'Donnell wondered if she should interpret the lack of a phone call between Bush and Cheney on the day of the accident as a sign of a "strain in the relationship."

"No," McClellan said with a forced laugh, "you shouldn't."

Proposed Ken Herman of Cox News: "Why don't they go hunting together?"

Other questioners wondered if the episode was evidence that Cheney could not be reined in by Bush or that Cheney had other dark secrets. The New York Post's Deborah Orin asked what had happened to "personal responsibility," and why Cheney couldn't just say "I made a mistake."

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"He has commented through his spokeswoman," McClellan offered.

"But why haven't we heard from him?" demanded CBS's Bill Plante.

"I don't think he had any public events scheduled," McClellan replied.

"He could schedule one," Plante persisted. "It would be easy. If he wanted to come over here, you'd probably let him. We would turn up."

McClellan was done taking advice. "Okay, then you can start running the vice president's office, Bill." Plante declined the offer, and Cheney stayed out of sight.

After news of Whittington's heart attack, Cheney's office issued a statement -- in the third person -- saying: "The vice president said that his thoughts and prayers are with Mr. Whittington and his family."

Fallout From Cheney Incident Besets White House (WSJ)

By John D. McKinnon And Greg Hitt

The Wall Street Journal, February 15, 2006

WASHINGTON -- Vice President Dick Cheney's hunting incident became a bigger distraction for the White House when doctors said that the man he accidentally shot in Texas suffered a heart attack caused by a shotgun pellet.

The development isn't likely to put the vice president in any legal peril, and the local district attorney said late yesterday that he has seen nothing so far to indicate charges are warranted. But whether the incident causes lasting political damage may yet depend on how Mr. Cheney responds, and whether it appears to the public that the vice president is being treated differently from other hunters involved in accidental shootings.

Harry Whittington, the 78-year-old Austin lawyer hit by a blast from Mr. Cheney's shotgun Saturday, was in stable condition after being moved back into the intensive-care unit of a Corpus Christi hospital. Mr. Cheney watched doctors in Texas brief reporters on the case at about 1 p.m., and then called Mr. Whittington to wish him well, according to a statement from his office.

While the prospect of criminal charges against the vice president remained remote, the incident injected new drama into a story that has drawn attention around the nation.

Democrats stepped up their rhetoric, particularly over the White House's delay in making the incident public and the vice president's continued public silence. Senate Minority Leader Harry Reid criticized the administration's secretive nature and said, "It's time the American people heard from the vice president."

Republicans privately expressed concern that the incident is distracting from President Bush's agenda just after he announced a number of initiatives in his State of the Union address.

In Texas, Carlos Valdez, the district attorney whose office would prosecute any suspected crimes, said that he has seen no indication of criminal wrongdoing. It would require recklessness or criminal negligence to file charges, and "I haven't heard anything like that in this, anything close to recklessness or criminal negligence," he said.

Prosecutors have latitude in such cases, legal experts said. In Mr. Valdez's office, "if all the witnesses agree that it was an accident...we let it go at that," absent evidence of recklessness or criminal negligence, the district attorney said. Mr. Valdez added that if Mr. Whittington were to die, it could trigger a grand jury investigation.

A state incident report said that "hunter's judgment" played a role in the shooting. The report says Mr. Cheney, who was carrying a 28-gauge shotgun, "swung on a bird and fired," but ended up "striking Whittington in the face, neck and chest." Most safety guidelines, including those published by the state of Texas, recommend that a hunter be aware of what is in front of and beyond the target before pulling the trigger. But witnesses also have pointed to Mr. Whittington's failure to announce his presence to the hunters.

If prosecutors decided to pursue a case, they likely would proceed under a law designed to deter elder abuse that penalizes negligent infliction of injury on an elderly person, said George Dix, a University of Texas law professor. But even that statute's relatively easy standard likely would be too high a bar, Mr. Dix said. "From my own experience in researching, it's just very hard to create liability for a hunting accident," he said.

Randy Wilson, an Abilene, Texas, lawyer who is president of the state's criminal defense lawyers association, said he believes prosecutors might be able to find a basis for charges -- for instance, a reckless-endangerment charge.

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"Probably nothing will come of it," Mr. Wilson said. But if he were the prosecutor and had filed charges in similar cases in the past, he said he would do the same with the vice president.

In 2005, there were more than one million hunting licenses issued in Texas, and about 30 reported accidents involving a firearm or bow that resulted in injury or death. Of those accidents, two were fatal, the Texas Parks and Wildlife Department said

According to the Secret Service, the shooting occurred at approximately 5:50 p.m. local time on Saturday on the Armstrong ranch, and medical personnel and Secret Service agents on hand immediately treated Mr. Whittington. At about 6:20 p.m., Mr. Whittington was loaded into an ambulance and transferred to a local hospital. Between 6:50 and 7:00 p.m., the resident agent in charge of the Secret Service's office in McAllen, Texas -- who was on hand to help coordinate Mr. Cheney's visit -- "notified the local sheriff," Secret Service spokesman Tom Mazur said.

Washington Wire (WSJ)

By Various Writers

The Wall Street Journal, February 15, 2006

Worries are mounting among Republicans about Vice President Dick Cheney's hunting accident after his hunting partner has a heart attack caused by birdshot from the mishap.

Though news of Harry Whittington's heart attack quiets the flood of jokes about Cheney's misfire, it vexes party strategists who fear the accident will be a continuing distraction from the party's 2006 agenda. "It is drowning out all other news [and] has taken all the political energy out of the White House," says one longtime Bush ally. Another veteran operative worries that Americans will begin asking about whether average citizens involved in such mishaps might face legal trouble. "Let's just hope that Whittington is in as good of shape as they keep saying," adds a consultant to Republican House and Senate candidates.

Democrats said the incident has already come to symbolize administration stumbles, and is interfering with President Bush's attempt to recover from an unhappy 2005. "The accident couldn't have come at a worse time for the administration," said Democratic pollster Geoff Garin, asserting that belated public disclosure has added to "the broader impression that the whole administration plays by its own special rules."

Senior Bush advisers dismissed suggestions of political fallout. Cheney's accident matters politically, one said, "Only if he keeps hiding. I think [if] he just apologizes and tells the press to stop making a mountain out of a molehill … the thing is done." --John Harwood

* * *

Squeeze Play: Treasury Secretary John Snow may be frustrated by President Bush's decision to abandon tax overhaul for this year, but he'll find himself in the middle of a spirited tax-policy debate in defending the administration's budget -- beginning Tuesday when he testifies before Senate Budget Committee.

Sec. Snow

Free-market conservatives, part of the political base Bush must rally to protect Republican majorities in midterm elections this fall, cherish the administration's plans for expanding Health Savings Accounts as a key element of the president's "ownership society" objective. Sen. Orrin Hatch (R., Utah), who chairs the health subcommittee of the Senate Finance panel, calls HSAs a step toward bringing America's archaic employer-based health system "into the new economy."

Democratic liberals, however, consider expanded HSAs a backdoor tax-break for the affluent. A study by ex-Kerry campaign adviser Jason Furman for the Center on Budget and Policy Priorities concludes that HSAs could be used as "a lucrative tax shelter for high-income families," yielding more than a 401(k) plan even if those families ultimately don't use the money for health care at all.

Political insiders in both parties consider HSAs the least likely of the president's major domestic initiatives to pass when budget provisions run the congressional gauntlet, beginning with today's Budget Committee sessions. --John Harwood * * *

Tougher Stance on China Trade: In a wide-ranging Bush administration appraisal of policy toward China, U.S. Trade Representative Rob Portman is promising much tougher enforcement of trade laws, but is not asking Congress for expanded authority to sanction Beijing.

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In a report released Tuesday, Portman voices concern about China's failure to curb the piracy of U.S. intellectual property and enforce international labor standards. Warning of a "corrosive effect on political support" in the U.S. for trade with China, Portman flags concern with Beijing's "unreported and extensive" industry subsidies, and a network of trade barriers that he says keep out U.S. exports and helped fuel a record U.S. trade deficit. That deficit reached $725.75 billion in 2005. For China alone, the deficit stood at $201.62 billion, up more than 20% from 2004, far and away the largest U.S. gap with any single country. -- Greg Hitt And Murray Hiebert

• Read the full article2 and the report, "U.S.-China Trade Relations: Entering a New Phase of Greater Accountability and Enforcement3."

* * *

Orange You Funny: Even the political class is taking shots at Vice President Dick Cheney after he accidentally sprayed a member of his hunting party with birdshot Saturday.

At a State Fair appearance Monday, Florida Gov. Jeb Bush took a bright orange sticker -- hunter orange -- advertising the Florida Farm Bureau's "No Farmers, No Food" campaign, and placed it on his chest. "I'm a little concerned that Dick Cheney is going to walk in," he told his audience.

On Tuesday, as the White House prepared for the arrival of the University of Texas Longhorns, the NCAA football champions, press secretary Scott McClellan joked about the team's orange and white colors: "The orange that they're wearing is not because they're concerned that the vice president may be there. That's why I'm wearing it."

One health-care lobbyist chuckled: "It's not enough for the administration to cut Medicare; now they're taking out seniors one by one."

At a Monday night performance at the Birchmere club in suburban Virginia with friends Lyle Lovett, Guy Clark and Joe Ely, John Hiatt improvised lyrics to the tune of "I'm going down this old dusty road": "I'm sending ol' Dick Cheney to Iraq. Let 'im shoot at something that shoots back."

And cyber-humorist Andy Borowitz reports4: "Homeland Security Secretary Michael Chertoff announced today that his department would immediately implement a "Cheney Alert" system to warn Americans if an attack by Vice President Dick Cheney is imminent."

• Read more: Cheney Accident Triggers Jokes on Late-Night TV5

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For the Record Book: Rep. John Dingell passed one of his mentors Tuesday to become the second-longest serving member in the history of the House. The Michigan Democrat has now served 50 years, two months and 14 days, one day more than the late Rep. Carl Vinson who retired from the House on Jan. 3, 1965.

"Carl Vinson was a giant," Dingell said of the Georgia Democrat. "When I was beginning my career, Vinson could scare young Members with just a look. No one challenged him or questioned him on anything. He was a teacher by example and I had the pleasure of knowing him and learning from him." Dingell was 29 years old when he was first elected to finish the term of his late father. Dingell said he spent this Valentine's Day with his wife, Deborah, and visited the Veterans' Medical Center in Detroit. "There is no finer way to honor Carl Vinson than to pay tribute to the great American soldiers he spent his life working for," he said.

It will be another three years before Dingell surpasses the longevity record held by Rep. Jamie Whitten (D., Miss.) --Laura Meckler * * *

Monday, Feb. 13

The Texas Parks and Wildlife Department's incident report on Vice President Dick Cheney's accidental shooting of a hunting partner Saturday pins the blame largely on Cheney.

In evaluating "contributing factors," the game warden checked off the box: "Victim covered by shooter who was swinging on game." In its summary, the report says that 78-year-old Harry Whittington "downed a bird and went to retrieve it. While he was out of the hunting line another covey was flushed and Cheney swung on a bird and fired striking Whittington in the face, neck and chest at approximately 30 yards."

Lydia Saldaña, spokeswoman for the Texas Parks and Wildlife Department6, said Cheney would also receive a warning citation because he did not have the proper "upland game bird stamp" required to hunt quail, but that he would not be fined.

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The game warden's report7 contradicts earlier claims from the White House and Katharine Armstrong, the owner of the Texas ranch where the shooting occurred. Earlier Monday, the White House cited8 Armstrong's view that Whittington was at fault. "She pointed out that the protocol was not followed by Mr. Whittington when it came to notifying the others that he was there," said White House spokesman Scott McClellan.

Some hunting groups chastised the vice president. "It's incumbent upon the shooter to assess the situation and make sure it's a safe shot," Mark Birkhauser, president-elect of the International Hunter Education Association, told the Associated Press.

The Corpus Christi Caller-Times, the paper that first broke the story, identified the third hunter in the party as Pamela Willeford, the U.S. Ambassador to Switzerland and Liechtenstein and a former chairman of the Texas Higher Education Coordinating Board. Cheney's office would not confirm the report that Willeford was the third hunter. --Christopher Conkey * * *

Foreign media were having a field day with the story of Cheney's hunting accident.

One Australian paper suggested Cheney was trying to draw attention from an investigation into his possible role in leaking national-security information to reporters. His indicted ex-aide, I. Lewis Libby, reportedly told a grand jury that he was authorized by his "superiors" to release parts of the classified National Intelligence Estimate. "With both Republican and Democrat members of Congress calling for an investigation into Libby's claim, Mr. Cheney was under some political pressure," said the Sydney Morning Herald. "Perhaps he was thinking about how he should respond when he aimed his shotgun at the quail and instead sprayed Mr. Whittington with shotgun pellets." The online news blog for the Guardian in London headlines its account of the mishap9, "Duck Cheney."

The accident wasn't the first at a vice presidential hunt. Two Secret Service agents were involved in separate motor-vehicle accidents in South Dakota in 2001, while Cheney was on a pheasant-hunting trip. One of the agents was slightly injured when his rented Ford Excursion SUV overturned off a gravel road.

Asks the child of one inside-the-Beltway journalist: Daddy, does he get a time out? --John D. McKinnon * * *

Pushing Mine Safety: Families of miners killed in three accidents said the nation's mine safety agency has kept them in the dark about its investigations.

The group aired its grievances before Democratic members of the House Education and Workforce Committee, who convened the forum Monday. Distraught relatives of miners killed in West Virginia last month and in Alabama five years ago called for more transparency and faster responses from investigators and top officials at the federal Mine Safety and Health Administration.

Frieda Sorah, whose husband died at the Jim Walters Resources mine in Alabama in 2001, chided MSHA for failing to adopt safety regulations recommended by the United Mine Workers of America in time to prevent the January disaster at the Sago in West Virginia. "MSHA [officials] cannot be trusted to investigate themselves," Sorah said. Wanda Blevins said that when her husband's body was retrieved from the Jim Walters mine 43 days after the accident, word reached her through a "grapevine" of contacts -- not organized channels. Blevins and her son, David, also a miner, said they have tried to obtain more information throughout the accident investigation. But, she said, "To this day, I still don't know what happened." -- Joi Preciphs * * *

Pressing FDA: Sen. Orrin Hatch (R., Utah) and Rep. Henry Waxman (D., Calif.) write to the Food and Drug Administration pressing the agency to act on generic biotech drugs.

The two lawmakers, who teamed up on the 1984 law that created the pathway for generic versions of traditional drugs, think the FDA can move ahead with copycat versions of a few products under the current law. The FDA has said in the past that it might be able to approve copies of certain biotech drugs, including human growth hormone and insulin, without new action from Congress. The letter says there is "no excuse -- scientific, legal or otherwise -- for FDA to continue to delay the release" of guidelines on what data generics makers need to apply for approval of copies of human growth hormone and insulin. Sandoz, a generics unit of Novartis AG, has sued the FDA over the agency's delay of a decision on its version of human growth hormone.

An FDA spokeswoman says agency officials "have received the letter and are reviewing it." --Anna Wilde Mathews * * *

Taking on the AFL-CIO: As organized labor fights an uphill battle to keep pension and health care benefits for auto workers and other unionized employees, it has something new to worry about: The Center for Union Facts, a nonprofit group launched Monday by Washington, D.C. lobbyist Rick Berman.

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The group, which took out full-page ads in major newspapers and organized a protest in front of AFL-CIO headquarters Monday, is taking aim at the union movement, devoting a Web site10 to provide information on union leader salaries and political donations with information culled from various government entities. Berman, a former labor law attorney for the U.S. Chamber of Commerce who now represents a host of companies primarily in the food and beverage industry through Berman & Co., says the group already has a $2.5 million war chest from various corporations, foundations and "one trade association."

Lane Windham, an AFL-CIO spokeswoman, called the center "a front group for giant corporations that want to make sure that workers don't have a voice." She said staffers at the big labor federation11 planned to bring cookies and milk to the protesters. "We feel that it's a pretty juvenile action, and we want to offer them some sustenance when they're out there," she said. --Kris Maher * * *

Snow

Out of the Loop: Treasury Secretary John Snow pleaded ignorance when word leaked out that senior officials in the Group of Seven held a secret side meeting in London last Thursday to avoid inviting Group of Eight host Russia during this weekend's finance ministers' gathering in Moscow.

The hush-hush London talks are a reminder that Russia may be hosting this year's rich-nation G8 summit in St. Petersburg this July, but it's still just a caddie at the more exclusive G7 country club.

"I don't know where they met or if they met or who met," Snow told reporters when cornered about the London meeting. Perhaps. But, if so, the secretary might have wondered why his top international aide, Undersecretary for International Affairs Tim Adams, wasn't on his plane to Moscow and was AWOL for the first day of the three-day visit. --Michael M. Phillips * * *

Time Flies: On Tuesday -- Valentine's Day -- Rep. John Dingell (D., Mich.) becomes the second-longest serving member in the history of the House, having served 50 years, two months and 14 days after being elected to finish the term of his late father. He passes the late Rep. Carl Vinson (D., Ga.), who retired from the House on Jan. 3, 1965, after 50 years, 2 months and 13 days.

Dingell spokesman Adam Benson says it has been a virtual "Dingell-palooza" of milestones since last year, when he passed Speaker Sam Rayburn as fourth-longest-serving member and later celebrated 50 years in the House. It will be another three years, though, before Dingell can claim the top spot. Rep. Jamie Whitten (D., Miss.) served for 53 years, 2 months and 14 days in the House. Dingell won't surpass that record until Valentine's Day, 2009.

"It's nice to be No. 2," Benson said. "But he said to me the other day, 'I really want to be known more for quality than quantity.'" --Laura Meckler * * *

Resurfacing: Lester Crawford, who abruptly resigned as head of the Food and Drug Administration last September, will give a speech Tuesday at an American Enterprise Institute event. Crawford is now at Policy Directions Inc., a lobbying and communications firm that specializes in health-care and food issues, as well as drug and medical-device regulation. The keynote address at the conservative think-tank's event will focus on the "precautionary principle" and how such regulatory caution affects the international fight over biotech crops. --Anna Wilde Mathews * * *

Friday, Feb. 10

Keep Talking: At a closed-door meeting with lawmakers Friday at a Republican retreat in eastern Maryland, President Bush warned that "I expect this conversation we're about to have to stay in the room." He quickly added that "I know that's impossible in Washington." It was, even more so than usual. The first few minutes of his comments were being piped inadvertently through an open microphone to reporters who had just been escorted out of the event.

In his supposedly off-the-record comments, Mr. Bush said nothing new, basically repeating themes that he often sounds in his public appearances. He talked about how Sept. 11, 2001, changed how he thinks about defending America from attack. And he offered a defense of his National Security Agency eavesdropping program, emphasizing how he sought the views of lawyers at the White House and the Justice Department before putting it in place. There was at least one flash of candor before the sound feed was cut. Advising lawmakers to hire advisers who are smarter than they are, he added, "in my case it wasn't all that hard to find." --John McKinnon * * *

Michigan Democratic Rep. John Dingell accused the Bush administration of undermining and berating American auto makers while they are working hard to fix their troubles.

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In a letter sent today to President Bush12, Mr. Dingell says the administration has failed to respond constructively to the problems of General Motors Corp. and Ford Motor Co. The most recent offense, he said, was a quote in The Wall Street Journal this week13 from a senior administration official who downplayed concerns about Japanese manipulation of currency to their auto makers' advantage. The official said, in part, "The American car industry needs to focus on producing cars that Americans want to buy. It's hard to make the case that the currency issues play even a minimal role."

In his letter, Mr. Dingell responded: "In my 50 years of public service, I've never seen an administration of either party that has actively and publicly put down American products, companies and workers the way this administration has done with our auto manufacturers. How can they hope to sell more cars when the number one spokesman for their competitors is the White House?"

A longtime champion of the domestic auto makers, Mr. Dingell said it was "a testament to their competence and determination that these companies are succeeding at all given the unfair advantages enjoyed by their foreign competitors and the constant nay-saying by an administration that should be their biggest booster." --Laura Meckler * * *

Washington and Moscow remain at loggerheads over Russia's efforts to gain membership in the World Trade Organization.

Russia has been trying to get into the trade organization for more than a decade, but the U.S. won't give its approval unless Moscow allows foreign banks, insurers and other financial institutions to open branches. Right now foreigners have to go through the more-onerous process of setting up local subsidiaries, with their own capitalization. The free-marketeers at the U.S. Treasury Department see financial services as the grease that would speed growth of the Russian economy. The Russians are worried that their regulators won't be able to adequately supervise branches and that domestic banks won't be able to compete with international institutions.

U.S. Treasury Secretary John Snow made no headway at a meeting in Moscow this morning with his Russian counterpart, Alexei Kudrin, in advance of tomorrow's gathering of Group of Eight finance ministers. The U.S. side has proposed a transitional period during which Russia would open its financial system to more foreign competition.

The branch-banking issue "is one of the main sticking points," a senior U.S. official said afterwards. "The Russians aren't completely sold on market efficiencies and the idea that consumers are king." Russian officials point out that the current ban on branches hasn't deterred such big foreign players as Citigroup, which is investing heavily in Russia. Russian President Vladimir Putin called President Bush before Christmas to complain about the holdup, then sounded off in public about it again last week. The U.S. is also concerned about Russia's limits on farm trade and its commitment to cracking down on pirated CDs, DVDs and other copyrighted material.

The WTO talks come amid rising American concerns about Mr. Putin's foreign and domestic policies, ranging from his crackdown on opposition at home to Russia's recent cutoff of natural gas supplies to Ukraine to a Kremlin invitation to Hamas leaders from the Palestinian territories to visit Moscow. --Michael M. Phillips and Greg White * * *

Brazilian Advice? The Bush administration is looking to Brazil for advice about how to kick the oil addiction that the president owned up to in his State of the Union Address.

At a meeting in Moscow this afternoon, Treasury Secretary John Snow asked Brazilian Finance Minister Antonio Palocci how his country has gotten to the point where it expects to be energy independent within a couple of months. Palocci, a guest at this weekend's gathering of the Group of Eight finance ministers, touted Brazil's 30-year campaign to replace oil with ethanol, most of it sugar-based.

"Nobody does it in an economically feasible manner like we do," Palocci told reporters after his sit-down with Snow. The Brazilians would like the U.S. to invest in a joint research-and-development, but the Treasury secretary made no commitment.

"We're very interested" in understanding Brazil's success with ethanol, said a senior U.S. official.

Brazil, however, has also discovered its own offshore oil deposits. --Michael M. Phillips

• Read excerpts14 and full text15 of Bush's State of the Union address.

* * *

Tax overhaul's demise leaves unhappy Bush panel.

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Former Sen. Mack, "disappointed" that presidential advisory group he headed isn't producing action, cautions the issue will become "more difficult" to push as president's term continues. Absence of tax overhaul in Bush's State of the Union address is seen as sign of Treasury Secretary Snow's lack of clout.

Some senior Republicans want to put off overhaul debates until Washington tackles baby-boom retirement, the subject of commission Bush has called for. The liberal Center for American Progress wants Democrats to step in, placing tax overhaul atop its "15 new ideas," with plan to cut employee payroll-tax contributions on earnings below $90,000.

Ex-Sen. Breaux, Mack's co-chair, got note from Snow but "no saying 'thank you' " from Bush for panel's work.

Republicans speak up to House leaders about election-year needs.

Format for this weekend's retreat in Maryland is "unstructured," says Ohio Rep. Pryce, who chairs Republican conference. Newly elected Majority Leader Boehner calls these "times of renewal."

House Democrats press Boehner to open legislative process while banning lobbyists' gifts. But House reform timetable slips, while McCain presses Senate effort to change spending "earmarks." Answering attacks on Santorum's lobbying ties, Senate Republican campaign committee hits challenger Casey's donations from a former Abramoff colleague.

Contraception fight spreads in the states.

After FDA delays bid to sell "Plan B" pills without a prescription, backers of morning-after contraceptive push bills legalizing such distribution in Colorado, New Jersey, Kentucky and Illinois. It is already available without a prescription in eight states.

Maker Barr Pharmaceuticals Inc., which has seen Plan B prescriptions double to 1.2 million since 2003, quietly encourages the move.

Priscilla Smith of Center for Reproductive Rights says emergency contraception can "reduce abortions dramatically."

Social conservatives, saying such drugs starve new life, weigh bills to let pharmacists refuse to dispense them.

Bernanke faces pressure to answer deficit questions in next week's congressional testimony. "He ultimately will have to speak out on serious things that affect the economy," says Senate Banking Chairman Shelby. "If he doesn't, there will be a void." With Fed nominees Kroszner and Warsh headed for confirmation, open market committee should be back to full strength at March 27-28 meeting for first time in a year.

NGA Chair Huckabee hits Congress for trimming deficit "on the backs of the states" with proposals to increase state cost-sharing on Medicaid. Arkansas' Republican governor, a 2008 White House hopeful, says states instead need more flexibility to experiment with approaches to reining in Medicaid costs.

House democrats criticize Bush budget proposal cutting Social Security survivors' benefits. "Continues the Bush administration's raid on the middle class," says Washington House candidate Darcy Burner, one of many challengers joining coordinated campaign offensive. Republicans leaders have signaled they won't pursue the proposal, which would cut $255 lump-sum death benefit for survivors.

My Valentine? Veterans History Project sponsors a lecture at Library of Congress on "The American Soldier and 'Mademoiselle': Love and Marriage After WWI and WWII." With military-family breakups sharply up since 2000, nevadadivorce.net offers quick splits for $1,000 but cautions "7-day stay in Guam required."

Changes loom for Pentagon weapons purchasing.

New acquisition chief Ken Krieg wants war fighters in places like Iraq and Afghanistan to play bigger role in deciding what military needs. His goal is more rapidly identifying current needs in hopes of shortening lead time on development of new weapons systems, which now sometimes runs 20 years.

"We need to institutionalize the combatant commanders in the process," he says. Most big decisions on new hardware are currently dominated by service bureaucracies in the Pentagon.

National Guard Association unveils bust of "First Lt. George W. Bush" before president's speech yesterday.

Minor Memos: Randolph-Macon College physicists say dollar bills in Bush's $2.77 trillion budget, laid end to end, would reach to the sun and back. ... Budget also represents $87,800 in federal spending every second for a year.

Democrats Accuse Cheney, Bush Of 'troubling' Secrecy (WT)

By Agence France-Presse

The Washington Times, February 15, 2006

Democrats in Congress yesterday accused Vice President Dick Cheney of a pattern of secrecy, and demanded that he "level" with the public on the accidental shooting of a hunting partner last weekend.

Sen. Hillary Rodham Clinton, New York Democrat, called "troubling" the day's wait before the public announcement of the hunting mishap in which Harry Whittington, 78, took bird shot in the neck, chest and face.

"A tendency of this administration -- from the top all the way to the bottom -- is to withhold information ... to refuse to be forthcoming about information that is of significance and relevance to the jobs that all of you do," Mrs. Clinton said at a press conference.

"Putting it all together, going back years now, there's a pattern and it's a pattern that should be troubling," she said. "The refusal of this administration to level with the American people on matters large and small is very disturbing, because it goes counter to the way our constitutional democracy ... is supposed to work."

Senate Minority Leader Harry Reid of Nevada also said the secretive tendency goes beyond Mr. Cheney, pervading the entire Bush White House.

"I think the reason it took the vice president a day to talk about this is part of the secretive nature of this administration," he said. "They keep things pretty close to the chest."

"I think it's time the American people heard from the vice president, in a real meeting just like we're having here," said Mr. Reid, who called the currentBush presidency "the most secretive administration in modern history."

"In the last many, many decades, there's no administration more secretive than this," he said.

Sen. Charles E. Schumer, New York Democrat, said the time has come for the vice president to hold a press conference -- which Mr. Schumer estimated would be the vice president's first in some four years -- to clear the air.

"In light of the recent shooting accident and all the questions surrounding his role in the leaking of classified national security information ... there are many questions that Americans have for VP Cheney," Mr. Schumer stated in a press release.

Cheney Stays Mum On Hunting Accident (USAT)

By David Jackson

USA Today, February 15, 2006

WASHINGTON — The man accidentally shot by Vice President Cheney in a weekend hunting accident suffered a minor heart attack Tuesday, as Cheney maintained his public silence over the circumstances of the shooting.

Harry Whittington, 78, who has a piece of birdshot lodged near his heart, will remain hospitalized at least another week for observation, said David Blanchard, emergency room chief at a hospital in Corpus Christi, Texas.

As many as 200 pieces of birdshot could be inside Whittington, Blanchard said, though the problem is a single BB-size pellet that irritated the heart muscle and caused an abnormal heartbeat. Barring further problems, doctors will leave the pellet where it is and Whittington will be fine, he said.

“There are tens of thousands of people that go around with shrapnel in their bodies,” the doctor said.

Cheney visited Capitol Hill on Tuesday for a private meeting with members of Congress, but he has not spoken about how the shooting occurred since it happened at a Texas ranch Saturday about 5:50 p.m. CT. His office noted he has issued two written statements, the latest saying Cheney called Whittington after hearing of the heart attack to ask “if there was anything he needed.”

Cheney is not scheduled to make a public appearance until a Friday speech to members of the Wyoming Legislature.

Blanchard and hospital administrator Peter Banko called Whittington's problem a “silent” heart attack because there were no symptoms such as chest pains or shortness of breath. Doctors discovered it after an examination revealed an irregular heartbeat.

Sen. Charles Schumer, D-N.Y., sent Cheney a letter urging him to hold a news conference to discuss such controversies as the shooting and last year's indictment of his chief of staff.

Some conservatives are also pressing Cheney to speak out.

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National Review magazine posted an editorial on its website that said, “not talking only feeds speculation and aids the cause of those who want to lampoon and smear him. Let's hear from the vice president.”

Experienced Hunters Put Cheney At Fault In Shooting (WT)

By Joseph Curl

The Washington Times, February 15, 2006

Experienced hunters yesterday said Vice President Dick Cheney alone bears the blame for a weekend mishap in which he accidentally shot a hunting companion in the face and chest with a shotgun.

Every local hunter interviewed by The Washington Times yesterday said the vice president violated hunting's cardinal rule: Never pull the trigger unless you are 100 percent sure of your target. And, they said, he violated Rule No. 2, as well: Never swing on game outside the safe zone of fire.

"I just want the guy to say, 'Hey, I screwed up, I made a mistake,' " said James Harris, 51, a hunter and taxidermist from Mechanicsville, Md., who said he fears that the accident will make people think hunting is unsafe.

"He apparently was overzealous or too excited about the shot, and he didn't practice safe measures to make sure he didn't shoot his friend. He should have, and he was wrong," Mr. Harris said.

Said hunter Bob Rice, 73, of Golden Beach, Md.: "Ninety-nine percent of the blame falls on the person who discharged that round with his trigger finger, and that's Cheney."

A Cheney spokesman yesterday said the vice president's office "had confirmed" every point in a firsthand account of the incident by Katharine Armstrong, who owns the Texas ranch where Mr. Cheney went hunting with Harry Whittington, 78, and one other hunter.

Mr. Whittington "came up from behind the vice president and the other hunter and didn't signal them or indicate to them or announce himself," Mrs. Armstrong said after the mishap.

"The vice president didn't see him," she said. A covey of quail "flushed and the vice president picked out a bird and was following it and shot. And ... Harry was in the line of fire and got peppered pretty good."

Mrs. Armstrong has downplayed the accident, saying, "This is something that happens from time to time. You know, I've been peppered pretty well myself."

Robert Bealle of Waldorf, Md., 54, who grew up hunting quail, said he has hunted since he was 9 years old and has never known anyone who was hit by birdshot, which are tiny pellets that spread out as they travel away from the barrel of the shotgun.

"I have never sprayed anybody, nor have I ever been sprayed, and if I ever was, I'd never go hunting with that guy again," he said with a laugh.

Mr. Bealle also questioned why the hunting party would split up. Mrs. Armstrong said in her account that after Mr. Whittington shot a bird, he went to look for it in the tall grass, while Mr. Cheney and a third hunter walked to another spot and found a second covey.

Mr. Bealle said that although hunting methods are different across the country, it is common practice for three hunters, for instance, to walk abreast as they move forward flushing out quail. The left hunter can shoot left or center, the middle one straight only, and the right one center or right only -- "never, ever to the left."

"And they shouldn't have left a hunter straggling back behind them. They should have got dogs over there, or they should have gone over there to help find the bird. I don't care if you're the vice president; go help," he said. "And then they should have all regrouped; they should have stayed abreast."

Mr. Cheney's spokeswoman, Lea Anne McBride, dodged questions about the hunters' comments.

"The vice president has made his comments on what happened," she said.

Mr. Cheney has not spoken publicly about the incident since it occurred, except in statements issued by his office.

Of the hunters' comments, Miss McBride said: "If you've got other sources saying other things even though they weren't present, that's, you, you certainly ..." She left the sentence unfinished.

The Times interviewed five hunters, and all said their opinions on blame would be held by any experienced hunter and had been shared among shooters in recent days.

Two days after the shooting, the Texas Parks and Wildlife Department released a report of hunting accidents in 2005. "Swinging on game outside of a safe zone of fire is still the primary accident type" in dove and quail hunting, the report said.

It found that of 30 accidents last year, just two were classified as "victim out of sight of shooter/moved into line of fire."

It's 'Cheney's Law' In Albany, But He Wouldn't Claim It (NYT)

By Michael Cooper

The New York Times, February 15, 2006

ALBANY, Feb. 14 — They are calling it "Cheney's Law."

Named laws are nothing new in Albany. From Megan's Law to Kendra's Law to VaSean's Law, state lawmakers often use names to try to put a human face on the occasionally arcane issues that they address with their legislation.

Usually the laws are named for the victims of violence. But now a bill on hunting safety that has been introduced in several legislative sessions but never became law has been christened "Cheney's Law" by several Republican senators.

The bill, which would make it a felony to leave the scene of a hunting accident, passed out of the Senate Codes Committee yesterday, just as much of the nation continued to discuss Vice President Dick Cheney's accident on Saturday, in which he shot and wounded a 78-year-old lawyer while on a hunting trip in Texas.

Officials have said that Mr. Cheney did not leave the scene after he shot the lawyer, but stayed with him while he received medical treatment.

The curious timing of the committee vote was not lost on the bill's sponsor, Senator George H. Winner Jr., an upstate Republican who is one of the senators calling it Cheney's Law. "It's some circumstances," he said.

The bill would make it a felony to leave the scene of an accident involving a serious physical injury. Senator Winner said that the bill was inspired by a 2001 hunting accident in Steuben County, in which the victim was left to die.

Assemblyman Richard L. Brodsky, a Westchester Democrat, said that he would introduce the bill in the State Assembly.

State Senator Thomas K. Duane, a Manhattan Democrat, marveled that the vice president's hunting accident could serve as a catalyst to change the law in New York. "We must have him come for the bill signing," he said.

Gov. George E. Pataki, meanwhile, was asked at a news conference if he would accept an invitation to go hunting with Mr. Cheney.

The governor merely smiled and said he would not comment.

A Red-Stater Even Before There Was Such A Thing (NYT)

By Simon Romero

The New York Times, February 15, 2006

HOUSTON, Feb. 14 — Back in the 1960's, when politicians jokingly referred to Texas as a two-party state, dominated by conservative Democrats and not-so-conservative Democrats, Harry M. Whittington was a rare figure: a die-hard Republican.

Before Vice President Dick Cheney sprayed him with birdshot in a hunting accident over the weekend, Mr. Whittington, 78, was known largely for his pivotal role in building the Republican Party in Texas into a powerhouse.

A grocer's son from hardscrabble East Texas noted for his blunt style, Mr. Whittington accompanied the patrician George H. W. Bush around Texas during Mr. Bush's unsuccessful race for the Senate in 1964 and has remained a figure in Republican politics ever since, raising money and advancing the ambitions of the party's office seekers.

A lawyer with a knack for lucrative real estate investing but with decidedly old-school habits, Mr. Whittington has eschewed not only billing by the hour but even a personal computer at his penthouse office in the 10-story Vaughn Building in Austin.

"I know he must be very close to the Republicans," said Joe R. Greenhill, 91, a former chief justice of the Texas Supreme Court and a monthly card-playing companion of Mr. Whittington, but "he doesn't talk about it."

Mr. Greenhill and Mr. Whittington had been scheduled to meet this Wednesday for a game of pitch, in which the loser can return home poorer to the tune of $5 or $6, Mr. Greenhill said, though "it looks like Harry won't be making it this week."

Mr. Whittington, a graduate of the University of Texas and of its law school, is used to maneuvering for much larger amounts anyway, as in his tussles with the political establishment in Austin, where Democrats still hold substantial sway. He has

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spent hundred of thousands of dollars on legal fees to fight a decision by the city six years ago to condemn property owned by his family and build a $10.5 million parking garage there.

In January, the Texas Supreme Court handed him a victory, declining to hear an appeal from a lower court ruling that officials had failed to prove the land was needed for a public purpose. In a recent profile of Mr. Whittington, The Austin American-Statesman said he could now end up owning not only the garage, which had been built in the interim, but also another facility constructed on the property, a water-chilling plant used for air-conditioning. Together they are valued at $29.8 million.

If private-property rights are one of Mr. Whittington's passions, he has others that do not fit so squarely with his image as a Republican elder. One is prison reform. While serving on the board of the Texas Department of Corrections in the 1980's and after observing the conditions in many state prisons, he once claimed, "Prisons are to crime what greenhouses are to plants." He also led an effort to move mentally retarded inmates out of the general prison population and followed this with outspoken support of a bill to ban execution of retarded prisoners. (Although Gov. Rick Perry vetoed that bill in 2001, the United States Supreme Court later outlawed such executions.)

"A person who is born with a body that becomes an adult and a mind that remains a child needs special protection in our criminal justice system," Mr. Whittington, one of whose four daughters is retarded, wrote in a letter to The Dallas Morning News in 2001.

Mr. Whittington and his wife, Mercedes, live comfortably in a ranch-style home in northwest Austin near Mount Bonnell, a breathtaking spot overlooking much of the city. He is trim, and frequently begins his day with a workout at Tarry House, a private social club he founded in 1968.

Mr. Whittington is close to President Bush, who in 1999, as governor of Texas, named him chairman of the regulatory Funeral Service Commission. The Texas funeral industry was then riddled by claims of irregularities, some surrounding Service Corporation International, of Houston, a large chain of funeral homes headed by an ardent supporter of the Bush family. Under Mr. Whittington, the commission reluctantly settled a whistle-blower lawsuit filed by a former state regulator who maintained that she had been fired for investigating the company.

Dealing with that issue and others at his first meeting of the funeral commission, Mr. Whittington said, "If any agency needs divine guidance, it's this one."

Meet The Press (NR)

National Review, February 15, 2006

Never has an accidental shooting occasioned so much glee. Whatever mistakes Vice President Dick Cheney might have made while hunting on the Armstrong Ranch in Texas this weekend, or in deciding how to make the mishap public, have been eclipsed by the disgusting wallowing in the accident of all his critics and the unsurpassable self-regard of national reporters outraged by a delay of at least 14 hours in getting alerted to the story. They worked themselves into a first-class tizzy at Monday's White House press briefing, proving that no matter what the story is, reporters think it's all about them. It is understandable that Cheney would not consider notifying the media his first priority following an accident during a quail-hunting trip with friends, and the meaning that is being read into the incident — about Cheney's character, the administration's competence, Bush's foreign policy, and much else — is absurd.

That said, there are customary political and media rules about how to handle such things. Those rules require rapid disclosure. It was a mistake not to alert the national press of the incident immediately. And if an accident seems to be much less important than a matter of policy, that doesn't make it less important politically — oftentimes, it is the non-substantive issues that can be most powerful politically. With Harry Whittington having suffered a minor heart attack Tuesday morning, and still in intensive care 72 hours after the shooting, the perception that the vice president is downplaying the seriousness of the incident and not playing straight is going to be stronger than ever. There is a risk that the administration will sustain significant political damage from the controversy.

Cheney himself should make a public appearance on the matter, and the sooner the better. He should get himself with a respected national anchor — perhaps Brit Hume of Fox News — as soon as this evening to express his regret and explain in his own words what happened. He should stop relying on press aides who were not present at the accident to tell his side of the

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story. Not talking only feeds speculation, and aids the cause of those who want to lampoon and smear him. Let's hear from the vice president.

Cheney Misfires, Then Ducks, Making Himself Comic Target (USAT)

USA Today, February 15, 2006

Until the condition of Texas lawyer Harry Whittington took a turn for the worse on Tuesday, his accidental shooting by Vice President Cheney was notable mainly as fodder for TV comics and cartoonists.

"I think Cheney is starting to lose it," Jay Leno quipped. "After he shot the guy he screamed, 'Anyone else want to call domestic wiretapping illegal?' "

Far from being trivial, humor says a lot about a nation. In fact, a great informal test of a country's freedoms and psychological health is this: Can comedians poke fun at political leaders?

That question was one of the best barometers of how much 9/11 traumatized America: For weeks after the attacks, the late-night comics declared a moratorium on President Bush's mangling of words and facts.

For Cheney, the quail hunting accident tapped a rich vein of humor because it symbolized so many of the traits that critics have leveled at him: Trigger happy (pushing for war in Iraq). Obsessed with the wrong target (Iraq again). Excessively secretive and unaccountable (his hush-hush energy task force and aversion to admitting error). Too cozy with lobbyists, one of whom was along on the quail hunt.

The accident — and Cheney's stay-in-the-shadows response to it — reinforced those perceptions. The jokes resonate because they contain grains of truth.

On Tuesday, the Bush administration tried to join in the levity; presidential spokesman Scott McClellan joked about wearing a hunter-orange tie. Unfortunately for the White House, the laugh-it-off approach fell flatter than the Texas prairie when news broke that a birdshot pellet had shifted to Whittington's heart, causing what a doctor called a "silent, or minor heart attack" that will keep the 78-year-old patient hospitalized another week.

Cheney is undoubtedly deeply distressed and embarrassed that he unintentionally hurt his good friend. It's understandable he doesn't much feel like talking about it.

But when a vice president shoots a man (for the first time since Aaron Burr fatally shot Alexander Hamilton in the USA's most famous duel, as a few comics noted), it's news. Not Iraq or Hurricane Katrina level news. Nothing that will shape the fate of the nation. But still news, and the best official response is not humor but candor.

Cheney has plenty of high-priced public relations experts on his payroll to give him advice, so he probably doesn't needs ours. But for what it's worth: Go to Corpus Christi. Comfort your friend. Hold a news conference in the hospital parking lot. Explain what happened. Express anguish. Take responsibility.

That won't end all the jokes, but it might take the sting out of many of them.

Cheney's Coverup (WSJ)

The Wall Street Journal, February 15, 2006

The press corps is outraged that the White House waited 20 hours or so to disclose that Vice President Dick Cheney had shot a hunting companion, and we can see why. Don't these Bush people understand that the coverup is worse than the crime?

In the name of media solidarity, and in the interest of restraining the Imperial Presidency, we have put together the following coverup timeline with crucial questions that deserve to be answered:

• 5:30 p.m., Saturday (all times Central Standard Time). Mr. Cheney sprays Harry Whittington with birdshot, and the Secret Service immediately informs local police. Who is Harry Whittington and whom does he lobby for? Does he know Scooter Libby?

• 6:30 p.m. White House Chief of Staff Andy Card informs President Bush that there's been a hunting accident involving the Vice President's party. Did Mr. Bush ask followup questions? Was he intellectually curious?

• 7 p.m. Karl Rove tells Mr. Bush that it is Mr. Cheney who did the shooting. Why was this detail withheld for a full 30 minutes from the President? Who else did Mr. Rove talk to about this in the interim? Was Valerie Plame ever mentioned?

• 5 a.m., Sunday. White House Press Secretary Scott McClellan learns that Mr. Cheney is the shooter. He also fails to alert the media. Did he rush to write talking points or fall back to sleep?

• 11 a.m. Katharine Armstrong, owner of the ranch where the shooting took place, blows the story sky-high by giving the news to the Corpus Christi Caller-Times. According to Ms. Armstrong, Mr. Cheney told her to do what she thought made sense. Has Ms. Armstrong ever worked for Halliburton?

• 11:27 a.m., Monday. Mr. McClellan finally holds a press conference and gets grilled. One reporter actually asks (and we're not making this one up), "Would this be much more serious if the man had died?"

• 1:30 p.m. The Texas paper posts the story on its Web site, after calling the Veep's office for confirmation. Everyone involved confirms more or less everything, or so the official line goes. Their agreement is very suspicious.

For the record, Mr. McClellan replied, "Of course it would." We hope the 78-year-old Mr. Whittington recovers promptly after his heart attack yesterday. As for the Beltway press corps, it has once again earned the esteem in which it is held by the American public.

An Arrogance Of Power (WP)

By David Ignatius

The Washington Post, February 15, 2006

There is a temptation that seeps into the souls of even the most righteous politicians and leads them to bend the rules, and eventually the truth, to suit the political needs of the moment. That arrogance of power is on display with the Bush administration.

The most vivid example is the long delay in informing the country that Vice President Cheney had accidentally shot a man last Saturday while hunting in Texas. For a White House that informs us about the smallest bumps and scrapes suffered by the president and vice president, the lag is inexplicable. But let us assume the obvious: It was an attempt to delay and perhaps suppress embarrassing news. We will never know whether the vice president's office would have announced the incident at all if the host of the hunting party, Katharine Armstrong, hadn't made her own decision Sunday morning to inform her local paper.

Nobody died at Armstrong Ranch, but this incident reminds me a bit of Sen. Edward Kennedy's delay in informing Massachusetts authorities about his role in the fatal automobile accident at Chappaquiddick in 1969. That story, and dozens of others about the Kennedy family, illustrates how wealthy, powerful people can behave as if they are above the law. For my generation, the fall of Richard Nixon is the ultimate allegory about how power can corrupt and destroy. It begins not with venality but with a sense of God-given mission.

I would be inclined to leave Cheney to the mercy of Jon Stewart and Jay Leno if it weren't for other signs that this administration has jumped the tracks. What worries me most is the administration's misuse of intelligence information to advance its political agenda. For a country at war, this is truly dangerous.

The most recent example of politicized intelligence was President Bush's statement on Feb. 9 that the United States had "derailed" a 2002 plot to fly a plane into the U.S. Bank Tower in Los Angeles. Bush spoke about four al Qaeda plotters who had planned to use shoe bombs to blow open the cockpit door. But a foreign official with detailed knowledge of the intelligence scoffed at Bush's account, saying that the information obtained from Khalid Sheik Mohammed and an Indonesian operative known as Hambali was not an operational plan so much as an aspiration to destroy the tallest building on the West Coast. When I asked a former high-level U.S. intelligence official about Bush's comment, he agreed that Bush had overstated the intelligence.

Perhaps the most outrageous example of misusing intelligence has been the administration's attempt to undercut Paul Pillar and other former CIA officials who tried to warn about the dangers ahead in Iraq. I'm not talking about the agency's botched job on weapons of mass destruction but about its warnings that postwar Iraq would be chaotic and dangerous. Pillar said so privately before the war, and he helped draft an August 2004 national intelligence estimate warning, correctly, that the situation in Iraq was deteriorating and heading for "tenuous stability" at best.

Bush was unhappy at this naysaying, just as he has grumbled about pessimistic reports from the CIA station in Baghdad. When Pillar made similar warnings about Iraq at a private dinner in September 2004, the White House went ballistic -- seeing Pillar as part of a CIA conspiracy to undermine the president's policies. Soon after, Bush installed a former Republican congressman, Porter Goss, who began a purge at the agency that has driven out a generation of senior managers. Pillar and many, many others have retired, leaving the nation without some of its best intelligence officers when we need them most.

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Bush and Cheney are in the bunker. That's the only way I can make sense of their actions. They are steaming in a broth of daily intelligence reports that highlight the grim terrorist threats facing America. They have sworn blood oaths that they will defend the United States from its adversaries -- no matter what . They have blown past the usual rules and restraints into territory where few presidents have ventured -- a region where the president conducts warrantless wiretaps against Americans in violation of a federal statute, where he authorizes harsh interrogation methods that amount to torture.

When critics question the legality of the administration's actions, Bush and Cheney assert the commander in chief's power under Article II of the Constitution. When Congress passes a law forbidding torture, the White House appends a signing statement insisting that Article II -- the power of the commander in chief -- trumps everything else. When the administration's Republican friends suggest amending the wiretapping law to make its program legal, the administration refuses. Let's say it plainly: This is the arrogance of power, and it has gone too far in the Bush White House.

Shooter Slips On A Silencer (NYT)

By Maureen Dowd

The New York Times, February 15, 2006

WASHINGTON

Who did this old guy think he was, coming between Dick Cheney and his helpless prey?

The luckless 78-year-old Texas lawyer, Harry Whittington, is in intensive care after a heart attack, with up to 200 pellets riddling his face and body — one stuck in his heart — from Dick Cheney's designer Perazzi Brescia shotgun. And still his friend, the vice president, is Swift-BB-ing him.

Private citizens have been enlisted to blame the victim. Maybe poor Mr. Whittington put himself in the wrong place at the wrong time. But he was, after all, behind Vice, not in front of him. And the hunter pulling the trigger is supposed to make sure he has a clear shot. Wouldn't it be, well, classy for Shooter to express just a bit of contrition and humility?

Instead, the usual sliming has begun, with the Cheney camp trying to protect the vice president by casting a veteran hunter as Elmer Dud.

Scott McClellan told the White House press corps that Katharine Armstrong, a lobbyist with government ties who owns the Texas ranch (and whose mother, Anne, was on the Halliburton board that hired Mr. Cheney as C.E.O.), "pointed out that the protocol was not followed by Mr. Whittington when it came to notifying the others that he was there."

As the story of the weekend's bizarre hunting accident is wrenched out of the White House, the picture isn't pretty: With American soldiers dying in Iraq, Five-Deferment Dick "I Had Other Priorities in the 60's Than Military Service" Cheney gets his macho kicks gunning down little birds and the occasional old man while W. rides his bike, blissfully oblivious to any collateral damage. Shouldn't these guys work on weekends until we figure out how to fix Iraq, New Orleans, Medicare and gas prices?

This version of "The Most Dangerous Game" neatly follows the four-step Bush-Cheney cycle:

Step 1: Set out to pick off what you think is an easy target, like quail this time or pen-raised and netted pheasant in the past, or a certain sanction-caged Iraqi dictator.

Step 2: In the corrupt company of lobbyist-contractor friends, botch things up. Ignore the peril at hand — as with, oh, Osama at Tora Bora, or Katrina, or the Iraq occupation — and with steely resolve, indulge your raging incompetence. (Oops.)

Step 3: Stonewall. Resist giving Congress information about 9/11 or Katrina; don't tell the public how you're tapping phones at home, setting up gulags abroad and making war and energy policy in secret. Why give the taxpayers, who are ponying up for these weekend hunting trips, the extraordinary news that Vice shot his hunting companion in the face and chest? Scott McClellan knew before yesterday's White House briefing at noon that Mr. Whittington was worse, but did not tell the reporters. He left that to Corpus Christi doctors, who spun the heart attack as "an inflammatory response to a metallic foreign BB."

Step 4: Admit no mistakes. Express sympathy. Blame the victim without leaving fingerprints by outsourcing the smear to the private sector.

Trent Lott joked in a meeting yesterday that Mr. Cheney was now the "shooter in chief," while other wags noted that Quayle was always a problem for Bushes.

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Presidential staff members and lawmakers speculated yesterday about whether Shooter would resign and make room for Condi if Mr. Whittington did not survive. His death would trigger a more thorough police investigation and probably a grand jury.

"Are you crazy?" one Republican senator told a reporter. "He'd never quit." (Aaron Burr presided over the Senate after he killed Alexander Hamilton in a duel.)

The shooter in chief can't quit because he is the administration. Who'd even tell him to quit? If necessary, he'd probably make W. take the fall.

Despite efforts by Mr. McClellan to joke and urge reporters to get back to "the pressing priorities of the American people," the hunting debacle once more showed Mr. Cheney running the imperial show.

He didn't talk to the sheriff for 14 hours, or even call the president to notify him after the 5:50 p.m. accident. Vice left that to Andy Card, who called Mr. Bush at 7:30 p.m. to say there had been a hunting accident, without mentioning that Vice was the gunman. Soon after that, Karl Rove called Mr. Bush back with that little detail.

A reporter, surprised, pressed Mr. McClellan: "The vice president did not call the president to tell him he was the shooter?"

Usually when there's a White House cover-up, the president's in on it.

The Shooting Party (WT)

By Tony Blankley

The Washington Times, February 15, 2006

In the absence of any pressing news these days — other than Iran's nuclear weapons development crisis, the election of Hamas terrorists in Palestine, on-going worldwide Muslim riots and killing in reaction to a cartoon, Al Gore's near sedition while speaking in Saudi Arabia, the turning over of our East Coast ports to be managed by a United Arab Emirates firm, the criminal leaking of vital NSA secrets to the New York Times, Mexican military incursions across our southern border, the Iraqi crisis, Congress's refusal to deal with the developing financial collapse of Social Security and Medicare, inter alia — the White House press corps has exploded in righteous fury over the question of the vice president's little shooting party last weekend.

As I understand the profound concern of the ever alert White House reporters, they smell a constitutional crisis because the shooting party failed to alert the media of the accidental shooting down in Corpus Christi, Texas. Well, actually they did alert the Corpus Christi media — but that didn't count. Unless the exalted ones have been formally informed by an official government press secretary, no public communication has technically occurred.

I checked the bylaws of the White House press corps, and they are right. It seems that the bylaws refer to Article XXIII of the U.S. Constitution which expressly designates that White House reporters with a minimum annual income of $375,000 (plus minimum stock options equal to not less than two-thirds their yearly salary, plus use of driver and long sedan during business hours, which hours must include post-deadline dinner engagements of a semi-social nature) are the exclusive recipients of all government information.

If information isn't hand-delivered in gold-edged paper to them while they are reclined on their chaise longue, it hasn't been released to the public. And if they don't report a fact, it hasn't happened. This provision is vital to a vigorous and independent free press. (I should note, my copy of the Constitution must be outdated, because it doesn't have an Article XXIII.)

Of course, this provision technically makes the White House press corps not reporters, but receivers — sort of glorified shipping clerks, but with the prerogative to rewrite and repackage the material before they deliver it to the public.

When an out-of-town newspaper got the scoop, the dignity of the White House press corps had been impeached, so they threw a public temper tantrum. As that has worked for many of them since their early childhood, they obviously expect it to work while on the job — to use the term loosely.

To add to their indignity, the reporter for The Washington Post went on MSNBC dressed up in a hunting costume to ridicule the vice president. (It is said that the enfeebled and debased French Dauphin, Charles VII, dressed in women's clothing to hide from Joan of Arc, who was trying to save France.)

I suppose most of us, as we rise in life, develop a sense of entitlement and pompous dignity. Doubtless we all think we are more important than we are.

As Charles de Gaulle once sardonically observed while walking past a graveyard: "that place is full of indispensable men."

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But the Washington press corps, and particularly the White House press corps, has developed, as an institution, a grossly dilated view of itself. Most of us can tolerate arrogance, if it is accompanied by extraordinary capacity and virtuosity. The brilliant scientist, the war-winning general, the great artists are entitled to their pride.

But the hallmark of the Washington press corps these days is mediocrity, groupthink, a lack of curiosity and rampant careerism. These attributes were all on show in the shooting-party incident. But this is just a trivial incident — except for the poor, shot gentleman who suffered a heart attack, may he recover fully and quickly.

We live at a moment of revolutionary change in the international order. The rise and violenceofradical,possibly caliphate-forming Islam and the huge, culture-changing, unexamined consequences of rampant globalization make the present one of the least predictable moments to be alive.

Both government officials and citizens are in desperate need of a national press corps that is alive to the change and digging to find factual hints of the near future. We need the kind of future-oriented intellectual vigor, curiosity and genuine iconoclasm that typified American reporters in the first half of the last century.

Instead, as the shooting-party incident exemplified, we have in the White House at the most elite level of American journalism, self-absorbed, self-important men and women who stand on their prerogatives even over marginal and inconsequential matters.

Should they ever have a truly daring, creative, productive, hard-researched idea about what is going on in this dangerous world — they should alert the media.

Alito Hires As A Clerk Former Ashcroft Aide (WP)

By Charles Lane

The Washington Post, February 15, 2006

Justice Samuel A. Alito Jr. has hired one of the architects of then-Attorney General John D. Ashcroft's policies to serve as his law clerk at the Supreme Court for the rest of the current term, the court announced yesterday.

Adam G. Ciongoli, 37, a senior vice president at Time Warner Inc., served as counselor to Ashcroft from 2001 to 2003. He attended Georgetown University Law Center, clerked for Alito at the Philadelphia-based U.S. Court of Appeals for the 3rd Circuit from 1995 to 1996, and helped prepare the justice for his recent confirmation hearings.

Ciongoli was an aide to Ashcroft during Ashcroft's years as a senator and then came to the Justice Department, where he advised Ashcroft on terrorism issues in the aftermath of the Sept. 11, 2001, attacks. Among the issues he worked on were the detention of thousands of terrorism suspects in the United States and the use of military tribunals to try them.

As a law clerk for Alito, his responsibilities will include helping Alito draft opinions, prepare for oral argument and sift through the mountain of appeals that arrive each week.

Ciongoli's appointment, which will last about five months, is unusual: Though there has been a slight trend at the court toward hiring law clerks with a few years of work experience, the vast majority of clerks are recent law school graduates.

Among those who have come to the court after working elsewhere, none in recent memory had held a government position as senior as Ciongoli's at the Justice Department, where he was widely regarded as one of Ashcroft's closest confidants.

Perhaps the closest parallel to Ciongoli's appointment was the 2002 appointment of Rachel Brand, then associate White House counsel, to serve as a law clerk to Justice Anthony M. Kennedy. Brand is now assistant attorney general for legal policy.

This raises the possibility that Ciongoli will face issues at the court that he had worked on in government.

For example, the arrest of U.S. citizen Jose Padilla and his subsequent detention as an "enemy combatant" took place while Ciongoli was on Ashcroft's staff. The Supreme Court is currently considering whether to hear Padilla's appeal.

"There is a process in place to evaluate whether a law clerk should be recused," Supreme Court spokeswoman Kathy Arberg said yesterday. Ciongoli did not return a phone call to his New York office.

According to a 2002 federal publication, "Maintaining the Public Trust: Ethics for Federal Judicial Law Clerks," clerks should not participate in cases that they worked on "in a previous legal job," or about which they have personal knowledge of disputed facts.

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Ciongoli was one of five lawyers named as law clerks to Alito. Benjamin Horwich and Alexander Volokh will switch to Alito from the chambers of retired justice Sandra Day O'Connor. Hannah Smith and Jay Jorgensen will join Alito after having worked for Justice Clarence Thomas and then-Chief Justice William H. Rehnquist, respectively.

Administration Officials Look To Ease GOP Concerns On Medicare (HILL)

By Alexander Bolton

The Hill, February 15, 2006

Senate Republicans met with senior Bush administration officials in private yesterday afternoon to discuss their concerns with the Medicare prescription-drug program and to prepare for the escalated Democratic attacks on the program expected next week during the recess.

Democratic leaders and strategists last week had urged lawmakers to launch a barrage of criticisms against the drug program.

About 30 Republican lawmakers sat down with Mike Leavitt, the secretary of the Department of Health and Human Services, and Mark McClellan, the administrator for the Centers for Medicare and Medicaid Services (CMS).

Lawmakers, according to a senator in attendance, asked the officials about two major criticisms of the drug plan, which was the legislative centerpiece of President Bush's first term: that the drug plan offers too many programs and as a result is too confusing for seniors, and that it has a hole in a coverage. Drug costs between $2,250 and $5,100 a year are generally not covered by the program.

Senior senators such as Pete Domenici (N.M.) and Larry Craig (Idaho) said the program is fundamentally sound and will help many senior citizens.

Administration officials gave the lawmakers promising statistics about the program: 24 million of the 42 million eligible participants have signed up, 250,000 seniors sign up each week and the monthly individual premium cost has dropped from $37 to $25 per month, according to a lawmaker who took notes during the meeting.

However, Democrats note that many of the seniors who have "signed up" were automatically enrolled or have long been part of an employer-sponsored program.

Leavitt and McClellan also reported that the administration is addressing the gap in coverage by sending out letters to enrollees alerting them when their medical costs are approaching a level that will exceed government coverage. The officials said that seniors approaching the so-called "doughnut hole" would have the option to switch plans to avoid the gap.

Some healthcare experts predict that many seniors will hit the doughnut hole right before the November elections.

Domenici called the bill a "giant step forward" and said, "When it works it's going to help a lot of people."

But he acknowledged "it's too bad managementwise we haven't got better assistance and put out better word."

Nevertheless, he said he disagrees with Senate colleagues who are proposing a legislative fix to the program, advocating instead for administrative solutions.

"I've heard senators say, 'See? It didn't work. Let's fix it,'" Domenici said. He said that "every management tool should be used to smooth this over as best as possible."

During the meeting, Craig offered a rebuttal to colleagues who said the program offers too many plans and is too confusing.

"My retort was: 'You want one federal program, take it or leave it?'" he said.

Meanwhile, Leavitt is scheduled to meet with Presidcent Bush today.

One Republican senator who might support a legislated change to the program is Sen. John Ensign (Nev.), who voted against the drug plan because of its lack of what he called "cost containment."

Ensign said he thinks Congress should "restructure the program and make it means-tested," meaning that benefits would be based on the recipient's ability to pay.

Senate Republicans are asking tough questions of administration officials to prepare for an expected Democratic assault on the prescription-drug program.

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Last week, Democratic strategists Stan Greenberg, James Carville and Matt Hogan circulated a memorandum urging Democratic leaders and allies to focus their criticisms of the Republican Party on Medicare.

"Although the plan is already unpopular, Democrats now have the opportunity to raise opposition to the drug benefits to new heights and use the plan as a powerful symbol of Republican corruption and irresponsibility," the strategists wrote. "Coupled with attacks over budget cuts to Medicare, an assault on the prescription-drug program could cause serious damage to the GOP, especially among seniors."

The strategists reported that opposition to the plan among voters between 50 and 64 years old has risen from 38 percent to 51 percent since the fall and that voters 65 or older are opposed to the program by a 28-point margin.

A Republican Senate aide said that the Democratic tactics are a politically motivated effort to scare seniors away from signing up for a program that would help them.

Still, criticism of the administration's handling of the benefit has come from both sides of the aisle. House Majority Leader John Boehner (R-Ohio) recently called the early implementation of the benefit "a disaster."

House Democratic leaders circulated a "Dear Colleague" letter last week to Democratic lawmakers, urging them to hold public events, including town-hall meetings and visits to senior centers, criticizing the Medicare program.

The same day that Democratic strategists released their memo, House Minority Leader Nancy Pelosi (D-Calif.) held a town hall meeting in San Francisco charging that the Republican program has hurt seniors.

"Hundreds of thousands of Medicare beneficiaries across the country have been unable to get their needed prescriptions, have faced outrageous delays and have been overcharged," Pelosi said.

Sen. Jay Rockefeller (W.Va.), the ranking Democrat on the Health Care Subcommittee of the Senate Finance Committee, said analysts predicted a few years ago that the Republican plan would encounter difficulties because of its complexity.

Rockefeller said that he has put together legislation that would address the problems by eliminating the gaps in prescription-drug coverage experienced by low-income seniors and the disabled. He added that several Democratic colleagues have drafted other plans but that the caucus has decided to wait to reveal a comprehensive party proposal on Medicare.

"The question is whether we come out with plans right now or let them vent," he said, referring to internal squabbles with Republicans over the drug program. "If we came out with a plan right now, Sean Hannity would shred it," referring to the conservative talk-show host and his allies on the right.

A senior Democrat said Democrats would wait until they are closer to Election Day.

Grants To Religious Groups Fall, Study Says (WP)

By Alan Cooperman

The Washington Post, February 15, 2006

Despite the Bush administration's rhetorical support for religious charities, the amount of direct federal grants to faith-based organizations declined from 2002 to 2004, according to a major new study released yesterday.

White House officials immediately disputed the findings. They said they will release their own figures next month showing an increase in federal funding for religious groups.

The dispute highlighted a lack of independent, widely accepted data about how many federal tax dollars are going to religious organizations, what they are doing with the money and whether they are more, or less, effective than other charities.

Some critics of the President's Faith-Based Initiative have long contended that the administration is shifting who gets money, but not increasing the total amount of federal funding available to shelter the homeless, counsel prisoners and provide other social services.

The study released yesterday "is confirmation of the suspicion I've had all along, that what the faith-based initiative is really all about is de-funding social programs and dumping responsibility for the poor on the charitable sector," said Kay Guinane, director of the nonprofit advocacy program at OMB Watch, a liberal watchdog group in Washington. "It sounds warm and fuzzy, but they've been cutting down the size of the pie all along."

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The study by the nonpartisan Roundtable on Religion and Social Welfare Policy examined 28,000 grants made by nine federal agencies over three years. It found that religious charities got an unchanging share -- about 18 percent -- of the money awarded each year.

But because the total pie of available funding shrank by more than $230 million over the three years, the slice that went to religious groups also declined, from $670 million in fiscal 2002 to $626 million in fiscal 2004.

At the same time, the study found that the initiative has succeeded in encouraging more religious groups to apply for funding, and the number receiving grants rose almost 15 percent. "Less federal money is being divided into more grants," the study concluded.

In a telephone interview, the study's authors declined to discuss its political implications. Lisa M. Montiel and David J. Wright said the study focused only on direct federal grants, not monies distributed through block grants to states and municipalities, which are several times larger.

The authors also said they did not attempt to determine how much money went to religious organizations before President Bush took office in 2001. They looked only at grant programs that were in existence for all three years covered by the study, Montiel said, because they were trying to get a picture of the "trend line," not a static snapshot of the money given to religious charities in any one year.

H. James Towey, director of the White House Office of Faith-Based and Community Initiatives, accused the study of bias, saying it was "only the latest indication of the Roundtable's agenda in opposition to the president's faith-based initiative."

The study did not count grant-making programs that were created after 2002 and ignored such programs as Head Start, which he said was the second-largest source of federal funds for religious organizations, after the Department of Housing and Urban Development's Section 202 housing program for the elderly poor.

"They have picked rotten cherries and come up with a rotten pie," Towey said. "They took a very small sample of programs and grants and are drawing conclusions that are completely inaccurate."

Towey said the White House has been collecting growing amounts of data on grants each year, beginning with two federal agencies in 2002, five in 2003, seven in 2004 and 10 in 2005. When it issues its report for 2005 in March, he said, "we'll look at 25,000 grants in just one year" and "will show there's been an increase every year in the category of competitive, nonformula grants for social services."

Several independent researchers who were not involved in the study defended the Roundtable.

Candy S. Hill, senior vice president for social services at Catholic Charities USA, said the study's findings fit with her experience. "It doesn't surprise me, because overall the funding for most social service programs is shrinking," she said. "We're grateful there's a recognition by the administration of the wonderful work that faith-based groups do, but we continue to be concerned about the levels of funding."

Stanley Carlson-Thies, director of social policy studies at the Center for Public Justice, an evangelical Protestant think tank in Annapolis, said the study "gives the lie to alarmists" who think the administration is funneling vast sums to churches.

"Look at the huge percentage of money that continues to go to secular organizations," said Carlson-Thies, who formerly worked in the White House faith-based office. "The image that there's this Bush push that's going to turn the government into a religious apparatus -- if people think that that's what's happening, they're wrong."

Senator Sees No Rush For Debt Limit Hike (REU-Y2)

By Richard Cowan

Reuters, February 14, 2006

The U.S. Senate might wait until mid-March to raise the U.S. borrowing limit, despite Treasury Department warnings that the government could exceed the current cap within days, a key Senate Republican said on Tuesday.

Sen. Charles Grassley (news, bio, voting record) of Iowa, who chairs the Finance Committee, said that if the Senate does not raise the $8.18 trillion debt limit this week before the start of a weeklong recess, it would vote before the next recess tentatively set for March 18.

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On Monday, a Treasury Department spokesman said the federal government was on track to hit the current debt ceiling by mid-February.

If U.S. borrowing authority is not lifted soon, the Treasury Department could use such extraordinary measures as dipping into several government funds to avoid default, as it has in the past.

Grassley, an Iowa Republican, told Reuters the goal would be to get the debt limit legislation passed "with the least debate."

"I would like to see a bill on any Thursday night just prior to a recess. So if it's not this recess it would be the Thursday before we go home for the other recess and in the meantime I think the Treasury has time to borrow," he said.

Under a nonbinding budget blueprint approved by Congress last spring, the debt limit would rise by $781 billion. Such an increase would bring to more than $3 trillion the total increases in government borrowing authority enacted under President George W. Bush.

Successive years of deficit spending have fed an explosion in U.S. debt. The Bush administration is forecasting a record budget deficit this year of $423 billion.

Asked whether he would seek Senate passage of the full $781 billion debt limit increase, Grassley said, "Well, it might as well be; it doesn't necessarily have to be."

Some conservative House Republicans want to link a debt limit rise to an initiative to reform budget procedures in a way that would force deeper domestic spending cuts.

Pelosi, Others Request New Vote On Budget Bill (RC)

By Jennifer Yachnin

Roll Call, February 15, 2006

House Democrats, asserting the budget reconciliation measure signed into law last week is constitutionally unsound, called on the chamber's Republican leadership Tuesday to hold a new vote on the bill.

In a letter to Speaker Dennis Hastert (R-Ill.), House Minority Leader Nancy Pelosi (D-Calif.) and an additional seven senior Democratic Members, charged a clerical error has created a "constitutional problem" in upholding the $39 billion deficit reduction bill.

"[W]e urge you to reconsider this legislation this week and to work with the Senate to ensure that any spending reconciliation bill that is passed is identical in both the House and the Senate, as the Constitution demands, and then presented to the president for his signature," the letter states.

Although both the House and Senate passed the deficit reduction act — in both cases, the legislation passed by slim margins, with Vice President Cheney issuing a tie-breaking vote in the Senate — a clerical mistake made to a Medicare provision resulted in the chambers approving technically different versions of the legislation.

Because of that error, the version of the bill signed into law has not been approved by the House.

In the Senate, lawmakers sought to rectify the difference last Wednesday by passing a resolution under unanimous consent intended to clarify the legislation.

The resolution, authored by Senate Majority Leader Bill Frist (R-Tenn.), states the deficit reconciliation bill "is deemed the true enrollment of the bill reflecting the intent of the Congress in enacting the bill into law."

It is not yet clear whether the House will take up the measure. A Hastert spokesman did not return a late-afternoon telephone call seeking comment, and the resolution does not appear on the Majority Whip's legislative calendar for this week.

In addition, Democratic lawmakers assert the mistake represents an "abuse of the process" and claim that GOP leaders were aware of the incident prior to the House vote on the bill Feb. 1.

"[W]e can only conclude that the reason that the error was not fixed through a legitimate manner was because it involved another vote that might have failed the second time around," the Democrats assert in the Feb. 14 letter.

The Silencing Of Science (WP)

By Anne Applebaum

The Washington Post, February 15, 2006

DOJ_NMG_0015125

One of the benefits of writing newspaper articles is that sometimes, instead of sending anonymous insults, readers call you up and tell you interesting things. Two weeks ago, after news broke that a NASA press officer had resigned amid revelations that he'd tried to muffle the agency's top climate scientist, I got several such calls. All were from people with similar tales of government-funded scientists intimidated by heavy-handed public relations departments. Curiosity piqued, I followed one up, at least as far as the nervous scientists and the equally nervous government press officers would let me. Here's what I learned.

The story begins with the publication of an article -- "Potential Environmental Impact of a Hydrogen Economy on the Stratosphere" -- in the June 2003 issue of the journal Science, which is not exactly beach reading. Yet although crammed with graphs, equations and references to chlorofluorocarbons, the basic premise isn't hard to explain: The five authors, all affiliated at the time with the prestigious California Institute of Technology, wanted to explore the potential long-term impact of hydrogen fuel cells on the Earth's atmosphere.

For those who've forgotten, hydrogen fuel cells were, three State of the Unions ago, the thing that was going to save Americans from their oil addiction and stop the auto emissions that help cause global warming. Nowadays switch grass and biomass are the hot alternative fuels, but back in 2003, the president won applause for proposing "$1.2 billion in research funding so that America can lead the world in developing clean, hydrogen-powered automobiles." On Capitol Hill, there were demonstrations of one such "Freedom Car," and the president called on scientists to be "bold and innovative" in their hydrogen research.

Unfortunately for the authors of "Potential Environmental Impact of a Hydrogen Economy on the Stratosphere," their research, while bold and innovative, didn't exactly mesh with the hype. According to their model, tiny leaks from hydrogen cells, if such cells are ever mass-produced, could cause serious environmental damage. But they made no suggestion of inevitability: One of the study's authors, John Eiler of Caltech, pointed out that foreknowledge of potential environmental problems could "help guide investments in technologies to favor designs that minimize leakage." Presumably thinking along the same lines, NASA, which had helped pay for the research, prepared a news release and news conference on the paper.

Abruptly, both were canceled. Although "we often hear that releases are held up for political reasons," one NASA employee told me, "that one was a surprise: It went all the way to the top and then got killed." In fact, the release and the conference were "killed" by the White House Office of Science and Technology Policy. An official there told me this was because the office wanted to give Energy Department scientists a chance to respond to the study before it was publicized: "Our role is to facilitate interagency cooperation." Coincidentally or not, it also happens that Spencer Abraham, then the energy secretary, was that same week preparing to depart for Brussels, where he was to tell Europeans that U.S. hydrogen research proved the Bush administration cared about the environment.

All of that part of the story is confirmed. The rest -- the story of how none of the scientists ever got government grants for further research on this subject -- is complicated by rumor and hearsay. Eiler, seeing that the Energy Department was looking for proposals to study the environmental impact of hydrogen, applied for a grant to do so. He was turned down on the grounds that he thought were "peculiar" -- that the department was not, in fact, interested in proposals on the subject. Today he gets his only money for related research from the private sector. The National Science Foundation officially rejected another researcher's grant application -- and then unofficially told him that some in the foundation thought the timing of the Science magazine paper had been deliberately designed to embarrass the energy secretary. One of the authors has now changed his research focus, he e-mailed me, to something that "has less politics." Others refused to talk about the paper at all.

None of this means that there really was any government interference in the funding. Another eminent scientist who does related research, Mark Jacobson of Stanford University, told me that while he considered the Science paper "groundbreaking" and "pioneering," because it was "the first to actually go after this issue," he disagreed with the conclusions and methodology, and said that perhaps grant reviewers did too. The science and technology policy office says it is "preposterous" to think that the White House was involved in funding issues. Abraham remembers the trip to Europe but (very plausibly) doesn't recall anything about this contrarian paper at all.

I'm thus left with nothing to report -- except that a fuss over a press release and a rumor about who said what to whom at the National Science Foundation left some scientists feeling, rightly or wrongly, that they'd better stay away from "political" subjects if they want government grants. And, three years down the road, they have.

DOJ_NMG_0015126

Fed Nominees Pressed On Political Ties (WP)

By Nell Henderson

The Washington Post, February 15, 2006

President Bush's decision to elevate three former administration economic advisers to the Federal Reserve Board prompted questions yesterday about whether they would be able to steer the economy independently of the White House they have served.

Bush's most recent Fed nominees, Randall S. Kroszner and Kevin M. Warsh, would join Ben S. Bernanke, who became chairman of the Fed earlier this month after serving for six months as chairman of Bush's Council of Economic Advisers. Bernanke is scheduled to testify today before the House Financial Services Committee in his first public appearance on Capitol Hill as Fed chief.

If Kroszner and Warsh are confirmed by the Senate, it will mark the first time in many years that three of the seven Fed board members will have recently served in the White House that appointed them, said Thomas Schlesinger, executive director of the Financial Markets Center, a nonprofit group that monitors the Fed.

"This is inevitably going to create the impression that the board is more political than in the past," Schlesinger said. "This creates more of a burden on Bernanke and company to prove they're not taking their cues from [White House Deputy Chief of Staff] Karl Rove."

In past decades, White House officials and members of Congress have pressured Fed officials to keep interest rates low, which is politically popular. But Fed officials are supposed to keep inflation low, which sometimes requires raising interest rates. The Fed also regulates some banks and financial institutions, which can stir up opposition from affected interest groups.

Kroszner, 43, a professor of economics at the University of Chicago's business school, was a CEA member from 2001 to 2003. Warsh, 35, who has served on Bush's National Economic Council for the past four years, is a special assistant to the president for economic policy.

Sen. Paul S. Sarbanes (Md.), the ranking Democrat on the Senate Banking Committee, pressed Kroszner and Warsh during their confirmation hearing yesterday on whether they would be able to act independently of outside political pressures.

Both men promised that they would.

"The independence of the Federal Reserve is fundamental to its mission," Kroszner told the committee. "The central bank cannot be a political animal. It must be an independent animal."

Warsh, who worked on Wall Street before joining the Bush administration, said it is "essential for [financial] markets to believe the judgments" of Fed officials are politically impartial. He said he knew he'd be "taking off one hat and putting on another."

Bush's nominee to become CEA chairman, Edward P. Lazear, 57, also promised at the hearing that he would see it as his duty to "inform policymakers in an unbiased and professional manner." Lazear, a professor at Stanford University and a senior fellow at the Hoover Institution, served last year on Bush's advisory commission on tax reform.

Bush has appointed the four other members of the Fed board -- two Republicans, a Democrat and a political independent. The presidents of the 12 regional Fed banks are chosen by their boards of directors and include members of both parties.

Bernanke, 52, a former Princeton University economics professor, served on the Fed board for more than two years before joining the White House. He was renowned during his academic career for his work on monetary policy, the central bank's efforts to influence the economy through controlling the money supply, chiefly by adjusting interest rates.

Kroszner has published research on banking and financial regulation, international banking, financial crises and monetary economics.

Warsh is a lawyer who has worked for Morgan Stanley as an investment banker and as an adviser on mergers and acquisitions.

Some critics have questioned Warsh's credentials for the Fed job.

"There are plenty of people with better résumés to fill the responsibilities of a Fed governor," said Lee Price, research director at the Economic Policy Institute, citing Warsh's lack of experience with banking regulation and monetary policy.

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However, Warsh's confirmation appeared assured yesterday when he was warmly endorsed during the hearing by Sen. Charles E. Schumer (D-N.Y.).

Moreover, Senate Banking Committee Chairman Richard C. Shelby (R-Ala.) supports the nominations and plans to move toward holding a committee vote as soon as possible, said committee spokesman Andrew S. Gray.

Shelby "believes that all the nominees performed well in the hearing and demonstrated an ability to engage the many issues they would encounter in their new positions," Gray said.

Fed Nominees' Remarks Portend Debate Over An Inflation Target (WSJ)

By Greg Ip

The Wall Street Journal, February 15, 2006

WASHINGTON -- Two nominees to the Federal Reserve Board expressed qualified support for an inflation target, suggesting Chairman Ben Bernanke has more work to do before the central bank adopts one.

The Fed must "provide clarity and transparency about monetary policy making and processes," Randall S. Kroszner, a University of Chicago economist, told the Senate Banking Committee. A target "is one possible way to increase transparency."

White House aide Kevin M. Warsh said, "The markets might well see [a target] as additional clarity and provide some incremental benefit going forward. That's a deliberation I look forward to participating in."

Mr. Bernanke has long argued such a target will help the public understand the Fed's goals and enable the Fed to better communicate what it is doing and why. He has also said he would press for a target only if he can achieve consensus on the 19-member Federal Open Market Committee. Of those 19 members, 12 vote: the seven governors, including Mr. Bernanke, of the Federal Reserve Board, and five of the 12 reserve-bank presidents.

Current FOMC members are split on support for a target. The fact the two nominees may also need convincing suggests adoption isn't a forgone conclusion.

President Bush nominated Messrs. Kroszner and Warsh to fill two board vacancies. Mr. Bernanke created one vacancy when he left to become chairman of Mr. Bush's Council of Economic Advisers in June. In an appearance on Capitol Hill today, he makes his first major remarks on the economy since becoming Fed chairman Feb. 1.

Appearing before the same panel, Stanford University economist Edward Lazear, nominated to take Mr. Bernanke's old job as chairman of the CEA, called the tax code "chaotic, somewhat inflexible and not necessarily conducive to economic growth." In particular the alternative minimum tax "has really run amok." The AMT was originally aimed at ensuring that the wealthy pay some tax but each year ensnares more upper-middle-income taxpayers.

Mr. Lazear served on Mr. Bush's advisory panel on tax reform, which recommended abolishing the AMT. However, Mr. Bush hasn't indicated when he intends to act on tax reform.

None of the handful of senators at yesterday's hearing objected to any nominee, suggesting confirmation will be straightforward. A committee spokesman said it is "realistic" that the Fed nominees will be confirmed in time for the next FOMC meeting, on March 27-28.

Fed Nominees Vow To Make Inflation Control A Top Priority (NYT)

By Bloomberg News

The New York Times, February 15, 2006

The nominees for the Federal Reserve, Randall S. Kroszner and Kevin M. Warsh, said yesterday in testimony to the Senate Banking Committee that controlling inflation was the best way to keep the United States economy growing.

Stable prices are "crucial to achieving maximum employment and overall economic stability," Mr. Kroszner, 43, a University of Chicago economist, said. Mr. Warsh, 35, a White House adviser, said he was devoted to keeping prices in check and fostering "maximum sustainable employment."

If confirmed, Mr. Warsh and Mr. Kroszner would join the Fed's board of governors as the central bank begins its biggest transition in almost two decades. Ben S. Bernanke, who succeeded Alan Greenspan as chairman two weeks ago, has pledged more openness and will need support from Fed members for new policies like a numerical inflation goal.

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Mr. Bush's nomination of Mr. Warsh, a lawyer by training who would become one of only two members of the Fed's seven-member board of governors without a Ph.D. in economics, has been greeted by criticism and bewilderment by some former Fed officials and economists. They point to his political connections and inexperience, and say the White House could have found a better-known, more qualified choice.

"The Warsh nomination came out of left field," said Tom Schlesinger, executive director of the Financial Markets Center, which monitors the Fed.

If Mr. Warsh and Mr. Kroszner are confirmed, Bush will have appointed all seven members of the Fed board. The reaction to Warsh contrasts with the praise Mr. Bush has received for his other appointments.

The new governors would provide Mr. Bernanke, an academic specialist on central-bank policy, with banking and markets expertise and return the Fed's board to a full seven members for the first time since June.

Following Alan Greenspan (NYT)

The New York Times, February 15, 2006

The new chairman of the Federal Reserve, Ben Bernanke, delivers his first report to Congress today, covering interest rate policy and the Fed's economic forecast for this year and next.

It's a big moment for Mr. Bernanke, and perhaps for the economy. The new chairman's success at establishing his Street cred will be a big factor in controlling that most unpredictable of economic forces: market psychology.

His predecessor, Alan Greenspan, could help by playing the circumspect banker a while longer. Last week, days after becoming a private citizen, Mr. Greenspan talked privately to an audience at Lehman Brothers, the world's biggest bond-trading outfit. His remarks were promptly leaked, and traders quickly concluded that interest rate increases were bound to continue.

The extent to which Mr. Greenspan's remarks moved the markets is debatable. We also don't know how accurate the leaks were. (It does seem unlikely that Mr. Greenspan has suddenly taken to speaking with crystal certainty, as suggested by the traders' interpretation of what he is supposed to have said.)

What's not arguable is that any transition at the Fed is tricky, and that this one is particularly fraught. What will happen to consumption — and economic growth — when the housing boom subsides? Will Mr. Bernanke cut interest rates if housing prices tank, as Mr. Greenspan did after the Internet bubble burst? Would the new chairman even be able to do that, given that higher rates help to attract the foreign capital to cover America's deficits? How would more rate increases affect deeply indebted households?

Mr. Greenspan's devotion to the strength and integrity of the Federal Reserve is beyond doubt; the institution's solidity owes much to his leadership. But the public and the markets need to have confidence in the new chief, and that is best built by hearing from Mr. Bernanke without what is likely to be interpreted as cues from the wings or, worse, cross talk.

Did You Hear The One About The Trade Deficit? (WP)

By Steven Pearlstein

The Washington Post, February 15, 2006

The White House Council of Economic Advisers is not generally known for its playful sense of humor. But in the annual Economic Report of the President, released this week, the CEA decided to have a bit of fun with the record $726 billion trade deficit.

At nearly 6 percent of gross domestic product, a deficit that large would in be treated in most other countries like the economic equivalent of Defcon 3. But rather than dwell on the negative, those wry PhDs framed their analysis not as consumption exceeding production (the so-called current account deficit), but as a consequence of cheap foreign capital financing our profligacy (the capital account surplus, which by definition is its mirror image). It's a bit like General Motors, ending a disastrous sales month, declaring what a good period it had been for inventory replenishment.

This upbeat view of the trade deficit reflects the thinking of outgoing CEA chairman Ben Bernanke, who thinks that the root cause of the world's massive economic imbalances is that the rest of the world is producing and saving too much, not that Americans are producing and saving too little. And what makes it possible for these trade deficits -- er, capital account surpluses

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-- to continue year after year is that foreigners have decided that the best place to stash all the cash they earn from selling us sneakers, computers and oil is right back in the United States.

There is certainly a good deal of truth in the idea of a global "savings glut." When excessive saving in Asia and Europe leads to too much capital flowing into the United States, it has the effect of bidding up the price of real estate and stocks while lowering interest rates. In turn, Americans respond by borrowing more against their newfound paper wealth, using the money to buy more stuff from overseas, creating a self-reinforcing cycle.

Viewed in this way, it is the capital surplus that drives the trade deficit, rather than the other way around. Or put more crudely, it's their fault, not ours.

What's significant about this view is that its chief proponent is no longer just a respected academic advising the president. As the new chairman of the Federal Reserve, Ben Bernanke is now the world's most influential central banker. And his instinct to view trade deficits, and the asset bubbles associated with them, as relatively benign -- or at least outside the scope of the central bank's concern -- could put monetary policy behind the eight ball.

A somewhat different view has recently been offered by Mervyn King, head of the Bank of England, and economist John Makin of the American Enterprise Institute. Their warning is that the "savings glut" is, to a large extent, really a "liquidity glut" caused by central banks, primarily those of China and Japan. For reasons that made sense in the context of sustaining growth and stabilizing prices at home, these central banks wound up printing too much money -- money that is now sloshing around the globe looking for some place to be invested.

Some of this excess liquidity has gone into bidding up the price of stocks, particularly outside the United States. Some of it has gone into real estate, particularly inside the United States. Some of it has been used to bid up the global price of commodities, such as gold or oil futures.

But a big portion of that money has gone into government bonds everywhere, creating a bond market bubble, which has the effect of lowering inflation-adjusted interest rates to ridiculously low levels.

That was evident last month when the interest rate on inflation-adjusted, 50-year British bonds fell to 0.38 percent, well below its historic norm of 2.5 percent. And we saw it last week when the U.S. Treasury, issuing its first 30-year bonds in four years, got $28 billion in bids for $14 billion of bonds being offered, making it cheaper for the Treasury to borrow for 30 years than six months.

The problem, as King and New York Fed President Timothy Geithner laid out in separate speeches last month, is that these asset-market "bubbles" now have the potential to spill over into the real economy, generating excess growth and, eventually, unacceptable levels of inflation. Rather than wait for the full measure of inflation to show up in the official numbers, when it becomes much harder to deal with, they suggest that the Fed and other central banks should consider the economic equivalent of the policy of preemption. The idea is that raising rates earlier to slow the economy and take some air out of asset prices will reduce economic pain later.

Up to now, Bernanke has staunchly opposed the idea that the Fed should prick bubbles or target asset prices. But I suspect he's about to get some polite push back from Geithner and other regional Fed presidents.

As Makin points out, even excluding food and energy, the closely watched index of "core" consumer prices was up 1.8 percent last year, near the top of what the Fed considers its acceptable range. And with labor markets relatively tight, and health, energy and commodity costs putting upward pressure on prices, and a falling dollar likely to raise the price of all those imports, it's likely that the Fed will soon have to break the news that it won't be able to stop raising rates after its next meeting on March 28, as financial markets now expect.

It's at that point that a sense of humor will come in handy.

Senate Scrubs Hearings As Politics Trump Policy In An Election Year (NYT)

By Sheryl Gay Stolberg

The New York Times, February 15, 2006

WASHINGTON, Feb. 14 — The Senate has never been a bastion of managerial efficiency. But as the campaign season gets into full swing, lawmakers say things are clearly getting worse.

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Four cabinet secretaries, including Secretary of State Condoleezza Rice, an Army general and the secretary of the Army were supposed to testify Tuesday morning at hearings on matters including Hurricane Katrina and the Bush administration's proposed budget for foreign affairs.

But their invitations were rescinded and the hearings canceled when the Senate majority leader, Bill Frist of Tennessee, scheduled a marathon series of 16 votes on amendments to a pending tax bill — all of them, both parties agree, intended more to score political points than to make policy.

Ultimately, most of those votes were canceled.

They could have been held Monday night, but that did not work for Mr. Frist. He was holding a fund-raiser at his Washington home, with President Bush as the featured guest and some of his Republican colleagues on the guest list, including the Senate whip, Mitch McConnell of Kentucky. The event raised $3.5 million for Republican Senate candidates.

So Mr. Frist put the votes off until Tuesday. Half of them were to be on amendments offered by Democrats.

As Jim Manley, a spokesman for the Democratic leader, Senator Harry Reid of Nevada, explained, "They were designed to show that Republicans were favoring tax cuts for the wealthy instead of tax breaks for the middle class."

Republicans had responded with what Senator Trent Lott of Mississippi, the former Republican leader, called eight of "our own blatantly political amendments."

By Tuesday morning cooler heads prevailed, and the number of votes was pared back to three. By that time, though, all of the scheduled hearings had been canceled, leaving a lot of miffed and sheepish senators.

"I look around," Mr. Lott said, "and think, 'Am I the only one who thinks this is stupid?' "

Senator Ted Stevens, Republican of Alaska, said, "It's sort of arrogant of us, isn't it, scheduling them and then not keeping our appointments?"

Stupid, perhaps. Arrogant, maybe. But not entirely out of character for the Senate, where roll-call votes are frequently held late into the night and schedules can change at a moment's notice. Still, some said the organizational chaos was worse than usual, and this being Washington in an election year, many fingers were being pointed.

Mr. Lott, who prided himself on keeping the trains on time when he was majority leader and who might try to return to a leadership spot if he is re-elected in November, said both sides were at fault.

"The Senate continues to fiddle while Rome burns," he said in a long speech on Monday afternoon on the Senate floor. He complained that the Senate had previously voted on similar Democratic amendments and urged Republican leaders to "get a grip on this situation."

Some Democrats, meanwhile, suggested that Republicans had let their fund-raising efforts pre-empt Senate business.

"When you have a Senate that is dictated by airline schedules and fund-raising events, we don't have as many days to work," said Senator Richard J. Durbin, Democrat of Illinois. "That's why I'm supporting public financing" for campaigns, he added.

Mr. Frist's chief of staff, Eric Ueland, shot back that the Democrats were the ones practicing the politics of delay.

"It is not Bill Frist who is slowing down the process for obstruction's sake," Mr. Ueland said. "It is Harry Reid who is responsible for this inanity."

But Mr. Reid, a former boxer, defended himself, saying his eight amendments were a show of restraint. "We could have filed 80 or 800," he said.

In the end, most of the hearing appearances were rescheduled. The Army secretary, Francis J. Harvey, and the general, Peter J. Schoomaker, who is the Army chief of staff, testified on Tuesday afternoon.

Secretary Rice and Michael Chertoff, the homeland security secretary, are expected to appear Wednesday morning. Jim Nicholson, the secretary of veterans affairs, is scheduled to testify Thursday. But an appearance by John W. Snow, the treasury secretary, had not been rescheduled.

Mr. Snow was making his second effort to fulfill a Senate obligation; he was initially to appear last week, but the session was canceled because it conflicted with the funeral for Coretta Scott King.

Mr. Snow's spokesman, Tony Fratto, said the secretary did not mind being invited, uninvited, reinvited and uninvited again. "We try to be understanding about it," Mr. Fratto said. "There aren't any hard feelings."

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Still, the changes created confusion. Mr. Reid was asked if a business could be run like the Senate is. "Yeah," he replied, "but not very well."

Westmoreland, Lewis Cool Squabble (RC)

By Jennifer Yachnin

Roll Call, February 15, 2006

One of the first squabbles to erupt in the growing debate over earmark reform appears to have subsided, after freshman Rep. Lynn Westmoreland (R-Ga.) met with House Appropriations Chairman Jerry Lewis (R-Calif.) over the weekend.

Westmoreland lashed out at the Appropriations panel in a "Dear Colleague" letter last week, following the leaking of a committee report that detailed the earmark requests of several dozen Members who have signed on as co-sponsors of earmark reform legislation sponsored by Rep. Jeff Flake (R-Ariz.).

A Westmoreland aide said that the freshman lawmaker and Lewis discussed the incident Friday afternoon while attending the House GOP retreat in Cambridge, Md.

"The chairman spoke to him and said it was not done with his knowledge or permission, and it was done on the staff level," said Westmoreland aide Brian Robinson.

While it remains unclear whether the source of the leaked information will be reprimanded, it appears that the matter has been settled for now.

"At the end of the day, we're not on the committee," Robinson said. "The Congressman made his concerns known to our leadership and to the chairman of the committee in a personal conversation. That's all that he can do for now. But he has made it very clear ... that the analysis was done at all. It was a blatant attempt to intimidate those seeking reform."

Appropriations Committee spokesman John Scofield declined to comment on the Friday discussion, describing it as a private conversation between Members.

But he did say that the evaluation of Members' earmark requests had not been intended for public distribution.

"It is true that the document was for internal purposes, it was not to be made public," Scofield said.

In the meantime, support for Flake's reform proposal seems to have been largely unaffected by the incident. In all, 63 Members are listed as co-sponsors of the legislation.

Although Flake frequently highlights earmarks he considers particularly offensive, he expressed support for lawmakers included on the list.

"I don't begrudge any rank-and-file Member for seeking earmarks — that's how the game is played here," Flake said in an interview Friday afternoon.

But Flake did take aim at House appropriators, asserting that panel Members are able to "blackmail" lawmakers under current rules.

"They force the rank and file to submit [their requests in writing], so they have a paper trail, so they can blackmail them later," Flake said. "That's what's really objectionable about what they're doing. It's not that these things are kept secret."

Under the Obligation of Funds Transparency Act authored by Flake — one of several reform proposals now being floated in both the House and Senate — earmarks would be included in the text of legislation, rather than attached in committee or conference reports that accompany the bills. That provision would give Members the ability to purge legislation of any earmarks deemed unnecessary once the bill reaches the House floor.

Lewis, likewise, has called for reforming the earmark process and unveiled his own proposal in late January.

In addition to calling for strict limits on the number of earmarks each Member may submit to each Appropriations subcommittee, Lewis has suggested that the process needs greater transparency, requiring Members to file formal request letters not just with each subcommittee but also with the Clerk of the House and to have them printed in the Congressional Record.

The California lawmaker also has stated that any new reforms should apply not only to his own panel but to authorizing committees as well.

Job Competition Victory By NIH Workers Is More The Rule Than The Exception (WP)

By Stephen Barr

The Washington Post, February 15, 2006

One of the largest job reviews at the National Institutes of Health has ended, with about 380 federal employees involved in property management prevailing in a competition against a private-sector bidder.

The job competition began in October 2002 and involved a group of employees who provide services in property management and operations, construction management and central utilities.

NIH said that the employee team won when the government's proposal, known as a "most efficient organization," was determined to be the lowest-cost plan. NIH said the long-running competition had been extended under a settlement agreement, which called for a reevaluation of the offers, between NIH and an unsuccessful bidder.

The NIH's statement did not say how much money would be saved by keeping the work in the agency. In the statement, Elias A. Zerhouni , NIH's director, said, "Now our challenge is to successfully implement the new management process, manage more wisely and effectively carry out the NIH mission to improve people's health."

NIH has run more than two dozen job competitions since 2002. Of those decided, most have kept the work in-house.

Across government, federal employees have been winning about 90 percent of job competitions. In numerous cases, the in-house team has reduced staffing and revamped operations in order to win.

The Bush administration began a push in 2001 to review the government's "commercial activities" to see whether the work could be performed at less cost by contractors. The initiative, known as competitive sourcing, has roiled much of the federal workforce and led unions to lobby against the initiative on Capitol Hill.

Unions contend that such outsourcing does not produce long-term budget savings, but the Office of Management and Budget reported this month that agencies are on track to produce savings of $900 million a year because of competitive sourcing.FEMA

Department of Homeland Security officials will be conferring with Congress and the White House on Secretary Michael Chertoff's proposal to create a full-time cadre at the Federal Emergency Management Agency to respond to catastrophic events.

The government has been criticized for waiting too long to respond to Hurricane Katrina, which killed more than 1,300 people. Chertoff said Monday that he would like to create a response force of 1,500 FEMA employees, which his spokesman said would probably be a mix of new hires and transfers from elsewhere in the department.

"We're talking about our interest in a substantial increase in the permanent base of FEMA employees, specifically to deploy in response to catastrophic events," department spokesman Russ Knocke said.

FEMA relies on volunteers in the field to provide disaster relief and recovery assistance. The agency has about 2,500 full-time employees and relies on about 3,493 seasonal and reserve workers who can be called into action for disasters.

The proposal for a 1,500-person response force is not part of the president's fiscal 2007 budget request for FEMA. That request includes $29 million to "strengthen operational capability" and fill job vacancies at FEMA.Retirements

Helene Deramond , team leader for the protection of human subjects in research for the Education Department, will retire March 1 after 30 years of federal service.

Mark Gillen , director of the office of program evaluation and risk analysis at the Internal Revenue Service, will retire March 3 after more than 37 years of government service. During his career, he also worked at the General Accounting Office, Health Care Financing Administration, Defense Contract Audit Agency and the House Appropriations and Ways and Means committees. He was a 2005 recipient of a presidential rank award.Diary Live Today

Federal Web Search Upgraded (WP)

By Caroline E. Mayer

The Washington Post, February 15, 2006

Need to know how many calories are in that margarita you drank last night?

The temperature at the beach you hope to go to this weekend?

How many minutes your flight will be delayed because of high winds in Newark?

Or the winning number in the Pennsylvania lottery?

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The answers are at a comprehensive one-stop federal Web site, FirstGov.gov, the official gateway to federal, state and local government Web sites and documents.

The nearly six-year-old Web site, which has won innovation awards for being consumer-friendly, has just been updated to make it easier for consumers, businesses and federal employees to find a mind-boggling array of information from A (airline complaints) to Z (Zip codes). With a click or two of the mouse, users can download tax forms, collect all sorts of economic trivia or play educational online games to learn about consumer scams and how to avoid them, of course.

FirstGov launched a powerful new search engine last month, expanding the number of accessible documents from 8 million to 40 million, including more state and local Web sites. Perhaps equally significant for time-constrained browsers, the new search engine uses improved algorithms to provide more relevant results.

With the old search engine, for example, a search for "baseball" brought up the Web site Afterschool.gov because it features a picture of a boy holding a baseball bat. With the new search engine, that same search steers you to a list of World Series winners. (Who knew the government even had such information?)

Using the old search engine, a person who typed "Social Security" in the search box would get a link to the Social Security Administration and related Web sites, including the President's Commission to Strengthen Social Security.

The same search today turns up a list of frequently asked questions, such as "What are the Social Security and Medicare increases the government has in store for 2006?" or "How do I contact Social Security's nationwide Toll-Free Hotline?" There is also a special section where a browser can further refine the field of research by choosing retirement or disability, as well as a tab to easily download federal forms.

Consumers in the market for a new car can just enter a make and model to get gas mileage and crash test results on a single page. In the past, it would have taken visits to two different government Web sites (one by the Environmental Protection Agency, the other by the National Highway Traffic Safety Administration) to get the data.

"All this information is out in the government, but it does you no good if you can't find it," said M.J. Pizzella, associate administrator of the General Services Administration's Office of Citizen Services and Communications, which oversees FirstGov.gov.

The government had been running its own search operations -- at an estimated annual cost of $3.2 million. The new search engine is being operated for $1.8 million a year under a contract with two private companies: Microsoft Corp. and Vivisimo Inc.

FirstGov.gov also offers podcasts, as well as Espanol.gov for Spanish-speaking consumers.

By presenting frequently asked questions and special sections to allow consumers to refine their initial search, FirstGov is more than a Google for government, said Larry Freed, president of ForeSee Results, a Michigan firm that measures customer satisfaction of Internet sites. "It's sort of a Google-plus" because you do not have to rely on scrolling through pages and pages of search results to find what you want, Freed said.

Launched in the last days of the Clinton administration, FirstGov was revamped in 2002 to make it easier to use. At that time, the goal was "three clicks to service." But under the latest redesign, just one or two clicks may be all that is needed.

When the site began, "customer satisfaction was fairly low," Freed said. But the government "has made great strides," he said. "Is the government really building Web sites for me? They are, and it's a win-win for the government and consumers. Consumers are getting more information, and the government is lowering its cost by making it easier to get information off the Web," helping reduce calls to call centers.

OTHER NEWS:

US Retail Sales Beat Expectations (FT)

By Andrew Balls and Christopher Swann

Financial Times, February 15, 2006

Americans stormed the shops in January, pushing retail sales up 2.3 per cent and laying to rest fears that consumer spending was starting to fade.

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Economists said the reading was boosted by unseasonably warm weather, with Americans basking in the warmest January since records began in 1895. Christmas gift cards may also have boosted January sales, as they are only recorded as retail spending when redeemed in the shops.

But there were signs of underlying strength in spending across virtually all sectors, setting up a strong start to the year after weak consumer spending growth in the fourth quarter. Retail sales for December were revised slightly lower, to 0.4 per cent from the Commerce Department's initial reading of 0.7 per cent

The rise in the headline retail sales last month was more than double the Wall Street consensus forecast of 0.9 per cent, with strong readings for clothing, furniture, electronics and building materials sales.

Stripping out car sales, a volatile component of the report, sales rose 2.2 per cent, the strongest reading in six years, and again far higher than the 0.8 per cent consensus. Spending at petrol stations rose 5.5 per cent in January, but excluding autos and petrol, core sales still rose 1.8 per cent.

Bond prices dropped slightly after the report. Since the middle of January, the yield on the two-year and 10-year notes have both risen by about 30 basis points, to 4.57 and 4.6 per cent respectively.

Ben Bernanke, chairman of the Federal Reserve, gives testimony before Congress on Wednesday, on the central bank's monetary policy report to Congress.

Tuesday's retail figures, and other recent indications, support the Fed's view, expressed when it raised interest rates at the end of last month, that the economic expansion remains solid in spite of a temporary dip in the fourth quarter.

Futures markets are pricing in the near certainty of another rate increase at the first meeting of the Federal Open Market Committee that Mr Bernanke will chair, at the end of March, and a good chance of another rate increase in May, bringing the federal funds rate to 5 per cent. A month ago, investors saw an increase at the March meeting as doubtful.

"There is no sign at all now that US consumers have started to tighten their belts," Nigel Gault, head of US research at Global Insight, the consultancy, said. "This will increase the chances that the Federal Reserve will continue to raise rates up until May."

Strong sales in January, as warm weather encouraged people to shop for spring clothes, is likely to have borrowed from spending later in the quarter, economists said, with the cold weather in the northeast also expected to depress sales in February.

Consumers Spend January Shopping (USAT)

By Barbara Hagenbaugh

USA Today, February 15, 2006

WASHINGTON — Retail sales rose at the fastest pace in more than four years in January as consumers cashed in holiday gift cards and unusually warm weather enticed shoppers to get out of their homes and spend, the government said Tuesday.

The report was a surprise. Economists, including those surveyed by USA TODAY earlier this year, have been anticipating that consumer spending growth would slow in 2006. Such a slowing is still anticipated as the housing market cools and related purchases, such as couches and carpeting, ease and consumers pocket less money when they sell.

But with consumer spending accounting for 70% of U.S. economic activity, the boost in January suggests the overall economy began 2006 on solid footing.

"It's a good sign that the consumer has some momentum going into the start of the year, and that probably reflects the fact that the labor market is continuing to improve, albeit modestly," says Patrick Fearon, senior economist at A.G. Edwards in St. Louis. "It's a positive for economic growth."

Retail sales rose a seasonally adjusted 2.3% in January from December, the Commerce Department said. That was up from a 0.4% gain in December and was the largest rise since October 2001, when sales rebounded after a lull following the Sept. 11 terrorist attacks.

Sales rose across a broad range of categories, including at car dealerships, furniture stores, building material and garden equipment dealers, clothing retailers and restaurants and bars. Higher gasoline prices also led to an increase in sales at gas stations.

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The only category that saw a decline in sales was “non-store retailers,” which includes websites. Sales in that sector fell 2.6%, the first decline since July.

Weather played a key part in the sales gain in January, says Michael Niemira, chief economist at the International Council of Shopping Centers. January was the warmest on record, according to the National Oceanic and Atmospheric Administration. The average temperature was 39.5 degrees, 8.5 degrees above the 1895-2005 mean.

Such warm weather not only gets people out of their homes, but it inspires them to buy spring items, which often hit store shelves in January, Niemira says.

“Weather was a big catalyst,” Niemira says.

Holiday gift card sales also helped increase sales in January, says National Retail Federation chief economist Rosalind Wells. Gift cards are counted in retailers' sales when they are redeemed, not when they are sold. Consumers often spend above the amounts of their gift cards, providing a further boost to sales.

Niemira says because of the influence of gift cards and weather, January's strength is unlikely to be repeated in coming months. “It'll be a very choppy pattern,” he says.

Retail Sales Surge 2.3%, Underlining Economy's Health (WSJ)

By Christopher Conkey

The Wall Street Journal, February 15, 2006

Consumers went on a postholiday shopping spree in January, a strong sign of economic vigor that increases the likelihood the Federal Reserve will keep raising short-term interest rates.

The Commerce Department said yesterday that retail sales surged a seasonally adjusted 2.3% in January from December, largely because of gift-card redemptions and abnormally mild winter weather. The January jump followed a tepid 0.4% rise in December. January sales were up 8.8% from a year earlier.

Coming after an earlier report that employers added nearly 200,000 jobs in January and pushed the unemployment rate down to 4.7%, the retail-sales report was cheered as evidence that the economy has roared back from a fourth-quarter lull. "It wipes out the weakness we saw in preceding months," said Peter Hooper, chief U.S. economist at Deutsche Bank. "We were expecting the fourth-quarter slowdown was transitory. This confirms that."

Reflecting such optimism, as well as a decline in oil prices, investors sent the Dow Jones Industrial Average surging 136.07 points, or 1.3%, yesterday to close at 11028.39 -- its best one-day gain since late October. (See related article1.)

Many economists had anticipated a strong increase in retail sales after the weak showing of December, especially in light of earlier reports of strong auto sales in January, but few expected such robust growth. Even excluding the 2.9% increase in sales of motor vehicles and parts and a 5.5% rise in gasoline-station sales driven by higher pump prices, the remainder of January retail sales -- everything from department stores to bars -- were up 1.8% from December, when such sales rose just 0.3%.

"It was extraordinary," said Rosalind Wells, chief economist at the National Retail Federation, a trade group.

With overall consumer spending so vigorous last month, Peter Kretzmer, senior economist at Bank of America Corp., said he now believes the economy will expand at more than a 5% annual rate in the first quarter, rebounding from the 1.1% growth rate of the fourth quarter of 2005. Based on recent data, many economists now expect the government to revise up the fourth-quarter estimate to around 1.3% when it issues new data on Feb. 28.

After weighing recent indicators showing low unemployment, rising wages, elevated consumer confidence and a healthy manufacturing sector, markets now seem assured the Fed will raise its target for short-term interest rates by another quarter percentage point to 4.75% at its March 27-28 meeting -- the first for new Fed Chairman Ben Bernanke. Mr. Bernanke makes his debut in Congress as Fed chairman today to give testimony on the economy and monetary policy to the House Financial Services Committee.

"We already thought there was going to be another hike in March," Mr. Kretzmer said. "To say that this cements it is probably an understatement."

Ms. Wells of the retail federation and other economists cautioned that two primary drivers of January's sales growth -- balmy weather and gift-card purchases -- will likely evaporate this month, particularly after a blizzard last weekend snowed in

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consumers throughout the Northeast. Discount chain Target Corp. yesterday said colder weather will hurt February sales and that it now expects sales of stores open more than a year to climb 2.5% to 3.5% in February, down from its previous prediction of 2.5% to 4.5% growth.

The January bounce was "a one-month shot," Ms. Wells said. "We're likely to see weak February sales because of the blizzards in the Northeast, and then generally I think the economy is going to slow as the year goes on."

Many industries posted increases in January. Sales at clothing stores leapt 4.2% from the previous month, while sales at department stores rose 1.6%, and at electronics and appliance dealers, 2%. Sales in all three categories fell in December.

There was good news for housing-related businesses, too. Sales at furniture stores were up 3.7%, after falling 1.1% in December. Sales at building-material and garden-equipment suppliers, an indicator of home-remodeling activity thought to be particularly sensitive to signs of a cool down in the housing market, were up 3.4%, after December's 0.2% decline. The data suggest the slowdown in home-price appreciation has yet to crimp consumer spending and reinforce the view that the housing market is in for a soft landing rather than a broader crash.

Grocery-store sales were flat, though, and sales at Internet, catalog and other "nonstore retailers," as the Commerce Department calls them, fell 2.6% in January, another strong indication that consumers took advantage of January's unusually mild weather to visit brick-and-mortar stores.

Meanwhile, the Commerce Department reported yesterday that business inventories rose 0.7% in December after a 0.6% increase in November. Inventories, however, were outpaced by a 1.2% jump in sales, the largest monthly increase in nearly a year.

Retail Sales See Best Gains Since Late '99 (WT)

By Patrice Hill

The Washington Times, February 15, 2006

Consumers, energized by unusually warm weather and the tame heating bills that went with it, hit the malls with gusto last month, sending retail sales soaring by 2.2 percent -- the biggest jump in six years.

The sales spurt, which coincided yesterday with a drop in premium crude oil prices below the psychological threshold of $60 a barrel, sent the Dow Jones Industrial Average surging by 136 points to 11,028.

"You have lower oil prices; you have a healthy employment situation; and you have a consumer that is still willing to do a little bit of spending," said Gordon Fowler, chief investment officer at Glenmede Trust Co. "That all adds up to a positive for the economy."

The biggest drawback is that the consumer rebound may encourage the Federal Reserve to keep raising interest rates -- a possibility that newly installed Fed Chairman Ben Bernanke is expected to address in testimony today.

Triggering the excitement yesterday was a Commerce Department report showing that retail sales, excluding autos, last month zoomed the most since December 1999 after inching up 0.2 percent in December. Including autos, sales were up 2.3 percent -- the biggest jump since May 2004.

"It looked like consumers were hibernating in December, and all they needed was an excuse to go on a spending spree," said Brian Bethune, an economist at Global Insight Inc. "The weather provided that."

Consumers often stay at home during cold and snowy weather. But last month they enjoyed springlike conditions in many areas, with January making history books as the warmest in a century.

Aside from inspiring the urge to shop, one major boon from the mild weather was that a widely anticipated spike in winter heating bills never occurred. Many consumers had been bracing for big bills after Hurricanes Katrina and Rita struck in August and September and sent the price of natural gas and heating oil spiraling to record levels.

By yesterday, oil and gas prices had fallen to pre-hurricane levels as the warm weather sapped the demand for fuel. Many utilities fear they may be left with unused stores of fuel they stockpiled for the winter.

The lower heating bills appear to have left some homeowners with spare change that they spent shopping.

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"Retail sales posted stunning results," said Scott Hoyt, analyst with Moody's Economy.com, noting that sales at clothing stores soared by 4.6 percent while department stores rang up a 1.6 percent jump in sales. Over the year, sales were up by nearly 9 percent.

The sales rebound boosted the stocks of Wal-Mart, Home Depot and other retailers yesterday.

The exceptional spending spurt could spur growth as strong as 5 percent in the first quarter, up from an anemic 1.1 percent pace set in the fourth quarter of 2005, economists said.

Many economists had been expecting consumer spending to remain subdued because consumers had been on a debt binge that culminated last year with them spending more than they earn, collectively, for the first time since the Great Depression.

One explanation of the spending surge is that consumers took advantage of gift cards that were sold widely at Christmas. The popularity of gift cards has extended the Christmas shopping season -- the busiest of the year -- increasingly into January, which traditionally had been a slow sales month. Gift cards do not count as sales until they are redeemed.

Analysts say the jump in sales likely was exaggerated because the Commerce Department's adjustments for seasonal variations in spending likely are not fully taking into account the new Christmas spending pattern.

The department figures also are not adjusted to reflect price increases, thus the sales figures were inflated by higher prices, such as those for gasoline during the month.

What Fuel Bills? U.S. Consumers Still Spending (NYT)

By Vikas Bajaj And Michael Barbaro

The New York Times, February 15, 2006

Shaking off a middling holiday shopping season and fears of higher heating bills, Americans spent freely in January, the government reported yesterday, providing reassurance that the economy is beginning the new year with fresh strength.

Buoyed by the unexpectedly robust spending data and a drop in oil prices, investors sent stocks higher across the board. The Standard & Poor's 500-stock index rose 1 percent, to 1,275.53, and the Dow Jones industrial average closed above the 11,000 level again, climbing 1.3 percent, to 11,028.39. Crude oil prices dipped below $60 for the first time since late December.

"The momentum going into 2006 is clearly healthy," said Anthony Chan, chief economist at J. P. Morgan's private client services group. "We will be able to withstand weaker growth for the rest of the quarter and almost not miss a heartbeat."

While many economists expect spending increases to slow for the rest of the winter, the strong consumer spending and solid job gains last month helped overcome fears that economic growth was about to stagger under the weight of rising energy costs, higher interest rates and a slowing housing market. The jump in retail sales virtually assures that economic growth, which slowed to just 1.1 percent for the final quarter of 2005, will register a much stronger showing in the first quarter of 2006.

Retail sales jumped 2.3 percent last month, recovering from a modest 0.4 gain in December, to register their biggest monthly increase since May 2004. Americans, flush with year-end bonuses, took advantage of the warmest January on record, leftover gift cards and enticing discounts to shop avidly for clothes, furniture and cars.

There was little doubt that the unusually warm weather last month contributed to the strong start for the economy this year. Temperatures averaged 39 degrees for the country as a whole — the highest on record for January — and 8.5 degrees warmer than the average for the month, according to the National Oceanic and Atmospheric Administration.

Warmer weather helped bolster inventories of oil, natural gas and other energy sources, pushing down prices — at least for now — and leaving consumers more to spend on other things like food and clothes.

Gary Nicosia, 29, a waiter in Buffalo, said mild weather shaved $100 from his home heating bill last month and let him dine out, guilt-free, two to three times a week.

"It was so warm out we had our windows open," he said.

Sales at restaurants and bars, a measure some economists look to as a barometer of consumer sentiment, rose 3.2 percent in January.

The increasing use of gift cards, which stores count as sales when they are redeemed, appears to have pushed some holiday sales into January from December. The National Retail Federation had projected that gift card sales would increase 7 percent, to $18.5 billion, during the holiday shopping season.

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Many retailers, including Abercrombie & Fitch and Coach, introduced spring lines earlier than usual to entice consumers back into their stores, stocking polo shirts and floral-patterned handbags in midwinter.

"There is no question gift cards helped," said Peter E. Nordstrom, president of full-line stores at Nordstrom, the high-end department store, which reported strong sales of handbags, sunglasses and lingerie.

Over all, sales at department stores rose 1.6 percent last month after a relatively weak holiday season.

January proved a strong month for a wide range of retailers, including chains like Gap and Kmart, which have struggled for much of the last year.

Still, the role of the weather and gift cards — both seen as one-time benefits — suggest that January's economic gains are not likely to maintain their strength over the next few months.

Already, the weather has turned markedly cooler and last weekend's record snowfall in the Northeast forced some store closures in New York City and elsewhere.

Economists also noted that gasoline prices and other energy costs, in spite of the recent drop, could easily reverse course with a persistent cold snap.

"We will see much weaker sales in February," said Rosalind Wells, chief economist for the National Retail Federation. "I think consumers will be harder pressed to spend the way they have been spending."

But few analysts now fear that consumer spending will fall off a cliff. Job gains and wage growth, typically the leading factor in consumer behavior, appear to be on an upward trajectory after their post-Katrina sluggishness of last fall. The economy added 193,000 jobs in January; wages rose 0.4 percent; and the unemployment rate dropped to 4.7 percent, its lowest level in four and a half years.

"The deep fundamentals, the personal income numbers, are healthy," said Gregory Miller, chief economist at SunTrust Bank in Atlanta.

With growth picking up again, economists now expect the Federal Reserve to increase its benchmark short-term interest rate, currently at 4.5 percent, at least once but possibly twice more over the next few months before it brings its tightening cycle to an close. They will be paying particularly close attention today and tomorrow to the Fed's new chairman, Ben S. Bernanke, who is scheduled to testify to Congress for the first time since replacing Alan Greenspan.

"The way data is coming in sort of confirms the high probability that the Fed goes to 5 percent," Mr. Miller said.

Juiced-up Dow Spills Over 11,000 Once Again (USAT)

By Adam Shell

USA Today, February 15, 2006

NEW YORK — A big dip in oil prices and a report showing consumers shopped till they dropped in January gave cautious investors a reason to buy stocks again, propelling the Dow Jones industrial average back above 11,000.

The Dow gained 136 points to 11,028, its first close above 11,000 since Jan. 11 and 15 points shy of a 4½-year high. The Dow has closed and stayed above 11,000 for at least one day on 20 prior occasions, only to relapse, raising doubts that it can sustain this move.

The gain surprised some market strategists because it occurred on the eve of new Federal Reserve Chairman Ben Bernanke's first testimony before Congress today and Thursday. “Anytime you have a new guy at the helm you don't know how he's going to work out,” says Ken Tower, strategist at CyberTrader.

After topping 11,000 earlier this year for the first time since June 2001, stocks have been weighed down by concerns over the direction of monetary policy under Bernanke. Over the next two days investors will be closely analyzing Bernanke's comments to lawmakers, seeking clues as to whether the Fed is nearing the end of its 19-month campaign of rate increases.

But interest rate worries were overshadowed by crude's $1.67 drop to $59.57 a barrel — the first close below $60 this year. Also helping: better-than-expected 2.3% growth in January retail sales that signaled consumers continue to spend and aren't tapped out.

“The perfect scenario,” says Quincy Crosby, strategist at The Hartford, “is the Fed does its job, wrings out inflation pressures, but the economy remains standing and the consumer doesn't end up dead.”

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Investors have fretted that consumer spending would slow after the Fed raised rates 14 straight times since June 2004, boosting short-term rates to 4.5% from 1%. Now they hope Bernanke will lead Fed policymakers to raise rates just one more time, to 4.75%, at their March meeting. Tuesday's rally was driven in part by belief that he won't surprise investors by suggesting more rate increases are needed to control inflation.

"The market is clearly expecting some positive news on interest rate policy," says Sung Won Sohn, CEO of Hanmi Bank.

Alan Skrainka, strategist at Edward Jones, says investors are focusing too much on interest rates and oil. "The economy is strong and corporate earnings continue to grow," he says. Skrainka believes stocks are attractive right now. Stocks in the Standard & Poor's 500 are trading at just 15 times expected earnings in 2006, which is the cheapest since 1996.

Retail-Sales Data Boosts Stocks (WSJ)

By Scott Patterson

The Wall Street Journal, February 15, 2006

Call it the gift-card rally.

A government report that retail sales rose 2.3% in January, nearly triple the pace expected and the strongest increase since May 2004 helped send the Dow Jones Industrial Average above 11000 for the first time since Jan. 12.

Mild weather and a wave of shoppers cashing in holiday gift cards were two factors behind the increase in retail sales, analysts said.

The Dow industrials surged 136.07 points, or 1.25%, to 11028.39 for their biggest gain since Oct. 28. Only two components -- Pfizer and Exxon Mobil -- were down. Alcoa, one of Tuesday's chief drags on the average, added 3.7%, making it the best-performing component. Retail stocks also rallied: Home Depot gained 3.6% and Wal-Mart Stores added 2.1%.

Light, sweet crude fell $1.67 to $59.57 a barrel on the New York Mercantile Exchange. Gold for April delivery rose $6.80 to $548.90 an ounce on the Nymex. Treasury prices declined. Energy sensitive stocks jumped as crude-oil prices declined again. The Dow Jones Transportation Average, which tracks trucks, trains and airlines, surged 109.45, or 2.6%, to 4407.78, a record close.

There were some unusual circumstances behind the jump in retail sales last month. But economists said the report is evidence that consumer spending remains in good shape despite frequent warnings to the contrary. "The improvement in the labor market is the real deal, and something that will continue," said Carl Steidtmann, chief economist at Deloitte Research. That "puts the consumer in a position to continue spending."

Heading into 2006, most economists forecast an economic slowdown this year, largely because of expectations that consumer spending would decline. While one month's data don't wipe the crystal ball clean, analysts said, they do lead to a more upbeat outlook1 for the first quarter.

"With these good economic numbers, strong retail sales and lower energy prices" there's more optimism that first-quarter earnings could come in better than expected, said Barry Hyman, equity market strategist at Ehrenkrantz King Nussbaum.

Strong economic reports have caused concern that the Federal Reserve may raise interest rates too far. But investors took Tuesday's report as a sign that the economy could weather a few more increases. The Fed is "raising rates because the economy is strong," said Mr. Steidtmann. "Yes, interest rates will go higher, but that's a reflection of the strength of the economy."

Ian Shepherdson, chief U.S. economist at High Frequency Economics, said the report indicates that the economy will grow by 4% or more during the first quarter, up sharply from the 1.1% pace seen during the fourth quarter of 2005. Most economists expect the fourth-quarter numbers will be adjusted upward.

The Standard & Poor's 500-stock index added 12.67, or 1%, to 1275.53 and the Nasdaq Composite Index added 22.36, or 1%, to 2262.17. One stock that didn't join in on the rally: Google, which slid nearly 1% to $343, adding on to its 27% skid from its all-time high of $471.63 a share, hit on Jan. 11.

A number of investors were likely caught leaning the wrong way in what's been a downward-trending market, said Robert Pavlik, chief investment officer at Oaktree Asset Management. Those betting the market would fall, in some cases using short sales -- borrowing and selling stock, hoping to buy it back later at a cheaper price and pocket the difference -- likely had to cover their bets to stave off worse losses, creating what is known as a classic short-squeeze rally.

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"It obviously caught a lot of people by surprise how big retail sales were," said Bill Groenveld, head trader at vFinance Investments. He said the steady decline by crude, which has declined in nine of the last 11 trading sessions, is also starting to relieve fears that high commodity prices could push up inflation.

Inflation jitters have been a thorn in Wall Street's side in February after a strong January employment report raised concerns that the Fed would keep raising rates to slow growth. Those concerns have been amplified this week ahead of congressional testimony by new Fed Chairman Ben Bernanke on Wednesday.

The sales reports also cheered investors concerned that a slowing housing market will eat into consumers' discretionary income, as fewer home owners refinance their mortgages. Recent downward guidance by luxury-home builder Toll Brothers raised the stakes on those worries.

Another dark cloud floated over the housing market Tuesday after KB Home said that canceled orders rose in the first two months of the year, while net orders for new homes declined. Despite the increasingly negative tone, shares of home builders advanced Tuesday amid the broad market rally. Both KB Home and Toll Brothers gained nearly 2% after declining in early trading. The Philadelphia Housing Sector index gained 1.9%.

In major market action:

Stocks rose8. On the New York Stock Exchange, where 1.8 billion shares traded, 2,266 stocks rose and 1,071 fell. On the Nasdaq Stock Market, where 1.8 billion shares traded, 1,990 rose and 1,040 declined.

Bonds were down9. The benchmark 10-year Treasury note fell 9/32, or $2.81 per $1,000 invested, to yield 4.618%. The 30-year bond lost 18/32 to yield 4.595%. Yields move inversely to prices.

The dollar fell.10 It traded at 117.19 yen, down from 117.72 yen late Monday, while the euro was flat at $1.1906.

Lawmakers Plan An Effort To Reverse Royalty Relief (NYT)

By Edmund L. Andrews

The New York Times, February 15, 2006

WASHINGTON, Feb. 14 — Democratic lawmakers and the White House both said on Tuesday that oil and gas companies should not receive lucrative incentives when energy prices are near record highs.

The lawmakers and senior Bush administration officials were responding to a report in The New York Times on Tuesday that energy companies are expected to avoid $7 billion in royalty payments to the federal government over the next five years.

The Interior Department forecasts that energy companies will produce about $65 billion worth of oil and gas in federal waters in the Gulf of Mexico on which they will not pay any royalties to taxpayers.

Administration officials say their hands are tied on the royalties by laws dating back to 1996 and then sweetened by the Clinton administration.

Two Senate Democrats, Ron Wyden of Oregon and Maria Cantwell of Washington State, said that they were drafting legislation to change the government's rules.

"Given oil and natural gas prices that are expected to hover near record levels for the foreseeable future, we question whether royalty relief for these companies is necessary or appropriate," the two lawmakers said in a letter to Senator Pete V. Domenici of New Mexico, the Republican chairman of the Senate energy committee.

In the House, four leading Democrats said they would introduce a bill this week to stop the incentives immediately.

"The American people are getting stood up and hung out to dry," said Representative Edward J. Markey, Democrat of Massachusetts.

But while Mr. Markey and other Democrats blamed the Bush administration, White House officials sharply retorted that the incentives stemmed largely from specific decisions that the Clinton administration made in 1998 and 1999. At the time, the government was seeking to increase domestic production at a time when prices were comparatively low.

President Bush "opposed additional incentives for oil companies with the price of oil where it is," said Scott McClellan, the White House spokesman.

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Administration officials did not suggest that they would try to halt the benefits that energy companies are expected to receive on the basis of existing regulations. And some Congressional analysts were skeptical that Congress had the power to alter commitments now embedded in thousands of federal leases that energy companies bid on through auctions.

In general, the Interior Department charges energy companies that pump oil and gas on federal property a royalty of 12 percent or 16 percent on the sales value of what they produce. But the government has also given billions of dollars' worth of "royalty relief" to companies that drill in deep waters of the Gulf of Mexico.

In most cases, government regulations also suspend those benefits when energy prices climb above certain "threshold levels," which have been exceeded for more than two years now.

The Clinton administration waived those price limitations for leases awarded in 1998 and 1999, however, and the Interior Department estimates that those leases will account for most of the $65 billion in royalty-free oil and gas pumped over the next five years.

A number of energy companies are challenging the Interior Department's authority to stop the giveaways for any leases awarded from 1996 to 2000.

The companies argue that Congress never gave the administration authority to impose "price thresholds" during those five years.

Administration officials said last week that Kerr-McGee Exploration and Production has informed them that it will take the government to court. Nine other companies have challenged the government's authority to demand about $132 million in royalties owed in 2004.

If Kerr-McGee wins its case, the government could end up losing at least another $28 billion in royalties over the next five years.

The Interior Department said Kerr-McGee and two other companies had refused to pay back royalties for 2004.

But one of the companies that government officials said had refused to pay — Agip, a subsidiary of ENI of Italy — said on Tuesday that it was not disputing any royalties and did not believe it was in arrears.

Allan Hubbard (CSM)

By David T. Cook

The Christian Science Monitor, February 15, 2006

Allan Hubbard, assistant to the president for economic policy and director of the National Economic Council, was Tuesday's guest. Here are excerpts from his remarks:

On reports that current law will allow oil companies to pump $65 billion worth of oil and gas from federal lands without paying royalties:

"As the president has said, when you have oil ... north of $40 [a barrel] ... you don't need to be providing incentives to oil and gas companies to drill and we should be collecting the appropriate amount of royalties."

On Republican economist Bruce Bartlett charging in a new book that Bush administration economic policies are "developed on the fly and in secret with little or no analysis or forethought."

"It is a very thorough, thoughtful process inviting wide par-ticipation within the administration. We also talk to experts outside the administration."

On the president's push for Health Savings Accounts so workers can contribute pre-tax dollars to pay the high deductible amounts on their health insurance:

"We will know it is working when growth in healthcare starts to slow down.... [I]f people do pay for the service ... it has a huge impact on [bringing down the] price."

On the need to repair the federal tax system:

"It is obviously not a priority right now but it is not something the president is going to give up on. He very much believes the tax system is broken, it is impossible to understand.... It needs reform."

K Street Keeps Growing (HILL)

By Jim Snyder And Jeffrey Young

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The Hill, February 15, 2006

Lobbyists had a banner 2005, the year before simmering controversies involving Jack Abramoff and former Rep. Randy "Duke" Cunningham (R-Calif.) boiled over outside the Beltway and brought new pressures on Capitol Hill to keep lobbyists at arm's length.

Early returns on end-of-year revenues show strong growth all along Washington's lobbying corridor.

Several well-known firms reported a revenue jump greater than 20 percent, including Barbour Griffith & Rogers, Quinn Gillespie & Associates, the Federalist Group and the Livingston Group, as a series of policy and legislative efforts brought new business to K Street, from Social Security reform to a national energy plan to the budget bill.

Reigning number one, Patton Boggs, reported an even better 2005. It made $37 million last year, up from roughly $31 million it took in in 2004.

Cassidy & Associates, which ended 2004 number two, reported more modest growth. It had revenues of $28.34 million in 2005, up from $27 million in 2004. Akin Gump Strauss Hauer & Feld, number three, reported revenues of $28.58 for the year, up from its $27.6 million in 2004.

With Congress eyeing new curbs on earmarks and congressional travel in response to scandals, 2005 could wind up being a high-water mark for the lobbying

industry.

But lobbyists said that so far their business hasn't suffered under the intense spotlight, as both retainers and client lists are continuing to grow.

James Chapman, co-chairman of the government-relations practice at Bracewell & Giuliani, a Texas-based firm that former New York Mayor Rudy Giuliani joined in 2004, said the firm has been "busier than ever" in a range of policy areas. He said he didn't see much potential for a lag, despite the push for lobbying

reform.

The firm reported sharp growth on revenues of $9 million, up from around $6 million in 2004, Chapman, a former Democratic congressman from Texas, told The Hill.

Firms were required to file end-of-year revenue figures, commonly called LDAs for the Lobbying Disclosure Act that established reporting

requirements, by midnight.

A complete list of the top firms' totals for the year was not available by press time. Several of the largest were still compiling their registrations at 5 p.m.

Figures for Van Scoyoc Associates, Dutko Worldwide, Williams & Jensen, DLA Piper Rudnick were unavailable. For big firms, lobbying reports often run hundreds of pages long, and several lobbyists reported taking extra care in light of recent scandals to ensure that their figures were accurate. A few lobbyists reported difficulties in operating the House's electronic-filing system.

Others firms said corporate counsels advised against reporting lobbying revenues in the "quiet period" before the release of financial information.

But those that did provide their figures to The Hill reported higher, sometimes much higher, returns.

Barbour, Griffith & Rogers's business grew 32 percent in 2005 from 2004. The perennial top-10 firm reported revenues of $19 million, verses the $14.39 million it brought in the year before.

Loren Monroe, chief operating officer, said the firm saw its biggest growth in its financial-services practice, with additional work for FM Policy Focus, a

banking group, and on postal reform for the Financial Services Roundtable.

But Monroe attributed the overall growth to the diversity of the firm's portfolio. It operates four practices in addition to financial services: appropriations, international, healthcare and telecommunications.

Quinn Gillespie also saw a substantial boost in its lobbying revenues coinciding with the return of its eponymous partner Ed Gillespie from the Republican National Committee. The company earned $15.3 million from lobbying last year, which was $3.3 million more than the prior year. PMA Group continues to grow. It reported revenues of $15.1 million, up from $13.1 million.

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And the Federalist Group, which until recently was all-Republican (it now has one Democratic lobbyist), continued to benefit from its contacts among Capitol Hill's leaders. Its revenues were $13.8 million, versus $12.1 million it collected in 2004. Holland & Knight also enjoyed healthy growth. The firm

earned $13.2 million in 2005, an increase of $3.4 million over 2004.

Richard Gold, a partner at the firm, attributed the increase to contracts related to the budget-reconciliation bill. Holland & Knight lobbied on provisions related to natural-gas interests and the repeal of the so-called Byrd trade amendment. Budget and appropriations are mainstays for the firm, he said.

PodestaMattoon reported revenues of $12.34 million, up from $11.4 million in 2004.

Washington Council Ernst & Young was one firm that saw revenues dip, hurt by the absence of a major tax bill. It estimated its end-of-year total to be $11.7 million, down from $12.7 million.

But the Livingston Group, founded by former House Appropriations Committee Chairman Bob Livingston (R-La.), is another firm on the rise. It earned $10.9 million in 2005, a nearly $2 million increase over 2004.

Other totals: Preston Gates Ellis & Rouvelas made $10.8 million, up from $8.1 million; the Carmen Group made $10.5 million in 2005, up from $9.6 million; Alcalde & Fay brought in $10.1 million, versus the $8.8 million it made in 2004; and Clark & Weinstock reported revenues of $9.28 million, up from $9 million.

End-of-year numbers add to the strong start lobbyists made in 2005. PoliticalMoneyLine, which tracks lobbying spending, reported this week that companies and other special interests spent $1.16 billion to lobby Congress and federal agencies during the first part of last year. That represented a growth rate of 8 percent and a new six-month record for lobbying spending.

The figures in this story were provided by the firms themselves.

Roughly half of firms that fell in the top 25 a year ago reported rising revenues in 2005. Others looked poised to break into the upper echelon. Blank Rome Government Relations, for example, is positioned to move up. The firm, which merged with Peyser Associates last year, saw growth of greater than 50 percent. It will report an end-of-year total of $9.8 million, versus the $6.1 million it brought in a year ago.

The Ferguson Group, which specializes in representing cities, counties and other public entities, continued its upward course.

The firm's 2005 revenues were $9.24 million, up from just over $7 million. That is a growth rate of nearly 24 percent.

Despite recent controversies, Roger Gwinn, president of Ferguson's executive committee, said business has kept pace early in 2006.

But while the firm has continued to add clients at the same clip so far in 2006, there was one troubling instance: a client the firm had expected to sign backed out, concerned that the payoff may not be as big now that Congress is taking a hard look at the growth of earmarks.

Iraq War Veteran Pulls Out Of Ohio Senate Race (REU)

Reuters, February 14, 2006

CINCINNATI (Reuters) - Iraq war veteran Paul Hackett, an Ohio Democrat who gained attention last year for criticizing President George W. Bush and nearly scoring a huge congressional upset, said on Tuesday he would drop his U.S. Senate bid and retire from politics.

Hackett said he was under heavy party pressure to end his Senate race and clear the way for Democratic Rep. Sherrod Brown to face vulnerable Republican incumbent Sen. Mike DeWine in November.

"I made this decision reluctantly, only after repeated requests by party leaders, as well as behind the scenes machinations that were intended to hurt my campaign," Hackett said in a statement.

Hackett, a Marine reservist in Iraq, almost pulled off a stunning upset in a special House election in heavily Republican southern Ohio last year after he sharply criticized Bush and his conduct of the war.

Democrats said Hackett's performance was a sign of voter unhappiness with Bush and the war and a bellwether for the 2006 congressional elections, but Republicans dismissed the result as a function of low turnout and local issues.

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Some Democratic leaders were unhappy Hackett planned to enter the Ohio Senate race and force a primary against Brown, a seven-term House veteran. The Ohio filing deadline for the May 2 primary is on Thursday.

Hackett's withdrawal spares Democrats a potentially costly primary fight and clears the way for Brown to focus on DeWine. Polls show DeWine is vulnerable in Ohio, where state Republicans have suffered from a series of scandals and the deep unpopularity of Republican Gov. Bob Taft.

Hackett said he would not make another try for the House seat against Republican Rep. Jean Schmidt, even though he gained 48 percent of the vote against her last year in a heavily Republican district where no Democrat in decades had managed even 40 percent.

"I told the voters from the beginning that I am not a career politician and never aspired to be -- that I was about leadership, service and commitment," he said. "Thus ends my 11 month political career."

Iraq Vet Abandons Ohio Political Bid (AP)

By Dan Sewell

The Associated Press, February 15, 2006

CINCINNATI —

Iraq war veteran Paul Hackett, a Bush administration critic who had been recruited by top Democrats to run for U.S. Senate, said Tuesday he was reluctantly dropping his campaign and declared his political career over.

Hackett said he was pressured by party leaders to drop out of the Senate primary and run for the House against Republican Rep. Jean Schmidt instead.

National Democratic leaders, especially Sen. Charles Schumer, added to that pressure by telling his top fundraisers to stop sending money, Hackett said.

"My donor base and host base on both coasts was contacted by elected officials and asked to stop giving," Hackett told The Associated Press on Tuesday. "The original promise to me from Schumer was that I would have no financial concerns. It went from that to Senator Schumer actually working against my ability to raise money."

Schumer, a New York Democrat who heads the party's Senate campaign committee, was not immediately available for comment.

The deadline for candidates to file for the May 2 primary is Thursday.

Hackett, a Cincinnati attorney and Marine Reservist, captured national attention last summer by blasting Bush's war policies, raising huge sums on the Internet and capturing 48 percent of the vote in one of the country's most conservative House districts. Republican Jean Schmidt won the special election in a tight race.

Hackett had declared his candidacy for Republican Mike DeWine's Senate seat after it appeared Democratic Rep. Sherrod Brown would not run.

A few days afterward, Brown announced that he would run, and national Democrats privately began urging Hackett to step aside for the more seasoned politician.

Democrats also considered Schmidt vulnerable in a rematch against Hackett. She was widely criticized for saying in a speech about a troop pullout recommendation by Rep. John Murtha, a decorated Vietnam veteran: "Cowards cut and run, Marines never do."

But Hackett said he had promised three Democrats running in the district that he would not run.

"I couldn't sleep with myself if I did to them what was done to me," he said.

"At the end of the day, my word is my bond and I will take it to my grave," he said. "Thus ends my 11-month political career."

Hackett said he still supports the party's effort to unseat DeWine.

"Whatever personal emotions I have about Sherrod, if he asks me to help in some way, and I can help and it doesn't interfere with my own life, I will do the best to help him," Hackett said.

Party leaders had been urging Hackett to switch to the House race since Brown jumped in, and on Sunday, some national Democrats made those requests public.

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"If he stays in the Senate race, I'm with Paul Hackett, but this is about the House race and giving us another member of the Democratic caucus," said Rep. Tim Ryan of Ohio, a Democrat who backed Hackett in the early going. Rep. Rahm Emanuel, D-Ill., chairman of the Democratic Congressional Campaign Committee, also urged Hackett on Sunday to run for Congress instead.

Ohio Democratic Party Chairman Chris Redfern said Hackett still has the popular support to have an impact.

"It is my hope that whatever disappointment he might feel about these circumstances, that he will seize a different moment in the future," Redfern said in a news release.

Veteran Of Iraq War Drops Out Of U.S. Senate Race In Ohio (USAT)

By From staff and wire reports

USA Today, February 15, 2006

CINCINNATI — Iraq war veteran Paul Hackett, a Bush administration critic who had been recruited by top Democrats to run for U.S. Senate, said Tuesday he was dropping his campaign and declared his political career over.

Hackett said he was pressured by party leaders to drop out of the Senate primary and run for the House against Republican Rep. Jean Schmidt, to whom he lost a special election last year.

Hackett had declared his candidacy for Republican Sen. Mike DeWine's seat after it appeared Democratic Rep. Sherrod Brown would not run. A few days later, Brown announced that he would run for Senate, and national Democrats privately began urging Hackett to step aside for the more seasoned politician.

National Democratic leaders, especially Sen. Charles Schumer, told Hackett's top fundraisers to stop sending money, Hackett said.

“My donor base and host base on both coasts was contacted by elected officials and asked to stop giving,” Hackett told the Associated Press. “The original promise to me from Schumer was that I would have no financial concerns. It went from that to Sen. Schumer actually working against my ability to raise money.”

Schumer, a New York Democrat who heads the party's Senate campaign committee, was not available for comment. Committee spokesman Phil Singer said neither the campaign committee nor Schumer “reached out to donors to ask them to take sides in this race.”

Singer praised Hackett for making a “statesman-like decision” that would help the party in an important race. DeWine, a centrist, is seeking a third Senate term.

The deadline for candidates to file for the May 2 primary is Thursday.

Hackett, a Cincinnati attorney and Marine reservist, captured national attention last summer by criticizing Bush's war policies, raising huge sums on the Internet and capturing 48% of the vote against Schmidt in one of the country's most conservative districts.

Democrats also considered Schmidt vulnerable in a rematch against Hackett. She was criticized for saying in a November speech about a troop pullout recommendation by Rep. John Murtha, a Pennsylvania Democrat and decorated Vietnam veteran: “Cowards cut and run, Marines never do.”

Hackett said he had promised three Democrats running in the 2nd Congressional District that he would not run. “At the end of the day, my word is my bond and I will take it to my grave,” he said. “Thus ends my 11-month political career.”

Hackett said he still supports the party's effort to unseat DeWine and will help Brown.

Party leaders had been urging Hackett to switch to the House race since Brown jumped in, and on Sunday, some national Democrats made those requests public. “This is about the House race and giving us another member of the Democratic caucus,” said Rep. Tim Ryan, D-Ohio.

Rep. Rahm Emanuel, D-Ill., chairman of the House Democratic campaign committee, also urged Hackett on Sunday to run for the House instead.

Schmidt's predecessor in the 2nd District, Rob Portman, consistently won election to the seat based in the Cincinnati suburbs by 70% or more. Portman resigned to become U.S. trade representative.

Iraq War Vet Pulls Out Of Senate Race In Ohio (WP)

By Chris Cillizza

The Washington Post, February 15, 2006

Iraq war veteran Paul Hackett withdrew from Ohio's U.S. Senate race yesterday, blaming the national Democratic Party for his inability to gain financial traction in his primary contest against Rep. Sherrod Brown.

"I made this decision reluctantly, only after repeated requests by party leaders, as well as behind the scenes machinations, that were intended to hurt my campaign," Hackett said in his formal withdrawal statement.

Hackett alleged that several party leaders -- including Democratic Senatorial Campaign Committee Chairman Charles E. Schumer (N.Y.) and Senate Minority Leader Harry M. Reid (Nev.) -- had made calls to donors discouraging them from contributing to his campaign, an allegation that DSCC spokesman Phil Singer denied.

Hackett's departure from the race ensures that Brown, a seven-term House member from the Akron area, will be the Democrats' standard-bearer in the fall against Sen. Mike DeWine (R). Democrats are heavily targeting DeWine this fall because of the political upheaval involving state Republicans -- the result of scandals surrounding outgoing Gov. Bob Taft (R) and one of his chief fundraisers.

Liberal blogs, which are largely credited with building Hackett into a national force, were divided on his decision and its ramifications. Former senator Gary Hart (D-Colo.) condemned the situation as "old politics at its worst" on the Huffington Post blog. Markos Moulitsas, who runs the popular Democratic blog Daily Kos, defended the move, however, arguing that Hackett "didn't stand a chance" against Brown in the primary.

Republicans sought to paint Hackett's withdrawal as a blow to Democrats' chances in November. "Hackett was controversial and said some nutty stuff, but he had the potential to play in the middle," said National Republican Senatorial Committee spokesman Dan Ronayne. "Sherrod Brown has a long record, and it is more liberal than Dennis Kucinich's -- that's a real tough sell to make to mainstream Ohioans."

Hackett's decision not to run for the Senate ends a political odyssey that began in August 2005 with his largely unheralded candidacy in the Cincinnati area's 2nd District. The seat was vacated when Rep. Rob Portman (R) was named U.S. trade representative. Democrats were given little chance in the district, which President Bush had carried with 64 percent less than a year earlier.

Hackett ran as a straight-shooting outsider -- a persona typified by his calling Bush a "son of a bitch" and then refusing to apologize. Fueled by support (both financial and organizational) from liberal blogs, he nearly upended Rep. Jean Schmidt (R), losing the contest 52 to 48 percent.

Riding a wave of national publicity after that near miss, Hackett jumped into the race against DeWine after Brown initially demurred last summer. Brown later reconsidered and entered the contest.

Reports have surfaced in recent days that Hackett was contemplating switching races -- jumping from the Senate to a rematch against Schmidt in the 2nd District. Democratic Congressional Campaign Committee Chairman Rahm Emanuel (Ill.) fomented that chatter by publicly urging Hackett to make the swap last weekend.

Hackett, apparently disillusioned by his experience in the Senate race, rejected that possibility yesterday. "There was no quid pro quo," Hackett said. "I will not be running in the 2nd Congressional District nor for any other elective office. This decision is final and not subject to reconsideration."

With the filing deadline in Ohio set for tomorrow, it is unlikely that Democrats will field a top-tier candidate against Schmidt this fall. The freshman Republican will face a serious challenge in the May 2 primary, however, from former congressman Bob McEwen.

Vets Miffed By Hackett's Decision (RC)

By Lauren W. Whittington And Josh Kurtz

Roll Call, February 15, 2006

Iraq war veteran Paul Hackett's (D) abrupt withdrawal from the Ohio Senate race late Monday sparked an outcry from some liberal activists and at least one group supporting candidates who are military veterans — even though some Democratic leaders are privately relieved because they think it avoids a bloody primary.

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Hackett had faced growing public and private pressure in recent days to drop his statewide bid in favor of another run against Rep. Jean Schmidt (R-Ohio), whom he narrowly lost to in a special election where he garnered national attention last August.

But in exiting the race, Hackett said he was done seeking elected office and he chastised Democratic leaders, whom he charged with exerting undue pressure on him to abandon the Senate race.

"I made this decision reluctantly, only after repeated requests by party leaders, as well as behind-the-scenes machinations, that were intended to hurt my campaign," Hackett said in a statement.

Hackett's departure from the Senate race comes as military veterans in a handful of lower-profile races around the country have been subtly or not-so-subtly pushed aside in favor of candidates who are viewed as stronger general election nominees.

Democratic leaders, however, denied any political sabotage in the Ohio race and praised Hackett's decision, which leaves Rep. Sherrod Brown (D-Ohio) as the likely nominee against Sen. Mike DeWine (R-Ohio) in November.

Brown, who formally entered the race after Hackett had been recruited to run, has the strong backing of the state Democratic establishment and organized labor as well as a campaign war chest of close to $2.4 million.

Senate Minority Leader Harry Reid (D-Nev.) said Tuesday he was surprised to hear that Hackett had lashed out at party leaders and that the one-time candidate had not made his concerns known to him directly. Noting that he had helped recruit Hackett into the Senate race, Reid did express regret that the situation had unfolded as it did, telling reporters that he "is very sorry" if Hackett believes national leaders pushed him out.

"I certainly never said 'You should get out of the race,'" Reid said.

The Democratic leader did, however, sidestep questions about whether Brown is a better candidate, saying simply "He's the only candidate in the race so I assume he's the best candidate."

On Tuesday, the Democratic Senatorial Campaign Committee released the head-to-head results of a survey taken earlier this month that showed Brown with a 44 percent to 41 percent lead over DeWine, who is seeking a third term this fall.

DSCC spokesman Phil Singer called Hackett's decision "statesman-like" and reiterated that "neither the DSCC nor [Chairman Charles] Schumer [(N.Y.)] reached out to donors to ask them to take sides in this race," a charge that Hackett had leveled in press reports Tuesday.

At the same time Republicans wasted little time in pouncing on Brown now that it is clear he will face DeWine in November.

The National Republican Senatorial Committee released a statement painting the seven-term Congressman and former Ohio secretary of state as too liberal to be elected statewide.

"The [Democratic] party bosses dumped a candidate with mainstream vote-getting potential for one of their most liberal members," said NRSC spokesman Dan Ronayne.

But Hackett is not the only Iraq war veteran to get out of a Congressional race this week.

Just last weekend Iraq war veteran and attorney David Ashe (D) dropped his campaign for a rematch with freshman Rep. Thelma Drake (R) in Virginia's 2nd district. Ashe garnered 45 percent of the vote against Drake in 2004, in a late-developing open-seat race sparked by the last-minute retirement of then-Rep. Ed Schrock (R-Va.).

According to a local newspaper report, Ashe's decision was based primarily on the fact that he has been offered a position in the new administration of Gov. Tim Kaine (D). He did not specify what the position was but his move clears the field for Virginia Beach Commissioner of Revenue Phillip Kellam (D), who had been viewed as party insiders' preferred nominee. Kellam is a political legacy whose family is well known in the Tidewater area.

Meanwhile, in New York's 29th district, it briefly appeared this week as if retired Navy commander Eric Massa (D) might be getting pushed aside within the Democratic establishment in favor of a self-funding candidate in the race against freshman Rep. Randy Kuhl (R-N.Y.).

On Monday, Democratic officials released a news release from businessman David Nachbar in which he announced that he would challenge Massa for the nomination.

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Privately, Democratic Congressional leaders had high hopes for Nachbar, an executive at the Bausch & Lomb eye products company who was expected to pour at least $100,000 of his own money into the race. But problems with his candidacy became immediately apparent Tuesday morning.

Nachbar is an unaffiliated voter, not a registered Democrat, meaning he would have to go through extraordinary measures to get on the Sept. 12 primary ballot — an effort that would have been complicated by the fact that seven of the eight county Democratic chairmen in the expansive 29th district had already endorsed Massa.

A high-ranking New York Democratic official who did not want to be named said state party leaders were huddling with lawyers Tuesday afternoon to determine whether the county chairmen had the ability to put Nachbar on the ballot — a scenario that would have worked to Massa's advantage — or whether the full Democratic committees in each county had the responsibility to determine whether he could compete.

But the fact-finding would prove to be moot. Nachbar said Tuesday night that he would not run because he did not want to be "a divisive force."

"The thought that I had in mind was to defeat Randy Kuhl in November," he said.

Massa, who served in the Persian Gulf war and also was the top aide to Ret. Gen. Wesley Clark when Clark was Supreme Allied Commander, has been campaigning against Kuhl for more than a year, impressing party leaders with his passion and hard work. But while he had received the endorsement of his former boss and other military veterans like ex-Sen. Max Cleland (D-Ga.), some Congressional Democrats had worried about Massa's fundraising ability. Through Dec. 31, he had just $88,000 on hand, compared to Kuhl's $421,000.

But Democratic Congressional Campaign Committee officials are prepared to rally around Massa now.

"Massa has a strong organization, the overwhelming support of county leaders and the national security credentials to take on Randy Kuhl," said DCCC spokeswoman Jennifer Psaki.

Meanwhile, in Pennsylvania, Democratic leaders had to intervene when they had one too many military veterans seeking to take on Rep. Curt Weldon (R-Pa.).

Last week Iraq war veteran and attorney Bryan Lentz (D) announced he was getting out of Pennsylvania's 7th district race after conversations with local party leaders and Gov. Ed Rendell (D). Instead, the 41-year-old Army Reserve major will run for state House this year.

Lentz's departure leaves retired three-star Vice Adm. Joseph Sestak, 54, as the likely nominee against Weldon in a district that voted for Sen. John Kerry (D-Mass.) in the 2004 presidential contest. Sestak, who served in Afghanistan, announced two weeks ago that he was running.

Democratic consultant Bob Doyle, whose clients include Massa and Kellam, said that the fact that the party has too many interested candidates in some races is a welcome sign after two cycles where the party lost House and Senate seats. He also sees it as a signal that the current national political environment will produce Democratic gains this November.

"It's indicative of the cycle that we're in," he said. "Democrats are clearly energized and are on the offense... and our recruiting has really shown that."

Democratic party strategists say they remain supportive of veterans of the Iraq and Afghanistan conflicts running for office and point to a number of races where they are touting veteran candidates.

Iraq war veteran Tammy Duckworth, who is running in the open seat contest in Illinois' 6th district, is perhaps their highest-profile recruit.

The party is also touting veterans running against Republican Reps. Robin Hayes (N.C.), Michael Fitzpatrick (Pa.) and Anne Northup (Ky.), although those races have yet to develop into first or even second-tier contests.

Still, there was audible disappointment stemming from Hackett's decision from at least one group seeking to elect veterans this cycle. In a statement, Jon Soltz, executive director of the Iraq and Afghanistan Veterans of America Political Action Committee described the circumstances surrounding Hackett's departure as "an outrage."

"The good news is that there are still a number of Iraq and Afghanistan veterans running for office around the nation," Soltz said. "We are committed to getting these patriots the early institutional support they need, because it is becoming abundantly clear that the party leadership has no interest in them."

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Ohio-based Democratic strategist Dale Butland, who had signed onto Hackett's campaign last month, said he was more concerned about his party's leadership's unwillingness to let the primary process play itself out.

He warned that the handling of the Hackett situation could keep some of the Democratic base home from the polls and thus hinder the party's ability to win in November.

"From a political point of view this sort of bossism is really kind of dumb," he said.

He added: "We've taken a guy who was a rising star and we've turned him into a fallen star. It doesn't make any sense to me."

2 Major Construction Unions Plan To Leave A.F.L.-C.I.O. (NYT)

By Steven Greenhouse

The New York Times, February 15, 2006

The national labor movement suffered a new split yesterday when two major construction unions — the laborers and the operating engineers — announced that they were quitting the Building and Construction Trades Department of the A.F.L.-C.I.O.

The unions also said they would soon announce the creation of a rival building trades group, the National Construction Alliance, that would include the carpenters, the bricklayers, the iron workers and the Teamsters. The new group, officials from the two unions said, would have more than 1.5 million members and would be more vigorous than the Building and Construction Trades Department in unionizing construction workers.

"We cannot stand idly by, tied to a past that promises only further decline for construction workers," said Terence M. O'Sullivan, president of the Laborers International Union of North America, which has 700,000 members. He indicated that his union would soon quit the A.F.L.-C.I.O., following five other unions that have left the federation in the past year.

Mr. O'Sullivan and Vincent J. Giblin, president of the International Union of Operating Engineers, said the Building and Construction Trades Department had been ineffective in stopping a decline in construction union membership. The percentage of construction workers who are unionized has plunged to 13 percent today from 40 percent in 1973.

In recent days, officials with the A.F.L.-C.I.O. and several construction unions have engaged in intense talks with Mr. O'Sullivan and Mr. Giblin to try to persuade them not to quit the building trades department.

"We're saddened by their decision to leave," said Sean McGarvey, the department's secretary-treasurer. "This is a net negative for unionized construction workers as we're faced with one of the biggest building booms ever."

He said some builders might grow more reluctant to deal with unions if they risked being called on to sign differing contracts with rival construction federations.

The laborers and operating engineers, which has 400,000 members, had threatened to quit the building trades department unless four demands were met: replacing the department's leaders; trimming its budget; having a voting system of one worker, one vote; and updating a system several decades old for determining which unions are to have jurisdiction over which types of work.

Mr. McGarvey and A.F.L.-C.I.O. officials said they had gone far to satisfy Mr. O'Sullivan and Mr. Giblin on all but one demand: replacing the leaders of the building trades department.

Mr. Giblin said yesterday that the department's current leadership was indecisive, ineffectual and directionless. But several union presidents rejected the demand for new leadership and rallied behind Edward C. Sullivan, the department's president.

Teachers Earned Health Care (USAT)

By Edward J. McElroy

USA Today, February 15, 2006

This might come as a surprise to many readers, but in the 25 years that I negotiated contracts with school districts for affiliates of the American Federation of Teachers, no one ever threw money at me.

Retirement health benefits weren't a gift, either. School districts recognized that a generous retiree health plan can serve as an incentive for higher-paid, more experienced teachers to retire and be replaced by lower-paid entry-level teachers.

It was often an advantage to district negotiators to exchange an increase in salary for a benefit that could be funded over time. No one gives away these benefits to teachers and other school workers. They are traded.

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But retirees' health care bills have come due, and the Governmental Accounting Standards Board's new rules are showing what the real costs are. All working families and retirees are experiencing the same ballooning health care bills. We need to work toward a national solution, but that will take time. Meanwhile, obligations don't disappear.

Hard-working people earned these benefits over many years, deferring compensation until now. Employers need to honor their contractual obligations. Violating these promises is nothing short of theft.

As a nation, we are in the middle of a retirement crisis. The just-released federal budget, calling for billions in cuts to Medicare, makes it worse. This is on top of more than 2,000 companies that have unloaded their pension obligations on the federal Pension Benefit Guarantee Corp. The elimination of pensions and other retiree benefits for workers at companies such as United Airlines — while top executives lock in lucrative individual retirement awards — is scandalous.

Our retirement security problem, as bad as it is, moves to a completely new and damaging level when the government fails to live up to its obligations.

All citizens should heed what is happening to teachers, public employees and workers in the private sector. Everyone who has a pension or retirement benefits should be alarmed. If employers are allowed to walk away from their obligations, contracts of all kinds become meaningless. And when the government doesn't live up to its obligations, we're all in trouble.

Edward J. McElroy is president of the 1.3 million-member American Federation of Teachers.

Iran Feeding Centrifuges: Official (REU)

Reuters, February 14, 2006

VIENNA (Reuters) - Iran has begun feeding uranium hexafluoride gas into centrifuges at its pilot nuclear fuel enrichment facility at Natanz, an official close to the U.N. nuclear watchdog agency said on Tuesday.

He said International Atomic Energy Agency inspectors had observed Iranian scientists putting UF6 gas into a "very small number" of centrifuges, machines that can turn uranium into fuel for nuclear reactors or, if enriched to high levels, atomic bombs.

The head of Iran's atomic program, Gholamreza Aghazadeh, said the enrichment begun at Natanz was on a "small and laboratory scale", the ISNA students news agency reported soon after.

"Injecting gas into one or a few centrifuges could not be termed enrichment," he was quoted as saying.

Earlier on Tuesday, Iran said no actual uranium enrichment work had begun at Natanz, but that preliminary work was under way to prepare centrifuges for production after a 2 1/2-year suspension in such work, maintained under Western pressure.

The West suspects Iran of trying to develop atom bombs under cover of a civilian atomic energy drive and persuaded the IAEA's governing board last week to report Iran to the U.N. Security Council for possible action, which could include sanctions.

Iran denies any military intent in its nuclear work, saying it is designed solely to generate electricity for its economy.

The official close to the IAEA said the amount of UF6 being introduced into centrifuges "was of absolutely no use" in making weapons-grade fuel and that the new work was "an early testing phase en route to mastering the technology".

He said Iran remained some way from reactivating the entire cascade of 164 centrifuges it had running before the 2003 suspension and that many hundreds would have to be in operation, spinning at supersonic speeds, to purify enough fuel for a bomb.

"They face technical difficulties merely getting the 164 back on line," he told Reuters.

Iran had vowed to resume uranium enrichment and halt short-notice IAEA inspections in retaliation for the IAEA vote, which Tehran called illegal as the agency has found no hard proof of secret bomb-making after three years of probes.

"What they are doing now is entirely legitimate within the safeguards agreements Iran has with the IAEA. The main issue for the agency is for Iran to clarify unanswered questions regarding (past) concealment of its programme," the official said.

"But what they're doing now may demonstrate that maybe the board vote wasn't the wisest way forward, from the pragmatic point of view. The train (enrichment) has left the station and it will be pretty hard to stop it now."

Why Iran's Enrichment Rattles The West (CSMonitor)

By Peter Grier

Christian Science Monitor, February 15, 2006

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WASHINGTON - To begin enriching raw uranium into fissile material, as Iran now may have done, is to take a fateful step down the path of nuclear capability.

That's because it is perhaps the most difficult aspect of developing a nuclear power - or weapons - program. Centrifuge enrichment is a sort of technological ballet, requiring thousands of thin tubes to spin at outrageous speeds, each feeding a thin stream of uranium gas along to a neighboring tube, until the gas reaches the end of the cascade line.

And once a nation has mastered the art of enriching uranium for a power plant, it does not take much more effort to increase the concentration of fissile elements to the level required for bombs. Thus, Iran may already have collected almost everything it requires, if it wants to become a member of the nuclear weapons club.

"I don't see that they need anything more except knowledge and experience, and they'll get that by running the [enrichment] cascade," says David Albright, president of the Institute for Science and International Security in Washington.

On Tuesday, Javad Vaeidi, a senior Iranian nuclear negotiator, said that Iran has resumed small-scale uranium enrichment, defying preventive efforts by the United States and much of the rest of the world. Mr. Vaedi, deputy Secretary of the Supreme National Council, told reporters in Tehran that work has resumed at Iran's main enrichment plant at Natanz. The work is preliminary, and the amount of enriched uranium it might produce would be small, as Iran's existing enrichment cascade is only an experimental one.

To produce usable amounts of enrichment material, Iran must still construct a larger facility, said Vaedi.

"We need time to have 60,000 centrifuges," he said.

This week Iran also said it has postponed indefinitely talks with Russia on a plan to enrich uranium on Russian territory, to allay fears that it would build an atomic weapon.

In a joint statement, Russia and France immediately called on Tehran to reconsider, and to halt enrichment work. The US has also criticized Iran for its recent enrichment activities.

"They're continuing to choose defiance and confrontation over cooperation and diplomacy," said White House press secretary Scott McClellan on Monday.

On Feb. 4, the International Atomic Energy Agency reported Iran to the UN Security Council, calling on it to stop all enrichment-related activities. Iran has retaliated by ending some of its cooperation with IAEA inspectors.

Iran has long maintained that its nuclear activities are solely for the purpose of nuclear power, and that enrichment for civilian purposes is not outlawed by the Non-Proliferation Treaty, of which Iran is a signatory.

"They say, 'we're within the treaty, we're within our rights,' " says Daryl Kimball, executive director of the Arms Control Association in Washington.

Enrichment of uranium is necessary because, as it comes out of the ground, uranium is just a lump of natural material.

But it is a natural material with potential. It's all a matter of isotopes, which are forms of the same element that have different numbers of neutrons in their nuclei.

Ninety-nine percent of uranium is the unexciting U-238 isotope. But the other 1 percent is the isotope U-235, which is slightly lighter, has three fewer neutrons, and can be split to release astounding amounts of energy.

The point of enrichment is to increase the percentage of U-235 - to the 5 percent level for fuel for nuclear power plants, and to the 90 percent level for nuclear weapons.

The first step is to take uranium ore and mill it. Then this crumbled material is heated to produce a gas, uranium hexafluoride.

In the centrifuge process - invented in the 1960s - this gas is then fed into a cylinder spinning at high speed. The heavier U-238 isotopes are spun to the outside, while the lighter U-235 stays closer to the vertical axis, where it can be drawn off.

This slightly enriched gas is then fed into another centrifuge, where it is enriched more. It is then drawn off, and fed into another, and so on down a line of thousands of spinning tubes.

Once it has reached the desired concentration, after much effort and use of electricity, the gas cools and solidifies, and the material is milled into a usable form.

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Starting this process is much more difficult than simply continuing it. Thus production of a bomb core, which is 90 percent enriched, requires only about 25 percent more effort than producing 5 percent enriched fuel rods for civilian power reactors, estimates Mr. Albright of the Institute for Science and International Security.

It will take Iran some time to get its enrichment technology under control, says Albright, given that the experimental centrifuge cascade at Natanz has long lain idle. Moisture has penetrated the system, corroding pipes. Vacuum in the system must be secure for the cascade to work perfectly.

If Iran proceeds to a production cascade of thousands of centrifuges, it is now unlikely to build it at Natanz, says Albright. For security purposes, the Iranians would hide it in a new facility, perhaps among the many light industries clustered around Tehran.

Iran Sets New Date For Atomic Talks With Russia (REU)

By Parisa Hafezi

Reuters, February 14, 2006

TEHRAN (Reuters) - Iran announced on Tuesday it was deferring until next week talks with Russia on its nuclear plans, but gave no sign it was ready to stop enriching uranium on its own soil -- the key element in Moscow's plan.

However, a senior Iranian official said no actual uranium enrichment had yet taken place at the Natanz facility where Iran had halted work during negotiations with the European Union.

"No work has been done on the centrifuges and no gas has been injected yet," said the official, asking not to be named.

"They are preparing the ground. A facility that has been suspended for two and half years cannot become functional in one night."

Centrifuges spin uranium hexafluoride at supersonic speed to make atomic fuel, or if highly enriched, bomb-grade material.

Other officials had said preliminary work to revive a pilot project had begun at Natanz this week, intensifying world concern over Iran's nuclear ambitions.

Russia and France called on Iran to cease "all activities connected with enrichment and processing" of nuclear fuel. Their joint statement was issued by the Kremlin during a visit to Moscow by French Prime Minister Dominique de Villepin.

Russia has offered to enrich uranium on Iran's behalf in a compromise designed to allay world fears that the Iranians might divert nuclear material into bombs.

Iranian nuclear negotiator Javad Vaeedi said talks on the proposal would now start in Moscow on February 20.

"We still want to reach a formula to prove that we will not divert uranium enriched on Iranian soil," he told reporters.

Russia confirmed that Iran had asked to postpone the talks, originally planned for Thursday, and voiced no objection.

DELAYING TACTICS?

Western countries suspect Iran wants nuclear weapons and this month persuaded the International Atomic Energy Agency (IAEA) to report it to the Security Council. Iran says it wants atomic fuel only to make electricity.

Diplomats said Iran wanted to drag out talks with Russia, without giving up its right to enrich uranium at home, hoping that diplomatic activity will defer any Security Council action.

Iran has already undercut Moscow's proposal by announcing it was exercising its right to resume uranium enrichment at Natanz.

Officials close to the IAEA in Vienna said inspectors had arrived at Natanz on Tuesday to monitor any activity there.

Vaeedi said earlier in the day that Iran had begun preliminary work to revive small-scale uranium enrichment at Natanz, adding that industrial production was some way off.

"We need some time to reach that level with all centrifuges because of the 2-1/2 year suspension. However, the preliminary phases have been launched," he said.

A Vienna-based European diplomat said "a very few" of the cascade of 164 centrifuges Iran had running at Natanz before the 2003 suspension were now operating again.

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"They will have to be tested first but the Iranians' goal is clearly to get all 164 operational again which would effectively revive the pilot fuel enrichment plant at Natanz," he said.

Iran is believed to have the parts to assemble another 1,000-1,500 centrifuges. This task, marking the first step toward commercial-scale enrichment, would take several months or more to accomplish, the diplomat said.

Germany and China called separately for more diplomacy on the nuclear row with Iran.

"The international community should not give up diplomatic efforts under the IAEA's framework," Chinese Foreign Ministry spokesman Liu Jianchao said.

German Defense Minister Franz Josef Jung said: "A military solution is not being discussed right now. I hope that if the international community stands together we can find a solution."

An Iranian official said Tehran was halting some IAEA monitoring carried out under the Additional Protocol of the nuclear Non-Proliferation Treaty (NPT), which it had been observing voluntarily. Iran has not ratified the protocol.

"Since the Additional Protocol is not in force any more, some of those cameras should be taken out," said Mohammad Saeedi, deputy head of Iran's Atomic Energy Organization.

The European diplomat said non-compliance with the protocol would not affect the IAEA's remote cameras observing declared sites such as Natanz and a uranium processing plant in Isfahan.

The protocol applies mainly to areas such as research and parts assembly centres where the IAEA suspects Iran of failing to declare links to its atomic program as required by the NPT.

IAEA chief Mohamed ElBaradei is to report to the agency's board on March 6 on Iran's nuclear program. His report will go to the Security Council ahead of an expected debate on how to curb Iran's atomic work, with sanctions a possible option.

Russia-Iran Nuclear Talks Back On (FT)

By Gareth Smyth

Financial Times, February 15, 2006

Iran confirmed on Tuesday it had resumed uranium enrichment but agreed to the resumption of talks with Russia aimed at defusing the international stand-off over its nuclear programme.

Javad Vaeedi, deputy secretary of the Supreme National Security Council, said the talks would take place on February 20. They aim to discuss proposals to enrich his country's uranium in Russia to allay international concerns it might divert the material into weapons use.

In a joint statement release by the Kremlin during a visit by Dominique de Villepin, French prime minister, Russia and France called on Iran to stop work linked with nuclear fuel, urging Tehran to "fulfil the February resolution and the demands of the governing council of the International Atomic Energy Agency (IAEA), including the full cessation of all activities connected with enrichment and processing."

Separately, the European Union on Tuesday applauded Moscow's initiative on the eve of talks with Russia in Vienna. Benita Ferrero-Waldner, EU external relations commissioner, said Russia was "playing a constructive role in the search for a diplomatic solution".

Though Tehran confirmed it had resumed uranium enrichment at its Natanz plant, it denied production was on an industrial scale.

The enrichment, which is apparently being done in the plant's research facilities, is not enough to make fuel for reactors or produce weapons, but it signals Iran's determination to press ahead with its nuclear programme despite the February 4 decision of the IAEA to refer it to the UN security council.

Mr Vaeedi said Iran needed time "to have 60,000 centrifuges" – referring to the devices used to spin uranium hexafluoride gas into enriched uranium. But he added it had begun "the preliminary stage".

The announcement by Mr Vaeedi on the Moscow talks seemed to contradict a government spokesman's statement on Monday that they had been postponed indefinitely because of the "new situation", a reference to Russia voting at the IAEA for Iran's referral to the security council.

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Iranian officials have blown hot and cold on the Russian idea, which is incompatible with Tehran's insistence that it enrich at home. Mr Vaeedi said Iran wanted a "formula to prove we will not divert uranium enriched on Iranian soil".

Mohammed ElBaredei, the IAEA director general, is due to produce another report on Iran's programme in early March.

While the US and the EU strongly back referral to the security council, which could impose sanctions, Russia and China are less keen.

Liu Jianchao, Beijing's foreign ministry spokesman, on Tuesday reiterated China's preference for "diplomatic efforts under the IAEA framework ..[and] … a solution through dialogue".

Iran Restarts Uranium Program (WP)

By Molly Moore

The Washington Post, February 15, 2006

PARIS, Feb. 14 -- Iran announced Tuesday that it had resumed uranium enrichment efforts in defiance of international pressure to curb its nuclear program and said it will no longer comply with voluntary measures designed to enhance international inspectors' access to its nuclear facilities.

"The order to resume uranium enrichment has been issued," Javad Vaeidi, deputy head of Iran's Supreme National Security Council, told reporters in Tehran, according to Iranian news agencies. "The Iranian Atomic Energy Organization has restarted the process."

Monitors from the International Atomic Energy Agency confirmed during inspections Tuesday that Iran had begun the first small-scale steps in the years-long process of enriching uranium that could be used for nuclear power, or eventually weapons production, according to a Western diplomat close to the U.N. nuclear watchdog agency. The diplomat spoke on condition of anonymity because the monitoring team's report will not be released officially for several weeks.

Although Iranian officials said Tuesday that they are years away from being able to produce atomic fuel on an industrial scale, the decision to restart uranium enrichment represents a significant escalation of the political crisis between Tehran and foreign governments.

"They've now walked across the line in such a blatant way that it's hard to see where any other red line could be drawn," said Mark Fitzpatrick, an analyst with the International Institute of Strategic Studies in London and a former U.S. liaison to the IAEA in Vienna. "Now they've done what everybody was afraid of."

Iran's announcements and the IAEA monitoring team's findings increased pressure on the U.N. Security Council to take action against Iran for breaching international agreements on its nuclear program, diplomats in Vienna said.

The 35-member IAEA governing board, which includes the five permanent members of the Security Council, reported "serious concerns" about Iran's nuclear intentions to the Security Council on Feb. 4. Diplomats agreed that the Security Council would not take action until an IAEA board meeting on March 6, when the agency's director general, Mohamed ElBaradei, is scheduled to present an update on Iran's actions.

ElBaradei's report will include the finding of IAEA monitors that Iran last weekend began feeding uranium hexafluoride gas into a handful of centrifuges, which spin the material at supersonic speeds to create enriched uranium, a Vienna-based diplomat said.

"This means the IAEA will have to produce a report that is quite negative with regard to Iran," Fitzpatrick said. "The director general would have been looking to produce a report that described ways in which Iran was cooperating. . . . Iran is not giving ElBaradei anything to work with here."

In Washington, White House press secretary Scott McClellan said Iran was "continuing to choose defiance and confrontation over cooperation and diplomacy."

The IAEA team, after its inspection of Iran's Natanz nuclear facility about 150 miles south of Tehran, reported that Iran is using fewer than five centrifuges, the diplomat said.

Vaeidi, the Iranian national security official, said during comments to reporters Tuesday that Iran needed 60,000 centrifuges for large-scale enrichment, adding, "We need some time to reach that."

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Iranian officials Tuesday also said they would end voluntary compliance with an addendum to the nuclear Non-Proliferation Treaty that allows IAEA inspectors access to any nuclear facility within two hours of their request and grants the IAEA greater access to certain documentation and information about Iran's nuclear program.

"We are in the transition state and the inspectors will work under the NPT," Mohammad Saeedi, deputy of Iran's Atomic Energy Organization, said on state television, referring to the treaty. "We will not do anything beyond our commitments to the NPT."

Western diplomats in Vienna said Iran's refusal to comply with the additional voluntary agreements will impede the IAEA's ability to monitor Iranian activities. "It is very difficult for us to provide assurance that there is no parallel or secret program happening," one diplomat said.

Iranian officials describe their decision to move ahead with uranium enrichment as an act of independence in the face of criticism and mistrust on the part of the United States and other Western countries, which Iran accuses of trying to hobble its efforts to produce nuclear energy.

Gholam-Ali Haddad Adel, Iran's parliament speaker, said during a visit Tuesday to Caracas, Venezuela, that U.S. opposition to Iran's nuclear program was "only a pretext."

He added, "They are worried that we want to be independent."

Iranian President Mahmoud Ahmadinejad reiterated in a televised speech Saturday that Iran was trying to develop nuclear technology for fuel in the face of dwindling oil supplies.

"We ask them why they are against our nuclear technology," Ahmadinejad said in the speech. "They answer: Because they do not trust us."

He warned the Iranian people to brace for possible economic sanctions in the coming months.

The Security Council has not indicated a course of action it might take against Iran. The United States and Europe have been pushing hardest for some type of strong political retribution, while Iran's allies and major trading partners, including Russia and China, are wary of the intentions of the Western governments.

Russia, which has invested about $1 billion in constructing an Iranian nuclear facility, has attempted to act as broker, offering to enrich uranium in Russia and turn the product over to Iran.

Ahmadinejad scoffed at the proposal in his speech Saturday, telling his Tehran audience, "They say that they will produce the fuel somewhere else and then they will hand it over to us.

"We say, what a surprise!" he continued. "Do you expect us to be stupid enough to believe you?"

Iranian officials have scheduled a meeting with Russian authorities on Feb. 20 to discuss the proposal.

Iran Resumes Small-Scale Uranium Program (AP)

By Ali Akbar Dareini

AP, February 14, 2006

Iran has resumed small-scale enrichment of uranium, a senior Iranian nuclear negotiator said Tuesday — a defiant declaration in the face of global opposition to Iran's atomic program.

The resumption still leaves Iran a long way from reaching the stage the world fears most: large-scale enrichment of uranium — a process that can produce fuel for an atomic bomb.

Javad Vaeidi, deputy secretary of Iran's Supreme National Security Council, in announcing the small-scale enrichment, also told reporters that Iran would resume negotiations with Moscow on Feb. 20 over its plan to enrich Iranian uranium on Russian soil — a proposal designed to allay fears that Iran will build nuclear weapons.

"The talks with Russia remain valid," Vaeidi said, adding that an Iranian delegation would go to Moscow.

The negotiations with Russia had been due to resume Thursday, but Iran said Monday they were postponed indefinitely.

Vaeidi gave no indication whether Iran was looking more favorably at the plan now that international pressure over its nuclear program was increasing. Iran has repeatedly said the Russian plan can be complementary to Iran's nuclear program but that Tehran would not accept any requirement to scrap uranium enrichment in Natanz.

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Vaeidi said enrichment of uranium resumed last week at Natanz, the country's main enrichment plant, but that Iran had not resumed large-scale enrichment, as required for producing fuel for nuclear reactors.

In Israel, Yuval Steinitz, chairman of the Knesset's defense and foreign affairs committee, said Tuesday's announcement from Iran made it clear that "time is running out."

"If the Iranians will not be blocked, in due course they will obtain a nuclear weapon," he told The Associated Press. "This will be a devastating threat not only to Israel and the Middle East but also to Europe and the United States."

Later Tuesday, Vice President Gholamreza Aghazadeh said resumption of uranium enrichment work was very limited.

"It can't be used even at semi-industrial level. It's only at the laboratory stage for analyzing research activities. This sort of enrichment cannot be used (for producing nuclear fuel)," he said.

According to authoritative reports, Iran had 164 centrifuges in Natanz sealed by the IAEA in 2003. The seals were removed last month when Iran resumed nuclear research. And Iranian officials have indicated that Iran may possess up to 2,000 centrifuges. For a large-scale enrichment of uranium, Iran has to build up to 60,000 centrifuges — something Vaeidi said would take time.

Top Iranian officials have confirmed in the past that the Iranian military had built nuclear centrifuges for civilian use and that Iran was capable of mass producing them.

The world has long sought to stop Iran from enriching uranium, fearing that the process would bring it to the threshold of possessing nuclear bombs. On Feb. 4, the International Atomic Energy Agency reported Iran to the U.N. Security Council and called on its government to suspend all enrichment-related activities.

Instead, Iran suspended certain aspects of its co-operation with the IAEA.

"They're continuing to choose defiance and confrontation over cooperation and diplomacy," White House press secretary Scott McClellan said Monday of Iran's decision to resume enrichment.

Iran insists that as a signatory to the Nuclear Nonproliferation Treaty, which provides for peaceful nuclear development, it is entitled to enrich uranium for nuclear reactors. It has threatened to withdraw from the treaty if it was not allowed to exercise that right.

Vaeidi indicated Iran was still open to negotiation.

"We are still prepared to find a formula to clarify the ambiguity in talks with our partners. At the same time, we will pursue our rights," he said.

Mohammad Saeedi, deputy head of the Atomic Energy Organization of Iran, said Tuesday that Iran has stopped allowing short notice inspections of its facilities by IAEA inspectors.

He said on state television that some IAEA cameras need to be removed from Iranian nuclear facilities and that Iran was "taking the preparatory measures to do that."

Iran maintains its nuclear program is designed solely to generate electricity, but the United States and Israel claim the program is a cover for producing an atomic bomb.

What Putin Hopes To Gain From Iran (TIME)

By Yuri Zarakhovich

Time, February 14, 2006

Monday's news that Iran has postponed Moscow talks, scheduled to start Thursday, on having its uranium enriched in Russia, and has instead resumed its own enrichment activities, was hardly stunning — except, perhaps, to Russian President Vladimir Putin.

Putin had expected a cash windfall from Iran for the Russia-supplied nuclear capacity; the laurels of a global power-broker for defusing the Iranian nuclear crisis; and the praise of his increasingly nostalgic citizens for restoring the lost empire's glory.

Instead, he looks hapless before the specter of a nuclear-armed militant clerical regime that looms beneath the veil of a peaceful nuclear energy project. Putin's massive supplies of conventional weapons to Iran, including air defense missiles and armor, have strengthened that specter — much to Russia's own peril.

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For months, Russia and China have been stalling the West's efforts to refer Iran's nuclear program to the UN Security Council. Last week, Russia finally backed an IAEA resolution to do so, only upon the condition that the Council doesn't take up the issue until March. Meanwhile, pundits believe, Putin had hoped to defuse the crisis by persuading Iran to shift its uranium-enrichment to Russia, which would deny it the ability to use such facilities on its own soil to produce weapons-grade material.

From his own experience, Putin should have known better: Back in 2000, the Russian president had told a G-8 summit in Japan that he had convinced North Korean leader Kim Jong Il to abandon his missile program. Sounded good, until Kim explained he was joking. This time, Putin seems to be the butt of Iranian President Mahmoud Ahmadinejad's practical joke.

Putin's policies were best summed up last Saturday by Hamas spokesman Sami Abu Zuhri commenting on Putin's pledge last week to invite the radical Palestinian group to Moscow: "It will represent a division in the Western position led by the U.S."

"A division in the Western position" helped fuel Saddam Hussein's defiance over the years, finally leading to war. In the long run, Putin's policies will do Hamas or Iran no better than they did Saddam, but they do risk badly hurting Russia.

The regime seems incapable of having long-term strategies. And its short term tactics are driven by cash, whether it be in jailing the oil magnate Mikhail Khodorkovsky and taking over his billions, or endorsing Iran's nuclear ambitions. Russia's projected income from just supplying seven nuclear reactors to Iran runs into $10 billion — and way more for maintenance, fueling, etc.

From 1990 through 1996, Russia supplied over $5 billion worth arms to Iran. Then, Russia heeded a U.S. request to stop military supplies, but resumed them in 2000, just as Putin became president. Last October, Moscow and Tehran signed a deal on military supplies worth $300 million annually. Russia will also supply $700 million worth of surface-to-air missiles. The Iranian arms market now promises Russia some $10 billion over next several years.

These tantalizing riches risk falling into the same chasm, however, as the unpaid billions owed to Russia by Saddam Hussein's regime, and other Moscow-backed rogue regimes. Russia risks ending up unpaid, friendless — and facing a volatile nuclear neighbor, connected to terrorist groups and armed with Russian weapons, right on her unstable southern border. Some return to glory, indeed.

When Tehran Rocks, Discretion Rules (NYT)

By Michael Slackman

The New York Times, February 15, 2006

TEHRAN — Rock stars are a brash, in-your-face breed, often challenging their audiences with lyrics of defiance. But here, they are all that and a bit scared, too.

"Please, I'm going to be in deep trouble," said a rock musician after a recent show when asked for a copy of the lyrics to a song his group had performed (in English). He handed them over, but cautioned he could get in trouble if they attract the attention of the authorities.

I have a right to be caught by the cops
Have a right to be called by the judge
Have a right to be sent to the fronts
And come back in the back of a truck in a box.

Compared with the defiance that explodes from rock music in the West, the song seemed tame. But this is Iran, a nation that often feels otherworldly, caught someplace between an "anything goes" attitude and the intense restrictions and scrutiny of a religious government.

After the 1979 revolution, when Ayatollah Ruhollah Khomeini was fashioning Iran into a Shiite Islamic state, one of his many sayings was, "Keep the appearances of Islam." Public profile is important and so, if Iranians chose not to fast during Ramadan, well, O.K., but they were expected to eat in the privacy of their homes. After centuries in which Shiites were permitted to hide aspects of their faith in order to protect themselves against discrimination, a practice called Taqiyah, the principle seems to have etched its way into the national character. Appearance is often valued more highly than truthfulness.

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During the years reformers were in power, the authorities permitted some outward challenges to appearance: looser dress codes and some public questioning of the government. Now there is a new president, the ultraconservative Mahmoud Ahmadinejad, and people are wondering where the lines will be drawn, how far will they be permitted to challenge appearances.

The president has given some clues, though not necessarily the ones that were expected. Many thought he would quickly issue a strict Islamic dress code for women, but it has not come to pass. In a way, on some matters, the new president seems, by design or circumstance, to be imposing control by not defining where those red lines are.

"There is no written law," said the musician, whose name is being withheld because he was worried about being punished and his band blocked from playing. "You are allowed to do everything, unless you want to share it."

That seems to be the unwritten law in Iran today: no sharing. The act of publicly sharing ideas that challenge the system is forbidden, because, at a minimum, that amounts to challenging the appearance the government would like to promote. A blogger sits in jail for sharing his ideas. Newspapers are shut down for sharing. A journalist is denied permission to leave the country. The BBC's Persian Web site is filtered. Always the offense is sharing which can, of course, lead to the slippery slope of public questioning, public discontent and public organizing.

Paradoxically, civil society here appears vibrant. It has not been crushed, the way it has by the authoritarian leaders in the Arab world. There is, on many levels, real politics here — often with the outcome unknown — and on the most important issues, leaders must draw consensus from the different levels of power. And so people in many spheres — arts, sports, politics, business — find themselves pressing against the limitations of what is deemed permissible.

Mostly, this is done behind closed doors, in the privacy of people's homes. Some people, like the rock musicians, do risk public sharing, but watchfully.

These are tense times in Iran. The country is under threat of once again becoming an international pariah, as in the days when Ayatollah Khomeini issued a fatwa calling for the death of Salman Rushdie, author of the book "The Satanic Verses." This time it is the leadership's drive for nuclear power that threatens to slam shut the door of international isolation.

That alone has caused widespread anxiety. But those Iranians inclined to challenge appearances, even slightly, have an added worry.

At the awards ceremony to conclude the 24th Fadjr Film Festival in January, Iran's biggest stars were out, having wrestled their way through the mob scene blocking the entrance to Vahdat Hall. The stars milled around the lobby with excited guests who asked for autographs and for a chance to pose with the celebrities.

"Not everybody is capable of laughing when a crisis is going on," said Ali Reza Khamseh, a comic actor whose show (now canceled) had addressed family issues. "It is important to laugh when we are being banged on the head." He said he was talking about divorce, unemployment and other personal issues — but in these tough times, the message had a much broader reach.

Mr. Khamseh said this with a big broad smile. Until a man walked over. The man leaned into the conversation, not smiling, not frowning and listening intently. Approached, he said that his name was Yehia Nouri and that he was a gym teacher. He wore a beard, as religious Muslims do, and a soiled winter jacket, and carried a small briefcase.

"The Koran," he said, "says whatever hardship one is feeling, your attitude should be to bear it."

Perhaps he was a gym teacher eager to listen to a celebrity and to offer his ideas to a foreign reporter. But this is a place where people are, in fact, watched, and so the conversation with the comic actor evaporated.

At a recent concert, as young men and women piled into a small room, one concertgoer leaned over and said, casually, "I hope the Basiji don't rush the place." He was referring to the vigilante squads of bearded men who often use violence to enforce strict Islamic social codes. As the music played, the crowd swayed and clapped, shouted out choruses, and bopped the way any audience of young men and women might in the West. The music, though upbeat, had a slightly funereal quality to it, as the singer took the chance to share his thoughts, in public.

Have a right to be ignored and neglected
Have a right to be segued and be raided
Have a right to be damned a right to be jammed
Have a right to be sanctioned and banned.

When the show was over and the lights came up the band seemed exhilarated — and frightened.

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U.S. And Israel Deny Plans To Drive Hamas From Power (NYT)

By Steven R. Weisman

The New York Times, February 15, 2006

WASHINGTON, Feb. 14 — American and Israeli officials warned again Tuesday that they would cut off aid and transfers of tax receipts to a Hamas-led Palestinian government if it did not renounce violence and recognize Israel. They said, however, that they had no plans to oust such a government.

"The bottom line is that there is no U.S.-Israeli plan, project, plot, conspiracy to destabilize or undermine a future Palestinian government," said Sean McCormack, a State Department spokesman.

He spoke in response to an article in The New York Times on Tuesday in which American and Israeli officials and diplomats said they were discussing ways to destabilize the Palestinian government, with the intention of forcing new elections. Those officials, who spoke on condition of anonymity because they are not authorized to speak publicly on the issue, said the discussions were going on at the highest levels of the State Department and the Israeli government.

The article said that if Hamas did not alter its policy, the two governments would seek to bring about the Palestinian Authority's isolation and collapse by cutting payments and controlling entry and exits into the Palestinian areas. They would also try to stop money transfers through pressure on other governments and on the currency used in the Palestinian areas, the Israeli shekel.

Scott McClellan, the White House press secretary, dismissed any reports "about some sort of plan that was talking about forcing Hamas from power so that there could be new elections."

What there was, Mr. McClellan and Mr. McCormack said, was a threat to cut off aid to the Palestinians if Hamas does not renounce violence, recognize Israel and accept previous agreements.

This warning was conveyed two weeks ago by the United States, Europe, the United Nations secretary general and Russia, and it was repeated Tuesday by Israel.

Daniel Ayalon, the Israeli ambassador to the United States, said, "We emphasize that we do not want to harm the Palestinian people, and that it is their choice whether to abide by international norms or become a terrorist entity."

However, an Israeli official, speaking anonymously because of the speculative nature of his comments, said some officials might have begun thinking about scenarios in which Hamas might fall if aid is cut off.

"Part of diplomacy is discussing different scenarios, but without any intention to bring them into an action plan," he said.

In Gaza, a Hamas spokesman, Mushir al-Masri, said any effort to bring down a freely elected Hamas government would be "a rejection of the democratic process, which the Americans are calling for day and night."

Hamas won the Palestinian parliamentary elections on Jan. 25, but several analysts have noted that Fatah might have won if its votes had not been split among competing Fatah candidates.

The Palestinian Authority is heavily dependent on foreign aid. A cutoff of salaries to workers, including the police, could produce violence, many experts say.

Officials In U.S. Deny Plot On Hamas (WT)

By Nicholas Kralev

The Washington Times, February 15, 2006

U.S. officials said yesterday that they want the future Hamas-led Cabinet to "succeed" and denied any intention of "thwarting the will" of the Palestinian people by undermining their legitimately elected government.

Both U.S. and Israeli officials said they were resigned to the fact that the new Palestinian legislature, expected to convene on the weekend, will elect a Hamas-dominated government.

But Hamas, which won 74 out of 132 seats in elections on Jan. 25, accused the U.S. and Israel of plotting to destabilize the future government, as reported yesterday by the New York Times.

"The United States, which claims herself to be the mother of democracy, must respect the election results and the will of the Palestinian people," said Hamas spokesman Mushir al-Masri.

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U.S. and Israeli officials rejected the accusations that they are seeking to bring down the incoming government and force new elections, saying they trust the Palestinian people to take Hamas to task if it does not govern democratically and peacefully.

"We have no intention of denying the Palestinian people the opportunity to have a government they voted for in a democratic election," a senior U.S. official said.

"There's no plot," said White House spokesman Scott McClellan. "The issue that this goes to is the choice that Hamas has before it. If it wants to realize better relations with the international community, then Hamas must renounce violence, recognize Israel and disarm."

At the State Department, spokesman Sean McCormack said, "The conversations that we are having with the Israeli government are the same conversations we are having with other members of the international community."

U.S. officials said they relied on their public comments to send a message to Hamas because they do not deal directly with the group, which the United States, Israel and the European Union consider a terrorist organization.

"The strategy is public," Israeli Foreign Ministry spokesman Mark Regev said in Jerusalem. "There is nothing secret about it. It's to present the incoming Palestinian leadership with a clear choice: conform to international norms of behavior, recognize Israel's right to exist, renounce terrorism and accept signed agreements" by the Palestinian Authority.

Various anonymous Israeli officials were quoted by the Israeli press and international wire service reports yesterday as saying that their strategy was to starve the Hamas government and engineer its demise.

Both U.S. and Israeli official spokesmen said that was not the policy of their governments.

"We can't send them assistance because our laws and policies don't allow financing a terrorist organization," the senior U.S. official said.

"But if someone else wants to give them money, that's between them and Hamas," he said, referring to current and potential Arab donors, although he urged other countries to condition their assistance on the West's principles.

Those requirements, laid out by the Middle East Quartet -- the United States, the European Union, the United Nations and Russia -- last month, are denouncing violence, recognizing the Jewish state and adopting the Palestinian Authority's commitments.

"We want the new government to succeed in serving the Palestinian people and making peace with Israel," the U.S. official said.

Israel's Ha'aretz newspaper quoted security sources as saying that measures such as closing the passages between the Gaza Strip and Israel, which would block access of thousands of Palestinian workers, were being discussed.

Acting Israeli Prime Minister Ehud Olmert said that if the Palestinian government is "dominated by a majority of Hamas people, it ceases to be the authority it was, becomes something entirely different, something Israel is not ready to compromise nor is it ready to acquiesce with."

The Weapon Of Democracy (NYT)

By Thomas L. Friedman

The New York Times, February 15, 2006

RAMALLAH, West Bank

I decided that before writing about Hamas's win in the Palestinian legislative elections, I had to talk to people in the West Bank first. I am so glad I did. Everything is now clear to me: What a mess!

The new Hamas parliamentarians will be sworn in on Saturday, and nobody knows what will happen next. Fourteen of the new Palestinian lawmakers are in Israeli jails, including 10 from Hamas. That's more than 10 percent of the whole Parliament.

About the only thing that is clear to me is the radical mood of both Israeli and Palestinian voters. Consider this: Israel is holding its national election on March 28, and the rightist Likud party, led by Bibi Netanyahu, opened its campaign with ads accusing the centrist Kadima Party, led by Acting Prime Minister Ehud Olmert, of planning to pull Israel back to the 1967 borders. The Likud quickly backed off that line, however, when it realized that so many Israeli voters today liked the idea of pulling back to near the 1967 borders that some may have thought the ad was taken out by Kadima — instead of being an attack on Kadima by Likud.

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Yossi Beilin, who heads the leftist Meretz Party, opened his campaign with an ad that says: "Beilin Will Divide Jerusalem." Again, if you'd seen that ad a decade ago, you'd have thought it was a wicked libel. Today it's a campaign promise! After the failed peace process and the Hamas suicide-bombing campaign, many Israelis just want total separation from Palestinians — and a barrier.

"Ideologically, Israelis have never been more dovish," said Ari Shavit, an essayist for the Haaretz newspaper. "But that dovishness is based on the condition that there is a partner we can trust. If so, people are ready to give back everything. The overwhelming majority is now for a two-state solution. But we have become sensible at the very moment that Palestinians have lost their senses."

The Palestinians have thrown out Yasir Arafat's old Fatah Party in favor of Hamas, which wants to eliminate Israel and erect an Islamic state in all of Palestine. So just when Israel's majority comes around to two states, Mr. Shavit added, the Palestinians elect a party that favors only one.

Or have they? It's obvious that the ruling Fatah Party and its allies, led by the Palestinian president, Mahmoud Abbas, ran an incomprehensibly stupid campaign. There was no discipline, so in many districts Fatah and its secular-nationalist allies ran four candidates, while Hamas always ran only one. So Fatah votes got divided, and Hamas ones didn't.

The result, the pollster Khalil Shikaki said, is that "Hamas won only 44 percent of the popular vote, but got 56 percent of the seats. Fatah and its allies won 56 percent of the popular vote, but only 43 percent of the seats."

Hamas was clearly elected to provide clean government and order. But it was also elected because its suicide campaign was seen as decisive in getting Israel out of Gaza, thereby bringing Palestinians a measure of dignity, which Fatah failed to do.

Israel, with U.S. backing, says it will cut off all its dealings and financial flows to a Hamas-dominated Palestinian Authority — unless Hamas renounces violence, recognizes Israel and accepts all the P.L.O.-Israel accords. Some Israelis anticipate that a cash-starved Hamas-led government will lead to chaos, and that Mr. Abbas will then be able to call new elections.

I don't think it will be so simple.

The sense I got from Hamas officials here is that Hamas will be low-key and patient, trying to rule as long as possible without money from abroad, working on improving Palestinian governance and hoping that Palestinian society will remain steadfast — and that the Arab world and Europe will somehow intervene to keep Israel and the U.S. from depriving Hamas of its legitimate mandate.

As Farhat Assad, the local Hamas spokesman, remarked: "I thank the United States that they have given us this weapon of democracy. But there is no way to retreat now. It's not possible for the U.S. and the world to turn its back on an elected democracy."

But Hamas will have its hands full managing the West Bank, where it doesn't have as many people or arms as Fatah. As the Israeli strategist Gidi Grinstein put it, Hamas "is like a snake that swallowed an elephant." It has a lot to digest before it can move sharply in any direction.

Hisham Abdullah, the West Bank A.F.P. reporter, told me that when he went into Ramallah's main bookstore the other day and asked what was selling, the owner said he'd noticed Hamas people buying Dale Carnegie books on management. ...

The Right Way To Pressure Hamas (NYT)

The New York Times, February 15, 2006

America and Israel have to walk a very narrow line in defining their relations with a democratically elected Palestinian government built around Hamas, a party that not only endorses terrorism but also commits it. They cannot possibly give political recognition or financial aid to such a government. Neither can any country that claims to oppose terrorism. That defines the right side of the line.

On the wrong side lies the kind of deliberate destabilization that, according to a report by our Times colleague Steven Erlanger, Washington and Jerusalem are now discussing. That would involve a joint American-Israeli campaign to undermine a Hamas government by putting impossible demands on it, starving it of money and putting even greater restrictions on the Palestinians with an eye toward forcing new elections that might propel the defeated and discredited Fatah Party back to power.

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Set aside the hypocrisy such a course would represent on the part of the two countries that have shouted the loudest about the need for Arab democracy, and consider the probable impact of such an approach on the Palestinians. They are already driven to distraction by fury, frustration and poverty. Is it really possible to expect that more punishment from the Israelis and the Americans, this time for not voting the way we wanted them to, would lead them to abandon Hamas?

In the long, sorry history of the Israeli-Palestinian dispute, there is not a shred of evidence to support the notion that pushing the Palestinian population into more economic desperation would somehow cause them to moderate their political views. In fact, experience teaches the exact opposite.

Fatah lost last month's election because its incompetence and corruption drove Palestinian voters into the arms of the more austere, social-services-oriented Hamas. If the new government fails to deliver because it puts continued terrorism over the well-being of the Palestinian people, it may indeed be booted out of office. But a Hamas that could explain continued Palestinian misery by a deliberate American-Israeli plan to reverse the democratic verdict of the polls would be likely to become only stronger.

Washington publicly asserts that no such plan is being discussed. A far wiser course for the United States to pursue would be to step back and desist from deliberately provoking the Palestinians, and give Hamas a chance to reconsider its own options. Some hints about its intentions may emerge from the way its leaders respond to overtures by the Russian president, Vladimir Putin. Last week, Mr. Putin indicated that he intended to invite them to Moscow for a visit.

Mr. Putin's move was controversial in the West, and perhaps he should have provided more warning. But that would be a minor snub indeed if he prods Hamas toward renouncing terrorism, accepting Israel's right to exist and reviving the peace process.

Friends Of Hamas (WSJ)

The Wall Street Journal, February 15, 2006

The government of Hugo Chavez will receive representatives of Hamas "with pleasure" should they visit Venezuela on a forthcoming tour of South America. Vladimir Putin has announced he will host a meeting with the Palestinian terrorist group/political party next month in Moscow. "We have never considered Hamas a terrorist organization," says the Russian president.

The ostensible reason Russia and Venezuela give for meeting with Hamas is its victory in last month's legislative elections, which gave it a majority of seats in the Palestinian parliament. We agree that the results of those elections must be "respected," in the narrow sense that they reflect the outcome of a lawful democratic process. But just because something is respected does not make it respectable: Recall the diplomatic quarantine the European Union slapped on Austria in 2000 when elections there put the proto-fascist Freedom Party in government.

For Hamas the invitations are excellent news and a ticket to international legitimacy. Venezuela may be far from the Middle East, but Mr. Chavez maintains close ties with Iran, a patron of Hamas, and his influence in the "non-aligned" world has been growing. Russia is a partner in the so-called quartet of parties involved in Arab-Israeli peace negotiations.

Already, Spain and France have endorsed Mr. Putin's invitation to Hamas, and both governments are reported to be working to have Hamas removed from the European list of terrorist organizations, according to Arab and Israeli sources. Expect other countries to follow suit in this tacit legitimization of Hamas, thereby "isolating" the Bush Administration, which refuses to deal with the group.

Which brings us to yesterday's reports that the U.S. and Israel are trying to "destabilize" Hamas by squeezing the Palestinian Authority for funds -- which was played as front-page news. Neither President Bush nor acting Israeli Prime Minister Ehud Olmert have made any secret of their intention to isolate Hamas and deprive the Palestinian Authority of funds once Hamas assumes the reins of government.

Nor is there any shame in doing so: Donors have the right to impose conditions on their beneficiaries, and so far Hamas has rejected international calls that it disarm, forswear terrorism and accept the legitimacy of the Jewish state. As Hamas leader Khalid Mish'al wrote in Britain's Guardian immediately after the election, "We shall never recognize the legitimacy of a Zionist state. . . . We shall not seek friendships at the expense of our legitimate rights."

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Palestinians need to understand that the exercise of self-government carries consequences. For too long, the international community has failed to extract a price for the Palestinian recourse to terror. That failure has not brought peace, but far worse it has produced the "Palestine" we have now: destitute, savage against both Israelis and moderate Arabs, and, so far, incapable of managing its internal affairs peacefully and competently. By refusing to render Hamas respectable, the U.S. and Israel aren't punishing the Palestinians. They're educating them.

Sharon's Son Is Sentenced To 9 Months In Jail (NYT)

By Steven Erlanger

The New York Times, February 15, 2006

JERUSALEM, Feb. 14 — Omri Sharon, a former member of the Israeli Parliament and the elder son of the prime minister, was sentenced Tuesday to nine months in jail after he pleaded guilty to illegally raising more than $1.3 million for one of his father's political campaigns.

But because his father, Ariel Sharon, is comatose after a major stroke, a Tel Aviv court allowed Omri Sharon to delay the start of his jail term until at least Aug. 31. He was also sentenced to nine months of probation, to begin after he leaves jail, and fined $66,700.

In November, Omri Sharon, 41, entered a guilty plea to charges of falsifying corporate documents, perjury and violating party financing laws during a campaign in 1999 for the leadership of the Likud Party. Under a plea agreement, prosecutors dropped charges of fraud and breach of trust but demanded imprisonment on the other counts. He resigned his seat in Parliament in January. His father was not implicated in the case.

Mr. Sharon's lawyer, Navit Negev, said he would appeal the sentence.

As the reality of a Hamas-controlled government in Palestinian areas drew closer, the Israeli defense minister, Shaul Mofaz, went to Egypt, where he met with President Hosni Mubarak. Mr. Mofaz said there was "no way the state of Israel will speak with Hamas" until it met the conditions of Israel and the international community: to recognize Israel's permanent right to exist, to disavow violence and to accept previous agreements.

Mr. Mofaz told Israel radio that Mr. Mubarak "will exert all efforts to convince Hamas to accept" the necessary conditions and says "that he believes that Hamas will change its ways in the future."

On Tuesday evening, the acting prime minister, Ehud Olmert, told American Jewish leaders that Israel "won't negotiate and won't compromise" with Hamas so long as it remained committed to Israel's destruction.

Mr. Olmert and his government have said they will consider the Palestinian Authority to be run by Hamas when the new legislature is sworn in on Saturday and will stop transferring some $50 million a month in customs duties and taxes.

Palestinian leaders met Tuesday with the German foreign minister, Frank-Walter Steinmeier, asking him and the international community to continue to finance the Palestinian Authority despite Hamas's recent victory in legislative elections.

"Aid to the Palestinian people should continue, whatever party is going to form the government," said the departing Palestinian foreign minister, Nasser al-Kidwa.

Saeb Erekat, a Palestinian negotiator, called for the "democratic choice of the Palestinian people to be respected." "Aid from Germany, the European Union and other donor countries must continue to finance infrastructure projects in all fields," Mr. Erekat said in a statement.

The European Union is the source of cash income for the Palestinian Authority, which is deeply in debt and receives about $1 billion a year in foreign aid of various kinds.

But Mr. Steinmeier said it would be difficult for Germany to provide aid to a Palestinian government that did not meet international conditions. "The German position does not differ from the European position," he said, explaining that until a Hamas government took power, Brussels would continue financing the Palestinians.

International aid organizations issued an appeal for governments to continue financing the Palestinians despite the victory of Hamas. Some 30 organizations, including Oxfam and Doctors of the World, said in a statement that the local Palestinian population needed support.

Cartoon Protests In Pakistan Leave 2 Dead (USAT)

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USA Today, February 15, 2006

Thousands of people rampaged through two cities Tuesday in Pakistan's worst violence in response to caricatures of the prophet Mohammed. In Lahore, guards fatally shot two protesters trying to force their way into a bank, Interior Minister Aftab Khan Sherpao said. Mobs burned a government building, a hotel, two banks and a KFC. A Citibank, Holiday Inn and Pizza Hut were vandalized. In the capital, Islamabad, 400 students stormed the heavily guarded diplomatic enclave, brandishing sticks and throwing stones. They were dispersed with tear gas, and no foreigners were hurt.

The cartoons that have inflamed many Muslims first appeared in a Danish newspaper in September and have been reprinted by other Western media.

Britain moves to ban indoor smoking

The House of Commons voted to ban smoking in all indoor public places after rejecting exemptions for private clubs and pubs that do not serve food. If approved by the upper House of Lords, the ban would take effect in mid-2007. The issue split Prime Minister Tony Blair's Cabinet. Blair voted for it. Health officials say 114,000 Britons die each year from smoking-related illnesses.

Sharon's son sentenced to prison

The oldest son of comatose Israeli Prime Minister Ariel Sharon was sentenced in Jerusalem to nine months in prison for illegal fundraising during his father's 1999 primary campaign for the Likud Party leadership. Omri Sharon, 41, pleaded guilty in November and resigned his parliament seat last month.

Egypt postpones local elections for 2 years

Egypt's parliament voted to delay local council elections for two years, until April 2008, making it harder for independent candidates to seek the presidency. A constitutional amendment approved last year requires them to be endorsed by at least 140 council members. The opposition Muslim Brotherhood said the delay prevents it from picking up seats, as it did in parliamentary elections in November, to make endorsements. Brotherhood deputy leader Mohamed Habib said that under the current councils, President Hosni Mubarak's National Democratic Party will be free to pick his successor. Mubarak has ruled since 1981.

Protests Over Cartoons Shake Pakistan (WP)

By John Lancaster

The Washington Post, February 15, 2006

ISLAMABAD, Pakistan, Feb. 14 -- Protesters ransacked Western businesses in the city of Lahore and stormed a diplomatic enclave in the capital Tuesday to vent their anger over caricatures of the prophet Muhammad. It was the worst such violence in Pakistan since the cartoon controversy erupted last month.

Two protesters in Lahore were killed when they tried to force their way into a bank and were shot by a security guard, authorities said.

Protesters in the historic eastern city burned a hotel, two banks, a KFC restaurant and the office of Telenor, a Norwegian telecom company, as well as vehicles and two movie theaters, the Associated Press reported. Tear gas and smoke from burning vehicles wafted through the center of the city as police fired shots in the air.

In Islamabad, the Pakistani capital, hundreds of young men pushed past security guards and made their way into the heart of the main enclave for foreign embassies. They vandalized cars, smashed windows at a branch of the British bank Standard Chartered and shouted slogans such as "Expel European Ambassadors" and "Death to Denmark," the country where the cartoons originally were published in a newspaper. The Danish Embassy is outside the enclave.

Police used tear gas to drive the protesters out of the fenced, partially forested enclave once they had congregated near the Indian and British embassies. The heavily guarded U.S. Embassy is deeper inside the enclave and was not directly affected.

The mocking cartoons of Muhammad have aroused intense anger across the Muslim world, especially in the Middle East, but Pakistan until this week had avoided violent protests such as those that have roiled the capitals of Lebanon and Syria.

Gen. Pervez Musharraf, Pakistan's president, has strongly condemned the cartoons, and a number of peaceful protests have been held across the country. The protest campaign has included not just hard-line religious parties, whose leaders have called for prosecution of those responsible for the cartoons, but also mainstream secular parties. Earlier this month, Pakistan's

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Senate overwhelmingly passed a resolution condemning the "blasphemous and derogatory cartoons." Religious leaders say they are planning a series of "million man" marches in major cities across the country in the next several weeks.

On Tuesday, Prime Minister Shaukat Aziz told reporters that the publication of the cartoons had "created a big sense of unease," adding, "Such acts cannot be condoned and must be condemned." Members of parliament from across the political spectrum marched from the parliament building to the enclave to hold a five-minute silent protest.

Last week, an editorial in the Friday Times, a liberal newsmagazine, said Western governments, in defending the right of newspapers to publish the cartoons, had "demeaned the West's lofty ideals and exposed the designs of its new crusaders."

Besides burning some businesses, protesters in Lahore ransacked a McDonald's and a Pizza Hut and threw stones at a Holiday Inn and Western-owned filling stations, the Reuters news agency reported. Police responded by wielding batons and firing tear gas.

In Islamabad, several thousand protesters gathered outside parliament, where some shouted anti-American slogans.

Italian Minister Puts Mohammad Cartoon On T-shirts (REU)

By Crispian Balmer

Reuters, February 14, 2006

Italy's Reform Minister Roberto Calderoli has had T-shirts made emblazoned with cartoons of the Prophet Mohammad in a move that could embarrass Prime Minister Silvio Berlusconi's government.

Calderoli, a member of the anti-immigrant Northern League party, told Ansa news agency on Tuesday that the West had to stand up against Islamist extremists and offered to hand out T-shirts to anyone who wanted them.

"I have had T-shirts made with the cartoons that have upset Islam and I will start wearing them today," Ansa quoted Calderoli as saying.

He said the T-shirts were not meant to be a provocation but added that he saw no point trying to appease extremists.

"We have to put an end to this story that we can talk to these people. They only want to humiliate people. Full stop. And what are we becoming? The civilization of melted butter?" Calderoli said.

The publication of the cartoons in some European newspapers, including one showing an image of the prophet with a bomb for a turban, have provoked widespread anger in the Muslim world.

Many Muslims believe it is blasphemous to depict the Prophet and there have been a number of violent protests in the Middle East and Asia.

The Northern League, which is gearing up for an April general election, has leapt on the controversy to promote its own far-right political agenda.

RELIGIOUS WAR

The League has long led the charge against illegal immigration and its leaders say the cartoon violence shows the dangers of allowing Muslim immigrants to settle in Italy.

"This is only the tip of the iceberg of the religious war Islamist extremists have declared on us," Calderoli told reporters earlier this month.

The Italian press reported that Berlusconi last week urged Calderoli to take a more moderate stance over the issue, but the minister said on Tuesday he had no intention of keeping quiet.

"As for Berlusconi, seeing as he has compared himself to Jesus Christ, I would call on him to follow (Christ's) example and think about evangelizing Christian values and not be evangelized by Islam," Calderoli was quoted as saying.

Berlusconi caused a storm at the weekend when he said: "I am the Jesus Christ of politics...I sacrifice myself for everyone."

Maintaining a steady stream of anti-foreigner invective, Calderoli earlier this month dismissed a Palestinian journalist on a television chat show, as: "that suntanned lady." He also said he was delighted newcomers to Italy would not benefit from a government scheme to encourage people to have more children.

"I am proud of the fact that the baby bonus will only go to Italian citizens. I say to all those Ali Babas that either Allah or their governments will have to think of them."

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The League's anti-immigrant stance has found a sympathetic audience in the wealthy north of Italy, where many third world immigrants have settled in recent years.

League politicians say the immigrants are responsible for growing crime rates and are also challenging Italians for jobs.

Latest opinion polls say the League will get up to six percent of the vote in the April election against just 3.9 percent in the 2001 ballot. However, it is not clear what part the anti-immigrant rhetoric has played in this increase.

America's Irreverent Sense Of Humor (WP)

By Neely Tucker

The Washington Post, February 15, 2006

Blasphemy!

Wow. You want blasphemy, try Christianity in America.

Here's the latest cover of Rolling Stone, featuring rapper Kanye West wearing Christ's crown of thorns! Go to the bookstore for "The Da Vinci Code," a thriller that posits Christ had sex!

Television! "South Park's" notorious "The Spirit of Christmas" short, featuring an obscenity-filled fistfight between Christ and Santa Claus! Sample dialogue: "Holy [expletive], it's Jesus!"

Radio! "The Tom Joyner Morning Show," which features comedian J. Anthony Brown and his "biblical sayings" from the Last Supper, in which disciples make outrageous quips.

Big hits, one and all. America's fascinations with comedy, narrative drama, religious fervor and free speech routinely produce the edgy and the heretical in culture both high and low. Sometimes it's protested, sometimes it's boycotted, but the right to be religiously offended is the right to be a modern American -- most particularly for Christians, as we will see.

"Before World War I, all the interesting 'free speech' cases were about blasphemy," says Sarah Barringer Gordon, professor of law and history at the University of Pennsylvania, who has written often on the subject. "There were all sorts of bloody laws on the books. In 17th-century Maryland, you could have your tongue nailed to a tree for it."

Blasphemy -- "denying the being or providence of God . . . profane scoffing at the holy scripture" according to Blackstone's Commentaries -- had been an offense in Western society since the Greeks, and it was no joke in Colonial America. There were the Salem witch trials, of course, and it was a capital offense in Connecticut.

Even if such penalties were rarely if ever carried out (there's no record of a Marylander actually having his tongue nailed to a tree), the law was still stern. In 1811, a New Yorker named John Ruggles was convicted of blasphemy for shouting "Jesus Christ was a bastard and his mother must be a whore!" An appellate judge upheld the verdict, seconding the jury's reasoning that Ruggles had "openly and wantonly" reviled Jesus and Mary, with no purpose.

Such convictions came to an end in the 20th century. Civil libertarians in this country began to regard blasphemy as a strictly religious issue, and the courts agreed. The new American way was a sharp cultural break from the underlying bodies of legal thought in Europe and the United Kingdom, which had state-sanctioned churches. The position was cemented by the U.S. Supreme Court in 1952, in a case called Burstyn v. Wilson . New York had banned Italian filmmaker's Roberto Rossellini's film, "The Miracle," about a peasant woman who believed she was the Virgin Mary. It was legally imported into the country, but the Catholic Church lambasted it as sacrilegious. It was banned, a decision upheld by the state appellate court.

But the Supreme Court overturned the case, ruling: "It is not the business of government in our nation to suppress real or imagined attacks upon a particular religious doctrine."

Since then, the image and topic of Christ has been subjected to almost every indignity imaginable.

John Lennon notoriously opined in 1966 that the Beatles were "more popular than Jesus." There was Monty Python's "Life of Brian," the "Piss Christ" photo exhibit (with an image of a crucified Jesus, soaking in urine), Martin Scorsese's "The Last Temptation of Christ," and Kevin Smith's "Dogma."

Attempts to ban these things simply didn't work, or backfired. In 1999, record crowds showed when then-New York Mayor Rudolph Giuliani tried to shut down a museum for featuring a painting of the Virgin Mary besmirched with elephant dung.

Want to see a movie crowd this summer? Try to get into "The Da Vinci Code" on opening day.

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To Mark Galli, managing editor of Christianity Today, the American willingness to offend Christianity, but extend deference to Islam regarding the current batch of Muhammad cartoons, can be understood through a series of cultural and political differences.

First, he notes, Christians worship a man who was persecuted, beaten and killed. The sense that people might persecute Christ's followers is an inherent part of the Christian ethos, he says, so Christians are inherently likely to tolerate offense. Muhammad, a prophet who died after an illness, did not leave behind a religion with that mindset, he says.

The second factor, he theorizes, is that American society assigns different rules of social conduct for majority and minority cultures, in which the dominant culture isn't supposed to ridicule smaller ones. It's done, of course, but it's seen as bad form.

"Christianity is fair game for mocking because it's an established presence here, it's always been a majority, and there's no sense of followers being a persecuted minority," he says. "When people can be publicly mocked in this country, it means you're a player, and you're going to take your lumps with everyone else. There's not that sense with Muslims. People are more cautious."

Cautious, yes, but not unwilling to offend religious minorities.

Last year, Mel Gibson's "The Passion of the Christ" drew protests that it was anti-Semitic -- and yet was a blockbuster. When Ayatollah Khomeini issued a 1989 fatwa calling for the murder of Indian-born British novelist Salman Rushdie for alleged blasphemies in "The Satanic Verses," the book became an American bestseller and Rushdie an icon of free speech.

Defiance of a Muslim edict was behind the publication of Muhammad cartoons in the Denmark newspaper and subsequent reprintings in newspapers across Europe, says Sayyid M. Syeed, secretary general of the Islamic Society of North America.

Syeed, who was born in Kashmir and immigrated to the United States as an adult, says that while millions of Muslims may think of America as a pro-Israeli invader of Iraq, it is still true that much of that knowledge is not based on personal experience. European affronts, through a long history of colonialism and exploitation, are more visceral. They've left scars. They've created a different psychological relationship.

"European countries were colonial masters of several Muslim lands, and the psychological aspects of that relationship have lived on and on," Syeed says. "It's difficult for the Belgians, the Danes, the French -- it's difficult for them to believe that these former colonies have a religion that is of consequence. They get a kick out of insulting them."

Yvonne Haddad, professor of the history of Islam and of Christian-Muslim relations at Georgetown University, continues the theme:

"Of the 57 nations that belong to the Organization of the Islamic Conference, 54 have been colonized by Europe," she says. "That history is well known in Islamic countries, you've got the current war in Iraq. . . . Those things form the context for this sort of response. Devout Muslims are offended by the cartoons, but this is not just a religious affront. It's also political."

Agent Provocateur (NYT)

By Kamila Shamsie

The New York Times, February 15, 2006

Karachi, Pakistan

OF course this isn't about freedom of speech."

I've heard that line countless times in Karachi lately about the Danish cartoon controversy, including from journalists who fiercely guard their own right to work without censorship. There is nothing but condemnation here for European newspapers' publication of the cartoons.

But there are two separate threads to this condemnation. The first relates to the extreme religious offense caused by the cartoons, which has prompted an increasing number of protests, with a worrying trend towards violence. The small rallies a week ago were heartening in their peacefulness, but yesterday the protests claimed two deaths in Lahore and significant destruction. Though the numbers taking to the streets are still not vast by Pakistani standards they are growing.

The second thread to the condemnation concentrates not on the offense itself, but on the motive behind it. The idea that the cartoons were a deliberate provocation to get us to behave badly is being encouraged by officialdom: various political groups have condemned "the planned conspiracy by the West to instigate the Muslims"; the Foreign Office has said the cartoons are

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part of "sinister agendas"; the chief minister of the country's most religiously conservative province, himself a leading member of the religious alliance that gains much of its popularity from its anti-Western stance, has said the cartoons are aimed at bringing about "the clash of civilizations."

"Do you think people buy this line?" I asked a businessman whose political opinion I've always respected.

"Yes," he said. "But there are two ways in which that can be played out. One is that your 'fringe element,' who often turn to violence, mute their responses in order to defeat this alleged agenda of provocation. And the other is that they say, 'You want a fight, O.K., we'll give you a fight.' It all depends on how the religious leaders direct them for their own political ends."

But to what extent do people away from the fringe buy into this notion of a conspiracy? At a coffee bar in Karachi with four of my female friends — two schoolteachers, a lawyer and an interior designer — I asked, "Were the cartoons meant to be provocative?"

"Yes!" The response was unanimous.

"So is there a conspiracy to provoke Muslims into reacting violently?"

Here, everyone's certainty diminished. "No, not a conspiracy," one of the schoolteachers said, and the others signaled agreement.

I couldn't quite work out if the distancing from the word "conspiracy" had to do with the whiff of paranoia that has attached to it since the term "conspiracy theorist" came into vogue. "What is the point of the provocation?" I pressed on.

"Who ever knows what's going on?" one of the schoolteachers said. "It's something internal going on in those places. Or something to do with their own politics about, who knows, Iran, Israel. It could be anything."

"It's not the publication in Denmark I find most objectionable," said the other schoolteacher. "It's the re-publication in France after all the riots that happened there. This is their way of telling the Muslims: 'You are second-class citizens. We don't care about your sensitivities.' "

Later, over dinner, a member of my family said: "It's just racism. You act in ways that you know will provoke the extremists to start ranting and then you get bearded men frothing at the mouth, and — because those are the only images that get significant news coverage — you can then turn around and say, 'You see, all Muslims are fanatics.' "

"And that plays straight into the hand of the right wing in Europe whose greatest strength comes from racist polemic?" I finished. That really didn't seem a million miles away from suggestions of a conspiracy.

"Listen," said my father. "The most important thing here is not to confuse a group within an entity for the entity itself. Europeans, Muslims, European Muslims — most people just want to live in peace. For us to start believing Europe is represented by its right-wing fanatics would be as wrong as for them to believe Islam is represented by our right-wing fanatics."

But until someone finds a way to turn "Muslims don't riot" and "Europeans don't conspire" into news stories, there doesn't seem any easy way to avoid precisely such confusion.

The Islam Gap (NYT)

By Karim Raslan

The New York Times, February 15, 2006

Jakarta, Indonesia

SOUTHEAST Asian Muslims have not been roiled by a clash of civilizations. Rather, people like me — Western-trained, English-speaking and constantly traveling — have begun to see the subtle differences that fracture our civilizations from within.

Whether we are conservative or liberal, many of us are appalled and angered by the stupidity and insensitivity of the Danish newspaper cartoons. But that doesn't mean we've taken leave of our senses. I, for one, won't be throwing out my Lego set or my Bang & Olufsen sound system, let alone plotting to unveil a Zionist conspiracy. I may be a Muslim, but I can tell the difference between a newspaper and a people, a country and a principle.

Even Din Syamsuddin, the head of Indonesia's 30 million strong Muhammadiyah Muslim association (and a firebrand by most accounts), told his followers to remain calm: "I urge Muslims not to overreact and act in a violent and anarchist way because those things are completely against Islamic teachings."

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We generally believe that anger and violence are self-defeating. The region's moderate leaders, like Malaysia's prime minister, Abdullah Badawi, and Indonesia's president, Susilo Bambang Yudhoyono, exemplify this belief. Both men have criticized the cartoons. "The rights of press freedom are not absolute; whatever the faith, we must respect it," President Yudhoyono said. Still, neither he nor Mr. Abdullah has advocated boycotting Danish products or ending relations, although hotheads in both countries have called for such radical steps.

To be sure, there have been some copycat demonstrations in Kuala Lumpur and Jakarta, as well as attacks on the Danish and American consulates in Indonesia's second-largest city, Surabaya. But the extensive violence and ugly rhetoric we are seeing broadcast from elsewhere in the Muslim world point to differences between the Arab-Muslim heartland and the Indo-Malay periphery.

Yes, we are part of the extended family of believers, the ummah. We cannot help but feel some sense of solidarity with our co-religionists in Damascus, Tehran or Cairo. But the explosiveness of the Arab street doesn't translate, somehow, to the tropics. Many of us have a growing suspicion that we are culturally different from our Arabic- and Urdu-speaking brethren, perhaps more tolerant and less emotional.

I am reminded of how uncomfortable I felt last year when traveling through Saudi Arabia, surrounded by a people I found disquietingly alien. For all we share as Muslims, we Southeast Asians don't really know what it's like to inhabit the cultures or politics of the Middle East.

Nor is the West a unitary culture. Europe's fervent secularism reminds me that the nation of the Great Satan, with its crowded churches and Sunday preachers who fill sports stadiums, is actually more like my world than Europe is.

Since Sept. 11, I've accepted certain verities that now I have come to question. Europe was supposed to be the neutral bastion of moderation in the face of a belligerent America. But in fact that Europe is godless and alone.

Lebanon Remembers Hariri (CSM)

By Nicholas Blanford

The Christian Science Monitor, February 15, 2006

BEIRUT - Lebanon's Cedar revolutionaries returned to the streets here Tuesday, transforming the city center into a swaying sea of red and white national flags as the country marked the anniversary of the assassination of former Prime Minister Rafik Hariri.

The rally, which drew as many as 1 million, echoed last spring's huge anti-Syrian protests spurred by Mr. Hariri's murder that compelled Damascus to withdraw its troops from Lebanon. The Syrian disengagement was supposed to usher in a new era of independence from Damascus's embrace.

Yet a year on, Lebanon is deeply divided, split by a resurgent sectarianism, threatened by a growing Al Qaeda presence, and torn by competing political visions over the future direction of the country.

This country is once more becoming a battleground in a broader struggle for control of the Middle East, pitting the axis of Iran, Syria, and Lebanon's powerful Hizbullah organization against the influence of the West, chiefly the US, Britain, and France.

"Lebanon will be engulfed again in a huge power game that will last quite a long time. This is the tragic destiny of Lebanon," says Walid Jumblatt, the leader of Lebanon's Druze community.

Twelve months after his death, the shadow of the billionaire construction tycoon and politician continues to loom over a country that saw the heady optimism of last spring's Independence Uprising, often called the Cedar Revolution, turn into disillusion, political turmoil, and bloodshed.

From dozens of newly erected billboards, Hariri's face gazes benevolently out over a city that he helped rebuild from the ruins of the 1975-1990 civil war. "They feared you and killed you," reads one sign. At one junction, an electronic counter ticks away the number of days in red numerals since Hariri died along with 22 others when a van packed with nearly a ton of TNT exploded beside his motorcade in central Beirut.

In Martyrs' Square where the flag waving demonstrators gathered Tuesday, organizers hoped to revive the spirit of the Independence Uprising, focusing this time on ousting Emile Lahoud, the pro-Syrian president.

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"There is one person who is playing with Lebanon's security and that's Emile Lahoud," says Tarek Balad, carrying a portrait of Hariri. "All Lebanese want him to go."

In an address to the crowd from behind a bulletproof glass screen, Saad Hariri, Rafik's son and political heir, called for Mr. Lahoud's ouster, describing him as "the symbol of [Syrian] domination."

Chibli Mallat, a democracy campaigner who advocates replacing Lahoud, says that the rally marked a "new phase" in the struggle for full independence. "The extraordinary momentum we have gathered again today will have been lost if we don't succeed in translating this very massive demand for him to leave into his ousting," he says.

Yet, like the mass rallies of last year, the participants were mainly Christians, Sunni Muslims, and Druze. Other than formal delegations, Lebanon's Shiites, the largest of the country's sects, were absent, underlining Lebanon's deep political and sectarian divisions.

The US is urging the Lebanese government to disarm the powerful Shiite Hizbullah organization in compliance with UN Resolution 1559. However, Hizbullah and its allies represent a third of the government, and the party refuses to disarm. The political dispute is paralyzing the government's ability to tackle the moribund economy and improve the fraught security climate.

Sensing the government's weakness, Syria's former allies are gaining confidence and mobilizing their supporters. "There's a new order in Lebanon that is getting ready to change the situation," says Wiam Wahhab, a staunch pro- Syrian former minister.

The political turmoil is aggravated by a heightened sectarianism that is further complicated by the emergence of a militant Islamist trend that has taken hold in the poorer Sunni regions of north Lebanon. "The political differences have assumed very sharp cultural dimensions which is very disturbing," says Samir Khalaf, professor of political science at the American University of Beirut.

Last month, Lebanese authorities arrested 13 members of an Islamist cell, the latest evidence, the government says, of Al Qaeda-style militancy establishing a foothold in Lebanon.

Earlier this month, thousands of mainly Sunni demonstrators, including Islamist militants and pro-Syrian activists, rampaged through a Christian quarter of Beirut when a protest against the publication in Europe of cartoons depicting the prophet Muhammad turned into a sectarian riot.

The Lebanese government accuses Syria of seeking to destabilize Lebanon by inciting this kind of violence. Of the rioters arrested, almost half were Syrians or Palestinians.

Damascus is also blamed for a sporadic campaign of bombings and assassinations that has forced some prominent critics of Syria to stay overseas.

Many Lebanese say the tensions will continue until a UN investigation into Hariri's death is concluded and the culprits are known. But the commission has warned that it could take months, maybe years, before the identity of the killers is finally revealed.
Lebanon's turbulent year

• Feb. 14, 2005: Former Lebanese Prime Minister Rafik Hariri is assassinated in Beirut with 22 others
• Feb. 16: About 200,000 Lebanese protest Syria at Hariri's funeral
• March 8: Hizbullah organizes a large "pro-Syrian" march in Beirut
• March 14: About 1 million Lebanese rally to call for Syrian withdrawal
• April 26: The last Syrian troops leave Lebanon ending a 29-year military presence
• Oct. 20: UN investigators say high-ranking Syrian officials were involved in Hariri's killing

Sources: United Nations, AP

Audiences Cheer Film's Anti-U.S. Message (WT)

By Nicholas Birch

The Washington Times, February 15, 2006

ISTANBUL -- A new film riding on a wave of anti-Americanism is attracting record audiences in Turkey and has drawn approving comments from the wife of Prime Minister Recep Tayyip Erdogan.

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Gum-chewing U.S. soldiers shoot Iraqis in cold blood at a wedding in one scene from the movie. In another scene, set at that the Abu Ghraib prison near Baghdad, a Jewish-American doctor harvests Iraqi prisoners' kidneys for sale to Israel and the West.

"What this film shows is that the Americans won't always have it their way," said Serdar Yagci, a student outside a theater in central Istanbul.

Minutes earlier, he had been one of many in the audience who stood up and cheered when the film's dour hero, Turkish agent Polat Alemdar, tracked down and killed a villainous U.S. Army officer who said he was guided by God.

"Valley of the Wolves: Iraq" fictionalizes the arrests of members of a Turkish military mission in Iraqi Kurdistan in 2003. Suspected of plotting to assassinate a Kurdish politician, the 11 men had sacks placed over their heads by U.S. soldiers before being taken to Baghdad for questioning.

In real life, Turks could do nothing but fume at what they perceived as a grave insult to their country's most respected institution: the army. In the film, Alemdar takes single-handed revenge on the perpetrators of the slight before bringing peace to Iraq.

"It sounds laughable -- an eye for an eye, a tooth for a tooth, a sack for sack," wrote Alin Tasciyan, one of several critics to pan the film for its "clunky, didactic dialogue" and bad acting.

"Valley of the Wolves" is not the work of independents or amateurs. With a budget of $10 million, it's the biggest-spending Turkish film in history. The international cast includes Hollywood actor Billy Zane of "Titanic."

Within three days of its release, the movie had been seen by 1.2 million people, a 40 percent increase on the previous viewing record.

At a gala performance earlier this month, the actors rubbed shoulders with Turkey's elite.

"I feel so proud of them all," said Emine Erdogan, wife of the prime minister, comfortably ensconced in a seat next to the actor playing Alemdar.

Although Foreign Minister Abdullah Gul insisted that the film was no worse than some of the productions of Hollywood studios, Turkish parliament leader Bulent Arinc praised its "realism."

U.S. officials in Turkey laugh off the significance of the film, but a senior Washington official interviewed by the Turkish daily Milliyet last week expressed concern about its success in a secular Muslim country with a U.S. alliance since the early 1950s.

"Can you imagine the first lady or the head of the House of Representatives going to the gala performance of a film that could incite anti-Turkish feeling among Americans?" the official asked.

U.S. Cuts Funds For Family Planning Overseas, Stirring Opposition (NYT)

By Celia W. Dugger

The New York Times, February 15, 2006

WASHINGTON, Feb. 14 — President Bush, who acted on his first full day in office five years ago to deny federal aid to overseas groups that help women obtain abortions, is for the first time proposing sharp cuts in financing for international family planning programs that the White House had described as one of the best ways to prevent abortion.

Since 2001, the administration had adhered to Mr. Bush's commitment to maintain the financing of such programs at $425 million, the same level as in the last year of the Clinton administration.

But in the president's new budget proposal, financing would fall 18 percent, from $436 million this year to $357 million.

The cuts are stirring strong opposition from nonprofit groups and Democrats on the House and Senate appropriations subcommittees responsible for foreign aid. They say the reductions would mean more unintended pregnancies for the world's poorest women, and more dangerous abortions in countries where the procedure is outlawed.

"It's ironic that an administration outwardly committed to reducing the incidence of abortion would take away valuable tools for preventing unwanted pregnancies," said Representative Nita M. Lowey, Democrat of New York.

Ed Fox, an assistant administrator at the United States Agency for International Development, said the budget cuts for family planning should be viewed in the broader context of large proposed increases for presidential initiatives to combat AIDS and malaria that will greatly benefit women.

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He also pointed to a $21 million program to help African women combat sexual violence.

"This is a much better budget than we've had in the past for women's health," he said.

The extent of the reductions for family planning became apparent only this week when Mr. Fox provided an overall estimate of financing from "all spigots" in both the State Department and A.I.D. budgets — a figure requested Wednesday. The budget released Feb. 6 contained clues to the decline in financing but not the total number.

The disagreement over Mr. Bush's approach to family planning services in developing countries dates back to one of his first acts as president. On Jan. 22, 2001, he reinstated a Reagan-era rule that prohibited the financing of groups that provided abortion services, counseled women about abortion or advocated for the legalization of abortion.

Critics of this policy called it the "gag rule" because it penalized groups that pushed for changes in laws.

The International Planned Parenthood Federation, with membership associations in 151 countries, lost an estimated $15 million a year in federal financing because it refused to comply, said its director general, Dr. Steven W. Sinding.

Just last week, on the same day the president's budget was introduced, the British development agency announced a global program for safe abortion, pledging about $4.5 million to Planned Parenthood to carry it out.

In a news release, the agency said the funds were intended to "support work on abortion that has suffered or been neglected as a result of the Global Gag Rule."

Even as the abortion debate raged, the administration had stuck to a commitment the president made the same day he reinstated the Reagan-era rule.

A White House news release said President Bush would maintain the $425 million financing level because he knew family planning services were "one of the best ways to prevent abortion."

Top Vote-getter Alleges Fraud In Haitian Elections (USAT/AP)

By The Associated Press

USA Today, February 15, 2006

PORT-AU-PRINCE, Haiti — Leading presidential candidate Rene Preval claimed Tuesday that “gross errors” and likely fraud marred the vote that saw him fall just short of a first-round victory.

He also urged supporters to protest peacefully, a day after at least one pro-Preval demonstrator was killed.

“We are convinced that either massive fraud or gross errors stain the (electoral) process,” Preval said.

United Nations spokesman David Wimhurst said no evidence of fraud was detected in the vote. Haitian officials haven't said when they will release final results.

White U.N. armored vehicles shoved aside roadblocks of junked cars, old refrigerators and other debris in the capital Tuesday. Most streets were clear by midafternoon. Businesses remained shuttered, but street markets bustled with shoppers.

Preval, a former protégé of ousted president Jean-Bertrand Aristide who enjoys support among the poor, called on followers to remove all roadblocks so people can get to work.

“I ask the Haitian people … to be mature, to be responsible, to be non-violent,” Preval told reporters on the lawn of his gated home in the Petionville suburb.

The most recent election results, posted on the electoral council's website Monday, showed Preval had 48.76% of the vote with 90% of ballots counted. He needs 50% plus one vote from the Feb. 7 election to avoid a March runoff.

The constitution indicates a challenge would go to the Supreme Court, but the interim government recently decreed that complaints should go to the electoral commission — the same body issuing results.

The U.N. Security Council urged Haitians to respect election results and extended the U.N. peacekeeping mission for six months, until Aug. 15. About 7,300 U.N. troops and 1,750 international police are in Haiti.

A runoff election would pit Preval against Leslie Manigat, also a former president, who got 11.8% of the vote, according to preliminary results.

Haitian Front-Runner Breaks Silence; Charges Fraud (NYT)

By Ginger Thompson And Amy Bracken

The New York Times, February 15, 2006

DOJ_NMG_0015173

PORT-AU-PRINCE, Haiti, Feb. 14 — René Préval, whose support among the poor masses has made him the favorite to become Haiti's next president, stepped out of the silence he began after the election last week to charge Tuesday that "massive fraud and gross errors had stained the process."

Still, he urged the throngs of people who had paralyzed cities with flaming barricades and protests to end the violence and continue demonstrating peacefully.

"The Haitian people are frustrated," Mr. Préval said. "They have a right to be frustrated. And they have the right to protest. But we must respect private property. We must respect the law. We must respect the rights of others.

"Do not give in to anger. Today, let's conduct politics intelligently, without violence."

At a news conference at his sister's house in Peguy-Ville, a hillside suburb, Mr. Préval rejected election results released so far that showed him with a wide margin against his nearest opponent, but slightly short of the 50 percent plus one vote that he needs to avoid a runoff. He said the tabulations had been rigged against him, but he and his supporters offered little in the way of evidence.

In the name of his coalition, Lespwa, the Creole word for hope, Mr. Préval demanded that electoral authorities withhold announcing the final results, which had been expected Tuesday but were delayed until Wednesday, for a transparent recount.

"If you publish the results the way they are now," Mr. Préval said, "Lespwa will contest, and the people will contest."

The warnings and calls for calm, live on radio and television stations, seemed to have almost immediate effects. Leaders of the interim government and foreign diplomats worked on plans for a review of the tabulations. United Nations troops began clearing away junked cars, heavy boulders and burning tires blocking the main thoroughfares here. Traffic began crawling where angry protesters had roamed. Markets began bustling with shoppers. And small demonstrations felt more like parties than protests.

"Now I feel happy," said Denis Constant, one of a few hundred people who danced through Canapé Vert on Tuesday afternoon. "I don't know whether he will be president. But I think things will all work out."

It was unclear to most people how the saga surrounding the elections on Feb. 7 would end. The contests, organized by an interim government, installed by the United States and backed by 9,000 United Nations troops, were widely considered crucial to restore a semblance of democracy to a country whose institutions have been wrecked by a long history of dictators and whose people were sucked into a new cycle of upheaval two years ago when an armed uprising ousted President Jean-Bertrand Aristide.

The elections had seemed to pull Haiti back from the brink of civil war. After a tumultuous start, large numbers of people waited for hours to cast their ballots without a serious incident of violence. But the tabulation and accusations from political camps that tally sheets were manipulated have re-ignited old fights.

Political analysts close to the negotiations that started after violence flared Monday indicated that a special commission could be formed by foreign diplomats, the interim government and the United Nations Stabilization Mission in Haiti to review the tabulations. Michel Brunache, director of the cabinet of the interim president, said in an interview that the commission would not include foreigners, but representatives of the Provisional Electoral Council, from Mr. Préval's Lespwa party and from the government's executive branch..

To prevent violence, Mr. Brunache said, the government made an agreement with Mr. Préval to withhold the final results until the commission had finished its review.

"During these elections, Haitian people showed their desire to advance democracy," Mr. Préval said, referring to a turnout estimated at more than 60 percent. "The people are convinced I won in the first round. But when they saw the votes for me begin to decline, it was like a cruel hoax. Their hope turned to anger."

His camp offered no numbers or documents to refute conclusively the results so far, which show him with 48.7 percent of an estimated 90 percent of the ballots. Suspicions seemed to focus on an estimated 85,000 blank votes and 120,000 voided ballots, of about 2.2 million votes that election officials said had been cast.

Advisers to Mr. Préval suggested that tens of thousands of Haitians would not have walked hours or stood in line to cast blank votes.

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Those ballots, by law, have been included in the net totals. Without them, Mr. Préval would have, so far, won more than 51 percent of the vote.

Some people, however, see the large number of blanks as reflecting broad contempt for their government — which has done little to lift this country out of extreme poverty — or of people's disfavor for all 33 presidential candidates.

Mr. Préval's advisers also expressed concerns about an estimated 8 percent of the ballots that are missing, at least half believed lost or stolen. The advisers pointed out the wide discrepancies between the results announced by the government and those predicted by independent international organizations.

A slow-count sample of the results by the National Democratic Institute showed that Mr. Préval would win in the first round, with 52 to 54 percent of the votes. A ballot survey by the Organization of American States showed that Mr. Préval would win an estimated 55 percent of the votes.

"We have solid arguments that the results by the government do not reflect reality," said Bob Manuel, an adviser to Mr. Préval who was loosely translating the candidate's words for the Spanish-speaking news media. "We are asking them to wait so we can present evidence."

Residents from a violent slum, Cité Soleil, near Titanyen, 20 miles north of the capital, said they found mounds of ballots dumped there, most supporting Mr. Préval.

Cité Soleil is a Préval stronghold. A spokesman for the United Nations mission here, David Wimhurst, said the ballots could have come from one of the nine voting centers trashed on Election Day. But he could not confirm that. Other than the images of thousands of pages of documents, the discovery had not been confirmed. After the scenes of the discovery were broadcast on television, there were reports of barricades going back up in scattered parts of the capital and of gangs of young men on motorcycles screaming threats.

As for Tuesday, all tabulations stopped. A high O.A.S. official said work at the central tabulation center stopped because barricades kept technicians from reporting in.

Haiti's Preval Claims Fraud Spoiled His Win (WP)

By Manuel Roig-franzia

The Washington Post, February 15, 2006

PORT-AU-PRINCE, Haiti, Feb. 14 -- Haiti's fractured electoral process, already disrupted by street protests Monday, stalled further on Tuesday as the leading presidential candidate, Rene Preval, said "gigantic fraud" had kept him from a first-round victory and official vote-counters refused to report for work because they feared attacks by protesters.

Preval's return to the capital after nearly a week at his remote mountain home had a soothing effect on demonstrators, who responded to his plea for calm Tuesday by taking down most of the fiery roadblocks they had set up since early morning. But the lull appeared to be only temporary as the country anxiously awaited final results a full week after the Feb. 7 election.

"If they publish the results as they are now, we will oppose them, the Haitian people will also oppose them, and there will be protests," Preval said, addressing reporters as he sat on a striped couch beneath a flame tree in the back yard of his sister's gated home in suburban Pegguyville.

Preval, a former president and agronomist who is popular with Haiti's poor, railed about "gross errors" in vote counting, but he declined to discuss specifics or present evidence to support his claims.

With about 90 percent of ballots counted, officials said Preval had won 48.6 percent of the vote. That total is short of the simple majority required to avert a runoff with Leslie Manigat, another former president, who won 11 percent of the vote.

Liszt Quitel, an adviser to Preval, said the campaign had been told that the remaining ballots are missing. "People on the inside are saying they don't know where they are," Quitel said.

David Winhurst, a spokesman for the United Nations, said that "we have no evidence of fraud." The United Nations supplied 9,000 troops to safeguard the election.

Preval asked demonstrators to allow truck drivers to take food to markets and students to get to school. But he also encouraged his supporters to continue demonstrating to show their displeasure with the vote counting.

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"Continue to protest, but respect the rights of others," he said at the news conference, which was broadcast live on national radio stations.

The capital, brought to a standstill by Monday's violent protests and left with eerily empty streets that night, lurched back to life Tuesday after Preval's remarks. In Pegguyville, the calls of street hawkers filled the market air and women balancing bowls of grapefruit on their heads navigated the steep streets.

Parades of Preval supporters -- the same groups who burned tires and erected roadblocks the day before -- turned celebratory and hopeful. They marched through the streets, banging drums and waving posters with the emblem of Preval's party, Lespwa (the Haitian Creole word for "hope").

Preval supporters were furious late Tuesday, and said their fraud allegations had been proved when a local television station in Port-au-Prince repeatedly broadcast footage of ballots with Preval's name checked that were found discarded and, in some cases, partially burned at a dump in Port-au-Prince and two other locations.

"We knew that there was a massive fraud, but we could not put our fingers on it," said Fritz Longchamp, a Preval adviser and former Haitian ambassador to the United Nations. "Now we have the proof."

Interior Minister Paul Magloire told the Associated Press late Tuesday that the interim government had ordered a review of election results, in what would be a first formal step to investigate possible irregularities.

Four presidential candidates have already conceded Preval's victory after receiving small percentages of the vote, but businessman Charles Baker, who was in third place, said he would demand a spot in a runoff. Manigat's wife told the Associated Press that her husband would not cede the election to Preval.

Quitel said the Preval campaign was suspicious about the high percentage of blank ballots, more than 7 percent, and discrepancies on the electoral commission Web site.

Preval has spent the past two days in intensive meetings with U.S. and other international diplomats, as well as leaders of Haiti's interim government, which was set up two years ago after the ouster of President Jean-Bertrand Aristide. Preval, Haiti's president from 1996 to 2001, was a protege of Aristide's but has distanced himself in recent years, leaving Aristide's Lavalas party and forming Lespwa.

Winhurst said U.N. officials hoped a renewed sense of calm in Port-au-Prince would hold through the night, enabling ballot counters to resume working on Wednesday morning.

"They were uneasy with the big crowds," he said. "The crowds on the street who want a result are actually impeding results being completed."

Preval accused "provocateurs" in the opposition of trying to stir up his loyalists in an attempt to isolate and discredit them in the eyes of international observers. Preval's supporters, however, appeared largely responsible for the chaos that gripped this impoverished nation of 8.1 million Monday, when hundreds of roadblocks paralyzed cities and towns across the nation.

"The president told us to do this," demonstrator Maxim Detouche said Tuesday as he walked away from a dismantled roadblock in Petionville, a wealthy neighborhood in the hills above Port-au-Prince. "Now they are trying to bluff him; the election commission is trying to trick him."

Hundreds of people streamed past Detouche, blowing horns and chanting Preval's name. A dozen young women sang, "Oh yeah, Preval. I have been waiting for you."

China Task Force To Wield Trade Rules (USAT)

By Elliot Blair Smith

USA Today, February 15, 2006

The Bush administration proposed Tuesday to establish a China Enforcement Task Force under the U.S. Trade Representative as a legal counterweight to Chinese exports that the government says benefit from illegal state subsidies and lax controls on counterfeiters.

U.S. Trade Representative Rob Portman accused China of failing to respect intellectual property rights, environmental concerns and labor standards, and for failing to fully open its markets to foreign competitors.

Last year, the U.S. trade deficit with China was nearly $202 billion.

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Moving to head off congressional criticism of the relationship, Portman outlined a policy of more muscular U.S. negotiations with China bolstered by the administration's willingness to seek legal sanctions against China at the World Trade Organization.

"U.S. policy must now shift to treating China as a mature trading partner that should be held accountable for its actions and required to live up to its responsibilities," Portman said in a letter to U.S. Rep. Charles Rangel, D-N.Y., that accompanied the report to the House Ways and Means Committee.

China's government had no immediate comment. Several congressional Democrats and Republicans welcomed the administration's tough talk. But the report outlined no new legal authority or doctrine to pursue sanctions already available through the WTO.

"If you've got complaints that China is not meeting its WTO obligations, go to the WTO," said David Wall, a China trade expert at Chatham House in London. He added, "It's an enormous country, and growing fast, but it still has to be taken as a poor country."

Harvard University economist Kenneth Rogoff said China's export of inexpensive goods to the USA combined with its large holdings of U.S. dollars and government securities have been largely beneficial, holding down domestic inflation and interest rates.

However, Rogoff said the administration should challenge unfair trade practices. "Going forward, as China grows, it has to start behaving like one of the big boys. It has to behave by the rules," he says.

The U.S. Trade Representative said the U.S. market accounted for 22% of China's "phenomenal export growth" over the last 20 years, at a time when exports came to represent 40% of that country's economy and lifted nearly 400 million people out of poverty. But, Portman warned, "The relationship today lacks equity, durability and balance in opportunities it provides."

U.S. Trade Chief Pledges To Get Tougher On China (WSJ)

By Greg Hitt And Murray Hiebert

The Wall Street Journal, February 15, 2006

In a wide-ranging U.S. appraisal of policy toward China, U.S. Trade Representative Rob Portman is promising much tougher enforcement of trade laws but isn't asking Congress for expanded authority to sanction Beijing.

In a report released Tuesday, Mr. Portman voices concern about China's failure to curb the piracy of U.S. intellectual property and enforce international labor standards.

Warning of a "corrosive effect on political support" in the U.S. for trade with China, Mr. Portman flags concern with Beijing's "unreported and extensive" industry subsidies, and a network of trade barriers that he says keep out U.S. exports and helped fuel a record U.S. trade deficit. That deficit reached $725.75 billion in 2005.

U.S. Trade Representative2 Rob Portman discusses U.S.-China trade relations.

On trade with China alone, the U.S. deficit stood at $201.62 billion last year, more than 20% wider than 2004, by far the largest U.S. gap with any single country.

Mr. Portman concedes American consumers and businesses have reaped benefits from closer economic ties with China, which began nearly three decades ago and accelerated rapidly after China joined the Geneva-based World Trade Organization in 2001. But absent "tangible evidence" that China is moving to address U.S. concerns, Mr. Portman says, "Popular support for a 25-year-old trade policy of constructive economic engagement with China could be in danger, with potentially damaging consequences for both countries."

The report outlines steps that will be taken to address U.S. concerns and protect U.S. business interests. Among other things, Mr. Portman will establish a task force that "will focus on the preparation and handling of potential WTO cases with China." The task force will be headed by a new chief counsel for China trade enforcement.

In addition, Mr. Portman announced that priorities within his 225-employee office will shift to focus more attention on China. Mr. Portman anticipates posting a senior trade official in Beijing to help coordinate U.S. policy in China as part of an effort to beef up the agency's negotiating capacity.

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The report comes amid rising tensions in the U.S. Congress over U.S.-Sino trade relations. With the U.S. trade deficit soaring, several pieces of legislation have been introduced in recent days that would toughen U.S. policy toward Beijing, including a proposal to create a trade "prosecutor" outside the U.S. Trade Representative's office.

Officials from China's Ministry of Commerce said they wouldn't have any comment until they have had a chance to read the report.

But a Chinese academic said he doesn't think the review will have much effect in Beijing. Mei Xinyu, a researcher at the Commerce Ministry's Academy of International Trade and Economic Cooperation, called the report a "show to please Congress," whose members have become increasingly critical of the growing U.S. trade deficit with China.

Mr. Mei said China's export boom to the U.S. is caused by U.S. domestic demand and not by any sinister schemes by Beijing. "It is American companies [that] are transferring manufacturing to China, and American consumers are buying Chinese stuff on their own accord," he said.

Still, senior Chinese officials went on the offensive Tuesday against U.S. critics. Vice Commerce Minister Yi Xiaozhun insisted that inexpensive Chinese exports, far from undermining the U.S. economy, are in fact a blessing. Without them, U.S. inflation would be two percentage points higher than it is now, Mr. Yi told a China-U.S. business forum in Beijing. Mr. Yi also said that by using its export earnings to buy U.S. Treasury bonds, China is helping plug the U.S. fiscal deficit.

Mr. Yi said China seeks balanced trade with the U.S. But he criticized U.S. companies as not doing more to help. He said a sharp drop in U.S. foreign direct investment into China last year was "not very satisfactory" given the healthy profits U.S. companies make in the country. U.S. investment last year fell 22.3% to $3 billion from $3.9 billion in 2004.

Separately, the vice chairman of the Standing Committee of the National People's Congress, or parliament, also took U.S. companies to task for not selling more aggressively to China. Cheng Siwei, speaking at the same conference, said high-tech exports from the U.S. account for just 10% of China's total high-tech imports and should be higher.

In Congress, Mr. Portman is leery of efforts to create a trade "prosecutor" outside of his office, and prefers instead to work within the existing framework.

Mr. Portman and others in the administration of President George W. Bush "aren't asking for new authority, they're indicating a new seriousness," said Michael Wessel, a member of the U.S.-China Economic and Security Review Commission, a congressionally mandated panel that monitors ties with China.

Mr. Wessel said he expects the administration to try to file more trade-remedy cases in the coming months, and administration officials themselves cite a recent case that resulted in Beijing lifting special duties that had been slapped on certain U.S.-made paper products, as a model for further enforcement actions.

"This is laying out what's to come, but it is not the final step," one administration official said of the "top-to-bottom" review. "It is a refocusing and redirecting of resources. We'll work with Congress on additional steps that need to be taken."

In Beijing, the U.S. business community has been watching the review with some anxiety as U.S.-China trade relations have become testier in recent months.

"We are hopeful that the recommendations reflected in the USTR's report will move U.S.-China relations forward in a positive ... and constructive manner," said James Zimmerman, a Beijing-based trade lawyer with Squire Sanders & Dempsey and chairman of the legal committee of the American Chamber of Commerce in China.

But Mr. Zimmerman added that China "must continue to open its markets" beyond its agreements when it joined the WTO in 2001. He called on Beijing to "improve its intellectual-property enforcement system [and] improve transparency and corporate governance" to make it easier for U.S. companies to do business in China.

The policy review has been more than six months in the making and involved input from across the Bush administration, encompassing the departments of Commerce, State and Treasury and the White House.

The review suggests the administration can do a better job of promoting exports to China, especially for small and midsize companies. Mr. Portman promised in the spring to conduct the review after he was confronted with a raft of complaints about China during his Senate confirmation hearings.

The document doesn't call for a radical shift in U.S. policy as some members of Congress have sought. Rather, the 30-plus-page report tries to respond to congressional critics who contend the administration has no coherent policy toward China,

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according to business and government officials. The report describes a dual-track policy approach, one that stresses the need to engage in a dialogue while suggesting there is a limit to how much can be accomplished by just talk.

"The administration is trying to send a signal," said Myron Brilliant, the vice president for Asia at the U.S. Chamber of Commerce in Washington, who has been briefed on the document. "We want engagement. But we want results."

Bush To Exert More Pressure On China Over Trade Rules (NYT)

By Vikas Bajaj

The New York Times, February 15, 2006

Using stern language, the Bush administration said yesterday that it would exert more pressure on China to adhere to global free trade rules.

But in a report, the United States trade representative, Rob Portman, did not ask for or threaten any specific sanctions against the Chinese, an omission that will not escape the notice of both Democratic and Republican lawmakers who have been calling for the administration to take a far tougher line with China.

The report came just four days after the United States announced a record trade deficit of $201.6 billion with China for 2005. That report stoked what was already a heated debate about the role that free trade has played in the loss of American jobs caused by a shift in production to lower-cost countries like China.

At a news conference yesterday, Mr. Portman registered concern about China's enforcement of intellectual property rights and the lack of openness of its markets to American goods and services, a reference to Chinese restrictions on certain foreign investments and trade in financial and other professional services.

Noting that American trade with China "lacks equity, durability and balance in the opportunities it provides," Mr. Portman said: "This disparity is due in part to China's failure to honor certain commitments, including its failure to enforce intellectual property rights, its protection and support for certain domestic industries, and its refusal to fulfill certain market opening commitments."

The report said that Mr. Portman's office would establish a chief counsel for China trade enforcement who will lead a task force to ensure better compliance by China with rules of the World Trade Organization. The report, which was first disclosed in The Wall Street Journal yesterday, also called for coordinating China trade policy with other countries and working with Chinese officials on improving financial, antitrust and agricultural regulations.

The steps are far milder than what many lawmakers have asked for. In the Senate, Charles E. Schumer, Democrat of New York, and Lindsey Graham, Republican of South Carolina, have proposed imposing a 27.5 percent tariff on Chinese goods until Beijing allows its currency to float more freely against the dollar. The senators say they may bring their bill up for a vote as early as March.

Last summer, the Chinese government allowed the yuan to appreciate against the dollar and float in a narrow band, giving in to pressure by its Western trading partners who have said China's artificially cheap currency gives its goods an unfair advantage on the world market.

In a statement released yesterday, the Chinese Embassy in Washington said that the yuan had risen to a new high since last summer. It said that further appreciation would be gradual, given that the Chinese government "places priority on promoting balanced international payments this year." One dollar currently buys about 8.0472 yuan.

Mr. Portman's office does not have jurisdiction over currency matters. Treasury Secretary John W. Snow, who has taken the lead role for the administration on the yuan, has repeatedly called on China to further relax the yuan's peg to the dollar but has resisted calls for sanctions.

Most economists say protectionist measures could cause harm by distorting global trade and raising the price of imported goods that Americans rely on. They also note that many financial institutions in China are not structurally sound enough to survive the instability that would come with a fully convertible yuan.

U.S. Pledges To Be Tough On China Trade (WP)

By Paul Blustein

The Washington Post, February 15, 2006

DOJ_NMG_0015179

The Bush administration vowed yesterday to bolster its enforcement against China's alleged unfair trading practices -- a pledge that drew praise from big business but scorn from congressional Democrats, who complained it was nothing more than rhetoric.

The vow came in a "top-to-bottom review" of U.S. trade policy toward China that Rob Portman, the U.S. trade representative, promised in April at his Senate confirmation hearing. The review did not propose any changes in policy or law; rather, it called for the establishment of special China-focused task forces and enforcement officers to pursue allegations that Beijing is violating trade rules.

The report was aimed largely at assuring congressional, industry and labor union critics of China that the administration is closely scrutinizing Beijing's trade practices and is prepared to aggressively counter the most objectionable ones. The White House is anxious to head off a number of bills targeting China that administration officials view as overly protectionist.

While emphasizing that both sides have benefited greatly from U.S.-China trade, the 29-page report cited a litany of problems, including China's maintenance of barriers against certain imports, its failure to halt the piracy of patents and copyrights, and its provision of "extensive" government subsidies to industries. It also contended that "important gaps remain in China's implementation" of the commitments it made to open its markets when it joined the World Trade Organization in 2001.

Portman said at a news conference that "we will use all options available" to remedy those problems, including filing more complaints against Beijing at the WTO. He specifically referred to two festering disputes as potential grounds for WTO cases -- China's "inadequate protection of intellectual-property rights" and "its rules that discriminate against imported auto parts."

But the only concrete measures proposed in the report involved procedural and personnel matters. The report said the trade representative's office would establish a China Enforcement Task Force to be headed by a new chief counsel -- the first such posts to be aimed at an individual country, according to Portman. The trade representative's office also plans to post a "senior trade official" at the U.S. embassy in Beijing, the report said.

Defending the report as "objective as well as hard-hitting," Portman said he hopes lawmakers "will find it an objective and helpful piece of information as Congress designs trade policy vis-a-vis China."

Major business groups greeted the report warmly. Problems in U.S.-China ties "can be resolved through the path of constructive engagements that Ambassador Portman has outlined," said John Frisbie, president of the U.S.-China Business Council, in a statement.

Among Republicans, even some of Beijing's fiercest critics had kind words for the report, including Sen. Lindsey O. Graham (S.C.). "I appreciate USTR and the Bush administration's willingness to aggressively engage China on a variety of issues that are creating tension," he said in a statement.

But Democrats were harsh on the report, especially because it barely touched on China's currency policy. By keeping the value of the Chinese yuan at a little over 8 yuan per dollar, Beijing allegedly gives its industries an unfair advantage in global markets. The currency issue is the purview of the U.S. Treasury, which released a separate report on the matter late last year, but Democrats attacked the USTR report anyway, on a variety of grounds.

"After reading the report, I have to ask -- where's the beef?" said Rep. Benjamin L. Cardin (D-Md.), ranking minority member on the trade subcommittee of the House Ways and Means Committee, in a statement. "The administration promises no new enforcement of trade laws, no new action in the WTO, and no further steps to combat China's unfair practices. The time for monitoring and bureaucracy has passed."

The report "doesn't have a whole lot of direct action to deal with what are widely perceived as immediate trade problems," agreed C. Fred Bergsten, director of the Institute for International Economics.

Still, he said, the report contained intriguing hints of measures that the administration is likely to take, including filing WTO complaints and launching more negotiations for free-trade agreements with China's neighbors. Talks with South Korea and Thailand are already underway.

"I think that's a not-so-veiled threat that unless China is willing to step up in [global trade negotiations] and liberalize its own barriers, the U.S. may proceed with alternative courses in the region," Bergsten said. "That's probably the most important leverage we have against the Chinese."

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One issue that Portman dismissed as relatively unimportant was the U.S. trade deficit with China, which reached a record $201.6 billion last year -- more than a quarter of the total trade gap. The overall U.S. trade deficit is mainly attributable to factors such as the low U.S. savings rate, Portman said. And China's huge contribution to it, he said, can be ascribed to the rapidly increasing amount of goods that, though partly designed and manufactured elsewhere, are assembled in China before being shipped to the United States.

Internet Firms To Defend Policies (WP)

By Yuki Noguchi

The Washington Post, February 15, 2006

Yahoo Inc., Google Inc. and Microsoft Corp. will go on Capitol Hill today to defend corporate policies for dealing with China that they say balance business interests with human-rights concerns.

In testimony before the House subcommittee on Africa, Global Human Rights and International Operations and the subcommittee on Asia and the Pacific, Yahoo plans to argue that the presence of the Internet does good for closed societies even when censored or restricted.

But some human rights advocates plan to testify that corporate America is abnegating its ethical responsibilities by complying with Chinese law. Others expected to testify include network-equipment maker Cisco Systems Inc. and representatives from the State Department.

The hearing comes after several incidents highlighted the privacy and censorship concerns of doing Internet-related business in China. Indeed, trafficking in information raises issues that complicate the free-speech spirit of many Internet companies. Last month, Google said it would censor certain results on the Chinese version of its search engine. Last year, Yahoo provided e-mail information to the Chinese government that led to the identification and incarceration of a dissident Chinese reporter. In December, Microsoft's MSN shut down the blog of another reporter.

Many other companies have struck similar compromises with the Chinese government to do business in China, which is one of the fastest-growing markets in the world.

Separately, the State Department yesterday said that it had established a Global Internet Freedom Task Force to monitor other governments' policies on censorship and restriction of access to information. The task force will make policy recommendations on how to maximize access to the Internet while minimizing government attempts to block information, State Department officials said.

"If you're on the ground in China, you have to comply with the [local] law," said Michael J. Callahan, Yahoo's general counsel, who plans to testify today. "Fundamentally, being there transforms lives, society and economies," he said.

Callahan said that when any government requests information, the company is often unaware how that information will be used. In the case of the jailing of journalist Shi Tao -- who had used a Yahoo e-mail account to post pro-democracy materials online -- Yahoo was unaware of the government's intentions, he said.

Google and Microsoft have used similar arguments to defend their entry into the Chinese market.

"We overridingly believe that it is better to provide this technology than to refrain from doing so," because on the whole it promotes the sharing of ideas, Microsoft general counsel Brad Smith said in a speech in Europe last month. "No technology is perfect; but it is fundamentally a technology that does good that we want to provide to our users in China and throughout the world."

But Mila Rosenthal, director of Amnesty International USA's business and human rights program, said such corporations haven't really tried to use their global brand names to take a stand for openness. "I don't think the U.S. companies have stood up to China," she said.

Global human rights subcommittee Chairman Christopher H. Smith (R-N.J.) said he has been fighting suppression of free speech for 26 years.

"It's reached a new level, with U.S. companies' complicity with tracking down dissidents," said Smith, who has drafted but not yet introduced a bill that among other things would create oversight at the Commerce Department and the Justice Department before any private information about a user could get handed over to repressive governments.

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Lucie Morillon, the Washington representative of Reporters Without Borders, said the companies should both self-regulate and be overseen by the U.S. government to prevent future crackdowns against dissident journalists.

"[The companies] are helping to create a country-specific access to multiple versions of the Internet," she said. The group will ask Internet companies not to host network infrastructure in politically repressive countries, and it also will ask the U.S. Commerce Department to approve a company's entry into those markets, Morillon said. According to the group, 25 journalists and 62 cyber-dissidents are imprisoned in China.

Online Firms Facing Questions About Censoring Internet Searches In China (NYT)

By Tom Zeller Jr.

The New York Times, February 15, 2006

For Internet companies doing business in China, a piece of a booming market has not come without compromises.

A series of episodes showing that the companies were bending to the restrictive demands of Beijing — filtering words like "democracy" or "human rights" from Chinese versions of a blog product, or censoring certain concepts from their China-based search engines — has leaked out from users inside China.

And as questions were raised after each new revelation, companies like Yahoo, Google, Microsoft and Cisco Systems invariably offered a variation on a common chorus.

"Just like any other global company," as Mary Osako, a Yahoo spokeswoman, put it in September, "Yahoo must ensure that its local country sites operate within the laws, regulations and customs of the country in which they are based."

Now the companies are being pressed in Washington for fuller answers about their business practices in China and the implications for human rights. That pressure will escalate today when the House Subcommittee on Africa, Global Human Rights and International Operations questions officials of the four technology companies, along with other witnesses critical of their activities.

The subcommittee's chairman, Representative Christopher H. Smith, Republican of New Jersey, plans to introduce legislation by week's end that would restrict an Internet company's ability to censor or filter basic political or religious terms — even if that puts the company at odds with local laws in the countries where it now operates.

Although some advocates have argued that the companies may actually be violating existing trade laws, most experts concede that does not appear to be the case.

Mr. Smith's legislation, called the Global Online Freedom Act, however, would render much of what the Internet companies are currently doing in China illegal.

Among the act's provisions is the establishment of an Office of Global Internet Freedom, which would establish standards for Internet companies operating abroad. In addition to prohibiting companies from filtering out certain political or religious terms, it would require them to disclose to users any sort of filtering they undertake.

Separately, the State Department announced the formation of a new Global Internet Freedom Task Force yesterday, charged with examining efforts by foreign governments "to restrict access to political content and the impact of such censorship efforts on U.S. companies."

Recent statements issued by Microsoft and Yahoo suggest that it is really the government's role to promote human rights abroad.

Still, the Internet titans are finding it harder to avoid some tough questions and a new note of contrition is likely to be heard.

"We always reserve the right to get better," said Michael J. Callahan, Yahoo's general counsel, in a phone call last weekend. Mr. Callahan is scheduled to testify before the House panel today.

Of the companies, whose activities in the Chinese market differ, Yahoo may face the toughest grilling.

The company, which has been providing Web services in China since 1999, has been criticized for filtering the results of its China-based search engine. But its bigger problems began last fall when human rights advocates revealed that in 2004, a Chinese division of the company had turned over to Chinese authorities information on a journalist, Shi Tao, using an anonymous Yahoo e-mail account. Mr. Shi, who had sent a government missive on Tiananmen Square anniversary rites to foreign colleagues, was sentenced to 10 years in prison.

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Last week, Reporters Without Borders, a group based in Paris, revealed that a Chinese division of Yahoo had provided information to authorities that contributed to the conviction in 2003 of Li Zhi, a former civil servant who had criticized local officials online. Mr. Li is serving eight years in prison.

The recent absorption of Yahoo's Chinese operations into Alibaba, a Chinese e-commerce company in which Yahoo now holds a 40 percent stake, also worries some critics. They fear that the move allows Yahoo to reap the benefits of China's booming market while escaping responsibility for what happens there.

For its part, Cisco, which has won annual contracts from China Telecom since 2000 to provide the hardware for the country's growing Internet backbone, has been criticized for selling its routers and equipment, which the Chinese government has in turn manipulated to monitor and censor communications.

Microsoft hit snags almost immediately after beginning its MSN China portal last spring, when users discovered that the accompanying MSN Spaces service, which provides tools for building personal Web sites and blogs, forbade blog titles containing what were deemed inappropriate concepts, like "human rights." Then last year, the company came under fire for shutting a Beijing blogger's MSN Web site at the request of the Chinese authorities.

It was amid the fallout from that incident that Google stepped gingerly into the China fray three weeks ago. The company tried a different tack, announcing that search results would be filtered according to Chinese government specifications.

That sort of transparency was a welcome change, said Jonathan Zittrain, a professor of Internet governance at Oxford University and a co-founder of the Berkman Center for Internet and Society at Harvard Law School. But the larger questions that have led the companies to Capitol Hill remain.

"I think this is a very ripe time to take on some of the hardest questions," Mr. Zittrain said. "It's not a crazy position to say that these companies should not be there at all, but that's not my view, and I think there are ways to begin drawing lines so that there are ways that the companies can make the world better by being there."

Just what those lines might look like is difficult to say.

The Commerce Department, under the Export Administration Act, does restrict the sale of "crime control" equipment to repressive regimes, but Internet technologies have not been considered under that rubric. The activist Harry Wu, who spent 19 years in Chinese labor camps before coming to the United States and who is scheduled to testify at the hearings, plans to ask why not.

"We never wanted to do any business with Soviet 'evil empire,' " Mr. Wu said. "We embargo Cuba, we don't trade with North Korea, but with China it's O.K. I just always argue, why is it? Why do we single out China?"

Microsoft and Yahoo issued a joint statement two weeks ago acknowledging a responsibility to identify "appropriate practices in each market" where they operate, but they also urged the State Department and other agencies to pursue "government-to-government engagement."

Mr. Smith, the subcommittee chairman, says he thinks more than engagement is necessary. "The bottom line is no one is being compelled to sell to China," Mr. Smith said.

Beijing Censors Taken To Task In Party Circles (NYT)

By Joseph Kahn

The New York Times, February 15, 2006

BEIJING, Feb. 14 — A dozen former Communist Party officials and senior scholars, including a onetime secretary to Mao, a party propaganda chief and the retired bosses of some of the country's most powerful newspapers, have denounced the recent closing of a prominent news journal, helping to fuel a growing backlash against censorship.

A public letter issued by the prominent figures, dated Feb. 2 but circulated to journalists in Beijing on Tuesday, appeared to add momentum to a campaign by a few outspoken editors against micromanagement, personnel shuffles and an ever-expanding blacklist of banned topics imposed on China's newspapers, magazines, television stations and Web sites by the party's secretive Propaganda Department.

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The letter criticized the department's order on Jan. 24 to shut down Freezing Point, a popular journal of news and opinion, as an example of "malignant management" and an "abuse of power" that violates China's constitutional guarantee of free speech.

The letter did not address Beijing's pressure on Web portals and search engines. [Page A6.]

That issue gained attention abroad after Microsoft and Google acknowledged helping the government filter information and Yahoo was accused of providing information from its e-mail accounts that was used to jail dissident writers. The issue will be the subject of Congressional hearings in Washington on Wednesday.

In addition to shutting down Freezing Point, a weekly supplement to China Youth Daily, since late last year, officials responsible for managing the news media have replaced editors of three other publications that developed reputations for breaking news or exploring sensitive political and social issues.

The interventions amounted to the most extensive exertion of press control since President Hu Jintao assumed power three years ago.

But propaganda officials are also facing rare public challenges to their legal authority to take such actions, including a short strike and string of resignations at one newspaper and defiant open letters from two editors elsewhere who had been singled out for censure. Those protests have suggested that some people in China's increasingly market-driven media industry no longer fear the consequences of violating the party line.

The authors of the letter predicted that the country would have difficulty countering the recent surge of social unrest in the countryside unless it allowed the news media more leeway to expose problems that lead to violent protests.

"At the turning point in our history from a totalitarian to a constitutional system, depriving the public of freedom of speech will bring disaster for our social and political transition and give rise to group confrontation and social unrest," the letter said. "Experience has proved that allowing a free flow of ideas can improve stability and alleviate social problems."

Some of the signers held high official posts during the 1980's, when the political environment in China was becoming more open. Although they have long since retired or been eased from power, a collective letter from respected elder statesmen can often help mobilize opinion within the ruling party.

One of those people who signed the petition is Li Rui, Mao's secretary and biographer. Others include Hu Jiwei, a former editor of People's Daily, the party's leading official newspaper; Zhu Houze, who once ran the party's propaganda office; and Li Pu, a former deputy head of the New China News Agency, the main official press agency.

Party officials and political experts say President Hu, who was groomed to take over China's top posts for more than a decade, has often attended closely to the opinions of the party's elder statesmen.

Mr. Hu is widely thought to favor tighter media controls. Party officials said he referred approvingly to media management in Cuba and North Korea in a speech in late 2004.

But he has also solicited support from more liberal elements. Last year Mr. Hu organized high-profile official ceremonies to mark the 90th anniversary of the birth of Hu Yaobang, the reform-oriented party leader who lost his posts in a power struggle and whose death in 1989 was the initial cause of the student-led democracy demonstrations that year. Some of the officials who signed the petition were close associates of Hu Yaobang.

The reaction against the shutdown of Freezing Point was organized by its longtime editor, Li Datong, 53, a party member and senior official of the party-run China Youth Daily. Mr. Li broadcast news of the secret order on his personal blog moments after he received it and has since mobilized supporters to put pressure on the Propaganda Department to retract the decision.

Under his stewardship, Freezing Point became one of the most consistently provocative journals of news and public opinion. It published investigative articles on sensitive topics like the party's version of historical events, nationalism and the party-run education system. Freezing Point ran opinion articles on politics in Taiwan and rural unrest in mainland China that caused a stir in media circles in recent months.

The cause cited for closing Freezing Point was an opinion piece by a historian named Yuan Weishi. He argued that Chinese history textbooks tended to ignore mistakes and provocations by leaders of the Qing Dynasty that may have incited attacks by foreign powers in the late 19th century.

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Mr. Li often tussled with his bosses at China Youth Daily and officials at the Propaganda Department. But he has also cultivated support among the party elite. He often speaks supportively of President Hu and quotes extensively from the writings of Marx, who he says favored a robust free press.

He has maintained that the Propaganda Department had overstepped its authority by ordering Freezing Point closed, and he filed a formal complaint to the party's disciplinary arm.

"The propaganda office is an illegal organization that has no power to shut down a publication," Mr. Li said in an interview. "Its power is informal, and it can only exercise it if people are afraid."

He added, "I am not afraid."

Mr. Li scored an initial victory last week, when propaganda officials told China Youth Daily to draft a plan to revive Freezing Point, which had been formally closed for "rectification," Mr. Li and another editor at the newspaper said. Some media experts had predicted that the authorities would not allow Freezing Point to reopen, and the new order was treated as a signal that officials had misjudged the reaction to its closing.

Shortly after the contretemps at China Youth Daily broke out, the former editor of another national publication attacked the bosses who had replaced him, saying they had exercised self-censorship in the face of pressure from propaganda officials.

Chen Jieren, who lost his position last week as the editor of Public Interest Times, posted a letter online entitled "Ridiculous Game, Despicable Intrigue." The letter disputed his bosses' statement that he had been dismissed for "bad management skills" and said he had a struggled constantly against senior officials for the right "to report the truth with a conscience."

One recent issue of Public Interest Times mocked the poor quality of English translations on official government Web sites.

In a separate incident earlier this year, a group of editors and reporters at the party-run Beijing News declined to report for work after the editor of the paper, known for breaking news stories on subjects the Propaganda Department has ruled off limits, was replaced. Many of the protesters have since resigned, reporters at the newspaper said.

The resistance against censorship could signal a decisive shift in China's news media controls, already under assault from the proliferation of e-mail, text messaging, Web sites, blogs and other new forums for news and opinion that the authorities have struggled to bring under their supervision.

Even most of the major party-run national publications in China, including China Youth Daily, no longer receive government subsidies and must depend mainly on income from circulation and advertising to survive.

That means providing more news or features that people want to pay for, including exclusive stories and provocative views that go well beyond the propaganda fare carried by the New China News Agency or People's Daily. Few serious publications survive for long without subsidies if they do not have popular content, editors say.

"Every serious publication in China faces tough choices," said Mr. Li of Freezing Point. "You can publish stories people want to read and risk offending the censors. Or you can publish only stories that the party wants published and risk going out of business."

China Says Web Controls Follow The West's Lead (NYT)

By Joseph Kahn

The New York Times, February 15, 2006

BEIJING, Feb. 14 — Chinese authorities are determined to stop "harmful information" from spreading through the Web, but the controls it places on Web sites and Internet service providers do not differ much from those employed by the United States and European countries, a senior official responsible for managing China's Internet said Tuesday.

The official, Liu Zhengrong, who supervises Internet affairs for the information office of China's State Council, or cabinet, did not directly dispute the contention of many critics that China operates a vast and technologically sophisticated firewall to protect the ruling Communist Party against what it views as Web-based threats to its authority.

But he sought to put the country's Web-policing operation in the best possible light, emphasizing that China's Internet minders abided strictly by laws and regulations that in some cases have been modeled on American and European statutes. "If you study the main international practices in this regard you will find that China is basically in compliance with the international norm," he said. "The main purposes and methods of implementing our laws are basically the same."

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The briefing about Internet controls was one of the few times any senior Chinese official has spoken in detail about the matter. Officials assigned to enforce the Communist Party's controls on the news media operate behind closed doors and rarely make public statements about their work.

Beijing's Internet policies have come under close scrutiny abroad since Google and Microsoft acknowledged helping China censor information available through Web searches and blogs, and Yahoo was accused of providing data that helped convict dissidents who had used its e-mail accounts.

Mr. Liu said China's effort to regulate content on the Web was aimed primarily at preventing the spread of pornography or other content harmful to teenagers and children. He said its concerns in this area differed minimally from those in developed countries.

Human rights and media watchdog groups maintain that China's Web censorship puts greater emphasis on helping the Communist Party maintain political control over the increasingly restive society. Such groups have shown that many hundreds of Web sites cannot be easily accessed in China mainly because they are run by governments, religious groups or political organizations critical of Beijing's policies or its political leaders.

Mr. Liu said Chinese Internet users were free to discuss many politically sensitive topics and denied that the Chinese police have arrested or prosecuted people for using the Web to circulate views.

Rights groups maintain — and court documents show, however — that legal authorities have cited e-mail messages and postings on domestic and foreign Web sites as evidence against Chinese dissidents accused of "incitement to overthrow the state" and "leaking state secrets."

The official objected to what he suggested were biased criticisms of China's Internet controls that ignored similar restrictions by foreign governments and private companies on their Web sites.

He cited, for example, statements on Web sites run by The New York Times and The Washington Post that reserve the right to delete or block content in reader discussion groups that editors determine to be illegal, harmful or in bad taste. Chinese news media Web sites are also monitored in that way, he said.

"Major U.S. companies do this and it is regarded as normal," Mr. Liu said. "So why should China not be entitled to do so?"

Editors, journalists and Web site operators in China say domestic news and discussion sites must ban a long list of topics deemed off limits by party officials or face penalties.

Such controls appear to have only superficial similarities to attempts by private companies in the United States and Europe to monitor content on the Web sites they operate.

Mr. Liu also said powers the Bush administration gained under the Patriot Act to monitor Web sites and e-mail communications, and the deployment of technology called Carnivore by the F.B.I. to let the agency scrutinize huge volumes of e-mail traffic, were examples of how the United States has taken legal steps to guard against the spread of "harmful information" online. "It is clear that any country's legal authorities closely monitor the spread of illegal information," he said. "We have noted that the U.S. is doing a good job on this front."

The Bush administration says its efforts to police online communications pertain mainly to preventing terrorist attacks.

Mr. Liu said there were now 111 million Web users in China and in the last five years China had expanded the bandwidth available to connect with overseas Web sites nearly 50-fold to 136,000 megabits per second, underscoring its commitment to let citizens gather information and interact with people around the world.

The number of Web sites Chinese users cannot access amounts to a "tiny percentage" of those available abroad, he said.

China's Responsibilities (WP)

The Washington Post, February 15, 2006

SINCE JOINING the World Trade Organization in 2001, China has proved serious about honoring its commitments. It has rewritten laws and regulations to comply with WTO rules, so much so that the United States and the European Union, which bring high-profile cases against each other before WTO tribunals, have a hard time identifying cases to bring against China. But China is treating its WTO commitments as a ceiling, not a floor. It appears unwilling to modify its behavior in other areas, and this may strain its relations with the United States.

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China's currency policy is a case in point. Last summer China allowed its currency to appreciate by 2 percent against the dollar, and it hinted that more steps would follow. Since then, the Chinese yuan has barely risen, and its continuing undervaluation has fueled an enormous trade surplus. This invites a protectionist backlash in the United States. Sens. Charles E. Schumer (D-N.Y.) and Lindsey O. Graham (R-S.C.) have proposed legislation that would impose punitive tariffs on China until it fixes its currency policy, and a majority of senators appear to back the idea. Last year the Bush administration persuaded the Senate to hold off while it talked the Chinese into revaluing for their own good: A flexible exchange rate would help China avoid boom-and-bust cycles. But China's refusal to take more than baby steps is undermining the administration's efforts to restrain Congress. Mr. Schumer plans to return to the currency issue in upcoming Senate hearings.

China also could do more to abide by the spirit as well as the letter of WTO rules. Intellectual property protections illustrate the point: Chinese laws comply with WTO requirements, and music or film studios that file complaints about copyright violations tend to have their complaints upheld. But this barely dents the rampant piracy in China because the pirates build the modest fines into their cost of doing business. Yesterday Rob Portman, the U.S. trade representative, issued a "top-to-bottom review" of U.S.-China trade relations that spotlighted other areas of concern. China's government procurement should be more transparent. It should quit smuggling subsidies to domestic firms through WTO loopholes.

China also needs to rethink its sinister policy of turning U.S. Internet firms into police auxiliaries. It has recruited Cisco Systems to build a system of Internet routers that blocks Chinese users from foreign Web sites deemed unsuitable by Beijing's censors. It has ordered Yahoo to surrender the names of e-mail users who subsequently were imprisoned. It has allowed Google and Microsoft to offer services in China provided that they bow to censorship. China needs to understand that neither Congress nor U.S. public opinion is likely to allow American companies to carry on this collaboration forever. House hearings today featuring all four firms signal that China's Internet policy has joined the list of flash points in bilateral relations.

China's emergence as a global economic power over the past quarter-century has been a wonderful thing, lifting hundreds of millions of people out of poverty. But China is now too big to get away with a minimalist definition of its obligations to the outside world. Its currency policies affect global trade imbalances. Its intellectual property protections affect the value of copyrights worldwide. Its 100 million Internet users are bound to attract the attention of Western advocates of free speech and their allies in Congress. Riches and power bring broad responsibilities.

Canada's New PM Worries Gay Couples (USAT)

By Rebecca Cook Dube Special For

USA Today, February 15, 2006

TORONTO — As the winter sky darkened over City Hall, Michele Schultz and Christina Chora held hands and read their vows.

Standing before them in a long blue robe, Toronto wedding director Lois Code declared, “I do now, by the virtue of the authority vested in me by the province of Ontario, pronounce you legally married.”

Schultz, 37, and Chora, 39, have been together 20 years. Same-sex marriage has been legal in Toronto for almost three years and throughout Canada since July. Why tie the knot now? Schultz has a two-word answer: “Stephen Harper.”

Harper, sworn in this month as prime minister, is the first Conservative to lead Canada in 13 years. He has pledged to hold a vote in Parliament on overturning Canada's same-sex marriage law, which was approved last year and made Canada the fourth country in the world to legalize gay and lesbian marriage nationwide.

Gay and lesbian couples have been hurrying to wed ever since Harper started gaining momentum before last month's elections. The rush to marry has continued since Harper and the Conservatives defeated Prime Minister Paul Martin and his Liberal Party on Jan. 23.

“We were just worried that now he's in power, he would take away our legal right to get married,” Schultz said after the ceremony. “We always planned to do it, and we thought we'd better do it now.”

The law gives same-sex married couples the same rights and benefits as their heterosexual counterparts. If Parliament tosses out the legislation, gay and lesbian couples who haven't wed will lose the opportunity to get those benefits. Harper has said if the law is overturned, he will not try to invalidate same-sex marriages that already have taken place.

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Code said her office has been busy marrying other same-sex couples who have the same concern. “A lot of people were going to wait for the summer and decided not to wait,” she said. “They refer to it as their shotgun weddings.”

Toronto city spokesman Brad Ross said 90 same-sex couples got marriage licenses in January, up from 60 in January 2005. Toronto has issued 3,058 same-sex licenses, including 1,172 for U.S. residents, since Ontario legalized gay marriage in June 2003.

Harper won as a moderate, but he promised social conservatives he would reopen the same-sex marriage debate. As opposition leader last year, Harper proposed civil unions for same-sex couples rather than marriage — a compromise he called “the real Canadian way.”

January's election gave Harper's Conservatives a plurality, but his party does not have a majority of seats in the House of Commons. It's unclear whether he has the votes to overturn same-sex marriage legislation. “It could go either way,” said Laurie Arron, director of advocacy for Egale Canada, a national gay and lesbian rights organization.

A survey of lawmakers conducted this month by The Globe and Mail newspaper predicted same-sex marriage would narrowly survive a new vote.

Canada's public has given pollsters contradictory opinions. In December, a Leger Marketing Poll conducted for the Canadian Press found 55% of 2,013 Canadians polled said they wanted a new vote in Parliament. A poll of 2,034 Canadians conducted by Environics for the Canadian Broadcasting Corp. before the election found 66% didn't want the government to reopen the issue.

Both sides agree that if Parliament overturns the law, the courts will decide the matter. Arron said he believes the Supreme Court will protect same-sex marriage rights. Lower courts have said the constitution guarantees gay marriage. Harper has vowed not to override the Supreme Court (permitted under Canadian law) if it rules same-sex marriage is a fundamental human right.

Reopening the same-sex marriage debate has done damage, Arron said. “A lot of LGBT (lesbian, gay, bisexual and transgender) people felt included and felt like first-class citizens” when the law passed last summer. Harper's victory, he said, “already has taken away that sense of security.”

Some business people worry the debate could tarnish Canada's image as a same-sex marriage haven. Ric Tremaine, president of the Gay Toronto Tourism Guild, runs an inn that specializes in gay and lesbian weddings and caters to Americans. “For small businesses and Toronto, it's an economic issue,” Tremaine said. He's been telling potential customers, “If you've been thinking about doing it, maybe you ought to do it now.”

Canadian same-sex marriages are not legally valid in the USA, although some American employers recognize them for purposes of benefits.

The first gay couple to be legally wed in Canada, Kevin Bourassa and Joe Varnell of Toronto, caution against a rush to the altar. “The biggest squabble about your wedding should be where you're going to put your aunt who's coming from Scotland, it shouldn't be about a political party,” Varnell said.

Bourassa said he believes the law will survive: “We are confident that Canada will remain a beacon of equality and justice around the world.”

Maybe so, but gay and lesbian couples continue to accelerate their wedding plans. Susan Green and Tiffany Veinot of Toronto are ready to dash to City Hall if their marriage rights look shaky. “There's a real political calculus for us,” said Green, 41. “We want a big ceremony with friends, but we have to keep one eye on Stephen Harper.”

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

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TERRORISM NEWS:

Congressional Probe Of NSA Spying Is In Doubt (WP)

By Charles Babington

The Washington Post, February 15, 2006

Congress appeared ready to launch an investigation into the Bush administration's warrantless domestic surveillance program last week, but an all-out White House lobbying campaign has dramatically slowed the effort and may kill it, key Republican and Democratic sources said yesterday.

The Senate intelligence committee is scheduled to vote tomorrow on a Democratic-sponsored motion to start an inquiry into the recently revealed program in which the National Security Agency eavesdrops on an undisclosed number of phone calls and e-mails involving U.S. residents without obtaining warrants from a secret court. Two committee Democrats said the panel -- made up of eight Republicans and seven Democrats -- was clearly leaning in favor of the motion last week but now is closely divided and possibly inclined against it.

They attributed the shift to last week's closed briefings given by top administration officials to the full House and Senate intelligence committees, and to private appeals to wavering GOP senators by officials, including Vice President Cheney. "It's been a full-court press," said a top Senate Republican aide who asked to speak only on background -- as did several others for this story -- because of the classified nature of the intelligence committees' work.

Lawmakers cite senators such as Olympia J. Snowe (R-Maine) to illustrate the administration's success in cooling congressional zeal for an investigation. On Dec. 20, she was among two Republicans and two Democrats who signed a letter expressing "our profound concern about recent revelations that the United States Government may have engaged in domestic electronic surveillance without appropriate legal authority." The letter urged the Senate's intelligence and judiciary committees to "jointly undertake an inquiry into the facts and law surrounding these allegations."

In an interview yesterday, Snowe said, "I'm not sure it's going to be essential or necessary" to conduct an inquiry "if we can address the legislative standpoint" that would provide oversight of the surveillance program. "We're learning a lot and we're going to learn more," she said.

She cited last week's briefings before the full House and Senate intelligence committees by Attorney General Alberto R. Gonzales and former NSA director Michael V. Hayden.

"The administration has obviously gotten the message that they need to be more forthcoming," Snowe said.

Before the New York Times disclosed the NSA program in mid-December, administration briefings regarding it were highly secret and limited to eight lawmakers: the top Republican and Democratic leader of the House and Senate, respectively, and the top Republican and Democrat on the House and Senate intelligence committees.

The White House characterized last week's closed-door briefings to the full committees as a significant concession and a sign of the administration's respect for Congress and its oversight responsibilities. Many Democrats dismissed the briefings as virtually useless, but senators said yesterday they appear to have played a big role in slowing momentum for an inquiry.

John D. Rockefeller IV (D-W.Va.), the Senate intelligence committee's vice chairman, has drafted a motion calling for a wide-ranging inquiry into the surveillance program, according to congressional sources who have seen it. Rockefeller declined to be interviewed yesterday.

Sources close to Rockefeller say he is frustrated by what he sees as heavy-handed White House efforts to dissuade Republicans from supporting his measure. They noted that Cheney conducted a Republicans-only meeting on intelligence matters in the Capitol yesterday.

Senate intelligence committee member Mike DeWine (R-Ohio) said in an interview that he supports the NSA program and would oppose a congressional investigation. He said he is drafting legislation that would "specifically authorize this program" by

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excluding it from the 1978 Foreign Intelligence Surveillance Act, which established a secret court to consider government requests for wiretap warrants in anti-terrorist investigations.

The administration would be required to brief regularly a small, bipartisan panel drawn from the House and Senate intelligence committees, DeWine said, and the surveillance program would require congressional reauthorization after five years to remain in place.

Snowe said she is inclined to support DeWine's plan. Sen. Chuck Hagel (R-Neb.), who also signed the Dec. 20 letter seeking an inquiry, said yesterday that the FISA law should be amended to include the NSA program and to provide for congressional oversight.

As for Rockefeller's bid, Hagel said: "If some kind of inquiry would be beneficial to getting a resolution to this issue, then sure, we should look at it. But if the inquiry is just some kind of a punitive inquiry that really is not focused on finding a way out of this, then I'm not so sure that I would support that."

A New Surveillance Act (WSJ)

By Richard A. Posner

The Wall Street Journal, February 15, 2006

The best, and probably the only, way to end the debate over the propriety of the National Security Agency's conducting electronic surveillance outside the framework of the Foreign Intelligence Surveillance Act is for Congress to enact a new statute.

The administration is right to point out that FISA, enacted in 1978 -- long before the danger of global terrorism was recognized and electronic surveillance was transformed by the digital revolution -- is dangerously obsolete. It retains value as a framework for monitoring the communications of known terrorists, but it is hopeless as a framework for detecting terrorists. It requires that surveillance be conducted pursuant to warrants based on probable cause to believe that the target of surveillance is a terrorist, when the desperate need is to find out who is a terrorist.

Critics of the NSA's program point out that surveillance not cabined by a probable-cause requirement produces many false positives (intercepts that prove upon investigation to have no intelligence value). That is not a sound criticism.

National security intelligence is a search for the needle in a haystack. The intelligence services must cast a wide net with a fine mesh to catch the clues that may enable the next attack to be prevented. The initial trolling for clues is done by computer search programs, which do not invade privacy because search programs are not sentient beings. The programs pick out a tiny percentage of communications to be read by (human) intelligence officers, and a small subset of these will turn out to have intelligence value and spur an investigation. Some of these may be communications to which a U.S. citizen is a party.

The program is vital, given the terrorist menace, which is real and not abating. It may be thanks to such programs, as well as to other counterterrorist operations, that we have been spared a repetition of 9/11. We mustn't let our guard down, basking in the false assurance created by the lapse of time since the last attack. But the legality of the program has been called into question, and fears have been expressed about its impact on civil liberties.

These concerns can be addressed without gutting the program. But not by relaxing the standard for obtaining a warrant. Instead of requiring probable cause to believe the target a terrorist, FISA could be amended to require merely reasonable suspicion. But even that would be too restrictive. And the lower the standard for getting a warrant, the less of a filter a warrant requirement creates. If all that the government is required to state in its application is that it thinks an interception might yield intelligence information, judges will have no basis for refusing to grant the application. * * *

It is a mistake to think that the only way to prevent abuses of a surveillance program is by requiring warrants. Congress could enact a statute that would subject warrantless electronic surveillance to tight oversight and specific legal controls, as follows:

1. Oversight: The new statute would --

(a) Create a steering committee for national security electronic surveillance composed of the attorney general, the director of national intelligence, the secretary of homeland security (chairman), and a senior or retired federal judge or justice appointed by the chief justice of the United States. The committee would monitor all such surveillance to assure compliance with the Constitution and laws.

(b) Require the NSA to submit to the FISA court, every six months, a list of the names and other identifying information of all persons whose communications had been intercepted without a warrant in the previous six months, with a brief statement of why these individuals had been targeted. If the court concluded that an interception had been inappropriate, it would so report to the steering committee and the congressional intelligence committees.

2. Specific controls: The statute would --

(a) Authorize "national security electronic surveillance" outside FISA's existing framework, provided that Congress declared a national emergency and the president certified that such surveillance was necessary in the national interest. Warrants would

continue to be required for all physical searches and for all electronic surveillance for which FISA's existing probable-cause requirement could be satisfied.

(b) Define "national security" narrowly, excluding "ecoterrorism," animal-rights terrorism, and other forms of political violence that, though criminal and deplorable, do not endanger the nation.

(c) Sunset after five years, or sooner if the declaration of national emergency was rescinded.

(d) Forbid any use of intercepted information for any purpose other than "national security" as defined in the statute (point b above). Thus the information could not be used as evidence or leads in a prosecution for ordinary crime. There would be heavy criminal penalties for violating this provision, to allay concern that "wild talk" picked up by electronic surveillance would lead to criminal investigations unrelated to national security.

(e) Require responsible officials to certify to the FISA court annually that there had been no violations of the statute during the preceding year. False certification would be punishable as perjury.

(f) Bar lawsuits challenging the legality of the NSA's current warrantless surveillance program. Such lawsuits would distract officials from their important duties, to no purpose given the new statute.

Mr. Posner is a judge on the U.S. Seventh Circuit Court of Appeals and a senior lecturer in law at the University of Chicago Law School.

Inside America's Secret Court (CNN)

By Henry Schuster

CNN.com, February 15, 2006

Editor's note: Henry Schuster, a senior producer in CNN's Investigative Unit and author of "Hunting Eric Rudolph," has been covering terrorism for more than a decade. Each week in "Tracking Terror," he reports on people and organizations driving international and domestic terrorism, and efforts to combat them.

WASHINGTON (CNN) -- America's secret court sits in a nondescript corridor on an upper floor of the Justice Department building, closed off from public view and now, some believe, regarded as increasingly irrelevant by the Bush administration.

Its formal name is the Foreign Intelligence Surveillance Court, though in recent hearings and reports about the dispute over warrantless wiretapping, it is usually referred to as the FISA (Foreign Intelligence Surveillance Act) court.

The FISA court began issuing warrants in 1979 in the wake of a series of intelligence-related scandals earlier that decade and the one before, including the FBI's spying on the Rev. Martin Luther King Jr.

Congress created the court with the idea that it would hear and rule in secret on requests for wiretaps, primarily those involving foreign intelligence agencies.

Because the U.S. was still deep in the Cold War, foreign spying, not terrorism, was the main concern.

Even though the FISA court did what other courts do -- approved requests for wiretaps in conditions of secrecy -- the aura of national security and the lack of information about the court and the targets of those warrants gave it a certain mystique, to the point where it became known as America's secret court.

The fact that the actual courtroom was protected by an electronic cone of silence to prevent eavesdropping only seemed to add to the flavor.A rare inside look

Judges appointed by the chief justice of the United States would hear proposals for warrants from the FBI and other agencies. One of them was Judge Royce Lamberth, a straight-talking Texan selected to preside over the FISA court from 1995 to 2002.

"The FISA judges have got to be comfortable that this is something we've got to do for our national security. There's no political shenanigans going on here," he told me.

I had the rare chance to hear about FISA from Lamberth during a recent conference in Washington. He said he is the only FISA judge, past or present, comfortable enough to talk about the court.

Lamberth explained the procedures for getting a FISA warrant (which since 1995 also allows for surreptitious entry for searches and seizures, known as "sneak and peek").

"We're presented with affidavits like we would do any other search warrant or wiretap warrant in a regular criminal case," he said. "We have the agent there who is knowledgeable of the case at the time we are authorizing the activity, and I think the process has worked well.

"It is like any other criminal case: The defense is not represented at this time because it's an investigation at that time."

Terrorism began to replace spying as the court's main workload during Lamberth's tenure.

"I was chief judge of the court at the time of 9/11," he said. "I had done many [Osama] bin Laden wiretaps before 9/11. We knew that bin Laden was a problem long before 9/11."

Lamberth spoke about the night after two U.S. embassies in Africa were bombed by al Qaeda in 1998.

"I authorized five wiretaps that night in my living room at 3 o'clock in the morning at a hearing I conducted at home that led to some of the most productive evidence that was used in the trials in New York of the terrorists who set off those bombs, the bin Laden associates who set off the bombs in Africa."Not nimble enough?

Our conversation took place in early December, before the revelations that the Bush administration was bypassing FISA and ordering wiretaps without court warrants.

The FISA court was never interested in statistics or playing the numbers game.

-- Judge Royce Lamberth

Lamberth made no direct reference to the dispute, though a recent report in the Washington Post makes it clear that he was aware of the domestic spying program and was unhappy with it.

Pre-9/11, the most frequently heard complaint about FISA and the court was that warrants were approved routinely.

Lamberth disagreed, saying the court was not a rubberstamp for the government.

"The FISA court was never interested in statistics or playing the numbers game. So that, many times, an application would be presented and not initially approved or disapproved, but the government would be told to get additional information on this or that, and I would look at it again."

But after 9/11, the criticisms came from a different direction. It was revealed that FBI agents failed to get a FISA warrant to search the computer of al Qaeda suspect Zacarias Moussaoui before 9/11, because they felt the FISA process was too difficult.

Lamberth said the problem wasn't with FISA: "We had already defined al Qaeda as a foreign power in many previous applications, so there was no problem if they been able to tie Moussaoui with al Qaeda or acting for al Qaeda, they could have obtained the warrant."

The Patriot Act changed FISA in several ways. It became easier to get a warrant for someone like Moussaoui who might appear to be a "lone wolf" rather than an agent of a specific group, and government prosecutors began getting easier access to FISA warrants.'Need for speed'

The most significant challenge to the court has come from the Bush administration and is at the heart of the warrantless wiretapping dispute.

Despite provisions that allow the government to begin a wiretap 72 hours before seeking a FISA warrant, and giving the president 15 days after a declaration of war before seeking warrants, the Bush administration decided it need more flexibility.

FISA was a valuable tool, Attorney General Alberto Gonzales told Congress last week, but it wasn't always fast enough.

"The terrorist surveillance program operated by the [National Security Agency] requires the maximum in speed and agility, since even a very short delay may make the difference between success and failure in preventing the next attack," he said. "And we cannot afford to fail."

He also criticized the procedures necessary to get a FISA warrant.

"If, however, those same intelligence officers had to navigate through the FISA process for each of these intercepts, that would necessarily introduce a significant factor of delay, and there would be critical holes in our early warning system."

Already one FISA judge has resigned from the court, apparently unhappy that it is being bypassed. And many of the senators who listened to Gonzales expressed skepticism about the surveillance program.

That issue notwithstanding, the FISA court is still busy. There are more requests coming in than ever before, more than 1,750 during 2004. That's almost 150 per month.

Twenty-seven years after the FISA court was created, it will finally soon move into its own home at the U.S. District Courthouse in Washington. The question facing it is its own relevance.

325,000 Names On Terrorism List (WP)

By Walter Pincus And Dan Eggen

The Washington Post, February 15, 2006

The National Counterterrorism Center maintains a central repository of 325,000 names of international terrorism suspects or people who allegedly aid them, a number that has more than quadrupled since the fall of 2003, according to counterterrorism officials.

The list kept by the National Counterterrorism Center (NCTC) -- created in 2004 to be the primary U.S. terrorism intelligence agency -- contains a far greater number of international terrorism suspects and associated names in a single government database than has previously been disclosed. Because the same person may appear under different spellings or aliases, the true number of people is estimated to be more than 200,000, according to NCTC officials.

U.S. citizens make up "only a very, very small fraction" of that number, said an administration official, who spoke on the condition of anonymity because of his agency's policies. "The vast majority are non-U.S. persons and do not live in the U.S.," he

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added. An NCTC official refused to say how many on the list -- put together from reports supplied by the CIA, the FBI, the National Security Agency (NSA) and other agencies -- are U.S. citizens.

The NSA is a key provider of information for the NCTC database, although officials refused to say how many names on the list are linked to the agency's controversial domestic eavesdropping effort. Under the program, the NSA has conducted wiretaps on an unknown number of U.S. citizens without warrants.

The government has been trying to streamline what counterterrorism officials say are more than 26 terrorism-related databases compiled by agencies throughout the intelligence and law enforcement communities. Names from the NCTC list are provided to the FBI's Terrorist Screening Center (TSC), which in turn provides names for watch lists maintained by the Transportation Security Administration and other agencies.

Civil liberties advocates and privacy experts said they were troubled by the size of the NCTC database, and they said it further heightens their concerns that such government terrorism lists include the names of large numbers of innocent people. Timothy Sparapani, legislative counsel for privacy rights at the American Civil Liberties Union, called the numbers "shocking but, unfortunately, not surprising."

"We have lists that are having baby lists at this point; they're spawning faster than rabbits," Sparapani said. "If we have over 300,000 known terrorists who want to do this country harm, we've got a much bigger problem than deciding which names go on which list. But I highly doubt that is the case."

Asked whether the names in the repository were collected through the NSA's domestic intelligence intercept program, the NCTC official said, "Our database includes names of known and suspected international terrorists provided by all intelligence community organizations, including NSA."

Attorney General Alberto R. Gonzales told the Senate Judiciary Committee last week that he could not discuss specifics but said: "Information is collected, information is retained and information disseminated in a way to protect the privacy interests of all Americans."

The NCTC name repository began under its predecessor agency in 2003 with 75,000 names, and it continues to grow. The center was created as part of a broad reorganization of U.S. intelligence agencies after the failure to disrupt the Sept. 11, 2001, attacks. It is the main agency for analyzing and integrating terrorism intelligence and is under direction of Director of National Intelligence John D. Negroponte.

Its central database is the hub of an elaborate network of terrorism-related databases throughout the federal bureaucracy. Terrorism-related names and other data are sent to the NCTC under standards set by Homeland Security Presidential Directive 6, signed by President Bush in September 2003, according to a senior NCTC official. The directive calls upon agencies to supply data only about people who are "known or appropriately suspected to be . . . engaged in conduct constituting, in preparation for, in aid of, or related to terrorism."

"We work on the basis that information reported to us has been collected in accordance with those guidelines," Vice Adm. John Scott Redd, the center's director, said in a statement.

Analysts at the NCTC review all incoming names and can reject them if they do not have an apparent link to international terrorists, officials said. "That is not common, but it does happen," an NCTC official said, citing as examples a domestic or foreign drug dealer or a member of a U.S.-based extremist group, when neither has any sign of international terrorist connections.

The NCTC then sends a subset of the repository list to the FBI's screening center, and each entry includes a reference "to how the individual is associated with international terrorism," according to a June 2005 report by Justice Department Inspector General Glenn A. Fine. This reference is assigned one of 25 codes such as "Member of a Foreign Terrorist Organization," "Hijacker" or "Has Engaged in Terrorism," according to the report. The report also notes that the codes are split in two categories: "Individuals who are considered armed and dangerous and those who are not."

Fine's office criticized the TSC for including nearly 32,000 records of people in the "armed and dangerous" category but giving them the lowest handling code, which means that no report needs to be sent back to the FBI if they are encountered in the United States by law enforcement officers.

The TSC consolidates NCTC data on individuals associated with foreign terrorism with the FBI's purely domestic terrorism data to create a unified, unclassified terrorist watch list. The TSC, in turn, provides, for official use only, a version giving each person's name, country, date of birth, photos and other data to the Transportation Security Agency for its no-fly list, the State Department for its visa program, the Department of Homeland Security for border crossings, and the National Crime Information Center for distribution to police.

Shannon Moran, a spokeswoman for the FBI screening center, declined to answer detailed questions about the center's work, including how many names are on its list, how many U.S. citizens are included and whether the FBI database includes names linked to the NSA program. Fine's office reported last year that the FBI database contained more than 270,000 names,

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including a large number of people associated with domestic terrorist movements such as radical environmentalists and neo-Nazi white supremacists.

"If being placed on a list means in practice that you will be denied a visa, barred entry, put on the no-fly list, targeted for pretextual prosecutions, etc., then the sweep of the list and the apparent absence of any way to clear oneself certainly raises problems," said David D. Cole, a Georgetown University law professor who has been sharply critical of the Bush administration's anti-terrorism policies.

The growth of terrorist-related data networks within the U.S. intelligence community has greatly accelerated since Sept. 11, 2001. Before the al Qaeda attacks on the World Trade Center and the Pentagon, there were databases containing terrorist identities at the CIA, Defense Intelligence Agency, FBI and State Department. In addition there were 13 independent watch lists, but the lists or databases were not interoperable.

Currently, according to an NCTC official, there are 26 classified data networks carrying terrorism material. In a December 2005 interview on Federal News Radio, Redd said his agency "is really the only place in government and certainly in the intelligence community where all counterterrorism intelligence comes together." He also said that analyses of terrorism issues from all 15 intelligence agencies come into the NCTC, which then puts them on its Web site.

"What that means," Redd said, "is about 5,000 analysts around the counterterrorist intelligence community can pull up that Web site and see . . . what every other agency has as well, assuming they have the clearances."

Marc Rotenberg, executive director of the Electronic Privacy Information Center, said the size of the NCTC list and other terrorism-related databases underscores the severity of the "false positive" problem, in which innocent people -- including members of Congress -- have been stopped for questioning or halted from flying because their names are wrongly included or are similar to suspects' names.

"One of the seemingly unsolvable problems is what do you do when someone is wrongly put on this watch list," Rotenberg said. "If there are that many people on the list, a lot of them probably shouldn't be there. But how are they ever going to get off?"

Potential Jurors In Trial Of Father, Son Asked About Terrorism (AP)

By Don Thompson

AP, February 15, 2006

SACRAMENTO - The trial of a father and son charged with lying about the younger man attending a terror training camp in Pakistan began Tuesday, with potential jurors questioned about terrorism and whether they knew anyone who died during the September 2001 attacks.

Umer Hayat, 48, and his 23-year-old son, Hamid, have been in custody since their arrest last June, shortly after the son returned to the United States after nearly two years in Pakistan. An affidavit released in Washington, D.C., when Hamid Hayat was arrested said he planned to attack hospitals and supermarkets.

The Hayats are the only people charged criminally in a federal investigation of the Pakistani community in Lodi, an agricultural town about 35 miles south of Sacramento. They are being tried together but before separate juries because their statements to investigators purportedly incriminate each other in lying to the FBI.

U.S. District Court Judge Garland E. Burrell Jr. seated a jury of eight women and four men for Umer Hayat's trial, but those jurors are not due back in court until Feb. 21. Burrell said he expected to pick a separate jury to hear the case against Hamid Hayat on Wednesday and scheduled opening statements for Thursday.

Much of the testimony and evidence will be shared and both juries will often be in the courtroom simultaneously, attorneys said. Before the first jury was selected, defense attorneys and prosecutors quizzed potential jurors about their views on terrorism, Islam and immigration.

"We're trying to find folks who can truly, truly, truly be fair ... in a case with these types of charges," Umer Hayat's attorney, Johnny Griffin III, told potential jurors.

Umer Hayat, an ice cream vendor, is charged with two counts of making false statements to FBI agents and faces eight years in prison if convicted.

His son is charged with three counts of making false statements to the FBI about attending the camp and with providing material support to terrorists. If convicted, he faces up to 31 years in prison.

The jury pool was called from throughout an extensive region stretching from the Oregon border to Bakersfield.

Potential jurors were asked if they lost anyone in the Sept. 11, 2001, attacks, speak any Middle Eastern languages, or have any prejudices against Muslims or Pakistanis.

In his questioning, Griffin asked for their initial impressions when they heard the case was about terrorism. Some said they immediately thought of the attacks 4 1/2 years ago on the World Trade Center, the Pentagon and the jetliner that crashed in a Pennsylvania field.

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One said that associates of hers had been accused falsely of being terrorists. Another, later dismissed, told the judge about losing "two relatives to terrorism."

In their questioning, prosecutors disclosed that investigators paid a cooperating witness who infiltrated Lodi's Pakistani community a few months after the 2001 attacks. The amount of compensation has not been disclosed, but jurors were asked if they were bothered by a paid informant.

The informant is key to the government's case. He recorded about 1,000 hours of conversations, including several with Hamid Hayat before he went to Pakistan in April 2003 and after he arrived there. The informant grew so close to the Hayat family that he sometimes slept at their home.

Prosecutors allege that Hamid Hayat told the informant he intended to train with terrorists. His family said in earlier interviews and court hearings that he went to attend a religious school and find a wife.

Griffin has said his client told the truth to investigators when he denied knowing of any terrorist camps and denied that his son attended one. Umer Hayat changed his story under pressure and without a lawyer or interpreter present, Griffin said.

Prosecutors also disclosed that four mysterious images that had been a focus of pretrial motions for months are satellite photographs of locations in Pakistan. Prosecutors have said defense attorneys would have to get security clearances before they could learn how the images were obtained.

The government also said it may call 28 witnesses but gave no details about who they were.

The Hayats were dressed in dark suits with their hair and beards cropped close - a contrast to the bushy facial hair they once wore. Neither spoke as they listened passively to three interpreters who took turns as jurors were selected.

Among the bystanders in the courtroom were Umer Hayat's wife and another son, as well as Hamid Hayat's cousin.

Federal investigators began focusing on the Pakistani community in and around Lodi shortly after the 2001 terror attacks. About 2,500 people of Pakistani descent call the area home, most descendants of laborers who began arriving in the early 1900s to work in the area's orchards and packing plants.

Federal investigators questioned the Hayats after the younger man returned to the United States from Pakistan last May.

Prosecutors say Hamid Hayat failed a lie-detector test and admitted attending one terrorist camp for three days in 2000 and a second for three to six months in 2003 and 2004. They also say he returned to the U.S. intent on attacking hospitals and supermarkets.

FBI agents say they found a book titled "Virtues of Jihad" during a search of his bedroom.

Two Muslim clerics and the son of one of the imams arrested during the same investigation were not criminally charged but were deported to Pakistan over immigration violations.

SACRAMENTO Court Clerks, Reporters Queried About Lodi Terror Case Leak Sealed Court File Was Allegedly Given To Sacramento Bee (SFC)

By Demian Bulwa, Chronicle Staff Writer

San Francisco Chronicle, February 14, 2006

Sacramento -- The high-profile trial of a Lodi father and son accused of terrorist ties, scheduled to begin today with jury selection, took on added intrigue Monday with the disclosure that federal agents have questioned court clerks and news reporters while investigating the alleged leak of a secret case file.

FBI agents and a federal prosecutor questioned clerks on the fourth floor of the U.S. District Court in Sacramento last week about their handling of sealed documents from the prosecution of Umer Hayat and his son, Hamid Hayat, said attorneys Mark Reichel and Joseph Wiseman, who were hired to represent clerks.

The investigators also contacted three reporters at the Sacramento Bee newspaper and said they were investigating the leak of documents, said executive editor Rick Rodriguez, who declined further comment.

In the trial, jurors must decide whether Hamid Hayat, 23, is guilty of supporting terrorists by attending a training camp in Pakistan in 2003 and 2004. He is also charged with lying to FBI agents about it. Umer Hayat, a 48-year-old ice cream truck driver, is charged with lying to the FBI about his son's alleged training.

Their attorneys said the younger man did not go to a camp at all.

The two attorneys representing clerks said they believe the government is trying to intimidate the media in a controversial case. A few court clerks answered questions, Reichel said, but 16 opted to hire counsel. A third attorney representing a clerk, Krista Hart, said investigators asked clerks to give fingerprints and undergo polygraph tests.

"It's disconcerting to see this," Wiseman said, "because one can view this as a strong-arm attempt by the government to silence the media." Referring to other recent investigations of media leaks, he added, "This is probably the highest-profile terrorism case in the country right now. I think it's going to get messier before it's over."

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FBI Special Agent Karen Ernst, an agency spokeswoman, confirmed Monday that the government was investigating "a leak of a sealed court document to the Sacramento Bee" but stressed that the clerk's office was not the only focus. She said the probe has been going on for some time and is not related to the trial.

The investigation comes on the heels of other highly publicized probes that have pitted the media against the Bush administration. Most recently, the Justice Department began looking into whether the New York Times was illegally given information about a controversial wiretapping program.

The Sacramento Bee, in a story published July 8, referred to "federal court documents obtained by The Bee" that contained details about the investigation that had not been made public. Many of the allegations mentioned in the story, written by Stephen Magagnini and Dorothy Korber, were later revealed in court hearings and filings by prosecutors.

Reporter Denny Walsh, who works in an office on the fourth floor of the courthouse, was the third reporter contacted, Rodriguez said.

Lawyers today will begin selecting a pair of juries, one for each of the defendants, in a trial that is expected to last 10 weeks and is seen as a window onto hit-and-miss efforts by U.S. authorities to thwart terrorist attacks. Testimony will be heard on Tuesdays, Wednesdays and Thursdays.

Authorities have said that Hamid Hayat, who was arrested in June after returning to Lodi from Pakistan, was to receive attack orders from two Muslim clerics who were in Lodi on religious-worker visas. The clerics agreed to be deported to their native Pakistan last year rather than fight immigration charges. Their attorney said they had no ties to terrorism.

Hamid Hayat's attorney, Wazhma Mojaddidi, said the young man was manipulated during FBI interviews. "The government charged these guys without a case and now they're going to trial without a case," she said, adding, "It's clear that our guys were not the targets of this investigation. The investigation was so much bigger."

The "meat of the case" remains FBI interviews with the father and son in which they allegedly confess, prosecutor Laura Ferris said during a pre-trial hearing. The government is also expected to call a cooperating witness -- a young Pakistani American man who befriended the Lodi clerics and Hamid Hayat, who he surreptitiously tape-recorded as far back as August 2002.

Moussaoui Permanently Barred From Jury Selection (LAT)

By Richard A. Serrano

The Los Angeles Times, February 15, 2006

ALEXANDRIA, Va. — A federal judge today permanently banned Zacarias Moussaoui from the remainder of the jury selection proceedings in his trial after the self-admitted Al Qaeda fighter once again rudely interrupted court proceedings, lashing out at his defense lawyers and the judge and angrily declaring: "God curse you and America!"

Her patience at an end, U.S. District Judge Leonie M. Brinkema ordered Moussaoui removed from the courtroom and taken to his holding cell in the federal courthouse building here. He will be allowed to monitor the next three weeks of jury selection via a television hookup.

The 37-year-old Moussaoui, a French citizen of Moroccan descent, started the proceedings today much as he did on Feb. 6, when some 500 potential jurors were brought into court in four groups to begin filling out questionnaires. Each time, he disrupted the process, swore allegiance to Al Qaeda and was whisked away at Brinkema's insistence.

Today's hearing was set up for the judge to go over the individual jury selection process. She began by saying her "main reason" was to "determine how Mr. Moussaoui plans to behave." He wasted no time telling her.

Speaking in Arabic and English, Moussaoui rose and called the proceedings nothing more than my "organized death." In April he pleaded guilty to capital murder for participating in the Sept. 11 terrorist plot, but also claimed that he was being recruited to fly an airplane into the White House at a later date. The question now is whether he should be sentenced to death or life in prison with no parole.

Moussaoui started today by disavowing any allegiance to France, calling it a "nation of homosexual Crusaders." He said, "I tell you I am a Muslim.... I am not a frog."

Brinkema could not silence him.

"Today is my death, today is my death," he repeated, angry that the judge would not excuse his defense lawyers and let him represent himself.

"If I don't make sure that these people are not going to represent me, I know that I am dead, OK?"

But even then, Moussaoui said, he did not expect justice. "You own everything," he told the judge and the lawyers seated around him. "You are America — the defense, the judge, the attackers. These people are American. I'm Al Qaeda. I'm a sworn enemy of you. You, you, you, you. For me, you are enemy."

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Then, aiming at President Bush, Moussaoui said, "Your own commander in chief says he wants to launch a revenge against terrorists."

The judge warned him that such outbursts were inappropriate.

"Mr. Moussaoui," she said, "you are the biggest enemy of yourself."

She ordered him removed, and he said: "God curse you and America!"

The judge already has ruled that Moussaoui comprehends the gravity of his situation despite his guilty plea to capital murder.

Some observers believe his outbursts only affirm that he is mentally unstable, an argument for appeal should he be sentenced to death. It also could convince the jury not to execute an insane man.

But his behavior also could help the government in that he repeatedly proclaims himself a dedicated Al Qaeda fighter and a sworn enemy to America.

"It could cut either way," said Carl Tobias, a professor at the University of Richmond School of Law in Virginia.

The judge could bar Moussaoui from the trial itself, something that has been done in other high-profile cases.

Charles Manson and three female devotees were removed at times from their trial in Los Angeles 35 years ago in the Tate-La Bianca murder case when they began singing, chanting and disparaging the judge. All four were convicted.

Moussaoui Kicked Out Of Court After Tirades (USAT)

By Richard Willing

USA Today, February 15, 2006

ALEXANDRIA, Va. — Confessed al-Qaeda member Zacarias Moussaoui, on trial to determine whether he should be executed for his connection to the 9/11 conspiracy, was kicked out of a federal courtroom Tuesday after refusing the judge's request that he “sit quietly.”

Judge Leonie Brinkema ruled that Moussaoui, 37, “forfeited his right to be present” in court today, when his court-appointed attorneys — to whom he refuses to speak — begin questioning prospective jurors. Moussaoui will watch the hearing on closed-circuit TV.

Before he was escorted from court Tuesday, the French national once again argued that his trial was unfair, and he showed more of the angry, abusive behavior that has characterized his court appearances and legal filings for much of the past four years. When the court last met Feb. 6, Moussaoui was removed four times for such behavior.

“You own everything — the defense, the judge, the attack,” Moussaoui told Brinkema, the latter term an apparent reference to the prosecution. “I am al-Qaeda, your sworn enemy.”

Brinkema answered, “Mr. Moussaoui, you are the biggest enemy of yourself.”

Moussaoui also hurled slurs at his lawyers, calling one “KKK” and another — Japanese-American Alan Yamamoto — a “geisha.” He accused Brinkema of “trying to organize my death.”

Moussaoui, born in France to Moroccan parents, demanded that court papers stop describing him as French. “I stand here as a Muslim only. I do not stand here with a nation of homosexual crusaders.” As he left the courtroom less than five minutes after the session began, he said, “God's curse on America.”

Moussaoui, who appeared in court Tuesday wearing a green prison jumpsuit and a white knit cap, was arrested on immigration charges in August 2001 in Minnesota, after instructors at a private flight school reported he was acting suspiciously. Moussaoui, they told investigators, wanted to learn how to maneuver a jet, but not how to take off.

When Moussaoui was charged with terrorism conspiracy in December 2001, then-attorney general John Ashcroft vowed to make Moussaoui answer for the Sept. 11, 2001, attacks.

Last April, Moussaoui pleaded guilty to conspiring with al-Qaeda. He said he was aware of the 9/11 plot but was not a part of it. His assignment from Osama bin Laden, Moussaoui said, was to fly a hijacked jet into the White House on a later date.

In filings, prosecutors have said they plan to use parts of Moussaoui's statement in which he acknowledges having lied to federal agents after his arrest to conceal the 9/11 plot to argue that Moussaoui is responsible for more than 2,500 deaths and should be executed.

Moussaoui's lawyers have suggested they will argue that he knew little of value and that the government's tepid response to pre-9/11 terrorism warnings raises questions about whether it would have acted even if he had cooperated.

Testimony is scheduled to begin March 6. Jurors will be asked to decide whether Moussaoui should be executed or receive a life sentence.

Judge Ousts Moussaoui Again (WT)

By Jerry Seper

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The Washington Times, February 15, 2006

Admitted al Qaeda terrorist Zacarias Moussaoui was barred yesterday from the federal courtroom where jurors are being selected for the sentencing phase of the death-penalty case after he again disrupted the proceedings.

U.S. District Judge Leonie Brinkema ordered Moussaoui removed from the courtroom during a hearing to determine "whether you plan to remain quiet ... or whether you plan to make speeches," telling the 37-year-old French citizen of Moroccan descent "you are the biggest enemy of yourself."

Moussaoui, proclaiming his allegiance to al Qaeda, was removed four times from the courtroom last week during the opening round of jury selection to determine whether the only person charged in the U.S. in the September 11 attacks should be put to death.

Moussaoui refused to be quiet during yesterday's hearing, instead reading from a handwritten speech and berating the judge for what he described as violating his civil rights. He accused Judge Brinkema of "trying to organize my death for four years."

Moussaoui again denounced his court-appointed attorneys and charged that President Bush had begun "a new campaign of revenge against terrorists." He also told the judge he was not French, saying, "I stand here as a Muslim only."

"God curse you and America," Moussaoui said as he was led from the courtroom. He will watch jury selection from his cell at the courthouse.

He pleaded guilty in April to conspiring with the 19 terrorists who slammed four hijacked jetliners into the World Trade Center, the Pentagon and a Pennsylvania field, killing nearly 3,000 people. In his plea, he said he conspired with members of al Qaeda to commit acts of terrorism and aircraft piracy and to murder U.S. citizens.

But he denied direct involvement in the September 11 attacks, saying he had been training for a separate mission to fly a 747 aircraft into the White House. Jury selection is expected to take a month.

Moussaoui was detained by FBI agents on immigration charges in Minneapolis on Aug. 16, 2001. At the time of his arrest, he had in his possession knives, binoculars, a hand-held aviation radio, Boeing 747 flight manuals and computer programs on flight simulation, pilot procedures and aerial pesticide application.

Trial in the sentencing question is scheduled to begin March 6.

Today, groups of a dozen prospective jurors will return to the courthouse to be questioned individually by the judge. The sessions will continue for two to three weeks, until 85 prospective jurors have been qualified.

The government charged in a six-count indictment that Moussaoui conspired with other members and associates of al Qaeda to "unlawfully, willfully and knowingly" kill and maim persons within the United States, and to create a "substantial risk of serious bodily injury to other persons" by destroying and damaging structures, transportation sites and others targets.

Judge Bars Moussaoui From Courtroom (WP)

By Jerry Markon

The Washington Post, February 15, 2006

After another outburst, Zacarias Moussaoui was banned by a federal judge yesterday from attending the remainder of jury selection at his death penalty hearing after the judge told the Sept. 11 conspirator, "Mr. Moussaoui, you are the biggest enemy of yourself."

Last week, U.S. District Judge Leonie M. Brinkema ejected Moussaoui four times on the first day that prospective jurors were brought into court. As Moussaoui entered the federal courtroom for a routine hearing in Alexandria yesterday, warily scanning the room and wearing a white knit cap, Brinkema laid down the rules.

"The main purpose of this hearing is to determine how Mr. Moussaoui plans to behave," she said, and if he plans "to remain quiet or . . . try to make speeches."

"I know, I know your story," Moussaoui interjected in heavily French-accented English, as Brinkema vowed to eject him again if he didn't remain silent during jury selection.

Moussaoui then took the podium and criticized President Bush for mounting what he called a "a new campaign, a revenge against terrorists." He lambasted his own attorneys -- with whom he does not speak -- calling one a "federal lawyer," another, a "KKK [Ku Klux Klan] lawyer" and a third, a "geisha."

"Mr. Moussaoui," Brinkema responded, "I am not going to permit you to use a public federal courthouse to malign your attorneys."

"You have been trying to organize my death for four years," Moussaoui told the judge, who in 2003 delayed the case by ruling that Moussaoui was ineligible for the death penalty. Her ruling was overturned on appeal.

Moussaoui then told Brinkema: "You own everything in America, the defense, the judge . . . These people are Americans. I am al Qaeda. For me, you are enemy."

"Mr. Moussaoui, you are the biggest enemy of yourself," Brinkema retorted before saying: "Are you going to sit quietly and let us do some business, or are you going to continue to try to talk?"

"I'm going to leave," Moussaoui said.

"Yes, you are," Brinkema replied as she announced that Moussaoui would watch the rest of jury selection on a television monitor from a secure area in the courthouse. Moussaoui then walked out in the custody of U.S. marshals, telling them, "I'm going, I'm going."

"We have some business to take care of," Brinkema said as Moussaoui left the courtroom.

"Yes, taking care of my death, yes," Moussaoui replied.

Moussaoui is the only person convicted in the United States in connection with the Sept. 11, 2001, terrorist attacks. A jury is being chosen to decide whether he lives or dies.

Jury selection resumes today with questioning of individual jurors by the judge and continues until opening statements in the trial, set for March 6. The trial is scheduled to last one to three months.

Legal experts have said Brinkema is on firm ground in ejecting Moussaoui. Defendants have a constitutional right to be at their trial, but the U.S. Supreme Court has allowed judges to expel or even bind and gag disruptive defendants to maintain order in courtrooms.

Measures taken by other judges around the country have included sealing a defendant's mouth shut with duct tape and forcing defendants to wear an electric shock-producing stun device. Sources have said that Moussaoui has been equipped during court appearances with a stun device, which is fitted under his clothing.

A deputy equipped with a small remote control stands ready to administer jolts of electricity if violence is threatened.

Moussaoui, 37, is a French citizen of Moroccan descent, although he said in court yesterday: "I'm not French and never have been French. I stand here as a Muslim only." He pleaded guilty in April to conspiracy charges as part of an al Qaeda plot that led to the attacks on the World Trade Center in New York and the Pentagon in Arlington County, just a few miles from the federal courthouse.

When he pleaded, Moussaoui said Osama bin Laden had personally instructed him to fly a plane into the White House, but he denied that he was involved in the Sept. 11 hijackings. Jurors will first decide whether he is eligible for the death penalty. If he is, they will then decide whether he gets life in prison or is put to death.

Judge Ejects 9/11 Suspect After Outburst (NYT)

By Neil A. Lewis

The New York Times, February 15, 2006

ALEXANDRIA, Va., Feb. 14 — A federal trial judge ejected Zacarias Moussaoui from the courtroom on Tuesday after his latest outburst and said he could observe the next weeks of his trial only from a closed-circuit television system in a nearby cell.

The judge, Leonie M. Brinkema, ordered that Mr. Moussaoui, the only person to stand trial in America in connection with the Sept. 11 terrorist attacks, be barred from the courtroom during jury selection. Defense lawyers and prosecutors are expected to spend the next few weeks questioning and screening 500 residents of Northern Virginia to choose the jury that will decide whether Mr. Moussaoui is sentenced to death or life without parole.

After entering the courtroom on Tuesday, Mr. Moussaoui declared his loyalty to Al Qaeda and said he needed to be allowed to explain why he believed that the lawyers assigned to defend him were conspiring with the judge and the prosecution to execute him. "If I can't make speech, I am dead," he said.

As he was led from the courtroom by federal marshals, Mr. Moussaoui shouted, "God curse America."

Judge Brinkema said Mr. Moussaoui, a 37-year-old resident of France who is of Moroccan heritage, might be allowed to return to the courtroom after a jury was seated.

Mr. Moussaoui pleaded guilty to six felony counts in connection with the Sept. 11 attacks, but he has said he intends to fight the death penalty.

On Tuesday, Judge Brinkema began by telling Mr. Moussaoui that the main purpose of the session was to determine whether he would sit quietly or would insist on "making speeches."

Mr. Moussaoui, wearing a dark-green prison jumpsuit, took the lectern and criticized his court-appointed lawyers in insulting terms.

He said he should not be referred to in court papers as a French citizen. "I stand here as a Muslim," he said. "I am an enemy of France."

When he told Judge Brinkema that his lawyers were his enemies, she replied, "Mr. Moussaoui, you are the biggest enemy of yourself."

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Prof. Craig M. Bradley of the Indiana University School of Law at Bloomington said ejecting an unruly defendant was appropriate because "the law recognizes that a defendant can't bring his own trial to a grinding halt through his own misbehavior."

Disruptive Again, Moussaoui Is Barred From Court During Jury Selection (AP)

By Michael J. Sniffen, ASSOCIATED PRESS

AP, February 15, 2006

ALEXANDRIA, Va. – Confessed al-Qaeda conspirator Zacarias Moussaoui again disrupted his sentencing trial with insults and epithets Tuesday and was barred from the courtroom while a jury is selected to decide whether he is put to death or imprisoned for life.

After verbally sparring with Moussaoui for about 15 minutes, U.S. District Judge Leonie Brinkema ordered that he must watch the remainder of jury selection on closed-circuit television from his courthouse cell. That could take until March 6, when opening statements are scheduled.

Brinkema said her main purpose in Tuesday's hearing was to determine "how Mr. Moussaoui plans to behave: ... whether you plan to remain quiet ... or whether you plan to make speeches."

Moussaoui was ejected four times on Feb. 6 when he denounced his court-appointed lawyers in front of four separate groups of prospective jurors. Some 500 northern Virginia residents filled out questionnaires that day about their attitudes toward the case, the death penalty, Muslims and the FBI.

The 37-year-old Frenchman of Moroccan descent pleaded guilty last April to conspiring with al-Qaeda to fly aircraft into U.S. buildings but has denied any role in the Sept. 11, 2001, attacks on the World Trade Center and the Pentagon. Moussaoui claims to have been training to fly a 747 jetliner into the White House as part of a subsequent plot.

When Brinkema asked how he would behave, Moussaoui walked to the lectern and pulled out what appeared to be a handwritten speech. "You have been trying to organize my death for four years," Moussaoui told her.

Clad in a white knit cap and green prison jump suit with "prisoner" in white block letters on the back, Moussaoui launched into another attack on his lawyers and in the process offered diatribes against President Bush and the French people.

At various points, he called Bush "a crusader" who was "launching a new campaign of revenge against terrorists."

Despite his French citizenship, he said in French-accented English: "I'm not French. ... I stand here as a Muslim only. I do not stand here with a nation of homosexual crusaders."

Brinkema repeatedly tried to quiet him. But Moussaoui complained that for four years she had denied him a chance to explain his objections to the lawyers. "Today is my day," he plunged on. "If I can't make sure that those people are not going to represent me, I know that I am dead."

He referred to his three attorneys as a "federal lawyer," a "KKK" (Ku Klux Klan) and a "geisha."

Brinkema sternly broke in: "I'm not going to permit you to use a federal courtroom to malign your lawyers."

Without raising his voice, Moussaoui responded, "You own everything – the defense, the judge, the attack (prosecutors). I am al-Qaeda. I am your sworn enemy."

Brinkema: "Mr. Moussaoui, you are the biggest enemy of yourself."

Again she asked if he would remain quiet or leave.

Moussaoui: "I'm going to leave."

"God curse you and America," Moussaoui said as marshals accompanied him out.

Brinkema ruled Moussaoui had forfeited his right to be present for jury selection but said she might reconsider if he later agreed to behave.

Despite requests from news media, Brinkema ruled that no copies of exhibits admitted into evidence – including videotaped depositions from some witnesses and summaries of interrogations of captured al-Qaeda leaders – will be made public during the trial. She said jurors might be contaminated by uncontrolled exposure to the material.

"Moreover, some exhibits may be declassified only for the limited purpose of being discussed in court and shown to the jury without unrestricted public access," she added. She said she would decide after trial which exhibits to release.

Brinkema also said Moussaoui's mother, expected to visit from France, could watch on television in an overflow room where her translator would not disrupt proceedings.

Lawyers begin questioning individual jurors Wednesday.

On Capitol Hill, Rep. Curt Weldon, R-Pa., said he would fight a defense subpoena to testify on what he's learned about a military intelligence operation named Able Danger that he says identified some 9/11 hijackers well before the attacks.

"I think Moussaoui is a thug. I think he deserves to be given the harshest punishment," Weldon said. "If they were going to use me, I don't want to be used."

Defense attorneys did not immediately respond to calls asking whether they would still try to enforce the subpoena.

Associated Press writer Matthew Barakat contributed to this report.

Moussaoui Barred From Courtroom (REU)

By Deborah Charles

Reuters, February 15, 2006

ALEXANDRIA, Virginia -- After another outburst in court, a federal judge barred September 11 conspirator Zacarias Moussaoui on Tuesday from being present during upcoming jury selection for a trial to decide if he gets the death penalty.

For the second week in a row, Moussaoui exclaimed "I am al Qaeda" before being escorted out of the courtroom. Last week Moussaoui made several outbursts in four separate sessions with potential jurors, prompting his expulsion each time.

Moussaoui has frequently interrupted the only U.S. case brought in connection with the attacks with outbursts in court.

U.S. District Judge Leonie Brinkema called a hearing on Tuesday -- one day before direct jury questioning is set to begin -- mainly to ask Moussaoui if he could behave during jury selection.

Dressed in a white knit cap and green prisoner jumpsuit, the French citizen of Moroccan descent did not respond directly but proceeded to make further outbursts.

"I want to make it known, like I've been trying for the last four years ... that these people are not my lawyers," he said forcefully. He went on to call each of his lawyers a derogatory name.

"I am al Qaeda," he said. "You, you, you -- for me you are the enemy," he added, gesturing to his lawyers.

Brinkema stopped Moussaoui from continuing and said: "Mr. Moussaoui, you are the biggest enemy of yourself."

She gave him the option of sitting down quietly during the jury selection process, or of watching the proceedings on closed-circuit television in a cell in the courthouse.

Moussaoui went on to complain about his lawyers then said he wanted to leave the courtroom.

"You're going to take care of my death," he yelled as he was lead out of the courtroom by the marshals.

"God curse you and America!" he added from outside the courtroom.

Brinkema ordered that Moussaoui would not be allowed to attend the jury selection process in court, which starts on Wednesday and continues until final jury selection and opening statements in the trial on March 6.

JURY TO CONSIDER DEATH PENALTY

In April, against the advice of his lawyers, Moussaoui pleaded guilty to six charges against him in connection with the September 11 attacks that killed about 3,000 people.

A jury is being selected for the penalty phase of the trial to determine whether he will be executed or sentenced to life in prison.

Last week about 500 prospective jurors began the unusually long selection process, completing 49-page questionnaires that included questions about al Qaeda, the September 11 attacks and terrorism.

Brinkema also asked them if Moussaoui's outbursts had any impact on their ability to serve on the jury.

Brinkema is trying to seat an impartial jury of 12 people and 6 alternates for the trial that is being held only a few miles from the Pentagon -- one of the targets on September 11.

Moussaoui's mother, Aicha el-Wafi, plans to attend the trial and be assisted by an interpreter. The trial could last several months.

Jurors first must determine whether Moussaoui intentionally lied to the FBI in interviews before September 11 about his knowledge of the plan to hijack planes.

If the jury decides he did lie, preventing the government from possibly stopping the attacks, another phase of the trial will be held to see whether Moussaoui should be given the death penalty or life in prison. If the jury finds he did not lie, he faces a sentence of life in prison.

Judge Orders Iraqi Deported (WT)

By Jerry Seper

The Washington Times, February 15, 2006

A federal immigration judge in Seattle yesterday ordered the deportation of an Iraqi national with ties to a senior al Qaeda operative suspected of helping plan the attack on the USS Cole in Yemen in 2000 and the bombings of U.S. embassies in Kenya and Tanzania in 1998.

U.S. Immigration and Customs Enforcement (ICE) spokesman Dean Boyd said U.S. Immigration Judge Kenneth Josephson ordered Sam Malkandi of Kirkland, Wash., removed from the United States. Judge Josephson based his decision on evidence presented by ICE attorneys during hearings that concluded earlier this month, Mr. Boyd said.

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Mr. Boyd said ICE attorneys accused Mr. Malkandi of committing fraud against the U.S. government to obtain immigration benefits for himself and his family.

He said the attorneys also introduced evidence, some of which was referenced in the September 11 commission report, that Mr. Malkandi used fraud in an attempt to obtain a U.S. visa for Tawfiq bin Attash, a one-legged al Qaeda operative also known as "Khallad." A trusted lieutenant and former bodyguard of al Qaeda founder Osama bin Laden, bin Attash is suspected of planning the embassy bombings and the Cole attack.

Mr. Boyd said the evidence linking Mr. Malkandi to the al Qaeda operative surfaced in 2003 after bin Attash was captured in Karachi, Pakistan, and turned over to U.S. authorities.

The September 11 commission report said bin Attash told U.S. officials in August 2003 that a person in Bothell, Wash., whose name sounded like "Barzan," had tried to help him obtain a visa to enter the United States. U.S. officials concluded that "Barzan" was a Bothell man named Sarbaz Mohammad, who changed his name to Sam Malkandi in 2001.

Mr. Boyd said an investigation by ICE and FBI agents on the Seattle Joint Terrorism Task Force determined that "Barzan" and Mr. Malkandi were the same person. Among other things, he said, federal agents were able to obtain documents showing that Mr. Malkandi had made arrangements with a clinic in Bellevue, Wash., for bin Attash, under an alias, to obtain a new prosthetic foot in 1999.

Bin Attash was never able to come to the United States because his visa application was denied, Mr. Boyd said.

ICE agents arrested Mr. Malkandi in August on fraud charges. He was accused of falsely claiming to have been incarcerated in Iran for possession of prohibited political materials, which originally qualified him for refugee status to enter the United States in June 1998.

"We are gratified that justice has prevailed in this case," said Dorothy Stefan, chief counsel for ICE in Seattle.

Under the law, Mr. Malkandi has 30 days to appeal Judge Josephson's decision. In the meantime, ICE continues to hold him without bail.

Witnesses For Seattle Imam Rip Into Prosecution's Case (SEAPI)

By PAUL SHUKOVSKY, P-I REPORTER

Seattle Post-Intelligencer, February 15, 2006

TACOMA -- Witnesses for the imam of a Rainier Valley mosque accused of connections with terrorist organizations portrayed one government witness Tuesday as a vindictive liar and contradicted FBI assertions that Abrahim Sheik Mohamed is a fund-raiser for radical Islamic holy war.

Federal agents with the FBI's Joint Terrorism Task Force arrested Mohamed Nov. 14 at Sea-Tac Airport as he was getting off a domestic flight.

He was charged not with a terrorism-related crime, but with the immigration violation of lying on his application for asylum from his war-torn home in Somalia, where competing tribal groups killed each other based on clan membership.

Federal Immigration and Customs Enforcement prosecutors say Mohamed lied about being a member of an oppressed minority clan, about his country of origin, his educational background and what languages he speaks. But much of the lengthy bond hearing to determine whether Mohamed can be released pending resolution of the case has focused on his alleged role as a fund-raiser for terrorist organizations operation in Somalia and Ethiopia.

One witness, Bashir Hussein, who ran an African restaurant near Mohamed's Abu Bakr Mosque on Rainier Avenue, told the court in earlier proceedings that every week at the mosque between $50,000 and $100,000 was raised for al-Itihaad a-Islamiya, a Somali terrorist organization to which he said Mohamed belongs.

But the treasurer of the mosque, Osman Deria Egal, said yesterday that Mohamed "has nothing to do with" handling the mosque's money, which is controlled by a board of directors on which Egal sits.

And in a break in the proceedings outside the courtroom at the ICE detention center in Tacoma, Egal broke into laughter at what he perceives to be the government's ludicrous contention that between $50,000 and $100,000 was raised.

Two witnesses provided what Mohamed's lawyer, Hilary Han, later called "the motivation for (Bashir Hussein's) lies" about his client.

Both Abdullahi Fara and Ahmed Hassani recounted an incident in which Hussein asked the imam to grant him an Islamic divorce decree.

The witnesses said that when Mohamed refused to give him the document because of alleged failures by Hussein to carry out certain duties to his ex-wife, Hussein exploded in anger at the imam.

Immigration will rule later on whether Mohamed can be released on bond.

P-I reporter Paul Shukovsky can be reached at 206-448-8072 or paulshukovsky@seattlepi.com.

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Quieter Presence Urged In Mideast Terror (USAT)

By John Diamond

USA Today, February 15, 2006

WASHINGTON — The United States should launch a major covert information campaign to promote the nation's image in the Middle East and sow division among radical Muslim groups, according to a West Point critique of U.S. terrorism policy.

The strategy, amounting to a secret campaign for hearts and minds, could involve paying for favorable publications and schools that promote moderate Islamic philosophies.

The report also proposes using Muslim allies, or at least groups hostile to the more militant Islamic movements, to exploit ideological rifts within terrorist groups.

Through it all, however, "it is essential that the U.S. hand not be seen," said the report by the Combating Terrorism Center at the U.S. military academy.

The authors of the unpublished report, civilian scholars Jarret Brachman and William McCants, confirmed the authenticity of the report obtained by USA TODAY. Though not an official U.S. military document, it has circulated widely among U.S. intelligence officials and officers on the Pentagon's Joint Staff. The authors regularly brief Pentagon officials on terrorism issues.

The report, completed Monday, says the United States should rely on "proxies" for military action in the Middle East if force is necessary.

"Direct engagement with the United States has been good for the jihadi movement," the authors argue, because it reinforces the perception in the Middle East of the United States as an anti-Islamic crusader.

"The United States should avoid direct, large-scale military action in the Middle East."

Such action, the report says, "rallies the locals behind the movement, drains the United States of resources and puts pressure" on allied regimes.

Titled "Stealing al-Qaeda's Playbook," the report is based on a detailed study of jihadist writings and communications and is meant to help better understand the enemy, Brachman said in an interview.

The current U.S. anti-terrorist strategy is reactive, the authors argue in briefing slides accompanying the report. They dub the strategy, "Whack-a-Terrorist," after the carnival game Whack-a-Mole.

Retired general Wayne Downing, the center's chairman and a former head of Special Operations Command, has been advising Defense Secretary Donald Rumsfeld on ways to make the command more effective against terrorist groups.

In the report's foreword, Downing writes that although U.S. intelligence agencies have devoted more resources to translating jihadi texts and broadcasts, they don't have enough people to pay enough attention "to the most useful texts" they have collected.

Last year, the U.S. Special Operations Command issued $300 million in contracts for three companies to spread pro-American propaganda without revealing the U.S. connections.

One contractor, the Lincoln Group, became the focus of a Pentagon investigation in December because of reports it had paid Iraqi newspapers to publish pro-U.S. stories as part of a U.S. information warfare strategy in Iraq.

Wahhabism In America (WT)

By Matthew Mainen

The Washington Times, February 15, 2006

Traditionally in international politics, the word "invasion" is used to describe a situation in which a state forcefully penetrates the territory of another. But in a world in which non-state actors, especially terrorist organizations, play an increasing role in international politics, the word "invasion" can be used to describe far subtler actions.

Recently, a number of anti-Western texts, many of which were distributed by the Saudi Embassy, were discovered among authentic Muslim works at prominent Muslim institutions in the United States. This tactic carried out by extremists within the Saudi government represents an invasion on two fronts: the Muslim religion and the sovereignty of the United States. Although there is no evidence that Saudi Arabia has directly sponsored terrorism, it nonetheless is the largest contributor to the faith that breads it: Wahhabism, a fringe Islamic sect created more than 1,000 years after the time of Muhammad.

When such ideas posing as authentic Islam enter the United States, it can only serve to sabotage long-lasting American values. If the goal of social upheaval is achieved, it will be far more damaging than any incendiary device used in acts of terror.

The threat posed by Saudi Arabia's interference in America's religious affairs is not to be taken lightly, and requires immediate attention at the high levels of office.

The First Amendment guarantees religious freedom in the United States. Nearly 200 years after the Bill of Rights was ratified, the ideals of religious freedom and tolerance were codified in the International Convention of Civil and Political Rights.

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Although attempting to argue that Saudi Arabia is legally bound to respect religious tolerance is an arduous task, there is another option: Saudi Arabia, like all other countries, is legally bound to respect the sovereignty of the United States. By playing a direct role in the distribution of texts designed to erode domestic religious harmony, Saudi Arabia is illegally interfering with America's internal affairs.

Wahhabism, especially as it attempts to influence American Muslims, is best described as a cult and should be dealt with as one. After all, fatwas published in materials distributed by the Saudi Embassy exhibit signs of fundamental cult practices. Muslims living in the United States are instructed to progressively isolate themselves for the sake of their purity. First, they must have almost no contact with non-Muslims. After this separation is complete, they are then instructed to distance themselves from Muslims who do not share the extreme beliefs of Wahhabism. Finally, they are to undergo a breaking down of their identities; such practices as celebrating a birthday are strictly forbidden. Young Muslims looking for spiritual guidance are duped into believing that these distorted teachings are the true path of Islam.

Once a person is stripped of their identity and the included morals, he becomes a puppet to the masters of whichever ideology is controlling him. None of the September 11 hijackers were born terrorists; they went through a similar process as what is being advocated to American Muslims by Saudi religious leaders. Cults, when they become dangerous to society, are not protected by the Constitution or international convention, and neither is Saudi Arabia's role in bringing the philosophy of this cult to the United States.

In response to Wahhabist terrorism, non-Muslim Americans will often misdirect their aggression against Islam as a whole instead of the fringe faith. An increased amount of acts of intolerance against peaceful Muslim communities such as the burning of Korans in front of mosques is evidence of this. Thus, the Wahhabist claim that the West is waging a war against Islam becomes a fulfilled prophecy, giving extremists an opportunity to recruit more adherents at the expense of mainstream Islam. Once the belief of victimization becomes prevalent, acts of intolerance on the part of Muslims are all the more likely to occur. Thus, the cycle repeats itself, and at each successive stage, the prospects of violence increase.

So far, the American Muslim community has almost single-handedly protected the United States from such social turmoil by reporting to the proper authorities when they find extremist texts. But without the help of a higher power, the U.S. government, there is nothing guaranteeing that mainstream Muslim institutions will forever remain impervious to this invasion.

Even at the height of the Cold War, the Soviet Union was unable to penetrate the United States with its ideology to the degree Saudi Arabia has. This issue cannot be ignored, as Wahhabist infiltration of mainstream Islam in the United States affects all people, not just Muslims. The foundation of terrorism is not the tools used to carry out attacks but its driving philosophy. The American Muslim community recognizes this; it is time the U.S. government recognize the same.

Matthew Mainen is a policy analyst at the Institute for Gulf Affairs.

PATRIOT ACT:

Editorial: Patriot Act Still Flawed (PALMBEACHP)

Palm Beach Post (FL), February 15, 2006

"I think Congress has failed the country in many ways," including allowing the administration "to completely overpower the debate based on, 'I'm the commander in chief, and I know what's best.' " Thus spoke Sen. Chuck Hagel last month, reports The New York Times. Yet the Nebraska Republican and potential presidential candidate last week blessed the proposal to renew flawed provisions of the Patriot Act, saying, "This is an accommodation that I think we can be proud of."

With that, Sen. Hagel and three other GOP senators scuttled what had been a bipartisan effort to bring the anti-terrorism law in line with the Constitution. Democrats, too, hardly are blameless in failing to ensure the basic protections that the bill was temporarily extended to incorporate. The pattern is all too familiar: The all-terrorism, all-the-time White House manipulates the nation's fear, and Congress caves.

Is it enough that there have been some changes to the hastily concocted 2001 law for which the president insisted on all-or-nothing renewal? Not when those changes, as holdout Sen. Russell Feingold, D-Wis., maintains, are insignificant. The proposed revision still sanctions secret government fishing expeditions into Americans' private records without proof of any connection to a suspected terrorist, spy or illegal activity.

And as conservatives such as former Rep. Bob Barr, R-Ga., note, the new agreement also finesses a First Amendment violation prohibiting businesses, agencies and individuals from mentioning that the government subpoenaed your private records. In theory, the gag order now is limited to one year. Even then, you cannot be told of the subpoena that invaded your privacy, much less challenge it, if the government says the disclosure would harm national security or diplomatic relations.

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It is un-American to give one branch of government the unfettered license the president keeps claiming. To grant this administration more "trust us" authority is inconceivable in the light of such appalling abuses as its domestic wiretapping without court approval. Rather than yield the administration more extraordinary power, Congress should insist on more oversight. Otherwise, Congress emboldens an administration that has proven masterful at playing all sides against the others for wafer-thin approval to get its way — and, when it doesn't get its way, simply doing what it wants anyway.

Editorial: Poor Patriot Compromise (OCR)

Orange County (CA) Register, February 14, 2006

Four Republican senators, led by Sen. John Sununu of New Hampshire, who helped to hold up renewal of certain controversial portions of the USA Patriot Act in December, say they have reached an agreement with the White House on a compromise. That compromise still doesn't provide sufficient safeguards for important civil liberties.

The Patriot Act, cobbled together from Clinton administration and federal law enforcement proposals to give government more power - proposals rejected by the Republican Congress through the 1990s - was passed within weeks of the 9/11 terrorist attacks. Sixteen of the most controversial provisions of the act were slated to "sunset" - or expire – at the end of last year unless approved again by Congress.

A coalition of liberal and conservative civil-liberties advocates held up approval based on objections to a few provisions, and the act has been temporarily renewed twice, most recently until March 10.

This new compromise would give recipients of subpoenas for information in terrorist-related investigations the right to challenge government orders not to inform anyone - after a year. It would remove a requirement that any individual who is given what is called a National Security Letter demand for records inform the FBI of the name of any attorney consulted about whether or how to comply. And it would clarify that most libraries are not subject to National Security Letter demands for records of clients using Internet facilities.

These would be desirable changes, but not enough to protect civil liberties sufficiently. As former Georgia Republican Rep. Bob Barr noted, under these provisions "investigators can [still]conduct government-sanctioned fishing expeditions." Mr. Barr wants the government to have to prove there is evidence of some connection to terrorist activity or a terrorist organization before demanding such a broad range of records.

We agree. Congress should be in no hurry to approve this inadequate proposal.

HOMELAND RESPONSE:

Pilots Report Seeing Laser Lights While Flying (CLICKDET)

ClickonDetroit, February 15, 2006

FBI, FAA, Police Are Investigating

Police are on alert after more than a dozen pilots reported someone shining a laser light at the plane while descending into Metro Airport.

The incident occurred in the Dearborn and Dearborn Heights areas, where 16 pilots reported seeing the laser pointer lights near the tower at Metro Airport, Local 4 reported.

Apparently the lights were being flashed at planes on their final approach into the Detroit area. The first instance reported was near the Home Depot in Dearborn Heights, then a short time after the light originated from a neighborhood near Telegraph Road and Lehigh Road, according to police.

Police say shining a laser pointer at a plane is a felony and could lead to a dangerous situation.

"Just be a small laser, when it goes up into the cockpit, then it really can blind the pilot," said Capt. Lee Gavin, Dearborn Heights Police Department.

The same incident occurred about six months ago, Local 4 reported.

The Federal Bureau of Investigation and the FAA are investigating, and local police have assigned additional patrol vehicles to the reported areas, according to the station's reports.

Pilots Report Laser Flashes (DEN)

Detroit News, February 15, 2006

Feds vow to get tough after complaints about 16 incidents as planes land at Metro Airport.

ROMULUS -- Federal authorities are vowing to get tough with anyone interfering with commercial aircraft by shining laser beams at airplanes during landing approaches at Detroit Metropolitan Airport.

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The Federal Aviation Administration received reports of 16 incidents of pilots complaining that between 5:50 and 6:30 p.m. Monday, someone flashed laser beams at their aircraft as they descended, said Elizabeth Isham Cory, the agency's deputy director of public affairs for the Great Lakes Region.

"We treat it as a very serious matter," FBI Special Agent Dawn Clenney said. "Laser beams can disorient pilots responsible for an airplane full of passengers."

Clenney said pointing laser beams at airplanes could be considered a terrorist act under the law and anyone caught doing it could face charges carrying up top 20 years in prison and a fine. Monday's incidents were the second at Metro in the last six months.

Capt. Lee Gavin said Dearborn Heights police investigated a similar complaint at the airport last fall before turning the matter over to the FBI.

On Monday, Gavin said, the department got two calls from the airport tower after pilots reported beams of light coming from a neighborhood at Michigan and Gulley and an area at Telegraph and Lehigh about three-quarters of a mile away.

Officers from Dearborn and Dearborn Heights searched a parking lot at a Home Depot store on Michigan and the other location but found nothing suspicious.

He said the complaint last fall centered on the Michigan-Gulley area.

"If it's just kids or some irresponsible adults, they should be warned that this is a serious matter and will be treated as such," Gavin said.

Federal agents have investigated a rash of similar incidents nationwide in the last year.

In December 2004, the FBI and the Homeland Security Department notified law enforcement agencies that terrorists have explored using lasers as weapons.

Last November, a 39-year-old New Jersey man, David Banach, pleaded guilty to a felony charge of willfully interfering with a "craft involved in mass transportation" for hitting a private jet three times with a laser beam as it flew at 3,000 feet.

Banach claimed he was playing with his 7-year-old daughter, using a green laser to point out stars and light up trees and homes of neighbors.

He was charged with interfering with a flight crew, a violation of the USA Patriot Act, and with lying to federal officers. He could have faced 20 years in prison under the antiterrorist Patriot Act.

Banach was scheduled to be sentenced today in federal court in Newark. While he is not expected to receive prison time because of his plea, he will have the felony on his record for life, authorities said.

White House Firmly Behind Chertoff (AP)

The AP, February 14, 2006

President Bush has full confidence in Michael Chertoff and has not considered asking the homeland security secretary to step down after criticism of his performance on Hurricane Katrina, the White House said Tuesday.

"Secretary Chertoff is doing a great job," White House press secretary Scott McClellan said, answering a reporter's question about Chertoff. "The president appreciates his strong leadership. He is someone who is committed to doing everything he can to protect the American people and to continuing to take steps to make sure we are better prepared to respond to the threats that we face."

A Republican-written House report blamed government-wide ineptitude for mishandling Katrina relief. A report by Congress' investigative arm, the Government Accountability Office, reached similar conclusions and singled out Chertoff for delays.

Former FEMA chief Michael Brown told a Senate panel last week that he dealt directly with the White House in Katrina's aftermath rather than with what he described as a bumbling Homeland Security bureaucracy. Brown said the agency under Chertoff's leadership was preoccupied with terror threats at the expense of preparing for natural disasters.

Days after Katrina struck, Brown quit FEMA under fire.

The Bush administration has been pushing back aggressively against the criticism from Brown and congressional investigators.

Some Wonder If Chertoff Can Survive (LAT)

By Johanna Neuman

The Los Angeles Times, February 15, 2006

WASHINGTON — A year ago, when Michael Chertoff was brought in to run the Department of Homeland Security, he was hailed by Republicans and Democrats as the epitome of competence and good judgment. At his confirmation hearing, one Democratic senator called him "the right man for this job." The Senate confirmed him, 98 to 0.

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But as evidence mounts of the department's botched response to Hurricane Katrina, Chertoff's reputation has been impugned. Now some question whether he can survive in the job. The most telling sign of how much heat the Homeland Security secretary is under may be that members of his own party are throwing logs on the fire.

"It's fair to say that he's vulnerable," said Republican Sen. Norm Coleman of Minnesota, a member of the Senate Homeland Security and Governmental Affairs Committee, which has been investigating the government's response to Katrina for several months. Chertoff, Coleman said, "came in with really high expectations. He was a star. Now his halo has been diminished."

Today, one year to the day after he was sworn in, Chertoff is scheduled to testify before the committee — and is expected to face tough questioning. (He was originally scheduled to appear Tuesday, but the hearing was delayed.) Sen. Joe Lieberman (D-Conn.), the committee member who praised Chertoff as the right man for the job, expressed dismay Tuesday over how the department had responded to Katrina.

"We have found enough pre-landfall warnings of Hurricane Katrina's destructive force to warrant a full-bore emergency response from the top levels of the federal government before the storm struck," Lieberman said. "It is inconceivable to me how the response could have been so weak."

The White House came to Chertoff's defense Tuesday, its words reminiscent of President Bush's praise for Michael D. Brown, the head of the Federal Emergency Management Agency who was forced to resign when his mishandling of the disaster became known.

"Chertoff is doing a great job," White House spokesman Scott McClellan said in answer to a reporter's question. "The president appreciates his strong leadership." Chertoff, McClellan said, "is someone who is committed to doing everything he can to protect the American people and to continuing to take steps to make sure we are better prepared to respond to the threats that we face."

In September, the president — visiting New Orleans a few days after the storm hit — said to Brown, "Brownie, you're doing a heck of a job." Ten days later, Brown resigned under pressure. FEMA is part of the Homeland Security Department, and Brown reported to Chertoff.

Upcoming reports on the government's disaster response effort are likely to hold more bad news for Chertoff.

A select committee investigating Katrina in the GOP-controlled House plans to issue a 600-page report today that accuses Homeland Security of having a "blinding lack of situational awareness and disjointed decision making" that "needlessly compounded and prolonged Katrina's horrors."

The president's domestic security advisor, Frances Townsend, who is heading the White House inquiry on Katrina, is also about to make her report public. A draft version is said to pin much of the blame for the government's ineffectual response on weak management in Chertoff's department.

A big part of Chertoff's problem is that Brown's shortcomings are judged to have been so apparent when measured against the death and destruction of Hurricane Katrina that blaming him for the government's failings may be politically insufficient.

As Coleman put it: "Chertoff should have known that his battleground commander didn't have command."

Chertoff has embarked on a campaign to restore his reputation. Monday he outlined plans to better integrate FEMA into Homeland Security. And defenders note that in August, before Katrina hit, Chertoff unveiled what he called a "second-stage review," in which he described a planned reorganization of his department that included strengthening FEMA.

"Our responsibilities certainly include not only fighting the forces of terrorism, but also fighting the forces of natural disasters," he said at the time.

Homeland Security press secretary William "Russ" Knocke said Tuesday that, "unlike some, the secretary's focus is on preparing FEMA for the next storm season and dramatically strengthening preparedness in our country."

Some domestic security experts said that to blame Chertoff was missing the point. James J. Carafano, a senior research fellow at the Heritage Foundation, a conservative think tank, said the House committee report showed that when Katrina hit, there was no effective national structure for disaster response.

"Headlines are asking whether we should be pointing the finger at Chertoff or Brown, but the point is there's a whole slew of problems they identified," he said. "I don't think the response would have been much different no matter who it was, because we lack the capacity."

Given the political climate in Washington, in which Republicans are beginning to worry that the problems of the Bush administration might become their own, Chertoff may still be vulnerable.

"If pressure builds on the administration to find a second scapegoat, it's Michael Chertoff," said Paul C. Light, a New York University professor of government organization.

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At the same time, "it takes an awful lot for President Bush to remove a Cabinet officer," said Norman J. Ornstein, a political analyst for the American Enterprise Institute. Citing the case of former Treasury Secretary Paul H. O'Neill, Ornstein said, "Usually it takes signs of insubordination. If you have demonstrated loyalty, the president will bend over backward to keep you."

Experts Question Proposed FEMA Changes (WP)

By Spencer S. Hsu

The Washington Post, February 15, 2006

In proposing to bolster the Federal Emergency Management Agency by creating a full-time response force of 1,500 people and expanding 10 regional offices, White House homeland security adviser Frances Fragos Townsend and Homeland Security Secretary Michael Chertoff are grappling again with FEMA's long-term future, a question at the heart of the nation's disaster preparedness.

Should the government's best-known response agency remain a relatively small, 2,500-worker force largely focused on processing disaster claims and coordinating federal help in a crisis?

Or should it be beefed up into a more muscular agency -- a "FEMA on steroids," as planners envisioned in creating the Department of Homeland Security in 2003 -- one capable of being on the ground when required?

Several experts and officials in touch with the Bush administration say the changes proposed Monday -- adding reconnaissance teams, improving vendor databases and strengthening claims management -- only scratch the surface of needed changes.

What Chertoff announced "was a necessary step but not sufficient. I expect him to go further," said Richard A. Falkenrath, a former Bush White House official and a senior fellow at the Brookings Institution who was an original architect of the Homeland Security Department. "It's cultural change [with FEMA] and leadership, and they need more resources, there's just no question."

James Jay Carafano of the Heritage Foundation agreed that the administration's preview Monday "doesn't really solve the problem," which is the ability to push help in the critical first 72 hours of a crisis and unify the government under one command. Both tasks are now beyond FEMA's power, he said.

The real question is whether to shift FEMA from what Falkenrath called "a very pliant posture" of waiting for state and local leaders to ask for help in a disaster, to a more aggressive role without trampling on governors and mayors.

Overall, Townsend and Chertoff began to sketch out their vision in speeches to 50 state emergency managers Monday. In a speech titled "Transforming National Preparedness," Townsend embraced the notion of including state, local and federal agency personnel in bigger FEMA regional offices. That would be a variation on a plan championed by Chertoff's predecessor, Tom Ridge, but rejected largely because of cost.

Without saying that FEMA would be put in charge, Townsend said the Homeland Security Department will play a more robust role in forging a "culture of preparedness," partly by becoming a tougher enforcer of state and local homeland security grants. By the end of 2006, more than $18 billion will have been committed to improve state and local preparedness since the Sept. 11, 2001, terrorist attacks.

Fewer than half the states say they are prepared to respond to a catastrophic disaster, according to a Homeland Security Department analysis, the Associated Press reported. Asked to assess their plans to respond to a catastrophe, 20 states said they felt confident, 14 states said they were somewhat confident, while 13 reported they were not confident. Only five states said they were confident that their evacuation plans would work during a catastrophe.

Bush's $2.8 trillion 2007 budget would require state and local governments to report more fully on how they spend their money. But it also would trim funds for state and local programs by nearly 10 percent.

While the White House says it wants to increase FEMA discretionary spending by $363 million next year, all but $68 million would go to mandatory programs and disaster funds. The agency's main initiatives would add 220 workers.

FEMA's troubles are making it difficult to find a successor for Acting Director R. David Paulison. State members of the National Emergency Management Association with whom Townsend and Chertoff met said that several members have discussed the job of FEMA chief but expressed little interest. Former California emergency services director Richard A. Andrews has declined an offer.

Democrats 'Pleasantly Surprised' By Katrina Report (RC)

By Steve Kornacki

Roll Call, February 15, 2006

When a select committee was empanelled in mid-September to examine the federal response to Hurricane Katrina, House Democratic leaders scoffed, branding the GOP-led investigation a "sham" and refusing to appoint Members.

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But when that committee's report is formally unveiled today, it will portray the response as sluggish and ineffective, with particularly harsh words reserved for Homeland Security Secretary Michael Chertoff, according to draft copies circulated earlier in the week.

"I'm pleasantly surprised," Minority Whip Steny Hoyer (D-Md.) admitted on Tuesday. "I think it's an honest assessment of the egregious incompetence with which the crisis of Katrina was addressed by the administration."

Despite some dissent from within the Democratic Caucus, Democratic leaders boycotted the committee chaired by Rep. Tom Davis (R-Va.) because it did not give equal representation to both parties. In part, the boycott was aimed at ratcheting up public pressure for a bipartisan Katrina commission, modeled after the 9/11 commission co-chaired by Tom Kean and ex-Rep. Lee Hamilton (D-Ind.).

With their leadership's blessing, three Gulf Coast region Democrats — Reps. Charlie Melancon (La.), William Jefferson (La.) and Gene Taylor (Miss.) — joined the committee anyway, arguing that they owed it to their constituents to take part.

The report is already generating headlines because of its tone, considered unusually critical of the Bush administration, given the past reluctance of House Republicans to pursue similar investigations.

Some Democrats feel the leadership's posture effectively put Davis and the committee in a box, forcing them to criticize the response in strong terms or risk being accused of living up to the Democrats' cries that their work would amount to a whitewash.

And yet the Democrats are still free to make that claim, to contend that the report, as one aide suggested, "painted in broad strokes instead of connecting all the dots." Indeed, in the "additional comments" section, the Democrats who participated argue for Chertoff's dismissal, a remedy not endorsed by the Republicans.

From a purely political standpoint, Democrats may have a rare opportunity to double their payday in the message wars, piling on with additional critiques even after the media has reported the damning nature of the report.

"Even a Republican Congress that has refused to perform any oversight of the Bush Administration had to conclude that the response to Katrina was a 'national failure,'" Minority Leader Nancy Pelosi (D-Calif.) said in a release in today.

"Still, the Davis Committee report is incomplete and leaves the American people with too many unanswered questions and absolutely no accountability."

Pelosi renewed her call for a 9/11-style commission.

But, given the bluntness of the report, Republicans also could advance the argument that Democrats forfeited their right to criticize by not fully participating in the committee's work.

"I'm pleased the Democrats didn't take part," Hoyer said Tuesday. "It will be hard for the administration to say this is an ad hominem partisan political attack."

House Dems Are Rethinking 'sham' Panel (HILL)

By Josephine Hearn

The Hill, February 15, 2006

House Democratic leaders had mixed reactions yesterday to a sharply critical report on the federal government's bungled response to Hurricane Katrina, as Rep. Nancy Pelosi called it "incomplete" while Rep. Steny Hoyer said he was "pleasantly surprised" by the findings.

The report was compiled by the Republican-dominated select committee on Hurricane Katrina, a panel that Democrats have officially boycotted on the grounds that a Republican-led committee would not be tough enough in criticizing the administration's mishandling of the disaster. Government Reform Committee Chairman Tom Davis (R-Va.) led the House investigation.

Having asserted many times last fall that the committee was a "sham" and would go soft on the administration, Democrats had to soften their rhetoric yesterday and praise the committee's work while still renewing earlier calls for a nonpartisan, independent commission to investigate the government's bungled response to the storm.

Democratic Leader Pelosi (Calif.) said the report, which faults the response of top administration officials such as Homeland Security Secretary Michael Chertoff, represented "a vote of no confidence in the Bush administration's ability to keep America safe."

Yet she said much work is left to be done.

"The Davis Committee report is incomplete and leaves the American people with too many unanswered questions and absolutely no accountability," she said.

A Davis spokesperson declined to comment.

The report called the Katrina response "a national failure, an abdication of the most solemn obligation to provide for the common welfare" and "a failure of leadership," according to a summary document leaked to news organizations Sunday. The committee will officially release the report today.

Hoyer (Md.), the House's No. 2 Democrat, declined to denigrate the report itself, saying that he is glad it took the administration to task.

"I am pleasantly surprised. I think it is an honest assessment of the egregious incompetency with which the crisis of Katrina was addressed by this administration."

He went on to reaffirm his support of Democrats' decision to boycott the panel.

"I am very pleased that Democrats didn't participate. It will be hard for the administration to say this is another ad hominem partisan attack."

"A report that was not as stark as this would not have been believable," he added.

Pelosi protested the creation of the select committee last fall, declining to name Democrats to the panel unless Republicans agreed to create an independent investigatory commission. However, she allowed three Gulf Coast Democrats — Reps. William Jefferson (La.), Charlie Melancon (La.) and Gene Taylor (Miss.) — to participate informally since their districts fell in the path of the storm. The committee will officially expire March 15.

Democrats have long complained that Republicans have failed to provide substantive oversight of the administration.

Pelosi's daily talking points dealt entirely with the Katrina report yesterday.

"The American people†— especially Katrina survivors — are paying for the Republican corruption," the talking points read. "Republicans hold no one in the Bush Administration accountable. Americans can't afford to gamble their security on the same Bush Administration team that mismanaged Katrina."

Melancon and Jefferson released a Democratic response to the select committee's report, praising many of the document's conclusions but asserting that the panel was reluctant to assign blame.

"For all it accomplished … the Select Committee adopted an approach that largely eschews direct accountability," the Louisiana Democrats wrote. "The majority report rarely assesses how these problems occurred, why they were not corrected sooner and who in particular was responsible."

On Monday, Melancon called on Chertoff to resign.

Several members of the committee participated in a congressional delegation to coastal Louisiana and Mississippi on Jan. 19 and 20. Davis, Melancon, Taylor, Jefferson and Reps. Cynthia McKinney (D-Ga.) and Bill Shuster (R-Pa.) attended.

Democrats on the panel were upset that Davis never subpoenaed the White House. The committee did subpoena the Defense Department, although Democrats complained that the department never fully complied with that order.

SBA Seeks Additional Funding For Gulf Coast Disaster Loans (WSJ)

By David Rogers

The Wall Street Journal, February 15, 2006

WASHINGTON -- The Small Business Administration, running out of money for disaster relief on the Gulf Coast, is pressing for additional funds to support an estimated $6.8 billion in new loans for homeowners and businesses there.

In response to Katrina and last year's other hurricanes, Congress less than two months ago approved $441 million for SBA loan subsidies. But the agency estimates it needs $1 billion more and is asking for action this week before lawmakers leave for the Presidents Day recess.

The situation is unusual both because of the size of the request and because the White House, under attack for failing to respond to Hurricane Katrina more quickly, hasn't been more clear, Republicans say, about the need for funds.

Speaker Dennis Hastert (R., Ill.) said last evening that the House would initiate a bill, possibly as early as today, to meet the SBA's needs. But given their annoyance, the House and Senate Appropriations committees expect to provide only enough to meet loan demands through the end of April.

The White House's Office of Management and Budget has yet to submit a formal request for the needed money. The SBA itself avoided any mention of its funding crisis in a Feb. 7 news release on the disaster-loan program. "SBA Breaks Disaster Loan Record; More than $4 Billion Approved in the Gulf Region," was the headline of that release.

But at the same time, SBA Administrator Hector Barreto was writing Congress Feb. 1 to warn that his funds would soon be exhausted. The administrator wrote again Feb. 8, stating, "Immediate action is needed by the Congress to provide funds to SBA to avoid an interruption in loan assistance to qualified applicants."

SBA officials, who once feared a cutoff next Tuesday, say their funds will be exhausted this month. House Appropriations staff indicated that between $700 million and $900 million in new money will be provided in the new bill. And the House must also act on a separate, Senate-passed Katrina measure, raising the federal flood-insurance program's borrowing by $2.7 billion to $21.2 billion to meet claims from the storms.

Thus far, the SBA estimates that it has approved $4.3 billion in disaster loans but predicts the total demand will be in excess of $11 billion. Loans to cover physical damage to business and economic losses account for a quarter of the total. The

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greater share of the loans goes to homeowners, who are included in the disaster-relief program. Their larger-than-expected uninsured losses have helped balloon the total.

In preparing its earlier estimates, SBA officials said, they correctly predicted the number of loan applications, which is running close to 400,000. But while a typical disaster home loan in the past ran near $32,000, uninsured losses from Hurricane Katrina are far higher and result in loans averaging closer to $68,000.

The SBA estimates it has 4,000 employees dedicated to assist disaster victims and says loans are being approved at a record pace. The agency hit the $2 billion mark Dec. 30 but was at $3 billion slightly more than two weeks later and reached $3.6 billion by the end of January.

WAR NEWS:

Iraqi Province Cuts Ties With British (USAT/AP)

By The Associated Press

USA Today, February 15, 2006

BASRA, Iraq — More than 1,000 protesters burned a British flag Tuesday, and the regional administration in Iraq's main southern province severed all ties with British authorities over video footage showing British soldiers allegedly beating and kicking Iraqi youths.

In London, the British Defense Ministry announced the arrest of two more people in connection with the images. Another person — apparently the man who shot the video — was arrested Monday.

Protesters, many of them supporters of radical Shiite cleric Muqtada al-Sadr, marched on the British Consulate in Basra, where they burned the flag and shouted slogans against the alleged abuse of the youths during a riot Jan. 10, 2004, in the southern city of Amarah.

Protesters held banners reading “No, no to Tony Blair” and “Try the British soldiers involved in this aggression.”

With outrage over the video mounting, the governing council for Basra province, which includes Iraq's huge southern oil fields, announced it was cutting all ties with British military and civilian operations in the province, where Britain's contingent in Iraq of more than 8,000 servicemembers is headquartered.

The Basra police chief, Maj. Gen. Hassan Suwadi, said Iraqi security forces would cease joint patrols with the British military in the province to protest the alleged abuse.

“We condemn the abuse of the British forces and demand the British government to adopt legal procedures as soon as possible to punish its soldiers who carried out the abuse,” Suwadi said.

Elsewhere, gunmen killed 11 Shiite farmers north of Baghdad, including eight members of one family, officials told the Associated Press. An American Marine was killed and six coalition personnel were wounded in two attacks in Baghdad.

In Amarah, about 100 miles north of Basra, two Iraqis who claimed to have been beaten on the video — Bassem Shaker and Tariq Abdul-Razzak — told reporters they would seek compensation from Britain, which occupied Iraq for decades after the country was established following World War I.

The beatings allegedly occurred during a violent protest in Amarah by hundreds of people demanding jobs. Six people were killed and 11 injured, according to reports then.

“I was one of 250 unemployed people demonstrating in the street in 2004, but when we reached the governor's office we were surprised by the presence of the British forces,” Shaker said. “We started throwing stones at them because we believed that they were behind all our misery.”

Shaker said British troops “were beating us with fists and batons and were kicking us” before taking the prisoners to a British base “where they also beat us and frightened us with dogs before releasing us before sunset.”

He said he didn't report the treatment because he didn't think officials would listen.

“Those troops humiliated us,” Shaker said.

Hussein Tells Court He's On A Hunger Strike (LAT)

By Borzou Daragahi

The Los Angeles Times, February 15, 2006

BAGHDAD — Saddam Hussein and his co-defendants said in court today that they have embarked on a jailhouse hunger strike to protest their trial on charges of violating the human rights of Shiite Muslim villagers.

"For the past three days, we've been on a hunger strike against you and your masters," Hussein, dressed in his crisp black suit and appearing more subdued than usual, told the judge as he walked into the courtroom.

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Again today, the prosecution stumbled and struggled as it sought to tie Hussein and his entourage to the horrific acts of violence and cruelty inflicted upon the villagers of Dujayl after a 1982 attempt to assassinate Hussein while he visited the town.

Three witnesses compelled to testify repeatedly contradicted written statements collected by chief investigator Raid Juhi, the young lawyer who has become the public spokesman for the Iraqi High Tribunal.

After a session that barely clocked three hours, the judge adjourned the trial until Feb. 28 without giving any reason for the two-week recess.

Western officials close to the tribunal have candidly voiced frustration at the trial's slow pace, and the sense that judges have little awareness of the financial and human resources expended each time the proceedings drag on.

Three defendants, Hussein, his half brother Barzan Ibrahim Hasan and former judicial chief Awad Hamed Bandar, said they were on a hunger strike.

Juhi, speaking to reporters after the court adjourned, declined to confirm or deny whether any defendants were refusing to eat. But he pointed out that Hasan had brought bottled water with him into the courtroom.

Defendants have been using the trial as a stage for political antics, and today was no exception. Toward the end of the session, Hussein lambasted the "Americans and Zionists" and, in a segment that was edited, the version broadcast to viewers with a 20-minute delay urged Iraqis to fight the "occupier."

"I urge Iraqis that everyone should fight and defend his country," he said.

The proceedings have been conducted with court-appointed defense attorneys ever since Hussein and his allies' lawyers walked out of the courtroom several weeks ago. Defendants, some of them disheveled, were ordered to appear in the courtroom Monday.

The prosecution team alleges that Hussein and his underlings directed a years-long campaign of torture, imprisonment and execution against the men, women and children of Dujayl.

The five former regime loyalists, compelled to take the witness stand over the past two days, have been able to corroborate few of the prosecutions claims — or even verify documents they have signed.

Prosecutors attempted to use the first witness, a former officer who testified anonymously, to place former intelligence chief Hasan at the agency's Baghdad headquarters the night of the Dujayl incident.

But he repeatedly said he wasn't at the scene, and had only "heard" Hasan was directing operations there against the Shiite village 40 miles to the north.

"Everyone in the department knows that the head of the intelligence directorate is responsible for such actions and leading everything," he told the court. "Everyone on the street knows that."

Afterward, Hasan gave his own version, claiming he obtained the release of 80 people who had been wrongly detained by authorities.

He said he didn't want a repeat of what happened when the late Syrian leader Hafez Assad was the victim of an assassination attempt.

"There was only one thing on my mind," said Hasan, who wore the same rumpled long-sleeve undershirt he wore in court Monday. "When Assad had an attempt against his life, they took helicopters, the army, and took revenge. I said to myself, 'I should not act the same. I should not be violent.'"

One witness, Fadhel Azzawi, a former Iraqi ambassador to Moscow and intelligence official, said he didn't know what was in the statement that Juhi presented to him to sign.

"I signed because I didn't have my eyeglasses," he said. "I didn't see the word. I told [Juhi], 'Frankly, I didn't see what I was signing.' "

Hussein Tells Tribunal He Is On A Hunger Strike (WP)

By Nelson Hernandez And Omar Fekeiki

The Washington Post, February 15, 2006

BAGHDAD, Feb. 14 -- Saddam Hussein on Tuesday told the court overseeing his case that he had started a hunger strike in protest of the tribunal's new chief judge, who has vowed to stop the outbursts that have frequently interrupted the former Iraqi dictator's trial.

In an otherwise subdued session, Hussein told Judge Raouf Rasheed Abdel-Rahman that he had not eaten in three days, and three of his co-defendants said they also had refused to eat. Court authorities would not confirm whether Hussein was really on a hunger strike.

During testimony Tuesday, three former officials of Hussein's government pleaded ignorance when questioned about the killing of more than 140 Iraqis from the town of Dujail after a failed assassination attempt against Hussein there in 1982.

The trial will resume Feb. 28.

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The court's chief investigative judge, Raeed Juhi, called the hunger strike claim "an administrative problem" at a news conference following the session. "The court is trying to find out and is working to solve it with the responsible authorities who keep the accused in custody," he said.

While the court investigated Hussein and his co-defendants, ordinary Iraqis reckoned with the chaos that has followed his overthrow by a U.S.-led coalition in 2003. Gunmen killed at least nine farmers from the same family and wounded two others in the city of Balad, about 50 miles north of Baghdad, Iraqi police and hospital officials said Tuesday.

Police Lt. Basim Baldawi said armed men in two cars opened fire on the victims while they were working on their farm. News service reports of the same attack said 11 people had been killed, including a 5-year-old boy. Among the dead was Hussein Sarhan Hiyali, a tribal leader in the predominantly Shiite area, according to the reports.

At least five other Iraqis across the country were killed in mortar and gunfire attacks Tuesday, including an Iraqi army major and his son, according to statements by U.S. and Iraqi military authorities.

The latest session of Hussein's trial was among the calmest of the dozen held so far, possibly a result of Abdel-Rahman's stern warnings that disorder in the court would no longer be tolerated. Though Hussein entered the courtroom calling out, "Long live the holy warriors!" and told Abdel-Rahman to hit himself in the head with his gavel, he was silent for much of the proceedings.

Hussein's half brother, Barzan Ibrahim, who attended court for the second day wearing his pajamas, took up the spotlight. Looking like an overgrown child in the adult-size crib that houses the defendants, the former intelligence chief waved a water bottle and pointedly reminded Abdel-Rahman that "I am not your servant."

Ibrahim also spoke for the first time about what he had done after finding out about the assassination attempt in Dujail, a town north of Baghdad. He said he had released 80 people who had been wrongfully detained by police and apologized to each of them.

"There was only one thing in my mind," Ibrahim said. When an attempt was made on the life of Hafez Assad, then the president of Syria, he said, "they took helicopters, the army, and took revenge. I said to myself, 'I should not act the same. I should not be violent.' "

In previous sessions, witnesses have described brutal abuse at the hands of Ibrahim's agents following the Dujail incident. On Tuesday prosecutors tried, largely without success, to link Ibrahim and Hussein to documents related to the massacre. All three of the day's witnesses -- a former provincial governor, a secretary to Hussein and an anonymous intelligence officer -- testified that they knew nothing about what happened after the assassination attempt.

"You were so close to the defendant Saddam Hussein, and yet you do not know anything about it?" the prosecuting judge asked Hamed Youssef Hamadi, who served as a secretary to Hussein.

"Yes, I swore an oath to tell the truth, and that is the truth," Hamadi answered.

Elsewhere in Iraq, residents of Basra and Baqubah demonstrated against the British presence in the country two days after the release of a video depicting British soldiers beating a group of teenage Iraqis. The Basra city council said it was cutting off all cooperation with coalition forces because of the video, according to Maj. Peter Cripps, a British military spokesman.

It was the second time in recent weeks that tension has flared between the British and the government of Basra in southern Iraq. The council recently protested the British detention of several local police officers. The British said they detained the officers because of suspected connections to the Shiite militias that have infiltrated the police in Basra.

In London, the British defense minister announced Tuesday that three people had been arrested in connection with the video. The BBC said Cpl. Martin Webster of the 1st Battalion, Light Infantry, was among those arrested. Webster is apparently the man who shot the footage and is heard taunting the teenagers as they are beaten, the news service reported.

Hussein, Gleeful, Badgers The Judge And Declares A Hunger Strike Over His Treatment (NYT)

By Edward Wong

The New York Times, February 15, 2006

BAGHDAD, Iraq, Feb. 14 — A defiant Saddam Hussein marched into court on Tuesday and declared that he and his co-defendants had begun a hunger strike to protest their treatment by those overseeing their trial.

Mr. Hussein, dressed in a dark suit and appearing more composed than he had the previous day, went on to insult the presiding judge and smile gleefully at impish exchanges between his half-brother, Barzan Ibrahim al-Tikriti, and the prosecutor's three reluctant witnesses, all formerly senior officials under Mr. Hussein.

"We have been on a hunger strike for the past three days in protest of the treatment by you and your masters," Mr. Hussein said to Judge Raouf Abdel-Rahman, who was appointed last month to replace a judge who had resigned. As the exchange heated up, the judge rapped on the table to call the court to order, prompting Mr. Hussein to say, "You should knock your head with your gavel."

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Later, Mr. Ibrahim, draped in a white undershirt, said, "I've been on strike for the past few days. You brought me here in my pajamas."

Mr. Hussein and Mr. Ibrahim both appeared robust, with Mr. Ibrahim going off on lengthy, meandering monologues and talking down to the judge and witnesses. Mr. Hussein did not put forward any conditions for ending his hunger strike. Asked about the strike, a spokesman for the court said it was looking into the circumstances.

"The administrative side is trying to find out about this issue and find a way to solve it," the spokesman, Raad Juhi, said after the Tuesday session. "As you have seen yourself, the accused are in good health and Barzan had bottled water."

Mr. Hussein's comments represented his latest attempt to disrupt a trial that has been plagued by political in-fighting, assassinations of lawyers and a judge, and ambiguous witness testimony. Earlier this month, Mr. Hussein and the main co-defendants were ejected from the court by Judge Abdel-Rahman for boisterous behavior. They then pledged to boycott the trial, missed several sessions and only reappeared on Monday after being coerced back into the courtroom.

Human rights observers have raised new concerns about the credibility of the trial, given the fact that the defendants' lawyers have also decided to boycott the proceedings, forcing the court to appoint substitute lawyers for Mr. Hussein and the other defendants.

On Tuesday, the prosecutor's three witnesses appeared reluctant to testify, and their statements failed to bolster any case against Mr. Hussein. The prosecution is trying to prove that Mr. Hussein and the other seven defendants were responsible for the torture and executions of 148 men and boys in the Shiite village of Dujail, where a small group of men tried to assassinate Mr. Hussein in 1982. The prosecutors must establish a chain of command that clearly links Mr. Hussein and his colleagues to the torture and killings.

The three-hour session on Tuesday ended at 2:45 p.m. and was adjourned until Feb. 28.

The session took place as violence exploded in parts of central and northern Iraq, resulting in at least 15 deaths on Tuesday. Crowds in the south protested the mistreatment of detainees by British soldiers, prompted by the release of a video last week showing British soldiers kicking and beating several young Iraqi men during a demonstration in January 2004 in the southern city of Amara. The British government has vowed to investigate and has arrested at least one soldier.

The provincial council of the southern port city of Basra said Tuesday that the council was severing ties with the British forces, which control the far south. In Basra, animosity toward the British has been growing in the last several months over attempts by the British to arrest Iraqi police officers suspected of having ties to hostile militias, and attacks against the British military have been on the rise.

Much of the violence has been attributed to members of the Mahdi Army, the militia that answers to the firebrand Shiite cleric Moktada al-Sadr.

On Tuesday afternoon, thousands of protesters flooded Basra's streets to call for the British to cede responsibility for security to Iraqi forces. Leaders in Basra also called for a boycott of Danish goods, in retaliation for the satirical cartoons depicting the Prophet Muhammad that first appeared in a Danish newspaper last September and have ignited outrage across the Islamic world.

The deadliest attack on Tuesday took place at 7 a.m. outside the predominantly Shiite town of Balad, where gunmen in two cars opened fire on a group of farmers, killing at least 11 and wounding at least two, an Interior Ministry official said.

In the evening, a mortar shell landed on a house in the predominantly Sunni Arab neighborhood of Ghazaliya, killing two civilians, the official said. Another round landed on a house in the Sunni area of Jihad, injuring two.

In the town of Taji, north of Baghdad, gunmen killed an Iraqi Army major and his son on Tuesday morning, the American military said. A police colonel was shot dead on Monday evening in southern Baghdad as he was shopping, the Interior Ministry official said. Also on Monday, the police discovered four bodies in two areas of Baghdad; all of the dead had been handcuffed, blindfolded and shot in the head.

A similar body was found Tuesday morning in the town of Latifiya, an insurgent stronghold south of Baghdad.

Iraqi and American officials have been hoping that the trial of Mr. Hussein would help quell some of the violence, by demonstrating that Mr. Hussein and his co-defendants are broken men. Instead, Mr. Hussein has used every opportunity to grandstand, inspiring fierce loyalty in some Sunni Arabs.

On Tuesday, as the trial got under way, Mr. Hussein exclaimed, "Long live the Arab nation!"

Saddam's Half Brother Denies Role In Killings (USAT/AP)

By The Associated Press

USA Today, February 15, 2006

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BAGHDAD — Saddam Hussein's former intelligence chief, again wearing pajamas in court as a protest, on Tuesday became the first defendant in the ousted president's trial to speak at length about the charges of executions and imprisonment of Shiites in the 1980s.

Barzan Ibrahim, who is also Saddam's half brother, denied any part in the crackdown against residents of Dujail, a mainly Shiite town north of Baghdad, after a 1982 assassination attempt against Saddam there.

Speaking in an orderly way from the defendants' pen, Ibrahim said he went to Dujail on the day that gunmen opened fire on Saddam's motorcade, then returned to the village the following day. He claimed he ordered the release of more than 80 detainees held in the town.

"I released all the detainees inside the hall — more than 80 persons. I swear to God I said goodbye to them one by one and apologized," he said.

After those two visits, Ibrahim continued, "I never heard of Dujail ever again. I never got a report on it. It was all handed over to the General Security Services," a separate agency.

In previous sessions, some prosecution witnesses — Dujail residents arrested in the crackdown — have testified that Ibrahim was personally involved in torturing them.

If convicted in the killing of nearly 150 Shiites from Dujail, Saddam and his seven co-defendants could face death by hanging.

In a show-stealing gesture earlier Tuesday, Saddam and three co-defendants, including Ibrahim, said they have launched a hunger strike to protest the chief judge in their trial.

Saddam said he had not eaten in three days, while Ibrahim said he had been on strike for two days. Two other defendants, Awad Bandar and former vice president Taha Yassin Ramadan, also said they were on a hunger strike.

Their claims could not be independently confirmed. Although the defendants are in Iraq's legal custody, they are being held in a U.S. military detention facility. No comment was immediately available from the U.S. military.

Since the trial began, Saddam and Ibrahim have expressed only contempt for the court, interrupting it with outbursts, arguments and insults.

Tuesday's session began in much the same way. Saddam entered and shouted his support for Iraqi insurgents, yelling "Long live the mujahedin!" Later, during the testimony, he shouted, "I say to all Iraqis: Fight and liberate your country!"

He argued with Chief Judge Raouf Abdel-Rahman, at one point telling the judge, "Hit your own head with that gavel."

Abdel-Rahman, who took over the court last month, has tried to impose order in a court where outbursts and abuse, mostly by Saddam and Ibrahim, have frequently overshadowed the proceedings.

After nearly three hours of testimony, Abdel-Rahman adjourned the trial until Feb. 28.

Army IG Reviewing Soldier's Death By Friendly Fire In Iraq (WP)

By Josh White

The Washington Post, February 15, 2006

The Army inspector general's office has launched a review of a friendly-fire case at a security checkpoint in Iraq that claimed the life of a young Ohio soldier, Army officials said.

Spec. Jesse R. Buryj's death from a gunshot to the back led to a series of investigations by the United States and Poland. Soldiers from both countries were manning a traffic circle in Karbala in May 2004 when a suspicious dump truck crashed through barriers and ignored warnings to stop. A bullet hit Buryj, 21, as he fell from the turret of his Humvee after the truck -- which was carrying an unarmed driver and passenger -- collided with it during the nighttime incident.

Investigations determined Buryj most likely was hit by friendly fire. U.S. officials said Polish troops probably were responsible for his death, while Polish officials vehemently denied that their troops could have shot him. Critical evidence that could have answered the question was not collected, according to investigative reports.

Buryj's family, in Canton, Ohio, was told he died in a car accident. His parents did not learn the truth until nearly a year later, after they asked President Bush for help.

"The IG will review the matter to determine if proper policies and procedures were followed," said Col. Joseph Curtin, a top Army spokesman at the Pentagon. He said the review is not an official "investigation."

After The Washington Post published an article about Buryj's death last month, Polish officials privately complained to the Pentagon that they were unaware that the United States blamed Polish troops for the shooting. It was a rift U.S. officials sought to prevent early in their investigation, which cited the incident's international sensitivities.

"Because they didn't do a proper job after the accident, finding the truth now would be simply impossible," said Marek Purowski, a spokesman at the Polish Embassy, who noted that U.S. officials did not collect weapons in Iraq to compare with

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ballistics evidence from the bullet that hit Buryj. "It's not our doing, it's not our responsibility. It's not the first story where there are some differences. It happens, even among friends."

Peggy Buryj, Jesse's mother, said she met with Sen. Mike DeWine (R-Ohio) on Saturday morning and learned that Army Secretary Francis J. Harvey had assured him that an IG review is underway. Army officials confirmed the review this week but declined to elaborate.

"I don't know what they can do now, because it is what it is," Peggy Buryj said of her son's death, now nearly two years ago. "I don't have any faith that they're ever going to get to the bottom of it. I just want them to admit that things weren't right. I'd like an apology. I have no expectations now."

Peggy Buryj, who met Bush on a campaign stop in 2004 and was asked to appear in a Bush campaign commercial before the election, said no one from the Bush administration has contacted her since her son's story became public. An Army casualty assistance officer called her to offer a meeting with the medical examiner who handled her son's case, but she said she wants access to higher-ranking officials.

Iraqi Premier Outlines His Plans For A More Inclusive Government (LAT)

By Borzou Daragahi And Raheem Salman

The Los Angeles Times, February 15, 2006

BAGHDAD — Prime Minister Ibrahim Jafari outlined plans Tuesday to build a broad-based government to tackle the country's woeful security conditions.

Jafari, newly named as his Shiite Muslim coalition's candidate to continue leading the country for the next four years, faced widespread criticism for being ineffective and controlling during his 10-month tenure as the country's top executive. He acknowledged his previous administration's weaknesses and vowed to listen to those outside his political circle in forming a government.

"Any failure or frustration about a minister will be reflected on the government as a whole," he told reporters. "Any party in the government has the right and duty to discuss candidates. No doubt, we will consider all the different parties which form the parliament."

Jafari did not spell out any major proposed changes for his administration, but said he would tighten the screws on ministers, who he suggested had been spending too much time out of the country.

"The manner of work, the pace, the centralization of the government … all will witness a qualitative leap," he said.

Jafari, a 58-year-old physician and theologian who has been active in Islamic politics for four decades, faces daunting challenges. Skeptical political blocs already are allying against him. Followers of Shiite cleric Muqtada Sadr within Jafari's coalition demand more radical measures from the government.

The coalition made Jafari its choice for prime minister by a single vote in an election Sunday.

His work will proceed amid sectarian violence that claimed at least 11 lives Tuesday in the Shiite city of Balad, where gunmen attacked a group of farmers. Several large roadside bombs rocked the capital, injuring half a dozen Iraqis.

Jafari said that improving the country's dire security circumstances would be his top priority. But many Iraqis and Western officials regard his government as part of the problem. Another faction in his coalition, followers of Shiite cleric Abdelaziz Hakim, has control of the Interior Ministry, which members of the Sunni Muslim minority have accused of spawning death squads.

The Shiite coalition, which controls 130 of the 275 seats in parliament, cannot form a government without a two-thirds majority of lawmakers and needs to build a coalition with Kurds, secular Iraqis or Sunni Arabs.

Kurdish leaders opposed Jafari and have complicated his task of assembling a government. They say Jafari didn't grant President Jalal Talabani, a Kurd, more than a ceremonial role and failed to invoke a constitutional article calling for the return of dispossessed Kurds to the oil-rich city of Kirkuk.

Jafari said he felt sympathy for the displaced Kurds but urged patience.

"We have a constitution and a law," he said. "My success, values and morals aren't based on my feelings but on how well I can apply the constitution and the law."

Now Kurds say they won't form a government without the participation of the Iraqi National List, the coalition of former Prime Minister Iyad Allawi, a secular Shiite.

"We think that it's important not to exclude anybody," Talabani said Tuesday at a news conference with Hakim. "We believe the Iraqi List has struggled against Saddam Hussein and includes many individuals who struggled against the tyrant regime."

Sunni Arabs, with 55 seats in the parliament, and Allawi's followers have allied to form a bloc with the goal of preventing Shiites and Kurds from remaking Iraq as a country divided into federal regions. Their alliance could complicate efforts by Jafari to draw at least some Sunnis into a ruling coalition.

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The Shiite Choice (WSJ)

The Wall Street Journal, February 15, 2006

It's become a cliche in some circles that Iraq won't be ready for "Jeffersonian" democracy any time soon. And maybe not. But the more we watch the political developments that the U.S. is fostering in Iraq, the more we see the kind of compromise and debate that are crucial to democratic progress.

The latest news is the orderly election this weekend of Ibrahim al-Jaafari as the Shiite Alliance's candidate to serve as Prime Minister for the next four years. Mr. Jaafari has been Prime Minister since the election of Iraq's interim government in January 2005, and he won the permanent nod by a single vote over Adel Abdel Mahdi of the Supreme Council for the Islamic Revolution in Iraq (Sciri). Mr. Mahdi, in turn, gracefully accepted defeat and congratulated Mr. Jaafari. "You should console me in this situation," Mr. Jaafari replied. "This is a big burden and a position of difficulties." He's certainly right about the latter.

Mr. Jaafari has been criticized as a weak leader. But to be fair, his government has only had a short time in office and has suffered from the stigma of being temporary. If he now goes on to win approval by Iraq's full parliament, his legitimacy will not be questioned and he'll have a fairer chance to show what he can do.

Though not the most inspiring of political personalities, Mr. Jaafari is well-liked by the Iraqi public and by his fellow political leaders. He delegates power and is willing to trust the skills of those around him. He has also never been associated with even a hint of corruption. And far from being a reformed Baathist, he has an untainted record of courageous opposition to Saddam Hussein's regime.

Of all the Shiite Alliance's conceivable choices for the post, Mr. Jaafari is also the least beholden to Iran. U.S. diplomats seemed to favor Mr. Mahdi for some reason. But unlike Sciri, Mr. Jaafari and his Dawa Party don't seem dependent on Tehran and are unquestionably indigenous Iraqi patriots.

Mr. Jaafari can also call upon a strong team already in office. We're particularly impressed with Defense Minister Saddoun Dulaimi, a Sunni brought in by the Shiite Alliance despite the Sunni boycott of the January 2005 vote. Mr. Dulaimi has overseen the growth of the Iraqi Army into a better fighting force and he is also uncorrupt and free of any ties to the Sunni insurgents. Another face who could return is Deputy Prime Minister Ahmed Chalabi. Although he didn't win a seat after leaving the Shiite Alliance to lead his own slate for December's vote, he has a good working relationship with Mr. Jaafari, as well as managerial skills and knowledge of financial markets.

Some degree of continuity will be important. The U.S. decision to cashier the postwar Governing Council in favor of Ayad Allawi and a team of unknowns in June 2004 -- only to see Mr. Jaafari and the Governing Council's other leaders win Iraq's first two elections -- was unnecessarily disruptive and delayed the development of Iraqi institutions. The exception here is the Interior Ministry, which Mr. Jaafari delegated to Sciri and which has been credibly accused of mistreating some Sunni prisoners. That has to be cleaned up.

Speaking of Mr. Allawi, we hope he will stay in Iraq to lead the loyal opposition if he doesn't get a post in the new government. Many secular-minded Iraqis gave their votes to Mr. Allawi believing he was the U.S.-favored candidate, and they deserve a strong voice in parliament.

But whatever happens on that front, we trust that the closely divided vote in favor of Mr. Jaafari will allay Western fears of Iraq's domination by a monolithic, Iranian-linked Shiite bloc. The Shiite Alliance is a very uneasy coalition that includes leaders like Mr. Jaafari, Sciri's Abdul Aziz al-Hakim and rebel cleric Moqtada al-Sadr, who don't always get along.

And watching them all as a source of moral authority is the Grand Ayatollah Ali Sistani, who has also shown himself to be an Iraqi patriot who opposes the imposition of an Iranian-style clerical government. In any case, the Alliance lacks the two-thirds majority in parliament to impose its will, so compromise with Kurdish, Sunni and secular Shiites will be essential to successful governance.

Mr. Jaafari's nomination for Prime Minister is the latest positive step in Iraqi political development -- which includes two elections, negotiations to write a new and liberal constitution and a successful referendum on that document. We'll let the cynics decided if this qualifies as "Jeffersonian," or merely Iraqi pragmatism, but whatever it is we'll call it progress.

Quick Rise For Purveyors Of Propaganda In Iraq (NYT)

By David S. Cloud

The New York Times, February 15, 2006

WASHINGTON, Feb. 14 — Two years ago, Christian Bailey and Paige Craig were living in a half-renovated Washington group house, with a string of failed startup companies behind them.

Mr. Bailey, a boyish-looking Briton, and Mr. Craig, a chain-smoking former Marine sergeant, then began winning multimillion-dollar contracts with the United States military to produce propaganda in Iraq.

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Now their company, Lincoln Group, works out of elegant offices along Pennsylvania Avenue and sponsors polo matches in Virginia horse country. Mr. Bailey recently bought a million-dollar Georgetown row house. Mr. Craig drives a Jaguar and shows up for interviews accompanied by his "director of security," a beefy bodyguard.

The company's rise, though, has been built in part by exaggerated claims about its abilities and connections, according to interviews with more than a dozen current and former Lincoln Group employees and associates, and a review of company documents.

In collecting government money, Lincoln has followed a blueprint taught to Mr. Bailey by Daniel S. Peña Sr., a retired American businessman who described Mr. Bailey as a protégé.

Federal contracts in Washington can supply easy seed capital for a struggling entrepreneur, Mr. Peña says he advised a youthful Mr. Bailey in the mid-1990's when the two men started a short-lived technology company. "I told him, 'When in trouble, go to D.C.,' and the kid listened," Mr. Peña said.

Mr. Bailey defends his company's record, saying, "Lincoln Group successfully executes challenging assignments." He added that "teams are created from the best available resources."

Lincoln won its contracts after claiming to have partnerships with major media and advertising companies, former government officials with extensive Middle East experience, and ex-military officers with background in intelligence and psychological warfare, the documents show. But some of those companies and individuals say their associations were fleeting.

Lincoln has also run into problems delivering on work for the military after its partnerships with more experienced firms fell apart, company documents and interviews indicate. The firm has continued to bid for new business from the Pentagon and has hired two Washington lobbying firms to promote itself on Capitol Hill and with the Bush administration.

"They appear very professional on the surface, then you dig a little deeper and you find that they are pretty amateurish," said Jason Santamaria, a former Marine officer whom the company once described as a "strategic adviser."

The company's work in Iraq, where Mr. Bailey and Mr. Craig visit from time to time to direct operations, is facing growing scrutiny.

The Pentagon's inspector general last month opened an audit of Lincoln Group's contracts there, according to two Defense Department officials. A separate inquiry ordered by Gen. George W. Casey Jr., the top American commander in Iraq, after disclosures late last year that Lincoln Group paid Iraqi publications to run one-sided stories by American soldiers, has been completed but not made public, military officials said.

A spokesman for General Casey, Lt. Col. Barry Johnson, declined to comment on Lincoln Group, citing the ongoing investigation.

In interviews, Mr. Bailey, 30, and Mr. Craig, 31, said they had succeeded by anticipating the military's need for help communicating with and influencing the Iraqi public, just as the insurgency was building. "We saw that it was very hard for the U.S. to do that work," Mr. Bailey said. "They didn't do media and outreach very well. We had local offices in a tough environment where traditional U.S. contractors would not operate."

He disputed suggestions that Lincoln had experienced difficulty delivering on work for the military, saying the firm had "successfully executed" more than 20 contracts from the Defense Department.

Lincoln's roster of advisers and other businesses assisting it has continually changed, Mr. Craig said, because "our work in often hostile environments has occasionally proved to be too risky or challenging for some of our partners."

Little in Mr. Bailey's background indicated he would end up doing propaganda work in Iraq. Born in Britain as Christian Jozefowicz, he changed his name when he graduated from Oxford University and moved to San Francisco during the late-1990's dot-com boom.

There he founded or advised several companies and plunged into the Silicon Valley social scene, according to Mr. Bailey and several friends and former business associates. Among the companies were Express Action, a company that planned to develop an Internet service to calculate duties on overseas purchases, and Motion Power, which intended to invent a shoe that would generate its own electrical power to run portable consumer devices.

"You would have been proud had you seen this 23-year-old kid pitching, with no product, no customers, no business plan," Mr. Bailey wrote in a letter to Mr. Peña, describing how he raised $15 million from investors for Express Action.

Mr. Bailey later moved to New York and sought investors for an investment fund, according to documents filed with the National Futures Association. In 2003, he moved to Washington.

Mr. Craig's path to the capital began when he dropped out of West Point to pursue, he says, his interests in business and national security.

Enlisting in the Marines in 1995, he began working in military intelligence. He earned an undergraduate degree in information technology while stationed in Okinawa and Australia through the University of Maryland and a masters in business administration from National University, which runs academic programs on military bases. He left the Marines in 2000.

By 2004, Mr. Bailey had moved into Mr. Craig's house near downtown Washington, and the two had formed the company that eventually became Lincoln Group.

Their original goal was to make money exploiting Iraq's most obvious surplus — its shattered infrastructure. But those efforts faltered.

A project to export scrap metal fell apart after the Iraqi government banned scrap exports in 2004, Mr. Bailey said. A pile of scrap metal, purchased with a loan from an Indonesian bank, has been sitting in Basra ever since, according to two ex-employees. Like several other former Lincoln workers, they asked to remain anonymous because they had signed confidentiality agreements with the company or still dealt with the firm.

Lincoln also spent about $50,000 for two portable brick-making machines from Texas. The company had hoped to set up a brick plant near Mosul, where the demand for construction materials was vast, according to a presentation Mr. Bailey made to potential investors in Dubai. The machines, though, were principally designed for homeowners or small contractors. Lincoln would not comment on the project.

Eventually, Lincoln began working with the American military, which was spending millions on contractors for a broad range of services. The firm rented a one-story house inside the Green Zone, the heavily fortified government compound in central Baghdad. Furnished with two sofas and a sheet of plywood that served as a desk, the house had a single telephone and an overloaded electrical outlet.

Lincoln formed a partnership with The Rendon Group, a Washington company with close ties to the Bush administration, and won a $5 million Pentagon contract to help inform Iraqis about the American-led effort to defeat the insurgency and form a new government. One contract requirement was to get Iraqi publications to run articles written by the military, according to several ex-Lincoln employees.

Rendon soon dropped out and Lincoln handled the contract alone. But the company had fewer than two dozen workers and little experience with public relations, according to several ex-employees.

Problems arose from the start. In a 2004 briefing to the military, Lincoln conceded that it was "not yet fully staffed" and that "media monitoring software" required by the contract was "not ready."

And the government did not provide that much work at first. The military's public affairs office produced only a few articles a day during that period, one Lincoln ex-employee said. A small State Department contract to assist small businesses had just been cancelled, he said, and the firm was having difficulty making its payroll.

Lincoln lacked the armored vehicles or security guards employed by more established contractors. When venturing outside the Green Zone, employees would grab weapons and climb into one of two beat-up Proton sedans, which employees were told were chosen to blend in with dilapidated Iraqi vehicles on the streets.

After winning a small contract from the Marines to do polling, the company hired Iraqis to go door-to-door in Anbar Province with questionnaires. To protect themselves from possible insurgent reprisals, they were told to say they were working for an Iraqi university, according to a former Lincoln employee.

Last August, gunmen came to the home of one of the Iraqi workers, killing him and three others, according to an ex-employee. Mr. Bailey said it was not clear whether the killing was related to the polling, but the company decided to move a Lincoln office staffed by Iraqis in downtown Baghdad to a less noticeable location.

Back in the United States, Mr. Bailey and Mr. Craig worked to drum up more business.

In late 2004, Mr. Craig traveled to Fort Bragg, N.C., to meet with officers of the 18th Airborne Corps, which was preparing take over management of Lincoln's public affairs contract in Iraq, according to a former employee and company documents. Despite the problems with the existing work, Lincoln said it could assist the military in the more secretive realm of "information operations," according to a transcript of the briefing. Unlike public affairs work, information operations are meant to influence and help defeat foreign adversaries, using deception, if necessary.

The briefing also touted the firm's "strategic advisers," including Mr. Santamaria, the former Marine officer, who received a master's degree from the Wharton business school and was co-author of a business book called "The Marine Corps Way."

Mr. Santamaria said he reviewed several investment proposals for Lincoln during a two-week association in late 2004. But after becoming "concerned about their methods," he said, "I severed ties with them as quickly as I could."

A Lincoln spokesman, William Dixon, said "it was a mistake" to include Mr. Santamaria's name in the December briefing because he was no longer affiliated with the company.

Lincoln may simply have been following another principle taught by Mr. Peña. "How do you create an instant track record?" Mr. Peña says he told Mr. Bailey. "You joint-venture with someone who has a track record."

Early last summer, military commanders made Lincoln Group the main civilian contractor for carrying out an aggressive propaganda campaign in Anbar Province, known as the Western Mission project. Over the next several months, the military transferred tens of millions of dollars to Lincoln for the project, records show.

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The company hired dozens of employees, including academics and former military personnel, as well as hundreds of contract workers in Iraq and elsewhere, a number that fluctuates by contract requirements, according to Mr. Dixon, the Lincoln spokesman.

With the new duties came substantial new requirements, including producing television and radio ads, buying newspaper ads and placing many more articles in the Iraqi press. The military also approved paying Iraqi editors to run stories, according to ex-Lincoln employees.

Lincoln also enlisted the New York advertising executive Jerry Della Femina, chairman of Della Femina Rothschild Jeary & Partners. Mr. Della Femina said he was introduced to Mr. Craig last spring by a Washington lobbyist.

Mr. Della Femina said his firm "did a great deal of work" on advertising ideas for Lincoln to present to the military's Special Operations Command, which last summer was soliciting bids for contracts, potentially worth millions, for psychological operations.

Lincoln listed Mr. Della Femina as a "creative director" in materials presented last spring at a meeting with Special Operations officers in Tampa. But Mr. Della Femina said his firm pulled out before executing any of the ideas. Three months after ending the collaboration, Mr. Della Femina said, he discovered that Lincoln's Web site listed him as one of its partners.

"I was surprised that they had our name on their Web site in the first place," he said.

After he asked that his name be removed, Mr. Craig said, "we honored his request within the week."

By that time, Lincoln had already been notified by Special Operations Command that it and two other companies had been chosen to compete for work under the contract.

Lincoln later told Special Operations Command that one of its principal subcontractors was Omnicom Group Inc. of New York, an advertising and marketing conglomerate. A proposal signed by Mr. Bailey in October said Lincoln "has exploited the extensive experience and expertise of the Omnicom Group."

But Pat Sloan, an Omnicom spokeswoman, said she could find no evidence it has ever worked with Lincoln Group. "We're not aware of any relationship with Lincoln Group," she said. She noted that Omnicom had once owned 49 percent of Mr. Della Femina's agency but had sold the stake in early 2005. Michael J. Jeary, president of Mr. Della Femina's agency, said Lincoln's claim of Omnicom as a subcontractor was an "honest mistake" because he had never told the firm Omnicom had sold its minority stake.

Although Lincoln Group's work in Iraq is now under scrutiny in two Pentagon investigations, the firm is hunting for more government work. Last month, Mr. Bailey attended a going-away reception at the Virginia condominium of a mid-level government employee on her way to a new job at the American Embassy in Baghdad. Her job: overseeing contracts.

Around Iraq In 4 Days (LAT)

By Doug Smith

The Los Angeles Times, February 15, 2006

BAGHDAD — U.S. Army historian Sherman Fleek came to Iraq to write the official record of postwar reconstruction. With thousands of projects underway across the country, there was a sense of urgency to his research.

From Baghdad, he decided, his first venture would be to head north to review work on an academy for Iraqi army officer candidates in Mosul. He gave himself two days to get there, do the research and return, figuring that would be sufficient for the 450-mile round-trip in a Black Hawk helicopter cruising at 145 mph.

But Fleek, a retired lieutenant colonel who teaches military history, was about to become acquainted with the awesome complexity of the system that moves soldiers around a war zone the size of California. With the roads too dangerous for routine travel, about 100 helicopters serve as taxis for soldiers and civilians on U.S. business, carrying them to and from scores of far-flung bases with names like Courage, Danger, Liberty and War Horse.

There are no flight schedules. For security reasons, the military does not disclose details on the number of flights or routes. The Army press office in Baghdad says routes are made up daily in response to need. Any flight can be canceled on short notice because of combat action.

The transit system is a hybrid of military and civilian styles, with hundreds of contract employees working alongside men and women in uniform in makeshift flight operations offices. Passenger manifests are drawn up by computer, but the flights are posted on whiteboards.

If your name is on the list, you will usually get a seat. But most travelers are like Fleek, flying "space available," the military equivalent of "standby."

Because the carrier is the U.S. Army and not JetBlue, a simple ride from Point A to Point B can be a gantlet of inscrutable procedures, unbelievable discomforts, lose-lose choices and long, cold waits.

14:30 Saturday. Baghdad.

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Fleek's mission begins at Landing Zone Washington, a field of concrete in the fortified Green Zone, where Black Hawks swoop down in pairs all day long, like airport limousines.

A distant roar announces the arrival of Fleek's flight. Two dark shapes appear in the hazy winter sky, hover, and gently sink to the pavement, unleashing a blast of wind that rips at clothing and obliterates speech.

The flight crews, two members to a helicopter, slide back the passenger doors and beckon to Fleek, another civilian and more than a dozen soldiers. A small group was in Baghdad for a conference. Others are heading back to their posts after leave. One by one they clamber up, swinging M-16s, duffle bags, backpacks and other odd-sized boxes of weaponry and personal belongings.

It takes nearly 20 minutes, blades whirring the whole time, to get passengers snuggled into the helicopters, four each to a bank of canvas sling seats. Baggage is piled in the cavity between the copter's machine guns, on the floor between the riders and on their laps. Further burdened by 30-pound body armor and helmets, the passengers can do little but move their hands. The whine of engines and the battering sound of blades preclude conversation.

Everyone stares ahead blankly, some no doubt pondering the risks ahead. More than 30 U.S. military helicopters have gone down over Iraq since 2003.

The Black Hawks lift off in unison. Cruising about 200 feet off the ground, they afford a dizzying picture of Baghdad rooftops, then fields and mud-and-stone villages. Twenty minutes later, they touch down for refueling. With hand signals, the flight crews direct all passengers to a waiting area behind a concrete wall for 10 minutes.

The next leg is just a hop from the fueling stop to the landing zone on the other side of Forward Operating Base Balad, a transit crossroad north of Baghdad and the end of the line for the flight.

Two hours of daylight left Saturday. FOB Balad. Distance traveled: 45 miles.

Fleek, a former Army helicopter pilot who has lost the battle of the midline but still retains a stride worthy of Gen. Patton, follows the others down a muddy road to the flight operations office in a trailer under camouflage. A young woman behind the counter checks her computer and gives Fleek the bad news. The next flight to Mosul will not be until the next morning, at 08:20.

For such situations, a bus from the flight operations center drives the stranded to a distant barracks for the night. But with a savvy honed by 27 years in the Army, Fleek does better. He chats up some public affairs officers from the flight. Their hospitality includes a semiprivate bunk, an evening of spirited conversation and a wake-up knock.

The knock comes at 06:00. Check-in is 06:50, apparently leaving time for a stroll to the dining facility before the 08:20 flight. When Fleek returns to the flight office at 07:20, the other passengers are gone. There was a 07:10 roll call, and then they were all bused to the landing zone.

"Wait right here," commands a stern young woman with a walkie-talkie.

A few minutes later, a bus pulls up. When it reaches the landing pad, near a helicopter that is already loaded with its rotors turning, the flight chief gives Fleek a look that could be understood even through his black plastic visor: You're late. After that, Fleek would never leave line again.

The helicopters take off into brisk morning air that grows colder as they climb. There is a stop at FOB Speicher near Saddam Hussein's hometown, Tikrit, to let soldiers on and off. The final leg, over low mountain ranges and stretches of wheat fields, lasts a bone-aching two hours, then ends in a familiar pattern: A refueling stop and a short hop to the flight operations center at FOB Diamondback on the south side of Mosul.

Six hours of daylight left Sunday. Mosul. Distance traveled: 170 miles.

After an hour of futile dialing on a field telephone, Fleek finally gets through by e-mail to the Army Corps of Engineers' tiny detachment on the giant base. In a few moments, Master Sgt. Tawna Ayers, who had waited for Fleek the night before, arrives in a mud-splattered SUV.

Ayers drives Fleek to a trailer where she says he can make himself comfortable until the convoy arrives to take him to his destination, FOB Courage, on the north side of the city. He has missed the morning convoy. At 15:00, Fleek reaches Courage, with just enough time to get a bunk and dinner. There will be no more travel that day.

09:00 Monday. Mosul.

The trip to the officer training academy north of the city goes smoothly, and after a brief tour, Fleek is ready for the journey back. It is early afternoon, time enough, with luck, for a quick flight to Baghdad.

But instead of taking Fleek to the airfield, his convoy pulls into another base. Fleek will have to catch the afternoon shuttle from there back to Diamondback, a Stryker convoy leaving at 14:30.

The Stryker troop carrier is a heavily armored steel box on wheels with just enough headroom for soldiers to sit on two unpadded benches. A video monitor provides the only outside contact as the engine revs and the box lurches forward. Muscles strain to anticipate the jerking turns. Rumps turn numb before the 20-minute drive is over.

15:00 Monday.

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FOB Diamondback. Distance traveled: 15 miles.

When the vehicle thuds to a stop, Ayers is waiting again. Fleek learns there are no more flights to Baghdad that day, the third day of his trip. But at 10:20 Tuesday, he can catch a one-hour flight on a C-130 transport plane.

"I'll take it," he said.

07:00 Tuesday. Mosul.

Fleek awakes in good spirits. But then he comes face to face with the one person who can make the difficult impossible: an unmotivated civilian contract employee.

"I need your passport and orders," the clerk says.

For the first time, Fleek's frustration boils over. Heatedly, he says he has flown halfway across Iraq without either. It makes no difference to the civilian.

In a flurry of cellphone calls, Ayers determines that orders can be produced.

But the clerk won't budge on the passport. Sometimes, he says, the flight skips Baghdad, and instead goes on to Kuwait. He says he has been chewed out before and he isn't going to let it happen again.

That leaves Fleek with two options: take a helicopter that afternoon back to Speicher outside Tikrit with the hope of a night connection to Baghdad, or wait a day for a Baghdad flight that might be full.

It's no choice, really. Fleek takes the bird in hand. Daylight is fading over Tikrit when the Black Hawk touches down on the pavement at Speicher.

17:00 Tuesday. FOB Speicher. Distance traveled: 120 miles.

Fleek strides into a cylindrical tent that houses flight operations and receives the usual good-news-bad-news. There is a flight at 19:00 to Balad, but the waiting list is overflowing with the names of soldiers stranded the night before.

Fleek gets a burger at the base's imitation Main Street of fast-food eateries and returns to flight operations.

In the darkness, he takes his place near the end of a line of 27, three more than the capacity of two Black Hawks, even if they arrive empty.

At 19:00, his spirits lift when a giant form descends from the night sky.

"It's a Chinook," Fleek says gleefully. "It holds 40 people."

The emotion is fleeting. Shouting over the jet whine and prop blast, the flight leader informs the ground crew that most of the space is filled with cargo and there is room for only a dozen passengers.

Fifteen don't make it, and Fleet is among them. They trudge with their gear back to the tent to find out when the next flight will be. Most are told it will be 21:00 the next day, more than 24 hours away. With polite acceptance, the soldiers step into the night to find their bunks.

The young operations officer is telling Fleek he should return at midnight to get his name at the top of the waiting list. But his luck suddenly turns. The flight leader of the Chinook appears at the door.

"I need three for Balad," he says in a tone that means, "Right now." Miraculously, Fleek has gone from last to first in line.

Minutes later, he is packed in the cold, dark chamber of the helicopter, immobile with soldiers on either side, their baggage forming a wall at their feet. Huge boxes loom in the rear. The rotors blow frigid gusts of wind through the fuselage, biting through Fleek's soft jacket.

The helicopter rises, then flies lumberingly, slower than a Black Hawk. In flight, the wind mercifully stops and the fuselage grows comfortably warm. Fleek gives a satisfied thumbs-up. He believes the goal is near.

Then the Chinook touches down.

"Kirkuk," the flight leader yelled.

18:30 Tuesday. Kirkuk. Distance traveled: 70 miles — in the wrong direction.

This is just a cargo stop. The bay door opens. Eerie shafts of light from a tractor's headlights illuminate the fuselage as half a dozen men struggle to unload boxes and put others in their place. The work goes on for 20 minutes. Again, the rotors are blowing bone-chilling wind over passengers staring silently at one another.

When the Chinook takes off, it makes a short hop to a refueling field, where the passengers sit motionless another 20 minutes.

Then it hops to another part of the base to let a soldier off.

One more hour in the air and Fleek lands in Balad.

22:00 Tuesday.

FOB Balad. Distance traveled: 105 miles.

First comes the cargo stop, with more shuffling of boxes, then Fleek finally is deposited at the flight operations shack he left three days earlier.

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He is told the next flight to Baghdad will leave at 07:10. He has missed dinner. There will be time for five hours of sleep and no chance for breakfast.

"I'll take it," he says.

The knock comes at 05:00. At 06:00, Fleek stands in the dark beside a blast wall. He waits an hour as the crew prepares the craft and day dawns over Balad.

The flight is cold but short.

08:10 Wednesday

Fleek steps onto the tarmac at Landing Zone Washington. His five-hour round-trip has taken four days.

Inside The Beltway (WT)

By John McCaslin

The Washington Times, February 15, 2006

Pass the tweezers

As one gun rights advocate describes the crime scene, James and Sarah Brady, founders of the Brady Campaign to Prevent Gun Violence, were "dancing in blood" after Vice President Dick Cheney's hunting accident over the weekend.

(Perhaps one day I'll write about a well-known Washington reporter who peppered a fellow columnist with shotgun blast after aiming low at an elusive bird.)

Mr. Brady, the former White House press secretary wounded alongside President Reagan by John Hinckley Jr., said after the vice president's embarrassing bird hunt: "Now I understand why Dick Cheney keeps asking me to go hunting with him."

Reacts Joe Waldron, executive director of the Citizens Committee for the Right to Keep and Bear Arms: "Only Jim Brady would be allowed by the mainstream press to make such a crude and crass comment and not be called down for it."

'Blood brothers'

On Feb. 3, the day she left for Iraq, Laura Ingraham received a phone call from Vice President Dick Cheney challenging the radio talk-show host to report what is "actually happening on the ground."

Back broadcasting from her Capitol Hill studio yesterday after one week on Iraqi soil, Miss Ingraham feels she accomplished that mission: meeting, interviewing and sharing meals with U.S. and Iraqi troops, Sunnis, Kurds and Shia alike.

At one point, described as a nationally syndicated radio first, she hosted a live call-in segment from Camp Victory in Baghdad, where a crowd of American soldiers talked one-on-one to an audience that listened in on 325 radio stations.

What stands out the most from her trip?

"The genuine brotherhood that I saw between the Iraqi forces and their American military trainers," the radio host told Inside the Beltway. "I mean, these guys are like blood brothers over there. You've even got Iraqi soldiers writing to the wives and families of the American military."

Otherwise, she points to a widespread fear among Iraqi citizens that U.S. troops will pull out of Iraq too soon and former dictator Saddam Hussein will regain power.

"It's a real concern," says Miss Ingraham, who is sympathetic to the fear. "I mean, come on, Saddam has made a travesty of his trial."

Soul lubricant

Greeks insist it was given to them by the goddess Athena. Thomas Jefferson said it was a gift from heaven. Former President George H.W. Bush didn't say where he thought the olive tree came from, but rest assured he likes olives so much that he stokes his martinis with four of the ovoid fruits.

Where are we going with this?

How about Iraq. Uncle Sam knows that the highest-quality olive production occurs in areas that have mild winters and long, hot, dry summers. So the U.S. Agency for International Development is helping establish olive orchards in eight regions of the war-torn country, seeing olive production as "a potentially important cash crop for Iraqi farmers."

We're told that USAID is helping Iraq's Ministry of Agriculture plant 16 demonstration orchards, using thousands of saplings that it hopes one day will branch into symbols of peace.

Food historian Patricia Solley, editor of SoupSong.com, says the "calming and healing properties" of olives have been documented since the beginning of time.

"In the Mideast, the story is told of Adam suffering from pain and complaining to God," she writes. "At that, Gabriel descended from heaven with an olive tree, presented it to Adam, and said, 'Plant it, then pick the fruit and press out its oil. It will cure your pain and all sickness.'

"Indeed, early Mideast civilizations believed it would cure every illness except death. And to this day, many drink half a cup of olive oil before breakfast to keep all systems well-lubricated," according to Mrs. Solley.

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Where credit is due

"Where is the love, especially on Valentine's Day?" writes our friend Kevin McCauley, editor of the online version of O'Dwyer PR (odwyerpr.com), which monitors the public relations world from high atop New York's Madison Avenue.

Mr. McCauley, who frequently appears in Inside the Beltway, had sent us yesterday's item about Washingtonian David Keene landing the Algerian government image-improvement contract, but our original credit to him was accidentally dropped from the column. He can expect flowers and dark chocolates next year.

History Lessons (WT)

The Washington Times, February 15, 2006

From New York Times Editorial, Jan. 27, 2000:

The United Nations Security Council's compromise choice of Hans Blix as the new chief weapons inspector for Iraq is a disturbing sign that the international community lacks the determination to rebuild an effective inspection system in Iraq... The further the world gets from the Gulf War, the more it seems willing to let [Saddam] Hussein revive his deadly weapons projects... With the Clinton administration unwilling to fight for a stronger nominee... Mr. Blix may be an unavoidable choice. But the problem of Iraq weapons development is not going to go away. The United States and its European allies may later regret that they were not more energetic in enforcing Iraq's disarmament obligations.

Afghan Suicide Bombings, Tied To Taliban, Point To Pakistan (NYT)

By Carlotta Gall

The New York Times, February 15, 2006

KANDAHAR, Afghanistan, Feb. 12 — Arrests and interrogations of suspects in a recent series of suicide bombings in Afghanistan show that the attacks have been orchestrated from Pakistan by members of the ousted Taliban government with little interference by the Pakistani authorities, Afghan officials say.

In taped interviews by an Afghan interrogator, two Afghans and three Pakistanis who were among 21 people arrested in recent weeks described their roles in the attacks, which have killed at least 70 people in the last three months, most of them Afghan civilians but also international peacekeepers, a Canadian diplomat and a dozen Afghan police officers and soldiers.

In the tape, the men described a fairly low-budget network that begins with the recruitment of young bombers in the sprawling Pakistani port city of Karachi. The bombers are moved to safe houses in the border towns of Quetta and Chaman, and then transferred into Afghanistan, where they are provided with cars and explosives and sent out to find a target.

The tape appears to confirm Afghan officials' suspicions that the suicide bombings, which are largely a recent phenomenon in Afghanistan, were generated outside Afghanistan, and in particular from neighboring Pakistan. It was shown to The New York Times by an Afghan official who asked not to be identified because of the diplomatic implications of the contents.

A Taliban spokesman, Qari Yousuf Ahmadi, dismissed the claims of the Afghan government. "This is a propaganda campaign of the government," he said by satellite telephone from an unknown location. "Our mujahedeen don't send one group to one area so they can be found and arrested. Our mujahedeen send different people to different areas at different times."

He added that there was no need to recruit Pakistanis for the attacks. "They are all Afghans," he said of the suicide bombers.

But Afghan officials said the confessions provided the proof they needed to demand action from Pakistan. "I think there is a factory for these bombers," said Asadullah Khaled, the governor of Kandahar Province, where 15 attacks have occurred in the last three months.

President Hamid Karzai is traveling to Pakistan on Wednesday specifically to raise the issue with President Pervez Musharraf and in speeches to Parliament and officers at a military academy as well.

"If you are the ones blowing yourselves up, why are you making the explosion in front of the police headquarters, where people like you are standing in front getting passports?" Mr. Karzai said, addressing the bombers rhetorically, in a televised speech to elders from southern Afghanistan last week.

He has spoken increasingly of the need to tackle the problem at the source. Anti-Pakistan sentiment has been rising in Afghanistan, and a popular refrain is that if the hand of Pakistan were cut, the Taliban, many of whom fled over the border when they were ousted in late 2001, would be no more.

"Most of the attackers are non-Afghans," the governor of Kandahar, Mr. Khaled, said Saturday at a memorial service for 14 victims of the latest bombing. "We have proof, we have prisoners," he added. "We have addresses, we have cassettes."

Pakistani officials in the past have said the Pakistanis arrested in Afghanistan are usually illiterate laborers looking for work.

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Judging by the tape, Pakistan appeared to be the base for the terror network, however. In the interviews, all of the men appeared to speak freely, some expressing regret for what they had done. Only one showed some nervousness, though the interrogations seemed relatively relaxed.

Three of the men, speaking in Urdu, said they were Pakistanis and had been recruited as bombers.

Two of the men, Akhtar Ali and Sajjad, who only gave one name, said they had been recruited by a man named Jamal, who was working for the Taliban and who owns a bookstore in Karachi. Sajjad had been staying with his brother in Karachi when Jamal showed him video cassettes in which Muslim clerics urged listeners to go and fight a holy war and earn a sure way to paradise.

"I was doing nothing, walking around, playing cricket and football," Sajjad said, adding in reference to a senior cleric: "The maulavi sahib talked to me and showed me a cassette, so I got involved. They were talking on the cassettes and telling us to do this and that, telling me to kill Americans."

Mr. Ali, who is from Karachi and who looked to be in his late 20's, said he received training to fight five years ago, when the Taliban were still in power, but never went to Afghanistan. Muslim clerics speaking on the video cassettes persuaded him to go this time, he said.

"I heard from the clerics there that if you fight jihad, you would go to paradise," he said. "There are cassettes there and they say: 'There is jihad against non-Muslims.' "

The third man, who gave his name as Abdullah, said he had come from Peshawar but was working in Karachi when recruited by a co-worker named Iqbal. "Iqbal was talking of fighting against Americans, he was talking of going to fight jihad there," Abdullah said in his interview. "I said I cannot do it. Iqbal persuaded me."

Separately the three men were sent to Quetta, they said in the tapes, and put in touch with an Afghan member of the Taliban, Abdul Hadi, who had a house in the border town of Chaman. Sajjad was on his second trip in; his first attempt was aborted when the man preparing the car in Kabul blew himself up.

Sajjad and Mr. Ali were arrested with their Afghan facilitator, Nur ul-Baqi, as they drove into Kandahar.

Abdullah, a man with a hard direct gaze, said he had been given shelter for two days in Afghanistan and provided with a car filled with explosives and two gas cylinders. "My other friend told me which button to press," he said.

He was caught by the police on the edge of Kandahar in a car laden with explosives and tried to detonate them as the police stopped him, the interrogator said on the tape. Abdullah denied that and said he had had a change of heart and stopped his car.

The interrogations also indicated that the network behind the men was made up of Afghan Taliban, many of them living in Pakistan. Mr. Baqi, the Afghan courier arrested with Mr. Ali and Sajjad, said on the tape that he had brought four would-be bombers into the country, taking them from Mr. Hadi in Chaman and delivering them to various people in Afghanistan who set them up with cars and explosives.

He said he had brought in one bomber called Imran from Pakistan's North-West Frontier Province, who blew himself up on the road near the Kandahar airport. The other bomber did not go through with his attack, Mr. Baqi said.

He gave names and details of other bombers who had been taken to Kabul and one to Herat to carry out attacks, and of the Afghans who helped them. Among them were an Afghan husband-and-wife team who blew themselves up on the Jalalabad road on the east side of Kabul.

"Most of the attackers are Pakistanis; I can tell you 99 percent are Pakistani," he said. He said he had not seen any Arabs coming through.

Mr. Hadi provided the money to purchase cars, one for $2,000, Mr. Baqi said. He said he had asked Mr. Hadi several times where the money had come from. "It is coming from the sky," was the reply.

"They are getting their logistics there, so it is obvious that Pakistan is also giving them money, in my opinion," Mr. Baqi said, adding that he and the other Afghan Taliban had free movement in Pakistan. "The people who are bringing anarchy in Afghanistan, the Pakistanis don't say anything to them," he said.

Hafiz Bismillah, the last man on the tape, said he was from Panjwai district, just 30 minutes southwest of here. Wearing glasses and a white prayer cap, he was the only one who appeared jittery in his interview.

Mr. Baqi had brought Imran, the bomber, to his house, and he had stayed with them, he said. "We knew he was going to do a suicide mission," he said. "We gave him a place to stay." The police found 80 mines inside large blue plastic barrels at his house, he said.

Afghan Gas Pipeline Nears Reality (CSM)

By Scott Baldauf

The Christian Science Monitor, February 15, 2006

DOJ_NMG_0015228

KABUL, AFGHANISTAN - If all goes well this week, Afghanistan may soon be on its way to having a gas pipeline going through its territory.

The ninth meeting of oil ministers for Turkmenistan, Afghanistan, and Pakistan started Tuesday in Ashkabad, Turkmenistan's capital. And according to Afghan officials, the three countries are closer than ever to a deal.

"When I met with the Turkmenistan vice president, and with [Afghan President Hamid] Karzai, and with President Pervez Musharraf, they all said this is a very good project, and it will have a good effect on the regional economy," says Mir Sediq, Afghanistan's minister for mines and industry.

Even India is interested in the project, and Indian officials will be attending the Ashkabad meeting as observers. "Manmohan Singh told me, 'We have a population of 1.3 billion people, and we cannot continue to grow without power," says Mr. Sediq. "One or two pipelines are not enough. We'll need three or four.' "

From the time it was first proposed in the early 1990s, after the fall of the Soviet Union, the 1,000-mile-long Turkmenistan-Afghanistan-Pakistan pipeline project, or TAP, has always had a certain unrealistic aura to it. Clearly Pakistan has a growing need for energy. Just as clearly, Turkmenistan has a lot of natural gas. The dilemma has always been Afghanistan: Would you put a gas pipeline through a country with a raging civil war?

For much of the 1990s, American oil company Unocal answered "yes," and hired Afghan consultants - such as the soon-to-be president Hamid Karzai; soon-to-be US ambassador to Kabul, Zalmay Khalilzad; and soon-to-be minister of Mines and Industry Sediq - to help negotiate with tribal chiefs and militia warlords. Eventually, Unocal shelved the project, in part because of the Taliban's intransigence, and in part because of pressure from human rights groups for trying to do business with them.

But with the fall of the Taliban in late 2001, and the support of foreign forces to keep relative peace, Afghanistan has suddenly turned into a "safe" investment choice, at least from the perspective of the oil industry. That is the assessment of the Asian Development Bank, which recently commissioned a study that gave its support to the TAP. Security is an issue, the ADB report says, but an issue that can be resolved with a few protective measures.

Then there's Pakistan: Will it be able to consume enough of Turkmenistan's gas for the project to be viable? At the time the TAP was first proposed, Pakistan's economy was growing at 4.5 percent a year. Today, its growth rate is estimated at 8.5 percent. Pakistani energy officials estimate that they will run out of domestic gas supplies in 2010.

The final cost of the project is currently estimated at $3.7 billion, up from the $2.5 billion price tag estimated in the 1990s. Unocal is now out of the picture, replaced by Argentine energy company Bridas.

For Afghanistan, this project could be a welcome source of jobs and income. After the three-year construction period, annual revenue for the Afghan government would reach around $350 million to $450 million.

This is less than the $2.2 billion in Afghanistan's illicit opium economy, but it has the advantage of being clean.

Afghan Parliament Debates Chaperones For Women (CSM)

By Scott Baldauf

The Christian Science Monitor, February 15, 2006

KABUL, AFGHANISTAN - When Afghan parliamentarians went to London earlier this month to participate in a major donor's conference, it was a milestone of sorts, with a presidency and Parliament working side by side to solve the nation's problems.

But for Al-Hajj Abdul Jabbar Shalgarai, a conservative legislator, the trip was distinctly un-Islamic. He saw the participation of two Afghan women parliamentarians - who traveled without their husbands - as a breach of the law.

So while President Hamid Karzai and his delegation were securing promises of aid, Mr. Shalgarai told his fellow parliamentarians that they were all obliged to follow the Islamic sharia law, which forbids women - including women parliamentarians - from taking long journeys without being accompanied by a male member of the family.

"This country is the Islamic Republic of Afghanistan, and the Constitution says that nothing can be done in Afghanistan that is against sharia law," says Shalgarai, recalling his statements in Parliament. "I don't want to pass a new law into the Constitution; we already have a law, and it is in sharia."

It was a debate that was bound to happen in Afghanistan sooner or later, a clash of two different visions of Islamic society, one traditional, the other modern. But for female parliamentarians hoping to improve the lot of women in this conservative Islamic country, the return of sharia rules - even if they are not specifically stated in the Constitution - is a troubling sign indeed. After all, it was this very same sharia principle that the conservative Taliban regime used to prevent women from going to school, to market, and to work.

"This is not just for women in Parliament, this will create a big problem for all women of Afghanistan," says Safiya Sadiqi, a female parliamentarian from the Pashtun-dominated Nangrahar Province.

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"We have international donors who emphasize funding on women's development. They won't be happy to see this backward trend," says Sadiqi, who attended the London conference after being nominated by Parliament to go. "It means probably that soon women can't go to school alone, can't go to market alone, can't work alone." After three days, chaperones needed

Under sharia, the notion of mahram-e sharaii, or male chaperones, allows for women to travel for more than three days if they are accompanied with a male relative. Because mahram-e sharaii has not been introduced as a bill, it is impossible to know just how much parliamentarian support it has. But with an estimated 50 percent of the lower house claiming past experience as fighters in the anti-Soviet jihad, and current affiliation with Islamist parties, it's clear that conservative interpretations of Islamic life have a strong political hold.

"As Muslims, we have a strong book, the Holy Koran, and we believe in the Koran, we don't believe in the Constitution," says Haji Ahmed Fareid, a religious scholar and parliamentarian. "We have given women the right to educate themselves, to take part in government, to participate in political life. But there are special rules."

Haji Fareid says that Westerners pay so much attention to women's rights in Islamic nations, but rarely give Islam credit for the rights it gives to women, such as the guarantee from husbands that they will provide clothes, food, and shelter for their wives, as well as the right of inheritance.

"In some countries, the women work outside the house, and then come home and they have to cook, and wash clothes, and look after the children too," he says. "In Western cultures, women are equal to a pack of chewing gum. You can see their images on a box of soap or a bottle of shampoo. That makes women just a part of business."

Similarly, Shalgarai says the rule of mahram-e sharaii is actually intended as a protection of women.

"If a woman is on a three-day journey, far from home, and she falls sick, who will look after her?" asks Shalgarai. "If someone else's woman is sitting in the same row of seats as you, well, human beings have different drives, including sexual drives. Sometimes these cannot be controlled. This is to save the dignity of women." Selective application of the rules?

Yet women parliamentarians say that such stringent interpretations of the Koran are not appropriate for a modern Afghanistan.

"Islam is a social religion, it is good, and broad, and it covers everything in our lives," says Sahera Sharif, a female Parliamentarian from Khost. "But unfortunately, when there are rules that affect men and women equally, the men in our society only address these rules toward women."

Zeefunun Safi, another parliamentarian, agrees. "If my husband accepts me, and lets me travel and be a member of parliament, then who are you not to accept me?"

Yet she acknowledges that some women parliamentarians may end up supporting mahram-e sharaii, if it ever is introduced as a bill. "There are lots of women in Parliament against this, but they have to support it, because people will say, 'You are not our representative, get out of Parliament.' "

NATO Allies Cut Military Since 9/11 (WT)

By Rowan Scarborough

The Washington Times, February 15, 2006

America's major NATO allies have cut military manpower and defense funds as a share of their economies since the September 11 attacks, in sharp contrast with the United States, which embarked on deficit spending to boost arms outlays to fight global terrorists.

The downward trend is raising alarms inside the Pentagon, which needs the allies' help to battle al Qaeda and other militants in Afghanistan, Iraq and other trouble spots.

A comparison of force structures in 2001 and 2005 showed countries such as Britain, Canada, France, Italy, Poland, Spain and Germany cut their active-duty forces, according to statistics compiled by the London-based International Institute for Strategic Studies. At the same time, the United States increased its ranks from 1.37 million to 1.42 million.

More telling is the share of each countries' gross domestic product (GDP) that is devoted to defense expenditures. The U.S. share has gone from 3 percent to 3.7 percent since September 11, 2001, while other NATO nations collectively have dipped from 2.02 percent to 1.8 percent, according to the Pentagon. Twelve years ago, NATO, excluding the United States, devoted 2.5 percent of GDP to defense.

Defense Secretary Donald H. Rumsfeld, who once referred to France and Germany as "old Europe" during their vocal opposition to the war that ousted Iraqi dictator Saddam Hussein, has stepped into the dangerous arena of criticizing Western allies before. But this time, he is doing it diplomatically as he tries to explain the dangers of declining defense budgets in the age of global terror, which has struck NATO countries Turkey, Great Britain and Spain, as well as the United States.

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At last week's NATO defense ministers' conference in Munich, Mr. Rumsfeld gently prodded his colleagues to rethink defense spending after he detailed the job ahead.

"This commitment cannot be done on the cheap," he said. "It's always easier for all of us to use our scarce tax dollars to meet some of the desires and appetites we have at home. But unless we invest in defense and security, the reality is that our homelands can be at risk."

The lack of NATO spending can show up in war. The alliance's 1998 air assault on Serbia was carried out by American warplanes in virtually all strike missions. Other countries had not invested money in the smart munitions needed to hit targets in Belgrade and on the battlefield.

Defense officials say European countries are short on capabilities for unmanned spy planes, cargo airlift, countermine technology and precision-guided weapons. All these shortfalls can affect U.S. troops relying on NATO forces to complement operations overseas in places such as the Balkans, Afghanistan and Iraq.

Retired Army Gen. George Joulwan, NATO's supreme commander in the mid-1990s, said Europe has to be convinced that the war on terror involves a commitment to global operations.

"This is just not the United States in the fight but civilization as they know it," Gen. Joulwan said. "You've go to get them educated to a degree that they understand this is a global war and give them a voice in the process. The initiatives agreed to in Prague in 2002 by all the heads of state need to be fulfilled."

It was in Prague that Europe, prodded by President Bush, agreed to improve defense spending. But the goals remain unmet today, defense officials say.

NATO is taking a historic step later this year when it moves far outside its treaty area and takes command of coalition forces in Afghanistan in the fight against Taliban and al Qaeda.

British Defense Minister John Reid sees NATO at a testing point.

"If we're going to make sure that NATO is a true force in the world, then we Europeans have to step up to the mark and make sure that we are contributing not only towards the discussions in NATO, which are very important, but also the resources, the types of troops that are necessary for today's world," Mr. Reid said.

Marching Orders To Keep Recruits, Boot Camp Gets A Gentle Revamp (WSJ)

By Greg Jaffe

The Wall Street Journal, February 15, 2006

FORT LEONARD WOOD, Mo. -- New recruits used to be welcomed to boot camp here with the "shark attack." For decades, drill sergeants in wide-brim hats would swarm around the fresh-off-the-bus privates, shouting orders. Some rattled recruits would make mistakes. A few would cry.

Today, the Army is opting for a quieter approach. "I told my drill sergeants to stop the nonsense," says Col. Edward Daly, whose basic-training brigade graduates about 11,000 soldiers a year. Last fall, Col. Daly began meeting with all new recruits shortly after they arrive at boot camp to thank them. "We sincerely appreciate the fact that you swore an oath and got on a bus and did it in a time of war," he recently told an incoming class. "That's a big, big deal." He usually is accompanied by two male and two female soldiers, who can answer questions the recruits may have.

"The idea is to get rid of the anxiety and worry," Col. Daly says.

The new welcome is a window on the big changes sweeping boot camp, the Army's nine-week basic training. For most of its existence, boot camp was a place where drill sergeants would weed out the weak and turn psychologically soft civilians into hardened soldiers. But the Army, fighting through one of its biggest recruiting droughts, now is shifting tactics. Boot camp -- that iconic American experience -- may never be the same.

Once-feared drill sergeants have been ordered to yell less and mentor more. "Before, our drill sergeants' attitude was 'you better meet my standard or else.' Now it's 'I am going to do all I can to assist you in meeting the Army standard,' " says Command Sgt. Maj. William McDaniel, the senior enlisted soldier here.

New privates are getting more sleep and personal time. Even the way soldiers eat has changed. Drill sergeants long ordered overweight soldiers to stay away from soda and desserts. Today, soldiers at Fort Leonard Wood fill out a survey about their boot-camp experience that asks, among other questions, if they liked the food, whether they were "allowed to eat everything on the menu, including dessert," and whether there was enough for seconds.

Recruits still must meet the same basic standards and pass the same tests for physical fitness and marksmanship to graduate, say Army officials. But more variable criteria that in the past might get a recruit expelled -- such as whether a drill sergeant thinks a recruit has the discipline and moral values to be a soldier -- have been jettisoned. "Now it doesn't matter what the drill sergeant thinks. We work off of the written standard," says Capt. Christopher Meng, who oversees a company of 11 drill sergeants and about 200 recruits at the base.

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The new approach is helping the Army graduate more of its recruits. Last month, only 23 recruits failed to make the cut at Fort Leonard Wood's largest basic-training brigade, compared with 183 in January 2004. Army-wide, about 11% of recruits currently flunk out in their first six months of training, down from 18% last May.

Full Potential

Senior Army officials say attrition has fallen because the new techniques are helping more soldiers reach their full potential. "This generation responds to a more positive leadership approach. They want to serve and they want people to show respect for that decision," says Maj. Gen. Randal Castro, the commanding general at Fort Leonard Wood. Smarter training also is preventing injuries, Army doctors say.

Some drill sergeants worry that the "kinder and gentler approach" -- as drill sergeants have dubbed the changes -- is producing softer soldiers. "If the privates can't handle the stress of a drill sergeant yelling at them, how will they handle the stress of bullets flying over their head?" asked Staff Sgt. Clayton Nagel as he watched his recruits file past him in the Fort Leonard Wood dining hall. "War is stressful. I think we overcorrected."

The Army's decision to overhaul basic training came last spring. The service was having a hard time bringing in new recruits. It ultimately missed its 2005 recruiting goals for active-duty troops by 7,000 soldiers, or 8%, and National Guard soldiers by 13,000 or 20%.

Meanwhile, boot-camp attrition was climbing. New soldiers brought in to replace those who were tossed out weren't much better. "We realized that the further you go into the barrel, the lower the quality," says Col. Kevin Shwedo, a senior officer in the Army's Training and Doctrine Command in Virginia.

A team of 20 officers from the Army's training command was formed to figure out how the service could help more soldiers survive the first six months. They consulted sociologists and psychiatrists and even flew in MTV's senior vice president of strategy and planning, in search of fresh ideas for motivating today's youth.

The changes, put in place this fall at all five of the Army's basic-training camps, are apparent the moment recruits step off the bus at Fort Leonard Wood. On a chilly Tuesday in January, about 200 new recruits in white Army sweat suits filed into a big auditorium on the base for one of Col. Daly's welcome-to-the-Army talks. Staff Sgt. Mike Gilmore grabbed a microphone and told the recruits what was going to happen: "The brigade commander is going to talk to you. He is a colonel. He is way up here. You are way down here," Sgt. Gilmore explained.

He then coached the recruits on how to spring to attention when Col. Daly entered the room. "When I say 'attention,' you stand up. That's it. You don't say nothing. You do it quietly as possible."

"Attention!" Sgt. Gilmore ordered. The recruits rose slowly and unevenly.

"Could we all just stand up together?" Sgt. Gilmore said, sounding more let down than angry. "It would look so much nicer."

A few minutes later, Col. Daly, a Special Forces soldier who served in Afghanistan and was awarded a Purple Heart after being wounded in the U.S. invasion of Panama, strode into the room. He told the recruits to take a deep breath and a swig from their canteens. "There is no problem that you might have that in last 230 years the Army hasn't already heard," he said.

The recruits then got 40 minutes to fire questions at the four privates accompanying Col. Daly. One recruit asked if any of the privates had failed the Army's physical-fitness test. (Two struggled with it but eventually passed.) Others wanted to know how often they got to talk on the phone (once a week), how long they got for showers (five minutes) and how many hours of sleep they got a night (8 hours). A few asked if they had any regrets about enlisting. All four said no.

Too Easy

After the session, Pvt. Angela Holmquest, one of the privates brought in to answer questions, said she worried that basic training had become too easy. "The drill sergeants tell us we are in the low-stress Army. I'd rather be in the old Army. When we need to lock it up and work together as a team we can. But we should be more disciplined than we are," she said.

In recent months, the Army has told drill sergeants to back off the recruits in the dining halls as well. A few months ago, sergeants would hover over new recruits, rushing them through meals, quizzing them about Army regulations and chastising them for minor infractions like carrying their drinking glass with one hand instead of two.

The dining hall still is far from relaxing. But drill sergeants no longer shout at recruits. They aren't allowed to order overweight privates to skip dessert. At first, some drill sergeants refused to embrace the new directive. "There was a lot of balking on the dessert rule," says Capt. Meng, who oversees 11 drill sergeants. "I have had to say, 'Don't even mention it.' "

The Army also has cut the amount of running troops do in boot camp by more than 60% in the past three years. "A lot of these kids have never done P.E. or sports. We were injuring too many by running too much," says Col. Greg Jolissaint, an Army physician with the command that sets baseline standards for boot camp.

Instead of running, privates do more calisthenics and stretching. They also are spending more time learning the basic combat tasks they will need in Iraq or Afghanistan, such as how to spot a roadside bomb. Last month, Sgt. First Class Kevin Staddie, who spent a year in Iraq, was teaching soldiers how to move through a city under enemy fire. Suddenly he called a halt

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to the exercise. A private who was slithering on his belly lost his only canteen. Sgt. Staddie asked the private if he knew the temperature in Baghdad in August.

"It is 115 degrees," the sergeant said in an even voice. "Will you give me a solemn promise that you'll do a better job securing your canteen? You'll get a whole lot further."

The private nodded and rushed to continue the exercise.

Soldiers also get a few more chances to succeed, say drill sergeants. Not long after she arrived at boot camp, Pvt. Starr Mosley was accused by another soldier of writing letters home when she was supposed to be training. Her drill sergeant ordered the 18-year-old private to crawl on her belly through the barracks and chant: "I will not write letters in the war room."

Pvt. Mosley, who said she wasn't writing letters, refused. The Army offered her a fresh start in a new platoon. There she struggled to meet the service's marksmanship standards, her drill sergeant says. Sgt. Darren Baker, her new drill sergeant, spent hours coaching her. "Without him I would have quit," Pvt. Mosley says. "He was down there in the dirt helping me."

A year ago, a drill sergeant wouldn't have taken as much time working with one struggling soldier. Today it is part of the job. "We're all working more one-on-one with the privates," Sgt. Baker says.

Soldiers with certain medical conditions get more help as well. Recruits with mild asthma now are allowed to carry inhalers with them. Privates who come to the Army with a history of mild depression now can take Paxil or Zoloft. Both changes, pushed through last fall, are "contributing to the lower attrition overall," says Col. Jolissaint, the physician.

Some basic-training facilities also are setting up special units for soldiers who are hurt or out of shape. In August, Col. Daly created a "Warrior Rehab" unit for injured recruits. Before the unit's creation, soldiers hurt during training often would go home to heal. The vast majority never came back.

Soldiers in Warrior Rehab practice marksmanship, take classes on map reading and do low-impact workouts in the base's indoor pool. So far, 170 soldiers have passed through the program. Only 30 have quit basic training.

Last month, about 40 members of the unit gathered in their barracks for a class on how to ambush the enemy with an M-18 Claymore antipersonnel mine. The troops included Pvt. Matthew Brent, a 29-year-old former hotel manager, who enlisted because he "wanted a personal challenge." He came to boot camp overweight at 5-foot-10, 220 pounds and quickly went down with tendinitis in his ankle. In his five months in Warrior Rehab, Pvt. Brent has lost 57 pounds.

Next to him was Pvt. Richard Hodgson, who has been with the rehab unit since it started in August, trying to recover from stress fractures. He was having doubts about his ability to stick it out. "I've just lost my motivation. I was supposed to have graduated in September and I am still stuck here," he said. The sergeants in Warrior Rehab have been working hard to convince him to stay. "I've had a few mother-son type conversations with him," says Staff Sgt. Nicole Waters, one of the drill sergeants. "We talk about his goals in life. This job is a lot more mental than the typical drill sergeant job."

Not all Army commanders have embraced the new approach to basic training. Col. Daly says one of the 14 company commanders he oversees is a "gung-ho combat arms officer, who right now is just killing me."

Recently, one of that commander's recruits brought a round of live ammunition back from the rifle range, which isn't allowed. The bullet was found by a drill sergeant in the barracks common room. As punishment, the commander ordered the entire unit, which numbers 60 soldiers, to don their helmets when eating in the dining facility. He then threatened to send all the privates, who were just two weeks from graduation, back to the beginning of basic training.

Col. Daly bristled when he heard about the threat. "I am not going to keep 60 soldiers back because one guy made a mistake," the colonel says he told the commander.

Instead, Col. Daly ordered the commander to have his drill sergeants do a better job of searching the recruits' pockets for extra ammunition when they leave the range.

"The commander's leadership style has got to change," says Col. Daly, noting that the commander's recruits have gone absent without leave at more than twice the rate of any other unit in the past two months.

Even among those units that have embraced the new approach, there is debate about whether the changes have been too much, too fast. "It's a hot topic," says Capt. Meng, another one of Col. Daly's company commanders.

Like many of his fellow commanders, Capt. Meng spent a year in Iraq, in a tour that ended in 2004. He was second in command of a 100-soldier armor company. In the past six months, the West Point graduate has been in the forefront in reducing attrition, overseeing drill sergeants and recruits.

Last month, a few dozen of Capt. Meng's privates clambered onto olive-green trucks for one of their final boot-camp exercises. The troops, traveling in an Iraq-style convoy, were "hit" by a series of smoke-spewing roadside bombs. Enemy fighters, represented by pop-up targets, sprung from nearby prairie grass. A broad-shouldered drill sergeant ordered a counterattack.

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Instead of leaping off the back of the truck, as they would in a typical exercise, or in actual combat, the privates waited about 10 seconds for someone to walk to the back of the truck and place a ladder on its rear bumper. They then climbed down the 5-foot drop, one at a time.

Falling Short

Capt. Meng conceded it wasn't realistic. He said the Army couldn't afford to have privates twist ankles and wrench knees just a few days before their final physical fitness test. "A few months ago attrition was seen as a good thing," he says. "It meant we were sending higher quality troops to the Army."

Now he says he is racking his brain for new ways to motivate more soldiers who are falling short of the Army's standards. He recently petitioned Col. Daly to let his troops have an extra half-hour of sleep on top of the 30 minutes of additional shuteye all recruits were granted last fall. Standard boot camp sleeping hours are now 9 p.m. to 5 a.m. His troops rise at 5:30 a.m.

"It has been great for morale," Capt. Meng says. "A soldier's happiness is directly proportional to the amount of sleep he gets."

The Iraq veteran says his boot-camp troops are in many ways better prepared for combat than their predecessors were. They spend far more time working with their M-16 rifles and more time in the field training on critical combat tasks like defending a base camp from insurgent attacks.

Asked if his soldiers are as disciplined and tough as their predecessors, Capt. Meng pauses. "There are some who feel we are not sending as high a quality soldier to the Army....I am not smart enough to tell you," he says.

In the near term, he has other worries. "The commanding general's No. 1 priority here is to support the war," he says. "In order to do that right now we have to graduate more privates."

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U.S. Attorney Heffelfinger, After Red Lake Probe, To Resign (AP)

By Amy Forliti

AP, February 15, 2006

MINNEAPOLIS - U.S. Attorney Tom Heffelfinger, just weeks after wrapping up his investigation into the worst U.S. school shooting since Columbine, announced Tuesday that he will step down at the end of the month and return to private practice.

Heffelfinger, who was appointed to the post shortly after the Sept. 11 terrorist attacks, said he was stepping down for personal and family reasons. While the shooting at Red Lake High School was not a reason for his departure, he said, the case did play a role in the timing of it.

"It was very clear to me personally that I was not going to quit this job until after I met with the victims of the tragedy," he said. "This was a very difficult decision."

Heffelfinger oversaw his office's investigation into the March 21 shooting that claimed 10 lives on the Red Lake Indian Reservation in far northern Minnesota. Just two weeks ago, Heffelfinger presented the findings of his investigation to victims' family members and some tribal officials.

Heffelfinger was criticized by some families for not sharing more information about the investigation.

Although he did not make the findings public, relatives who heard the presentation said Heffelfinger told them as many as 39 people had some sort of advance warning of 16-year-old Jeff Weise's plans to open fire at Red Lake High School. Weise killed nine people on the reservation, including seven at the high school, before taking his own life.

The only person prosecuted was Louis Jourdain, 17, the son of the tribal chairman. The teen admitted to exchanging threatening communications with Weise.

Francis Brun, the father of Derrick Brun, who was killed in the shooting, said he was surprised to learn Heffelfinger was stepping down. Though Brun has been critical of the investigation since no one else has been prosecuted, he said he held no ill will toward Heffelfinger.

"I'm just not too happy with the federal court system," he said.

The reservation is a sovereign nation, so crimes committed there are tried in federal court, rather than by state authorities.

Heffelfinger said he worked hard to address issues on the reservation such as family violence, Indian gaming and gangs and drugs. When he returns to private practice, he plans to focus on Indian law, among other things.

This was Heffelfinger's second stint as U.S. Attorney; he also served under President Bush's father, former President George H.W. Bush.

In a news release, Heffelfinger pointed to several prominent issues while he was U.S. Attorney, including the shootings at Red Lake and school violence, methamphetamine cases, gang violence associated with drugs, white collar crime and terrorism.

During his tenure, his office prosecuted Mohammed Abdullah Warsame, a Minneapolis student charged with conspiracy to provide material support to al-Qaeda, and Mohamad Elzahabi, a Minneapolis resident who allegedly lied to federal agents about the shipment of electronics to Pakistan. Those cases are still pending.

Heffelfinger said he balanced the country's priority of battling terrorism with the traditional duties of a federal prosecutor. After the terrorist attacks, Heffelfinger said, the role of the U.S. Attorney's Office grew from that of the government's lawyer to one of the lead agencies in the prevention of terrorist attacks.

"It's really two events that kind of drove the agenda of Tom's tenure," said B. Todd Jones, now a defense lawyer who served as U.S. Attorney for Minnesota from 1998 to 2001. "One at the front end, which was 9-11. ... The other was the tragedy at Red Lake."

David Lillehaug, the U.S. Attorney for Minnesota from 1994 to 1998, said Heffelfinger faced three big challenges during his tenure: the Red Lake shootings, the growth of methamphetamine cases and terrorism. "He dealt with all of them with tenacity and made considerable progress," Lillehaug said.

Attorney General Alberto Gonzales will name an interim replacement until President Bush appoints a new U.S. Attorney for Minnesota, Heffelfinger said. He said he expects the entire process to take six to nine months.

When Heffelfinger was selected, he was on a list of finalists forwarded to the White House by U.S. Rep. Jim Ramstad. Ramstad took the lead because Minnesota didn't have a Republican U.S. senator and he was the GOP congressman with the most seniority.

This time, Ramstad's office and Republican Sen. Norm Coleman's office said they expect Coleman to be the go-to guy for compiling a list.

There are 93 U.S. attorneys in the United States, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands. They are appointed by the president, with the advice and consent of the Senate.

Raleigh-based U.S. Attorney Nominated For Federal Bench (AP)

AP, February 15, 2006

RALEIGH, N.C. — The top federal prosecutor for the eastern third of North Carolina was nominated Tuesday by President Bush for a lifetime appointment to the federal court hearing cases from the state's western third.

Frank Whitney, 46, and his family still live in Charlotte. He would succeed Judge Brent McKnight, who died in November 2004 of esophageal cancer.

Whitney, a former Mecklenburg County Republican Party chairman, had the backing of the state's two Republican senators, Elizabeth Dole and Richard Burr.

Whitney spent 11 years as a federal prosecutor in Charlotte until Bush named him U.S. attorney for the state's eastern district in 2002.

As U.S. attorney, Whitney has overseen the public corruption prosecutions of former U.S. Rep. Frank Ballance and former state Agriculture Commissioner Meg Scott Phipps. The Phipps case, which involved illegal campaign contributions and rigging of bids to operate the state fair midway in Raleigh, led to Phipps' resignation and prison time for the former commissioner.

Ballance, who retired from Congress in the middle of his first term, pleaded guilty to a federal conspiracy charge linked to mishandling of money by a charitable foundation he ran.

Whitney's office is now handling the prosecution of David Passaro, a former Army Special Forces soldier and CIA contractor charged with beating an Afghan prisoner who later died in custody. Passaro is the first civilian prosecuted on charges of mistreating a military detainee in the U.S. war on terrorism, and the first American charged under the Patriot Act.

Whitney's office also has emphasized terrorism prevention, gun-crime and corporate fraud prosecutions, and civil rights and environmental cases. Dole's office said Whitney has increased prosecutions for violent crimes by more than 250 percent.

"I was honored to recommend Frank Whitney and am very pleased with his nomination," Dole said in a prepared statement.

A former military intelligence officer and paratrooper with more than 20 years in the Army and reserves, Whitney spent two months of 2004 on active duty serving as a judge advocate — or military lawyer — assigned to the U.S. Army Special Operations Command at Fort Bragg. He then spent three weeks on reserve duty in Panama.

Whitney is a graduate of Wake Forest and the University of North Carolina-Chapel Hill business and law schools.

Dole and Burr have recommended to the president that Whitney be succeeded by his top assistant, George Holding.

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CORPORATE SCANDALS:

Witness: Skilling Hid Enron Unit's Status From Board (USAT)

By Greg Farrell

USA Today, February 15, 2006

HOUSTON — Former Enron CEO Jeff Skilling not only hid the sorry condition of the company's broadband operations from investors and analysts, but also hid that information from the company's board of directors, a former Enron executive testified here Tuesday.

Ken Rice, who served as CEO of Enron Broadband Services (EBS) from 1999 to 2001, testified that after preparing a presentation he planned to make about his unit to Enron's board of directors on May 1, 2001, he "discussed it with Mr. Skilling, and he asked me not to give that presentation."

Instead, Rice said, he made a presentation to the board that was not fully candid about the disastrous state of broadband's operations.

Rice's assertions capped nearly a full day of testimony about EBS, a business unit launched with significant hype during the dot-com bubble. Prosecutors contend that by portraying Enron Broadband as a unit with huge growth potential, Skilling and former Enron chairman Ken Lay misled the investing public.

In every quarter during the two-year period that he ran the troubled unit, Rice testified that Enron had to resort to accounting gimmicks, asset sales and speculative investments for EBS to show the revenue growth that Skilling had promised to the public.

Even after announcing a 20-year agreement with Blockbuster Video to deliver movies on demand to customers via the Internet, the only way EBS could generate revenue on the deal was to "monetize" future earnings, Rice said.

Although he didn't like the practice, it became habit-forming. When EBS was going to miss its earnings targets for the first quarter of 2001, Rice testified that the division took "one more hit of crack cocaine" by entering a deal that allowed EBS to book future revenue immediately.

"I felt we were so addicted to quarterly earnings, we were selling our future earnings potential to make the numbers. If you continue to do that, sooner or later, you're not going to have future revenues," the 47-year-old Nebraska native testified.

Prosecutors allege that when losses at EBS became too big to hide, Skilling suddenly quit in August of 2001, leaving Lay to pilot the company during its final months before it collapsed into bankruptcy. Defense lawyers insist Enron was doing just fine when Skilling left and that his decision to step down as CEO after just six months wasn't a surprise.

But Rice testified that when EBS was finally folded into the company's profitable trading unit in July of 2001, he met with Skilling to tell him he was resigning. Skilling urged him to stay, Rice testified, saying he "was going to leave within a couple of years, and he wanted me to stay around."

Skilling Misled Public, Enron Jurors Are Told (WSJ)

By John R. Emshwiller And Gary McWilliams

The Wall Street Journal, February 15, 2006

HOUSTON -- The former chief of Enron Corp.'s telecommunications unit told jurors in the criminal trial of former top two executives Jeffrey Skilling and Kenneth Lay that Mr. Skilling took part in misleading the public about the unit's financial health and business prospects.

Kenneth Rice testified that Mr. Skilling, while Enron's president, made misleading statements about the telecommunications unit to stock analysts in 2001. Mr. Skilling also pushed the telecommunications unit, which was called Enron Broadband Services, to come up with financial projections that were more optimistic than warranted by business conditions, he alleged. Mr. Rice added that Mr. Skilling had also directed him to be less than fully candid when making a presentation about Enron Broadband to Enron's board in May 2001.

Messrs. Skilling and Lay are in their third week of what is expected to be a months-long trial on conspiracy and fraud charges stemming from the December 2001 collapse of Enron. Some of the charges in the case stem from alleged misstatements about Enron Broadband, which was devised to provide high-speed telecommunications services to businesses and homes.

Mr. Rice is the second government witness to take the stand. Like the initial witness, former Enron investor-relations chief Mark Koenig, Mr. Rice has pleaded guilty to an Enron-related crime and is testifying under a government cooperation agreement that he hopes will lead to a reduction of any prison sentence.

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Mr. Rice said Enron Broadband never lived up to the high hopes for the unit that were presented to the public in 2000 and early 2001 by Mr. Skilling and others. The unit was never profitable, he testified, and by early 2001 was suffering from high costs and little revenue.

In late 2000, Enron Broadband officials estimated that the unit's loss for 2001 would be about $110 million, but Mr. Skilling directed that they lower the estimate to $65 million, Mr. Rice testified. The Enron president said the lower estimate would show investors that Enron Broadband was "progressing," said Mr. Rice, who added that he didn't feel the more optimistic number was achievable.

In early January 2001, Mr. Rice said he asked Mr. Skilling to raise the $65 million loss projection. "Mr. Skilling told me we really needed to stick with that number," asserted Mr. Rice. "He said we were getting a lot of pressure from analysts" on Enron's financial performance and "we didn't need any more bad news." Later that month, the $65 million loss estimate was given to Wall Street analysts.

As he testified, the 47-year-old former executive, with close-cropped hair, often gestured with his hands and turned to the jury to explain points. He appeared to avoid gazing at his former bosses at the defense table.

As problems continued to mount for Enron Broadband in early 2001, Enron held a special conference call with analysts on March 23 to calm market jitters, Mr. Rice said. There, Mr. Skilling made a number of misleadingly optimistic comments about Enron Broadband, he alleged. For instance, he inaccurately said that the unit's two main business areas were growing fast, Mr. Rice said.

Indeed, Mr. Rice said that much of the revenue that Enron Broadband did report came from deals with an outside partnership, known as LJM2, that was run and partly owned by Enron's then chief financial officer, Andrew Fastow. Mr. Rice said a roughly $100 million asset sale in 2000 was done with Mr. Fastow's partnership because "we couldn't find anyone else to buy it" from Enron Broadband at a profit. Without that deal, he added, Enron Broadband wouldn't have achieved its financial targets for the year.

The government alleges that the LJM operation was used to help manipulate Enron's reported financial results in a number of troubled business areas.

The government's questioning of Mr. Rice is expected to conclude today. That will be followed by cross-examination by defense attorneys.

Ex-Enron Chief Lied Often About Web Unit, Witness Says (NYT)

By Alexei Barrionuevo

The New York Times, February 15, 2006

HOUSTON, Feb. 14 — Jeffrey K. Skilling repeatedly lied about the state of Enron's struggling broadband Internet business and stubbornly refused to lower earnings targets, even when it became abundantly clear that the business lacked customers and deals that could generate revenue, the former head of the broadband unit testified Tuesday.

Kenneth D. Rice, taking the stand on Tuesday as the second witness in the criminal trial of the former Enron executives Mr. Skilling and Kenneth L. Lay, testified that Mr. Skilling misled analysts time and again by portraying Enron's broadband unit as surviving a meltdown in the telecommunications business.

In truth, Mr. Rice said, the situation had become so dire that Enron was forced to lay off employees and drastically cut costs. When the business needed to meet earnings targets, it turned to complex financial structures like LJM, a secretive, off-the-books partnership run by the chief financial officer, Andrew S. Fastow, and other transactions that sacrificed future revenue to book current earnings, he testified.

Mr. Rice ran the broadband business from mid-1999 until July 2001, when he left Enron.

"We had no customers and no deal flow," he said, "and we were spending $100 million a quarter."

Mr. Rice's testimony strongly supported that of the government's first witness, Mark E. Koenig, the former head of investor relations, who described misleading statements Mr. Skilling made to Wall Street analysts to ensure that Enron's stock would not be affected by bad news about the broadband unit's performance.

But Mr. Rice, who had a close relationship with Mr. Skilling stretching back a decade, described several private meetings with the former chief executive where, he said, Mr. Skilling steadfastly refused to come clean with the unit's failings.

If Tuesday's appearance on the stand was a difficult moment for Mr. Rice, he did not let on. Mr. Rice was once part of Mr. Skilling's inner circle. After Mr. Skilling joined Enron in 1990, they traveled together on exotic vacations to remote corners of Mexico and the Australian outback.

Mr. Rice said he earned $40 million to $50 million during his last 10 years at Enron. But as head of the broadband unit, he soon found himself in the cross hairs of prosecutors investigating the collapse of Enron in December 2001. After he was indicted

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on 37 counts, he pleaded guilty to one count of securities fraud and has cooperated with the government. He faces up to 10 years in prison.

Mr. Rice testified in a matter-of-fact tone, rarely making eye contact with Mr. Skilling, who sat up straight and looked on intently as Mr. Rice accused him of lie after lie.

Prosecutor Sean M. Berkowitz, in a jarring departure from seven days of often repetitious testimony by Mr. Koenig, questioned Mr. Rice at a breakneck pace.

Mr. Rice, 47, joined Enron's predecessor company, Internorth, in 1980 in Omaha. In 1999, Mr. Skilling asked him to run a stand-alone business in broadband. The idea was to create a fiber optic network and trade bandwidth capacity much like Enron traded natural gas and electricity. Enron also planned to charge content providers to use its network to send movies to customers.

Mr. Skilling saw the broadband business as a way to increase Enron's profit and share price. Mr. Skilling was obsessed with Enron's stock price, and installed stock tickers everywhere, from the Enron building's elevators to the parking garage, Mr. Rice said. The day Enron's broadband strategy was announced in January 2000, the stock price rose to $65 a share, from $50.

But the business struggled almost from the beginning, Mr. Rice said. By early 2001, desperate to bolster the unit's revenue, Enron tried to sell a chunk of its fiber optic network to Microsoft's Hotmail group. Microsoft's chief executive, Steven A. Ballmer, declined the offer in a conference call in January 2001 with Mr. Rice and Mr. Skilling.

Mr. Rice said that he lingered in Mr. Skilling's office and told him he was concerned about broadband's ability to meet its earnings targets, which included a promised loss of $65 million for the year. Mr. Rice argued the loss could be twice as large, but Mr. Skilling insisted Mr. Rice stick to the rosier outlook. "He said we had a lot of pressure from analysts," Mr. Rice said, "and he didn't need any more bad news."

As the performance continued to decline, Mr. Skilling agreed to reassign or terminate 240 of the unit's employees. But while Mr. Skilling told broadband employees in Portland, Ore., that the cuts reflected broad cost problems, he told analysts that the move was a simple downsizing and that the division's core businesses were doing well.

Mr. Rice said he later accepted an offer to sell some of broadband's underperforming assets to entities like LJM, which permitted Enron to minimize its losses. But Mr. Rice said he told Mr. Skilling and others that he thought it inappropriate that the company's chief financial officer, Mr. Fastow, was running LJM.

After a crucial, 20-year deal in which Blockbuster customers could use Enron's broadband network to download videos was terminated in March 2001, Enron's broadband business had virtually no customers.

Mr. Rice said he then learned of yet another plan that would permit the division to find earnings by selling future revenue from the contract.

"One more hit of crack cocaine on these earnings," Mr. Rice said. With its options for earnings growth dimming, Enron tried in the spring of 2001 to merge the unit with another telecommunications company. When Mr. Rice and Mr. Skilling decided to scuttle one potential deal, Mr. Rice said, it was clear to him that more drastic measures, including an outright termination of the business, would be necessary.

Mr. Skilling nevertheless pressured Mr. Rice to give a rosier presentation about the unit to analysts in the second-quarter conference call. "I had put together a presentation that was more candid, and Mr. Skilling asked me not to give that presentation," Mr. Rice said.

By July 2001, Mr. Rice had had enough, he testified. He told Mr. Skilling he was quitting but agreed to stay on the payroll until November, when some stock options would vest. On Aug. 1, the two old friends met for lunch. Minutes later, Mr. Skilling revealed that he had decided to leave the company, stunning Mr. Rice.

Mr. Skilling told Mr. Rice "he really wasn't having fun and had personal reasons for wanting to leave." The men spent much of the rest of the lunch talking about Mr. Skilling's plan to buy a boat and sail around the world. "It was more like a ship," Mr. Rice said, "a big boat that you could put cars on and maybe a helicopter."

That afternoon, Mr. Rice went back to his office and started to sell Enron stock.

Enron's Skilling Backed Off-Book Partnerships, Rice Testifies (BLOOM)

By Jef Feeley

Bloomberg, February 15, 2006

Feb. 14 (Bloomberg) -- The former head of Enron Corp.'s broadband unit testified today that ex-Chief Executive Officer Jeffrey Skilling backed use of off-the-books partnerships to handle Enron transactions over objections of other officials.

Kenneth Rice, who ran Enron Broadband Services for two years, said at the trial of Skilling and former Chairman Kenneth Lay that he questioned the use of a partnership set up by former Chief Financial Officer Andrew Fastow to help make his unit's 1999 earnings targets. Rice said he told Skilling using such off-the-books entities for Enron-related deals ``looked goofy."

``Mr. Skilling explained that it was something that would facilitate getting transactions done," Rice said during his first day of testimony at Skilling and Lay' fraud and conspiracy trial in Houston. ``He said we needed to do it so that we weren't being stuck by the banks at the last minute to get transactions done."

Lay, 63, and Skilling, 52, have said they weren't involved in the off-the-books partnership transactions, which they said were overseen by Fastow. The CFO, who has pleaded guilty to fraud charges stemming from Enron's collapse, is accused of reaping at least $25 million in illegal profits from Enron- related deals with his partnerships.

Prosecutors contend Lay and Skilling, the company's former chief executive officer, orchestrated a ``wide-ranging" fraud that led to Enron's collapse. They inflated earnings by hiding billions in debt and losses in Fastow's partnerships and deceived investors about Enron's financial performance, prosecutors told jurors in opening arguments.

Lawyers for Skilling and Lay counter that prosecutors are seeking to criminalize normal business practices and that the executives were the victims of thieving subordinates, such as Fastow.

Guilty Plea

Rice, 47, pleaded guilty in 2004 to securities fraud and faces 10 years in prison when he is sentenced after the trial. He testified today that he first learned about some Fastow partnerships called LJM when the first was set up in 1999. Fastow created the entities, named for his wife and sons, to buy poorly performing Enron assets or invest in company deals.

The broadband unit didn't have any business with LJM until the second quarter of 2000, when the subsidiary decided to sell $90 million in fiber-optic wire to LJM, Rice said. Broadband officials needed the $55 million in earnings generated by the deal to meet quarterly targets, he added.

``We couldn't find anyone else to buy it for more than we had in it," Rice noted.

Defense lawyers have described Fastow as a ``crook" who hid the fees from Skilling, Lay and the company's board of directors. They've also said Fastow's partnerships were blessed by the company's lawyers, accountants and directors, and disclosed in Enron's securities filings.

Earlier Testimony

Mark Koenig, Enron's former head of investor relations, testified yesterday that Rice wasn't the only official to question the company's use of the partnerships.

Among Enron executives who challenged Fastow's involvement in the partnerships were Richard B. Buy, the chief risk officer; Jeffrey McMahon, treasurer until he was replaced in 2000; and former chief financial officer Ray Bowen, Koenig said.

Investors also were calling with concerns over the partnerships and a possible conflict of interest, Koenig said. He wrapped up his testimony today.

Koenig pleaded guilty in August 2004 to a single count of aiding and abetting securities fraud in connection with Enron's collapse and faces a maximum sentence of 10 years in prison.

Lay is charged with seven counts of fraud and conspiracy, plus four counts of bank fraud that will be tried separately after his first trial. Skilling faces 31 counts of fraud, conspiracy and insider trading.

Enron had more than $68 billion in market value before it filed the second-largest bankruptcy in U.S. history in December 2001, wiping out thousands of jobs and at least $1 billion in retirement funds almost overnight. Investors suing the company claim the fraud led to at least $25 billion in losses.

The case is U.S. v. Skilling, No. 04-cr-25, U.S. District Court, Southern District of Texas (Houston).

Enron Internet Chief Tells Of Disinformation Campaign (LAT)

By Thomas S. Mulligan, Times Staff Writer

The Los Angeles Times, February 15, 2006

HOUSTON — The former head of Enron Corp.'s vaunted Internet unit today described his constant struggle to portray the faltering operation as a fast-growing business that would soon become a profit powerhouse.

Kenneth D. Rice, 47, the second government witness in the fraud and conspiracy trial of Enron's former top two executives, said that defendant Jeffrey K. Skilling, then Enron's chief operating officer, pressured him in 2000 and early 2001 to accept wildly unrealistic performance targets for Enron Broadband Services in order to help persuade Wall Street analysts that EBS was a big success in the making.

Preparing for in-house budgeting meetings for 2001, Rice's EBS subordinates examined their pending deals and expenses and estimated that the unit would lose $489 million in 2001. The climate, Rice testified, was one of sharply rising expenses and a depressed telecommunications market in which few customers would sign the long-term "bandwidth" contracts that were supposed to be EBS' bread-and-butter business.

Bandwidth refers to the capacity for sending data over the Internet. Enron, which had pioneered gas and electricity trading, thought that it could trade bandwidth — and eventually other commodities — on the same model. EBS was important to Enron's

image as an increasingly high-tech company that should command a far higher stock market valuation than other competitors in the energy business.

At a November 2000 meeting of Enron's top corporate executives, Rice testified that Skilling told him to accept a loss target of only $65 million — $424 million lower.

Co-lead prosecutor Sean M. Berkowitz asked Rice why he agreed to a target he thought he had no chance of meeting?

"I didn't feel like I had any choice," he said.

Rice told the federal jury that during a major business outlook conference in January 2001, he lied to and misled an audience of analysts and investors to make them think that EBS was on target for achieving its modest loss number.

It was those actions that led to the single securities fraud charge to which Rice pleaded guilty in 2004, agreeing to cooperate with the federal investigation.

Rice also testified today about a telephone conversation in mid-1999 in which he had complained to Skilling about a new partnership, known as LJM, that had been created to do certain deals with Enron and would be run by Andrew Fastow, Enron's chief financial officer.

The deal was criticized within Enron because it seemed to pose a conflict of interest for Fastow to simultaneously run the outside partnership and hold a high executive position at Enron.

Rice said Skilling told him that he favored the arrangement because it would give Enron an alternate source of financing apart from banks.

Rice said he wasn't persuaded by his boss' rationale.

"I thought it looked goofy," he testified.

However, LJM later proved to be a godsend to Enron Broadband Services, agreeing to several deals during 2000 that helped EBS achieve its public business goals. In the second quarter of 2000, LJM bought $90 million to $100 million worth of "dark fiber," or unused telecommunications lines, to generate a $55-million gain for the unit, Rice said. At that time, in the midst of the telecom industry meltdown, no other buyer would have been willing to make such a deal, according to Rice.

Skilling co-defendant Kenneth L. Lay, Enron's former chairman, faces multiple felony counts of fraud and conspiracy. If convicted, they could spend decades in prison.

Skilling Wanted Giant Boat Post-Enron--former Exec (REU)

Reuters, February 15, 2006

HOUSTON, Feb 14 (Reuters) - Former Enron CEO Jeffrey Skilling planned to sail around the world in a large boat that could hold cars and even a helicopter after he left Enron, a former top executive testified on Tuesday.

"All I remember was that it was almost like a ship," said Kenneth Rice, recalling a conversation with his long-time friend Skilling. "It was a big boat you could put cars on and maybe a helicopter."

Skilling is unlikely to be able to do that any time soon, as he stands on trial alongside former CEO Kenneth Lay on charges of fraud that led to Enron's collapse in December 2001.

The tough-talking Skilling surprised Wall Street by resigning for personal reasons in August 2001, just a few months before Enron reported massive losses and collapsed in a heap of debt and shadowy partnerships.

Two weeks before the public announcement, Rice says Skilling told him of his decision to leave Enron during a lunch meeting at a fancy Italian restaurant in Houston.

The two later chatted in depth about Skilling's future plans, including his sailing ambitions, Rice said.

Rice, who oversaw Enron's failed broadband business, came up with his own plans when he heard Skilling would leave.

"I went to my office and sold stock," Rice testified.

Thousands of Enron employees and shareholders bitterly complain that top Enron executives made off with millions while they lost their life savings.

Witness: Skilling Aimed To Please Wall St. (AP)

By KRISTEN HAYS, The Associated Press

AP, February 15, 2006

HOUSTON (AP) — A former top trader who once enjoyed a place in former Enron Corp. chief Jeffrey Skilling's inner circle testified Tuesday that Skilling set earnings targets to please Wall Street and then expected division heads to meet them.

Skilling also led an effort in early 1999 to redefine Enron as a company with consistent growth rather than a trading company with less predictable growth because analysts who influence stock prices supported stability, said Kenneth Rice, the prosecution's second witness in the fraud and conspiracy trial of Skilling and Enron founder Kenneth Lay.

"Mr. Skilling told me on several occasions our stock would get whacked" if the market perceived Enron as a trading company, Rice said Tuesday, his first day on the witness stand.

He said Enron's obsession with maintaining a lofty stock price fueled efforts to maintain Wall Street support.

Prosecutors contend Lay and Skilling lied about Enron's financial health when they knew complicated finance structures hid debt and inflated profits. The defense teams say negative publicity and loss of market confidence — not fraud — fueled the company's collapse.

Rice ran Enron's highly touted broadband unit before it crashed into bankruptcy proceedings with the parent in December 2001. He pleaded guilty to securities fraud in July 2004.

He said the broadband unit never lived up to its hype, had paltry cash flow and millions in losses after he, Skilling and others unveiled it with much fanfare at a January 2000 analyst conference.

But when he told Skilling in late 2000 that 2001 losses would reach $110 million — almost double the $60 million in losses for 2000 — Skilling told him to limit them to $65 million.

Rice said he felt he had no choice but to agree, even though the business was flailing.

"Mr. Skilling would simply say, in fact he did say, 'This is the number, this is what the number is going to be,'" Rice said.

Rice appeared comfortable, though he focused on jurors or prosecutor Sean Berkowitz rather than the defendants. Skilling watched him intently, while Lay took notes. Rice had yet to be questioned by the defense.

He described Skilling as a hands-on boss, who saw broadband as an important venture that could help increase Enron's stock price.

Rice said the broadband unit struggled in 2000 and 2001 to contain losses at the level Skilling told Wall Street to expect and show progress in gaining market share.

But the unit's two missions — creation of an Internet bandwidth trading market and streaming video into homes through a fledgling broadband network — never gained strength, Rice said. Few if any trading partners existed as the telecommunications industry bottomed out, and video streaming never surpassed the testing stage.

So the unit often met earnings targets by selling inoperative fiber-optic cable or "monetizing" a 20-year contract with Blockbuster Inc. to provide video-on-demand by selling an interest in its future revenue. The Blockbuster deal later flopped.

Rice said he called the monetizations "crack cocaine" because Enron was addicted to meeting quarterly earnings targets even if it meant selling future revenue potential.

Rice also said a partnership called LJM, set up by former Enron Chief Financial Officer Andrew Fastow, "looked goofy to me." The partnership, separate from Enron, was created to conduct transactions to help the energy company meet its earnings targets.

Rice said he asked Skilling whether it was proper for a partnership run by Enron's CFO to conduct deals with Enron. He said Skilling explained that LJM could do transactions fast and that he thought "it was an important thing for Enron to do."

Despite his concerns, Rice's unit turned to LJM to meet earnings targets. LJM bought $90 million in inoperative fiber in the second quarter of 2000.

In March 2001 Skilling told analysts in a conference call that the broadband unit had "strong growth as far as people, budgets, the whole thing."

"The reality was we were cutting people" in broadband and the unit was spending $100 million per quarter without bringing in any significant cash, Rice said. He stopped short of saying Skilling lied.

Rice was more explicit last year when he testified in the 2005 fraud and conspiracy trial of five former broadband executives. Rice said that he, Skilling and most of the defendants in that case lied when they told analysts in January 2000 that the network was up and running when it wasn't, to generate Wall Street buzz and inflate the company's stock price.

Within two days of the conference, Enron's stock price leaped from $54 a share to $72.

A videotape of Skilling's presentation played during the broadband trial showed he alternated between saying what the network could do at the time and what it would do in the future.

That trial ended with acquittals on some counts, and jurors hung on others. Those defendants are to be retried in three separate cases this year.

Rice said he decided in July 2001 to leave Enron when the broadband unit was to be folded into the larger trading division. Skilling asked him to stay, and they both would leave in "a couple of years," Rice said.

About two weeks later, Skilling told Rice that he was going to resign in mid-August.

He said Skilling also told him about plans to get a boat and travel the world.

"All I remember is, it was more like a ship," Rice said. "It was a big boat you could put cars on and maybe a helicopter."

Getting To The Bottom Of Enron (WSJ)

By Holman W. Jenkins, Jr.

The Wall Street Journal, February 15, 2006

The Enron trial is underway, and may justice be done, amen. For our millions of tax dollars, however, we pray for a parting of the mists around Jeff Skilling's weird, abrupt resignation from the company in August 2001.

There's no doubt that, from a dramaturgical point of view, the resignation is a key to the story. Mr. Skilling was credited with building the Enron trading machine from scratch. He had just formally been awarded the title of CEO, a driven Type A, arrogant, smart, full of blustery camaraderie with his protégés. In our current adopted posture of amorality, we don't care whether he goes to jail. All we want to know is what was going through his multileveled little mind.

Did he sit upright one night and realize he'd lost control of Andrew Fastow, the company's chief financial officer? Did he notice the Fastow black box was beginning to emit strange noises, odors, an occasional wisp of greasy smoke, suggesting all was not right inside?

Did he know Fastow and a close aide had fattened their own wallets with tens of millions at Enron's expense as the price for arranging transactions to conceal losses on various Enron-owned assets that had declined in value? Was his resignation a sublime stratagem to make sure somebody else -- Ken Lay -- would be presiding over Enron when the revelations that Mr. Skilling was fleeing became public?

Recall the clamminess of the news that crossed the wires on Aug. 14, 2001. As told to the press, he wanted to spend time with his kids, slow down, smell the roses. He was concerned about his health. In an off-key note, he told the Journal he might have stayed if Enron's share price hadn't turned south. The more he talked, the clearer it became that no one at Enron had the slightest idea why he was leaving, even as the stock price cratered on the news.

We admit to finding this theory tempting: Mr. Skilling, from the moment he decided on resignation, has been engaged in a high-wire bluff to avoid accountability for Fastow's actions, including his incredibly nervy decision to testify under oath before a Congressional panel even as Mr. Lay did the normal thing and heeded his lawyer's advice to plead the Fifth.

Alas, the Justice Department's Enron Task Force seems unwilling to get to the bottom of Enron, preferring to frame the trial in Houston as a "pump and dump" case, in which Mr. Skilling and Ken Lay talked up the failing company's shares while selling their own. The implicit narrative: Mr. Lay and Mr. Skilling are rich and Enron collapsed, so they must be guilty of something that amounts to not announcing to the world that Enron was destined to collapse.

Missing, though, is an important element of narrative credibility in Mr. Lay's case, since his stock sales seem to have been involuntary, forced by margin calls. He even forked over $10 million in cash, his signing bonus for returning as CEO, to prevent further liquidation of his soon-to-be-worthless shares. That one is born every minute might seem betokened, furthermore, by Mr. Lay's very presence as co-defendant with Mr. Skilling in the dock. He's there, it's easy to suspect, mainly because failing to indict Mr. Lay (former friend of President Bush) would have subjected the Enron Task Force to Democratic charges of political favoritism.

Mr. Skilling, after all, persuaded the board to approve Fastow's role in outside companies created to do deals with Enron. He knew some of these transactions, the Raptors, accounted for much of Enron's reported profits in two successive years. He was apparently incurious about how much Fastow was pocketing from his non-arm's length dealings with Enron. When a company insider, Sherron Watkins, finally determined to blow the whistle, she went not to Mr. Skilling but to Mr. Lay. And so forth.

In its first two weeks, though, the trial has already numbed the jury with, in essence, a debate between a former Enron flack, with limited understanding of the company's financials, and Mr. Skilling's and Mr. Lay's lawyers over whether the executives had been on defensible grounds in making certain statements about the company's earnings and revenues in desultory conference calls with analysts and fund managers.

Even the mainstream press has turned a skeptical eye on the government's tactic of naming more than 100 "unindicted co-conspirators," frightening many former Enron executives and outside advisors away from testifying for the defense. All this is done, we suspect, more to protect the government's case against Mr. Lay than its case again Mr. Skilling: Just one more way in which the prosecution may end up hurting itself by needlessly conflating a weak story about Mr. Lay with a plausible one about Mr. Skilling -- that he gave Fastow too much rope and then ran away in full cognizance of what he had begotten, making fools of Mr. Lay, and the board.

Given the inherent difficulties of accounting fraud trials, you'd have thought the prosecution would have seized the opportunity to present a case that any jury could understand: Andrew Fastow was stealing and Mr. Skilling knew, but looked the other way because Fastow's activities were propping up Enron's stock price and reported profits.

Juries, immersed in the evidence for months at a time, have a way of popping out with verdicts that leave the kibitzers confounded. Still, if Mr. Skilling walks, his most brilliant career move may well have been resigning and handing over the hot seat to Ken Lay so the government would feel compelled to muddy its case by indicting him too.

What Enron Fallout? Business Hits A Bump, But It's Only Modest (RC)

By Karlyn Bowman

Roll Call, February 15, 2006

Views about business — and many other key institutions — were unusually positive during the good economic times of the late 1990s. Now, after a flurry of corporate scandals, have more negative views about the business sector set in, or have Americans gotten past the run of CEO misdeeds?

In Pew's 1999 question, 73 percent of respondents said they had a very or mostly favorable opinion of business corporations. Business did take a short-term hit when scandals involving Enron and WorldCom broke in late 2001. More recently, business and other institutions have suffered from a generally sour mood in the public.

Specifically, in Pew's December question, 57 percent had a favorable opinion of business. Gallup's data shows high confidence in big business dropping from 28 percent in the spring of 2001 to 20 percent in the spring of 2002. It's 22 percent today.

In reality, despite the modest dips in support, public attentiveness to business scandals was never especially high. A November 2003 Pew Research Center report concluded that the business scandals had a "minimal impact" on public opinion. There are several reasons.

First, people didn't think the kind of behavior they saw at Enron would happen at their own companies. For example, in six polls conducted by Gallup and UBS since April 2002, more than 80 percent said that the people who run their companies are honest and ethical.

Second, people have long been wary of the honesty and ethics of big business, and in that sense, the scandals were nothing new. Twenty-eight percent told Zogby in July 2002 that the revelations were "relatively new," but 64 percent said that they were commonplace.

Nor did the scandals prove particularly harmful to one party or the other. Americans think that both parties are too close to big business. The lack of a partisan cast appears to have dulled the political impact.

People wanted the wrongdoers punished, but there is no evidence that they wanted to clamp down on business in any significant new way.

A Businessman for President? When asked by Fox News and Opinion Dynamics in early February who they would rather see as our next president, 33 percent said a businessman, 21 percent a general, 21 percent a career politician — and 2 percent an actor.

Congress' Ratings. Pew's Feb. 1-5 poll finds the public's views of Congress "at their lowest point in a decade," with 47 percent expressing an unfavorable opinion, and 44 a favorable one.

Trade Talks. Americans have long been ambivalent about foreign trade, which they like in principle, but worry about in practice.

The Jan. 20-25 CBS News/New York Times poll shows that 67 percent — a number virtually unchanged from the 69 percent recorded in 1996 — say the effects of trade on the economy are good. Twenty percent said the effects are bad.

At the same time, 64 percent (compared to 63 percent in 1996) say trade restrictions are necessary to protect domestic industries.

Of those with less than a high school education, 52 percent say the effects of free trade on the economy are good, compared to 84 percent of those with a postgraduate degree who say the same thing.

Measuring by income levels shows much of the same pattern. Still, 60 percent of those with incomes under $50,000 a year say it is a good thing for the economy.

Blog Readership. When Gallup asked Internet users in early December how they use the Internet, 67 percent said they frequently send or read e-mail. Twenty percent said they did this occasionally and 13 percent said they did it rarely or never.

As for reading Web logs, 9 percent said they did this frequently and 11 percent occasionally (two categories that collectively represent about 40 million Americans), while 79 percent said they rarely or never read blogs.

A third said they spend more than one hour a day using the Internet.

A Woman for President. In 1937, Gallup asked people whether they would vote for a woman for president if she were qualified "in every other respect" (a question that would never be asked today and one which Gallup soon changed). A third of those surveyed said yes.

In the January 20-25 CBS News poll, 92 percent said they would vote for a woman for president if she were qualified for the job. A smaller majority, 55 percent, said they thought America was ready to elect a woman president, while 38 percent said it wasn't.

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The early February Fox News/Opinion Dynamics poll asked about a group of potential candidates and found that 39 percent said a female candidate would most likely be elected first, followed by an African American (20 percent), a Jew (12 percent), and a Hispanic (6 percent).

Karlyn Bowman is a resident fellow specializing in public opinion and polls at the American Enterprise Institute.

Street Sleuth Revenge Of The Retirees May Cut Pay At Lucent (WSJ)

By Sara Silver

The Wall Street Journal, February 15, 2006

In recent years, Lucent Technologies Inc.'s retirees have seen many of their benefits cut. Now they are fighting back -- proposing to rein in the compensation of the executives doing the cutting.

Lucent's shareholders today are voting on a proposal to restrict the pay of the top brass. The proxy proposal, which was put forward by retirees, would make 75% of executive stock grants dependent on the telecom-equipment maker's performance. It is partly a reaction to last year's sharp increase in the bonus of Lucent's chief executive, Patricia F. Russo.

It isn't just happening at Lucent. Retirees from a range of companies including Verizon Communications Inc., General Electric Co., International Business Machines Corp., Prudential Financial Inc. and Qwest Communications International Inc. are presenting proposals to restrict executive compensation. The retirees are motivated partly by concerns that the value of their nest eggs can crack when the value of their companies' stocks drops.

"In these years of corporate tumult, which has seen many great companies turn into shells of their former selves, one thing has remained constant -- ever-rising levels of executive and board compensation," said Joanne Raschke, who filed the Lucent proposal. She holds 6,200 shares of stock in Lucent, a legacy of her husband Ken's 36 years with its predecessor companies.

This is actually the second attempt for the Lucent proposal. Last year a similar proposal by retirees received very strong support from shareholders, according to Patrick McGurn of Institutional Shareholder Services, a firm that advises shareholders on corporate proxy votes and is recommending they support this proposal.

Last year's proposal actually received a slim 50.2% majority of votes cast. However, abstentions are routinely counted as "no" votes, which caused the proposal to fail.

Mr. McGurn expects this year's proposal to receive vigorous shareholder support. "The board didn't do anything substantively last year to respond to that vote," Mr. McGurn said. "That will drive strong support for it again this year."

At Lucent, retirees are frustrated by the elimination of a benefit that paid up to a one-year salary to the spouse upon the death of a retired employee, and by lower company contributions for medical-insurance premiums. They have been vigorous critics of CEO Russo's pay: In 2005, Ms. Russo was awarded a $3.6 million bonus on top of a base salary of $1.2 million, and was granted an additional $8.7 million in restricted stock and options. In 2004, she was awarded a $1.95 million bonus on top of her $1.2 million salary, $4.6 million in restricted stock plus $4.8 million in options. Lucent notes that all of the options remain below the exercise price.

Lucent says that the actions were necessary to return to profitability, and that Ms. Russo's compensation was in part a reward for moving the company into the black in 2004 and 2005. "We believe that our long-term compensation plans are aligned with the interests of shareholders," said Mary Ward, a spokeswoman, adding that half of senior executives' compensation comes from Lucent shares whose value is based on its operating performance.

Lucent's stock is widely held, and retirees represent only a fraction of overall shareholders. Yesterday the stock closed at $2.83, up six cents, or 2.2%, in 4 p.m. composite trading on the New York Stock Exchange.

U.S. companies have been retreating from their decades-long practice of offering a well-funded retirement for long-time employees. Scores of companies have cut health benefits for retirees, and in recent months, General Motors Corp., IBM and Verizon have joined a wave of companies freezing the level of pension benefits for certain employees.

But even as retiree benefits are being cut, compensation for executives has risen: The median compensation for a chief executive officer in a Standard & Poor's 500 company was $6 million in 2004, up more than 13% from 2003, according to the Corporate Library.

While unions were among the first groups to take to shareholder activism, the retiree groups are largely run by former managers and technical staff, smarting at their diminished voice and the company's often adversarial stance to retiree questions. "We built the company and have been cooperative with them, and we want the dialogue and some answers," said Dick Ciocca, president of the Philadelphia-based National Association of Prudential Retirees. "Executive compensation was where we could get their attention."

The group has submitted a proposal to require shareholder approval of "golden parachutes," or severance payments, for departing executives. These kinds of proposals have had the most success, says Carol Bowie, director of governance research

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for Institutional Shareholder Services, based in Washington. Companies such as Lucent and Verizon voluntarily incorporated this demand after strong support for proposals that they later negotiated off the ballot.

Other retiree groups are seeking better disclosure of executive pay.

Janet Krueger, a 52-year-old software consultant who quit IBM after 23 years, will resubmit her proposal from last year requiring IBM to fully disclose what executives are paid, including the value of their pensions, retiree benefits and deferred compensation. Although IBM hasn't yet published its proxy proposals for this year, last year it opposed the resolution, saying the company complied with Securities and Exchange Commission requirements.

Private Insecurities (WSJ)

By Kenneth M. Lehn

The Wall Street Journal, February 15, 2006

We just marked the 10th anniversary of the Private Securities Litigation Reform Act (PSLRA), which attempted to curb abuses in securities class-action litigation by eliminating so-called "professional plaintiffs" and instituting more-stringent pleading standards. While the PSLRA has discouraged some meritless lawsuits, the evidence suggests that our private securities-litigation system still needs additional reform.

Take a look at the numbers. Since the passage of the PSLRA, the size of securities class-action settlements and the number of companies involved in this litigation have grown substantially. Data compiled by Laura Simmons and Ellen Ryan of Cornerstone Research show that the total inflation-adjusted value of securities class-action settlements increased to $9.6 billion in 2005 from $150 million in 1997. Over the same period, the average inflation-adjusted size of settlements increased over sevenfold, to $78 million from $10.7 million. These increases are largely driven by the proliferation of "mega-settlements" in excess of $100 million, such as last year's WorldCom settlement of more than $6 billion.

Data compiled by the Stanford Law School and Cornerstone Research also show that the percentage of listed companies that were defendants in federal securities class-actions has increased rather steadily from 0.8% in 1996 to 1.5% in 1997, and to over 2% in each year between 1998 and 2005. A disproportionate amount of post-PSLRA class-action suits have been targeted at companies that are large or and have volatile stock prices. Some 60% of the companies in the Dow Jones Industrial Index have been sued in securities class-actions since 1999, including Proctor & Gamble, Johnson & Johnson, Pfizer and Intel, which have remarkable records at creating shareholder value. None of them were defendants in the period from 1995 to 1999.

Almost one-third of the companies in the Nasdaq Biotech Index and more than one-half of the firms in the Nasdaq Internet Index have been targets of federal class-action securities lawsuits since the enactment of the PSLRA. Insofar that some, if not most, of these suits are driven more by the volatility of these companies' stock prices than they are by fraud, these suits have a disruptive effect on important high-growth industries.

Almost none of these lawsuits ever go to trial. Most are settled, even if a company feels that the case is without merit, because the risks and costs of going to trial are great. For example, suppose that a class-action suit is brought against a company with alleged damages of $1 billion. If the defendant believes there is only a 10% probability that the plaintiffs will prevail, the defendant faces an expected judgment of $100 million (i.e., 10% times $1 billion). In this simple example, it would be more rational to settle the suit, even for as much as $99.9 million. Hence, even frivolous suits are settled for large amounts.

A recent study, by Prof. Anjan Thakor of Washington University and Jeffrey Nielsen and David Gulley of Navigant Consulting, followed trades by 2,394 institutional investors and class-action settlements since the enactment of the PSLRA in 1995. It reveals a fundamental problem: The compensation investors receive in settlements of federal securities class-actions does not correspond to the harm investors incur from alleged securities fraud. In the post-PSLRA system, large diversified institutional investors are often overcompensated as a result of a class-action while smaller, undiversified investors, including individual "Ma and Pa" types, are not.

Once a class-action settlement has been paid, the study found, 40% of institutional investors have realized a net benefit. That is because the present system creates asymmetrical payoffs for diversified investors: They receive distributions from settlements when they are harmed by securities fraud but they do not have to pay back any gains they receive from securities fraud.

So what should be done to fix the current system of private securities litigation?

· First, defendants are not currently allowed to appeal motions to dismiss federal class-action securities suits. Congress should pass legislation allowing them to do so.

· Second, damages should be calculated in terms of the per-share inflation of a company's stock price due to alleged fraud, not in terms of aggregate damages. Estimates of aggregate damages require estimates of the number of shares that were purchased during the class period at an allegedly inflated price and subsequently held or sold at a price after the alleged fraud is discovered. But there is no scientifically valid way of estimating the number of these shares. Instead of using untested models

that often result in highly inflated aggregate damages, damages should be thought of in terms of per-share inflation, with investors required to come forward to prove their claims.

· Third, the current system of compensation in private securities litigation should take into account what investors receive from the relatively new Fair Funds, which are an outgrowth of Sarbanes-Oxley. Under Sarbox, the Securities and Exchange Commission is allowed to pool disgorgement and civil monetary penalties that defendants pay in settlements to it. The SEC then attempts to distribute the monies in the Fair Funds to investors who were harmed by the defendants' actions. If the total distributions made to harmed investors under the Fair Fund exceed the total damage investors incurred because of the alleged fraud, then investors should not be allowed to collect damages in private securities litigation.

PSLRA improved our system of private securities litigation a bit, but it has not proven to be the panacea that many had hoped for 10 years ago. Congress and the White House ought to build on its modest success with reforms that will lead to a fairer and more efficient system.

Mr. Lehn, Samuel A. McCullough Professor of Finance in the Katz School of Business at the University of Pittsburgh, was the chief economist of the Securities and Exchange Commission from 1987 to 1991.

CRIMINAL LAW:

Abramoff Bragged Of Ties To Rove (LAT)

By Tom Hamburger And Peter Wallsten

The Los Angeles Times, February 15, 2006

WASHINGTON — When the government of Malaysia sought to repair its tarnished image in the U.S. by arranging a meeting between President Bush and its controversial prime minister in 2002, it followed the same strategy as many other well-heeled interests in Washington: It called on lobbyist Jack Abramoff for help.

It was a tall order. The then-prime minister, Mahathir Mohamad, had been chastised by the Clinton administration for repeated anti-Semitic statements and for jailing political opponents. But it was important to the Malaysians, according to a former Abramoff associate who attended meetings with the Malaysian ambassador and the lobbyist.

Abramoff contacted presidential advisor Karl Rove on at least four occasions to help arrange a meeting, the witness said.

Finally, the former associate said, Rove's office called to tell Abramoff that the Malaysian leader soon would be getting an official White House invitation.

Neither the former Abramoff associate nor any others who spoke about the Malaysian contacts wanted their names used, out of fear they might damage future business opportunities.

In May 2002, Mahathir met with Bush in the Oval Office; his photograph with the president was beamed around the world.

Abramoff received $1.2 million from the Malaysian government for his lobbying services in 2001 and 2002, the former associate said. Documents obtained by Senate investigators appear to confirm at least $900,000 of that amount.

It's not clear how central Abramoff was in arranging the Oval Office session. The White House says the meeting was arranged through normal channels.

But it was clear, the former associate said, that Abramoff took credit for it. His reputation for close relationships with the White House and congressional officials enabled him to charge stratospheric fees from his lobbying clients — and the president's meeting with Malaysia's prime minister enhanced that reputation.

The Malaysia episode sheds new light on the practices of Abramoff, the man at the center of a burgeoning corruption scandal, and suggests closer ties than previously acknowledged between the disgraced lobbyist and the highest levels of the Bush White House.

Abramoff has pleaded guilty to improperly influencing members of Congress and their aides — offering foreign travel and other benefits and later seeking favors from some of them. He often routed lobbying fees through nonprofit organizations to evade taxes or hide the sources of the funds.

The Malaysian payments were made to the American International Center, a bogus think tank that an Abramoff partner, Michael P.S. Scanlon, set up at a Delaware beach house. Abramoff and Scanlon have admitted using the center to collect millions from their lobbying clients.

By routing the money in that way, Abramoff identified his client on federal lobbying disclosure forms as the Delaware-based center and avoided having to register with the Justice Department as an agent of a foreign government.

After the Malaysian leader's White House meeting, the former associate said, Abramoff was invited to a dinner honoring the prime minister at the Malaysian Embassy and was given a seat near the head table.

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At least one other Washington lobbying firm — Alexander Strategies, which was run by an Abramoff friend and former chief of staff to then-House Majority Leader Tom DeLay (R-Texas) — was compensated during this period for helping boost Malaysia's reputation in Washington. That firm was also given credit in some circles for helping to arrange the White House meeting and separate trips for leading members of Congress, including DeLay and several Democrats, to Malaysia.

The former associate was the only person to observe Abramoff's direct contacts with Rove, and he heard only Abramoff's end of the conversation. He recalled Abramoff picking up his ringing cellphone, looking at the caller identification and saying, "It's Karl." Abramoff listened for a few seconds and gave the former associate the thumbs-up sign. Abramoff then closed his phone and said the official invitation was forthcoming. "Call the ambassador," he said.

Apart from the direct contacts between Rove and Abramoff, the former associate's description of the Malaysia episode was backed by another former Abramoff associate and by documents released last year by the Senate Indian Affairs Committee.

Both said Abramoff talked of his access to Rove and cited his relationship with Susan Ralston, Rove's administrative assistant. Before joining the White House staff, Ralston was an assistant to Abramoff.

One of the former associates said Abramoff referred to Ralston as his "implant" in the White House.

A White House spokeswoman, Erin Healy, said Tuesday that Rove had "no recollection" of any conversations with Abramoff regarding the Malaysian meeting.

She said the meeting was arranged through "normal staffing channels."

The meeting took place as Malaysian and U.S. officials were discussing that nation's participation in the post-Sept. 11 campaign against terrorism. Malaysia is a heavily Muslim country.

"At the time [Mahathir] was Asia's longest-serving prime minister and an influential Islamic leader," Healy said. "The president met with him to discuss Malaysia's role in the war on terrorism."

Healy said Rove considered Abramoff a "casual acquaintance."

White House officials said Ralston's hiring had nothing to do with her prior association with Abramoff. Healy said she was a "valued member of the White House team."

Although White House officials have taken pains to distance Bush and his aides from Abramoff, hoping to shield the president from the scandal's political fallout, former associates say Abramoff often bragged of his ties to the highest levels of the administration.

One lobbyist recalls Abramoff's frequent refrain when confronting important legislative issues: "I'll call Karl on that."

The Malaysian Embassy did not respond to requests for comment on Abramoff's work.

Bills from the American International Center to the Malaysian Embassy have been turned over to a Senate committee investigating Abramoff's representation of Indian tribes, which he has admitted to defrauding.

Lobbying records show that Abramoff's firm, Greenberg Traurig, received hundreds of thousands of dollars from the center but did not disclose that the funds originated with the government of Malaysia.

According to one of Abramoff's former associates, Abramoff said he did not need to disclose Malaysia as a client on federal lobbying disclosure forms — or to register as a foreign agent with the Justice Department — because the money had come from the American International Center.

Abramoff's lawyer, Abbe Lowell, declined to comment on any aspect of Abramoff's work for Malaysia.

The failure of Abramoff and his colleagues at Greenberg Traurig to register as foreign agents was initially a topic of interest to the Justice Department, which is investigating Abramoff's contacts with lawmakers and executive branch officials as part of an ongoing fraud and bribery case. Abramoff has pleaded guilty in that case and is helping federal prosecutors. But a person familiar with that inquiry said the issue had not been pursued recently, perhaps because the law had many loopholes.

This person, who asked not to be identified because he was not authorized to discuss an ongoing investigation, said Abramoff's relationship with Rove had "not been a matter of any great significance" in the Justice Department inquiry.

The Oval Office meeting with Mahathir, on May 14, 2002, was publicly warm, with Bush praising Mahathir for his "friendship" and "strong support" in the war on terrorism.

The meeting rehabilitated the Malaysian leader's reputation only temporarily, and the appearance of friendliness between the two emerged as a political headache for Bush.

Eight months after the meeting, Mahathir surprised the opening session of the World Economic Forum in Davos, Switzerland, by warning the U.S. against its looming invasion of Iraq — "out-terrorizing the terrorists," he called it.

Later that year, he said the U.S. was fighting terrorism "through attacking Muslim countries and Muslims, whether they are guilty or not."

He went on to make anti-Semitic comments, charging that "Jews rule this world" and get "others to fight and die for them."

Democrats charged that Bush was slow to rebuke the prime minister.

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In October 2003, he pulled Mahathir aside at an international economic conference to express his disapproval, calling the remarks "wrong" and "divisive," according to a White House spokesman.

Mahathir later emerged as an issue in Bush's reelection campaign, as Republicans aggressively courted Jewish voters.

One such GOP outreach featured Mahathir pictured beside Democratic presidential nominee Sen. John F. Kerry and Palestinian leader Yasser Arafat above a Kerry quote in which he said "foreign leaders" wanted him to win the election. The campaign mailer suggested Mahathir and Arafat, "renowned for their hatred of the Jewish people," supported Kerry.

On one occasion, Abramoff — an orthodox Jew and a supporter of Israel — was asked whether he was comfortable representing a country led by a man known for anti-Semitic comments.

Abramoff responded, "They pay their bills on time."

Jack Who? (WP)

The Washington Post, February 15, 2006

It's not, as photos for a superlobbyist's power wall go, a terribly impressive shot: President Bush, his back to the camera, shaking the hand of Raul Garza, chief of the Kickapoo tribe of Texas. In the foreground, Karl Rove, smiling at a 2001 White House meeting to promote the president's tax cuts. And there at the back of the room, only his slightly blurry head visible, the chief's lobbyist: Jack Abramoff. Which, of course -- along with the refusal of the Bush administration to release information about what Mr. Abramoff was doing at the White House, how often he was there and with whom -- is what makes the picture a big deal.

Kim Eisler of Washingtonian magazine has reported that the disgraced lobbyist met with Mr. Bush almost a dozen times over the past five years and was invited to the president's ranch in Crawford, Tex., in 2003. According to Mr. Abramoff, who raised at least $100,000 for Mr. Bush's reelection, the president was once well acquainted enough with the lobbyist (or at least well briefed enough) to inquire about his twins. But now, as in the photo, Mr. Abramoff somehow has gone blurry in Mr. Bush's memory. The president doesn't recall meeting or posing for pictures with him.

Mr. Rove's memory is fuzzy, too, as luck would have it. His name, according to the Associated Press, was rather routinely dropped by Mr. Abramoff as his big White House contact. Mr. Abramoff's former assistant, Susan Ralston, went to the White House to work for Mr. Rove, and, the Associated Press reported yesterday, Mr. Rove's office helped set up a 2002 meeting between Mr. Bush and the prime minister of Malaysia, another Abramoff client. One Abramoff business associate reported being in the lobbyist's office when Mr. Rove's office called to confirm the meeting.

All of this recalls the question we've been asking for a few weeks now: Why doesn't the White House just release information about Mr. Abramoff's meetings and other visits there? This is a man who has pleaded guilty to trying to bribe public officials. The White House says he turned up for a "few staff level meetings" and two Hanukkah parties. Whom did he meet? About what?

Sensible members of Mr. Bush's own party agree. "I'm one who believes that more is better, in terms of disclosure and transparency," Sen. John Thune (R-S.D.) said on "Fox News Sunday." "And so I'd be a big advocate for making records that are out there available." Mr. Bush, said Rep. Mike Pence (R-Ind.), "is a man of unimpeachable integrity. The American people have profound confidence in him. And as Abraham Lincoln said, 'Give the people the facts and republican governance perhaps will be saved.' " Sen. Chuck Hagel (R-Neb.), speaking on ABC's "This Week," was even blunter. "Get it out. Get it out," Mr. Hagel said. "I mean, disclosure is the real issue. Whether it's campaign finance issues, whether it's ethics issues, whether it's lobbying issues, disclosure is the best and most effective way to deal with all of these things."

Elementary, you would think. But not for this White House.

After Abramoff, Internet Gambling Ban Returns (RC)

By John Bresnahan

Roll Call, February 15, 2006

Rep. Bob Goodlatte (R-Va.) and other lawmakers on Thursday will re-introduce legislation to ban Internet gambling, a proposal that was blocked nearly six years ago through the efforts of former lobbyist Jack Abramoff, allegedly with help from then-House Majority Whip Tom DeLay (R-Texas) and one of his former top aides.

Goodlatte will be joined on Thursday by Reps. Rick Boucher (D-Va.), Frank Wolf (R-Va.) and other lawmakers as they re-introduce the Internet Gambling Prohibition Act. While Goodlatte's office did not release details on the proposal, the legislation considered by the House in 2000 would have banned nearly all use of the Internet for gambling purposes.

In a press statement announcing his intention to re-introduce the bill, Goodlatte acknowledged the role Abramoff played in stopping the bill six years ago: "The original legislation received support from more than 60 percent of the House of Representatives but fell victim to Abramoff's campaign of misinformation and lacked the two-thirds required for passage under

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suspension of the rules. Abramoff's total disregard for the legislative process has allowed Internet gambling to continue thriving and it's now a $12 billion industry."

According to the plea agreement Abramoff reached with the Justice Department in early January, Abramoff allegedly sought and received assistance from Tony Rudy, deputy chief of staff to DeLay, at that time the Majority Whip, in blocking the Internet gambling bill. In return, Abramoff allegedly steered $50,000 in 2000 and 2001 through a nonprofit group he was affiliated with to Rudy's wife. Rudy was not named in Abramoff's plea deal, instead being referred to as "Staffer A," although media reports have confirmed his identity. "The total amount paid to the wife of Staffer A was obtained from clients that would and did benefit from Staffer A's official actions regarding the legislation on [I]nternet gambling" and another issue. Rudy has not been charged in the ongoing Abramoff probe.

Rudy allegedly advised Abramoff on how to block the legislation, which was placed on the suspension calendar by House GOP leaders, despite clear majority support for the proposal. Bills considered under suspension need two-thirds support, or 270 votes, to pass, and the Goodlatte bill received only 245 votes when the House considered it on July 17, 2000.

DeLay went on a trip to Scotland with Abramoff in May 2000, shortly before the Internet gambling ban came to the House floor. According to The Washington Post, DeLay's trip, nominally paid for by the National Center for Public Policy Research, was in fact funded at least in part by eLottery, an Abramoff client that was paying the one-time lobbying superstar hundreds of thousands of dollars to defeat the Goodlatte bill.

DeLay has denied any wrongdoing in regards to his dealings with Abramoff, although he had to step down as Majority Leader following Abramoff's decision on Jan. 3 to plead guilty to federal corruption charges. Facing a tough re-election battle, DeLay has told GOP constituents in his district that he and Abramoff were not that close.

3rd Circuit Weighs In On Warrantless Searches (LAW)

By Shannon P. Duffy, The Legal Intelligencer

Legal Intelligencer, February 15, 2006

Police may not "manufacture" an emergency situation to justify the warrantless search of a hotel room, a divided panel of the 3rd U.S. Circuit Court of Appeals has ruled.

The decision in United States v. Coles overturns a conviction for possession of crack cocaine and sharpens a split among the federal circuits in cases where police claim that a warrantless search was justified by "exigent circumstances."

Prosecutors argued that the search of Terrence Coles' hotel room was valid because police heard rustling sounds and a flushing toilet soon after they announced their presence and therefore feared that evidence was being destroyed.

But defense attorney Jeffrey M. Lindy urged the court to focus on earlier events and argued that the police had no excuse for failing to obtain a warrant prior to approaching the hotel door in the first place.

Voting 2-1, the court agreed with Lindy and held that the investigative tactics used by the officers had "impermissibly manufactured the exigency."

Senior U.S. Circuit Judge Leonard I. Garth noted that the agents at first used "subterfuge" to gain entry to the hotel room by falsely claiming they were "room service," and later that they were maintenance workers sent to fix a leak.

It was only after those two attempts failed, Garth noted, that the officers identified themselves as police and then heard the toilet flushing.

"In identifying themselves as hotel personnel providing 'room service' or 'maintenance,' the police resorted to subterfuge, clearly manifesting their intention to mislead the occupants into believing that they were not police officers," Garth wrote in an opinion joined by 3rd Circuit Judge Julio M. Fuentes.

"At the very least," Garth wrote, "the actions of the officers at this time demonstrated that the police had no intention of merely investigating matters further or perhaps obtaining consent to search. As the record plainly indicates, the officers decided to enter [the] room ... without a warrant. It was that decision to conduct a warrantless entry and search of the room, without any urgent need to do so, that impermissibly created the very exigency relied upon by the government in this case."

Garth noted that the police had Coles' room under constant surveillance and had no reason to believe that Coles had detected their presence.

But in dissent, 3rd Circuit Judge Jane R. Roth complained that the majority was misreading a U.S. Supreme Court decision and that its holding "imposes a standard for police behavior that is not derived from the Constitution."

Roth said she would have upheld the search because none of the actions by police had violated the Fourth Amendment prior to their hearing the flushing toilet.

According to court papers, Coles checked into the Hawthorne Suites Hotel in Philadelphia in June 2002, initially saying he was staying for a weekend, but later saying he would stay for 10 days.

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After about a week, a hotel manager sought out Coles to discuss payment and let himself into Coles' room to determine if it was still occupied.

The manager testified that he called the FBI because he suspected he had seen evidence of drug dealing, including plastic bags, vials and a white substance.

When agents arrived, the manager unlocked Coles' room and allowed the agents to enter.

Prosecutors conceded that the first entry by the officers was illegal and insisted they were not relying on anything seen during that search.

Instead, they said, police set up a surveillance post in a room across the hall and later watched as Coles and another man entered the room, one carrying a backpack.

Garth found that the officers then decided to enter the room despite not having a warrant, but that their first attempts at subterfuge failed.

When an officer knocked and announced that he was "room service," Coles told him he had not ordered anything and refused to open the door.

The same officer later knocked again and said he was from maintenance and was sent to fix a reported leak. But Coles again refused to open the door, saying there was no leak.

Finally, the officer knocked a third time, more forcefully, identifying himself as a police officer and telling the occupants to "open the door, this is the police."

At that point, officers testified that they heard the sounds of rustling and running footsteps. One officer attempted to open the door using an electronic passkey, but was unable to gain access because there was a bar latch over the door.

After partially opening the door, officers said they heard the sound of a toilet flushing and the sounds of more running.

Coles eventually opened the door, and officers testified that they discovered several containers of crack cocaine and $2,000 in cash.

After Coles was indicted, Lindy moved to suppress the search, but Chief U.S. District Judge Harvey Bartle III refused, concluding that police had exigent circumstances -- the imminent destruction of the evidence -- that justified the warrantless search.

Now the 3rd Circuit has reversed, finding that an exigent circumstances rationale cannot be used where police themselves unreasonably create the emergency.

Garth found that since the police already had probable cause -- based on the hotel manager's statements -- they could have obtained a search warrant.

Prosecutors argued that the police properly used a "knock and talk" investigative tactic and forced their way into the room only when they became aware that Coles and his cohort were destroying evidence.

Garth disagreed, saying that since police already had all the probable cause they needed, they had "no legitimate reason to utilize the 'knock and talk' procedure."

The evidence, Garth said, showed there was "no urgency or need for the officers to take immediate action."

Instead, Garth said, it was only when the officers knocked on the door the third time and announced their presence that they heard sounds indicating that evidence was being flushed down the toilet.

"But that exigency did not arise naturally or from reasonable police investigative tactics," Garth said. "Quite to the contrary, the officers, after their pretextual announcements had failed to gain entry to [the] room ... deliberately created the exigency by knocking on the door ... and demanding entry."

But in dissent, Roth complained that "the majority's decision to focus the exigency analysis on the subjective intent of the investigating officers, and the subsequent, haphazard reaction the investigation generates on the part of the alleged criminal, produces the 'could've, should've, would've' analysis that is so anathema to our judicial role."

Roth said the majority had ignored the point that "knocking and attempting to engage a person in conversation are not violations of the Fourth Amendment," and likewise that entry into a dwelling in the face of exigent circumstances when the police have probable cause is also not a violation of the Fourth Amendment.

"The majority feels, however, that these two otherwise constitutional actions performed in sequence are greater than the sum of their parts and, therefore, constitute a violation of the Fourth Amendment because the police could have and, consequently, should have waited to obtain a warrant," Roth wrote.

Roth said she would have taken a different approach, focusing on the legality of each instance in which the police interacted with Coles.

"Since none of the three interactions violated the Fourth Amendment, and since entry was made only on hearing the toilet flushing, I would affirm the district court's denial of Coles' motion to suppress the physical evidence," Roth wrote.

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FBI Operative In Waltz Says Legislators Attended Party In Miami (AP)

AP, February 15, 2006

A former federal agent testified today in Chattanooga that he took at least two Tennessee lawmakers to a yacht party in Miami while posing as an executive for a fake company seeking favorable legislation.

Joseph Carroll, an FBI retiree, did not identify the two who attended the party in 2004.

He testified at the trial of Hamilton County Commissioner William Cotton. He is accused of conspiring with former lobbyist Charles Love to obtain about $4,800 in bribes in return for supporting a resolution to benefit E-Cycle, a phony company the FBI created to seek government favors.

Carroll worked on the Tennessee Waltz investigation that led to charges against seven current or former elected officials and two so-called "bag men."

Earlier today, prosecutor John MacCoon said Cotton took bribes from a courier, or "bagman," in what he called "a corrupt politician's dream."

First Trial In Tenn. Corruption Starts (AP)

By Bill Poovey

AP, February 15, 2006

CHATTANOOGA, Tenn. -- The first trial in a public corruption sting dubbed the "Tennessee Waltz" started Tuesday, with a federal prosecutor telling jurors secretly recorded tapes would show how a county commissioner took bribes.

Hamilton County Commissioner William Cotton is accused of taking $4,750 in bribes in return for supporting a resolution to benefit a phony company created by the FBI.

Cotton, 58, is charged with attempted extortion and conspiracy to attempt extortion.

Seven officials _ including five current or former state lawmakers _ have been indicted in connection with the undercover sting that became public in May. The scandal lead to a special session of the Legislature, which passed a sweeping ethics reform bill earlier this month creating an independent ethics commission, restricting lobbyists and capping cash political contributions.

In his opening statement at the trial Tuesday, Assistant U.S. Attorney John MacCoon said Cotton took bribes from a courier, or "bagman," in what he called "a corrupt politician's dream."

Cotton's attorney, Hank Hill, countered that the prosecution's case would not offer any testimony from the alleged bagman, Charles Love, a former lobbyist who pleaded guilty to delivering payoffs to a state senator.

"The one thing missing from the government's proof is Love," Hill said. "They have chosen not to bring him in. They have chosen not to indict him in this case."

William Cotton Trial Is Underway (WTVC-TV)

By Tracie Grant

WTVC-TV, Channel 9, February 15, 2006

By mid-morning a jury was picked to hear the case against William Cotton...

Shortly after that, attorneys presented their sides of the public corruption case. Both with very different takes on the charges, the proof and what allegedly happened between William Cotton and Charles Love.

The Government says they will show that Hamilton County Commissioner William Cotton knowingly took $4,750 in bribe money for favorable legislation and tried to cover it up. The defense says that no FBI undercover agent ever directly gave money to Cotton and told the jury they would hear a lot of inuendios but no actual proof of corruption.

Prosecutors say Cotton and Hamilton County former school board member Charles Love took bribes, discussed how to do it and not get caught. Leamon Pierce was at the courthouse today to back him up. The Government says Love went to South Florida working as a consulatant for E-Cycle Management, a computer recycling company when in reality it was a front for the FBI sting.

The Government says Love met with E Cycle Management at the Palms Hotel in South Miami Beach and five to six people indicted in Operation Tennessee Waltz including State Legislators met on a luxury yacht but not William Cotton.

The Defenses strategy includes not calling Love to testify, believing that Cotton felt the deal was legitimate, and to disreguard phrases from the undercover agents. The Government says it will show Love and Cotton discussing how to split the money, how much they would get, and how to use it. And how they split $6,000 in a Nashville meeting.

The agent who posed as management of the E Cycle Corporation testified this afternoon and said that Love was in fact untruthful. The Government says that Love had no knowledge that he was wirtetapped and that the sting was underway. If Cotton is convicted, he is looking at a range of zero to twenty years on each of these three counts.

The trial is expected to wrap up this Thursday.

Cotton Called "Corrupt Politician" Who Took Bribes (CHATT)

Chattanoogan, February 15, 2006

Attorney Hill Says Taped Comments Of Commissioner "Taken Out Of Context"

Prosecutor John MacCoon told a federal jury Tuesday that County Commissioner William Cotton is "a corrupt politician" who took bribes from a bogus company that turned out to be operated by the FBI.

In the first trial in the FBI's wide-ranging "Operation Tennessee Waltz," the prosecutor said tapes of Cotton and former County School Board member Charles Love revealed that they considered the operation was something "that fell into their lap. They did what corrupt politicians do. They talked about splitting up the money and how much they were going to get."

But defense attorney Hank Hill said Cotton statements on the tape that appear to be incriminating are "taken out of context." He said Cotton was actually counseling Love about being above board and asking for checks instead of cash.

Attorney Hill lambasted Love as "a con man, a thief and a liar. He even conned the FBI. He stole from the government."

Judge Allan Edgar is overseeing the trial in which Cotton faces a charge of bribery conspiracy and two counts of attempted extortion. He could face up to 20 years in prison if convicted.

A jury of five women and seven men as well as two male alternates was chosen late Tuesday morning, then opening statements were given prior to the lunch break. Three of the jurors are black.

Prosecutor MacCoon told the jurors, "You are about to see public corruption - politicians caught in the act of taking bribes."

He said the sting operation started in West Tennessee, then was expanded across the state, bringing charges against state legislators, including Sen. Ward Crutchfield, down to county officials.

Prosecutor MacCoon said a bogus company called E-Cycle Management was set up by FBI agents. The firm purported to be in the business of paying governments for used electronic equipment, then shipping the equipment overseas for recycling. He said the agents offered money to legislators and commissioners for favorable legislation.

He told the jury that the probe eventually led to those, including Love and Cotton, "who were willing to take a little money to grease the skids."

He said a state legislator told E-Cycle that Charles Love is "the guy to see in East Tennessee. He can fix you up with certain people."

The prosecutor said Love "identified certain people who were willing to take bribes. One he identified was William Cotton."

He said Love eventually "took bundles of bribe money to William Cotton."

He said two FBI agents who took the names of Joe Carson and John Morrow began working with Love and Cotton. He said the agents were wired, and he said they later got a court order to bug Love's cellphone. He said Love was not working with the government during the probe.

Prosecutor MacCoon said Love and Cotton "worked on getting their story straight," and he said, "William Cotton for $1,700 said he's ready to move on it."

He said Love was to set up an office and get monthly payments from E-Cycle.

The prosecutor said "Morrow" met with Love and Cotton at the Southside Grill in Chattanooga on Jan. 20, 2005, and passed Love an envelope containing $3,500 in cash while they were at a table eating. He said Love gave Cotton half the money out in the parking lot, then Cotton called to thank "Morrow," telling him, "You got a friend for life, Doc."

He said Cotton later said to Love, "You can tell your boys to get ready to bring that package in here. I hope it's bigger than the first one."

Prosecutor MacCoon said Cotton admonished Love about being so open about getting the cash, saying he should have gotten the envelope at the Southside Grill in the restroom rather than at the table.

He said Cotton told Love "that's how they got Gass." The prosecutor said that referred to the late Charles Gass, a County Commissioner who was convicted in 1988 of bribery in the same courtroom where Cotton is being tried.

Cotton stated, "I don't trust nobody."

The prosecutor said the jurors will see a video of $6,000 being passed to Love and Cotton in an envelope at a meeting last Feb. 21. He said in exchange "Cotton agreed to push the E-Cycle agenda before the County Commission."

He said Cotton once again called to thank the E-Cycle representative, who asked, "Is there any doubt you can do it?" Cotton replied, "Unless I get struck by lightning." Cotton said, "I'll do my part. I will do what I can to get it through."

Attorney Hill told the jury that one person is missing from the trial - Charles Love. He said, "They've chosen not to bring him in to testify and chosen not to indict him in this case." Love pleaded guilty earlier on other aspects of Operation Tennessee Waltz and is awaiting sentencing.

Attorney Hill said Love "is their bagman, not William Cotton's."

He said the E-Cycle pitch sounded "like a fantastic idea - a win-win." He said governments were going to get paid for items they were having to pay to get rid of, and it would also help free up landfill space.

He said County Mayor Claude Ramsey had one meeting with E-Cycle, and he said, "Great, guys, this is a niche. I love this kind of entrepreneurial spirit."

Attorney Hill said, "It was never the case that Claude Ramsey did anything improper. There is no indication that William Cotton did either."

He said the legislator who led the agents to Love was former Rep. Brenda Turner. But he said Ms. Turner advised them to "stay away from Charles Love. He's dangerous."

Joe Carroll, a retired FBI agent, testified that he took a contract position with the FBI to take part in the sting. He said the FBI had information on bribes going to government officials. He said, "We decided the best way to go about it was to set up a dummy company."

He said E-Cycle Management was to be based in Atlanta with offices in Memphis and Nashville. It was to ship used electronic equipment to the port of New Orleans for shipment to the Phillipines, where the equipment was to be reworked and resold.

He said it actually "made no sense from a business point of view."

He said another FBI agent was the vice president and a third was chief financial officer.

Agt. Carroll said the group found a contact in West Tennessee who introduced them to a number of legislators, including some who agreed to accept bribes.

He said it was during a meeting with then-Rep. Turner that he met Love, who was working in her campaign. He said, "Shortly thereafter, he contacted me about being our representative in East Tennessee."

Agt. Carroll said, "We basically interviewed Mr. Love to determine -being a lobbyist who had various contacts - could he lead us to criminal wrongdoing that he was either involved in or had knowledge of."

He said Love began to introduce them to legislators "who would take bribes for assisting us in passing favorable legislation." He said E-Cycle "made several payoffs to legislators in this area."

Agt. Carroll said it was learned that Love "on occasions would steal money from us and not give the total payment to legislators. We watched Mr. Love as closely as possible through various means."

He said the legislators would get "half or whatever Mr. Love decided to keep for himself."

Agt. Carroll said he got Love to confirm several times the amounts he had allegedly given to others, but he said he did not believe all that money actually did get transferred to those it was intended for.

He said during one conversation with Love the subject came up about Hamilton County officials. He said Love brought up Cotton's name several times.

He said Love said he "was on good terms with about four county commissioners." He listed Cotton, JoAnne Favors, Richard Casavant and Charlotte Vandergriff."

On cross examination, attorney Hill said, "You fooled a lot of people." The agent answered, "I was playing a role."

He said some of the legislators Love took E-Cycle to "didn't require any money." He said in those cases, no money was paid.

He was asked if Love is "a con man." He said, "Mr. Love is a lobbyist. Mr. Love is well liked."

He said it was set up that Love would get monthly payments from E-Cycle. He told of Love being among a group invited to a meeting on a large yacht at Miami, and he said Love was put up at the Palms Hotel.

A video was shown of a meeting with Love at the Marriott in Chattanooga. It shows Love being handed bundles of $100 bills.

The agent said Love "was to give money to a representative at dinner that night."

Prosecutors said they could make Love available as a witness if the defense wanted him. Attorney Hill said it was too late at this point. He said he was advised Love is working at an auto plant in Birmingham, but he didn't know exactly where.

A tape was played of a conversation between Agt. Carroll and Love in Miami. Agt. Carroll, posing as the E-Cycle president, mentioned several legislators that Love was working with, including Sen. Crutchfield, state Sen. David Fowler, R-Signal Mountain; state Sen. Jeff Miller, R-Cleveland, Rep. Tre Hargett, R-Memphis, and several others.

According to the tape, $3,000 had been paid by E-Cycle to Sen. Crutchfield.

They joked about Sen. Crutchfield being paid $150,000 as an attorney for the County School Board, while not handling many of their cases. He actually was paid $53,985.

He said in one conversation with Love he emphasized that he was "trying to get him directed where the FBI wanted to concentrate - not to solicit payments - but on people he had made payments to in the past."

Brian Burns, who is with the FBI in Memphis, said he is "the case agent who initiated the Tennessee Waltz investigation."

He said the initial focus was "on some corruption in the Juvenile Court Clerk's office in Memphis." He said an individual who had been paying bribes agreed to begin working with the FBI.

He said it grew to a probe of "basically systematic corruption through various levels of government throughout Tennessee."

Agt. Burns said during the sting the FBI "was not allowed to visit government officials, throw money at them and see if they take it." He said the focus was on those viewed to be "pre-disposed to criminal conduct."

He said Love made a statement to an informant on tape that "in the past he had made bribe payments."

Agt. Burns said it was decided to wiretap Love's phone. He said that is a drastic action that is not often taken. He said it requires several levels of review, including the main FBI office in Washington, and a federal judge must approve it. He said the wiretap order is for 30 days, and a report must be given to the judge every 10 days.

He said the wiretap for the Love phone was obtained Jan. 11, 2005, and it was renewed for a second month. He said a conversation was taped between Love and Cotton on Jan. 16, 2005.

On the tape, Love explained to Cotton about the E-Cycle operation. Cotton said he served as telecommunications chairman of a seven-state group, and he might get some business for E-Cycle there. He also said he had contacts in cities like Cleveland and Knoxville, noting that a deputy in the mayor's office in Knoxville is a relative of his aide, Sandra Weaver.

Love said he was being supplied $1,700 by E-Cycle to set up an office. He said he wanted to rent a portion of the building owned by Cotton at 3801 Alton Park Blvd.

Judge Orders Iraqi Deported (WT)

By Jerry Seper, The Washington Times

The Washington Times, February 15, 2006

A federal immigration judge in Seattle yesterday ordered the deportation of an Iraqi national with ties to a senior al Qaeda operative suspected of helping plan the attack on the USS Cole in Yemen in 2000 and the bombings of U.S. embassies in Kenya and Tanzania in 1998.

U.S. Immigration and Customs Enforcement (ICE) spokesman Dean Boyd said U.S. Immigration Judge Kenneth Josephson ordered Sam Malkandi of Kirkland, Wash., removed from the United States. Judge Josephson based his decision on evidence presented by ICE attorneys during hearings that concluded earlier this month, Mr. Boyd said.

Mr. Boyd said ICE attorneys accused Mr. Malkandi of committing fraud against the U.S. government to obtain immigration benefits for himself and his family.

He said the attorneys also introduced evidence, some of which was referenced in the September 11 commission report, that Mr. Malkandi used fraud in an attempt to obtain a U.S. visa for Tawfiq bin Attash, a one-legged al Qaeda operative also known as "Khallad." A trusted lieutenant and former bodyguard of al Qaeda founder Osama bin Laden, bin Attash is suspected of planning the embassy bombings and the Cole attack.

Mr. Boyd said the evidence linking Mr. Malkandi to the al Qaeda operative surfaced in 2003 after bin Attash was captured in Karachi, Pakistan, and turned over to U.S. authorities.

The September 11 commission report said bin Attash told U.S. officials in August 2003 that a person in Bothell, Wash., whose name sounded like "Barzan," had tried to help him obtain a visa to enter the United States. U.S. officials concluded that "Barzan" was a Bothell man named Sarbaz Mohammad, who changed his name to Sam Malkandi in 2001.

Mr. Boyd said an investigation by ICE and FBI agents on the Seattle Joint Terrorism Task Force determined that "Barzan" and Mr. Malkandi were the same person. Among other things, he said, federal agents were able to obtain documents showing that Mr. Malkandi had made arrangements with a clinic in Bellevue, Wash., for bin Attash, under an alias, to obtain a new prosthetic foot in 1999.

Bin Attash was never able to come to the United States because his visa application was denied, Mr. Boyd said.

ICE agents arrested Mr. Malkandi in August on fraud charges. He was accused of falsely claiming to have been incarcerated in Iran for possession of prohibited political materials, which originally qualified him for refugee status to enter the United States in June 1998.

"We are gratified that justice has prevailed in this case," said Dorothy Stefan, chief counsel for ICE in Seattle.

Under the law, Mr. Malkandi has 30 days to appeal Judge Josephson's decision. In the meantime, ICE continues to hold him without bail.

Committee Vote Drops Matter Of DeBerry Cash (TENN)

By TRENT SEIBERT, Staff Writer

Tennessean, February 15, 2006

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An ethics complaint against Tennessee House Speaker Pro Tem Lois DeBerry, D-Memphis, died in the House Ethics Committee yesterday.

Because seven votes are needed to launch an investigation, and only six on the Democratic-controlled committee voted in favor, committee chairwoman Rep. Kim McMillan, D- Clarksville, said, "I declare the matter concluded."

The vote was the second time the committee failed to act on the complaint alleging DeBerry broke House ethics rules by accepting $200 at a casino from an undercover FBI agent. Actions of the committee require seven votes to pass.

DeBerry took the money and other gifts during a trip to Tunica, Miss., that turned out to be part of the FBI's Operation Tennessee Waltz bribery sting. The undercover operation has since resulted in nine arrests, but DeBerry is not among them.

DeBerry's admission in late July that she took money from E-Cycle was a reversal of what she had told The Tennessean two weeks before when she said she had taken no cash from the company.

"No, no," DeBerry said in a July 13 interview.

"I mean, cash would have been a red flag, anyway. And you learn from other people that have gone through this kind of stuff, and you know that any time somebody offers you cash, that a red flag ... should have gone up."

In her first committee appearance, she told the Ethics Committee in a prepared statement that her trip was a "lapse in judgment."

A partisan vote in that committee delayed action on DeBerry.

In addition, the committee delayed until Thursday acting on an ethics complaint against Rep. Judd Matheny, R-Tullahoma.

Matheny is accused by Rep. Phillip Pinion, D-Union City, of ethics violations because he directed a company from his district to distribute contributions to key legislators a week after accepting a $5,000 campaign contribution from it.

Included with the checks was a letter from Matheny written on his campaign stationery.

Matheny has said he did nothing wrong and was merely helping a constituent in his district. ·

Witnesses: Didn't See Mayor Get Cash (AJC)

By Beth Warren , Jeffry Scott, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, February 15, 2006

There was more testimony Tuesday about lewd body positions of strippers, machine guns and arson than about any evidence directly linking former Atlanta Mayor Bill Campbell to bribes.

Once again, government witnesses testified that thousands of dollars in bribes were passed directly to Campbell's former aide Dewey Clark — not to the mayor himself.

In four weeks of testimony, Clark has been the only witness who has said cash bribes from city contractors were passed directly to the mayor's hands.

Prosecutors say Clark was a key bagman who squeezed city contractors on behalf of Campbell and handed the cash to the mayor for use on exotic trips with girlfriends and gambling jaunts with buddies.

Campbell insists he is innocent, and his defense team has portrayed Clark as a greedy wannabe who used the mayor's name to line his own pockets.

Clark testified that he also passed money from Atlanta strip club owner Michael Childs, who wanted the mayor to approve a liquor license for a controversial new night club, Strawberries.

Childs, an admitted arsonist and convicted felon whom the FBI caught plotting to beat up Campbell after the mayor didn't approve the liquor license, has yet to appear on the stand.

Instead, prosecutors Tuesday called Childs' former attorney, Alan Begner, who testified that the club owner told him he had passed a bribe through Clark to the mayor.

"Childs said he was giving money to the mayor through Dewey," Begner said.

As in the case of several other witnesses who have been called by the prosecution, Begner acknowledged under cross-examination that he didn't know whether the money ever made it to the mayor.

Defense attorney Billy Martin also set out to question Childs' credibility given his criminal past, which includes a bribery conviction and a prison sentence for setting fire to competing strip clubs.

Prosecutors have argued that Campbell sat on Childs' liquor license application for Strawberries for nearly eight months, which infuriated Childs.

Former City Attorney Hakim Hilliard testified Tuesday that Childs complained, "I gave the mayor $50,000 to his campaign, and I don't know why he's doing this to me."

Hilliard said Childs identified Dewey Clark as the one who passed the money on to the mayor.

Hilliard said he had his doubts about Childs' story, but he called the city attorney's office to report the allegation against the mayor just in case.

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Prosecutors allege that the mayor retaliated and revoked the liquor license at Childs' Club Nikki V.I.P. and denied his liquor license request for Strawberries.

Martin, however, said the mayor opposed Childs' strip clubs for several reasons, including allegations of body positions of strippers so lewd they were illegal, two shootings — including one fatality — and suspected cocaine dealing, prostitution and pimping.

Another witness, businessman George Greene, formerly the owner of city contractor Sable Communications, testified Tuesday that he had given bribes to Clark, who was living in the basement apartment of the mayor's Inman Park home, with the understanding that Clark was giving it to Campbell.

Greene, however, said he never directly gave Campbell money, although he did once have a coded conversation with the mayor, asking him if he had recieved the "package" — a $750 bribe — that he had given to Clark.

He said the mayor looked annoyed and told him: "Next time that happens, you call."

On cross-examination by Martin, Greene said the mayor never asked him for a bribe or talked about bribes.

"Did you know if that money [$750] ever left Dewey's pocket?" Martin asked.

"No," Greene said.

Prosecution Dealt Blow In Trial (WXIA)

WXIA-TV, February 15, 2006

Government prosecutors in the corruption trial of former Atlanta mayor Bill Campbell will not be allowed to present evidence about two wallets filled with cash.

The government had planned to present two witnesses on Wednesday, Vertis McManis and Joe Reid, who admit they handled the cash bribes. The government's theory is that one wallet was given to Campbell.

But on Tuesday afternoon, Judge Richard Storey ruled there was no evidence that Campbell got the money, and ruled the testimony would not be allowed.

Earlier in the day on Tuesday, government witness George Greene testified about bribes he said he gave a bagman that were intended for Campbell.

Green says he gave Campbell $5,000, calling it a bribe disguised as a speaking fee. Green has previously served jail time for bribing Fulton County officials.

Green testified that on occasion, Campbell associate Dewey Clark would approach him and say that the mayor needed money. Green told the jury that on three occasions, he provided money.

A second witness shed some doubt on other allegations of bribes. Former Atlanta city attorney Hakim Hilliard testified he talked to Clark.

On the stand, Hilliard said, “I asked how he knew Dewey gave the money to the mayor. He looked puzzled and said, ‘I trust Dewey’.”

When Campbell’s lawyers queried Hilliard on cross-examination, asking if he believed Clark, Hilliard replied, “In my mind, I questioned it.”

The Campbell trial is now in its fourth week.

Author Testifies In Illinois Governor Case (BOS/AP)

By Mike Robinson, Associated Press Writer

The Boston Globe, February 15, 2006

CHICAGO --The nun whose best seller "Dead Man Walking" marked her as a leading opponent of capital punishment took the stand at George Ryan's conspiracy trial Tuesday and described the former Illinois governor as "a man of honesty and integrity."

"I find in him a man who is willing to look at public policy issues, even if it means growth and change," Sister Helen Prejean testified during Ryan's racketeering and conspiracy trial.

Federal Judge Rebecca R. Pallmeyer barred the 66-year-old nun from mentioning the issue that brought her together with Ryan -- the movement to repeal the death penalty in America.

Pallmeyer ruled the issue was irrelevant to charges that Ryan steered big-money state contracts and leases to friends and got free vacations and gifts in return.

Prejean testified that she had repeatedly met with Ryan to discuss "public policy" and "social policy" issues.

Under cross-examination by lead prosecutor Patrick M. Collins, Prejean flashed humor.

"As a product of Catholic education, it's every schoolboy's dream to cross-examine a nun," Collins said with a broad grin.

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"You'd better mind your p's and q's, young man, or Sister Godzilla will haunt you for the rest of your life," Prejean said as the courtroom cracked up.

Questioned further, she admitted that she was unfamiliar with the charges against Ryan and knew nothing about his relations with co-defendant Larry Warner and other friends and lobbyists who prosecutors allege showered him with valuables.

Ryan and Warner say they did nothing illegal when Ryan was secretary of state for eight years in the 1990s and governor for four years starting in 1999.

Before leaving office in January 2003, Ryan commuted the death sentences of 167 inmates to life in prison and pardoned four others, declaring the state's capital justice system "haunted by the demon of error." Three years earlier he halted all executions in Illinois over fears that a flawed system had led to the wrongful convictions of 13 death row inmates.

"Dead Man Walking," published in 1993, tells the story of Prejean's work as spiritual adviser to a death row inmate. It later was made into a movie.

Janitor Got Holiday Cash (AP)

AP, February 15, 2006

CHICAGO (AP) — George Ryan wasn't the only one who got a share of the cash flowing around the Statehouse in Springfield over the Christmas holidays when he was governor.

The janitor once portrayed as a possible victim of a plan to grind cash Christmas gifts for Ryan out of low-paid state employees said Monday that he was sharing in the yuletide money, himself, and the source was the governor's own campaign fund.

"No arms were twisted," janitor Don Skoda told Ryan's racketeering and fraud trial.

Although his memory was hazy at first, Skoda eventually acknowledged that he would receive $50 checks from Citizens for Ryan just before Christmas and make a cash gift to Ryan of $15 or $25.

His testimony at Ryan's corruption trial put a new light on a controversy that arose two weeks ago when word of the cash Christmas gifts state employees gave Ryan first surfaced.

Real Estate Expert Says Ryan's Pal Gave State A Good Deal On Lease (AP)

AP, February 15, 2006

CHICAGO A real estate expert testifying at George Ryan's fraud trial says the state got a good deal on property it leased from the former governor's host on annual free vacations in Jamaica.Hugh Edfors told jurors today that another appraiser who testified for the government used flawed methods in concluding that the state paid too much under the lease.The building in South Holland was owned by businessman Harry Klein. He treated Ryan, his wife and some of his supporters to free vacations in Jamaica for years when Ryan was secretary of state.Prosecutors contend Ryan was paying Klein back for his hospitality when he leased the South Holland property as a truck drivers licensing center.But Ryan's defense attorneys say Ryan wasn't doing Klein a special favor because the taxpayers paid the going rate.

Paper Report Possible Petro Probe (AP)

AP, February 15, 2006

COLUMBUS, Ohio (AP) - Two Akron lawyers who say their firms lost much of their legal work for the state because they refused to donate to Attorney General Jim Petro's campaign said they have been contacted by the FBI about the accusations.

Attorney Ray Weber said Tuesday that he spoke with FBI officials last week about his allegations first published Jan. 29 in The (Cleveland) Plain Dealer.

Jack Morrison, who says Petro told him that his firm would lose state legal contracts because of donations to another candidate in the 2002 race, told the Dayton Daily News he was scheduled to speak with Akron FBI officials on Wednesday.

Petro, a Republican candidate for governor, has denied the accusations. Spokeswoman Kim Norris said federal authorities have not contacted his office.

"No one has contacted us, nor do we expect to be contacted, regarding these false, politically motivated allegations," Norris said.

Scott Wilson, spokesman for the FBI's Cleveland office, would not comment.

Morrison, a lawyer with the Akron firm Amer Cunningham, has said Petro told him at a campaign fundraiser that he would lose his state work but would have a chance to get it back if he made contributions.

Messages were left Tuesday seeking further comment from Morrison.

Amer Cunningham received $356,827 in state legal work in fiscal 2003, but the amount fell to $29,368 last year, The Plain Dealer's analysis of state records showed.

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Weber's firm, Renner Kenner Greive Bobak Taylor & Weber, received $3.7 million in state contracts from 1999 to 2003. In 2004, that dropped to $300.

Weber said he believes his firm lost its patent work for the University of Akron and Kent State University because it refused a series of fundraising requests from Petro's campaign.

"I've never met him, I have nothing against him personally, but I think what he did with the intellectual property of these two universities was somewhat outrageous," Weber said.

Petro has said the firms lost work because of their ties to Summit County GOP Chairman Alex Arshinkoff. Morrison is Arshinkoff's personal attorney.

In the past, the state work had been awarded on the suggestion Arshinkoff, Norris said. Petro cut back on the firms' work on the recommendation of his deputy who said continually giving the same offices contracts could damage his reputation for independence and integrity.

Petro's campaign also was accused of trading campaign donations for state legal work in an affidavit filed in December in Cuyahoga County Common Pleas Court. In that statement, Columbus attorney Kevin O'Brien said Petro's chief fundraiser, Amy Gravengaard, told him legal work for the state was available for a $25,000 donation.

Petro's campaign said the allegation was false, and Gravengaard denied it.

FBI Probes Petro Contract Charges (CLPD)

By Ted Wendling And Sandy Theis, Plain Dealer Bureau

The Cleveland Plain Dealer, February 15, 2006

Lawyers: No campaign aid, no work

Columbus

-- The FBI has opened an inquiry into a report that Ohio Attorney General Jim Petro took lucrative state legal work away from two Akron law firms after their principals refused to contribute to his campaign.

Akron lawyers Jack Morrison and Ray Weber said they have been contacted by FBI agents and the Summit County prosecutor's office as a result of comments they made in a Jan. 29 Plain Dealer story.

Both lawyers said Petro punished them in 2002 for not supporting his campaign by withdrawing special-counsel contracts they had received from former Attorney General Betty Montgomery to handle patent and intellectual- property mat ters.

Weber said two FBI agents interviewed him for two hours on Thursday. Morrison said he agreed to meet with agents today.

FBI spokesman Scott Wilson would not comment, but Weber said the agents called the interview a "fact-finding" inquiry. Morrison said an agent told him it was part of a continuing probe.

"He said, We're not initiating a new investigation; this is part of an ongoing matter,' " Morrison said.

Petro's spokeswoman, Kim Norris, said Petro is neither surprised nor alarmed by the inquiry. Petro denies the charges and contends that they were ginned up by Summit County Republican Party Chairman Alex Arshinkoff, with whom Petro has feuded, to damage Petro's campaign for governor. Morrison is Arshinkoff's personal attorney.

"I don't think it's unusual that they would contact anybody who made comments in the paper, but that does not mean there is an investigation under way," Norris said. "No one has contacted us, nor do we expect to be contacted because these are politically motivated allegations."

Petro has been dogged by complaints that he has used the special counsel program as a fund-raising ATM, collecting hundreds of thousands of dollars from lawyers after awarding them unbid contracts.

Greg Coleridge, a member of an Akron social-justice organization who has been outspoken on campaign finance reform, noted that Columbus attorney Kevin O'Brien previously provided a sworn affidavit alleging that Petro's fund-raiser offered him special-counsel work in exchange for campaign contributions.

In complaints that Coleridge filed Jan. 31 with the Justice Department and Franklin County prosecutor, he also accused Petro of "laundering" campaign money through county party accounts.

Records obtained by The Plain Dealer show that Petro and other GOP officeholders have circumvented contribution limits by directing donors to give millions of dollars to state and county parties with the understanding that the money would be earmarked for their campaigns.

Morrison is the first person to publicly accuse Petro of personally overseeing a pay-to-play scheme.

"He said, I want you to know that you and your firm are going to be very unhappy with me next year,' " Morrison said. " I've got to support those who were loyal to me, and you weren't. You supported [former state Treasurer Joe] Deters, and as a consequence you're going to lose all your work, but if you guys want to get on board . . . you can make some contributions, but you're going to sit out a year.'

"I looked at him and I said, So blow the winds of politics. Sometimes you win and sometimes you lose.'

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"

To reach this Plain Dealer reporter:
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Calif. Prison Guard Convicted Of Aiding Racist Prison Gang (AP)

AP, February 15, 2006

LOS ANGELES -- A former prison guard was convicted Tuesday of aiding a white supremacist inmate gang known as the Nazi Low Riders.

Prosecutors said Shayne Allyn Ziska, 44, helped the gang distribute methamphetamine, heroin and other drugs at the California Institute for Men in Chino.

Ziska was convicted of participating in a corrupt organization's conspiracy, violent crime in the aid of racketeering and deprivation of rights under color of law, said federal prosecutor Adam D. Kamenstein said.

He also was found Ziska guilty of allowing a gang member to stab an inmate.

Ziska faces up to 50 years in federal prison when he is sentenced May 8.

Ziska was placed on administrative leave from the prison in 2000 because of a California Department of Corrections investigation that was later turned over to the FBI.

Kamenstein declined to say what prompted the probe.

Ex-guard Convicted In Gang Case (RPE)

By GREGOR McGAVIN, The Press-Enterprise

Riverside (CA) Press-Enterprise, February 15, 2006

A former prison guard from Fontana was found guilty Tuesday on federal racketeering charges for helping a white-supremacist gang deal drugs and assault other inmates at the California Institution for Men in Chino.

Shayne Allyn Ziska, 44, faces a maximum of 50 years in federal prison when he is sentenced May 8.

Prosecutors said Ziska, who worked at the prison from 1984 until 2000, helped the Nazi Low Riders deal heroin and methamphetamine inside the prison in the 1990s and let gang members jump two inmates, stabbing one underneath the eye and slicing another's neck.

After a two-week trial at U.S. District Court in Los Angeles, District Judge Terry Hatter Jr. found Ziska guilty of federal conspiracy and racketeering and depriving inmates of their rights.

"He helped them do what they wanted to do in prison and they helped him do what he wanted to do," Assistant U.S. Attorney Adam Kamenstein said by telephone.

Kamenstein said prosecutors do not believe Ziska profited monetarily from aiding the gang.

"We believe that the defendant shared in the philosophy and ideology" of the racist gang, he said.

According to the Anti-Defamation League, the Nazi Low Riders originated in California's juvenile prison system in the 1970s and gained power by an alliance with the Aryan Brotherhood, an older white-supremacist prison gang.

Ziska's conviction is the latest in an FBI effort to weaken the Nazi Low Riders' power within the prison system. The federal Department of Justice said the gang is responsible for a large number of the crimes committed by white inmates.

A continuing investigation has led to at least a dozen indictments, including eight convictions, according to the U.S. attorney's office.

Kamenstein would not say whether other guards at the Chino prison have been investigated.

He said 10 former inmates from Chino -- including former Nazi Low Riders and skinheads -- and two guards testifed against Ziska.

Ziska, who was placed on administrative leave in 2000, had worked in the prison's reception area, where inmates are taken before they are assigned to permanent housing.

Reach Gregor McGavin at (909) 806-3069 or gmcgavin@PE.com

Attorneys Argue Cubans Denied Fair Trial (FINDLAW/AP)

By Giovanna Dell'orto, Associated Press Writer

AP, February 15, 2006

(AP) - ATLANTA-Prosecutors and defense lawyers sparred Tuesday over whether five Cuban intelligence agents could have received a fair trial in Miami at the same time the community was focused on the politically charged case of young Elian Gonzalez.

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Prosecutors urged the 11th U.S. Circuit Court of Appeals to deny the agents' request for a new trial because there was no evidence jurors had any prejudice about their guilt or innocence.

"Nothing indicates that any member of the jury was influenced by anything going on outside," said Assistant U.S. Attorney David Buckner.

Defense lawyers argued that the events surrounding Elian inflamed the community, making it impossible for jurors to be impartial about any case involving Cuba. The then-5-year-old boy was found clinging to an inner tube in November 1999 after a boat carrying would-be migrants capsized in a storm. His mother died, and after a court battle waged by his anti-Castro relatives in Miami, Elian was handed over to his Cuban father by the U.S. government in 2000.

The five Cuban agents were convicted in Miami in 2001 of being unregistered foreign agents.

A three-judge panel of the 11th Circuit threw out all the convictions in August, ruling that pretrial publicity combined with pervasive anti-Castro feeling in Miami didn't allow for a fair trial. The government asked the full appeals court to reconsider.

The five men have acknowledged being Cuban agents, but said they were spying not on the United States but on U.S.-based exile groups planning terrorist actions against the Castro government.

Defense attorney Richard Klugh suggested the government's case inflamed anti-Castro passions because it focused on the agents' intent to disrupt the exile community.

"Nothing could be more offensive," Klugh told the 11th Circuit. "The case played to themes other than crime and espionage."

Buckner insisted the trial was fair because the court took "vigorous and ultimately successful steps" to select and isolate jurors - none of whom was of Cuban ancestry.

The five defendants - Gerardo Hernandez; Rene Gonzalez; Antonio Guerrero; Fernando Gonzalez, also known as Ruben Campa; and Ramon Labanino, also known as Luis Medina - remain in prison. Hernandez also was convicted of conspiracy to commit murder in the deaths of four Miami-based exile pilots shot down by Cuban aircraft in 1996.

Convicted Killer Of Taxi Driver Set To Be Executed In Texas Wednesday (FINDLAW/AP)

By Michael Graczyk, Associated Press Writer

AP, February 15, 2006

(AP) - LIVINGSTON, Texas-A 32-year-old man convicted of robbing and killing a taxi cab driver 14 years ago is set to be executed Wednesday night.

Clyde Smith, who was also linked to the fatal shooting of another Houston cab driver, will be killed for the murder of David Jacobs.

"I wasn't there when he was killed," Smith said in a recent interview at the Texas Department of Criminal Justice Polunsky Unit, home to the state's death row. "I got there afterward."

Smith, who once worked as a security guard, would be the fourth prisoner put to death this year in Texas and the second of three scheduled for execution this month in the nation's busiest capital punishment state.

Lawyers for Smith filed a clemency petition with the Texas Board of Pardons and Paroles in hopes of stopping the punishment.

In earlier appeals, lawyers pointed out federal judges agreed Smith may have had poor legal help during his trial and that he suffered significant abuse as a child, which they said was not pursued by his trial defense team.

"Nevertheless, ... courts concluded that Smith must shoulder the consequences," Clint Broden, Smith's appeals lawyers, said.

At his trial, defense attorneys presented no witnesses.

"I had no idea how the system worked," Smith said from death row. "All I knew was what I saw on TV. It's much different."

Harris County district attorney Joe Owmby, who prosecuted the case, said defense lawyers "had nothing to work with except ... to discredit the witnesses that we did have."

Owmby said Jacobs used to carry a Bible with him in his cab and spoke of his religion to passengers.

"He would witness to people in his taxi if the conversation came up," Owmby recalled.

Two women, girlfriends of Smith, testified against him. One of them said she was in the cab when he committed one of the slayings.

"Things always went wrong when I was associated with people," said Smith, who was 18 at the time of the slayings. "I didn't actually kill anyone, but it's possible I could be killed by the state."

Smith was 18 at the time of the killing and had been in Houston about 10 months. His mother lived in Mississippi, where he dropped out of school in the ninth grade.

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He said from death row that the last time he saw a relative, among them four brothers and a sister, was in 1991. He also has a daughter, about 18, who has no contact with him.

"I didn't want her to be exposed to this," he said.

One of his girlfriends called a crime tip line that led police to Smith, who later confessed to detectives about the Feb. 7, 1992, slaying of Jacobs, 45, and the similar shooting and robbery six weeks later of another cab driver, Victor Bilton, a confession he said he made after police wore him down.

"I realize how bad that looked, because the two were so similar," he said of the two slayings. "But at the same time, I still maintain I didn't kill those persons."

Owmby disagrees.

"He is a cold-blooded, remorseless individual who could have contributed to society, but decided to take the lives of two people who were important to a lot of people just by being who they were - hardworking people who drove cabs and lived good lives in Houston," Owmby said.

Texas Department of Criminal Justice execution schedule: http://www.tdcj.state.tx.us/stat/scheduledexecutions.htm

Judge Orders A Kinder Execution (LAT)

By Louis Sahagun

The Los Angeles Times, February 15, 2006

A federal judge today refused to delay death row inmate Michael Morales' Feb. 21 execution, but told prison officials they would have to change how they administer the lethal injection that kills him.

In his ruling, Judge Jeremy Fogel said officials either must kill Morales with barbiturates alone, or provide an anesthesiologist or other medical professional to monitor that the prisoner is unconscious before they deliver a fatal dose of a heart-stopping chemical.

Fogel acknowledged that the change would probably prolong the execution, but said Morales had raised legitimate questions that the state's procedures are excessively painful, relying in part on problems encountered during the recent executions of Stanley Tookie Williams and Clarence Ray Allen.

Lawyers had requested that Fogel stop the Morales execution by arguing that lethal injection is not always a rapid, pleasant way of producing unconsciousness and painless death.

California corrections officials now execute condemned inmates with a combination of three chemicals: sodium pentothal, a short-acting barbiturate; pancurium bromide, which paralyzes all voluntary muscles; and potassium chloride, which causes cardiac arrest.

In theory, the sodium pentothal renders the inmate unconscious long enough for the potassium chloride to kill him. Without the sodium pentothal, the injection of potassium chloride would cause intense burning pain. With it, state lawyers argue, the inmate feels nothing.

Although lethal injections have been used for more than a quarter century, Morales' lawyers argued that they violate the Constitution's ban on "cruel and unusual punishment."

In recent weeks, the U.S. Supreme Court has temporarily blocked executions in two Florida cases to allow time for lower court judges to consider arguments against lethal injection.

Morales' lawyers argued that recent executions have gone awry. On Dec. 13, a profusely sweating prison nurse poked Williams' muscular arm 12 minutes before finding a vein to deliver the toxic cocktail. In Allen's execution, he required a second dose of potassium chloride to stop his heart.

On Monday, Fogel asked the Department of Corrections whether it would be feasible to proceed with the execution using only the bromide chemical.

Morales, 46, of Stockton, was convicted in 1983 of murdering Terri Winchell, 17, who was found beaten, stabbed and raped in a secluded San Joaquin County vineyard.

Fogel's ruling is expected to be appealed to the U.S. 9th Circuit Court of Appeals and the U.S. Supreme Court, possibly by this weekend.

The U.S. Supreme Court has never found any method of execution to be unconstitutional. Fogel has previously rejected two other challenges to lethal injection, but those rulings were based primarily on procedural grounds.

Morales' lawyers in the San Jose case are David A. Senior of Los Angeles, John R. Grele of San Francisco and Richard P. Steinken of Chicago.

Earlier this week, former Whitewater independent counsel Kenneth Starr and Senior withdrew unreliable affidavits — purportedly from jurors — which had been submitted to Gov. Arnold Schwarzenegger as part of a parallel bid to spare Morales.

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The bulk of the documents supporting clemency for Morales were denounced by prosecutors as forgeries. Senior withdrew the papers, saying they should not affect central issues in the appeal.

Judge Rules California Must Alter Protocol For Executions (AP)

By David Kravets

AP, February 15, 2006

SAN FRANCISCO - A federal judge ruled Tuesday that California must change its lethal injection method for the execution of Michael Morales next week because the current mix of drugs may constitute cruel and unusual punishment.

U.S. District Judge Jeremy Fogel in San Jose declined to immediately postpone Morales' Feb. 21 scheduled execution, but he ordered the state to either have an expert present to ensure he's unconscious from a sedative or replace a three-drug death potion with a lethal dose of barbiturate.

Fogel said he was concerned inmates are conscious and undergoing extreme pain once a paralyzing agent and then heart-stopping medication begin coursing through their veins.

If the state declines to choose either new option, Fogel said he would stay the execution and have hearings on whether California's injection protocol was cruel and unusual punishment, a violation of the U.S. Constitution.

"The present action concerns the narrow question of whether the evidence before the court demonstrates that defendants' administration of California's lethal-injection protocol creates an undo risk that plaintiff will suffer excessive pain when he is executed," Fogel wrote. "While the court finds that plaintiff has raised substantial questions in this regard, it also concludes that those questions may be addressed effectively by means other than a stay of execution."

Fogel said his decision "preserves both the state's interest in proceeding with plaintiff's execution and plaintiff's constitutional right not to be subject to an undo risk of extreme pain."

Nathan Barankin, spokesman for Attorney General Bill Lockyer, said the office was reviewing the decision and was not immediately prepared to comment. On Monday, it told Fogel that it rejected those two proposals.

Attorneys for Morales alleged a mistake in the sedation process might mean he would appear unconscious, but internally would succumb to excruciating pain once the paralyzing and death agents were administered.

David Senior, one of Morales' attorneys, said he was mulling the decision.

"To me, telling them they have to change the protocol indicates that it is a constitutional violation or he wouldn't be telling him to change the protocol," Senior said.

Morales, 46 of Stockton was convicted in 1983 of murdering Terri Winchell, 17, who was found beaten, stabbed and raped in a secluded vineyard.

Fogel said he decided to change California's injection protocol because, at the end of the day, neither "the death penalty nor lethal injection as a means of execution would be abolished."

The U.S. Supreme Court has upheld executions in general despite the pain they might cause inmates, but has never directly addressed whether alleged pain in lethal injections is unconstitutionally excessive and can be avoided.

Todd Spitzer, R-Orange, a death penalty supporter, was relieved that Fogel did not declare lethal injection unconstitutional.

"I think you should always evaluate the medical science on what is an appropriate lethal injection," he said.

Thirty-six of the 38 states that have capital punishment use a lethal injection procedure similar to California's.

The state switched to lethal injection after a California judge ruled that San Quentin State Prison's gas chamber was cruel and unusual punishment.

The case is Morales v. Hickman, 06-219.

Judge Sets Conditions For Next Calif. Execution (REU)

Reuters, February 15, 2006

SAN FRANCISCO (Reuters) - A U.S. federal judge on Tuesday declined to stay the execution of a California murderer because of his claim lethal injection constitutes cruel and unusual punishment but set conditions on how the process must be conducted.

After rejecting similar arguments in two previous cases, U.S. District Judge Jeremy Fogel said prison authorities must either alter composition of the lethal chemicals or set up procedures to assure the prisoner is unconscious when the lethal chemicals start flowing.

"Many other courts have reviewed lethal-injection protocols similar to California's," the judge wrote in his order. "To date, no court has found either lethal injection in general or a specific lethal-injection protocol in particular to be unconstitutional."

Judge Fogel expressed concern however that the administration of the chemicals, which should be lethal very quickly, sometimes takes several minutes before the prisoner dies.

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The decision sets specific conditions for the scheduled February 21 execution of Michael Morales, 46, at San Quentin State Prison.

Morales was convicted in 1983 of murdering a 17-year-old woman with a hammer to her head and then by stabbing her. He also had sex with her unconscious body.

Police Officer Kept Jailed On Threats Charges (AP)

AP, February 15, 2006

(AP) BALTIMORE A federal judge has refused to release a western Maryland police officer charged with making bomb threats and anthrax threats in Hagerstown.

Jeffrey Shifler is scheduled for a preliminary hearing February 27th in U-S District Court in Baltimore. But the U-S attorney's office says that appearance would be canceled if Shifler were to be indicted in the interim.

The FBI arrested the 41-year-old defendant Thursday. Authorities say the threats began four months after he was fired from the Hagerstown Police Department in November 2003 for falsifying payroll records.

Shifler later joined the police force in the nearby town of Boonsboro, which has suspended him without pay.

Authorities allege he made 14 anonymous telephone calls and sent at least nine anonymous letters, many containing racial slurs. The threats targeted 25 people and institutions, including five public officials, schools, public office buildings and low-income housing complexes.

Desperation, Not Bravado (PHI)

By Sam Wood

The Philadelphia Inquirer, February 15, 2006

Alvin Jumpp had a good job teaching history at South Philadelphia's Audenried High School, a wife who loved him, a comfortable home in the South Jersey suburbs - and $310,000 in debt.

His life sank into a tailspin of drinking, depression, and thoughts of suicide. Jumpp decided to put on a ski mask and rob a bank.

But in an age when a man with a computer can steal much more than a man with a gun, the typical bank holdup is no longer the big score it was in the Depression era, when a character like Willie Sutton knocked over dozens of banks in a career that earned perhaps $2 million.

Today's robbers average $1,400 per heist, authorities say, and police catch six out of 10. Only homicide has a higher clearance rate.

To understand why anyone would challenge such odds - placing bank customers and employees at risk and ignoring sophisticated security cameras, man-traps, marked bills, and exploding dye packs - take a look at Jumpp.

He is typical of the region's modern-day robber - an otherwise ordinary man overwhelmed by debt or addiction.

Jumpp, 56, graduated from the University of Pennsylvania and was beloved at Audenried. He was married to a middle school principal, father of two adult sons, active in his church, and known to students for his generosity.

In 2001, he fell behind on the mortgage for his Mount Laurel home. He was buried in debt from 16 credit cards, he said.

"No one, including my wife, knew of my financial difficulties," Jumpp said in one of a series of prison letters about his robbery career. "To make matters worse I started to drink heavily. I sank into a deep depression. It was under these circumstances that I committed the crime."

He chose the Farmers & Mechanics Bank near his home, where he had been a customer for almost 15 years.

He approached a teller and, with his hand covered by a bag, pointed his index finger in the shape of a gun.

"Hold your hands up!" Jumpp ordered the teller, according to prosecutors. He pushed two yellow shopping bags across the counter and ordered them filled with money.

It worked. He got away.

No one was more surprised than Jumpp.

"Several staff and patrons who I knew well recognized me," Jumpp said. "Nobody, however, could believe that it was me or refused to believe it was me."

So he robbed the same bank again. And a third time. He deposited more than $17,600 of the bank's marked money into his account at the same bank.

He got caught because a teller finally recognized his native Caribbean accent.

Jumpp said he was relieved.

"What I have done went against the grain of my values and beliefs," he wrote from prison in Minersville, Pa., where he is serving a five-year, three-month sentence.

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"Sometimes when I reflect, I still wonder how I brought myself to rob a bank. Me, rob a bank? Impossible. But it's true. I'm in prison."

John Dillinger robbed dozens of banks, stole enormous sums of money, and became Public Enemy No. 1 in the 1930s. Dillinger, Sutton, and the other infamous crooks of the era captured the nation's imagination. They were front-page news.

Today's bank robber still makes news, but for different reasons.

"Bank robbery is a crime of desperation, not a crime of passion," said Jerri Williams, spokeswoman for the FBI in Philadelphia. "And where does that desperation come from? Drugs. Gambling. Mental illness."

Of the bank robbers arrested in 2004, the last year for which complete statistics were available, 45 percent were addicted to drugs, Williams said.

Most modern bank robbers are "quite timorous," said James Gilligan, director of the Center for the Study and Prevention of Violence at Penn.

"They're often so frightened, that, like people in combat, they'll lose control of their sphincters," he said.

Gilligan said he considered bank robbery, like other violent crimes, a public health problem.

"When we talk about bank robbers, consider this: No normal person would behave that way," he said. "Most violent criminals are suffering from an undiagnosed and untreated mental illness."

Consider some recent high-profile bank robberies:

Greg Hogan, 19, a Lehigh University sophomore and president of the Class of 2008, was charged with robbing an Allentown bank in December after racking up a $5,000 poker debt on the Internet.

Twin 14-year-old girls from South Jersey were convicted of robbing a bank with toy guns in October 2002 at the Shore, trying to raise money to stave off foreclosure on the family's home. Their mother was convicted of driving the getaway car.

Honors student Chad L. Wegkamp was sentenced to 35 years for an August 2001 holdup at a bank across the street from a Virginia sheriff's office. Wegkamp, a paranoid schizophrenic, said he needed the money to pay for surgery to reduce the size of his scrotum. His sentence was suspended, and he was released to a halfway house after serving three years in a federal prison.

Then there's Phillip Dwayne Fuller, a tall, gangly man with thick eyeglasses who spent 91/2 years in prison for robbing 10 banks in the Philadelphia region in the early 1990s.

Now he's back behind bars for robbing 14 more.

"I was broke," he said. "I needed the money."

Fuller, 41, a self-described pathological gambler, said in letters from prison that he had robbed banks to pay gambling debts. He chose banks, he said, because "unlike liquor stores, someone's not going to have a shotgun behind the counter."

Soon after he was released in August 2003, he got depressed. His wife wouldn't allow him to see his two children. His parents wanted no part of him. There was no program to treat his gambling habit at the halfway house.

So he started doing what made him feel good - gambling.

He met a bookie through a fellow inmate. In a couple of weeks, he racked up a $15,000 debt betting on baseball.

He resumed robbing banks. He hired a car service for each stickup and tipped the drivers up to $1,000.

"What was used was either a Town Car sedan or in two robberies a BMW," he said.

One driver took him to seven heists. He'd call the car service and ride around until he saw a bank he liked - usually a Commerce Bank.

"They had the least amount of obstacles," Fuller said. "They made it easy."

He'd pick the least-threatening teller. He'd smile and try to look benign as he passed notes that read: "Give me all the money" or "Give me all the big bills, 100s, 50s, 20s."

The tellers were terrified.

So was Fuller.

"I just wanted to get out of there," he said. "I was thinking, 'I wish she would just hurry up' and 'I hope she don't push no alarms.' "

After a month of bank holdups in New Jersey, Pennsylvania, Connecticut and New York, his luck ran out.

FBI agents tracked the license plate on one of the getaway vehicles to the car service. Agents grabbed Fuller in September 2003 as he left the Hotel Grand Union in Manhattan.

Now he is serving 11 years without parole at the federal penitentiary in Allenwood, Pa.

He desperately wants "to be normal."

"Bank robbery is not a sophisticated crime. But people who need money in a hurry, like myself, are apt to turn to it," Fuller said. "A desperate person can go into a bank and three to five minutes later will have enough money to alleviate his problems."

FBI May Probe Beating Of 5 Organizers (PHI)

DOJ_NMG_0015264

By Jane M. Von Bergen

The Philadelphia Inquirer, February 15, 2006

The FBI may take over the investigation into the beating of five union organizers at the Philadelphia Airport Marriott last Wednesday.

The men, who were from the Transport Workers Union, were beaten, allegedly by members of the rival International Association of Machinists during a meeting at the hotel.

Investigators from the Philadelphia police and the FBI are to meet today to see which agency will handle the investigation, said Lt. John Walker of the Southwest Detective Division. The TWU had sought federal involvement.

The unions are in competition to represent baggage handlers and fleet-service workers at US Airways, which merged last year with America West Airlines.

Yesterday, Robert Roach Jr., the machinists' union's general vice president, sent a letter to members condemning violence without going into specifics about whether the union had a role in the beatings.

The TWU represents about 2,400 baggage handlers originally with America West, while the machinists represent original US Airways baggage handlers, the majority. Many work in Philadelphia, a US Airways hub. The organizers were in Philadelphia campaigning for a potential election.

Roach's letter said IAM members "may have heard reports that a Transport Workers Union organizing meeting in Philadelphia last week apparently led to allegations of an assault involving IAM members... ."

"Foremost, the IAM does not advocate or condone violence," Roach wrote. The union, he said, will cooperate fully with law enforcement officials. "At the same time," he said, "this matter won't be resolved through the rumor mill or prejudgment."

Roach said the union would fulfill "its legal obligations to represent any member who may be charged by US Airways with violating company rules and regulations."

About 9:30 a.m. last Wednesday, three men identifying themselves as IAM officials warned five TWU organizers to leave the hotel and the city, according to an affidavit filed with the National Mediation Board by one of the TWU organizers. A few minutes later, 25 men entered the room and began throwing chairs, glasses, tables - and punches - according to the affidavit. Two of the TWU organizers were beaten badly enough that they went by ambulance to Methodist Hospital.

Hotel videotape captured the men in the hotel corridors, but not what happened inside the meeting room. US Airways officials were able to identify all those on tape, police said.

Walker said the police had completed their investigation and had sent a report to the Philadelphia District Attorney's Office for a decision on whether to prosecute. The decision will also depend on whether the FBI takes over the case.

Details Of Accused Terrorist Emerge (PHI)

By John Shiffman And Alfred Lubrano

The Philadelphia Inquirer, February 15, 2006

A Wilkes-Barre man labeled a terrorist by a federal prosecutor was fired from his job in southern Idaho just days before the FBI arrested him there, a company official said yesterday.

"We got rid of him after about a week," said Mark Mendiola, spokesman for AMI Semiconductor. "He was terminated for performance and work-ethic issues." Mendiola declined to elaborate.

It was among a handful of new details to emerge in the case of Michael Curtis Reynolds, arrested Dec. 5 in an FBI sting in which authorities say he was led to believe that he was plotting with an al-Qaeda operative to attack U.S. pipelines and oil refineries.

Reynolds, 47, is being held in the Lackawanna County jail on unrelated grenade charges. However, as The Inquirer reported Sunday, federal authorities believe he was attempting to commit terrorist acts when he was arrested. That disclosure was made during a Dec. 19 detention hearing at the federal courthouse in Wilkes-Barre.

Yesterday, Reynolds' sister and mother issued their first statement about the case. They said they had "been estranged from Michael for some time now" and referred further questions to the FBI.

"That's all we're going to say for forever," the four-line statement read.

Meanwhile, the Times-Tribune of Scranton reported yesterday that Reynolds wrote a letter to the newspaper in which he denied that he was a terrorist or planned to hurt anyone.

The letter's authenticity could not be confirmed, said the newspaper's assistant metro editor, Chris Imperiale. Janine M. Donate, acting warden of the Lackawanna County jail, saw the envelope and said a prison stamp looked legitimate, but she said she had not seen the letter.

The Times-Tribune reported that the letter was received Monday but was postmarked Friday, a day before The Inquirer's report hit newsstands.

The two-page, typewritten letter says in part: "They are trying to come up with charges under the Patriot Act against me, as I used the Internet to try and catch a person that I had believed to be a terrorist and hand them over to the proper authorities."

The letter also refers to three children and child-support debts: "So I sit here while lawyers play with my life, waiting for what they invent for charges, hoping that I can be released to settle my debt before I have another legal issue."

Also yesterday, Drew Outhouse, the former chief of the fire department in the Westchester, N.Y., community where Reynolds grew up, said that Reynolds attempted to kill his parents in a fire he set in 1978.

Outhouse, then a captain with the Croton Falls Fire Department, said that Reynolds - around 20 at the time - unsuccessfully tried to use propane, cans of oil-based paint, and a detonator to burn down the house as his parents slept.

"It was surreal, like Rod Serling was there," Outhouse recalled. "It was midnight, it happened 30 years ago, but it sticks with you.

"Crazy as it sounds, he didn't get charged with much," Outhouse said. "His father went to bat for him and got the charges knocked down. You try to kill your mother and father - that's kind of bad."

Reynolds was convicted of attempted arson, and was sentenced to a conditional discharge, Outhouse said.

He also said that Reynolds was dubbed the "Phantom of the Hallways" in the yearbook of North Salem High School, from which he graduated in 1976. "He sort of blended in with everyone else," Outhouse said. "It said in the yearbook he wanted to be a doctor someday."

At Reynolds' December detention hearing, a prosecutor laid out some of the FBI evidence of terrorism.

According to a transcript, Assistant U.S. Attorney John Gurganus Jr. said that Reynolds was "attempting to provide material aid to [the] al-Qaeda terrorist group."

"What we're talking about is not only the grenade that he had but his activities... to assist al-Qaeda in the planning and the destruction of fuel facilities," Gurganus said. "And he was doing it as a plan to disrupt governmental function, to change the government's actions in foreign countries and to impact on the national debate about the war."

Reached at his office in Scranton, Gurganus declined to comment. Reynolds' lawyer, Philip Gelso, also declined to comment.

Reynolds' arrest capped a six-week FBI sting operation in which he was drawn to a meeting with a purported al-Qaeda operative in southern Idaho, where authorities say he expected to receive $40,000 to finance the alleged plot.

The al-Qaeda contact was actually Shannen Rossmiller, a 36-year-old judge who lives in Conrad, Mont. She was working for the FBI.

After his arrest, authorities said, Reynolds tried to disavow any intent to conspire with al-Qaeda.

"The first things he tried to claim was that he was not a terrorist," Gurganus said in court, that "... this was just an effort on his behalf to lure al-Qaeda in, that he was later going to communicate to this company that he previously worked for, and that they were going to somehow effect some takedown."

Gurganus said agents didn't believe him.

"He then admitted that he had, indeed, provided two target cities in Pennsylvania and New York for these terror cells, one being in Benton, Pa., and the other in Newark, N.J.," the prosecutor said. "And there was talk of this in the e-mails that he had left there."

Gurganus said agents asked him why he would send information on bombs to terrorists.

"He responded that he only gave them some plans and that he was not going to give them all the plans," Gurganus said.

Fla. Killer Asks Judge To Spare His Life (FINDLAW/AP)

By Mitch Stacy, Associated Press Writer

AP, February 15, 2006

(AP) - SARASOTA, Fla.-A weeping Joseph Smith apologized Tuesday for the abduction, rape and murder of 11-year-old Carlie Brucia two years ago, telling a judge he had taken large amounts of cocaine and heroin that day in hopes of killing himself.

Smith told Circuit Judge Andrew Owens, who will sentence him to death or life in prison, "I do not ask for mercy for myself. The only thing I can see to give me a life sentence is for my family. I do not want to see them hurt any further."

Carlie was abducted while walking home from school in February 2004, an attack that was caught on a car wash surveillance tape and broadcast nationwide.

Friends and even Smith's brother said they recognized the burly mechanic grabbing the young girl's wrist on the tape as Smith. A jury found the 39-year-old guilty last November and recommended by a 10-2 vote that he be executed.

Owens will ultimately sentence Smith on March 15. Under Florida law, he must give the jury's death sentence recommendation "great weight."

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Smith told Owens during the second day of the sentencing hearing Tuesday that he had been a heroin addict since he was 19 and had unsuccessfully tried to quit several times. He said his wife had kicked him out of their home in January 2004, he had lost his job and, in the hours before abducting Carlie, he tried to overdose.

"I just wanted to die that day," he said. But, he said, "I take responsibility of my crimes."

Defense attorney Adam Tebrugge on Monday cited medical records as early as 1992 showing Smith had been involuntarily admitted to a hospital, and said Smith also had been arrested at least 13 times since 1993, mostly on drug offenses.

Smith's 15-year-old niece, identified only as KS because of her age, also testified about his character, saying Monday that she enjoyed seeing Smith at family holidays and barbecues and walking dogs together.

But Carlie's friends and family members talked of the desperation and grief the man had caused.

Carlie's mother, Susan Schorpen, could not appear because she is jailed on drug charges, but in a letter read by prosecutor Debra Riva, Schorpen said she had institutionalized herself three times, and was trying to self-medicate with drugs to numb the pain of losing her daughter.

Noel Gilliland, Carlie's former sixth-grade teacher, said two of the girl's friends failed the sixth grade after her slaying.

"Carlie's future and life have been stolen from her and from her family," her aunt Lori Brucia said on behalf of the girl's grandmother, Andrea Brucia. "We will never know her as a teenager.

"Our family is forever broken. Our nightmares about what you've done to her - our hearts will never heal."

Broader Inquiry Examines Ovitz Ties To Detective (NYT)

By David M. Halbfinger And Allison Hope Weiner

The New York Times, February 15, 2006

LOS ANGELES, Feb. 14 — Federal authorities have engaged in a far more extensive investigation than was previously known of the ties between Michael S. Ovitz, the former Hollywood power player, and Anthony Pellicano, the celebrity private detective who was indicted on federal wiretapping charges.

Mr. Ovitz has been called before a grand jury to testify about his dealings and conversations with Mr. Pellicano, who pleaded not guilty to charges that were unsealed last week in a 110-count indictment.

Government prosecutors have also examined Mr. Ovitz's legal fight with Cathy Schulman, a producer who once ran the film operation of his failed talent conglomerate Artists Management Group, and who sued him after leaving the operation in April 2002.

According to a lawyer involved in the case, Ms. Schulman told F.B.I. agents in an interview in June 2004 of conversations in which Mr. Ovitz recounted to her details of her private discussions with major Hollywood figures as soon as a day after they had occurred, and told her that he had sources who could provide him with such information.

The lawyer said Ms. Schulman told investigators that on Dec. 1, 2001, she had met secretly with Ron Meyer, the head of Universal Studios, to discuss issues involving a joint venture partner, Studio Canal, and Artists Management.

The next day, Ms. Schulman told the F.B.I., Mr. Ovitz confronted her about the meeting. Ms. Schulman asked how he knew about it, to which Mr. Ovitz responded: "I have eyes and ears everywhere. There's nothing you can do that I won't find out about."

Lawyers for Mr. Ovitz say he remains only a witness in the case.

"Michael has answered all the questions of the government on more than one occasion," said Bart H. Williams, Mr. Ovitz's lawyer.

"He never knew about or asked Pellicano to use illegal means to obtain information at any time with respect to any person," Mr. Williams said.

And James Ellis, a lawyer for Mr. Ovitz at Artists Management, said both he and Mr. Ovitz learned about Ms. Schulman's private talks with Mr. Meyer and others through office gossip after her own secretary told co-workers about them.

The far-reaching government inquiry has sent shudders through the upper reaches of the entertainment industry, where Mr. Pellicano was often employed by top-ranked lawyers and executives. Investigators have made clear their belief that at least some of the ex-detective's clients were aware of and benefited from his illicit methods.

Officials have looked closely at Mr. Pellicano's work for Bert Fields of the Greenberg, Glusker law firm, which has a long roster of star clients, and at lawsuits in which Mr. Fields used the investigator to help, among others, Brad Grey, who at the time headed the Brillstein-Grey management agency and now is the chairman of Paramount Pictures. Mr. Fields and Mr. Grey have repeatedly denied any knowledge of Mr. Pellicano's illicit activities.

No major Hollywood figure is among the seven individuals indicted so far. But investigators and lawyers in the case have indicated that further charges are expected, possibly as early as this week.

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Mr. Ovitz, who founded and ran the Creative Artists Agency, spent a difficult 14 months as president of the Walt Disney Company in the mid-1990's, and sold Artists Management under financial pressure in 2002. He was involved in disputes with several people who were listed among the victims of Mr. Pellicano in the Feb. 1 indictment.

Those people, who were all at odds with Mr. Ovitz in the period of 2001 and 2002, even as his management company was struggling and then collapsing, subsequently either were wiretapped or their names were illegally checked in law-enforcement databases, prosecutors say.

The indictment of Mr. Pellicano names at least six people who were adversaries of Mr. Ovitz when they came under Mr. Pellicano's scrutiny.

¶From January 1999 on, Mr. Ovitz's former protégés at Creative Artists, including the top agents Bryan Lourd and Kevin Huvane, waged open war on his new company, Artists Management, first by refusing to share clients with A.M.G., and then by recruiting clients and employees to leave Artists Management. On Aug. 10, 2001, prosecutors say, Mr. Pellicano had a police source illegally check motor-vehicle records on Mr. Lourd and Mr. Huvane.

¶From March 22 to May 8, 2002, Bernard Weinraub, a New York Times reporter, and Anita Busch, a freelance reporter, collaborated on seven articles about Mr. Ovitz's financial troubles. On May 16, prosecutors say, Mr. Pellicano had a police source illegally run Mr. Weinraub's and Ms. Busch's names through the F.B.I.'s National Crime Information Center database. Ms. Busch was also wiretapped by Mr. Pellicano, prosecutors say.

¶Arthur Bernier, who was fired by Artists Management Group in 2001, sued it and Mr. Ovitz for $500,000 on April 19, 2002. Three weeks later, prosecutors say, Mr. Pellicano had Mr. Bernier's background checked in the N.C.I.C. database.

¶James Casey, a so-called street agent for National Basketball Association players, sued Artists Management and Mr. Ovitz on March 27, 2002 for $450,000. Seven weeks later, prosecutors say, Mr. Pellicano had Mr. Casey's background checked.

Mr. Ovitz's representatives have previously said that Mr. Ovitz's only dealings with Mr. Pellicano were through an outside law firm, Gorry Meyer & Rudd, that represented Mr. Ovitz and Artists Management in the lawsuits brought by Mr. Bernier and Mr. Casey, and that the law firm had elected to hire Mr. Pellicano after Mr. Ovitz had declined to choose from among a list of investigators the firm recommended to him.

But two lawyers in the case confirmed that Mr. Ovitz was questioned by the federal grand jury last summer about his conversations with Mr. Pellicano, some of which were secretly recorded by the private detective. Mr. Ovitz's lawyer, Mr. Williams, declined to discuss Mr. Ovitz's grand jury testimony.

Timothy Gorry and Christopher Rudd, partners in Gorry, Meyer & Rudd, which handled the Bernier and Casey lawsuits, did not return phone calls to their offices Tuesday.

Gorry, Meyer & Rudd also successfully defended the actor Steven Seagal in a defamation case in December 2001. In July 2002, the firm sued Mr. Seagal to collect an unpaid bill of more than $260,000. In litigation over that bill, it was revealed that the firm had hired Mr. Pellicano to help it collect from Mr. Seagal.

The link to Mr. Seagal is doubly intriguing because Ms. Busch, who had written the New York Times articles on Mr. Ovitz with Mr. Weinraub, took a job at The Los Angeles Times in June 2002 and began investigating Mr. Seagal's former producing partner. On June 19, 2002, Ms. Busch was threatened by someone who put a note on her car saying "STOP," and she initially believed the threat was connected to her coverage of Mr. Seagal.

Ms. Busch later covered Ms. Schulman's dealings with Mr. Ovitz, including her lawsuit. Ms. Schulman claimed she was fired on Feb. 14, 2002, after telling auditors from Vivendi Universal, a venture partner through its Studio Canal unit with Artists Management, that Mr. Ovitz had misused Vivendi's money. (An arbitration award to Mr. Ovitz was overturned; the case is pending.)

The lawyer involved in the case said Ms. Schulman told the F.B.I. that a few days after her meeting with Mr. Meyer, she met secretly with Mr. Lourd, of Creative Artists, at his home. Again, the next day, Mr. Ovitz confronted her about the meeting, which Ms. Schulman denied having attended and said she believed it was impossible for Mr. Ovitz to have known about. "You can't deny anything," Mr. Ovitz replied, Ms. Schulman told investigators.

Private Eye's Arrest Causes L.A. Jitters (USAT)

By Martin Kasindorf, Usa Today

USA Today, February 15, 2006

LOS ANGELES — The latest buzz around Hollywood, aside from the Oscars, is who could be ensnared next by a federal grand jury probe into alleged wiretapping by the "private investigator to the stars."

Celebrity private eye Anthony Pellicano, 61, was indicted last week on charges of racketeering, wiretapping and conspiracy. He pleaded innocent. Five co-defendants also pleaded not guilty Tuesday. The 110-count indictment alleges that

Pellicano's clients in business and divorce disputes gained unfair advantages from "confidential, embarrassing or incriminating" information he gleaned from snooping.

Though the indictment relieved many in Hollywood because it didn't mention any A-list figures who hired Pellicano, bigwigs in the entertainment industry "are not out of the woods yet," says Jesse Hiestand, legal affairs reporter for The Hollywood Reporter, a trade newspaper. "Prosecutors are still on the track of some higher targets."

Assistant U.S. Attorney Daniel Saunders says the indictment came from a three-year investigation that's continuing. The FBI has questioned lawyers, talent agents, studio executives and stars, including Sylvester Stallone, Warren Beatty and Garry Shandling.

Pellicano allegedly eavesdropped on Stallone's phone calls and obtained law enforcement computer records illegally on Shandling and former Saturday Night Live star Kevin Nealon. Pellicano allegedly bribed police officers and telephone-company workers to help him dig up dirt, according to the indictment.

Pellicano's indictment casts a spotlight on Hollywood's hardball tactics in scaring off lawsuits or winning them, says Nikke Finke, entertainment-business columnist for LA Weekly. "There's a real underbelly of Hollywood," she says. "There's drugs, there's sex, there's blackmail, there's bullying."

Some prominent people "are scared to death" about the inquiry, says Victor Sherman, a former lawyer for Pellicano. "The lawyers that may have used Anthony's services are scared, and (their) clients are concerned because their suits might be overturned."

Sandra Carradine, 58, the former wife of actor Keith Carradine, pleaded guilty last month to charges that she lied to the FBI when she denied knowing that Pellicano was tapping phones to help her divorce case.

'The presumption is that he never will talk'

Several Hollywood players have been drawn into the fray:

· Bert Fields is a lawyer whose firm has retained Pellicano for years. Fields, in a 2003 written statement to the news media, described himself as a "subject" of the investigation. He has represented Beatty, Tom Cruise, Michael Jackson and film executive Jeffrey Katzenberg. "I have never in any case had anything to do with illegal wiretapping," Fields said.

· Brad Grey, chairman of Paramount Motion Pictures Group, has denied knowledge of wiretapping. Grey formerly managed the careers of Brad Pitt and other stars. Pellicano worked on Grey's behalf in several business lawsuits.

· Michael Ovitz is the former head of Creative Artists Agency and No. 2 executive of the Walt Disney Co. Several alleged victims of Pellicano had links to Ovitz. James Ellis, a lawyer for Ovitz, has said he "fully cooperated" in answering FBI questions.

FBI agents have been investigating Pellicano's activities since they arrested him on weapons charges in December 2002. In 2003, he pleaded guilty to illegally possessing explosives and served 30 months in prison. Since his indictment last week, he has been in jail without bail.

Sherman, a lawyer for Pellicano in the weapons case, contends the Justice Department threw the new charges at Pellicano "to get him to turn on other people." Pellicano has said his clients are innocent and he won't cooperate.

Pellicano's testimony would be crucial to prove that clients ordered him to act illegally. "The presumption is that he never will talk. People who know him say that," says Peter Bart, editor-in-chief of Variety and a former vice president of Paramount Pictures.

Sherman says Pellicano avoided telling clients how he worked. "Anthony always did things very mysteriously. ... It was an aura that he perfected to make his services seem extraordinarily effective."

Still, in Hollywood "it's a very nervous time," says Laurie Levenson, a professor at Loyola Law School in Los Angeles. She says lawyers who hired Pellicano are more worried than their celebrity clients, who are "probably pretty well-shielded."

Known as 'Tony Fortune' and 'the pelican'

Pellicano, raised in Cicero, Ill., started a private-detective firm under the Hollywood-style alias Tony Fortune in Chicago in 1974. He wrote an episode of TV's Magnum P.I. in 1980. A defense lawyer in auto executive John DeLorean's trial on cocaine-dealing charges brought Pellicano to California in 1983. After DeLorean was acquitted, Pellicano, an electronics expert, got assignments from so many high-profile clients that Entertainment Weekly in 1993 ranked him as one of the most powerful people in Hollywood.

Pellicano, who liked girlfriends to call him "the Pelican," cultivated a tough-guy reputation. Profiled by GQ in 1992, he said he had engaged in blackmail and had beaten a man with a baseball bat.

Pellicano's legal problems began in 2002. Los Angeles Times reporter Anita Busch was working on a story about actor Steven Seagal and a business partner with alleged links to the Mob. The reporter found a bullet hole in her car windshield, along with a dead fish, a rose and a note that said "stop."

An ex-con told an FBI informant that Pellicano had hired him on Seagal's behalf to scare the journalist off the story, court documents say. Last year, Los Angeles County charged Pellicano with criminally threatening Busch. That case is pending.

In connection with the Busch incident, the FBI searched Pellicano's office in late 2002. Agents seized hand grenades and plastic explosive. A week after Pellicano was arrested and accused of weapons violations, another search turned up audiotapes that he allegedly had amassed through wiretaps since 1997.

Briton Accused Of Hacking U.S. Networks Could Be Prosecuted Under Terror Laws (WSJ/AP)

Associated Press

The Wall Street Journal, February 15, 2006

LONDON -- A Briton accused of mounting the largest ever successful hack of U.S. government computer networks could be prosecuted as an "enemy combatant" under U.S. anti-terror laws, an expert witness told his extradition hearing Tuesday.

Gary McKinnon, 40, of London, is wanted in the U.S. over allegations that he illegally accessed 97 computers, including U.S. Army, Air Force, Navy and NASA systems, causing $700,000 in damages.

Mr. McKinnon's lawyer, Edward Lawson, told Bow Street Magistrates Court the suspect could face prosecution by a military commission if he is sent for trial to the U.S., under powers ushered in following the Sept. 11 attacks.

Mr. Lawson said he is continuing to seek safeguards to ensure President George W. Bush isn't able to deem the ex-computer administrator an enemy combatant. Such a designation would leave him vulnerable to indefinite detention and trial by military commission.

Expert witness Thomas Loflin III, a U.S. civil rights lawyer testifying for Mr. McKinnon, said the court must be given a diplomatic note of assurance by the U.S. before it can be satisfied any extradition wouldn't result in such a scenario.

Mark Summers, an attorney for the U.S. government, told the court an assistant U.S. attorney from the eastern district of Virginia had sworn an affidavit pledging that Mr. McKinnon will be put before a civilian court.

He said the assurance should guarantee the suspect wasn't made the subject of a military order -- usually reserved for suspects accused of involvement in terrorism.

Some detainees are held at a U.S. military prison in Guantanamo Bay, Cuba.

Mr. McKinnon is accused of hacking into U.S. government computers in 14 states, including two at the Pentagon, between February 2001 and March 2002.

At an earlier hearing, McKinnon's lawyers claimed he had been carrying out his actions to expose lax computer security and because of his belief that the U.S. is withholding information about UFOs.

Though Mr. McKinnon was able to view sensitive details about naval munitions and shipbuilding, he didn't access classified information, an investigation found.

Mr. Loflin told the court the alleged hacker faces up to 60 years in prison if convicted on eight counts. The suspect would face a lengthy jail term if a district court applied sentencing rules brought in to penalize those connected with terrorism, he said.

The case is expected to continue until Thursday and will included testimony from British human rights lawyer Clive Stafford-Smith.

Computer Hacker Fights Extradition To US (REU)

By Chris Johnson

Reuters, February 14, 2006

LONDON (Reuters) - A British computer enthusiast accused by the U.S. government of the world's "biggest military hack of all time" began a court fight against extradition to the United States on Tuesday.

Gary Mckinnon was arrested last June following charges by U.S. prosecutors that he illegally accessed 97 government computers -- including Pentagon, U.S. army and navy and NASA systems.

Prosecutors say he hacked into sensitive networks over a one-year period from February 2002 and caused $700,000 (400,000 pounds) worth of damage, after crippling U.S. defence systems in the wake of the September 11, 2001 attacks.

If found guilty, Mckinnon could face up to $1.75 million in fines and 60 years in jail.

Mckinnon's lawyers say he might be prosecuted under military law if he were sent to the United States and could be subjected to "special administrative measures" such as solitary confinement and other tactics to persuade him to plead guilty.

He could even face the prospect of being sent to Guantanamo Bay with no chance of parole, they say.

Bow Street Magistrates' Court in London is expected to hear from Clive Stafford-Smith, a human rights lawyer who acts on behalf of detainees in Guantanamo Bay.

Mckinnon -- whose hacking name was Solo -- admits gaining access to U.S. government computers but denies he caused any damage. His supporters say the U.S. government should be grateful to him for highlighting its security shortcomings.

U.S. prosecutors say there is no evidence Mckinnon downloaded classified information or forwarded files to foreign governments.

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At the time of the indictment, Paul McNulty, U.S. Attorney for the Eastern District of Virginia, said: "Mr McKinnon is charged with the biggest military computer hack of all time."

Mckinnon, from Wood Green in north London, was released on bail in July 2005 and banned from using the Internet.

The 40-year-old appeared relaxed in court where he was supported by more than a dozen friends and supporters.

Governments have become increasingly nervous over hackers in recent years and there have been several high profile prosecutions.

One of the allegations relates to McKinnon deleting files from computers at a U.S. naval station during a critical time following the September 11, attacks, rendering the base's network of computers inoperable.

'Hacker' Extradition Case Reopens (BBC)

BBC News, February 14, 2006

Gary McKinnon's lawyer says he "vigorously contests" the claims The extradition hearing of a British man accused of hacking into the US military computer system has resumed.

Gary McKinnon, 40, is accused of causing damage to 97 US government computers estimated at £370,000.

His lawyers want US authorities to give reassurances he will not get a military order and face being sent to Guantanamo Bay with no prospect of parole.

Mr McKinnon, of Wood Green, north London, is contesting extradition at Bow Street Magistrates' Court.

He is alleged to have infiltrated the military system from his home computer between February 2001 and March 2002.

In total, Mr McKinnon is said to have accessed 53 US Army computers, 26 US Navy computers, 16 Nasa computers, one US Department of Defence computer and one US Air Force computer.

Intimidation claim

The entire network of more than 300 computers at US Naval Weapons Station Earle, in New Jersey, is said to have been left inoperable after Mr McKinnon deleted files.

The prosecution alleges that his ultimate goal was to gain access to the US military classified information network.

At a hearing last July, Mark Summers, representing the US government, claimed Mr McKinnon's conduct was "intentional and calculated to influence and affect the US government by intimidation and coercion".

Computer programmer Mr McKinnon, who was granted bail at the July hearing, could face more than 45 years in prison in the US.

Mr McKinnon was first arrested in 2002 but action against him was discontinued before extradition proceedings began.

Extradition Hearing Begins Over Nasa Hacker (ZDNET)

By Colin Barker

ZDNet UK, February 15, 2006

Gary McKinnon has begun what could be his final battle to avoid extradition to the US and decades in prison

Gary McKinnon began the next stage in his fight against extradition to the US to face charges of hacking US Army, Navy, Air Force and NASA computers on Tuesday.

The British hacker is facing extradition to the US on charges of hacking and causing damage to US defence sites. If found guilty he could face over $1m in fines and 60 years in jail.

When the US request for extradition was first made, McKinnon admitted that the prospect of facing court in the US "terrified him". Now he faces a hearing scheduled to last three days to see if he will remain a free man.

McKinnon was arrested in June last year on charges of computer fraud, and claims that he had illegally accessed 97 US Government computers. McKinnon told ZDNet UK in July 2005 that his actions were prompted by an interesting in the US space programme and the search for extraterrestrial life.

The US prosecution team alleges that McKinnon hacked into sensitive equipment over a one-year period from February 2002 and caused $700,000 worth of damage. McKinnon, though, denies causing serious damage.

Although McKinnon was arrested in the UK shortly after his hacking activities were first exposed, he was released under caution. Since being charged by the US authorities he has been banned from using the Internet.

Texas Tech Student Accused In Federal Sweep (AP)

Associated Press

AP, February 15, 2006

A Texas Tech University student faces federal charges of conspiracy to commit copyright infringement after allegedly reproducing and distributing pirated movies, games and software.

Matthew Thompson, 22, a sophomore computer science major, was indicted on the felony charges after a two-year undercover FBI operation targeting the originators of pirated material on the Internet, according to court documents.

A message left at Thompson's Lubbock residence was not immediately returned Tuesday.

He and the nine others named in the indictment are scheduled to be arraigned Feb. 22 in a San Jose, Calif., courtroom.

FBI spokeswoman LaRea Quy said the indictment was part of a continuing investigation, Operation Copycat, that involved one of the largest operations of pirating software, movies and games.

"It was the biggest site in the United States _ probably the biggest in the world," Quy said.

Thompson was indicted in late January on charges of conspiracy to violate federal copyright law and violating the No Electronic Theft Act.

Also indicted on the same charges was a Spring man, Johnny Russell, 34. He declined to comment Tuesday and his attorney, Peter Goldscheider, did not immediately return a call.

If convicted on both counts, Thompson and Russell face a maximum eight years in prison and five years supervised release, Assistant U.S. Attorney Mark Krotoski said.

Court documents describe an exclusive network of users protected by a system of passwords and invitation-only access the users believed would help them fly under the radar of law enforcement agencies.

The government believes the 10 men, ages 19 to 34, were a source for illegally copyrighted materials distributed across the Internet, according to the indictment.

Ten of 15 people accused earlier have been convicted.

Cyberstalking Law Opens Debate On What's Annoying (USAT)

By Richard Willing

USA Today, February 15, 2006

WASHINGTON — It didn't get much publicity, but an anti-stalking bill passed by Congress recently makes it a federal crime to “annoy” someone over the Internet.

And that's really beginning to bug some people.

“It's a stupid law that has slipped in under the radar,” says Clinton Fein, a San Francisco-based artist who runs annoy.com, a website that he says offers “unique and irreverent” commentary on politics and culture. “Who says what's officially annoying? Is that a business we really want our government to be in?”

The law makes it a crime to anonymously “annoy, abuse, threaten or harass” another person over the Internet.

Rep. Jim McDermott of Washington inserted the provision into legislation that reauthorized the federal Violence Against Women Act. It carries a prison sentence of up to two years and an unspecified fine for those convicted of violations. President Bush signed the bill into law Jan. 5.

McDermott said he was prompted to act by the case of Joelle Ligon, a Seattle woman who was sent menacing e-mails, falsely accused of résumé-padding in messages to co-workers and impersonated in sex-oriented Internet chat rooms from 1998 to 2003.

Some of the communications were traced to a former boyfriend in South Carolina. He was sentenced to five years of probation and 500 hours of community service after he was prosecuted under a federal telecommunications law that protects against harassment.

To eliminate questions over whether phone law applied to the Internet, McDermott pressed for the new legislation. The language “annoy, abuse, threaten or harass” was taken directly from the telephone law.

Mike DeCesare, a spokesman for McDermott, says the new law is not intended to curb free speech.

“This is about bad people doing bad things. … It relates to somebody who does something to somebody else,” he says. “It's not about posting something on a message board. It's got to be direct, one-to-one communication.”

No one has been prosecuted under the new law, DeCesare says.

Critics aren't satisfied. Fein says it is unclear whether the law refers to annoying “conduct” or simply an e-mail whose message irritates its recipient.

“No one knows what this means,” Fein says. “That in itself has a chilling effect.”

Barry Steinhardt, a lawyer who specializes in privacy issues at the American Civil Liberties Union in New York City, says the new law's chief problem is the “subjective nature” of the word annoy. “Words like threaten, harass and abuse can be defined by what a reasonable person understands them to mean,” he says. “Anyone who's ever had their spam filter stop something they wanted, or let something through that they didn't, knows that deciding what is annoying is something else again.”

He says the ACLU is considering whether to ask a federal court to declare the new law unconstitutional because it's too vague.

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A scholar who specializes in cyber law says the law could be difficult to overturn. Susan Brenner, a University of Dayton law professor and a consultant to the Secret Service on cyber laws, says courts likely would read “annoy” together with the words that follow it — “abuse, threaten or harass” — and conclude that the law refers to specific behavior.

In 2004, the U.S. Court of Appeals for the 6th Circuit used that reasoning to uphold the conviction of Erik Bowker, an Ohio man who had stalked a Youngstown television reporter via telephone.

But in 1999, a federal appeals court in Washington, D.C., ruled that a man could not be prosecuted for “annoying” conduct because he had telephoned the U.S. attorney seven times to complain about a case that had been brought against him. The calls, the court found, were political speech protected by the First Amendment.

David Hudson, a lawyer with the First Amendment Center, a speech-rights advocacy group in Nashville, says the different ways that courts have interpreted the word “annoy” make the new anti-stalking law “ripe for a challenge.”

CIVIL LAW:

Security Agency Whistleblowers Seek Stronger Protections (GOVEXEC)

By Chris Strohm

Government Executive, February 15, 2006

Whistleblowers who have alleged misconduct or criminal activity at national security agencies told lawmakers Tuesday that they have been retaliated against for their disclosures, and urged stronger rights for both federal employees and contractors reporting wrongdoing.

In an unusual move, whistleblowers from the FBI, National Security Agency, Defense Department and Energy Department were allowed to testify before the House Government Reform National Security, Emerging Threats and International Relations Subcommittee. Congressional committees usually hear from senior agency managers, not rank-and-file employees.

The whistleblowers recounted their allegations and how they were retaliated against, in some cases by having their security clearances revoked or their careers ruined. They said agency managers seemed more focused on cover-ups and retaliation than investigating allegations or addressing exposed problems.

"I became a whistleblower not out of choice, but out of necessity -- necessity to tell the truth," said Army Lt. Col. Anthony Shaffer, who said he was retaliated against after reporting pre-9/11 intelligence failures.

Shaffer is scheduled to testify in a closed session Wednesday before the House Armed Services Committee. Rep. Curt Weldon, R-Pa., said the session will be "a hearing that is going to change . . . the nature of this city."

Weldon said Congress needs to pass legislation to protect workers who come forward with critical information.

"If we don't fix the problem . . . then we're sending a signal to every other employee in the federal government not to speak up," Weldon said. "If we don't take action, we're all in danger."

Other whistleblowers said their allegations were never fully investigated.

"I'm here today to tell you about a system that is broken," said Mike German, who resigned from the FBI after reporting that bureau agents and managers mishandled a major counterterrorism case in 2002 and falsified records. The Justice Department inspector general confirmed German's allegations that the case was mishandled and records were falsified, and that he was retaliated against after making his allegations. But the IG said the case was not a counterterrorism case.

"I am here not because I think you can help me," German said. "I am here because your actions are needed to fix a broken system before another counterterrorism investigation is about to fail."

He added: "This is not a question of balancing security interests against liberty interests. It's a mater of competence and accountability."

Army Spc. Samuel Provance said he believes the military has covered up the extent of abuses at the Abu Ghraib prison in Iraq, and has not adequately investigated those abuses. Provance was one of the first military soldiers to come forward with allegations of abuse at the prison.

"I am concerned about what the Army is becoming," he said. "Honor cannot be achieved by lies and scapegoating. Honor depends on the truth."

Several lawmakers said they would support new legislation to give stronger protections to employees and contractors at national security and intelligence agencies. Those employees are exempt from protections under the 1989 Whistleblower Protection Act.

"Seldom in our history has the need for the whistleblower's unfiltered voice been more urgent, particularly in the realms of national security and intelligence," said subcommittee chairman Rep. Christopher Shays, R-Conn. "But those with whom we trust

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the nation's secrets are too often treated like second-class citizens when it comes to asserting their rights to speak truth to power."

By a party-line vote, the House Government Reform Committee rejected a measure last fall that would have provided stronger protections for national security whistleblowers. At the time, committee Chairman Rep. Tom Davis, R-Va., said he did not know enough about national security issues.

Some whistleblower advocates were outraged over Davis' statement, especially since his committee includes a subcommittee on national security.

"My hope is that ... we can work together on a bipartisan basis to introduce new legislation that will provide national security whistleblowers with basic protections," Rep. Henry Waxman, D-Calif., said during Tuesday's hearing. "No one with a security clearance should have to fear that his or her clearance can be pulled in retaliation for truthfully reporting corruption or abuse."

Panel Weighs Whistleblower Law Changes (AP)

By KATHERINE SHRADER, Associated Press Writer

AP, February 15, 2006

WASHINGTON — Five government whistleblowers said Tuesday they had faced retaliation for calling attention to alleged government wrongs, such as prisoner abuse in Iraq and illegal surveillance at the National Security Agency.

They told their stories to the House Government Reform Committee's national security subcommittee, whose chairman, Rep. Chris Shays, R-Conn., indicated an interest in altering the law to better protect national-security whistleblowers.

Shays said they are vulnerable to unique forms of retaliation, including suspension or revocation of security clearance, which can have the same "chilling effect" as demotion or firing.

"The system is broken," Shays said.

In written testimony, inspectors general from the Defense, Justice and Energy departments said complaints of reprisals involving security clearances were rare.

"The allegations were either not substantiated or were closed after a preliminary inquiry determined there was insufficient evidence to warrant a full investigation," acting Defense Department Inspector General Thomas Gimble said.

The five whistleblowers, who have made headlines before, offered their stories at Tuesday's hearing. Many described their inspector general as ineffective or co-opted by the security offices.

Army Spc. Samuel Provance laid out what he considers to be a pattern of systemic abuses at Iraq's Abu Ghraib prison. He said his rank was reduced for disobeying orders not to speak about mistreatment he saw at the prison.

Russ Tice, a former NSA analyst, has called attention to possible constitutional abuses and security breaches at NSA. He said he was given psychological evaluations deeming him mentally unstable, and his clearance was revoked. He's now unemployed.

Lt. Col. Anthony Shaffer says the Defense Intelligence Agency has made a series of allegations against him since he disclosed information about a program known as Able Danger. He says the program identified four Sept. 11 hijackers before the attack. Government officials have raised doubts about his claims, which are the subject of another hearing Wednesday.

Richard Levernier, a retired Energy Department nuclear security specialist, said he lost his security clearance and effectively his job for giving the media an unclassified report about shortfalls in nuclear security.

And former FBI special agent Michael German said the Justice Department's inspector general found his claims of a botched terrorism investigation in Florida were substantiated. He says he faced retaliatory actions, some of which the inspector general also found.

In the written statements from the inspectors general, many of the whistleblowers' individual claims were not addressed.

"Whistleblowers who raise good-faith allegations of misconduct about activities at their agencies play an important role in ensuring transparency and accountability throughout government," Justice Department Inspector General Glenn Fine said.

Senate Votes To Send Back Asbestos Bill (USAT)

USA Today, February 15, 2006

The Senate voted Tuesday to send an asbestos-compensation bill back to a committee because it violates budget rules. The vote was 58-41. Sixty votes were needed to move the bill forward. It was “the key vote on this bill,” said Senate Minority Leader Harry Reid, D-Nev.

Majority Leader Bill Frist, R-Tenn., said before the vote that “if we are unsuccessful this week in addressing asbestos, that's it for this year.”

The measure, sponsored by Judiciary Committee Chairman Arlen Specter, R-Pa., would shield manufacturers and insurance companies from asbestos lawsuits by taking injury claims out of the courts and paying them from a $140 billion fund

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financed by asbestos companies and their insurers. Sen. John Ensign, R-Nev., who led the challenge, said claims would drain the fund and leave taxpayers responsible for billions of dollars.

A House version of the bill would allow asbestos lawsuits to go forward only if claimants meet certain medical criteria. Asbestos is a fibrous mineral used until the mid-1970s in insulation and fireproofing. Inhaled fibers have been linked to cancer and other diseases.

White House says Chertoffhas Bush's full support

President Bush has full confidence in Michael Chertoff and has not considered asking the Homeland Security secretary to step down after criticism of his performance on Hurricane Katrina, White House press secretary Scott McClellan said.

Former FEMA director Michael Brown told a Senate panel last week that the agency under Chertoff's leadership was preoccupied with terrorism threats at the expense of preparing for natural disasters. A Republican-written House report blamed government-wide ineptitude for mishandled relief efforts.

Scalia scoffs at ideaof 'living Constitution'

Supreme Court Justice Antonin Scalia said people who believe in a "living Constitution" that changes with the times are "idiots."

In a speech to the Federalist Society in Puerto Rico, Scalia said "the argument of flexibility (says) the Constitution … has to change with society. But you would have to be an idiot to believe that. The Constitution is not a living organism, it is a legal document. It says something and doesn't say other things."

Scalia said his philosophy of the document, "originalism," has no room for personal beliefs.

US Senate Vote Kills $140bn Asbestos Bill (FT)

By Patti Waldmeir

Financial Times, February 15, 2006

Legislation to resolve the asbestos litigation crisis failed in the US Senate on Tuesday night, dashing hopes that Congress would step in where the US courts have failed to compensate victims and halt litigation that has bankrupted scores of US companies.

The Senate voted by 58 to 41 on a procedural motion put forward by Democrats to block the bill, which would have established a $140bn compensation fund for asbestos victims. Sixty votes would have been needed to defeat the motion.

Senator Bill Frist, the top Republican, said before the vote that there would be no chance of a congressional fix for the asbestos crisis this year if senators rejected the bill.

Lobbyists close to the legislation said some members of Congress might try to put forward a different asbestos bill this year.

But they said the passage of such legislation would be a long shot.

Lawmakers on the influential Senate judiciary committee have been working for years to write a bipartisan bill to tackle the asbestos litigation crisis, which has cost more than $70bn and bankrupted nearly 80 companies.

The bill would have set up a fund to pay asbestos victims on a no-fault basis, while limiting the exposure of companies and insurers to lawsuits. The fund would have been managed by the federal government but privately financed by asbestos defendants and insurers.

It was defeated on Tuesday night on the grounds that it would have increased the federal budget deficit, in spite of the fact that the Congressional Budget Office said on Monday that the fund would not require federal money.

Senator John Cornyn, a Texas Republican, is now expected to introduce a bill to curb asbestos claims by allowing people to file only if they meet certain medical criteria. A similar bill has been introduced in the House. The prospects for early passage of such legislation are considered slim.

Senate Foes Block Proposed Trust Fund For Asbestos Victims (WP)

By Shailagh Murray

The Washington Post, February 15, 2006

In a cliffhanger procedural vote, the Senate derailed legislation to create a trust fund for asbestos victims, a victory for Democrats and their trial-lawyer allies who waged a relentless campaign to defeat a bill that took five years to negotiate.

Supporters of the bill, including most Republicans and some Democrats, held out hope for a return to the legislation after it failed, in a 58 to 41 vote, to gain the support of 60 senators needed to overcome a challenge over its potential budgetary impact. "We believe there is overwhelming support for this bill," said Senate Majority Leader Bill Frist (R-Tenn.), who had switched his vote from a "yes" to a "no" to leave open the option of bringing the bill back to the floor, if and when a yes vote can be mustered.

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After the vote, Sen. Patrick J. Leahy (Vt.), the ranking Democrat on the Senate Judiciary Committee and a co-author of the bill, told reporters that the proposed fund is not dead and that he had counted the vote of one absent senator -- Daniel K. Inouye (D-Hawaii) -- for his side. Republicans also said that they might be able to flip the vote of one of the 11 GOP senators who sided with Democrats to defeat the legislation.

But despite an unusually intensive effort by Leahy and the bill's principal author, Senate Judiciary Committee Chairman Arlen Specter (R-Pa.), to make the fund work, critics have argued it is too complicated and financially risky to advance much beyond the Senate -- should it ever manage to pass that chamber. GOP Sens. George Allen and John W. Warner of Virginia voted for it.

The debate did shine some light on one of the most intractable problems facing the legal system: the thousands of asbestos-exposure claims that are the churning through the courts. Sen. Richard J. Durbin (Ill.), the No. 2 Democrat in the Senate and a leading opponent of the trust fund, acknowledged that "significant changes in the existing tort system" are needed, and that all the principals -- including the trial lawyers who sought to defeat the proposed fund -- must give ground.

"We have to find a reasonable way to help those victims," Durbin said. He suggested reviving an approach, which Republicans had not advanced for years, to establish medical criteria for asbestos lawsuits within the current system. Trial lawyers opposed that approach, as did most Democrats, which is one reason the fund idea became popular.

"We should put our heads together," Durbin said. "I don't know if we can reach an agreement, but I sure want to try." He added that the current legislation "was a clash of the special-interest titans on both sides."

The trust fund bill created unlikely coalitions, both within the Senate and among the many interest groups with a stake in the outcome. Yesterday's vote to block the fund was brought by fiscal conservatives, who feared that it would eventually run out of money, leaving the federal government to pay claims. They were joined by most Democrats, including Sens. Barbara A. Mikulski and Paul S. Sarbanes of Maryland, who believed the fund gave short shrift to certain types of victims and who faced intense lobbying from one of the Democratic Party's wealthiest and most influential political allies, the Association of Trial Lawyers of America.

The alliance "is a little strange," said Sen. John Ensign (R-Nev.), a conservative who raised the budget objection. "I feel a little uncomfortable in this position, to be honest with you."

A new Congressional Budget Office examination of the bill did little to clear up the debate. In a letter from acting Director Donald B. Marron to Senate Budget Committee Chairman Judd Gregg (R-N.H.), the CBO estimated that payments, start-up costs and other expenses would total $64 billion over 10 years, 2006 to 2015, while the fund would collect an estimated $58 billion from asbestos companies, insurance firms and existing private trust funds.

Because the 10-year corporate income-tax receipts would also decline by an estimated $1.1 billion, from contributors paying into the fund, the CBO estimated a net revenue shortfall of about $7 billion. "I believe this bill is fiscally irresponsible to the taxpayers and the future," Ensign said.

Opponents also argued that the legislation is incomplete. Sen. Kent Conrad (N.D.), the ranking Democrat on the Budget Committee, said the CBO did not take into account dormant claims, claims that do not fit into specific categories of illness and claims from family members of exposure victims.

Conrad cited a section of the Senate bill that states that "an asbestos claimant who meets the requirements . . . shall be entitled to an award." If private funding were to ever run out, Conrad said, it would fall to the federal government to make good on that promise. "Are these all just words or numbers on a page, or does this have some real-world consequence?" Conrad asked.

But the CBO letter concluded that because the bill exempts the federal government from financial liability, "the legislation would be deficit-neutral over the life of the fund." Leahy underscored that sentence in a four-page statement on the budget challenge. He asserted that "this is not a federal entitlement program." Leahy later stressed on the Senate floor: "It just does not add to debt."

Asbestos Trust Fund Bill Is Defeated (WSJ)

By Brody Mullins

The Wall Street Journal, February 15, 2006

WASHINGTON -- A handful of Republicans joined most Democrats in dealing a deathblow last night to a $140 billion asbestos-litigation overhaul bill on Capitol Hill.

On a 58-41 vote, supporters of the asbestos bill failed to muster the 60 votes needed to clear a procedural hurdle raised by their opponents.

After the vote, Senate Majority Leader Bill Frist's office said that Republicans may bring the legislation back to the Senate floor later this year. Earlier in the day, Mr. Frist told reporters that this was the only week he would devote to the bill on the Senate floor.

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However, proponents are unlikely to be successful this year. As it languished on Capitol Hill, a growing number of states, including Texas, have approved their own asbestos-overhaul laws that many U.S. corporations and insurance companies find favorable.

The bill under consideration in the Senate sought to revise the asbestos-litigation system by creating a $140 billion trust fund to pay health-care and other costs incurred by Americans injured by asbestos. The fund would be paid for primarily by companies with asbestos liabilities and their insurance companies.

Large U.S. manufacturers of asbestos and some insurance companies backed the bill because it would have reduced the amount of money they would have to pay in asbestos liabilities through the legal system.

But a growing number of smaller manufacturers and insurers opposed the legislation because it would increase the amount of money they would have to pay. Most trial lawyers also opposed the bill.

Since the early 1970s, industry has paid $70 billion to settle 730,000 asbestos claims, according to a recent Rand Corp. survey. At least 77 companies have filed for bankruptcy-court protection because of asbestos liability.

Sen. Arlen Specter of Pennsylvania crafted legislation that won the backing of a coalition of Republicans and Democrats. Mr. Specter argued that the bill would help asbestos victims receive compensation for their illnesses and give companies certainty about how much they would owe.

But the bill was attacked by an odd coalition of conservative Republicans like Sen. Sam Brownback of Kansas, who believed the trust fund was too generous, and liberal Democrats like Sen. Edward Kennedy of Massachusetts, who said the bill was a giveaway to big business.

"It does not provide a reliable guarantee of just compensation to the enormous number of workers who are suffering from asbestos-induced disease," Mr. Kennedy said last week.

Opponents of the bill defeated it by raising a procedural motion that required Mr. Specter to find 60 senators to support the bill, rather than the usual 51 votes. Using a parliamentary tactic, opponents noted that the asbestos trust fund would need to borrow federal funds at the beginning to get off the ground, a violation of the chamber's budget rules.

Even if Mr. Specter had prevailed, he faced more challenges in the days ahead. Mr. Reid and Senate Democrats planned to launch a filibuster against the bill, forcing Mr. Specter to again find 60 votes to defeat his opponents.

Last night, Mr. Specter held out hope for the bill. He said Sen. Daniel Inouye of Hawaii was the one senator who didn't vote, and had planned to vote with Mr. Specter on the bill. According to Mr. Specter, Mr. Inouye left the Capitol because his wife was sick. With Mr. Inouye's and Mr. Frist's votes, the bill would have the requisite 60 votes. Mr. Frist had changed his vote to oppose the bill, so under Senate rules he would be able to bring the bill back to the Senate floor.

Among the Republicans who voted against Mr. Specter were Sens. Judd Gregg of New Hampshire, James Inhofe of Oklahoma and John McCain of Arizona. Democrats voting to defeat the bill were Mr. Reid and Sens. John Kerry of Massachusetts, Ben Nelson of Nebraska and Kent Conrad of North Dakota. The Democrats who supported Mr. Specter included Sen. Patrick Leahy of Vermont.

Asbestos Bill Is Sidelined By The Senate (NYT)

By Stephen Labaton

The New York Times, February 15, 2006

WASHINGTON, Feb. 14 — The Senate decided on Tuesday night to all but kill legislation to create a $140 billion fund to compensate victims of asbestos poisoning.

Supporters of the measure, led by Senator Arlen Specter, Republican of Pennsylvania, fell just short of the 60 votes needed to waive a budget objection raised about the legislation. The final vote was 58 to 41, and with powerful interests on both sides it did not break down along party lines.

Senator Bill Frist, the Republican majority leader and a strong supporter of the legislation, changed his vote from yes to no at the last moment so he would have the option of calling for a recount "at some later date," he said.

Still, advocates for the measure held out hope that they could reverse the outcome. On Tuesday night, Senator Specter, its chief sponsor, issued a statement that the one senator who was absent from the chamber, Daniel K. Inouye, Democrat of Hawaii, had told him he would vote to waive the budget objection but he had gone home because his wife was ill.

"We will have him on the motion to reconsider," Mr. Specter said, "and we may change another vote or two, so we may win this one yet."

Nonetheless, the vote meant that the courts were likely to remain the primary forum for processing thousands of asbestos cases in the foreseeable future.

President Bush has made changes in the treatment of asbestos claims a legislative priority, and the Senate action was a major setback for the White House.

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The bill, more than two years in the making, became a casualty of powerful business interests opposed to it, as well as of a forceful coalition of conservative and liberal senators. The conservatives argued that the measure could lead to a new and expensive federal entitlement program. The liberals maintained that the asbestos fund was not large enough to compensate victims and was a bailout for asbestos companies and their insurers.

Supporters said the bill was needed to compensate victims and their families, alleviate a crisis among manufacturers and deal with a growing number of cases in the courts.

An estimated 10,000 people die each year from exposure to asbestos, primarily in the workplace. Dozens of companies have sought bankruptcy protection to control their asbestos-related legal costs.

And by many estimates, about 60 percent of the money available to compensate victims is going to lawyers for the plaintiffs or the companies. The courts, facing growing numbers of asbestos cases, have repeatedly called on Congress for a legislative solution.

The measure failed in large part because of opposition from some asbestos makers and insurers, as well as from trial lawyers and labor unions. Some companies opposed to the legislation declared that they were being forced to pay too much into a new compensation fund, while the unions and trial lawyers saw the bill as a bailout without enough money for the victims.

Senator John Ensign, Republican of Nevada, lodged the procedural objection to the bill. He maintained that it violated a Congressional limit on spending. Conservatives have raised concerns that the fund could be insufficient and therefore require a federal bailout. Liberals also hold that the fund is insufficient, but say that is because manufacturers and insurers are not being required to contribute enough.

Earlier in the day, Senator Frist said he would not try to resurrect the legislation if it ran into obstacles this week. "If we are unsuccessful this week in addressing asbestos," he said, "that is it for this year."

Asbestos has been widely used as an insulation and construction material, and exposure to it in the workplace may not manifest itself in harmful ways until decades later. It can cause illnesses ranging in severity from relatively mild to lethal.

A study issued in May by the Rand Institute for Civil Justice found that more than 730,000 people in the United States had filed compensation claims for asbestos-related injuries from the early 1970's through the end of 2002, costing businesses and insurance companies more than $70 billion.

The legislation shunted aside on Tuesday night had been intended to replace the current civil court approach to compensating victims with a no-fault program financed by manufacturers and their insurers and run by a new compensation office at the Labor Department.

The bill would restrict asbestos victims in bringing their claims to court and limit the liability of manufacturers and insurers, but require them to make contributions to the fund.

It would set up a schedule of payments, based on the severity of the illness, ranging from $25,000 for breathing impairments to as much as $1.1 million for victims of mesothelioma, an often fatal cancer of the lungs.

Fees for lawyers would be limited to 5 percent of final awards.

Both supporters and opponents of the legislation relied on a new analysis by the Congressional Budget Office to support their positions. Senator Specter emphasized the budget office's conclusion that the legislation "would be deficit-neutral over the life of the fund."

But the opponents, including trial lawyers' groups and some manufacturers and insurers, pointed to other parts of the budget office analysis showing that its effect would not be deficit-neutral if the administrator of the $140 billion fund had to borrow heavily or if courts ruled that there was a government obligation to pay victims despite the terms of the bill.

The fund in its initial years would be financed through significant borrowing, and critics of the legislation have raised concerns about its impact if some asbestos companies were unable to meet their payments.

Illustrative of the complex political calculations on Tuesday were opposing statements by the two Democratic senators from California.

Dianne Feinstein, one of 20 sponsors, said that while the bill was not perfect, it was necessary to compensate victims and reduce high court costs. She disputed the argument that taxpayers would ultimately have to bail out the trust fund, saying asbestos victims would be able to return to the courts if it did not have enough money.

But Senator Barbara Boxer said that the bill was giving asbestos victims false hope. "Companies will go into bankruptcy," she warned. "It's a giant nightmare.

"I am very fearful that a lot of people who are going to depend on this trust fund will find out that it is not all it is cracked up to be. "The bill promises the moon. But it will not even deliver a sliver of the moon."

Senate Defeats Asbestos Trust-fund Legislation (WT)

By Charles Hurt

DOJ_NMG_0015278

The Washington Times, February 15, 2006

Liberals and conservatives in the Senate joined together last night to stop legislation that would have created a massive trust fund for victims of exposure to asbestos.

Years in the drafting, the bill is disliked by conservatives who fear that the costs will be passed on to taxpayers and by liberals who worry that victims will lose their rights to sue companies that, however unwittingly, exposed workers to a substance now known to cause cancer.

The key vote, on a procedural issue, was initially 59-40 in favor, one short of the 60 votes required, effectively killing the bill. Ten Republicans joined 30 Democrats to block the measure.

Sen. Daniel K. Inouye, Hawaii Democrat, could have given the bill the needed 60th vote but missed last night's roll call.

Once Senate Majority Leader Bill Frist realized that the bill would fail, he switched his vote to "no" for reasons of parliamentary procedure -- giving himself the right to raise the bill for another vote. The final official result was 58-41.

The Tennessee Republican said he did so "to keep a heartbeat, at least, in this piece of legislation, because it is so important to victims, to our economy, to jobs."

Sen. John Ensign, Nevada Republican, a fiscal conservative, raised a point of order, saying that the legislation would break future spending caps, meaning 60 votes are required to approve the bill.

Senate Judiciary Committee Chairman Arlen Specter said after the vote that Mr. Inouye would have secured victory for the bill.

"As John Paul Jones said, 'We have just begun to fight,' " he said. "Senator Inouye told me he would vote to overrule the point of order, which would have provided the 60th vote and victory, but he went home because his wife was sick. We will have him on the motion to reconsider, and we may change another vote or two, so we may win this one yet."

After voting against the bill, Senate Minority Whip Richard J. Durbin, Illinois Democrat, said: "I hope now we can work together in a bipartisan basis to find some accommodation, not to create a trust fund in an amount that's never been established."

Supporters argued, however, that the bill is a bipartisan one, authored by Mr. Specter, Pennsylvania Republican, and Sen. Patrick J. Leahy of Vermont, the ranking Senate Judiciary Committee Democrat.

The bill would create a $140 billion trust fund to compensate the victims of asbestos exposure. The money would come from the employers and their insurance companies.

Sen. Orrin G. Hatch, Utah Republican, a supporter of the bill, criticized opponents of the bill for blocking the measure without offering an alternative.

"For the past decade, there has been a thundering silence from too many on the other side of the aisle," said the former chairman of the Senate Judiciary Committee. "They are quick to criticize what has been suggested, but not once in more than a decade have they proposed their own solution. Not once have they come up with one idea that might possibly help solve this crisis."

Among the Republicans who bucked the leadership were some of the chamber's most fiscally conservative members, such as Sen. Jim DeMint, a freshman from South Carolina.

"This bill fails to solve the real problem, which is our out-of-control junk-lawsuit system, and simply trades one flawed system for another," he said.

"We have a serious problem with asbestos litigation that has already forced 70 American companies into bankruptcy and cost over 60,000 Americans their jobs. But creating a multibillion-dollar government entitlement program that punishes taxpayers and rewards trial lawyers is not the answer."

Senate Kills Fund For Asbestos Victims (LAT)

By Jonathan Peterson

The Los Angeles Times, February 15, 2006

WASHINGTON — The Senate rejected a new plan Tuesday to compensate asbestos victims, apparently dooming a proposed $140-billion fund that would have handled claims now battled out in court.

Under the legislation, asbestos makers and their insurers would have contributed to a trust fund to pay claims for illnesses in amounts from $25,000 to $1.1 million. But the measure faced attacks on several fronts.

Trial lawyers and their Democratic allies argued that efforts to take claims out of the courts threatened the ability of victims to obtain sufficient restitution.

Fiscal conservatives feared that the approach would set up a federal entitlement program, along the lines of "black lung" compensation, with insufficient limits on payments and a growing bill for taxpayers.

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The final vote was 58 to 41, with advocates of the asbestos legislation failing to get the 60 votes needed to beat back a procedural challenge. Proponents of the bill, who initially had 59 votes, said they might try again, but they were sobered by a defeat that included votes of Democrats and Republicans.

"The consequence of the vote tonight is that victims who are in need are not going to receive fair and just compensation," Senate Majority Leader Bill Frist (R-Tenn.) said after the vote. "They deserve it. They need it."

At the end, Frist shifted his vote from yes to no, a parliamentary maneuver that he said would enable him to bring the matter up again if he chose.

By all accounts, the outcome was a stinging defeat for advocates of the plan and raised questions about the approach that had been painstakingly established by a coalition of Republicans and Democrats in the Senate Judiciary Committee.

The vote was over a technical issue — whether the proposed $140-billion fund would exceed budgetary limits. Proponents argued it would not, noting the fund was to be financed by private companies and insurance firms. They also cited a recent analysis by the Congressional Budget Office that the fund would not expand the federal deficit over the long haul.

"It's abundantly clear that this legislation will not be a burden on the United States Treasury," Sen. Dianne Feinstein (D-Calif.) said.

Opponents maintained that the fund was insufficient for long-term asbestos claims and could ultimately saddle taxpayers with new costs or leave claimants in limbo if the money ran out.

"In addition to being unfair to victims, the bill is unfair to the federal taxpayer," said Sen. Harry Reid (D-Nev.), the Senate minority leader, who led the opposition. The bill, he added, "may be well-intentioned, but it is ill-conceived."

Supporters sought to establish a system for asbestos claims that would be similar to the workers' compensation program for workplace injuries. Workers would not have to prove that their symptoms were caused by a particular exposure to asbestos.

Sen. Arlen Specter (R-Pa.), chairman of the Judiciary Committee, had urged senators to keep the bill alive and invited colleagues to address their concerns by amending the measure in the coming days.

"To have it rejected on a technicality is just a terrible waste of so much time and effort," Specter said of the bill that had passed in committee in May.

Afterward, Sen. Richard J. Durbin (D-Ill.), an opponent of the measure, tried to sound a conciliatory tone.

"We have to find a reasonable way to help these victims," he said. "I don't know if we can reach an agreement, but I sure want to try."

Asbestos Bill Blocked Again (RC)

By Emily Pierce And Tory Newmyer

Roll Call, February 15, 2006

The Senate killed a controversial asbestos trust fund bill Tuesday night, but Senate Majority Leader Bill Frist (R-Tenn.) vowed to bring the measure up again soon, indicating he believes he is only one vote short of prevailing.

The potential death of the bill last night leaves the backers of multimillion-dollar lobbying campaigns on both sides of the bill scrambling to reposition themselves and pursue new methods of curbing asbestos-related lawsuits.

In a vote, the outcome of which remained uncertain even while the Senate roll was being called, 30 Democrats voted with 11 Republicans to block the bill from moving forward. Supporters, who drew only 58 votes, needed 60 to overcome the procedural hurdle. Frist at the last minute voted with opponents so that he might be able to demand a revote at a later date.

Sen. Daniel Inouye (D-Hawaii) was absent from the vote, and Frist said “that absentee vote could have made the difference” in keeping the bill alive. As of press time, it was unclear what Inouye’s vote would have been had he been present, although there were some hints that he would have allowed it to go forward.

Frist spokeswoman Amy Call said the Majority Leader considers the bill “still alive” but it was unclear whether Frist would call for another vote this week or after next week’s Presidents Day recess.

The bill would put an end to asbestos-related lawsuits, while establishing a privately funded $140 billion trust to compensate those who claim illnesses caused by exposure to the deadly fibers.

The vote was on a budget point of order brought by Sen. John Ensign (R-Nev.). Ensign and his backers argue that the trust fund will not be adequately financed and would eventually require taxpayer funds to keep it solvent.

Even before votes were cast Tuesday evening, lobbyists on both sides of the debate were mulling the consequences of the bill’s defeat and beginning to plot their next moves.

A broad array of corporations have spent tens of millions of dollars promoting the trust fund approach, but speaking privately, lobbyists for those interests said they were unsure where they would go from here.

“Everybody’s just been focused on the votes,” one lobbyist said. Another added: “Nobody is even speculating at this point. At a minimum, we’ll have to let this stuff digest, and then figure out our next steps.”

Meanwhile, the assortment of odd bedfellows lined up against the trust fund appears ready to split now that the measure may be dead. The trial lawyers' lobby and some corporate opponents of the bill could forgo a legislative fix altogether and support simply allowing asbestos cases to return to the court system, while many of the business and insurance companies working against the bill are ready to push Congress to establish medical criteria that asbestos claimants must meet before heading to court.

"We are strongly in favor of a good medical criteria bill," said Tom O'Brien, chairman of the Coalition for Asbestos Reform, the lead business-backed group opposing the trust fund. He pointed to measures crafted by Sen. John Cornyn (R-Texas) and Rep. Chris Cannon (R-Utah) as starting points.

In fact, Cornyn said he wants to keep the issue alive even if the measure is filibustered, by pursuing a bill that allows only individuals with asbestos-related illnesses to bring suits against companies that manufactured or sold asbestos products.

Cornyn said he has talked with Senate Minority Leader Harry Reid (D-Nev.) and Minority Whip Dick Durbin (D-Ill.) about pursuing a bill that lays out the medical criteria for people allowed to bring suits.

"If we could take up the Texas medical criteria bill, then that's something they could live with," said Cornyn, referencing a medical criteria measure enacted in Texas last year.

But Frist dismissed Cornyn's medical criteria measure, noting that last week's vote on a similar proposal that did not precisely mirror the Texas law was overwhelmingly defeated on the Senate floor.

"We brought medical criteria to the floor, and it got 27 votes," Frist said.

Indeed, Democrats, including Reid and Durbin, opposed Cornyn's original medical criteria amendment, largely because they have been focused on eliminating the bill's trust fund provisions and because they sought changes in Cornyn's approach.

But Cornyn said Democratic opposition was changing rapidly. "One of the consequences of filing the medical criteria amendment early [in the asbestos bill debate] is that it got a lot of people thinking about it," Cornyn said.

The National Taxpayers Union, one of several nonprofits active in the debate, is looking ahead to the House, where the group hopes the medical-criteria approach will gain steam. And the National Association of Mutual Insurance Companies, a group claiming 1,400 members, plans to promote the approach during 35 days of Capitol Hill visits it has planned for spring and early summer.

It is unclear what method the biggest labor umbrella group, the AFL-CIO, will back. Early in negotiations around the trust fund bill, the labor group was supportive and eager to stem the job losses from the tide of asbestos-related bankruptcies. But the organization dropped its backing for the measure after the specifics emerged.

Bill Samuel, the group' s director of legislation, said the AFL-CIO could support a "properly designed trust fund."

"Everyone needs to take a deep breath right now," Samuel said. "The two sides are pretty dug in, and that's not the best atmosphere for legislating."

Both sides have spent the week coordinating sprawling teams of lobbyists with frequent conference calls. The Asbestos Alliance, a group of old-line manufacturers and insurers backing the bill, has held joint calls with the team from the Asbestos Study Group, which includes companies with less direct ties to their asbestos liabilities, such as Viacom, Pfizer and General Electric.

"There are calls all day, all the time," said one lobbyist familiar with the groups. Lobbyists on the calls discuss target lists and divvy up new assignments.

On the other side, lobbyists for the Coalition for Asbestos Reform had been calling in new information to a war room the group set up in the downtown offices of lobbying and public relations firm Fleishmann-Hillard.

"The guys at Fleishmann-Hillard have their hands on the knobs," CAR's O'Brien said. "They keep the data together and run everything through me to the people who are active."

All the outside help has not come cheap. Recent disclosures show K Streeters working on asbestos issues pulled in some of the largest lobbying receipts for the first half of last year. The law firm Swidler Berlin had the single largest lobbying contract in town — worth $4.8 million through the first half of 2005 — for its work for the Asbestos Study Group, according to PoliticalMoneyLine.com. Sonnenschein Nath and Rosenthal claimed the fourth-most lucrative contract for its work on asbestos. It earned $1.2 million lobbying for Federal Mogul Corp., a bankrupt auto parts manufacturer.

CIVIL RIGHTS:

Lawyers Argue That Boy Scouts Deserve Space At San Diego Parks (AP)

By PAUL CHAVEZ, Associated Press Writer

AP, February 15, 2006

LOS ANGELES -- An attorney for the Boys Scouts of America and a lawyer from the Bush administration's Justice Department told an appellate court panel Tuesday that a lower court erred when it ruled that San Diego was promoting religion by granting the youth organization long-term leases to city parklands.

George Davidson, an attorney for the Boy Scouts, said the group has no theology and only holds the position that children should "do duty to God" in order to become productive citizens. The organization has few references to religion in its manual and has a practice of "punting it back to parents and religious leaders" when it comes to religious matters, Davidson told the court.

Eric Treene, a Justice Department lawyer in the Civil Rights Division, told the three-judge panel of the 9th Circuit Court of Appeals that the Scouts have a nondiscrimination policy when it comes to who can use its space and the city has more than 120 leases with other groups who use park areas in exchange for maintenance and improvements.

The Boy Scouts has been the target of preferential treatment lawsuits since the U.S. Supreme Court in June 2000 ruled that the organization has a constitutional right to exclude openly gay men from serving as troop leaders and because it compels members to swear an oath of duty to God.

The American Civil Liberties Union sued San Diego and the Boy Scouts of America over the leases in August 2000 on behalf of a lesbian couple and an agnostic couple, each with scouting-age sons.

U.S. District Judge Napoleon Jones Jr. ruled in July 2003 that San Diego acted improperly when it leased 18 acres of Balboa Park camp space to the Scouts. The judge ruled that the group is a religious organization and the lease violated the federal establishment clause that prohibits the government promotion of religion.

The city's action was an implicit endorsement of the Scouts' "inherently religious programs and practices," Jones ruled.

The same judge later ruled that the Scouts' lease with the city for a separate aquatics center at Fiesta Island in Mission Bay Park also was illegal.

Jones said the city has shown preferential treatment to the Boy Scouts, "an admittedly religious, albeit nonsectarian, and discriminatory organization," because it had negotiated exclusively with the Scouts for the lease of the aquatics center.

The Scouts had leased the half-acre Fiesta Island property since 1987 at no charge. The group spent $2 million to build the aquatics center and provided for its maintenance.

The Balboa Park camp was developed by the Scouts after World War II and in 1957 the group signed a 50-year lease with the city. The lawsuit was brought after the City Council voted to extend the lease for 25 years.

Mark Danis, an attorney for the plaintiffs, told the appellate court Tuesday that the Boy Scouts reserves six weeks during the height of summer for itself on Fiesta Island and other groups have "inferior access" to both sites. The group also has its local headquarters on the site, he said.

"San Diego city land can't be used as the headquarters of a discriminatory organization," Danis said outside court. "This organization kicks people out if they don't believe in God and our clients are agnostics, they chose to not believe in God, and they can't use city land on an equal basis with Boy Scouts."

The Bush administration in March 2004 filed a friend of the court brief arguing that even though Boy Scouts believes in God and members take an oath to do their duty to God, the group is not a religious organization.

The panel did not release a decision, which typically isn't announced until three to six months following the hearing of arguments.

U.S. Justice Department Investigates Decrease In Student Population (WTVM-TV)

WTVM-TV, Columbus, GA, February 15, 2006

Schools in Barbour County are becoming predominately black.

A problem Superintendent Vic Adkinson is out to change. "From a legal sense, the status-quo cannot be continued where an open enrollment is allowed and students are allowed to come and it's being selected cased on, whether it's been based on race, academic performance or socio-economic status. You know it's got to stop," says Barbour County Superintendent, Vic Adkinson.

During the past few years Adkinson says he's seen a decrease in the student population in Barbour County. Many of those students he says have transferred to the Dale County School System.

A problem that has prompted an investigation by the U.S. Justice Department.

Information released by its Civil Rights Division says during the 2004-05 school year Barbour County enrolled 1,222 students... of whom 94% were black and only 63 students were white. We're told Dale County accepted 168 students from Barbour County...of those, 78% were white and all were allowed to transfer.

"The Justice Department has asked them to stop accepting students and to give them a response on how they're going to deal with the students that they have now that are from Barbour County," says Adkinson.

Gloria Witcher has worked for the Barbour County School District for 33-years.

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She says the school district is changing for the better and that every child receives a quality education in all of the county schools. "I think the school district is getting a bad rap because of ignorance, ignorance meaning not knowing a lot of people don't know about the shcools and don't know about the system and hear from others," says Witcher.

Adkinson says students crossing county lines for Dale County are costing his school system more than one million dollars annually.

Federal Government May Challenge South Carolina Primary (AP)

By JIM DAVENPORT, Associated Press Writer

AP, February 15, 2006

The U.S. Justice Department is challenging the way South Carolina conducts primaries and that could change the long-used calendar for primary runoffs that now come two weeks after the first round of voting.

A spokesman for the Justice Department said Tuesday the agency is enforcing laws intended to make sure people living overseas or serving in the military abroad have the same opportunity to vote as those living here. Several states, including South Carolina, were asked several months ago to show how they would make sure ballots were sent and received in time to be counted, Justice Department spokesman Eric Holland said.

He would not say whether the agency is considering an injunction against South Carolina that could delay primaries. "We're working with those states to resolve those issues," Holland said.

Sen. Larry Martin, R-Pickens, said he wanted to rush a bill through the Senate to avoid the potential for a federal injunction on the issue that could delay the June 13 primary and plans for runoff voting on June 27.

Martin said the legislation he was introducing would delay any primary runoff by two weeks, pushing it back to a month after the primary.

Without the delay, there "most likely would be an effort to enjoin our primaries," Martin said.

State Election Commission Director Marci Andino was not immediately available to talk about the situation.

While the agency knows of no formal complaints on the issue, "we have known that this has been an issue for some voters for some time," spokesman Chris Whitmire said.

"We have taken steps to address the problem," he said.

For instance, the state already sends blank ballots to be used for runoff voting and has set up systems that let voters return ballots by fax or electronically, Whitmire said.

"The Department of Justice is still concerned about it and has indicated again that if something isn't done about it, they will seek some relief through the courts," Whitmire said.

Harvard Study Blasts Bush Education Policy (REU-Y2)

By Jason Szep

Reuters, February 14, 2006

President George W. Bush's No Child Left Behind education policy has in some cases benefited white middle-class children over blacks and other minorities in poorer regions, a Harvard University study showed on Tuesday.

Political compromises forged between some states and the federal government have allowed schools in some predominantly white districts to dodge penalties faced by regions with larger ethnic minority populations, the study said.

Bush's 2001 No Child Left Behind Act was meant to introduce national standards to an education system where only two-thirds of teenagers graduate from high school, a proportion that slides to 50 percent for black Americans and Hispanics.

But instead of uniform standards, the policy has allowed various states to negotiate treaties and bargains to reduce the number of schools and districts identified as failing, said the study by Harvard University's Civil Rights Project.

"There's a very uneven effect. There are no clear uniform standards that are governing No Child Left Behind. If one state gets one thing, another state can do something else," the study's lead author, Gail Sunderman, said in an interview.

In Washington, a bipartisan commission announced on Tuesday that it was being created to take a "hard, independent look" at the law's problems and promises, and then make recommendations to Congress before the law's expected renewal in 2007.

Under No Child Left Behind, children in every racial and demographic group in every school must improve their scores on standardized tests in math and English each year. Failure to achieve annual progress can lead to sanctions against schools.

Children in poorly performing schools can switch schools if space is available. In extreme cases, schools can be closed.

But a surge in the number of schools identified as "needing improvement," including many considered top performers in their state, has stirred opposition to the law nationwide -- from a legal challenge in Connecticut to a rebellion by state legislators in staunchly Republican Utah.

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The 60-page study examines letters sent by the Department of Education to all 50 states on how each state can administer the law and on their accountability plans.

Forty-nine states have taken some action to amend the law or been granted waivers to provisions in No Child Left Behind, the study said. "The problem with this approach is that it does not affect all schools equally," said Sunderman. "No two states are now subject to the same requirements."

In one example the study cites, states in rural Midwestern regions were granted extensions to deadlines to meet requirements on teacher qualifications that were unavailable to poorer rural regions with greater numbers of black Americans and ethnic minorities in southeast and southwest states.

"The policy is essentially a product of negotiation, of power and discretion, not law," Gary Orfield, director of Harvard's Civil Rights Project, said in the report.

Chad Colby, a spokesman for the U.S. Department of Education, called Harvard's study "misinformed" and "flawed." "We leave it up to the states to determine how they are going to get there. It's exactly the opposite of one-size-fits-all."

Judge Allows Week To Craft Youth Facility Injunction (HSB)

By B.J. Reyes

Honolulu Star-Bulletin, February 15, 2006

A federal judge has given attorneys one week to draft an injunction to protect lesbians, gays, bisexuals and transgender wards at the Hawaii Youth Correctional Facility until a lawsuit alleging abuse and harassment of such inmates can be decided.

Attorneys for the state and the American Civil Liberties Union of Hawaii say they are far apart on an agreement but will try to negotiate something by next Tuesday's deadline.

When asked whether he was confident that an agreement could be reached, Attorney General Mark Bennett flatly replied, "No."

"I'm not confident that we can reach an agreement on the language of an injunction, no, but we'll certainly try," Bennett said. "We've been trying; it didn't succeed. We'll try some more."

Lois Perrin, legal director for the ACLU of Hawaii, echoed his sentiments.

"We're certainly willing to try and come up with agreed-upon language," Perrin said. "Our objective here is to ensure that the discrimination and harassment of (lesbian, gay, bisexual and transgender) wards at HYCF is fixed and that it's fixed promptly."

The ACLU sued in September on behalf of three former wards who alleged they were harassed and abused because of their actual or perceived gender identity and that administrators knew of the problems but did nothing to stop it.

U.S. District Judge J. Michael Seabright ordered the injunction last week, finding that there was enough evidence to support their claims.

He left it up to the state and the ACLU to draft the injunction to be consistent with any agreement reached between the state and the U.S. Department of Justice over reform at the youth prison. An agreement on a three-year plan to improve conditions at the facility was announced the same day as Seabright's injunction ruling.

If the two sides cannot reach an agreement on an injunction, Seabright said he would issue one himself.

Bennett said the ACLU's proposed language was too broad and not specific enough to inform workers at the youth prison of what they would be barred from doing.

The state also objected to having a monitor appointed by the court to oversee the policies and procedures being implemented to prevent abuse and harassment of wards.

Bennett noted that as part of the negotiated agreement with the Justice Department, the state has retained a national expert on secured youth facilities who will work with the state to implement the agreed-upon reforms.

Perrin said she wanted to make sure that any expert retained by the state has experience working with "vulnerable" youths, and in particular experience working with lesbian, gay, bisexual and transgender youths.

She said her main objection to the state's injunction proposal was that it "doesn't have a lot of teeth."

"It does not set forth any sort of comprehensible deadline," she said. "It doesn't have any intermediate benchmarks to determine when policies and procedures need to be in place."

Behind L.A. Jail Clashes: Rising Pressures (CSM)

By Daniel B. Wood

The Christian Science Monitor, February 15, 2006

LOS ANGELES - Riots that rocked Los Angeles County jails this month can be attributed to overcrowding, say some criminal-justice analysts. Other observers cite rising gang conflicts between blacks and Hispanics throughout the L.A. area,

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which they say are increasingly spilling into a jail system ill-equipped to deal with it. To still others, blame lies with a society eager to punish wayward young men harshly, with little thought to the fact that they will one day be released to walk the streets.

Whichever explanation hits closest to the truth, the violence in the nation's largest jail system - which has involved 2,000 inmates and resulted in two deaths and nearly 100 serious injuries - points to rising pressures inside the jails and the challenges of containing them. On Monday, jail authorities, who have come under fire for not quelling the violence, began transferring hundreds of county jail inmates to state prisons in a bid to separate the most violent offenders from the general jail population.

The riots, which began Feb. 4 at a correctional facility 40 miles north of Los Angeles in Castaic, involved dormitories of more than 100 men, who attacked one another in succession and tossed beds from balconies. Inmates beat a black prisoner to death at Castaic's biggest jail, Pitchess Detention Center. Fighting broke out last week at the two smaller jails at Pitchess. Despite lockdowns of facilities across the county - meaning restricted movement inside and limited visitation - similar incidents followed. A second inmate died Sunday after a racially motivated fight at Men's Central Jail.

Investigators initially said nonjailed members of the Mexican mafia ordered Latino inmates to attack black prisoners in retaliation for an earlier attack, outside of jail, on a Latino by black gang members in Los Angeles. Inmate-on-inmate attacks at the Castaic facility have nearly doubled since 2003, officials said. Violence between blacks and Latinos has tripled on the streets since the 1990s, as the Latino population has increased and moved into black neighborhoods. Overcrowding: a national problem

Though the Los Angeles County system is the one now under the microscope, law-enforcement officials say rising violence and overcrowding in prisons and jails are a national problem.

"The explosions of violence we are seeing in Los Angeles are systemic nationwide," says Terry Jungel, past president of the National Sheriffs Association. Years of get-tough-on-crime policies have emphasized rhetoric over funding, and strict confinement instead of programs to address prisoner problems or conditions, he says. "You are taking the troublemakers and rule-breakers of society all together in a confined space with close contact in an environment that was not designed for more violent criminals or for long periods of incarceration."

What might help ease tensions are programs that provide outlets for prisoners under stress - from more exercise time to anger-management classes - and for greater help for prisoners upon release from jail, some say.

"No one really knows yet exactly how this started, but it is clear that this is an opportunity to do everything we can to keep it from happening again," says Lita Herron, director of Mothers on the March, a community-based group that addresses crime and punishment issues in L.A. "There's no question this city has turned its back on incarcerated youth and turned our jails into a byproduct of such neglect. Now, we've seen the consequences of what happens if we continue to do nothing about it." Possible solutions

In recent years, L.A. County Sheriff Lee Baca twice tried, unsuccessfully, to get voters to approve sales-tax increases to upgrade facilities and staff.

Others suggest jail officials should segregate inmates by their proclivity toward violence, instead of by race or gang affiliation. And they say voluntary and state-funded counseling programs can help prisoners overcome the problems that landed them in jail, including drugs and domestic violence. Physical activities can keep inmates from going stir-crazy.

"There are places in L.A. County jails where people of all races and security risk are housed in dorms and getting along just fine," says Jody Kent, coordinator of the Jails Project at the ACLU of Southern California. "What is the difference? There are physical fitness programs to keep them from remaining in a tight space that would agitate anyone and ... educational programs that don't necessarily require extra staffing or supervision."

The public, however, is more concerned about punishing offenders than rehabilitating them, say Mr. Jungel and others.

"It is always hard to define the line between social retribution and meeting the needs of the inmate without appearing to have the comfort of a country club," says Jungel. "We are finding that incarceration costs more than Americans are currently willing to pay. But we are also finding that if we don't pay for the price of security, the price of no security is even higher."

Urgent Appeal For Jail Safety (LAT)

By Megan Garvey And Jack Leonard, Times Staff Writers

The Los Angeles Times, February 15, 2006

Supervisors want to know why inmates of varying threat levels are placed together, a practice called 'not permissible' a year ago.

A black inmate who died Sunday after a fight with Latino cellmates at Men's Central Jail had been placed in a group cell with inmates considered serious security threats, despite repeated warnings to sheriff's officials that mixing nonviolent and violent inmates can be deadly.

The death brought new criticism of the Sheriff's Department, which has struggled to calm racially charged violence in the jail system. It has faced scrutiny in the past for killings inside the jails when high-risk and lower-risk inmates are placed together.

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Sean Anthony Thompson, 38, had been arrested last week on suspicion of drug possession after he ran a stop sign in Long Beach. Jailers designated Thompson, the father of three, a "moderate security risk" because he had previous convictions for nonviolent felonies. Authorities said he was attacked after coming to the aid of a 63-year-old black cellmate, also charged with drug possession, who was threatened by three younger Latino inmates trying to take over a bunk bed that had the best light for reading. A fourth Latino in the cell did not take part in the attack.

Deputies had classified the three Latinos as so-called "level 8s" — the second-highest threat level in the county's inmate classification system and a designation given to inmates with a history of assaults or escapes. The men — ages 18, 21 and 25 — were in jail on such charges as robbery, felony assault with a gun and a parole violation on a previous attempted-murder conviction, Sheriff's Department sources said.

The Sheriff's Department continues to combine inmates of notably different threat levels even though the practice was deemed "not permissible" under any circumstances in a confidential report to the Los Angeles County Board of Supervisors more than a year ago that raised numerous safety concerns about the jail's use of security classifications.

That report by Merrick Bobb, who oversees the Sheriff's Department for the supervisors, was commissioned after the killing of five inmates over seven months in late 2003 and early 2004 — with three of the deaths blamed on victims being housed with more violent offenders.

Thompson's death marks the second time in three months that a jail inmate has died after being placed with more dangerous inmates. In November, a mentally ill man was stomped to death by violent gang members in a room with no supervision at Men's Central Jail in downtown Los Angeles.

Sheriff's officials acknowledged the practice is dangerous.

"We won't be doing that in the future. We're going to stop that," said Marc Klugman, head of the Correctional Services Division.

But he said the mixing of moderate-security threat inmates with more violent offenders will continue through the end of March, when jailers will be able to shift high-risk offenders to facilities such as the Twin Towers jail downtown.

In heated questioning of sheriff's jail officials at Tuesday's board meeting, county supervisors warned that they were facing massive liability if such mismatches continue.

"We are in a war," said Supervisor Mike Antonovich. "As we delay these ideas … we continue to provide a threat to the safety of our sheriff's personnel and other inmates who are in those facilities…. Somehow, you have a week of rioting, there can't be a greater sense of urgency for us to make timely decisions to bring on the additional personnel and make the necessary changes."

Supervisor Gloria Molina expressed growing frustration with the sheriff's effort to reduce jail violence in a testy exchange with Klugman during Tuesday's board meeting.

"Everything that's going on in our communities is coming into our jails in a concentrated form," Klugman said. "I agree with you that we need to do better. We're trying to do better."

That prompted Molina to retort: "That really leaves me almost hopeless about some of the issues that are going on…. Right now, we are creating a real Band-Aid operation out there."

Bobb called the dynamics in the six-man cell at Men's Central Jail where Thompson died "a tinderbox." He said that not only was the mixing of security levels dangerous, but the matchup of four Latino inmates to two black inmates was in itself a problem, particularly more than a week into large-scale racial rioting in the jail system.

"I am dismayed," Bobb said Tuesday, adding that he did not understand why changes recommended more than a year ago were still not implemented.

Sheriff Lee Baca is an elected official, not an appointee of the Board of Supervisors, although he and other sheriff's officials regularly appear before the board to answer questions. The supervisors fund the Sheriff's Department out of county revenue.

Thompson wasn't even in the system when rioting began at Pitchess Detention Center in Castaic on Feb. 4. He was stopped three days later by Long Beach police for allegedly running a stop sign and was arrested after officers found a small rock-like substance believed to be cocaine.

He pleaded not guilty Thursday to one felony count of possession of a controlled substance, according to the Los Angeles County district attorney's office. His bail was set at $35,000 and he was transferred to county jail.

Thompson's sister, Trina Thompson, said deputies did not tell her the other inmates were more dangerous.

They told her that her brother, a large man who suffered from high blood pressure and chronic asthma, tried to protect the older black cellmate.

"They shouldn't have placed that old man in there with those high security risk Latinos," she said. "My brother was outnumbered."

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Sheriff's officials said one of the four Latinos, a 30-year-old man charged with spousal rape and ranked a moderate security risk, did not participate in the fight.

Thompson complained of chest pains and shortness of breath after deputies broke up the disturbance. He died a short time later.

His autopsy was performed Monday, but Los Angeles County coroner's officials said the results would not be released until toxicology tests come back, probably in six to eight weeks. Sheriff's homicide detectives are investigating the case.

Thompson's longtime girlfriend, Joey Dasecke, 37, of Bellflower, said she did not learn what had happened to her companion of seven years until she tried to check on his whereabouts using the jail's Internet inmate finder Monday. On the site she saw Thompson listed as "deceased."

Criminal court records show a few drug possession charges for Thompson that date back to the early 1990s. Dasecke said he had had some problems with drugs but she knew of no instance when he had been violent.

At Tuesday's board meeting, Antonovich faulted sheriff's officials for the slow progress in recruiting deputies and attempts to improve security in the jails.

Reacting to news that Thompson had been housed alongside much more dangerous inmates, Antonovich said: "Doesn't that indicate that it's not working?"

Though no new major disturbances have occurred since Sunday, the riots and fights had gone on for the previous nine days, involving thousands of jail inmates.

In addition to Thompson's death, a black inmate was beaten to death in the first riot and more than 100 inmates have been injured, some seriously.

Sheriff's officials told county supervisors that they would not segregate inmates by either gangs or race.

Chief Sammy L. Jones, who heads the department's custodial division, said the jails do not have the space to properly separate gangs — an action that would leave many beds empty in dorms assigned to particular gangs.

Supervisors Zev Yaroslavsky and Don Knabe called on their colleagues to stop blaming sheriff's officials for the jail's problems, noting that the department was in the middle of revamping the way it decides where inmates should be housed.

"There's plenty of blame to go round," Yaroslavsky said, addressing sheriff's officials. "But I think that these guys are problem solvers."

Times staff writer Cynthia Cho contributed to this report.

Evolution Supporters Win In Ohio (USAT)

By Greg Toppo

USA Today, February 15, 2006

In the first major vote since a federal judge ruled last year that intelligent design can't be taught in public schools, the Ohio Board of Education voted Tuesday to eliminate science standards that asked students to apply a “critical analysis” to Darwin's theory of evolution.

Scientists had assailed the Ohio standards as an attempt to repackage intelligent design and introduce religious principles into science class. Intelligent design holds that life on Earth is so complex that it could have been created only by an “intelligent designer” such as God.

Tuesday's 11-4 vote rejected a short passage that said students should be able to “describe how scientists continue to investigate and critically analyze aspects of evolutionary theory.”

The board also rejected a model biology lesson that critics said promoted intelligent design. Three board members who voted in January to keep the optional lesson were absent Tuesday, and supporters of the materials said they would force a new vote to get the material back into students' hands.

In December, U.S. District Judge John E. Jones rebuked supporters of intelligent design, saying a 2004 effort by the Dover, Pa., school board to challenge Darwin violated the constitutional separation of church and state and was a thinly veiled attempt to introduce religion into science class.

Ohio Gov. Bob Taft called for the state board review earlier this month and warned members that he expected them to defend evolution. Board member Martha Wise, a 28-year member of the state board who had pushed for Tuesday's vote, later said she was “ecstatic.”

Wise, 72, a Methodist who says she believes in creationism, says the principle should not be taught in science class.

“I believe that religion and teaching of church and God should be done at home, should be done at church and can be done in any other classroom besides science.”

Taft, a Republican, set the stage for the vote earlier this month when he said intelligent design shouldn't be advocated by the state board.

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He also challenged board members to keep evolution in the education standards, which guide educators' decisions on how to build lessons.

Four state board members are up for reappointment at the end of the year. Taft told The (Cleveland) Plain Dealer, “I want to know what their views are before I decide whether to reappoint them.”

Ohio Board Undoes Stand On Evolution (NYT)

By Jodi Rudoren

The New York Times, February 15, 2006

COLUMBUS, Ohio, Feb. 14 — The Ohio Board of Education voted 11 to 4 Tuesday to toss out a mandate that 10th-grade biology classes include critical analysis of evolution and an accompanying model lesson plan, dealing the intelligent design movement its second serious defeat in two months.

The board, which became the first in the nation to single out evolution for special scrutiny under the academic standards it adopted in 2002, stripped the language from the curriculum partly out of fear of a lawsuit in the wake of a December ruling by a federal judge that teaching intelligent design in the Dover, Pa., public schools was unconstitutional.

While the Ohio lesson plan does not mention intelligent design, which posits that life is too complex to be explained by evolution alone, critics contend that the critical analysis language is simply design in disguise.

"This lesson is bad news, the 'critically analyze' wording is bad news," Martha W. Wise, the board member who offered the emergency motion, told her colleagues during 90 minutes of contentious debate here Tuesday afternoon. "It is deeply unfair to the children of this state to mislead them about the nature of science."

Darwin's defenders celebrated the reversal as a sign of a backlash against the inroads made last year by critics of evolution. But leaders of the Discovery Institute, the intellectual home of intelligent design, warned that Ohio's move would create a backlash of its own.

"It's an outrageous slap in the face to the citizens of Ohio," said John G. West, associate director of the Center for Science and Culture at the institute, referring to several polls that show public support for criticism of evolution in science classes.

"The effort to try to suppress ideas that you dislike, to use the government to suppress ideas you dislike, has a failed history," Mr. West said. "Do they really want to be on the side of the people who didn't want to let John Scopes talk or who tried to censor Galileo?"

But Eugenie C. Scott, director of the National Center for Science Education, called the Ohio vote "a significant victory" and said it should give pause to school districts and states considering changes in how evolution is taught.

The Discovery Institute had offered Ohio as a national model for its "teach the controversy" approach on evolution. Kansas, Minnesota, New Mexico and Pennsylvania have adopted similar "critical analysis" standards, and the South Carolina Board of Education is scheduled to vote next month on whether to add a similar phrase to its curriculum guidelines.

"This language from Ohio, the critically-analyze-evolution type language, is sprouting up all over, in both the local level, as well as with other state standards," Ms. Scott said. "The Ohio board has recognized its error, and other school districts should not make that same error."

The model lesson plan is voluntary, and it is unclear how many of Ohio's 613 local school districts use it. At Tuesday's meeting, Robin C. Hovis, a board member who urged its deletion, said that "we allow a Dover risk to remain if we leave this lesson plan on the shelf."

The vote followed Mrs. Wise's failed effort last month to kill the lesson plan, after which Gov. Bob Taft, a Republican, called for a legal review of the lesson in light of the Dover ruling. On Tuesday, a board member who supports the critical-analysis approach tried to pre-empt Mrs. Wise's motion by asking the attorney general to take a formal look, but defenders of evolution prevailed in a parliamentary maneuver.

Michael Cochran, one of three lawyers on the 19-member board, criticized Mrs. Wise's supporters as undoing a lengthy process that had led to adoption of the standards with an emergency motion on an afternoon that four members, three of whom support the lesson, were absent.

"It is absolutely disgraceful that we've had this for three years, and we can't wait another month," Mr. Cochran said. "I think that's by design. Not intelligent design, but by design."

Deborah Owens Fink, who along with Mr. Cochran voted against eliminating the critical-analysis language, said after the meeting that the vote was just another round in the culture war, not a knockout.

"There are no permanent victories in politics," Ms. Fink said. "You do not get paradigm shifts overnight. Whether the ultimate victory is today or it's tomorrow or it's two years from now, people demand that they get open discussion of this issue."

Ehrlich To Veto Bill On Felons (WT)

DOJ_NMG_0015288

By S.a. Miller

The Washington Times, February 15, 2006

ANNAPOLIS -- Gov. Robert L. Ehrlich Jr. yesterday vowed to veto a bill that would restore voting rights to felons, including the state's most violent criminals, immediately upon their release from prison.

"I don't think you reward the franchise to those who commit the most horrific crimes," Mr. Ehrlich, a Republican, told The Washington Times. "Full restoration of every right is inappropriate."

Dozens of House Democrats have co-sponsored legislation that would allow about 150,000 murderers, rapists, robbers and other felons to vote this year, and the state Democratic Party has endorsed the bill.

The bill's lead sponsor -- Delegate Salima Siler Marriott, Baltimore Democrat -- said yesterday that Mr. Ehrlich's position reinforces the racist underpinnings of the state law that denies the vote to felons, of whom about 85,000 are black.

Mrs. Marriott, who is black, said Mr. Ehrlich's sentiment "reflects the thinking" of Carter Glass, a delegate to the Virginia Constitutional Convention of 1901 who said felon disenfranchisement aims to "eliminate the darkie as a political factor."

"We all were raised in a racist society," said Mrs. Marriott, stressing that she was not calling Mr. Ehrlich a racist. "Let us be clear about what were the intentions of these laws."

Mr. Ehrlich said he would not "indulge her" by responding to her comments.

"There are white felons. Every issue isn't a racial issue around here," said the governor, who is seeking re-election.

Democratic lawmakers have attributed the Marriott bill's popularity to their party's aim to oust Mr. Ehrlich and secure black votes after Lt. Gov. Michael S. Steele, a Republican, in 2002 became the first black to win statewide office in Maryland.

According to Justice Maryland, a penal reform group that supports voting rights for felons, about 60 percent of Maryland felons are black and likely Democrats.

Ex-convicts could decide this year's election. Mr. Ehrlich won the 2002 gubernatorial race by about 66,000 votes, and the contest this year is expected to be even closer.

Neither of the Democratic gubernatorial candidates -- Baltimore Mayor Martin O'Malley and Montgomery County Executive Douglas M. Duncan -- has taken a position on immediately restoring felons' voting rights. Mr. O'Malley has said he favors a waiting period after prison before giving felons the vote.

Mr. Ehrlich said he is convinced that some Democrats are backing the bill for "purely partisan purposes."

"The vast majority of Marylanders would share my concern with the issue [and] would support my veto," he said.

The bill, which has more than half the 71 House votes needed for passage, has died in the General Assembly for three consecutive years. However, it appears to have momentum in both chambers this year.

"Once they have paid their debt to society, clearly they should be able to vote," Senate President Thomas V. Mike Miller Jr., Prince George's Democrat, said yesterday.

House Speaker Michael E. Busch, Anne Arundel Democrat, said the issue warrants study.

"It's obvious this [Democratic] leadership is tilting strongly left," Mr. Ehrlich said. "Maryland is a much more moderate state."

Sen. Andrew P. Harris, Baltimore County Republican and minority whip, said his caucus overwhelmingly shares the governor's view.

"Violent offenders give up the [voting] right when they commit a violent crime against another person," he said.

House Republican leaders also have said that most of the caucus would oppose the bill.

However, the Democratic majority is large enough in both chambers to pass the bill without Republican support.

Maryland is one of 11 states that disenfranchise some felons for life. The others are Alabama, Arizona, Delaware, Florida, Kentucky, Mississippi, Nevada, Tennessee, Virginia and Wyoming.

Virginia Gov. Mark Warner, a Democrat, restored the voting rights of 3,414 felons on a case-by-case basis -- more than any other governor of the 11 states with restrictions.

Douglass Still Battling The Old South (WP)

By Courtland Milloy

The Washington Post, February 15, 2006

A kind of Civil War reenactment is underway in Talbot County on Maryland's Eastern Shore. A proposed statue of Frederick Douglass, the county's most famous native son, would be located near a Confederate memorial on the courthouse lawn. And to the dismay of some residents, the memorial to Douglass would be bigger.

Renowned sculptor Ed Dwight, at the request of a group of local activists known as Fred's Army, has come up with a preliminary design that takes up nearly a fifth of the courthouse lawn and would render the Confederate memorial little more than a pigeon perch by comparison.

Battle lines have been drawn.

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"The policy adopted by the county is that any new statue would not exceed the proportions or dimensions of other statues," Philip C. Foster, a member of the Talbot County Council, told me. "And anyone who didn't die in a war would not be acknowledged as greater than those who did."

The Confederate memorial, 13 feet high and erected about 1913 in honor of "the Talbot Boys," is the only statue on the courthouse lawn. The cherubic-looking soldier holds a Confederate flag. The initials C.S.A., for Confederate States of America, are engraved on the pedestal.

Veterans groups and others have argued that the courthouse lawn is "hallowed ground" and should be reserved for war veterans. And they insist that race is not an issue, which, to a certain extent, is true. Fred's Army is racially mixed. And one or two black residents are said to have sided with those who oppose placing a statue of Douglass on the lawn.

But the notion that a memorial to an influential statesman and anti-slavery activist should be no greater than what is, in effect, a monument to slavery, is heavily freighted with race. And the objection that Douglass was not a war veteran discounts his role in the deadly struggle for racial equality.

"I don't concern myself with the Talbot Boys, except to say that if there can be a statue that represents what the Confederacy stood for, then we should be able to have a statue that represents what Douglass stood for," said Moonyene Jackson-Amis, a member of the City Council in Easton, the county seat, and a self-proclaimed "soldier" in Fred's Army.

The memorial would be a landscaped mini-plaza, about 35 feet long and 25 feet wide, with a border of bronze panels that depict various periods in Douglass's life. At the center would be a bronze statue of Douglass standing, on a pedestal, as high as the Confederate statue: 13 feet.

In 2004, the County Council voted 3 to 2 in favor of having a statue of Douglass at the courthouse. Foster cast the deciding vote. But his support is no longer assured.

Asked about Foster's concern that the proposed Douglass memorial might be too large, Jackson-Amis replied: "The only guideline we received was that the memorial could not be over 13 feet tall, no higher than the Confederate statue. We abided by that. Now they seem to be backpedaling."

There are numerous references to Douglass in Talbot County. If you drive along Route 303 in northeastern Talbot, you'll come to a marker noting the spot where he was born a slave on Feb. 14, 1818. A cabin used to be just off the road, but it's long gone. All that remains is a clump of trees.

During a recent Black History Month program in Easton, historian Bernard Demczuk told the audience that the absence of a monument to Douglass in Talbot was no accident.

"Black history was, essentially, 'disrecognized' in many rural areas," he said. "This phenomenon of the invisibility of black history is a Southern-styled, genteel form of white supremacy . . . as a legacy of slavery."

The Confederate memorial includes the names of Talbot residents who fought under the Stars and Bars even though Maryland remained in the Union. The first name on the list is Adm. Franklin Buchanan, a former commandant of the Washington Navy Yard, who defected to the Confederacy and fought for the South as a naval commander during the Battle of Mobile.

"He was a slave owner, a wealthy plantation owner, whose house is not far from here," Demczuk said. "Buchanan invited Jefferson Davis [the president of the Confederacy] to his plantation to recuperate after the Civil War. This guy was a major traitor, and to have his name at the top of a monument in Talbot County is an insult."

Not having a monument to Douglass even more so.

ANTITRUST:

U.S., EU Probe Airlines For Price-Fixing On Cargo (WSJ)

By Daniel Michaels And John R. Wilke

The Wall Street Journal, February 15, 2006

Several major air-cargo carriers were raided by U.S. and European antitrust enforcers as part of a trans-Atlantic investigation into possible price-fixing and collusion in air cargo, officials said.

Federal Bureau of Investigation agents raided British Airways facilities at New York's Kennedy Airport yesterday morning, confiscating computers and gathering documents, one official said; similar searches of airlines' facilities took place in Chicago, Miami, San Francisco and Long Beach, Calif. The European Commission conducted its own raids at the same time, saying it had carried out "unannounced inspections" of airline facilities and offices in Europe.

A spokeswoman for the U.S. Justice Department said the antitrust division was coordinating with the European Union and "investigating the possibility of anticompetitive practices in the air-cargo industry."

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Although neither authority specified which carriers are under investigation, British Airways, freight carrier Cargolux Airlines International of Luxembourg and units of Air France-KLM said they had been asked for information related to alleged anticompetitive activities, though they declined to comment further. German airline Lufthansa said it was cooperating with authorities.

In the U.S., AMR Corp. said its American Airlines cargo division received a subpoena from U.S. antitrust officials, though it said it wasn't told it was a target of the investigation and hadn't received a search warrant. UAL Corp., parent of United Airlines, said officials visited its cargo office in Frankfurt, though it didn't discuss further details. Atlas Air Worldwide Holdings Inc. said its Polar Air Cargo unit received a formal request for information from U.S. officials. The three said they would cooperate.

Japan Airlines said that its offices in Frankfurt and New York were searched and that it will cooperate.

None of the airlines have been accused of wrongdoing.

According to a statement by Scandinavian Airlines Systems, which said its offices were raided, European officials are investigating whether airlines have cooperated illegally on routes both within Europe and outside the EU since 2000. The statement didn't specify any airlines. SAS said the practices under investigation involved agreements regarding certain surcharges to offset external cost increases.

These include fuel surcharges, security measures after the Sept. 11, 2001, terrorist attacks in the U.S. and the increased cost of war-risk insurance following the start of military action in Iraq in 2003, SAS said. The airline added, however, that it sees no reason to suspect any violations of antitrust laws.

EU regulators said the raids were just the beginning of an investigation and don't mean that the companies raided will be found guilty or fined.

It remains unclear by what mechanism the airlines may have illegally cooperated. Since the global airline crisis that followed the Sept. 11, 2001, terrorist attacks, carriers have sought to pass increased costs along to customers. In the price-sensitive passenger-airline market, this has been difficult, although many carriers -- especially outside the U.S. -- have imposed passenger fuel surcharges.

Cargo shippers, which use both dedicated cargo airlines and cargo space in the bellies of passenger planes, have routinely paid fuel surcharges, even before Sept. 11, 2001. Cargo shippers have passed that cost, normally set as a fee per ton of cargo, along to their customers.

The European Commission can penalize companies as much as 10% of their annual global sales if they find evidence of price-fixing and faces no strict deadline to complete a cartel investigation. In the U.S., price-fixing is a criminal offense carrying stiff fines and possible jail sentences for executives.

European regulators have stepped up cooperation with the Justice Department in recent years, resulting in a rise in global-cartel cases. Under what are known as leniency rules, a cartel participant who blows the whistle and agrees to provide evidence against the others can receive immunity. It isn't clear if one of the airlines involved in the investigation acted as a whistle-blower.

In 2002, the EU changed its policy to mirror U.S. law. A lack of trans-Atlantic coordination had discouraged international cartel participants from self-reporting illegal activity for fear that a confession in one jurisdiction could lead to legal jeopardy in another, U.S. and EU antitrust officials have said.

Regulators Launch Probe Of Cargo Carriers (AP)

By Jane Wardell, AP Business Writer

AP, February 15, 2006

U.S., Europe Regulators Launch Probe of Cargo Carriers, Examine Possible Price Fixing in Industry

LONDON (AP) -- U.S. and European regulators have launched a probe of trans-Atlantic cargo carriers, examining possible price fixing in the air cargo industry.

The European Commission carried out surprise inspections Tuesday at several major Europeans airlines, while the U.S. Justice Department issued subpoenas.

British Airways, Air France, KLM, Lufthansa and Luxembourg's Cargolux Airlines all confirmed they were cooperating with authorities investigating the pricing practices in the industry.

The largest U.S. airline, AMR Corp.'s American Airlines, also said it has received a subpoena from the Justice Department as part of an investigation into practices in the air-cargo industry.

American was not been told it was a target of the investigation "and unlike some other airlines," didn't receive a search warrant, spokesman Tim Wagner said. He said the Fort Worth, Texas-based airline would cooperate fully with investigators.

United Airlines, a unit of UAL Corp., said its United Cargo office in Frankfurt, Germany received an inquiry from European authorities.

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"We are giving the European authorities our full cooperation in this matter," spokesman Jeff Green said in an e-mail to The Associated Press. "United conducts its business in full compliance with European rules and regulations."

In Houston, a spokeswoman for Continental Airlines Inc. said that carrier had not received a subpoena.

Also Tuesday, Justice Department officials searched Japan Airlines' cargo offices at New York's JFK International Airport, airline spokesman Steve Pearlman said Wednesday in Tokyo. EU officials also searched JAL offices in Frankfurt.

In a brief statement to the London Stock Exchange, British Airways PLC said it had received a request for information from both the European Commission and the Department of Justice and was assisting in the probe.

Justice Department spokeswoman Gina Talamona said that U.S. investigators are working with the EU and other authorities to investigate possible "anti-competitive behavior."

Patrick Jeanne, a spokesman for cargo airline Cargolux Airlines International SA, said the carrier had been visited Tuesday by EU inspectors.

KLM spokesman Hugo Baas confirmed KLM is included in the probe and that investigators were at the company today. He said KLM is extending "full cooperation, and we have all the faith in the outcome of the investigation."

Lufthansa AG and Air France issued similar statements pledging cooperation. KLM and Air France are part of Air France-KLM Group.

The EC said surprise inspections are a preliminary step in investigations into suspected cartels.

"The fact that the European Commission carries out such inspections does not mean that the companies are guilty of anti-competitive behavior nor does it prejudge the outcome of the investigation itself," it said in a statement.

It provided no further detail of what was being examined and put no time frame on the completion of its investigation.

BA said its policy is "to conduct its business in full compliance with all the applicable competition laws."

The airline said it had no immediate comment beyond its statement.

LAN Cargo, the cargo division of Chile's flag airline LAN Chile, said Tuesday that U.S. government officials appeared at its Miami office as part of the probe.

The company said in a statement that "it is giving maximum cooperation to the authorities in charge of the investigation."

UPDATE 4-Airlines Raided In EU, U.S. Cargo Probe (REU)

By David Lawsky and Jeremy Pelofsky

Reuters, February 14, 2006

BRUSSELS/WASHINGTON, Feb 14 (Reuters) - U.S. and European officials raided airlines on both sides of the Atlantic on Tuesday in an investigation of possible price-fixing of freight shipments by passenger and cargo airlines.

The European Union's executive arm and the U.S. Justice Department conducted searches of some leading passenger airlines' cargo operations in Europe and around the United States, and other airlines were asked for information related to the probe.

"The Commission has reason to believe that the companies concerned may have violated (a European Union) treaty, which prohibits practices such as price fixing," the European Commission said in a statement.

In Washington, the U.S. Justice Department said it was also participating in the probe. "We're coordinating with the EU and other foreign competition authorities," said spokeswoman Gina Talamona, declining to provide more details.

U.S. law enforcement officials said searches took place in New York; Chicago; Miami; Boca Raton, Florida; San Francisco; and Long Beach, California.

It is against the law in most countries for companies to collude to set prices or divide territory. It is standard practice for antitrust authorities in Europe, the United States and other countries to coordinate simultaneous raids on suspects in cartel cases.

The European Commission said it had conducted raids and while it declined to name the targets, Scandinavian airline SAS (SAS.ST: Quote, Profile, Research) revealed it had been raided.

"We don't feel there is any reason for concern, but this will have to be verified," spokesman Hans Ollongren said.

British Airways Plc (BAY.L: Quote, Profile, Research), Air France KLM (AIRF.PA: Quote, Profile, Research), and freight airline Cargolux said they were asked for information related to alleged cartel activity. German carrier Lufthansa (LHAG.DE: Quote, Profile, Research) also said it would cooperate with the probe.

Search warrants were executed at KLM and Air France cargo terminals at Chicago's O'Hare International Airport, according to FBI spokesman Ross Rice. "No arrests were made, no charges have been filed," he said.

"Everything is sealed so we can't talk about it," said another law enforcement official with knowledge of the matter when asked about the search warrants.

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The world's two biggest airlines, AMR Corp.'s (AMR.N: Quote, Profile, Research) American Airlines and UAL Corp.'s (UAUA.O: Quote, Profile, Research) United Airlines, both said they received inquiries as part of the probe.

No. 1 carrier American said it has been subpoenaed by Justice Department investigators but said it has not been told that it is a target of the investigation and has not received a search warrant, like some other carriers.

"American intends to cooperate fully with the DOJ's investigation," said Tim Wagner, an airline spokesman.

United said its cargo office in Frankfurt received an inquiry from European authorities.

Polar Air Cargo Inc., a unit of Atlas Air Worldwide Holdings Inc., said it received a request for information as well.

Cargo outfits FedEx(FDX.N: Quote, Profile, Research), UPS (UPS.N: Quote, Profile, Research) and Deutsche Post's (DPWGn.DE: Quote, Profile, Research) express courier DHL said they were not included in the probe.

Cargo receipts are a reliable stream of revenue for passenger airlines, which carry mail and other packages in the belly of planes.

Revenue for most passenger airlines has been growing with rebounding travel but high costs linked to soaring fuel prices have led to big losses.

In response to higher fuel costs, airlines have previously said they would hike fuel surcharges on freight shipments.

"Generally speaking in these types of circumstances what they're looking for is documents, laptop computers, electronic records, that would reveal evidence of some sort of collusion to which the authorities have been alerted," said James Loftis, an antitrust lawyer with the firm Gibson, Dunn & Crutcher LLP. (Additional reporting by Michael Smith and Jason Neely in London; Jeff Mason in Brussels; Simon Johnson in Copenhagen; Andreas Moeser in Frankfurt; John Crawley, Peter Kaplan and Jim Vicini in Washington)

American Confirms Federal Probe Over Pricing Practices (FWST)

By Trebor Banstetter

The Fort Worth Star-Telegram, February 15, 2006

FORT WORTH — The U.S. Department of Justice has subpoenaed American Airlines in conjunction with an investigation into pricing practices in the air cargo industry, American officials said Tuesday.

The subpoena was served by the department's antitrust division, said a spokesman, Tim Wagner. It came amid a European Union probe into possible anti-competitive practices within the European air cargo industry.

"American has not been notified that it is a target of the investigation," he said. "Unlike some other airlines, (American) has not received a search warrant."

He added that the Fort Worth-based airline "intends to cooperate fully with the (department's) investigation."

On Tuesday, investigators with the European Union raided the offices of British Airways, Air France-KLM and Deutsche Lufthansa, according to a Bloomberg News report.

Officials with United Airlines confirmed that they also were cooperating with investigators on the issue.

American and most other airlines have implemented fuel surcharges on cargo operations during the past year to help offset the rising cost of jet fuel. American's cargo operations brought in about $622 million last year, down slightly from $625 million the previous year.

Shares of AMR Corp., American's parent company, rose 93 cents, or about 4 percent, to close at $24.96 in trading Tuesday.

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Japan Air, Cathay Pacific In EU's Air Cargo Probes (Update1) (BLOOM)

Bloomberg, February 15, 2006

Feb. 15 (Bloomberg) -- Japan Airlines Corp. and Cathay Pacific Airways Ltd. said they are among at least 10 global airlines under investigation by European and U.S. regulators into possible price fixing in the air cargo market.

European Union investigators yesterday raided the offices of Japan Airlines, British Airways Plc, Deutsche Lufthansa AG and Air France-KLM Group, according to the carriers. Hong Kong-based Cathay Pacific said its offices in Frankfurt, Los Angeles and San Francisco were included in the probes.

The push for ``the investigation is probably from the U.S." because ``the basic rule in America is Thou Shall Not Fix Prices," said Jim Eckes, managing director of Hong Kong-based Indoswiss Aviation, which advises global airlines. ``It looks like a very sizeable investigation" and ``the EU will be very determined to stamp out this sort of thing."

The global air freight industry, which expanded 12 percent in 2004 to 37.6 million tons of cargo, is under scrutiny for the way rates are set. Under EU law, the European Commission can impose a fine of as much as 10 percent of annual sales on companies found to be operating a cartel. It typically opts for about 2 percent to 3 percent of sales.

``The commission has reason to believe that the companies concerned may have violated'' EU cartel rules, according to a statement yesterday by the Brussels-based commission.

FedEx Corp., the second-largest U.S. package delivery company, said it has not been contacted by the commission, according to an e-mail today by spokeswoman Julia Khong.

Request for Information

AMR Corp.'s American Airlines unit received a subpoena while UAL Corp.'s United Airlines received an ``inquiry'' from EU officials through its United Cargo office in Frankfurt, according to the carrier's spokesman Jeff Green.

``We are cooperating with the investigation,'' Tokyo-based Japan Airline's spokeswoman Yuko Takahashi said by phone today, confirming the company's Frankfurt office was raided yesterday. The airline's shares fell as much as 1.2 percent to 323 yen and traded at 324 yen after four directors demanded for the resignation of Chief Executive Officer Toshiyuki Shinmachi to take the blame for the carrier's poor performance. Shinmachi rejected the demand.

``Cartel Activity''

U.S. Justice Department and European officials requested information on ``cartel activity'' involving British Airways and a number of other airlines and cargo operators, the London-based carrier said in Regulatory News Service statement.

``The antitrust division is investigating the possibility of anticompetitive practices in the air cargo industry,'' the U.S. Justice Department's spokeswoman Gina Talamona said yesterday.

The largest EY cartel fine was 462 million euros ($550 million) levied against Roche Holding AG in 2001 for fixing the price of vitamins.

Polar Air Cargo, a unit of Atlas Air Worldwide Holdings Inc., also received a request for information related to the probe from the U.S. government. It's fully cooperating, the company said in a regulatory filing.

LAN Cargo, a division of Chile's LAN Airlines SA, said in an e-mail that investigators arrived yesterday at its offices in Miami in connection with the investigation. LAN Cargo said its operations haven't been affected.

``Cathay Pacific is in cooperation with the European Commission and U.S. Department of Justice in respect of their investigation into air cargo operations,'' the Hong Kong airline said today. ``The airline is in strict compliance with the applicable legislation in all of its operating market.''

Cathay Pacific's shares rose 1.8 percent to HK$14.35 at 12:29 p.m. in Hong Kong.

Investigations in Korea

Separately, South Korea's two largest carriers said they were visited yesterday by the nation's Fair Trade Commission.

Korean Air Lines Co., the world's biggest carrier of international air freight in 2004, had its office at Gimpo raided, said the Seoul-based company's spokesman Lee Hyoung Woo.

Asiana Airlines, South Korea's second-biggest airline, also got a visit, said spokesman Kim Hyung Jin.

Neither airline said what the investigation was for. The South Korean Fair Trade Commission's spokesman Park Hyun Chul declined to say if its investigation was connected to the joint probes by the EU and the U.S. Justice Department.

Korean Air's shares rose 4.1 percent to 30,500 won while Asiana shares rose 2.7 percent to 7,560 won in Seoul.

To contact the reporter on this story: Naoko Fujimura in Tokyo on nfujimura@bloomberg.net Last Updated: February 14, 2006 23:33 EST

EU Raids British Airways, Lufthansa In Cargo Probe (Update9) (BLOOM)

By Matthew Fletcher Matthew Newman

Bloomberg, February 15, 2006

Feb. 14 (Bloomberg) -- European Union investigators raided the offices of British Airways Plc, Deutsche Lufthansa AG, Air France-KLM Group and several competitors in a probe with the U.S. Justice Department of price fixing in the air cargo market.

Antitrust officials entered the offices of carriers in several EU states to investigate, the Brussels-based European Commission said in a statement today. ``The commission has reason to believe that the companies concerned may have violated'' EU cartel rules. American Airlines said it was subpoenaed, and United Airlines said it was contacted as part of the probe.

Under EU law, the commission can fine companies accused of operating a cartel as much as 10 percent of their annual sales. It typically opts for about 2 percent to 3 percent of sales.

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``It's the first time that the commission has investigated the airline industry," Jacques Bourgeois, a partner in the Brussels office of Akin Gump Strauss Hauer & Feld and a former commission official, said in a telephone interview. ``The airline industry operates worldwide. From a trustbuster's point of view, it makes sense to cooperate with other antitrust authorities."

British Airways and Lufthansa said they're assisting with the probe. U.S. and European officials requested information on ``cartel activity" involving the London-based airline and a number of other airlines and cargo operators, British Airways said in Regulatory News Service statement.

``The antitrust division is investigating the possibility of anticompetitive practices in the air cargo industry," said Gina Talamona, a Justice Department spokeswoman.

Coordination

The agency is coordinating its efforts with the EU and other foreign competition authorities, she said. Talamona declined to comment on details of the probe.

Lufthansa said its cargo unit, the world's second-largest air-freight carrier, is cooperating with the investigation and that it would give no further information on the matter.

Air France is also part of the European Commission's investigation and will cooperate fully, said spokeswoman Brigitte Barrand. Air France is Europe's largest airline.

The largest EU cartel fine was 462 million euros ($550 million) levied against Roche Holding AG in 2001 for fixing the price of vitamins.

U.S. Carriers

The cargo division of AMR Corp.'s American Airlines also received a subpoena, company spokesman Tim Wagner said in an e- mail. ``American has not been notified that it is a target of the investigation, and unlike some other airlines, has not received a search warrant," he said.

UAL Corp., parent of United Airlines, received an ``inquiry" from EU officials through its United Cargo office in Frankfurt, spokesman Jeff Green said in an e-mail. ``United conducts its business in Europe in full compliance with European rules and regulations," and the airline is cooperating, he said.

Polar Air Cargo, a unit of Atlas Air Worldwide Holdings Inc., also received a request for information related to the probe from the U.S. government. It's fully cooperating, the company said in a regulatory filing.

Continental Airlines Inc. didn't receive a subpoena, spokeswoman Julie King said in an interview.

Delta Air Lines Inc. spokesman Anthony Black said he couldn't immediately comment on the investigation.

LAN Cargo, a division of Chile's LAN Airlines SA, said in an e-mail that investigators arrived today at its offices in Miami in connection with the investigation. LAN Cargo said its operations haven't been affected.

Cathay Pacific Airways Ltd. and Japan Airlines Corp. were also part of the investigation, the Associated Press reported.

Cargolux

Cargolux Airlines International SA, a Luxembourg-based freight carrier, is also being investigated by the European Commission, spokesman Patrick Jeanne said in a telephone interview.

``It's just started today, so we don't have any specifics to give you," Jeanne said.

Cargolux is Europe's largest all-cargo carrier with a fleet of 14 Boeing 747 freighters and 90 destinations in its network, according to the company's Web site. The privately held airline posted sales of $1.2 billion in 2004.

Lufthansa Cargo, based in Frankfurt, operates a fleet of 19 MD-11F freighters and uses space in the bellies of the Lufthansa passenger airline's planes as well. It carried 1.74 million tons of freight in 2005 to 512 destinations worldwide.

Air France-KLM in the year ended March 31 had cargo revenue of 2.49 billion euros. British Airways' cargo operations generated 482 million pounds ($835 million) in sales, or 6.2 percent of group revenue, over the same period.

Airlines Raided In Cargo Price Cartel Probe (FT)

By Tobias Buck In Brussels, Kevin Done In London And Stephanie Kirchgaessner In Washington

Financial Times, February 15, 2006

European and US antitrust officials on Tuesday raided the offices of British Airways, Lufthansa, Air France-KLM, Cargolux and other air-cargo companies as part of a transatlantic cartel probe.

The European Commission said its officials had “carried out unannounced inspections at the premises of several air cargo carriers in several EU member states”.

The Brussels-based regulator said it had “reason to believe that the companies concerned may have violated” European rules prohibiting price-fixing and other cartel abuses.

It is understood that among the issues under investigation by the Commission is the way the industry imposes surcharges on air freight rates for items such as fuel, security and war risk.

The targeted groups could face financial penalties if they are found guilty of operating a price-fixing or market-sharing cartel.

Under EU legislation, the Commission can impose cartel fines of up to 10 per cent of a company's global annual turnover – though Brussels normally settles for a lower penalty.

The US Department of Justice said it was also investigating the industry. "I can confirm that the antitrust division is investigating the possibility of anticompetitive practices in the air cargo industry. We are co-ordinating with the EU and other foreign competition authorities," a spokeswoman said.

The Commission never reveals the names of the companies it has raided, but several groups said they were under investigation or had received "requests for information".

BA said it had received information requests both from the Commission and the US Department of Justice. It is understood that antitrust officials raided the British carrier's offices at Heathrow airport and in New York.

Lufthansa issued a statement saying cartel authorities were investigating the air cargo sector and that the group would "fully support" the inquiries. It did not say explicitly whether Lufthansa offices had been raided.

Other companies that confirmed they were part of the investigation are: Cargolux, the Luxembourg-based group; SAS, the Scandinavian carrier; and Air France-KLM.

FedEx and UPS, the leading air cargo operators by revenue, said they had not been contacted and Deutsche Post said its carrier, DHL, was not targeted, Reuters reported.

Lufthansa and Air France-KLM are the biggest cargo carriers among the network airlines, each achieving revenues in 2004 of about $2.9bn (€2.4bn). Air cargo at BA accounted for £482m (€702m), or 6 per cent of total group revenues in the 12 months to March 2005.

The regulator stressed on Tuesday that the "fact that the European Commission carries out such inspections does not mean that the companies are guilty of anticompetitive behaviour nor does it prejudge the outcome of the investigation itself".

BA Among Airlines Raided In Cartel Inquiry (TIMES)

By Angela Jameson

London Times, February 15, 2006

BRITISH AIRWAYS premises were raided yesterday by officials from the European Commission, over suspicions of price-fixing in its cargo business.

The British airline was one of at least ten airlines that were subject to surprise visits from the Commission, which suspects cartel activity among several air cargo carriers operating from European Union member states.

British Airways revealed that it was under investigation in a statement to the London Stock Exchange. The airline said that it had received a request for information from the Commission and the United States Justice Department "relating to alleged cartel activity involving BA and a number of other airlines and cargo operators. British Airways' policy is to conduct its business in full compliance with all the applicable competition laws. BA is assisting the EC and the US Department of Justice with their investigation," the statement said.

Air France, KLM, Lufthansa, SAS and Cargolux, a cargo specialist, also confirmed that they had been visited by European officials. The Commission uses such inspections as a first step in investigations into suspected cartels. However, it pointed out that a raid on any premises does not mean that the company is guilty of anti-competitive behaviour, nor does it prejudge the outcome of the investigation itself.

The cartel investigation could drag on for months as there is no deadline to complete price-fixing inquiries. The duration of the case depends on several factors, including its complexity, the extent of subjects' co-operation and whether they exercise their rights to a defence.

Cartel activity in the United States is a criminal offence and can result in long prison terms, while in the EU companies face fines that are capped at 10 per cent of annual turnover.

UPS Says Not Contacted Over Cartel Probe (REU)

Reuters, February 14, 2006

CHICAGO (Reuters) - United Parcel Service Inc. (UPS.N: Quote, Profile, Research) said on Tuesday that it has not been contacted by the European Commission in connection with a probe into possible anti-competitive activity.

"We have received no communications on this issue," said UPS spokesman Norman Black.

He added that UPS, the world's largest package delivery company, had also received no contact from the U.S. Justice Department, which is coordinating with the EU and other foreign competition authorities.

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Officials at the European Commission said on Tuesday that they had raided several air cargo carriers on suspicion of cartel activity.

New York Focuses Antitrust Probe Of Record Labels (CNET)

By John Borland, Staff Writer, CNET News.com

CNET News, February 15, 2006

New York State Attorney General Eliot Spitzer has sent record labels a new round of subpoenas in his investigation of online-music pricing, music industry sources said Tuesday.

The second inquiry, following an initial round of subpoenas issued in late December, is more tightly focused on the issue of the labels' digital download activities, sources said. Labels had previously expressed concern to Spitzer's office that the original subpoenas were too broad, sources said.

Warner Music Group said in a federal securities filing Tuesday that it received a second subpoena from the New York office Feb. 3. The company did not provide details other than to say Spitzer was investigating whether digital download pricing practices had violated state and federal antitrust laws.

"We intend to cooperate fully with the Attorney General's inquiry," the label said in its filing.

A representative for Spitzer's office declined to comment on the investigation.

Spitzer's inquiry has reopened some old tensions between the record labels, which control wholesale digital music prices, and the online companies that use that content in their own businesses.

In the early days of digital music, Web companies routinely complained that labels were acting unfairly, ultimately helping trigger a federal antitrust investigation into labels' online activities. That investigation closed without any evidence of illegal behavior being unearthed.

The New York investigation comes after several music executives, from companies, have said they want to move away from the universal 99 cent price tag for song downloads and toward a model more like offline record stores, where prices can vary up or down.

Digital-music companies, some of which have also received subpoenas in Spitzer's investigation, have previously said they expected at least one major record label to begin experimenting with variable wholesale pricing early this year. That could be put on hold as a result of Spitzer's actions, however.

A California class action lawsuit has also been filed against the record labels in San Diego on the issue of download pricing, shortly after Spitzer's investigation was initially reported, according to Warner's securities filing.

Microsoft Hopes New Data Code Will Satisfy EU (BLOOM)

By MATTHEW NEWMAN AND CARY O'REILLY, BLOOMBERG NEWS

Bloomberg, February 15, 2006

Today is deadline for regulators to receive plan

Microsoft Corp. will tell European Union regulators today of its plan to provide new source code data for the Windows operating system in an effort to avoid a $2.4 million daily fine.

Microsoft also said it will ask for a hearing when it replies to EU demands for complete and accurate data that will help rival software makers. The EU set today as the deadline for receiving Microsoft's plan.

"We are really, we think, fully complying with the decrees of the European Union," Microsoft Chief Executive Steve Ballmer said Tuesday at the 3GSM World Congress in Barcelona, Spain. "We are trying to work with the commission to ensure they agree we have taken the right steps."

Separately, the company told a U.S. court Tuesday that it will license its source code to speed compliance with a 2001 antitrust settlement with the U.S. government.

The European Commission, the EU's antitrust regulator, warned Microsoft in December that the company would be fined unless it provided information to help competitors develop network software that can communicate with Windows-based systems.

The company is "confident of the sufficiency, completeness and usability of the documentation provided so far," Horacio Gutierrez, Microsoft's associate general counsel, told reporters in Brussels, Belgium, Tuesday.

After Microsoft's response to European regulators today, the commission will set a date for a private hearing. The regulator will then draft a decision, which will be discussed at a meeting of EU member governments and other interested parties.

That process may last three to four months.

Microsoft also is appealing the commission's antitrust decision at the European Court of First Instance in Luxembourg.

A hearing will be held between April 24 and 28.

Bells Take TV Ambitions Straight To Congress (WSJ)

By Amy Schatz And Peter Grant

The Wall Street Journal, February 15, 2006

WASHINGTON -- The nation's telecommunications laws -- written 10 years ago, before phone calls and TV programs moved over the Internet -- were scheduled for an overhaul by Congress this year. But with the prospects of a major rewrite dim, the nation's biggest phone companies are pushing for a simpler measure: rules that allow them to bypass local governments for approval to offer television service.

At a Senate hearing today, Verizon Communications Inc. Chief Executive Ivan Seidenberg and AT&T Inc. CEO Ed Whitacre will make a pitch for congressional action on national video-franchising rules, which would allow phone companies to roll out video services to compete with cable providers more quickly.

The phone companies want to avoid what cable companies have had to do for years: negotiate with local governments for permission to offer TV service. Phone companies say that it will take years to get such permission, and that local politicians use the process to extract money for community improvements, such as landscaping in parks.

The Bells are eager to change the rules so they can better compete with cable companies, which offer Internet phone service and are eroding phone companies' consumer business. Another pressure: investor skepticism about the Bells' likelihood of success in profitably snagging market share from cable and satellite companies, despite spending billions of dollars to lay fiber-optic lines.

Telecom executives have found a receptive audience for changing the rules among key House and Senate lawmakers, and in certain states such as Indiana and Virginia, where lawmakers have been open to the idea on the condition that revenue to communities from franchising contracts isn't cut.

In addition, Kevin Martin, the Republican chairman of the Federal Communications Commission, has been a quiet ally. Under his direction, the FCC is exploring how it might help the Bells and ease video-franchising rules without congressional involvement. It's not clear that the FCC has the authority to do that under current law. Last week, Mr. Martin took his colleagues on a field trip to Keller, Texas, to visit Verizon's new TV facilities. On the same day, the FCC unveiled a report on the state of video competition, bolstering the Bells' argument and stating that cable companies continue to dominate, serving 69.4% of customers who pay for TV and don't rely on free over-the-air broadcasts.

"We're suggesting there may be a better opportunity to take pieces of a comprehensive package and move them along. One thing where there seems to be substantial support is in video franchising," says Tom Tauke, a former congressman from Iowa and Verizon's executive vice president of public affairs, policy and communications. In pushing for narrow legislation, the phone companies -- among the biggest donors to politicians -- are running up against another lobbying powerhouse: the cable industry. Talks between phone and cable lobbyists about a compromise for a bill that addresses only video franchising haven't been successful.

"Undoubtedly, every stakeholder in this process has their priorities, and no doubt all wish they could address them on a stand-alone basis," says Kyle McSlarrow, president of the National Cable & Telecommunications Association, the cable industry's lobbying group.

The phone companies were dealt a setback last week when Republican Sen. Conrad Burns of Montana and Sen. Daniel Inouye of Hawaii, the Commerce Committee's ranking Democrat, introduced a cable-friendly "statement of principles" that recognizes the right of local communities to be part of the cable-franchising process.

Meanwhile, influential lawmakers continue to press for sweeping telecom legislation that also includes revamping the Universal Service Fund, which subsidizes phone services in rural or low-income areas and is a sacred cow in Washington. Rep. Joe Barton, the Texas Republican who chairs the House Energy and Commerce Committee, could release a draft bill by mid-March. His counterpart in the Senate, Ted Stevens of Alaska, is still holding hearings and hasn't endorsed any of the various telecom proposals but told reporters yesterday he could envision passing a narrow video-franchising bill.

For now, the phone companies' best bet may be in state capitals instead of on Capitol Hill. Legislation to streamline the franchise-approval process for phone companies passed in Texas last year, is gaining traction in three statehouses and is in early stages in a handful of others.

Most advanced are bills in the Virginia legislature that have been passed by both houses and are the product of a compromise between the state's cable operators and Verizon, the state's largest telephone company. They would enable a phone company to offer video service within 75 days of beginning discussions with a municipality, as long as it makes given commitments, such as offering service to 65% of the area's households within seven years.

Even more attractive to phone companies is legislation in Indiana that was passed by the state Senate this month and the telecommunications committee in the Indiana House earlier this week. That measure, which is part of a broader telecom-

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overhaul package, would set up a process by which the state, rather than local governments, could issue franchises. Unlike Virginia, recipients wouldn't be required to offer a certain percentage of residents service over a fixed period of time.

Measures supported by phone companies have been introduced in Kansas, Missouri and South Carolina, where a bill recently was approved by a House panel. A draft measure based on the Texas law that passed last year was introduced last week.

Not all the state franchising legislation, though, is favored by telephone companies. In New Jersey, two bills that didn't succeed in the last legislative session have been reintroduced. But neither currently is supported by Verizon, the largest phone company in the state, one because of its strict build-out requirements and the second because of other provisions.

ENVIRONMENT:

Jury Says Dow, Rockwell Should Pay $553.9M To Colo Landowners (AP)

By Jon Sarche

AP, February 15, 2006

DENVER - Ruling in 16-year-old case, a federal jury recommended Tuesday that Dow Chemical Co. and the former Rockwell International Corp. pay $553.9 million to thousands of property owners who claimed their land was contaminated by plutonium from the former Rocky Flats nuclear weapons plant.

The jury concluded the two companies damaged private property around the site through negligence that caused "class members to be exposed to plutonium and (placed) them at some increased risk of health problems." The lawsuit was filed in 1990 on behalf of 13,000 people.

The jury also said the damage from the radioactive material may never go away.

"It's been a long time, 16 years in court and finally we got an answer that we wanted that tells the truth about Rocky Flats," Richard Bartlett, one of the plaintiffs told Denver station KCNC-TV.

The verdict called for punitive damages of $110.8 million against Dow Chemical and $89.4 million against Rockwell. The jury also recommended the companies pay some $352 million in actual damages.

The final award is likely to be less because of limits in state and federal law, but could still reach $352 million after U.S. District Judge John Kane reviews the verdict, said Louise Roselle, an attorney for some of the plaintiffs.

The verdict was "a real testament to the courage of these citizens who stood up and said this is wrong," said Bruce DeBoskey, who spent 12 years on the case before leaving to become regional director of the Anti-Defamation League.

"These citizens deserved to be compensated for their losses," he said. "This isn't a windfall, this is making up for what these people lost."

Dow said in a statement it would appeal, saying the judge improperly instructed the jury. The company said property values in the area have increased and scientific studies have showed no harm to residents' health or property. Defense attorney David Bernick, who represented Dow and Rockwell, said both companies feel there are clear grounds for appeal.

Attorneys have said the government would cover any damages and legal bills for the companies because they were contractors operating the sprawling Cold War site near Denver on behalf of the Energy Department.

A department spokesman did not immediately return an after-hours message.

Jury deliberations in the class-action lawsuit took 18 days and followed a four-month trial. The suit claimed the plant contaminated neighboring land, driving down property values.

The now-defunct site made plutonium triggers for nuclear warheads for decades before it was closed in 1989. Much of the 6,240-acre site will be transformed into a wildlife refuge and last year, a contractor declared a 10-year, $7 billion cleanup project complete.

Rockwell, based in Milwaukee and now known as Rockwell Automation, and Midland, Mich.-based Dow Chemical operated the plant at separate times under contract with the government.

The lawsuit claimed they intentionally mishandled radioactive waste for decades and then tried to cover it up. Defense attorney Bernick said claims of a cover-up were wrongheaded and that contamination offsite was unintentional and minuscule.

After the verdict, Bernick said the judge made significant mistakes in instructing the jury.

"The instructions made it apparent the judge was applying an extreme view of the law," he said.

Among other things, Bernick said, the jury was allowed to award damages if it determined the companies were responsible for even one atom of plutonium on the plaintiffs' properties. He also said the judge wrongly allowed certain testimony, including claims that the Energy Department was a conspirator.

Dow operated the plant from the 1950s until 1975; Rockwell ran it from 1975 until the plant was shut down.

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Bernick also said he was concerned by the dismissal of a second juror after deliberations began, suggesting the juror might have been in the minority and under significant pressure from other jurors. He said the jury voted 8-2 on a number of points in its verdict.

Another juror had been dismissed in early January. Attorneys would not comment on the reasons for the dismissals, and court documents did not explain.

At trial, attorneys for the landowners presented a study showing higher rates of lung cancer near the plant. Bernick dismissed the cancer claims as "junk science," saying the study didn't indicate how long the patients had lived near Rocky Flats.

In 1992, Rockwell pleaded guilty and agreed to pay an $18.5 million fine for water quality and other violations at Rocky Flats. It admitted it stored hazardous waste without a permit, and that it stored the wastes in containers that leaked, and that its actions caused hazardous waste to wind up in reservoirs that supplied drinking water to nearby cities.

The settlement culminated a lengthy investigation dubbed "Operation Desert Glow" in which FBI agents secretly monitored the discharge of pollutants into streams and the burning of hazardous waste at Rocky Flats.

Federal agents charged in an affidavit unsealed after a June 6, 1989, raid that Rockwell and Energy Department officials were aware of environmental violations and sought to conceal them.

"The government chose to fight their own citizens," Roselle said. "This case points to the way the government ran the weapons complex: with complete disregard for the rights of the neighbor."

Cost Of E85 Fuel Is Higher Than Gasoline (USAT)

By James R. Healey

USA Today, February 15, 2006

The heavily promoted alcohol fuel called E85 might cut America's oil use and help support U.S. agriculture, but it's not reducing motorists' fuel bills. It's boosting them significantly.

The price of E85 — a fuel that's 85% ethanol made from grain and 15% conventional gasoline — is higher than that of gasoline, even though E85 has only 72% as much energy. The U.S. Department of Energy says a vehicle has to use 1.4 times as much E85 as gasoline to go the same distance.

At some Nebraska stations, E85 was $2.19 a gallon Tuesday, while gasoline with 10% ethanol — a common substitute for unleaded regular in the Midwest — was $2.06. “This doesn't make sense,” says Wayne Davis, a division manager at fuel company Bosselman, based in Grand Island, Neb. “Our customers are saying, ‘I'm not going to buy E85, which is better for the environment and the economy, unless it's cheaper.' We're seeing E85 just sit.”

President Bush, in his State of the Union speech Jan. 31, promoted ethanol as a way to help reduce Middle East oil imports 75% by 2025.

Ford Motor and General Motors are working with fuel companies to boost the number of E85 stations in the Midwest. The two automakers say they will build about 600,000 vehicles this year with the special equipment needed to use E85. About 5 million already are on the road. All that emphasis could be negated by pricing.

“Price dictates demand. Period,” says Dave Lybarger, who sells E85 at one of his two Petro Plus stations in Garnett, Kan.

He was selling E85 for $1.94 a gallon Tuesday, and conventional gasoline for $2.19. “If you get it 40 cents under, you start attracting new business. If you get to just 10 under, you start to lose some (E85) business,” he says.

Nationwide average price for gasoline has sunk to $2.286 per gallon, according to travel group AAA's daily report.

To be an even-up energy value, E85 would have to sell for 72% of that, $1.646.

But E85 wholesale prices have jumped to more than $2, so retailers can't afford to sell it for that.

The price of ethanol has been driven up because major oil refiners are suddenly buying in bulk. They're stocking up on ethanol as a replacement for MTBE, a petroleum-based additive suspected of causing cancer. MTBE and ethanol boost the octane of gasoline and can reduce pollution.

MTBE isn't officially banned, but oil companies are switching to avoid lawsuits.

“Gasoline with MTBE in it will become like gasoline with anthrax in it within the next 90 days,” predicts Tom Kloza, veteran analyst at the Oil Price Information Service.

FBI/DEA/ATF/USMS:

U.S. Mounts A Vast Hunt For Church Arsonists (NYT)

By Jim Noles

The New York Times, February 15, 2006

DOJ_NMG_0015300

TUSCALOOSA, Ala., Feb. 14 — In the largest manhunt in Alabama since the bombing of a Birmingham abortion clinic in 1998, 200 law enforcement officers are working to solve the arson that has damaged or destroyed 10 rural churches this month.

"The initial forensic work is done," Special Agent Eric Kehn, a spokesman for the Bureau of Alcohol, Tobacco, Firearms and Explosives, said Tuesday. "Now we are just working the scene, and it is a big scene. We are out and about, in the community, pursuing leads. To date, we have over 400 of them, and we take them all seriously."

The investigative team, formally the Alabama Church Fires Task Force, has set up headquarters at the Tuscaloosa Regional Airport. It is led by Jim Cavanaugh, a 30-year veteran of the firearms bureau who heads its Nashville field division.

Mr. Cavanaugh's agents, teamed with the F.B.I., the Alabama Bureau of Investigation, the office of the state fire marshal and local sheriffs' departments, have fanned out across western and central Alabama, where all 10 fires were set. And, in hopes that the arsonists will contact them, the investigators have set up a phone line and an e-mail address.

The firearms bureau's initial response to the church fires came on Feb. 3, just hours after the first five, with the deployment of a Critical Incident Management Response Team, which established an organizational framework for the investigation.

Members of that team, Mr. Cavanaugh said, "are the behind-the-scenes guys."

"They don't get on TV," he said, "but they are absolutely critical to our efforts."

More visible resources came with the arrival of a pair of arson investigation trucks, teams of agents trained in "cause and origin" analysis and forensic chemists. Accelerant detection dogs — Labrador retrievers that had flunked out of guide-dog training because of excessive inquisitiveness — also scoured the burned churches.

After gathering evidence, the task force has shifted its focus to "tracking leads and linking intelligence," Mr. Cavanaugh said. It has also built a computerized database of potential evidence.

As the investigators continued pursuing the case Tuesday, a 21-year-old man was jailed on suspicion of setting an additional fire, which damaged a storage room Monday night at an abandoned church in White Plains, in northeastern Alabama. But the authorities called that episode a copycat of the 10 others. The Calhoun County sheriff, Larry Amerson, said it was "absolutely not" linked to the other fires.

Witness accounts and behavioral profiles have described the suspects in those fires as two white men in their 20's or 30's.

"These men," Mr. Cavanaugh said, "may be driving a dark S.U.V., possibly a Nissan Pathfinder."

But he added that with more than one man most likely involved, they could be driving multiple vehicles.

"We don't want to focus on an S.U.V. and fall victim to the white-van syndrome," he said, referring to what proved to be a misplaced focus on a white van during the investigation of a series of sniper attacks in the Washington area in October 2002.

The state fire marshal, Richard Montgomery, said the investigation had special meaning to task force members.

"It's personal," he said. "You don't hurt kids. You don't hurt old folks. And you don't burn churches."

Man Arrested In Alleged Copycat Fire (AP-Y2)

By Jay Reeves, Associated Press Writer

AP2, February 15, 2006

A man described as mentally disturbed was jailed Tuesday on suspicion of setting fire to an abandoned church in what authorities said was a copycat of the recent church arsons in rural Alabama.

Calhoun County Sheriff Larry Amerson said the arrest was "absolutely not" otherwise linked to the fires that have destroyed or damaged 10 rural Baptist churches since Feb. 3 in central and west Alabama.

The man lived beside the old White Plains Church of God, where flames heavily damaged a storage room Monday night, and has a brother who is a volunteer firefighter, Calhoun County Chief Deputy Matthew Wade said.

"He wanted to see his brother put out a fire," Wade said.

Amerson said investigators believe the suspect, whom he identified as Jason Phillips, 21, also started several brush fires after watching news coverage of the church arsons.

"In that sense, it is a copycat case," Amerson said.

Agents with the federal Bureau of Alcohol, Tobacco, Firearms and Explosives said no arrests have been made in the other blazes, all of which have been ruled arson.

Phillips will be charged with setting fire to the old church and torching a truck that was burned earlier at a field near his home, authorities said. He said Phillips' firefighter brother was not charged.

Amerson said Phillips is believed to be either mentally retarded or mentally ill.

DEA Busts Up A Major Coke Deal (KDTN-TV)

By Laura Borchers

WDTN-TV, February 15, 2006

DOJ_NMG_0015301

Police took millions of dollars of drugs in a huge drug bust Tuesday.

More than 110 kilos of cocaine were grabbed by DEA agents on State Route 202, just north of Interstate 70 in Huber Heights after watching a deal go down.

"Last week the DEA received some information from credible sources that a large amount of cocaine was coming into the Dayton area," explained Russ Neville of the Drug Enforcement Administration. "We watched them make an exchange. Driving off of I-70, then getting off at 202, traveling north."

Three people were arrested and are currently in jail.

Neville estimated the value of the drugs at $12 million dollars.

$12M In Cocaine Seized Hundreds Of Pounds Of Coke Grabbed In Huber Heights (DDN)

By Steve Bennish

The Dayton (OH) Daily News, February 15, 2006

HUBER HEIGHTS | U.S. Drug Enforcement Administration agents Tuesday seized 242½ pounds of cocaine that has a street value the DEA estimated at $12 million.

A drug deal was observed in the parking lot of a business on Executive Boulevard and agents pounced as the car that received the drugs and the vehicle escorting it drove off, said Russell Neville, resident agent in charge of the DEA's Dayton office.

Agents arrested two men and a woman, Neville said.

The three, traveling from the Columbus area, are in the Montgomery County Jail, Neville said.

The drugs, in two heavy-duty cardboard boxes, tested positive for cocaine.

The bust is the second largest involving cocaine in the region's history.

On Feb. 7, 1993, an Ohio Highway Patrol trooper seized about 491 pounds of cocaine from a motor home along Interstate 70, five miles west of Englewood.

This latest investigation began after a tip that a major drug exchange would occur.

Agents tracked the vehicles from Columbus to Dayton, Neville said.

Agents watched the boxes being passed between one vehicle and the car from Columbus.

The vehicle carrying the two men who delivered the drugs got away as agents focused on the drug-carrying vehicle, he said.

Officers are searching for the delivery vehicle.

Because I-70 and I-75 intersect here, the area long has been a popular transfer point for traffickers moving cocaine to Columbus, Indianapolis, Lexington, Cincinnati and West Virginia, Neville said.

The FBI, U.S. Immigration and Customs Enforcement, Huber Heights police, the patrol and drug task forces in Montgomery, Greene and Warren counties helped in the bust.

Authorities Indict Five Men In Hells Angels Case (AP)

By NICHOLAS K. GERANIOS, Associated Press

AP, February 15, 2006

A federal grand jury on Tuesday indicted five members or associates of the Hells Angels Motorcycle Club in various crimes. Two of the men were charged specifically in the 2001 slaying of a man in Arlington, Wash.

Spokane chapter president Richard Allen Fabel, 48, also known as Smilin' Rick, was charged with racketeering and conspiracy to racketeer. He is accused of directing other gang members to engage in murder, attempted murder, intimidation, extortion, robbery and trafficking in stolen motor vehicles and motor vehicle parts.

The men, who were arrested Tuesday, will be tried in Seattle, where the indictment was unsealed.

The others indicted were Ricky Jenks, 28, of Spokane; Rodney Lee Rollness, 45, of Snohomish; Joshua Binder, 30, of North Bend; and Paul Foster, 49, of Arlington.

Fabel and Jenks appeared Tuesday in Spokane before U.S. Magistrate Cynthia Imbrogno, who ruled the two should remain in jail until a bail hearing on Thursday. Fabel had asked for a bail hearing immediately.

"It's Valentine's Day. Have a heart, for once," Fabel joked to Assistant U.S. Attorney Jared Kimbell, who said the government was not prepared for an immediate bail hearing.

Rollness and Binder appeared in federal court in Seattle, and had bail hearings set for Friday. Foster was scheduled to make his first court appearance on Wednesday.

DOJ_NMG_0015302

Jenks is a member of the Hells Angels who is charged with conspiracy to racketeer and the racketeering offenses of robbery and extortion, plus sale of a stolen Harley Davidson motorcycle. If convicted, he and Fabel both face maximum penalties of life in prison and $250,000 fines.

Fabel's attorney, Bevan Maxey, said his client was being targeted because of his leadership of the Spokane-based Washington Nomads chapter of the motorcycle gang. Law enforcement officers broke down the door of the Spokane clubhouse during a Tuesday morning raid.

"Because of his position, quite often he gets blamed for things that other people get involved in," Maxey said.

Rollness and Binder are former members of the state chapter who left the Hells Angels in 2003, the indictment said.

They are charged with two counts of violent crime in aid of racketeering in the slaying of Michael Eugene Walsh, 47, in Arlington, on July 21, 2001. That charge carries the possibility of the death sentence.

Rollness and Binder are also charged with interfering with commerce by threats or violence in the January 2004 attempted robbery of a Monroe resident. Rollness is also charged with two counts of witness tampering, accused of intimidating the alleged victim of that offense.

Foster is a former associate of the Hells Angels who is charged with being an accessory after the fact. He is accused of assisting Rollness and Binder in covering up the Walsh slaying, the indictment said. Walsh was last seen at a party at Foster's home in July 2001.

The arrests follow an extensive investigation by the Monroe Police Department, Washington State Patrol, Snohomish County sheriff's office, the FBI and other agencies.

The Monroe Police Department in early 2004 began investigating the alleged involvement of Hells Angels in selling stolen motorcycles and parts, according to a news release from the U.S. Justice Department.

That investigation eventually led to an investigation into the Walsh slaying.

Fabel and Jenks are also under a separate indictment in federal court in Nevada for their alleged involvement in a fight and shootout between the Hells Angels and Mongols motorcycle gangs at a casino in Laughlin, Nev., on April 27, 2002. Three people died.

Both Fabel and Jenks were released on bond in that case and their trials are pending.

The Washington Nomads is the only chapter of the Hells Angels in Washington, and Fabel has been president since 1996. The indictment called the group "a highly organized criminal enterprise."

Drug Charges Shock Peers (HCHRON)

By HARVEY RICE

The Houston Chronicle, February 15, 2006

Ex-colleagues say sky marshal was a good officer

Burlie L. Sholar III was a good policeman and a good U.S. officer in the eyes of his peers before he and another federal sky marshal were arrested on drug charges last week.

"I'm just surprised that he would be involved in this alleged activity," said former Homeland Security Department agent Danny Stanley, now assistant chief of the Fort Pickett Police Department in Virginia.

Sholar, 32, and Shawn Ray Nguyen, 38, both of Houston, are accused of conspiring to use their positions as air marshals to smuggle 15 kilograms, or 33 pounds, of cocaine on an airliner flying from Houston to Las Vegas.

Stanley said Sholar was a good friend whom he first met in Washington, D.C., when Stanley worked for the Metropolitan Police Department and Sholar worked for the U.S. Capitol Police.

He said he and Sholar were friends for about two years before Sholar left the Capitol Police to join the Los Angeles Police Department.

Sgt. Kimberly Schneider of the Capitol Police did not respond to a request for information about Sholar's employment.

Officer Sara Faden of the LAPD said Sholar joined the department in 1996 and resigned for personal reasons in 2001.

"To my knowledge he had a respectable record," Faden said.

David Adams, spokesman for the Department of Homeland Security, said Sholar was hired as an air marshal in 2001.

Stanley renewed his acquaintance with Sholar after taking a job as an agent with Homeland Security in 2002, he said.

"I knew him quite well and the allegations surprised me," Stanley said. "It certainly surprised myself and other co-workers."

He said he had received numerous phone calls from agents who worked with Sholar, all expressing disbelief.

Nguyen was an agent with the Houston office of the Drug Enforcement Administration from 1997 to 2002 and left voluntarily to become an air marshal, DEA spokesman Ray D'Alessio said.

D'Alessio said Nguyen was in good standing when he left the agency.

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Adams said Sholar and Nguyen both were subjected to thorough background checks that gave them a top-secret security clearance.

The background checks conducted by the Office of Personnel Management typically include a review of previous employment, criminal and credit background checks, and interviews of acquaintances by field agents, Adams said.

The field agent reports are reviewed by other officials. Once approved, agents must be reinvestigated every five years, he said.

Federal court records show that Nguyen filed for bankruptcy two weeks after becoming an air marshal in 2002.

He had a total debt of $203,000, including a $108,500 mortgage and more than $50,000 in credit card debt, records show.

Nguyen listed a former wife and three children in his filing.

There is no indication that his bankruptcy was a factor in his decision to begin associating with a person he knew had a criminal history and ties to a drug trafficker, as alleged in the criminal complaint.

Nguyen began giving the person, referred to only as a cooperating witness, thousands of dollars in cash to invest in drug transactions, according to the complaint against him and Sholar.

The informant recorded incriminating conversations with Nguyen and helped investigators from the FBI and Homeland Security's Office of the Inspector General set up a phony drug transaction that led to their arrest, the complaint says.

FEATURE-Bolivia's Coca: From Cottage Industry To Mass Export? (/REU)

By Bernd Debusmann, Special Correspondent

Reuters, February 15, 2006

LA PAZ, Bolivia, Feb 14 Reuters - It is not often that the menu of a presidential inaugural dinner provides insight into a country's development plans. But it did at the inauguration of Bolivia's Evo Morales last month -- the fare included coca cake, coca cookies, coca wine and coca sweets.

Served to some 300 local and foreign dignitaries in the airy grand hall of the presidential palace, the coca-based menu served notice that the new Bolivian government will try to win international legitimacy for the coca leaf and make it an export commodity.

That could well stir controversy because, aside from being used as a flavoring and in traditional remedies, leaves from the coca plant are also the raw material for cocaine. The U.S. government has for years funded efforts to eradicate coca crops in Latin American countries.

While the leftists elected to power in Bolivia have been sharply critical of U.S. capitalism, they share some of the U.S. business community's views on the relative rank of export markets.

"We need, and we can, develop markets for our coca," said congresswoman Leonilda Zurita, a coca grower and close associate of Morales. "China is particularly important. The Chinese like herbs and they'll like our coca tea."

Closer to home, Morales -- the first former coca grower to run a country and Bolivia's first indigenous president -- wants to work out an export agreement with Argentina, where chewing the coca leaf is legal but its importation is not.

Coca leaf was declared an illegal narcotic in the 1961 U.N. Single Convention on Narcotic Drugs, along with cocaine, heroin, opium and morphine and a host of chemical drugs. The convention came into force in 1964.

Most medical opinion holds that coca leaf, as opposed to the cocaine extracted from it, is neither addictive nor harmful. The leaf's use as a mild stimulant and hunger suppressant dates back thousands of years.

Taking coca leaf off the U.N. list was one of the main planks of Morales's election campaign. His moves as president are being followed closely, not only by his core constituency in Bolivia but also in Colombia and Peru, where there are fledgling coca-based legal industries.

In Colombia, a group of Nasa Indians have started marketing a rival for Coca Cola called Coca Sek. A Peruvian company makes a coca-based energy drink called Vortex, and there is a line of packaged coca cookies. Coca-based products in Bolivia include shampoo, face cream, coca tea bags and pills to cure altitude sickness. When used as a flavoring, coca gives foods an herbal tang.

COTTAGE INDUSTRY OF LEGAL COCA PRODUCTS

The scale of coca production is tiny, no more than cottage industries for local markets. But growers and officials say their assertions that the leaf is beneficial and nutritious deserve more respect than they have received in the past.

Foreign Minister David Choquehuanca said recently that coca should be part of the breakfast in Bolivian schools because it contained more calcium than milk, a remark which made worldwide headlines but drew more chuckles than nods.

But three Harvard researchers -- James Duke, David Aulik and Timothy Plowman -- came to similar conclusions in an extensive 1975 study which said 100 grams of coca leaf matched or exceeded the U.S. recommended daily dose of calcium, iron, phosphorous, vitamin A and riboflavin.

"The debate over coca has not been very rational," said a diplomat from the European Community, which has agreed to contribute 420,000 euros ($500,000) to a study to establish the size of the legal market for coca in Bolivia.

Complaints about the lack of rational argument on coca leaf are echoed up and down the Chapare, the tropical region where Morales launched his political career by leading coca growers in protests against U.S.-financed efforts to eradicate the coca plant.

"We need to make the world understand that coca and cocaine are different things," said Anacleto Rodriguez, a leader of the coca growers' union in Morales' home village of Villa 14 de Septiembre. "We need to open minds. Alcohol and tobacco, very harmful substances, are traded freely. Why not coca?"

In all three coca-growing countries, the Coca-Cola Co regularly features in conversations about coca and is usually cited as evidence for Western hypocrisy.

U.N. CONVENTION MADE EXCEPTION FOR COCA COLA

The 1961 U.N. convention contains a clause -- article 27 -- Latin Americans believe was specifically introduced for the benefit of the Coca-Cola Co <KO.N>.

It says: "The parties may permit the use of coca leaves for the preparation of a flavoring agent, which shall not contain any alkaloids, and to the extent necessary for such use, may permit the production, import, export, trade in and possession of such leaves."

Coca-Cola, maker of the world's best-selling soft drink, routinely declines comment on coca, saying the drink's ingredients are secret. But Coca-Cola spokespeople have said the company does not buy coca leaves, which is technically correct.

The only legal importer of coca leaf into the United States is the Stepan Co. of Maywood, New Jersey, a company so media-shy it has no public relations department or spokesperson. Telephone inquiries yield pregnant pauses and the suggestion that databases and public records can provide the details Stepan declines to divulge.

According to public records and published reports, Stepan imports coca leaves -- around 380,000 pounds (172,000 kg) a year -- under an agreement with the U.S. Drug Enforcement Administration (DEA) which has to be renewed every year. The latest application to import coca leaves was filed on March 29, 2005, and needs to be renewed next month.

Stepan is the only company in the U.S. registered to import coca and produce cocaine.

Stepan turns part of the leaves into cocaine, largely for use as a local anesthetic in dentistry and ear, nose and throat surgery. The other part is turned into a flavoring extract for Coca-Cola, in a process which removes the active ingredient for cocaine.

CHANGE OF CONVENTION UNLIKELY

The next opportunity to amend the 1961 convention would be a meeting of the U.N. Economic and Social Council in Vienna in 2008. Diplomats view as extremely remote the possibility of a global consensus on changing the blacklist of substances.

U.S. officials also tend to scoff at suggestions that there is a sizable potential market for coca-based products, notwithstanding a billion-dollar global industry for dietary supplements. There are some coca-based formulations meant to help dieters, but none are distributed widely yet.

Despite such skepticism, Morales has vowed to fight for what he calls the "de-criminalization" of coca. His former comrades in the coca growers' federation talk of a rosy commercial future for legal coca products.

One possibility they mention would be an internationally marketed natural version of the potency-enhacing drug Viagra and similar medications.

At the coca museum in La Paz, the world's only, a poster of a statuette from the Capuli culture, which flourished in Colombia and Ecuador from 850 to 1500 A.D., explains why there are such hopes.

The statuette is of a sitting man, his right cheek bulging with what appears to be a wad of coca leaves. His penis is of such monumental size that it rises above his head. "Learn to chew coca!!" reads the poster's legend.

Bolivian Coca Farmers Re - Elect Morales (AP)

By The Associated Press

AP, February 15, 2006

LA PAZ, Bolivia (AP) -- President Evo Morales accepted re-election as leader of Bolivia's largest coca farmers union Tuesday, despite saying earlier he would step down from the post.

Morales, who was inaugurated as Bolivia's first Indian president three weeks ago, traveled to the central city of Cochabamba to thank the union members and defend his decision to remain their leader in the face of "enemies (who) have made negative comments."

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"A president of Bolivia can also be a union leader, and that's our difference from the traditional parties," Morales told a gathering of "cocaleros," or coca farmers, from the Chapare region.

Morales rose to political power after joining the union in the 1980s, later leading the sometimes-violent struggle against Washington-backed coca eradication policies.

On Monday, the cocaleros picked him to fill the union's top job for the 10th year running.

Opposition politicians have criticized Morales' continued involvement.

"The president is making a mistake that could damage the image of the country," said Senator Tito Hoz de Villa. "He's no longer a union leader, but president of all Bolivians."

Morales announced his decision to step down in a speech Saturday before the opening session of the union gathering. He also asked the coca growers to respect a 2004 agreement that limited cultivation of the leaf.

Morales has guaranteed the farmers will be allowed to grow just under half an acre of coca per family in Chapare, as established by a deal struck under the government of former president Carlos Mesa.

Coca is the basic ingredient of cocaine, but it also has traditional religious and medical uses in Bolivia.

Rising Tide Of Border Crime And Violence (CSM)

By Kris Axtman

The Christian Science Monitor, February 15, 2006

HOUSTON - First came an armed standoff between Texas lawmen and drug smugglers disguised as Mexican soldiers. Next, federal officials seized a stockpile of heavy-duty weaponry - assault rifles, hand grenades, and improvised explosive devices - along the Rio Grande. Then a Mexican police reporter was critically wounded after intruders fired more than 60 rounds into the newspaper's offices.

These three incidents in as many weeks dramatize the rising violence along the US-Mexico border. Drug traffickers are becoming more brazen and expanding their operations to include smuggling people. Even as President Bush proposes to beef up border security, these attacks are renewing the debate over how best to keep criminals - perhaps even terrorists - from crossing into the United States.

"As long as our law-enforcement resources at the border are primarily occupied with millions of laborers, it will be impossible to intercept the thousands of criminals who are also exploiting our borders," T.J. Bonner, president of the National Border Patrol Council, told a US House subcommittee last week.

Ever since Mexican President Vicente Fox declared war on drug cartels last year, border violence has escalated.

"There has been an over 100 percent increase in the last fiscal year in border violence aimed at our Border Patrol agents, and that ranges from gunshots fired across the border to rocks being thrown, sometimes flaming rocks," said Homeland Security Secretary Michael Chertoff last week.

In this fiscal year, which began Oct. 1, the Border Patrol has recorded 192 assaults against its officers. Drug criminals more desperate

Part of the rise in violence stems from increased US law enforcement at the border, which is creating a more desperate drug smuggler, many experts say.

But it also is rising because these drug smugglers are becoming heavily involved in the lucrative people-smuggling business and are using the same violent tactics to evade law enforcement, Mr. Bonner says.

Some observers also worry that these criminal smugglers could team up with terrorists wanting to infiltrate the US.

"There is not only great concern that the drug trade is becoming more aggressive, but that terrorist organizations are seeking to exploit our porous border," said Texas Gov. Rick Perry last week while announcing a new state initiative, dubbed Operation Rio Grande. It involves redirecting equipment and manpower from state agencies to the border.

And while Mr. Bush's proposed budget is a step in the right direction with respect to border security, more is needed, said Governor Perry. He traveled to Washington late last week to add his voice to the chorus of Texas sheriffs already lobbying Congress for help.

Bush's budget calls for a 6 percent increase for the Department of Homeland Security, which would include 1,500 more Border Patrol agents, 6,700 new beds in detention facilities, and a significant increase in the number of cameras, sensors, and surveillance equipment along the border.

But some immigration experts say the boost in Border Patrol agents is a waste of resources without a more comprehensive approach.

"We've overspent on migration control at the border, so continued spending in this area is of declining value. We are getting less bang for our buck," says Marc Rosenblum, a visiting scholar at the Migration Policy Institute in Washington. "We need to look for more effective ways to control immigration and not simply to concentrate more resources at the border."

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But where to put those resources - and whether to crack down on all illegal immigrants or focus on the most dangerous ones - remains the subject of intense debate. Critics see Bush budget paradox

Those calling for a general crackdown see a contradiction in the White House's budget plan.

"For five years President Bush has been talking about the war on terrorism. But it's all offense and no defense," says Mark Krikorian, executive director for the Center for Immigration Studies in Washington. "And immigration control is the most important defensive tool in this kind of conflict."

He says the budget makes clear that Bush continues to ignore workplace enforcement, one of the main ways to check people's immigration status from inside the country.

Indeed, his budget proposes to spend $100 million more on a program to let immigrants come in as temporary workers than on forcing employers to verify the immigration status of their workers, Mr. Krikorian says. "You can't let in the Mexican dishwasher and keep out the Saudi suicide bomber. Immigration enforcement needs to be comprehensive."

But others say the terrorist threat is overblown.

"There is a real tendency to conflate immigration and terrorism," says Mr. Rosenblum of the Migration Policy Institute. "But almost all immigrants come here without any dark agenda."

In his view, a temporary-worker program would ease the pressure on the Border Patrol so that law enforcement could spend more time spotting terrorist types.

"Instead of spending billions of dollars busting nannies and gardeners, we ought to be analyzing the ways terrorists actually move," he says.

Misguided Border Patrolling (USAT)

By Ruben Navarrette

USA Today, February 15, 2006

Because I'm not just the grandson of a Mexican immigrant but also the son of a retired cop, my views on illegal immigration are complicated. I'm convinced that immigrants — whatever their status — are America's most valuable import. Yet I wasn't raised to take lightly things such as border security or the breaking of laws.

The trouble is that some proposed solutions — from putting troops on the border to denying citizenship to the children of illegal immigrants — bring to mind the old saying about the cure being worse than the disease. That includes this one: Allowing local police to enforce federal immigration law.

This dangerous and self-defeating concept is popular with those who think that law enforcement officers are interchangeable, and that one badge is as good as another. As proponents of this approach see it, police chase down criminals (including illegal immigrants) and it makes no difference whether their jurisdiction is local, state or federal.

Some advocates even want to require local police to enforce immigration law — something opposed by many police associations, including the International Association of Chiefs of Police. The Clear Law Enforcement for Criminal Alien Removal (CLEAR) Act, introduced in 2003 by Rep. Charles Norwood, R-Ga., and reintroduced in 2005, would enlist state and local law enforcement agencies in the enforcement of federal immigration laws. It passed in the House of Representatives as part of a larger immigration bill but has yet to be decided in the Senate.

The wrong answer

A mandate from Washington would be the worst possible thing. This is a decision best left to local and state authorities. We can only hope they make the right one.

In Costa Mesa, Calif., city officials recently made the wrong decision.

At the urging of Mayor Allan Mansoor, the City Council in December voted to authorize local police officers to be trained to enforce immigration law. That makes Costa Mesa, which is an hour's drive south of Los Angeles, the first city in the USA to take this road.

It probably won't be the last. State police agencies in Florida and Alabama and the county sheriff's department in Orange County, where Costa Mesa is located, have sought a "memorandum of understanding" from the U.S. Immigration Customs Enforcement agency to train their officers to enforce immigration law. An official at ICE told USA TODAY that there are at least 10 more pending inquiries from local authorities in New England, the South and the Midwest — all of them aiming to take immigration law into their own hands.

In Costa Mesa, officials seem to want a crackdown limited to what Mansoor calls "criminal offenders," or suspects of wrongdoing beyond entering the country illegally.

That includes gang activity. In fact, it's significant that of the first 40 officers for whom the city wants to seek training, most are detectives, gang specialists and jail personnel. Mansoor says that there won't be any sweeps or raids on employers, and that police will not be targeting illegal immigrants.

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Those are some silver linings. Another would be if Costa Mesa's experiment excluded beat cops. Once street officers become surrogate immigration agents, all is lost. Whatever amount of trust the police department has built with immigrant communities will deteriorate. The possibility of racial profiling will increase. An initiative intended to combat crime could easily backfire and fuel it instead if immigrants are too scared to report crimes committed against them.

The root of the problem

Besides, let's not forget how Costa Mesa found itself in this predicament. Mansoor says that it's because the federal government has failed to do its duty.

Nonsense. If illegal immigrants are congregating in Costa Mesa — and thousands of U.S. cities like it — there's only one reason. It's because people in those places have decided they cannot live without the cheap and readily available labor supplied by illegal immigrants. Those are the real culprits — the teachers and engineers and soccer moms who love that they can afford upper-class perks (nannies, gardeners and housekeepers) on middle-class wages.

Those are the folks Mansoor and the city should crack down on if they want to solve this problem. At least one other city in California has tried issuing fines to employers who pluck day laborers off streets.

Personally, the cop's son in me would like to see a three-strikes law: The first time you hire an illegal immigrant, you get a warning. The second time, you get a $10,000 fine. The third, you get a week in jail. Currently, the law says you're not in trouble unless you "knowingly" hire an illegal immigrant. But after your third offense, shouldn't you be in the know?

Americans want to get tough on illegal immigrants. Fine. But you can't do that without first getting tough on those who hire them.

I'm probably naïve. Politicians know what they can get away with and what they can't. Immigrants who don't vote and can't speak English are not a threat. But employers of cheap labor who are singled out for prosecution can retaliate by spending money to defeat politicians and elect their opponents. That part isn't complicated. Never has been.

Ruben Navarrette is a member of the editorial board of The San Diego Union-Tribune and a nationally syndicated columnist with The Washington Post Writers Group.

IMMIGRATION:

License Scam Ends In Plea (KNOXNS)

By Jamie Satterfield

Knoxville News Sentinel (TN), February 15, 2006

Man admits helping illegal immigrants

A man pleaded guilty Tuesday to shuttling - for $700 a pop - as many as 98 illegal immigrants in six months to Tennessee to get driver's licenses.

Claudio Galvan, himself an illegal immigrant already deported at least once, admitted at a hearing before U.S. District Court Judge Tom Varlan that he was the leader of a conspiracy to procure Tennessee driver's licenses for other illegal immigrants.

In a plea bargain negotiated by federal prosecutors Will Mackie and Jeff Theodore and Assistant Federal Defender Kim Tollison, Galvan agreed to confess arranging trips for "over 29 but less than 99 illegal aliens to Tennessee" from June to December last year.

The actual figure could be higher, because the number of illegal immigrants involved in the conspiracy determines, in part, Galvan's punishment and was part of the plea bargaining process.

According to court records, Galvan charged other illegal immigrants $700 to take them from Georgia to a driver's license testing center in Maryville and also helped them obtain fake documents needed to show proof of Tennessee residency.

It was the second such shuttle service using East Tennessee testing centers shut down by the FBI in less than a year. The Tennessee Bureau of Investigation recently uncovered a third operation involving testing centers in Middle Tennessee.

Federal prosecutors contend Tennessee is a draw for license-seeking illegal immigrants because of its driver's certificate program, one of only two in the nation that allow people to get a license without proving U.S. citizenship. The other is in Utah.

Under the program, a potential licensee need only show some sort of proof of residency in Tennessee for the past 30 days. Galvan helped provide illegal immigrants with faked proof.

The driver's certificates are not supposed to be used for identification. However, court records show, illegal immigrants are able to use the certificates as identification in a variety of ways that further cloak their lack of legal residency in the United States.

Also pleading guilty in Galvan's case was Armando Rodriguez-Riveros, who admitted transporting Galvan's illegal customers from Georgia to East Tennessee. Both men face less than two years in prison and deportation.

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Federal Magistrate Judge Clifford Shirley on Tuesday sentenced five of Galvan's customers, nabbed by the FBI as part of the agency's probe of the shuttling service, to time served, paving the way for their deportation.

Jamie Satterfield may be reached at 865-342-6308.

TAX:

DOJ:Bank HVB To Enter Deferred Prosecution Pact With Government (DOWJONES)

Dow Jones, February 15, 2006

NEW YORK -(Dow Jones)- German bank Bayerische Hypo & Vereinsbank AG, known as HVB, will pay $29.6 million to the federal government as part of a deferred prosecution agreement in the Justice Department's probe into fraudulent tax shelters, prosecutors said Tuesday.

At a hearing in federal court in Manhattan, prosecutors from the U.S. Attorney's office in Manhattan said the bank's payment includes nearly $16.2 million in disgorgement and forfeiture, as well as more than $6.9 million in restitution. Payment must be made by Feb. 17.

The agreement runs for 18 months. If the bank doesn't violate it during that time, it will likely avoid prosecution.

The bank also has agreed to restrictions on certain types of business and will implement an ethics and compliance program in its U.S. business.

As part of the agreement, the government filed a criminal information against the bank, charging it with one count of conspiracy.

U.S. District Judge Alvin K. Hellerstein accepted the agreement at Tuesday's hearing.

In a statement, Chris Wrenn, HVB's chief operations officer in the U.S., said, "HVB has cooperated fully with the government's investigation and will continue to do so. We have already begun to implement the actions mandated by the [deferred prosecution agreement.] We are pleased to have reached this settlement and can now focus more fully on our core businesses."

The company said it had already begun steps to exit the tax-shelter business, improve its management controls and enhance oversight in its tax department prior to the government's investigation.

Prosecutors have alleged that HVB, from 1996 to 2003, engaged in a scheme to help high-net-worth individuals in the U.S. avoid paying income taxes, including acting as a purported lender for transactions that did little more than create a tax loss for those individuals.

The government said those individuals were able to avoid paying $500 million in income taxes as a result of the creation of about $1.8 billion in phony tax losses.

Last year, Domenick DeGiorgio, a former HVB executive, pleaded guilty to fraud, conspiracy and tax-evasion charges, including an allegedly fraudulent tax shelter marketed by KPMG LLP known as "Bond Linked Issue Premium Structure," or Blips.

DeGiorgio is expected to be a witness for the government in its criminal tax- evasion case against a group of former KPMG LLP partners and others, which is scheduled to go to trial later this year.

Prosecutors have alleged that those former KPMG tax partners and other individuals participated in a scheme to sell fraudulent tax shelters that allowed wealthy individuals to avoid paying at least $2.5 billion in taxes.

Blips were one of the transactions in which HVB admitted to participating as part of the deferred prosecution agreement on Tuesday.

-By Chad Bray, Dow Jones Newswires; 212-227-2017; chad.bray@dowjones.com

Tax Inquiry Said To Include German Bank (NYT)

By Lynnley Browning

The New York Times, February 15, 2006

Federal prosecutors in Manhattan are investigating Deutsche Bank's role in questionable tax shelters that helped wealthy investors evade billions of dollars in taxes, according to people briefed on the case.

The development is the latest in a widening inquiry of accounting firms, lawyers and now banks. Yesterday, Germany's second-largest bank, HVB Group, agreed to pay nearly $30 million in a plea bargain with federal prosecutors over four types of tax shelters, averting an indictment.

A spokeswoman for Deutsche Bank, Germany's largest bank, declined to comment yesterday.

The criminal investigation of the banks is being conducted by the United States attorney's office in Manhattan and follows its investigation into the accounting firm KPMG's role in the creation and sale of bogus tax shelters. In August, KPMG avoided

indictment by agreeing to pay $456 million. Seventeen former KPMG employees and two others have been indicted on charges of plotting to defraud the Internal Revenue Service through the creation and sale of four tax shelters. All 19 are fighting the charges.

The settlement with HVB includes a strongly worded admission of "criminal wrongdoing" by the bank. In the agreement, HVB acknowledged that it conspired to defraud the United States government, committed tax evasion, caused false and fraudulent tax to be filed, and assisted in the preparation of false returns. HVB, the statement said, worked with KPMG and certain unnamed law firms and investment firms to participate in fraudulent tax shelter transactions.

"KPMG and HVB have admitted that they and their co-conspirators used false and misleading documentation to cheat the government out of billions of dollars in taxes owed by America's wealthiest citizens," the United States attorney, Michael J. Garcia, said in a statement. He called the tax shelters in question "nothing more than fictions designed to enable privileged taxpayers to avoid paying their fair share."

HVB, under its agreement with prosecutors, will pay nearly $30 million in fines and penalties stemming from its work on four questionable tax shelters sold to investors over 1996 through 2003 that cost the Treasury $500 million in unpaid taxes.

The deal, which lasts 18 months, allows HVB to avoid a criminal trial if it abides by the terms of the agreement, which include cooperating with the widening investigation.

In a statement, HVB said yesterday that it "has cooperated fully with the government's investigation, and will continue to do so."

Government investigators at the Justice Department and the I.R.S. who are investigating questionable tax shelters have said that a network of banks, law firms, accounting firms and investment firms worked together from the mid-1990's through 2003 to create and sell abusive shelters and carry out financial transactions underpinning them.

The agreement with HVB covers four tax shelters known as blips, cards, 357c and common trust funds. All four shelters involve generating phony losses that were then used by investors to evade income tax by offsetting legitimate gains on other income.

Blips required complex financial transactions, which HVB carried out. Prosecutors said yesterday that those transactions were essentially "non-bona fide loans" to investors that generated phony tax losses permitting "illegal tax benefits." Over 1999 and 2000, HVB carried out transactions for 29 blips that generated at least $5.1 billion in phony tax losses, according to a statement of admitted facts accompanying the deferred prosecution agreement.

For that same blips shelter, however, Deutsche Bank played a much bigger role. The bank made 56 blips "loans" over 1999 and 2000, earning fees of $44 million, according to testimony by a former Deutsche Bank employee during hearings by the Senate's Permanent Subcommittee on Investigations in 2003.

That same Senate report said that after a 1999 meeting between unnamed HVB employees and an employee of an investment firm, "HVB was put in touch with Deutsche Bank" regarding loans underpinning the shelter.

No court has ever ruled blips or the three other tax shelters in question illegal. Still, the I.R.S. has never considered the shelters valid.

The criminal investigation in Manhattan adds to Deutsche Bank's legal problems. In late December, a German federal court ruled that the bank's chief executive, Josef Ackermann, would be tried again in a criminal case. Mr. Ackermann, who was a director at a telecommunications company, Mannesmann, during a takeover battle with Vodafone of Britain, had been acquitted in 2004 of charges that he broke the law by awarding rich bonuses to top Mannesmann executives.

And Deutsche Bank is a defendant in numerous civil lawsuits filed by former clients who bought blips and other tax shelters. David Deary, a lawyer in Dallas who represents about 350 investors involved in more than half a dozen complaints, said yesterday that "Deutsche Bank was a major player in the tax shelter market and was involved in all aspects of the tax shelter market, including designing, heavily promoting and implementing a wide variety of tax shelters."

HVB Group, which was born in 1835 as Bavaria's state bank, has more than 2,000 branches in more than 40 countries. In June, it agreed to be acquired by UniCredito of Italy for $18.7 billion.

Last August, a former HVB employee in New York, Domenick DeGiorgio, pleaded guilty to tax fraud over his work with tax shelters, including blips.

HVB's admission of wrongdoing was made by its head of United States operations, Gabrielle Falger, and was accepted by Judge Alvin K. Hellerstein of the Federal District Court in Manhattan. HVB also agreed not to develop or sell certain tax-related transactions or strategies

No separate enforcement action has been taken by the Federal Reserve, which regulates foreign banking entities in the United States, according to Deborah Lagomarsino, an agency spokeswoman.

Uncollected Taxes Reach $290 Billion (WSJ)

By Tom Herman

The Wall Street Journal, February 15, 2006

New government estimates of revenue losses from uncollected taxes are likely to increase pressure on the Internal Revenue Service for tougher enforcement measures.

The IRS yesterday issued revised estimates of the nation's "tax gap," the difference between what taxpayers should be paying and what they actually do pay. The study suggests that individuals represent by far the biggest part of the problem, especially self-employed workers and others whose earnings aren't reported to the government and where taxes aren't withheld.

Getting precise numbers is exceptionally difficult, since nobody knows for sure how much income isn't reported in the U.S. Also, millions of people who should be filing tax returns aren't doing so. But the IRS study, the most detailed of its kind in many years, came up with two ways of looking at the issue.

First, the IRS estimated the "gross" tax gap at $345 billion a year. Its earlier estimate put the gap in a range of $312 billion to $353 billion, based on an analysis of data for tax-year 2001. That represents the difference between what taxpayers should have paid and what they did pay "on a timely basis." Then, after including $55 billion generated from IRS-enforcement efforts and other late payments, the net tax gap stood at $290 billion. That is also at the high end of the previous estimated range of $257 billion to $298 billion.

Lawmakers quickly expressed dismay. Sen. Max Baucus, a Montana Democrat and a member of the Senate Finance Committee, said the administration's budget plans "won't take any real bite out of this unacceptable tax gap." He also said, "It's time for a comprehensive plan to go after scofflaws and tax cheats big and small, who are contributing to the deficit by not contributing their fair share."

IRS officials say they already have taken major steps. They have increased the number of audits of people making $100,000 or more, and they have intensified their crackdown on what they consider to be abusive tax shelters, or transactions with no real purpose other than dodging taxes. They have stepped up scrutiny of family limited partnerships, a popular technique for cutting estate and gift taxes. And they have increased efforts to pursue "nonfilers," people who should be filing tax returns but aren't.

The administration recently proposed legislation that officials say will help narrow the tax gap. For example, the president proposed requiring debit- and credit-card issuers to report to the IRS the gross reimbursements paid to certain businesses. They also want to clarify when employee-leasing companies can be held liable for their clients' federal employment taxes.

"The vast majority of Americans pay their taxes accurately and are shortchanged by those who don't pay their fair share," IRS Commissioner Mark W. Everson said yesterday in a statement. "The magnitude of the tax gap highlights the critical role of enforcement in keeping our system of tax administration healthy."

IRS spokesman Bruce Friedland said yesterday that the agency estimates there were 13.6 million nonfilers for 2001.

Tax Cheating Has Gone Up, Two Federal Studies Find (NYT)

By David Cay Johnston

The New York Times, February 15, 2006

Historically, when income tax rates fall, so does tax cheating. But that is not what happened after President Bush started cutting taxes five years ago.

A new report by the Commerce Department found that Americans failed to report more than a trillion dollars in income on their 2003 tax returns. That was a 37 percent increase in unreported income from 2000.

In a separate report, the Internal Revenue Service looked at both unreported income and improper deductions and concluded that Americans shortchanged the government by $345 billion in 2001 — an amount almost equal to the projected federal budget deficit for 2007.

The report, released yesterday by the I.R.S. commissioner, Mark W. Everson, was the agency's first estimate in 15 years of the gap between what Americans owed in taxes and what they paid. The I.R.S. report concluded that proprietors of small businesses, investors and farmers cheated the most. Workers who had 99 percent of their wages reported to the government and taxes withheld from their paychecks were the least likely to cheat.

Mr. Everson acknowledged that the estimate is probably low because the I.R.S. looked only at individuals and small unincorporated businesses. It has not revised its estimates of tax cheating by corporations, large estates and by firms that do not hire their workers directly but instead contract with an employee leasing firm.

The ability of the I.R.S. to enforce the tax laws has steadily eroded in the last 17 years as its ranks of auditors have been trimmed by about a third, the tax code has become more complex and new laws have been enacted to protect taxpayer rights.

In his proposed budget for 2007, Mr. Bush laid out a five-point plan to reduce the underpayment of taxes by $350 million a year, an amount equal to a tenth of a penny per dollar of the unpaid taxes.

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A more serious effort to reduce the tax gap appears unlikely, two senators said yesterday.

Senator Charles E. Grassley, the Iowa Republican who is chairman of the Senate Finance Committee — which has held hearings on the issues of unpaid taxes, abusive tax shelters and criminal tax evasion — said it would take more than what Mr. Bush had proposed to make a meaningful dent.

"It's easy for politicians to stand on the soap box and criticize the tax gap," Senator Grassley said, "but I find it's pretty lonely when I need people to join me and get their hands dirty and try to solve these problems."

Senator Max Baucus, Democrat of Montana, the committee's ranking minority member, dismissed the Bush proposal as weak.

"The administration's budget plans won't take any real bite out of this unacceptable tax gap — it just nibbles at this crisis while the deficit grows," Senator Baucus said.

"It's time for a comprehensive plan to go after scofflaws and tax cheats big and small, who are contributing to the deficit by not contributing their fair share," he said.

The Senate Budget Committee will hold a hearing today on reducing the gap between taxes owed and taxes paid.

The I.R.S. estimate was based on a detailed study of 46,000 individual income tax returns.

Mr. Everson said that about 10 million people did not file returns, costing the government about $27 billion in revenue. Another 10 million had incomes so modest that they were not required to file. About 130 million returns were filed. Cheating on business income was "a problem 50 times larger" than cheating by wage earners, Mr. Everson said.

The biggest single revenue loss came from proprietors of unincorporated businesses, who typically file a Schedule C with their tax return, who shorted the government an estimated $68 billion in 2001. Cheating by partnerships, most of whose members are wealthy professionals or investors, was put at $22 billion, while cheating by landlords and those collecting royalties was estimated at $13 billion.

In percentage terms, farmers cheated the most, the I.R.S. said, failing to pay the government $6 billion, or 72 percent of the taxes they should have.

IRS Was Underpaid $345 Billion In '01 (WP)

By Albert B. Crenshaw

The Washington Post, February 15, 2006

Through cheating and mistakes, U.S. taxpayers shortchanged the government $345 billion in 2001, and though $55 million of that was eventually paid late or tracked down by the Internal Revenue Service, the rest was never collected, the IRS said yesterday.

The figures indicate that the nation's "tax gap," the difference between the amount Americans should pay on income from legal activities and the amount they do pay, is at the high end of the range that the IRS had estimated.

Most of the estimate is based on recent data -- including an analysis of 46,000 randomly chosen personal returns from 2001 -- but some relies on older information, so the true gap "could very well be higher," Internal Revenue Commissioner Mark W. Everson said yesterday.

He said the figures are "a snapshot of 2001" and that the gap could be different today because of changes in tax policy and growth of the economy. However, he said the agency considers the 2001 figures a good guide to where to look for unpaid taxes and will allocate its enforcement efforts accordingly.

Individual taxpayers account for a majority of the gap -- $197 billion in 2001 -- and most of that is the result of unreported or underreported income rather than overstated deductions or improperly claimed credits.

The biggest component of the tax gap attributable to individuals is underreported income from business activities for which there is no third-party reporting comparable to the W-2 reports of wages that employers send to the IRS. Such underreported income -- including rents, royalties, partnerships and the income of self-employed people -- totaled $109 billion.

Exaggerated deductions accounted for $14 billion of the 2001 gap.

IRS officials said the findings are in line with previous research, including the last round of audits in the Taxpayer Compliance Measurement Program, in 1988. Those audits were criticized as intrusive and were barred by Congress in the late 1990s.

Overall, Everson said, about "85 percent of the money is coming in correctly." Of the missing amounts, "we do not have specific conclusions about how much is willful" cheating and how much is "lack of understanding of the code," he said.

Complexity of the tax law contributes to noncompliance, Everson said, both by confusing taxpayers and by providing "opportunities for skirting the line."

The lowest level of compliance for any group was by farmers, who misreported 72 percent of their income (or losses), though they accounted for only $6 billion of the gap.

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Underreported capital gains -- profits from sales of stocks, bonds or other assets -- accounted for $11 billion.

Wage income, which is reported to the IRS by employers, has a 99 percent compliance rate.

Everson noted that the Bush administration's budget proposes that federal, state and local governments report to the IRS payments they make to purchase goods and services.

The administration has also asked Congress to require debit and credit card issuers to report aggregate payments to merchants each year.

"What we are proposing is there be . . . some limited additional reporting to get after this large piece of the tax gap," Everson said.

The last time there was a change in reporting, in 1986 when taxpayers were required to provide Social Security numbers for dependents, 5 million dependents vanished, Everson recalled.

"We believe there will be an impact from reporting," he said.

IRS Backs Novel Way To Avoid Gift Taxes (WSJ)

By Tom Herman And Rachel Emma Silverman

The Wall Street Journal, February 15, 2006

Bolstered by a recent IRS ruling, a small but increasing number of wealthy individuals are cutting their tax bills by prepaying family members' tuition bills for multiple years.

Tax advisers say this technique could be a smart move for people with large estates who want to pay for a student's tuition and fear they might not live long enough to pay the bills as they come due each year. This way, they can help their families deal with soaring education costs and skirt hefty federal estate and gift taxes. But the technique is also proving popular with younger, healthy individuals.

Private schools and colleges are seeing more relatives adopting the strategy, and some are now actively encouraging families to prepay tuition bills, which at some elite private schools can run nearly $30,000 a year -- and even more at some colleges.

"I've had about half a dozen clients do it," says Susan C. Frunzi, a partner at the law firm Schulte Roth & Zabel LLP in New York. She says the longest prepayment period was about four or five years. It isn't just being used by grandparents, either: Ms. Frunzi says some clients have done it for nieces and nephews -- or the children of friends who are less well off. Her firm has even prepared a sample prepayment agreement for one of the schools it represents.

The tactic deftly addresses two powerful developments: the soaring cost of education and the huge impending transfer of intergenerational wealth. The parents of boomers are poised to transfer an unprecedented amount of money when they die, and to many, finding tax-efficient ways to share that wealth while they are still alive is an important priority.

"It's becoming a very popular way of avoiding estate taxes," says Bruce Amsbary, business manger of the Rivers School in Weston, Mass., which has seen a rise in multiyear prepayments over the past few years.

The strategy is also beginning to attract more attention among tax professionals. The American Institute of Certified Public Accountants recently said that for people primarily interested in transferring wealth, prepayments provide a method of paying for multiple years of tuition "while keeping the taxpayer's annual exclusion amounts available for other gifts."

One of the main attractions of the direct-prepayment strategy is its simplicity. There is no need to hire a lawyer to draft complex trusts or other sophisticated wealth-transfer techniques. For those skittish about the technique, there are some tax-efficient alternatives, such as funding a 529 college-savings plan; setting up a Health and Education Exclusion Trust, which can pay for multiple generations of heirs; or simply directly paying annual tuition costs each year. (See the chart for some alternative ways to pay for someone's education.)

A recently released private-letter ruling by the Internal Revenue Service is fueling more interest in the subject among tax lawyers and other financial advisers. In the ruling, the IRS told a taxpayer that prepayments of multiple years of tuition for the taxpayer's grandchildren wouldn't be considered a gift for tax purposes. The taxpayer in question proposed prepaying tuition bills for each of six grandchildren through 12th grade.

Under current law, you can hand out as much as $12,000 a year per person to anyone you want without even having to report it to the IRS. Yet it doesn't count against that annual limit if you pay for someone else's tuition or medical expenses, no matter how large your payments may be -- as long as those payments are made directly to the educational institution or medical-services provider.

Thus, you can move large amounts of money out of your estate tax-free, without even having to report your gifts to the IRS -- and without eating into any of your estate tax or lifetime gift-tax exclusion amounts. (The lifetime gift-tax exclusion amount is $1 million. The basic federal estate-tax exclusion amount is $2 million this year, although one spouse typically can leave everything to the other spouse free of estate tax. However, there may be state tax factors to consider.)

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Many grandparents long have taken advantage of this provision by making direct payments to schools for a single year of tuition. The IRS's latest ruling gives additional assurance that prepayments for multiple years also would be acceptable.

The prepayments the IRS ruled on didn't entitle the grandparent to any tuition discounts. All tuition payments would be nonrefundable -- a crucial point, according to tax experts -- and, once paid, would become the school's "sole property," even if the students stopped going to that school. They wouldn't entitle them to "any additional rights or privileges over any other student" -- and also wouldn't guarantee enrollment.

There are some risks to the multiyear approach. The child may refuse to attend the school, may transfer out, may get expelled -- or drop out. A possible solution, according to one accountant, would be to arrange ahead of time with the first school to have the tuition money transferred directly to a second school in case the child transfers. Thus, if you are considering prepaying, be sure to ask the school for details of its policy. But the IRS hasn't specifically addressed this issue, and some lawyers think that such an agreement may not pass IRS muster.

Some schools, including colleges such as Harvard and Middlebury and prep schools such as Phillips Academy in Andover, Mass., offer special prepaid plans designed to lock in tuition rates upfront, but many are refundable. Before you sign up, check with a tax expert and have him or her examine the fine print to make sure it wouldn't lead to unintended tax consequences.

A number of schools report receiving prepayments. For example, within the past two or three years, the Brentwood School in Los Angeles has received prepayments by about four or five grandparents, says Mary Sidell of Brentwood, which has 992 students from kindergarten through grade 12. One prepaid for several children for 10-12 years in advance, she says.

In 2002, the Saint James School, in Montgomery, Ala., drafted an official prepayment agreement as an alternative, and tax-efficient, way for students' family members or friends to pay school costs. "Did you know? Grandparents and others who would like to legally avoid the federal gift tax on large amounts of money can do so by prepaying tuition for their grandchildren or any child for that matter," said a school newsletter sent to students' families.

Only one person, so far, has taken advantage of the school's prepayment agreement, a grandfather. He was in poor health when he decided to fund two of his grandchildren's education for a couple of years. "The money didn't end up in his estate at all," says William Furr, Saint James's controller and business manager. "It was a really good move on his part."

Even with the risks, this could still be a smart move for some people -- but is best suited for those who are concerned they might not live long enough to pay each year's tuition as it comes up, could afford to part with the money permanently, are comfortable the child will complete education at that school and are willing for the school to keep the money in any event.

The ruling confirms the gist of an IRS technical advice memorandum issued in 1999 based on slightly different facts. That memo and the new IRS private-letter ruling apply only to the specific taxpayers involved and aren't supposed to be cited as precedent. But tax advisers say the new ruling is helpful anyway because it offers the IRS's latest thinking on the subject -- and provides additional comfort to anyone who might fear the IRS now might have a different opinion than in 1999. * * *

SPECULATION HEATS UP about possible estate-tax changes.

Senate Majority Leader Bill Frist of Tennessee recently said he will renew efforts to win approval for legislation to repeal permanently the federal estate tax, which he and other Republican leaders refer to as the "death tax." Investment analysts see permanent repeal as highly unlikely this year. "This has little chance of passage," says Andy Laperriere of ISI Group, a research and brokerage firm.

But there still may be a compromise that would include raising the basic estate-tax exclusion, now $2 million, to somewhere between $3.5 million and $5 million -- and cutting the top tax rate, now 46%. * * *

BRIEFS: Ohio's tax amnesty offer, which began Jan. 1, is scheduled to run through today. ... Federal estate and gift-tax revenue rose to about $8.02 billion in the four months ended Jan. 31 from $7.93 billion in the year-earlier period.

Extension Of Bush Tax Rates Wins Support Of Republican Senators (WSJ)

By Brody Mullins

The Wall Street Journal, February 15, 2006

WASHINGTON -- Republicans took a step toward extending lower tax rates on investments when a majority of senators for the first time in this session of Congress signaled that they support the idea.

Senators yesterday voted 53-47 in support of a two-year extension of President Bush's 15% rates on capital gains and dividends. By the same margin, senators said the final tax bill should both lower tax rates on capital gains and dividends and exempt millions of middle-income Americans from the alternative minimum tax.

While yesterday's votes were on a procedural motion and won't have any effect over the final tax bill, they put a majority of senators on the record as supporting an extension of lower tax rates on capital gains and dividends. "It...has been our belief that a majority of senators support extending the lower tax rates on capital gains and dividends. The Senate's vote reaffirms our belief," said Richard Hunt, a securities-industry lobbyist.

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Of the Senate's 55 Republicans, three voted against the rate extensions: Sens. Lincoln Chafee of Rhode Island, Olympia Snowe of Maine and John Warner of Virginia. Democrat Ben Nelson of Nebraska voted with Republicans.

Democrats have argued that Republicans should focus on preventing U.S. citizens from having to pay higher taxes under the alternative minimum tax before dealing with the rates on investments. "Let's make sure that relief from the onerous and family-unfriendly AMT happens now," said Sen. Max Baucus of Montana, the ranking Democrat on the Finance Committee. "And let's defer on extending expensive tax breaks for investors until a later day."

The 15% rates on capital gains and dividends were enacted as part of President Bush's 2003 tax cut bill and don't expire until the end of 2008. Mr. Bush and most Republicans say the lower tax rates on investments have helped fuel economic growth for the past few years. Even though the lower rates don't expire for a few years, Republicans say that failing to act now will add uncertainty to financial markets.

"Extending these provisions now is necessary to provide certainty for investors and businesses and is essential to the continued growth of the economy and the creation of new jobs," Senate Majority Leader Bill Frist of Tennessee wrote yesterday in a letter to the lawmakers who will negotiate a final bill.

The House made the capital gains and dividends extensions the centerpiece of a $70 billion, five-year tax bill approved at the end of 2005. But Sen. Snowe, a moderate Republican, blocked a similar extension in the Senate version of the bill. Instead, the Senate bill would prevent middle-class taxpayers from paying the AMT, at a cost of $30 billion. The House bill doesn't include AMT relief because Republicans in that chamber approved a separate tax bill that protects the middle class from the AMT.

The Senate and House bills also extend for one year billions of dollars of tax incentives for individuals to save for retirement and for businesses to invest in research and development.

Republican leaders in the House and Senate want to approve a final tax bill that both extends the lower capital gains and dividends rates by two years and guards against the AMT. The issue is how to move such a package through Congress. Republicans could include the capital gains and dividends language in the broader $70 billion tax bill and approve the AMT as a standalone bill. Or they could include both provisions in one bill -- along with a renewal of the expiring tax incentives -- by cutting the capital gains and dividends extension to one year.

Republicans in the House and Senate are scheduled to begin negotiations on their competing bills this week before leaving Washington for the President's Day recess. They hope to have a final bill ready by early March.

The Heart Of The Economy (WSJ)

By John W. Snow

The Wall Street Journal, February 15, 2006

By nearly every conventional statistical measure, the American economy is performing very well today -- continued economic growth; a strong employment market; household wealth is at historic highs; inflation has been kept in check; interest rates are still low by historic standards.

But this was not the case three years ago. The economy was still struggling with the head winds from the economic downturn that began in 2000, the impact of the terrorist attacks, and the excesses of the late '90s -- seen most glaringly in the bursting of the equity-market high-tech bubble.

While officially the recession had ended in late 2001, the pace of the recovery was too slow. Growth was anemic, business confidence low and -- of critical importance -- capital investment was way down. As a result job growth was nonexistent.

President Bush recognized that something needed to be done to overcome those headwinds and, in particular, to create a more favorable climate for capital investment that would result in job creation. To do so he sent Congress far-reaching proposals to encourage capital formation by lowering taxes on investment returns. Congress responded with the Jobs and Growth Act, which was signed into law in May 2003.

Since then we have seen a remarkable turn-around in the economy. After nine consecutive declining quarters of real annual business investment, we have had 10 straight quarters of rising business investment. This business expansion led to a substantial increase in employment. In the intervening period, some 4.7 million new jobs have been created and the unemployment rate -- 6.3% in 2003 -- today stands at 4.7%, lower than the average of the 1970s, '80s and '90s.

While many factors contributed to the improved performance of the economy, the tax reductions on capital have been at the heart of the progress we have seen.

The president's proposals didn't simply provide a short-term stimulus. They did provide a stimulus, but they also did far more: By lowering the cost of capital, the president's proposals improved the inherent efficiency of the economy. We know that you always get less of something you tax. By lowering the taxes on capital, the proposals encouraged increased long-term investment. Increased long-term investment in turn improves the long-term outlook of the economy. It makes the economy more productive. With additional capital, labor output rises. And with rising labor output the demand for labor increases.

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Sound monetary policy from the Fed complemented the tax cuts, of course. The combined effect was essentially an unleashing of the economic power that rises so naturally in a free-market economy. That power comes, at its roots, from risk-takers and investment capital.

With 4.7 million new jobs created and fully half of all households benefiting from the lower tax on dividends alone, there can be no doubt that lower taxes on investment benefited the majority of the American people quite directly.

It concerns me that some in Congress are today looking to increase taxes on capital gains and dividends. Worse yet, there have been suggestions that the administration should choose between protecting the middle class from the Alternative Minimum Tax and extending the low rates on capital gains and dividends.

In both cases, the middle class is at serious risk; choosing one or other is not an option. An AMT fix must be approved by the Congress for 2006 and eventually find a permanent remedy through fundamental tax reform, and the lower rates on investment must hold. Increasing those taxes would damage economic growth, hurt job creation, and raise taxes on half of all American households. * * *

Keep in mind that the typical investor today, according to the Securities Industry Association, is a middle-class person saving for retirement with a household income of about $65,000.

If Congress fails to extend the 15% rate on capital gains and dividends, what harm will it bring to our economy? To me, the answer is very straightforward: Raising tax rates on capital gains and dividends would strike at the heart of the economy with damaging long-term effects on economic growth. A slowdown in investment would be inevitable, and a slowdown in job growth almost certain to follow.

The role of government is to put in place the foundations for American innovators and workers to do the real work that propels the economy forward. A pillar of that foundation is the low tax rates on capital gains and dividends that ultimately translate into higher living standards for all Americans. Congress owes it not just to the 91 million Americans who own equities, but to all Americans who benefit from a strong and growing economy to keep this pillar of growth in place and extend the 15% rate on capital gains and dividends.

Mr. Snow is the U.S. Treasury secretary.

CONGRESS-ADMINISTRATION:

Handling Of Accident Creates Tension Between White House Staffs (NYT)

By David E. Sanger

The New York Times, February 15, 2006

WASHINGTON, Feb. 14 — When the White House press secretary, Scott McClellan, came to the press room just before 10 a.m. Tuesday and suggested he was wearing an orange tie to avoid a stray shot from Vice President Dick Cheney, it seemed to signal an effort to defuse the accidental-shooting story with a laugh.

But by midday, it was clear that the staffs of the president and the vice president had failed to communicate. Just after arriving at work around 7:45 a.m., Mr. Cheney learned that the man he had shot, Harry M. Whittington, was about to undergo a medical procedure on his heart because his injuries were more serious than earlier believed, Mr. Cheney's spokeswoman said.

No one in Mr. Cheney's office passed the word to Mr. McClellan, senior officials at the White House said, adding that the press secretary would never have joked about the shooting accident if he had known about the turn of events involving Mr. Whittington.

It was the latest example of the degree to which Mr. Cheney's habit of living in his own world in the Bush White House — surrounded by his own staff, relying on his own instincts, saying as little as possible — had backfired since the accident in Texas on Saturday. Mr. Cheney's staff members have kept their comments to chronological details and to repeating the vice president's written statements.

The tension between President Bush's staff and Mr. Cheney's has been palpable, with White House officials whispering to reporters about how they tried to handle the news of the shooting differently. Mr. McClellan, while being careful not to cross Mr. Cheney or his aides directly, has made a point of reminding reporters of how he dealt with Mr. Bush's bicycle accident last summer, when the president collided with a Scottish policeman at the G-8 summit.

"I immediately briefed the press on how the accident had happened, and the condition of the police officer," who was taken to the hospital with minor injuries, Mr. McClellan said.

His message was clear: There was a procedure for conveying this kind of news, and it was not followed in this case.

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The past three days have underscored, in public, what has always been clear in the Bush White House: Mr. Cheney plays by rules of his own making. It is the freedom that only a political figure who knows he is in his last job — he often says he will never run again — can get away with.

"What he did was not an irrational thing," said Mary Matalin, Mr. Cheney's former communications adviser, who spoke to him Sunday morning. "This was a very close friend this happened to. Everyone was shaken up about it. When I spoke to him, it was all about Harry, worrying about him," not whether he should get a statement out, or let his South Texas host tell a local newspaper.

To others, though, it is a telling example of the cocoon Mr. Cheney has created within the White House.

Even at the most secure meetings in the White House situation room, Mr. Cheney tends to ask questions but leave the participants guessing about his own views — largely, his colleagues say they suspect, for fear of leaks. His movements, once hidden for security reasons, are now often cloaked out of habit. Several senior members of the administration said they were not told of the shooting accident until late Sunday.

Several White House officials said no one among the White House staff, including the chief of staff, Andrew H. Card Jr., felt empowered to dictate how news of the accident would be handled.

Presumably Mr. Bush could have declared how the news would be disseminated, something he does often on policy matters. Until this week, the periodic disconnect between Mr. Cheney's office and the rest of the White House has been the source of grumbling, but rarely open tension. The most notable exception came in August 2002, when Mr. Cheney, delivering a speech about Iraq, spoke so disparagingly about the utility of past United Nations weapons inspections that he left the impression that the administration would never again use inspections in an effort to assess the threat of Saddam Hussein.

In fact, Mr. Bush had decided to try to send inspectors back in, at least for a while, and it was left to Condoleezza Rice, then the national security adviser, to call Mr. Cheney and get him to strike that wording from a speech he was giving a few days later.

In the past five years, Mr. Cheney has grown accustomed to having a power center of his own, with his own miniature version of a national security council staff. It conducts policy debates that often happen parallel those among Mr. Bush's staff.

But the team Mr. Cheney relies on has changed in recent months. The departure of I. Lewis Libby Jr., who was indicted late last year on charges stemming from the investigation into the leak of a C.I.A. officer's name, left Mr. Cheney without one of his chief confidantes. His most recent communications chief, Steve Schmidt, also departed, to run the re-election campaign of Gov. Arnold Schwarzenegger of California.

It was unclear if their presence would have made a difference last weekend, when the accident was not disclosed publicly for more than 18 hours. Some former White House officials put the blame for that squarely on Mr. Cheney.

Marlin Fitzwater, who was press secretary to the first President Bush (when Mr. Cheney served as defense secretary), said he was "appalled" at how the vice president handled the news of a serious accident.

"The responsibility for handling this, of course, was Cheney's," Mr. Fitzwater was quoted as saying in the online edition of Editor and Publisher. "What he should have done was call his press secretary and tell her what happened, and she then would have gotten a hold of the doctor and asked him what happened."

A full account could have been put out "in about two hours on Saturday," he said.

Ari Fleischer, Mr. McClellan's predecessor, said Tuesday that he suspected the reason Mr. Cheney failed to say anything publicly was because he viewed the hunting trip and the accident as part of his private life, not his public one.

"If this had been a question of fundamental policy," Mr. Fleischer said, "the president's staff and the veep's staff would have gotten together."

Cheney's Response A Concern In GOP (WP)

By Jim Vandehei And Peter Baker

The Washington Post, February 15, 2006

Vice President Cheney's slow and unapologetic public response to the accidental shooting of a 78-year-old Texas lawyer is turning the quail-hunting mishap into a political liability for the Bush administration and is prompting senior White House officials to press Cheney to publicly address the issue as early as today, several prominent Republicans said yesterday.

The Republicans said Cheney should have immediately disclosed the shooting Saturday night to avoid even the suggestion of a coverup and should have offered a public apology for his role in accidentally shooting Harry Whittington, a GOP lawyer from Austin. Whittington was hospitalized Saturday night in Corpus Christi, Tex., and was moved back into the intensive-care unit after suffering an abnormal heart rhythm yesterday morning.

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"I cannot believe he does not look back and say this should have been handled differently," said Vin Weber, a former Republican congressman from Minnesota who is close to the White House. Weber said Cheney "made it a much bigger issue than it needed to be."

Marlin Fitzwater, a former Republican White House spokesman, told Editor & Publisher magazine that Cheney "ignored his responsibility to the American people."

The episode is turning into a defining moment for Cheney, a vice president who has operated with enormous clout to shape White House policy while avoiding public scrutiny over the past five years.

President Bush has allowed Cheney to become perhaps the most powerful vice president in history and has provided him with unparalleled autonomy. Early in Bush's first term, Cheney developed the administration's energy policy, largely behind closed doors, and then heavily influenced Iraq policy after the Sept. 11, 2001, attacks.

No evidence has emerged to suggest that the shooting was anything more than a hunting accident, but the spectacle of the vice president wounding a prominent Republican at an exclusive Texas ranch has become the punch line for politicians and comedians alike, and has penetrated the popular culture through late-night television. Sen. Trent Lott (R-Miss.) said he referred to Cheney as the "shooter in chief" in a meeting with members of Congress yesterday morning. It has also raised anew criticism of Cheney's operating style.

Cheney has avoided public comment on the shooting other than to release two short statements. One stated that he would be issued a warning for not paying a $7 hunting fee in Texas; the other, released by his office yesterday, detailed when he learned of Whittington's worsening condition and said his "thoughts and prayers are with Mr. Whittington and his family."

Whittington suffered an irregular heartbeat yesterday after a shotgun pellet in his chest traveled to his heart, according to hospital officials in Corpus Christi.

Some current and former White House officials said Cheney's refusal to address the issue or accept any blame has the potential to become a political problem for Bush because it reinforces the image of a secretive and above-the-law White House. Top White House aides are pressuring Cheney to discuss the incident as early as today, according to people familiar with the matter.

Cheney, a former House member, White House chief of staff and corporate executive, is dismissive of the national media and unfazed by criticism and unflattering publicity. Bush picked Cheney as vice president in large part because of his lack of political ambitions and his ability to keep confidences.

"If I read Dick Cheney right, he's got to be just devastated" by the shooting incident, said Robert H. Michel, a former House Republican leader from Illinois and a longtime friend. But Michel said he is mystified that the vice president has not come out in public to express his feelings.

"I guess he's so measured with what he does say personally, but boy, I'd think on something of this nature, you'd let your feelings [be] known," Michel said.

In general, Michel said, Cheney has "enclosed" his personal feelings so tightly to avoid showing them in public. "I guess that discipline upon himself is probably the thing that holds him back." Cheney, he added, is virtually immune to public criticism and image problems: "I don't think he really cares."

Former senator Alan K. Simpson, a fellow Wyoming Republican who hunts with Cheney, said the vice president decided when he was defense secretary during the Persian Gulf War that journalists ask "stupid questions" and distort things, and so he probably sees no need to publicly explain himself.

"Whatever he does, Dick will do it his own way, because whatever he does, it will be the subject of ridicule," Simpson said.

That disregard for public approval, though, can become a problem for the White House, according to veteran presidential aides from both parties. "When the vice president is immune to politics and tone-deaf to politics, as Vice President Cheney has shown himself to be at various stages along the way, then his perspective on this kind of situation isn't as sharp," said Ronald A. Klain, chief of staff to Vice President Al Gore.

Despite a string of political embarrassments linked to Cheney, including not finding weapons of mass destruction in Iraq, the indictment of the vice president's chief of staff in the CIA leak case and now the shooting, he remains a powerful force inside the White House.

A testament to his power is the deference Bush showed Cheney in the handling of last weekend's shooting episode. White House aides said Bush has not pressured Cheney to disclose more details about the shooting or to apologize.

One person close to both men said that Bush is the only person in the White House who could persuade Cheney to change strategy and that even high-level White House aides are reluctant to take on the vice president's office. That left White House press secretary Scott McClellan to be battered by reporters on national television.

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"This is one of the challenges of having a high-profile, very powerful vice president inside the White House," said Klain, who added: "The disadvantage is when something negative happens involving the vice president, it is much harder for the White House staff to step in and exert control."

Typically, the relationships between vice presidents and White House staffs are fraught with politics and personal ambitions because nearly every modern vice president has used the position as a launching pad for his own campaign for the top job. With Cheney, Republicans have often boasted that no such dynamic would get in the way because he does not covet the presidency. Cheney has said he will never run for president.

Nonetheless, the relationship has become increasingly complicated. With no political future of his own at stake, Cheney seems indifferent to public perceptions of him. He prefers not to talk with reporters, favoring red-meat speeches before friendly audiences such as last week's Conservative Political Action Committee gathering or call-in chats to conservative radio hosts such as Rush Limbaugh, Laura Ingraham and Sean Hannity.

His approval rating dropped to an all-time low of 36 percent in November, according to a CNN-USA Today-Gallup poll, before rebounding to 41 percent last month. Although White House officials disagree, some outside Republicans wonder whether he has lost influence because his aggressive promotion of the Iraq war led to the CIA leak case and the indictment of his chief of staff, I. Lewis "Scooter" Libby, who resigned after being charged.

Mary Matalin, a Cheney adviser who has helped him deal with the shooting fallout, rejected suggestions that the White House's handling of the incident might result in political damage. "We have a history replete with evidence to the contrary," she said. "Every time we've had predictions of monumental liability, it never occurred."

Cheney Victim Suffers Setback (BSUN)

By Julie Hirschfeld Davis

The Baltimore Sun, February 15, 2006

WASHINGTON -- Harry M. Whittington, the 78-year-old hunter accidentally shot by Vice President Dick Cheney, was back in intensive care Tuesday after suffering a mild heart attack, as questions continued to swirl around the White House's handling of the incident.

Doctors treating Whittington said a shotgun pellet lodged in his chest had triggered what they described as a "silent heart attack." He was reported in stable condition at the Corpus Christi hospital where he has been treated since the shooting on Saturday.

Cheney, who as of Tuesday night had yet to comment publicly on the accident, was quoted in a statement from his office as saying that he had spoken with Whittington after learning of his condition and that "his thoughts and prayers" are with the Austin attorney.

Doctors who briefed reporters at an afternoon news conference outside Christus Spohn Hospital Corpus Christi- Memorial said Whittington did not experience chest pains or other classic symptoms of a heart attack. They said the pellet, which they had decided to leave in place rather than remove, had caused inflammation of the heart muscle that caused a temporary blockage of blood flow.

Dr. David Blanchard, chief of emergency medicine at the hospital, said doctors were "very, very optimistic" that Whittington would make a full recovery.

Still, the heart attack revealed that Cheney's misfire, first regarded as more embarrassing than life-threatening, had potentially put his victim's health in greater danger, after doctors and White House officials had initially described Whittington as cheerfully on the mend from minor injuries.

It also derailed a concerted White House effort to move past the hunting episode, which has tarnished Cheney's image and highlighted his penchant for secrecy, while thrusting Bush's top aides, including press secretary Scott McClellan, into a tug of war with the news media.

Cheney's office -- under blistering fire for failing to make a public announcement about the shooting -- reversed course and issued a detailed statement about his concern for Whittington.

It recounted a phone call Cheney made to Whittington after learning of his condition, in which the vice president wished him well "and asked if there was anything he needed." Cheney "said that he stood ready to assist," the statement said.

"Mr. Whittington's spirits were good, but obviously his situation deserves the careful monitoring that his doctors are providing," the release said

Doctors said Whittington was expected to remain in the hospital for a week for treatment and observation.

Doctors in Washington, whom Blanchard described as White House physicians, have been consulting with cardiologists at Christus Spohn. Blanchard said they had agreed that it would be in the elderly patient's best interests to treat him with "medical therapy," rather than surgery, "with all the attendant risks of anesthesia [and] the possibility of all other things that could happen."

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Cheney learned of the change in Whittington's condition Tuesday morning and watched part of the televised hospital news conference, the statement from his office said. After the briefing, he placed a call to Whittington.

Even as the White House struggled for a second straight day to defend its handling of the shooting, McClellan continued to withhold details. He was informed of Whittington's heart troubles before his televised briefing and before the Corpus Christi news conference in which they were disclosed but did not mention the developments during the 27-minute exchange, which was dominated by questions about the hunting accident.

"You're welcome to continue to focus on these issues," McClellan told reporters. "I'm moving on."

McClellan later said he did not reveal the change in Whittington's condition because "it's not appropriate for me" to do so. "I'm not his doctor; that's for his doctor to talk about." He also said there were "privacy issues" preventing him from commenting.

As the focus turned to Whittington's health, new details continued to emerge about what took place on the 50,000-acre southeast Texas ranch where the accident occurred.

Katherine Armstrong, a lobbyist whose family owns the ranch, indicated in interviews that she and members of her family, not Cheney, had decided it was necessary to inform the public about the incident.

After making that decision over breakfast Sunday morning, she and her mother, Anne Armstrong, a former top Republican official, "ran it by" Cheney, Katherine Armstrong told The Dallas Morning News. She added that Cheney "said something along the lines of, 'You all do whatever you are comfortable with.'"

Katherine Armstrong has lobbied the Bush administration on agriculture issues and lobbied the White House last year on South Korean policy on behalf of South Korean clients, according to federal records. Other guests present for the hunting party included Pamela Willeford, the U.S. ambassador to Switzerland, and her husband George Willeford III, major donors to Bush.

The sheriff's office in Kenedy County, where the Armstrong Ranch is located, issued a news release about Saturday's incident saying that "there was no alcohol, or misconduct involved" and that "this department is fully satisfied that this was no more than a hunting accident."

Carlos Valdez, the district attorney who prosecutes criminal cases in Kenedy County, said he had yet to speak with sheriff's officials but is satisfied with what he knows of their investigation.

"I haven't seen anything that indicates a need for further investigation as of this point," Valdez said.

Valdez said his office is concerned about Whittington's well- being, and that if the man were to die, he would "ask the sheriff for a copy of his report and a copy of his investigation for us to review to see if any further action is necessary. That's the only thing different that we would do."

In Corpus Christi, doctors said they had performed a cardiac catheterization on Whittington, a procedure used to discover whether arteries around the heart are blocked and there has been damage to heart function.

Johns Hopkins University cardiologist Rick Lang said the patient probably has a good prognosis. This kind of problem usually resolves on its own within one or two weeks, he said.

Heart attacks that produce no outward symptoms are "fairly common," Lang said, accounting for up to 25 percent of all heart attacks, according to a recent study. These injuries are usually discovered after the heart attack, when an EKG reveals that the heart's pattern of electrical activity has changed.

Doctors were unsure precisely where the birdshot near Whittington's heart had lodged, Blanchard said.

Dr. Mandeep Mehra, chief of cardiology at the University of Maryland School of Medicine, said the pellet might have ended up in the pericardium, the heart's protective covering. If so, it could have inflamed the covering, and inflammation can spread to the heart's chambers.

"This can lead to rhythm disturbances," known as atrial fibrillations, he said. He said they usually subside within 48 hours.

Lang and Mehra agreed with Whittington's medical team that removing the pellet is probably not the best course.

"Trying to take it out is more usually hazardous than leaving it alone," Mehra said.

"We've seen this often," he added. "The treatment is often relatively conservative. The prognosis is generally pretty good."

Cheney's Missteps Turned Accident Into P.r. Disaster, Experts Say (KRT)

By Steven Thomma

Knight Ridder, February 14, 2006

WASHINGTON - Vice President Dick Cheney turned a tragic hunting accident into a public relations disaster by maintaining his business-as-usual approach to his life: that it's nobody's business.

His refusal to announce his involvement in the shooting irritated an already suspicious press corps and even prompted some Republicans to complain. And his failure to make a more public show of his regret over his friend's injury might have enhanced his image among many as an aloof and remote man, according to experts in political public relations and corporate crisis management.

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To weather the political storm now, some experts said Cheney should show more candor, perhaps by taking questions at a press conference. Yet at least one expert said that wouldn't help. Others advised patience, saying that the story and the uproar would fade if and when the victim, Texas attorney Harry Whittington, recovers.

"The temptation is to say there is a textbook way to handle this sort of thing. There isn't," said Peter Mirijanian, a corporate public relations consultant who specializes in crisis management and has worked for several Democrats in the past.

Most experts agreed, however, that Cheney should have announced the shooting Saturday evening when it occurred and that he should have issued a public statement of his concern for his friend's well-being.

"I am appalled by the whole handling of this," Marlin Fitzwater, who served the elder President Bush as White House press secretary, told Editor and Publisher magazine Tuesday.

He recalled that when the elder Bush once collapsed at the Camp David presidential retreat, "the statement was on the wires before the helicopter had left to take him to the hospital. I can't believe they didn't have a similar plan here. It is all Cheney; he is the key that has to start this."

Cheney is secretive to the point of defiance about his public and private life. He refused to say, for example, which energy industry representatives he met with when drafting the administration's proposed energy policy. He often doesn't release his schedule. His trip to Texas for the hunting trip wasn't announced.

"Their bunker mentality hurts them at a time like this," said Dan Gerstein, a Democratic public relations consultant. "Cheney should go out publicly and take responsibility. He should say, `There was no wrongdoing, but I made a mistake and I will do everything I can to help Whittington.' I haven't seen any expression directly from the vice president."

Cheney hasn't appeared publicly since the shooting. His office issued a statement Tuesday that didn't quote Cheney directly but said, "The vice president said that his thoughts and prayers are with Mr. Whittington and his family."

Mirijanian said he didn't expect Cheney to hold a press conference. " I don't think he'd be a great asset," he said. "It wouldn't help the situation."

He said Cheney had already decided that it's not necessary to "feed the media beast every day." If that makes the news media angry, so be it.

"The fact that the White House press corps is very hungry for information isn't necessarily a negative to the supporters of the president and vice president," Mirijanian said. "This White House is very good at triangulating the press. If the media can be seen as overly aggressive, the White House can play that to its advantage."

This White House has shown it can wait out a political storm. Mirijanian recalled the pressure last year for President Bush to meet with anti-war protester Cindy Sheehan outside his Texas ranch.

"They took a beating," he said. "And after a while, it subsided."

A veteran Republican public relations consultant, who spoke on condition of anonymity for fear of alienating the White House, said Cheney erred first by not announcing the shooting, then by allowing it to be announced to a local Texas newspaper rather than to the national press.

"That fed a lot of mistrust that was already there. It raised the story to a level it might not otherwise have reached," the consultant said.

Then the White House erred by trying to ease the tension with humor early Tuesday. That was a mistake even before it was announced that Whittington had suffered a minor heart attack, the Republican said.

Now that the damage has been done, the consultant said, it's best for Cheney and the White House to ride it out.

"They're almost over it now. I don't know that they need to say much more about it now."

Analysis: Cheney Forced Onto Center Stage (AP-Y2)

By Tom Raum

AP2, February 14, 2006

At the start of the Bush presidency, Dick Cheney was viewed as the grown-up, the seasoned hand to guide an inexperienced president. Now, he's the center of controversy.

His accidental shooting of a hunting companion and the administration's fumbles in getting out the word underscore the secrecy and near independence under which the vice president operates — and it all sent the White House scrambling on Tuesday to find the right tone when the victim's condition took a turn for the worse.

After first defensively fielding questions on why disclosure of the Saturday shooting was delayed until the next day, Press Secretary Scott McClellan joked about the situation with reporters at his morning briefing. Later, he turned somber after doctors in Corpus Christi, Texas, said the Austin lawyer shot by Cheney — Henry Whittington, 78 — had suffered a minor heart attack after birdshot from Cheney's blast migrated to his heart.

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"If you want to continue to spend time on that, that's fine," McClellan told reporters pressing him on the shooting incident. "We're moving on to the priorities of the American people. That's where our focus is."

The shooting presents a new problem for the White House as it seeks to repair damaged credibility in a midterm election year in which continued GOP control of Congress hangs in the balance.

Cheney, 65, whose "favorable" rating was just 24 percent in a recent CBS-New York Times poll, has found himself in other storms swirling around the Bush presidency.

His strong insistence that Saddam Hussein had weapons of mass destruction helped build the case for the U.S. invasion of Iraq. He also has played the role of point man in the National Security Agency's warrantless wiretapping program in the war on terror.

And, more recently, his indicted former chief of staff — I. Lewis "Scooter" Libby — testified to a grand jury about being authorized to disclose classified information to the press in the CIA leak case "by his superiors," according to court documents. Democrats have demanded to know whether Cheney was one of those superiors.

"These things become symptoms of a broader disquiet with Cheney," said Paul C. Light, professor of public service at New York University.

Among moderate and liberal Americans, "there is such an anger toward Cheney," Light said. "There are people who believed he pulled the trigger figuratively on a lot of things. Vice presidents can get away with hitting people with golf balls, but they can't get away with shooting people with shotguns."

Questions linger over why so much time passed before Saturday's shooting was made public and before Cheney and members of his party were interviewed by local law enforcement.

Cheney himself has uttered no words publicly about the mishap, avoiding reporters during a visit to Capitol Hill on Tuesday for meetings with lawmakers. His office issued a terse, unsigned statement describing Whittington's condition and saying that Cheney had phoned him from the White House.

Whittington's "spirits were good, but obviously his situation deserves the careful monitoring that his doctors are providing," the statement said.

Unlike the president, who is accompanied by a news media pool whenever he travels in public, Cheney repeatedly makes unannounced trips around town and around the country — as he did with his weekend hunting excursion in south Texas, and again on his trip to the Capitol on Tuesday.

Cheney remains popular with the GOP conservative base. Ed Goeas, a Republican pollster and strategist, said that all vice presidents have to overcome the fact that "you never get the benefit of the doubt for the good things you do, and never any lack of blame for the bad things."

He said he expects the controversy to pass, especially if Whittington makes a full recovery.

If the shooting victim's condition worsens, that could increase the seriousness of the incident, and bring more scrutiny to bear on what exactly happened on the private Texas ranch.

"But if somehow the president considers Cheney gets to be a liability, I think that getting rid of him or encouraging him to step down would cause problems for the Republicans with their base," said Ross Baker, a Rutgers University political scientist.

"And Cheney is like a member of the Bush family. The president would no sooner push Cheney overboard than he would Jeb," Baker said, referring to Bush brother Jeb Bush, the governor of Florida.

Pellet Near Heart Could Do More Damage (USAT)

By Steve Sternberg

USA Today, February 15, 2006

The greatest risk facing Harry Whittington, 78, the lawyer shot by Vice President Cheney in a hunting accident, is that a shotgun pellet lodged near his heart could travel elsewhere and cause more damage, doctors said Tuesday.

The pellet apparently migrated to Whittington's heart, causing heart rhythm disturbances and the muscle damage that signals a “silent” heart attack, David Blanchard, emergency room director at Christus Spohn Hospital Corpus Christi-Memorial in Corpus Christi, Texas, told reporters Tuesday in a briefing.

“We knew that he had some birdshot very close to the heart from the get-go,” he said. “There's always the risk they can move.”

Doctors said it would be riskier to remove the pellet, causing more damage, than to leave it in place in the hope that the body will safely wall it off with scar tissue.

Blanchard said Cheney's shotgun blast peppered Whittington's face, neck and chest with anywhere from a few to 200 pellets, each one less than a tenth of an inch in diameter. Because pellets are small, their location is hard to pinpoint.

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"We feel at this point very strongly that all of the other birdshot that is within him are not problematic," he said. "It's this one that we're worried about."

Heart surgeon Mehmet Oz of Columbia University's New York Presbyterian Hospital, agreed: "The fact that it moved is concerning," because it could move again, this time to the brain or elsewhere.

Shotgun wounds are different from wounds caused by handguns or rifles. Unless the shotgun is fired at close range, the lower-velocity pellets pack less destructive power than bullets. "They go in a wide area, usually in a spray pattern, and they don't cause serious problems," said Dan Sleeman, a trauma surgeon at Jackson Memorial Medical Center in Miami. "We don't really chase pellets."

Infection is a risk in any kind of gunshot wound, because projectiles carry dirt into a wound. Blanchard said Whittington is being treated with antibiotics.

In this case, Oz said, birdshot most likely pierced the pericardium, the protective sac that surrounds the heart, and may have lodged in the heart-muscle wall.

An injury to the pericardium could inflame the heart, leading to an erratic heartbeat, Oz said. If birdshot entered the heart's wall, he said, the damage would release enzymes that signal a heart attack.

Doctors sent Whittingon for cardiac catheterization to detect blocked or leaky arteries. Doctors threaded a thin tube from Whittington's groin up into the arteries near his heart. They injected a dye, so they could monitor his blood flow patterns. The tests disclosed that his arteries are healthy, Blanchard said.

"Of course, the individual in question has been under stress," says Mandeep Mehra, director of cardiology at the University of Maryland. "And of course, stress alone can cause a heart attack."

Fellow Hunter Shot By Cheney Suffers Setback (NYT)

By Elisabeth Bumiller And Anne E. Kornblut

The New York Times, February 15, 2006

WASHINGTON, Feb. 14 — The 78-year-old lawyer shot by Vice President Dick Cheney in a hunting accident over the weekend suffered a minor heart attack early Tuesday caused by birdshot lodged in his heart, hospital officials in Texas said.

The lawyer, Harry M. Whittington, was moved back into the intensive care unit at Christus Spohn Hospital in Corpus Christi, Tex., to be monitored for up to a week in case the birdshot shifted or additional pellets in his body moved into other organs, the officials said at a televised news conference. Dr. David Blanchard, the emergency room chief, estimated that Mr. Whittington had more than 5 but "probably less than 150 to 200" pellets lodged in his body.

Dr. Blanchard said that the hospital's cardiologists were optimistic that the metallic pellet in Mr. Whittington's heart would not travel farther and that he would be able to function normally. They said they did not consider the other pellets in his body problematic, and they currently have no plans to remove them.

Mr. Cheney's office, in its first official announcement about the incident, released a statement shortly after 2:30 p.m. Eastern time saying that the vice president's "thoughts and prayers are with Mr. Whittington and his family" and that Mr. Cheney had spoken by telephone to Mr. Whittington an hour earlier.

"The vice president wished Mr. Whittington well and asked if there was anything he needed," the statement said. "The vice president said that he stood ready to assist."

The statement added that Mr. Whittington's spirits were "good," but "obviously his situation deserves the careful monitoring that his doctors are providing."

The downturn in Mr. Whittington's health significantly changed the tone of the White House reaction to the hunting accident. In Texas, Carlos Valdez, the district attorney in Kleberg County, said a fatality would immediately spur a new report from the local sheriff and, most likely, a grand jury investigation.

At the White House, Scott McClellan, the president's spokesman, began his day unaware of Mr. Whittington's heart attack. After being battered by reporters on Monday for the delay in the White House's providing information about the accident, Mr. McClellan opened his first briefing on Tuesday making light of the incident, as the late-night comics had done.

Mr. McClellan joked that the Texas Longhorns, the N.C.A.A. football champions who were at the White House to meet with the president, would be in their team color, orange, and "the orange that they're wearing is not because they're concerned that the vice president will be there."

Continuing the play on orange, the color hunters wear as a safety precaution to avoid being shot, Mr. McClellan held up his own orange and gray tie. "That's why I'm wearing it," he said, to laughter.

But by the time of Mr. McClellan's noon briefing, when the press secretary was aware of Mr. Whittington's downturn but did not disclose it to reporters, his tone was serious, even as he was at times impatient with the persistent questions about the

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shooting. "If you want to continue to spend time on that, that's fine," Mr. McClellan said. "We're moving on to the priorities of the American people."

Mr. Cheney's aides said he first learned of the change in Mr. Whittington's condition when he arrived at his West Wing office about 7:40 a.m. Tuesday, shortly after doctors in Corpus Christi said that they had picked up an irregular heartbeat from Mr. Whittington on their morning rounds.

Doctors said that the pellet, which they had known since the accident was near Mr. Whittington's heart, had evidently moved into the heart muscle, causing "some quivering" called atrial fibrillation. Mr. Whittington, who was shot by Mr. Cheney on Saturday and moved out of intensive care on Monday, was immediately put back into intensive care.

Mr. Cheney was told, his statement said, that Mr. Whittington would need a cardiac catheterization to determine the condition of his heart. The procedure was performed about 10 a.m. Eastern time. The vice president then continued his schedule for the day, but changed his plans when his chief of staff informed him during a Capitol Hill national security briefing that Mr. Whittington's doctors were about to hold a televised news conference.

Senator Trent Lott, who had teased the vice president about the accident during the briefing, said Mr. Cheney immediately returned to the White House to watch the news conference. "He didn't look like he was having a whole lot of fun," said Mr. Lott, Republican of Mississippi.

Local officials have not considered any charges in the shooting because no one in the hunting party, including the victim, has accused Mr. Cheney of wrongdoing.

"Everybody that I've heard so far has said it was an accident," said Mr. Valdez, who holds an elected position and is a Democrat. "The victim probably told the sheriff's department it was an accident."

Mr. Valdez added, "Now, if the worst happens and the man happens to die, we would take an additional step."

Under the law, even an accidental hunting fatality can result in criminal charges. Mr. Cheney could be charged with negligence, defined as failing to understand the dangers involved and disregarding them, or recklessness, defined as understanding the dangers and disregarding them.

After some initial confusion about what steps the local police had taken to investigate the shooting on Saturday, Secret Service officials said on Tuesday that they had offered to make the vice president available for an interview as quickly as possible but that the local sheriff had agreed to wait until Sunday.

Eric Zahren, a Secret Service spokesman, said the shooting occurred at 5:50 p.m. Central time, slightly later than the White House had said at first. After helping Mr. Whittington into an ambulance, the agents in Mr. Cheney's security detail returned to their command post on the hunting ranch by 6:30 p.m. The Secret Service supervisor in McAllen, Tex., had called the sheriff in Kenedy County to tell him about the shooting by 7 p.m., Mr. Zahren said.

The Secret Service supervisor arranged with the sheriff for Mr. Cheney to be interviewed at the ranch at 10 a.m. Sunday, Mr. Zahren said. But the vice president's office changed the time to 8 a.m.

While there were reports, some from the sheriff himself, that a deputy had been dispatched to the ranch on Saturday night and been turned away, Mr. Zahren said that some local police officers had heard about the shooting on a scanner when an ambulance was sent to pick up Mr. Whittington. They showed up at the ranch unsolicited. Private guards, not Secret Service agents, Mr. Zahren said, turned the police away because they did not know anything had occurred.

The White House first learned of the shooting, Mr. McClellan said Tuesday, when someone from the vice president's party called the Situation Room shortly after the accident occurred. But whoever called — Mr. McClellan would not identify the person — said only that there had been a hunting accident involving the vice president, not that Mr. Cheney had himself shot Mr. Whittington.

The Situation Room staff then passed that information to Andrew H. Card Jr., the White House chief of staff, who contacted President Bush. Mr. Card also called Karl Rove, the deputy chief of staff, who called one of the ranch's owners, Katharine Armstrong. Ms. Armstrong told Mr. Rove that the vice president had shot Mr. Whittington, and Mr. Rove then called Mr. Bush about 8 p.m. Eastern time with that news.

Victim Suffers Heart Ailment; Shotgun Pellet Cited As Cause (WP)

By Sylvia Moreno And David Brown

The Washington Post, February 15, 2006

CORPUS CHRISTI, Tex., Feb. 14 -- The Austin lawyer accidentally shot by Vice President Cheney during a weekend quail hunt developed an abnormal heart rhythm Tuesday after a piece of birdshot in his chest moved, sending him back to intensive care.

The rhythm, which was not considered life-threatening, required a cardiac catheterization and will keep Harry Whittington, 78, in the hospital for a week, but hospital officials said he was alert and stable and will recover.

"He will have the full life that the Lord intended him to have," said David Blanchard, medical director of emergency room services at Christus Spohn Memorial Hospital.

The worsening of Whittington's condition came as law enforcement authorities offered new details about the shooting, which occurred late Saturday afternoon at the private 50,000-acre Armstrong Ranch but was not made public until Sunday.

In an interview, Kenedy County Sheriff Ramon Salinas III said Charles Kirk, one of his captains, informed him of an "accidental shooting" about 5:30 p.m. Central time Saturday. Kirk told him that he had been summoned to the ranch to escort an ambulance to a hospital in nearby Kingsville.

About 10 minutes later, Salinas said, a Secret Service agent traveling with Cheney called him on his cell phone to say there had been a hunting accident involving the vice president; he did not name the victim.

When Kirk arrived at the ranch, the ambulance had already left. He called the sheriff to tell him that it had departed and that a federal Border Patrol agent, guarding the gate because Cheney was there, knew nothing about the accident.

Salinas said he called a worker he knew lived on the ranch and asked him for information. The ranch hand, a former county sheriff, called back and described the incident as a hunting accident. Salinas said he decided to send an investigator in the morning because he knew the victim was being hospitalized and he felt assured that it was an accident. Within minutes, the Secret Service agent who had called him called back and asked him to send an investigator at 8 a.m. Central time Sunday.

Chief Deputy Gilbert San Miguel Jr. was dispatched the next morning and spoke to Cheney and other members of the hunting party. Cheney "just explained to me what happened," he said, adding that the vice president characterized the incident as a "hunting accident."

San Miguel would not disclose any other details from the interview.

"After what [Cheney] told us, we concluded it was an accident," Salinas said. "All [San Miguel] had left to do was talk to the victim." San Miguel and another sheriff's deputy spoke to Whittington in the hospital Monday morning.

"He did inform me this was an accident," said San Miguel, who also declined to provide details from that interview.

"Once the victim told him it was an accident, what else do you do?" Salinas said. He said that written reports of the incident will be completed in several days and that they will then be made public.

Salinas and San Miguel said they went to the site of the shooting. They said Whittington had been standing in the bed of a dried pond, several feet downhill from where Cheney and another hunter, Pamela Pitzer Willeford, the U.S. ambassador to Switzerland and Liechtenstein, were standing as they were shooting quail. "He was standing in a low-lying area, and they were out in front on higher ground," Salinas said. The vehicle carrying two other members of the hunting party "was directly behind the vice president and everybody else, from what we were told."

With the wind gusting and the sun setting behind where Whittington was walking, it could have been hard to see and hear him, Salinas said.

The lawyer's heart condition Tuesday led Blanchard and hospital Administrator Peter Banko to say Whittington had suffered a "mild heart attack." However, their description of events does not fit that of a heart attack as that term is generally used.

Blanchard said a single shotgun pellet that was lodged in Whittington's chest had moved and had come into contact with the surface of his heart. Inflammation of the heart muscle disturbed the electrical circuitry between the upper and lower heart chambers, triggering atrial fibrillation.

That condition affects 2.3 million Americans and is most common in the elderly. It causes an irregular heartbeat that is often faster than normal and frequently produces a feeling of breathlessness, though Blanchard said Whittington reportedly had no symptoms.

Physicians prescribe drugs to slow the heart rate and blood thinners to prevent clots from forming in the atria or upper chambers of the heart. Often, a normal rhythm returns spontaneously. If it does not, physicians can try various maneuvers, including electrical shock.

Although the condition is rare, there are many cases of people surviving after objects penetrate their hearts or move there from elsewhere in the body.

A case reported in the British journal Heart in 1992 described a 68-year-old man who had a fainting spell because of an abnormal heart rhythm. An X-ray showed a rifle slug in the chamber of his right ventricle. The man had fought on the Russian front in World War II and had been wounded five times, the last in the left side of his neck below the jaw. The bullet, according to the journal, had not been removed and, 48 years later, it had traveled to his heart.

In 1997, Swedish physicians described a 45-year-old woman who woke up with fatigue and atrial fibrillation. An X-ray revealed an inch-long metal pin in her right ventricle. It had been used to wire together a bone in her left hand 31 months earlier. Chest surgeons removed it.

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Three years ago, a team of Indian physicians reported the case of a 30-year-old man with multiple shotgun-pellet injuries. While he was being prepared for eye surgery, an electrocardiogram revealed a heart attack that had caused him no symptoms. A single pellet was found blocking the downstream end of his right coronary artery.

Cheney Victim Suffers Heart Attack (REU-Y2)

By Jeff Franks

Reuters, February 14, 2006

The Texas lawyer accidentally shot by U.S. Vice President Dick Cheney during a weekend quail hunt suffered a minor heart attack on Tuesday when some of the birdshot still in his body lodged near his heart, a hospital spokesman said.

Harry Whittington, 78, was moved into intensive care and ordered to stay in the Corpus Christi, Texas, hospital for at least another seven days to monitor his condition, said Christus Spohn Memorial Hospital spokesman Peter Banko.

The news suddenly gave a serious edge to the incident that the White House had begun making light of on Tuesday after tense exchanges with the press the day before over failure to disclose the shooting for almost a full day.

Dr. David Blanchard, the hospital's emergency room chief, said at a news conference doctors noted an irregular heartbeat during a morning examination of Whittington and it was determined he was having a minor heart attack.

He was moved into the hospital's intensive care unit and underwent cardiac catheterization for his quivering heart.

"We picked up an irregular heartbeat. At no time did he have any chest pain, the classic signs of a heart attack or anything like that," Blanchard said.

Whittington, a Republican stalwart in Texas, was peppered by an estimated 200 pellets on Saturday when the shotgun-wielding Cheney whirled to shoot a covey of quail on a southern Texas ranch and hit Whittington instead.

Cheney spoke to him by telephone from Washington on Tuesday after watching a televised hospital news conference on Whittington's health setback.

"The vice president wished Mr. Whittington well and asked if there was anything he needed," Cheney's office said in a statement. Cheney has not spoken publicly about the incident.

Doctors and officials had assured the press that Whittington suffered only minor wounds, but Blanchard said on Tuesday, "We knew he had some birdshot very near to the heart from the get-go."

At least one of those pellets had gotten close enough to the heart to cause "irritability," which led to Tuesday's heart attack, he said.

Blanchard said doctors would have to keep a close eye on the birdshot in case it continues to move.

Trauma surgeon Soumitra Eachempati at New York Presbyterian Hospital/Weil Cornell Medical Center said the moving pellet could require an operation.

"Since the pellet just moved into the heart area, it might be necessary to do open heart surgery," he said.

CONTROVERSY OVER DISCLOSURE

The story blew up into a major controversy because news of the shooting only came out on Sunday, nearly 24 hours after it occurred, when ranch owner Katharine Armstrong, also a Republican stalwart and lobbyist, called the Corpus Christi Caller-Times to report it.

Neither the White House nor Cheney's staff disclosed the accident, saying the primary concern had been making sure Whittington received proper care.

After the shooting, he was immediately treated by emergency personnel with Cheney and eventually flown by helicopter to the Corpus Christi hospital. The vice president did not accompany him.

Before news of Whittington's setback, White House spokesman Scott McClellan opened a Tuesday briefing with a one-liner about the Cheney mishap when he previewed a White House appearance later in the day by the orange-jerseyed University of Texas football team.

Hunters often wear orange vests so they will be visible to other hunters.

"The orange that they're wearing is not because they're concerned that the vice president may be there -- although that's why I'm wearing it," joked McClellan, who was wearing an orange necktie.

He did not repeat the joke at a later televised briefing, nor did he disclose information he knew of Whittington's new health problems.

The sheriff's department in Kenedy County, where the 50,000 acre Armstrong ranch is located, said on Monday it had found no misconduct in the incident.

Hunter Shot By Cheney Has Heart Attack (AP-Y2)

By Lynn Brezosky And Nedra Pickler

DOJ_NMG_0015326

AP2, February 14, 2006

The 78-year-old lawyer wounded by Vice President Dick Cheney in a hunting accident suffered a mild heart attack Tuesday after a shotgun pellet in his chest traveled to his heart, hospital officials said.

Harry Whittington was immediately moved back to the intensive care unit and will be watched for a week to make sure more of the metal pellets do not reach other vital organs. He was reported in stable condition.

Whittington suffered a "silent heart attack" — obstructed blood flow, but without the classic heart-attack symptoms of pain and pressure, according to doctors at Christus Spohn Hospital Corpus Christi-Memorial.

The doctors said they decided to treat the situation conservatively and leave the pellet alone rather than operate to remove it. They said they are highly optimistic Whittington will recover and live a healthy life with the pellet in him.

Asked whether the pellet could move farther into his heart and become fatal, hospital officials said that was a hypothetical question they could not answer.

Hospital officials said they were not concerned about the six to 200 other pieces of birdshot that might still be lodged in Whittington's body. Cheney was using 7 1/2 shot from a 28-gauge shotgun. Shotgun pellets are typically made of steel or lead; the pellets in 7 1/2 shot are just under a tenth of an inch in diameter.

Cheney watched the news conference where doctors described Whittington's complications. Then the vice president called him, wished him well and asked if there was anything that he needed.

"The vice president said that he stood ready to assist. Mr. Whittington's spirits were good, but obviously his situation deserves the careful monitoring that his doctors are providing," the vice president's office said in a statement.

Cheney, an experienced hunter, has not spoken publicly about the accident, which took place Saturday night while the vice president was aiming for a quail. Critics of the Bush administration called for more answers from the Cheney himself.

Whittington has said through hospital officials that he does not want to comment on the shooting. A young man at Whittington's Austin home who identified himself as his grandson said Tuesday he did not have time to talk to a reporter and closed the door.

The furor over the accident and the White House delay in making it public are "part of the secretive nature of this administration," said Senate Democratic Leader Harry Reid of Nevada. "I think it's time the American people heard from the vice president."

Before hospital officials announced details of Whittington's condition, the hunting accident had produced a raft of Cheney jokes on late-night television.

"I think Cheney is starting to lose it," Jay Leno said. "After he shot the guy he screamed, `Anyone else want to call domestic wiretapping illegal?!'"

On Tuesday morning, the White House spokesman briefly joined in the merriment, joking that the orange school colors of the visiting University of Texas championship football team should not be mistaken for hunters' safety gear.

"The orange that they're wearing is not because they're concerned that the vice president may be there," press secretary Scott McClellan said. "That's why I'm wearing it."

Hospital officials said they knew that Whittington had some birdshot near his heart and that there was a chance it could move closer since scar tissue had not had time to harden and hold the pellet in place.

After Whittington developed an irregular heartbeat, doctors performed a cardiac catheterization, in which a thin, flexible tube is inserted into the heart, to diagnose his condition, said Peter Banko, the administrator at the hospital.

The shot was either touching or embedded in the heart muscle near the top chambers, called the atria, officials said. Two things resulted:

_It caused inflammation that pushed on the heart in a way to temporarily block blood flow, what the doctors called a "silent heart attack." This is not a traditional heart attack where an artery is blocked. They said Whittington's arteries, in fact, were healthy.

_It irritated the atria, caused an irregular heartbeat known as atrial fibrillation, which is not immediately life-threatening. But it must be treated because it can spur blood clots to form. Most cases can be corrected with medication.

White House physicians helped advise on the course of treatment, hospital officials said.

Texas officials said the shooting was an accident and no charges were brought against the vice president.

A Texas Parks and Wildlife Department report issued Monday said Whittington was retrieving a downed bird and stepped out of the hunting line he was sharing with Cheney. "Another covey was flushed and Cheney swung on a bird and fired, striking Whittington in the face, neck and chest at approximately 30 yards," the report said.

Hunter Shot By Cheney Suffers Heart Attack, Remains At Risk (KRT)

By Ron Hutcheson

DOJ_NMG_0015327

Knight Ridder, February 14, 2006

WASHINGTON - Vice President Dick Cheney's hunting incident took on a more serious edge Tuesday when the shooting victim suffered a heart attack caused by Cheney's errant birdshot.

Doctors said Austin, Texas, lawyer Harry Whittington, 78, remained at risk from a pellet embedded in his heart muscle. The birdshot triggered a mild heart attack and forced Whittington to undergo a cardiac catheterization. The procedure is typically used to look for arterial blockages or other problems.

"Some of the birdshot appears to have moved and lodged into part of his heart in what we would say is a minor heart attack," said Peter Banko, the administrator of Christus Spohn Hospital Corpus Christi-Memorial, at a news conference. David Blanchard, the hospital's chief of emergency care, said Whittington suffered "a silent heart attack" that lacked many of the typical symptoms.

Cheney is unlikely to face any criminal charges because law enforcement officials have found no evidence of wrongdoing, experts on Texas hunting laws said.

"It's a straight-forward accident. The facts are not going to change," said Tom Harvey, a spokesman for the Texas Parks and Wildlife Department. "There's not going to be criminal wrongdoing."

According to witnesses, Cheney accidentally shot Whittington in the face, neck and chest on Saturday after the Austin lawyer strayed from the vice president's group during a quail hunt at a South Texas ranch. By their testimony, Cheney failed to honor the first rule of hunting, as posted by the National Rifle Association and other pro-hunting groups: Be sure of your target and that you can fire safely into the area beyond it before you pull the trigger.

Cheney, who has his own history of heart trouble, called Whittington Tuesday at his hospital room in Corpus Christi, Texas, to offer his best wishes, according to a statement issued by the vice president's office.

"Mr. Whittington's spirits were good," the statement added, "but obviously his situation deserves the careful monitoring his doctors are providing."

Whittington's health setback was the latest twist in an incident that has drawn reactions ranging from laughter to anger. The chuckling that peaked on late-night talk shows Monday was echoed by the White House Tuesday morning before word of Whittington's condition snuffed out the laughter.

Before he was aware that Whittington's condition had worsened, White House spokesman Scott McClellan took note that the national champion University of Texas football team would be visiting President Bush later Tuesday, and he attempted some shooting-related humor.

Observing that the team colors are burnt orange and white, he said, "The orange that they're wearing is not because they're concerned that the vice president may be there."

Later, McClellan sparred for a second straight day with journalists frustrated that the public had been kept in the dark about the shooting for almost a day.

The incident happened shortly before 5 p.m. Saturday EST, but the first public acknowledgment came about 18 hours later - and only then because Katharine Armstrong, Cheney's host in Texas, thought she should call the local paper, the Corpus Christi Caller-Times. The story broke nationally about 3:45 p.m. EST on Sunday after the local paper posted it on its Web site.

After initially expressing sympathy with media complaints about the slow notification, McClellan on Tuesday belittled questions about the shooting.

"If you want to continue to spend time on that, that's fine," he told reporters who pressed him to explain the delay. "We're moving on to the priorities of the American people."

Before Whittington's setback Tuesday, late-night TV comedians had a field day with the shooting incident Monday night.

"I think Dick Cheney is starting to lose it," Jay Leno said on NBC. "After he shot the guy, he screamed, `Anyone else want to call domestic wiretapping illegal?'"

For more information about hunting safety, visit the National Rifle Association at www.nra.org, the Texas Parks and Wildlife Department at www.tpwd.state.tx.us, and the International Hunter Education Association at www.ihea.com. For the first two sites, key in the search words "hunter safety" to access the rules.

Man Shot By Cheney Suffers Heart Irregularity (LAT)

By Nicholas Riccardi And James Gerstenzang

The Los Angeles Times, February 15, 2006

CORPUS CHRISTI, Texas — The man shot by Vice President Dick Cheney experienced a heart irregularity after birdshot moved into his heart muscle and will remain hospitalized for another week, doctors reported today.

A pellet from Cheney's gun migrated near the heart, and caused "irritability to the heart muscle," said Dr. David Blanchard, who is treating the man.

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Blanchard said the result is that the heart "is beating irregularly. It's basically like a short circuit."

The doctor referred to the victim, 78-year-old lawyer Harry Whittington, as having "a silent, or minor heart attack."

Blanchard said the patient has a strong heart and is doing well.

A hospital spokesman said the chances that "one problematic birdshot" would migrate as it has toward Whittington's heart are "one in 99.99."

Cheney was attending an intelligence briefing on Capitol Hill today when he received news of Whittington's heart attack. He returned quickly to the White House, canceling plans to lunch with Republican senators.

Sen. Trent Lott (R-Miss.), who attended the intelligence briefing, said he joked with Cheney about the hunting accident before the vice president learned the victim had taken a turn for the worse.

Cheney laughed "a little" at the joke, Lott said, declining to repeat his witticism. "He didn't look like he was having a whole lot of fun with it. Obviously, he feels badly" about the incident.

Lott said he has been quail hunting with Cheney and the vice president is "a good shot." The senator said watching the vice president shoot a 28-gauge shotgun convinced him to buy a similar one.

"I went hunting with him and he never shot me," Lott joked, before adding on a more serious note: "He's a great shot. He's a very good sportsman. He dresses the part. He wears the proper clothes. He's very careful about getting in the proper line. I feel very comfortable hunting with him. I'm a lot more dangerous than he is."

Sen. Patrick Leahy (D-Vt.), who was once on the receiving end of a vice presidential obscenity on the floor of the Senate, quipped: "In retrospect, it looks like I got off easy."

The accident occurred on a ranch Saturday when the vice president wheeled to shoot at a covey of quail and accidentally sprayed Whittington with shotgun pellets, authorities said.

"This was a hunting accident," said Gilbert San Miguel, chief deputy of the Kenedy County Sheriff's Office. "There was no alcohol or misconduct."

But the incident has reverberated worldwide: "Cheney Bags a Lawyer" was the headline in the Herald of Glasgow, Scotland.

And it has forced a White House already under fire for secrecy to explain why it made no mention of the shooting until the ranch owner disclosed it to a local newspaper, 18 hours after the incident.

White House Press Secretary Scott McClellan said Monday that the "first priority was making sure that Harry Whittington was getting the medical care that he needed. And I think that's where everybody's attention should have been focused, and was focused, when the hunting accident took place."

Still, McClellan deflected the blame away from the vice president, noting that Whittington left the hunt line to retrieve a downed quail and was approaching Cheney from behind.

"The protocol was not followed by Mr. Whittington when it came to notifying the others that he was there," McClellan said. "And so, you know, unfortunately these type of hunting accidents happen from time to time."

But hunting experts said that although Whittington should have made his location clear, the vice president should have been keeping track of his companions.

"You're hunting together. You need to know where everyone is," said Lawrence G. Keane, general counsel of the National Shooting Sports Foundation.

Jeff Hart, an Austin lawyer who hunts quail in Texas, said: "If you pull the trigger, you're responsible for it, no matter what In hunting, the shooter is responsible for knowing where the shot is going. That's the bottom line."

Cheney — known for having testy relations with the media — on Monday came under criticism from Democrats and Republicans who said the White House should have disclosed the incident immediately.

"It's news, and it reflects an attitude in this White House of holding back information, of being too clever by half and being secretive," columnist Robert Novak said on Fox News.

"On the face of it, this looks like something the administration felt the public had no right to know," Joe Lockhart, who was President Clinton's press secretary, said in an interview. "I don't think there's going to be a bunch of people sitting around saying: 'I wonder why they waited to tell us.' But what they will be saying is: 'I wonder what else they're not telling us.'"

Whittington, a prominent Austin lawyer, and the vice president arrived for a weekend hunting trip Friday night at the 50,000-acre Armstrong Ranch, a well-known retreat for wealthy Texas Republicans 95 miles southwest of Corpus Christi.

The party of 11 hunters set out in two trucks Saturday morning, driving around the mesquite-dotted property and shooting quail until about 12:30 p.m., said Anne Armstrong, co-owner of the ranch. Then they broke for a lunch of antelope, jicama salad and camp bread, washed down with Dr. Pepper.

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After lunch, the group split up. Cheney, Whittington and Pamela Pitzer Willeford, U.S. ambassador to Switzerland, went with two of Armstrong's daughters and pursued quail for several more hours. It was at dusk that Whittington shot a bird and went to retrieve it, taking him behind the vice president.

The medical team that travels with Cheney immediately began ministering to Whittington, who was bleeding profusely from wounds to his face, neck and chest, witnesses said. They packed Whittington into Cheney's ambulance and drove him to a hospital.

The injuries did not appear to be life-threatening, Armstrong said, because the ambulance paused on the road for several minutes to allow Whittington's wife to join them.

After being stabilized at a hospital in Kingsville, Whittington was evacuated by helicopter to a larger facility in Corpus Christi — where he was placed in the intensive care unit. The Secret Service reported the shooting to the Kenedy County Sheriff's Office; no one from that agency interviewed Cheney until Sunday morning.

The Secret Service said it had turned away one sheriff's deputy at the ranch the night of the accident because arrangements had been made for Cheney to be interviewed the following morning, Associated Press said.

Armstrong said Cheney had spoken with her Saturday evening about disclosing the incident to the public. "We knew word would get out," she said. He urged her to tell friends and family first, before word leaked out to the media.

Late Sunday morning, her daughter, Katharine Armstrong, called a reporter from the Corpus Christi Caller-Times, which then reported the shooting on its website.

Peter Banko, administrator of Christos Spohn Memorial Hospital in Corpus Christi, where Whittington was recuperating, said the injured hunter was cracking jokes — and was baffled by all the publicity. "He's a true Southern gentleman," Banko said of Whittington at a Monday news conference. "He's really amazed, I think, at all the hoopla over this."

Whittington is a fixture in Texas politics, having worked in Republican campaigns dating to John G. Tower's senatorial run in the 1960s. He's known nowadays for a decades-long battle to prevent the city of Austin from building a parking garage over a downtown block that his family owns. The dispute is still being litigated.

The shooting has aroused sympathy for Cheney in South Texas, where many locals hunt and accept that there is always the risk of an accident. "If it happens every once in a while, we're not alarmed by it," Carlos Valdez, the local district attorney, said of nonfatal accidental shootings.

There were 30 hunting accidents last year in Texas, which issued 1.1 million hunting licenses.

"You can't name a sport where accidents don't happen," said Leroy Sisco, chief executive of the Texas Trophy Hunters Assn., who said he had been inadvertently sprayed by birdshot several times. "Everybody who hunts understands. It's just an accident and, thank God, it's not a serious accident."

White House Finds Humor In Hunting Mishap (AP-Y2)

By Nedra Pickler, Associated Press Writer

AP2, February 14, 2006

The White House has decided that the best way to deal with Vice President Dick Cheney's shooting accident is to joke about it.

President Bush's spokesman quipped Tuesday that the burnt orange school colors of the University of Texas championship football team that was visiting the White House shouldn't be confused for hunter's safety wear.

"The orange that they're wearing is not because they're concerned that the vice president may be there," joked White House press secretary Scott McClellan, following the lead of late-night television comedians. "That's why I'm wearing it."

The president's brother, Florida Gov. Jeb Bush, took a similar jab after slapping an orange sticker on his chest from the Florida Farm Bureau that read, "No Farmers, No Food."

"I'm a little concerned that Dick Cheney is going to walk in," the governor cracked during an appearance in Tampa Monday.

Cheney, an experienced hunter, has not been joking or saying anything publicly at all about the accident Saturday, when he accidentally sprayed a hunting partner with shotgun pellets when aiming for a quail.

The Texas Parks and Wildlife Department issued a report Monday that found the main factor contributing to the accident was a "hunter's judgment factor." No other secondary factors were found to have played a role.

The department gave Cheney and the victim, prominent Republican attorney Harry Whittington, warning citations for breaking Texas hunting law by failing to buy a $7 stamp allowing them to shoot upland game birds. A department spokesman said warnings are being issued in most cases because the stamp requirement only went into effect five months ago and many hunters weren't aware of it.

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Cheney's office said Monday night in a statement that Cheney had a $125 nonresident hunting license and has sent a $7 check to cover the cost of the stamp. "The staff asked for all permits needed, but was not informed of the $7 upland game bird stamp requirement," the statement said.

The state's report said Whittington was retrieving a downed bird and stepped out of the hunting line he was sharing with Cheney. "Another covey was flushed and Cheney swung on a bird and fired, striking Whittington in the face, neck and chest at approximately 30 yards," the report said.

Whittington, who had been in stable condition after being moved from intensive care, suffered "a minor heart attack" Tuesday morning, hospital officials said. He was immediately moved back to the intensive care unit for further treatment, said Peter Banko, the administrator at Christus Spohn Hospital Corpus Christi-Memorial in Texas.

Banko said there was an irregularity in the heartbeat caused by a pellet, and doctors performed a cardiac catheterization. Whittington expressed a desire to leave the hospital, but Banko said he would probably stay for another week to make sure more shot doesn't move to other organs or to other part of his body.

Katharine Armstrong, owner of the ranch where the shooting occurred, said it happened toward the end of the hunt, when it was still sunny but as darkness was encroaching and they were preparing to go inside. She said Whittington made a mistake by not announcing that he had walked up to rejoin the hunting line, and Cheney didn't see him as he tried to down a bird.

Armstrong said she saw Cheney's security detail running toward the scene. "The first thing that crossed my mind was he had a heart problem," she told The Associated Press.

She said Cheney stayed "close but cool" while the agents and medical personnel treated Whittington, then took him by ambulance to the hospital. Later, the hunting group sat down for dinner while Whittington was being treated, receiving updates from a family member at the hospital. Armstrong described Cheney's demeanor during dinner as "very worried" about Whittington.

Pamela Willeford, the U.S. ambassador to Switzerland, another member of the hunting party, told The Dallas Morning News for a story in Tuesday's editions that she and Cheney didn't realize Whittington had picked up a bird and caught up with them.

Willeford said she has hunted with Cheney before and would again.

"He's a great shot. He's very safety conscious. This is something that unfortunately was a bad accident and when you're with a group like that, he's safe or safer than all the rest of us," she said.

But the accident raised questions about Cheney's adherence to hunting safety practices and the White House's failure to disclose the accident in a timely way.

Several hunting safety experts interviewed agreed it would have been a good idea for Whittington to announce himself. But every expert stressed that the shooter is responsible for avoiding other people.

Bush was told about Cheney's involvement in the accident shortly before 8 p.m. Saturday — about an hour after it occurred — but the White House did not disclose the accident until Sunday afternoon, and then only in response to press questions.

Facing a press corps upset that news had been withheld, press secretary Scott McClellan said, "I think you can always look back at these issues and look at how to do a better job."

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On the Net:

White House: http://www.whitehouse.gov

Orange Morning Gives Way To A Darker Afternoon (WP)

By Dana Milbank

The Washington Post, February 15, 2006

White House press secretary Scott McClellan was in fine fettle yesterday morning when he strode smiling into the briefing room and made a joke about Vice President Cheney's hunting accident.

President Bush, he announced, would be on the South Lawn to honor the national champion University of Texas Longhorns, whose football jerseys are burnt orange and white. "The orange they're wearing is not because they are concerned that the vice president will be there," the spokesman deadpanned.

The reporters, who had tormented a stone-faced McClellan about the episode on Monday, guffawed at his newfound levity. "Although," McClellan continued, pointing to his orange tie and eyeing the loaded-for-bear reporters, "that's why I'm wearing it."

But the stand-up routine ended abruptly when McClellan returned two hours later for the afternoon briefing. The joking spokesman had been replaced by flack in full scandal mode, informing the questioners that he would indulge the silliness no more and was, instead, pressing on with the people's business.

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"If you all want to continue focus on this, you all can spend your time on it," he said icily. "We're going to keep focusing on the pressing priorities of the American people. . . . You're welcome to continue to focus on these issues. I'm moving on." Nine times the press secretary announced to the cameras that he was going ahead with the people's "priorities," regardless of what the feckless journalists were asking about.

Why the quick switch in tone? Unbeknownst to the reporters -- but well beknownst to McClellan -- the White House had been informed before the second briefing that the shooting victim, Harry Whittington, had suffered a heart attack and had undergone a cardiac procedure because a pellet from the vice presidential shotgun was in his heart. Suddenly, the White House had more than an embarrassment on its hands.

Even without knowledge of Whittington's setback, the journalists wouldn't play along. "This is our briefing; we get to ask the questions," David Sanger of the New York Times fired back. NBC's David Gregory lectured: "Don't tell us that you're giving us complete answers when you're not actually answering the questions."

McClellan dared the reporters to question him about the accident, informing them that "the American people want us to spend our time" on other matters. But even McClellan couldn't get the misfire out of his head. Asked about oil company royalties, he noted that "we limited and imposed triggers at the beginning of the administration to cut off relief." Triggers?

As the briefing proceeded, the spokesman became snippier. "It is what it is," he said of the shooting, "and I think it's time to move on for the American people." By the time ABC's Anne Compton rose with the last question, McClellan was suppressing a grin. "It's time to focus on the priorities of the American people," he said one final time. Then, departing for the Texas football event, he flashed the school's "Hook 'em, 'Horns" sign.

But as Bush and McClellan went to greet the Longhorns, Whittington's doctor was heading to the microphones in Corpus Christi, Tex., to deliver the bad news. It was open season on Cheney.

Senate Minority Leader Harry M. Reid (D-Nev.) joined in, remarking after lunch with his caucus that the matter "is part of the secretive nature of this administration" and that "they keep things pretty close to the chest." Aides said the thoracic pun was not intentional.

The vice presidential misfire revived all the old Cheney gossip. In the morning, NBC's Kelly O'Donnell wondered if she should interpret the lack of a phone call between Bush and Cheney on the day of the accident as a sign of a "strain in the relationship."

"No," McClellan said with a forced laugh, "you shouldn't."

Proposed Ken Herman of Cox News: "Why don't they go hunting together?"

Other questioners wondered if the episode was evidence that Cheney could not be reined in by Bush or that Cheney had other dark secrets. The New York Post's Deborah Orin asked what had happened to "personal responsibility," and why Cheney couldn't just say "I made a mistake."

"He has commented through his spokeswoman," McClellan offered.

"But why haven't we heard from him?" demanded CBS's Bill Plante.

"I don't think he had any public events scheduled," McClellan replied.

"He could schedule one," Plante persisted. "It would be easy. If he wanted to come over here, you'd probably let him. We would turn up."

McClellan was done taking advice. "Okay, then you can start running the vice president's office, Bill." Plante declined the offer, and Cheney stayed out of sight.

After news of Whittington's heart attack, Cheney's office issued a statement -- in the third person -- saying: "The vice president said that his thoughts and prayers are with Mr. Whittington and his family."

Fallout From Cheney Incident Besets White House (WSJ)

By John D. McKinnon And Greg Hitt

The Wall Street Journal, February 15, 2006

WASHINGTON -- Vice President Dick Cheney's hunting incident became a bigger distraction for the White House when doctors said that the man he accidentally shot in Texas suffered a heart attack caused by a shotgun pellet.

The development isn't likely to put the vice president in any legal peril, and the local district attorney said late yesterday that he has seen nothing so far to indicate charges are warranted. But whether the incident causes lasting political damage may yet depend on how Mr. Cheney responds, and whether it appears to the public that the vice president is being treated differently from other hunters involved in accidental shootings.

Harry Whittington, the 78-year-old Austin lawyer hit by a blast from Mr. Cheney's shotgun Saturday, was in stable condition after being moved back into the intensive-care unit of a Corpus Christi hospital. Mr. Cheney watched doctors in Texas brief reporters on the case at about 1 p.m., and then called Mr. Whittington to wish him well, according to a statement from his office.

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While the prospect of criminal charges against the vice president remained remote, the incident injected new drama into a story that has drawn attention around the nation.

Democrats stepped up their rhetoric, particularly over the White House's delay in making the incident public and the vice president's continued public silence. Senate Minority Leader Harry Reid criticized the administration's secretive nature and said, "It's time the American people heard from the vice president."

Republicans privately expressed concern that the incident is distracting from President Bush's agenda just after he announced a number of initiatives in his State of the Union address.

In Texas, Carlos Valdez, the district attorney whose office would prosecute any suspected crimes, said that he has seen no indication of criminal wrongdoing. It would require recklessness or criminal negligence to file charges, and "I haven't heard anything like that in this, anything close to recklessness or criminal negligence," he said.

Prosecutors have latitude in such cases, legal experts said. In Mr. Valdez's office, "if all the witnesses agree that it was an accident...we let it go at that," absent evidence of recklessness or criminal negligence, the district attorney said. Mr. Valdez added that if Mr. Whittington were to die, it could trigger a grand jury investigation.

A state incident report said that "hunter's judgment" played a role in the shooting. The report says Mr. Cheney, who was carrying a 28-gauge shotgun, "swung on a bird and fired," but ended up "striking Whittington in the face, neck and chest." Most safety guidelines, including those published by the state of Texas, recommend that a hunter be aware of what is in front of and beyond the target before pulling the trigger. But witnesses also have pointed to Mr. Whittington's failure to announce his presence to the hunters.

If prosecutors decided to pursue a case, they likely would proceed under a law designed to deter elder abuse that penalizes negligent infliction of injury on an elderly person, said George Dix, a University of Texas law professor. But even that statute's relatively easy standard likely would be too high a bar, Mr. Dix said. "From my own experience in researching, it's just very hard to create liability for a hunting accident," he said.

Randy Wilson, an Abilene, Texas, lawyer who is president of the state's criminal defense lawyers association, said he believes prosecutors might be able to find a basis for charges -- for instance, a reckless-endangerment charge.

"Probably nothing will come of it," Mr. Wilson said. But if he were the prosecutor and had filed charges in similar cases in the past, he said he would do the same with the vice president.

In 2005, there were more than one million hunting licenses issued in Texas, and about 30 reported accidents involving a firearm or bow that resulted in injury or death. Of those accidents, two were fatal, the Texas Parks and Wildlife Department said

According to the Secret Service, the shooting occurred at approximately 5:50 p.m. local time on Saturday on the Armstrong ranch, and medical personnel and Secret Service agents on hand immediately treated Mr. Whittington. At about 6:20 p.m., Mr. Whittington was loaded into an ambulance and transferred to a local hospital. Between 6:50 and 7:00 p.m., the resident agent in charge of the Secret Service's office in McAllen, Texas -- who was on hand to help coordinate Mr. Cheney's visit -- "notified the local sheriff," Secret Service spokesman Tom Mazur said.

Washington Wire (WSJ)

By Various Writers

The Wall Street Journal, February 15, 2006

Worries are mounting among Republicans about Vice President Dick Cheney's hunting accident after his hunting partner has a heart attack caused by birdshot from the mishap.

Though news of Harry Whittington's heart attack quiets the flood of jokes about Cheney's misfire, it vexes party strategists who fear the accident will be a continuing distraction from the party's 2006 agenda. "It is drowning out all other news [and] has taken all the political energy out of the White House," says one longtime Bush ally. Another veteran operative worries that Americans will begin asking about whether average citizens involved in such mishaps might face legal trouble. "Let's just hope that Whittington is in as good of shape as they keep saying," adds a consultant to Republican House and Senate candidates.

Democrats said the incident has already come to symbolize administration stumbles, and is interfering with President Bush's attempt to recover from an unhappy 2005. "The accident couldn't have come at a worse time for the administration," said Democratic pollster Geoff Garin, asserting that belated public disclosure has added to "the broader impression that the whole administration plays by its own special rules."

Senior Bush advisers dismissed suggestions of political fallout. Cheney's accident matters politically, one said, "Only if he keeps hiding. I think [if] he just apologizes and tells the press to stop making a mountain out of a molehill … the thing is done." -- John Harwood

* * *

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Squeeze Play: Treasury Secretary John Snow may be frustrated by President Bush's decision to abandon tax overhaul for this year, but he'll find himself in the middle of a spirited tax-policy debate in defending the administration's budget -- beginning Tuesday when he testifies before Senate Budget Committee.

Sec. Snow

Free-market conservatives, part of the political base Bush must rally to protect Republican majorities in midterm elections this fall, cherish the administration's plans for expanding Health Savings Accounts as a key element of the president's "ownership society" objective. Sen. Orrin Hatch (R., Utah), who chairs the health subcommittee of the Senate Finance panel, calls HSAs a step toward bringing America's archaic employer-based health system "into the new economy."

Democratic liberals, however, consider expanded HSAs a backdoor tax-break for the affluent. A study by ex-Kerry campaign adviser Jason Furman for the Center on Budget and Policy Priorities concludes that HSAs could be used as "a lucrative tax shelter for high-income families," yielding more than a 401(k) plan even if those families ultimately don't use the money for health care at all.

Political insiders in both parties consider HSAs the least likely of the president's major domestic initiatives to pass when budget provisions run the congressional gauntlet, beginning with today's Budget Committee sessions. --John Harwood * * *

Tougher Stance on China Trade: In a wide-ranging Bush administration appraisal of policy toward China, U.S. Trade Representative Rob Portman is promising much tougher enforcement of trade laws, but is not asking Congress for expanded authority to sanction Beijing.

In a report released Tuesday, Portman voices concern about China's failure to curb the piracy of U.S. intellectual property and enforce international labor standards. Warning of a "corrosive effect on political support" in the U.S. for trade with China, Portman flags concern with Beijing's "unreported and extensive" industry subsidies, and a network of trade barriers that he says keep out U.S. exports and helped fuel a record U.S. trade deficit. That deficit reached $725.75 billion in 2005. For China alone, the deficit stood at $201.62 billion, up more than 20% from 2004, far and away the largest U.S. gap with any single country. --Greg Hitt And Murray Hiebert

· Read the full article2 and the report, "U.S.-China Trade Relations: Entering a New Phase of Greater Accountability and Enforcement3."

* * *

Orange You Funny: Even the political class is taking shots at Vice President Dick Cheney after he accidentally sprayed a member of his hunting party with birdshot Saturday.

At a State Fair appearance Monday, Florida Gov. Jeb Bush took a bright orange sticker -- hunter orange -- advertising the Florida Farm Bureau's "No Farmers, No Food" campaign, and placed it on his chest. "I'm a little concerned that Dick Cheney is going to walk in," he told his audience.

On Tuesday, as the White House prepared for the arrival of the University of Texas Longhorns, the NCAA football champions, press secretary Scott McClellan joked about the team's orange and white colors: "The orange that they're wearing is not because they're concerned that the vice president may be there. That's why I'm wearing it."

One health-care lobbyist chuckled: "It's not enough for the administration to cut Medicare; now they're taking out seniors one by one."

At a Monday night performance at the Birchmere club in suburban Virginia with friends Lyle Lovett, Guy Clark and Joe Ely, John Hiatt improvised lyrics to the tune of "I'm going down this old dusty road": "I'm sending ol' Dick Cheney to Iraq. Let 'im shoot at something that shoots back."

And cyber-humorist Andy Borowitz reports4: "Homeland Security Secretary Michael Chertoff announced today that his department would immediately implement a "Cheney Alert" system to warn Americans if an attack by Vice President Dick Cheney is imminent."

· Read more: Cheney Accident Triggers Jokes on Late-Night TV5

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For the Record Book: Rep. John Dingell passed one of his mentors Tuesday to become the second-longest serving member in the history of the House. The Michigan Democrat has now served 50 years, two months and 14 days, one day more than the late Rep. Carl Vinson who retired from the House on Jan. 3, 1965.

"Carl Vinson was a giant," Dingell said of the Georgia Democrat. "When I was beginning my career, Vinson could scare young Members with just a look. No one challenged him or questioned him on anything. He was a teacher by example and I had the pleasure of knowing him and learning from him." Dingell was 29 years old when he was first elected to finish the term of his late father. Dingell said he spent this Valentine's Day with his wife, Deborah, and visited the Veterans' Medical Center in Detroit. "There is no finer way to honor Carl Vinson than to pay tribute to the great American soldiers he spent his life working for," he said.

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It will be another three years before Dingell surpasses the longevity record held by Rep. Jamie Whitten (D., Miss.) --Laura Meckler * * *

Monday, Feb. 13

The Texas Parks and Wildlife Department's incident report on Vice President Dick Cheney's accidental shooting of a hunting partner Saturday pins the blame largely on Cheney.

In evaluating "contributing factors," the game warden checked off the box: "Victim covered by shooter who was swinging on game." In its summary, the report says that 78-year-old Harry Whittington "downed a bird and went to retrieve it. While he was out of the hunting line another covey was flushed and Cheney swung on a bird and fired striking Whittington in the face, neck and chest at approximately 30 yards."

Lydia Saldaña, spokeswoman for the Texas Parks and Wildlife Department6, said Cheney would also receive a warning citation because he did not have the proper "upland game bird stamp" required to hunt quail, but that he would not be fined.

The game warden's report7 contradicts earlier claims from the White House and Katharine Armstrong, the owner of the Texas ranch where the shooting occurred. Earlier Monday, the White House cited8 Armstrong's view that Whittington was at fault. "She pointed out that the protocol was not followed by Mr. Whittington when it came to notifying the others that he was there," said White House spokesman Scott McClellan.

Some hunting groups chastised the vice president. "It's incumbent upon the shooter to assess the situation and make sure it's a safe shot," Mark Birkhauser, president-elect of the International Hunter Education Association, told the Associated Press.

The Corpus Christi Caller-Times, the paper that first broke the story, identified the third hunter in the party as Pamela Willeford, the U.S. Ambassador to Switzerland and Liechtenstein and a former chairman of the Texas Higher Education Coordinating Board. Cheney's office would not confirm the report that Willeford was the third hunter. --Christopher Conkey * * *

Foreign media were having a field day with the story of Cheney's hunting accident.

One Australian paper suggested Cheney was trying to draw attention from an investigation into his possible role in leaking national-security information to reporters. His indicted ex-aide, I. Lewis Libby, reportedly told a grand jury that he was authorized by his "superiors" to release parts of the classified National Intelligence Estimate. "With both Republican and Democrat members of Congress calling for an investigation into Libby's claim, Mr. Cheney was under some political pressure," said the Sydney Morning Herald. "Perhaps he was thinking about how he should respond when he aimed his shotgun at the quail and instead sprayed Mr. Whittington with shotgun pellets." The online news blog for the Guardian in London headlines its account of the mishap9, "Duck Cheney."

The accident wasn't the first at a vice presidential hunt. Two Secret Service agents were involved in separate motor-vehicle accidents in South Dakota in 2001, while Cheney was on a pheasant-hunting trip. One of the agents was slightly injured when his rented Ford Excursion SUV overturned off a gravel road.

Asks the child of one inside-the-Beltway journalist: Daddy, does he get a time out? --John D. McKinnon * * *

Pushing Mine Safety: Families of miners killed in three accidents said the nation's mine safety agency has kept them in the dark about its investigations.

The group aired its grievances before Democratic members of the House Education and Workforce Committee, who convened the forum Monday. Distraught relatives of miners killed in West Virginia last month and in Alabama five years ago called for more transparency and faster responses from investigators and top officials at the federal Mine Safety and Health Administration.

Frieda Sorah, whose husband died at the Jim Walters Resources mine in Alabama in 2001, chided MSHA for failing to adopt safety regulations recommended by the United Mine Workers of America in time to prevent the January disaster at the Sago in West Virginia. "MSHA [officials] cannot be trusted to investigate themselves," Sorah said. Wanda Blevins said that when her husband's body was retrieved from the Jim Walters mine 43 days after the accident, word reached her through a "grapevine" of contacts -- not organized channels. Blevins and her son, David, also a miner, said they have tried to obtain more information throughout the accident investigation. But, she said, "To this day, I still don't know what happened." -- Joi Preciphs * * *

Pressing FDA: Sen. Orrin Hatch (R., Utah) and Rep. Henry Waxman (D., Calif.) write to the Food and Drug Administration pressing the agency to act on generic biotech drugs.

The two lawmakers, who teamed up on the 1984 law that created the pathway for generic versions of traditional drugs, think the FDA can move ahead with copycat versions of a few products under the current law. The FDA has said in the past that it might be able to approve copies of certain biotech drugs, including human growth hormone and insulin, without new action from Congress. The letter says there is "no excuse -- scientific, legal or otherwise -- for FDA to continue to delay the release" of guidelines on what data generics makers need to apply for approval of copies of human growth hormone and insulin. Sandoz, a generics unit of Novartis AG, has sued the FDA over the agency's delay of a decision on its version of human growth hormone.

An FDA spokeswoman says agency officials "have received the letter and are reviewing it." --Anna Wilde Mathews * * *

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Taking on the AFL-CIO: As organized labor fights an uphill battle to keep pension and health care benefits for auto workers and other unionized employees, it has something new to worry about: The Center for Union Facts, a nonprofit group launched Monday by Washington, D.C. lobbyist Rick Berman.

The group, which took out full-page ads in major newspapers and organized a protest in front of AFL-CIO headquarters Monday, is taking aim at the union movement, devoting a Web site10 to provide information on union leader salaries and political donations with information culled from various government entities. Berman, a former labor law attorney for the U.S. Chamber of Commerce who now represents a host of companies primarily in the food and beverage industry through Berman & Co., says the group already has a $2.5 million war chest from various corporations, foundations and "one trade association."

Lane Windham, an AFL-CIO spokeswoman, called the center "a front group for giant corporations that want to make sure that workers don't have a voice." She said staffers at the big labor federation11 planned to bring cookies and milk to the protesters. "We feel that it's a pretty juvenile action, and we want to offer them some sustenance when they're out there," she said. --Kris Maher * * *

Snow

Out of the Loop: Treasury Secretary John Snow pleaded ignorance when word leaked out that senior officials in the Group of Seven held a secret side meeting in London last Thursday to avoid inviting Group of Eight host Russia during this weekend's finance ministers' gathering in Moscow.

The hush-hush London talks are a reminder that Russia may be hosting this year's rich-nation G8 summit in St. Petersburg this July, but it's still just a caddie at the more exclusive G7 country club.

"I don't know where they met or if they met or who met," Snow told reporters when cornered about the London meeting. Perhaps. But, if so, the secretary might have wondered why his top international aide, Undersecretary for International Affairs Tim Adams, wasn't on his plane to Moscow and was AWOL for the first day of the three-day visit. --Michael M. Phillips * * *

Time Flies: On Tuesday -- Valentine's Day -- Rep. John Dingell (D., Mich.) becomes the second-longest serving member in the history of the House, having served 50 years, two months and 14 days after being elected to finish the term of his late father. He passes the late Rep. Carl Vinson (D., Ga.), who retired from the House on Jan. 3, 1965, after 50 years, 2 months and 13 days.

Dingell spokesman Adam Benson says it has been a virtual "Dingell-palooza" of milestones since last year, when he passed Speaker Sam Rayburn as fourth-longest-serving member and later celebrated 50 years in the House. It will be another three years, though, before Dingell can claim the top spot. Rep. Jamie Whitten (D., Miss.) served for 53 years, 2 months and 14 days in the House. Dingell won't surpass that record until Valentine's Day, 2009.

"It's nice to be No. 2," Benson said. "But he said to me the other day, 'I really want to be known more for quality than quantity.'" --Laura Meckler * * *

Resurfacing: Lester Crawford, who abruptly resigned as head of the Food and Drug Administration last September, will give a speech Tuesday at an American Enterprise Institute event. Crawford is now at Policy Directions Inc., a lobbying and communications firm that specializes in health-care and food issues, as well as drug and medical-device regulation. The keynote address at the conservative think-tank's event will focus on the "precautionary principle" and how such regulatory caution affects the international fight over biotech crops. --Anna Wilde Mathews * * *

Friday, Feb. 10

Keep Talking: At a closed-door meeting with lawmakers Friday at a Republican retreat in eastern Maryland, President Bush warned that "I expect this conversation we're about to have to stay in the room." He quickly added that "I know that's impossible in Washington." It was, even more so than usual. The first few minutes of his comments were being piped inadvertently through an open microphone to reporters who had just been escorted out of the event.

In his supposedly off-the-record comments, Mr. Bush said nothing new, basically repeating themes that he often sounds in his public appearances. He talked about how Sept. 11, 2001, changed how he thinks about defending America from attack. And he offered a defense of his National Security Agency eavesdropping program, emphasizing how he sought the views of lawyers at the White House and the Justice Department before putting it in place. There was at least one flash of candor before the sound feed was cut. Advising lawmakers to hire advisers who are smarter than they are, he added, "in my case it wasn't all that hard to find." --John McKinnon * * *

Michigan Democratic Rep. John Dingell accused the Bush administration of undermining and berating American auto makers while they are working hard to fix their troubles.

In a letter sent today to President Bush12, Mr. Dingell says the administration has failed to respond constructively to the problems of General Motors Corp. and Ford Motor Co. The most recent offense, he said, was a quote in The Wall Street Journal this week13 from a senior administration official who downplayed concerns about Japanese manipulation of currency to their

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auto makers' advantage. The official said, in part, "The American car industry needs to focus on producing cars that Americans want to buy. It's hard to make the case that the currency issues play even a minimal role."

In his letter, Mr. Dingell responded: "In my 50 years of public service, I've never seen an administration of either party that has actively and publicly put down American products, companies and workers the way this administration has done with our auto manufacturers. How can they hope to sell more cars when the number one spokesman for their competitors is the White House?"

A longtime champion of the domestic auto makers, Mr. Dingell said it was "a testament to their competence and determination that these companies are succeeding at all given the unfair advantages enjoyed by their foreign competitors and the constant nay-saying by an administration that should be their biggest booster." --Laura Meckler * * *

Washington and Moscow remain at loggerheads over Russia's efforts to gain membership in the World Trade Organization.

Russia has been trying to get into the trade organization for more than a decade, but the U.S. won't give its approval unless Moscow allows foreign banks, insurers and other financial institutions to open branches. Right now foreigners have to go through the more-onerous process of setting up local subsidiaries, with their own capitalization. The free-marketeers at the U.S. Treasury Department see financial services as the grease that would speed growth of the Russian economy. The Russians are worried that their regulators won't be able to adequately supervise branches and that domestic banks won't be able to compete with international institutions.

U.S. Treasury Secretary John Snow made no headway at a meeting in Moscow this morning with his Russian counterpart, Alexei Kudrin, in advance of tomorrow's gathering of Group of Eight finance ministers. The U.S. side has proposed a transitional period during which Russia would open its financial system to more foreign competition.

The branch-banking issue "is one of the main sticking points," a senior U.S. official said afterwards. "The Russians aren't completely sold on market efficiencies and the idea that consumers are king." Russian officials point out that the current ban on branches hasn't deterred such big foreign players as Citigroup, which is investing heavily in Russia. Russian President Vladimir Putin called President Bush before Christmas to complain about the holdup, then sounded off in public about it again last week. The U.S. is also concerned about Russia's limits on farm trade and its commitment to cracking down on pirated CDs, DVDs and other copyrighted material.

The WTO talks come amid rising American concerns about Mr. Putin's foreign and domestic policies, ranging from his crackdown on opposition at home to Russia's recent cutoff of natural gas supplies to Ukraine to a Kremlin invitation to Hamas leaders from the Palestinian territories to visit Moscow. --Michael M. Phillips and Greg White * * *

Brazilian Advice? The Bush administration is looking to Brazil for advice about how to kick the oil addiction that the president owned up to in his State of the Union Address.

At a meeting in Moscow this afternoon, Treasury Secretary John Snow asked Brazilian Finance Minister Antonio Palocci how his country has gotten to the point where it expects to be energy independent within a couple of months. Palocci, a guest at this weekend's gathering of the Group of Eight finance ministers, touted Brazil's 30-year campaign to replace oil with ethanol, most of it sugar-based.

"Nobody does it in an economically feasible manner like we do," Palocci told reporters after his sit-down with Snow. The Brazilians would like the U.S. to invest in a joint research-and-development, but the Treasury secretary made no commitment.

"We're very interested" in understanding Brazil's success with ethanol, said a senior U.S. official.

Brazil, however, has also discovered its own offshore oil deposits. --Michael M. Phillips

· Read excerpts14 and full text15 of Bush's State of the Union address.

* * *

Tax overhaul's demise leaves unhappy Bush panel.

Former Sen. Mack, "disappointed" that presidential advisory group he headed isn't producing action, cautions the issue will become "more difficult" to push as president's term continues. Absence of tax overhaul in Bush's State of the Union address is seen as sign of Treasury Secretary Snow's lack of clout.

Some senior Republicans want to put off overhaul debates until Washington tackles baby-boom retirement, the subject of commission Bush has called for. The liberal Center for American Progress wants Democrats to step in, placing tax overhaul atop its "15 new ideas," with plan to cut employee payroll-tax contributions on earnings below $90,000.

Ex-Sen. Breaux, Mack's co-chair, got note from Snow but "no saying 'thank you' " from Bush for panel's work.

Republicans speak up to House leaders about election-year needs.

Format for this weekend's retreat in Maryland is "unstructured," says Ohio Rep. Pryce, who chairs Republican conference. Newly elected Majority Leader Boehner calls these "times of renewal."

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House Democrats press Boehner to open legislative process while banning lobbyists' gifts. But House reform timetable slips, while McCain presses Senate effort to change spending "earmarks." Answering attacks on Santorum's lobbying ties, Senate Republican campaign committee hits challenger Casey's donations from a former Abramoff colleague.

Contraception fight spreads in the states.

After FDA delays bid to sell "Plan B" pills without a prescription, backers of morning-after contraceptive push bills legalizing such distribution in Colorado, New Jersey, Kentucky and Illinois. It is already available without a prescription in eight states.

Maker Barr Pharmaceuticals Inc., which has seen Plan B prescriptions double to 1.2 million since 2003, quietly encourages the move.

Priscilla Smith of Center for Reproductive Rights says emergency contraception can "reduce abortions dramatically."

Social conservatives, saying such drugs starve new life, weigh bills to let pharmacists refuse to dispense them.

Bernanke faces pressure to answer deficit questions in next week's congressional testimony. "He ultimately will have to speak out on serious things that affect the economy," says Senate Banking Chairman Shelby. "If he doesn't, there will be a void." With Fed nominees Kroszner and Warsh headed for confirmation, open market committee should be back to full strength at March 27-28 meeting for first time in a year.

NGA Chair Huckabee hits Congress for trimming deficit "on the backs of the states" with proposals to increase state cost-sharing on Medicaid. Arkansas' Republican governor, a 2008 White House hopeful, says states instead need more flexibility to experiment with approaches to reining in Medicaid costs.

House democrats criticize Bush budget proposal cutting Social Security survivors' benefits. "Continues the Bush administration's raid on the middle class," says Washington House candidate Darcy Burner, one of many challengers joining coordinated campaign offensive. Republicans leaders have signaled they won't pursue the proposal, which would cut $255 lump-sum death benefit for survivors.

My Valentine? Veterans History Project sponsors a lecture at Library of Congress on "The American Soldier and 'Mademoiselle': Love and Marriage After WWI and WWII." With military-family breakups sharply up since 2000, nevadadivorce.net offers quick splits for $1,000 but cautions "7-day stay in Guam required."

Changes loom for Pentagon weapons purchasing.

New acquisition chief Ken Krieg wants war fighters in places like Iraq and Afghanistan to play bigger role in deciding what military needs. His goal is more rapidly identifying current needs in hopes of shortening lead time on development of new weapons systems, which now sometimes runs 20 years.

"We need to institutionalize the combatant commanders in the process," he says. Most big decisions on new hardware are currently dominated by service bureaucracies in the Pentagon.

National Guard Association unveils bust of "First Lt. George W. Bush" before president's speech yesterday.

Minor Memos: Randolph-Macon College physicists say dollar bills in Bush's $2.77 trillion budget, laid end to end, would reach to the sun and back. ... Budget also represents $87,800 in federal spending every second for a year.

Democrats Accuse Cheney, Bush Of 'troubling' Secrecy (WT)

By Agence France-Presse

The Washington Times, February 15, 2006

Democrats in Congress yesterday accused Vice President Dick Cheney of a pattern of secrecy, and demanded that he "level" with the public on the accidental shooting of a hunting partner last weekend.

Sen. Hillary Rodham Clinton, New York Democrat, called "troubling" the day's wait before the public announcement of the hunting mishap in which Harry Whittington, 78, took bird shot in the neck, chest and face.

"A tendency of this administration -- from the top all the way to the bottom -- is to withhold information ... to refuse to be forthcoming about information that is of significance and relevance to the jobs that all of you do," Mrs. Clinton said at a press conference.

"Putting it all together, going back years now, there's a pattern and it's a pattern that should be troubling," she said. "The refusal of this administration to level with the American people on matters large and small is very disturbing, because it goes counter to the way our constitutional democracy ... is supposed to work."

Senate Minority Leader Harry Reid of Nevada also said the secretive tendency goes beyond Mr. Cheney, pervading the entire Bush White House.

"I think the reason it took the vice president a day to talk about this is part of the secretive nature of this administration," he said. "They keep things pretty close to the chest."

"I think it's time the American people heard from the vice president, in a real meeting just like we're having here," said Mr. Reid, who called the currentBush presidency "the most secretive administration in modern history."

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"In the last many, many decades, there's no administration more secretive than this," he said.

Sen. Charles E. Schumer, New York Democrat, said the time has come for the vice president to hold a press conference -- which Mr. Schumer estimated would be the vice president's first in some four years -- to clear the air.

"In light of the recent shooting accident and all the questions surrounding his role in the leaking of classified national security information ... there are many questions that Americans have for VP Cheney," Mr. Schumer stated in a press release.

Cheney Stays Mum On Hunting Accident (USAT)

By David Jackson

USA Today, February 15, 2006

WASHINGTON — The man accidentally shot by Vice President Cheney in a weekend hunting accident suffered a minor heart attack Tuesday, as Cheney maintained his public silence over the circumstances of the shooting.

Harry Whittington, 78, who has a piece of birdshot lodged near his heart, will remain hospitalized at least another week for observation, said David Blanchard, emergency room chief at a hospital in Corpus Christi, Texas.

As many as 200 pieces of birdshot could be inside Whittington, Blanchard said, though the problem is a single BB-size pellet that irritated the heart muscle and caused an abnormal heartbeat. Barring further problems, doctors will leave the pellet where it is and Whittington will be fine, he said.

“There are tens of thousands of people that go around with shrapnel in their bodies,” the doctor said.

Cheney visited Capitol Hill on Tuesday for a private meeting with members of Congress, but he has not spoken about how the shooting occurred since it happened at a Texas ranch Saturday about 5:50 p.m. CT. His office noted he has issued two written statements, the latest saying Cheney called Whittington after hearing of the heart attack to ask “if there was anything he needed.”

Cheney is not scheduled to make a public appearance until a Friday speech to members of the Wyoming Legislature.

Blanchard and hospital administrator Peter Banko called Whittington's problem a “silent” heart attack because there were no symptoms such as chest pains or shortness of breath. Doctors discovered it after an examination revealed an irregular heartbeat.

Sen. Charles Schumer, D-N.Y., sent Cheney a letter urging him to hold a news conference to discuss such controversies as the shooting and last year's indictment of his chief of staff.

Some conservatives are also pressing Cheney to speak out.

National Review magazine posted an editorial on its website that said, “not talking only feeds speculation and aids the cause of those who want to lampoon and smear him. Let's hear from the vice president.”

Experienced Hunters Put Cheney At Fault In Shooting (WT)

By Joseph Curl

The Washington Times, February 15, 2006

Experienced hunters yesterday said Vice President Dick Cheney alone bears the blame for a weekend mishap in which he accidentally shot a hunting companion in the face and chest with a shotgun.

Every local hunter interviewed by The Washington Times yesterday said the vice president violated hunting's cardinal rule: Never pull the trigger unless you are 100 percent sure of your target. And, they said, he violated Rule No. 2, as well: Never swing on game outside the safe zone of fire.

"I just want the guy to say, 'Hey, I screwed up, I made a mistake,' " said James Harris, 51, a hunter and taxidermist from Mechanicsville, Md., who said he fears that the accident will make people think hunting is unsafe.

"He apparently was overzealous or too excited about the shot, and he didn't practice safe measures to make sure he didn't shoot his friend. He should have, and he was wrong," Mr. Harris said.

Said hunter Bob Rice, 73, of Golden Beach, Md.: "Ninety-nine percent of the blame falls on the person who discharged that round with his trigger finger, and that's Cheney."

A Cheney spokesman yesterday said the vice president's office "had confirmed" every point in a firsthand account of the incident by Katharine Armstrong, who owns the Texas ranch where Mr. Cheney went hunting with Harry Whittington, 78, and one other hunter.

Mr. Whittington "came up from behind the vice president and the other hunter and didn't signal them or indicate to them or announce himself," Mrs. Armstrong said after the mishap.

"The vice president didn't see him," she said. A covey of quail "flushed and the vice president picked out a bird and was following it and shot. And ... Harry was in the line of fire and got peppered pretty good."

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Mrs. Armstrong has downplayed the accident, saying, "This is something that happens from time to time. You know, I've been peppered pretty well myself."

Robert Bealle of Waldorf, Md., 54, who grew up hunting quail, said he has hunted since he was 9 years old and has never known anyone who was hit by birdshot, which are tiny pellets that spread out as they travel away from the barrel of the shotgun.

"I have never sprayed anybody, nor have I ever been sprayed, and if I ever was, I'd never go hunting with that guy again," he said with a laugh.

Mr. Bealle also questioned why the hunting party would split up. Mrs. Armstrong said in her account that after Mr. Whittington shot a bird, he went to look for it in the tall grass, while Mr. Cheney and a third hunter walked to another spot and found a second covey.

Mr. Bealle said that although hunting methods are different across the country, it is common practice for three hunters, for instance, to walk abreast as they move forward flushing out quail. The left hunter can shoot left or center, the middle one straight only, and the right one center or right only -- "never, ever to the left."

"And they shouldn't have left a hunter straggling back behind them. They should have got dogs over there, or they should have gone over there to help find the bird. I don't care if you're the vice president; go help," he said. "And then they should have all regrouped; they should have stayed abreast."

Mr. Cheney's spokeswoman, Lea Anne McBride, dodged questions about the hunters' comments.

"The vice president has made his comments on what happened," she said.

Mr. Cheney has not spoken publicly about the incident since it occurred, except in statements issued by his office.

Of the hunters' comments, Miss McBride said: "If you've got other sources saying other things even though they weren't present, that's, you, you certainly ..." She left the sentence unfinished.

The Times interviewed five hunters, and all said their opinions on blame would be held by any experienced hunter and had been shared among shooters in recent days.

Two days after the shooting, the Texas Parks and Wildlife Department released a report of hunting accidents in 2005. "Swinging on game outside of a safe zone of fire is still the primary accident type" in dove and quail hunting, the report said.

It found that of 30 accidents last year, just two were classified as "victim out of sight of shooter/moved into line of fire."

It's 'Cheney's Law' In Albany, But He Wouldn't Claim It (NYT)

By Michael Cooper

The New York Times, February 15, 2006

ALBANY, Feb. 14 — They are calling it "Cheney's Law."

Named laws are nothing new in Albany. From Megan's Law to Kendra's Law to VaSean's Law, state lawmakers often use names to try to put a human face on the occasionally arcane issues that they address with their legislation.

Usually the laws are named for the victims of violence. But now a bill on hunting safety that has been introduced in several legislative sessions but never became law has been christened "Cheney's Law" by several Republican senators.

The bill, which would make it a felony to leave the scene of a hunting accident, passed out of the Senate Codes Committee yesterday, just as much of the nation continued to discuss Vice President Dick Cheney's accident on Saturday, in which he shot and wounded a 78-year-old lawyer while on a hunting trip in Texas.

Officials have said that Mr. Cheney did not leave the scene after he shot the lawyer, but stayed with him while he received medical treatment.

The curious timing of the committee vote was not lost on the bill's sponsor, Senator George H. Winner Jr., an upstate Republican who is one of the senators calling it Cheney's Law. "It's some circumstances," he said.

The bill would make it a felony to leave the scene of an accident involving a serious physical injury. Senator Winner said that the bill was inspired by a 2001 hunting accident in Steuben County, in which the victim was left to die.

Assemblyman Richard L. Brodsky, a Westchester Democrat, said that he would introduce the bill in the State Assembly.

State Senator Thomas K. Duane, a Manhattan Democrat, marveled that the vice president's hunting accident could serve as a catalyst to change the law in New York. "We must have him come for the bill signing," he said.

Gov. George E. Pataki, meanwhile, was asked at a news conference if he would accept an invitation to go hunting with Mr. Cheney.

The governor merely smiled and said he would not comment.

A Red-Stater Even Before There Was Such A Thing (NYT)

By Simon Romero

The New York Times, February 15, 2006

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HOUSTON, Feb. 14 — Back in the 1960's, when politicians jokingly referred to Texas as a two-party state, dominated by conservative Democrats and not-so-conservative Democrats, Harry M. Whittington was a rare figure: a die-hard Republican.

Before Vice President Dick Cheney sprayed him with birdshot in a hunting accident over the weekend, Mr. Whittington, 78, was known largely for his pivotal role in building the Republican Party in Texas into a powerhouse.

A grocer's son from hardscrabble East Texas noted for his blunt style, Mr. Whittington accompanied the patrician George H. W. Bush around Texas during Mr. Bush's unsuccessful race for the Senate in 1964 and has remained a figure in Republican politics ever since, raising money and advancing the ambitions of the party's office seekers.

A lawyer with a knack for lucrative real estate investing but with decidedly old-school habits, Mr. Whittington has eschewed not only billing by the hour but even a personal computer at his penthouse office in the 10-story Vaughn Building in Austin.

"I know he must be very close to the Republicans," said Joe R. Greenhill, 91, a former chief justice of the Texas Supreme Court and a monthly card-playing companion of Mr. Whittington, but "he doesn't talk about it."

Mr. Greenhill and Mr. Whittington had been scheduled to meet this Wednesday for a game of pitch, in which the loser can return home poorer to the tune of $5 or $6, Mr. Greenhill said, though "it looks like Harry won't be making it this week."

Mr. Whittington, a graduate of the University of Texas and of its law school, is used to maneuvering for much larger amounts anyway, as in his tussles with the political establishment in Austin, where Democrats still hold substantial sway. He has spent hundred of thousands of dollars on legal fees to fight a decision by the city six years ago to condemn property owned by his family and build a $10.5 million parking garage there.

In January, the Texas Supreme Court handed him a victory, declining to hear an appeal from a lower court ruling that officials had failed to prove the land was needed for a public purpose. In a recent profile of Mr. Whittington, The Austin American-Statesman said he could now end up owning not only the garage, which had been built in the interim, but also another facility constructed on the property, a water-chilling plant used for air-conditioning. Together they are valued at $29.8 million.

If private-property rights are one of Mr. Whittington's passions, he has others that do not fit so squarely with his image as a Republican elder. One is prison reform. While serving on the board of the Texas Department of Corrections in the 1980's and after observing the conditions in many state prisons, he once claimed, "Prisons are to crime what greenhouses are to plants." He also led an effort to move mentally retarded inmates out of the general prison population and followed this with outspoken support of a bill to ban execution of retarded prisoners. (Although Gov. Rick Perry vetoed that bill in 2001, the United States Supreme Court later outlawed such executions.)

"A person who is born with a body that becomes an adult and a mind that remains a child needs special protection in our criminal justice system," Mr. Whittington, one of whose four daughters is retarded, wrote in a letter to The Dallas Morning News in 2001.

Mr. Whittington and his wife, Mercedes, live comfortably in a ranch-style home in northwest Austin near Mount Bonnell, a breathtaking spot overlooking much of the city. He is trim, and frequently begins his day with a workout at Tarry House, a private social club he founded in 1968.

Mr. Whittington is close to President Bush, who in 1999, as governor of Texas, named him chairman of the regulatory Funeral Service Commission. The Texas funeral industry was then riddled by claims of irregularities, some surrounding Service Corporation International, of Houston, a large chain of funeral homes headed by an ardent supporter of the Bush family. Under Mr. Whittington, the commission reluctantly settled a whistle-blower lawsuit filed by a former state regulator who maintained that she had been fired for investigating the company.

Dealing with that issue and others at his first meeting of the funeral commission, Mr. Whittington said, "If any agency needs divine guidance, it's this one."

Meet The Press (NR)

National Review, February 15, 2006

Never has an accidental shooting occasioned so much glee. Whatever mistakes Vice President Dick Cheney might have made while hunting on the Armstrong Ranch in Texas this weekend, or in deciding how to make the mishap public, have been eclipsed by the disgusting wallowing in the accident of all his critics and the unsurpassable self-regard of national reporters outraged by a delay of at least 14 hours in getting alerted to the story. They worked themselves into a first-class tizzy at Monday's White House press briefing, proving that no matter what the story is, reporters think it’s all about them. It is understandable that Cheney would not consider notifying the media his first priority following an accident during a quail-hunting trip with friends, and the meaning that is being read into the incident — about Cheney's character, the administration's competence, Bush's foreign policy, and much else — is absurd.

That said, there are customary political and media rules about how to handle such things. Those rules require rapid disclosure. It was a mistake not to alert the national press of the incident immediately. And if an accident seems to be much less

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important than a matter of policy, that doesn't make it less important politically — oftentimes, it is the non-substantive issues that can be most powerful politically. With Harry Whittington having suffered a minor heart attack Tuesday morning, and still in intensive care 72 hours after the shooting, the perception that the vice president is downplaying the seriousness of the incident and not playing straight is going to be stronger than ever. There is a risk that the administration will sustain significant political damage from the controversy.

Cheney himself should make a public appearance on the matter, and the sooner the better. He should get himself with a respected national anchor — perhaps Brit Hume of Fox News — as soon as this evening to express his regret and explain in his own words what happened. He should stop relying on press aides who were not present at the accident to tell his side of the story. Not talking only feeds speculation, and aids the cause of those who want to lampoon and smear him. Let's hear from the vice president.

Cheney Misfires, Then Ducks, Making Himself Comic Target (USAT)

USA Today, February 15, 2006

Until the condition of Texas lawyer Harry Whittington took a turn for the worse on Tuesday, his accidental shooting by Vice President Cheney was notable mainly as fodder for TV comics and cartoonists.

"I think Cheney is starting to lose it," Jay Leno quipped. "After he shot the guy he screamed, 'Anyone else want to call domestic wiretapping illegal?' "

Far from being trivial, humor says a lot about a nation. In fact, a great informal test of a country's freedoms and psychological health is this: Can comedians poke fun at political leaders?

That question was one of the best barometers of how much 9/11 traumatized America: For weeks after the attacks, the late-night comics declared a moratorium on President Bush's mangling of words and facts.

For Cheney, the quail hunting accident tapped a rich vein of humor because it symbolized so many of the traits that critics have leveled at him: Trigger happy (pushing for war in Iraq). Obsessed with the wrong target (Iraq again). Excessively secretive and unaccountable (his hush-hush energy task force and aversion to admitting error). Too cozy with lobbyists, one of whom was along on the quail hunt.

The accident — and Cheney's stay-in-the-shadows response to it — reinforced those perceptions. The jokes resonate because they contain grains of truth.

On Tuesday, the Bush administration tried to join in the levity; presidential spokesman Scott McClellan joked about wearing a hunter-orange tie. Unfortunately for the White House, the laugh-it-off approach fell flatter than the Texas prairie when news broke that a birdshot pellet had shifted to Whittington's heart, causing what a doctor called a "silent, or minor heart attack" that will keep the 78-year-old patient hospitalized another week.

Cheney is undoubtedly deeply distressed and embarrassed that he unintentionally hurt his good friend. It's understandable he doesn't much feel like talking about it.

But when a vice president shoots a man (for the first time since Aaron Burr fatally shot Alexander Hamilton in the USA's most famous duel, as a few comics noted), it's news. Not Iraq or Hurricane Katrina level news. Nothing that will shape the fate of the nation. But still news, and the best official response is not humor but candor.

Cheney has plenty of high-priced public relations experts on his payroll to give him advice, so he probably doesn't needs ours. But for what it's worth: Go to Corpus Christi. Comfort your friend. Hold a news conference in the hospital parking lot. Explain what happened. Express anguish. Take responsibility.

That won't end all the jokes, but it might take the sting out of many of them.

Cheney's Coverup (WSJ)

The Wall Street Journal, February 15, 2006

The press corps is outraged that the White House waited 20 hours or so to disclose that Vice President Dick Cheney had shot a hunting companion, and we can see why. Don't these Bush people understand that the coverup is worse than the crime?

In the name of media solidarity, and in the interest of restraining the Imperial Presidency, we have put together the following coverup timeline with crucial questions that deserve to be answered:

· 5:30 p.m., Saturday (all times Central Standard Time). Mr. Cheney sprays Harry Whittington with birdshot, and the Secret Service immediately informs local police. Who is Harry Whittington and whom does he lobby for? Does he know Scooter Libby?

· 6:30 p.m. White House Chief of Staff Andy Card informs President Bush that there's been a hunting accident involving the Vice President's party. Did Mr. Bush ask followup questions? Was he intellectually curious?

· 7 p.m. Karl Rove tells Mr. Bush that it is Mr. Cheney who did the shooting. Why was this detail withheld for a full 30 minutes from the President? Who else did Mr. Rove talk to about this in the interim? Was Valerie Plame ever mentioned?

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· 5 a.m., Sunday. White House Press Secretary Scott McClellan learns that Mr. Cheney is the shooter. He also fails to alert the media. Did he rush to write talking points or fall back to sleep?

· 11 a.m. Katharine Armstrong, owner of the ranch where the shooting took place, blows the story sky-high by giving the news to the Corpus Christi Caller-Times. According to Ms. Armstrong, Mr. Cheney told her to do what she thought made sense. Has Ms. Armstrong ever worked for Halliburton?

· 11:27 a.m., Monday. Mr. McClellan finally holds a press conference and gets grilled. One reporter actually asks (and we're not making this one up), "Would this be much more serious if the man had died?"

· 1:30 p.m. The Texas paper posts the story on its Web site, after calling the Veep's office for confirmation. Everyone involved confirms more or less everything, or so the official line goes. Their agreement is very suspicious.

For the record, Mr. McClellan replied, "Of course it would." We hope the 78-year-old Mr. Whittington recovers promptly after his heart attack yesterday. As for the Beltway press corps, it has once again earned the esteem in which it is held by the American public.

An Arrogance Of Power (WP)

By David Ignatius

The Washington Post, February 15, 2006

There is a temptation that seeps into the souls of even the most righteous politicians and leads them to bend the rules, and eventually the truth, to suit the political needs of the moment. That arrogance of power is on display with the Bush administration.

The most vivid example is the long delay in informing the country that Vice President Cheney had accidentally shot a man last Saturday while hunting in Texas. For a White House that informs us about the smallest bumps and scrapes suffered by the president and vice president, the lag is inexplicable. But let us assume the obvious: It was an attempt to delay and perhaps suppress embarrassing news. We will never know whether the vice president's office would have announced the incident at all if the host of the hunting party, Katharine Armstrong, hadn't made her own decision Sunday morning to inform her local paper.

Nobody died at Armstrong Ranch, but this incident reminds me a bit of Sen. Edward Kennedy's delay in informing Massachusetts authorities about his role in the fatal automobile accident at Chappaquiddick in 1969. That story, and dozens of others about the Kennedy family, illustrates how wealthy, powerful people can behave as if they are above the law. For my generation, the fall of Richard Nixon is the ultimate allegory about how power can corrupt and destroy. It begins not with venality but with a sense of God-given mission.

I would be inclined to leave Cheney to the mercy of Jon Stewart and Jay Leno if it weren't for other signs that this administration has jumped the tracks. What worries me most is the administration's misuse of intelligence information to advance its political agenda. For a country at war, this is truly dangerous.

The most recent example of politicized intelligence was President Bush's statement on Feb. 9 that the United States had "derailed" a 2002 plot to fly a plane into the U.S. Bank Tower in Los Angeles. Bush spoke about four al Qaeda plotters who had planned to use shoe bombs to blow open the cockpit door. But a foreign official with detailed knowledge of the intelligence scoffed at Bush's account, saying that the information obtained from Khalid Sheik Mohammed and an Indonesian operative known as Hambali was not an operational plan so much as an aspiration to destroy the tallest building on the West Coast. When I asked a former high-level U.S. intelligence official about Bush's comment, he agreed that Bush had overstated the intelligence.

Perhaps the most outrageous example of misusing intelligence has been the administration's attempt to undercut Paul Pillar and other former CIA officials who tried to warn about the dangers ahead in Iraq. I'm not talking about the agency's botched job on weapons of mass destruction but about its warnings that postwar Iraq would be chaotic and dangerous. Pillar said so privately before the war, and he helped draft an August 2004 national intelligence estimate warning, correctly, that the situation in Iraq was deteriorating and heading for "tenuous stability" at best.

Bush was unhappy at this naysaying, just as he has grumbled about pessimistic reports from the CIA station in Baghdad. When Pillar made similar warnings about Iraq at a private dinner in September 2004, the White House went ballistic -- seeing Pillar as part of a CIA conspiracy to undermine the president's policies. Soon after, Bush installed a former Republican congressman, Porter Goss, who began a purge at the agency that has driven out a generation of senior managers. Pillar and many, many others have retired, leaving the nation without some of its best intelligence officers when we need them most.

Bush and Cheney are in the bunker. That's the only way I can make sense of their actions. They are steaming in a broth of daily intelligence reports that highlight the grim terrorist threats facing America. They have sworn blood oaths that they will defend the United States from its adversaries -- no matter what . They have blown past the usual rules and restraints into territory where few presidents have ventured -- a region where the president conducts warrantless wiretaps against Americans in violation of a federal statute, where he authorizes harsh interrogation methods that amount to torture.

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When critics question the legality of the administration's actions, Bush and Cheney assert the commander in chief's power under Article II of the Constitution. When Congress passes a law forbidding torture, the White House appends a signing statement insisting that Article II -- the power of the commander in chief -- trumps everything else. When the administration's Republican friends suggest amending the wiretapping law to make its program legal, the administration refuses. Let's say it plainly: This is the arrogance of power, and it has gone too far in the Bush White House.

Shooter Slips On A Silencer (NYT)

By Maureen Dowd

The New York Times, February 15, 2006

WASHINGTON

Who did this old guy think he was, coming between Dick Cheney and his helpless prey?

The luckless 78-year-old Texas lawyer, Harry Whittington, is in intensive care after a heart attack, with up to 200 pellets riddling his face and body — one stuck in his heart — from Dick Cheney's designer Perazzi Brescia shotgun. And still his friend, the vice president, is Swift-BB-ing him.

Private citizens have been enlisted to blame the victim. Maybe poor Mr. Whittington put himself in the wrong place at the wrong time. But he was, after all, behind Vice, not in front of him. And the hunter pulling the trigger is supposed to make sure he has a clear shot. Wouldn't it be, well, classy for Shooter to express just a bit of contrition and humility?

Instead, the usual sliming has begun, with the Cheney camp trying to protect the vice president by casting a veteran hunter as Elmer Dud.

Scott McClellan told the White House press corps that Katharine Armstrong, a lobbyist with government ties who owns the Texas ranch (and whose mother, Anne, was on the Halliburton board that hired Mr. Cheney as C.E.O.), "pointed out that the protocol was not followed by Mr. Whittington when it came to notifying the others that he was there."

As the story of the weekend's bizarre hunting accident is wrenched out of the White House, the picture isn't pretty: With American soldiers dying in Iraq, Five-Deferment Dick "I Had Other Priorities in the 60's Than Military Service" Cheney gets his macho kicks gunning down little birds and the occasional old man while W. rides his bike, blissfully oblivious to any collateral damage. Shouldn't these guys work on weekends until we figure out how to fix Iraq, New Orleans, Medicare and gas prices?

This version of "The Most Dangerous Game" neatly follows the four-step Bush-Cheney cycle:

Step 1: Set out to pick off what you think is an easy target, like quail this time or pen-raised and netted pheasant in the past, or a certain sanction-caged Iraqi dictator.

Step 2: In the corrupt company of lobbyist-contractor friends, botch things up. Ignore the peril at hand — as with, oh, Osama at Tora Bora, or Katrina, or the Iraq occupation — and with steely resolve, indulge your raging incompetence. (Oops.)

Step 3: Stonewall. Resist giving Congress information about 9/11 or Katrina; don't tell the public how you're tapping phones at home, setting up gulags abroad and making war and energy policy in secret. Why give the taxpayers, who are ponying up for these weekend hunting trips, the extraordinary news that Vice shot his hunting companion in the face and chest? Scott McClellan knew before yesterday's White House briefing at noon that Mr. Whittington was worse, but did not tell the reporters. He left that to Corpus Christi doctors, who spun the heart attack as "an inflammatory response to a metallic foreign BB."

Step 4: Admit no mistakes. Express sympathy. Blame the victim without leaving fingerprints by outsourcing the smear to the private sector.

Trent Lott joked in a meeting yesterday that Mr. Cheney was now the "shooter in chief," while other wags noted that Quayle was always a problem for Bushes.

Presidential staff members and lawmakers speculated yesterday about whether Shooter would resign and make room for Condi if Mr. Whittington did not survive. His death would trigger a more thorough police investigation and probably a grand jury.

"Are you crazy?" one Republican senator told a reporter. "He'd never quit." (Aaron Burr presided over the Senate after he killed Alexander Hamilton in a duel.)

The shooter in chief can't quit because he is the administration. Who'd even tell him to quit? If necessary, he'd probably make W. take the fall.

Despite efforts by Mr. McClellan to joke and urge reporters to get back to "the pressing priorities of the American people," the hunting debacle once more showed Mr. Cheney running the imperial show.

He didn't talk to the sheriff for 14 hours, or even call the president to notify him after the 5:50 p.m. accident. Vice left that to Andy Card, who called Mr. Bush at 7:30 p.m. to say there had been a hunting accident, without mentioning that Vice was the gunman. Soon after that, Karl Rove called Mr. Bush back with that little detail.

A reporter, surprised, pressed Mr. McClellan: "The vice president did not call the president to tell him he was the shooter?"

Usually when there's a White House cover-up, the president's in on it.

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The Shooting Party (WT)

By Tony Blankley

The Washington Times, February 15, 2006

In the absence of any pressing news these days — other than Iran's nuclear weapons development crisis, the election of Hamas terrorists in Palestine, on-going worldwide Muslim riots and killing in reaction to a cartoon, Al Gore's near sedition while speaking in Saudi Arabia, the turning over of our East Coast ports to be managed by a United Arab Emirates firm, the criminal leaking of vital NSA secrets to the New York Times, Mexican military incursions across our southern border, the Iraqi crisis, Congress's refusal to deal with the developing financial collapse of Social Security and Medicare, inter alia — the White House press corps has exploded in righteous fury over the question of the vice president's little shooting party last weekend.

As I understand the profound concern of the ever alert White House reporters, they smell a constitutional crisis because the shooting party failed to alert the media of the accidental shooting down in Corpus Christi, Texas. Well, actually they did alert the Corpus Christi media — but that didn't count. Unless the exalted ones have been formally informed by an official government press secretary, no public communication has technically occurred.

I checked the bylaws of the White House press corps, and they are right. It seems that the bylaws refer to Article XXIII of the U.S. Constitution which expressly designates that White House reporters with a minimum annual income of $375,000 (plus minimum stock options equal to not less than two-thirds their yearly salary, plus use of driver and long sedan during business hours, which hours must include post-deadline dinner engagements of a semi-social nature) are the exclusive recipients of all government information.

If information isn't hand-delivered in gold-edged paper to them while they are reclined on their chaise longue, it hasn't been released to the public. And if they don't report a fact, it hasn't happened. This provision is vital to a vigorous and independent free press. (I should note, my copy of the Constitution must be outdated, because it doesn't have an Article XXIII.)

Of course, this provision technically makes the White House press corps not reporters, but receivers — sort of glorified shipping clerks, but with the prerogative to rewrite and repackage the material before they deliver it to the public.

When an out-of-town newspaper got the scoop, the dignity of the White House press corps had been impeached, so they threw a public temper tantrum. As that has worked for many of them since their early childhood, they obviously expect it to work while on the job — to use the term loosely.

To add to their indignity, the reporter for The Washington Post went on MSNBC dressed up in a hunting costume to ridicule the vice president. (It is said that the enfeebled and debased French Dauphin, Charles VII, dressed in women's clothing to hide from Joan of Arc, who was trying to save France.)

I suppose most of us, as we rise in life, develop a sense of entitlement and pompous dignity. Doubtless we all think we are more important than we are.

As Charles de Gaulle once sardonically observed while walking past a graveyard: "that place is full of indispensable men."

But the Washington press corps, and particularly the White House press corps, has developed, as an institution, a grossly dilated view of itself. Most of us can tolerate arrogance, if it is accompanied by extraordinary capacity and virtuosity. The brilliant scientist, the war-winning general, the great artists are entitled to their pride.

But the hallmark of the Washington press corps these days is mediocrity, groupthink, a lack of curiosity and rampant careerism. These attributes were all on show in the shooting-party incident. But this is just a trivial incident — except for the poor, shot gentleman who suffered a heart attack, may he recover fully and quickly.

We live at a moment of revolutionary change in the international order. The rise and violenceofradical,possibly caliphate-forming Islam and the huge, culture-changing, unexamined consequences of rampant globalization make the present one of the least predictable moments to be alive.

Both government officials and citizens are in desperate need of a national press corps that is alive to the change and digging to find factual hints of the near future. We need the kind of future-oriented intellectual vigor, curiosity and genuine iconoclasm that typified American reporters in the first half of the last century.

Instead, as the shooting-party incident exemplified, we have in the White House at the most elite level of American journalism, self-absorbed, self-important men and women who stand on their prerogatives even over marginal and inconsequential matters.

Should they ever have a truly daring, creative, productive, hard-researched idea about what is going on in this dangerous world — they should alert the media.

Alito Hires As A Clerk Former Ashcroft Aide (WP)

By Charles Lane

DOJ_NMG_0015345

The Washington Post, February 15, 2006

Justice Samuel A. Alito Jr. has hired one of the architects of then-Attorney General John D. Ashcroft's policies to serve as his law clerk at the Supreme Court for the rest of the current term, the court announced yesterday.

Adam G. Ciongoli, 37, a senior vice president at Time Warner Inc., served as counselor to Ashcroft from 2001 to 2003. He attended Georgetown University Law Center, clerked for Alito at the Philadelphia-based U.S. Court of Appeals for the 3rd Circuit from 1995 to 1996, and helped prepare the justice for his recent confirmation hearings.

Ciongoli was an aide to Ashcroft during Ashcroft's years as a senator and then came to the Justice Department, where he advised Ashcroft on terrorism issues in the aftermath of the Sept. 11, 2001, attacks. Among the issues he worked on were the detention of thousands of terrorism suspects in the United States and the use of military tribunals to try them.

As a law clerk for Alito, his responsibilities will include helping Alito draft opinions, prepare for oral argument and sift through the mountain of appeals that arrive each week.

Ciongoli's appointment, which will last about five months, is unusual: Though there has been a slight trend at the court toward hiring law clerks with a few years of work experience, the vast majority of clerks are recent law school graduates.

Among those who have come to the court after working elsewhere, none in recent memory had held a government position as senior as Ciongoli's at the Justice Department, where he was widely regarded as one of Ashcroft's closest confidants.

Perhaps the closest parallel to Ciongoli's appointment was the 2002 appointment of Rachel Brand, then associate White House counsel, to serve as a law clerk to Justice Anthony M. Kennedy. Brand is now assistant attorney general for legal policy.

This raises the possibility that Ciongoli will face issues at the court that he had worked on in government.

For example, the arrest of U.S. citizen Jose Padilla and his subsequent detention as an "enemy combatant" took place while Ciongoli was on Ashcroft's staff. The Supreme Court is currently considering whether to hear Padilla's appeal.

"There is a process in place to evaluate whether a law clerk should be recused," Supreme Court spokeswoman Kathy Arberg said yesterday. Ciongoli did not return a phone call to his New York office.

According to a 2002 federal publication, "Maintaining the Public Trust: Ethics for Federal Judicial Law Clerks," clerks should not participate in cases that they worked on "in a previous legal job," or about which they have personal knowledge of disputed facts.

Ciongoli was one of five lawyers named as law clerks to Alito. Benjamin Horwich and Alexander Volokh will switch to Alito from the chambers of retired justice Sandra Day O'Connor. Hannah Smith and Jay Jorgensen will join Alito after having worked for Justice Clarence Thomas and then-Chief Justice William H. Rehnquist, respectively.

Administration Officials Look To Ease GOP Concerns On Medicare (HILL)

By Alexander Bolton

The Hill, February 15, 2006

Senate Republicans met with senior Bush administration officials in private yesterday afternoon to discuss their concerns with the Medicare prescription-drug program and to prepare for the escalated Democratic attacks on the program expected next week during the recess.

Democratic leaders and strategists last week had urged lawmakers to launch a barrage of criticisms against the drug program.

About 30 Republican lawmakers sat down with Mike Leavitt, the secretary of the Department of Health and Human Services, and Mark McClellan, the administrator for the Centers for Medicare and Medicaid Services (CMS).

Lawmakers, according to a senator in attendance, asked the officials about two major criticisms of the drug plan, which was the legislative centerpiece of President Bush's first term: that the drug plan offers too many programs and as a result is too confusing for seniors, and that it has a hole in a coverage. Drug costs between $2,250 and $5,100 a year are generally not covered by the program.

Senior senators such as Pete Domenici (N.M.) and Larry Craig (Idaho) said the program is fundamentally sound and will help many senior citizens.

Administration officials gave the lawmakers promising statistics about the program: 24 million of the 42 million eligible participants have signed up, 250,000 seniors sign up each week and the monthly individual premium cost has dropped from $37 to $25 per month, according to a lawmaker who took notes during the meeting.

However, Democrats note that many of the seniors who have "signed up" were automatically enrolled or have long been part of an employer-sponsored program.

Leavitt and McClellan also reported that the administration is addressing the gap in coverage by sending out letters to enrollees alerting them when their medical costs are approaching a level that will exceed government coverage. The officials said that seniors approaching the so-called "doughnut hole" would have the option to switch plans to avoid the gap.

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Some healthcare experts predict that many seniors will hit the doughnut hole right before the November elections.

Domenici called the bill a "giant step forward" and said, "When it works it's going to help a lot of people."

But he acknowledged "it's too bad managementwise we haven't got better assistance and put out better word."

Nevertheless, he said he disagrees with Senate colleagues who are proposing a legislative fix to the program, advocating instead for administrative solutions.

"I've heard senators say, 'See? It didn't work. Let's fix it,'" Domenici said. He said that "every management tool should be used to smooth this over as best as possible."

During the meeting, Craig offered a rebuttal to colleagues who said the program offers too many plans and is too confusing.

"My retort was: 'You want one federal program, take it or leave it?'" he said.

Meanwhile, Leavitt is scheduled to meet with Presidcent Bush today.

One Republican senator who might support a legislated change to the program is Sen. John Ensign (Nev.), who voted against the drug plan because of its lack of what he called "cost containment."

Ensign said he thinks Congress should "restructure the program and make it means-tested," meaning that benefits would be based on the recipient's ability to pay.

Senate Republicans are asking tough questions of administration officials to prepare for an expected Democratic assault on the prescription-drug program.

Last week, Democratic strategists Stan Greenberg, James Carville and Matt Hogan circulated a memorandum urging Democratic leaders and allies to focus their criticisms of the Republican Party on Medicare.

"Although the plan is already unpopular, Democrats now have the opportunity to raise opposition to the drug benefits to new heights and use the plan as a powerful symbol of Republican corruption and irresponsibility," the strategists wrote. "Coupled with attacks over budget cuts to Medicare, an assault on the prescription-drug program could cause serious damage to the GOP, especially among seniors."

The strategists reported that opposition to the plan among voters between 50 and 64 years old has risen from 38 percent to 51 percent since the fall and that voters 65 or older are opposed to the program by a 28-point margin.

A Republican Senate aide said that the Democratic tactics are a politically motivated effort to scare seniors away from signing up for a program that would help them.

Still, criticism of the administration's handling of the benefit has come from both sides of the aisle. House Majority Leader John Boehner (R-Ohio) recently called the early implementation of the benefit "a disaster."

House Democratic leaders circulated a "Dear Colleague" letter last week to Democratic lawmakers, urging them to hold public events, including town-hall meetings and visits to senior centers, criticizing the Medicare program.

The same day that Democratic strategists released their memo, House Minority Leader Nancy Pelosi (D-Calif.) held a town hall meeting in San Francisco charging that the Republican program has hurt seniors.

"Hundreds of thousands of Medicare beneficiaries across the country have been unable to get their needed prescriptions, have faced outrageous delays and have been overcharged," Pelosi said.

Sen. Jay Rockefeller (W.Va.), the ranking Democrat on the Health Care Subcommittee of the Senate Finance Committee, said analysts predicted a few years ago that the Republican plan would encounter difficulties because of its complexity.

Rockefeller said that he has put together legislation that would address the problems by eliminating the gaps in prescription-drug coverage experienced by low-income seniors and the disabled. He added that several Democratic colleagues have drafted other plans but that the caucus has decided to wait to reveal a comprehensive party proposal on Medicare.

"The question is whether we come out with plans right now or let them vent," he said, referring to internal squabbles with Republicans over the drug program. "If we came out with a plan right now, Sean Hannity would shred it," referring to the conservative talk-show host and his allies on the right.

A senior Democrat said Democrats would wait until they are closer to Election Day.

Grants To Religious Groups Fall, Study Says (WP)

By Alan Cooperman

The Washington Post, February 15, 2006

Despite the Bush administration's rhetorical support for religious charities, the amount of direct federal grants to faith-based organizations declined from 2002 to 2004, according to a major new study released yesterday.

White House officials immediately disputed the findings. They said they will release their own figures next month showing an increase in federal funding for religious groups.

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The dispute highlighted a lack of independent, widely accepted data about how many federal tax dollars are going to religious organizations, what they are doing with the money and whether they are more, or less, effective than other charities.

Some critics of the President's Faith-Based Initiative have long contended that the administration is shifting who gets money, but not increasing the total amount of federal funding available to shelter the homeless, counsel prisoners and provide other social services.

The study released yesterday "is confirmation of the suspicion I've had all along, that what the faith-based initiative is really all about is de-funding social programs and dumping responsibility for the poor on the charitable sector," said Kay Guinane, director of the nonprofit advocacy program at OMB Watch, a liberal watchdog group in Washington. "It sounds warm and fuzzy, but they've been cutting down the size of the pie all along."

The study by the nonpartisan Roundtable on Religion and Social Welfare Policy examined 28,000 grants made by nine federal agencies over three years. It found that religious charities got an unchanging share -- about 18 percent -- of the money awarded each year.

But because the total pie of available funding shrank by more than $230 million over the three years, the slice that went to religious groups also declined, from $670 million in fiscal 2002 to $626 million in fiscal 2004.

At the same time, the study found that the initiative has succeeded in encouraging more religious groups to apply for funding, and the number receiving grants rose almost 15 percent. "Less federal money is being divided into more grants," the study concluded.

In a telephone interview, the study's authors declined to discuss its political implications. Lisa M. Montiel and David J. Wright said the study focused only on direct federal grants, not monies distributed through block grants to states and municipalities, which are several times larger.

The authors also said they did not attempt to determine how much money went to religious organizations before President Bush took office in 2001. They looked only at grant programs that were in existence for all three years covered by the study, Montiel said, because they were trying to get a picture of the "trend line," not a static snapshot of the money given to religious charities in any one year.

H. James Towey, director of the White House Office of Faith-Based and Community Initiatives, accused the study of bias, saying it was "only the latest indication of the Roundtable's agenda in opposition to the president's faith-based initiative."

The study did not count grant-making programs that were created after 2002 and ignored such programs as Head Start, which he said was the second-largest source of federal funds for religious organizations, after the Department of Housing and Urban Development's Section 202 housing program for the elderly poor.

"They have picked rotten cherries and come up with a rotten pie," Towey said. "They took a very small sample of programs and grants and are drawing conclusions that are completely inaccurate."

Towey said the White House has been collecting growing amounts of data on grants each year, beginning with two federal agencies in 2002, five in 2003, seven in 2004 and 10 in 2005. When it issues its report for 2005 in March, he said, "we'll look at 25,000 grants in just one year" and "will show there's been an increase every year in the category of competitive, nonformula grants for social services."

Several independent researchers who were not involved in the study defended the Roundtable.

Candy S. Hill, senior vice president for social services at Catholic Charities USA, said the study's findings fit with her experience. "It doesn't surprise me, because overall the funding for most social service programs is shrinking," she said. "We're grateful there's a recognition by the administration of the wonderful work that faith-based groups do, but we continue to be concerned about the levels of funding."

Stanley Carlson-Thies, director of social policy studies at the Center for Public Justice, an evangelical Protestant think tank in Annapolis, said the study "gives the lie to alarmists" who think the administration is funneling vast sums to churches.

"Look at the huge percentage of money that continues to go to secular organizations," said Carlson-Thies, who formerly worked in the White House faith-based office. "The image that there's this Bush push that's going to turn the government into a religious apparatus -- if people think that that's what's happening, they're wrong."

Senator Sees No Rush For Debt Limit Hike (REU-Y2)

By Richard Cowan

Reuters, February 14, 2006

The U.S. Senate might wait until mid-March to raise the U.S. borrowing limit, despite Treasury Department warnings that the government could exceed the current cap within days, a key Senate Republican said on Tuesday.

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Sen. Charles Grassley (news, bio, voting record) of Iowa, who chairs the Finance Committee, said that if the Senate does not raise the $8.18 trillion debt limit this week before the start of a weeklong recess, it would vote before the next recess tentatively set for March 18.

On Monday, a Treasury Department spokesman said the federal government was on track to hit the current debt ceiling by mid-February.

If U.S. borrowing authority is not lifted soon, the Treasury Department could use such extraordinary measures as dipping into several government funds to avoid default, as it has in the past.

Grassley, an Iowa Republican, told Reuters the goal would be to get the debt limit legislation passed "with the least debate."

"I would like to see a bill on any Thursday night just prior to a recess. So if it's not this recess it would be the Thursday before we go home for the other recess and in the meantime I think the Treasury has time to borrow," he said.

Under a nonbinding budget blueprint approved by Congress last spring, the debt limit would rise by $781 billion. Such an increase would bring to more than $3 trillion the total increases in government borrowing authority enacted under President George W. Bush.

Successive years of deficit spending have fed an explosion in U.S. debt. The Bush administration is forecasting a record budget deficit this year of $423 billion.

Asked whether he would seek Senate passage of the full $781 billion debt limit increase, Grassley said, "Well, it might as well be; it doesn't necessarily have to be."

Some conservative House Republicans want to link a debt limit rise to an initiative to reform budget procedures in a way that would force deeper domestic spending cuts.

Pelosi, Others Request New Vote On Budget Bill (RC)

By Jennifer Yachnin

Roll Call, February 15, 2006

House Democrats, asserting the budget reconciliation measure signed into law last week is constitutionally unsound, called on the chamber's Republican leadership Tuesday to hold a new vote on the bill.

In a letter to Speaker Dennis Hastert (R-Ill.), House Minority Leader Nancy Pelosi (D-Calif.) and an additional seven senior Democratic Members, charged a clerical error has created a "constitutional problem" in upholding the $39 billion deficit reduction bill.

"[W]e urge you to reconsider this legislation this week and to work with the Senate to ensure that any spending reconciliation bill that is passed is identical in both the House and the Senate, as the Constitution demands, and then presented to the president for his signature," the letter states.

Although both the House and Senate passed the deficit reduction act — in both cases, the legislation passed by slim margins, with Vice President Cheney issuing a tie-breaking vote in the Senate — a clerical mistake made to a Medicare provision resulted in the chambers approving technically different versions of the legislation.

Because of that error, the version of the bill signed into law has not been approved by the House.

In the Senate, lawmakers sought to rectify the difference last Wednesday by passing a resolution under unanimous consent intended to clarify the legislation.

The resolution, authored by Senate Majority Leader Bill Frist (R-Tenn.), states the deficit reconciliation bill "is deemed the true enrollment of the bill reflecting the intent of the Congress in enacting the bill into law."

It is not yet clear whether the House will take up the measure. A Hastert spokesman did not return a late-afternoon telephone call seeking comment, and the resolution does not appear on the Majority Whip's legislative calendar for this week.

In addition, Democratic lawmakers assert the mistake represents an "abuse of the process" and claim that GOP leaders were aware of the incident prior to the House vote on the bill Feb. 1.

"[W]e can only conclude that the reason that the error was not fixed through a legitimate manner was because it involved another vote that might have failed the second time around," the Democrats assert in the Feb. 14 letter.

The Silencing Of Science (WP)

By Anne Applebaum

The Washington Post, February 15, 2006

One of the benefits of writing newspaper articles is that sometimes, instead of sending anonymous insults, readers call you up and tell you interesting things. Two weeks ago, after news broke that a NASA press officer had resigned amid revelations that he'd tried to muffle the agency's top climate scientist, I got several such calls. All were from people with similar tales of

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government-funded scientists intimidated by heavy-handed public relations departments. Curiosity piqued, I followed one up, at least as far as the nervous scientists and the equally nervous government press officers would let me. Here's what I learned.

The story begins with the publication of an article -- "Potential Environmental Impact of a Hydrogen Economy on the Stratosphere" -- in the June 2003 issue of the journal Science, which is not exactly beach reading. Yet although crammed with graphs, equations and references to chlorofluorocarbons, the basic premise isn't hard to explain: The five authors, all affiliated at the time with the prestigious California Institute of Technology, wanted to explore the potential long-term impact of hydrogen fuel cells on the Earth's atmosphere.

For those who've forgotten, hydrogen fuel cells were, three State of the Unions ago, the thing that was going to save Americans from their oil addiction and stop the auto emissions that help cause global warming. Nowadays switch grass and biomass are the hot alternative fuels, but back in 2003, the president won applause for proposing "$1.2 billion in research funding so that America can lead the world in developing clean, hydrogen-powered automobiles." On Capitol Hill, there were demonstrations of one such "Freedom Car," and the president called on scientists to be "bold and innovative" in their hydrogen research.

Unfortunately for the authors of "Potential Environmental Impact of a Hydrogen Economy on the Stratosphere," their research, while bold and innovative, didn't exactly mesh with the hype. According to their model, tiny leaks from hydrogen cells, if such cells are ever mass-produced, could cause serious environmental damage. But they made no suggestion of inevitability: One of the study's authors, John Eiler of Caltech, pointed out that foreknowledge of potential environmental problems could "help guide investments in technologies to favor designs that minimize leakage." Presumably thinking along the same lines, NASA, which had helped pay for the research, prepared a news release and news conference on the paper.

Abruptly, both were canceled. Although "we often hear that releases are held up for political reasons," one NASA employee told me, "that one was a surprise: It went all the way to the top and then got killed." In fact, the release and the conference were "killed" by the White House Office of Science and Technology Policy. An official there told me this was because the office wanted to give Energy Department scientists a chance to respond to the study before it was publicized: "Our role is to facilitate interagency cooperation." Coincidentally or not, it also happens that Spencer Abraham, then the energy secretary, was that same week preparing to depart for Brussels, where he was to tell Europeans that U.S. hydrogen research proved the Bush administration cared about the environment.

All of that part of the story is confirmed. The rest -- the story of how none of the scientists ever got government grants for further research on this subject -- is complicated by rumor and hearsay. Eiler, seeing that the Energy Department was looking for proposals to study the environmental impact of hydrogen, applied for a grant to do so. He was turned down on the grounds that he thought were "peculiar" -- that the department was not, in fact, interested in proposals on the subject. Today he gets his only money for related research from the private sector. The National Science Foundation officially rejected another researcher's grant application -- and then unofficially told him that some in the foundation thought the timing of the Science magazine paper had been deliberately designed to embarrass the energy secretary. One of the authors has now changed his research focus, he e-mailed me, to something that "has less politics." Others refused to talk about the paper at all.

None of this means that there really was any government interference in the funding. Another eminent scientist who does related research, Mark Jacobson of Stanford University, told me that while he considered the Science paper "groundbreaking" and "pioneering," because it was "the first to actually go after this issue," he disagreed with the conclusions and methodology, and said that perhaps grant reviewers did too. The science and technology policy office says it is "preposterous" to think that the White House was involved in funding issues. Abraham remembers the trip to Europe but (very plausibly) doesn't recall anything about this contrarian paper at all.

I'm thus left with nothing to report -- except that a fuss over a press release and a rumor about who said what to whom at the National Science Foundation left some scientists feeling, rightly or wrongly, that they'd better stay away from "political" subjects if they want government grants. And, three years down the road, they have.

Fed Nominees Pressed On Political Ties (WP)

By Nell Henderson

The Washington Post, February 15, 2006

President Bush's decision to elevate three former administration economic advisers to the Federal Reserve Board prompted questions yesterday about whether they would be able to steer the economy independently of the White House they have served.

Bush's most recent Fed nominees, Randall S. Kroszner and Kevin M. Warsh, would join Ben S. Bernanke, who became chairman of the Fed earlier this month after serving for six months as chairman of Bush's Council of Economic Advisers.

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Bernanke is scheduled to testify today before the House Financial Services Committee in his first public appearance on Capitol Hill as Fed chief.

If Kroszner and Warsh are confirmed by the Senate, it will mark the first time in many years that three of the seven Fed board members will have recently served in the White House that appointed them, said Thomas Schlesinger, executive director of the Financial Markets Center, a nonprofit group that monitors the Fed.

"This is inevitably going to create the impression that the board is more political than in the past," Schlesinger said. "This creates more of a burden on Bernanke and company to prove they're not taking their cues from [White House Deputy Chief of Staff] Karl Rove."

In past decades, White House officials and members of Congress have pressured Fed officials to keep interest rates low, which is politically popular. But Fed officials are supposed to keep inflation low, which sometimes requires raising interest rates. The Fed also regulates some banks and financial institutions, which can stir up opposition from affected interest groups.

Kroszner, 43, a professor of economics at the University of Chicago's business school, was a CEA member from 2001 to 2003. Warsh, 35, who has served on Bush's National Economic Council for the past four years, is a special assistant to the president for economic policy.

Sen. Paul S. Sarbanes (Md.), the ranking Democrat on the Senate Banking Committee, pressed Kroszner and Warsh during their confirmation hearing yesterday on whether they would be able to act independently of outside political pressures.

Both men promised that they would.

"The independence of the Federal Reserve is fundamental to its mission," Kroszner told the committee. "The central bank cannot be a political animal. It must be an independent animal."

Warsh, who worked on Wall Street before joining the Bush administration, said it is "essential for [financial] markets to believe the judgments" of Fed officials are politically impartial. He said he knew he'd be "taking off one hat and putting on another."

Bush's nominee to become CEA chairman, Edward P. Lazear, 57, also promised at the hearing that he would see it as his duty to "inform policymakers in an unbiased and professional manner." Lazear, a professor at Stanford University and a senior fellow at the Hoover Institution, served last year on Bush's advisory commission on tax reform.

Bush has appointed the four other members of the Fed board -- two Republicans, a Democrat and a political independent. The presidents of the 12 regional Fed banks are chosen by their boards of directors and include members of both parties.

Bernanke, 52, a former Princeton University economics professor, served on the Fed board for more than two years before joining the White House. He was renowned during his academic career for his work on monetary policy, the central bank's efforts to influence the economy through controlling the money supply, chiefly by adjusting interest rates.

Kroszner has published research on banking and financial regulation, international banking, financial crises and monetary economics.

Warsh is a lawyer who has worked for Morgan Stanley as an investment banker and as an adviser on mergers and acquisitions.

Some critics have questioned Warsh's credentials for the Fed job.

"There are plenty of people with better résumés to fill the responsibilities of a Fed governor," said Lee Price, research director at the Economic Policy Institute, citing Warsh's lack of experience with banking regulation and monetary policy.

However, Warsh's confirmation appeared assured yesterday when he was warmly endorsed during the hearing by Sen. Charles E. Schumer (D-N.Y.).

Moreover, Senate Banking Committee Chairman Richard C. Shelby (R-Ala.) supports the nominations and plans to move toward holding a committee vote as soon as possible, said committee spokesman Andrew S. Gray.

Shelby "believes that all the nominees performed well in the hearing and demonstrated an ability to engage the many issues they would encounter in their new positions," Gray said.

Fed Nominees' Remarks Portend Debate Over An Inflation Target (WSJ)

By Greg Ip

The Wall Street Journal, February 15, 2006

WASHINGTON -- Two nominees to the Federal Reserve Board expressed qualified support for an inflation target, suggesting Chairman Ben Bernanke has more work to do before the central bank adopts one.

The Fed must "provide clarity and transparency about monetary policy making and processes," Randall S. Kroszner, a University of Chicago economist, told the Senate Banking Committee. A target "is one possible way to increase transparency."

White House aide Kevin M. Warsh said, "The markets might well see [a target] as additional clarity and provide some incremental benefit going forward. That's a deliberation I look forward to participating in."

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Mr. Bernanke has long argued such a target will help the public understand the Fed's goals and enable the Fed to better communicate what it is doing and why. He has also said he would press for a target only if he can achieve consensus on the 19-member Federal Open Market Committee. Of those 19 members, 12 vote: the seven governors, including Mr. Bernanke, of the Federal Reserve Board, and five of the 12 reserve-bank presidents.

Current FOMC members are split on support for a target. The fact the two nominees may also need convincing suggests adoption isn't a forgone conclusion.

President Bush nominated Messrs. Kroszner and Warsh to fill two board vacancies. Mr. Bernanke created one vacancy when he left to become chairman of Mr. Bush's Council of Economic Advisers in June. In an appearance on Capitol Hill today, he makes his first major remarks on the economy since becoming Fed chairman Feb. 1.

Appearing before the same panel, Stanford University economist Edward Lazear, nominated to take Mr. Bernanke's old job as chairman of the CEA, called the tax code "chaotic, somewhat inflexible and not necessarily conducive to economic growth." In particular the alternative minimum tax "has really run amok." The AMT was originally aimed at ensuring that the wealthy pay some tax but each year ensnares more upper-middle-income taxpayers.

Mr. Lazear served on Mr. Bush's advisory panel on tax reform, which recommended abolishing the AMT. However, Mr. Bush hasn't indicated when he intends to act on tax reform.

None of the handful of senators at yesterday's hearing objected to any nominee, suggesting confirmation will be straightforward. A committee spokesman said it is "realistic" that the Fed nominees will be confirmed in time for the next FOMC meeting, on March 27-28.

Fed Nominees Vow To Make Inflation Control A Top Priority (NYT)

By Bloomberg News

The New York Times, February 15, 2006

The nominees for the Federal Reserve, Randall S. Kroszner and Kevin M. Warsh, said yesterday in testimony to the Senate Banking Committee that controlling inflation was the best way to keep the United States economy growing.

Stable prices are "crucial to achieving maximum employment and overall economic stability," Mr. Kroszner, 43, a University of Chicago economist, said. Mr. Warsh, 35, a White House adviser, said he was devoted to keeping prices in check and fostering "maximum sustainable employment."

If confirmed, Mr. Warsh and Mr. Kroszner would join the Fed's board of governors as the central bank begins its biggest transition in almost two decades. Ben S. Bernanke, who succeeded Alan Greenspan as chairman two weeks ago, has pledged more openness and will need support from Fed members for new policies like a numerical inflation goal.

Mr. Bush's nomination of Mr. Warsh, a lawyer by training who would become one of only two members of the Fed's seven-member board of governors without a Ph.D. in economics, has been greeted by criticism and bewilderment by some former Fed officials and economists. They point to his political connections and inexperience, and say the White House could have found a better-known, more qualified choice.

"The Warsh nomination came out of left field," said Tom Schlesinger, executive director of the Financial Markets Center, which monitors the Fed.

If Mr. Warsh and Mr. Kroszner are confirmed, Bush will have appointed all seven members of the Fed board. The reaction to Warsh contrasts with the praise Mr. Bush has received for his other appointments.

The new governors would provide Mr. Bernanke, an academic specialist on central-bank policy, with banking and markets expertise and return the Fed's board to a full seven members for the first time since June.

Following Alan Greenspan (NYT)

The New York Times, February 15, 2006

The new chairman of the Federal Reserve, Ben Bernanke, delivers his first report to Congress today, covering interest rate policy and the Fed's economic forecast for this year and next.

It's a big moment for Mr. Bernanke, and perhaps for the economy. The new chairman's success at establishing his Street cred will be a big factor in controlling that most unpredictable of economic forces: market psychology.

His predecessor, Alan Greenspan, could help by playing the circumspect banker a while longer. Last week, days after becoming a private citizen, Mr. Greenspan talked privately to an audience at Lehman Brothers, the world's biggest bond-trading outfit. His remarks were promptly leaked, and traders quickly concluded that interest rate increases were bound to continue.

The extent to which Mr. Greenspan's remarks moved the markets is debatable. We also don't know how accurate the leaks were. (It does seem unlikely that Mr. Greenspan has suddenly taken to speaking with crystal certainty, as suggested by the traders' interpretation of what he is supposed to have said.)

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What's not arguable is that any transition at the Fed is tricky, and that this one is particularly fraught. What will happen to consumption — and economic growth — when the housing boom subsides? Will Mr. Bernanke cut interest rates if housing prices tank, as Mr. Greenspan did after the Internet bubble burst? Would the new chairman even be able to do that, given that higher rates help to attract the foreign capital to cover America's deficits? How would more rate increases affect deeply indebted households?

Mr. Greenspan's devotion to the strength and integrity of the Federal Reserve is beyond doubt; the institution's solidity owes much to his leadership. But the public and the markets need to have confidence in the new chief, and that is best built by hearing from Mr. Bernanke without what is likely to be interpreted as cues from the wings or, worse, cross talk.

Did You Hear The One About The Trade Deficit? (WP)

By Steven Pearlstein

The Washington Post, February 15, 2006

The White House Council of Economic Advisers is not generally known for its playful sense of humor. But in the annual Economic Report of the President, released this week, the CEA decided to have a bit of fun with the record $726 billion trade deficit.

At nearly 6 percent of gross domestic product, a deficit that large would in be treated in most other countries like the economic equivalent of Defcon 3. But rather than dwell on the negative, those wry PhDs framed their analysis not as consumption exceeding production (the so-called current account deficit), but as a consequence of cheap foreign capital financing our profligacy (the capital account surplus, which by definition is its mirror image). It's a bit like General Motors, ending a disastrous sales month, declaring what a good period it had been for inventory replenishment.

This upbeat view of the trade deficit reflects the thinking of outgoing CEA chairman Ben Bernanke, who thinks that the root cause of the world's massive economic imbalances is that the rest of the world is producing and saving too much, not that Americans are producing and saving too little. And what makes it possible for these trade deficits -- er, capital account surpluses -- to continue year after year is that foreigners have decided that the best place to stash all the cash they earn from selling us sneakers, computers and oil is right back in the United States.

There is certainly a good deal of truth in the idea of a global "savings glut." When excessive saving in Asia and Europe leads to too much capital flowing into the United States, it has the effect of bidding up the price of real estate and stocks while lowering interest rates. In turn, Americans respond by borrowing more against their newfound paper wealth, using the money to buy more stuff from overseas, creating a self-reinforcing cycle.

Viewed in this way, it is the capital surplus that drives the trade deficit, rather than the other way around. Or put more crudely, it's their fault, not ours.

What's significant about this view is that its chief proponent is no longer just a respected academic advising the president. As the new chairman of the Federal Reserve, Ben Bernanke is now the world's most influential central banker. And his instinct to view trade deficits, and the asset bubbles associated with them, as relatively benign -- or at least outside the scope of the central bank's concern -- could put monetary policy behind the eight ball.

A somewhat different view has recently been offered by Mervyn King, head of the Bank of England, and economist John Makin of the American Enterprise Institute. Their warning is that the "savings glut" is, to a large extent, really a "liquidity glut" caused by central banks, primarily those of China and Japan. For reasons that made sense in the context of sustaining growth and stabilizing prices at home, these central banks wound up printing too much money -- money that is now sloshing around the globe looking for some place to be invested.

Some of this excess liquidity has gone into bidding up the price of stocks, particularly outside the United States. Some of it has gone into real estate, particularly inside the United States. Some of it has been used to bid up the global price of commodities, such as gold or oil futures.

But a big portion of that money has gone into government bonds everywhere, creating a bond market bubble, which has the effect of lowering inflation-adjusted interest rates to ridiculously low levels.

That was evident last month when the interest rate on inflation-adjusted, 50-year British bonds fell to 0.38 percent, well below its historic norm of 2.5 percent. And we saw it last week when the U.S. Treasury, issuing its first 30-year bonds in four years, got $28 billion in bids for $14 billion of bonds being offered, making it cheaper for the Treasury to borrow for 30 years than six months.

The problem, as King and New York Fed President Timothy Geithner laid out in separate speeches last month, is that these asset-market "bubbles" now have the potential to spill over into the real economy, generating excess growth and, eventually, unacceptable levels of inflation. Rather than wait for the full measure of inflation to show up in the official numbers, when it becomes much harder to deal with, they suggest that the Fed and other central banks should consider the economic

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equivalent of the policy of preemption. The idea is that raising rates earlier to slow the economy and take some air out of asset prices will reduce economic pain later.

Up to now, Bernanke has staunchly opposed the idea that the Fed should prick bubbles or target asset prices. But I suspect he's about to get some polite push back from Geithner and other regional Fed presidents.

As Makin points out, even excluding food and energy, the closely watched index of "core" consumer prices was up 1.8 percent last year, near the top of what the Fed considers its acceptable range. And with labor markets relatively tight, and health, energy and commodity costs putting upward pressure on prices, and a falling dollar likely to raise the price of all those imports, it's likely that the Fed will soon have to break the news that it won't be able to stop raising rates after its next meeting on March 28, as financial markets now expect.

It's at that point that a sense of humor will come in handy.

Senate Scrubs Hearings As Politics Trump Policy In An Election Year (NYT)

By Sheryl Gay Stolberg

The New York Times, February 15, 2006

WASHINGTON, Feb. 14 — The Senate has never been a bastion of managerial efficiency. But as the campaign season gets into full swing, lawmakers say things are clearly getting worse.

Four cabinet secretaries, including Secretary of State Condoleezza Rice, an Army general and the secretary of the Army were supposed to testify Tuesday morning at hearings on matters including Hurricane Katrina and the Bush administration's proposed budget for foreign affairs.

But their invitations were rescinded and the hearings canceled when the Senate majority leader, Bill Frist of Tennessee, scheduled a marathon series of 16 votes on amendments to a pending tax bill — all of them, both parties agree, intended more to score political points than to make policy.

Ultimately, most of those votes were canceled.

They could have been held Monday night, but that did not work for Mr. Frist. He was holding a fund-raiser at his Washington home, with President Bush as the featured guest and some of his Republican colleagues on the guest list, including the Senate whip, Mitch McConnell of Kentucky. The event raised $3.5 million for Republican Senate candidates.

So Mr. Frist put the votes off until Tuesday. Half of them were to be on amendments offered by Democrats.

As Jim Manley, a spokesman for the Democratic leader, Senator Harry Reid of Nevada, explained, "They were designed to show that Republicans were favoring tax cuts for the wealthy instead of tax breaks for the middle class."

Republicans had responded with what Senator Trent Lott of Mississippi, the former Republican leader, called eight of "our own blatantly political amendments."

By Tuesday morning cooler heads prevailed, and the number of votes was pared back to three. By that time, though, all of the scheduled hearings had been canceled, leaving a lot of miffed and sheepish senators.

"I look around," Mr. Lott said, "and think, 'Am I the only one who thinks this is stupid?' "

Senator Ted Stevens, Republican of Alaska, said, "It's sort of arrogant of us, isn't it, scheduling them and then not keeping our appointments?"

Stupid, perhaps. Arrogant, maybe. But not entirely out of character for the Senate, where roll-call votes are frequently held late into the night and schedules can change at a moment's notice. Still, some said the organizational chaos was worse than usual, and this being Washington in an election year, many fingers were being pointed.

Mr. Lott, who prided himself on keeping the trains on time when he was majority leader and who might try to return to a leadership spot if he is re-elected in November, said both sides were at fault.

"The Senate continues to fiddle while Rome burns," he said in a long speech on Monday afternoon on the Senate floor. He complained that the Senate had previously voted on similar Democratic amendments and urged Republican leaders to "get a grip on this situation."

Some Democrats, meanwhile, suggested that Republicans had let their fund-raising efforts pre-empt Senate business.

"When you have a Senate that is dictated by airline schedules and fund-raising events, we don't have as many days to work," said Senator Richard J. Durbin, Democrat of Illinois. "That's why I'm supporting public financing" for campaigns, he added.

Mr. Frist's chief of staff, Eric Ueland, shot back that the Democrats were the ones practicing the politics of delay.

"It is not Bill Frist who is slowing down the process for obstruction's sake," Mr. Ueland said. "It is Harry Reid who is responsible for this inanity."

But Mr. Reid, a former boxer, defended himself, saying his eight amendments were a show of restraint. "We could have filed 80 or 800," he said.

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In the end, most of the hearing appearances were rescheduled. The Army secretary, Francis J. Harvey, and the general, Peter J. Schoomaker, who is the Army chief of staff, testified on Tuesday afternoon.

Secretary Rice and Michael Chertoff, the homeland security secretary, are expected to appear Wednesday morning. Jim Nicholson, the secretary of veterans affairs, is scheduled to testify Thursday. But an appearance by John W. Snow, the treasury secretary, had not been rescheduled.

Mr. Snow was making his second effort to fulfill a Senate obligation; he was initially to appear last week, but the session was canceled because it conflicted with the funeral for Coretta Scott King.

Mr. Snow's spokesman, Tony Fratto, said the secretary did not mind being invited, uninvited, reinvited and uninvited again. "We try to be understanding about it," Mr. Fratto said. "There aren't any hard feelings."

Still, the changes created confusion. Mr. Reid was asked if a business could be run like the Senate is. "Yeah," he replied, "but not very well."

Westmoreland, Lewis Cool Squabble (RC)

By Jennifer Yachnin

Roll Call, February 15, 2006

One of the first squabbles to erupt in the growing debate over earmark reform appears to have subsided, after freshman Rep. Lynn Westmoreland (R-Ga.) met with House Appropriations Chairman Jerry Lewis (R-Calif.) over the weekend.

Westmoreland lashed out at the Appropriations panel in a "Dear Colleague" letter last week, following the leaking of a committee report that detailed the earmark requests of several dozen Members who have signed on as co-sponsors of earmark reform legislation sponsored by Rep. Jeff Flake (R-Ariz.).

A Westmoreland aide said that the freshman lawmaker and Lewis discussed the incident Friday afternoon while attending the House GOP retreat in Cambridge, Md.

"The chairman spoke to him and said it was not done with his knowledge or permission, and it was done on the staff level," said Westmoreland aide Brian Robinson.

While it remains unclear whether the source of the leaked information will be reprimanded, it appears that the matter has been settled for now.

"At the end of the day, we're not on the committee," Robinson said. "The Congressman made his concerns known to our leadership and to the chairman of the committee in a personal conversation. That's all that he can do for now. But he has made it very clear ... that the analysis was done at all. It was a blatant attempt to intimidate those seeking reform."

Appropriations Committee spokesman John Scofield declined to comment on the Friday discussion, describing it as a private conversation between Members.

But he did say that the evaluation of Members' earmark requests had not been intended for public distribution.

"It is true that the document was for internal purposes, it was not to be made public," Scofield said.

In the meantime, support for Flake's reform proposal seems to have been largely unaffected by the incident. In all, 63 Members are listed as co-sponsors of the legislation.

Although Flake frequently highlights earmarks he considers particularly offensive, he expressed support for lawmakers included on the list.

"I don't begrudge any rank-and-file Member for seeking earmarks — that's how the game is played here," Flake said in an interview Friday afternoon.

But Flake did take aim at House appropriators, asserting that panel Members are able to "blackmail" lawmakers under current rules.

"They force the rank and file to submit [their requests in writing], so they have a paper trail, so they can blackmail them later," Flake said. "That's what's really objectionable about what they're doing. It's not that these things are kept secret."

Under the Obligation of Funds Transparency Act authored by Flake — one of several reform proposals now being floated in both the House and Senate — earmarks would be included in the text of legislation, rather than attached in committee or conference reports that accompany the bills. That provision would give Members the ability to purge legislation of any earmarks deemed unnecessary once the bill reaches the House floor.

Lewis, likewise, has called for reforming the earmark process and unveiled his own proposal in late January.

In addition to calling for strict limits on the number of earmarks each Member may submit to each Appropriations subcommittee, Lewis has suggested that the process needs greater transparency, requiring Members to file formal request letters not just with each subcommittee but also with the Clerk of the House and to have them printed in the Congressional Record.

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The California lawmaker also has stated that any new reforms should apply not only to his own panel but to authorizing committees as well.

Job Competition Victory By NIH Workers Is More The Rule Than The Exception (WP)

By Stephen Barr

The Washington Post, February 15, 2006

One of the largest job reviews at the National Institutes of Health has ended, with about 380 federal employees involved in property management prevailing in a competition against a private-sector bidder.

The job competition began in October 2002 and involved a group of employees who provide services in property management and operations, construction management and central utilities.

NIH said that the employee team won when the government's proposal, known as a "most efficient organization," was determined to be the lowest-cost plan. NIH said the long-running competition had been extended under a settlement agreement, which called for a reevaluation of the offers, between NIH and an unsuccessful bidder.

The NIH's statement did not say how much money would be saved by keeping the work in the agency. In the statement, Elias A. Zerhouni , NIH's director, said, "Now our challenge is to successfully implement the new management process, manage more wisely and effectively carry out the NIH mission to improve people's health."

NIH has run more than two dozen job competitions since 2002. Of those decided, most have kept the work in-house.

Across government, federal employees have been winning about 90 percent of job competitions. In numerous cases, the in-house team has reduced staffing and revamped operations in order to win.

The Bush administration began a push in 2001 to review the government's "commercial activities" to see whether the work could be performed at less cost by contractors. The initiative, known as competitive sourcing, has roiled much of the federal workforce and led unions to lobby against the initiative on Capitol Hill.

Unions contend that such outsourcing does not produce long-term budget savings, but the Office of Management and Budget reported this month that agencies are on track to produce savings of $900 million a year because of competitive sourcing.FEMA

Department of Homeland Security officials will be conferring with Congress and the White House on Secretary Michael Chertoff's proposal to create a full-time cadre at the Federal Emergency Management Agency to respond to catastrophic events.

The government has been criticized for waiting too long to respond to Hurricane Katrina, which killed more than 1,300 people. Chertoff said Monday that he would like to create a response force of 1,500 FEMA employees, which his spokesman said would probably be a mix of new hires and transfers from elsewhere in the department.

"We're talking about our interest in a substantial increase in the permanent base of FEMA employees, specifically to deploy in response to catastrophic events," department spokesman Russ Knocke said.

FEMA relies on volunteers in the field to provide disaster relief and recovery assistance. The agency has about 2,500 full-time employees and relies on about 3,493 seasonal and reserve workers who can be called into action for disasters.

The proposal for a 1,500-person response force is not part of the president's fiscal 2007 budget request for FEMA. That request includes $29 million to "strengthen operational capability" and fill job vacancies at FEMA.Retirements

Helene Deramond , team leader for the protection of human subjects in research for the Education Department, will retire March 1 after 30 years of federal service.

Mark Gillen , director of the office of program evaluation and risk analysis at the Internal Revenue Service, will retire March 3 after more than 37 years of government service. During his career, he also worked at the General Accounting Office, Health Care Financing Administration, Defense Contract Audit Agency and the House Appropriations and Ways and Means committees. He was a 2005 recipient of a presidential rank award.Diary Live Today

Federal Web Search Upgraded (WP)

By Caroline E. Mayer

The Washington Post, February 15, 2006

Need to know how many calories are in that margarita you drank last night?

The temperature at the beach you hope to go to this weekend?

How many minutes your flight will be delayed because of high winds in Newark?

Or the winning number in the Pennsylvania lottery?

The answers are at a comprehensive one-stop federal Web site, FirstGov.gov, the official gateway to federal, state and local government Web sites and documents.

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The nearly six-year-old Web site, which has won innovation awards for being consumer-friendly, has just been updated to make it easier for consumers, businesses and federal employees to find a mind-boggling array of information from A (airline complaints) to Z (Zip codes). With a click or two of the mouse, users can download tax forms, collect all sorts of economic trivia or play educational online games to learn about consumer scams and how to avoid them, of course.

FirstGov launched a powerful new search engine last month, expanding the number of accessible documents from 8 million to 40 million, including more state and local Web sites. Perhaps equally significant for time-constrained browsers, the new search engine uses improved algorithms to provide more relevant results.

With the old search engine, for example, a search for "baseball" brought up the Web site Afterschool.gov because it features a picture of a boy holding a baseball bat. With the new search engine, that same search steers you to a list of World Series winners. (Who knew the government even had such information?)

Using the old search engine, a person who typed "Social Security" in the search box would get a link to the Social Security Administration and related Web sites, including the President's Commission to Strengthen Social Security.

The same search today turns up a list of frequently asked questions, such as "What are the Social Security and Medicare increases the government has in store for 2006?" or "How do I contact Social Security's nationwide Toll-Free Hotline?" There is also a special section where a browser can further refine the field of research by choosing retirement or disability, as well as a tab to easily download federal forms.

Consumers in the market for a new car can just enter a make and model to get gas mileage and crash test results on a single page. In the past, it would have taken visits to two different government Web sites (one by the Environmental Protection Agency, the other by the National Highway Traffic Safety Administration) to get the data.

"All this information is out in the government, but it does you no good if you can't find it," said M.J. Pizzella, associate administrator of the General Services Administration's Office of Citizen Services and Communications, which oversees FirstGov.gov.

The government had been running its own search operations -- at an estimated annual cost of $3.2 million. The new search engine is being operated for $1.8 million a year under a contract with two private companies: Microsoft Corp. and Vivisimo Inc.

FirstGov.gov also offers podcasts, as well as Espanol.gov for Spanish-speaking consumers.

By presenting frequently asked questions and special sections to allow consumers to refine their initial search, FirstGov is more than a Google for government, said Larry Freed, president of ForeSee Results, a Michigan firm that measures customer satisfaction of Internet sites. "It's sort of a Google-plus" because you do not have to rely on scrolling through pages and pages of search results to find what you want, Freed said.

Launched in the last days of the Clinton administration, FirstGov was revamped in 2002 to make it easier to use. At that time, the goal was "three clicks to service." But under the latest redesign, just one or two clicks may be all that is needed.

When the site began, "customer satisfaction was fairly low," Freed said. But the government "has made great strides," he said. "Is the government really building Web sites for me? They are, and it's a win-win for the government and consumers. Consumers are getting more information, and the government is lowering its cost by making it easier to get information off the Web," helping reduce calls to call centers.

OTHER NEWS:

US Retail Sales Beat Expectations (FT)

By Andrew Balls and Christopher Swann

Financial Times, February 15, 2006

Americans stormed the shops in January, pushing retail sales up 2.3 per cent and laying to rest fears that consumer spending was starting to fade.

Economists said the reading was boosted by unseasonably warm weather, with Americans basking in the warmest January since records began in 1895. Christmas gift cards may also have boosted January sales, as they are only recorded as retail spending when redeemed in the shops.

But there were signs of underlying strength in spending across virtually all sectors, setting up a strong start to the year after weak consumer spending growth in the fourth quarter. Retail sales for December were revised slightly lower, to 0.4 per cent from the Commerce Department's initial reading of 0.7 per cent

The rise in the headline retail sales last month was more than double the Wall Street consensus forecast of 0.9 per cent, with strong readings for clothing, furniture, electronics and building materials sales.

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Stripping out car sales, a volatile component of the report, sales rose 2.2 per cent, the strongest reading in six years, and again far higher than the 0.8 per cent consensus. Spending at petrol stations rose 5.5 per cent in January, but excluding autos and petrol, core sales still rose 1.8 per cent.

Bond prices dropped slightly after the report. Since the middle of January, the yield on the two-year and 10-year notes have both risen by about 30 basis points, to 4.57 and 4.6 per cent respectively.

Ben Bernanke, chairman of the Federal Reserve, gives testimony before Congress on Wednesday, on the central bank's monetary policy report to Congress.

Tuesday's retail figures, and other recent indications, support the Fed's view, expressed when it raised interest rates at the end of last month, that the economic expansion remains solid in spite of a temporary dip in the fourth quarter.

Futures markets are pricing in the near certainty of another rate increase at the first meeting of the Federal Open Market Committee that Mr Bernanke will chair, at the end of March, and a good chance of another rate increase in May, bringing the federal funds rate to 5 per cent. A month ago, investors saw an increase at the March meeting as doubtful.

"There is no sign at all now that US consumers have started to tighten their belts," Nigel Gault, head of US research at Global Insight, the consultancy, said. "This will increase the chances that the Federal Reserve will continue to raise rates up until May."

Strong sales in January, as warm weather encouraged people to shop for spring clothes, is likely to have borrowed from spending later in the quarter, economists said, with the cold weather in the northeast also expected to depress sales in February.

Consumers Spend January Shopping (USAT)

By Barbara Hagenbaugh

USA Today, February 15, 2006

WASHINGTON — Retail sales rose at the fastest pace in more than four years in January as consumers cashed in holiday gift cards and unusually warm weather enticed shoppers to get out of their homes and spend, the government said Tuesday.

The report was a surprise. Economists, including those surveyed by USA TODAY earlier this year, have been anticipating that consumer spending growth would slow in 2006. Such a slowing is still anticipated as the housing market cools and related purchases, such as couches and carpeting, ease and consumers pocket less money when they sell.

But with consumer spending accounting for 70% of U.S. economic activity, the boost in January suggests the overall economy began 2006 on solid footing.

"It's a good sign that the consumer has some momentum going into the start of the year, and that probably reflects the fact that the labor market is continuing to improve, albeit modestly," says Patrick Fearon, senior economist at A.G. Edwards in St. Louis. "It's a positive for economic growth."

Retail sales rose a seasonally adjusted 2.3% in January from December, the Commerce Department said. That was up from a 0.4% gain in December and was the largest rise since October 2001, when sales rebounded after a lull following the Sept. 11 terrorist attacks.

Sales rose across a broad range of categories, including at car dealerships, furniture stores, building material and garden equipment dealers, clothing retailers and restaurants and bars. Higher gasoline prices also led to an increase in sales at gas stations.

The only category that saw a decline in sales was "non-store retailers," which includes websites. Sales in that sector fell 2.6%, the first decline since July.

Weather played a key part in the sales gain in January, says Michael Niemira, chief economist at the International Council of Shopping Centers. January was the warmest on record, according to the National Oceanic and Atmospheric Administration. The average temperature was 39.5 degrees, 8.5 degrees above the 1895-2005 mean.

Such warm weather not only gets people out of their homes, but it inspires them to buy spring items, which often hit store shelves in January, Niemira says.

"Weather was a big catalyst," Niemira says.

Holiday gift card sales also helped increase sales in January, says National Retail Federation chief economist Rosalind Wells. Gift cards are counted in retailers' sales when they are redeemed, not when they are sold. Consumers often spend above the amounts of their gift cards, providing a further boost to sales.

Niemira says because of the influence of gift cards and weather, January's strength is unlikely to be repeated in coming months. "It'll be a very choppy pattern," he says.

Retail Sales Surge 2.3%, Underlining Economy's Health (WSJ)

By Christopher Conkey

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The Wall Street Journal, February 15, 2006

Consumers went on a postholiday shopping spree in January, a strong sign of economic vigor that increases the likelihood the Federal Reserve will keep raising short-term interest rates.

The Commerce Department said yesterday that retail sales surged a seasonally adjusted 2.3% in January from December, largely because of gift-card redemptions and abnormally mild winter weather. The January jump followed a tepid 0.4% rise in December. January sales were up 8.8% from a year earlier.

Coming after an earlier report that employers added nearly 200,000 jobs in January and pushed the unemployment rate down to 4.7%, the retail-sales report was cheered as evidence that the economy has roared back from a fourth-quarter lull. "It wipes out the weakness we saw in preceding months," said Peter Hooper, chief U.S. economist at Deutsche Bank. "We were expecting the fourth-quarter slowdown was transitory. This confirms that."

Reflecting such optimism, as well as a decline in oil prices, investors sent the Dow Jones Industrial Average surging 136.07 points, or 1.3%, yesterday to close at 11028.39 -- its best one-day gain since late October. (See related article1.)

Many economists had anticipated a strong increase in retail sales after the weak showing of December, especially in light of earlier reports of strong auto sales in January, but few expected such robust growth. Even excluding the 2.9% increase in sales of motor vehicles and parts and a 5.5% rise in gasoline-station sales driven by higher pump prices, the remainder of January retail sales -- everything from department stores to bars -- were up 1.8% from December, when such sales rose just 0.3%.

"It was extraordinary," said Rosalind Wells, chief economist at the National Retail Federation, a trade group.

With overall consumer spending so vigorous last month, Peter Kretzmer, senior economist at Bank of America Corp., said he now believes the economy will expand at more than a 5% annual rate in the first quarter, rebounding from the 1.1% growth rate of the fourth quarter of 2005. Based on recent data, many economists now expect the government to revise up the fourth-quarter estimate to around 1.3% when it issues new data on Feb. 28.

After weighing recent indicators showing low unemployment, rising wages, elevated consumer confidence and a healthy manufacturing sector, markets now seem assured the Fed will raise its target for short-term interest rates by another quarter percentage point to 4.75% at its March 27-28 meeting -- the first for new Fed Chairman Ben Bernanke. Mr. Bernanke makes his debut in Congress as Fed chairman today to give testimony on the economy and monetary policy to the House Financial Services Committee.

"We already thought there was going to be another hike in March," Mr. Kretzmer said. "To say that this cements it is probably an understatement."

Ms. Wells of the retail federation and other economists cautioned that two primary drivers of January's sales growth -- balmy weather and gift-card purchases -- will likely evaporate this month, particularly after a blizzard last weekend snowed in consumers throughout the Northeast. Discount chain Target Corp. yesterday said colder weather will hurt February sales and that it now expects sales of stores open more than a year to climb 2.5% to 3.5% in February, down from its previous prediction of 2.5% to 4.5% growth.

The January bounce was "a one-month shot," Ms. Wells said. "We're likely to see weak February sales because of the blizzards in the Northeast, and then generally I think the economy is going to slow as the year goes on."

Many industries posted increases in January. Sales at clothing stores leapt 4.2% from the previous month, while sales at department stores rose 1.6%, and at electronics and appliance dealers, 2%. Sales in all three categories fell in December.

There was good news for housing-related businesses, too. Sales at furniture stores were up 3.7%, after falling 1.1% in December. Sales at building-material and garden-equipment suppliers, an indicator of home-remodeling activity thought to be particularly sensitive to signs of a cool down in the housing market, were up 3.4%, after December's 0.2% decline. The data suggest the slowdown in home-price appreciation has yet to crimp consumer spending and reinforce the view that the housing market is in for a soft landing rather than a broader crash.

Grocery-store sales were flat, though, and sales at Internet, catalog and other "nonstore retailers," as the Commerce Department calls them, fell 2.6% in January, another strong indication that consumers took advantage of January's unusually mild weather to visit brick-and-mortar stores.

Meanwhile, the Commerce Department reported yesterday that business inventories rose 0.7% in December after a 0.6% increase in November. Inventories, however, were outpaced by a 1.2% jump in sales, the largest monthly increase in nearly a year.

Retail Sales See Best Gains Since Late '99 (WT)

By Patrice Hill

The Washington Times, February 15, 2006

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Consumers, energized by unusually warm weather and the tame heating bills that went with it, hit the malls with gusto last month, sending retail sales soaring by 2.2 percent -- the biggest jump in six years.

The sales spurt, which coincided yesterday with a drop in premium crude oil prices below the psychological threshold of $60 a barrel, sent the Dow Jones Industrial Average surging by 136 points to 11,028.

"You have lower oil prices; you have a healthy employment situation; and you have a consumer that is still willing to do a little bit of spending," said Gordon Fowler, chief investment officer at Glenmede Trust Co. "That all adds up to a positive for the economy."

The biggest drawback is that the consumer rebound may encourage the Federal Reserve to keep raising interest rates -- a possibility that newly installed Fed Chairman Ben Bernanke is expected to address in testimony today.

Triggering the excitement yesterday was a Commerce Department report showing that retail sales, excluding autos, last month zoomed the most since December 1999 after inching up 0.2 percent in December. Including autos, sales were up 2.3 percent -- the biggest jump since May 2004.

"It looked like consumers were hibernating in December, and all they needed was an excuse to go on a spending spree," said Brian Bethune, an economist at Global Insight Inc. "The weather provided that."

Consumers often stay at home during cold and snowy weather. But last month they enjoyed springlike conditions in many areas, with January making history books as the warmest in a century.

Aside from inspiring the urge to shop, one major boon from the mild weather was that a widely anticipated spike in winter heating bills never occurred. Many consumers had been bracing for big bills after Hurricanes Katrina and Rita struck in August and September and sent the price of natural gas and heating oil spiraling to record levels.

By yesterday, oil and gas prices had fallen to pre-hurricane levels as the warm weather sapped the demand for fuel. Many utilities fear they may be left with unused stores of fuel they stockpiled for the winter.

The lower heating bills appear to have left some homeowners with spare change that they spent shopping.

"Retail sales posted stunning results," said Scott Hoyt, analyst with Moody's Economy.com, noting that sales at clothing stores soared by 4.6 percent while department stores rang up a 1.6 percent jump in sales. Over the year, sales were up by nearly 9 percent.

The sales rebound boosted the stocks of Wal-Mart, Home Depot and other retailers yesterday.

The exceptional spending spurt could spur growth as strong as 5 percent in the first quarter, up from an anemic 1.1 percent pace set in the fourth quarter of 2005, economists said.

Many economists had been expecting consumer spending to remain subdued because consumers had been on a debt binge that culminated last year with them spending more than they earn, collectively, for the first time since the Great Depression.

One explanation of the spending surge is that consumers took advantage of gift cards that were sold widely at Christmas. The popularity of gift cards has extended the Christmas shopping season -- the busiest of the year -- increasingly into January, which traditionally had been a slow sales month. Gift cards do not count as sales until they are redeemed.

Analysts say the jump in sales likely was exaggerated because the Commerce Department's adjustments for seasonal variations in spending likely are not fully taking into account the new Christmas spending pattern.

The department figures also are not adjusted to reflect price increases, thus the sales figures were inflated by higher prices, such as those for gasoline during the month.

What Fuel Bills? U.S. Consumers Still Spending (NYT)

By Vikas Bajaj And Michael Barbaro

The New York Times, February 15, 2006

Shaking off a middling holiday shopping season and fears of higher heating bills, Americans spent freely in January, the government reported yesterday, providing reassurance that the economy is beginning the new year with fresh strength.

Buoyed by the unexpectedly robust spending data and a drop in oil prices, investors sent stocks higher across the board. The Standard & Poor's 500-stock index rose 1 percent, to 1,275.53, and the Dow Jones industrial average closed above the 11,000 level again, climbing 1.3 percent, to 11,028.39. Crude oil prices dipped below $60 for the first time since late December.

"The momentum going into 2006 is clearly healthy," said Anthony Chan, chief economist at J. P. Morgan's private client services group. "We will be able to withstand weaker growth for the rest of the quarter and almost not miss a heartbeat."

While many economists expect spending increases to slow for the rest of the winter, the strong consumer spending and solid job gains last month helped overcome fears that economic growth was about to stagger under the weight of rising energy costs, higher interest rates and a slowing housing market. The jump in retail sales virtually assures that economic growth, which slowed to just 1.1 percent for the final quarter of 2005, will register a much stronger showing in the first quarter of 2006.

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Retail sales jumped 2.3 percent last month, recovering from a modest 0.4 gain in December, to register their biggest monthly increase since May 2004. Americans, flush with year-end bonuses, took advantage of the warmest January on record, leftover gift cards and enticing discounts to shop avidly for clothes, furniture and cars.

There was little doubt that the unusually warm weather last month contributed to the strong start for the economy this year. Temperatures averaged 39 degrees for the country as a whole — the highest on record for January — and 8.5 degrees warmer than the average for the month, according to the National Oceanic and Atmospheric Administration.

Warmer weather helped bolster inventories of oil, natural gas and other energy sources, pushing down prices — at least for now — and leaving consumers more to spend on other things like food and clothes.

Gary Nicosia, 29, a waiter in Buffalo, said mild weather shaved $100 from his home heating bill last month and let him dine out, guilt-free, two to three times a week.

"It was so warm out we had our windows open," he said.

Sales at restaurants and bars, a measure some economists look to as a barometer of consumer sentiment, rose 3.2 percent in January.

The increasing use of gift cards, which stores count as sales when they are redeemed, appears to have pushed some holiday sales into January from December. The National Retail Federation had projected that gift card sales would increase 7 percent, to $18.5 billion, during the holiday shopping season.

Many retailers, including Abercrombie & Fitch and Coach, introduced spring lines earlier than usual to entice consumers back into their stores, stocking polo shirts and floral-patterned handbags in midwinter.

"There is no question gift cards helped," said Peter E. Nordstrom, president of full-line stores at Nordstrom, the high-end department store, which reported strong sales of handbags, sunglasses and lingerie.

Over all, sales at department stores rose 1.6 percent last month after a relatively weak holiday season.

January proved a strong month for a wide range of retailers, including chains like Gap and Kmart, which have struggled for much of the last year.

Still, the role of the weather and gift cards — both seen as one-time benefits — suggest that January's economic gains are not likely to maintain their strength over the next few months.

Already, the weather has turned markedly cooler and last weekend's record snowfall in the Northeast forced some store closures in New York City and elsewhere.

Economists also noted that gasoline prices and other energy costs, in spite of the recent drop, could easily reverse course with a persistent cold snap.

"We will see much weaker sales in February," said Rosalind Wells, chief economist for the National Retail Federation. "I think consumers will be harder pressed to spend the way they have been spending."

But few analysts now fear that consumer spending will fall off a cliff. Job gains and wage growth, typically the leading factor in consumer behavior, appear to be on an upward trajectory after their post-Katrina sluggishness of last fall. The economy added 193,000 jobs in January; wages rose 0.4 percent; and the unemployment rate dropped to 4.7 percent, its lowest level in four and a half years.

"The deep fundamentals, the personal income numbers, are healthy," said Gregory Miller, chief economist at SunTrust Bank in Atlanta.

With growth picking up again, economists now expect the Federal Reserve to increase its benchmark short-term interest rate, currently at 4.5 percent, at least once but possibly twice more over the next few months before it brings its tightening cycle to an close. They will be paying particularly close attention today and tomorrow to the Fed's new chairman, Ben S. Bernanke, who is scheduled to testify to Congress for the first time since replacing Alan Greenspan.

"The way data is coming in sort of confirms the high probability that the Fed goes to 5 percent," Mr. Miller said.

Juiced-up Dow Spills Over 11,000 Once Again (USAT)

By Adam Shell

USA Today, February 15, 2006

NEW YORK — A big dip in oil prices and a report showing consumers shopped till they dropped in January gave cautious investors a reason to buy stocks again, propelling the Dow Jones industrial average back above 11,000.

The Dow gained 136 points to 11,028, its first close above 11,000 since Jan. 11 and 15 points shy of a 4½-year high. The Dow has closed and stayed above 11,000 for at least one day on 20 prior occasions, only to relapse, raising doubts that it can sustain this move.

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The gain surprised some market strategists because it occurred on the eve of new Federal Reserve Chairman Ben Bernanke's first testimony before Congress today and Thursday. “Anytime you have a new guy at the helm you don't know how he's going to work out,” says Ken Tower, strategist at CyberTrader.

After topping 11,000 earlier this year for the first time since June 2001, stocks have been weighed down by concerns over the direction of monetary policy under Bernanke. Over the next two days investors will be closely analyzing Bernanke's comments to lawmakers, seeking clues as to whether the Fed is nearing the end of its 19-month campaign of rate increases.

But interest rate worries were overshadowed by crude's $1.67 drop to $59.57 a barrel — the first close below $60 this year. Also helping: better-than-expected 2.3% growth in January retail sales that signaled consumers continue to spend and aren't tapped out.

“The perfect scenario,” says Quincy Crosby, strategist at The Hartford, “is the Fed does its job, wrings out inflation pressures, but the economy remains standing and the consumer doesn't end up dead.”

Investors have fretted that consumer spending would slow after the Fed raised rates 14 straight times since June 2004, boosting short-term rates to 4.5% from 1%. Now they hope Bernanke will lead Fed policymakers to raise rates just one more time, to 4.75%, at their March meeting. Tuesday's rally was driven in part by belief that he won't surprise investors by suggesting more rate increases are needed to control inflation.

“The market is clearly expecting some positive news on interest rate policy,” says Sung Won Sohn, CEO of Hanmi Bank.

Alan Skrainka, strategist at Edward Jones, says investors are focusing too much on interest rates and oil. “The economy is strong and corporate earnings continue to grow,” he says. Skrainka believes stocks are attractive right now. Stocks in the Standard & Poor's 500 are trading at just 15 times expected earnings in 2006, which is the cheapest since 1996.

Retail-Sales Data Boosts Stocks (WSJ)

By Scott Patterson

The Wall Street Journal, February 15, 2006

Call it the gift-card rally.

A government report that retail sales rose 2.3% in January, nearly triple the pace expected and the strongest increase since May 2004 helped send the Dow Jones Industrial Average above 11000 for the first time since Jan. 12.

Mild weather and a wave of shoppers cashing in holiday gift cards were two factors behind the increase in retail sales, analysts said.

The Dow industrials surged 136.07 points, or 1.25%, to 11028.39 for their biggest gain since Oct. 28. Only two components -- Pfizer and Exxon Mobil -- were down. Alcoa, one of Tuesday's chief drags on the average, added 3.7%, making it the best-performing component. Retail stocks also rallied: Home Depot gained 3.6% and Wal-Mart Stores added 2.1%.

Light, sweet crude fell $1.67 to $59.57 a barrel on the New York Mercantile Exchange. Gold for April delivery rose $6.80 to $548.90 an ounce on the Nymex. Treasury prices declined. Energy sensitive stocks jumped as crude-oil prices declined again. The Dow Jones Transportation Average, which tracks trucks, trains and airlines, surged 109.45, or 2.6%, to 4407.78, a record close.

There were some unusual circumstances behind the jump in retail sales last month. But economists said the report is evidence that consumer spending remains in good shape despite frequent warnings to the contrary. "The improvement in the labor market is the real deal, and something that will continue," said Carl Steidtmann, chief economist at Deloitte Research. That "puts the consumer in a position to continue spending."

Heading into 2006, most economists forecast an economic slowdown this year, largely because of expectations that consumer spending would decline. While one month's data don't wipe the crystal ball clean, analysts said, they do lead to a more upbeat outlook1 for the first quarter.

"With these good economic numbers, strong retail sales and lower energy prices" there's more optimism that first-quarter earnings could come in better than expected, said Barry Hyman, equity market strategist at Ehrenkrantz King Nussbaum.

Strong economic reports have caused concern that the Federal Reserve may raise interest rates too far. But investors took Tuesday's report as a sign that the economy could weather a few more increases. The Fed is "raising rates because the economy is strong," said Mr. Steidtmann. "Yes, interest rates will go higher, but that's a reflection of the strength of the economy."

Ian Shepherdson, chief U.S. economist at High Frequency Economics, said the report indicates that the economy will grow by 4% or more during the first quarter, up sharply from the 1.1% pace seen during the fourth quarter of 2005. Most economists expect the fourth-quarter numbers will be adjusted upward.

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The Standard & Poor's 500-stock index added 12.67, or 1%, to 1275.53 and the Nasdaq Composite Index added 22.36, or 1%, to 2262.17. One stock that didn't join in on the rally: Google, which slid nearly 1% to $343, adding on to its 27% skid from its all-time high of $471.63 a share, hit on Jan. 11.

A number of investors were likely caught leaning the wrong way in what's been a downward-trending market, said Robert Pavlik, chief investment officer at Oaktree Asset Management. Those betting the market would fall, in some cases using short sales -- borrowing and selling stock, hoping to buy it back later at a cheaper price and pocket the difference -- likely had to cover their bets to stave off worse losses, creating what is known as a classic short-squeeze rally.

"It obviously caught a lot of people by surprise how big retail sales were," said Bill Groenveld, head trader at vFinance Investments. He said the steady decline by crude, which has declined in nine of the last 11 trading sessions, is also starting to relieve fears that high commodity prices could push up inflation.

Inflation jitters have been a thorn in Wall Street's side in February after a strong January employment report raised concerns that the Fed would keep raising rates to slow growth. Those concerns have been amplified this week ahead of congressional testimony by new Fed Chairman Ben Bernanke on Wednesday.

The sales reports also cheered investors concerned that a slowing housing market will eat into consumers' discretionary income, as fewer home owners refinance their mortgages. Recent downward guidance by luxury-home builder Toll Brothers raised the stakes on those worries.

Another dark cloud floated over the housing market Tuesday after KB Home said that canceled orders rose in the first two months of the year, while net orders for new homes declined. Despite the increasingly negative tone, shares of home builders advanced Tuesday amid the broad market rally. Both KB Home and Toll Brothers gained nearly 2% after declining in early trading. The Philadelphia Housing Sector index gained 1.9%.

In major market action:

Stocks rose8. On the New York Stock Exchange, where 1.8 billion shares traded, 2,266 stocks rose and 1,071 fell. On the Nasdaq Stock Market, where 1.8 billion shares traded, 1,990 rose and 1,040 declined.

Bonds were down9. The benchmark 10-year Treasury note fell 9/32, or $2.81 per $1,000 invested, to yield 4.618%. The 30-year bond lost 18/32 to yield 4.595%. Yields move inversely to prices.

The dollar fell.10 It traded at 117.19 yen, down from 117.72 yen late Monday, while the euro was flat at $1.1906.

Lawmakers Plan An Effort To Reverse Royalty Relief (NYT)

By Edmund L. Andrews

The New York Times, February 15, 2006

WASHINGTON, Feb. 14 — Democratic lawmakers and the White House both said on Tuesday that oil and gas companies should not receive lucrative incentives when energy prices are near record highs.

The lawmakers and senior Bush administration officials were responding to a report in The New York Times on Tuesday that energy companies are expected to avoid $7 billion in royalty payments to the federal government over the next five years.

The Interior Department forecasts that energy companies will produce about $65 billion worth of oil and gas in federal waters in the Gulf of Mexico on which they will not pay any royalties to taxpayers.

Administration officials say their hands are tied on the royalties by laws dating back to 1996 and then sweetened by the Clinton administration.

Two Senate Democrats, Ron Wyden of Oregon and Maria Cantwell of Washington State, said that they were drafting legislation to change the government's rules.

"Given oil and natural gas prices that are expected to hover near record levels for the foreseeable future, we question whether royalty relief for these companies is necessary or appropriate," the two lawmakers said in a letter to Senator Pete V. Domenici of New Mexico, the Republican chairman of the Senate energy committee.

In the House, four leading Democrats said they would introduce a bill this week to stop the incentives immediately.

"The American people are getting stood up and hung out to dry," said Representative Edward J. Markey, Democrat of Massachusetts.

But while Mr. Markey and other Democrats blamed the Bush administration, White House officials sharply retorted that the incentives stemmed largely from specific decisions that the Clinton administration made in 1998 and 1999. At the time, the government was seeking to increase domestic production at a time when prices were comparatively low.

President Bush "opposed additional incentives for oil companies with the price of oil where it is," said Scott McClellan, the White House spokesman.

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Administration officials did not suggest that they would try to halt the benefits that energy companies are expected to receive on the basis of existing regulations. And some Congressional analysts were skeptical that Congress had the power to alter commitments now embedded in thousands of federal leases that energy companies bid on through auctions.

In general, the Interior Department charges energy companies that pump oil and gas on federal property a royalty of 12 percent or 16 percent on the sales value of what they produce. But the government has also given billions of dollars' worth of "royalty relief" to companies that drill in deep waters of the Gulf of Mexico.

In most cases, government regulations also suspend those benefits when energy prices climb above certain "threshold levels," which have been exceeded for more than two years now.

The Clinton administration waived those price limitations for leases awarded in 1998 and 1999, however, and the Interior Department estimates that those leases will account for most of the $65 billion in royalty-free oil and gas pumped over the next five years.

A number of energy companies are challenging the Interior Department's authority to stop the giveaways for any leases awarded from 1996 to 2000.

The companies argue that Congress never gave the administration authority to impose "price thresholds" during those five years.

Administration officials said last week that Kerr-McGee Exploration and Production has informed them that it will take the government to court. Nine other companies have challenged the government's authority to demand about $132 million in royalties owed in 2004.

If Kerr-McGee wins its case, the government could end up losing at least another $28 billion in royalties over the next five years.

The Interior Department said Kerr-McGee and two other companies had refused to pay back royalties for 2004.

But one of the companies that government officials said had refused to pay — Agip, a subsidiary of ENI of Italy — said on Tuesday that it was not disputing any royalties and did not believe it was in arrears.

Allan Hubbard (CSM)

By David T. Cook

The Christian Science Monitor, February 15, 2006

Allan Hubbard, assistant to the president for economic policy and director of the National Economic Council, was Tuesday's guest. Here are excerpts from his remarks:

On reports that current law will allow oil companies to pump $65 billion worth of oil and gas from federal lands without paying royalties:

"As the president has said, when you have oil ... north of $40 [a barrel] ... you don't need to be providing incentives to oil and gas companies to drill and we should be collecting the appropriate amount of royalties."

On Republican economist Bruce Bartlett charging in a new book that Bush administration economic policies are "developed on the fly and in secret with little or no analysis or forethought."

"It is a very thorough, thoughtful process inviting wide par-ticipation within the administration. We also talk to experts outside the administration."

On the president's push for Health Savings Accounts so workers can contribute pre-tax dollars to pay the high deductible amounts on their health insurance:

"We will know it is working when growth in healthcare starts to slow down.... [I]f people do pay for the service ... it has a huge impact on [bringing down the] price."

On the need to repair the federal tax system:

"It is obviously not a priority right now but it is not something the president is going to give up on. He very much believes the tax system is broken, it is impossible to understand.... It needs reform."

K Street Keeps Growing (HILL)

By Jim Snyder And Jeffrey Young

The Hill, February 15, 2006

Lobbyists had a banner 2005, the year before simmering controversies involving Jack Abramoff and former Rep. Randy “Duke” Cunningham (R-Calif.) boiled over outside the Beltway and brought new pressures on Capitol Hill to keep lobbyists at arm’s length.

Early returns on end-of-year revenues show strong growth all along Washington’s lobbying corridor.

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Several well-known firms reported a revenue jump greater than 20 percent, including Barbour Griffith & Rogers, Quinn Gillespie & Associates, the Federalist Group and the Livingston Group, as a series of policy and legislative efforts brought new business to K Street, from Social Security reform to a national energy plan to the budget bill.

Reigning number one, Patton Boggs, reported an even better 2005. It made $37 million last year, up from roughly $31 million it took in in 2004.

Cassidy & Associates, which ended 2004 number two, reported more modest growth. It had revenues of $28.34 million in 2005, up from $27 million in 2004. Akin Gump Strauss Hauer & Feld, number three, reported revenues of $28.58 for the year, up from its $27.6 million in 2004.

With Congress eyeing new curbs on earmarks and congressional travel in response to scandals, 2005 could wind up being a high-water mark for the lobbying

industry.

But lobbyists said that so far their business hasn't suffered under the intense spotlight, as both retainers and client lists are continuing to grow.

James Chapman, co-chairman of the government-relations practice at Bracewell & Giuliani, a Texas-based firm that former New York Mayor Rudy Giuliani joined in 2004, said the firm has been "busier than ever" in a range of policy areas. He said he didn't see much potential for a lag, despite the push for lobbying

reform.

The firm reported sharp growth on revenues of $9 million, up from around $6 million in 2004, Chapman, a former Democratic congressman from Texas, told The Hill.

Firms were required to file end-of-year revenue figures, commonly called LDAs for the Lobbying Disclosure Act that established reporting

requirements, by midnight.

A complete list of the top firms' totals for the year was not available by press time. Several of the largest were still compiling their registrations at 5 p.m.

Figures for Van Scoyoc Associates, Dutko Worldwide, Williams & Jensen, DLA Piper Rudnick were unavailable. For big firms, lobbying reports often run hundreds of pages long, and several lobbyists reported taking extra care in light of recent scandals to ensure that their figures were accurate. A few lobbyists reported difficulties in operating the House's electronic-filing system.

Others firms said corporate counsels advised against reporting lobbying revenues in the "quiet period" before the release of financial information.

But those that did provide their figures to The Hill reported higher, sometimes much higher, returns.

Barbour, Griffith & Rogers's business grew 32 percent in 2005 from 2004. The perennial top-10 firm reported revenues of $19 million, verses the $14.39 million it brought in the year before.

Loren Monroe, chief operating officer, said the firm saw its biggest growth in its financial-services practice, with additional work for FM Policy Focus, a

banking group, and on postal reform for the Financial Services Roundtable.

But Monroe attributed the overall growth to the diversity of the firm's portfolio. It operates four practices in addition to financial services: appropriations, international, healthcare and telecommunications.

Quinn Gillespie also saw a substantial boost in its lobbying revenues coinciding with the return of its eponymous partner Ed Gillespie from the Republican National Committee. The company earned $15.3 million from lobbying last year, which was $3.3 million more than the prior year. PMA Group continues to grow. It reported revenues of $15.1 million, up from $13.1 million.

And the Federalist Group, which until recently was all-Republican (it now has one Democratic lobbyist), continued to benefit from its contacts among Capitol Hill's leaders. Its revenues were $13.8 million, versus $12.1 million it collected in 2004. Holland & Knight also enjoyed healthy growth. The firm

earned $13.2 million in 2005, an increase of $3.4 million over 2004.

Richard Gold, a partner at the firm, attributed the increase to contracts related to the budget-reconciliation bill. Holland & Knight lobbied on provisions related to natural-gas interests and the repeal of the so-called Byrd trade amendment. Budget and appropriations are mainstays for the firm, he said.

PodestaMattoon reported revenues of $12.34 million, up from $11.4 million in 2004.

Washington Council Ernst & Young was one firm that saw revenues dip, hurt by the absence of a major tax bill. It estimated its end-of-year total to be $11.7 million, down from $12.7 million.

But the Livingston Group, founded by former House Appropriations Committee Chairman Bob Livingston (R-La.), is another firm on the rise. It earned $10.9 million in 2005, a nearly $2 million increase over 2004.

Other totals: Preston Gates Ellis & Rouvelas made $10.8 million, up from $8.1 million; the Carmen Group made $10.5 million in 2005, up from $9.6 million; Alcalde & Fay brought in $10.1 million, versus the $8.8 million it made in 2004; and Clark & Weinstock reported revenues of $9.28 million, up from $9 million.

End-of-year numbers add to the strong start lobbyists made in 2005. PoliticalMoneyLine, which tracks lobbying spending, reported this week that companies and other special interests spent $1.16 billion to lobby Congress and federal agencies during the first part of last year. That represented a growth rate of 8 percent and a new six-month record for lobbying spending.

The figures in this story were provided by the firms themselves.

Roughly half of firms that fell in the top 25 a year ago reported rising revenues in 2005. Others looked poised to break into the upper echelon. Blank Rome Government Relations, for example, is positioned to move up. The firm, which merged with Peyser Associates last year, saw growth of greater than 50 percent. It will report an end-of-year total of $9.8 million, versus the $6.1 million it brought in a year ago.

The Ferguson Group, which specializes in representing cities, counties and other public entities, continued its upward course.

The firm's 2005 revenues were $9.24 million, up from just over $7 million. That is a growth rate of nearly 24 percent.

Despite recent controversies, Roger Gwinn, president of Ferguson's executive committee, said business has kept pace early in 2006.

But while the firm has continued to add clients at the same clip so far in 2006, there was one troubling instance: a client the firm had expected to sign backed out, concerned that the payoff may not be as big now that Congress is taking a hard look at the growth of earmarks.

Iraq War Veteran Pulls Out Of Ohio Senate Race (REU)

Reuters, February 14, 2006

CINCINNATI (Reuters) - Iraq war veteran Paul Hackett, an Ohio Democrat who gained attention last year for criticizing President George W. Bush and nearly scoring a huge congressional upset, said on Tuesday he would drop his U.S. Senate bid and retire from politics.

Hackett said he was under heavy party pressure to end his Senate race and clear the way for Democratic Rep. Sherrod Brown to face vulnerable Republican incumbent Sen. Mike DeWine in November.

"I made this decision reluctantly, only after repeated requests by party leaders, as well as behind the scenes machinations that were intended to hurt my campaign," Hackett said in a statement.

Hackett, a Marine reservist in Iraq, almost pulled off a stunning upset in a special House election in heavily Republican southern Ohio last year after he sharply criticized Bush and his conduct of the war.

Democrats said Hackett's performance was a sign of voter unhappiness with Bush and the war and a bellwether for the 2006 congressional elections, but Republicans dismissed the result as a function of low turnout and local issues.

Some Democratic leaders were unhappy Hackett planned to enter the Ohio Senate race and force a primary against Brown, a seven-term House veteran. The Ohio filing deadline for the May 2 primary is on Thursday.

Hackett's withdrawal spares Democrats a potentially costly primary fight and clears the way for Brown to focus on DeWine. Polls show DeWine is vulnerable in Ohio, where state Republicans have suffered from a series of scandals and the deep unpopularity of Republican Gov. Bob Taft.

Hackett said he would not make another try for the House seat against Republican Rep. Jean Schmidt, even though he gained 48 percent of the vote against her last year in a heavily Republican district where no Democrat in decades had managed even 40 percent.

"I told the voters from the beginning that I am not a career politician and never aspired to be -- that I was about leadership, service and commitment," he said. "Thus ends my 11 month political career."

Iraq Vet Abandons Ohio Political Bid (AP)

By Dan Sewell

The Associated Press, February 15, 2006

CINCINNATI —

Iraq war veteran Paul Hackett, a Bush administration critic who had been recruited by top Democrats to run for U.S. Senate, said Tuesday he was reluctantly dropping his campaign and declared his political career over.

Hackett said he was pressured by party leaders to drop out of the Senate primary and run for the House against Republican Rep. Jean Schmidt instead.

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National Democratic leaders, especially Sen. Charles Schumer, added to that pressure by telling his top fundraisers to stop sending money, Hackett said.

"My donor base and host base on both coasts was contacted by elected officials and asked to stop giving," Hackett told The Associated Press on Tuesday. "The original promise to me from Schumer was that I would have no financial concerns. It went from that to Senator Schumer actually working against my ability to raise money."

Schumer, a New York Democrat who heads the party's Senate campaign committee, was not immediately available for comment.

The deadline for candidates to file for the May 2 primary is Thursday.

Hackett, a Cincinnati attorney and Marine Reservist, captured national attention last summer by blasting Bush's war policies, raising huge sums on the Internet and capturing 48 percent of the vote in one of the country's most conservative House districts. Republican Jean Schmidt won the special election in a tight race.

Hackett had declared his candidacy for Republican Mike DeWine's Senate seat after it appeared Democratic Rep. Sherrod Brown would not run.

A few days afterward, Brown announced that he would run, and national Democrats privately began urging Hackett to step aside for the more seasoned politician.

Democrats also considered Schmidt vulnerable in a rematch against Hackett. She was widely criticized for saying in a speech about a troop pullout recommendation by Rep. John Murtha, a decorated Vietnam veteran: "Cowards cut and run, Marines never do."

But Hackett said he had promised three Democrats running in the district that he would not run.

"I couldn't sleep with myself if I did to them what was done to me," he said.

"At the end of the day, my word is my bond and I will take it to my grave," he said. "Thus ends my 11-month political career."

Hackett said he still supports the party's effort to unseat DeWine.

"Whatever personal emotions I have about Sherrod, if he asks me to help in some way, and I can help and it doesn't interfere with my own life, I will do the best to help him," Hackett said.

Party leaders had been urging Hackett to switch to the House race since Brown jumped in, and on Sunday, some national Democrats made those requests public.

"If he stays in the Senate race, I'm with Paul Hackett, but this is about the House race and giving us another member of the Democratic caucus," said Rep. Tim Ryan of Ohio, a Democrat who backed Hackett in the early going. Rep. Rahm Emanuel, D-Ill., chairman of the Democratic Congressional Campaign Committee, also urged Hackett on Sunday to run for Congress instead.

Ohio Democratic Party Chairman Chris Redfern said Hackett still has the popular support to have an impact.

"It is my hope that whatever disappointment he might feel about these circumstances, that he will seize a different moment in the future," Redfern said in a news release.

Veteran Of Iraq War Drops Out Of U.S. Senate Race In Ohio (USAT)

By From staff and wire reports

USA Today, February 15, 2006

CINCINNATI — Iraq war veteran Paul Hackett, a Bush administration critic who had been recruited by top Democrats to run for U.S. Senate, said Tuesday he was dropping his campaign and declared his political career over.

Hackett said he was pressured by party leaders to drop out of the Senate primary and run for the House against Republican Rep. Jean Schmidt, to whom he lost a special election last year.

Hackett had declared his candidacy for Republican Sen. Mike DeWine's seat after it appeared Democratic Rep. Sherrod Brown would not run. A few days later, Brown announced that he would run for Senate, and national Democrats privately began urging Hackett to step aside for the more seasoned politician.

National Democratic leaders, especially Sen. Charles Schumer, told Hackett's top fundraisers to stop sending money, Hackett said.

“My donor base and host base on both coasts was contacted by elected officials and asked to stop giving,” Hackett told the Associated Press. “The original promise to me from Schumer was that I would have no financial concerns. It went from that to Sen. Schumer actually working against my ability to raise money.”

Schumer, a New York Democrat who heads the party's Senate campaign committee, was not available for comment. Committee spokesman Phil Singer said neither the campaign committee nor Schumer “reached out to donors to ask them to take sides in this race.”

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Singer praised Hackett for making a “statesman-like decision” that would help the party in an important race. DeWine, a centrist, is seeking a third Senate term.

The deadline for candidates to file for the May 2 primary is Thursday.

Hackett, a Cincinnati attorney and Marine reservist, captured national attention last summer by criticizing Bush's war policies, raising huge sums on the Internet and capturing 48% of the vote against Schmidt in one of the country's most conservative districts.

Democrats also considered Schmidt vulnerable in a rematch against Hackett. She was criticized for saying in a November speech about a troop pullout recommendation by Rep. John Murtha, a Pennsylvania Democrat and decorated Vietnam veteran: “Cowards cut and run, Marines never do.”

Hackett said he had promised three Democrats running in the 2nd Congressional District that he would not run. “At the end of the day, my word is my bond and I will take it to my grave,” he said. “Thus ends my 11-month political career.”

Hackett said he still supports the party's effort to unseat DeWine and will help Brown.

Party leaders had been urging Hackett to switch to the House race since Brown jumped in, and on Sunday, some national Democrats made those requests public. “This is about the House race and giving us another member of the Democratic caucus,” said Rep. Tim Ryan, D-Ohio.

Rep. Rahm Emanuel, D-Ill., chairman of the House Democratic campaign committee, also urged Hackett on Sunday to run for the House instead.

Schmidt's predecessor in the 2nd District, Rob Portman, consistently won election to the seat based in the Cincinnati suburbs by 70% or more. Portman resigned to become U.S. trade representative.

Iraq War Vet Pulls Out Of Senate Race In Ohio (WP)

By Chris Cillizza

The Washington Post, February 15, 2006

Iraq war veteran Paul Hackett withdrew from Ohio's U.S. Senate race yesterday, blaming the national Democratic Party for his inability to gain financial traction in his primary contest against Rep. Sherrod Brown.

"I made this decision reluctantly, only after repeated requests by party leaders, as well as behind the scenes machinations, that were intended to hurt my campaign," Hackett said in his formal withdrawal statement.

Hackett alleged that several party leaders -- including Democratic Senatorial Campaign Committee Chairman Charles E. Schumer (N.Y.) and Senate Minority Leader Harry M. Reid (Nev.) -- had made calls to donors discouraging them from contributing to his campaign, an allegation that DSCC spokesman Phil Singer denied.

Hackett's departure from the race ensures that Brown, a seven-term House member from the Akron area, will be the Democrats' standard-bearer in the fall against Sen. Mike DeWine (R). Democrats are heavily targeting DeWine this fall because of the political upheaval involving state Republicans -- the result of scandals surrounding outgoing Gov. Bob Taft (R) and one of his chief fundraisers.

Liberal blogs, which are largely credited with building Hackett into a national force, were divided on his decision and its ramifications. Former senator Gary Hart (D-Colo.) condemned the situation as "old politics at its worst" on the Huffington Post blog. Markos Moulitsas, who runs the popular Democratic blog Daily Kos, defended the move, however, arguing that Hackett "didn't stand a chance" against Brown in the primary.

Republicans sought to paint Hackett's withdrawal as a blow to Democrats' chances in November. "Hackett was controversial and said some nutty stuff, but he had the potential to play in the middle," said National Republican Senatorial Committee spokesman Dan Ronayne. "Sherrod Brown has a long record, and it is more liberal than Dennis Kucinich's -- that's a real tough sell to make to mainstream Ohioans."

Hackett's decision not to run for the Senate ends a political odyssey that began in August 2005 with his largely unheralded candidacy in the Cincinnati area's 2nd District. The seat was vacated when Rep. Rob Portman (R) was named U.S. trade representative. Democrats were given little chance in the district, which President Bush had carried with 64 percent less than a year earlier.

Hackett ran as a straight-shooting outsider -- a persona typified by his calling Bush a "son of a bitch" and then refusing to apologize. Fueled by support (both financial and organizational) from liberal blogs, he nearly upended Rep. Jean Schmidt (R), losing the contest 52 to 48 percent.

Riding a wave of national publicity after that near miss, Hackett jumped into the race against DeWine after Brown initially demurred last summer. Brown later reconsidered and entered the contest.

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Reports have surfaced in recent days that Hackett was contemplating switching races -- jumping from the Senate to a rematch against Schmidt in the 2nd District. Democratic Congressional Campaign Committee Chairman Rahm Emanuel (Ill.) fomented that chatter by publicly urging Hackett to make the swap last weekend.

Hackett, apparently disillusioned by his experience in the Senate race, rejected that possibility yesterday. "There was no quid pro quo," Hackett said. "I will not be running in the 2nd Congressional District nor for any other elective office. This decision is final and not subject to reconsideration."

With the filing deadline in Ohio set for tomorrow, it is unlikely that Democrats will field a top-tier candidate against Schmidt this fall. The freshman Republican will face a serious challenge in the May 2 primary, however, from former congressman Bob McEwen.

Vets Miffed By Hackett's Decision (RC)

By Lauren W. Whittington And Josh Kurtz

Roll Call, February 15, 2006

Iraq war veteran Paul Hackett's (D) abrupt withdrawal from the Ohio Senate race late Monday sparked an outcry from some liberal activists and at least one group supporting candidates who are military veterans — even though some Democratic leaders are privately relieved because they think it avoids a bloody primary.

Hackett had faced growing public and private pressure in recent days to drop his statewide bid in favor of another run against Rep. Jean Schmidt (R-Ohio), whom he narrowly lost to in a special election where he garnered national attention last August.

But in exiting the race, Hackett said he was done seeking elected office and he chastised Democratic leaders, whom he charged with exerting undue pressure on him to abandon the Senate race.

"I made this decision reluctantly, only after repeated requests by party leaders, as well as behind-the-scenes machinations, that were intended to hurt my campaign," Hackett said in a statement.

Hackett's departure from the Senate race comes as military veterans in a handful of lower-profile races around the country have been subtly or not-so-subtly pushed aside in favor of candidates who are viewed as stronger general election nominees.

Democratic leaders, however, denied any political sabotage in the Ohio race and praised Hackett's decision, which leaves Rep. Sherrod Brown (D-Ohio) as the likely nominee against Sen. Mike DeWine (R-Ohio) in November.

Brown, who formally entered the race after Hackett had been recruited to run, has the strong backing of the state Democratic establishment and organized labor as well as a campaign war chest of close to $2.4 million.

Senate Minority Leader Harry Reid (D-Nev.) said Tuesday he was surprised to hear that Hackett had lashed out at party leaders and that the one-time candidate had not made his concerns known to him directly. Noting that he had helped recruit Hackett into the Senate race, Reid did express regret that the situation had unfolded as it did, telling reporters that he "is very sorry" if Hackett believes national leaders pushed him out.

"I certainly never said 'You should get out of the race,'" Reid said.

The Democratic leader did, however, sidestep questions about whether Brown is a better candidate, saying simply "He's the only candidate in the race so I assume he's the best candidate."

On Tuesday, the Democratic Senatorial Campaign Committee released the head-to-head results of a survey taken earlier this month that showed Brown with a 44 percent to 41 percent lead over DeWine, who is seeking a third term this fall.

DSCC spokesman Phil Singer called Hackett's decision "statesman-like" and reiterated that "neither the DSCC nor [Chairman Charles] Schumer [(N.Y.)] reached out to donors to ask them to take sides in this race," a charge that Hackett had leveled in press reports Tuesday.

At the same time Republicans wasted little time in pouncing on Brown now that it is clear he will face DeWine in November.

The National Republican Senatorial Committee released a statement painting the seven-term Congressman and former Ohio secretary of state as too liberal to be elected statewide.

"The [Democratic] party bosses dumped a candidate with mainstream vote-getting potential for one of their most liberal members," said NRSC spokesman Dan Ronayne.

But Hackett is not the only Iraq war veteran to get out of a Congressional race this week.

Just last weekend Iraq war veteran and attorney David Ashe (D) dropped his campaign for a rematch with freshman Rep. Thelma Drake (R) in Virginia's 2nd district. Ashe garnered 45 percent of the vote against Drake in 2004, in a late-developing open-seat race sparked by the last-minute retirement of then-Rep. Ed Schrock (R-Va.).

According to a local newspaper report, Ashe's decision was based primarily on the fact that he has been offered a position in the new administration of Gov. Tim Kaine (D). He did not specify what the position was but his move clears the field for Virginia

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Beach Commissioner of Revenue Phillip Kellam (D), who had been viewed as party insiders' preferred nominee. Kellam is a political legacy whose family is well known in the Tidewater area.

Meanwhile, in New York's 29th district, it briefly appeared this week as if retired Navy commander Eric Massa (D) might be getting pushed aside within the Democratic establishment in favor of a self-funding candidate in the race against freshman Rep. Randy Kuhl (R-N.Y.).

On Monday, Democratic officials released a news release from businessman David Nachbar in which he announced that he would challenge Massa for the nomination.

Privately, Democratic Congressional leaders had high hopes for Nachbar, an executive at the Bausch & Lomb eye products company who was expected to pour at least $100,000 of his own money into the race. But problems with his candidacy became immediately apparent Tuesday morning.

Nachbar is an unaffiliated voter, not a registered Democrat, meaning he would have to go through extraordinary measures to get on the Sept. 12 primary ballot — an effort that would have been complicated by the fact that seven of the eight county Democratic chairmen in the expansive 29th district had already endorsed Massa.

A high-ranking New York Democratic official who did not want to be named said state party leaders were huddling with lawyers Tuesday afternoon to determine whether the county chairmen had the ability to put Nachbar on the ballot — a scenario that would have worked to Massa's advantage — or whether the full Democratic committees in each county had the responsibility to determine whether he could compete.

But the fact-finding would prove to be moot. Nachbar said Tuesday night that he would not run because he did not want to be "a divisive force."

"The thought that I had in mind was to defeat Randy Kuhl in November," he said.

Massa, who served in the Persian Gulf war and also was the top aide to Ret. Gen. Wesley Clark when Clark was Supreme Allied Commander, has been campaigning against Kuhl for more than a year, impressing party leaders with his passion and hard work. But while he had received the endorsement of his former boss and other military veterans like ex-Sen. Max Cleland (D-Ga.), some Congressional Democrats had worried about Massa's fundraising ability. Through Dec. 31, he had just $88,000 on hand, compared to Kuhl's $421,000.

But Democratic Congressional Campaign Committee officials are prepared to rally around Massa now.

"Massa has a strong organization, the overwhelming support of county leaders and the national security credentials to take on Randy Kuhl," said DCCC spokeswoman Jennifer Psaki.

Meanwhile, in Pennsylvania, Democratic leaders had to intervene when they had one too many military veterans seeking to take on Rep. Curt Weldon (R-Pa.).

Last week Iraq war veteran and attorney Bryan Lentz (D) announced he was getting out of Pennsylvania's 7th district race after conversations with local party leaders and Gov. Ed Rendell (D). Instead, the 41-year-old Army Reserve major will run for state House this year.

Lentz's departure leaves retired three-star Vice Adm. Joseph Sestak, 54, as the likely nominee against Weldon in a district that voted for Sen. John Kerry (D-Mass.) in the 2004 presidential contest. Sestak, who served in Afghanistan, announced two weeks ago that he was running.

Democratic consultant Bob Doyle, whose clients include Massa and Kellam, said that the fact that the party has too many interested candidates in some races is a welcome sign after two cycles where the party lost House and Senate seats. He also sees it as a signal that the current national political environment will produce Democratic gains this November.

"It's indicative of the cycle that we're in," he said. "Democrats are clearly energized and are on the offense... and our recruiting has really shown that."

Democratic party strategists say they remain supportive of veterans of the Iraq and Afghanistan conflicts running for office and point to a number of races where they are touting veteran candidates.

Iraq war veteran Tammy Duckworth, who is running in the open seat contest in Illinois' 6th district, is perhaps their highest-profile recruit.

The party is also touting veterans running against Republican Reps. Robin Hayes (N.C.), Michael Fitzpatrick (Pa.) and Anne Northup (Ky.), although those races have yet to develop into first or even second-tier contests.

Still, there was audible disappointment stemming from Hackett's decision from at least one group seeking to elect veterans this cycle. In a statement, Jon Soltz, executive director of the Iraq and Afghanistan Veterans of America Political Action Committee described the circumstances surrounding Hackett's departure as "an outrage."

"The good news is that there are still a number of Iraq and Afghanistan veterans running for office around the nation," Soltz said. "We are committed to getting these patriots the early institutional support they need, because it is becoming abundantly clear that the party leadership has no interest in them."

Ohio-based Democratic strategist Dale Butland, who had signed onto Hackett's campaign last month, said he was more concerned about his party's leadership's unwillingness to let the primary process play itself out.

He warned that the handling of the Hackett situation could keep some of the Democratic base home from the polls and thus hinder the party's ability to win in November.

"From a political point of view this sort of bossism is really kind of dumb," he said.

He added: "We've taken a guy who was a rising star and we've turned him into a fallen star. It doesn't make any sense to me."

2 Major Construction Unions Plan To Leave A.F.L.-C.I.O. (NYT)

By Steven Greenhouse

The New York Times, February 15, 2006

The national labor movement suffered a new split yesterday when two major construction unions — the laborers and the operating engineers — announced that they were quitting the Building and Construction Trades Department of the A.F.L.-C.I.O.

The unions also said they would soon announce the creation of a rival building trades group, the National Construction Alliance, that would include the carpenters, the bricklayers, the iron workers and the Teamsters. The new group, officials from the two unions said, would have more than 1.5 million members and would be more vigorous than the Building and Construction Trades Department in unionizing construction workers.

"We cannot stand idly by, tied to a past that promises only further decline for construction workers," said Terence M. O'Sullivan, president of the Laborers International Union of North America, which has 700,000 members. He indicated that his union would soon quit the A.F.L.-C.I.O., following five other unions that have left the federation in the past year.

Mr. O'Sullivan and Vincent J. Giblin, president of the International Union of Operating Engineers, said the Building and Construction Trades Department had been ineffective in stopping a decline in construction union membership. The percentage of construction workers who are unionized has plunged to 13 percent today from 40 percent in 1973.

In recent days, officials with the A.F.L.-C.I.O. and several construction unions have engaged in intense talks with Mr. O'Sullivan and Mr. Giblin to try to persuade them not to quit the building trades department.

"We're saddened by their decision to leave," said Sean McGarvey, the department's secretary-treasurer. "This is a net negative for unionized construction workers as we're faced with one of the biggest building booms ever."

He said some builders might grow more reluctant to deal with unions if they risked being called on to sign differing contracts with rival construction federations.

The laborers and operating engineers, which has 400,000 members, had threatened to quit the building trades department unless four demands were met: replacing the department's leaders; trimming its budget; having a voting system of one worker, one vote; and updating a system several decades old for determining which unions are to have jurisdiction over which types of work.

Mr. McGarvey and A.F.L.-C.I.O. officials said they had gone far to satisfy Mr. O'Sullivan and Mr. Giblin on all but one demand: replacing the leaders of the building trades department.

Mr. Giblin said yesterday that the department's current leadership was indecisive, ineffectual and directionless. But several union presidents rejected the demand for new leadership and rallied behind Edward C. Sullivan, the department's president.

Teachers Earned Health Care (USAT)

By Edward J. McElroy

USA Today, February 15, 2006

This might come as a surprise to many readers, but in the 25 years that I negotiated contracts with school districts for affiliates of the American Federation of Teachers, no one ever threw money at me.

Retirement health benefits weren't a gift, either. School districts recognized that a generous retiree health plan can serve as an incentive for higher-paid, more experienced teachers to retire and be replaced by lower-paid entry-level teachers.

It was often an advantage to district negotiators to exchange an increase in salary for a benefit that could be funded over time. No one gives away these benefits to teachers and other school workers. They are traded.

But retirees' health care bills have come due, and the Governmental Accounting Standards Board's new rules are showing what the real costs are. All working families and retirees are experiencing the same ballooning health care bills. We need to work toward a national solution, but that will take time. Meanwhile, obligations don't disappear.

Hard-working people earned these benefits over many years, deferring compensation until now. Employers need to honor their contractual obligations. Violating these promises is nothing short of theft.

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As a nation, we are in the middle of a retirement crisis. The just-released federal budget, calling for billions in cuts to Medicare, makes it worse. This is on top of more than 2,000 companies that have unloaded their pension obligations on the federal Pension Benefit Guarantee Corp. The elimination of pensions and other retiree benefits for workers at companies such as United Airlines — while top executives lock in lucrative individual retirement awards — is scandalous.

Our retirement security problem, as bad as it is, moves to a completely new and damaging level when the government fails to live up to its obligations.

All citizens should heed what is happening to teachers, public employees and workers in the private sector. Everyone who has a pension or retirement benefits should be alarmed. If employers are allowed to walk away from their obligations, contracts of all kinds become meaningless. And when the government doesn't live up to its obligations, we're all in trouble.

Edward J. McElroy is president of the 1.3 million-member American Federation of Teachers.

Iran Feeding Centrifuges: Official (REU)

Reuters, February 14, 2006

VIENNA (Reuters) - Iran has begun feeding uranium hexafluoride gas into centrifuges at its pilot nuclear fuel enrichment facility at Natanz, an official close to the U.N. nuclear watchdog agency said on Tuesday.

He said International Atomic Energy Agency inspectors had observed Iranian scientists putting UF6 gas into a "very small number" of centrifuges, machines that can turn uranium into fuel for nuclear reactors or, if enriched to high levels, atomic bombs.

The head of Iran's atomic program, Gholamreza Aghazadeh, said the enrichment begun at Natanz was on a "small and laboratory scale", the ISNA students news agency reported soon after.

"Injecting gas into one or a few centrifuges could not be termed enrichment," he was quoted as saying.

Earlier on Tuesday, Iran said no actual uranium enrichment work had begun at Natanz, but that preliminary work was under way to prepare centrifuges for production after a 2 1/2-year suspension in such work, maintained under Western pressure.

The West suspects Iran of trying to develop atom bombs under cover of a civilian atomic energy drive and persuaded the IAEA's governing board last week to report Iran to the U.N. Security Council for possible action, which could include sanctions.

Iran denies any military intent in its nuclear work, saying it is designed solely to generate electricity for its economy.

The official close to the IAEA said the amount of UF6 being introduced into centrifuges "was of absolutely no use" in making weapons-grade fuel and that the new work was "an early testing phase en route to mastering the technology".

He said Iran remained some way from reactivating the entire cascade of 164 centrifuges it had running before the 2003 suspension and that many hundreds would have to be in operation, spinning at supersonic speeds, to purify enough fuel for a bomb.

"They face technical difficulties merely getting the 164 back on line," he told Reuters.

Iran had vowed to resume uranium enrichment and halt short-notice IAEA inspections in retaliation for the IAEA vote, which Tehran called illegal as the agency has found no hard proof of secret bomb-making after three years of probes.

"What they are doing now is entirely legitimate within the safeguards agreements Iran has with the IAEA. The main issue for the agency is for Iran to clarify unanswered questions regarding (past) concealment of its programme," the official said.

"But what they're doing now may demonstrate that maybe the board vote wasn't the wisest way forward, from the pragmatic point of view. The train (enrichment) has left the station and it will be pretty hard to stop it now."

Why Iran's Enrichment Rattles The West (CSMonitor)

By Peter Grier

Christian Science Monitor, February 15, 2006

WASHINGTON - To begin enriching raw uranium into fissile material, as Iran now may have done, is to take a fateful step down the path of nuclear capability.

That's because it is perhaps the most difficult aspect of developing a nuclear power - or weapons - program. Centrifuge enrichment is a sort of technological ballet, requiring thousands of thin tubes to spin at outrageous speeds, each feeding a thin stream of uranium gas along to a neighboring tube, until the gas reaches the end of the cascade line.

And once a nation has mastered the art of enriching uranium for a power plant, it does not take much more effort to increase the concentration of fissile elements to the level required for bombs. Thus, Iran may already have collected almost everything it requires, if it wants to become a member of the nuclear weapons club.

"I don't see that they need anything more except knowledge and experience, and they'll get that by running the [enrichment] cascade," says David Albright, president of the Institute for Science and International Security in Washington.

On Tuesday, Javad Vaeidi, a senior Iranian nuclear negotiator, said that Iran has resumed small-scale uranium enrichment, defying preventive efforts by the United States and much of the rest of the world. Mr. Vaedi, deputy Secretary of the

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Supreme National Council, told reporters in Tehran that work has resumed at Iran's main enrichment plant at Natanz. The work is preliminary, and the amount of enriched uranium it might produce would be small, as Iran's existing enrichment cascade is only an experimental one.

To produce usable amounts of enrichment material, Iran must still construct a larger facility, said Vaedi.

"We need time to have 60,000 centrifuges," he said.

This week Iran also said it has postponed indefinitely talks with Russia on a plan to enrich uranium on Russian territory, to allay fears that it would build an atomic weapon.

In a joint statement, Russia and France immediately called on Tehran to reconsider, and to halt enrichment work. The US has also criticized Iran for its recent enrichment activities.

"They're continuing to choose defiance and confrontation over cooperation and diplomacy," said White House press secretary Scott McClellan on Monday.

On Feb. 4, the International Atomic Energy Agency reported Iran to the UN Security Council, calling on it to stop all enrichment-related activities. Iran has retaliated by ending some of its cooperation with IAEA inspectors.

Iran has long maintained that its nuclear activities are solely for the purpose of nuclear power, and that enrichment for civilian purposes is not outlawed by the Non-Proliferation Treaty, of which Iran is a signatory.

"They say, 'we're within the treaty, we're within our rights,' " says Daryl Kimball, executive director of the Arms Control Association in Washington.

Enrichment of uranium is necessary because, as it comes out of the ground, uranium is just a lump of natural material.

But it is a natural material with potential. It's all a matter of isotopes, which are forms of the same element that have different numbers of neutrons in their nuclei.

Ninety-nine percent of uranium is the unexciting U-238 isotope. But the other 1 percent is the isotope U-235, which is slightly lighter, has three fewer neutrons, and can be split to release astounding amounts of energy.

The point of enrichment is to increase the percentage of U-235 - to the 5 percent level for fuel for nuclear power plants, and to the 90 percent level for nuclear weapons.

The first step is to take uranium ore and mill it. Then this crumbled material is heated to produce a gas, uranium hexafluoride.

In the centrifuge process - invented in the 1960s - this gas is then fed into a cylinder spinning at high speed. The heavier U-238 isotopes are spun to the outside, while the lighter U-235 stays closer to the vertical axis, where it can be drawn off.

This slightly enriched gas is then fed into another centrifuge, where it is enriched more. It is then drawn off, and fed into another, and so on down a line of thousands of spinning tubes.

Once it has reached the desired concentration, after much effort and use of electricity, the gas cools and solidifies, and the material is milled into a usable form.

Starting this process is much more difficult than simply continuing it. Thus production of a bomb core, which is 90 percent enriched, requires only about 25 percent more effort than producing 5 percent enriched fuel rods for civilian power reactors, estimates Mr. Albright of the Institute for Science and International Security.

It will take Iran some time to get its enrichment technology under control, says Albright, given that the experimental centrifuge cascade at Natanz has long lain idle. Moisture has penetrated the system, corroding pipes. Vacuum in the system must be secure for the cascade to work perfectly.

If Iran proceeds to a production cascade of thousands of centrifuges, it is now unlikely to build it at Natanz, says Albright. For security purposes, the Iranians would hide it in a new facility, perhaps among the many light industries clustered around Tehran.

Iran Sets New Date For Atomic Talks With Russia (REU)

By Parisa Hafezi

Reuters, February 14, 2006

TEHRAN (Reuters) - Iran announced on Tuesday it was deferring until next week talks with Russia on its nuclear plans, but gave no sign it was ready to stop enriching uranium on its own soil -- the key element in Moscow's plan.

However, a senior Iranian official said no actual uranium enrichment had yet taken place at the Natanz facility where Iran had halted work during negotiations with the European Union.

"No work has been done on the centrifuges and no gas has been injected yet," said the official, asking not to be named.

"They are preparing the ground. A facility that has been suspended for two and half years cannot become functional in one night."

Centrifuges spin uranium hexafluoride at supersonic speed to make atomic fuel, or if highly enriched, bomb-grade material.

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Other officials had said preliminary work to revive a pilot project had begun at Natanz this week, intensifying world concern over Iran's nuclear ambitions.

Russia and France called on Iran to cease "all activities connected with enrichment and processing" of nuclear fuel. Their joint statement was issued by the Kremlin during a visit to Moscow by French Prime Minister Dominique de Villepin.

Russia has offered to enrich uranium on Iran's behalf in a compromise designed to allay world fears that the Iranians might divert nuclear material into bombs.

Iranian nuclear negotiator Javad Vaeedi said talks on the proposal would now start in Moscow on February 20.

"We still want to reach a formula to prove that we will not divert uranium enriched on Iranian soil," he told reporters.

Russia confirmed that Iran had asked to postpone the talks, originally planned for Thursday, and voiced no objection.

DELAYING TACTICS?

Western countries suspect Iran wants nuclear weapons and this month persuaded the International Atomic Energy Agency (IAEA) to report it to the Security Council. Iran says it wants atomic fuel only to make electricity.

Diplomats said Iran wanted to drag out talks with Russia, without giving up its right to enrich uranium at home, hoping that diplomatic activity will defer any Security Council action.

Iran has already undercut Moscow's proposal by announcing it was exercising its right to resume uranium enrichment at Natanz.

Officials close to the IAEA in Vienna said inspectors had arrived at Natanz on Tuesday to monitor any activity there.

Vaeedi said earlier in the day that Iran had begun preliminary work to revive small-scale uranium enrichment at Natanz, adding that industrial production was some way off.

"We need some time to reach that level with all centrifuges because of the 2-1/2 year suspension. However, the preliminary phases have been launched," he said.

A Vienna-based European diplomat said "a very few" of the cascade of 164 centrifuges Iran had running at Natanz before the 2003 suspension were now operating again.

"They will have to be tested first but the Iranians' goal is clearly to get all 164 operational again which would effectively revive the pilot fuel enrichment plant at Natanz," he said.

Iran is believed to have the parts to assemble another 1,000-1,500 centrifuges. This task, marking the first step toward commercial-scale enrichment, would take several months or more to accomplish, the diplomat said.

Germany and China called separately for more diplomacy on the nuclear row with Iran.

"The international community should not give up diplomatic efforts under the IAEA's framework," Chinese Foreign Ministry spokesman Liu Jianchao said.

German Defense Minister Franz Josef Jung said: "A military solution is not being discussed right now. I hope that if the international community stands together we can find a solution."

An Iranian official said Tehran was halting some IAEA monitoring carried out under the Additional Protocol of the nuclear Non-Proliferation Treaty (NPT), which it had been observing voluntarily. Iran has not ratified the protocol.

"Since the Additional Protocol is not in force any more, some of those cameras should be taken out," said Mohammad Saeedi, deputy head of Iran's Atomic Energy Organization.

The European diplomat said non-compliance with the protocol would not affect the IAEA's remote cameras observing declared sites such as Natanz and a uranium processing plant in Isfahan.

The protocol applies mainly to areas such as research and parts assembly centres where the IAEA suspects Iran of failing to declare links to its atomic program as required by the NPT.

IAEA chief Mohamed ElBaradei is to report to the agency's board on March 6 on Iran's nuclear program. His report will go to the Security Council ahead of an expected debate on how to curb Iran's atomic work, with sanctions a possible option.

Russia-Iran Nuclear Talks Back On (FT)

By Gareth Smyth

Financial Times, February 15, 2006

Iran confirmed on Tuesday it had resumed uranium enrichment but agreed to the resumption of talks with Russia aimed at defusing the international stand-off over its nuclear programme.

Javad Vaeedi, deputy secretary of the Supreme National Security Council, said the talks would take place on February 20. They aim to discuss proposals to enrich his country's uranium in Russia to allay international concerns it might divert the material into weapons use.

In a joint statement release by the Kremlin during a visit by Dominique de Villepin, French prime minister, Russia and France called on Iran to stop work linked with nuclear fuel, urging Tehran to "fulfil the February resolution and the demands of the

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governing council of the International Atomic Energy Agency (IAEA), including the full cessation of all activities connected with enrichment and processing. ”

Separately, the European Union on Tuesday applauded Moscow’s initiative on the eve of talks with Russia in Vienna. Benita Ferrero-Waldner, EU external relations commissioner, said Russia was “playing a constructive role in the search for a diplomatic solution”.

Though Tehran confirmed it had resumed uranium enrichment at its Natanz plant, it denied production was on an industrial scale.

The enrichment, which is apparently being done in the plant’s research facilities, is not enough to make fuel for reactors or produce weapons, but it signals Iran’s determination to press ahead with its nuclear programme despite the February 4 decision of the IAEA to refer it to the UN security council.

Mr Vaeedi said Iran needed time “to have 60,000 centrifuges” – referring to the devices used to spin uranium hexafluoride gas into enriched uranium. But he added it had begun “the preliminary stage”.

The announcement by Mr Vaeedi on the Moscow talks seemed to contradict a government spokesman’s statement on Monday that they had been postponed indefinitely because of the “new situation”, a reference to Russia voting at the IAEA for Iran’s referral to the security council.

Iranian officials have blown hot and cold on the Russian idea, which is incompatible with Tehran’s insistence that it enrich at home. Mr Vaeedi said Iran wanted a “formula to prove we will not divert uranium enriched on Iranian soil”.

Mohammed ElBaredei, the IAEA director general, is due to produce another report on Iran’s programme in early March.

While the US and the EU strongly back referral to the security council, which could impose sanctions, Russia and China are less keen.

Liu Jianchao, Beijing’s foreign ministry spokesman, on Tuesday reiterated China’s preference for “diplomatic efforts under the IAEA framework ..[and] … a solution through dialogue”.

Iran Restarts Uranium Program (WP)

By Molly Moore

The Washington Post, February 15, 2006

PARIS, Feb. 14 -- Iran announced Tuesday that it had resumed uranium enrichment efforts in defiance of international pressure to curb its nuclear program and said it will no longer comply with voluntary measures designed to enhance international inspectors' access to its nuclear facilities.

"The order to resume uranium enrichment has been issued," Javad Vaeidi, deputy head of Iran's Supreme National Security Council, told reporters in Tehran, according to Iranian news agencies. "The Iranian Atomic Energy Organization has restarted the process."

Monitors from the International Atomic Energy Agency confirmed during inspections Tuesday that Iran had begun the first small-scale steps in the years-long process of enriching uranium that could be used for nuclear power, or eventually weapons production, according to a Western diplomat close to the U.N. nuclear watchdog agency. The diplomat spoke on condition of anonymity because the monitoring team's report will not be released officially for several weeks.

Although Iranian officials said Tuesday that they are years away from being able to produce atomic fuel on an industrial scale, the decision to restart uranium enrichment represents a significant escalation of the political crisis between Tehran and foreign governments.

"They've now walked across the line in such a blatant way that it's hard to see where any other red line could be drawn," said Mark Fitzpatrick, an analyst with the International Institute of Strategic Studies in London and a former U.S. liaison to the IAEA in Vienna. "Now they've done what everybody was afraid of."

Iran's announcements and the IAEA monitoring team's findings increased pressure on the U.N. Security Council to take action against Iran for breaching international agreements on its nuclear program, diplomats in Vienna said.

The 35-member IAEA governing board, which includes the five permanent members of the Security Council, reported "serious concerns" about Iran's nuclear intentions to the Security Council on Feb. 4. Diplomats agreed that the Security Council would not take action until an IAEA board meeting on March 6, when the agency's director general, Mohamed ElBaradei, is scheduled to present an update on Iran's actions.

ElBaradei's report will include the finding of IAEA monitors that Iran last weekend began feeding uranium hexafluoride gas into a handful of centrifuges, which spin the material at supersonic speeds to create enriched uranium, a Vienna-based diplomat said.

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"This means the IAEA will have to produce a report that is quite negative with regard to Iran," Fitzpatrick said. "The director general would have been looking to produce a report that described ways in which Iran was cooperating. . . . Iran is not giving ElBaradei anything to work with here."

In Washington, White House press secretary Scott McClellan said Iran was "continuing to choose defiance and confrontation over cooperation and diplomacy."

The IAEA team, after its inspection of Iran's Natanz nuclear facility about 150 miles south of Tehran, reported that Iran is using fewer than five centrifuges, the diplomat said.

Vaeidi, the Iranian national security official, said during comments to reporters Tuesday that Iran needed 60,000 centrifuges for large-scale enrichment, adding, "We need some time to reach that."

Iranian officials Tuesday also said they would end voluntary compliance with an addendum to the nuclear Non-Proliferation Treaty that allows IAEA inspectors access to any nuclear facility within two hours of their request and grants the IAEA greater access to certain documentation and information about Iran's nuclear program.

"We are in the transition state and the inspectors will work under the NPT," Mohammad Saeedi, deputy of Iran's Atomic Energy Organization, said on state television, referring to the treaty. "We will not do anything beyond our commitments to the NPT."

Western diplomats in Vienna said Iran's refusal to comply with the additional voluntary agreements will impede the IAEA's ability to monitor Iranian activities. "It is very difficult for us to provide assurance that there is no parallel or secret program happening," one diplomat said.

Iranian officials describe their decision to move ahead with uranium enrichment as an act of independence in the face of criticism and mistrust on the part of the United States and other Western countries, which Iran accuses of trying to hobble its efforts to produce nuclear energy.

Gholam-Ali Haddad Adel, Iran's parliament speaker, said during a visit Tuesday to Caracas, Venezuela, that U.S. opposition to Iran's nuclear program was "only a pretext."

He added, "They are worried that we want to be independent."

Iranian President Mahmoud Ahmadinejad reiterated in a televised speech Saturday that Iran was trying to develop nuclear technology for fuel in the face of dwindling oil supplies.

"We ask them why they are against our nuclear technology," Ahmadinejad said in the speech. "They answer: Because they do not trust us."

He warned the Iranian people to brace for possible economic sanctions in the coming months.

The Security Council has not indicated a course of action it might take against Iran. The United States and Europe have been pushing hardest for some type of strong political retribution, while Iran's allies and major trading partners, including Russia and China, are wary of the intentions of the Western governments.

Russia, which has invested about $1 billion in constructing an Iranian nuclear facility, has attempted to act as broker, offering to enrich uranium in Russia and turn the product over to Iran.

Ahmadinejad scoffed at the proposal in his speech Saturday, telling his Tehran audience, "They say that they will produce the fuel somewhere else and then they will hand it over to us.

"We say, what a surprise!" he continued. "Do you expect us to be stupid enough to believe you?"

Iranian officials have scheduled a meeting with Russian authorities on Feb. 20 to discuss the proposal.

Iran Resumes Small-Scale Uranium Program (AP)

By Ali Akbar Dareini

AP, February 14, 2006

Iran has resumed small-scale enrichment of uranium, a senior Iranian nuclear negotiator said Tuesday — a defiant declaration in the face of global opposition to Iran's atomic program.

The resumption still leaves Iran a long way from reaching the stage the world fears most: large-scale enrichment of uranium — a process that can produce fuel for an atomic bomb.

Javad Vaeidi, deputy secretary of Iran's Supreme National Security Council, in announcing the small-scale enrichment, also told reporters that Iran would resume negotiations with Moscow on Feb. 20 over its plan to enrich Iranian uranium on Russian soil — a proposal designed to allay fears that Iran will build nuclear weapons.

"The talks with Russia remain valid," Vaeidi said, adding that an Iranian delegation would go to Moscow.

The negotiations with Russia had been due to resume Thursday, but Iran said Monday they were postponed indefinitely.

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Vaeidi gave no indication whether Iran was looking more favorably at the plan now that international pressure over its nuclear program was increasing. Iran has repeatedly said the Russian plan can be complementary to Iran's nuclear program but that Tehran would not accept any requirement to scrap uranium enrichment in Natanz.

Vaeidi said enrichment of uranium resumed last week at Natanz, the country's main enrichment plant, but that Iran had not resumed large-scale enrichment, as required for producing fuel for nuclear reactors.

In Israel, Yuval Steinitz, chairman of the Knesset's defense and foreign affairs committee, said Tuesday's announcement from Iran made it clear that "time is running out."

"If the Iranians will not be blocked, in due course they will obtain a nuclear weapon," he told The Associated Press. "This will be a devastating threat not only to Israel and the Middle East but also to Europe and the United States."

Later Tuesday, Vice President Gholamreza Aghazadeh said resumption of uranium enrichment work was very limited.

"It can't be used even at semi-industrial level. It's only at the laboratory stage for analyzing research activities. This sort of enrichment cannot be used (for producing nuclear fuel)," he said.

According to authoritative reports, Iran had 164 centrifuges in Natanz sealed by the IAEA in 2003. The seals were removed last month when Iran resumed nuclear research. And Iranian officials have indicated that Iran may possess up to 2,000 centrifuges. For a large-scale enrichment of uranium, Iran has to build up to 60,000 centrifuges — something Vaeidi said would take time.

Top Iranian officials have confirmed in the past that the Iranian military had built nuclear centrifuges for civilian use and that Iran was capable of mass producing them.

The world has long sought to stop Iran from enriching uranium, fearing that the process would bring it to the threshold of possessing nuclear bombs. On Feb. 4, the International Atomic Energy Agency reported Iran to the U.N. Security Council and called on its government to suspend all enrichment-related activities.

Instead, Iran suspended certain aspects of its co-operation with the IAEA.

"They're continuing to choose defiance and confrontation over cooperation and diplomacy," White House press secretary Scott McClellan said Monday of Iran's decision to resume enrichment.

Iran insists that as a signatory to the Nuclear Nonproliferation Treaty, which provides for peaceful nuclear development, it is entitled to enrich uranium for nuclear reactors. It has threatened to withdraw from the treaty if it was not allowed to exercise that right.

Vaeidi indicated Iran was still open to negotiation.

"We are still prepared to find a formula to clarify the ambiguity in talks with our partners. At the same time, we will pursue our rights," he said.

Mohammad Saeedi, deputy head of the Atomic Energy Organization of Iran, said Tuesday that Iran has stopped allowing short notice inspections of its facilities by IAEA inspectors.

He said on state television that some IAEA cameras need to be removed from Iranian nuclear facilities and that Iran was "taking the preparatory measures to do that."

Iran maintains its nuclear program is designed solely to generate electricity, but the United States and Israel claim the program is a cover for producing an atomic bomb.

What Putin Hopes To Gain From Iran (TIME)

By Yuri Zarakhovich

Time, February 14, 2006

Monday's news that Iran has postponed Moscow talks, scheduled to start Thursday, on having its uranium enriched in Russia, and has instead resumed its own enrichment activities, was hardly stunning — except, perhaps, to Russian President Vladimir Putin.

Putin had expected a cash windfall from Iran for the Russia-supplied nuclear capacity; the laurels of a global power-broker for defusing the Iranian nuclear crisis; and the praise of his increasingly nostalgic citizens for restoring the lost empire's glory.

Instead, he looks hapless before the specter of a nuclear-armed militant clerical regime that looms beneath the veil of a peaceful nuclear energy project. Putin's massive supplies of conventional weapons to Iran, including air defense missiles and armor, have strengthened that specter — much to Russia's own peril.

For months, Russia and China have been stalling the West's efforts to refer Iran's nuclear program to the UN Security Council. Last week, Russia finally backed an IAEA resolution to do so, only upon the condition that the Council doesn't take up the issue until March. Meanwhile, pundits believe, Putin had hoped to defuse the crisis by persuading Iran to shift its uranium-enrichment to Russia, which would deny it the ability to use such facilities on its own soil to produce weapons-grade material.

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From his own experience, Putin should have known better: Back in 2000, the Russian president had told a G-8 summit in Japan that he had convinced North Korean leader Kim Jong Il to abandon his missile program. Sounded good, until Kim explained he was joking. This time, Putin seems to be the butt of Iranian President Mahmoud Ahmadinejad's practical joke.

Putin's policies were best summed up last Saturday by Hamas spokesman Sami Abu Zuhri commenting on Putin's pledge last week to invite the radical Palestinian group to Moscow: "It will represent a division in the Western position led by the U.S."

"A division in the Western position" helped fuel Saddam Hussein's defiance over the years, finally leading to war. In the long run, Putin's policies will do Hamas or Iran no better than they did Saddam, but they do risk badly hurting Russia.

The regime seems incapable of having long-term strategies. And its short term tactics are driven by cash, whether it be in jailing the oil magnate Mikhail Khodorkovsky and taking over his billions, or endorsing Iran's nuclear ambitions. Russia's projected income from just supplying seven nuclear reactors to Iran runs into $10 billion — and way more for maintenance, fueling, etc.

From 1990 through 1996, Russia supplied over $5 billion worth arms to Iran. Then, Russia heeded a U.S. request to stop military supplies, but resumed them in 2000, just as Putin became president. Last October, Moscow and Tehran signed a deal on military supplies worth $300 million annually. Russia will also supply $700 million worth of surface-to-air missiles. The Iranian arms market now promises Russia some $10 billion over next several years.

These tantalizing riches risk falling into the same chasm, however, as the unpaid billions owed to Russia by Saddam Hussein's regime, and other Moscow-backed rogue regimes. Russia risks ending up unpaid, friendless — and facing a volatile nuclear neighbor, connected to terrorist groups and armed with Russian weapons, right on her unstable southern border. Some return to glory, indeed.

When Tehran Rocks, Discretion Rules (NYT)

By Michael Slackman

The New York Times, February 15, 2006

TEHRAN — Rock stars are a brash, in-your-face breed, often challenging their audiences with lyrics of defiance. But here, they are all that and a bit scared, too.

"Please, I'm going to be in deep trouble," said a rock musician after a recent show when asked for a copy of the lyrics to a song his group had performed (in English). He handed them over, but cautioned he could get in trouble if they attract the attention of the authorities.

I have a right to be caught by the cops
Have a right to be called by the judge
Have a right to be sent to the fronts
And come back in the back of a truck in a box.

Compared with the defiance that explodes from rock music in the West, the song seemed tame. But this is Iran, a nation that often feels otherworldly, caught someplace between an "anything goes" attitude and the intense restrictions and scrutiny of a religious government.

After the 1979 revolution, when Ayatollah Ruhollah Khomeini was fashioning Iran into a Shiite Islamic state, one of his many sayings was, "Keep the appearances of Islam." Public profile is important and so, if Iranians chose not to fast during Ramadan, well, O.K., but they were expected to eat in the privacy of their homes. After centuries in which Shiites were permitted to hide aspects of their faith in order to protect themselves against discrimination, a practice called Taqiyah, the principle seems to have etched its way into the national character. Appearance is often valued more highly than truthfulness.

During the years reformers were in power, the authorities permitted some outward challenges to appearance: looser dress codes and some public questioning of the government. Now there is a new president, the ultraconservative Mahmoud Ahmadinejad, and people are wondering where the lines will be drawn, how far will they be permitted to challenge appearances.

The president has given some clues, though not necessarily the ones that were expected. Many thought he would quickly issue a strict Islamic dress code for women, but it has not come to pass. In a way, on some matters, the new president seems, by design or circumstance, to be imposing control by not defining where those red lines are.

"There is no written law," said the musician, whose name is being withheld because he was worried about being punished and his band blocked from playing. "You are allowed to do everything, unless you want to share it."

That seems to be the unwritten law in Iran today: no sharing. The act of publicly sharing ideas that challenge the system is forbidden, because, at a minimum, that amounts to challenging the appearance the government would like to promote. A blogger sits in jail for sharing his ideas. Newspapers are shut down for sharing. A journalist is denied permission to leave the country. The BBC's Persian Web site is filtered. Always the offense is sharing which can, of course, lead to the slippery slope of public questioning, public discontent and public organizing.

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Paradoxically, civil society here appears vibrant. It has not been crushed, the way it has by the authoritarian leaders in the Arab world. There is, on many levels, real politics here — often with the outcome unknown — and on the most important issues, leaders must draw consensus from the different levels of power. And so people in many spheres — arts, sports, politics, business — find themselves pressing against the limitations of what is deemed permissible.

Mostly, this is done behind closed doors, in the privacy of people's homes. Some people, like the rock musicians, do risk public sharing, but watchfully.

These are tense times in Iran. The country is under threat of once again becoming an international pariah, as in the days when Ayatollah Khomeini issued a fatwa calling for the death of Salman Rushdie, author of the book "The Satanic Verses." This time it is the leadership's drive for nuclear power that threatens to slam shut the door of international isolation.

That alone has caused widespread anxiety. But those Iranians inclined to challenge appearances, even slightly, have an added worry.

At the awards ceremony to conclude the 24th Fadjr Film Festival in January, Iran's biggest stars were out, having wrestled their way through the mob scene blocking the entrance to Vahdat Hall. The stars milled around the lobby with excited guests who asked for autographs and for a chance to pose with the celebrities.

"Not everybody is capable of laughing when a crisis is going on," said Ali Reza Khamseh, a comic actor whose show (now canceled) had addressed family issues. "It is important to laugh when we are being banged on the head." He said he was talking about divorce, unemployment and other personal issues — but in these tough times, the message had a much broader reach.

Mr. Khamseh said this with a big broad smile. Until a man walked over. The man leaned into the conversation, not smiling, not frowning and listening intently. Approached, he said that his name was Yehia Nouri and that he was a gym teacher. He wore a beard, as religious Muslims do, and a soiled winter jacket, and carried a small briefcase.

"The Koran," he said, "says whatever hardship one is feeling, your attitude should be to bear it."

Perhaps he was a gym teacher eager to listen to a celebrity and to offer his ideas to a foreign reporter. But this is a place where people are, in fact, watched, and so the conversation with the comic actor evaporated.

At a recent concert, as young men and women piled into a small room, one concertgoer leaned over and said, casually, "I hope the Basiji don't rush the place." He was referring to the vigilante squads of bearded men who often use violence to enforce strict Islamic social codes. As the music played, the crowd swayed and clapped, shouted out choruses, and bopped the way any audience of young men and women might in the West. The music, though upbeat, had a slightly funereal quality to it, as the singer took the chance to share his thoughts, in public.

Have a right to be ignored and neglected
Have a right to be segued and be raided
Have a right to be damned a right to be jammed
Have a right to be sanctioned and banned.

When the show was over and the lights came up the band seemed exhilarated — and frightened.

U.S. And Israel Deny Plans To Drive Hamas From Power (NYT)

By Steven R. Weisman
The New York Times, February 15, 2006

WASHINGTON, Feb. 14 — American and Israeli officials warned again Tuesday that they would cut off aid and transfers of tax receipts to a Hamas-led Palestinian government if it did not renounce violence and recognize Israel. They said, however, that they had no plans to oust such a government.

"The bottom line is that there is no U.S.-Israeli plan, project, plot, conspiracy to destabilize or undermine a future Palestinian government," said Sean McCormack, a State Department spokesman.

He spoke in response to an article in The New York Times on Tuesday in which American and Israeli officials and diplomats said they were discussing ways to destabilize the Palestinian government, with the intention of forcing new elections. Those officials, who spoke on condition of anonymity because they are not authorized to speak publicly on the issue, said the discussions were going on at the highest levels of the State Department and the Israeli government.

The article said that if Hamas did not alter its policy, the two governments would seek to bring about the Palestinian Authority's isolation and collapse by cutting payments and controlling entry and exits into the Palestinian areas. They would also try to stop money transfers through pressure on other governments and on the currency used in the Palestinian areas, the Israeli shekel.

Scott McClellan, the White House press secretary, dismissed any reports "about some sort of plan that was talking about forcing Hamas from power so that there could be new elections."

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What there was, Mr. McClellan and Mr. McCormack said, was a threat to cut off aid to the Palestinians if Hamas does not renounce violence, recognize Israel and accept previous agreements.

This warning was conveyed two weeks ago by the United States, Europe, the United Nations secretary general and Russia, and it was repeated Tuesday by Israel.

Daniel Ayalon, the Israeli ambassador to the United States, said, "We emphasize that we do not want to harm the Palestinian people, and that it is their choice whether to abide by international norms or become a terrorist entity."

However, an Israeli official, speaking anonymously because of the speculative nature of his comments, said some officials might have begun thinking about scenarios in which Hamas might fall if aid is cut off.

"Part of diplomacy is discussing different scenarios, but without any intention to bring them into an action plan," he said.

In Gaza, a Hamas spokesman, Mushir al-Masri, said any effort to bring down a freely elected Hamas government would be "a rejection of the democratic process, which the Americans are calling for day and night."

Hamas won the Palestinian parliamentary elections on Jan. 25, but several analysts have noted that Fatah might have won if its votes had not been split among competing Fatah candidates.

The Palestinian Authority is heavily dependent on foreign aid. A cutoff of salaries to workers, including the police, could produce violence, many experts say.

Officials In U.S. Deny Plot On Hamas (WT)

By Nicholas Kralev

The Washington Times, February 15, 2006

U.S. officials said yesterday that they want the future Hamas-led Cabinet to "succeed" and denied any intention of "thwarting the will" of the Palestinian people by undermining their legitimately elected government.

Both U.S. and Israeli officials said they were resigned to the fact that the new Palestinian legislature, expected to convene on the weekend, will elect a Hamas-dominated government.

But Hamas, which won 74 out of 132 seats in elections on Jan. 25, accused the U.S. and Israel of plotting to destabilize the future government, as reported yesterday by the New York Times.

"The United States, which claims herself to be the mother of democracy, must respect the election results and the will of the Palestinian people," said Hamas spokesman Mushir al-Masri.

U.S. and Israeli officials rejected the accusations that they are seeking to bring down the incoming government and force new elections, saying they trust the Palestinian people to take Hamas to task if it does not govern democratically and peacefully.

"We have no intention of denying the Palestinian people the opportunity to have a government they voted for in a democratic election," a senior U.S. official said.

"There's no plot," said White House spokesman Scott McClellan. "The issue that this goes to is the choice that Hamas has before it. If it wants to realize better relations with the international community, then Hamas must renounce violence, recognize Israel and disarm."

At the State Department, spokesman Sean McCormack said, "The conversations that we are having with the Israeli government are the same conversations we are having with other members of the international community."

U.S. officials said they relied on their public comments to send a message to Hamas because they do not deal directly with the group, which the United States, Israel and the European Union consider a terrorist organization.

"The strategy is public," Israeli Foreign Ministry spokesman Mark Regev said in Jerusalem. "There is nothing secret about it. It's to present the incoming Palestinian leadership with a clear choice: conform to international norms of behavior, recognize Israel's right to exist, renounce terrorism and accept signed agreements" by the Palestinian Authority.

Various anonymous Israeli officials were quoted by the Israeli press and international wire service reports yesterday as saying that their strategy was to starve the Hamas government and engineer its demise.

Both U.S. and Israeli official spokesmen said that was not the policy of their governments.

"We can't send them assistance because our laws and policies don't allow financing a terrorist organization," the senior U.S. official said.

"But if someone else wants to give them money, that's between them and Hamas," he said, referring to current and potential Arab donors, although he urged other countries to condition their assistance on the West's principles.

Those requirements, laid out by the Middle East Quartet -- the United States, the European Union, the United Nations and Russia -- last month, are denouncing violence, recognizing the Jewish state and adopting the Palestinian Authority's commitments.

"We want the new government to succeed in serving the Palestinian people and making peace with Israel," the U.S. official said.

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Israel's Ha'aretz newspaper quoted security sources as saying that measures such as closing the passages between the Gaza Strip and Israel, which would block access of thousands of Palestinian workers, were being discussed.

Acting Israeli Prime Minister Ehud Olmert said that if the Palestinian government is "dominated by a majority of Hamas people, it ceases to be the authority it was, becomes something entirely different, something Israel is not ready to compromise nor is it ready to acquiesce with."

The Weapon Of Democracy (NYT)

By Thomas L. Friedman

The New York Times, February 15, 2006

RAMALLAH, West Bank

I decided that before writing about Hamas's win in the Palestinian legislative elections, I had to talk to people in the West Bank first. I am so glad I did. Everything is now clear to me: What a mess!

The new Hamas parliamentarians will be sworn in on Saturday, and nobody knows what will happen next. Fourteen of the new Palestinian lawmakers are in Israeli jails, including 10 from Hamas. That's more than 10 percent of the whole Parliament.

About the only thing that is clear to me is the radical mood of both Israeli and Palestinian voters. Consider this: Israel is holding its national election on March 28, and the rightist Likud party, led by Bibi Netanyahu, opened its campaign with ads accusing the centrist Kadima Party, led by Acting Prime Minister Ehud Olmert, of planning to pull Israel back to the 1967 borders. The Likud quickly backed off that line, however, when it realized that so many Israeli voters today liked the idea of pulling back to near the 1967 borders that some may have thought the ad was taken out by Kadima — instead of being an attack on Kadima by Likud.

Yossi Beilin, who heads the leftist Meretz Party, opened his campaign with an ad that says: "Beilin Will Divide Jerusalem." Again, if you'd seen that ad a decade ago, you'd have thought it was a wicked libel. Today it's a campaign promise! After the failed peace process and the Hamas suicide-bombing campaign, many Israelis just want total separation from Palestinians — and a barrier.

"Ideologically, Israelis have never been more dovish," said Ari Shavit, an essayist for the Haaretz newspaper. "But that dovishness is based on the condition that there is a partner we can trust. If so, people are ready to give back everything. The overwhelming majority is now for a two-state solution. But we have become sensible at the very moment that Palestinians have lost their senses."

The Palestinians have thrown out Yasir Arafat's old Fatah Party in favor of Hamas, which wants to eliminate Israel and erect an Islamic state in all of Palestine. So just when Israel's majority comes around to two states, Mr. Shavit added, the Palestinians elect a party that favors only one.

Or have they? It's obvious that the ruling Fatah Party and its allies, led by the Palestinian president, Mahmoud Abbas, ran an incomprehensibly stupid campaign. There was no discipline, so in many districts Fatah and its secular-nationalist allies ran four candidates, while Hamas always ran only one. So Fatah votes got divided, and Hamas ones didn't.

The result, the pollster Khalil Shikaki said, is that "Hamas won only 44 percent of the popular vote, but got 56 percent of the seats. Fatah and its allies won 56 percent of the popular vote, but only 43 percent of the seats."

Hamas was clearly elected to provide clean government and order. But it was also elected because its suicide campaign was seen as decisive in getting Israel out of Gaza, thereby bringing Palestinians a measure of dignity, which Fatah failed to do.

Israel, with U.S. backing, says it will cut off all its dealings and financial flows to a Hamas-dominated Palestinian Authority — unless Hamas renounces violence, recognizes Israel and accepts all the P.L.O.-Israel accords. Some Israelis anticipate that a cash-starved Hamas-led government will lead to chaos, and that Mr. Abbas will then be able to call new elections.

I don't think it will be so simple.

The sense I got from Hamas officials here is that Hamas will be low-key and patient, trying to rule as long as possible without money from abroad, working on improving Palestinian governance and hoping that Palestinian society will remain steadfast — and that the Arab world and Europe will somehow intervene to keep Israel and the U.S. from depriving Hamas of its legitimate mandate.

As Farhat Assad, the local Hamas spokesman, remarked: "I thank the United States that they have given us this weapon of democracy. But there is no way to retreat now. It's not possible for the U.S. and the world to turn its back on an elected democracy."

But Hamas will have its hands full managing the West Bank, where it doesn't have as many people or arms as Fatah. As the Israeli strategist Gidi Grinstein put it, Hamas "is like a snake that swallowed an elephant." It has a lot to digest before it can move sharply in any direction.

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Hisham Abdullah, the West Bank A.F.P. reporter, told me that when he went into Ramallah's main bookstore the other day and asked what was selling, the owner said he'd noticed Hamas people buying Dale Carnegie books on management. ...

The Right Way To Pressure Hamas (NYT)

The New York Times, February 15, 2006

America and Israel have to walk a very narrow line in defining their relations with a democratically elected Palestinian government built around Hamas, a party that not only endorses terrorism but also commits it. They cannot possibly give political recognition or financial aid to such a government. Neither can any country that claims to oppose terrorism. That defines the right side of the line.

On the wrong side lies the kind of deliberate destabilization that, according to a report by our Times colleague Steven Erlanger, Washington and Jerusalem are now discussing. That would involve a joint American-Israeli campaign to undermine a Hamas government by putting impossible demands on it, starving it of money and putting even greater restrictions on the Palestinians with an eye toward forcing new elections that might propel the defeated and discredited Fatah Party back to power.

Set aside the hypocrisy such a course would represent on the part of the two countries that have shouted the loudest about the need for Arab democracy, and consider the probable impact of such an approach on the Palestinians. They are already driven to distraction by fury, frustration and poverty. Is it really possible to expect that more punishment from the Israelis and the Americans, this time for not voting the way we wanted them to, would lead them to abandon Hamas?

In the long, sorry history of the Israeli-Palestinian dispute, there is not a shred of evidence to support the notion that pushing the Palestinian population into more economic desperation would somehow cause them to moderate their political views. In fact, experience teaches the exact opposite.

Fatah lost last month's election because its incompetence and corruption drove Palestinian voters into the arms of the more austere, social-services-oriented Hamas. If the new government fails to deliver because it puts continued terrorism over the well-being of the Palestinian people, it may indeed be booted out of office. But a Hamas that could explain continued Palestinian misery by a deliberate American-Israeli plan to reverse the democratic verdict of the polls would be likely to become only stronger.

Washington publicly asserts that no such plan is being discussed. A far wiser course for the United States to pursue would be to step back and desist from deliberately provoking the Palestinians, and give Hamas a chance to reconsider its own options. Some hints about its intentions may emerge from the way its leaders respond to overtures by the Russian president, Vladimir Putin. Last week, Mr. Putin indicated that he intended to invite them to Moscow for a visit.

Mr. Putin's move was controversial in the West, and perhaps he should have provided more warning. But that would be a minor snub indeed if he prods Hamas toward renouncing terrorism, accepting Israel's right to exist and reviving the peace process.

Friends Of Hamas (WSJ)

The Wall Street Journal, February 15, 2006

The government of Hugo Chavez will receive representatives of Hamas "with pleasure" should they visit Venezuela on a forthcoming tour of South America. Vladimir Putin has announced he will host a meeting with the Palestinian terrorist group/political party next month in Moscow. "We have never considered Hamas a terrorist organization," says the Russian president.

The ostensible reason Russia and Venezuela give for meeting with Hamas is its victory in last month's legislative elections, which gave it a majority of seats in the Palestinian parliament. We agree that the results of those elections must be "respected," in the narrow sense that they reflect the outcome of a lawful democratic process. But just because something is respected does not make it respectable: Recall the diplomatic quarantine the European Union slapped on Austria in 2000 when elections there put the proto-fascist Freedom Party in government.

For Hamas the invitations are excellent news and a ticket to international legitimacy. Venezuela may be far from the Middle East, but Mr. Chavez maintains close ties with Iran, a patron of Hamas, and his influence in the "non-aligned" world has been growing. Russia is a partner in the so-called quartet of parties involved in Arab-Israeli peace negotiations.

Already, Spain and France have endorsed Mr. Putin's invitation to Hamas, and both governments are reported to be working to have Hamas removed from the European list of terrorist organizations, according to Arab and Israeli sources. Expect other countries to follow suit in this tacit legitimization of Hamas, thereby "isolating" the Bush Administration, which refuses to deal with the group.

Which brings us to yesterday's reports that the U.S. and Israel are trying to "destabilize" Hamas by squeezing the Palestinian Authority for funds -- which was played as front-page news. Neither President Bush nor acting Israeli Prime Minister

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Ehud Olmert have made any secret of their intention to isolate Hamas and deprive the Palestinian Authority of funds once Hamas assumes the reins of government.

Nor is there any shame in doing so: Donors have the right to impose conditions on their beneficiaries, and so far Hamas has rejected international calls that it disarm, forswear terrorism and accept the legitimacy of the Jewish state. As Hamas leader Khalid Mish'al wrote in Britain's Guardian immediately after the election, "We shall never recognize the legitimacy of a Zionist state. . . . We shall not seek friendships at the expense of our legitimate rights."

Palestinians need to understand that the exercise of self-government carries consequences. For too long, the international community has failed to extract a price for the Palestinian recourse to terror. That failure has not brought peace, but far worse it has produced the "Palestine" we have now: destitute, savage against both Israelis and moderate Arabs, and, so far, incapable of managing its internal affairs peacefully and competently. By refusing to render Hamas respectable, the U.S. and Israel aren't punishing the Palestinians. They're educating them.

Sharon's Son Is Sentenced To 9 Months In Jail (NYT)

By Steven Erlanger

The New York Times, February 15, 2006

JERUSALEM, Feb. 14 — Omri Sharon, a former member of the Israeli Parliament and the elder son of the prime minister, was sentenced Tuesday to nine months in jail after he pleaded guilty to illegally raising more than $1.3 million for one of his father's political campaigns.

But because his father, Ariel Sharon, is comatose after a major stroke, a Tel Aviv court allowed Omri Sharon to delay the start of his jail term until at least Aug. 31. He was also sentenced to nine months of probation, to begin after he leaves jail, and fined $66,700.

In November, Omri Sharon, 41, entered a guilty plea to charges of falsifying corporate documents, perjury and violating party financing laws during a campaign in 1999 for the leadership of the Likud Party. Under a plea agreement, prosecutors dropped charges of fraud and breach of trust but demanded imprisonment on the other counts. He resigned his seat in Parliament in January. His father was not implicated in the case.

Mr. Sharon's lawyer, Navit Negev, said he would appeal the sentence.

As the reality of a Hamas-controlled government in Palestinian areas drew closer, the Israeli defense minister, Shaul Mofaz, went to Egypt, where he met with President Hosni Mubarak. Mr. Mofaz said there was "no way the state of Israel will speak with Hamas" until it met the conditions of Israel and the international community: to recognize Israel's permanent right to exist, to disavow violence and to accept previous agreements.

Mr. Mofaz told Israel radio that Mr. Mubarak "will exert all efforts to convince Hamas to accept" the necessary conditions and says "that he believes that Hamas will change its ways in the future."

On Tuesday evening, the acting prime minister, Ehud Olmert, told American Jewish leaders that Israel "won't negotiate and won't compromise" with Hamas so long as it remained committed to Israel's destruction.

Mr. Olmert and his government have said they will consider the Palestinian Authority to be run by Hamas when the new legislature is sworn in on Saturday and will stop transferring some $50 million a month in customs duties and taxes.

Palestinian leaders met Tuesday with the German foreign minister, Frank-Walter Steinmeier, asking him and the international community to continue to finance the Palestinian Authority despite Hamas's recent victory in legislative elections.

"Aid to the Palestinian people should continue, whatever party is going to form the government," said the departing Palestinian foreign minister, Nasser al-Kidwa.

Saeb Erekat, a Palestinian negotiator, called for the "democratic choice of the Palestinian people to be respected." "Aid from Germany, the European Union and other donor countries must continue to finance infrastructure projects in all fields," Mr. Erekat said in a statement.

The European Union is the source of cash income for the Palestinian Authority, which is deeply in debt and receives about $1 billion a year in foreign aid of various kinds.

But Mr. Steinmeier said it would be difficult for Germany to provide aid to a Palestinian government that did not meet international conditions. "The German position does not differ from the European position," he said, explaining that until a Hamas government took power, Brussels would continue financing the Palestinians.

International aid organizations issued an appeal for governments to continue financing the Palestinians despite the victory of Hamas. Some 30 organizations, including Oxfam and Doctors of the World, said in a statement that the local Palestinian population needed support.

Cartoon Protests In Pakistan Leave 2 Dead (USAT)

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USA Today, February 15, 2006

Thousands of people rampaged through two cities Tuesday in Pakistan's worst violence in response to caricatures of the prophet Mohammed. In Lahore, guards fatally shot two protesters trying to force their way into a bank, Interior Minister Aftab Khan Sherpao said. Mobs burned a government building, a hotel, two banks and a KFC. A Citibank, Holiday Inn and Pizza Hut were vandalized. In the capital, Islamabad, 400 students stormed the heavily guarded diplomatic enclave, brandishing sticks and throwing stones. They were dispersed with tear gas, and no foreigners were hurt.

The cartoons that have inflamed many Muslims first appeared in a Danish newspaper in September and have been reprinted by other Western media.

Britain moves to ban indoor smoking

The House of Commons voted to ban smoking in all indoor public places after rejecting exemptions for private clubs and pubs that do not serve food. If approved by the upper House of Lords, the ban would take effect in mid-2007. The issue split Prime Minister Tony Blair's Cabinet. Blair voted for it. Health officials say 114,000 Britons die each year from smoking-related illnesses.

Sharon's son sentenced to prison

The oldest son of comatose Israeli Prime Minister Ariel Sharon was sentenced in Jerusalem to nine months in prison for illegal fundraising during his father's 1999 primary campaign for the Likud Party leadership. Omri Sharon, 41, pleaded guilty in November and resigned his parliament seat last month.

Egypt postpones local elections for 2 years

Egypt's parliament voted to delay local council elections for two years, until April 2008, making it harder for independent candidates to seek the presidency. A constitutional amendment approved last year requires them to be endorsed by at least 140 council members. The opposition Muslim Brotherhood said the delay prevents it from picking up seats, as it did in parliamentary elections in November, to make endorsements. Brotherhood deputy leader Mohamed Habib said that under the current councils, President Hosni Mubarak's National Democratic Party will be free to pick his successor. Mubarak has ruled since 1981.

Protests Over Cartoons Shake Pakistan (WP)

By John Lancaster

The Washington Post, February 15, 2006

ISLAMABAD, Pakistan, Feb. 14 -- Protesters ransacked Western businesses in the city of Lahore and stormed a diplomatic enclave in the capital Tuesday to vent their anger over caricatures of the prophet Muhammad. It was the worst such violence in Pakistan since the cartoon controversy erupted last month.

Two protesters in Lahore were killed when they tried to force their way into a bank and were shot by a security guard, authorities said.

Protesters in the historic eastern city burned a hotel, two banks, a KFC restaurant and the office of Telenor, a Norwegian telecom company, as well as vehicles and two movie theaters, the Associated Press reported. Tear gas and smoke from burning vehicles wafted through the center of the city as police fired shots in the air.

In Islamabad, the Pakistani capital, hundreds of young men pushed past security guards and made their way into the heart of the main enclave for foreign embassies. They vandalized cars, smashed windows at a branch of the British bank Standard Chartered and shouted slogans such as "Expel European Ambassadors" and "Death to Denmark," the country where the cartoons originally were published in a newspaper. The Danish Embassy is outside the enclave.

Police used tear gas to drive the protesters out of the fenced, partially forested enclave once they had congregated near the Indian and British embassies. The heavily guarded U.S. Embassy is deeper inside the enclave and was not directly affected.

The mocking cartoons of Muhammad have aroused intense anger across the Muslim world, especially in the Middle East, but Pakistan until this week had avoided violent protests such as those that have roiled the capitals of Lebanon and Syria.

Gen. Pervez Musharraf, Pakistan's president, has strongly condemned the cartoons, and a number of peaceful protests have been held across the country. The protest campaign has included not just hard-line religious parties, whose leaders have called for prosecution of those responsible for the cartoons, but also mainstream secular parties. Earlier this month, Pakistan's Senate overwhelmingly passed a resolution condemning the "blasphemous and derogatory cartoons." Religious leaders say they are planning a series of "million man" marches in major cities across the country in the next several weeks.

On Tuesday, Prime Minister Shaukat Aziz told reporters that the publication of the cartoons had "created a big sense of unease," adding, "Such acts cannot be condoned and must be condemned." Members of parliament from across the political spectrum marched from the parliament building to the enclave to hold a five-minute silent protest.

Last week, an editorial in the Friday Times, a liberal newsmagazine, said Western governments, in defending the right of newspapers to publish the cartoons, had "demeaned the West's lofty ideals and exposed the designs of its new crusaders."

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Besides burning some businesses, protesters in Lahore ransacked a McDonald's and a Pizza Hut and threw stones at a Holiday Inn and Western-owned filling stations, the Reuters news agency reported. Police responded by wielding batons and firing tear gas.

In Islamabad, several thousand protesters gathered outside parliament, where some shouted anti-American slogans.

Italian Minister Puts Mohammad Cartoon On T-shirts (REU)

By Crispian Balmer

Reuters, February 14, 2006

Italy's Reform Minister Roberto Calderoli has had T-shirts made emblazoned with cartoons of the Prophet Mohammad in a move that could embarrass Prime Minister Silvio Berlusconi's government.

Calderoli, a member of the anti-immigrant Northern League party, told Ansa news agency on Tuesday that the West had to stand up against Islamist extremists and offered to hand out T-shirts to anyone who wanted them.

"I have had T-shirts made with the cartoons that have upset Islam and I will start wearing them today," Ansa quoted Calderoli as saying.

He said the T-shirts were not meant to be a provocation but added that he saw no point trying to appease extremists.

"We have to put an end to this story that we can talk to these people. They only want to humiliate people. Full stop. And what are we becoming? The civilization of melted butter?" Calderoli said.

The publication of the cartoons in some European newspapers, including one showing an image of the prophet with a bomb for a turban, have provoked widespread anger in the Muslim world.

Many Muslims believe it is blasphemous to depict the Prophet and there have been a number of violent protests in the Middle East and Asia.

The Northern League, which is gearing up for an April general election, has leapt on the controversy to promote its own far-right political agenda.

RELIGIOUS WAR

The League has long led the charge against illegal immigration and its leaders say the cartoon violence shows the dangers of allowing Muslim immigrants to settle in Italy.

"This is only the tip of the iceberg of the religious war Islamist extremists have declared on us," Calderoli told reporters earlier this month.

The Italian press reported that Berlusconi last week urged Calderoli to take a more moderate stance over the issue, but the minister said on Tuesday he had no intention of keeping quiet.

"As for Berlusconi, seeing as he has compared himself to Jesus Christ, I would call on him to follow (Christ's) example and think about evangelizing Christian values and not be evangelized by Islam," Calderoli was quoted as saying.

Berlusconi caused a storm at the weekend when he said: "I am the Jesus Christ of politics...I sacrifice myself for everyone."

Maintaining a steady stream of anti-foreigner invective, Calderoli earlier this month dismissed a Palestinian journalist on a television chat show, as: "that suntanned lady." He also said he was delighted newcomers to Italy would not benefit from a government scheme to encourage people to have more children.

"I am proud of the fact that the baby bonus will only go to Italian citizens. I say to all those Ali Babas that either Allah or their governments will have to think of them."

The League's anti-immigrant stance has found a sympathetic audience in the wealthy north of Italy, where many third world immigrants have settled in recent years.

League politicians say the immigrants are responsible for growing crime rates and are also challenging Italians for jobs.

Latest opinion polls say the League will get up to six percent of the vote in the April election against just 3.9 percent in the 2001 ballot. However, it is not clear what part the anti-immigrant rhetoric has played in this increase.

America's Irreverent Sense Of Humor (WP)

By Neely Tucker

The Washington Post, February 15, 2006

Blasphemy!

Wow. You want blasphemy, try Christianity in America.

Here's the latest cover of Rolling Stone, featuring rapper Kanye West wearing Christ's crown of thorns! Go to the bookstore for "The Da Vinci Code," a thriller that posits Christ had sex!

Television! "South Park's" notorious "The Spirit of Christmas" short, featuring an obscenity-filled fistfight between Christ and Santa Claus! Sample dialogue: "Holy [expletive], it's Jesus!"

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Radio! "The Tom Joyner Morning Show," which features comedian J. Anthony Brown and his "biblical sayings" from the Last Supper, in which disciples make outrageous quips.

Big hits, one and all. America's fascinations with comedy, narrative drama, religious fervor and free speech routinely produce the edgy and the heretical in culture both high and low. Sometimes it's protested, sometimes it's boycotted, but the right to be religiously offended is the right to be a modern American -- most particularly for Christians, as we will see.

"Before World War I, all the interesting 'free speech' cases were about blasphemy," says Sarah Barringer Gordon, professor of law and history at the University of Pennsylvania, who has written often on the subject. "There were all sorts of bloody laws on the books. In 17th-century Maryland, you could have your tongue nailed to a tree for it."

Blasphemy -- "denying the being or providence of God . . . profane scoffing at the holy scripture" according to Blackstone's Commentaries -- had been an offense in Western society since the Greeks, and it was no joke in Colonial America. There were the Salem witch trials, of course, and it was a capital offense in Connecticut.

Even if such penalties were rarely if ever carried out (there's no record of a Marylander actually having his tongue nailed to a tree), the law was still stern. In 1811, a New Yorker named John Ruggles was convicted of blasphemy for shouting "Jesus Christ was a bastard and his mother must be a whore!" An appellate judge upheld the verdict, seconding the jury's reasoning that Ruggles had "openly and wantonly" reviled Jesus and Mary, with no purpose.

Such convictions came to an end in the 20th century. Civil libertarians in this country began to regard blasphemy as a strictly religious issue, and the courts agreed. The new American way was a sharp cultural break from the underlying bodies of legal thought in Europe and the United Kingdom, which had state-sanctioned churches. The position was cemented by the U.S. Supreme Court in 1952, in a case called Burstyn v. Wilson . New York had banned Italian filmmaker's Roberto Rossellini's film, "The Miracle," about a peasant woman who believed she was the Virgin Mary. It was legally imported into the country, but the Catholic Church lambasted it as sacrilegious. It was banned, a decision upheld by the state appellate court.

But the Supreme Court overturned the case, ruling: "It is not the business of government in our nation to suppress real or imagined attacks upon a particular religious doctrine."

Since then, the image and topic of Christ has been subjected to almost every indignity imaginable.

John Lennon notoriously opined in 1966 that the Beatles were "more popular than Jesus." There was Monty Python's "Life of Brian," the "Piss Christ" photo exhibit (with an image of a crucified Jesus, soaking in urine), Martin Scorsese's "The Last Temptation of Christ," and Kevin Smith's "Dogma."

Attempts to ban these things simply didn't work, or backfired. In 1999, record crowds showed when then-New York Mayor Rudolph Giuliani tried to shut down a museum for featuring a painting of the Virgin Mary besmirched with elephant dung.

Want to see a movie crowd this summer? Try to get into "The Da Vinci Code" on opening day.

To Mark Galli, managing editor of Christianity Today, the American willingness to offend Christianity, but extend deference to Islam regarding the current batch of Muhammad cartoons, can be understood through a series of cultural and political differences.

First, he notes, Christians worship a man who was persecuted, beaten and killed. The sense that people might persecute Christ's followers is an inherent part of the Christian ethos, he says, so Christians are inherently likely to tolerate offense. Muhammad, a prophet who died after an illness, did not leave behind a religion with that mindset, he says.

The second factor, he theorizes, is that American society assigns different rules of social conduct for majority and minority cultures, in which the dominant culture isn't supposed to ridicule smaller ones. It's done, of course, but it's seen as bad form.

"Christianity is fair game for mocking because it's an established presence here, it's always been a majority, and there's no sense of followers being a persecuted minority," he says. "When people can be publicly mocked in this country, it means you're a player, and you're going to take your lumps with everyone else. There's not that sense with Muslims. People are more cautious."

Cautious, yes, but not unwilling to offend religious minorities.

Last year, Mel Gibson's "The Passion of the Christ" drew protests that it was anti-Semitic -- and yet was a blockbuster. When Ayatollah Khomeini issued a 1989 fatwa calling for the murder of Indian-born British novelist Salman Rushdie for alleged blasphemies in "The Satanic Verses," the book became an American bestseller and Rushdie an icon of free speech.

Defiance of a Muslim edict was behind the publication of Muhammad cartoons in the Denmark newspaper and subsequent reprintings in newspapers across Europe, says Sayyid M. Syeed, secretary general of the Islamic Society of North America.

Syeed, who was born in Kashmir and immigrated to the United States as an adult, says that while millions of Muslims may think of America as a pro-Israeli invader of Iraq, it is still true that much of that knowledge is not based on personal experience. European affronts, through a long history of colonialism and exploitation, are more visceral. They've left scars. They've created a different psychological relationship.

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"European countries were colonial masters of several Muslim lands, and the psychological aspects of that relationship have lived on and on," Syeed says. "It's difficult for the Belgians, the Danes, the French -- it's difficult for them to believe that these former colonies have a religion that is of consequence. They get a kick out of insulting them."

Yvonne Haddad, professor of the history of Islam and of Christian-Muslim relations at Georgetown University, continues the theme:

"Of the 57 nations that belong to the Organization of the Islamic Conference, 54 have been colonized by Europe," she says. "That history is well known in Islamic countries, you've got the current war in Iraq. . . . Those things form the context for this sort of response. Devout Muslims are offended by the cartoons, but this is not just a religious affront. It's also political."

Agent Provocateur (NYT)

By Kamila Shamsie

The New York Times, February 15, 2006

Karachi, Pakistan

OF course this isn't about freedom of speech."

I've heard that line countless times in Karachi lately about the Danish cartoon controversy, including from journalists who fiercely guard their own right to work without censorship. There is nothing but condemnation here for European newspapers' publication of the cartoons.

But there are two separate threads to this condemnation. The first relates to the extreme religious offense caused by the cartoons, which has prompted an increasing number of protests, with a worrying trend towards violence. The small rallies a week ago were heartening in their peacefulness, but yesterday the protests claimed two deaths in Lahore and significant destruction. Though the numbers taking to the streets are still not vast by Pakistani standards they are growing.

The second thread to the condemnation concentrates not on the offense itself, but on the motive behind it. The idea that the cartoons were a deliberate provocation to get us to behave badly is being encouraged by officialdom: various political groups have condemned "the planned conspiracy by the West to instigate the Muslims"; the Foreign Office has said the cartoons are part of "sinister agendas"; the chief minister of the country's most religiously conservative province, himself a leading member of the religious alliance that gains much of its popularity from its anti-Western stance, has said the cartoons are aimed at bringing about "the clash of civilizations."

"Do you think people buy this line?" I asked a businessman whose political opinion I've always respected.

"Yes," he said. "But there are two ways in which that can be played out. One is that your 'fringe element,' who often turn to violence, mute their responses in order to defeat this alleged agenda of provocation. And the other is that they say, 'You want a fight, O.K., we'll give you a fight.' It all depends on how the religious leaders direct them for their own political ends."

But to what extent do people away from the fringe buy into this notion of a conspiracy? At a coffee bar in Karachi with four of my female friends — two schoolteachers, a lawyer and an interior designer — I asked, "Were the cartoons meant to be provocative?"

"Yes!" The response was unanimous.

"So is there a conspiracy to provoke Muslims into reacting violently?"

Here, everyone's certainty diminished. "No, not a conspiracy," one of the schoolteachers said, and the others signaled agreement.

I couldn't quite work out if the distancing from the word "conspiracy" had to do with the whiff of paranoia that has attached to it since the term "conspiracy theorist" came into vogue. "What is the point of the provocation?" I pressed on.

"Who ever knows what's going on?" one of the schoolteachers said. "It's something internal going on in those places. Or something to do with their own politics about, who knows, Iran, Israel. It could be anything."

"It's not the publication in Denmark I find most objectionable," said the other schoolteacher. "It's the re-publication in France after all the riots that happened there. This is their way of telling the Muslims: 'You are second-class citizens. We don't care about your sensitivities.' "

Later, over dinner, a member of my family said: "It's just racism. You act in ways that you know will provoke the extremists to start ranting and then you get bearded men frothing at the mouth, and — because those are the only images that get significant news coverage — you can then turn around and say, 'You see, all Muslims are fanatics.' "

"And that plays straight into the hand of the right wing in Europe whose greatest strength comes from racist polemic?" I finished. That really didn't seem a million miles away from suggestions of a conspiracy.

"Listen," said my father. "The most important thing here is not to confuse a group within an entity for the entity itself. Europeans, Muslims, European Muslims — most people just want to live in peace. For us to start believing Europe is represented by its right-wing fanatics would be as wrong as for them to believe Islam is represented by our right-wing fanatics."

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But until someone finds a way to turn "Muslims don't riot" and "Europeans don't conspire" into news stories, there doesn't seem any easy way to avoid precisely such confusion.

The Islam Gap (NYT)

By Karim Raslan

The New York Times, February 15, 2006

Jakarta, Indonesia

SOUTHEAST Asian Muslims have not been roiled by a clash of civilizations. Rather, people like me — Western-trained, English-speaking and constantly traveling — have begun to see the subtle differences that fracture our civilizations from within.

Whether we are conservative or liberal, many of us are appalled and angered by the stupidity and insensitivity of the Danish newspaper cartoons. But that doesn't mean we've taken leave of our senses. I, for one, won't be throwing out my Lego set or my Bang & Olufsen sound system, let alone plotting to unveil a Zionist conspiracy. I may be a Muslim, but I can tell the difference between a newspaper and a people, a country and a principle.

Even Din Syamsuddin, the head of Indonesia's 30 million strong Muhammadiyah Muslim association (and a firebrand by most accounts), told his followers to remain calm: "I urge Muslims not to overreact and act in a violent and anarchist way because those things are completely against Islamic teachings."

We generally believe that anger and violence are self-defeating. The region's moderate leaders, like Malaysia's prime minister, Abdullah Badawi, and Indonesia's president, Susilo Bambang Yudhoyono, exemplify this belief. Both men have criticized the cartoons. "The rights of press freedom are not absolute; whatever the faith, we must respect it," President Yudhoyono said. Still, neither he nor Mr. Abdullah has advocated boycotting Danish products or ending relations, although hotheads in both countries have called for such radical steps.

To be sure, there have been some copycat demonstrations in Kuala Lumpur and Jakarta, as well as attacks on the Danish and American consulates in Indonesia's second-largest city, Surabaya. But the extensive violence and ugly rhetoric we are seeing broadcast from elsewhere in the Muslim world point to differences between the Arab-Muslim heartland and the Indo-Malay periphery.

Yes, we are part of the extended family of believers, the ummah. We cannot help but feel some sense of solidarity with our co-religionists in Damascus, Tehran or Cairo. But the explosiveness of the Arab street doesn't translate, somehow, to the tropics. Many of us have a growing suspicion that we are culturally different from our Arabic- and Urdu-speaking brethren, perhaps more tolerant and less emotional.

I am reminded of how uncomfortable I felt last year when traveling through Saudi Arabia, surrounded by a people I found disquietingly alien. For all we share as Muslims, we Southeast Asians don't really know what it's like to inhabit the cultures or politics of the Middle East.

Nor is the West a unitary culture. Europe's fervent secularism reminds me that the nation of the Great Satan, with its crowded churches and Sunday preachers who fill sports stadiums, is actually more like my world than Europe is.

Since Sept. 11, I've accepted certain verities that now I have come to question. Europe was supposed to be the neutral bastion of moderation in the face of a belligerent America. But in fact that Europe is godless and alone.

Lebanon Remembers Hariri (CSM)

By Nicholas Blanford

The Christian Science Monitor, February 15, 2006

BEIRUT - Lebanon's Cedar revolutionaries returned to the streets here Tuesday, transforming the city center into a swaying sea of red and white national flags as the country marked the anniversary of the assassination of former Prime Minister Rafik Hariri.

The rally, which drew as many as 1 million, echoed last spring's huge anti-Syrian protests spurred by Mr. Hariri's murder that compelled Damascus to withdraw its troops from Lebanon. The Syrian disengagement was supposed to usher in a new era of independence from Damascus's embrace.

Yet a year on, Lebanon is deeply divided, split by a resurgent sectarianism, threatened by a growing Al Qaeda presence, and torn by competing political visions over the future direction of the country.

This country is once more becoming a battleground in a broader struggle for control of the Middle East, pitting the axis of Iran, Syria, and Lebanon's powerful Hizbullah organization against the influence of the West, chiefly the US, Britain, and France.

"Lebanon will be engulfed again in a huge power game that will last quite a long time. This is the tragic destiny of Lebanon," says Walid Jumblatt, the leader of Lebanon's Druze community.

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Twelve months after his death, the shadow of the billionaire construction tycoon and politician continues to loom over a country that saw the heady optimism of last spring's Independence Uprising, often called the Cedar Revolution, turn into disillusion, political turmoil, and bloodshed.

From dozens of newly erected billboards, Hariri's face gazes benevolently out over a city that he helped rebuild from the ruins of the 1975-1990 civil war. "They feared you and killed you," reads one sign. At one junction, an electronic counter ticks away the number of days in red numerals since Hariri died along with 22 others when a van packed with nearly a ton of TNT exploded beside his motorcade in central Beirut.

In Martyrs' Square where the flag waving demonstrators gathered Tuesday, organizers hoped to revive the spirit of the Independence Uprising, focusing this time on ousting Emile Lahoud, the pro-Syrian president.

"There is one person who is playing with Lebanon's security and that's Emile Lahoud," says Tarek Balad, carrying a portrait of Hariri. "All Lebanese want him to go."

In an address to the crowd from behind a bulletproof glass screen, Saad Hariri, Rafik's son and political heir, called for Mr. Lahoud's ouster, describing him as "the symbol of [Syrian] domination."

Chibli Mallat, a democracy campaigner who advocates replacing Lahoud, says that the rally marked a "new phase" in the struggle for full independence. "The extraordinary momentum we have gathered again today will have been lost if we don't succeed in translating this very massive demand for him to leave into his ousting," he says.

Yet, like the mass rallies of last year, the participants were mainly Christians, Sunni Muslims, and Druze. Other than formal delegations, Lebanon's Shiites, the largest of the country's sects, were absent, underlining Lebanon's deep political and sectarian divisions.

The US is urging the Lebanese government to disarm the powerful Shiite Hizbullah organization in compliance with UN Resolution 1559. However, Hizbullah and its allies represent a third of the government, and the party refuses to disarm. The political dispute is paralyzing the government's ability to tackle the moribund economy and improve the fraught security climate.

Sensing the government's weakness, Syria's former allies are gaining confidence and mobilizing their supporters. "There's a new order in Lebanon that is getting ready to change the situation," says Wiam Wahhab, a staunch pro- Syrian former minister.

The political turmoil is aggravated by a heightened sectarianism that is further complicated by the emergence of a militant Islamist trend that has taken hold in the poorer Sunni regions of north Lebanon. "The political differences have assumed very sharp cultural dimensions which is very disturbing," says Samir Khalaf, professor of political science at the American University of Beirut.

Last month, Lebanese authorities arrested 13 members of an Islamist cell, the latest evidence, the government says, of Al Qaeda-style militancy establishing a foothold in Lebanon.

Earlier this month, thousands of mainly Sunni demonstrators, including Islamist militants and pro-Syrian activists, rampaged through a Christian quarter of Beirut when a protest against the publication in Europe of cartoons depicting the prophet Muhammad turned into a sectarian riot.

The Lebanese government accuses Syria of seeking to destabilize Lebanon by inciting this kind of violence. Of the rioters arrested, almost half were Syrians or Palestinians.

Damascus is also blamed for a sporadic campaign of bombings and assassinations that has forced some prominent critics of Syria to stay overseas.

Many Lebanese say the tensions will continue until a UN investigation into Hariri's death is concluded and the culprits are known. But the commission has warned that it could take months, maybe years, before the identity of the killers is finally revealed. Lebanon's turbulent year

· Feb. 14, 2005: Former Lebanese Prime Minister Rafik Hariri is assassinated in Beirut with 22 others
· Feb. 16: About 200,000 Lebanese protest Syria at Hariri's funeral
· March 8: Hizbullah organizes a large "pro-Syrian" march in Beirut
· March 14: About 1 million Lebanese rally to call for Syrian withdrawal
· April 26: The last Syrian troops leave Lebanon ending a 29-year military presence
· Oct. 20: UN investigators say high-ranking Syrian officials were involved in Hariri's killing

Sources: United Nations, AP

Audiences Cheer Film's Anti-U.S. Message (WT)

By Nicholas Birch

The Washington Times, February 15, 2006

ISTANBUL -- A new film riding on a wave of anti-Americanism is attracting record audiences in Turkey and has drawn approving comments from the wife of Prime Minister Recep Tayyip Erdogan.

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Gum-chewing U.S. soldiers shoot Iraqis in cold blood at a wedding in one scene from the movie. In another scene, set at that the Abu Ghraib prison near Baghdad, a Jewish-American doctor harvests Iraqi prisoners' kidneys for sale to Israel and the West.

"What this film shows is that the Americans won't always have it their way," said Serdar Yagci, a student outside a theater in central Istanbul.

Minutes earlier, he had been one of many in the audience who stood up and cheered when the film's dour hero, Turkish agent Polat Alemdar, tracked down and killed a villainous U.S. Army officer who said he was guided by God.

"Valley of the Wolves: Iraq" fictionalizes the arrests of members of a Turkish military mission in Iraqi Kurdistan in 2003. Suspected of plotting to assassinate a Kurdish politician, the 11 men had sacks placed over their heads by U.S. soldiers before being taken to Baghdad for questioning.

In real life, Turks could do nothing but fume at what they perceived as a grave insult to their country's most respected institution: the army. In the film, Alemdar takes single-handed revenge on the perpetrators of the slight before bringing peace to Iraq.

"It sounds laughable -- an eye for an eye, a tooth for a tooth, a sack for sack," wrote Alin Tasciyan, one of several critics to pan the film for its "clunky, didactic dialogue" and bad acting.

"Valley of the Wolves" is not the work of independents or amateurs. With a budget of $10 million, it's the biggest-spending Turkish film in history. The international cast includes Hollywood actor Billy Zane of "Titanic."

Within three days of its release, the movie had been seen by 1.2 million people, a 40 percent increase on the previous viewing record.

At a gala performance earlier this month, the actors rubbed shoulders with Turkey's elite.

"I feel so proud of them all," said Emine Erdogan, wife of the prime minister, comfortably ensconced in a seat next to the actor playing Alemdar.

Although Foreign Minister Abdullah Gul insisted that the film was no worse than some of the productions of Hollywood studios, Turkish parliament leader Bulent Arinc praised its "realism."

U.S. officials in Turkey laugh off the significance of the film, but a senior Washington official interviewed by the Turkish daily Milliyet last week expressed concern about its success in a secular Muslim country with a U.S. alliance since the early 1950s.

"Can you imagine the first lady or the head of the House of Representatives going to the gala performance of a film that could incite anti-Turkish feeling among Americans?" the official asked.

U.S. Cuts Funds For Family Planning Overseas, Stirring Opposition (NYT)

By Celia W. Dugger

The New York Times, February 15, 2006

WASHINGTON, Feb. 14 — President Bush, who acted on his first full day in office five years ago to deny federal aid to overseas groups that help women obtain abortions, is for the first time proposing sharp cuts in financing for international family planning programs that the White House had described as one of the best ways to prevent abortion.

Since 2001, the administration had adhered to Mr. Bush's commitment to maintain the financing of such programs at $425 million, the same level as in the last year of the Clinton administration.

But in the president's new budget proposal, financing would fall 18 percent, from $436 million this year to $357 million.

The cuts are stirring strong opposition from nonprofit groups and Democrats on the House and Senate appropriations subcommittees responsible for foreign aid. They say the reductions would mean more unintended pregnancies for the world's poorest women, and more dangerous abortions in countries where the procedure is outlawed.

"It's ironic that an administration outwardly committed to reducing the incidence of abortion would take away valuable tools for preventing unwanted pregnancies," said Representative Nita M. Lowey, Democrat of New York.

Ed Fox, an assistant administrator at the United States Agency for International Development, said the budget cuts for family planning should be viewed in the broader context of large proposed increases for presidential initiatives to combat AIDS and malaria that will greatly benefit women.

He also pointed to a $21 million program to help African women combat sexual violence.

"This is a much better budget than we've had in the past for women's health," he said.

The extent of the reductions for family planning became apparent only this week when Mr. Fox provided an overall estimate of financing from "all spigots" in both the State Department and A.I.D. budgets — a figure requested Wednesday. The budget released Feb. 6 contained clues to the decline in financing but not the total number.

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The disagreement over Mr. Bush's approach to family planning services in developing countries dates back to one of his first acts as president. On Jan. 22, 2001, he reinstated a Reagan-era rule that prohibited the financing of groups that provided abortion services, counseled women about abortion or advocated for the legalization of abortion.

Critics of this policy called it the "gag rule" because it penalized groups that pushed for changes in laws.

The International Planned Parenthood Federation, with membership associations in 151 countries, lost an estimated $15 million a year in federal financing because it refused to comply, said its director general, Dr. Steven W. Sinding.

Just last week, on the same day the president's budget was introduced, the British development agency announced a global program for safe abortion, pledging about $4.5 million to Planned Parenthood to carry it out.

In a news release, the agency said the funds were intended to "support work on abortion that has suffered or been neglected as a result of the Global Gag Rule."

Even as the abortion debate raged, the administration had stuck to a commitment the president made the same day he reinstated the Reagan-era rule.

A White House news release said President Bush would maintain the $425 million financing level because he knew family planning services were "one of the best ways to prevent abortion."

Top Vote-getter Alleges Fraud In Haitian Elections (USAT/AP)

By The Associated Press

USA Today, February 15, 2006

PORT-AU-PRINCE, Haiti — Leading presidential candidate Rene Preval claimed Tuesday that “gross errors” and likely fraud marred the vote that saw him fall just short of a first-round victory.

He also urged supporters to protest peacefully, a day after at least one pro-Preval demonstrator was killed.

“We are convinced that either massive fraud or gross errors stain the (electoral) process,” Preval said.

United Nations spokesman David Wimhurst said no evidence of fraud was detected in the vote. Haitian officials haven't said when they will release final results.

White U.N. armored vehicles shoved aside roadblocks of junked cars, old refrigerators and other debris in the capital Tuesday. Most streets were clear by midafternoon. Businesses remained shuttered, but street markets bustled with shoppers.

Preval, a former protégé of ousted president Jean-Bertrand Aristide who enjoys support among the poor, called on followers to remove all roadblocks so people can get to work.

“I ask the Haitian people … to be mature, to be responsible, to be non-violent,” Preval told reporters on the lawn of his gated home in the Petionville suburb.

The most recent election results, posted on the electoral council's website Monday, showed Preval had 48.76% of the vote with 90% of ballots counted. He needs 50% plus one vote from the Feb. 7 election to avoid a March runoff.

The constitution indicates a challenge would go to the Supreme Court, but the interim government recently decreed that complaints should go to the electoral commission — the same body issuing results.

The U.N. Security Council urged Haitians to respect election results and extended the U.N. peacekeeping mission for six months, until Aug. 15. About 7,300 U.N. troops and 1,750 international police are in Haiti.

A runoff election would pit Preval against Leslie Manigat, also a former president, who got 11.8% of the vote, according to preliminary results.

Haitian Front-Runner Breaks Silence; Charges Fraud (NYT)

By Ginger Thompson And Amy Bracken

The New York Times, February 15, 2006

PORT-AU-PRINCE, Haiti, Feb. 14 — René Préval, whose support among the poor masses has made him the favorite to become Haiti's next president, stepped out of the silence he began after the election last week to charge Tuesday that "massive fraud and gross errors had stained the process."

Still, he urged the throngs of people who had paralyzed cities with flaming barricades and protests to end the violence and continue demonstrating peacefully.

"The Haitian people are frustrated," Mr. Préval said. "They have a right to be frustrated. And they have the right to protest. But we must respect private property. We must respect the law. We must respect the rights of others.

"Do not give in to anger. Today, let's conduct politics intelligently, without violence."

At a news conference at his sister's house in Peguy-Ville, a hillside suburb, Mr. Préval rejected election results released so far that showed him with a wide margin against his nearest opponent, but slightly short of the 50 percent plus one vote that he

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needs to avoid a runoff. He said the tabulations had been rigged against him, but he and his supporters offered little in the way of evidence.

In the name of his coalition, Lespwa, the Creole word for hope, Mr. Préval demanded that electoral authorities withhold announcing the final results, which had been expected Tuesday but were delayed until Wednesday, for a transparent recount.

"If you publish the results the way they are now," Mr. Préval said, "Lespwa will contest, and the people will contest."

The warnings and calls for calm, live on radio and television stations, seemed to have almost immediate effects. Leaders of the interim government and foreign diplomats worked on plans for a review of the tabulations. United Nations troops began clearing away junked cars, heavy boulders and burning tires blocking the main thoroughfares here. Traffic began crawling where angry protesters had roamed. Markets began bustling with shoppers. And small demonstrations felt more like parties than protests.

"Now I feel happy," said Denis Constant, one of a few hundred people who danced through Canapé Vert on Tuesday afternoon. "I don't know whether he will be president. But I think things will all work out."

It was unclear to most people how the saga surrounding the elections on Feb. 7 would end. The contests, organized by an interim government, installed by the United States and backed by 9,000 United Nations troops, were widely considered crucial to restore a semblance of democracy to a country whose institutions have been wrecked by a long history of dictators and whose people were sucked into a new cycle of upheaval two years ago when an armed uprising ousted President Jean-Bertrand Aristide.

The elections had seemed to pull Haiti back from the brink of civil war. After a tumultuous start, large numbers of people waited for hours to cast their ballots without a serious incident of violence. But the tabulation and accusations from political camps that tally sheets were manipulated have re-ignited old fights.

Political analysts close to the negotiations that started after violence flared Monday indicated that a special commission could be formed by foreign diplomats, the interim government and the United Nations Stabilization Mission in Haiti to review the tabulations. Michel Brunache, director of the cabinet of the interim president, said in an interview that the commission would not include foreigners, but representatives of the Provisional Electoral Council, from Mr. Préval's Lespwa party and from the government's executive branch..

To prevent violence, Mr. Brunache said, the government made an agreement with Mr. Préval to withhold the final results until the commission had finished its review.

"During these elections, Haitian people showed their desire to advance democracy," Mr. Préval said, referring to a turnout estimated at more than 60 percent. "The people are convinced I won in the first round. But when they saw the votes for me begin to decline, it was like a cruel hoax. Their hope turned to anger."

His camp offered no numbers or documents to refute conclusively the results so far, which show him with 48.7 percent of an estimated 90 percent of the ballots. Suspicions seemed to focus on an estimated 85,000 blank votes and 120,000 voided ballots, of about 2.2 million votes that election officials said had been cast.

Advisers to Mr. Préval suggested that tens of thousands of Haitians would not have walked hours or stood in line to cast blank votes.

Those ballots, by law, have been included in the net totals. Without them, Mr. Préval would have, so far, won more than 51 percent of the vote.

Some people, however, see the large number of blanks as reflecting broad contempt for their government — which has done little to lift this country out of extreme poverty — or of people's disfavor for all 33 presidential candidates.

Mr. Préval's advisers also expressed concerns about an estimated 8 percent of the ballots that are missing, at least half believed lost or stolen. The advisers pointed out the wide discrepancies between the results announced by the government and those predicted by independent international organizations.

A slow-count sample of the results by the National Democratic Institute showed that Mr. Préval would win in the first round, with 52 to 54 percent of the votes. A ballot survey by the Organization of American States showed that Mr. Préval would win an estimated 55 percent of the votes.

"We have solid arguments that the results by the government do not reflect reality," said Bob Manuel, an adviser to Mr. Préval who was loosely translating the candidate's words for the Spanish-speaking news media. "We are asking them to wait so we can present evidence."

Residents from a violent slum, Cité Soleil, near Titanyen, 20 miles north of the capital, said they found mounds of ballots dumped there, most supporting Mr. Préval.

Cité Soleil is a Préval stronghold. A spokesman for the United Nations mission here, David Wimhurst, said the ballots could have come from one of the nine voting centers trashed on Election Day. But he could not confirm that. Other than the images of thousands of pages of documents, the discovery had not been confirmed. After the scenes of the discovery were broadcast on

television, there were reports of barricades going back up in scattered parts of the capital and of gangs of young men on motorcycles screaming threats.

As for Tuesday, all tabulations stopped. A high O.A.S. official said work at the central tabulation center stopped because barricades kept technicians from reporting in.

Haiti's Preval Claims Fraud Spoiled His Win (WP)

By Manuel Roig-franzia

The Washington Post, February 15, 2006

PORT-AU-PRINCE, Haiti, Feb. 14 -- Haiti's fractured electoral process, already disrupted by street protests Monday, stalled further on Tuesday as the leading presidential candidate, Rene Preval, said "gigantic fraud" had kept him from a first-round victory and official vote-counters refused to report for work because they feared attacks by protesters.

Preval's return to the capital after nearly a week at his remote mountain home had a soothing effect on demonstrators, who responded to his plea for calm Tuesday by taking down most of the fiery roadblocks they had set up since early morning. But the lull appeared to be only temporary as the country anxiously awaited final results a full week after the Feb. 7 election.

"If they publish the results as they are now, we will oppose them, the Haitian people will also oppose them, and there will be protests," Preval said, addressing reporters as he sat on a striped couch beneath a flame tree in the back yard of his sister's gated home in suburban Pegguyville.

Preval, a former president and agronomist who is popular with Haiti's poor, railed about "gross errors" in vote counting, but he declined to discuss specifics or present evidence to support his claims.

With about 90 percent of ballots counted, officials said Preval had won 48.6 percent of the vote. That total is short of the simple majority required to avert a runoff with Leslie Manigat, another former president, who won 11 percent of the vote.

Liszt Quitel, an adviser to Preval, said the campaign had been told that the remaining ballots are missing. "People on the inside are saying they don't know where they are," Quitel said.

David Winhurst, a spokesman for the United Nations, said that "we have no evidence of fraud." The United Nations supplied 9,000 troops to safeguard the election.

Preval asked demonstrators to allow truck drivers to take food to markets and students to get to school. But he also encouraged his supporters to continue demonstrating to show their displeasure with the vote counting.

"Continue to protest, but respect the rights of others," he said at the news conference, which was broadcast live on national radio stations.

The capital, brought to a standstill by Monday's violent protests and left with eerily empty streets that night, lurched back to life Tuesday after Preval's remarks. In Pegguyville, the calls of street hawkers filled the market air and women balancing bowls of grapefruit on their heads navigated the steep streets.

Parades of Preval supporters -- the same groups who burned tires and erected roadblocks the day before -- turned celebratory and hopeful. They marched through the streets, banging drums and waving posters with the emblem of Preval's party, Lespwa (the Haitian Creole word for "hope").

Preval supporters were furious late Tuesday, and said their fraud allegations had been proved when a local television station in Port-au-Prince repeatedly broadcast footage of ballots with Preval's name checked that were found discarded and, in some cases, partially burned at a dump in Port-au-Prince and two other locations.

"We knew that there was a massive fraud, but we could not put our fingers on it," said Fritz Longchamp, a Preval adviser and former Haitian ambassador to the United Nations. "Now we have the proof."

Interior Minister Paul Magloire told the Associated Press late Tuesday that the interim government had ordered a review of election results, in what would be a first formal step to investigate possible irregularities.

Four presidential candidates have already conceded Preval's victory after receiving small percentages of the vote, but businessman Charles Baker, who was in third place, said he would demand a spot in a runoff. Manigat's wife told the Associated Press that her husband would not cede the election to Preval.

Quitel said the Preval campaign was suspicious about the high percentage of blank ballots, more than 7 percent, and discrepancies on the electoral commission Web site.

Preval has spent the past two days in intensive meetings with U.S. and other international diplomats, as well as leaders of Haiti's interim government, which was set up two years ago after the ouster of President Jean-Bertrand Aristide. Preval, Haiti's president from 1996 to 2001, was a protege of Aristide's but has distanced himself in recent years, leaving Aristide's Lavalas party and forming Lespwa.

Winhurst said U.N. officials hoped a renewed sense of calm in Port-au-Prince would hold through the night, enabling ballot counters to resume working on Wednesday morning.

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"They were uneasy with the big crowds," he said. "The crowds on the street who want a result are actually impeding results being completed."

Preval accused "provocateurs" in the opposition of trying to stir up his loyalists in an attempt to isolate and discredit them in the eyes of international observers. Preval's supporters, however, appeared largely responsible for the chaos that gripped this impoverished nation of 8.1 million Monday, when hundreds of roadblocks paralyzed cities and towns across the nation.

"The president told us to do this," demonstrator Maxim Detouche said Tuesday as he walked away from a dismantled roadblock in Petionville, a wealthy neighborhood in the hills above Port-au-Prince. "Now they are trying to bluff him; the election commission is trying to trick him."

Hundreds of people streamed past Detouche, blowing horns and chanting Preval's name. A dozen young women sang, "Oh yeah, Preval. I have been waiting for you."

China Task Force To Wield Trade Rules (USAT)

By Elliot Blair Smith

USA Today, February 15, 2006

The Bush administration proposed Tuesday to establish a China Enforcement Task Force under the U.S. Trade Representative as a legal counterweight to Chinese exports that the government says benefit from illegal state subsidies and lax controls on counterfeiters.

U.S. Trade Representative Rob Portman accused China of failing to respect intellectual property rights, environmental concerns and labor standards, and for failing to fully open its markets to foreign competitors.

Last year, the U.S. trade deficit with China was nearly $202 billion.

Moving to head off congressional criticism of the relationship, Portman outlined a policy of more muscular U.S. negotiations with China bolstered by the administration's willingness to seek legal sanctions against China at the World Trade Organization.

“U.S. policy must now shift to treating China as a mature trading partner that should be held accountable for its actions and required to live up to its responsibilities,” Portman said in a letter to U.S. Rep. Charles Rangel, D-N.Y., that accompanied the report to the House Ways and Means Committee.

China's government had no immediate comment. Several congressional Democrats and Republicans welcomed the administration's tough talk. But the report outlined no new legal authority or doctrine to pursue sanctions already available through the WTO.

“If you've got complaints that China is not meeting its WTO obligations, go to the WTO,” said David Wall, a China trade expert at Chatham House in London. He added, “It's an enormous country, and growing fast, but it still has to be taken as a poor country.”

Harvard University economist Kenneth Rogoff said China's export of inexpensive goods to the USA combined with its large holdings of U.S. dollars and government securities have been largely beneficial, holding down domestic inflation and interest rates.

However, Rogoff said the administration should challenge unfair trade practices. “Going forward, as China grows, it has to start behaving like one of the big boys. It has to behave by the rules,” he says.

The U.S. Trade Representative said the U.S. market accounted for 22% of China's “phenomenal export growth” over the last 20 years, at a time when exports came to represent 40% of that country's economy and lifted nearly 400 million people out of poverty. But, Portman warned, “The relationship today lacks equity, durability and balance in opportunities it provides.”

U.S. Trade Chief Pledges To Get Tougher On China (WSJ)

By Greg Hitt And Murray Hiebert

The Wall Street Journal, February 15, 2006

In a wide-ranging U.S. appraisal of policy toward China, U.S. Trade Representative Rob Portman is promising much tougher enforcement of trade laws but isn't asking Congress for expanded authority to sanction Beijing.

In a report released Tuesday, Mr. Portman voices concern about China's failure to curb the piracy of U.S. intellectual property and enforce international labor standards.

Warning of a "corrosive effect on political support" in the U.S. for trade with China, Mr. Portman flags concern with Beijing's "unreported and extensive" industry subsidies, and a network of trade barriers that he says keep out U.S. exports and helped fuel a record U.S. trade deficit. That deficit reached $725.75 billion in 2005.

U.S. Trade Representative2 Rob Portman discusses U.S.-China trade relations.

On trade with China alone, the U.S. deficit stood at $201.62 billion last year, more than 20% wider than 2004, by far the largest U.S. gap with any single country.

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Mr. Portman concedes American consumers and businesses have reaped benefits from closer economic ties with China, which began nearly three decades ago and accelerated rapidly after China joined the Geneva-based World Trade Organization in 2001. But absent "tangible evidence" that China is moving to address U.S. concerns, Mr. Portman says, "Popular support for a 25-year-old trade policy of constructive economic engagement with China could be in danger, with potentially damaging consequences for both countries."

The report outlines steps that will be taken to address U.S. concerns and protect U.S. business interests. Among other things, Mr. Portman will establish a task force that "will focus on the preparation and handling of potential WTO cases with China." The task force will be headed by a new chief counsel for China trade enforcement.

In addition, Mr. Portman announced that priorities within his 225-employee office will shift to focus more attention on China. Mr. Portman anticipates posting a senior trade official in Beijing to help coordinate U.S. policy in China as part of an effort to beef up the agency's negotiating capacity.

The report comes amid rising tensions in the U.S. Congress over U.S.-Sino trade relations. With the U.S. trade deficit soaring, several pieces of legislation have been introduced in recent days that would toughen U.S. policy toward Beijing, including a proposal to create a trade "prosecutor" outside the U.S. Trade Representative's office.

Officials from China's Ministry of Commerce said they wouldn't have any comment until they have had a chance to read the report.

But a Chinese academic said he doesn't think the review will have much effect in Beijing. Mei Xinyu, a researcher at the Commerce Ministry's Academy of International Trade and Economic Cooperation, called the report a "show to please Congress," whose members have become increasingly critical of the growing U.S. trade deficit with China.

Mr. Mei said China's export boom to the U.S. is caused by U.S. domestic demand and not by any sinister schemes by Beijing. "It is American companies [that] are transferring manufacturing to China, and American consumers are buying Chinese stuff on their own accord," he said.

Still, senior Chinese officials went on the offensive Tuesday against U.S. critics. Vice Commerce Minister Yi Xiaozhun insisted that inexpensive Chinese exports, far from undermining the U.S. economy, are in fact a blessing. Without them, U.S. inflation would be two percentage points higher than it is now, Mr. Yi told a China-U.S. business forum in Beijing. Mr. Yi also said that by using its export earnings to buy U.S. Treasury bonds, China is helping plug the U.S. fiscal deficit.

Mr. Yi said China seeks balanced trade with the U.S. But he criticized U.S. companies as not doing more to help. He said a sharp drop in U.S. foreign direct investment into China last year was "not very satisfactory" given the healthy profits U.S. companies make in the country. U.S. investment last year fell 22.3% to $3 billion from $3.9 billion in 2004.

Separately, the vice chairman of the Standing Committee of the National People's Congress, or parliament, also took U.S. companies to task for not selling more aggressively to China. Cheng Siwei, speaking at the same conference, said high-tech exports from the U.S. account for just 10% of China's total high-tech imports and should be higher.

In Congress, Mr. Portman is leery of efforts to create a trade "prosecutor" outside of his office, and prefers instead to work within the existing framework.

Mr. Portman and others in the administration of President George W. Bush "aren't asking for new authority, they're indicating a new seriousness," said Michael Wessel, a member of the U.S.-China Economic and Security Review Commission, a congressionally mandated panel that monitors ties with China.

Mr. Wessel said he expects the administration to try to file more trade-remedy cases in the coming months, and administration officials themselves cite a recent case that resulted in Beijing lifting special duties that had been slapped on certain U.S.-made paper products, as a model for further enforcement actions.

"This is laying out what's to come, but it is not the final step," one administration official said of the "top-to-bottom" review. "It is a refocusing and redirecting of resources. We'll work with Congress on additional steps that need to be taken."

In Beijing, the U.S. business community has been watching the review with some anxiety as U.S.-China trade relations have become testier in recent months.

"We are hopeful that the recommendations reflected in the USTR's report will move U.S.-China relations forward in a positive ... and constructive manner," said James Zimmerman, a Beijing-based trade lawyer with Squire Sanders & Dempsey and chairman of the legal committee of the American Chamber of Commerce in China.

But Mr. Zimmerman added that China "must continue to open its markets" beyond its agreements when it joined the WTO in 2001. He called on Beijing to "improve its intellectual-property enforcement system [and] improve transparency and corporate governance" to make it easier for U.S. companies to do business in China.

The policy review has been more than six months in the making and involved input from across the Bush administration, encompassing the departments of Commerce, State and Treasury and the White House.

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The review suggests the administration can do a better job of promoting exports to China, especially for small and midsize companies. Mr. Portman promised in the spring to conduct the review after he was confronted with a raft of complaints about China during his Senate confirmation hearings.

The document doesn't call for a radical shift in U.S. policy as some members of Congress have sought. Rather, the 30-plus-page report tries to respond to congressional critics who contend the administration has no coherent policy toward China, according to business and government officials. The report describes a dual-track policy approach, one that stresses the need to engage in a dialogue while suggesting there is a limit to how much can be accomplished by just talk.

"The administration is trying to send a signal," said Myron Brilliant, the vice president for Asia at the U.S. Chamber of Commerce in Washington, who has been briefed on the document. "We want engagement. But we want results."

Bush To Exert More Pressure On China Over Trade Rules (NYT)

By Vikas Bajaj

The New York Times, February 15, 2006

Using stern language, the Bush administration said yesterday that it would exert more pressure on China to adhere to global free trade rules.

But in a report, the United States trade representative, Rob Portman, did not ask for or threaten any specific sanctions against the Chinese, an omission that will not escape the notice of both Democratic and Republican lawmakers who have been calling for the administration to take a far tougher line with China.

The report came just four days after the United States announced a record trade deficit of $201.6 billion with China for 2005. That report stoked what was already a heated debate about the role that free trade has played in the loss of American jobs caused by a shift in production to lower-cost countries like China.

At a news conference yesterday, Mr. Portman registered concern about China's enforcement of intellectual property rights and the lack of openness of its markets to American goods and services, a reference to Chinese restrictions on certain foreign investments and trade in financial and other professional services.

Noting that American trade with China "lacks equity, durability and balance in the opportunities it provides," Mr. Portman said: "This disparity is due in part to China's failure to honor certain commitments, including its failure to enforce intellectual property rights, its protection and support for certain domestic industries, and its refusal to fulfill certain market opening commitments."

The report said that Mr. Portman's office would establish a chief counsel for China trade enforcement who will lead a task force to ensure better compliance by China with rules of the World Trade Organization. The report, which was first disclosed in The Wall Street Journal yesterday, also called for coordinating China trade policy with other countries and working with Chinese officials on improving financial, antitrust and agricultural regulations.

The steps are far milder than what many lawmakers have asked for. In the Senate, Charles E. Schumer, Democrat of New York, and Lindsey Graham, Republican of South Carolina, have proposed imposing a 27.5 percent tariff on Chinese goods until Beijing allows its currency to float more freely against the dollar. The senators say they may bring their bill up for a vote as early as March.

Last summer, the Chinese government allowed the yuan to appreciate against the dollar and float in a narrow band, giving in to pressure by its Western trading partners who have said China's artificially cheap currency gives its goods an unfair advantage on the world market.

In a statement released yesterday, the Chinese Embassy in Washington said that the yuan had risen to a new high since last summer. It said that further appreciation would be gradual, given that the Chinese government "places priority on promoting balanced international payments this year." One dollar currently buys about 8.0472 yuan.

Mr. Portman's office does not have jurisdiction over currency matters. Treasury Secretary John W. Snow, who has taken the lead role for the administration on the yuan, has repeatedly called on China to further relax the yuan's peg to the dollar but has resisted calls for sanctions.

Most economists say protectionist measures could cause harm by distorting global trade and raising the price of imported goods that Americans rely on. They also note that many financial institutions in China are not structurally sound enough to survive the instability that would come with a fully convertible yuan.

U.S. Pledges To Be Tough On China Trade (WP)

By Paul Blustein

The Washington Post, February 15, 2006

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The Bush administration vowed yesterday to bolster its enforcement against China's alleged unfair trading practices -- a pledge that drew praise from big business but scorn from congressional Democrats, who complained it was nothing more than rhetoric.

The vow came in a "top-to-bottom review" of U.S. trade policy toward China that Rob Portman, the U.S. trade representative, promised in April at his Senate confirmation hearing. The review did not propose any changes in policy or law; rather, it called for the establishment of special China-focused task forces and enforcement officers to pursue allegations that Beijing is violating trade rules.

The report was aimed largely at assuring congressional, industry and labor union critics of China that the administration is closely scrutinizing Beijing's trade practices and is prepared to aggressively counter the most objectionable ones. The White House is anxious to head off a number of bills targeting China that administration officials view as overly protectionist.

While emphasizing that both sides have benefited greatly from U.S.-China trade, the 29-page report cited a litany of problems, including China's maintenance of barriers against certain imports, its failure to halt the piracy of patents and copyrights, and its provision of "extensive" government subsidies to industries. It also contended that "important gaps remain in China's implementation" of the commitments it made to open its markets when it joined the World Trade Organization in 2001.

Portman said at a news conference that "we will use all options available" to remedy those problems, including filing more complaints against Beijing at the WTO. He specifically referred to two festering disputes as potential grounds for WTO cases -- China's "inadequate protection of intellectual-property rights" and "its rules that discriminate against imported auto parts."

But the only concrete measures proposed in the report involved procedural and personnel matters. The report said the trade representative's office would establish a China Enforcement Task Force to be headed by a new chief counsel -- the first such posts to be aimed at an individual country, according to Portman. The trade representative's office also plans to post a "senior trade official" at the U.S. embassy in Beijing, the report said.

Defending the report as "objective as well as hard-hitting," Portman said he hopes lawmakers "will find it an objective and helpful piece of information as Congress designs trade policy vis-a-vis China."

Major business groups greeted the report warmly. Problems in U.S.-China ties "can be resolved through the path of constructive engagements that Ambassador Portman has outlined," said John Frisbie, president of the U.S.-China Business Council, in a statement.

Among Republicans, even some of Beijing's fiercest critics had kind words for the report, including Sen. Lindsey O. Graham (S.C.). "I appreciate USTR and the Bush administration's willingness to aggressively engage China on a variety of issues that are creating tension," he said in a statement.

But Democrats were harsh on the report, especially because it barely touched on China's currency policy. By keeping the value of the Chinese yuan at a little over 8 yuan per dollar, Beijing allegedly gives its industries an unfair advantage in global markets. The currency issue is the purview of the U.S. Treasury, which released a separate report on the matter late last year, but Democrats attacked the USTR report anyway, on a variety of grounds.

"After reading the report, I have to ask -- where's the beef?" said Rep. Benjamin L. Cardin (D-Md.), ranking minority member on the trade subcommittee of the House Ways and Means Committee, in a statement. "The administration promises no new enforcement of trade laws, no new action in the WTO, and no further steps to combat China's unfair practices. The time for monitoring and bureaucracy has passed."

The report "doesn't have a whole lot of direct action to deal with what are widely perceived as immediate trade problems," agreed C. Fred Bergsten, director of the Institute for International Economics.

Still, he said, the report contained intriguing hints of measures that the administration is likely to take, including filing WTO complaints and launching more negotiations for free-trade agreements with China's neighbors. Talks with South Korea and Thailand are already underway.

"I think that's a not-so-veiled threat that unless China is willing to step up in [global trade negotiations] and liberalize its own barriers, the U.S. may proceed with alternative courses in the region," Bergsten said. "That's probably the most important leverage we have against the Chinese."

One issue that Portman dismissed as relatively unimportant was the U.S. trade deficit with China, which reached a record $201.6 billion last year -- more than a quarter of the total trade gap. The overall U.S. trade deficit is mainly attributable to factors such as the low U.S. savings rate, Portman said. And China's huge contribution to it, he said, can be ascribed to the rapidly increasing amount of goods that, though partly designed and manufactured elsewhere, are assembled in China before being shipped to the United States.

Internet Firms To Defend Policies (WP)

By Yuki Noguchi

DOJ_NMG_0015397

The Washington Post, February 15, 2006

Yahoo Inc., Google Inc. and Microsoft Corp. will go on Capitol Hill today to defend corporate policies for dealing with China that they say balance business interests with human-rights concerns.

In testimony before the House subcommittee on Africa, Global Human Rights and International Operations and the subcommittee on Asia and the Pacific, Yahoo plans to argue that the presence of the Internet does good for closed societies even when censored or restricted.

But some human rights advocates plan to testify that corporate America is abnegating its ethical responsibilities by complying with Chinese law. Others expected to testify include network-equipment maker Cisco Systems Inc. and representatives from the State Department.

The hearing comes after several incidents highlighted the privacy and censorship concerns of doing Internet-related business in China. Indeed, trafficking in information raises issues that complicate the free-speech spirit of many Internet companies. Last month, Google said it would censor certain results on the Chinese version of its search engine. Last year, Yahoo provided e-mail information to the Chinese government that led to the identification and incarceration of a dissident Chinese reporter. In December, Microsoft's MSN shut down the blog of another reporter.

Many other companies have struck similar compromises with the Chinese government to do business in China, which is one of the fastest-growing markets in the world.

Separately, the State Department yesterday said that it had established a Global Internet Freedom Task Force to monitor other governments' policies on censorship and restriction of access to information. The task force will make policy recommendations on how to maximize access to the Internet while minimizing government attempts to block information, State Department officials said.

"If you're on the ground in China, you have to comply with the [local] law," said Michael J. Callahan, Yahoo's general counsel, who plans to testify today. "Fundamentally, being there transforms lives, society and economies," he said.

Callahan said that when any government requests information, the company is often unaware how that information will be used. In the case of the jailing of journalist Shi Tao -- who had used a Yahoo e-mail account to post pro-democracy materials online -- Yahoo was unaware of the government's intentions, he said.

Google and Microsoft have used similar arguments to defend their entry into the Chinese market.

"We overridingly believe that it is better to provide this technology than to refrain from doing so," because on the whole it promotes the sharing of ideas, Microsoft general counsel Brad Smith said in a speech in Europe last month. "No technology is perfect; but it is fundamentally a technology that does good that we want to provide to our users in China and throughout the world."

But Mila Rosenthal, director of Amnesty International USA's business and human rights program, said such corporations haven't really tried to use their global brand names to take a stand for openness. "I don't think the U.S. companies have stood up to China," she said.

Global human rights subcommittee Chairman Christopher H. Smith (R-N.J.) said he has been fighting suppression of free speech for 26 years.

"It's reached a new level, with U.S. companies' complicity with tracking down dissidents," said Smith, who has drafted but not yet introduced a bill that among other things would create oversight at the Commerce Department and the Justice Department before any private information about a user could get handed over to repressive governments.

Lucie Morillon, the Washington representative of Reporters Without Borders, said the companies should both self-regulate and be overseen by the U.S. government to prevent future crackdowns against dissident journalists.

"[The companies] are helping to create a country-specific access to multiple versions of the Internet," she said. The group will ask Internet companies not to host network infrastructure in politically repressive countries, and it also will ask the U.S. Commerce Department to approve a company's entry into those markets, Morillon said. According to the group, 25 journalists and 62 cyber-dissidents are imprisoned in China.

Online Firms Facing Questions About Censoring Internet Searches In China (NYT)

By Tom Zeller Jr.

The New York Times, February 15, 2006

For Internet companies doing business in China, a piece of a booming market has not come without compromises.

A series of episodes showing that the companies were bending to the restrictive demands of Beijing — filtering words like "democracy" or "human rights" from Chinese versions of a blog product, or censoring certain concepts from their China-based search engines — has leaked out from users inside China.

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And as questions were raised after each new revelation, companies like Yahoo, Google, Microsoft and Cisco Systems invariably offered a variation on a common chorus.

"Just like any other global company," as Mary Osako, a Yahoo spokeswoman, put it in September, "Yahoo must ensure that its local country sites operate within the laws, regulations and customs of the country in which they are based."

Now the companies are being pressed in Washington for fuller answers about their business practices in China and the implications for human rights. That pressure will escalate today when the House Subcommittee on Africa, Global Human Rights and International Operations questions officials of the four technology companies, along with other witnesses critical of their activities.

The subcommittee's chairman, Representative Christopher H. Smith, Republican of New Jersey, plans to introduce legislation by week's end that would restrict an Internet company's ability to censor or filter basic political or religious terms — even if that puts the company at odds with local laws in the countries where it now operates.

Although some advocates have argued that the companies may actually be violating existing trade laws, most experts concede that does not appear to be the case.

Mr. Smith's legislation, called the Global Online Freedom Act, however, would render much of what the Internet companies are currently doing in China illegal.

Among the act's provisions is the establishment of an Office of Global Internet Freedom, which would establish standards for Internet companies operating abroad. In addition to prohibiting companies from filtering out certain political or religious terms, it would require them to disclose to users any sort of filtering they undertake.

Separately, the State Department announced the formation of a new Global Internet Freedom Task Force yesterday, charged with examining efforts by foreign governments "to restrict access to political content and the impact of such censorship efforts on U.S. companies."

Recent statements issued by Microsoft and Yahoo suggest that it is really the government's role to promote human rights abroad.

Still, the Internet titans are finding it harder to avoid some tough questions and a new note of contrition is likely to be heard.

"We always reserve the right to get better," said Michael J. Callahan, Yahoo's general counsel, in a phone call last weekend. Mr. Callahan is scheduled to testify before the House panel today.

Of the companies, whose activities in the Chinese market differ, Yahoo may face the toughest grilling.

The company, which has been providing Web services in China since 1999, has been criticized for filtering the results of its China-based search engine. But its bigger problems began last fall when human rights advocates revealed that in 2004, a Chinese division of the company had turned over to Chinese authorities information on a journalist, Shi Tao, using an anonymous Yahoo e-mail account. Mr. Shi, who had sent a government missive on Tiananmen Square anniversary rites to foreign colleagues, was sentenced to 10 years in prison.

Last week, Reporters Without Borders, a group based in Paris, revealed that a Chinese division of Yahoo had provided information to authorities that contributed to the conviction in 2003 of Li Zhi, a former civil servant who had criticized local officials online. Mr. Li is serving eight years in prison.

The recent absorption of Yahoo's Chinese operations into Alibaba, a Chinese e-commerce company in which Yahoo now holds a 40 percent stake, also worries some critics. They fear that the move allows Yahoo to reap the benefits of China's booming market while escaping responsibility for what happens there.

For its part, Cisco, which has won annual contracts from China Telecom since 2000 to provide the hardware for the country's growing Internet backbone, has been criticized for selling its routers and equipment, which the Chinese government has in turn manipulated to monitor and censor communications.

Microsoft hit snags almost immediately after beginning its MSN China portal last spring, when users discovered that the accompanying MSN Spaces service, which provides tools for building personal Web sites and blogs, forbade blog titles containing what were deemed inappropriate concepts, like "human rights." Then last year, the company came under fire for shutting a Beijing blogger's MSN Web site at the request of the Chinese authorities.

It was amid the fallout from that incident that Google stepped gingerly into the China fray three weeks ago. The company tried a different tack, announcing that search results would be filtered according to Chinese government specifications.

That sort of transparency was a welcome change, said Jonathan Zittrain, a professor of Internet governance at Oxford University and a co-founder of the Berkman Center for Internet and Society at Harvard Law School. But the larger questions that have led the companies to Capitol Hill remain.

"I think this is a very ripe time to take on some of the hardest questions," Mr. Zittrain said. "It's not a crazy position to say that these companies should not be there at all, but that's not my view, and I think there are ways to begin drawing lines so that there are ways that the companies can make the world better by being there."

Just what those lines might look like is difficult to say.

The Commerce Department, under the Export Administration Act, does restrict the sale of "crime control" equipment to repressive regimes, but Internet technologies have not been considered under that rubric. The activist Harry Wu, who spent 19 years in Chinese labor camps before coming to the United States and who is scheduled to testify at the hearings, plans to ask why not.

"We never wanted to do any business with Soviet 'evil empire,' " Mr. Wu said. "We embargo Cuba, we don't trade with North Korea, but with China it's O.K. I just always argue, why is it? Why do we single out China?"

Microsoft and Yahoo issued a joint statement two weeks ago acknowledging a responsibility to identify "appropriate practices in each market" where they operate, but they also urged the State Department and other agencies to pursue "government-to-government engagement."

Mr. Smith, the subcommittee chairman, says he thinks more than engagement is necessary. "The bottom line is no one is being compelled to sell to China," Mr. Smith said.

Beijing Censors Taken To Task In Party Circles (NYT)

By Joseph Kahn

The New York Times, February 15, 2006

BEIJING, Feb. 14 — A dozen former Communist Party officials and senior scholars, including a onetime secretary to Mao, a party propaganda chief and the retired bosses of some of the country's most powerful newspapers, have denounced the recent closing of a prominent news journal, helping to fuel a growing backlash against censorship.

A public letter issued by the prominent figures, dated Feb. 2 but circulated to journalists in Beijing on Tuesday, appeared to add momentum to a campaign by a few outspoken editors against micromanagement, personnel shuffles and an ever-expanding blacklist of banned topics imposed on China's newspapers, magazines, television stations and Web sites by the party's secretive Propaganda Department.

The letter criticized the department's order on Jan. 24 to shut down Freezing Point, a popular journal of news and opinion, as an example of "malignant management" and an "abuse of power" that violates China's constitutional guarantee of free speech.

The letter did not address Beijing's pressure on Web portals and search engines. [Page A6.]

That issue gained attention abroad after Microsoft and Google acknowledged helping the government filter information and Yahoo was accused of providing information from its e-mail accounts that was used to jail dissident writers. The issue will be the subject of Congressional hearings in Washington on Wednesday.

In addition to shutting down Freezing Point, a weekly supplement to China Youth Daily, since late last year, officials responsible for managing the news media have replaced editors of three other publications that developed reputations for breaking news or exploring sensitive political and social issues.

The interventions amounted to the most extensive exertion of press control since President Hu Jintao assumed power three years ago.

But propaganda officials are also facing rare public challenges to their legal authority to take such actions, including a short strike and string of resignations at one newspaper and defiant open letters from two editors elsewhere who had been singled out for censure. Those protests have suggested that some people in China's increasingly market-driven media industry no longer fear the consequences of violating the party line.

The authors of the letter predicted that the country would have difficulty countering the recent surge of social unrest in the countryside unless it allowed the news media more leeway to expose problems that lead to violent protests.

"At the turning point in our history from a totalitarian to a constitutional system, depriving the public of freedom of speech will bring disaster for our social and political transition and give rise to group confrontation and social unrest," the letter said. "Experience has proved that allowing a free flow of ideas can improve stability and alleviate social problems."

Some of the signers held high official posts during the 1980's, when the political environment in China was becoming more open. Although they have long since retired or been eased from power, a collective letter from respected elder statesmen can often help mobilize opinion within the ruling party.

One of those people who signed the petition is Li Rui, Mao's secretary and biographer. Others include Hu Jiwei, a former editor of People's Daily, the party's leading official newspaper; Zhu Houze, who once ran the party's propaganda office; and Li Pu, a former deputy head of the New China News Agency, the main official press agency.

Party officials and political experts say President Hu, who was groomed to take over China's top posts for more than a decade, has often attended closely to the opinions of the party's elder statesmen.

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Mr. Hu is widely thought to favor tighter media controls. Party officials said he referred approvingly to media management in Cuba and North Korea in a speech in late 2004.

But he has also solicited support from more liberal elements. Last year Mr. Hu organized high-profile official ceremonies to mark the 90th anniversary of the birth of Hu Yaobang, the reform-oriented party leader who lost his posts in a power struggle and whose death in 1989 was the initial cause of the student-led democracy demonstrations that year. Some of the officials who signed the petition were close associates of Hu Yaobang.

The reaction against the shutdown of Freezing Point was organized by its longtime editor, Li Datong, 53, a party member and senior official of the party-run China Youth Daily. Mr. Li broadcast news of the secret order on his personal blog moments after he received it and has since mobilized supporters to put pressure on the Propaganda Department to retract the decision.

Under his stewardship, Freezing Point became one of the most consistently provocative journals of news and public opinion. It published investigative articles on sensitive topics like the party's version of historical events, nationalism and the party-run education system. Freezing Point ran opinion articles on politics in Taiwan and rural unrest in mainland China that caused a stir in media circles in recent months.

The cause cited for closing Freezing Point was an opinion piece by a historian named Yuan Weishi. He argued that Chinese history textbooks tended to ignore mistakes and provocations by leaders of the Qing Dynasty that may have incited attacks by foreign powers in the late 19th century.

Mr. Li often tussled with his bosses at China Youth Daily and officials at the Propaganda Department. But he has also cultivated support among the party elite. He often speaks supportively of President Hu and quotes extensively from the writings of Marx, who he says favored a robust free press.

He has maintained that the Propaganda Department had overstepped its authority by ordering Freezing Point closed, and he filed a formal complaint to the party's disciplinary arm.

"The propaganda office is an illegal organization that has no power to shut down a publication," Mr. Li said in an interview. "Its power is informal, and it can only exercise it if people are afraid."

He added, "I am not afraid."

Mr. Li scored an initial victory last week, when propaganda officials told China Youth Daily to draft a plan to revive Freezing Point, which had been formally closed for "rectification," Mr. Li and another editor at the newspaper said. Some media experts had predicted that the authorities would not allow Freezing Point to reopen, and the new order was treated as a signal that officials had misjudged the reaction to its closing.

Shortly after the contretemps at China Youth Daily broke out, the former editor of another national publication attacked the bosses who had replaced him, saying they had exercised self-censorship in the face of pressure from propaganda officials.

Chen Jieren, who lost his position last week as the editor of Public Interest Times, posted a letter online entitled "Ridiculous Game, Despicable Intrigue." The letter disputed his bosses' statement that he had been dismissed for "bad management skills" and said he had a struggled constantly against senior officials for the right "to report the truth with a conscience."

One recent issue of Public Interest Times mocked the poor quality of English translations on official government Web sites.

In a separate incident earlier this year, a group of editors and reporters at the party-run Beijing News declined to report for work after the editor of the paper, known for breaking news stories on subjects the Propaganda Department has ruled off limits, was replaced. Many of the protesters have since resigned, reporters at the newspaper said.

The resistance against censorship could signal a decisive shift in China's news media controls, already under assault from the proliferation of e-mail, text messaging, Web sites, blogs and other new forums for news and opinion that the authorities have struggled to bring under their supervision.

Even most of the major party-run national publications in China, including China Youth Daily, no longer receive government subsidies and must depend mainly on income from circulation and advertising to survive.

That means providing more news or features that people want to pay for, including exclusive stories and provocative views that go well beyond the propaganda fare carried by the New China News Agency or People's Daily. Few serious publications survive for long without subsidies if they do not have popular content, editors say.

"Every serious publication in China faces tough choices," said Mr. Li of Freezing Point. "You can publish stories people want to read and risk offending the censors. Or you can publish only stories that the party wants published and risk going out of business."

China Says Web Controls Follow The West's Lead (NYT)

By Joseph Kahn

The New York Times, February 15, 2006

DOJ_NMG_0015401

BEIJING, Feb. 14 — Chinese authorities are determined to stop "harmful information" from spreading through the Web, but the controls it places on Web sites and Internet service providers do not differ much from those employed by the United States and European countries, a senior official responsible for managing China's Internet said Tuesday.

The official, Liu Zhengrong, who supervises Internet affairs for the information office of China's State Council, or cabinet, did not directly dispute the contention of many critics that China operates a vast and technologically sophisticated firewall to protect the ruling Communist Party against what it views as Web-based threats to its authority.

But he sought to put the country's Web-policing operation in the best possible light, emphasizing that China's Internet minders abided strictly by laws and regulations that in some cases have been modeled on American and European statutes. "If you study the main international practices in this regard you will find that China is basically in compliance with the international norm," he said. "The main purposes and methods of implementing our laws are basically the same."

The briefing about Internet controls was one of the few times any senior Chinese official has spoken in detail about the matter. Officials assigned to enforce the Communist Party's controls on the news media operate behind closed doors and rarely make public statements about their work.

Beijing's Internet policies have come under close scrutiny abroad since Google and Microsoft acknowledged helping China censor information available through Web searches and blogs, and Yahoo was accused of providing data that helped convict dissidents who had used its e-mail accounts.

Mr. Liu said China's effort to regulate content on the Web was aimed primarily at preventing the spread of pornography or other content harmful to teenagers and children. He said its concerns in this area differed minimally from those in developed countries.

Human rights and media watchdog groups maintain that China's Web censorship puts greater emphasis on helping the Communist Party maintain political control over the increasingly restive society. Such groups have shown that many hundreds of Web sites cannot be easily accessed in China mainly because they are run by governments, religious groups or political organizations critical of Beijing's policies or its political leaders.

Mr. Liu said Chinese Internet users were free to discuss many politically sensitive topics and denied that the Chinese police have arrested or prosecuted people for using the Web to circulate views.

Rights groups maintain — and court documents show, however — that legal authorities have cited e-mail messages and postings on domestic and foreign Web sites as evidence against Chinese dissidents accused of "incitement to overthrow the state" and "leaking state secrets."

The official objected to what he suggested were biased criticisms of China's Internet controls that ignored similar restrictions by foreign governments and private companies on their Web sites.

He cited, for example, statements on Web sites run by The New York Times and The Washington Post that reserve the right to delete or block content in reader discussion groups that editors determine to be illegal, harmful or in bad taste. Chinese news media Web sites are also monitored in that way, he said.

"Major U.S. companies do this and it is regarded as normal," Mr. Liu said. "So why should China not be entitled to do so?"

Editors, journalists and Web site operators in China say domestic news and discussion sites must ban a long list of topics deemed off limits by party officials or face penalties.

Such controls appear to have only superficial similarities to attempts by private companies in the United States and Europe to monitor content on the Web sites they operate.

Mr. Liu also said powers the Bush administration gained under the Patriot Act to monitor Web sites and e-mail communications, and the deployment of technology called Carnivore by the F.B.I. to let the agency scrutinize huge volumes of e-mail traffic, were examples of how the United States has taken legal steps to guard against the spread of "harmful information" online. "It is clear that any country's legal authorities closely monitor the spread of illegal information," he said. "We have noted that the U.S. is doing a good job on this front."

The Bush administration says its efforts to police online communications pertain mainly to preventing terrorist attacks.

Mr. Liu said there were now 111 million Web users in China and in the last five years China had expanded the bandwidth available to connect with overseas Web sites nearly 50-fold to 136,000 megabits per second, underscoring its commitment to let citizens gather information and interact with people around the world.

The number of Web sites Chinese users cannot access amounts to a "tiny percentage" of those available abroad, he said.

China's Responsibilities (WP)

The Washington Post, February 15, 2006

SINCE JOINING the World Trade Organization in 2001, China has proved serious about honoring its commitments. It has rewritten laws and regulations to comply with WTO rules, so much so that the United States and the European Union, which

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bring high-profile cases against each other before WTO tribunals, have a hard time identifying cases to bring against China. But China is treating its WTO commitments as a ceiling, not a floor. It appears unwilling to modify its behavior in other areas, and this may strain its relations with the United States.

China's currency policy is a case in point. Last summer China allowed its currency to appreciate by 2 percent against the dollar, and it hinted that more steps would follow. Since then, the Chinese yuan has barely risen, and its continuing undervaluation has fueled an enormous trade surplus. This invites a protectionist backlash in the United States. Sens. Charles E. Schumer (D-N.Y.) and Lindsey O. Graham (R-S.C.) have proposed legislation that would impose punitive tariffs on China until it fixes its currency policy, and a majority of senators appear to back the idea. Last year the Bush administration persuaded the Senate to hold off while it talked the Chinese into revaluing for their own good: A flexible exchange rate would help China avoid boom-and-bust cycles. But China's refusal to take more than baby steps is undermining the administration's efforts to restrain Congress. Mr. Schumer plans to return to the currency issue in upcoming Senate hearings.

China also could do more to abide by the spirit as well as the letter of WTO rules. Intellectual property protections illustrate the point: Chinese laws comply with WTO requirements, and music or film studios that file complaints about copyright violations tend to have their complaints upheld. But this barely dents the rampant piracy in China because the pirates build the modest fines into their cost of doing business. Yesterday Rob Portman, the U.S. trade representative, issued a "top-to-bottom review" of U.S.-China trade relations that spotlighted other areas of concern. China's government procurement should be more transparent. It should quit smuggling subsidies to domestic firms through WTO loopholes.

China also needs to rethink its sinister policy of turning U.S. Internet firms into police auxiliaries. It has recruited Cisco Systems to build a system of Internet routers that blocks Chinese users from foreign Web sites deemed unsuitable by Beijing's censors. It has ordered Yahoo to surrender the names of e-mail users who subsequently were imprisoned. It has allowed Google and Microsoft to offer services in China provided that they bow to censorship. China needs to understand that neither Congress nor U.S. public opinion is likely to allow American companies to carry on this collaboration forever. House hearings today featuring all four firms signal that China's Internet policy has joined the list of flash points in bilateral relations.

China's emergence as a global economic power over the past quarter-century has been a wonderful thing, lifting hundreds of millions of people out of poverty. But China is now too big to get away with a minimalist definition of its obligations to the outside world. Its currency policies affect global trade imbalances. Its intellectual property protections affect the value of copyrights worldwide. Its 100 million Internet users are bound to attract the attention of Western advocates of free speech and their allies in Congress. Riches and power bring broad responsibilities.

Canada's New PM Worries Gay Couples (USAT)

By Rebecca Cook Dube Special For

USA Today, February 15, 2006

TORONTO — As the winter sky darkened over City Hall, Michele Schultz and Christina Chora held hands and read their vows.

Standing before them in a long blue robe, Toronto wedding director Lois Code declared, “I do now, by the virtue of the authority vested in me by the province of Ontario, pronounce you legally married.”

Schultz, 37, and Chora, 39, have been together 20 years. Same-sex marriage has been legal in Toronto for almost three years and throughout Canada since July. Why tie the knot now? Schultz has a two-word answer: “Stephen Harper.”

Harper, sworn in this month as prime minister, is the first Conservative to lead Canada in 13 years. He has pledged to hold a vote in Parliament on overturning Canada's same-sex marriage law, which was approved last year and made Canada the fourth country in the world to legalize gay and lesbian marriage nationwide.

Gay and lesbian couples have been hurrying to wed ever since Harper started gaining momentum before last month's elections. The rush to marry has continued since Harper and the Conservatives defeated Prime Minister Paul Martin and his Liberal Party on Jan. 23.

“We were just worried that now he's in power, he would take away our legal right to get married,” Schultz said after the ceremony. “We always planned to do it, and we thought we'd better do it now.”

The law gives same-sex married couples the same rights and benefits as their heterosexual counterparts. If Parliament tosses out the legislation, gay and lesbian couples who haven't wed will lose the opportunity to get those benefits. Harper has said if the law is overturned, he will not try to invalidate same-sex marriages that already have taken place.

Code said her office has been busy marrying other same-sex couples who have the same concern. “A lot of people were going to wait for the summer and decided not to wait,” she said. “They refer to it as their shotgun weddings.”

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Toronto city spokesman Brad Ross said 90 same-sex couples got marriage licenses in January, up from 60 in January 2005. Toronto has issued 3,058 same-sex licenses, including 1,172 for U.S. residents, since Ontario legalized gay marriage in June 2003.

Harper won as a moderate, but he promised social conservatives he would reopen the same-sex marriage debate. As opposition leader last year, Harper proposed civil unions for same-sex couples rather than marriage — a compromise he called "the real Canadian way."

January's election gave Harper's Conservatives a plurality, but his party does not have a majority of seats in the House of Commons. It's unclear whether he has the votes to overturn same-sex marriage legislation. "It could go either way," said Laurie Arron, director of advocacy for Egale Canada, a national gay and lesbian rights organization.

A survey of lawmakers conducted this month by The Globe and Mail newspaper predicted same-sex marriage would narrowly survive a new vote.

Canada's public has given pollsters contradictory opinions. In December, a Leger Marketing Poll conducted for the Canadian Press found 55% of 2,013 Canadians polled said they wanted a new vote in Parliament. A poll of 2,034 Canadians conducted by Environics for the Canadian Broadcasting Corp. before the election found 66% didn't want the government to reopen the issue.

Both sides agree that if Parliament overturns the law, the courts will decide the matter. Arron said he believes the Supreme Court will protect same-sex marriage rights. Lower courts have said the constitution guarantees gay marriage. Harper has vowed not to override the Supreme Court (permitted under Canadian law) if it rules same-sex marriage is a fundamental human right.

Reopening the same-sex marriage debate has done damage, Arron said. "A lot of LGBT (lesbian, gay, bisexual and transgender) people felt included and felt like first-class citizens" when the law passed last summer. Harper's victory, he said, "already has taken away that sense of security."

Some business people worry the debate could tarnish Canada's image as a same-sex marriage haven. Ric Tremaine, president of the Gay Toronto Tourism Guild, runs an inn that specializes in gay and lesbian weddings and caters to Americans. "For small businesses and Toronto, it's an economic issue," Tremaine said. He's been telling potential customers, "If you've been thinking about doing it, maybe you ought to do it now."

Canadian same-sex marriages are not legally valid in the USA, although some American employers recognize them for purposes of benefits.

The first gay couple to be legally wed in Canada, Kevin Bourassa and Joe Varnell of Toronto, caution against a rush to the altar. "The biggest squabble about your wedding should be where you're going to put your aunt who's coming from Scotland, it shouldn't be about a political party," Varnell said.

Bourassa said he believes the law will survive: "We are confident that Canada will remain a beacon of equality and justice around the world."

Maybe so, but gay and lesbian couples continue to accelerate their wedding plans. Susan Green and Tiffany Veinot of Toronto are ready to dash to City Hall if their marriage rights look shaky. "There's a real political calculus for us," said Green, 41. "We want a big ceremony with friends, but we have to keep one eye on Stephen Harper."

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Williams, Jan

From: Williams, Jan

Sent: Wednesday, February 15, 2006 8:12 AM

To: Murray, Fred F. (TAX); Masugi, Ken (OPA); Block, Jonathan; Garrett, Paul; /o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford

Subject: The Morning Update: 2/15/06

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Attachments: tmp.htm
Importance: Low

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EST The White House | Washington, DC

11:35 am: THE PRESIDENT participates in a meeting on Health Savings Accounts

EST Wendy's International, Inc. Corporate Headquarters | Dublin, Ohio

12:00 pm: THE PRESIDENT makes Remarks on Health Care

EST Wendy's International, Inc. Corporate Headquarters | Dublin, Ohio

3:00 pm: THE PRESIDENT participates in Signing of H.R. 4636 - The Federal Deposit Insurance

EST Reform Conforming Amendments Act of 2005

The White House | Washington, DC

From Today's Morning Headlines

Secretary Snow Writes About The Importance Of The President's Pro-Growth Tax Cuts To Maintaining The Economy's Momentum. "The role of government is to put in place the foundations for American

The Economy's Momentum: "The role of government is to put in place the foundations for American innovators and workers to do the real work that propels the economy forward. A pillar of that foundation is the low tax rates on capital gains and dividends that ultimately translate into higher living standards for all Americans.
Congress owes it not just to the 91 million Americans who own equities, but to all Americans who benefit from a strong and growing economy to keep this pillar of growth in place and extend the 15% rate on capital gains and dividends.
<http://online.wsj.com/article/SB113996707977774174.html?mod=opinion_mai
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<http://news.yahoo.com/s/ap/20060214/ap_on_bi_go_ec_fi/economy;_ylt=Ao3q
eNHdjqaClgO5BTuGjOpu24cA;_ylu=X3oDMTA5aHJvMDdwBHNlYwN5bmNhdA> With autos included, retail sales rose by 2.3 percent, the best showing in 20 months. Overall retail sales had risen by a tiny 0.4 percent in December. The overall increase was more than double what economists had been forecasting." (Martin Crutsinger, "Retail Sales Post Strong Gains In January," The Associated Press, 2/14/06)

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<http://news.yahoo.com/s/ap/20060214/ap_on_re_us/katrina_tulane_hospital
;_ylt=Ak.u0fwgiDJXNpQIQDGK8ZZG2ocA;_ylu=X3oDMTA5aHJvMDdwBHNlYwN5bmNhdA--
> More than 100 nurses and doctors in lab coats and scrubs performed the wave in celebration, prompting Mayor Ray Nagin to ask them what was in their coffee. 'I don't know what you're taking at Tulane, but I want some of that,' he said." (Rukmini Callimachi, "New Orleans' Tulane Hospital Reopens," The Associated Press, 2/14/06)

Under Secretary Of State Nicholas Burns Says The International Community Is United In Calling For Iran To Turn Back On Its Nuclear Program. CBS' DAVID MARTIN: "Iran announced to the world today it has begun small-scale enrichment of uranium. That's still a long way from having enough material to build a bomb, but Nicholas Burns, the State Department's number three official, says that tiny step has large consequences." UNDER SECRETARY BURNS: "That is a bright red line that the international community has laid before the Iranians. Countries all over the world have voted to say that Iran should turn back from the step they took today." Martin: "They're not exactly making a secret that they've begun this research on enriching." Burns: "No, they're not. In fact, they're crowing about it. They've made a public announcement about it." (CBS' "Evening News," 2/14/06)

U.S. Trade Ambassador Rob Portman Highlights Efforts To Hold China Accountable In Trade Relations. "The Bush administration proposed Tuesday to establish a China Enforcement Task Force under the U.S. Trade Representative as a legal counterweight to Chinese exports that the government says benefit from illegal state subsidies and lax controls on counterfeiters. U.S. Trade Representative Rob Portman accused China of failing to respect intellectual property rights, environmental concerns and labor standards, and for failing to fully open its markets to foreign competitors. ... 'U.S. policy must now shift to treating China as a mature trading partner that should be held accountable for its actions and required to live up to its responsibilities <http://www.usatoday.com/printedition/money/20060215/3b_china_trade15.ar
t.htm> ,' Portman said in a letter to U.S. Rep. Charles Rangel, D-N.Y., that accompanied the report to the House Ways and Means Committee." (Elliot Blair Smith, "China Task Force To Wield Trade Rules," USA Today, 2/14/06)

The President And Mrs. Bush Celebrate Valentine's Day With A Social Dinner At The White House. "Some women get flowers, others jewelry. This year, first lady Laura Bush got a formal dinner and an intimate concert by a well-known crooner from her valentine. For the second year in a row, President Bush and his wife spent the lovers' holiday formally entertaining about 100 friends and associates at the White House.
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Singer Michael Feinstein capped the romantic evening by serenading the crowd, which included new Supreme Court Justice Samuel Alito, actor Chuck Norris - wearing black cowboy boots with his tux, of course - singer Wayne Newton and Sens. Mitch McConnell, R-Ky., and Joe Lieberman, D-Conn." ("Bushes, Friends Celebrate Valentine's Day," The Associated Press, 2/14/06)

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President Welcomes University Of Texas Longhorns, 2005 NCAA Football Champions, To The White House <http://www.whitehouse.gov/news/releases/2006/02/20060214.html>

Statement By The Office Of The Vice President <http://www.whitehouse.gov/news/releases/2006/02/20060214-2.html>

Ask The White House - Director Of The National Economic Council, Al Hubbard, Discusses HSAs And Affordable And Accessible Health Care <http://www.whitehouse.gov/ask/20060214.html>

Press Briefing By Scott McClellan
<http://www.whitehouse.gov/news/releases/2006/02/20060214-1.html>

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Sent:	Thursday, February 16, 2006 8:05 AM
To:	USDOJ- Office of Public Affairs
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Attachments:	agnb060216.pdf; agnb060216.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: THURSDAY, FEBRUARY 16, 2006 7:45 AM EST

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TERRORISM NEWS:

DOJ Opens Internal Probe Of NSA Surveillance Program. The Washington Post (2/16, A4, Eggen, 744K) reports, "The Justice Department's Office of Professional Responsibility has opened an internal investigation into the department's role in approving the Bush administration's warrantless domestic eavesdropping program, officials said yesterday. … In a letter to Rep. Maurice D. Hinchey (D-N.Y.), Office of Professional Responsibility counsel H. Marshall Jarrett said that his office has 'initiated an investigation' into the Justice Department's role in the NSA surveillance program. The letter, dated Feb. 2 but not received by Hinchey until yesterday, indicates that the probe will include 'whether such activities are permissible under existing law.' But Justice Department spokeswoman Tasia Scolinos said the inquiry will be more limited: 'They will not be making a determination on the lawfulness of the NSA program but rather will determine whether the department lawyers complied with their professional obligations in connection with that program.' … Scolinos also said that 'OPR routinely looks into issues of this kind.'"

The AP (2/16, Barrett) reports, "Marshall Jarrett, the office's counsel, acknowledged the investigation in a letter to Rep. Maurice Hinchey, D-N.Y. Jarrett's letter did not specify which of the agency's actions or employees are being examined. … 'You asked this office to investigate the Department of Justice's role in authorizing, approving and auditing certain surveillance activities of the National Security Agency, and whether such activities are permissible under existing law. For your information, we have initiated an investigation,' Jarrett wrote." The AP notes, "Hinchey is one of a few dozen Democratic lawmakers who have been highly critical of the eavesdropping program first revealed in December. … 'We're very happy that the OPR is doing it, because it seems on the surface certain illegal actions may have taken place,' said Hinchey, one of Congress' most outspoken critics of President Bush." The AP notes, "Justice Department spokesman Brian Roehrkasse said the office routinely looks into issues of this kind. … 'They will not be making a determination on the lawfulness on the NSA program, but rather will determine whether the department's lawyers complied with their professional obligations in connection with examining this program,' Roehrkasse said."The New York Times (2/16, Shane, Lichtblau, 1.19M) reports that the review "is the first formal government inquiry into the surveillance program since its existence was reported by The New York Times in December. … The Justice Department review was begun despite public assurances by Attorney General Alberto R. Gonzales and President Bush that the program is legal and closely monitored by government lawyers."

Gonzales Says Ashcroft, Comey Testimony Will Be Limited. The Washington Post (2/16, A4, Eggen, 744K) reports, "Attorney General Alberto R. Gonzales signaled in an interview with The Washington Post yesterday that the administration will sharply limit the testimony of former attorney general John D. Ashcroft and former deputy attorney general James B. Comey, both of whom have been asked to appear before the Senate Judiciary Committee regarding the program. 'Clearly, there are privilege issues that have to be considered,' Gonzales said. 'As a general matter, we would not be disclosing internal deliberations, internal recommendations. That's not something we'd do as a general matter, whether or not you're a current member of the administration or a former member of the administration.' 'You have to wonder what could Messrs. Comey and Ashcroft add to the discussion,' Gonzales added."

Specter Challenges Roberts To Offer Legislation On NSA Surveillance. Roll Call (2/16, Pierce) reports, "Senate Judiciary Chairman Arlen Specter (R-Pa.) challenged Senate Intelligence Chairman Pat Roberts (R-Kan.) to put his money where his mouth is on the issue of how Congress should act on revelations that President Bush authorized warrantless eavesdropping on domestic electronic communications. Prompted by a reporter to respond to Roberts' recent comments that the Intelligence panel is better suited to deal with any legislation regarding the National Security Agency program, Specter replied, 'I would agree with him, and I would defer to him. Where's the legislation?' Specter is expected this week to rollout his own legislation to allow the Foreign Intelligence Surveillance Court to look into the legality of the program, and he has been holding hearings, most recently with Attorney General Alberto Gonzales, to try to determine the scope of the program and whether Congress needs to act more forcefully." Specter

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"indicated that he is not inclined to delay his own bill while Roberts decides what, if anything, to do."

WPost Praises Efforts To Draft Legislation. An editorial in the Washington Post (2/16, A26, 744K) editorializes, "Congress is feeling its way gingerly as it contemplates the Bush administration's extralegal program of domestic surveillance. That's not surprising. The administration, which kept the program secret from all but eight members of Congress until recently, insists that any congressional inquiry could help the terrorists who are the ostensible targets of the surveillance. Moreover, given changes in technology, it may not be easy to write a law that both permits surveillance activities that make the country safer and protects civil liberties and congressional oversight. Nonetheless, those twin goals must be served, and the Republicans and Democrats looking for ways to do so are on the right track." The Post concludes, "As much as the administration would prefer otherwise, it is not acceptable simply to have this program continue in the existing legal and regulatory vacuum."

Will Laments Lack Of Checks On NSA Program, Calls For Congress To Authorize Surveillance. George Will writes in the Washington Post (2/16, A27, "The next time a president asks Congress to pass something akin to what Congress passed on Sept. 14, 2001 -- the Authorization for Use of Military Force (AUMF) -- the resulting legislation might be longer than Proust's 'Remembrance of Things Past.' Congress, remembering what is happening today, might stipulate all the statutes and constitutional understandings that it does not intend the act to repeal or supersede. But, then, perhaps no future president will ask for such congressional involvement in the gravest decision government makes -- going to war. … Administration supporters incoherently argue that the AUMF also authorized the NSA surveillance -- and that if the administration had asked, Congress would have refused to authorize it." The argument "that the AUMF contained a completely unexpressed congressional intent to empower the president to disregard the FISA regime is risible coming from this administration. It famously opposes those who discover unstated meanings in the Constitution's text and do not strictly construe the language of statutes." Will adds, that immediately after 9/11, Bush "should have begun surveillance of domestic-to-domestic calls -- the kind the Sept. 11 terrorists made. But 53 months later, Congress should make all necessary actions lawful by authorizing the president to take those actions, with suitable supervision. It should do so with language that does not stigmatize what he has been doing, but that implicitly refutes the doctrine that the authorization is superfluous."

Kondracke Says Administration Should Help Draft Legislation. Morton Kondracke writes in Roll Call (2/16), "Congress seems to be moving toward a sensible consensus on President Bush's secret National Security Agency surveillance program: Make it legal. Now, Bush should take 'Yes' for an answer. So far, the administration seems stuck on using the president's 'inherent' constitutional authority to tap suspected terrorists, but Bush would be on stronger ground if he agreed with Congress on a plan to establish its legality. Some Democrats still want to investigate Bush for what they see as his breaking the law with the program. But most now seem to accept that it's a valuable anti-terrorism tool that ought to be continued." Kondracke adds that Gonzales "indicated to the Senate Judiciary Committee that he'd listen to suggestions from Congress on legal changes. He ought to sit down with Congressional leaders and help write them."

US Seeks Extradition Of al-Qaeda Suspect From Canada. Reuters (2/16) reports, "The United States has formally requested the extradition of a Canadian man accused of supplying weapons to al Qaeda, but the process could take years, officials said on Wednesday." Reuters continues, "U.S. authorities say Abdullah Khadr, 24, also conspired to kill Americans abroad. Khadr was arrested in Toronto in December two weeks after returning to Canada from Pakistan." Reuters adds, "Khadr is the eldest son of Ahmed Said Khadr, who was an alleged al Qaeda financier and close friend of Osama bin Laden. He was killed in a 2003 gun battle in Pakistan. … Brother Omar Ahmed Khadr is the only Canadian held at the U.S. prison camp at Guantanamo Bay, Cuba. … Canada's Justice Department now has 30 days to approve the U.S. request and if it says yes, a court hearing will be held to consider the extradition. Khadr can appeal that decision all the way to the Supreme Court, and it could be a long time before a final ruling is made."

Judge Allows Moussaoui Back Into Courtroom For Juror Questioning. The New York Times (2/16, Lewis, 1.19M) reports, "Zacarias Moussaoui resumed his place in a federal courtroom here on Wednesday and sat quietly as lawyers questioned potential

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jurors after he apparently reversed course and agreed not to disrupt the proceedings." This after Moussauoi was eject from the courtroom a day earlier after he refused to heed the judge's warnings "to defer to his court-appointed lawyers and stop making speeches about his case."\

The Washington Times (2/16, Seper, 90K) reports, "U.S. District Judge Leonie Brinkema, who Tuesday barred Moussaoui from ongoing jury selection in the trial's sentencing phase, offered no explanation for her change of mind -- and made no mention of his prior behavior to potential jurors in the death-penalty case."

The AP (2/16, Sniffen) reports that Judge Brinkema "had barred Moussaoui from jury selection Tuesday because he wouldn't promise to stop giving insult-laden speeches. … Brinkema did not explain her change of mind in court, but she had said the day before that she might reconsider if Moussaoui decided to alter his behavior. Even Moussaoui's court-appointed defense lawyers did not know why she changed her mind." The AP adds, "Fifteen of the 24 prospective jurors interviewed Wednesday were qualified for service - three over defense objections and one over government protest. Identified only by number, they were ordered to return March 6 when lawyers will exercise peremptory - or unexplained - strikes to whittle the pool to 12 jurors and six alternates. More potential jurors will be selected between now and March 6."

The Richmond Times-Dispatch (2/16, Bradley) reports, "Moussaoui exhibited none of the disruptive behavior that has characterized earlier courtroom appearances. Clad in a jail-issued green jumpsuit and white skullcap, he sat alone at a table behind his court-appointed defense team. … But in a continued show of defiance, he remained seated when the court clerk called out 'all rise' as Brinkema left the bench. He muttered 'God curse America' to spectators as federal marshals led him out of the courtroom at the lunchtime break. … He never spoke to his lawyers, with whom he has refused to cooperate. He once asked marshals for a drink of water and peered into the cup as if the drink had been tainted before taking a sip."

Pentagon Probe Found No Pre-9/11Information On Atta. The Washington Times (2/16, Scarborough, 90K) reports, "The Pentagon's top intelligence official told Congress yesterday that his investigation turned up no chart or photo depicting hijacker Mohamed Atta before the September 11, 2001, terrorist attacks, but a Republican lawmaker accused the Bush administration of ignoring evidence." The testimony from Stephen Cambone, undersecretary of defense for intelligence, "did not appear to answer the question about whether Able Danger singled out Atta as an al Qaeda-connected operative more than a year before the attacks." Rep. Curt Weldon "has been on a campaign to prove that such an identification was made. 'There has been no investigation,' Mr. Weldon said during a hearing in which several members deferred their 10-minute allotment to him. 'There has been no analysis by the 9/11 commission or anyone else.'"

Documents Reveal Internal Al Qaeda Struggles. USA Today (2/16, Diamond, 2.31M) reports, "Recently captured al-Qaeda documents portray terrorist leaders struggling over strategy, facing challenges by subordinates and issuing guidelines listing minimum qualifications for terrorism training camp supervisors. Drawn from a classified database called 'Harmony' compiled by the U.S. Special Operations Command, the documents were disclosed in a report released this week by West Point's Combating Terrorism Center." The documents "show al-Qaeda is committed to waging a holy war against 'dictators of the Earth and secular groups' that will end only when 'everyone believes in Allah.'"

Holy Land Foundation Prosecutors Mistakenly Disclosed Classified Records. The Los Angeles Times (2/16, Krikorian, 958K) reports, "Federal officials in Dallas mistakenly disclosed classified counter-terrorism information in a breach of national security that could also threaten one of the country's biggest terrorism prosecution cases, newly unsealed court records show. The blunder exposed secret wiretap requests that commonly include classified information from U.S. agencies, foreign intelligence reports and confidential sources. The criminal case involves officials of the Texas-based Holy Land Foundation for Relief and Development, a now-defunct Islamic charity with alleged ties to terrorists. Its assets were frozen by the Treasury Department three months after the Sept. 11 attacks." The Times adds, "Disclosure that the government erred in sharing secret intelligence on the case came to light when court files were unsealed this week. The mistake occurred nearly a year ago but was not previously

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disclosed. KTVT-TV in Dallas first reported the security breach late Tuesday."

CIA Operative Says He Could Have Captured Bin Laden. The Washington Post (2/16, C1, Leiby, 744K) reports on Gary Berntsen, a CIA field operative who was dispatched to Afghanistan in October 2001. By Berntsen's telling, "he could have gotten Osama bin Laden -- if only they'd given him the troops and the time to get the job done." In his book "Jawbreaker" Berntsen provides a "score-settling insider's account of how bin Laden eluded capture at Tora Bora that December."

Guantanamo Prison Said To Be "At A Crossroads." The Christian Science Monitor (2/16, Richey, 61K) reports that the US prison camp at Guantanamo Bay "is at a crossroads. Will it return to its roots: a kind of rights-free zone where Al Qaeda suspects are interrogated with little judicial oversight? Or will it become an ever stronger magnet for vigorous legal challenges, based on alleged violations of international human rights, the Geneva accords, American law, and US constitutional protections?" The matter "is before two key courts, whose rulings will help define not just the scope of judicial oversight at Guantánamo, but perhaps also the role of America's system of divided government in wartime." The Monitor adds, "The first indication of how the courts may view Guantánamo's future role will probably come from the Supreme Court. On Friday, the justices are scheduled to consider at their closed-door conference a Bush administration motion that the high court dismiss the case of Salim Ahmed Hamdan, a former driver for Osama bin Laden. Mr. Hamdan's case is one of the most important of the high court's current term. It is a test of the legality of President Bush's military commission process."

Al Qaeda Training Camp Photos To Be Key US Evidence At Hayat Trials. In a widely-distributed story, the AP (2/16, Thompson) reports, "The government has satellite images of a suspected al-Qaida training camp that federal prosecutors say was attended by" Hamid Hayat, and the photos are "expected to be a key part of the government's case" against Hayat and his father, Umer. The AP notes, "A jury was seated Wednesday for the trial of Hamid Hayat," and "opening statements were expected to begin Thursday." Umer Hayat's "portion of the trial is to begin next week before a separate jury that was seated Tuesday."

Al Arian Retrial Will Begin In April If US Decides To Proceed. The AP (2/16, Stacy) reports, "Sami Al-Arian's second trial -- if there is one -- will begin sometime in April, according to a federal court filing Wednesday. Federal prosecutors haven't announced definitively whether they will retry the former University of South Florida professor on remaining charges of aiding Palestinian terrorists," and "also still at issue is who would represent Al-Arian if there is a second trial. His attorneys, William Moffitt and Linda Moreno, asked the court last month to allow them to withdraw from the case. A U.S. magistrate has not yet ruled on the request."

Blair Wins Parliamentary Vote On Anti-Terror Law. The New York Times (2/16, Cowell, 1.19M) reports that British Prime Minister Tony Blair "secured victory in the House of Commons on Wednesday in a vote to expand counterterrorism laws by making 'glorification' of terrorism a criminal offense. Legislators voted 315 to 277 in a ballot that pitted Mr. Blair's Labor Party against the Conservative and Liberal Democratic opposition. Seventeen Labor dissidents voted against the measure.'

The Washington Post (2/16, A14, Sullivan, 744K) reports, "The measure, called the terrorism bill, still must be approved by the House of Lords, which voted last month to strip the 'glorification' clause out of it. It was unclear whether the Lords would continue to object to the proposal on grounds that it infringes on civil liberties or back down in the face of Wednesday's clear margin of victory."

The Los Angeles Times (2/16, Daniszewski, 958K) reports, "Despite its earlier opposition, the House of Lords is expected to defer to the more powerful House of Commons when it takes up the measure again. The two chambers must reach agreement for it to become law."

German Court Overturns Law On Shoot-Down Of Hijacked Planes. The Washington Post (2/16, A15, Whitlock, 744K) reports, "Germany's highest court overturned a law Wednesday that had authorized the government to shoot down hijacked civilian airliners, ruling that it was unconstitutional to sacrifice the lives of passengers to protect potential targets of a terrorist attack. … The law was challenged by opponents who argued that the constitution forbids the military from endangering the lives of German citizens or exercising domestic police powers." The Post adds, "German lawmakers from the ruling party, the

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Christian Democratic Union, said they would try to amend the constitution to revive the law, but many other members of Germany's coalition government are opposed to that. Changing the constitution would require a two-thirds vote by Parliament."

Escaped Al Qaeda Prisoners Becoming Folk Heroes In Yemen. The New York Times (2/16, Fattah, 1.19M) reports, "Almost two weeks after 23 prisoners suspected of terrorist ties broke out of a maximum-security prison here, the fugitives are emerging as unlikely folk heroes: the men who thumbed their noses at the Yemeni government and, more significantly, at America. … A nationwide manhunt continued Wednesday as the Yemeni government offered a $25,000 reward for information leading to the arrest of the 13 people suspected of being operatives of Al Qaeda among the escapees. Side streets leading to the prison remained blocked off, while security men patrolled in and around the mosque where the men emerged."

PATRIOT ACT:

Feingold May Try To Amend Patriot Act. The AP (2/16, Kellman) reports, "Faced with losing his bid to block the USA Patriot Act, Sen. Russell Feingold is preparing a last-ditch strategy to amend the legislation with stronger safeguards against government intrusion and more frequent congressional oversight." The AP continues, "The effort is unlikely to succeed. Most senators, including the leaders of his party, are expected to vote for the White House-brokered deal that supporters say makes the most changes possible without jeopardizing passage before the terrorism-fighting law expires March 10. … 'The outcome here is absolutely predetermined,' said Majority Leader Bill Frist, R-Tenn., expressing frustration with the Feingold-led delay. 'It's going to pass with overwhelming support.' … Still, Feingold, D-Wis., stuck to his objections, saying protracted talks with the White House over the law's protections for civil liberties had produced only a 'fig leaf' to cover weaknesses that leave people vulnerable to government intrusion. … 'What we are seeing is quite simply a capitulation to the intransigent and misleading rhetoric of a White House that sees any effort to protect civil liberties as a sign of weakness,' Feingold said during a floor speech Wednesday." The AP notes, "Without any apparent supporters for his filibuster, Feingold agreed to Frist's insistence on holding a procedural test vote Thursday that would clear the way for Senate debate on the legislation. Frist said the Senate would hold its final votes at the end of the month, when Congress returns from a weeklong recess. … During the process, Feingold will try to introduce several amendments that would strengthen protections for civil liberties. One would set a four-year expiration date on the use of so-called national security letters under the Patriot Act - secret government requests for information, according to Feingold's office. … Another would require the government to notify the subject of a secret search within seven days or obtain court permission to maintain the secrecy for a longer period, rather than the 30-day requirement in the legislation being considered."

Knight Ridder distributes a Milwaukee Journal Sentinel story (2/16, Gilbert) that reports, "Feingold was the only senator to vote against the act in 2001. But other lawmakers later joined him in criticizing the law and calling for curbs on the government's new police powers. Late last year, four Republicans joined Feingold and every other Democrat in the Senate in blocking renewal of the bill, saying it didn't do enough to protect civil liberties. … But in recent weeks, the White House agreed to some relatively small changes in the measure. As a result, Feingold's four Republican allies and a number of Democrats dropped their opposition, making its passage inevitable. … Feingold, however, has vowed to use every parliamentary move against the proposal. After he began his filibuster Wednesday, an agreement was struck to put off reauthorization of the Patriot Act until March."

CQ (2/15, Sandler) notes Feingold "drew a frustrated response from Majority Leader Bill Frist," who "referred to Feingold's filibuster…as one of several 'insufferable attempts to put off the nation's business.' … Feingold expressed a similar sense of frustration. He said he had tried all day long, to no avail, to get Frist to agree to let him offer a few amendments," which he hopes to bring to a vote today. However, "it does not appear that will happen. The Senate will vote Thursday morning on limiting debate on the motion to proceed to the bill changing the conference report," and "after that, a cloture vote on the bill would come Feb. 28, and then a vote on final passage March 1."

HOMELAND RESPONSE:

Bush To Seek Additional $4.2 Billion For Louisiana Recovery. The Los Angeles Times (2/16, Gaouette, 958K) reports, "In an unexpected breakthrough in

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negotiations with Louisiana officials, the Bush administration announced Wednesday that President Bush would ask Congress for an additional $4.2 billion to help the state repair and rebuild homes battered by Hurricanes Katrina and Rita. Federal support for housing reconstruction, which has been the subject of protracted negotiations between Washington and local officials, is considered a prerequisite for wider recovery because it opens the way for thousands of displaced people to return to New Orleans and surrounding areas. … Louisiana officials had complained that the administration wasn't providing enough housing help to allow the region to recover fully. On Wednesday, there was nothing but praise for the president." In thanking President Bush Wednesday, Gov. Kathleen Babineaux Blanco "pledged…to use the money to build a 'safer and smarter Louisiana.'"

The New York Times (2/16, Dao, Drew, 1.19M) reports, "The $4.2 billion request was a turnabout for the administration, which three weeks ago rejected legislation proposed by Representative Richard H. Baker, a Louisiana Republican, to create a nonprofit group to buy out flooded homes, the plan favored by Ms. Blanco. … Last week, Ms. Blanco threatened to try to block a federal sale of oil and gas leases off the Gulf Coast, saying it was 'time to play hardball.' But in the past week, state officials said, Donald E. Powell, the president's coordinator for Gulf Coast rebuilding, became convinced that the federal government should do more to help homeowners in the flood plain who did not have flood insurance."

More Funding, Property Buyout Plan Sought By State Lawmakers. CQ (2/15, Higa) reported, "Blanco praised Bush for requesting the additional money. But she also urged the administration to drop its opposition to legislation (HR 4100) offered by Rep. Richard H. Baker, R-La., that would create a government program to buy and redevelop hurricane-damaged properties. Baker, who along with Louisiana Sens. Mary L. Landrieu, a Democrat, and David Vitter, a Republican, testified Wednesday to the Senate Banking, Housing and Urban Affairs Committee on his plan and Louisiana's needs, released a statement reiterating 'the need for a comprehensive plan that includes property buyouts and federal resources to make it work.'" Meanwhile, Landrieu said, "The Bush administration…previously promised an additional $18 billion in relief. 'The $4.2 billion proposed today represents about 23 percent of that sum,' Landrieu said. 'I look forward to seeing the administration's plans for the remaining 77 percent.'"

Blanco Puts Aside Plan To Shrink New Orleans Government. Meanwhile, the AP (2/16, Deslatte) reports Blanco "abandoned for now her push to shrink New Orleans' government after the proposal ran into strong opposition during a special legislative session on hurricane relief. … The measure by House Speaker Joe Salter would have consolidated the city's century-old network of two elected sheriffs, two elected clerks of court and two court systems. It passed the House overwhelmingly and was scheduled for a hearing Wednesday in a Senate committee." The AP notes, "Blanco is continuing to press other proposals, including a measure to consolidate Louisiana's levee boards under state control."

Some Democrats Question Blanco's Viability, Push For Breaux To Enter Race. Roll Call (2/16, Whittington) reports, "As a House committee marked up the final version of the Hurricane Katrina report Wednesday on Capitol Hill, there was growing concern among Louisiana Democrats over the viability of Gov. Kathleen Blanco's (D) political future and whether the party can find another candidate to coalesce behind before the 2007 gubernatorial election. The first evidence of that movement became public this week, as pressure began to mount on former Sen. John Breaux (D) to consider re-entering political life and running for governor next year. There is little question that Breaux, who retired from the Senate in 2004 and remains widely popular back home, would be difficult to beat if he runs. However, many veteran Bayou State politicos remain doubtful that he has the desire to get back in the game." Roll Call adds, 'Some of the pressure for Democrats to find a consensus alternative to Blanco is being fueled by the behind-the-scenes machinations of Rep. Bobby Jindal (R-La.), who narrowly lost to Blanco in a 2003 runoff and is preparing for another run next year."

Chertoff, Rumsfeld Reportedly Don't Use E-Mail. Newsweek (2/16, Hosenball) reports in a web exclusive, that "congressional investigations of government responses to Hurricane Katrina have revealed that two of the nation's key crisis managers, the secretaries of Defense and Homeland Security, do not use e-mail." Newsweek continues, "The House committee established to investigate Katrina was 'informed that neither Secretary Chertoff nor Secretary Rumsfeld use e-mail,' reported Reps. Charlie Melancon and William Jefferson, two Louisiana Democrats who participated in the inquiry despite a boycott by other

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House Democrats who felt that the inquiry was too partisan. … Spokesmen for the two officials maintain that Rumsfeld and Chertoff were kept informed during Katrina the same way as they keep in touch during other crises: through aides and a variety of other communications methods. 'This is a large organization with a very competent staff that that kept the secretary well informed on Defense Department operations throughout Katrina,' Bryan Whitman, a Defense spokesman, told NEWSWEEK. Brian Besanceney, Chertoff's top spokesman, said: 'Every senior DHS official knows that, if they have important information to convey to the secretary, they go to his office or pick up the phone.'"

Senate Panel Blasts Chertoff's Handling Of Hurricane Katrina Disaster. Homeland Security Secretary Michael Chertoff faced harsh criticism yesterday before a Senate panel for his department's performance during and after Hurricane Katrina. CBS also interviewed Chertoff, who did not respond directly when asked if he had offered to resign over the Katrina disaster. Meanwhile, a House panel released a report that criticized all levels of government, calling the response to the storm "a national failure, where leaders failed to lead."

ABC World News Tonight (2/15, story 4, 2:20, Sawyer) reported House and Senate Committees "blasted the Federal Government's response to Hurricane Katrina, calling it a monumental failure. They aimed their anger at the Bush Administration's senior emergency management official, the head of Homeland Security, Michael Chertoff, charging that faster action, better planning and better communication could have spared lives." ABC (Thomas) added, "There was a stunning revelation that the top two officials in charge of responding to Katrina, former FEMA Director Michael Brown and Secretary Chertoff, were at odds at the moment of crisis." Sen. Collins: "I have an e-mail in which your staff is complaining to Michael Brown's staff that you have lost all contact with Michael Brown for two days. And this is a critical two days. Michael Brown testified before this committee that he found your phone calls to be annoying, disruptive." Thomas: "Lack of communication and coordination was a constant theme. Chertoff says he found out the levees broke in New Orleans, a full day after FEMA officials knew." House Republicans also "issued a 600-page report that can be summed up in one word -- failure, and at every level."

The CBS Evening News (2/15, story 5, 1:55, Schieffer) reported, "Chertoff was getting beaten up by senators from both parties, one of them saying the disaster workers ran around like Keystone cops." CBS (Attkisson) added the senators were "methodically challenging Chertoff on his mindset before, during, and after Katrina's landfall, like why he went to a bird flu conference the day after Katrina hit." Chertoff was "also criticized in a scathing report issued on the House side today and it was Republican Tom Davis who lambasted the White House." Rep. Tom Davis, Virginia: "I think the White House attitude is that they were monitoring this and they were disengaged and this was Homeland Security's responsibility. And I think that's a copout to a great extent."

NBC Nightly News (2/15, story 3, 2:15, Reid) reported, "On day one of Hurricane Katrina, as water poured into New Orleans, Secretary of Homeland Security Michael Chertoff testified today he was unaware the levies had breached, even though dozens of emails show many other government officials did know." Chertoff "told frustrated senators he didn't learn of the breeches until the next morning but still decided to stick to his schedule and fly to Atlanta for a conference on avian flu."

The CBS Evening News (2/15, story 7, 1:55, Schieffer) interviewed Chertoff following his senate hearing. CBS (Schieffer) reported Chertoff discussed "what he conceded was a very rough day. Well, Mr. Secretary, you took quite a pounding up there today. Was it deserved?" Michael Chertoff, Secretary of Homeland Security: "This terrible disaster occurred on the first six months of my watch, and I've got to take responsibility for it. And I'm interested in hearing the criticism, but what I'm really interested in is using that criticism as a basis to get ourselves prepared for what is around the corner this next hurricane season or some other natural or manmade disaster." Schieffer: "Well, let me just put it to you this way: There are a lot of rumors that your job is on the line here. Have you actually offered your resignation to the President?" Secretary Chertoff: "You know, the President understands, of course, and I understand, that I serve at his pleasure. As long as he thinks that I make a contribution, I am happy to serve him."

The New York Times (2/16, Lipton, 1.19M) reports Chertoff "endured two and a half hours of intense personal criticism Wednesday by Senate Republicans and Democrats investigating the response to Hurricane Katrina, several of whom said he bore responsibility for a multitude of errors that prolonged the suffering of Gulf Coast residents. The rebuke was a painful turnabout for Mr. Chertoff, a former federal judge who was unanimously confirmed a year ago to take

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over the department and until recently had largely escaped blame for the government's flawed response to the storm." Chertoff "acknowledged that he and his department had failed to respond adequately to the disaster, citing management lapses, improper deployment of staff and the unreliable delivery of disaster relief supplies. He said that his department had moved far too slowly to evacuate the refugees who packed the New Orleans Superdome and, later, the city's convention center." The Times notes, "Both Democrats and Republicans on the committee told him they appreciated his candor and willingness to accept blame, contrasting it with the testimony on Friday by Mr. Brown."

The Los Angeles Times (2/16, Neuman, Chen, 958K) reports while fielding "a withering barrage of congressional criticism," Chertoff "vowed to do better, referring to an array of reforms that he has initiated. Sen. Susan M. Collins (R-Me.), chairwoman of the Senate Committee on Homeland Security and Governmental Affairs, said in her opening remarks that her panel's latest hearing was intended not only to learn why Chertoff's vast agency was 'plagued by indecision and delay,' but also to avoid a repeat of the fiasco." While "he accepted responsibility for his department's shortcomings," Chertoff "also pointed out the extraordinary nature of the hurricane and urged lawmakers to not overlook 'things that succeeded.'" Chertoff added "that within months of taking over the newly created department, he set out to streamline its operations, targeting Oct. 1 as a deadline. 'Unfortunately, Katrina didn't wait until Oct. 1,' he said." The Times adds, 'Today's hearing served as the latest reminder of how his department's response to Katrina has tarnished Chertoff's reputation just a year after he took office. … Now some question whether he can survive in the job."

Under the headline "Homeland Security Misled Before Storm, Chertoff Says," the Washington Times (2/16, Hudson, 90K) reports Chertoff "said key officials were informed of the possible devastation of Hurricane Katrina days before the storm hit but were misled on emergency precautions in place." He "described his conversations with ousted Federal Emergency Management Agency (FEMA) director Michael D. Brown as 'heated' more than a day after the storm struck and the New Orleans levee system failed. In those discussions, Mr. Chertoff said he was 'nudging, prodding, poking and ultimately raising my voice about buses on Wednesday, [which] led to a decision by the deputy and me on Thursday that we needed to simply take this away and get it done ourselves.' … Sen. Susan Collins, Maine Republican and chairman of the Senate Homeland Security and Government Oversight Committee, said the biggest mistake was in keeping Mr. Brown on the job despite his objections to his agency's restructuring and its role in emergency planning."

USA Today (2/16, Hall, 2.31M) reports, "Chertoff told senators he accepts responsibility for 'many lapses' during the catastrophe," but "deflected some blame to former Federal Emergency Management Agency director Michael Brown. He said he would not have named Brown to lead the response if he had known then 'what I know now about Mr. Brown's agenda.'" Chertoff also "defended his decision to fly to Atlanta for an avian flu meeting the day after the storm. He insisted it wasn't proof he was disengaged from the crisis."

Reuters (2/16, Smith) reports, "The report released by a US House of Representatives panel was a rare criticism of the administration by congressional Republicans. It said the response to the hurricane, which killed 1,200 people and destroyed about 300,000 homes, was 'a failure of initiative. It was a failure of leadership.'" The report added that the President "did not receive adequate advice and counsel from senior staff during the crisis. 'Federal agencies, including (the Department of Homeland Security), had varying degrees of unfamiliarity with their roles and responsibilities,' the report concluded." In testimony before the Senate, "Chertoff noted Bush declared the Gulf coastal region a disaster area before the storm hit landfall and said that action was unprecedented. Despite preparations for the storm, he said the agency was quickly overtaken by events. 'We now know our capabilities were simply overwhelmed by the magnitude of this storm,' Chertoff said."

Report Finds DHS Suffered From Staffing Shortages. In its "Federal Diary" column, the Washington Post (2/16, B2, Barr, 744K) reports that one of the "biggest" ways "Katrina overwhelmed the Department of Homeland Security…involved staffing. When the monster storm hit, the department was short-handed. That's one of the key findings in a report released yesterday by the House committee that investigated preparations for and the response to Katrina, which hit New Orleans and much of the Gulf Coast on Aug. 29. … The staffing woes were particularly evident at the Federal Emergency Management Agency, which has about 2,500 full-time employees." Meanwhile, "FEMA scored second to last among government agencies in a 2005 survey of job satisfaction, the report notes. The report also says Homeland Security officials 'were unable to maintain their ranks of disaster professionals, through employee retention,

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development or recruitment, and this failure hindered the response to Hurricane Katrina.'"

House Report Prompts Legislative Initiatives. CQ (2/15, Starks) reported, "The report's release triggered legislative initiatives that touch on nearly every aspect of the response to the disaster. The House Transportation and Infrastructure Committee will soon begin moving legislation expected to call for the Department of Homeland Security to relinquish control of FEMA. The House Appropriations Subcommittee on Homeland Security will likely look to boost funding for the embattled agency." Meanwhile, "House Democratic leaders commended the work of the GOP-dominated panel whose five-month investigation they had boycotted, fearing a partisan whitewash. But they renewed their calls Wednesday for an independent panel, arguing that the committee failed to press the White House hard enough for documents."

Report's Findings "Swept Up In…Election-Year Politics." The Washington Post (2/16, A3, Hsu, 744K) reports that the House panel report's "findings were quickly swept up in divisive election-year politics and the complex task of rebuilding the devastated Gulf Coast. Rep. Thomas M. Davis III "said that Congress and the White House are ready to debate proposals to restructure national emergency plans, the Federal Emergency Management Agency, the federal flood insurance program, and laws that spawned a bungled $2 billion-plus effort to temporarily house evacuees. But Democrats from hard-hit Louisiana and Mississippi, backed by House Minority Leader Nancy Pelosi (D-Calif.), said such changes, while needed, would do nothing to hold Bush administration officials accountable or speed help to 2 million victims of the Aug. 29 storm. Democrats renewed calls for an independent investigation, and accused the GOP of corruption, citing FEMA and US Army Corps of Engineers relief contracts with firms tied to associates of President Bush." The Post adds, "The partisan political maneuvering underscored the limitations of yesterday's House report."

Columnist Says Chertoff Demonstrated "Qualified Personal Responsibility." Dana Milbank, in his column for the Washington Post (2/16, A2,, 744K) writes, "President Bush in 2000 ushered in the Era of Personal Responsibility. Yesterday ushered in the Era of Qualified Personal Responsibility. In hours-long testimony before a Senate committee, Homeland Security Secretary Michael Chertoff said he took the blame for the department's failures responding to Hurricane Katrina. 'I am responsible for the Department of Homeland Security,' came the inevitable claim. 'I'm accountable and accept responsibility for the performance of the entire department.'" However, Chertoff could not "come up with much in the way of what he had done wrong." Milbank continues that "from the start of his appearance before the Senate Homeland Security and Governmental Affairs Committee yesterday, Chertoff interspersed claims of responsibility with assignments of blame elsewhere. He blamed the weather. 'This was a storm of unprecedented magnitude,' he said, rattling off statistics. He blamed the department he inherited, which, 'barely two years old, had a lot of work to do.' He added: 'Frankly, FEMA was strained in past emergencies.' Mostly, though, he blamed subordinates. 'I was conscious of the fact that although I'm the secretary, I'm not a hurricane operator,' Chertoff explained. 'I do not have 30 years of experience managing hurricanes, and I do not see myself in a position to contradict or second-guess operational decisions.' Chertoff did blame himself for one thing: trusting then-FEMA director Mike 'Brownie' Brown."

Chertoff's Job Said To Be Safe. Bloomberg (2/16, Bliss) reports, "Senators were uniformly critical of the Homeland Security Department's response to the storm, and most said Chertoff should have done more in its aftermath to ease the suffering of Americans who lacked basic necessities. Still, none went so far as Senate Democratic Leader Harry Reid of Nevada, who said early last month that Chertoff should step down. Thomas Mann, a political analyst at the Brookings Institution in Washington, said Chertoff's job is safe. President George W. Bush 'likens forced resignations to an admission of culpability on his part,' Mann said. The president probably has gone as far as he's willing with the resignation of FEMA's former director, Michael Brown, Mann said."

More Commentary. Under the headline "A Deadly Vacuum," the New York Times (2/16, 1.19M) editorializes, "In the Bush administration, there is no such thing as failure at the top. When something goes wrong because of bad leadership, punishment is meted out to the foot soldiers and middle management, while the people in charge remain unscathed. Now we'll see whether the rule holds true in the aftermath of Hurricane Katrina." Following the House panel's report, "one thing is clear. While there is no shortage of incompetent public officials involved in this tragedy, one stands out above the rest. That person is Homeland Security Secretary Michael Chertoff. According to the panel's report,

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Mr. Chertoff has 'primary responsibility for managing the national response to a catastrophic disaster,' yet he handled his decision-making responsibilities 'late, ineffectively, or not at all.'" The Times continues, "Now Mr. Chertoff and his opposite number inside the White House are proposing changes to FEMA, including a new professional response force. While this is a good idea in and of itself, big organizational solutions will not help if there is a leadership vacuum. It would be nice for the administration to finally send a message that if important people do a bad job, they go away."

Senator Places Hold On Increase In Flood Insurance Program Borrowing. The Hill (2/16, Schor) reports, "The House yesterday sliced about $400 million from a bill increasing the National Flood Insurance Program's borrowing authority, sending the bill back to the Senate for final approval, but an anonymous senator immediately placed a hold on the bill. The program has estimated that it will no longer be able to pay claims for policyholders hit by Hurricane Katrina if borrowing authority is not increased within the next few weeks, but the Senate hold could forestall final passage of the flood-insurance bill until March, requiring insurance companies to stop paying flood claims underwritten by the government. One lobbyist working for a swift increase in borrowing authority pointed to Sen. Olympia Snowe (R-Maine) as the likely source of the hold, saying Snowe is seeking recourse against a hold placed by Sen. Tom Coburn (R-Okla.) on extra home heating aid to the Low-Income Home Energy Assistance Program (LIHEAP)."

New Orleans Attorneys Feels Effects Of Katrina. The National Law Journal (2/16, Jones) reports, "Walk along the main streets of New Orleans' French Quarter and you will find restaurants and bars ready for business, with music spilling out of their open doors. Tables are set, ceiling fans are churning and servers stand poised for customers. … A few blocks away, in the business district, the town's streetcars have begun again to lumber past upscale shops, the Aquarium of the Americas and Harrah's casino. … But the streetcars roll along eerily empty for the most part, and many of the retail businesses remain boarded up. … 'What's worse than the devastation is that all of the people are gone,' said attorney William Rittenberg during a recent drive through the French Quarter. A small-firm practitioner who has worked in New Orleans for 35 years, he said he had not taken a paycheck from his six-attorney firm since Hurricane Katrina struck. … 'I worry about whether I can remain here,' he said." The Journal adds, "Rittenberg, a partner with Rittenberg & Samuel, is just one of thousands of New Orleans lawyers whose jobs took a drastic turn in September. As a small-firm lawyer, he is struggling to make a living in a town where much of his client base has disappeared. Other attorneys, such as Gary Elkins, who runs a midsize practice in the business district, and Richard Dicharry, chairman of 248-attorney Phelps Dunbar, have found, at least for now, former work replaced with rebuilding efforts and disputes arising from the destruction. … Whatever the size of the firm these New Orleans lawyers come from -- whether it is a solo practice, a large operation or somewhere in between -- the path their lives have taken five months after the storm-like-no-other has been marked with despondency and with hope."

NYTimes Opposes Use Of UAE Company For Port Security Operations. An editorial in the New York Times (2/16, 1.19M) says, "The Bush administration has done far too little to protect the nation's ports against terrorists. But it has taken that laxness to a new level by allowing a company from the United Arab Emirates to run significant operations at six American ports, including the Port of New York. The administration should reverse this decision." The Times adds, "Much remains to be done to protect the nation's ports against terrorism. Putting port management in the hands of a country with such a mixed record in the war on terror is a step in the wrong direction."

WAR NEWS:

Australian TV Airs New Pictures Of Abu Ghraib Prison Abuse. The CBS Evening News (2/15, story 9, 1:50, Schieffer) reported additional pictures of abuse of Iraqi prisoners at Abu Ghraib prison "have surfaced and some of them turn out to be worse than what we saw before." CBS (Martin) added, "Perhaps the most disturbing shows a deranged prisoner slamming his head into a cell door while someone takes pictures, but no one tries to stop him. Many of the pictures show the same kinds of abuse seen in the original photos which triggered the Abu Ghraib scandal. Iraqis subjected to sexual humiliation and shackled in positions tantamount to torture. The Pentagon has about 200 photos from inside Abu Ghraib, and it has steadfastly refused to release them, even going to court to stop some of them

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from getting out, arguing they would ignite anti-American violence. With Muslims still demonstrating and rioting over the publication of a cartoon making fun of the Prophet Muhammad, and with new revelations of a video showing British troops abusing Iraqi teenagers, these photos, in the words of a senior American official in Iraq, 'could not have come at a worse time.'"

The Financial Times (2/16, Tucker, Sevastopulo) reports an Australian television station yesterday broadcast these "previously unpublished images said to show physical abuse of Iraqi prisoners at the US-run prison near Baghdad. Bryan Whitman, deputy Pentagon spokesman, said the images would 'further inflame and possibly incite unnecessary violence in the world.'"

The New York Times (2/16, Stout, 1.19M) reports "the State Department legal adviser, John B. Bellinger III, said the latest pictures 'show once again just the reprehensible conduct that was going on in Abu Ghraib.'" He "noted that after the instances of abuse in late 2003 and their disclosure early in 2004 there had been public investigations, prosecutions and internal reviews. 'And it's unfortunate, in fact, that these photographs are coming out further and fanning the flames,' he said. Images from the Australian broadcast were shown in the Middle East."

The Wall Street Journal (2/16, Dreazen, 2.11M) says "the images also appeared to raise new questions about the extent of the abuse at the prison. One of the photos aired by the Australian network showed a prisoner lying dead on the ground in a pool of blood, while another sequence showed a corpse in a blood-smeared room that the network said had been used by the Central Intelligence Agency for interrogations. All told, the segment showed images of six corpses, though it was not clear how each had died. Other photos showed prisoners with wounds that appear to have been caused by shotgun pellets."

The Washington Post (2/16, A20, White, 744K) reports "Pentagon officials emphasized that the photographs had been part of investigations that led to the punishment of several military police soldiers who worked at the prison. 'We can confirm that 13 of the 14 images released by the Australian television outlet are authentic,' said Col. Joseph Curtin, an Army spokesman at the Pentagon. 'The Army condemns the abusive behavior depicted in these photos and has taken aggressive action to prosecute those held accountable. Nonetheless, these are not new images and are included in the Abu Ghraib criminal case files.'"

Tapes Reveal Saddam, Top Iraqi Leadership Discussing Terrorism, WMD. Tapes from the mid-1990s recovered by the CIA in Baghdad reveal former Iraqi President Saddam Hussein and members of his cabinet discussing the possibility of terrorist attacks – conducted by others – using weapons of mass destruction in the US. The tapes show the top Iraqi leadership discussing WMD and how they used deception in dealing with UN inspectors.

ABC World News Tonight (2/15, story 7, 3:45, Ross) reported, "'Terrorism is coming,' says Saddam Hussein in one of the most dramatic moments on the tapes as he talks, or muses, with his cabinet, including Deputy Prime Minister Tariq Aziz. Saddam says he warned the Americans 'that in the future, there will be terrorism with weapons of mass destruction.' He continues, 'What would prevent a booby-trapped car causing a nuclear explosion in Washington, or a germ, or a chemical one?' But he says Iraq would not be involved. 'This is coming,' says Saddam. 'This story is coming, but not from Iraq.' Tariq Aziz then adds, 'Sir, the biological is very easy to make. It's so simple that any biologist can make a bottle of germs, and drop it into a water tower and kill 100,000. An American in the house near the White House could do it,' Aziz says." Rep. Pete Hoekstra: "It appears they are authentic. From reading some of the transcripts, you would think that it is pretty likely there were WMD that were hidden or that were moved out of the country." Ross: "The tapes reveal in their own words Iraqi efforts to hide information about weapons of mass destruction, from the UN inspectors in the 1990s." Charles Duelfer, who "led the official US search for weapons of mass destruction after the war, says the tapes show extensive deception, but don't prove there are weapons still hidden in Iraq." Duelfer: "What they do is support the conclusion that the regime had the intention of building and rebuilding weapons of mass destruction." Ross: "In fact, Saddam's aides can be heard on the tape telling him they stand ready to resume work."

The CBS Evening News (2/15, story 10, 0:40, Martin) reported there are "about two CDs worth of audio recordings of Saddam meeting with his senior advisers in the 1990s. They're just now surfacing publicly, but intelligence officials say they've had them for some time and they contain no revelations about weapons of mass destruction. On the recording, Saddam seems obsessed with hiding his weapons programs from UN inspectors, but we now know what he was really hiding was that he didn't have any weapons of mass

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destruction, a fact he was trying to hide because he thought it made him more vulnerable to invasion."

NBC Nightly News (2/15, story 4, 0:40, Williams) reported, "On another tape, Saddam says, 'It is possible in the future to see a booby trap and the explosion turns out to be nuclear, germ or chemical.' US intelligence analysts tell NBC News do not prove Saddam had any weapons of mass destruction when the US invaded Iraq back in 2003."

ABC News Nightline (2/15, Ross) reported, "Most revealing on the tapes are the ongoing discussions about hiding details of Iraq's missiles and weapons of mass destruction programs from U.N. Inspectors during the 1990s." Hussein's son-in-law "briefs Saddam on the Iraqi campaign of deceit, aimed at fooling U.N. inspectors." Translator: "We did not reveal all that we have. Not the type of weapons. Not the volume of the materials we imported. Not the volume of the production that we told them about. Not the volume of use. None of this was correct." Regarding Iraq's nuclear weapons program, the translation reads: "As for the nuclear, sir, we say we have disclosed everything. But no. We have undeclared problems in nuclear, as well." Former US weapons inspector Charles Duelfer "says the tapes show Saddam's fascination with such weapons and his extensive deceit. But offer no new proof of whether such weapons are still hidden in Iraq." Duelfer: "No, they do not. What they do is support the conclusion and report which we made in the last couple years, that the regime had the intention of building and rebuilding weapons of mass destruction, when circumstances permitted." Rep. Peter Hoektsra, chairman of the House Intelligence Committee: "You would think that it's pretty likely there were WMD that were hidden or moved out of the country." ABC News concluded, "And these tapes only serve to fuel the continuing debate about Saddam's true intentions. And whether he, in fact, did hide weapons of mass destruction. There's enough in these tapes to help both sides bolster their arguments."

Defense Intelligence Reexamining Iraq WMD Evidence. The New York Sun (2/16, Lake) reports, "The CIA, FBI, and directorate of national intelligence have resisted calls from Congress to reopen the hunt" for WMD in Iraq. Yet "an interagency outfit known as the Media Exploitation Center, administered by the Defense Intelligence Agency, last month started its own search of these materials to attempt to discover the location of the weapons of mass destruction." One congressional aide said, "There are elements in NSA and DIA that believe there is enough evidence to warrant further re-examination and a relook at all the material. … This includes the imagery, documents, and human sources. They also think a more extensive debriefing of knowledgeable human sources and third party nationals is in order." Rep. Peter Hoekstra "has also been pestering the directorate of national intelligence to translate and make public what he claims are nearly 36,000 boxes of captured documents and materials from Iraq that may shed clues on the WMD front." The Pentagon "now appears to be working on the directorate to make other Iraq files public as well. A February 6 letter from Secretary of Defense Rumsfeld to Senator Santorum…said Mr. Rumsfeld is working with the director of national intelligence, John Negroponte, to release Iraqi files sought from the Harmony database, which catalogs material on terrorism secured since September 11, 2001." But a DNI spokeswoman said, "Intelligence community analysts from the CIA and the DIA reviewed the translations and found that while fascinating from a historical perspective, the tapes do not reveal anything that changes their postwar analysis of Iraq's weapons programs, nor do they change the findings contained in the comprehensive Iraq Survey Group report."

In 2000, Experts Agreed That Saddam Wanted WMD. In its "History Lessons" column, the Washington Times (2/16, 90K) excerpts the February 3, 2000 edition of Voice of America's "On the Line," on which Roscoe Suddarth, president, Middle East Institute and former U.S. ambassador to Jordan, said, "I don't think [Saddam Hussein's] objectives have changed. I think he still wants to be the primary Arab power. And they have the resources to do it -- the second largest oil reserves. … He lacks the means, the military means, but he is dearly trying to reconstitute them. … He's trying to reconstitute, obviously, his weapons of mass destruction." Patrick Clawson, director of research, Washington Institute for Near East Policy, agreed, saying, "There are no indications whatsoever that Saddam has backed off in the least. After all, this is a man who has forgone well over a hundred billion dollars in oil income in order to keep up with these clandestine programs of weapons of mass destruction."

Terror Attacks Kill 16 In Baghdad. The Washington Post (2/16, A19, Hernandez, 744K) reports, "As Iraqi politicians debated the formation of a government on Wednesday, a wave of gun and bomb attacks killed at least 16 people in the capital, including five children. Three

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children were killed and two wounded when a bomb exploded outside the Karama primary school in the Saydiyah neighborhood of southeastern Baghdad, said Gen. Salman Hassan Shammari of the Iraqi police. A second roadside bomb killed two children and wounded four more in the Fadhl neighborhood, he said. It was unclear who detonated the bombs or why." The New York Times (2/16, Wong, 1.19M) and Los Angeles Times (2/16, Moore, 958K) run similar reports.

Influence Of Radical Cleric Al Sadr Increasing In Iraq. The New York Times (2/16, Worth, Tavernise, 1.19M) reports radical Muslim Cleric Moktada al-Sadr was a key figure in the election of Ibrahim al-Jaafari as Iraq's next prime minister. The election "was a crowning moment for Mr. Sadr, whose sudden rise to political power poses a stark new set of challenges for Iraq's fledgling democracy. The man who led the Mahdi Army militia's two deadly uprisings against American troops in 2004 now controls 32 seats in Iraq's Parliament, enough to be a kingmaker. He has an Islamist vision of Iraq's future, and is implacably hostile to the Iraqis closest to the United States -- the mostly secular Kurds, and Ayad Allawi, the former prime minister." The Times notes, "In one sense, his participation represents the realization of a central American goal: to bring populist, violent figures -- whether Sunni or Shiite -- off the battlefield and into democratic politics." His "new influence and his populist roots may even help achieve the American goal of a broad-based government that includes all of Iraq's sects and ethnic groups."

Shiite Faction Urges Greater Outreach To Sunnis. The Los Angeles Times (2/16, Moore, 958K) reports, "Only days after deciding to nominate incumbent Ibrahim Jafari to continue as Iraq's prime minister, his United Iraqi Alliance coalition on Wednesday was showing signs of fraying." Al Fadila al Islamiya party leaders, who are "associated with radical Shiite Muslim cleric Muqtada Sadr…threatened Wednesday to break from the dominant alliance if the UIA did not make more overtures to Sunni Arabs, restrain Shiite paramilitary groups and rule in a more collaborative style." While "legislators prepare to form Iraq's first permanent government since Saddam Hussein's ouster…the Fadila ultimatum suggested that Jafari's nomination…was causing tension within the Shiite-led alliance." And one Western diplomat said, "I certainly see the political will in the different corners and the appreciation for a national unity government. … I hear more people talk about cross-sectarian cooperation than I have ever heard."

WPost Urges Administration To Utilize Coalitions To Broker Deal For National Unity Government. The Washington Post (2/16, A26, 744K) in an editorial writes that Ibrahim Jafari's election means the Bush administration's job "will be still harder." His election "will complicate the task of forming a 'national unity' government." US ambassador Zalmay Khalilzad "is doing his best to promote a national accord that addresses the legitimate concerns of the Sunnis. … But given Iraq's powerful centrifugal forces, the ambassador could use more help, from Washington and beyond. The Bush administration has capably organized international coalitions to address the threats of Iran and North Korea; it has brought formidable pressure to bear on the Palestinians through the 'quartet.' … Now is the time for President Bush to mobilize that alliance, and every other bit of leverage he can muster. Iraq may not have another chance."

US Cavalry Regiment Model For Counterinsurgent Tactics. The Washington Post (2/16, A14, Ricks, 744K) describes the success the US 3rd Armored Cavalry Regiment has had in completing "clear and hold" operations in Iraq. Recently, "the regiment has focused on breaking the insurgents' hold on Tall Afar, a town of 290,000. Their operations here 'will serve as a case study in classic counterinsurgency, the way it is supposed to be done,' said Terry Daly, a retired intelligence officer specializing in the subject." US officials "conducting an internal review of the three dozen major U.S. brigades, battalions and similar units operating in Iraq in 2005 privately concluded that of all those units, the 3rd Armored Cavalry Regiment performed the best at counterinsurgency, according to a source familiar with the review's findings." But it is unclear whether the regiment's "example can be followed elsewhere by American commanders in the country. The biggest problem U.S. troops in Iraq face is Baghdad, a city about 30 times the size of Tall Afar. With the current number of American troops in Iraq, it would be impossible to copy the approach used here, with outposts every few blocks."

WSJournal Applauds Australia For Pursuing Oil-For-Food Probe. The Wall Street Journal (2/16, 2.11M) editorializes, "The rot from the United Nations' Oil for Food scandal has now reached Australia. But the good news is that that democratic nation has had the nerve to sort the

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wheat from the chaff -- and do it publicly." The Journal notes, "It's striking how Australia has been one of the few countries to have pushed the Oil for Food investigations to the extent of examining its own role. An Indian official lost his job after the Volcker report, and French and American prosecutors are investigating the matter in their countries. But China, Russia and Vietnam, to name a few -- have reacted with studied nonchalance. Saddam knew what he was doing when he put foreigners with political connections on his payroll."

US Soldiers Prepare To Fight "Long War" In Afghanistan. The New York Times (2/16, Kifner, 1.19M) reports that the 10th Mountain Division has prepared to continue not only their military mission in Afghanistan but also "a political one: to bolster the American-supported government of President Hamid Karzai." They are "developing a military ethos that goes beyond the tactics of past conventional warfare to a new age of ideological war." In interviews the soldiers and officers "spoke of the heightened language and cultural training they had instituted to meet the new challenges in a conflict against militant Islam that Secretary of Defense Donald Rumsfeld recently referred to as 'the long war.'" Soldiers typically study "basic Islam and local mores for the duty of nation-building," but "the program here is particularly sweeping." The key to "the Army's strategy is the cultural awareness program. … In Iraq, many officers now believe, insensitivity to local customs in house searches, for example, created resentment that helped foster the insurgency."

In a second article on the 10th Mountain Division, the New York Times (2/16, Kifner, 1.19M) describes its history and how its role has changed to adapt to counterinsurgent tactics noting, "The Afghanistan campaign is often fought by the smallest units." Lt. Col. Christopher Cavoli said, "In a counterinsurgency, the calibration of force is critical. … The sloppy application of force ruins the cultivation of the populace."

Clinton, Oxley To Unveil Program To Educate Military Families About Fraud. The New York Times (2/16, Henriques, 1.19M) reports, "NASD will unveil today a financial education program it has developed exclusively for members of the armed forces and their families. The effort is part of the financial regulator's response to published reports about military personnel being widely exposed to deceptive and misleading sales pitches for insurance and other financial products." The program will be unveiled "at a news conference in the Capitol building with several senior members of Congress in attendance, including Representative Michael G. Oxley…who heads the House Financial Services Committee, and Senator Hillary Rodham Clinton."

DOJ:

Gonzales Outlines Top Priorities For DOJ. The Washington Times (2/16, Seper, 90K) reports, "Attorney General Alberto R. Gonzales yesterday outlined six major priorities for the Justice Department at the start of his second year on the job: terrorism, violent crime, drug trafficking, cybercrime, government and corporate corruption, and civil rights. 'My goal is simple: Secure the opportunities of the American dream for all Americans and for future generations,' Mr. Gonzales said during a speech to Justice personnel gathered in the department's Great Hall. 'Keeping this charge is no small task, and it will require no small effort. And I am well aware that I can't do it alone. I will need your help. So, today, I'm laying out a set of priorities and initiatives to guide our work for the coming year. This plan will allow us to continue the progress you've already achieved -- most notably, four years without another terrorist attack here at home and a violent-crime rate that is at its lowest level in more than three decades,' he said."

WICS-TV Champaign, IL (2/15, 5:12 p.m.) reported, "Attorney General Alberto Gonzales outlined the top priorities for the Department of Justice this year. Gonzales says the department will work to defend the country against terrorism and that he hopes the Patriot Act will serve as an aid to their efforts." A number of other stations around the country simply noted that Gonzales would be announcing the priorities, including WJLA-TV Washington, DC (2/15, 6:14 a.m.) and KNVX-TV Phoenix (2/15, 5:38 a.m.).

Gonzales Asserts Independence. Knight Ridder distributes a Chicago Tribune article (2/16, Zajac) that reports, "Attorney General Alberto Gonzales, whose first year in office has been dominated by issues connected to his earlier job as White House counsel, said Wednesday that he regards himself as independent of the Oval Office, but that he nonetheless remains a policy advocate for President Bush. … 'Sure, I have to be independent as attorney general,' Gonzales said in an interview. 'But I think people lose sight of the fact that for purposes of policy, I'm still on the president's

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team, and I feel a responsibility and I'm expected to act as a member of the president's team in connection with pushing forward the president's agenda.'" The Tribune continues, "Still, Gonzales said, 'if I believe something is wrong, I will tell the president of the United States that something is wrong.' … Gonzales said proof of his autonomy will be seen in his department's performance, particularly in cases brought by the agency's career prosecutors. 'No matter who you are, no matter what party you may be affiliated with, if you've done something you shouldn't be doing, we're going to go after it,' he said."

DOJ's Sex Offender Registry Program Receives E-gov Award. Federal Computer Week (2/16, Weigelt) reports, "Five federal information sharing programs, from a searchable national sex offender registry to health information sharing between departments, received Excellence.gov awards today from the Industry Advisory Council at a luncheon in Washington, D.C." Among the programs cited was the National Sex Offender Public Registry, "a Justice Department program that makes state and territory public sex offender registries available online."

Government Computer News (2/16, Thormeyer) reports, "By making state and local sex-offender information available and searchable through a single portal, the Justice Department made it easier for the public to determine whether registered sex offenders live in their neighborhoods." GCN continues, "Justice's work on the National Sex Offender Public Registry Web site not only has empowered citizens, but it also won the department one of the five Excellence.gov awards handed out Wednesday by the American Council for Technology and the Industry Advisory Council of Fairfax, Va. … Because the Excellence.gov awards this year focused on information-sharing between agencies and different levels of government, the portal was chosen because it contained sex-offender information culled from federal, state and local governments. … Users can search federal and local sex-offender registries by name, state, county, city, town or ZIP code."

CORPORATE SCANDALS:

Enron Witness Admits To Previous Misleading Testimony. The Wall Street Journal (2/16, Emshwiller, McWilliams) reports, "An attorney for Jeffrey Skilling won some concessions in federal court here from a government witness concerning the former Enron Corp. president's conduct in connection with the criminal fraud and conspiracy charges against him. However, the witness continued to insist that he and Mr. Skilling were involved in misleading the public about a key Enron business unit." The Journal continues, "The witness, Kenneth Rice, headed Enron's high-profile telecommunications unit in 2000 and 2001. Under government questioning Tuesday, Mr. Rice laid out a number of areas where he and Mr. Skilling allegedly gave out false or overly rosy information about the unit." The Journal adds, "Allegedly false statements about the unit, known as Enron Broadband Services, or EBS, are part of the wide-ranging charges against Mr. Skilling, who is being tried here along with his co-defendant, former Enron Chairman Kenneth Lay. Mr. Rice's testimony has, so far, hardly touched on Mr. Lay. … Under cross-examination by Mark Holscher, one of Mr. Skilling's attorneys, Mr. Rice softened some of his previous characterizations of the former Enron president's actions."

USA Today (2/16, Farrell) reports that Rice "admitted on the stand Wednesday that part of his testimony to the jury the day before was misleading." USA reports that Rice "testified Tuesday that an early 2001 budget forecast predicted that his unit would lose $489 million for the year. After some internal haggling, Rice agreed to present management with a more optimistic forecast of $110 million in losses for the start-up unit. … Rice then testified that his boss, Skilling, insisted that losses at EBS couldn't exceed $65 million for the year. The two presented that figure to analysts and investors in March of 2001, allowing jurors to conclude that Skilling was presenting pie-in-the-sky goals as realistic business forecasts. … But under cross-examination by Skilling defense attorney Mark Holscher, Rice admitted that the early prediction of $489 million in losses at EBS was in itself unrealistic. Rice conceded that at budget time, he and others at Enron often engaged in a practice known as 'sandbagging,' in which managers set artificially low goals when negotiating with their corporate bosses. … Speaking of the impression he left on the jury, Rice admitted to Holscher that, 'It isn't fair for them to think that that was a reliable budget.'"

Spitzer To Fight Request For Grasso Deposition. The Wall Street Journal (2/16, Lucchetti, McDonald) reports, "New York Attorney General Eliot Spitzer will fight a request to be deposed by attorneys representing former New York Stock Exchange Chief Executive Dick

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Grasso in the matter of Mr. Spitzer's civil lawsuit against Mr. Grasso." The Journal continues, "In a legal memo sent to Mr. Grasso's attorneys, Mr. Spitzer argued that he cannot be deposed because he is a high-ranking government official and counsel to the plaintiffs in the case. … 'Like any lawyer for a party, Attorney General Spitzer cannot be asked to provide deposition testimony or to reveal work product,' Mr. Spitzer and his lawyers argued in a 15-page motion that also calls Mr. Grasso's motion 'absurd.'" The Journal adds, "Mr. Spitzer is also contesting a request for internal documents filed by former AIG Chief Executive Maurice R. 'Hank' Greenberg, who faces civil fraud charges stemming from Mr. Spitzer's probe of AIG's accounting. Mr. Greenberg's attorneys had requested emails and other evidence, including testimony from Mr. Spitzer or the member of his staff with the most detailed knowledge of the AIG probe. A state court judge will hear arguments on whether Mr. Spitzer needs to provide documents in the Greenberg case in late February and whether he needs to be deposed and provide documents in the Grasso case in mid-March."

CRIMINAL LAW:

Patriot Act Author Urges Dismissal Of Charges Against AIPAC Officials. The Washington Times (2/16, Seper, 90K) reports that Viet D. Dinh, who headed the Justice Department's Office of Legal Policy, is now a professor at Georgetown University Law Center, and "who helped write the USA Patriot Act," has added his voice to "defense lawyers in seeking the dismissal of charges against two former American Israel Public Affairs Committee (AIPAC) officials accused of unlawfully disclosing national security information." He joined a motion "condemning the charges as 'a dangerous attempt by prosecutors to over extend to private citizens a statute which was intended to apply solely to government officials with access to classified information.'"

Prosecuting Citizens For Repeating Leaks Said To Run Counter To Democracy. Gary Wasserman, an adjunct professor of government at Georgetown University, where he teaches lobbying, writes in an op-ed in the Washington Post (2/16, A27, 744K), "This is an administration more horrified by leaks than torture." It "is applying to private citizens a never-used part of the 1917 Espionage Act. Its expanding secrecy powers threaten to paralyze public participation in making foreign policy," as "information is the lifeblood of policymaking. Expanding restrictions on information adds greatly to the power of the executive; criminalizing citizens' contact with that information adds even greater uncertainty." Also, "one argument for why autocratic regimes such as pre-World War II Germany and Japan have engaged in risky foreign adventures is that these narrow elites are not subject to the kind of outside review by knowledgeable people that exists in democracies." Democratic governments do not, "in general, 'authorize' the information citizens are allowed. Given enough information, citizens authorize and control their government. Or at least we used to."

At RSA Conference, Mueller Calls For Innovative Cybercrime-Fighting Effort. Under the headline "FBI Chief Asks Valley For Help," The San Jose Mercury News (2/16, Kuruvila, 268K) reports, "Computer hacking has evolved from a sport for geeks into a moneymaking tool for organized crime -- a trend so disturbing to FBI Director Robert Mueller that he came to San Jose Wednesday to ask for help from tech security experts. It was the first time a director of the Federal Bureau of Investigation had addressed the annual RSA Security Conference, a 15-year-old confab where the companies that build protective technology mingle with customers and discuss threats. Mueller's presence at the McEnery Convention Center was testament to the fact that just as the Internet has become a global growth engine for business, it also has become a global target for savvy criminals. Making matters worse, 'most' businesses won't report that they were victimized, Mueller said, making it more difficult for investigators to keep up with online criminals. Some fear publicity. Others fear that competitors will exploit their vulnerabilities. 'Maintaining a code of silence will not benefit you or your company in the long run,' Mueller said. 'In this world of globalization, we continue to build on one central theme, and that is of partnership.'"

Under the headline "FBI Director: Cyberthreats 'Fluid and Far-reaching,'" IDG News Service (2/15, McMillan) adds Mueller said that "the FBI must work with corporations and international law enforcement to help combat online criminal acts that are seldom reported. … 'Increasingly our cyberthreats originate outside of the United States,' he said. 'The once-clear divisions of jurisdiction and responsibility between agencies [and nations]...have been rendered obsolete by the fluid and far-reaching nature of today's threats.' … The FBI now has more flexibility to work with

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international law enforcement and is helping build relationships with those foreign agencies by putting operatives 'on the ground' in countries that may be hotbeds for cybercrime," said "Steven Martinez, the deputy assistant director for the FBI's Cyber Division, who spoke after Mueller. While the United States works with other countries on formal and treaty-level arrangements to speed up cooperation, FBI agents are endeavoring to develop direct ties to their counterparts in other countries, Martinez said." IDG adds, "Mueller also cited an FBI-backed initiative called IntraGuard that enables 3000 members…to share information with law enforcement on the latest cyberthreats. … Still, most law enforcement experts agree that the vast majority of cybercrimes go unreported to law enforcement, with fears of reprisals or adverse publicity creating what Mueller called a 'code of silence.' … But companies need to take a wider view of the situation, he said."

Under the headline "Companies Still Not Reporting Attacks, FBI Director Says," SearchSecurity.com (2/15, Savage) reports Mueller "urged the audience of infosecurity professionals…to share cybercrime data, promising that his agency will take steps to ensure their privacy. 'We certainly do not want you to feel victimized a second time by our investigation. … We won't release confidential data. We'll take steps to protect intellectual property,' he said. … 'No person, no agency, no company, no country can prevent crime and terrorism alone. … While challenges are growing each day, together we won't be defeated,' he said. The FBI has had success in investigating cybercrimes with help from the private sector, Mueller said. Among the cases he cited included collaborating with Microsoft and officials overseas to track down the suspects involved with the Mytob and Zotob worms. The agency also worked with the Red Cross, eBay and others to investigate fraudulent Web sites that exploited the Hurricane Katrina disaster." SearchSecurity adds, "Other top law enforcement officials echoed Mueller's remarks in a panel discussion held after his keynote. 'The most important people in fighting cybercrime are those of you here today,' said Arif Alikhan, senior counsel at the U.S. Department of Justice," and Deputy Assistant Director Martinez "said the agency's partnerships with the academic community and private sector are key."

Businessman, Former Atlanta Official Testify About Alleged Campbell Bribes. The Atlanta Journal-Constitution (2/16, Warren, Scott, 430K) reports businessman Howard Sole "testified Wednesday in the corruption trial of former Atlanta Mayor Bill Campbell that his company dropped efforts to land a lucrative city contract after he was urged to break the law by paying $100,000 to the mayor's re-election campaign." Sole "was the second witness of the day whose testimony seemed to indicate Campbell's involvement with illegal money matters. Joseph Reid, former deputy chief operating officer, testified he passed campaign contributions directly to the mayor — some in cash." The Journal-Constitution adds, "Under cross-examination by defense attorney Fred Orr, Sole acknowledged he did not know if Campbell told" contractor Ricky Rowe "to solicit the money. … Reid, who was later convicted of corruption and served time in prison," testified that "he gave Campbell an envelope containing illegal checks for the mayor's 1998 runoff election that were written in the names of five Campbell family members. Reid also testified that on more than one occasion he gave cash campaign contributions to Campbell."

WXIA-TV (2/15, Carnes, King) reports on its Web site from a story broadcast Wednesday, "Reid told the jury he often delivered those contributions directly to the mayor, including about $5,000 in cash. When it came to cash contributions, Reid said, 'He told me to give them to him.' Campbell says that he did no such thing. 'Never,' Campbell said. 'In fact he never said that in all of his ten interviews with the FBI.'"

Undercover FBI Agent Testifies About Cotton Bribes. WDEF-TV Chattanooga (2/15, Bennett) reports on its Web site from a story broadcast Wednesday, "FBI undercover agent John Mule spent most of today on the witness stand. He posed as the Chief Financial Officer of the FBI's fake company E-Cycle. Mule says he first met former Hamilton County school board member Charles Love in December 2004, and Hamilton County Commissioner, William Cotton one month later. Jurors listened to an audio tape of a conversation between the three from January, 2005. Mule' wanted Cotton's help getting a resolution passed through the county commission. The three met at Southside Grill in late January, where Mule gave Love $3,500 in cash. … Mule said after the meeting, the county commissioner called to say thank you, acknowledging he received his shard of the bribe money." Jurors also saw video of a February 2005 meeting in which Mule' gave "Love an envelope with $6,000. When Love accepted the money, Mule' made it clear the money was for Cotton."

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WTVC-TV Chattanooga (2/15, Grant) reports on its Web site from a story broadcast Wednesday, "Today, jurors saw for themselves what happened when William Cotton, Charles Love and an undercover agent met in Nashville." Cotton "is the first person to be tried in Operation Tennessee Waltz. … The defense says there there is no proof that Cotton received ANY money. But the FBI says their secretly recorded videos prove otherwise." WTVC then airs clips from the FBI surveillance video shown at trial yesterday. The AP (2/16, Poovey) also reports on Mule's testimony, adding, "FBI agent Brian Burns testified Wednesday about a recording of a Jan. 16, 2005, conversation between Love and Cotton. Jurors also heard the FBI's recording of the commissioner telling Love that he would be attending a meeting of county officials and wanted to also get his counterparts in Alabama, Georgia, Mississippi, North Carolina and South Carolina to consider E-Cycle's proposal to recycle government computers. … Burns told jurors it wasn't illegal for Cotton to push E-Cycle to officials in other states. He said other segments of the recording show Cotton and Love scheming to hide bribes from E-Cycle behind a front company that would be set up in a building the commissioner owns."

Ryan Will Not Take Stand Until Next Week, If At All. The AP (2/16, Robinson) reports, "George Ryan won't take the witness stand at his racketeering and fraud trial until at least Tuesday and the former governor may not testify at all, his chief defense counsel said Wednesday." Defense lawyer Dan Webb added that he will call "as many as 11 character witnesses, including MASH actor Mike Ferrell, a forensic accountant who has been studying years of Ryan family finances and Edward McNally, former Ryan lawyer and now chief federal prosecutor for Southern Illinois." The AP adds, "Also Wednesday, defense witness Mickey Brown, a Chicago real estate lawyer, testified that there was nothing extraordinary about" codefendant Lawrence Warner's "ownership of buildings in Joliet and suburban Bellwood through a series of holding companies that made it difficult to see who the owner was. George Ryan leased both buildings for use by the state."

Former Chicago Water Employee Charged With Lying To Hired Truck Investigators. The Chicago Sun-Times (2/15, Warmbir, Novak) reported yesterday, "A former city Water Department employee, Frank R. Cannatello…was charged Tuesday with lying to federal agents last year when he told them he had nothing to do with a trucking company in the Hired Truck Program that was in his mother's name but bore his initials, FRC Trucking. … Cannatello's attorney, Richard Jalovec, said Tuesday that he expects his client to plead guilty when he appears before a federal judge on March 2." The AP (2/15, Robinson) added, "Among other things, prosecutors said Cannatello asked another city worker, Randy Aderman, to help FRC get city hauling work and Aderman did so through the water department. Aderman already has been charged in the investigation along with former city Clerk James Laski. Aderman appeared for arraignment before U.S. District Judge Charles R. Norgle Sr. on Tuesday and pleaded not guilty."

Entertainment Attorney Indicted In Pellicano Probe. The Los Angeles Times (2/16, Krikorian, Blankstein) reports, "A federal grand jury today indicted prominent Los Angeles entertainment attorney Terry Christensen on wire-tapping and conspiracy charges in connection with the ongoing investigation of former private investigator Anthony Pellicano." The Times continues, "The two-count indictment alleged that Christensen paid Pellicano at least $100,000 to wiretap the wife of billionaire investor Kirk Kerkorian during a bitter child support dispute in 2002. Authorities charge that Pellicano listened to the phone calls of Lisa Bonder Kerkorian and shared the information with Christensen. … Christensen, 65, of Beverly Hills, is the first lawyer to be indicted in the Pellicano investigation, which has roiled the Hollywood and legal communities. … 'Pellicano would discuss with defendant Christensen how long the illegal wiretap should remain in place and when the illegal wiretap should be brought to an end,' according to the indictment." The Times adds, "When Pellicano allegedly turned over wiretap data to Christensen, he told the lawyer 'to be very careful about this because there is only one way for me to know about this,' the indictment states. … Christensen spoke repeatedly with Pellicano about the wiretaps, according to the indictment, hearing the 'exact words' spoken, directing Pellicano to listen to particular conversations, and then instructing Pellicano to 'wrap up' the illegal wiretap."

The New York Times (2/16, Weiner) reports, "Damage from the investigation of the celebrity private eye Anthony Pellicano reached the top of Hollywood's business community on Wednesday, when a federal grand jury issued wiretapping and conspiracy charges against the lawyer who handled Kirk Kerkorian's 2002 legal battle with his former

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wife." The Times notes that "Christensen, and his Century City-based firm are a major presence in the entertainment industry, having represented Paramount Pictures, Sony Pictures Entertainment, the Walt Disney Company and MGM/UA, among others. The lawyer has represented Mr. Kerkorian for over 30 years, once served as president of the 88-year-old billionaire's private Tracinda Corporation, and has been involved with Mr. Kerkorian's recent investment in General Motors. … In the surprise indictment — Mr. Christiansen had not previously surfaced in the long-running wiretap case, and was first contacted by the government only four weeks ago, according to a person who was briefed on the situation — officials charged that the lawyer paid Mr. Pellicano at least $100,000 to tap the phone of Lisa Bonder Kerkorian. Ms. Kerkorian, the billionaire's former wife, was then involved in a bitter legal dispute over the paternity of her young daughter and child support."

Police Using Homing Device To Cut Down On Dangerous Chases. The St. Louis Post-Dispatch (2/16, Kohler) reports, "Is there a solution to high-speed police chases? … A company in Virginia is proposing one: a sticky dart with a homing device that police can fire at a fleeing car and track electronically at a distance." The Post-Dispatch continues, "Instead of pursuing the getaway car at high speed, police can lay back and set a trap for the fleeing car up the road. … The company believes its product, called StarChase, will save lives and reduce police liability by slowing some hot pursuits and stopping others altogether." The Post-Dispatch adds, "U.S. police departments, often criticized for chases, are interested. How it works - whether it works at all - remains to be seen. Police will want to know if they can use the device to arrest suspects they would have pursued with lights and sirens. … They'll also want to know if a fleeing driver will slow down without those lights and sirens on his tail. … Many eyes are now on Los Angeles, whose police are testing the device this year at the suggestion of the U.S. Department of Justice." The Post-Dispatch notes, "All police forces who struggle with high-speed chases should be watching, said Gilbert Moore, a spokesman for the Justice Department's Office of Community Oriented Policing Services. … StarChase will also be tested this year in a major East Coast city, said Trevor Fischbach, a StarChase vice president. He said the company hopes to begin selling it to police departments this year."

Judge Rules Defendant Has Right To Choose Attorney With Alleged Mob Ties. The New York Law Journal (2/16, Perrotta) reports, "An attorney with alleged ties to the Mafia can continue to represent a man accused of racketeering, extortion and three murders on behalf of the Gambino organized crime family, a federal judge in Brooklyn has ruled." The Journal continues, "The judge, Eastern District of New York Judge Jack B. Weinstein, also denied a request by several news outlets to obtain a copy of a video recording that captures a meeting between the attorney, Joseph R. Corozzo, and John Gotti Sr., the deceased head of the Gambino family, inside a prison medical center in Missouri." The Journal adds, "Weinstein said reporters, who saw the video during a recent hearing, could review it inside the courthouse, but could not broadcast it on television out of fear that it would prejudice potential jurors in the upcoming trial of Corozzo's client, Dominick Pizzonia. The trial is scheduled for June. … Pizzonia is an alleged Gambino captain accused of the Dec. 24, 1992, murder of Thomas and Rosemarie Uva, who had robbed several Mafia social clubs. … Pizzonia has known Corozzo since childhood and has insisted, throughout several hearings, that he wants to keep Corozzo as his lawyer, no matter the prosecutor's allegations of conflicts. … Weinstein himself has called the potential conflicts 'serious' and has warned Pizzonia of the dangers of continuing to trial with Corozzo as his attorney." The Journal notes, "Eastern District prosecutors raised concerns not just over Corozzo's alleged ties to the Mafia but his relationship to Michael DiLeonardo, a key witness against Pizzonia. In 2001, when DiLeonardo was being prosecuted on extortion charges in Atlanta, he asked Corozzo to interview another Gambino family member, Craig DePalma, to see if DePalma would testify against DiLeonardo. DiLeonardo gave Corozzo a check for $1,000, but Corozzo never cashed it."

Former FBI Mob Investigator Dismissed From Gotti Jury Pool. The AP (2/16) reports, "It would have been hard to draw a prospective juror less likely to get picked for John 'Junior' Gotti's racketeering retrial. A former supervisor of the FBI's organized crime squad in New York was among the pool of 250 prospective jurors who filled out questionnaires -- and among those quickly disqualified from serving on the jury of the son of late Gambino crime family boss John Gotti."

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Texas Executes Man For 1992 Shooting Of Cabdriver. The AP (2/16, Lozano) reports, "Convicted killer Clyde Smith was executed Wednesday for fatally shooting a Houston cabdriver during a robbery in 1992. … 'I want to thank you all for being here and for your love and support,' Smith, 32, told friends who watched from a window." The AP continues, "Relatives of another cabdriver Smith had confessed to killing were present, but he did not acknowledge them. Relatives of the man Smith was executed for killing were not there. … He was pronounced dead at 6:17 p.m., seven minutes after lethal drugs were administered. His execution was the fourth this year in Texas." The AP adds, "Smith had confessed to the Feb. 7, 1992, death of 45-year-old David Jacobs, and to a similar shooting and robbery of another cabdriver, Victor Bilton, six weeks later. He later said the confessions were made under duress. … He was convicted of shooting Jacobs four times in the head and robbing him of about $100."

Trial Begins Today For Florida Deputy Charged With Falsifying Crime Reports. The Miami Herald (2/16, DeMarzo, 323K) reports, "After almost two years, one of six Broward sheriff's deputies accused of falsifying crime reports goes on trial today, amid skepticism over whether any of the cases headed to court will result in convictions." Christian Zapata "is the first deputy to face trial in the scandal that already has cost more than a half million dollars in taxpayer money. The outcome likely will set the stage for future cases -- and if anyone ultimately will go to jail. The scandal involves deputies who allegedly took crime complaints, then cleared or downgraded them to make themselves and their agency look better. In some instances, the cases were cleared by pinning them on people who could not have committed the crime because they were in jail -- or dead." The Herald notes, "The FBI, the public corruption unit of the Broward State Attorney's Office, and a private attorney hired by BSO have conducted investigations into the case-fixing. … But experts say it will be hard to prove that deputies purposefully altered the reports."

New York Man Sues Prosecutors After Exoneration. The New York Times (2/16, Kilgannon) reports, "A man whose attempted murder conviction was overturned after he served 12 a dozen years in prison is planning on filing a lawsuit charging that Queens prosecutors have withheld evidence and misled juries in a broad pattern of misconduct that has led to dozens of wrongful convictions." The Times continues, "The suit, which a lawyer expects to file today in federal court in Brooklyn, details 84 instances in which criminal convictions obtained by Queens prosecutors were reversed by higher courts for prosecutorial wrongdoing. The lawsuit says that the Queens district attorney, Richard A. Brown, and his predecessor, John J. Santucci, have not punished prosecutors for their misbehavior." The Times adds, "The suit accuses prosecutors in some cases of presenting false testimony by witnesses about their deals for leniency in exchange for cooperation, according to a copy provided by the lawyer filing the suit. It says prosecutors withheld evidence that could be seen as motivating witnesses to give false testimony, and also accuses prosecutors of making false or misleading trial presentations to juries."

Former DC Contract Advisor Debarred. The Washington Times (2/16, Mcelhatton) reports, "The D.C. government has barred a former consultant to the city's technology office from doing business with the District because he pleaded guilty to a criminal conflict-of-interest charge nearly three years ago." The Times continues, "John Izzard III, a former program manager at the D.C. Office of the Chief Technology Officer, was charged in 2003 with seeking about $36,000 from a vendor in exchange for helping the firm win D.C. government contracts, authorities said. … Mr. Izzard's duties as a private consultant at the technology office included recommending contracting actions to city officials, authorities said." The Times adds, "The panel, in a letter to Mr. Izzard last month, wrote 'there is no public purpose to be served for the District to contract with a contractor that committed a serious violation.' … The ruling bans him from city contracts or subcontracts until next year. … An attorney for Mr. Izzard yesterday said his client is considering whether to appeal the panel's decision."

WPost Scoffs At Police Tactics In Virginia Prostitution Probe. The Washington Post (2/16, A26) editorializes, "No doubt… selfless devotion to duty inspired detectives in Spotsylvania County's sheriff's department, who lately have been having sex with prostitutes in order to make cases against them. In one instance an officer even left a $350 tip for services rendered, which presumably sweetened the sting for the suspect in question." The Post continues, "According to an account by The Post's Tom Jackman, a Spotsylvania massage parlor known as Moon Spa was the

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target of one recent investigation. Undercover detectives who visited the spa received baths, massages and sex. In all, detectives, painstakingly thorough, made three such trips in nine days to the Moon Spa, each time paying a fee to the establishment as well as a tip. … 'This has to be done' to guarantee a conviction, Sheriff Howard D. Smith declared grimly, instantly ensuring himself a place as a laughingstock among police and prosecutors across the nation, who manage to secure convictions without engaging in sex with their suspects." The Post concludes, "Virginia drug laws contain an exception that specifically enables undercover cops to possess (and therefore buy) narcotics in the course of an investigation; there's no similar provision allowing for sex with prostitutes. As for the cops, they should find other ways to think of Spotsylvania."

CIVIL LAW:

Attorney Files Constitutional Challenge To Deficit Reduction Bill Over Typo. The Washington Times (2/16, Dinan, 90K) reports Alabama attorney Jim Zeigler has "filed the first constitutional challenge to last week's budget-cuts law, which he said is invalid because the House and Senate never passed the identical bill." Zeigler "said his challenge comes from the right -- as a conservative who is worried that the bill will hurt charitable giving to churches." The measure in question "reduced entitlement spending by $39 billion over five years. Because of a clerical error, the version that passed the House had a different time period for reimbursing medical providers for some medical equipment than the version that passed the Senate."

CQ (2/15, Dennis) reports Zeigler is "a conservative Republican lawyer who specializes in Medicaid cases," and he "filed the suit in U.S. District Court in Mobile, Ala., Feb. 13, saying the measure (PL 109-171) is not a valid law because it was not passed in identical form by both chambers." No hearing date "has been set, and it is unclear if Zeigler will be granted standing to bring the case. Several constitutional law scholars have predicted that if given the chance, the courts would rule that the act violates the bicameral clause of the Constitution, which requires both chambers to pass identical legislation before the president signs it into law."

Administration Using Federal Agency Rules To "Limit Consumer Rights." The Washington Post (2/16, D1, Mayer, 744K) reports the Bush Administration is "using federal rulemaking to limit consumer rights to seek damages under state laws governing faulty products." The Consumer Product Safety Commission "will vote today on a rule that would restrict such suits in the case of mattresses that catch fire, the most recent rule changes undertaken by several agencies. Last month, the Food and Drug Administration limited consumers' ability to recover damages for injuries from agency-approved drugs." Meanwhile, the National Highway Traffic and Safety Administration is "seeking to give automakers similar legal immunity from lawsuits over defective roofs if their vehicles meet new roof-crush standards. It is also proposing to limit consumer lawsuits in a rule that would address seat-belt requirements." Administration officials "say they are simply writing into rules a long-standing policy previously voiced in many friend-of-the-court briefs filed in lawsuits."

DOJ Settles Charges Of Trade Violations With Corporate Express. The Denver Business Journal (2/16) reports, "Corporate Express Inc. paid $5.02 million to the U.S. Department of Justice to settle allegations that it sold products to U.S. government agencies that were manufactured in countries not permitted by the Trade Agreements Act." The Journal continues, "The settlement resolves allegations that the Broomfield-based office supply company sold products from countries without reciprocal trade agreements with the United States, such as China and Taiwan." The Journal adds, "Van Hindes, a spokesman for Corporate Express, confirmed the settlement with the following statement: … 'Like other major distributors in the office product industry, Corporate Express recently settled differences with the U.S. government without acknowledging liability,' Hindes said." The Journal notes, "In 2005, Office Max Inc. paid $9.8 million to settle the same allegations with the Department of Justice. The department also reached a $4.75 million settlement with Office Depot Inc., a $7.4 million settlement with Staples Contract and Commercial Inc. and a $100,000 settlement with Caddo Design. … The settlements resulted from an investigation by the Civil Division of the Department of Justice, the U.S. Attorney's Office for the District of Columbia and the General Services Administration's Office of the Inspector General. … 'Federal contractors will be held accountable for their violations of procurement regulations,' said Peter D. Keisler, assistant

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attorney general for the Civil Division, in a released statement."

Specter Predicts Another Vote On Asbestos Bill. Reuters (2/16, Cornwell) reports Senate Judiciary Committee Chairman Sen. Arlen Specter said "the asbestos compensation bill he is co-sponsoring is 'very much alive' and that Senate Majority Leader Bill Frist told him there would be another vote on it." The bill "to create an industry-financed $140 billion fund to pay injury claims lost a close Senate procedural vote on Tuesday evening." Specter's legislation is "backed by W.R. Grace and Co., USG Corp. and some of the 70 other companies pushed into bankruptcy by tens of thousands of asbestos injury claims. However, some smaller companies oppose a compensation fund, fearing they could be forced to pay more into it than they would face in private lawsuits." Specter said he "spoke with Tennessee Republican Frist on Wednesday morning and 'He (Frist) said he'd have another vote. He said he's looking forward to another vote.'" Specter added, "I consider asbestos to be very much alive."

Roll Call (2/16, Pierce) reports that despite "proclamations to the contrary from Senate GOP leaders, a controversial asbestos trust fund bill appears dead for the year following a crippling setback Tuesday night." Even if Majority Leader Frist "decides to bring the measure back up again — which is considered doubtful — sources on both sides of the aisle said it is improbable that the bill could survive a bipartisan filibuster." Senate Judiciary Chairman Arlen Specter (R-Pa.) "said he expected the measure to reappear on the Senate floor sometime after next week's Presidents Day recess."

CQ (2/15, Stern) reports the Senate asbestos bill "stands in legislative limbo. Judiciary Chairman Arlen Specter, R-Pa., insisted Wednesday that the bill (S 852), which was pulled from the floor Feb. 14 after a procedural vote failed, could still succeed." But Specter "said he does not expect another vote on the asbestos trust fund legislation until after Congress returns from its recess Feb. 27." Even then, Majority Leader Bill Frist, R-Tenn., "may opt against taking up the troubled legislation, which could require weeks of additional floor time. Frist has already fulfilled his pledge to Specter to seek to bring the measure to the floor and carved out two weeks for consideration."

Congress Mulls Changes To Wartime Whistleblower Rules. The Christian Science Monitor (2/16, Chaddock) reports, "Dissent often carries a price in official Washington, especially in the war years of the Bush presidency." The Monitor continues, "Since the Sept. 11 attacks, the number of insiders alleging wrongdoing in government - either through whistle-blower channels or directly to the press - has surged, as have reprisals against them. … That's the message from this week's congressional hearing on protections for national security whistle-blowers - the first in more than a decade. 'he system is broken,' says Rep. Christopher Shays (R) of Connecticut, who chaired the House Government Affairs subcommittee hearing." The Monitor adds, "Disclosures of flawed prewar intelligence, secret prisons and prisoner abuse, and warrantless surveillance by the National Security Agency have launched a debate on the conduct of the war on terror within Congress and the American public. Critics say some of those disclosures also compromised national security. … The struggle over dissent in dangerous times is not confined to national security matters, however. It appears to be settling deeper into the federal bureaucracy, where government scientists and even analysts at the scholarly Congressional Research Service - who are not actually blowing any whistles but who are staking out positions that deviate from the administration's - report efforts to control their contact with the press and public. … If whistle-blowers and others 'do not see an option for dissent within the system, then the system is in bad shape,' says Steven Aftergood, director of the Project on Government Secrecy at the Federation of American Scientists. 'Secrecy has become a growth industry.... It makes it harder for ordinary citizens ... to ask questions ... and to hold officials accountable.'"

CIVIL RIGHTS:

Gonzales Says DOJ Will Broaden Program To Combat Housing Bias. The AP (2/16, Sherman) reports, "Attorney General Alberto Gonzales pledged Wednesday to reinvigorate a program, which has been used infrequently in the Bush administration, to combat housing discrimination." The AP continues, "Test visits by department employees posing as prospective renters or buyers to rental agents and property owners suspected of discrimination will reach an all-time high in the next two years, Gonzales said in

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an address to employees in the Justice Department's Great Hall. … 'We will investigate suspected offenders with testing visits designed to expose discriminatory practices,' Gonzales said." The AP adds, "Since they began in 1992, the visits have resulted in 79 complaints. No more than 16 of those, however, were filed since President Bush took office in January 2001, according to the department's Web site. … The Justice Department's civil rights division declined to provide the exact number of complaints filed by the current administration or to say how many visits to landlords suspected of discrimination take place now. Spokesman Eric Holland said revealing the number of visits could tip off landlords to the prevalence of the undercover visits." The AP notes, "Gonzales, the first Hispanic attorney general, said his heritage drives his views about civil rights. But Gonzales and his civil rights unit have been criticized for not being aggressive in pursuing discrimination cases and for letting partisan politics influence decisions in voting rights cases. … The attorney general has denied any political interference and praised the civil rights division for what he described as "record levels of enforcement.""

US, Canada Bust Human Smuggling Ring At Border. The Detroit Free Press (2/15, Ashenfelter) reports, "In a case law enforcement officials say underscores the security threat at metro Detroit's international border, U.S. and Canadian authorities announced Tuesday they had smashed a ring that smuggled scores of illegal immigrants between the two nations to work in restaurants, brothels and sweatshops." The Free Press continues, "Officials said the organization posed a national threat because it was willing to smuggle anyone across the border for a price. As far as authorities know, however, no terrorists were among the more than 100 people who illegally crossed the border since December 2004. … The illegal immigrants -- from China, Albania, Iraq and Syria -- paid thousands of dollars each to be smuggled in both directions across the border, U.S. and Canadian officials said at a news conference in Windsor. … They were transported in cars, trucks, boats and even freight trains, sometimes in deplorable conditions, including subfreezing temperatures, authorities alleged. Most were headed for work in New York City, officials said. They also said most entered Canada first, were taken to safe houses in the Toronto area and driven to Windsor for transport across the border." The Free Press notes, "U.S. Attorney Stephen Murphy III of Detroit said the investigation shows the importance of securing the nation's borders. … 'This stuff goes on every day,' Murphy said."

The Detroit News (2/15) reports, "Officials say it was one of the largest smuggling rings along the northern border to be dismantled by law enforcement in recent memory. … 'Those who smuggle human beings across international borders should realize that they will be met with an international united front of law enforcement agencies dedicated to stopping them cold and putting them in jail,' U.S. Attorney Stephen J. Murphy said." The News adds, "Since December 2004, U.S. officials say they have caught at least 78 illegal immigrants -- most of them Chinese -- attempting to enter Michigan in connection with this ring, which includes a nurse at Henry Ford Hospital in Detroit, a Windsor truck driver and the Albion owner of a restaurant. … A federal grand jury in Detroit indicted 14 people, and two others were charged in criminal complaints. Canadian officials charged seven others -- along with four of those also charged by U.S. officials -- with breaking Canadian laws."

The Canadian Post (2/16) reports, "Investigators said the migrants came from China, Korea, Albania, and Eastern Europe. … Canadian officials said 24 migrants were stopped entering Canada, while U.S. authorities said they intercepted 74 people being smuggled into the United States from Canada." The Post adds, "Seventeen people were arrested Tuesday in Toronto, Windsor, Detroit and New York City, the culmination of a two-year investigation by the Royal Canadian Mounted Police, the U.S. Department of Homeland Security and the Canada Border Services Agency. … More arrests are expected as a total of 23 people are charged, with some facing charges in both Canada and the United States."

The Canadian Press (2/16, ROSE) reports, "Despite the large sums of money collected in the operation, Ontario residents alleged to have helped transport the migrants in the high-risk operation were paid only a few hundred dollars, the RCMP say. … 'The leaders, the organizers had these migrants to move across and they were the ones getting the bigger bucks, but they didn't want to take the risk, so they were paying local people involved in the Windsor and Sarnia area a few hundred dollars,' said RCMP Insp. Glenn Hanna. … They 'were naive and gullible and decided it was worth taking the risk for a few hundred dollars, not realizing how much was going in at the beginning of the pipeline, how much they were getting at their end of it, and how much they were being used.'" CP adds, "Despite the revelation of the smuggling ring, border officials say it is business as usual and there are no

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plans for any significant changes or crackdowns along the Canadian side of the 49th parallel."

Local Television. There was extensive local TV coverage of the news involving the breakup of a human smuggling ring. Some examples: WDIV-TV Detroit (2/15, 6:31 a.m.) reported on a "major bust involving a human smuggling ring. 14 people were arrested, accused of being smuggled into and out of the US from Canada. The suspects were hidden in trucks and on small boats and paid thousands of dollars to be involved. Arrests were made in Toronto, Windsor, Detroit, and New York City."

KCAL-TV Los Angeles (2/15, 9:16 p.m.) reported, "American and Canadian police say they busted an international human smuggling ring. People from several countries in Asia and Eastern Europe were transported both ways across the border with Canada and into Detroit by freight train." WJBK-TV Detroit (2/15, 11:02 a.m.) was just one of many Michigan stations also covering this story. Other stations outside of Michigan airing reports on it included WJW-TV Cleveland (2/15, 7:18 a.m.) and KAKE-TV Wichita (2/15, 6:19 a.m.).

DOJ Asked To Probe Deaths At Florida Juvenile Facilities. The AP (2/16, Kallestad) reports, "The mother of a 14-year-old boy said Wednesday that her son was murdered by guards who beat him at a boot camp for juvenile offenders in Panama City (FL)." The AP continues, "Bay County sheriff's spokeswoman Ruth Sasser declined comment because of the ongoing investigation into the Jan. 6 death of Martin Lee Anderson. The sheriff's office, which runs the camp, has said the boy was restrained after he became uncooperative. … 'My baby was murdered,' his mother, Gina Jones, said at a news conference. 'Don't let my baby's death be in vain.'" The AP adds, "Also Wednesday, the Legislature's black caucus urged the head of the Florida Department of Law Enforcement to remove himself from the investigation because he previously had been Bay County sheriff. But Gov. Jeb Bush said he remained confident in FDLE Commissioner Guy Tunnell and didn't plan to make any decisions until the formal investigation was completed. … Some legislators, however, weren't as confident in the investigation that already has taken about six weeks. Law enforcement authorities have resisted legal efforts by news organizations and others to obtain a video tape that two lawmakers said showed the beating." The AP notes, "In other new developments, the Florida Southern Christian Leadership Conference asked the U.S. Justice Department to investigate all deaths in Florida's juvenile system the last five years, including Anderson's. … Lawmakers and the NAACP also asked for arrests in the Anderson beating and called on Bush to appoint a special prosecutor."

FBI Investigating Alleged Civil Rights Violation By Texas Police. The Jasper (TX) Newsboy (2/15, Ellis) reports Kirbyville pastor Ted Williams on Monday addressed the Jasper City Council "and asked for assistance in 'getting some answers' from Jasper Police Chief Todd Hunter, concerning an incident in January that resulted in the arrest of his son Jeremy. … Williams said he and his son had met with Robert E. King, special agent with the Federal Bureau of Investigation, to determine if Jeremy's civil rights had been violated," and Williams said "that an investigation would be conducted with the results sent to Washington. Problems started with discarded wooden pallets that some JHS students were planning to use as fuel for the senior bonfire." Jeremy Williams "approached the students claiming that he had a contract for 300 pallets through FEMA. A disagreement and altercation ensued during which Williams…called 911 for the Jasper Police Department. Williams claimed that upon their arrival, officers used excessive force and that he was the only one arrested, even though he was the one attacked by the other parties involved."

Idaho Legislature Approves Gay Union Ban. The New York Times/Reuters (2/16) reports, "Idaho's Legislature gave final approval Wednesday to a measure that would bar all forms of "domestic legal unions" except marriage between a man and a woman." The proposed amendment to the state constitution "will now go up for a popular vote. Gay rights groups say the law would effectively bar any form of union that would allow same-sex couples to share rights enjoyed by heterosexual couples, like shared custody or insurance benefits."

New Jersey Supreme Court Considers Gay Marriage Question. The New York Times (2/16, Chen, 1.19M) reports, "Plunging into a contentious case of national interest, the State Supreme Court on Wednesday began weighing arguments about whether New Jersey should become the second state in the nation to permit same-sex marriage." Five "of the seven justices peppered lawyers for" both sides "with pointed questions indicating curiosity and concern. Legal scholars say that "New Jersey's

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high court…is particularly interesting because it has been considered one of the most liberal, and has also been unafraid to recommend solutions in other controversial matters…that some people argue could have, or should have, been done by the Legislature."

ANTITRUST:

US Leads Global Air Cargo Price-Fixing Probe. The AP (2/16, Weber) reports, "More than a dozen airlines have now been drawn into a widening investigation by United States and European Union officials of whether there has been collusion in the air cargo industry to fix prices on surcharges for fuel, security and insurance." The AP continues, "Spokespersons for the European Commission, the U.S. Department of Justice and the Federal Bureau of Investigation refused Wednesday to provide details about the probe. … But one of the foreign airline's targeted, SAS AB's SAS Cargo in Copenhagen, Denmark, said the EU has alleged that cooperation among airlines began in 2000 and involved agreements about surcharges imposed by airlines to offset certain external costs. … Among the costs, according to a statement from SAS, are surcharges on fuel, added security after the Sept. 11, 2001, attacks in the U.S. and premiums for war-risk insurance after the start of the war in Iraq. SAS said in a statement it does not suspect any violations at its operations." The AP notes, "In Washington, FBI spokesman Bill Carter said records in the case have been sealed and he referred further questions to Justice Department spokeswoman Gina Talamona, who would say only that the investigation was ongoing. She declined further comment. … EU antitrust spokesman Jonathan Todd in Brussels, Belgium, when asked if there was also an investigation into collusion in setting fuel surcharges for passenger flights, said: 'I cannot make any comment on any other investigation that may or may not be going on. At any one time, the commission has several hundreds of antitrust investigations going on, of which only a small proportion are in the public domain.'"

Reuters (2/16) reports, "The investigation started on Tuesday when the European Union's executive arm and the U.S. Justice Department raided a number of air cargo carriers on both sides of the Atlantic, while other airlines were asked for information related to the probe. … The case could threaten to put a brake on recent growth in the $50 billion (29 billion pound) global air cargo market, which U.S. aircraft maker Boeing Co. has estimated will expand at an average annual rate of 6.2 percent in the next two decades, exceeding the expected growth rates of passenger traffic and the world economy." Reuters adds, "The alleged activity, mainly involving various surcharges such as for fuel and for security measures imposed after the September 11, 2001, attacks on the United States using hijacked airliners, has supposedly been carried out since 2000, SAS said. … War-risk surcharges that were applied after the U.S-led invasion of Iraq in 2003 were also involved, it said."

Reuters (2/16) reports, "Air Canada parent ACE Aviation Holdings Inc. said on Wednesday that Canada's antitrust agency is investigating carriers that provide international air cargo services in a widening of the global investigation of suspected price-fixing. … 'We did receive yesterday a letter from the Competition Bureau of Canada stating that it has begun an investigation into the activities of carriers that are engaged in the provision of international air cargo services to and from Canada,' Isabelle Arthur, spokeswoman for ACE Aviation, told Reuters. … 'We will co-operate fully with the Competition Bureau. It is our policy to conduct our business in accordance with all applicable competition laws,' she added."

Yonhap News (2/16) reports, "South Korea's antitrust authority said Wednesday it has launched a probe into local airlines after allegations emerged of their involvement in an international air cargo price-fixing cartel. … 'Investigators have been sent to (the headquarters of) Korean Air and Asiana Airlines,' an official at the Fair Trade Commission (FTC) said. The regulator, who declined to be identified, said the branch offices of Air France and several other foreign airlines have been searched. He did not say when the probes began or reveal when investigators visited the airline offices. … 'In order to conduct an effective investigation, we are carrying out the probes in conjunction with European and U.S. antitrust regulators,' the official said."

Reuters (2/15) reports, "United Parcel Service Inc. said on Wednesday it has been contacted informally by the U.S. Justice Department over a transatlantic antitrust probe. … 'UPS understands it is not part of the probe,' UPS spokesman Norman Black said. 'As is its practice, UPS will cooperate with requests from government agencies.'"

Recalls, Litigation Make Guidant-BS Merger Problematic. USA Today (2/16, Iwata) reports, "Boston Scientific triumphed last month in the fierce merger war for

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Guidant, outlasting Johnson & Johnson with a $27 billion offer. … But now Boston Scientific and Guidant, leading heart-device makers in the growing $250 billion market for medical devices and supplies, must ride out a legal and regulatory storm that could slow their deal, delay products and lead to costly court judgments and government penalties. The companies face investigations, product-liability lawsuits and warnings from the Food and Drug Administration to correct problems at their manufacturing sites." USA continues, "At the same time, Boston Scientific and Guidant — with a combined $11 billion in revenue, 30,000 employees and a dozen plants in the USA and abroad — must smoothly blend their operations. … 'It's a pretty complex juggling act,' says analyst Thomas Gunderson at Piper Jaffray. 'It adds a level of risk we haven't seen before.'" USA adds, "The merger clock is ticking. If the deal does not close by March 31, Boston Scientific must pay Guidant shareholders $4 million a day, Gunderson estimates. … Boston Scientific hopes to win antitrust approval soon from the Justice Department and Federal Trade Commission. … Meanwhile, the U.S. Attorney's Office in Minneapolis and the FDA are investigating Guidant's pacemakers and defibrillators, according to court records, patients' attorneys and Guidant's filings with the Securities and Exchange Commission. … As of December, seven people have died worldwide in incidents involving Guidant's Contak Renewal, Renewal 2 and Ventak Prizm 2DR devices, the FDA says."

Microsoft Slams EU In Antitrust Filing. The Wall Street Journal (2/16, Cohen) reports, "Microsoft Corp. met a deadline to respond to European antitrust charges by attacking regulators, making it likely the U.S. software giant will be hit with new fines over a compliance dispute." The Journal continues, "The European Commission has 'ignored critical evidence in its haste' to impose daily fines of as much as €2 million, or about $2.4 million, against the company, Microsoft said. The Redmond, Wash., company said it already 'complied fully' with orders to help open software markets it dominates to greater competition. … But regulators said Microsoft had failed to provide workable instructions to rivals that want to write and sell software that can operate smoothly with Microsoft products. 'It is of course the European Commission that will decide whether Microsoft is compliant ... and not Microsoft,' regulators said in a statement."

Reuters (2/16, Lawsky) reports, "Microsoft today formally denied European Commission charges that could lead to 2 million euro (US$2.4 million) daily fines in an antitrust case, saying critical evidence had been ignored. … But the European Commission, in an unusual statement, said Microsoft had filed the evidence 11 days after a deadline in December - once the Commission had already issued a Statement of Objections to fine the company. … The Commission also said it is market-testing Microsoft's plans to offer access to source code, the blueprint for Microsoft's software." Reuters adds, "The Commission had given the US software giant until today to explain why it should not be fined for failing to carry out sanctions imposed in March 2004 for using its Windows software monopoly to muscle out smaller competitors. … The company was supposed to provide rival makers of server software with directions to allow their products to interconnect with Windows desktop machines as easily as Microsoft's own server software, used for work-group printer and other tasks. … The Commission said the directions were not workable but the company disagreed in its formal response."

The New York Times (2/16, Meller) reports that Microsoft "submitted a 75-page response to the commission, Europe's top antitrust authority, just hours before a midnight deadline." The Times adds, "On Dec. 22, the commission said Microsoft had not yet complied with its ruling. The agency said that 'Microsoft had not yet provided complete and accurate specifications of the interoperability information which it is obliged to disclose.' … Microsoft, however, said it had filed the technical documents to the commission by the Dec. 15 deadline. Those documents answered the remaining questions the commission had on the company's compliance, Microsoft said. … The commission, however, said it received nothing from Microsoft until after its public statement on the company. 'This documentation was actually supplied on Dec. 26,' the commission said."

The Financial Times (2/16, Buck) reports, "Microsoft also sought to turn up the heat on the Commission's technical adviser, the British computer scientist Professor Neil Barrett, whose scathing assessment of Microsoft's compliance efforts to date formed the basis for the regulator's charges. Mr Barrett dismissed Microsoft's documentation as 'totally useless' … Microsoft on Wednesday handed in a rival assessment that concluded that 'the inter-operability information . . . current industry standards' and provides 'complete and accurate information'."

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The AP (2/16, White) reports, "An independent monitor had found that the documents provided by Microsoft last autumn needed a drastic overhaul. … Computer science professor Neil Barrett wrote a critical report about the company's efforts to comply with the EU's ruling, saying he and a colleague had been unable to use Microsoft's instructions to make rival software work with Microsoft servers."

Bloomberg (2/16, Newman) reports, "Today's filing includes two experts' reports that Microsoft said are independent. Five computers science professors evaluated the company's technical documentation and concluded that 'the interoperability information as provided by Microsoft meets current industry standards.' … 'We believe that it has provided complete and accurate information, to the extent that this can be reasonably achieved, covering protocols, dependencies and implicit knowledge,' the experts said in a 49-page report, according to Microsoft. … The commission's own independent trustee, hired to monitor Microsoft's compliance, came to the opposite conclusion. In a Nov. 30 report, computer scientist Neil Barrett, said: 'Overall the process of using the documentation is an absolutely frustrating, time-consuming and ultimately fruitless task. The documentation needs quite drastic overhaul before it could be considered workable.'"

CNET News (2/16, Marson) reports, "Microsoft also claimed that is has not been given enough time to respond to the commission's concerns and has therefore been 'denied due process in defending itself.' … 'The commission waited many months before informing Microsoft that it believed changes were necessary to the technical documents and then gave Microsoft only a few weeks to make extensive revisions,' the Microsoft filing states."

Dow Jones (2/16) reports, "Microsoft and the European Commission have battled over antitrust issues since 1998. In March 2004, the Commission fined the company a record EUR497 million and ordered it to change some of its business practices. … Since then, Microsoft has produced a version of its ubiquitous Windows operating system without a built-in media player. Concerns about rivals' software programs working with Windows-based servers - an issue known as interoperability - remain unresolved and are the basis of the Commission's December complaint."

Italian Regulators Fine Eni $345 Million For Competition Violations. Italian Antitrust Regulators Fine Eni For The AP (2/16) reports, "Italian antitrust regulators are fining energy giant Eni SpA 290 million euros ($345 million) for abusing its dominant position by 'hindering the entrance of independent operators' on the national market for natural gas." The AP continues, "The authority also said Wednesday in a statement on its Web site that it had ordered Eni to end its "competition-distortion conduct" by turning over to third parties the capacity for the additional transport of 227.5 billion cubic feet of gas annually from Algeria through the Eni-controlled Trans Tunisian Pipeline Company by Oct. 1, 2008." The AP adds, "Eni, the nation's dominant oil and gas company, said it would study the authority's reasons for the fine in deciding whether to appeal. … In a statement, Eni said it had recently given the authority 'some pro-competition measures' consisting of 'gas pipeline development to be undertaken in the shortest technical time.' … The authority's decision comes amid the politically sensitive issue of higher natural gas prices for Italian consumers, as the country deals with recently reduced gas supplies from Russia."

Hospitals Resisting Bush Proposal To Disclose Prices. The Hill (2/16, Young) reports the Bush Administration's "seemingly straightforward proposal to ask hospitals, doctors and other medical providers to disclose their prices is encountering some early resistance." Lobbyists for the hospital industry "left a meeting with National Economic Council Director Allan Hubbard at the White House on Tuesday concerned that they would be muscled into participating in the program." In a memo to his board of directors, Federation of American Hospitals President Chip Kahn said, "It is too early to tell whether or not the Administration will stick to their guns on the agenda that Hubbard laid out, but at this point we have to take their apparent determination to enter the health policy arena seriously." The Hill adds the White House "wants the Department of Health and Human Services (HHS) to implement and oversee a voluntary program that would publicize the prices healthcare providers charge for their services. HHS Secretary Mike Leavitt will take the lead on working out a deal to get providers on board." The White House "appears prepared to push its healthcare agenda aggressively."

Cerberus Group Leads Bidding For GMAC Stake. The Wall Street Journal (2/16, Berman, Pulliam) reports, "A group led by Cerberus Capital Management and

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Citigroup's private-equity arm is the leading bidder for the majority stake in General Motors Acceptance Corp. that its parent, General Motors Corp., is shopping to prospective buyers, people familiar with the matter said." The Journal continues, "While a separate bidding group led by Kohlberg Kravis Roberts & Co. and Wachovia Corp. hasn't fully dropped from the running, GM is spending the bulk of its time negotiating with the Cerberus group, these people noted." The Journal adds, "Financial details couldn't be learned last night. GMAC, which writes loans on cars, homes, college tuition and other things, has been valued by many analysts at roughly $11.5 billion, the unit's book value. A final price could nonetheless vary substantially, based on how a deal is structured. GM may still choose, for instance, to sell off parts of the GMAC business and keep the auto-finance business intact. … Completing a deal will be difficult for any buyer, given the legal and financial issues surrounding the separation between GM and the financing arm. The company originally announced a possible sale in October, but the response from potential buyers has been tepid largely because of the complexity and scale of a transaction. … Despite those concerns, Cerberus has emerged as the most eager potential buyer, say people familiar with the transaction. The New York investment fund, which prides itself on secrecy, has taken stakes or control in dozens of companies over the past decade. In recent months, it was part of a group that signed a deal to purchase supermarkets from grocery chain Albertson's Inc."

BlackRock-Merrill Merger Talks Examined. The Wall Street Journal (2/16, Berman, Smith, Lauricella) reports, "Money manager BlackRock Inc. was in the midst of deal discussions with Morgan Stanley on Jan. 17, when the heads of BlackRock and Merrill Lynch & Co. met at the Three Guys coffee shop near their homes on Manhattan's Upper East Side. … Merrill had caught wind of the BlackRock-Morgan talks. And days before, a meeting was discreetly set up between Merrill Chief Executive Stan O'Neal and BlackRock Chief Executive Laurence Fink. Over canned grapefruit juice and a bowl of Raisin Bran, Mr. O'Neal explained his point of view." The Journal continues, "Unlike Morgan Stanley Chief Executive John Mack, Mr. O'Neal said he would be willing to combine the two companies' money-management operations in a way that would leave BlackRock with control of the new firm. … As long as Merrill still had a meaningful partnership role, Mr. O'Neal was willing to swap a business that produced 60% of the combine company's profits for just a 49% ownership stake. Now, with the Morgan Stanley talks stalling over control and price, Mr. Fink's plans began to change." The Journal adds, "That meeting kicked off what became known as 'Project Trident,' a $9.8 billion exchange that would transform BlackRock into one of the world's biggest money managers. It will also reshape how Merrill, which has the largest army of 15,160 brokers, sells the mutual funds that are the staples of household finances across the country. … For the deal-averse Mr. O'Neal, it represents the largest transaction in his four-year tenure, and the best chance to squeeze more growth from his $525 billion money-management unit, which offered its first mutual fund back in 1969."

Phone Company Control Of Internet Debated. USA Today (2/16) editorializes, "In the history of great ideas, the Internet will surely rank near the top. In a relatively short time, it has made vast amounts of information searchable, sortable and readily available with a few key strokes. … Much of the Internet's appeal is that no one controls it in the way that, say, a grocery store decides which brands to stock. Within its virtual walls, a start-up such as MySpace or Craigslist can surge to prominence entirely on the power of an idea." USA continues, "Now, some very old-school companies want to change all that. Using market dominance achieved through the relative scarcity of lines into people's homes, phone companies such as BellSouth, Verizon and AT&T are eyeing a system that would demand that operators of search engines, e-commerce sites and other Web applications pay them fees or be relegated to the slow lane." USA adds, "Competition might keep the phone companies from putting the squeeze on website operators. That would be the best outcome. But consumers in many parts of the country have little choice in broadband, so Congress is appropriately exploring legislation that would lay out a principle of "Net neutrality" that would require all websites to receive equal access. … Telecommunications companies say they are not altering the Internet, merely offering a new ultra-high-speed tier of service on top of it. Don't be fooled. Once they begin choosing search engines, auction sites and other applications for their premium service, they alter the entire competitive landscape. … In this new world, companies would have to spend more time kowtowing to the likes of AT&T and less time innovating. That doesn't sound like such a great idea."

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In an op-ed in USA Today (2/16), Walter McCormick, president and CEO of the United States Telecom Association, writes, "Local telecommunications companies have a 150-year tradition of connecting people with each other. As we invest billions of dollars in new, advanced broadband networks, our commitment remains the same: We will connect you to whomever you choose, and we will not block, impair, or degrade any content, applications or services. The Internet freedom you have today, you will have tomorrow." McCormick continues, "Government has kept its hands off the Internet, and it has flourished. Telecom companies have not sought to hinder the Internet's growth — indeed, just the opposite: We have invested, grown and expanded the networks that make up this extraordinary resource. Today's DSL, cable, wireless and satellite companies vigorously compete to offer a faster, more robust Internet experience. … Consumers are in control via new pricing and service packages being made available everyday — witness AT&T's announcement of $12.99-per-month DSL access. Consumers expect and demand Internet freedom. If telecom companies don't provide it, they will do business with someone else." McCormick concludes, "No one in today's debate opposes Internet freedom. We differ only in this: We do not believe that now is the time to close the chapter on Internet innovation and progress by turning to government-managed competition and central planning, no matter how well-intentioned. … Those who invest in advanced fiber, wireline and wireless broadband networks should be free to offer new services, and new pricing and service options, in a marketplace characterized by robust competition and consumer choice."

ENVIRONMENT:

Pombo Opens Probe Of Oil Company Leases. The New York Times (2/16, Andrews, 1.19M) reports that Rep. Richard Pombo has begun a broad investigation of an Interior Department program "that is expected to give billions of dollars in benefits over the next five years to companies that pump oil and gas on federal territory." In a letter on Wednesday to Interior Secretary Gale A. Norton, Pombo "demanded memos, correspondence and data on the program and on the negotiations over the law that created it in 1996." Pombo "said he was beginning the investigation in response to an article published on Tuesday in The New York Times." He "made it clear that a primary purpose of his investigation was to attribute much of the problem to decisions by the Clinton administration to sweeten the incentives in 1998 and 1999. But Jennifer Zuccarelli, a spokeswoman for Mr. Pombo, said the letter to Ms. Norton 'is only the beginning of what the chairman believes will be a broad investigation.'"

FBI/DEA/ATF/USMS:

ATF Using Tested Strategies In Alabama Church Fire Probe. WHNT-TV, News 19, Huntsville, AL (2/16, Woodard) reports, "The ATF has set up phone lines, hoping to get information on the Alabama church fires. Early Tuesday morning, agents got a tip from Choctaw County about a suspicious vehicle near a Baptist church and another involved in an accident. Tom Crowley of the ATF says, 'Everything fit, it looked promising, it was something that needed to be checked out, and we'll continue to check out anything that comes in.' … That tip turned out to be a false alarm." WHNT-TV continues, "Law enforcement at all levels have been asking for help since the church fires began back on February third. Ten Baptist churches in five Alabama counties have been damaged or destroyed by arsonists. ATF Regional Director Jim Cavanaugh says, 'We're not magicians, we're policemen, we have to work through it as we go.' … ATF used tips and a suspect call-in number to help solve the D.C. sniper case. The agents used a command post, like the one at the Tuscaloosa airport, to help capture and convict Eric Rudolph. They hope old strategies and new tips will lead them to the two white males in the dark-colored sport utility vehicle. Cavanaugh says, 'We're getting good calls, suspicious activity, matches the description, people calling in saying who the team is.'"

Probers Demonstrate Investigative Techniques. WAFF-TV, Huntsville, AL (2/16) reports, "To better explain how the ATF is investigating the ten Alabama church fires, one investigator walked WAFF 48 News through the steps they're taking to solve the crimes." WAFF-TV continues, "Caesar is a specially trained black Labrador retriever and one of the first agents inside a burned building. … With guidance from his partner in crime, Tony Deversa, Caesar knows exactly what to do. … Caesar searches high and low while investigators like Deversa take inventory inside and out. … Searching seemingly for the impossible, where every piece of evidence is burned beyond recognition." WAFF-TV adds, "The goal in every fire investigation is to find an area of

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origin, which can often indicate a potential ignition source. … For the church arsons, authorities used those same methods and determined the fires started at the pulpit area. … From there, investigators scan for the burned area that's lowest to the ground."

San Diego City Employees Facing Drug Charges Linked To Local Gang. The AP (2/15) reports that officials say two San Diego city employees arrested last month on drug and weapons charges were leaders of a local street gang. Ralph Briggs, 43, and James Woods, 38, "were arrested Jan. 17 on state charges of selling and possessing cocaine and weapons allegations as part of a six-month undercover investigation, according to Misha Piastro, a spokesman for the federal Drug Enforcement Administration in San Diego. Briggs and Woods worked in the San Diego Parks and Recreation Department's ground and maintenance division. Woods also is accused of selling marijuana on the job, prosecutor Damon Mosler said. … Briggs and Woods were the leaders of a local cell of the Syndo Mob, short for Syndicate, and their arrests eliminated the cell, Piastro said. The Syndo mob is affiliated with the Bloods, a nationwide street gang. … The two men, who are half-brothers, have been suspended without pay." More than 30 news outlets published in newspapers and/or posted on their Web sites the AP story, including The Washington Post, Los Angeles Times, New York Newsday, Kansas City Star, and San Jose Mercury News.

The San Diego Union Tribune (2/15) reports, "Nine people linked to a notorious street gang have been arrested after a six-month undercover probe into a suspected drug trafficking operation in San Diego, authorities have announced. Two of those arrested during raids over past weeks previously were publicly identified as San Diego Park & Recreation Department employees accused of using city vehicles to deal drugs." With the culmination of the probe, called Operation Southern Strike, John S. Fernandes, special agent in charge of the San Diego office of the Drug Enforcement Administration, "said he hoped it would send a strong signal that gang membership and drug dealing are dead ends. 'The DEA is committed to working hand in hand with local authorities to confront drug dealers and gangsters who perpetrate crime and violence in our cities,' he said. Recent criminal activities by the gang prompted the DEA to set up a task force comprised of DEA agents, members of the San Diego County Sheriff, District Attorney's Office, California Highway Patrol and Bureau of Alcohol, Tobacco and Firearms to target the Syndo Mob and its associates."

Trial Begins For Philadelphia Drug Dealer Accused Of Murdering Witness. The Philadelphia Inquirer (2/16, Slobodzian, 423K) reports former FBI most-wanted suspect Felix Summers, "already acquitted of two murders," went on trial yesterday "on charges involving the 1999 killing of a potential witness against him. Assistant District Attorney Carlos Vega called the murder of 39-year-old Charlotte Presley 'a crime that cuts to the core of the court system.' … Authorities say Summers…a former South Philadelphia drug dealer, was the gunman who went to Presley's third-floor apartment in…1999, and shot her. Defense attorney Jack McMahon told the jury Summers was the victim of mistaken identity compounded by the wrath of a 'woman scorned' -- a former girlfriend trying to get even by fingering Summers for a crime he did not commit. Complicating yesterday's first day of the retrial: Sherrie Hewett, the former girlfriend who gave Summers his nickname, failed to appear at court as subpoenaed."

DEA Helps Investigate One Of Michigan's "Longest-Running" Criminal Enterprises. Lansing (MI) State Journal (2/16) reports, "Authorities on Wednesday said they have dismantled a Lansing drug ring that had been dealing heroin and crack cocaine since the early 1980s. It was one of the longest-running criminal enterprises in the history of western Michigan, said Assistant U.S. Attorney Mark Courtade, who headed the prosecution. The U.S. District Court's Western Michigan region encompasses Lansing and everything west, as well as the Upper Peninsula. 'It wasn't the biggest, but it was certainly one of the longest in existence,' he said, adding that it was run like a family business. Two Lansing men were convicted Monday in federal court for their roles in the ring that included at least a dozen others — many of them related. The organization supplied heroin and cocaine in the Lansing area for more than two decades. … Prosecutors said the close-knit nature of the relationship between the buyers and the family members selling them the drugs made the case difficult for authorities to break. The investigation was conducted by the ATF's Lansing office, Lansing police and the U.S. Drug Enforcement Administration."

WLNS-TV, Lansing, Michigan (2/16) reports on its Web site, "Lansing police say they've shut down a major heroin ring

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in the city, and just this week a grand jury indicted the last of fourteen dope dealers. The evidence of drugs and firearms show the magnitude of the operation. The Lansing Police Department says 14 people -- mostly from the same family -- have been delivering large amounts of heroine and cocaine for nearly four years."

WILX-TV, Lansing (2/16) reports on its Web site, "The ringleader, 49-year-old Lionel Beard of Lansing, was convicted this week of running a criminal operation, dealing drugs and for being a felon in possession of guns. His younger brother, 34-year-old Thomas Beard of Meridian Township, was convicted by the same federal jury for weapons possession and dealing. With the Beard ring out of action, police officials say they've noticed a dip in heroin trafficking in the city."

City Council In California Prevents Businesses From Distributing Medical Marijuana. The AP (2/15) reports, "San Marcos became the first city in San Diego County to ban businesses from distributing medical marijuana. The ordinance tentatively approved Tuesday by the San Marcos City Council allows the only medical marijuana dispensary in the city north of San Diego to remain open if it follows all applicable laws. But what those laws are remains unclear. Federal law bans marijuana, but in 1996, California voters approved Proposition 215, which legalized marijuana for medical purposes. San Diego County has defied the state-ordered program and filed a legal challenge to the voter-approved law. San Marcos' lone marijuana dispensary is owned by Legal Ease Inc., which said it only sells the drug to people with valid prescriptions from doctors." The AP adds, "In December, the U.S. Drug Enforcement Administration raided the business along with 12 others in San Diego after undercover agents said they were able to buy marijuana without a prescription. The DEA said Legal Ease remains under investigation."

Bolivian Coca Farmers Call For Expulsion Of US Anti-Drug Units. The Washington Times (2/16, Arostegui) reports, "A coalition of coca farmers led by Bolivian President Evo Morales is calling publicly for the immediate expulsion of U.S. counternarcotics units from the country, raising questions about the viability of U.S. programs. The move, placing further strain on tense relations with the United States, came late Tuesday at a meeting of six dominant coca-growing federations with Mr. Morales presiding. However, the president appeared to back away from the resolution in an address to the armed forces yesterday afternoon, saying, 'As long as Bolivia's sovereignty is respected, no international organism will be expelled from Bolivia.' The resolution would affect the U.S. Drug Enforcement Administration, the State Department's Narcotics Affairs Section and the Alternative Development Program run by the U.S. Agency for International Development to help farmers develop alternative crops. … U.S. Ambassador David N. Greenlee met last week with newly appointed counternarcotics officials, including Felipe Caceres, the vice minister for social defense, and Felix Barra, who heads the Alternative Development Program, since renamed the Program for Coca and Integral Development. … Mr. Greenlee expressed satisfaction with his talks and said there was 'room for understanding.'"

Venezuela's Daily Journal (2/16) reports, "Bolivian President Evo Morales said he will not expel U.S. anti-narcotics agents, as sought by the coca growers who helped propel him to power, but warned foreign officials operating here to respect the nation's sovereignty and dignity. … The president said Wednesday that Bolivia should foster friendly international ties and that foreign officials should be allowed to continue operating in the Andean nation as long as they respect its laws. … Under a bilateral pact, the United States provides financial, material and technical assistance to Bolivia in battling the cocaine trade. Part of the program involves the presence of DEA agents in the central coca-growing region of Chapare. Sources at the U.S. Embassy in La Paz [said] the request by…coca growers to boot the DEA agents prompted the mission to cancel a scheduled meeting with Bolivian anti-narcotics officials."

Wisconsin Man Sentenced To Five Years For Racially-Motivated Church Arsons. The Milwaukee Journal Sentinel (2/10, 266K) reported, "A 22-year-old Oconomowoc man has been sentenced to five years and three months in prison for trying to burn down two African-American churches, one in Milwaukee and one in Michigan. Daniel L. Dropik pleaded guilty in October to two counts of racially motivated arson of a church. … At the sentencing hearing Friday in federal court in Milwaukee, U.S. District Judge Rudolph T. Randa said he believes Dropik's actions 'were motivated by deep psychological and psychiatric problems.' However, the judge also considered the seriousness of the offense, particularly that Dropik set out to

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burn churches with largely black congregations. In addition to the prison term, Dropik must spent three years on supervised release and pay $39,697 in restitution." The AP (2/10) also reported on the sentencing, drawing heavily on the Journal-Sentinel story.

Richmond, VA, Gun Show Comes Under Federal Scrutiny. The Richmond Times-Dispatch (2/16, Mussenden) reports, "A crackdown on illegal firearm sales at Richmond-area gun shows led to a congressional inquiry yesterday into whether federal agents trampled the rights of gun buyers." The Times-Dispatch continues, "The organizer of an August gun show at Richmond Raceway Complex told a House panel that a large team of federal agents from the Bureau of Alcohol, Tobacco, Firearms and Explosives and city, state and county police patrolled the two-day show, harassing law-abiding gun buyers while looking for illicit gun sales. … Annette Gelles of Showmasters, the organizer, told the House Judiciary Subcommittee on Crime that agents' aggressive tactics unnerved some attendees, and the visible presence drove away other customers. … 'hey impeded people's Second Amendment rights,'Gelles said after the hearing. ' think they were there trying to shut the show down. Why else would they bring that many officers? It scared away a lot of law-abiding people.'" The Times-Dispatch adds, "After noticing that guns purchased at shows -- which, unlike store sales, do not always require a background check -- were used to commit local crimes, the ATF, Richmond and Henrico County police and Virginia State Police joined to strengthen oversight of gun-show firearm sales. … Representatives of the four agencies were not invited to the hearing. … The ATF is scheduled to present its side of the story at a hearing Feb. 28, said subcommittee chairman Rep. Howard Coble, R-N.C."

New York Launches Strategy To Curb Gun Dealers. The Christian Science Monitor (2/16, Marks) reports, "New York and other major cities are preparing to take on Congress and the gun lobby. … The reason: They're tired of their streets being flooded with guns bought somewhere else. In New York City, for instance, 85 percent of the guns used in crimes are bought legally in other states with far less stringent gun-control laws, most of them in the South." The Monitor continues, "Other East Coast metropolises, from Boston to Washington, face a similar gun influx. And so, despite a recent federal law that protects gun dealers and manufacturers from litigation, city leaders have signaled the start of a national movement to sue out-of-state gun dealers they consider 'bad apples' - those who knowingly sell to so-called straw buyers and others who traffic in illegal guns. … 'Right now, about 1 percent of gun dealers account for almost 60 percent of guns used in crimes nationally,' New York Mayor Michael Bloomberg said in his recent State of the City address. 'This year, we are going to launch lawsuits against these irresponsible dealers, and we are going to hold them accountable for the terrible damage their guns cause.' … That is a central part of his five-pronged strategy to attack gun violence in New York. It also includes toughening penalties for possession of illegal guns, intensive interrogating of suspects toting illegal guns so the source of the weapons can be better traced, and setting up a gun-offender registry similar to the ones set up for sex offenders so communities can know if a convicted gun offender lives in the neighborhood. … But the legal assault on gun dealers is the action expected to gain the most attention, and support, from other cities. Boston Mayor Tom Menino has already signaled he intends to join New York in its direct challenge to lawmakers in Washington."

ATF Bomb-Sniffing Dog Dies After Fall At Basketball Game. The Houston Chronicle (2/16, Hanson) reports, "An explosives sniffing dog died this morning after falling from a ramp at the George R. Brown Convention Center in downtown Houston." The Chronicle continues, "The dog, Mikey, was part of a U.S. Alcohol, Tobacco, Firearms and Explosives unit involved in a security sweep of the convention center in preparation for the NBA All-Star game, said Franceska Perot, spokeswoman for ATF." The Chronicle adds, "Perot said about 1:30 a.m. the unit was taking a break and the dog, a Labrador, was being put into the back of a truck when he suddenly bolted and went over the edge of a ramp. … The dog fell about 55 feet to the ground and was taken to a local veterinary clinic where he died. Perot said the dog, used for detecting explosives, may have seen a pigeon and instinct took over and he jumped at the bird."

TAX:

Frist Calls Capital Gains, Dividend Tax Cuts "Non-Negotiable." In a Washington Times op-ed (2/16), Senate Majority Leader Bill Frist says the "one thing" that "must remain non-negotiable" in the conference for the tax cut bill is "an extension for the effective reductions in capital-gains and dividends taxes that Congress enacted in

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2003." The "very existence of taxes on capital gains and dividends ranks among the worst provisions of America's labyrinthine tax system. Those who earn capital gains have already paid income taxes on their initial investments. When the government seizes a portion of profits earned as a company increases in value or issues a dividend, it penalizes saving, investment and risk-taking. The idea of taxing capital gains and dividends has deep flaws and, in time, we ought to eliminate both types of taxes altogether. For the moment, however, keeping them lower, longer appears a very good economic policy."

CQ (2/15, Schatz) reports Majority Leader Frist "warned the Senate's top tax writer Wednesday that he will reject the final $70 billion tax cut bill if it does not include an extension of the 2003 rate cut on capital gains and dividends." With formal conference negotiations "on the bill (HR 4297) set to begin, Frist also signaled that he would consider moving less controversial breaks separately — such as a "patch" to blunt the effect of the alternative minimum tax (AMT)." In a Feb. 14 letter to Finance Chairman Charles E. Grassley, R-Iowa, Frist said he "will not call up a conference report for Senate floor consideration if it does not include an extension of the capital gains and dividends tax relief."

Baucus Says 2006 AMT Fix More Important Than Expiring 2009 Provisions. In a Wall Street Journal letter to the editor (2/16), Sen. Max Baucus says the Journal was "right on one count in your Feb. 9 editorial 'The Max Baucus Speed Bump': Cutting taxes is harder than it should be, at least when it comes to protecting America's working families from the alternative minimum tax. My so-called 'speed bump' on the road to extending capital gains and dividends cuts that do not expire until 2009 should be of little concern, compared with the brick wall toward which Congress is speeding: a huge 2006 tax increase for 17 million Americans the AMT should never snare. Congress should fix the AMT for 2006 now, and pass additional tax cuts Sen. Chuck Grassley (R., Iowa) and I have proposed for teachers, small businesses and individuals. Then we must work to repeal the stealth tax of the AMT altogether. I will gladly invoke Senate rules to keep Congress's eyes on the road toward immediate tax cuts for hardworking Americans who need them now."

CONGRESS-ADMINISTRATION:

In TV Interview, Cheney Discusses Hunting Accident. Vice President Cheney, who has been criticized for his silence in the aftermath of his hunting accident, yesterday sat for an interview with Fox News' Brit Hume. Cheney took responsibility for the shooting of 78-year-old attorney Harold Whittington, and grew emotional when he discussed the accident and Whittington's injuries. As the CBS Evening News (2/15, lead story, 2:45, Axelrod) put it, for a "tough guy, not known for emotion, Dick Cheney looked somber and shaken." CBS also reported, "CBS News has learned that it was President Bush's political enforcer, Karl Rove, who finally got the Vice President to speak publicly about his hunting accident. And Rove pushed Mr. Cheney hard, worried that the story was moving from distraction to political problem."

While the coverage of Cheney's interview contains assessments of the White House strategy – and of Cheney's choice of Fox News for his interview – most stories are built around extensive excerpts of the Vice President's comments. Most reports this morning include this Cheney statement on Fox News' Special Report (2/15): "Ultimately, I'm the guy who pulled the trigger that fired the round that hit Harry. And you can talk about all of the other conditions that existed at the time, but that's the bottom line. And there's no -- it was not Harry's fault. You can't blame anybody else. I'm the guy who pulled the trigger and shot my friend. And I say that is something I'll never forget." Cheney also said "the image of him falling is something I'll never be able to get out of my mind. I fired, and there's Harry falling. And it was, I'd have to say, one of the worst days of my life, at that moment."

Cheney's explanation of why he didn't notify the White House press corps also gets a lot of play in the coverage. Cheney said on Fox News' Special Report (2/15), "My first reaction was not to think: I need to call the press. My first reaction is: My friend, Harry, has been shot and we've got to take care of him. That evening there were other considerations. We wanted to make sure his family was taken care of." Cheney added that Katherine Armstrong "suggested, and I agreed, that she would go make the announcement, that is that she'd put the story out. And I thought that made good sense." He added, "I had a bit of the feeling that the press corps was upset because, to some extent, it was about them -- they didn't like the idea that we called the Corpus Christi Caller-Times instead of The New York Times. But it strikes me that the Corpus Christi Caller-Times is just as valid a news outlet as The New York Times is, especially for covering a major story in south Texas."

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Those two excerpts from the interview dominate much of the coverage. For example, USA Today (2/16, Jackson, 2.31M) reports a "somber…Cheney took full responsibility." Similar stories appear in the Baltimore Sun (2/16, Davis, 296K), which titles its report "Cheney Accepts Blame For Hunting Mishap" and Washington Post (2/16, A1, Baker, 744K), in a story headlined "Cheney Says Shooting Was His Fault." Reuters (2/16, Holland) reports Cheney "took the blame," adding that he acted "under pressure from Democrats and some Republicans to break his silence." The AP (2/16, Pickler, Brezosky) says "Cheney took the blame." Cheney "was soft-spoken and appeared shaken." Bloomberg (2/16, Rosenkrantz) and Knight Ridder (2/16, Hutcheson) run very similar stories.

The Los Angeles Times (2/16, Muskal, 958K), meanwhile, notes Cheney "praised" White House press secretary Scott McClellan "for how he handled the press. 'It's especially a tough job under these conditions and circumstances,' Cheney said." The New York Times (2/16, Sanger, Kornblut, 1.19M) reports Cheney "suggested in the interview that he had been advised by Mr. McClellan and Dan Bartlett, Mr. Bush's counselor and longtime communications adviser, to disclose what had happened more broadly and more quickly. 'I've got nothing but good things to say about Scott McClellan and Dan Bartlett,' Mr. Cheney said."

NBC Nightly News (2/15, lead story, 2:45, Williams) reported, "The Bush White House made an attempt at stopping the political damage by breaking four days of silence on the part of the Vice President." NBC (Gregory) added, "Until now, however, eyewitness Katharine Armstrong…and the White House have faulted Whittington for failing to alert Mr. Cheney that he was rejoining the hunting line after falling behind to search for a downed bird."

ABC World News Tonight (2/15, lead story, 2:45, Raddatz) reported, "The Vice President was unapologetic about the way this incident was handled. But he did take full responsibility for it." Raddatz: "Brit Hume, who conducted the interview, said the Vice President seemed shaken today, and found it difficult to speak about the accident." ABC added, "Cheney's description of what happened was markedly different in tone than the description offered Sunday by fellow hunter, Katharine Armstrong." The Washington Times (2/16, Sammon, 90K) also reports "the vice president's insistence on taking full responsibility for the accident marked a shift in strategy for the administration. Previously, the White House suggested that Mr. Whittington had violated a hunting 'protocol' by not making his whereabouts more clearly known to Mr. Cheney."

Most analysts agree the interview could go a long way toward defusing the growing controversy about the accident. ABC's News Nightline (2/15, Moran) called Cheney's interview on Fox News, "Personal, pained and decidedly unpolitical. … Tonight, many are saying the Vice President may have helped put out the political firestorm." GOP strategist Ed Rollins: "I think no one could have watched that interview, and would have seen the pain and anguish he has about shot accidentally -- a tragic accident. Shooting a friend. He has all the remorse anyone would expect."

The Financial Times (2/16, Daniel) disagrees, saying "Cheney's appearance on Fox News may be too late to limit the fallout. The accident, and his unapologetic stance, have become satirical fodder for late-night comedians. A man who prided himself on his hunting skills, he is now a footnote in the Texas hunting annals."

On ABC World News Tonight (2/15, story 2, 1:05, Vargas), correspondent George Stephanopoulos said, "The Vice President, if he had given this interview a couple days ago, would have prevented this story from exploding. He hit the right notes." Stephanopoulos added that as "long as his story is not contradicted by Mr. Whittington or the sheriff's report, and as long as Mr. Whittington doesn't take a turn for the worse, I think he's stopped the political damage."

On NBC Nightly News (2/15, story 2, 1:55, Williams), NBC Washington bureau chief Tim Russert said, "It depends on the health of Harry Whittington. If in fact he recovers fully and returns home, that will be very good news for everyone and probably will help end this story relatively quickly. If however, his health, God forbid, deteriorates, it will be ongoing." Democrats "have seized on this. They say it's a metaphor for the secrecy of the Bush White House, for the misjudgments made in Iraq and Katrina. Republicans have seized on it, saying it's a feeding frenzy by the White House Press Corps and it's time to move on."

The Washington Post (2/16, A1, Baker, 744K) reports, "White House aides and allies expressed hope that Cheney's public comments would defuse the uproar," but "Democrats continued to pound away. Even before the interview, the office of Senate Minority Leader Harry M. Reid (Nev.) issued a statement accusing Cheney of being 'unable, or unwilling, to level with the American people.' Sen. Frank Lautenberg (N.J.) added: 'Vice President Cheney had a chance to shoot straight with the American people, but he decided to

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stonewall and delay. Now that he feels forced to talk, he wants to restrict the discussion to a friendly news outlet, guaranteeing no hard questions from the press corps.'"

Under the headline "Accepting Responsibility, With An Asterisk," the Washington Post (2/16, A2, Milbank, 744K) reports, "President Bush in 2000 ushered in the Era of Personal Responsibility. Yesterday ushered in the Era of Qualified Personal Responsibility." Cheney "offered a stark claim of responsibility," but he also "admitted no fault in creating the four-day firestorm."

Other stories this morning focus on the "feeding frenzy" surrounding the incident. The Christian Science Monitor (2/16, Feldmann, 61K) reports, "Right or wrong, the White House press corps has behaved like a dog with a bone over the story of Vice President Cheney's hunting accident." The Washington Times (2/16, Harper, 90K), meanwhile, runs a story titled "Critics Hit Cheney 'Feeding Frenzy,'" in which it says "Greg Mitchell of Editor & Publisher, a media journal, questioned the reporting. 'There was poor reporting early on. Too many journalists did not question those initial reports that the victim was OK. They did not treat it as a shooting. The joking started. Reporters were clowning on news shows, and it spread from reporters to senators.'"

Finally, the Wall Street Journal (2/16, Kronholz, 2.11M) analyzes the etiquette of quail hunting, "a genteel sport, where shooters with expensive guns and well-trained dogs hunt a skittish bird that is about the size of a fist and has the speed of a Little League pitch."

The Washington Post (2/16, A10, Romano, Balz, 744K) also reports on Whittington's past political activities, calling him "a well-known fixture on the Texas political landscape for half a century, a distinguished lawyer to whom governors have turned to help clean up messes, a Republican statesman before there was much of a Republican Party in the state." He and Cheney "were little more than acquaintances before last weekend, when the vice president accidentally sprayed him with birdshot, landing the 78-year-old in an intensive care unit in Corpus Christi. But friends say that Whittington is exactly the kind of man a host would include in a hunting party with the vice president of the United States." USA Today (2/16, Kiely, 2.31M) runs a story about local reaction to the shooting, titled "Incident No Big Deal In Tiny Texas County."

Cheney Reportedly In "State Of Meltdown" Over Accident. The CBS Evening News (2/15, story 3, 2:10, Borger) reported, "One source who is very close to the Vice President told CBS News today that Dick Cheney has been in what he calls a state of meltdown over this hunting accident. And another top White House aide also told CBS 'you can't imagine how upset the Vice President is.' In fact, he said, the Vice President is so upset, that the Whittington family is worrying about Dick Cheney."

McClellan Answer Said To Signal Tensions Within White House. The New York Times (2/16, Sanger, Kornblut, 1.19M) also says the interview "did not obscure the tensions that have riven the administration since the accident on Saturday, and in a sign of disagreement at the very top, the White House signaled that…Bush wished that Mr. Cheney had made the news public more quickly." The Wall Street Journal (2/16, Hitt, McKinnon, 2.11M) runs a similar report under the headline "Cheney Takes Blame For Shooting But Defends How It Was Disclosed," in which it reports, "Asked if the president was satisfied with Mr. Cheney's handling of the situation…McClellan yesterday repeated his statement from earlier in the week that 'you can always look back at these issues and work to do better in the future.' Asked if that was Mr. Bush's view, Mr. McClellan said he was 'speaking on behalf of the White House and the president.'" The Washington Post (2/16, A1, Baker, 744K) calls that McClellan comment "a sign of the extraordinary tension inside the White House -- evidently even between Bush and Cheney."

Bush's Handling Of Hunting Accident Contrasted With Cheney's. ABC World News Tonight (2/15, story 3, :30, Sawyer) reported, "I'm thinking of our conversation in the newsroom today, about President Bush and his one own hunting mishap." ABC (Vargas) added, "That's right. He wrote about it in his autobiography. In 1994, he shot a rare bird on a hunting trip of his own. He says he didn't know what to do. But then, decided to tell every single reporter who was accompanying him on that hunting trip. So, at least in that respect, you saw a very different way, a different version of how to handle this kind of crisis." Sawyer: "Different incident. But sharp contrast in the way it was handled."

Aftermath Of Hunting Accident Compared To Katrina Response. The Los Angeles Times (2/16, Brownstein, Wallsten, 958K) reports, "Throughout his presidency, George W. Bush has been admired for his ability to set clear goals and doggedly follow a path to achieve them." But "Bush and his White House often seem to struggle when pressed to react to unexpected events, a difficulty highlighted Wednesday by the continuing furor over…Cheney's hunting accident and a congressional committee's sharply critical report about the federal response

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to Hurricane Katrina." The Times adds, "One GOP fundraiser close to the White House said he thought the administration's response to the news that Cheney had mistakenly shot a fellow hunter Saturday so closely replicated the Katrina experience that he wondered, 'Is this a bad dream we are seeing again?'"

Whittington Remains In Intensive Care. CNN's The Situation Room (2/15, Lavendera) reported, "We understand that Harry Whittington is still being kept in the intensive care unit of this hospital in Corpus Christi, but that really has very little to do with his condition. They say that he's actually doing quite well and he is being kept in the ICU mostly for privacy reasons, because of this high-profile status that has kind of enveloped his situation here. Doctors have been releasing over the last couple of days a little bit of information about his condition saying that he is stable, alert, eating regular food. In fact, at one point, they say that he was planning on doing some of his law work. And that is carefully orchestrated and discussed with the family. Even though Harry Whittington hasn't made any public comments or released any statements since he has been here at the hospital, they are releasing -- and through the wishes of the family, some of the updates to let people know that he is doing OK. By all means, they don't have to do that. They could have put the clamp down on any kind of information about his condition."

Cheney Could Face Charges. The AP (2/16, Curry) reports, "If the man wounded by…Cheney dies, the vice president could -- in theory at least -- face criminal charges, even though the shooting was an accident." Dallas defense attorney David Finn, "who has been a state and a federal prosecutor, said Wednesday that a Texas grand jury could bring a charge of criminally negligent homicide if there is evidence the vice president knew or should have known 'there was a substantial or unjustifiable risk that his actions would result in him shooting a fellow hunter.'" The AP adds, "To indict Cheney, the grand jury would have to conclude that a reasonable person in the vice president's place would say to himself, 'I am not pulling the trigger because this other guy might be in front of me,' Finn said."

Shays Says Administration Is Overly Secretive. Rep. Chris Shays said on CNN's The Situation Room (2/15) that the Whittington shooting is a "good example" of the Administration being overly secretive, adding, "It's like they don't learn. I mean, obviously this information's going to come out. So just let it come out. It had to have been one of the worst days of his life. It had to have been terrible for him and obviously the individual he shot and everybody who was there. But the information needs to be made public and be made public quickly."

Cheney's Choice Of Fox News Venue Criticized. Media analysts tended to be critical of Cheney's choice of Fox News for his interview. The New York Times (2/16, Stanley, 1.19M) reports, "Most V.I.P.'s in trouble choose the safe waters of Larry King on CNN to do damage control. Mr. Cheney chose what this administration views as the even more secure location of a Fox News interview."

Under the headline "Shoot a Pal, Complain About the Press," Paul Brownfield writes in the Los Angeles Times (2/16, 958K), "If you accidentally shoot a hunting buddy in the face, make it about the media. That was the message Vice President Dick Cheney got out Wednesday, courtesy of Fox News Channel and its most sober and decorated journalist, Brit Hume, who was summoned by Cheney for an exclusive interview and then left to play Cheney's press secretary, getting the veep's talking points out the rest of the day on Fox."

In his "Media Mix" column, Peter Johnson writes in USA Today (2/16, 2.31M), "Cheney's choice of Fox News Channel…had media types talking Wednesday, particularly among some competitors who view Fox News as sympathetic to the Bush White House. 'They're the house organ for the Republican Party,' said CNN political analyst Paul Begala, a former Clinton aide. 'It's like Khrushchev giving an interview to Pravda.'"

The Washington Post (2/16, C1, Kurtz, 744K) reports Mary Matalin, "a former Cheney aide and informal adviser who accompanied him to the interview in the vice president's ceremonial office, said the vice president likes Hume but that 'our objective was to get the whole story out in a consecutive way. He wanted a long form. We had no desire for anything other than comprehensive and hard questions.'" Matalin "said Cheney considered holding a news conference, but that 'would have meant a lot of grandstanding' by reporters." Fox News "is widely viewed as more sympathetic to the Bush administration than the other networks."

O'Reilly Says Press Despises Cheney. Bill O'Reilly said on Fox News' The O'Reilly Factor (2/15), "The press is making a big deal out of this because they despise Dick Cheney. Generally speaking the media feels that Cheney is arrogant and distant. But this hatred has gone too far. … Like Cheney or not, once it degenerates into hatred, there's no value. This incident is the best illustration I've seen in years of a media out of control."

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More Commentary. Peggy Noonan writes in the Wall Street Journal (2/16, 2.11M), "Right now in the White House they're discussing how to help the vice president get through his problem. They've already tried the wearing of orange ties, an attempt to take the sting out of the incident by showing they don't feel the sting. Duck! Ha ha! But what are they thinking that they're not saying? Here's a hunch, based not on any inside knowledge but only on what I know of people who practice politics, and those who practice it within the Bush White House. I suspect what they're thinking and not saying is, If Dick Cheney weren't vice president, who'd be a good vice president? They're thinking, At some time down the road we may wind up thinking about a new plan. And one night over drinks at a barbecue in McLean one top guy will turn to another top guy and say, 'Under the never permeable and never porous Dome of Silence, tell me...wouldn't you like to replace Cheney?'" Noonan adds, "It would have to be a man wildly popular in the party and the press. And it would have to be a decision made by Dick Cheney. If he didn't want to do it he wouldn't have to. If he were pressed -- Dick, we gotta put the next guy in here or we're going to lose in '08 and see all our efforts undone -- he might make the decision himself. He'd have to step down on his own. He's just been through a trauma, and he can't be liking his job as much now as he did three years ago. No one on the downside of a second term does, hate magnet or not."

Under the headline "Mr. Vice President, It's Time To Go," Bob Herbert writes in the New York Times (2/16, 1.19M), "It's time for Dick Cheney to step down -- for the sake of the country and for the sake of the Bush administration. Mr. Cheney's bumbling conduct at the upscale Armstrong Ranch in South Texas seemed hilarious at first. But when we learned that Harry Whittington had suffered a mild heart attack after being shot by the vice president in a hunting accident, it became clear that a more sober assessment of the fiasco at the ranch and, inevitably, Mr. Cheney's controversial and even bizarre behavior as vice president was in order." Cheney "would do his nation and his president a service by packing his bags and heading back to Wyoming. He's become a joke. But not a funny one."

Mary Zeiss Stange, who teaches at Skidmore College and is a member of USA Today's board of contributors, writes in USA Today (2/16, 2.31M), "Cheney's errant shooting is a fitting metaphor for a gang that, all too apparently, can't shoot straight."

In an editorial, the Los Angeles Times (2/16, 958K) says the way in which the Cheney shooting story was made public is a "serious reminder that when it comes to the executive branch's doings, Cheney is the bottleneck." The Times takes note of "two other secrecy-related stories…making headlines" on Wednesday. First, Australian public television "aired grotesque new images of prisoner abuse at Abu Ghraib." Second, the House Committee on Government Reform has been listening this week to "witness after witness describe how they suffered workplace retaliation after blowing the whistle on national security activities they thought were unethical or illegal." The Times adds, "We wouldn't know about the NSA program or even Abu Ghraib if Cheney had his way," and we'll be "living with the consequences of Cheney's tight lips long after this week's brouhaha fades."

David Brooks writes in the New York Times (2/16, 1.19M), "In normal life, people would look at this event and see two decent men caught in a twist of fate. They would feel concern for the victim and sympathy for the man who fired the gun. But we in Washington are able to rise above the normal human reaction. We have our jobs. We have our roles. So in the days following the Cheney-Whittington accident, liberal pundits had to live up to their responsibility to manufacture a series of unsubstantiated allegations while turning the episode into a Clifford Odets-style tale of plutocrats gone wild. 'Was he drunk? I mean, these are ultrarich Republicans, at a weekend, fun-time hunting,' the pundit Lawrence O'Donnell wondered on MSNBC. … Finally there is the Office of the Vice President, inevitably failing to surpass expectations. The vice president's role, on this as on all days, is to treat the press and the Washington community in general as a plague-ridden horde, from whom it is possible, upon the merest conversation or contact, to catch some soul-destroying disease. So, of course, the vice president was compelled to recreate his role as Voldemort, Keeper of the Secrets."

Jacob Weisberg, editor of Slate.com, writes in the Financial Times (2/16), "The Bush administration's aversion to openness reached the proportions of parody. … One could recount dozens of examples in which Mr Bush and Mr Cheney have spurned legitimate requests for information from all kinds of groups. In sum, these episodes represent more than the familiar tug and pull of the branches of government, mere hostility to the press, or the challenges to freedom in wartime. They are the arrogant expression of a deaf, imperial presidency that hears the phrase 'the public's right to know' as the public's right to 'No.'"

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Cheney Says Vice Presidents Have Authority To Declassify Information. Vice President Dick Cheney was asked on Fox News' Special Report (2/15) about court filings that indicate that Lewis Libby was authorized by unidentified "superiors" authorized the release of some classified information. Cheney said, "It's nothing I can talk about. This is an issue that's been under investigation for a couple of years. I've cooperated fully, including being interviewed, as well, by a special prosecutor. All of it is now going to trial. Scooter is entitled to the presumption of innocence. He's a great guy. I've worked with him for a long time, have enormous regard for him. I may well be called as a witness at some point in the case and it's, therefore, inappropriate for me to comment on any facet of the case." Asked if a vice president has the authority to declassify information, Cheney said, "There is an executive order to that effect,' adding, "There is an executive order that specifies who has classification authority, and obviously focuses first and foremost on the President, but also includes the vice president."

The New York Times (2/16, 1.19M) reports that Cheney "said he had participated in decisions to declassify information, but he declined to say whether he had ever declassified information on his own. Mr. Cheney said he could not comment on the case of his former chief of staff, I. Lewis Libby Jr., who was indicted on five counts of perjury and obstruction of justice in October after an investigation into the disclosure of the identity of an officer of the Central Intelligence Agency, Valerie Wilson. Mr. Cheney said he might be called as a witness."

The Washington Post (2/16, A10, 744K) reports, Libby told a grand jury that his 'superiors' authorized him to disclose in July 2003 the contents of a National Intelligence Estimate on Iraq, according to newly released court documents. Sources familiar with the matter have told The Washington Post that Cheney was one of those superiors, but it was unclear whether Libby meant classified or unclassified information."

DOJ Seeks Senate Panel Documents On Miranda Leak. The Hill (2/16, Bolton) reports Justice Department officials are "negotiating with the Senate's legal counsel over access to Judiciary Committee documents on the committee's investigation of a memo scandal that roiled the upper chamber two years ago, according to a source familiar with the situation." The Senate legal counsel is "in turn consulting with committee staff about the sensitivity of the documents to determine what can be turned over to the executive branch, decisions that could have an impact on how much access future administrations have over legislative documents." Lawmakers "will make the final decision about what is shared." The investigation "stems from the controversial publication in the fall of 2003 of internal Democratic memoranda that two former Republican committee aides admit to accessing on a computer server shared by Republican and Democratic members of the Judiciary Committee." The "uproar over the memos' publication resulted in the resignation of Manuel Miranda, then the top aide handling judicial nominations for Senate Majority Leader Bill Frist (R-Tenn.). Miranda admitted to accessing the documents. A junior Judiciary Committee aide who admitted to downloading and reading the Democratic files also resigned."

Supreme Court Said To Be In Transition. The New York Times (2/16, Greenhouse, 1.19M) reports, "With the addition of two new justices in the last four months, the" Supreme Cour "is in the midst of a major transition." Justice Stephen G. Breyer, when he joined, "felt adequately prepared and had expected to move comfortably into his new role, he said, and was therefore surprised at how overwhelming he found it." Breyer spoke "only for himself, offering neither advice to nor commentary on Justice Alito or his other new colleague, Chief Justice Roberts. But coming from one who ordinarily projects an air of cheerful self-assurance, his comments were a reminder that the Supreme Court is a different world, even for those who may have spent a lifetime preparing for it."

Alito Chooses Time Warner Lawyer As Clerk. The Wall Street Journal (2/16, Lattman, 2.11M) reports, "Justice Samuel A. Alito Jr., whose ceremonial swearing-in as the 110th justice of the Supreme Court will be held today, has named as one of his law clerks a Time Warner Inc. lawyer who served as a top legal adviser to Attorney General John Ashcroft from 2001 to 2003." His appointment "is unusual because of Mr. Ciongoli's age and level of experience," as "most Supreme Court clerks…are recent law-school graduates with clerkship experience at the federal appeals courts."

The AP (2/16, Holland) reports, "Helping promote Samuel Alito's nomination to the Supreme Court has paid off for three conservative lawyers, including a one-time confidant

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of former Attorney General John Ashcroft. … The three have prize assignments as Alito's law clerks and the opportunity to help shape his early days on the court. They also have resumes that could add some firepower to the junior justice's chambers." The AP continues, "Alito, 55, has surrounded himself with solid conservatives and loyalists - all three clerked for him when he was an appeals court judge, dating back a decade. … Two of the new clerks, Jay Jorgensen and Hannah Smith, are previous Supreme Court clerks who traveled across the country as part of a public relations campaign on Alito's behalf last month. … The third, former Justice Department lawyer Adam Ciongoli, participated in so-called 'murder boards,'' mock sessions that got Alito ready for his Senate confirmation hearings." The AP adds, "Earlier, Jorgensen was among the conservatives who raised questions about the credentials of Bush's early court nominee, Harriet Miers. When Miers withdrew in the face of conservative criticism, Bush turned to Alito. Jorgensen also prepared a paper for the Federalist Society on the nomination of Justice Ruth Bader Ginsburg, a liberal member of the court. … 'I think what's notable is that he's picked individuals who are so defined on the right ideologically. That tells us who Samuel Alito is,'' said Erwin Chemerinsky, a liberal Duke University law professor.'

Bush Promotes Health Savings Accounts In Visit To Ohio. President Bush yesterday traveled to Dublin, Ohio, to promote his proposal for health savings accounts and amplify the consumer choice oriented healthcare message he delivered in his State of the Union address. Democratic critics reiterated that while the proposals would benefit younger and healthy workers, traditional insurance plans would be burdened by older, sicker workers. Bush also promoted the political fortunes of several Ohio incumbents, although Sen. Mike DeWine skipped the event.

The Los Angeles Times (2/16, Gerstenzang, 958K) reports President Bush talked "about good health, and his plan to help America pay for it, at the home office of the nation's third-largest purveyor of hamburgers and French fries." Bush "urged Americans concerned about healthcare costs to consider a fledgling government program built around high-deductible insurance for catastrophic illness or accidents and tax-free personal savings accounts to pay for routine medical needs." Health savings accounts, "or HSAs, offer participants choices in healthcare while holding down costs because the payments will come from a patient's savings account, Bush said." The Times adds the plan's "critics have argued that the program would attract the healthiest Americans, who would be able to put aside savings tax-free and spend little for healthcare, while traditional employer-provided plans would be filled with people whose health costs are the highest." Bush's "one-hour speech is part of a weeklong administration effort to draw public attention to its healthcare proposals." But the President's "message drew sharp criticism, and the location of the speech was too delicious for some critics to resist."

The Washington Post (2/16, A5, VandeHei, 744K) reports that as "part of a new White House campaign to promote incremental changes to the health care system this year, Bush is calling for new tax incentives to help millions of Americans purchase health care coverage for catastrophic illness and pay for out-of-pocket medical costs." In his "fiscal 2007 budget, the president proposed a mix of tax credits and deductions to increase the number of employers and employees using health savings accounts to both mitigate health care costs and begin transforming the traditional insurance system. Much as he did last year in a failed campaign to restructure the Social Security system, Bush is selling the accounts as a way to provide consumers more control over their money and to transition away from what he calls a costly and unsustainable program." About 3 million Americans "have opened HSAs, including 9,000 of the 40,000 employees at Wendy's, a fast-food chain that has been a big supporter of Republicans. Bush picked Wendy's because the company started offering the tax-free savings accounts in 2005 and has reduced its health care spending as a result."

The Columbus Dispatch (2/16) reports President Bush "said Wendy's was facing double-digit increase in health insurance costs when it decided to implement the health savings accounts. The company pays for a health insurance plan with a high deductible and also contributes to the health savings account that employees can use to pay any health costs. Bush said 9,000 full-time employees of Wendy's have the accounts, and 90 percent of them ended last year with a balance that is earning interest." Wendy's spokesman Denny Lynch said HSAs "allowed Wendy's to offer the same level of benefits for a slight rise in costs to the company, rather than the steep increase expected if the company had remained in a traditional health plan." About "100 of the 700 Wendy's headquarters employees were able to see the president's

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speech in person, with others viewing it by simulcast, Lynch said."

The AP (2/16, Riechmann) reports President Bush "mixed politics with his prescription for what ails the nation's health care system on a trip Wednesday to Ohio, which was a pivotal state in his re-election and one with key races in this year's midterm elections." The President "made his case for health savings accounts at Wendy's International Inc., where 9,000 employees have signed up for the accounts since the hamburger giant began offering them last year." But the Ohio trip "had a political component too. The Ohio governor's race and about a half-dozen House and Senate seats from the state are competitive in this year's election, and whether voters stick with Republican incumbents could foreshadow voter sentiment in 2008." Republican incumbents "running for re-election are trying to avoid fallout from an election-year scandal in the state, which helped put Bush over the top in 2004." Bush was "joined at the event by Taft, George V. Voinovich, R-Ohio, and Reps. Pat Tiberi, David Hobson and Deborah Pryce. Sen. Mike DeWine, R-Ohio, who is in a toss-up race against Democratic Rep. Sherrod Brown, was invited but remained in Washington for a Judiciary Committee hearing."

Reuters (2/16, Bohan) reports Democrats "accused" the President "of offering recycled ideas that would worsen the health system." Bush "pointed to Wendy's as an example of a company that offered HSA plans to employees. But Senate Democratic leader Harry Reid of Nevada said, 'The president's most recent recycled health care idea will make the health care crisis worse.'" In an initiative "the White House estimates will cost $59 billion over five years, Bush would expand the tax breaks offered to those with HSAs and raise limits on contributions."

The New York Times (2/16, Bumiller, 1.19M) reports President Bush declared "his proposals were not just for the wealthy and would help some of the 45 million Americans who remain uninsured. In an hourlong speech in one of the most politically troublesome states for Republicans in this year's midterm elections, Mr. Bush took on critics of his plan, who say that poor or underemployed people cannot afford the accounts." Bush's plan "seeks to make the accounts more attractive by expanding their tax incentives and by increasing the amount of money that people may contribute to them each year." Democrats "criticized Mr. Bush's plan as a windfall for the rich and said that a fast-food cook making $15,000 a year could not afford to set aside $5,000 in a health savings account or pay $1,050 in medical bills."

The Wall Street Journal (2/16, 2.11M) reports Bush "outlined his plan to confront rising healthcare costs by giving consumers more choice." He "pointed to laser-eye surgery as an example of how market forces can have a positive impact on the price and availability of medical procedures, when third-party payers aren't involved." Bush "touched on the problems encountered in the early stages of the new Medicare prescription drug program, but urged seniors to sign up for the plan, which he said will cut their costs."

Ohio Will Be Battleground In Struggle For House Control. Roll Call (2/16, Habte) reports that Ohio is expected to be a battleground in the struggle for control of the House in 2006. Roll Call adds, "With today's candidate filing deadline looming, the stakes are higher for the GOP which is battling to protect three Republican incumbents who Democrats boast are especially vulnerable: Reps. Bob Ney, Deborah Pryce and Steve Chabot. Many Democrats running in Ohio, and many of their surrogates in Washington, D.C., have honed an overarching campaign message that identifies the Ohio GOP with a 'culture of corruption.' … Not that the Democrats don't have their work cut out for them. The race in the 6th district, where Rep. Ted Strickland (D) is running for governor, is considered a tossup at this point. And in the heavily Democratic 13th district, which Rep. Sherrod Brown (D) is leaving to run for Senate, Republicans recruited their preferred candidate, Lorain Mayor Craig Foltin (R), into the race this week."

Bush Job Approval Rating Slips In Harris Interactive Poll. The Wall Street Journal (2/16, 2.11M) reports that a recent Harris Interactive poll has found that President Bush's job approval ratings have slipped since January 2006 while Congress' ratings have remained about the same. The Journal adds, "Any benefit President Bush may have gained from his State of the Union speech didn't last long enough to be measured in the latest poll, as Mr. Bush's ratings are now 40% positive, down from a positive rating of 43% in January, and 58% negative, up from 56% negative. Elsewhere, approval of the way Congress is handling its job is mostly unchanged, with 25% of U.S. adults giving Congress a positive rating and 71% giving it a negative rating."

Gutierrez Says US Needs To Embrace Scientists. The San Jose Mercury News (2/16, Poletti,

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268K) reports, "The Bush Administration wants to make math and science cool. Carlos Gutierrez, U.S. Commerce Secretary, visiting Silicon Valley and Stanford University on Wednesday, said that along with President Bush's recently announced American Competitiveness Initiative, there needs to be a change in American culture -- to embrace inventors and scientists, in the same way Americans worship athletes or pop stars." In an interview Gutierrez said, "We need to make those people just as cool as the athletes and we need to make that achievement something a student would strive for. … It is part cultural, it is part math and science, it's part what happens in the classroom. But it's also what we value as a society." Gutierrez told a group of Stanford University business students "that they are in the right place at the right time in American business, and they should 'let others do the hand-wringing' over whether the nation is losing its competitive edge to emerging countries such as India and China." Yet, "even after rattling off several statistics about strong U.S. economic growth in his lunch-hour speech, the first question posed by a student was about the 'big fear' that the United States is losing its creative edge to China and India." Gutierrez replied, "Let me repeat my speech. … We are dealing with it today, we are dealing with it successfully. We just need to stay focused."

More Claims Surfacing Of White House Interference With NASA. The New York Times (2/16, Revkin, 1.19M) reports, "Top political appointees in the NASA press office exerted strong pressure during the 2004 presidential campaign to cut the flow of news releases on glaciers, climate, pollution and other earth sciences, public affairs officers at the agency say." The Times adds, "Press officers, who were granted anonymity because they said they were still concerned for their jobs despite Dr. Griffin's call for openness, said much of the pressure in late 2004 was placed on Gretchen Cook-Anderson." She managed "the flow of earth science news at NASA headquarters." The story says she told colleagues "that Glenn Mahone, then the assistant administrator for public affairs, had told her that a planned news conference on fresh readings by a new NASA satellite, Aura, that measures ozone and air pollution, should not take place until after the election. In an e-mail message yesterday, Ms. Cook-Anderson… said, 'While I can't discuss these matters, I won't disagree with that description of what took place.'" The Times says Mahone did not return calls seeking comment and that "Dean Acosta, a political appointee who was then Mr. Mahone's deputy and is now Dr. Griffin's press secretary, said he had never pressed Ms. Cook-Anderson to cut back on news releases. … But archives of news releases on the NASA headquarters Web site show a sharp change in the number of such releases, to 12 in 2005 from about four dozen in 2004." The Times cites other complaints such as a "standing unwritten order from political appointees" to not use the term "global warming," but "climate change." The story closes, "David R. Mould, NASA's assistant administrator for public affairs and a political appointee, said none of the appointees had brought a political agenda to the agency. 'We've received no marching orders from anyone,' Mr. Mould said."

Griffin Likely To Face Questions On Subject In Today's Hearing. In his space news blog "The Write Stuff" (2/15) Orlando Sentinel space editor Michael Cabbage writes, "NASA chief Michael Griffin's scheduled appearance before the House Science Committee on Thursday will be lawmakers' first chance to grill him since the administration's 2007 budget request was made public. It also will be the first hearing since revelations about a hyper-partisan public affairs officer and a potential scandal involving the NASA inspector general. There are bound to be plenty of tough questions about cuts to NASA programs and whether some of the agency's political appointees have spun out of control. Put Griffin's blunt, straightforward style in front of lawmakers looking to score political points in an election year and this could get really interesting. The hearing begins at 10 a.m. EST and can be watched on the web."

NOAA Statement Acknowledges Dissent. The Wall Street Journal (2/16, Regalado, 2.11M) reports, "Amid a growing outcry from climate researchers in its own ranks, the National Oceanic and Atmospheric Administration backed away from a statement it released after last year's powerful hurricane season that discounted any link to global warming. A corrected statement, which says some NOAA researchers disagree with that view, was posted to NOAA's Web site yesterday. The change is part of a high-stakes fight over the issue of global warming, and what some scientists complain is a widening gap between what their research shows and White House climate policy." Scientists have been complaining about interference since December, the Journal says. "They gained force last week when James Hansen, a climate researcher at NASA Goddard Institute for Space Studies, again accused NOAA of censoring scientific communication. Dr. Hansen has said NASA public-affairs

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officials had tried to discourage him from presenting his views that human activities could lead to severe global warming."

The Christian Science Monitor (2/16, Chaddock, 61K) reports, "Dissent often carries a price in official Washington, especially in the war years of the Bush presidency. Since the Sept. 11 attacks, the number of insiders alleging wrongdoing in government - either through whistle-blower channels or directly to the press - has surged, as have reprisals against them." The Monitor cites cases in the CIA and NSA and adds, "Outside the realm of national security, James Hansen, the top climate scientist at NASA, spoke out about efforts by the NASA press office to screen his speeches and limit his contact with the press. In response, Rep. Sherwood Boehlert (R) of New York, chairman of the House Science Committee, backed Dr. Hansen" and NASA's Michael Griffin "e-mailed all NASA employees, affirming that staff should not alter, filter, or adjust scientific work. But Hansen says the issue is not yet resolved, citing a pending investigation by the House Energy and Commerce Committee challenging the scholarship of other scientists working on global warming."

In a column about general White House communication strategy on the Seattle Post-Intelligencer (2/16) Marianne Means writes, "Recently a prestigious climate scientist complained that a young Republican hack at NASA had been muzzling him to prevent him from warning of global warming, a concept the administration refuses to confront."

Specter Earmarked $50 Million In Defense Funds To Firm Represented By Aide's Spouse. USA Today (2/16, Kelley, 2.31M) reports Sen. Arlen Specter "helped direct almost $50 million in Pentagon spending during the past four years to clients of the husband of one of his top aides, records show." Specter used "'earmarking' 13 times to set aside $48.7 million for six clients represented by lobbyist Michael Herson and the firm he co-founded, American Defense International. The clients paid Herson's firm nearly $1.5 million in fees since 2002, federal lobbying records show." Herson's wife, Vicki Siegel Herson, "is Specter's legislative assistant for appropriations. She deals with Specter's work on the Senate Appropriations Committee and its defense subcommittee, where all the earmarks originated. Siegel, who uses her maiden name at work, is a former lobbyist for defense contractors who has worked for Specter since 1999."

USA Today (2/16, 2.31M) listed the projects earmarked by Sen. Specter, which included "$20.9 million in the 2005 and 2006 budgets for projects at Drexel University in Philadelphia dealing with bioterrorism response and computer networking. Drexel has paid ADI $200,000 a year since 2002."

Earmark Reform Could Undercut Bipartisanship. The Hill (2/16, Cusack) reports the "building momentum for earmark reform could force lawmakers to cut back significantly on their beloved pork projects, and in the process reduce something that is in short supply on Capitol Hill: bipartisanship." Securing "federal money for local projects regularly unites conservatives and liberals from the same or neighboring states, but future funding for earmarks will probably be dramatically cut now that the anti-pork movement, led by Sen. John McCain (R-Ariz.) and House Majority Leader John Boehner (R-Ohio), has gained traction." Unlike "taxes, healthcare and ethics issues, Republicans and Democrats are careful not to criticize each other on earmark funding." Most lawmakers "put aside their philosophical differences and join forces with their political adversaries because most of what they do is aimed at winning the next election: fundraising, gerrymandering their districts and crowing about the local projects they fought for in Washington."

Hastert Wants Reform Proposal By March. CQ (2/15, Ferrechio) reports Speaker Hastert "wants to get the lobbying scandal behind House Republicans by the end of March — a deadline that would require him to resolve differences with new Majority Leader John A. Boehner over privately financed congressional travel." During a "closed-door GOP conference meeting Wednesday, Hastert told fellow House Republicans that they must reconcile their divergent views so that a bill can be taken up on the floor by the end of March." Hastert and House Rules Chairman Dreier "have proposed banning privately funded travel, tightening limits on gifts to members and staff and requiring additional disclosures about lobbyist-lawmaker interactions." But plans to "quickly introduce legislation hit a snag earlier this month, when rank-and-file members loudly voiced their opposition. Many called the tighter gift limits insulting and complained that a travel ban would eliminate useful trips with educational value."

Top GOP Leaders' Opposition Slows House Earmark Reform. The Washington Times (2/16, Dinan,

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90K) reports the "push to end earmarks, which critics call pork-barrel spending, is bogged down in the House, thanks to a strong defense of the practice from top Republicans." House Appropriations Committee Chairman Jerry Lewis "said the Predator unmanned aerial vehicle, used for missile attacks on terrorist lairs, is a shining example of the best of earmarks. He said the Predator proved its success in Bosnia after he stuck an earmark into a spending bill in the mid-1990s, long before the war on terror." Other leaders "defend the practice by saying it's how they are judged at home." Rep. Thomas M. Reynolds of New York, chairman of the National Republican Congressional Committee, said, "The Buffalo News, which is my hometown newspaper, still believes I ought to bring home the bacon." The Times adds earmark "opponents have noticed the return fire." Rep. Jeff Flake said, "The empire is striking back." He said Mr. Lewis "tried to intimidate his bill's supporters by issuing a list of earmarks that each had requested."

Nonprofit Groups Oppose Proposals To Ban Private Congressional Trips. The Hill (2/16, Hearn) reports a "handful of nonprofit groups that sponsor travel for members of Congress are pushing back against recent proposals to ban privately funded trips, arguing that their activities are far different from the golfing and exotic foreign junkets that have been the centerpiece of recent lobbying scandals." Groups such as the American Israel Public Affairs Committee (AIPAC), the American Jewish Committee (AJC), the Religious Action Center of Reform Judaism and the Council for Christian Colleges & Universities "have been quietly raising the issue with sympathetic members of Congress, hoping to convince lawmakers that their trips are valuable educational experiences and have not been abused by lawmakers or lobbyists." Meanwhile, Speaker Dennis Hastert and Rules Committee Chairman David Dreier (R-Calif.), "whom Hastert tapped to marshal a reform package through the House, have received significant blowback from their own members since introducing a series of suggested reforms last month. A large section of the conference is opposed to a ban on privately funded travel that Hastert and Dreier proposed last month. The two leaders are hoping to work through the committees of jurisdiction to bring some reforms to the floor."

Lobbyists Frustrated By Failure Of Online Disclosure System. The Washington Post (2/16, A9, Birnbaum, 744K) reports, "Thousands of lobbyists, including the president of a lobbyists' trade association and the co-author of an authoritative lobbying manual, were unable to file their disclosure reports electronically this week as required by a new congressional system." Paul A. Miller, president of the American League of Lobbyists, and Thomas M. Susman, co-editor of the American Bar Association's "The Lobbying Manual," "tried to send their reports to the clerk of the House of Representatives via the Internet on Tuesday, the filing deadline. But, like many of their colleagues, they were frustrated to receive a return message that said 'Submission status: failed.'" Unable to "use the new filing method, they were forced to print out their reports and mail or fax them with a cover letter explaining that at least they had tried."

Lobbying Firms Report $36 Million Increase In Revenue In 2005. Roll Call (2/16, Newmyer) reports that despite "stormy times for the Washington, D.C., lobbying industry, the top firms in town are reporting steady growth for 2005." The top 25 firms 'collected $397.9 million in lobbying revenues — a $36 million jump from the fees reported by the 25 largest shops the previous year." That's an "8 percent climb from 2004 to 2005 — a solid recovery after a slow presidential election year, though still less than the 15 percent annual growth rates the sector chalked up in prior years." Officials at top-ranked firms "predicted that current rates of growth would continue, though they also sounded a note of caution for the coming year, citing a short legislative calendar and the looming prospect of new restrictions on the lobbying business."

The Washington Post (2/16, A25, Sarasohn, 744K) reports in its "Special Interests" column, "It is February 2006, but the results of the lobbying disclosures for the first six months of 2005 are just in at PoliticalMoneyLine, the online organization that tracks lobbying and campaign money: A record $1,164,586,968 was spent on lobbying Congress and the executive branch during the first six months. That amounts to '$194 million in spending per month, almost $6.5 million a day, or more than $540,000 an hour in a twelve-hour day."

Former Member Says Congress Should Crack Down On Crooked Lobbyists. In a Roll Call op-ed (2/16), former Rep. Bill Sarpalius says he has spent "the past 10 years as a paid lobbyist. My career has been built on garnering the support of elected officials on issues that were important to my constituents and that currently are important

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to my clients." Good lobbyists "do their homework and help Members of Congress understand the impact of legislation, the outcomes of which American citizens must live with every day." The "point is that not all lobbyists are bad or crooked, and they should not be blindly grouped with Jack Abramoff. What is bad is the method that some lobbyists, such as Abramoff, employed to influence Members of Congress." It is "unfortunate that individuals such as Abramoff, who apparently lacks any and all ethics, abused the system and his clients." Sarpalius adds, "Perhaps Congress should focus on those who abuse the system and who do not follow the reporting requirements."

NAS Creates Informal Embryonic Stem Cell Oversight Committee. The New York Times (2/16, Wade, 1.19M) reports, "To fill a void in federal supervision, the National Academy of Sciences is setting up a committee to provide informal oversight over research with human embryonic stem cells." The National Institutes of Health is "unable to specify what kinds of research are ethically acceptable" due to "the Bush administration's reservations about embryonic stem cell research," even though "contentious issues in biological research are usually handled by" it.

President's Bioethics Council Member Criticizes Bush Stance On Cloning. Michael Gazzaniga, director of the Center for Cognitive Neuroscience at Dartmouth and a member of the President's Council on Bioethics, writes in an op-ed in the New York Times (2/16, 1.19M), "I have not heard any outcry over" President Bush's "policy statement on cloning" from his State of the Union speech, and "I can only guess that this means the public doesn't care, or doesn't understand what Mr. Bush means." His "calling human cloning in all its forms an 'egregious abuse' is a serious mischaracterization," and using "the phrase 'in all of its forms'" is "a way of conflating very different things: reproductive cloning and biomedical cloning." Even "the president's own largely conservative Bioethics Council…made a big distinction between the two forms of cloning," but "the president rejected the advice of his own counselors and has kept his ban on federal financing of stem cell research for all but a handful of strains of existing lines." However, "This search for alternatives is costly not just in dollar terms but also in time not being spent on the best research possibilities. And it represents a perversion of the scientific process:… it is being used in the service of political goals."

OTHER NEWS:

Bernanke Says Economy On Track For Continued Growth. ABC World News Tonight (2/15, story 8, :20, Vargas) reported, "The new Federal Reserve Chairman made his debut today on Capitol Hill. Ben Bernanke stuck closely to the script of his predecessor, Alan Greenspan, that the economy is on track for good growth this year. But there was one big difference, committee members said he was much easier to understand. Bernanke signaled that the Fed is ready to boost interest rates if needed to control inflation."

Reuters (2/16, Ahmann) reports Bernanke "said the US economy was running so near capacity that higher interest rates may be needed to quell the risk of inflation." The Fed chairman "appeared keen to establish credentials as an inflation 'hawk' in his first extensive comments since taking office two weeks ago by stressing the need to keep price pressures contained." The Wall Street Journal (2/16, lp, 2.11M) also says :Bernanke demonstrated continuity with Alan Greenspan's interest-rate policies but broke with his predecessor's style.:

Knight Ridder (2/16, Hall) reports, "Unlike his predecessor Alan Greenspan, who was famous for convoluted public testimony, Bernanke was clear, concise and mercifully brief." He "erased any doubts that he, as a longtime academic, could handle the political hot seat. He answered tough questions with confidence, authority and an occasional gentle smile." The Financial Times (2/16, Balls) reports Bernanke "made an assured debut."

The Christian Science Monitor (2/16, Trumbull, 61K) reports, "Often, a transition in leadership at the Federal Reserve is a rocky time for financial markets. Dips or dives for stock prices are not uncommon. For Ben Bernanke, it's so far so good." Bernanke "has sent signals that have done more to calm and encourage Wall Street than to rattle it."

The New York Times (2/16, Andrews, 1.19M) reports, "He was calm and he was cool, and he most certainly was not Alan Greenspan." He "did three things on Wednesday that his predecessor usually did not: He gave short answers, generally free of twists and turns that could be interpreted in two or more ways. He simply refused to answer questions that would ensnare him in politically charged battles over tax

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cuts, spending cuts or the overhaul of Social Security. ¶He said nothing that rattled the financial markets."

USA Today (2/16, Kirchhoff, Hagenbaugh, 2.31M) also emphasized Bernanke's "straightforward manner," while the Washington Post (2/16, Henderson, Irwin, 744K) runs a similar story under the headline "Bernanke Says Economy's Expansion Is On Track." The Washington Times (2/16, Hill, 90K) titled its report "Bernanke Optimistic On Economy."

Factory Output Rises Again In January. The Wall Street Journal (2/16, Conkey, 2.11M) reports, "US factory output rose 0.7% in January from December levels, the fourth consecutive monthly increase and another sign of increasing economic momentum." The Federal Reserve "said overall industrial production last month fell 0.2% from the previous month, largely because of a 10.1% decline in utility output linked to unseasonably warm weather in many parts of the country."

Utility Output Declines. The New York Times (2/16, 1.19M) reports, "Industrial production unexpectedly fell last month as the warmest January in more than a century led to a record decline in utility use even as manufacturing strengthened, the Federal Reserve said yesterday. … Utilities generated less power as heating demand fell during the warmest January since records began in 1895. Utility production fell 10.1 percent, the biggest drop on record, the report said."

Foreign Investment Slows. The Wall Street Journal (2/16, Walsh, 2.11M) reports, "Non-US investors made $56.6 billion in net purchases of U.S. securities during December, the smallest amount in seven months and a reminder of America's dependency on foreign capital to finance its trade deficit." While foreign investors "bought a strong $74.2 billion in US securities, Americans invested $17.6 billion in foreign securities, leaving a net capital inflow that was far less than Wall Street analysts expected."

Home Ownership Rate Appears To Be Leveling. The Wall Street Journal (2/16, Simon, 2.11M) reports, "After climbing steadily for a decade, the nation's homeownership rate appears to have leveled off. New data released late last month by the U.S. Census Bureau put the homeownership rate at 69% in the fourth quarter of 2005, down from 69.2% a year earlier." While "the decline itself is too small to be considered statistically significant," it is "the third quarter in a row that the rate hasn't posted a year-over-year gain -- and it's the first time since 1994 that the rate at year-end hasn't increased from the previous year."

Meanwhile, says USA Today (2/16, Knox, 2.31M), "Home prices in the fourth quarter of 2005 posted double-digit increases in 72 metro areas -- a record number that likely marked a high point in this real estate cycle, the National Association of Realtors said Wednesday. Nationwide, the median sales price for an existing single-family house rose to $213,000 in the fourth quarter, up 13.6% from the October-December period of 2004. But David Lereah, the NAR's chief economist, cautioned that the market is rapidly cooling." The Wall Street Journal (2/16, Bater, Kerch, 2.11M) runs a similar story under the headline "Home-Price Growth Still Hot, But Pace Has Cooled Some."

Stocks Up. The New York Times (2/16, 1.19M) reports, "The Dow Jones industrial average gained 30.58 points, or 0.3 percent, to 11,058.97. The Standard & Poor's 500-stock index climbed 4.47 points, or 0.4 percent, to 1,280. The Nasdaq composite index rose 14.26 points, or 0.6 percent, to 2,276.43." The Wall Street Journal (2/16, Patterson, 2.11M) also reports the stock numbers.

States Looking For Ways To Cut Medicaid Costs. The Wall Street Journal (2/16, Solomon, 2.11M) reports that with Medicaid costs "now consuming about 17% of state general-fund budgets, and rising at more than twice the rate of inflation, state governments are scouring the health program for savings to protect their bottom lines. But changing a safety net for 52 million poor and disabled Americans involves delicate trade-offs -- and political risk." Arkansas Gov. Mike Huckabee, a Republican who heads the National Governors Association, said, "A lot of governors are looking at what is being done out there, but looking with a cautious eye." The Journal adds some states, like Florida and Vermont, are "experimenting with limits on how the state will pay for Medicaid recipients' medical costs. Others, like Tennessee, have wound up cutting hundreds of thousands of individuals off Medicaid, prompting a backlash from residents and health-care advocates."

GOP Believes It Could Win Jefferson Seat If He Resigns. A front page story in the Washington Post (2/16, A1, Murray, Lengel, 744K) reports on Rep. William Jefferson, who federal investigators are targeting "for allegedly demanding cash and other favors for himself and relatives, in exchange for using his congressional clout to arrange African business deals. A former aide recently pleaded guilty to bribing Jefferson and is cooperating with authorities, and

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sources familiar with the case say a plea agreement with the lawmaker is being explored." The Post adds, "Jefferson's world is toppling. … Depending on Jefferson's fate, his central New Orleans district -- badly damaged by Hurricane Katrina and in need of effective representation in Washington -- could face a rowdy special election. The political scene is so chaotic that Republicans believe they could win the gerrymandered Democratic seat."

Kean Leads Polls In New Jersey Senate Race. Roll Call (2/16, Drucker) reports that New Jersey State Sen. Tom Kean Jr. 'is running against newly appointed Sen. Bob Menendez (D)." President Bush "lost New Jersey to Sen. John Kerry (D-Mass.) in the 2004 presidential race, but cut his defeat margin in half compared to the 16-point bath he took in 2000 against then-Vice President Al Gore. And, he raised his percentage of the vote from 40 percent to 46 percent. But Bush's job-approval numbers in the Garden State are down. A Strategic Vision poll conducted Feb. 3-5 showed that only 37 percent of likely voters approve of his job performance, with 57 percent disapproving. The survey had a 3 percent margin of error. The good news for Kean in this poll is that he led Menendez in a Senate matchup, 33 percent to 28 percent, even though 39 percent of respondents self-identified as Democrats, compared to only 28 percent who said they were Republicans. Thirty-nine percent of those surveyed were undecided, possibly leaving the answer to how this race turns out in the hands of undecided voters. A Zogby poll conducted Feb. 8-10 showed Menendez leading Kean 37 percent to 32 percent, with 30 percent undecided." Roll Call adds, "Menendez begins the race with a hefty financial edge, banking more than $4.2 million at the end of 2005, compared to $861,000 for Kean. … Running statewide in the Garden State is an expensive proposition because 76 percent of it is encompassed by the New York City media market, while 24 percent is covered by Philadelphia. New Jersey is a state light on retail politicking and heavy on mass media, so money will matter; it costs about $1 million per week to advertise effectively on television in the two markets."

Steele Called GOP's "Great Black Hope." Roll Call (2/16, Kurtz) calls Maryland Lt. Gov. Michael Steele, "the GOP's great black hope, the Republican with the best chance of winning a Senate election in Maryland since 1980." Roll Call adds, "It may be overly simplistic to say that Steele's strategy for victory is based solely on scrambling Maryland's normal political math — on picking off as many black voters as possible in a state where Democrats have routinely enjoyed 90 percent black support. But a recent day with Steele in the middle-class black enclave of Prince George's County shows just how potent a candidate he can be."

Steele Campaign Manager Resigns. The Washington Post (2/16, B4, Mosk, 744K) reports, "The man hired to run Maryland Lt. Gov. Michael S. Steele's campaign for U.S. Senate has resigned, an internal move disclosed for the first time yesterday in the aftermath of an off-balance week for the Republican candidate. Campaign manager Graham M. Shafer made a quiet exit earlier this month, citing family obligations, a campaign spokesman confirmed yesterday. His departure highlighted a growing tug within the Steele campaign between the candidate's Washington advisers and his coterie of longtime loyalists from Maryland, of which Shafer was one." The Post adds, "One Washington figure who does know Maryland well, and who is taking a more hands-on role in the campaign, is national GOP Chairman Ken Mehlman, Steele confirmed during a brief interview at the State House yesterday. Mehlman is a native of Pikesville, a suburb north of Baltimore, and he ran President Bush's 2004 reelection campaign before becoming party chairman. He has made electing black Republicans a key goal nationally and has focused considerable personal attention on Steele."

Interest Group Director Criticizes Unions. Rick Berman, executive director of the Center for Union Facts, writes in an op-ed in the Washington Times (2/16, 90K), "Despite the anti-democratic tendencies, the hypocrisy, the corruption and the political machinations of their leaders, unions remain remarkably popular." They hire "temp workers" and "the homeless to picket" for them. "Needless to say, there's no health care or pension plan contributions for these folks." Also, "in 2005 alone, federal racketeering investigations resulted in 196 convictions against union officials and staff, as well as $187 million in fines." Organization now means "union representatives cajole, harass and intimidate workers to sign cards. As soon as half of them sign a card, all of them start paying the union to keep their jobs." Several "titans of American industry all went bankrupt, largely because union bosses were unwilling to back off from unsustainable labor contracts. American workers have been victimized one too many times by union

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executives. It's time for American workers to ask if they're getting their money's worth."

Venture Capitalists Investing In Education Entrepreneurs. The New York Times (2/16, Flanigan, 1.19M) reports, 'Venture capitalists of Silicon Valley, who have backed hundreds of high-technology entrepreneurs, are eagerly financing a new group these days: schoolmasters. 'We give education entrepreneurs money to start or to speed up building their companies,' said L. John Doerr, who over 26 years has helped start dozens of ventures, including Sun Microsystems, Amazon.com and Google. He help found the New Schools Venture Fund in San Francisco six years ago for a new breed of entrepreneur — the kind who doesn't have to produce a profit. … Recipients of the fund's investments are not whiz kids eager to become the next Bill Gates. Mainly, they are public school teachers with a passion to improve the ways poor children are taught. The companies they form are nonprofit charter school management organizations, capable of running publicly financed elementary and secondary schools that are freed from some rules and regulations in exchange for producing educational results better than those of the large urban school district. Almost all their students are eligible for free or reduced-price breakfasts and lunches."

Maine Subsidized Health Insurance Criticized. Tarren Bragdon, director of health reform initiatives at the Maine Heritage Policy Center, and Adam Brackemyre, assistant director of legislative affairs for the Council for Affordable Health Insurance, write in an op-ed in the Wall Street Journal (2/16, 2.11M) that Maine Gov. John Baldacci's (D) Dirigo Health program, which "the governor claims has saved the state millions of dollars," will cause state taxes to "go...up." Dirigo "is levying a Savings Offset Payment, or SOP -- a remarkably innovative name for a new claims tax -- to 'recover' every dollar that the state says it has 'saved,'" as "without the SOP, Dirigo Health's high costs would bankrupt the program." However, "if Dirigo truly saved money, the program's benefits would exceed its costs." Now, the "legislature held a public hearing for a bill that would forbid insurers from passing along the cost of the SOP to policyholders," which "threatens the very financial viability of the private insurance market in Maine." Instead, "a better alternative for uninsured individuals in Maine is Health Savings Accounts."

Economist Calls For $2 Per Gallon Gasoline Tax. Economist Robert Frank writes in the New York Times (2/16, 1.19M) that a $2 per gallon gasoline tax "whose proceeds were refunded to American families in reduced payroll taxes" would "produce hundreds of billions of dollars in savings for American consumers, significant reductions in traffic congestion, major improvements in urban air quality, large reductions in greenhouse gas emissions, and substantially reduced dependence on Middle East oil." Frank adds, "Proposals of this sort have been advanced frequently in recent years by both liberal and conservative economists. Invariably, however, pundits are quick to dismiss these proposals as 'politically unthinkable.'" Frank adds, "The gasoline tax-cum-rebate proposal enjoys extremely broad support. Liberals favor it. Environmentalists favor it. The conservative Nobel laureate Gary S. Becker has endorsed it, as has the antitax crusader Grover Norquist. President Bush's former chief economist, N. Gregory Mankiw, has advanced it repeatedly. In the warmer weather they will have inherited from us a century from now, perspiring historians will struggle to explain why this proposal was once considered politically unthinkable."

WSJournal Lauds Suits Against "Wal-Mart" Laws. The Wall Street Journal (2/16, 2.11M) editorializes, "America's retailers announced last week that they aren't especially keen to follow the steel, airline and perhaps the auto industries into bankruptcy court" with "two federal lawsuits filed by the Retail Industry Leaders Association against the state of Maryland and Suffolk County, New York. At issue are the "Wal-Mart" laws that both jurisdictions recently passed." This "unusual show of solidarity… suggests more companies are figuring out that organized labor's campaign against Wal-Mart is merely a warm-up to a broader assault" under the "union strategy…to force any competitive, non-unionized company to incur the same labor-induced costs as their own beleaguered employers." Still, "the good news is that the judiciary isn't likely to let such legal gerrymandering stand."

Bush Seeks $75 Million To Promote Democratic Reform In Iran. ABC World News Tonight (2/15, story 5, :45, Sawyer) briefly noted that after her testy hearing before the Senate Foreign Relations committee, "Secretary Rice announced a $75 million program to support democracy in Iran."

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Fox News' Special Report (2/15, Rosen) reported, "Secretary Rice came to the Senate Foreign Relations Committee touting the Bush Administration's $100 million program to promote democracy in Iran and lamenting that country's claims to have restarted uranium enrichment." Fox (Rosen) added, "Rice and her aides all steered clear that the US is trying to pursue regime change in Iran. But she said the money will go toward supporting things like exchange programs, indigenous groups inside Iran that promote free thinking. $50 million of the money would subsidize around the clock Farsi language broadcasts inside of Iran."

Reuters (2/16, Hudson) reports, "Bush wants $75 million to try to spur democracy in its adversary Iran, expanding a program that skeptics say can have little effect in the Islamic republic." In congressional testimony Secretary of State Condoleezza Rice "said the funds would be used to broadcast U.S. radio and television programs into Iran and help pay for Iranians to study in America, requested the money in a supplemental budget request for fiscal year 2006." $10 million has already been approved by Congress, but experts "are skeptical U.S. efforts to reach out to Iranians can work in a country where America is labeled the 'Great Satan' and believed to be anti-Muslim."

The Wall Street Journal/AP (2/16) reports, "The Bush administration will 'walk a fine line' in seeking punitive international sanctions against Iran's Islamic government over its disputed nuclear program, Secretary of State Condoleezza Rice said Wednesday." Rice "detailed a two-track approach to Iran -- concerted international pressure to deter Tehran from building a bomb, and a newly robust attempt to seed democratic change inside the country with $75 million for broadcasts and aid to dissidents." Yet, "Rice ran into tough questions from lawmakers of both parties...underscoring congressional worries about administration policies throughout the Middle East."

The New York Times (2/16, Weisman, 1.19M) reports, "The scope of the administration's effort goes beyond the numbers. Until now, the United States has been cautious about supporting dissident groups, fearful that Iranians may view these efforts as an echo of past American meddling in Iran's affairs." The Times notes, "Until recently, the administration has been cautious about embracing the 'regime change' approach, but some conservatives at the Defense Department and Vice President Dick Cheney's office are known to be resigned to a nuclear-armed Iran and to argue that the best way to address that problem is by opening Iran to democracy and reform."

The Financial Times (2/16, Dinmore) said the Budget request was a signal the US was setting out "a tougher policy towards Iran." Rice "did not specifically use the words 'regime change'. But her testimony revealed a dual policy of isolating Iran on the international front, including sanctions and interdictions of prohibited shipments, while seeking to weaken the clerical regime from within." Experts "advising the Bush administration say the US has realised that significant opposition to Tehran is unlikely to be generated from exiles so it has sought ways to destabilise the Islamic regime from within." But it "risks damaging the diplomatic unity it has achieved at the United Nations in confronting Iran over its nuclear programme."

The Washington Times (2/16, Kralev, 90K) adds, "Rice said she might shift funds from other programs in the 2007 budget to boost the Iran democracy fund." Senior State Department officials "said Washington has been receiving more support from other countries on pushing democracy in Iran since President Mahmoud Ahmadinejad took office in August."

The Washington Post (2/16, A1, Kessler, 744K) in a front page story says "Rice won bipartisan praise for her handling of negotiations on Iran's nuclear programs, but lawmakers from both parties raised objections to the overall thrust of the administration's Middle East policy."

Bloomberg (2/16, Zacharia) notes Rice "told the panel she plans to visit the Persian Gulf next week to talk about Iran. 'No one wants to see a Middle East that is dominated by an Iranian hegemony, particularly one that has acquired nuclear weapons technology,' she said."

US Threatens Iran With Sanctions. Reuters (2/16, Heinrich) reports, "Threatening new sanctions, the United States accused Iran on Wednesday of defying the world by resuming uranium enrichment for nuclear fuel without resolving suspicions it secretly wants to build atomic bombs." Meanwhile, "Russia urged Iran to change course to allow a compromise. It said Iran had to regain international trust before Moscow would back Tehran's declared right to enrich uranium on its own soil."

Meeting Between Iranian Minister, EU Panel Seen As Possible Return To Dialogue. The AP (2/16, Wielaard) reports, "Iranian Foreign Minister Manouchehr Mottaki will meet Monday with the European Parliament's foreign affairs committee." The meeting was suggested by Iran "and

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showed a readiness in Tehran to 'return to a dialogue' with Europe," the panel's spokesman Thomas Bickel said.

Ahmadinejad Tours Nuclear Facility. The AP (2/16, Dareini) reports, "President Mahmoud Ahmadinejad visited the Natanz uranium enrichment plant Wednesday, a day after Tehran confirmed it had resumed small-scale enrichment there last week, the official news agency reported." His "visit to the plant in central Iran is widely seen as a gesture of support and a morale boost for scientists involved in Iran's uranium enrichment program."

Khamenei Also Has Role In Determining Iranian Nuclear Dispute. Time (2/16, MacLeod) in a web exclusive reports Iranian President Mahmoud Ahmadinejad "does not determine Iran's foreign policy alone. It is ultimately in the hands of Iran's Supreme National Security Council, which reports to Supreme Leader Ayatollah Ali Khamenei. And despite the Iranian president's defiant posture, the National Security Council has signaled its continuing interest in a negotiated settlement by announcing that an Iranian delegation will visit Moscow next week for talks on a proposed Russian compromise. But with Ahmadinejad turning the nuclear issue into a populist cause, it's far from certain that the more pragmatic heads will prevail."

Rice Defends Administration Middle East Policies. ABC World News Tonight (2/15, story 5, :45, Sawyer) reported Secretary of State Condoleezza Rice "had a very rough day on Capitol Hill. Senators from both parties sharply criticized the Administration's policies on Iraq, then Iran, then the Palestinians. Republican Chuck Hagel of Nebraska, was especially blunt." Sen. Hagel: "I don't see, Madame Secretary, how things are getting better. I think things are getting worse. I think they're getting worse. I think they are getting worse in Iraq. I think they're getting worse in Iran." Secretary Rice: "I am optimistic that the United States is seeing Iraqis step up, take responsibility for seniority, take responsibility for controlling their territory."

CNN's The Situation Room (2/15, Blitzer) reported, "Rice took heat from Senators of both parties over the Administration's policies in Iraq, Iran and the Palestinian territories. It was Rice's first congressional testimony in months, and Senators accused the Administration of being too upbeat in its assessment of global hot spots."

Fox News' Special Report (2/15, Hume) reported that Rice got "an earful of criticism from both Democrats and Republicans." While Rice presented the Administration's plans for Iran, "many of Rice's questioners had a different focus. Democrats used the hearing to assail the Administration's conduct of the war in Iraq. … Two Democrats on the panel, Chris Dodd of Connecticut and John Kerry of Massachusetts, at times treated the hearing like a deposition or grand jury inquiry into the CIA leak case."

US Will Continue To Provide Aid To Palestinians, But Not Government. The Wall Street Journal/AP (2/16) reports that in testimony before the Senate Foreign Relations Committee Secretary of State Condoleezza Rice "provided new detail about the future of U.S. aid to the Palestinians under Hamas. … Rice said the U.S.…would not turn its back on such humanitarian programs as immunizing children against disease." In response to questioning by Sen. George Allen Rice said, "But no money will go to that government." Allen said, "I don't want a penny of taxpayer money going to Hamas." Rice replied, "Neither do I." She "reiterated that message later Wednesday in a private meeting with eight Jewish leaders she invited to the State Department to discuss Hamas and Iran."

Hamas Control Of Security Forces Uncertain. USA Today (2/16, Gutman, 2.31M) reports, "A key issue for the new government will be how to assert control over the Palestinian security forces. Preventive Security, the main intelligence outfit, is one of about 12 Palestinian security departments. All are currently in the hands of people connected to the ruling Fatah Party." And "Some in Hamas may harbor ill will toward security forces that often hunted them. And many of the security agents may balk at working for Hamas." USA Today notes, "If Hamas is unable to exert control over the security forces, it will result in 'significant civil strife,' says Jamil Rabah, director of Near East Consulting."

The Christian Science Monitor (2/16, Mitnick, 61K) reports that "a brewing dispute between the Islamic militants and the deposed Fatah Party is already calling into question the stability of a new government: How will authority be divvied up between the Hamas prime minister's cabinet and the higher-ranking post held by President Mahmoud Abbas?" On Saturday Abbas is expected to deliver a speech calling for Hamas "to embrace his vision for peace with Israel." But "Hamas is expected to remain steadfast in its opposition to Abbas's approach, deepening the divide between Fatah and Hamas lawmakers as negotiations begin to form the new government." One key concern "is who will control the 60,000-strong Palestinian paramilitary police." That may

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influence "whether the policemen will reinforce Abbas's preference of extending a year-long calm in violence with Israel, or possibly collude with militants to launch new attacks."

Hamas Nominates Members For Senior Legislative Posts. The Washington Times/AP (2/16, Barzak) reports, "The Islamic militant group Hamas said yesterday that it will put together the next Palestinian government by early March -- timing that could help Israeli hawks in parliamentary elections." Hamas' announcement it "would stack top government positions with its own people" may "trigger an Israeli boycott of the Palestinian Authority. Yesterday, Hamas nominated three members for senior legislative posts, including parliament speaker." The AP notes, "In addition to his legislative powers, the speaker would become caretaker president if the elected head of the Palestinian Authority -- Mr. Abbas -- were to die."

Three Protestors Killed In Pakistan During Anti-Cartoon Demonstration. NBC Nightly News (2/15, story 5, 0:10, Williams) reported, "In Pakistan, three days of protests against those controversial cartoons of the prophet Mohammed took a deadly turn again there today. Three people were killed, including an eight-year-old boy, when a massive demonstration turned into a riot."

The Washington Post (2/16, A18, Lancaster, 744K) notes, "Until this week, Pakistani protests over the cartoons had been peaceful and in many cases were supported by elected officials. But as the protests have started to get out of control, officials have changed their tune, warning they will crack down on violence."

Pakistani Politics Influence Protests. The New York Times (2/16, Masood, 1.19M) reports, "The protests have also become enmeshed with Pakistani politics as opposition parties and Islamic groups opposed to the president, Gen. Pervez Musharraf, have led the protests and directed the anger over the cartoons into denunciation of General Musharraf's alliance with the West." In response to "mounting public criticism over what many protesters have described as a 'timid response' to the cartoons, the Pakistani cabinet on Wednesday tried damage control by reiterating a condemnation of 'sacrilegious material' in Western newspapers."

Musharraf Says Controversy Eroding Goodwill For West. NBC Nightly News (2/15, story 6, 2:40, Brokaw) reported, "Today's violent riots in Peshawar were another reminder of Pakistan's precarious state. An estimated 70,000 protesters took to the streets of the frontier city, the unofficial capital of Pakistan's radical Muslim movement, the gateway to the tribal region on the Afghan border where the Taliban continue to operate with the support of the local population. For his part Pakistan's President Pervez Musharraf says the cartoon controversy is canceling out much of the goodwill the West gained with its response to Pakistan's devastating earthquakes." Pakistan President Pervez Musharraf: "I think there is a terrible amount of anger. They have forgotten about all the good and they are just talking about this." Brokaw: "What can the West do?" President Musharraf: "There are many people who are voicing support over this. Please they should stop that."

Protests Have Roots In Past Muslim Grievances. The Washington Post (2/16, A1, Shadid, Sullivan, 744K) in an extensive front page story recounting the recent Muslim protests over cartoons reports that "the scope of the fallout tells only one story. The debate over the cartoons is replete with unintended consequences, some still taking shape this week. On one side is a defense of freedom of expression, on the other an unforgivable insult to a sacred figure. In between are potentially longer-lasting repercussions: a rethinking of relations between Europe and the Muslim world, and a rare moment of empowerment among Muslims who have felt besieged. Given the moral certainty pronounced by each party, some in the middle feel forced to take sides, blurring the diversity of religious thought that might offer grounds for compromise." The dispute "illustrates a broader collision of worldviews, often fueled by feelings of Muslim weakness and injury that date back long before the cartoons were published."

USA Today Raises Concerns Over Censorship. USA Today (2/16, 2.31M) editorializes that "the backlash in the Muslims street is driving an ill-considered response in the non-Muslim world, this one against free expression and free speech. Although the Western response is in the name of tolerance and preventing violence, it's a dangerous step toward censorship of ideas that give offense." USA Today notes, "religions have thrived for centuries and withstood the slings of non-believers. Those who would enshrine censorship in the name of tolerance don't give religions enough credit. They also invite censorship of their own beliefs if those who disagree come to power."

EU Leader Warns Core European Values Under Assault. The New York Times (2/16, Bowley, 1.19M)

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reports, "In the face of escalating attacks against foreigners in the Muslim world by violent critics of cartoons of the Prophet Muhammad, the European Union's chief executive said today that Europe had to fight for its core European values, including freedom of speech." European Commission president José Manuel Barroso "said in an interview that Europe had to defend its right to have in place a system that allowed the publication of the cartoons." Barroso "said European society was based on principles that included equality of rights between men and women, freedom of speech and a clear distinction between politics and religion."

Last MASH Unit To Complete Relief Mission In Pakistan. USA Today (2/16, Wiseman, 2.31M) reports, "The last of the U.S. military's legendary MASH units is completing its final assignment here in the quake-stricken Himalayas -- 3,000 miles from the frozen Korean countryside where Hawkeye Pierce and Trapper John mixed martinis, plotted practical jokes and pursued shapely nurses." Over "the next few weeks, the 212th Mobile Army Surgical Hospital will pull out of Pakistan, donate its Muzaffarabad field hospital to the Pakistani government and return to its home base at the Miesau Army Depot in Germany."

International Consensus Building For Ending Darfur Conflict. The Christian Science Monitor (2/16, McLaughlin, 61K) reports, "Amid new escalation in fighting in the troubled Darfur region of Sudan, with rebels shooting down a government helicopter Tuesday, there's fresh pressure on the international community to step in to help stop the three-year-old conflict." A "consensus is hardening in Western capitals and at the United Nations that the 7,000 African troops now in Darfur…are inadequate." Recently, "UN Secretary General Kofi Annan met with President Bush to push for US support on Darfur. Mr. Bush, who is under pressure from Christian conservatives to act, remained noncommittal. 'We did agree that we need a much more effective force on the ground' to replace AU troops, Mr. Annan said after the meeting, although he didn't mention specifics."

Congress Puts Pressure On Administration Over Sudan. The Hill (2/16, Mikhail) reports, "A bipartisan resolution denouncing both Sudan and the Arab League may place the White House in the difficult position of choosing between strategic and humanitarian interests." The Administration "will face tremendous pressure to support the measure, which expresses disapproval for the Arab League's holding its annual summit in Sudan, to bring attention to what has been deemed by many as genocide in the country's Darfur region. However, such support may undermine U.S. intelligence-sharing with Sudan as well as diplomatic efforts in Darfur and Iraq."

House Panel Criticizes Internet Companies For Aiding Chinese Censors. The CBS Evening News (2/15, story 11, 2:15, Schieffer) reported, "Officials of four of this country's biggest and richest Internet companies, Google, Yahoo!, Microsoft and Cisco, were called into Congress today and criticized for going along with censorship in China. It's the price of doing business." CBS (Hughes) added Rep. Christopher Smith likened "the four companies' cooperation with China to helping Nazi Germany." Rep. Christopher Smith, New Jersey: "If the secret police a half century ago asked where Anne Frank was hiding, would the correct answer to be to hand over the information?" Hughes: "Yahoo! officials admit to handing over information that sent Chinese dissidents to prison." Michael Callahan, senior vice president, Yahoo!: "Ultimately, American companies face a choice: Comply with Chinese laws or leave." Hughes: "But the incentives to stay are enormous, huge money from a huge population: More than 110 million Chinese Internet users and growing. But help for the Chinese web surfers may be on the way." But "apparently, China is feeling the pressure, too. In a rare move, the government tried to publicly defend its Internet controls, something American Internet companies had a hard time doing."

ABC World News Tonight (2/15, story 6, :45, Sawyer) reported, "And still on Capitol Hill, American Internet companies were called on the mat today, and accused of helping China crush dissent. Officials from Microsoft, Google, Yahoo! and Cisco, came under attack for complying with Chinese demands that they restrict Internet access and helping the Chinese government, which spies on its citizens." Rep. Tom Lantos: "My message to these companies today is simple -- your abhorrent activities in China are a disgrace. I simply do not understand how your corporate leadership sleeps at night."

The Wall Street Journal (2/16, Schatz, 2.11M) reports the high-tech executives "repeated arguments that staying in China and other repressive countries -- despite widespread Internet censorship -- does more good than harm for citizens there, as well as helping shareholders. The companies'

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arguments are similar to those used in the 1980s by companies criticized for doing business in South Africa."

Tech Firms Invite US Government To Provide Regulatory Remedies. The Financial Times (2/16, Kirchgaessner) reports, "Yahoo, Google, Microsoft and Cisco later responded to stinging criticism of their business practices – including accusations that they have 'enthusiastically volunteered for China's censorship brigade' – saying the issue was too big for the companies to tackle on their own and that the US government needed to take a leadership role."

The Washington Post (2/16, D5, Noguchi, 744K) reports, "All the companies invited the U.S. government to negotiate terms that would help them increase their services around the world while protecting the privacy of individual users." Yahoo General Counsel Michael Callahan said, "These issues are larger than any one company, or any one industry." Google vice president of global communications Elliot Schrage said the US "should make censorship a central part of trade negotiations."

The New York Times (2/16, Zeller, 1.19M) notes the request that lawmakers provide a legislative solution "divided members of the subcommittee over where blame lies if companies have gone adrift in China." Rep. Robert Wexler "asked if Congress ought not be ashamed itself, for having granted China trade status as a most favored nation. Mr. Wexler said that it was 'duplicitous' to blame the companies for doing what the government had legally sanctioned them to do, and that the firms were in a 'no-win situation.'" But that "drew an incredulous response from Dana Rohrabacher, a California Republican. 'Most favored nation status?' he said, 'Who lobbied for that? Come on. The corporations did.'"

Agreement Reached On New Haitian Leader.

The New York Times (2/16, Thompson, 1.19M) reports, "The front-runner in last week's presidential election," René Préval "will be declared the winner as part of an agreement by leaders of Haiti's interim government to retabulate the votes, a high-ranking official of the Organization of American States said Wednesday night." The OAS official "said that loopholes in Haitian electoral law allow the government to discard an estimated 85,000 blank ballots included in the original tally. By excluding them, Mr. Préval's lead would increase from 48.7 percent of the votes to slightly more than 51 percent."

Election Materials Found At Dump. The Washington Post/AP (2/16, A22) reports, "U.N. police officers went to a garbage dump near the Haitian capital Wednesday to recover election materials, including numbered bags apparently used to carry results and tally sheets, as charges mounted that last week's presidential election was marred by fraud. Thousands of ballots, including some that were marked, were strewn over about an acre at the dump."

US Reestablishes Dialogue With Venezuela.

Reuters (2/16) reports, "Venezuela and the United States have opened talks after they expelled diplomats this month in a dispute over charges that a U.S. naval attache was spying, U.S. officials said on Wednesday." A "private meeting on Tuesday between U.S. Assistant Secretary of State for Western Hemisphere Affairs Tom Shannon and Venezuela's ambassador in Washington came after fraying diplomatic ties between the two countries hit a new low." U.S. ambassador to Caracas William Brownfield said, "Without a doubt we have established a dialogue."

Bolton Opposes Venezuelan Bid For UN Security Council Seat. Reuters (2/16, Arieff) reports, "Venezuela is stepping up a previously low-key drive for a seat on the U.N. Security Council beginning next year, U.N. diplomats said on Wednesday, prompting criticism from U.S. Ambassador John Bolton." Bolton said, "I don't think it would be conducive to an effective and well-functioning Security Council."

Effort To Reform UN Human Rights Council Delayed.

The Washington Times (2/16, Sands, 90K) reports, "A drive by a bloc of Islamic nations for a global ban on 'defamation of religions and prophets' has thrown a major kink into U.S. hopes for an overhaul of the leading U.N. human rights body." The Islamic proposal "states that 'defamation of religions and prophets is inconsistent with the right to freedom of expression' and that governments and the press have a 'responsibility in promoting tolerance and respect for religious and cultural values.'" But, "Jennifer L. Windsor, executive director of the human rights group Freedom Watch, said the OIC effort was one of a number of attempts by nations and blocs at the United Nations to 'dumb down the human rights standards.'"

EU Defense Agency Faces Funding Shortage.

The Washington Times (2/16, Borowiec, 90K) reports, "The European Union's ambitious plan to create an independent defense force has stumbled into financial difficulties that are likely to delay, if not scuttle, the project. The EU defense agency is looking for an initial $60 million

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budget to begin weapons research, but contributions have not been forthcoming as some nations argue that NATO should remain the dominant defense pact and trans-Atlantic link, diplomats say." It "has led to an acerbic debate pitting Britain, a staunch NATO supporter, against France, the prime backer of a separate European defense capability."

Health Officials Issue Restrictions After Bird Flu Virus Arrives Early. The New York Times (2/16, Bernstein, Rosenthal, 1.19M) reports, "Health officials across Europe issued restrictions for commercial poultry farms Wednesday after reports that the deadly bird flu virus had turned up at a surprisingly early date in migratory birds in several Western European countries." While "91 people have died after picking up the virus from close contact with birds, the most immediate threat for Europe is an uncontrolled outbreak of the virus among domesticated fowl, which can rapidly decimate a national poultry industry."

Japan Could Be Model For US Energy Conservation. The Washington Post (2/16, A1, Faiola, 744K) reports, "As President Bush calls on Americans to break their addiction to oil and increase energy efficiency in the face of soaring prices, perhaps no people serve as better role models than the energy-miser Japanese." Japan "has set strict new energy-saving targets for 18 kinds of consumer and business electronics. Home and office air conditioners, for instance, must be redesigned to use 63 percent less power by 2008. The targets have sparked a gold rush among electronics makers, who are churning out record numbers of energy-saving -- but higher-priced -- consumer products." Currently "Japan's energy consumption per person is now almost half that of the United States" and Japan's philosophy is "rooted more in economics than environmentalism."

Indian Economic Progress Touted. Harvard professor Martin Feldstein, chairman of the Council of Economic Advisers under President Reagan, in an op-ed in the Wall Street Journal (2/16, 2.11M) writes, "When President Bush visits India next month, he will see a country that is making remarkable economic progress despite enormous structural problems. … In India he will not see the modern high-rises or the general level of prosperity that he has seen in urban China. But the progress in India is nevertheless real." Feldstein concludes, "The optimistic mood in India's business community, the desire for reforms by the top leadership of the government, and the growing number of relatively middle-class households provide a force for change and a source of support for new entrepreneurial activities. If the political leaders can now persuade the traditional opponents of reform that growth can benefit their constituents and that better new jobs will replace the old, India will see decades of remarkable achievement."

WSJournal Hopes Judge Will Allow Leniency For Cuban Refugees. The Wall Street Journal (2/16, 2.11M) in an editorial writes, "During the Cold War no one would have thought to send a child who had escaped East Germany back across the Berlin Wall. But today the U.S. thinks nothing of sending Cuban refugees intercepted at sea back to Fidel Castro's island tyranny." Fifteen recent refugees "learned that lesson the hard way." They escaped Cuba but "the Coast Guard promptly returned them, with the argument that because the old bridge was severed from the U.S. the Cubans hadn't technically made it to the land of the free. Under a policy invented by the Clinton Administration -- known as 'wet foot-dry foot' -- Cuban refugees who are not walking on land are repatriated." The Journal concludes that "the case may also be a first step toward reviewing a policy that reversed an American tradition of welcoming freedom seekers on the run from dictatorships."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"Bedrock Of A Faith Is Jolted."
"Lawyer Indicted In PI Inquiry."
"Cheney Says He's To Blame In Shooting Of Fellow Hunter."
"Critics See A White House Failure To Communicate."
"Wiesenthal's Jerusalem Excavation Ignites Furor."
"Secret Data Exposed In Terrorism Case."
"Kildow Driven By Unshaken Spirit."

USA Today:

"Senate Aide's Spouse Gets A Windfall."
"'I'm The Guy Who Pulled Trigger.'"

New York Times:

"Silence Broken As Cheney Points Only To Himself."
"Deal Reached To Name Victor In Haiti's Vote."
"Tough G.I.'s Go To War Armed With Afghan ABC's."
"Chertoff Hears Harsh Criticism From Senators."

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"Trying A New Tack, Fed Chief Is Brief, Clear And Also Upbeat."
"Big Study Finds No Clear Benefit Of Calcium Pills."

Washington Post:
"Cheney Says Shooting Was His Fault."
"Region's Traffic: From Bad To Worse."
"Rice Asks For $75 Million To Increase Pressure On Iran."
"Anatomy Of The Cartoon Protest Movement."
"The Legal Woes Of Rep. Jefferson."
"Japanese Putting All Their Energy Into Saving Fuel."

Washington Times:
"Commercial Photos Show Chinese Nuke Buildup."
"Cheney Accepts Blame In Shooting."
"Bernanke Optimistic On Economy."
"Overhaul Of U.N. Rights Body Hits Snag."
"King Children Not United On Center."
"Goal Of A Lifetime."

Detroit Free Press:
"E-Mail Could Alert You To Nearby Sex Predators."
"Laser Lights Blast Pilots."
"Boy, 8, Killed In Home By Gunfire From Outside."
"Cheney: I'm To Blame For Hunting Accident."

Atlanta Journal-Constitution:
"State Hunts For NASCAR Crash."
"Chertoff In The Hot Seat."
"Cheney Shoulders Blame For Shooting."
"Fulton's Assessor's Office Mess Likely To Delay Tax Bills."
"What Is Whole Grain?"

Dallas Morning News:
"VP Accepts Blame In Shooting Accident."
"I'll Fill In The Details Later, Strayhorn Says."
"Study: Calcium Benefits Limited."

Houston Chronicle:
"Cheney Accepts Blame."
"Deal OK'd After Ballot Crisis."
'HPD May Add Video Cameras To Its Ranks."
"4 Municipal Staffers' Bonuses Bring Probe."
"Broadband Unit Portrayed As Promising."

Story Lineup From Last Night's Network News:
ABC: Cheney Hunting Accident; Cheney Interview-Analysis; Bush Hunting Incident; Katrina-Chertoff; Senate-Rice; Internet Companies-China; Saddam-Terrorism; Bernanke-Economy; Calcium Supplements; Olympic News; Olympic Skater.
CBS: Cheney Hunting Accident; Cheney Interview-Bush, Cheney-Analysis; Katrina-Chertoff; Chertoff Interview; American KIA; Abu Ghraib Photos; Saddam-Terrorism; Internet Companies-China; Willie Nelson-Gay Cowboys Song.
NBC: Cheney Hunting Accident; Cheney Interview-Analysis; Katrina-Chertoff; Saddam-Terrorism; Pakistan-Cartoon Riot; Musharraf-Cartoon Protests; Olympics-Women's Skiing; Olympics-Results; Calcium Supplements; Olympics-Jeremy Bloom.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Cheney-Interview; Hurricane Katrina Response; MA-Murder Case; Powerball.
CBS: Cheney-Interview; Australian TV-Iraqi Prisoner Abuse Video; Iraq-Police Death Squads Probe; Study-Calcium Supplements; Powerball; Wall Street.
NPR: Haiti-Election; Cheney-Interview; Hurricane Katrina Response; Foreign Stock Markets; Wall Street; Iraq-Police Death Squads Probe; CA-Death Penalty Ruling.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH — Participates in a Panel on Health Care Initiatives, Department of Health and Human Services; attends a Republican National Committee luncheon, Evermay, Washington, DC, closed press; participates in a Meeting with the President of Colombia, Oval Office, the White House.

VICE PRESIDENT CHENEY — No public schedule.

LAURA BUSH — Participates in a Jr. Rangers event. Banyan Elementary School, Miami.

US Senate: 10:30 a.m. JOINT ECONOMIC _ Full Committee. Hearing on economic report of the President. Katherine Baicker, Member, Council of Economic Advisers; Matthew J. Slaughter, Member, Council of Economic Advisers. Location: Room 2322, Rayburn.

9:30 a.m. ARMED SERVICES _ Full Committee. Hearing on the FY07 budget for atomic energy defense activities in the Energy Department. Energy Secretary Bodman. Location: Room 106, Dirksen.

9:30 a.m. JUDICIARY _ Full Committee. Meeting on pending business. Location: Room 226, Dirksen.

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10 a.m. BANKING, HOUSING AND URBAN AFFAIRS _ Full Committee. Hearing on the monetary report to Congress. Fed Chairman Ben Bernanke. Location: Room 538, Dirksen.

10 a.m. BUDGET _ Full Committee. Hearing on the proposed FY07 budget. Secretary of State Rice. Location: Room 325, Russell.

10 a.m. ENERGY AND NATURAL RESOURCES _ Full Committee. Hearing on S. 2253, to required the Interior Secretary to offer areas of the 181 Area in the Gulf of Mexico for oil and gas leasing. Rejane ``Johnnie" Burton, acting assistant secretary of the Interior; Thomas E. Skains, CEO, Piedmont Natural Gas Co., Charlotte, N.C.; Timothy S. Parker, Dominion Exploration and Production, Houston; Michael Gravitz, U.S. Public Interest Research Group; Stephen R. Wilson, CEO and president, CF Industries Holdings Inc., Long Grove, Ill. Location: Room 366, Dirksen.

10 a.m. FOREIGN RELATIONS _ Full Committee. Hearing on pending nominations. Location: Room 419, Dirksen.

10 a.m. HEALTH, EDUCATION, LABOR AND PENSIONS _ Full Committee. Roundtable discussion on competitiveness. Erick Ajax, E.J. Ajax and Sons Inc., Minneapolis; Bob Bailey, Central Virginia Community College, Lynchburg; Michael J. Bzdack, Johnson and Johnson Inc.; Sandy Day, Omaha Public Schools; Reygan Freeney, University of Iowa; Carrie Langston, Chugwater School, Wyo.; Tom Layzell. Council on Postsecondary Education, Frankfort, Ky.; Mary Morningstar, University of Kansas; Mel Riddile, Jeb Stuart High School, Fairfax, Va.; Eric Schwarz, Citizen Schools, Boston; Jim Shelton, Bill and Melinda Gates Foundation; Edna Varner, former principal, Hamilton County Schools, Chattanooga; Robin Willner, IBM. Location: Room G-50, Dirksen.

10:30 a.m. FINANCE _ Full Committee. Hearing on the administration's trade agenda. USTR Portman. Location: Room 215, Dirksen.

10:30 a.m. VETERANS AFFAIRS _ Full Committee. Hearing on the FY07 budget for the DVA. VA Secretary Nicholson; various department officials; Peter Gaytan, American Legion; Dennis Cullinan, VFW; Brian Lawrence, Disabled American Veterans; Carl Blake, Paralyzed Verans of America; David Greineder, AMVETS. Location: Room 418, Russell.

1:30 p.m. ENERGY AND NATURAL RESOURCES _ National Parks Subcommittee. Hearing on pending legislation. Location: Room 366, Dirksen.

2:30 p.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Full Committee. Hearing on the FY07 budget for NOAA. Administrator Conrad Lautehbacher, Jr. Location: Room 562, Dirksen.

2:30 p.m. ENERGY AND NATURAL RESOURCES _ Full Committee. Hearing on the Energy Information Administration's annual outlook on trends and issues in energy markets. Guy Caruso, Administrator, Energy Information Administration. Location: Room 366, Dirksen.

2:30 p.m. SELECT INTELLIGENCE _ Full Committee. Meeting on pending business. Closed. Location: Room 219, Hart.

US House: FLOOR SCHEDULE _ 10 a.m. Meets for legislative business. Highlights: H.Con.Res. ___ - A concurrent resolution condemning Iran for violating its international nuclear nonproliferation obligations and expressing support for efforts to report Iran to the UN Security Council.

10:30 a.m. JOINT ECONOMIC _ Full Committee. Hearing on economic report of the President. Katherine Baicker, Member, Council of Economic Advisers; Matthew J. Slaughter, Member, Council of Economic Advisers. Location: Room 2322, Rayburn.

9 a.m. AGRICULTURE _ Full Committee. Meeting to discuss FY07 budget views and estimates report. Location: Room 1300, Longworth.

9:30 a.m. APPROPRIATIONS _ Agriculture, Rural Development, FDA and Related Agencies Subcommittee. Hearing on FY07 appropriations. Acting FDA Commissioner Andrew von Eschenbach. Location: Room 2362A, Rayburn.

9:30 a.m. ARMED SERVICES _ Full Committee. Hearing on the DoD's Quadrennial Defense Review. Deputy Defense Secretary Gordon England; Joint Chiefs of Staff Vice Chairman Adm. Edmund Giambastiani, Jr.; Thomas Donnelly, AEI; Andrew Krepinevich, Center for Strategic and Budgetary Assessments; Lawrence Korb, Center for American Progress. Location: Room 2118, Rayburn.

9:30 a.m. HOMELAND SECURITY _ Full Committee. Hearing on the FY07 budget for Homeland Security Department. Secretary Chertoff. Location: Room 311, Cannon.

10 a.m. APPROPRIATIONS _ Labor, Health and Human Services, Education and Related Agencies Subcommittee. Hearing on the FY07 budget for the Labor Department. Secretary Chao. Location: Room 2358, Rayburn.

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10 a.m. APPROPRIATIONS _ Defense Subcommittee. Hearing on FY07 appropriations. Defense Secretary Rumsfeld, Joint Chiefs of Staff Chairman Gen. Peter Pace, Undersecretary of Defense Tina Jonas. Location: Room 2359, Rayburn.

10 a.m. APPROPRIATIONS _ Homeland Security Subcommittee. Hearing on the Transportation Security Administration FY07 budget. Assistant Transportation Secretary Kip Hawley. Location: Room H-140, Capitol.

10 a.m. ENERGY AND COMMERCE _ Full Committee. Markup of H.R. 2829 - Office of National Drug Control Policy Reauthorization Act. Location: Room 2123, Rayburn.

10 a.m. FINANCIAL SERVICES _ Oversight and Investigations Subcommittee. Hearing on implementation of the Office of Foreign Assets Control's Weapons of Mass Destruction designation program. Robert Werner, Director, Office of Foreign Assets Control, Treasury Department. Location: Room 2128, Rayburn.

10 a.m. JUDICIARY _ Crime, Terrorism and Homeland Security Subcommittee. Oversight hearing on victims and the criminal justice system. Collene Thompson Campbell, National Chair, Force 100; Mary Lou Leary, Executive Director, National Center for Victims of Crime; Dr. Katherine Coffman, Medical Director of the Childhelp Children's Center, St. Joseph's Hospital and Medical Center; and Ms. Phyllis Turner Lawrence, Independent Consultant, Restorative Justice and Victims Services. Location: Room 2141, Rayburn.

10 a.m. RESOURCES _ Fisheries and Oceans Subcommittee. Hearing on H.R. 4686, Multi-State and Internatioanl Fisheries Conservation and Management Act of 2006. Location: Room 1324, Longworth.

10 a.m. SCIENCE _ Full Committee. Hearing on the NASA budget. Administrator Michael Griffin. Location: Room 2318, Rayburn.

10 a.m. SELECT INTELLIGENCE _ Full Committee. Closed briefing on the Annual Assessment of Threats. Director of National Intelligence John Negroponte. Location: Room H-405, Capitol.

10 a.m. WAYS AND MEANS _ Social Security Subcommittee and Oversight Subcommittee. Joint hearing on Social Security number high risk issues. Location: Room 1100, Longworth.

10:30 a.m. BUDGET _ Hearing on the FY07 discretionary budget, evaluations and spending trends. Deputy OMB Director Clay Johnson. Location: Room 210, Cannon.

10:30 a.m. VETERANS AFFAIRS _ Full Committee. Hearing on legislative presentations, with representatives of Gold Star Wives, Fleet Reserve Association, Air Force Sergeants Association, The Retired Enlisted Association, Military Officers Association of America, Vietnam Veterans of America, Association for Service Disabled Veterans, National Association of State Directors of Veterans Affairs, American Ex-Prisoners of War and National Association of County Veterans Service Officers. Location: Room 334, Cannon.

12:30 p.m. SELECT INTELLIGENCE _ Technical and Tactical Intelligence Subcommittee. Closed hearing on future imagery architecture. Location: Room H-405, Capitol.

12:30 p.m. TRANSPORTATION AND INFRASTRUCTURE _ Full Committee. Markup of views and estimates for the FY07 budget and two GSA capital investment and leasing program resolutions. Location: Room 2167, Rayburn.

1 p.m. ARMED SERVICES _ Terrorism, Unconventional Threats and Capabilities Subcommittee. Hearing on combating al-Queda and militant Jihadists. James Phillips, Heritage Foundation; Bruce Hoffman, RAND Corp.; Zeyno Baran, Nixon Center. Location: Room 2212, Rayburn.

1:30 p.m. HOMELAND SECURITY _ Management, Integration, and Oversight Subcommittee. Hearing on mismanagement of the border surveillance system and lessons learned for the new border initiative. Gregory Giddens, Director, Secure Border Initiative Program, James Handley, GSA. Location: Room 311, Cannon.

1:30 p.m. INTERNATIONAL RELATIONS _ Full Committee. Hearing on the FY07 State Department Budget. Secretary Rice. Location: Room 2172, Rayburn.

1:30 p.m. TRANSPORTATION AND INFRASTRUCTURE _ Full Committee. Hearing on ``Disasters and the Department of Homeland Security: Where Do We Go From Here?" DHS Secretary Chertoff. Location: Room 2167, Rayburn.

2 p.m. APPROPRIATIONS _ Science, State, Justice, Commerce and Related Agencies Subcommittee. Hearing on FY07 programs for the Office of U.S. Trade Representative. USTR Rob Portman. Location: Room H-309, Capitol.

2 p.m. GOVERNMENT REFORM _ Criminal Justice, Drug Policy and Human Resources Subcommittee. Hearing on the FY07 budget for national drug control programs.

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National Drug Control Policy Director John Walters. Location: Room 2154, Rayburn.

2 p.m. HOMELAND SECURITY _ Economic Security, Infrastructure Protection, and Cybersecurity Subcommittee. Hearing on risk-based spending on TSA. Kip Hawley, Administrator, TSA, Department of Homeland Security. Location: Room HC-6, Capitol.

2 p.m. VETERANS AFFAIRS _ Disability Assistance and Memorial Affairs Subcommittee. Hearing on the FY07 budget. VA Undersecretary Daniel L. Cooper; Jack McCoy, Veterans Benefits Administration; Michael Walcoff, Veterans Benefits Administration; Renee Szybala, Veterans Benefits Administration; James Bohmbach, Veterans Benefits Administration; Brian Lawrence, Disabled American Veterans. Location: Room 340, Cannon.

2:30 p.m. SELECT INTELLIGENCE _ Full Committee. Closed briefing on pending business. CIA Director Porter Goss. Location: Room H-405, Capitol.

Other: PRESIDENT ALVARO URIBE OF COLOMBIA _ Highlights: 8 a.m. Photo opportunity with USTR Rob Portman. 600 17th St. NW. Note: Photographers must RSVP. Contact: Christin Baker, 202-395-3230.

UK-SHADOW CABINET _ Members of the new Tory ``shadow cabinet'' visit Washington. Highlights: 11 a.m. Shadow Defense Secretary Liam Fox speaks at the Heritage Foundation. 12:30 p.m. Fox meets with Rep. Duncan Hunter. 2:30 p.m. Fox, finance spokesman George Osborne and former Tory leader William Hague meet with Senate Majority Leader Bill Frist. 3 p.m. All meet with Sen. John McCain. 4 p.m. Hague meets with a group including former Secretary of State Albright. 5:30 p.m. Hague discusses U.S.-U.K. relations. Kenney Auditorium, 1740 Massachusetts Ave. NW.

AARP _ AARP holds its public policy meeting. Highlights: 9 a.m. Session on sustainable fiscal policies with Douglas Holtz-Eakin of the Council on Foreign Relations. 11 a.m. Session on consumer-directed health plans, with Paul Fronstin of the Employee Benefits Research Institute. Location: Polaris Room, Reagan Trade Center.

SECURITY-PREPAREDNESS _ The Infrastructure Security Partnership hosts a three day expo, the 5th annual Critical Infrastructure Resilience and Infrastructure Security for the Built Environment Congress. Architects, corporate leaders, government officials and regulators, construction, first responders, engineers, insurers, biochem specialists, facility managers and others meet to discuss security for critical structures and assets. Highlights: 8:30 a.m. - 9:15 a.m. Keynote address. Topic: Congress: A View from the Hill. With Rep. Bennie G. Thompson (D-MS), Homeland Security Committee. Location: Washington Convention Center, Mt. Vernon Square.

AGRICULTURAL OUTLOOK _ The Agriculture Department holds its annual Agricultural Outlook Forum. Highlights: 8:30 a.m. Deputy Agriculture Secretary Charles Conner. 8:40 a.m. Session on the 2006 economic and trade outlook with Chief USDA Economist Keith Collins and Undersecretary J.B. Penn. 9:15 a.m. Keynote -- Secretary Johanns. 9:45 a.m. USTR Robert Portman. 10:45 a.m. Plenary session on ``Rural America's New Economic Frontier.'' 1:15 p.m. Session on the food price outlook. 6:30 p.m. Dinner, with speaker Calvin Dooley, CEO, Food Products Association. Location: Marriott-Crystal Gateway, 1700 Jefferson Davis Hwy., Arlington, Va.

SECURITIES LAW _ 8:30 a.m. The U.S. Chamber of Commerce holds a Securities Law Conference. Highlights: 9:30 a.m. Keynote address - Sen. Christopher Dodd. 10 a.m. SEC Commissioner Roel Campos. 12:30 p.m. Keynote address - SEC Commissioner Paul Atkins. Location: 1615 H St. NW.

GENDER EQUALITY _ 9 a.m. - 4:30 p.m. The World Bank, others, hold a conference on gender equality. Highlights: 9:15 a.m. World Bank President Paul Wolfowitz. Location: International Finance Corp. auditorium, B2 level, 2121 Pennsylvania Ave. NW.

NANOTECHNOLOGY _ 9 a.m. Sens. George Allen and Ron Wyden hold a news conference to discuss nanotechnology issues. Location: Room 385, Russell.

MINIMUM WAGE _ 10 a.m. The Center for American Progress Action Fund and the Ballot Initiative Strategy Center hold a discussion on a new report on state minimum wage initiatives. Participants include Sen. Edward Kennedy, Rep. Ted Strickland, Paul Booth of AFSCME, pollster Celinda Lake, Beth Shulman of the Fairness Initiative on Low-Wage Work, others. Location: 10th floor, 1333 H St. NW.

OBAMA-ETHICS _ 10 a.m. Sen. Barack Obama, D-Ill., holds a press conference to discuss legislation he has introduced to create a congressional ethics enforcement commission to receive complaints from the public on alleged ethics violations by members of Congress, staff, and lobbyists. Location: Room 432, Russell Building.

TRADE _ 10 a.m. Sen. Max Baucus holds an informal media availability to announce the Trade Competitiveness Act of 2006. Location: Room 511, Hart.

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FINANCIAL EDUCATION _ 10:30 a.m. The NASD Foundation, members of Congress, SEC, and the Pentagon hold a news conference to announce a global financial education campaign for military personnel. Location: Room SC-4, Capitol.

PELOSI _ 10:45 a.m. House Democratic Leader Nancy Pelosi holds her weekly press conference. Location: Room H-206, Capitol.

BLACK CAUCUS-KATRINA _ 11 a.m. Members of the Congressional Black Caucus hold a press briefing to give assessment of the government's preparation for and response to Hurricane Katrina. Location: House Radio/Television Gallery.

GOP CENTRISTS _ 11 a.m. The Republican Main Street Partnership holds a news conference to announce its 2006 legislative agenda and discuss the administration's proposed budget cuts. Participants include Reps. Mike Castle, Tom Davis, Fred Upton, Sherwood Boehlert, Mark Kirk and Charles Bass. Location: 3rd floor dining room, Capitol Hill Club, 300 1st St. SE.

PORTS-FOREIGN OWNERSHIP _ 11 a.m. Sen. Chuck Schumer, D-N.Y., Sens. Tom Coburn, R-Okla.; Frank Lautenberg, D-N.J.; Chris Dodd, D-Conn., and Reps. Vito Fosella, R-N.Y.; Chris Shays, R-Conn., and Mark Foley, R-Fla., to begin a campaign for a new and more thorough review of the $6.8 billion dollar deal that they says puts the operation and control of the major New York and New Jersey ports in the control of a firm in the United Arab Emirates and owned by the Government of Dubai, Dubai Ports World (DPW). The deal allows DPW to take control of operations at four additional ports on the East Coast: Baltimore, New Orleans, Miami and Philadelphia. Location: Senate Radio/TV Gallery.

PROPHET CARTOONS _ 12 p.m. The Council on American-Islamic Relations holds a forum to discuss the controversy over caricatures of Islam's Prophet Muhammad. Location: National Press Club.

IRAQ-MCCOY _ 1 p.m. Army Brig. Gen. William McCoy, Commander, Army Corps of Engineers in the Gulf region, holds an Afternoon Newsmaker news conference on reconstruction in Iraq. Location: National Press Club.

ALITO _ 2 p.m. The Supreme Court holds a formal investiture ceremony for Associate Justice Samuel Alito, Jr. Location: Supreme Court.

DEMOCRATS-COMPETETIVENESS _ 2 p.m. Sens. Debbie Stabenow, D-Mich., and Jack Reed, D-R.I., join students, vocational teachers, and technology company executives for a press event to call on President Bush to offer what they describes as ``real policies to increase Americas competitiveness, not budget giveaways to special interests." Location: Room S-207, Capitol.

REPUBLICANS-MP'S _ 2:30 p.m. Photo op with Senate Majority Leader Bill Frist, Senators McConnell and Santorum, and conservative members of the British Parliament. Location: Room S-230, Capitol.

US-UK _ 5:30 p.m. William Hague, the United Kingdom's shadow foreign secretary and senior member of the shadow cabinet, will discuss the issues facing the special relationship between the United States and the U.K. in the 21st century, including the challenges of the ``war on terror," the new strategic environment and the state of the U.S.-U.K. alliance. Location: Kenney Auditorium, 1740 Massachusetts Ave. NW.

MUSLIM ACTIVIST _ 7 p.m. The Mediterranean Institute sponsors the first U.S. lecture by Muslim peace activist Tawfik Hamid on al-Qaida. Location: Room 201B, White-Gravenor Hall, Georgetown University.

TERRORISM-CIVIL LIBERTIES _ 8:15 p.m. There will be a Georgetown Law Forum: ``The War on Terror: Civil Defense vs. Civil Liberties." Panelists are Sen. Arlen Specter, (R-Pa., chairman, Judiciary Committee; Rep. Jane Harman, D-Calif., ranking Democrat, Intelligence Committee; Richard Falkenrath, Former Deputy Homeland Security Advisor; Neal Katyal, Georgetown Law professor and lead attorney, Hamdan v. Rumsfeld Seymour Hersh, investigative journalist; Bradford Berenson, former White House Associate Counsel to President George W. Bush. They will will discuss President Bushs war on terrorism, focusing on military tribunals and domestic wiretapping. Location: Georgetown University Law Center, Moot Courtroom, McDonough Hall, 600 New Jersey Ave. NW.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: THURSDAY, FEBRUARY 16, 2006 7:45 AM EST

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TERRORISM NEWS:

DOJ Opens Internal Probe Of NSA Surveillance Program. The Washington Post (2/16, A4, Eggen, 744K) reports, "The Justice Department's Office of Professional Responsibility has opened an internal investigation into the department's role in approving the Bush administration's warrantless domestic eavesdropping program, officials said yesterday. … In a letter to Rep. Maurice D. Hinchey (D-N.Y.), Office of Professional Responsibility counsel H. Marshall Jarrett said that his office has 'initiated an investigation' into the Justice Department's role in the NSA surveillance program. The letter, dated Feb. 2 but not received by Hinchey until yesterday, indicates that the probe will include 'whether such activities are permissible under existing law.' But Justice Department spokeswoman Tasia Scolinos said the inquiry will be more limited: 'They will not be making a determination on the lawfulness of the NSA program but rather will determine whether the department lawyers complied with their professional obligations in connection with that program.' … Scolinos also said that 'OPR routinely looks into issues of this kind.'"

The AP (2/16, Barrett) reports, "Marshall Jarrett, the office's counsel, acknowledged the investigation in a letter to Rep. Maurice Hinchey, D-N.Y. Jarrett's letter did not specify which of the agency's actions or employees are being examined. … 'You asked this office to investigate the Department of Justice's role in authorizing, approving and auditing certain surveillance activities of the National Security Agency, and whether such activities are permissible under existing law. For your information, we have initiated an investigation,' Jarrett wrote." The AP notes, "Hinchey is one of a few dozen Democratic lawmakers who have been highly critical of the eavesdropping program first revealed in December. … 'We're very happy that the OPR is doing it, because it seems on the surface certain illegal actions may have taken place,' said Hinchey, one of Congress' most outspoken critics of President Bush." The AP notes, "Justice Department spokesman Brian Roehrkasse said the office routinely looks into issues of this kind. … 'They will not be making a determination on the lawfulness on the NSA program, but rather will determine whether the department's lawyers complied with their professional obligations in connection with examining this program,' Roehrkasse said."The New York Times (2/16, Shane, Lichtblau, 1.19M) reports that the review "is the first formal government inquiry into the surveillance program since its existence was reported by The New York Times in December. … The Justice Department review was begun despite public assurances by Attorney General Alberto R. Gonzales and President Bush that the program is legal and closely monitored by government lawyers."

Gonzales Says Ashcroft, Comey Testimony Will Be Limited. The Washington Post (2/16, A4, Eggen, 744K) reports, "Attorney General Alberto R. Gonzales signaled in an interview with The Washington Post yesterday that the administration will sharply limit the testimony of former attorney general John D. Ashcroft and former deputy attorney general James B. Comey, both of whom have been asked to appear before the Senate Judiciary Committee regarding the program. 'Clearly, there are privilege issues that have to be considered,' Gonzales said. 'As a general matter, we would not be disclosing internal deliberations, internal recommendations. That's not something we'd do as a general matter, whether or not you're a current member of the administration or a former member of the administration.' 'You have to wonder what could Messrs. Comey and Ashcroft add to the discussion,' Gonzales added."

Specter Challenges Roberts To Offer Legislation On NSA Surveillance. Roll Call (2/16, Pierce) reports, "Senate Judiciary Chairman Arlen Specter (R-Pa.) challenged Senate Intelligence Chairman Pat Roberts (R-Kan.) to put his money where his mouth is on the issue of how Congress should act on revelations that President Bush authorized warrantless eavesdropping on domestic electronic communications. Prompted by a reporter to respond to Roberts' recent comments that the Intelligence panel is better suited to deal with any legislation regarding the National Security Agency program, Specter replied, 'I would agree with him, and I would defer to him. Where's the legislation?' Specter is expected this week to rollout his own legislation to allow the Foreign Intelligence Surveillance Court to look into the legality of the program, and he has been holding hearings, most recently with Attorney General Alberto Gonzales, to try to determine the scope of the program and whether Congress needs to act more forcefully." Specter "indicated that he is not inclined to delay his own bill while Roberts decides what, if anything, to do."

WPost Praises Efforts To Draft Legislation. An editorial in the Washington Post (2/16, A26, 744K) editorializes, "Congress is feeling its way gingerly as it contemplates the Bush administration's extralegal program of domestic surveillance. That's not surprising. The administration, which kept the program secret from all but eight members of Congress until recently, insists that any congressional inquiry could help the terrorists who are the ostensible targets of the surveillance. Moreover, given changes in technology, it may not be easy to write a law that both permits surveillance activities that make the country safer and protects civil liberties and congressional oversight.

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Nonetheless, those twin goals must be served, and the Republicans and Democrats looking for ways to do so are on the right track." The Post concludes, "As much as the administration would prefer otherwise, it is not acceptable simply to have this program continue in the existing legal and regulatory vacuum."

Will Laments Lack Of Checks On NSA Program, Calls For Congress To Authorize Surveillance. George Will writes in the Washington Post (2/16, A27, "The next time a president asks Congress to pass something akin to what Congress passed on Sept. 14, 2001 -- the Authorization for Use of Military Force (AUMF) -- the resulting legislation might be longer than Proust's 'Remembrance of Things Past.' Congress, remembering what is happening today, might stipulate all the statutes and constitutional understandings that it does not intend the act to repeal or supersede. But, then, perhaps no future president will ask for such congressional involvement in the gravest decision government makes -- going to war. … Administration supporters incoherently argue that the AUMF also authorized the NSA surveillance -- and that if the administration had asked, Congress would have refused to authorize it." The argument "that the AUMF contained a completely unexpressed congressional intent to empower the president to disregard the FISA regime is risible coming from this administration. It famously opposes those who discover unstated meanings in the Constitution's text and do not strictly construe the language of statutes." Will adds, that immediately after 9/11, Bush "should have begun surveillance of domestic-to-domestic calls -- the kind the Sept. 11 terrorists made. But 53 months later, Congress should make all necessary actions lawful by authorizing the president to take those actions, with suitable supervision. It should do so with language that does not stigmatize what he has been doing, but that implicitly refutes the doctrine that the authorization is superfluous."

Kondracke Says Administration Should Help Draft Legislation. Morton Kondracke writes in Roll Call (2/16), "Congress seems to be moving toward a sensible consensus on President Bush's secret National Security Agency surveillance program: Make it legal. Now, Bush should take 'Yes' for an answer. So far, the administration seems stuck on using the president's 'inherent' constitutional authority to tap suspected terrorists, but Bush would be on stronger ground if he agreed with Congress on a plan to establish its legality. Some Democrats still want to investigate Bush for what they see as his breaking the law with the program. But most now seem to accept that it's a valuable anti-terrorism tool that ought to be continued." Kondracke adds that Gonzales "indicated to the Senate Judiciary Committee that he'd listen to suggestions from Congress on legal changes. He ought to sit down with Congressional leaders and help write them."

US Seeks Extradition Of al-Qaeda Suspect From Canada. Reuters (2/16) reports, "The United States has formally requested the extradition of a Canadian man accused of supplying weapons to al Qaeda, but the process could take years, officials said on Wednesday." Reuters continues, "U.S. authorities say Abdullah Khadr, 24, also conspired to kill Americans abroad. Khadr was arrested in Toronto in December two weeks after returning to Canada from Pakistan." Reuters adds, "Khadr is the eldest son of Ahmed Said Khadr, who was an alleged al Qaeda financier and close friend of Osama bin Laden. He was killed in a 2003 gun battle in Pakistan. … Brother Omar Ahmed Khadr is the only Canadian held at the U.S. prison camp at Guantanamo Bay, Cuba. … Canada's Justice Department now has 30 days to approve the U.S. request and if it says yes, a court hearing will be held to consider the extradition. Khadr can appeal that decision all the way to the Supreme Court, and it could be a long time before a final ruling is made."

Judge Allows Moussaoui Back Into Courtroom For Juror Questioning. The New York Times (2/16, Lewis, 1.19M) reports, "Zacarias Moussaoui resumed his place in a federal courtroom here on Wednesday and sat quietly as lawyers questioned potential jurors after he apparently reversed course and agreed not to disrupt the proceedings." This after Moussauoi was eject from the courtroom a day earlier after he refused to heed the judge's warnings "to defer to his court-appointed lawyers and stop making speeches about his case."\

The Washington Times (2/16, Seper, 90K) reports, "U.S. District Judge Leonie Brinkema, who Tuesday barred Moussaoui from ongoing jury selection in the trial's sentencing phase, offered no explanation for her change of mind -- and made no mention of his prior behavior to potential jurors in the death-penalty case."

The AP (2/16, Sniffen) reports that Judge Brinkema "had barred Moussaoui from jury selection Tuesday because he wouldn't promise to stop giving insult-laden speeches. … Brinkema did not explain her change of mind in court, but she had said the day before that she might reconsider if Moussaoui decided to alter his behavior. Even Moussaoui's court-appointed defense lawyers did not know why she changed her mind." The AP adds, "Fifteen of the 24 prospective jurors interviewed Wednesday were qualified for service - three over defense objections and one over government protest. Identified only by number, they were ordered to return March 6 when lawyers will exercise peremptory - or unexplained - strikes to whittle the pool to 12 jurors and six alternates. More potential jurors will be selected between now and March 6."

The Richmond Times-Dispatch (2/16, Bradley) reports, "Moussaoui exhibited none of the disruptive behavior that has

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characterized earlier courtroom appearances. Clad in a jail-issued green jumpsuit and white skullcap, he sat alone at a table behind his court-appointed defense team. … But in a continued show of defiance, he remained seated when the court clerk called out 'all rise' as Brinkema left the bench. He muttered 'God curse America' to spectators as federal marshals led him out of the courtroom at the lunchtime break. … He never spoke to his lawyers, with whom he has refused to cooperate. He once asked marshals for a drink of water and peered into the cup as if the drink had been tainted before taking a sip."

Pentagon Probe Found No Pre-9/11Information On Atta. The Washington Times (2/16, Scarborough, 90K) reports, "The Pentagon's top intelligence official told Congress yesterday that his investigation turned up no chart or photo depicting hijacker Mohamed Atta before the September 11, 2001, terrorist attacks, but a Republican lawmaker accused the Bush administration of ignoring evidence." The testimony from Stephen Cambone, undersecretary of defense for intelligence, "did not appear to answer the question about whether Able Danger singled out Atta as an al Qaeda-connected operative more than a year before the attacks." Rep. Curt Weldon "has been on a campaign to prove that such an identification was made. 'There has been no investigation,' Mr. Weldon said during a hearing in which several members deferred their 10-minute allotment to him. 'There has been no analysis by the 9/11 commission or anyone else.'"

Documents Reveal Internal Al Qaeda Struggles. USA Today (2/16, Diamond, 2.31M) reports, "Recently captured al-Qaeda documents portray terrorist leaders struggling over strategy, facing challenges by subordinates and issuing guidelines listing minimum qualifications for terrorism training camp supervisors. Drawn from a classified database called 'Harmony' compiled by the U.S. Special Operations Command, the documents were disclosed in a report released this week by West Point's Combating Terrorism Center." The documents "show al-Qaeda is committed to waging a holy war against 'dictators of the Earth and secular groups' that will end only when 'everyone believes in Allah.'"

Holy Land Foundation Prosecutors Mistakenly Disclosed Classified Records. The Los Angeles Times (2/16, Krikorian, 958K) reports, "Federal officials in Dallas mistakenly disclosed classified counter-terrorism information in a breach of national security that could also threaten one of the country's biggest terrorism prosecution cases, newly unsealed court records show. The blunder exposed secret wiretap requests that commonly include classified information from U.S. agencies, foreign intelligence reports and confidential sources. The criminal case involves officials of the Texas-based Holy Land Foundation for Relief and Development, a now-defunct Islamic charity with alleged ties to terrorists. Its assets were frozen by the Treasury Department three months after the Sept. 11 attacks." The Times adds, "Disclosure that the government erred in sharing secret intelligence on the case came to light when court files were unsealed this week. The mistake occurred nearly a year ago but was not previously disclosed. KTVT-TV in Dallas first reported the security breach late Tuesday."

CIA Operative Says He Could Have Captured Bin Laden. The Washington Post (2/16, C1, Leiby, 744K) reports on Gary Berntsen, a CIA field operative who was dispatched to Afghanistan in October 2001. By Berntsen's telling, "he could have gotten Osama bin Laden -- if only they'd given him the troops and the time to get the job done." In his book "Jawbreaker" Berntsen provides a "score-settling insider's account of how bin Laden eluded capture at Tora Bora that December."

Guantanamo Prison Said To Be "At A Crossroads." The Christian Science Monitor (2/16, Richey, 61K) reports that the US prison camp at Guantanamo Bay "is at a crossroads. Will it return to its roots: a kind of rights-free zone where Al Qaeda suspects are interrogated with little judicial oversight? Or will it become an ever stronger magnet for vigorous legal challenges, based on alleged violations of international human rights, the Geneva accords, American law, and US constitutional protections?" The matter "is before two key courts, whose rulings will help define not just the scope of judicial oversight at Guantánamo, but perhaps also the role of America's system of divided government in wartime." The Monitor adds, "The first indication of how the courts may view Guantánamo's future role will probably come from the Supreme Court. On Friday, the justices are scheduled to consider at their closed-door conference a Bush administration motion that the high court dismiss the case of Salim Ahmed Hamdan, a former driver for Osama bin Laden. Mr. Hamdan's case is one of the most important of the high court's current term. It is a test of the legality of President Bush's military commission process."

Al Qaeda Training Camp Photos To Be Key US Evidence At Hayat Trials. In a widely-distributed story, the AP (2/16, Thompson) reports, "The government has satellite images of a suspected al-Qaida training camp that federal prosecutors say was attended by" Hamid Hayat, and the photos are "expected to be a key part of the government's case" against Hayat and his father, Umer. The AP notes, "A jury was seated Wednesday for the trial of Hamid Hayat," and "opening statements were expected to begin Thursday."

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Umer Hayat's "portion of the trial is to begin next week before a separate jury that was seated Tuesday."

Al Arian Retrial Will Begin In April If US Decides To Proceed. The AP (2/16, Stacy) reports, "Sami Al-Arian's second trial -- if there is one -- will begin sometime in April, according to a federal court filing Wednesday. Federal prosecutors haven't announced definitively whether they will retry the former University of South Florida professor on remaining charges of aiding Palestinian terrorists," and "also still at issue is who would represent Al-Arian if there is a second trial. His attorneys, William Moffitt and Linda Moreno, asked the court last month to allow them to withdraw from the case. A U.S. magistrate has not yet ruled on the request."

Blair Wins Parliamentary Vote On Anti-Terror Law. The New York Times (2/16, Cowell, 1.19M) reports that British Prime Minister Tony Blair "secured victory in the House of Commons on Wednesday in a vote to expand counterterrorism laws by making 'glorification' of terrorism a criminal offense. Legislators voted 315 to 277 in a ballot that pitted Mr. Blair's Labor Party against the Conservative and Liberal Democratic opposition. Seventeen Labor dissidents voted against the measure.'

The Washington Post (2/16, A14, Sullivan, 744K) reports, "The measure, called the terrorism bill, still must be approved by the House of Lords, which voted last month to strip the 'glorification' clause out of it. It was unclear whether the Lords would continue to object to the proposal on grounds that it infringes on civil liberties or back down in the face of Wednesday's clear margin of victory."

The Los Angeles Times (2/16, Daniszewski, 958K) reports, "Despite its earlier opposition, the House of Lords is expected to defer to the more powerful House of Commons when it takes up the measure again. The two chambers must reach agreement for it to become law."

German Court Overturns Law On Shoot-Down Of Hijacked Planes. The Washington Post (2/16, A15, Whitlock, 744K) reports, "Germany's highest court overturned a law Wednesday that had authorized the government to shoot down hijacked civilian airliners, ruling that it was unconstitutional to sacrifice the lives of passengers to protect potential targets of a terrorist attack. … The law was challenged by opponents who argued that the constitution forbids the military from endangering the lives of German citizens or exercising domestic police powers." The Post adds, "German lawmakers from the ruling party, the Christian Democratic Union, said they would try to amend the constitution to revive the law, but many other members of Germany's coalition government are opposed to that. Changing the constitution would require a two-thirds vote by Parliament."

Escaped Al Qaeda Prisoners Becoming Folk Heroes In Yemen. The New York Times (2/16, Fattah, 1.19M) reports, "Almost two weeks after 23 prisoners suspected of terrorist ties broke out of a maximum-security prison here, the fugitives are emerging as unlikely folk heroes: the men who thumbed their noses at the Yemeni government and, more significantly, at America. … A nationwide manhunt continued Wednesday as the Yemeni government offered a $25,000 reward for information leading to the arrest of the 13 people suspected of being operatives of Al Qaeda among the escapees. Side streets leading to the prison remained blocked off, while security men patrolled in and around the mosque where the men emerged."

PATRIOT ACT:

Feingold May Try To Amend Patriot Act. The AP (2/16, Kellman) reports, "Faced with losing his bid to block the USA Patriot Act, Sen. Russell Feingold is preparing a last-ditch strategy to amend the legislation with stronger safeguards against government intrusion and more frequent congressional oversight." The AP continues, "The effort is unlikely to succeed. Most senators, including the leaders of his party, are expected to vote for the White House-brokered deal that supporters say makes the most changes possible without jeopardizing passage before the terrorism-fighting law expires March 10. … 'The outcome here is absolutely predetermined,' said Majority Leader Bill Frist, R-Tenn., expressing frustration with the Feingold-led delay. 'It's going to pass with overwhelming support.' … Still, Feingold, D-Wis., stuck to his objections, saying protracted talks with the White House over the law's protections for civil liberties had produced only a 'fig leaf' to cover weaknesses that leave people vulnerable to government intrusion. … 'What we are seeing is quite simply a capitulation to the intransigent and misleading rhetoric of a White House that sees any effort to protect civil liberties as a sign of weakness,' Feingold said during a floor speech Wednesday." The AP notes, "Without any apparent supporters for his filibuster, Feingold agreed to Frist's insistence on holding a procedural test vote Thursday that would clear the way for Senate debate on the legislation. Frist said the Senate would hold its final votes at the end of the month, when Congress returns from a weeklong recess. … During the process, Feingold will try to introduce several amendments that would strengthen protections for civil liberties. One would set a four-year expiration date on the use of so-called national security letters under the Patriot Act - secret government requests for information, according to Feingold's office. … Another would require the government

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to notify the subject of a secret search within seven days or obtain court permission to maintain the secrecy for a longer period, rather than the 30-day requirement in the legislation being considered."

Knight Ridder distributes a Milwaukee Journal Sentinel story (2/16, Gilbert) that reports, "Feingold was the only senator to vote against the act in 2001. But other lawmakers later joined him in criticizing the law and calling for curbs on the government's new police powers. Late last year, four Republicans joined Feingold and every other Democrat in the Senate in blocking renewal of the bill, saying it didn't do enough to protect civil liberties. … But in recent weeks, the White House agreed to some relatively small changes in the measure. As a result, Feingold's four Republican allies and a number of Democrats dropped their opposition, making its passage inevitable. … Feingold, however, has vowed to use every parliamentary move against the proposal. After he began his filibuster Wednesday, an agreement was struck to put off reauthorization of the Patriot Act until March."

CQ (2/15, Sandler) notes Feingold "drew a frustrated response from Majority Leader Bill Frist," who "referred to Feingold's filibuster…as one of several 'insufferable attempts to put off the nation's business.' … Feingold expressed a similar sense of frustration. He said he had tried all day long, to no avail, to get Frist to agree to let him offer a few amendments," which he hopes to bring to a vote today. However, "it does not appear that will happen. The Senate will vote Thursday morning on limiting debate on the motion to proceed to the bill changing the conference report," and "after that, a cloture vote on the bill would come Feb. 28, and then a vote on final passage March 1."

HOMELAND RESPONSE:

Bush To Seek Additional $4.2 Billion For Louisiana Recovery. The Los Angeles Times (2/16, Gaouette, 958K) reports, "In an unexpected breakthrough in negotiations with Louisiana officials, the Bush administration announced Wednesday that President Bush would ask Congress for an additional $4.2 billion to help the state repair and rebuild homes battered by Hurricanes Katrina and Rita. Federal support for housing reconstruction, which has been the subject of protracted negotiations between Washington and local officials, is considered a prerequisite for wider recovery because it opens the way for thousands of displaced people to return to New Orleans and surrounding areas. … Louisiana officials had complained that the administration wasn't providing enough housing help to allow the region to recover fully. On Wednesday, there was nothing but praise for the president." In thanking President Bush Wednesday, Gov. Kathleen Babineaux Blanco "pledged…to use the money to build a 'safer and smarter Louisiana.'"

The New York Times (2/16, Dao, Drew, 1.19M) reports, "The $4.2 billion request was a turnabout for the administration, which three weeks ago rejected legislation proposed by Representative Richard H. Baker, a Louisiana Republican, to create a nonprofit group to buy out flooded homes, the plan favored by Ms. Blanco. … Last week, Ms. Blanco threatened to try to block a federal sale of oil and gas leases off the Gulf Coast, saying it was 'time to play hardball.' But in the past week, state officials said, Donald E. Powell, the president's coordinator for Gulf Coast rebuilding, became convinced that the federal government should do more to help homeowners in the flood plain who did not have flood insurance."

More Funding, Property Buyout Plan Sought By State Lawmakers. CQ (2/15, Higa) reported, "Blanco praised Bush for requesting the additional money. But she also urged the administration to drop its opposition to legislation (HR 4100) offered by Rep. Richard H. Baker, R-La., that would create a government program to buy and redevelop hurricane-damaged properties. Baker, who along with Louisiana Sens. Mary L. Landrieu, a Democrat, and David Vitter, a Republican, testified Wednesday to the Senate Banking, Housing and Urban Affairs Committee on his plan and Louisiana's needs, released a statement reiterating 'the need for a comprehensive plan that includes property buyouts and federal resources to make it work.'" Meanwhile, Landrieu said, "The Bush administration…previously promised an additional $18 billion in relief. 'The $4.2 billion proposed today represents about 23 percent of that sum,' Landrieu said. 'I look forward to seeing the administration's plans for the remaining 77 percent.'"

Blanco Puts Aside Plan To Shrink New Orleans Government. Meanwhile, the AP (2/16, Deslatte) reports Blanco "abandoned for now her push to shrink New Orleans' government after the proposal ran into strong opposition during a special legislative session on hurricane relief. … The measure by House Speaker Joe Salter would have consolidated the city's century-old network of two elected sheriffs, two elected clerks of court and two court systems. It passed the House overwhelmingly and was scheduled for a hearing Wednesday in a Senate committee." The AP notes, "Blanco is continuing to press other proposals, including a measure to consolidate Louisiana's levee boards under state control."

Some Democrats Question Blanco's Viability, Push For Breaux To Enter Race. Roll Call (2/16, Whittington) reports, "As a House committee marked up the final version of the Hurricane Katrina report Wednesday on Capitol Hill, there was growing concern among Louisiana Democrats over the viability of Gov. Kathleen Blanco's (D) political future and

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whether the party can find another candidate to coalesce behind before the 2007 gubernatorial election. The first evidence of that movement became public this week, as pressure began to mount on former Sen. John Breaux (D) to consider re-entering political life and running for governor next year. There is little question that Breaux, who retired from the Senate in 2004 and remains widely popular back home, would be difficult to beat if he runs. However, many veteran Bayou State politicos remain doubtful that he has the desire to get back in the game." Roll Call adds, 'Some of the pressure for Democrats to find a consensus alternative to Blanco is being fueled by the behind-the-scenes machinations of Rep. Bobby Jindal (R-La.), who narrowly lost to Blanco in a 2003 runoff and is preparing for another run next year."

Chertoff, Rumsfeld Reportedly Don't Use E-Mail. Newsweek (2/16, Hosenball) reports in a web exclusive, that "congressional investigations of government responses to Hurricane Katrina have revealed that two of the nation's key crisis managers, the secretaries of Defense and Homeland Security, do not use e-mail." Newsweek continues, "The House committee established to investigate Katrina was 'informed that neither Secretary Chertoff nor Secretary Rumsfeld use e-mail,' reported Reps. Charlie Melancon and William Jefferson, two Louisiana Democrats who participated in the inquiry despite a boycott by other House Democrats who felt that the inquiry was too partisan. … Spokesmen for the two officials maintain that Rumsfeld and Chertoff were kept informed during Katrina the same way as they keep in touch during other crises: through aides and a variety of other communications methods. 'This is a large organization with a very competent staff that that kept the secretary well informed on Defense Department operations throughout Katrina,' Bryan Whitman, a Defense spokesman, told NEWSWEEK. Brian Besanceney, Chertoff's top spokesman, said: 'Every senior DHS official knows that, if they have important information to convey to the secretary, they go to his office or pick up the phone.'"

Senate Panel Blasts Chertoff's Handling Of Hurricane Katrina Disaster. Homeland Security Secretary Michael Chertoff faced harsh criticism yesterday before a Senate panel for his department's performance during and after Hurricane Katrina. CBS also interviewed Chertoff, who did not respond directly when asked if he had offered to resign over the Katrina disaster. Meanwhile, a House panel released a report that criticized all levels of government, calling the response to the storm "a national failure, where leaders failed to lead."

ABC World News Tonight (2/15, story 4, 2:20, Sawyer) reported House and Senate Committees "blasted the Federal Government's response to Hurricane Katrina, calling it a monumental failure. They aimed their anger at the Bush Administration's senior emergency management official, the head of Homeland Security, Michael Chertoff, charging that faster action, better planning and better communication could have spared lives." ABC (Thomas) added, "There was a stunning revelation that the top two officials in charge of responding to Katrina, former FEMA Director Michael Brown and Secretary Chertoff, were at odds at the moment of crisis." Sen. Collins: "I have an e-mail in which your staff is complaining to Michael Brown's staff that you have lost all contact with Michael Brown for two days. And this is a critical two days. Michael Brown testified before this committee that he found your phone calls to be annoying, disruptive." Thomas: "Lack of communication and coordination was a constant theme. Chertoff says he found out the levees broke in New Orleans, a full day after FEMA officials knew." House Republicans also "issued a 600-page report that can be summed up in one word -- failure, and at every level."

The CBS Evening News (2/15, story 5, 1:55, Schieffer) reported, "Chertoff was getting beaten up by senators from both parties, one of them saying the disaster workers ran around like Keystone cops." CBS (Attkisson) added the senators were "methodically challenging Chertoff on his mindset before, during, and after Katrina's landfall, like why he went to a bird flu conference the day after Katrina hit." Chertoff was "also criticized in a scathing report issued on the House side today and it was Republican Tom Davis who lambasted the White House." Rep. Tom Davis, Virginia: "I think the White House attitude is that they were monitoring this and they were disengaged and this was Homeland Security's responsibility. And I think that's a copout to a great extent."

NBC Nightly News (2/15, story 3, 2:15, Reid) reported, "On day one of Hurricane Katrina, as water poured into New Orleans, Secretary of Homeland Security Michael Chertoff testified today he was unaware the levies had breached, even though dozens of emails show many other government officials did know." Chertoff "told frustrated senators he didn't learn of the breeches until the next morning but still decided to stick to his schedule and fly to Atlanta for a conference on avian flu."

The CBS Evening News (2/15, story 7, 1:55, Schieffer) interviewed Chertoff following his senate hearing. CBS (Schieffer) reported Chertoff discussed "what he conceded was a very rough day. Well, Mr. Secretary, you took quite a pounding up there today. Was it deserved?" Michael Chertoff, Secretary of Homeland Security: "This terrible disaster occurred on the first six months of my watch, and I've got to take responsibility for it. And I'm interested in hearing the criticism, but what I'm really interested in is using that criticism as a basis to get ourselves prepared for what is around the corner this next hurricane season or some other

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natural or manmade disaster." Schieffer: "Well, let me just put it to you this way: There are a lot of rumors that your job is on the line here. Have you actually offered your resignation to the President?" Secretary Chertoff: "You know, the President understands, of course, and I understand, that I serve at his pleasure. As long as he thinks that I make a contribution, I am happy to serve him."

The New York Times (2/16, Lipton, 1.19M) reports Chertoff "endured two and a half hours of intense personal criticism Wednesday by Senate Republicans and Democrats investigating the response to Hurricane Katrina, several of whom said he bore responsibility for a multitude of errors that prolonged the suffering of Gulf Coast residents. The rebuke was a painful turnabout for Mr. Chertoff, a former federal judge who was unanimously confirmed a year ago to take over the department and until recently had largely escaped blame for the government's flawed response to the storm." Chertoff "acknowledged that he and his department had failed to respond adequately to the disaster, citing management lapses, improper deployment of staff and the unreliable delivery of disaster relief supplies. He said that his department had moved far too slowly to evacuate the refugees who packed the New Orleans Superdome and, later, the city's convention center." The Times notes, "Both Democrats and Republicans on the committee told him they appreciated his candor and willingness to accept blame, contrasting it with the testimony on Friday by Mr. Brown."

The Los Angeles Times (2/16, Neuman, Chen, 958K) reports while fielding "a withering barrage of congressional criticism," Chertoff "vowed to do better, referring to an array of reforms that he has initiated. Sen. Susan M. Collins (R-Me.), chairwoman of the Senate Committee on Homeland Security and Governmental Affairs, said in her opening remarks that her panel's latest hearing was intended not only to learn why Chertoff's vast agency was 'plagued by indecision and delay,' but also to avoid a repeat of the fiasco." While "he accepted responsibility for his department's shortcomings," Chertoff "also pointed out the extraordinary nature of the hurricane and urged lawmakers to not overlook 'things that succeeded.'" Chertoff added "that within months of taking over the newly created department, he set out to streamline its operations, targeting Oct. 1 as a deadline. 'Unfortunately, Katrina didn't wait until Oct. 1,' he said." The Times adds, 'Today's hearing served as the latest reminder of how his department's response to Katrina has tarnished Chertoff's reputation just a year after he took office. … Now some question whether he can survive in the job."

Under the headline "Homeland Security Misled Before Storm, Chertoff Says," the Washington Times (2/16, Hudson, 90K) reports Chertoff "said key officials were informed of the possible devastation of Hurricane Katrina days before the storm hit but were misled on emergency precautions in place." He "described his conversations with ousted Federal Emergency Management Agency (FEMA) director Michael D. Brown as 'heated' more than a day after the storm struck and the New Orleans levee system failed. In those discussions, Mr. Chertoff said he was 'nudging, prodding, poking and ultimately raising my voice about buses on Wednesday, [which] led to a decision by the deputy and me on Thursday that we needed to simply take this away and get it done ourselves.' … Sen. Susan Collins, Maine Republican and chairman of the Senate Homeland Security and Government Oversight Committee, said the biggest mistake was in keeping Mr. Brown on the job despite his objections to his agency's restructuring and its role in emergency planning."

USA Today (2/16, Hall, 2.31M) reports, "Chertoff told senators he accepts responsibility for 'many lapses' during the catastrophe," but "deflected some blame to former Federal Emergency Management Agency director Michael Brown. He said he would not have named Brown to lead the response if he had known then 'what I know now about Mr. Brown's agenda.'" Chertoff also "defended his decision to fly to Atlanta for an avian flu meeting the day after the storm. He insisted it wasn't proof he was disengaged from the crisis."

Reuters (2/16, Smith) reports, "The report released by a US House of Representatives panel was a rare criticism of the administration by congressional Republicans. It said the response to the hurricane, which killed 1,200 people and destroyed about 300,000 homes, was 'a failure of initiative. It was a failure of leadership.'" The report added that the President "did not receive adequate advice and counsel from senior staff during the crisis. 'Federal agencies, including (the Department of Homeland Security), had varying degrees of unfamiliarity with their roles and responsibilities,' the report concluded." In testimony before the Senate, "Chertoff noted Bush declared the Gulf coastal region a disaster area before the storm hit landfall and said that action was unprecedented. Despite preparations for the storm, he said the agency was quickly overtaken by events. 'We now know our capabilities were simply overwhelmed by the magnitude of this storm,' Chertoff said."

Report Finds DHS Suffered From Staffing Shortages. In its "Federal Diary" column, the Washington Post (2/16, B2, Barr, 744K) reports that one of the "biggest" ways "Katrina overwhelmed the Department of Homeland Security…involved staffing. When the monster storm hit, the department was short-handed. That's one of the key findings in a report released yesterday by the House committee that investigated preparations for and the response to Katrina, which hit New Orleans and much of the Gulf Coast on Aug. 29. … The staffing woes were particularly evident at the Federal Emergency Management Agency, which has about 2,500 full-time employees." Meanwhile, "FEMA scored second to last among government agencies in a 2005 survey of job satisfaction, the report notes. The report also says Homeland Security officials 'were unable to maintain their

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ranks of disaster professionals, through employee retention, development or recruitment, and this failure hindered the response to Hurricane Katrina.'"

House Report Prompts Legislative Initiatives. CQ (2/15, Starks) reported, "The report's release triggered legislative initiatives that touch on nearly every aspect of the response to the disaster. The House Transportation and Infrastructure Committee will soon begin moving legislation expected to call for the Department of Homeland Security to relinquish control of FEMA. The House Appropriations Subcommittee on Homeland Security will likely look to boost funding for the embattled agency." Meanwhile, "House Democratic leaders commended the work of the GOP-dominated panel whose five-month investigation they had boycotted, fearing a partisan whitewash. But they renewed their calls Wednesday for an independent panel, arguing that the committee failed to press the White House hard enough for documents."

Report's Findings "Swept Up In…Election-Year Politics." The Washington Post (2/16, A3, Hsu, 744K) reports that the House panel report's "findings were quickly swept up in divisive election-year politics and the complex task of rebuilding the devastated Gulf Coast. Rep. Thomas M. Davis III "said that Congress and the White House are ready to debate proposals to restructure national emergency plans, the Federal Emergency Management Agency, the federal flood insurance program, and laws that spawned a bungled $2 billion-plus effort to temporarily house evacuees. But Democrats from hard-hit Louisiana and Mississippi, backed by House Minority Leader Nancy Pelosi (D-Calif.), said such changes, while needed, would do nothing to hold Bush administration officials accountable or speed help to 2 million victims of the Aug. 29 storm. Democrats renewed calls for an independent investigation, and accused the GOP of corruption, citing FEMA and US Army Corps of Engineers relief contracts with firms tied to associates of President Bush." The Post adds, "The partisan political maneuvering underscored the limitations of yesterday's House report."

Columnist Says Chertoff Demonstrated "Qualified Personal Responsibility." Dana Milbank, in his column for the Washington Post (2/16, A2,, 744K) writes, "President Bush in 2000 ushered in the Era of Personal Responsibility. Yesterday ushered in the Era of Qualified Personal Responsibility. In hours-long testimony before a Senate committee, Homeland Security Secretary Michael Chertoff said he took the blame for the department's failures responding to Hurricane Katrina. 'I am responsible for the Department of Homeland Security,' came the inevitable claim. 'I'm accountable and accept responsibility for the performance of the entire department.'" However, Chertoff could not "come up with much in the way of what he had done wrong." Milbank continues that "from the start of his appearance before the Senate Homeland Security and Governmental Affairs Committee yesterday, Chertoff interspersed claims of responsibility with assignments of blame elsewhere. He blamed the weather. 'This was a storm of unprecedented magnitude,' he said, rattling off statistics. He blamed the department he inherited, which, 'barely two years old, had a lot of work to do.' He added: 'Frankly, FEMA was strained in past emergencies.' Mostly, though, he blamed subordinates. 'I was conscious of the fact that although I'm the secretary, I'm not a hurricane operator,' Chertoff explained. 'I do not have 30 years of experience managing hurricanes, and I do not see myself in a position to contradict or second-guess operational decisions.' Chertoff did blame himself for one thing: trusting then-FEMA director Mike 'Brownie' Brown."

Chertoff's Job Said To Be Safe. Bloomberg (2/16, Bliss) reports, "Senators were uniformly critical of the Homeland Security Department's response to the storm, and most said Chertoff should have done more in its aftermath to ease the suffering of Americans who lacked basic necessities. Still, none went so far as Senate Democratic Leader Harry Reid of Nevada, who said early last month that Chertoff should step down. Thomas Mann, a political analyst at the Brookings Institution in Washington, said Chertoff's job is safe. President George W. Bush 'likens forced resignations to an admission of culpability on his part,' Mann said. The president probably has gone as far as he's willing with the resignation of FEMA's former director, Michael Brown, Mann said."

More Commentary. Under the headline "A Deadly Vacuum," the New York Times (2/16, 1.19M) editorializes, "In the Bush administration, there is no such thing as failure at the top. When something goes wrong because of bad leadership, punishment is meted out to the foot soldiers and middle management, while the people in charge remain unscathed. Now we'll see whether the rule holds true in the aftermath of Hurricane Katrina." Following the House panel's report, "one thing is clear. While there is no shortage of incompetent public officials involved in this tragedy, one stands out above the rest. That person is Homeland Security Secretary Michael Chertoff. According to the panel's report, Mr. Chertoff has 'primary responsibility for managing the national response to a catastrophic disaster,' yet he handled his decision-making responsibilities 'late, ineffectively, or not at all.'" The Times continues, "Now Mr. Chertoff and his opposite number inside the White House are proposing changes to FEMA, including a new professional response force. While this is a good idea in and of itself, big organizational solutions will not help if there is a leadership vacuum. It would be nice for the administration to finally send a message that if important people do a bad job, they go away."

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Senator Places Hold On Increase In Flood Insurance Program Borrowing. The Hill (2/16, Schor) reports, "The House yesterday sliced about $400 million from a bill increasing the National Flood Insurance Program's borrowing authority, sending the bill back to the Senate for final approval, but an anonymous senator immediately placed a hold on the bill. The program has estimated that it will no longer be able to pay claims for policyholders hit by Hurricane Katrina if borrowing authority is not increased within the next few weeks, but the Senate hold could forestall final passage of the flood-insurance bill until March, requiring insurance companies to stop paying flood claims underwritten by the government. One lobbyist working for a swift increase in borrowing authority pointed to Sen. Olympia Snowe (R-Maine) as the likely source of the hold, saying Snowe is seeking recourse against a hold placed by Sen. Tom Coburn (R-Okla.) on extra home heating aid to the Low-Income Home Energy Assistance Program (LIHEAP)."

New Orleans Attorneys Feels Effects Of Katrina. The National Law Journal (2/16, Jones) reports, "Walk along the main streets of New Orleans' French Quarter and you will find restaurants and bars ready for business, with music spilling out of their open doors. Tables are set, ceiling fans are churning and servers stand poised for customers. … A few blocks away, in the business district, the town's streetcars have begun again to lumber past upscale shops, the Aquarium of the Americas and Harrah's casino. … But the streetcars roll along eerily empty for the most part, and many of the retail businesses remain boarded up. … 'What's worse than the devastation is that all of the people are gone,' said attorney William Rittenberg during a recent drive through the French Quarter. A small-firm practitioner who has worked in New Orleans for 35 years, he said he had not taken a paycheck from his six-attorney firm since Hurricane Katrina struck. … 'I worry about whether I can remain here,' he said." The Journal adds, "Rittenberg, a partner with Rittenberg & Samuel, is just one of thousands of New Orleans lawyers whose jobs took a drastic turn in September. As a small-firm lawyer, he is struggling to make a living in a town where much of his client base has disappeared. Other attorneys, such as Gary Elkins, who runs a midsize practice in the business district, and Richard Dicharry, chairman of 248-attorney Phelps Dunbar, have found, at least for now, former work replaced with rebuilding efforts and disputes arising from the destruction. … Whatever the size of the firm these New Orleans lawyers come from -- whether it is a solo practice, a large operation or somewhere in between -- the path their lives have taken five months after the storm-like-no-other has been marked with despondency and with hope."

NYTimes Opposes Use Of UAE Company For Port Security Operations. An editorial in the New York Times (2/16, 1.19M) says, "The Bush administration has done far too little to protect the nation's ports against terrorists. But it has taken that laxness to a new level by allowing a company from the United Arab Emirates to run significant operations at six American ports, including the Port of New York. The administration should reverse this decision." The Times adds, "Much remains to be done to protect the nation's ports against terrorism. Putting port management in the hands of a country with such a mixed record in the war on terror is a step in the wrong direction."

WAR NEWS:

Australian TV Airs New Pictures Of Abu Ghraib Prison Abuse. The CBS Evening News (2/15, story 9, 1:50, Schieffer) reported additional pictures of abuse of Iraqi prisoners at Abu Ghraib prison "have surfaced and some of them turn out to be worse than what we saw before." CBS (Martin) added, "Perhaps the most disturbing shows a deranged prisoner slamming his head into a cell door while someone takes pictures, but no one tries to stop him. Many of the pictures show the same kinds of abuse seen in the original photos which triggered the Abu Ghraib scandal. Iraqis subjected to sexual humiliation and shackled in positions tantamount to torture. The Pentagon has about 200 photos from inside Abu Ghraib, and it has steadfastly refused to release them, even going to court to stop some of them from getting out, arguing they would ignite anti-American violence. With Muslims still demonstrating and rioting over the publication of a cartoon making fun of the Prophet Muhammad, and with new revelations of a video showing British troops abusing Iraqi teenagers, these photos, in the words of a senior American official in Iraq, 'could not have come at a worse time.'"

The Financial Times (2/16, Tucker, Sevastopulo) reports an Australian television station yesterday broadcast these "previously unpublished images said to show physical abuse of Iraqi prisoners at the US-run prison near Baghdad. Bryan Whitman, deputy Pentagon spokesman, said the images would 'further inflame and possibly incite unnecessary violence in the world.'"

The New York Times (2/16, Stout, 1.19M) reports "the State Department legal adviser, John B. Bellinger III, said the latest pictures 'show once again just the reprehensible conduct that was going on in Abu Ghraib.'" He "noted that after the instances of abuse in late 2003 and their disclosure early in 2004 there had been public investigations, prosecutions and internal reviews. 'And it's unfortunate, in fact, that these photographs are coming out further and

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fanning the flames,' he said. Images from the Australian broadcast were shown in the Middle East."

The Wall Street Journal (2/16, Dreazen, 2.11M) says "the images also appeared to raise new questions about the extent of the abuse at the prison. One of the photos aired by the Australian network showed a prisoner lying dead on the ground in a pool of blood, while another sequence showed a corpse in a blood-smeared room that the network said had been used by the Central Intelligence Agency for interrogations. All told, the segment showed images of six corpses, though it was not clear how each had died. Other photos showed prisoners with wounds that appear to have been caused by shotgun pellets."

The Washington Post (2/16, A20, White, 744K) reports "Pentagon officials emphasized that the photographs had been part of investigations that led to the punishment of several military police soldiers who worked at the prison. 'We can confirm that 13 of the 14 images released by the Australian television outlet are authentic,' said Col. Joseph Curtin, an Army spokesman at the Pentagon. 'The Army condemns the abusive behavior depicted in these photos and has taken aggressive action to prosecute those held accountable. Nonetheless, these are not new images and are included in the Abu Ghraib criminal case files.'"

Tapes Reveal Saddam, Top Iraqi Leadership Discussing Terrorism, WMD. Tapes from the mid-1990s recovered by the CIA in Baghdad reveal former Iraqi President Saddam Hussein and members of his cabinet discussing the possibility of terrorist attacks – conducted by others – using weapons of mass destruction in the US. The tapes show the top Iraqi leadership discussing WMD and how they used deception in dealing with UN inspectors.

ABC World News Tonight (2/15, story 7, 3:45, Ross) reported, "'Terrorism is coming,' says Saddam Hussein in one of the most dramatic moments on the tapes as he talks, or muses, with his cabinet, including Deputy Prime Minister Tariq Aziz. Saddam says he warned the Americans 'that in the future, there will be terrorism with weapons of mass destruction.' He continues, 'What would prevent a booby-trapped car causing a nuclear explosion in Washington, or a germ, or a chemical one?' But he says Iraq would not be involved. 'This is coming,' says Saddam. 'This story is coming, but not from Iraq.' Tariq Aziz then adds, 'Sir, the biological is very easy to make. It's so simple that any biologist can make a bottle of germs, and drop it into a water tower and kill 100,000. An American in the house near the White House could do it,' Aziz says." Rep. Pete Hoekstra: "It appears they are authentic. From reading some of the transcripts, you would think that it is pretty likely there were WMD that were hidden or that were moved out of the country." Ross: "The tapes reveal in their own words Iraqi efforts to hide information about weapons of mass destruction, from the UN inspectors in the 1990s." Charles Duelfer, who "led the official US search for weapons of mass destruction after the war, says the tapes show extensive deception, but don't prove there are weapons still hidden in Iraq." Duelfer: "What they do is support the conclusion that the regime had the intention of building and rebuilding weapons of mass destruction." Ross: "In fact, Saddam's aides can be heard on the tape telling him they stand ready to resume work."

The CBS Evening News (2/15, story 10, 0:40, Martin) reported there are "about two CDs worth of audio recordings of Saddam meeting with his senior advisers in the 1990s. They're just now surfacing publicly, but intelligence officials say they've had them for some time and they contain no revelations about weapons of mass destruction. On the recording, Saddam seems obsessed with hiding his weapons programs from UN inspectors, but we now know what he was really hiding was that he didn't have any weapons of mass destruction, a fact he was trying to hide because he thought it made him more vulnerable to invasion."

NBC Nightly News (2/15, story 4, 0:40, Williams) reported, "On another tape, Saddam says, 'It is possible in the future to see a booby trap and the explosion turns out to be nuclear, germ or chemical.' US intelligence analysts tell NBC News do not prove Saddam had any weapons of mass destruction when the US invaded Iraq back in 2003."

ABC News Nightline (2/15, Ross) reported, "Most revealing on the tapes are the ongoing discussions about hiding details of Iraq's missiles and weapons of mass destruction programs from U.N. Inspectors during the 1990s." Hussein's son-in-law "briefs Saddam on the Iraqi campaign of deceit, aimed at fooling U.N. inspectors." Translator: "We did not reveal all that we have. Not the type of weapons. Not the volume of the materials we imported. Not the volume of the production that we told them about. Not the volume of use. None of this was correct." Regarding Iraq's nuclear weapons program, the translation reads: "As for the nuclear, sir, we say we have disclosed everything. But no. We have undeclared problems in nuclear, as well." Former US weapons inspector Charles Duelfer "says the tapes show Saddam's fascination with such weapons and his extensive deceit. But offer no new proof of whether such weapons are still hidden in Iraq." Duelfer: "No, they do not. What they do is support the conclusion and report which we made in the last couple years, that the regime had the intention of building and rebuilding weapons of mass destruction, when circumstances permitted." Rep. Peter Hoektsra, chairman of the House Intelligence Committee: "You would think that it's pretty likely there were WMD that were hidden or moved out of the country." ABC News concluded, "And these tapes only serve to fuel the continuing debate about Saddam's true intentions. And whether he, in fact, did hide weapons of

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mass destruction. There's enough in these tapes to help both sides bolster their arguments."

Defense Intelligence Reexamining Iraq WMD Evidence. The New York Sun (2/16, Lake) reports, "The CIA, FBI, and directorate of national intelligence have resisted calls from Congress to reopen the hunt" for WMD in Iraq. Yet "an interagency outfit known as the Media Exploitation Center, administered by the Defense Intelligence Agency, last month started its own search of these materials to attempt to discover the location of the weapons of mass destruction." One congressional aide said, "There are elements in NSA and DIA that believe there is enough evidence to warrant further re-examination and a relook at all the material. … This includes the imagery, documents, and human sources. They also think a more extensive debriefing of knowledgeable human sources and third party nationals is in order." Rep. Peter Hoekstra "has also been pestering the directorate of national intelligence to translate and make public what he claims are nearly 36,000 boxes of captured documents and materials from Iraq that may shed clues on the WMD front." The Pentagon "now appears to be working on the directorate to make other Iraq files public as well. A February 6 letter from Secretary of Defense Rumsfeld to Senator Santorum…said Mr. Rumsfeld is working with the director of national intelligence, John Negroponte, to release Iraqi files sought from the Harmony database, which catalogs material on terrorism secured since September 11, 2001." But a DNI spokeswoman said, "Intelligence community analysts from the CIA and the DIA reviewed the translations and found that while fascinating from a historical perspective, the tapes do not reveal anything that changes their postwar analysis of Iraq's weapons programs, nor do they change the findings contained in the comprehensive Iraq Survey Group report."

In 2000, Experts Agreed That Saddam Wanted WMD. In its "History Lessons" column, the Washington Times (2/16, 90K) excerpts the February 3, 2000 edition of Voice of America's "On the Line," on which Roscoe Suddarth, president, Middle East Institute and former U.S. ambassador to Jordan, said, "I don't think [Saddam Hussein's] objectives have changed. I think he still wants to be the primary Arab power. And they have the resources to do it -- the second largest oil reserves. … He lacks the means, the military means, but he is dearly trying to reconstitute them. … He's trying to reconstitute, obviously, his weapons of mass destruction." Patrick Clawson, director of research, Washington Institute for Near East Policy, agreed, saying, "There are no indications whatsoever that Saddam has backed off in the least. After all, this is a man who has forgone well over a hundred billion dollars in oil income in order to keep up with these clandestine programs of weapons of mass destruction."

Terror Attacks Kill 16 In Baghdad. The Washington Post (2/16, A19, Hernandez, 744K) reports, "As Iraqi politicians debated the formation of a government on Wednesday, a wave of gun and bomb attacks killed at least 16 people in the capital, including five children. Three children were killed and two wounded when a bomb exploded outside the Karama primary school in the Saydiyah neighborhood of southeastern Baghdad, said Gen. Salman Hassan Shammari of the Iraqi police. A second roadside bomb killed two children and wounded four more in the Fadhl neighborhood, he said. It was unclear who detonated the bombs or why." The New York Times (2/16, Wong, 1.19M) and Los Angeles Times (2/16, Moore, 958K) run similar reports.

Influence Of Radical Cleric Al Sadr Increasing In Iraq. The New York Times (2/16, Worth, Tavernise, 1.19M) reports radical Muslim Cleric Moktada al-Sadr was a key figure in the election of Ibrahim al-Jaafari as Iraq's next prime minister. The election "was a crowning moment for Mr. Sadr, whose sudden rise to political power poses a stark new set of challenges for Iraq's fledgling democracy. The man who led the Mahdi Army militia's two deadly uprisings against American troops in 2004 now controls 32 seats in Iraq's Parliament, enough to be a kingmaker. He has an Islamist vision of Iraq's future, and is implacably hostile to the Iraqis closest to the United States -- the mostly secular Kurds, and Ayad Allawi, the former prime minister." The Times notes, "In one sense, his participation represents the realization of a central American goal: to bring populist, violent figures -- whether Sunni or Shiite -- off the battlefield and into democratic politics." His "new influence and his populist roots may even help achieve the American goal of a broad-based government that includes all of Iraq's sects and ethnic groups."

Shiite Faction Urges Greater Outreach To Sunnis. The Los Angeles Times (2/16, Moore, 958K) reports, "Only days after deciding to nominate incumbent Ibrahim Jafari to continue as Iraq's prime minister, his United Iraqi Alliance coalition on Wednesday was showing signs of fraying." Al Fadila al Islamiya party leaders, who are "associated with radical Shiite Muslim cleric Muqtada Sadr…threatened Wednesday to break from the dominant alliance if the UIA did not make more overtures to Sunni Arabs, restrain Shiite paramilitary groups and rule in a more collaborative style." While "legislators prepare to form Iraq's first permanent government since Saddam Hussein's ouster…the Fadila ultimatum suggested that Jafari's nomination…was causing tension within the Shiite-led alliance." And one Western diplomat said, "I certainly see the political will in the different corners and the appreciation for a national unity government.

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… I hear more people talk about cross-sectarian cooperation than I have ever heard."

WPost Urges Administration To Utilize Coalitions To Broker Deal For National Unity Government. The Washington Post (2/16, A26, 744K) in an editorial writes that Ibrahim Jafari's election means the Bush administration's job "will be still harder." His election "will complicate the task of forming a 'national unity' government." US ambassador Zalmay Khalilzad "is doing his best to promote a national accord that addresses the legitimate concerns of the Sunnis. … But given Iraq's powerful centrifugal forces, the ambassador could use more help, from Washington and beyond. The Bush administration has capably organized international coalitions to address the threats of Iran and North Korea; it has brought formidable pressure to bear on the Palestinians through the 'quartet.' … Now is the time for President Bush to mobilize that alliance, and every other bit of leverage he can muster. Iraq may not have another chance."

US Cavalry Regiment Model For Counterinsurgent Tactics. The Washington Post (2/16, A14, Ricks, 744K) describes the success the US 3rd Armored Cavalry Regiment has had in completing "clear and hold" operations in Iraq. Recently, "the regiment has focused on breaking the insurgents' hold on Tall Afar, a town of 290,000. Their operations here 'will serve as a case study in classic counterinsurgency, the way it is supposed to be done,' said Terry Daly, a retired intelligence officer specializing in the subject." US officials "conducting an internal review of the three dozen major U.S. brigades, battalions and similar units operating in Iraq in 2005 privately concluded that of all those units, the 3rd Armored Cavalry Regiment performed the best at counterinsurgency, according to a source familiar with the review's findings." But it is unclear whether the regiment's "example can be followed elsewhere by American commanders in the country. The biggest problem U.S. troops in Iraq face is Baghdad, a city about 30 times the size of Tall Afar. With the current number of American troops in Iraq, it would be impossible to copy the approach used here, with outposts every few blocks."

WSJournal Applauds Australia For Pursuing Oil-For-Food Probe. The Wall Street Journal (2/16, 2.11M) editorializes, "The rot from the United Nations' Oil for Food scandal has now reached Australia. But the good news is that that democratic nation has had the nerve to sort the wheat from the chaff -- and do it publicly." The Journal notes, "It's striking how Australia has been one of the few countries to have pushed the Oil for Food investigations to the extent of examining its own role. An Indian official lost his job after the Volcker report, and French and American prosecutors are investigating the matter in their countries. But China, Russia and Vietnam, to name a few -- have reacted with studied nonchalance. Saddam knew what he was doing when he put foreigners with political connections on his payroll."

US Soldiers Prepare To Fight "Long War" In Afghanistan. The New York Times (2/16, Kifner, 1.19M) reports that the 10th Mountain Division has prepared to continue not only their military mission in Afghanistan but also "a political one: to bolster the American-supported government of President Hamid Karzai." They are "developing a military ethos that goes beyond the tactics of past conventional warfare to a new age of ideological war." In interviews the soldiers and officers "spoke of the heightened language and cultural training they had instituted to meet the new challenges in a conflict against militant Islam that Secretary of Defense Donald Rumsfeld recently referred to as 'the long war.'" Soldiers typically study "basic Islam and local mores for the duty of nation-building," but "the program here is particularly sweeping." The key to "the Army's strategy is the cultural awareness program. … In Iraq, many officers now believe, insensitivity to local customs in house searches, for example, created resentment that helped foster the insurgency."

In a second article on the 10th Mountain Division, the New York Times (2/16, Kifner, 1.19M) describes its history and how its role has changed to adapt to counterinsurgent tactics noting, "The Afghanistan campaign is often fought by the smallest units." Lt. Col. Christopher Cavoli said, "In a counterinsurgency, the calibration of force is critical. … The sloppy application of force ruins the cultivation of the populace."

Clinton, Oxley To Unveil Program To Educate Military Families About Fraud. The New York Times (2/16, Henriques, 1.19M) reports, "NASD will unveil today a financial education program it has developed exclusively for members of the armed forces and their families. The effort is part of the financial regulator's response to published reports about military personnel being widely exposed to deceptive and misleading sales pitches for insurance and other financial products." The program will be unveiled "at a news conference in the Capitol building with several senior members of Congress in attendance, including Representative Michael G. Oxley…who heads the House Financial Services Committee, and Senator Hillary Rodham Clinton."

DOJ:

Gonzales Outlines Top Priorities For DOJ. The Washington Times (2/16, Seper, 90K) reports, "Attorney

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General Alberto R. Gonzales yesterday outlined six major priorities for the Justice Department at the start of his second year on the job: terrorism, violent crime, drug trafficking, cybercrime, government and corporate corruption, and civil rights. 'My goal is simple: Secure the opportunities of the American dream for all Americans and for future generations,' Mr. Gonzales said during a speech to Justice personnel gathered in the department's Great Hall. 'Keeping this charge is no small task, and it will require no small effort. And I am well aware that I can't do it alone. I will need your help. So, today, I'm laying out a set of priorities and initiatives to guide our work for the coming year. This plan will allow us to continue the progress you've already achieved -- most notably, four years without another terrorist attack here at home and a violent-crime rate that is at its lowest level in more than three decades,' he said."

WICS-TV Champaign, IL (2/15, 5:12 p.m.) reported, "Attorney General Alberto Gonzales outlined the top priorities for the Department of Justice this year. Gonzales says the department will work to defend the country against terrorism and that he hopes the Patriot Act will serve as an aid to their efforts." A number of other stations around the country simply noted that Gonzales would be announcing the priorities, including WJLA-TV Washington, DC (2/15, 6:14 a.m.) and KNVX-TV Phoenix (2/15, 5:38 a.m.).

Gonzales Asserts Independence. Knight Ridder distributes a Chicago Tribune article (2/16, Zajac) that reports, "Attorney General Alberto Gonzales, whose first year in office has been dominated by issues connected to his earlier job as White House counsel, said Wednesday that he regards himself as independent of the Oval Office, but that he nonetheless remains a policy advocate for President Bush. … 'Sure, I have to be independent as attorney general,' Gonzales said in an interview. 'But I think people lose sight of the fact that for purposes of policy, I'm still on the president's team, and I feel a responsibility and I'm expected to act as a member of the president's team in connection with pushing forward the president's agenda.'" The Tribune continues, "Still, Gonzales said, 'if I believe something is wrong, I will tell the president of the United States that something is wrong.' … Gonzales said proof of his autonomy will be seen in his department's performance, particularly in cases brought by the agency's career prosecutors. 'No matter who you are, no matter what party you may be affiliated with, if you've done something you shouldn't be doing, we're going to go after it,' he said."

DOJ's Sex Offender Registry Program Receives E-gov Award. Federal Computer Week (2/16, Weigelt) reports, "Five federal information sharing programs, from a searchable national sex offender registry to health information sharing between departments, received Excellence.gov awards today from the Industry Advisory Council at a luncheon in Washington, D.C." Among the programs cited was the National Sex Offender Public Registry, "a Justice Department program that makes state and territory public sex offender registries available online."

Government Computer News (2/16, Thormeyer) reports, "By making state and local sex-offender information available and searchable through a single portal, the Justice Department made it easier for the public to determine whether registered sex offenders live in their neighborhoods." GCN continues, "Justice's work on the National Sex Offender Public Registry Web site not only has empowered citizens, but it also won the department one of the five Excellence.gov awards handed out Wednesday by the American Council for Technology and the Industry Advisory Council of Fairfax, Va. … Because the Excellence.gov awards this year focused on information-sharing between agencies and different levels of government, the portal was chosen because it contained sex-offender information culled from federal, state and local governments. … Users can search federal and local sex-offender registries by name, state, county, city, town or ZIP code."

CORPORATE SCANDALS:

Enron Witness Admits To Previous Misleading Testimony. The Wall Street Journal (2/16, Emshwiller, McWilliams) reports, "An attorney for Jeffrey Skilling won some concessions in federal court here from a government witness concerning the former Enron Corp. president's conduct in connection with the criminal fraud and conspiracy charges against him. However, the witness continued to insist that he and Mr. Skilling were involved in misleading the public about a key Enron business unit." The Journal continues, "The witness, Kenneth Rice, headed Enron's high-profile telecommunications unit in 2000 and 2001. Under government questioning Tuesday, Mr. Rice laid out a number of areas where he and Mr. Skilling allegedly gave out false or overly rosy information about the unit." The Journal adds, "Allegedly false statements about the unit, known as Enron Broadband Services, or EBS, are part of the wide-ranging charges against Mr. Skilling, who is being tried here along with his co-defendant, former Enron Chairman Kenneth Lay. Mr. Rice's testimony has, so far, hardly touched on Mr. Lay. … Under cross-examination by Mark Holscher, one of Mr. Skilling's attorneys, Mr. Rice softened some of his previous characterizations of the former Enron president's actions."

USA Today (2/16, Farrell) reports that Rice "admitted on the stand Wednesday that part of his testimony to the jury the day before was misleading." USA reports that Rice "testified Tuesday that an early 2001 budget forecast predicted that his unit would lose $489 million for the year.

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After some internal haggling, Rice agreed to present management with a more optimistic forecast of $110 million in losses for the start-up unit. … Rice then testified that his boss, Skilling, insisted that losses at EBS couldn't exceed $65 million for the year. The two presented that figure to analysts and investors in March of 2001, allowing jurors to conclude that Skilling was presenting pie-in-the-sky goals as realistic business forecasts. … But under cross-examination by Skilling defense attorney Mark Holscher, Rice admitted that the early prediction of $489 million in losses at EBS was in itself unrealistic. Rice conceded that at budget time, he and others at Enron often engaged in a practice known as 'sandbagging,' in which managers set artificially low goals when negotiating with their corporate bosses. … Speaking of the impression he left on the jury, Rice admitted to Holscher that, 'It isn't fair for them to think that that was a reliable budget.'"

Spitzer To Fight Request For Grasso Deposition. The Wall Street Journal (2/16, Lucchetti, McDonald) reports, "New York Attorney General Eliot Spitzer will fight a request to be deposed by attorneys representing former New York Stock Exchange Chief Executive Dick Grasso in the matter of Mr. Spitzer's civil lawsuit against Mr. Grasso." The Journal continues, "In a legal memo sent to Mr. Grasso's attorneys, Mr. Spitzer argued that he cannot be deposed because he is a high-ranking government official and counsel to the plaintiffs in the case. … 'Like any lawyer for a party, Attorney General Spitzer cannot be asked to provide deposition testimony or to reveal work product,' Mr. Spitzer and his lawyers argued in a 15-page motion that also calls Mr. Grasso's motion 'absurd.'" The Journal adds, "Mr. Spitzer is also contesting a request for internal documents filed by former AIG Chief Executive Maurice R. 'Hank' Greenberg, who faces civil fraud charges stemming from Mr. Spitzer's probe of AIG's accounting. Mr. Greenberg's attorneys had requested emails and other evidence, including testimony from Mr. Spitzer or the member of his staff with the most detailed knowledge of the AIG probe. A state court judge will hear arguments on whether Mr. Spitzer needs to provide documents in the Greenberg case in late February and whether he needs to be deposed and provide documents in the Grasso case in mid-March."

CRIMINAL LAW:

Patriot Act Author Urges Dismissal Of Charges Against AIPAC Officials. The Washington Times (2/16, Seper, 90K) reports that Viet D. Dinh, who headed the Justice Department's Office of Legal Policy, is now a professor at Georgetown University Law Center, and "who helped write the USA Patriot Act," has added his voice to "defense lawyers in seeking the dismissal of charges against two former American Israel Public Affairs Committee (AIPAC) officials accused of unlawfully disclosing national security information." He joined a motion "condemning the charges as 'a dangerous attempt by prosecutors to over extend to private citizens a statute which was intended to apply solely to government officials with access to classified information.'"

Prosecuting Citizens For Repeating Leaks Said To Run Counter To Democracy. Gary Wasserman, an adjunct professor of government at Georgetown University, where he teaches lobbying, writes in an op-ed in the Washington Post (2/16, A27, 744K), "This is an administration more horrified by leaks than torture." It "is applying to private citizens a never-used part of the 1917 Espionage Act. Its expanding secrecy powers threaten to paralyze public participation in making foreign policy," as "information is the lifeblood of policymaking. Expanding restrictions on information adds greatly to the power of the executive; criminalizing citizens' contact with that information adds even greater uncertainty." Also, "one argument for why autocratic regimes such as pre-World War II Germany and Japan have engaged in risky foreign adventures is that these narrow elites are not subject to the kind of outside review by knowledgeable people that exists in democracies." Democratic governments do not, "in general, 'authorize' the information citizens are allowed. Given enough information, citizens authorize and control their government. Or at least we used to."

At RSA Conference, Mueller Calls For Innovative Cybercrime-Fighting Effort. Under the headline "FBI Chief Asks Valley For Help," The San Jose Mercury News (2/16, Kuruvila, 268K) reports, "Computer hacking has evolved from a sport for geeks into a moneymaking tool for organized crime -- a trend so disturbing to FBI Director Robert Mueller that he came to San Jose Wednesday to ask for help from tech security experts. It was the first time a director of the Federal Bureau of Investigation had addressed the annual RSA Security Conference, a 15-year-old confab where the companies that build protective technology mingle with customers and discuss threats. Mueller's presence at the McEnery Convention Center was testament to the fact that just as the Internet has become a global growth engine for business, it also has become a global target for savvy criminals. Making matters worse, 'most' businesses won't report that they were victimized, Mueller said, making it more difficult for investigators to keep up with online criminals. Some fear publicity. Others fear that competitors will exploit their vulnerabilities. 'Maintaining a code of silence will not benefit you or your company in the long run,' Mueller said. 'In this world of globalization, we continue to build on one central theme, and that is of partnership.'"

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Under the headline "FBI Director: Cyberthreats 'Fluid and Far-reaching,'" IDG News Service (2/15, McMillan) adds Mueller said that "the FBI must work with corporations and international law enforcement to help combat online criminal acts that are seldom reported. … 'Increasingly our cyberthreats originate outside of the United States,' he said. 'The once-clear divisions of jurisdiction and responsibility between agencies [and nations]...have been rendered obsolete by the fluid and far-reaching nature of today's threats.' … The FBI now has more flexibility to work with international law enforcement and is helping build relationships with those foreign agencies by putting operatives 'on the ground' in countries that may be hotbeds for cybercrime," said "Steven Martinez, the deputy assistant director for the FBI's Cyber Division, who spoke after Mueller. While the United States works with other countries on formal and treaty-level arrangements to speed up cooperation, FBI agents are endeavoring to develop direct ties to their counterparts in other countries, Martinez said." IDG adds, "Mueller also cited an FBI-backed initiative called IntraGuard that enables 3000 members…to share information with law enforcement on the latest cyberthreats. … Still, most law enforcement experts agree that the vast majority of cybercrimes go unreported to law enforcement, with fears of reprisals or adverse publicity creating what Mueller called a 'code of silence.' … But companies need to take a wider view of the situation, he said."

Under the headline "Companies Still Not Reporting Attacks, FBI Director Says," SearchSecurity.com (2/15, Savage) reports Mueller "urged the audience of infosecurity professionals…to share cybercrime data, promising that his agency will take steps to ensure their privacy. 'We certainly do not want you to feel victimized a second time by our investigation. … We won't release confidential data. We'll take steps to protect intellectual property,' he said. … 'No person, no agency, no company, no country can prevent crime and terrorism alone. … While challenges are growing each day, together we won't be defeated,' he said. The FBI has had success in investigating cybercrimes with help from the private sector, Mueller said. Among the cases he cited included collaborating with Microsoft and officials overseas to track down the suspects involved with the Mytob and Zotob worms. The agency also worked with the Red Cross, eBay and others to investigate fraudulent Web sites that exploited the Hurricane Katrina disaster." SearchSecurity adds, "Other top law enforcement officials echoed Mueller's remarks in a panel discussion held after his keynote. 'The most important people in fighting cybercrime are those of you here today,' said Arif Alikhan, senior counsel at the U.S. Department of Justice," and Deputy Assistant Director Martinez "said the agency's partnerships with the academic community and private sector are key."

Businessman, Former Atlanta Official Testify About Alleged Campbell Bribes. The Atlanta Journal-Constitution (2/16, Warren, Scott, 430K) reports businessman Howard Sole "testified Wednesday in the corruption trial of former Atlanta Mayor Bill Campbell that his company dropped efforts to land a lucrative city contract after he was urged to break the law by paying $100,000 to the mayor's re-election campaign." Sole "was the second witness of the day whose testimony seemed to indicate Campbell's involvement with illegal money matters. Joseph Reid, former deputy chief operating officer, testified he passed campaign contributions directly to the mayor — some in cash." The Journal-Constitution adds, "Under cross-examination by defense attorney Fred Orr, Sole acknowledged he did not know if Campbell told" contractor Ricky Rowe "to solicit the money. … Reid, who was later convicted of corruption and served time in prison," testified that "he gave Campbell an envelope containing illegal checks for the mayor's 1998 runoff election that were written in the names of five Campbell family members. Reid also testified that on more than one occasion he gave cash campaign contributions to Campbell."

WXIA-TV (2/15, Carnes, King) reports on its Web site from a story broadcast Wednesday, "Reid told the jury he often delivered those contributions directly to the mayor, including about $5,000 in cash. When it came to cash contributions, Reid said, 'He told me to give them to him.' Campbell says that he did no such thing. 'Never,' Campbell said. 'In fact he never said that in all of his ten interviews with the FBI.'"

Undercover FBI Agent Testifies About Cotton Bribes. WDEF-TV Chattanooga (2/15, Bennett) reports on its Web site from a story broadcast Wednesday, "FBI undercover agent John Mule spent most of today on the witness stand. He posed as the Chief Financial Officer of the FBI's fake company E-Cycle. Mule says he first met former Hamilton County school board member Charles Love in December 2004, and Hamilton County Commissioner, William Cotton one month later. Jurors listened to an audio tape of a conversation between the three from January, 2005. Mule' wanted Cotton's help getting a resolution passed through the county commission. The three met at Southside Grill in late January, where Mule gave Love $3,500 in cash. … Mule said after the meeting, the county commissioner called to say thank you, acknowledging he received his shard of the bribe money." Jurors also saw video of a February 2005 meeting in which Mule' gave "Love an envelope with $6,000. When Love accepted the money, Mule' made it clear the money was for Cotton."

WTVC-TV Chattanooga (2/15, Grant) reports on its Web site from a story broadcast Wednesday, "Today, jurors

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saw for themselves what happened when William Cotton, Charles Love and an undercover agent met in Nashville." Cotton "is the first person to be tried in Operation Tennessee Waltz. … The defense says there there is no proof that Cotton received ANY money. But the FBI says their secretly recorded videos prove otherwise." WTVC then airs clips from the FBI surveillance video shown at trial yesterday. The AP (2/16, Poovey) also reports on Mule's testimony, adding, "FBI agent Brian Burns testified Wednesday about a recording of a Jan. 16, 2005, conversation between Love and Cotton. Jurors also heard the FBI's recording of the commissioner telling Love that he would be attending a meeting of county officials and wanted to also get his counterparts in Alabama, Georgia, Mississippi, North Carolina and South Carolina to consider E-Cycle's proposal to recycle government computers. … Burns told jurors it wasn't illegal for Cotton to push E-Cycle to officials in other states. He said other segments of the recording show Cotton and Love scheming to hide bribes from E-Cycle behind a front company that would be set up in a building the commissioner owns."

Ryan Will Not Take Stand Until Next Week, If At All. The AP (2/16, Robinson) reports, "George Ryan won't take the witness stand at his racketeering and fraud trial until at least Tuesday and the former governor may not testify at all, his chief defense counsel said Wednesday." Defense lawyer Dan Webb added that he will call "as many as 11 character witnesses, including MASH actor Mike Ferrell, a forensic accountant who has been studying years of Ryan family finances and Edward McNally, former Ryan lawyer and now chief federal prosecutor for Southern Illinois." The AP adds, "Also Wednesday, defense witness Mickey Brown, a Chicago real estate lawyer, testified that there was nothing extraordinary about" codefendant Lawrence Warner's "ownership of buildings in Joliet and suburban Bellwood through a series of holding companies that made it difficult to see who the owner was. George Ryan leased both buildings for use by the state."

Former Chicago Water Employee Charged With Lying To Hired Truck Investigators. The Chicago Sun-Times (2/15, Warmbir, Novak) reported yesterday, "A former city Water Department employee, Frank R. Cannatello…was charged Tuesday with lying to federal agents last year when he told them he had nothing to do with a trucking company in the Hired Truck Program that was in his mother's name but bore his initials, FRC Trucking. … Cannatello's attorney, Richard Jalovec, said Tuesday that he expects his client to plead guilty when he appears before a federal judge on March 2." The AP (2/15, Robinson) added, "Among other things, prosecutors said Cannatello asked another city worker, Randy Aderman, to help FRC get city hauling work and Aderman did so through the water department. Aderman already has been charged in the investigation along with former city Clerk James Laski. Aderman appeared for arraignment before U.S. District Judge Charles R. Norgle Sr. on Tuesday and pleaded not guilty."

Entertainment Attorney Indicted In Pellicano Probe. The Los Angeles Times (2/16, Krikorian, Blankstein) reports, "A federal grand jury today indicted prominent Los Angeles entertainment attorney Terry Christensen on wire-tapping and conspiracy charges in connection with the ongoing investigation of former private investigator Anthony Pellicano." The Times continues, "The two-count indictment alleged that Christensen paid Pellicano at least $100,000 to wiretap the wife of billionaire investor Kirk Kerkorian during a bitter child support dispute in 2002. Authorities charge that Pellicano listened to the phone calls of Lisa Bonder Kerkorian and shared the information with Christensen. … Christensen, 65, of Beverly Hills, is the first lawyer to be indicted in the Pellicano investigation, which has roiled the Hollywood and legal communities. … 'Pellicano would discuss with defendant Christensen how long the illegal wiretap should remain in place and when the illegal wiretap should be brought to an end,' according to the indictment." The Times adds, "When Pellicano allegedly turned over wiretap data to Christensen, he told the lawyer 'to be very careful about this because there is only one way for me to know about this,' the indictment states. … Christensen spoke repeatedly with Pellicano about the wiretaps, according to the indictment, hearing the 'exact words' spoken, directing Pellicano to listen to particular conversations, and then instructing Pellicano to 'wrap up' the illegal wiretap."

The New York Times (2/16, Weiner) reports, "Damage from the investigation of the celebrity private eye Anthony Pellicano reached the top of Hollywood's business community on Wednesday, when a federal grand jury issued wiretapping and conspiracy charges against the lawyer who handled Kirk Kerkorian's 2002 legal battle with his former wife." The Times notes that "Christensen, and his Century City-based firm are a major presence in the entertainment industry, having represented Paramount Pictures, Sony Pictures Entertainment, the Walt Disney Company and MGM/UA, among others. The lawyer has represented Mr. Kerkorian for over 30 years, once served as president of the 88-year-old billionaire's private Tracinda Corporation, and has been involved with Mr. Kerkorian's recent investment in General Motors. … In the surprise indictment — Mr. Christiansen had not previously surfaced in the long-running wiretap case, and was first contacted by the government only four weeks ago, according to a person who was briefed on the situation — officials charged that the lawyer paid Mr. Pellicano at least $100,000 to tap the phone of Lisa Bonder Kerkorian. Ms. Kerkorian, the billionaire's former wife, was then involved in a

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bitter legal dispute over the paternity of her young daughter and child support."

Police Using Homing Device To Cut Down On Dangerous Chases. The St. Louis Post-Dispatch (2/16, Kohler) reports, "Is there a solution to high-speed police chases? … A company in Virginia is proposing one: a sticky dart with a homing device that police can fire at a fleeing car and track electronically at a distance." The Post-Dispatch continues, "Instead of pursuing the getaway car at high speed, police can lay back and set a trap for the fleeing car up the road. … The company believes its product, called StarChase, will save lives and reduce police liability by slowing some hot pursuits and stopping others altogether." The Post-Dispatch adds, "U.S. police departments, often criticized for chases, are interested. How it works - whether it works at all - remains to be seen. Police will want to know if they can use the device to arrest suspects they would have pursued with lights and sirens. … They'll also want to know if a fleeing driver will slow down without those lights and sirens on his tail. … Many eyes are now on Los Angeles, whose police are testing the device this year at the suggestion of the U.S. Department of Justice." The Post-Dispatch notes, "All police forces who struggle with high-speed chases should be watching, said Gilbert Moore, a spokesman for the Justice Department's Office of Community Oriented Policing Services. … StarChase will also be tested this year in a major East Coast city, said Trevor Fischbach, a StarChase vice president. He said the company hopes to begin selling it to police departments this year."

Judge Rules Defendant Has Right To Choose Attorney With Alleged Mob Ties. The New York Law Journal (2/16, Perrotta) reports, "An attorney with alleged ties to the Mafia can continue to represent a man accused of racketeering, extortion and three murders on behalf of the Gambino organized crime family, a federal judge in Brooklyn has ruled." The Journal continues, "The judge, Eastern District of New York Judge Jack B. Weinstein, also denied a request by several news outlets to obtain a copy of a video recording that captures a meeting between the attorney, Joseph R. Corozzo, and John Gotti Sr., the deceased head of the Gambino family, inside a prison medical center in Missouri." The Journal adds, "Weinstein said reporters, who saw the video during a recent hearing, could review it inside the courthouse, but could not broadcast it on television out of fear that it would prejudice potential jurors in the upcoming trial of Corozzo's client, Dominick Pizzonia. The trial is scheduled for June. … Pizzonia is an alleged Gambino captain accused of the Dec. 24, 1992, murder of Thomas and Rosemarie Uva, who had robbed several Mafia social clubs. … Pizzonia has known Corozzo since childhood and has insisted, throughout several hearings, that he wants to keep Corozzo as his lawyer, no matter the prosecutor's allegations of conflicts. … Weinstein himself has called the potential conflicts 'serious' and has warned Pizzonia of the dangers of continuing to trial with Corozzo as his attorney." The Journal notes, "Eastern District prosecutors raised concerns not just over Corozzo's alleged ties to the Mafia but his relationship to Michael DiLeonardo, a key witness against Pizzonia. In 2001, when DiLeonardo was being prosecuted on extortion charges in Atlanta, he asked Corozzo to interview another Gambino family member, Craig DePalma, to see if DePalma would testify against DiLeonardo. DiLeonardo gave Corozzo a check for $1,000, but Corozzo never cashed it."

Former FBI Mob Investigator Dismissed From Gotti Jury Pool. The AP (2/16) reports, "It would have been hard to draw a prospective juror less likely to get picked for John 'Junior' Gotti's racketeering retrial. A former supervisor of the FBI's organized crime squad in New York was among the pool of 250 prospective jurors who filled out questionnaires -- and among those quickly disqualified from serving on the jury of the son of late Gambino crime family boss John Gotti."

Texas Executes Man For 1992 Shooting Of Cabdriver. The AP (2/16, Lozano) reports, "Convicted killer Clyde Smith was executed Wednesday for fatally shooting a Houston cabdriver during a robbery in 1992. … 'I want to thank you all for being here and for your love and support,' Smith, 32, told friends who watched from a window." The AP continues, "Relatives of another cabdriver Smith had confessed to killing were present, but he did not acknowledge them. Relatives of the man Smith was executed for killing were not there. … He was pronounced dead at 6:17 p.m., seven minutes after lethal drugs were administered. His execution was the fourth this year in Texas." The AP adds, "Smith had confessed to the Feb. 7, 1992, death of 45-year-old David Jacobs, and to a similar shooting and robbery of another cabdriver, Victor Bilton, six weeks later. He later said the confessions were made under duress. … He was convicted of shooting Jacobs four times in the head and robbing him of about $100."

Trial Begins Today For Florida Deputy Charged With Falsifying Crime Reports. The Miami Herald (2/16, DeMarzo, 323K) reports, "After almost two years, one of six Broward sheriff's deputies accused of falsifying crime reports goes on trial today, amid skepticism over whether any of the cases headed to court will result in convictions." Christian Zapata "is the first deputy to face trial in the scandal that already has cost more than a half million dollars in taxpayer money. The outcome likely will set the stage for

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future cases -- and if anyone ultimately will go to jail. The scandal involves deputies who allegedly took crime complaints, then cleared or downgraded them to make themselves and their agency look better. In some instances, the cases were cleared by pinning them on people who could not have committed the crime because they were in jail -- or dead." The Herald notes, "The FBI, the public corruption unit of the Broward State Attorney's Office, and a private attorney hired by BSO have conducted investigations into the case-fixing. … But experts say it will be hard to prove that deputies purposefully altered the reports."

New York Man Sues Prosecutors After Exoneration. The New York Times (2/16, Kilgannon) reports, "A man whose attempted murder conviction was overturned after he served 12 a dozen years in prison is planning on filing a lawsuit charging that Queens prosecutors have withheld evidence and misled juries in a broad pattern of misconduct that has led to dozens of wrongful convictions." The Times continues, "The suit, which a lawyer expects to file today in federal court in Brooklyn, details 84 instances in which criminal convictions obtained by Queens prosecutors were reversed by higher courts for prosecutorial wrongdoing. The lawsuit says that the Queens district attorney, Richard A. Brown, and his predecessor, John J. Santucci, have not punished prosecutors for their misbehavior." The Times adds, "The suit accuses prosecutors in some cases of presenting false testimony by witnesses about their deals for leniency in exchange for cooperation, according to a copy provided by the lawyer filing the suit. It says prosecutors withheld evidence that could be seen as motivating witnesses to give false testimony, and also accuses prosecutors of making false or misleading trial presentations to juries."

Former DC Contract Advisor Debarred. The Washington Times (2/16, Mcelhatton) reports, "The D.C. government has barred a former consultant to the city's technology office from doing business with the District because he pleaded guilty to a criminal conflict-of-interest charge nearly three years ago." The Times continues, "John Izzard III, a former program manager at the D.C. Office of the Chief Technology Officer, was charged in 2003 with seeking about $36,000 from a vendor in exchange for helping the firm win D.C. government contracts, authorities said. … Mr. Izzard's duties as a private consultant at the technology office included recommending contracting actions to city officials, authorities said." The Times adds, "The panel, in a letter to Mr. Izzard last month, wrote 'there is no public purpose to be served for the District to contract with a contractor that committed a serious violation.' … The ruling bans him from city contracts or subcontracts until next year. … An attorney for Mr. Izzard yesterday said his client is considering whether to appeal the panel's decision."

WPost Scoffs At Police Tactics In Virginia Prostitution Probe. The Washington Post (2/16, A26) editorializes, "No doubt… selfless devotion to duty inspired detectives in Spotsylvania County's sheriff's department, who lately have been having sex with prostitutes in order to make cases against them. In one instance an officer even left a $350 tip for services rendered, which presumably sweetened the sting for the suspect in question." The Post continues, "According to an account by The Post's Tom Jackman, a Spotsylvania massage parlor known as Moon Spa was the target of one recent investigation. Undercover detectives who visited the spa received baths, massages and sex. In all, detectives, painstakingly thorough, made three such trips in nine days to the Moon Spa, each time paying a fee to the establishment as well as a tip. … 'This has to be done' to guarantee a conviction, Sheriff Howard D. Smith declared grimly, instantly ensuring himself a place as a laughingstock among police and prosecutors across the nation, who manage to secure convictions without engaging in sex with their suspects." The Post concludes, "Virginia drug laws contain an exception that specifically enables undercover cops to possess (and therefore buy) narcotics in the course of an investigation; there's no similar provision allowing for sex with prostitutes. As for the cops, they should find other ways to think of Spotsylvania."

CIVIL LAW:

Attorney Files Constitutional Challenge To Deficit Reduction Bill Over Typo. The Washington Times (2/16, Dinan, 90K) reports Alabama attorney Jim Zeigler has "filed the first constitutional challenge to last week's budget-cuts law, which he said is invalid because the House and Senate never passed the identical bill." Zeigler "said his challenge comes from the right -- as a conservative who is worried that the bill will hurt charitable giving to churches." The measure in question "reduced entitlement spending by $39 billion over five years. Because of a clerical error, the version that passed the House had a different time period for reimbursing medical providers for some medical equipment than the version that passed the Senate."

CQ (2/15, Dennis) reports Zeigler is "a conservative Republican lawyer who specializes in Medicaid cases," and he "filed the suit in U.S. District Court in Mobile, Ala., Feb. 13, saying the measure (PL 109-171) is not a valid law because it was not passed in identical form by both chambers." No hearing date "has been set, and it is unclear if Zeigler will be granted standing to bring the case. Several constitutional law scholars have predicted that if given the chance, the courts would rule that the act violates the bicameral clause of the

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Constitution, which requires both chambers to pass identical legislation before the president signs it into law."

Administration Using Federal Agency Rules To "Limit Consumer Rights." The Washington Post (2/16, D1, Mayer, 744K) reports the Bush Administration is "using federal rulemaking to limit consumer rights to seek damages under state laws governing faulty products." The Consumer Product Safety Commission "will vote today on a rule that would restrict such suits in the case of mattresses that catch fire, the most recent rule changes undertaken by several agencies. Last month, the Food and Drug Administration limited consumers' ability to recover damages for injuries from agency-approved drugs." Meanwhile, the National Highway Traffic and Safety Administration is "seeking to give automakers similar legal immunity from lawsuits over defective roofs if their vehicles meet new roof-crush standards. It is also proposing to limit consumer lawsuits in a rule that would address seat-belt requirements." Administration officials "say they are simply writing into rules a long-standing policy previously voiced in many friend-of-the-court briefs filed in lawsuits."

DOJ Settles Charges Of Trade Violations With Corporate Express. The Denver Business Journal (2/16) reports, "Corporate Express Inc. paid $5.02 million to the U.S. Department of Justice to settle allegations that it sold products to U.S. government agencies that were manufactured in countries not permitted by the Trade Agreements Act." The Journal continues, "The settlement resolves allegations that the Broomfield-based office supply company sold products from countries without reciprocal trade agreements with the United States, such as China and Taiwan." The Journal adds, "Van Hindes, a spokesman for Corporate Express, confirmed the settlement with the following statement: … 'Like other major distributors in the office product industry, Corporate Express recently settled differences with the U.S. government without acknowledging liability,' Hindes said." The Journal notes, "In 2005, Office Max Inc. paid $9.8 million to settle the same allegations with the Department of Justice. The department also reached a $4.75 million settlement with Office Depot Inc., a $7.4 million settlement with Staples Contract and Commercial Inc. and a $100,000 settlement with Caddo Design. … The settlements resulted from an investigation by the Civil Division of the Department of Justice, the U.S. Attorney's Office for the District of Columbia and the General Services Administration's Office of the Inspector General. … 'Federal contractors will be held accountable for their violations of procurement regulations,' said Peter D. Keisler, assistant attorney general for the Civil Division, in a released statement."

Specter Predicts Another Vote On Asbestos Bill. Reuters (2/16, Cornwell) reports Senate Judiciary Committee Chairman Sen. Arlen Specter said "the asbestos compensation bill he is co-sponsoring is 'very much alive' and that Senate Majority Leader Bill Frist told him there would be another vote on it." The bill "to create an industry-financed $140 billion fund to pay injury claims lost a close Senate procedural vote on Tuesday evening." Specter's legislation is "backed by W.R. Grace and Co., USG Corp. and some of the 70 other companies pushed into bankruptcy by tens of thousands of asbestos injury claims. However, some smaller companies oppose a compensation fund, fearing they could be forced to pay more into it than they would face in private lawsuits." Specter said he "spoke with Tennessee Republican Frist on Wednesday morning and 'He (Frist) said he'd have another vote. He said he's looking forward to another vote.'" Specter added, "I consider asbestos to be very much alive."

Roll Call (2/16, Pierce) reports that despite "proclamations to the contrary from Senate GOP leaders, a controversial asbestos trust fund bill appears dead for the year following a crippling setback Tuesday night." Even if Majority Leader Frist "decides to bring the measure back up again — which is considered doubtful — sources on both sides of the aisle said it is improbable that the bill could survive a bipartisan filibuster." Senate Judiciary Chairman Arlen Specter (R-Pa.) "said he expected the measure to reappear on the Senate floor sometime after next week's Presidents Day recess."

CQ (2/15, Stern) reports the Senate asbestos bill "stands in legislative limbo. Judiciary Chairman Arlen Specter, R-Pa., insisted Wednesday that the bill (S 852), which was pulled from the floor Feb. 14 after a procedural vote failed, could still succeed." But Specter "said he does not expect another vote on the asbestos trust fund legislation until after Congress returns from its recess Feb. 27." Even then, Majority Leader Bill Frist, R-Tenn., "may opt against taking up the troubled legislation, which could require weeks of additional floor time. Frist has already fulfilled his pledge to Specter to seek to bring the measure to the floor and carved out two weeks for consideration."

Congress Mulls Changes To Wartime Whistleblower Rules. The Christian Science Monitor (2/16, Chaddock) reports, "Dissent often carries a price in official Washington, especially in the war years of the Bush presidency." The Monitor continues, "Since the Sept. 11 attacks, the number of insiders alleging wrongdoing in government - either through whistle-blower channels or directly to the press - has surged, as have reprisals against them. … That's the message from this week's congressional hearing on protections for national security whistle-blowers -

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the first in more than a decade. 'he system is broken,' says Rep. Christopher Shays (R) of Connecticut, who chaired the House Government Affairs subcommittee hearing." The Monitor adds, "Disclosures of flawed prewar intelligence, secret prisons and prisoner abuse, and warrantless surveillance by the National Security Agency have launched a debate on the conduct of the war on terror within Congress and the American public. Critics say some of those disclosures also compromised national security. … The struggle over dissent in dangerous times is not confined to national security matters, however. It appears to be settling deeper into the federal bureaucracy, where government scientists and even analysts at the scholarly Congressional Research Service - who are not actually blowing any whistles but who are staking out positions that deviate from the administration's - report efforts to control their contact with the press and public. … If whistle-blowers and others 'do not see an option for dissent within the system, then the system is in bad shape,' says Steven Aftergood, director of the Project on Government Secrecy at the Federation of American Scientists. 'Secrecy has become a growth industry.... It makes it harder for ordinary citizens ... to ask questions ... and to hold officials accountable.'"

CIVIL RIGHTS:

Gonzales Says DOJ Will Broaden Program To Combat Housing Bias. The AP (2/16, Sherman) reports, "Attorney General Alberto Gonzales pledged Wednesday to reinvigorate a program, which has been used infrequently in the Bush administration, to combat housing discrimination." The AP continues, "Test visits by department employees posing as prospective renters or buyers to rental agents and property owners suspected of discrimination will reach an all-time high in the next two years, Gonzales said in an address to employees in the Justice Department's Great Hall. … 'We will investigate suspected offenders with testing visits designed to expose discriminatory practices,' Gonzales said." The AP adds, "Since they began in 1992, the visits have resulted in 79 complaints. No more than 16 of those, however, were filed since President Bush took office in January 2001, according to the department's Web site. … The Justice Department's civil rights division declined to provide the exact number of complaints filed by the current administration or to say how many visits to landlords suspected of discrimination take place now. Spokesman Eric Holland said revealing the number of visits could tip off landlords to the prevalence of the undercover visits." The AP notes, "Gonzales, the first Hispanic attorney general, said his heritage drives his views about civil rights. But Gonzales and his civil rights unit have been criticized for not being aggressive in pursuing discrimination cases and for letting partisan politics influence decisions in voting rights cases. … The attorney general has denied any political interference and praised the civil rights division for what he described as "record levels of enforcement.""

US, Canada Bust Human Smuggling Ring At Border. The Detroit Free Press (2/15, Ashenfelter) reports, "In a case law enforcement officials say underscores the security threat at metro Detroit's international border, U.S. and Canadian authorities announced Tuesday they had smashed a ring that smuggled scores of illegal immigrants between the two nations to work in restaurants, brothels and sweatshops." The Free Press continues, "Officials said the organization posed a national threat because it was willing to smuggle anyone across the border for a price. As far as authorities know, however, no terrorists were among the more than 100 people who illegally crossed the border since December 2004. … The illegal immigrants -- from China, Albania, Iraq and Syria -- paid thousands of dollars each to be smuggled in both directions across the border, U.S. and Canadian officials said at a news conference in Windsor. … They were transported in cars, trucks, boats and even freight trains, sometimes in deplorable conditions, including subfreezing temperatures, authorities alleged. Most were headed for work in New York City, officials said. They also said most entered Canada first, were taken to safe houses in the Toronto area and driven to Windsor for transport across the border." The Free Press notes, "U.S. Attorney Stephen Murphy III of Detroit said the investigation shows the importance of securing the nation's borders. … 'This stuff goes on every day,' Murphy said."

The Detroit News (2/15) reports, "Officials say it was one of the largest smuggling rings along the northern border to be dismantled by law enforcement in recent memory. … 'Those who smuggle human beings across international borders should realize that they will be met with an international united front of law enforcement agencies dedicated to stopping them cold and putting them in jail,' U.S. Attorney Stephen J. Murphy said." The News adds, "Since December 2004, U.S. officials say they have caught at least 78 illegal immigrants -- most of them Chinese -- attempting to enter Michigan in connection with this ring, which includes a nurse at Henry Ford Hospital in Detroit, a Windsor truck driver and the Albion owner of a restaurant. … A federal grand jury in Detroit indicted 14 people, and two others were charged in criminal complaints. Canadian officials charged seven others -- along with four of those also charged by U.S. officials -- with breaking Canadian laws."

The Canadian Post (2/16) reports, "Investigators said the migrants came from China, Korea, Albania, and Eastern Europe. … Canadian officials said 24 migrants were stopped entering Canada, while U.S. authorities said they intercepted

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74 people being smuggled into the United States from Canada." The Post adds, "Seventeen people were arrested Tuesday in Toronto, Windsor, Detroit and New York City, the culmination of a two-year investigation by the Royal Canadian Mounted Police, the U.S. Department of Homeland Security and the Canada Border Services Agency. … More arrests are expected as a total of 23 people are charged, with some facing charges in both Canada and the United States."

The Canadian Press (2/16, ROSE) reports, "Despite the large sums of money collected in the operation, Ontario residents alleged to have helped transport the migrants in the high-risk operation were paid only a few hundred dollars, the RCMP say. … 'The leaders, the organizers had these migrants to move across and they were the ones getting the bigger bucks, but they didn't want to take the risk, so they were paying local people involved in the Windsor and Sarnia area a few hundred dollars,' said RCMP Insp. Glenn Hanna. … They 'were naive and gullible and decided it was worth taking the risk for a few hundred dollars, not realizing how much was going in at the beginning of the pipeline, how much they were getting at their end of it, and how much they were being used.'" CP adds, "Despite the revelation of the smuggling ring, border officials say it is business as usual and there are no plans for any significant changes or crackdowns along the Canadian side of the 49th parallel."

Local Television. There was extensive local TV coverage of the news involving the breakup of a human smuggling ring. Some examples: WDIV-TV Detroit (2/15, 6:31 a.m.) reported on a "major bust involving a human smuggling ring. 14 people were arrested, accused of being smuggled into and out of the US from Canada. The suspects were hidden in trucks and on small boats and paid thousands of dollars to be involved. Arrests were made in Toronto, Windsor, Detroit, and New York City."

KCAL-TV Los Angeles (2/15, 9:16 p.m.) reported, "American and Canadian police say they busted an international human smuggling ring. People from several countries in Asia and Eastern Europe were transported both ways across the border with Canada and into Detroit by freight train." WJBK-TV Detroit (2/15, 11:02 a.m.) was just one of many Michigan stations also covering this story. Other stations outside of Michigan airing reports on it included WJW-TV Cleveland (2/15, 7:18 a.m.) and KAKE-TV Wichita (2/15, 6:19 a.m.).

DOJ Asked To Probe Deaths At Florida Juvenile Facilities. The AP (2/16, Kallestad) reports, "The mother of a 14-year-old boy said Wednesday that her son was murdered by guards who beat him at a boot camp for juvenile offenders in Panama City (FL)." The AP continues, "Bay County sheriff's spokeswoman Ruth Sasser declined comment because of the ongoing investigation into the Jan. 6 death of Martin Lee Anderson. The sheriff's office, which runs the camp, has said the boy was restrained after he became uncooperative. … 'My baby was murdered,' his mother, Gina Jones, said at a news conference. 'Don't let my baby's death be in vain.'" The AP adds, "Also Wednesday, the Legislature's black caucus urged the head of the Florida Department of Law Enforcement to remove himself from the investigation because he previously had been Bay County sheriff. But Gov. Jeb Bush said he remained confident in FDLE Commissioner Guy Tunnell and didn't plan to make any decisions until the formal investigation was completed. … Some legislators, however, weren't as confident in the investigation that already has taken about six weeks. Law enforcement authorities have resisted legal efforts by news organizations and others to obtain a video tape that two lawmakers said showed the beating." The AP notes, "In other new developments, the Florida Southern Christian Leadership Conference asked the U.S. Justice Department to investigate all deaths in Florida's juvenile system the last five years, including Anderson's. … Lawmakers and the NAACP also asked for arrests in the Anderson beating and called on Bush to appoint a special prosecutor."

FBI Investigating Alleged Civil Rights Violation By Texas Police. The Jasper (TX) Newsboy (2/15, Ellis) reports Kirbyville pastor Ted Williams on Monday addressed the Jasper City Council "and asked for assistance in 'getting some answers' from Jasper Police Chief Todd Hunter, concerning an incident in January that resulted in the arrest of his son Jeremy. … Williams said he and his son had met with Robert E. King, special agent with the Federal Bureau of Investigation, to determine if Jeremy's civil rights had been violated," and Williams said "that an investigation would be conducted with the results sent to Washington. Problems started with discarded wooden pallets that some JHS students were planning to use as fuel for the senior bonfire." Jeremy Williams "approached the students claiming that he had a contract for 300 pallets through FEMA. A disagreement and altercation ensued during which Williams…called 911 for the Jasper Police Department. Williams claimed that upon their arrival, officers used excessive force and that he was the only one arrested, even though he was the one attacked by the other parties involved."

Idaho Legislature Approves Gay Union Ban. The New York Times/Reuters (2/16) reports, "Idaho's Legislature gave final approval Wednesday to a measure that would bar all forms of "domestic legal unions" except marriage between a man and a woman." The proposed amendment to the state constitution "will now go up for a popular vote. Gay rights groups say the law would effectively bar any form of union that would allow same-sex couples to

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share rights enjoyed by heterosexual couples, like shared custody or insurance benefits."

New Jersey Supreme Court Considers Gay Marriage Question. The New York Times (2/16, Chen, 1.19M) reports, "Plunging into a contentious case of national interest, the State Supreme Court on Wednesday began weighing arguments about whether New Jersey should become the second state in the nation to permit same-sex marriage." Five "of the seven justices peppered lawyers for" both sides "with pointed questions indicating curiosity and concern. Legal scholars say that "New Jersey's high court…is particularly interesting because it has been considered one of the most liberal, and has also been unafraid to recommend solutions in other controversial matters…that some people argue could have, or should have, been done by the Legislature."

ANTITRUST:

US Leads Global Air Cargo Price-Fixing Probe. The AP (2/16, Weber) reports, "More than a dozen airlines have now been drawn into a widening investigation by United States and European Union officials of whether there has been collusion in the air cargo industry to fix prices on surcharges for fuel, security and insurance." The AP continues, "Spokespersons for the European Commission, the U.S. Department of Justice and the Federal Bureau of Investigation refused Wednesday to provide details about the probe. … But one of the foreign airline's targeted, SAS AB's SAS Cargo in Copenhagen, Denmark, said the EU has alleged that cooperation among airlines began in 2000 and involved agreements about surcharges imposed by airlines to offset certain external costs. … Among the costs, according to a statement from SAS, are surcharges on fuel, added security after the Sept. 11, 2001, attacks in the U.S. and premiums for war-risk insurance after the start of the war in Iraq. SAS said in a statement it does not suspect any violations at its operations." The AP notes, "In Washington, FBI spokesman Bill Carter said records in the case have been sealed and he referred further questions to Justice Department spokeswoman Gina Talamona, who would say only that the investigation was ongoing. She declined further comment. … EU antitrust spokesman Jonathan Todd in Brussels, Belgium, when asked if there was also an investigation into collusion in setting fuel surcharges for passenger flights, said: 'I cannot make any comment on any other investigation that may or may not be going on. At any one time, the commission has several hundreds of antitrust investigations going on, of which only a small proportion are in the public domain.'"

Reuters (2/16) reports, "The investigation started on Tuesday when the European Union's executive arm and the U.S. Justice Department raided a number of air cargo carriers on both sides of the Atlantic, while other airlines were asked for information related to the probe. … The case could threaten to put a brake on recent growth in the $50 billion (29 billion pound) global air cargo market, which U.S. aircraft maker Boeing Co. has estimated will expand at an average annual rate of 6.2 percent in the next two decades, exceeding the expected growth rates of passenger traffic and the world economy." Reuters adds, "The alleged activity, mainly involving various surcharges such as for fuel and for security measures imposed after the September 11, 2001, attacks on the United States using hijacked airliners, has supposedly been carried out since 2000, SAS said. … War-risk surcharges that were applied after the U.S-led invasion of Iraq in 2003 were also involved, it said."

Reuters (2/16) reports, "Air Canada parent ACE Aviation Holdings Inc. said on Wednesday that Canada's antitrust agency is investigating carriers that provide international air cargo services in a widening of the global investigation of suspected price-fixing. … 'We did receive yesterday a letter from the Competition Bureau of Canada stating that it has begun an investigation into the activities of carriers that are engaged in the provision of international air cargo services to and from Canada,' Isabelle Arthur, spokeswoman for ACE Aviation, told Reuters. … 'We will co-operate fully with the Competition Bureau. It is our policy to conduct our business in accordance with all applicable competition laws,' she added."

Yonhap News (2/16) reports, "South Korea's antitrust authority said Wednesday it has launched a probe into local airlines after allegations emerged of their involvement in an international air cargo price-fixing cartel. … 'Investigators have been sent to (the headquarters of) Korean Air and Asiana Airlines,' an official at the Fair Trade Commission (FTC) said. The regulator, who declined to be identified, said the branch offices of Air France and several other foreign airlines have been searched. He did not say when the probes began or reveal when investigators visited the airline offices. … 'In order to conduct an effective investigation, we are carrying out the probes in conjunction with European and U.S. antitrust regulators,' the official said."

Reuters (2/15) reports, "United Parcel Service Inc. said on Wednesday it has been contacted informally by the U.S. Justice Department over a transatlantic antitrust probe. … 'UPS understands it is not part of the probe,' UPS spokesman Norman Black said. 'As is its practice, UPS will cooperate with requests from government agencies.'"

Recalls, Litigation Make Guidant-BS Merger Problematic. USA Today (2/16, Iwata) reports, "Boston

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Scientific triumphed last month in the fierce merger war for Guidant, outlasting Johnson & Johnson with a $27 billion offer. … But now Boston Scientific and Guidant, leading heart-device makers in the growing $250 billion market for medical devices and supplies, must ride out a legal and regulatory storm that could slow their deal, delay products and lead to costly court judgments and government penalties. The companies face investigations, product-liability lawsuits and warnings from the Food and Drug Administration to correct problems at their manufacturing sites." USA continues, "At the same time, Boston Scientific and Guidant — with a combined $11 billion in revenue, 30,000 employees and a dozen plants in the USA and abroad — must smoothly blend their operations. … 'It's a pretty complex juggling act,' says analyst Thomas Gunderson at Piper Jaffray. 'It adds a level of risk we haven't seen before.'" USA adds, "The merger clock is ticking. If the deal does not close by March 31, Boston Scientific must pay Guidant shareholders $4 million a day, Gunderson estimates. … Boston Scientific hopes to win antitrust approval soon from the Justice Department and Federal Trade Commission. … Meanwhile, the U.S. Attorney's Office in Minneapolis and the FDA are investigating Guidant's pacemakers and defibrillators, according to court records, patients' attorneys and Guidant's filings with the Securities and Exchange Commission. … As of December, seven people have died worldwide in incidents involving Guidant's Contak Renewal, Renewal 2 and Ventak Prizm 2DR devices, the FDA says."

Microsoft Slams EU In Antitrust Filing. The Wall Street Journal (2/16, Cohen) reports, "Microsoft Corp. met a deadline to respond to European antitrust charges by attacking regulators, making it likely the U.S. software giant will be hit with new fines over a compliance dispute." The Journal continues, "The European Commission has 'ignored critical evidence in its haste' to impose daily fines of as much as €2 million, or about $2.4 million, against the company, Microsoft said. The Redmond, Wash., company said it already 'complied fully' with orders to help open software markets it dominates to greater competition. … But regulators said Microsoft had failed to provide workable instructions to rivals that want to write and sell software that can operate smoothly with Microsoft products. 'It is of course the European Commission that will decide whether Microsoft is compliant ... and not Microsoft,' regulators said in a statement."

Reuters (2/16, Lawsky) reports, "Microsoft today formally denied European Commission charges that could lead to 2 million euro (US$2.4 million) daily fines in an antitrust case, saying critical evidence had been ignored. … But the European Commission, in an unusual statement, said Microsoft had filed the evidence 11 days after a deadline in December - once the Commission had already issued a Statement of Objections to fine the company. … The Commission also said it is market-testing Microsoft's plans to offer access to source code, the blueprint for Microsoft's software." Reuters adds, "The Commission had given the US software giant until today to explain why it should not be fined for failing to carry out sanctions imposed in March 2004 for using its Windows software monopoly to muscle out smaller competitors. … The company was supposed to provide rival makers of server software with directions to allow their products to interconnect with Windows desktop machines as easily as Microsoft's own server software, used for work-group printer and other tasks. … The Commission said the directions were not workable but the company disagreed in its formal response."

The New York Times (2/16, Meller) reports that Microsoft "submitted a 75-page response to the commission, Europe's top antitrust authority, just hours before a midnight deadline." The Times adds, "On Dec. 22, the commission said Microsoft had not yet complied with its ruling. The agency said that 'Microsoft had not yet provided complete and accurate specifications of the interoperability information which it is obliged to disclose.' … Microsoft, however, said it had filed the technical documents to the commission by the Dec. 15 deadline. Those documents answered the remaining questions the commission had on the company's compliance, Microsoft said. … The commission, however, said it received nothing from Microsoft until after its public statement on the company. 'This documentation was actually supplied on Dec. 26,' the commission said."

The Financial Times (2/16, Buck) reports, "Microsoft also sought to turn up the heat on the Commission's technical adviser, the British computer scientist Professor Neil Barrett, whose scathing assessment of Microsoft's compliance efforts to date formed the basis for the regulator's charges. Mr Barrett dismissed Microsoft's documentation as 'totally useless' … Microsoft on Wednesday handed in a rival assessment that concluded that 'the inter-operability information . . . current industry standards' and provides 'complete and accurate information'."

The AP (2/16, White) reports, "An independent monitor had found that the documents provided by Microsoft last autumn needed a drastic overhaul. … Computer science professor Neil Barrett wrote a critical report about the company's efforts to comply with the EU's ruling, saying he and a colleague had been unable to use Microsoft's instructions to make rival software work with Microsoft servers."

Bloomberg (2/16, Newman) reports, "Today's filing includes two experts' reports that Microsoft said are independent. Five computers science professors evaluated the company's technical documentation and concluded that 'the interoperability information as provided by Microsoft meets current industry standards.' … 'We believe that it has

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provided complete and accurate information, to the extent that this can be reasonably achieved, covering protocols, dependencies and implicit knowledge,' the experts said in a 49-page report, according to Microsoft. … The commission's own independent trustee, hired to monitor Microsoft's compliance, came to the opposite conclusion. In a Nov. 30 report, computer scientist Neil Barrett, said: 'Overall the process of using the documentation is an absolutely frustrating, time-consuming and ultimately fruitless task. The documentation needs quite drastic overhaul before it could be considered workable.'"

CNET News (2/16, Marson) reports, "Microsoft also claimed that is has not been given enough time to respond to the commission's concerns and has therefore been 'denied due process in defending itself.' … 'The commission waited many months before informing Microsoft that it believed changes were necessary to the technical documents and then gave Microsoft only a few weeks to make extensive revisions,' the Microsoft filing states."

Dow Jones (2/16) reports, "Microsoft and the European Commission have battled over antitrust issues since 1998. In March 2004, the Commission fined the company a record EUR497 million and ordered it to change some of its business practices. … Since then, Microsoft has produced a version of its ubiquitous Windows operating system without a built-in media player. Concerns about rivals' software programs working with Windows-based servers - an issue known as interoperability - remain unresolved and are the basis of the Commission's December complaint."

Italian Regulators Fine Eni $345 Million For Competition Violations. Italian Antitrust Regulators Fine Eni For The AP (2/16) reports, "Italian antitrust regulators are fining energy giant Eni SpA 290 million euros ($345 million) for abusing its dominant position by 'hindering the entrance of independent operators' on the national market for natural gas." The AP continues, "The authority also said Wednesday in a statement on its Web site that it had ordered Eni to end its "competition-distortion conduct" by turning over to third parties the capacity for the additional transport of 227.5 billion cubic feet of gas annually from Algeria through the Eni-controlled Trans Tunisian Pipeline Company by Oct. 1, 2008." The AP adds, "Eni, the nation's dominant oil and gas company, said it would study the authority's reasons for the fine in deciding whether to appeal. … In a statement, Eni said it had recently given the authority 'some pro-competition measures' consisting of 'gas pipeline development to be undertaken in the shortest technical time.' … The authority's decision comes amid the politically sensitive issue of higher natural gas prices for Italian consumers, as the country deals with recently reduced gas supplies from Russia."

Hospitals Resisting Bush Proposal To Disclose Prices. The Hill (2/16, Young) reports the Bush Administration's "seemingly straightforward proposal to ask hospitals, doctors and other medical providers to disclose their prices is encountering some early resistance." Lobbyists for the hospital industry "left a meeting with National Economic Council Director Allan Hubbard at the White House on Tuesday concerned that they would be muscled into participating in the program." In a memo to his board of directors, Federation of American Hospitals President Chip Kahn said, "It is too early to tell whether or not the Administration will stick to their guns on the agenda that Hubbard laid out, but at this point we have to take their apparent determination to enter the health policy arena seriously." The Hill adds the White House "wants the Department of Health and Human Services (HHS) to implement and oversee a voluntary program that would publicize the prices healthcare providers charge for their services. HHS Secretary Mike Leavitt will take the lead on working out a deal to get providers on board." The White House "appears prepared to push its healthcare agenda aggressively."

Cerberus Group Leads Bidding For GMAC Stake. The Wall Street Journal (2/16, Berman, Pulliam) reports, "A group led by Cerberus Capital Management and Citigroup's private-equity arm is the leading bidder for the majority stake in General Motors Acceptance Corp. that its parent, General Motors Corp., is shopping to prospective buyers, people familiar with the matter said." The Journal continues, "While a separate bidding group led by Kohlberg Kravis Roberts & Co. and Wachovia Corp. hasn't fully dropped from the running, GM is spending the bulk of its time negotiating with the Cerberus group, these people noted." The Journal adds, "Financial details couldn't be learned last night. GMAC, which writes loans on cars, homes, college tuition and other things, has been valued by many analysts at roughly $11.5 billion, the unit's book value. A final price could nonetheless vary substantially, based on how a deal is structured. GM may still choose, for instance, to sell off parts of the GMAC business and keep the auto-finance business intact. … Completing a deal will be difficult for any buyer, given the legal and financial issues surrounding the separation between GM and the financing arm. The company originally announced a possible sale in October, but the response from potential buyers has been tepid largely because of the complexity and scale of a transaction. … Despite those concerns, Cerberus has emerged as the most eager potential buyer, say people familiar with the transaction. The New York investment fund, which prides itself on secrecy, has taken stakes or control in dozens of companies over the past decade. In recent months, it was

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part of a group that signed a deal to purchase supermarkets from grocery chain Albertson's Inc."

BlackRock-Merrill Merger Talks Examined. The Wall Street Journal (2/16, Berman, Smith, Lauricella) reports, "Money manager BlackRock Inc. was in the midst of deal discussions with Morgan Stanley on Jan. 17, when the heads of BlackRock and Merrill Lynch & Co. met at the Three Guys coffee shop near their homes on Manhattan's Upper East Side. … Merrill had caught wind of the BlackRock-Morgan talks. And days before, a meeting was discreetly set up between Merrill Chief Executive Stan O'Neal and BlackRock Chief Executive Laurence Fink. Over canned grapefruit juice and a bowl of Raisin Bran, Mr. O'Neal explained his point of view." The Journal continues, "Unlike Morgan Stanley Chief Executive John Mack, Mr. O'Neal said he would be willing to combine the two companies' money-management operations in a way that would leave BlackRock with control of the new firm. … As long as Merrill still had a meaningful partnership role, Mr. O'Neal was willing to swap a business that produced 60% of the combine company's profits for just a 49% ownership stake. Now, with the Morgan Stanley talks stalling over control and price, Mr. Fink's plans began to change." The Journal adds, "That meeting kicked off what became known as 'Project Trident,' a $9.8 billion exchange that would transform BlackRock into one of the world's biggest money managers. It will also reshape how Merrill, which has the largest army of 15,160 brokers, sells the mutual funds that are the staples of household finances across the country. … For the deal-averse Mr. O'Neal, it represents the largest transaction in his four-year tenure, and the best chance to squeeze more growth from his $525 billion money-management unit, which offered its first mutual fund back in 1969."

Phone Company Control Of Internet Debated. USA Today (2/16) editorializes, "In the history of great ideas, the Internet will surely rank near the top. In a relatively short time, it has made vast amounts of information searchable, sortable and readily available with a few key strokes. … Much of the Internet's appeal is that no one controls it in the way that, say, a grocery store decides which brands to stock. Within its virtual walls, a start-up such as MySpace or Craigslist can surge to prominence entirely on the power of an idea." USA continues, "Now, some very old-school companies want to change all that. Using market dominance achieved through the relative scarcity of lines into people's homes, phone companies such as BellSouth, Verizon and AT&T are eyeing a system that would demand that operators of search engines, e-commerce sites and other Web applications pay them fees or be relegated to the slow lane." USA adds, "Competition might keep the phone companies from putting the squeeze on website operators. That would be the best outcome. But consumers in many parts of the country have little choice in broadband, so Congress is appropriately exploring legislation that would lay out a principle of "Net neutrality" that would require all websites to receive equal access. … Telecommunications companies say they are not altering the Internet, merely offering a new ultra-high-speed tier of service on top of it. Don't be fooled. Once they begin choosing search engines, auction sites and other applications for their premium service, they alter the entire competitive landscape. … In this new world, companies would have to spend more time kowtowing to the likes of AT&T and less time innovating. That doesn't sound like such a great idea."

In an op-ed in USA Today (2/16), Walter McCormick, president and CEO of the United States Telecom Association, writes, "Local telecommunications companies have a 150-year tradition of connecting people with each other. As we invest billions of dollars in new, advanced broadband networks, our commitment remains the same: We will connect you to whomever you choose, and we will not block, impair, or degrade any content, applications or services. The Internet freedom you have today, you will have tomorrow." McCormick continues, "Government has kept its hands off the Internet, and it has flourished. Telecom companies have not sought to hinder the Internet's growth — indeed, just the opposite: We have invested, grown and expanded the networks that make up this extraordinary resource. Today's DSL, cable, wireless and satellite companies vigorously compete to offer a faster, more robust Internet experience. … Consumers are in control via new pricing and service packages being made available everyday — witness AT&T's announcement of $12.99-per-month DSL access. Consumers expect and demand Internet freedom. If telecom companies don't provide it, they will do business with someone else." McCormick concludes, "No one in today's debate opposes Internet freedom. We differ only in this: We do not believe that now is the time to close the chapter on Internet innovation and progress by turning to government-managed competition and central planning, no matter how well-intentioned. … Those who invest in advanced fiber, wireline and wireless broadband networks should be free to offer new services, and new pricing and service options, in a marketplace characterized by robust competition and consumer choice."

ENVIRONMENT:

Pombo Opens Probe Of Oil Company Leases. The New York Times (2/16, Andrews, 1.19M) reports that Rep. Richard Pombo has begun a broad investigation of an Interior Department program "that is expected to give billions of dollars in benefits over the next five years to companies

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that pump oil and gas on federal territory." In a letter on Wednesday to Interior Secretary Gale A. Norton, Pombo "demanded memos, correspondence and data on the program and on the negotiations over the law that created it in 1996." Pombo "said he was beginning the investigation in response to an article published on Tuesday in The New York Times." He "made it clear that a primary purpose of his investigation was to attribute much of the problem to decisions by the Clinton administration to sweeten the incentives in 1998 and 1999. But Jennifer Zuccarelli, a spokeswoman for Mr. Pombo, said the letter to Ms. Norton 'is only the beginning of what the chairman believes will be a broad investigation.'"

FBI/DEA/ATF/USMS:

ATF Using Tested Strategies In Alabama Church Fire Probe. WHNT-TV, News 19, Huntsville, AL (2/16, Woodard) reports, "The ATF has set up phone lines, hoping to get information on the Alabama church fires. Early Tuesday morning, agents got a tip from Choctaw County about a suspicious vehicle near a Baptist church and another involved in an accident. Tom Crowley of the ATF says, 'Everything fit, it looked promising, it was something that needed to be checked out, and we'll continue to check out anything that comes in.' … That tip turned out to be a false alarm." WHNT-TV continues, "Law enforcement at all levels have been asking for help since the church fires began back on February third. Ten Baptist churches in five Alabama counties have been damaged or destroyed by arsonists. ATF Regional Director Jim Cavanaugh says, 'We're not magicians, we're policemen, we have to work through it as we go.' … ATF used tips and a suspect call-in number to help solve the D.C. sniper case. The agents used a command post, like the one at the Tuscaloosa airport, to help capture and convict Eric Rudolph. They hope old strategies and new tips will lead them to the two white males in the dark-colored sport utility vehicle. Cavanaugh says, 'We're getting good calls, suspicious activity, matches the description, people calling in saying who the team is.'"

Probers Demonstrate Investigative Techniques. WAFF-TV, Huntsville, AL (2/16) reports, "To better explain how the ATF is investigating the ten Alabama church fires, one investigator walked WAFF 48 News through the steps they're taking to solve the crimes." WAFF-TV continues, "Caesar is a specially trained black Labrador retriever and one of the first agents inside a burned building. … With guidance from his partner in crime, Tony Deversa, Caesar knows exactly what to do. … Caesar searches high and low while investigators like Deversa take inventory inside and out. … Searching seemingly for the impossible, where every piece of evidence is burned beyond recognition." WAFF-TV adds, "The goal in every fire investigation is to find an area of origin, which can often indicate a potential ignition source. … For the church arsons, authorities used those same methods and determined the fires started at the pulpit area. … From there, investigators scan for the burned area that's lowest to the ground."

San Diego City Employees Facing Drug Charges Linked To Local Gang. The AP (2/15) reports that officials say two San Diego city employees arrested last month on drug and weapons charges were leaders of a local street gang. Ralph Briggs, 43, and James Woods, 38, "were arrested Jan. 17 on state charges of selling and possessing cocaine and weapons allegations as part of a six-month undercover investigation, according to Misha Piastro, a spokesman for the federal Drug Enforcement Administration in San Diego. Briggs and Woods worked in the San Diego Parks and Recreation Department's ground and maintenance division. Woods also is accused of selling marijuana on the job, prosecutor Damon Mosler said. … Briggs and Woods were the leaders of a local cell of the Syndo Mob, short for Syndicate, and their arrests eliminated the cell, Piastro said. The Syndo mob is affiliated with the Bloods, a nationwide street gang. … The two men, who are half-brothers, have been suspended without pay." More than 30 news outlets published in newspapers and/or posted on their Web sites the AP story, including The Washington Post, Los Angeles Times, New York Newsday, Kansas City Star, and San Jose Mercury News.

The San Diego Union Tribune (2/15) reports, "Nine people linked to a notorious street gang have been arrested after a six-month undercover probe into a suspected drug trafficking operation in San Diego, authorities have announced. Two of those arrested during raids over past weeks previously were publicly identified as San Diego Park & Recreation Department employees accused of using city vehicles to deal drugs." With the culmination of the probe, called Operation Southern Strike, John S. Fernandes, special agent in charge of the San Diego office of the Drug Enforcement Administration, "said he hoped it would send a strong signal that gang membership and drug dealing are dead ends. 'The DEA is committed to working hand in hand with local authorities to confront drug dealers and gangsters who perpetrate crime and violence in our cities,' he said. Recent criminal activities by the gang prompted the DEA to set up a task force comprised of DEA agents, members of the San Diego County Sheriff, District Attorney's Office, California Highway Patrol and Bureau of Alcohol, Tobacco and Firearms to target the Syndo Mob and its associates."

Trial Begins For Philadelphia Drug Dealer Accused Of Murdering Witness. The Philadelphia

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Inquirer (2/16, Slobodzian, 423K) reports former FBI most-wanted suspect Felix Summers, "already acquitted of two murders," went on trial yesterday "on charges involving the 1999 killing of a potential witness against him. Assistant District Attorney Carlos Vega called the murder of 39-year-old Charlotte Presley 'a crime that cuts to the core of the court system.' … Authorities say Summers…a former South Philadelphia drug dealer, was the gunman who went to Presley's third-floor apartment in…1999, and shot her. Defense attorney Jack McMahon told the jury Summers was the victim of mistaken identity compounded by the wrath of a 'woman scorned' -- a former girlfriend trying to get even by fingering Summers for a crime he did not commit. Complicating yesterday's first day of the retrial: Sherrie Hewett, the former girlfriend who gave Summers his nickname, failed to appear at court as subpoenaed."

DEA Helps Investigate One Of Michigan's "Longest-Running" Criminal Enterprises. Lansing (MI) State Journal (2/16) reports, "Authorities on Wednesday said they have dismantled a Lansing drug ring that had been dealing heroin and crack cocaine since the early 1980s. It was one of the longest-running criminal enterprises in the history of western Michigan, said Assistant U.S. Attorney Mark Courtade, who headed the prosecution. The U.S. District Court's Western Michigan region encompasses Lansing and everything west, as well as the Upper Peninsula. 'It wasn't the biggest, but it was certainly one of the longest in existence,' he said, adding that it was run like a family business. Two Lansing men were convicted Monday in federal court for their roles in the ring that included at least a dozen others — many of them related. The organization supplied heroin and cocaine in the Lansing area for more than two decades. … Prosecutors said the close-knit nature of the relationship between the buyers and the family members selling them the drugs made the case difficult for authorities to break. The investigation was conducted by the ATF's Lansing office, Lansing police and the U.S. Drug Enforcement Administration."

WLNS-TV, Lansing, Michigan (2/16) reports on its Web site, "Lansing police say they've shut down a major heroin ring in the city, and just this week a grand jury indicted the last of fourteen dope dealers. The evidence of drugs and firearms show the magnitude of the operation. The Lansing Police Department says 14 people -- mostly from the same family -- have been delivering large amounts of heroine and cocaine for nearly four years."

WILX-TV, Lansing (2/16) reports on its Web site, "The ringleader, 49-year-old Lionel Beard of Lansing, was convicted this week of running a criminal operation, dealing drugs and for being a felon in possession of guns. His younger brother, 34-year-old Thomas Beard of Meridian Township, was convicted by the same federal jury for weapons possession and dealing. With the Beard ring out of action, police officials say they've noticed a dip in heroin trafficking in the city."

City Council In California Prevents Businesses From Distributing Medical Marijuana. The AP (2/15) reports, "San Marcos became the first city in San Diego County to ban businesses from distributing medical marijuana. The ordinance tentatively approved Tuesday by the San Marcos City Council allows the only medical marijuana dispensary in the city north of San Diego to remain open if it follows all applicable laws. But what those laws are remains unclear. Federal law bans marijuana, but in 1996, California voters approved Proposition 215, which legalized marijuana for medical purposes. San Diego County has defied the state-ordered program and filed a legal challenge to the voter-approved law. San Marcos' lone marijuana dispensary is owned by Legal Ease Inc., which said it only sells the drug to people with valid prescriptions from doctors." The AP adds, "In December, the U.S. Drug Enforcement Administration raided the business along with 12 others in San Diego after undercover agents said they were able to buy marijuana without a prescription. The DEA said Legal Ease remains under investigation."

Bolivian Coca Farmers Call For Expulsion Of US Anti-Drug Units. The Washington Times (2/16, Arostegui) reports, "A coalition of coca farmers led by Bolivian President Evo Morales is calling publicly for the immediate expulsion of U.S. counternarcotics units from the country, raising questions about the viability of U.S. programs. The move, placing further strain on tense relations with the United States, came late Tuesday at a meeting of six dominant coca-growing federations with Mr. Morales presiding. However, the president appeared to back away from the resolution in an address to the armed forces yesterday afternoon, saying, 'As long as Bolivia's sovereignty is respected, no international organism will be expelled from Bolivia.' The resolution would affect the U.S. Drug Enforcement Administration, the State Department's Narcotics Affairs Section and the Alternative Development Program run by the U.S. Agency for International Development to help farmers develop alternative crops. … U.S. Ambassador David N. Greenlee met last week with newly appointed counternarcotics officials, including Felipe Caceres, the vice minister for social defense, and Felix Barra, who heads the Alternative Development Program, since renamed the Program for Coca and Integral Development. … Mr. Greenlee expressed satisfaction with his talks and said there was 'room for understanding.'"

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Venezuela's Daily Journal (2/16) reports, "Bolivian President Evo Morales said he will not expel U.S. anti-narcotics agents, as sought by the coca growers who helped propel him to power, but warned foreign officials operating here to respect the nation's sovereignty and dignity. … The president said Wednesday that Bolivia should foster friendly international ties and that foreign officials should be allowed to continue operating in the Andean nation as long as they respect its laws. … Under a bilateral pact, the United States provides financial, material and technical assistance to Bolivia in battling the cocaine trade. Part of the program involves the presence of DEA agents in the central coca-growing region of Chapare. Sources at the U.S. Embassy in La Paz [said] the request by…coca growers to boot the DEA agents prompted the mission to cancel a scheduled meeting with Bolivian anti-narcotics officials."

Wisconsin Man Sentenced To Five Years For Racially-Motivated Church Arsons. The Milwaukee Journal Sentinel (2/10, 266K) reported, "A 22-year-old Oconomowoc man has been sentenced to five years and three months in prison for trying to burn down two African-American churches, one in Milwaukee and one in Michigan. Daniel L. Dropik pleaded guilty in October to two counts of racially motivated arson of a church. … At the sentencing hearing Friday in federal court in Milwaukee, U.S. District Judge Rudolph T. Randa said he believes Dropik's actions 'were motivated by deep psychological and psychiatric problems.' However, the judge also considered the seriousness of the offense, particularly that Dropik set out to burn churches with largely black congregations. In addition to the prison term, Dropik must spent three years on supervised release and pay $39,697 in restitution." The AP (2/10) also reported on the sentencing, drawing heavily on the Journal-Sentinel story.

Richmond, VA, Gun Show Comes Under Federal Scrutiny. The Richmond Times-Dispatch (2/16, Mussenden) reports, "A crackdown on illegal firearm sales at Richmond-area gun shows led to a congressional inquiry yesterday into whether federal agents trampled the rights of gun buyers." The Times-Dispatch continues, "The organizer of an August gun show at Richmond Raceway Complex told a House panel that a large team of federal agents from the Bureau of Alcohol, Tobacco, Firearms and Explosives and city, state and county police patrolled the two-day show, harassing law-abiding gun buyers while looking for illicit gun sales. … Annette Gelles of Showmasters, the organizer, told the House Judiciary Subcommittee on Crime that agents' aggressive tactics unnerved some attendees, and the visible presence drove away other customers. … 'hey impeded people's Second Amendment rights,'Gelles said after the hearing. ' think they were there trying to shut the show down. Why else would they bring that many officers? It scared away a lot of law-abiding people.'" The Times-Dispatch adds, "After noticing that guns purchased at shows -- which, unlike store sales, do not always require a background check -- were used to commit local crimes, the ATF, Richmond and Henrico County police and Virginia State Police joined to strengthen oversight of gun-show firearm sales. … Representatives of the four agencies were not invited to the hearing. … The ATF is scheduled to present its side of the story at a hearing Feb. 28, said subcommittee chairman Rep. Howard Coble, R-N.C."

New York Launches Strategy To Curb Gun Dealers. The Christian Science Monitor (2/16, Marks) reports, "New York and other major cities are preparing to take on Congress and the gun lobby. … The reason: They're tired of their streets being flooded with guns bought somewhere else. In New York City, for instance, 85 percent of the guns used in crimes are bought legally in other states with far less stringent gun-control laws, most of them in the South." The Monitor continues, "Other East Coast metropolises, from Boston to Washington, face a similar gun influx. And so, despite a recent federal law that protects gun dealers and manufacturers from litigation, city leaders have signaled the start of a national movement to sue out-of-state gun dealers they consider 'bad apples' - those who knowingly sell to so-called straw buyers and others who traffic in illegal guns. … 'Right now, about 1 percent of gun dealers account for almost 60 percent of guns used in crimes nationally,' New York Mayor Michael Bloomberg said in his recent State of the City address. 'This year, we are going to launch lawsuits against these irresponsible dealers, and we are going to hold them accountable for the terrible damage their guns cause.' … That is a central part of his five-pronged strategy to attack gun violence in New York. It also includes toughening penalties for possession of illegal guns, intensive interrogating of suspects toting illegal guns so the source of the weapons can be better traced, and setting up a gun-offender registry similar to the ones set up for sex offenders so communities can know if a convicted gun offender lives in the neighborhood. … But the legal assault on gun dealers is the action expected to gain the most attention, and support, from other cities. Boston Mayor Tom Menino has already signaled he intends to join New York in its direct challenge to lawmakers in Washington."

ATF Bomb-Sniffing Dog Dies After Fall At Basketball Game. The Houston Chronicle (2/16, Hanson) reports, "An explosives sniffing dog died this morning after falling from a ramp at the George R. Brown Convention Center in downtown Houston." The Chronicle continues, "The dog, Mikey, was part of a U.S. Alcohol,

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Tobacco, Firearms and Explosives unit involved in a security sweep of the convention center in preparation for the NBA All-Star game, said Franceska Perot, spokeswoman for ATF." The Chronicle adds, "Perot said about 1:30 a.m. the unit was taking a break and the dog, a Labrador, was being put into the back of a truck when he suddenly bolted and went over the edge of a ramp. … The dog fell about 55 feet to the ground and was taken to a local veterinary clinic where he died. Perot said the dog, used for detecting explosives, may have seen a pigeon and instinct took over and he jumped at the bird."

TAX:

Frist Calls Capital Gains, Dividend Tax Cuts "Non-Negotiable." In a Washington Times op-ed (2/16), Senate Majority Leader Bill Frist says the "one thing" that "must remain non-negotiable" in the conference for the tax cut bill is "an extension for the effective reductions in capital-gains and dividends taxes that Congress enacted in 2003." The "very existence of taxes on capital gains and dividends ranks among the worst provisions of America's labyrinthine tax system. Those who earn capital gains have already paid income taxes on their initial investments. When the government seizes a portion of profits earned as a company increases in value or issues a dividend, it penalizes saving, investment and risk-taking. The idea of taxing capital gains and dividends has deep flaws and, in time, we ought to eliminate both types of taxes altogether. For the moment, however, keeping them lower, longer appears a very good economic policy."

CQ (2/15, Schatz) reports Majority Leader Frist "warned the Senate's top tax writer Wednesday that he will reject the final $70 billion tax cut bill if it does not include an extension of the 2003 rate cut on capital gains and dividends." With formal conference negotiations "on the bill (HR 4297) set to begin, Frist also signaled that he would consider moving less controversial breaks separately — such as a "patch" to blunt the effect of the alternative minimum tax (AMT)." In a Feb. 14 letter to Finance Chairman Charles E. Grassley, R-Iowa, Frist said he "will not call up a conference report for Senate floor consideration if it does not include an extension of the capital gains and dividends tax relief."

Baucus Says 2006 AMT Fix More Important Than Expiring 2009 Provisions. In a Wall Street Journal letter to the editor (2/16), Sen. Max Baucus says the Journal was "right on one count in your Feb. 9 editorial 'The Max Baucus Speed Bump': Cutting taxes is harder than it should be, at least when it comes to protecting America's working families from the alternative minimum tax. My so-called 'speed bump' on the road to extending capital gains and dividends cuts that do not expire until 2009 should be of little concern, compared with the brick wall toward which Congress is speeding: a huge 2006 tax increase for 17 million Americans the AMT should never snare. Congress should fix the AMT for 2006 now, and pass additional tax cuts Sen. Chuck Grassley (R., Iowa) and I have proposed for teachers, small businesses and individuals. Then we must work to repeal the stealth tax of the AMT altogether. I will gladly invoke Senate rules to keep Congress's eyes on the road toward immediate tax cuts for hardworking Americans who need them now."

CONGRESS-ADMINISTRATION:

In TV Interview, Cheney Discusses Hunting Accident. Vice President Cheney, who has been criticized for his silence in the aftermath of his hunting accident, yesterday sat for an interview with Fox News' Brit Hume. Cheney took responsibility for the shooting of 78-year-old attorney Harold Whittington, and grew emotional when he discussed the accident and Whittington's injuries. As the CBS Evening News (2/15, lead story, 2:45, Axelrod) put it, for a "tough guy, not known for emotion, Dick Cheney looked somber and shaken." CBS also reported, "CBS News has learned that it was President Bush's political enforcer, Karl Rove, who finally got the Vice President to speak publicly about his hunting accident. And Rove pushed Mr. Cheney hard, worried that the story was moving from distraction to political problem."

While the coverage of Cheney's interview contains assessments of the White House strategy – and of Cheney's choice of Fox News for his interview – most stories are built around extensive excerpts of the Vice President's comments. Most reports this morning include this Cheney statement on Fox News' Special Report (2/15): "Ultimately, I'm the guy who pulled the trigger that fired the round that hit Harry. And you can talk about all of the other conditions that existed at the time, but that's the bottom line. And there's no -- it was not Harry's fault. You can't blame anybody else. I'm the guy who pulled the trigger and shot my friend. And I say that is something I'll never forget." Cheney also said "the image of him falling is something I'll never be able to get out of my mind. I fired, and there's Harry falling. And it was, I'd have to say, one of the worst days of my life, at that moment."

Cheney's explanation of why he didn't notify the White House press corps also gets a lot of play in the coverage. Cheney said on Fox News' Special Report (2/15), "My first reaction was not to think: I need to call the press. My first reaction is: My friend, Harry, has been shot and we've got to take care of him. That evening there were other considerations. We wanted to make sure his family was taken care of." Cheney added that Katherine Armstrong "suggested, and I agreed, that she would go make the announcement, that is that she'd put the story out. And I

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thought that made good sense." He added, "I had a bit of the feeling that the press corps was upset because, to some extent, it was about them -- they didn't like the idea that we called the Corpus Christi Caller-Times instead of The New York Times. But it strikes me that the Corpus Christi Caller-Times is just as valid a news outlet as The New York Times is, especially for covering a major story in south Texas."

Those two excerpts from the interview dominate much of the coverage. For example, USA Today (2/16, Jackson, 2.31M) reports a "somber…Cheney took full responsibility." Similar stories appear in the Baltimore Sun (2/16, Davis, 296K), which titles its report "Cheney Accepts Blame For Hunting Mishap" and Washington Post (2/16, A1, Baker, 744K), in a story headlined "Cheney Says Shooting Was His Fault." Reuters (2/16, Holland) reports Cheney "took the blame," adding that he acted "under pressure from Democrats and some Republicans to break his silence." The AP (2/16, Pickler, Brezosky) says "Cheney took the blame." Cheney "was soft-spoken and appeared shaken." Bloomberg (2/16, Rosenkrantz) and Knight Ridder (2/16, Hutcheson) run very similar stories.

The Los Angeles Times (2/16, Muskal, 958K), meanwhile, notes Cheney "praised" White House press secretary Scott McClellan "for how he handled the press. 'It's especially a tough job under these conditions and circumstances,' Cheney said." The New York Times (2/16, Sanger, Kornblut, 1.19M) reports Cheney "suggested in the interview that he had been advised by Mr. McClellan and Dan Bartlett, Mr. Bush's counselor and longtime communications adviser, to disclose what had happened more broadly and more quickly. 'I've got nothing but good things to say about Scott McClellan and Dan Bartlett,' Mr. Cheney said."

NBC Nightly News (2/15, lead story, 2:45, Williams) reported, "The Bush White House made an attempt at stopping the political damage by breaking four days of silence on the part of the Vice President." NBC (Gregory) added, "Until now, however, eyewitness Katharine Armstrong…and the White House have faulted Whittington for failing to alert Mr. Cheney that he was rejoining the hunting line after falling behind to search for a downed bird."

ABC World News Tonight (2/15, lead story, 2:45, Raddatz) reported, "The Vice President was unapologetic about the way this incident was handled. But he did take full responsibility for it." Raddatz: "Brit Hume, who conducted the interview, said the Vice President seemed shaken today, and found it difficult to speak about the accident." ABC added, "Cheney's description of what happened was markedly different in tone than the description offered Sunday by fellow hunter, Katharine Armstrong." The Washington Times (2/16, Sammon, 90K) also reports "the vice president's insistence on taking full responsibility for the accident marked a shift in strategy for the administration. Previously, the White House suggested that Mr. Whittington had violated a hunting 'protocol' by not making his whereabouts more clearly known to Mr. Cheney."

Most analysts agree the interview could go a long way toward defusing the growing controversy about the accident. ABC's News Nightline (2/15, Moran) called Cheney's interview on Fox News, "Personal, pained and decidedly unpolitical. … Tonight, many are saying the Vice President may have helped put out the political firestorm." GOP strategist Ed Rollins: "I think no one could have watched that interview, and would have seen the pain and anguish he has about shot accidentally -- a tragic accident. Shooting a friend. He has all the remorse anyone would expect."

The Financial Times (2/16, Daniel) disagrees, saying "Cheney's appearance on Fox News may be too late to limit the fallout. The accident, and his unapologetic stance, have become satirical fodder for late-night comedians. A man who prided himself on his hunting skills, he is now a footnote in the Texas hunting annals."

On ABC World News Tonight (2/15, story 2, 1:05, Vargas), correspondent George Stephanopoulos said, "The Vice President, if he had given this interview a couple days ago, would have prevented this story from exploding. He hit the right notes." Stephanopoulos added that as "long as his story is not contradicted by Mr. Whittington or the sheriff's report, and as long as Mr. Whittington doesn't take a turn for the worse, I think he's stopped the political damage."

On NBC Nightly News (2/15, story 2, 1:55, Williams), NBC Washington bureau chief Tim Russert said, "It depends on the health of Harry Whittington. If in fact he recovers fully and returns home, that will be very good news for everyone and probably will help end this story relatively quickly. If however, his health, God forbid, deteriorates, it will be ongoing." Democrats "have seized on this. They say it's a metaphor for the secrecy of the Bush White House, for the misjudgments made in Iraq and Katrina. Republicans have seized on it, saying it's a feeding frenzy by the White House Press Corps and it's time to move on."

The Washington Post (2/16, A1, Baker, 744K) reports, "White House aides and allies expressed hope that Cheney's public comments would defuse the uproar," but "Democrats continued to pound away. Even before the interview, the office of Senate Minority Leader Harry M. Reid (Nev.) issued a statement accusing Cheney of being 'unable, or unwilling, to level with the American people.' Sen. Frank Lautenberg (N.J.) added: 'Vice President Cheney had a chance to shoot straight with the American people, but he decided to stonewall and delay. Now that he feels forced to talk, he wants to restrict the discussion to a friendly news outlet, guaranteeing no hard questions from the press corps.'"

Under the headline "Accepting Responsibility, With An Asterisk," the Washington Post (2/16, A2, Milbank, 744K) reports, "President Bush in 2000 ushered in the Era of Personal Responsibility. Yesterday ushered in the Era of

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Qualified Personal Responsibility." Cheney "offered a stark claim of responsibility," but he also "admitted no fault in creating the four-day firestorm."

Other stories this morning focus on the "feeding frenzy" surrounding the incident. The Christian Science Monitor (2/16, Feldmann, 61K) reports, "Right or wrong, the White House press corps has behaved like a dog with a bone over the story of Vice President Cheney's hunting accident." The Washington Times (2/16, Harper, 90K), meanwhile, runs a story titled "Critics Hit Cheney 'Feeding Frenzy,'" in which it says "Greg Mitchell of Editor & Publisher, a media journal, questioned the reporting. 'There was poor reporting early on. Too many journalists did not question those initial reports that the victim was OK. They did not treat it as a shooting. The joking started. Reporters were clowning on news shows, and it spread from reporters to senators.'"

Finally, the Wall Street Journal (2/16, Kronholz, 2.11M) analyzes the etiquette of quail hunting, "a genteel sport, where shooters with expensive guns and well-trained dogs hunt a skittish bird that is about the size of a fist and has the speed of a Little League pitch."

The Washington Post (2/16, A10, Romano, Balz, 744K) also reports on Whittington's past political activities, calling him "a well-known fixture on the Texas political landscape for half a century, a distinguished lawyer to whom governors have turned to help clean up messes, a Republican statesman before there was much of a Republican Party in the state." He and Cheney "were little more than acquaintances before last weekend, when the vice president accidentally sprayed him with birdshot, landing the 78-year-old in an intensive care unit in Corpus Christi. But friends say that Whittington is exactly the kind of man a host would include in a hunting party with the vice president of the United States." USA Today (2/16, Kiely, 2.31M) runs a story about local reaction to the shooting, titled "Incident No Big Deal In Tiny Texas County."

Cheney Reportedly In "State Of Meltdown" Over Accident. The CBS Evening News (2/15, story 3, 2:10, Borger) reported, "One source who is very close to the Vice President told CBS News today that Dick Cheney has been in what he calls a state of meltdown over this hunting accident. And another top White House aide also told CBS 'you can't imagine how upset the Vice President is.' In fact, he said, the Vice President is so upset, that the Whittington family is worrying about Dick Cheney."

McClellan Answer Said To Signal Tensions Within White House. The New York Times (2/16, Sanger, Kornblut, 1.19M) also says the interview "did not obscure the tensions that have riven the administration since the accident on Saturday, and in a sign of disagreement at the very top, the White House signaled that…Bush wished that Mr. Cheney had made the news public more quickly." The Wall Street Journal (2/16, Hitt, McKinnon, 2.11M) runs a similar report under the headline "Cheney Takes Blame For Shooting But Defends How It Was Disclosed," in which it reports, "Asked if the president was satisfied with Mr. Cheney's handling of the situation…McClellan yesterday repeated his statement from earlier in the week that 'you can always look back at these issues and work to do better in the future.' Asked if that was Mr. Bush's view, Mr. McClellan said he was 'speaking on behalf of the White House and the president.'" The Washington Post (2/16, A1, Baker, 744K) calls that McClellan comment "a sign of the extraordinary tension inside the White House -- evidently even between Bush and Cheney."

Bush's Handling Of Hunting Accident Contrasted With Cheney's. ABC World News Tonight (2/15, story 3, :30, Sawyer) reported, "I'm thinking of our conversation in the newsroom today, about President Bush and his one own hunting mishap." ABC (Vargas) added, "That's right. He wrote about it in his autobiography. In 1994, he shot a rare bird on a hunting trip of his own. He says he didn't know what to do. But then, decided to tell every single reporter who was accompanying him on that hunting trip. So, at least in that respect, you saw a very different way, a different version of how to handle this kind of crisis." Sawyer: "Different incident. But sharp contrast in the way it was handled."

Aftermath Of Hunting Accident Compared To Katrina Response. The Los Angeles Times (2/16, Brownstein, Wallsten, 958K) reports, "Throughout his presidency, George W. Bush has been admired for his ability to set clear goals and doggedly follow a path to achieve them." But "Bush and his White House often seem to struggle when pressed to react to unexpected events, a difficulty highlighted Wednesday by the continuing furor over…Cheney's hunting accident and a congressional committee's sharply critical report about the federal response to Hurricane Katrina." The Times adds, "One GOP fundraiser close to the White House said he thought the administration's response to the news that Cheney had mistakenly shot a fellow hunter Saturday so closely replicated the Katrina experience that he wondered, 'Is this a bad dream we are seeing again?'"

Whittington Remains In Intensive Care. CNN's The Situation Room (2/15, Lavendera) reported, "We understand that Harry Whittington is still being kept in the intensive care unit of this hospital in Corpus Christi, but that really has very little to do with his condition. They say that he's actually doing quite well and he is being kept in the ICU mostly for privacy reasons, because of this high-profile status that has kind of enveloped his situation here. Doctors have been releasing over the last couple of days a little bit of information about his condition saying that he is stable, alert, eating regular food. In fact, at one point, they say that he was planning on doing some of his law work. And that is carefully orchestrated and discussed with the family. Even though

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Harry Whittington hasn't made any public comments or released any statements since he has been here at the hospital, they are releasing -- and through the wishes of the family, some of the updates to let people know that he is doing OK. By all means, they don't have to do that. They could have put the clamp down on any kind of information about his condition."

Cheney Could Face Charges. The AP (2/16, Curry) reports, "If the man wounded by…Cheney dies, the vice president could -- in theory at least -- face criminal charges, even though the shooting was an accident." Dallas defense attorney David Finn, "who has been a state and a federal prosecutor, said Wednesday that a Texas grand jury could bring a charge of criminally negligent homicide if there is evidence the vice president knew or should have known 'there was a substantial or unjustifiable risk that his actions would result in him shooting a fellow hunter.'" The AP adds, "To indict Cheney, the grand jury would have to conclude that a reasonable person in the vice president's place would say to himself, 'I am not pulling the trigger because this other guy might be in front of me,' Finn said."

Shays Says Administration Is Overly Secretive. Rep. Chris Shays said on CNN's The Situation Room (2/15) that the Whittington shooting is a "good example" of the Administration being overly secretive, adding, "It's like they don't learn. I mean, obviously this information's going to come out. So just let it come out. It had to have been one of the worst days of his life. It had to have been terrible for him and obviously the individual he shot and everybody who was there. But the information needs to be made public and be made public quickly."

Cheney's Choice Of Fox News Venue Criticized. Media analysts tended to be critical of Cheney's choice of Fox News for his interview. The New York Times (2/16, Stanley, 1.19M) reports, "Most V.I.P.'s in trouble choose the safe waters of Larry King on CNN to do damage control. Mr. Cheney chose what this administration views as the even more secure location of a Fox News interview."

Under the headline "Shoot a Pal, Complain About the Press," Paul Brownfield writes in the Los Angeles Times (2/16, 958K), "If you accidentally shoot a hunting buddy in the face, make it about the media. That was the message Vice President Dick Cheney got out Wednesday, courtesy of Fox News Channel and its most sober and decorated journalist, Brit Hume, who was summoned by Cheney for an exclusive interview and then left to play Cheney's press secretary, getting the veep's talking points out the rest of the day on Fox."

In his "Media Mix" column, Peter Johnson writes in USA Today (2/16, 2.31M), "Cheney's choice of Fox News Channel…had media types talking Wednesday, particularly among some competitors who view Fox News as sympathetic to the Bush White House. 'They're the house organ for the Republican Party,' said CNN political analyst Paul Begala, a former Clinton aide. 'It's like Khrushchev giving an interview to Pravda.'"

The Washington Post (2/16, C1, Kurtz, 744K) reports Mary Matalin, "a former Cheney aide and informal adviser who accompanied him to the interview in the vice president's ceremonial office, said the vice president likes Hume but that 'our objective was to get the whole story out in a consecutive way. He wanted a long form. We had no desire for anything other than comprehensive and hard questions.'" Matalin "said Cheney considered holding a news conference, but that 'would have meant a lot of grandstanding' by reporters." Fox News "is widely viewed as more sympathetic to the Bush administration than the other networks."

O'Reilly Says Press Despises Cheney. Bill O'Reilly said on Fox News' The O'Reilly Factor (2/15), "The press is making a big deal out of this because they despise Dick Cheney. Generally speaking the media feels that Cheney is arrogant and distant. But this hatred has gone too far. … Like Cheney or not, once it degenerates into hatred, there's no value. This incident is the best illustration I've seen in years of a media out of control."

More Commentary. Peggy Noonan writes in the Wall Street Journal (2/16, 2.11M), "Right now in the White House they're discussing how to help the vice president get through his problem. They've already tried the wearing of orange ties, an attempt to take the sting out of the incident by showing they don't feel the sting. Duck! Ha ha! But what are they thinking that they're not saying? Here's a hunch, based not on any inside knowledge but only on what I know of people who practice politics, and those who practice it within the Bush White House. I suspect what they're thinking and not saying is, If Dick Cheney weren't vice president, who'd be a good vice president? They're thinking, At some time down the road we may wind up thinking about a new plan. And one night over drinks at a barbecue in McLean one top guy will turn to another top guy and say, 'Under the never permeable and never porous Dome of Silence, tell me...wouldn't you like to replace Cheney?'" Noonan adds, "It would have to be a man wildly popular in the party and the press. And it would have to be a decision made by Dick Cheney. If he didn't want to do it he wouldn't have to. If he were pressed -- Dick, we gotta put the next guy in here or we're going to lose in '08 and see all our efforts undone -- he might make the decision himself. He'd have to step down on his own. He's just been through a trauma, and he can't be liking his job as much now as he did three years ago. No one on the downside of a second term does, hate magnet or not."

Under the headline "Mr. Vice President, It's Time To Go," Bob Herbert writes in the New York Times (2/16, 1.19M), "It's time for Dick Cheney to step down -- for the sake of the country and for the sake of the Bush administration. Mr. Cheney's bumbling conduct at the upscale Armstrong

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Ranch in South Texas seemed hilarious at first. But when we learned that Harry Whittington had suffered a mild heart attack after being shot by the vice president in a hunting accident, it became clear that a more sober assessment of the fiasco at the ranch and, inevitably, Mr. Cheney's controversial and even bizarre behavior as vice president was in order." Cheney "would do his nation and his president a service by packing his bags and heading back to Wyoming. He's become a joke. But not a funny one."

Mary Zeiss Stange, who teaches at Skidmore College and is a member of USA Today's board of contributors, writes in USA Today (2/16, 2.31M), "Cheney's errant shooting is a fitting metaphor for a gang that, all too apparently, can't shoot straight."

In an editorial, the Los Angeles Times (2/16, 958K) says the way in which the Cheney shooting story was made public is a "serious reminder that when it comes to the executive branch's doings, Cheney is the bottleneck." The Times takes note of "two other secrecy-related stories…making headlines" on Wednesday. First, Australian public television "aired grotesque new images of prisoner abuse at Abu Ghraib." Second, the House Committee on Government Reform has been listening this week to "witness after witness describe how they suffered workplace retaliation after blowing the whistle on national security activities they thought were unethical or illegal." The Times adds, "We wouldn't know about the NSA program or even Abu Ghraib if Cheney had his way," and we'll be "living with the consequences of Cheney's tight lips long after this week's brouhaha fades."

David Brooks writes in the New York Times (2/16, 1.19M), "In normal life, people would look at this event and see two decent men caught in a twist of fate. They would feel concern for the victim and sympathy for the man who fired the gun. But we in Washington are able to rise above the normal human reaction. We have our jobs. We have our roles. So in the days following the Cheney-Whittington accident, liberal pundits had to live up to their responsibility to manufacture a series of unsubstantiated allegations while turning the episode into a Clifford Odets-style tale of plutocrats gone wild. 'Was he drunk? I mean, these are ultrarich Republicans, at a weekend, fun-time hunting,' the pundit Lawrence O'Donnell wondered on MSNBC. … Finally there is the Office of the Vice President, inevitably failing to surpass expectations. The vice president's role, on this as on all days, is to treat the press and the Washington community in general as a plague-ridden horde, from whom it is possible, upon the merest conversation or contact, to catch some soul-destroying disease. So, of course, the vice president was compelled to recreate his role as Voldemort, Keeper of the Secrets."

Jacob Weisberg, editor of Slate.com, writes in the Financial Times (2/16), "The Bush administration's aversion to openness reached the proportions of parody. … One could recount dozens of examples in which Mr Bush and Mr Cheney have spurned legitimate requests for information from all kinds of groups. In sum, these episodes represent more than the familiar tug and pull of the branches of government, mere hostility to the press, or the challenges to freedom in wartime. They are the arrogant expression of a deaf, imperial presidency that hears the phrase 'the public's right to know' as the public's right to 'No.'"

Cheney Says Vice Presidents Have Authority To Declassify Information. Vice President Dick Cheney was asked on Fox News' Special Report (2/15) about court filings that indicate that Lewis Libby was authorized by unidentified "superiors" authorized the release of some classified information. Cheney said, "It's nothing I can talk about. This is an issue that's been under investigation for a couple of years. I've cooperated fully, including being interviewed, as well, by a special prosecutor. All of it is now going to trial. Scooter is entitled to the presumption of innocence. He's a great guy. I've worked with him for a long time, have enormous regard for him. I may well be called as a witness at some point in the case and it's, therefore, inappropriate for me to comment on any facet of the case." Asked if a vice president has the authority to declassify information, Cheney said, "There is an executive order to that effect,' adding, "There is an executive order that specifies who has classification authority, and obviously focuses first and foremost on the President, but also includes the vice president."

The New York Times (2/16, 1.19M) reports that Cheney "said he had participated in decisions to declassify information, but he declined to say whether he had ever declassified information on his own. Mr. Cheney said he could not comment on the case of his former chief of staff, I. Lewis Libby Jr., who was indicted on five counts of perjury and obstruction of justice in October after an investigation into the disclosure of the identity of an officer of the Central Intelligence Agency, Valerie Wilson. Mr. Cheney said he might be called as a witness."

The Washington Post (2/16, A10, 744K) reports, Libby told a grand jury that his 'superiors' authorized him to disclose in July 2003 the contents of a National Intelligence Estimate on Iraq, according to newly released court documents. Sources familiar with the matter have told The Washington Post that Cheney was one of those superiors, but it was unclear whether Libby meant classified or unclassified information."

DOJ Seeks Senate Panel Documents On Miranda Leak. The Hill (2/16, Bolton) reports Justice Department officials are "negotiating with the Senate's legal

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counsel over access to Judiciary Committee documents on the committee's investigation of a memo scandal that roiled the upper chamber two years ago, according to a source familiar with the situation." The Senate legal counsel is "in turn consulting with committee staff about the sensitivity of the documents to determine what can be turned over to the executive branch, decisions that could have an impact on how much access future administrations have over legislative documents." Lawmakers "will make the final decision about what is shared." The investigation "stems from the controversial publication in the fall of 2003 of internal Democratic memoranda that two former Republican committee aides admit to accessing on a computer server shared by Republican and Democratic members of the Judiciary Committee." The "uproar over the memos' publication resulted in the resignation of Manuel Miranda, then the top aide handling judicial nominations for Senate Majority Leader Bill Frist (R-Tenn.). Miranda admitted to accessing the documents. A junior Judiciary Committee aide who admitted to downloading and reading the Democratic files also resigned."

Supreme Court Said To Be In Transition. The New York Times (2/16, Greenhouse, 1.19M) reports, "With the addition of two new justices in the last four months, the" Supreme Cour "is in the midst of a major transition." Justice Stephen G. Breyer, when he joined, "felt adequately prepared and had expected to move comfortably into his new role, he said, and was therefore surprised at how overwhelming he found it." Breyer spoke "only for himself, offering neither advice to nor commentary on Justice Alito or his other new colleague, Chief Justice Roberts. But coming from one who ordinarily projects an air of cheerful self-assurance, his comments were a reminder that the Supreme Court is a different world, even for those who may have spent a lifetime preparing for it."

Alito Chooses Time Warner Lawyer As Clerk. The Wall Street Journal (2/16, Lattman, 2.11M) reports, "Justice Samuel A. Alito Jr., whose ceremonial swearing-in as the 110th justice of the Supreme Court will be held today, has named as one of his law clerks a Time Warner Inc. lawyer who served as a top legal adviser to Attorney General John Ashcroft from 2001 to 2003." His appointment "is unusual because of Mr. Ciongoli's age and level of experience," as "most Supreme Court clerks…are recent law-school graduates with clerkship experience at the federal appeals courts."

The AP (2/16, Holland) reports, "Helping promote Samuel Alito's nomination to the Supreme Court has paid off for three conservative lawyers, including a one-time confidant of former Attorney General John Ashcroft. … The three have prize assignments as Alito's law clerks and the opportunity to help shape his early days on the court. They also have resumes that could add some firepower to the junior justice's chambers." The AP continues, "Alito, 55, has surrounded himself with solid conservatives and loyalists - all three clerked for him when he was an appeals court judge, dating back a decade. … Two of the new clerks, Jay Jorgensen and Hannah Smith, are previous Supreme Court clerks who traveled across the country as part of a public relations campaign on Alito's behalf last month. … The third, former Justice Department lawyer Adam Ciongoli, participated in so-called 'murder boards,'' mock sessions that got Alito ready for his Senate confirmation hearings." The AP adds, "Earlier, Jorgensen was among the conservatives who raised questions about the credentials of Bush's early court nominee, Harriet Miers. When Miers withdrew in the face of conservative criticism, Bush turned to Alito. Jorgensen also prepared a paper for the Federalist Society on the nomination of Justice Ruth Bader Ginsburg, a liberal member of the court. … 'I think what's notable is that he's picked individuals who are so defined on the right ideologically. That tells us who Samuel Alito is,'' said Erwin Chemerinsky, a liberal Duke University law professor.'

Bush Promotes Health Savings Accounts In Visit To Ohio. President Bush yesterday traveled to Dublin, Ohio, to promote his proposal for health savings accounts and amplify the consumer choice oriented healthcare message he delivered in his State of the Union address. Democratic critics reiterated that while the proposals would benefit younger and healthy workers, traditional insurance plans would be burdened by older, sicker workers. Bush also promoted the political fortunes of several Ohio incumbents, although Sen. Mike DeWine skipped the event.

The Los Angeles Times (2/16, Gerstenzang, 958K) reports President Bush talked "about good health, and his plan to help America pay for it, at the home office of the nation's third-largest purveyor of hamburgers and French fries." Bush "urged Americans concerned about healthcare costs to consider a fledgling government program built around high-deductible insurance for catastrophic illness or accidents and tax-free personal savings accounts to pay for routine medical needs." Health savings accounts, "or HSAs, offer participants choices in healthcare while holding down costs because the payments will come from a patient's savings account, Bush said." The Times adds the plan's "critics have argued that the program would attract the healthiest Americans, who would be able to put aside savings tax-free and spend little for healthcare, while traditional employer-provided plans would be filled with people whose health costs are the highest." Bush's "one-hour speech is part of a weeklong administration effort to draw public attention to its healthcare proposals." But the President's "message drew

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sharp criticism, and the location of the speech was too delicious for some critics to resist."

The Washington Post (2/16, A5, VandeHei, 744K) reports that as "part of a new White House campaign to promote incremental changes to the health care system this year, Bush is calling for new tax incentives to help millions of Americans purchase health care coverage for catastrophic illness and pay for out-of-pocket medical costs." In his "fiscal 2007 budget, the president proposed a mix of tax credits and deductions to increase the number of employers and employees using health savings accounts to both mitigate health care costs and begin transforming the traditional insurance system. Much as he did last year in a failed campaign to restructure the Social Security system, Bush is selling the accounts as a way to provide consumers more control over their money and to transition away from what he calls a costly and unsustainable program." About 3 million Americans "have opened HSAs, including 9,000 of the 40,000 employees at Wendy's, a fast-food chain that has been a big supporter of Republicans. Bush picked Wendy's because the company started offering the tax-free savings accounts in 2005 and has reduced its health care spending as a result."

The Columbus Dispatch (2/16) reports President Bush "said Wendy's was facing double-digit increase in health insurance costs when it decided to implement the health savings accounts. The company pays for a health insurance plan with a high deductible and also contributes to the health savings account that employees can use to pay any health costs. Bush said 9,000 full-time employees of Wendy's have the accounts, and 90 percent of them ended last year with a balance that is earning interest." Wendy's spokesman Denny Lynch said HSAs "allowed Wendy's to offer the same level of benefits for a slight rise in costs to the company, rather than the steep increase expected if the company had remained in a traditional health plan." About "100 of the 700 Wendy's headquarters employees were able to see the president's speech in person, with others viewing it by simulcast, Lynch said."

The AP (2/16, Riechmann) reports President Bush "mixed politics with his prescription for what ails the nation's health care system on a trip Wednesday to Ohio, which was a pivotal state in his re-election and one with key races in this year's midterm elections." The President "made his case for health savings accounts at Wendy's International Inc., where 9,000 employees have signed up for the accounts since the hamburger giant began offering them last year." But the Ohio trip "had a political component too. The Ohio governor's race and about a half-dozen House and Senate seats from the state are competitive in this year's election, and whether voters stick with Republican incumbents could foreshadow voter sentiment in 2008." Republican incumbents "running for re-election are trying to avoid fallout from an election-year scandal in the state, which helped put Bush over the top in 2004." Bush was "joined at the event by Taft, George V. Voinovich, R-Ohio, and Reps. Pat Tiberi, David Hobson and Deborah Pryce. Sen. Mike DeWine, R-Ohio, who is in a toss-up race against Democratic Rep. Sherrod Brown, was invited but remained in Washington for a Judiciary Committee hearing."

Reuters (2/16, Bohan) reports Democrats "accused" the President "of offering recycled ideas that would worsen the health system." Bush "pointed to Wendy's as an example of a company that offered HSA plans to employees. But Senate Democratic leader Harry Reid of Nevada said, 'The president's most recent recycled health care idea will make the health care crisis worse.'" In an initiative "the White House estimates will cost $59 billion over five years, Bush would expand the tax breaks offered to those with HSAs and raise limits on contributions."

The New York Times (2/16, Bumiller, 1.19M) reports President Bush declared "his proposals were not just for the wealthy and would help some of the 45 million Americans who remain uninsured. In an hourlong speech in one of the most politically troublesome states for Republicans in this year's midterm elections, Mr. Bush took on critics of his plan, who say that poor or underemployed people cannot afford the accounts." Bush's plan "seeks to make the accounts more attractive by expanding their tax incentives and by increasing the amount of money that people may contribute to them each year." Democrats "criticized Mr. Bush's plan as a windfall for the rich and said that a fast-food cook making $15,000 a year could not afford to set aside $5,000 in a health savings account or pay $1,050 in medical bills."

The Wall Street Journal (2/16, 2.11M) reports Bush "outlined his plan to confront rising healthcare costs by giving consumers more choice." He "pointed to laser-eye surgery as an example of how market forces can have a positive impact on the price and availability of medical procedures, when third-party payers aren't involved." Bush "touched on the problems encountered in the early stages of the new Medicare prescription drug program, but urged seniors to sign up for the plan, which he said will cut their costs."

Ohio Will Be Battleground In Struggle For House Control. Roll Call (2/16, Habte) reports that Ohio is expected to be a battleground in the struggle for control of the House in 2006. Roll Call adds, "With today's candidate filing deadline looming, the stakes are higher for the GOP which is battling to protect three Republican incumbents who Democrats boast are especially vulnerable: Reps. Bob Ney, Deborah Pryce and Steve Chabot. Many Democrats running in Ohio, and many of their surrogates in Washington, D.C., have honed an overarching campaign message that identifies the Ohio GOP with a 'culture of corruption.' … Not that the Democrats don't have their work cut out for them. The race in the 6th district, where Rep. Ted Strickland (D) is running for

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governor, is considered a tossup at this point. And in the heavily Democratic 13th district, which Rep. Sherrod Brown (D) is leaving to run for Senate, Republicans recruited their preferred candidate, Lorain Mayor Craig Foltin (R), into the race this week."

Bush Job Approval Rating Slips In Harris Interactive Poll. The Wall Street Journal (2/16, 2.11M) reports that a recent Harris Interactive poll has found that President Bush's job approval ratings have slipped since January 2006 while Congress' ratings have remained about the same. The Journal adds, "Any benefit President Bush may have gained from his State of the Union speech didn't last long enough to be measured in the latest poll, as Mr. Bush's ratings are now 40% positive, down from a positive rating of 43% in January, and 58% negative, up from 56% negative. Elsewhere, approval of the way Congress is handling its job is mostly unchanged, with 25% of U.S. adults giving Congress a positive rating and 71% giving it a negative rating."

Gutierrez Says US Needs To Embrace Scientists. The San Jose Mercury News (2/16, Poletti, 268K) reports, "The Bush Administration wants to make math and science cool. Carlos Gutierrez, U.S. Commerce Secretary, visiting Silicon Valley and Stanford University on Wednesday, said that along with President Bush's recently announced American Competitiveness Initiative, there needs to be a change in American culture -- to embrace inventors and scientists, in the same way Americans worship athletes or pop stars." In an interview Gutierrez said, "We need to make those people just as cool as the athletes and we need to make that achievement something a student would strive for. … It is part cultural, it is part math and science, it's part what happens in the classroom. But it's also what we value as a society." Gutierrez told a group of Stanford University business students "that they are in the right place at the right time in American business, and they should 'let others do the hand-wringing' over whether the nation is losing its competitive edge to emerging countries such as India and China." Yet, "even after rattling off several statistics about strong U.S. economic growth in his lunch-hour speech, the first question posed by a student was about the 'big fear' that the United States is losing its creative edge to China and India." Gutierrez replied, "Let me repeat my speech. … We are dealing with it today, we are dealing with it successfully. We just need to stay focused."

More Claims Surfacing Of White House Interference With NASA. The New York Times (2/16, Revkin, 1.19M) reports, "Top political appointees in the NASA press office exerted strong pressure during the 2004 presidential campaign to cut the flow of news releases on glaciers, climate, pollution and other earth sciences, public affairs officers at the agency say." The Times adds, "Press officers, who were granted anonymity because they said they were still concerned for their jobs despite Dr. Griffin's call for openness, said much of the pressure in late 2004 was placed on Gretchen Cook-Anderson." She managed "the flow of earth science news at NASA headquarters." The story says she told colleagues "that Glenn Mahone, then the assistant administrator for public affairs, had told her that a planned news conference on fresh readings by a new NASA satellite, Aura, that measures ozone and air pollution, should not take place until after the election. In an e-mail message yesterday, Ms. Cook-Anderson… said, 'While I can't discuss these matters, I won't disagree with that description of what took place.'" The Times says Mahone did not return calls seeking comment and that "Dean Acosta, a political appointee who was then Mr. Mahone's deputy and is now Dr. Griffin's press secretary, said he had never pressed Ms. Cook-Anderson to cut back on news releases. … But archives of news releases on the NASA headquarters Web site show a sharp change in the number of such releases, to 12 in 2005 from about four dozen in 2004." The Times cites other complaints such as a "standing unwritten order from political appointees" to not use the term "global warming," but "climate change." The story closes, "David R. Mould, NASA's assistant administrator for public affairs and a political appointee, said none of the appointees had brought a political agenda to the agency. 'We've received no marching orders from anyone,' Mr. Mould said."

Griffin Likely To Face Questions On Subject In Today's Hearing. In his space news blog "The Write Stuff" (2/15) Orlando Sentinel space editor Michael Cabbage writes, "NASA chief Michael Griffin's scheduled appearance before the House Science Committee on Thursday will be lawmakers' first chance to grill him since the administration's 2007 budget request was made public. It also will be the first hearing since revelations about a hyper-partisan public affairs officer and a potential scandal involving the NASA inspector general. There are bound to be plenty of tough questions about cuts to NASA programs and whether some of the agency's political appointees have spun out of control. Put Griffin's blunt, straightforward style in front of lawmakers looking to score political points in an election year and this could get really interesting. The hearing begins at 10 a.m. EST and can be watched on the web."

NOAA Statement Acknowledges Dissent. The Wall Street Journal (2/16, Regalado, 2.11M) reports, "Amid a growing outcry from climate researchers in its own ranks, the National Oceanic and Atmospheric Administration backed away from a statement it released after last year's powerful hurricane season that discounted any link to global warming. A corrected statement, which says some NOAA researchers disagree with that view, was posted to NOAA's Web site

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yesterday. The change is part of a high-stakes fight over the issue of global warming, and what some scientists complain is a widening gap between what their research shows and White House climate policy." Scientists have been complaining about interference since December, the Journal says. "They gained force last week when James Hansen, a climate researcher at NASA Goddard Institute for Space Studies, again accused NOAA of censoring scientific communication. Dr. Hansen has said NASA public-affairs officials had tried to discourage him from presenting his views that human activities could lead to severe global warming."

The Christian Science Monitor (2/16, Chaddock, 61K) reports, "Dissent often carries a price in official Washington, especially in the war years of the Bush presidency. Since the Sept. 11 attacks, the number of insiders alleging wrongdoing in government - either through whistle-blower channels or directly to the press - has surged, as have reprisals against them." The Monitor cites cases in the CIA and NSA and adds, "Outside the realm of national security, James Hansen, the top climate scientist at NASA, spoke out about efforts by the NASA press office to screen his speeches and limit his contact with the press. In response, Rep. Sherwood Boehlert (R) of New York, chairman of the House Science Committee, backed Dr. Hansen" and NASA's Michael Griffin "e-mailed all NASA employees, affirming that staff should not alter, filter, or adjust scientific work. But Hansen says the issue is not yet resolved, citing a pending investigation by the House Energy and Commerce Committee challenging the scholarship of other scientists working on global warming."

In a column about general White House communication strategy on the Seattle Post-Intelligencer (2/16) Marianne Means writes, "Recently a prestigious climate scientist complained that a young Republican hack at NASA had been muzzling him to prevent him from warning of global warming, a concept the administration refuses to confront."

Specter Earmarked $50 Million In Defense Funds To Firm Represented By Aide's Spouse. USA Today (2/16, Kelley, 2.31M) reports Sen. Arlen Specter "helped direct almost $50 million in Pentagon spending during the past four years to clients of the husband of one of his top aides, records show." Specter used "'earmarking' 13 times to set aside $48.7 million for six clients represented by lobbyist Michael Herson and the firm he co-founded, American Defense International. The clients paid Herson's firm nearly $1.5 million in fees since 2002, federal lobbying records show." Herson's wife, Vicki Siegel Herson, "is Specter's legislative assistant for appropriations. She deals with Specter's work on the Senate Appropriations Committee and its defense subcommittee, where all the earmarks originated. Siegel, who uses her maiden name at work, is a former lobbyist for defense contractors who has worked for Specter since 1999."

USA Today (2/16, 2.31M) listed the projects earmarked by Sen. Specter, which included "$20.9 million in the 2005 and 2006 budgets for projects at Drexel University in Philadelphia dealing with bioterrorism response and computer networking. Drexel has paid ADI $200,000 a year since 2002."

Earmark Reform Could Undercut Bipartisanship. The Hill (2/16, Cusack) reports the "building momentum for earmark reform could force lawmakers to cut back significantly on their beloved pork projects, and in the process reduce something that is in short supply on Capitol Hill: bipartisanship." Securing "federal money for local projects regularly unites conservatives and liberals from the same or neighboring states, but future funding for earmarks will probably be dramatically cut now that the anti-pork movement, led by Sen. John McCain (R-Ariz.) and House Majority Leader John Boehner (R-Ohio), has gained traction." Unlike "taxes, healthcare and ethics issues, Republicans and Democrats are careful not to criticize each other on earmark funding." Most lawmakers "put aside their philosophical differences and join forces with their political adversaries because most of what they do is aimed at winning the next election: fundraising, gerrymandering their districts and crowing about the local projects they fought for in Washington."

Hastert Wants Reform Proposal By March. CQ (2/15, Ferrechio) reports Speaker Hastert "wants to get the lobbying scandal behind House Republicans by the end of March — a deadline that would require him to resolve differences with new Majority Leader John A. Boehner over privately financed congressional travel." During a "closed-door GOP conference meeting Wednesday, Hastert told fellow House Republicans that they must reconcile their divergent views so that a bill can be taken up on the floor by the end of March." Hastert and House Rules Chairman Dreier "have proposed banning privately funded travel, tightening limits on gifts to members and staff and requiring additional disclosures about lobbyist-lawmaker interactions." But plans to "quickly introduce legislation hit a snag earlier this month, when rank-and-file members loudly voiced their opposition. Many called the tighter gift limits insulting and complained that a travel ban would eliminate useful trips with educational value."

Top GOP Leaders' Opposition Slows House Earmark Reform. The Washington Times (2/16, Dinan, 90K) reports the "push to end earmarks, which critics call pork-barrel spending, is bogged down in the House, thanks to a strong defense of the practice from top Republicans." House Appropriations Committee Chairman Jerry Lewis "said the

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Predator unmanned aerial vehicle, used for missile attacks on terrorist lairs, is a shining example of the best of earmarks. He said the Predator proved its success in Bosnia after he stuck an earmark into a spending bill in the mid-1990s, long before the war on terror." Other leaders "defend the practice by saying it's how they are judged at home." Rep. Thomas M. Reynolds of New York, chairman of the National Republican Congressional Committee, said, "The Buffalo News, which is my hometown newspaper, still believes I ought to bring home the bacon." The Times adds earmark "opponents have noticed the return fire." Rep. Jeff Flake said, "The empire is striking back." He said Mr. Lewis "tried to intimidate his bill's supporters by issuing a list of earmarks that each had requested."

Nonprofit Groups Oppose Proposals To Ban Private Congressional Trips. The Hill (2/16, Hearn) reports a "handful of nonprofit groups that sponsor travel for members of Congress are pushing back against recent proposals to ban privately funded trips, arguing that their activities are far different from the golfing and exotic foreign junkets that have been the centerpiece of recent lobbying scandals." Groups such as the American Israel Public Affairs Committee (AIPAC), the American Jewish Committee (AJC), the Religious Action Center of Reform Judaism and the Council for Christian Colleges & Universities "have been quietly raising the issue with sympathetic members of Congress, hoping to convince lawmakers that their trips are valuable educational experiences and have not been abused by lawmakers or lobbyists." Meanwhile, Speaker Dennis Hastert and Rules Committee Chairman David Dreier (R-Calif.), "whom Hastert tapped to marshal a reform package through the House, have received significant blowback from their own members since introducing a series of suggested reforms last month. A large section of the conference is opposed to a ban on privately funded travel that Hastert and Dreier proposed last month. The two leaders are hoping to work through the committees of jurisdiction to bring some reforms to the floor."

Lobbyists Frustrated By Failure Of Online Disclosure System. The Washington Post (2/16, A9, Birnbaum, 744K) reports, "Thousands of lobbyists, including the president of a lobbyists' trade association and the co-author of an authoritative lobbying manual, were unable to file their disclosure reports electronically this week as required by a new congressional system." Paul A. Miller, president of the American League of Lobbyists, and Thomas M. Susman, co-editor of the American Bar Association's "The Lobbying Manual," "tried to send their reports to the clerk of the House of Representatives via the Internet on Tuesday, the filing deadline. But, like many of their colleagues, they were frustrated to receive a return message that said 'Submission status: failed.'" Unable to "use the new filing method, they were forced to print out their reports and mail or fax them with a cover letter explaining that at least they had tried."

Lobbying Firms Report $36 Million Increase In Revenue In 2005. Roll Call (2/16, Newmyer) reports that despite "stormy times for the Washington, D.C., lobbying industry, the top firms in town are reporting steady growth for 2005." The top 25 firms 'collected $397.9 million in lobbying revenues — a $36 million jump from the fees reported by the 25 largest shops the previous year." That's an "8 percent climb from 2004 to 2005 — a solid recovery after a slow presidential election year, though still less than the 15 percent annual growth rates the sector chalked up in prior years." Officials at top-ranked firms "predicted that current rates of growth would continue, though they also sounded a note of caution for the coming year, citing a short legislative calendar and the looming prospect of new restrictions on the lobbying business."

The Washington Post (2/16, A25, Sarasohn, 744K) reports in its "Special Interests" column, "It is February 2006, but the results of the lobbying disclosures for the first six months of 2005 are just in at PoliticalMoneyLine, the online organization that tracks lobbying and campaign money: A record $1,164,586,968 was spent on lobbying Congress and the executive branch during the first six months. That amounts to '$194 million in spending per month, almost $6.5 million a day, or more than $540,000 an hour in a twelve-hour day."

Former Member Says Congress Should Crack Down On Crooked Lobbyists. In a Roll Call op-ed (2/16), former Rep. Bill Sarpalius says he has spent "the past 10 years as a paid lobbyist. My career has been built on garnering the support of elected officials on issues that were important to my constituents and that currently are important to my clients." Good lobbyists "do their homework and help Members of Congress understand the impact of legislation, the outcomes of which American citizens must live with every day." The "point is that not all lobbyists are bad or crooked, and they should not be blindly grouped with Jack Abramoff. What is bad is the method that some lobbyists, such as Abramoff, employed to influence Members of Congress." It is "unfortunate that individuals such as Abramoff, who apparently lacks any and all ethics, abused the system and his clients." Sarpalius adds, "Perhaps Congress should focus on those who abuse the system and who do not follow the reporting requirements."

NAS Creates Informal Embryonic Stem Cell Oversight Committee. The New York Times (2/16, Wade, 1.19M) reports, "To fill a void in federal supervision,

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the National Academy of Sciences is setting up a committee to provide informal oversight over research with human embryonic stem cells." The National Institutes of Health is "unable to specify what kinds of research are ethically acceptable" due to "the Bush administration's reservations about embryonic stem cell research," even though "contentious issues in biological research are usually handled by" it.

President's Bioethics Council Member Criticizes Bush Stance On Cloning. Michael Gazzaniga, director of the Center for Cognitive Neuroscience at Dartmouth and a member of the President's Council on Bioethics, writes in an op-ed in the New York Times (2/16, 1.19M), "I have not heard any outcry over" President Bush's "policy statement on cloning" from his State of the Union speech, and "I can only guess that this means the public doesn't care, or doesn't understand what Mr. Bush means." His "calling human cloning in all its forms an 'egregious abuse' is a serious mischaracterization," and using "the phrase 'in all of its forms'" is "a way of conflating very different things: reproductive cloning and biomedical cloning." Even "the president's own largely conservative Bioethics Council…made a big distinction between the two forms of cloning," but "the president rejected the advice of his own counselors and has kept his ban on federal financing of stem cell research for all but a handful of strains of existing lines." However, "This search for alternatives is costly not just in dollar terms but also in time not being spent on the best research possibilities. And it represents a perversion of the scientific process:… it is being used in the service of political goals."

OTHER NEWS:

Bernanke Says Economy On Track For Continued Growth. ABC World News Tonight (2/15, story 8, :20, Vargas) reported, "The new Federal Reserve Chairman made his debut today on Capitol Hill. Ben Bernanke stuck closely to the script of his predecessor, Alan Greenspan, that the economy is on track for good growth this year. But there was one big difference, committee members said he was much easier to understand. Bernanke signaled that the Fed is ready to boost interest rates if needed to control inflation."

Reuters (2/16, Ahmann) reports Bernanke "said the US economy was running so near capacity that higher interest rates may be needed to quell the risk of inflation." The Fed chairman "appeared keen to establish credentials as an inflation 'hawk' in his first extensive comments since taking office two weeks ago by stressing the need to keep price pressures contained." The Wall Street Journal (2/16, Ip, 2.11M) also says :Bernanke demonstrated continuity with Alan Greenspan's interest-rate policies but broke with his predecessor's style.:

Knight Ridder (2/16, Hall) reports, "Unlike his predecessor Alan Greenspan, who was famous for convoluted public testimony, Bernanke was clear, concise and mercifully brief." He "erased any doubts that he, as a longtime academic, could handle the political hot seat. He answered tough questions with confidence, authority and an occasional gentle smile." The Financial Times (2/16, Balls) reports Bernanke "made an assured debut."

The Christian Science Monitor (2/16, Trumbull, 61K) reports, "Often, a transition in leadership at the Federal Reserve is a rocky time for financial markets. Dips or dives for stock prices are not uncommon. For Ben Bernanke, it's so far so good." Bernanke "has sent signals that have done more to calm and encourage Wall Street than to rattle it."

The New York Times (2/16, Andrews, 1.19M) reports, "He was calm and he was cool, and he most certainly was not Alan Greenspan." He "did three things on Wednesday that his predecessor usually did not: He gave short answers, generally free of twists and turns that could be interpreted in two or more ways. He simply refused to answer questions that would ensnare him in politically charged battles over tax cuts, spending cuts or the overhaul of Social Security. ¶He said nothing that rattled the financial markets."

USA Today (2/16, Kirchhoff, Hagenbaugh, 2.31M) also emphasized Bernanke's "straightforward manner," while the Washington Post (2/16, Henderson, Irwin, 744K) runs a similar story under the headline "Bernanke Says Economy's Expansion Is On Track." The Washington Times (2/16, Hill, 90K) titled its report "Bernanke Optimistic On Economy."

Factory Output Rises Again In January. The Wall Street Journal (2/16, Conkey, 2.11M) reports, "US factory output rose 0.7% in January from December levels, the fourth consecutive monthly increase and another sign of increasing economic momentum." The Federal Reserve "said overall industrial production last month fell 0.2% from the previous month, largely because of a 10.1% decline in utility output linked to unseasonably warm weather in many parts of the country."

Utility Output Declines. The New York Times (2/16, 1.19M) reports, "Industrial production unexpectedly fell last month as the warmest January in more than a century led to a record decline in utility use even as manufacturing strengthened, the Federal Reserve said yesterday. … Utilities generated less power as heating demand fell during the warmest January since records began in 1895. Utility production fell 10.1 percent, the biggest drop on record, the report said."

Foreign Investment Slows. The Wall Street Journal (2/16, Walsh, 2.11M) reports, "Non-US investors made $56.6 billion in net purchases of U.S. securities during December, the smallest amount in seven months and a reminder of

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America's dependency on foreign capital to finance its trade deficit." While foreign investors "bought a strong $74.2 billion in US securities, Americans invested $17.6 billion in foreign securities, leaving a net capital inflow that was far less than Wall Street analysts expected."

Home Ownership Rate Appears To Be Leveling. The Wall Street Journal (2/16, Simon, 2.11M) reports, "After climbing steadily for a decade, the nation's homeownership rate appears to have leveled off. New data released late last month by the U.S. Census Bureau put the homeownership rate at 69% in the fourth quarter of 2005, down from 69.2% a year earlier." While "the decline itself is too small to be considered statistically significant," it is "the third quarter in a row that the rate hasn't posted a year-over-year gain -- and it's the first time since 1994 that the rate at year-end hasn't increased from the previous year."

Meanwhile, says USA Today (2/16, Knox, 2.31M), "Home prices in the fourth quarter of 2005 posted double-digit increases in 72 metro areas -- a record number that likely marked a high point in this real estate cycle, the National Association of Realtors said Wednesday. Nationwide, the median sales price for an existing single-family house rose to $213,000 in the fourth quarter, up 13.6% from the October-December period of 2004. But David Lereah, the NAR's chief economist, cautioned that the market is rapidly cooling." The Wall Street Journal (2/16, Bater, Kerch, 2.11M) runs a similar story under the headline "Home-Price Growth Still Hot, But Pace Has Cooled Some."

Stocks Up. The New York Times (2/16, 1.19M) reports, "The Dow Jones industrial average gained 30.58 points, or 0.3 percent, to 11,058.97. The Standard & Poor's 500-stock index climbed 4.47 points, or 0.4 percent, to 1,280. The Nasdaq composite index rose 14.26 points, or 0.6 percent, to 2,276.43." The Wall Street Journal (2/16, Patterson, 2.11M) also reports the stock numbers.

States Looking For Ways To Cut Medicaid Costs. The Wall Street Journal (2/16, Solomon, 2.11M) reports that with Medicaid costs "now consuming about 17% of state general-fund budgets, and rising at more than twice the rate of inflation, state governments are scouring the health program for savings to protect their bottom lines. But changing a safety net for 52 million poor and disabled Americans involves delicate trade-offs -- and political risk." Arkansas Gov. Mike Huckabee, a Republican who heads the National Governors Association, said, "A lot of governors are looking at what is being done out there, but looking with a cautious eye." The Journal adds some states, like Florida and Vermont, are "experimenting with limits on how the state will pay for Medicaid recipients' medical costs. Others, like Tennessee, have wound up cutting hundreds of thousands of individuals off Medicaid, prompting a backlash from residents and health-care advocates."

GOP Believes It Could Win Jefferson Seat If He Resigns. A front page story in the Washington Post (2/16, A1, Murray, Lengel, 744K) reports on Rep. William Jefferson, who federal investigators are targeting "for allegedly demanding cash and other favors for himself and relatives, in exchange for using his congressional clout to arrange African business deals. A former aide recently pleaded guilty to bribing Jefferson and is cooperating with authorities, and sources familiar with the case say a plea agreement with the lawmaker is being explored." The Post adds, "Jefferson's world is toppling. … Depending on Jefferson's fate, his central New Orleans district -- badly damaged by Hurricane Katrina and in need of effective representation in Washington -- could face a rowdy special election. The political scene is so chaotic that Republicans believe they could win the gerrymandered Democratic seat."

Kean Leads Polls In New Jersey Senate Race. Roll Call (2/16, Drucker) reports that New Jersey State Sen. Tom Kean Jr. 'is running against newly appointed Sen. Bob Menendez (D)." President Bush "lost New Jersey to Sen. John Kerry (D-Mass.) in the 2004 presidential race, but cut his defeat margin in half compared to the 16-point bath he took in 2000 against then-Vice President Al Gore. And, he raised his percentage of the vote from 40 percent to 46 percent. But Bush's job-approval numbers in the Garden State are down. A Strategic Vision poll conducted Feb. 3-5 showed that only 37 percent of likely voters approve of his job performance, with 57 percent disapproving. The survey had a 3 percent margin of error. The good news for Kean in this poll is that he led Menendez in a Senate matchup, 33 percent to 28 percent, even though 39 percent of respondents self-identified as Democrats, compared to only 28 percent who said they were Republicans. Thirty-nine percent of those surveyed were undecided, possibly leaving the answer to how this race turns out in the hands of undecided voters. A Zogby poll conducted Feb. 8-10 showed Menendez leading Kean 37 percent to 32 percent, with 30 percent undecided." Roll Call adds, "Menendez begins the race with a hefty financial edge, banking more than $4.2 million at the end of 2005, compared to $861,000 for Kean. … Running statewide in the Garden State is an expensive proposition because 76 percent of it is encompassed by the New York City media market, while 24 percent is covered by Philadelphia. New Jersey is a state light on retail politicking and heavy on mass media, so money will matter; it costs about $1 million per week to advertise effectively on television in the two markets."

Steele Called GOP's "Great Black Hope." Roll Call (2/16, Kurtz) calls Maryland Lt. Gov. Michael Steele, "the

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GOP's great black hope, the Republican with the best chance of winning a Senate election in Maryland since 1980." Roll Call adds, "It may be overly simplistic to say that Steele's strategy for victory is based solely on scrambling Maryland's normal political math — on picking off as many black voters as possible in a state where Democrats have routinely enjoyed 90 percent black support. But a recent day with Steele in the middle-class black enclave of Prince George's County shows just how potent a candidate he can be."

Steele Campaign Manager Resigns. The Washington Post (2/16, B4, Mosk, 744K) reports, "The man hired to run Maryland Lt. Gov. Michael S. Steele's campaign for U.S. Senate has resigned, an internal move disclosed for the first time yesterday in the aftermath of an off-balance week for the Republican candidate. Campaign manager Graham M. Shafer made a quiet exit earlier this month, citing family obligations, a campaign spokesman confirmed yesterday. His departure highlighted a growing tug within the Steele campaign between the candidate's Washington advisers and his coterie of longtime loyalists from Maryland, of which Shafer was one." The Post adds, "One Washington figure who does know Maryland well, and who is taking a more hands-on role in the campaign, is national GOP Chairman Ken Mehlman, Steele confirmed during a brief interview at the State House yesterday. Mehlman is a native of Pikesville, a suburb north of Baltimore, and he ran President Bush's 2004 reelection campaign before becoming party chairman. He has made electing black Republicans a key goal nationally and has focused considerable personal attention on Steele."

Interest Group Director Criticizes Unions. Rick Berman, executive director of the Center for Union Facts, writes in an op-ed in the Washington Times (2/16, 90K), "Despite the anti-democratic tendencies, the hypocrisy, the corruption and the political machinations of their leaders, unions remain remarkably popular." They hire "temp workers" and "the homeless to picket" for them. "Needless to say, there's no health care or pension plan contributions for these folks." Also, "in 2005 alone, federal racketeering investigations resulted in 196 convictions against union officials and staff, as well as $187 million in fines." Organization now means "union representatives cajole, harass and intimidate workers to sign cards. As soon as half of them sign a card, all of them start paying the union to keep their jobs." Several "titans of American industry all went bankrupt, largely because union bosses were unwilling to back off from unsustainable labor contracts. American workers have been victimized one too many times by union executives. It's time for American workers to ask if they're getting their money's worth."

Venture Capitalists Investing In Education Entrepreneurs. The New York Times (2/16, Flanigan, 1.19M) reports, 'Venture capitalists of Silicon Valley, who have backed hundreds of high-technology entrepreneurs, are eagerly financing a new group these days: schoolmasters. 'We give education entrepreneurs money to start or to speed up building their companies,' said L. John Doerr, who over 26 years has helped start dozens of ventures, including Sun Microsystems, Amazon.com and Google. He help found the New Schools Venture Fund in San Francisco six years ago for a new breed of entrepreneur — the kind who doesn't have to produce a profit. … Recipients of the fund's investments are not whiz kids eager to become the next Bill Gates. Mainly, they are public school teachers with a passion to improve the ways poor children are taught. The companies they form are nonprofit charter school management organizations, capable of running publicly financed elementary and secondary schools that are freed from some rules and regulations in exchange for producing educational results better than those of the large urban school district. Almost all their students are eligible for free or reduced-price breakfasts and lunches."

Maine Subsidized Health Insurance Criticized. Tarren Bragdon, director of health reform initiatives at the Maine Heritage Policy Center, and Adam Brackemyre, assistant director of legislative affairs for the Council for Affordable Health Insurance, write in an op-ed in the Wall Street Journal (2/16, 2.11M) that Maine Gov. John Baldacci's (D) Dirigo Health program, which "the governor claims has saved the state millions of dollars," will cause state taxes to "go...up." Dirigo "is levying a Savings Offset Payment, or SOP -- a remarkably innovative name for a new claims tax -- to 'recover' every dollar that the state says it has 'saved,'" as "without the SOP, Dirigo Health's high costs would bankrupt the program." However, "if Dirigo truly saved money, the program's benefits would exceed its costs." Now, the "legislature held a public hearing for a bill that would forbid insurers from passing along the cost of the SOP to policyholders," which "threatens the very financial viability of the private insurance market in Maine." Instead, "a better alternative for uninsured individuals in Maine is Health Savings Accounts."

Economist Calls For $2 Per Gallon Gasoline Tax. Economist Robert Frank writes in the New York Times (2/16, 1.19M) that a $2 per gallon gasoline tax "whose proceeds were refunded to American families in reduced payroll taxes" would "produce hundreds of billions of dollars in savings for American consumers, significant reductions in traffic congestion, major improvements in urban air quality, large reductions in greenhouse gas emissions, and substantially reduced dependence on Middle East oil." Frank

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adds, "Proposals of this sort have been advanced frequently in recent years by both liberal and conservative economists. Invariably, however, pundits are quick to dismiss these proposals as 'politically unthinkable.'" Frank adds, "The gasoline tax-cum-rebate proposal enjoys extremely broad support. Liberals favor it. Environmentalists favor it. The conservative Nobel laureate Gary S. Becker has endorsed it, as has the antitax crusader Grover Norquist. President Bush's former chief economist, N. Gregory Mankiw, has advanced it repeatedly. In the warmer weather they will have inherited from us a century from now, perspiring historians will struggle to explain why this proposal was once considered politically unthinkable."

WSJournal Lauds Suits Against "Wal-Mart" Laws. The Wall Street Journal (2/16, 2.11M) editorializes, "America's retailers announced last week that they aren't especially keen to follow the steel, airline and perhaps the auto industries into bankruptcy court" with "two federal lawsuits filed by the Retail Industry Leaders Association against the state of Maryland and Suffolk County, New York. At issue are the "Wal-Mart" laws that both jurisdictions recently passed." This "unusual show of solidarity… suggests more companies are figuring out that organized labor's campaign against Wal-Mart is merely a warm-up to a broader assault" under the "union strategy…to force any competitive, non-unionized company to incur the same labor-induced costs as their own beleaguered employers." Still, "the good news is that the judiciary isn't likely to let such legal gerrymandering stand."

Bush Seeks $75 Million To Promote Democratic Reform In Iran. ABC World News Tonight (2/15, story 5, :45, Sawyer) briefly noted that after her testy hearing before the Senate Foreign Relations committee, "Secretary Rice announced a $75 million program to support democracy in Iran."

Fox News' Special Report (2/15, Rosen) reported, "Secretary Rice came to the Senate Foreign Relations Committee touting the Bush Administration's $100 million program to promote democracy in Iran and lamenting that country's claims to have restarted uranium enrichment." Fox (Rosen) added, "Rice and her aides all steered clear that the US is trying to pursue regime change in Iran. But she said the money will go toward supporting things like exchange programs, indigenous groups inside Iran that promote free thinking. $50 million of the money would subsidize around the clock Farsi language broadcasts inside of Iran."

Reuters (2/16, Hudson) reports, "Bush wants $75 million to try to spur democracy in its adversary Iran, expanding a program that skeptics say can have little effect in the Islamic republic." In congressional testimony Secretary of State Condoleezza Rice "said the funds would be used to broadcast U.S. radio and television programs into Iran and help pay for Iranians to study in America, requested the money in a supplemental budget request for fiscal year 2006." $10 million has already been approved by Congress, but experts "are skeptical U.S. efforts to reach out to Iranians can work in a country where America is labeled the 'Great Satan' and believed to be anti-Muslim."

The Wall Street Journal/AP (2/16) reports, "The Bush administration will 'walk a fine line' in seeking punitive international sanctions against Iran's Islamic government over its disputed nuclear program, Secretary of State Condoleezza Rice said Wednesday." Rice "detailed a two-track approach to Iran -- concerted international pressure to deter Tehran from building a bomb, and a newly robust attempt to seed democratic change inside the country with $75 million for broadcasts and aid to dissidents." Yet, "Rice ran into tough questions from lawmakers of both parties…underscoring congressional worries about administration policies throughout the Middle East."

The New York Times (2/16, Weisman, 1.19M) reports, "The scope of the administration's effort goes beyond the numbers. Until now, the United States has been cautious about supporting dissident groups, fearful that Iranians may view these efforts as an echo of past American meddling in Iran's affairs." The Times notes, "Until recently, the administration has been cautious about embracing the 'regime change' approach, but some conservatives at the Defense Department and Vice President Dick Cheney's office are known to be resigned to a nuclear-armed Iran and to argue that the best way to address that problem is by opening Iran to democracy and reform."

The Financial Times (2/16, Dinmore) said the Budget request was a signal the US was setting out "a tougher policy towards Iran." Rice "did not specifically use the words 'regime change'. But her testimony revealed a dual policy of isolating Iran on the international front, including sanctions and interdictions of prohibited shipments, while seeking to weaken the clerical regime from within." Experts "advising the Bush administration say the US has realised that significant opposition to Tehran is unlikely to be generated from exiles so it has sought ways to destabilise the Islamic regime from within." But it "risks damaging the diplomatic unity it has achieved at the United Nations in confronting Iran over its nuclear programme."

The Washington Times (2/16, Kralev, 90K) adds, "Rice said she might shift funds from other programs in the 2007 budget to boost the Iran democracy fund." Senior State Department officials "said Washington has been receiving more support from other countries on pushing democracy in Iran since President Mahmoud Ahmadinejad took office in August."

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The Washington Post (2/16, A1, Kessler, 744K) in a front page story says "Rice won bipartisan praise for her handling of negotiations on Iran's nuclear programs, but lawmakers from both parties raised objections to the overall thrust of the administration's Middle East policy."

Bloomberg (2/16, Zacharia) notes Rice "told the panel she plans to visit the Persian Gulf next week to talk about Iran. 'No one wants to see a Middle East that is dominated by an Iranian hegemony, particularly one that has acquired nuclear weapons technology,' she said."

US Threatens Iran With Sanctions. Reuters (2/16, Heinrich) reports, "Threatening new sanctions, the United States accused Iran on Wednesday of defying the world by resuming uranium enrichment for nuclear fuel without resolving suspicions it secretly wants to build atomic bombs." Meanwhile, "Russia urged Iran to change course to allow a compromise. It said Iran had to regain international trust before Moscow would back Tehran's declared right to enrich uranium on its own soil."

Meeting Between Iranian Minister, EU Panel Seen As Possible Return To Dialogue. The AP (2/16, Wielaard) reports, "Iranian Foreign Minister Manouchehr Mottaki will meet Monday with the European Parliament's foreign affairs committee." The meeting was suggested by Iran "and showed a readiness in Tehran to 'return to a dialogue' with Europe," the panel's spokesman Thomas Bickel said.

Ahmadinejad Tours Nuclear Facility. The AP (2/16, Dareini) reports, "President Mahmoud Ahmadinejad visited the Natanz uranium enrichment plant Wednesday, a day after Tehran confirmed it had resumed small-scale enrichment there last week, the official news agency reported." His "visit to the plant in central Iran is widely seen as a gesture of support and a morale boost for scientists involved in Iran's uranium enrichment program."

Khamenei Also Has Role In Determining Iranian Nuclear Dispute. Time (2/16, MacLeod) in a web exclusive reports Iranian President Mahmoud Ahmadinejad "does not determine Iran's foreign policy alone. It is ultimately in the hands of Iran's Supreme National Security Council, which reports to Supreme Leader Ayatollah Ali Khamenei. And despite the Iranian president's defiant posture, the National Security Council has signaled its continuing interest in a negotiated settlement by announcing that an Iranian delegation will visit Moscow next week for talks on a proposed Russian compromise. But with Ahmadinejad turning the nuclear issue into a populist cause, it's far from certain that the more pragmatic heads will prevail."

Rice Defends Administration Middle East Policies. ABC World News Tonight (2/15, story 5, :45, Sawyer) reported Secretary of State Condoleezza Rice "had a very rough day on Capitol Hill. Senators from both parties sharply criticized the Administration's policies on Iraq, then Iran, then the Palestinians. Republican Chuck Hagel of Nebraska, was especially blunt." Sen. Hagel: "I don't see, Madame Secretary, how things are getting better. I think things are getting worse. I think they're getting worse. I think they are getting worse in Iraq. I think they're getting worse in Iran." Secretary Rice: "I am optimistic that the United States is seeing Iraqis step up, take responsibility for seniority, take responsibility for controlling their territory."

CNN's The Situation Room (2/15, Blitzer) reported, "Rice took heat from Senators of both parties over the Administration's policies in Iraq, Iran and the Palestinian territories. It was Rice's first congressional testimony in months, and Senators accused the Administration of being too upbeat in its assessment of global hot spots."

Fox News' Special Report (2/15, Hume) reported that Rice got "an earful of criticism from both Democrats and Republicans." While Rice presented the Administration's plans for Iran, "many of Rice's questioners had a different focus. Democrats used the hearing to assail the Administration's conduct of the war in Iraq. … Two Democrats on the panel, Chris Dodd of Connecticut and John Kerry of Massachusetts, at times treated the hearing like a deposition or grand jury inquiry into the CIA leak case."

US Will Continue To Provide Aid To Palestinians, But Not Government. The Wall Street Journal/AP (2/16) reports that in testimony before the Senate Foreign Relations Committee Secretary of State Condoleezza Rice "provided new detail about the future of U.S. aid to the Palestinians under Hamas. … Rice said the U.S.…would not turn its back on such humanitarian programs as immunizing children against disease." In response to questioning by Sen. George Allen Rice said, "But no money will go to that government." Allen said, "I don't want a penny of taxpayer money going to Hamas." Rice replied, "Neither do I." She "reiterated that message later Wednesday in a private meeting with eight Jewish leaders she invited to the State Department to discuss Hamas and Iran."

Hamas Control Of Security Forces Uncertain. USA Today (2/16, Gutman, 2.31M) reports, "A key issue for the new government will be how to assert control over the Palestinian security forces. Preventive Security, the main intelligence outfit, is one of about 12 Palestinian security departments. All are currently in the hands of people connected to the ruling Fatah Party." And "Some in Hamas may harbor ill will toward security forces that often hunted them. And many of the security agents may balk at working for Hamas." USA Today notes, "If Hamas is unable to exert control over the security forces, it will result in 'significant civil strife,' says Jamil Rabah, director of Near East Consulting."

The Christian Science Monitor (2/16, Mitnick, 61K) reports that "a brewing dispute between the Islamic militants

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and the deposed Fatah Party is already calling into question the stability of a new government: How will authority be divvied up between the Hamas prime minister's cabinet and the higher-ranking post held by President Mahmoud Abbas?" On Saturday Abbas is expected to deliver a speech calling for Hamas "to embrace his vision for peace with Israel." But "Hamas is expected to remain steadfast in its opposition to Abbas's approach, deepening the divide between Fatah and Hamas lawmakers as negotiations begin to form the new government." One key concern "is who will control the 60,000-strong Palestinian paramilitary police." That may influence "whether the policemen will reinforce Abbas's preference of extending a year-long calm in violence with Israel, or possibly collude with militants to launch new attacks."

Hamas Nominates Members For Senior Legislative Posts. The Washington Times/AP (2/16, Barzak) reports, "The Islamic militant group Hamas said yesterday that it will put together the next Palestinian government by early March -- timing that could help Israeli hawks in parliamentary elections." Hamas' announcement it "would stack top government positions with its own people" may "trigger an Israeli boycott of the Palestinian Authority. Yesterday, Hamas nominated three members for senior legislative posts, including parliament speaker." The AP notes, "In addition to his legislative powers, the speaker would become caretaker president if the elected head of the Palestinian Authority -- Mr. Abbas -- were to die."

Three Protestors Killed In Pakistan During Anti-Cartoon Demonstration. NBC Nightly News (2/15, story 5, 0:10, Williams) reported, "In Pakistan, three days of protests against those controversial cartoons of the prophet Mohammed took a deadly turn again there today. Three people were killed, including an eight-year-old boy, when a massive demonstration turned into a riot."

The Washington Post (2/16, A18, Lancaster, 744K) notes, "Until this week, Pakistani protests over the cartoons had been peaceful and in many cases were supported by elected officials. But as the protests have started to get out of control, officials have changed their tune, warning they will crack down on violence."

Pakistani Politics Influence Protests. The New York Times (2/16, Masood, 1.19M) reports, "The protests have also become enmeshed with Pakistani politics as opposition parties and Islamic groups opposed to the president, Gen. Pervez Musharraf, have led the protests and directed the anger over the cartoons into denunciation of General Musharraf's alliance with the West." In response to "mounting public criticism over what many protesters have described as a 'timid response' to the cartoons, the Pakistani cabinet on Wednesday tried damage control by reiterating a condemnation of 'sacrilegious material' in Western newspapers."

Musharraf Says Controversy Eroding Goodwill For West. NBC Nightly News (2/15, story 6, 2:40, Brokaw) reported, "Today's violent riots in Peshawar were another reminder of Pakistan's precarious state. An estimated 70,000 protesters took to the streets of the frontier city, the unofficial capital of Pakistan's radical Muslim movement, the gateway to the tribal region on the Afghan border where the Taliban continue to operate with the support of the local population. For his part Pakistan's President Pervez Musharraf says the cartoon controversy is canceling out much of the goodwill the West gained with its response to Pakistan's devastating earthquakes." Pakistan President Pervez Musharraf: "I think there is a terrible amount of anger. They have forgotten about all the good and they are just talking about this." Brokaw: "What can the West do?" President Musharraf: "There are many people who are voicing support over this. Please they should stop that."

Protests Have Roots In Past Muslim Grievances. The Washington Post (2/16, A1, Shadid, Sullivan, 744K) in an extensive front page story recounting the recent Muslim protests over cartoons reports that "the scope of the fallout tells only one story. The debate over the cartoons is replete with unintended consequences, some still taking shape this week. On one side is a defense of freedom of expression, on the other an unforgivable insult to a sacred figure. In between are potentially longer-lasting repercussions: a rethinking of relations between Europe and the Muslim world, and a rare moment of empowerment among Muslims who have felt besieged. Given the moral certainty pronounced by each party, some in the middle feel forced to take sides, blurring the diversity of religious thought that might offer grounds for compromise." The dispute "illustrates a broader collision of worldviews, often fueled by feelings of Muslim weakness and injury that date back long before the cartoons were published."

USA Today Raises Concerns Over Censorship. USA Today (2/16, 2.31M) editorializes that "the backlash in the Muslims street is driving an ill-considered response in the non-Muslim world, this one against free expression and free speech. Although the Western response is in the name of tolerance and preventing violence, it's a dangerous step toward censorship of ideas that give offense." USA Today notes, "religions have thrived for centuries and withstood the slings of non-believers. Those who would enshrine censorship in the name of tolerance don't give religions enough credit. They also invite censorship of their own beliefs if those who disagree come to power."

EU Leader Warns Core European Values Under Assault. The New York Times (2/16, Bowley, 1.19M) reports, "In the face of escalating attacks against foreigners in the Muslim world by violent critics of cartoons of the Prophet

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Muhammad, the European Union's chief executive said today that Europe had to fight for its core European values, including freedom of speech." European Commission president José Manuel Barroso "said in an interview that Europe had to defend its right to have in place a system that allowed the publication of the cartoons." Barroso "said European society was based on principles that included equality of rights between men and women, freedom of speech and a clear distinction between politics and religion."

Last MASH Unit To Complete Relief Mission In Pakistan. USA Today (2/16, Wiseman, 2.31M) reports, "The last of the U.S. military's legendary MASH units is completing its final assignment here in the quake-stricken Himalayas -- 3,000 miles from the frozen Korean countryside where Hawkeye Pierce and Trapper John mixed martinis, plotted practical jokes and pursued shapely nurses." Over "the next few weeks, the 212th Mobile Army Surgical Hospital will pull out of Pakistan, donate its Muzaffarabad field hospital to the Pakistani government and return to its home base at the Miesau Army Depot in Germany."

International Consensus Building For Ending Darfur Conflict. The Christian Science Monitor (2/16, McLaughlin, 61K) reports, "Amid new escalation in fighting in the troubled Darfur region of Sudan, with rebels shooting down a government helicopter Tuesday, there's fresh pressure on the international community to step in to help stop the three-year-old conflict." A "consensus is hardening in Western capitals and at the United Nations that the 7,000 African troops now in Darfur…are inadequate." Recently, "UN Secretary General Kofi Annan met with President Bush to push for US support on Darfur. Mr. Bush, who is under pressure from Christian conservatives to act, remained noncommittal. 'We did agree that we need a much more effective force on the ground' to replace AU troops, Mr. Annan said after the meeting, although he didn't mention specifics."

Congress Puts Pressure On Administration Over Sudan. The Hill (2/16, Mikhail) reports, "A bipartisan resolution denouncing both Sudan and the Arab League may place the White House in the difficult position of choosing between strategic and humanitarian interests." The Administration "will face tremendous pressure to support the measure, which expresses disapproval for the Arab League's holding its annual summit in Sudan, to bring attention to what has been deemed by many as genocide in the country's Darfur region. However, such support may undermine U.S. intelligence-sharing with Sudan as well as diplomatic efforts in Darfur and Iraq."

House Panel Criticizes Internet Companies For Aiding Chinese Censors. The CBS Evening News (2/15, story 11, 2:15, Schieffer) reported, "Officials of four of this country's biggest and richest Internet companies, Google, Yahoo!, Microsoft and Cisco, were called into Congress today and criticized for going along with censorship in China. It's the price of doing business." CBS (Hughes) added Rep. Christopher Smith likened "the four companies' cooperation with China to helping Nazi Germany." Rep. Christopher Smith, New Jersey: "If the secret police a half century ago asked where Anne Frank was hiding, would the correct answer to be to hand over the information?" Hughes: "Yahoo! officials admit to handing over information that sent Chinese dissidents to prison." Michael Callahan, senior vice president, Yahoo!: "Ultimately, American companies face a choice: Comply with Chinese laws or leave." Hughes: "But the incentives to stay are enormous, huge money from a huge population: More than 110 million Chinese Internet users and growing. But help for the Chinese web surfers may be on the way." But "apparently, China is feeling the pressure, too. In a rare move, the government tried to publicly defend its Internet controls, something American Internet companies had a hard time doing."

ABC World News Tonight (2/15, story 6, :45, Sawyer) reported, "And still on Capitol Hill, American Internet companies were called on the mat today, and accused of helping China crush dissent. Officials from Microsoft, Google, Yahoo! and Cisco, came under attack for complying with Chinese demands that they restrict Internet access and helping the Chinese government, which spies on its citizens." Rep. Tom Lantos: "My message to these companies today is simple -- your abhorrent activities in China are a disgrace. I simply do not understand how your corporate leadership sleeps at night."

The Wall Street Journal (2/16, Schatz, 2.11M) reports the high-tech executives "repeated arguments that staying in China and other repressive countries -- despite widespread Internet censorship -- does more good than harm for citizens there, as well as helping shareholders. The companies' arguments are similar to those used in the 1980s by companies criticized for doing business in South Africa."

Tech Firms Invite US Government To Provide Regulatory Remedies. The Financial Times (2/16, Kirchgaessner) reports, "Yahoo, Google, Microsoft and Cisco later responded to stinging criticism of their business practices – including accusations that they have 'enthusiastically volunteered for China's censorship brigade' – saying the issue was too big for the companies to tackle on their own and that the US government needed to take a leadership role."

The Washington Post (2/16, D5, Noguchi, 744K) reports, "All the companies invited the U.S. government to

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negotiate terms that would help them increase their services around the world while protecting the privacy of individual users." Yahoo General Counsel Michael Callahan said, "These issues are larger than any one company, or any one industry." Google vice president of global communications Elliot Schrage said the US "should make censorship a central part of trade negotiations."

The New York Times (2/16, Zeller, 1.19M) notes the request that lawmakers provide a legislative solution "divided members of the subcommittee over where blame lies if companies have gone adrift in China." Rep. Robert Wexler "asked if Congress ought not be ashamed itself, for having granted China trade status as a most favored nation. Mr. Wexler said that it was 'duplicitous' to blame the companies for doing what the government had legally sanctioned them to do, and that the firms were in a 'no-win situation.'" But that "drew an incredulous response from Dana Rohrabacher, a California Republican. 'Most favored nation status?' he said, 'Who lobbied for that? Come on. The corporations did.'"

Agreement Reached On New Haitian Leader. The New York Times (2/16, Thompson, 1.19M) reports, "The front-runner in last week's presidential election," René Préval "will be declared the winner as part of an agreement by leaders of Haiti's interim government to retabulate the votes, a high-ranking official of the Organization of American States said Wednesday night." The OAS official "said that loopholes in Haitian electoral law allow the government to discard an estimated 85,000 blank ballots included in the original tally. By excluding them, Mr. Préval's lead would increase from 48.7 percent of the votes to slightly more than 51 percent."

Election Materials Found At Dump. The Washington Post/AP (2/16, A22) reports, "U.N. police officers went to a garbage dump near the Haitian capital Wednesday to recover election materials, including numbered bags apparently used to carry results and tally sheets, as charges mounted that last week's presidential election was marred by fraud. Thousands of ballots, including some that were marked, were strewn over about an acre at the dump."

US Reestablishes Dialogue With Venezuela. Reuters (2/16) reports, "Venezuela and the United States have opened talks after they expelled diplomats this month in a dispute over charges that a U.S. naval attache was spying, U.S. officials said on Wednesday." A "private meeting on Tuesday between U.S. Assistant Secretary of State for Western Hemisphere Affairs Tom Shannon and Venezuela's ambassador in Washington came after fraying diplomatic ties between the two countries hit a new low." U.S. ambassador to Caracas William Brownfield said, "Without a doubt we have established a dialogue."

Bolton Opposes Venezuelan Bid For UN Security Council Seat. Reuters (2/16, Arieff) reports, "Venezuela is stepping up a previously low-key drive for a seat on the U.N. Security Council beginning next year, U.N. diplomats said on Wednesday, prompting criticism from U.S. Ambassador John Bolton." Bolton said, "I don't think it would be conducive to an effective and well-functioning Security Council."

Effort To Reform UN Human Rights Council Delayed. The Washington Times (2/16, Sands, 90K) reports, "A drive by a bloc of Islamic nations for a global ban on 'defamation of religions and prophets' has thrown a major kink into U.S. hopes for an overhaul of the leading U.N. human rights body." The Islamic proposal "states that 'defamation of religions and prophets is inconsistent with the right to freedom of expression' and that governments and the press have a 'responsibility in promoting tolerance and respect for religious and cultural values.'" But, "Jennifer L. Windsor, executive director of the human rights group Freedom Watch, said the OIC effort was one of a number of attempts by nations and blocs at the United Nations to 'dumb down the human rights standards.'"

EU Defense Agency Faces Funding Shortage. The Washington Times (2/16, Borowiec, 90K) reports, "The European Union's ambitious plan to create an independent defense force has stumbled into financial difficulties that are likely to delay, if not scuttle, the project. The EU defense agency is looking for an initial $60 million budget to begin weapons research, but contributions have not been forthcoming as some nations argue that NATO should remain the dominant defense pact and trans-Atlantic link, diplomats say." It "has led to an acerbic debate pitting Britain, a staunch NATO supporter, against France, the prime backer of a separate European defense capability."

Health Officials Issue Restrictions After Bird Flu Virus Arrives Early. The New York Times (2/16, Bernstein, Rosenthal, 1.19M) reports, "Health officials across Europe issued restrictions for commercial poultry farms Wednesday after reports that the deadly bird flu virus had turned up at a surprisingly early date in migratory birds in several Western European countries." While "91 people have died after picking up the virus from close contact with birds, the most immediate threat for Europe is an uncontrolled outbreak of the virus among domesticated fowl, which can rapidly decimate a national poultry industry."

Japan Could Be Model For US Energy Conservation. The Washington Post (2/16, A1, Faiola, 744K) reports, "As President Bush calls on Americans to break their addiction to oil and increase energy efficiency in the face of soaring prices, perhaps no people serve as better role models than the energy-miser Japanese." Japan "has set strict new energy-saving targets for 18 kinds of consumer

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and business electronics. Home and office air conditioners, for instance, must be redesigned to use 63 percent less power by 2008. The targets have sparked a gold rush among electronics makers, who are churning out record numbers of energy-saving -- but higher-priced -- consumer products." Currently "Japan's energy consumption per person is now almost half that of the United States" and Japan's philosophy is "rooted more in economics than environmentalism."

Indian Economic Progress Touted. Harvard professor Martin Feldstein, chairman of the Council of Economic Advisers under President Reagan, in an op-ed in the Wall Street Journal (2/16, 2.11M) writes, "When President Bush visits India next month, he will see a country that is making remarkable economic progress despite enormous structural problems. … In India he will not see the modern high-rises or the general level of prosperity that he has seen in urban China. But the progress in India is nevertheless real." Feldstein concludes, "The optimistic mood in India's business community, the desire for reforms by the top leadership of the government, and the growing number of relatively middle-class households provide a force for change and a source of support for new entrepreneurial activities. If the political leaders can now persuade the traditional opponents of reform that growth can benefit their constituents and that better new jobs will replace the old, India will see decades of remarkable achievement."

WSJournal Hopes Judge Will Allow Leniency For Cuban Refugees. The Wall Street Journal (2/16, 2.11M) in an editorial writes, "During the Cold War no one would have thought to send a child who had escaped East Germany back across the Berlin Wall. But today the U.S. thinks nothing of sending Cuban refugees intercepted at sea back to Fidel Castro's island tyranny." Fifteen recent refugees "learned that lesson the hard way." They escaped Cuba but "the Coast Guard promptly returned them, with the argument that because the old bridge was severed from the U.S. the Cubans hadn't technically made it to the land of the free. Under a policy invented by the Clinton Administration -- known as 'wet foot-dry foot' -- Cuban refugees who are not walking on land are repatriated." The Journal concludes that "the case may also be a first step toward reviewing a policy that reversed an American tradition of welcoming freedom seekers on the run from dictatorships."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Bedrock Of A Faith Is Jolted."
"Lawyer Indicted In PI Inquiry."
"Cheney Says He's To Blame In Shooting Of Fellow Hunter."
"Critics See A White House Failure To Communicate."
"Wiesenthal's Jerusalem Excavation Ignites Furor."
"Secret Data Exposed In Terrorism Case."
"Kildow Driven By Unshaken Spirit."

USA Today:
"Senate Aide's Spouse Gets A Windfall."
"'I'm The Guy Who Pulled Trigger.'"

New York Times:
"Silence Broken As Cheney Points Only To Himself."
"Deal Reached To Name Victor In Haiti's Vote."
"Tough G.I.'s Go To War Armed With Afghan ABC's."
"Chertoff Hears Harsh Criticism From Senators."
"Trying A New Tack, Fed Chief Is Brief, Clear And Also Upbeat."
"Big Study Finds No Clear Benefit Of Calcium Pills."

Washington Post:
"Cheney Says Shooting Was His Fault."
"Region's Traffic: From Bad To Worse."
"Rice Asks For $75 Million To Increase Pressure On Iran."
"Anatomy Of The Cartoon Protest Movement."
"The Legal Woes Of Rep. Jefferson."
"Japanese Putting All Their Energy Into Saving Fuel."

Washington Times:
"Commercial Photos Show Chinese Nuke Buildup."
"Cheney Accepts Blame In Shooting."
"Bernanke Optimistic On Economy."
"Overhaul Of U.N. Rights Body Hits Snag."
"King Children Not United On Center."
"Goal Of A Lifetime."

Detroit Free Press:
"E-Mail Could Alert You To Nearby Sex Predators."
"Laser Lights Blast Pilots."
"Boy, 8, Killed In Home By Gunfire From Outside."
"Cheney: I'm To Blame For Hunting Accident."

Atlanta Journal-Constitution:
"State Hunts For NASCAR Crash."
"Chertoff In The Hot Seat."
"Cheney Shoulders Blame For Shooting."
"Fulton's Assessor's Office Mess Likely To Delay Tax Bills."
"What Is Whole Grain?"

Dallas Morning News:
"VP Accepts Blame In Shooting Accident."
"I'll Fill In The Details Later, Strayhorn Says."
"Study: Calcium Benefits Limited."

Houston Chronicle:
"Cheney Accepts Blame."
"Deal OK'd After Ballot Crisis."
'HPD May Add Video Cameras To Its Ranks."

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"4 Municipal Staffers' Bonuses Bring Probe."
"Broadband Unit Portrayed As Promising."

Story Lineup From Last Night's Network News:

ABC: Cheney Hunting Accident; Cheney Interview-Analysis; Bush Hunting Incident; Katrina-Chertoff; Senate-Rice; Internet Companies-China; Saddam-Terrorism; Bernanke-Economy; Calcium Supplements; Olympic News; Olympic Skater.

CBS: Cheney Hunting Accident; Cheney Interview-Bush, Cheney-Analysis; Katrina-Chertoff; Chertoff Interview; American KIA; Abu Ghraib Photos; Saddam-Terrorism; Internet Companies-China; Willie Nelson-Gay Cowboys Song.

NBC: Cheney Hunting Accident; Cheney Interview-Analysis; Katrina-Chertoff; Saddam-Terrorism; Pakistan-Cartoon Riot; Musharraf-Cartoon Protests; Olympics-Women's Skiing; Olympics-Results; Calcium Supplements; Olympics-Jeremy Bloom.

Story Lineup From This Morning's Radio News Broadcasts:

ABC: Cheney-Interview; Hurricane Katrina Response; MA-Murder Case; Powerball.

CBS: Cheney-Interview; Australian TV-Iraqi Prisoner Abuse Video; Iraq-Police Death Squads Probe; Study-Calcium Supplements; Powerball; Wall Street.

NPR: Haiti-Election; Cheney-Interview; Hurricane Katrina Response; Foreign Stock Markets; Wall Street; Iraq-Police Death Squads Probe; CA-Death Penalty Ruling.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Participates in a Panel on Health Care Initiatives, Department of Health and Human Services; attends a Republican National Committee luncheon, Evermay, Washington, DC, closed press; participates in a Meeting with the President of Colombia, Oval Office, the White House.

VICE PRESIDENT CHENEY — No public schedule.

LAURA BUSH — Participates in a Jr. Rangers event. Banyan Elementary School, Miami.

US Senate: 10:30 a.m. JOINT ECONOMIC _ Full Committee. Hearing on economic report of the President. Katherine Baicker, Member, Council of Economic Advisers; Matthew J. Slaughter, Member, Council of Economic Advisers. Location: Room 2322, Rayburn.

9:30 a.m. ARMED SERVICES _ Full Committee. Hearing on the FY07 budget for atomic energy defense activities in the Energy Department. Energy Secretary Bodman. Location: Room 106, Dirksen.

9:30 a.m. JUDICIARY _ Full Committee. Meeting on pending business. Location: Room 226, Dirksen.

10 a.m. BANKING, HOUSING AND URBAN AFFAIRS _ Full Committee. Hearing on the monetary report to Congress. Fed Chairman Ben Bernanke. Location: Room 538, Dirksen.

10 a.m. BUDGET _ Full Committee. Hearing on the proposed FY07 budget. Secretary of State Rice. Location: Room 325, Russell.

10 a.m. ENERGY AND NATURAL RESOURCES _ Full Committee. Hearing on S. 2253, to required the Interior Secretary to offer areas of the 181 Area in the Gulf of Mexico for oil and gas leasing. Rejane ``Johnnie" Burton, acting assistant secretary of the Interior; Thomas E. Skains, CEO, Piedmont Natural Gas Co., Charlotte, N.C.; Timothy S. Parker, Dominion Exploration and Production, Houston; Michael Gravitz, U.S. Public Interest Research Group; Stephen R. Wilson, CEO and president, CF Industries Holdings Inc., Long Grove, Ill. Location: Room 366, Dirksen.

10 a.m. FOREIGN RELATIONS _ Full Committee. Hearing on pending nominations. Location: Room 419, Dirksen.

10 a.m. HEALTH, EDUCATION, LABOR AND PENSIONS _ Full Committee. Roundtable discussion on competitiveness. Erick Ajax, E.J. Ajax and Sons Inc., Minneapolis; Bob Bailey, Central Virginia Community College, Lynchburg; Michael J. Bzdack, Johnson and Johnson Inc.; Sandy Day, Omaha Public Schools; Reygan Freeney, University of Iowa; Carrie Langston, Chugwater School, Wyo.; Tom Layzell. Council on Postsecondary Education, Frankfort, Ky.; Mary Morningstar, University of Kansas; Mel Riddile, Jeb Stuart High School, Fairfax, Va.; Eric Schwarz, Citizen Schools, Boston; Jim Shelton, Bill and Melinda Gates Foundation; Edna Varner, former principal, Hamilton County Schools, Chattanooga; Robin Willner, IBM. Location: Room G-50, Dirksen.

10:30 a.m. FINANCE _ Full Committee. Hearing on the administration's trade agenda. USTR Portman. Location: Room 215, Dirksen.

10:30 a.m. VETERANS AFFAIRS _ Full Committee. Hearing on the FY07 budget for the DVA. VA Secretary Nicholson; various department officials; Peter Gaytan, American Legion; Dennis Cullinan, VFW; Brian Lawrence, Disabled American Veterans; Carl Blake, Paralyzed Verans of America; David Greineder, AMVETS. Location: Room 418, Russell.

1:30 p.m. ENERGY AND NATURAL RESOURCES _ National Parks Subcommittee. Hearing on pending legislation. Location: Room 366, Dirksen.

2:30 p.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Full Committee. Hearing on the FY07 budget for NOAA. Administrator Conrad Lautehbacher, Jr. Location: Room 562, Dirksen.

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2:30 p.m. ENERGY AND NATURAL RESOURCES _ Full Committee. Hearing on the Energy Information Administration's annual outlook on trends and issues in energy markets. Guy Caruso, Administrator, Energy Information Administration. Location: Room 366, Dirksen.

2:30 p.m. SELECT INTELLIGENCE _ Full Committee. Meeting on pending business. Closed. Location: Room 219, Hart.

US House: FLOOR SCHEDULE _ 10 a.m. Meets for legislative business. Highlights: H.Con.Res. ___ - A concurrent resolution condemning Iran for violating its international nuclear nonproliferation obligations and expressing support for efforts to report Iran to the UN Security Council.

10:30 a.m. JOINT ECONOMIC _ Full Committee. Hearing on economic report of the President. Katherine Baicker, Member, Council of Economic Advisers; Matthew J. Slaughter, Member, Council of Economic Advisers. Location: Room 2322, Rayburn.

9 a.m. AGRICULTURE _ Full Committee. Meeting to discuss FY07 budget views and estimates report. Location: Room 1300, Longworth.

9:30 a.m. APPROPRIATIONS _ Agriculture, Rural Development, FDA and Related Agencies Subcommittee. Hearing on FY07 appropriations. Acting FDA Commissioner Andrew von Eschenbach. Location: Room 2362A, Rayburn.

9:30 a.m. ARMED SERVICES _ Full Committee. Hearing on the DoD's Quadrennial Defense Review. Deputy Defense Secretary Gordon England; Joint Chiefs of Staff Vice Chairman Adm. Edmund Giambastiani, Jr.; Thomas Donnelly, AEI; Andrew Krepinevich, Center for Strategic and Budgetary Assessments; Lawrence Korb, Center for American Progress. Location: Room 2118, Rayburn.

9:30 a.m. HOMELAND SECURITY _ Full Committee. Hearing on the FY07 budget for Homeland Security Department. Secretary Chertoff. Location: Room 311, Cannon.

10 a.m. APPROPRIATIONS _ Labor, Health and Human Services, Education and Related Agencies Subcommittee. Hearing on the FY07 budget for the Labor Department. Secretary Chao. Location: Room 2358, Rayburn.

10 a.m. APPROPRIATIONS _ Defense Subcommittee. Hearing on FY07 appropriations. Defense Secretary Rumsfeld, Joint Chiefs of Staff Chairman Gen. Peter Pace, Undersecretary of Defense Tina Jonas. Location: Room 2359, Rayburn.

10 a.m. APPROPRIATIONS _ Homeland Security Subcommittee. Hearing on the Transportation Security Administration FY07 budget. Assistant Transportation Secretary Kip Hawley. Location: Room H-140, Capitol.

10 a.m. ENERGY AND COMMERCE _ Full Committee. Markup of H.R. 2829 - Office of National Drug Control Policy Reauthorization Act. Location: Room 2123, Rayburn.

10 a.m. FINANCIAL SERVICES _ Oversight and Investigations Subcommittee. Hearing on implementation of the Office of Foreign Assets Control's Weapons of Mass Destruction designation program. Robert Werner, Director, Office of Foreign Assets Control, Treasury Department. Location: Room 2128, Rayburn.

10 a.m. JUDICIARY _ Crime, Terrorism and Homeland Security Subcommittee. Oversight hearing on victims and the criminal justice system. Collene Thompson Campbell, National Chair, Force 100; Mary Lou Leary, Executive Director, National Center for Victims of Crime; Dr. Katherine Coffman, Medical Director of the Childhelp Children's Center, St. Joseph's Hospital and Medical Center; and Ms. Phyllis Turner Lawrence, Independent Consultant, Restorative Justice and Victims Services. Location: Room 2141, Rayburn.

10 a.m. RESOURCES _ Fisheries and Oceans Subcommittee. Hearing on H.R. 4686, Multi-State and Internatioanl Fisheries Conservation and Management Act of 2006. Location: Room 1324, Longworth.

10 a.m. SCIENCE _ Full Committee. Hearing on the NASA budget. Administrator Michael Griffin. Location: Room 2318, Rayburn.

10 a.m. SELECT INTELLIGENCE _ Full Committee. Closed briefing on the Annual Assessment of Threats. Director of National Intelligence John Negroponte. Location: Room H-405, Capitol.

10 a.m. WAYS AND MEANS _ Social Security Subcommittee and Oversight Subcommittee. Joint hearing on Social Security number high risk issues. Location: Room 1100, Longworth.

10:30 a.m. BUDGET _ Hearing on the FY07 discretionary budget, evaluations and spending trends. Deputy OMB Director Clay Johnson. Location: Room 210, Cannon.

10:30 a.m. VETERANS AFFAIRS _ Full Committee. Hearing on legislative presentations, with representatives of Gold Star Wives, Fleet Reserve Association, Air Force Sergeants Association, The Retired Enlisted Association, Military Officers Association of America, Vietnam Veterans of America, Association for Service Disabled Veterans, National Association of State Directors of Veterans Affairs, American Ex-Prisoners of War and National Association of County Veterans Service Officers. Location: Room 334, Cannon.

12:30 p.m. SELECT INTELLIGENCE _ Technical and Tactical Intelligence Subcommittee. Closed hearing on future imagery architecture. Location: Room H-405, Capitol.

12:30 p.m. TRANSPORTATION AND INFRASTRUCTURE _ Full Committee. Markup of views and estimates for the FY07 budget and two GSA capital

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investment and leasing program resolutions. Location: Room 2167, Rayburn.

1 p.m. ARMED SERVICES _ Terrorism, Unconventional Threats and Capabilities Subcommittee. Hearing on combating al-Queda and militant Jihadists. James Phillips, Heritage Foundation; Bruce Hoffman, RAND Corp.; Zeyno Baran, Nixon Center. Location: Room 2212, Rayburn.

1:30 p.m. HOMELAND SECURITY _ Management, Integration, and Oversight Subcommittee. Hearing on mismanagement of the border surveillance system and lessons learned for the new border initiative. Gregory Giddens, Director, Secure Border Initiative Program, James Handley, GSA. Location: Room 311, Cannon.

1:30 p.m. INTERNATIONAL RELATIONS _ Full Committee. Hearing on the FY07 State Department Budget. Secretary Rice. Location: Room 2172, Rayburn.

1:30 p.m. TRANSPORTATION AND INFRASTRUCTURE _ Full Committee. Hearing on ``Disasters and the Department of Homeland Security: Where Do We Go From Here?" DHS Secretary Chertoff. Location: Room 2167, Rayburn.

2 p.m. APPROPRIATIONS _ Science, State, Justice, Commerce and Related Agencies Subcommittee. Hearing on FY07 programs for the Office of U.S. Trade Representative. USTR Rob Portman. Location: Room H-309, Capitol.

2 p.m. GOVERNMENT REFORM _ Criminal Justice, Drug Policy and Human Resources Subcommittee. Hearing on the FY07 budget for national drug control programs. National Drug Control Policy Director John Walters. Location: Room 2154, Rayburn.

2 p.m. HOMELAND SECURITY _ Economic Security, Infrastructure Protection, and Cybersecurity Subcommittee. Hearing on risk-based spending on TSA. Kip Hawley, Administrator, TSA, Department of Homeland Security. Location: Room HC-6, Capitol.

2 p.m. VETERANS AFFAIRS _ Disability Assistance and Memorial Affairs Subcommittee. Hearing on the FY07 budget. VA Undersecretary Daniel L. Cooper; Jack McCoy, Veterans Benefits Administration; Michael Walcoff, Veterans Benefits Administration; Renee Szybala, Veterans Benefits Administration; James Bohmbach, Veterans Benefits Administration; Brian Lawrence, Disabled American Veterans. Location: Room 340, Cannon.

2:30 p.m. SELECT INTELLIGENCE _ Full Committee. Closed briefing on pending business. CIA Director Porter Goss. Location: Room H-405, Capitol.

Other: PRESIDENT ALVARO URIBE OF COLOMBIA _ Highlights: 8 a.m. Photo opportunity with USTR Rob Portman. 600 17th St. NW. Note: Photographers must RSVP. Contact: Christin Baker, 202-395-3230.

UK-SHADOW CABINET _ Members of the new Tory ``shadow cabinet" visit Washington. Highlights: 11 a.m. Shadow Defense Secretary Liam Fox speaks at the Heritage Foundation. 12:30 p.m. Fox meets with Rep. Duncan Hunter. 2:30 p.m. Fox, finance spokesman George Osborne and former Tory leader William Hague meet with Senate Majority Leader Bill Frist. 3 p.m. All meet with Sen. John McCain. 4 p.m. Hague meets with a group including former Secretary of State Albright. 5:30 p.m. Hague discusses U.S.-U.K. relations. Kenney Auditorium, 1740 Massachusetts Ave. NW.

AARP _ AARP holds its public policy meeting. Highlights: 9 a.m. Session on sustainable fiscal policies with Douglas Holtz-Eakin of the Council on Foreign Relations. 11 a.m. Session on consumer-directed health plans, with Paul Fronstin of the Employee Benefits Research Institute. Location: Polaris Room, Reagan Trade Center.

SECURITY-PREPAREDNESS _ The Infrastructure Security Partnership hosts a three day expo, the 5th annual Critical Infrastructure Resilience and Infrastructure Security for the Built Environment Congress. Architects, corporate leaders, government officials and regulators, construction, first responders, engineers, insurers, biochem specialists, facility managers and others meet to discuss security for critical structures and assets. Highlights: 8:30 a.m. - 9:15 a.m. Keynote address. Topic: Congress: A View from the Hill. With Rep. Bennie G. Thompson (D-MS), Homeland Security Committee. Location: Washington Convention Center, Mt. Vernon Square.

AGRICULTURAL OUTLOOK _ The Agriculture Department holds its annual Agricultural Outlook Forum. Highlights: 8:30 a.m. Deputy Agriculture Secretary Charles Conner. 8:40 a.m. Session on the 2006 economic and trade outlook with Chief USDA Economist Keith Collins and Undersecretary J.B. Penn. 9:15 a.m. Keynote -- Secretary Johanns. 9:45 a.m. USTR Robert Portman. 10:45 a.m. Plenary session on ``Rural America's New Economic Frontier." 1:15 p.m. Session on the food price outlook. 6:30 p.m. Dinner, with speaker Calvin Dooley, CEO, Food Products Association. Location: Marriott-Crystal Gateway, 1700 Jefferson Davis Hwy., Arlington, Va.

SECURITIES LAW _ 8:30 a.m. The U.S. Chamber of Commerce holds a Securities Law Conference. Highlights: 9:30 a.m. Keynote address - Sen. Christopher Dodd. 10 a.m. SEC Commissioner Roel Campos. 12:30 p.m. Keynote address - SEC Commissioner Paul Atkins. Location: 1615 H St. NW.

GENDER EQUALITY _ 9 a.m. - 4:30 p.m. The World Bank, others, hold a conference on gender equality. Highlights: 9:15 a.m. World Bank President Paul Wolfowitz. Location: International Finance Corp. auditorium, B2 level, 2121 Pennsylvania Ave. NW.

NANOTECHNOLOGY _ 9 a.m. Sens. George Allen and Ron Wyden hold a news conference to discuss nanotechnology issues. Location: Room 385, Russell.

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MINIMUM WAGE _ 10 a.m. The Center for American Progress Action Fund and the Ballot Initiative Strategy Center hold a discussion on a new report on state minimum wage initiatives. Participants include Sen. Edward Kennedy, Rep. Ted Strickland, Paul Booth of AFSCME, pollster Celinda Lake, Beth Shulman of the Fairness Initiative on Low-Wage Work, others. Location: 10th floor, 1333 H St. NW.

OBAMA-ETHICS _ 10 a.m. Sen. Barack Obama, D-Ill., holds a press conference to discuss legislation he has introduced to create a congressional ethics enforcement commission to receive complaints from the public on alleged ethics violations by members of Congress, staff, and lobbyists. Location: Room 432, Russell Building.

TRADE _ 10 a.m. Sen. Max Baucus holds an informal media availability to announce the Trade Competitiveness Act of 2006. Location: Room 511, Hart.

FINANCIAL EDUCATION _ 10:30 a.m. The NASD Foundation, members of Congress, SEC, and the Pentagon hold a news conference to announce a global financial education campaign for military personnel. Location: Room SC-4, Capitol.

PELOSI _ 10:45 a.m. House Democratic Leader Nancy Pelosi holds her weekly press conference. Location: Room H-206, Capitol.

BLACK CAUCUS-KATRINA _ 11 a.m. Members of the Congressional Black Caucus hold a press briefing to give assessment of the government's preparation for and response to Hurricane Katrina. Location: House Radio/Television Gallery.

GOP CENTRISTS _ 11 a.m. The Republican Main Street Partnership holds a news conference to announce its 2006 legislative agenda and discuss the administration's proposed budget cuts. Participants include Reps. Mike Castle, Tom Davis, Fred Upton, Sherwood Boehlert, Mark Kirk and Charles Bass. Location: 3rd floor dining room, Capitol Hill Club, 300 1st St. SE.

PORTS-FOREIGN OWNERSHIP _ 11 a.m. Sen. Chuck Schumer, D-N.Y., Sens. Tom Coburn, R-Okla.; Frank Lautenberg, D-N.J.; Chris Dodd, D-Conn., and Reps. Vito Fosella, R-N.Y.; Chris Shays, R-Conn., and Mark Foley, R-Fla., to begin a campaign for a new and more thorough review of the $6.8 billion dollar deal that they says puts the operation and control of the major New York and New Jersey ports in the control of a firm in the United Arab Emirates and owned by the Government of Dubai, Dubai Ports World (DPW). The deal allows DPW to take control of operations at four additional ports on the East Coast: Baltimore, New Orleans, Miami and Philadelphia. Location: Senate Radio/TV Gallery.

PROPHET CARTOONS _ 12 p.m. The Council on American-Islamic Relations holds a forum to discuss the controversy over caricatures of Islam's Prophet Muhammad. Location: National Press Club.

IRAQ-MCCOY _ 1 p.m. Army Brig. Gen. William McCoy, Commander, Army Corps of Engineers in the Gulf region, holds an Afternoon Newsmaker news conference on reconstruction in Iraq. Location: National Press Club.

ALITO _ 2 p.m. The Supreme Court holds a formal investiture ceremony for Associate Justice Samuel Alito, Jr. Location: Supreme Court.

DEMOCRATS-COMPETETIVENESS _ 2 p.m. Sens. Debbie Stabenow, D-Mich., and Jack Reed, D-R.I., join students, vocational teachers, and technology company executives for a press event to call on President Bush to offer what they describes as ``real policies to increase Americas competitiveness, not budget giveaways to special interests." Location: Room S-207, Capitol.

REPUBLICANS-MP'S _ 2:30 p.m. Photo op with Senate Majority Leader Bill Frist, Senators McConnell and Santorum, and conservative members of the British Parliament. Location: Room S-230, Capitol.

US-UK _ 5:30 p.m. William Hague, the United Kingdom's shadow foreign secretary and senior member of the shadow cabinet, will discuss the issues facing the special relationship between the United States and the U.K. in the 21st century, including the challenges of the ``war on terror," the new strategic environment and the state of the U.S.-U.K. alliance. Location: Kenney Auditorium, 1740 Massachusetts Ave. NW.

MUSLIM ACTIVIST _ 7 p.m. The Mediterranean Institute sponsors the first U.S. lecture by Muslim peace activist Tawfik Hamid on al-Qaida. Location: Room 201B, White-Gravenor Hall, Georgetown University.

TERRORISM-CIVIL LIBERTIES _ 8:15 p.m. There will be a Georgetown Law Forum: ``The War on Terror: Civil Defense vs. Civil Liberties." Panelists are Sen. Arlen Specter, (R-Pa., chairman, Judiciary Committee; Rep. Jane Harman, D-Calif., ranking Democrat, Intelligence Committee; Richard Falkenrath, Former Deputy Homeland Security Advisor; Neal Katyal, Georgetown Law professor and lead attorney, Hamdan v. Rumsfeld Seymour Hersh, investigative journalist; Bradford Berenson, former White House Associate Counsel to President George W. Bush. They will will discuss President Bushs war on terrorism, focusing on military tribunals and domestic wiretapping. Location: Georgetown University Law Center, Moot Courtroom, McDonough Hall, 600 New Jersey Ave. NW.

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Williams, Jan

From: Williams, Jan

Sent: Friday, February 17, 2006 9:14 AM

To: Garrett, Paul; Masugi, Ken (OPA); Murray, Fred F. (TAX); Nelson, Carrie; /o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Balfe, Robert; Biskupic, Steven (USAWIE); Bogden, Daniel (USANV); Brooks, Susan; Brownlee, John (USAVAW); Buchanan, MaryBeth (USAPAW); Canary, Leura G. (USAALM); Charlton, Paul (USAAZ); Chiara, Margaret M. (USAMIW); Christie, Christopher (USANJ); Colantuono, Thomas P. (USANH);

Connolly, Colm (USADE); Corrente, Robert (USARI); Cummins, Bud (USAARE); Dugas, David R. (USALAM); Fitzgerald, Patrick J. (USAILN); Garcia, H; Garcia, Michael J (SDNY); Graves, Todd (USAMOW); Greenlee, Jim (USAMSN); Heavican, Michael (USANE); Heffelfinger, Tom (USAMN); Huber, David L. (USAKYW); Iglesias, David C. (USANM); Immergut, Karin (USAOR); Jenkins, Anthony; Kubo, Ed (USAHI); Lam, Carol (USACAS); Lampton, Dunn (USAMSS); Larson, Charles (USAIAN); Letten, James (USALAE); Lockhart, Gregory; Marino, Thomas (USAPAM); Martin, Alice (USAALN); Mauskopf, Roslynn; McDevitt, Jim A. (USAWAE); McKay, John (USAWAW); Mead, Matthew H. (USAWY); Meehan, Patrick (USAPAE); Melgren, Eric (USAKS); Mercer, Bill (USAMT); Miller, Gregory (USAFLN); Moss, Thomas (USAID); Murphy, Stephen J. (USAMIE); Nahmias, David (USAGAN); O'Connor, Kevin (USACT); O'Melia, Michael (USAAZ); Orwig, Matt (USATXE); Perez, Paul (USAFLM); Rapadas, Leonardo; Roper, Richard (USATXN); Rosenstein, Rod (USAMD); Ryan, Kevin (USACAN); Scott, McGregor (USACAE); Shappert, Gretchen (USANCW); Sperling, Sheldon J. (USAOKE); Suddaby, Glenn T. (USANYN); Sullivan, Michael (USAMA); Sutton, Johnny K. (USATXW); Vines, Jim (USATNM); Wagoner, Anna Mills S. (USANCM); Wainstein, Kenneth; Washington, Donald (USALAW); Whitaker, Matt (USAIAS); White, Greg (USAOHN); Whitney, Frank (USANCE); Wood, Lisa (USAGAS); Wood, Maxwell; Wrigley, Drew (USAND); Yang, Debra (USACAC)

Subject: The Morning Update: 2/17/06

Attachments: tmp.htm

Importance: Low

The Morning Update

Today, President Bush will travel to the headquarters of U.S. Central Command at MacDill Air Force Base in Tampa, Florida. The President will receive a briefing on ongoing global operations in the War on Terror from senior military commanders. United States Central Command is focused on ongoing military operations in Iraq and Afghanistan, defeating Al-Qaeda, denying terrorists safe havens, stemming the spread of extremism, and assisting nations in the Horn of Africa to secure their borders.

Following his briefing, the President will make remarks on progress being made in winning the War on Terror, the global coalition's actions to break up terrorist networks and disrupt plots, and the power of freedom and democracy which are leading millions to reject the terrorists' ideology.

12:15 pm: THE PRESIDENT participates in a Briefing by CENTCOM and SOCOM Commanders

EST CENTCOM | Tampa, Florida

1:20 pm: THE PRESIDENT makes Remarks on the Global War on Terror

1:20 pm: THE PRESIDENT makes Remarks on the Global War on Terror

EST Port of Tampa | Tampa, Florida

5:35 pm: THE PRESIDENT makes Remarks at Republican Party of Florida Dinner

EST Disney's Contemporary Resort | Lake Buena Vista, Florida

From Today's Morning Headlines

President Bush Discusses The Need For More Transparency In The Nation's Health Care System. "President Bush argued Thursday that the United States needs a health care system in which patients pay more directly for their care, because that will turn them into comparison shoppers whose interest in a good deal will drive costs down. ... Bush also campaigned for medical records to be kept electronically, to cut down on inefficiency and cost, and for more information to be made available about the price and quality of medical procedures. All these things, he said, would encourage a 'consumer-based health care system.' 'When you go buy a car you're able to shop and compare,' he said. 'And yet in health care that's just not happening in America today.' <http://news.yahoo.com/s/ap/20060216/ap_on_go_pr_wh/bush;_ylt=Au1EZbTiFK_QTaPR9B.dMpRp24cA;_ylu=X3oDMTA5aHJvMDdwBHNlYwN5bmNhdA--> " (Deb Riechmann, "Bush Urges More Direct Health Care Choices," The Associated Press, 2/16/06)

Stanford University School Of Medicine Professor Scott Atlas Writes That Greater Transparency Can Cut Health Care Costs. "If a goal of health-care reform is to empower the patient, why is there such a mystery about medical prices? Instead of allowing government to set them, which is essentially the case for the great majority of medical procedures, the role of the government should be to make transparent the pricing of these procedures. ... The idea of informed consumers knowing prices and controlling their health-care dollar is an extremely powerful one. And in those few cases where patients have had to pay for procedures out-of-pocket, and have had information about price - for example, whole-body CT screening - the cost did indeed come down, rapidly and dramatically. The price of whole-body CT procedures declined by more than 75% in a few years! Ultimately, no commodity, no service industry, sells to consumers without openly disclosing prices. Doctors and hospitals might be forced to rethink their prices if they knew those prices would become part of the public domain. There should be no mystery to patients about what their own health care will cost. <http://online.wsj.com/article/SB114014766069076738.html?mod=opinion_main_commentaries> " (Scott W. Atlas, Op-Ed, "Doctors: Post Your Prices," The Wall Street Journal, 2/17/06)

The Administration Requests Additional Funding For Ongoing Operations In The War On Terror. "The Bush administration sent a request to Congress on Thursday for $72.4 billion in additional funds for the current fiscal year, largely to pay for military operations and reconstruction efforts in Iraq and

Afghanistan. ... 'Obviously we're asking the Congress to move this one very quickly <http://www.nytimes.com/2006/02/17/politics/17military.html?_r=1&adxnnl=1&oref=slogin&adxnnlx=1140175408-w0oARIYZIc7oGmNrYZPJnQ> ,' Tina Jonas, the Pentagon's top budget official, told reporters, adding that funds for military operations nearly ran short last year because Congress was slow to act. Of the $72.4 billion request, $65.3 billion would go to the Defense Department to pay for military operations and $4.2 billion would finance reconstruction. Another $2.9 billion would be for intelligence agencies, according to Joel Kaplan, deputy director of the Office of Management and Budget. For training security forces in Iraq, the administration is asking for $3.7 billion for the rest of the fiscal year, as well as $2.2 billion for training troops in Afghanistan, Ms. Jonas said. Another $1.9 billion would go to research and fielding of equipment to help troops detect and defuse homemade bombs, the leading cause of American casualties." (David S. Cloud, "Billions Asked For Afghans And Iraqis," The New York Times, 2/17/06)

The Administration Requests Additional Funding To Support Gulf Coast Rebuilding. "Bush also sought $19.8 billion for the hurricane-battered U.S. Gulf Coast, which would push relief after Hurricane Katrina to some $90 billion. ... The additional money for hurricane rebuilding would be used for efforts to provide shelter and medical care to victims, as well as cleanup activities from the disaster <http://today.reuters.com/news/NewsArticle.aspx?type=politicsNews&storyID=uri:2006-02-17T052306Z_01_N16320151_RTRUKOC_0_US-IRAQ-SPENDING.xml&pageNumber=1&summit=> that killed about 1,300 people on the U.S. Gulf Coast. Louisiana would get $4.2 billion in block grants to improve housing and infrastructure. The state suffered the worst losses from Hurricane Katrina, which also destroyed portions of Alabama and Mississippi. The White House said nearly $1.4 billion would be spent to protect New Orleans from future storms. About $70 million would be spent on early-warning systems and other crisis communications equipment.
Federal facilities damaged by Hurricane Katrina, including a New Orleans veterans hospital, Coast Guard facilities and border protection, would be rebuilt with the emergency money." (Vicki Allen And Richard Cowan, "Bush Requests More War, Hurricane Emergency Money," Reuters, 2/17/06)

The New York Times Urges The Approval Of The Administration's Request For Funds To Help Meet The Housing Needs Of Louisiana Residents. "The Bush administration has made a commitment to rebuilding southern Louisiana. Congress must make sure this opportunity is not lost. On Wednesday, President Bush's Katrina czar, Donald Powell, called for $4.2 billion more to help Louisiana residents save severely damaged homes and, in some cases, rebuild in safer areas. Congress needs to approve this request quickly for New Orleans and the surrounding parishes to have a fighting chance at anything but a patchwork recovery. ... But by approving this modest but fair package, Washington could give Louisianans something to celebrate this Mardi Gras <http://www.nytimes.com/2006/02/17/opinion/17fri2.html> ." (Editorial, "A Chance For New Orleans," The New York Times, 2/17/06)

On The Road, Secretary Gutierrez Promotes The President's American Competitiveness Initiative. "U.S. Commerce Secretary Carlos Gutierrez called Microsoft an example of a small company that used entrepreneurship to grow into one of the world's leading technology giants, on a tour Thursday to promote President Bush's competitiveness initiative. Gutierrez visited Microsoft's mock home of the future at the company's Redmond headquarters. There, he got a glimpse of technologies such as a kitchen counter that flashes recipes based on ingredients sitting on it, and a mirror that tells what clothes match a shirt held before it. He said he wanted to visit Microsoft because it is a great example

clothes match a shirt held before it. He said he wanted to visit Microsoft because it is a great example of a company that took a good idea and, in not too many years, turned it into a large, successful company.
<http://seattletimes.nwsource.com/html/businesstechnology/2002810574_com
merce17.html> " (Allison Linn, "Commerce Chief Praises Microsoft Success Story," The Associated Press, 2/17/06)

Construction Of New Homes Surges At Fastest Pace In More Than Three Decades. "Construction of new homes and apartments, defying forecasts of a housing slowdown, shot up in January at the fastest pace in more than three decades. The Commerce Department reported Thursday that building activity was up 14.5 percent last month <http://news.yahoo.com/s/ap/20060216/ap_on_bi_go_ec_fi/econ
omy;_ylt=Au2p
hBCLAwcE.lsPeaqLjhRu24cA;_ylu=X3oDMTA5aHJvMDdwBHNlYwN5bmNhdA--> when compared to December, pushing construction to a seasonally adjusted annual rate of 2.276 million units. That was the fastest construction rate since March 1973, but it was expected to be a one-time blip caused by unusually warm weather in January that prompted builders to start work on more homes." (Martin Crutsinger, "Housing Construction Soars in January," The Associated Press, 2/16/06)

The President Discusses Free Trade With Colombian President Alvaro Uribe. "On his visit to Washington, Uribe is leading stalled talks for a free trade deal - a key plank in the Colombian leader's re-election campaign. The two nations have been negotiating an agreement for the past 23 months. Bush said he told Uribe that the U.S. is interested in a trade agreement and would negotiate in good faith. 'I assured him that our trade negotiators will be fair in our approach,' Bush told reporters after the two leaders met in the Oval Office. ... 'All of us have come to this negotiation in good faith and I'm sure that we will see a conclusion,' said Uribe, who also met on Thursday with U.S. Trade Representative Rob Portman. 'This meeting has been good for democracy and it has been good for the interests of our people, as well as for our shared war on terror and our war against the drugs that finance that terror
<http://news.yahoo.com/s/ap/20060216/ap_on_go_pr_wh/us_colombia;_ylt=Agk
f_RXtj6NS.VWKEG.Z1fKyFz4D;_ylu=X3oDMTA5aHJvMDdwBHNlYwN5bmNhdA--> .'" ("Bush Discusses Trade With Colombia's Uribe," The Associated Press, 2/16/06)

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business - and Mr. McKinnell - playing a starring role as fund-raisers.
<http://online.wsj.com/article/SB114014592482976687.html?mod=home_page_o
ne_us> " (Neil King Jr., "Trying To Turn Its Image Around, U.S. Puts Top CEOs Out Front," The Wall Street Journal, 2/17/06)

Yesterday From The White House

President Participates In Panel Discussion On Health Care Initiatives <http://www.whitehouse.gov/news/releases/2006/02/20060216-3.html>

* Reforming Health Care For The 21st Century <http://www.whitehouse.gov/stateoftheunion/2006/healthcare/>
* In Focus: Health Care <http://www.whitehouse.gov/infocus/healthcare/>
* In Focus: Medicare <http://www.whitehouse.gov/infocus/medicare/>

President Bush Welcomes Colombian President Uribe To The White House <http://www.whitehouse.gov/news/releases/2006/02/20060216-4.html>

* In Focus: Global Diplomacy <http://www.whitehouse.gov/infocus/globaldiplomacy/>

Text Of A Letter From The President To The Speaker Of The House Of Representatives <http://www.whitehouse.gov/news/releases/2006/02/20060216-5.html>

* Fact Sheet: President Bush Requests $19.8 Billion For Hurricane Recovery <http://www.whitehouse.gov/news/releases/2006/02/20060216-10.html>
* In Focus: Hurricane Recovery <http://www.whitehouse.gov/infocus/hurricane/>

Text Of A Letter From The President To The Speaker Of The House Of Representatives <http://www.whitehouse.gov/news/releases/2006/02/20060216-6.html>

* Fact Sheet: President Requests $72.4 Billion For The Global War On Terror <http://www.whitehouse.gov/news/releases/2006/02/20060216-11.html>
* In Focus: National Security <http://www.whitehouse.gov/infocus/nationalsecurity/>

Ask The White House - Michael Leavitt, Secretary Of Health Of Human Services, Discusses Health Care. <http://www.whitehouse.gov/ask/20060216.html>

Press Briefing By Scott McClellan

<http://www.whitehouse.gov/news/releases/2006/02/20060216-1.html>

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The Morning Update

Today, President Bush will travel to the headquarters of U.S. Central Command at MacDill Air Force Base in Tampa, Florida. The President will receive a briefing on ongoing global operations in the War on Terror from senior military commanders. United States Central Command is focused on ongoing military operations in Iraq and Afghanistan, defeating Al-Qaeda, denying terrorists safe havens, stemming the spread of extremism, and assisting nations in the Horn of Africa to secure their borders.

Following his briefing, the President will make remarks on progress being made in winning the War on Terror, the global coalition's actions to break up terrorist networks and disrupt plots, and the power of freedom and democracy which are leading millions to reject the terrorists' ideology.

12:15 pm: EST	THE PRESIDENT participates in a Briefing by CENTCOM and SOCOM Commanders CENTCOM | Tampa, Florida
1:20 pm: EST	THE PRESIDENT makes Remarks on the Global War on Terror Port of Tampa | Tampa, Florida
5:35 pm: EST	THE PRESIDENT makes Remarks at Republican Party of Florida Dinner Disney's Contemporary Resort | Lake Buena Vista, Florida

From Today's Morning Headlines

President Bush Discusses The Need For More Transparency In The Nation's Health Care System. "President Bush argued Thursday that the United States needs a health care system in which patients pay more directly for their care, because that will turn them into comparison shoppers whose interest in a good deal will drive costs down. ... Bush also campaigned for medical records to be kept electronically, to cut down on inefficiency and cost, and for more information to be made available about the price and quality of medical procedures. All these things, he said, would encourage a 'consumer-based health care system.' 'When you go buy a car you're able to shop and compare,' he said. 'And yet in health care that's just not happening in America today.'" (Deb Riechmann, "Bush Urges More Direct Health Care Choices," *The Associated Press*, 2/16/06)

Stanford University School Of Medicine Professor Scott Atlas Writes That Greater Transparency Can Cut Health Care Costs. "If a goal of health-care reform is to empower the patient, why is there such a mystery about medical prices? Instead of allowing government to set them, which is essentially the case for the great majority of medical procedures, the role of the government should be to make transparent the pricing of these procedures. ... The idea of informed consumers knowing prices and controlling their health-care dollar is an extremely powerful one. And in those few cases where patients have had to pay for procedures out-of-pocket, and have had information about price – for example, whole-body CT screening – the cost did indeed come down, rapidly and dramatically. The price of whole-body CT procedures declined by more than 75% in a few years! Ultimately, no commodity, no service industry, sells to consumers without openly disclosing prices. Doctors and hospitals might be forced to rethink their prices if they knew those prices would become part of the public domain. There should be no mystery to patients about what their own health care will cost." (Scott W. Atlas, Op-Ed, "Doctors: Post Your Prices," *The Wall Street Journal*, 2/17/06)

The Administration Requests Additional Funding For Ongoing Operations In The War On Terror. "The Bush administration sent a request to Congress on Thursday for $72.4 billion in additional funds for the current fiscal year, largely to pay for military operations and reconstruction efforts in Iraq and Afghanistan. 'Obviously we're

year, largely to pay for military operations and reconstruction efforts in Iraq and Afghanistan. ... Obviously we're asking the Congress to move this one very quickly,' Tina Jonas, the Pentagon's top budget official, told reporters, adding that funds for military operations nearly ran short last year because Congress was slow to act. Of the $72.4 billion request, $65.3 billion would go to the Defense Department to pay for military operations and $4.2 billion would finance reconstruction. Another $2.9 billion would be for intelligence agencies, according to Joel Kaplan, deputy director of the Office of Management and Budget. For training security forces in Iraq, the administration is asking for $3.7 billion for the rest of the fiscal year, as well as $2.2 billion for training troops in Afghanistan, Ms. Jonas said. Another $1.9 billion would go to research and fielding of equipment to help troops detect and defuse homemade bombs, the leading cause of American casualties." (David S. Cloud, "Billions Asked For Afghans And Iraqis," *The New York Times*, 2/17/06)

The Administration Requests Additional Funding To Support Gulf Coast Rebuilding. "Bush also sought $19.8 billion for the hurricane-battered U.S. Gulf Coast, which would push relief after Hurricane Katrina to some $90 billion. ... The additional money for hurricane rebuilding would be used for efforts to provide shelter and medical care to victims, as well as cleanup activities from the disaster that killed about 1,300 people on the U.S. Gulf Coast. Louisiana would get $4.2 billion in block grants to improve housing and infrastructure. The state suffered the worst losses from Hurricane Katrina, which also destroyed portions of Alabama and Mississippi. The White House said nearly $1.4 billion would be spent to protect New Orleans from future storms. About $70 million would be spent on early-warning systems and other crisis communications equipment. Federal facilities damaged by Hurricane Katrina, including a New Orleans veterans hospital, Coast Guard facilities and border protection, would be rebuilt with the emergency money." (Vicki Allen And Richard Cowan, "Bush Requests More War, Hurricane Emergency Money," *Reuters*, 2/17/06)

***The New York Times* Urges The Approval Of The Administration's Request For Funds To Help Meet The Housing Needs Of Louisiana Residents.** "The Bush administration has made a commitment to rebuilding southern Louisiana. Congress must make sure this opportunity is not lost. On Wednesday, President Bush's Katrina czar, Donald Powell, called for $4.2 billion more to help Louisiana residents save severely damaged homes and, in some cases, rebuild in safer areas. Congress needs to approve this request quickly for New Orleans and the surrounding parishes to have a fighting chance at anything but a patchwork recovery. ... But by approving this modest but fair package, Washington could give Louisianans something to celebrate this Mardi Gras." (Editorial, "A Chance For New Orleans," *The New York Times*, 2/17/06)

On The Road, Secretary Gutierrez Promotes The President's American Competitiveness Initiative. "U.S. Commerce Secretary Carlos Gutierrez called Microsoft an example of a small company that used entrepreneurship to grow into one of the world's leading technology giants, on a tour Thursday to promote President Bush's competitiveness initiative. Gutierrez visited Microsoft's mock home of the future at the company's Redmond headquarters. There, he got a glimpse of technologies such as a kitchen counter that flashes recipes based on ingredients sitting on it, and a mirror that tells what clothes match a shirt held before it. He said he wanted to visit Microsoft because it is a great example of a company that took a good idea and, in not too many years, turned it into a large, successful company." (Allison Linn, "Commerce Chief Praises Microsoft Success Story," *The Associated Press*, 2/17/06)

Construction Of New Homes Surges At Fastest Pace In More Than Three Decades. "Construction of new homes and apartments, defying forecasts of a housing slowdown, shot up in January at the fastest pace in more than three decades. The Commerce Department reported Thursday that building activity was up 14.5 percent last month when compared to December, pushing construction to a seasonally adjusted annual rate of 2.276 million units. That was the fastest construction rate since March 1973, but it was expected to be a one-time blip caused by unusually warm weather in January that prompted builders to start work on more homes." (Martin Crutsinger, "Housing Construction Soars in January," *The Associated Press*, 2/16/06)

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- In Focus: National Security

Ask The White House - Michael Leavitt, Secretary Of Health Of Human Services, Discusses Health Care.

Press Briefing By Scott McClellan

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Nowacki, John

From:	Nowacki, John
Sent:	Friday, February 17, 2006 5:05 PM
To:	Monheim, Thomas; Rowan, Patrick (ODAG); Marshall, C. Kevin; Gorsuch, Neil M; Elwood, Courtney
Subject:	Detainee talking points
Attachments:	State 00026147.doc

A copy of the State cable with the detainee talking points is attached. This was sent to all U.S. diplomatic and consular posts last night.

UNCLASSIFIED STATE 00026147
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ZNR UUUUU ZZH
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FM SECSTATE WASHDC
TO ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE IMMEDIATE
RUEHTRO/USLO TRIPOLI IMMEDIATE 6269
BT
UNCLAS SECTION 01 OF 06 STATE 026147

E.O. 12958: N/A
TAGS: KPAO, PREL
SUBJECT: DETAINEE TALKING POINTS

REF: (A) STATE 22932, (B) STATE 24924

STATE 00026147 001.2 OF 006

1. FOR AMBASSADORS, PAOS AND ALL MEMBERS OF THE COUNTRY TEAM IN COUNTRIES WHERE THE U.S. POLICY AND TREATMENT OF DETAINEES IN THE WAR ON TERROR IS AN ISSUE, THE DEPARTMENT IS PROVIDING THREE SETS OF TALKING POINTS (PARAGRAPHS 3-5) TO SUPPORT YOUR PUBLIC DIPLOMACY EFFORTS. IN THOSE COUNTRIES WHERE THERE IS PUBLIC MISUNDERSTANDING ABOUT OUR POLICY AND THE U.S. TREATMENT OF DETAINEES, IT IS VITAL THAT YOU FOLLOW A STRATEGY OF ACTIVELY REFOCUSING THE PUBLIC DISCUSSION, DRAWING ON THESE TALKING POINTS AS APPROPRIATE. THESE POINTS ARE IN ADDITION TO REFERENCED CABLES, WHICH INCLUDED POINTS SPECIFICALLY ON THE UN SPECIAL RAPPORTEUR'S REPORT (A) AND ABU GHRAIB (B).

2. PARAGRAPH 3 CONTAINS A SET OF MASTER TALKING POINTS

THAT YOU SHOULD USE AS YOUR "HOME BASE" WHEN DISCUSSING DETAINEE POINTS. THESE CONTAIN THE FIVE KEY TALKING POINTS YOU SHOULD USE WHENEVER DISCUSSING DETAINEE MATTERS. PARAGRAPH 4 CONTAINS A SET OF TALKING POINTS SPECIFICALLY RELATED TO THE GUANTANAMO BAY DETENTION FACILITY, AND PARAGRAPH 5 CONTAINS A SET OF TALKING POINTS FOR DISCUSSING RENDITIONS.

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3. MASTER TALKING POINTS

-- UNITED STATES POLICY REGARDING DETAINEES IS CLEAR AND UNEQUIVOCAL: OUR PERSONNEL ARE REQUIRED TO COMPLY WITH ALL U.S. LAWS AND TREATY OBLIGATIONS IN THEIR TREATMENT OF DETAINEES. THESE INCLUDE A PROHIBITION ON TORTURE AND A PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT. INSTRUCTIONS FROM THE PRESIDENT, THE SECRETARY OF DEFENSE, AND THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF, AS WELL AS THROUGHOUT THE CHAIN OF COMMAND, MAKE THESE REQUIREMENTS CLEAR. GENERAL PETER PACE, CHAIRMAN OF THE JOINT CHIEFS OF STAFF, HAS STATED, "I CAN TELL YOU CATEGORICALLY THAT ANY MALTREATMENT OF ANY DETAINEES BY U.S. FORCES OR COALITION FORCES IS TOTALLY UNACCEPTABLE. THAT OUR ORDERS HAVE AND WILL CONTINUE TO BE THAT WE WILL TREAT EVERYONE IN OUR CHARGE HUMANELY AND WITH RESPECT."

-- WHEN THERE HAVE BEEN ABUSES, SUCH AS THE SHOCKING MISTREATMENT OF DETAINEES BY A SMALL GROUP OF GUARDS AT ABU GHRAIB, THOSE VIOLATIONS OF OUR LAW AND POLICY ARE TAKEN SERIOUSLY, ACTED UPON PROMPTLY, INVESTIGATED THOROUGHLY, AND THE WRONGDOERS ARE HELD ACCOUNTABLE FOR THEIR ACTIONS. AFTER THE INVESTIGATIONS INTO ABU GHRAIB, ONE OF THE INDIVIDUALS RESPONSIBLE WAS TRIED AND SENTENCED TO TEN YEARS IN PRISON, ANOTHER TO EIGHT YEARS, ANOTHER TO THREE. THE COLONEL IN CHARGE OF THE MILITARY INTELLIGENCE

BRIGADE AT ABU GHRAIB WAS RELIEVED OF COMMAND, REPRIMANDED, AND FINED.

-- WE ARE CONSTANTLY WORKING TO IMPROVE OUR DETAINEE POLICIES AND PROCEDURES, BECAUSE THIS IS A NEW AND DIFFICULT CHALLENGE IN A VERY DIFFERENT KIND OF WAR. THE TERRORISTS WE ARE DETAINING ARE NOT A PART OF ANY ARMY; THEY DO NOT WEAR A UNIFORM OR REPRESENT ANY STATE OR COUNTRY. THEY INCLUDE THE ALLEGED 20TH HIJACKER FROM SEPTEMBER 11TH AND OTHER TERRORIST LEADERS AS WELL AS TERRORIST TRAINERS, BOMB MAKERS, RECRUITERS, AND FINANCIERS.

-- THE UNITED STATES HAS NO INTEREST IN DETAINING ENEMY COMBATANTS ANY LONGER THAN ABSOLUTELY NECESSARY. ON AN ONGOING BASIS, EVEN PRIOR TO THE ANNUAL REVIEW BOARD PROCESS, THE U.S. GOVERNMENT HAS REVIEWED THE CONTINUED DETENTION OF EACH DETAINEE AND CONTINUES TO DO SO. THE UNITED STATES RELEASES DETAINEES WHEN IT BELIEVES THEY NO LONGER POSE A THREAT TO THE UNITED STATES AND ITS ALLIES.

-- DETAINEES AT GUANTANAMO ARE PROVIDED WITH SHELTER, FOOD, CLOTHING, READING MATERIALS, MEDICAL CARE, AND THE OPPORTUNITY TO WORSHIP, INCLUDING PRAYER BEADS, RUGS AND COPIES OF THE KORAN IN THEIR NATIVE LANGUAGE.

---
4. GUANTANAMO BAY TALKING POINTS

-- DEALING WITH CAPTURED TERRORISTS IS A DIFFICULT CHALLENGE. THEY ARE NOT SOLDIERS. THEY DO NOT ADHERE TO THE RULES OF WAR. THEY DO NOT REPRESENT ANY STATE OR GOVERNMENT. AL QAIDA IS NOT A PARTY TO INTERNATIONAL

TREATIES OR CONVENTIONS.

-- UNITED STATES PERSONNEL ARE REQUIRED TO COMPLY WITH ALL U.S. LAWS AND TREATY OBLIGATIONS IN THEIR TREATMENT OF DETAINEES. THESE INCLUDE A PROHIBITION ON TORTURE AND A PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT. INSTRUCTIONS FROM THE PRESIDENT AND THE SECRETARY OF DEFENSE COMMUNICATED THROUGHOUT THE CHAIN OF COMMAND, MAKE THESE REQUIREMENTS CLEAR. GENERAL PETER PACE, CHAIRMAN OF THE JOINT CHIEFS OF STAFF, HAS STATED, "I CAN TELL YOU CATEGORICALLY THAT ANY MALTREATMENT OF ANY DETAINEES BY U.S. FORCES OR COALITION FORCES IS TOTALLY UNACCEPTABLE. THAT OUR ORDERS HAVE AND WILL CONTINUE TO BE THAT WE WILL TREAT EVERYONE IN OUR CHARGE HUMANELY AND WITH RESPECT."

-- THE FIRST PRIORITY OF ANY GOVERNMENT IS TO PROTECT ITS CITIZENS. THESE COMBATANTS HAVE NOT SURRENDERED. SOME MAY NEVER RENOUNCE THEIR DEVOTION TO TERRORISM AND ARE FANATICAL IN THEIR COMMITMENT TO KILL INNOCENT PEOPLE AND CAUSE GLOBAL INSTABILITY.

-- THE UNITED STATES DOES NOT WISH TO HOLD ANYONE LONGER THAN ABSOLUTELY NECESSARY. DETAINEES HELD BY THE DEPARTMENT OF DEFENSE ARE SCREENED THOROUGHLY, BEGINNING AT THE POINT OF CAPTURE AND LATER AT THE THEATER DETENTION FACILITIES, AND THEIR INDIVIDUAL CASES ARE REVIEWED PERIODICALLY THEREAFTER. THESE PROCESSES ARE DESIGNED TO ENSURE WE ONLY HOLD THOSE WHO POSE A CONTINUING THREAT. ONCE AT GUANTANAMO BAY, EACH DETAINEE HAS HIS STATUS REGULARLY REVIEWED BY A MILITARY PANEL.

-- OF THE MORE THAN 10,000 COMBATANTS WHO HAVE BEEN IN COALITION CUSTODY OR CONTROL, ONLY A SMALL NUMBER HAVE BEEN SENT TO GUANTANAMO BAY.

-- APPROXIMATELY 490 DETAINEES REMAIN AT GUANTANAMO, AND

MORE THAN 267 HAVE BEEN RELEASED OR TRANSFERRED.

-- THE DETAINEES BROUGHT TO GUANTANAMO BAY WERE CAPTURED WAGING WAR AGAINST US OR ACTIVELY SUPPORTING AL QAIDA OR THE TALIBAN OR BOTH. MORE THAN 700 OF TEHSE MEN WERE SO DANGEROUS THAT THEY COULD NOT BE SAFELY DETAINED IN AFGHANISTAN. THESE COMBATANTS INCLUDED TERRORIST TRAINERS, BOMB MAKERS, RECRUITERS AND FACILITATORS, TERRORIST FINANCIERS, BODYGUARDS FOR USAMA BIN LADEN, AND POTENTIAL SUICIDE BOMBERS.

WHO IS BEING HELD AT GUANTANAMO BAY?

-- TERRORIST TRAINERS, BOMB MAKERS, RECRUITERS AND FACILITATORS, TERRORIST FINANCIERS, BODY GUARDS FOR USAMA BIN LADEN, AND POTENTIAL SUICIDE BOMBERS. SPECIFIC EXAMPLES INCLUDE:

--- AN AL-QAIDA EXPLOSIVES TRAINER WHO GAVE INFORMATION ON THE- ASSASSINATION OF NORTHERN ALLIANCE LEADER MASOOD AND ON AL-QAIDA'S USE OF MINES.

--- A MEMBER OF A TERRORIST CELL IN AFGHANISTAN THAT TARGETED CIVILIANS, ESPECIALLY JOURNALISTS AND FOREIGN AID WORKERS, AND WAS RESPONSIBLE FOR A GRENADE ATTACK ON A FOREIGN JOURNALIST'S CAR.

--- AN AL-QAIDA MEMBER WHO DESIGNED A PROTOTYPE SHOE BOMB FOR DESTROYING AIRPLANES AND A MAGNETIC MINE FOR ATTACKING SHIPS.

--- A TRAINER IN THE USE OF EXPLOSIVES WHO WORKED ON A PLAN TO USE CELL PHONES TO DETONATE BOMBS.

-- SOME DETAINEES WANT TO CONTINUE TO FIGHT AS EXEMPLIFIED

BY THE FOLLOWING STATEMENTS OF SOME OF THE DETAINEES:

--- "I WILL ARRANGE FOR THE KIDNAPPING AND EXECUTION OF US CITIZENS LIVING IN SAUDI ARABIA. SMALL GROUPS OF FOUR OR FIVE US CITIZENS WILL BE KIDNAPPED, HELD, AND EXECUTED. THEY WILL HAVE THEIR HEADS CUT OFF."

--- "...THE PEOPLE WHO DIED ON 9/11/2001 WERE NOT INNOCENT BECAUSE THEY PAID TAXES AND PARTICIPATED IN THE GOVERNMENT THAT FOSTERS REPRESSION OF PALESTINIANS."

--- ANOTHER STATED THAT ACTS OF TERRORISM ARE A LEGITIMATE WAY FOR A MUSLIM TO WAGE JIHAD AGAINST THE US, EVEN IF INNOCENT WOMEN AND CHILDREN ARE KILLED. HE

BELIEVES THAT MUSLIM JIHADISTS WILL WIPE OUT THE GOVERNMENT OF THE US WITHIN THE NEXT 20 YEARS.

-- OTHER DETAINEES HAVE HAD A CHANGE OF HEART WHILE UNDER US CUSTODY AS EXEMPLIFIED BY THE FOLLOWING STATEMENTS:

--- "AMERICANS ARE VERY KIND PEOPLE...IF PEOPLE SAY THERE IS MISTREATMENT IN CUBA WITH THE DETAINEES, THOSE ... SPEAKING ARE WRONG, THEY TREAT US LIKE A MUSLIM NOT A DETAINEE."

--- "...THE DEVIL SADDAM AND HIS PARTY HAVE FALLEN DOWN. HOW PEOPLE GO TO NAJAF AND KARBALA WALKING AND NOBODY PROHIBITS THEM? THIS WAS GRACE OF GOD AND THE USA TO IRAQI PEOPLE."

--- "THE FOOD IS GOOD, THE BEDROOMS ARE CLEAN AND THE HEALTH CARE IS VERY GOOD. THERE IS A LIBRARY FULL OF ISLAMIC BOOKS, SCIENCE BOOKS, AND LITERATURE ... ORT,

READING, AND PRAYING, ALL OF THESE OPTIONS ARE NOT MANDATORY FOR EVERYONE, IT IS UP TO THE PERSON."

WHAT HAS BEEN LEARNED FROM THEIR INTERROGATIONS?

-- THROUGH INTERROGATIONS OF DETAINEES, THE COALITION HAS LEARNED ABOUT AL QAIDA AND TALIBAN RECRUITMENT AND HOW THEY FORM TERRORIST CELLS. WE HAVE LEARNED HOW THEY COMMUNICATE, TRAIN, RAISE FUNDS, AND TRAVEL.

-- ULTIMATELY, THE COALITION WILL WIN THE GLOBAL WAR ON TERROR THROUGH INFORMATION. INFORMATION ALLOWS US TO PREVENT FUTURE ATTACKS AND PROTECT INNOCENT LIVES. INTELLIGENCE OPERATIONS HAVE SAVED THE LIVES OF COALITION FORCES AND INNOCENT CIVILIANS.

WHAT ARE THEIR CONDITIONS?

-- ALL DETAINEES ARE PROVIDED:
FOOD: THREE MEALS PER DAY THAT MEET CULTURAL DIETARY REQUIREMENTS
SHELTER: CAMPS RANGE FROM RESTRICTIVE WITH 30 MINUTES OF EXERCISE TWICE A WEEK TO LESS RESTRICTIVE WITH OUTSIDE RECREATION SEVERAL HOURS A DAY. PLANS ARE UNDERWAY FOR EXPANDED COMMUNAL LIVING QUARTERS AND INCREASED OPPORTUNITIES FOR EXERCISE AND TEAM ACTIVITIES INCLUDING SOCCER, VOLLEYBALL AND PING PONG.

THE OPPORTUNITY TO WORSHIP: A COPY OF THE KORAN IS GIVEN TO THE DETAINEES PRINTED AS APPROPRIATE IN ONE OF FIVE LANGUAGES. (ARABIC, DARI, PASHTU, RUSSIAN, AND FARSI.) THEY ALSO RECEIVE PRAYER BEADS, PRAYER RUGS, AND OTHER READING MATERIALS

---THE MUSLIM CALL TO PRAYER IS PLAYED OVER CAMP LOUDSPEAKERS FIVE TIMES A DAY, GENERALLY AT 5:30AM, 1PM, 2:30PM, 7:30PM AND 9:30PM.

--- ONCE THE CALL TO PRAYER SOUNDS, DETAINEES RECEIVE 20 MINUTES OF UNINTERRUPTED TIME TO PRACTICE THEIR FAITH. THE GUARDS STRIVE TO ENSURE DETAINEES ARE NOT INTERRUPTED DURING THIS PERIOD.

--- STENCILED ARROWS POINTING IN THE DIRECTION OF MECCA ARE DISPLAYED THROUGHOUT THE CAMP TO ASSIST THE DETAINEES IN KNOWING IN WHAT DIRECTION TO PRAY.

--- READING MATERIALS (INCREASED ACCESS TO FOREIGN LANGUAGE MATERIALS IS PLANNED)

--- EXCELLENT MEDICAL CARE: DETAINEES RECEIVE MEDICAL TREATMENT THAT IS COMPARABLE TO WHAT US SERVICE MEN AND WOMEN RECEIVE. THE LIVES OF DOZENS, IF NOT HUNDREDS, OF INSURGENTS AND DETAINEES HAVE BEEN SAVED BY SUPERIOR MEDICAL TREATMENT PROVIDED BY US MILITARY PERSONNEL.

--- MAIL: DETAINEES CAN RECEIVE AND SEND MAIL. OVER A SIX-MONTH PERIOD IN 2004-2005, MORE THAN 14,000 PIECES OF MAIL WERE SENT OR RECEIVED BY DETAINEES.

ADDITIONAL BACKGROUND POINTS ON LEGAL PROCESSES AFFORDED DETAINEES AT GUANTANAMO

-- IN ADDITION TO THE SCREENING PROCEDURES IN PLACE AT THE POINT OF CAPTURE, THE DEPARTMENT OF DEFENSE HAS CREATED THREE AVENUES FOR DETAINEES AT GUANTANAMO TO CHALLENGE THEIR STATUS: (1) COMBATANT STATUS REVIEW TRIBUNALS; (2) ADMINISTRATIVE REVIEW BOARDS; AND (3) MILITARY COMMISSIONS

(FOR THOSE CHARGED WITH VIOLATIONS OF THE LAW OF WAR).

-- THE COMBATANT STATUS REVIEW TRIBUNAL (CSRT) IS A ONE-TIME PROCESS THAT PROVIDES THE DETAINEE WITH THE OPPORTUNITY TO HAVE HIS STATUS REVIEWED AND CONSIDERED BY

A NEUTRAL DECISION-MAKING PANEL COMPOSED OF THREE COMMISSIONED MILITARY OFFICERS SWORN TO EXECUTE THEIR DUTIES FAITHFULLY AND IMPARTIALLY.

-- THESE PROCEDURES ARE MODELED AFTER ARMY REGULATION 190-8, WHICH GOVERN TRIBUNALS THAT DETERMINE THE STATUS OF ENEMY DETAINEES WHO ASSERT POW (PRISONER-OF-WAR) STATUS UNDER THE GENEVA CONVENTION. U.S. SUPREME COURT JUSTICE SANDRA DAY O'CONNOR CITED ARMY REGULATION 190-8 AS AN EXAMPLE OF A TRIBUNAL THAT COULD PROVIDE APPROPRIATE PROCESS FOR AMERICAN CITIZENS WHO ARE DETAINED BY THE MILITARY.

-- IN FACT, THE COMBATANT STATUS REVIEW TRIBUNALS PROVIDE GREATER PROCESS AND PROTECTIONS THAN ARMY REGULATION 190-8. IN ADDITION TO THE OPPORTUNITY TO BE HEARD IN PERSON AND PRESENT ADDITIONAL EVIDENCE THAT MIGHT BENEFIT HIM, A DETAINEE CAN RECEIVE ASSISTANCE FROM A MILITARY OFFICER TO PREPARE FOR HIS HEARING AND TO ENSURE HE UNDERSTANDS THE PROCESS. HE IS ALSO ASSISTED BY A CSRT RECORDER, WHO IS OBLIGATED TO SEARCH GOVERNMENT FILES FOR EVIDENCE SUGGESTING THE DETAINEE IS NOT AN ENEMY COMBATANT. MOREOVER, IN ADVANCE OF THE HEARING, THE DETAINEE IS PROVIDED WITH AN UNCLASSIFIED SUMMARY OF THE EVIDENCE SUPPORTING HIS ENEMY COMBATANT CLASSIFICATION.

-- EVERY DECISION BY THIS TRIBUNAL IS SUBJECT TO AN AUTOMATIC REVIEW BY A HIGHER AUTHORITY THAT IS EMPOWERED

TO RETURN THE RECORD TO THE TRIBUNAL FOR FURTHER PROCEEDINGS.

-- IN ADDITION, PURSUANT TO THE DETAINEE TREATMENT ACT OF 2005, A CSRT DECISION CAN BE DIRECTLY APPEALED TO AN AMERICAN DOMESTIC CIVILIAN COURT-THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.

-- TO OUR KNOWLEDGE, THESE PROCEDURAL PROTECTIONS ARE MORE EXTENSIVE THAN THOSE USED BY ANY OTHER NATION IN ANY PREVIOUS CONFLICT TO DETERMINE A COMBATANT'S STATUS.

-- EACH OF THE 490 DETAINEES WHO ARE CURRENTLY AT GUANTANAMO HAVE HAD A COMBATANT STATUS REVIEW TRIBUNAL. AS A RESULT OF THIS PROCESS, 38 DETAINEES WERE DETERMINED NO LONGER TO MEET THE CRITERIA FOR DESIGNATION AS ENEMY COMBATANTS. TWENTY-NINE OF THOSE HAVE BEEN RELEASED, AND THE DEPARTMENT OF DEFENSE IS WORKING CLOSELY WITH THE STATE DEPARTMENT TO EFFECT THE RELEASE OF THE REMAINING NINE.

-- IN ADDITION TO THE CSRT, AN ADMINISTRATIVE REVIEW BOARD (ARB) REVIEWS A DETAINEE'S STATUS ANNUALLY TO DETERMINE THE EXTENT TO WHICH AN ENEMY COMBATANT AT GTMO MAY CONTINUE TO POSE A THREAT TO THE UNITED STATES OR ITS ALLIES, OR WHETHER THERE ARE OTHER FACTORS THAT WOULD SUPPORT THE NEED FOR CONTINUED DETENTION. AN ADMINISTRATIVE REVIEW BOARD CONSISTS OF A NEUTRAL PANEL OF THREE COMMISSIONED MILITARY OFFICERS SWORN TO EXECUTE THEIR DUTIES FAITHFULLY AND IMPARTIALLY. THE HOME GOVERNMENTS OF EACH DETAINEE ARE INVITED TO SUBMIT INFORMATION TO THE PANEL CONCERNING WHETHER THE DETAINEE SHOULD CONTINUE TO BE DETAINED.

-- BASED ON THIS ASSESSMENT, THE ARB PANEL CAN RECOMMEND TO A DESIGNATED CIVILIAN OFFICIAL THAT THE INDIVIDUAL BE RELEASED, CONTINUED TO BE DETAINED, OR TRANSFERRED WITH

CONDITIONS TO THEIR COUNTRY OF NATIONALITY.

-- THE ARB PROCESS IS NOT REQUIRED BY THE GENEVA CONVENTIONS, OR BY INTERNATIONAL OR DOMESTIC LAW. THE UNITED STATES CREATED THIS PROCESS TO ENSURE THAT WE DETAIN INDIVIDUALS NO LONGER THAN NECESSARY.

-- THE FIRST ROUND OF ADMINISTRATIVE REVIEW BOARD DECISIONS WAS COMPLETED LAST MONTH.

-- MORE THAN 267 DETAINEES HAVE BEEN TRANSFERRED OUT OF GUANTANAMO BAY. SOME ARE IN PRISON OR UNDER SURVEILLANCE IN THEIR OWN COUNTRY - SOME WERE RELEASED.

-- UNFORTUNATELY, DESPITE ASSURANCES FROM THOSE RELEASED, IT IS BELIEVED THAT AT LEAST A DOZEN, AND POSSIBLY MORE, WENT BACK TO FIGHTING.

-- ONE,ABDULLAH MAHSUD, CLAIMED HE WAS AN OFFICE CLERK AND DRIVER FOR THE TALIBAN AND CONSISTENTLY DENIED ANY

AFFILIATION WITH AL QAIDA. HE SAID HE WAS FORCED INTO THE TALIBAN MILITARY AND HAD NOT RECEIVED ANY WEAPONS OR MILITARY TRAINING. AFTER HIS RELEASE, IT WAS REPORTED THAT HE ORDERED THE KIDNAPPING BY AL QAIDA-LINKED MILITANTS OF TWO CHINESE ENGINEERS.

-- ANOTHER RELEASED DETAINEE ASSASSINATED AN AFGHAN JUDGE.

SEVERAL OTHERS WERE KILLED AFTER GOING BACK TO FIGHTING.

-- THE THIRD LAYER OF PROCESS THAT WE AFFORD TO DETAINEES IS MILITARY COMMISSIONS. ALTHOUGH THE LAW OF WAR DOES NOT REQUIRE US TO BRING CRIMINAL CHARGES AGAINST AN ENEMY

COMBATANT IN ORDER TO DETAIN HIM, SOME DETAINEES ARE SUSPECTED OF WAR CRIMES, AND IT IS APPROPRIATE FOR US TO USE MILITARY COMMISSIONS TO TRY THEM.

-- SINCE THE REVOLUTIONARY WAR, THE UNITED STATES HAS USED MILITARY COMMISSIONS TO PROSECUTE ENEMY COMBATANTS FOR LAW OF WAR VIOLATIONS. MANY OTHER COUNTRIES THROUGHOUT HISTORY HAVE EMPLOYED MILITARY COMMISSIONS AS WELL, INCLUDING EUROPEAN NATIONS. EACH ACCUSED TRIED BY A MILITARY COMMISSION AT GUANTANAMO HAS THE FOLLOWING PROCEDURAL SAFEGUARDS: THE PRESUMPTION OF INNOCENCE; PROOF OF GUILT MUST BE BEYOND A REASONABLE DOUBT; THE RIGHT TO CALL AND CROSS-EXAMINE WITNESSES (SUBJECT TO THE RULES REGARDING PRODUCTION OF WITNESSES AND PROTECTION OF INFORMATION); NOTHING SAID BY AN ACCUSED TO HIS ATTORNEY, OR ANYTHING DERIVED THEREFROM, MAY BE USED AGAINST HIM AT TRIAL; NO ADVERSE INFERENCE FOR REMAINING SILENT; RIGHT TO APPEAL; OVERALL REQUIREMENT THAT ANY MILITARY COMMISSION PROCEEDING BE FULL AND FAIR. FINALLY, TO ASSIST HIM IN PREPARING A DEFENSE, EACH ACCUSED HAS A MILITARY DEFENSE COUNSEL PROVIDED AT NO COST. ALTERNATIVELY, THE ACCUSED MAY ALSO HIRE A CIVILIAN DEFENSE COUNSEL.

-- THE RULES OF EVIDENCE AND PROCEDURE ESTABLISHED FOR TRIALS BY MILITARY COMMISSION COMPARE FAVORABLY TO THOSE BEING USED IN THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA AND THE INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA.

-- THE DETAINEE TREATMENT ACT OF 2005 PERMITS AN AMERICAN DOMESTIC CIVILIAN COURT-THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT-TO HEAR A DIRECT APPEAL OF A MILITARY COMMISSION DECISION.

-- TO DATE, THE PRESIDENT HAS DETERMINED THAT THERE ARE REASONS TO BELIEVE THAT SEVENTEEN DETAINEES MAY HAVE COMMITTED WAR CRIMES. THE APPOINTING AUTHORITY FOR

MILITARY COMMISSIONS HAS APPROVED CHARGES AGAINST TEN

INDIVIDUALS AND REFERRED THESE CHARGES TO MILITARY COMMISSIONS FOR TRIAL. PRELIMINARY PROCEEDINGS HAVE BEGUN IN SIX CASES.

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5. RENDITIONS TALKING POINTS

-- THE UNITED STATES AND MANY OTHER GOVERNMENTS ARE ENGAGED IN A DIFFICULT STRUGGLE AGAINST A RUTHLESS ENEMY, TRANSNATIONAL TERRORISTS.

-- ALL GOVERNMENTS HAVE A RESPONSIBILITY TO PROTECT THEIR CITIZENS FROM HARM. THE UNITED STATES WORKS COOPERATIVELY WITH STATES AROUND THE WORLD TO ACHIEVE THIS OBJECTIVE.

-- WE ARE WORKING TOGETHER CLOSELY WITH ALLIES AND PARTNERS IN EUROPE AND GLOBALLY TO PROTECT OUR CITIZENS AGAINST A VICIOUS TERRORIST ADVERSARY.

-- THE WAR ON TERRORISM SOMETIMES INVOLVES THE CAPTURE, DETENTION AND QUESTIONING OF TERRORISTS. WE MUST QUESTION THEM TO GATHER SIGNIFICANT, POTENTIALLY LIFE-SAVING INTELLIGENCE.

-- OUR LAW ENFORCEMENT AND INTELLIGENCE COOPERATION HAS RESULTED IN FOILING A NUMBER OF DEADLY PLOTS AGAINST CITIES AND CITIZENS IN EUROPE AND ELSEWHERE.

-- AS SECRETARY RICE AND CENTRAL INTELLIGENCE AGENCY DIRECTOR GOSS HAVE RECENTLY STATED, U.S. INTELLIGENCE AGENCIES HAVE HANDLED THE GATHERING OF INTELLIGENCE FROM A VERY SMALL NUMBER OF EXTREMELY DANGEROUS DETAINEES, INCLUDING INDIVIDUALS WHO PLANNED THE 9/11 ATTACKS.

-- UNITED STATES PERSONNEL ARE REQUIRED TO TREAT DETAINEES CONSISTENT WITH U.S. LAW AND TREATY OBLIGATIONS, INCLUDING A PROHIBITION ON TORTURE AND A PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT.

-- WE WILL NOT CONFIRM OR DENY SPECIFIC INTELLIGENCE ACTIVITIES; WE CANNOT DISCUSS INFORMATION THAT COULD COMPROMISE THE SUCCESS OF INTELLIGENCE, LAW ENFORCEMENT, AND MILITARY OPERATIONS.

-- NO ONE SHOULD BE SURPRISED THAT INTELLIGENCE AGENCIES, BOTH IN AMERICA AND AROUND THE WORLD, ENGAGE IN INTELLIGENCE GATHERING ACTIVITIES.

-- WITH RESPECT TO THOSE DETAINED BY THE UNITED STATES IN THE WAR ON TERRORISM, THE UNITED STATES GOVERNMENT COMPLIES WITH ITS CONSTITUTION, ITS LAWS AND ITS TREATY OBLIGATIONS. THE UNITED STATES DOES NOT COMMIT, AUTHORIZE, OR CONDONE TORTURE.

-- THE UNITED STATES DOES NOT TRANSPORT DETAINEES FROM ONE COUNTRY TO ANOTHER FOR THE PURPOSE OF INTERROGATION BY TORTURE AND HAS NOT USED THE AIRSPACE OR AIRPORTS OF ANY COUNTRY FOR THE PURPOSE OF TRANSPORTING A DETAINEE TO A COUNTRY WHERE HE WILL BE TORTURED.

-- THE UNITED STATES HAS NOT TRANSPORTED ANYONE, AND WILL NOT TRANSPORT ANYONE, TO A COUNTRY WHERE WE BELIEVE THE PRISONER WILL BE TORTURED. WHERE APPROPRIATE, THE UNITED STATES SEEKS ASSURANCES THAT TRANSFERRED PERSONS WILL NOT BE TORTURED.

-- IN CONDUCTING RENDITIONS, THIS ADMINISTRATION HAS

RESPECTED AND WILL CONTINUE TO RESPECT THE SOVEREIGNTY OF OTHER COUNTRIES.

MINIMIZE CONSIDERED.
RICE
BT
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UNCLASSIFIED STATE 00026147

USDOJ- Office of Public Affairs

From: USDOJ- Office of Public Affairs
Sent: Friday, February 17, 2006 6:38 PM
To: USDOJ- Office of Public Affairs
Subject: DOJ Daily News Wrap

PUBLIC AFFAIRS DAILY NEWS WRAP
February 17, 2006

Contact: Brian Roehrkasse, Deputy Director, Office of Public Affairs (202) 514-2007

THE WEEKEND'S EXPECTED NEWS STORIES:

Briefs filed in *Al Odah v. U.S* and *Boumediene v. Bush* (OPA)
The U.S. filed a supplemental brief in the Al Odah and Boumediene detainee cases today in U.S. Circuit Court for Washington D.C. The brief argues that under the Detainee Treatment Act the detainee habeas case should be dismissed for lack of jurisdiction.

Justice Department Announces Minnesota U.S. Attorney (OPA)
The Justice Department today announced the appointment of Rachel K. Paulose to serve as the United States Attorney for the District of Minnesota. Ms. Paulose will serve under an Attorney General Appointment. She will succeed Thomas B. Heffelfinger, who will resign from the position on February 28, 2006.

DEA Intelligence Division Designated 16th Member of Intelligence Community (DEA)
The Director of National Intelligence, John D. Negroponte, and the Attorney General, Alberto R. Gonzales announced the designation of the Office of National Security Intelligence, an element in the Drug Enforcement Administration's Intelligence Division, as the 16th member of the Intelligence Community.

Talking Points:

- The Drug Enforcement Administration (DEA) has a long history of partnering with the Intelligence Community for purposes of identifying and disrupting illegal drug trafficking.

- This partnership has been successful in both the sharing of vital information and the leveraging of expertise.

- This designation does not grant DEA new authorities, but it does formalize the long-standing relationship between the DEA and the IC."

MONDAY/TUESDAY's EXPECTED EVENTS/RELEASES:

The Attorney General and Secretary Gale Norton will make remarks at the Sixteenth Street Baptist Church National Landmark Designation Ceremony on Monday, February 20, 2006 at 10:30 A.M. CST. The Attorney General and Secretary Norton will make remarks which will be followed by a brief media availability.

The Tax Division will tentatively have two releases for Tuesday.

USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Tuesday, February 21, 2006 9:06 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing for Tuesday, February 21, 2006
Attachments:	agnb060221.pdf; agnb060221.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, FEBRUARY 21, 2006 7:45 AM EST

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TERRORISM NEWS:

Administration Seeks To Build Hill Support For NSA Wiretapping Program. The New York Times (2/20, Stolberg, Sanger, 1.19M) reports, "After two months of insisting that President Bush did not need court approval to authorize the wiretapping of calls between the United States and suspected terrorists abroad, the administration is trying to resist pressure for judicial review while pushing for retroactive Congressional approval of the program." The Administration "opened negotiations with Congress last week, but it is far from clear whether Mr. Bush will be able to fend off calls from Democrats and some Republicans for increased oversight of the eavesdropping program, which is run by the National Security Agency."

The Washington Post (2/20, A8, Babington, 744K) reports, "At two key moments in recent days, White House officials contacted congressional leaders just ahead of intelligence committee meetings that could have stirred demands for a deeper review of the administration's warrantless-surveillance program, according to House and Senate sources." In both cases, "the administration was spared the outcome it most feared, and it won praise in some circles for showing more openness to congressional oversight." But "the actions have angered some lawmakers who think the administration's purported concessions mean little. Some Republicans said that the White House came closer to suffering a big setback than is widely known, and that President Bush must be more forthcoming about the eavesdropping program to retain Congress's good will."

The AP (2/20, Riechmann) reports Senate Majority Leader Bill Frist, "standing firmly with the White House on the administration's eavesdropping program, said Sunday he doesn't think new or updated legislation is needed to govern domestic surveillance to foil terrorists. 'I don't think that it does need to be rewritten, but we are holding hearings in the Judiciary Committee right now,' Frist said on CBS' 'Face the Nation.'" Frist also "said he didn't think a court order is needed before eavesdropping, under the program, occurs." Meanwhile, speaking on "Fox News Sunday," Sen. Lindsey Graham "said there is bipartisan consensus on Congress to make FISA, which was written in the 1970s, more flexible, establish more congressional oversight into such surveillance

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and preserve judicial review, or the need for a warrant in certain cases." USA Today (2/20, 2.31M) also runs a brief report on Graham's comments.

Meanwhile, the Washington Times (2/20, Waterman, 90K) reports, "Another House Republican committee chairman has joined criticism of the Congressional Research Service for its legal analysis of the administration's program of counterterrorist electronic surveillance." Rep. F. James Sensenbrenner Jr., Wisconsin Republican and chairman of the House Judiciary Committee, "wrote to the service's director, Daniel P. Mulhollan, earlier this month." In the letter, Sensenbrenner "says he asked two legal scholars to review the 44-page Jan. 5 CRS memorandum on the surveillance program -- which analyzed the administration's legal rationale for the program as laid out at that time and found it wanting."

White House Board On Civil Liberties Has Not Met. The Los Angeles Times (2/20, Schmitt, 958K) reports on "a little-known board" at the White House whose purpose is to "ensure that privacy and civil liberties are protected in the fight against terrorism." The board was created by the intelligence overhaul that President Bush signed into law in December 2004. But, more than a year later, the board "exists only on paper." The Senate Judiciary Committee on Thursday "took a first step toward standing up the fledgling watchdog, approving the two lawyers Bush nominated to lead the panel. But it may take months before the board is up and running and doing much serious work. Critics say the inaction shows the administration is just going through the motions when it comes to civil liberties."

Specter Drafting Bill To Curtail Bush Surveillance Powers. The Washington Times (2/21, Hurt, 90K) reports, "Senate Judiciary Committee Chairman Arlen Specter is drafting legislation to curtail President Bush's warrantless surveillance program that the president touts as a tool to stop and capture terrorists." Senate Select Committee on Intelligence Chairman Pat Roberts "said last week that the White House had reached an 'agreement in principle' with congressional leaders to include more lawmakers in the oversight of the program." But Specter's bill "would go further." He "wants to place the entire program under the Foreign Intelligence Surveillance Act (FISA) court, which is responsible for granting warrants for domestic surveillance in pursuit of foreign intelligence. He also has suggested that the program should expire without express congressional approval every 45 days."

Passaro Trial Could Shed Light On Detainee Tactics. The Miami Herald (2/21, Weaver) reports, "Abdul Wali was an Afghan man who U.S. authorities suspect launched rocket attacks against a military base in Afghanistan. David Passaro was an American hired by the CIA to interrogate detainees during the U.S. war in that country." The Herald continues, "On June 21, 2003 -- three days after surrendering to military authorities -- Wali was found dead inside a U.S. detention facility in Asadabad, near the Pakistani border. … Today, Passaro, a former CIA contract worker, stands accused of beating Wali so badly with a flashlight that he eventually died. Passaro, who faces up to 40 years in prison, is the first U.S. civilian to be charged in federal court with mistreatment of a prisoner overseas." The Herald adds, "Heading the government's case against Passaro is Michael 'Pat' Sullivan, a veteran Miami federal prosecutor. … For Sullivan, a hardened trial lawyer known for taking down major drug defendants, the Passaro case puts him on an international stage. He has the delicate job of defending the Bush administration's controversial detainee interrogation policy while prosecuting an alleged criminal affiliated with the CIA. … Passaro's indictment on four assault charges was announced with fanfare by Attorney General John Ashcroft in Washington on June 17, 2004. … The North Carolina man was indicted just weeks after pictures were broadcast worldwide that showed U.S. soldiers smiling and joking at Iraqi prisoners at Abu Ghraib near Bagdhad, who had been stripped naked, tortured and humiliated, purportedly to extract intelligence from them. Several male and female U.S. soldiers have since been convicted on charges of prisoner mistreatment at courts-martial."

9/11 Panel Aides Did Not Believe Cheney's Testimony. Newsweek (2/27, Thomas) reports in its cover story that Vice President Dick Cheney testified to the 9/11 Commission that on the morning of the attacks he spoke with President Bush before giving an order to shoot down a hijacked airliner that appeared headed toward Washington. A source "close to the commission…says that none of the staffers who worked on this aspect of the investigation believed Cheney's version of events. A draft of the report conveyed their skepticism." But the report was toned down after a "prolonged battle" with top White House officials, including chief of staff Andrew Card and then White House counsel Alberto Gonzales." Newsweek adds, "The factual narrative, closely read, offers no evidence that Cheney sought

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initial authorization from the president. … Legally, Cheney was required to get permission from his commander in chief, who was traveling (but reachable) at the time."

Hughes Calls Abu Ghraib Abuse An Aberration. The AP (2/19, Sukhtian) reports Under Secretary Hughes, in an Al-Arabiya interview given on arrival in Dubai Sunday, said "abuse of prisoners in Iraq was a crime and did not reflect US policies in the Middle East." Alluding to the Abu Ghraib photo controversy, Hughes "said the US should not be judged by the actions of a few." Last week in Doha, the AP said, Hughes "spoke out…against caricatures of the Prophet Mohammed that have sparked protests across the Muslim world but she condemned the violence that has broken out during demonstrations, leaving at least 45 people dead." In Sunday's interview, she "accused extremists of using the cartoon controversy to ignite a clash of civilizations." AP's coverage of the Al-Arabiya interview was the first significant U.S. press mention of Hughes' Middle East trip.

Hughes Defends Guantanamo Conditions, Calls Detainees "Warriors." The AP (2/20, Fam) reported on an interview Under Secretary Hughes gave to Al-Jazeera in which she "defended the conditions at the prison at Guantanamo Bay and said the detainees were not criminals, but warriors." Hughes "said the about 490 prisoners held in Guantanamo were arrested for waging a war against the United States or for helping al-Qaida or the Taliban in their wars." The AP said Hughes claimed the United Nations report condemning conditions and practices at the facility "was written by people who did not visit Guantanamo," and said Hughes defended the treatment of detainees there. Those detainees "were people who have made public their intention to kill as many Americans as possible and that the U.S. government had a right to defend its citizens. She added that some of those released from Guantanamo have immediately gone back to fighting and killing Americans."

ABC World News Tonight (2/20, story 4, Vargas) reported "television viewers in the Arab world are hearing a message from the United States. It comes in the person of Karen Hughes, President Bush's long-time close adviser," who is in the Middle East "to win hearts and minds." ABC said Hughes "believes a better relationship with the Arab media power house is critical to improving the US image," and called her "conciliatory" and her audiences "skeptical." Hughes was shown saying audiences "don't understand the reason behind the policy, in some cases." ABC reported, "But part of the problem, of course, is even when people in the Middle East hear the rationale or even understand it, it doesn't go very far. Most of her intended audience doesn't agree with it."

Carter Agrees With UN Report On Guantanamo Prison. Former President Jimmy Carter was asked on CNN's The Situation Room (2/20) if he agrees with a UN report which urges the US to shut down the prison at Guantanamo Bay, Cuba as quickly as possible. Carter said, "I've agreed with that since we first found out that torture and oppression was being perpetrated against the prisons at Guantanamo Bay." Carter added that "the best thing that the United States can do for our own reputation and for justice in the world and for the honoring of human rights is to shut down Guantanamo Bay prison, as was recommended by the United Nations."

More Commentary On UN Report. The Wall Street Journal (2/21, 2.11M) editorializes, "We won't waste your time on the study itself, which largely rehashes factual and legal allegations we've seen and rebutted before, and whose authors never actually visited Guantanamo. … A more interesting question is why this report was produced in the first place: We are still waiting for the Commission's reports on the human-rights picture in, say, Syria. But there's no mystery here, since the only purpose the Commission actually serves is to deflect criticism of actual human-rights abusers by heaping invective on the US and Israel."

Navy General Counsel Opposed Policy On Torture. The New York Times (2/20, Golden, 1.19M) reports, "One of the Pentagon's top civilian lawyers repeatedly challenged the Bush administration's policy on the coercive interrogation of terror suspects, arguing that such practices violated the law, verged on torture and could ultimately expose senior officials to prosecution, a newly disclosed document shows." The lawyer, Alberto J. Mora, "a Republican appointee who retired last month after more than four years as general counsel of the Navy, was one of many dissenters inside the Pentagon." The Washington Post/AP (2/20, A3) runs a similar report.

More Commentary On Torture Issue. Gerald L. Zelizer, rabbi of Neve Shalom and a member of USA TODAY's board of contributors, writes in USA Today (2/20, 2.31M), "The conversion that many religions have undergone in upgrading their moral stance on torture can be instructive to governments such as our own." Torture "degrades the

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victim, but it also degrades the society condoning it. Rationales such as the greater good or self-defense are slippery slopes. The definition of self-defense becomes looser and looser, and the greater good more arbitrary."

Columnist Bob Herbert writes in the New York Times (2/20, 1.19M), "Terrible things were done to Maher Arar, and his extreme suffering was set in motion by the United States government. With the awful facts of his case carefully documented, he tried to sue for damages. But last week a federal judge waved the facts aside and told Mr. Arar, in effect, to get lost. … If kidnapping and torturing an innocent man is O.K., what's not O.K.?"

Treasury Department Freezes Assets Of Islamic Charity. The Washington Post/AP (2/20, A5) reports, "The Treasury Department ordered U.S. banks to freeze assets of an Ohio-based group that the government says funnels money to the militant organization Hamas." The organization, KindHearts of Toledo, "was connected with the Hamas-affiliated Holy Land Foundation and the al Qaeda-affiliated Global Relief Foundation, the Treasury Department said yesterday."

Supporters Rally For Al Arian's Release From Jail. The St. Petersburg Times (2/20, Gershman) reports that on Sunday outside the Hillsborough County jail, over a hundred supporters of Sami al Arian protested his ongoing confinement after his acquittal "on eight of 17 charges related to financing and promoting Middle East terrorism." Civil rights advocates visited al Arian the jail and addressed the crowd, some of whom "held signs with messages such as 'McCarthyism Is Alive And Well In Tampa, FL' and 'If They Won't Free Him, What Was The Trial For?'"

Al Arian Says Ongoing "Persecution" Ignores Will Of Jury. In an interview with the University of South Florida Oracle (2/20, Blackburn), Sami al Arian denounced his continued incarceration saying, "They still want to spend the taxpayers' money and continue this persecution without any regard to what the jurors said and observed and commented. I'm disappointed in that, had I not been a Palestinian and a Muslim and an Arab, things would have been extremely different."

Germany Investigating Its Possible Role In Rendition. The New York Times (2/21, Van Natta, 1.19M) reports, "For more than a year, the German government has criticized the United States for its role in the abduction of a German man who was taken to an American prison in Kabul, Afghanistan, where he said he was held and tortured for five months after being mistaken for a terrorism suspect." German officials "said they knew nothing about the man's abduction," but yesterday "in Neu-Ulm near Munich, the police and prosecutors opened an investigation into whether Germany served as a silent partner of the United States in the abduction of the man, Khaled el-Masri, a German citizen of Arab descent who was arrested Dec. 31, 2003, in Macedonia before being flown to the Kabul prison."

Senior Al Qaeda Operative Profiled. The Washington Post (2/20, A1, Vick, 744K) reports on Louai Sakka, "a senior operative for al Qaeda and intimately linked to major terrorist plots in Turkey, Jordan and Iraq, where he had worked beside Abu Musab Zarqawi, a longtime confederate." He "showed up in Antalya last summer with tens of thousands of dollars in cash and a face altered by plastic surgery. After his arrest, he told investigators he had planned to die steering a yacht laden with explosives into a cruise ship he believed was filled with U.S. soldiers and which was already approaching across the turquoise Mediterranean." Sakka "played a role in the so-called millennium plot to attack hotels in Amman, Jordan, on Dec. 31, 1999." Turkish prosecutors also "describe him as the planner of the 2003 truck bombings that killed 57 people in Istanbul, financed with $160,000 in al Qaeda funds."

Report Examines Al Qaeda Employment Contract. Time (2/27) reports in its "Notebook" column on a report from the Combating Terrorism Center at West Point, which analyzes 29 al-Qaeda documents. Among the documents "is an employment contract that outlines for potential recruits the need for loyalty concerning 'legitimate duties like jihad' and also details such matters as vacation time (five days a month for bachelors), salary (700 rupees extra for every wife) -- even sick days. Is the document authentic? The Department of Defense and West Point have studied it carefully and believe it is."

CIA Intelligence Analysis Said To Be Politicized. In a Los Angeles Times op-ed (2/21), Danielle Pletka, vice president of foreign and defense policy studies at the American Enterprise Institute, comments on the volume of commentary on "how the Bush administration ignored internal predictions of post-war instability, terrorism

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and rising Islamism in Iraq. Intelligence, critics argue, was 'cherry-picked' to bolster the argument for war. What much of the public doesn't realize is that the CIA's Monday-morning quarterbacks, who originated many of the complaints, are themselves handpicking intelligence to boost their antiwar cause." The American people "should be certain that their democratically elected leaders are making decisions based on unbiased intelligence. They won't get that from today's CIA."

PATRIOT ACT:

Concerns About Privacy Drive Patriot Act Debate. The South Florida Sun-Sentinel (2/21, Gibson) reports, "While police groups in Florida urge swift congressional renewal of the USA Patriot Act, some peace advocates have joined critics across the country who say the anti-terrorism law abuses civil liberties and stifles dissent." The Sun-Sentinel continues, "The Senate swept aside a filibuster attempt last week to clear the way for passage of the act, probably on March 1. The House is expected to add its approval quickly." The Sun-Sentinel adds, "Recent disclosures of domestic eavesdropping have clouded the debate over the Patriot Act. Forged in the fearful aftermath of the 2001 terrorist attacks, the act has become a test of how to secure the nation while preserving individual liberties. … 'I hope whatever they [members of Congress] pass is a good balance been privacy and public safety,' said David Murrell, executive director of the Florida Police Benevolent Association in Tallahassee, one of several police groups that support renewal of the act. … 'We are still a democratic society and should not operate like a totalitarian government. Maybe it [the original act] did go too far, as far as individual liberties and the right to privacy is concerned. But we all know it's a new world. Threats are out there, and things like the Patriot Act are needed to address a new situation.'" The Sun-Sentinel notes, "Some dissenting groups in Florida are convinced that government agents have infiltrated and spied upon them. The groups contend that the act reflects a pattern of repression designed to intimidate critics of the Bush administration. … 'I don't think the Patriot Act has protected us at all. It has circumvented our civil rights and made it more dangerous to be an American citizen because of your politics,' said Richard Hersh of Boca Raton, leader of The Truth Project Inc., a Palm Beach County group that tries to counter military recruitment in high schools. 'Spies can go in anywhere and report back to a highly politicized government about the activities of citizens when they are simply exercising their constitutional rights.'"

HOMELAND RESPONSE:

White House Criticized Over Handling Of Port Management Company Sale To UAE Firm. The Administration is taking criticism from members of both parties for its handling of the proposed $6.8 billion sale of the firm that manages six US ports to Dubai Ports World, a firm controlled by the government of the United Arab Emirates. The story was the lead on ABC and CBS, which prominently quoted Democratic Sens. Charles Schumer and Robert Menendez and Republican Rep. Peter King, opponents of the deal, and Sen. Joseph Lieberman, who cautioned against rejecting the deal simply because of the firm's Arab ownership. ABC World News Tonight (2/20, lead story, 2:50, Raddatz) reported the proposed sale said has generated a "political firestorm," even though a "task force from 12 US agencies, including the Department of Defense, the FBI, and the Coast Guard, approved the $6.8 billion deal." Some "members of Congress say if the Administration does not listen to their concerns, they will try to have this contract frozen."

NBC Nightly News (2/20, lead story, 2:30, Williams) reported, "The Bush White House is being asked to reconsider its decision" that would allow the sale to Dubai Ports World. NBC (P. Williams) added Democratic Sens. Charles Schumer and Robert Menendez "now say it should be illegal to do what the Bush Administration has done, allow a company based in and controlled by the government of the UAE, the United Arab Emirates." The US "now considers" UAE "an ally in the war on terror, but those in Congress who oppose the deal note that some of the money for the 9/11 hijackers went through UAE banks and two of the hijackers were from there."

The CBS Evening News (2/20, story 4, 0:35, Schieffer) reported "there has been a storm of protests," and Sens. Hillary Clinton and Robert Menendez "said they will introduce legislation to bar any foreign company from operating a US port facility." Sen. Robert Menendez was asked on CNN's Lou Dobbs Tonight (2/20) about legislation he plans to offer with Sen. Hillary Clinton to block the deal. Menendez said, "First and foremost, we want the President to say no to this

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deal. We have only to March 2nd, and that gives us 10 days. And the president can actually obviate this deal, and I think he should. And if he fails to do so, what our legislation will basically stand for the principle that the ports of the United States should not be in the control and operation of a foreign government."

Menendez said on MSNBC's Countdown with Keith Olberman (2/20), "This is a foreign government that owns this company, not a private company. … And in this particular case, the United Arab Emirates has a history that we should be concerned about, two of the hijackers on September 11th came from there. … This is the country that the 9/11 commission said was a fountain of resources for Al Qaeda. And lastly, and probably the most concerning, when we think about the issue of the port, this is the country in which the Pakistani scientist actually smuggled elements of nuclear components to Libya, to North Korea, and to Iran. If they can't do a good job in their own country, of making sure that there was security so it wouldn't become a transit point, why should we let them operate the ports of the United States?"

CNN's The Situation Room (2/20, Blitzer) reported that the Bush Administration is defending a deal to give a company based in the United Arab Emirates management of six major ports in the US. The Administration says the deal "was thoroughly vetted and that the UAE is a key ally in the war on terror." CNN (Henry) added that House Homeland Security committee chairman Peter Hoekstra is urging President Bush to block the deal. Fox News' Special Report (2/20, Garrett) reported that the company "would not provide security at any US port. That job is still in the hands of the Coast Guard, Customs and Homeland Security. The port employees will remain American long shore men, just as they were under the British operating contract. Even so, security questions persist."

USA Today (2/21, 2.31M) reports Attorney General Alberto Gonzales "defended on Monday the Bush administration's decision to allow an Arab company to take over operations at six major U.S. ports." But "two Republican governors questioned the decision and said they may try to cancel lease arrangements at ports in their states." New York Gov. George Pataki and Maryland Gov. Robert Ehrlich "expressed doubts about the acquisition of a British company, Peninsular and Oriental Steam Navigation Co., which has been running the US ports, by Dubai Ports World." Gonzales "said the administration has a 'very extensive process' for approving such deals." The Baltimore Sun (2/21, Cohn, Shaw, 296K) runs a story titled "Ehrlich Objects To Port Deal," and the Washington Times (2/21, Miller, Ward, 90K) also focuses on the governor's comments. The New York Times (2/21, Kirkpatrick, McGeehan, 1.19M), meanwhile, titles its report on the port issue "Pataki Joins Opposition To Takeover Of Ports."

Ridge Says There Should Be More Transparency About Port Deal. CNN's The Situation Room (2/20, Henry) added, "Republican Tom Ridge, Chertoff's predecessor told CNN there needs to be more transparency about the deal, but said he has confidence in his former Bush colleagues."

Local Officials Say Port Security Inadequate. ABC World News Tonight (2/20, story 2, 2:10, Thomas) reported, "Some local officials believe the government is not doing nearly enough to upgrade port security. Baltimore's Mayor wants more surveillance cameras and much wider use of technology to scan for weapons." Mayor Martin O'Malley: "I think it's appalling that the wealthiest nation on the planet would invest so little in port security." Thomas: "Since 9/11, the US has spent $18 billion improving aviation security. Over the same time frame, according to one congressional study, the US spent roughly $560 million to help cities secure sea ports. But some security analysts question whether throwing more money at the nation's ports will really make us safer."

Passage Of UK-Style Official Secrets Act Seen As Unlikely. Newsweek (2/27) reports in its "Periscope" column that in the wake of press disclosures about the NSA domestic surveillance program and CIA antiterror operations, there has been renewed talk "about the need for an American version of Britain's Official Secrets Act." House intelligence committee chairman Pete Hoekstra has called for a "'comprehensive law' to make it easier to prosecute leakers, and last week his Senate counterpart, Pat Roberts, said he, too, thinks new measures may be considered." Newsweek adds, "One key Capitol Hill official, who asked not to be identified because of political sensitivities, suggested the legislation was not likely to get much traction soon, at least in the Senate."

"Real ID" Said To Have Potential To "Empower" Citizens. Douglas McGray, a fellow at the New America Foundation, in an op-ed in the New York Times (2/21, McGray, 1.19M) writes, "As states get ready to comply with a law passed last May and roll out Real ID's…, it might be time to consider a national identification card." Though

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camps at either extreme of the argument currently "own the conversation," those in the middle "should find the idea of a national ID appealing." McGray goes on to say that a national ID could have positive effects in the areas of health care, voter empowerment, poverty, education, social welfare and immigration. Privacy concerns "are huge," however, the notion of a national ID created to empower citizens, rather than just monitor us and protect us from foreigners, might inspire progressives and centrists to design a card that works."

Energy Department Downgrading Intelligence Unit. The Washington Times (2/21, Gertz, 90K) reports, "The Energy Department is downgrading its counterintelligence unit in what officials say is a 'hostile takeover' by the intelligence office." Bush administration "officials say the reorganization is part of a plan led by Deputy Energy Secretary Clay Sell, a former Senate staff member. 'This [consolidation] is ostensibly for better efficiencies,' said one official who opposes the move. 'But counterintelligence will be less effective and less of a defensive program.'" The Times adds, "A second official said the counterintelligence office consolidation is part of a 'hostile takeover by Rolf Mowatt-Larssen,' head of Energy's intelligence office."

Lawmakers Call For Overhaul OF FEMA. Lawmakers yesterday called for an overhaul of the Federal Emergency Management Agency. Speaking on ABC's "This Week," Sen. Joe Lieberman said FEMA should be replaced with something "better, stronger within DHS to take its place." Rep. Tom Davis, appearing on the same program, said FEMA should become a Cabinet department. Meanwhile, the AP (2/19, Daniel) reported that Homeland Security Secretary Michael Chertoff yesterday "warned against overhauling FEMA with hurricane season only three months away."

Reuters (2/20, Ahmann) also notes the differences in Lieberman and Davis' approaches. While Davis believes the agency should be pulled out of the Department of Homeland Security, Lieberman argues "that since Congress had given the Homeland Security Department statutory authority over both terror attacks and natural disasters, creating a free-standing FEMA would be the wrong way to go."

The Washington Times (2/20, Hudson, 90K) reports that Chertoff "says any tinkering this close to the storm season -- predicted by weather forecasters to be as severe as last year's -- would be a 'big mistake.'" Chertoff said on NBC's Meet the Press, "If FEMA is pulled out of the Department of Homeland Security, I will predict with virtual certainty that we will be much less prepared this hurricane season than we will be if we keep the department together and finish the job of integrating it."

The Los Angeles Times (2/20, Hook, 958K) reports, "Separating FEMA from the Homeland Security Department would remove a major function from the department, whose creation had been a cornerstone of President Bush's response to the Sept. 11 terrorist attacks. The department, which brought together the activities of 22 disparate agencies with more than 170,000 employees, was intended to centralize the government's programs involved in fighting terrorism and responding to natural disasters."

Chertoff Warns Against Removing FEMA From DHS. DHS Secretary Michael Chertoff was asked on NBC's Meet the Press (2/19, Russert) if he supports separating FEMA from DHS, Chertoff responded, "I think the last thing we want to do is to have a situation where we have two parallel agencies fighting over who manages a particular type of a disaster. … If FEMA is pulled out of the Department of Homeland Security, I will predict with virtual certainty that we will be much less prepared this hurricane season than we will be if we keep the department together and finish the job of integrating it."

NBC Nightly News (2/19, story 3, 1:55, Jordan) reported that Rep. Tom Davis says it is "time to pull FEMA out of the Department of Homeland Security," but Secretary Chertoff "rejected that assessment and said the country is better-prepared with FEMA inside DHS." Homeland Security Secretary Michael Chertoff, from NBC's "Meet the Press": "I think the last thing that we want to do is to have a situation where we have two parallel agencies fighting over who manages a particular type of a disaster."

Lieberman Advocates Eliminating FEMA "As We Know It." Asked on ABC's This Week (2/19, Stephanopoulos) if he thinks FEMA ought to be "pulled out" of DHS "and made Cabinet status again," Sen. Joseph Lieberman said, "I believe that it's time for FEMA as we know it to go. … The fact is it's an emergency management administration but it's represented emergency mismanagement. I think it's time to dissolve it and rebuild it within the Department of Homeland Security because, to take it outside, would be to make a redundant organization."

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Davis Suggests Establishing FEMA Outside Of DHS. Rep. Tom Davis, on ABC's This Week (2/19, Stephanopoulos), said, "I think FEMA has to be reorganized. I'm not sure it should stay in the Department of Homeland Security for this reason. They are competing for dollars. … I think they've got to be, just there at the right arm of the White House during any crisis."

Bush Names Chertoff Point Person To Work With Mexico On Border Violence. Reuters (2/21) reports, "US President George W. Bush named Homeland Security Secretary Michael Chertoff as the US point person to work with Mexican officials to clamp down on increasing violence along the US-Mexican border, the White House said on Monday." During a phone call between Bush and Mexican President Vicente Fox, in which White House spokesman Scott McClellan said the leaders "talked about…increased border violence and…the importance of working together to improve our border security and stop the violence," it was decided that each government would "pick a high-level contact within each government to work together on the issue and Bush tapped Chertoff for the role." The AP (2/21) reports McClellan also said "Bush and Fox also talked about pending immigration legislation in Congress."

The Washington Times (2/21, Dinan, Seper, 90K) adds, "Concern over border violence is growing as violent encounters in Mexico increase, spreading rapidly throughout northern Mexico from the lawless confines of Nuevo Laredo, which lies across the Rio Grande from Laredo, Texas." Meanwhile, "there have been more than 200 assaults on US agents in the Tucson sector alone, and the Border Patrol has warned agents in Arizona of incursions by men dressed in Mexican military uniforms."

Success Of Expedited Removal Said To Depend On Word Of Mouth. The Wall Street Journal (2/21, B1, Jordan, 2.11M) tells the story of Isabel Guzman, who, "after three weeks in a detention center in the Arizona desert," was escorted "onto an MD-80 in Mesa, Ariz., bound for Guatemala City." Her "speedy repatriation is part of a new effort by the US government to cut the red tape in deportations of illegal border-crossers." The success of the expedited removal policy "depends on getting deportees to spread the message back home that the rules have changed, and that a failed border crossing will result in rapid eviction from the US." However, "anecdotal evidence and recent history suggest that no matter how risky, or costly, attempted illegal border crossings may be, economic incentives are often too powerful to dissuade people like Ms. Guzman from trying again."

Katrina Reports Spur Speculation Chertoff Could Lose His Job. U.S. News and World Report's (2/27, Marek) cover package examinees the federal response to Hurricane Katrina. A report released last week "from the Republican-dominated House committee that's been examining Washington's star-crossed response to Katrina," called the federal response a "litany of mistakes, misjudgments, lapses, and absurdities." US News adds, "More tough reviews are in the offing. Two major reports on Katrina failures -- one from a Senate committee and another from White House homeland security adviser Frances Townsend-- are due out in the next few weeks. And the Government Accountability Office…has promised its own assessment. The atmosphere has many in Washington wondering whether Homeland Security Secretary Michael Chertoff…can save his job." Newsweek (2/27, Hosenball) examines e-mails provide to Congress by former FEMA Director Michael Brown. Brown "told NEWSWEEK he was frustrated because Chertoff tried to micromanage the disaster. 'I couldn't do my job,' he said. (Neither Chertoff nor the White House responded to requests for comment.)"

Official Says Levee System Will Be "Back To Where It Was." Also in its cover package, U.S. News and World Report (2/27, Hayden) reports that as this year's hurricane season approaches, "residents of New Orleans can be forgiven for wondering if their city's battered defenses will be ready should another killer storm hit." Walter Baumy, deputy director of Task Force Guardian, the Army Corps's $770 million program to repair the region's flood-protection system is charged with getting the system "back to where it was when Katrina rumbled through. Making New Orleans safer than before, well, that's another story. The decisions there will ultimately be made by Congress and carried out by the corps--which will issue a report on the subject by June."

New Orleans Recovery Efforts Examined. Also as part of its cover package this week, U.S. News and World Report (2/27) examines New Orleans' "heroic efforts to climb back out of the abyss" in Katrina's wake. A separate story in U.S. News and World Report's (2/27, Mulrine) cover package notes that "failure, or at least the distinct possibility of it, is very much a presence in this city's fetid streets and flood-damaged homes. … But spend some time talking with those

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to whom the real challenge of rebuilding will fall…and defeat seems a chimera, far from a given." A separate story in U.S. News and World Report's (2/27, Schulte) cover package on plans to rebuild New Orleans. Plans from Mayor Ray Nagin's Bring New Orleans Back Commission have "run headlong into the politics of race, class, and power, which, as in most places, translates to money." The plan "faces a host of daunting questions -- questions about flood protection, about controlling scattershot redevelopment, and about Washington's willingness to foot the bill to bring back the Big Easy. For now, all that seems certain is that the New Orleans of tomorrow will be smaller in size and population, most likely a whiter, wealthier city." Another story in U.S. News and World Report's (2/27, Tolson) cover package reports on fears that New Orleans will become a theme park "stripped of its low-lying, mostly poor, mostly black neighborhoods and reduced to a few tourist-enticing quarters like the Garden District or an even further Disneyfied Vieux Carre." US News' cover package also includes op-eds from noted New Orleans residents, musician Wynton Marsalis and chef Paul Prudhomme.

Blanco Proposes $7.5 Billion Katrina Rebuilding Plan. NBC Nightly News (2/20, story 8, 0:35, Williams) reported Gov. Kathleen Blanco has unveiled a "comprehensive rebuilding plan." The "$7.5 billion program would provide homeowners there with up to $150,000 each for repairs." While Gov. Blanco "says she expects to hear the sound of hammers in the not-too-distant future, the plan still has to be approved by state lawmakers and local officials and it will need money OK'd by Congress."

The New York Times (2/21, Nossiter, 1.19M) reports "Gov. Kathleen Babineaux Blanco of Louisiana for the first time unveiled a real package of assistance on Monday, proposing to use federal money for loans and grants that aides said would spur rebuilding in devastated areas." New Orleans officials "said the state's $7.5 billion proposal, which offers up to $150,000 in grants to repair or rebuild, along with inexpensive loans, would not have been possible without the $4.2 billion in new money promised by President Bush last week, and $6.2 billion allocated last year." The plan "de-emphasized" buyouts, focusing on "a combination of cash, and low or no-interest loans with the purpose of encouraging repairing and rebuilding."

Barbour's Days As Lobbyist Seen As Boon For Post-Hurricane Mississippi. The New York Times (2/21, Dao, 1.19M) reports the "legendary" K Street reputation of former lobbyist Gov. Haley Barbour "has proved invaluable to…storm-rattled" Mississippi. Barbour said in an interview, "It is obvious that my experiences and relationships over the last 35 years helped me help the state at a time when it needed it more than ever." Meanwhile, though Democrats "commend Mr. Barbour's response to the hurricane, they say it seems stellar mainly compared with the often stumbling performance of officials in Louisiana, which suffered far more devastation."

Group To Aide Minority-Owned Businesses Affected By Katrina. The New York Times (2/21, Olson, 1.19M) describes the Katrina Urban Entrepreneur Partnership, which is to begin "this month, giving needy entrepreneurs intensive help to ensure that they get part of the cleanup and reconstruction work on the Gulf Coast. Concerns have been raised that minority-owned companies are not getting a fair share of the posthurricane business. … The foundation is renting office space in New Orleans, bringing in professional business coaches on a rotating basis and identifying federally certified minority enterprises — beginning with demolition, construction and rebuilding businesses — that can benefit from such assistance."

New Orleans Police Often Had To Choose Between Family, Duty. USA Today (2/21, Johnson, 2.31M) tells the story of Paul Schubert, a New Orleans police officer, who, having "his job just before Hurricane Katrina hit last August, and then not returning for four weeks," was fired. He "says he fled to Texas to save his disabled wife." His "case has come to represent the no-win situation that many officers faced when family and police obligations collided, says David Benelli, president of the Police Association of New Orleans, which represents about 1,100 of the department's 1,400 officers."

Senate Approves Expanded Relief For Hurricane Katrina Victims. The Senate last week passed a bill that would expand relief for Hurricane Katrina victims. CQ Weekly (2/20, Starks) reports, "The legislation (S 1777) would extend the limit on disaster unemployment benefits, to 39 weeks from 26 weeks, and would lengthen the period in which jobless workers could apply for assistance. … The bill is sponsored by Susan Collins, R-Maine, the chairwoman of the Senate Homeland Security and Governmental Affairs Committee."

Engineers Say Corps Should Examine New Orleans Levee Oversight. An outside engineering group working with the Army Corps of Engineers says the Corps

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investigation into the flooding of New Orleans is overlooking organizational failures as a cause of the flooding. The New York Times (2/20, Schwartz, 1.19M) reports, "The corps is spending about $20 million to understand the physical causes of the levee breaches that left more than 75 percent of New Orleans flooded. But the engineering group said the corps should also be looking into 'discontinuity and chaos' in the creation and maintenance of the levees, according to a letter from the group to Lt. Gen. Carl A. Strock, the chief of the corps."

Smells Around New Orleans Noted. The Washington Post (2/20, C1, Weeks, 744K) reports that in the wake of Hurricane Katrina, New Orleans' air smelled of "flood sludge, refrigerator reekage and oil from cars and acid from batteries." Less than six months later, the floodwaters are gone and the air in much of the city is clear. In other areas, the smells "speak of New Orleans at the moment. From piles of debris along the sidewalks in the city and the suburbs rises a malodorous melange of fumes from sopping carpets, ancient linoleum, rancid bedclothes and abandoned appliances. … Some places smell the same as always: Tipitina's in Uptown is smoky, same as it ever was."

New Orleans Families Struggle To Return, Rebuild. The New York Times (2/20, Dewan, 1.19M) reports on the Baquets, a prominent New Orleans family displaced by Katrina. According to the Times, "As New Orleans struggles to pull its population back, even families with means like the Baquets, families who made New Orleans what it was, are struggling to return and rebuild."

Hard Hit Louisiana Parish Celebrates Mardi Gras. NBC Nightly News (2/19, story 4, 2:10, Williams) reported it is Mardi Gras season "in Louisiana and while it culminates in New Orleans a week from now, celebrations and parades are already underway. In one community, St. Bernard Parish, they celebrated today in front of crowds that were thin but thankful and determined to celebrate." NBC (Savidge) added, "Unlike other Mardi Gras parades that will march through the relatively unscathed French Quarter, this year's St. Bernard Parish parade partied through the rubble of its own neighborhoods, every home here, all 27,600 of them, flooded in water five-twelve feet deep. Before Katrina, 67,000 people lived in this predominantly blue collar area. Only 8,000 have come back."

Chertoff Says Katrina Failures Continue To Haunt Him. Asked on NBC's Meet the Press (2/19, Russert) if he has "considered stepping down," Chertoff replied, "When I took the job, I knew that we had a lot of work to do to mature the department. … I think my responsibility is to try to fix the department." Chertoff went on to say that the federal government's response to hurricane Katrina "does haunt me. … What does stick with me is the image of people who unnecessarily suffered because of delays in getting them evacuated. … I think we really fell short. And that's certainly something which I will always carry with me."

Chertoff Responds To Brown's Criticism. Asked on ABC's This Week (2/19, Stephanopoulos) to comment on criticism of him by former FEMA Director Michael Brown, Chertoff said, "I understand I removed Mike Brown. He's obviously not going to be happy with me. That's, kind of, human nature." Chertoff added that in the days after hurricane Katrina struck, "I couldn't get a hold of Michael Brown. He was flying around in a helicopter looking at damage; he was planning to go on Larry King or Rita Cosby."

Chertoff, on CNN's Late Edition (2/19, Blitzer), said, "I do want to respond to Mr. Brown's statement that I was wrong in making him go back to Baton Rouge. On Tuesday, he was flying around with politicians. He was doing interview shows. And the basic planning, which was getting buses to come into the Superdome and pick people up, had not been done."

WAR NEWS:

Lawmakers Said To Be "Chafing" At War Costs. The Christian Science Monitor (2/21, Chaddock, 61K) reports, "More than four years into the war on terror, Congress is chafing -- but not yet balking -- at a tab nearing $400 billion." President Bush's "latest emergency spending request, sent to Capitol Hill last week, includes $72.4 billion for the global war on terror. He also asked for another $19.8 billion for hurricane relief at home." The Monitor adds, "Few lawmakers care to risk not supporting US troops or first responders, making these must-pass bills. As such, they're attracting add-ons that lawmakers deem 'emergencies.' … Many Democrats plan to use the emergency spending request as a vehicle to address what they call urgent needs at home." The Monitor mentions comments along those lines by Democratic Sen. Patty Murray and Rep. David Obey.

Democratic Leaders Seen As Coalescing Around Plan For Quick Withdrawal From Iraq. The Boston Globe (2/20, Klein, 484K) reported, "After months of trying unsuccessfully to develop a common message on the war in Iraq, Democratic Party leaders are beginning to coalesce

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around a broad plan to begin a quick withdrawal of US troops and install them elsewhere in the region, where they could respond to emergencies in Iraq and help fight terrorism in other countries." The concept, dubbed "'strategic redeployment," is "outlined in a slim, nine-page report coauthored by a former Reagan administration assistant Defense secretary, Lawrence J. Korb, in the fall. It sets a goal of a phased troop withdrawal that would take nearly all US troops out of Iraq by the end of 2007, although many Democrats disagree on whether troop draw-downs should be tied to a timeline." Howard Dean, Democratic National Committee chairman, "has endorsed Korb's paper and begun mentioning it in meetings with local Democratic groups."

US Ambassador Warns Iraqi Shiites To Form Inclusive Government. US Ambassador Zalmay Khalilzad again expressed frustration with the majority Shiite coalition in Iraq for their failure to organize a government that includes minority Sunnis. Khalilzad suggested that US reconstruction aid may be withheld if the Shiites fail to appoint trustworthy leaders to head the nation's security forces, especially given reports of death squads targeting Sunnis.

The story was covered by CBS last night. The CBS Evening News (2/20, story 3, 2:00, Schieffer) reported, "Iraqi politicians got an earful from the US Ambassador, who made it clear today that he is fed up with their failure to build a unified government for all Iraqis." CBS (Dozier) added Khalilzad sought to "steer" the Shiites "right" by "embarrass[ing] the heck out of them in public." Khalilzad said Iraq's "ruling Shiites are about to make a major mistake by appointing ministers, especially in the security services, that many Iraqis fear," and he "bluntly stated that the Shiites must choose more wisely or else." Ambassador Khalilzad: "We cannot invest billions of dollars in security forces if those forces are not trusted by the Iraqi people."

The Washington Times and USA Today (2/21, 2.31M) run an AP report on Khalilzad's remarks, while the New York Times (2/21, Tavernise, Worth, 1.19M) and Washington Post (2/21, A10, Hernandez, 744K) also note his comments.

Iraqi Highway Patrol Linked To Death Squads. The Los Angeles Times (2/21, Moore, 958K) reports a "1,500-member Iraqi police force with close ties to Shiite militia groups has emerged as a focus of investigations into suspected death squads working within the country's Interior Ministry." Iraq's "national highway patrol was established largely to stave off insurgent attacks on roadways," but US military officials "say they suspect the patrol of being deeply involved in illegal detentions, torture and extrajudicial killings."

Suicide Bombings Kill US Soldier, Two Dozen Iraqis. NBC Nightly News (2/20, story 3, 0:25, Williams) reported that in Iraq, the "relative lull there has been shattered in a string of bombings today that left 24 dead, including an American soldier. The worst of the attacks occurred in Baghdad, where a suicide bomber killed 12 people onboard a crowded bus." The CBS Evening News (2/20, story 2, 0:10, Schieffer), meanwhile, reported the US soldier was "hit by a roadside bomb near the Shiite city of Karbala." The Los Angeles Times (2/21, Daragahi, 958K), among other sources, also reports on the attacks.

US Seeks To Change Strategy With Counterinsurgency Academy. The Washington Post (2/21, A10, Ricks, 744K) reports on the "COIN Academy" or counterinsurgency academy in Iraq organized by the US commander, Army Gen. George W. Casey. The school "seeks, as a course summary puts it, to 'stress the need for US forces to shift from a conventional warfare mindset' to one that understands how to win in a guerrilla-style conflict." The purpose "of the school north of Baghdad is to try to bring about a different outcome than the US military achieved in 2003-04, when Army commanders committed mistakes typical of a conventional military facing an insurgency." Again "and again, the intense immersion course, which 30 to 50 officers attend at a time, emphasizes that the right answer is probably the counterintuitive one, rather than something that the Army has taught officers in their 10 or 20 years of service."

Politics, Bureaucracy Contribute To Decline In Iraqi Oil Production. The Wall Street Journal (2/21, Cummins, Hafidh, 2.11M) report political disputes and bureaucratic snags have contributed to a sharp decline in Iraqi oil production, "raising questions about the country's ability to keep its petroleum industry from spiraling further into disrepair." In January, "production sank to 1.5 million barrels a day. The deterioration deprives Iraq of revenue from oil sales and is one more black eye for American reconstruction efforts."

In 2000, Hall Said Iraq Was Military Threat. In its "History Lessons" column, the Washington Times (2/21, 90K) excerpts a statement released on April 24, 2000 by Rep. Tony Hall (D) after returning from Iraq. Hall said, "I remain concerned about the military threat Iraq continues to pose to

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its neighbors and the world -- and convinced that until progress is made on eliminating weapons of mass destruction, lifting sanctions would be irresponsible." Hall added that "if Iraq would show good faith in keeping the promises it made at the end of the Gulf War, perhaps that would prompt good faith measures by the United Nations."

Marine Corps Officer Is Only Active Combat Artist. The Wall Street Journal (2/21, Phillips, 2.11M) reports Warrant Officer Michael Fay, the Marine Corps' official artist, a "rarity because he is both front-line warrior and front-line artist. He is, as far as he knows, the only active-duty combat artist in the world today." The result is "work that does in images what Ernie Pyle did in his World War II newspaper columns: Convey the experiences, both frightening and mundane, of the common man thrust into war."

New Bin Laden, Zawahiri Audiotapes Released. New audiotapes of al Qaeda leaders Osama bin Laden and Ayman al Zawahiri have surfaced in which bin Laden vows never to be taken alive by the US and al Zawahiri brags about having escaped a US airstrike in Pakistan meant to kill him. The story was the lead on CBS, while NBC ran a full segment and ABC ran a brief. The CBS Evening News (2/20, story 1, 3:15, Stewart) reported, "US officials still aren't certain what to make of it but in newly released excerpts from a message of al Qaeda's number two man, Ayman al-Zawahiri, the terrorist leader appears to acknowledge that the CIA came far closer than first suspected when it attacked this Pakistan border village last month." Zawahiri, "clearly in a taunting mood," also "claimed for the first time he was in the Tora Bora Mountains when US forces attacked the al Qaeda stronghold at the end of the Afghanistan invasion." Al Qaeda "also released a new version of Osama bin Laden's January audio message in which he pledged to never be taken alive," but it "had a voiceover in English, believed to be that that of this young man, Adam Gadahn."

NBC Nightly News (2/20, story 2, 2:10, Mitchell) reported, "Most likely recorded in January, Zawahiri invites President Bush to convert to Islam." Zawahiri (voice of translator): "Bush, despite all your crimes, foolishness, and black history, I offer you Islam." Mitchell: "An invitation, experts say, could actually be a warning." Ben Venzke, terrorism analyst: "We believe it is part of a greater warning cycle that we would see in the run-up to an attack." Mitchell: "On his newly released video, Zawahiri also takes aim at Pakistan's President Musharraf."

ABC World News Tonight (2/20, story 3, :25, Gibson) reported, "The comments are on an old audiotape. But new attention is called to them. Bin Laden says Iraq has restored the energy of those who carry out war against America."

Observers Worry Afghan Judicial Reform Could Be Destabilizing. The Christian Science Monitor (2/21, Baldauf, 61K) reports "a growing chorus of European and Western donor nations call on" the Afghan government "to reform and professionalize the judicial system - as required by the Constitution and the Afghanistan Compact signed in London on Feb. 1," the chief justice, Islamic scholar Fazel Hadi Shinwari, "says that Afghanistan will be governed by Islamic laws or tumble into violent civil conflict." Instability has "long been President Hamid Karzai's chief concern. But when a group of European diplomats brought a démarche, or diplomatic petition, to Mr. Karzai on Feb. 11, demanding reform of the Supreme Court, insiders braced themselves for the worst." Privately, "some officials worry that taking on religious conservatives like Shinwari could be severely destabilizing."

Kaplan Says Military's New Strategy Needs Diplomatic Component. In a New York Times op-ed (2/21), Robert Kaplan of the Atlantic Monthly says, "Because of a bloody counterinsurgency that no one in the military wants to repeat, Iraq has profoundly affected the Pentagon's deployment strategies as it shifts toward a greater emphasis on the Pacific Rim while still facing a profusion of terrorist-related threats not just in the Middle East but also in Africa and elsewhere." The goal "from now on is to get into a place fast, before a problem begins to fester, when there is leeway to experiment and thus to make mistakes without suffering a loss of prestige." But there is a "major omission: the civilian -- or non-Defense Department -- piece of it is entirely missing." In this "worldwide struggle the civilian piece associated with the State Department will be a vital, unconventional asset."

Strain From Afghan, Iraq Wars Seen As Showing On Home Front. USA Today (2/21, Zoroya, 2.31M) reports the situation at Robins Air Force Base in Georgia, "where thousands of workers repair military aircraft, is a case study on how the war overseas has affected those serving on the home front. Here, a different kind of strain and

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battle fatigue has surfaced, often in startling ways." The "wounded came not from engaging the enemy, but from scores of workplace injuries that increased as the war intensified. The low morale was measured in rises in drunken driving and domestic abuse, discrimination complaints and lost productivity. Most dramatic were the suicides — double the national rate in 2004 — and murders on the base, the first in Robins' 65-year history."

Officers Learn Middle East Culture In Army Program. The Washington Post (2/21, A13, 744K) reports on a US Army "pilot program that is sending 21 Army officers to graduate school to learn about foreign cultures, business practices and languages, including Arabic." The Army "wants its leaders armed with skills to help them navigate road signs, engineering plans and simple conversations."

DOJ:

Attorney Asks DOJ To Clear Name Of Deceased Michigan Official. The Detroit News (2/21, Egan) reports, "Edward H. McNamara's attorney said Monday he would like the U.S. Justice Department to issue a letter clearing his client of criminal wrongdoing now that McNamara has died. … McNamara, who was Wayne County Executive from 1987 through 2002, died Sunday of heart failure. He was 79." The News continues, "In the waning days of his administration, federal and state police officers raided McNamara's county and campaign offices and seized cartloads of paper and computer records. … But McNamara was never charged, and his attorney, Christopher Andreoff, said the Justice Department has never told him that McNamara was the target or even a subject of the probe. He has heard nothing from the FBI or Justice Department since receiving subpoenas for campaign records more than three years ago, he said. … 'I would hope that the government would come forward, but they may not,' Andreoff said. … 'I would like to have such a letter from them now that he's passed, but whether they will do that or not, they tend not to do that in any case, whether someone is deceased or not.'" The News adds, "Andreoff said he wants to discuss the issue with McNamara's widow and other family members before contacting U.S. Attorney Stephen Murphy. 'Now is not the appropriate time,' he said. … The wide-ranging probe is related in part to possible links between campaign contributions and the awarding of county contracts."

CORPORATE SCANDALS:

Both Sides In Enron Case Try To Shape Jury's Opinions. The Washington Post (2/21, D1, Johnson) reports, "Everybody, it seems, has an opinion about Enron Corp. … But the one that counts will be reached by 12 people who will decide the fate of the energy trader's former leaders." The Post continues, "The jurors are an eclectic bunch: eight women and four men, three self-identified Hispanics and one Asian. It is a well-educated panel that includes an engineer, a courtroom manager, and employees of oil industry giants Royal Dutch Shell Group and Schlumberger Ltd. … Four alternates are standing by in case one of the regular jurors becomes ill or otherwise cannot continue through the trial of former chairman Kenneth L. Lay and former chief executive Jeffrey K. Skilling, which is likely to extend at least four months." The Post adds, "The way the Enron panel goes about its work will fuel a long-running debate about the ability of average citizens to assess responsibility for complex business frauds -- and will carry powerful implications for the way prosecutors bring future white-collar cases, according to experts on corporate crime. … 'Juries can understand lies, cheating and stealing,' said Ellen S. Podgor, a visiting law professor at Stetson University and co-author of a blog on white-collar cases. 'What they can't understand is complex accounting practices. You have to simplify it for the jury.' … That is exactly where the prosecution has focused its efforts. 'It is not about accounting. It is about lies and choices,' Assistant U.S. Attorney John C. Hueston told the jurors in opening arguments. … In contrast, defense lawyers have attempted to lead the jury down circuitous paths of accounting treatment, introducing audio and video clips full of arcane detail about complex business issues. … Defense lawyers also have signaled that they may make the jury itself the basis of appeals if the trial goes against their clients. Almost from the start, they raised questions about whether jurors from Houston, where thousands of workers lost jobs and retirement savings in Enron's collapse, could hear the case with open minds."

Ruling Curbs Executives' Chance To Accept Lucrative IPO Shares. The Wall Street Journal (2/21, Siconolfi) reports, "Corporate executives, take note: The definition of improper stock trading in your brokerage account just got broader." The Journal continues, "A New York state

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court recently found former telecommunications executive Clark E. McLeod liable for receiving hot new stocks in his personal brokerage account. The rationale: His company was sending business to the same securities firm, Citigroup Inc.'s Salomon Smith Barney, that doled him the new stocks. … That is a big change. Previously, 'spinning' of initial public offerings of stock involved a direct quid pro quo. In a common form, securities firms allocated IPOs to the personal accounts of corporate executives, so the shares could then be sold, or 'spun,' for quick profits -- in exchange for business from the executives' companies." The Journal notes, "IPO shares are coveted because they often surge on their first trading day. Spinning has raised concerns among investors that the IPO market is rigged. … Bottom line: Senior executives now could skate on thin legal ice if they receive IPO shares from a Wall Street firm with which their company at some point does business, and don't disclose it to their board or shareholders."

CRIMINAL LAW:

Cotton Convicted In First Tennessee Waltz Trial. A federal jury on Saturday found Tennessee Waltz defendant William Cotton guilty of conspiracy and one of two counts of attempted extortion. Cotton was acquitted of the second extortion count. The AP (2/19, Poovey) notes, "Hours of secret FBI audiotapes and videotapes of encounters between Cotton," lobbyist Charles Love "and undercover agents posing as E-Cycle executives were the heart of the government's case." The Memphis Commercial Appeal (2/19, Perrusquia) observes, "The case illustrates the challenges other Waltz defendants…may face when confronted with hours of taped evidence in trials slated for Memphis later this year. … Although the Cotton case is one of the least complex of the Waltz cases, the volume of taped evidence and complexity of federal extortion law seemed to dazzle jurors."

Meanwhile, WTVC-TV Chattanooga (2/20, Fields) reports on the reaction of Chattanooga-area lawmakers to Cotton's conviction. State Rep. Chris Clem "likens the fallout of the Tennessee Waltz investigation to fighting a disease, 'I would say it's equivalent to being diagnosed with a treatable cancer. … You're glad you can do something about it, but the treatment is still rather painful.'" Sen. David Fowler, who was mentioned in the FBI tapes but not accused of accepting bribes, "says it's unfortunate the fallout from Tennessee Waltz has undermined the public's trust in lawmakers."

Defense Attorney To Seek Lenient Sentence. The Chattanoogan (2/20) reports defense attorney Hank Hill "said he will ask Federal Judge Allan Edgar for leniency," saying that Cotton "'played a fairly minor role' in the FBI 'Operation Tennessee Waltz' sting." Hill "said he will point out that Cotton 'is a decorated war hero. He received two Purple Hearts' in Vietnam."

Cotton Resigns Commission Seat. The AP (2/21) reports that in a letter to Hamilton County Commission Chairman Larry Henry on Monday, Cotton resigned his seat in the wake of his conviction. The AP notes, "The 'Tennessee Waltz' scandal led to a special session of the legislature this year, which passed a sweeping ethics reform bill creating an independent ethics commission, restricting lobbyists and capping cash political contributions."

Some Black Political Leaders Say FBI Investigation Racially Motivated. The AP (2/20, Poovey) reports, "Some black political leaders are saying the 'Tennessee Waltz' sting operation targeted blacks and represents an attack on the Senate campaign of U.S. Rep. Harold Ford Jr." State Rep. Ulysses Jones "said many people in his district believe federal investigators went after black leaders," and Hamilton County Democratic chairman Stuart James "said the investigation has prompted 'complaints from the black community as a whole.'" However, the lead prosecutor, Assistant US Attorney John MacCoon "said it was 'absurd' to suggest race or partisan politics were factors in the investigation."

FBI Scrutinized Memphis Lawmakers. Under the headline "FBI Had DeBerry, Hargett In Sights," The Memphis Commercial Appeal (2/19, Perrusquia) reports, "House Speaker Pro Tem Lois DeBerry and state Rep. Tre Hargett were among several Memphis-area politicians originally in the crosshairs of an FBI corruption sting, yet were never charged." In an FBI surveillance recording played at Cotton's trial, "an undercover agent says Hargett is one who should be approached because 'we did something for Tre,'" and adds that "DeBerry 'has agreed to co-sponsor' legislation favorable to E-Cycle Management." On Saturday, "Hargett said he was surprised and angered by the inference."

Bredesen To Return Contributions From FBI Probe Targets. The Knoxville News (2/21, Stambaugh) reports, "Gov. Phil Bredesen's campaign announced Monday it will return $22,300 in contributions given since 2001" by Harold Eugene Grooms, Kenneth Frazier and Cocke County business H-1 Auto Parts, after Bredesen became aware that they were targets of the Operation Rose Thorn investigation.

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"Grooms has been under scrutiny by federal authorities since at least 2000, when two pilots were caught smuggling marijuana into East Tennessee and fingered Grooms as their boss. … H-1 Auto Parts has also been the subject of a federal search warrant," and Kenneth Frazier "has been identified by the FBI as the owner of the 440 Cockfight Pit." The AP (2/20) notes, "Grooms' home was raided last month by the FBI, Tennessee Bureau of Investigations and other agencies. Bredesen confirms knowing Grooms, but says he'll keep at 'arm's length' from him with his new troubles."

Gotti Racketeering Trial Begins Today. The AP (2/20, Neumeister) reports, "The latest attack on the Gambino family…begins Tuesday, when lawyers deliver opening statements in the racketeering case against John 'Junior' Gotti. The trial is a linchpin in the government's effort to permanently shut down the Gambino family, once a powerhouse in the gambling, loan sharking, labor union and extortion rackets." The AP notes that federal investigators have made significant progress against the Gambinos since "they infiltrated the family with an undercover FBI agent who was so well accepted that he was offered membership." The New York Post (2/19, Hamilton, Smith) adds that "a rematch of Gotti vs. the government won't be a simple replay of last year's trial, when a lone holdout juror derailed the bid to nail the ex-Gambino crime king for plotting to kidnap radio host Curtis Sliwa, loan sharking and extortion in the construction trade. This time, there's a new attorney for Junior, along with fewer witnesses against him, pared-down charges…and no co-defendants."

Gambino Case Built On FBI Wiretap, Informant, Undercover Agent. Under the headline "FBI Stalks The Gambino Crime Family In Westchester," The Westchester Journal News (2/19, O'Connor) reports on the FBI's surveillance of reputed Gambino crime family captain Gregory DePalma of Scarsdale. The Journal News notes that the case against DePalma is based on a listening device in DePalma's cell phone, "a member of DePalma's Westchester-based crew who was flipped by an agent from the FBI's White Plains office," and "an FBI mole" who "worked his way into DePalma's inner circle." The Journal News goes on to detail some of the recordings captured by the FBI wiretap.

Alleged Bonanno Boss Maintains Unconcerned Attitude As Trial Approaches. The New York Times (2/21, Rashbaum) reports on the trial of alleged mobster Vincent "Vinny Gorgeos" Basciano, set to begin Thursday, "where he stands accused of running the Bonanno crime family with a decidedly deadly hand." In pre-trial hearings, Basciano "has preened in his finely tailored suits and Ferragamo shoes" and "has been seen laughing and making jokes for the benefit of newspaper reporters." Although "the government has lined up 80 to 100 witnesses," Basciano "appears largely unconcerned. He sits in court listening intently, sometimes silently flashing a smirk to reporters, or an arched eyebrow." The New York Post (2/20, Haberman) notes that Basciano will "face an extraordinary number of Mafia turncoats. … 'There is not one trial in public consciousness that has seen as many rats,' one legal insider said. Former family godfather Joseph Massino, who was convicted in 2004 of committing seven rubouts but cooperated to skirt the death penalty, is expected to make his rat debut."

Congress Takes Up Dispute Over "Bad Check" School. The Washington Post (2/21, A1, Mayer) reports, "Prosecutors in some Maryland and Virginia counties have adopted a potent tactic to discourage check-bouncing: threatening writers with prosecution if they don't attend 'bad check school' run by private contractors." The Post continues, "It is a way for the counties to make money -- they get a portion of the fees the companies charge people who attend the courses -- and law enforcement officials say the practice saves resources for fighting more serious wrongdoing. … But critics say the private companies violate the law when they send out letters warning check bouncers to attend classes or face prosecution. The critics add that in most states, it is not a crime to write a returned check unless there is intent to defraud. And federal law bars debt collectors from making false threats." The Post adds, "Nine Maryland counties, including Prince George's, Howard, Anne Arundel and Frederick, have turned to check restitution companies for such services. Some jurisdictions in southern Virginia are using an outside company, and Loudoun County is about to do so. The District has no check-restitution program but is considering one. … Local prosecutors say the threat of prosecution for not participating is legitimate. … But the practice is being challenged in several lawsuits nationwide. … The dispute has moved to Congress, where prosecutors want check-restitution programs exempted from federal debt-collection laws. Proposed legislation, designed to eliminate

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key legal arguments in lawsuits challenging the practice, has been approved by the House Financial Services Committee. Consumer advocates and debt collectors -- typically adversaries -- are fighting it."

Rising Poker Popularity Leads To Robbery Risk. The Washington Post (2/21, A1, Vargas) reports, "The first time Doug Thomas looked up from his cards to see a gun pointed at him, the chips on the felt-topped poker table were piling up to about $100 a pot. The Texas Hold 'Em game was just revving up last month at the Manassas electrical shop when two masked men, armed with a semiautomatic handgun, ordered players facedown on the floor. … The second time was less than two weeks later and just a few blocks away. Nine players had paid $500 each for a seat at the poker game at his Manassas apartment, but Thomas wasn't making any money, other than the few bucks he skimmed off each pot to pay for food and drinks. The pizza and wings had just arrived when the police officers showed, weapons drawn." The Post continues, "As poker's popularity explodes, swallowing basements and living rooms in its wake, the danger also has increased, police say. No one tracks the number of poker-game heists because they are recorded simply as robberies, and many go unreported by hosts fearful of gambling charges. But police across the region and nation say private games are ripe for robberies. … The games' hosts acknowledge the danger and are reacting by keeping guest lists more exclusive and often risking serious criminal charges by taking money from players to pay for armed security. … For police, the mixture of a high-stakes game in a low-security spot such as a home is cause for worry. … Police say that in the past year and a half, calls about private poker games have increased steadily, including complaints from relatives worried about depleted savings accounts and from neighbors tired of watching cars clog cul-de-sacs the same night each week."

CIVIL LAW:

Groups Seek FEC Rules To Allow Ads Near Elections. Five groups, the AFL-CIO, the US Chamber of Commerce, the National Education Association, OMB Watch and the Alliance for Justice have petitioned the FEC to create new regulations that would allow them to lobby federal officeholders via TV ads in the days before a primary and general election. The Washington Times (2/20, Dinan, 90K) reports, "If the FEC does, it would be the first time the agency set standards for how groups can lobby without running afoul of the 2002 campaign-finance changes in the McCain-Feingold Act, named after Senate sponsors John McCain and Russell D. Feingold." In January, the High Court ruled in Wisconsin Right to Life v. FEC that grass-roots groups "have ways to lobby and mention the name of a federal candidate without being seen as actively campaigning. In their petition to the FEC, submitted last week, five groups said the court's ruling lets the FEC write regulations in time to govern the 2006 election."

High Court To Consider Vermont Campaign Finance Law. The Supreme Court next week will consider whether a Vermont campaign finance law violates the First Amendment. U.S. News and World Report (6/27, Halloran) reports that the case gives the court "its first opportunity to revisit the [1976 Buckley v. Valeo] money-is-speech precedent that defines unlimited campaign spending as a constitutional right. The outcome could have a dramatic effect on how far states can go in regulating campaigns in the future."

Families To Recover Art Taken In World War II. USA Today (2/21, Willing) reports, "She has pursued her family's stolen treasures for nearly eight years. … But Maria Altmann of Los Angeles, a 90-year-old widow and Holocaust survivor, says she never expected this: Austria's national gallery is preparing to send her and her four cousins five paintings worth an estimated $300 million, nearly 70 years after Nazis confiscated the artworks in her native Vienna." USA continues, "A long-shot victory by Altmann at the U.S. Supreme Court in 2004 and a win before an Austrian arbitration panel in January mean that the paintings, by early 20th-century Austrian master Gustav Klimt, could be headed to Altmann's three-bedroom home as soon as next month. … The Austrian government has declined to bid on the works, which include a gold-flecked portrait of Adele Bloch-Bauer, Altmann's aunt, that has been reproduced on thousands of souvenirs. In a statement, Austrian Chancellor Wolfgang Schuessel said the nation could not afford the $300 million valuation placed on the paintings by E. Randol Schoenberg, Altmann's Los Angeles-based attorney." USA notes, "The Altmann case has had an impact on the art world, says Robert Jarvis, art law specialist at Nova Southeastern University in Fort Lauderdale. Public museums are re-

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examining the backgrounds of many of their pieces. Some, such as New York City's Metropolitan Museum of Art, have agreed to return some pieces to their nation of origin rather than risk losing them in a lawsuit."

CIVIL RIGHTS:

Only 21 States Have Complied With Voting Reform Law. CQ (2/20, Zeller) reports that four years ago, Congress "wrote a law intending to clean up once and for all the sorts of Election Day messes that yielded Florida's presidential results fiasco in 2000." But a "recent study by the nonpartisan group Electionline shows that only 21 states have met all of the law's requirements as of the deadline, which was Jan. 1." The group "monitored compliance with the baseline provisions of the law, which also called for the adoption of uniform voter identification rules, statewide voter registration databases and modernized voting machines that could be used by people with disabilities." The "furthest behind, according to the Electionline report, is New York, which is presently under review by the Justice Department to determine whether its $220 million in federal funding under the law should be confiscated." Still, "new machinery is not an airtight fix for voting irregularities either, the report found: California is scrambling to replace its recently acquired electronic voting machines to address concerns about their reliability and security."

Delaware Session To Teach How To Recognize Victims Of Human Trafficking. The Wilmington (DE) News Journal (2/20, Billington) reports, "Human trafficking -- the modern version of slavery -- is a multibillion-dollar-a-year criminal enterprise, ranking behind drug trafficking in global crime statistics." The Journal continues, "Some victims of human trafficking are probably working in Delaware, experts say. … 'There's no doubt that there is human trafficking in every state in the union,' said Chief Assistant U.S. Attorney Douglas Molloy of Fort Myers, Fla. Molloy has prosecuted several human-trafficking cases. … 'If you have an agricultural industry, for example, or large numbers of undocumented workers, you have slavery.'" The Journal adds, "Delaware has a large agricultural sector and other businesses -- such as food service and construction -- that lend themselves to human trafficking, but there have been no specific charges brought to date in the state, U.S. Attorney Colm Connolly said. … 'Some local law enforcement agencies have brought matters to us that they thought could be human trafficking, especially in areas such as prostitution rings, but further investigation did not bear that out,' Connolly said." The Journal notes, "Despite the lack of evidence human trafficking is a problem in the state, one advocacy group is organizing a training session Wednesday in Dover to promote ways to recognize potential victims and signs. … Attendees at the event will include police, social workers, hospital personnel and others who come into contact with the state's immigrant population. It is not open to the public. … A number of experts have said that police and prosecutors are not trained well enough to recognize obvious signs and to deal with victims."

LAPD Suspensions, Firings Down Last Year Despite Rise In Misconduct Reports. The Los Angeles Times (2/21, McGreevy) reports, "Although complaints against Los Angeles police employees were up last year, 46% fewer officers and civilian staff members were fired or suspended than in 2004, according to a report released by LAPD Chief William J. Bratton." The Times continues, "Last year, about 6,400 complaints were filed against police employees, an increase of nearly 4%, according to Cmdr. Eric Lillo, head of the Los Angeles Police Department's Internal Affairs Group. … At the same time, a separate report by the chief — to be considered by the Police Commission today — said 421 employees were fired, quit under pressure or were suspended last year, nearly half the 784 staff members who were terminated or suspended in 2004. … The LAPD has 9,357 police officers." The Times notes, "Lillo said the drop in the number of discipline cases was probably due in part to efforts by Bratton to punish those engaged in misconduct. … Department officials note that, because of limited investigative staffing, fewer complaints that might have brought disciplinary action were resolved in 2005 than the year before. Because the department has had trouble meeting its recruitment goals, it has become more difficult to promote experienced officers to these investigative functions. … Civil rights attorney Samuel Paz, a member of the National Policing Accountability Project, called on the Police Commission to determine why complaints overall were up."

Los Angeles Jail Riots Underscore California's Racial Divide. The Washington Post (2/21, A1, Pomfret) reports, "A series of deadly racial attacks in

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the jails of this sprawling metropolis has cast a spotlight on long-simmering but little-discussed tensions between a shrinking black presence and an ascendant Latino one in California." The Post continues, "In almost every arena of public life -- schools, politics, hospitals, housing and the workplace -- African Americans and Hispanics are engaged in an edgy competition, according to interviews with teachers, students, politicians, researchers, government officials, civil rights lawyers, street cops and businesspeople." The Post adds, "Los Angeles's first Latino mayor since the 19th century, Antonio Villaraigosa (D), was elected last year with strong support from African Americans amid hopes of the creation of a true rainbow coalition in one of the world's most ethnically diverse metropolitan areas. But the reality, said Earl Ofari Hutchinson, a black radio talk show host who directs the Los Angeles Urban Policy Roundtable, is that 'the jail violence is only symptomatic of something larger.' … 'There is conflict and competition in all areas,' Hutchinson said. 'This city and this state is a caldron of racial issues. This thing is pulsating.'"

Efforts To Ban Gay Adoption Emerging Nationwide. In what USA Today (2/21, Stone, 2.31M) calls a "second front in the culture wars" over gay marriage, efforts to ban gays and lesbians from adopting children are emerging across the country. USA reports, "Steps to pass laws or secure November ballot initiatives are underway in at least 16 states, adoption, gay rights and conservative groups say. Some — such as Ohio, Georgia and Kentucky — approved constitutional amendments in 2004 banning gay marriage."

In a separate story, USA Today (2/21, Stone, 2.31M) adds, "The push against adoption by lesbians and gay men comes after successful campaigns in 11 states in 2004 to define marriage as a union between a man and a woman. At least six more states — Alabama, Arizona, Idaho, South Carolina, South Dakota and Wisconsin — may put marriage on the ballot in November."

Preschool Teacher Sues Catholic School After Losing Job Because Of Pregnancy. ABC World News Tonight (2/20, story 5, 3:00, Vargas) reported, "Polls show most American Catholics find abortion morally unacceptable. But a Catholic schoolteacher in New York says she was fired from her job because she decided not to have an abortion." ABC (Tapper) added Michelle McCusker taught at St. Rose of Lima, a Catholic school in Brooklyn, but "McCusker, who is Catholic and single, became pregnant. She decided to keep the baby. The school, backed by the Brooklyn Diocese, fired her." McCusker "and the New York Civil Liberties Union are suing the school, claiming gender discrimination," and "an anti-abortion group," Feminists for Life, "has sided with Michelle McCusker, claiming that the Catholic school was essentially encouraging abortion."

ANTITRUST:

DOJ Will Not Charge Finnish Paper Maker With Price-Fixing. The AP (2/20) reports, "Finnish paper maker UPM-Kymmene Corp. said Monday that U.S. officials will not prosecute it over possible price fixing in magazine paper or antitrust related offenses in the American labelstock industry." The AP continues, "The world's largest magazine paper producer said the decision presupposes 'UPM's full and continuing cooperation with the U.S. Department of Justice antitrust division's investigations.'" The AP adds, "In August 2003, UPM received a grand jury subpoena in the antitrust division's investigation into the American labelstock industry. … Prompted by its own internal investigation of possible collusion, UPM in January 2004 contacted competition authorities in the European Union, the United States and Canada, which then gave the Helsinki-based company conditional full immunity concerning "certain conduct disclosed to the authorities." … In May 2004, European regulators raided several forest products companies in the investigation into alleged price fixing and cartel arrangements, based on UPM's information."

New Mexico Mulls Changes To Minimum-Service Rules. Inman News (2/20, Roberts) reports, "The New Mexico Real Estate Commission will meet this week to consider a controversial real estate regulation opposed by U.S. Justice Department antitrust officials." Inman continues, "Members of the state's Real Estate Commission had delayed their consideration of the rule change, which would require all real estate brokers in the state to provide a specified level of services to consumers, after receiving a letter from the Justice Department in November." Inman adds, "The meeting will be held on Wednesday and Thursday this week in the Las Cruces, N.M., real estate brokerage office of David Steinborn, president of the Real Estate Commission -- which is about 230 miles away from the commission's office

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in Albuquerque, N.M. The meeting data and location were not publicized on the commission's Web site as of Friday morning, but is now listed at the site. … The Justice Department and Federal Trade Commission have opposed laws and regulations in several states that have sought to heighten the level of services that real estate professionals must perform for clients. The federal agencies have charged that such measures can deny consumers the right to choose which services they want and do not want in a real estate transaction, and can potentially lead to higher costs for real estate services and a smaller field of real estate business models." Inman notes, "Proponents, including state lawmakers, real estate regulators and Realtor trade groups, have endorsed the laws as efforts to eliminate agents' confusion in real estate transactions involving a brokerage company that offers limited representation, and to ensure that consumers will receive all of the services that they need. … Opponents, including real estate professionals who offer low-cost limited-service options for consumers, have said that they are just giving consumers what they want, and they question the motives of such industry-backed efforts."

Electolux May Seek Acquisitions During Consolidation. Bloomberg (2/20) reports, "Electrolux AB, the world's largest appliance maker, may make acquisitions as the industry consolidates, Chief Executive Officer Hans Straaberg said. … 'We have clear evidence that Electrolux has been the predator and not the prey, and we intend to stay the predator,' Straaberg, who has a moose head trophy in his Stockholm office, said in an interview today." Bloomberg continues, "There are 'add-on' acquisitions that would be 'of interest' to Electrolux, the 48-year-old CEO said, declining to comment on any potential targets. The company was named Sweden's likeliest takeover target by newspaper Dagens Industri in December, based on interviews with 100 analysts. … Electrolux, the maker of AEG stoves and Frigidaire refrigerators, will lose its top ranking if Whirlpool Corp., the maker of KitchenAid appliances, succeeds in with its $1.68 billion purchase of Maytag Corp. Benton Harbor, Michigan-based Whirlpool last week agreed to delay that purchase so that the U.S. Justice Department can have more time to review the transaction."

BlackBerry Patent Fight Coming Down To The Wire. The AP (2/20, Stoughton) reports, "Say what you want about patent infringement lawsuits, but at least the BlackBerry case has drama." The AP continues, "A federal judge, clearly impatient with the long-running case, could issue an injunction as soon as this week on U.S. sales and service of the wireless e-mail device." The AP adds, "Most patent lawsuits are dismissed or settled long before they reach this stage. Remarkably, neither BlackBerry maker Research In Motion Ltd. nor tiny patent holder NTP Inc. have shown signs of backing down. In effect, they're daring each other to blink first and settle. … Governments, businesses and individual users are growing unnerved by the standoff. Although the odds of an actual shutdown are low, conflicting opinions about the possible outcomes and the spin from both sides have created a confusing picture. … James R. Spencer, a no-nonsense U.S. district judge widely respected in the legal community, now finds himself in the unusual position of weighing an injunction against RIM even as the U.S. Patent and Trademark Office is expected to finally rescind NTP's patents. … But the system doesn't necessarily work in a timely fashion. Spencer has signaled that he is unwilling to delay his proceedings while awaiting final word from the patent office, which lags far behind the court system. A case that could change the practice of granting injunctions in patent cases, eBay Inc. v. MercExchange, will be taken up by the Supreme Court, but no decision is expected until the spring at the earliest. Spencer, meanwhile, has scheduled a hearing for Friday on the injunction and damages."

Maryland Power Company Seeks To Keep Lawmakers Out Of Merger. The Washington Post (2/21, B1, Mosk) reports, "Maryland's largest power company has launched a discreet but aggressive lobbying campaign to prevent the legislature from intervening with its plans to merge with a Florida utility to create one of the nation's largest electricity suppliers." The Post continues, "Constellation Energy Group has bulked up its roster of lobbyists in Annapolis, and the company's executives have been meeting with top lawmakers in recent days to try to dissuade the legislature from taking steps that would scotch the $11.5 billion deal with FPL Group, based in Juno Beach, Fla. … 'This company is launching a lobbying blitz in the halls of the legislature to speed this merger through,' said Sen. Leo E. Green (D-Prince George's). 'We need to step on the brakes.'" The Post adds, "Green and other top lawmakers predict a fierce legislative battle over the proposed merger, which they worry could mean sizable rate increases for the 1 million Maryland customers of Constellation's subsidiary Baltimore

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Gas & Electric Co. … The merger comes as state caps preventing rate increases are set to be lifted in July. And Senate Finance Committee Chairman Thomas M. Middleton (D-Charles) said he worries that Maryland customers would end up paying the costs of repairing FPL Group's hurricane-battered power lines."

ENVIRONMENT/INDIAN AFFAIRS:

Bush Outlines Energy Proposals In Michigan And Wisconsin. President Bush traveled to Michigan and Wisconsin yesterday to promote his alternative energy proposals. Of the networks, only NBC reported on the President's trip. NBC Nightly News (2/20, story 7, 0:35, Williams) reported Bush "spent this holiday Monday outlining some of his plans to wean Americans off what he has called this nation's addiction to foreign oil. He toured a Wisconsin plant that makes batteries for alternative-powered automobiles and he praised both hybrid technology and ethanol, a fuel usually made from corn. Critics, however, also say the President also needs to push the car industry for better fuel efficiency and push drivers to use less oil."

Most print reports note that the President framed the oil dependence issue as a "national security problem." The Milwaukee Journal Sentinel (2/21, Content, Barrett, 266K) notes Bush also said it is "a challenge to the economy and Americans' quality of life. The president, who like his father worked in the oil industry before entering politics, said, 'I know it came as a shock to some to hear a Texan stand up there in front of the country and say, we've got a real problem, America is addicted to oil. But I meant it, because it's a true fact, and we've got to do something about it now.'" Knight Ridder (2/21, Hutcheson) reports "the former Texas oilman said he's ready to try everything from wind power to nuclear energy to break what he calls the nation's addiction to fossil fuels." White House "advisers hope that the president's focus on energy will reassure Americans that Bush shares their concerns over high gasoline prices and home heating bills. Critics dismissed the trip as a publicity stunt and questioned the president's sincerity."

Bloomberg (2/21, Murray) quotes Bush saying, "We will start building nuclear power plants again by the end of this decade." Reuters (2/21, Zakaria) says Bush "pointed to France having built 58 nuclear plants since the 1970s, and China having 8 nuclear plants in the works, with plans to build at least 40 more over the next two decades." Senate Democratic leader Harry Reid "said Democrats were willing to work with Bush on alternative energy, but last year's energy legislation suggested Bush had different priorities. 'We need more than just rhetoric from a president who let Big Oil write our energy policies,' he said."

The New York Times (2/21, Bumiller, 1.19M) sees a political component to Bush's trip, reporting that it "dovetailed with his campaign travels. Wisconsin, Michigan and Colorado have races important to the White House this year, but of particular concern is Colorado, where a recent poll shows a Republican candidate for governor, Representative Bob Beauprez, trailing Bill Ritter, a Democrat and former Denver district attorney." Although Bush "did no overt politicking in the three states, the view of the White House is that his appearances are helpful to Republican candidates because they motivate the party's most faithful supporters."

Bush's statement that the country is on the verge of great technological breakthroughs also receives extensive coverage this morning. The AP (2/21, Riechmann) reports Bush said such breakthroughs "would 'startle' most Americans," while UPI (2/21) says Bush "outlined several such advances, including the lithium ion battery at the Wisconsin plant, wind-driven electrical generation and solar power."

The Detroit Free Press (2/21, Gray) reports, Bush "toured an Auburn Hills company that produces high-tech batteries and solar panels, saying the work being done at United Solar Ovonics could someday change the way Americans live their lives." Bush "met with United Solar Ovonics officials privately for about an hour and toured the plant with the company's president, Subhendu Guha. During the tour, he met with company employees and spoke to the media briefly." The Detroit News (2/21, Heinlein) says United Solar "is one of the most promising ventures of Energy Conversion Devices, the Michigan company which for decades has pioneered a wide range of alternate energy technologies."

The WisPolitics.com (2/21, Wise) reports that in Wisconsin, Bush also "pushed for increased use of ethanol as a way to meet the energy demands of a country 'addicted' to oil. 'You've got a lot of it in Wisconsin,'' Bush told an invitation-only audience of some 250 people gathered at Johnson Controls in Milwaukee."

The Los Angeles Times (2/21, Gerstenzang, 958K) reports that the President, "sounding more like a salesman for hybrid autos, said the combined gas-electric vehicles were 'a

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good deal for the American people, and consumers have begun to figure it out.'" He "said he was looking ahead to the day when solar panels are built into roofing materials, and houses can send to the electric grid the energy they create but do not use. 'We want solar power to be commonplace by 2015,' Bush said."

In its analysis, USA Today (2/21, Benedetto, 2.31M) says the trip was part of Bush's "drive to cut what he called the nation's addiction to oil." Today, in Golden, CO, "the president visits the National Renewable Energy Laboratory, a federal research facility that develops new energy technologies and helps move them to practical application in private business and industry." The Denver Post (2/21, Human, Gonzalez, Crowell) reports Bush "landed Monday evening at Aurora's Buckley Air Force Base on the last leg" of his three-city tour. Moments "after striding off Air Force One, Bush shook hands with Gov. Bill Owens and US Sen. Ken Salazar and teased both men for not wearing warm coats." Bush's appearance on the tarmac at Buckley "lasted less than 10 minutes. He grabbed the hand of Pete Beverly, 70, an Aurora resident who has spent about 2,000 hours volunteering with Habitat for Humanity of Metro Denver."

The Washington Post (2/21, A3, VandeHei, 744K) reports that as Bush spoke, "crude oil prices rose as a result of rebel attacks in Nigeria that reduced output by Africa's largest producer, underscoring the volatility of the oil market."

Energy Department Comes Up With Funds To Restore Jobs At Colorado Lab. The Washington Times/AP (2/21) reports that while Bush "is highlighting his budget proposals to help wean America from foreign oil," the Colorado lab he will visit "is meeting a $28 million shortfall by cutting its staff by 32 persons, including eight researchers." But this morning, Reuters (2/21, Doggett) is reporting the Energy Department "said it has come up with $5 million to immediately restore jobs cut at a renewable energy laboratory…Bush will visit on Tuesday, avoiding a potentially embarrassing moment as the president promotes his energy plan." Bush "proposed spending millions more dollars in renewable energy research. However, Democratic lawmakers and environmentalists questioned the administration's commitment when jobs were being eliminated at the National Renewable Energy Laboratory (NREL) in Golden, Colorado." Bush "will visit the lab on Tuesday to tout his proposal for more renewable energy research funding."

Congress Said To Be Close To Lifting Bans On Offshore Drilling. The Washington Post (2/21, D1, Blum, 744K) reports, "For decades, drilling for oil and natural gas off of much of the US coastline has been off limits." But "this year, with Congress facing high energy prices and a fresh lobbying push from oil companies and their supporters, even drilling opponents acknowledge that they may lose their fight to keep bans in place." The Post adds, "A flurry of legislation from members of both parties would allow drilling for oil and natural gas in new areas of the Outer Continental Shelf -- land that lies under federal waters that surround the United States and typically stretch from three to 200 miles offshore."

Supreme Court Eminent Domain Case Generates National Controversy. The Supreme Court's decision in Kelo v. City of New London, which upheld the Connecticut city's use of eminent domain to condemn private property for economic development, has generated a national debate over the use of the power. The CBS Evening News (2/20, story 8, 2:45, Schieffer) reported the decision has "sent more than 30 state legislatures into action to try to undo what the court did." CBS notes the case of Norwood, Ohio, where homeowners such as Carl and Joy Gamble are fighting "city officials who agreed to a local developer's $125 million plan to replace their middle class neighborhood with offices, condos and shops" in state courts.

Legislators Move To Limit States' Use Of Eminent Domain. Lawmakers in nearly every state are pushing bills and constitutional amendments to limit the government's use of eminent domain to seize private property for economic development. The New York Times (2/21, Broder, 1.19M) reports, "The measures are in direct response to the United States Supreme Court's 5-to-4 decision last June in a landmark property rights case from Connecticut, upholding the authority of the City of New London to condemn homes in an aging neighborhood to make way for a private development of offices, condominiums and a hotel."

USA Today (2/20, Cauchon, 2.31M) reports, "Bills to restrict eminent domain have moved forward in Georgia, Virginia, Indiana, Kentucky and several other states, but none has become law yet. In New Mexico, the state Senate and House both approved limits, but the Legislature adjourned before final approval."

Supreme Court To Hear Arguments On Clean Water Act. The Supreme Court today will hear

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arguments over which bodies of water fall under Federal oversight under the Clean Water Act. The Christian Science Monitor (2/21, Richey, 61K) reports, "that two cases consolidated for oral argument today question "just how far upstream the Clean Water Act (CWA) extends federal jurisdiction. … At the center of the dispute is a discrepancy between the words Congress used when it wrote the CWA and the regulations the US Army Corps of Engineers and Environmental Protection Agency wrote later to enforce the clean water law. Congress said US jurisdiction would extend over all 'navigable waters.' EPA and Corps of Engineers regulations interpret the law as extending far upstream, even to waters with no hydrologic connection to a tributary of navigable waters."

The Los Angeles Times (2/21, Savage, 958K) reports, "Federal regulators read this measure as protecting tens of thousands of small streams and hundreds of millions of acres of wetlands that flow toward larger waterways, even if they are far from the nearest river or bay. But to the surprise of environmentalists, the high court agreed to hear a direct attack on that broad view of the law. Farmers and developers say it is far-fetched to describe low-lying farm fields, or even dry creek beds in the West, as part of the nation's navigable waterways."

The New York Times (2/20, Barringer, 1.19M) reports that if the court supports the developers, more than "half of the nation's streams and wetlands could be removed from the protections of the federal Clean Water Act." The central question "is where federal authority ends along the network of rivers, streams, canals and ditches. Does it reach all the veins and arterioles of the nation's waters, and all the wetlands that drain into them? Does it end with the waterways that are actually navigable and the wetlands abutting them? Or is it some place in between?"

Clean Water Act Said To Be In Jeopardy. In an editorial, the Los Angeles Times (2/20, 958K) discusses two cases -- Rapanos vs. United States and Carabell vs. Army Corps of Engineers -- that the new Supreme Court will hear when it comes back to session on Tuesday. The paper argues the two cases "pose serious challenges to the 1972 Clean Water Act," the law which gives the Federal Government authority to regulate "navigable waters" in the U.S. Tuesday's cases "concern wetlands that are (or may be) connected, but not adjacent, to navigable bodies," the question being does the Federal Government have the authority to regulate these types of wetlands.

NYTimes Says Clean Water Cases An Important Test For New Justices. An editorial in the New York Times (2/21, 1.19M) says the Clean Water Act cases are ""an important test of the legal philosophy of John Roberts Jr., the new chief justice, and Samuel Alito Jr., the new associate justice. If they take a hard-line states' rights stance, it will be a sign that they agree with ultraconservatives who want to restrict Congress's power to regulate critical national matters like environmental protection, public health and workplace safety. … These cases may give the American people the first clear indication of just how judicially modest the new justices intend to be."

Identity Issues Color Plan To Protect Florida Panther. The Washington Post (2/21, A3, Whoriskey) reports, "The Florida panther, the feline carnivore that roams what's left of the state's cypress swamps and other wilds, enjoys almost mythic status here." The Post continues, "Its image adorns license plates. The National Hockey League franchise is named for the cat. And it is, officially, the Florida state animal. … But now a new plan for saving the vaunted predator is reopening awkward questions for the animal's admirers: What, exactly, is a Florida panther?" The Post adds, "Scientists believe there are only about 80 left in Florida. And given the shortage of habitat in the cat's rapidly developing namesake state, the draft recovery plan for the Florida panther, issued recently by the U.S. Fish and Wildlife Service, proposes to export some of the predators out of state -- and names potential sites in Arkansas, Louisiana, Mississippi, Georgia and Alabama. … The Florida panther roamed those states long ago, wildlife biologists said, and reintroducing it there could enable it to establish populations large enough to ward off extinction. … But the proposal to expand the range of the predator, which is being met warily from officials in other states, where farmers fear attacks on livestock, is also restarting debates about whether the Florida panther, officially considered an endangered subspecies, is for all practical purposes identical to the cougar, a far more common animal that lives in much of western North America."

Grassley Looks To Private Sector For Help With Rainforest Project. CQ (2/20, Adams) reports a "pet project that Republican Sen. Charles E. Grassley has had on the drawing board for more than two years" concerns "the construction of an enclosed rainforest on about five acres in Grassley's native Iowa — with a foil-wrapped exterior

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towering some 20 stories high." The "artificial rainforest — which has the working name of the Environmental Project — first won a $50 million earmark in the fall of 2003." But Grassley "raised the stakes for Iowa's private investors," and the "law now mandates that businesses or local governments cough up a match of $50 million in the next two years, or else be forced to give back whatever federal money hasn't been spent by Dec. 1, 2007."

Consumer Advocates Urge Ban On Carbon Monoxide Treated Meat. The meat industry has been spiking meat packages with carbon monoxide to give the meat a bright pink color that lasts weeks. Consumer advocates are urging the FDA to ban the practice, saying the agency violated its own rules by allowing the practice without a formal evaluation of its impact on consumer safety. A front page story in the Washington Post (2/20, A1, Weiss, 744K) reports, "The legal offensive has the meat industry seeing red. Officials deny their foes' claim that carbon monoxide is a 'colorant' -- a category that would require a full FDA review -- saying it helps meat retain its naturally red color."

Tribes, Casino Operators Rely On Cash To Influence Lawmakers. The Chicago Tribune (2/21, Dorning) reports, "Along with tawdry tales of bribery, money laundering and sham charities, the corruption scandal surrounding former lobbyist Jack Abramoff has thrown new light on the rising tide of gambling money pouring into the nation's capital." The Tribune continues, "As more states have moved to legalize gambling in one form or another and Indian tribes have turned to casinos as a lucrative source of income, the gambling industry's annual revenues have swelled to more than $78 billion. And with that wealth has come a determination to deploy larger sums to influence decisions made in Washington that can affect the bottom line." The Tribune adds, "Federal campaign contributions from the gambling industry have jumped more than 27-fold, from $478,000 in 1990 to more than $13 million in 2004, according to the Center for Responsive Politics, a non-partisan watchdog group. Washington lobbying expenses disclosed by the industry have nearly doubled in six years, from $6.1 million in 1998 to $11.4 million in 2004, according to the Center for Public Integrity, another monitoring group. … One California tribe, the Morongo Band of Mission Indians, rents a $1,500-a-night luxury suite at Washington's MCI Center that it lends out for fundraisers benefiting members of Congress friendly to their casino interests, including at least once to Rep. Jerry Weller (R-Ill.). … During the 2004 Republican National Convention, casino tribes helped foot the bill for an after-hours Wild Wild West Saloon party for a congressional committee chairman, Rep. Richard Pombo (R-Calif.), at a New York nightclub. The party featured a mechanical bull and music by big-name bands including the Charlie Daniels Band, .38 Special and Otis Day. … At least three of President Bush's premier Pioneer fundraisers were gambling industry chief executives. For years, the industry paid to fete senior congressional staff with annual three-day trips to Las Vegas, where casino operators made their case on legislative issues."

FBI/DEA/ATF/USMS:

Gonzales Speaks At Dedication Of Alabama Church. The AP (2/21) reports, "The church where four black girls died in a racist bombing in 1963 was honored as a national landmark Monday, with Attorney General Alberto Gonzales recalling their memory amid a new string of attacks against churches in Alabama." The AP continues, "Speaking at the pulpit of Birmingham's Sixteenth Street Baptist Church, Gonzales compared the deadly bombing of the old brick building to a string of arson fires that have hit rural Baptist churches since Feb. 3. … The fires, Gonzales said, are a reminder 'there is still work to be done' in ensuring equal justice and fighting discrimination." The AP adds, "Gonzales called the building 'a catalyst for the cause of justice' as he referred to the children killed when a Ku Klux Klan bomb went off at the Sixteenth Street church on Sept. 15, 1963. … 'We protect this place for them,' Gonzales said during a ceremony where Interior Secretary Gale A. Norton signed a proclamation adding the church to a list of about 2,500 places that carry the title of National Historic Landmark." The AP notes, "The audience included relatives of the four girls who were killed — Addie Mae Collins, Carole Robertson and Cynthia Wesley, all 14, and Denise McNair, 11. … Sixteenth Street Baptist Church was an important meeting place for activists during the civil rights era, and the bombing became a worldwide symbol illustrating the depth of racial hatred in the South at the time. Three Klansman were convicted in the blast, the last in 2002. … Gonzales also was briefed during his trip on a string of fires that has scores of federal and state agents in Alabama checking out hundreds of leads. Investigators have said there does not appear to be a racial

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motive to the church fires. Some of the churches have had white congregations and others black memberships. … Ten rural, Baptist churches were damaged or destroyed by arsonists in central and west Alabama between Feb. 3 and Feb. 11, and investigators believe at least nine of the blazes were set by two suspects identified as men in their 20s or 30s. … Gonzales called the fire investigation a 'very intensive, collaborative effort.'"

WBRC-TV Birmingham (2/19, 5:03 p.m.) said that the "16th Street Baptist Church is in the spotlight. Tomorrow, US Attorney General Alberto Gonzales and Interior Secretary Gale Norton will be in Birmingham for an event, declaring the church a national, historic landmark. White racists bombed the church in 1963, killing four young girls." The station added that in the 60's, the "church was used for rallies and marches during the civil rights movement." WAAY-TV Huntsville (2/19, 10:05 p.m.), WXTX-TV Columbus, Georgia (2/18, 9:59 p.m.), WIAT-TV Birmingham (2/17, 9:59 p.m.), WTTO-TV Birmingham (2/17, 9:01 p.m.), and WCFT-TV Birmingham (2/17, 6:09 p.m.), also covered this story.

Agents Probe New Fire At Alabama Church. The AP (2/21) reports, "A suspicious fire did minor damage to the exterior of a small church, but authorities said Monday they don't know whether it was linked to a string of suspected arsons that have damaged or destroyed 10 rural churches in Alabama." The AP continues, "Johnny Chambers, acting chief of the Glencoe Police Department, said members of the joint federal-state task force investigating the cases were still reviewing a blaze that happened early Sunday at Chapman's Chapel. … Like the other ones that burned, the church is small, with fewer than 20 members, and isolated. … But the church is about 75 miles northeast of the nearest of the previous fires, and the fire began outside the building near the ground. The earlier blazes were started inside, mostly near the pulpit."

"Dr. Wu" Gets 11-Year Sentence. The San Diego Union-Tribune (2/18, Soto) reports "Dr. Wu" was hunted by DEA agents for more than two decades. Wu, "a drug trafficker who authorities say ran an international operation while living in a trailer parked near North County beaches was sentenced to 11 years, three months in prison [Friday]. … His legal name is now Baron Michael Angelo Suarez-Rothschild, but he was born Michael Grabarek 55 years ago, authorities said. … He was the centerpiece of 'Operation Dr. Wu,' which led to the arrests of about 30 people on drug trafficking, money laundering and weapons charges in Southern California, Hawaii and elsewhere." Authorities said the drugs, "trafficked through San Diego, were delivered to users in Las Vegas, Detroit, and cities in Florida and Hawaii, as well as Singapore."

More Meth-Related Violence Said To Be Moving Into Dallas. The Dallas Morning News (2/18, Meyer, Trahan) reports that as border violence moves into Dallas, police "are turning up the heat." Michelle Deaver, a spokeswoman for the DEA in Dallas, "said Friday that authorities are investigating more meth moving into the Dallas area from the border. As U.S. lawmakers have made it increasingly tough to acquire a key ingredient in methamphetamine – pseudoephedrine…fewer people north of the border are 'cooking' the dangerous drug. That means more imports."

California City May Face Lawsuits After Outlawing Marijuana Dispensaries. The North County Times (2/19) reports that San Marcos has joined California's "short list," outlawing marijuana dispensaries. The "move sets the city up for lawsuits similar to those leveled on other cities that have enacted bans." San Marcos on Tuesday "became the first city in San Diego County to enact a ban on future dispensaries; one in operation now can stay. The decision came after a December raid by the U.S. Drug Enforcement Administration turned the spotlight on the Legal Ease Inc. medical marijuana dispensary. The raid was conducted after undercover agents bought marijuana without valid recommendations from a doctor."

16 Charged In Prescription Drugs Investigation. The AP (2/19) reports, "More than a dozen people have been charged with illegally selling prescription drugs, some of which have turned up in several western New York high schools. Officials with the federal Drug Enforcement Administration announced the charges against 16 people accused of selling OxyContin, hydrocodone and other prescription drugs to young people, many of them high school students. Authorities say most of those arrested are in the 19-to-21 age range."

Former Florida Basketball Assistant Sentenced In Cocaine Case. The Tampa Tribune (2/21) reports Former University of Florida basketball staff assistant Major Parker "was sentenced to six months of

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house arrest Friday after pleading guilty to drug charges. … Parker and Farrah Stephanie Moise were arrested Dec. 7, 2004, for allegedly trying to sell about a pound of cocaine to an undercover Gainesville police officer. According to police reports, Parker and Moise had been the subject of an investigation by the city police and Drug Enforcement Administration agents since November."

The AP (2/18) and Orlando Sentinel (2/18) also reported on this.

Three Arrested In Florida In Opium Investigation. The Naples (FL) Daily News (2/20) reports Moeen Mehri and two other men "were arrested recently after a confidential informant and an undercover investigator set up a drug buy in a Fort Myers hotel room." It was all part of an undercover sting that authorities "said involved the sale of $300,000 worth of opium." According to an affidavit, the U.S. Drug Enforcement Administration "received a tip from its Boise, Idaho, office about an opium source in Southwest Florida. The Idaho agents had developed an informant who said he could purchase large amounts of the illegal drug from Mehri."

Virginia Meteorologist To Testify Before Federal Grand Jury In Heroin Case. The Roanoke (VA) Times (2/18) reports, "News Director Shane Moreland confirmed that meteorologist Jamey Singleton will testify before a federal grand jury in the ongoing investigation into a heroin organization that allegedly supplied former WSLS-TV weatherman Marc Lamarre with drugs. Lamarre, 36, suffered a near-fatal heroin overdose on the evening of Feb. 2 and is recovering. … Gilbert Dennis Hadden, 21, of Detroit, is being held on federal charges of conspiracy to distribute heroin and distribution of heroin in connection with Lamarre's overdose."

In a separate story, the Roanoke (VA) Times (2/18) also reports, "Not one, but two WSLS (Channel 10) meteorologists -- Marc Lamarre and Jamey Singleton -- have struggled with a heroin addiction in recent months, according to an interview with Singleton that aired on WSLS's late-night newscast Friday.

Report: Syringes, Antidepressants Found During Raids At Turin Olympics. The AP (2/21) writes, "Italian police seized 100 syringes, 30 packages of antidepressants and asthma medication during Saturday's raids at the Austrian biathlon and cross country teams' private lodging at the Turin Olympics. … State broadcaster ORF, citing Italian prosecutor Raffaele Guariniello, said authorities also found equipment used to conduct blood tests and perform blood transfusions."

Reuters (2/20) reports, The International Olympic Committee and Italian police on Monday remained at odds over two anti-doping raids at the quarters of Austrian athletes competing in the Turin Winter Olympics. The IOC says it only found out about the raids on the same evening they took place, but Italian police insist it was a joint operation with the IOC."

The Los Angeles Times (2/21) reports, "The unprecedented weekend police search of Austrian Olympic skiers' quarters could signal a tough new approach in the campaign to eradicate doping in international sports. Authorities seized 30 packages of antidepressants, asthma medication and 100 syringes, some used, Italian state prosecutor Raffaele Guariniello told Austrian television. It was the first time police in an Olympic host nation had raided athletes' quarters during the Games in a search for performance-enhancing substances; until now, enforcement has been handled by sports authorities."

Network TV Coverage. The CBS Evening News (2/20, story 11, 1:55, Pizzey) reported, "Acting on a tip from Olympic officials, Italian paramilitary police raided the quarters of the Austrian cross-country and biathlon teams and suddenly the Winter Olympics were looking more like CSI Torino. An Italian prosecutor said more than a 100 syringes and 30 packs of drugs, including asthma drugs and anti-depressants, were found in the quarters outside the official Olympic Village. The search was sparked when anti-doping officials spotted this man, Walter Mayer, listed as the Austrian team's trainer in spite of being banned from this Olympics and the 2010 games after having been found guilty of doping offenses in Salt Lake City." Dick Pound, chairman, World Anti-Doping Agency: "It's incomprehensible. I mean, I can't understand why a country would have somebody like that identified so publicly with their team." Pizzey: "In a bizarre twist, Mayer drove hundreds of miles back to Austria before the raid. When police found him asleep in his car, he took off again, knocking down a policeman and ramming a roadblock before being caught and sent to a psychiatric hospital for examination. Athletes involved with Mayer were drug tested and if the results from this lab are positive, the dopers will not

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just be kicked out of the games, they could be charged with a criminal offense under Italian law."

NBC Nightly News (2/20, story 11, 0:30, Williams) reported, "Back here in Torino, a story that continues to get a lot of attention here, the doping scandal involving the team from Austria. The latest bizarre twist in this, the Austrian ski coach, who wasn't supposed to be at these games in the first place, and who then bolted after a surprise raid on the Austrian coaches' housing, well he is now in a psychiatric hospital. Authorities put him there yesterday after he rammed his car into a police roadblock in Austria."

Outgoing Utah US Attorney Pushed Gun Prosecutions. The Salt Lake Tribune (2/21, Gehrke) reports, "When Roosevelt Police Chief Cecil Gurr was gunned down in 2001, state prosecutors went after the gunman. But federal investigators set their sights on Michael Nelson Swett, a convicted felon who had provided the triggerman with the assault rifle used to kill the chief." The Tribune continues, "Swett was convicted of his role in Gurr's death, and sentenced to 10 years in prison. It was an early victory in a major dragnet aimed at cracking down on weapons crimes and getting guns out of the hands of felons, an effort that was the prime focus of U.S. Attorney Paul Warner, who announced this month that he is leaving the post." The Tribune adds, "During seven years in office, Warner's drive to cut down on gun crime resulted in the filing of more than 1,450 weapons-related cases. There was an elevenfold increase in the number of individuals charged with breaking firearms laws in his first three years in office, according to an analysis by The Salt Lake Tribune of Warner's record as U.S. attorney for Utah. … 'You couldn't swing a dead cat and not hit a convicted felon with a gun when we started the program,' Warner said in an interview. 'We've scooped most of the scum off the top of the bucket.'" The Tribune notes, "The program - begun as Project CUFF (Criminal Use of Firearms by Felons) in March 2000 and now called Project Safe Neighborhoods - was prompted in part by a shooting spree at Columbine High School in Colorado that killed 15. President Clinton's attorney general, Janet Reno, sought to make weapons crimes a national priority, and the emphasis continued after President Bush was elected, Warner said. ..In his first full year in office, 1999, Warner's office prosecuted 33 individuals for weapons crimes. By 2003, the number had skyrocketed to 362, a nearly 11-fold increase, according to an analysis of Justice Department data by the Transactional Records Access Clearinghouse at Syracuse University."

Government Said To Be "Throwing Money" At Failing Drug War. A Wall Street Journal editorial (2/21, Melloan) says the war against drugs "rages on with little mainstream challenge of its basic weapon, prohibition." Economist Milton Friedman "predicted in Newsweek nearly 34 years ago that Richard Nixon's ambitious 'global war against drugs' would be a failure. Much evidence today suggests that he was right. … The drug war has become costly, with some $50 billion in direct outlays by all levels of government, and much higher indirect costs, such as the expanded prison system to house half a million drug-law offenders and the burdens on the court system. … That reflects government's tendency to throw more money at a program that isn't working."

IMMIGRATION:

Groups Criticize Speedy Deportations. The New York Times (2/20, Swarns, 1.19M) reports, "As the Bush administration rapidly expands its efforts to detain and deport illegal immigrants, human rights groups warn that people fleeing persecution are increasingly vulnerable to being deported to their home countries." In 2005, "a bipartisan federal commission warned that some immigration officials were improperly processing asylum seekers for deportation. The commission made recommendations to ensure that the system of speedy deportations, known as expedited removal, had adequate safeguards to protect those fleeing persecution." But "one year later, only one of the commission's five recommendations has been put into effect. Meanwhile, domestic security officials have expanded the expedited removal program, in which illegal immigrants are swiftly deported without being allowed to make their case before an immigration judge."

US Cancels More Visas In Fight Against Corruption. The Miami Herald (2/19, Bachelet) reports, "Indicating a sharp increase in visa cancellations, the US Consular Affairs bureau estimates that about 250 senior foreign officials have lost their visas since a January 2004 presidential proclamation to stop the entry of 'persons engaged or benefiting from corruption' went into effect. Many more officials, politicians and relatives have had their visas

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canceled under older provisions linked to drug trafficking, money laundering and human rights abuses. One State Department official with knowledge of the program said that number was in the 'hundreds.'"

TAX:

Frist Says Capital Gains Tax Cuts Increased Revenue. In a USA Today op-ed (2/21), Senate Majority Leader Bill Frist touts the "supply side" revenue enhancements generated by tax cuts. Frist says, "Ever since the Senate approved the last major tax relief bill, in 2003, revenues have increased every year. In 2004, they went up 5.5%. Last year, they rose 14.5%, the largest increase in nearly 25 years. Total government collections, in fact, increased more after President Bush's 2003 tax cuts than they did after President Clinton's 1994 tax hikes." Frist adds that Republicans' "decision to reduce taxes on capital gains and dividends provides a good case study in effective tax policy."

WPost Criticizes Dynamic Scoring Of Tax Cuts' Budget Impact. The Washington Post (2/21, A14, 744K) reports says in an editorial that while Vice President Cheney touted the supply side argument, he "is the one who needs to reexamine his evidence. Yes, tax policies can help promote economic growth. But no matter how many times the vice president and his tax-cutting allies proclaim their belief in the tax-cut fairy, she doesn't exist. Tax cuts do not magically pay for themselves, bringing in more revenue than they deplete from the treasury." Proponents of "the magic tax cut have long argued that, if only the growth-enhancing effects of cuts were accounted for in the budgetary equation, this cost-free boon would become clear. Trouble is, responsible economists who have attempted to engage in this kind of 'dynamic analysis' haven't come up with the unalloyed positive conclusion the administration wants -- much less the proof of pay-for-themselves tax cuts."

USA Today Criticizes GOP For Seeking Tax Cuts. USA Today (2/21, 2.31M) says in an editorial that the Federal budget deficit "will be in the range of $400 billion this year. That means roughly $1 in every $6 spent by the government will be borrowed money. So a few weeks ago, with great self-congratulatory fanfare, Congress passed and the president signed what was billed as a $40 billion, five-year deficit reduction. Now Congress is weighing tax-cut packages that would wipe out those projected savings almost twice over." But "Uncle Sam doesn't have the money to do any of this." The "fiscally responsible policy would be to roll back some of the tax cuts, particularly those for the wealthiest Americans, or let them expire. But no. Bush and congressional Republicans won't hear of it."

NYTimes Says Bush Budget Omits Negative Information. The New York Times (2/21, 1.19M) says in an editorial that President Bush's "spending and taxing proposals are a mass of missing information. The cost of keeping the military in Iraq and Afghanistan isn't included. Neither, as it turns out, are the usual projections of the long-term effects of proposals to cut $183 billion from domestic programs other than entitlements." But specialists from the Center on Budget and Policy Priorities, "an independent watchdog organization," have "backtracked through tables of opaque data and deduced the following: Over five years, veterans' benefits would be cut 13 percent, or $10 billion. Despite all the political talk about energy research and alternate fuels, $4.4 billion would be cut from energy programs. Environmental spending, including for national parks, would be cut 22 percent, or $28 billion; housing, fuel, child care and nutrition programs for the poor and elderly would lose 13 percent, or $24 billion. Topping this surreal concoction is a 13 percent cut — $53 billion — in education and job programs by 2011."

CONGRESS-ADMINISTRATION:

Media Continue To Comment On Cheney's Hunting Accident. Vice President Cheney's accidental shooting of Texas attorney Harold Whittington continued to draw media attention over the weekend, including the covers of two newsweeklies and several of the weekend talk shows. NBC Nightly News (2/19, story 6, 2:35, Seigenthaler) reported the coverage is "focused more on Mr. Cheney's role in the White House." Evan Thomas, Newsweek: "I think it's turning into a story, as so many stories do, of blue states and red states. I mean, the blue states think that Cheney was either slightly a comical figure or somebody who really did something wrong. The red states think this is a press confection, that, you know, the media is just out to get poor Dick Cheney." Seigenthaler: "According to a new 'Time' poll, 52% of the American people approved of the way the Vice President handled the aftermath of the shooting, and his overall job approval number remains largely unchanged at 29%." NBC correspondent David Gregory apologized on Meet the Press for speaking sharply to White House

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spokesman Scott McClellan, but he "and other Washington journalists contend the White House could have been more forthcoming. Longtime Cheney advisor Mary Matalin disagrees and insists that's only an issue inside the Beltway."

The New York Times (2/20, Bumiller, 1.19M) reports in its "White House Letter" column that Matalin said it had been "a horrible week. She also took blame for the pounding [White House Press Secretary Scott] McClellan took in the briefing room. 'I don't buy that we did it wrong,' she said. 'But I do understand that every day over there is like walking up a mountain with bricks in your backpack, and when something starts the beasts not just growling but flinging themselves against their cages, I feel bad about that, and it's not a good day for him.'"

Meanwhile, in his "Media Notes" column in the Washington Post (2/20, C1, 744K) Howard Kurtz writes, "Nothing makes journalists madder than the feeling that they're not getting the full story -- and the Bush administration has been giving them plenty of practice. On one controversy after another, the White House has been the gang that couldn't shoot straight, buying itself additional rounds of bad publicity by suppressing or delaying embarrassing information."

Degree Of Cheney's Independence From White House Control Sparks Commentary. Vice President Dick Cheney's hunting accident is the cover story in two major news magazines this week. While both magazines provide lengthy reports on the sequence of events before and after the incident, they also tend to focus on Cheney's power in the Bush Administration. Newsweek (2/27, Thomas), which reports that the incident "once again drew attention to the unusual nature of Cheney's power. He remains by far the most powerful vice president in history, and one of the most secretive and mysterious public officials to ever hold such high office in America." A report in Time's (2/27, Gibbs, Allen) cover package agrees, noting that the accident exposed "in the most public way yet the extent to which Cheney runs an independent operation and raise the question of how much the White House can control him -- or wants to. Cheney makes his own rules; he decides what intelligence matters, what secrets are worth keeping and what force is worth using, and he defends his positions with a breathtaking indifference to consequences and to complaint from those who disagree." A separate story in Time's (2/27, Cloud) cover package reports that "there are some unanswered questions about that day. For instance, why hasn't the Secret Service released its report? And why hasn't the local sheriff released the text of the depositions his office conducted?"

Bush, Cheney Teams Seen As Divided. As part of its cover package, Time (2/27, Gibbs, Allen) reports that "even six years in office together has not integrated the Bush and Cheney teams; in fact, in some ways they have grown further apart. … Many on Cheney's staff see Bush's aides as too liberal, while some Bush aides view the vice-presidential staff as wing nuts."

Aides Said To Be "A Little Scared" Of Cheney. In its cover story, Newsweek (2/27, Thomas) reports that Cheney's official staff is "a little afraid of him. NEWSWEEK once asked his press secretary (there have been seven of them since he became vice president) if Cheney went to church on Sundays. The spokesperson confessed she really couldn't ask the veep; the question was just 'too personal.'"

Hunters Raise Questions About Cheney's Actions. A separate story in Newsweek's (2/27, Tuttle) cover package that hunters around the country agreed last week that Cheney "broke a cardinal rule: in that exhilarating moment when the birds scattered up all around him, he didn't check to make sure his line of fire was clear before he pulled the trigger." Newsweek adds that Cheney's admission to having a beer with lunch sparked anger among some hunters, who "follow an iron rule of no drinking at all on the day of a hunt." Some "also complained that Cheney got off with a warning for hunting without a required $7 quail stamp. An ordinary Joe, they said, would have been hit with a stiff fine at least, especially if he had shot someone."

Carter Criticizes Administration's Handling Of Cheney Hunting Accident. Former President Jimmy Carter was asked on CNN's The Situation Room (2/20) about the Bush Administration's handling of Vice President Dick Cheney's hunting accident. Carter said, "Obviously now everybody in the White House, maybe not in the Vice President's office, agrees that they would have been much better had the information about the hunting accident been revealed immediately. Because that's a main concern, I think. Hunting accidents happen all over the world. I regret very much that this one did happen. But to conceal it for almost a full day, obviously -- and then, at first, to blame Mr. Whittington for the accident, I think were two mistakes that were made. And I'm sure almost everyone agrees that it could have been done better."

65% Say Cheney Should Have Taken Immediate Responsibility For Hunting Accident. CNN Live Today

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(2/20, 12:18 p.m.) reported, "Americans are divided over the way Vice President Dick Cheney handled the fallout from that shooting incident. In a Time Magazine poll, 65 percent said the Vice President should have taken immediate responsibility for accidentally shooting a fellow hunter. About half the respondents say they approve of the way the Vice President handled the incident. 42% say they disapprove. When asked of the Vice President is too secretive, 58 percent said yes compared to 33 percent who said no."

Cheney Approval Rating Down To 29% In Time Poll. William Schneider said on CNN's The Situation Room (2/20) that a Time Magazine poll has found that Vice President Dick Cheney's job approval rating "is down to 29 percent. That's down from 51 percent just before the 2004 election. Cheney's disapproval numbers have not changed much."

Bush Braves Subfreezing Temperatures For Bike Rides. President Bush took two bike rides in subfreezing temperatures this weekend. The AP (2/20) reports, "On Saturday, Bush pedaled about 90 minutes at a Secret Service training facility in Beltsville, Md. It was even colder on Sunday when the president, after church, braved temperatures in the low-20s." The AP also reports that Bush watched some of the Winter Olympics while onboard Air Force One on Friday. White House spokesman Trent Duffy said Bush watched the US-Switzerland curling match.

White House Says Bush Enjoyed Olympic Curling. NBC Nightly News (2/20, story 14, 1:00, Williams) reported, "Some long overdue recognition for a sport that is finally growing in popularity. The White House made a point of saying this weekend that while traveling on board Air Force One President Bush watched and enjoyed live coverage of the men's curling competition. By the way, the US beat Switzerland 7-3."

Stevens Said To Anchor "Center-Left Bloc" On High Court. A front page story in the Washington Post (2/21, A1, Lane, 744K) examines the influence of Supreme Court Justice John Paul Stevens, reporting, "At a time of conservative ascendancy on the court, he anchors a four-justice center-left bloc that would probably shrink to three if President Bush could appoint his successor." Stevens's influence "has grown in recent years. He has a knack for building coalitions across ideological lines, and he makes shrewd use of his prerogatives as the senior associate justice."

Snow Urges Congress To Increase Debt Limit. The Washington Post (2/20, B2, Barr, 744K) reports in its "Federal Diary" column, "Treasury Secretary John W. Snow told Congress last week that it had begun to use the TSP's government securities fund to keep from hitting the $8 trillion debt limit. He called on congressional leaders to increase the debt limit by mid-March, suggesting that was when the Treasury might not be able to meet its financial obligations. Snow also indicated that TSP investors should not worry about his decision to suspend reinvestment of some TSP assets on a daily basis. In a letter to Capitol Hill leaders, Snow said G Fund participants 'are fully protected and will suffer no adverse consequences from this action.'"

Coburn Seeks Crackdown On Government Conferences. CQ (2/20, Zeller) reports Republican Sen. Tom Coburn "is calling for a broader-ranging crusade against what he sees as a more routine sort of honest graft within the federal government" than the lobbyist-funded junket, the "generously padded professional conference circuit." According to Coburn's research, "federal spending on conferences has gone up 66 percent in the last five years, to at least $294 million in fiscal 2005 — not including expenses from the Interior, Commerce and Veterans Affairs departments, which did not participate in Coburn's study." One of the "chief offenders, as Coburn sees it, is the Health and Human Services Department, which spent $68 million on conferences last year."

Only Fraction Of Low-Income Seniors Signed Up For Drug Plan. The Washington Post (2/21, A1, Connolly, 744K) reports in a front page story that the Bush Administration's "$400 million campaign…to enroll low-income seniors in prescription drug coverage that would cost them just a few dollars per prescription has signed up 1.4 million people, a fraction of the 8 million eligible for the new coverage." By "some calculations, the government is on track to spend about $250 for each person it enrolls, and even then it would have only 2 million poor senior citizens taking advantage of what is perhaps the most generous government benefit available today."

Some Seniors Reject Medicare Plan Because Of Cost. The Wall Street Journal (2/21, Fuhrmans, 2.11M)

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reports that after "weighing the specific plans available to them under the new benefit, some seniors are concluding that they'll end up paying more for the medications they currently take than if they continue with no coverage at all. Taking into account monthly premiums and co-payments -- which under some policies can run as high as 50% to 75% of a drug's retail price -- they think they can get a better or equal deal doing what they've always done: asking doctors for samples and ordering from pharmacies in Canada."

Efforts To Reconcile Pension Reform Bills Proving Contentious. The Wall Street Journal (2/21, Schroeder, 2.11M) reports on efforts to reconcile the House and Senate versions of pension reform. The Journal reports, "Even naming the conference committee has been contentious. The Senate is fighting internally over the size of its contingent, with Democrats seeking an extra slot. Because much of the final language will be decided by the committee in closed-door meetings, Senate and House members are being barraged by lobbyists pushing their positions."

Congress Cool To Bush Call For Line Item Veto. The AP (2/21, Abrams) reports President Bush's "request for broad, and constitutionally questionable, authority to control spending by vetoing specific items in larger bills is drawing limited interest in Congress." Bush said line-item veto power "and a movement to curb lawmakers' appetite for special projects, or earmarks, would provide a one-two punch in reducing government spending." But "many lawmakers" are "reluctant to cede more power, particularly to an administration they see as not always treating Congress as an equal partner."

Lobbyist Sought Majority Interest In Contract After Seeking Earmark. The Washington Post (2/21, A3, Babcock, 744K) reports defense contractor Brent Wilkes, who has been implicated in the Randy Cunningham bribery scandal, told San Diego manufacturer Randy Beck that Congress had earmarked "$25 million in the military budget for the Navy to develop an acoustical system. He promised he could win the government contract to develop the system for Beck's Horizon Sports Technologies, according to allegations in a lawsuit." Wilkes "wanted $1.5 million up front to cover his lobbying expenses and a 51 percent interest in a new company they would set up to collect the government cash." Although it is "common for lobbying firms to charge clients large fees to pursue earmarks, Wilkes's demand for a majority interest in the resulting contract is highly unusual, experts said."

Democratic Senators Urge Higher Military Pay Raise Than Proposed By Bush. Ten Democratic Senators have urged the Senate Budget Committee to provide a pay raise too military personnel that is higher than the 2.2 percent increase proposed by President Bush. The Washington Post (2/21, B2, Barr, 744K) reports in its "Federal Diary" column, "The senators, in a letter organized by Sen. John F. Kerry (D-Mass.), call President Bush 's pay proposal 'a paltry increase' that 'neglects the value of their service and the very real challenges of recruiting and retaining an all-volunteer military in time of war.' … The senators did not propose a specific pay increase for the armed forces next year but urged the Budget Committee to support 'a pay increase that meets the needs' of military personnel."

Administration Accused Of Not Taking Responsibility For Mistakes. The New York Times' Paul Krugman (2/20) writes that the top figures in the administration are not "mensches," which he defines as "an upstanding person who takes responsibility for his actions." Krugman adds, "Officials in this administration never take responsibility for their actions. When something goes wrong, it's always someone else's fault.'

Fannie Mae, Freddie Mac Spent $23 Million On Lobbying In 2005. Fannie Mae and Freddie Mac spent almost $23 million on lobbying last year as Congress considered measures to tighten oversight in response to accounting scandals at the two companies. The Washington Post (2/20, D1, Shin, 744K) reports, "Freddie Mac spent $12.6 million on lobbying, down from $15.44 million in 2004 but still enough to place it 11th among corporations that so far have filed lobbying disclosure forms for 2005, according to the Web site PoliticalMoneyLine. … Fannie Mae spent $10.1 million, up from $8.78 million in 2004 -- an increase that puzzled some campaign finance experts given Fannie Mae's pledges to cut back its extensive lobbying network."

Disclosure Seen As First Step Towards Lobbying Reform. The Washington Post's Jeffrey Birnbaum (2/20) writes that one lobbying proposal that has significant bipartisan support, which is: "Citizens should be able to find out easily who's lobbying their elected representatives."

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According to Birnbaum, "A growing number of people in both parties are pushing for a mega-disclosure provision as part of an effort to revise the capital's ethics laws." Cited as supporters of such a proposal are: House Majority Leader John A. Boehner, House Ways and Means Chairman Bill Thomas, and Sen. John McCain.

Protesters Gear Up For Rove Appearance At West Virginia Fundraiser. The Charleston (WV) Daily Mail (2/20, Thompson) reported, "Controversial presidential adviser Karl Rove is coming to Charleston this week, and local protesters are gearing up for his visit. Rove will be here Thursday for a $50-a-ticket fundraiser for the" state GOP at the Charleston Civic Center." Carrie Swing, president of Patriots for Peace, an anti-war organization, "said more than 100 members of the group will gather" outside of the convention center. The group "will display a wall of remembrance, a series of plastic panels containing names of the 2,273 soldiers who have died in the war."

Debate Over Anonymous Sources Reflects Tension Between Officials, Media. The Washington Post (2/21, A13, Lee, 744K) reports on the use of anonymous sources by reporters. The Post notes the debate over anonymous sources reflects the "tension between federal officials and the press at a time when the media's credibility is under assault, in part because the public believes journalists rely too heavily on anonymous sources in reporting and writing articles about Washington. … The demand for anonymity by officials leaves journalists grappling with an unpleasant trade-off: use the information and risk alienating readers with more unnamed sources, or leave it out and risk having a less informative article that fails to match those done by competing news organizations." The Post notes, "Agencies cite any number of reasons for keeping names out of the press: allowing lower-level officials to be quoted might steal the spotlight from the Cabinet secretary or other high-ranking official; the briefers are policy wonks who are uncomfortable talking to reporters; the agency is involved in an issue, but in a supporting role; the officials are there to provide context or technical explanations as a courtesy, not to be the face of an agency. … 'The vast majority of the Justice Department's briefings are on the record with the only exceptions being briefings that require the department's attorneys to explain highly technical and complex legal issues that require wordy responses not conducive for reporters to use on the record anyway,' Brian Roehrkasse, a Justice Department spokesman, wrote in an e-mail response to questions. He added that most of those briefings 'take place after a DOJ official has already spoken on the record.'"

Cohen Says Administration Intimidating Potential Leakers. Richard Cohen writes in the Washington Post (2/21, A15, 744K) that the Bush Administration used its secrets "to construct a false case for war. … And now the administration is pursuing a policy of chasing down leaks by chasing down the reporters who get those leaks." Cohen adds, "It used to be that the government went to some pains to avoid asking a journalist about his sources. No more. … The result can only be a further sense of intimidation -- a message to potential sources that they had better keep their mouths shut."

Marcus Says White House Prefers "Its Own Truth." Ruth Marcus writes in the Washington Post (2/21, A15, 744K) that recent developments, including Vice President Dick Cheney's hunting accident and the Administration's handling of Hurricane Katrina "have reinforced and broadened the image of "an insular White House headed by an incurious president. … This White House prefers its own truth to the inconvenient facts. Layer onto that a chain of command mentality and a CEO-delegator president and, when reality hits -- whether in the form of a difficult war, a killer storm or a misfiring veep -- it's not terribly surprising that the White House has a hard time adjusting."

Kristof Says Cheney, Rumsfeld Should Resign. Nicholas Kristof writes in the New York Times (2/21, 1.19M) that President Bush can "rehabilitate himself to some degree -- if he acts quickly and decisively to reshuffle his administration and approach to governing." Among the changes recommended by Kristof are the resignations of Vice President Dick Cheney and Defense Secretary Donald Rumsfeld. Kristof adds that Bush should nominate a Democrat to replace Rumsfeld.

Critics Say State Department Reorganization Used To Demote "Disloyal" Officials. The Washington Post (2/21, A4, Kessler, 744K) reports a State Department "reorganization of analysts involved in preventing the spread of deadly weapons has spawned internal turmoil, with more than half a dozen career employees alleging in interviews that political appointees sought to punish long-term employees whose views they considered suspect." Senior State Department officials "deny that and say an investigation

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has found that the proper personnel practices were followed. But three officials involved in the reorganization, who spoke on the condition of anonymity because they were not authorized to comment publicly, acknowledge that a merger of two bureaus reduced the influence of employees who were viewed by some political appointees as disloyal to the administration's policies." The employees "who say that they have been targeted once had a back channel to then-Secretary of State Colin L. Powell and his deputy, Richard L. Armitage, who they said would on occasion ask them to bypass their superior, John R. Bolton, now the ambassador to the United Nations."

Historians Criticize Efforts To Reclassify Documents. Intelligence agencies have been removing thousands of historical documents from public view under a seven year old secret program at the National Archives. The New York Times (2/21, Shane, 1.19M) reports that the restoration of classified status to the documents began in 1999 but "because the reclassification program is itself shrouded in secrecy…it continued virtually without outside notice until December." The Times adds that historians "say the program is removing material that can do no conceivable harm to national security. They say it is part of a marked trend toward greater secrecy under the Bush administration, which has increased the pace of classifying documents, slowed declassification and discouraged the release of some material under the Freedom of Information Act."

Activist Says Congressional GOP Has Given Up Trying To Stop Government Growth. The Washington Times (2/21, Hallow, 90K) reports on M. Stanton Evans, who has been "at the center of the slowly building force of conservatism for half a century." Evans 'is fed up with a Congress that he has struggled for years to populate with Republicans. 'The Republican Party in Congress basically has given up on stopping the growth of big government,' he says. 'They're adding to the problem almost daily with their earmarks and their pork.'"

Conservative Authors Offering Opposing Assessments Of Bush. Michiko Kakutani writes in the New York Times (2/21, 1.19M) that conservative authors Bruce Bartlett and Fred Barnes offer opposing views of President Bush in their new books. Barnes "views Mr. Bush as 'a president who leads,' an action-oriented 'visionary,' an executive who combines 'F.D.R.'s cool optimism' and Teddy Roosevelt's 'pugnacity and determination.'" Bartlett "sees Mr. Bush as a 'pretend conservative' – 'a partisan Republican, anxious to improve the fortunes of his party' but 'perfectly willing to jettison conservative principles at a moment's notice to achieve that goal.'"

Dionne Says Government Should Expand Opportunities For Disadvantaged. E.J. Dionne writes in the Washington Post (2/21, A15, 744K), "Ron Sims, the county executive in Washington state's King County, believes government's job is 'to help create wealth more efficiently.'" His view "reminds Democrats that a commitment to active government is not simply about redistributing wealth. It is also rooted in the historically sound insight that effective government has always been essential to robust economic growth. Government, in the Sims formulation, should be a dynamic player in our nation's economic life." An Urban Institute Study notes that while policymakers "have spent much energy on the problems facing single mothers, they have done little about the disadvantages facing young men." Dionne adds, "The Urban Institute authors can be read as bringing Sims's practical focus on government's role in wealth creation to the task of expanding opportunities for the least fortunate among the young. This is good public policy. My hunch is that it could also be good politics."

WSJournal Praises Bush Health Care Reform Proposals. The Wall Street Journal (2/21, 2.11M) editorializes, "The more we look at the fine print in the health-care reforms President Bush is now stumping for, the more we see the potential for the most sweeping and beneficial changes in half a century." The Journal adds that Bush's reforms are "HillaryCare in reverse," adding that the President "has assembled an ambitious and mutually reinforcing set of health reforms."

NYTimes Says FDA Should Investigate Possible Cancer Risk Of Aspartame. An editorial in the New York Times (2/21, 1.19M) calls on regulators to examine the artificial sweetener aspartame in the wake of a report that says it may cause cancer. The FDA "has asked the Italian researchers for a detailed rat-by-rat report, not just the overall results made available so far. The Ramazzini group has an obligation to make its full findings public quickly if it expects regulators to take urgent action."

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OTHER NEWS:

Investors Focused On May Fed Meeting. USA Today (2/21, Shell, 2.31M) reports that the May 10 meeting of the Federal Reserve is "likely to put investors on edge. … The reason: The May meeting is likely to provide investors with their first insights into the Fed's personality under [Chairman Ben] Bernanke and offer the best clues on when the Fed might stop raising rates." The meeting will be the first where "the 'Bernanke factor' will be in play." While it is "unclear whether the Fed will raise rates at this meeting," it could "shed light on whether the Fed is done raising rates."

Professor Says Bernanke Will Take Monetary Policy Off Front Page. Stanford University economic professor Robert Hall writes in the Wall Street Journal (2/21, 2.11M) that Federal Reserve Chairman Ben Bernanke "is completely committed to continuing the policy of a stable dollar. Under his leadership, the Fed is likely to make this commitment more formal, perhaps even stating a target such as 2.5% inflation. Mr. Bernanke has been outspoken on the point that inflation must be kept at the target -- it is as bad a failure of policy if it drops below as if it exceeds the target." Hall adds that Bernanke "will stick to his mandate to keep the dollar stable. Monetary policy will recede from the front page to the inner pages of the C section under Mr. Bernanke's leadership."

Big Firms Increasingly Hit With Overtime Suits. The Washington Post (2/21, D1, Masters, Joyce) reports, "Large employers around the country, from retail giants Wal-Mart Stores Inc. and Lowe's Cos. to tech firms IBM and Electronic Arts Inc., are being hit with state and federal lawsuits alleging that they systematically failed to pay overtime to hundreds or even thousands of employees. … And many of the cases are bearing fruit." The Post continues, "Earlier this month, Swiss financial giant UBS AG agreed to pay up to $89 million to settle several state and federal lawsuits filed by financial advisers who were improperly classified as exempt from overtime. Insurer Allstate Corp. agreed last fall to pay up to $120 million to nearly 3,000 claims adjusters in California. Janitors who cleaned stores for Southern California grocery chains Albertsons, Ralphs and Vons won a $22.4 million settlement in 2004. … Although there are no comprehensive statistics, actions filed under the Fair Labor Standards Act -- most of which are overtime cases -- shot up 86 percent between 2000 and 2004, to 3,617, according to the Administrative Office of the U.S. Courts. In contrast, labor cases in general rose 30 percent over the same period, the most recent for which figures are available." The Post adds, "There also has been an upsurge in multi-plaintiff overtime lawsuits in New York, California, Illinois and other states that have tough overtime laws and class-action rules that are favorable to plaintiffs, lawyers said. … The suits stem from state and federal laws that require employers to pay time-and-a-half to workers who put in more than 40 hours a week. Salaried managers and independent contractors are exempt -- unless their salaries fall below a certain threshold. Exempt categories are carefully defined to prevent employers from simply using the titles for workers to avoid paying overtime."

Wave Of Presidential Bios Aimed At Popular Audiences Noted. The Los Angeles Times (2/20, Brownstein, 958K) reports on a tide over the past 15 years of presidential biographies "aimed at a popular rather than scholarly audience has surged onto bestseller lists." A dozen or so presidential books by David McCullough, Joseph J. Ellis, Doris Kearns Goodwin, Richard Reeves, Robert Dallek, Robert A. Caro and Edmund Morris "have spent about 300 weeks combined on the USA Today list of 150 bestselling hardcover and paperback books."

Clinton Says Presidents Shared Common Vision Of A "More Perfect Union." Rob Brownstein writes in the Financial Times (2/20) that the "popular success of these biographies reflects the resurgence of the presidency as the central focus in US political life since Ronald Reagan's election in 1980." Former President Bill Clinton "probably consumed presidential biographies as voraciously as any president. … His largest conclusion, he said, was that the greatest presidents, from Washington and Lincoln to both Theodore and Franklin Roosevelt, shared a common vision of 'a more perfect union' that knit together the country and broadened the circle of opportunity."

Clinton Offers Four Tests For Ranking Presidents. In his column in the Los Angeles Times (2/20, 958K), Ron Brownstein writes about a recent interview with former President Bill Clinton about "his reading, how it affected his approach to the presidency and the way he thinks historians should judge presidents." On "the way historians rank presidents," Clinton said, "I really think the circumstances determine where you are ranked -- whether you have big wars, like the Civil War or World War II. But there are three or four tests you can apply to any president, which are much

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fairer than ranking them where the deal is rigged based on the time in which they served. First, did they understand their times and articulate a vision of a more perfect union? Did they refrain from abusing their power? Then you have to say, Did they execute (their agenda), and were people better off when they stopped than when they started?"

Oral Histories Of Reagan Available On Internet. The University of Virginia's Miller Center of Public Affairs has compiled oral histories from friends and former advisers of President Ronald Reagan and is making them available on the internet. The Washington Post (2/20, A19, 744K) reports, "In conjunction with the Ronald Reagan Presidential Library, the Miller Center has been interviewing Reagan administration officials since 2001 and recently released more than 2,500 pages of transcripts. The interviewees include such well-known figures as former secretary of state George P. Shultz, former defense secretary Caspar Weinberger, Reagan treasury secretary and White House chief of staff James A. Baker III and longtime Reagan political adviser Stuart Spencer, as well as lesser-known officials who had close access to the president and who provided intimate reminiscences of his presidency. … A link to the transcripts can be found at http://www.millercenter.virginia.edu ."

Former Aides Remember Reagan. The Washington Post (2/20, A19, 744K) runs remembrances of Reagan from former members of his Administration including former Defense Secretary Frank C. Carlucci who discussed Reagan's "detached style," saying, "When Colin [Powell] succeeded me [as national security adviser], and [Secretary of State] George [Shultz] and I had buried the hatchet, the three of us made a conscious decision. George said: 'Ronald Reagan has had the landing lights on and the flaps down for the last year. Now we're going to have to step up to the plate on foreign policy. The only way it's going to work is for the three of us to agree.' … George and I changed positions a number of times in those meetings because we decided if the three of us agreed, we knew we had Ronald Reagan. That's the way foreign policy was basically conducted. "

Poll Shows Decline In Number Who Back Clinton Bid, Rise In Rice Support. The San Antonio Express-News/Hearst Newspapers (2/20, Powell) reported, "Growing numbers of Americans oppose a presidential bid by Sen. Hillary Rodham Clinton, D-N.Y., in 2008 -- and favor a run by Secretary of State Condoleezza Rice -- amid broad public willingness to elect a woman president, according to a nationwide poll released Sunday. The Presidents Day survey conducted for Hearst Newspapers by the Siena Research Institute of Siena College in Loudonville, N.Y., covered 1,120 registered voters and was completed Feb. 10. Some 48 percent of survey participants said Rice 'should run' for president at the conclusion of President Bush's two terms -- an increase of 6 percentage points over a similar survey a year ago. Meanwhile, "44 percent of survey respondents now say Clinton 'should not run' for president in 2008 -- up from 37 percent who felt that way last year. The percentage of registered voters who say Clinton 'should run' slipped from 53 percent to 51 percent over the past year, as support for a Rice candidacy increased, from 42 percent to 48 percent. The survey found 79 percent of participants were willing to vote for a woman as president and 64 percent said the nation is 'ready' for one. … The margin of error for the survey in both years was 2.9 percentage points."

The New York Daily News (2/21, Mahoney, 729K) notes that Democratic strategist Hank Sheinkopf said the Siena survey should be another reminder that Clinton "needs to begin stressing populist messages on improving the economy. … 'She needs to do better with white Catholic men from the Midwest,' Sheinkopf said."

Santorum Mortgage From Philadelphia Bank Raises Eyebrows. In a largely negative article, the Philadelphia Daily News (2/21, Bunch) reports that Pennsylvania Sen. Rick Santorum (R) "and his wife received a $500,000, five-year mortgage for their Leesburg, Va., home from a small, private Philadelphia bank run by a major campaign donor -- even though its stated policy is to make loans only to its 'affluent' investors, which the senator is not. Good-government experts said the mortgage from The Philadelphia Trust Co." would "be a violation of the Senate's ethics rules if Santorum received something a regular citizen could not get." Records show that since 1998, Philadelphia Trust's "executives, directors and their spouses have donated $24,000 either to the senator's campaign or to the America's Foundation PAC. Of that total, $13,000 came from the man who signed the mortgage papers -- Philadelphia Trust CEO Michael Crofton -- and his wife." Though Philadelphia Trust "advertises itself as an independent private bank for 'affluent investors' -- who have liquid assets of at least $250,000,"

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Santorum "has never held an investment portfolio with Philadelphia Trust. And in 2002, the year he obtained the mortgage, the value range he gave for his small number of investments could not have exceeded $140,000."

California Bar Exam Seen As One Of Nation's Toughest. The Los Angeles Times (2/21, Dolan) reports, "Former San Francisco Board of Supervisors President Angela Alioto won't even say how many times she failed the California bar examination before she finally was licensed to practice law. … 'Consider it to be several,' said the antidiscrimination lawyer and daughter of the late, famed antitrust lawyer, Joseph Alioto. … 'And understand,' she quickly added, 'that for the last two years in a row I have been nominated as a national trial lawyer of the year.'" The Times continues, "Add two former governors, an eminent legal scholar and a former state Supreme Court justice to the ranks of those, like Alioto, who learned the hard way that obtaining a license to practice law in California is hard. In fact, it's harder than in almost every other state." The Times adds, "Of the 5,260 people expected to take the state's bar examination beginning Tuesday, more than half are likely to fail, rates from previous years indicate. Some law school graduates, like Alioto, flunk the bar multiple times before finally passing and becoming lawyers. … Failing the bar can be a crushing and humiliating experience, particularly when the applicant has spent months studying or is unaccustomed to failure. … Kathleen Sullivan, former dean of Stanford Law School and a former Harvard Law School professor, is considered such a legal superstar that news of her flunking the California bar last year made the front page of the Wall Street Journal. Sullivan remains a full law professor at Stanford and is associated with a private law firm. … Sullivan's failure, while a surprise to the legal community, attests to the exam's challenge. California's bar 'is one of the most difficult,' said Erica Moeser, president of the National Conference of Bar Examiners. … The three-day test is longer than other states' exams. The score needed to pass also is one of the highest, a factor Moeser believes may explain why applicants are significantly more successful in New York than in California, the states with the largest numbers of people taking the bar."

Man Finally Practicing Law After 48 Bar Attempts. The Los Angeles Times (2/21, Dolan) reports, "The record for most attempts at passing the California bar exam may be held by Maxcy Filer, 75, who took the exam 48 times. He estimates that he spent about $150,000 on bar preparation classes, motels and test fees from 1966 to 1991, when he finally passed. Filer now practices law in Compton and takes 'anything that walks in the door except bankruptcy and probate.'" The Times adds, "The lawyer's hurdles are not over, however. Last year, Filer got into trouble with the bar for failing to file a required document in a legal case. … The bar placed him on probation and ordered him to take and pass a two-hour test on legal ethics and rules of professional conduct."

AMA To Develop Performance Standards. The AMA has signed an agreement with Congress to draft more than 100 standard measures of performance which doctors will report to the federal government. The New York Times (2/21, Pear, 1.19M) reports, "The deal comes as the Bush administration pushes "pay for performance" arrangements with various health care providers in an effort to publicize their performance and link Medicare payment to quality. And it mirrors efforts in the private sector, where consumer groups, insurance companies and large employers who pay for health care are demanding more information on the quality of care."

Rice Works Phones Before Mideast Trip. On the eve of her departure for the Middle East, Reuters (2/21) reports, Secretary Rice "spoke on Monday with key foreign mediators in the Palestinian peace process after Israel stepped up pressure on the new Hamas-dominated Palestinian parliament by halting tax transfers. State Department spokesman Noel Clay said Rice held discussions with her counterparts in the Quartet -- big-power mediators the United States, European Union, Russia and the United Nations." USA Today/AP (2/21, Lester) also reports "Monday's conversations between Rice and representatives of Russia, the European Union and the United Nations 'covered issues of support to the Palestinian people,' State Department spokesman Noel Clay said."

The Christian Science Monitor (2/21, LaFranchi, 61K) notes Secretary Rice, "arrives in Cairo Tuesday on the first stop of a trip aimed at addressing the delicate issue of Hamas -- with decisions pending on dealing with the Palestinian Authority that are as portentous as almost any the Bush administration has made on Middle East affairs. How the administration handles the militant group's role in a Palestinian government will permeate President Bush's democratization program for the Middle East. ... And if the United States gets the Hamas riddle wrong, it could set back

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the war on terror by buoying the cause of Islamic radicalism across the Muslim world."

In a separate story, Reuters (2/21) reports Egypt will advise Rice "to give the Palestinian militant group Hamas more time and not to rush to judgment when Hamas forms a government, the state new agency MENA said on Monday." Quoting a diplomatic source, the state news agency reported, "Egypt will assert during the talks (with Rice) that it is important to give the Hamas movement a chance and time when it forms the government and not to rush to make judgments on it."

Meanwhile, contrasting US calls for reductions in aid to a Hamas-led Palestinian government, the Washington Post (2/21, A10, Wilson, 744K) notes, "Iran's supreme leader, Ayatollah Ali Khamenei, called on Muslim nations Monday to fund the Palestinian government after Hamas takes control of the cabinet." Khamenei is quoted saying, "The only way to succeed is to continue resistance against the occupier regime." The AP (2/21, Nasrawi) reports Egypt's Muslim Brotherhood made similar calls.

Hamas Premier Pick Will Extend Olive Branch To Fatah. The Washington Times/AP (2/21, Barzak) reports, "Hamas presented a pragmatic former university administrator as its choice for Palestinian prime minister Monday and the Islamic militant group reached out to Fatah and other factions to join a broad-based Cabinet that might stand a chance of gaining international approval. The 43-year-old Haniyeh "told reporters after meeting with Abbas that he would try to form a joint government with Fatah, the traditional Palestinian ruling party that Hamas trounced in the election, 'that can shoulder its responsibilities in the political area and internal issues.' So far, Fatah has refused to join." In a separate story, the AP (2/21, Weizman) calls Haniyeh a "pragmatist who prefers compromise to conflict with Palestinian rivals." Meanwhile, the New York Times (2/21, Myre, 1.19M) reports, "With an Israeli military helicopter circling overhead, Hamas opened talks on Monday with other militant factions on forming the new Palestinian government, a process expected to take at least two weeks."

Former US Official Proposes "Upgrade" Of Israel's Ties To NATO. In a Washington Post (2/21, A15, 744K) op-ed, former Deputy Assistant Secretary of State for European Affairs Ronald Asmus writes, "The best way to provide Israel with that additional security is to upgrade its relationship with the collective defense arm of the West: NATO. Whether that upgraded relationship culminates in membership for Israel or simply a much closer strategic and operational defense relationship can be debated. ... What must be clear is that the West is prepared to match the growing bellicosity against Israel by stepping up its commitment to the existence of the Jewish state."

Exit Polls Following Palestinian Election Were Incorrect. Columnist Carl Bialik writes in the Wall Street Journal (2/21, 2.11M) that exit polls following last month's Palestinian elections indicated the Fatah ruling party had scored a narrow victory over Hamas. The exit polls "had missed badly, far worse than, for instance, exit polls for the 2000 and 2004 U.S. presidential elections." Two of the pollsters, "who have been reviewing the results since the election, have different explanations. One suspects that Hamas strategically gamed the polling numbers to suppress Fatah worries. But another blames himself for failing to properly analyze the data, a mistake exacerbated by an unusual election system that magnified small differences between the two leading parties."

Arabs Nations Will Push Back On Hamas, Iran During Rice's Visit. As Secretary Rice prepares to visit the Middle East this week, Reuters (2/20, Hudson) reports that she "will face resistance from Arab allies...to enlist their support for a campaign to isolate two US adversaries, Hamas and Iran." Arab powers "such as Egypt and Saudi Arabia oppose Hamas' rejection of peace talks with Israel and fear a nuclear-armed Iran. But they are reluctant to explicitly support America in the Middle East, where US backing for its top ally in the region, Israel, angers many Arabs and clouds governments' cooperation with Washington." According to Reuters, "Complicating her mission, Rice will also make her appeal against a backdrop of deadly anti-Western protests in the Muslim world over cartoons published in Europe of Prophet Mohammad."

In its pre-trip coverage, AFP (2/20) says, "The US administration has made Egypt one of its test cases for the promotion of democracy in the Middle East. Rice said earlier this week that she was 'disappointed' that Mubarak has postponed municipal elections, scheduled to be held in April, for two years. 'The message that I will take to Egypt is that Egypt needs to stay on the democratic course,' she told Arab journalists in an interview. 'It needs to keep pushing ahead on the democratic course.'"

Hamas' Government Likely To Include Technocrats, Academics. Time (2/27, Robinson) examines what sort of rule Hamas is likely to establish. Time

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reports, "Palestinian insiders say the new government will be stocked with technocrats and academics rather than party ideologues. The job of Prime Minister is likely to go to Ismail Haniya, one of the more moderate top leaders." Hamas leaders "say they intend to impose order on the security apparatus, a move that may spark clashes between loyalists of the two parties."

Arab League Tries To Shore Up Palestinian Funding. In a related story, the AP (2/20, Nasrawi) reports, "The head of the Arab League said Sunday that members would meet this week to hammer out a plan for sending millions of dollars a month to the Palestinian Authority, despite US attempts to stop the flow of money to the new Hamas-led government. Secretary-General Amr Moussa said foreign ministers from several Arab countries were to meet Monday in Algiers to examine a plan to send about $50 million a month to the Palestinian Authority." According to the AP, "The money is part of Palestinian funding the Arab League approved last year — before Hamas' election victory."

Israeli Cabinet Cuts Off Tax Flow To Palestinians. After a Hamas-dominated legislature was sworn in on Saturday, the New York Times (2/20, Erlanger, 1.19M) reports, "The Israeli cabinet decided Sunday to immediately freeze the transfer of about $50 million a month in tax and customs receipts due to the Palestinian Authority." Acting Israeli Prime Minister Ehud Olmert was quoted as saying, "It is clear that in the light of the Hamas majority in the parliament and the instructions to form a new government that were given to the head of Hamas, the Palestinian Authority is in practice becoming a terrorist authority. ... The state of Israel will not agree to this." The Washington Post (2/20, A1, Wilson, 744K) notes that "some of the more harsh options" were not included, "including barring Palestinians in the Gaza Strip with work permits from entering Israel for jobs. But together, the measures threaten to collapse the nearly bankrupt Palestinian government." The move by Israel "puts it at odds with ... the quartet. ... The group had recommended that Israel continue the transfers, an arrangement established under the 1993 Oslo accords, until Hamas forms the new cabinet," which should happen within five weeks. USA Today (2/20, Gutman, 2.31M), Los Angeles Times (2/20, Ellingwood, 958K) and Washington Times (2/20, Mitnick, 90K) run similar stories.

Meanwhile, USA Today (2/20, 2.31M) editorializes, "For all the disappointment that elections brought Islamists to power, the smart approach is to try to make Hamas accountable to the Palestinian people." That "requires patience and wisdom in a volatile situation -- and not doing anything rash that would allow Hamas leaders to make the United States a scapegoat for their own failings."

Haniya Will Be Palestinian Premier. AFP (2/20) reports, "The radical Islamist movement Hamas has chosen Ismail Haniya to be the next Palestinian prime minister after its recent landslide election win, the spokesman for their bloc in parliament has said." President Mahmoud Abbas was to be notified of the move by Hamas late Sunday.

Carter Urges Consideration Of Palestinian People. In an op-ed in the Washington Post (2/20, A21, 744K), former President Jimmy Carter writes, "During this time of fluidity in the formation of the new government, it is important that Israel and the United States play positive roles. Any tacit or formal collusion between the two powers to disrupt the process by punishing the Palestinian people could be counterproductive and have devastating consequences." He concludes, "It would not violate any political principles to at least give the Palestinians their own money; let humanitarian assistance continue through UN and private agencies; encourage Russia, Egypt and other nations to exert maximum influence on Hamas to moderate its negative policies; and support President Abbas in his efforts to ease tension, avoid violence and explore steps toward a lasting peace."

Bush Administration "Muddling" Toward Compromise In Middle East. Newsweek (2/27, Hirsh, Peraino) examines the Bush Administration's "grand democracy project in the Mideast." US officials "say they have no common strategy for handling the various Islamist parties flourishing in the newly tilled democratic soil of the Middle East." The Administration "is muddling its way toward compromise solutions."

Syria Condemns US "Interference" In Its Domestic Affairs. The Washington Times (2/20, Mount, 90K) reports the government of Syria "condemned U.S. plans to fund opposition groups." The Times notes that the State Department announced on Friday "that it had allocated $5 million to unidentified 'democratic reformers' in Syria. Syrian Foreign Minister Walid al-Moualem complained that "It is interference in our internal affairs."

US Ambassador To Iraq Says Iran Aiding Insurgents. The Washington Post (2/21, A10,

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Hernandez, 744K) reports, "The US ambassador to Iraq accused Iran on Monday of providing weapons, training and support to Iraqi militia and insurgent groups responsible for the country's continuing violence and instability." At a news conference, Ambassador Zalmay Khalilzad "criticized what he called Iran's 'negative role' in Iraqi affairs, saying the country's diplomatic relationship with its neighbor was tainted by a policy 'to work with militias, to work with extremist groups, to provide training and weapons.' He added that there was evidence the Iranians provided 'indirect help' to Sunni Arab insurgents who attack US and Iraqi government troops." Khalilzad's remarks "were unusually blunt." The Los Angeles Times (2/21, Stack, 958K) called the comments "unusually sharp. In the past, American diplomats in Baghdad have generally avoided overt, public criticisms of Iran. Instead, they stuck to vague grumblings about 'neighboring countries.'"

Iran-Russia Enrichment Talks Stall. The New York Times (2/21, Myers, 1.19M) reports, "A Russian effort to forge a compromise over Iran's nuclear program stalled Monday after five hours of talks in the Kremlin ended inconclusively" and "senior officials on both sides played down the prospects of agreement before a meeting of the [IAEA] on March 6 about whether Iran's nuclear program should be forwarded to the United Nations Security Council for possible punitive action." The Washington Post (2/21, A10, Finn, 744K) cites RIA Novosti as reporting, "But even as the nearly five-hour talks in Moscow were underway, Iranian Foreign Minister Manouchehr Mottaki said Iran would proceed with its nuclear research." Mottaki is quoted saying, "If we reach some compromise, we continue our cooperation from where we are now. That is, the research department will continue its activity." A late Reuters (2/21) story reports an Interfax news agency claim that Iranian negotiators "were poised to leave Moscow on Tuesday with no word of any progress" on the Russian proposal. Foreign Minister Sergei Lavrov publicly warned the press Tuesday not to assume the talks were finished.

Bolton Says Iran Nuclear Issues Can Be Resolved Diplomatically. Time (2/27, Shannon, Ratnesar) interviews John Bolton, US Ambassador to the United Nations. Asked if the issue of Iran's nuclear program can be resolved diplomatically, Bolton said, "Sure. I never would have guessed that Libya was prepared to make the calculation that they were safer giving up the pursuit of nuclear weapons than continuing to go after them, and yet they did [give them up]. And that led to substantial progress in the relationship between Libya and the United States. If Libya can do it, Iran can do it too. That's why I say the decision ultimately is largely in their hands."

Pakistani Government Cracks Down On Cartoon Protestors. The AP (2/20) reports that protests over blasphemous cartoons in Islamabad, Pakistan were met with "hundreds" of arrests as Pakistani security forces "virtually sealed off the capital and used gunfire and tear gas." Pakistani authorities "declared they would arrest anyone joining a gathering of more than five people." Qazi Hussain Ahmad, leader of the Islamic opposition coalition, "was confined to his Lahore residence."

The Washington Post (2/20, A11, Lancaster, 744K) notes that "In keeping with the pattern elsewhere in Pakistan, protesters directed as much of their anger at Musharraf and his main Western ally, the United States, as they did at the newspaper cartoons and the Danish newspaper that printed them." The Post claims the violence yesterday was the worst "since the cartoon controversy erupted in late January" and "came after a week of sometimes violent protests in other Pakistani cities that left five people dead and scores of businesses, many of them Western franchises, in ruins."

Second Russian Newspaper To Close Over Muslim Cartoons. A second Russian newspaper has announced that it will close on the wake of protests over cartoons depicting the Prophet Muhammad. The New York Times (2/21, Myers, 1.19M) reports, "The newspaper, Our Region, based in Vologda, north of Moscow, which printed its illustration last Wednesday, was the first in Russia to publish, at least in part, the Danish cartoons. The publication prompted criticism from public officials, an apology from the local governor and a criminal investigation into the paper's activity."

Pakistan Riots Elevate Security Concerns For Bush Visit. U.S. News and World Report (2/27, Omestad) reports that turmoil in Pakistan over European cartoons satirizing the prophet Muhammad have elevated the "already high security concerns surrounding President Bush's scheduled visit here next week, and it highlights the political pressures on [Pakistani President Pervez] Musharraf from Islamists and others critical of his support for American antiterrorism efforts." US News adds that the Bush Administration "has been pushing Musharraf to keep moving toward a restoration of full democracy -- but not too hard. … Washington's jitters over a Pakistan without the general are

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barely concealed. … Critics insist that Washington is shortsighted in not backing democratic political parties and is alienating Pakistanis incensed at civilian deaths in the war on terrorism."

Australian PM Criticizes "Segments" Of Muslim Community. In comments published yesterday, Australian Prime Minister John Howard said some segments of the Islamic community are "utterly antagonistic" to Australian society. The AP (2/21, Foley) reports that the remarks "immediately drew criticism from a Muslim group." Later Monday, Howard stood by the remarks in which he also "denounced 'extreme attitudes' held by some Muslims, including their views on women and support of jihad, or holy war." Agence France Presse (2/21) reports, "Islamic leaders immediately condemned the remarks as 'offensive and ignorant', saying they would fan the flames of prejudice against Islam."

Bolton Pushes Annan For Broader-Based Darfur Force. Reuters (2/21, Leopold) reports, "US Ambassador John Bolton said on Monday that Secretary-General Kofi Annan should be pushing UN officials harder in planning a force in Sudan's Darfur region rather than just lobbying the United States for contributions. 'It would be helpful, I think, if the secretary-general, in addition to prodding the US, could also be out there talking to the African Union and the Arab League, and in fact, even talking to his own peacekeepers about the importance of moving ahead here,' Bolton told reporters. When told of Bolton's remarks, Annan said, 'I'm not going to answer that.' But his spokesman Stephane Dujarric said the UN 'planning process was moving full speed ahead.'" Meanwhile, the AP (2/21) notes, "Sudan told a visiting US delegation that it opposed a proposal to deploy international peacekeepers to the troubled Darfur region and that it was committed to negotiations to end the tensions there." Vice-President Ali Osman Mohamed Taha is quoted as saying, "Sudan rejects replacement of the African Union forces with United Nations forces."

Trade Deficit Seen As Impetus For Administration Hard-Line On Chinese Currency. The Financial Times (2/20, Balls, Alden) reports that the US government is increasing pressure on the Chinese government to allow its currency to "rise against the dollar," and notes there are "threats growing in Congress to consider legislation aimed at slowing the burgeoning US trade deficit with China." According to the Times, the Bush administration is "disappointed" the renminbi has only been "allowed to rise by less than 1 per cent against the dollar" since July when the US successfully petitioned for revaluation. Wu Xiaoling, vice-governor of the People's Bank of China, "admitted that Beijing needed to open its capital account further."

The Wall Street Journal (2/20, Browne, Phillips, 2.11M) says on its website that the Administration "is sending signals that it is ready to take a harder line with Beijing" and attributes the new stridency to "political pressure on the administration from members of Congress, who say American jobs are being lost to the tide of inexpensive Chinese imports and the flight of manufacturing to China." The Journal notes US Trade Representative Rob Portman "announced a task force to take up complaints about unfair Chinese trade practices" and the Treasury Department, "which has so far sought to avoid confrontation with Beijing over the currency issue, is preparing the ground for a possible decision to label China a 'currency manipulator,' in a regular review scheduled for April."

Asian Shoemakers Prepare To Fight EU Tariffs. Shoemakers in China and Vietnam are joining forces to fight the EU's proposed double-digit tariffs on shoe imports. The Wall Street Journal (2/21, Fong, 2.11M) reports, "The European Commission, finding evidence of dumping, is expected to recommend duties on imports of Chinese and Vietnamese shoes with leather uppers starting at 4% in April and rising to a little under 20% in the fall. EU officials confirmed yesterday that they will submit their plans to EU member nations on Thursday."

Blogs Have Undermined China's Ability To Control Who Addresses Public. A front page story in the Washington Post (2/21, A1, Pan, 744K) reports that with 16 million people in China writing blogs, "the Internet has provided a platform for citizens to express their views, shattering the Communist Party's monopoly on the media. The state still controls newspaper, magazine and book publishing, but the proliferation of sites that let users publish and even broadcast audio and video online have undermined the party's ability to restrict who can address the public and attract an audience."

Smith Bill Would Restrict Business With Countries That Censor Web Content. U.S. News and World Report

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(2/27, Brush) reports on US web companies such as Microsoft, Google and Yahoo which have agreed to filter their search results in order to provide service in China. US News reports that Rep. Chris Smith has introduced legislation to restrict business with countries that censor online material. Smith's bill "would require US companies to locate their computer hardware outside China, create a basic code of conduct for Internet companies doing business in repressive countries, curtail tech exports to countries with censorship policies, and create a State Department office of Internet freedom. The State Department announced such a task force last week."

Nigerian Militants Attack Pipeline, Threaten More Violence. Nigerian militants yesterday launched attacks on an oil pipeline and a boat in Nigeria's delta region. The AP (2/21, Harris) reports, "There were no reported casualties in the attacks Monday on a Shell-oil operated oil pipeline switching station and a boat the militants claimed housed Nigerian military personnel. … Shell Spokeswoman Lisa Givert confirmed the oil-pipeline attack and said the houseboat was abandoned when the attackers blew it up."

Reuters (2/21, Ekeinde) reports, "The militants, who are holding nine foreign hostages, vowed to prevent Royal Dutch Shell from using the damaged Forcados tanker loading platform, which accounts for 15 percent of Nigerian exports, and threatened an even more devastating series of attacks on the whole region."

NBC Nightly News (2/20, story 6, 0:25, Williams) reported, "Since the beginning of the sabotage campaign last week, Nigerian production has been cut off by 1/5. Crude prices in London jumped more than $1.50 and there is great concern about a spike in prices when the US markets reopen tomorrow."

The Financial Times (2/20, Mahtani, Hoyos) reports Nigerian militants "threatened to extend their disruption of the country's oil industry to attacks on oil tankers." Over the weekend, militants carried out a series of attacks and kidnappings that caused the shutdown of an oilfield and Royal Dutch Shell to close one of its export terminals. The attacks "have led to a 25 per cent cut in oil exports from the world's eighth biggest crude exporter, a reduction likely to put upward pressure on prices when markets reopen today."

The Washington Post (2/20, A11, Chidi, 744K) reports the militants "asserted responsibility…for a series of raids, including one in which militants abducted three Americans, two Egyptians, two Thais, a Briton and a Filipino.'

Haitian President-Elect Has Yet To Give Victory Address. The New York Times (2/20, Thompson, 1.19M) reports that though Haitian President-elect René Préval was declared the winner of his country's presidential election Thursday he "has not yet officially addressed the nation, and he has not yet granted interviews." Préval "faces questions about the legitimacy of the back-room deal brokered by foreign diplomats that ended the possibility of a runoff and made him the victor."

Préval Distances Himself From Aristide. The Los Angeles Times (2/20, Williams, 958K) reports Préval's frequent appearances with Robert Manuel, national security chief during Préval's first administration, are seen as proof that Préval is no longer beholden to Jean-Bertrand Aristide because Aristide's associates forced Manuel into exile after he uncovered their connections to drug dealers. According to the Times, "Préval appears to be sending a message that Aristide shouldn't count on an invitation to return home any time soon."

Preval Inherits "Quagmire" Of Poverty, Violence In Haiti. The Washington Post (2/21, A9, Roig-Franzia, 744K) reports that Renee Preval will wade into a "quagmire" next month when he is sworn in as Haiti's president. Preval "will be forced to confront the problems of a nation with almost no functioning judicial system, corrupt and inept law enforcement, deep poverty and abominable public sanitation. Then there are the violent gangs that rule urban slums, the kidnapping rings and a flourishing drug and money-laundering trade."

LATimes Says US Should Increase Haitian Aid. In an editorial, the Los Angeles Times (2/20, 958K) says that "President Bush should ramp up aid to Haiti" because if Preval's government fails, "boatloads of Haitians could once again begin washing up on Florida's shores," which could lead to increased drug trafficking into the US. President Bush should also be concerned with the "possibility that Venezuelan President Chavez…may decide to share some of his oil wealth with Haiti's poor, thus competing with Washington for influence in our hemisphere. But the primary reason we should help Haiti is that it is a humanitarian disgrace on our doorstep."

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Administration Tries To Improve Relations With Bolivian President. The Washington Post (2/21, A9, Constable, 744K) reports that the Bush Administration is hoping Bolivian President Evo Morales, an "avowed leftist," is "a man with whom it can do business." The Post adds, 'In reaching out to Morales despite his antagonistic track record, and despite strong objections from some quarters of the U.S. government, analysts said, the Bush administration is trying to avoid mistakes that have been made with two other countries: Venezuela and Afghanistan. … Cultivating Morales, analysts said, would show that Washington has the confidence to distinguish between nominal and real adversaries, while combating many Bolivians' mistrust of U.S. motives."

European Authorities Worried Over Spread Of Avian Flu. NBC Nightly News (2/19, story 7, 0:30, Williams) reported, "There are real and spreading concerns here in Europe over bird flu. Today in Germany, the new chancellor there visited a region where the flu has been spreading. French authorities testing more birds in an affected area, searching anyone who could be carrying poultry and British officials are warning the public to be vigilant."

India Undertaking Massive Poultry Slaughter. The Wall Street Journal (2/20, 2.11M) reports on its website the Indian government has begun slaughtering "hundreds of thousands" of chickens after reporting its first bird-flu cases. Additionally the government "said yesterday it had found no case of human avian influenza after preliminary tests on a dead farmer earlier suspected to have been the country's first human victim of the disease."

European Poultry Industry Faces Ruin. The Washington Post (2/20, A14, Solanki, 744K) reports European poultry farmers say consumption has already fallen dramatically "and caused hundreds of millions of dollars in losses."

Experts Alarmed By The Flu's Rapid Dissemination. The New York Times (2/20, Kumar, Rosenthal, 1.19M) notes that health experts have predicted "widespread dissemination" of avian flu "for about half a year. … But the recent acceleration has perplexed many experts, who had watched the A(H5N1) virus stick to its native ground in Asia for nearly five years.

India Slaughters Chickens Following Bird Flu Reports. India has slaughtered thousands of chickens following reports of avian influenza. The New York Times (2/21, Kumar, Bowley, 1.19M) reports that "as state animal husbandry workers went about culling birds here on Monday, poultry farm owners hovered nearby, some angrily disputing the government's conclusions that large-scale poultry deaths in the area were the result of bird flu."

The Wall Street Journal (2/21, 2.11M) reports, "Health officials began a door-to-door check in western India for signs of people infected with the H5N1 bird-flu virus, as a massive poultry-slaughtering operation entered its second day. Six people, including three young children, with flu-like symptoms were hospitalized yesterday, joining a woman and a child who were placed in an isolation ward the previous day."

NYTimes Urges Aid To Fight Bird Flu In Africa. The New York Times (2/21, 1.19M) editorializes, "Bird flu has spread to several new countries in recent days, but the most worrisome by far is Nigeria. Health experts have dreaded the arrival of avian flu in Africa, a continent where the backyard chicken is everywhere and veterinary health systems are nowhere. … Rich countries should be sending platoons of veterinary experts to help Nigeria and its neighbors."

US Prepared To Begin Direct Trade With Turkish Cypriots. The US is prepared to begin direct trade with northern Cyprus for the first time in 30 years. The Washington Times (2/21, Kralev, 90K) reports that the Greek-Cypriot government in Nicosia opposes some of the steps the US is prepared to take "as 'creeping recognition' by the Greek-Cypriot government in Nicosia. … Washington and London have called for permitting direct trade to pass through northern Cypriot ports, while Nicosia wants the goods to be taken by truck to southern ports controlled by the internationally recognized Republic of Cyprus government. Opening ports in the north would be de facto recognition of a Turkish-Cypriot state, said Euripides Evriviades, the Cypriot ambassador in Washington."

British Historian Pleads Guilty To Denying Holocaust. British historian David Irving pleaded guilty yesterday to denying the Holocaust, conceding that he wrongly said there were no Nazi gas chambers in the Auschwitz concentration camp. The Washington Times/AP (2/21, Oleksyn) reports that Irving "was sentenced to three years in prison." Irving "has been in custody since his November arrest on charges stemming from two speeches that he gave in Austria in 1989 in which he was accused of

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denying the Nazis' extermination of 6 million Jews. He has contended that most of those who died at concentration camps such as Auschwitz succumbed to diseases such as typhus rather than execution." The New York Times also runs the AP story this morning.

Germany Resists US Effort To Open Holocaust Files. The New York Times (2/20, Cohen, 1.19M) reports that the US government's "demand" to open "a huge repository of information about the Holocaust contained in the files of the International Tracing Service" has been met with resistance by German officials concerned about breaches of privacy.

Senators Urge Code Of Conduct For Doing Business With Repressive Regimes. Sens. John McCain and Jon Kyl write in USA Today (2/21, 2.31M), "The free flow of information has always threatened repressive regimes, and dictators have always sought to restrict it. The Internet is a new challenge for these regimes because it empowers with information and speech any person who can access the network." McCain and Kyl add, "We believe that American companies must develop and agree to abide by a code of conduct governing their interactions with repressive regimes, and we applaud the suggestion by some companies that they will consider such a step. … There is every hope in the Congress that U.S. companies will take action on their own. But however this problem is solved, it's clear that something must change. Americans stand with those who oppose tyranny, not those who promote it."

WPost Criticizes Administration Response To Egyptian Election Postponements. An editorial in the Washington Post (2/21, A14, 744K) says Egyptian President Hosni Mubarak tried and failed twice last year "to stage a democratic election that would impress the Bush administration as credible without risking his hold on power." Mubarak "figures that the tide in Washington has turned against President Bush's democracy policy. … The election-quashing prompted only a tepid statement from Ms. Rice's spokesman, who said the administration opposed the postponement of elections 'as a matter of principle' but added, in an echo of the administration's critics, that 'democracy is not only about elections.'"

Analysts Say Chavez Intensifying Anti-US Rhetoric Ahead Of Elections. The Financial Times (2/21, Webb-Vidal) reports on 'the saga of deteriorating ties between the US and Venezuela." Over the weekend, Venezuela President Hugo Chávez warned Secretary of State Condoleezza Rice "against trying to build an international alliance to curb his government's expanding tentacles of influence across Latin America. … On Friday, he insisted that the US would receive 'no more oil' if it 'crossed the line' in its supposed efforts to undermine his 'revolution.'" Analysts "believe some of the recent provocations come because Mr Chávez is seeking to radicalise his anti-imperialist credentials ahead of elections in December."

The Christian Science Monitor (2/21, Sreeharsha, 61K) reports that Chavez "as spent much of this month warning of a possible US invasion, preparing a citizen army, and lambasting President Bush. His rhetoric has made him a darling of leftists worldwide. Yet, ordinary Venezuelans...are growing increasingly frustrated with the country's inadequate housing, under-resourced public hospitals, and damaged roads."

Chavez Taunts Rice. In a story picked up by three wire services, AFP (2/20) reports, "Venezuelan President Hugo Chavez launched a new verbal attack against US Secretary of State Condoleezza Rice, bluntly warning her: 'Don't mess with me, girl'" during his weekly "Hello President" television show. Chavez "has taken potshots at Rice since she called last week for an international 'united front' against Venezuela and described the leftist leader as a 'challenge to democracy' in Latin America." AFP later reports Chavez "has called" President George W. Bush 'Mr. Danger.'"

Marines Aid Rescue Efforts After Mudslide Hits Philippine Town. US Marines are assisting the efforts to aid victims of the mudslide on the island of Leyte in the Philippines. The story was the lead on both CBS and NBC last night. The CBS Evening News (2/19, lead story, 2:05, Mitchell) reported, "American Marines are in the Philippines where they spent the day digging for survivors from that huge mudslide that wiped away an entire village. As many as 1800 people may have been killed." CBS (Petersen) added the Marines "brought in what will be the first of waves of supplies, and as many as a thousand Marines are being made available from US ships in the Philippines on military exercises. Despite the sheer scope of the devastation, the Marines were confident they can help."

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NBC Nightly News (2/19, lead story, 2:30, Potter) reported that the Marines "will help with relief efforts and will play a major role in the hunt for victims."

Failing To Reach Nuclear Agreement Could Hinder US-India Relations. Henry Sokolski, executive director of the Nonproliferation Policy Education Center in Washington, writes in the Wall Street Journal (2/21, 2.11M) that as the Bush Administration prepares for the President's visit to India, it must "resist making a proposed civilian nuclear cooperation deal the primary theme of future relations with India, or one that requires immediate agreement. Indeed, failing to get this nuclear deal right could not only encumber improved U.S.-India relations, but aggravate the very security threats…that we are seeking India's help to mitigate."

Bush Administration Critic Is Daughter Of Indian PM. The Wall Street Journal (2/21, Wonacott, 2.11M) reports that ACLU staff attorney and Bush Administration critic Amrit Singh is also "the youngest daughter of Manmohan Singh, prime minister of India. Mr. Singh, 73 years old, will host President Bush at a summit in New Delhi early next month. While the soft-spoken Indian prime minister and his daughter share views on many issues, according to acquaintances, their public personas stand on opposite sides of the debate over the Bush administration's foreign policy."

At Least 66 Mexican Coal Miners Trapped After Explosion. The CBS Evening News (2/19, story 2, :15, Mitchell) reported, "Rescuers in northern Mexico are trying to reach at least 66 miners trapped after a coal mine explosion."

NBC Nightly News (2/19, story 2, 0:30, Williams) reported, "At least 6 others outside the mine were injured by the same blast. Officials say the miners are about 1,000 feet underground with limited oxygen, putting their lives in extreme danger."

Thousands Of Irish Immigrants Leaving The US. The Washington Post (2/20, A3, Garcia, 744K) reports the "Irish immigration boom that revitalized neighborhoods across New York over the past two decades" has been halted by stepped-up immigration law enforcement post-9/11. The Irish government "estimates that about 14,000 Irish returned from the United States since 2001." The Census Bureau reported "between 2000 and 2004, the Irish population throughout the United States shrank by 28,500 people, to 128,000."

Ten Killed In Crash Of Marine Helicopters At Horn Of Africa. The CBS Evening News (2/19, story 4, :15, Mitchell) reported, "The US military confirmed today that ten crew members were killed in Friday's crash of two Marine helicopters off Djibouti on the Horn of Africa. Rescuers picked up two men from the water. The helicopters were on a training mission when they crashed."

Canadian Provinces Allow Some Private Health Insurance. The New York Times (2/20, Krauss, 1.19M) reports Quebec "proposed to lift a ban on private health insurance for several elective surgical procedures, and announced that it would pay for such surgeries at private clinics when waiting times at public facilities were unreasonable." The proposal "came in response to a Supreme Court decision last June that struck down a provincial law that banned private medical insurance." Prime Minister Stephen Harper "is thought to favor the Supreme Court decision and will probably try to use it to encourage changes."

Wolfowitz's Campaign Against Corruption Noted. The Washington Post's Sebastian Mallaby (2/20) writes that after nine months as president of the World Bank, Paul Wolfowitz "has made headlines mainly by provoking a staff backlash." However, Mallaby notes that "In a series of tough decisions, some of which have been widely reported and some of which have not, Wolfowitz has challenged" the bank's approach to government corruption. Wolfowitz "is going to be tough on corruption, and he's going to push this campaign beyond the confines of the World Bank."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"Police Tied To Death Squads."
"A High Bar For Lawyers."
"Cycle Of Jail Woes Generates Few Fixes."
"They're Building In Baja, And Boomers Are Buying."
"Justices To Study Scope Of '72 Clean Water Act."
"New Muscle In Anti-Doping Drive."

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USA Today:
"Oversize Homes Wear Out Welcome."
"Katrina Made Police Choose Between Duty And Loved Ones."
"Drives To Ban Gay Adoption Heat Up."

New York Times:
"U.S. Reclassifies Many Documents In Secret Review."
"Germany Weighs If It Played Role In Seizure By U.S."
"Using A Lobbyist's Pull From The Governor's Seat."
"States Curbing Right To Seize Private Homes."
"To: Professor@University.edu Subject: Why It's All About Me."
"U.S. Warns Iraq It Won't Support Sectarian Goals."

Washington Post:
"Counties Sending Check Bouncers To School."
"Millions Not Joining Medicare Drug Plan."
"Jail Riots Illustrate Racial Divide In California."
"With Longevity On Court, Stevens's Center-Left Influence Has Grown."
"Bloggers Who Pursue Confront Fear And Mistrust."
"Risk Of Robbery Raising Stakes Of Poker Nights."

Washington Times:
"Ice Dancers End Medal Drought."
"Ehrlich Seeks To Delay Arab Deal On Port."
"UDC OKs Pay, Tuition Increases."
"U.S. Warns Iraq To Create Nonsectarian Government."
"No Soup For You: Parents Control School Meals."
"A Lifelong Voice For Conservatives."

Detroit Free Press:
"Silver Stars."
"No Zoo? Fans Roar Back In Disbelief."
"Bush: I Can't Boost Automaker Profits."

Atlanta Journal-Constitution:
"Ga. Power Seeks Nuke Fee."
"Title Loan Interest Could Top 300%."
"The Toll Of Caregiving."
"Silver Feels Cool To U.S. Pair With Roswell Ties."

Dallas Morning News:
"Tighter Medicaid Rules 'Wake-Up Call' To Seniors."
"RadioShack CEO Resigns Amid Résumé Questions."
"Hope Fades For Trapped Mexican Miners."
"Texans Receptive To School Spending."

Houston Chronicle:
"Families Cling To Hope As Crews Tunnel Closer."
"Task Force Wants Governor In Charge Of Evacuations."
'Ethicists See Perils In Fixation On Stock."
"'Bigger Than The Astros, Crazier Than Christmas.'"
"Where The Cup's never Half Empty."

Story Lineup From Last Night's Network News:
ABC: White House-Port Sale; Port Security; Bin Laden Tape; Hughes-Arab Opinion; Catholic Schools-Abortion; Mexico Mine Accident; Philippines Mudslide; Gowdy Obit; Olympics; Ice Dancing.
CBS: Bin Laden, Zawahiri Tapes; Iraq-Violence; Iraq-Khalilzad; Senators-Port Sale; Philippines Mudslide; Mexico Mine Accident; Iraq-Wounded Soldier; Eminent Domain-Ohio Couple; Blood Thinner Alternative; Gowdy Obit; Olympics-Austrian Doping Scandal.
NBC: White House-Port Sale; Bin Laden, Zawahiri Tapes; Iraq-Violence; Philippines Mudslide; Mexico Mine Accident; Nigeria-Pipeline Attack; Bush-Alternative Energy; Blanco-Rebuilding Plan; Gowdy Obit; Torino-Fiat Cars; Olympics-Austrian Doping Scandal; Olympics-Sports Medicine; Olympics-Results; White House-Curling.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Port Deal; Iran-Cartoon Protests; CA-Execution.
CBS: CA-Execution; Port Deal; Mexico-Trapped Miners; Philippines-Landslide; SCOTUS-Clean Water Act; Wall Street.
NPR: New Palestinian Government; Rice-Middle East Trip; Straw-Iraq Trip; Bush-Energy Agenda; CA-Execution; Philippines-Landslide; US-Canada-NORAD Treaty; Mexico-Trapped Miners; Foreign Stock Markets.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH — Participates in a tour of National Renewable Energy Laboratory, National Renewable Energy Laboratory, Golden, Colo.; participates in a panel on energy conservation and efficiency, National Renewable Energy Laboratory, Golden, Colo.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: LOUISIANA REBULDING _ 9:30 a.m. Department of Homeland Security Federal Coordinator for Gulf Coast Rebuilding Chairman Don Powell will participate in a panel

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discussion to discuss Louisiana planning activities and rebuilding efforts. Location: Falk Auditorium, Brookings Institution, 1775 Massachusetts Ave. NW.

MEDICARE PROJECTIONS _ 9:30 a.m. Actuarial representatives from the Centers for Medicare and Medicaid Services hold a news conference to discuss their 10-year projects of national health care spending, sponsored by the journal Health Affairs. Location: National Press Club.

US- INDIA _ 10 a.m. Indian Amb. Ranendra Sen holds a news conference to discuss President Bush's upcoming trip to India. Location: National Press Club.

UNMARRIED AMERICA _ 10 a.m. Conference Call on new national survey of Unmarried America will be held by Stan Greenberg, GQR Research; Anna Greenberg, GQR Research; and Page Gardner, WWW. Contacts: Todd Webster, 703-837-1110. Notes: Conference call-in number: 866-513-9389. Password: 9089. A Powerpoint presentation will accompany the presentation. To view the Powerpoint, please send an RSVP email to: newswwwv.org.

SCALIA _ 12 p.m. The American Enterprise Institute holds a forum on ``Outsourcing of American Law, with a keynote address by Supreme Court Justice Antonin Scalia. Location: 12th floor, AEI, 1150 17th St. NW.

ENVIRONMENTAL SCORECARD _ 12:30 p.m. League of Conservation Voters Senior Vice President for Political Affairs Tony Massaro, and League Legislative Director Tiernan Sittenfeld hold a news conference to release the group's 2005 National Environmental Scorecard. The Scorecard is a comprehensive evaluation of environmental votes of each member of Congress, highlighting the most important environmental and conservation votes in both chambers over the first session of the 109th Congress. Location: National Press Club, Lisagor Room.

CLEAN WATER _ 1 p.m. Environmental groups hold a briefing on the Supreme Court's Clean Water Act cases, with former EPA administrators Carol Browner and Russell Train. Location: United Methodist Building, 100 Maryland Ave. NE.

SUPREME COURT-CLEAN WATER _ 1:30 p.m. Georgetown Enviormental Law and Policy Institute, others, hold a panel discussion on upcoming Clean Water Act cases before the Supreme Court, with Maine Attorney General G. Steven Rowe, Malcolm Stewart of the Justice Department, others. Location: Room 200, 600 New Jersey Ave. NW.

MINORITY VOTERS _ 4 p.m. Briefing to discuss a new report on protecting minority voters, and how the findings will affect the civil rigbhts community, with Barbara Arnwine of the Lawyers' Committee for Civil Rights Under Law, Wade Henderson of the Leadership Conference on Civil Rights, Jacqueline Johnson of the National Congress of American Indians, others. Location: Arnold and Porter, Garden room, 12th floor, 555 12th St. NW.

US-GERMANY TRADE _ 4 p.m. US Trade Representative Rob Portman meets with German State Secretary Bernd Pfaffenbach. Location: USTR offices, 600 17th St.NW.

IRAN _ 6:30 p.m. The World Affairs Council holds a panel discussion on Iran's nuclear program, with Joseph Cirincione of the Carnegie Endowment for International Peace, Geoffrey Kemp of the Nixon Center, Trita Parsi of SAIS. Location: The Round House Theatre, 4545 East West Highway, Bethesda.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, FEBRUARY 21, 2006 7:45 AM EST

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TERRORISM NEWS:

Administration Seeks To Build Hill Support For NSA Wiretapping Program. The New York Times (2/20, Stolberg, Sanger, 1.19M) reports, "After two months of insisting that President Bush did not need court approval to authorize the wiretapping of calls between the United States and suspected terrorists abroad, the administration is trying to resist pressure for judicial review while pushing for retroactive Congressional approval of the program." The Administration "opened negotiations with Congress last week, but it is far from clear whether Mr. Bush will be able to fend off calls from Democrats and some Republicans for increased oversight of the eavesdropping program, which is run by the National Security Agency."

The Washington Post (2/20, A8, Babington, 744K) reports, "At two key moments in recent days, White House officials contacted congressional leaders just ahead of intelligence committee meetings that could have stirred demands for a deeper review of the administration's warrantless-surveillance program, according to House and Senate sources." In both cases, "the administration was spared the outcome it most feared, and it won praise in some circles for showing more openness to congressional oversight." But "the actions have angered some lawmakers who think the administration's purported concessions mean little. Some Republicans said that the White House came closer to suffering a big setback than is widely known, and that President Bush must be more forthcoming about the eavesdropping program to retain Congress's good will."

The AP (2/20, Riechmann) reports Senate Majority Leader Bill Frist, "standing firmly with the White House on the administration's eavesdropping program, said Sunday he doesn't think new or updated legislation is needed to govern domestic surveillance to foil terrorists. 'I don't think that it does need to be rewritten, but we are holding hearings in the Judiciary Committee right now,' Frist said on CBS' 'Face the Nation.'" Frist also "said he didn't think a court order is needed before eavesdropping, under the program, occurs." Meanwhile, speaking on "Fox News Sunday," Sen. Lindsey Graham "said there is bipartisan consensus on Congress to make FISA, which was written in the 1970s, more flexible, establish more congressional oversight into such surveillance and preserve judicial review, or the need for a warrant in certain cases." USA Today (2/20, 2.31M) also runs a brief report on Graham's comments.

Meanwhile, the Washington Times (2/20, Waterman, 90K) reports, "Another House Republican committee chairman has joined criticism of the Congressional Research Service for its legal analysis of the administration's program of counterterrorist electronic surveillance." Rep. F. James Sensenbrenner Jr., Wisconsin Republican and chairman of the House Judiciary Committee, "wrote to the service's director, Daniel P. Mulhollan, earlier this month." In the letter, Sensenbrenner "says he asked two legal scholars to review the 44-page Jan. 5 CRS memorandum on the surveillance program -- which analyzed the administration's legal rationale for the program as laid out at that time and found it wanting."

White House Board On Civil Liberties Has Not Met. The Los Angeles Times (2/20, Schmitt, 958K) reports on "a little-known board" at the White House whose purpose is to "ensure that privacy and civil liberties are protected in the fight against terrorism." The board was created by the intelligence overhaul that President Bush signed into law in December 2004. But, more than a year later, the board "exists only on paper." The Senate Judiciary Committee on Thursday "took a first step toward standing up the fledgling watchdog, approving the two lawyers Bush nominated to lead the panel. But it may take months before the board is up and running and doing much serious work. Critics say the inaction shows the administration is just going through the motions when it comes to civil liberties."

Specter Drafting Bill To Curtail Bush Surveillance Powers. The Washington Times (2/21, Hurt, 90K) reports, "Senate Judiciary Committee Chairman Arlen Specter is drafting legislation to curtail President Bush's warrantless surveillance program that the president touts as a tool to stop and capture terrorists." Senate Select Committee on Intelligence Chairman Pat Roberts "said last week that the White House had reached an 'agreement in principle' with congressional leaders to include more lawmakers in the oversight of the program." But Specter's bill "would go further." He "wants to place the entire program under the Foreign Intelligence Surveillance Act (FISA) court, which is responsible for granting warrants for domestic surveillance in pursuit of foreign intelligence. He also has suggested that the program should expire without express congressional approval every 45 days."

Passaro Trial Could Shed Light On Detainee Tactics. The Miami Herald (2/21, Weaver) reports, "Abdul Wali was an Afghan man who U.S. authorities suspect launched rocket attacks against a military base in Afghanistan. David Passaro was an American hired by the CIA to interrogate detainees during the U.S. war in that

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country." The Herald continues, "On June 21, 2003 -- three days after surrendering to military authorities -- Wali was found dead inside a U.S. detention facility in Asadabad, near the Pakistani border. … Today, Passaro, a former CIA contract worker, stands accused of beating Wali so badly with a flashlight that he eventually died. Passaro, who faces up to 40 years in prison, is the first U.S. civilian to be charged in federal court with mistreatment of a prisoner overseas." The Herald adds, "Heading the government's case against Passaro is Michael 'Pat' Sullivan, a veteran Miami federal prosecutor. … For Sullivan, a hardened trial lawyer known for taking down major drug defendants, the Passaro case puts him on an international stage. He has the delicate job of defending the Bush administration's controversial detainee interrogation policy while prosecuting an alleged criminal affiliated with the CIA. … Passaro's indictment on four assault charges was announced with fanfare by Attorney General John Ashcroft in Washington on June 17, 2004. … The North Carolina man was indicted just weeks after pictures were broadcast worldwide that showed U.S. soldiers smiling and joking at Iraqi prisoners at Abu Ghraib near Bagdhad, who had been stripped naked, tortured and humiliated, purportedly to extract intelligence from them. Several male and female U.S. soldiers have since been convicted on charges of prisoner mistreatment at courts-martial."

9/11 Panel Aides Did Not Believe Cheney's Testimony. Newsweek (2/27, Thomas) reports in its cover story that Vice President Dick Cheney testified to the 9/11 Commission that on the morning of the attacks he spoke with President Bush before giving an order to shoot down a hijacked airliner that appeared headed toward Washington. A source "close to the commission…says that none of the staffers who worked on this aspect of the investigation believed Cheney's version of events. A draft of the report conveyed their skepticism." But the report was toned down after a "prolonged battle" with top White House officials, including chief of staff Andrew Card and then White House counsel Alberto Gonzales." Newsweek adds, "The factual narrative, closely read, offers no evidence that Cheney sought initial authorization from the president. … Legally, Cheney was required to get permission from his commander in chief, who was traveling (but reachable) at the time."

Hughes Calls Abu Ghraib Abuse An Aberration. The AP (2/19, Sukhtian) reports Under Secretary Hughes, in an Al-Arabiya interview given on arrival in Dubai Sunday, said "abuse of prisoners in Iraq was a crime and did not reflect US policies in the Middle East." Alluding to the Abu Ghraib photo controversy, Hughes "said the US should not be judged by the actions of a few." Last week in Doha, the AP said, Hughes "spoke out…against caricatures of the Prophet Mohammed that have sparked protests across the Muslim world but she condemned the violence that has broken out during demonstrations, leaving at least 45 people dead." In Sunday's interview, she "accused extremists of using the cartoon controversy to ignite a clash of civilizations." AP's coverage of the Al-Arabiya interview was the first significant U.S. press mention of Hughes' Middle East trip.

Hughes Defends Guantanamo Conditions, Calls Detainees "Warriors." The AP (2/20, Fam) reported on an interview Under Secretary Hughes gave to Al-Jazeera in which she "defended the conditions at the prison at Guantanamo Bay and said the detainees were not criminals, but warriors." Hughes "said the about 490 prisoners held in Guantanamo were arrested for waging a war against the United States or for helping al-Qaida or the Taliban in their wars." The AP said Hughes claimed the United Nations report condemning conditions and practices at the facility "was written by people who did not visit Guantanamo," and said Hughes defended the treatment of detainees there. Those detainees "were people who have made public their intention to kill as many Americans as possible and that the U.S. government had a right to defend its citizens. She added that some of those released from Guantanamo have immediately gone back to fighting and killing Americans."

ABC World News Tonight (2/20, story 4, Vargas) reported "television viewers in the Arab world are hearing a message from the United States. It comes in the person of Karen Hughes, President Bush's long-time close adviser," who is in the Middle East "to win hearts and minds." ABC said Hughes "believes a better relationship with the Arab media power house is critical to improving the US image," and called her "conciliatory" and her audiences "skeptical." Hughes was shown saying audiences "don't understand the reason behind the policy, in some cases." ABC reported, "But part of the problem, of course, is even when people in the Middle East hear the rationale or even understand it, it doesn't go very far. Most of her intended audience doesn't agree with it."

Carter Agrees With UN Report On Guantanamo Prison. Former President Jimmy Carter was asked on CNN's The Situation Room (2/20) if he agrees with a UN report which urges the US to shut down the prison at Guantanamo Bay, Cuba as quickly as possible. Carter said, "I've agreed with that since we first found out that torture and oppression was being perpetrated against the prisons at Guantanamo Bay." Carter added that "the best thing that the United States can do for our own reputation and for justice in the world and for the honoring of human rights is to shut down Guantanamo Bay prison, as was recommended by the United Nations."

More Commentary On UN Report. The Wall Street Journal (2/21, 2.11M) editorializes, "We won't waste your time on the study itself, which largely rehashes factual and legal

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allegations we've seen and rebutted before, and whose authors never actually visited Guantanamo. … A more interesting question is why this report was produced in the first place: We are still waiting for the Commission's reports on the human-rights picture in, say, Syria. But there's no mystery here, since the only purpose the Commission actually serves is to deflect criticism of actual human-rights abusers by heaping invective on the US and Israel."

Navy General Counsel Opposed Policy On Torture. The New York Times (2/20, Golden, 1.19M) reports, "One of the Pentagon's top civilian lawyers repeatedly challenged the Bush administration's policy on the coercive interrogation of terror suspects, arguing that such practices violated the law, verged on torture and could ultimately expose senior officials to prosecution, a newly disclosed document shows." The lawyer, Alberto J. Mora, "a Republican appointee who retired last month after more than four years as general counsel of the Navy, was one of many dissenters inside the Pentagon." The Washington Post/AP (2/20, A3) runs a similar report.

More Commentary On Torture Issue. Gerald L. Zelizer, rabbi of Neve Shalom and a member of USA TODAY's board of contributors, writes in USA Today (2/20, 2.31M), "The conversion that many religions have undergone in upgrading their moral stance on torture can be instructive to governments such as our own." Torture "degrades the victim, but it also degrades the society condoning it. Rationales such as the greater good or self-defense are slippery slopes. The definition of self-defense becomes looser and looser, and the greater good more arbitrary."

Columnist Bob Herbert writes in the New York Times (2/20, 1.19M), "Terrible things were done to Maher Arar, and his extreme suffering was set in motion by the United States government. With the awful facts of his case carefully documented, he tried to sue for damages. But last week a federal judge waved the facts aside and told Mr. Arar, in effect, to get lost. … If kidnapping and torturing an innocent man is O.K., what's not O.K.?"

Treasury Department Freezes Assets Of Islamic Charity. The Washington Post/AP (2/20, A5) reports, "The Treasury Department ordered U.S. banks to freeze assets of an Ohio-based group that the government says funnels money to the militant organization Hamas." The organization, KindHearts of Toledo, "was connected with the Hamas-affiliated Holy Land Foundation and the al Qaeda-affiliated Global Relief Foundation, the Treasury Department said yesterday."

Supporters Rally For Al Arian's Release From Jail. The St. Petersburg Times (2/20, Gershman) reports that on Sunday outside the Hillsborough County jail, over a hundred supporters of Sami al Arian protested his ongoing confinement after his acquittal "on eight of 17 charges related to financing and promoting Middle East terrorism." Civil rights advocates visited al Arian the jail and addressed the crowd, some of whom "held signs with messages such as 'McCarthyism Is Alive And Well In Tampa, FL' and 'If They Won't Free Him, What Was The Trial For?'"

Al Arian Says Ongoing "Persecution" Ignores Will Of Jury. In an interview with the University of South Florida Oracle (2/20, Blackburn), Sami al Arian denounced his continued incarceration saying, "They still want to spend the taxpayers' money and continue this persecution without any regard to what the jurors said and observed and commented. I'm disappointed in that, had I not been a Palestinian and a Muslim and an Arab, things would have been extremely different."

Germany Investigating Its Possible Role In Rendition. The New York Times (2/21, Van Natta, 1.19M) reports, "For more than a year, the German government has criticized the United States for its role in the abduction of a German man who was taken to an American prison in Kabul, Afghanistan, where he said he was held and tortured for five months after being mistaken for a terrorism suspect." German officials "said they knew nothing about the man's abduction," but yesterday "in Neu-Ulm near Munich, the police and prosecutors opened an investigation into whether Germany served as a silent partner of the United States in the abduction of the man, Khaled el-Masri, a German citizen of Arab descent who was arrested Dec. 31, 2003, in Macedonia before being flown to the Kabul prison."

Senior Al Qaeda Operative Profiled. The Washington Post (2/20, A1, Vick, 744K) reports on Louai Sakka, "a senior operative for al Qaeda and intimately linked to major terrorist plots in Turkey, Jordan and Iraq, where he had worked beside Abu Musab Zarqawi, a longtime confederate." He "showed up in Antalya last summer with tens of thousands of dollars in cash and a face altered by plastic surgery. After his arrest, he told investigators he had planned to die steering a yacht laden with explosives into a cruise ship he believed was filled with U.S. soldiers and which was already approaching across the turquoise Mediterranean." Sakka "played a role in the so-called millennium plot to attack hotels in Amman, Jordan, on Dec. 31, 1999." Turkish prosecutors also "describe him as the planner of the 2003 truck bombings that killed 57 people in Istanbul, financed with $160,000 in al Qaeda funds."

Report Examines Al Qaeda Employment Contract. Time (2/27) reports in its "Notebook" column on a report from the Combating Terrorism Center at West Point,

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which analyzes 29 al-Qaeda documents. Among the documents "is an employment contract that outlines for potential recruits the need for loyalty concerning 'legitimate duties like jihad' and also details such matters as vacation time (five days a month for bachelors), salary (700 rupees extra for every wife) -- even sick days. Is the document authentic? The Department of Defense and West Point have studied it carefully and believe it is."

CIA Intelligence Analysis Said To Be Politicized. In a Los Angeles Times op-ed (2/21), Danielle Pletka, vice president of foreign and defense policy studies at the American Enterprise Institute, comments on the volume of commentary on "how the Bush administration ignored internal predictions of post-war instability, terrorism and rising Islamism in Iraq. Intelligence, critics argue, was 'cherry-picked' to bolster the argument for war. What much of the public doesn't realize is that the CIA's Monday-morning quarterbacks, who originated many of the complaints, are themselves handpicking intelligence to boost their antiwar cause." The American people "should be certain that their democratically elected leaders are making decisions based on unbiased intelligence. They won't get that from today's CIA."

PATRIOT ACT:

Concerns About Privacy Drive Patriot Act Debate. The South Florida Sun-Sentinel (2/21, Gibson) reports, "While police groups in Florida urge swift congressional renewal of the USA Patriot Act, some peace advocates have joined critics across the country who say the anti-terrorism law abuses civil liberties and stifles dissent." The Sun-Sentinel continues, "The Senate swept aside a filibuster attempt last week to clear the way for passage of the act, probably on March 1. The House is expected to add its approval quickly." The Sun-Sentinel adds, "Recent disclosures of domestic eavesdropping have clouded the debate over the Patriot Act. Forged in the fearful aftermath of the 2001 terrorist attacks, the act has become a test of how to secure the nation while preserving individual liberties. … 'I hope whatever they [members of Congress] pass is a good balance been privacy and public safety,' said David Murrell, executive director of the Florida Police Benevolent Association in Tallahassee, one of several police groups that support renewal of the act. … 'We are still a democratic society and should not operate like a totalitarian government. Maybe it [the original act] did go too far, as far as individual liberties and the right to privacy is concerned. But we all know it's a new world. Threats are out there, and things like the Patriot Act are needed to address a new situation.'" The Sun-Sentinel notes, "Some dissenting groups in Florida are convinced that government agents have infiltrated and spied upon them. The groups contend that the act reflects a pattern of repression designed to intimidate critics of the Bush administration. … 'I don't think the Patriot Act has protected us at all. It has circumvented our civil rights and made it more dangerous to be an American citizen because of your politics,' said Richard Hersh of Boca Raton, leader of The Truth Project Inc., a Palm Beach County group that tries to counter military recruitment in high schools. 'Spies can go in anywhere and report back to a highly politicized government about the activities of citizens when they are simply exercising their constitutional rights.'"

HOMELAND RESPONSE:

White House Criticized Over Handling Of Port Management Company Sale To UAE Firm. The Administration is taking criticism from members of both parties for its handling of the proposed $6.8 billion sale of the firm that manages six US ports to Dubai Ports World, a firm controlled by the government of the United Arab Emirates. The story was the lead on ABC and CBS, which prominently quoted Democratic Sens. Charles Schumer and Robert Menendez and Republican Rep. Peter King, opponents of the deal, and Sen. Joseph Lieberman, who cautioned against rejecting the deal simply because of the firm's Arab ownership. ABC World News Tonight (2/20, lead story, 2:50, Raddatz) reported the proposed sale said has generated a "political firestorm," even though a "task force from 12 US agencies, including the Department of Defense, the FBI, and the Coast Guard, approved the $6.8 billion deal." Some "members of Congress say if the Administration does not listen to their concerns, they will try to have this contract frozen."

NBC Nightly News (2/20, lead story, 2:30, Williams) reported, "The Bush White House is being asked to reconsider its decision" that would allow the sale to Dubai Ports World. NBC (P. Williams) added Democratic Sens. Charles Schumer and Robert Menendez "now say it should be illegal to do what the Bush Administration has done, allow a company based in and controlled by the government of the UAE, the United Arab Emirates." The US "now considers" UAE "an ally in the war on terror, but those in Congress who oppose the deal note that some of the money for the 9/11 hijackers went through UAE banks and two of the hijackers were from there."

The CBS Evening News (2/20, story 4, 0:35, Schieffer) reported "there has been a storm of protests," and Sens. Hillary Clinton and Robert Menendez "said they will introduce legislation to bar any foreign company from operating a US port facility." Sen. Robert Menendez was asked on CNN's Lou Dobbs Tonight (2/20) about legislation he plans to offer

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with Sen. Hillary Clinton to block the deal. Menendez said, "First and foremost, we want the President to say no to this deal. We have only to March 2nd, and that gives us 10 days. And the president can actually obviate this deal, and I think he should. And if he fails to do so, what our legislation will basically stand for the principle that the ports of the United States should not be in the control and operation of a foreign government."

Menendez said on MSNBC's Countdown with Keith Olberman (2/20), "This is a foreign government that owns this company, not a private company. … And in this particular case, the United Arab Emirates has a history that we should be concerned about, two of the hijackers on September 11th came from there. … This is the country that the 9/11 commission said was a fountain of resources for Al Qaeda. And lastly, and probably the most concerning, when we think about the issue of the port, this is the country in which the Pakistani scientist actually smuggled elements of nuclear components to Libya, to North Korea, and to Iran. If they can't do a good job in their own country, of making sure that there was security so it wouldn't become a transit point, why should we let them operate the ports of the United States?"

CNN's The Situation Room (2/20, Blitzer) reported that the Bush Administration is defending a deal to give a company based in the United Arab Emirates management of six major ports in the US. The Administration says the deal "was thoroughly vetted and that the UAE is a key ally in the war on terror." CNN (Henry) added that House Homeland Security committee chairman Peter Hoekstra is urging President Bush to block the deal. Fox News' Special Report (2/20, Garrett) reported that the company "would not provide security at any US port. That job is still in the hands of the Coast Guard, Customs and Homeland Security. The port employees will remain American long shore men, just as they were under the British operating contract. Even so, security questions persist."

USA Today (2/21, 2.31M) reports Attorney General Alberto Gonzales "defended on Monday the Bush administration's decision to allow an Arab company to take over operations at six major U.S. ports." But "two Republican governors questioned the decision and said they may try to cancel lease arrangements at ports in their states." New York Gov. George Pataki and Maryland Gov. Robert Ehrlich "expressed doubts about the acquisition of a British company, Peninsular and Oriental Steam Navigation Co., which has been running the US ports, by Dubai Ports World." Gonzales "said the administration has a 'very extensive process' for approving such deals." The Baltimore Sun (2/21, Cohn, Shaw, 296K) runs a story titled "Ehrlich Objects To Port Deal," and the Washington Times (2/21, Miller, Ward, 90K) also focuses on the governor's comments. The New York Times (2/21, Kirkpatrick, McGeehan, 1.19M), meanwhile, titles its report on the port issue "Pataki Joins Opposition To Takeover Of Ports."

Ridge Says There Should Be More Transparency About Port Deal. CNN's The Situation Room (2/20, Henry) added, "Republican Tom Ridge, Chertoff's predecessor told CNN there needs to be more transparency about the deal, but said he has confidence in his former Bush colleagues."

Local Officials Say Port Security Inadequate. ABC World News Tonight (2/20, story 2, 2:10, Thomas) reported, "Some local officials believe the government is not doing nearly enough to upgrade port security. Baltimore's Mayor wants more surveillance cameras and much wider use of technology to scan for weapons." Mayor Martin O'Malley: "I think it's appalling that the wealthiest nation on the planet would invest so little in port security." Thomas: "Since 9/11, the US has spent $18 billion improving aviation security. Over the same time frame, according to one congressional study, the US spent roughly $560 million to help cities secure sea ports. But some security analysts question whether throwing more money at the nation's ports will really make us safer."

Passage Of UK-Style Official Secrets Act Seen As Unlikely. Newsweek (2/27) reports in its "Periscope" column that in the wake of press disclosures about the NSA domestic surveillance program and CIA antiterror operations, there has been renewed talk "about the need for an American version of Britain's Official Secrets Act." House intelligence committee chairman Pete Hoekstra has called for a "'comprehensive law' to make it easier to prosecute leakers, and last week his Senate counterpart, Pat Roberts, said he, too, thinks new measures may be considered." Newsweek adds, "One key Capitol Hill official, who asked not to be identified because of political sensitivities, suggested the legislation was not likely to get much traction soon, at least in the Senate."

"Real ID" Said To Have Potential To "Empower" Citizens. Douglas McGray, a fellow at the New America Foundation, in an op-ed in the New York Times (2/21, McGray, 1.19M) writes, "As states get ready to comply with a law passed last May and roll out Real ID's…, it might be time to consider a national identification card." Though camps at either extreme of the argument currently "own the conversation," those in the middle "should find the idea of a national ID appealing." McGray goes on to say that a national ID could have positive effects in the areas of health care, voter empowerment, poverty, education, social welfare and immigration. Privacy concerns "are huge," however, the notion of a national ID created to empower citizens, rather than just monitor us and protect us from foreigners, might

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inspire progressives and centrists to design a card that works."

Energy Department Downgrading Intelligence Unit. The Washington Times (2/21, Gertz, 90K) reports, "The Energy Department is downgrading its counterintelligence unit in what officials say is a 'hostile takeover' by the intelligence office." Bush administration "officials say the reorganization is part of a plan led by Deputy Energy Secretary Clay Sell, a former Senate staff member. 'This [consolidation] is ostensibly for better efficiencies,' said one official who opposes the move. 'But counterintelligence will be less effective and less of a defensive program.'" The Times adds, "A second official said the counterintelligence office consolidation is part of a 'hostile takeover by Rolf Mowatt-Larssen,' head of Energy's intelligence office."

Lawmakers Call For Overhaul OF FEMA. Lawmakers yesterday called for an overhaul of the Federal Emergency Management Agency. Speaking on ABC's "This Week," Sen. Joe Lieberman said FEMA should be replaced with something "better, stronger within DHS to take its place." Rep. Tom Davis, appearing on the same program, said FEMA should become a Cabinet department. Meanwhile, the AP (2/19, Daniel) reported that Homeland Security Secretary Michael Chertoff yesterday "warned against overhauling FEMA with hurricane season only three months away."

Reuters (2/20, Ahmann) also notes the differences in Lieberman and Davis' approaches. While Davis believes the agency should be pulled out of the Department of Homeland Security, Lieberman argues "that since Congress had given the Homeland Security Department statutory authority over both terror attacks and natural disasters, creating a free-standing FEMA would be the wrong way to go."

The Washington Times (2/20, Hudson, 90K) reports that Chertoff "says any tinkering this close to the storm season -- predicted by weather forecasters to be as severe as last year's -- would be a 'big mistake.'" Chertoff said on NBC's Meet the Press, "If FEMA is pulled out of the Department of Homeland Security, I will predict with virtual certainty that we will be much less prepared this hurricane season than we will be if we keep the department together and finish the job of integrating it."

The Los Angeles Times (2/20, Hook, 958K) reports, "Separating FEMA from the Homeland Security Department would remove a major function from the department, whose creation had been a cornerstone of President Bush's response to the Sept. 11 terrorist attacks. The department, which brought together the activities of 22 disparate agencies with more than 170,000 employees, was intended to centralize the government's programs involved in fighting terrorism and responding to natural disasters."

Chertoff Warns Against Removing FEMA From DHS. DHS Secretary Michael Chertoff was asked on NBC's Meet the Press (2/19, Russert) if he supports separating FEMA from DHS, Chertoff responded, "I think the last thing we want to do is to have a situation where we have two parallel agencies fighting over who manages a particular type of a disaster. … If FEMA is pulled out of the Department of Homeland Security, I will predict with virtual certainty that we will be much less prepared this hurricane season than we will be if we keep the department together and finish the job of integrating it."

NBC Nightly News (2/19, story 3, 1:55, Jordan) reported that Rep. Tom Davis says it is "time to pull FEMA out of the Department of Homeland Security," but Secretary Chertoff "rejected that assessment and said the country is better-prepared with FEMA inside DHS." Homeland Security Secretary Michael Chertoff, from NBC's "Meet the Press": "I think the last thing that we want to do is to have a situation where we have two parallel agencies fighting over who manages a particular type of a disaster."

Lieberman Advocates Eliminating FEMA "As We Know It." Asked on ABC's This Week (2/19, Stephanopoulos) if he thinks FEMA ought to be "pulled out" of DHS "and made Cabinet status again," Sen. Joseph Lieberman said, "I believe that it's time for FEMA as we know it to go. … The fact is it's an emergency management administration but it's represented emergency mismanagement. I think it's time to dissolve it and rebuild it within the Department of Homeland Security because, to take it outside, would be to make a redundant organization."

Davis Suggests Establishing FEMA Outside Of DHS. Rep. Tom Davis, on ABC's This Week (2/19, Stephanopoulos), said, "I think FEMA has to be reorganized. I'm not sure it should stay in the Department of Homeland Security for this reason. They are competing for dollars. … I think they've got to be, just there at the right arm of the White House during any crisis."

Bush Names Chertoff Point Person To Work With Mexico On Border Violence. Reuters (2/21) reports, "US President George W. Bush named Homeland Security Secretary Michael Chertoff as the US point person to work with Mexican officials to clamp down on increasing violence along the US-Mexican border, the White House said on Monday." During a phone call between Bush and Mexican President Vicente Fox, in which White House spokesman Scott McClellan said the leaders "talked about…increased border violence and…the importance of working together to improve our border security and stop the violence," it was decided that each government would "pick a high-level contact within each government to work together on the issue and Bush tapped Chertoff for the role." The AP

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(2/21) reports McClellan also said "Bush and Fox also talked about pending immigration legislation in Congress."

The Washington Times (2/21, Dinan, Seper, 90K) adds, "Concern over border violence is growing as violent encounters in Mexico increase, spreading rapidly throughout northern Mexico from the lawless confines of Nuevo Laredo, which lies across the Rio Grande from Laredo, Texas." Meanwhile, "there have been more than 200 assaults on US agents in the Tucson sector alone, and the Border Patrol has warned agents in Arizona of incursions by men dressed in Mexican military uniforms."

Success Of Expedited Removal Said To Depend On Word Of Mouth. The Wall Street Journal (2/21, B1, Jordan, 2.11M) tells the story of Isabel Guzman, who, "after three weeks in a detention center in the Arizona desert," was escorted "onto an MD-80 in Mesa, Ariz., bound for Guatemala City." Her "speedy repatriation is part of a new effort by the US government to cut the red tape in deportations of illegal border-crossers." The success of the expedited removal policy "depends on getting deportees to spread the message back home that the rules have changed, and that a failed border crossing will result in rapid eviction from the US." However, "anecdotal evidence and recent history suggest that no matter how risky, or costly, attempted illegal border crossings may be, economic incentives are often too powerful to dissuade people like Ms. Guzman from trying again."

Katrina Reports Spur Speculation Chertoff Could Lose His Job. U.S. News and World Report's (2/27, Marek) cover package examinees the federal response to Hurricane Katrina. A report released last week "from the Republican-dominated House committee that's been examining Washington's star-crossed response to Katrina," called the federal response a "litany of mistakes, misjudgments, lapses, and absurdities." US News adds, "More tough reviews are in the offing. Two major reports on Katrina failures -- one from a Senate committee and another from White House homeland security adviser Frances Townsend-- are due out in the next few weeks. And the Government Accountability Office…has promised its own assessment. The atmosphere has many in Washington wondering whether Homeland Security Secretary Michael Chertoff…can save his job." Newsweek (2/27, Hosenball) examines e-mails provide to Congress by former FEMA Director Michael Brown. Brown "told NEWSWEEK he was frustrated because Chertoff tried to micromanage the disaster. 'I couldn't do my job,' he said. (Neither Chertoff nor the White House responded to requests for comment.)"

Official Says Levee System Will Be "Back To Where It Was." Also in its cover package, U.S. News and World Report (2/27, Hayden) reports that as this year's hurricane season approaches, "residents of New Orleans can be forgiven for wondering if their city's battered defenses will be ready should another killer storm hit." Walter Baumy, deputy director of Task Force Guardian, the Army Corps's $770 million program to repair the region's flood-protection system is charged with getting the system "back to where it was when Katrina rumbled through. Making New Orleans safer than before, well, that's another story. The decisions there will ultimately be made by Congress and carried out by the corps--which will issue a report on the subject by June."

New Orleans Recovery Efforts Examined. Also as part of its cover package this week, U.S. News and World Report (2/27) examines New Orleans' "heroic efforts to climb back out of the abyss" in Katrina's wake. A separate story in U.S. News and World Report's (2/27, Mulrine) cover package notes that "failure, or at least the distinct possibility of it, is very much a presence in this city's fetid streets and flood-damaged homes. … But spend some time talking with those to whom the real challenge of rebuilding will fall…and defeat seems a chimera, far from a given." A separate story in U.S. News and World Report's (2/27, Schulte) cover package on plans to rebuild New Orleans. Plans from Mayor Ray Nagin's Bring New Orleans Back Commission have "run headlong into the politics of race, class, and power, which, as in most places, translates to money." The plan "faces a host of daunting questions -- questions about flood protection, about controlling scattershot redevelopment, and about Washington's willingness to foot the bill to bring back the Big Easy. For now, all that seems certain is that the New Orleans of tomorrow will be smaller in size and population, most likely a whiter, wealthier city." Another story in U.S. News and World Report's (2/27, Tolson) cover package reports on fears that New Orleans will become a theme park "stripped of its low-lying, mostly poor, mostly black neighborhoods and reduced to a few tourist-enticing quarters like the Garden District or an even further Disneyfied Vieux Carre." US News' cover package also includes op-eds from noted New Orleans residents, musician Wynton Marsalis and chef Paul Prudhomme.

Blanco Proposes $7.5 Billion Katrina Rebuilding Plan. NBC Nightly News (2/20, story 8, 0:35, Williams) reported Gov. Kathleen Blanco has unveiled a "comprehensive rebuilding plan." The "$7.5 billion program would provide homeowners there with up to $150,000 each for repairs." While Gov. Blanco "says she expects to hear the sound of hammers in the not-too-distant future, the plan still has to be approved by state lawmakers and local officials and it will need money OK'd by Congress."

The New York Times (2/21, Nossiter, 1.19M) reports "Gov. Kathleen Babineaux Blanco of Louisiana for the first time unveiled a real package of assistance on Monday, proposing to use federal money for loans and grants that

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aides said would spur rebuilding in devastated areas." New Orleans officials "said the state's $7.5 billion proposal, which offers up to $150,000 in grants to repair or rebuild, along with inexpensive loans, would not have been possible without the $4.2 billion in new money promised by President Bush last week, and $6.2 billion allocated last year." The plan "de-emphasized" buyouts, focusing on "a combination of cash, and low or no-interest loans with the purpose of encouraging repairing and rebuilding."

Barbour's Days As Lobbyist Seen As Boon For Post-Hurricane Mississippi. The New York Times (2/21, Dao, 1.19M) reports the "legendary" K Street reputation of former lobbyist Gov. Haley Barbour "has proved invaluable to…storm-rattled" Mississippi. Barbour said in an interview, "It is obvious that my experiences and relationships over the last 35 years helped me help the state at a time when it needed it more than ever." Meanwhile, though Democrats "commend Mr. Barbour's response to the hurricane, they say it seems stellar mainly compared with the often stumbling performance of officials in Louisiana, which suffered far more devastation."

Group To Aide Minority-Owned Businesses Affected By Katrina. The New York Times (2/21, Olson, 1.19M) describes the Katrina Urban Entrepreneur Partnership, which is to begin "this month, giving needy entrepreneurs intensive help to ensure that they get part of the cleanup and reconstruction work on the Gulf Coast. Concerns have been raised that minority-owned companies are not getting a fair share of the posthurricane business. … The foundation is renting office space in New Orleans, bringing in professional business coaches on a rotating basis and identifying federally certified minority enterprises — beginning with demolition, construction and rebuilding businesses — that can benefit from such assistance."

New Orleans Police Often Had To Choose Between Family, Duty. USA Today (2/21, Johnson, 2.31M) tells the story of Paul Schubert, a New Orleans police officer, who, having "his job just before Hurricane Katrina hit last August, and then not returning for four weeks," was fired. He "says he fled to Texas to save his disabled wife." His "case has come to represent the no-win situation that many officers faced when family and police obligations collided, says David Benelli, president of the Police Association of New Orleans, which represents about 1,100 of the department's 1,400 officers."

Senate Approves Expanded Relief For Hurricane Katrina Victims. The Senate last week passed a bill that would expand relief for Hurricane Katrina victims. CQ Weekly (2/20, Starks) reports, "The legislation (S 1777) would extend the limit on disaster unemployment benefits, to 39 weeks from 26 weeks, and would lengthen the period in which jobless workers could apply for assistance. … The bill is sponsored by Susan Collins, R-Maine, the chairwoman of the Senate Homeland Security and Governmental Affairs Committee."

Engineers Say Corps Should Examine New Orleans Levee Oversight. An outside engineering group working with the Army Corps of Engineers says the Corps investigation into the flooding of New Orleans is overlooking organizational failures as a cause of the flooding. The New York Times (2/20, Schwartz, 1.19M) reports, "The corps is spending about $20 million to understand the physical causes of the levee breaches that left more than 75 percent of New Orleans flooded. But the engineering group said the corps should also be looking into 'discontinuity and chaos' in the creation and maintenance of the levees, according to a letter from the group to Lt. Gen. Carl A. Strock, the chief of the corps."

Smells Around New Orleans Noted. The Washington Post (2/20, C1, Weeks, 744K) reports that in the wake of Hurricane Katrina, New Orleans' air smelled of "flood sludge, refrigerator reekage and oil from cars and acid from batteries." Less than six months later, the floodwaters are gone and the air in much of the city is clear. In other areas, the smells "speak of New Orleans at the moment. From piles of debris along the sidewalks in the city and the suburbs rises a malodorous melange of fumes from sopping carpets, ancient linoleum, rancid bedclothes and abandoned appliances. … Some places smell the same as always: Tipitina's in Uptown is smoky, same as it ever was."

New Orleans Families Struggle To Return, Rebuild. The New York Times (2/20, Dewan, 1.19M) reports on the Baquets, a prominent New Orleans family displaced by Katrina. According to the Times, "As New Orleans struggles to pull its population back, even families with means like the Baquets, families who made New Orleans what it was, are struggling to return and rebuild."

Hard Hit Louisiana Parish Celebrates Mardi Gras. NBC Nightly News (2/19, story 4, 2:10, Williams) reported it is Mardi Gras season "in Louisiana and while it culminates in New Orleans a week from now, celebrations and parades are already underway. In one community, St. Bernard Parish, they celebrated today in front of crowds that were thin but thankful and determined to celebrate." NBC (Savidge) added, "Unlike other Mardi Gras parades that will march through the relatively unscathed French Quarter, this year's St. Bernard Parish parade partied through the rubble of its own neighborhoods, every home here, all 27,600 of them, flooded in water five-twelve feet deep. Before Katrina, 67,000 people lived in this predominantly blue collar area. Only 8,000 have come back."

Chertoff Says Katrina Failures Continue To Haunt Him. Asked on NBC's Meet the Press (2/19, Russert) if he has "considered stepping down," Chertoff replied, "When I took the job, I knew that we had a lot of work to do to mature the department. … I think my responsibility is to try to fix the

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department." Chertoff went on to say that the federal government's response to hurricane Katrina "does haunt me. … What does stick with me is the image of people who unnecessarily suffered because of delays in getting them evacuated. … I think we really fell short. And that's certainly something which I will always carry with me."

Chertoff Responds To Brown's Criticism. Asked on ABC's This Week (2/19, Stephanopoulos) to comment on criticism of him by former FEMA Director Michael Brown, Chertoff said, "I understand I removed Mike Brown. He's obviously not going to be happy with me. That's, kind of, human nature." Chertoff added that in the days after hurricane Katrina struck, "I couldn't get a hold of Michael Brown. He was flying around in a helicopter looking at damage; he was planning to go on Larry King or Rita Cosby."

Chertoff, on CNN's Late Edition (2/19, Blitzer), said, "I do want to respond to Mr. Brown's statement that I was wrong in making him go back to Baton Rouge. On Tuesday, he was flying around with politicians. He was doing interview shows. And the basic planning, which was getting buses to come into the Superdome and pick people up, had not been done."

WAR NEWS:

Lawmakers Said To Be "Chafing" At War Costs. The Christian Science Monitor (2/21, Chaddock, 61K) reports, "More than four years into the war on terror, Congress is chafing -- but not yet balking -- at a tab nearing $400 billion." President Bush's "latest emergency spending request, sent to Capitol Hill last week, includes $72.4 billion for the global war on terror. He also asked for another $19.8 billion for hurricane relief at home." The Monitor adds, "Few lawmakers care to risk not supporting US troops or first responders, making these must-pass bills. As such, they're attracting add-ons that lawmakers deem 'emergencies.' … Many Democrats plan to use the emergency spending request as a vehicle to address what they call urgent needs at home." The Monitor mentions comments along those lines by Democratic Sen. Patty Murray and Rep. David Obey.

Democratic Leaders Seen As Coalescing Around Plan For Quick Withdrawal From Iraq. The Boston Globe (2/20, Klein, 484K) reported, "After months of trying unsuccessfully to develop a common message on the war in Iraq, Democratic Party leaders are beginning to coalesce around a broad plan to begin a quick withdrawal of US troops and install them elsewhere in the region, where they could respond to emergencies in Iraq and help fight terrorism in other countries." The concept, dubbed "'strategic redeployment," is "outlined in a slim, nine-page report coauthored by a former Reagan administration assistant Defense secretary, Lawrence J. Korb, in the fall. It sets a goal of a phased troop withdrawal that would take nearly all US troops out of Iraq by the end of 2007, although many Democrats disagree on whether troop draw-downs should be tied to a timeline." Howard Dean, Democratic National Committee chairman, "has endorsed Korb's paper and begun mentioning it in meetings with local Democratic groups."

US Ambassador Warns Iraqi Shiites To Form Inclusive Government. US Ambassador Zalmay Khalilzad again expressed frustration with the majority Shiite coalition in Iraq for their failure to organize a government that includes minority Sunnis. Khalilzad suggested that US reconstruction aid may be withheld if the Shiites fail to appoint trustworthy leaders to head the nation's security forces, especially given reports of death squads targeting Sunnis.

The story was covered by CBS last night. The CBS Evening News (2/20, story 3, 2:00, Schieffer) reported, "Iraqi politicians got an earful from the US Ambassador, who made it clear today that he is fed up with their failure to build a unified government for all Iraqis." CBS (Dozier) added Khalilzad sought to "steer" the Shiites "right" by "embarrass[ing] the heck out of them in public." Khalilzad said Iraq's "ruling Shiites are about to make a major mistake by appointing ministers, especially in the security services, that many Iraqis fear," and he "bluntly stated that the Shiites must choose more wisely or else." Ambassador Khalilzad: "We cannot invest billions of dollars in security forces if those forces are not trusted by the Iraqi people."

The Washington Times and USA Today (2/21, 2.31M) run an AP report on Khalilzad's remarks, while the New York Times (2/21, Tavernise, Worth, 1.19M) and Washington Post (2/21, A10, Hernandez, 744K) also note his comments.

Iraqi Highway Patrol Linked To Death Squads. The Los Angeles Times (2/21, Moore, 958K) reports a "1,500-member Iraqi police force with close ties to Shiite militia groups has emerged as a focus of investigations into suspected death squads working within the country's Interior Ministry." Iraq's "national highway patrol was established largely to stave off insurgent attacks on roadways," but US military officials "say they suspect the patrol of being deeply involved in illegal detentions, torture and extrajudicial killings."

Suicide Bombings Kill US Soldier, Two Dozen Iraqis. NBC Nightly News (2/20, story 3, 0:25, Williams) reported that in Iraq, the "relative lull there has been shattered in a string of bombings today that left 24 dead, including an American soldier. The worst of the attacks occurred in Baghdad, where a suicide bomber killed 12 people onboard a crowded bus." The CBS Evening News (2/20, story 2, 0:10, Schieffer), meanwhile, reported the US soldier was "hit by a roadside bomb near the Shiite city of Karbala." The Los

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Angeles Times (2/21, Daragahi, 958K), among other sources, also reports on the attacks.

US Seeks To Change Strategy With Counterinsurgency Academy. The Washington Post (2/21, A10, Ricks, 744K) reports on the "COIN Academy" or counterinsurgency academy in Iraq organized by the US commander, Army Gen. George W. Casey. The school "seeks, as a course summary puts it, to 'stress the need for US forces to shift from a conventional warfare mindset' to one that understands how to win in a guerrilla-style conflict." The purpose "of the school north of Baghdad is to try to bring about a different outcome than the US military achieved in 2003-04, when Army commanders committed mistakes typical of a conventional military facing an insurgency." Again "and again, the intense immersion course, which 30 to 50 officers attend at a time, emphasizes that the right answer is probably the counterintuitive one, rather than something that the Army has taught officers in their 10 or 20 years of service."

Politics, Bureaucracy Contribute To Decline In Iraqi Oil Production. The Wall Street Journal (2/21, Cummins, Hafidh, 2.11M) report political disputes and bureaucratic snags have contributed to a sharp decline in Iraqi oil production, "raising questions about the country's ability to keep its petroleum industry from spiraling further into disrepair." In January, "production sank to 1.5 million barrels a day. The deterioration deprives Iraq of revenue from oil sales and is one more black eye for American reconstruction efforts."

In 2000, Hall Said Iraq Was Military Threat. In its "History Lessons" column, the Washington Times (2/21, 90K) excerpts a statement released on April 24, 2000 by Rep. Tony Hall (D) after returning from Iraq. Hall said, "I remain concerned about the military threat Iraq continues to pose to its neighbors and the world -- and convinced that until progress is made on eliminating weapons of mass destruction, lifting sanctions would be irresponsible." Hall added that "if Iraq would show good faith in keeping the promises it made at the end of the Gulf War, perhaps that would prompt good faith measures by the United Nations."

Marine Corps Officer Is Only Active Combat Artist. The Wall Street Journal (2/21, Phillips, 2.11M) reports Warrant Officer Michael Fay, the Marine Corps' official artist, a "rarity because he is both front-line warrior and front-line artist. He is, as far as he knows, the only active-duty combat artist in the world today." The result is "work that does in images what Ernie Pyle did in his World War II newspaper columns: Convey the experiences, both frightening and mundane, of the common man thrust into war."

New Bin Laden, Zawahiri Audiotapes Released. New audiotapes of al Qaeda leaders Osama bin Laden and Ayman al Zawahiri have surfaced in which bin Laden vows never to be taken alive by the US and al Zawahiri brags about having escaped a US airstrike in Pakistan meant to kill him. The story was the lead on CBS, while NBC ran a full segment and ABC ran a brief. The CBS Evening News (2/20, story 1, 3:15, Stewart) reported, "US officials still aren't certain what to make of it but in newly released excerpts from a message of al Qaeda's number two man, Ayman al-Zawahiri, the terrorist leader appears to acknowledge that the CIA came far closer than first suspected when it attacked this Pakistan border village last month." Zawahiri, "clearly in a taunting mood," also "claimed for the first time he was in the Tora Bora Mountains when US forces attacked the al Qaeda stronghold at the end of the Afghanistan invasion." Al Qaeda "also released a new version of Osama bin Laden's January audio message in which he pledged to never be taken alive," but it "had a voiceover in English, believed to be that that of this young man, Adam Gadahn."

NBC Nightly News (2/20, story 2, 2:10, Mitchell) reported, "Most likely recorded in January, Zawahiri invites President Bush to convert to Islam." Zawahiri (voice of translator): "Bush, despite all your crimes, foolishness, and black history, I offer you Islam." Mitchell: "An invitation, experts say, could actually be a warning." Ben Venzke, terrorism analyst: "We believe it is part of a greater warning cycle that we would see in the run-up to an attack." Mitchell: "On his newly released video, Zawahiri also takes aim at Pakistan's President Musharraf."

ABC World News Tonight (2/20, story 3, :25, Gibson) reported, "The comments are on an old audiotape. But new attention is called to them. Bin Laden says Iraq has restored the energy of those who carry out war against America."

Observers Worry Afghan Judicial Reform Could Be Destabilizing. The Christian Science Monitor (2/21, Baldauf, 61K) reports "a growing chorus of European and Western donor nations call on" the Afghan government "to reform and professionalize the judicial system - as required by the Constitution and the Afghanistan Compact signed in London on Feb. 1," the chief justice, Islamic scholar Fazel Hadi Shinwari, "says that Afghanistan will be governed by Islamic laws or tumble into violent civil conflict." Instability has "long been President Hamid Karzai's chief concern. But when a group of European diplomats brought a démarche, or diplomatic petition, to Mr. Karzai on Feb. 11, demanding reform of the Supreme Court, insiders braced themselves for the worst." Privately, "some officials worry that taking on religious conservatives like Shinwari could be severely destabilizing."

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Kaplan Says Military's New Strategy Needs Diplomatic Component. In a New York Times op-ed (2/21), Robert Kaplan of the Atlantic Monthly says, "Because of a bloody counterinsurgency that no one in the military wants to repeat, Iraq has profoundly affected the Pentagon's deployment strategies as it shifts toward a greater emphasis on the Pacific Rim while still facing a profusion of terrorist-related threats not just in the Middle East but also in Africa and elsewhere." The goal "from now on is to get into a place fast, before a problem begins to fester, when there is leeway to experiment and thus to make mistakes without suffering a loss of prestige." But there is a "major omission: the civilian -- or non-Defense Department -- piece of it is entirely missing." In this "worldwide struggle the civilian piece associated with the State Department will be a vital, unconventional asset."

Strain From Afghan, Iraq Wars Seen As Showing On Home Front. USA Today (2/21, Zoroya, 2.31M) reports the situation at Robins Air Force Base in Georgia, "where thousands of workers repair military aircraft, is a case study on how the war overseas has affected those serving on the home front. Here, a different kind of strain and battle fatigue has surfaced, often in startling ways." The "wounded came not from engaging the enemy, but from scores of workplace injuries that increased as the war intensified. The low morale was measured in rises in drunken driving and domestic abuse, discrimination complaints and lost productivity. Most dramatic were the suicides — double the national rate in 2004 — and murders on the base, the first in Robins' 65-year history."

Officers Learn Middle East Culture In Army Program. The Washington Post (2/21, A13, 744K) reports on a US Army "pilot program that is sending 21 Army officers to graduate school to learn about foreign cultures, business practices and languages, including Arabic." The Army "wants its leaders armed with skills to help them navigate road signs, engineering plans and simple conversations."

DOJ:

Attorney Asks DOJ To Clear Name Of Deceased Michigan Official. The Detroit News (2/21, Egan) reports, "Edward H. McNamara's attorney said Monday he would like the U.S. Justice Department to issue a letter clearing his client of criminal wrongdoing now that McNamara has died. … McNamara, who was Wayne County Executive from 1987 through 2002, died Sunday of heart failure. He was 79." The News continues, "In the waning days of his administration, federal and state police officers raided McNamara's county and campaign offices and seized cartloads of paper and computer records. … But McNamara was never charged, and his attorney, Christopher Andreoff, said the Justice Department has never told him that McNamara was the target or even a subject of the probe. He has heard nothing from the FBI or Justice Department since receiving subpoenas for campaign records more than three years ago, he said. … 'I would hope that the government would come forward, but they may not,' Andreoff said. … 'I would like to have such a letter from them now that he's passed, but whether they will do that or not, they tend not to do that in any case, whether someone is deceased or not.'" The News adds, "Andreoff said he wants to discuss the issue with McNamara's widow and other family members before contacting U.S. Attorney Stephen Murphy. 'Now is not the appropriate time,' he said. … The wide-ranging probe is related in part to possible links between campaign contributions and the awarding of county contracts."

CORPORATE SCANDALS:

Both Sides In Enron Case Try To Shape Jury's Opinions. The Washington Post (2/21, D1, Johnson) reports, "Everybody, it seems, has an opinion about Enron Corp. … But the one that counts will be reached by 12 people who will decide the fate of the energy trader's former leaders." The Post continues, "The jurors are an eclectic bunch: eight women and four men, three self-identified Hispanics and one Asian. It is a well-educated panel that includes an engineer, a courtroom manager, and employees of oil industry giants Royal Dutch Shell Group and Schlumberger Ltd. … Four alternates are standing by in case one of the regular jurors becomes ill or otherwise cannot continue through the trial of former chairman Kenneth L. Lay and former chief executive Jeffrey K. Skilling, which is likely to extend at least four months." The Post adds, "The way the Enron panel goes about its work will fuel a long-running debate about the ability of average citizens to assess responsibility for complex business frauds -- and will carry powerful implications for the way prosecutors bring future white-collar cases, according to experts on corporate crime. … 'Juries can understand lies, cheating and stealing,' said Ellen S. Podgor, a visiting law professor at Stetson University and co-author of a blog on white-collar cases. 'What they can't understand is complex accounting practices. You have to simplify it for the jury.' … That is exactly where the prosecution has focused its efforts. 'It is not about accounting. It is about lies and choices,' Assistant U.S. Attorney John C. Hueston told the jurors in opening arguments. … In contrast, defense lawyers have attempted to lead the jury down circuitous paths of accounting treatment, introducing audio and video clips full of arcane detail about complex business issues. … Defense lawyers also have signaled that they may

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make the jury itself the basis of appeals if the trial goes against their clients. Almost from the start, they raised questions about whether jurors from Houston, where thousands of workers lost jobs and retirement savings in Enron's collapse, could hear the case with open minds."

Ruling Curbs Executives' Chance To Accept Lucrative IPO Shares. The Wall Street Journal (2/21, Siconolfi) reports, "Corporate executives, take note: The definition of improper stock trading in your brokerage account just got broader." The Journal continues, "A New York state court recently found former telecommunications executive Clark E. McLeod liable for receiving hot new stocks in his personal brokerage account. The rationale: His company was sending business to the same securities firm, Citigroup Inc.'s Salomon Smith Barney, that doled him the new stocks. … That is a big change. Previously, 'spinning' of initial public offerings of stock involved a direct quid pro quo. In a common form, securities firms allocated IPOs to the personal accounts of corporate executives, so the shares could then be sold, or 'spun,' for quick profits -- in exchange for business from the executives' companies." The Journal notes, "IPO shares are coveted because they often surge on their first trading day. Spinning has raised concerns among investors that the IPO market is rigged. … Bottom line: Senior executives now could skate on thin legal ice if they receive IPO shares from a Wall Street firm with which their company at some point does business, and don't disclose it to their board or shareholders."

CRIMINAL LAW:

Cotton Convicted In First Tennessee Waltz Trial. A federal jury on Saturday found Tennessee Waltz defendant William Cotton guilty of conspiracy and one of two counts of attempted extortion. Cotton was acquitted of the second extortion count. The AP (2/19, Poovey) notes, "Hours of secret FBI audiotapes and videotapes of encounters between Cotton," lobbyist Charles Love "and undercover agents posing as E-Cycle executives were the heart of the government's case." The Memphis Commercial Appeal (2/19, Perrusquia) observes, "The case illustrates the challenges other Waltz defendants…may face when confronted with hours of taped evidence in trials slated for Memphis later this year. … Although the Cotton case is one of the least complex of the Waltz cases, the volume of taped evidence and complexity of federal extortion law seemed to dazzle jurors."

Meanwhile, WTVC-TV Chattanooga (2/20, Fields) reports on the reaction of Chattanooga-area lawmakers to Cotton's conviction. State Rep. Chris Clem "likens the fallout of the Tennessee Waltz investigation to fighting a disease, 'I would say it's equivalent to being diagnosed with a treatable cancer. … You're glad you can do something about it, but the treatment is still rather painful.'" Sen. David Fowler, who was mentioned in the FBI tapes but not accused of accepting bribes, "says it's unfortunate the fallout from Tennessee Waltz has undermined the public's trust in lawmakers."

Defense Attorney To Seek Lenient Sentence. The Chattanoogan (2/20) reports defense attorney Hank Hill "said he will ask Federal Judge Allan Edgar for leniency," saying that Cotton "'played a fairly minor role' in the FBI 'Operation Tennessee Waltz' sting." Hill "said he will point out that Cotton 'is a decorated war hero. He received two Purple Hearts' in Vietnam."

Cotton Resigns Commission Seat. The AP (2/21) reports that in a letter to Hamilton County Commission Chairman Larry Henry on Monday, Cotton resigned his seat in the wake of his conviction. The AP notes, "The 'Tennessee Waltz' scandal led to a special session of the legislature this year, which passed a sweeping ethics reform bill creating an independent ethics commission, restricting lobbyists and capping cash political contributions."

Some Black Political Leaders Say FBI Investigation Racially Motivated. The AP (2/20, Poovey) reports, "Some black political leaders are saying the 'Tennessee Waltz' sting operation targeted blacks and represents an attack on the Senate campaign of U.S. Rep. Harold Ford Jr." State Rep. Ulysses Jones "said many people in his district believe federal investigators went after black leaders," and Hamilton County Democratic chairman Stuart James "said the investigation has prompted 'complaints from the black community as a whole.'" However, the lead prosecutor, Assistant US Attorney John MacCoon "said it was 'absurd' to suggest race or partisan politics were factors in the investigation."

FBI Scrutinized Memphis Lawmakers. Under the headline "FBI Had DeBerry, Hargett In Sights," The Memphis Commercial Appeal (2/19, Perrusquia) reports, "House Speaker Pro Tem Lois DeBerry and state Rep. Tre Hargett were among several Memphis-area politicians originally in the crosshairs of an FBI corruption sting, yet were never charged." In an FBI surveillance recording played at Cotton's trial, "an undercover agent says Hargett is one who should be approached because 'we did something for Tre,'" and adds that "DeBerry 'has agreed to co-sponsor' legislation favorable to E-Cycle Management." On Saturday, "Hargett said he was surprised and angered by the inference."

Bredesen To Return Contributions From FBI Probe Targets. The Knoxville News (2/21, Stambaugh) reports, "Gov. Phil Bredesen's campaign announced Monday it will return $22,300 in contributions given since 2001" by Harold Eugene Grooms, Kenneth Frazier and Cocke County business H-1 Auto Parts, after Bredesen became aware that they were targets of the Operation Rose Thorn investigation. "Grooms has been under scrutiny by federal authorities since

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at least 2000, when two pilots were caught smuggling marijuana into East Tennessee and fingered Grooms as their boss. … H-1 Auto Parts has also been the subject of a federal search warrant," and Kenneth Frazier "has been identified by the FBI as the owner of the 440 Cockfight Pit." The AP (2/20) notes, "Grooms' home was raided last month by the FBI, Tennessee Bureau of Investigations and other agencies. Bredesen confirms knowing Grooms, but says he'll keep at 'arm's length' from him with his new troubles."

Gotti Racketeering Trial Begins Today. The AP (2/20, Neumeister) reports, "The latest attack on the Gambino family…begins Tuesday, when lawyers deliver opening statements in the racketeering case against John 'Junior' Gotti. The trial is a linchpin in the government's effort to permanently shut down the Gambino family, once a powerhouse in the gambling, loan sharking, labor union and extortion rackets." The AP notes that federal investigators have made significant progress against the Gambinos since "they infiltrated the family with an undercover FBI agent who was so well accepted that he was offered membership." The New York Post (2/19, Hamilton, Smith) adds that "a rematch of Gotti vs. the government won't be a simple replay of last year's trial, when a lone holdout juror derailed the bid to nail the ex-Gambino crime king for plotting to kidnap radio host Curtis Sliwa, loan sharking and extortion in the construction trade. This time, there's a new attorney for Junior, along with fewer witnesses against him, pared-down charges…and no co-defendants."

Gambino Case Built On FBI Wiretap, Informant, Undercover Agent. Under the headline "FBI Stalks The Gambino Crime Family In Westchester," The Westchester Journal News (2/19, O'Connor) reports on the FBI's surveillance of reputed Gambino crime family captain Gregory DePalma of Scarsdale. The Journal News notes that the case against DePalma is based on a listening device in DePalma's cell phone, "a member of DePalma's Westchester-based crew who was flipped by an agent from the FBI's White Plains office," and "an FBI mole" who "worked his way into DePalma's inner circle." The Journal News goes on to detail some of the recordings captured by the FBI wiretap.

Alleged Bonanno Boss Maintains Unconcerned Attitude As Trial Approaches. The New York Times (2/21, Rashbaum) reports on the trial of alleged mobster Vincent "Vinny Gorgeos" Basciano, set to begin Thursday, "where he stands accused of running the Bonanno crime family with a decidedly deadly hand." In pre-trial hearings, Basciano "has preened in his finely tailored suits and Ferragamo shoes" and "has been seen laughing and making jokes for the benefit of newspaper reporters." Although "the government has lined up 80 to 100 witnesses," Basciano "appears largely unconcerned. He sits in court listening intently, sometimes silently flashing a smirk to reporters, or an arched eyebrow." The New York Post (2/20, Haberman) notes that Basciano will "face an extraordinary number of Mafia turncoats. … 'There is not one trial in public consciousness that has seen as many rats,' one legal insider said. Former family godfather Joseph Massino, who was convicted in 2004 of committing seven rubouts but cooperated to skirt the death penalty, is expected to make his rat debut."

Congress Takes Up Dispute Over "Bad Check" School. The Washington Post (2/21, A1, Mayer) reports, "Prosecutors in some Maryland and Virginia counties have adopted a potent tactic to discourage check-bouncing: threatening writers with prosecution if they don't attend 'bad check school' run by private contractors." The Post continues, "It is a way for the counties to make money -- they get a portion of the fees the companies charge people who attend the courses -- and law enforcement officials say the practice saves resources for fighting more serious wrongdoing. … But critics say the private companies violate the law when they send out letters warning check bouncers to attend classes or face prosecution. The critics add that in most states, it is not a crime to write a returned check unless there is intent to defraud. And federal law bars debt collectors from making false threats." The Post adds, "Nine Maryland counties, including Prince George's, Howard, Anne Arundel and Frederick, have turned to check restitution companies for such services. Some jurisdictions in southern Virginia are using an outside company, and Loudoun County is about to do so. The District has no check-restitution program but is considering one. … Local prosecutors say the threat of prosecution for not participating is legitimate. … But the practice is being challenged in several lawsuits nationwide. … The dispute has moved to Congress, where prosecutors want check-restitution programs exempted from federal debt-collection laws. Proposed legislation, designed to eliminate key legal arguments in lawsuits challenging the practice, has been approved by the House Financial Services Committee. Consumer advocates and debt collectors -- typically adversaries -- are fighting it."

Rising Poker Popularity Leads To Robbery Risk. The Washington Post (2/21, A1, Vargas) reports, "The first time Doug Thomas looked up from his cards to see a gun pointed at him, the chips on the felt-topped poker table were piling up to about $100 a pot. The Texas Hold 'Em game was just revving up last month at the Manassas electrical shop when two masked men, armed with a semiautomatic handgun, ordered players facedown on the floor. … The second time was less than two weeks later and

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just a few blocks away. Nine players had paid $500 each for a seat at the poker game at his Manassas apartment, but Thomas wasn't making any money, other than the few bucks he skimmed off each pot to pay for food and drinks. The pizza and wings had just arrived when the police officers showed, weapons drawn." The Post continues, "As poker's popularity explodes, swallowing basements and living rooms in its wake, the danger also has increased, police say. No one tracks the number of poker-game heists because they are recorded simply as robberies, and many go unreported by hosts fearful of gambling charges. But police across the region and nation say private games are ripe for robberies. … The games' hosts acknowledge the danger and are reacting by keeping guest lists more exclusive and often risking serious criminal charges by taking money from players to pay for armed security. … For police, the mixture of a high-stakes game in a low-security spot such as a home is cause for worry. … Police say that in the past year and a half, calls about private poker games have increased steadily, including complaints from relatives worried about depleted savings accounts and from neighbors tired of watching cars clog cul-de-sacs the same night each week."

CIVIL LAW:

Groups Seek FEC Rules To Allow Ads Near Elections. Five groups, the AFL-CIO, the US Chamber of Commerce, the National Education Association, OMB Watch and the Alliance for Justice have petitioned the FEC to create new regulations that would allow them to lobby federal officeholders via TV ads in the days before a primary and general election. The Washington Times (2/20, Dinan, 90K) reports, "If the FEC does, it would be the first time the agency set standards for how groups can lobby without running afoul of the 2002 campaign-finance changes in the McCain-Feingold Act, named after Senate sponsors John McCain and Russell D. Feingold." In January, the High Court ruled in Wisconsin Right to Life v. FEC that grass-roots groups "have ways to lobby and mention the name of a federal candidate without being seen as actively campaigning. In their petition to the FEC, submitted last week, five groups said the court's ruling lets the FEC write regulations in time to govern the 2006 election."

High Court To Consider Vermont Campaign Finance Law. The Supreme Court next week will consider whether a Vermont campaign finance law violates the First Amendment. U.S. News and World Report (6/27, Halloran) reports that the case gives the court "its first opportunity to revisit the [1976 Buckley v. Valeo] money-is-speech precedent that defines unlimited campaign spending as a constitutional right. The outcome could have a dramatic effect on how far states can go in regulating campaigns in the future."

Families To Recover Art Taken In World War II. USA Today (2/21, Willing) reports, "She has pursued her family's stolen treasures for nearly eight years. … But Maria Altmann of Los Angeles, a 90-year-old widow and Holocaust survivor, says she never expected this: Austria's national gallery is preparing to send her and her four cousins five paintings worth an estimated $300 million, nearly 70 years after Nazis confiscated the artworks in her native Vienna." USA continues, "A long-shot victory by Altmann at the U.S. Supreme Court in 2004 and a win before an Austrian arbitration panel in January mean that the paintings, by early 20th-century Austrian master Gustav Klimt, could be headed to Altmann's three-bedroom home as soon as next month. … The Austrian government has declined to bid on the works, which include a gold-flecked portrait of Adele Bloch-Bauer, Altmann's aunt, that has been reproduced on thousands of souvenirs. In a statement, Austrian Chancellor Wolfgang Schuessel said the nation could not afford the $300 million valuation placed on the paintings by E. Randol Schoenberg, Altmann's Los Angeles-based attorney." USA notes, "The Altmann case has had an impact on the art world, says Robert Jarvis, art law specialist at Nova Southeastern University in Fort Lauderdale. Public museums are re-examining the backgrounds of many of their pieces. Some, such as New York City's Metropolitan Museum of Art, have agreed to return some pieces to their nation of origin rather than risk losing them in a lawsuit."

CIVIL RIGHTS:

Only 21 States Have Complied With Voting Reform Law. CQ (2/20, Zeller) reports that four years ago, Congress "wrote a law intending to clean up once and for all the sorts of Election Day messes that yielded Florida's presidential results fiasco in 2000." But a "recent study by the nonpartisan group Electionline shows that only 21 states have met all of the law's requirements as of the deadline, which was Jan. 1." The group "monitored compliance with the baseline provisions of the law, which also called for the adoption of uniform voter identification rules, statewide voter registration databases and modernized voting machines that could be used by people with disabilities." The "furthest behind, according to the Electionline report, is New York, which is presently under review by the Justice Department to determine whether its $220 million in federal funding under the law should be confiscated." Still, "new machinery is not an airtight fix for voting irregularities either, the report found: California is scrambling to replace its recently acquired

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electronic voting machines to address concerns about their reliability and security."

Delaware Session To Teach How To Recognize Victims Of Human Trafficking. The Wilmington (DE) News Journal (2/20, Billington) reports, "Human trafficking -- the modern version of slavery -- is a multibillion-dollar-a-year criminal enterprise, ranking behind drug trafficking in global crime statistics." The Journal continues, "Some victims of human trafficking are probably working in Delaware, experts say. … 'There's no doubt that there is human trafficking in every state in the union,' said Chief Assistant U.S. Attorney Douglas Molloy of Fort Myers, Fla. Molloy has prosecuted several human-trafficking cases. … 'If you have an agricultural industry, for example, or large numbers of undocumented workers, you have slavery.'" The Journal adds, "Delaware has a large agricultural sector and other businesses -- such as food service and construction -- that lend themselves to human trafficking, but there have been no specific charges brought to date in the state, U.S. Attorney Colm Connolly said. … 'Some local law enforcement agencies have brought matters to us that they thought could be human trafficking, especially in areas such as prostitution rings, but further investigation did not bear that out,' Connolly said." The Journal notes, "Despite the lack of evidence human trafficking is a problem in the state, one advocacy group is organizing a training session Wednesday in Dover to promote ways to recognize potential victims and signs. … Attendees at the event will include police, social workers, hospital personnel and others who come into contact with the state's immigrant population. It is not open to the public. … A number of experts have said that police and prosecutors are not trained well enough to recognize obvious signs and to deal with victims."

LAPD Suspensions, Firings Down Last Year Despite Rise In Misconduct Reports. The Los Angeles Times (2/21, McGreevy) reports, "Although complaints against Los Angeles police employees were up last year, 46% fewer officers and civilian staff members were fired or suspended than in 2004, according to a report released by LAPD Chief William J. Bratton." The Times continues, "Last year, about 6,400 complaints were filed against police employees, an increase of nearly 4%, according to Cmdr. Eric Lillo, head of the Los Angeles Police Department's Internal Affairs Group. … At the same time, a separate report by the chief — to be considered by the Police Commission today — said 421 employees were fired, quit under pressure or were suspended last year, nearly half the 784 staff members who were terminated or suspended in 2004. … The LAPD has 9,357 police officers." The Times notes, "Lillo said the drop in the number of discipline cases was probably due in part to efforts by Bratton to punish those engaged in misconduct. … Department officials note that, because of limited investigative staffing, fewer complaints that might have brought disciplinary action were resolved in 2005 than the year before. Because the department has had trouble meeting its recruitment goals, it has become more difficult to promote experienced officers to these investigative functions. … Civil rights attorney Samuel Paz, a member of the National Policing Accountability Project, called on the Police Commission to determine why complaints overall were up."

Los Angeles Jail Riots Underscore California's Racial Divide. The Washington Post (2/21, A1, Pomfret) reports, "A series of deadly racial attacks in the jails of this sprawling metropolis has cast a spotlight on long-simmering but little-discussed tensions between a shrinking black presence and an ascendant Latino one in California." The Post continues, "In almost every arena of public life -- schools, politics, hospitals, housing and the workplace -- African Americans and Hispanics are engaged in an edgy competition, according to interviews with teachers, students, politicians, researchers, government officials, civil rights lawyers, street cops and businesspeople." The Post adds, "Los Angeles's first Latino mayor since the 19th century, Antonio Villaraigosa (D), was elected last year with strong support from African Americans amid hopes of the creation of a true rainbow coalition in one of the world's most ethnically diverse metropolitan areas. But the reality, said Earl Ofari Hutchinson, a black radio talk show host who directs the Los Angeles Urban Policy Roundtable, is that 'the jail violence is only symptomatic of something larger.' … 'There is conflict and competition in all areas,' Hutchinson said. 'This city and this state is a caldron of racial issues. This thing is pulsating.'"

Efforts To Ban Gay Adoption Emerging Nationwide. In what USA Today (2/21, Stone, 2.31M) calls a "second front in the culture wars" over gay marriage, efforts to ban gays and lesbians from adopting children are emerging across the country. USA reports, "Steps to pass laws or secure November ballot initiatives are underway in at least 16 states, adoption, gay rights and conservative groups say. Some — such as Ohio, Georgia and Kentucky — approved constitutional amendments in 2004 banning gay marriage."

In a separate story, USA Today (2/21, Stone, 2.31M) adds, "The push against adoption by lesbians and gay men comes after successful campaigns in 11 states in 2004 to define marriage as a union between a man and a woman. At least six more states — Alabama, Arizona, Idaho, South Carolina, South Dakota and Wisconsin — may put marriage on the ballot in November."

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Preschool Teacher Sues Catholic School After Losing Job Because Of Pregnancy. ABC World News Tonight (2/20, story 5, 3:00, Vargas) reported, "Polls show most American Catholics find abortion morally unacceptable. But a Catholic schoolteacher in New York says she was fired from her job because she decided not to have an abortion." ABC (Tapper) added Michelle McCusker taught at St. Rose of Lima, a Catholic school in Brooklyn, but "McCusker, who is Catholic and single, became pregnant. She decided to keep the baby. The school, backed by the Brooklyn Diocese, fired her." McCusker "and the New York Civil Liberties Union are suing the school, claiming gender discrimination," and "an anti-abortion group," Feminists for Life, "has sided with Michelle McCusker, claiming that the Catholic school was essentially encouraging abortion."

ANTITRUST:

DOJ Will Not Charge Finnish Paper Maker With Price-Fixing. The AP (2/20) reports, "Finnish paper maker UPM-Kymmene Corp. said Monday that U.S. officials will not prosecute it over possible price fixing in magazine paper or antitrust related offenses in the American labelstock industry." The AP continues, "The world's largest magazine paper producer said the decision presupposes 'UPM's full and continuing cooperation with the U.S. Department of Justice antitrust division's investigations.'" The AP adds, "In August 2003, UPM received a grand jury subpoena in the antitrust division's investigation into the American labelstock industry. … Prompted by its own internal investigation of possible collusion, UPM in January 2004 contacted competition authorities in the European Union, the United States and Canada, which then gave the Helsinki-based company conditional full immunity concerning "certain conduct disclosed to the authorities." … In May 2004, European regulators raided several forest products companies in the investigation into alleged price fixing and cartel arrangements, based on UPM's information."

New Mexico Mulls Changes To Minimum-Service Rules. Inman News (2/20, Roberts) reports, "The New Mexico Real Estate Commission will meet this week to consider a controversial real estate regulation opposed by U.S. Justice Department antitrust officials." Inman continues, "Members of the state's Real Estate Commission had delayed their consideration of the rule change, which would require all real estate brokers in the state to provide a specified level of services to consumers, after receiving a letter from the Justice Department in November." Inman adds, "The meeting will be held on Wednesday and Thursday this week in the Las Cruces, N.M., real estate brokerage office of David Steinborn, president of the Real Estate Commission -- which is about 230 miles away from the commission's office in Albuquerque, N.M. The meeting data and location were not publicized on the commission's Web site as of Friday morning, but is now listed at the site. … The Justice Department and Federal Trade Commission have opposed laws and regulations in several states that have sought to heighten the level of services that real estate professionals must perform for clients. The federal agencies have charged that such measures can deny consumers the right to choose which services they want and do not want in a real estate transaction, and can potentially lead to higher costs for real estate services and a smaller field of real estate business models." Inman notes, "Proponents, including state lawmakers, real estate regulators and Realtor trade groups, have endorsed the laws as efforts to eliminate agents' confusion in real estate transactions involving a brokerage company that offers limited representation, and to ensure that consumers will receive all of the services that they need. … Opponents, including real estate professionals who offer low-cost limited-service options for consumers, have said that they are just giving consumers what they want, and they question the motives of such industry-backed efforts."

Electolux May Seek Acquisitions During Consolidation. Bloomberg (2/20) reports, "Electrolux AB, the world's largest appliance maker, may make acquisitions as the industry consolidates, Chief Executive Officer Hans Straaberg said. … 'We have clear evidence that Electrolux has been the predator and not the prey, and we intend to stay the predator,' Straaberg, who has a moose head trophy in his Stockholm office, said in an interview today." Bloomberg continues, "There are 'add-on' acquisitions that would be 'of interest' to Electrolux, the 48-year-old CEO said, declining to comment on any potential targets. The company was named Sweden's likeliest takeover target by newspaper Dagens Industri in December, based on interviews with 100 analysts. … Electrolux, the maker of AEG stoves and Frigidaire refrigerators, will lose its top ranking if Whirlpool Corp., the maker of KitchenAid appliances, succeeds in with its $1.68 billion purchase of Maytag Corp. Benton Harbor, Michigan-based Whirlpool last week agreed to delay that purchase so that the U.S. Justice Department can have more time to review the transaction."

BlackBerry Patent Fight Coming Down To The Wire. The AP (2/20, Stoughton) reports, "Say what you want about patent infringement lawsuits, but at least the BlackBerry case has drama." The AP continues, "A federal judge, clearly impatient with the long-running case, could issue an injunction as soon as this week on U.S. sales and

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service of the wireless e-mail device." The AP adds, "Most patent lawsuits are dismissed or settled long before they reach this stage. Remarkably, neither BlackBerry maker Research In Motion Ltd. nor tiny patent holder NTP Inc. have shown signs of backing down. In effect, they're daring each other to blink first and settle. … Governments, businesses and individual users are growing unnerved by the standoff. Although the odds of an actual shutdown are low, conflicting opinions about the possible outcomes and the spin from both sides have created a confusing picture. … James R. Spencer, a no-nonsense U.S. district judge widely respected in the legal community, now finds himself in the unusual position of weighing an injunction against RIM even as the U.S. Patent and Trademark Office is expected to finally rescind NTP's patents. … But the system doesn't necessarily work in a timely fashion. Spencer has signaled that he is unwilling to delay his proceedings while awaiting final word from the patent office, which lags far behind the court system. A case that could change the practice of granting injunctions in patent cases, eBay Inc. v. MercExchange, will be taken up by the Supreme Court, but no decision is expected until the spring at the earliest. Spencer, meanwhile, has scheduled a hearing for Friday on the injunction and damages."

Maryland Power Company Seeks To Keep Lawmakers Out Of Merger. The Washington Post (2/21, B1, Mosk) reports, "Maryland's largest power company has launched a discreet but aggressive lobbying campaign to prevent the legislature from intervening with its plans to merge with a Florida utility to create one of the nation's largest electricity suppliers." The Post continues, "Constellation Energy Group has bulked up its roster of lobbyists in Annapolis, and the company's executives have been meeting with top lawmakers in recent days to try to dissuade the legislature from taking steps that would scotch the $11.5 billion deal with FPL Group, based in Juno Beach, Fla. … 'This company is launching a lobbying blitz in the halls of the legislature to speed this merger through,' said Sen. Leo E. Green (D-Prince George's). 'We need to step on the brakes.'" The Post adds, "Green and other top lawmakers predict a fierce legislative battle over the proposed merger, which they worry could mean sizable rate increases for the 1 million Maryland customers of Constellation's subsidiary Baltimore Gas & Electric Co. … The merger comes as state caps preventing rate increases are set to be lifted in July. And Senate Finance Committee Chairman Thomas M. Middleton (D-Charles) said he worries that Maryland customers would end up paying the costs of repairing FPL Group's hurricane-battered power lines."

ENVIRONMENT/INDIAN AFFAIRS:

Bush Outlines Energy Proposals In Michigan And Wisconsin. President Bush traveled to Michigan and Wisconsin yesterday to promote his alternative energy proposals. Of the networks, only NBC reported on the President's trip. NBC Nightly News (2/20, story 7, 0:35, Williams) reported Bush "spent this holiday Monday outlining some of his plans to wean Americans off what he has called this nation's addiction to foreign oil. He toured a Wisconsin plant that makes batteries for alternative-powered automobiles and he praised both hybrid technology and ethanol, a fuel usually made from corn. Critics, however, also say the President also needs to push the car industry for better fuel efficiency and push drivers to use less oil."

Most print reports note that the President framed the oil dependence issue as a "national security problem." The Milwaukee Journal Sentinel (2/21, Content, Barrett, 266K) notes Bush also said it is "a challenge to the economy and Americans' quality of life. The president, who like his father worked in the oil industry before entering politics, said, 'I know it came as a shock to some to hear a Texan stand up there in front of the country and say, we've got a real problem, America is addicted to oil. But I meant it, because it's a true fact, and we've got to do something about it now.'" Knight Ridder (2/21, Hutcheson) reports "the former Texas oilman said he's ready to try everything from wind power to nuclear energy to break what he calls the nation's addiction to fossil fuels." White House "advisers hope that the president's focus on energy will reassure Americans that Bush shares their concerns over high gasoline prices and home heating bills. Critics dismissed the trip as a publicity stunt and questioned the president's sincerity."

Bloomberg (2/21, Murray) quotes Bush saying, "We will start building nuclear power plants again by the end of this decade." Reuters (2/21, Zakaria) says Bush "pointed to France having built 58 nuclear plants since the 1970s, and China having 8 nuclear plants in the works, with plans to build at least 40 more over the next two decades." Senate Democratic leader Harry Reid "said Democrats were willing to work with Bush on alternative energy, but last year's energy legislation suggested Bush had different priorities. 'We need more than just rhetoric from a president who let Big Oil write our energy policies,' he said."

The New York Times (2/21, Bumiller, 1.19M) sees a political component to Bush's trip, reporting that it "dovetailed with his campaign travels. Wisconsin, Michigan and Colorado have races important to the White House this year, but of particular concern is Colorado, where a recent poll shows a Republican candidate for governor, Representative Bob Beauprez, trailing Bill Ritter, a Democrat and former

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Denver district attorney." Although Bush "did no overt politicking in the three states, the view of the White House is that his appearances are helpful to Republican candidates because they motivate the party's most faithful supporters."

Bush's statement that the country is on the verge of great technological breakthroughs also receives extensive coverage this morning. The AP (2/21, Riechmann) reports Bush said such breakthroughs "would 'startle' most Americans," while UPI (2/21) says Bush "outlined several such advances, including the lithium ion battery at the Wisconsin plant, wind-driven electrical generation and solar power."

The Detroit Free Press (2/21, Gray) reports, Bush "toured an Auburn Hills company that produces high-tech batteries and solar panels, saying the work being done at United Solar Ovonics could someday change the way Americans live their lives." Bush "met with United Solar Ovonics officials privately for about an hour and toured the plant with the company's president, Subhendu Guha. During the tour, he met with company employees and spoke to the media briefly." The Detroit News (2/21, Heinlein) says United Solar "is one of the most promising ventures of Energy Conversion Devices, the Michigan company which for decades has pioneered a wide range of alternate energy technologies."

The WisPolitics.com (2/21, Wise) reports that in Wisconsin, Bush also "pushed for increased use of ethanol as a way to meet the energy demands of a country 'addicted' to oil. 'You've got a lot of it in Wisconsin," Bush told an invitation-only audience of some 250 people gathered at Johnson Controls in Milwaukee."

The Los Angeles Times (2/21, Gerstenzang, 958K) reports that the President, "sounding more like a salesman for hybrid autos, said the combined gas-electric vehicles were 'a good deal for the American people, and consumers have begun to figure it out.'" He "said he was looking ahead to the day when solar panels are built into roofing materials, and houses can send to the electric grid the energy they create but do not use. 'We want solar power to be commonplace by 2015,' Bush said."

In its analysis, USA Today (2/21, Benedetto, 2.31M) says the trip was part of Bush's "drive to cut what he called the nation's addiction to oil." Today, in Golden, CO, "the president visits the National Renewable Energy Laboratory, a federal research facility that develops new energy technologies and helps move them to practical application in private business and industry." The Denver Post (2/21, Human, Gonzalez, Crowell) reports Bush "landed Monday evening at Aurora's Buckley Air Force Base on the last leg" of his three-city tour. Moments "after striding off Air Force One, Bush shook hands with Gov. Bill Owens and US Sen. Ken Salazar and teased both men for not wearing warm coats." Bush's appearance on the tarmac at Buckley "lasted less than 10 minutes. He grabbed the hand of Pete Beverly, 70, an Aurora resident who has spent about 2,000 hours volunteering with Habitat for Humanity of Metro Denver."

The Washington Post (2/21, A3, VandeHei, 744K) reports that as Bush spoke, "crude oil prices rose as a result of rebel attacks in Nigeria that reduced output by Africa's largest producer, underscoring the volatility of the oil market."

Energy Department Comes Up With Funds To Restore Jobs At Colorado Lab. The Washington Times/AP (2/21) reports that while Bush "is highlighting his budget proposals to help wean America from foreign oil," the Colorado lab he will visit "is meeting a $28 million shortfall by cutting its staff by 32 persons, including eight researchers." But this morning, Reuters (2/21, Doggett) is reporting the Energy Department "said it has come up with $5 million to immediately restore jobs cut at a renewable energy laboratory…Bush will visit on Tuesday, avoiding a potentially embarrassing moment as the president promotes his energy plan." Bush "proposed spending millions more dollars in renewable energy research. However, Democratic lawmakers and environmentalists questioned the administration's commitment when jobs were being eliminated at the National Renewable Energy Laboratory (NREL) in Golden, Colorado." Bush "will visit the lab on Tuesday to tout his proposal for more renewable energy research funding."

Congress Said To Be Close To Lifting Bans On Offshore Drilling. The Washington Post (2/21, D1, Blum, 744K) reports, "For decades, drilling for oil and natural gas off of much of the US coastline has been off limits." But "this year, with Congress facing high energy prices and a fresh lobbying push from oil companies and their supporters, even drilling opponents acknowledge that they may lose their fight to keep bans in place." The Post adds, "A flurry of legislation from members of both parties would allow drilling for oil and natural gas in new areas of the Outer Continental Shelf -- land that lies under federal waters that surround the United States and typically stretch from three to 200 miles offshore."

Supreme Court Eminent Domain Case Generates National Controversy. The Supreme Court's decision in Kelo v. City of New London, which upheld the Connecticut city's use of eminent domain to condemn private property for economic development, has generated a national debate over the use of the power. The CBS Evening News (2/20, story 8, 2:45, Schieffer) reported the decision has "sent more than 30 state legislatures into action to try to undo what the court did." CBS notes the case of Norwood, Ohio, where homeowners such as Carl and Joy Gamble are fighting "city officials who agreed to a local developer's $125 million plan to replace their middle class neighborhood with offices, condos and shops" in state courts.

Legislators Move To Limit States' Use Of Eminent Domain. Lawmakers in nearly every state are pushing bills

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and constitutional amendments to limit the government's use of eminent domain to seize private property for economic development. The New York Times (2/21, Broder, 1.19M) reports, "The measures are in direct response to the United States Supreme Court's 5-to-4 decision last June in a landmark property rights case from Connecticut, upholding the authority of the City of New London to condemn homes in an aging neighborhood to make way for a private development of offices, condominiums and a hotel."

USA Today (2/20, Cauchon, 2.31M) reports, "Bills to restrict eminent domain have moved forward in Georgia, Virginia, Indiana, Kentucky and several other states, but none has become law yet. In New Mexico, the state Senate and House both approved limits, but the Legislature adjourned before final approval."

Supreme Court To Hear Arguments On Clean Water Act. The Supreme Court today will hear arguments over which bodies of water fall under Federal oversight under the Clean Water Act. The Christian Science Monitor (2/21, Richey, 61K) reports, "that two cases consolidated for oral argument today question "just how far upstream the Clean Water Act (CWA) extends federal jurisdiction. … At the center of the dispute is a discrepancy between the words Congress used when it wrote the CWA and the regulations the US Army Corps of Engineers and Environmental Protection Agency wrote later to enforce the clean water law. Congress said US jurisdiction would extend over all 'navigable waters.' EPA and Corps of Engineers regulations interpret the law as extending far upstream, even to waters with no hydrologic connection to a tributary of navigable waters."

The Los Angeles Times (2/21, Savage, 958K) reports, "Federal regulators read this measure as protecting tens of thousands of small streams and hundreds of millions of acres of wetlands that flow toward larger waterways, even if they are far from the nearest river or bay. But to the surprise of environmentalists, the high court agreed to hear a direct attack on that broad view of the law. Farmers and developers say it is far-fetched to describe low-lying farm fields, or even dry creek beds in the West, as part of the nation's navigable waterways."

The New York Times (2/20, Barringer, 1.19M) reports that if the court supports the developers, more than "half of the nation's streams and wetlands could be removed from the protections of the federal Clean Water Act." The central question "is where federal authority ends along the network of rivers, streams, canals and ditches. Does it reach all the veins and arterioles of the nation's waters, and all the wetlands that drain into them? Does it end with the waterways that are actually navigable and the wetlands abutting them? Or is it some place in between?"

Clean Water Act Said To Be In Jeopardy. In an editorial, the Los Angeles Times (2/20, 958K) discusses two cases -- Rapanos vs. United States and Carabell vs. Army Corps of Engineers -- that the new Supreme Court will hear when it comes back to session on Tuesday. The paper argues the two cases "pose serious challenges to the 1972 Clean Water Act," the law which gives the Federal Government authority to regulate "navigable waters" in the U.S. Tuesday's cases "concern wetlands that are (or may be) connected, but not adjacent, to navigable bodies," the question being does the Federal Government have the authority to regulate these types of wetlands.

NYTimes Says Clean Water Cases An Important Test For New Justices. An editorial in the New York Times (2/21, 1.19M) says the Clean Water Act cases are ""an important test of the legal philosophy of John Roberts Jr., the new chief justice, and Samuel Alito Jr., the new associate justice. If they take a hard-line states' rights stance, it will be a sign that they agree with ultraconservatives who want to restrict Congress's power to regulate critical national matters like environmental protection, public health and workplace safety. … These cases may give the American people the first clear indication of just how judicially modest the new justices intend to be."

Identity Issues Color Plan To Protect Florida Panther. The Washington Post (2/21, A3, Whoriskey) reports, "The Florida panther, the feline carnivore that roams what's left of the state's cypress swamps and other wilds, enjoys almost mythic status here." The Post continues, "Its image adorns license plates. The National Hockey League franchise is named for the cat. And it is, officially, the Florida state animal. … But now a new plan for saving the vaunted predator is reopening awkward questions for the animal's admirers: What, exactly, is a Florida panther?" The Post adds, "Scientists believe there are only about 80 left in Florida. And given the shortage of habitat in the cat's rapidly developing namesake state, the draft recovery plan for the Florida panther, issued recently by the U.S. Fish and Wildlife Service, proposes to export some of the predators out of state -- and names potential sites in Arkansas, Louisiana, Mississippi, Georgia and Alabama. … The Florida panther roamed those states long ago, wildlife biologists said, and reintroducing it there could enable it to establish populations large enough to ward off extinction. … But the proposal to expand the range of the predator, which is being met warily from officials in other states, where farmers fear attacks on livestock, is also restarting debates about whether the Florida panther, officially considered an endangered subspecies, is for all practical purposes identical to the cougar, a far more common animal that lives in much of western North America."

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Grassley Looks To Private Sector For Help With Rainforest Project. CQ (2/20, Adams) reports a "pet project that Republican Sen. Charles E. Grassley has had on the drawing board for more than two years" concerns "the construction of an enclosed rainforest on about five acres in Grassley's native Iowa — with a foil-wrapped exterior towering some 20 stories high." The "artificial rainforest — which has the working name of the Environmental Project — first won a $50 million earmark in the fall of 2003." But Grassley "raised the stakes for Iowa's private investors," and the "law now mandates that businesses or local governments cough up a match of $50 million in the next two years, or else be forced to give back whatever federal money hasn't been spent by Dec. 1, 2007."

Consumer Advocates Urge Ban On Carbon Monoxide Treated Meat. The meat industry has been spiking meat packages with carbon monoxide to give the meat a bright pink color that lasts weeks. Consumer advocates are urging the FDA to ban the practice, saying the agency violated its own rules by allowing the practice without a formal evaluation of its impact on consumer safety. A front page story in the Washington Post (2/20, A1, Weiss, 744K) reports, "The legal offensive has the meat industry seeing red. Officials deny their foes' claim that carbon monoxide is a 'colorant' -- a category that would require a full FDA review -- saying it helps meat retain its naturally red color."

Tribes, Casino Operators Rely On Cash To Influence Lawmakers. The Chicago Tribune (2/21, Dorning) reports, "Along with tawdry tales of bribery, money laundering and sham charities, the corruption scandal surrounding former lobbyist Jack Abramoff has thrown new light on the rising tide of gambling money pouring into the nation's capital." The Tribune continues, "As more states have moved to legalize gambling in one form or another and Indian tribes have turned to casinos as a lucrative source of income, the gambling industry's annual revenues have swelled to more than $78 billion. And with that wealth has come a determination to deploy larger sums to influence decisions made in Washington that can affect the bottom line." The Tribune adds, "Federal campaign contributions from the gambling industry have jumped more than 27-fold, from $478,000 in 1990 to more than $13 million in 2004, according to the Center for Responsive Politics, a non-partisan watchdog group. Washington lobbying expenses disclosed by the industry have nearly doubled in six years, from $6.1 million in 1998 to $11.4 million in 2004, according to the Center for Public Integrity, another monitoring group. … One California tribe, the Morongo Band of Mission Indians, rents a $1,500-a-night luxury suite at Washington's MCI Center that it lends out for fundraisers benefiting members of Congress friendly to their casino interests, including at least once to Rep. Jerry Weller (R-Ill.). … During the 2004 Republican National Convention, casino tribes helped foot the bill for an after-hours Wild Wild West Saloon party for a congressional committee chairman, Rep. Richard Pombo (R-Calif.), at a New York nightclub. The party featured a mechanical bull and music by big-name bands including the Charlie Daniels Band, .38 Special and Otis Day. … At least three of President Bush's premier Pioneer fundraisers were gambling industry chief executives. For years, the industry paid to fete senior congressional staff with annual three-day trips to Las Vegas, where casino operators made their case on legislative issues."

FBI/DEA/ATF/USMS:

Gonzales Speaks At Dedication Of Alabama Church. The AP (2/21) reports, "The church where four black girls died in a racist bombing in 1963 was honored as a national landmark Monday, with Attorney General Alberto Gonzales recalling their memory amid a new string of attacks against churches in Alabama." The AP continues, "Speaking at the pulpit of Birmingham's Sixteenth Street Baptist Church, Gonzales compared the deadly bombing of the old brick building to a string of arson fires that have hit rural Baptist churches since Feb. 3. … The fires, Gonzales said, are a reminder 'there is still work to be done' in ensuring equal justice and fighting discrimination." The AP adds, "Gonzales called the building 'a catalyst for the cause of justice' as he referred to the children killed when a Ku Klux Klan bomb went off at the Sixteenth Street church on Sept. 15, 1963. … 'We protect this place for them,' Gonzales said during a ceremony where Interior Secretary Gale A. Norton signed a proclamation adding the church to a list of about 2,500 places that carry the title of National Historic Landmark." The AP notes, "The audience included relatives of the four girls who were killed — Addie Mae Collins, Carole Robertson and Cynthia Wesley, all 14, and Denise McNair, 11. … Sixteenth Street Baptist Church was an important meeting place for activists during the civil rights era, and the bombing became a worldwide symbol illustrating the depth of racial hatred in the South at the time. Three Klansman were convicted in the blast, the last in 2002. … Gonzales also was briefed during his trip on a string of fires that has scores of federal and state agents in Alabama checking out hundreds of leads. Investigators have said there does not appear to be a racial motive to the church fires. Some of the churches have had white congregations and others black memberships. … Ten rural, Baptist churches were damaged or destroyed by arsonists in central and west Alabama between Feb. 3 and Feb. 11, and investigators believe at least nine of the blazes were set by two suspects identified as men in their 20s or

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30s. … Gonzales called the fire investigation a 'very intensive, collaborative effort.'"

WBRC-TV Birmingham (2/19, 5:03 p.m.) said that the "16th Street Baptist Church is in the spotlight. Tomorrow, US Attorney General Alberto Gonzales and Interior Secretary Gale Norton will be in Birmingham for an event, declaring the church a national, historic landmark. White racists bombed the church in 1963, killing four young girls." The station added that in the 60's, the "church was used for rallies and marches during the civil rights movement." WAAY-TV Huntsville (2/19, 10:05 p.m.), WXTX-TV Columbus, Georgia (2/18, 9:59 p.m.), WIAT-TV Birmingham (2/17, 9:59 p.m.), WTTO-TV Birmingham (2/17, 9:01 p.m.), and WCFT-TV Birmingham (2/17, 6:09 p.m.), also covered this story.

Agents Probe New Fire At Alabama Church. The AP (2/21) reports, "A suspicious fire did minor damage to the exterior of a small church, but authorities said Monday they don't know whether it was linked to a string of suspected arsons that have damaged or destroyed 10 rural churches in Alabama." The AP continues, "Johnny Chambers, acting chief of the Glencoe Police Department, said members of the joint federal-state task force investigating the cases were still reviewing a blaze that happened early Sunday at Chapman's Chapel. … Like the other ones that burned, the church is small, with fewer than 20 members, and isolated. … But the church is about 75 miles northeast of the nearest of the previous fires, and the fire began outside the building near the ground. The earlier blazes were started inside, mostly near the pulpit."

"Dr. Wu" Gets 11-Year Sentence. The San Diego Union-Tribune (2/18, Soto) reports "Dr. Wu" was hunted by DEA agents for more than two decades. Wu, "a drug trafficker who authorities say ran an international operation while living in a trailer parked near North County beaches was sentenced to 11 years, three months in prison [Friday]. … His legal name is now Baron Michael Angelo Suarez-Rothschild, but he was born Michael Grabarek 55 years ago, authorities said. … He was the centerpiece of 'Operation Dr. Wu,' which led to the arrests of about 30 people on drug trafficking, money laundering and weapons charges in Southern California, Hawaii and elsewhere." Authorities said the drugs, "trafficked through San Diego, were delivered to users in Las Vegas, Detroit, and cities in Florida and Hawaii, as well as Singapore."

More Meth-Related Violence Said To Be Moving Into Dallas. The Dallas Morning News (2/18, Meyer, Trahan) reports that as border violence moves into Dallas, police "are turning up the heat." Michelle Deaver, a spokeswoman for the DEA in Dallas, "said Friday that authorities are investigating more meth moving into the Dallas area from the border. As U.S. lawmakers have made it increasingly tough to acquire a key ingredient in methamphetamine – pseudoephedrine…fewer people north of the border are 'cooking' the dangerous drug. That means more imports."

California City May Face Lawsuits After Outlawing Marijuana Dispensaries. The North County Times (2/19) reports that San Marcos has joined California's "short list," outlawing marijuana dispensaries. The "move sets the city up for lawsuits similar to those leveled on other cities that have enacted bans." San Marcos on Tuesday "became the first city in San Diego County to enact a ban on future dispensaries; one in operation now can stay. The decision came after a December raid by the U.S. Drug Enforcement Administration turned the spotlight on the Legal Ease Inc. medical marijuana dispensary. The raid was conducted after undercover agents bought marijuana without valid recommendations from a doctor."

16 Charged In Prescription Drugs Investigation. The AP (2/19) reports, "More than a dozen people have been charged with illegally selling prescription drugs, some of which have turned up in several western New York high schools. Officials with the federal Drug Enforcement Administration announced the charges against 16 people accused of selling OxyContin, hydrocodone and other prescription drugs to young people, many of them high school students. Authorities say most of those arrested are in the 19-to-21 age range."

Former Florida Basketball Assistant Sentenced In Cocaine Case. The Tampa Tribune (2/21) reports Former University of Florida basketball staff assistant Major Parker "was sentenced to six months of house arrest Friday after pleading guilty to drug charges. … Parker and Farrah Stephanie Moise were arrested Dec. 7, 2004, for allegedly trying to sell about a pound of cocaine to an undercover Gainesville police officer. According to police reports, Parker and Moise had been the subject of an investigation by the city police and Drug Enforcement Administration agents since November."

The AP (2/18) and Orlando Sentinel (2/18) also reported on this.

Three Arrested In Florida In Opium Investigation. The Naples (FL) Daily News (2/20) reports Moeen Mehri and two other men "were arrested recently after a confidential informant and an undercover investigator set up a drug buy in a Fort Myers hotel room." It was all part of an undercover sting that authorities "said involved the sale of $300,000 worth of opium." According to an affidavit, the U.S. Drug Enforcement Administration "received a tip from its Boise, Idaho, office about an opium source in Southwest

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Florida. The Idaho agents had developed an informant who said he could purchase large amounts of the illegal drug from Mehri."

Virginia Meteorologist To Testify Before Federal Grand Jury In Heroin Case. The Roanoke (VA) Times (2/18) reports, "News Director Shane Moreland confirmed that meteorologist Jamey Singleton will testify before a federal grand jury in the ongoing investigation into a heroin organization that allegedly supplied former WSLS-TV weatherman Marc Lamarre with drugs. Lamarre, 36, suffered a near-fatal heroin overdose on the evening of Feb. 2 and is recovering. … Gilbert Dennis Hadden, 21, of Detroit, is being held on federal charges of conspiracy to distribute heroin and distribution of heroin in connection with Lamarre's overdose."

In a separate story, the Roanoke (VA) Times (2/18) also reports, "Not one, but two WSLS (Channel 10) meteorologists -- Marc Lamarre and Jamey Singleton -- have struggled with a heroin addiction in recent months, according to an interview with Singleton that aired on WSLS's late-night newscast Friday.

Report: Syringes, Antidepressants Found During Raids At Turin Olympics. The AP (2/21) writes, "Italian police seized 100 syringes, 30 packages of antidepressants and asthma medication during Saturday's raids at the Austrian biathlon and cross country teams' private lodging at the Turin Olympics. … State broadcaster ORF, citing Italian prosecutor Raffaele Guariniello, said authorities also found equipment used to conduct blood tests and perform blood transfusions."

Reuters (2/20) reports, The International Olympic Committee and Italian police on Monday remained at odds over two anti-doping raids at the quarters of Austrian athletes competing in the Turin Winter Olympics. The IOC says it only found out about the raids on the same evening they took place, but Italian police insist it was a joint operation with the IOC."

The Los Angeles Times (2/21) reports, "The unprecedented weekend police search of Austrian Olympic skiers' quarters could signal a tough new approach in the campaign to eradicate doping in international sports. Authorities seized 30 packages of antidepressants, asthma medication and 100 syringes, some used, Italian state prosecutor Raffaele Guariniello told Austrian television. It was the first time police in an Olympic host nation had raided athletes' quarters during the Games in a search for performance-enhancing substances; until now, enforcement has been handled by sports authorities."

Network TV Coverage. The CBS Evening News (2/20, story 11, 1:55, Pizzey) reported, "Acting on a tip from Olympic officials, Italian paramilitary police raided the quarters of the Austrian cross-country and biathlon teams and suddenly the Winter Olympics were looking more like CSI Torino. An Italian prosecutor said more than a 100 syringes and 30 packs of drugs, including asthma drugs and anti-depressants, were found in the quarters outside the official Olympic Village. The search was sparked when anti-doping officials spotted this man, Walter Mayer, listed as the Austrian team's trainer in spite of being banned from this Olympics and the 2010 games after having been found guilty of doping offenses in Salt Lake City." Dick Pound, chairman, World Anti-Doping Agency: "It's incomprehensible. I mean, I can't understand why a country would have somebody like that identified so publicly with their team." Pizzey: "In a bizarre twist, Mayer drove hundreds of miles back to Austria before the raid. When police found him asleep in his car, he took off again, knocking down a policeman and ramming a roadblock before being caught and sent to a psychiatric hospital for examination. Athletes involved with Mayer were drug tested and if the results from this lab are positive, the dopers will not just be kicked out of the games, they could be charged with a criminal offense under Italian law."

NBC Nightly News (2/20, story 11, 0:30, Williams) reported, "Back here in Torino, a story that continues to get a lot of attention here, the doping scandal involving the team from Austria. The latest bizarre twist in this, the Austrian ski coach, who wasn't supposed to be at these games in the first place, and who then bolted after a surprise raid on the Austrian coaches' housing, well he is now in a psychiatric hospital. Authorities put him there yesterday after he rammed his car into a police roadblock in Austria."

Outgoing Utah US Attorney Pushed Gun Prosecutions. The Salt Lake Tribune (2/21, Gehrke) reports, "When Roosevelt Police Chief Cecil Gurr was gunned down in 2001, state prosecutors went after the gunman. But federal investigators set their sights on Michael Nelson Swett, a convicted felon who had provided the triggerman with the assault rifle used to kill the chief." The Tribune continues, "Swett was convicted of his role in Gurr's death, and sentenced to 10 years in prison. It was an early victory in a major dragnet aimed at cracking down on weapons crimes and getting guns out of the hands of felons, an effort that was the prime focus of U.S. Attorney Paul Warner, who announced this month that he is leaving the post." The Tribune adds, "During seven years in office, Warner's drive to cut down on gun crime resulted in the filing of more than 1,450 weapons-related cases. There was an elevenfold increase in the number of individuals charged with breaking firearms laws in his first three years in office, according to an analysis by The Salt Lake Tribune of Warner's record as U.S. attorney for Utah. … 'You couldn't swing a dead cat and not hit a convicted felon with a gun

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when we started the program,' Warner said in an interview. 'We've scooped most of the scum off the top of the bucket.'" The Tribune notes, "The program - begun as Project CUFF (Criminal Use of Firearms by Felons) in March 2000 and now called Project Safe Neighborhoods - was prompted in part by a shooting spree at Columbine High School in Colorado that killed 15. President Clinton's attorney general, Janet Reno, sought to make weapons crimes a national priority, and the emphasis continued after President Bush was elected, Warner said. ..In his first full year in office, 1999, Warner's office prosecuted 33 individuals for weapons crimes. By 2003, the number had skyrocketed to 362, a nearly 11-fold increase, according to an analysis of Justice Department data by the Transactional Records Access Clearinghouse at Syracuse University."

Government Said To Be "Throwing Money" At Failing Drug War. A Wall Street Journal editorial (2/21, Melloan) says the war against drugs "rages on with little mainstream challenge of its basic weapon, prohibition." Economist Milton Friedman "predicted in Newsweek nearly 34 years ago that Richard Nixon's ambitious 'global war against drugs' would be a failure. Much evidence today suggests that he was right. … The drug war has become costly, with some $50 billion in direct outlays by all levels of government, and much higher indirect costs, such as the expanded prison system to house half a million drug-law offenders and the burdens on the court system. … That reflects government's tendency to throw more money at a program that isn't working."

IMMIGRATION:

Groups Criticize Speedy Deportations. The New York Times (2/20, Swarns, 1.19M) reports, "As the Bush administration rapidly expands its efforts to detain and deport illegal immigrants, human rights groups warn that people fleeing persecution are increasingly vulnerable to being deported to their home countries." In 2005, "a bipartisan federal commission warned that some immigration officials were improperly processing asylum seekers for deportation. The commission made recommendations to ensure that the system of speedy deportations, known as expedited removal, had adequate safeguards to protect those fleeing persecution." But "one year later, only one of the commission's five recommendations has been put into effect. Meanwhile, domestic security officials have expanded the expedited removal program, in which illegal immigrants are swiftly deported without being allowed to make their case before an immigration judge."

US Cancels More Visas In Fight Against Corruption. The Miami Herald (2/19, Bachelet) reports, "Indicating a sharp increase in visa cancellations, the US Consular Affairs bureau estimates that about 250 senior foreign officials have lost their visas since a January 2004 presidential proclamation to stop the entry of 'persons engaged or benefiting from corruption' went into effect. Many more officials, politicians and relatives have had their visas canceled under older provisions linked to drug trafficking, money laundering and human rights abuses. One State Department official with knowledge of the program said that number was in the 'hundreds.'"

TAX:

Frist Says Capital Gains Tax Cuts Increased Revenue. In a USA Today op-ed (2/21), Senate Majority Leader Bill Frist touts the "supply side" revenue enhancements generated by tax cuts. Frist says, "Ever since the Senate approved the last major tax relief bill, in 2003, revenues have increased every year. In 2004, they went up 5.5%. Last year, they rose 14.5%, the largest increase in nearly 25 years. Total government collections, in fact, increased more after President Bush's 2003 tax cuts than they did after President Clinton's 1994 tax hikes." Frist adds that Republicans' "decision to reduce taxes on capital gains and dividends provides a good case study in effective tax policy."

WPost Criticizes Dynamic Scoring Of Tax Cuts' Budget Impact. The Washington Post (2/21, A14, 744K) reports says in an editorial that while Vice President Cheney touted the supply side argument, he "is the one who needs to reexamine his evidence. Yes, tax policies can help promote economic growth. But no matter how many times the vice president and his tax-cutting allies proclaim their belief in the tax-cut fairy, she doesn't exist. Tax cuts do not magically pay for themselves, bringing in more revenue than they deplete from the treasury." Proponents of "the magic tax cut have long argued that, if only the growth-enhancing effects of cuts were accounted for in the budgetary equation, this cost-free boon would become clear. Trouble is, responsible economists who have attempted to engage in this kind of 'dynamic analysis' haven't come up with the unalloyed positive conclusion the administration wants -- much less the proof of pay-for-themselves tax cuts."

USA Today Criticizes GOP For Seeking Tax Cuts. USA Today (2/21, 2.31M) says in an editorial that the Federal budget deficit "will be in the range of $400 billion this year. That means roughly $1 in every $6 spent by the government will be borrowed money. So a few weeks ago, with great self-congratulatory fanfare, Congress passed and the president

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signed what was billed as a $40 billion, five-year deficit reduction. Now Congress is weighing tax-cut packages that would wipe out those projected savings almost twice over." But "Uncle Sam doesn't have the money to do any of this." The "fiscally responsible policy would be to roll back some of the tax cuts, particularly those for the wealthiest Americans, or let them expire. But no. Bush and congressional Republicans won't hear of it."

NYTimes Says Bush Budget Omits Negative Information. The New York Times (2/21, 1.19M) says in an editorial that President Bush's "spending and taxing proposals are a mass of missing information. The cost of keeping the military in Iraq and Afghanistan isn't included. Neither, as it turns out, are the usual projections of the long-term effects of proposals to cut $183 billion from domestic programs other than entitlements." But specialists from the Center on Budget and Policy Priorities, "an independent watchdog organization," have "backtracked through tables of opaque data and deduced the following: Over five years, veterans' benefits would be cut 13 percent, or $10 billion. Despite all the political talk about energy research and alternate fuels, $4.4 billion would be cut from energy programs. Environmental spending, including for national parks, would be cut 22 percent, or $28 billion; housing, fuel, child care and nutrition programs for the poor and elderly would lose 13 percent, or $24 billion. Topping this surreal concoction is a 13 percent cut — $53 billion — in education and job programs by 2011."

CONGRESS-ADMINISTRATION:

Media Continue To Comment On Cheney's Hunting Accident. Vice President Cheney's accidental shooting of Texas attorney Harold Whittington continued to draw media attention over the weekend, including the covers of two newsweeklies and several of the weekend talk shows. NBC Nightly News (2/19, story 6, 2:35, Seigenthaler) reported the coverage is "focused more on Mr. Cheney's role in the White House." Evan Thomas, Newsweek: "I think it's turning into a story, as so many stories do, of blue states and red states. I mean, the blue states think that Cheney was either slightly a comical figure or somebody who really did something wrong. The red states think this is a press confection, that, you know, the media is just out to get poor Dick Cheney." Seigenthaler: "According to a new 'Time' poll, 52% of the American people approved of the way the Vice President handled the aftermath of the shooting, and his overall job approval number remains largely unchanged at 29%." NBC correspondent David Gregory apologized on Meet the Press for speaking sharply to White House spokesman Scott McClellan, but he "and other Washington journalists contend the White House could have been more forthcoming. Longtime Cheney advisor Mary Matalin disagrees and insists that's only an issue inside the Beltway."

The New York Times (2/20, Bumiller, 1.19M) reports in its "White House Letter" column that Matalin said it had been "a horrible week. She also took blame for the pounding [White House Press Secretary Scott] McClellan took in the briefing room. 'I don't buy that we did it wrong,' she said. 'But I do understand that every day over there is like walking up a mountain with bricks in your backpack, and when something starts the beasts not just growling but flinging themselves against their cages, I feel bad about that, and it's not a good day for him.'"

Meanwhile, in his "Media Notes" column in the Washington Post (2/20, C1, 744K) Howard Kurtz writes, "Nothing makes journalists madder than the feeling that they're not getting the full story -- and the Bush administration has been giving them plenty of practice. On one controversy after another, the White House has been the gang that couldn't shoot straight, buying itself additional rounds of bad publicity by suppressing or delaying embarrassing information."

Degree Of Cheney's Independence From White House Control Sparks Commentary. Vice President Dick Cheney's hunting accident is the cover story in two major news magazines this week. While both magazines provide lengthy reports on the sequence of events before and after the incident, they also tend to focus on Cheney's power in the Bush Administration. Newsweek (2/27, Thomas), which reports that the incident "once again drew attention to the unusual nature of Cheney's power. He remains by far the most powerful vice president in history, and one of the most secretive and mysterious public officials to ever hold such high office in America." A report in Time's (2/27, Gibbs, Allen) cover package agrees, noting that the accident exposed "in the most public way yet the extent to which Cheney runs an independent operation and raise the question of how much the White House can control him -- or wants to. Cheney makes his own rules; he decides what intelligence matters, what secrets are worth keeping and what force is worth using, and he defends his positions with a breathtaking indifference to consequences and to complaint from those who disagree." A separate story in Time's (2/27, Cloud) cover package reports that "there are some unanswered questions about that day. For instance, why hasn't the Secret Service released its report? And why hasn't the local sheriff released the text of the depositions his office conducted?"

Bush, Cheney Teams Seen As Divided. As part of its cover package, Time (2/27, Gibbs, Allen) reports that "even six years in office together has not integrated the Bush and Cheney teams; in fact, in some ways they have grown further apart. … Many on Cheney's staff see Bush's aides as too liberal, while some Bush aides view the vice-presidential staff as wing nuts."

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Aides Said To Be "A Little Scared" Of Cheney. In its cover story, Newsweek (2/27, Thomas) reports that Cheney's official staff is "a little afraid of him. NEWSWEEK once asked his press secretary (there have been seven of them since he became vice president) if Cheney went to church on Sundays. The spokesperson confessed she really couldn't ask the veep; the question was just 'too personal.'"

Hunters Raise Questions About Cheney's Actions. A separate story in Newsweek's (2/27, Tuttle) cover package that hunters around the country agreed last week that Cheney "broke a cardinal rule: in that exhilarating moment when the birds scattered up all around him, he didn't check to make sure his line of fire was clear before he pulled the trigger." Newsweek adds that Cheney's admission to having a beer with lunch sparked anger among some hunters, who "follow an iron rule of no drinking at all on the day of a hunt." Some "also complained that Cheney got off with a warning for hunting without a required $7 quail stamp. An ordinary Joe, they said, would have been hit with a stiff fine at least, especially if he had shot someone."

Carter Criticizes Administration's Handling Of Cheney Hunting Accident. Former President Jimmy Carter was asked on CNN's The Situation Room (2/20) about the Bush Administration's handling of Vice President Dick Cheney's hunting accident. Carter said, "Obviously now everybody in the White House, maybe not in the Vice President's office, agrees that they would have been much better had the information about the hunting accident been revealed immediately. Because that's a main concern, I think. Hunting accidents happen all over the world. I regret very much that this one did happen. But to conceal it for almost a full day, obviously -- and then, at first, to blame Mr. Whittington for the accident, I think were two mistakes that were made. And I'm sure almost everyone agrees that it could have been done better."

65% Say Cheney Should Have Taken Immediate Responsibility For Hunting Accident. CNN Live Today (2/20, 12:18 p.m.) reported, "Americans are divided over the way Vice President Dick Cheney handled the fallout from that shooting incident. In a Time Magazine poll, 65 percent said the Vice President should have taken immediate responsibility for accidentally shooting a fellow hunter. About half the respondents say they approve of the way the Vice President handled the incident. 42% say they disapprove. When asked of the Vice President is too secretive, 58 percent said yes compared to 33 percent who said no."

Cheney Approval Rating Down To 29% In Time Poll. William Schneider said on CNN's The Situation Room (2/20) that a Time Magazine poll has found that Vice President Dick Cheney's job approval rating "is down to 29 percent. That's down from 51 percent just before the 2004 election. Cheney's disapproval numbers have not changed much."

Bush Braves Subfreezing Temperatures For Bike Rides. President Bush took two bike rides in subfreezing temperatures this weekend. The AP (2/20) reports, "On Saturday, Bush pedaled about 90 minutes at a Secret Service training facility in Beltsville, Md. It was even colder on Sunday when the president, after church, braved temperatures in the low-20s." The AP also reports that Bush watched some of the Winter Olympics while onboard Air Force One on Friday. White House spokesman Trent Duffy said Bush watched the US-Switzerland curling match.

White House Says Bush Enjoyed Olympic Curling. NBC Nightly News (2/20, story 14, 1:00, Williams) reported, "Some long overdue recognition for a sport that is finally growing in popularity. The White House made a point of saying this weekend that while traveling on board Air Force One President Bush watched and enjoyed live coverage of the men's curling competition. By the way, the US beat Switzerland 7-3."

Stevens Said To Anchor "Center-Left Bloc" On High Court. A front page story in the Washington Post (2/21, A1, Lane, 744K) examines the influence of Supreme Court Justice John Paul Stevens, reporting, "At a time of conservative ascendancy on the court, he anchors a four-justice center-left bloc that would probably shrink to three if President Bush could appoint his successor." Stevens's influence "has grown in recent years. He has a knack for building coalitions across ideological lines, and he makes shrewd use of his prerogatives as the senior associate justice."

Snow Urges Congress To Increase Debt Limit. The Washington Post (2/20, B2, Barr, 744K) reports in its "Federal Diary" column, "Treasury Secretary John W. Snow told Congress last week that it had begun to use the TSP's government securities fund to keep from hitting the $8 trillion debt limit. He called on congressional leaders to increase the debt limit by mid-March, suggesting that was when the Treasury might not be able to meet its financial obligations. Snow also indicated that TSP investors should not worry about his decision to suspend reinvestment of some TSP assets on a daily basis. In a letter to Capitol Hill leaders, Snow said G Fund participants 'are fully protected and will suffer no adverse consequences from this action.'"

Coburn Seeks Crackdown On Government Conferences. CQ (2/20, Zeller) reports Republican Sen. Tom Coburn "is calling for a broader-ranging crusade against what he sees as a more routine sort of honest graft within the federal government" than the lobbyist-funded junket, the "generously padded professional conference circuit." According to Coburn's research, "federal spending on

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conferences has gone up 66 percent in the last five years, to at least $294 million in fiscal 2005 — not including expenses from the Interior, Commerce and Veterans Affairs departments, which did not participate in Coburn's study." One of the "chief offenders, as Coburn sees it, is the Health and Human Services Department, which spent $68 million on conferences last year."

Only Fraction Of Low-Income Seniors Signed Up For Drug Plan. The Washington Post (2/21, A1, Connolly, 744K) reports in a front page story that the Bush Administration's "$400 million campaign…to enroll low-income seniors in prescription drug coverage that would cost them just a few dollars per prescription has signed up 1.4 million people, a fraction of the 8 million eligible for the new coverage." By "some calculations, the government is on track to spend about $250 for each person it enrolls, and even then it would have only 2 million poor senior citizens taking advantage of what is perhaps the most generous government benefit available today."

Some Seniors Reject Medicare Plan Because Of Cost. The Wall Street Journal (2/21, Fuhrmans, 2.11M) reports that after "weighing the specific plans available to them under the new benefit, some seniors are concluding that they'll end up paying more for the medications they currently take than if they continue with no coverage at all. Taking into account monthly premiums and co-payments -- which under some policies can run as high as 50% to 75% of a drug's retail price -- they think they can get a better or equal deal doing what they've always done: asking doctors for samples and ordering from pharmacies in Canada."

Efforts To Reconcile Pension Reform Bills Proving Contentious. The Wall Street Journal (2/21, Schroeder, 2.11M) reports on efforts to reconcile the House and Senate versions of pension reform. The Journal reports, "Even naming the conference committee has been contentious. The Senate is fighting internally over the size of its contingent, with Democrats seeking an extra slot. Because much of the final language will be decided by the committee in closed-door meetings, Senate and House members are being barraged by lobbyists pushing their positions."

Congress Cool To Bush Call For Line Item Veto. The AP (2/21, Abrams) reports President Bush's "request for broad, and constitutionally questionable, authority to control spending by vetoing specific items in larger bills is drawing limited interest in Congress." Bush said line-item veto power "and a movement to curb lawmakers' appetite for special projects, or earmarks, would provide a one-two punch in reducing government spending." But "many lawmakers" are "reluctant to cede more power, particularly to an administration they see as not always treating Congress as an equal partner."

Lobbyist Sought Majority Interest In Contract After Seeking Earmark. The Washington Post (2/21, A3, Babcock, 744K) reports defense contractor Brent Wilkes, who has been implicated in the Randy Cunningham bribery scandal, told San Diego manufacturer Randy Beck that Congress had earmarked "$25 million in the military budget for the Navy to develop an acoustical system. He promised he could win the government contract to develop the system for Beck's Horizon Sports Technologies, according to allegations in a lawsuit." Wilkes "wanted $1.5 million up front to cover his lobbying expenses and a 51 percent interest in a new company they would set up to collect the government cash." Although it is "common for lobbying firms to charge clients large fees to pursue earmarks, Wilkes's demand for a majority interest in the resulting contract is highly unusual, experts said."

Democratic Senators Urge Higher Military Pay Raise Than Proposed By Bush. Ten Democratic Senators have urged the Senate Budget Committee to provide a pay raise too military personnel that is higher than the 2.2 percent increase proposed by President Bush. The Washington Post (2/21, B2, Barr, 744K) reports in its "Federal Diary" column, "The senators, in a letter organized by Sen. John F. Kerry (D-Mass.), call President Bush 's pay proposal 'a paltry increase' that 'neglects the value of their service and the very real challenges of recruiting and retaining an all-volunteer military in time of war.' … The senators did not propose a specific pay increase for the armed forces next year but urged the Budget Committee to support 'a pay increase that meets the needs' of military personnel."

Administration Accused Of Not Taking Responsibility For Mistakes. The New York Times' Paul Krugman (2/20) writes that the top figures in the administration are not "mensches," which he defines as "an upstanding person who takes responsibility for his actions." Krugman adds, "Officials in this administration never take responsibility for their actions. When something goes wrong, it's always someone else's fault.'

Fannie Mae, Freddie Mac Spent $23 Million On Lobbying In 2005. Fannie Mae and Freddie Mac spent almost $23 million on lobbying last year as Congress considered measures to tighten oversight in response to accounting scandals at the two companies. The Washington Post (2/20, D1, Shin, 744K) reports, "Freddie Mac spent $12.6 million on lobbying, down from $15.44 million in 2004 but still enough to place it 11th among corporations that so far have filed lobbying disclosure forms for 2005, according to

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the Web site PoliticalMoneyLine. … Fannie Mae spent $10.1 million, up from $8.78 million in 2004 -- an increase that puzzled some campaign finance experts given Fannie Mae's pledges to cut back its extensive lobbying network."

Disclosure Seen As First Step Towards Lobbying Reform. The Washington Post's Jeffrey Birnbaum (2/20) writes that one lobbying proposal that has significant bipartisan support, which is: "Citizens should be able to find out easily who's lobbying their elected representatives." According to Birnbaum, "A growing number of people in both parties are pushing for a mega-disclosure provision as part of an effort to revise the capital's ethics laws." Cited as supporters of such a proposal are: House Majority Leader John A. Boehner, House Ways and Means Chairman Bill Thomas, and Sen. John McCain.

Protesters Gear Up For Rove Appearance At West Virginia Fundraiser. The Charleston (WV) Daily Mail (2/20, Thompson) reported, "Controversial presidential adviser Karl Rove is coming to Charleston this week, and local protesters are gearing up for his visit. Rove will be here Thursday for a $50-a-ticket fundraiser for the" state GOP at the Charleston Civic Center." Carrie Swing, president of Patriots for Peace, an anti-war organization, "said more than 100 members of the group will gather" outside of the convention center. The group "will display a wall of remembrance, a series of plastic panels containing names of the 2,273 soldiers who have died in the war."

Debate Over Anonymous Sources Reflects Tension Between Officials, Media. The Washington Post (2/21, A13, Lee, 744K) reports on the use of anonymous sources by reporters. The Post notes the debate over anonymous sources reflects the "tension between federal officials and the press at a time when the media's credibility is under assault, in part because the public believes journalists rely too heavily on anonymous sources in reporting and writing articles about Washington. … The demand for anonymity by officials leaves journalists grappling with an unpleasant trade-off: use the information and risk alienating readers with more unnamed sources, or leave it out and risk having a less informative article that fails to match those done by competing news organizations." The Post notes, "Agencies cite any number of reasons for keeping names out of the press: allowing lower-level officials to be quoted might steal the spotlight from the Cabinet secretary or other high-ranking official; the briefers are policy wonks who are uncomfortable talking to reporters; the agency is involved in an issue, but in a supporting role; the officials are there to provide context or technical explanations as a courtesy, not to be the face of an agency. … 'The vast majority of the Justice Department's briefings are on the record with the only exceptions being briefings that require the department's attorneys to explain highly technical and complex legal issues that require wordy responses not conducive for reporters to use on the record anyway,' Brian Roehrkasse, a Justice Department spokesman, wrote in an e-mail response to questions. He added that most of those briefings 'take place after a DOJ official has already spoken on the record.'"

Cohen Says Administration Intimidating Potential Leakers. Richard Cohen writes in the Washington Post (2/21, A15, 744K) that the Bush Administration used its secrets "to construct a false case for war. … And now the administration is pursuing a policy of chasing down leaks by chasing down the reporters who get those leaks." Cohen adds, "It used to be that the government went to some pains to avoid asking a journalist about his sources. No more. … The result can only be a further sense of intimidation -- a message to potential sources that they had better keep their mouths shut."

Marcus Says White House Prefers "Its Own Truth." Ruth Marcus writes in the Washington Post (2/21, A15, 744K) that recent developments, including Vice President Dick Cheney's hunting accident and the Administration's handling of Hurricane Katrina "have reinforced and broadened the image of "an insular White House headed by an incurious president. … This White House prefers its own truth to the inconvenient facts. Layer onto that a chain of command mentality and a CEO-delegator president and, when reality hits -- whether in the form of a difficult war, a killer storm or a misfiring veep -- it's not terribly surprising that the White House has a hard time adjusting."

Kristof Says Cheney, Rumsfeld Should Resign. Nicholas Kristof writes in the New York Times (2/21, 1.19M) that President Bush can "rehabilitate himself to some degree -- if he acts quickly and decisively to reshuffle his administration and approach to governing." Among the changes recommended by Kristof are the resignations of Vice President Dick Cheney and Defense Secretary Donald Rumsfeld. Kristof adds that Bush should nominate a Democrat to replace Rumsfeld.

Critics Say State Department Reorganization Used To Demote "Disloyal" Officials. The Washington Post (2/21, A4, Kessler, 744K) reports a State Department "reorganization of analysts involved in preventing the spread of deadly weapons has spawned internal turmoil, with more than half a dozen career employees alleging in interviews that political appointees sought to punish long-term employees whose views they considered suspect." Senior State Department officials "deny that and say an investigation has found that the proper personnel practices were followed. But three officials involved in the reorganization, who spoke on the condition of anonymity because they were not authorized to comment publicly, acknowledge that a merger

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of two bureaus reduced the influence of employees who were viewed by some political appointees as disloyal to the administration's policies." The employees "who say that they have been targeted once had a back channel to then-Secretary of State Colin L. Powell and his deputy, Richard L. Armitage, who they said would on occasion ask them to bypass their superior, John R. Bolton, now the ambassador to the United Nations."

Historians Criticize Efforts To Reclassify Documents. Intelligence agencies have been removing thousands of historical documents from public view under a seven year old secret program at the National Archives. The New York Times (2/21, Shane, 1.19M) reports that the restoration of classified status to the documents began in 1999 but "because the reclassification program is itself shrouded in secrecy…it continued virtually without outside notice until December." The Times adds that historians "say the program is removing material that can do no conceivable harm to national security. They say it is part of a marked trend toward greater secrecy under the Bush administration, which has increased the pace of classifying documents, slowed declassification and discouraged the release of some material under the Freedom of Information Act."

Activist Says Congressional GOP Has Given Up Trying To Stop Government Growth. The Washington Times (2/21, Hallow, 90K) reports on M. Stanton Evans, who has been "at the center of the slowly building force of conservatism for half a century." Evans 'is fed up with a Congress that he has struggled for years to populate with Republicans. 'The Republican Party in Congress basically has given up on stopping the growth of big government,' he says. 'They're adding to the problem almost daily with their earmarks and their pork.'"

Conservative Authors Offering Opposing Assessments Of Bush. Michiko Kakutani writes in the New York Times (2/21, 1.19M) that conservative authors Bruce Bartlett and Fred Barnes offer opposing views of President Bush in their new books. Barnes "views Mr. Bush as 'a president who leads,' an action-oriented 'visionary,' an executive who combines 'F.D.R.'s cool optimism' and Teddy Roosevelt's 'pugnacity and determination.'" Bartlett "sees Mr. Bush as a 'pretend conservative' – 'a partisan Republican, anxious to improve the fortunes of his party' but 'perfectly willing to jettison conservative principles at a moment's notice to achieve that goal.'"

Dionne Says Government Should Expand Opportunities For Disadvantaged. E.J. Dionne writes in the Washington Post (2/21, A15, 744K), "Ron Sims, the county executive in Washington state's King County, believes government's job is 'to help create wealth more efficiently.'" His view "reminds Democrats that a commitment to active government is not simply about redistributing wealth. It is also rooted in the historically sound insight that effective government has always been essential to robust economic growth. Government, in the Sims formulation, should be a dynamic player in our nation's economic life." An Urban Institute Study notes that while policymakers "have spent much energy on the problems facing single mothers, they have done little about the disadvantages facing young men." Dionne adds, "The Urban Institute authors can be read as bringing Sims's practical focus on government's role in wealth creation to the task of expanding opportunities for the least fortunate among the young. This is good public policy. My hunch is that it could also be good politics."

WSJournal Praises Bush Health Care Reform Proposals. The Wall Street Journal (2/21, 2.11M) editorializes, "The more we look at the fine print in the health-care reforms President Bush is now stumping for, the more we see the potential for the most sweeping and beneficial changes in half a century." The Journal adds that Bush's reforms are "HillaryCare in reverse," adding that the President "has assembled an ambitious and mutually reinforcing set of health reforms."

NYTimes Says FDA Should Investigate Possible Cancer Risk Of Aspartame. An editorial in the New York Times (2/21, 1.19M) calls on regulators to examine the artificial sweetener aspartame in the wake of a report that says it may cause cancer. The FDA "has asked the Italian researchers for a detailed rat-by-rat report, not just the overall results made available so far. The Ramazzini group has an obligation to make its full findings public quickly if it expects regulators to take urgent action."

OTHER NEWS:

Investors Focused On May Fed Meeting. USA Today (2/21, Shell, 2.31M) reports that the May 10 meeting of the Federal Reserve is "likely to put investors on edge. … The reason: The May meeting is likely to provide investors with their first insights into the Fed's personality under [Chairman Ben] Bernanke and offer the best clues on when the Fed might stop raising rates." The meeting will be the first where "the 'Bernanke factor' will be in play." While it is "unclear whether the Fed will raise rates at this meeting," it could "shed light on whether the Fed is done raising rates."

Professor Says Bernanke Will Take Monetary Policy Off Front Page. Stanford University economic professor Robert Hall writes in the Wall Street Journal (2/21, 2.11M)

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that Federal Reserve Chairman Ben Bernanke "is completely committed to continuing the policy of a stable dollar. Under his leadership, the Fed is likely to make this commitment more formal, perhaps even stating a target such as 2.5% inflation. Mr. Bernanke has been outspoken on the point that inflation must be kept at the target -- it is as bad a failure of policy if it drops below as if it exceeds the target." Hall adds that Bernanke "will stick to his mandate to keep the dollar stable. Monetary policy will recede from the front page to the inner pages of the C section under Mr. Bernanke's leadership."

Big Firms Increasingly Hit With Overtime Suits. The Washington Post (2/21, D1, Masters, Joyce) reports, "Large employers around the country, from retail giants Wal-Mart Stores Inc. and Lowe's Cos. to tech firms IBM and Electronic Arts Inc., are being hit with state and federal lawsuits alleging that they systematically failed to pay overtime to hundreds or even thousands of employees. … And many of the cases are bearing fruit." The Post continues, "Earlier this month, Swiss financial giant UBS AG agreed to pay up to $89 million to settle several state and federal lawsuits filed by financial advisers who were improperly classified as exempt from overtime. Insurer Allstate Corp. agreed last fall to pay up to $120 million to nearly 3,000 claims adjusters in California. Janitors who cleaned stores for Southern California grocery chains Albertsons, Ralphs and Vons won a $22.4 million settlement in 2004. … Although there are no comprehensive statistics, actions filed under the Fair Labor Standards Act -- most of which are overtime cases -- shot up 86 percent between 2000 and 2004, to 3,617, according to the Administrative Office of the U.S. Courts. In contrast, labor cases in general rose 30 percent over the same period, the most recent for which figures are available." The Post adds, "There also has been an upsurge in multi-plaintiff overtime lawsuits in New York, California, Illinois and other states that have tough overtime laws and class-action rules that are favorable to plaintiffs, lawyers said. … The suits stem from state and federal laws that require employers to pay time-and-a-half to workers who put in more than 40 hours a week. Salaried managers and independent contractors are exempt -- unless their salaries fall below a certain threshold. Exempt categories are carefully defined to prevent employers from simply using the titles for workers to avoid paying overtime."

Wave Of Presidential Bios Aimed At Popular Audiences Noted. The Los Angeles Times (2/20, Brownstein, 958K) reports on a tide over the past 15 years of presidential biographies "aimed at a popular rather than scholarly audience has surged onto bestseller lists." A dozen or so presidential books by David McCullough, Joseph J. Ellis, Doris Kearns Goodwin, Richard Reeves, Robert Dallek, Robert A. Caro and Edmund Morris "have spent about 300 weeks combined on the USA Today list of 150 bestselling hardcover and paperback books."

Clinton Says Presidents Shared Common Vision Of A "More Perfect Union." Rob Brownstein writes in the Financial Times (2/20) that the "popular success of these biographies reflects the resurgence of the presidency as the central focus in US political life since Ronald Reagan's election in 1980." Former President Bill Clinton "probably consumed presidential biographies as voraciously as any president. … His largest conclusion, he said, was that the greatest presidents, from Washington and Lincoln to both Theodore and Franklin Roosevelt, shared a common vision of 'a more perfect union' that knit together the country and broadened the circle of opportunity."

Clinton Offers Four Tests For Ranking Presidents. In his column in the Los Angeles Times (2/20, 958K), Ron Brownstein writes about a recent interview with former President Bill Clinton about "his reading, how it affected his approach to the presidency and the way he thinks historians should judge presidents." On "the way historians rank presidents," Clinton said, "I really think the circumstances determine where you are ranked -- whether you have big wars, like the Civil War or World War II. But there are three or four tests you can apply to any president, which are much fairer than ranking them where the deal is rigged based on the time in which they served. First, did they understand their times and articulate a vision of a more perfect union? Did they refrain from abusing their power? Then you have to say, Did they execute (their agenda), and were people better off when they stopped than when they started?"

Oral Histories Of Reagan Available On Internet. The University of Virginia's Miller Center of Public Affairs has compiled oral histories from friends and former advisers of President Ronald Reagan and is making them available on the internet. The Washington Post (2/20, A19, 744K) reports, "In conjunction with the Ronald Reagan Presidential Library, the Miller Center has been interviewing Reagan administration officials since 2001 and recently released more than 2,500 pages of transcripts. The interviewees include such well-known figures as former secretary of state George P. Shultz, former defense secretary Caspar Weinberger, Reagan treasury secretary and White House chief of staff James A. Baker III and longtime Reagan political adviser Stuart Spencer, as well as lesser-known officials who had close access to the president and who provided intimate reminiscences of his presidency. … A link to the transcripts can be found at http://www.millercenter.virginia.edu ."

Former Aides Remember Reagan. The Washington Post (2/20, A19, 744K) runs remembrances of Reagan from former members of his Administration including former Defense Secretary Frank C. Carlucci who discussed

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Reagan's "detached style," saying, "When Colin [Powell] succeeded me [as national security adviser], and [Secretary of State] George [Shultz] and I had buried the hatchet, the three of us made a conscious decision. George said: 'Ronald Reagan has had the landing lights on and the flaps down for the last year. Now we're going to have to step up to the plate on foreign policy. The only way it's going to work is for the three of us to agree.' … George and I changed positions a number of times in those meetings because we decided if the three of us agreed, we knew we had Ronald Reagan. That's the way foreign policy was basically conducted. "

Poll Shows Decline In Number Who Back Clinton Bid, Rise In Rice Support. The San Antonio Express-News/Hearst Newspapers (2/20, Powell) reported, "Growing numbers of Americans oppose a presidential bid by Sen. Hillary Rodham Clinton, D-N.Y., in 2008 -- and favor a run by Secretary of State Condoleezza Rice -- amid broad public willingness to elect a woman president, according to a nationwide poll released Sunday. The Presidents Day survey conducted for Hearst Newspapers by the Siena Research Institute of Siena College in Loudonville, N.Y., covered 1,120 registered voters and was completed Feb. 10. Some 48 percent of survey participants said Rice 'should run' for president at the conclusion of President Bush's two terms -- an increase of 6 percentage points over a similar survey a year ago. Meanwhile, "44 percent of survey respondents now say Clinton 'should not run' for president in 2008 -- up from 37 percent who felt that way last year. The percentage of registered voters who say Clinton 'should run' slipped from 53 percent to 51 percent over the past year, as support for a Rice candidacy increased, from 42 percent to 48 percent. The survey found 79 percent of participants were willing to vote for a woman as president and 64 percent said the nation is 'ready' for one. … The margin of error for the survey in both years was 2.9 percentage points."

The New York Daily News (2/21, Mahoney, 729K) notes that Democratic strategist Hank Sheinkopf said the Siena survey should be another reminder that Clinton "needs to begin stressing populist messages on improving the economy. … 'She needs to do better with white Catholic men from the Midwest,' Sheinkopf said."

Santorum Mortgage From Philadelphia Bank Raises Eyebrows. In a largely negative article, the Philadelphia Daily News (2/21, Bunch) reports that Pennsylvania Sen. Rick Santorum (R) "and his wife received a $500,000, five-year mortgage for their Leesburg, Va., home from a small, private Philadelphia bank run by a major campaign donor -- even though its stated policy is to make loans only to its 'affluent' investors, which the senator is not. Good-government experts said the mortgage from The Philadelphia Trust Co." would "be a violation of the Senate's ethics rules if Santorum received something a regular citizen could not get." Records show that since 1998, Philadelphia Trust's "executives, directors and their spouses have donated $24,000 either to the senator's campaign or to the America's Foundation PAC. Of that total, $13,000 came from the man who signed the mortgage papers -- Philadelphia Trust CEO Michael Crofton -- and his wife." Though Philadelphia Trust "advertises itself as an independent private bank for 'affluent investors' -- who have liquid assets of at least $250,000," Santorum "has never held an investment portfolio with Philadelphia Trust. And in 2002, the year he obtained the mortgage, the value range he gave for his small number of investments could not have exceeded $140,000."

California Bar Exam Seen As One Of Nation's Toughest. The Los Angeles Times (2/21, Dolan) reports, "Former San Francisco Board of Supervisors President Angela Alioto won't even say how many times she failed the California bar examination before she finally was licensed to practice law. … 'Consider it to be several,' said the antidiscrimination lawyer and daughter of the late, famed antitrust lawyer, Joseph Alioto. … 'And understand,' she quickly added, 'that for the last two years in a row I have been nominated as a national trial lawyer of the year.'" The Times continues, "Add two former governors, an eminent legal scholar and a former state Supreme Court justice to the ranks of those, like Alioto, who learned the hard way that obtaining a license to practice law in California is hard. In fact, it's harder than in almost every other state." The Times adds, "Of the 5,260 people expected to take the state's bar examination beginning Tuesday, more than half are likely to fail, rates from previous years indicate. Some law school graduates, like Alioto, flunk the bar multiple times before finally passing and becoming lawyers. … Failing the bar can be a crushing and humiliating experience, particularly when the applicant has spent months studying or is unaccustomed to failure. … Kathleen Sullivan, former dean of Stanford Law School and a former Harvard Law School professor, is considered such a legal superstar that news of her flunking the California bar last year made the front page of the Wall Street Journal. Sullivan remains a full law professor at Stanford and is associated with a private law firm. … Sullivan's failure, while a surprise to the legal community, attests to the exam's challenge. California's bar 'is one of the most difficult,' said Erica Moeser, president of the National Conference of Bar Examiners. … The three-day test is longer than other states' exams. The score needed to pass also is one of the highest, a factor Moeser believes may explain why applicants are significantly more successful in New York than in California, the states with the largest numbers of people taking the bar."

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Man Finally Practicing Law After 48 Bar Attempts. The Los Angeles Times (2/21, Dolan) reports, "The record for most attempts at passing the California bar exam may be held by Maxcy Filer, 75, who took the exam 48 times. He estimates that he spent about $150,000 on bar preparation classes, motels and test fees from 1966 to 1991, when he finally passed. Filer now practices law in Compton and takes 'anything that walks in the door except bankruptcy and probate.'" The Times adds, "The lawyer's hurdles are not over, however. Last year, Filer got into trouble with the bar for failing to file a required document in a legal case. … The bar placed him on probation and ordered him to take and pass a two-hour test on legal ethics and rules of professional conduct."

AMA To Develop Performance Standards. The AMA has signed an agreement with Congress to draft more than 100 standard measures of performance which doctors will report to the federal government. The New York Times (2/21, Pear, 1.19M) reports, "The deal comes as the Bush administration pushes "pay for performance" arrangements with various health care providers in an effort to publicize their performance and link Medicare payment to quality. And it mirrors efforts in the private sector, where consumer groups, insurance companies and large employers who pay for health care are demanding more information on the quality of care."

Rice Works Phones Before Mideast Trip. On the eve of her departure for the Middle East, Reuters (2/21) reports, Secretary Rice "spoke on Monday with key foreign mediators in the Palestinian peace process after Israel stepped up pressure on the new Hamas-dominated Palestinian parliament by halting tax transfers. State Department spokesman Noel Clay said Rice held discussions with her counterparts in the Quartet -- big-power mediators the United States, European Union, Russia and the United Nations." USA Today/AP (2/21, Lester) also reports "Monday's conversations between Rice and representatives of Russia, the European Union and the United Nations 'covered issues of support to the Palestinian people,' State Department spokesman Noel Clay said."

The Christian Science Monitor (2/21, LaFranchi, 61K) notes Secretary Rice, "arrives in Cairo Tuesday on the first stop of a trip aimed at addressing the delicate issue of Hamas -- with decisions pending on dealing with the Palestinian Authority that are as portentous as almost any the Bush administration has made on Middle East affairs. How the administration handles the militant group's role in a Palestinian government will permeate President Bush's democratization program for the Middle East. ... And if the United States gets the Hamas riddle wrong, it could set back the war on terror by buoying the cause of Islamic radicalism across the Muslim world."

In a separate story, Reuters (2/21) reports Egypt will advise Rice "to give the Palestinian militant group Hamas more time and not to rush to judgment when Hamas forms a government, the state new agency MENA said on Monday." Quoting a diplomatic source, the state news agency reported, "Egypt will assert during the talks (with Rice) that it is important to give the Hamas movement a chance and time when it forms the government and not to rush to make judgments on it."

Meanwhile, contrasting US calls for reductions in aid to a Hamas-led Palestinian government, the Washington Post (2/21, A10, Wilson, 744K) notes, "Iran's supreme leader, Ayatollah Ali Khamenei, called on Muslim nations Monday to fund the Palestinian government after Hamas takes control of the cabinet." Khamenei is quoted saying, "The only way to succeed is to continue resistance against the occupier regime." The AP (2/21, Nasrawi) reports Egypt's Muslim Brotherhood made similar calls.

Hamas Premier Pick Will Extend Olive Branch To Fatah. The Washington Times/AP (2/21, Barzak) reports, "Hamas presented a pragmatic former university administrator as its choice for Palestinian prime minister Monday and the Islamic militant group reached out to Fatah and other factions to join a broad-based Cabinet that might stand a chance of gaining international approval. The 43-year-old Haniyeh "told reporters after meeting with Abbas that he would try to form a joint government with Fatah, the traditional Palestinian ruling party that Hamas trounced in the election, 'that can shoulder its responsibilities in the political area and internal issues.' So far, Fatah has refused to join." In a separate story, the AP (2/21, Weizman) calls Haniyeh a "pragmatist who prefers compromise to conflict with Palestinian rivals." Meanwhile, the New York Times (2/21, Myre, 1.19M) reports, "With an Israeli military helicopter circling overhead, Hamas opened talks on Monday with other militant factions on forming the new Palestinian government, a process expected to take at least two weeks."

Former US Official Proposes "Upgrade" Of Israel's Ties To NATO. In a Washington Post (2/21, A15, 744K) op-ed, former Deputy Assistant Secretary of State for European Affairs Ronald Asmus writes, "The best way to provide Israel with that additional security is to upgrade its relationship with the collective defense arm of the West: NATO. Whether that upgraded relationship culminates in membership for Israel or simply a much closer strategic and operational defense relationship can be debated. ... What must be clear is that the West is prepared to match the growing bellicosity against Israel by stepping up its commitment to the existence of the Jewish state."

Exit Polls Following Palestinian Election Were Incorrect. Columnist Carl Bialik writes in the Wall Street Journal (2/21, 2.11M) that exit polls following last month's Palestinian elections indicated the Fatah ruling party had

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scored a narrow victory over Hamas. The exit polls "had missed badly, far worse than, for instance, exit polls for the 2000 and 2004 U.S. presidential elections." Two of the pollsters, "who have been reviewing the results since the election, have different explanations. One suspects that Hamas strategically gamed the polling numbers to suppress Fatah worries. But another blames himself for failing to properly analyze the data, a mistake exacerbated by an unusual election system that magnified small differences between the two leading parties."

Arabs Nations Will Push Back On Hamas, Iran During Rice's Visit. As Secretary Rice prepares to visit the Middle East this week, Reuters (2/20, Hudson) reports that she "will face resistance from Arab allies...to enlist their support for a campaign to isolate two US adversaries, Hamas and Iran." Arab powers "such as Egypt and Saudi Arabia oppose Hamas' rejection of peace talks with Israel and fear a nuclear-armed Iran. But they are reluctant to explicitly support America in the Middle East, where US backing for its top ally in the region, Israel, angers many Arabs and clouds governments' cooperation with Washington." According to Reuters, "Complicating her mission, Rice will also make her appeal against a backdrop of deadly anti-Western protests in the Muslim world over cartoons published in Europe of Prophet Mohammad."

In its pre-trip coverage, AFP (2/20) says, "The US administration has made Egypt one of its test cases for the promotion of democracy in the Middle East. Rice said earlier this week that she was 'disappointed' that Mubarak has postponed municipal elections, scheduled to be held in April, for two years. 'The message that I will take to Egypt is that Egypt needs to stay on the democratic course,' she told Arab journalists in an interview. 'It needs to keep pushing ahead on the democratic course.'"

Hamas' Government Likely To Include Technocrats, Academics. Time (2/27, Robinson) examines what sort of rule Hamas is likely to establish. Time reports, "Palestinian insiders say the new government will be stocked with technocrats and academics rather than party ideologues. The job of Prime Minister is likely to go to Ismail Haniya, one of the more moderate top leaders." Hamas leaders "say they intend to impose order on the security apparatus, a move that may spark clashes between loyalists of the two parties."

Arab League Tries To Shore Up Palestinian Funding. In a related story, the AP (2/20, Nasrawi) reports, "The head of the Arab League said Sunday that members would meet this week to hammer out a plan for sending millions of dollars a month to the Palestinian Authority, despite US attempts to stop the flow of money to the new Hamas-led government. Secretary-General Amr Moussa said foreign ministers from several Arab countries were to meet Monday in Algiers to examine a plan to send about $50 million a month to the Palestinian Authority." According to the AP, "The money is part of Palestinian funding the Arab League approved last year — before Hamas' election victory."

Israeli Cabinet Cuts Off Tax Flow To Palestinians. After a Hamas-dominated legislature was sworn in on Saturday, the New York Times (2/20, Erlanger, 1.19M) reports, "The Israeli cabinet decided Sunday to immediately freeze the transfer of about $50 million a month in tax and customs receipts due to the Palestinian Authority." Acting Israeli Prime Minister Ehud Olmert was quoted as saying, "It is clear that in the light of the Hamas majority in the parliament and the instructions to form a new government that were given to the head of Hamas, the Palestinian Authority is in practice becoming a terrorist authority. ... The state of Israel will not agree to this." The Washington Post (2/20, A1, Wilson, 744K) notes that "some of the more harsh options" were not included, "including barring Palestinians in the Gaza Strip with work permits from entering Israel for jobs. But together, the measures threaten to collapse the nearly bankrupt Palestinian government." The move by Israel "puts it at odds with ... the quartet. ... The group had recommended that Israel continue the transfers, an arrangement established under the 1993 Oslo accords, until Hamas forms the new cabinet," which should happen within five weeks. USA Today (2/20, Gutman, 2.31M), Los Angeles Times (2/20, Ellingwood, 958K) and Washington Times (2/20, Mitnick, 90K) run similar stories.

Meanwhile, USA Today (2/20, 2.31M) editorializes, "For all the disappointment that elections brought Islamists to power, the smart approach is to try to make Hamas accountable to the Palestinian people." That "requires patience and wisdom in a volatile situation -- and not doing anything rash that would allow Hamas leaders to make the United States a scapegoat for their own failings."

Haniya Will Be Palestinian Premier. AFP (2/20) reports, "The radical Islamist movement Hamas has chosen Ismail Haniya to be the next Palestinian prime minister after its recent landslide election win, the spokesman for their bloc in parliament has said." President Mahmoud Abbas was to be notified of the move by Hamas late Sunday.

Carter Urges Consideration Of Palestinian People. In an op-ed in the Washington Post (2/20, A21, 744K), former President Jimmy Carter writes, "During this time of fluidity in the formation of the new government, it is important that Israel and the United States play positive roles. Any tacit or formal collusion between the two powers to disrupt the process by punishing the Palestinian people could be counterproductive and have devastating consequences." He concludes, "It would not violate any political principles to at least give the Palestinians their own money; let humanitarian assistance continue through UN and private agencies;

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encourage Russia, Egypt and other nations to exert maximum influence on Hamas to moderate its negative policies; and support President Abbas in his efforts to ease tension, avoid violence and explore steps toward a lasting peace."

Bush Administration "Muddling" Toward Compromise In Middle East. Newsweek (2/27, Hirsh, Peraino) examines the Bush Administration's "grand democracy project in the Mideast." US officials "say they have no common strategy for handling the various Islamist parties flourishing in the newly tilled democratic soil of the Middle East." The Administration "is muddling its way toward compromise solutions."

Syria Condemns US "Interference" In Its Domestic Affairs. The Washington Times (2/20, Mount, 90K) reports the government of Syria "condemned U.S. plans to fund opposition groups." The Times notes that the State Department announced on Friday "that it had allocated $5 million to unidentified 'democratic reformers' in Syria. Syrian Foreign Minister Walid al-Moualem complained that "It is interference in our internal affairs."

US Ambassador To Iraq Says Iran Aiding Insurgents. The Washington Post (2/21, A10, Hernandez, 744K) reports, "The US ambassador to Iraq accused Iran on Monday of providing weapons, training and support to Iraqi militia and insurgent groups responsible for the country's continuing violence and instability." At a news conference, Ambassador Zalmay Khalilzad "criticized what he called Iran's 'negative role' in Iraqi affairs, saying the country's diplomatic relationship with its neighbor was tainted by a policy 'to work with militias, to work with extremist groups, to provide training and weapons.' He added that there was evidence the Iranians provided 'indirect help' to Sunni Arab insurgents who attack US and Iraqi government troops." Khalilzad's remarks "were unusually blunt." The Los Angeles Times (2/21, Stack, 958K) called the comments "unusually sharp. In the past, American diplomats in Baghdad have generally avoided overt, public criticisms of Iran. Instead, they stuck to vague grumblings about 'neighboring countries.'"

Iran-Russia Enrichment Talks Stall. The New York Times (2/21, Myers, 1.19M) reports, "A Russian effort to forge a compromise over Iran's nuclear program stalled Monday after five hours of talks in the Kremlin ended inconclusively" and "senior officials on both sides played down the prospects of agreement before a meeting of the [IAEA] on March 6 about whether Iran's nuclear program should be forwarded to the United Nations Security Council for possible punitive action." The Washington Post (2/21, A10, Finn, 744K) cites RIA Novosti as reporting, "But even as the nearly five-hour talks in Moscow were underway, Iranian Foreign Minister Manouchehr Mottaki said Iran would proceed with its nuclear research." Mottaki is quoted saying, "If we reach some compromise, we continue our cooperation from where we are now. That is, the research department will continue its activity." A late Reuters (2/21) story reports an Interfax news agency claim that Iranian negotiators "were poised to leave Moscow on Tuesday with no word of any progress" on the Russian proposal. Foreign Minister Sergei Lavrov publicly warned the press Tuesday not to assume the talks were finished.

Bolton Says Iran Nuclear Issues Can Be Resolved Diplomatically. Time (2/27, Shannon, Ratnesar) interviews John Bolton, US Ambassador to the United Nations. Asked if the issue of Iran's nuclear program can be resolved diplomatically, Bolton said, "Sure. I never would have guessed that Libya was prepared to make the calculation that they were safer giving up the pursuit of nuclear weapons than continuing to go after them, and yet they did [give them up]. And that led to substantial progress in the relationship between Libya and the United States. If Libya can do it, Iran can do it too. That's why I say the decision ultimately is largely in their hands."

Pakistani Government Cracks Down On Cartoon Protestors. The AP (2/20) reports that protests over blasphemous cartoons in Islamabad, Pakistan were met with "hundreds" of arrests as Pakistani security forces "virtually sealed off the capital and used gunfire and tear gas." Pakistani authorities "declared they would arrest anyone joining a gathering of more than five people." Qazi Hussain Ahmad, leader of the Islamic opposition coalition, "was confined to his Lahore residence."

The Washington Post (2/20, A11, Lancaster, 744K) notes that "In keeping with the pattern elsewhere in Pakistan, protesters directed as much of their anger at Musharraf and his main Western ally, the United States, as they did at the newspaper cartoons and the Danish newspaper that printed them." The Post claims the violence yesterday was the worst "since the cartoon controversy erupted in late January" and "came after a week of sometimes violent protests in other Pakistani cities that left five people dead and scores of businesses, many of them Western franchises, in ruins."

Second Russian Newspaper To Close Over Muslim Cartoons. A second Russian newspaper has announced that it will close on the wake of protests over cartoons depicting the Prophet Muhammad. The New York Times (2/21, Myers, 1.19M) reports, "The newspaper, Our Region, based in Vologda, north of Moscow, which printed its illustration last Wednesday, was the first in Russia to publish, at least in part, the Danish cartoons. The publication prompted criticism from public officials, an apology from the

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local governor and a criminal investigation into the paper's activity."

Pakistan Riots Elevate Security Concerns For Bush Visit. U.S. News and World Report (2/27, Omestad) reports that turmoil in Pakistan over European cartoons satirizing the prophet Muhammad have elevated the "already high security concerns surrounding President Bush's scheduled visit here next week, and it highlights the political pressures on [Pakistani President Pervez] Musharraf from Islamists and others critical of his support for American antiterrorism efforts." US News adds that the Bush Administration "has been pushing Musharraf to keep moving toward a restoration of full democracy -- but not too hard. … Washington's jitters over a Pakistan without the general are barely concealed. … Critics insist that Washington is shortsighted in not backing democratic political parties and is alienating Pakistanis incensed at civilian deaths in the war on terrorism."

Australian PM Criticizes "Segments" Of Muslim Community. In comments published yesterday, Australian Prime Minister John Howard said some segments of the Islamic community are "utterly antagonistic" to Australian society. The AP (2/21, Foley) reports that the remarks "immediately drew criticism from a Muslim group." Later Monday, Howard stood by the remarks in which he also "denounced 'extreme attitudes' held by some Muslims, including their views on women and support of jihad, or holy war." Agence France Presse (2/21) reports, "Islamic leaders immediately condemned the remarks as 'offensive and ignorant', saying they would fan the flames of prejudice against Islam."

Bolton Pushes Annan For Broader-Based Darfur Force. Reuters (2/21, Leopold) reports, "US Ambassador John Bolton said on Monday that Secretary-General Kofi Annan should be pushing UN officials harder in planning a force in Sudan's Darfur region rather than just lobbying the United States for contributions. 'It would be helpful, I think, if the secretary-general, in addition to prodding the US, could also be out there talking to the African Union and the Arab League, and in fact, even talking to his own peacekeepers about the importance of moving ahead here,' Bolton told reporters. When told of Bolton's remarks, Annan said, 'I'm not going to answer that.' But his spokesman Stephane Dujarric said the UN 'planning process was moving full speed ahead.'" Meanwhile, the AP (2/21) notes, "Sudan told a visiting US delegation that it opposed a proposal to deploy international peacekeepers to the troubled Darfur region and that it was committed to negotiations to end the tensions there." Vice-President Ali Osman Mohamed Taha is quoted as saying, "Sudan rejects replacement of the African Union forces with United Nations forces."

Trade Deficit Seen As Impetus For Administration Hard-Line On Chinese Currency. The Financial Times (2/20, Balls, Alden) reports that the US government is increasing pressure on the Chinese government to allow its currency to "rise against the dollar," and notes there are "threats growing in Congress to consider legislation aimed at slowing the burgeoning US trade deficit with China." According to the Times, the Bush administration is "disappointed" the renminbi has only been "allowed to rise by less than 1 per cent against the dollar" since July when the US successfully petitioned for revaluation. Wu Xiaoling, vice-governor of the People's Bank of China, "admitted that Beijing needed to open its capital account further."

The Wall Street Journal (2/20, Browne, Phillips, 2.11M) says on its website that the Administration "is sending signals that it is ready to take a harder line with Beijing" and attributes the new stridency to "political pressure on the administration from members of Congress, who say American jobs are being lost to the tide of inexpensive Chinese imports and the flight of manufacturing to China." The Journal notes US Trade Representative Rob Portman "announced a task force to take up complaints about unfair Chinese trade practices" and the Treasury Department, "which has so far sought to avoid confrontation with Beijing over the currency issue, is preparing the ground for a possible decision to label China a 'currency manipulator,' in a regular review scheduled for April."

Asian Shoemakers Prepare To Fight EU Tariffs. Shoemakers in China and Vietnam are joining forces to fight the EU's proposed double-digit tariffs on shoe imports. The Wall Street Journal (2/21, Fong, 2.11M) reports, "The European Commission, finding evidence of dumping, is expected to recommend duties on imports of Chinese and Vietnamese shoes with leather uppers starting at 4% in April and rising to a little under 20% in the fall. EU officials confirmed yesterday that they will submit their plans to EU member nations on Thursday."

Blogs Have Undermined China's Ability To Control Who Addresses Public. A front page story in the Washington Post (2/21, A1, Pan, 744K) reports that with 16 million people in China writing blogs, "the Internet has provided a platform for citizens to express their views, shattering the Communist Party's monopoly on the media. The state still controls newspaper, magazine and book publishing, but the proliferation of sites that let users publish and even broadcast audio and video online have undermined the party's ability to restrict who can address the public and attract an audience."

Smith Bill Would Restrict Business With Countries That Censor Web Content. U.S. News and World Report

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(2/27, Brush) reports on US web companies such as Microsoft, Google and Yahoo which have agreed to filter their search results in order to provide service in China. US News reports that Rep. Chris Smith has introduced legislation to restrict business with countries that censor online material. Smith's bill "would require US companies to locate their computer hardware outside China, create a basic code of conduct for Internet companies doing business in repressive countries, curtail tech exports to countries with censorship policies, and create a State Department office of Internet freedom. The State Department announced such a task force last week."

Nigerian Militants Attack Pipeline, Threaten More Violence. Nigerian militants yesterday launched attacks on an oil pipeline and a boat in Nigeria's delta region. The AP (2/21, Harris) reports, "There were no reported casualties in the attacks Monday on a Shell-oil operated oil pipeline switching station and a boat the militants claimed housed Nigerian military personnel. … Shell Spokeswoman Lisa Givert confirmed the oil-pipeline attack and said the houseboat was abandoned when the attackers blew it up."

Reuters (2/21, Ekeinde) reports, "The militants, who are holding nine foreign hostages, vowed to prevent Royal Dutch Shell from using the damaged Forcados tanker loading platform, which accounts for 15 percent of Nigerian exports, and threatened an even more devastating series of attacks on the whole region."

NBC Nightly News (2/20, story 6, 0:25, Williams) reported, "Since the beginning of the sabotage campaign last week, Nigerian production has been cut off by 1/5. Crude prices in London jumped more than $1.50 and there is great concern about a spike in prices when the US markets reopen tomorrow."

The Financial Times (2/20, Mahtani, Hoyos) reports Nigerian militants "threatened to extend their disruption of the country's oil industry to attacks on oil tankers." Over the weekend, militants carried out a series of attacks and kidnappings that caused the shutdown of an oilfield and Royal Dutch Shell to close one of its export terminals. The attacks "have led to a 25 per cent cut in oil exports from the world's eighth biggest crude exporter, a reduction likely to put upward pressure on prices when markets reopen today."

The Washington Post (2/20, A11, Chidi, 744K) reports the militants "asserted responsibility…for a series of raids, including one in which militants abducted three Americans, two Egyptians, two Thais, a Briton and a Filipino.'

Haitian President-Elect Has Yet To Give Victory Address. The New York Times (2/20, Thompson, 1.19M) reports that though Haitian President-elect René Préval was declared the winner of his country's presidential election Thursday he "has not yet officially addressed the nation, and he has not yet granted interviews." Préval "faces questions about the legitimacy of the back-room deal brokered by foreign diplomats that ended the possibility of a runoff and made him the victor."

Préval Distances Himself From Aristide. The Los Angeles Times (2/20, Williams, 958K) reports Préval's frequent appearances with Robert Manuel, national security chief during Préval's first administration, are seen as proof that Préval is no longer beholden to Jean-Bertrand Aristide because Aristide's associates forced Manuel into exile after he uncovered their connections to drug dealers. According to the Times, "Préval appears to be sending a message that Aristide shouldn't count on an invitation to return home any time soon."

Preval Inherits "Quagmire" Of Poverty, Violence In Haiti. The Washington Post (2/21, A9, Roig-Franzia, 744K) reports that Renee Preval will wade into a "quagmire" next month when he is sworn in as Haiti's president. Preval "will be forced to confront the problems of a nation with almost no functioning judicial system, corrupt and inept law enforcement, deep poverty and abominable public sanitation. Then there are the violent gangs that rule urban slums, the kidnapping rings and a flourishing drug and money-laundering trade."

LATimes Says US Should Increase Haitian Aid. In an editorial, the Los Angeles Times (2/20, 958K) says that "President Bush should ramp up aid to Haiti" because if Preval's government fails, "boatloads of Haitians could once again begin washing up on Florida's shores," which could lead to increased drug trafficking into the US. President Bush should also be concerned with the "possibility that Venezuelan President Chavez…may decide to share some of his oil wealth with Haiti's poor, thus competing with Washington for influence in our hemisphere. But the primary reason we should help Haiti is that it is a humanitarian disgrace on our doorstep."

Administration Tries To Improve Relations With Bolivian President. The Washington Post (2/21, A9, Constable, 744K) reports that the Bush Administration is hoping Bolivian President Evo Morales, an "avowed leftist," is "a man with whom it can do business." The Post adds, 'In reaching out to Morales despite his antagonistic track record, and despite strong objections from some quarters of the U.S. government, analysts said, the Bush administration is trying to avoid mistakes that have been made with two other countries: Venezuela and Afghanistan. … Cultivating Morales, analysts said, would show that Washington has the confidence to distinguish between nominal and real adversaries, while combating many Bolivians' mistrust of U.S. motives."

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European Authorities Worried Over Spread Of Avian Flu. NBC Nightly News (2/19, story 7, 0:30, Williams) reported, "There are real and spreading concerns here in Europe over bird flu. Today in Germany, the new chancellor there visited a region where the flu has been spreading. French authorities testing more birds in an affected area, searching anyone who could be carrying poultry and British officials are warning the public to be vigilant."

India Undertaking Massive Poultry Slaughter. The Wall Street Journal (2/20, 2.11M) reports on its website the Indian government has begun slaughtering "hundreds of thousands" of chickens after reporting its first bird-flu cases. Additionally the government "said yesterday it had found no case of human avian influenza after preliminary tests on a dead farmer earlier suspected to have been the country's first human victim of the disease."

European Poultry Industry Faces Ruin. The Washington Post (2/20, A14, Solanki, 744K) reports European poultry farmers say consumption has already fallen dramatically "and caused hundreds of millions of dollars in losses."

Experts Alarmed By The Flu's Rapid Dissemination. The New York Times (2/20, Kumar, Rosenthal, 1.19M) notes that health experts have predicted "widespread dissemination" of avian flu "for about half a year. … But the recent acceleration has perplexed many experts, who had watched the A(H5N1) virus stick to its native ground in Asia for nearly five years.

India Slaughters Chickens Following Bird Flu Reports. India has slaughtered thousands of chickens following reports of avian influenza. The New York Times (2/21, Kumar, Bowley, 1.19M) reports that "as state animal husbandry workers went about culling birds here on Monday, poultry farm owners hovered nearby, some angrily disputing the government's conclusions that large-scale poultry deaths in the area were the result of bird flu."

The Wall Street Journal (2/21, 2.11M) reports, "Health officials began a door-to-door check in western India for signs of people infected with the H5N1 bird-flu virus, as a massive poultry-slaughtering operation entered its second day. Six people, including three young children, with flu-like symptoms were hospitalized yesterday, joining a woman and a child who were placed in an isolation ward the previous day."

NYTimes Urges Aid To Fight Bird Flu In Africa. The New York Times (2/21, 1.19M) editorializes, "Bird flu has spread to several new countries in recent days, but the most worrisome by far is Nigeria. Health experts have dreaded the arrival of avian flu in Africa, a continent where the backyard chicken is everywhere and veterinary health systems are nowhere. … Rich countries should be sending platoons of veterinary experts to help Nigeria and its neighbors."

US Prepared To Begin Direct Trade With Turkish Cypriots. The US is prepared to begin direct trade with northern Cyprus for the first time in 30 years. The Washington Times (2/21, Kralev, 90K) reports that the Greek-Cypriot government in Nicosia opposes some of the steps the US is prepared to take "as 'creeping recognition' by the Greek-Cypriot government in Nicosia. … Washington and London have called for permitting direct trade to pass through northern Cypriot ports, while Nicosia wants the goods to be taken by truck to southern ports controlled by the internationally recognized Republic of Cyprus government. Opening ports in the north would be de facto recognition of a Turkish-Cypriot state, said Euripides Evriviades, the Cypriot ambassador in Washington."

British Historian Pleads Guilty To Denying Holocaust. British historian David Irving pleaded guilty yesterday to denying the Holocaust, conceding that he wrongly said there were no Nazi gas chambers in the Auschwitz concentration camp. The Washington Times/AP (2/21, Oleksyn) reports that Irving "was sentenced to three years in prison." Irving "has been in custody since his November arrest on charges stemming from two speeches that he gave in Austria in 1989 in which he was accused of denying the Nazis' extermination of 6 million Jews. He has contended that most of those who died at concentration camps such as Auschwitz succumbed to diseases such as typhus rather than execution." The New York Times also runs the AP story this morning.

Germany Resists US Effort To Open Holocaust Files. The New York Times (2/20, Cohen, 1.19M) reports that the US government's "demand" to open "a huge repository of information about the Holocaust contained in the files of the International Tracing Service" has been met with resistance by German officials concerned about breaches of privacy.

Senators Urge Code Of Conduct For Doing Business With Repressive Regimes. Sens. John McCain and Jon Kyl write in USA Today (2/21, 2.31M), "The free flow of information has always threatened repressive regimes, and dictators have always sought to restrict it. The Internet is a new challenge for these regimes because it empowers with information and speech any person who can access the network." McCain and Kyl add, "We believe that American companies must develop and agree to abide by a code of conduct governing their interactions with repressive regimes, and we applaud the suggestion by some companies that they will consider such a step. … There is every hope in the Congress that U.S. companies will take action on their own. But however this problem is solved, it's clear that

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something must change. Americans stand with those who oppose tyranny, not those who promote it."

WPost Criticizes Administration Response To Egyptian Election Postponements. An editorial in the Washington Post (2/21, A14, 744K) says Egyptian President Hosni Mubarak tried and failed twice last year "to stage a democratic election that would impress the Bush administration as credible without risking his hold on power." Mubarak "figures that the tide in Washington has turned against President Bush's democracy policy. … The election-quashing prompted only a tepid statement from Ms. Rice's spokesman, who said the administration opposed the postponement of elections 'as a matter of principle' but added, in an echo of the administration's critics, that 'democracy is not only about elections.'"

Analysts Say Chavez Intensifying Anti-US Rhetoric Ahead Of Elections. The Financial Times (2/21, Webb-Vidal) reports on 'the saga of deteriorating ties between the US and Venezuela." Over the weekend, Venezuela President Hugo Chávez warned Secretary of State Condoleezza Rice "against trying to build an international alliance to curb his government's expanding tentacles of influence across Latin America. … On Friday, he insisted that the US would receive 'no more oil' if it 'crossed the line' in its supposed efforts to undermine his 'revolution.'" Analysts "believe some of the recent provocations come because Mr Chávez is seeking to radicalise his anti-imperialist credentials ahead of elections in December."

The Christian Science Monitor (2/21, Sreeharsha, 61K) reports that Chavez "as spent much of this month warning of a possible US invasion, preparing a citizen army, and lambasting President Bush. His rhetoric has made him a darling of leftists worldwide. Yet, ordinary Venezuelans...are growing increasingly frustrated with the country's inadequate housing, under-resourced public hospitals, and damaged roads."

Chavez Taunts Rice. In a story picked up by three wire services, AFP (2/20) reports, "Venezuelan President Hugo Chavez launched a new verbal attack against US Secretary of State Condoleezza Rice, bluntly warning her: 'Don't mess with me, girl'" during his weekly "Hello President" television show. Chavez "has taken potshots at Rice since she called last week for an international 'united front' against Venezuela and described the leftist leader as a 'challenge to democracy' in Latin America." AFP later reports Chavez "has called" President George W. Bush 'Mr. Danger.'"

Marines Aid Rescue Efforts After Mudslide Hits Philippine Town. US Marines are assisting the efforts to aid victims of the mudslide on the island of Leyte in the Philippines. The story was the lead on both CBS and NBC last night. The CBS Evening News (2/19, lead story, 2:05, Mitchell) reported, "American Marines are in the Philippines where they spent the day digging for survivors from that huge mudslide that wiped away an entire village. As many as 1800 people may have been killed." CBS (Petersen) added the Marines "brought in what will be the first of waves of supplies, and as many as a thousand Marines are being made available from US ships in the Philippines on military exercises. Despite the sheer scope of the devastation, the Marines were confident they can help."

NBC Nightly News (2/19, lead story, 2:30, Potter) reported that the Marines "will help with relief efforts and will play a major role in the hunt for victims."

Failing To Reach Nuclear Agreement Could Hinder US-India Relations. Henry Sokolski, executive director of the Nonproliferation Policy Education Center in Washington, writes in the Wall Street Journal (2/21, 2.11M) that as the Bush Administration prepares for the President's visit to India, it must "resist making a proposed civilian nuclear cooperation deal the primary theme of future relations with India, or one that requires immediate agreement. Indeed, failing to get this nuclear deal right could not only encumber improved U.S.-India relations, but aggravate the very security threats…that we are seeking India's help to mitigate."

Bush Administration Critic Is Daughter Of Indian PM. The Wall Street Journal (2/21, Wonacott, 2.11M) reports that ACLU staff attorney and Bush Administration critic Amrit Singh is also "the youngest daughter of Manmohan Singh, prime minister of India. Mr. Singh, 73 years old, will host President Bush at a summit in New Delhi early next month. While the soft-spoken Indian prime minister and his daughter share views on many issues, according to acquaintances, their public personas stand on opposite sides of the debate over the Bush administration's foreign policy."

At Least 66 Mexican Coal Miners Trapped After Explosion. The CBS Evening News (2/19, story 2, :15, Mitchell) reported, "Rescuers in northern Mexico are trying to reach at least 66 miners trapped after a coal mine explosion."

NBC Nightly News (2/19, story 2, 0:30, Williams) reported, "At least 6 others outside the mine were injured by the same blast. Officials say the miners are about 1,000 feet underground with limited oxygen, putting their lives in extreme danger."

Thousands Of Irish Immigrants Leaving The US. The Washington Post (2/20, A3, Garcia, 744K) reports the "Irish immigration boom that revitalized neighborhoods across New York over the past two decades" has been halted by stepped-up immigration law enforcement post-9/11. The

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Irish government "estimates that about 14,000 Irish returned from the United States since 2001." The Census Bureau reported "between 2000 and 2004, the Irish population throughout the United States shrank by 28,500 people, to 128,000."

Ten Killed In Crash Of Marine Helicopters At Horn Of Africa. The CBS Evening News (2/19, story 4, :15, Mitchell) reported, "The US military confirmed today that ten crew members were killed in Friday's crash of two Marine helicopters off Djibouti on the Horn of Africa. Rescuers picked up two men from the water. The helicopters were on a training mission when they crashed."

Canadian Provinces Allow Some Private Health Insurance. The New York Times (2/20, Krauss, 1.19M) reports Quebec "proposed to lift a ban on private health insurance for several elective surgical procedures, and announced that it would pay for such surgeries at private clinics when waiting times at public facilities were unreasonable." The proposal "came in response to a Supreme Court decision last June that struck down a provincial law that banned private medical insurance." Prime Minister Stephen Harper "is thought to favor the Supreme Court decision and will probably try to use it to encourage changes."

Wolfowitz's Campaign Against Corruption Noted. The Washington Post's Sebastian Mallaby (2/20) writes that after nine months as president of the World Bank, Paul Wolfowitz "has made headlines mainly by provoking a staff backlash." However, Mallaby notes that "In a series of tough decisions, some of which have been widely reported and some of which have not, Wolfowitz has challenged" the bank's approach to government corruption. Wolfowitz "is going to be tough on corruption, and he's going to push this campaign beyond the confines of the World Bank."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Police Tied To Death Squads."
"A High Bar For Lawyers."
"Cycle Of Jail Woes Generates Few Fixes."
"They're Building In Baja, And Boomers Are Buying."
"Justices To Study Scope Of '72 Clean Water Act."
"New Muscle In Anti-Doping Drive."

USA Today:
"Oversize Homes Wear Out Welcome."
"Katrina Made Police Choose Between Duty And Loved Ones."
"Drives To Ban Gay Adoption Heat Up."

New York Times:
"U.S. Reclassifies Many Documents In Secret Review."
"Germany Weighs If It Played Role In Seizure By U.S."
"Using A Lobbyist's Pull From The Governor's Seat."
"States Curbing Right To Seize Private Homes."
"To: Professor@University.edu Subject: Why It's All About Me."
"U.S. Warns Iraq It Won't Support Sectarian Goals."

Washington Post:
"Counties Sending Check Bouncers To School."
"Millions Not Joining Medicare Drug Plan."
"Jail Riots Illustrate Racial Divide In California."
"With Longevity On Court, Stevens's Center-Left Influence Has Grown."
"Bloggers Who Pursue Confront Fear And Mistrust."
"Risk Of Robbery Raising Stakes Of Poker Nights."

Washington Times:
"Ice Dancers End Medal Drought."
"Ehrlich Seeks To Delay Arab Deal On Port."
"UDC OKs Pay, Tuition Increases."
"U.S. Warns Iraq To Create Nonsectarian Government."
"No Soup For You: Parents Control School Meals."
"A Lifelong Voice For Conservatives."

Detroit Free Press:
"Silver Stars."
"No Zoo? Fans Roar Back In Disbelief."
"Bush: I Can't Boost Automaker Profits."

Atlanta Journal-Constitution:
"Ga. Power Seeks Nuke Fee."
"Title Loan Interest Could Top 300%."
"The Toll Of Caregiving."
"Silver Feels Cool To U.S. Pair With Roswell Ties."

Dallas Morning News:
"Tighter Medicaid Rules 'Wake-Up Call' To Seniors."
"RadioShack CEO Resigns Amid Résumé Questions."
"Hope Fades For Trapped Mexican Miners."
"Texans Receptive To School Spending."

Houston Chronicle:
"Families Cling To Hope As Crews Tunnel Closer."
"Task Force Wants Governor In Charge Of Evacuations."
'Ethicists See Perils In Fixation On Stock."
"'Bigger Than The Astros, Crazier Than Christmas.'"
"Where The Cup's never Half Empty."

Story Lineup From Last Night's Network News:
ABC: White House-Port Sale; Port Security; Bin Laden Tape; Hughes-Arab Opinion; Catholic Schools-Abortion;

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Mexico Mine Accident; Philippines Mudslide; Gowdy Obit; Olympics; Ice Dancing.
CBS: Bin Laden, Zawahiri Tapes; Iraq-Violence; Iraq-Khalilzad; Senators-Port Sale; Philippines Mudslide; Mexico Mine Accident; Iraq-Wounded Soldier; Eminent Domain-Ohio Couple; Blood Thinner Alternative; Gowdy Obit; Olympics-Austrian Doping Scandal.
NBC: White House-Port Sale; Bin Laden, Zawahiri Tapes; Iraq-Violence; Philippines Mudslide; Mexico Mine Accident; Nigeria-Pipeline Attack; Bush-Alternative Energy; Blanco-Rebuilding Plan; Gowdy Obit; Torino-Fiat Cars; Olympics-Austrian Doping Scandal; Olympics-Sports Medicine; Olympics-Results; White House-Curling.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Port Deal; Iran-Cartoon Protests; CA-Execution.
CBS: CA-Execution; Port Deal; Mexico-Trapped Miners; Philippines-Landslide; SCOTUS-Clean Water Act; Wall Street.
NPR: New Palestinian Government; Rice-Middle East Trip; Straw-Iraq Trip; Bush-Energy Agenda; CA-Execution; Philippines-Landslide; US-Canada-NORAD Treaty; Mexico-Trapped Miners; Foreign Stock Markets.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Participates in a tour of National Renewable Energy Laboratory, National Renewable Energy Laboratory, Golden, Colo.; participates in a panel on energy conservation and efficiency, National Renewable Energy Laboratory, Golden, Colo.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: LOUISIANA REBULDING _ 9:30 a.m. Department of Homeland Security Federal Coordinator for Gulf Coast Rebuilding Chairman Don Powell will participate in a panel discussion to discuss Louisiana planning activities and rebuilding efforts. Location: Falk Auditorium, Brookings Institution, 1775 Massachusetts Ave. NW.

MEDICARE PROJECTIONS _ 9:30 a.m. Actuarial representatives from the Centers for Medicare and Medicaid Services hold a news conference to discuss their 10-year projects of national health care spending, sponsored by the journal Health Affairs. Location: National Press Club.

US- INDIA _ 10 a.m. Indian Amb. Ranendra Sen holds a news conference to discuss President Bush's upcoming trip to India. Location: National Press Club.

UNMARRIED AMERICA _ 10 a.m. Conference Call on new national survey of Unmarried America will be held by Stan Greenberg, GQR Research; Anna Greenberg, GQR Research; and Page Gardner, WVWV. Contacts: Todd Webster, 703-837-1110. Notes: Conference call-in number: 866-513-9389. Password: 9089. A Powerpoint presentation will accompany the presentation. To view the Powerpoint, please send an RSVP email to: newswvwv.org.

SCALIA _ 12 p.m. The American Enterprise Institute holds a forum on ``Outsourcing of American Law, with a keynote address by Supreme Court Justice Antonin Scalia. Location: 12th floor, AEI, 1150 17th St. NW.

ENVIRONMENTAL SCORECARD _ 12:30 p.m. League of Conservation Voters Senior Vice President for Political Affairs Tony Massaro, and League Legislative Director Tiernan Sittenfeld hold a news conference to release the group's 2005 National Environmental Scorecard. The Scorecard is a comprehensive evaluation of environmental votes of each member of Congress, highlighting the most important environmental and conservation votes in both chambers over the first session of the 109th Congress. Location: National Press Club, Lisagor Room.

CLEAN WATER _ 1 p.m. Environmental groups hold a briefing on the Supreme Court's Clean Water Act cases, with former EPA administrators Carol Browner and Russell Train. Location: United Methodist Building, 100 Maryland Ave. NE.

SUPREME COURT-CLEAN WATER _ 1:30 p.m. Georgetown Enviormental Law and Policy Institute, others, hold a panel discussion on upcoming Clean Water Act cases before the Supreme Court, with Maine Attorney General G. Steven Rowe, Malcolm Stewart of the Justice Department, others. Location: Room 200, 600 New Jersey Ave. NW.

MINORITY VOTERS _ 4 p.m. Briefing to discuss a new report on protecting minority voters, and how the findings will affect the civil rigbhts community, with Barbara Arnwine of the Lawyers' Committee for Civil Rights Under Law, Wade Henderson of the Leadership Conference on Civil Rights, Jacqueline Johnson of the National Congress of American Indians, others. Location: Arnold and Porter, Garden room, 12th floor, 555 12th St. NW.

US-GERMANY TRADE _ 4 p.m. US Trade Representative Rob Portman meets with German State Secretary Bernd Pfaffenbach. Location: USTR offices, 600 17th St.NW.

IRAN _ 6:30 p.m. The World Affairs Council holds a panel discussion on Iran's nuclear program, with Joseph Cirincione of the Carnegie Endowment for International Peace, Geoffrey Kemp of the Nixon Center, Trita Parsi of SAIS. Location: The Round House Theatre, 4545 East West Highway, Bethesda.

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is drawn from thousands of newspapers, national magazines, national and local television programs, and radio broadcasts. The Attorney General's News Briefing is published five days a week for the Office of Public Affairs by BulletinNews, which creates custom news briefings for government and corporate leaders and also publishes the White House Bulletin, Frontrunner and Washington Morning Update. We can be found on the Web at BulletinNews.com, or called at (703) 749-0040.

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From: Block, Jonathan

Sent: Tuesday, February 21, 2006 9:30 AM

To: Block, Jonathan; [redacted]@ic.fbi.gov'; [redacted]@ic.fbi.gov'; Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); McNulty, Paul J; Goodling, Monica; Moschella, William; Brand, Rachel; Courtney, Garrison K.; Jezierski, Crystal; Gorsuch, Neil M; [redacted]@ic.fbi.gov'; [redacted]@ic.fbi.gov'; [redacted]@ic.fbi.gov'; [redacted]@ic.fbi.gov'; Macklin, Kristi R; Mercer, Bill (ODAG); McCallum Jr, [redacted](LEO); [redacted](DHS); [redacted](DHS); [redacted](DHS); [redacted]USMS); Grant, William L. [redacted](USMS); Marianos, Richard W.; Mixell, Sheree L.; Payne, Lawrence R.; Truman, Michael; Turner, David; Billingsley, Traci L; Cooper, Mary Irene; Seidel, Rebecca; Hertling, Richard; Williams, Jan; Bresson, Paul; Clinger, James H; Block, Jonathan; Layne, Jennifer; Ames, Andrew; Beck, Brittany; Francis, Lynne (OPA); Holland, Eric W; Jackson, Christopher; Lesch, Jaclyn; Magnuson, Cynthia; McNeil, Tucker (OPA); Miller, Charles S; Nowacki, John; Pagliocca, Theresa; Peterson, Evan; Roehrkasse, Brian; Schwartz, Arthur; Scolinos, Tasia; Sierra, Bryan; Smith, Kimberly A; Talamona, Gina; Wade, Drew

Cc: Webb, Lauren; Nichols, Grant W

Subject: Sunday Show Transcripts 2/19/06

Attachments: TalkShowTranscripts 02-19.doc

SUNDAY SHOW TRANSCRIPTS
2/19/06

NBC – MEET THE PRESS

MR. TIM RUSSERT: Our issues this Sunday: nearly six months after Hurricane Katrina, the head of Homeland Security is under intense fire in the U.S. Senate.

(Videotape, February 15, 2006)

SEN. SUSAN COLLINS (R, ME): The response of DHS must be judged a failure.

SEN. JOE LIEBERMAN (D, CT): You had the capability. It wasn't used well.

(End videotape)

MR. RUSSERT: And also in the House, where a Republican investigation concludes there was a failure of initiative and a failure of leadership at every level of government. Can he restore confidence in his leadership? With us, the Secretary of Homeland Security, Michael Chertoff.

Then, four days after he accidentally shoots his hunting partner, Vice President Cheney breaks his silence.

(Videotape, February 15, 2006)

VICE PRES. DICK CHENEY: I'm the guy who pulled the trigger that fired the round that hit Harry. It was, I'd have to say, one of the worst days of my life.

(End videotape)

MR. RUSSERT: Did the vice president handle this situation properly? And was the media coverage appropriate? With us: New York Times columnist Maureen Dowd, Wall Street Journal editorial page editor Paul Gigot, NBC News chief White House correspondent David Gregory, and the former counselor to Mr. Cheney, Mary Matalin. Dowd, Gigot, Gregory and Matalin square off.

But first, August 29, 2005, Hurricane Katrina devastates the Gulf region. Hundreds of thousands are homeless, more than a thousand die. The secretary of Homeland Security was in charge of the federal response to that disaster, and he joins us this morning for the first time since that hurricane week.

Welcome, Secretary Michael Chertoff.

SEC'Y MICHAEL CHERTOFF: Good to be here, Tim.

MR. RUSSERT: What a week for you, hearings before the Senate and reports from House Republicans. The New Orleans Times-Picayune, the local paper down there, editorialized this: "Katrina was a disaster that had long been feared. The House report, then, is on target when it says that September 11 was a failure of imagination, but Katrina was a failure of initiative and leadership. Those who are responsible should be held accountable. Firing FEMA's Michael Brown was a start. But FEMA was under the Department of Homeland Security—Michael Chertoff's department. The House report concludes that he fulfilled his responsibilities 'late, ineffectively, or not at all.' If that's not grounds for dismissal, what is?" Have you ever considered stepping down?

SEC'Y CHERTOFF: Well, you know, like everybody else who is serving in the Cabinet, I serve at the pleasure of the president. And when I took the job, I knew that we had a lot of work to do to mature the department, and I was aware of the fact that something might happen, whether it was a manmade or a terrorist event, before we had a chance to finish the building. So I can't say I had my eyes closed about the challenge in the job. I continue to serve at the pleasure of the president. I think my responsibility is to try to fix the department. And as long as the president wants me to do that, I'm going to continue to stay on the job.

MR. RUSSERT: You haven't had any conversations with his staff about moving on?

SEC'Y CHERTOFF: Well, you know, I don't normally talk about conversations with the president or the senior staff. But the president knows that I am there as long as he wants and needs me, and I will work 24/7 to make this department as good as it can be.

MR. RUSSERT: Senate Joe Lieberman of Connecticut at the hearing said this: "Our conclusion is that the Department of Homeland Security had a responsibility to lead the preparation and response to Hurricane Katrina, and let us down. We've invested billions of dollars in the department. It had the capabilities to prepare for and respond to Katrina, and it didn't use them. As a result, a lot of people suffered and, unfortunately, a lot of people died." Does that haunt you?

SEC'Y CHERTOFF: It does haunt me because what—it's not the criticism. Because, obviously, some of the criticism is obviously helpful. Some of it I don't agree with. But what does stick with me is the image of people who unnecessarily suffered because of delays in getting them evacuated. There was some tremendous success stories. I actually was very worried the first couple of days about rescues. I was worried, how were you going to get thousands and tens of thousands of people who are trapped in attics out of those attics? And there the Coast Guard and other parts of the department performed magnificently. But in the evacuation, I think we really fell short. And that's certainly something which I will always carry with me and something which I'm determined to fix, particularly as we come into hurricane season this year, which is just a hundred days away.

MR. RUSSERT: When you were last on, a few days after the hurricane began, you said that the levees were breached early Tuesday morning. We now learn that in fact it was around Monday morning at 8:30 that people were first notified the levees had breached. Why were you out of the loop?

SEC'Y CHERTOFF: Well, actually, I think what I said is that they'd been breached over night, Monday night. And we now know the levees began to be breached Monday morning. I think that the principle levee breach, 17th Street, we still haven't pinpointed the exact time of the breach.

This was really the biggest failure, I think, of the department in Katrina was the inability to get ground troops from New Orleans. The fact that we didn't have assets on the ground, trained people, proper equipment, to immediately send back messages about what was going on. And that's one thing we have already begun to fix. We've trained and recruited law enforcement personnel. We are acquiring the kinds of very sophisticated satellite gear that let us beam things directly back to headquarters. We've got better aerial assets, and we're integrating better with the military in terms of things like satellite capability and overflying P3s and other kinds of aircraft.

MR. RUSSERT: But FEMA knew on Monday morning that a levee had been breached. I was somewhat taken back by this testimony from Michael Brown before the Senate. "Question: You're telling us that a conversation directly with Secretary Chertoff would not have produced any kind of worthwhile results? Brown: No, it would have wasted my time."

SEC'Y CHERTOFF: I think that was a big mistake on Mike Brown's part. I mean, we had the ability to bring in all kinds of assets at the department. On the Sunday before the hurricane struck, I sat on a video conference and heard everybody go through the very extensive list of supplies that had been pre- positioned. And at the end, I asked two questions, I said, "Is there anything you need from us, Coast Guard, law enforcement, anything that you don't have?" And I was told, "We've got everything we need." And I asked about the Department of Defense, I said, "Is there something we need to do to help you there?" And was told that the Department of Defense was sitting at the table, and they were engaged.

I think that had we gotten earlier notice, we could have done more to help. But I also think, Tim, we have to acknowledge that this hurricane was simply overwhelming, and you will never have a catastrophe of this magnitude that will not have its problems and not have its suffering and not have its pain. So we aspire to do a lot better, but we also have to be realistic about the nature of the challenge.

MR. RUSSERT: But the Thursday of the hurricane, four, five days into it, you began to have your doubts about FEMA and its leadership, and this is what you said before the Congress.

(Videotape, February 15, 2006)

SEC'Y CHERTOFF: Thursday night, I began to—I asked myself, "Are we dealing with a situation where it's not just the inherent, overwhelming challenge, but that maybe, despite good intentions, Mr. Brown is really not up to this."

(End videotape)

MR. RUSSERT: "Mike Brown not up to this." The very next day, the president came down to the Gulf region, and here you are on the screen—right of the screen in the purple shirt, Mr. Brown in the middle, the president on the left. And this is where the president uttered these now-infamous words. Let's listen.

(Videotape, September 2, 2005)

PRES. GEORGE W. BUSH: Brownie, you're doing a heck of a job.

(End videotape)

MR. RUSSERT: The president is saying he's doing a heck of a job; the night before, you're saying, "I don't think the guy's up to it." Why didn't you tell the president?

SEC'Y CHERTOFF: Well, again, I never get into conversations with the president. But I do think the context of that remark is that Brown had been up for, you know, practically every night for the last few days. I think whatever my judgment was about whether his skills were matched to the challenge, I think certainly everybody believed at that point he was doing his best. And I think this is really an effort to kind of buck the troops up, recognize the fact that everybody was really exhausted and working hard. And the fact is, we were in the middle—still very much in the middle of the event, and we needed to keep people's spirits up, so I think you've got to look at this as—in the context of a recognition that everybody was really exhausted and overwhelmed by the nature of the challenge.

MR. RUSSERT: Was it an attempt to spin the American people? Things on the ground were in such stark reality to what the official pronouncements coming out of the government were?

SEC'Y CHERTOFF: No, I think—I think, you know, when you are in a disaster, you actually look people in the eyes, and you see how they're working their hearts out. And even if it—if they haven't done the kind of job that you wish they could have done. As a human matter, I think you want to reach out, you want to, you know, pat them on the back, you want to buck them up. I don't think that's the time to start to engage in finger pointing or in—in, you know, giving brutal assessments about people's performance.

MR. RUSSERT: Taxpayers are obviously very concerned about where their money's going. There've been a series of reports this week about some of the federal money that was spent on Katrina. The Government Accountability Office said this: "The

government squandered millions of dollars in Katrina disaster aid, including handing $2,000 debit cards to people who gave phoney Social Security numbers. Recipients improperly used their debit cards instead—intended for food and shelter for $400 massages, a $450 tattoo, $1100 diamond engagement ring and $150 worth of products at Condoms to Go."

How does that happen?

SEC'Y CHERTOFF: Well, let me break this into two parts. Let me first say that there's actually good news in that we have fixed the problem of people being able to call up with phony Social Security card numbers because we've now used—we've engaged a kind of contractor that we used to screen online applications, and we're now using that for telephone applications. So that's one problem we have corrected. The second problem of people misusing funds is kind of a common issue when you deal with disasters. People are entitled by law to receive a certain amount of compensation, money for food, and—and clothing and shelter. Inevitably, some people are going do misuse that. And unless we move to a voucher system, which would be a very cumbersome system, we have to try to balance the urgency of getting people some money so they're not literally left starving and without clothing against the fact that there will always be some scoundrels who will misuse the money or try to defraud us. And those people we obviously need to prosecute and punish.

MR. RUSSERT: There are some misjudgments that were made, however, that were not scoundrels, it appears to be your department. Look at this: "Mobile homes worth hundreds of millions of dollars are deteriorating in a muddy field in Arkansas and may never be used to house victims of Hurricane Katrina because of a dispute over where to install them, federal officials acknowledged. Only about 2700 of the 25,000 mobile homes ordered at a cost of $850 million have been installed, and at least 10,000 are sitting in Hope, Arkansas, according to documents and statements from FEMA officials. Though about 55,000 Louisiana families are still waiting for a manufactured housing unit, the mobile homes may never be used because FEMA regulations prohibit them from being installed in flood-prone coastal areas, federal officials said." $850 million in mobile homes that can't be used.

SEC'Y CHERTOFF: Well, actually, they will be used. The challenge we face is where do we put them. It is true that there are certain parts of Louisiana and Mississippi where you can't put mobile homes because they're in a flood plain. And that's partly by regulation and partly common sense. Because you don't want to put something that's fixed, that's a mobile home, in a place that's going to flood again. We originally hoped that at least some significant number would be placed in other parts of Louisiana and Mississippi. It's turned out that some communities don't want to have that happen, and some people don't want to have that happen. And we're not going to force them to take these mobile homes. We estimate that several thousand more will be used for victims of Katrina and Rita. We are using others for victims of the wildfires out West. Still others

will be used this hurricane season. So what we anticipate is that ultimately all of this stock of mobile homes will be used in disaster-related housing efforts.

MR. RUSSERT: But there are still thousands of people who are still homeless?

SEC'Y CHERTOFF: There are. And we are—we are procuring trailers as quickly as we can. Now the biggest problem, Tim, is there is just a total shortage of housing in Louisiana. And that is, we've been battling that economic issue for the last six months.

MR. RUSSERT: Senator Trent Lott of Mississippi has said "Enough already." Let's take FEMA out of Homeland Security and report directly to the president. Let FEMA work and deal with hurricanes and natural disasters and let Chertoff and Homeland Security worry about terrorism. Why not do that?

SEC'Y CHERTOFF: I think that would be a big mistake for a couple of reasons. First of all, to the extent things worked well in Katrina, it was only because we had a unified department and could get the Coast Guard involved, we could get TSA involved to help us construct an air bridge for evacuation. We would lose all of that extra help if we separated FEMA out. That's the first thing.

Second, catastrophes don't come labeled. Sometimes you know it's a natural disaster, sometimes you know it's a terrorist act, sometimes you don't know. I think the last thing we want to do is to have a situation where we have two parallel agencies fighting over who manages a particular type of a disaster.

Third thing, and I want to say this in the strongest possible terms, we're coming up on hurricane season. Nature doesn't wait for us to do yet another reorganization. If FEMA is pulled out of the Department of Homeland Security, I will predict with virtual certainty that we will be much less prepared this hurricane season than we will be if we keep the department together and finish the job of integrating.

MR. RUSSERT: If a tropical storm, a four or a five, hits New Orleans will the city flood again?

SEC'Y CHERTOFF: Well, this I think is a very serious question which I intend to address with the mayor and the governor, and actually the governors of both states in the next month. We are not fully rebuilt. The levees are supposed to be rebuilt by June to a level better than they were before Katrina. But we don't know if there's a dead-on hit, the worst scenario, we could still very easily have flooding. We've got impermanent structures, we'll still have some debris around. So we need to have a plan starting—you know, we need to start to build a plan now about how we will evacuate and take care of people come June 1, and I'm going to be very insistent on making sure my department and DOD are working with state and local government to do that.

MR. RUSSERT: Let me turn to an issue that is confronting Washington, and that is our ports. And this a pretty interesting issue. "A company in the United Arab Emirates is

poised to take over significant operations at six American ports as part of a corporate sale, leaving a country with ties to the September 11 hijackers with influence over a maritime industry considered vulnerable to terrorism." This is from the Associated Press.

"The sale would affect commercial U.S. port operations in New York, New Jersey, Baltimore, New Orleans, Miami and Philadelphia. Critics of the proposed purpose—purchase say a port operator complicit in smuggling or terrorism could manipulate manifests and other records to frustrate Homeland Security's already limited scrutiny of shipping containers and slip contraband past U.S. Custom inspectors.

Since the September 11 attacks, the FBI has said that money for the September 11 strikes was transferred to the hijackers primarily through the United Arab Emirate's banking system, and much of the operational planning for the attacks took place inside the United Arab Emirates.

Many of the hijackers traveled to the U.S. through the United Arab Emirates. Also, the hijacker who steered a United Airlines flight into the World Trade Center's south tower: born in the United Arab Emirates.

After the attacks, U.S. Treasury Department officials complained about a lack of cooperation by the United Arab Emirates and other Arab countries trying to track Osama bin Laden's bank accounts." Why would we allow a company based in United Arab Emirates be in charge of security for our ports?

SEC'Y CHERTOFF: Well, let me make it very clear, first of all. We have a very disciplined process, it's a classified process, for reviewing any acquisition by a foreign company of assets that we consider relevant to national security. That process worked here. Without getting into classified information, what we typically do if there are concerns is we build in certain conditions, or requirements, that the company has to agree to to make sure we address the national security concerns. And here the Coast Guard and Customs and border protection really play the leading role for our department in terms of designing those conditions and making sure that they're obeyed.

I do have to caution people, though. The fact that there were somebody born in United Arab Emirates or that some people went to the United Arab Emirates doesn't mean that every company there is automatically guilty, or automatically has to be excluded from owning something here any more than we...

MR. RUSSERT: But why take a risk?

SEC'Y CHERTOFF: Well, I mean, you know, Richard Reid was British. He was going to blow up an airliner. We don't say the British can't buy companies here. We don't take a risk. What we do is we require a very careful review—we have the FBI involved, we have the Department of Defense involved—of what the challenges are. We have, in fact, dealt with this port before because we deal with it overseas as part of our comprehensive global security network. We've built in, and we will build in safeguards to make sure that

these kinds of things don't happen. And, you know, this is part of the balancing of security, which is our paramount concern, with the need to still maintain a real robust global trading environment.

MR. RUSSERT: Before you go, based on your department's performance during Katrina, why should the American people feel confident, comfortable, that you can keep us safe if, God forbid, there was a terrorist attack?

SEC'Y CHERTOFF: Tim, I warned in July that we were not as prepared as we need to be, and this is an immature department. And we've—you know, Department of Defense took 40 years to get to where it is now. We have made a lot of progress in some areas. There are some areas, including disaster management, where we have a lot more to do. The good news, I guess, is that if there's anything redeeming out of this hurricane it is that we have learned some very valuable lessons. We have people who are very energized about getting the job of planning done, and getting the resources in, and I'm anticipating that we will be much better positioned this year. But I will warn everybody, this is still not something which is going to be done in six months. We're going to keep getting better and better, but this is a process that's going to take a little bit of time.

MR. RUSSERT: Mr. Secretary, we thank you for sharing your views.

SEC'Y CHERTOFF: Good to be here.

MR. RUSSERT: Coming next: What a week for Vice President Cheney. His judgement, his future, and the behavior of the press corps through the eyes of Maureen Dowd, Paul Gigot, David Gregory and Mary Matalin. They are all next right here on MEET THE PRESS.

(Announcements)

MR. RUSSERT: Maureen Dowd, Paul Gigot, David Gregory, Mary Matalin on the week of the vice president right after this.

(Announcements)

MR. RUSSERT: And we are back. Welcome all.

Mary Matalin, let me start with you. This was on Wednesday, Vice President Cheney accepting responsibility for what happened. Let's watch.

(Videotape, February 15, 2006)

VICE PRES. CHENEY: Well, it was not Harry's fault. You can't blame anybody else. I'm the guy who pulled the trigger and shot my friend.

(End videotape)

MR. RUSSERT: "It was not Harry's fault." It seems to have evolved somewhat over a few days. Let me go back to Monday. The vice president said that he talked to Katharine Armstrong about getting the story out. And the story that first appeared was this. "After shooting two quail, ranch owner Katharine Armstrong said Harry Whittington dropped back to pick them up, but he did not vocally announce to the others when he rejoined the group. The mistake exposed him to getting shot. 'It's incumbent on him,' Armstrong said. 'He did not do that.'" And that same argument was picked up and echoed from the White House podium. Here's the White House press secretary.

(Videotape, February 13, 2006)

Mr. SCOTT McCLELLAN: She pointed out that the protocol was not followed by Mr. Whittington when it came to notifying the others that he was there.

(End videotape)

MR. RUSSERT: Initially, there was—seemed to be an attempt to blame Mr. Whittington. Was the vice president part of that? Aware of it?

MS. MARY MATALIN: Absolutely not. When I spoke to the vice president Sunday morning, he made it more than clear that it was his fault, no matter what the conditions, no matter how much the shared risk. That this should not be blamed on Harry. What happens here is that's not the first account. That's the wire account of the Corpus Christi Caller-Times. The very first account, Katharine Armstrong just lays out the facts, and she includes in there how apologetic the vice president was at the immediate scene.

What happens as these stories go from the local to the national is you stop giving out facts. You stop answering questions, and you start making denials. "No, Cheney wasn't drunk." "No, it wasn't Cheney's fault." So as it progressed through the week, that's what happened.

If you go back to Katharine Armstrong's original description, given in context to locals who understand the frequency of hunting accidents, unfortunately, the culture of Texas, through the eyes of a person who actually saw, who has an expertise, there was no fault described. She laid out the facts: what Mr. Whittington had done, what the vice president had done, and included, clearly, the vice president's immediate reaction which was profuse apologies.

MR. RUSSERT: But they were quoting her directly, and many suggested that she also told the papers that she had first thought that the vice president had had a heart attack, so maybe she didn't see the whole event.

MS. MATALIN: She saw enough to be able to describe the—what happened and who was where and what happened immediately afterwards. Yeah, that's the problem with this. That's why—that is exactly why you're—Tim, you're going right to the point of why we wanted to have—rather than just throw something out there that night or the first thing the next morning, why we wanted to take our time. Speak to the sheriff so we'd have the voice of authority. Have Katharine be able to share with other witnesses, and she could be an eyewitness. That's why we wanted to take our time because there were differing accounts, and there was mass confusion. And all—the whole first night was a very human reaction to get Harry and his family attended to.

MR. RUSSERT: You mentioned "speak to the sheriff," and this is another issue raised. The "Secret Service spokesman Eric Zahren said at least one deputy was turned away shortly after the shooting because security personnel at the Armstrong ranch were not aware of the agreement between the sheriff and the Secret Service." What was the agreement? Why wasn't the vice president interviewed that night after Mr. Whittington was brought to the hospital? Why wasn't he interviewed by the sheriff that night? Why did they—we wait 14 hours for an interview?

MS. MATALIN: The vice president was informed of the decision to be interviewed the next morning. The original request was that he be interviewed at 10 o'clock. He asked if he could move it up to 8 o'clock because he wanted to—shoot his day up to get to Corpus Christi to see Mr. Whittington. Now it took The Washington Post an entire week to speak to the culture of rural enforcement in a hunting area in south Texas. And it was through the voice of none other than the Democratic state party chairman.

This is rural law enforcement. They hunt from October till the end of February. There's a presumption of accident. There was—everybody knows everybody down there. Somebody had talked to some ranch hand and said this is an accident. They never go screeching in there. Some deputy who had heard it another way went to some other border post, and nobody there wasn't going to be allowed in to talk to anybody or let anybody in to see the vice president. That's just national security. But the suggestion there by the press, not the locals, was that Cheney was covering up. That it's always done this way. No, it's not always done that way. If someone had done some reporting or even called the Democratic state party chairman, they would have learned it's always done the other way where there's a presumption of accident.

MR. RUSSERT: The suggestion being that perhaps there had been drinking going on that afternoon, and it could have been detected that evening as opposed to the next morning. And again, pointing to Ms. Armstrong's own words, quote, "None in the hunting party was drinking alcohol, Armstrong said. No, zero, zippo. No one was drinking." And then on Wednesday, the vice president, with FOX News, said, quote, "I had a beer at lunch. After lunch we take a break, go back to ranch headquarters. Then we took about an hour-long tour of the ranch. We didn't go back into the field to hunt quail until, oh, sometime after 3 p.m." Was alcohol in any way, shape or form consumed

during the afternoon? And should we accept the president's "a beer" as literally one beer?

MS. MATALIN: What Katharine Armstrong was answering is a literal fact going to the question she was asked, which is always the case on the Armstrong ranch, you don't drink and hunt, and you don't hunt with drinkers. And that's what the sheriff reported, that's what she reported. It is true that the vice president had a beer at lunch, and let me ask anybody sitting at this table who knows the vice president, has known him for many years, has seen him in social situations, he's known not to be a drinker. But let me ask you a more logical question—you think the Secret Service would let the vice president out, tanked up, with a loaded gun, or let him be around anybody who's drunk with a loaded gun? It just defies common sense that the press would even go there. And that's why these adversarial question-and- answer periods set up the presumption that Cheney would be drunk, or having to deny that Cheney was drunk, as opposed to presuming what we all know, that he doesn't drink, he wouldn't hunt and drink, the Secret Service wouldn't let anybody around him who is drinking and hunting.

That's why we get into the—that's why we take our time, try to slow down, try to get as many facts out as possible before we engage in what ended up, as was the case this weekend, happens way too frequently inside this bubble, inside this parallel universe of a feeding frenzy in the briefing room.

MR. RUSSERT: Scott McClellan said he was speaking for himself and the president when he said that this could have been handled better. And many people pointed to the president's own book, "A Call—A Charge to Keep," when he was governor—running for governor, he had a hunting accident, he shot a killdeer rather than a dove, and immediately went to the press, had a news conference, accepted responsibility, and said, "People watch the way you handle things, they get a feeling they like you and trust you." Could the vice president have handled this better?

MS. MATALIN: Killing a different bird is a slightly different situation than shooting your friend in the face. And I think what most normal people would empathize with—that is, people who have a full complement of human empathy—is that a—that person who shot his friend in the face would be most concerned with that friend's health, with giving that friend help, with getting to that friend's family, with consoling the other parties that were in the—with him that weekend. That's a little bit different situation. The problem with these rules is that they're presumed to be inviolate. This vice president, who is logical and who is human, was not following the conventional rule, but he wasn't doing anything that was irrational, that's for sure.

MR. RUSSERT: Once he was assured—excuse me—that Mr. Whittington was in the ambulance, on his way to his hospital, being transferred to another hospital, that any time during that night, before or after dinner, did he consider picking up the phone, calling the president, saying, "Mr. President, I want to tell you something terrible has happened. I shot a man inadvertently in a hunting accident, and I wanted you to be—to know and hear it from me"?

MS. MATALIN: Well, understand, what's going on in the course of the evening, they're in this 50,000- acre farm, it took a half-hour for the ambulance to even reach them, they had to get out, so—by the time they got back and called the family, located them, got them to the hospital, and made all those machinations, it's now, what, 10 or 11 o'clock back here? The vice president knew that the president had been informed within the hour, he knew that Karl Rove, who's dear friends with Katharine Armstrong and Harry Whittington, had called, so he knew that the president had a full accounting. I'm not—this question's repeatedly asked—I'm not sure what the implication of it is. What purpose would have been served by the vice president then waking up the president to say, "Feel my pain"? He knew he was fully informed, and he knew he was informed from personal friends, not just from the medics and the Secret Service. I just am hard-pressed to understand what is—what are we trying to—what itch are we trying to scratch?

MR. RUSSERT: "Well, I'm involved in a story, a tragedy that may affect this administration," and certainly it played out for the course of a week, "and you should be aware of it, Mr. President."

MS. MATALIN: But he was aware of it, he was aware of it.

MR. RUSSERT: And here—in initial reports, the White House chief of staff did not know the vice president had been the shooter.

MS. MATALIN: But Karl knew the entire story from Katharine. And I'll tell you something else, another human element, everybody in that White House, particularly those from Texas, are long-time friends with Harry Whittington. And I'll tell you something else, another human element here: Everybody in that White House, particularly those from Texas, are longtime friends with Harry Whittington. I—I—all the conversations I've had after the fact, everyone's concern was about Mr. Whittington and about Merce Whittington and about Sally Whittington and the whole family, and indeed the Armstrongs. Sorry, there was a human response before there was a political response.

MR. RUSSERT: Mr. Gregory, let me talk about the media response. You're the White House correspondent for our NBC News. This is an exchange that you had with the White House press secretary Scott McClellan. Let's watch:

(Videotape, February 14, 2006)

Mr. McCLELLAN: Other people in this room have questions, and we have an event coming up.

(End videotape)

MR. DAVID GREGORY: I'm sorry, but I'm not getting answers here, Scott, and I'm trying to be forthright with you, but don't tell me that you're giving us complete answers

when you're not actually answering the question. Because everybody knows what is an answer and what is not an answer. And the final...

Mr. McCLELLAN: Well, David, now you want to make this about you, and it's not about you, it's about what happened. And that's what I'm trying...

MR. GREGORY: I'm sorry that you feel that way.

Mr. McCLELLAN: ...and I'm trying to provide answers to the questions.

MR. GREGORY: But that's not what I'm trying to do. I want...

(End videotape)

MR. RUSSERT: There also had been an off-camera exchange that Gigot just referred to. Scott McClellan: "David, hold on, the cameras aren't on right now. You can do this later." David Gregory: "Don't accuse me of trying to pose for the cameras. Don't be a jerk to me personally when I'm asking you a serious question." McClellan: "You don't have to yell." "I will yell," Gregory. "If you want to use the—that podium to try to take shots at my personally, which I don't appreciate, then I will raise my voice because that's wrong." McClellan: "Calm down, Dave, calm down." Gregory: "I'll calm down when I feel like calming down. You answer the question."

Looking back at that a few days later, your sense?

MR. GREGORY: I think I made a mistake. I think it was inappropriate for me to lose my cool with the press secretary representing the president. I don't think it was professional of me. I was frustrated, I said what I said, but I think that you should never speak that way, as my wife reminded me, number one. And number two, I think it created a diversion from some of the serious questions in the story, so I regret that. I was wrong, and I apologize.

But I think what—what's interesting about all of this is that Mary and others in the White House have been eager to stoke this as a false debate between the vice president and the White House press corps, attempting to cast this as the White House press corps is a ping-pong in the culture wars. The reality is that that false debate obscures some real facts. You laid out some of them in terms of questions that were raised about how the vice president initially disclosed this, making the decision to not disclose it himself and have Katharine Armstrong do it.

It also overlooks a very important point, and that is there was disagreement, as Mary well knows, within the White House about how this was handled: the question of why the vice president didn't call the president. Also the fact that there were some White House advisers who told me this week, it made the president look bad, it raised questions about who was really running the rodeo in the White House.

The vice president created these questions. It's also emblematic of the rather secretive style with the press by the vice president. And so I think it—it's fair to disagree with the White House press corps, or with me, or the White House press corps generally, I think, is more important, in terms of how we go about answers. But I, for one, don't apologize for pushing hard for answers. I think people who view the news or view what I do for a partisan lens may think I was making a political statement. I was not. I make no apologies for pushing hard for information because sometimes it's hard to get.

MR. RUSSERT: Bill Crystal, the editor of the Weekly Standard, said this: "The White House press corps is crazy and pompous, and a lot of them are personally obnoxious as well. Instead of asking about Iran going nuclear, Hamas setting up a government in Palestine, 42 of the 60 questions to Scott McClellan were the White House press corps whining that they didn't get a phone call late Saturday night."

MR. GREGORY: Right. And let me just make one other point. Again, it's easy to try to make this a debate about the White House press corps vs. the vice president. No matter how you feel about the White House press corps, and—and we're worthy of criticism, and we can take our lumps—this is about how the vice president chooses to communicate to the American people. We are a proxy for the American people. Whether you have faith in us or not, and we do make mistakes, we are still a proxy. This is about how the vice president chooses to communicate to the public. My view is not that I should have been informed or others should have been informed. It's not about that. It's—it's a question of "Does the vice president have a responsibility to the American people to inform them of his public and private activities?"

MR. RUSSERT: Paul Gigot, you weighed in with an editorial on Wednesday, and a rather ironic one, I might say. "In the interest of restraining the imperial presidency, we have put together the following cover-up time line with the crucial questions that deserve to be answered." And this is part of it: "Five thirty p.m., Saturday. Who is Harry Whittington and whom does he lobby for? Does he know Scooter Libby? Seven p.m., who else did Mr. Rove talk to about this in the interim? Was Valerie Plame ever mentioned? Eleven a.m., Sunday. Has Ms. Armstrong ever worked for Halliburton? One thirty p.m., everyone involved confirms more or less everything, or so the official line goes. Their agreement is very suspicious. As for the Beltway press corps, it has once again earned the esteem in which it is held by the American public."

MR. PAUL GIGOT: It seemed like satire was appropriate to the occasion. Not looking at this, by the way, David, from—you know, I didn't speak to anybody from the White House or the vice president's office all week on this. It was looking at it from outside the Beltway and saying where did this story stand on the relative scale of importance? Looked to me to be a human tragedy, the vice president made a mistake, it was probably in not disclosing it himself, letting someone else do it. But that's a relatively minor mistake. I think scandal standards are declining in Washington if this becomes another big, huge scandal which this is supposed to be a metaphor for for governing, a bunker of secrecy which is, I think, what some of the Democrats in the Senate were saying. This is

a metaphor for the way this administration operates. I just don't think that's true. And so I think mockery was appropriate.

MR. RUSSERT: Maureen Dowd, Time magazine has been doing some polling on this whole issue. I want you to talk about that and everything else you've heard this morning. This is what Time found:

"Most Americans--65 percent—think that the vice president should have taken immediate responsibility. Half--56 percent—do not think he was trying to hide something from the public by waiting to disclose the incident. Ten percent think that the vice president should resign over his handling of the situation. More than half--58 percent says he is too secretive." And when asked about the handling of the shooting incident, 52 percent approve of the vice president's handling; 42 percent disapprove. What's your sense?

MS. MAUREEN DOWD: Well, I think that the reason this story has evoked such fascination is because the vice president is like the phantom. You know, we hear the creak of the door as he passes, but we don't really know what he's up to. We don't know his schedule. We don't always know where he is. We don't know what democratic institution he's blowing off at any given minute, and so this allowed us to see how his behavior and judgement operated pretty much in real time—with the delay, but pretty much in real time.

And it covered all the problems of the Bush/Cheney administration: secrecy and stonewalling, then blowing off the rules that are at the heart of our democracy, then using a filter to try and put the truth out in a way that would most suit their political needs, and then bad political judgement in bungling a crisis. I mean, if there's one thing the Republicans are great at since Reagan, it's damage control. But he is such a control freak, you know, he doesn't even care about the damage.

MR. RUSSERT: Mary Matalin, the last number in that Time magazine poll is the overall approval of the vice president, and here it is. Approve: 29 percent; disapprove 41 percent. A 29 percent approval rating. Will that hamper the vice president's effectiveness in terms of governing, or helping fellow Republicans in the midterm elections?

MS. MATALIN: Absolutely not. Why—I've heard this repeatedly for six years. He's been the whipping boy for the liberals for six years and whenever he does go out on this show or he puts something on the top of his speech, he carries the day with his message, he broke during the campaign, he wins the debate, so no, it doesn't diminish his effectiveness, nor has his role in any way been diminished at the White House.

I love this reference to blowing off the institutions of democracy like freedom of the press. There—this is—we are not engaged in a false debate, we all have the same goal, which is to communicate with the public, to inform the public. What we thought we were doing Sunday morning by having an eyewitness who was there, who was an expert on hunting, going to a paper that understands the culture, who had the capacity to get it up

on the wire quickly, was communicating and informing the public in which the vice president took responsibility, apologized, spoke to the reporter, was corroborated by the sheriff and our office, the vice president's office. I no longer work there. I don't see how that's violating the rules of the institution, the hallmarks of our democracy. We just didn't go through them.

MR. RUSSERT: Right.

MS. MATALIN: Let me pose a question here. What if I called David, instead of Katherine calling the Corpus Christi Caller-Times and said, "I'm just going to talk to you." I suppose David's first reaction, or any of his colleagues would be, "No, let's go through the process. Let's call the pool. Let's get everybody involved here." No, I know that's not true because I've done this with Cheney feeding frenzies before when he's had to go in for routine heart checks. There's no such thing as you just put out a statement. And if I ever did want to just give it to one guy—on occasion which I did so I had the time to walk through it—they would take it. They didn't say, "Stop! Let's go through the process and get the whole pool there." So it's disingenuous. I'm not starting a false debate. We're not undermining the hallmarks of the democratic institution, the freedom of the presss. But its much ado about nothing, or in the words of Harry Whittington, "What's all the hoopla about?"

MR. GREGORY: OK, but Mary, if that's the case, first of all, you know, the vice president of the United States accidentally shot a man for the first time since Aaron Burr killed Alexander Hamilton. Much different circumstance, admittedly. And the vice president's office doesn't feel an obligation to disclose that to the American people directly. You do it through a ranch owner in Texas? It just—it just strikes me as odd.

MS. MATALIN: It strikes you as odd because you live in a parallel universe. It did not strike Americans as odd. Press were calling me saying, "The president—the vice president needs to apologize." He did profusely and repeatedly to the victim of his accident, who was Harry Whittington.

MR. GREGORY: If you thought he did everything right, why is it that you ultimately—if the vice president said, "I did everything right," by disclosing it the way he did, why did you do a big national interview this week?

MS. MATALIN: Because you went on a jihad, David. For four days you went on a Jihad.

MR. GREGORY: And that's an unfortunate use of that word, by the way. This is not what that was.

MS. MATALIN: Oh, OK. All right. How—were you saving up for that line?

MS. DOWD: Mary, it isn't only the press. He blows off the FISA courts, he blows off the Geneva Conventions, he blows off the U.N. to go to Iraq. He wants to blow off

everything. He's got a fever of about presidential erosion just the way he had a fever about going into Iraq.

MR. GIGOT: A hunting incident—the vice president can defend himself, but a hunting incident is a little different than the FISA court issue and the NSA.

MS. DOWD: But it's part of same pattern.

MR. GIGOT: It is not—it's—how about a little human empathy? I mean, he shot his friend. He's—it's really one of these incidents where I think we can all stand back and say, "Let's have a debate about the FISA Courts. Let's have a big debate about the NSA wiretaps. Those are important issues." This is a very different kind of circumstance.

MS. DOWD: But then he shot his friend and blames his friend.

MR. RUSSERT: Can I just pick up on that? The Democrats were very, very outspoken, as you might expect. The front-runner for the Democratic nomination 2008, the senator from New York, Hillary Clinton, had a news conference, and this is what she offered.

(Videotape, February 14, 2006)

SEN. HILLARY CLINTON, (D-NY): A tendency of this administration from the top all the way to the bottom is to withhold information, to resist legitimate requests for information, to refuse to be forthcoming about information that is of significance and relevant to the job that all of you do and the interest of the American people. The refusal of this administration to level with the American people on matters large and small is very disturbing.

(End videotape)

MR. RUSSERT: How do you respond?

MS. MATALIN: Putting aside the delicious hypocrisy there, what a missed opportunity. What if Mrs. Clinton had come out and said, "Do you know, I'm not a hunter, but lived in Arkansas and I understand this is an accident. These sorts of accidents are not infrequent. I don't agree with Dick Cheney on many things, as you know, but I do know Lynn and Dick Cheney and I have to believe like any human being that he must be feeling awful right now for shooting his friend. And most of all, I don't know Harry Whittington, but there's a man lying in a hospital bed and I think we should all pass our thoughts and prayers along to him. Now, I'd like to talk about the serious business of this nation, things that I do not agree with the vice president on." Well, Maureen Dowd, the diva of the smart set would be swooning. Moms across the country would be saying, "Hey, she thinks like me. That's right. A guy shoots his friend. That's not relative to my life. Let's move on to serious issues." No, that was a politically stupid thing to do, beside the delicious and just absurd hypocrisy of the forthcomingness of an administration.

MR. GREGORY: Tim, can I just speak up on a point that Paul made that I think is a good one, which is I think for the moment I'm the only one here representing the White House press corps. I think one of the things we may have missed this week is a little bit more empathy for the vice president, given what he went through. This is a terrible incident for two people, one of whom happened to be the vice president. I think we missed that a little bit in all of this questioning. I do think the vice president gave voice to that personal pain extremely well this week, which is why, I for one, was so pleased to see him speak publicly about it and, you know, why I think it would have been useful to speak about it more quickly.

MR. GIGOT: This is—I think this whole issue is an illustration of so many of our debates—every debate for that matter in Washington goes immediately to DEFCON 1, where both sides square off and it's bad faith on this side, bad faith on that side. You know, sometimes people make mistakes, human mistakes. And this is one of those cases where I think we ought to treat it in human terms.

MS. DOWD: But I think reporters would have had a lot of empathy for the vice president if he hadn't sent people out for four days to blame the victim. I mean, you know, I went hunting with Reagan and Bush Sr. and I've been on all these Republican hunting trips, and—but I've learned a lot about hunting this week. And the thing I've learned is that the shooter bears total responsibility for where everyone in the party is before he shoots, and they shoot abreast, not while someone's fetching a duck. So for him to send all these people out to blame this guy for so many days was not appropriate.

MR. GREGORY: I just wonder what Mary Matalin and others would have said if Vice President Gore had accidentally shot someone with similar facts and the press corps was pressing hard for answers and if Mary or others wouldn't think we would press just as hard for answers in that circumstance with this kind of story, I think that's mistaken.

MS. MATALIN: I don't know what answers you pressed for that weren't contained in this story. And you want to know why there's bad faith because this human accident, this tragedy is conveyed as "Vice president"—she just characterized it—"The vice president sent people out for four days to blame the victim." No such thing occurred. In the first story it was clear from his spokesman and Katharine Armstrong that he took responsibility and he was apologetic. He did not send anybody out to take the blame. I've explained how these stories go from putting out facts to issuing denials. He wasn't out—he wasn't out—and he wasn't not out for four days. If you go through those four days, the first day the story was out there in as complete a fashion as we could humanly do.

MR. RUSSERT: If Katharine Armstrong had not said, "We can't contain this story," is there a possibility that it would not have come out for...

MS. MATALIN: Absolutely, completely no. He called me—I talked to him, what, at 7 o'clock his time, it's Sunday morning, the—and we made a judgment call at that point, because I had three calls preceding my conversation with him, which ranged from, "It's a

skin wound" to "Oh, he can still see." I said, "We don't have a coherent set of facts here." And one thing we know about the press corps is if you put out evolving sets of facts while you're collecting information, those bad facts are worse than no facts whatsoever. So I'm agreeing that we should all get from—at least not def-con one, so we move back to def-con five in these things? And could we not characterize this as he's blowing off the hallmarks of a democratic in—all the hallmarks of a democratic institution?

MR. RUSSERT: The president went and had a town meeting discussion, and one of the questions raised by one of the participants was: "We're all talking about vi—the media's all talking about Vice President Cheney. What about Vice President Gore, Mr. President? He went to Saudi Arabia and he said that there had been terrible abuses against Arabs, that they had been indiscriminately rounded up, and he criticized the visa program between the U.S. and Saudi Arabia." And that was being pushed very aggressively by some of the conservative blogs: Focus on Al Gore, not Dick Cheney.

MR. GIGOT: Well, I mean, the remarks were notable. I mean, I think, because when you go to a foreign country like that, particularly the heart of Wahabi Islam, and say, "We have indiscriminately rounded up Arabs in this country after 9/11." First of all, I don't think that's true, I don't remember us doing that. In fact, I think the reaction in America after 9/11 was quite gracious and understanding in trying to distinguish between terrorists and moderate Islams. So for him to go there and say that, I think it's a real story.

MR. RUSSERT: Before we go, Maureen Dowd, take 15 seconds, what's the most important thing we learned this week in covering this story?

MS. DOWD: Well, I do think, you know, I appreciate the vice president's attempts to put on a sweet pink tie and, you know, to tell Wyoming about, you know, his lust as a newlywed. But I think Mary had a very difficult job humanizing Dick Cheney, because I don't think he has given us much chance to see him as a human being.

MR. RUSSERT: David Gregory:

MR. GREGORY: I think it's important to always try to turn the temperature down, as Mary suggests, but I do think there's a tension between the White House press corps and the administration, and I don't think that that should be demonized as a political disagreement. It's, in some ways, healthy, and it's a reality.

MR. RUSSERT: Paul Gigot:

MR. GIGOT: Well, I think—well, let's make some distinctions between stories that really matter, and we ought to fight and fight hard about it and—where secrecy is an issue, and let's distinguish between those and what are really human accidents.

MR. RUSSERT: Mary Matalin:

MS. MATALIN: You know, in the average American, in the parallel universe, it's not about us, it's not about President Bush, it's not about Dick Cheney, it's about them, and they would like us all to focus on what are we doing for them? Well, let's have debate on policies and let's distinguish political events of no consequence to the nation from those that are.

MR. RUSSERT: To be continued. Mary Matalin, David Gregory, Paul Gigot, Maureen Dowd. We'll be right back.

(Announcements)

MR. RUSSERT: That's all for today. We'll be back next week with an exclusive interview with California Governor Arnold Schwarzenegger. On the set here at MEET THE PRESS: Arnold Schwarzenegger. A special time next Sunday, 11 a.m. Eastern and Pacific zones, 10 a.m. Central after early morning Olympic coverage. Check our Web site for times in your area, mtp.msnbc.com.

If it's Sunday, it's MEET THE PRESS.

ABC – THIS WEEK

STEPHANOPOULOS: Good morning, everyone. Vice President Cheney's shooting accident was the water cooler story of the week, putting him on the cover of both Time and Newsweek this morning. And a new poll in Time shows that almost two-thirds of Americans think Cheney should have stepped forward immediately to take public responsibility for the shooting. But a little more than half the country believe the vice president handled the overall situation just fine.

We'll get to that debate in just a minute, but first, another man in the hot seat this week, Homeland Security Secretary Michael Chertoff. Welcome back to This Week.

CHERTOFF: Good to be here.

STEPHANOPOULOS: The House committee concluded this week that the response was a national failure. Do you accept that conclusion?

CHERTOFF: I think there were some significant failures. There were some significant successes. Obviously, the Coast Guard did a magnificent job. When we ultimately constructed the air bridge that allowed evacuation out of the airport on Thursday, we used TSA and we used all of DHS to make that happen. But clearly there were delays, particularly in getting buses into the Superdome, which caused unnecessary pain and suffering.

STEPHANOPOULOS: Let me get to that right now, because one of the reasons there was a delay was because that there wasn't an official recognition that the levees had been breached.

In fact, your department got a note the night of the -- the first night of the storm, August 29, 10:30 at night, a spot report -- and I want to show it to our viewers -- that said, there is a quarter-mile breach in the levee near the 17th Street Canal about 200 yards from Lake Pontchartrain allowing water to flow into the City. An estimated two-thirds to 75 percent of the city is under water.

You didn't receive that report until the next morning. Why not?

CHERTOFF: Well, that, of course, is a question I asked because that was troubling to me. I mean, the only way to make a decision is to really have real-time situational awareness of what's happening on the ground. Now, we had very experienced people working in the operations center.

STEPHANOPOULOS: And it came into the operations center.

CHERTOFF: It came in late at night. And I understand, by the way, that sometimes the first report is wrong, so you want to verify it and you want to understand the implications of that. Nevertheless, I've certainly reinforced the message since that Monday that I would rather get half-verified information earlier with a warning that it's not verified than have people feel they have to wait until they've proven it...

STEPHANOPOULOS: And that was one of many reports that came in during the day talking about possible breaches. Had you known at 10:30 that night, yes, this is a real report, the levees had been breached, wouldn't you have been able to start evacuating the city much earlier?

CHERTOFF: I don't actually know that it would have made much of a difference. I know on Monday, some investigations have revealed, they actually had lined up about 2,000 buses, so they had at least identified the assets to come in to do the evacuation as early as Monday. One of the questions is why that didn't happen, and I think that's a function of whether they had a deployment plan. Had anybody previously thought about how you would bring the buses in, how they would get there...

STEPHANOPOULOS: How could you not have thought about it?

CHERTOFF: Well, I mean, I think this is really ultimately the most significant breakdown was the kind of very granular specific planning that you needed to have to deal with this kind of emergency. They had planned some things well. For example, Coast Guard planned very well the ability to do 33,000 rescues.

But when I look back, the piece that seemed to me to be the real breakdown was the lack of a plan for how you get people out in a secondary evacuation, not the first evacuation, but the follow-on evacuation.

STEPHANOPOULOS: You've come in for personal criticism, not least from the man you fired, Michael Brown, the former head of FEMA. He gave this interview to a filmmaker doing a film called The New Orleans Story.

(BEGIN VIDEO CLIP)

(UNKNOWN): How do you rate Secretary Chertoff?

MICHAEL BROWN, HEAD OF FEMA: You know, C-minus. The secretary is a judge by training. And you can't do things like tell your disaster guy to go back to Baton Rouge and stay in Baton Rouge and never leave. That's not how you do operations. He just doesn't get it.

STEPHANOPOULOS: Your response?

CHERTOFF: A couple things, George: First of all, I understand I removed Mike Brown. He's obviously not going to be happy with me. That's, kind of, human nature.

But a couple things: First of all, I really am not a judge by training. I was a judge for 18 months. What I was, was a prosecutor. I was the person who had to manage the prosecution of the investigation after 9/11, so I was deeply involved in the management of that crisis and other crises, as well.

As far as Mike Brown's complaint that I sent him on Tuesday, told him to get back to the operations center, it comes back to the buses. On Tuesday, when I asked question, I want to hear what our plan is for getting people evacuated, I didn't get a very clear sense that there was a well-developed plan.

And I couldn't get a hold of Michael Brown. He was flying around in a helicopter looking at damage; he was planning to go on Larry King or Rita Cosby.

And job one, if you are the operator in the field, if that's what the responsibility you want is, make sure you've got the plans in place to save lives. Then you do the flying around.

STEPHANOPOULOS: But you do regret making him, then, the operator in the field?

CHERTOFF: Well, I certainly have to say -- when we made the decision before the hurricane, given his past experience in the prior year with four hurricanes, given his experience with me in Dennis earlier that year and given the team of people at FEMA, I felt that, actually, it was a reasonable judgment to expect he could handle this.

STEPHANOPOULOS: You know, it wasn't just Mr. Brown who has criticized you. Senator Collins said you appeared detached in your response. The House committee called your response late -- you responded late, ineffectively or not at all.

How do you respond to that criticism?

CHERTOFF: Of course, it's a little bit in contrast with Michael Brown, who said I was overinvolved with him. I think -- the weekend before, we all knew this was a big catastrophe.

The president declared an emergency. That was the critical legal thing that opened the door to moving everything into the area.

STEPHANOPOULOS: Some have said not an incident of national significance and they believe that was significant.

CHERTOFF: Well, I'm going to tell you because I actually brought the plan in question -- the plan specifically says that all presidentially declared emergencies are considered incidents of national significance.

So there was no need for me to sign an additional piece of paper. The president's order accomplished all that.

But the Sunday before, I sat down in a video conference and I listened to each of the managers in the field very carefully go over all the list of preparations that had been made.

And at the end of that, I said -- I asked two questions -- I said, is there anything that you need from our department that you haven't gotten because I will get it to you.

And the answer I got was, we have everything that we need and we are working with all the components.

And then I asked a second question. I said, have you reached out to the Department of Defense? Do you have what you need from them? Because I anticipated we might need some additional resources.

And there was someone from DOD sitting in the room -- I could see him on the video conference -- and Michael Brown, said we're here; we're working together; we're fully engaged and we have what we need.

So I certainly went into this not trying to second-guess or micromanage the experienced operators at FEMA but with a very clear sense that I wanted to be assured that everybody had focused on the critical elements of preparation.

Now, it turns out that, obviously, we didn't get done what needed to be done. And the question from me is, what are the elements of preparation? What are the elements of training? What are the elements of building capabilities that we have to get in place for this coming hurricane season which is only 100 days away?

STEPHANOPOULOS: That's exactly where I wanted to go next because you also faced a lot of questions from the House committee this week on that specific question, probably most passionately from Congressman Gene Taylor of Mississippi. Take a look.

(BEGIN VIDEO CLIP)

U.S. REPRESENTATIVE GENE TAYLOR (D-MS): I hope you can sense a bit of controlled rage here because 99 percent of the work I have done since this storm is doing your job; 99 percent of the calls to my congressional office are complaints about FEMA. I have zero confidence that this nation is any better prepared for the next storm if it hits my district or Alabama or Florida or South Carolina than it was the last.

(END VIDEO CLIP)

STEPHANOPOULOS: He says you're not ready.

CHERTOFF: Let me tell you what we're doing. And, of course, I've spoken to Congressman Taylor. I have a lot of respect for him. I know he lost his house. And he spent a lot of time focusing on the needs of his constituents.

We have trained teams now that can actually go into a hurricane area, who have sophisticated equipment that will let them beam back to us real-time information.

We are putting in place a communication system -- and I've set a deadline of May to make sure it's in place -- to allow us to use aircraft or cutters as relay stations for radio communication, if, in fact, wireless towers go down.

We are in the process of retooling our logistics to make sure we can have real-time visibility where commodities are which we did not have in place previously.

We are starting to require the kind of technology and we're recruiting people who will actually go out and engage with (INAUDIBLE).

STEPHANOPOULOS: You say you're starting to do these things. Do you regret not putting more resources into FEMA before Katrina?

CHERTOFF: Well, of course, I didn't -- I wasn't around for the budget that was involved for...

STEPHANOPOULOS: But you were there for several months before it happened.

CHERTOFF: I was there for several months.

What I saw when I came in was that FEMA wasn't ready. In fact, I gave a speech in July, saying our preparedness is not where it should be. And I started to lay out a plan that would concentrate preparedness under one accountable person, and then would let FEMA focus on its operational mission.

That plan by law could not come into place until October 1. Obviously, the hurricane didn't wait until then.

But I was worried about this. You know, we are still an immature department. A lot of progress has been made, and there are many, many fine things that we have in place now that were not in place two years ago, but I'm the first person to be aware that we're always racing the clock. And in terms of some of the capabilities and some of the planning, which should have been done earlier -- and some of it isn't a matter of money; it's a matter of sitting down and thinking through what plans you need -- you know, we've got to get that stuff done. At least a lot of it done by June 1.

STEPHANOPOULOS: It's also a matter of leadership, and The Wall Street Journal reported this week that five people have rejected overtures to actually become the head of FEMA, including the state management directors for Iowa, Texas, California and Florida.

First of all, is that true? And secondly, why is it so hard to find the right person?

CHERTOFF: First of all, I'm not sure who -- I'm not sure who are the people who gave the overtures, because I can tell you, we are not at a place now where I would make an offer to somebody.

STEPHANOPOULOS: So you didn't offer it to the state director in California, who said he turned it down?

CHERTOFF: We are talking to a lot of people. There's some people who take themselves out of eligibility, sometimes because of family reasons. You know, they would have to move across the country, or things of that sort. I am very committed, however, to finding not just one person, but actually a team of people to lead FEMA who have substantial experience in emergency management, substantial experience in logistics and delivering commodities and goods where they need to go.

I want to get that done quickly. You know and I know that the process of getting people confirmed in Washington is not a quick process.

But once we've identified somebody -- and I'm hopeful within a very short time we will -- I'm going to ask that we do the background check process quickly, that -- so the president can make a decision. And then I'm going to ask Congress to act quickly so we can get somebody in place.

STEPHANOPOULOS: Did you ever offer the president your resignation?

CHERTOFF: When I took the job, I understood it was going to be a tough job. And the understanding up front was, as long as I can make a contribution, I will stay in my post. So it is really up to the president.

STEPHANOPOULOS: So never a formal offer.

CHERTOFF: I think it's understood by every presidential appointee that you serve at the pleasure of the president, that as long as he wants you to serve, my commitment is to serve him and serve the country at my post, and if he at some point he changes his mind, then that's his decision.

STEPHANOPOULOS: You know, before we go, I just want to get one other question on another subject. The Senators Clinton and Menendez have said they're going to draft legislation that would block the sale of the port operation in a lot of big cities -- New York; Newark, New Jersey; Camden, New Jersey; Philadelphia; Baltimore -- from a British company to a company controlled by the government of Dubai.

You were part of the government committee that has actually approved that sale. So do you not share their concern that this is a national security threat?

CHERTOFF: The actual details of the discussion, of course, are classified, so I can't talk about them.

Let me explain the process, though, so people understand. We have a committee with a number of departments involved. We are involved. And, of course, that means Coast Guard and Customs and Border Protection. FBI plays a role. DOD plays a role.

We review investments by foreign companies for national security concerns. Sometimes they get vetoed. Sometimes they are approved, but they're subject to conditions, or safeguards that must be put into place.

STEPHANOPOULOS: Are the conditions on this deal? CHERTOFF: Again, I'm not going to talk about classified matters. I'm just laying the process out. It is a rigorous process. Sometimes there's debate about it. You can be assured that before a deal is approved, we put safeguards in place and assurances in place that make everybody comfortable that we are where we need to be from a national security standpoint.

STEPHANOPOULOS: Did you object to the deal?

CHERTOFF: Again, George, you're not going to get me to talk about classified matters. What I'm going to tell you is that we make sure there are assurances in place in general sufficient to satisfy us that the deal is appropriate from a national security standpoint.

One thing I should point out is, we have dealt with this port operator in Dubai for years, because many of our port security operations don't begin when you hit American territory; they actually begin at the port of embarkation. So we don't write with a clean slate. We have a lot of experience in general with overseas port operations when we make these decisions.

STEPHANOPOULOS: Secretary Chertoff, thank you very much.

CHERTOFF: Great. George, good to be here.

STEPHANOPOULOS: Up next, Senator Joe Lieberman and Congressman Tom Davis.

And later, Shaq the sheriff?

(BEGIN VIDEO CLIP)

O'NEAL: I went to regular academy. I got maced, had to go through a gas house. I got shot with a Taser twice. I did everything they did. So they know that I'm serious.

STEPHANOPOULOS: And we're back now with two of Secretary Chertoff's critics this week in the House and the Senate, Congressman Tom Davis, Senator Joseph Lieberman. And Senator Lieberman, let me begin with you. You heard the secretary all week long in the committees. You just heard him on the program.

He says, yeah, we made a lot of mistakes, but we're fixing them. We're going to be prepared next time. Do you accept his responses, and is his job now, in your opinion, safe?

LIEBERMAN: Well, that's up to the president because obviously the secretary serves at the pleasure of the president, not of Congress. But there's no question in my mind, based on everything our committee and the Senate found, based on excellent work the House committee has found, that Secretary Chertoff failed to do his job.

I mean, the Homeland Security Act, presidential directives pursuant to the act, the national response plan all make clear that the secretary of homeland security is the lead federal official when it comes to preparation for and response to disasters, terrorists or natural disasters. And this is a story of a failure of leadership to prepare before the event and then a failure to respond aggressively when it hit.

STEPHANOPOULOS: He says he signed that order two days ahead of time, and that put in place all of the activity that was supposed to be put in place before a major natural disaster.

LIEBERMAN: Unfortunately, that is not the story, as our committee has found that the president declared an emergency on the Saturday before the Monday Katrina hit. That was unusual. That as the secretary...

STEPHANOPOULOS: Never happened before.

LIEBERMAN: Never happened before. That automatically makes it an incident of national significance, which gives the secretary enormous new authority. For some reason, over that whole weekend and not until Tuesday, he didn't do some of the things he should have done, appoint a principal federal officer.

We've got e-mails from Admiral Allen of the Coast Guard pleading that the secretary do something like that. He didn't stand up the incident management team that he's supposed to stand up. And most important of all, he didn't move in transportation capabilities to get the people who everybody knew couldn't get out of New Orleans on their own.

STEPHANOPOULOS: He acknowledged that as a failure. Congressman Davis?

DAVIS: There are a lot of failures here. They never got a unity of command between the state, local and federal government. They deployed more assets than they had at any storm in history, but it was woefully short. We talked about the transportation side of this.

I think one of the difficulties here is that Secretary Chertoff and his agency do a pretty good job in prevention on the terrorist side, but response is a different skill set. And you're competing for dollars within the same budget, and I think as a result of that, FEMA suffered and the response suffered.

STEPHANOPOULOS: A lot of people were surprised, frankly, at how tough your report was. I mean, you're a Republican. The House is controlled by the president's party, and yet it seemed like you didn't pull any punches except, some critics have said, in one area. You walled off the White House from investigation, did not pursue subpoena power, did not get the e-mails which would have really shown what was happening at the top levels of the White House. Why didn't you?

DAVIS: Well, we actually consulted with the Senate on that, see if they'd join us, but we had a time constraint to get this out by February 15. And to issue subpoenas, it was clear they would fight it. It would have cut off the 22,000 documents we did get from the White House.

We blistered the White House for not making these documents available, but we never could have gotten our report out on time, and we would have been in lengthy litigation over executive privilege. And weighing all that, we just couldn't get it.

STEPHANOPOULOS: Have you heard from the White House about your report?

DAVIS: I haven't gotten a congratulatory call, if that's what you're asking.

STEPHANOPOULOS: Let's look forward now. You heard Secretary Chertoff, Senator Lieberman, talk go how he's trying to beef up FEMA going forward.

This has also brought back debate over whether FEMA should be in the Department of Homeland Security to begin with. In your original legislation, you said it should.

Senator Lott said this week it should be pulled out and made Cabinet status again. What should happen?

LIEBERMAN: George, let me first say that, based on FEMA's failures before, during and after Hurricane Katrina, I believe that it's time for FEMA as we know it to go. I think...

STEPHANOPOULOS: To go? What does that mean?

LIEBERMAN: I do. I think it has shown itself to be so dysfunctional. The fact is it's an emergency management administration but it's represented emergency mismanagement.

I think it's time to dissolve it and rebuild it within the Department of Homeland Security because, to take it outside, would be to make a redundant organization.

There are some very good people, a lot of good people in FEMA. They should be at the base of the rebuilding. They need more people. FEMA was underfunded and undersupported and that's part of the reason why it was unable to perform in response to our preparation to Katrina.

And, finally, they need strong leadership. This is a life and death, saving...

STEPHANOPOULOS: Seems like no one wants the job.

LIEBERMAN: Well, I bet you can find some good people to get in the job. And it needs experience. It needs either emergency management experience, tough private sector business management experience or military experience. STEPHANOPOULOS: Congressman Davis, it sounds like Senator Lieberman is making a little news here. Can we make legislation? Will you sign on to the proposal?

DAVIS: Well, I think FEMA has to be reorganized. I'm not sure it should stay in the Department of Homeland Security for this reason. They are competing for dollars. Again, prevention is one thing...

STEPHANOPOULOS: So you would take it out?

DAVIS: ... response is something else. I think they've got to be, just there at the right arm of the White House during any crisis. I think in this case the coordination between...

STEPHANOPOULOS: Cabinet level?

DAVIS: Absolutely. You've got to be able to have that level of communications in -- a bureaucratic layer reporting up through the secretary, in this case, just didn't work out at all.

STEPHANOPOULOS: Why not make it Cabinet level?

LIEBERMAN: Here's the reason why not, George. We created the Department of Homeland Security after 9/11 because we felt that the terrorists took advantage of our lack of organization, both, particularly, in preparedness and also in response.

The response to a terrorist attack is not much different than a response to a natural disaster. Somebody this week said to us, if terrorists had blown up the levees in New Orleans and the city had flooded, the federal government would have come right in.

True, and they would have come right in to do exactly what the federal government and the state and local government should have done in this case.

So I think the secretary of the Department of Homeland Security is, by law and the president's directive, the single lead federal official to prepare, to protect America from attack, whether from terrorists or natural disaster.

To create another organization off -- out of that, I think, would waste a lot of money and make us less effective. But, again, I say, FEMA has become to too many people in America and particularly in the Gulf coast a joke, a four-lettered word.

It's time for FEMA to go and build something better, stronger within DHS to take its place.

DAVIS: You know, the White House wouldn't even give us anyone under oath to testify in terms of what they were doing. They gave us a briefing on this.

It's important to get White House engagement. The White House has the magic wand. When they move, things happen in this government.

STEPHANOPOULOS: Can you hold their feet to the fire now? You said you were under time constraints before.

DAVIS: Well, I think we can. I think the way we can do it through the way we construct this.

Right now, FEMA is competing for dollars within the Department of Homeland Security, with immigration, with all of the other activities they do, many of them prevention.

We are talking about not prevention here but response. It's a different skill set and you need all the authority of the government. And I think being at the right arm of the president is the best way to do that.

STEPHANOPOULOS: Secretary Chertoff said he serves at the pleasure of the president. Do you think the president should keep him?

DAVIS: I think, in terms of the prevention side, he's doing a good job. He's organized that department. I think, on the response side, that these problems are much more systematic than just being about one or two people.

STEPHANOPOULOS: Before you go, let me bring you both in on this issue of whether these port operations should be sold to this company controlled by the government of Dubai.

Your Democratic colleagues, Senator Menendez, Senator Clinton, Senator Schumer, have all criticized this. Do you agree with their approach, legislation to block it?

LIEBERMAN: Not yet. George, my first reaction is to say, why did we let that happen?

But the more you look at it, the fact is that a lot of terminals in America are already owned, not ports, terminals owned by foreign companies.

STEPHANOPOULOS: Not Dubai, though?

LIEBERMAN: No, not Dubai, but you know, Dubai and the United Arab Emirates are allies of ours in the war on terrorism.

So I don't think we want to, just because it's a Dubai company even owned by the government, we want to exclude them from doing business here. The question is, can we set up systems that we're sure guarantee our security.

The truth is, I worry more about the failure to invest enough in port security in America through the Homeland Security Department to detect dangerous items, WMD coming in here, than I worry right now about this sale.

DAVIS: It's a tough one to explain, but we're in a global economy. Now, you've got Chinese owning American ports, running part of the Panama Canal now, people go -- and it hasn't had any ramifications on security. But I think we need to take a very close look at it.

LIEBERMAN: George, I'll just add this final word. Susan Collins, chairman of the homeland security committee, Senator from Maine, and I, ranking Democrat, are sending a letter to Secretary of the Treasury Snow, asking him -- and Chertoff, asking them to explain why the decision was made. Do it in closed session, which I guess Secretary Chertoff couldn't say some things to you here this morning.

STEPHANOPOULOS: Yeah, I wanted to know more about what he said inside those (inaudible).

LIEBERMAN: Yeah. Exactly. And then for us to reach a decision based on as to whether we want to do something to stop the sale. Right now, I don't know enough to say that we should.

STEPHANOPOULOS: OK, gentlemen. Thank you both very much.

DAVIS: Thank you very much.

STEPHANOPOULOS: The roundtable is next, with George Will, Cokie Roberts and Katrina Vanden Heuvel of The Nation. And later, The Sunday Funnies.

(BEGIN VIDEO CLIP)

JIMMY KIMMEL, TALK SHOW HOST: Sitting down for a one-on-one interview with Fox News is like Mrs. Butterworth sitting down with the Pancake Channel.

STEPHANOPOULOS: Our voice this week, Shaquille O'Neal. The Miami Heat center is playing in his 13th All-Star game tonight, but off court he's on the beat, getting ready for his next gig, Sheriff Shaq.

(BEGIN VIDEOTAPE)

O'NEAL: I went to the regular academy. I got maced. I had to go through the gas house. I got shot with a Taser twice. I did everything they did. So them know that I'm serious, and when I'm done playing I will be sheriff somewhere in some city, in some county.

I have full powers of arrest. And you know, when I'm at work, I do police officer duties. Right now, I work Internet crimes against children. I work in a special victims unit. I teach children how not to get captured by these guys.

It is simple. When you're online, don't talk to strangers, don't give any personal information, don't tell them where you live, don't send pictures. If it gets too fishy and guys start asking you questions crazy, tell mom, tell mom to call the local authorities, and they'll call us, and we'll handle it from there.

Another thing I'm looking to do is go over to Congress and get some of these laws a little bit tougher. I'm sick and tired of people having sex with children and getting probation, only getting two years. And Congress, they're going to have to help out. They're going to have to help change these laws. No more of pleading out and getting two months, or going to a psychiatric hospital. We need harsh jail terms.

(BEGIN VIDEO CLIP)

O'NEAL: Hi, Shaq here.

(END VIDEO CLIP)

O'NEAL: When I retire, I'm going to take a week, take two weeks off. Somebody is going to have to hire me. Some city, some county, some federal position is going to have to hire Shaquille O'Neal. And he's qualified, and he's proven. Look it up.

(END VIDEOTAPE)

STEPHANOPOULOS: And stay out of his way.

FOX – NEWS SUNDAY

WALLACE: I'm Chris Wallace. Religious leaders in Iran back the use of nuclear weapons, next on Fox News Sunday .

The hunting accident and the vice president.

(BEGIN VIDEO CLIP)

RICHARD B. CHENEY, VICE PRESIDENT OF THE UNITED STATES: I'm the guy who pulled the trigger and shot my friend. It was, I'd have to say, one of the worst days of my life.

(END VIDEO CLIP)

WALLACE: We'll examine the political fallout and more with two influential senators, Republican Lindsey Graham and Democrat Evan Bayh. We'll also talk with one of Mr. Cheney's closest friends in politics, former Senator Alan Simpson.

Plus, the media's role -- doing their job or overdoing it? We'll ask our panel of Sunday regulars, Brit Hume, Mara Liasson, Bill Kristol and Juan Williams.

And on Presidents' Day weekend, our Power Player of the Week takes us behind the scenes of a national tragedy, all right now on Fox News Sunday .

And good morning again from Fox News in Washington. Let's get a quick check of the latest headlines. Hard-line religious leaders in Iran have issued a holy order that okays its use of nuclear arms against its enemies. One senior mullah says it's only natural as a countermeasure against other nuclear powers.

Ehud Olmert, the acting prime minister of Israel, today ruled out all contact with the new Hamas-controlled government. The Israeli cabinet halted the transfer of tens of millions of dollars in taxes and customs fees to the Palestinians.

And Time Magazine reports President Bush had to lean on Vice President Cheney to go public about the hunting accident. According to the story, Cheney resisted saying anything about the incident until his talk with Mr. Bush.

Well, what a week here in Washington, with the fallout from a quail hunting trip overshadowing the business of government. Joining us now to talk about the vice president and other issues are two key senators, Republican Lindsey Graham, who joins us from South Carolina, and Democrat Evan Bayh of Indiana, who's here in studio with me.

Senators, welcome back to Fox News Sunday . Let's start with the controversy this week over the vice president's hunting accident. Here is what Democratic leader Nancy Pelosi saw in Mr. Cheney's handling of the incident. Take a look.

(BEGIN VIDEO CLIP)

U.S. REP. NANCY PELOSI (D-CA), MINORITY LEADER: This is yet again another manifestation of the arrogance of power of the White House. They don't come clean with the American people, or they think they're above the law and above accountability to the American people.

(END VIDEO CLIP)

WALLACE: Senator Bayh, above the law, arrogance of power -- isn't that the kind of talk that makes Democrats look silly?

BAYH: Well, Chris, this was mostly a personal tragedy. This man got shot, was in the hospital, had a heart attack. I think more than anything, it goes to show how out of touch Washington is with the rest of the country.

We've got deep problems in this country -- economic, national security, financial -- and I think most folks understand this for what it was, a hunting accident. Now we ought to get on with the business of addressing the major problems that face the country.

WALLACE: So you think that the House Democratic leader Nancy Pelosi is out of touch?

BAYH: Well, I would have a respectful difference of opinion on the magnitude of this issue. And to get to your question, look, should the information have been disclosed quicker? Yes, no question about it. Should they be more forthcoming? Yes.

But I think we need to pivot, then, and address the major issues, not make a mountain out of a molehill. When we do that, I think we run the risk of damaging our own credibility with mainstream America.

WALLACE: Senator Graham, you're going to be happy to know we're not going to spend the entire interview talking about this, but I do have a question...

GRAHAM: Good.

WALLACE: ... or two for you. It turns out that you have gone hunting with the vice president and learned -- and lived to tell the tale.

GRAHAM: Yes.

WALLACE: If above the law is a stretch, didn't the vice president bungle this?

GRAHAM: It probably would have been better to have it come from the vice president's office, but I associate myself with Evan. And Nancy is the gift that keeps on giving for Republicans, but Evan Bayh's got it right, and I'm ready to talk about something else. He's one of the best hunters I've ever had the pleasure of hunting with. He's a nice man. He's very safety conscious. When people get out of position in quail hunting, it can be dangerous. And I think he deeply regrets what happened. And Mr. Whittington is a very fine man. And let's move on.

WALLACE: One more question, and then I promise we will move on. What about the argument that there is a view out there that this is a White House that is too secret, that tells the American people what they want them to know when they want them to know it, and that this feeds into that perception?

GRAHAM: Well, I don't buy that one bit. Mr. Whittington's privacy is something that we all should be somewhat concerned about. No matter what the vice president said or when he said it, there'd be some criticism. Senator Bayh, I think, has put this in the proper perspective.

It was a personal event, tragic in nature, and mistakes were made, but let's talk about what's going on somewhere else in the world far more dangerous to the American people than the vice president's unfortunate mistake.

WALLACE: Well, we're going to do that right now.

Senator Bayh, you said recently that Democrats shouldn't be afraid of talking about national security, shouldn't be scared off by Republicans. But you acknowledge that since Vietnam -- and let's put it up on the screen -- Democrats have been viewed by the American people as congenitally weak, too soft to be entrusted with our national security, as concerned with protecting Americans from our own government as from suicidal terrorists.

When Democrats disagree with the president about the NSA wiretaps, about the Patriot Act, about the conduct of the war in Iraq, shouldn't voters continue to see them as too weak and too soft?

BAYH: No, Chris, I don't think so. And the perception is one that is inaccurate. But if it's a perception that most Americans perceive, it's one we've got to address. So, look, we can go down these issues that you've mentioned one at a time. We need to do what it takes to listen to Al Qaida operatives, to know where they're calling from, to protect this country, period.

But there's no reason why we can't do that -- and Senator Graham would agree with me on this -- while also providing the American people some checks and balances to ensure that our civil liberties are being protected. It's a false choice.

If we only choose one as Democrats, not the other, then we run into trouble. The gist of my speech, as you know, was we've had an administration that's been tough for five years, but tough alone isn't enough. We need to be tough and smart. Too often we Democrats are viewed as being weak. We need to be both tough and smart.

WALLACE: But, Senator Bayh, I just -- I mean, you, obviously, as an individual senator can take any position you want, but the fact is that your Senate majority leader, Harry Reid, said at a news conference we've got the tape, we killed the Patriot Act.

It was Nancy Pelosi who talked about getting out of Iraq. I mean, this isn't image or spin. These are positions taken by the leaders of your congressional party.

BAYH: Well, we're about to reauthorize the Patriot Act. There was an attempt to filibuster it this week. It was defeated. I think only three votes supported that. So the vast majority of Democrats, Chris, are in favor of protecting this country.

We know that it is a dangerous world. We know that sometimes you have to use force to protect this country. But we need to do it in a way that is both tough and smart. You have to do both to truly provide for our nation's security.

And the irony of all this is, Chris, this administration has done so much to actually undermine our nation's security, whether it's Iraq, proliferation of weapons of mass destruction, energy dependence, on and on and on.

Our problem, Chris, is that we want to, you know, hide from this issue. We want to try to change the subject. We have got to take it head on and reassure the American people that we have what it takes in a dangerous world to protect this nation.

WALLACE: Senator Graham, the implication of all this is that the Republicans and the president have been tough but dumb. How do you plead?

GRAHAM: Well, I don't think it's dumb to take Saddam Hussein out of power and put him in jail and let his people try him. I think the president's policies have been consistent. They've been focused. He's got a theme of what he's doing and why he's doing it.

Our Democratic friends have no theme. They vote for it. Then they vote against it. That's Senator Kerry's view of the authorization to use force, money to support the troops. Representative Murtha thinks we need to pull out of the region and sit on the sidelines.

Our Democratic friends have no theme as to why we're doing what we're doing. The president does. Whether you agree with him or not, he has got a reason he went into Iraq. He has an overall strategy to bring democracy to the Mid East. It's tough. We've made mistakes.

But people understand where Bush is coming from, and our Democratic friends come from all four corners of the court and really nobody knows what they believe.

WALLACE: Senator Graham, let's talk about a couple of specific national security issues. First of all, there's a big debate going on in the Senate now, not only party against party but even within the parties, about the NSA warrantless wiretap program.

Should Congress rewrite the law, Senator Graham, so that a special intelligence court would be able to oversee that program?

GRAHAM: I think there's a bipartisan consensus growing for three things, Chris. Number one, to make FISA more flexible. It was written in 1978. A lot of technology has changed -- to make it more flexible and more relevant.

Number two, to have broader congressional oversight than we have today, to have more people involved, more eyes looking at what the program is all about, and preserving judicial review, a warrant requirement in a limited class of cases.

I think there would be a bipartisan majority for those three things, and I hope the White House will work with us. I believe they will.

WALLACE: Let me ask you, just following up on that, Senator Graham, do you trust -- you know, as you said, more eyes looking at this program. Do you trust your colleagues in Congress to look at this super secret program and not to leak it?

GRAHAM: Yes, I do. Obviously, the New York Times article hurt the program, but the idea of the two branches working together is a constitutional must. It's not a nicety.

I think when Congress and the executive branch and the judicial branch are all together on the same sheet of music, we're stronger as a country. So whatever downside there may be to having Congress involved, the upside is greater. Having congressional support for a program like this makes us stronger as a nation.

I do believe we can provide oversight in a meaningful way without compromising the program, and I am adamant that the courts have some role when it comes to warrants. If you're going to follow an American citizen around for an extended period of time believing they're collaborating with the enemy, at some point in time, you need to get some judicial review, because mistakes can be made.

WALLACE: Senator Bayh, how do you feel about congressional oversight? How do you feel about court oversight? And do you think the White House will go along with it?

BAYH: It's nice to have some bipartisan agreement on your show here this morning, Chris. Look, we need to do what it takes to protect this country, period. There have been some technological changes that have taken place over the last 30 years that means that we need to go about that a little bit different way, and this program is doing that.

But at the same time, I've seen no reason, as Lindsey pointed out, that we can't do what it takes to protect America while also safeguarding our civil liberties. If there are some practical problems, the administration needs to come to us and tell us what they are so we can work with them to address those.

But it is in the administration's best interest to ensure there is some neutral party overseeing this to make sure that it's done right. Otherwise, you're going to have a number of Americans out there who incorrectly think that J. Edgar Hoover has been brought back to life and that there could be abuses taking place. And we don't want people to have to think that.

WALLACE: Let me ask you both about another program that just really sort of bubbled up to the surface this week. The Bush administration has just approved a company from the United Arab Emirates called Dubai Ports World buying and taking over some of the operations, as you can see there on the screen, of six of America's biggest ports.

Some of your colleagues, both Republicans and Democrats, say that this is potentially a serious security breach.

Senator Bayh, should this sale be blocked?

BAYH: I think we've got to look into this company, Chris. I think we've got to ensure ourselves that the American people's national security interests are going to be protected. And frankly, I think the threshold ought to be a little higher for a foreign firm. There can't be a choice between profits and protecting the American people.

We have to do, even if it costs us a couple extra bucks, what it takes to protect this country. I'll give you one little example. About 80 percent of the magnets that make our smart bombs go are now made in China. It's not smart to rely on China to produce important weapons systems for this country, just like it's not smart to outsource our port security if there's any doubt.

So, look. We have to do what it takes to protect America. When in doubt, if it costs us a little more money, well, that's the price of freedom.

WALLACE: Would you like to see a congressional investigation of this?

BAYH: I think we need to look into it to reassure ourselves, yes.

WALLACE: Senator Graham, your view about the sale of this company to Dubai Ports World and whether or not Congress should take a role in either blocking or at least investigating it.

GRAHAM: We certainly should investigate it. I don't know if we should block it. But it's unbelievably tone deaf politically at this point in our history, four years after 9/11, to entertain the idea of turning port security over to a company based in the UAE, who avows to destroy Israel.

So I'm not so sure it's the wisest political move we could have made. Most Americans are scratching their head wondering why this company, from this region, now.

WALLACE: Well, given that, why even consider going ahead with the sale, sir?
GRAHAM: Well, because I don't want to make a judgment without all the facts. Just on its face, it sounds like the wrong direction to go. We did this a few months ago with a Chinese company trying to buy some energy resources in the country.

Americans right now want free trade, but when it comes to national security issues, we want to maintain the infrastructure ourselves. We believe we're under siege. We are. I don't think now is the time to outsource major port security to a foreign-based company.

WALLACE: Senator Bayh, one last area I want to get into with you. It's no secret that you are actively considering a run for president in 2008. Last year, a senator from Indiana, you visited 22 states. By the end of the year, you had about $10 million in hand.

But let's take a look at the polls, if we can. According to the Cook Political Report, in a Democratic horse race, Senator Clinton, as you can see there, is way ahead. Senator Kerry is next. And you're back -- here you come -- in eighth place at 3 percent. With all due respect, sir, why isn't this a waste of your time and money?

BAYH: Chris, I care about the future of our country more than I do the polls. And I'm deeply concerned about the direction in which we're going, and I'm deeply concerned that this city that we're in today, Washington, D.C., is broken and rather than being an instrument for addressing our challenges has become an obstacle.

So I'm thinking about what role I might play in doing something about all of that. And it involves something more important than reading public opinion polls. You know, you do what you think is right. The politics tends to take care of itself.

WALLACE: Senator, one last question in this regard. You talked about the fact that Democrats, fairly or not, are viewed as soft.

BAYH: You'll give me credit for managing expectations well, Chris?

WALLACE: Yes. Yes. I would agree that nobody is overestimated at this point.

You talk about the fact that Democrats are viewed as being soft on national security. Given people's perceptions of her, fair or not, wouldn't be it a hard sell for the frontrunner in those polls that we just saw, Hillary Clinton, to persuade people that she can be tough on national security?

BAYH: Oh, I don't think so. If you're referring to her agenda, Chris, I think that's irrelevant.

WALLACE: I wasn't referring to her agenda.

BAYH: Well, OK. No, look. This is a general perception for our party. It is an inaccurate one. It's one that we need to take on. It is a threshold issue for a future commander in chief. Can we be tough enough and smart enough to protect this country?

Anyone who's going to be the nominee of our party and the president of the United States needs to meet that threshold first.

WALLACE: We're going to have to leave it there. Senator Bayh, Senator Graham, we want to thank you both so much for joining us and coming in today.

GRAHAM: Thank you.

WALLACE: To be continued.

BAYH: Thank you.

WALLACE: Up next, former Senator Alan Simpson on the week that was for his close friend, Dick Cheney, after this quick break.

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

HARRY WHITTINGTON, ATTORNEY: My family and I are deeply sorry for all that Vice President Cheney and his family have had to go through this past week.

(END VIDEO CLIP)

WALLACE: That was Harry Whittington, the victim in last Sunday's hunting accident, apologizing to the vice president for all the fuss.

To get an idea of how Mr. Cheney has been getting through what he described as a very long week, we turn now to one of his closest friends in politics, former Senator Alan Simpson, who joins us from Cody, Wyoming.

And, Senator, welcome to Fox News Sunday .

SIMPSON: It's always a pleasure, Chris. And it's rosy-fingered dawn out here, and I'm up.

WALLACE: Well, good. We want you to be up at rosy-fingered dawn.

SIMPSON: I just want to tell -- let me just say, it was very interesting hearing Lindsey and Evan Bayh. Evan Bayh won't be in eighth place when the race narrows up. That's a very splendid man, and I served with his dad. Enough of that. And I know Lindsey, too. Go ahead. Shoot the works.

WALLACE: All right. Thank you, Senator. It's always a pleasure. I want to start with something that the vice president said to Brit Hume in his interview. Let's take a look.

(BEGIN VIDEO CLIP)

CHENEY: The image of him falling is something I'll never be able to get out of my mind. I fired, and there's Harry falling. And it was, I'd have to say, one of the worst days of my life at that moment.

(END VIDEO CLIP)

WALLACE: Now, your friend is not a touchy-feely guy who generally lets people feel his emotions. But I've got to tell you, Senator, I was struck by how pained he seems to have been by this incident.

SIMPSON: Well, I haven't talked to him, because the first few days of it, I was in Ohio, and they were calling me, and I had the sense that they were saying have you talked to Cheney, and if you did, what did he say you should say -- in other words, a sinister approach to put a spin on it.

I haven't talked with him. As soon as this is over, I will have done all these, and I'm going to call him. But let me tell you, he probably went home that day when he got back to Lynn and probably put his head down on her shoulder and cried, because this guy -- think of how you would feel if you pulled up any kind of a gun and a human being was in front of it and he dropped. And then you went over to see him and he didn't say anything.

I always say in this line of work, how would you feel if this were happening to you -- not you, Chris, I mean, but there is a human element here that got lost in the perfect storm of people who don't like Cheney. They don't like hunting. They don't like guns. They don't like people who kill birds and eat them. I mean, good grief.

WALLACE: Some of his friends have been quoted in the press as saying they worry about the toll this is taking on the vice president. And let me point out not the political controversy, but, as you say, the human feeling about having shot his friend. Do you worry about that?

SIMPSON: I don't, because of what Whittington has said. These two have known each other -- if you hunt quail -- I can remember a lot of pellets falling around me. Of course, when you're six foot seven, a lot of them fall around you, but none at that range. But it is a devastating thing. It has to be. I can't imagine an accident like that.

But as long as Whittington -- I'll bet Whittington will call him. He's going to visit with his old pals on those wonderful places where you hunt quail, and it's not going to deter him from doing that, but it certainly, you know, is always in your craw, whatever you've done like that...

WALLACE: Senator, as we...

SIMPSON: ... the pain of it, the pain of it.

WALLACE: Senator, as we mentioned, Democrats have taken this opportunity to pound on the vice president and the White House for what they say is a display of arrogance. Let's take a look at some of that, sir.

(BEGIN VIDEO CLIP)

U.S. SENATOR HILLARY RODHAM CLINTON (D-NY): A tendency of this administration from the top all the way to the bottom is to withhold information.

(END VIDEO CLIP)

(BEGIN VIDEO CLIP)

U.S. SENATOR HARRY REID (D-NV), MINORITY LEADER: This administration is the most secretive administration in modern history.

(END VIDEO CLIP)

WALLACE: Senator, what do you make of that?

SIMPSON: Well, you know, that's an interesting pitch, but we haven't had another 9/11, so something good must be going on with all this, quote, evil, secret stuff. And then this

business of the 20- hour gap -- I mean, it is a laugher. I mean, that's a laugher. It's a lot more sinister than the 18 minutes on Rosemary Woods' tape with Nixon. I mean, what is this? What are they doing?

Let me tell you, the American people know that when you have an accident on your ranch, and you're the host, and a guy gets bucked off a horse and has a concussion, or there's a hunting accident, your first impression is not to pick up the phone and call your dearest, you know, A.P. or Reuters or Bloomberg. That is not the first thing in your head.

First thing is take care of the guy, go to the hospital, call his relatives, sit down, say who wants to do this. As I understand it, Dick said, you know, to her it's your call. And the sadness, the tragedy, was that she called the Corpus Christi Caller Times instead of the New York Times. This has just got them all worked up, for God's sake. WALLACE: Some Republicans, though, Senator, have also been unhappy with the way the vice president handled this. I want to point out one example. Peggy Noonan, the former Reagan speech writer, wrote an article in the Wall Street Journal in which she said that Dick Cheney has become the hate magnet for this administration.

And then she went on to say this. Take a look. She said, So Mr. Bush may feel in time that he has reason to want to put in a new vice president in order to pick a successor who'll presumably have an edge in the primaries. Senator Simpson, what do you make of that?

SIMPSON: Well, we have a word for it, but we won't use it here, out here in the wild west. Let me tell you, that is -- she is a wonderful gal. And I mean, I know her, and when I read her words, they're lyrical and they're marvelous.

Dick Cheney has become the hate symbol from the beginning. He was the hate symbol when he was with Halliburton. He was the hate symbol when he came in and the votes with South Africa and this and that. And then he was the hate symbol of hiding an energy conference. He was the hate symbol of terrorists, hate symbol of torture.

Let me tell you, those who don't like him have put a big red tail on his bum, and cloven hooves, and horns on his head. And let me tell you, if anybody thinks -- if this had happened to anybody else in America, it would have been like a sparrow belch in a typhoon.

WALLACE: Could you be a little more colorful, Senator?

SIMPSON: Well, I don't think I could, because it really is absurd. It's absolutely absurd. I go around the country. I travel all the time. And the American people are just shaking their heads and saying it's a hunting accident, a tragic hunting accident -- a victim, a guy who's hurt, and a guy who's hurt because he shot, who's pained, who's anguished. What's new, for God's sakes?

WALLACE: Senator, perhaps the most interesting part of all this is what we learned about the vice president over the course of the last week. In his interview with Brit Hume, he said that he thinks, as you just pointed out, that the national press corps is upset because they were left out, and then he added this shot. Listen.

(BEGIN VIDEO CLIP)

CHENEY: It strikes me that the Corpus Christi Caller Times is just as valid a news outlet as the New York Times is, especially for covering a major story in South Texas.

(END VIDEO CLIP)

WALLACE: Fair to say that your friend doesn't have much regard for the mainstream press, sir?

SIMPSON: I tell you, no. I think he has a high regard for the press, but he has a dismissiveness to stupidity. And where it started, where it started was when he and Colin Powell and Pete Williams, their press guy, when he was secretary of defense, answering questions on the first Gulf War, questions like when will you attack, where will the attack take place and how many forces.

Now, you've got to have rock for brains to ask questions like that. And I think at that time he just thought if they're goofy like that, you know, why not just stay away from them.

WALLACE: So summing up here, Senator -- and we love your tour of this whole event -- what does the last week tell us or should it tell us about Washington, about the politicians, about the press corps?

SIMPSON: Well, it tells you what -- you should listen to Lindsey Graham and Evan Bayh and know that, really, there is cooperation, but what it really tells you, what are we going to expect of the national press corps, and especially the Washington press corps, when something really happens.

How are we to trust, after a whole week of absolute dribble, and babble, and people, you know, interviewing themselves -- well, what do you think about Dick, oh, you know -- and Jay Leno and Letterman -- I asked them how would you feel if this happened to you.

Let me tell you, the American people are really waiting with sense of glee when something really, really happens in America, and I suppose they'll just have a catatonic stroke and pitch forward on their faces.

WALLACE: So I take it, Senator, do you really miss this place?

SIMPSON: No, I do. I loved it. I did. I loved it. And I loved it because it was fun. And I have a lot of pals on both sides of the aisle. I worked with President Clinton. I enjoyed him. President Bush, President Carter -- good people doing good things.

But let me tell you, you'll never find it if you just follow the Washington media. You'll never know the good. All you get is controversy, crap and confusion.

WALLACE: Well, there you go. That's a slogan. I've got to put that on a bumper sticker. Senator Simpson, we want to thank you.

SIMPSON: Yes.

WALLACE: It is, as always, a pleasure to talk with you, sir.

SIMPSON: A delight, Chris, you bet.

WALLACE: Up next, the media feeding frenzy over the vice president's accident. Sound reporting or just a chance to sound off? We'll ask our panel, Brit Hume, Mara Liasson, Bill Kristol and Juan Williams. Back in a moment.

(BEGIN VIDEO CLIP)

CONNIE LAWN, AUDIO-VISUAL NEWS: Is it proper for the vice president to offer his resignation or has he offered his resignation?

(END VIDEO CLIP)

(BEGIN VIDEO CLIP)

VICTORIA JONES, TALK RADIO NEWS SERVICE: And I was wondering whether this has caused Mr. Cheney to reflect on the kind of trauma that's experienced daily by the men and women in the military who have to shoot people?

(END VIDEO CLIP)

(BEGIN VIDEO CLIP)

DAVID GREGORY, NBC NEWS: Don't tell me that you're giving us complete answers when you're not actually answering the question, because everybody knows what is an answer and what is not an answer.

(END VIDEO CLIP)

WALLACE: That was the scene at the White House briefing Monday with reporters in full throat over how the vice president's hunting accident was made public.

And it's panel time now for our Sunday regulars, Brit Hume, Washington managing editor of Fox News, and Fox News contributors Mara Liasson of National Public Radio, Bill Kristol of The Weekly Standard, and Juan Williams also from National Public Radio.

With all due respect, I think Alan Simpson would call all of us, what was it, controversy, crap and confusion.

HUME: Right.

WALLACE: He never lets you down, does he?

So, Brit, did the media handle this story well or did they over- handle it?

HUME: Did the media handle it well? WALLACE: Yes.

HUME: No, it was a slow news week in Washington, which contributed enormously to this, and there's this sort of perception among White House reporters that they are disdained, circumvented, ignored, overlooked, bypassed, and not taken seriously.

And this delay of, what, some 20 hours for the revelation that this hunting accident had occurred, and then its placement in the local paper in south Texas, obviously, contributed to the sense that once again, the press was being dissed and that something important had been withheld, and it feeds into the culture of secrecy and all that, so you had this Beltway firestorm.

And I've got to tell you, Chris, I think that this issue beyond the Beltway has no attraction.

LIASSON: With the exception of the late-night comedians, who had a field day with this, this is a story that was pretty easy to understand. The vice president shoots somebody. Then there was the issue of whether he should have disclosed it sooner or handled it differently.

And on that, there's a remarkable amount of consensus. There is a Time poll that showed 65 percent thought he should have taken immediate responsibility as opposed to waiting. And I guess among that number would be President Bush, whose spokesman made it pretty clear that he also thought that Cheney maybe should have come out sooner.

But at the same time, the Time poll showed that 69 percent said this would have no effect at all on their opinion of the vice president, which nationally is pretty low. I think his approval rating is 29 percent.

So I think, overall, is this an important, significant story that will change something politically? No. For people who -- including members of the press, who feel this White House is too secretive and the vice president has too much power and is unchecked, this becomes a metaphor for that.

KRISTOL: Time, of course, chose to put this on the cover in its next week's issue with this very dark, ominous subhead, How One Shot at a Quail Hunt Turned a Gentile Quail

Hunt into a Political Crisis. And then they highlight in their press release the first number Mara mentioned. Most people think Cheney should have come forward a little earlier. What they don't highlight are some -- let me just mention a couple of additional numbers from the poll.

Do you approve of how the vice president handled this? Fifty- two-42, yes, approve. What's your general approval or disapproval of the vice president? It's the same as the president, almost identical to the president's approval rating. And this is my favorite: Do you think the vice president is an asset to the president and to his administration or damaging? Forty-one-37, an asset. Cheney is not hurting the Bush administration. If anything, he's helping it some. I think he's a political and substantive asset to the Bush administration. This accidental shooting has done nothing at all to hurt, to change, the numbers on Cheney.

Time obviously commissioned this poll desperately hoping Cheney's numbers plummet, damaging Bush administration. They couldn't find a thing like that. So it tells you much more about the press corps than the vice president, I think.

WILLIAMS: Well, I think it tells you a lot about the press corps, because I think it's exactly right to say that the press corps -- I think this was an example of a week of repressed rage boiling over on the part of the press corps that the White House...

WALLACE: Press rage.

WILLIAMS: Yes, press rage. I think that's what we had here -- that they feel, you know, that for the longest time, if you think about the president -- you know, vice president's health issue, the energy panel, all that, that Cheney just doesn't want to talk. And he gets away with it.

He's a man who's not running for re-election. He's a man who, even among the White House staff, people feel, you know, he doesn't respond to any -- he doesn't answer to anybody except maybe the president. And you know, in terms of public imagery, there's -- the question is who's running this White House, is it Dick Cheney.

So I think this is a metaphor for lots of things, and I think it's going to stick around for a long time in the way that Carter and the killer rabbit had a problem, in the way that Quayle and potato had a problem, in the way that Gerald Ford and chewing gum had a problem. This is a metaphor for the secretive, imperial Dick Cheney.

HUME: Oh, please. If this will be remembered for anything very much, a big part of it will be the behavior of the press corps. And this is something that reporters need to be careful about, because whatever the situation is, if the press acts like a pack of jackals, which is -- clearly, the examples you saw are a sample of that, the sympathy almost always turns in the public toward not the controversy itself, or the victims, or whoever. It always turns toward the briefer and the people on the other side of the questions.

Reporters have an obligation, if they're concerned about something, to ask tough questions but be courteous and respectful about it, which puts the focus on the answers. This week the questioners put the focus on themselves. They behaved badly. And I think that feeds into the perceptions that are reflected in that poll, which came out rather remarkably well for the vice president and the administration.

LIASSON: You know what, there's a difference, though, between the behavior in the White House briefing room and the actual coverage. I mean, the three examples that you chose there, one of whom was, you could say, kind of a major mainstream reporter, David Gregory of NBC News -- the other two questioners are rather minor, represent rather minor journalism outlets.

Look, I think that the coverage, including on the late-night comedians' show, which is what gave this a lot of legs, was quite different than the behavior in the press room, which I agree can be pretty raucous and reflect poorly on the press as a whole.

WALLACE: Bill, let me ask you about one aspect of this that I'm interested in, and that's the dynamic in the White House. When you were chief of staff to Dan Quayle and he was in one of his occasional mishaps, did White House officials ever say to you here's how we want the vice president to handle this?

KRISTOL: Sure, sure.

WALLACE: And would you?

KRISTOL: Sometimes. I mean, you know, there's always tension between the vice president's staff and the president's staff. In this case, I know for a fact, since I had one of these conversations, that there were people in the White House who were unhappy on Monday night and Tuesday before the vice president had his interview with Brit, that he needs to come out faster. But they're childish.

I mean, I would say the White House -- the vice president's political judgment is actually better than that of the White House communications staff, which panics if there's one day of bad press and thinks that this is destroying our -- this is getting us off message, Bush was giving an important speech. Was he giving any important speeches -- I don't know -- on health care or something last week?

I think there's always a tendency, if you work for the president, to resent the fact that the vice president, if he's made some error, you know, and done something that he wishes he hadn't done, is stepping on the message of the day or two.

WALLACE: But I guess what I'm getting at is that I covered a White House, and I know in the White House I covered, the Reagan White House, that if the chief of staff, James baker, had called George H.W. Bush's office and said we want you to do something, it would have happened.

KRISTOL: Right. Well, I think...

WALLACE: I'm not saying that's good or bad, but I find it interesting that with this vice president it didn't happen.

KRISTOL: Well, what I'm struck by -- well, they should call the vice president's chief of staff and say it, then. I mean, there's an awful lot of -- they're scared to take on the vice president.

But you know, maybe they should just make a phone call to Dave Addington, the chief of staff, and say we think the vice president should go out. But they're scared to take him on. And then they sort of background to reporters -- well, the president -- you know, we're a little unhappy with the way the vice president's handling this. WALLACE: Let me just -- before we leave this subject, Brit, you became part of the story this week with your interview, the only interview with the vice president, and some of our colleagues in the press compared it to Bonnie interviewing Clyde, a Soviet leader sitting down with Pravda. How do you respond?

HUME: You know, I thought there'd be more of that than there was, actually, but that kind of thing completely misses the point of what was going on here. The last thing in the world that Dick Cheney needed on that day was a soft interview, because he was trying to get this thing over with.

And the only way to get it over with was to answer every question that anybody might have, within reason. So, you know, I was headed down to the White House to do the interview that day, and I was thinking you know, I've had interviews with Vice President Cheney in which he has not been tremendously forthcoming, and I thought God, you know, what am I going to do if he does that.

And then the more I thought about it, the more I thought there's no way he was going to do that. But my job was simply to sit there and walk through this episode with him and ask all the relevant questions, because he was ready to answer them and needed to answer them. That's why, you know, there's no problem about asking about the drinking, no problem about any of it.

And that was why the interview, I think, came out as it did, because he was ready to talk, and knew he needed to, and to get it over with, and I think that, you know, except for the -- except for the shouting here that goes on in the little aftermath and the silly news weeklies, this thing is over.

WALLACE: It's over for us. Thank you all, panel, for that segment. We have to take a break.

But coming up, security for America's ports. Why are some Democrats and Republicans outraged over a decision by the Bush administration? Some answers in a moment.

(COMMERCIAL BREAK)

WALLACE: On this day in 1945, 30,000 U.S. Marines landed on Iwo Jima. It took the U.S. 36 days to gain control of the Japanese island and its airspace. The battle changed the course of World War II. Stay tuned for more panel and our Power Player of the Week.

WALLACE: And we're back now with Brit, Mara, Bill and Juan. Well, there were a number of developments this week on the national security front, and let's deal with some of them.

Juan, the Bush administration approving a company in Dubai buying and taking over operations at six of America's biggest ports -- both liberal Democrats and conservative Republicans are upset about this one.

WILLIAMS: Well, you're going to have Senate hearings later this month on just this subject, but the idea that the Bush administration went ahead and did this, with really very little diligence in terms of checking, I think not only in terms of the security issue, which I would hope that they did some diligence on, but it's not clear that they did, but also with -- in terms of the politics, I think that they're -- earlier, I forget if it was Evan Bayh or Lindsey Graham who said it seemed tone deaf politically.

I think it was tone deaf...

WALLACE: Senator Graham.

WILLIAMS: ... politically, because what it's played out with is it's caused a tremendous stir among the Republican base, much more so than anywhere else. I think conservatives are concerned that somehow you are inviting, you know, the wolf or the fox into the chicken coop.

WALLACE: Now, Brit, there was an interagency panel that reviewed this, a panel headed by Treasury Secretary Snow. And Michael Chertoff, who's been on another show today, said, in fact, that there was a thorough vetting of the security of this company.

HUME: You know, this isn't a security issue. This is a political issue. And it doesn't sound good if you're going to let some Arab sheiks take charge of our ports. That's what it comes down to politically. I don't think the administration will be able to sustain this.

I think it will have to reverse itself in some way or create some entity that stands between the company and the management of the port. I just don't think -- it's just too politically troublesome.

WALLACE: I mean, one of the things about this, Mara, that I have to say I enjoy -- isn't this a perfect free shot politically for Democrats to play hawk, to attack George W. Bush from the right -- we're more concerned about security than you are?

LIASSON: Well, yes, but questions about port security have been raised ever since 9/11, and not just by Democrats. I mean, this is kind of one of those lingering holes in the homeland security net, I mean, that cargo containers are not checked or not enough of them, and the ports are considered vulnerable.

And those issues have not been addressed satisfactorily for a lot of members of Congress in both parties, and now you've got a company from a country that is not a 100 percent ally of ours in the war on terrorism coming in to run security. I think it raises a lot of questions. And I agree with Brit, I think it's going to be hard to sustain this.

KRISTOL: Yes, the interagency committee that does this is led by Treasury. It has a preference for encouraging foreign investment in the United States, which is on the whole a sensible idea. They've rejected one of 1,500 such applications, though, since 1988 when this interagency committee was started.

They act in private, which is fine. It's within government committee, but there have never been, therefore, public hearings where it was explained, if it's the case, that there's no security problem, that the Department of Homeland Security handles the security at the ports, that this corporation, though headquartered in Dubai, is just as reliable as some corporation headquartered in London.

If that's the day, the administration has done a very bad job of making that case. And I think it hurts a little bit when the president is fighting a general right on homeland security, and saying we're the tough guys, we're eavesdropping on international calls, we've got to do that for security, and suddenly on something that looks a little bit questionable on the surface, there's very poor public defense by the administration, public explanation by the administration, of why this shouldn't raise concerns. So it has given the Democrats a free shot.

WALLACE: Juan, let's talk about another issue. We also had a report this week from the human rights investigators for the U.N. calling for the camp at Guantanamo to be closed and for the detainees there to be tried or quickly released.

Now, Secretary General Kofi Annan said he did not endorse the report but made it clear that he pretty much agreed with the conclusions. Let's take a look.

(BEGIN VIDEO CLIP)

ANNAN: There would be a need to close the Guantanamo, and I think it will be up to the government to decide and hopefully to do it as soon as is possible.

(END VIDEO CLIP)

WALLACE: In fact, even the British seemed to be deserting us on Guantanamo this week. WILLIAMS: Well, it's not official. I mean, people say that Tony Blair feels this

way. Tony Blair says it's up in the air, we need to discuss it, that it's really an anachronism at this point to still have these people held there.

But you're seeing these critics come from all over the map. I think this week has been obscured a little bit by the tempest over Vice President Cheney, but the fact is you had Secretary Rice up on Capitol Hill being excoriated by Republicans over what's going on in the Middle East policy, especially with the election of Hamas.

You had Chertoff on the Hill, again, being excoriated by Republicans about the handling of Katrina. You had a report come out on Katrina from a Republican committee saying that this substantially was ineffectual, a failure of initiative by the administration to properly handle it.

And you have Secretary Rumsfeld coming out and saying that the State Department, Karen Hughes and her effort to try to try to spread the American message in the Middle East, is not being sufficiently strong in terms of matching the message that's coming from our opponents.

I mean, it looks like there's lots of arguments about the way that policy is being done, and you know, it's easy to say oh, it's those Democrats, or it's those liberals, or if you disagree with this you're unpatriotic. But here's criticism coming from inside, so that's a different kind of criticism.

HUME: Chris, this is a huge problem, the idea of closing Guantanamo Bay. The leak and publication of the fact that we had facilities in Eastern Europe has led to the loss of those facilities, perhaps all of them.

If you're fighting a war on terror, an unusual kind of war, and you round people up, as at times you must, you need a place to put them, you need a place to question them, and Guantanamo is one such place. We've lost some already. This is a hindrance.

And it gets down to this whole question that's been there from the beginning of what kind of war this is. Is this a real war, a shooting war, a bloody war where rough things get done and everything is not a law enforcement operation, and you round people up, you capture them, and you hold them the way you do in a war, or is this something else?

The something else view has some sway on Capitol Hill, largely among Democrats, but also among such people as Chuck Hagel, people of that stripe. And I think that this is a serious problem for this administration. This whole issue and the need for these facilities is a big problem.

WILLIAMS: And now you see the administration is going to have to play ball with the Hill on the warrantless wiretaps. They're agreeing to go forward with some kind of law. That's been a tremendous shift this week. HUME: You know what caused that, though, Juan? The original feeling about not having any new legislation to authorize this in any

way was believed by everybody involved, including the members of Congress who had been briefed, to be unwise because it would blow the cover of the program.

Well, that was taken care of now by the New York Times, so the need for all of that has diminished, and that opens the way for the administration to go along with added authorization.

LIASSON: Well, it took them a long time after the New York Times report to get to that. But look. Something is going to have to be done about Guantanamo to kind of rationalize the legal system and the legal appeals that these prisoners get. It's working its way through the U.S. courts, and they're going to weigh in on this, too.

WALLACE: Having said all that, there are 500 prisoners there. They're going to have to do something with them. All right, panel. Thank you. That's it for today. See you next week.

Time now for some mail about the criticism of President Bush at Coretta Scott King's funeral. Laura Hicks from Illinois writes, It is totally appropriate for the people who knew and love her to say what comes to their hearts to express whatever sentiment they want to express.

But Joan from Florida saw it differently. Mrs. King's funeral was used by Reverend Lowery for political purposes. This wasn't a eulogy. It was rhetoric to do harm to our president.

And Paul Oskay from Virginia offered this, I find interesting that you consider the reporting of the Muslim cartoons as a freedom of speech issue and some of the speeches at the funeral of the wife of Dr. Martin Luther King as inappropriate speech. Shouldn't both be considered freedom of speech?

Be sure to let us know your thoughts by e-mailing us at fnsfoxnews.com.

Up next, our Power Player of the Week.

(COMMERCIAL BREAK)

WALLACE: As you enjoy this Presidents' Day weekend, we hope you'll take a moment to think of those American leaders.

This week we visited the site of a national tragedy that's been turned into a national treasure. It's the job of our Power Player of the Week.

(BEGIN VIDEOTAPE)

PAUL TETREAULT, PRODUCING DIRECTOR, FORD'S THEATER: People will come here thinking they want to just see the tourist attraction, and they'll end up coming

to see the theater. WALLACE: Paul Tetreault is producing director of Ford's Theater, a place with two very different personalities. By day, it's run by the National Park Service. Tourists come to see where Abraham Lincoln was assassinated.

TETREAULT: There are over a million people a year that come to Ford's Theater.

WALLACE: But by night, 100,000 people a year come for the same reason Lincoln did on April 14, 1865, to see a play.

TETREAULT: The house opens at 7 o'clock. They come in, and between 7:00 and 7:30, all they do is ooh and ah over the box, the place where that act happened. And then all of a sudden, the lights go down, and suddenly people are transformed.

WALLACE: After Lincoln's murder, the government turned Ford's Theater into an office building. Based on civil war photos, it was rebuilt and reopened in 1968. Even though it's a reconstruction, when Tetreault showed us the path of assassin John Wilkes Booth into the president's box, the sense of history was overwhelming.

TETREAULT: So he opens this door. He comes in at a loud moment in the play. Abraham Lincoln is sitting here. Mary Todd Lincoln is sitting there. He shoots the president about six inches away from his head.

WALLACE: One shot, back of the head...

TETREAULT: One shot, back of the head, and it was...

WALLACE: ... and history is changed forever.

Tetreault's job now is to take advantage of the history, to turn all those tourists into theatergoers. One thing he wants to tap into is Lincoln's legacy.

TETREAULT: Abraham Lincoln loved the performing arts. He came to Ford's Theater 10 to 12 different times during his presidency.

(BEGIN VIDEO CLIP)

ACTRESS: I think (inaudible) more than anything in the whole world.

(END VIDEO CLIP)

WALLACE: Of course, Tetreault understands if you want to attract audiences, it's the productions that count.

(BEGIN VIDEO CLIP)

ACTOR: This will be my final year.

(END VIDEO CLIP) WALLACE: He wants to make Ford's the theater in Washington for American classics. But there is also the setting, a sort of time machine that transports you back to the 19th century.

As you stand here, it's remarkable how intimate it is. I mean, you're right up on the stage.

TETREAULT: This place is an amazing jewel box. Everyone who performs here -- all of the performers stand on that stage and just say it's so intimate.

WALLACE: And that is Tetreault's goal, to bring together the historic site and the active theater and create a true landmark for America's living history.

TETREAULT: Where you have sort of America's most famous theater, and not just famous for that act in 1865, but famous for wonderful and brilliant theatrical performances that really speak to America.

(END VIDEOTAPE)

WALLACE: One more thing we learned from our tour. General Grant was also supposed to be in the president's box that night but canceled at the last minute.

And that's it for today. Have a great week. And we'll see you next Fox News Sunday .

CBS – FACE THE NATION

SCHIEFFER: And good morning again. With us now, the Republican leader in the Senate, Bill Frist. Joining in the questioning this morning, Elisabeth Bumiller of the New York Time.

Well, we had quite an episode last week, Senator Frist, involving the vice president, the shooting accident.

I must say, as I was preparing for this program this morning, it seemed to me there was one question here. And that was, has this hurt Republicans in general?

But now Time Magazine has done some extraordinary reporting. They're reporting this morning that the president himself had to lean on the vice president to get this out in the open and made public.

We're told that at one point, the day after the shooting, the vice president was considering issuing a statement that did not even reveal that he had been the shooter.

What do you think about all this and the way it's been handled?

FRIST: You know, Bob, as a surgeon, I've been involved in taking care of lots and lots and lots of patients who have been shot both in the heart and in the chest and, always, my concern goes with the victim.

And it was great two days ago, or on Friday to see Mr. Whittington look so good, so healthy and not be hurt. So our thoughts and prayers are with him.

And then, it does go to the person who accidentally pulled the trigger. And there, the vice president has come forward and said that he did it. He said it was the worst day of his life. He was distraught about that. And he took full responsibility.

The actual timing -- I'm not saying the particular story you're talking about -- I do think what America does not want to see is what happened right afterward.

And that is where the Democratic leadership tried to inject partisan politics into what is a very, very tragic accident and an accident that did happen.

SCHIEFFER: Well, but, Senator, I mean, shouldn't this have been made public if, for no other reason, for the administration and the vice president's own good?

I mean, one can understand that he clearly was not thinking straight. And who would, after thinking they had killed their best friend -- or one of his best friends?

And, clearly, that's what he thought at the time. There's no question the man was shaken.

But the fact -- to hold this for a full day without giving an accounting of it and then to go back and find out that they were going to issue a statement, or at least thinking of a statement that didn't even mention that he was the one with the gun?

I mean, isn't that just going to raise all kinds of questions?

FRIST: Bob, I think we'll just have to let it play out. And I think the discussion of the story -- it will continue in terms of the specifics of the timing.

I am thankful that nobody did get killed. The vice president has taken full responsibility for that. The story, I'm sure, will continue to play out. A lot of other important business of the nation is being set aside. And I'm going to be focusing on that.

SCHIEFFER: Well, but let me just ask you on that. I won't make the whole broadcast about this, but has the vice president become a liability to the White House? Has he become a liability to your party?

FRIST: You know, absolutely not. Absolutely not. He is a bold leader. He understands and works very closely with the vision of the president of the United States in securing America's future to a safer, stronger country.

That means he has to be both a leader as well as a participant. And I think he does it very, very well.

BUMILLER: Senator Frist, let me just ask you one more question about this. The president signaled very strongly this week that he was not happy with the way this was disclosed. It's quite obvious.

Are you not willing -- are you happy with the way this was disclosed?

FRIST: You know, I'm going to leave it to them. I'm running over here another body, the legislative branch of government that was not involved in this situation at all.

Again, I'm very thankful that this tragic accident has been and is being resolved and that nobody was hurt irreparably. And I don't think it is appropriate to try to inject partisan politics into this particular event.

BUMILLER: Let me just ask, as a heart surgeon, one last question. This is a man who has a BB embedded in his heart. Can he live a healthy life like that?

FRIST: Yes. We leave pellets, bullets, in people all the time. In fact, a very clear indication -- I think just looking at him the other day -- that it looks like he is in great shape.

SCHIEFFER: Well, let's talk about something else. I take it that you're ready to talk about something else.

Senator Roberts, the chairman of the Intelligence Committee, said this week that he now believes that they're going to have to do something, either rewrite the laws or find some way to bring White House eavesdropping under the law and under the intelligence court that rules on whether or not these things are legal and is the one responsible for issuing the court orders to authorize it. Where do you come down on that?

FRIST: Bob, I am working on this every day, a very important issue because of the value of this program, a program that most everybody understands is absolutely critical to the safety and the security of all the viewers right now, the American people.

And that's the president's bottom line, as I've talked to him and the administration. There are a lot of issues that do need to be addressed.

I am one of those eight people, half Democrat, half Republican, who have been thoroughly reviewed with this program, discussed with this program. I believe the program -- I know the program is constitutional, that it is legal.

SCHIEFFER: All right. Well, let me just stop and let me just get back to the question.

FRIST: It is legal.

SCHIEFFER: Since you know all about it, as you're one of the eight who knows more about it than the others...

FRIST: Right.

SCHIEFFER: ... do you think that the whole situation needs to be brought under the control of the court?

Do you think we either need new laws to do that or do you think it's okay to just keep going as you're going?

FRIST: Bob, there are two issues we're looking at. One of them that Senator Roberts mentioned is the overall oversight.

And the question -- are eight people, half Democrat, half Republican sufficient in terms of giving oversight, being briefed on this program?

And we're going to continue to discuss that as we talked about at the end of last week.

And then the second is new legislation required. That's also what's going to be discussed. Do we need to update the FISA, the Foreign Intelligence Surveillance Act? Do we need to update that 1978 act today in this 21st century of technology?

And it's a question we are asking and will ask. Does it have to be thrown over to the courts, going back to your question? I don't think so. I personally don't think so.

SCHIEFFER: You don't think that the court needs to issue a court order before they do that?

FRIST; No.

SCHIEFFER: Do you think the law needs to be rewritten? I mean, you say you're going to look into it.

What's your feeling? Is it your sense that it is probably going to have to be rewritten?

FRIST: I can't really answer that now. I don't think that it does need to be rewritten, but we are holding hearings in the Judiciary Committee right now.

They've already begun under Arlen Specter and Pat Leahy. They're looking at whether we do need to put more statutory discipline around that. We have not been able to answer that yet.

BUMILLER: Senator Frist, what went wrong with the Medicare drug program?

FRIST: Well, it's interesting. The prescription drug program you're talking about -- first of all, I think no one would argue with the fact that giving seniors access -- affordable access -- to prescription drugs which they did not have before this program is a wrong thing.

BUMILLER: Right, but Senator Frist...

FRIST: And, secondly -- to go on to your question. What went wrong Right now...

BUMILLER: Hundreds of thousands of seniors were denied benefits because of computer glitches. I could go through a long list. So tell me what went wrong.

FRIST: The fact that, in a period of about six weeks, we took 25 million people who now have affordable access to prescription drugs and put them in a federal program and six weeks ago they were not in that federal program.

BUMILLER: But are you saying nothing went wrong?

FRIST: No, I didn't say nothing went wrong. Please don't put words in my mouth.

With that, you take 25 million people. You put them in a new government program. There are all sorts of stumbles and glitches and there is confusion.

So things have not been smooth, but the fact that, right now, a million prescriptions are being delivered each day, through a program that didn't exist, where seniors no longer have to choose between food in their refrigerator and medicines which are life saving is a good thing.

And I predict that six months from now or a year of a program that gives seniors affordable access to prescription drugs which are life saving, which they didn't have before which on average saves them $1400, is something that those seniors will appreciate.

BUMILLER: Will this be a liability for the Republicans in the '06 elections?

FRIST: No. The fact that we are giving seniors affordable access to prescription drugs by choice -- it's voluntarily -- that they didn't have before. Of course it won't be a liability. I think it will be a huge plus.

SCHIEFFER: Senator, the capitol has been engulfed in a corruption scandal, bribes, all kinds of things happening up there.

For a while, it looked like that people were ready to really get in there with some tough laws and reform them. But now the Republicans have elected a new leader over on the House side. He seems to be backing away from all of that.

I'm beginning to wonder, is the Congress just going to let this sort of fall under the cracks, or are you going to do something about it?

FRIST: Bob, speaking from the standpoint of the Senate, my goal -- our goal is to restore faith and confidence in our government today. And it's low right now.

SCHIEFFER: Well, aren't you going to have some tough new laws to do that?

FRIST: Yes, yes. And so what we did is very aggressively come back, and in a bipartisan way, with the leadership of Rick Santorum, John McCain, Joe Lieberman, put together a plan that with constant meetings, hearings, both in the Rules Committee, hearings in the Government Affairs Committee that have already been conducted. The week we get back from this recess, that bill will be marked up, and the following week we will have a very strong lobbying reform bill and ethics reform bill on the floor of the Senate. (inaudible).

SCHIEFFER: Will it include outlawing travel paid for by other people?

FRIST: It will be -- the bill hasn't been written or marked up yet. But the things that will be looked at is much further disclosure, much further transparency. Gifts, whether or not they should be banned, will be looked at, and how much travel should be paid for by outside groups. All of that will be looked at. And there will be a lot of restrictions. There will be a lot more definition between K Street and Capitol Hill.

SCHIEFFER: All right. Thank you, Senator.

FRIST: Good to be with you. Thanks, Bob.

SCHIEFFER: Back in a moment with a Democratic view on all of this.

(COMMERCIAL BREAK)

SCHIEFFER: And joining us now from Rancho Mirage, California, Senator Barbara Boxer of California, who is a Democrat, of course.

Well, Senator Boxer, the Republican leader in the Senate says that the problem here with this Cheney episode is that Democratic leaders tried to inject partisan politics into the whole thing. What would you -- how would you respond to that?

BOXER: Well, this story has so many legs that it has nothing to do with partisan politics. Everybody is interested in it because it really speaks to vice president's penchant for secrecy. It now looks like he really, to the last moment, tried to keep it secret.

But you know, there was a mistake made. The vice president made the mistake. There was one victim. We all hope he'll get well. And I think what really resonates with the people I talked to is all the mistakes this administration is making where they don't own

up to it and where there are thousands of people hurt, maybe millions of people hurt -- like the prescription drug benefit, like the fact that they raised the cost of student loans, like Iraq, where we now have 19,000 of our servicemen and women either dead or injured. And Katrina, which is still a mess.

We're talking about thousands and millions of people that are hurt by this administration. I think that's what's really important here.

SCHIEFFER: All right, well, let's go right to Elisabeth.

BUMILLER: Senator Boxer, this morning Michael Chertoff, the homeland security secretary, said that the Bush administration had made -- had had some secret -- had taken secret steps to -- about a company owned by the United Arab Emirates that is now running operations at six major American ports, including New York and Baltimore. He said they had taken secret steps to ensure that there would be no problem with this company. What do you say to that?

BOXER: It is ridiculous to say you're taking secret steps to make sure that it's OK for a nation that had ties to 9/11, could take over part of our port operations in many of our largest ports. This has to stop.

And what is the secrecy about? We have a committee headed by the secretary of the treasury, who is supposed to look at all of these purchases. Because what's happening here is this Dubai company is buying a British company.

My view is, I'm going to support legislation to say no more, no way. We have to have American companies running our own ports.

Our ports are soft targets. We're very worried about them. Al Qaida has said if they attack, that's one of the places they're looking. So this should be a no-brainer.

And for Michael Chertoff to say that they've looked at it in a secret way, this is the United States of America. What is all this secrecy anyway? We are supposed to be a democracy, where we let the American people know what's going on. And we know what's going on here. And this is just wrong. You don't have this company take over our ports. It's just wrong.

SCHIEFFER: Well, let me just play the devil's advocate here, if I could, Senator.

BOXER: Sure.

SCHIEFFER: Nobody has questioned that this is not a good, solid company. It is owned by, you know, a company in Dubai. Why do you think this is dangerous for our security?

BOXER: Well, I just take it to the bigger picture. Since 9/11, we have to change the way we do things. And I just don't think any foreign company, period, ought to be running our ports.

Our infrastructure is at risk. We know it. Port security, nuclear plant security. Are we going to now have a foreign company oversee that? So it just seems to me very, very simple. And I don't think we're being overly paranoid. Very simple to say that our infrastructure has to be protected, and let's have American companies do that, or the government itself.

BUMILLER: Senator Boxer, Senator Frist just said on this program that he thought that the Medicare prescription drug plan would be a big plus, as he put it, for the Republicans in this year's midterm elections. Do you agree with that assessment?

BOXER: I don't, and let me tell you why. I think the more the American people look at this program, this legislation, that was crafted, in my opinion, to primarily benefit the pharmaceutical industry, the insurance industry, the more that that comes out, the more people will turn against the Republicans running this whole country. Let me tell you this...

BUMILLER: Just one...

BOXER: Yes, go ahead.

BUMILLER: Senator Frist does say that more people will be covered under this plan.

BOXER: All well and good. But we should have had a plan that was written to benefit the people.

Let me give you just one example. In this bill, the Republicans forced into this package a provision that says that Medicare cannot negotiate for lower prices. Now, that flies in the face of what the military does, what the Veterans Administration does. Here we have 40 million Americans eligible for this program. Imagine the wonderful power of negotiating that Medicare could have on behalf of these people. They do it with the VA, with the Pentagon. They didn't want to do it.

They also allowed more than 1,000 plants to move forward nationwide. It's very confusing. And they just put Medicare's role to be a very small part.

It's the privatization of Medicare, just as they wanted to do with Social Security.

So I think this is one of these laws where the more the light of day shines on it, the more people are going to turn against what the Republicans did.

Should we have a benefit for our people? Of course. Absolutely. But this was written for the special interests, and it's very sad. We blew this opportunity, and we should fix this. And we can fix it. But the Republicans don't want to.

SCHIEFFER: Let me ask you this, Senator Boxer. Some people say that the Republican -- or rather the Democratic agenda right now is to simply just jump on everything that Republicans do. Do you think that is enough to win back the House and Senate?

BOXER: Of course not. That's why I said we need to fix Medicare. And we have a plan to do that. That prescription drug benefit, we want to fix it so we allow Medicare to negotiate for lower prices. We want to take the savings from that, and then apply that to the coverage gap. Right now, after you spend about $2,700, until you spend about $5,100 on medicine, it's 100 percent your responsibility. We want to fix that.

We want to fix the student loan program. We want to reject the cuts that the president has made, the largest cuts in history, on education.

And these are the things that we will be offering to the American people. We want to change things for the better.

And yes, we don't want to have Gonzales, now the attorney general, investigate the Abramoff scandal because there are so many close ties between Abramoff and President Bush. We want to have a special prosecutor. So we want to clean the mess up there. And we will have a plan to do that.

SCHIEFFER: Well, what are you going to do about that? Because after this whole thing broke, it looked like in both the House and the Senate, people came forward with all these enormous reform packages to outlaw this and that.

BOXER: Yes.

SCHIEFFER: Now it looks -- over on the House side, it looks as if the Republicans are sort of backing away from that. It's not altogether clear what's going on in the Senate.

For example, would you favor outlawing people paying for members of the House and Senate to go on these trips? Should some of these things that lobbyists now pay for be outlawed, or is it enough, as some in the Senate seem to be saying, to just make sure it's all reported and written down and made public?

BOXER: I don't think there should be any trips paid for by lobbyists or trips where lobbyists are on the trip. It just should be outlawed. Straight ahead. You know if it's a non-profit, it's if it's a think tank, that's a foundation funded, that's different. But there shouldn't be any private-sector trips that are paid for anymore.

But, you know, it goes beyond that. Those are changes in the law we must do, and I support. But there really have been laws already broken. And what we need is to have an

aggressive Justice Department go after the folks already in the Congress who have broken the laws. And that's where we want to have an outside counsel rather than have the president's man, Alberto Gonzales, conduct those investigations when Abramoff gave well over $100,000 to the president, appeared with the president on many occasions.

It just seems to me we need a breath of fresh air there. And have an investigation. We shouldn't forget it's not only changing the laws, which we should do, but it's prosecuting those who already broke the laws that we have on the books.

SCHIEFFER: Well, thank you very much, Senator. I would agree with you...

BOXER: Thank you.

SCHIEFFER: ... on one thing. There is a lot of air. We'll find out how fresh it is in the weeks to come. Thanks for joining us this morning.

BOXER: Lots of air.

SCHIEFFER: Back with a final word in just a second.

(COMMERCIAL BREAK)

SCHIEFFER: Finally today, Secretary of Defense Donald Rumsfeld says one source of America's problems these days is that we are losing the public relations war to Al Qaida. In a speech to the Council on Foreign Relations he said, quote, The U.S. government still functions as a five-and-dime store in an eBay world.

Boy, did he get that part right. But, man, is he wrong about why. I've dealt with brother Rumsfeld since he was President Ford's chief of staff and, frankly, I like the guy. Not long ago, I reminded him that we have been arguing with each other for 30 years now. We both laughed.

But here is why I believe he's wrong. He thinks the press, for instance, makes too much of horrible events such as Abu Ghraib. I don't. A democracy by definition means openness. The founding fathers knew enough about human nature to know that government would always cover up its mistakes if it operated in secret.

Bringing mistakes to the fore is a strength, not a weakness. When America outlawed segregation, it acknowledged 200 years of wrongs far worse than Abu Ghraib. Would anyone argue that publicly correcting those wrongs made us weaker? To the contrary, it made us stronger. It showed the world that we live by the values we preach, and that those values work.

This administration has been secretive when there was no point to it. Has paid reporters to take the government line and has left the impression that bad news exists only in the minds of reporters. That's no way to win a P.R. war. It is a sure way to lose it. Our

strength comes from emphasizing in every word and action the values that separate us from those who oppose us, not from adopting their methods.

That's it for us. We'll see you next week right here on Face the Nation.

CNN – LATE EDITION

WOLF BLITZER, HOST: It's 11 a.m. in Washington, 8 a.m. in Los Angeles, 4 p.m. in London, 7 p.m. in Baghdad. Wherever you're watching from around the world, thanks very much for joining us for "Late Edition." We'll get to my conversation with the U.S. Secretary of Homeland Security Michael Chertoff in just a few minutes. First, though, let's get a quick check of what's in the news right now.

(NEWSBREAK)

BLITZER: Thanks very much, Susan. In New Orleans, Mardi Gras has begun. There are fewer parades and floats and far fewer tourists, but in a city still struggling to recover from the devastation of Hurricane Katrina, it's seen as a victory to have a celebration of any kind at all.

In contrast, there were no celebrations here in Washington this past week, as a Congressional report blasted the federal response to Katrina. The man in the hot seat, Michael Chertoff, the secretary of homeland security. I spoke with the secretary earlier today.

(BEGIN VIDEOTAPE)

BLITZER: Secretary Chertoff, thanks very much for joining us.

MICHAEL CHERTOFF, HOMELAND SECURITY SECRETARY: Good to be here.

BLITZER: Here's the conclusion of the House report on Katrina: "It remains difficult to understand how government could respond so ineffectively to a disaster that was anticipated for years and for which specific dire warnings had been issued for days. This crisis was not only predictable, it was predicted. If this is what happens when we have advanced warning, we shudder to imagine the consequences when we do not. Four and a half years after 9/11, America is still not ready for prime time."

Do you agree with that bottom line conclusion?

CHERTOFF: Well, I said in July before Katrina that we had a lot more work to do in preparedness. And I think that was borne out, obviously, a month later. We have made a lot of progress in a lot of areas. We've done it in intelligence sharing and certain elements of security. There were parts of the department, in fact, that worked very well in Katrina, like the Coast Guard and TSA.

But there's clearly a lot of work we have to do in a department that is still an immature department by Washington standards. It was only two years old, a little over two years old by the time Katrina hit. The Department of Defense took 40 years to get where it got. Now, I'm not suggesting we're going to wait 40 years or even four years, but I think we have to put in perspective the fact that we've come quite a distance. We have quite a distance to come -- go, as well.

BLITZER: Is the country ready for another 9/11?

CHERTOFF: Well, first of all, what we're ready to do is stop another 9/11. And that's where our intelligence sharing, our increased protective measures, what we're doing now at the border to screen. All of those things are designed to prevent a 9/11. That's the best outcome.

We've certainly learned a lot of lessons from Katrina, from Rita. Rita was better than Katrina. We're doing a better job planning. We're closer -- more closely aligned with the Department of Defense. These things would be positive things if we were to have another attack.

But we've got a lot of work to do. And one of the things I want to say, Wolf, is we're 100 days from hurricane season, and we've got to start focusing on what we're going to do to make ourselves ready for the next hurricane.

BLITZER: Here is another conclusion from the House of Representatives report: "It does not appear the president received adequate advice and counsel from a senior disaster professional. The president's homeland security team did not effectively substantiate, analyze and act on the information at its disposal." You agree with that?

CHERTOFF: Well, I think first of all there was a failure to have real, clear information at our disposal. There was a real lack of situational awareness. We didn't have the capabilities on the ground to give us real-time, accurate assessments of the physical condition of the city.

BLITZER: But you knew that for days, that this hurricane was coming towards New Orleans.

CHERTOFF: Wolf, putting these capabilities together is not a matter of putting them together in a few days. It's a matter of planning and preparing for months.

BLITZER: But there has been these tabletop exercises. There was this fictional Hurricane Pam a year earlier in which they basically outlined all of these dire consequences that nobody seems to have paid any attention to.

CHERTOFF: Well, I'm not excusing the fact that planning and preparedness was not where it should be. We've known for 20 years about this hurricane, this possibility of this

kind of hurricane. So, all during the '90s and, you know, for the first half of this decade, we had opportunities to get evacuation plans in place, better communications in place. But rather than look backward, my obligation now is to make sure we do a lot of the work we need to do between now and June 1.

BLITZER: Here's what your former FEMA director, Michael Brown, said when he testified on February 10 before Congress. Listen to this.

(BEGIN VIDEO CLIP)

MICHAEL BROWN, FORMER FEMA DIRECTOR: The culture was such that I didn't think that would have been effective and would have exacerbated the problem, quite frankly, Senator.

UNIDENTIFIED MALE: Why would that...

BROWN: That's why my conversations were predominantly with the White House, because through the White House I could cut through any interagency bureaucracy to get what I needed done.

(END VIDEO CLIP)

BLITZER: He's basically saying that he ignored you. He didn't even want to talk to you during those critical hours and days when Hurricane Katrina hit, because it would have been a waste of time.

CHERTOFF: I think that's -- was a very big mistake on his part. The fact of the matter is, where things did work well was precisely because DHS brought its other assets into play. On Thursday, when we went around FEMA and constructed an air bridge to allow an evacuation from the airport instead of making people drive to Houston, it was because the department stepped in with TSA and the other assets to set that up. Coast Guard stepped forward and picked up a lot of the slack.

I think the idea that you can go this alone is -- was a huge mistake. And unfortunately, there was a price paid in terms of suffering and pain for people in New Orleans.

BLITZER: In an interview with a documentary filmmaker, he gives you this grade for the work he says you did or didn't do during that disaster.

(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: Secretary Chertoff?

BROWN: You know, a C-minus. The secretary is a judge by training. And you can't do things like tell your disaster guy to go back to Baton Rouge and stay in Baton Rouge and never leave. That's not how you do operations. He just doesn't get it.

(END VIDEO CLIP)

BLITZER: He says you just don't get it.

CHERTOFF: Well, first of all, you know, Mike Brown has given a lot of different versions of events. And I'm not going to get into the specifics of, you know, which version we're happening to hear right now. But I do want to make a point.

First of all, I lived through 9/11. I had perhaps the best on- the-job training for dealing with a huge crisis when I was running the response to 9/11 on the law-enforcement side during those weeks after the terrorist attacks.

I do want to respond to Mr. Brown's statement that I was wrong in making him go back to Baton Rouge. On Tuesday, he was flying around with politicians. He was doing interview shows. And the basic planning, which was getting buses to come into the Superdome and pick people up, had not been done.

And it seems to me correct then, and I think it's correct now, that job one is get the planning done, make sure the buses are there. When that's done, it's completely appropriate to go around and tour around and look at the damage. And that's what Admiral Allen did when I made him the PFO. But Admiral Allen always knew what was the most important thing to get done first, and he got it done.

BLITZER: The hurricane came in on a Monday morning. That was August 29. And the levees broke, basically, that day. But you went to sleep that night, you didn't even know that the levees had broken.

CHERTOFF: Well, that's right. One of the things that was the most disturbing to me about the entire week of what happened was the fact that on Monday around 7:00, I got a situation report that specifically said, there hasn't been any demonstration of a substantial breech of the levees.

It was one of the things I was, frankly, concerned about during Monday. So I breathed a sigh of relief. I figured, well, we have avoided at least one really bad outcome.

And of course, I was very disturbed to learn early Tuesday morning that there had been a substantial and irreparable breech.

That really boils down again to the fact that all decisions have to flow from proper and comprehensive information. And we didn't have that information.

And so our first job right now, as we get ready for next season, is training the people and building the capabilities to get information in real time.

BLITZER: Your critics have suggested you were disengaged, you were detached. On that Tuesday, it was August 30th, and you knew then that the levees had broken, water was coming in, the city was being flooded, tens of thousands of people were being made homeless -- you went to a bird flu conference in Atlanta.

CHERTOFF: And I'm glad to be able to correct that, because this is one of those urban legends that continues to persist.

I did two things on Tuesday. I did go, not to a bird flu conference. I did go to meet with the Health and Human Services secretary and the critical leadership of CDC on a plan for avian flu, which I think is a very serious issue.

But I also linked to the emergency operations regional center in Atlanta, which was responsible for running the hurricane response in Mississippi and Alabama. And I went to Atlanta specifically to be able to get an on-the-ground assessment of the hurricane from the people who were responsible for managing at the region.

So in fact, one of the reasons I went through with the trip was because I knew it would give me an opportunity to talk to the real operators who were watching the situation up close.

BLITZER: How many trailers are sitting in this cornfield, or cow field, whatever it is, in Hope, Arkansas, right now that FEMA, which is -- you're responsible for -- has dispatched to this area?

CHERTOFF: We staged about 10,000 -- not trailers, mobile homes. Trailers are actually -- there are tens of thousands of trailers right now being occupied by the people in the Gulf Coast. There are about 10,000 mobile homes in this field in Hope.

BLITZER: At a cost of, what, $300 million?

CHERTOFF: Well, that's the purchase price. Now, they will eventually be used. Some of them will be used with respect to areas of the Gulf that are not in the flood plains. Some of them have been used with respect to the wildfires, people who lost their homes in wildfires in Oklahoma and Texas. Some will be used in hurricane season this year, for example, if we have hurricanes in Florida or other places where there's wind damage but not flood damage. So this is not going to go to waste.

BLITZER: Why aren't they being used right now? There are so many homeless people who are being evicted from hotels and being told, you know, "You're on your own," basically.

CHERTOFF: Well, first of all, Wolf, no one is being evicted from hotels. Nobody leaves a hotel without getting a full measure of three months of rental assistance. So no one has been evicted -- no one who's eligible has been evicted from a hotel without getting a significant amount of money to find -- to pay for their rent.

Second, there are two problems with respect to mobile homes in particular. One is we obviously don't want to put them in a flood plain, because if there's another flood, you're going to lose the mobile home.

The second is there are some communities that we thought originally would take mobile homes that have decided they don't want them. And we're not going to cram mobile homes down the throats of communities in Louisiana and the Gulf -- and other parts of the Gulf Coast.

So this huge housing challenge we have has to be managed on a -- almost on an individualized basis in order to deal with what is a very serious human problem.

BLITZER: Here was the conclusion of the House report. "The secretary of homeland security became the president's principal disaster adviser responsible for enabling the president to effectively utilize his authority. Secretary Chertoff executed these responsibilities late, ineffectively, or not at all."

That's a damning indictment. Some are calling on you to resign. Are you thinking about that?

CHERTOFF: Well, Wolf, first thing, as I've said before, is I knew when I took the job there was a lot of work to be done in the department. As long as the president wants me to continue to do that work and thinks I can make a contribution, I'm going to stay at my post. Obviously, there's been a lot of criticism. I've listened to it all. Some of it I find helpful. Some of it I frankly disagree with. There's a lot of discussion about when particular documents were signed or not.

But I think the bottom line right now is to take the constructive criticism and use that to build toward, as I say, the hurricane season that is 100 days away. And we don't have a lot of time to waste before we start to address that next set of challenges.

BLITZER: Let's talk about lessons learned. Not only in terms of natural disasters, but potentially terrorism. Former New Jersey Governor Tom Kean, chairman of the 9/11 Commission, said this in early December.

(BEGIN VIDEO CLIP)

TOM KEAN, CHAIRMAN, 9/11 COMMISSION: Four years after 9/11, it is a scandal that police and firefighters in large cities still can't talk to each other reliably when they're hit with a major crisis.

(END VIDEO CLIP)

BLITZER: Is he right?

CHERTOFF: Well, first of all, Katrina was not an interoperability issue. It was an operability issue. So that's a separate set of issues.

Second, although we've got some work we have to do to promote interoperability, we have done some things. The 10 largest cities have been part of a rapid com program, which does allow for command level interoperability in terms of radio. We do have these, what they call gateway systems or repeaters, that allow us to transition from different kinds of systems that don't match directly but we can interface them through this gateway.

So we are making some steps. But I had a meeting last weekend in which I said, "Look, we are not at the level we need to be four years after 9/11." We're going to have to take some dramatic steps. We may have to force people to get together in terms of picking a particular type of technology and starting to build to that technology, as opposed to everybody exercising their right to buy their own system, you know, at will.

BLITZER: We're almost out of time, but I have to ask you about this report of outsourcing ports in the United States to a company that's based in the United Arab Emirates. Ports sold to Dubai Ports World, this company, New York, New Jersey, Baltimore, Philadelphia, New Orleans, Miami.

Listen to what Senator Chuck Schumer of New York had to say about this idea.

(BEGIN VIDEO CLIP) SEN. CHUCK SCHUMER (D), NEW YORK: Outsourcing the operations of our largest ports to a country with a dubious record on terrorism is a homeland security accident waiting to happen.

(END VIDEO CLIP)

BLITZER: And other members of Congress, including Curt Weldon, have said, "I have concerns over whether the United Arab Emirates has earned this level of confidence that the administration appears to be placing in it. This sale would transfer a vital national defense facet to a foreign nation in an unstable region."

Did you sign off on this idea?

CHERTOFF: You know, this issue comes up periodically every time a foreign-owned company wants to take over an asset that has national security significance. And there is a legal process Congress created for a committee to sit and review this. It's Treasury, Commerce, DHS, FBI is involved, and DOD is involved. We look at these transactions.

The discussions are classified. I can't get into the specifics here. But what I can tell you in general is this: We examine the transaction; we look at what the issue of the threat is. If necessary, we build in conditions or requirements that, for extra security, would have to be met in order to make sure that there isn't a compromise to national security.

As far as my agency is concerned, port security really rests principally with the Coast Guard and Customs and Border Protection. And you can be sure that any transaction that goes forward is going to be carefully reviewed, and is also going to be carefully subject to the expertise of Coast Guard and Customs and Border Protection.

BLITZER: So you're on board?

CHERTOFF: Well, this -- again, I don't want to talk about classified process, but the general process that has to work before this occurs requires a very thorough review, and, where appropriate, necessary conditions or safeguards have to be put into place.

BLITZER: So is it a done deal? Has it cleared?

CHERTOFF: Since I said it's classified, Wolf, I'm not going to go beyond my general description of the process. And certainly, Congress is welcome to look at this and can get classified briefings. You know, we have to balance the paramount urgency of security against the fact that we still want to have a robust global trading system.

BLITZER: Secretary Chertoff, thanks very much for joining us.

CHERTOFF: Wolf, good to be here.

(END VIDEOTAPE)

BLITZER: And stay tuned to CNN day and night for the most reliable news about your security. Just ahead, a United Nations report calls for the closing of the prison at U.S. Naval base at Guantanamo Bay in Cuba.

Capitol Hill Democrats calling for an investigation into domestic spying. We'll talk about oversight of U.S. intelligence with two members of the congressional committees on intelligence. They're standing by.

Then, why did Iraqi troops disappear during the fierce fighting for Falluja? We'll get the real story from the general who trained them.

Plus, this week, Iran announced it would begin to enrich uranium, a key step toward a nuclear weapon, potentially at least. United Nations Secretary-General Kofi Annan tells us what can be done to avoid a dangerous confrontation.

"Late Edition" continues right after this.

BLITZER: A chilly but sunny day here in Washington, D.C. Welcome back to "Late Edition." There were fierce battles on Capitol Hill this week over the U.S. program of wiretapping its citizens without a warrant. What's the real story?

Republican Senator Saxby Chambliss of Georgia is on the Senate Armed Services Committee, as well as the Select Committee on Intelligence. He's joining us from Atlanta. Democratic Congresswoman Jane Harman from California is a ranking minority member of the House Intelligence Committee. She also serves on the House Committee on Homeland Security. She's joining us in Los Angeles.

Thanks to both of you for joining us. Congressman Harman, I'll start with you. Do you have confidence in the Secretary of Homeland Security Michael Chertoff?

REP. JANE HARMAN (D), CALIFORNIA: I think he's a strategic thinker. He came with high hopes from all of us. He has taken personal responsibility for Katrina. He has a huge amount of work to do. I'm ready to wait and see if he fixes his department.

In contrast, by the way, our secretary of defense continues to stonewall after these new pictures of Abu Ghraib. If I were advising President Bush, I'd say the defense department is where I'd make the cabinet change right away.

BLITZER: So you're calling on Rumsfeld to resign or be fired?

HARMAN: I think that his leadership post-war in Iraq has been very damaging to the United States.

BLITZER: So should he be fired?

HARMAN: That's the president's call, but I think if I were going to change a cabinet department, that's the one I would change.

BLITZER: Senator Chambliss, do you have confidence in Michael Chertoff?

SEN. SAXBY CHAMBLISS (R), GEORGIA: Well, good leadership means that when mistakes are made that you're willing to step up and say that sure, we did make mistakes. We've got to learn from them. We've got to move forward. You know, I think this report that came out on the House side, and I expect one to be coming out from the government reform committee on the Senate side also that will be critical, is really getting at the nerve of this and really pointing out some very serious flaws that we have. Not just in the department but in their ability to react to a disaster like this.

And certainly the secretary is where the buck stops. Do I have confidence in him? From the standpoint of him saying that mistakes were made, we've got to move forward, I do. But from the standpoint of being able to deal with a disaster and having qualified people underneath him at the time of this incident, I think it's pretty weak as evidenced by this report.

BLITZER: You heard him defend the Bush administration's decision, Senator, to outsource, in effect, port handling at six major ports in the United States to a company

based in the United Arab Emirates and part owned by the government of the United Arab Emirates. Are you comfortable with that decision?

CHAMBLISS: I would have to say at this point in time, Wolf, I'm not. You know, Congress does not have a direct oversight of decisions like this, but frankly, in a post-9/11 world we should be consulted in a very deliberate manner on this.

And certainly there are classified issues that have to be dealt with, but Jane and I deal with those classified matters on a daily basis. So, I think that Congress is due some explanation about this. It's suspicious on its face, but is it the right decision? It's difficult to say. I have confidence in the administration, but I just think Congress should be consulted.

BLITZER: What do you think, Congresswoman?

HARMAN: I think it's stunning, and I'm very disturbed by it. It's not that I would be against foreign shippers using our ports. We've had a lot of controversy about Chinese shipping companies on the West Coast. But my district surrounds the Port of Los Angeles, which, with the Port of Long Beach are the largest container ports on the planet. And I would not like Dubai or some other foreign government running those ports.

So I think the intelligence committees need classified briefings ASAP and this decision should be suspended until Congress can carefully review it. I would hope the administration would want to hold off until they had Congress on their side.

BLITZER: The U.N. secretary-general, following a U.N. report, Congresswoman, this week suggesting the United States shut down the Guantanamo Bay prison. A very damning report put out by the United Nations. Listen to what Kofi Annan said after that report was released.

Actually, he said this. He said, "One cannot detain individuals for perpetuity, and charges must be brought against them, and give them a chance to explain themselves and prosecuted, charged, or released. I think it's something that is common under any legal system, and I think sooner or later there will be a need to close Guantanamo." Do you agree with Kofi Annan?

HARMAN: Well, I certainly agree with his definition of the problem. It was shameful that we didn't have a legal framework around the detentions we did in this Iraq war. We did it in the first Gulf War. We had battlefield tribunals that sorted people out.

This time, I guess this president thought he had inherent authority again to do it some different way. I think the courts will require him to give each detainee a status. I think we may have to close Guantanamo. I was personally disappointed three times to go down there and not hear the straight story about what was going on there from those who briefed me.

BLITZER: What do you think, Senator?

CHAMBLISS: Well, I think from Kofi Annan's perspective, he's been pretty disengaged in the overall war on terrorism. Gitmo has served us well, even though we really had to figure out a way to deal with a massive number of prisoners in a short period of time. But we've done a lot of work down there, and we are treating those folks the way they ought to be treated.

Frankly, they're getting better medical care, better food, better housing than probably most of them have ever had in their lives. We're still getting valuable information from them, particularly with reference to the structure of al Qaida. So it's a necessary facility that needs to remain in place for some period of time. Forever, no. But for some period of time while we continue to fight this war.

BLITZER: But as you know, a lot of those detainees have been released. No charges have been filed. They've gone back to their home countries, Senator. Are you confident that all of those 500 or so who are there deserve to be there without any real due process afforded them?

CHAMBLISS: Wolf, a lot of them have been released, and we have found them back on the battlefield fighting American soldiers. We have to vet these individuals very thoroughly and make sure that we do the very best job we can to determine whether or not they really are bad guys still where they're going to come after us again.

If we're satisfied they're not, that they're really not criminals, then that's the point in time we can release them. But if there's the potential for them to come back and kill American soldiers and on the battlefield, then no, they shouldn't be released.

BLITZER: All right, go ahead, Congresswoman. Then we'll take a break.

HARMAN: I was just going to say we need a legal framework around all these issues: detentions, interrogations. Congress forced the administration to take the McCain amendment. And this NSA program. It has to comply with the Foreign Intelligence Surveillance Act, and it has to comply with the fourth amendment.

BLITZER: We'll leave it there, but we're going to continue down the road. We have a lot more to talk about, including warrantless wiretaps, domestic surveillance. In a moment, more on the war on terror with Senator Chambliss and Congresswoman Jane Harman.

But up next, we'll have a quick check of what's in the news right now. Stay with "Late Edition."

(NEWSBREAK)

(BEGIN VIDEO CLIP)

GEORGE W. BUSH, PRESIDENT OF THE UNITED STATES: I'm doing the right thing. Washington is a town that says you didn't connect the dots and then, when you do connect the dots, they say you're wrong.

In order to protect America, if somebody's talking to Al Qaida, we want to know who they are and why they're talking to them.

(APPLAUSE)

(END VIDEO CLIP)

BLITZER: The president, speaking out earlier this week, defending the National Security Agency surveillance program without warrants.

Welcome back to "Late edition."

Once again, I'm joined by Republican Senator Saxby Chambliss of Georgia. He's in Atlanta. And in Los Angeles, Democratic Congresswoman Jane Harman of California.

Senator Chambliss, Senator Roberts was quoted in the New York Times as saying, yesterday, this: "I think it should come before the FISA court. We should be much more in concert with the Congress and everybody else and the FISA court judges" -- FISA, the Foreign Intelligence Surveillance Act.

In effect, distancing himself from the Bush administration, now saying that the NSA warrant-less wiretapping program should be under the jurisdiction, if you will, of this FISA court.

Are you in agreement with your chairman, Senator Roberts?

CHAMBLISS: Well, I'm not sure that's exactly what Pat meant. Let me tell you the problem with the FISA court in this issue. The FISA court works well for what we use it for now.

We use it for anybody in the United States who is a foreign agent, or an agent of a foreign power -- we can surveil them -- or a U.S. citizen who also is engaged as an agent of a foreign power and who we suspect has committed a crime.

That's a pretty stringent requirement right there. But it's worked well. What we're talking about here is something entirely different.

These are phone calls that did not originate inside the United States. They originated outside the United States. And going through the FISA process to get a hold of a number that we don't know is going to be called until it actually is called simply is not going to work, either in the short, immediate term or, really, on the longer-term basis.

BLITZER: Congresswoman Harman, you're one of the so-called gang of eight, those leaders in the intelligence committees, the leadership in Congress, who have been briefed on what is going on.

Do you think it should be brought under FISA or kept separate, that the president has this blanket authority to authorize it?

HARMAN: I think it should be brought under FISA. I think that this is a capability we need. But it must strictly comply with the law and with the Fourth Amendment.

The president is not above the law. His legal arguments just don't wash here. FISA contemplated a 15-day period after the declaration of war when one would not need warrants.

It's been four years after the declaration of war on Afghanistan and the president is still claiming this inherent authority.

I believe that FISA has been modernized by Congress in eight respects and fully covers any activity that the president should want to accomplish under this program.

And I also believe that he's violating the National Security Act of 1947 by failing to brief Congress completely and fully.

BLITZER: On that matter, Senator Chambliss, the Senate Judiciary Committee, chaired by Arlen Specter, has had some extensive hearings on this surveillance program.

But the Senate Intelligence Committee hasn't. And Senator Roberts, the chairman says he doesn't want to have these hearings.

Listen to what he said this week.

(BEGIN VIDEO CLIP)

U.S. SENATOR PAT ROBERTS (R-KS): I believe that such an investigation at this point basically would be detrimental to this highly classified program and our efforts to reach some accommodation with the administration. This program is one which I believe is vital for the protection of the American people.

(END VIDEO CLIP)

BLITZER: Critics will argue, as you well know, Senator Chambliss, what happened to Senate intelligence committee oversight if the chairman isn't even willing to have hearings, to have an investigation on what's going on?

CHAMBLISS: Well, the chairman's not willing to have public hearings. And I think it's pretty obvious why. You can't have public hearings on classified issues like this. The judiciary did have -- committee did have some. Attorney General Gonzales came.

And he was limited as to what he could say. We did have a rather extensive hearing with General Hayden and Attorney General Gonzales and the Senate intelligence committee, and I think Jane and Pete Hoekstra had the same thing on the House side. We got fairly detailed briefings but not as -- they did not go as far as, frankly, I think they should have gone. But I think at the end of the day, here's what's going to happen on the Senate side.

We're in negotiations right now under Pat's leadership, Chuck Hagel, Olympia Snowe, Mike DeWine, who have had real concerns about this, have been talking to the White House over the last two or three weeks. And the White House has now agreed that a legislative fix for this is possible, and that more extensive briefings on a regular basis should be given to Congress. The exact details of that are being worked out, and I'm very hopeful that's going to be done by the time we get back after this Presidents' Day break.

BLITZER: We have to leave it right there. Senator Chambliss, as usual, thanks very much for joining us. Congresswoman Harman, thanks to you as well.

HARMAN: Thank you.

CHAMBLISS: Thank you, Wolf.

BLITZER: And still ahead, when Iraqi forces stand up, coalition forces will stand down. That's a standard line in President Bush's speeches. But how much longer will that take? We'll get some insight from the retired U.S. Army general who was assigned to train those Iraqi forces.

And later, my special conversation with the United Nations Secretary-General Kofi Annan, who met this past week with President Bush at the White House. "Late Edition" will be right back.

BLITZER: Welcome back to "Late Edition." One week after President Bush stood under a "mission accomplished" banner and declared the end of major combat operations in Iraq, U.S. Army Major General Paul Eaton was ordered to Iraq, ordered to begin the rebuilding of the Iraqi military. He was given a staff of six to do the job. Now retired after 33 years in the U.S. military, General Eaton joins us from Seattle. General, thanks very much for joining us. Welcome to "Late Edition."

EATON: Top of the morning, Wolf. Thanks for inviting me.

BLITZER: This came totally out of the blue to you, this order to go over to Iraq right after that May 1, 2003 speech, and to start building a new Iraqi army. Is that right?

EATON: Right. I was the commanding officer of the infantry center, chief of infantry for the U.S. Army, and scheduled to eventually go to a Pentagon assignment. And I got a call one day that the chief of staff had selected me to go forth and perform essentially the Title 10 requirements, man, train, equip nine light motorized infantry battalions for the Iraqi army, for the new Iraqi army.

BLITZER: What did you find when you got there?

EATON: After making my way to Baghdad, I rolled in on a group of folks who'd come in from Centcom, and the terrific turmoil in Baghdad had started to settle down and we just rolled our sleeves up, basically a fellow named Roland Tiso, Mike Greer and Bob Summers, terrific people, and set out to craft the infrastructure and to chart the way ahead for the new Iraqi army.

BLITZER: Now, you've been quoted as saying what you inherited, in your words, was a disjointed fiasco. What did you mean by that?

EATON: The preparation for the mission that I had rolled in on was incomplete. And the planning had been superficial, and it was really a dream mission for me because it was a package delivered to me that the team that we had assembled could actually resurrect a coherent program, which we did in about three or four days, and then set out to do the manning, training, equipping piece for the army to really lay the groundwork and the structure for the future of that country's security.

BLITZER: So, it was an important mission to rebuild the Iraqi army, which was then in the process if it hadn't already been disbanded, had been disbanded. Some 400,000 Iraqi troops basically either on their own or told you're no longer in the Iraqi army. Was that a huge mistake?

EATON: No -- well, Wolf, it's a great question. It's been posed a number of times. But the 23 May decision that Ambassador Bremer made to stand down the old Iraqi army, you've got the dynamics of a country that's 20 percent Sunni but it's 80 percent Sunni Kurd -- Kurds are by and large Sunni -- and 50 percent of the country's Shia. So who do you want to alienate?

Had we kept that old army, brought it back on the books in toto, we would have perhaps mollified the Sunni Arabs. But at the same time we would have grossly, seriously alienated, I believe, the Kurdish population in the north and the Shia population in the south and set the stage for some serious problems. History's going to be the judge, but that's the way I saw it.

BLITZER: Here's what Ambassador Bremer said the other day here on CNN. Listen to this.

(BEGIN VIDEO CLIP)

PAUL BREMER, FORMER U.S. ADMINISTRATOR IN IRAQ: People need to remember, that military had conducted a genocidal -- decade-long genocidal war against the Kurds in the north, had killed hundreds of thousands of Shia in the uprising in 1991. To recall that army would have been to suggest to the Iraqi people we came to throw out Saddam but to impose some other colonel on them.

(END VIDEO CLIP)

BLITZER: So, what I hear you saying is that you basically understand and agree with the decision to allow the Iraqi army to be disbanded?

EATON: I not only agree, but I accept it as a fact. When I rolled in there, all of the military infrastructure had been destroyed. There were walls up, roofs on, but that was it. Doors, windows gone. Trucks had their engines removed. The wheels were gone. There was essentially nothing left but a few uniforms and steel pots lying on the ground outside of the barracks areas.

BLITZER: I was going to move on to the next level, then. So you're now in charge of training this new Iraqi army, but based on what I'm hearing, you never really got the support during that first year that was so critical that could have gotten the job well under way. It was sort of missed opportunity after missed opportunity, the Pentagon, for whatever reason, never giving you the authority or the wherewithal to get the job done.

EATON: A two-part answer and a good news/bad news: The good news is the United States Army, the Marines, our coalition forces stepped into the breach to do the right thing.

They didn't have enough soldiers to do the missions that they had. They were undermanned for the so-called phase 4. But we had terrific response on the part of the sergeants, lieutenants, captains, and colonels to get after the problem in a local fashion.

At the same time, I was given -- in fact after a 5 September briefing to the secretary of defense -- I was given the budget and the authority to move out, but there was still a failure on the part of senior leadership in the Pentagon to award the sense of urgency that we really needed from the very large staff that we had at the Pentagon. BLITZER: And that missed opportunity is plaguing the U.S. military right now. I assume you agree with that.

EATON: Wolf, if you take a look at national interests and the interest that we have in the success of other armies in this world, after our own, we've got to pay very close attention to the viability of the South Korean army, the viability of the Israeli army, and we've got to truly get after the viability of the Iraqi army.

And, to date, we are not putting the appropriate resources to help Marty Dempsey, Dan Bolger, Joe Peterson in the prosecution of the mission that they've got over there.

BLITZER: Is it a lack of sufficient forces? They don't have enough U.S. troops on the ground? Is that what you're saying?

EATON: I won't speculate -- you know, you ask a soldier if he's got enough of anything and very rarely will a soldier tell you, I've got enough soldiers, I've got enough ammunition, I've got enough anything.

Right now, from the very beginning, we did not put enough boots on the ground to prosecute phase 4 of this war. And we still have not awarded the appropriate resources to the men and women charged with assisting Iraq in rebuilding its security forces.

BLITZER: You have said that your big mistake was that you assumed that during that initial battle for Falluja when Iraqi forces went in, they would fight alongside the U.S. and coalition forces. But in the end, they simply ran away and disappeared. Is that right?
EATON: Wolf, they didn't run away. What happened -- they did not feel, internally, inside themselves, that they were a legitimate instrument to provide security for the nation of Iraq.

We had recruited these men under the previous program, under the initial program, to defeat enemies from without.

These young men signed up to fight external enemies. When they were first sent into Falluja by ground, they ran into a fire storm of the Mahdi army, the Shia, en route, who basically heckled them and then fired a few rounds into the formation -- why are you attacking your fellow Iraqis?

And we had not developed, internally and externally, the sense of legitimacy that sustains armies if they have to be applied for security problems internal to their borders. That was the basis of the problem.

And my problem, my failure, was to recognize that we had not developed the sense of -- internal sense of legitimacy within these soldiers to allow them to fight alongside Marines. And I regret that mistake.

But it was an intent to get these men and to allow Iraqi security forces to assist coalition forces in the security drama that we had in Falluja. BLITZER: General Eaton, we have to leave it there. Thanks very much for joining us. Thanks for your 33 years of service in the U.S. military. I appreciate it very much.

EATON: Thanks, Wolf.

BLITZER: And, up ahead, we'll have a quick check of our Web question. And the Web question is this: Should the United States close the Guantanamo Bay prison? You can cast your vote at CNN.com/lateedition. We'll have the results in the next hour.

You're watching "Late Edition," the last word in Sunday talk.

BLITZER: Welcome back. In a moment, my conversation with the U.N. Secretary-General Kofi Annan. First, though, let's get a quick check of what's making news right now.

(NEWSBREAK)

BLITZER: The Palestinian parliament convened this weekend with the militant Hamas party in the majority. John Vause is joining us live from Jerusalem with the latest Palestinian and Israeli reactions. What is the latest, John?

JOHN VAUSE, CNN CORRESPONDENT: Well, Wolf, today, the Israeli cabinet backed away from some of the toughest sanctions it had been considering after Hamas was sworn into parliament, instead opting for a permanent freeze on the taxes collected by Israel on behalf of the Palestinian authority.

That's about $50 million U.S. dollars reach month, about half of the monthly wages for 140,000 employees of the Palestinian authority.

Hamas says this move by Israel is nothing more than theft. Israel says, on a practical level, it had no choice because there were no guarantees that the money would not be used to fund militant attacks.

Israel is also calling on the international community for donor countries to stop direct aid payments to the Palestinian Authority, while calling at the same time for a continuation of humanitarian projects in the West Bank and also in Gaza.

Now, despite this looming cash crunch, Hamas is moving on with forming a government, today, nominating Ismail Haniyeh as the prime minister. He has three weeks to form a cabinet. Wolf?

BLITZER: John Vause, with the latest from Jerusalem. Much more on this story coming up when we'll speak with the ambassadors here in Washington from Germany, France and Britain.

Earlier this week, Kofi Annan, the secretary-general of the United Nations, met with President Bush over at the White House to discuss problems around the globe. (BEGIN VIDEO CLIP) BUSH: I enjoy visiting with the secretary-general. It gives us a chance to talk about our common interests and our desire for peace and liberty around the world.

(END VIDEO CLIP)

BLITZER: Shortly after the meeting, I spoke with the secretary- general and began by asking him whether the Iranians are building a nuclear weapon.

(BEGIN VIDEOTAPE)

KOFI ANNAN, U.N. SECRETARY-GENERAL: I think the rules are very clear. Iran can develop peaceful nuclear -- have peaceful uses of nuclear energy but not a nuclear bomb. And this is what the whole debate is about.

BLITZER: Even as we speak, there are reports today that the Iranians have started enriching uranium, which experts believe could lead to a bomb.

What is the United Nations going to do to stop Iran from becoming a nuclear weapons power?

ANNAN: I think, first of all, the atomic agency in Vienna is dealing with this. And between now and the end of the month, they are preparing a report, working with the Iranians, monitoring the situation, and will give a report to the agency at the end of the month.

There will be a meeting in March where, depending on the nature of the report, if indeed Iran is not meeting its obligations on the NPT and its obligations to the IAEA, it will be referred to the Security Council for appropriate action.

BLITZER: Appropriate action being diplomatic sanctions or economic sanctions? Would that be the next step in the pressure on the Iranian regime?

ANNAN: That will be for the Council to decide, but, obviously, the Council doesn't -- these are some of the arsenal that the Council has, but it will be up to the Council to decide what the next step should be.

And I think it will depend very much on the report. If the report is a negative one, then the Council has a tough and urgent decision to take.

If it is a report that indicates that, despite their public pronouncements, the situation is either frozen or is -- or they see prospects of full cooperation with the agency, the Council will have to factor that in.

I hesitate to prejudge what the Council will say or prejudge what the report will contain.
BLITZER: How worried are you, though, that, if these pressures on Iran don't work, there could be military action, there could be action by the United States or Israel or a combination thereof or other countries?

Just as the United Nations failed to prevent the United States from invading Iraq with its allies and removing Saddam Hussein, how worried are you there could be a military confrontation, a unilateral U.S., let's say, attack at these nuclear sites in Iran?

ANNAN: I hope we never get to that point. I hope the international community will be able to work together and with Iran to negotiate an acceptable solution out of this.

I don't think, given the situation in today's world, that anyone would want to see further military escalation in the region. And Iran should cooperate and cooperate fully.

And I have urged them publicly to freeze the nuclear program to allow for negotiations to resolve this.

I do not know why they canceled their meeting with the Russians and if it is going to be rescheduled or if it's indefinite, but I would urge them to pursue the option that the Russians have offered and work with the European troika and others to resolve this crisis.

BLITZER: France, Germany and Britain, the troika.

Let's talk about Iran. The secretary of state, Condoleezza Rice -- you met with her today.

She is accusing Iran and Syria of fanning the flames, if you will, over this cartoon uproar involving the Prophet Mohammed.

Listen to what she said the other day.

(BEGIN VIDEO CLIP)

CONDOLEEZZA RICE, U.S. SECRETARY OF STATE: Iran and Syria have gone out of their way to inflame sentiments and to use this to their own purposes. And the world ought to call them on it.

(END VIDEO CLIP)

BLITZER: She says the world ought to call them -- Iran and Syria -- on it. You're the world. You're the United Nations secretary- general. Are you going to call Iran and Syria and tell them, don't fan these flames?

ANNAN: First of all, let me say that the violence we have seen is unacceptable. It is the wrong reaction to the offense and the insult that the Muslim world feels about the cartoons.

I have said very clearly that it was insensitive to publish those cartoons. I am for freedom of expression. I am for freedom of press. But that right has to be exercised with some sensitivity, some respect for religion of others, and it entails responsibility and judgment. And so, the fact that they feel offended by that should not allow any country or any group to attack innocent people and to destroy foreign legations. And so I would urge all governments and all people with influence, secular and religious, to ensure that we calm the situation and do not allow it to get out of hand.

BLITZER: Yesterday I interviewed the prime minister of Denmark, Anders Fogh Rasmussen, who said he agrees with Condoleezza Rice that Iran and Syria are making these situations even worse. Do you agree that they are doing that?

ANNAN: Well, I do not have any evidence to go by that. You had demonstrations all over the world.

BLITZER: But let me interrupt with all due respect, when you have no evidence. You know Damascus. This is a country where the police rule the day. If the government didn't want these people to burn down the Danish Embassy, they wouldn't have gotten close to that embassy.

ANNAN: The government has the responsibility to prevent these things from happening. They should have stopped it, not just in Syria or Iran but all around they should have stopped it. And not only should they have stopped it, not having stopped it, I hope they will pick up the bill for the destruction that has been caused to other foreign countries, which would also be legitimate. They should be prepared to pay for the damage done to Danish, Norwegian and the other embassies concerned.

Yes, one may say the government -- I had raised this with the ambassador of Syria in New York. I said, why couldn't you stop it? Of course, his answer was, it was so spontaneous we couldn't stop it. So the question has been posed, but in any event, all governments have a responsibility to stop this, to de-escalate, and in situations where they are not able to protect embassies and people they have the responsibility to protect, there has to be a cost.

BLITZER: The co-founder of Hamas, Mahmoud al-Zahar, said last week, he said this: "We should have killed all those who offend the Prophet, and instead here we are, protesting peacefully." This is the man who is now emerging as one of the key leaders of the Palestinian community now that Hamas has won this election. This is a serious issue, whether the United Nations and other international organizations, countries, should deal with the Palestinian Authority that is dominated by Hamas.

ANNAN: I think when the quartet met, we...

BLITZER: The quartet is the United States, Russia, the European Union and the United Nations.

ANNAN: ... we made it very clear that Hamas, now that it's won the elections and is going to assume the responsibility for the government, has to transform itself into a political party. It has to accept all the engagements entered into by the Palestinian Authority, including the Oslo agreements and the road map. It has to accept the two-state solution, which implies recognition of Israel and it has to renounce politics... BLITZER: Terrorism.

ANNAN: Terrorism. It has to renounce terrorism. And if it did that, the international community, and I'm sure Israel, would deal with them, and it is something that is on the table. There is a transitional government in office headed by President Abbas with his team, and they have time to be able to change their policy and accept the requirements -- it's not only the quartet demanding that they do this. Leaders in the Arab region from President Mubarak and others are asking them to go to the same direction.

BLITZER: Well, it raises an interesting question. And I know you discussed this with the president today. I assume you discussed it -- was the vice president at that meeting as well?

ANNAN: He was there.

BLITZER: All right. This is what he said on February 3.

ANNAN: Who said?

BLITZER: The vice president, Dick Cheney. He said, their, referring to Hamas, "Their objective, part of their platform is the destruction of Israel. They are a terrorist organization. They need to give up their objective of the destruction of Israel. They need to forswear violence and I think close down their military wing before anybody is going to treat them seriously as a legitimate interlocutor."

Is the United Nations going to treat the Palestinian Authority as a legitimate interlocutor with Hamas failing, at least so far, to accept a two-state solution and renounce terrorism?

ANNAN: I think if you put it that starkly, I don't think it's -- we have made it very clear in the quartet and given them -- and U.N., United Nations, is part of the quartet. Yesterday there was quite a bit of excitement that the Russian federation has invited Hamas to Moscow. What was the purpose of that invitation?

In my own discussion with Foreign Minister Lavrov, he made it clear that we are bringing them to Moscow to reaffirm the three principles that the quartet has asked them to fulfill: renouncing violence, accepting the two-state solution and accepting all the earlier engagements entered into. You need them to press the point home with Hamas.

BLITZER: The U.S. Ambassador, John Bolton, to the U.N. said the other day, "It's not just simply this incident or that incident of corruption or mismanagement, but a culture problem at the U.N. that we're facing here." Is he right? ANNAN: Well, Mr. Bolton is relatively new at the U.N. Obviously, he has a right to his judgment. But, in fact, I will say in discussing this, the whole issue of who is U.N. and what is U.N. with the Oval Office, I said, it's an interesting situation. When we get into trouble and there's a problem with the U.N., they refer to the U.N. as if it's a secretary or some satellite out there. The member states have nothing to do with it, and yet the U.N. is its members. The U.N. can be as effective as its member states want it to be. I mean, we've slammed as corrupt,

inefficient, oil for food, and yet when you analyze the report of Volcker, the scandal was with the member states and the government and the companies, not with...

BLITZER: But...

ANNAN: ... no, wait, let me say, not with the secretary. Yes, there was some mismanagement, but when it comes to corruption, only one staff member was found to have possibly have made $150,000. Of the $11 billion that was smuggled out, the secretariat had nothing to do with it. The 1.8 that was made through deals between companies and Saddam Hussein, companies promoted by their own governments, companies with contracts was approved by the 661 committee, you don't hear anything about corruption of the...

BLITZER: Here was the problem. With hindsight, I want your thought. The perception that your son Kojo got involved in a business deal in this oil for food, a United Nations-sponsored program, with hindsight, was that a mistake to let him do that?

ANNAN: I did not let him do that. To say to let him do that is wrong.

BLITZER: Did you know about it in advance?

ANNAN: I did not know about it in advance, and not...

BLITZER: You wish he wouldn't have gotten it.

ANNAN: Absolutely. I wish he had not been involved. But also in the whole investigation, at the end of the report, they did not find that -- it said that he had called the procurement department, and they did not come up with anything that he had really influenced the contracting. And not only that...

BLITZER: But the perception the son of the secretary-general involved, that would help that company.

ANNAN: It was not pleasant for me. I wish it had not been done. It gave me lots of grief. You must also know that he -- "Sunday Times" of London came up with an article that he had been involved with the Iraqi oil-for-food contract, and he won his -- he took -- came up with a libel suit, and they settled out of court because they knew it was wrong.

But what it is is, yes, that was true, but when you read the story, the issue was, secretary-general's son may have influenced a company to get a contract. Staff member took some money, and so forth and so forth, but the big picture was lost.

(END VIDEOTAPE)

BLITZER: Kofi Annan, the U.N. secretary-general, speaking with me here in Washington earlier in the week. And coming up on "Late Edition," tens of thousands

have been killed in the civil war in Darfur and the Sudan. Millions have been made homeless. Should the U.S. and its NATO allies now dispatch troops to the region?

And in just a moment, the ambassadors of three key NATO allies will weigh in on this, the Hamas victory, Iran's nuclear ambitions and lots more. This is "Late Edition," the last word in Sunday talk.

BLITZER: Welcome back. The tense nuclear negotiations with Iran, the uncertain Middle East peace process, the war on terror -- all global issues where the United States and Europe work very closely together.

Joining us now to discuss these issues and more are the representatives here in Washington of three key European nations. Wolfgang Ischinger is the ambassador of the Federal Republic of Germany. Jean-David Levitte is the ambassador of France and Sir David Manning is the British ambassador to the United States.

Gentleman, thank you very much for joining us.

And let me start with you, Ambassador Levitte. The Israeli Cabinet, the Israeli government has now decided to take several steps to prevent any contacts, if you will, with the Palestinian Authority now that Hamas is part of that Palestinian authority.

Does the government of France support that?

JEAN-DAVID LEVITTE, FRANCE'S AMBASSADOR TO U.S.: Well, France, as well as the E.U. countries has stated clearly that Hamas is a terrorist organization. That's number one. It means that we have no contacts with Hamas.

Second, we have expressed three demands to Hamas: First, recognize Israel. Second, stop violence. And, third, accept the Oslo accord.

And we are waiting for the new government -- now we have a new parliament. We have the president of the Palestinian authority, which remains Abu Mazen.

And there will be a kind of cohabitation between the president of the Palestinian Authority and the new government.

So our position is to wait and see what the new government will have to say about our three demands.

BLITZER; If the prime minister of the new government is from Hamas as opposed to Mahmoud Abbas, Abu Mazen, who is the president of the Palestinian Authority, will the government of France have direct contact with the Palestinian Authority if it has a Hamas prime minister? LEVITTE: We have stated that there are three demands. And we are waiting for the answers of the new government to these three demands. And, accordingly, we will review the situation and decide.

BLITZER: So do I understand it -- if in fact there is a Hamas prime minister and those demands have not been met, you will suspend contact with the Palestinian Authority?

LEVITTE: Well, we have no contacts at all for the time being because it's a terrorist organization.

BLITZER: And what about the government of Germany?

WOLFGANG ISCHINGER, GERMANY'S AMBASSADOR TO U.S.: Same position, Wolf. And I think I should add to what my friend Jean Levitte has said, that we had discussions about the right approach in what is called the quartet between the United States, the European Union, the U.N. and Russia.

And there was, as I understand it, broad agreement that that's the right way to move forward. So we are -- the E.U, and its member countries -- we are waiting to see what kind of government is going to be installed and what that government is going to say about these exact three points: the right of Israel to exist, renunciation of violence and is that government willing to accept existing agreements with Israel -- yes or no?

That's the criteria.

BLITZER: Ambassador Manning, I assume the British position is the same as the German and the French, or is there any difference you want to explain?

SIR DAVID MANNING, GREAT BRITAIN'S AMBASSADOR TO U.S.: No, it's exactly the same. And, in fact, when my prime minister, Prime Minister Blair, was talking to Chancellor Merkel last month in Germany...

BLITZER: The new chancellor of Germany?

MANNING: Indeed. They set out exactly those three conditions. And Prime Minister Blair has also made the point that we are clear -- and I'm sure this is the position of the U.S. administration -- that there has to be a two-state solution.

You cannot engage one side if they're denying that the other side has a right to exist. So we would like them to accept these three propositions that my colleagues have spelled out. And then we can move forward with the peace process.

But, unless they do that, there can't be a peace process.

BLITZER: And, in the interim, what happens to financial assistance to the Palestinians from the government of Britain, shall we say?

MANNING: Well, at the moment, we are continuing with the assistance that we have adopted. And, as my French colleague said at the beginning, we're waiting to see how

this government reacts. Let's remember, it's only just forming now. We don't know exactly what position it will take.

We are very conscious of the humanitarian issue here. so there is a real humanitarian issue and I notice that the Israeli cabinet have picked up on that over the weekend.

But the position is clear. If we don't meet -- if the new government doesn't meet these criteria, we will be reviewing our support.

BLITZER: Here's what the president of the United States said in explaining the U.S. position toward a Palestinian authority with Hamas. Listen to this.

(BEGIN VIDEO CLIP)

BUSH: I have made it very clear, however, that a political party that articulates the destruction of Israel as part of its platform is a party with which we will not deal.

(END VIDEO CLIP)

BLITZER: Now, the quartet -- you've spoken of the quartet, the United Nations, the European union, the United States and Russia. One member of that quartet seems to be out of sync with the rest of you. That would be Russia.

Listen to the president, Vladimir Putin.

(BEGIN VIDEO CLIP)

PRES. VLADIMIR PUTIN, RUSSIA (THROUGH TRANSLATOR): Russia is maintaining contacts with the Hamas organization and intends in the near future to invite the leadership of this organization to Moscow.

(END VIDEO CLIP)

BLITZER: Ambassador Levitte, is that a good idea?

LEVITTE: We've not been consulted on that. I don't want to comment on that.

We have these three demands and I think that they are accepted by all the members of the quartet. Now, up to Russia to decide what, as a nation they want to do, but this is not our position. We have no contacts with Hamas.

BLITZER: What about the German position on the Russian invitation to Hamas to come to Moscow?

ISCHINGER: Well, I would say, quite generally, that my government's position is that those countries that do not observe the same rules that we do, namely, regard them as

terrorists and not talk to them at this point -- we expect those governments, if they decide to have contacts with this organization, to be very strongly endorsing our position, namely, to demand of Hamas, if they are going to be the party in power in the Palestinian Authority, to move their position forward and to agree to these three points of principle.

BLITZER: Ambassador Manning?

MANNING: I have little to add, Wolf. We weren't consulted, either. We are absolutely firm in the position taken by the quartet. And I think what Wolfgang has just said is absolutely right.

Anybody who has contacts with Hamas in any shape or form in the next few days and weeks needs to make it clear that those are the three conditions that are essential.

BLITZER: We have a lot more to talk about, including the cartoons of the Prophet Mohammed, the reaction in much of the Muslim world. Also, what's happening at the U.S. naval base at Guantanamo Bay in Cuba.

We're going to continue our conversation with these three ambassadors here in Washington right after we take a short break. Much more coming up on "Late Edition."

(NEWSBREAK)

BLITZER: Welcome back to "Late Edition." I'm Wolf Blitzer in Washington. We continue our discussion with Wolfgang Ischinger, the ambassador of the Federal Republic of Germany, Jean-David Levitte, the ambassador of France, and Sir David Manning, the British ambassador to the United States.

Let me begin with the German ambassador right now. We've seen the outrage in much of the Muslim world to the cartoons published in a Danish newspaper of the Prophet Mohammed, but many are suggesting this is indicative of a much bigger problem, especially in Europe, a clash of cultures, if you will, between Europeans, the west and Muslims, including many immigrants who have come to Germany or France or Britain over these recent decades. Is this part of a bigger problem that we're seeing?

ISCHINGER: I think we're discovering that it is, in fact, a bigger problem than many thought, the fact that there is this huge debate about freedom of speech, freedom of expression and how we should be respectful of religion. Our western culture is a culture that has always tended to be respectful of other religions.

I think it's true that there is a huge debate going on, not only in those countries in Europe that have been directly affected, such as the Danish, our Danish friends, but throughout Europe. What's the important thing to remember? I think all of our governments have said and have made very clear that while the principle of freedom of speech remains essential for free countries and for democracy, we also as governments need to remind ourselves and our citizens that we should be respectful.

Having said that, I think we've really made big efforts as governments to observe these standards. Having said that, nothing, nothing justifies violence. Nothing justifies burning embassies.

BLITZER: And France, weeks ago, even before the cartoons became a big issue we saw violence in the suburbs of Paris and elsewhere in France. How big of a problem is this in France right now, this divide, if you will, between the Muslim immigrants from North Africa and the Middle East to France, which now may be 10 percent of your population?
LEVITTE: It's eight percent of our population, but, Wolf, it had nothing to do with religion. It was more about inclusion, how these young generations can be better integrated in the social fabric of France, so it has nothing to do with religion.

BLITZER: You don't think there was a, whether a racial or ethnic prejudice that was part of this problem?

LEVITTE: Well, there may be prejudice, how to get a good job, how to get good schools, housing, these were the problems. These were the reasons why there were these demonstrations in the poor neighborhoods around our big cities, but it had nothing to do with religion at the time.

BLITZER: What about in Britain? Is there any rethinking of the immigration policies of Britain that's under way right now?

MANNING: The immigration policies are always being reviewed, Wolf. It's not triggered simply by this. We have to look about immigration in the round. It's about economic performance. It's about our European Union responsibilities and so on.

But of course, it's raised questions for us. If you have bombs on your underground railway system, of course you have a problem. We have been very conscious, I think, in Britain, ever since 9/11, and indeed before, about the need to try and make sure we become a successful, integrated society both ethnically and religiously.

But it's a big adjustment that we're asking society to make. And we have to work very hard at it.

BLITZER: This week, President Chirac suggested that Iran, now, is going forward and building a nuclear bomb. Explain what your latest intelligence is.

LEVITTE: Well, for three years, we've been negotiating with three countries that we represent with Iran. Why? Because we have deep suspicion about the motives. Is it only to produce nuclear electricity? Is it to build a bomb?

And we have asked (inaudible) that Iran suspend its activities which may lead to a bomb. It was applied, but unfortunately, after the election of President Ahmadinejad, a new policy has been implemented by Iran.

That is, they have started converting their uranium, which is the first step of enrichment. In the beginning of January, they have started enrichment.

So they crossed a red line and we have said, you put an end to the negotiating process, but the door is open -- up to you to decide. We expect you to go back to suspension.

And there will be a meeting on Monday in Russia because the Russians have proposed a way forward to solve the issue.

BLITZER: But the Iranians have rejected that. Ambassador Ischinger, what is Germany prepared to do if, in fact, the Iranians continue to maintain this policy, enriching uranium, rejecting that Russian proposal?

How far will Germany go in approving United Nations Security Council sanctions or economic, diplomatic, whatever sanctions to try to squeeze the Iranians?

ISCHINGER: If you had asked the three of us a year ago where we were, where the United States was, we could not have said in a very simple and straightforward way that we are united. Today, we are united.

BLITZER: Is there any daylight between the U.S. government's position and the positions of the so-called troika, the three countries that you represent, France, Germany and Britain?

ISCHINGER: Not one that I can see.

We decided together to make this decision to take the matter to the U.N. Security Council after the agency's next meeting in early March.

In other words, we have established a clear -- a unified approach. It's a Western approach. It's the United States and the E.U. three and, as a matter of fact, the entire European Union, working together.

And, more importantly -- and I think that's really the important point to make, the new point -- this effort undertaken by the E.U-3, strongly now supported by the United States, has also been receiving support, quite recently, actually, by such countries outside this group as Russia, China and a number of other important members.

BLITZER: So, Ambassador Manning, if the leaders of Iran, right now, are watching this program in Tehran, what do you hope they will emerge from this conversation, with what message?

MANNING: Well, as Jean-David Levitte said, the door is open to the negotiations, but it is up to them now. We cannot go back to a situation where they want the Paris agreement to continue to be discussed, when they have breached the red line.

BLITZER: What if they continue to say no? What will you do next?

MANNING: Well, we will certainly be going to the Security Council at the beginning of March.

First of all, there has to be a meeting of the International Atomic Energy Agency. And then, we will have a meeting of the Security Council to discuss what we do next.

And I don't want to prejudge where that will take us, Wolf, but that is the sequence of events. And the only way that can be stopped is for the Iranian government to make it clear that it is going to go back to the terms that were negotiated under the Paris agreement.

BLITZER: We're almost out of time. But should NATO develop a peacekeeping or a logistical support, get involved, with troops, in trying to save lives in the Darfur region of Sudan?

LEVITTE: Wolf, we all agree that we should do more. There is now...

BLITZER: Should NATO and U.S. troops be involved ?

LEVITTE: Well, NATO is involved already and will continue to be involved through planning, logistics, common structure. And we approve that.

BLITZER: What about boots on the ground, getting NATO troops, soldiers into Darfur?
ISCHINGER: There's nothing wrong with trying to get more NATO support. There is nothing wrong. In fact, we should all make even greater efforts to -- through the E.U., through NATO, through the United Nations -- we are working in the process at the United Nations to establish a larger peacekeeping force.

The more support that force can get, the better. It is needed and our governments recognize that and are perfectly interested in helping to support this effort.

BLITZER: The British government, as well?

MANNING: We're in the same place, Wolf. The only caveat I would enter is that we have to be sensitive to what the African Union countries want themselves.

As therefore we have to make sure that, as we bring the international community into this process more effectively, that we are working with the African countries in doing so.

BLITZER: One final question to all of you and then I'll let you go: Should the United States shut down its prison at Guantanamo Bay?

LEVITTE: Guantanamo is an embarrassment. And so, it has to be solved one way or the other. It's necessary to have the people in Guantanamo get a fair trial.

BLITZER: What about the German position?

ISCHINGER: The sooner it's closed, the better it will be for the image of the United States, not only as a military and political but also as a moral leader, in the world.
BLITZER: Does the British government agree?

MANNING: The prime minister said it's an anomaly. It needs to be dealt with. We understand the context. You've lost a lot of people. It's difficult to find the right line to draw between your duties as a government for security and safeguarding liberty, but it is clearly an anomaly and it needs to be dealt with.

BLITZER: "Dealt with" -- be more precise.

MANNING: Well, I think the United States government is the only one that can deal with it. But we are clear that it is an anomalous situation at the moment and we hope that the United States government will find a way of dealing with that.

BLITZER: Ambassador Manning, thanks very much.

Ambassador Ischinger, good luck on your next assignment in London. We wish you only the best. Come visit us in Washington down the road.

Ambassador Levitte, thank you very much to you, as well.

MANNING: Thank you very much.

ISCHINGER: Thank you.

LEVITTE: Thank you.

BLITZER: And, coming up on "Late Edition," we'll take a closer look at what's been said on the other Sunday morning talk shows, in case you missed it. We'll take a quick break. We'll be right back.

BLITZER: And now, in case you missed it, some of the highlights from the other Sunday morning talk shows here in the United States.

On ABC's "This Week," Democratic senator, Joe Lieberman, the ranking member on the Homeland Security and Government Affairs Committee, blasted the Homeland Security secretary, Michael Chertoff, as having failed during Katrina, and then went a step further.

(BEGIN VIDEO CLIP)

U.S. SENATOR JOSEPH LIEBERMAN (D-CT): FEMA has become to too many people in America, and particularly in the Gulf Coast, a joke, a four-letter word. It's time for FEMA to go, and to build something better, stronger within DHS.

(END VIDEO CLIP)

BLITZER: On CBS's "Face the Nation," Democratic Senator Barbara Boxer and the Senate Majority Leader Bill Frist disagreed over the political fallout from new government plans providing prescription drug benefits for seniors. (BEGIN VIDEO CLIP)

U.S. SENATOR BARBARA BOXER (D-CA): I think the more the American people look at this program, this legislation, that was crafted, in my opinion, to primarily benefit the pharmaceutical industry, the insurance industry, the more that that comes out, the more people will turn against the Republicans running this whole country.

U.S. SENATOR BILL FRIST (R-TN), MAJORITY LEADER: The fact that we are giving seniors affordable access to prescription drugs by choice, it's voluntary, that they didn't have before, of course it's not going to be a liability. I think it'll be a huge plus.

(END VIDEO CLIP)

BLITZER: On "Fox News Sunday," Republican Senator Lindsey Graham of South Carolina and Democratic Senator Evan Bayh of Indiana agreed on the need for increased oversight of the National Security Agency's wiretap program.

(BEGIN VIDEO CLIP)

U.S. SENATOR LINDSEY GRAHAM (R-SC): I do believe we can provide oversight in a meaningful way without compromising the program. And I am adamant that the courts have some role when it comes to warrants. If you're going to follow an American citizen around for an extended period of time believing they're collaborating with the enemy, at some point in time, you need to get some judicial review because mistakes can be made.

U.S. SENATOR EVAN BAYH (D-IN): It is in the administration's best interest to ensure that there is some neutral party overseeing this to make sure that it's done right. Otherwise, you're going to have a number of Americans out there who incorrectly think that J. Edgar Hoover's been brought back to life and that there could be abuses taking place.

(END VIDEO CLIP)

BLITZER: And over at NBC's "Meet the Press," the subject was Vice President Dick Cheney's hunting accident, where a Texas lawyer, Harry Whittington, was wounded. The

New York Times's Maureen Dowd saw it very differently than Cheney adviser Mary Matalin.

(BEGIN VIDEO CLIP)

MAUREEN DOWD, COLUMNIST, THE NEW YORK TIMES: It covered all the problems of the Bush-Cheney administration: secrecy and stonewalling, then blowing off the rules that are at the heart of our democracy, then using a filter to try and put the truth out in a way that would most suit their political needs, and then bad political judgment and bungling a crisis.

MARY MATALIN, REPUBLICAN STRATEGIST: We're not undermining the hallmarks of the democratic institution, the freedom of the press. But it's much ado about nothing, or in the words of Harry Whittington, what's all the hoopla about?

(END VIDEO CLIP)

BLITZER: Up next, the results of our web question of the week: Should the United States close Guantanamo Bay prison? And we'll also have a look at your e-mail. First, though, this.

(BEGIN VIDEOTAPE)

BLITZER: Ibrahim al-Jaafari, what's his story? The Shiite leader has won his party's backing, and is set to head Iraq's first permanent government since the fall of Saddam Hussein. Since April, Jaafari has acted as interim prime minister, a term that has been marred by incessant insurgent attacks.

A medical doctor and religious scholar, Jaafari lived in London and Iran for a decade before returning to Iraq after the 2003 U.S.-led invasion. One of his toughest challenges will be creating a new government that's inclusive of Iraq's minority Sunnis who are behind much of Iraq's insurgency.

Emily Hughes, what's her story? She may have missed the opening ceremonies, but the U.S. figure skater is still hoping to strike gold. Hughes, the 17-year-old alternate for Michelle Kwan, was thrust into the Olympic spotlight this week after Kwan re-injured her groin and dropped off the U.S. figure skating team.

In her first year as a senior competitor, Hughes placed third at the U.S. nationals, but was bumped from the Olympic team when Kwan received a medical bye. Stalled by a blizzard in New York, Hughes, the younger sister of 2002 Olympic champion Sarah Hughes, is now in Torino, Italy, and insists that despite the delay, she's ready to compete in Tuesday's figure skating event.

BLITZER: Our "Late Edition" web question asks, should the United States close Guantanamo Bay prison? Here's how you voted. Seventy- eight percent of you said yes. Twenty-two percent of you said no. Remember, this is not a scientific poll.

And that's it for your "Late Edition," Sunday, February 19. Please be sure to join us next Sunday and every Sunday 11 a.m. eastern for the last word in Sunday talk. I'm Wolf Blitzer in Washington.

Miller, Charles S

From: Miller, Charles S
Sent: Tuesday, February 21, 2006 10:47 AM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 2/21/06 Civil Division News

Supreme Court Plunges Into Abortion Debate

New Supreme Court Must Rehear Whistleblower Case

Judge rules contractor disobeyed court order in suit; Firm principals, facing another case in Virginia, ordered to appear in Mobile for deposition

BlackBerry Case May Be Nearing Resolution; Judge May Issue Injunction Soon On U.S. Sales, Service

Google Criticizes Gov't in Court Papers

Family to get back art taken in WWII

Opinion: Did Politics Trump Law in Spying, Tobacco Cases?

AP

2/21/06

Supreme Court Plunges Into Abortion Debate

By GINA HOLLAND, Associated Press Writer

(AP) -- The Supreme Court said Tuesday it will consider the constitutionality of banning a type of late-term abortion, teeing up a contentious issue for a newly-constituted court already in a state of flux over privacy rights.

The Bush administration has pressed the high court to reinstate the federal law, passed in 2003 but never put in effect because it was struck down by judges in California, Nebraska and New York.

The outcome will likely rest with the two men that President Bush has recently installed on the court. Justices had been split 5-4 in 2000 in striking down a state law, barring what critics call partial birth abortion because it lacked an exception to protect the health of the mother.

But Justice Sandra Day O'Connor, who was the tie-breaking vote, retired late last month and was replaced by Samuel Alito. Abortion had been a major focus in the fight over Alito's nomination because justices serve for life and he will surely help shape the court on abortion and other issues for the next generation.

Alito, in his rulings on the 3rd U.S. Circuit Court of Appeals in Philadelphia, has been more willing than O'Connor, the first woman justice, to allow restrictions on abortions, which were legalized in the Roe v. Wade decision in 1973.

The federal Partial-Birth Abortion Ban Act prohibits a certain type of abortion, generally carried out in the second or third trimester, in which a fetus is partially removed from the womb, and the skull is punctured or crushed.

Justices on a 9-0 vote vote in a New Hampshire case reaffirmed in January that states can require parental involvement in abortion decisions and that state restrictions must have an exception to protect the mother's health.

The federal law in the current case has no health exception, but defenders maintain that the procedure is never medically necessary to protect a woman's health.

END

The Associated Press
02-21-2006

New Supreme Court Must Rehear Whistleblower Case

The Supreme Court said Friday that it will again hear arguments in the free-speech case of a whistleblower, apparently so that the new justice can break a tie.

The appeal was among about 20 that were heard, but not resolved, before Justice Sandra Day O'Connor retired late last month and was replaced by Samuel Alito.

The Bush administration wants the court to use the case to make it harder for government whistleblowers to win lawsuits claiming retaliation. Justices had seemed conflicted last October when they took up the appeal involving Los Angeles County prosecutor Richard Ceballos, who asserted he was demoted for trying to expose a lie by a sheriff's deputy.

It was not clear from Friday's announcement if the case was the only one that will require a new argument session because of a 4-4 split. Justices also did not set a date for the case to be reargued.

The case is *Garcetti v. Ceballos,* 04-473.

END

Mobile Register

2/18/06

Judge rules contractor disobeyed court order in suit; Firm principals, facing another case in Virginia, ordered to appear in Mobile for deposition

Saturday, February 18, 2006

By BRENDAN KIRBY Staff Reporter

Even as they face fraud allegations in federal court in Virginia, a pair of former military officers ran afoul of a federal magistrate judge in Mobile this week.

The Virginia case -- the first civil lawsuit related to the reconstruction of Iraq to reach a jury -- began Wednesday.

That Virginia trial pits Custer Battles LLC against former employee William Baldwin and Mobile resident Robert "Bob" Isakson, a former FBI agent whose disaster services firm worked as a subcontractor. The two sued under the False Claims Act, a Civil War-era statute that allows private citizens to collect part of damages awarded against defendants who defraud the federal government.

Scott Custer, a former Army Ranger, and Michael Battles, a former Ranger who also served in the CIA, formed Custer Battles in 2002 and won contracts to provide security for the Baghdad airport and supply some American troops.

Witnesses testifying this week in Virginia accused Custer and Battles of delivering trucks that did not work and failing to perform adequately in supplying cabins, mattresses, generators and Internet service.

On Tuesday, the day before that trial began, a lawyer for Custer Battles was in Mobile federal court, explaining why Custer and Battles did not show up last month to answer questions of opposing lawyers in a separate fraud lawsuit involving Isakson's company, DRC Inc.

DRC's lawsuit accuses Custer Battles of fraud and kidnapping. Custer Battles and its two officers have denied those allegations and responded with a countersuit, accusing DRC of fraud. The counterclaim was the subject of the Tuesday hearing in Mobile.

U.S. Magistrate Judge William Cassady ruled at Tuesday's hearing that Battles' and Custer's absence from a Jan. 23 deposition was a "willful failure to obey" a court order. But he refused a DRC request to dismiss the Custer Battles suit, saying it's not clear that he has the authority to take such action after one violation of a court order.

"What is clear is if there is a second failure to comply, they get what they ask for," he said.

Cassady ordered Custer and Battles to show up for a deposition in Mobile on March 21 or face a contempt-of-court charge.

Isakson has accused Custer Battles' officials of kidnapping him and his 14-year-old son at gunpoint and using offshore shell companies to bilk the Coalition Provisional Authority out of millions of dollars. The authority was the American-run agency that governed Iraq immediately following the 2003 invasion.

The countersuit against DRC accuses Isakson and his company of overbilling Custer Battles for work that wasn't done and overstating DRC's financial and personnel resources, among other allegations.

Lawyers for DRC have described the allegations as baseless. "We are very suspicious about the motivation for filing this lawsuit," attorney Louis Braswell said at Tuesday's hearing.

Attorneys for Custer and Battles said their clients were unable to attend the Jan. 23 deposition because

they needed to testify at a hearing in Virginia on the False Claims Act case.

Braswell told Cassady that he was suspicious of this explanation, as well.

"We have suspected all along that these plaintiffs have been attempting to avoid their depositions," he said. "This wasn't an evidentiary hearing. There was no chance they'd be called to testify. We think that it's a ruse to avoid appearing for the deposition."

Separately, lawyers for Custer Battles have asked the judge to dismiss the company's two founders as plaintiffs, leaving only the company as plaintiff. Lawyers for DRC contend that is yet another attempt by Custer and Battles to avoid giving depositions in the case.

Braswell said the entire case should be dismissed. "We have egregious conduct here," Braswell said in court this week.

END

AP

2/21/06

Google Criticizes Gov't in Court Papers

By MICHAEL LIEDTKE

SAN FRANCISCO - Google Inc. on Friday criticized the Bush administration's demand to examine millions of its users' Internet search requests as a misguided fishing expedition that threatens to ruin the company's credibility and reveal its closely guarded secrets.

The Mountain View, Calif.-based company delivered its indignant critique in a 25-page brief that marked its initial legal response to the U.S. Justice Department's attempt to force the online search engine leader to comply with a 6-month-old subpoena.

The Justice Department has until Feb. 24 to respond to the papers that Google filed Friday. A hearing for oral arguments is scheduled March 13 before U.S. District Judge James Ware in San Jose, Calif.

The case has attracted widespread attention because the Justice Department's demand to peek under the hood of the Internet's most popular search engine has underscored the potential for online databases becoming tools for government surveillance.

Hoping to revive an online child protection law that has been blocked by the U.S. Supreme Court, the Justice Department wants a random list of the search requests made by the millions of people who visit Google during any week.

The government believes the search requests will help prove that Internet filters aren't strong enough to prevent children from accessing online pornography and other potentially offensive Web sites.

Yahoo Inc., Microsoft Inc.'s MSN and Time Warner Inc.'s American Online already have provided some of the search engine information sought by the Justice Department. All three companies say they complied without relinquishing their users' private information.

But Google has steadfastly refused to hand over the requested information, a defiant stance that the company reaffirmed in a brief that depicts the Bush administration as heavy-handed snoops and technological rubes.

In one particularly scathing section, Google's lawyers ridiculed the government's belief that a list of search requests would help it understand the behavior of Web surfers.

"This statement is so uninformed as to be nonsensical," the lawyers wrote.

Although the Justice Department says it doesn't want any of the personal information, Google contends its cooperation would set off privacy alarms and scare away some of the traffic that has driven its success.

"If users believe that the text of their search queries into Google's search engine may become public knowledge, it only logically follows that they will be less likely to use the service," Google's lawyers wrote.

The American Civil Liberties Union, which is opposing the Bush administration's effort to revive the online child protection law, also filed a brief Friday in support of Google.

"This subpoena is the latest example of government overreaching, in which the government apparently believes it can demand that private entities turn over all sorts of information about their customers just because the government asserts that it needs the information," the ACLU's lawyers wrote.

Google also said it doubts the government would be available to shield the requested information from public scrutiny. The company maintains the data sought by the government could provide its rivals and Web site operators with valuable insights about how its search engine works.

As it battles the Justice Department, Google is cooperating with China's Communist government by censoring some of the search results that the company produces in a country that restricts free speech.

That odd juxtaposition has caused civil rights activists to applaud Google for defying the U.S. government while the champions of human rights and free speech jeer the company for bending to China's will.

END

USA Today

February 21, 2006

Family to get back art taken in WWII

Richard Willing

She has pursued her family's stolen treasures for nearly eight years.

But Maria Altmann of Los Angeles, a 90-year-old widow and Holocaust survivor, says she never expected this: Austria's national gallery is preparing to send her and her four cousins five paintings worth an estimated $300 million, nearly 70 years after Nazis confiscated the artworks in her native Vienna.

A long-shot victory by Altmann at the U.S. Supreme Court in 2004 and a win before an Austrian arbitration panel in January mean that the paintings, by early 20th-century Austrian master Gustav Klimt, could be headed to Altmann's three-bedroom home as soon as next month.

The Austrian government has declined to bid on the works, which include a gold-flecked portrait of Adele Bloch-Bauer, Altmann's aunt, that has been reproduced on thousands of souvenirs. In a statement, Austrian Chancellor Wolfgang Schuessel said the nation could not afford the $300 million valuation placed on the paintings by E. Randol Schoenberg, Altmann's Los Angeles-based attorney.

"It's quite amazing," Altmann says. "I wanted some recognition that (the paintings) were our property. I never expected to actually have them."

The Altmann case has had an impact on the art world, says Robert Jarvis, art law specialist at Nova Southeastern University in Fort Lauderdale. Public museums are re-examining the backgrounds of many of their pieces. Some, such as New York City's Metropolitan Museum of Art, have agreed to return some pieces to their nation of origin rather than risk losing them in a lawsuit.

Family loved the arts

Altmann was born and reared in Vienna in a prosperous Jewish family that maintained an old-fashioned salon for painters, writers and musicians. In 1907, her uncle, Ferdinand Bloch-Bauer, who supplied sugar to Vienna's confectioners, commissioned Klimt to paint a portrait of his wife, Adele. After she died of meningitis in 1925 at 42, Bloch-Bauer hung it in a private room in his mansion before a bowl of flowers that he replaced each day, Altmann recalls.

Altmann and her husband, Fritz, fled Vienna after Nazi Germany annexed Austria in March 1938, and they eventually settled in Los Angeles. Bloch-Bauer, whose home and art treasures were forfeited to the German-controlled state, died in Zurich in 1945. In 1948, Altmann was told by the Austrian national gallery that the Klimts had been left to the gallery under terms of her aunt's will.

"We never had reason to doubt it," she says.

Altmann began to try to recover the Klimts in 1998 after learning from stories by Viennese journalist Hubertus Czernin that the gallery had not inherited the artworks but had bought them, beginning in 1941, from a Nazi doctor who wrote "Heil Hitler" on the bill of sale.

Citing U.S\l "l". and international law, Austria's lawyers argued that the national gallery could not be sued\l "l" in an American court. They also argued that Adele Bloch-Bauer's will indicated that she wanted the paintings to go to the national gallery after she died.

But in June 2004, the U.S. Supreme Court ruled that Altmann's lawsuit could go forward. That paved the way for the arbitrator's ruling last month that returned the paintings to her family.

Schoenberg, Altmann's attorney, says he valued the Klimts at $300 million after consulting several private galleries and museum officials in the USA and Europe. He says the paintings were appraised in the late 1990s at $110 million to $160 million. Publicity produced by Altmann's lawsuit helped drive up the value, Schoenberg says dealers told him.

The publicity also led directors of many public museums to re-evaluate art whose ownership history could be questioned, says Jarvis, author of an art law textbook.

"Art has a way of disappearing during wars and resurfacing years later," he says. "The problem now is you're never sure about your collection. Everyone can make a claim. Do you really want the future of your collection to be in the hands of a court?"

Re-examining art treasures

Institutions such as the Metropolitan Museum of Art in New York City are not waiting to be sued. On Feb. 3, the Met announced that it will return a 2,500-year-old vase and five other pieces to Italy in return for extended loans from Italian museums. The Met and the Italian government are scheduled today to announce the repatriation of six more pieces. Italy, Jarvis says, is one of an increasing number of countries asserting its ownership of art and antiquities that have been removed illegally -- often through the looting of ancient tombs -- and sold.

Schoenberg says he has received inquiries about the paintings from some prospective buyers. The

paintings are being prepared for shipment in Vienna while an arbitration court decides who owns a sixth disputed Klimt: the gallery, Altmann and her cousins or another Viennese family whose ancestors purchased art from the painter.

Altmann says she has mixed feelings about her victory. She says she's delighted that "justice has been brought about." But she also hopes that an agreement can be reached to keep the paintings in Austria or sell them to another museum or private collector.

"I can't have them in my house," she says. "There is no security for this. I would be always worried about being hit over the head."

END

AP

2/21/06

BlackBerry Case May Be Nearing Resolution; Judge May Issue Injunction Soon On U.S. Sales, Service

RICHMOND, Va. -- Say what you want about patent infringement suits, but at least the BlackBerry case has drama.

A federal judge, clearly impatient with the long-running case, could issue an injunction soon on U.S. sales and service of the wireless e-mail device.

Most patent suits are dismissed or settled long before they reach this stage. Remarkably, neither BlackBerry maker Research In Motion Ltd. nor tiny patent holder NTP Inc. have shown signs of backing down. In effect, they're daring each other to blink first and settle.

Governments, businesses and individual users are growing unnerved by the standoff. Although the odds of an actual shutdown are low, conflicting opinions about the possible outcomes and the spin from both sides have created a confusing picture.

James R. Spencer, a no-nonsense U.S. district judge widely respected in the legal community, now finds himself in the unusual position of weighing an injunction against RIM even as the U.S. Patent and Trademark Office is expected to finally rescind NTP's patents.

"These patents are ... guaranteed to go in the garbage," James Balsillie, co-chief executive of Canada's RIM, said in December. "At the end of the day, our position is real simple: Let the system work."

Unfortunately for Balsillie, the system doesn't necessarily work in a timely fashion. Spencer has signaled that he is unwilling to delay his proceedings while awaiting final word from the patent office, which lags far behind the court system. A case that could change the practice of granting injunctions in patent cases, eBay Inc. v. MercExchange, will be taken up by the Supreme Court, but no decision is expected until the spring at the earliest. Spencer, meanwhile, has scheduled a hearing for Feb. 24 on the injunction and damages.

Because patent infringement cases don't often rise to this level of importance and even fewer make it this far in the courts, it's hard to tell how Spencer will rule. An injunction he once issued on a sediment-control device, for instance, interested few people outside the construction industry. RIM v. NTP, on the other hand, could affect many of the more than 3 million BlackBerry users in the United States.

"His bottom line is that he wants this case off his docket," said Susan Dadio, a patent attorney in Alexandria, Va. "And if the two sides can't reach a settlement or resolve this, he will not be afraid to act

himself."

Arlington, Va.-based NTP was co-founded by the late Thomas Campana Jr., an engineer who in 1990 created a system to send e-mails between computers and wireless devices. He is survived by his wife, who owns a large stake in NTP.

The BlackBerry hit the market in the late 1990s, becoming popular with lawyers, consultants and others who wanted to check e-mails away from their office and home computers.

In 2001, NTP filed suit. A year later, a federal jury in Richmond agreed that RIM had infringed on NTP's patents. The jury awarded the small firm 5.7 percent of U.S. BlackBerry sales, a rate that Spencer later increased to 8.55 percent.

Spencer issued an injunction in 2003 but held off on its enforcement during RIM's appeals. Those efforts largely failed and the case returned to his court last year.

Government and emergency workers would be exempted from any BlackBerry blackout, but the Justice Department has asked Spencer to hold off on an injunction until the details can be sorted out.

If granted, that delay would also permit corporate and individual BlackBerry users to switch to other devices or to download new software that RIM claims would work around NTP's patents.

RIM executives say the new software will prevent any service disruptions, but they have released few details. Some analysts are questioning the viability of the workaround and whether it might inconvenience users or degrade service.

The unanswered questions in the case have led thousands of companies to contact consultants in recent weeks for advice on alternative technologies, though few have actually made the switch.

At United Parcel Service Inc., as many as 3,000 managers, executives and technical support employees use BlackBerries. In the worst-case scenario, the company would switch those users over to Palm Treo handhelds, which are used by other employees, said Donna Barrett, a UPS spokeswoman.

David Johnson, infrastructure technology director for Grant Thornton LLP, said the Chicago-based accounting firm has been moving away from BlackBerries to a variety of devices supporting Microsoft Corp.'s Windows Mobile operating system.

That move has been due to personal preferences rather than the RIM litigation, but now the firm has asked two wireless providers to be prepared to supply backup devices for some of its 550 remaining BlackBerry users.

Even so, Johnson hopes RIM and NTP will work out their differences.

"If they want to kill each other and put each other out of business, all they're going to do is drive people to Windows Mobile faster," Johnson said. "This is stupid is as stupid does."

Analysts and others say both sides should settle. RIM would be able to avoid the headaches of the injunction and focus more on its business, especially with Microsoft posing a greater threat.

And NTP, they say, would fare better with a fat settlement (perhaps beyond the $250 million RIM has deposited in escrow) while continuing to reap royalties from licensing agreements with RIM competitors Nokia Corp., Good Technology Inc. and Visto Corp.

Those companies have only small pieces of the wireless e-mail market dominated by RIM. And eventually, some analysts say, the patent office would catch up to NTP, eliminating its leverage.

"Their days of milking these patents are nearing their end," Gartner analyst Ken Dulaney said, referring to NTP. "If they are indeed worried about the poor widow Campana, they should take the money."

END

Bloomberg

2/17/07

Opinion: Did Politics Trump Law in Spying, Tobacco Cases?

Ann Woolner

Feb. 17 (Bloomberg) -- The U.S. Justice Department's internal police are on the job again. They are digging into whether government lawyers acted ethically in approving President George W. Bush's domestic surveillance plan.

The question isn't whether the administration's policy is legal. No internal investigation is going to shake the department's conviction that it is (against all evidence to the contrary.)

The answer the in-house cops are supposed to provide is ``whether the department lawyers complied with their professional obligations'' in reaching their conclusion, Justice Department spokeswoman Tasia Scolinos said.

Or, did the president's agenda run roughshod over the law?

Someone should answer that question. In fact, someone should pose that question over and over.

We know that too little attention to professional obligations led to Justice Department opinions that anti-torture laws don't apply in the war on terror, an opinion withdrawn after it was made public.

More recently, the Washington Post reported that upper levels at the Justice Department approved state election law changes that favor Republicans, despite objections from the department's voting experts. And allegations that political appointees at the department told career lawyers to pull punches in their case against Big Tobacco have been widely reported.

Slithering Around

What is going on over there?

Could it be that lawyers hired with taxpayer funds to enforce the laws of the United States instead look for ways to slither around them, all in service to a partisan agenda?

Don't expect much of an answer from the Office of Professional Responsibility, where the department's ethics cops reside. It typically writes its findings cryptically, with no one named as blameworthy, and sends them to the people who requested the investigation. That would be members of Congress in the tobacco and eavesdropping cases.

To whatever degree the office does answer the question, it won't happen anytime soon.

The same office is still looking into last summer's allegations of political interference in the department's civil racketeering case against tobacco companies that are accused of lying to the public repeatedly about the risks of smoking.

Anti-Smoking Program

Did political appointees at the last minute improperly force career lawyers to chop their plea for an industry-funded, $130 billion quit-smoking program down to $10 billion?

And why were three of the government's own witnesses told to soften their testimony against Big Tobacco?

Management guru Max Bazerman of the Harvard School of Business, for example, says he was told to ease up on his position on whether court-appointed monitors could recommend removal of top corporate executives with a history of misrepresentations.

```If you don't, Associate Attorney General Robert McCallum will pull you from the case before you testify,'" a clearly uncomfortable career lawyer told Bazerman, the professor said in a telephone interview this week.

He didn't change his testimony and wasn't pulled from the case. And department officials, including McCallum, denied political motives. They said a court of appeals decision required the government to change its position.

`Additional Influences'

That explanation didn't satisfy U.S. District Court Judge Gladys Kessler, who suggested that ``additional influences'' beyond legal considerations could explain the government's sudden downshift.

In fact, after the government cut back on seeking a stiff penalty, she let anti-smoking groups intervene to argue for one. Kessler, who is trying the case without a jury, could issue her decision any day.

In the meantime, Sharon Y. Eubanks, who led the government's tobacco litigation team, took early retirement in December at age 50 after 22 years with the Justice Department, citing a lack of support for the case from political appointees.

Eubanks joined the department when Ronald Reagan was president and worked there through Republican and Democratic administrations alike.

``I never saw anything like this,'' she said in a telephone interview this week about politicization at the department.

Voting Rights

In the department's voting rights division, almost a third of its 36 lawyers had resigned over a nine-month period, the Washington Post reported in January, many claiming political interference in their legal conclusions.

A Georgia voter identification law, which a federal judge would eventually strike down as resembling the old racially discriminatory poll taxes, was found objectionable by career lawyers but just fine by their appointed bosses, according to news reports.

Just because the career lawyers get reversed by their bosses doesn't necessarily mean there's something sinister afoot, former Attorney General Griffin Bell said in a telephone interview. ``It's not uncommon for people to get overruled,'' he said, declining to give an opinion on whether the current Justice Department is politicized.

``I am against any politicization'' at Justice, said Bell, whom Jimmy Carter appointed to fix a department riddled with politics from the Nixon years.

Court Order

So we will see what the Office of Professional Responsibility says, if anything, about the tobacco case and the eavesdropping issue.

In the meantime, public interest groups are looking for answers.
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A court order this week moved the Electronic Privacy Information Center closer to the documents it is seeking from the Justice Department on eavesdropping.

The House Intelligence Committee announced hearings, too, after its Senate counterpart balked.

As for the tobacco case, a lawsuit brought by Citizens for Responsibility and Ethics in Washington prompted another federal judge last week to order both sides to submit arguments in writing on the group's document request.

What we have now at the Justice Department is an apparent pattern. It is a scary one at that, for anyone who values the rule of law.

Is it acceptable to torture despite laws to the contrary? Sure. How severely should large companies be punished if found to be lying about the deadly nature of their product? Not very. Do state election laws that hurt minority voting strength violate the U.S. Voting Rights Act? Nah. And does a law forbidding wiretaps without court-approved warrants apply to this administration's war on terror? Nope.

Yes, call in the ethics cops. And anyone else who can say what's really going on at the Justice Department.

END

McKenzie, Peggy (CIV)

From:	McKenzie, Peggy (CIV)
Sent:	Tuesday, February 21, 2006 1:35 PM
To:	Agarwal, Asheesh (CIV); Bahr, Dorothy (CIV); Baxter, Felix (CIV); Bordeaux, JoAnn (CIV); Bucholtz, Jeffrey (CIV); Calvert, Chris (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davis, Deborah J; Eubanks, Sharon (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Fishback, David (CIV); Flentje, August (CIV); Fowler, Liane (SMO); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Goldberg, Arthur (CIV); Gorsuch, Neil M; Gray, Towanda (CIV); Hertz, Michael (CIV); Hollis, Robert (CIV); Hudson, Lewis (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jennings, Geraldine (CIV); Katsas, Gregory (CIV); Keener, Donald (CIV); Kent, Alexander (CIV); Kohl, Christine (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Liner, Linda (CIV); Lloyd, Shirley (CIV); Lucas, Regina E. (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Schiffer, Stuart (CIV); Shaw, Aloma A; Swenson, Lily F; Thirolf, Eugene; Williams, Angela (CIV); Williams, Toni (CIV); Willis, Kerry (CIV); Zwick, Ken (CIV)
Subject:	2/21 Weekly Report to the AG
Attachments:	CivDivWkly0221.wpd

U.S. Department of Justice

Civil Division

Assistant Attorney General *Washington, D.C. 20530*

February 21, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE ACTING DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Peter D. Keisler
Assistant Attorney General

SUBJECT: Civil Division Weekly Report to the Attorney General

A. NEXT WEEK

· ***D.C. Circuit Schedules Oral Argument in Appeal Involving Department of Homeland Security's Human Resources Regulations***
National Treasury Employees Union, et al. v. Michael Chertoff, Secretary of Homeland Security, et al. [United States Court of Appeals for the District of Columbia Circuit; United States District Court for the District of Columbia]. In this facial challenge brought by several federal labor unions, the district court upheld in part and struck down in part recent regulations, jointly issued by the Department of Homeland Security and the Office of Personnel Management, creating a new human resources management system for the Department of Homeland Security. While upholding significant portions of the regulations, the district court found fault with (among other things) their treatment of collective bargaining and with the new role prescribed for the Federal Labor Relations Authority in Department of Homeland Security matters. Both sides have appealed and have filed briefs on an expedited schedule, and the United States Court of Appeal for the District of Columbia Circuit has now set oral argument for April 6, 2006, before Judges Randolph, Griffith, and Edwards.

· ***D.C. Circuit to Hear Oral Argument in Appeals Challenging Computer Disconnection and Class Notice Orders and Seeking Reassignment of this Indian Trust Litigation to a***

Different District Court Judge

Cobell v. Norton [United States Court of Appeals for the District of Columbia Circuit; United States District Court for the District of Columbia]. On Tuesday, April 11, a panel of the D.C. Circuit (Tatel, Brown, Silberman) will hear oral argument in two appeals arising out of the ten-year-old Indian trust litigation. One appeal challenges an injunction requiring the Department of the Interior to disconnect major computer systems from the internet and from internal computer networks. The second appeal challenges an order requiring Interior to declare in all written communications with class members that its trust information is of questionable reliability. The appeal also seeks reassignment of the case to a different district court judge.

B. THIS WEEK

· ***Aviation and Admiralty Staff Monitoring Baltimore Water Taxi Incident***

In early 2004, the water taxi LADY D capsized in a storm in Baltimore's Inner Harbor. Of the 25 passengers on board, five drowned. The taxi's insurers now apparently plan to go forward with suit against the United States on allegations of negligent inspection by the Coast Guard.

C. LAST WEEK

· ***Third Circuit Holds that Use of Interstate Facilities in the Commission of a Murder-For-Hire Is a Crime of Violence Regardless of Intent***

Ng v. Gonzales [3d Cir.]. On February 7, the Third Circuit held that the alien's conviction for use of interstate commerce facilities in the commission of a murder-for-hire was a conviction for a crime of violence, and hence an aggravated felony, even where the putative hitman became a government informant and never intended to nor attempted to follow through with the scheme. Using the "formal categorical approach," which looked only to the elements of the statute, the Court reasoned that the intent of the putative hitman was irrelevant and concluded that the offense was a crime of violence under 8 U.S.C. § 16(b) because it posed a "substantial risk that physical force will be used against another," even if "some violations . . . will never culminate in an actual agreement or the commission of a murder."

· ***Ninth Circuit Reverses Adverse Credibility Determination, Grants Withholding and Remands for Asylum Determination of Chinese Alien Who Brought Falun Gong Articles to Friend in China***

Zhou v. Gonzales [9th Cir.]. On February 7, the Ninth Circuit reversed the Immigration Judge's adverse credibility finding and held that Zhou's fear of arrest and punishment in China was subjectively genuine and objectively reasonable. The Court found that the evidence compelled a finding that the treatment Zhou feared constitutes persecution even though she is not a member of Falun Gong but brought newspaper articles pertaining to Falun Gong into China for a friend who was a Falun Gong member. The Court determined that the evidence established that the arrest and punishment she feared was on account of an anti-governmental political opinion imputed to her by the Chinese government. The Court found her ineligible for Torture Convention protection.

- ***Second Circuit Reverses "Safe Haven" Determination and Adverse Credibility Finding***
  Tandia v. Gonzales [2d Cir.]. On February 7, the Second Circuit reversed the Immigration Judge's determination that an alien's one-month stay in France after allegedly fleeing Mauritania was sufficient grounds for a discretionary denial of asylum because the alien had found a "safe haven" in a third country before coming to the United States. The "safe third country" regulation allowing for a discretionary denial of asylum had been repealed three days prior to the Immigration Judge's decision. The Court also reversed the Immigration Judge's adverse credibility finding because it "involved impermissible speculation and conjecture."

- ***Stipulated Dismissal in Records Case Concerning Saudis' Departure after September 11***
  Judicial Watch v. Department of State [District of Columbia]. On February 7, Judge Rosemary M. Collyer approved the parties' joint stipulation of dismissal and denied as moot defendant's motion to dismiss. Plaintiff filed this action after submitting a Freedom of Information Act ("FOIA") request to the State Department for information regarding the departure from the United States of Saudi nationals immediately after September 11, 2001. This request was identical to requests to the Department of Homeland Security and the Federal Bureau of Investigation, which were the basis for an action now pending before Judge Richard W. Roberts, *Judicial Watch v. Department of Homeland Security* (District of Columbia). The State Department, which responded to plaintiff's FOIA request with a "no records found" determination approximately 22 months after its initial receipt, moved to dismiss the present action because plaintiff failed to utilize the administrative appeal process that must be exhausted as a prerequisite to filing suit. Judicial Watch sought a joint stipulation of dismissal with prejudice less than 24 hours after the filing of the State Department's motion to dismiss.

- ***Judge Grants Summary Judgment on Religious Infringement Claims of Post-9/11 Detainee***
  Hady Hassan Omar v. Carl Casterline, et al., No. 02-cv-1933 [Western District of Louisiana]. Plaintiff, an Egyptian citizen, is a former detainee who was held for 73 days following the attacks of September 11, 2001, and subsequently released. He filed suit against a number of federal employees of the former Immigration and Naturalization Service and the Bureau of Prisons. Plaintiff challenged his conditions of confinement, alleging that defendants violated his constitutional rights, as well as his rights under the Religious Freedom Restoration Act (RFRA). On February 8, after extensive discovery, Senior Judge Little entered summary judgment on plaintiff's First Amendment and RFRA claims, dismissing all defendants with prejudice. (Earlier, in 2003, the court granted

defendant's motion to dismiss plaintiff's other constitutional claims, including a challenge to a body cavity search). The court discussed plaintiff's numerous allegations that his religious rights were infringed upon, including claims that he was fed pork, mocked because of his religious beliefs, misinformed about the onset of Ramadan, and others. Judge Little concluded that plaintiff failed to raise a triable issue of fact as to any defendant.

- ***Fifth Circuit Holds Contract Right to Terminate Agreement on Bankruptcy Is Subject to Bankruptcy Code's Automatic Stay of Actions Against the Debtor***
  Bonneville Power Administration v. *Mirant Corporation* [United States Court of Appeals for the Fifth Circuit; United States District Court for the Northern District of Texas]. On February 13, the Fifth Circuit (DeMoss, Garwood, Smith, CJ.) held that the Bonneville Power Administration violated the Bankruptcy Code's "automatic stay" by attempting to terminate an option contract to purchase electricity from the debtor without first seeking permission from the bankruptcy court. The option contract provided that Bonneville Power Administration could terminate the agreement immediately upon the seller's bankruptcy. The Court, however, in conflict with the Third Circuit, held that such termination provisions could only be enforced if the debtor actually assigned the contract to a different party and were otherwise subject to the bankruptcy court's general power to prevent unilateral actions that interfere with the debtor's property.

- ***Eleventh Circuit Dismisses Petition for Review of Federal Aviation Administration Order for Lack of Standing***
  Phillips v. Federal Aviation Administration [United States Court of Appeals for the Eleventh Circuit; Federal Aviation Administration]. On February 13, the Eleventh Circuit (Tjoflat, Black, Carnes) dismissed a petition for review from a Federal Aviation Administration order holding that the Naples Airport Authority did not violate federal statutes or grant obligations by reserving to itself the exclusive right to distribute jet fuel at Naples Airport. In our brief, we argued that petitioners lacked standing to seek review of the Federal Aviation Administration order because an outstanding state court injunction prohibited them from engaging in fueling activities at the airport. The airport intervened and filed a motion to dismiss on similar grounds. The Eleventh Circuit granted the motion, dismissing the petition for lack of standing.

- ***District Court Enjoins Transfer of Terrorist Suspect to Iraqi Criminal Court***
  Sandra K. Omar, et al. v. Francis J. Harvey, et al. [District of Columbia]. Shawqi Omar ("Omar"), a dual American-Jordanian citizen, through his wife and son, has filed a habeas corpus petition seeking relief from Omar's current custody in Iraq. Omar was captured by Multinational Force – Iraq (MNF-I) in October 2004, and has been in the custody of MNF-I since that time. Among other things, Omar has ties to Abu Musab al Zarqawi – the recognized leader of Al-Qaeda in Iraq – and is suspected of harboring insurgents and directing the selection and surveillance of potential kidnap victims. Upon learning that Mr. Omar's case had previously been designated to proceed before the Central Criminal Court of Iraq on February 2, petitioners filed an *ex parte* motion for a temporary restraining order seeking to prevent the transfer of Mr. Omar out of purported United States custody until the district court could consider the merits of the underlying habeas petition. On February 3, without affording government counsel prior notice or an opportunity to be heard, the Court granted the *ex parte* motion and set forth an expedited

briefing schedule on the temporary restraining order. Respondents argued primarily that the Court lacked jurisdiction over the case because Mr. Omar was not in the custody of the United States but rather was in the custody of the MNF-I, and that although U.S. Armed Forces participate in MNF-I's custody over Mr. Omar, they do so only as part of MNF-I and not as the United States. Respondents also argued that the injunctive relief sought would violate fundamental principles of separation of powers by requiring the Court to interfere with the decisions of the Executive in military and foreign policy matters. On February 13, Judge Ricardo M. Urbina, *sua sponte*, converted petitioners' motion for a temporary restraining order to a motion for a preliminary injunction and preliminarily enjoined the United States from removing Omar from "United States or MNF-I" custody. The Court determined that the case raises questions that are "so serious, substantial, difficult and doubtful, as to make them a fair ground for litigation and thus for more deliberative investigation."

- ***Portuguese Appeals Court Reverses Wrongful Termination Finding***
  DaRocha v. United States, [Lisbon High Court, Portugal]. A 1988 reduction in force separated Elias DaRocha from his job as a cook at the Officers' Club at Lajes Air Field, Terceira, in the Portuguese Azores. On February 13, 2006, the Lisbon High Court reversed the decision of a lower court that had found that DaRocha's separation was wrongful, awarding back pay of $330,000 and reinstatement. The Lisbon High Court held that employment contracts between Portuguese nationals and the United States are governed by a bilateral agreement between the United States and Portugal. Under article 95 of this agreement, only disciplinary actions are justiciable before Portuguese courts. As this termination was the result of a reduction- in-force, the Lisbon High Court ruled that Portuguese courts lacked jurisdiction to hear the matter and dismissed the case.

- ***United States Files Amicus Brief in Agent Orange Litigation***
  Vietnam Association for Victims of Agent Orange v. Dow Chemical Co. [United States Court of Appeals for the Second Circuit; United States District Court for the Eastern District of New York]. On February 15, the United States filed a brief as *amicus curiae*, urging affirmance of the district court's dismissal of claims brought on behalf of all Vietnamese exposed to Agent Orange and similar herbicides during the Vietnam War against the chemical companies that supplied the herbicides to the U.S. military. The United States argued that the political question doctrine barred a court from second-guessing the President's determination that the use of herbicides for defoliation and enemy crop destruction was a necessary and lawful means of waging war. The United States also asserted that the Alien Tort Statute did not authorize an implied private right of action to challenge the defendants' alleged aiding and abetting of the United States' use of herbicides, that the plaintiffs failed to state a valid claim under international law, and that the government-contractor defense barred claims brought under the Alien Tort Statute.

- ***Argument to Be Heard in Constitutional Challenge to New Bankruptcy Provisions***
  In re Michele Moore [Western District of Washington]. On February 15, the bankruptcy court heard oral argument on the debtor's motion, seeking a declaration that the "debt relief agency" provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, 11 U.S.C. §§ 525-527, are invalid and not enforceable as to attorneys. The challenged provisions establish certain standards of professional conduct for attorneys

and others who provide "bankruptcy assistance" to a consumer debtor with less than $150,000 in nonexempt assets. 11 U.S.C. § 101(12A). "Bankruptcy assistance" includes "providing information, advice, [and counsel] . . . or providing legal representation[.] 11 U.S.C. § 101(4A). The debtor asserts: (1) that the term "debt relief agency" should not be interpreted to include attorneys, and (2) that if such provisions are deemed to apply to attorneys, they violate the First and Tenth Amendment of the United States Constitution. On February 16, we also filed an opposition in *In re Ella Srymanske* (District of New Jersey), in which a challenge also has been raised to the constitutionality of "debt relief agency" provisions. Similar challenges have been filed in five district courts and three other bankruptcy courts.

- ***McKesson Settles Department of Defense False Claims Act Case for $3 Million.*** On February 15, 2005, McKesson Corporation agreed to pay $3,000,000 to compromise False Claims Act allegations. The government's investigation focused on allegations that between 1997 and 2001, McKesson overcharged Medical Treatment Facilities for pharmaceutical products covered under its prime vendor contracts with the Department of Defense.

- ***Federal Court in Brooklyn Dismisses Suit Challenging "Extraordinary Rendition"*** *Maher Arar v. John Ashcroft, et al.*, No. 04-CV-0249 [Eastern District of New York] (Judge David G. Trager). On February 16, the U.S. District Court for the Eastern District of New York dismissed a civil lawsuit in which plaintiff Maher Arar – a dual Canadian/Syrian citizen who was detained at JFK Airport in September 2002 while en route to Canada --challenged his detention in the United States and subsequent removal to Syria, where he claims he was further detained and tortured. According to plaintiff, he was removed to Syria, pursuant to the United States' alleged "extraordinary rendition" policy, because federal officials, believing plaintiff to be a member of al Qaeda, intended for the Syrians to interrogate him under torture. Asserting claims under the Torture Victim Protection Act (TVPA) and the "substantive" component of the Fifth Amendment Due Process Clause (pursuant to Bivens), plaintiff sought declaratory relief from the United States and money damages from six federal officials in their individual capacities, including former Attorney General Ashcroft, former Deputy Attorney General Larry Thompson, Federal Bureau of Investigation (FBI) Director Robert Mueller, former Immigration and Naturalization Service (INS) Commissioner James Ziglar, former INS Regional Director J. Scott Blackman, and former INS District Director Edward J. McElroy. In its February 16 ruling, the District Court dismissed all claims against all defendants. First, the court dismissed all declaratory-relief claims against the United States for lack of standing. Second, the court dismissed with prejudice the TVPA claim on the ground that plaintiff had not shown the defendants to have acted under "color of foreign law" as required by the statute. Third, as to plaintiff's due-process claims based on his alleged detention and torture abroad, the court found that the "jurisdiction stripping" provisions of the Immigration and Nationality Act did not divest it of subject matter jurisdiction, and it declined to resolve whether plaintiff even possessed substantive due process rights while abroad. However, the court still dismissed those due process claims with prejudice on the ground that national security and foreign policy considerations are "special factors" that foreclose a Bivens damages remedy. Fourth, the court dismissed without prejudice plaintiff's due process claims based on his detention in the United States, and, as to this count only, granted plaintiff leave to re-plead in order to

allege (if he can) the personal involvement by the defendants in a violation of plaintiff's asserted due process rights to be free from "gross physical abuse," and to have consular and court access, while in United States' custody. Finally, the court declined, on mootness grounds, to address the "state secrets privilege," which the United States had raised as an alternate ground for dismissing most of plaintiff's claims, given its decision dismissing plaintiff's claims on other grounds.

- ***D.C. Circuit Holds that Putative Intervenor in Tobacco Litigation was Properly Denied Permission to Intervene to Assert Privilege Objections in Trial Testimony*** *United States v. British Am. Tobacco Australia Servs. Ltd.* [United States Court of Appeals for the District of Columbia Circuit; United States District Court for the District of Columbia]. On February 17, the D.C. Circuit (Sentelle, Randolph, Griffith) rejected two appeals by British American Tobacco Australia Services Ltd. (BATAS) arising out of the government's civil RICO action against the tobacco industry. BATAS, a former subsidiary of defendant British American Tobacco Co. and a limited intervenor in the litigation, had sought to expand its intervention rights to assert privilege objections in the deposition and trial testimony of a government witness. The court of appeals upheld the district court's determination that BATAS's expanded intervention motion, which was filed only 20 days before the start of trial, was "clearly untimely" under Fed. R. Civ. P. 24(a), and thus declined to address BATAS's challenge to the district court's alternative conclusion that BATAS had waived its alleged privileges. The court further concluded that because BATAS's motion to intervene was properly denied under Rule 24, BATAS had no standing to appeal from a subsequent order in the case rejecting other defendants' privilege objections in the same witness's testimony.

- ***Oral Argument Scheduled in Challenge to Passive Enrollment Policy under Medicare Prescription Drug Program***
  Erb v. McClellan [Eastern District of Pennsylvania]. On February 17, Judge John Padova will hear oral argument on the defendants' motion to dismiss. Plaintiffs, individuals who are eligible for both Medicare and Medicaid coverage, filed suit challenging the passive enrollment policy of the Centers for Medicare and Medicaid Services. Through passive enrollment, individuals who had been previously enrolled in a Medicaid managed care plan, and who did not affirmatively select a different plan, were, as of January 1, 2006, passively enrolled into a Medicare HMO that was run by the same organization as their Medicaid managed care plan in order to provide, to the extent possible, a greater continuity of drug coverage after January 1. Plaintiffs contend that passive enrollment was adopted in violation of the Medicare Act and the Constitution, and in any case should have been subject to notice and comment rulemaking. They seek to enjoin the entire passive enrollment process in Pennsylvania. We moved to dismiss, arguing that plaintiffs' challenge must be channeled through the administrative exhaustion process under the Medicare Act, and that the court lacks subject matter jurisdiction as a result.

- ***D.C. Circuit Affirms Decision that the District Court Lacked Leedom v. Kyne Jurisdiction to Review the Federal Service Impasses Panel's Decision not to Hear a Matter at the Behest of the Federal Aviation Administration's Unions***
  National Air Traffic Controllers Ass'n v. *Federal Service Impasses Panel*. (Ginsburg, Randolph, Edwards) [United States Court of Appeals for the District of Columbia Circuit; United States District Court for the District of Columbia]. On February 17, the D.C.

Circuit held that the district court lacked jurisdiction under Leedom v. Kyne to consider a claim by two Federal Aviation Administration (FAA) unions that the Federal Service Impasses Panel had violated a clear and mandatory duty to take jurisdiction over a dispute between the unions and the agency. The FAA had objected to the Panel's jurisdiction based on a special labor statute enacted for the FAA in the 1990s and, in court, had explained as amicus why that statute deprived the Panel of jurisdiction. The court of appeals held that 5 U.S.C. 7119, which addresses the Panel's authority, was not sufficiently clear and mandatory to support *Leedom* jurisdiction in the face of "compelling arguments" on both sides as to the Panel's jurisdiction, and that, in any event, the unions had a remedy with the Federal Labor Relations Authority by alleging that the FAA's refusal to participate was an unfair labor practice.

Contact: Asheesh Agarwal, Counsel,353-7957

Williams, Jan

From: Williams, Jan

Sent: Wednesday, February 22, 2006 8:53 AM

To: Garrett, Paul; Horvath, Jane; Masugi, Ken (OPA); Block, Jonathan; /o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Balfe, Robert; Biskupic, Steven (USAWIE); Bogden, Daniel (USANV); Brooks, Susan; Brownlee, John (USAVAW); Buchanan, MaryBeth (USAPAW); Canary, Leura G. (USAALM); Charlton, Paul (USAAZ); Chiara, Margaret M. (USAMIW); Christie, Christopher (USANJ); Colantuono, Thomas P. (USANH);

Connolly, Colm (USADE); Corrente, Robert (USARI); Cummins, Bud (USAARE); Dugas, David R. (USALAM); Fitzgerald, Patrick J. (USAILN); Garcia, H; Garcia, Michael J (SDNY); Graves, Todd (USAMOW); Greenlee, Jim (USAMSN); Heavican, Michael (USANE); Heffelfinger, Tom (USAMN); Huber, David L. (USAKYW); Iglesias, David C. (USANM); Immergut, Karin (USAOR); Jenkins, Anthony; Kubo, Ed (USAHI); Lam, Carol (USACAS); Lampton, Dunn (USAMSS); Larson, Charles (USAIAN); Letten, James (USALAE); Lockhart, Gregory; Marino, Thomas (USAPAM); Martin, Alice (USAALN); Mauskopf, Roslynn; McDevitt, Jim A. (USAWAE); McKay, John (USAWAW); Mead, Matthew H. (USAWY); Meehan, Patrick (USAPAE); Melgren, Eric (USAKS); Mercer, Bill (USAMT); Miller, Gregory (USAFLN); Moss, Thomas (USAID); Murphy, Stephen J. (USAMIE); Nahmias, David (USAGAN); O'Connor, Kevin (USACT); O'Melia, Michael (USAAZ); Orwig, Matt (USATXE); Perez, Paul (USAFLM); Rapadas, Leonardo; Roper, Richard (USATXN); Rosenstein, Rod (USAMD); Ryan, Kevin (USACAN); Scott, McGregor (USACAE); Shappert, Gretchen (USANCW); Sperling, Sheldon J. (USAOKE); Suddaby, Glenn T. (USANYN); Sullivan, Michael (USAMA); Sutton, Johnny K. (USATXW); Vines, Jim (USATNM); Wagoner, Anna Mills S. (USANCM); Wainstein, Kenneth; Washington, Donald (USALAW); Whitaker, Matt (USAIAS); White, Greg (USAOHN); Whitney, Frank (USANCE); Wood, Lisa (USAGAS); Wood, Maxwell; Wrigley, Drew (USAND); Yang, Debra (USACAC)

Subject: The Morning Update: 2/22/06

Attachments: tmp.htm

Importance: Low

The Morning Update

This morning, President Bush will address the Asia Society on America's long-term interests and goals in the region and how the United States can work together with India and Pakistan to achieve them.

In the afternoon, the President and Mrs. Bush will welcome the crew members of the Space Shuttle Discovery to the White House. The President will also mark the 80th celebration of African American History Month and recognize several Americans with the President's Volunteer Service Award.

10:45 am: THE PRESIDENT makes Remarks to the Asia Society

EST Mandarin Oriental Hotel | Washington, DC

2:40 pm: THE PRESIDENT and Mrs. Bush participate in a Photo Opportunity with Crew Members of

EST the Space Shuttle Discovery (STS-114)

The White House | Washington, DC

3:00 pm: THE PRESIDENT makes Remarks at the Celebration of African American History Month

EST and participates in the Presentation of the President's Volunteer Service Awards

The White House | Washington, DC

From Today's Morning Headlines

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President Participates In Energy Conservation & Efficiency Panel <http://www.whitehouse.gov/news/releases/2006/02/20060221.html>

* Advanced Energy Initiative <http://www.whitehouse.gov/stateoftheunion/2006/energy/index.html>
* State Of The Union: The Advanced Energy Initiative <http://www.whitehouse.gov/news/releases/2006/01/20060131-6.html>
* In Focus: Energy <http://www.whitehouse.gov/infocus/energy/>

President Discusses Port Security <http://www.whitehouse.gov/news/releases/2006/02/20060221-2.html>

* The National Strategy For Maritime Security <http://www.whitehouse.gov/homeland/maritime-security.html>
* In Focus: Homeland Security <http://www.whitehouse.gov/infocus/homeland/>

Roundtable Interview Of The President By The Press Pool <http://www.whitehouse.gov/news/releases/2006/02/20060221-1.html>

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The Morning Update

This morning, President Bush will address the Asia Society on America's long-term interests and goals in the region and how the United States can work together with India and Pakistan to achieve them.

In the afternoon, the President and Mrs. Bush will welcome the crew members of the Space Shuttle Discovery to the White House. The President will also mark the 80th celebration of African American History Month and recognize several Americans with the President's Volunteer Service Award.

10:45 am: EST	THE PRESIDENT makes Remarks to the Asia Society Mandarin Oriental Hotel | Washington, DC
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- State Of The Union: The Advanced Energy Initiative
- In Focus: Energy

President Discusses Port Security

- The National Strategy For Maritime Security
- In Focus: Homeland Security

Roundtable Interview Of The President By The Press Pool

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Beach, Andrew

From:	Beach, Andrew
Sent:	Wednesday, February 22, 2006 9:34 AM
To:	Gorsuch, Neil M
Cc:	Shaw, Aloma A
Subject:	FW: THIRD MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)
Attachments:	tmp.htm; Final CMTS Charter_110305.pdf

Neil:
we've been having ENRD handle DOJ representation at this meeting. Is it OK to continue that precedent?

-----Original Message-----
From: [redacted]@dot.gov [mailto [redacted]@dot.gov]
Sent: Tuesday, February 21, 2006 2:04 PM
To: Beach, Andrew; [redacted]@js.pentagon.mil; [redacted]@ceq.eop.gov; [redacted]@hq.doe.gov
[redacted]@who.eop.gov; [redacted]@epa.gov; [redacted]@usda.gov;
[redacted]@fmc.gov; [redacted]@omb.eop.gov; [redacted]@who.eop.gov; [redacted]@who.eop.gov;
[redacted]@who.eop.gov; [redacted](DHS); [redacted]@hqda.army.mil;
[redacted]@dol.gov; [redacted]@state.gov; [redacted]@do.treas.gov; [redacted]@ios.doi.gov;
[redacted]@doc.gov; [redacted]@dot.gov
Subject: FW: THIRD MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

Schedulers:

Based on your feedback, the best date for the next meeting is Thursday April 20th from 2:00-4:00 PM. Please confirm that on your principal's schedule. Formal invitations and briefing materials will be sent over closer to the date. Please let me know if you have any questions.

v/r,
[redacted]

> -----Original Message-----
> From: [redacted] <OST>
> Sent: Tuesday, February 14, 2006 15:58
> To: [redacted]@who.eop.gov); [redacted]
> [redacted]@ceq.eop.gov); Andy Beach; [redacted]
> [redacted]@epamail.epa.gov); [redacted]@hq.doe.gov; [redacted]
> [redacted]@usda.gov); [redacted]@fmc.gov);
> [redacted]@omb.eop.gov); [redacted]
> [redacted]@who.eop.gov); [redacted]@who.eop.gov);
> [redacted]@dhs.gov); [redacted]
> [redacted]@hqda.army.mil); Leah Levy; Linda Dewan; [redacted]
> [redacted]@do.treas.gov) [redacted]@ios.doi.gov);
> [redacted]@doc.gov); [redacted]

[redacted]@js.pentagon.mil); [redacted] <OST>
> Subject: THIRD MEETING OF THE COMMITTEE OF THE MARINE
> TRANSPORTATION SYSTEM (CMTS)
>
> Schedulers,
>
> Can you please check your principal's calendar and let me know his > or her availability for the next meeting of the CMTS? The Charter is > attached for your information. An agenda and briefing book will be > provided closer to the event. The meeting location will be the > Cabinet Liaison Conference Room (Room 160) at the EEOB. I'd > appreciate your input by COB on Friday February 17th. I'll let > everyone know which date works best, first thing next week. In the > meantime, I'd very much appreciate it if you could put a hold on both > days:
>
> Tuesday April 18th 1:30-3:30 PM
> Thursday April 20th 2:00-4:00 PM
>
> <<Final CMTS Charter_110305.pdf>>
> v/r,
> [redacted]
> [redacted]
> [redacted] U. S. Coast Guard
> [redacted] the Secretary of Transportation > [redacted]@dot.gov
>

CHARTER FOR THE COMMITTEE ON THE MARINE TRANSPORTATION SYSTEM

I. Parties

The parties to this Charter are: the U.S. Department of Transportation, the U.S. Department of Commerce, the U.S. Department of Defense, the U.S. Department of Homeland Security, the U.S. Department of the Treasury, the U.S. Department of State, the U.S. Department of the Interior, the U.S. Department of Agriculture, the U.S. Department of Justice, the U.S. Department of Labor, the U.S. Department of Energy, the Office of the Joint Chiefs, the Environmental Protection Agency, the Office of Management and Budget, and the Federal Maritime Commission.

II. Authority

The authority to establish this Committee derives from a directive by the President in the U.S. Ocean Action Plan, issued December 17, 2004, "Supporting Marine Transportation."

III. Purpose

A. To create a partnership of Federal agencies with responsibility for the Marine Transportation System (MTS) - waterways, ports and their intermodal connections – to ensure the development and implementation of national MTS policies consistent with national needs and report to the President its views and recommendations for improving the MTS.

B. The partnership established by this Charter, to be known as the Committee on the Marine Transportation System (CMTS), and its constituent sub-organizations described in paragraphs VI-VIII below, will be responsible for the following:

- improving Federal MTS coordination and policies;
- promoting the environmentally sound integration of marine transportation with other modes of transportation and with other ocean, coastal, and Great Lakes uses;
- developing outcome-based goals and strategic objectives for the safety, security, efficiency, economic vitality, environmental health, and reliability of the MTS for commercial and national defense requirements, as well as a method for monitoring progress towards those goals;
- coordinating budget and regulatory activities that impact the MTS; and
- recommending strategies and implement plans to maintain and improve the MTS.

IV. Organization

The CMTS is a Federal cabinet-level inter-agency organization that reports to the President and is supported by three sub-organizations: the Coordinating Board (CB), the Executive Secretariat (ES), and Integrated Action Teams (IATs).

A. The Committee on the Marine Transportation System

1. The Committee is comprised of the heads of Federal agencies, or their senior level designees. Through the Committee each member agency has a unique capacity to work collaboratively on MTS matters. The Committee will meet as appropriate, but not less than twice a year, to address nationally significant MTS issues. The Committee or any of its members can identify proposed agenda items.

2. Membership

The Committee will be chaired by the Secretary, Department of Transportation (DOT). The following Heads of Agencies, or their senior level designees, also serve as Committee members.

- Secretary of Commerce;
- Secretary of Defense;
- Secretary of Homeland Security;
- Secretary of the Treasury;
- Secretary of State;
- Secretary of the Interior;
- Secretary of Agriculture;
- Attorney General;
- Secretary of Labor;
- Secretary of Energy;
- Chairman of the Joint Chiefs of Staff;
- Administrator of the Environmental Protection Agency;
- Chairman of the Federal Maritime Commission; and
- the head of any other Federal agency that the Committee Chair, with the approval of a majority of the voting members of the Committee, determines can further the purpose and activities of the Committee

3. Ex-officio members of the Committee, who can participate as non-voting members include the:

- Director, Office of Management and Budget;
- Chairman, Council on Environmental Quality;
- Assistant to the President for Homeland Security;
- Assistant to the President for Domestic Policy; and
- Assistant to the President for Economic Policy

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4. Consultation

In carrying out its functions and activities under this Charter, the Committee will consult with the Marine Transportation System National Advisory Council (MTSNAC), Congressional representatives and staff members, the public, and other interested parties.

B. Coordinating Board (CB)

1. The CB will be comprised of senior-level representatives designated by each Committee member. The CB will assist Committee members in exercising their duties and responsibilities in accordance with this Charter. The chair of the CB will be rotated among the Commandant of the U.S. Coast Guard, the Chief of the U.S. Army Corps of Engineers, the Maritime Administrator and the National Oceanic and Atmospheric Administration Administrator. The CB will meet periodically to assist the Committee in formulating its recommendations and will report directly to the Committee.

2. The Coordinating Board is responsible for:

- creating and implementing the joint strategic plan for improving the MTS;
- coordinating and integrating the work of each IAT;
- recommending interagency procedures and mechanisms to achieve coordination of the partnering agencies' MTS activities and programs, including budget and appropriations requests, research and development studies and projects, and acquisitions for products and services;
- selecting lead agency for each IAT; and
- overseeing data acquisition and management for the MTS to support performance metrics.

C. Executive Secretariat (ES)

1. The ES is the staff body of the CMTS, made up of Federal employees from CMTS member agencies. The ES Director will be an employee of the Department of Transportation who reports directly to the Under Secretary of Transportation for Policy. The ES serves as a technical advisory body to the CB and the IATs. The Director shall keep the CB informed of all developments, including matters to be brought before the Committee, necessary for the CB to fulfill its responsibilities. The ES Director is the Executive Secretary to the CB.

2. The Executive Secretariat is responsible for:

- ensuring liaison, coordination, collaboration, and clear communications among member agencies, other stakeholders, and the CB;
- presenting consolidated agency interests to the CB on operational and policy issues;
- providing staff support to the CMTS; and
- preparing a work plan and operating budget for implementing its responsibilities.

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D. Integrated Action Teams (IAT)

1. IATs are responsible for the execution of the strategies developed within the joint strategic plan. An IAT will be created as needed, and could be either temporary or permanent in nature depending upon the issue or challenge that the team has been formed to resolve. The members of each IAT shall include representatives from the lead agency, member agencies and other organizations required to satisfy the mission of the IAT.

2. Each IAT lead agency shall:

- prepare an IAT action plan governing its work that aligns with the joint strategic plan. Each action plan shall include, but is not limited to, the following tasks:
  - Survey each Agency's MTS-related policies and programs including inter-agency and international agreements, and identify opportunities and methodologies for collaboration;
  - Facilitate inter-agency sharing and distribution of information;
  - Propose recommendations for interagency MTS research and development coordination.
- implement and manage the action plan, including oversight of the agencies involved in the effort; and
- provide status reports to the CB and the ES Director on the performance of its action plan, including technical, financial and schedule aspects.

V. Agency Responsibilities

Each Agency shall fund the costs of its own participation in the CMTS. Specific resources and funding commitments between member agencies shall be addressed in separate interagency funding agreements executed under the Economy Act (31 U.S.C. §1535) or other appropriate authority. Nothing herein shall derogate from the authority vested in any agency or other government entity by statute, executive order, presidential directive, or any other instrument.

VI. Other Provisions

A. Nothing in this charter shall be construed to require the obligation of any budgetary resources on the part of member agencies.

B. The terms of this charter will become effective on August 11, 2005.

C. This charter may be modified upon the mutual written consent of all Parties to this Charter, as specified in Paragraph I.

D. The terms of this charter will remain in effect until terminated by the President of the United States.

DOJ_NMG_0015787

VII. Signatures

Norman Y. Mineta, Secretary U.S. Department of Transportation	Date
Carlos M. Gutierrez, Secretary U.S. Department of Commerce	Date
Donald H. Rumsfeld, Secretary U.S. Department of Defense	Date
Michael Chertoff, Secretary U.S. Department of Homeland Security	Date
John W. Snow, Secretary U.S. Department of the Treasury	Date
Condoleeza Rice, Secretary U.S. Department of State	Date
Gale A. Norton, Secretary U.S. Department of the Interior	Date
Mike Johanns, Secretary U.S. Department of Agriculture	Date
Alberto R. Gonzales, Attorney General U.S. Department of Justice	Date

DOJ_NMG_0015788

Elaine L. Chao, Secretary
U.S. Department of Labor

Date

Samuel W. Bodman, Secretary
U.S. Department of Energy

Date

General Peter Pace, Chairman
Joint Chiefs of Staff

Date

Stephen L. Johnson, Administrator
U.S. Environmental Protection Agency

Date

Steven R. Blust, Chairman
Federal Maritime Commission

Date

Joshua B. Bolten, Director
Office of Management and Budget

Date

James L. Connaughton, Chairman
Council on Environmental Quality

Date

Frances Frago Townsend, Assistant to the President
for Homeland Security and Counterterrorism

Date

Claude Allen, Assistant to the President
for Domestic Policy

Date

Allan B. Hubbard, Assistant to the President
for Economic Policy

Date

DOJ_NMG_0015789

Schedulers:

Based on your feedback, the best date for the next meeting is Thursday April 20th from 2:00-4:00 PM. Please confirm that on your principal's schedule. Formal invitations and briefing materials will be sent over closer to the date. Please let me know if you have any questions.

v/r,

[redacted]

-----Original Message-----

From: [redacted]<OST>

Sent: Tuesday, February 14, 2006 15:58

To: [redacted]@who.eop.gov); [redacted]@ceq.eop.gov); Andy Beach; [redacted]@epamail.epa.gov); [redacted]@hq.doe.gov; [redacted]@usda.gov); [redacted]@fmc.gov); [redacted]@omb.eop.gov); [redacted]@who.eop.gov); [redacted]@who.eop.gov); [redacted]@dhs.gov); [redacted]@hqda.army.mil); Leah Levy; Linda Dewan; Linda Figura (Linda.Figura@do.treas.gov); Lori Yates (Lori_Yates@ios.doi.gov); Marilyn Abel (MAbel@doc.gov); Mary Turner [redacted]@js.pentagon.mil); [redacted]<OST>

Subject: THIRD MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

Schedulers,

Can you please check your principal's calendar and let me know his or her availability for the next meeting of the CMTS? The Charter is attached for your information. An agenda and briefing book will be provided closer to the event. The meeting location will be the Cabinet Liaison Conference Room (Room 160) at the EEOB. I'd appreciate your input by COB on Friday February 17th. I'll let everyone know which date works best, first thing next week. In the meantime, I'd very much appreciate it if you could put a hold on both days:

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Thursday April 20th 2:00-4:00 PM

<<Final CMTS Charter_110305.pdf>>
v/r,

[redacted]

[redacted]U. S. Coast Guard
[redacted]he Secretary of Transportation
[redacted]
[redacted]@dot.gov

Gorsuch, Neil M

From:	Gorsuch, Neil M
Sent:	Wednesday, February 22, 2006 9:36 AM
To:	Beach, Andrew
Cc:	Shaw, Aloma A
Subject:	RE: THIRD MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

Yes - they're best positioned to be useful and have kept us appropriately briefed.

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Cc: Shaw, Aloma A
Subject: FW: THIRD MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

Neil:
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Sent: Tuesday, February 21, 2006 2:04 PM
To: Beach, Andrew; [redacted]@js.pentagon.mil; [redacted]@ceq.eop.gov; [redacted]@hq.doe.gov [redacted]@who.eop.gov; [redacted]@epa.gov; [redacted]@usda.gov; [redacted]@fmc.gov; [redacted]@omb.eop.gov; [redacted]@who.eop.gov; [redacted]@who.eop.gov; [redacted]@who.eop.gov; [redacted] (DHS); [redacted]@hqda.army.mil; [redacted]@dol.gov; [redacted]@state.gov [redacted]@do.treas.gov; [redacted]@ios.doi.gov; [redacted]@doc.gov; [redacted]@dot.gov
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> [redacted]
> [redacted]J. S. Coast Guard
> [redacted]he Secretary of Transportation > [redacted]@dot.gov
>

Williams, Jan

From: Williams, Jan
Sent: Wednesday, February 22, 2006 10:01 AM
To: Masugi, Ken (OPA); Garrett, Paul; Murray, Fred F. (TAX); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bradbury, Steve; Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William
Subject: Chance To See Marine One Departure

Tomorrow Morning (Thursday, 2/23), the President will be departing from the South

Lawn on Marine One. DOJ has limited spaces to attend the departure. If you would like to attend, please email me asap. You will need to arrive at the Southwest Gate of the White House at 9:15am.

Beach, Andrew

From: Beach, Andrew
Sent: Wednesday, February 22, 2006 10:22 AM
To: Gorsuch, Neil M
Cc: Shaw, Aloma A
Subject: RE: THIRD MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

Should it be tasked directly to Sue Ellen Wooldridge?

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Joanna

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Miller, Charles S

From: Miller, Charles S
Sent: Wednesday, February 22, 2006 10:57 AM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 2/22/06 Civil Division News

Partial Birth' Abortion Ban Gets High Court Review

Court allows church's hallucinogenic tea

Top court rejects appeal in Marine's death

Former employee says war contractor falsified profits

Deal would end Odyssey inquiry; Firm says it has agreed to $13 million settlement with Justice

Suit challenges federal deficit reduction law

Judge rules Justice Department can have limited involvment in BlackBerry case

Canada Lobbies for Maker of BlackBerry; Officials Contacting U.S. on Patent Review

Justice Department's assault on Google to backfire?

Secrecy battle delays Arar report

Truth Out - Sick of being lied to by the EPA, 9-11 plaintiffs use the courts to force the answers they seek

Bloomberg

2/21/06

Partial Birth' Abortion Ban Gets High Court Review

Feb. 21 (Bloomberg) -- The U.S. Supreme Court will consider whether the federal government can ban what opponents call ``partial birth'' abortion, scheduling a reproductive-rights showdown that likely will be resolved by the two newest justices.

The court today said it will hear the Bush administration's appeal of a ruling that said the 2003 Partial Birth Abortion Ban Act is unconstitutional because it doesn't make an exception when a mother's health is at risk. The announcement came as Justice Samuel A. Alito Jr. took the bench for his first day of arguments, joining new Chief Justice John G. Roberts Jr.

The case has the potential to mark a turning point on abortion for the court, which in 2000 struck down a similar Nebraska law on a 5-4 vote. Abortion-rights advocates say a decision upholding the federal law would mark a retreat from the 2000 ruling and the principle that doctors can take steps they deem necessary to protect a patient's health.

``The procedures banned by the act provide significant safety benefits to women,'' according to a brief filed in Washington by the doctors challenging the law. The law ``would materially increase the risk of sterilization, infection and other serious health consequences.''

The law, which has never taken effect, would be the first nationwide ban of an abortion procedure since the landmark 1973 Roe v. Wade decision legalized abortion nationwide. The law outlaws procedures in which a fetus is partially removed from the mother before being killed, including a procedure known as intact dilation and evacuation. Doctors who violate the law would be subject to criminal and civil penalties.

`Form of Violence'

In signing the measure into law in 2003, President George W. Bush said that ``a terrible form of violence has been directed against children who are inches from birth.''

The justices will hear arguments in their 2006-07 term, which starts in October.

Opponents say lawmakers and the administration are trying to undercut the court's 2000 decision in the Nebraska case.

``Congress passed the act in a blatant attempt to overrule contrary Supreme Court precedent,'' the doctors challenging the federal law argued. The group is led by Leroy Carhart, a Nebraska obstetrician who also led the challenge to the state statute.

The group says intact dilation and evacuation reduces the risk of trauma to the uterus and cervix and is the safest method for some women with infections, bleeding or clotting disorders, heart problems and cancer of the placenta.

Congressional Findings

The Bush administration contends that Congress studied the issue over nine years and concluded that the procedure isn't safer than other abortion techniques and actually creates additional risks for the mother. The government says those findings distinguish the federal law from the Nebraska statute.

The lower court ``erred by refusing to accord deference to Congress's findings, including its ultimate finding that partial birth abortion is never medically indicated to preserve the health of the mother,'' U.S. Solicitor General Paul Clement argued.

Three federal appeals courts have said the law is unconstitutional. The case before the justices comes from the St. Louis-based 8th U.S. Circuit Court of Appeals, which ruled last year in favor of four doctors who sued to challenge the law.

Abortion was a central issue in the Senate debate over the Alito and Roberts nominations. Opponents of

the procedure say they hope the court now will be more receptive to restrictions.

``With the new make-up of the high court, we are encouraged that the justices will determine that the government does have a vital and compelling interest in preventing the spread of the practice of abortion into infanticide," said Jay Sekulow, chief counsel for the American Center for Law and Justice.

Chief Justice

As a government lawyer in the 1980s, Alito voiced opposition to the Supreme Court's rulings supporting abortion rights. His vote may make a difference in the latest case because he replaced retired Justice Sandra Day O'Connor, who was part of the five- justice majority in the 2000 decision.

Roberts, Bush's other appointee, replaced the late Chief Justice William H. Rehnquist, a consistent vote to allow abortion restrictions.

In Roberts's first abortion ruling, the court in January unanimously told a lower court to reconsider a ruling that struck down a New Hampshire parental-notification law. The justices said the lower court should consider simply blocking enforcement of the notification requirement in cases of health emergency.

The case granted review today is Gonzales v. Carhart, 05- 380.

END

USA Today
2/22/06

Court allows church's hallucinogenic tea

By Joan Biskupic, USA TODAY

WASHINGTON — The Supreme Court ruled unanimously Tuesday that adherents of a small Brazilian-based religion practicing in New Mexico may continue to use a hallucinogenic tea. The court rejected arguments by the Justice Department that the communion ritual undermines federal anti-drug law.

Chief Justice John Roberts noted that Native American Church members can use peyote.
By Ken Heinen, Getty Images

The court broadly interpreted the 1993 Religious Freedom Restoration Act, intended to protect people from U.S. laws that appear to be neutral but can impinge on sacramental practices. (Related item: Opinion:Gonzales v. O Centro Espirita Beneficiente Uniao Do Vegetal)

Chief Justice John Roberts said in his opinion for the court that Congress sought "a workable test for striking sensible balances between religious liberty and competing ... governmental interests."

The religious society, O Centro Espirita Beneficente Uniao do Vegetal, known as UDV, is a Christian Spiritist sect with origins in the Amazon rainforest.

Its U.S. branch has about 130 members in the Santa Fe area.

Adherents receive communion by drinking hoasca, a tea made from plants unique to the Amazon that contain dimethyltryptamine, which is considered a mind-altering drug under the controlled-substances law.

The case began in 1999, when U.S. Customs intercepted a shipment of hoasca. The sect sued to block

the government from interfering with the shipments. Lower federal courts sided with the UDV, based on the 1993 religious-freedom law.

Lower courts rejected the administration's claim that the UDV should be stopped from using the tea based on a "compelling interest" in uniform enforcement of anti-drug law.

Roberts noted that federal law has an exception for the use of peyote by the Native American Church.

"If such use is permitted ... for hundreds of thousands of Native Americans practicing their faith," Roberts wrote, "it is difficult to see how those same findings alone can preclude any consideration of a similar exception for the 130 or so American members of the UDV who want to practice theirs."

Roberts said the long-standing exception for peyote undercuts the government's broader contention that the federal anti-drug law allows no exceptions based on religion.

Several mainstream religious and public-policy groups had supported the UDV's position. Hollyn Hollman, general counsel for the Baptist Joint Committee, praised the ruling.

END

Deseret Morning News

February 22, 2006

Top court rejects appeal in Marine's death

Paul Foy, Associated Press

The U.S\l "l". Supreme Court rejected the appeal of a Provo man who sued\l "l" the government over his son's death during a 2002 Marine Corps training exercise.

Justices issued no comment in refusing Tuesday to hear arguments over the accidental death of Marine Pfc. Jeremy Ross Purcell. Nineteen-year-old Purcell was shot in the chest four times by another Marine at Camp Pendleton, Calif., who mistakenly loaded his rifle with live rounds for a training exercise that was supposed to involve only blanks.

"I'm really not surprised. I think they're afraid it will open the door to lawsuits," Jon Purcell, the Marine's father, said Tuesday.

Purcell, a retired Navy surveyor, acted as his own lawyer because he couldn't find an attorney to represent his case. Purcell appealed rulings that held the military was protected by the Feres Doctrine, which has shielded it from liability since a 1950 U.S. Supreme Court case.

"Every lawyer I contacted said, 'The Feres Doctrine, I can't do anything about it,' " Jon Purcell said.

Jon Purcell pursued the case by himself using court knowledge gained working as a private detective years ago. During that time, he worked closely with attorneys and was aware of court procedures. He estimates he spent hundreds of hours researching case law at Brigham Young University's law library.

"I submitted a petition for a writ of certiorari (to the Supreme Court)" he said. "I probably would have gone to Washington if they would have heard it. But since they denied it, I guess that's the end of it."

U.S. District Judge David Sam in Utah and the 10th U.S. Circuit Court of Appeals in Denver said only the Supreme Court could overturn or modify Feres v. United States, the case that established the

government wasn't liable for injuries suffered by military personnel during service for the armed forces.

"First of all, I wanted to get the Feres Doctrine reversed so people who were injured or killed due to negligence can sue the government," he said. "In order to get my case back to the federal courts here in Utah, the Feres Doctrine had to be overturned and my case had to be remanded to the district court."

Purcell said he understood the government couldn't be held liable for every mishap in the military but argued his son's death was an exception.

"This isn't for any injury or death that comes along," Purcell said. "It's for cases where the negligence jumps out and beats you to death. It's exactly what happened in my son's case."

His lawsuit said the Marine Corps failed to adopt fail-safe procedures instead of relying on individual Marines to make certain they're firing blanks and not live ammunition during training.

Purcell said another Marine was wounded at Camp Pendleton under similar circumstances 18 months before his son's death, "and that should have put them on notice that something wasn't right."

Purcell said that he wanted the court to award him monetary damages because the military doesn't change unless it's hurt in the pocketbook. He thought that a monetary award would motivate military officials to make and enforce safety regulations.

Jeremy Purcell graduated from Jordan High School in 2001. His father said he was able to easily make friends and was mild-mannered.

"We have nine kids," Jon Purcell said. "And they range from the most serious of serious kids, which is my oldest son, to a scatter-brain. (Jeremy) seemed to be able to move among all of these different kids and they all loved him."

Jeremy Purcell was the sixth child.

"Everyone who ever knew him cared for him," his father said.

The Marine who fired the fatal shots was not named in Purcell's lawsuit. The Marine pleaded guilty to negligent homicide as part of a plea agreement and was sentenced in 2003 to a year in military jail

END

Boston Globe

Feb. 22, 2006

Former employee says war contractor falsified profits

February 22, 2006

ALEXANDRIA, Va. -- A former manager for Rhode Island-based war contractor Custer Battles LLC said he was instructed by the company's president to inflate profits on a key contract by using shell companies.

William Baldwin was the first of two whistleblowers to testify this week in federal court in Virginia against their former employer, a defense firm based in Middletown, R.I.

Baldwin and his co-worker, Robert Isakson, are suing Custer Battles for defrauding the U.S. government of millions of dollars by filing false claims on invoices for work done in Iraq.

Baldwin said company founder Scott Custer, 37, told him to increase profits from 25 to 50 percent using sham companies set up in the Cayman Islands.

Custer and his co-founder, Michael Battles, 35, have denied the accusations, saying Baldwin and Isakson are disgruntled former employees who stand to gain from the lawsuit.

Under the law, individuals suing on behalf of the government are allowed to take a portion of the money awarded to the government if the court believes the government has been defrauded.

Baldwin's testimony on Tuesday seemed to be supported by an official supervisor of Custer Battles contracts, who said Battles had inadvertently left behind documents that spelled out the alleged profiteering scheme after he stormed out of a meeting with government officials in Baghdad.

A lawyer for Custer Battles said it was not certain who had created the documents.

Another defendant, former employee Joseph Morris, 43, refused to answer at Tuesday's hearing when he was asked if he had forged signatures on documents to make the fraudulent claims.

A judge told the jury they may conclude Morris' refusal to answer as his acknowledgment that his answer would be adverse to him.

END

Dallas Morning News

Wednesday, February 22, 2006

Deal would end Odyssey inquiry; Firm says it has agreed to $13 million settlement with Justice

By BOB MOOS / The Dallas Morning News

Odyssey HealthCare Inc. said Tuesday that it has reached a $13 million agreement in principle with the Justice Department to end a civil investigation into its admission, retention and discharge practices.

Officials at the Dallas-based hospice company said the 17-month-old investigation focused on the clinical eligibility of longer-term patients from 2001 through 2005 and that the settlement doesn't involve any admission of liability or acknowledgment of wrongdoing.

"The investigation centered on whether we had the proper documentation to support hospice care," said chief financial officer Douglas Cannon.

Including the charge for the settlement, Odyssey reported a $1.8 million net loss for the fourth quarter of 2005, or 5 cents per share, compared to $8.8 million in net income, or 24 cents per share, for the same period a year earlier.

Odyssey announced the settlement after the market closed. Mr. Cannon said a final resolution of the investigation must be approved by the Justice Department and the inspector general's office at the Health and Human Services Department.

Justice Department officials didn't return calls late Tuesday afternoon.

"We are settling this matter to resolve the substantial uncertainties, delays, distractions and costs associated with litigating complex regulatory matters, thereby permitting our management team to focus its complete attention on patient care, operations and business development," Odyssey president and chief executive Robert A. Lefton said in the release.

When Odyssey announced the federal investigation in October 2004, company co-founder David Gasmire stepped down as chief executive and was temporarily replaced by another co-founder, Richard R. Burnham.

Mr. Burnham held the chief executive's job until October 2005, when Mr. Lefton joined the company.

Excluding the charge for the settlement, Odyssey reported $7.8 million in net income for the fourth quarter, or 22 cents per share, an 11.6 percent decrease from $8.8 million, or 24 cents per share, for the same period the year before.

Net service revenue for the fourth quarter increased 11.4 percent to $101.8 million, compared with $91.3 million for the same period in 2004.

Growth was driven largely by significantly higher admissions, company officials said.

Odyssey's shares lost 18 cents Tuesday to close at $19.72 on the Nasdaq.

END

Mobile Reigster

Feb. 22, 2006

Suit challenges federal deficit reduction law

By BRENDAN KIRBY Staff Reporter

A federal lawsuit filed in Mobile this month challenges a hard-fought bill designed to rein in entitlement spending and reduce the deficit.

The "Deficit Reduction Act of 2005," which includes a provision making it harder for seniors to qualify for government-funded nursing home care, squeaked through Congress with not a vote to spare in either chamber.

Republican leaders hailed it as an important first step in enforcing fiscal discipline on a spendthrift Congress, but it is jeopardized by a technical discrepancy in an obscure provision of the statute.

In the lawsuit, filed last week in U.S. District Court, local lawyer and activist Jim Zeigler has asked a judge to throw out the entire law, based on a basic constitutional prohibition: The Senate and House of Representatives approved different versions of the measure.

The Constitution requires each chamber to pass bills in identical form.

The bill passed by the Senate on Dec. 21 contains a provision that requires Medicare to cover the costs for 13 months for patients to rent some type of durable medical equipment. The final House version that passed Feb. 1, however, sets the period at 36 months before patients begin paying.

President Bush signed the Senate version into law Feb. 8.

The Senate passed a resolution hours after Bush signed the bill, confirming that the measure signed by Bush was the "true enrollment reflecting the intention of the Congress."

But Zeigler, a Republican activist with a history of filing ethics complaints against state and local politicians, rejected the notion that the discrepancy was a harmless mistake.

"That rises way above a typographical error," he said. "It's a $2 billion difference over a five-year period, according to the Congressional Budget Office."

The suit names U.S. Attorney General Alberto Gonzales as a defendant. Justice Department spokesman Charles Miller said lawyers are reviewing the suit.

Zeigler said his is the first legal challenge to the bill, but he added that he expects others to join the fight, either by signing on to his lawsuit or filing their own complaints.

The Mobile lawyer makes plain that his primary objection is the nursing home provision. In an effort to prevent wealthier seniors from gaining eligibility for government-funded nursing home care by dispersing their assets to relatives, the bill prohibits gifting for five years prior to the date of a Medicaid application.

Zeigler said the bill "is going to put granny on the street" without doing much to curb the practice Congress targeted.

"The affluent and their asset-protection attorneys can still do asset protection," he said.

Cecilia Street, a 70-year-old retired teacher from Mobile who heard Zeigler address the issue at the Mary Abbie Berg Center on Tuesday morning, said she has long-term care insurance that should protect her. But, she said, she strongly opposes making it harder for seniors to qualify for Medicaid-funded nursing care.

"I think it's totally crazy to do that (prohibit gifting) for five years to senior citizens," she said.

Legal scholars appear divided about the issue.

"I think it is straightforward that the constitution requires the House and Senate to each pass the same bill," said Michael Gerhardt, a Mobile native who teaches constitutional law at the University of North Carolina School of Law.

But Brannon Denning, a professor at Samford University's Cumberland School of Law in Birmingham, said he thinks a federal judge would be reluctant to nullify the law.

"There have been some suits that have alleged that a version that was signed was not the version that was voted on," he said. "They haven't gone very far."

Denning and Gerhardt both agreed the lawsuit faces an uphill battle on another point -- whether Zeigler has the right to sue. Plaintiffs in civil suits must demonstrate that they are sufficiently affected by an action.

END

AP

February 22, 2006

Judge rules Justice Department can have limited involvment in BlackBerry case

RICHMOND, Va._A federal judge ruled Tuesday that the Justice Department can appear at a hearing

later this week as he considers an injunction against BlackBerry wireless e-mail service.

But U.S. District Judge James R. Spencer denied the federal agency's request for discovery and an evidentiary hearing in the patent-infringement case.

On Friday morning, Spencer will hold a hearing to address an injunction on U.S\l "l". BlackBerry sales and service, as well as damages.

The case began in 2001, when tiny patent-holding company NTP Inc. sued\l "l" BlackBerry maker Research In Motion Ltd. for patent infringement. A year later, a jury sided with NTP.

Spencer finds himself in the position of considering an action against RIM when the U.S. Patent and Trademark Office is expected to rule against NTP's patents.

But Spencer has previously said he is unwilling to delay his proceedings while awaiting final word from the patent office. That agency's process is far behind the court.

END

Washington Post

2/22/06

Canada Lobbies for Maker of BlackBerry; Officials Contacting U.S. on Patent Review

By Yuki Noguchi
Washington Post Staff Writer

The court battle over patents for the popular BlackBerry e-mail device has attracted an unusual amount of political attention, with officials in Canada pressing for resolution in a case involving one of that nation's top technology companies.

U.S. District Judge James R. Spencer in Richmond is set to take up the case Friday and will consider issuing an injunction to shut down BlackBerry service because it infringes on another company's patents. About 3 million U.S. subscribers could be unable to use their devices or forced to implement a software work-around.

Research in Motion Ltd., the company that makes the BlackBerry, is one of Canada's biggest technology success stories, and its legal battle with McLean-based NTP Inc. has led top Canadian officials to contact their U.S. counterparts about a review of the patents that underlie the case.

Canadian Minister of International Trade David L. Emerson, when he was minister of industry, sent a letter to U.S. Commerce Secretary Carlos M. Gutierrez requesting that the U.S. Patent and Trademark Office publicize its timeline for a review of the patent claims held by NTP. The letter and other communications were obtained by The Washington Post under the Freedom of Information Act.

"It is my understanding that NTP has dismissed the importance of the re-examination process," Emerson wrote to Gutierrez in a letter dated Nov. 7. "Ensuring that the courts have the benefit of the USPTO's expert review of those patents, or at least know when to expect such a decision," would give the North American marketplace some certainty, Emerson wrote, essentially echoing RIM's legal position.

A jury found RIM guilty of infringing some of NTP's patents in 2002 and has ordered RIM to pay royalties that now total more than $250 million. Having lost all the key battles in court, RIM has tried to get the patent office to expedite a review of the patents. In the initial stages of the review, the office declared all of the relevant NTP patents invalid, and RIM hopes that will bolster its case in court.

Internal e-mails at the patent office show that a Canadian Embassy official contacted the agency last year to see whether it would be advisable to have the Canadian patent authority try to "exert an interest or pressure upon the USPTO regarding these reexaminations."

Both communications indicate how exceptional RIM and NTP's case has become in an agency whose processes are often lengthy and byzantine, patent experts said.

"It goes to show the uncommon nature of the process, and how very politicized it's become," said Susan Dadio, a patent attorney and former patent agency examiner based in Alexandria. The Canadian government also filed three legal briefs during the course of RIM's litigation, another anomalous level of foreign-government involvement, she said.

The reexamination of NTP's patents also was given special status -- it was initiated in 2002 by the then-director of the agency, James E. Rogan, instead of at a company or individual's request, as is the norm.

RIM and NTP's special status could mean "you treat it more seriously" within the agency, said Stephen Maebius, a Washington patent lawyer.

But the patent agency denies that politics has intervened in the process.

"This case is definitely not being treated differently from any other re-exam," said Brigid Quinn, a spokeswoman for the USPTO. "[Politics] has absolutely no bearing on the USPTO's review."

A spokesman from the Commerce Department, which oversees the patent agency, declined to comment on ongoing patent procedures.

RIM did not respond to requests for comment.

"NTP has always expressed a willingness to settle; it is RIM that is making the decision to have its customers shut off," said Kevin Anderson, a lawyer representing NTP. He declined to comment on the proceeding at the USPTO.

Although both sides have said publicly that they are open to settlement, a source close to RIM and NTP's negotiations has said the two parties are still far apart in settlement talks, making a truce before Friday's hearing in Richmond unlikely.

END

ZDNET

2/21/06

Justice Department's assault on Google to backfire?

By Declan McCullagh

The U.S. Department of Justice's attempt to compel Google to divulge millions of search records could backfire on police and prosecutors.

If Google convinces California courts that a federal privacy law protects Internet users' search terms from a subpoena, it would become more difficult for law enforcement to seek such records in future criminal investigations, legal experts are saying.

That's "absolutely" a concern, said Paul Ohm, a former Justice Department prosecutor who now teaches at the University of Colorado at Boulder. "There's a lot of precedent for that kind of thing."

News.context

What's new:
Legal experts say the government should be concerned about whether a judge sides with Google over the subpoena for users' searches.

Bottom line:

A ruling in favor of Google over the civil suit, which the search giant says should be thrown out because of a 1986 privacy law protecting "electronic communication services," could mean future complications for criminal prosecutions.

More stories on this topic

In Google's written response to the Justice Department's subpoena (click here for PDF), filed with a San Jose, Calif., court on Friday, the search company argued that a 1986 privacy law means that it "cannot disclose the contents" of search terms based on a subpoena. A subpoena is a letter from a prosecutor sent without a judge's prior approval or review.

That law, called the Electronic Communications Privacy Act, or ECPA, provides potent legal safeguards for "electronic communication services." Google said that because of features it offers, such as the ability to send news alerts, it qualifies as such a service; the search terms of its users are therefore legally protected, it argued.

"It is time for the government to declare whether search terms are covered by ECPA," said Al Gidari, an attorney at Perkins Coie who co-authored Friday's brief on behalf of Google. "It makes no difference, in our view, that the government wants anonymous search queries. (Its argument) would allow them to search e-mail so long as we removed the customer names."

Last month, the Justice Department asked a judge to force Google to hand over a random sample of 1 million Web pages from its index, along with copies of a week's worth of anonymous search terms, to aid in the Bush administration's defense of an Internet pornography law. U.S. District Judge James Ware has scheduled a hearing for March 13.

It's not clear how often search terms are used in criminal investigations. One North Carolina man was found guilty of murder in November in part because he Googled the words "neck," "snap," "break" and "hold" before his wife was killed. In a CNET News.com survey published this month, Google, America Online, Microsoft and Yahoo declined to answer whether they had received requests for search records from police.

The Justice Department subpoena normally would have been a routine matter, and AOL, Microsoft and Yahoo voluntarily complied with similar requests. But Google's resistance sparked a furor over privacy, with Sen. Patrick Leahy, a Vermont Democrat, asking the Justice Department for details. A bill announced in the House of Representatives also would require Web sites to delete information about visitors.

There's no guarantee, of course, that ECPA will be decisive in this case: The Justice Department and Google could settle, or the judge could rule on unrelated grounds.

But if the federal courts adopt Google's interpretation of the law, the FBI and other police agencies would find it more difficult to obtain records of search terms in criminal investigations. Similar searches, such as those performed on databases like Lexis-Nexis or Westlaw, or on news sites such as those of The New York Times and Yahoo, would also receive higher privacy protection.

Lawyers in civil cases, such as divorce attorneys and employers in severance disputes, would also encounter a new legal roadblock when seeking search terms.

"That is a good thing for privacy and I think the correct application of the law," says Kevin Bankston, an

attorney at the Electronic Frontier Foundation, a digital-rights group in San Francisco.

A spokesman for the Justice Department declined to comment Tuesday on whether the subpoena could backfire on prosecutors, saying the matter was under litigation.

Ohm, the former Justice Department prosecutor, said any federal appeals court that makes a sweeping proclamation about ECPA in a civil case is the government's "nightmare scenario" because such an interpretation of the law could make criminal investigations more difficult.

If that happens in the Google subpoena litigation, Ohm said, "Who knows? You may see calls for new legislation."

This case is unusual because it was brought by the Justice Department's civil division, which is hoping to use the search terms for social-science research instead of as part of a criminal investigation. The department's ECPA specialists in the Computer Crime and Intellectual Property Section would not normally have been involved, Ohm said.

ECPA says that anyone offering an "electronic communication service to the public" generally may not divulge the contents of a communication except with the consent of the user or to a law enforcement agency that has a search warrant or a court order--instead of just a subpoena.

One twist in ECPA, however, could doom the Justice Department's pursuit of the search terms of Google's users. A search warrant is usually authorized only for criminal investigations, and ECPA's court order requirement also specifies an "ongoing criminal investigation."

But the Justice Department's defense of the Child Online Protection Act in a lawsuit brought by the American Civil Liberties Union is a civil dispute, not a criminal investigation.

END

Globe and Mail

February 22, 2006

Secrecy battle delays Arar report

JEFF SALLOT

OTTAWA The final report of the commission into possible federal complicity in Maher Arar's deportation to Syria and torture there is being delayed because of a battle over national security secrecy.

Justice Department lawyers object to the proposed release of information that the inquiry chairman considers relevant to public understanding of the role played by the RCMP and other federal agencies in the Ottawa man's ordeal.

Mr. Justice Dennis O'Connor, the Ontario judge who is conducting the inquiry, had hoped to publish his report by the end of March.

'There is going to be a delay by a month or two,' because Justice Department lawyers object to the release of some information on national security grounds, Paul Cavalluzzo, the chief commission counsel, said yesterday.

Most of the report is written.

'It's a particular part of the evidence that they say if released would be injurious to national security and at

this point at time I can't agree with that,' Mr. Cavalluzzo said in an interview.

The commission may hold a hearing in secret to try to thrash out the issue.

Mr. Cavalluzzo said he hasn't noticed any softening in the Justice Department's line on what should be kept secret since the Conservatives came to office. 'But it's early days.'

During the election campaign, the Conservatives promised to run a more open government.

Mr. Arar, 35, a software engineer, wants to get as much information about his case on the record as possible to clear his name. U.S. authorities arrested him in 2002 at JFK airport in New York as a suspected member of al-Qaeda. He was deported to Syria, his country of birth, though he was travelling on his Canadian passport.

The Syrians tortured him, Mr. Arar says, to extract a false confession that he had trained at an al-Qaeda camp in Afghanistan. He was released after 10 months. He has never been charged in any jurisdiction.

Government witnesses told the Arar commission that intelligence reports about Mr. Arar were passed along to the U.S. and that Ottawa received reports from Syria of Mr. Arar's statements made during interrogation.

Mr. Arar is suing U.S. officials in American courts\l "l". In a recent ruling, U.S. District Court\l "l" Judge David Trager narrowed the grounds for a possible lawsuit by Mr. Arar, saying the judiciary shouldn't second-guess what the executive branch does in cases involving national security and international diplomacy.

Washington's diplomatic relations with Canada might be harmed if Mr. Arar's case went ahead and it turned out 'certain high Canadian officials had, despite public denials, acquiesced in Arar's removal to Syria,' Judge Trager wrote.

Whether the U.S. government is trying to overthrow another government, or transporting foreigners to third countries for interrogation, Judge Trager said judges should not hold officials liable for damages 'even if such conduct violates our treaty obligations or customary international law.'

'This ruling is outrageous,' said Maria LaHood, one of Mr. Arar's U.S. lawyers. 'It's wacky.'

END

Village Voice

February 21st, 2006 12:26 PM

Truth Out - Sick of being lied to by the EPA, 9-11 plaintiffs use the courts to force the answers they seek

by Kristen Lombardi

Jenna Orkin doesn't expect to hear her truth about 9-11 unless someone forces the officials involved to tell it. For her, as for so many people downtown and in Brooklyn, 9-11 meant clouds of ash and smoke engulfing her apartment building, filtering down the halls of her son's Tribeca

high school.

Within days of the World Trade Center collapse, someone ordered Environmental Protection Agency administrators to tell New Yorkers the air was safe. Reopen Wall Street, and bring back its thousands of workers. Reopen Stuyvesant High School, which Orkin's son attended. Ignore Brooklyn, where residents like her vacuumed inches-deep white ash from their windowsills. No matter that private tests showed the air remained full of lead, asbestos, mercury, benzene. No matter that, according to documents forced out of the EPA by a Freedom of Information request, the agency's own tests agreed that the air in Lower Manhattan—who wanted to bother with Brooklyn?—wasn't fit to breathe.

Even without testing, anyone could see the billowing cloud of debris released when the 110-story twin towers came crashing down. Dust from the Trade Center hung in the air for weeks. Putrid fires burned for three months.

"Any half-wit knew it was hell after 9-11," Orkin says. She has been pressing the EPA to test for and clean up toxic dust in her Brooklyn Heights neighborhood, across the East River from ground zero and smack in the plume's path. After tests revealed high levels of asbestos in her home, she paid thousands of dollars for a full abatement, which included ripping up the carpets. Her World Trade Center Environmental Organization website, wtceo.org, is devoted to the 9-11 fallout and replete with aerial photos and satellite images of the plume.

Not content with activism, she is today one of 12 plaintiffs suing the EPA in a class action lawsuit on behalf of residents, office workers, and students from Lower Manhattan and Brooklyn. Unlike so many others who've gotten sick from WTC-related pollution— including many of the plaintiffs—she hasn't experienced any symptoms. And neither has her son. What she's sick of is not being told the truth.

"We were being duped," Orkin says, leaning forward, "and I'd like to find out why."

Now she and her fellow plaintiffs just might. On February 2, U.S. District Court Judge Deborah Batts handed down a surprising pre-trial ruling, blasting the EPA for its response to 9-11 and allowing the case to go forward. That put Orkin and her colleagues one step closer to proving their claims in court.

In their 111-page complaint, they allege that thousands of people living, working, and attending school downtown and in Brooklyn were exposed to contamination after the EPA misled them about air quality. They claim that Christine Todd Whitman, then the EPA administrator, and her staff made false statements and failed to carry out its cleanup duties. As a result, they charge, the EPA violated their constitutional rights to be protected from being harmed by government officials.

In her 83-page ruling, Judge Batts found enough evidence for the case to proceed. She not only denied the EPA's motion to dismiss it, but refused to grant Whitman immunity. On the contrary, she scolded the former EPA head, declaring her statements so "deliberate and misleading" they "shock the conscience."

"No argument can be made that Whitman could not have understood from existing law that her conduct was unlawful," Batts wrote.

The EPA's spokesperson declined to comment on the ruling, referring questions to the Justice Department, which is handling the case. Its spokesperson, Charles Miller, refused to discuss pending litigation.

Whitman, now a New Jersey consultant, released a brief statement, expressing "outrage" and calling the plaintiffs' claims off-base. "Every action taken by the EPA during this horrific event," she said, "was designed to provide the most comprehensive protection and most accurate information to the residents of Manhattan."

Now that the suit can proceed, the truth of that statement will be put to the test. Bates's decision paves the way for the plaintiffs to sit government officials down and make them testify under oath. And this process of legal discovery, explains New York Civil Liberties Union lawyer Chris Dunn, who has sued federal departments, will prove enlightening for New Yorkers. All we know now is what EPA officials say in the press—in short, their spin. That's about to change.

"No one on the street can get an official to talk about government business," Dunn notes. "One of the biggest virtues of any lawsuit is that it can force the government to disclose information it won't otherwise."

By now, some truths about the 9-11 fallout are known. The lawsuit outlines EPA press releases issued in the first days after the attacks, beginning on September 13. All are reassuring in nature. But it didn't take long for private tests to contradict the rhetoric. By December 2001, the New York Environmental Law and Justice Project was collecting dust samples in elevator shafts and ventilation units downtown, and finding asbestos and other toxins at double the threshold of safety. A freedom of information request from the project yielded 800 pages of previously hidden EPA samples that had revealed the same.

Then in August 2003, the EPA inspector general issued a scathing 165-page report verifying such contradictions and disclosing some disconcerting news—that the White House had pressured the EPA to sanitize its warnings, for instance.

Says Joel Kupferman, of the law project, which serves as co-counsel in the suit, "No one can really argue there wasn't malfeasance."

No one can argue that people aren't getting sick, either. Take Bob Gulack, a plaintiff who works for the Securities and Exchange Commission. One month after the attacks, the SEC leased offices in a building on Broadway, two blocks from ground zero. Almost from the moment Gulack arrived, he began experiencing ailments he never had before. His lungs filled with fluid. He struggled to breathe. Doctors diagnosed him with reactive airway disorder and permanent lung damage, and attributed the ailments to 9-11.

He wasn't alone. As a union steward for 150 SEC employees, he's documented symptoms among dozens of co-workers, from burning eyes to heart palpitations.

"This is brand-new and it started with the World Trade Center collapse," he says, sitting in a workaday Asian restaurant on 72nd Street. Gulack, who now collects workers' compensation for his 9-11–related illnesses, avoids going downtown. He does not visit his office or old haunts for fear of triggering his asthma. The only time he ventures into Lower Manhattan is to attend hearings on the 9-11 fallout.

Still, he says, "I'm one of the lucky ones."

Some of the plaintiffs forked out thousands of dollars—from $5,500 on up to $18,000—to rid homes and businesses of the toxic dust. Those who couldn't afford the professionals mopped it up themselves.

For the plaintiffs, the sense of injustice is profound. "We have been forgotten," says Gail Benzman, whose continual strained coughing is excruciating to hear. Benzman developed sinusitis and asthma while working in a municipal building on Center Street, seven blocks from ground zero. "There is nothing for people who have gotten ill outside the pit."

Jeanne Markey, one of three Philadelphia lawyers representing the plaintiffs, says the lawsuit has made these frustrated activ ists—who've spent years asking for credible testing, medical monitoring, and a real cleanup—suddenly much more powerful. "It's one thing to say someone lied," she observes. "It's another thing to take that person to court because of the lie."

Ask any lawyer who's sued the federal government and they'll tell you the same thing: Discovery changes everything. Mitchell Bernard, of the National Resources Defense Council, in Manhattan, has taken on the EPA and other government agencies in court. He says there's a difference between what an official says in public and under oath.

When a political appointee makes a pronouncement, Bernard explains, "he is not under any obligation to tell the truth." In a deposition, he is.

Officials tend to have a script, says the NYCLU's Dunn. Reporters may ask questions, but officials can refuse to answer. In a deposi tion, they can't. "Depositions are the surefire way to get government officials to answer questions they don't want to answer," he adds.

And then there are the documents. Confidential records the public cannot access even through freedom of information requests—internal e-mails, meeting minutes—become treasures unearthed in the discovery process. If plaintiffs can get their hands on such records, Bernard says, "What comes out of it could be illuminating in terms of what actually went on at the EPA."

Markey says she and her colleagues have yet to develop a strategy for discovery. But she ticks off a number of questions: What was the justification for the EPA's assuring statements? Did it rely on test results? What were they? "We're interested in discovering the basis of the statements," she says.

For now, the plaintiffs have to keep waiting. While Batts's decision allows the case to move forward, it's not the final say. Markey expects the Justice Department to appeal, stalling the proceedings.

Miller, the department's spokesperson, says the case is still under review, and points out that a second class action lawsuit against the EPA—one involving first responders on the debris pile—was dismissed earlier this month. "One judge went one way and the other judge went the other way," he says, suggesting a reason for appeal.

Appeal or no, the plaintiffs aren't about to give up. As they see it, the lawsuit represents the last chance to force the EPA to live up to its mission to protect New Yorkers. Somebody, they say,

has to fight for accountability.

"Somebody has to blow the whistle on these guys," exclaims Diane Lapson, a plaintiff who heads the tenant association at Independence Plaza North, an affordable-housing complex three blocks from ground zero. Lapson, 54, a product of 1960s social activism, sits at her kitchen table, sipping coffee, looking out at the scarred Lower Manhattan skyline, and combing through snapshots taken from her building—aerial views of the 9-11 cloud, of the Hudson River pier where twisted metal was loaded on barges bound for Staten Island.

She's furious with the government officials who told her not to worry. "They're the naked emperors," she seethes. "Somebody has to stand up and say, 'You guys have no clothes.'"

END

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, February 22, 2006 10:57 AM
To: Beach, Andrew
Subject: Re: THIRD MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

Either Sue Ellen or anyone she designates is fine by us.

-----Original Message-----
From: Beach, Andrew <Andrew.Beach@SMOJMD.USDOJ.gov>
To: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
CC: Shaw, Aloma A <Aloma.A.Shaw@SMOJMD.USDOJ.gov>
Sent: Wed Feb 22 10:22:22 2006
Subject: RE: THIRD MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

Should it be tasked directly to Sue Ellen Wooldridge?

-----Original Message-----
From: Gorsuch, Neil M
Sent: Wednesday, February 22, 2006 9:36 AM
To: Beach, Andrew
Cc: Shaw, Aloma A
Subject: RE: THIRD MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

Yes - they're best positioned to be useful and have kept us appropriately briefed.

-----Original Message-----
From: Beach, Andrew
Sent: Wednesday, February 22, 2006 9:34 AM
To: Gorsuch, Neil M
Cc: Shaw, Aloma A
Subject: FW: THIRD MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

Neil:
we've been having ENRD handle DOJ representation at this meeting. Is it OK to continue that precedent?

-----Original Message-----
From: [redacted]@dot.gov [mailto:[redacted]@dot.gov]
Sent: Tuesday, February 21, 2006 2:04 PM
To: [redacted]@js.pentagon.mil; [redacted]@ceq.eop.gov; [redacted]@hq.doe.gov
; [redacted]@who.eop.gov; [redacted]@epa.gov; [redacted]@usda.gov;
[redacted]

[redacted]@who.eop.gov; [redacted] (DHS); [redacted]@hqda.army.mil;
[redacted]@dol.gov; [redacted]@state.gov; [redacted]@do.treas.gov; [redacted]@ios.doi.gov;
[redacted]@doc.gov; [redacted]@dot.gov
Subject: FW: THIRD MEETING OF THE COMMITTEE OF THE MARINE TRANSPORTATION SYSTEM (CMTS)

Schedulers:

Based on your feedback, the best date for the next meeting is Thursday April 20th from 2:00-4:00 PM. Please confirm that on your principal's schedule. Formal invitations and briefing materials will be sent over closer to the date. Please let me know if you have any questions.

v/r,
[redacted]

> -----Original Message-----
> From: [redacted]<OST>
> Sent: Tuesday, February 14, 2006 15:58
> To: [redacted]@who.eop.gov); [redacted]
> [redacted]@ceq.eop.gov); [redacted]
> [redacted]@epamail.epa.gov); [redacted]@hq.doe.gov; [redacted]
> [redacted]@usda.gov); [redacted]@fmc.gov);
> [redacted]@omb.eop.gov); [redacted]
> [redacted]@who.eop.gov); [redacted]@who.eop.gov);
> [redacted]@dhs.gov); [redacted]
> [redacted]@hqda.army.mil); Leah Levy; Linda Dewan; [redacted]
> [redacted]@do.treas.gov); [redacted]@ios.doi.gov);
> [redacted]@doc.gov) [redacted]
> [redacted]@js.pentagon.mil); [redacted]<OST>
> Subject: THIRD MEETING OF THE COMMITTEE OF THE MARINE
> TRANSPORTATION SYSTEM (CMTS)
>
> Schedulers,
>
> Can you please check your principal's calendar and let me know his > or her availability for the next meeting of the CMTS? The Charter is > attached for your information. An agenda and briefing book will be > provided closer to the event. The meeting location will be the > Cabinet Liaison Conference Room (Room 160) at the EEOB. I'd > appreciate your input by COB on Friday February 17th. I'll let > everyone know which date works best, first thing next week. In the > meantime, I'd very much appreciate it if you could put a hold on both > days:
>
> Tuesday April 18th 1:30-3:30 PM
> Thursday April 20th 2:00-4:00 PM
>
> <<Final CMTS Charter_110305.pdf>>
> v/r,
[redacted]
> [redacted]U. S. Coast Guard
> [redacted]Secretary of Transportation > [redacted]@dot.gov
>

Williams, Jan

From: Williams, Jan

Sent: Thursday, February 23, 2006 8:12 AM

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Subject: The Morning Update: 2/23/06

Attachments: tmp.htm

Importance: Low

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<http://online.wsj.com/article/SB114062880033080276.html?mod=world_news_whats_news> " (John D. McKinnon, "Bush Envisions Alliance With India And Pakistan," The Wall Street Journal, 2/23/06)

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That is, understanding accurate, timely facts on the ground to support good decision and timely decision-making and the deployment of Federal assets. The President is very much about looking

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U.S. Customs And Border Protection's Jay Ahern Discusses Security At Our Nation's Ports. AHERN: "That's one of the distinctions we need to make sure as the viewers understand. That the Department of Homeland Security, Customs and Border Protection, has a responsible for inspecting containers coming in from foreign to make sure that they don't contain any weapons of mass destruction or any contraband of any kind. I think it is important to know the ports in the United States are not just the first time we encounter this cargo. We have in 42 ports throughout the world Custom Border Protection officers, screening before they get put on the ship." MSNBC'S CHRIS MATTHEWS: "So it doesn't matter whether an Arab government-owned company buys a British company in a take-over. It doesn't matter to our security, you're saying." AHERN: "I'm saying as far as this transaction that has been in the media in the last few days, it does not change the operational protocols or increase the risks in our securities." (MSNBC's "Hardball," 2/22/06)

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* Citations From The President's Volunteer Service Awards <http://www.whitehouse.gov/news/releases/2006/02/20060222-8.html>
* In Focus: African American History <http://www.whitehouse.gov/history/africanamerican/>

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Roundtable Interview Of The President By Pakistani Journalists <http://www.whitehouse.gov/news/releases/2006/02/20060222-9.html>

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Sent: Thursday, February 23, 2006 9:08 AM

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Subject: FACT SHEET: THE FEDERAL RESPONSE TO HURRICANE KATRINA: LESSONS LEARNED

Attachments: tmp.htm

Importance: Low

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release February 23, 2006

The Federal Response To Hurricane Katrina: Lessons Learned

Today, The Administration Released Its Review Of The Federal Response To Hurricane Katrina. The President's charge to evaluate the Federal government's response to the storm resulted in the report and recommendations released today by the Administration, The Federal Response to Hurricane Katrina: Lessons Learned. The product of an extensive review, led by the President's Homeland Security Advisor Fran Townsend, the Report identifies deficiencies in the Federal government's

Security Advisor Fran Townsend, the Report identifies deficiencies in the Federal government's response and lays the groundwork for transforming how the Nation - from every level of government, to the private sector, to individual citizens and communities - pursues a real and lasting vision of emergency preparedness and response.

The Lessons Learned Report Assesses The Federal Response, Identifies Lessons Learned, And Recommends Appropriate Corrective Actions. The Report identifies the systemic problems in Federal emergency preparedness and response revealed by Hurricane Katrina - and the best solutions to address them. Where actions at the State and local level had bearing on Federal decisions or operations, they are included in order to provide full context. The Lessons Learned report includes:

* 17 lessons the Executive Branch has learned after reviewing and analyzing the response to Katrina;
* 125 specific recommendations to the President, which have been reviewed by relevant Federal departments and agencies, and will now enter an implementation process; and
* 11 critical actions to be completed before June 1, 2006 - the first day of the next hurricane season.

The President's Charge: The Government Will Learn The Lessons Of Hurricane Katrina

President Bush Ordered A Comprehensive Review Of The Federal Response To Hurricane Katrina. In his September 15, 2005, address to the Nation from Jackson Square in New Orleans, the President made clear that the Federal government would learn the lessons of Hurricane Katrina so we as a Nation can make the necessary changes to be "better prepared for any challenge of nature, or act of evil men, that could threaten our people."

Hurricane Katrina Was A Deadly Reminder That We Can And Must Do Better In Responding To Emergencies. Hurricane Katrina and the subsequent sustained flooding of New Orleans exposed significant flaws in our national preparedness for catastrophic events and our capacity to respond to them. Emergency plans at all levels of government - including the 600-page National Response Plan that set forth the Federal government's plan to coordinate all its departments and agencies and integrate them with State, local, and private sector partners - were put to the test and came up short.

The Federal Response To Hurricane Katrina: Lessons Learned

We Are Not As Prepared As We Need To Be At All Levels: Federal, State, Local, Community, And Individual. Hurricane Katrina obligates us to re-examine how the Federal government is organized to

address the full range of potential catastrophic events - both natural and man-made.

Hurricane Katrina And Its Aftermath Provide Us With The Imperative To Design And Build A Unified System. The Lessons Learned Report confirms the imperative of integrating and synchronizing the Nation's homeland security policies, strategies, and plans across Federal, State, and local governments, as well as the private sector, non-governmental organizations (NGOs), faith-based groups, communities, and individual citizens. To achieve this, the Report identifies three immediate priorities:

* First, we must implement a comprehensive National Preparedness System to make certain that we have a fully national system that ensures unity of effort in preparing for and responding to natural and man-made disasters;
* Second, we must create a Culture of Preparedness that emphasizes that the entire Nation - at all levels of government, the private sector, communities, and individual citizens - shares common goals and responsibilities for homeland security; and * Third, we must implement corrective actions to ensure we do not repeat the problems encountered during Hurricane Katrina.

A Comprehensive National Preparedness System

* The Existing National Preparedness System Must Be Improved To Minimize The Impact Of Disasters On Lives, Property, And The Economy.
Pursuant to the National Strategy for Homeland Security, the President directed the creation of a comprehensive national preparedness system in Homeland Security Presidential Directive 8 (HSPD-8), starting with a national domestic all-hazards preparedness goal. In response, the Department of Homeland Security (DHS) has developed an Interim National Preparedness Goal. We must now translate this Goal into a robust preparedness system that includes integrated plans, procedures, training, and capabilities at all levels of government. The System must also incorporate the private sector, NGOs, faith-based and other grassroots groups, communities, and individual citizens. The objective of our National Preparedness System must be to achieve and sustain risk-based target levels of capability to prevent, protect against, respond to, and recover from major natural disasters, terrorist incidents, and other emergencies.

* The Response To Hurricane Katrina Revealed A Lack Of Familiarity With Incident Management, Planning Discipline, And Field-Level Crisis Leadership. Going forward, the Federal government must clearly articulate national preparedness goals and objectives. It must create the infrastructure for ensuring unity of effort. The Federal government must manage the National Preparedness System for measuring effectiveness and assessing preparedness at all levels of government. The Lessons Learned report outlines five elements that are critical for a National Preparedness System:

1. Building and integrating the Federal government's operational capability for emergency preparedness and response;

preparedness and response;

2. Strengthening DHS's capacity to direct the Federal response effort while providing resources to responders in the field;

3. Ensuring unity of effort and eliminating red tape and delays in providing Federal assistance to disaster areas;

4. Strengthening homeland security education, exercises, and training programs; and

5. Ensuring that homeland security assessments, lessons learned, and corrective action programs are institutionalized throughout the Federal government.

Creating A Culture Of Preparedness

* The Creation Of A Culture Of Preparedness Will Emphasize That The Entire Nation Shares Common Goals And Responsibilities For Homeland Security. A Culture of Preparedness must build a sense of shared responsibility among individuals, communities, the private sector, NGOs, faith-based groups, and Federal, State, and local governments. Our homeland security is built on a foundation of partnerships. The Lessons Learned Report outlines four principles to guide the development of a Culture of Preparedness:

1. A prepared Nation will be a long-term continuing challenge;

2. Initiative and innovation must be recognized and rewarded at all levels;

3. Individuals must play a central role in preparing themselves and their families for emergencies; and

4. Federal, State, and local governments must work in partnership with each other and the private sector.

Ensuring That The Federal Government Does Not Repeat Problems Encountered During Hurricane Katrina

* Changes Must Be Made Immediately To Prepare For The 2006 Hurricane Season. The 2006 hurricane season is just over three months away. Even while the process to implement the lessons learned from Katrina is underway, there are specific steps the Federal government can and should take now to be

better prepared for future emergencies. The Lessons Learned Report recommends 11 critical actions to strengthen Federal response capabilities before June 1, 2006, many of which the Administration has already begun to implement:

1. Ensure that relevant Federal, State, and local decision-makers, including leaders of State National Guards, are working together and in close proximity to one another in the event of another disaster;

2. Ensure that for events preceded by warning, we are prepared to pre-position an interagency Federal Joint Field Office (JFO) to coordinate and, if necessary, direct Federal support to the disaster;

3. Ensure situational awareness by establishing rapid deployable communications, as well as instituting a structure to consolidate Federal operational reporting with DHS;

4. Embed a single Department of Defense point of contact at the JFO and FEMA regional offices to enhance coordination of military resources supporting the response;

5. Designate locations throughout the country for receiving, staging, moving, and integrating military resources to ensure the most effective deployment of Federal disaster relief personnel and assets;

6. Identify and develop rosters of Federal, State, and local government personnel who are prepared to assist in disaster relief;

7. Employ all available technology to update and utilize the national Emergency Alert System in order to provide the public with advanced notification of and instruction for disasters and emergencies;

8. Encourage States to pre-contract with service providers for key disaster relief needs, such as debris removal and the provision of critical commodities;

9. Enhance the mechanism for providing Federal funds to States for preparations upon warning of an imminent emergency;

10. Improve the delivery of assistance to disaster victims by streamlining registration, expediting eligibility decisions, tracking movements of displaced victims, and incorporating safeguards against fraud; and

11. Enhance ongoing review of State evacuation plans and incorporate planning for Continuity of Government to ensure the continuation of essential and emergency services.

Transforming The Federal Response To Future Emergencies

Acting On The Recommendations In The Lessons Learned Report Will Enable The Federal Government To Respond To Natural And Man-Made Disasters More Effectively And Efficiently. The lessons of Hurricane Katrina cannot be learned and put into action without change. As the Federal government works to implement the near-term critical activities and 125 recommendations, State and local governments, the private sector, NGOs, faith-based and community organizations, the media,

governments, the private sector, NGOs, faith-based and community organizations, the media, communities, and individuals should undertake a review of their respective roles and responsibilities in preparing for and responding to catastrophic events.

Together, We Will Strengthen Our Ability To Prepare For, Protect Against, Respond To, And Recover From Catastrophic Events. The lessons learned from Hurricane Katrina and the recommendations set forth in today's Report will yield preparedness dividends that transcend Federal, State and local boundaries. Their full implementation will help the entire Nation achieve a shared commitment to preparedness.

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Jezierski, Crystal

From: Jezierski, Crystal
Sent: Thursday, February 23, 2006 9:50 AM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: Business Group PATRIOT Act Materials
Attachments: BusinessSpecterLetter.pdf; Heinemann scan.pdf

Robert -- Attached is the letter that six of the prominent national business groups sent to Senator Specter endorsing the Senate version of the bill mostly due to concerns over section 215. Also included is a draft of the response that we sent. (We sent the same version to all six organizations.)

October 4, 2005

The Honorable Arlen Specter
Chairman
Senate Judiciary Committee
SD-224 Dirksen Senate Office Building
Washington, DC 20510-6275

Re: Sections 215 and 505 of the Patriot Act

Dear Senator Specter:

The undersigned organizations write to express our support for reforms to Sections 215 and 505 of the Patriot Act which allow the federal government to require voluminous and often sensitive records from American businesses, without judicial oversight or other meaningful checks on the government's power.

First, the business community stands with all Americans in the war on terror, and we remain prepared to do our part to keep the nation safe. We also believe that our country's commitment to freedom and free enterprise has resulted in our collective prosperity as a people. That said, we are concerned that the rights of businesses to confidential files--records about our customers or our employees, as well as our trade secrets and other proprietary information--can too easily be obtained and disseminated under investigative powers expanded by the Patriot Act. It is our belief that these new powers lack sufficient checks and balances.

Without sufficient factual and legal checks against the government's demands for company records, a costly burden will be imposed on businesses to litigate (when possible under the current Act) unwarranted or overly burdensome requests that could have been appropriately honed with proper standards and oversight *ex ante*.

Additionally, we are concerned about the expensive and time-consuming burden that compliance with document requests from the government places upon affected businesses. These costs are in addition to the legal costs and internal obligations (here and abroad) that affected businesses must navigate to protect confidential information and the personal privacy of their employees, customers and suppliers.

We believe that the Patriot Act is an important tool that has helped keep our country safe, and as Congress considers reauthorization of the Patriot Act this fall, we feel it is vital that modest reforms to the business records provisions be considered. Specifically:

> Section 215 of the Act currently allows the Justice Department to obtain secret orders for business records and other tangible items from the Foreign Intelligence Surveillance Court. <u>We support the revision in the Senate bill that requires a statement of fact and some linkage between the records sought and an individual suspected of being a terrorist or spy.</u> As written, the government merely has to certify that the records sought are relevant to an authorized investigation, without stating any underlying facts for the court

or judge or showing any nexus with an actual suspect of investigation. As a result, the current Act does not impose any limit on the breadth of records sought, or protect records that are privileged or proprietary. Without such facts, let alone any probable cause of wrongdoing, an unreasonable burden and expense is imposed on businesses to supply potentially large quantities of information that are difficult to collect and transmit, including trade secrets or other sensitive information.

Accordingly, the Patriot Act reauthorization should include the Senate bill's provision of a meaningful right to challenge the order when the order is unreasonable, oppressive, or seeks privileged information, as well as the right to challenge the permanent gag order attached to the demand.

Section 505 of the current Act provides a process for the FBI to obtain business records--including credit reports, customer records of communication service providers, and records of financial institutions -- without any court approval or oversight through a "national security letter" (NSL). The definition of financial institutions has now been broadened to include a host of businesses, big and small, that range from real estate closing firms, car dealerships, pawnbrokers, boat dealers, insurance companies, casinos and any other business designated by the Treasury Secretary. Ideally, this section should be revised to require individual suspicion linking the records to a terrorist, spy or other foreign agent--unfortunately neither pending bill makes this needed revision.

In addition, any reauthorization bill should provide a meaningful right to challenge the records demand under Section 505. Both the Senate and House versions of the bill do provide for this. Unfortunately the House bill also contains a criminal penalty for any company employee who discusses the NSL when that communication is not necessary to comply with the order, even without any intent to obstruct an investigation. Therefore, we support the Senate version of this section. Similarly, any effort to expand the Patriot Act to allow the FBI the ability to demand any record from any business in America without a factual predicate and without court approval through "administrative subpoenas" must be rejected.

Making these reforms to the business records provisions of the Patriot Act is a vital issue for American business. The provisions in question require a careful balancing of the government's efforts to protect and secure our nation weighed against the burdens placed on businesses and the potential violations of privacy and the civil liberties of employees and customers. We are concerned that the primary determinant of the proper balance is weighted heavily towards the agency of government that wishes to ensure national security. We suggest that our judiciary should continue to serve as a vital check over the government's powers because it can equitably weigh the government's interests against the interests of individuals and businesses whose livelihoods, legal responsibilities, and civil liberties are in question.

Furthermore, businesses must meet the stringent and demanding document retention and privacy requirements of every jurisdiction in which they do business (some of which are required by other Congressional laws), as well the expectations of their stakeholders of a return on

investment. Businesses may face a loss of reputation, or litigation--here or abroad-- for violating the privacy rights of others by complying with these provisions of the Patriot Act. Even if U.S. law provides immunity for complying with business records demands in national security investigations, the increasingly global business environment suggests that companies may face civil liability or legal sanctions abroad for violating privacy rules in the US.

American businesses are dedicated to assisting government agencies in their tireless efforts to identify suspected terrorists and to prevent acts of terrorism. Reforming the Patriot Act is an important step to ensure that powerful law enforcement tools are focused on those who would do us harm and that privacy rights and businesses interests are protected by the checks and balances our Constitution demands.

Thank you for your hard work on this important legislation.

Sincerely,

Association of Corporate Counsel

Business Civil Liberties, Inc

The Financial Services Roundtable

National Association of Manufacturers

National Association of REALTORS

United States Chamber of Commerce

cc: Patriot Act Conferees

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SHEILA JACKSON LEE, Texas
MAXINE WATERS, California
MARTIN T. MEEHAN, Massachusetts
WILLIAM D. DELAHUNT, Massachusetts
ROBERT WEXLER, Florida
ANTHONY D. WEINER, New York
ADAM B. SCHIFF, California
LINDA T. SÁNCHEZ, California
CHRIS VAN HOLLEN, Maryland
DEBBIE WASSERMAN SCHULTZ, Florida

ONE HUNDRED NINTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

http://www.house.gov/judiciary

FAX COVER SHEET

DATE: _____

NUMBER OF PAGES: 4
(Including Cover Sheet)

TO: DAVE BLAKE
514-9149

FROM: MINDY BARRY
202-225-3951 (Telephone)
202-225-7686 (Fax)

COMMENTS: _____

*If this transmission is not received in its entirety, please call 202-225-3951.

U.S. Department of Justice

Office of Intergovernmental and Public Liaison

950 Pennsylvania Avenue, NW, Room 1629 *(202) 514-3465*
Washington, DC 20530 *http://www.usdoj.gov/oipl/oipl.html*

October 21, 2005

Mr. Tom Heinemann
1001 Pennsylvania Avenue NW
Suite 500 South
Washington, DC 20004

Dear Mr. Heinemann,

Thank you for participating on the recent conference call regarding the reauthorization of the USA PATRIOT Act. As always, your concerns are important to the Department, and we appreciated the opportunity to provide additional information to you and fully discuss your concerns about the USA Patriot Act. We want to make sure that in the future your organization feels comfortable calling on us to provide you with any information you might need before taking a position on those issues for which your organization and the Department have a shared interest.

Consistent with our discussion, I write today to provide information about sections 215 and 505 of the USA PATRIOT Act. The Department would welcome the opportunity to respond to any additional questions you or your members might have, and we look forward to working closely with you in the future to allay any concerns that may arise.

As we discussed, there are many misunderstandings about what the USA PATRIOT Act does — and does not — do. Thus, we believe some background on the Act's purpose may be beneficial. In the wake of the tragedy of September 11, 2001, Congress passed the USA PATRIOT Act primarily to provide prosecutors and investigators with the critical tools needed to fight and win the war against terrorism. The Act principally did four things. First, it removed the legal barriers that prevented the law enforcement and intelligence communities from sharing information. Second, it updated anti-terrorism and criminal laws so that they reflect current technologies. Third, it closed gaping holes in our ability to investigate terrorists. Fourth, the Act increased penalties for those who commit terrorist crimes. The Act accomplishes these four goals while protecting the civil liberties of all Americans and preserving necessary checks of government abuse – there has yet to be any documented abuse of any USA PATRIOT Act authority in the 4 years since its passage. The House of Representatives and the Senate have each passed a different version of a bill reauthorizing those provisions of the Act that are scheduled to sunset soon, and the two houses are now busy resolving the differences between the two reauthorization bills.

The most controversial provision of the USA PATRIOT Act, section 215 – contrary to the misinformation that has crept into the debate -- provides a useful tool for catching terrorists and spies. Section 215 authorizes the Foreign Intelligence Surveillance Court (the "FISA Court") — a federal court made up of judges drawn from the U.S. District Courts — to require a person or organization to produce "tangible things" that are relevant to international terrorism and espionage investigations. These are the same types of materials that prosecutors have long been able to obtain with grand jury subpoenas in criminal investigations. Moreover, section 215 and grand jury subpoenas are both governed by a similar relevance standard: with respect to section 215, the requested records must be relevant to a national security investigation, while with respect to grand jury subpoenas, the requested records must be relevant to a criminal investigation. As a result, section 215 applies in a much narrower set of circumstances than do grand jury subpoenas. While grand jury subpoenas can be used to investigate all types of criminal conduct, section 215 can only be used "to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the constitution." 50 U.S.C. § 1861(b)(2).

Further, Section 215 does not empower FBI agents to obtain records without a court order. Rather, section 215 is in fact more protective of civil liberties than a grand jury subpoena in that it requires prior judicial review and approval – it is a court order, not a subpoena. In no circumstance can agents use this authority unilaterally to compel anyone to turn over records. Thus the Department's use of section 215 orders is subject to *more* scrutiny than is its use of grand jury subpoenas. Nor can 215 orders be used to investigate solely First Amendment protected activity. A further check on abuses comes in the form of Congressional oversight and reporting requirements on the exercise of authority under section 215. There is no similar requirement for grand jury subpoenas.

Both the House and the Senate reauthorization bills would amend section 215 to provide additional protections, several of which the Attorney General has publicly supported. First, the House and the Senate would make the "relevance" standard explicit, although we are concerned that the standard the Senate bills creates — more than 20 lines long — is confusing and will likely lead to time-consuming and unnecessary litigation. A standard that lacks clarity puts both the government and the recipient in a difficult position. Second, the House and Senate have made explicit a recipient's right to disclose receipt of a section 215 order to an attorney and to others whose assistance might be necessary for compliance with the order. Third, the House and Senate have both made explicit a recipient's right to judicial review of a section 215 order, which means that a section 215 order will have both prior and after-the-fact judicial review. Fourth, both the House and the Senate have provided additional protection for records that have been viewed as particularly sensitive — namely, library and bookstore records. Finally, both the House and the Senate have again scheduled section 215 to sunset and will thus require reauthorization in the future.

National Security Letters (NSLs) are similarly used by the FBI during the early stages of an investigation to obtain specified information from specified entities in international terrorism and espionage investigations. An NSL merely constitutes a request for the production of information; it is not self-executing. The FBI therefore cannot enforce NSLs either through administrative procedures or self-help. Rather, if the recipient of an NSL declines to produce the requested information, the FBI's only recourse is to turn to a federal court for an enforcement order. Notably, the FBI's authority to issue NSLs preceded the USA PATRIOT Act by many years; section 505 of the Act simply revised the standards governing the issuance of NSLs. The information acquired through NSLs is extremely valuable to the Department's terrorism and espionage investigations. Electronic communications, for example, often play a vital role in advancing the operation of terrorist organizations. As a result, pursuing and disrupting terrorist plots often requires the FBI to seek information relating to the electronic communications of particular individuals. Likewise, money is critical to terrorist organizations, and the ability to track the movement of funds through financial institutions is often essential to identifying and locating those supporting or engaging in terrorist operations. We would therefore oppose raising the standard beyond the current relevance standard, particularly in view of the fact that the records sought generally are held by third parties.

Both the House and the Senate have proposed amendments to the NSL authorities, although the Senate would amend only one of the several NSL authorities currently in federal law. Both reauthorization bills would add explicit judicial review and enforcement mechanisms, and the House would take one additional step toward securing sensitive national security investigations by adding a criminal penalty for knowing disclosure of an NSL that is accompanied by a nondisclosure order. As we discussed during the phone call, under the House bill, an NSL would not automatically be accompanied by a nondisclosure order, and the statute would be clear that anyone disclosing receipt of an NSL would have to notify the subsequent person of any nondisclosure order. With these safeguards in place, we do support the possible criminal penalty, as it is critical that targets not be tipped off about investigations, particularly with respect to an NSL, which is often used at the early stages of an investigation.

Finally, we would like to address an additional concern raised during the conference call: that the use of these authorities lacks sufficient oversight that could have a particularly negative impact on small businesses. As stated above, section 215 establishes numerous safeguards to ensure adequate checks and balances in addition to the requirement that a federal court explicitly authorize the use of section 215 through a court order. Not only does Congress exercise full oversight of this authority through extensive reporting requirements and oversight hearings, both PATRIOT Act reauthorization bills that were passed in the Senate and the House of Representatives included an additional sunset for this provision. Congress, the federal courts, and the Department's Inspector General all guard against misuse.

In summary, sections 215 and 505 of the PATRIOT Act provide national security investigators with important tools for investigating and intercepting terrorism, and at the same time establish robust safeguards to protect law-abiding Americans.

Thank you for the opportunity to discuss further the Department's response to your concerns. We welcome the opportunity to discuss these concerns with you, and I wish to personally extend to you the invitation to call upon me if at any point you have any questions or concerns about this or any other matters related to the Department.

Sincerely,

Crystal M. Roberts
Director

Swenson, Lily F

From: Swenson, Lily F
Sent: Thursday, February 23, 2006 11:52 AM
To: Gorsuch, Neil M
Subject: FW: Can you take a quick look at this?
Attachments: WHReport 02 27 06.doc

Not to pile on, but [redacted] just abandoned [redacted] White House Report duties when [redacted] (it's a weekly obligation and Reyes used to make sure there was someone around to take care of it if he was going to be out). [redacted] didn't ask me, or Gordon for that matter, to cover [redacted]. Had [redacted], he would have discovered that Gordon is out and I was scheduled to be out all morning (the report is due at noon). Below is Jan casting about for an OASG reviewer. I will take care of reviewing it right now before noon, no worries, but just FYI.

From: Williams, Jan
Sent: Thursday, February 23, 2006 11:43 AM
To: Swenson, Lily F
Subject: FW: Can you take a quick look at this?

Are you around? Can you look at this?

From: Williams, Jan
Sent: Thursday, February 23, 2006 11:14 AM
To: Todd, Gordon (SMO)
Subject: Can you take a quick look at this?

[redacted] usually does but [redacted] Thanks.

Report to the White House
DEPARTMENT OF JUSTICE
For the week of **February 27. 2006**
Submitted to Cabinet Affairs

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1. **Attorney General and Acting Deputy Attorney General Schedule:**

- ***2006 United States Attorneys National Conference***
  On February 27, Attorney General Gonzales will give remarks at the 2006 United States Attorneys National Conference being held in Orlando, Florida. Also, Acting Deputy Attorney General McNulty will be attending the conference.

- ***Attorney General visit to Paris and London***
  On March 1-7, Attorney General will travel overseas to visit with justice and law enforcement counterparts in Paris, France and London, England.

- ***Corporate Compliance and Business Ethics Officer's Conference***
  On March 1, Acting Deputy Attorney General McNulty will speak at the Corporate Compliance and Business Ethics Officer's Conference in Chantilly, Virginia.

- ***Zacarias Moussaoui's Trial***
  On March 6, Acting Deputy Attorney General will attend the trial of Zacarias Moussaoui which will be held at the United States District Courthouse in Alexandria, Virginia.

2. **Announcements, Updates, Releases and Relevant External Organizations:**

- ***UPDATE: District Court Enjoins Transfer of Terrorist Suspect to Iraqi Criminal Court***
  Sandra K. Omar, et al. v. Francis J. Harvey, et al. [District of Columbia]. Shawqi Omar ("Omar"), a dual American-Jordanian citizen, through his wife and son, has filed a habeas corpus petition seeking relief from Omar's current custody in Iraq. Omar was captured by Multinational Force – Iraq (MNF-I) in October 2004, and has been in the custody of MNF-I since that time. Among other things, Omar has ties to Abu Musab al Zarqawi – the recognized leader of Al-Qaeda in Iraq – and is suspected of harboring insurgents and directing the selection and surveillance of potential kidnap victims. Upon learning that Mr. Omar's case had previously been designated to proceed before the Central Criminal Court of Iraq on February 2, petitioners filed an *ex parte* motion for a temporary restraining order seeking to prevent the transfer of Mr. Omar out of purported United States custody until the district court could consider the merits of the underlying habeas petition. On February 3, without affording government counsel prior notice or an opportunity to be heard, the Court granted the *ex parte* motion and set forth an expedited briefing schedule on the temporary restraining order. Respondents argued primarily that the Court lacked jurisdiction over the case because Mr. Omar was not in the custody of the United States but rather was in the custody of the MNF-I, and that although U.S. Armed Forces participate in

MNF-I's custody over Mr. Omar, they do so only as part of MNF-I and not as the United States. Respondents also argued that the injunctive relief sought would violate ftlinefundamental principles of separation of powers by requiring the Court to interfere with the decisions of the Executive in military and foreign policy matters. On February 13, Judge Ricardo M. Urbina, *sua sponte*, converted petitioners' motion for a temporary restraining order to a motion for a preliminary injunction and preliminarily enjoined the United States from removing Omar from "United States or MNF-I" custody. The Court determined that the case raises questions that are "so serious, substantial, difficult and doubtful, as to make them a fair ground for litigation and thus for more deliberative investigation."

- ***UPDATE: Federal Court in Brooklyn Dismisses Suit Challenging "Extraordinary Rendition"***
  Maher Arar v. John Ashcroft, et al., No. 04-CV-0249 [Eastern District of New York] (Judge David G. Trager). On February 16, the U.S. District Court for the Eastern District of New York dismissed a civil lawsuit in which plaintiff Maher Arar – a dual Canadian/Syrian citizen who was detained at JFK Airport in September 2002 while en route to Canada --challenged his detention in the United States and subsequent removal to Syria, where he claims he was further detained and tortured. According to plaintiff, he was removed to Syria, pursuant to the United States' alleged "extraordinary rendition" policy, because federal officials, believing plaintiff to be a member of al Qaeda, intended for the Syrians to interrogate him under torture. Asserting claims under the Torture Victim Protection Act (TVPA) and the "substantive" component of the Fifth Amendment Due Process Clause (pursuant to Bivens), plaintiff sought declaratory relief from the United States and money damages from six federal officials in their individual capacities, including former Attorney General Ashcroft, former Deputy Attorney General Larry Thompson, Federal Bureau of Investigation (FBI) Director Robert Mueller, former Immigration and Naturalization Service (INS) Commissioner James Ziglar, former INS Regional Director J. Scott Blackman, and former INS District Director Edward J. McElroy. In its February 16 ruling, the District Court dismissed all claims against all defendants. First, the court dismissed all declaratory-relief claims against the United States for lack of standing. Second, the court dismissed with prejudice the TVPA claim on the ground that plaintiff had not shown the defendants to have acted under "color of foreign law" as required by the statute. Third, as to plaintiff's due-process claims based on his alleged detention and torture abroad, the court found that the "jurisdiction stripping" provisions of the Immigration and Nationality Act did not divest it of subject matter jurisdiction, and it declined to resolve whether plaintiff even possessed substantive due process rights while abroad. However, the court still dismissed those due process claims with prejudice on the ground that national security and foreign policy considerations are "special factors" that foreclose a Bivens damages remedy. Fourth, the court dismissed without prejudice plaintiff's due process claims based on his detention in the United States, and, as to this count only, granted plaintiff leave to re-plead in order to allege (if he can) the personal involvement by the defendants in a violation of plaintiff's asserted due process rights to be free from "gross physical

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abuse," and to have consular and court access, while in United States' custody. Finally, the court declined, on mootness grounds, to address the "state secrets privilege," which the United States had raised as an alternate ground for dismissing most of plaintiff's claims, given its decision dismissing plaintiff's claims on other grounds.

- ***UPDATE: D.C. Circuit Holds that Putative Intervenor in Tobacco Litigation was Properly Denied Permission to Intervene to Assert Privilege Objections in Trial Testimony*** *United States v. British Am. Tobacco Australia Servs. Ltd.* [United States Court of Appeals for the District of Columbia Circuit; United States District Court for the District of Columbia]. On February 17, the D.C. Circuit (Sentelle, Randolph, Griffith) rejected two appeals by British American Tobacco Australia Services Ltd. (BATAS) arising out of the government's civil RICO action against the tobacco industry. BATAS, a former subsidiary of defendant British American Tobacco Co. and a limited intervenor in the litigation, had sought to expand its intervention rights to assert privilege objections in the deposition and trial testimony of a government witness. The court of appeals upheld the district court's determination that BATAS's expanded intervention motion, which was filed only 20 days before the start of trial, was "clearly untimely" under Fed. R. Civ. P. 24(a), and thus declined to address BATAS's challenge to the district court's alternative conclusion that BATAS had waived its alleged privileges. The court further concluded that because BATAS's motion to intervene was properly denied under Rule 24, BATAS had no standing to appeal from a subsequent order in the case rejecting other defendants' privilege objections in the same witness's testimony.

- ***UPDATE: Jury Voir Dire Begins in United States v. Moussaoui***
  On February 15, in the Eastern District of Virginia, jury *voir dire* began in the death penalty phase proceeding of *United States. v. Moussaoui.* The defendant was present in the courtroom. Three of the twelve prospective jurors were excused for cause. Peremptory challenges and final jury selection is scheduled for March 6. On April 22, 2005, the court accepted Zacarias Moussaoui's guilty plea to a six-count indictment charging him with conspiracy to commit acts of terrorism transcending national boundaries, conspiracy to commit aircraft piracy, conspiracy to destroy aircraft, conspiracy to use weapons of mass destruction, conspiracy to murder United States employees, and conspiracy to destroy property. With his guilty plea, Moussaoui acknowledged his role in conspiring with al Qaeda to attack the United States. The government is seeking the death penalty.

- ***UPDATE: Hayat Material Support Trial Begins***
  On February 14, in the Eastern District of California, trial began in the case of *United States. v. Hamid Haya and Umer Hayat*. On January 26, a grand jury returned a second superseding indictment charging Hamid Hayat with providing material support to a terrorist organization and concealing that material support knowing and intending that it would be used to carry-out an act of terrorism transcending national boundaries. The indictment alleges, among other things, that Hamid Hayat provided such material

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support by agreeing to attend a terrorist training camp. The indictment further charges Hamid Hayat with three counts and Umer Hayat of two counts of making false statements relating to the lies they told the Federal Bureau of Investigation about Hamid's attendance at the training camp. Both Hayats confessed that Hamid had attended the jihadist training camp and provided details about the training he received.

- ***UPDATE: United State Filed Brief in* Gonzales v Carhart**
  On February 14, the United States filed a supplemental brief with the Supreme Court in *Gonzales v. Carhart*, a lawsuit challenging the constitutionality of the Partial-Birth Abortion Ban Act. The brief alerted the court to recent decisions in other circuits and again asked it to hear the case, rather than vacating or remanding it.

- ***UPDATE: Ninth Circuit Hears Oral Argument in San Diego Boy Scouts Case***
  On February 14, the Ninth Circuit heard oral argument in *Barnes-Wallace* v. *Boy Scouts of America*. Plaintiffs, a same-sex couple, an agnostic couple, and their minor sons, sued the city of San Diego, the Boy Scouts of America, and the Boy Scouts' regional affiliate (BSA) over the City's long-term, low-cost leases of two parcels of public parkland to the BSA. One of the leases involves parkland on which the BSA has built its regional headquarters, as well as campgrounds and recreational facilities for use by the general public. The second involves parkland on which the BSA has built a youth aquatic center for use by the general public. Plaintiffs claimed that the leases violate the Establishment Clause, the Equal Protection Clause, and parallel provisions of the state constitution by endorsing the BSA's discriminatory membership policies. The district court granted summary judgment in favor of plaintiffs on their Establishment Clause claims, and denied as moot their Equal Protection claims. BSA appealed, plaintiffs cross-appealed the denial of their Equal Protection claims, and the City settled with the plaintiffs. The Division argued as amicus curiae that the district court was incorrect as a threshold matter in finding that the Boy Scouts is a religious organization such that the Establishment Clause applied to the City's leases with the Boy Scouts. The Division also argued that even if the Boy Scouts is a religious organization, the leases do not violate the Establishment Clause because they are not properly considered aid to a religious organization, or, if they are, such aid does not violate the Establishment Clause because it is made available to nonprofit organizations in a neutral manner, serves a secular purpose, and does not advance religion.

- ***UPDATE: Supreme Court Arguments in Rapanos and Carabell***
  On February 21, the Supreme Court will hear oral argument in Rapanos v. United States and Carabell v. Corps of Engineers. The primary issues in both cases are statutory and constitutional challenges to the Federal Government's jurisdiction to regulate under the Clean Water Act wetlands hydrologically connected or adjacent to non-navigable tributaries of waters of the United States.

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- ***Supreme Court to Hear Arguments in Texas Voting Case***
  On March 1, the Supreme Court will hear oral argument in *League of United Latin American Citizens* v. *Perry*. A number of different plaintiff groups filed suit in the Eastern District of Texas alleging that the congressional redistricting plan the Texas Legislature adopted on October 12, 2003, is unconstitutional and in violation of the Voting Rights Act of 1965. A three-judge panel held that Texas' redistricting was constitutional and did not violate Section 2 of the Voting Rights Act. Plaintiffs appealed to the Supreme Court. The Supreme Court remanded the case to the three-judge panel for further consideration in light of *Vieth* v. *Jubelirer*, 541 U.S. 267 (2004). The three-judge panel held that the Texas redistricting plan remained constitutional in light of *Vieth*. Plaintiffs appealed the three-judge panel decision and the Supreme Court noted probable jurisdiction. The United States will argue that the redistricting plan does not violate Section 2 of the Voting Rights Act. Specifically, the United States will argue that under the old plan, District 24, a district where African Americans comprise 21.4% of the population, was not entitled to Section 2 protection because minorities could not satisfy the three preconditions required to prove a vote dilution claim set out in *Thornburg* v. *Gingles*, 478 U.S. 30 (1986). The United States will also argue that Hispanics are not entitled, under Section 2, to an additional majority-minority district in the south and west region of Texas primarily because they already have greater than proportional representation in that region.

3. **Presidentially Appointed, Senate Confirmed Officials' Schedule:**

- ***Assistant Attorney General, Tax Division, Eileen J. O'Connor will be a panelist in "Supreme Court Review and Preview," at Georgetown University Law Center***
  On March 3, Eileen J. O'Connor, Assistant Attorney General, Tax Division will be a panelist in "Supreme Court Review and Preview," at Georgetown University Law Center in Washington, D.C. The audience will include tax lawyers. Press TBD.

- ***Administrator, Office of Juvenile Justice and Delinquency Prevention, Robert Flores will chair the quarterly meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention***
  On March 3, Robert Flores, Administrator, Office of Juvenile Justice and Delinquency Prevention will chair the quarterly meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention in Washington, D.C. The audience will include council members and representatives from federal agencies and youth-serving and non-profit organizations. Closed Press.

4. **Long Range Schedule:**

- ***UPDATE: D.C. Circuit to Hear Oral Argument in Appeals Challenging Computer Disconnection and Class Notice Orders and Seeking Reassignment of this Indian Trust Litigation to a Different District Court Judge***

DOJ_NMG_0015852

Cobell v. Norton [United States Court of Appeals for the District of Columbia Circuit; United States District Court for the District of Columbia]. On Tuesday, April 11, a panel of the D.C. Circuit (Tatel, Brown, Silberman) will hear oral argument in two appeals arising out of the ten-year-old Indian trust litigation. One appeal challenges an injunction requiring the Department of the Interior to disconnect major computer systems from the internet and from internal computer networks. The second appeal challenges an order requiring Interior to declare in all written communications with class members that its trust information is of questionable reliability. The appeal also seeks reassignment of the case to a different district court judge.

- ***Medical Problems of Jail Inmates***
  In March 2006, the Bureau of Justice Statistics is scheduled to release *Medical Problems of Jail Inmates, 2002*, which presents findings on jail inmates who reported a current medical problem, a physical impairment or mental condition, or an injury since admission based on data from the 2002 Survey of Inmates in Local Jails. The prevalence of specific medical problems and conditions also are included. The report examines medical problems and other conditions by gender, age, time served since admission, and select background characteristics.

- ***State Court Organization***
  In March 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *State Court Organization, 2004*, which presents detailed comparative data by state trial and appellate courts in the United States. Topics covered include: the number of courts and judges; process for judicial selection; governance of court systems, including judicial funding, administration, staffing and procedures; jury qualifications and verdict rules; and processing and sentencing procedures for criminal cases. Diagrams of court structure summarize the key features of each state's court organization. This fifth edition of State Court Organization is a joint effort of the Conference

- **Agency Press Activities:**

Travel

- ***Attorney General Gonzales: Paris and London***
  On March 1-8, The Attorney General will travel overseas to visit with justice and law enforcement counterparts in Paris and London.

Press Conferences

There are currently no press conferences scheduled for the week of February 27-March 3, 2006.

UPDATE: Press Conferences

- ***Attorney General Gonzales: Three Men Charged With Conspiring to Commit Acts of Terrorism (OPEN PRESS)***
  On February 21, Attorney General Gonzales announced the terrorism indictments of three men who resided in the Toledo, Ohio.

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Speeches

- ***Attorney General Gonzales: U.S. Attorneys Conference (CLOSED PRESS)***
  On February 27, Attorney General Gonzales will deliver general remarks at the U.S. Attorneys Conference in Orlando, Florida.

- ***Attorney General Gonzales: FBI Special Agents in Charge (SAC) Conference (CLOSED PRESS)***
  On February 28, Attorney General Gonzales will deliver general remarks at the FBI Special Agents in Charge (SAC) Conference.

UPDATE: Speeches

- ***Attorney General Gonzales: 16th Street Baptist Church National Historic Landmark Designation Ceremony (OPEN PRESS)***
  On February 20, Attorney General Gonzales delivered general remarks regarding civil rights at the 16th Street Baptist Church Historic Landmark Designation Ceremony. Attorney General Gonzales joined this event at the invitation of Secretary of Interior, Gale Norton.

Media Availabilities

- ***Attorney General Gonzales: Press Roundtable with French Media***
  On March 3, Attorney General Gonzales will participate in a press roundtable with the French media. The media outlets and topics of discussion have yet to be determined.

- ***Attorney General Gonzales: Press Availability with United Kingdom Home Secretary Charles Clarke (TBD)***
  On March 6, Attorney General Gonzales will participate in a press availability with UK Home Secretary Charles Clarke.

- ***Attorney General Gonzales: Roundtable with British Media***
  On March 7, Attorney General Gonzales will participate in a roundtable discussion with the British media regarding his trip to Paris and London.

UPDATE: Media Availabilities

- ***Attorney General Gonzales: Legal Times Interview***
  On February 22, Attorney General Gonzales participated in an interview with the *Legal Times* regarding the Department of Justice year in review.

- ***Attorney General Gonzales: New York Stock Exchange Opening Bell***
  On February 23, Attorney General Gonzales rang the opening bell at the New York Stock Exchange.

DOJ_NMG_0015854

- ***Attorney General Gonzales: Sean Hannity TV Show Interview***
  On February 23, Attorney General Gonzales participated in a television interview with Sean Hannity regarding Justice Department priorities for next year and the NSA terrorist surveillance program.

- ***Attorney General Gonzales: One-on-One with CNBC***
  On February 23, Attorney General Gonzales participated in a one-on-one interview with CNBC regarding corporate fraud.

- ***Attorney General Gonzales: New York Stock Exchange Magazine Interview***
  On February 23, Attorney General Gonzales participated in an interview with the New York Stock Exchange Magazine regarding corporate fraud and intellectual property.

- ***Attorney General Gonzales: Women's Magazines Roundtable (CLOSED PRESS, but ON THE RECORD)***
  On February 23, Attorney General Gonzales participated in a roundtable discussion with various women's magazines regarding human trafficking. The magazines included *GuidePost Magazine*, *Parents Magazine*, *Glamour*, *Ladies Home Journal*, and *O, the Oprah Magazine*.

- ***Attorney General Gonzales: Regional Radio Interviews***
  On February 24, Attorney General Gonzales participated in a regional radio interview with WIOD AM Miami regarding the NSA terrorist surveillance program.

- **Recent Grants Distributed by DOJ:**

OJP GRANT ACTIVITY
SUMMARY INFORMATION THROUGH FEBRUARY 25, 2006

- ***Bureau of Justice Assistance, Mather, California***
  $983,132 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Governor's Office of Emergency Services.

- ***Bureau of Justice Assistance, Tallahassee, Florida***
  $523,946 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Department of Law Enforcement.

- ***Bureau of Justice Assistance, Honolulu, Hawaii***
  $62,856 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Department of the Attorney General.

- ***Bureau of Justice Assistance, Meridian, Idaho***

DOJ_NMG_0015855

$75,329 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the State Police.

- ***Bureau of Justice Assistance, Boston, Massachusetts***
  $96,690 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Executive Office of Public Safety.

- ***Bureau of Justice Assistance, Baltimore, Maryland***
  $171,164 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Governor's Office of Crime Control and Prevention.

- ***Bureau of Justice Assistance, Concord, New Hampshire***
  $53,074 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Department of Justice.

- ***Bureau of Justice Assistance, Santa Fe, New Mexico***
  $75,352 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Department of Public Safety.

- ***Bureau of Justice Assistance, Bismarck, North Dakota***
  $46,721 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Office of the Attorney General.

- ***Bureau of Justice Assistance, Pierre, South Dakota***
  $56,740 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Office of the Governor.

- ***Bureau of Justice Assistance, Salt Lake City, Utah***
  $73,142 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Commission on Criminal and Juvenile Justice.

- ***Bureau of Justice Assistance, Macon, Georgia***
  $102,228 – Gang Resistance Education and Training grant awarded to the Bibb County Board of Education.

- ***Bureau of Justice Assistance, New York City, NY***
  $200,000 – Solicited Award to the Fund for the City of New York.

- ***Bureau of Justice Assistance, Cranford, New Jersey***
  $98,664 – Congressionally Mandated Award to Union County College.

- ***Community Capacity Development Office, Springfield, Massachusetts***
  $225,000 – Weed and Seed grant awarded to the Council of Churches of Greater Springfield.

DOJ_NMG_0015856

- ***Community Capacity Development Office, Durham, North Carolina***
  $225,000 – Weed and Seed grant awarded to the City of Durham.

7. **Freedom of Information Act Requests (FOIA):**

- ***Jeffrey I. Lang for Debevoise & Plimpton LLP***
  On February 17, 2006, Office of Information and Privacy received a request from Jeffrey I. Lang, Counsel, Debevoise & Plimpton LLP, requesting copies of all records relating to "warrantless electronic surveillance or physical searches of persons located within the United States . . . [a]ny Executive Orders authorizing the warrantless electronic surveillance or physical searches of persons located within the United States . . . and all records establishing, discussing or referencing the policies, procedures, guidelines, or practices of the NSA" used to conduct warrantless electronic surveillance or physical searches.

DOJ_NMG_0015857

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, February 23, 2006 11:53 AM
To: Swenson, Lily F
Subject: RE: Can you take a quick look at this?

Thanks for the heads up. Please make sure [redacted] knows that you're picking up his slack without being asked.

From: Swenson, Lily F
Sent: Thursday, February 23, 2006 11:52 AM
To: Gorsuch, Neil M
Subject: FW: Can you take a quick look at this?

Not to pile on, but [redacted] just abandoned [redacted] White House Report duties when [redacted] (it's a weekly obligation and Reyes used to make sure there was someone around to take care of it if he was going to be out). [redacted] didn't ask me, or Gordon for that matter, to cover [redacted]. Had [redacted] would have discovered that Gordon is out and I was scheduled to be out all morning (the report is due at noon). Below is Jan casting about for an OASG reviewer. I will take care of reviewing it right now before noon, no worries, but just FYI.

From: Williams, Jan
Sent: Thursday, February 23, 2006 11:43 AM
To: Swenson, Lily F
Subject: FW: Can you take a quick look at this?

Are you around? Can you look at this?

From: Williams, Jan
Sent: Thursday, February 23, 2006 11:14 AM
To: Todd, Gordon (SMO)
Subject: Can you take a quick look at this?

[redacted] usually does but [redacted]. Thanks.

<< File: WHReport 02 27 06.doc >>

Swenson, Lily F

From: Swenson, Lily F
Sent: Thursday, February 23, 2006 12:38 PM
To: Gorsuch, Neil M
Subject: FW: Can you take a quick look at this?
Attachments: WHReport 02 27 06.doc

From: Swenson, Lily F
Sent: Thursday, February 23, 2006 12:38 PM
To: Senger, Jeffrey M
Subject: FW: Can you take a quick look at this?

Jeff,
Gordon's out doing immigration review and I was out all morning on the Hill doing briefings -- I got this from Jan and was expected to turn it around before noon -- it was 30 minutes late to Jan because there were a lot of typos, and I have now missed a big portion of a birthday lunch that I was obligated to attend. I had no idea this was coming to me. I don't know if Gordon did and he neglected to mention it to me. Reyes used to make arrangements for the report to be covered when he was going to be out. It got done, no worries, but FYI for next time. Thanks.
Lily

From: Williams, Jan
Sent: Thursday, February 23, 2006 11:43 AM
To: Swenson, Lily F
Subject: FW: Can you take a quick look at this?

Are you around? Can you look at this?

From: Williams, Jan
Sent: Thursday, February 23, 2006 11:14 AM
To: Todd, Gordon (SMO)
Subject: Can you take a quick look at this?

Senger usually does but he is in KC. Thanks.

Report to the White House
DEPARTMENT OF JUSTICE
For the week of **February 27. 2006**
Submitted to Cabinet Affairs

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1. **Attorney General and Acting Deputy Attorney General Schedule:**

- ***2006 United States Attorneys National Conference***
  On February 27, Attorney General Gonzales will give remarks at the 2006 United States Attorneys National Conference being held in Orlando, Florida. Also, Acting Deputy Attorney General McNulty will be attending the conference.

- ***Attorney General visit to Paris and London***
  On March 1-7, Attorney General will travel overseas to visit with justice and law enforcement counterparts in Paris, France and London, England.

- ***Corporate Compliance and Business Ethics Officer's Conference***
  On March 1, Acting Deputy Attorney General McNulty will speak at the Corporate Compliance and Business Ethics Officer's Conference in Chantilly, Virginia.

- ***Zacarias Moussaoui's Trial***
  On March 6, Acting Deputy Attorney General will attend the trial of Zacarias Moussaoui which will be held at the United States District Courthouse in Alexandria, Virginia.

2. **Announcements, Updates, Releases and Relevant External Organizations:**

- ***UPDATE: District Court Enjoins Transfer of Terrorist Suspect to Iraqi Criminal Court***
  Sandra K. Omar, et al. v. Francis J. Harvey, et al. [District of Columbia]. Shawqi Omar ("Omar"), a dual American-Jordanian citizen, through his wife and son, has filed a habeas corpus petition seeking relief from Omar's current custody in Iraq. Omar was captured by Multinational Force – Iraq (MNF-I) in October 2004, and has been in the custody of MNF-I since that time. Among other things, Omar has ties to Abu Musab al Zarqawi – the recognized leader of Al-Qaeda in Iraq – and is suspected of harboring insurgents and directing the selection and surveillance of potential kidnap victims. Upon learning that Mr. Omar's case had previously been designated to proceed before the Central Criminal Court of Iraq on February 2, petitioners filed an *ex parte* motion for a temporary restraining order seeking to prevent the transfer of Mr. Omar out of purported United States custody until the district court could consider the merits of the underlying habeas petition. On February 3, without affording government counsel prior notice or an opportunity to be heard, the Court granted the *ex parte* motion and set forth an expedited briefing schedule on the temporary restraining order. Respondents argued primarily that the Court lacked jurisdiction over the case because Mr. Omar was not in the custody of the United States but rather was in the custody of the MNF-I, and that although U.S. Armed Forces participate in

MNF-I's custody over Mr. Omar, they do so only as part of MNF-I and not as the United States. Respondents also argued that the injunctive relief sought would violate ftlinefundamental principles of separation of powers by requiring the Court to interfere with the decisions of the Executive in military and foreign policy matters. On February 13, Judge Ricardo M. Urbina, *sua sponte*, converted petitioners' motion for a temporary restraining order to a motion for a preliminary injunction and preliminarily enjoined the United States from removing Omar from "United States or MNF-I" custody. The Court determined that the case raises questions that are "so serious, substantial, difficult and doubtful, as to make them a fair ground for litigation and thus for more deliberative investigation."

- ***UPDATE: Federal Court in Brooklyn Dismisses Suit Challenging "Extraordinary Rendition"***
  Maher Arar v. John Ashcroft, et al., No. 04-CV-0249 [Eastern District of New York] (Judge David G. Trager). On February 16, the U.S. District Court for the Eastern District of New York dismissed a civil lawsuit in which plaintiff Maher Arar – a dual Canadian/Syrian citizen who was detained at JFK Airport in September 2002 while en route to Canada --challenged his detention in the United States and subsequent removal to Syria, where he claims he was further detained and tortured. According to plaintiff, he was removed to Syria, pursuant to the United States' alleged "extraordinary rendition" policy, because federal officials, believing plaintiff to be a member of al Qaeda, intended for the Syrians to interrogate him under torture. Asserting claims under the Torture Victim Protection Act (TVPA) and the "substantive" component of the Fifth Amendment Due Process Clause (pursuant to Bivens), plaintiff sought declaratory relief from the United States and money damages from six federal officials in their individual capacities, including former Attorney General Ashcroft, former Deputy Attorney General Larry Thompson, Federal Bureau of Investigation (FBI) Director Robert Mueller, former Immigration and Naturalization Service (INS) Commissioner James Ziglar, former INS Regional Director J. Scott Blackman, and former INS District Director Edward J. McElroy. In its February 16 ruling, the District Court dismissed all claims against all defendants. First, the court dismissed all declaratory-relief claims against the United States for lack of standing. Second, the court dismissed with prejudice the TVPA claim on the ground that plaintiff had not shown the defendants to have acted under "color of foreign law" as required by the statute. Third, as to plaintiff's due-process claims based on his alleged detention and torture abroad, the court found that the "jurisdiction stripping" provisions of the Immigration and Nationality Act did not divest it of subject matter jurisdiction, and it declined to resolve whether plaintiff even possessed substantive due process rights while abroad. However, the court still dismissed those due process claims with prejudice on the ground that national security and foreign policy considerations are "special factors" that foreclose a Bivens damages remedy. Fourth, the court dismissed without prejudice plaintiff's due process claims based on his detention in the United States, and, as to this count only, granted plaintiff leave to re-plead in order to allege (if he can) the personal involvement by the defendants in a violation of plaintiff's asserted due process rights to be free from "gross physical

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abuse," and to have consular and court access, while in United States' custody. Finally, the court declined, on mootness grounds, to address the "state secrets privilege," which the United States had raised as an alternate ground for dismissing most of plaintiff's claims, given its decision dismissing plaintiff's claims on other grounds.

- ***UPDATE: D.C. Circuit Holds that Putative Intervenor in Tobacco Litigation was Properly Denied Permission to Intervene to Assert Privilege Objections in Trial Testimony*** *United States v. British Am. Tobacco Australia Servs. Ltd.* [United States Court of Appeals for the District of Columbia Circuit; United States District Court for the District of Columbia]. On February 17, the D.C. Circuit (Sentelle, Randolph, Griffith) rejected two appeals by British American Tobacco Australia Services Ltd. (BATAS) arising out of the government's civil RICO action against the tobacco industry. BATAS, a former subsidiary of defendant British American Tobacco Co. and a limited intervenor in the litigation, had sought to expand its intervention rights to assert privilege objections in the deposition and trial testimony of a government witness. The court of appeals upheld the district court's determination that BATAS's expanded intervention motion, which was filed only 20 days before the start of trial, was "clearly untimely" under Fed. R. Civ. P. 24(a), and thus declined to address BATAS's challenge to the district court's alternative conclusion that BATAS had waived its alleged privileges. The court further concluded that because BATAS's motion to intervene was properly denied under Rule 24, BATAS had no standing to appeal from a subsequent order in the case rejecting other defendants' privilege objections in the same witness's testimony.

- ***UPDATE: Jury Voir Dire Begins in United States v. Moussaoui***
  On February 15, in the Eastern District of Virginia, jury *voir dire* began in the death penalty phase proceeding of *United States. v. Moussaoui.* The defendant was present in the courtroom. Three of the twelve prospective jurors were excused for cause. Peremptory challenges and final jury selection is scheduled for March 6. On April 22, 2005, the court accepted Zacarias Moussaoui's guilty plea to a six-count indictment charging him with conspiracy to commit acts of terrorism transcending national boundaries, conspiracy to commit aircraft piracy, conspiracy to destroy aircraft, conspiracy to use weapons of mass destruction, conspiracy to murder United States employees, and conspiracy to destroy property. With his guilty plea, Moussaoui acknowledged his role in conspiring with al Qaeda to attack the United States. The government is seeking the death penalty.

- ***UPDATE: Hayat Material Support Trial Begins***
  On February 14, in the Eastern District of California, trial began in the case of *United States. v. Hamid Haya and Umer Hayat*. On January 26, a grand jury returned a second superseding indictment charging Hamid Hayat with providing material support to a terrorist organization and concealing that material support knowing and intending that it would be used to carry-out an act of terrorism transcending national boundaries. The indictment alleges, among other things, that Hamid Hayat provided such material

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support by agreeing to attend a terrorist training camp. The indictment further charges Hamid Hayat with three counts and Umer Hayat of two counts of making false statements relating to the lies they told the Federal Bureau of Investigation about Hamid's attendance at the training camp. Both Hayats confessed that Hamid had attended the jihadist training camp and provided details about the training he received.

- ***UPDATE: United State Filed Brief in* Gonzales v Carhart**
  On February 14, the United States filed a supplemental brief with the Supreme Court in *Gonzales v. Carhart*, a lawsuit challenging the constitutionality of the Partial-Birth Abortion Ban Act. The brief alerted the court to recent decisions in other circuits and again asked it to hear the case, rather than vacating or remanding it.

- ***UPDATE: Ninth Circuit Hears Oral Argument in San Diego Boy Scouts Case***
  On February 14, the Ninth Circuit heard oral argument in *Barnes-Wallace* v. *Boy Scouts of America*. Plaintiffs, a same-sex couple, an agnostic couple, and their minor sons, sued the city of San Diego, the Boy Scouts of America, and the Boy Scouts' regional affiliate (BSA) over the City's long-term, low-cost leases of two parcels of public parkland to the BSA. One of the leases involves parkland on which the BSA has built its regional headquarters, as well as campgrounds and recreational facilities for use by the general public. The second involves parkland on which the BSA has built a youth aquatic center for use by the general public. Plaintiffs claimed that the leases violate the Establishment Clause, the Equal Protection Clause, and parallel provisions of the state constitution by endorsing the BSA's discriminatory membership policies. The district court granted summary judgment in favor of plaintiffs on their Establishment Clause claims, and denied as moot their Equal Protection claims. BSA appealed, plaintiffs cross-appealed the denial of their Equal Protection claims, and the City settled with the plaintiffs. The Division argued as amicus curiae that the district court was incorrect as a threshold matter in finding that the Boy Scouts is a religious organization such that the Establishment Clause applied to the City's leases with the Boy Scouts. The Division also argued that even if the Boy Scouts is a religious organization, the leases do not violate the Establishment Clause because they are not properly considered aid to a religious organization, or, if they are, such aid does not violate the Establishment Clause because it is made available to nonprofit organizations in a neutral manner, serves a secular purpose, and does not advance religion.

- ***UPDATE: Supreme Court Arguments in Rapanos and Carabell***
  On February 21, the Supreme Court will hear oral argument in Rapanos v. United States and Carabell v. Corps of Engineers. The primary issues in both cases are statutory and constitutional challenges to the Federal Government's jurisdiction to regulate under the Clean Water Act wetlands hydrologically connected or adjacent to non-navigable tributaries of waters of the United States.

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- ***Supreme Court to Hear Arguments in Texas Voting Case***
  On March 1, the Supreme Court will hear oral argument in *League of United Latin American Citizens* v. *Perry*. A number of different plaintiff groups filed suit in the Eastern District of Texas alleging that the congressional redistricting plan the Texas Legislature adopted on October 12, 2003, is unconstitutional and in violation of the Voting Rights Act of 1965. A three-judge panel held that Texas' redistricting was constitutional and did not violate Section 2 of the Voting Rights Act. Plaintiffs appealed to the Supreme Court. The Supreme Court remanded the case to the three-judge panel for further consideration in light of *Vieth* v. *Jubelirer*, 541 U.S. 267 (2004). The three-judge panel held that the Texas redistricting plan remained constitutional in light of *Vieth*. Plaintiffs appealed the three-judge panel decision and the Supreme Court noted probable jurisdiction. The United States will argue that the redistricting plan does not violate Section 2 of the Voting Rights Act. Specifically, the United States will argue that under the old plan, District 24, a district where African Americans comprise 21.4% of the population, was not entitled to Section 2 protection because minorities could not satisfy the three preconditions required to prove a vote dilution claim set out in *Thornburg* v. *Gingles*, 478 U.S. 30 (1986). The United States will also argue that Hispanics are not entitled, under Section 2, to an additional majority-minority district in the south and west region of Texas primarily because they already have greater than proportional representation in that region.

3. **Presidentially Appointed, Senate Confirmed Officials' Schedule:**

- ***Assistant Attorney General, Tax Division, Eileen J. O'Connor will be a panelist in "Supreme Court Review and Preview," at Georgetown University Law Center***
  On March 3, Eileen J. O'Connor, Assistant Attorney General, Tax Division will be a panelist in "Supreme Court Review and Preview," at Georgetown University Law Center in Washington, D.C. The audience will include tax lawyers. Press TBD.

- ***Administrator, Office of Juvenile Justice and Delinquency Prevention, Robert Flores will chair the quarterly meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention***
  On March 3, Robert Flores, Administrator, Office of Juvenile Justice and Delinquency Prevention will chair the quarterly meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention in Washington, D.C. The audience will include council members and representatives from federal agencies and youth-serving and non-profit organizations. Closed Press.

4. **Long Range Schedule:**

- ***UPDATE: D.C. Circuit to Hear Oral Argument in Appeals Challenging Computer Disconnection and Class Notice Orders and Seeking Reassignment of this Indian Trust Litigation to a Different District Court Judge***

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Cobell v. Norton [United States Court of Appeals for the District of Columbia Circuit; United States District Court for the District of Columbia]. On Tuesday, April 11, a panel of the D.C. Circuit (Tatel, Brown, Silberman) will hear oral argument in two appeals arising out of the ten-year-old Indian trust litigation. One appeal challenges an injunction requiring the Department of the Interior to disconnect major computer systems from the internet and from internal computer networks. The second appeal challenges an order requiring Interior to declare in all written communications with class members that its trust information is of questionable reliability. The appeal also seeks reassignment of the case to a different district court judge.

- ***Medical Problems of Jail Inmates***
  In March 2006, the Bureau of Justice Statistics is scheduled to release *Medical Problems of Jail Inmates, 2002*, which presents findings on jail inmates who reported a current medical problem, a physical impairment or mental condition, or an injury since admission based on data from the 2002 Survey of Inmates in Local Jails. The prevalence of specific medical problems and conditions also are included. The report examines medical problems and other conditions by gender, age, time served since admission, and select background characteristics.

- ***State Court Organization***
  In March 2006, the Bureau of Justice Statistics (BJS) is scheduled to release *State Court Organization, 2004*, which presents detailed comparative data by state trial and appellate courts in the United States. Topics covered include: the number of courts and judges; process for judicial selection; governance of court systems, including judicial funding, administration, staffing and procedures; jury qualifications and verdict rules; and processing and sentencing procedures for criminal cases. Diagrams of court structure summarize the key features of each state's court organization. This fifth edition of State Court Organization is a joint effort of the Conference

- **Agency Press Activities:**

Travel

- ***Attorney General Gonzales: Paris and London***
  On March 1-8, The Attorney General will travel overseas to visit with justice and law enforcement counterparts in Paris and London.

Press Conferences

There are currently no press conferences scheduled for the week of February 27-March 3, 2006.

UPDATE: Press Conferences

- ***Attorney General Gonzales: Three Men Charged With Conspiring to Commit Acts of Terrorism (OPEN PRESS)***
  On February 21, Attorney General Gonzales announced the terrorism indictments of three men who resided in the Toledo, Ohio.

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Speeches

- ***Attorney General Gonzales: U.S. Attorneys Conference (CLOSED PRESS)***
  On February 27, Attorney General Gonzales will deliver general remarks at the U.S. Attorneys Conference in Orlando, Florida.

- ***Attorney General Gonzales: FBI Special Agents in Charge (SAC) Conference (CLOSED PRESS)***
  On February 28, Attorney General Gonzales will deliver general remarks at the FBI Special Agents in Charge (SAC) Conference.

UPDATE: Speeches

- ***Attorney General Gonzales: 16th Street Baptist Church National Historic Landmark Designation Ceremony (OPEN PRESS)***
  On February 20, Attorney General Gonzales delivered general remarks regarding civil rights at the 16th Street Baptist Church Historic Landmark Designation Ceremony. Attorney General Gonzales joined this event at the invitation of Secretary of Interior, Gale Norton.

Media Availabilities

- ***Attorney General Gonzales: Press Roundtable with French Media***
  On March 3, Attorney General Gonzales will participate in a press roundtable with the French media. The media outlets and topics of discussion have yet to be determined.

- ***Attorney General Gonzales: Press Availability with United Kingdom Home Secretary Charles Clarke (TBD)***
  On March 6, Attorney General Gonzales will participate in a press availability with UK Home Secretary Charles Clarke.

- ***Attorney General Gonzales: Roundtable with British Media***
  On March 7, Attorney General Gonzales will participate in a roundtable discussion with the British media regarding his trip to Paris and London.

UPDATE: Media Availabilities

- ***Attorney General Gonzales: Legal Times Interview***
  On February 22, Attorney General Gonzales participated in an interview with the *Legal Times* regarding the Department of Justice year in review.

- ***Attorney General Gonzales: New York Stock Exchange Opening Bell***
  On February 23, Attorney General Gonzales rang the opening bell at the New York Stock Exchange.

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- ***Attorney General Gonzales: Sean Hannity TV Show Interview***
  On February 23, Attorney General Gonzales participated in a television interview with Sean Hannity regarding Justice Department priorities for next year and the NSA terrorist surveillance program.

- ***Attorney General Gonzales: One-on-One with CNBC***
  On February 23, Attorney General Gonzales participated in a one-on-one interview with CNBC regarding corporate fraud.

- ***Attorney General Gonzales: New York Stock Exchange Magazine Interview***
  On February 23, Attorney General Gonzales participated in an interview with the New York Stock Exchange Magazine regarding corporate fraud and intellectual property.

- ***Attorney General Gonzales: Women's Magazines Roundtable (CLOSED PRESS, but ON THE RECORD)***
  On February 23, Attorney General Gonzales participated in a roundtable discussion with various women's magazines regarding human trafficking. The magazines included *GuidePost Magazine*, *Parents Magazine*, *Glamour*, *Ladies Home Journal*, and *O, the Oprah Magazine*.

- ***Attorney General Gonzales: Regional Radio Interviews***
  On February 24, Attorney General Gonzales participated in a regional radio interview with WIOD AM Miami regarding the NSA terrorist surveillance program.

- **Recent Grants Distributed by DOJ:**

OJP GRANT ACTIVITY
SUMMARY INFORMATION THROUGH FEBRUARY 25, 2006

- ***Bureau of Justice Assistance, Mather, California***
  $983,132 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Governor's Office of Emergency Services.

- ***Bureau of Justice Assistance, Tallahassee, Florida***
  $523,946 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Department of Law Enforcement.

- ***Bureau of Justice Assistance, Honolulu, Hawaii***
  $62,856 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Department of the Attorney General.

- ***Bureau of Justice Assistance, Meridian, Idaho***

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$75,329 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the State Police.

- ***Bureau of Justice Assistance, Boston, Massachusetts***
  $96,690 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Executive Office of Public Safety.

- ***Bureau of Justice Assistance, Baltimore, Maryland***
  $171,164 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Governor's Office of Crime Control and Prevention.

- ***Bureau of Justice Assistance, Concord, New Hampshire***
  $53,074 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Department of Justice.

- ***Bureau of Justice Assistance, Santa Fe, New Mexico***
  $75,352 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Department of Public Safety.

- ***Bureau of Justice Assistance, Bismarck, North Dakota***
  $46,721 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Office of the Attorney General.

- ***Bureau of Justice Assistance, Pierre, South Dakota***
  $56,740 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Office of the Governor.

- ***Bureau of Justice Assistance, Salt Lake City, Utah***
  $73,142 – Residential Substance Abuse Treatment for State Prisoners Program grant awarded to the Commission on Criminal and Juvenile Justice.

- ***Bureau of Justice Assistance, Macon, Georgia***
  $102,228 – Gang Resistance Education and Training grant awarded to the Bibb County Board of Education.

- ***Bureau of Justice Assistance, New York City, NY***
  $200,000 – Solicited Award to the Fund for the City of New York.

- ***Bureau of Justice Assistance, Cranford, New Jersey***
  $98,664 – Congressionally Mandated Award to Union County College.

- ***Community Capacity Development Office, Springfield, Massachusetts***
  $225,000 – Weed and Seed grant awarded to the Council of Churches of Greater Springfield.

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- ***Community Capacity Development Office, Durham, North Carolina***
  $225,000 – Weed and Seed grant awarded to the City of Durham.

7. **Freedom of Information Act Requests (FOIA):**

- ***Jeffrey I. Lang for Debevoise & Plimpton LLP***
  On February 17, 2006, Office of Information and Privacy received a request from Jeffrey I. Lang, Counsel, Debevoise & Plimpton LLP, requesting copies of all records relating to "warrantless electronic surveillance or physical searches of persons located within the United States . . . [a]ny Executive Orders authorizing the warrantless electronic surveillance or physical searches of persons located within the United States . . . and all records establishing, discussing or referencing the policies, procedures, guidelines, or practices of the NSA" used to conduct warrantless electronic surveillance or physical searches.

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Elwood, Courtney

From: Elwood, Courtney
Sent: Thursday, February 23, 2006 5:36 PM
To: Comisac, Rena (CRT)
Cc: Kim, Wan (CRT); Pacold, Martha M; Gorsuch, Neil M; Bennett, Catherine T
Subject: RE: AG Letter for Trafficking Report

I am told the letter is NOT in OAG, but is in OASG waiting for Gordon Todd's review for Mr. McCallum. Because Gordon is on travel, we have asked that it be directed to Neil (whom I am cc'ing here) and then expedited through Exec Sec to our office. If we get it tomorrow morning, I can have the AG sign it sometime tomorrow -- hopefully in the a.m..

Thanks to Cathy for tracking it down so quickly.

Courtney Simmons Elwood
Deputy Chief of Staff and
Counselor to the Attorney General
U.S. Department of Justice
(w) 202.514.2267
(c) 202.532.5202
(fax) 202.305.9687

From: Comisac, Rena (CRT)
Sent: Thursday, February 23, 2006 5:13 PM
To: Elwood, Courtney
Cc: Kim, Wan (CRT)
Subject: FW: AG Letter for Trafficking Report

Courtney -- is there any way we can get this letter signed by tomorrow morning?

-----Original Message-----
From: Laughman, Bill (CRT)
Sent: Thursday, February 23, 2006 3:01 PM
To: Devese, Roxsand C (CRT)
Cc: Vargas, Omar (CRT); Comisac, Rena (CRT)
Subject: RE: AG Letter for Trafficking Report

This particular workflow, 955723, has been in the AG's office since 2/17 awaiting his approval and signature.

Bill

-----Original Message-----
From: Devese, Roxsand C (CRT)
Sent: Thursday, February 23, 2006 12:46 PM
To: Laughman, Bill (CRT)
Subject: FW: AG Letter for Trafficking Report

We need the status. thanks

-----Original Message-----

From: Vargas, Omar (CRT)
Sent: Thursday, February 23, 2006 11:20 AM
To: Devese, Roxsand C (CRT)
Cc: Comisac, Rena (CRT)
Subject: AG Letter for Trafficking Report

Roxsand:

Please look into the status of the AG's cover letter for the human trafficking report. Our editor informs me that she could provide us with a final draft proof of the report by COB tomorrow if she gets the letter no later than tomorrow morning.

Many Thanks,

Omar

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, February 23, 2006 5:42 PM
To: Elwood, Courtney; Comisac, Rena (CRT)
Cc: Kim, Wan (CRT); Pacold, Martha M; Bennett, Catherine T
Subject: RE: AG Letter for Trafficking Report

Done and on its way to OAG.

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Cc: Kim, Wan (CRT); Pacold, Martha M; Gorsuch, Neil M; Bennett, Catherine T
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McNeil, Tucker (OPA)

From:	McNeil, Tucker (OPA)
Sent:	Thursday, February 23, 2006 6:00 PM
To:	Gorsuch, Neil M
Subject:	FW: Germany
Attachments:	germany.berlinspeech.background.12.23.05.doc

From: Swartz, Bruce
Sent: Friday, December 23, 2005 10:21 AM
To: McNeil, Tucker (OPA)
Subject: Germany

At the outset, I think it is important to note what is a fact too little recognized: the extent to which the United States, together with other countries, has continued to rely on traditional criminal investigations and prosecutions as a central element of our counterterrorism strategy. In a recent speech to the Council of Foreign Relations, U.S. Attorney General Gonzales stressed that while the United States has used "all the authorities at its disposal" to fight terrorism – including military and intelligence authorities – the criminal justice system remains one of those key authorities. To cite only a few of the numerous terrorism prosecutions noted by Attorney General Gonzales: Richard Reid, the attempted shoe bomber; Zacharias Moussaoui, who has pled guilty to plotting to crash aircrafts into buildings in the U.S., and who know awaits the penalty phase of his trial; Uzair Paracha, convicted on November 23rd of participating in a plot to help an Al-Qaeda operative re-enter the United States; the conviction two weeks ago of Ahmed Omar Abu Ali, a resident of Virginia, in connection with a plot to conduct 9/11 style attacks and to assassinate President Bush; and the conviction earlier this year of Mohammad Ali Husain al-Moyad and Moshen Zayad, in connection with the financing of terrorist activities by Al Qaeda and Hamas. Not all of our prosecutions, of course, have ended in convictions: but all represent the ongoing commitment of the United States to pursuing the criminal justice option.

Moreover, it is important to acknowledge that none of these prosecutions would have been possible without the mutual legal assistance provided by our foreign counterparts. These cases represent, in the finest sense, the truly global aspect of the fight against terrorism: complex cases, tried in the traditional criminal justice system, based on cross-border law enforcement cooperation.

And, of course, it is not only the United States that has prosecuted terrorism cases in the criminal justice system. Whether it is the Yarkas group convictions in Spain; the Motassadeq conviction in Germany; the Bali bombing convictions in Indonesia; the Beghal convictions in France; the Bouyeri conviction here in the Netherlands; or the Badat conviction in the United Kingdom – the criminal justice system has repeatedly proven that it can work.

Moreover, since September 11th, there have been unprecedented steps taken to enhance international criminal justice cooperation – steps that have received far too little public attention. I will mention only a few here: The extradition and mutual legal assistance treaties between the European Union and the United States – the first ever treaties between the U.S. and the EU – which were completed in record time, and will encourage such innovations as joint investigative teams. The work of the law enforcement and counterterrorism expert groups of the G-8 – the Lyon and Roma Groups – on issues ranging from border security to terrorism finance. The bilateral counterterrorism law enforcement working groups established between a number of countries, including the United States and numerous counterparts. The negotiation of international law enforcement conventions that will help fight not only ordinary crime, but terrorism as well, including the UN Organized Crime Convention and the COE Cybercrime Convention; and there have been specific antiterrorism conventions as well, such as the OAS Counterterrorism Convention.

But that said, I do believe that we face two looming obstacles to the enhanced implementation of the criminal justice response to international terrorism. Both involve the question of data.

The first of these obstacles is the issue of "data protection." Data protection has been the subject of intensive discussions between the EU and the United States in a number of contexts, but the issue, of course, extends beyond the EU and the U.S. One of the central questions faced by all our countries is how to ensure that data is properly gathered and shared in order to protect our citizens, without endangering their privacy interests. In Europe, this issue has been brought to the fore again by the EU Commission's proposed legislation regarding data sharing for criminal purposes. Significantly, with the EU context, that legislation would permit the sharing not only of criminal justice information, but also fingerprint, DNA, and border control data, and would enshrine the principal of "availability." We applaud the emphasis this proposal would place on greater sharing of information within the EU, which has been championed by the EU's Terrorism Coordinator, Gyies DeVries. But the danger here, we believe, is the erection of barriers to sharing of this data outside the EU, with partners whose privacy systems do not precisely match those of the EU. The U.S., for instance, recognizes a general right of privacy which emanates from a variety of sources, including the U.S. Constitution; while it implements that right in a different fashion than does the EU, the core principals and protections, we believe, remain the same. It is for this reason, for instance, that we have been able to conclude data sharing arrangements with Europol, to reach data protection arrangements in the context of the EU/US MLATs, and to work with the EU to fashion data protection provisions for the COE Cybercrime Convention. But what we must seek to avoid, I respectfully suggest, is a prolonged series of "adequacy" findings regarding international data sharing for criminal justice purposes. One of the most searing indictments of the Commission established to investigate 9/11 in the U.S. was the failure of our internal agencies to share information. We, as criminal justice practitioners, must work to ensure that concepts of "date protection" that may have particular applicability in the economic context – the First Pillar – do not migrate into the context of law enforcement, where we have exchanged criminal justice for years while protecting privacy rights. To the extent that data protection becomes an obstacle to criminal investigations and prosecutions, it will strengthen the credibility of those who argue that the criminal justice system cannot deal with terrorism.

The second potential obstacle I see here involves the use of data – and in particular classified intelligence data – at trial. This is data protection, if you will, in another sense: how can we ensure that classified information can be used in criminal prosecutions, while both protecting it and ensuring that the trial is fair? Let me be clear at the outset that I am not talking here about withholding relevant classified information from a court or defendant; that is not permitted, contrary to what some may believe, under United States law. Rather, what I am advocating for here are the creation of procedures by which the relevancy of the classified information, and the need to disclose it publicly at trial, can be determined before trial, in in camera proceedings before the trial court. For more than 20 years, the U.S. has had such procedures in place, under the Classified Information

Procedures Act, known by its acronym as CIPA. CIPA allows the prosecution to obtain rulings by the trial court as to what classified information must be disclosed, and in what form, before trial begins – and thus to decide whether or not to forego prosecution rather than reveal that information. We believe that this system has not only ensured fair trials in cases involving classified information, but has allowed those of us engaged in criminal prosecutions to assure the intelligence agencies that their information will be protected at trial – or that, if it cannot be, that the prosecutors will agree that the trial will not go forward, and the information will remain secret. Speaking from personal experience, I can say that it is invaluable for us to be able to offer the same type of assurances regarding the legal systems of our foreign counterparts

McNeil, Tucker (OPA)

From: McNeil, Tucker (OPA)
Sent: Thursday, February 23, 2006 6:03 PM
To: Gorsuch, Neil M
Attachments: CFR - as prepared for delivery.doc

You already have this, it's primarily your work, but I thought it would be helfpul to have it handy:

PREPARED REMARKS FOR
ATTORNEY GENERAL ALBERTO R. GONZALES
AT THE
COUNCIL ON FOREIGN RELATIONS

NEW YORK, NEW YORK
THURSDAY, DECEMBER 1st, 2005

Thank you for that introduction; it's a pleasure to be here.

I understand that they lit the tree at Rockefeller Center last night – I guess that means the Christmas season has officially begun. We Texans like to believe that everything is bigger in the Lone Star State. But, I think that even this proud Houstonian can concede that you've got us on the Christmas tree.

It has been my experience that just one of the many great things about New York is that New Yorkers share their gifts with the entire Nation…Americans believe that's their tree in Rockefeller Center, just as they believe that the wonders of New York City are theirs, even if they've never visited.

That's one of the many reasons that September 11th galvanized the country in the manner it did. As so many have noted: We were all New Yorkers on that terrible day.

Thankfully, there has not been another attack on our homeland in the four years since. America quickly united in the fight against terrorism, and we've prevented this evil from returning to our shores. However, the horrors of terrorism <u>have</u> been felt around the globe. And as you've heard the President repeat: "We are safer, but not yet safe."

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So the message four years removed from September 11th is the same as it was when we watched the twin towers fall, and saw the Pentagon burn, and witnessed the heroism over Pennsylvania aboard Flight 93. We must continue to be resolute in the face of a determined and deadly enemy that has killed innocent citizens from New York to London, from Madrid to Baghdad, from Amman to Bali.

And so, we must continue to work with our friends around the world who are also targets. We must remain active in identifying our nation's vulnerabilities. And we must stand firm in responding to those who would destroy all that has made America great.

I think we all know what is at stake. I am a product of the American dream. And as the father of two young sons, I wish for them – as all parents wish for their children – a world in which the hope and opportunity of that dream is available and abundant.

In this new century – as Americans face a new kind of enemy and a new brand of conflict – we must fight an intelligent war against terrorism using every tool available…while remaining true to the ideals that make America worth defending – especially civil rights and civil liberties.

This is the government's obligation. And it is the American people's expectation… it is your expectation.

The President has embraced this charge. He is leading a comprehensive war against terrorism. Speaking on the Iraq war at the Naval Academy yesterday, President Bush promised that:

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"We will never back down. We will never give in. And we will never accept anything less than complete victory."

When it comes to securing our nation and our neighborhoods, there is no alternative but constant pressure within a comprehensive strategy. I am proud to say that our friends and allies around the world also embrace this strategy. Like us, they are not sitting still, they are taking tough action to better protect their citizens.

We are continuing, everyday, to evaluate and employ existing laws and tools that can help us in this fight…and looking for new ways to stay ahead of a constantly evolving enemy.

I am committed to that goal, and so are the investigators, prosecutors, and policy makers at the Department of Justice. Prevention of future terrorist attacks is our highest priority. That's why we are using every available lawful means to protect America – recognizing that when it comes to terrorism and terrorists, no single tool can do the job. It will take every weapon in our arsenal to combat this evil enemy.

Recent headlines reflect some of the ways the Department of Justice does its part to fight the War on Terror – including the use of the PATRIOT Act; prosecuting terrorism cases in federal court; and helping to train our Iraqi counterparts as they establish a functioning judicial system. Let me touch on each of these briefly, before taking your questions.

The PATRIOT Act has given investigators additional authorities they need to help stop terrorists before they can hurt Americans and harm our way of life. As we know, the Act was

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designed by an overwhelming bipartisan majority in Congress to deal directly with the shortcomings in our system prior to September 11th – providing new and better methods of sharing information, increasing cooperation and coordination in the law enforcement community, and improving our ability to track and investigate terrorist activity in the United States.

Sixteen key provisions of the Act are scheduled to expire at the end of this year. For several months, Congress has debated these provisions. It is good in a democracy like ours that we discuss and analyze the wisdom of every law – particularly those that, if abused, would infringe your civil liberties. We have done that. Now, Congress must act to reauthorize the PATRIOT Act by sending the President a bill of which all Americans can be proud.

***

Another important tool we have in the fight against terrorists is our criminal justice system. Many of the Department's prosecutorial efforts are familiar to you. There was Zacarias Moussaoui, who admitted his role in a plot to crash airplanes into prominent buildings in the United States – and that he was selected for this operation by Usama bin Laden. A penalty phase trial to determine his punishment will begin with jury selection in February. You will also recall Richard Reid, frequently referred to as the "shoe bomber," who planned to detonate explosives on an airplane, and was sentenced to life imprisonment in Boston. And there was John Walker Lindh, the so-called "American Taliban," who has been sentenced to twenty years in federal prison for joining the Taliban's fight against the U.S.-led liberation of Afghanistan.

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But those are just a few of our early, high-profile prosecutions. You may not have heard as much about some other, recent successes we have had in fighting the War on Terror. It is hardly the case – as some have sought to suggest – that we've disrupted only a handful of terrorist plots since 9/11. Far from it. I want to share a few with you this evening a few examples as a reminder that the threat is real – and the need for Americans to stay vigilant remains vital.

Just last week, on November 23rd, the Department of Justice obtained a conviction here in New York of Uzair Paracha, who was charged with providing material support to al Qaeda. Paracha was part of an operation to help an al Qaeda operative obtain documents to re-enter the United States to commit what Paracha believed was a planned chemical attack on the United States. Authorities who arrested Paracha found an al Qaeda associate's driver's license, social security card, and bankcard in the place where Paracha was staying. Paracha also had agreed to hold al Qaeda funds in a business where he worked until al Qaeda needed them for its operations.

Another verdict in recent days involved Ahmed Omar Abu Ali. Abu Ali was a resident of Falls Church, Virginia, a suburb of our nation's capital, who received training in weapons, explosives, and document forgery from al Qaeda while in Saudi Arabia. When police searched Abu Ali's home, they found tapes in Arabic promoting jihad and the killing of Jews, materials praising the 9/11 attacks and condemning U.S. military action in Afghanistan, and a book written by al Qaeda leader Ayman al-Zawahiri advocating the violent destruction of democracy. The operations planned by Abu Ali and his co-conspirators included a plot to assassinate President Bush using either multiple snipers or a suicide bomb, as well as a plot to conduct 9/11-style

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attacks with planes flying from other countries to the United States. Abu Ali faces up to life in prison for his crimes.

Earlier this year, a jury in the Eastern District of New York convicted two Yemeni citizens, Mohammed Ali Hasan Al-Moayad and Mohsen Zayed. Al-Moayad was the imam of a large mosque and Zayed was his assistant. Together they collected money through the al Farook mosque in Brooklyn and distributed it to al Qaeda and Hamas in order to help train, equip, and arm jihad terrorists. The government made its case against the pair with the assistance of our German colleagues, who worked alongside the FBI in an undercover operation and traveled to Brooklyn to testify about al-Moayad's and Zayed's actions. The evidence at trial demonstrated that, during conversations with undercover officials, al-Moayad boasted that he had helped funnel some $20 million to Usama bin Laden and millions more to Hamas. On July 28 of this year, al Moayad was sentenced to 75 years in prison; Zayed was sentenced to 45 years.

In April of this year, the Department obtained the conviction of Ali Al-Timimi, part of what has been referred to as the Northern Virginia Jihad Network, a group of nearly a dozen individuals who attended the Dar al-Arqam Islamic Center just outside Washington D.C. The group participated in paramilitary training with the encouragement of Al-Timimi, a popular spiritual leader at the Islamic Center. During a meeting held after the 9/11 attacks, Al-Timimi encouraged his followers to go to Pakistan to receive additional military training and then join the fight against American troops in Afghanistan. Several made it to Pakistan where they received military-style training at violent jihad camps.

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One of Al-Timini's followers was later found in Gaithersburg, Maryland in possession of an AK-47 rifle and a copy of "The Terrorist's Handbook," containing instructions on how to manufacture and use explosives and chemicals as weapons.

I could go on with many more examples of our successful efforts to prevent terrorist attacks here at home.

These stories speak for themselves: The threat to our nation and our way of life remains very real. The terrorists are constant and unrelenting. Their plans are cunning, and their methods cold-blooded. As difficult as the task is, we must continue to bring the battle to our enemies every day – and do so on each and every front available to us.

On the most basic level, these cases – and others – highlight both the extent of our success and the reality of the continuing threat. They show that we're doing the right thing…and doing it to great effect.

***

Notwithstanding our many prosecution successes, there are some challenges associated with prosecuting – and I use that word both broadly and narrowly – the War on Terror.

Terrorism cases are difficult to investigate and prosecute. These matters are both local and global in scope, impact intelligence community sources and methods, and implicate sensitive diplomatic relationships. From evidentiary issues relating to the chain of custody, to the availability of witnesses, to video linked depositions of foreign witnesses, significant

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hurdles unique to terrorism cases present real difficulties. That is one of the reasons why the government has utilized all the authorities at its disposal to address the new situations presented by the war on terrorism.

One such authority is the ability of the military to detain enemy combatants.

Justice O'Connor, writing for the Supreme Court in the Hamdi case, reaffirmed both the importance and the legality of the military's long-established authority to detain enemy combatants captured on the battlefield during the course of hostilities, even if they are American citizens, to prevent them from returning to the battlefield and taking up arms against America once again. Justice O'Connor recognized, too, that it is consistent with our Constitution and the traditional laws of war that, quote, "a citizen, no less than an alien, can be part of or supporting forces hostile to the United States" and therefore be subject to detention during the course of hostilities.

Enemy combatants are held lawfully and for preventive reasons to protect America's soldiers and America's citizens. It would defy every past practice of war, not to mention common sense and sound policy, to release back into battle those whom we capture fighting against us.

Even so, the Department of Defense provides enemy combatant detainees privileges the likes of which no nation in history has ever afforded its enemies. The Supreme Court indicated that the government must provide some process, and the Department of Defense has. With Combatant Status Review Tribunals at Guantanamo, for instance, each detainee is entitled to a hearing, to present evidence that he believes might support

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his release, and to receive the assistance of a military officer in presenting his case. And a parole-type process called an Administrative Review Board provides persons established to be enemy combatants a chance, once a year, to be heard and released, even while a conflict is going on.

We can be proud of the procedural protections the Department of Defense has afforded our Nation's enemies, but we cannot discount the danger these detainees continue to pose to us and to our servicemen fighting abroad. Of the hundreds of detainees released from Guantanamo based on a determination that they posed only a low risk to this country, the Defense Department has reported that at least ten have returned to take up arms against the United States.

It's a further reminder that if we do not constantly engage the terrorists, I am convinced the terrorists will once again successfully bring the battle to our shores.

***

In addition to prosecuting terrorist in court and incapacitating enemy combatants, the Administration works to uphold the Rule of Law, protect the personal liberties and rights promised by our Constitution, and promote justice around the world. This obligation itself forms yet another front in the War on Terrorism – winning the hearts and minds of freedom loving people everywhere.

If we are to rally even more countries to our cause, we must continue to show the world that we are worthy of its trust. We must show that, while our enemies would kill innocent fellow Muslims celebrating a wedding in a hotel in Jordan, we are

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committed to respecting and honoring the innate value of all human life.

At the Department of Justice, we have taken a comprehensive and concerted approach to this task. The Department has investigated hundreds of bias-motivated incidents involving violence or threats against individuals perceived to be Muslim, or of Arab, Middle Eastern, or South Asian origin – and we've obtained a number of important federal convictions. We've also assisted local law enforcement in its efforts to do the same, resulting in more than 150 additional bias-related criminal prosecutions.

In addition, we are working closely with leaders of these communities to ensure that we are doing everything we can to promote fairness and respect for all people as we confront our common enemy. Senior officials in the Civil Rights Division of the Justice Department have held meetings with leaders of Muslim, Sikh, Arab, and South-Asian American organizations in Washington and throughout the country to ensure that community concerns are being heard and addressed. And our Community Relations Service has held town and community meetings around the country aimed at ensuring better understanding among diverse communities.

Combating racism and bias against our Muslim citizens is both a moral imperative and essential to success in the War on Terror. As the President explained in his second inaugural address, "our country must abandon all the habits of racism, because we cannot carry the message of freedom and the baggage of bigotry at the same time."

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Half a world away, we are sowing the seeds of justice in Iraq. One year ago, the Central Criminal Court of Iraq had the capacity to prosecute fewer than 10 trials and investigative hearings per month. In the first two weeks of September 2005 alone, the Court prosecuted more than 50 multi-defendant trials, and conducted 133 investigative hearings. This is progress for the Iraqi people who are desperate for a measure of normalcy and order, who want the lawlessness and brutality to end.

The Court is now expanding its reach throughout Iraq with separate branches in local provinces. Since the fall of Saddam Hussein, the Department of Justice has helped to train hundreds of Iraqi judges. These judges are now busy resolving cases under Iraqi law – more than 20,000 felony cases since 2003. This element of the President's National Strategy for Victory in Iraq will help diminish the rule of terrorists in Iraq – and I am proud that the Department continues to play a role in helping to bring relief to a population thirsting for justice.

***

History shows that our forefathers have remained vigilant and resolute in past conflicts similar to the one we now face.

During the long winters and many losses between the first shot at Lexington and the final victory six years later at Yorktown, even Washington and those most loyal to the revolutionary cause considered giving up their fight. Other good people quit the cause altogether.

Those who fought for union and equality in the Civil War had many dark days after bloody battles like Gettysburg where –

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as hard as it is for us to imagine now – they doubted the worthiness of their cause.

And there were those during World War II who said that the costs and dangers associated with liberating Europe from the Nazis was too much for this country to bear when it could remain safely ensconced an ocean away from the bloodshed.

Now it is our generation's turn to write history. We must reaffirm and rededicate ourselves to protecting this country for our children and grandchildren.

If we are to prevail in this struggle, we must show the same resolve and determination our forefathers did in the midst of the most trying conflicts of their day – from Valley Forge to Gettysburg to the Battle of the Bulge. At the same time, we must wage this war in ways that are true to our principles and values. We cannot allow ourselves to fall prey to the same sort of vicious cultural biases that our enemies display.

In November 1942, after a series of Allied victories, Winston Churchill gave an impassioned plea for the British people to be as "equally resolute and active in the face of victory" as they had been in weathering defeat after defeat through the dark days of 1939 and 1940. Churchill knew that the future of the war effort, even in late 1942, remained gravely uncertain, telling his audience: "I promise nothing. I predict nothing."

Yet Churchill concluded with words asking for endurance and resolve that are critically appropriate for our time. Churchill said, "Do not let us be led away by any fair-seeming appearances of fortune; let us rather put our trust in those deep,

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slow-moving tides that have borne us thus far already, and will surely bear us forward, if we know how to use them, until we reach the harbour where we would be."

We have not yet reached that harbour. So I would ask that each of you assume the mantle of Churchill's firm resolve and stout-heartedness. The terrorists killed nearly 3,000 Americans in our homeland on a single day, and we cannot doubt that they would gladly do so again tomorrow – and again every day thereafter.

To succeed, we must continue to pressure the terrorists on each and every front in this unconventional war and do so with all the tools at our disposal – from the weapons of war to those of the criminal justice system and of the war of ideas and values. It is only by these slow-moving but effective means that we will continue to ensure the safety of our Nation and preserve America as a symbol of political and personal freedom for our children, as our forefathers did for us.

Thank you. May God bless each of you and may He continue to bless America.

I look forward to your questions.

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USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Friday, February 24, 2006 8:18 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing for Friday, February 24, 2006
Attachments:	agnb060224.pdf; agnb060224.doc

THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, FEBRUARY 24, 2006 7:45 AM EST

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TERRORISM NEWS:

Gonzales Says NSA Surveillance Program "Remains A Valuable Tool." Attorney General Alberto Gonzales was asked on Fox News' Hannity and Colmes (2/23) about the NSA's domestic surveillance program. Gonzales said, "We believe this program has been effective, has been valuable, and these are the words from General Mike Hayden, the deputy director of national intelligence, from Bob Mueller, the director of the FBI. But we have to be careful about talking too much about the successes of this program and operational capabilities relating to this program. Much of the program has not been discussed publicly. It remains an effective program. We believe it has been compromised to some extent by the disclosures and by our discussions about the program, but it remains a valuable tool, and therefore, for that reason, I'm limited about what I can say about it."

Gonzales Calls Talk Of Bush Impeachment "Ridiculous." Attorney General Alberto Gonzales was asked on Fox News' Hannity and Colmes (2/23) about calls from some lawmakers for President Bush's impeachment because of the NSA program. Gonzales said that "talk about impeachment, in this particular case, is ridiculous. This is about a commander-in-chief using authorities that have long been used by other commanders-in-chief in a time of war to engage in electronic surveillance of the enemy."

FBI Memos Show Agents Objected To Guantanamo Interrogation Techniques. According to FBI memos released yesterday by the ACLU, agents repeatedly warned Pentagon interrogators at Guantanamo – including then-commander Maj. Gen. Geoffrey Miller – of legal concerns over aggressive interrogation techniques and expressed doubt about the efficacy of the actions. ACLU had obtained the FBI emails and records under a FOIA request and released highly-redacted versions a year ago. The news coverage of the ACLU press conference generally was more critical of the Pentagon than the FBI, with most stories noting ACLU lawyer Jameel Jaffer said yesterday, "Now we can say that the documents show conclusively that abuse and torture at Guantanamo was not the result of rogue elements but was the consequence of policies deliberately adopted by senior military and Pentagon officials.".

In a very widely distributed story headlined "FBI to Gitmo: Hostile Interrogations Risky," the AP (2/24, Sherman) reports, "FBI officials, whose names were blacked out, indicated that senior military officials, including former Deputy Defense Secretary Paul Wolfowitz, were aware of and in some cases had approved of putting hoods on prisoners, threatening them with violence and subjecting them to humiliating treatment." Both Wolfowitz – through a World Bank spokesman – and Pentagon spokesman Larry Di Rita dismissed the memos as old news. The AP adds that FBI Special Agent Richard Kolko "said FBI agents properly reported abuse allegations through the bureau's chain of command, but noted, 'It is not within the scope of the FBI's jurisdiction overseas to investigate reports of alleged abuse of military detainees.'"

Under the headline "FBI Memos Reveal Allegations Of Abusive Interrogation Techniques," Knight Ridder (2/24, Brown) reports, "The agents tried to get the military interrogators to follow a less coercive approach," but Miller "overrode the FBI agents' protests, according to the documents. The memos offer some of the clearest proof yet that the abuses and torture of prisoners in U.S. military custody weren't the isolated actions of low-ranking soldiers but a result of policies approved by senior officials, the ACLU said."

Under the headline "E-Mails Show FBI Agents Fretted About Prisoner Abuse," The Los Angeles Times (2/24, Miller, 958K) reports, "Although prior documents have revealed tension between the FBI and military interrogators over the methods used at Guantanamo Bay and Abu Ghraib prison outside Baghdad," the Lueckenhoff email shows "that senior FBI officials in Iraq were reluctant to be drawn into any investigation of prisoner abuses." Yesterday, Kolko "said it was not within the FBI's jurisdiction overseas to investigate allegations of detainee abuse, but that agents had reported their findings through their chain of command and cooperated in Pentagon investigations and reviews."

Bloomberg (2/24, Rowley) notes, "FBI agents assigned to interrogate prisoners at Guantanamo objected to the techniques at meetings and two videoconferences with Pentagon officials in Washington, the 2003 memo said. During one of those meetings, a military commander

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'blatantly misled the Pentagon into believing' that the FBI had endorsed the 'aggressive and controversial' techniques he proposed to use on the detainee, the memo said."

The Washington Post (2/24, A16, White, 744K) reports under the headline "FBI Interrogators In Cuba Opposed Aggressive Tactics" that Air Force Lt. Col. John Skinner "said a series of investigations and reviews have shown that Defense Department officials never encouraged or condoned abuse. 'No matter how hard some may try to manipulate documents and information to support their myth, the facts tell a different story,' Skinner said."

The Financial Times (2/24, Sevastopulo) notes "a Pentagon spokesman" said that "the FBI memos were 'another example of recycling old information'."

The New York Times (2/24, 1.19M) runs a truncated version of the AP story with the headline "Prison Interrogators Got F.B.I. Warnings," and Reuters (2/24, Dunham) reports the story under the headline "Files Show Military Rebuffs FBI Guantanamo Worries."

DOJ Seeks More Time To Comply With Lackawanna Wiretap Request. The AP (2/24) reports, "The Justice Department has asked for more time to answer an indicted Lackawanna (NY) businessman's questions about whether agents used secret wiretaps while investigating him." The AP continues, "U.S. District Judge William Skretny had given the government until Feb. 27 to respond to the request by Mohamed Albanna, who is charged with two relatives of running an illegal money transmitting business that sent more than $3.5 million from western New York to Yemen. … On Thursday, prosecutors filed for a two-week extension, citing numerous such inquiries from defendants across the country following revelations that President Bush approved warrantless eavesdropping in some cases." The AP notes, "An affidavit by a Justice Department attorney in Washington said the department had contacted the National Security Agency about Albanna's case. The response must be carefully drafted, the affidavit said, to ensure consistency with other cases and will contain highly classified information."

FBI Informant Testifies Hayat Praised Terror Groups, Jihad. Under the headline "FBI Informant Says Terror Suspect Took Interest In Violent Groups," the AP (2/24, Barbassa) reports in a widely-distributed story FBI informant Naseem Khan testified Thursday that Hamid Hayat "took an interest in terrorist groups and spoke admiringly about jihad. … 'He never, ever considered himself American,' said Khan." Khan added that at one point "during long conversations at Hayat's home" Hayat "praised al-Qaida as 'a tough group,' adding, 'They're even smarter than the FBI, friend.'" The AP notes, "Even as he showed off his knowledge of militant groups and said he knew the location of training camps, Hayat struggled to provide details when Khan pressed him, the transcripts show." KXTV-TV Sacramento (2/23, Johnson) adds, "Hayat also related when a friend was cursing America and asked if Hamid was offended. Hamid told Khan, 'I said, "Man, this country is mine in name only, understand? My heart is in Pakistan," I told him.' When Hayat's father, Umer Hayat came on the line and heard the cursing, the younger Hayat said his father encouraged it," saying, "Well done. Curse some more."

Moussaoui Defense Objects To Number Of Potential Jurors With 9/11 Link. The AP (2/24, Sniffen) reports, "Al-Qaida conspirator Zacarias Moussaoui's defense complained Thursday that too many people connected to Sept. 11 victims were being approved as potential jurors for his sentencing. Three would-be jurors were subsequently rejected despite government protests." The AP notes, "U.S. District Judge Leonie Brinkema qualified 18 more potential jurors Thursday, but two approved earlier dropped out because of personal hardships, bringing the total to 83."

FBI Adds Yemeni Escapees To Most-Wanted Terrorists List. In a widely-distributed story, the AP (2/24) reports Yemeni prison escapees Jamal al-Badawi and Jaber Elbaneh "were added on Thursday to the FBI's list of most wanted terrorists." The AP notes that al-Badawi has been charged in the US in the USS Cole bombing and Elbaneh was indicted for his alleged role in the Lackawanna Six al Qaeda cell.

Toledo Terror Suspect Had Served As Prison Imam. The Toledo Blade (2/23, Boak) reports, "A year before he is accused of plotting to attack American soldiers in Iraq, Marwan Othman El-Hindi offered spiritual nourishment to Muslim prisoners" as an imam at the Toledo Correctional Institution," and . "Khelleh Konteh, the warden, said he walked Mr. El-Hindi out of the…prison for good on Dec. 30, 2003, after seeing the native of Jordan give an

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inmate contraband bread and oranges instead of lessons from the Qur'an." The Blade notes, "Proselytizing at a prison would have fit within the indictment's pattern of terrorist preparations, according to Senate committee testimony by FBI Director Robert Mueller last year. 'Prisons continue to be fertile ground for extremists who exploit both a prisoner's conversion to Islam while still in prison, as well as their socioeconomic status and placement in the community upon their release,' he said."

Terrorism Arrests Followed Raids On Islamic Charity. The Washington Times (2/24, Seper, 90K) reports, "The arrests this week of three men in Ohio on terrorism-related charges involving troops in Iraq followed raids by federal agents on a Toledo-based Islamic charity accused of providing funds to Hamas. … Treasury since has frozen the assets of KindHearts, pending an investigation for terrorism funding." However, "Jihad Smaili, a KindHearts board member, told reporters in Toledo he did not know any of the three men named in the indictment and denied they had anything to do with the charity."

Al Arian Confident Of Acquittal At Retrial. The Orlando Sentinel (2/23, Gutierrez, 265K) reports that in an interview with the paper on Wednesday, Sami al Arian, "who faces a possible retrial on terrorism-related charges, is confident he will be found innocent and says he is open to a plea deal if it affords him 'victory.' … Even if he wins his second round, as he likes to refer to it," al Arian "is likely to be deported to the Middle East." Al Arian said of jurors at his trial, "They were smart enough to see through the smoke and mirrors. The government will not give up on this case, which shows this has been a political case since the beginning."

Florida Man Charged With Illegal Money Transfers Released On Bail. The Tampa Tribune (2/24, Silvestrini) reports Tampa convenience store owner Hasan Qasem, "accused of illegally sending tens of thousands of dollars to Yemen, the occupied West Bank and Luxembourg was released from jail Thursday after a federal judge set bail." Qasem appeared "before U.S. Magistrate Elizabeth Jenkins, who followed the recommendation of Assistant U.S. Attorney Jay Hoffer that she allow Qasem to be released on $20,000 bail."

FBI Says Chicago Crash Victim Had No Terror Ties. The Chicago Tribune (2/24, Heinzmann, Bowean, 643K) reports Lafi Hussein Nofal, who reportedly was carrying a large amount of cash and checks when he was killed in a crash on Chicago's Stevenson Expressway, causing the FBI Joint Terrorism Task Force to launch an investigation, "was a physician from Puerto Rico who had real estate and business investments in the Chicago area but no known ties to terrorism." The Tribune notes that "the FBI released a statement early Thursday saying there was no known terrorism link, and referred further questions to the Illinois State Police." However, The Chicago Sun-Times (2/24, Sweeney) notes that the FBI Joint Terrorism Task Force is continuing its investigation, although "there was no immediate belief that terrorism was involved, a spokesman said. The duties of the task force are expansive and will include determining whether the cache of documents and money is legitimate."

HOMELAND RESPONSE:

Administration Signals Willingness To Delay Port Deal. The Senate Armed Services Committee yesterday held a hearing on the Dubai Ports World deal to manage six US ports. A troupe of Administration officials were grilled by a panel of mostly Democratic senators on the deal. Meanwhile, the Administration indicated it was willing to delay the deal's closing in order to address congressional security concerns. Media reports continue to depict the White House handling of the issue in a negative light, and see President Bush facing tough political challenges as a result of the controversy. Reuters (2/24, Cornwell, Drees), for example, reports Bush remains "under fire," while the Christian Science Monitor (2/24, Feldmann, 61K) says Bush "faces a serious test of his political skill after blundering in dealings with members of his own party, analysts say. The man who once campaigned as a uniter appears to have done just that -- uniting both parties against him."

Yesterday, CNN's The Situation Room (2/23, Blitzer) reported Deputy White House Chief of Staff Karl Rove had said in a radio interview that Bush "might accept a delay in the deal." CNN (Bash) added that Rove said it is important "to get members of Congress to a place where they have a good comfort level with letting this deal go through." The Financial Times (2/24, Kirchgaessner, Yeager) quotes Rove saying, "There are some regulatory hurdles that still needs to go through on the British side as well that are going to be concluded next week. There's no requirement that it close...immediately after that." Rove's comments "represent

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a departure from Mr Bush's staunch defence of the deal early this week."

On ABC World News Tonight (2/23, story 4), George Stephanopoulos said the White House is "feeling snake-bit. I think the President is a little bit irritated that this port issue wasn't flagged for him earlier." The CBS Evening News (2/23, story 3, 0:35, Axelrod) also reported, "What the White House has said is that they are open to a delay in the closing date. That would allow time for some of the issues raised by Congress to be addressed. The White House says they are fine with that. One thing, however, that the President says he will not back off on: that's the threat of a veto if there is legislation passed to kill the deal."

In a potentially significant development, USA Today (2/24, 2.31M) reports the United Arab Emirates company "offered Thursday to delay part of its $6.8 billion takeover" of some port operations. The announcement "relieves some pressure from a standoff between…Bush and Congress, which has threatened to block the deal because of the UAE's purported ties to terrorism." The delay "did not appease some of the deal's harshest critics," such as Sen. Chuck Schumer, but "one prominent Republican who had raised concerns about the deal appeared optimistic. 'This is definitely a positive step,' said Rep. Peter King of New York." Knight Ridder (2/24, Douglas) says the firm is "yielding to intense political pressure." The New York Times (2/24, Cloud, Sanger, 1.19M) reports the action "came after the Bush administration and leading members of Congress," including Senate Armed Services Chairman John Warner, "quietly told the company that more time was needed to derail Congressional action to block the deal." The Washington Post (2/24, D1, Ben White, 744K) runs a similar piece titled "Uproar Surprised Dubai Firm." The Wall Street Journal (2/24, Hitt, 2.11M) and Baltimore Sun (2/24, Shaw, 296K) run pieces on the company's move, which is also mentioned in many of the stories covering other aspects of the controversy.

Meanwhile, reporting on yesterday's Senate hearing, the CBS Evening News (2/23, story 4, 2:20, Schieffer) reported, "A squadron of Administration officials trooped up to Capitol Hill today to explain the arrangement. … They did not make much headway to say the least. Congressional outrage is still at a boil." CBS (Attkisson) added, "In a rare freewheeling session, officials from Treasury, Homeland Security, Defense and State, all responsible for approving the ports deal, agreed Congress should have been brought in sooner but insisted the national security impact was thoroughly researched." Democrats "accused the Bush Administration of thumbing its nose at a law that mandates a deeper investigation when a business deal could affect national security." Likewise, CNN's The Situation Room (2/23, Koppel) reported that "after two and a half hours of back and forth and a steady stream of questions and answers, it didn't appear that the Administration was able to change many minds, or to head off legislation to block the deal as early as next week."

The Washington Times (2/24, Hurt, 90K) reports the Bush Administration's "assurances were met with disdain by Democrats," while the Washington Post (2/24, A1, Weisman, 744K) reports, "Despite the entreaties of the administration, Sen. Hillary Rodham Clinton (D-N.Y.) said bipartisan legislation will be introduced next week to scuttle the deal, or at least to force a 45-day investigation into the deal's national security implications." The hearing "presented two very different views of the United Arab Emirates." The country "is seen by the administration as a stalwart and indispensable ally in the terrorism fight and by Senate Democrats as a base for terrorism and nuclear proliferation."

The Washington Post (2/24, A2, Milbank, 744K) reports in its "Washington Sketch" column, "Yesterday's meeting of the Senate Armed Services Committee felt like some weird role-reversal dream. There was Sen. Edward Kennedy (D-Mass.), attacking Bush administration officials for being soft on terrorism and 'outsourcing our national security.' There was Gordon England, President Bush's deputy defense secretary, pleading with Democrats that 'it is very important that we strengthen the bonds of friendship and security with our friends and allies around the world.'"

The Washington Post (2/24, A6, Blustein, Pincus, 744K) reports on "a point emphasized by many people familiar with security operations at US ports: Among all the reasons to fret about vulnerabilities to terrorist attacks, the nationality of the companies managing the terminals is one of the least worrisome. … Nonetheless, politicians from both parties continue to pelt the Bush administration with criticism for its decision to allow Dubai Ports World… to buy Peninsular and Oriental Steam Navigation Co." Similarly, the New York Times (2/24, Romero, Timmons, 1.19M) says that "in the outcry over who should run America's seaport terminals, one clear trend appears to have been overlooked: American companies began withdrawing decades ago from the unglamorous business of stevedoring, ceding the now-booming industry to enterprises in Asia and the Middle East."

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So "it is no accident that American companies are not in the top ranks of global terminal operators, who have ridden the coattails of the explosion in world trade."

The Washington Post (2/23, D1, Blustein, 744K) reports this controversy "follows the flap last summer over the proposed purchase by Cnooc Ltd., a Chinese state-owned firm, of Unocal Corp., the California-based oil giant. … The twin episodes are reminiscent of the late 1980s and early 1990s, when takeovers by Japanese companies of US businesses such as movie studios inflamed American anxieties."

The AP (2/23, Bridis) reports, "The senior Democrat on the Senate Armed Services Committee angrily accused the Bush administration Thursday of ignoring the law by refusing to extend an investigation of a United Arab Emirates company's takeover of significant U.S. port operations. … Clashing with a Treasury Department official on a mission to calm a political uproar, Sen. Carl Levin said the law has language specifically requiring a longer review than the one that an interagency committee conducted, if a business deal could affect national security. … 'Is there not one agency in this government that believes this takeover could affect the national security of the United States?' the Michigan Democrat asked at a committee briefing. Chairman John Warner, R-Va., in a very unusual procedure on Capitol Hill, allowed reporters to question the administration witnesses." The AP adds, "The Treasury official, Deputy Secretary Robert Kimmitt, and officials from other agencies said a multiagency group spent three months reviewing the port deal and said that all concerns about security were satisfied. … Levin insisted that the law that established the multiagency panel specifically said that any such review should be lengthened by 45 days if it could have an impact on national security."

MarketWatch (2/24, Watts) reports, "Warner also expressed concern about the administration's interpretation of the law, and said he would ask Attorney General Alberto Gonzales to provide a written explanation."

Bloomberg (2/24, Bliss) reports, "U.S. Attorney General Alberto Gonzales said the agreement includes provisions intended to enhance port security. … 'The United States government did request specific assurances from the parties involved in this transaction,' Gonzales said on CNBC. 'Those assurances have been given.' … He didn't give specifics. The Associated Press, citing documents obtained by the wire service, reported that DP World agreed to cooperate with U.S. investigations and reveal records on demand about 'foreign operational direction' of its business. The agreement doesn't force the company to keep copies of business records on U.S. soil, where they would be subject to court orders, the AP reported."

Gonzales Defends CFIUS Vetting Process. Attorney General Alberto Gonzales was asked on Fox News' Hannity and Colmes (2/23) to describe the Committee on Foreign Investment in the United States' vetting process. Gonzales said, "It's a very thorough vetting process that we're required to go through, in connection with acquisition of a US company by a foreign company or by a foreign country that may impact in an adverse way the national security of our country." The Department of Justice which is a member of the Committee on Foreign Investment "did our own independent assessment and made the determination that we had no reasons to raise an objection to this transaction going forward. We, all of us, have as our objective to ensure that our national security is not impaired in any way by this transaction."

New Jersey Sues To Block Port Deal. Reuters (2/23, Hurdle) reports, "New Jersey sued the U.S. federal government on Thursday to prevent a United Arab Emirates company from managing a terminal at the Port of Newark until security risks there have been fully assessed." Reuters continues, "The suit filed in U.S. District Court in Trenton seeks to bar state-owned Dubai Ports World from taking over the Newark facility as part of a deal under which it also would manage terminals at five other major U.S. ports following its takeover of P&O., a British company that had been operating the ports. … It claims the federal panel that approved the port-management takeover -- the Committee on Foreign Investments in the United States -- failed to conduct a full investigation of the sale as required by law and it asks the court to order an investigation." Reuters adds, "New Jersey Gov. Jon Corzine said the presence of the UAE company may threaten the security of an area that the FBI has called the most dangerous two miles in America because it also contains chemical plants, oil storage facilities, rail lines, and Newark Liberty International Airport. … The suit also claims the deal harms New Jersey's duty to ensure security at the port because it did not know what information was submitted by the UAE company or what assurances were offered on security. Failure to provide that information interferes with the state's sovereign rights under the 10th amendment of the U.S. Constitution, the suit says. … It names the Committee on Foreign Investments as well as Treasury Secretary John Snow, Secretary of State Condoleezza Rice, Defense

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Secretary Donald Rumsfeld, Attorney General Alberto Gonzales and Homeland Security Secretary Michael Chertoff."

Chertoff Was Unaware Of Deal. The Washington Times (2/24, Scarborough, 90K) reports, "Homeland Security Secretary Michael Chertoff was not aware a Dubai-owned company was seeking to operate terminals in six U.S. ports and that his agency was leading the review until after the deal's approval, an administration official said yesterday." Chertoff's spokesman, Russ Knocke, "told The Washington Times the issue rose no higher than the department's assistant secretary for policy, Stewart Baker." Chertoff "is the third Cabinet official to acknowledge he did not know his agency had signed off on the plan."

Ehrlich Leaning Toward Accepting Deal. The Washington Post (2/24, B5, Mosk, 744K) reports Maryland Gov. Robert Ehrlich said it is "looking increasingly unlikely that he will try to block a United Arab Emirates company from taking over port operations in Baltimore." Ehrlich "said he is continuing to review the security concerns raised by the proposed purchase by Dubai Ports World of the British company that oversees the movement of cargo containers at the Baltimore port." But "when asked yesterday if he now agrees with President Bush and supports the sale, Ehrlich said, 'Clearly, the facts are moving in that direction.'"

Governors May Raise Port Issue With Bush On Monday. The Wall Street Journal (2/24, Harwood, 2.11M) reports in its "Washington Wire" column, "Bush faces more port-security heat from governors. Some gathering for winter governors' meeting plan to raise the Dubai-ownership issue at White House on Monday, but New York's Pataki, a deal foe, won't attend following recent surgery."

Port Authority Would Break Lease To Block Deal. The New York Times (2/24, McGeehan, 1.19M) reports, "The Port Authority of New York and New Jersey will break the lease of a big container terminal at Port Newark to stop a company based in Dubai from taking over part of the operation there, the agency's chairman said yesterday." Anthony R. Coscia, the chairman, "said the company that holds a lease on the terminal through 2030 violated the contract by selling a half-interest in it to Dubai Ports World without seeking the landlord's approval. He said the Port Authority would ask a judge in New Jersey Superior Court in Newark today to affirm its right to end the lease."

Bob Dole's Lobbying Role In Deal Seen As Creating Political Problem For Elizabeth Dole. The Washington Post (2/24, A6, Birnbaum, 744K) reports, "The lobbying of former Senate majority leader Robert J. Dole on behalf of the Dubai-owned company set to take over management of terminals at six major U.S. seaports is creating a political problem for his wife, Sen. Elizabeth Dole." The chairman of the North Carolina Democratic Party, Jerry Meek, yesterday "called on Sen. Dole to remove herself from 'any congressional oversight' of the Dubai port deal." A spokeswoman for Sen. Dole "rejected the criticism as 'a partisan attack' and defended the senator's role as a lawmaker and her husband's as a lobbyist." Former Sen. Dole "said in a written statement yesterday that he is not going to lobby his wife or members of Congress."

Rice Seeks To Calm Relations With UAE. The CBS Evening News (2/23, story 5, 2:15, Schieffer) reported Rice "also tried to play a part in calming the bitter feelings in the United Arab Emirates." CBS (Hawkins) added Rice "flew into the heart of the storm over the management of American seaports today. She said the United Arab Emirates is a good friend and a strong ally in the war on terrorism. Rice said there are no national security reasons to stop an Emirates-owned company, Dubai Ports World, from purchasing a British firm that manages six major commercial ports in the United States. After meeting with Secretary Rice, today the UAE's economy minister told me she thinks the political controversy in Washington is the result of an unfortunate misunderstanding." Lubna Bint Khalid Al Qasimi, UAE Minister of Economy: "This case actually got stopped politically rather than pure trade business. It may just raise concerns for a lot of people about thinking twice about investing in the US."

NBC Nightly News (2/23, story 5, 2:20, Gregory) also reported Rice "arrived in Dubai for meetings tonight, and the President's homeland security advisor argued the UAE turned over a new leaf after 9/11." Still, the Administration "extracted extra security concessions from Dubai Ports World as a condition" for the contract.

More Commentary. In an editorial titled "Reaping What You Sow," the New York Times (2/24, 1.19M) says, "If the administration is in trouble with Congress, it's long overdue. For years now, the White House has stonewalled Congressional committees attempting to carry out their oversight duties. Administration officials appearing before Senate and House committees have given testimony that was, to put it generously, knowingly misleading. … The chickens are coming home to roost. A White House that

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routinely brands anyone who disagrees with its positions as soft on terrorism is now complaining that election-bound lawmakers are callously using the ports deal to frighten voters."

The Washington Post (2/24, A14, 744K) editorializes that "the White House's 'admission' that President Bush was unaware" of the deal "strikes us as completely unnecessary. Why should the president know? Twelve government departments and agencies, including the departments of Treasury, State, Defense and Homeland Security, had examined the deal over a three-month period and found it acceptable. Perhaps the White House should have anticipated this week's political storm and prepared for it. But because the objections are irrational, even that complaint is questionable. … If members of Congress really want to burnish their 'tough on terrorism' credentials, they should start by focusing on real presidential lapses, which are sufficient, and forget about the phony ones."

Paul Krugman, writing in the New York Times (2/24, 1.19M), makes a similar point, and adds that "there is, nonetheless, a kind of rough justice in Mr. Bush's current predicament. After 9/11, the American people granted him a degree of trust rarely, if ever, bestowed on our leaders." He "abused that trust, and now he is facing a storm of skepticism about his actions -- a storm that sweeps up everything, things related and not."

Thomas Friedman writes in the New York Times (2/24, 1.19M), "As a country, we must not go down this road of global ethnic profiling -- looking for Arabs under our beds the way we once looked for commies. If we do -- if America, the world's beacon of pluralism and tolerance, goes down that road -- we will take the rest of the world with us. We will sow the wind and we will reap the whirlwind." He adds, "If there were a real security issue here, I'd join the critics. But the security argument is bogus and, I would add, borderline racist."

In the Washington Post (2/24, A15, 744K), Charles Krauthammer writes, "Democrats loudly denounce any thought of racial profiling. But when that same Arab, attired in business suit and MBA, and with a good record of running ports in 15 countries, buys P&O, Democrats howl at the very idea of allowing Arabs to run our ports. … On this, the Democrats are rank hypocrites. But even hypocrites can be right." Krauthammer adds, "The greater and more immediate danger is that as soon as the Dubai company takes over operations, it will necessarily become privy to information about security provisions at crucial US ports. That would mean a transfer of information about our security operations -- and perhaps even worse, about the holes in our security operations -- to a company in an Arab state in which there might be employees who, for reasons of corruption or ideology, would pass this invaluable knowledge on to al-Qaeda types."

E.J. Dionne, in the Washington Post (2/24, A15, 744K), urges "a full-scale debate not only about this deal but about the larger flaws in our system of port security. That's the way to show the world that Americans take this issue seriously and are not engaged in an episode of Arab-bashing." Yesterday, Bush "insisted that the deal would leave our ports safe. … But many people in both parties are worried because they no longer take the administration's claims at face value. That, too, is progress."

In his Wall Street Journal column (2/24), Daniel Henninger writes, "One would not have thought it possible, but Washington's political class is defining our politics down. After nearly seven days of elevating the Cheney bird-hunting accident to the level of a national crisis, now comes this week's flap over managing the ports. To be sure, the matter of secure US ports trumps the hunting of quail as an affaire d'état. But it was the strikingly low quality of the politicians' commentary and behavior that attracted notice."

Chicago-Midway Temporarily Closed After Bomb Threat Found On Flight. The AP (2/24) reports, "A written bomb threat was discovered on a flight from Seattle to Chicago Thursday, prompting aviation officials to temporarily close air traffic at Midway Airport. … The Chicago Police Department and the FBI's terrorism task force searched the plane and its luggage but no bomb had been found as of 5 p.m., said FBI spokesman Frank Bochte. Investigators were trying to determine where the note came from, including whether it was left on the plane by a passenger on a previous flight, he added."

Investigators Widen Search For New York Anthrax. The New York Times (2/24, Chan, 1.19M) reports, "The authorities widened their investigation into possible anthrax contamination yesterday to include an apartment in Crown Heights, Brooklyn, and medical officials were giving antibiotics to seven people who could have been exposed to the spores. An eight-member team from the federal Centers for Disease Control and Prevention, including

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two epidemiologists, along with F.B.I. agents, took samples yesterday from the Manhattan apartment" of Vido Diomande, "the Brooklyn warehouse where he used animal skins to make drums for his African dance troupe and a Dodge van that he is believed to have used to transport the skins, which are a suspected source of the bacteria." WABC-TV New York (2/23) notes, "Federal agents are still investigating but there is nothing suspicious, they say, about Diomande's motives. Mark Mershon, Dir. NY F.B.I.: 'I will tell you that we have essentially ruled out any criminal intent here. We believe this largely to be simply an accidental infection.'"

Standards Issued For Government PIV Cards. The Washington Times (2/24, Harper, 90K) reports, "The National Institutes of Standards and Technology has issued the final specifications for standardized Personal Identity Verification cards required for all federal employees and civilian contractors by Oct. 27." The cards are being developed "in response to Homeland Security Presidential Directive 12, an order issued in 2004 by President Bush for mandatory, standard governmentwide IDs." They incorporate "holograms, bar codes, microprinting and encrypted computer chips, which include signatures and personal demographic information, according to Identity Alliance, a private Indiana-based security firm."

White House Report Takes Responsibility For Katrina Response, Calls For Reforms. Days after a special House committee released a damning report on the response to Hurricane Katrina, the White House released its own 228-page report that acknowledged its own role in the flawed response. ABC World News Tonight (2/23, story 3, 2:30, Sawyer) said the report "has a full-on mea culpa, the government taking the blame, and issuing 125 recommendations to improve the response to the next catastrophe." ABC (L. Stark) added that the admission of failures is "something this Administration is not used to doing." The CBS Evening News (2/23, story 6, 0:35, Schieffer) says the report "urges quick action in 11 key areas before hurricane season begins in June." CNN's The Situation Room (2/23, Blitzer) called the report "packed with recommendations." But NBC Nightly News (2/23, story 4, 2:05, O'Donnell) reported senior officials "were notably careful to avoid finger pointing, except for a direct jab at former FEMA Director Michael Brown." Indeed, Reuters (2/23, Zakaria) reports that the document "did not single out anyone for blame."

USA Today (2/24, 5A, Benedetto, 2.31M) reports that the "Lessons Learned" study "called for 125 fixes, including better communications, better evacuation plans and first aid training for students." President Bush's homeland security adviser Frances Fragos Townsend, who prepared the report, said, "FedEx can track a package anywhere in the world, real-time. FEMA should be able to do the same thing for ice, water and food." In its front-page story, the Washington Post (2/24, A1, Lee, Fletcher, 744K) says the White House report was "softer in tone" than the House study, but "echoed" many of its findings.

The Los Angeles Times (2/24, Chen, 958K) writes that the study "essentially confirmed what has become conventional public wisdom: that there were systemic failures across the federal bureaucracy." Townsend said "a new 'culture of preparedness'" is needed. The New York Times (2/24, Lipton, 1.19M) reports that the recommendations "would reverse some of the steps" taken after September 11, 2001 to centralize responsibility, but some critics "worry that diffusing responsibilities among agencies could leave no one clearly in charge and not produce results." University of Maryland domestic security expert Michael Greenberger said, "This may simply be rearranging the deck chairs on the Titanic." The Washington Times (2/24, Curl, 90K) and Knight Ridder (2/24, Borenstein) run similar stories on the release of the report.

President Bush and Homeland Security Secretary Michael Chertoff also commented on the report yesterday. The AP (2/23, Jordan) quotes Bush saying, "We will learn from the lessons of the past to better protect the American people. … I wasn't satisfied with the federal response." Chertoff "commended" the White House recommendations, saying, "We have already begun to take action to address many of the issues raised in the report, particularly those areas we need to improve before the start of the 2006 hurricane season." However, Fox News' Special Report (2/23, Cameron) pointed out that the report "chastises the Department of Homeland Security for poor planning and communication."

Report's Appendix Highlights "What Went Right." In his Washington Post (2/24, B2, 744K) "Federal Diary" column, under the headline "Acts Of Heroism Shine Through Homeland Security's Humiliation," Stephen Barr writes that while DHS "wiseguys" say "the brass has decided to rate the

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performance of employees on a five-level system," from "role model" at the top to "Brownie, you're doing a heck of a job" at the bottom, many people at Homeland Security performed bravely and exceptionally during Katrina. Barr writes that "some of the most interesting findings" in the White House report "are in Appendix B -- 'What Went Right,'" which highlights some of the individuals who made a positive difference.

Chertoff-Brown Relationship Seen As Crux Of Communications Failures. The Christian Science Monitor (2/24, Grier, 61K) writes that five months after Katrina, "one cause of the stumbling response…is becoming increasingly apparent: Two of the most important officials involved, Chertoff and Brown, did not get along." Chertoff "is by-the-book, a lean, terse manager. Brown is a talkative maverick who believes in leadership from the front lines. In Hollywood, that's a buddy movie; in real life, it was a recipe for delayed orders and crossed communications."

Residents Of Mississippi Town Feel Abandoned By Federal Government. The CBS Evening News (2/23, story 7, 2:50, Pitts) reported on the recovery of Pearlington, Mississippi, "already one of the poorest towns in the nation's poorest state long before Hurricane Katrina. But look at it now. Nearly six months later, no running water, no schools, only occasional mail service. There is even a coffin still washed up in the street, refrigerators scattered in trees. Residents say Pearlington would have died if not for the store. And it's a store like no other in America, where everything's free." It's the "old grade school gymnasium turned clothing store, grocery store, all donations from across the country, a place where neighbors can wash clothes, take a shower and talk." Pearlington was "once home to nearly 2,000 people. There are now only about 600 left, mostly retirees. Some refuse to leave, some can't. And to a person nearly every one feel abandoned by the Federal Government, so they rely on each other and the kindness of strangers."

Hurricane Cleanup Process Said To Waste Money, Time. The New York Times (2/24, Eaton, 1.19M) reports on the "dozens of courthouse disputes and public controversies that have erupted over the still-gargantuan task of removing tons of debris in Louisiana and Mississippi, almost six months after Hurricanes Katrina and Rita. Government officials, contractors and workers all describe a complicated and bureaucratic process that wastes money, slows the cleanup and fails to ensure that the economic benefits of the work go to the people who need them most, the residents of the disaster areas." Approximately halfway through the article, the Times adds, "Officials of the Federal Emergency Management Agency and the Army Corps of Engineers, which handle much of the contracting for debris removal, say the agencies are satisfied with the cleanup's pace, given the magnitude of the task," noting "that Hurricane Katrina created twice as much debris as the four 2004 hurricanes in Florida combined."

Gulf Coast Houses Of Worship Struggle To Recover. USA Today (2/24, Konigsmark, Moore, 2.31M) reports that following Katrina's destruction, Gulf Coast "churches, temples and mosques have struggled not only to rebuild their homes but to re-gather their members. An estimated 900 houses of worship in the Gulf region were damaged, destroyed or unusable after the hurricanes, according to Religion News Service." USA Today notes that in December, the Bush-Clinton Katrina Fund announced "that $20 million of the $90 million it will spend in the region will go to churches and other houses of worship, which are not eligible for public rebuilding funds."

Search Continues For Some Children Displaced By Katrina. USA Today (2/24, Koch, 2.31M) reports that though the National Center for Missing & Exploited Children says 97% of children displaced by Katrina are back with parents or other relatives, families "continue to search for at least 131 children whom they have not heard from since" the storm swept through the Gulf region. The center has heard from relatives who say they still don't know the whereabouts of 131 children — five in Mississippi and the rest in Louisiana, mostly New Orleans. The Find Family National Call Center in Baton Rouge, a joint federal and state effort, lists 1,960 people as missing, of whom 245 are age 20 or younger."

WAR NEWS:

Bombing Of Shiite Shrine Generates Wave Of Sectarian Violence In Iraq. A wave of Sunni-Shiite violence swept over Iraq in the wake of the bombing of the Askariya shrine in Samarra, even as US and Iraqi authorities appealed for calm. USA Today (2/24, Nichols, Komarow, 2.31M) reports "Iraq's government announced it would impose a daytime curfew today in hopes of quelling sectarian violence that exploded across the country this week, threatening to spark civil war and derail efforts to form a new government." The Washington Times/AP (2/24, Reid) says "such a sweeping daytime curfew indicated the depth of

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fear within the government that the crisis could touch off a Sunni-Shi'ite civil war."

In an article describing the political talks on the formation of a new government as "in ruins" the New York Times (2/24, Wong, 1.19M) reports, "The threat of full-scale civil war loomed." The Times adds that the violence "provoked questions about the proper role of the American military, its ability to control powerful Shiite militias,…and the Bush administration's plans for drawing down troops." Another New York Times (2/24, Weisman, Worth, 1.19M) story says the violence "has abruptly thrown the Bush administration on the defensive," while "Iraqis and some American officials also said the Bush administration might have to rethink its political strategy in Baghdad." Meanwhile, the Washington Post (2/24, A1, Finer, Sebi, 744K) reports the "prospects for a political resolution suffered Thursday when Sunni Arab political leaders abruptly withdrew from talks with Iraq's Shiite ruling parties, blaming the police and army for failing to prevent retaliatory attacks -- and, in some cases, for participating in them."

The Financial Times (2/24, Negus, Dombey, Sevastopulo) reports "hopes that Iraq's rival factions would come together to build a government of national unity faded on Thursday," and the Los Angeles Times (2/24, Stack, Roug, 958K) says the "faltering political process seemed on the verge of collapse." The Washington Times (2/24, Behn, 90K) quotes US Maj. Gen. Rick Lynch telling reporters yesterday, "We're not seeing civil war igniting in Iraq." Reuters (2/24, Bohan) reports State Department Deputy Spokesman Adam Ereli also "disagreed that the political process was stalled and that there was chaos. 'Let's not blow this out of proportion. It's not a straight line with the same amount of movement every single day. I t is a path with twists and turns. We all know that, and that's always been the case,' Ereli told reporters." The Wall Street Journal (2/24, Shishkin, Dreazen, 2.11M) reports that "from President Bush on down, US officials have warned repeatedly that there would be tough patches -- such as the current one -- on the road to a rebuilt Iraq." Still, "the split between Sunnis and Shiites is widening precisely at the time US strategists had hoped it would be starting to narrow."

The story was the lead on each of the networks, which also ran follow-up reports. ABC World News Tonight (2/23, lead story, 2:55, Vargas) "more than 130 Iraqis are dead. Seven US soldiers were killed. And more than 100 mosques, according to some reports, were attacked. Today, President Bush appealed for calm on all sides." President Bush: "The voices of reason, from all aspects of Iraqi life, understand that this bombing is intended to create civil strife. But the act was an evil act. Destruction of a holy site is a political act intending to create strife." The CBS Evening News (2/23, story 1, 3:45, Dozier) said "it is the worst crisis this country has faced since Saddam fell," while NBC Nightly News (2/23, lead story, 2:45, Williams) reported "US military commanders in Iraq say they don't believe that nation will dissolve into civil war," but "tonight there are indications to the contrary." NBC (Boettcher) added, "Iraq was on full alert, but the death toll and tensions rose, and US hopes that Iraqis can form a national government of unity sunk." If al Qaeda "did this, its plan is working."

The CBS Evening News (2/23, story 2, 2:10, Axelrod) reported that "the President made sure to frame these pictures as the product of terrorists, not an internal Iraqi versus Iraqi Sunni-Shia meltdown." While Administration officials "say the violence appears to them to be dying down, Democratic Congressman John Murtha, a former Marine colonel whose among the most outspoken critics of the war, says the Administration is misjudging."

CNN's The Situation Room (2/23, Starr) reported, "Sources tell CNN that at the highest levels of the US military the situation is being carefully watched to see if Iraqi security forces can take control across the country. US forces expect to remain in the background so their presence does not spark more violence. … The next 24 to 48 hours are considered critical by US commanders." CNN also reported, "Do not expect to see any more US troops being sent to Iraq to deal with the violence. It will be the major responsibility of Iraqi security forces." Similarly, ABC World News Tonight (2/23, story 2, 2:25, Raddatz) reported "a senior military official tells ABC News that in the coming days, US forces will essentially sit back and watch Iraqi forces try to quell any violence, fearing that the US presence would inflame the situation." However, added ABC, "if a "prolonged civil war broke out, and the American military was unable to contain it, it could eventually hasten withdrawal." The Washington Post (2/24, A11, Graham, 744K) runs a similar report under the headline "US Looks To Baghdad To Deal With Violence." The Knight Ridder (2/24, Landay) reports, "The situation 'calls into question a fundamental premise of our strategy in Iraq,' said a senior U.S. intelligence official, who…spoke on condition of anonymity because he wasn't authorized to discuss the crisis publicly."

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USA Today (2/24, Nichols, Komarow, 2.31M) reports Sen. John Kerry "said the fresh violence underscores the Bush administration's failure to achieve a political solution -- a unity government -- in Iraq. 'It gets dicier as each day goes by,' he said. 'The clock is ticking.'"

The New York Times (2/24, Tavernise, 1.19M) reports "the violence on Wednesday was the closest Iraq had come to civil war, and Iraqis were stunned."

The Los Angeles Times (2/24, Daragahi, 958K) runs a story headlined "Clerics Take Lead After Iraq Bombing," in which it says "the religious leaders are notable for their lack of direct contact with American officials. Sistani, for example, has refused to meet with any since the US-led invasion of Iraq. Forces loyal to Sadr fought U.S. Marines in Najaf in the summer of 2004. And the vehemently anti-U.S. Muslim Scholars Assn. is believed to have close ties to the insurgency."

More Commentary. The Wall Street Journal (2/24, 2.11M) editorializes that Bush "should not underestimate his personal popularity among Shiites and the extent to which his words can have a calming effect. His statements condemning the mosque attack have been helpful but don't go far enough. A televised address to Iraqis would be in order -- or perhaps even a visit to convene a conference of national unity and seal an agreement on a new government. The most important thing now is that ordinary Shiites not feel abandoned."

The New York Times editorializes that the bombing "was a deliberate attempt to make it politically impossible to create a national unity government capable of leading Iraq to democratic stability. So far, the bombers have been successful," but "it shouldn't be this easy for a handful of mosque bombers to undo the modest but real" democratic progress.

Eliot A. Cohen, Professor of Strategic Studies at Johns Hopkins University's School of Advanced International Studies, writes in the Wall Street Journal (2/24, 2.11M), "We may succeed in Iraq; we may also fail. Whether we do, however, depends partly on our skillful intervention, more on the attitudes and behavior of the Iraqis themselves, and even in the best case, on our willingness to persevere."

USA Today (2/24, 2.31M) editorializes, "Options are further limited because the United States has handed power to Iraqis -- and an Iraqi government can ask U.S. forces to leave. Even so, a reassessment is overdue of how Iraqi forces are manned and trained, perhaps with international help."

Rumsfeld To Discuss War On Terror At Truman Library. The Washington Post (2/24, A13, Kamen, 744K) reports in its "In the Loop" column that Defense Secretary Donald H. Rumsfeld plans to visit the Harry S. Truman library in Independence, Missouri next week "to talk about President Bush 's war on terrorism and Truman's launching the long struggle against international communism." The Post adds, "The speech is still being worked on, so Pentagon folks won't talk about it. And they caution that the event may yet be scrubbed. But spokeswoman Hollen Wheeler allowed that the library would be an 'appropriate venue for his message that day.'"

In 2000, Gore Affirmed Commitment To Ousting Saddam. In its "History Lessons" column the Washington Times (2/24, 90K) excerpts a June 26, 2000 joint statement by then-Vice President Al Gore and leaders of the Iraqi National Congress. The statement, released by Gore's office, said, "The Vice President reaffirmed the Administration's strong commitment to the objective of removing Saddam Hussein from power, and to bringing him and his inner circle to justice for their war crimes and crimes against humanity. Saddam's removal is the key to the positive transformation of Iraq's relationship with the international community and with the United States, in particular."

Ted Koppel Says US Interest In Iraq Is "About The Oil." Retired anchor and managing editor of the ABC program "Nightline" Ted Koppel writes in an op-ed in the New York Times (2/24, 1.19M), "The Bush administration's touchiness about charges that we acted -- and are still acting -- in Iraq 'because of oil'" is "curious," as "keeping oil flowing out of the Persian Gulf and through the Strait of Hormuz has been bedrock American foreign policy for more than a half-century." He adds, "If those considerations did not enter into the Bush administration's calculations when the president ordered the invasion of Iraq in 2003, it would have been the first time in more than 50 years that the uninterrupted flow of Persian Gulf oil was not a central element of American foreign policy." In fact, "the reason for America's rapt attention to the security of the Persian Gulf is what it has always been. It's about the oil."

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Gonzales Rings In Stock Exchange. KCBS-TV Los Angeles (2/23, 6:44 a.m.) showed "US Attorney General Alberto Gonzales ringing the opening bell at the New York Stock Exchange" on Thursday morning.

WPIX-TV San Francisco (2/23, 6:46 a.m.) added that Gonzales rang the bell "along with CEOs from several companies listed on the big board."

CORPORATE SCANDALS:

Timing Of Disclosure Is Focus Of Enron Testimony. The Wall Street Journal (2/24, Emshwiller, McWilliams) reports, "Proceedings yesterday in the conspiracy and fraud trial of former Enron Corp. top executives Kenneth Lay and Jeffrey Skilling touched on a question that could help determine whether the two men are convicted: Is an executive guilty of illegally hiding information if his company a short time later discloses it?" The Journal continues, "This issue came up during the third day of testimony by Paula Rieker, Enron's former corporate secretary and deputy investor-relations chief. Ms. Rieker, who took the stand as a government witness as part of an agreement in which she pleaded guilty to an Enron-related crime, previously testified that Messrs. Lay and Skilling had made misleading public statements about Enron's operations. … In at least one other controversial case, Enron disclosed more in its Securities and Exchange Commission filings than its executives did in public utterances. This involved outside partnerships run by Enron's then-chief financial officer, Andrew Fastow, which did large amounts of business with the company." The Journal adds, "Purportedly hidden deals with these partnerships are a central part of the government's fraud allegations. Part of the defense in this case is that Enron did make disclosures -- albeit extremely dense and complex ones -- about the partnerships in SEC filings, even though Mr. Lay and other executives refused to answer questions about them in the weeks before the bankruptcy filing. … Yesterday's sparring between the defense attorneys and Ms. Rieker addressed this issue. In questioning, Bruce Collins, one of Mr. Lay's attorneys, focused on a claim by Ms. Rieker that the company had mischaracterized earnings from the company's high-profile retail-electricity unit, known as Enron Energy Services. Ms. Rieker said much of the unit's earnings in parts of 2000 and 2001 came from gains on stock sales and not from its "core" business of supplying energy and energy services to corporate and other customers. Enron officials didn't disclose those stock sales in various public statements, even after Ms. Rieker said she warned Mr. Lay, who was Enron's chairman, about the matter in 2000."

Lay Attorney Profiled. The Deal (2/24, Poole) profiles Ken Lay's attorney Mike Ramsey, who the Deal reports, "is now working on the biggest case in his life -- defending former Enron Corp. Chairman Kenneth Lay, who faces seven criminal charges, including conspiracy and securities and wire fraud in advance of the company's collapse in late 2001. … In 1996, Ramsey successfully defended executives from Oxford Funding in a major bank fraud and conspiracy trial arguing prosecutorial misconduct. He secured an acquittal for cancer researcher Stanislaw Burzynski on fraud allegations in 1997. He won a case involving cross-dressing New York real estate heir Robert Durst, who was charged with killing an elderly neighbor, cutting his body into pieces and dumping them in Galveston Bay. … So it's not surprising that court watchers are thinking he'll get Ken Lay off, too." The Deal adds, "Ramsey is a man of simple tastes. He prefers black cowboy boots to lace-ups with his business suits. His office is in a residential neighborhood, not in a shiny office tower downtown. For lunch he often has peanut butter crackers and milk in the courthouse cafeteria. He works slowly and methodically, both in his physical movements and his questioning in court. Some casual observers would think maybe the 65-year-old is a little senile. … Far from it. Ramsey has a sharp mind, so sharp that he has to read a document only once to understand and remember it. … And Ramsey has a long memory, as everyone saw the first week of the Enron trial, when he remembered which articles had been read in their entirety and which ones had not when the judge handling the case, Simeon T. Lake III, could not."

Fannie Mae Report Faults Accounting, "Arrogance" In Fraud Case. Fannie Mae released a massive report Thursday that "found fault with the corporate culture of 'arrogance' under former CEO Franklin Raines but blamed the mortgage giant's accounting problems" on ex-CFO Timothy Howard and ex-Controller Leanne Spencer, USA Today (2/24, 1B, Farrell) reports. The report came after a 17-month investigation headed by ex-Sen. Warren Rudman into Fannie's $11 billion accounting fraud. The Washington Post (2/24, A1, Shin) reports that the study "found 'no

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indication' that Raines knew the degree to which accounting rules had been ignored under his leadership." However, his "imprint is palpable" throughout the tome, which says he "oversaw a 'culture of arrogance'" at Fannie Mae. The Financial Times (2/24, Hughes, Swann) says Treasury Undersecretary for Domestic Finance Randy Quarles, commenting on the report, said Fannie "still poses a systemic threat to financial markets." All three of these newspaper stories note that the report runs a whopping 2,652 pages. (A 34-page executive summary was also released.)

The New York Times (2/24, Labaton, Dash) says the report concluded that senior Fannie executives "manipulated" accounting so they themselves could receive "more than $27 million" in bonuses. The conclusions come as the Office of Federal Housing Enterprise Oversight, which oversees Fannie, considers whether to force some of them to return bonuses; the Securities and Exchange Commission and the Justice Department are also investigating. The Wall Street Journal (2/24, A2, Hagerty) says the report "doesn't point to major new problems beyond those already identified by regulators and acknowledged by Fannie over the past two years."

The Washington Post (2/24, D1, Hilzenrath) writes that "in another time, or another company, success might have been riding on the basics," but "in the modern corporation, the core mission of delivering products or services can seem like a sideshow to the accounting machinations that ultimately determine the bottom line." In fact, even after a year and a half at work, "even the lawyers and accountants who labored to produce the report aren't entirely sure what happened."

The AP (2/23, Gordon) reports, "Fannie Mae's former finance chief and controller share primary responsibility for the accounting failures at the mortgage company struggling to emerge from an $11 billion scandal, a company-ordered report said Thursday." The AP continues, "It detailed a breakdown in financial controls and found an arrogant corporate culture at the government-sponsored company that is the biggest U.S. financer of home mortgage loans." The AP adds, "No major new accounting problems were cited in the report that followed an 17-month investigation by a team led by former Sen. Warren Rudman, R-N.H. … But there are many details. For example, Fannie Mae in 1998 was said to have improperly put off accounting for $200 million in expenses to future periods so executives could collect $27 million in bonuses. Rudman's inquiry affirmed this. … Documents cited in the report show that top-level management was focused on the $200 million deferral and meeting earnings targets that would trigger the payment of full bonuses." The AP notes, "Fannie Mae employees falsified signatures on accounting transactions that helped the company meet the 1998 earnings targets, according to the former director of the Office of Federal Housing Enterprise Oversight. The agency first discovered the accounting-rule violations and earnings manipulation by Fannie Mae. … Rudman's report said Fannie Mae's former chairman and chief executive, Franklin Raines, contributed to a culture of arrogance at the Washington-based company."

Dow Jones (2/23, Burns) reports, "A new report on accounting problems at Fannie Mae may accelerate an ongoing Securities and Exchange Commission investigation, but lawyers say any charges or settlements may be more than a year away." The report's findings "won't come as a surprise to prosecutors or SEC lawyers who received weekly briefings on Rudman's investigation. Rudman said his team cooperated fully with the Justice Department, the SEC and other regulators during the 17-month investigation. … 'They know everything that's in this report already,' said one lawyer who declined to be identified by name. … SEC spokesman John Nester declined to comment, as did Justice Department spokesman Drew Wade."

Fannie Mae To Examine Pay Deal With Former CFO. Reuters (2/23) reports, "Fannie Mae will reexamine its former chief financial officer's post-employment compensation package, the company's chairman told Reuters on Thursday after an internal review blamed the old management team for a multibillion-dollar accounting scandal. … 'I would simply say that all options are on the table,' Fannie Mae Chairman Stephen Ashley said." Reuters adds, "The chairman said Fannie Mae's board would wait for results from other ongoing probes into the company's accounting problems. Investigations by the Office of Federal Housing Enterprise Oversight, Securities & Exchange Commission and Justice Department remain open."

WSJournal Says Fannie "Routinely Flouted Both The Rules And Law." Under the headline "Fannie's Funny Business," the Wall Street Journal (2/24) editorializes, "The report's main findings paint the picture of a company that routinely flouted both the rules and law." It lets Raines "off lightly, blaming him mainly for a 'culture' that tolerated the accounting abuses. But the core of that culture was a belief that critics -- including us -- could be dismissed and assailed

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because the company knew it had Congress bought and paid for. And judging by the laughably weak reform that Financial Services Chairman Mike Oxley passed through the House, it still does. If Republicans on Capitol Hill want to know why voters think they've gone native, the failure to rein in Fannie even after a $10.8 billion accounting scandal is Exhibit A."

Judge Denies Request To Toss Adelphia Settlement. Reuters (2/24) reports, "A federal judge in Manhattan on Thursday rejected a bid by creditors of Adelphia Communications Corp. to throw out a $715 million settlement to compensate investors who lost money in the bankrupt cable company's collapse in 2002." Reuters continues, "Bankruptcy Judge Robert Gerber initially rejected the creditor's efforts to throw out the settlement. But the unsecured creditors, unhappy at the prospect of shareholders being paid ahead of them, appealed." Reuters adds, "In his ruling, U.S. District Court Judge Lewis Kaplan wrote that he agreed with the bankruptcy judge's decision and rejected the creditors' claims that the government had forced Adelphia into settling. … To avoid indictment, Adelphia reached the settlement with the Justice Department and the Securities and Exchange Commission in April 2005. Under its terms, the founding Rigas family agreed to forfeit more than 95 percent of its assets."

Dow Jones (2/24) reports, "In his order Thursday, Judge Kaplan found the company wasn't coerced and agreed with the bankruptcy judge that the assets being used in the restitution fund aren't part of the debtors' estate, but are part of a fund to be created and owned by the government. … 'Moreover, it is worth noting that if Adelphia had rejected the government's proposal and the government succeeded in forfeiting (Adelphia's) assets, the government's interest in the assets would have been superior to those of the creditors in any case,' Kaplan said in his order. … John Rigas and his son Timothy were convicted in 2004 of pocketing more than $ 2 billion from Adelphia (ADELQ) for their own personal use and misleading investors about the company's finances and performance. … Timothy Rigas, the company's one-time chief financial officer, was sentenced to 20 years in prison, while his father was sentenced to 15 years in prison. Both men remain free on bail pending appeal."

HealthSouth To Settle Class Action For $445 Million. The AP (2/24, Reeves) reports, "HealthSouth Corp. said Thursday it had reached a $445 million preliminary agreement to settle federal lawsuits resulting from a massive financial fraud that nearly drove the rehabilitation chain to ruin." The AP continues, "The Birmingham-based company will pay $215 million in common stock and warrants under the global settlement, and insurance companies will pay another $230 million in cash." The AP adds, "Investors involved in class action suits filed in federal court also will receive 25 percent of anything the company eventually gets in its lawsuit against fired chief executive Richard Scrushy, former auditor Ernst & Young and UBS, HealthSouth's former investment bank."

The New York Times (2/24, Whitmire) reports, "In March 2003, federal investigators raided HealthSouth's headquarters (in Birmingham, AL) and exposed what was then estimated to be a $2.7 billion accounting fraud. More recent restatements have estimated the fraud to be in excess of $4 billion. … After the fraud was exposed, 15 HealthSouth executives pleaded guilty to criminal charges, including all five of the company's chief financial officers. One former financial executive, Hannibal Crumpler, known as Sonny, was found guilty at trial. … In June 2005, a jury in Birmingham acquitted Mr. Scrushy of all criminal charges that he participated in the fraud. He still faces numerous civil suits in the case."

CRIMINAL LAW:

Libby Lawyers Seek Dismissal Of Leak Indictment. CNN's The Situation Room (2/23, Blitzer) reported that Vice President Dick Cheney's former chief of staff, Lewis Libby has asked a federal judge to dismiss his indictment in the CIA leak case. Libby's lawyers say special prosecutor Patrick Fitzgerald "lacks the authority to pursue the charges because he was not appointed by the President with consent of the US Senate." Fox News' Special Report (2/23, Hume) noted, "The motion was not unexpected, Libby's lawyers having said earlier that month they would file it. It's considered a longshot to win." The Washington Post (2/24, A5, Leonnig) reports that Libby's attorneys argued that "Fitzgerald was improperly appointed by the Justice Department instead of the president to investigate the leak of CIA operative Valerie Plame's identity. That means his work and the charges of perjury, making false statements and obstructing justice brought against Libby in October are invalid, they said in court papers filed yesterday." The Post adds, "Other documents released with their filings show that

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by August 2004, eight months after beginning his investigation, Fitzgerald had amassed a large amount of evidence suggesting that Libby was lying to investigators. Libby's accounts of conversations with administration officials and reporters about Plame conflicted with others offered by virtually every administration official and reporter questioned by Fitzgerald's investigators." The Post notes, "Also yesterday, Fitzgerald asked U.S. District Court Judge Reggie B. Walton for permission to explain a 'factual matter' in a sealed filing that concerns his ongoing grand jury investigation and the reasons Fitzgerald believes he cannot release some of the documents Libby's defense lawyers are seeking."

Reuters (2/23) reports, "Since both Attorney General Alberto Gonzales and former Attorney General John Ashcroft removed themselves from the investigation because of their close ties to the White House … Fitzgerald reports to David Margolis, a career Justice Department lawyer." Libby's attorneys "argued that because Fitzgerald does not report to the attorney general, he should not have been appointed by a deputy at the Justice Department. … 'Because he was not appointed to that office by the president with the advice and consent of the Senate, he holds that authority improperly,' Libby's lawyers wrote." Reuters notes that Fitzgerald "was picked by then-Deputy Attorney General James Comey in December 2003 to investigate who leaked" Valerie Plame's identity.

The AP (2/23, Locy) reports, "The lawyers said illegal assignment of 'unsupervised and undirected power' to Fitzgerald requires that he be relieved of his duties in the investigation and that all actions he has taken be voided." The AP adds, "Unlike every other federal prosecutor, Fitzgerald did not have to seek approval from senior Justice Department officials to grant immunity or subpoena reporters and news organizations. Nor did he have to advise senior Justice officials before he sought Libby's indictment. … 'The attorney general may delegate powers but he may not abdicate responsibility,' Libby's lawyers wrote."

USA Today (2/24, 2.31M) also reports that Libby's lawyers said Fitzgerald "is operating outside the supervision of the attorney general, as required by federal law." The Washington Times (2/24, Seper, 90K) also reports on the defense motion.

Judge To Hear Arguments Today On Defense Request For Classified Documents. The AP (2/24) reports, "Defense lawyers and Mr. Fitzgerald are to appear in Federal District Court here on Friday to argue defense requests for classified records and evidence gathered by the prosecution about reporters who learned about" CIA operative Valerie Plame "from officials other than Libby."

Senators Call For Special Prosecutor To Probe Abramoff Ties To Pacific Territories. Democratic Sens. Jeff Bingaman and Ken Salazar are calling on Attorney General Alberto Gonzales to appoint a special prosecutor to investigate lobbyist Jack Abramoff's activities in Guam and the Northern Mariana Islands. The Los Angeles Times (2/24, Roche, 958K) reports that in a letter made public yesterday the Senators "asked Gonzales to provide the Senate Energy and Natural Resources Committee with a secret Justice Department report on security risks" in the two island territories. In their letter, the Senators "noted that the report was prompted by concerns that the islands might provide an entryway for terrorists in the wake of the Sept. 11 attacks on the U.S. mainland. Also noted in the report were the substantial U.S. military assets in the Pacific islands that could be at risk."

Federal Grand Jury Indicts 32 Alleged Mobsters On Racketeering Charges. The New York Times (2/24, Preston) reports, "A Genovese crime family boss has been charged with capital murder, accused of ordering a mob killing — with help from his lawyer — while he was locked away in prison, federal and state authorities announced yesterday." The Times continues, "The mobster, Liborio S. Bellomo, 49, authorized the 1998 murder of Ralph Coppola, a member of the Genovese crew, according to a federal indictment unsealed yesterday in Manhattan. At the time of the killing, Mr. Bellomo was the acting Genovese boss although he was serving a 10-year sentence in federal prison for extortion, said Michael J. Garcia, the United States attorney for the Southern District of New York." The Times adds, "Mr. Garcia said Peter J. Peluso, a New York lawyer who frequently represented Genovese members, communicated Mr. Bellomo's order to execute Mr. Coppola from the prison to Genovese henchmen. Mr. Peluso pleaded guilty last July to serving as a messenger in the murder plot, Mr. Garcia said, and also admitted taking part in racketeering, extortion and obstruction of justice. … The indictment, which names 32 people as members of the Genovese family, including Mr. Bellomo, is a result of a three-year racketeering investigation of the family's operations in the Bronx and Westchester. Twenty-nine defendants were

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arrested yesterday, and the arrests of two others are pending. Mr. Bellomo is currently in federal prison in Coleman, Fla. Mr. Peluso has been cooperating with prosecutors, Mr. Garcia said. His information appears to have been crucial for the broad racketeering charges, and for yesterday's arrests."

Reuters (2/24, Kearney) reports, "The indictments cover charges spanning more than a decade and come after a 3 1/2-year investigation," Garcia said. "Several of the accused already were in jail and others were arrested on Thursday, when the indictments were unsealed. … 'Any time you take out top leader leadership of an organization charged with serious crimes ... you have to believe you are having an impact,' Garcia said at a news conference, declining to further assess the relative strength of the family." The AP also reports on the indictments.

Defense Rests At Ryan Trial. In a widely-distributed story, the AP (2/24) reports, "Lawyers for former Illinois Gov. George Ryan rested their case Thursday at his public corruption trial. … Before sending jurors home for the weekend, the judge said there would be more rebuttal witnesses from prosecutors on Monday. She said closing arguments might get under way a week after that."

Judge Issues Limited Gag Order After Prosecutors Assail TV Comments By Ryan's Wife. The Chicago Tribune (O'Connor, Bush, 643K) reports, "Federal prosecutors on Thursday blasted former Gov. George Ryan's lawyer, accusing him of orchestrating a bid to influence the jury in the trial's 11th hour after Ryan's wife," in Wednesday TV interviews, "contended that her husband was indicted because of his death-penalty stance and that he decided against testifying because witnesses can't tell their stories in the courtroom." US District Judge Rebecca Pallmeyer "issued a limited gag order barring comments about the integrity of the trial or the motivations of lawyers on either side of the case."

Close Campbell Friend Testifies About Delivering Bribes. The Atlanta Journal-Constitution (2/24, Warren, Suggs, 430K) reports that at the corruption trial of former Atlanta Mayor Bill Campbell Thursday, businessman Dan DeBardelaben – Campbell's "longtime friend and golfing buddy" – "told jurors how, on three occasions in 1999, he delivered thousands of dollars in cash bribes from city contractor Samuel J. Barber Jr. directly to Campbell." DeBardelaben testified that "five days after the last payment to Campbell…the city approved an emergency authorization of $3 million to Barber's company…bypassing competitive bids" for the Y2K upgrade project. The Journal-Constitution notes, "Even lead defense attorney Billy Martin called DeBardelaben…a 'pivotal witness' for the government," and "Martin told the judge he may subpoena prosecutors and an FBI agent because he believes there should be more written documents showing DeBardelaben's statements about the case over the years that could be used to show inconsistencies." WSB-TV Atlanta (2/23) and WXIA-TV Atlanta (2/23, Carnes, King) also reports on DeBardelaben's testimony.

Alleged Philadelphia Latin Kings Leader Testifies In Own Defense. The Philadelphia Inquirer (2/24, Anastasia, 423K) reports, "William 'King Homicide' Sosa, charged with heading a Latin Kings street gang that engaged in drug dealing, murder, kidnapping and rape, told a federal jury yesterday that violence and narcotics trafficking are 'against the rules' of the Almighty Latin King and Queen Nation. Taking the witness stand in his defense, Sosa…acknowledged that some 'rotten apples' had given the Latin Kings a bad reputation, but said that he neither took part in nor condoned criminality during the four-year period that federal prosecutors say he headed the Philadelphia branch of the national organization." The Inquirer notes that Sosa also said his nickname, Homicide, "stood for a Humble Oppressed Mind Increases through Cultural Independence a Desire for Education," although "prosecutors…have used witness testimony and evidence gathered during a three-year FBI investigation to portray Sosa as a volatile crime boss who embodied a more traditional interpretation of the nickname."

Government Witnesses Set To Take Stand In New York Mob Trial. The New York Times (2/24, Feuer) reports, "No one expects a Mafia defector to be Eagle Scout material. There is, after all, much truth to the adage that to catch a thief, it helps to have been one. … Nonetheless, the four informants scheduled to testify at the federal trial of Louis J. Eppolito and Stephen Caracappa will each take the stand with résumés that might have impressed Capone. According to a letter filed yesterday by prosecutors in the case, the men have collectively committed a smorgasbord of crimes." The Times continues, "Mr. Eppolito, 57, and Mr. Caracappa, 64, are former New York City police detectives charged with participating in at least eight killings

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as assassins for the mob. Their trial is to begin next month in Federal District Court in Brooklyn, nearly a year to the day after they were arrested on the Las Vegas Strip. … Prosecutors plan to introduce as witnesses two long-standing Mafia informants and a pair of turncoats specifically recruited for the case. Under law, prosecutors are required to disclose their witnesses' criminal histories, and in this case they include more criminal charges than the indictment. One of the witnesses is Alphonse D'Arco, former acting boss of the Luchese family, which employed the two defendants, prosecutors say. Mr. D'Arco has a conviction record that lists extortion, murder, murder conspiracy, robbery, arson, tax evasion, counterfeiting, narcotics trafficking, burglary, hijacking and assault, the prosecutors' letter says."

Witness In Gotti Trial Tells Of Life "On The Shelf." The New York Times (2/24, Hartocollis) reports, "His marriage collapsed after his girlfriend gave birth to his son. His income dried up because he could not run his extortion rackets from the federal prison where he was being held on mob-related charges. … But the most frightening moment for Michael DiLeonardo, a captain in the Gambino crime family, was when his girlfriend conveyed a message to him from Pete Gotti, the official leader of the family and the brother of the late boss John J. Gotti. … Mr. DiLeonardo was 'on the shelf,' his girlfriend told him. She did not know what that meant, but Mr. DiLeonardo did. … 'It means they broke me, they disenfranchised me,' he told a federal jury in Manhattan yesterday, as he testified for a second day in the racketeering trial of John A. Gotti. 'I'm not a captain, and I'm not a soldier. I'm the property of the Gambino family, but I have no say, no power. I'm not even to be recognized if other wiseguys want to recognize me.'" The Times adds, "He did not say why he was shelved, though he suggested it was because he was an ally of John A. Gotti, who was the rival of his uncle Pete Gotti. Whatever the reason, that exile, in November 2002, after 14 years as a made member of the Gambino family, was a turning point. … Being cast out convinced him to confess to three murders and become a government witness against Mr. Gotti and against a long list of other organized crime defendants. … He immediately began wearing a recording device, which the F.B.I. did not allow him to turn off, even when he visited his mother in the hospital, he said. He confided in his son Michael, who was 16, and felt rejected when his son thought it was wrong to cooperate with the government." The Times notes, "Under the racketeering laws, the prosecution must show that Mr. Gotti committed some of those crimes within five years of his 2004 indictment. … Because Mr. Gotti was in prison for a 1999 racketeering conviction before he was indicted, the prosecution has been trying to prove that he continued to communicate with Mr. DiLeonardo and carry out Gambino crime family business even from behind bars."

Two More Arrested In Alleged ELF Arson At Oregon Tree Farm. The AP (2/24) reports Nathan Frazer Block and Joyanna L. Zacher were indicted Thursday by a Eugene, Ore., federal grand jury "in the 2001 arson at a Clatskanie tree farm, court officials said, bringing the number charged in the case to six." Block and Zacher "were arrested Thursday in Olympia, Wash., after the 14-count indictments were handed up." The AP notes, "The government alleges the arson at the tree farm was part of a broad conspiracy from 1996 through 2001 in Oregon, Washington, Wyoming, Colorado and California, in which elements of the radical groups the Earth Liberation Front and the Animal Liberation Front allegedly took part." The Seattle Times (2/24) also reports on the indictments and arrests, as does The Olympian (2/24) in Olympia, Wash., under the headline "Two Olympia Residents Arrested In Ecoterror Arson At Oregon Tree Farm."

US Assesses Extent Of Cyber-Crime. Scripps Howard (2/23, Hoffman) reports, "One of the persistent unknowns in the battle against cyber-crime is the true scope of the problem." Scripps Howard continues, "Since the Internet revolution began a decade ago, U.S. businesses have been so reluctant to report cyber-victimization that experts believe the toll may be substantially higher than anyone estimates, law-enforcement officials say. … But a sweeping survey recently begun by the Department of Justice may provide the clearest picture yet of the scourge of computer viruses, worms, spyware, network intrusion, fraud, theft of information and other security breaches." Scripps Howard adds, "The departments of Justice and Homeland Security have unveiled plans to randomly - and confidentially - query 36,000 firms, which were selected as a sample of 5.3 million U.S. businesses across 37 industry sectors. … The survey data 'will provide the first official national statistics on the extent and consequences of cyber crime,' Justice spokesman Stu Smith said in a statement. … The department hopes it also will pierce the unwritten code of

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silence that most companies follow when it comes to cyber-crime. … 'Most companies that experience computer intrusions or breaches of security do not report the incidents to law enforcement,' FBI Director Robert Mueller said at a Feb. 15 Business Software Alliance town-hall meeting. … That reluctance stems from two beliefs by many firms: that it's a waste of time to report such an incident because there is little the police can do about it; and that revealing an attack could hurt their bottom line through bad publicity and diminished customer confidence in their security procedures."

California Execution Dispute Highlights Ethical Issues For Doctors. The Christian Science Monitor (2/24, Knickerbocker) reports, "In California this week, two anesthesiologists refused to monitor the administering of a barbiturate designed to render unconscious convicted killer Michael Morales before he was to be killed with two other drugs." The Monitor continues, "The execution was called off - or, at least, postponed. Death-penalty opponents cheered. And the roiling debate over the ethics of medical professionals' involvement in the officially sanctioned ending of human life got a little hotter. … At issue: Should a healer help the executioner?" The Monitor adds, "Beyond abortion (where the question of when life begins remains the major debating point), this includes executions carried out by the state and physician-assisted suicide now legal in Oregon and being considered in other states. … Similarly, medical ethics are involved in growing questions about military doctors taking part in the interrogation of prisoners and the force-feeding of those on a hunger strike. … In the eyes of most professional medical organizations, physicians have the ethical and professional obligation to do what they can to make people well, not to help kill them. … While most states now favor lethal drugs in capital punishment, courts increasingly are taking a skeptical view of a procedure that critics say violates the Constitution."

Maryland Police Say DNA Evidence Points To Killer Of Two. The Washington Post (2/24, B1, Klein) reports, "The crime was particularly heinous, even for county investigators familiar with violence: Two grandmothers in their seventies were stabbed to death during a robbery of their Suitland flower shop. More than two years later, Prince George's County police believe they know who did it." The Post continues, "A DNA match from a federal database led them to a man who is in the Alexandria jail on unrelated charges, police said yesterday. … Investigators have an arrest warrant accusing Adam I. Neal, 24, of two counts of second-degree murder. They believe he entered Suitland Florist on Sept. 24, 2003, robbing it of about $60 and going on a stabbing rampage, killing owner Mary Frances McDonald, 76, and her longtime friend and employee, Madeline 'Mattie' Thompson, 73." Police Chief Melvin C. High. "said investigators found DNA evidence at the scene but would not disclose whether it was blood, sweat, hair or some other substance. Police entered the DNA code into a national database to check for matches across the country but found none at the time, High said."

Contractor To Plead Guilty For Role In Cunningham Bribe Case. Defense contractor Mitchell Wade is expected to plead guilty in federal court today for his role in the bribery case involving former Rep. Randall Cunningham. The Washington Post (2/24, Leonnig, Babcock, 744K) reports that Wade has been cooperating for months with the investigation into Cunnigham's 'alleged trading of 'earmarks' in congressional appropriations for $2.4 million in cash, furniture, boats and house payments, sources said." Sources say Wade "is expected to admit to his sweetheart purchase of Cunningham's home and to providing hundreds of thousands of dollars in cash and gifts to the congressman."

Self-Defense Laws Raise Concerns Over Vigilante Justice. The Christian Science Monitor (2/24, Jonsson) reports, "Instead of embracing a citizen's 'duty to retreat' in the face of a physical attack, states may be taking cues from the days of lawless frontier towns, where non-deputized Americans were within their rights to hold the bad guys at bay with the threat of deadly force." The Monitor continues, "First enacted in Florida last year, 'Stand Your Ground' bills are now being considered in 21 states including Georgia, according to the National Rifle Association and the Brady Campaign to Prevent Gun Violence. The South Dakota senate approved one just last week. … These new measures would push the boundaries beyond the self-defense measures already on the books. Twelve states already allow citizens to shoot intruders in their homes, and 38 states permit concealed weapons in public places. The 'Stand Your Ground' laws would allow people to defend themselves with deadly force even in public places when they perceive a life-

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threatening situation for themselves or others, and they would not be held accountable in criminal or civil court even if bystanders are injured." The Monitor notes, "Laws putting more judgment in an individual's hands stem from people's increased concern about crime in their communities. Proponents say it helps shift the debate from gun control to crime control, and that these laws are part of the rugged individualism of Americans. … Some critics say such 'Wild West' laws are vigilante justice, and commonplace confrontations and more likely turn to violence."

Four Charged In New York With Role In Human Body Parts Trade. The New York Times (2/24, Brick) reports, "Four men were charged yesterday with operating a corrupt $4.6 million enterprise to harvest human tissue from funeral homes and sell it for use in transplants and research." The Times continues, "The men — a former dentist, two of his workers and an embalmer — pleaded not guilty at their arraignment in State Supreme Court in Brooklyn. Justice John P. Walsh set bail of $1.5 million for the former dentist, Michael Mastromarino of Fort Lee, N.J., described by prosecutors as the ringleader, and lesser bail amounts for the other men: Joseph Nicelli, an embalmer from Staten Island, and Lee Cruceta and Christopher Aldorasi, Dr. Mastromarino's assistants." The Times adds, "The charges were the first public acknowledgment of a gruesome inquiry that has appeared on the covers of tabloid newspapers for months. The publicity was not lost on the defendants' lawyers, who accused prosecutors of making exorbitant bail demands with headline writers in mind. … Court documents filed in support of the charges provided the first official accounting of the investigation, alluding to participation by funeral home directors across the Northeast, but leaving unaddressed questions about the financing and scope of the operation. … The documents describe falsified records associated with 63 tissue extractions performed by Biomedical Tissue Services, a New Jersey company described as the center of an operation that garnered $4.6 million by fraudulent means."

Census Bureau Won't Change Method Of Counting Inmates. The Census Bureau has concluded that altering the practice of counting inmates as part of the population of the state in which they are being held would be so burdensome that it might cause new inaccuracies in the population count. The Washington Post (2/24, A13, 744K) reports that "the bureau said in a report requested by Congress and released this week that many of the home addresses of inmates on file at prisons are incomplete. It concluded that the change would require interviews with inmates and other efforts that would cost $250 million."

CIVIL LAW:

North Carolina Cardiologist Fined $2.6 Million For Medicare Fraud. The AP (2/24) reports, "A Charlotte (NC) cardiologist will pay $2.6 million to settle a federal lawsuit that alleges he defrauded Medicare for six years, according to a news release." The AP continues, "The U.S. Justice Department said Amir Hussein allegedly overbilled the medical program for the elderly and disabled from 1997-2003, which resulted in higher reimbursements from the government than he was entitle to receive. … Federal investigators also said Hussein billed Medicare for unnecessary services and sometimes billed twice for the same service." The AP adds, "The settlement money represents the amount of the fraud plus fines. The settlement also requires that he hire a government-approved auditor who will monitor his billing practices for five years. … The government said a whistleblower from Mecklenburg County who sued Hussein over his billing practices will receive a portion of the settlement money. The government joined the lawsuit."

CIVIL RIGHTS:

Report Finds Continuing Problems In DC Group Homes. The Washington Post (2/24, A1, Barker) reports, "The District government has failed to meet promises to improve conditions for mentally and physically disabled residents in its group homes, even after a series of deaths stemming from inadequate care, a court monitor has found." The Post continues, "The health and safety of group home residents remain in jeopardy because of continuing problems with health care, nutrition and supervision, monitor Elizabeth Jones said in a newly released report. She said D.C. officials have made 'little meaningful progress.' … The city is behind in conducting investigations of deaths at group homes, Jones said in a report filed this week in U.S. District Court. Even when investigations were completed, the city failed to notify group home operators for more than a year of the results, she

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said." The Post adds, "Nurses cited for neglect continue to work in group homes, the monitor found. Also, the District missed a 90-day deadline this month that was designed to address some of the court's most pressing concerns -- and demonstrate the city's ability to make meaningful changes in the care of its most vulnerable citizens. … Jones's comments were part of another blistering quarterly review in a 30-year-old lawsuit against the District that centers on the quality of care for persons with mental retardation, many of whom also have severe physical disabilities. In November, her report found that a pattern of neglect had led to four deaths in the past year. … The new report was prepared in advance of a hearing Thursday before Judge Ellen Segal Huvelle. The judge had given the city's Mental Retardation and Disabilities Administration until Feb. 10 to show improvements in the system, which serves about 2,000 people."

South Carolina Judge Apologizes After Barring Dog From Court. The AP (2/24) reports, "A North Charleston (SC) municipal judge says he is sorry if he offended a man using a medical service dog by questioning the man for bringing the animal into a courtroom." The AP continues, "Bob Godfrey removed his golden retriever from court Feb. 8 after Municipal Judge George Epps berated him for bringing her into the room. … But judges cannot bar medical service animals from court, a U.S. Justice Department spokesman said. … 'Assuming that the person with a disability is using an appropriately trained animal, the assistance animal should be admitted ... unless the animal presents a direct threat to others,' said Eric Holland of the Justice Department, which enforces the Americans with Disabilities Act." The AP adds, "Epps told The (Charleston) Post and Courier on Wednesday he didn't know dogs could be trained to pick up people if they fall. … That is why Godfrey travels with Jasmine, who also alerts him to high-pitched sounds he cannot hear, such as sirens. Godfrey said he is prone to falling because he has rods and screws in his back following an automobile accident. … 'It takes its little hands and helps pick you up,' Epps said to Godfrey in court according to an audiotape of the discussion. 'What does that dog do besides not supposed to be in this building? ... You ought to know better than to bring a dog into a courtroom. That just really upsets me.'"

Maine Misses Deadline For Voter Registration Law Compliance. The Bangor Daily News (Maine) (2/24) reports, "Despite receiving $17 million in federal money for a town-by-town upgrade of the state's voter registration system, Maine has missed its Jan. 1 completion deadline and is dropping the software contractor it hired to do the job." The News continues, "Secretary of State Matt Dunlap acknowledged Wednesday that the contractor would be paid about 12 percent of the value of its $4.5 million contract with the state, or $500,000. … Many states have fewer, county-based voter registration systems. Maine, with 503 towns and distinct voter lists, differs greatly, he said." The News adds, "In the meantime, computers bought with the federal money are sitting idle in town offices until the system is running. … They're not likely to be on line by the June primary election, but Dunlap hopes the system will be running by the Nov. 7 general election. … The state is parting with Covansys Corp., a technology services company based in Farmington Hills, Mich. It was hired to develop a centralized voter registration system to replace Maine's antiquated system of town-by-town registration." The News notes, "A U.S. Justice Department official would not comment Wednesday regarding the Jan. 1 compliance issue. … 'We are currently in communication with various states, and we are evaluating each individual state's situation. At the conclusion of that evaluation, we'll determine what type of actions, if any, should be taken,' said Eric Holland, the Justice Department spokesman."

DOJ To Intervene In Pennsylvania Voting Suit. The AP (2/24) reports, "The Justice Department plans to intervene in a lawsuit over voting machines in Westmoreland County, which could affect other counties in the state." The AP continues, "Assistant Attorney General Wan J. Kim sent a letter to state and county officials warning that a federal lawsuit will be filed within 10 days, county officials said Wednesday. … A citizens group successfully sued in Commonwealth Court to stop the county from buying new touch-screen voting machines because the county didn't first hold a referendum to let voters approve the new machines. That's required under the state constitution, but federal officials -- and the county commissioners -- argued that was superseded by the Help America Vote Act." The AP adds, "The federal law provides funds so counties can update their voting machines to prevent recounts and other problems like those that plagued the 2000 presidential election."

Indiana Man Seeks Office After Federal Firearms Conviction. The Fort Wayne Journal

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Gazette (2/24, Mapes) reports, "A LaGrange County (IN) man with a federal felony record believes he should still be allowed to run for county office. … At least three county residents, however, have challenged Nathan K. Lumbard's candidacy." The Gazette continues, "The 23-year-old Howe resident filed to run in the May primary as a Democratic candidate for the LaGrange County Council. … Clerk Beverly Elliott said one challenge came from Lumbard's district, while the two others were just concerned citizens. … Lumbard's case will go before the LaGrange County Election Board on March 7, Elliott said. State law prohibits convicted felons from holding political office." The Gazette adds, "Lumbard was convicted on two counts of making false statements on federal firearms forms in August 2004. … During jury deliberation, Lumbard fled the federal courthouse in South Bend and was found a few weeks later in Mexico. He was sentenced to 21 months in federal prison. … Lumbard said the federal charges stemmed from an application to purchase a gun. At the time he completed the application, he faced felony theft and intimidation charges in LaGrange County. … Even though those charges were later dropped, he still was required to include them in his application, but didn't, investigators said." The Gazette notes, "Lumbard said he believes LaGrange County Prosecutor Jeff Wible pressured federal authorities to prosecute him. … 'I believe some of the motive was political,' Lumbard said. … Wible dismisses that notion. … 'I have no control over the U.S. Justice Department,' he said. 'What would the political motivation have been?' … Even if Lumbard is cleared to run for office, he may still face charges related to a LaGrange arson case from February 2004."

States Move To Restrict Picketing At Funerals. More than a dozen states have moved to restrict picketing at funerals after a small religious group staged anti-gay protests at funerals fro US troops killed in Iraq. USA Today (2/24, Brook, 2.31M) reports, "The rare action focused on a single person, the Rev. Fred Phelps of Westboro Baptist Church in Topeka, has raised concerns about how to balance protesters' First Amendment rights and mourners' rights to be shielded from offensive messages." USA adds, "Westboro Baptist members picket military funerals, holding signs with such messages as 'Thank God for IEDs' and 'God Hates Fag Enablers.' They say God is punishing America for tolerating gays."

Author Says Supreme Court Should Stay Out Of Texas Redistricting. In a Los Angeles Times op-ed (2/24), American Enterprise Institute visiting fellow Edward Blum says that as the Supreme Court takes up the Texas redistricting case, as "controversial as the Texas remap was, courts shouldn't get entangled in what the late Justice Felix Frankfurter called the 'political thicket' of partisan redistricting. If political gerrymandering is a problem, it should be resolved by the voters, state by state and jurisdiction by jurisdiction." The Texas "mid-cycle remap was out of the ordinary, and DeLay made no secret of his desire to add Republicans to the Texas congressional delegation. But is that, per se, unconstitutional? No, it's not."

ANTITRUST:

BlackBerry Patent Dispute Nears Courtroom Showdown. Reuters (2/24, Kaplan) reports, "The maker of the BlackBerry portable e-mail device faces a courtroom showdown on Friday in a patent infringement case that could lead to a shutdown of the service for millions of U.S. users." Reuters continues, "Barring a last-minute settlement, lawyers for BlackBerry maker Research In Motion Ltd. are due to appear before a federal judge at 9 a.m. to try to head off an injunction that would cut service to most of the more than three million U.S. BlackBerry customers." Reuters adds, "The Canadian company's lawyers will try to convince U.S. District Judge James Spencer in Richmond, Virginia, that an injunction cutting service would be premature and contrary to the public interest. … 'I'd say it's really a close case,' said Steve Maebius, a patent lawyer with the firm Foley & Lardner LLP. 'It's hard to say what (the judge) will do.'" Reuters notes, "NTP Inc. filed suit against RIM in 2001 in U.S. District Court for the Eastern District of Virginia. A jury found in favor of privately-held NTP in 2002. … In 2003, Spencer granted an injunction that would have halted U.S. sales of the BlackBerry and shut down its service, but stayed the injunction pending appeal. … An appeals court in August of 2005 scaled back the ruling against RIM, but upheld some patent infringement claims. Subsequent appeals have been turned down."

BlackBerry CEO Refused Settlement Offer Last Year. The Wall Street Journal (2/24, Heinzl, Sharma) reports, "Late last year, a tiny patent firm threatening to shut down BlackBerry maker Research in Motion Ltd. offered a deal: For about $1 billion, it would go away. … Many customers and

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investors expected RIM's chairman and co-chief executive, Jim Balsillie, to pay up. They were hoping to avoid interruptions in the wireless email service that millions of lawyers, government workers and other professionals rely on. … Instead, the 45-year-old triathlete doubled down on his high-stakes bet. He pressed engineers to hurry development of new software that skirts the patent claims made by NTP Inc. Behind the scenes, he reached out to customers including wireless phone companies that sell the BlackBerry service, some of which were growing anxious about his hardball stance." The Journal adds, "Mr. Balsillie says fighting NTP tooth and nail is a gamble worth taking because NTP's patents are "committed to the garbage bin." Not everyone is so sure. Many expect RIM to settle eventually -- it came close to doing so last year -- and fear any savings on patent royalties won't make up for the damage to BlackBerry's brand and customer loyalty. Mr. Balsillie says he has always preferred a settlement but calls NTP's terms unreasonable. … Lawyers for the two sides are scheduled to appear today before Virginia federal court Judge James R. Spencer. He could decide as early as today on NTP's request for a shutdown of BlackBerry sales and service in the U.S., where most of the world's 4.3 million BlackBerry users live."

Microsoft Takes EU Dispute Public With Posting Of Defense. The AP (2/24, White) reports, "Microsoft Corp. took the unusual step Thursday of making public its formal response to European Union charges that it was failing to comply with a 2004 antitrust ruling." The AP continues, "The response, which companies usually keep confidential, was filed on Feb. 15 as the EU threatened the Redmond, Wash., software company with daily files of $2.38 million." The AP adds, "Microsoft said it believed it was in full compliance with the technical documentation EU regulators had demanded in 2004 to help rival software firms develop products that worked with Windows servers. … 'It also details numerous ways in which the Commission had ignored key information and denied Microsoft due process in defending itself,' the company said in a statement posted on its Web site along with its 78-page response and several appendices." The AP notes, "The EU denied similar complaints from Microsoft earlier, saying it had repeatedly reminded Microsoft of the need to provide 'complete and accurate specifications.' … Microsoft said it also was publishing two reports from software engineering professors who had examined the technical documentation created by Microsoft."

The Times (2/24, Doran) reports that Microsoft "stepped up its antitrust battle with the European Commission by publishing letters between Steve Ballmer, its chief executive, and Neelie Kroes, the EU Competition Commissioner, to show that it had complied with a Brussels mandate to allow competitors access to its technology. … The letters relate to a 2004 order that the American software company allow access to its so-called group server operating system software to competitors. In December Mrs Kroes accused Microsoft of failing to comply with the order and it faces the prospect of fines of €2 million (£1.4 million) a day." The Times adds, "Microsoft said last night that it had decided to publish the letters on the internet to show that it had made every effort to comply with its ruling. 'Transparency is vitally important in what can be a very opaque process in Brussels. We have decided to open this up so people can understand the issues,' said Horacio Gutierrez, a lawyer for Microsoft. … In a letter to Mr Ballmer dated November 9 last year, Mrs Kroes said that she was not satisfied with the speed of Microsoft's compliance with the order but was encouraged by the actions it had taken. 'I have been somewhat disappointed by the pace at which issues of compliance have been solved so far . . . I however take note of your unambiguously stated commitment to comply fully with the March 2004 decision,' she wrote. … In a reply written on December 15 — only six days before the Commission threatened to fine Microsoft €2 million a day for alleged non-compliance with the order — Mr Ballmer assured Mrs Kroes of the company's efforts to meet and go beyond the Commission's demands. He wrote that technical documents requested by the EU had been provided partly on paper and partly on CD. He also asked Mrs Kroes to let him know whether she needed help to access the documents on CD."

The Wall Street Journal (2/24, Jacoby) reports, "Faced with the prospect of large daily fines for not complying with European antitrust orders, Microsoft Corp. plans to argue in a hearing next month that regulators keep changing their minds about what they want the software giant to do to comply." The Journal continues, "The argument was outlined in a document Microsoft delivered confidentially to European Union antitrust authorities Feb. 15. The company made its response public yesterday amid its intensifying antitrust problems. EU antitrust authorities have 'moved the goal posts on us but have deliberately refused to articulate' what will satisfy them, Horacio Gutierrez, Microsoft's general counsel for Europe, said in an interview. … 'We have not moved the

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goal posts,' EU spokesman Jonathan Todd responded. 'What we require is compliance with [the EU's] March 2004 decision, which is written in black and white.'"

Boston Scientific Files For EU Approval Of Guidant Acquisition. The AP (2/24) reports, "Medical device maker Boston Scientific Corp. said Thursday that it has filed all the required paperwork with European regulators for its acquisition of Guidant Corp. … Boston Scientific has said in the past it expects to close the deal by the end of March." The AP continues, "After a long bidding war with Johnson & Johnson, Boston Scientific made a winning $27.2 billion bid for Guidant, or for $80 per share in cash and stock, in January. J&J had originally offered $25.4 million for the company in December 2004, but cut that bid down to $21.5 million by November after a summer of Guidant recalls. … Part of the agreement calls for Boston Scientific to sell Guidant's vascular intervention and endovascular businesses to Abbott Laboratories Inc. for $6.4 billion in cash with the two companies sharing rights to Guidant's line of drug-coated stents. The move is expected to speed up antitrust approval. Boston Scientific said that Abbott filed their paperwork with European regulators along with the company. … However, the Federal Trade Commission has not been able to comment on when the deal's regulatory review will be completed."

Guidant Cited For More Defibrillator Manufacturing Violations. The AP (2/24, Heher) reports, "Medical device maker Guidant Corp. failed to get the necessary federal approval for changes it made to a line of defibrillators, waiting more than a year to tell regulators it had repaired software in the devices, according to inspection documents released Thursday." The AP continues, "The inspection report by the Food and Drug Administration said a memory disruption flaw in Guidant's Prizm, Prizm 2 and Vitality pulse generators could cause the defibrillator to incorrectly administer an electric shock to a patient's heart. .. A company spokesman said Indianapolis-based Guidant notified the FDA about the malfunction problem in August 2002, when it was first discovered." The AP adds, "The company developed software to fix the problem in May 2004, nearly two years after the first of four confirmed malfunctions was discovered. But it did not submit the change to the FDA until August 2005, inspectors said. … Inspectors discovered the omission this month as part of their 21-day examination at Guidant's St. Paul, Minn., facility."

EU Approves Cisco Systems' Plan To Purchase Scientific-Atlanta. The AP (2/24) reports, "The European Union on Thursday cleared Cisco Systems Inc.'s proposed $6.9 billion purchase of Scientific-Atlanta Inc., saying the combination will not pose any antitrust problems in the European Union." The AP continues, "Cisco makes an assortment of networking gear while Scientific-Atlanta makes set-top-boxes for cable operators. But there is only "limited overlap" in their activities in Europe in cable modem and gateway products and even less in wireless mesh network products, set-top boxes and optical transmission products, the European Commission said in a statement." The AP adds, "The European Commission said that 'the new combined entity would continue to face a number of strong competitors and that new market opportunities, as well as relatively low barriers to entry, may attract new entrants. … Furthermore, buyers maintain competition in these markets by switching suppliers relatively often,' it added. … U.S. regulators raised no objections to the deal either, allowing the waiting period for their review to expire at the end of 2005 without taking any action."

South African Antitrust Body Bars Sasol-Engen Merger. The AP (2/24) reports, "A proposed merger between South Africa's Sasol Ltd, a synthetic fuels and chemical company, and Engen, a fuel retailer, was prohibited Thursday by the country's antitrust body." The AP continues, "In a statement, the Competition Tribunal said it had barred the merger between the country's largest refiner of white fuels and the largest retailer of these products, as the merged entity 'would enjoy a near-monopoly of refinery capacity and a retail market share in the inland market that is considerable.' … It said the merged entity could withhold supplies of refined products from other marketers of fuel in South Africa's inland regions." The AP adds, "The tribunal's decision is the second blow to Sasol this month, closely following Finance Minister Trevor Manuel's announcement in his Feb. 15 budget speech that a task force is to be appointed to investigate 'windfall gains' in the synthetic fuel industry."

Icahn Ratchets Up Pressure By Boosting Bid For KT&G. The Financial Times (2/24, Politi) reports, "Carl Icahn, the US financier, on Thursday increased the pressure on the management of KT&G, the Korean tobacco group, by launching a bid to acquire the company for 60,000

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won a share. .. The bid is a 17 per cent premium to Thursday's market capitalisation of KT&G of Won8,300bn or $8.5bn." The Times continues, "The move was disclosed in a letter to Kwak Young-Kyoon, representative director of KT&G, in which Warren Lichtenstein, an associate of Mr Icahn in the takeover fight, launched another scathing attack on the company. 'You have flatly refused to listen to any of the proposals that we have made. In light of this, we have determined to make a proposal to acquire KT&G.' … KT&G said in a statement on Friday that it had received the letter and that it was given until February 28 to respond. … 'Until now, KT&G has not been able to confirm the true intent behind the proposal. The company does not have any further information as to whether the proposal will proceed,' it said." The Times adds, "Since building a stake of about 6.6 per cent in KT&G, with his partners, Mr Icahn has been agitating for the fast-growing ginseng business to be listed. A showdown is expected in the next few weeks, as three board members proposed by Mr Icahn will be put to a shareholder vote. … Mr Icahn's bid comes ahead of a visit by the company's management to the US next week to discuss their position with American shareholders. A meeting between KT&G and Mr Icahn may also occur, although it was unclear what effect the bid might now have on those plans, said people familiar with the matter."

UK National Grid Leading Bidder For New York Utility. The Wall Street Journal (2/24, Berman, Smith) reports, "British utility National Grid PLC emerged as the leading bidder in the $7 billion auction for New York utility and natural-gas distributor KeySpan Corp., people familiar with the matter said." Another "rival bidder could emerge with a sweetened offer…but for now National Grid appeared in the best position to clinch a deal. National Grid is making its offer in cash, these people said, a factor trumping the cash-and-shares offer from Consolidated Edison Inc. of New York." UK National Grid "has been trying to establish a larger footprint in the Northeastern U.S. by branching into natural gas. It owns utilities in four states that serve three million metered accounts."

The New York Times (2/24, Sorkin) adds, "If National Grid were to emerge as the victor, it would be the latest acquisition for the London-based company in a recent spree in the United States." UK National Grid "acquired Niagara Mohawk in upstate New York for $3 billion in 2000. Just this month, it agreed to buy the Rhode Island assets of New England Gas for $498 million." The Times notes, "KeySpan is the fifth-largest distributor of natural gas in the United States and the largest in the Northeast, operating utilities in New York, Massachusetts and New Hampshire."

ENVIRONMENT:

Report Claims Researchers Withheld Data On Chromium's Cancer Risks. The Washington Post (2/24, A3, Weiss) reports, "Scientists working for the chromium industry withheld data about the metal's health risks while the industry campaigned to block strict new limits on the cancer-causing chemical, according to a scientific journal report published yesterday." The Post continues, "The allegations, by researchers at George Washington University and the Washington-based Public Citizen Health Research Group, are based on secret industry documents obtained by the authors. … They come just days before the Occupational Safety and Health Administration is to announce its new standard for workplace exposure to hexavalent chromium -- a known carcinogen handled by 380,000 U.S. workers in the steel, aerospace, electroplating and other industries." The Post adds, "Documents in the report, published in the peer-reviewed online journal Environmental Health, show that the industry conducted a pivotal study that found a fivefold increase in lung cancer deaths from moderate exposures to chromium but never published the results or gave them to OSHA. Company-sponsored scientists later reworked the data in a way that made the risk disappear. … OSHA has not said what the new limit will be. But sources close to the agency have been told to expect a standard that would allow five times more exposure than it had initially proposed -- a shift that would be a victory for the industry, saving it billions of dollars in upgrades and plant closures."

USA Today (2/24, Weise) reports that the report, "published Thursday in Environmental Health" and "written by David Michaels of George Washington University's School of Public Health and Peter Lurie of the consumer group Public Citizen, charges that the industry misrepresented the dangers of hexavalent chromium in an attempt to thwart stricter workplace regulation. … The Industrial Health Foundation, an industry group, in 1998 commissioned a study of lung cancer mortality in workers exposed to the chemical at low, intermediate and high levels. The data came from four industrial plants, two in the USA and two in Germany, to provide a large-enough pool of workers for a statistically

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significant study. … The cancer risk was found to be elevated at the intermediate and high levels, according to the new paper. The authors charge that the research was completed in 2002 but not given to OSHA then, despite the fact that the agency was actively seeking all available data."

Young Opposes Proposed Renewable Energy Project. The Wall Street Journal (2/24, Harwood, 2.11M) reports in its "Washington Wire" column, "As Bush promotes renewable energy, Transportation Chairman Young targets one of the biggest proposed renewable projects on the East Coast: an offshore 'wind farm' of 130 turbines in Nantucket Sound. Young, calling the project 'controversial' and a potential threat to radar gear, proposes ban on wind turbines within 1.5 miles of shipping and ferry lanes."

FBI/DEA/ATF/USMS:

22 Arrested In Texas Crack Cocaine Investigation. KCBD-TV (2/23) reports on its Web site, "The DEA headed an 18-month investigation leading to a major drug raid on Thursday. The outcome: 22 people were arrested and four kilos of crack cocaine are now off Lubbock streets. … Local, state and federal agencies tell us the twenty-two arrests shut down an entire crack cocaine organization."

15-Member Crack Cocaine Ring Busted In Texas. The AP (2/23) reports, "Local and federal officials in Kingsville have dismantled an alleged 15-member crack cocaine ring that operated near churches and schools. The defendants were indicted after a yearlong investigation involving the Kingsville police, the South Texas Specialized Crimes and Narcotics Task Force and the Drug Enforcement Administration."

Supreme Court "Tea Decision" Seen As Strong Endorsement Of Religious Freedom Act. In Christianity Today (2/23), Kevin Eckstrom and Sarah Pulliam write about the U.S. Supreme Court ruling that allows a New Mexico sect to use hallucinogenic tea in religious rituals. Eckstrom and Pulliam say, "Some legal groups see Tuesday's Supreme Court 'tea' decision as an important precedent in religious freedom jurisprudence. Others see it as a harbinger of church-state relations under the Roberts court. But religious freedom advocates agree that the case means it will likely be harder for the government to limit expression after the ruling." The two add that the ruling was a strong endorsement of the Religious Freedom Restoration Act.

Morales Responds To Cancellation Of Bolivian Senator's US Visa. Reuters (2/23) reports, "Bolivian President Evo Morales criticized the United States on Thursday for canceling the visa of one of his closest confidantes in the leftist leader's first run-in with Washington since taking power a month ago. Sen. Leonilda Zurita, a leader of coca farmers whose battle cry was 'Long live coca, Death to Yankees!,' found out her multiple-entry U.S. visa…had been canceled when she tried to travel to Miami." According to Reuters, State Department Deputy Spokesman Adam Ereli said Zurita's visa was revoked after information was received about her, but he declined to elaborate. "With much respect, I want to tell the U.S. government not to confuse us with some parties implicated in drug-trafficking," said Morales.

British Task Force Seen As Arriving Too Late To Hinder Afghanistan Poppy Harvest. The UK's Herald (2/24) reports, "The 3300-strong British task force is being sent to Afghanistan two months too late to hinder the harvest of a record poppy crop destined to end up as heroin on the streets of Scotland. The troops deploying to Helmand province on a mission to help eradicate the narcotics' trade in the Taliban's southern heartland will not be fully in position before July. But local farmers will harvest the raw opium resin, which accounts for 90% of all heroin sold in the UK, in May," according to the United Nations Office on Drugs and Crime.

FBI Agent Testifies At Maryland Arson Trial About Items Found At Scene. The Washington Times (2/24, Wagner, 90K) reports FBI Special Agent Margo Barter agent "in the trial of the last two defendants in the biggest arson case in Maryland history testified yesterday about evidence found at the crime scene, including buckets and containers used to carry flammable liquids. … Mrs. Barter was among eight witnesses to testify yesterday" at the trial of Roy T. McCann Jr. and Michael M. Everhart," but "none of the testimony or evidence presented…linked the defendants to the conspiracy."

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IMMIGRATION:

SEIU Official Backs Bush Guest Worker Proposal. Eliseo Medina, vice president of the Service Employees International Union, the nation's second-largest union, supports President Bush's guest worker program. The New York Times (2/24, Swarns, 1.19M) reports that while Medina's stance "has helped solidify his role as a prominent national labor leader," it is also "roiling the nation's unions. If such a plan is passed by Congress, it could result in the largest reshaping of immigration policy and the workplace in decades. … The disagreement among labor leaders over the guest worker plan, which has simmered mostly behind closed doors, has been overshadowed in recent months by the fractious debate among Republicans about how to handle the swelling population of illegal workers in the United States. But the guest worker plan is also generating tensions among those on the left, particularly in the nation's labor movement."

Texas Writer Says Most Illegal Aliens Seek Only To Improve Quality Of Life. Marisa Treviño, a freelance writer in Dallas, in an op-ed in USA Today (2/24, 2.31M) writes that the "bad guys" contributing to "increasing violence along our southern border" come from "two groups: warring drug cartels and 'coyotes,' who smuggle people across the border." Meanwhile, "Rep. F. James Sensenbrenner…recently said, 'A lot of the people coming across the border are criminals and potentially terrorists.'" Though "28% of federal inmates are non-US citizens," there has yet to be a Spanish-speaking illegal immigrant…jailed for being a terrorist." Treviño states, "There's no denying our fear of terrorists. What's not clear is why we should fear most illegal immigrants whose sole intent is to improve their quality of life."

TAX:

Deutsche Bank Reportedly In Settlement Talks With DOJ On Tax Shelters. The New York Times (2/24, Browning) reports, "Deutsche Bank is in talks with the Justice Department in an effort to settle a criminal investigation over the bank's role in questionable tax shelters, people briefed on the case say." The Times continues, "This month, a smaller German rival, the HVB Group, reached a nearly $30 million agreement with prosecutors while acknowledging 'criminal wrongdoing' in helping to carry out fraudulent tax shelter transactions." The Times adds, "For Deutsche Bank, the path toward a settlement may be rockier, in part because it had a much larger role in the creation of some questionable tax shelters and the transactions underpinning them, investigators have said. A potentially larger obstacle, say the people briefed on the case, is that Deutsche Bank appears unable to account for a number of those transactions. … In the past, Deutsche Bank has described the transactions it arranged for tax shelters, including ones known as blips and cobra, as regular and ordinary. … But Deutsche Bank has been unable to provide to federal prosecutors in Manhattan paper documents detailing some transactions for these shelters, according to the people briefed on the case. … The documents, if they exist, would detail, among other things, loans, trades and swaps of stock and derivatives and accounting records, frequently through offshore entities set up in the Cayman Islands. The transactions were used to generate artificial losses that were then improperly used by investors to offset legitimate gains from other taxable income."

Thomas Says Treasury Is Not First To Conduct Dynamic Analysis Of Tax Cuts. In a letter to the Wall Street Journal (2/24, 2.11M), House Ways and Means Committee Chairman Bill Thomas writes that a Journal article unfairly portrayed the work of the Joint Committee on Taxation on dynamic analysis. JCT "began developing macroeconomic models more than 10 years ago and issued its first official dynamic analysis for the 2003 Jobs and Growth Tax Relief Reconciliation Act. Even a Treasury Department document about its forthcoming division on dynamic analysis states, 'This type of analysis is already being done by the Joint Committee on Taxation...' … I share the view that the proposed effort by Treasury to better understand the macroeconomic effects of tax policy is good news, but no one should assume that they are the first to make this effort."

CONGRESS-ADMINISTRATION:

Democrats Aim To Turn Drug Benefit Into Liability For GOP. Democratic lawmakers across the country are using this week's congressional recess to attack the new Medicare drug benefit. They have planned more than 100 forums to portray the benefit as "deeply flawed" in an effort to turn the program, which some saw as a plus for the

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GOP, into a political liability going into this year's elections. The Wall Street Journal (2/24, Lueck, 2.11M) reports that Democrats hope to "tie troubles with the drug benefit to broader campaign themes: that the Republicans are too cozy with big industries and that the Bush administration stumbles when responding to crises. To that end, Democrats are noting that private health insurers -- not the government -- design and administer the drug plans, and that drug makers are protected from negotiating prices directly with Medicare." The Journal also reports that Republicans "say Democratic carping will discourage people from signing up -- an outcome that Democrats, who have long supported drug coverage in Medicare, say they don't want."

Kinsley Says Medicare Drug Benefit Is "Doomed." Michael Kinsley writes in the Washington Post (2/24, A15, 744K) that the drug benefit, "Bush's only major domestic accomplishment in six years," has not "achieved its intended purpose of cementing the affection of senior citizens for the Republican Party." Kinsley adds that "even if this subsidy to senior citizens survives its rocky premiere, it is doomed. Simple transfers of money cannot keep up with the rising cost -- and rising benefit -- of pharmaceutical drugs."

LATimes Says Administration Should Make Better Use Of Generic Drugs. An editorial in the Los Angeles Times (2/24, 958K) says it is "baffling that the Bush administration is not making better use of one of the best savings tools available: low-cost generic drugs. There are more than 800 generic-medication applications awaiting approval from the Food and Drug Administration -- an unprecedented backlog. … A larger dose of generic drugs is one of the few no-brainers to keep the nation's healthcare bill from growing even larger."

Government To Pay Employers To Keep Retiree Health Care Plans Alive. A new study by Credit Suisse First Boston says America's largest companies expect to be paid $4 billion over the next four years by the Federal government in order to keep their retirement plans alive. The New York Times (2/24, Walsh, 1.19M) reports, "When Congress authorized the Medicare drug benefit, it also agreed to start subsidizing the drug component of employers' retiree health plans, to keep them from shifting their retirees into the government program. The goal is to save the government money, even after the subsidies, while giving the retirees a better deal than they might get if they were pushed into Medicare." The Times adds, "With the program just starting its first year, it is not yet clear whether the subsidy will achieve its goals."

Senators Offer Key Points For Inclusion In Lobbying Reform Bill. A bipartisan group of Senators said yesterday that lobbying and ethics overhaul legislation that the Senate will soon consider should include provisions on gifts, travel and promises of lobbying jobs. The senators also said the measure should include greater openness about earmark projects. The AP (2/24) reports, "The bipartisan group of senators includes Rick Santorum, R-Pa.; John McCain, R-Ariz.; Russ Feingold, D-Wis.; and Barack Obama of Illinois, the Democrats' spokesman on the lobbying issue."

ACU Blasts McCain Lobbying Reform Bill. The Washington Times (2/24, Pierce, 90K) reports in its "Inside Politics" column, "The American Conservative Union (ACU), in an e-mail this week to right-wing activists and the press, denounced [Sen. John] McCain's Lobbying Transparency and Accountability Act of 2005 as an attack on the First Amendment. … Mr. McCain's latest legislation 'is masquerading as a "lobbying reform" measure but essentially this cruel hoax against the American people has very little to do with reforming lobbying and has just about everything to do with shutting you up and stripping you of your First Amendment rights,' the ACU said." The ACU "urged its members to send 'urgent Blast Fax messages to President George W. Bush and all 55 Republicans in the United States Senate,' telling them that the lobbying bill 'is nothing more than a cleverly disguised attempt to cut average Americans like you out of the political equation.'"

Lott May Offer Competing Lobbying Reform Package. The Wall Street Journal (2/24, Harwood, 2.11M) reports in its "Washington Wire" column, "Reformers battle flagging interest and internal discord on lobbying rules. Vulnerable Sen. Santorum of Pennsylvania, Republicans' point man on the issue, may face internal competition in advancing changes. Rules Chairman Lott is preparing his own package; his potential return to Senate leadership may hinge on a Santorum November defeat opening up a slot."

OTHER NEWS:

Net Worth Of Median US Family Rose 1.5% Between 2001-2004. A Federal Reserve report said the net worth of the typical American family has increased

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only 1.5% after inflation between 2001 and 2004. Between 1998 and 2001, the n et wroth of the median American family rose 10.3%. NBC Nightly News (2/23, story 9, :30, Williams) reported, "The bursting of the stock market bubble, the recession back in 2001,and some big job losses in the early part of this decade contributed to what turns out to be a 2.3% drop in family incomes in the United States. That same average soared by 17.3% in the 1998-2001 period." The Wall Street Journal (2/24, Conkey, 2.11M) reports, "The report, the most comprehensive survey of household wealth, also found a widening of the gap between households at the top and the bottom of the economic ladder."

USA Today (2/24, Kirchhoff, 2.31M) reports that the Fed report also said "the median net worth of the bottom 40% of families declined, while those at the top saw gains. The percentage of families investing in stocks fell 3.3 percentage points to 48.6% from 2001 to 2004, a level last reached some time between the 1995 and 1998 surveys."

The Fed's Survey of Consumer Finances also reported that home prices grew 27% during the survey period, the Washington Post (2/24, D2, Henderson, 744K) reports. The report also notes that "the share of households owning homes rose to 69.1 percent in 2004."

New Claims For Unemployment Benefits Declined Last Week. The Labor Department reported yesterday that new claims for unemployment benefits fell last week, the first such decline since January. The Wall Street Journal (2/24, 2.11M) reports, "Initial jobless claims dropped by 20,000 last week to a seasonally adjusted 278,000 after rising by the same number the week before. … The Labor Department said the number of workers drawing unemployment benefits for more than a week rose in the week ended Feb. 11, the latest week for which such data are available. These continuing jobless claims climbed by 41,000 to 2,495,000."

Stocks Decline Amid Fears Of Continued Rate Hikes. Stocks posted declines yesterday amid reports of a strong job market sparked fears that the Fed will continue increasing interest rates. USA Today (2/24, Krantz, 2.31M) reports that the Dow Jones industrial average lost 67.95 points to 11,069.22. The Standard & Poor's 500 declined 4.88 points to 1287.79 and the Nasdaq dropped 3.85 points to 2279.32. NBC Nightly News (2/23, story 10, :10, Williams), the Washington Post (2/24, D3, 744K), the Wall Street Journal's (2/23) web site and Bloomberg News (2/24) all report the stock market declines.

Mehlman Says Katrina, Recount Aftermath Hurting GOP Outreach To Blacks. Republican National Committee Chairman Ken Mehlman said the flawed Federal response to Hurricane Katrina and ongoing mistrust caused by the 2000 presidential vote have complicated the GOP's efforts to build support among African Americans. The Washington Times (2/24, DeBose, 90K) reports Mehlman said, "Katrina has made it harder because people saw a government at every level -- federal, state and local -- not operating the way it should." The Times adds the RNC chief "added that the constant rehashing of blunders and mistakes associated with the slow emergency response -- without talking about policies to deal with issues of poor education, inadequate work-force readiness and poverty that left many blacks more vulnerable to the storm's devastation -- hasn't helped either." Mehlman said he "has learned much in his 46 conversations with minority communities coast to coast. He said that the primary issues blacks care about are education, health care, jobs and opportunities to build wealth, but that since the fall he has heard an earful – 'and rightfully so' -- about Katrina at every stop."

Hillary Clinton Enlists Carville, Begala To Raise Funds. The AP (2/24, Humbert) reports Sen. Hillary Rodham Clinton "has turned to two of the masterminds behind her husband's 1992 presidential victory -- James Carville and Paul Begala -- to raise money needed to keep her in the Senate and possibly help finance a White House run of her own." The "tag-team money appeal began Wednesday when potential Clinton donors received an e-mail from Begala warning that 'Election Day is eight months away, but the Republican attack machine is going after Hillary Clinton big-time.'" Carville's "turn came Thursday. His e-mail cautioned that 'the GOP knows how to win and they play for keeps.'"

Democrats Weigh Clinton Nostalgia Versus Fatigue As Factor In Hillary Run. The Charlotte Observer/Knight Ridder (2/24, Thomma) reports that as they "ponder how to win back the White House, many Democrats fear that the early front-runner for their party's 2008 presidential nomination, Sen. Hillary Rodham Clinton, carries so much baggage that she'd drag the party down to defeat." Party insiders "think she'll enter the race shortly after her expected re-election as a New York senator later this year - with a $50 million head start on fundraising toward 2008. But ominous signs abound, and together they suggest that her campaign

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would conjure a clash between the lure of Clinton nostalgia and the fear of Clinton fatigue."

Texas House Republicans Rally For DeLay. The AP (2/24, Benjaminson) reports Rep. Tom DeLay "was likened to Stonewall Jackson, Lyndon Baines Johnson and a courageous World War I officer Thursday as members of the Texas Republican congressional delegation joined the former House majority leader to endorse his re-election." The "unusual display of GOP solidarity was remarkable for DeLay, who is aggressively campaigning for re-election to the seat he has held comfortably for 22 years." The Republicans "took turns singing DeLay's praises as a selfless leader who not only helped get them elected, but also won Republican majorities in Congress and the Legislature, and brought home the bacon for NASA, the port of Houston and other local needs."

Schwarzenegger Faces Questions From Right At GOP Convention. The AP (2/24, Blood) reports Republican Gov. Arnold Schwarzenegger today "arrives at an early juncture in his re-election campaign -- a keynote speech at the state Republican Party winter convention in San Jose -- with conservatives openly questioning why they should support him." Is Schwarzenegger "the governor who sought new power to choke off state spending in 2005, or the one who this year called for record borrowing and submitted a budget that doles out $6 billion more than the state will collect in taxes?" GOP strategist Arnold Steinberg said, "When you look at the gyrations in his policies, it appears he's plagued by an absence of core values. He comes across as a caricature, where energy and enthusiasm are confused with core values." The AP adds Schwarzenegger has "disputed suggestions of a new direction in 2006." Conservatives at the convention "have proposed resolutions that challenge Schwarzenegger's positions on the minimum wage (he wants it increased $1 over two years, to $7.75 an hour), judicial appointments (he has named nearly as many Democrats as Republicans to the Superior Court), and spending and borrowing."

Robinson Says Summers Was "Terrible Politician." Eugene Robinson writes in the Washington Post (2/24, A15, 744K) that Harvard University President Lawrence Summers' "is being forced to resign because, as brilliant as he is…he proved to be a terrible politician. That alone is reason for him to have to go." Robinson adds that there is "also the question of the direction in which he sought to lead Harvard." In the end Summers' great strength "was a passionate commitment to undergraduate education. Students liked him and sensed that he cared about them, and it's good that after a sabbatical he will return to the Harvard faculty."

US Won't Join Iran Nuclear Negotiations. The AP (2/24) reports, "The Bush administration rejected on Thursday a suggestion by former German Foreign Minister Joschka Fischer that the United States join now-sidelined European negotiations designed to stop Iran from developing nuclear weapons." Fischer said, "It would be really helpful if the United States could join," adding, "Europe is not strong enough."

Pace Says Need For Military Action In Iran Is "A Long Way Away." The Washington Times (2/24, Gertz, Scarborough, 90K) reports in its "Inside the Ring" column, "Marine Gen. Peter Pace, Joint Chiefs chairman, dampened speculation during a National Press Club appearance that military action against Iran is near. 'I believe that the international community has many, many, many diplomatic, economic, other opportunities to influence Iran -- not only the United States, but all the international community -- to affect the way that Iran is acting in the world,' he said. 'So from where I stand, from where I sit, we are a long way away from needing the military option.'"

Rice Visits Lebanon To Showcase "Democratic Success Story." Secretary of State Condoleezza Rice visited Beirut. The AP (2/23, Gearan) said Rice "hinted Thursday the United States would welcome the exit of Lebanon's pro-Syrian president. She praised democratic progress by other leaders in the country's fractured sectarian politics." The AP offered a reason for the Beirut stop: Rice's Middle East trip "has seen US allies snub her efforts to halt aid to a Hamas-led Palestinian government. But the journey has also let her highlight an emerging democratic success story in the region, with nearly a year passing since a flowering of street protests forced Syrian troops to leave Lebanon after three decades of domination."

The Washington Post (2/24, A8, Kessler, 744K) says Rice "snubbed the pro-Syrian president of Lebanon…deliberately not scheduling a meeting with him." The Secretary "disavowed any motive in the diplomatic slight,

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but it appeared calculated to undercut" Emile Lahoud. Knight Ridder (2/24, Strobel) reports Rice was "hoping to further isolate neighboring Syria and shore up Lebanon's fragile sovereignty."

Continued Hamas Funding Called "Setback" For Rice. Iran offered to fund the Hamas-lead Palestinian Authority even as Suadi Arabia refused to stop sending aid to the government. The Washington Times (2/23, Kralev, 90K) called the decisions "a setback for Secretary of State Condoleezza Rice." However, it notes that the Saudis "were more reserved than the Iranians," and "Saudi Foreign Minister Saud al-Faisal was vague about direct support for a Hamas-led government."

West Bank Sees Intense Fighting. Israeli soldiers and Palestinian gunmen clashed in the West Bank, leaving three gunmen and two civilians dead. The Washington Post (2/24, A9, Wilson, 744K) calls the fighting "some of the most intense since Israel and a dozen armed Palestinian groups agreed a year ago to abide by a cease-fire." Human Rights-Israel, an independent group based in Tel Aviv, "called Israeli gunfire 'indiscriminate.'"

Europe Considers Aiding Abbas. The New York Times (2/24, Smith, 1.19M) reports the EU "is considering making direct payments to the moderate Palestinian Authority president, Mahmoud Abbas, as a way of supporting him while trying to maintain financial pressure on Hamas, the anti-Israeli militant group that swept to power in elections last month." The Times adds the proposal, if adopted, "would be a reversal in policy." In a parenthetical note, the Times reports, "A senior State Department official said Thursday that the United States had not seen Mr. Solana's proposal but that while European and American tactics might differ, their common approach in general would be to use their leverage to persuade Hamas to change its position. He said it was too soon to say if the idea of circumventing a Hamas-led government and aiding Mr. Abbas would accomplish that objective."

At Least 10% Of Palestinian Legislators In Jail. At least 10% of the Palestinian legislators are in jail either on sentences or as security risks. The Washington Times (2/24, Mitnick, 90K) reports, "In a political system caught between liberation-movement militancy and a state in the making, time in an Israeli jail is a powerful resume builder for politicians and a potential electoral asset for political parties." However, to "ensure that Israeli prison authorities wouldn't abuse prisoners in an attempt to influence their votes," the "Palestinian parliamentary bylaws forbid them from casting votes until they are free."

Bolton Criticizes UN Rights Council Resolution. While UN Secretary General Kofi Annan said the resolution on a new Human Rights Council was, although disappointing, the best option for replacing the Human Rights Commission, US ambassador John Bolton criticized it as containing deficiencies now seeks its renegotiation. The New York Times (2/24, Hoge, 1.19M), leading with Annan's acceptance, reports that the Commission's replacement "has been seen as a test of whether the United Nations can meet demands for fundamental change in the organization." The Washington Post (2/24, A12, Lynch, 744K) leads with Bolton's dissatisfaction, although it notes, "Bolton did not rule out the possibility that Secretary of State Condoleezza Rice might still endorse the new rights council."

UN Approves Food Aid For North Korea, Agrees To Restrictions. The UN approved a $102 million food aid program for North Korea, including the limits the country demands on tracking food deliveries. The Wall Street Journal (2/24, Fairclough, 2.11M) reports that World Food Program executive director James Morris "said the agency will return to the bargaining table with North Korea to negotiate operating conditions 'that will allow us to do our work properly.' If Pyongyang won't give the WFP the access it needs, he said, it 'will be forced to withdraw.'"

Vatican Pushes Muslim Countries On Christians' Rights. Having supported Muslim calls for respect over the cartoons of Muhammad, the Vatican is now linking the issue to Muslim countries showing tolerance towards their Christian minorities. The Washington Times/Reuters (2/24, Heneghan) quotes Monsignor Velasio De Paolis, secretary of the Vatican's supreme court, "thundered" that "Enough now with this turning the other cheek. It's our duty to protect ourselves." The Vatican

South Korean Christians Link Rights, Evangelizing. Evangelical Christians in South Korea have linked human rights issue to spreading their faith. The New York Times (2/24, Onishi, 1.19M) reports, "The North Korean human rights issue has become so politicized that the actual plight of North Koreans is often emphasized or de-emphasized for other ends." For South Korea, "the issue of

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human rights in the North has been spearheaded by conservative Christians whose aim is to take their faith to the northern half of the divided peninsula." Christians in the South "have grown into the world's second-largest overseas missionary force after the United States'."

Arroyo Declares Emergency Rule In Philippines, Announces Foiled Coup Plot. Philippines President Gloria Macapagal Arroyo declared emergency rule after security forces said they'd stopped a coup plot and the commander of the Scout Rangers regiment is being held as an alleged leader. Demonstrations marking the twentieth anniversary of the "People Power" movement that ousted Ferdinand Marcos were canceled. The Wall Street Journal/AP (2/24) reports, "Clashes erupted as police used water cannons to disperse about 5,000 protesters defying a ban on rallying at a shrine to the 1986 'people power' uprising that toppled former President Ferdinand Marcos. The military barricaded its camps to keep troops from joining the demonstrations."

The Washington Post (2/24, A8, Sipress, 744K) adds that Ferdinand Marcos's "overthrow ushered in a period of sustained political turmoil." Now, "many Filipinos declare that East Asia's oldest democracy has failed," as "Philippine democracy is little more than a ruthless contest among rival clans" and "ordinary Filipinos have little way to channel their interests through the electoral system."

Arias Wins Costa Rican Recount. Oscar Arias narrowly won reelection as president from a ballot recount, although authorities have not yet announce a winner as they rule on voting irregularities complaints. The Wall Street Journal (2/24, Lyons, 2.11M) notes that this increases "the likelihood the nation will join a regional free-trade pact with the U.S.," although "the Congress in Costa Rica… has yet to ratify the accord" and the narrow victory will hinder Arias' to push it.

Indian Scientists Complain About Refused Visas. Just prior to President Bush's trip to India, three Indian scientists have complained about visa applications for the US. The New York Times (2/24, Sengupta, 1.19M) say the complaints "stirred a diplomatic tempest" and "prompted two unusual statements from the American Embassy in New Delhi expressing 'regrets.'" One of the scientists, Placid Rodriguez was "called by the consulate on Feb. 16" about his application to attend a March conference and "told it would take about eight weeks to review his answers to a new questionnaire." However, after the Embassy contacted him again, "Dr. Rodriguez did submit his completed questionnaire by e-mail. On Thursday, he said he received a call saying his visa had been approved."

The Washington Post (2/24, A12, Vedantam, 744K) adds that the "U.S. Embassy in New Delhi has granted a visa" to prominent scientist Goverdhan Mehta, but he "said that he had already canceled his travel plans." Officials say the "form letter saying 'you have been refused a visa,'" is "not a rejection but rather part of a conditional process aimed at obtaining additional information." Tony Edson, deputy assistant secretary for visa services, said "the department has greatly accelerated" visa approvals, but "acknowledged that many visa seekers have a very different impression of the application process."

Economist Advises Caution For Bush On India Trip. In its cover story, The Economist (2/23) says Bush "needs to avoid two kinds of mistake. The first, and most serious, would be to shower America's new friend with gifts that the United States can ill afford. Unfortunately, this has already happened" with his promise to share civilian nuclear technology." The second is "Mr Bush should also be wary of sending the wrong signal about America's intentions towards China." The commonly invoked idea "that India might somehow turn out to be a 'counterweight' to China" not only would fail, but "is liable only to reinforce China's fear that America's grand strategic design is to encircle it and block its rise as a great power." Bush also needs to "take care to ensure that friendship with India does not damage his close ties to Pakistan" and "not to tilt so far India's way that the Indians feel under no pressure to make concessions of their own" on Kashmir.

Credit Concerns Cause China To Hoard Bird Flu Samples. China's insistence on controlling bird flu samples it takes and the research performed on them put it at loggerheads with international health officials. The Chinese cite concerns that others will scoop research opportunities and worries over crediting Chinese scientists. The Wall Street Journal (2/24, A1, Zamiska, 2.11M) reports, "The standoff pits a high-ranking veterinarian in China's Ministry of Agriculture named Jia Youling against international health authorities leading the fight against bird flu." Since last summer, "China hasn't provided a single sample from its infected flocks, despite repeated requests by WHO amid the

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roughly 30 outbreaks the country has reported in the past 12 months," and "the genetic information contained in China's samples could help develop a more effective vaccine that could save countless lives."

Third Day Of Nigerian Street Violence Yields To Calm. After three days of rioting in Nigeria during which Christians attacked Muslims in retaliation for Muslim-on-Christian violence in the north, order has been restored. The New York Times (2/24, Polgreen, 1.19M) reports, "a semblance of the ordinary returned to the city's streets on Thursday." Many political analysts say the cartoons "were simply a pretext to act on very old grievances rubbed raw by political tensions." The Washington Post (2/24, A10, Timberg, 744K) adds in the first two paragraphs of its article, "Christian mobs… turned to disposing of the evidence in the crudest of ways" - burning bodies in the street - and the "Christian residents" of Onitsha "expressed little remorse" for the violence.

Moscow Roof Collapse Kills At Least 56. ABC World News Tonight (2/23, story 6, :20, Sawyer) reported, "At least 56 people were killed when a large roof collapsed over a market outside of Moscow. 32 people were injured. Investigators said heavy, wet snow on the roof may have triggered the collapse." The CBS Evening News (2/23, story 8, 0:20, Schieffer) reported the collapse "happened early in the morning but authorities say about 100 people were inside, most of them market employees." NBC Nightly News (2/23, story 3, 0:25, Williams) also reported the story.

O'Grady Urges Recognition Of Latin American Gains. Mary Anastasia O'Grady writes in her column in the Wall Street Journal (2/24, 2.11M) A "number of countries in" Latin America "are, in fact, making important progress" due to "heavy lifting in domestic politics," and "what matters most is acknowledging the gains, lest we become lost in the fog of partisan demagoguery." When "George W. Bush's political opponents…delivered some exquisite jeremiads on the subject of Latin American instability," they were "crocodile tears." In fact, "there is even an argument to be made that by stepping back, the Bush administration has encouraged a long-overdue maturation process of Latin governance," as "fundamentally what ails the region are matters of domestic politics that only locals can sort out."

WPost Supports Wolfowitz On Congo Debt Forgiveness Postponement. The Washington Post (2/24, A14, 744K) editorializes that the Congo "hopes to win approval of a reduction in its debt," but its "corrupt government keeps part of its oil revenue from showing up on its books, raising questions as to whether it deserves forgiveness." World Bank's president, Paul D. Wolfowitz, rightly argues that debt relief should be delayed," and his "proposed remedy is moderate. He suggests that Congo should adopt measures to reduce oil corruption" for three years before getting full debt reduction. Until then, "relief would flow into a carefully monitored poverty-reduction fund." It is best "to proceed slowly on Congo -- and send a needed wake-up call to other corrupt countries."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"Sectarian Violence Sweeps Iraq."
"Equal But Separate."
"Tollway Would Slice Through Coastal Park."
"Clerics Take Lead After Iraq Bombing."
"Striving To Save An Iconic View."
"Cohen Slips Into Second."
"Wal-Mart Says It Will Boost Health Benefits."

USA Today:

"2010 Outlook Bright For USA, Japan, But Not So For Russia."
"Iraq At Boiling Point As 100 Die."
"States Restrict Protests At Funerals After Kansas Church Causes Uproar."

New York Times:

"More Clashes Shake Iraq; Political Talks Are In Ruins."
"Violent Cycle Of Revenge Stuns Iraqis."
"Dubai Company Delays New Role At Six US Ports."
"A Night Of Nerves Is Settled On A Turn Of Elegance."
"Born Together, Raised Together, So Why Not In Classroom, Too?"
"After Hurricanes Come Tempests Over Cleanups."
"To Keep Twins In Same Class, Parents Seek Legislators' Help."

Washington Post:

"Legality Of Seaport Decision Challenged."

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"Sectarian Violence Kills Over 100 In Iraq."
"Hard Falls Persist For US At Olympics."
"Report Details Raines's Sway At Fannie Mae."
"Complaints Rise Against Md. Agency."
"Katrina Report Urges Retooled Disaster Plans."

Washington Times:
"Chertoff Unaware Of Ports Deal Until After OK."
"Ports Deal Defended On Hill; UAE Firm Says It Will Wait."
"Vatican Presses Muslims On Rights."
"Iraqi Fears Of Civil War Spur Curfew."
"Bombing Of Mosque Takes Rift To The Streets."
"Nationals Fans To See Fewer TV Games In '06."
"Kaine Ready To Call 'Extended Session.'"

Detroit Free Press:
"She Stopped The Slaughter."
"State Admits To More Errors."
"911 Caller: 'I Probably Could Have Been Next.'"
"Iraq Surges Toward Civil War."

Atlanta Journal-Constitution:
"Unregulated Donations Build Richardson Fund."
"Friend: I Took Cash To Mayor."
"Silver Slipper."
"Attacks Edge Iraq Toward Civil War."

Dallas Morning News:
"Schlosser Jurors Deadlocked."
"Dubai Company Agrees To Delay U.S. Ports Takeover."
"Chasm Widens In Iraq."
"Spills And Thrills In Skating Final."

Houston Chronicle:
"Arab Firm Agrees To Delay."
"A Fall For US, A Lift For Japan."
"Tensions Boil Over In Iraq."
"Money For Supplies Went To Paychecks."
"Ex-Exec Says She Stayed Despite Her Misgivings."

Story Lineup From Last Night's Network News:
ABC: Iraq Violence; Iraq Violence-US Troops; White House-Katrina Response; Dubai Ports Deal; Prostate Cancer Treatment; Moscow Market Collapse; UK Bank Heist; ITunes; Olympics; Olympic Skijoring.
CBS: Iraq Violence; Bush-Iraq Violence; White House-Dubai Ports Deal; Congress-Dubai Ports Deal; Rice-Dubai Ports Deal; White House-Katrina Response; Katrina-Pearlington, Mississippi ;Moscow Market Collapse; UK Bank Heist; CBS Broadcaster's Retirement; Autistic Basketball Player.
NBC: Iraq Violence; Iraq Violence-Analysis; Moscow Market Collapse; White House-Katrina Response; Dubai Ports Deal; Olympics-Athlete Profile; Olympics-Results; Conflicting Medical Reports; Federal Reserve-Family Income; Stock Markets; Erroneous Russian Posters; Olympics-Figure Skating.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Iraq Violence; Phoenix-Hostage Situation Ends; Moscow-Roof Collapse.
CBS: Port Deal; Iraq Violence; Report-Median Family Income; Chris Glenn Retirement.
NPR: Port Deal; Iraq Violence; Phoenix-Hostage Situation Ends; Wall Street; Philippines-Protests; Paris-Kidnapping Leader Captured.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH — Speaks on the war against terrorism before an American Legion gathering, Capital Hilton Hotel; meets with the President of El Salvador, Oval Office.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: No scheduled events.

US House: No scheduled events.

Other: INDIA-PAKISTAN _ 8:45 a.m. - 2:30 p.m. The Heritage Foundation holds a roundtable discussion on India and Pakistan on the eve of President Bush's trip. Highlights: 9 a.m. Session on trade an economics, with Ron Somers of the U.S.-India Business Coluncil and Esperanza Gomez of the U.S.-Pakistan Business Council. 12 p.m. Media luncheon with former Defense Secretary William Cohen. Location: Lehrman Auditorium, Heritage Foundation, 214 Massachusetts Ave. NE.

IRAN _ 9 a.m. Radio Free Europe/Radio Liberty holds a briefing by Alex Vatanka of Jane's Country Risk on Iran and international sanctions. Location: 4th floor conference room, 1201 Connecticut Ave. NW.

MUSLIMS-CARTOONS _ 9 a.m. The Newseum and the National Press Club hold a panel discussion on the rights, responsibilities and challenges of a free press in light of the protests over publication of cartoons depicting the Prophet Muhammad. Participants include Mamoun Fandy of Asharq Al-Awsat, Stephen Gram of Danish Broadcasting, Paul

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McMaster of the Freedom Forum, Signe Wilkinson of the Philadelphia Daily News, others. Location: National Press Club.

PENTAGON-IRAQ BRIEFING _ 9 a.m. Army Colonel Jeffrey J. Snow, commander of the 1st Brigade, 10th Mountain Division, will brief live from Iraq to give an update on ongoing security operations in Iraq. Location: DOD Briefing Studio, Pentagon 2E579.

KATRINA REPORT _ 10 a.m. The George Washington University Homeland Security Policy Institute holds a roundtable discussion on the White House report on Hurricane Katrina. Participants include James Carafano of the Heritage Foundation, Frank Cilluffo of the institute, Bruce Lawlor (formerly of DHS), and Dan Prieto of Harvard University. Location: Room 6115, 900 23rd St. NW.

ACLU-DOMESTIC SPYING _ 12:30 p.m. The American Civil Liberties Union holds a telephone briefing to discuss a new poll to gauge public opinion on the government's domestic spying program. Contacts: Mandy Simon, 202-675-2312. Notes: Callin number: 800-816-4134; passcode: 74848.

INDIA-NUCLEAR _ 1 p.m. Rep. Edward J. Markey, D-Mass., co-chairman of the bipartisan House Nuclear Nonproliferation Task Force, and Daryl Kimball, executive director of the Arms Control Association, host a conference call to discuss key concerns with President Bush's proposal to allow India to purchase nuclear fuel from the United States outside of the Nuclear Nonproliferation Treaty framework. Notes: For call-in number and passcode, please call 202-225-2836 and ask for Mike Disharoon or email tara.mcguinnessmail.house.gov.

LIBBY _ 2:30 p.m. Motions hearing before U.S. District Judge Reggie Walton in the case against former Cheney Chief of Staff Lewis Libby. Special Prosecutor Peter Fitzgerald is scheduled to appear. Location: Courtroom 5, U.S. District Court, 3rd St. and Constitution Ave. NW.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: FRIDAY, FEBRUARY 24, 2006 7:45 AM EST

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TERRORISM NEWS:

Gonzales Says NSA Surveillance Program "Remains A Valuable Tool." Attorney General Alberto Gonzales was asked on Fox News' Hannity and Colmes (2/23) about the NSA's domestic surveillance program. Gonzales said, "We believe this program has been effective, has been valuable, and these are the words from General Mike Hayden, the deputy director of national intelligence, from Bob Mueller, the director of the FBI. But we have to be careful about talking too much about the successes of this program and operational capabilities relating to this program. Much of the program has not been discussed publicly. It remains an effective program. We believe it has been compromised to some extent by the disclosures and by our discussions about the program, but it remains a valuable tool, and therefore, for that reason, I'm limited about what I can say about it."

Gonzales Calls Talk Of Bush Impeachment "Ridiculous." Attorney General Alberto Gonzales was asked on Fox News' Hannity and Colmes (2/23) about calls from some lawmakers for President Bush's impeachment because of the NSA program. Gonzales said that "talk about impeachment, in this particular case, is ridiculous. This is about a commander-in-chief using authorities that have long been used by other commanders-in-chief in a time of war to engage in electronic surveillance of the enemy."

FBI Memos Show Agents Objected To Guantanamo Interrogation Techniques. According to FBI memos released yesterday by the ACLU, agents repeatedly warned Pentagon interrogators at Guantanamo – including then-commander Maj. Gen. Geoffrey Miller – of legal concerns over aggressive interrogation techniques and expressed doubt about the efficacy of the actions. ACLU had obtained the FBI emails and records under a FOIA request and released highly-redacted versions a year ago. The news coverage of the ACLU press conference generally was more critical of the Pentagon than the FBI, with most stories noting ACLU lawyer Jameel Jaffer said yesterday, "Now we can say that the documents show conclusively that abuse and torture at Guantanamo was not the result of rogue elements but was the consequence of policies deliberately adopted by senior military and Pentagon officials.".

In a very widely distributed story headlined "FBI to Gitmo: Hostile Interrogations Risky," the AP (2/24, Sherman) reports, "FBI officials, whose names were blacked out, indicated that senior military officials, including former Deputy Defense Secretary Paul Wolfowitz, were aware of and in some cases had approved of putting hoods on prisoners, threatening them with violence and subjecting them to humiliating treatment." Both Wolfowitz – through a World Bank spokesman – and Pentagon spokesman Larry Di Rita dismissed the memos as old news. The AP adds that FBI Special Agent Richard Kolko "said FBI agents properly reported abuse allegations through the bureau's chain of command, but noted, 'It is not within the scope of the FBI's jurisdiction overseas to investigate reports of alleged abuse of military detainees.'"

Under the headline "FBI Memos Reveal Allegations Of Abusive Interrogation Techniques," Knight Ridder (2/24, Brown) reports, "The agents tried to get the military interrogators to follow a less coercive approach," but Miller "overrode the FBI agents' protests, according to the documents. The memos offer some of the clearest proof yet that the abuses and torture of prisoners in U.S. military custody weren't the isolated actions of low-ranking soldiers but a result of policies approved by senior officials, the ACLU said."

Under the headline "E-Mails Show FBI Agents Fretted About Prisoner Abuse," The Los Angeles Times (2/24, Miller, 958K) reports, "Although prior documents have revealed tension between the FBI and military interrogators over the methods used at Guantanamo Bay and Abu Ghraib prison outside Baghdad," the Lueckenhoff email shows "that senior FBI officials in Iraq were reluctant to be drawn into any investigation of prisoner abuses." Yesterday, Kolko "said it was not within the FBI's jurisdiction overseas to investigate allegations of detainee abuse, but that agents had reported their findings through their chain of command and cooperated in Pentagon investigations and reviews."

Bloomberg (2/24, Rowley) notes, "FBI agents assigned to interrogate prisoners at Guantanamo objected to the techniques at meetings and two videoconferences with Pentagon officials in Washington, the 2003 memo said. During one of those meetings, a military commander 'blatantly misled the Pentagon into believing' that the FBI had endorsed the 'aggressive and controversial' techniques he proposed to use on the detainee, the memo said."

The Washington Post (2/24, A16, White, 744K) reports under the headline "FBI Interrogators In Cuba Opposed Aggressive Tactics" that Air Force Lt. Col. John Skinner "said a series of investigations and reviews have shown that Defense Department officials never encouraged or condoned abuse. 'No matter how hard some may try to manipulate documents and information to support their myth, the facts tell a different story,' Skinner said."

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The Financial Times (2/24, Sevastopulo) notes "a Pentagon spokesman" said that "the FBI memos were 'another example of recycling old information'."

The New York Times (2/24, 1.19M) runs a truncated version of the AP story with the headline "Prison Interrogators Got F.B.I. Warnings," and Reuters (2/24, Dunham) reports the story under the headline "Files Show Military Rebuffs FBI Guantanamo Worries."

DOJ Seeks More Time To Comply With Lackawanna Wiretap Request. The AP (2/24) reports, "The Justice Department has asked for more time to answer an indicted Lackawanna (NY) businessman's questions about whether agents used secret wiretaps while investigating him." The AP continues, "U.S. District Judge William Skretny had given the government until Feb. 27 to respond to the request by Mohamed Albanna, who is charged with two relatives of running an illegal money transmitting business that sent more than $3.5 million from western New York to Yemen. … On Thursday, prosecutors filed for a two-week extension, citing numerous such inquiries from defendants across the country following revelations that President Bush approved warrantless eavesdropping in some cases." The AP notes, "An affidavit by a Justice Department attorney in Washington said the department had contacted the National Security Agency about Albanna's case. The response must be carefully drafted, the affidavit said, to ensure consistency with other cases and will contain highly classified information."

FBI Informant Testifies Hayat Praised Terror Groups, Jihad. Under the headline "FBI Informant Says Terror Suspect Took Interest In Violent Groups," the AP (2/24, Barbassa) reports in a widely-distributed story FBI informant Naseem Khan testified Thursday that Hamid Hayat "took an interest in terrorist groups and spoke admiringly about jihad. … 'He never, ever considered himself American,' said Khan." Khan added that at one point "during long conversations at Hayat's home" Hayat "praised al-Qaida as 'a tough group,' adding, 'They're even smarter than the FBI, friend.'" The AP notes, "Even as he showed off his knowledge of militant groups and said he knew the location of training camps, Hayat struggled to provide details when Khan pressed him, the transcripts show." KXTV-TV Sacramento (2/23, Johnson) adds, "Hayat also related when a friend was cursing America and asked if Hamid was offended. Hamid told Khan, 'I said, "Man, this country is mine in name only, understand? My heart is in Pakistan," I told him.' When Hayat's father, Umer Hayat came on the line and heard the cursing, the younger Hayat said his father encouraged it," saying, "Well done. Curse some more."

Moussaoui Defense Objects To Number Of Potential Jurors With 9/11 Link. The AP (2/24, Sniffen) reports, "Al-Qaida conspirator Zacarias Moussaoui's defense complained Thursday that too many people connected to Sept. 11 victims were being approved as potential jurors for his sentencing. Three would-be jurors were subsequently rejected despite government protests." The AP notes, "U.S. District Judge Leonie Brinkema qualified 18 more potential jurors Thursday, but two approved earlier dropped out because of personal hardships, bringing the total to 83."

FBI Adds Yemeni Escapees To Most-Wanted Terrorists List. In a widely-distributed story, the AP (2/24) reports Yemeni prison escapees Jamal al-Badawi and Jaber Elbaneh "were added on Thursday to the FBI's list of most wanted terrorists." The AP notes that al-Badawi has been charged in the US in the USS Cole bombing and Elbaneh was indicted for his alleged role in the Lackawanna Six al Qaeda cell.

Toledo Terror Suspect Had Served As Prison Imam. The Toledo Blade (2/23, Boak) reports, "A year before he is accused of plotting to attack American soldiers in Iraq, Marwan Othman El-Hindi offered spiritual nourishment to Muslim prisoners" as an imam at the Toledo Correctional Institution," and . "Khelleh Konteh, the warden, said he walked Mr. El-Hindi out of the…prison for good on Dec. 30, 2003, after seeing the native of Jordan give an inmate contraband bread and oranges instead of lessons from the Qur'an." The Blade notes, "Proselytizing at a prison would have fit within the indictment's pattern of terrorist preparations, according to Senate committee testimony by FBI Director Robert Mueller last year. 'Prisons continue to be fertile ground for extremists who exploit both a prisoner's conversion to Islam while still in prison, as well as their socioeconomic status and placement in the community upon their release,' he said."

Terrorism Arrests Followed Raids On Islamic Charity. The Washington Times (2/24, Seper, 90K) reports, "The arrests this week of three men in Ohio on terrorism-related charges involving troops in Iraq followed raids by federal agents on a Toledo-based Islamic charity accused of providing funds to Hamas. … Treasury since has frozen the assets of KindHearts, pending an investigation for terrorism funding." However, "Jihad Smaili, a KindHearts board member, told reporters in Toledo he did not know any of the three men named in the indictment and denied they had anything to do with the charity."

Al Arian Confident Of Acquittal At Retrial. The Orlando Sentinel (2/23, Gutierrez, 265K) reports that in an

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interview with the paper on Wednesday, Sami al Arian, "who faces a possible retrial on terrorism-related charges, is confident he will be found innocent and says he is open to a plea deal if it affords him 'victory.' … Even if he wins his second round, as he likes to refer to it," al Arian "is likely to be deported to the Middle East." Al Arian said of jurors at his trial, "They were smart enough to see through the smoke and mirrors. The government will not give up on this case, which shows this has been a political case since the beginning."

Florida Man Charged With Illegal Money Transfers Released On Bail. The Tampa Tribune (2/24, Silvestrini) reports Tampa convenience store owner Hasan Qasem, "accused of illegally sending tens of thousands of dollars to Yemen, the occupied West Bank and Luxembourg was released from jail Thursday after a federal judge set bail." Qasem appeared "before U.S. Magistrate Elizabeth Jenkins, who followed the recommendation of Assistant U.S. Attorney Jay Hoffer that she allow Qasem to be released on $20,000 bail."

FBI Says Chicago Crash Victim Had No Terror Ties. The Chicago Tribune (2/24, Heinzmann, Bowean, 643K) reports Lafi Hussein Nofal, who reportedly was carrying a large amount of cash and checks when he was killed in a crash on Chicago's Stevenson Expressway, causing the FBI Joint Terrorism Task Force to launch an investigation, "was a physician from Puerto Rico who had real estate and business investments in the Chicago area but no known ties to terrorism." The Tribune notes that "the FBI released a statement early Thursday saying there was no known terrorism link, and referred further questions to the Illinois State Police." However, The Chicago Sun-Times (2/24, Sweeney) notes that the FBI Joint Terrorism Task Force is continuing its investigation, although "there was no immediate belief that terrorism was involved, a spokesman said. The duties of the task force are expansive and will include determining whether the cache of documents and money is legitimate."

HOMELAND RESPONSE:

Administration Signals Willingness To Delay Port Deal. The Senate Armed Services Committee yesterday held a hearing on the Dubai Ports World deal to manage six US ports. A troupe of Administration officials were grilled by a panel of mostly Democratic senators on the deal. Meanwhile, the Administration indicated it was willing to delay the deal's closing in order to address congressional security concerns. Media reports continue to depict the White House handling of the issue in a negative light, and see President Bush facing tough political challenges as a result of the controversy. Reuters (2/24, Cornwell, Drees), for example, reports Bush remains "under fire," while the Christian Science Monitor (2/24, Feldmann, 61K) says Bush "faces a serious test of his political skill after blundering in dealings with members of his own party, analysts say. The man who once campaigned as a uniter appears to have done just that -- uniting both parties against him."

Yesterday, CNN's The Situation Room (2/23, Blitzer) reported Deputy White House Chief of Staff Karl Rove had said in a radio interview that Bush "might accept a delay in the deal." CNN (Bash) added that Rove said it is important "to get members of Congress to a place where they have a good comfort level with letting this deal go through." The Financial Times (2/24, Kirchgaessner, Yeager) quotes Rove saying, "There are some regulatory hurdles that still needs to go through on the British side as well that are going to be concluded next week. There's no requirement that it close...immediately after that." Rove's comments "represent a departure from Mr Bush's staunch defence of the deal early this week."

On ABC World News Tonight (2/23, story 4), George Stephanopoulos said the White House is "feeling snake-bit. I think the President is a little bit irritated that this port issue wasn't flagged for him earlier." The CBS Evening News (2/23, story 3, 0:35, Axelrod) also reported, "What the White House has said is that they are open to a delay in the closing date. That would allow time for some of the issues raised by Congress to be addressed. The White House says they are fine with that. One thing, however, that the President says he will not back off on: that's the threat of a veto if there is legislation passed to kill the deal."

In a potentially significant development, USA Today (2/24, 2.31M) reports the United Arab Emirates company "offered Thursday to delay part of its $6.8 billion takeover" of some port operations. The announcement "relieves some pressure from a standoff between…Bush and Congress, which has threatened to block the deal because of the UAE's purported ties to terrorism." The delay "did not appease some of the deal's harshest critics," such as Sen. Chuck Schumer, but "one prominent Republican who had raised concerns about the deal appeared optimistic. 'This is definitely a positive step,' said Rep. Peter King of New York." Knight Ridder (2/24, Douglas) says the firm is "yielding to intense political pressure." The New York Times (2/24, Cloud, Sanger, 1.19M) reports the action "came after the Bush administration and leading members of Congress," including Senate Armed Services Chairman John Warner, "quietly told the company that more time was needed to derail Congressional action to block the deal." The Washington Post (2/24, D1, Ben White, 744K) runs a similar piece titled "Uproar Surprised Dubai Firm." The Wall Street Journal (2/24, Hitt, 2.11M) and Baltimore Sun (2/24, Shaw, 296K) run

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pieces on the company's move, which is also mentioned in many of the stories covering other aspects of the controversy.

Meanwhile, reporting on yesterday's Senate hearing, the CBS Evening News (2/23, story 4, 2:20, Schieffer) reported, "A squadron of Administration officials trooped up to Capitol Hill today to explain the arrangement. … They did not make much headway to say the least. Congressional outrage is still at a boil." CBS (Attkisson) added, "In a rare freewheeling session, officials from Treasury, Homeland Security, Defense and State, all responsible for approving the ports deal, agreed Congress should have been brought in sooner but insisted the national security impact was thoroughly researched." Democrats "accused the Bush Administration of thumbing its nose at a law that mandates a deeper investigation when a business deal could affect national security." Likewise, CNN's The Situation Room (2/23, Koppel) reported that "after two and a half hours of back and forth and a steady stream of questions and answers, it didn't appear that the Administration was able to change many minds, or to head off legislation to block the deal as early as next week."

The Washington Times (2/24, Hurt, 90K) reports the Bush Administration's "assurances were met with disdain by Democrats," while the Washington Post (2/24, A1, Weisman, 744K) reports, "Despite the entreaties of the administration, Sen. Hillary Rodham Clinton (D-N.Y.) said bipartisan legislation will be introduced next week to scuttle the deal, or at least to force a 45-day investigation into the deal's national security implications." The hearing "presented two very different views of the United Arab Emirates." The country "is seen by the administration as a stalwart and indispensable ally in the terrorism fight and by Senate Democrats as a base for terrorism and nuclear proliferation."

The Washington Post (2/24, A2, Milbank, 744K) reports in its "Washington Sketch" column, "Yesterday's meeting of the Senate Armed Services Committee felt like some weird role-reversal dream. There was Sen. Edward Kennedy (D-Mass.), attacking Bush administration officials for being soft on terrorism and 'outsourcing our national security.' There was Gordon England, President Bush's deputy defense secretary, pleading with Democrats that 'it is very important that we strengthen the bonds of friendship and security with our friends and allies around the world.'"

The Washington Post (2/24, A6, Blustein, Pincus, 744K) reports on "a point emphasized by many people familiar with security operations at US ports: Among all the reasons to fret about vulnerabilities to terrorist attacks, the nationality of the companies managing the terminals is one of the least worrisome. … Nonetheless, politicians from both parties continue to pelt the Bush administration with criticism for its decision to allow Dubai Ports World… to buy Peninsular and Oriental Steam Navigation Co." Similarly, the New York Times (2/24, Romero, Timmons, 1.19M) says that "in the outcry over who should run America's seaport terminals, one clear trend appears to have been overlooked: American companies began withdrawing decades ago from the unglamorous business of stevedoring, ceding the now-booming industry to enterprises in Asia and the Middle East." So "it is no accident that American companies are not in the top ranks of global terminal operators, who have ridden the coattails of the explosion in world trade."

The Washington Post (2/23, D1, Blustein, 744K) reports this controversy "follows the flap last summer over the proposed purchase by Cnooc Ltd., a Chinese state-owned firm, of Unocal Corp., the California-based oil giant. … The twin episodes are reminiscent of the late 1980s and early 1990s, when takeovers by Japanese companies of US businesses such as movie studios inflamed American anxieties."

The AP (2/23, Bridis) reports, "The senior Democrat on the Senate Armed Services Committee angrily accused the Bush administration Thursday of ignoring the law by refusing to extend an investigation of a United Arab Emirates company's takeover of significant U.S. port operations. … Clashing with a Treasury Department official on a mission to calm a political uproar, Sen. Carl Levin said the law has language specifically requiring a longer review than the one that an interagency committee conducted, if a business deal could affect national security. … 'Is there not one agency in this government that believes this takeover could affect the national security of the United States?' the Michigan Democrat asked at a committee briefing. Chairman John Warner, R-Va., in a very unusual procedure on Capitol Hill, allowed reporters to question the administration witnesses." The AP adds, "The Treasury official, Deputy Secretary Robert Kimmitt, and officials from other agencies said a multiagency group spent three months reviewing the port deal and said that all concerns about security were satisfied. … Levin insisted that the law that established the multiagency panel specifically said that any such review should be lengthened by 45 days if it could have an impact on national security."

MarketWatch (2/24, Watts) reports, "Warner also expressed concern about the administration's interpretation of the law, and said he would ask Attorney General Alberto Gonzales to provide a written explanation."

Bloomberg (2/24, Bliss) reports, "U.S. Attorney General Alberto Gonzales said the agreement includes provisions intended to enhance port security. … 'The United States government did request specific assurances from the parties involved in this transaction,' Gonzales said on CNBC. 'Those assurances have been given.' … He didn't give specifics. The Associated Press, citing documents obtained by the wire service, reported that DP World agreed to cooperate with U.S. investigations and reveal records on demand about 'foreign operational direction' of its business. The agreement doesn't force the company to keep copies of business

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records on U.S. soil, where they would be subject to court orders, the AP reported."

Gonzales Defends CFIUS Vetting Process. Attorney General Alberto Gonzales was asked on Fox News' Hannity and Colmes (2/23) to describe the Committee on Foreign Investment in the United States' vetting process. Gonzales said, "It's a very thorough vetting process that we're required to go through, in connection with acquisition of a US company by a foreign company or by a foreign country that may impact in an adverse way the national security of our country." The Department of Justice which is a member of the Committee on Foreign Investment "did our own independent assessment and made the determination that we had no reasons to raise an objection to this transaction going forward. We, all of us, have as our objective to ensure that our national security is not impaired in any way by this transaction."

New Jersey Sues To Block Port Deal. Reuters (2/23, Hurdle) reports, "New Jersey sued the U.S. federal government on Thursday to prevent a United Arab Emirates company from managing a terminal at the Port of Newark until security risks there have been fully assessed." Reuters continues, "The suit filed in U.S. District Court in Trenton seeks to bar state-owned Dubai Ports World from taking over the Newark facility as part of a deal under which it also would manage terminals at five other major U.S. ports following its takeover of P&O., a British company that had been operating the ports. … It claims the federal panel that approved the port-management takeover -- the Committee on Foreign Investments in the United States -- failed to conduct a full investigation of the sale as required by law and it asks the court to order an investigation." Reuters adds, "New Jersey Gov. Jon Corzine said the presence of the UAE company may threaten the security of an area that the FBI has called the most dangerous two miles in America because it also contains chemical plants, oil storage facilities, rail lines, and Newark Liberty International Airport. … The suit also claims the deal harms New Jersey's duty to ensure security at the port because it did not know what information was submitted by the UAE company or what assurances were offered on security. Failure to provide that information interferes with the state's sovereign rights under the 10th amendment of the U.S. Constitution, the suit says. … It names the Committee on Foreign Investments as well as Treasury Secretary John Snow, Secretary of State Condoleezza Rice, Defense Secretary Donald Rumsfeld, Attorney General Alberto Gonzales and Homeland Security Secretary Michael Chertoff."

Chertoff Was Unaware Of Deal. The Washington Times (2/24, Scarborough, 90K) reports, "Homeland Security Secretary Michael Chertoff was not aware a Dubai-owned company was seeking to operate terminals in six U.S. ports and that his agency was leading the review until after the deal's approval, an administration official said yesterday." Chertoff's spokesman, Russ Knocke, "told The Washington Times the issue rose no higher than the department's assistant secretary for policy, Stewart Baker." Chertoff "is the third Cabinet official to acknowledge he did not know his agency had signed off on the plan."

Ehrlich Leaning Toward Accepting Deal. The Washington Post (2/24, B5, Mosk, 744K) reports Maryland Gov. Robert Ehrlich said it is "looking increasingly unlikely that he will try to block a United Arab Emirates company from taking over port operations in Baltimore." Ehrlich "said he is continuing to review the security concerns raised by the proposed purchase by Dubai Ports World of the British company that oversees the movement of cargo containers at the Baltimore port." But "when asked yesterday if he now agrees with President Bush and supports the sale, Ehrlich said, 'Clearly, the facts are moving in that direction.'"

Governors May Raise Port Issue With Bush On Monday. The Wall Street Journal (2/24, Harwood, 2.11M) reports in its "Washington Wire" column, "Bush faces more port-security heat from governors. Some gathering for winter governors' meeting plan to raise the Dubai-ownership issue at White House on Monday, but New York's Pataki, a deal foe, won't attend following recent surgery."

Port Authority Would Break Lease To Block Deal. The New York Times (2/24, McGeehan, 1.19M) reports, "The Port Authority of New York and New Jersey will break the lease of a big container terminal at Port Newark to stop a company based in Dubai from taking over part of the operation there, the agency's chairman said yesterday." Anthony R. Coscia, the chairman, "said the company that holds a lease on the terminal through 2030 violated the contract by selling a half-interest in it to Dubai Ports World without seeking the landlord's approval. He said the Port Authority would ask a judge in New Jersey Superior Court in Newark today to affirm its right to end the lease."

Bob Dole's Lobbying Role In Deal Seen As Creating Political Problem For Elizabeth Dole. The Washington Post (2/24, A6, Birnbaum, 744K) reports, "The lobbying of former Senate majority leader Robert J. Dole on behalf of the Dubai-owned company set to take over management of terminals at six major U.S. seaports is creating a political problem for his wife, Sen. Elizabeth Dole." The chairman of the North Carolina Democratic Party, Jerry Meek, yesterday "called on Sen. Dole to remove herself from 'any congressional oversight' of the Dubai port deal." A spokeswoman for Sen. Dole "rejected the criticism as 'a partisan attack' and defended the senator's role as a lawmaker and her husband's as a lobbyist." Former Sen. Dole "said in a written statement yesterday that he is not going to lobby his wife or members of Congress."

Rice Seeks To Calm Relations With UAE. The CBS Evening News (2/23, story 5, 2:15, Schieffer) reported Rice

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"also tried to play a part in calming the bitter feelings in the United Arab Emirates." CBS (Hawkins) added Rice "flew into the heart of the storm over the management of American seaports today. She said the United Arab Emirates is a good friend and a strong ally in the war on terrorism. Rice said there are no national security reasons to stop an Emirates-owned company, Dubai Ports World, from purchasing a British firm that manages six major commercial ports in the United States. After meeting with Secretary Rice, today the UAE's economy minister told me she thinks the political controversy in Washington is the result of an unfortunate misunderstanding." Lubna Bint Khalid Al Qasimi, UAE Minister of Economy: "This case actually got stopped politically rather than pure trade business. It may just raise concerns for a lot of people about thinking twice about investing in the US."

NBC Nightly News (2/23, story 5, 2:20, Gregory) also reported Rice "arrived in Dubai for meetings tonight, and the President's homeland security advisor argued the UAE turned over a new leaf after 9/11." Still, the Administration "extracted extra security concessions from Dubai Ports World as a condition" for the contract.

More Commentary. In an editorial titled "Reaping What You Sow," the New York Times (2/24, 1.19M) says, "If the administration is in trouble with Congress, it's long overdue. For years now, the White House has stonewalled Congressional committees attempting to carry out their oversight duties. Administration officials appearing before Senate and House committees have given testimony that was, to put it generously, knowingly misleading. … The chickens are coming home to roost. A White House that routinely brands anyone who disagrees with its positions as soft on terrorism is now complaining that election-bound lawmakers are callously using the ports deal to frighten voters."

The Washington Post (2/24, A14, 744K) editorializes that "the White House's 'admission' that President Bush was unaware" of the deal "strikes us as completely unnecessary. Why should the president know? Twelve government departments and agencies, including the departments of Treasury, State, Defense and Homeland Security, had examined the deal over a three-month period and found it acceptable. Perhaps the White House should have anticipated this week's political storm and prepared for it. But because the objections are irrational, even that complaint is questionable. … If members of Congress really want to burnish their 'tough on terrorism' credentials, they should start by focusing on real presidential lapses, which are sufficient, and forget about the phony ones."

Paul Krugman, writing in the New York Times (2/24, 1.19M), makes a similar point, and adds that "there is, nonetheless, a kind of rough justice in Mr. Bush's current predicament. After 9/11, the American people granted him a degree of trust rarely, if ever, bestowed on our leaders." He "abused that trust, and now he is facing a storm of skepticism about his actions -- a storm that sweeps up everything, things related and not."

Thomas Friedman writes in the New York Times (2/24, 1.19M), "As a country, we must not go down this road of global ethnic profiling -- looking for Arabs under our beds the way we once looked for commies. If we do -- if America, the world's beacon of pluralism and tolerance, goes down that road -- we will take the rest of the world with us. We will sow the wind and we will reap the whirlwind." He adds, "If there were a real security issue here, I'd join the critics. But the security argument is bogus and, I would add, borderline racist."

In the Washington Post (2/24, A15, 744K), Charles Krauthammer writes, "Democrats loudly denounce any thought of racial profiling. But when that same Arab, attired in business suit and MBA, and with a good record of running ports in 15 countries, buys P&O, Democrats howl at the very idea of allowing Arabs to run our ports. … On this, the Democrats are rank hypocrites. But even hypocrites can be right." Krauthammer adds, "The greater and more immediate danger is that as soon as the Dubai company takes over operations, it will necessarily become privy to information about security provisions at crucial US ports. That would mean a transfer of information about our security operations -- and perhaps even worse, about the holes in our security operations -- to a company in an Arab state in which there might be employees who, for reasons of corruption or ideology, would pass this invaluable knowledge on to al-Qaeda types."

E.J. Dionne, in the Washington Post (2/24, A15, 744K), urges "a full-scale debate not only about this deal but about the larger flaws in our system of port security. That's the way to show the world that Americans take this issue seriously and are not engaged in an episode of Arab-bashing." Yesterday, Bush "insisted that the deal would leave our ports safe. … But many people in both parties are worried because they no longer take the administration's claims at face value. That, too, is progress."

In his Wall Street Journal column (2/24), Daniel Henninger writes, "One would not have thought it possible, but Washington's political class is defining our politics down. After nearly seven days of elevating the Cheney bird-hunting accident to the level of a national crisis, now comes this week's flap over managing the ports. To be sure, the matter of secure US ports trumps the hunting of quail as an affaire d'état. But it was the strikingly low quality of the politicians' commentary and behavior that attracted notice."

Chicago-Midway Temporarily Closed After Bomb Threat Found On Flight. The AP (2/24)

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reports, "A written bomb threat was discovered on a flight from Seattle to Chicago Thursday, prompting aviation officials to temporarily close air traffic at Midway Airport. … The Chicago Police Department and the FBI's terrorism task force searched the plane and its luggage but no bomb had been found as of 5 p.m., said FBI spokesman Frank Bochte. Investigators were trying to determine where the note came from, including whether it was left on the plane by a passenger on a previous flight, he added."

Investigators Widen Search For New York Anthrax. The New York Times (2/24, Chan, 1.19M) reports, "The authorities widened their investigation into possible anthrax contamination yesterday to include an apartment in Crown Heights, Brooklyn, and medical officials were giving antibiotics to seven people who could have been exposed to the spores. An eight-member team from the federal Centers for Disease Control and Prevention, including two epidemiologists, along with F.B.I. agents, took samples yesterday from the Manhattan apartment" of Vido Diomande, "the Brooklyn warehouse where he used animal skins to make drums for his African dance troupe and a Dodge van that he is believed to have used to transport the skins, which are a suspected source of the bacteria." WABC-TV New York (2/23) notes, "Federal agents are still investigating but there is nothing suspicious, they say, about Diomande's motives. Mark Mershon, Dir. NY F.B.I.: 'I will tell you that we have essentially ruled out any criminal intent here. We believe this largely to be simply an accidental infection.'"

Standards Issued For Government PIV Cards. The Washington Times (2/24, Harper, 90K) reports, "The National Institutes of Standards and Technology has issued the final specifications for standardized Personal Identity Verification cards required for all federal employees and civilian contractors by Oct. 27." The cards are being developed "in response to Homeland Security Presidential Directive 12, an order issued in 2004 by President Bush for mandatory, standard governmentwide IDs." They incorporate "holograms, bar codes, microprinting and encrypted computer chips, which include signatures and personal demographic information, according to Identity Alliance, a private Indiana-based security firm."

White House Report Takes Responsibility For Katrina Response, Calls For Reforms. Days after a special House committee released a damning report on the response to Hurricane Katrina, the White House released its own 228-page report that acknowledged its own role in the flawed response. ABC World News Tonight (2/23, story 3, 2:30, Sawyer) said the report "has a full-on mea culpa, the government taking the blame, and issuing 125 recommendations to improve the response to the next catastrophe." ABC (L. Stark) added that the admission of failures is "something this Administration is not used to doing." The CBS Evening News (2/23, story 6, 0:35, Schieffer) says the report "urges quick action in 11 key areas before hurricane season begins in June." CNN's The Situation Room (2/23, Blitzer) called the report "packed with recommendations." But NBC Nightly News (2/23, story 4, 2:05, O'Donnell) reported senior officials "were notably careful to avoid finger pointing, except for a direct jab at former FEMA Director Michael Brown." Indeed, Reuters (2/23, Zakaria) reports that the document "did not single out anyone for blame."

USA Today (2/24, 5A, Benedetto, 2.31M) reports that the "Lessons Learned" study "called for 125 fixes, including better communications, better evacuation plans and first aid training for students." President Bush's homeland security adviser Frances Fragos Townsend, who prepared the report, said, "FedEx can track a package anywhere in the world, real-time. FEMA should be able to do the same thing for ice, water and food." In its front-page story, the Washington Post (2/24, A1, Lee, Fletcher, 744K) says the White House report was "softer in tone" than the House study, but "echoed" many of its findings.

The Los Angeles Times (2/24, Chen, 958K) writes that the study "essentially confirmed what has become conventional public wisdom: that there were systemic failures across the federal bureaucracy." Townsend said "a new 'culture of preparedness'" is needed. The New York Times (2/24, Lipton, 1.19M) reports that the recommendations "would reverse some of the steps" taken after September 11, 2001 to centralize responsibility, but some critics "worry that diffusing responsibilities among agencies could leave no one clearly in charge and not produce results." University of Maryland domestic security expert Michael Greenberger said, "This may simply be rearranging the deck chairs on the Titanic." The Washington Times (2/24, Curl, 90K) and Knight Ridder (2/24, Borenstein) run similar stories on the release of the report.

President Bush and Homeland Security Secretary Michael Chertoff also commented on the report yesterday. The AP (2/23, Jordan) quotes Bush saying, "We will learn from the lessons of the past to better protect the American people. … I wasn't satisfied with the federal response." Chertoff "commended" the White House recommendations, saying, "We have already begun to take action to address many of the issues raised in the report, particularly those areas we need to improve before the start of the 2006 hurricane season." However, Fox News' Special Report (2/23, Cameron) pointed out that the report "chastises the Department of Homeland Security for poor planning and communication."

Report's Appendix Highlights "What Went Right." In his Washington Post (2/24, B2, 744K) "Federal Diary"

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column, under the headline "Acts Of Heroism Shine Through Homeland Security's Humiliation," Stephen Barr writes that while DHS "wiseguys" say "the brass has decided to rate the performance of employees on a five-level system," from "role model" at the top to "Brownie, you're doing a heck of a job" at the bottom, many people at Homeland Security performed bravely and exceptionally during Katrina. Barr writes that "some of the most interesting findings" in the White House report "are in Appendix B -- 'What Went Right,'" which highlights some of the individuals who made a positive difference.

Chertoff-Brown Relationship Seen As Crux Of Communications Failures. The Christian Science Monitor (2/24, Grier, 61K) writes that five months after Katrina, "one cause of the stumbling response…is becoming increasingly apparent: Two of the most important officials involved, Chertoff and Brown, did not get along." Chertoff "is by-the-book, a lean, terse manager. Brown is a talkative maverick who believes in leadership from the front lines. In Hollywood, that's a buddy movie; in real life, it was a recipe for delayed orders and crossed communications."

Residents Of Mississippi Town Feel Abandoned By Federal Government. The CBS Evening News (2/23, story 7, 2:50, Pitts) reported on the recovery of Pearlington, Mississippi, "already one of the poorest towns in the nation's poorest state long before Hurricane Katrina. But look at it now. Nearly six months later, no running water, no schools, only occasional mail service. There is even a coffin still washed up in the street, refrigerators scattered in trees. Residents say Pearlington would have died if not for the store. And it's a store like no other in America, where everything's free." It's the "old grade school gymnasium turned clothing store, grocery store, all donations from across the country, a place where neighbors can wash clothes, take a shower and talk." Pearlington was "once home to nearly 2,000 people. There are now only about 600 left, mostly retirees. Some refuse to leave, some can't. And to a person nearly every one feel abandoned by the Federal Government, so they rely on each other and the kindness of strangers."

Hurricane Cleanup Process Said To Waste Money, Time. The New York Times (2/24, Eaton, 1.19M) reports on the "dozens of courthouse disputes and public controversies that have erupted over the still-gargantuan task of removing tons of debris in Louisiana and Mississippi, almost six months after Hurricanes Katrina and Rita. Government officials, contractors and workers all describe a complicated and bureaucratic process that wastes money, slows the cleanup and fails to ensure that the economic benefits of the work go to the people who need them most, the residents of the disaster areas." Approximately halfway through the article, the Times adds, "Officials of the Federal Emergency Management Agency and the Army Corps of Engineers, which handle much of the contracting for debris removal, say the agencies are satisfied with the cleanup's pace, given the magnitude of the task," noting "that Hurricane Katrina created twice as much debris as the four 2004 hurricanes in Florida combined."

Gulf Coast Houses Of Worship Struggle To Recover. USA Today (2/24, Konigsmark, Moore, 2.31M) reports that following Katrina's destruction, Gulf Coast "churches, temples and mosques have struggled not only to rebuild their homes but to re-gather their members. An estimated 900 houses of worship in the Gulf region were damaged, destroyed or unusable after the hurricanes, according to Religion News Service." USA Today notes that in December, the Bush-Clinton Katrina Fund announced "that $20 million of the $90 million it will spend in the region will go to churches and other houses of worship, which are not eligible for public rebuilding funds."

Search Continues For Some Children Displaced By Katrina. USA Today (2/24, Koch, 2.31M) reports that though the National Center for Missing & Exploited Children says 97% of children displaced by Katrina are back with parents or other relatives, families "continue to search for at least 131 children whom they have not heard from since" the storm swept through the Gulf region. The center has heard from relatives who say they still don't know the whereabouts of 131 children — five in Mississippi and the rest in Louisiana, mostly New Orleans. The Find Family National Call Center in Baton Rouge, a joint federal and state effort, lists 1,960 people as missing, of whom 245 are age 20 or younger."

WAR NEWS:

Bombing Of Shiite Shrine Generates Wave Of Sectarian Violence In Iraq. A wave of Sunni-Shiite violence swept over Iraq in the wake of the bombing of the Askariya shrine in Samarra, even as US and Iraqi authorities appealed for calm. USA Today (2/24, Nichols, Komarow, 2.31M) reports "Iraq's government announced it would impose a daytime curfew today in hopes of quelling sectarian violence that exploded across the country this week, threatening to spark civil war and derail efforts to form a new government." The Washington Times/AP (2/24, Reid) says "such a sweeping daytime curfew indicated the depth of fear within the government that the crisis could touch off a Sunni-Shi'ite civil war."

In an article describing the political talks on the formation of a new government as "in ruins" the New York Times (2/24, Wong, 1.19M) reports, "The threat of full-scale civil war loomed." The Times adds that the violence "provoked questions about the proper role of the American military, its ability to control powerful Shiite militias,…and the Bush administration's plans for drawing down troops." Another New York Times (2/24, Weisman, Worth, 1.19M)

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story says the violence "has abruptly thrown the Bush administration on the defensive," while "Iraqis and some American officials also said the Bush administration might have to rethink its political strategy in Baghdad." Meanwhile, the Washington Post (2/24, A1, Finer, Sebi, 744K) reports the "prospects for a political resolution suffered Thursday when Sunni Arab political leaders abruptly withdrew from talks with Iraq's Shiite ruling parties, blaming the police and army for failing to prevent retaliatory attacks -- and, in some cases, for participating in them."

The Financial Times (2/24, Negus, Dombey, Sevastopulo) reports "hopes that Iraq's rival factions would come together to build a government of national unity faded on Thursday," and the Los Angeles Times (2/24, Stack, Roug, 958K) says the "faltering political process seemed on the verge of collapse." The Washington Times (2/24, Behn, 90K) quotes US Maj. Gen. Rick Lynch telling reporters yesterday, "We're not seeing civil war igniting in Iraq." Reuters (2/24, Bohan) reports State Department Deputy Spokesman Adam Ereli also "disagreed that the political process was stalled and that there was chaos. 'Let's not blow this out of proportion. It's not a straight line with the same amount of movement every single day. I t is a path with twists and turns. We all know that, and that's always been the case,' Ereli told reporters." The Wall Street Journal (2/24, Shishkin, Dreazen, 2.11M) reports that "from President Bush on down, US officials have warned repeatedly that there would be tough patches -- such as the current one -- on the road to a rebuilt Iraq." Still, "the split between Sunnis and Shiites is widening precisely at the time US strategists had hoped it would be starting to narrow."

The story was the lead on each of the networks, which also ran follow-up reports. ABC World News Tonight (2/23, lead story, 2:55, Vargas) "more than 130 Iraqis are dead. Seven US soldiers were killed. And more than 100 mosques, according to some reports, were attacked. Today, President Bush appealed for calm on all sides." President Bush: "The voices of reason, from all aspects of Iraqi life, understand that this bombing is intended to create civil strife. But the act was an evil act. Destruction of a holy site is a political act intending to create strife." The CBS Evening News (2/23, story 1, 3:45, Dozier) said "it is the worst crisis this country has faced since Saddam fell," while NBC Nightly News (2/23, lead story, 2:45, Williams) reported "US military commanders in Iraq say they don't believe that nation will dissolve into civil war," but "tonight there are indications to the contrary." NBC (Boettcher) added, "Iraq was on full alert, but the death toll and tensions rose, and US hopes that Iraqis can form a national government of unity sunk." If al Qaeda "did this, its plan is working."

The CBS Evening News (2/23, story 2, 2:10, Axelrod) reported that "the President made sure to frame these pictures as the product of terrorists, not an internal Iraqi versus Iraqi Sunni-Shia meltdown." While Administration officials "say the violence appears to them to be dying down, Democratic Congressman John Murtha, a former Marine colonel whose among the most outspoken critics of the war, says the Administration is misjudging."

CNN's The Situation Room (2/23, Starr) reported, "Sources tell CNN that at the highest levels of the US military the situation is being carefully watched to see if Iraqi security forces can take control across the country. US forces expect to remain in the background so their presence does not spark more violence. … The next 24 to 48 hours are considered critical by US commanders." CNN also reported, "Do not expect to see any more US troops being sent to Iraq to deal with the violence. It will be the major responsibility of Iraqi security forces." Similarly, ABC World News Tonight (2/23, story 2, 2:25, Raddatz) reported "a senior military official tells ABC News that in the coming days, US forces will essentially sit back and watch Iraqi forces try to quell any violence, fearing that the US presence would inflame the situation." However, added ABC, "if a "prolonged civil war broke out, and the American military was unable to contain it, it could eventually hasten withdrawal." The Washington Post (2/24, A11, Graham, 744K) runs a similar report under the headline "US Looks To Baghdad To Deal With Violence." The Knight Ridder (2/24, Landay) reports, "The situation 'calls into question a fundamental premise of our strategy in Iraq,' said a senior U.S. intelligence official, who…spoke on condition of anonymity because he wasn't authorized to discuss the crisis publicly."

USA Today (2/24, Nichols, Komarow, 2.31M) reports Sen. John Kerry "said the fresh violence underscores the Bush administration's failure to achieve a political solution -- a unity government -- in Iraq. 'It gets dicier as each day goes by,' he said. 'The clock is ticking.'"

The New York Times (2/24, Tavernise, 1.19M) reports "the violence on Wednesday was the closest Iraq had come to civil war, and Iraqis were stunned."

The Los Angeles Times (2/24, Daragahi, 958K) runs a story headlined "Clerics Take Lead After Iraq Bombing," in which it says "the religious leaders are notable for their lack of direct contact with American officials. Sistani, for example, has refused to meet with any since the US-led invasion of Iraq. Forces loyal to Sadr fought U.S. Marines in Najaf in the summer of 2004. And the vehemently anti-U.S. Muslim Scholars Assn. is believed to have close ties to the insurgency."

More Commentary. The Wall Street Journal (2/24, 2.11M) editorializes that Bush "should not underestimate his personal popularity among Shiites and the extent to which his words can have a calming effect. His statements condemning the mosque attack have been helpful but don't go far enough. A televised address to Iraqis would be in order -- or perhaps even a visit to convene a conference of national unity and

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seal an agreement on a new government. The most important thing now is that ordinary Shiites not feel abandoned."

The New York Times editorializes that the bombing "was a deliberate attempt to make it politically impossible to create a national unity government capable of leading Iraq to democratic stability. So far, the bombers have been successful," but "it shouldn't be this easy for a handful of mosque bombers to undo the modest but real" democratic progress.

Eliot A. Cohen, Professor of Strategic Studies at Johns Hopkins University's School of Advanced International Studies, writes in the Wall Street Journal (2/24, 2.11M), "We may succeed in Iraq; we may also fail. Whether we do, however, depends partly on our skillful intervention, more on the attitudes and behavior of the Iraqis themselves, and even in the best case, on our willingness to persevere."

USA Today (2/24, 2.31M) editorializes, "Options are further limited because the United States has handed power to Iraqis -- and an Iraqi government can ask U.S. forces to leave. Even so, a reassessment is overdue of how Iraqi forces are manned and trained, perhaps with international help."

Rumsfeld To Discuss War On Terror At Truman Library. The Washington Post (2/24, A13, Kamen, 744K) reports in its "In the Loop" column that Defense Secretary Donald H. Rumsfeld plans to visit the Harry S. Truman library in Independence, Missouri next week "to talk about President Bush 's war on terrorism and Truman's launching the long struggle against international communism." The Post adds, "The speech is still being worked on, so Pentagon folks won't talk about it. And they caution that the event may yet be scrubbed. But spokeswoman Hollen Wheeler allowed that the library would be an 'appropriate venue for his message that day.'"

In 2000, Gore Affirmed Commitment To Ousting Saddam. In its "History Lessons" column the Washington Times (2/24, 90K) excerpts a June 26, 2000 joint statement by then-Vice President Al Gore and leaders of the Iraqi National Congress. The statement, released by Gore's office, said, "The Vice President reaffirmed the Administration's strong commitment to the objective of removing Saddam Hussein from power, and to bringing him and his inner circle to justice for their war crimes and crimes against humanity. Saddam's removal is the key to the positive transformation of Iraq's relationship with the international community and with the United States, in particular."

Ted Koppel Says US Interest In Iraq Is "About The Oil." Retired anchor and managing editor of the ABC program "Nightline" Ted Koppel writes in an op-ed in the New York Times (2/24, 1.19M), "The Bush administration's touchiness about charges that we acted -- and are still acting -- in Iraq 'because of oil'" is "curious," as "keeping oil flowing out of the Persian Gulf and through the Strait of Hormuz has been bedrock American foreign policy for more than a half-century." He adds, "If those considerations did not enter into the Bush administration's calculations when the president ordered the invasion of Iraq in 2003, it would have been the first time in more than 50 years that the uninterrupted flow of Persian Gulf oil was not a central element of American foreign policy." In fact, "the reason for America's rapt attention to the security of the Persian Gulf is what it has always been. It's about the oil."

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Gonzales Rings In Stock Exchange. KCBS-TV Los Angeles (2/23, 6:44 a.m.) showed "US Attorney General Alberto Gonzales ringing the opening bell at the New York Stock Exchange" on Thursday morning.

WPIX-TV San Francisco (2/23, 6:46 a.m.) added that Gonzales rang the bell "along with CEOs from several companies listed on the big board."

CORPORATE SCANDALS:

Timing Of Disclosure Is Focus Of Enron Testimony. The Wall Street Journal (2/24, Emshwiller, McWilliams) reports, "Proceedings yesterday in the conspiracy and fraud trial of former Enron Corp. top executives Kenneth Lay and Jeffrey Skilling touched on a question that could help determine whether the two men are convicted: Is an executive guilty of illegally hiding information if his company a short time later discloses it?" The Journal continues, "This issue came up during the third day of testimony by Paula Rieker, Enron's former corporate secretary and deputy investor-relations chief. Ms. Rieker, who took the stand as a government witness as part of an agreement in which she pleaded guilty to an Enron-related crime, previously testified that Messrs. Lay and Skilling had made misleading public statements about Enron's operations. … In at least one other controversial case, Enron disclosed more in its Securities and Exchange Commission filings than its executives did in public utterances. This involved outside partnerships run by Enron's then-chief financial officer, Andrew Fastow, which did large amounts of business with the company." The Journal adds, "Purportedly hidden deals with these partnerships are a central part of the government's fraud allegations. Part of the defense in this case is that Enron did make disclosures -- albeit extremely dense and

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complex ones -- about the partnerships in SEC filings, even though Mr. Lay and other executives refused to answer questions about them in the weeks before the bankruptcy filing. … Yesterday's sparring between the defense attorneys and Ms. Rieker addressed this issue. In questioning, Bruce Collins, one of Mr. Lay's attorneys, focused on a claim by Ms. Rieker that the company had mischaracterized earnings from the company's high-profile retail-electricity unit, known as Enron Energy Services. Ms. Rieker said much of the unit's earnings in parts of 2000 and 2001 came from gains on stock sales and not from its "core" business of supplying energy and energy services to corporate and other customers. Enron officials didn't disclose those stock sales in various public statements, even after Ms. Rieker said she warned Mr. Lay, who was Enron's chairman, about the matter in 2000."

Lay Attorney Profiled. The Deal (2/24, Poole) profiles Ken Lay's attorney Mike Ramsey, who the Deal reports, "is now working on the biggest case in his life -- defending former Enron Corp. Chairman Kenneth Lay, who faces seven criminal charges, including conspiracy and securities and wire fraud in advance of the company's collapse in late 2001. … In 1996, Ramsey successfully defended executives from Oxford Funding in a major bank fraud and conspiracy trial arguing prosecutorial misconduct. He secured an acquittal for cancer researcher Stanislaw Burzynski on fraud allegations in 1997. He won a case involving cross-dressing New York real estate heir Robert Durst, who was charged with killing an elderly neighbor, cutting his body into pieces and dumping them in Galveston Bay. … So it's not surprising that court watchers are thinking he'll get Ken Lay off, too." The Deal adds, "Ramsey is a man of simple tastes. He prefers black cowboy boots to lace-ups with his business suits. His office is in a residential neighborhood, not in a shiny office tower downtown. For lunch he often has peanut butter crackers and milk in the courthouse cafeteria. He works slowly and methodically, both in his physical movements and his questioning in court. Some casual observers would think maybe the 65-year-old is a little senile. … Far from it. Ramsey has a sharp mind, so sharp that he has to read a document only once to understand and remember it. … And Ramsey has a long memory, as everyone saw the first week of the Enron trial, when he remembered which articles had been read in their entirety and which ones had not when the judge handling the case, Simeon T. Lake III, could not."

Fannie Mae Report Faults Accounting, "Arrogance" In Fraud Case. Fannie Mae released a massive report Thursday that "found fault with the corporate culture of 'arrogance' under former CEO Franklin Raines but blamed the mortgage giant's accounting problems" on ex-CFO Timothy Howard and ex-Controller Leanne Spencer, USA Today (2/24, 1B, Farrell) reports. The report came after a 17-month investigation headed by ex-Sen. Warren Rudman into Fannie's $11 billion accounting fraud. The Washington Post (2/24, A1, Shin) reports that the study "found 'no indication' that Raines knew the degree to which accounting rules had been ignored under his leadership." However, his "imprint is palpable" throughout the tome, which says he "oversaw a 'culture of arrogance'" at Fannie Mae. The Financial Times (2/24, Hughes, Swann) says Treasury Undersecretary for Domestic Finance Randy Quarles, commenting on the report, said Fannie "still poses a systemic threat to financial markets." All three of these newspaper stories note that the report runs a whopping 2,652 pages. (A 34-page executive summary was also released.)

The New York Times (2/24, Labaton, Dash) says the report concluded that senior Fannie executives "manipulated" accounting so they themselves could receive "more than $27 million" in bonuses. The conclusions come as the Office of Federal Housing Enterprise Oversight, which oversees Fannie, considers whether to force some of them to return bonuses; the Securities and Exchange Commission and the Justice Department are also investigating. The Wall Street Journal (2/24, A2, Hagerty) says the report "doesn't point to major new problems beyond those already identified by regulators and acknowledged by Fannie over the past two years."

The Washington Post (2/24, D1, Hilzenrath) writes that "in another time, or another company, success might have been riding on the basics," but "in the modern corporation, the core mission of delivering products or services can seem like a sideshow to the accounting machinations that ultimately determine the bottom line." In fact, even after a year and a half at work, "even the lawyers and accountants who labored to produce the report aren't entirely sure what happened."

The AP (2/23, Gordon) reports, "Fannie Mae's former finance chief and controller share primary responsibility for the accounting failures at the mortgage company struggling to emerge from an $11 billion scandal, a company-ordered report said Thursday." The AP continues, "It detailed a breakdown in financial controls and found an arrogant corporate culture at the government-sponsored company that is the biggest U.S. financer of home mortgage loans." The AP adds, "No major new accounting problems were cited in the report that followed an 17-month investigation by a team led by former Sen. Warren Rudman, R-N.H. … But there are many details. For example, Fannie Mae in 1998 was said to have improperly put off accounting for $200 million in expenses to future periods so executives could collect $27 million in bonuses. Rudman's inquiry affirmed this. … Documents cited in the report show that top-level management was focused on the $200 million deferral and meeting earnings targets that would trigger the payment of full bonuses." The AP notes, "Fannie Mae employees falsified signatures on accounting transactions that helped the

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company meet the 1998 earnings targets, according to the former director of the Office of Federal Housing Enterprise Oversight. The agency first discovered the accounting-rule violations and earnings manipulation by Fannie Mae. … Rudman's report said Fannie Mae's former chairman and chief executive, Franklin Raines, contributed to a culture of arrogance at the Washington-based company."

Dow Jones (2/23, Burns) reports, "A new report on accounting problems at Fannie Mae may accelerate an ongoing Securities and Exchange Commission investigation, but lawyers say any charges or settlements may be more than a year away." The report's findings "won't come as a surprise to prosecutors or SEC lawyers who received weekly briefings on Rudman's investigation. Rudman said his team cooperated fully with the Justice Department, the SEC and other regulators during the 17-month investigation. … 'They know everything that's in this report already,' said one lawyer who declined to be identified by name. … SEC spokesman John Nester declined to comment, as did Justice Department spokesman Drew Wade."

Fannie Mae To Examine Pay Deal With Former CFO. Reuters (2/23) reports, "Fannie Mae will reexamine its former chief financial officer's post-employment compensation package, the company's chairman told Reuters on Thursday after an internal review blamed the old management team for a multibillion-dollar accounting scandal. … 'I would simply say that all options are on the table,' Fannie Mae Chairman Stephen Ashley said." Reuters adds, "The chairman said Fannie Mae's board would wait for results from other ongoing probes into the company's accounting problems. Investigations by the Office of Federal Housing Enterprise Oversight, Securities & Exchange Commission and Justice Department remain open."

WSJournal Says Fannie "Routinely Flouted Both The Rules And Law." Under the headline "Fannie's Funny Business," the Wall Street Journal (2/24) editorializes, "The report's main findings paint the picture of a company that routinely flouted both the rules and law." It lets Raines "off lightly, blaming him mainly for a 'culture' that tolerated the accounting abuses. But the core of that culture was a belief that critics -- including us -- could be dismissed and assailed because the company knew it had Congress bought and paid for. And judging by the laughably weak reform that Financial Services Chairman Mike Oxley passed through the House, it still does. If Republicans on Capitol Hill want to know why voters think they've gone native, the failure to rein in Fannie even after a $10.8 billion accounting scandal is Exhibit A."

Judge Denies Request To Toss Adelphia Settlement. Reuters (2/24) reports, "A federal judge in Manhattan on Thursday rejected a bid by creditors of Adelphia Communications Corp. to throw out a $715 million settlement to compensate investors who lost money in the bankrupt cable company's collapse in 2002." Reuters continues, "Bankruptcy Judge Robert Gerber initially rejected the creditor's efforts to throw out the settlement. But the unsecured creditors, unhappy at the prospect of shareholders being paid ahead of them, appealed." Reuters adds, "In his ruling, U.S. District Court Judge Lewis Kaplan wrote that he agreed with the bankruptcy judge's decision and rejected the creditors' claims that the government had forced Adelphia into settling. … To avoid indictment, Adelphia reached the settlement with the Justice Department and the Securities and Exchange Commission in April 2005. Under its terms, the founding Rigas family agreed to forfeit more than 95 percent of its assets."

Dow Jones (2/24) reports, "In his order Thursday, Judge Kaplan found the company wasn't coerced and agreed with the bankruptcy judge that the assets being used in the restitution fund aren't part of the debtors' estate, but are part of a fund to be created and owned by the government. … 'Moreover, it is worth noting that if Adelphia had rejected the government's proposal and the government succeeded in forfeiting (Adelphia's) assets, the government's interest in the assets would have been superior to those of the creditors in any case,' Kaplan said in his order. … John Rigas and his son Timothy were convicted in 2004 of pocketing more than $ 2 billion from Adelphia (ADELQ) for their own personal use and misleading investors about the company's finances and performance. … Timothy Rigas, the company's one-time chief financial officer, was sentenced to 20 years in prison, while his father was sentenced to 15 years in prison. Both men remain free on bail pending appeal."

HealthSouth To Settle Class Action For $445 Million. The AP (2/24, Reeves) reports, "HealthSouth Corp. said Thursday it had reached a $445 million preliminary agreement to settle federal lawsuits resulting from a massive financial fraud that nearly drove the rehabilitation chain to ruin." The AP continues, "The Birmingham-based company will pay $215 million in common stock and warrants under the global settlement, and insurance companies will pay another $230 million in cash." The AP adds, "Investors involved in class action suits filed in federal court also will receive 25 percent of anything the company eventually gets in its lawsuit against fired chief executive Richard Scrushy, former auditor Ernst & Young and UBS, HealthSouth's former investment bank."

The New York Times (2/24, Whitmire) reports, "In March 2003, federal investigators raided HealthSouth's headquarters (in Birmingham, AL) and exposed what was then estimated to be a $2.7 billion accounting fraud. More recent restatements have estimated the fraud to be in excess of $4 billion. … After the fraud was exposed, 15 HealthSouth executives pleaded guilty to criminal charges, including all

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five of the company's chief financial officers. One former financial executive, Hannibal Crumpler, known as Sonny, was found guilty at trial. … In June 2005, a jury in Birmingham acquitted Mr. Scrushy of all criminal charges that he participated in the fraud. He still faces numerous civil suits in the case."

CRIMINAL LAW:

Libby Lawyers Seek Dismissal Of Leak Indictment. CNN's The Situation Room (2/23, Blitzer) reported that Vice President Dick Cheney's former chief of staff, Lewis Libby has asked a federal judge to dismiss his indictment in the CIA leak case. Libby's lawyers say special prosecutor Patrick Fitzgerald "lacks the authority to pursue the charges because he was not appointed by the President with consent of the US Senate." Fox News' Special Report (2/23, Hume) noted, "The motion was not unexpected, Libby's lawyers having said earlier that month they would file it. It's considered a longshot to win." The Washington Post (2/24, A5, Leonnig) reports that Libby's attorneys argued that "Fitzgerald was improperly appointed by the Justice Department instead of the president to investigate the leak of CIA operative Valerie Plame's identity. That means his work and the charges of perjury, making false statements and obstructing justice brought against Libby in October are invalid, they said in court papers filed yesterday." The Post adds, "Other documents released with their filings show that by August 2004, eight months after beginning his investigation, Fitzgerald had amassed a large amount of evidence suggesting that Libby was lying to investigators. Libby's accounts of conversations with administration officials and reporters about Plame conflicted with others offered by virtually every administration official and reporter questioned by Fitzgerald's investigators." The Post notes, "Also yesterday, Fitzgerald asked U.S. District Court Judge Reggie B. Walton for permission to explain a 'factual matter' in a sealed filing that concerns his ongoing grand jury investigation and the reasons Fitzgerald believes he cannot release some of the documents Libby's defense lawyers are seeking."

Reuters (2/23) reports, "Since both Attorney General Alberto Gonzales and former Attorney General John Ashcroft removed themselves from the investigation because of their close ties to the White House … Fitzgerald reports to David Margolis, a career Justice Department lawyer." Libby's attorneys "argued that because Fitzgerald does not report to the attorney general, he should not have been appointed by a deputy at the Justice Department. … 'Because he was not appointed to that office by the president with the advice and consent of the Senate, he holds that authority improperly,' Libby's lawyers wrote." Reuters notes that Fitzgerald "was picked by then-Deputy Attorney General James Comey in December 2003 to investigate who leaked" Valerie Plame's identity.

The AP (2/23, Locy) reports, "The lawyers said illegal assignment of 'unsupervised and undirected power' to Fitzgerald requires that he be relieved of his duties in the investigation and that all actions he has taken be voided." The AP adds, "Unlike every other federal prosecutor, Fitzgerald did not have to seek approval from senior Justice Department officials to grant immunity or subpoena reporters and news organizations. Nor did he have to advise senior Justice officials before he sought Libby's indictment. … 'The attorney general may delegate powers but he may not abdicate responsibility,' Libby's lawyers wrote."

USA Today (2/24, 2.31M) also reports that Libby's lawyers said Fitzgerald "is operating outside the supervision of the attorney general, as required by federal law." The Washington Times (2/24, Seper, 90K) also reports on the defense motion.

Judge To Hear Arguments Today On Defense Request For Classified Documents. The AP (2/24) reports, "Defense lawyers and Mr. Fitzgerald are to appear in Federal District Court here on Friday to argue defense requests for classified records and evidence gathered by the prosecution about reporters who learned about" CIA operative Valerie Plame "from officials other than Libby."

Senators Call For Special Prosecutor To Probe Abramoff Ties To Pacific Territories. Democratic Sens. Jeff Bingaman and Ken Salazar are calling on Attorney General Alberto Gonzales to appoint a special prosecutor to investigate lobbyist Jack Abramoff's activities in Guam and the Northern Mariana Islands. The Los Angeles Times (2/24, Roche, 958K) reports that in a letter made public yesterday the Senators "asked Gonzales to provide the Senate Energy and Natural Resources Committee with a secret Justice Department report on security risks" in the two island territories. In their letter, the Senators "noted that the report was prompted by concerns that the islands might provide an entryway for terrorists in the wake of the Sept. 11 attacks on the U.S. mainland. Also noted in the report were the substantial U.S. military assets in the Pacific islands that could be at risk."

Federal Grand Jury Indicts 32 Alleged Mobsters On Racketeering Charges. The New York Times (2/24, Preston) reports, "A Genovese crime family boss has been charged with capital murder, accused of ordering a mob killing — with help from his lawyer — while he was locked away in prison, federal and state authorities announced yesterday." The Times continues, "The mobster, Liborio S. Bellomo, 49, authorized the 1998 murder of Ralph Coppola, a

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member of the Genovese crew, according to a federal indictment unsealed yesterday in Manhattan. At the time of the killing, Mr. Bellomo was the acting Genovese boss although he was serving a 10-year sentence in federal prison for extortion, said Michael J. Garcia, the United States attorney for the Southern District of New York." The Times adds, "Mr. Garcia said Peter J. Peluso, a New York lawyer who frequently represented Genovese members, communicated Mr. Bellomo's order to execute Mr. Coppola from the prison to Genovese henchmen. Mr. Peluso pleaded guilty last July to serving as a messenger in the murder plot, Mr. Garcia said, and also admitted taking part in racketeering, extortion and obstruction of justice. … The indictment, which names 32 people as members of the Genovese family, including Mr. Bellomo, is a result of a three-year racketeering investigation of the family's operations in the Bronx and Westchester. Twenty-nine defendants were arrested yesterday, and the arrests of two others are pending. Mr. Bellomo is currently in federal prison in Coleman, Fla. Mr. Peluso has been cooperating with prosecutors, Mr. Garcia said. His information appears to have been crucial for the broad racketeering charges, and for yesterday's arrests."

Reuters (2/24, Kearney) reports, "The indictments cover charges spanning more than a decade and come after a 3 1/2-year investigation," Garcia said. "Several of the accused already were in jail and others were arrested on Thursday, when the indictments were unsealed. … 'Any time you take out top leader leadership of an organization charged with serious crimes ... you have to believe you are having an impact,' Garcia said at a news conference, declining to further assess the relative strength of the family." The AP also reports on the indictments.

Defense Rests At Ryan Trial. In a widely-distributed story, the AP (2/24) reports, "Lawyers for former Illinois Gov. George Ryan rested their case Thursday at his public corruption trial. … Before sending jurors home for the weekend, the judge said there would be more rebuttal witnesses from prosecutors on Monday. She said closing arguments might get under way a week after that."

Judge Issues Limited Gag Order After Prosecutors Assail TV Comments By Ryan's Wife. The Chicago Tribune (O'Connor, Bush, 643K) reports, "Federal prosecutors on Thursday blasted former Gov. George Ryan's lawyer, accusing him of orchestrating a bid to influence the jury in the trial's 11th hour after Ryan's wife," in Wednesday TV interviews, "contended that her husband was indicted because of his death-penalty stance and that he decided against testifying because witnesses can't tell their stories in the courtroom." US District Judge Rebecca Pallmeyer "issued a limited gag order barring comments about the integrity of the trial or the motivations of lawyers on either side of the case."

Close Campbell Friend Testifies About Delivering Bribes. The Atlanta Journal-Constitution (2/24, Warren, Suggs, 430K) reports that at the corruption trial of former Atlanta Mayor Bill Campbell Thursday, businessman Dan DeBardelaben – Campbell's "longtime friend and golfing buddy" – "told jurors how, on three occasions in 1999, he delivered thousands of dollars in cash bribes from city contractor Samuel J. Barber Jr. directly to Campbell." DeBardelaben testified that "five days after the last payment to Campbell…the city approved an emergency authorization of $3 million to Barber's company…bypassing competitive bids" for the Y2K upgrade project. The Journal-Constitution notes, "Even lead defense attorney Billy Martin called DeBardelaben…a 'pivotal witness' for the government," and "Martin told the judge he may subpoena prosecutors and an FBI agent because he believes there should be more written documents showing DeBardelaben's statements about the case over the years that could be used to show inconsistencies." WSB-TV Atlanta (2/23) and WXIA-TV Atlanta (2/23, Carnes, King) also reports on DeBardelaben's testimony.

Alleged Philadelphia Latin Kings Leader Testifies In Own Defense. The Philadelphia Inquirer (2/24, Anastasia, 423K) reports, "William 'King Homicide' Sosa, charged with heading a Latin Kings street gang that engaged in drug dealing, murder, kidnapping and rape, told a federal jury yesterday that violence and narcotics trafficking are 'against the rules' of the Almighty Latin King and Queen Nation. Taking the witness stand in his defense, Sosa…acknowledged that some 'rotten apples' had given the Latin Kings a bad reputation, but said that he neither took part in nor condoned criminality during the four-year period that federal prosecutors say he headed the Philadelphia branch of the national organization." The Inquirer notes that Sosa also said his nickname, Homicide, "stood for a Humble Oppressed Mind Increases through Cultural Independence a Desire for Education," although "prosecutors…have used witness testimony and evidence gathered during a three-year FBI investigation to portray Sosa as a volatile crime boss who embodied a more traditional interpretation of the nickname."

Government Witnesses Set To Take Stand In New York Mob Trial. The New York Times (2/24, Feuer) reports, "No one expects a Mafia defector to be Eagle Scout material. There is, after all, much truth to the adage that to catch a thief, it helps to have been one. … Nonetheless, the four informants scheduled to testify at the federal trial of Louis J. Eppolito and Stephen Caracappa will each take the stand with résumés that might have impressed Capone. According to a letter filed yesterday by prosecutors in the case, the men have collectively committed a

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smorgasbord of crimes." The Times continues, "Mr. Eppolito, 57, and Mr. Caracappa, 64, are former New York City police detectives charged with participating in at least eight killings as assassins for the mob. Their trial is to begin next month in Federal District Court in Brooklyn, nearly a year to the day after they were arrested on the Las Vegas Strip. … Prosecutors plan to introduce as witnesses two long-standing Mafia informants and a pair of turncoats specifically recruited for the case. Under law, prosecutors are required to disclose their witnesses' criminal histories, and in this case they include more criminal charges than the indictment. One of the witnesses is Alphonse D'Arco, former acting boss of the Luchese family, which employed the two defendants, prosecutors say. Mr. D'Arco has a conviction record that lists extortion, murder, murder conspiracy, robbery, arson, tax evasion, counterfeiting, narcotics trafficking, burglary, hijacking and assault, the prosecutors' letter says."

Witness In Gotti Trial Tells Of Life "On The Shelf." The New York Times (2/24, Hartocollis) reports, "His marriage collapsed after his girlfriend gave birth to his son. His income dried up because he could not run his extortion rackets from the federal prison where he was being held on mob-related charges. … But the most frightening moment for Michael DiLeonardo, a captain in the Gambino crime family, was when his girlfriend conveyed a message to him from Pete Gotti, the official leader of the family and the brother of the late boss John J. Gotti. … Mr. DiLeonardo was 'on the shelf,' his girlfriend told him. She did not know what that meant, but Mr. DiLeonardo did. … 'It means they broke me, they disenfranchised me,' he told a federal jury in Manhattan yesterday, as he testified for a second day in the racketeering trial of John A. Gotti. 'I'm not a captain, and I'm not a soldier. I'm the property of the Gambino family, but I have no say, no power. I'm not even to be recognized if other wiseguys want to recognize me.'" The Times adds, "He did not say why he was shelved, though he suggested it was because he was an ally of John A. Gotti, who was the rival of his uncle Pete Gotti. Whatever the reason, that exile, in November 2002, after 14 years as a made member of the Gambino family, was a turning point. … Being cast out convinced him to confess to three murders and become a government witness against Mr. Gotti and against a long list of other organized crime defendants. … He immediately began wearing a recording device, which the F.B.I. did not allow him to turn off, even when he visited his mother in the hospital, he said. He confided in his son Michael, who was 16, and felt rejected when his son thought it was wrong to cooperate with the government." The Times notes, "Under the racketeering laws, the prosecution must show that Mr. Gotti committed some of those crimes within five years of his 2004 indictment. … Because Mr. Gotti was in prison for a 1999 racketeering conviction before he was indicted, the prosecution has been trying to prove that he continued to communicate with Mr. DiLeonardo and carry out Gambino crime family business even from behind bars."

Two More Arrested In Alleged ELF Arson At Oregon Tree Farm. The AP (2/24) reports Nathan Frazer Block and Joyanna L. Zacher were indicted Thursday by a Eugene, Ore., federal grand jury "in the 2001 arson at a Clatskanie tree farm, court officials said, bringing the number charged in the case to six." Block and Zacher "were arrested Thursday in Olympia, Wash., after the 14-count indictments were handed up." The AP notes, "The government alleges the arson at the tree farm was part of a broad conspiracy from 1996 through 2001 in Oregon, Washington, Wyoming, Colorado and California, in which elements of the radical groups the Earth Liberation Front and the Animal Liberation Front allegedly took part." The Seattle Times (2/24) also reports on the indictments and arrests, as does The Olympian (2/24) in Olympia, Wash., under the headline "Two Olympia Residents Arrested In Ecoterror Arson At Oregon Tree Farm."

US Assesses Extent Of Cyber-Crime. Scripps Howard (2/23, Hoffman) reports, "One of the persistent unknowns in the battle against cyber-crime is the true scope of the problem." Scripps Howard continues, "Since the Internet revolution began a decade ago, U.S. businesses have been so reluctant to report cyber-victimization that experts believe the toll may be substantially higher than anyone estimates, law-enforcement officials say. … But a sweeping survey recently begun by the Department of Justice may provide the clearest picture yet of the scourge of computer viruses, worms, spyware, network intrusion, fraud, theft of information and other security breaches." Scripps Howard adds, "The departments of Justice and Homeland Security have unveiled plans to randomly - and confidentially - query 36,000 firms, which were selected as a sample of 5.3 million U.S. businesses across 37 industry sectors. … The survey data 'will provide the first official national statistics on the extent and consequences of cyber crime,' Justice spokesman Stu Smith said in a statement. … The department hopes it also will pierce the unwritten code of silence that most companies follow when it comes to cyber-crime. … 'Most companies that experience computer intrusions or breaches of security do not report the incidents to law enforcement,' FBI Director Robert Mueller said at a Feb. 15 Business Software Alliance town-hall meeting. … That reluctance stems from two beliefs by many firms: that it's a waste of time to report such an incident because there is little the police can do about it; and that revealing an attack could hurt their bottom line through bad publicity and diminished customer confidence in their security procedures."

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California Execution Dispute Highlights Ethical Issues For Doctors. The Christian Science Monitor (2/24, Knickerbocker) reports, "In California this week, two anesthesiologists refused to monitor the administering of a barbiturate designed to render unconscious convicted killer Michael Morales before he was to be killed with two other drugs." The Monitor continues, "The execution was called off - or, at least, postponed. Death-penalty opponents cheered. And the roiling debate over the ethics of medical professionals' involvement in the officially sanctioned ending of human life got a little hotter. … At issue: Should a healer help the executioner?" The Monitor adds, "Beyond abortion (where the question of when life begins remains the major debating point), this includes executions carried out by the state and physician-assisted suicide now legal in Oregon and being considered in other states. … Similarly, medical ethics are involved in growing questions about military doctors taking part in the interrogation of prisoners and the force-feeding of those on a hunger strike. … In the eyes of most professional medical organizations, physicians have the ethical and professional obligation to do what they can to make people well, not to help kill them. … While most states now favor lethal drugs in capital punishment, courts increasingly are taking a skeptical view of a procedure that critics say violates the Constitution."

Maryland Police Say DNA Evidence Points To Killer Of Two. The Washington Post (2/24, B1, Klein) reports, "The crime was particularly heinous, even for county investigators familiar with violence: Two grandmothers in their seventies were stabbed to death during a robbery of their Suitland flower shop. More than two years later, Prince George's County police believe they know who did it." The Post continues, "A DNA match from a federal database led them to a man who is in the Alexandria jail on unrelated charges, police said yesterday. … Investigators have an arrest warrant accusing Adam I. Neal, 24, of two counts of second-degree murder. They believe he entered Suitland Florist on Sept. 24, 2003, robbing it of about $60 and going on a stabbing rampage, killing owner Mary Frances McDonald, 76, and her longtime friend and employee, Madeline 'Mattie' Thompson, 73." Police Chief Melvin C. High. "said investigators found DNA evidence at the scene but would not disclose whether it was blood, sweat, hair or some other substance. Police entered the DNA code into a national database to check for matches across the country but found none at the time, High said."

Contractor To Plead Guilty For Role In Cunningham Bribe Case. Defense contractor Mitchell Wade is expected to plead guilty in federal court today for his role in the bribery case involving former Rep. Randall Cunningham. The Washington Post (2/24, Leonnig, Babcock, 744K) reports that Wade has been cooperating for months with the investigation into Cunnigham's 'alleged trading of 'earmarks' in congressional appropriations for $2.4 million in cash, furniture, boats and house payments, sources said." Sources say Wade "is expected to admit to his sweetheart purchase of Cunningham's home and to providing hundreds of thousands of dollars in cash and gifts to the congressman."

Self-Defense Laws Raise Concerns Over Vigilante Justice. The Christian Science Monitor (2/24, Jonsson) reports, "Instead of embracing a citizen's 'duty to retreat' in the face of a physical attack, states may be taking cues from the days of lawless frontier towns, where non-deputized Americans were within their rights to hold the bad guys at bay with the threat of deadly force." The Monitor continues, "First enacted in Florida last year, 'Stand Your Ground' bills are now being considered in 21 states including Georgia, according to the National Rifle Association and the Brady Campaign to Prevent Gun Violence. The South Dakota senate approved one just last week. … These new measures would push the boundaries beyond the self-defense measures already on the books. Twelve states already allow citizens to shoot intruders in their homes, and 38 states permit concealed weapons in public places. The 'Stand Your Ground' laws would allow people to defend themselves with deadly force even in public places when they perceive a life-threatening situation for themselves or others, and they would not be held accountable in criminal or civil court even if bystanders are injured." The Monitor notes, "Laws putting more judgment in an individual's hands stem from people's increased concern about crime in their communities. Proponents say it helps shift the debate from gun control to crime control, and that these laws are part of the rugged individualism of Americans. … Some critics say such 'Wild West' laws are vigilante justice, and commonplace confrontations and more likely turn to violence."

Four Charged In New York With Role In Human Body Parts Trade. The New York Times (2/24, Brick) reports, "Four men were charged yesterday with operating a corrupt $4.6 million enterprise to harvest human tissue from funeral homes and sell it for use in transplants and research." The Times continues, "The men — a former dentist, two of his workers and an embalmer — pleaded not guilty at their arraignment in State Supreme Court in Brooklyn. Justice John P. Walsh set bail of $1.5 million for the former dentist, Michael Mastromarino of Fort Lee, N.J., described by prosecutors as the ringleader, and lesser bail amounts for the other men: Joseph Nicelli, an embalmer from Staten Island, and Lee Cruceta and Christopher Aldorasi, Dr.

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Mastromarino's assistants." The Times adds, "The charges were the first public acknowledgment of a gruesome inquiry that has appeared on the covers of tabloid newspapers for months. The publicity was not lost on the defendants' lawyers, who accused prosecutors of making exorbitant bail demands with headline writers in mind. … Court documents filed in support of the charges provided the first official accounting of the investigation, alluding to participation by funeral home directors across the Northeast, but leaving unaddressed questions about the financing and scope of the operation. … The documents describe falsified records associated with 63 tissue extractions performed by Biomedical Tissue Services, a New Jersey company described as the center of an operation that garnered $4.6 million by fraudulent means."

Census Bureau Won't Change Method Of Counting Inmates. The Census Bureau has concluded that altering the practice of counting inmates as part of the population of the state in which they are being held would be so burdensome that it might cause new inaccuracies in the population count. The Washington Post (2/24, A13, 744K) reports that "the bureau said in a report requested by Congress and released this week that many of the home addresses of inmates on file at prisons are incomplete. It concluded that the change would require interviews with inmates and other efforts that would cost $250 million."

CIVIL LAW:

North Carolina Cardiologist Fined $2.6 Million For Medicare Fraud. The AP (2/24) reports, "A Charlotte (NC) cardiologist will pay $2.6 million to settle a federal lawsuit that alleges he defrauded Medicare for six years, according to a news release." The AP continues, "The U.S. Justice Department said Amir Hussein allegedly overbilled the medical program for the elderly and disabled from 1997-2003, which resulted in higher reimbursements from the government than he was entitle to receive. … Federal investigators also said Hussein billed Medicare for unnecessary services and sometimes billed twice for the same service." The AP adds, "The settlement money represents the amount of the fraud plus fines. The settlement also requires that he hire a government-approved auditor who will monitor his billing practices for five years. … The government said a whistleblower from Mecklenburg County who sued Hussein over his billing practices will receive a portion of the settlement money. The government joined the lawsuit."

CIVIL RIGHTS:

Report Finds Continuing Problems In DC Group Homes. The Washington Post (2/24, A1, Barker) reports, "The District government has failed to meet promises to improve conditions for mentally and physically disabled residents in its group homes, even after a series of deaths stemming from inadequate care, a court monitor has found." The Post continues, "The health and safety of group home residents remain in jeopardy because of continuing problems with health care, nutrition and supervision, monitor Elizabeth Jones said in a newly released report. She said D.C. officials have made 'little meaningful progress.' … The city is behind in conducting investigations of deaths at group homes, Jones said in a report filed this week in U.S. District Court. Even when investigations were completed, the city failed to notify group home operators for more than a year of the results, she said." The Post adds, "Nurses cited for neglect continue to work in group homes, the monitor found. Also, the District missed a 90-day deadline this month that was designed to address some of the court's most pressing concerns -- and demonstrate the city's ability to make meaningful changes in the care of its most vulnerable citizens. … Jones's comments were part of another blistering quarterly review in a 30-year-old lawsuit against the District that centers on the quality of care for persons with mental retardation, many of whom also have severe physical disabilities. In November, her report found that a pattern of neglect had led to four deaths in the past year. … The new report was prepared in advance of a hearing Thursday before Judge Ellen Segal Huvelle. The judge had given the city's Mental Retardation and Disabilities Administration until Feb. 10 to show improvements in the system, which serves about 2,000 people."

South Carolina Judge Apologizes After Barring Dog From Court. The AP (2/24) reports, "A North Charleston (SC) municipal judge says he is sorry if he offended a man using a medical service dog by questioning the man for bringing the animal into a courtroom." The AP continues, "Bob Godfrey removed his golden retriever from court Feb. 8 after Municipal Judge George Epps berated him for bringing her into the room. … But judges cannot bar medical service animals from court, a U.S. Justice Department spokesman said. … 'Assuming that the person with a disability is using an appropriately trained animal, the assistance animal should be admitted ... unless the animal presents a direct threat to others,' said Eric Holland of the Justice Department, which enforces the Americans with Disabilities Act." The AP adds, "Epps told The (Charleston) Post and Courier on Wednesday he didn't know dogs could be trained to pick up people if they fall. … That is why

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Godfrey travels with Jasmine, who also alerts him to high-pitched sounds he cannot hear, such as sirens. Godfrey said he is prone to falling because he has rods and screws in his back following an automobile accident. … 'It takes its little hands and helps pick you up,' Epps said to Godfrey in court according to an audiotape of the discussion. 'What does that dog do besides not supposed to be in this building? ... You ought to know better than to bring a dog into a courtroom. That just really upsets me.'"

Maine Misses Deadline For Voter Registration Law Compliance. The Bangor Daily News (Maine) (2/24) reports, "Despite receiving $17 million in federal money for a town-by-town upgrade of the state's voter registration system, Maine has missed its Jan. 1 completion deadline and is dropping the software contractor it hired to do the job." The News continues, "Secretary of State Matt Dunlap acknowledged Wednesday that the contractor would be paid about 12 percent of the value of its $4.5 million contract with the state, or $500,000. … Many states have fewer, county-based voter registration systems. Maine, with 503 towns and distinct voter lists, differs greatly, he said." The News adds, "In the meantime, computers bought with the federal money are sitting idle in town offices until the system is running. … They're not likely to be on line by the June primary election, but Dunlap hopes the system will be running by the Nov. 7 general election. … The state is parting with Covansys Corp., a technology services company based in Farmington Hills, Mich. It was hired to develop a centralized voter registration system to replace Maine's antiquated system of town-by-town registration." The News notes, "A U.S. Justice Department official would not comment Wednesday regarding the Jan. 1 compliance issue. … 'We are currently in communication with various states, and we are evaluating each individual state's situation. At the conclusion of that evaluation, we'll determine what type of actions, if any, should be taken,' said Eric Holland, the Justice Department spokesman."

DOJ To Intervene In Pennsylvania Voting Suit. The AP (2/24) reports, "The Justice Department plans to intervene in a lawsuit over voting machines in Westmoreland County, which could affect other counties in the state." The AP continues, "Assistant Attorney General Wan J. Kim sent a letter to state and county officials warning that a federal lawsuit will be filed within 10 days, county officials said Wednesday. … A citizens group successfully sued in Commonwealth Court to stop the county from buying new touch-screen voting machines because the county didn't first hold a referendum to let voters approve the new machines. That's required under the state constitution, but federal officials -- and the county commissioners -- argued that was superseded by the Help America Vote Act." The AP adds, "The federal law provides funds so counties can update their voting machines to prevent recounts and other problems like those that plagued the 2000 presidential election."

Indiana Man Seeks Office After Federal Firearms Conviction. The Fort Wayne Journal Gazette (2/24, Mapes) reports, "A LaGrange County (IN) man with a federal felony record believes he should still be allowed to run for county office. … At least three county residents, however, have challenged Nathan K. Lumbard's candidacy." The Gazette continues, "The 23-year-old Howe resident filed to run in the May primary as a Democratic candidate for the LaGrange County Council. … Clerk Beverly Elliott said one challenge came from Lumbard's district, while the two others were just concerned citizens. … Lumbard's case will go before the LaGrange County Election Board on March 7, Elliott said. State law prohibits convicted felons from holding political office." The Gazette adds, "Lumbard was convicted on two counts of making false statements on federal firearms forms in August 2004. … During jury deliberation, Lumbard fled the federal courthouse in South Bend and was found a few weeks later in Mexico. He was sentenced to 21 months in federal prison. … Lumbard said the federal charges stemmed from an application to purchase a gun. At the time he completed the application, he faced felony theft and intimidation charges in LaGrange County. … Even though those charges were later dropped, he still was required to include them in his application, but didn't, investigators said." The Gazette notes, "Lumbard said he believes LaGrange County Prosecutor Jeff Wible pressured federal authorities to prosecute him. … 'I believe some of the motive was political,' Lumbard said. … Wible dismisses that notion. … 'I have no control over the U.S. Justice Department,' he said. 'What would the political motivation have been?' … Even if Lumbard is cleared to run for office, he may still face charges related to a LaGrange arson case from February 2004."

States Move To Restrict Picketing At Funerals. More than a dozen states have moved to restrict picketing at funerals after a small religious group staged anti-gay protests at funerals fro US troops killed in Iraq. USA Today (2/24, Brook, 2.31M) reports, "The rare action focused on a single person, the Rev. Fred Phelps of Westboro Baptist Church in Topeka, has raised concerns about how to balance protesters' First Amendment rights and mourners' rights to be shielded from offensive messages." USA adds, "Westboro Baptist members picket military funerals, holding signs with such messages as 'Thank God for IEDs' and 'God Hates Fag Enablers.' They say God is punishing America for tolerating gays."

Author Says Supreme Court Should Stay Out Of Texas Redistricting. In a Los Angeles Times op-ed

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(2/24), American Enterprise Institute visiting fellow Edward Blum says that as the Supreme Court takes up the Texas redistricting case, as "controversial as the Texas remap was, courts shouldn't get entangled in what the late Justice Felix Frankfurter called the 'political thicket' of partisan redistricting. If political gerrymandering is a problem, it should be resolved by the voters, state by state and jurisdiction by jurisdiction." The Texas "mid-cycle remap was out of the ordinary, and DeLay made no secret of his desire to add Republicans to the Texas congressional delegation. But is that, per se, unconstitutional? No, it's not."

ANTITRUST:

BlackBerry Patent Dispute Nears Courtroom Showdown. Reuters (2/24, Kaplan) reports, "The maker of the BlackBerry portable e-mail device faces a courtroom showdown on Friday in a patent infringement case that could lead to a shutdown of the service for millions of U.S. users." Reuters continues, "Barring a last-minute settlement, lawyers for BlackBerry maker Research In Motion Ltd. are due to appear before a federal judge at 9 a.m. to try to head off an injunction that would cut service to most of the more than three million U.S. BlackBerry customers." Reuters adds, "The Canadian company's lawyers will try to convince U.S. District Judge James Spencer in Richmond, Virginia, that an injunction cutting service would be premature and contrary to the public interest. … 'I'd say it's really a close case,' said Steve Maebius, a patent lawyer with the firm Foley & Lardner LLP. 'It's hard to say what (the judge) will do.'" Reuters notes, "NTP Inc. filed suit against RIM in 2001 in U.S. District Court for the Eastern District of Virginia. A jury found in favor of privately-held NTP in 2002. … In 2003, Spencer granted an injunction that would have halted U.S. sales of the BlackBerry and shut down its service, but stayed the injunction pending appeal. … An appeals court in August of 2005 scaled back the ruling against RIM, but upheld some patent infringement claims. Subsequent appeals have been turned down."

BlackBerry CEO Refused Settlement Offer Last Year. The Wall Street Journal (2/24, Heinzl, Sharma) reports, "Late last year, a tiny patent firm threatening to shut down BlackBerry maker Research in Motion Ltd. offered a deal: For about $1 billion, it would go away. … Many customers and investors expected RIM's chairman and co-chief executive, Jim Balsillie, to pay up. They were hoping to avoid interruptions in the wireless email service that millions of lawyers, government workers and other professionals rely on. … Instead, the 45-year-old triathlete doubled down on his high-stakes bet. He pressed engineers to hurry development of new software that skirts the patent claims made by NTP Inc. Behind the scenes, he reached out to customers including wireless phone companies that sell the BlackBerry service, some of which were growing anxious about his hardball stance." The Journal adds, "Mr. Balsillie says fighting NTP tooth and nail is a gamble worth taking because NTP's patents are "committed to the garbage bin." Not everyone is so sure. Many expect RIM to settle eventually -- it came close to doing so last year -- and fear any savings on patent royalties won't make up for the damage to BlackBerry's brand and customer loyalty. Mr. Balsillie says he has always preferred a settlement but calls NTP's terms unreasonable. … Lawyers for the two sides are scheduled to appear today before Virginia federal court Judge James R. Spencer. He could decide as early as today on NTP's request for a shutdown of BlackBerry sales and service in the U.S., where most of the world's 4.3 million BlackBerry users live."

Microsoft Takes EU Dispute Public With Posting Of Defense. The AP (2/24, White) reports, "Microsoft Corp. took the unusual step Thursday of making public its formal response to European Union charges that it was failing to comply with a 2004 antitrust ruling." The AP continues, "The response, which companies usually keep confidential, was filed on Feb. 15 as the EU threatened the Redmond, Wash., software company with daily files of $2.38 million." The AP adds, "Microsoft said it believed it was in full compliance with the technical documentation EU regulators had demanded in 2004 to help rival software firms develop products that worked with Windows servers. … 'It also details numerous ways in which the Commission had ignored key information and denied Microsoft due process in defending itself,' the company said in a statement posted on its Web site along with its 78-page response and several appendices." The AP notes, "The EU denied similar complaints from Microsoft earlier, saying it had repeatedly reminded Microsoft of the need to provide 'complete and accurate specifications.' … Microsoft said it also was publishing two reports from software engineering professors who had examined the technical documentation created by Microsoft."

The Times (2/24, Doran) reports that Microsoft "stepped up its antitrust battle with the European Commission by publishing letters between Steve Ballmer, its chief executive, and Neelie Kroes, the EU Competition Commissioner, to show that it had complied with a Brussels mandate to allow competitors access to its technology. … The letters relate to a 2004 order that the American software company allow access to its so-called group server operating system software to competitors. In December Mrs Kroes accused Microsoft of failing to comply with the order and it faces the prospect of fines of €2 million (£1.4 million) a day." The Times adds, "Microsoft said last night that it had decided to publish the letters on the internet to show that it had made every effort to comply with its ruling. 'Transparency is vitally

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important in what can be a very opaque process in Brussels. We have decided to open this up so people can understand the issues,' said Horacio Gutierrez, a lawyer for Microsoft. … In a letter to Mr Ballmer dated November 9 last year, Mrs Kroes said that she was not satisfied with the speed of Microsoft's compliance with the order but was encouraged by the actions it had taken. 'I have been somewhat disappointed by the pace at which issues of compliance have been solved so far . . . I however take note of your unambiguously stated commitment to comply fully with the March 2004 decision,' she wrote. … In a reply written on December 15 — only six days before the Commission threatened to fine Microsoft €2 million a day for alleged non-compliance with the order — Mr Ballmer assured Mrs Kroes of the company's efforts to meet and go beyond the Commission's demands. He wrote that technical documents requested by the EU had been provided partly on paper and partly on CD. He also asked Mrs Kroes to let him know whether she needed help to access the documents on CD."

The Wall Street Journal (2/24, Jacoby) reports, "Faced with the prospect of large daily fines for not complying with European antitrust orders, Microsoft Corp. plans to argue in a hearing next month that regulators keep changing their minds about what they want the software giant to do to comply." The Journal continues, "The argument was outlined in a document Microsoft delivered confidentially to European Union antitrust authorities Feb. 15. The company made its response public yesterday amid its intensifying antitrust problems. EU antitrust authorities have 'moved the goal posts on us but have deliberately refused to articulate' what will satisfy them, Horacio Gutierrez, Microsoft's general counsel for Europe, said in an interview. … 'We have not moved the goal posts,' EU spokesman Jonathan Todd responded. 'What we require is compliance with [the EU's] March 2004 decision, which is written in black and white.'"

Boston Scientific Files For EU Approval Of Guidant Acquisition. The AP (2/24) reports, "Medical device maker Boston Scientific Corp. said Thursday that it has filed all the required paperwork with European regulators for its acquisition of Guidant Corp. … Boston Scientific has said in the past it expects to close the deal by the end of March." The AP continues, "After a long bidding war with Johnson & Johnson, Boston Scientific made a winning $27.2 billion bid for Guidant, or for $80 per share in cash and stock, in January. J&J had originally offered $25.4 million for the company in December 2004, but cut that bid down to $21.5 million by November after a summer of Guidant recalls. … Part of the agreement calls for Boston Scientific to sell Guidant's vascular intervention and endovascular businesses to Abbott Laboratories Inc. for $6.4 billion in cash with the two companies sharing rights to Guidant's line of drug-coated stents. The move is expected to speed up antitrust approval. Boston Scientific said that Abbott filed their paperwork with European regulators along with the company. … However, the Federal Trade Commission has not been able to comment on when the deal's regulatory review will be completed."

Guidant Cited For More Defibrillator Manufacturing Violations. The AP (2/24, Heher) reports, "Medical device maker Guidant Corp. failed to get the necessary federal approval for changes it made to a line of defibrillators, waiting more than a year to tell regulators it had repaired software in the devices, according to inspection documents released Thursday." The AP continues, "The inspection report by the Food and Drug Administration said a memory disruption flaw in Guidant's Prizm, Prizm 2 and Vitality pulse generators could cause the defibrillator to incorrectly administer an electric shock to a patient's heart. .. A company spokesman said Indianapolis-based Guidant notified the FDA about the malfunction problem in August 2002, when it was first discovered." The AP adds, "The company developed software to fix the problem in May 2004, nearly two years after the first of four confirmed malfunctions was discovered. But it did not submit the change to the FDA until August 2005, inspectors said. … Inspectors discovered the omission this month as part of their 21-day examination at Guidant's St. Paul, Minn., facility."

EU Approves Cisco Systems' Plan To Purchase Scientific-Atlanta. The AP (2/24) reports, "The European Union on Thursday cleared Cisco Systems Inc.'s proposed $6.9 billion purchase of Scientific-Atlanta Inc., saying the combination will not pose any antitrust problems in the European Union." The AP continues, "Cisco makes an assortment of networking gear while Scientific-Atlanta makes set-top-boxes for cable operators. But there is only "limited overlap" in their activities in Europe in cable modem and gateway products and even less in wireless mesh network products, set-top boxes and optical transmission products, the European Commission said in a statement." The AP adds, "The European Commission said that 'the new combined entity would continue to face a number of strong competitors and that new market opportunities, as well as relatively low barriers to entry, may attract new entrants. … Furthermore, buyers maintain competition in these markets by switching suppliers relatively often,' it added. … U.S. regulators raised no objections to the deal either, allowing the waiting period for their review to expire at the end of 2005 without taking any action."

South African Antitrust Body Bars Sasol-Engen Merger. The AP (2/24) reports, "A proposed merger between South Africa's Sasol Ltd, a synthetic fuels and

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chemical company, and Engen, a fuel retailer, was prohibited Thursday by the country's antitrust body." The AP continues, "In a statement, the Competition Tribunal said it had barred the merger between the country's largest refiner of white fuels and the largest retailer of these products, as the merged entity 'would enjoy a near-monopoly of refinery capacity and a retail market share in the inland market that is considerable.' … It said the merged entity could withhold supplies of refined products from other marketers of fuel in South Africa's inland regions." The AP adds, "The tribunal's decision is the second blow to Sasol this month, closely following Finance Minister Trevor Manuel's announcement in his Feb. 15 budget speech that a task force is to be appointed to investigate 'windfall gains' in the synthetic fuel industry."

Icahn Ratchets Up Pressure By Boosting Bid For KT&G. The Financial Times (2/24, Politi) reports, "Carl Icahn, the US financier, on Thursday increased the pressure on the management of KT&G, the Korean tobacco group, by launching a bid to acquire the company for 60,000 won a share. .. The bid is a 17 per cent premium to Thursday's market capitalisation of KT&G of Won8,300bn or $8.5bn." The Times continues, "The move was disclosed in a letter to Kwak Young-Kyoon, representative director of KT&G, in which Warren Lichtenstein, an associate of Mr Icahn in the takeover fight, launched another scathing attack on the company. 'You have flatly refused to listen to any of the proposals that we have made. In light of this, we have determined to make a proposal to acquire KT&G.' … KT&G said in a statement on Friday that it had received the letter and that it was given until February 28 to respond. … 'Until now, KT&G has not been able to confirm the true intent behind the proposal. The company does not have any further information as to whether the proposal will proceed,' it said." The Times adds, "Since building a stake of about 6.6 per cent in KT&G, with his partners, Mr Icahn has been agitating for the fast-growing ginseng business to be listed. A showdown is expected in the next few weeks, as three board members proposed by Mr Icahn will be put to a shareholder vote. … Mr Icahn's bid comes ahead of a visit by the company's management to the US next week to discuss their position with American shareholders. A meeting between KT&G and Mr Icahn may also occur, although it was unclear what effect the bid might now have on those plans, said people familiar with the matter."

UK National Grid Leading Bidder For New York Utility. The Wall Street Journal (2/24, Berman, Smith) reports, "British utility National Grid PLC emerged as the leading bidder in the $7 billion auction for New York utility and natural-gas distributor KeySpan Corp., people familiar with the matter said." Another "rival bidder could emerge with a sweetened offer…but for now National Grid appeared in the best position to clinch a deal. National Grid is making its offer in cash, these people said, a factor trumping the cash-and-shares offer from Consolidated Edison Inc. of New York." UK National Grid "has been trying to establish a larger footprint in the Northeastern U.S. by branching into natural gas. It owns utilities in four states that serve three million metered accounts."

The New York Times (2/24, Sorkin) adds, "If National Grid were to emerge as the victor, it would be the latest acquisition for the London-based company in a recent spree in the United States." UK National Grid "acquired Niagara Mohawk in upstate New York for $3 billion in 2000. Just this month, it agreed to buy the Rhode Island assets of New England Gas for $498 million." The Times notes, "KeySpan is the fifth-largest distributor of natural gas in the United States and the largest in the Northeast, operating utilities in New York, Massachusetts and New Hampshire."

ENVIRONMENT:

Report Claims Researchers Withheld Data On Chromium's Cancer Risks. The Washington Post (2/24, A3, Weiss) reports, "Scientists working for the chromium industry withheld data about the metal's health risks while the industry campaigned to block strict new limits on the cancer-causing chemical, according to a scientific journal report published yesterday." The Post continues, "The allegations, by researchers at George Washington University and the Washington-based Public Citizen Health Research Group, are based on secret industry documents obtained by the authors. … They come just days before the Occupational Safety and Health Administration is to announce its new standard for workplace exposure to hexavalent chromium -- a known carcinogen handled by 380,000 U.S. workers in the steel, aerospace, electroplating and other industries." The Post adds, "Documents in the report, published in the peer-reviewed online journal Environmental Health, show that the industry conducted a pivotal study that found a fivefold increase in lung cancer deaths from moderate exposures to chromium but never published the results or gave them to OSHA. Company-sponsored scientists later reworked the data in a way that made the risk disappear. … OSHA has not said what the new limit will be. But sources close to the agency have been told to expect a standard that would allow five times more exposure than it had initially proposed -- a shift that would be a victory for the industry, saving it billions of dollars in upgrades and plant closures."

USA Today (2/24, Weise) reports that the report, "published Thursday in Environmental Health" and "written by David Michaels of George Washington University's School of

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Public Health and Peter Lurie of the consumer group Public Citizen, charges that the industry misrepresented the dangers of hexavalent chromium in an attempt to thwart stricter workplace regulation. … The Industrial Health Foundation, an industry group, in 1998 commissioned a study of lung cancer mortality in workers exposed to the chemical at low, intermediate and high levels. The data came from four industrial plants, two in the USA and two in Germany, to provide a large-enough pool of workers for a statistically significant study. … The cancer risk was found to be elevated at the intermediate and high levels, according to the new paper. The authors charge that the research was completed in 2002 but not given to OSHA then, despite the fact that the agency was actively seeking all available data."

Young Opposes Proposed Renewable Energy Project. The Wall Street Journal (2/24, Harwood, 2.11M) reports in its "Washington Wire" column, "As Bush promotes renewable energy, Transportation Chairman Young targets one of the biggest proposed renewable projects on the East Coast: an offshore 'wind farm' of 130 turbines in Nantucket Sound. Young, calling the project 'controversial' and a potential threat to radar gear, proposes ban on wind turbines within 1.5 miles of shipping and ferry lanes."

FBI/DEA/ATF/USMS:

22 Arrested In Texas Crack Cocaine Investigation. KCBD-TV (2/23) reports on its Web site, "The DEA headed an 18-month investigation leading to a major drug raid on Thursday. The outcome: 22 people were arrested and four kilos of crack cocaine are now off Lubbock streets. … Local, state and federal agencies tell us the twenty-two arrests shut down an entire crack cocaine organization."

15-Member Crack Cocaine Ring Busted In Texas. The AP (2/23) reports, "Local and federal officials in Kingsville have dismantled an alleged 15-member crack cocaine ring that operated near churches and schools. The defendants were indicted after a yearlong investigation involving the Kingsville police, the South Texas Specialized Crimes and Narcotics Task Force and the Drug Enforcement Administration."

Supreme Court "Tea Decision" Seen As Strong Endorsement Of Religious Freedom Act. In Christianity Today (2/23), Kevin Eckstrom and Sarah Pulliam write about the U.S. Supreme Court ruling that allows a New Mexico sect to use hallucinogenic tea in religious rituals. Eckstrom and Pulliam say, "Some legal groups see Tuesday's Supreme Court 'tea' decision as an important precedent in religious freedom jurisprudence. Others see it as a harbinger of church-state relations under the Roberts court. But religious freedom advocates agree that the case means it will likely be harder for the government to limit expression after the ruling." The two add that the ruling was a strong endorsement of the Religious Freedom Restoration Act.

Morales Responds To Cancellation Of Bolivian Senator's US Visa. Reuters (2/23) reports, "Bolivian President Evo Morales criticized the United States on Thursday for canceling the visa of one of his closest confidantes in the leftist leader's first run-in with Washington since taking power a month ago. Sen. Leonilda Zurita, a leader of coca farmers whose battle cry was 'Long live coca, Death to Yankees!,' found out her multiple-entry U.S. visa…had been canceled when she tried to travel to Miami." According to Reuters, State Department Deputy Spokesman Adam Ereli said Zurita's visa was revoked after information was received about her, but he declined to elaborate. "With much respect, I want to tell the U.S. government not to confuse us with some parties implicated in drug-trafficking," said Morales.

British Task Force Seen As Arriving Too Late To Hinder Afghanistan Poppy Harvest. The UK's Herald (2/24) reports, "The 3300-strong British task force is being sent to Afghanistan two months too late to hinder the harvest of a record poppy crop destined to end up as heroin on the streets of Scotland. The troops deploying to Helmand province on a mission to help eradicate the narcotics' trade in the Taliban's southern heartland will not be fully in position before July. But local farmers will harvest the raw opium resin, which accounts for 90% of all heroin sold in the UK, in May," according to the United Nations Office on Drugs and Crime.

FBI Agent Testifies At Maryland Arson Trial About Items Found At Scene. The Washington Times (2/24, Wagner, 90K) reports FBI Special Agent Margo Barter agent "in the trial of the last two defendants in the biggest arson case in Maryland history testified yesterday about evidence found at the crime scene, including buckets and containers used to carry flammable liquids. … Mrs. Barter was among eight witnesses to testify yesterday" at the trial of Roy T. McCann Jr. and Michael M. Everhart," but "none of the testimony or evidence presented…linked the defendants to the conspiracy."

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IMMIGRATION:

SEIU Official Backs Bush Guest Worker Proposal. Eliseo Medina, vice president of the Service Employees International Union, the nation's second-largest union, supports President Bush's guest worker program. The New York Times (2/24, Swarns, 1.19M) reports that while Medina's stance "has helped solidify his role as a prominent national labor leader," it is also "roiling the nation's unions. If such a plan is passed by Congress, it could result in the largest reshaping of immigration policy and the workplace in decades. … The disagreement among labor leaders over the guest worker plan, which has simmered mostly behind closed doors, has been overshadowed in recent months by the fractious debate among Republicans about how to handle the swelling population of illegal workers in the United States. But the guest worker plan is also generating tensions among those on the left, particularly in the nation's labor movement."

Texas Writer Says Most Illegal Aliens Seek Only To Improve Quality Of Life. Marisa Treviño, a freelance writer in Dallas, in an op-ed in USA Today (2/24, 2.31M) writes that the "bad guys" contributing to "increasing violence along our southern border" come from "two groups: warring drug cartels and 'coyotes,' who smuggle people across the border." Meanwhile, "Rep. F. James Sensenbrenner…recently said, 'A lot of the people coming across the border are criminals and potentially terrorists.'" Though "28% of federal inmates are non-US citizens," there has yet to be a Spanish-speaking illegal immigrant…jailed for being a terrorist." Treviño states, "There's no denying our fear of terrorists. What's not clear is why we should fear most illegal immigrants whose sole intent is to improve their quality of life."

TAX:

Deutsche Bank Reportedly In Settlement Talks With DOJ On Tax Shelters. The New York Times (2/24, Browning) reports, "Deutsche Bank is in talks with the Justice Department in an effort to settle a criminal investigation over the bank's role in questionable tax shelters, people briefed on the case say." The Times continues, "This month, a smaller German rival, the HVB Group, reached a nearly $30 million agreement with prosecutors while acknowledging 'criminal wrongdoing' in helping to carry out fraudulent tax shelter transactions." The Times adds, "For Deutsche Bank, the path toward a settlement may be rockier, in part because it had a much larger role in the creation of some questionable tax shelters and the transactions underpinning them, investigators have said. A potentially larger obstacle, say the people briefed on the case, is that Deutsche Bank appears unable to account for a number of those transactions. … In the past, Deutsche Bank has described the transactions it arranged for tax shelters, including ones known as blips and cobra, as regular and ordinary. … But Deutsche Bank has been unable to provide to federal prosecutors in Manhattan paper documents detailing some transactions for these shelters, according to the people briefed on the case. … The documents, if they exist, would detail, among other things, loans, trades and swaps of stock and derivatives and accounting records, frequently through offshore entities set up in the Cayman Islands. The transactions were used to generate artificial losses that were then improperly used by investors to offset legitimate gains from other taxable income."

Thomas Says Treasury Is Not First To Conduct Dynamic Analysis Of Tax Cuts. In a letter to the Wall Street Journal (2/24, 2.11M), House Ways and Means Committee Chairman Bill Thomas writes that a Journal article unfairly portrayed the work of the Joint Committee on Taxation on dynamic analysis. JCT "began developing macroeconomic models more than 10 years ago and issued its first official dynamic analysis for the 2003 Jobs and Growth Tax Relief Reconciliation Act. Even a Treasury Department document about its forthcoming division on dynamic analysis states, 'This type of analysis is already being done by the Joint Committee on Taxation...' … I share the view that the proposed effort by Treasury to better understand the macroeconomic effects of tax policy is good news, but no one should assume that they are the first to make this effort."

CONGRESS-ADMINISTRATION:

Democrats Aim To Turn Drug Benefit Into Liability For GOP. Democratic lawmakers across the country are using this week's congressional recess to attack the new Medicare drug benefit. They have planned more than 100 forums to portray the benefit as "deeply flawed" in an effort to turn the program, which some saw as a plus for the GOP, into a political liability going into this year's elections. The Wall Street Journal (2/24, Lueck, 2.11M) reports that Democrats hope to "tie troubles with the drug benefit to broader campaign themes: that the Republicans are too cozy with big industries and that the Bush administration stumbles when responding to crises. To that end, Democrats are noting that private health insurers -- not the government -- design and administer the drug plans, and that drug makers are protected from negotiating prices directly with Medicare." The Journal also reports that Republicans "say Democratic carping will discourage people from signing up -- an outcome that Democrats, who have

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long supported drug coverage in Medicare, say they don't want."

Kinsley Says Medicare Drug Benefit Is "Doomed." Michael Kinsley writes in the Washington Post (2/24, A15, 744K) that the drug benefit, "Bush's only major domestic accomplishment in six years," has not "achieved its intended purpose of cementing the affection of senior citizens for the Republican Party." Kinsley adds that "even if this subsidy to senior citizens survives its rocky premiere, it is doomed. Simple transfers of money cannot keep up with the rising cost -- and rising benefit -- of pharmaceutical drugs."

LATimes Says Administration Should Make Better Use Of Generic Drugs. An editorial in the Los Angeles Times (2/24, 958K) says it is "baffling that the Bush administration is not making better use of one of the best savings tools available: low-cost generic drugs. There are more than 800 generic-medication applications awaiting approval from the Food and Drug Administration -- an unprecedented backlog. … A larger dose of generic drugs is one of the few no-brainers to keep the nation's healthcare bill from growing even larger."

Government To Pay Employers To Keep Retiree Health Care Plans Alive. A new study by Credit Suisse First Boston says America's largest companies expect to be paid $4 billion over the next four years by the Federal government in order to keep their retirement plans alive. The New York Times (2/24, Walsh, 1.19M) reports, "When Congress authorized the Medicare drug benefit, it also agreed to start subsidizing the drug component of employers' retiree health plans, to keep them from shifting their retirees into the government program. The goal is to save the government money, even after the subsidies, while giving the retirees a better deal than they might get if they were pushed into Medicare." The Times adds, "With the program just starting its first year, it is not yet clear whether the subsidy will achieve its goals."

Senators Offer Key Points For Inclusion In Lobbying Reform Bill. A bipartisan group of Senators said yesterday that lobbying and ethics overhaul legislation that the Senate will soon consider should include provisions on gifts, travel and promises of lobbying jobs. The senators also said the measure should include greater openness about earmark projects. The AP (2/24) reports, "The bipartisan group of senators includes Rick Santorum, R-Pa.; John McCain, R-Ariz.; Russ Feingold, D-Wis.; and Barack Obama of Illinois, the Democrats' spokesman on the lobbying issue."

ACU Blasts McCain Lobbying Reform Bill. The Washington Times (2/24, Pierce, 90K) reports in its "Inside Politics" column, "The American Conservative Union (ACU), in an e-mail this week to right-wing activists and the press, denounced [Sen. John] McCain's Lobbying Transparency and Accountability Act of 2005 as an attack on the First Amendment. … Mr. McCain's latest legislation 'is masquerading as a "lobbying reform" measure but essentially this cruel hoax against the American people has very little to do with reforming lobbying and has just about everything to do with shutting you up and stripping you of your First Amendment rights,' the ACU said." The ACU "urged its members to send 'urgent Blast Fax messages to President George W. Bush and all 55 Republicans in the United States Senate,' telling them that the lobbying bill 'is nothing more than a cleverly disguised attempt to cut average Americans like you out of the political equation.'"

Lott May Offer Competing Lobbying Reform Package. The Wall Street Journal (2/24, Harwood, 2.11M) reports in its "Washington Wire" column, "Reformers battle flagging interest and internal discord on lobbying rules. Vulnerable Sen. Santorum of Pennsylvania, Republicans' point man on the issue, may face internal competition in advancing changes. Rules Chairman Lott is preparing his own package; his potential return to Senate leadership may hinge on a Santorum November defeat opening up a slot."

OTHER NEWS:

Net Worth Of Median US Family Rose 1.5% Between 2001-2004. A Federal Reserve report said the net worth of the typical American family has increased only 1.5% after inflation between 2001 and 2004. Between 1998 and 2001, the n et wroth of the median American family rose 10.3%. NBC Nightly News (2/23, story 9, :30, Williams) reported, "The bursting of the stock market bubble, the recession back in 2001,and some big job losses in the early part of this decade contributed to what turns out to be a 2.3% drop in family incomes in the United States. That same average soared by 17.3% in the 1998-2001 period." The Wall Street Journal (2/24, Conkey, 2.11M) reports, "The report, the most comprehensive survey of household wealth, also found a widening of the gap between households at the top and the bottom of the economic ladder."

USA Today (2/24, Kirchhoff, 2.31M) reports that the Fed report also said "the median net worth of the bottom 40% of families declined, while those at the top saw gains. The percentage of families investing in stocks fell 3.3 percentage points to 48.6% from 2001 to 2004, a level last reached some time between the 1995 and 1998 surveys."

The Fed's Survey of Consumer Finances also reported that home prices grew 27% during the survey period, the Washington Post (2/24, D2, Henderson, 744K) reports. The report also notes that "the share of households owning homes rose to 69.1 percent in 2004."

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New Claims For Unemployment Benefits Declined Last Week. The Labor Department reported yesterday that new claims for unemployment benefits fell last week, the first such decline since January. The Wall Street Journal (2/24, 2.11M) reports, "Initial jobless claims dropped by 20,000 last week to a seasonally adjusted 278,000 after rising by the same number the week before. … The Labor Department said the number of workers drawing unemployment benefits for more than a week rose in the week ended Feb. 11, the latest week for which such data are available. These continuing jobless claims climbed by 41,000 to 2,495,000."

Stocks Decline Amid Fears Of Continued Rate Hikes. Stocks posted declines yesterday amid reports of a strong job market sparked fears that the Fed will continue increasing interest rates. USA Today (2/24, Krantz, 2.31M) reports that the Dow Jones industrial average lost 67.95 points to 11,069.22. The Standard & Poor's 500 declined 4.88 points to 1287.79 and the Nasdaq dropped 3.85 points to 2279.32. NBC Nightly News (2/23, story 10, :10, Williams), the Washington Post (2/24, D3, 744K), the Wall Street Journal's (2/23) web site and Bloomberg News (2/24) all report the stock market declines.

Mehlman Says Katrina, Recount Aftermath Hurting GOP Outreach To Blacks. Republican National Committee Chairman Ken Mehlman said the flawed Federal response to Hurricane Katrina and ongoing mistrust caused by the 2000 presidential vote have complicated the GOP's efforts to build support among African Americans. The Washington Times (2/24, DeBose, 90K) reports Mehlman said, "Katrina has made it harder because people saw a government at every level -- federal, state and local -- not operating the way it should." The Times adds the RNC chief "added that the constant rehashing of blunders and mistakes associated with the slow emergency response -- without talking about policies to deal with issues of poor education, inadequate work-force readiness and poverty that left many blacks more vulnerable to the storm's devastation -- hasn't helped either." Mehlman said he "has learned much in his 46 conversations with minority communities coast to coast. He said that the primary issues blacks care about are education, health care, jobs and opportunities to build wealth, but that since the fall he has heard an earful – 'and rightfully so' -- about Katrina at every stop."

Hillary Clinton Enlists Carville, Begala To Raise Funds. The AP (2/24, Humbert) reports Sen. Hillary Rodham Clinton "has turned to two of the masterminds behind her husband's 1992 presidential victory -- James Carville and Paul Begala -- to raise money needed to keep her in the Senate and possibly help finance a White House run of her own." The "tag-team money appeal began Wednesday when potential Clinton donors received an e-mail from Begala warning that 'Election Day is eight months away, but the Republican attack machine is going after Hillary Clinton big-time.'" Carville's "turn came Thursday. His e-mail cautioned that 'the GOP knows how to win and they play for keeps.'"

Democrats Weigh Clinton Nostalgia Versus Fatigue As Factor In Hillary Run. The Charlotte Observer/Knight Ridder (2/24, Thomma) reports that as they "ponder how to win back the White House, many Democrats fear that the early front-runner for their party's 2008 presidential nomination, Sen. Hillary Rodham Clinton, carries so much baggage that she'd drag the party down to defeat." Party insiders "think she'll enter the race shortly after her expected re-election as a New York senator later this year - with a $50 million head start on fundraising toward 2008. But ominous signs abound, and together they suggest that her campaign would conjure a clash between the lure of Clinton nostalgia and the fear of Clinton fatigue."

Texas House Republicans Rally For DeLay. The AP (2/24, Benjaminson) reports Rep. Tom DeLay "was likened to Stonewall Jackson, Lyndon Baines Johnson and a courageous World War I officer Thursday as members of the Texas Republican congressional delegation joined the former House majority leader to endorse his re-election." The "unusual display of GOP solidarity was remarkable for DeLay, who is aggressively campaigning for re-election to the seat he has held comfortably for 22 years." The Republicans "took turns singing DeLay's praises as a selfless leader who not only helped get them elected, but also won Republican majorities in Congress and the Legislature, and brought home the bacon for NASA, the port of Houston and other local needs."

Schwarzenegger Faces Questions From Right At GOP Convention. The AP (2/24, Blood) reports Republican Gov. Arnold Schwarzenegger today "arrives at an early juncture in his re-election campaign -- a keynote speech at the state Republican Party winter convention in San Jose -- with conservatives openly questioning why they should support him." Is Schwarzenegger "the governor who sought new power to choke off state spending in 2005, or the one who this year called for record borrowing and submitted a budget that doles out $6 billion more than the state will collect in taxes?" GOP strategist Arnold Steinberg said, "When you look at the gyrations in his policies, it appears he's plagued by an absence of core values. He comes across as a caricature, where energy and enthusiasm are confused with core values." The AP adds Schwarzenegger has "disputed suggestions of a new direction in 2006." Conservatives at the convention "have proposed resolutions that challenge Schwarzenegger's positions on the minimum wage (he wants

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it increased $1 over two years, to $7.75 an hour), judicial appointments (he has named nearly as many Democrats as Republicans to the Superior Court), and spending and borrowing."

Robinson Says Summers Was "Terrible Politician." Eugene Robinson writes in the Washington Post (2/24, A15, 744K) that Harvard University President Lawrence Summers' "is being forced to resign because, as brilliant as he is…he proved to be a terrible politician. That alone is reason for him to have to go." Robinson adds that there is "also the question of the direction in which he sought to lead Harvard." In the end Summers' great strength "was a passionate commitment to undergraduate education. Students liked him and sensed that he cared about them, and it's good that after a sabbatical he will return to the Harvard faculty."

US Won't Join Iran Nuclear Negotiations. The AP (2/24) reports, "The Bush administration rejected on Thursday a suggestion by former German Foreign Minister Joschka Fischer that the United States join now-sidelined European negotiations designed to stop Iran from developing nuclear weapons." Fischer said, "It would be really helpful if the United States could join," adding, "Europe is not strong enough."

Pace Says Need For Military Action In Iran Is "A Long Way Away." The Washington Times (2/24, Gertz, Scarborough, 90K) reports in its "Inside the Ring" column, "Marine Gen. Peter Pace, Joint Chiefs chairman, dampened speculation during a National Press Club appearance that military action against Iran is near. 'I believe that the international community has many, many, many diplomatic, economic, other opportunities to influence Iran -- not only the United States, but all the international community -- to affect the way that Iran is acting in the world,' he said. 'So from where I stand, from where I sit, we are a long way away from needing the military option.'"

Rice Visits Lebanon To Showcase "Democratic Success Story." Secretary of State Condoleezza Rice visited Beirut. The AP (2/23, Gearan) said Rice "hinted Thursday the United States would welcome the exit of Lebanon's pro-Syrian president. She praised democratic progress by other leaders in the country's fractured sectarian politics." The AP offered a reason for the Beirut stop: Rice's Middle East trip "has seen US allies snub her efforts to halt aid to a Hamas-led Palestinian government. But the journey has also let her highlight an emerging democratic success story in the region, with nearly a year passing since a flowering of street protests forced Syrian troops to leave Lebanon after three decades of domination."

The Washington Post (2/24, A8, Kessler, 744K) says Rice "snubbed the pro-Syrian president of Lebanon…deliberately not scheduling a meeting with him." The Secretary "disavowed any motive in the diplomatic slight, but it appeared calculated to undercut" Emile Lahoud. Knight Ridder (2/24, Strobel) reports Rice was "hoping to further isolate neighboring Syria and shore up Lebanon's fragile sovereignty."

Continued Hamas Funding Called "Setback" For Rice. Iran offered to fund the Hamas-lead Palestinian Authority even as Suadi Arabia refused to stop sending aid to the government. The Washington Times (2/23, Kralev, 90K) called the decisions "a setback for Secretary of State Condoleezza Rice." However, it notes that the Saudis "were more reserved than the Iranians," and "Saudi Foreign Minister Saud al-Faisal was vague about direct support for a Hamas-led government."

West Bank Sees Intense Fighting. Israeli soldiers and Palestinian gunmen clashed in the West Bank, leaving three gunmen and two civilians dead. The Washington Post (2/24, A9, Wilson, 744K) calls the fighting "some of the most intense since Israel and a dozen armed Palestinian groups agreed a year ago to abide by a cease-fire." Human Rights-Israel, an independent group based in Tel Aviv, "called Israeli gunfire 'indiscriminate.'"

Europe Considers Aiding Abbas. The New York Times (2/24, Smith, 1.19M) reports the EU "is considering making direct payments to the moderate Palestinian Authority president, Mahmoud Abbas, as a way of supporting him while trying to maintain financial pressure on Hamas, the anti-Israeli militant group that swept to power in elections last month." The Times adds the proposal, if adopted, "would be a reversal in policy." In a parenthetical note, the Times reports, "A senior State Department official said Thursday that the United States had not seen Mr. Solana's proposal but that while European and American tactics might differ, their common approach in general would be to use their leverage to persuade Hamas to change its position. He said it was too soon to say if the idea of circumventing a Hamas-led government and aiding Mr. Abbas would accomplish that objective."

At Least 10% Of Palestinian Legislators In Jail. At least 10% of the Palestinian legislators are in jail either on sentences or as security risks. The Washington Times (2/24, Mitnick, 90K) reports, "In a political system caught between liberation-movement militancy and a state in the making, time in an Israeli jail is a powerful resume builder for politicians and a potential electoral asset for political parties." However, to "ensure that Israeli prison authorities wouldn't abuse prisoners in an attempt to influence their votes," the

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"Palestinian parliamentary bylaws forbid them from casting votes until they are free."

Bolton Criticizes UN Rights Council Resolution. While UN Secretary General Kofi Annan said the resolution on a new Human Rights Council was, although disappointing, the best option for replacing the Human Rights Commission, US ambassador John Bolton criticized it as containing deficiencies now seeks its renegotiation. The New York Times (2/24, Hoge, 1.19M), leading with Annan's acceptance, reports that the Commission's replacement "has been seen as a test of whether the United Nations can meet demands for fundamental change in the organization." The Washington Post (2/24, A12, Lynch, 744K) leads with Bolton's dissatisfaction, although it notes, "Bolton did not rule out the possibility that Secretary of State Condoleezza Rice might still endorse the new rights council."

UN Approves Food Aid For North Korea, Agrees To Restrictions. The UN approved a $102 million food aid program for North Korea, including the limits the country demands on tracking food deliveries. The Wall Street Journal (2/24, Fairclough, 2.11M) reports that World Food Program executive director James Morris "said the agency will return to the bargaining table with North Korea to negotiate operating conditions 'that will allow us to do our work properly.' If Pyongyang won't give the WFP the access it needs, he said, it 'will be forced to withdraw.'"

Vatican Pushes Muslim Countries On Christians' Rights. Having supported Muslim calls for respect over the cartoons of Muhammad, the Vatican is now linking the issue to Muslim countries showing tolerance towards their Christian minorities. The Washington Times/Reuters (2/24, Heneghan) quotes Monsignor Velasio De Paolis, secretary of the Vatican's supreme court, "thundered" that "Enough now with this turning the other cheek. It's our duty to protect ourselves." The Vatican

South Korean Christians Link Rights, Evangelizing. Evangelical Christians in South Korea have linked human rights issue to spreading their faith. The New York Times (2/24, Onishi, 1.19M) reports, "The North Korean human rights issue has become so politicized that the actual plight of North Koreans is often emphasized or de-emphasized for other ends." For South Korea, "the issue of human rights in the North has been spearheaded by conservative Christians whose aim is to take their faith to the northern half of the divided peninsula." Christians in the South "have grown into the world's second-largest overseas missionary force after the United States'."

Arroyo Declares Emergency Rule In Philippines, Announces Foiled Coup Plot. Philippines President Gloria Macapagal Arroyo declared emergency rule after security forces said they'd stopped a coup plot and the commander of the Scout Rangers regiment is being held as an alleged leader. Demonstrations marking the twentieth anniversary of the "People Power" movement that ousted Ferdinand Marcos were canceled. The Wall Street Journal/AP (2/24) reports, "Clashes erupted as police used water cannons to disperse about 5,000 protesters defying a ban on rallying at a shrine to the 1986 'people power' uprising that toppled former President Ferdinand Marcos. The military barricaded its camps to keep troops from joining the demonstrations."

The Washington Post (2/24, A8, Sipress, 744K) adds that Ferdinand Marcos's "overthrow ushered in a period of sustained political turmoil." Now, "many Filipinos declare that East Asia's oldest democracy has failed," as "Philippine democracy is little more than a ruthless contest among rival clans" and "ordinary Filipinos have little way to channel their interests through the electoral system."

Arias Wins Costa Rican Recount. Oscar Arias narrowly won reelection as president from a ballot recount, although authorities have not yet announce a winner as they rule on voting irregularities complaints. The Wall Street Journal (2/24, Lyons, 2.11M) notes that this increases "the likelihood the nation will join a regional free-trade pact with the U.S.," although "the Congress in Costa Rica… has yet to ratify the accord" and the narrow victory will hinder Arias' to push it.

Indian Scientists Complain About Refused Visas. Just prior to President Bush's trip to India, three Indian scientists have complained about visa applications for the US. The New York Times (2/24, Sengupta, 1.19M) say the complaints "stirred a diplomatic tempest" and "prompted two unusual statements from the American Embassy in New Delhi expressing 'regrets.'" One of the scientists, Placid Rodriguez was "called by the consulate on Feb. 16" about his application to attend a March conference and "told it would take about eight weeks to review his answers to a new questionnaire." However, after the Embassy contacted him again, "Dr. Rodriguez did submit his completed questionnaire by e-mail. On Thursday, he said he received a call saying his visa had been approved."

The Washington Post (2/24, A12, Vedantam, 744K) adds that the "U.S. Embassy in New Delhi has granted a visa" to prominent scientist Goverdhan Mehta, but he "said that he had already canceled his travel plans." Officials say the "form letter saying 'you have been refused a visa,'" is "not a rejection but rather part of a conditional process aimed at

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obtaining additional information." Tony Edson, deputy assistant secretary for visa services, said "the department has greatly accelerated" visa approvals, but "acknowledged that many visa seekers have a very different impression of the application process."

Economist Advises Caution For Bush On India Trip. In its cover story, The Economist (2/23) says Bush "needs to avoid two kinds of mistake. The first, and most serious, would be to shower America's new friend with gifts that the United States can ill afford. Unfortunately, this has already happened" with his promise to share civilian nuclear technology." The second is "Mr Bush should also be wary of sending the wrong signal about America's intentions towards China." The commonly invoked idea "that India might somehow turn out to be a 'counterweight' to China" not only would fail, but "is liable only to reinforce China's fear that America's grand strategic design is to encircle it and block its rise as a great power." Bush also needs to "take care to ensure that friendship with India does not damage his close ties to Pakistan" and "not to tilt so far India's way that the Indians feel under no pressure to make concessions of their own" on Kashmir.

Credit Concerns Cause China To Hoard Bird Flu Samples. China's insistence on controlling bird flu samples it takes and the research performed on them put it at loggerheads with international health officials. The Chinese cite concerns that others will scoop research opportunities and worries over crediting Chinese scientists. The Wall Street Journal (2/24, A1, Zamiska, 2.11M) reports, "The standoff pits a high-ranking veterinarian in China's Ministry of Agriculture named Jia Youling against international health authorities leading the fight against bird flu." Since last summer, "China hasn't provided a single sample from its infected flocks, despite repeated requests by WHO amid the roughly 30 outbreaks the country has reported in the past 12 months," and "the genetic information contained in China's samples could help develop a more effective vaccine that could save countless lives."

Third Day Of Nigerian Street Violence Yields To Calm. After three days of rioting in Nigeria during which Christians attacked Muslims in retaliation for Muslim-on-Christian violence in the north, order has been restored. The New York Times (2/24, Polgreen, 1.19M) reports, "a semblance of the ordinary returned to the city's streets on Thursday." Many political analysts say the cartoons "were simply a pretext to act on very old grievances rubbed raw by political tensions." The Washington Post (2/24, A10, Timberg, 744K) adds in the first two paragraphs of its article, "Christian mobs… turned to disposing of the evidence in the crudest of ways" - burning bodies in the street - and the "Christian residents" of Onitsha "expressed little remorse" for the violence.

Moscow Roof Collapse Kills At Least 56. ABC World News Tonight (2/23, story 6, :20, Sawyer) reported, "At least 56 people were killed when a large roof collapsed over a market outside of Moscow. 32 people were injured. Investigators said heavy, wet snow on the roof may have triggered the collapse." The CBS Evening News (2/23, story 8, 0:20, Schieffer) reported the collapse "happened early in the morning but authorities say about 100 people were inside, most of them market employees." NBC Nightly News (2/23, story 3, 0:25, Williams) also reported the story.

O'Grady Urges Recognition Of Latin American Gains. Mary Anastasia O'Grady writes in her column in the Wall Street Journal (2/24, 2.11M) A "number of countries in" Latin America "are, in fact, making important progress" due to "heavy lifting in domestic politics," and "what matters most is acknowledging the gains, lest we become lost in the fog of partisan demagoguery." When "George W. Bush's political opponents…delivered some exquisite jeremiads on the subject of Latin American instability," they were "crocodile tears." In fact, "there is even an argument to be made that by stepping back, the Bush administration has encouraged a long-overdue maturation process of Latin governance," as "fundamentally what ails the region are matters of domestic politics that only locals can sort out."

WPost Supports Wolfowitz On Congo Debt Forgiveness Postponement. The Washington Post (2/24, A14, 744K) editorializes that the Congo "hopes to win approval of a reduction in its debt," but its "corrupt government keeps part of its oil revenue from showing up on its books, raising questions as to whether it deserves forgiveness." World Bank's president, Paul D. Wolfowitz, rightly argues that debt relief should be delayed," and his "proposed remedy is moderate. He suggests that Congo should adopt measures to reduce oil corruption" for three years before getting full debt reduction. Until then, "relief would flow into a carefully monitored poverty-reduction fund." It is best "to proceed slowly on Congo -- and send a needed wake-up call to other corrupt countries."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Sectarian Violence Sweeps Iraq."
"Equal But Separate."
"Tollway Would Slice Through Coastal Park."

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"Clerics Take Lead After Iraq Bombing."
"Striving To Save An Iconic View."
"Cohen Slips Into Second."
"Wal-Mart Says It Will Boost Health Benefits."

USA Today:
"2010 Outlook Bright For USA, Japan, But Not So For Russia."
"Iraq At Boiling Point As 100 Die."
"States Restrict Protests At Funerals After Kansas Church Causes Uproar."

New York Times:
"More Clashes Shake Iraq; Political Talks Are In Ruins."
"Violent Cycle Of Revenge Stuns Iraqis."
"Dubai Company Delays New Role At Six US Ports."
"A Night Of Nerves Is Settled On A Turn Of Elegance."
"Born Together, Raised Together, So Why Not In Classroom, Too?"
"After Hurricanes Come Tempests Over Cleanups."
"To Keep Twins In Same Class, Parents Seek Legislators' Help."

Washington Post:
"Legality Of Seaport Decision Challenged."
"Sectarian Violence Kills Over 100 In Iraq."
"Hard Falls Persist For US At Olympics."
"Report Details Raines's Sway At Fannie Mae."
"Complaints Rise Against Md. Agency."
"Katrina Report Urges Retooled Disaster Plans."

Washington Times:
"Chertoff Unaware Of Ports Deal Until After OK."
"Ports Deal Defended On Hill; UAE Firm Says It Will Wait."
"Vatican Presses Muslims On Rights."
"Iraqi Fears Of Civil War Spur Curfew."
"Bombing Of Mosque Takes Rift To The Streets."
"Nationals Fans To See Fewer TV Games In '06."
"Kaine Ready To Call 'Extended Session.'"

Detroit Free Press:
"She Stopped The Slaughter."
"State Admits To More Errors."
"911 Caller: 'I Probably Could Have Been Next.'"
"Iraq Surges Toward Civil War."

Atlanta Journal-Constitution:
"Unregulated Donations Build Richardson Fund."
"Friend: I Took Cash To Mayor."
"Silver Slipper."
"Attacks Edge Iraq Toward Civil War."

Dallas Morning News:
"Schlosser Jurors Deadlocked."
"Dubai Company Agrees To Delay U.S. Ports Takeover."
"Chasm Widens In Iraq."
"Spills And Thrills In Skating Final."

Houston Chronicle:
"Arab Firm Agrees To Delay."
"A Fall For US, A Lift For Japan."
"Tensions Boil Over In Iraq."
"Money For Supplies Went To Paychecks."
"Ex-Exec Says She Stayed Despite Her Misgivings."

Story Lineup From Last Night's Network News:
ABC: Iraq Violence; Iraq Violence-US Troops; White House-Katrina Response; Dubai Ports Deal; Prostate Cancer Treatment; Moscow Market Collapse; UK Bank Heist; ITunes; Olympics; Olympic Skijoring.
CBS: Iraq Violence; Bush-Iraq Violence; White House-Dubai Ports Deal; Congress-Dubai Ports Deal; Rice-Dubai Ports Deal; White House-Katrina Response; Katrina-Pearlington, Mississippi ;Moscow Market Collapse; UK Bank Heist; CBS Broadcaster's Retirement; Autistic Basketball Player.
NBC: Iraq Violence; Iraq Violence-Analysis; Moscow Market Collapse; White House-Katrina Response; Dubai Ports Deal; Olympics-Athlete Profile; Olympics-Results; Conflicting Medical Reports; Federal Reserve-Family Income; Stock Markets; Erroneous Russian Posters; Olympics-Figure Skating.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Iraq Violence; Phoenix-Hostage Situation Ends; Moscow-Roof Collapse.
CBS: Port Deal; Iraq Violence; Report-Median Family Income; Chris Glenn Retirement.
NPR: Port Deal; Iraq Violence; Phoenix-Hostage Situation Ends; Wall Street; Philippines-Protests; Paris-Kidnapping Leader Captured.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Speaks on the war against terrorism before an American Legion gathering, Capital Hilton Hotel; meets with the President of El Salvador, Oval Office.

VICE PRESIDENT CHENEY — No public schedule.

US Senate: No scheduled events.

US House: No scheduled events.

Other: INDIA-PAKISTAN _ 8:45 a.m. - 2:30 p.m. The Heritage Foundation holds a roundtable discussion on India and Pakistan on the eve of President Bush's trip. Highlights: 9 a.m. Session on trade an economics, with Ron Somers of the U.S.-India Business Coluncil and Esperanza Gomez of the U.S.-Pakistan Business Council. 12 p.m. Media luncheon with former Defense Secretary William Cohen. Location:

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Lehrman Auditorium, Heritage Foundation, 214 Massachusetts Ave. NE.

IRAN _ 9 a.m. Radio Free Europe/Radio Liberty holds a briefing by Alex Vatanka of Jane's Country Risk on Iran and international sanctions. Location: 4th floor conference room, 1201 Connecticut Ave. NW.

MUSLIMS-CARTOONS _ 9 a.m. The Newseum and the National Press Club hold a panel discussion on the rights, responsibilities and challenges of a free press in light of the protests over publication of cartoons depicting the Prophet Muhammad. Participants include Mamoun Fandy of Asharq Al-Awsat, Stephen Gram of Danish Broadcasting, Paul McMaster of the Freedom Forum, Signe Wilkinson of the Philadelphia Daily News, others. Location: National Press Club.

PENTAGON-IRAQ BRIEFING _ 9 a.m. Army Colonel Jeffrey J. Snow, commander of the 1st Brigade, 10th Mountain Division, will brief live from Iraq to give an update on ongoing security operations in Iraq. Location: DOD Briefing Studio, Pentagon 2E579.

KATRINA REPORT _ 10 a.m. The George Washington University Homeland Security Policy Institute holds a roundtable discussion on the White House report on Hurricane Katrina. Participants include James Carafano of the Heritage Foundation, Frank Cilluffo of the institute, Bruce Lawlor (formerly of DHS), and Dan Prieto of Harvard University. Location: Room 6115, 900 23rd St. NW.

ACLU-DOMESTIC SPYING _ 12:30 p.m. The American Civil Liberties Union holds a telephone briefing to discuss a new poll to gauge public opinion on the government's domestic spying program. Contacts: Mandy Simon, 202-675-2312. Notes: Callin number: 800-816-4134; passcode: 74848.

INDIA-NUCLEAR _ 1 p.m. Rep. Edward J. Markey, D-Mass., co-chairman of the bipartisan House Nuclear Nonproliferation Task Force, and Daryl Kimball, executive director of the Arms Control Association, host a conference call to discuss key concerns with President Bush's proposal to allow India to purchase nuclear fuel from the United States outside of the Nuclear Nonproliferation Treaty framework. Notes: For call-in number and passcode, please call 202-225-2836 and ask for Mike Disharoon or email tara.mcguinnessmail.house.gov.

LIBBY _ 2:30 p.m. Motions hearing before U.S. District Judge Reggie Walton in the case against former Cheney Chief of Staff Lewis Libby. Special Prosecutor Peter Fitzgerald is scheduled to appear. Location: Courtroom 5, U.S. District Court, 3rd St. and Constitution Ave. NW.

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Schlozman, Brad (CRT)

From: Schlozman, Brad (CRT)
Sent: Friday, February 24, 2006 2:31 PM
To: Gorsuch, Neil M
Subject: FW: The Governor of Hawaii meeting with the Civil Rights Division in Room 5643, Monday, February 27th 4:15 pm

It's you and me, kid. Here is the information we have so far. See you on Monday afternoon.

-----Original Message-----
From: Saull, Bradley (CRT)
Sent: Friday, February 24, 2006 12:10 PM
To: Schlozman, Brad (CRT)
Cc: Longwitz, Tobi (CRT); Vargas, Omar (CRT)
Subject: FW: The Governor of Hawaii meeting with the Civil Rights Division in Room 5643, Monday, February 27th 4:15 pm

Brad,

I was able to arrange for a red carpet arrival for Gov. Lingle. While she is here, should we arrange for a tour of the building or something else of your liking? I have alerted Martha Pacold in the AG's office that the Governor will be in the building. The AG will be at the USA conference, however.

Thanks,
Bradley

-----Original Message-----
From: Moss, Gerald
Sent: Friday, February 24, 2006 12:00 PM
To: JPSControl; Coffey, Rex W; Milhoan, Mark D; Haile, Josette K; Tavel, Gwynne L; Horch, Ronald B; Mitchell, Dwight D
Cc: Avery, Charles W; Saull, Bradley (CRT); Drerup, Judy (CRT); Hartle, Christopher F; McArthur, Warren E; Limberick, Melvin R; Mikulich, David R; Hottle, Christopher S; Price, Ollice; Gallagher, John W
Subject: The Governor of Hawaii meeting with the Civil Rights Division in Room 5643, Monday, February 27th 4:15 pm

JPS Control,

The Governor of Hawaii will be attending a meeting in the Civil Rights Division on Monday, February 27th. The Governor and her party will arrive via the 10th Street gate around 4:15 pm or a bit earlier. The vehicle should be directed to pull into the courtyard to drop off the guests at the center courtyard doors, then park in the main garage. Mr. Bradley Saull Confidential Assistant to the Assistant Attorney General for the Civil Rights Division will meet the guests at the courtyard and escort the party to the meeting. Inspectors Hartle and McArthur will be the SEPS representatives. If there are any questions the Inspectors can be reached at [redacted], or via JPS Control at [redacted].

Guest List

Governor Linda Lingle (HI)

[redacted] - Senior Advisor to Governor Lingle

[redacted] - Director of Scheduling for Governor Lingle

Two (2) Security Detail traveling with the Governor:

[redacted] (cell) [redacted]

[redacted] (Limo Driver SS# [redacted]) --not attending the meeting--dropping off.

Gerald Moss
Inspector
SEPS/FPPG
[redacted]

Elston, Michael (ODAG)

From: Elston, Michael (ODAG)
Sent: Friday, February 24, 2006 3:37 PM
To: Schlozman, Brad (CRT)
Cc: Rybicki, James E; Powell, SeLena Y; Pacold, Martha M; Gorsuch, Neil M
Subject: RE: Status of WF 955723 (AG Letter for Trafficking Report)

Brad:

Please see the e-mails below from your subordinates. Before I even had a chance to review this chain of e-mails, the memo in question had left ODAG with the A/DAG's initials on it. So the package is in Exec Sec or OAG now.

With respect to the source of the purported delay, I note that the date of the document is 2/15/06 with an unrealistic due date of 2/17/06. (The memo accompanying this document gave no explanation whatsoever that would suggest an actual necessity to expedite it.) Although dated 2/15, it was not even received by Exec Sec until 12:15 p.m. on 2/16/06 according to their time stamp. The Associate's office signed off on it yesterday, 2/23/06, and it arrived in ODAG this morning -- 2/24/06. It was reviewed by a Senior Counsel and by me this morning and promptly given to the Acting DAG. Frankly, I do not think a turn around in ODAG of less than 6 hours is all that bad -- pretty impressive, actually, considering that it took CRT half a day to even get it to Exec Sec.

I recognize that neither you nor Wan had anything to do with this personally, but let me suggest that if CRT wants something to go to the AG for signature, CRT should allow sufficient time for actual review by the Associate's Office and ODAG -- not to mention by the AG's staff. When necessary, things can be expedited, but I am inclined to expedite a package only when there is a reason to do so. Accordingly, in the future, if you cannot allow more than a couple of days for review by OASG, ODAG and OAG, please have your staffers indicate the reason in the memo.

In the event that you or your subordinates believe that it really is necessary to "shake something loose" from ODAG, I would appreciate a phone call from Wan or you or your chief of staff rather than an attempt to get the AG's office to call us. This seems only an appropriate matter of courtesy.

Thanks,
Mike

Michael J. Elston
Chief of Staff
Office of the Deputy Attorney General
950 Pennsylvania Avenue, N.W., Room 4210
Washington, D.C. 20530
(202) 307-2090
(202) 514-9368 (fax)

From: Rybicki, James E
Sent: Friday, February 24, 2006 12:42 PM
To: Elston, Michael (ODAG)
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Do you have this?

From: Im, Saovaluck
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Sent: Friday, February 24, 2006 11:57 AM
To: Saull, Bradley (CRT)
Cc: Vargas, Omar (CRT)
Subject: FW: Status of WF 955723 (AG Letter for Trafficking Report)

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From: Devese, Roxsand C (CRT)
Sent: Friday, February 24, 2006 10:26 AM
To: Comisac, Rena (CRT); Vargas, Omar (CRT)
Subject: FW: Status of WF 955723 (AG Letter for Trafficking Report)

FYI

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Bill

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, February 24, 2006 6:25 PM
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Friday, February 24, 2006 6:31 PM
To: Swenson, Lily F; Todd, Gordon (SMO); Gunn, Currie (SMO); Senger, Jeffrey M
Cc: McCallum, Robert (SMO)
Subject: FW: Status of WF 955723 (AG Letter for Trafficking Report)

Team - Mike seems pretty hot about this (below) and it may be useful for all of us to keep in mind going forward. First I heard of this particular item was a call yesterday; Currie kindly found the item which hadn't yet been reviewed by anyone. We got it out of here within minutes of the call. We are all busy these days and the paper flow may not always seem the most interesting part of what we do, but we've been excellent about keeping our processes speedy in the past and this obviously serves as a reminder of why we need to do so. Best, NMG

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Subject: FW: Status of WF 955723 (AG Letter for Trafficking Report)

FYI

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Gordon D. Todd, Esq.
Deputy Associate Attorney General
United States Department of Justice
202-514-9500 (w)
202-305-7716 (f)

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To: Swenson, Lily F <Lily.Fu.Swenson@SMOJMD.USDOJ.gov>; Todd, Gordon (SMO) <Gordon.Todd@SMOJMD.USDOJ.gov>; Gunn, Currie (SMO) <Currie.Gunn@SMOJMD.USDOJ.gov>; Senger, Jeffrey M <Jeffrey.M.Senger@SMOJMD.USDOJ.gov>
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To: Schlozman, Brad (CRT)
Cc: Rybicki, James E; Powell, SeLena Y; Pacold, Martha M; Gorsuch, Neil M
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Cc: Vargas, Omar (CRT)

Subject: FW: Status of WF 955723 (AG Letter for Trafficking Report)

Here's the latest on the status of this letter, Bradley. Please coordinate with Omar about reaching out to Martha Pachold in OAG to see about shaking loose the letter. Wan would like to take it to the USA conference this afternoon. Thanks.

-----Original Message-----
From: Devese, Roxsand C (CRT)
Sent: Friday, February 24, 2006 10:26 AM
To: Comisac, Rena (CRT); Vargas, Omar (CRT)
Subject: FW: Status of WF 955723 (AG Letter for Trafficking Report)

FYI

-----Original Message-----
From: Laughman, Bill (CRT)
Sent: Friday, February 24, 2006 10:23 AM
To: Devese, Roxsand C (CRT)
Subject: Status of WF 955723

After speaking to Exec Sec I found that the package is currently in the DAG's office awaiting their signature. After that, it still has to go to the AG's office for signature and approval. Barbara Wells, the Exec Sec point of contact, said that someone in the AG's office is eagerly awaiting this package, but we can't do anything to force the DAG to sign off.

Bill

Miller, Charles S

From: Miller, Charles S
Sent: Monday, February 27, 2006 11:22 AM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 2/27/06 Civil Division News

Judge orders Bush to answer suit filed by New Jersey over port deal

Google's privacy concerns unfounded: US government

RIM, NTP urged to settle dispute; BlackBerrys could face shutdown as early as this week

St. Bernard Parish residents sue FEMA over cruise ship departure

Pa. woman gets $4.2 million from government to settle lawsuit

Analysis: Congress Puts 'Partial-Birth' Abortion Back on the Supreme Court's Agenda

EDITORIAL: GOING TOO FAR SILVER RING THING LOSES FEDERAL FUNDS

Newark Star-Ledger

Saturday, February 25, 2006

Judge orders Bush to answer suit filed by New Jersey over port deal

BY TOM FEENEY AND JOHN P. MARTIN **STAR-LEDGER STAFF**

A federal judge yesterday ordered the Bush administration to explain its decision to allow a company owned by the United Arab Emirates to take over some operations at ports in Newark and five other American cities.

The White House, meanwhile, welcomed the company's decision to delay the takeover for a short time but said the administration has no intention of reconsidering its approval of the deal.

U.S. District Judge Jose Linares in Newark ordered the government to respond next week to a lawsuit filed by the state of New Jersey that seeks more information about the approval and contends a further review of national security questions is required by law.

Linares' order requires federal officials to explain why they did not perform a full 45-day investigation into the sale of marine terminals at six American ports to Dubai Ports World, a company owned by the United Arab Emirates. His order asks for written briefs on Monday and sets a hearing for Wednesday.

The judge said he was taking no position on the sale, but noted that Port Newark is a critical part of the region's infrastructure and its proximity to chemical, electrical and telecommunications hubs make it especially worthy of protection.

"The potential breach of Port Newark obviously would pose a tremendous threat to the people of New Jersey," the judge said.

New Jersey's lawsuit is one of several legal challenges to the deal. Yesterday, the Port Authority of New York and New Jersey filed suit in Superior Court in Essex County to block the company from operating a terminal in Port Newark.

That suit claims that under a 30-year lease signed in 2000, the authority has the right to approve of any transfer in ownership. A hearing was scheduled for Friday.

Dubai Ports World paid $6.8 billion to buy Peninsular and Oriental Steam Navigation Co., a British firm that runs commercial shipping operations in Newark, New York, Philadelphia, Baltimore, Miami and New Orleans.

Although the UAE is an important American ally in the Middle East, its past ties to terrorists prompted critics to question whether the sale would weaken security at the vulnerable ports. The FBI has said the UAE had financial ties to some of the 9/11 terrorists.

The sale is scheduled to close on March 2, but the Dubai company has said it will not take control of the American port operations immediately, in order to give the Bush administration time to quell the fierce, bipartisan opposition in Congress.

White House spokesman Scott McClellan said it will be "helpful to have some additional time to brief Congress about the facts and about the safeguards that are in place."

But the president's national security adviser, Stephen Hadley, told reporters the administration does not intend to use the delay to reconsider its approval of the sale.

"There's nothing to reopen. In terms of the administration and executive branch process, it's been completed," he said.

The Committee on Foreign Investments in the United States, made up of representatives from 12 federal departments and agencies, is required by law to review purchases of certain U.S. properties by foreign companies. If the company is state-owned and is a risk to national security, the law requires a 45-day supplemental investigation. The Dubai Ports World sale was approved without the supplemental investigation.

New Jersey's lawsuit asks Linares to order the administration to conduct that supplemental probe.

Assistant Attorney General Patrick DeAlmedia told the judge the state filed the petition because it could not get information about the sale from the Bush administration.

No representative of the administration was present at the hearing. A spokesman for the Treasury

Department said later that he could not comment on an active lawsuit. Spokesmen for Dubai Ports World and P&O did not return telephone calls.

Gov. Jon Corzine sent a letter to governors in the other affected states yesterday urging them to join New Jersey's lawsuit. Governors of Maryland, New York and Pennsylvania have expressed concerns about the takeover; Florida Gov. Jeb Bush has said he trusts his brother, the president, to make the right decision.

Several lawmakers from both parties plan to introduce legislation next week to put the deal on hold or kill it. Lobbyists for Dubai Ports went to Capitol Hill yesterday to brief congressional staffers.

House Republican leaders plan to meet Tuesday to decide whether they want to take that step, which Bush has said he would veto. Rep. Thomas Reynolds (R-N.Y.), a member of the leadership, said he is "beginning to get what I want, which is to slow down this process so we can take a look at it."

But Democrats and some Republicans continued to press for a fuller investigation of security issues.

"Nothing in the announcement by Dubai Ports World changes the fact that unless the president or Congress acts, in less than a week operations at U.S. ports will be in the hands of a foreign government. That is an unacceptable risk that we cannot tolerate," said Sen. Robert Menendez (D-N.J.)

Sen. Patrick Leahy (D-Vt.), the ranking Democrat on the Senate Judiciary Committee, demanded answers to a series of questions about the approval process in a letter to Attorney General Alberto Gonzales.

"The administration ... rushed through and rubber-stamped a secret review, and now they once again ask us to trust their vague assurances that adequate national security arrangements are in place," Leahy said.

END

ZDNet

2/27/06

Google's privacy concerns unfounded: US government

Greg Sandoval, Special to ZDNet

The US Justice Department has denied requesting anything from Google that could threaten the privacy of the search-engine's users, as the company recently contended.

But by trying to block the government's efforts to review a week's worth of search terms, Google is holding up efforts to protect children from pornography, according to a brief filed on Friday by the Justice Department.

The US Justice Department was responding to Google's legal filing earlier this month, in which the search giant argued that the government's request for 1 million pages from Google's index, as well as copies of a week's worth of search terms, would harm the company in numerous ways.

The information the Justice Department requested is to be used in a study to help the Bush administration defend the 1998 Child Online Protection Act (COPA), an Internet pornography law. The government is seeking to highlight flaws in Web filtering technology during a trial later this year.

Google maintains that complying with the government's request would mean disclosing important trade secrets, take up too many of the company's resources to produce and harm its reputation with users.

The issue has raised red flags among privacy-watchdog groups, which fear that Web sites could be used to spy on Americans or limit their right to free speech. The American Civil Liberties Union is challenging the COPA, arguing that Web sites cannot realistically comply with it and that the law violates the right to freedom of speech mandated by the First Amendment.

On 17 February, Google issued a strongly worded declaration to the court, criticising prosecutors for a "cavalier attitude" and questioning their understanding of search-engine technology.

On Friday, the Justice Department said Google's arguments were without merit.

"It should first be noted what is not at issue here," the Justice Department wrote in the 18-page legal brief. "The government has not asked Google to produce any information that would personally identify its users.

"The government seeks this information only to perform a study, in the aggregate, of trends in the Internet. No individual user of Google, or of any other search engine, need fear that his or her personal identifying information will be disclosed."

Google also failed to link the information the government requested to "any supposed trade secrets," the Justice Department said in its brief. As for the costs of complying with the Justice Department's subpoena, the government argued that Google could "comply with the subpoena with relative ease."

The Justice Department noted that Google's competitors -- American Online, Yahoo and MSN -- gathered the information without much trouble when those companies voluntarily complied with similar requests.

Lastly, the government hung its argument on precedent, saying that the right of the government to obtain information needed to present its case outweighed any of Google's arguments.

"The government has a legitimate need for the disclosure of data that is uniquely in Google's possession," the Justice Department said in its filing. "The balance certainly weighs in favour of disclosure of any alleged trade secrets."

The Justice Department requested that Google be given 21 days in which to comply with the court's order.

Google representatives could not immediately be reached for comment.

END

USA TODAY

2/27/06

RIM, NTP urged to settle dispute; BlackBerrys could face shutdown as early as this week

By Michelle Kessler
USA TODAY

U.S. BlackBerry users happily continued sending mobile e-mails over the weekend after a federal judge decided to keep the popular devices running amid a nasty patent lawsuit.

But users are fretting about a future shutdown. That could happen as early as this week, if a five-year dispute between BlackBerry-maker Research in Motion and intellectual property firm NTP is not settled, says patent lawyer Stephen Maebius of Foley & Lardner.

NTP, a company with essentially one employee, owns several wireless patents dating to the 1990s. It

says the BlackBerry infringes on them, a claim RIM denies. NTP sued RIM in 2001. The case only affects U.S. customers.

At a Friday hearing in Richmond, Va., NTP asked Judge James Spencer to halt sales of BlackBerry devices and service until the case is resolved. But Spencer refused. Instead, he urged the firms to settle, saying a business deal would make more sense than a court remedy.

Spencer set no deadline but made it clear time is running out. “You let this be a court decision, and you're going to get a court decision. A court-imposed decision will be imperfect,” he said.

Given Spencer's reputation for speedy trials, Maebius says, RIM and NTP can expect to be back in court in a week or two if they don't settle.

That worries many BlackBerry users. “It's indispensable,” says Lynda Hart, 32, a technical project manager in Modesto, Calif. In Houston, insurance executive Mark Torrison, 48, said: “I thought this thing would have gone away by now.”

RIM says it has a workaround that will keep BlackBerrys operating if it loses in court. But RIM testified Friday that it would take 2 million man-hours to implement. That's about a half-hour for each of the 4.3 million BlackBerrys in use. A company with 500 BlackBerry users would need a month to upgrade them all, estimates tech analyst Ken Dulaney at researcher Gartner.

It's uncertain how well the workaround will operate. RIM has released few details because of legal concerns. Customers “are on pins and needles,” says Dulaney.

RIM and Wall Street were pleased with Friday's hearing. “We're looking forward to the eventual decision, and we're feeling comfortable with our contingency plans in any event,” co-CEO Jim Balsillie said in a statement. RIM shares leapt 6.5% to $74.05 on the news.

Privately owned NTP also claimed success. “The court was receptive to the merits of our arguments,” it said in a statement.

As the court battle continues, a second fight is being waged in the U.S. Patent and Trademark Office, which is re-evaluating NTP's patents. RIM has won key victories there, including one Friday. But Spencer doesn't have to consider the patent evaluation until it is complete, and that could take years. “This thing is far from over,” says lawyer Robert Sterne at Sterne Kessler Goldstein and Fox.

END

AP

2/27/06

St. Bernard Parish residents sue FEMA over cruise ship departure

NEW ORLEANS About two dozen hurricane evacuees are fighting to stay on a cruise ship south of New Orleans.

They're in court today, suing to try to make the federal government keep the ship docked and pay for the housing.

The lawsuit says the Federal Emergency Management Agency hasn't given alternative housing and has shown no evidence it will do so by Wednesday's deadline to release rented cruise ships.

The suit says FEMA showed incompetence "before, during, and after Hurricane Katrina struck."

An agency spokeswoman wouldn't comment on the suit, but says FEMA has "been working around the clock" to provide long-term housing to people on the ship.

About 300 residents of St. Bernard Parish have been living on the Scotia Prince ship. Plaintiffs include a disabled woman, a fisherman whose FEMA trailer isn't hooked up yet and a high school senior.

END

AP

February 27, 2006

Pa. woman gets $4.2 million from government to settle lawsuit

ERIE, Pa._A single mother will get $4.2 million from the federal government to settle a lawsuit in which she claimed botched pneumonia treatment left her mildly brain-damaged and bedridden with her legs amputated.

Karen Lee, 50, of Erie, a former teacher's aide, received $2.9 million last week. The money must be invested and paid out over time for Lee's medical care, said her attorney, Denis W. Krill. The total payout over 10 years will be more than $4.2 million.

The U.S\l "l". Attorney's\l "l" Office represented Lee's former doctor, Magnus K. Ikhinmwin, in the lawsuit under a 1995 federal law that offers legal protection to public health centers, Krill said.

Ikhinmwin formerly worked for the nonprofit Community Health Net, which got federal money.

Lee also settled for an undisclosed amount with Erie's Hamot Medical Center, where Ikhinmwin admitted Lee for treatment. Hamot's spokeswoman and its attorney declined comment, the Erie Times-News reported.

U.S\l "l". Attorney\l "l" Mary Beth Buchanan called the settlement with the federal government "fair and equitable." The defendants admitted no wrongdoing.

Krill and another attorney will get $725,000 in attorneys' fees and $70,000 for costs from the government portion of the settlement, Krill said. They also will receive money from Hamot's settlement.

According to the lawsuit, about 24 hours after Lee entered Hamot in November 1997 suffering from pneumonia in both lungs, she became agitated because she couldn't breathe and a nurse mistakenly believed Lee was suffering from alcohol withdrawal. Lee had been dependent on alcohol previously, and the nurse relayed her assessment to Ikhinmwin in a phone call.

Ikhinmwin, without examining Lee or ordering more tests, ordered Lee be treated throughout the night with a sedative commonly used to treat alcohol withdrawal, the lawsuit stated.

The drug caused Lee to stop breathing and suffer two heart attacks, the lawsuit alleged. She lost circulation to her arms and legs and was wheelchair-bound with severe nerve damage; her legs later had to be amputated above the knees in April 2002 and March 2003.

Lee is conscious and alert, but suffers from mild short-term memory loss and remains confined to a hospital bed in her mother's basement, Krill said. She plans to use the money to get therapy, prosthetic legs, a motorized wheelchair and possibly to modify her home or buy a new one that is wheelchair accessible.

"She is going to have medical bills the rest of her life," Krill said. "She asked for none of this. She asked to be treated like a human being and was not."

END

Law.com

2/27/06

Analysis: Congress Puts 'Partial-Birth' Abortion Back on the Supreme Court's Agenda

Howard J. Bashman
Special to Law.com

On the U.S. Supreme Court's first official day of business after Justice Samuel A. Alito Jr. replaced Sandra Day O'Connor, the Court agreed to revisit the contentious issue of whether a ban on partial–birth abortion is constitutional. Because O'Connor provided the dispositive fifth vote to declare Nebraska's ban on partial–birth abortion unconstitutional, many believe that the Supreme Court in O'Connor's absence is now likely to reverse course and uphold the constitutionality of the federal Partial–Birth Abortion Ban Act of 2003 after hearing oral argument later this year.

Three different federal appellate courts have examined the constitutionality of this controversial federal law, and all three have held the law unconstitutional based on the U.S. Supreme Court's ruling, issued in 2000, in the Nebraska case. But while reaching the same outcome, these federal appellate courts did not employ identical reasoning. And on one three–judge panel, a majority expressed its profound dissatisfaction with the Supreme Court's current abortion jurisprudence.

Aside from presenting the question whether Alito's replacement of O'Connor will cause the Supreme Court to uphold a ban on partial–birth abortion, the case the Court has just agreed to review also presents two other controversial issues. The first, which was discussed in depth during both of the recent Supreme Court confirmation hearings, involves the level of deference that the Court should afford to congressional fact–finding. And the second involves whether the standard for declaring an abortion–related law facially unconstitutional will remain easier to satisfy than the standard for declaring any other law facially unconstitutional.

The case that the Supreme Court agreed to review last week arises from the 8th U.S. Circuit Court of Appeals, and the lead plaintiff is the very same physician who served as the lead plaintiff in the case in which the Supreme Court in 2000 declared Nebraska's ban on partial–birth abortion unconstitutional. The 8th Circuit in August 2005 issued its unanimous decision striking down the federal Partial–Birth Abortion Ban Act of 2003.

The 8th Circuit ruled that the Supreme Court's holding in the Nebraska case requires that any ban on an abortion procedure contain an exception for instances when the procedure is necessary to preserve either the health or the life of the mother. The federal ban on partial–birth abortion only contains an exception for when the procedure is necessary to save the mother's life.

Congress attempted to justify the statute's lack of a health exception by expressly finding that partial–birth abortion is never medically necessary. Not persuaded by Congress' finding, the 8th Circuit explained, "There remains no consensus in the medical community as to the safety and medical necessity of the banned procedures." Because some doctors testified that the procedure is sometimes medically necessary, the 8th Circuit ruled, the Supreme Court's decision in the Nebraska case required that the federal ban on partial–birth abortion be declared unconstitutional.

Next, in late January, a three–judge panel of the 9th U.S. Circuit Court of Appeals issued a unanimous decision holding the law unconstitutional for three separate reasons. The opinion, by Circuit Judge Stephen Reinhardt, first concluded that the law was unconstitutional because it lacked a health exception. This is essentially the same ground on which the 8th Circuit relied in striking down the law.

Second, the 9th Circuit held that the law was unconstitutional because it placed an undue burden on a woman's right to choose a pre–viability abortion, since the law failed to distinguish between intact dilation–and–evacuation abortions (also known as partial–birth abortions) and non–intact D&E abortions, which the law supposedly was not intended to outlaw. According to the 9th Circuit, because the law could be understood to prohibit non–intact D&E abortions, the law unduly burdens the right of a woman to obtain a pre–viability, post–first trimester abortion.

And third, the 9th Circuit ruled that the law was unconstitutionally vague, because it "fails to define clearly the medical procedures it prohibits, depriving doctors of fair notice and encouraging arbitrary enforcement." Based on all three of these reasons, the 9th Circuit joined the 8th Circuit in striking down the law.

The 2nd Circuit, also in late January, likewise ruled that this federal law banning partial–birth abortions was unconstitutional. But, unlike in the other two circuits, the 2nd Circuit's decision was not unanimous. In fact, each of the three judges on the panel wrote separately. The majority opinion, by Senior Circuit Judge Jon O. Newman, rested exclusively on the conclusion that the law was unconstitutional for lack of a health exception. Newman's majority opinion states that "substantial medical opinion does support the view that the procedure might sometimes be necessary to avoid risks to the mother's health." The 2nd Circuit's ruling thus follows the same path that the 8th Circuit took in declaring the law unconstitutional.

In a concurring opinion, Chief Judge John M. Walker Jr. wrote that the Supreme Court's ruling in the Nebraska partial–birth abortion case was "flawed in at least three respects." First, in his view, the fact that one type of abortion procedure might be safer than another does not prevent the potentially safer procedure from being outlawed if the other, still legal procedure is safe enough. Second, Walker wrote, the Nebraska case impermissibly allows a statute to be held facially invalid on a speculative showing of harm. And third, he wrote, the Nebraska case "establishes an evidentiary standard that all but removes the legislature from the field of abortion policy." If Walker was attempting to provide the Supreme Court with a useful road map to follow in overruling the Nebraska decision from 2000, he has certainly succeeded in doing so.

Notably, it was a Clinton appointee, Circuit Judge Chester J. Straub, who dissented from the 2nd Circuit's ruling and would have held the federal ban on partial–birth abortion lawful under existing precedent. In his view, Congress' finding that partial–birth abortion is never medically necessary to protect a woman's health was adequately supported, and the government's compelling interest in preventing infanticide sufficed to override a woman's right to terminate her pregnancy via the "gruesome and inhuman" procedure in question.

Of these three federal appellate court rulings, the 9th Circuit's presents the most persuasive and wide–ranging argument in favor of declaring the Partial–Birth Abortion Ban Act of 2003 unconstitutional, while the concurring and dissenting opinions that accompany the 2nd Circuit's decision provide cogent arguments for overruling the Supreme Court's holding in the Nebraska case. I expect that the Supreme Court will uphold the constitutionality of this federal law by a vote of 5–4, and in the aftermath of such a ruling states too will be free to ban the procedure by enacting similarly worded statutes.

END

Pittsburgh Post-Gazette (PA)

February 27, 2006

EDITORIAL: GOING TOO FAR SILVER RING THING LOSES FEDERAL FUNDS

To conservatives worried that teenagers out there are having sex, an abstinence program called the Silver Ring Thing, funded as part of President Bush's faith-based initiatives, seemed like a match made in heaven.

The Silver Ring Thing's national headquarters are at Christ Church at Grove Farm in Ohio Township. Over three years the U.S. Department of Health and Human Services gave the Silver Ring Thing program more than $1 million to celebrate the joy of no sex in three-hour light-show extravaganzas across the continent. Teenage attendees signed "a covenant before God Almighty" to remain chaste until they marry; they wore $12 silver rings inscribed with a Bible passage reminding them to "keep clear of sexual sin."

But it couldn't last, not in a country with a First Amendment ban on mixing public money and religious faith. The federal flirtation with Christ-centered abstinence ended in breakup on Thursday when an ACLU\l "l" lawsuit filed in May was settled in U.S. District Court in Boston, and Silver Ring Thing lost its latest $75,000 grant.

The suit\l "l" accused the federal government of allowing the Silver Ring Thing to use public tax money for what boils down to religious evangelism. Thursday's settlement bars Silver Ring Thing from receiving any more federal aid unless it can ensure the money won't be used for religious purposes.

No one can fault the Silver Ring organizers for offering hormone-charged youth an empowering way to say "no" to sex. Thousands of teens signed the covenant in good faith, and likely continue to live chaste lives pleasing to parents and, presumably, the Lord.

No one can say Silver Ring Thing was wrong to pitch a Christian salvation message to a new generation of spiritual seekers. They just can't do it with public money.

As Pittsburgh ACLU\l "l" director Barb Feige said this week, "Anybody can do their own religious programming for their own religions, but you can't do it with government funds. That's a constitutional violation."

END

Miller, Charles S

From: Miller, Charles S
Sent: Tuesday, February 28, 2006 10:57 AM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 2/28/06 Civil Division News

New York Times sues U.S. Department of Defense for eavesdrop documents

Justice Dept. Rejects Google's Concerns

U.S. Is Settling Detainee's Suit In 9/11 Sweep

Judge overturns Defense labor relations reforms

Court rules that IRS inappropriately outsourced mailroom work

Deadline nears for move off ships; But St. Bernard residents' lawsuit against FEMA still up in the air

ACLU Fighting Against Boy Scouts

Ex-prosecutor fights back: Convertino says Justice Department has ruined his career

Custer: Firm lost money on Iraq work; Custer Battle lost $1.4 million, he says, after its top manager in Iraq "lost control of the [currency] project."

Four heart surgeons under investigation for billing

AP

February 28, 2006

New York Times sues U.S. Department of Defense for eavesdrop documents

NEW YORK_The New York Times sued the Department of Defense on Monday, saying the government has refused to turn over records related to its domestic warrantless surveillance program.

In a lawsuit in U.S. District Court in Manhattan, the Times asked the court to order the government to comply with a Freedom of Information Act request requiring it to release documents or provide a lawful reason why it cannot.

The spying program was revealed by the Times in a story in December.

Maj. Susan Idziak, a Department of Defense spokeswoman, said the department will work closely with the Department of Justice on litigation regarding the matter.

The Times said a Dec. 16 letter to the Department of Defense requested all internal memos, e-mails and legal memoranda and opinions since Sept. 11, 2001, related to the National Security Agency spying program. The department is the parent agency of the NSA.

The newspaper said it asked for meeting logs, calendar items and notes related to discussions of the program, including meetings held by Vice President Dick Cheney and his staff with members of Congress and telecommunications executives.

It also requested all complaints of abuse or possible violations in the operations of the program or the legal rationale behind it.

And it sought the names and descriptions of people or groups identified through the use of the program and a description of relevant episodes used to identify the targets of the intercepts.

The lawsuit said the Department of Defense acknowledged receipt of the request on Dec. 30, 2005, but the response, required in 20 business days, never came.

In its lawsuit, the newspaper asked the court to order the materials released.

President Bush has defended the program to monitor electronic communication between the United States and international sites involving suspected al-Qaida operatives as vital to anti-terrorism efforts.

END

AP

Feb. 28, 2006

Justice Dept. Rejects Google's Concerns

By ASSOCIATED PRESS

Concerns by Google Inc. that a Bush administration demand to examine millions of its users' Internet search requests would violate privacy rights are unwarranted, the Justice Department said in a court filing.

The 18-page brief filed Friday argues that because the information provided would not identify or be traceable to specific users, privacy rights would not be violated.

The brief was the Justice Department's reply to strident arguments filed by Google last week as a rebuff the government's demand to review its search requests during a random week.

The department believes the information will help revive an online child protection law that has been blocked by the U.S. Supreme Court. By showing the wide variety of Web sites that people find through search engines, the government hopes to prove Internet filters are not strong enough to prevent children from viewing pornography and other inappropriate material online.

The Justice Department submitted a declaration by Philip B. Stark, a researcher who rejected the privacy concerns, noting that the government specifically requested that Google remove any identifying information from the search requests.

"The study does not involve examining the queries in more than a cursory way. It involves running a random sample of the queries through the Google search engine and categorizing the results," Stark, a statistics professor at the University of California, Berkeley, said.

Mountain View, Calif.-based Google has staunchly resisted the Justice Department since receiving a subpoena last summer, setting the stage for the current legal battle.

The case has attracted widespread attention because it has underscored the potential for Internet search engines becoming tools for government surveillance. A hearing is scheduled before U.S. District Judge James Ware in San Jose March 13.

END

New York Times (NY)

February 28, 2006

U.S. Is Settling Detainee's Suit In 9/11 Sweep

NINA BERNSTEIN

The federal government has agreed to pay $300,000 to settle a lawsuit brought by an Egyptian who was among dozens of Muslim men swept up in the New York area after 9/11, held for months in a federal detention center in Brooklyn and deported after being cleared of links to terrorism.

The settlement, filed in federal court late yesterday, is the first the government has made in a number of lawsuits charging that noncitizens were abused and their constitutional rights violated in detentions after the terror attacks.

It removes one of two plaintiffs from a case in which a federal judge ruled last fall that former Attorney General John Ashcroft, the director of the Federal Bureau of Investigation and other top government officials must answer questions under oath. Government lawyers filed an appeal of that ruling on Friday.

In the settlement agreement, which requires approval by a federal judge in Brooklyn, lawyers for the government said that the officials were not admitting any liability or fault. In court papers they have said that the 9/11 attacks created "special factors," including the need to deter future terrorism, that outweighed the plaintiffs' right to sue.

"A settlement like this is not a precedent, but it's a form of accountability," said Gerald L. Neuman, a law professor at Columbia University who is an expert in human rights law and was not involved in the case. "When the government finds it necessary to settle, that changes the government's incentives. It doesn't

mean the government will settle future cases that it makes different calculations about," like another lawsuit, brought as a class action on behalf of hundreds of detainees, that is pending before the same judge.

A spokesman for the Justice Department said officials would not comment on the agreement. But lawyers who represent both the Egyptian, Ehab Elmaghraby, who used to run a restaurant near Times Square, and the second plaintiff, a Pakistani who is still pursuing the lawsuit, described the outcome as significant.

"This is a substantial settlement and shows for the first time that the government can be held accountable for the abuses that have occurred in Abu Ghraib, Guantanamo Bay and in prisons right here in the United States," said one of the lawyers, Alexander A. Reinert of Koob & Magoolaghan.

The lawsuit accuses Mr. Ashcroft and the F.B.I. director, Robert S. Mueller III, of personally conspiring to violate the rights of Muslim immigrant detainees on the basis of their race, religion and national origin, and names a score of other defendants, including Bureau of Prison officials and guards at the Metropolitan Detention Center in Brooklyn.

A 2003 report by the Justice Department's inspector general found widespread abuse of the noncitizen detainees at the Brooklyn center after 9/11, and in recent months, 10 of the center's guards and supervisors have been disciplined.

Mr. Elmaghraby, who spent nearly a year in detention, and the Pakistani man, Javaid Iqbal, held for nine months, charged that while shackled they were kicked and punched until they bled. Their lawsuit said they were cursed as terrorists and subjected to multiple unnecessary body-cavity searches, including one in which correction officers inserted a flashlight into Mr. Elmaghraby's rectum, making him bleed.

In a telephone interview from his home in Alexandria, Egypt, Mr. Elmaghraby, 38, said he had reluctantly decided to settle because he is ill, in debt and about to have surgery for a thyroid ailment aggravated by his treatment in the detention center.

"I wish I come to New York, to stay in the court face to face with these people," he said in imperfect English, adding that he had always expected the courts to uphold his claim. "I lived 13 years in New York, I see a lot of big cases on TV. I think the judges is fair."

The government had argued that the lawsuits should be dismissed without testimony because the extraordinary circumstances of the terror attacks justified extraordinary measures to confine noncitizens who fell under suspicion, and because top officials need governmental immunity to combat future threats to national security without fear of being sued\l "l".

The federal judge, John Gleeson of the United\l "l" States\l "l" District Court for the Eastern District of New York, disagreed, writing in his decision last September, "Our nation's unique and complex law enforcement and security challenges in the wake of the Sept. 11, 2001, attacks do not warrant the elimination of remedies for the constitutional violations alleged here."

In all, 762 noncitizens were arrested in the weeks after 9/11, mostly on immigration violations, according to government records. Mr. Elmaghraby and Mr. Iqbal were among 184 identified as being "of high interest" to investigators and held in maximum-security conditions, in Brooklyn and elsewhere, until the F.B.I. cleared them of terrorist links. Virtually all were Muslims or from Arab countries.

That in itself is not evidence of discrimination, government lawyers wrote in the brief they filed on Friday with the Appellate Division, Second Department, because "the Al Qaeda terrorists who perpetrated the Sept. 11 attacks were Muslims from certain Arab countries" who "viewed themselves as conducting a religious war."

"There were no clear judicial precedents in this extraordinary context," the appeal brief said, calling the policy of holding people until they could be cleared "a bona fide response to a national catastrophe."

Unlike the detainees covered by the class-action lawsuit, who were held on immigration violations alone, Mr. Elmaghraby and Mr. Iqbal eventually pleaded guilty to minor federal criminal charges unrelated to terrorism: Mr. Elmaghraby to credit card fraud, Mr. Iqbal to having false papers and bogus checks. But they maintain that they did so only to escape the abuse. They were deported in 2003 after serving prison terms.

Mr. Iqbal was one of several detainees who returned to New York this year to give depositions in their lawsuits under conditions of extraordinary security, including the requirement that they be in constant custody of federal marshals and not call anybody. Mr. Elmaghraby did not come because of his ill health and because the settlement was close, said one of his lawyers, Haeyoung Yoon of the Urban Justice Center.

"His circumstances made it extremely difficult for him to continue," Ms. Yoon said. "But I also feel this is really the beginning of justice for what happened in New York and the United States after Sept. 11, the mass arrests, detention and basically disappearance of an entire community."

Mr. Elmaghraby, who had a weekend flea market stand at Aqueduct Raceway in Queens, was picked up on Sept. 30, 2001, in his apartment in Maspeth, Queens, when federal agents were investigating his landlord, apparently because years earlier the landlord, also a Muslim, had applied for pilot training. Mr. Elmaghraby says his wife, an American citizen, left him after being threatened with arrest by an F.B.I. agent when she arrived at his first court hearing.

Mr. Iqbal was arrested in his Long Island apartment on Nov. 2 by agents who were apparently following a tip about false identification cards. In his apartment they found a Time magazine showing the World Trade Center towers in flames and paperwork showing that he had been in Lower Manhattan on Sept. 11, picking up a work permit from immigration services.

The inspector general's report said that little effort was made to distinguish between legitimate terrorism suspects and people picked up by chance, and that clearances took months, not days, because they were a low priority. Among the abuses described in the report -- many of them caught on prison videotape -- were beatings, sexual humiliations and illegal recording of lawyer-client conversations.

After the report was released, Mr. Ashcroft said he made "no apologies" for finding every legal way to protect the public. Still, officials pledged to improve the system and punish abuses.

Traci L. Billingsley, a spokeswoman for the Federal Bureau of Prisons, said that its own investigation began in April 2004, after federal officials declined to prosecute.

She would not identify the 10 employees disciplined, but said that two had been fired and two demoted, and that the others had received suspensions ranging from 2 to 30 days. She listed the offenses as "lack of candor, unprofessional conduct, misuse of supervisory authority, conduct unbecoming, inattention to duty, failure to exercise supervisory responsibilities, excessive use of force, and physical and/or verbal abuse."

Because of the secrecy surrounding the cases, however, the taint of suspicion has been almost impossible for former detainees to dispel, their lawyers said. In one of the court hearings leading up to the return of the former detainees for depositions, for example, the federal magistrate asked what made them different from anyone else suing the government, "other than their ethnicity."

Ernesto H. Molina Jr., a Justice Department lawyer representing Mr. Ashcroft, replied, "That they came under the umbrella of a terrorist investigation, your honor."

END

Government Executive Magazine

February 27, 2006

Judge overturns Defense labor relations reforms

By Karen Rutzick

A judge ruled Monday that the Defense Department's new personnel system unlawfully diminishes collective bargaining, blocking the labor relations portion of the system from moving forward.

Judge Emmet Sullivan of the U.S. District Court for the District of Columbia wrote in his decision that the department's regulations went beyond congressional intent.

"The design of these regulations appears to rest on the mistaken premise that Congress intended flexibility to trump collective bargaining rights," Sullivan said.

In the 2004 Defense authorization bill, Congress granted the department authority to create a new human resources system, based on the notion that the current system was too rigid and outdated to respond with agility to modern threats of terrorism.

The Pentagon issued regulations for its National Security Personnel System in November 2005, and a coalition of unions quickly filed a lawsuit over the labor relations portion of the plan.

Much of Sullivan's decision echoed, and even quoted from, an August 2005 decision issued by fellow District Judge Rosemary Collyer on the Homeland Security Department's similarly revamped labor relations system.

Collyer ruled that the DHS system was illegal because the department had the ability to override collective bargaining agreements by releasing so-called implementing issuances or documents from high-level officials amending the rules. Sullivan found that the Pentagon's system was similar enough to DHS' that much of Collyer's ruling applied.

"As was the case in [the DHS decision], this court concludes that . . . the new rule fails to ensure even minimal collective bargaining rights," Sullivan said. "As in [the DHS case], the regulations concerning management rights fail in this case because 'any collective bargaining negotiations pursuant to its terms are illusory: the secretary retains numerous avenues by which s/he can unilaterally declare contract terms null and void.' "

Sullivan went beyond Collyer's ruling in one area: He knocked down a new internal labor relations board, which would investigate and decide upon labor-management disputes in place of the governmentwide Federal Labor Relations Authority.

Collyer let DHS keep its board, but Sullivan ruled that the National Security Labor Relations Board, whose members would be appointed by the Defense secretary, "does not satisfy Congress' requirement for an 'independent third party' to review labor-management disputes."

Sullivan also ruled against the NSPS process for appealing personnel actions such as demotions, calling it "the antithesis of fairness." The judge cited the department's ability to reverse an appeal if it is found to affect the national security mission.

After Collyer issued her ruling, the Pentagon changed the standards by which the Merit Systems Protection Board could mitigate the penalty for employee misconduct. Originally the Pentagon followed DHS' lead and said the MSPB could not modify the department's penalties unless the action was found to be "wholly without justification." After the DHS ruling, the department changed its standard to "totally unwarranted in light of all pertinent circumstances."

But the change did not convince Sullivan: "The 'totally unwarranted' standard merely provides further evidence that this process fails to provide employees with fair treatment," he said.

Sullivan did rule in favor of the Pentagon in two areas. The unions argued that the department failed to meet its obligation to collaborate with them in creating the system. Sullivan said the department followed the law, however.

"While defendants may not have met Congress' requirements with enthusiasm, the court finds no evidence that defendants acted in bad faith," Sullivan said, citing numerous meet-and-confer sessions and the public comment period.

Also, the unions tried to argue that the department never had authority to broadly revamp the labor relations system beyond a couple of specific changes expressly stated by Congress. Sullivan found, though, that the "language of the statute" shows that "Congress clearly authorized defendants to establish a labor relations system that modifies" the current one.

Sullivan blocked implementation of the adverse action and appeals section of NSPS permanently, but he invited the government to submit a new labor-management relations proposal that complies with his ruling.

Both sides also have the right to appeal the parts of the decision that went against them, and both sides said their lawyers are reviewing the ruling to determine next steps.

In the DHS case, both sides chose to appeal unfavorable aspects of Collyer's decision. Lawyers had until Monday to file briefs in the appellate court, which will hear oral arguments April 6.

END

Government Executive Magazine

Court rules that IRS inappropriately outsourced mailroom work

By Jenny Mandel

A federal court ruled last week that the Internal Revenue Service acted illegally in spending fiscal 2004 appropriations to outsource its mailroom operations without first holding a public-private job competition.

The ruling by the U.S. District Court for the District of Columbia (Civil Action 04-CV-0820) concluded that IRS spending on task orders for employees of Alexandria, Va.-based ServiceSource to perform mailroom work violated the 2004 omnibus appropriations act.

That act barred the IRS from using funds "to convert to contractor performance an activity or function ... unless ... the conversion is based on the results of a public-private competition plan."

Nancy Mathis, an IRS spokeswoman, said, "At the time the IRS awarded the contract for mailroom service, the agency believed it was in compliance with all procurement rules and regulations."

But Louis Oberdorfer, the district judge deciding the case, ruled that while the IRS signed a contract with ServiceSource before the act took effect, the conversion to private operations did not take place until task orders were written under that contract. Those task orders were written during the period covered by the 2004 appropriations act, leading Oberdorfer to conclude they were illegal.

Because of congressional delays in passing spending bills for fiscal 2004 and 2005, the ban on spending for direct conversions applied to the period of Jan. 23, 2004, through Dec. 8, 2004.

The National Treasury Employees Union, which filed the suit in May 2004, is seeking reinstatement with

back pay for 44 employees who lost their jobs as a result of the conversion.

NTEU President Colleen Kelley called the decision "the culmination" of the union's efforts against direct conversions, in which agencies give federal jobs to contractors without competition under the guidelines of Circular A-76, the rulebook governing public-private job contests.

"NTEU's intention is to hold the IRS -- and other federal agencies -- accountable for every act they do that works to the detriment of their employees," Kelley said following the decision.

In his ruling, Oberdorfer asked NTEU and IRS to submit briefings within 30 days on their proposed remedies. Robert Shriver, a lawyer with NTEU who worked on the case, said the parties could settle or the remedy could be decided through the court in a process that could take "a few months." Shriver said NTEU will continue to argue for reinstatement with back pay for the affected employees.

Mathis said it was too early to know what remedy the IRS might present in its briefing. "We're still reviewing the decision," she said.

END

Times-Picayune

Tuesday, February 28, 2006

Deadline nears for move off ships; But St. Bernard residents' lawsuit against FEMA still up in the air

By Susan FinchStaff writer

The Federal Emergency Management Agency said Monday it will meet a Wednesday deadline to get more than 1,400 people, most of them first responders and their families in New Orleans and in St. Bernard Parish, out of emergency quarters on three cruise ships and into ready-to-occupy travel trailers or local hotel rooms.

But there could be a partial change in plans depending on the outcome of negotiations between FEMA lawyers and an attorney for St. Bernard residents who on Friday sued to force FEMA to keep one of the vessels, the Scotia Prince, berthed for another six months in Violet.

It's unclear whether the outcome of that suit also would affect Carnival Cruise Lines' Ecstasy and Sensation, which are moored in New Orleans. But Chalmette lawyer Michael Ginart Jr., who represents the St. Bernard plaintiffs, said he hopes to convince FEMA brass that the Scotia Prince is providing the storm-ravaged parish "special services, not just occupancy."

The number of evacuees on board the ship has dwindled, but Ginart said many St. Bernardians depend on it for an average of more than 2,500 daily meals, as well as access to a computer server and the ship's doctor.

Ginart and a FEMA lawyer said they might be able to reach an accord before Wednesday morning, when they are scheduled to report their progress to U.S. District Judge Peter Beer.

But there was no agreement Monday on the number of people actually aboard the Scotia Prince. Ginart pegged it at 643, but FEMA spokesman David Passey said that as of Sunday night, the number of passengers was down to 158, after a check showed many people had left without removing their names from the ship manifest.

Ginart said the Scotia Prince could act as a kind of transfer station, housing residents until they move on to trailers and making room on the vessel for more homeless evacuees. He also said that travel trailers being readied for people moving off the ship had been set aside for other St. Bernard residents, but those people now will have a longer wait.

At FEMA's daily press briefing Monday, Passey said that no one housed on the Scotia Prince, as well as Carnival's ships, will have to leave the vessels without having another place to stay.

As of Monday, Passey said, there were 499 people on the Ecstacy and 771 on the Sensation. More than 100 people departed on Sunday from the two ships combined, he said.

Passey said his agency has been working with the Police Foundation of New Orleans to try to find apartments in the city for police officers, firefighters, emergency medical technicians and their families.

Foundation executive director Bob Stellingworth said the group has "placed over 100 officers in apartments already" without FEMA's help and has been urging the agency to concentrate on that approach.

Stellingworth said FEMA took the foundation's advice on Saturday, but with the late start, "the original plan to have them in apartments or trailers just isn't going to happen by March 1."

Putting first responders into travel trailers on anything more than an interim basis, Stellingworth said, could prompt hundreds of firefighters and police to pull up stakes and go to work in other cities that already are courting them, like Houston and Dallas.

"We're still lobbying for the larger, 1,000-square-foot mobile homes similar to the ones (at a FEMA staging area) in Arkansas," he said. "We believe they should bring those down here and use them."

Passey said transfer of evacuees off cruise ships is the next, required step for FEMA to return them to permanent housing.

Asked about a need to keep the Scotia Prince in St. Bernard because the parish lacks grocery stores now, Passey said the majority of parish residents have found ways to shop for food.

"The federal government's role isn't feeding people for extended periods of time," he said, adding that the American Red Cross and other groups of volunteers will be in St. Bernard over the coming weeks to lend residents a hand.

New Orleans hotels probably would have enough rooms to accommodate people from the cruise ships, according to Darius Gray, president of the Greater New Orleans Hotel and Lodging Association.

He said his group was expecting FEMA to tap into hotel rooms for current cruise residents, but as of Monday had not been contacted about it.

"We just don't know what's going on," he said. "If we do know what's going on, we could certainly plan and assist in a much more effective manner."

END

FOX**Error! Hyperlink reference not valid.**February 27, 2006

ACLU Fighting Against Boy Scouts

By Bill O'Reilly, Andrew Napolitano, Show: THE O'REILLY FACTOR

O'REILLY: Back of the Book segment, as you may know the ACLU is trying to get Boy Scouts of America banned from using any public facility, the ACLU claiming Boy Scouts is a bigoted organization.In San Diego the ACLU won. The Boy Scouts were forced to leave Balboa Park. In addition to that, the city is reportedly going to pay the ACLU close to $1 million in legal fees. And that's happening all over the country.

Joining us now to explain is FOX News senior judicial analyst Judge Andrew Napolitano.

I mean, this is so bad it hurts.

JUDGE ANDREW NAPOLITANO, FOX NEWS JUDICIAL ANALYST: It's not a happy story.

O'REILLY: No, it's so bad it hurts. They have been, the ACLU has been successful in convincing the courts that, you know, no public facility should be used to aid the Boy Scouts. And then when they win, the judge awards them fees paid by the taxpayer. Is that how it goes down?

NAPOLITANO: That's correct, because the state of California, as have many states, and the Congress enacted statutes that encourage litigation to enforce people's civil rights. And the statutes say if you prevail against the government, you not only get the money that the jury awarded you, you get your legal fees paid for by the government against which you have prevailed.

O'REILLY: Is that in all cases?

NAPOLITANO: That is in virtually all civil rights and civil right cases.

O'REILLY: Can the judge say no?

NAPOLITANO: The judge cannot say no. The judge has discretion to the amount of the fees. So if the lawyers are asking for $750 an hour, he's going to say no, that's not too, much but I'll pay you a reasonable fee. The statutes say the fees must be reasonable.

O'REILLY: All right. Because in Portland, Oregon, the same thing. ACLU throwing the Boy Scouts off schools. The Boy Scouts were presenting stuff in schools and they said no. The judge reversed the award of attorney's fees there.

NAPOLITANO: That -- THAT was probably based upon an Oregon state statute, which is an anomaly. Most of the statutes do not let the judge decline to award legal fees, and here's why. The Congress and the state legislators have enacted a class of statutes called remedial. They encourage litigation by almost hanging out, as a carrot, if you win, you'll get your lawyer's fees paid.

O'REILLY: And damages.

NAPOLITANO: And damages.

O'REILLY: Right.

NAPOLITANO: Because they want this type of litigation to rid society of the cancer of discrimination. That's what the case law says.

O'REILLY: Doesn't that give way to frivolous lawsuits, though?

NAPOLITANO: It does. It does. Bill, it wasn't so long when I was in law school, it was unethical to encourage litigation. Now the legislatures have encouraged it by offering to pay legal fees.

O'REILLY: Now, in order to stop this, Congress would have to pass a law, right?

NAPOLITANO: And the state legislatures would have to pass a law. New York state, where you and I are right now, has one of the most liberal laws in the nation.

O'REILLY: Shocking.

NAPOLITANO: No, not shocking at all. But, of course, it results in taxpayer dollars…

O'REILLY: Sure.

NAPOLITANO: … ending up in the ACLU's treasury.

O'REILLY: Well, we've got it right here. ACLU has what, $120,000 in the state of Kentucky; $40,000, Tennessee; $180,000, Oregon; and $950,000 in California. Just -- and that's just a few.

Now if they lose, the ACLU loses, then they just go home, right?

NAPOLITANO: Correct.

O'REILLY: They don't get anything?

NAPOLITANO: The rule in the United States is you pay your own legal fees, except for this class of remedial statutes, where the fee shifts so that the loser, if it's the government, if it's the defendant, pays. If the ACLU lawyer sues\l "l" and the government\l "l" wins, there's no legal fee paid.

O'REILLY: All right. And most of these ACLU lawyers are working pro bono anyway.

NAPOLITANO: Right.

O'REILLY: So there's not a lot of big investment. All right, Judge, we got it, and there you go. Encouraging lawsuits in America.

NAPOLITANO: Unbelievable.

O'REILLY: Next, we'll wrap things up with The Most Ridiculous Item of the Day and some of your mail.

END

Detroit Free Press (KRT)

February 28, 2006

Ex-prosecutor fights back: Convertino says Justice Department has ruined his career

David Ashenfelter

Detroit Free Press

Feb. 28--A former federal prosecutor accused the U.S. Department of Justice on Monday of destroying his career because he publicly criticized its handling of the war on terror.

But Richard Convertino\l "l" stopped short of predicting that he would be indicted for alleged prosecutorial misconduct in a 2003 Detroit terrorism trial -- the first in the nation to result from the federal probe of the Sept. 11, 2001, terrorist attacks.

"I've been Swift-boated," Convertino\l "I" said at a news conference in Plymouth, referring to the 2004 campaign ads that attacked the war record of Democratic presidential candidate John Kerry, who served on Navy Swift boats in Vietnam. "I did nothing wrong."

Former Plymouth newspaper publisher W. Edward Wendover, a family friend who organized Monday's news gathering, said Convertino\l "I" believes he will be indicted soon over his handling of the terrorism trial.

Convertino\l "I" said he properly handled all of his cases as a prosecutor, including the Detroit terrorism case, although he is human and may have made some mistakes.

He also said he remains convinced that the evidence against the defendants in the terrorism case was overwhelming.

Two Detroit-area immigrants were convicted in U.S. District Court in Detroit in June 2003 for conspiring to provide material support and resources to terrorists.

The Bush administration initially hailed the convictions as a victory in its war on terror.

But the U.S. Attorney's Office later persuaded the trial judge to drop the terrorism charges on the grounds that Convertino\l "I" withheld crucial evidence from the defendants. Convertino\l "I" disputes that accusation.

The Justice Department has been investigating Convertino\l "I", who resigned and went into private practice last year, since late 2003 and recently finished calling witnesses before a grand jury in Detroit.

END

Providence Journal

Feb. 28. 2006

Custer: Firm lost money on Iraq work; Custer Battle lost $1.4 million, he says, after its top manager in Iraq "lost control of the [currency] project."

BY JOHN E. MULLIGAN
Journal Washington Bureau

ALEXANDRIA, Va. -- Rhode Island-based Custer Battles LLC spent about $1.4 million more than it was ever paid for its work on the project at the heart of the war-profiteering charges against the company, one of its cofounders testified in federal court yesterday.

"I have personally added up all the different buckets of information and I know exactly how much was spent on this project and it was millions of dollars more than we were paid," Scott Custer testified as the trial of the case against his company entered its ninth day in U.S. District Court here.

Custer denied any fraud in the Custer Battles accounting for a project to replace Iraq's national currency. The lawsuit alleging millions of dollars worth of such fraud was brought by two whistleblowers -- a former employee and a former business associate of the defendants.

Custer echoed last week's testimony by the co-owner of the firm -- former Rhode Islander Michael J. Battles -- that the two had little day-to-day involvement in the firm's billings to the U.S.-led Coalition

Provisional Authority, which awarded several multimillion-dollar contracts to Custer Battles.

Custer said he "managed the people who managed the people who managed the contracts." Among such managers, Custer testified that one former employee, William D. "Pete" Baldwin, was largely to blame for what Custer portrayed as an unauthorized expansion of the key contract that led to the unauthorized spending that caught the eye of U.S. investigators in Iraq. Baldwin is one of the whistleblowers whom the defendants have portrayed as embittered former associates who stand to profit from the lawsuit.

As the Iraqi Currency Exchange project was going awry in the fall of 2003, Custer testified, "My role was trying to juggle 1,000 balls at a time" as one of the two owners of a company "with a 7,000-percent growth rate at the time."

Custer also said, "I constantly beat up Mr. Baldwin," over what he described as Baldwin's failure to stay in close communication with the home office.

Specifically, Custer charged Baldwin with sometimes "going dark for three, four, five days" when he was the only ranking company official in Iraq with responsibility for the project, and Custer and Battles were in the United States, often at their Rhode Island offices. "We didn't know what was happening. We didn't know if people were getting killed. We didn't know anything."

Between mid-September and early November of 2003, Custer said Baldwin "lost control of the project," permitting its unauthorized expansion and the unauthorized expenditure of sums that later became the source of accounting disagreements, an investigation by Pentagon agents and the current lawsuit.

Custer said the company spent about $13 million on the project, but was paid only $11.6 million by the CPA.

His testimony contrasted with his repeated praise for Baldwin, documented in e-mails.

Custer said he praised Baldwin "to try to pump him up." He said his criticisms were verbal, rather than written.

END

AP

February 28, 2006

Four heart surgeons under investigation for billing

EUGENE, Ore._Four Eugene heart surgeons are under federal investigation for allegedly submitting false billing claims to Medicare, according to court documents.

The doctors, who have not been charged, have each hired attorneys.

The investigation first drew public attention last March when federal agents raided the Eugene offices of the doctors, taking with them boxes of billing records and copies of computer hard drives.

Information about the case has been limited because neither federal investigators nor the doctors have been willing to discuss the case publicly.

But details have surfaced in court documents filed last month in U.S. District Court in Portland.

The doctors are David Duke, Stanley Baldwin, Warren Glover and Richard Hicks, who is now retired.

All are veteran surgeons who ran an independent practice called Cardiovascular Surgical Associates until November 2004, when PeaceHealth, owner of Eugene's Sacred Heart Medical Center, purchased the practice and the doctors became PeaceHealth employees.

But PeaceHealth did not know the doctors were already under federal investigation at the time, said Robert Weaver, a Portland lawyer representing PeaceHealth.

PeaceHealth spokesman Brian Terrett said not even the doctors knew they were under federal investigation until the March 2005 raid.

Documents filed by government\l "l" lawyers\l "l" say they are investigating billing practices of Cardiovascular Surgical Associates.

A former employee of the practice alleged that the doctors submitted false claims to Medicare for its "Assistant at Surgery" billings. Specifically, the employee alleged the practice scheduled and billed Medicare for assistants at surgery who "were not performing procedures that would justify their presence," in violation of federal law, the court documents say.

"Assistant at Surgery" apparently refers to the common practice of having a second surgeon on the other side of the operating table from the main surgeon, who provides another set of hands and eyes as well as expertise if the operation gets complicated.

While the investigation continues, a legal skirmish has broken out over a PeaceHealth file that government investigators want.

Sometime before they sold to PeaceHealth, the doctors hired a Boston lawyer, Thomas Crane, who specializes in defending and advising doctors in health care fraud and abuse cases. Terrett said it's not uncommon for doctors to seek legal advice to avoid running afoul of Medicare billing rules.

Last August, PeaceHealth lawyers notified the government that they had found a copy of a file belonging to Crane, and that Crane had provided legal advice to the Eugene doctors.

The PeaceHealth lawyers said they were willing to waive attorney-client privilege and turn the file over to the government. But then Robert Hoevet, a Portland lawyer representing Baldwin, contacted the PeaceHealth lawyers and objected, saying attorney-client privilege still existed between the doctors and Crane, the attorney.

"We're caught in the middle," Weaver said. "We're holding this bag and we're waiting for someone to tell us who to give it to."

Lawrence Matasar, a Portland lawyer representing Duke, said on behalf of all four doctors that they had no comment on the investigation.

Assistant U.S. Attorney Robert Nesler also declined to comment.

The judge in the case is expected to rule some time after March 20 whether the doctors can intervene, and whether their attorney-client privilege over the file still exists.

END

MBehringer@apprisemedia.com

From:	MBehringer@apprisemedia.com
Sent:	Tuesday, February 28, 2006 1:42 PM
To:	Gorsuch, Neil M
Subject:	Questions for tonight
Attachments:	tmp.htm; TOrture Seminar Questions Feb 28th.doc

Neil
Please see the attached list of draft questions I pulled together. We can discuss at your office.

Michael

Neil
Please see the attached list of draft questions I pulled together. We can discuss at your office.

Michael

1. The McCain – Graham Amendment (1) requires that US government interrogators comply with the interrogation guidelines set forth in the US Army Field Manual and (2) prohibits the "cruel, inhuman or degrading treatment or punishment" of anyone in US government custody anywhere in the world. The Amendment does not, however, define what constitutes "Cruel, Inhuman or Degrading Treatment (what is commonly referred to as "CID"), although CID is held to mean anything that what would otherwise be prohibited under the Fifth, Eighth and Fourteenth Amendments of the Constitution or, as Senator McCain has stated, it would ban any treatment that "shocks the conscience" such as mock executions or water-boarding. _____ do you believe McCain-Graham provides adequate guidance to interrogators as to what is permissible interrogation techniques? For example, what constitutes "degrading"? Is it degrading to have a female interrogate a Muslim prisoner? Is it cruel to detain someone used to cold weather in Cuba?

2. Opponents of McCain-Graham have argued that the Amendmnet would deprive the American Government of necessary tools needed to collect information. Do you believe stress techniques which were previously authorized for use at Guantanamo such as sleep deprivation or adjustment, temperature manipulation, food deprivation, isolation, wall-standing, hooding, subjecting detainees to noise, are cruel, inhuman and degrading techniques that *should* be banned by McCain-Graham? Or are these interrogation techniques that can produce reliable information – gathering that should not be banned?

3. Senator McCain has stated that what "shocks the conscience" is a subjective test given the context of the technique and the detainee. He would make the exception for the Ticking Bomb scenario where interrogation techniques that might ordinarily be viewed as cruel, inhuman and degrading would be permissible where the detainee was in possession of information that could stop an imminent terrorist operation. In this respect, is the McCain-Graham bill hypocritical? Isn't it stating that we shouldn't use coercive techniques unless we need to?

4. A much debated topic was whether we should draw an exemption for CIA officials. The theory was that we are attempting to address two very different circumstances. The first is what is appropriate behavior for the US military in treating POWs. For example, what techniques should govern how prisoners in Iraq are treated and questioned, and here we are discussing POWs and illegal combatants who are not in possession of sensitive information. The second circumstance considers whether stress techniques are appropriate if applied under a controlled setting, by trained professionals and only with respect to those illegal combatants in possession of sensitive information. Again, the argument is not that the CIA should be permitted to "torture" (Break bones, conduct beatings etc), but to apply stress-interrogation techniques which we don't want untrained

personnel using. _____, do you believe whether we should make such a distinction?

5. Follow Up to 4: Does McCain – Graham implicitly allow for this exemption? Would it shock the conscience for a CIA agent to use stress techniques upon a terrorist detainee with knowledge of an imminent terrorist operation.

6. Many human rights watch organizations have argued that the "extended interrogation techniques" authorized by the Secretary of Defense created confusion among the military officers and servicemen as to how both POWs and illegal combatants should be treated. The argument goes that stress interrogation techniques designed for use at GITMO migrated to Iraq where soldiers in the field applied these techniques in "non-interrogation settings"; that these enhanced interrogation techniques created an environment that fostered numerous instances of reported abuses among US military that included 22 cases of non-accidental deaths, numerous beatings, broken bones and of course the instances reported at Abu Ghraib. Do you agree or disagree with this argument?

7. What are the consequences of the McCain-Graham? If stress techniques are now prohibited, will this lead to an increase in the use of renditions where detainees are forwarded to the custody of US allies who do not prohibit such stress techniques.

8. The Graham-Levin Amendment has been criticized as undermining the McCain-Graham protections through the inclusion of two provisions: the first, which provides that operatives who do use interrogation techniques that violate CID are shielded from legal penalties if they violated the ban while acting on "ordinary sense" or under the advice from a lawyer; the second, is that it explicitly enables the Combatant Status Review Tribunal to admit evidence extracted from a detainee by force based upon the statement's "value" to the case.

    a. Do these provisions amount, as some have maintained, to an authorization of torture as an interrogation technique?

9. Graham-Levin also prohibits detainees from directly challenging the legality of their detention in US Courts. This upends the Supreme Court decision that enabled Guantanamo detainees to file claims for wrongful imprisonment. [Discuss legal protections available to detainees. What should be permitted?]

McKenzie, Peggy (CIV)

From:	McKenzie, Peggy (CIV)
Sent:	Tuesday, February 28, 2006 1:46 PM
To:	Agarwal, Asheesh (CIV); Bahr, Dorothy (CIV); Baxter, Felix (CIV); Bordeaux, JoAnn (CIV); Bucholtz, Jeffrey (CIV); Calvert, Chris (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davis, Deborah J; Eubanks, Sharon (CIV); Fadely, Kathlynn (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Fishback, David (CIV); Flentje, August (CIV); Fowler, Liane (SMO); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Goldberg, Arthur (CIV); Gorsuch, Neil M; Gray, Towanda (CIV); Hertz, Michael (CIV); Hollis, Robert (CIV); Hudson, Lewis (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jennings, Geraldine (CIV); Katsas, Gregory (CIV); Keener, Donald (CIV); Kent, Alexander (CIV); Kohl, Christine (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Liner, Linda (CIV); Lloyd, Shirley (CIV); Lucas, Regina E. (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Pyles, Phyllis (CIV); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Schiffer, Stuart (CIV); Shaw, Aloma A; Swenson, Lily F; Thirolf, Eugene; Williams, Angela (CIV); Williams, Toni (CIV); Willis, Kerry (CIV); Zwick, Ken (CIV)
Subject:	2/28 CIV Weekly Report to the AG
Attachments:	CivDivWkly0228.wpd

U.S. Department of Justice

Civil Division

Assistant Attorney General *Washington, D.C. 20530*

February 28, 2006

MEMORANDUM FOR THE ATTORNEY GENERAL

THROUGH: THE ACTING DEPUTY ATTORNEY GENERAL

THROUGH: THE ASSOCIATE ATTORNEY GENERAL

FROM: Peter D. Keisler
Assistant Attorney General

SUBJECT: Civil Division Weekly Report to the Attorney General

A. NEXT WEEK

- No items to report.

B. THIS WEEK

- ***District Court Partially Invalidates New Personnel System at Department of Defense***
  American Federation of Government Employees, et al. v. Rumsfeld, et al. [District for the District of Columbia]. On February 27, Judge Emmet Sullivan granted in part and denied in part the parties'cross motions in this case, a suit by labor unions challenging the Department of Defense's National Security Personnel System (NSPS). The Court ruled that the Department of Defense and Office of Personnel Management had sufficiently collaborated with labor unions in developing the Labor Relations portion of the NSPS, and that the agencies correctly determined that they have a statutory right to depart from Chapter 71 of Title 5 in constructing their Labor Relations system. The court found, however, that the Labor Relations system did not ensure that employees can bargain collectively, as required by statute, and that the National Security Labor Relations Board created by the Agencies to review certain labor disputes does not satisfy the statutory requirement of "independent third party review" because its members are appointed by the Secretary of Defense, serve solely at his discretion, are subject to agency performance

reviews, and act in both investigatory and adjudicative capacities. The court also found that the NSPS process for appealing adverse personnel actions does not provide employees with "fair treatment" (finding instead that "the appeals process is the antithesis of fairness") for several reasons, including the fact that the regulations permit the Department of Defense to modify or reverse any decision of an administrative judge that the Department finds to be factually or legally incorrect. The court indicated that a "fair" appeal process would not permit one party to the dispute to unilaterally modify or reverse the decision of an independent adjudicator. The court permanently enjoined the NSPS appeals process and permanently enjoined the Labor Relations system unless and until the court approves a proposed order submitted by the government which would "selectively enjoin[ ]" the system in a manner consistent with the court's opinion.

C. LAST WEEK

- ***Second Circuit Determines that It Lacks Jurisdiction to Review the Immigration Judge's Discretionary Denial of Alien's Request for a Waiver of Inadmissibility***
  Saloum v. U.S.C.I.S. [2d Cir.]. On February 6, the Second Circuit ruled that the amendments enacted by the REAL ID Act of 2005 did not override the jurisdiction-denying provisions of the immigration statute where the alien challenged a purely discretionary determination of the Immigration Judge, and did not raise any colorable constitutional claims or questions of law.

- ***Challenge Filed to Constitutionality of Public Company Accounting Oversight Board***
  Free Enterprise Fund, et al. v. The Public Company Accounting Oversight Board, et al. [District of Columbia]. On February 7, plaintiffs filed a complaint challenging the constitutionality of portions of the Sarbanes-Oxley Act of 2002 that create the Public Company Accounting Oversight Board (PCAOB), a nonprofit corporation that oversees audits of public companies subject to the securities laws. Plaintiffs allege that the creation of the PCAOB violates the separation of powers by vesting executive power in a private entity not sufficiently subject to Executive Branch control; violates the Appointments Clause because the PCAOB members are appointed by the Securities Exchange Commission rather than by the President or the head of an executive branch agency; and unconstitutionally delegates legislative power to the PCAOB by empowering it to promulgate rules and standards governing audits of public companies. Defendants, the PCAOB and its four individual members, are retaining private counsel and their deadline to respond to the complaint is March 2. We are considering whether to intervene in the case or take other appropriate action to defend the constitutionality of the statute and the interests of the United States.

- ***Seventh Circuit Concludes that It Does not Have Jurisdiction over the Denial of a Motion to Reopen Proceedings Where It Lacks Jurisdiction over the Underlying Claim***
  Martinez-Maldonado v. Gonzales [7th Cir.]. On February 10, the Seventh Circuit dismissed two consolidated petitions for review for lack of jurisdiction. Observing that the Court lacked jurisdiction over the agency's discretionary denial of cancellation of removal, it held that where the Court lacks jurisdiction to review the underlying order, it also lacks jurisdiction over motions to reopen and reconsider arising out of that order.

- ***Federal Circuit Affirms Judgment Rejecting Employment Discrimination Claim Under the Congressional Accountability Act***

Solomon v. *Office of Compliance and Office of the Architect of the Capitol* [United States Court of Appeals for the Federal Circuit; Office of Compliance]. On February 13, the Federal Circuit (Lourie, Rader and Dyk, per curiam), issued a summary decision affirming the judgment of the Office of Compliance dismissing an employee's attempt to maintain an independent retaliation claim on the basis of alleged misstatements of a witness in a previous discrimination proceeding. The Office of Compliance had concluded that the action was barred by res judicata, and the court of appeals agreed in a decision issued just one business day after oral argument. The case arose under the Congressional Accountability Act, which makes specified anti-discrimination statutes applicable to employers in the Legislative Branch.

- ***Office of Personnel Management Subpoenaed in Suit Seeking Reimbursement of Federal Employee Health Benefits Fund***
  Blue Cross Blue Shield of Illinois v. Cruz [Northern District of Illinois]. On February 14, the Office of Personnel Management (OPM) was served with a subpoena duces tecum in private litigation between the estate of a deceased federal employee and Blue Cross Blue Shield of Illinois, an insurance carrier under the Federal Employee Health Benefits Act. In this litigation, Blue Cross Blue Shield is attempting to enforce the employee's obligation to reimburse the Federal Employee Health Benefits Fund for amounts paid for certain health care services for the employee, because the employee received a tort recovery from a third party covering the injury for which the services were rendered. OPM's contract with Blue Cross Blue Shield requires Blue Cross Blue Shield to pursue such reimbursement. We have filed a Statement of Interest supporting Blue Cross in parallel state court proceedings and are working with OPM to consider our options in responding to the subpoena, much or all of which we believe is objectionable.

- ***Third Circuit Determines that Repeal of Suspension of Deportation Does not Have an Impermissible Retroactive Effect***
  Hernandez v. Gonzales [3rd Cir.]. On February 14, the Third Circuit held that:
  (1) the alien had no due process right to apply for the discretionary relief of suspension of deportation; and (2) the repeal of suspension of deportation did not have an impermissibly retroactive effect on the alien, who pled guilty to a deportable offense, and became eligible for that form of relief, prior to its repeal. The Court distinguished *INS v. St. Cyr*, which held that the 1996 repeal of discretionary relief for certain criminal aliens under former section 212(c) was impermissibly retroactive.

- ***Challenge to Cuban Travel Disclosure Requirements Dismissed for Lack of Jurisdiction***
  Sanders v. Snow [District of Columbia]. On February 16, Judge Reggie B. Walton issued an oral order from the bench dismissing this case for lack of subject matter jurisdiction. Plaintiff, Zachary Sanders, filed a class-action complaint in March 2005, seeking declaratory and injunctive relief to prevent federal defendants from imposing a proposed $10,000 civil monetary penalty against him (and others similarly situated) for failing to respond to a Requirement to Furnish Information about his unlicensed travel-related transactions in Cuba. Sanders claimed that any such penalty would violate his Fifth Amendment right against self-incrimination, as well as the Eighth Amendment's Excessive Fine Clause and the Administrative Procedure Act. Because there is an ongoing administrative proceeding to determine whether a final penalty should be

imposed against Sanders, we moved to dismiss the action for lack of standing, ripeness, and exhaustion. The court dismissed the entire action from the bench after being satisfied that Sanders's administrative proceeding is still ongoing and not subject to undue delay.

- ***Court Denies Preliminary Injunction against Publishing Personal Information of Website Registrants***

  Peterson v. National Telecommunications and Information Administration. On February 17, the district court denied plaintiff's motion for a preliminary injunction. Plaintiff sought to enjoin enforcement of a government requirement that registrants of Internet domain names in the ".us" domain publish their name, contact address, and telephone number in a public database. Although plaintiff publishes his name on his website, he alleged that the requirement would force him to disclose his personal address and telephone number in violation of his First Amendment right to speak anonymously. The district court concluded that plaintiff had not established any harm from the requirement because his home address and telephone already were easily obtainable from information he published on his website, and therefore that his speech was not anonymous. The court also concluded that the government's requirement was a content-neutral time, place, or manner restriction on speech valid under the First Amendment. Finally, the court held that the Administrative Procedure Act did not apply to the government's action because of the public contracts exception at 5 U.S.C. § 553(a)(2). Plaintiff's emergency motion for an injunction pending appeal was denied, and plaintiff's contact information and that of 17,000 other anonymous registrants was made public on February 21, 2006.

- ***Suit Filed In Baltimore Water Taxi Incident***

  Indemnity Ins. Co. of N. Am., et al. v. United States, Civ. No. 06-422-WDQ [District of Maryland]. On Friday, February 17, plaintiff insurers filed suit against the United States and the Coast Guard alleging, among other things, negligent inspection of the water taxi that capsized in Baltimore Harbor in 2004. The subrogated claims appear to total $13 million.

- ***Supreme Court Affirms Injunction Allowing Religious Group to Ingest Sacramental Tea Containing a Hallucinogenic Controlled Substance***

  O Centro Espirita Beneficiente Uniao Do Vegetal v. *Ashcroft*

  On February 21, the Supreme Court (per Roberts, C.J.), unanimously affirmed a decision of the En Banc Tenth Circuit upholding a preliminary injunction prohibiting the Government from prosecuting, threatening to prosecute, or otherwise interfering with the plaintiffs' use of a tea containing a hallucinogenic substance prohibited under Schedule I of the Controlled Substances Act. The Court held that the district court did not err in holding that the government had failed to demonstrate, with the necessary specificity required by the Religious Freedom Restoration Act, that the prohibition on "hoasca" furthers a compelling governmental interest. The Court rejected the government's assertion that the uniform application of the Controlled Substances Act justifies the prohibition, noting that an exception already exists for the use of peyote by Native American tribes. The Court acknowledged that the 1971 United Nations Convention on Psychotropic Substances requires the prohibition of hoasca, but concluded that the government had not shown (at the preliminary injunction stage) that compliance with the Convention constitutes a compelling governmental interest.

- ***Supreme Court Grants, Vacates, and Remands in Case Involving Foreign Sovereign Immunity from Attachment***
  Ministry of Defense v. Elahi
  On February 21, in a per curiam opinion, the Supreme Court accepted the Government's recommendation to grant certiorari, vacate the court of appeals' judgment, and remand in a case implicating the immunity of a foreign sovereign from attachment under the Foreign Sovereign Immunities Act (FSIA). Respondent, a judgment-creditor of Iran, sought to attach an international arbitration award in favor of Iran's Ministry of Defense that the Iranian ministry had reduced to judgment in the United States. The district court entered an order authorizing attachment, and the Ninth Circuit affirmed the order, holding that the Iranian ministry's judgment was subject to attachment under an exception to attachment immunity applicable to agencies or instrumentalities of foreign states. The judgment-creditor had not urged that ground as a basis for affirmance. After the ministry petitioned for certiorari, and in response to an invitation from the Court, the Government filed a brief that explained that: (1) under the FSIA, the exceptions to a foreign state's attachment immunity are narrower than the exceptions to the attachment immunity of a state's agencies or instrumentalities; (2) a ministry of defense is an integral part of a state, not a state agency or instrumentality; and (3) due to the posture of the case, the Iranian ministry did not have an opportunity to argue that it was part of the state rather than a state agency or instrumentality. The Supreme Court vacated the judgment and remanded the case for consideration of these issues.

- ***District Court Grants in Part, Denies in Part, Motion to Dismiss or Transfer in Locality and COLA Pay Case***
  Matsuo v. United States [Hawaii] (Pro, J.). In this proposed class action challenging, among other things, the constitutionality of the statutory exclusion of employees in Hawaii and Alaska from the locality pay program established by the Federal Employees Pay Comparability Act, the district court on February 21, 2006, denied our motion to dismiss or transfer to the Court of Federal Claims plaintiffs' locality pay claims. The court granted, however, our motion to dismiss for lack of jurisdiction plaintiffs' additional claims challenging the statutory exclusion of the cost-of-living allowance (COLA) they receive from their "basic pay" for retirement purposes. As to the locality pay claims, the court dismissed plaintiffs' claims for damages and back pay, but held that jurisdiction exists under the APA over their claims for equitable relief, including a declaratory judgment that the exclusion of plaintiffs from the locality pay program is unconstitutional. In dismissing plaintiffs' COLA claims, the court agreed with us that such claims are subject to the exclusive review procedures of the Civil Service Retirement Act and the Federal Employees Retirement System Act.

- ***Commercial Branch Attorneys Speak At Department of the Treasury Debt Collection Seminar***
  On February 21, 2006, John W. Showalter and Jonathan Welch gave presentations at the Department of the Treasury Financial Management Seminar on Debt Collection.

- ***District Court Invalidates Replacement of Federal Employees with Private Contractors at Internal Revenue Service***
  National Treasury Employees Union v. Internal Revenue Service [District of Columbia]. On February 22, Judge Louis F. Oberdorfer denied the government's motion to dismiss

and granted in part the plaintiff's motion for summary judgment . In 2003, the Internal Revenue Service (IRS) determined to convert its mailroom functions to private sector performance, and entered into a task-order contract for the provision of private contractors to replace federal employees as they departed, either voluntarily or through a contemplated reduction-in-force. Congress subsequently enacted the Treasury Department's fiscal year 2004 appropriations statute, which prohibited the expenditure of funds to "convert" a function to private performance without a public-private competition. The National Treasury Employees Union (NTEU) brought suit, claiming that the placement of task orders would violate that act. The district court held that it had jurisdiction over the action, ruling that NTEU had both constitutional and prudential standing to bring the suit, and that its jurisdiction was not revoked by either the Administrative Disputes Resolution Act or the Civil Service Reform Act. The court also held that the action was not moot, even though the IRS had spent only 2005 funds, which were subject to no similar restriction, to implement the reduction in force. On the merits, the court held that the agency's expenditure of funds to place task orders during 2004 constituted a prohibited conversion, and rejected the agency's contrary interpretation that "conversion" is a term of art that refers only to its prior decision to rely on public or private performance for a function. The court thus granted declaratory relief to the union and directed further briefing on the availability of any other remedies.

- ***Supreme Court Holds that Postal Exception to FTCA's Waiver of Sovereign Immunity Does not Apply to Most Physical Injuries Caused by the Delivery of the Mail***
  Dolan v. United States Postal Service. On February 22, the Supreme Court construed the postal exception to the FTCA, 28 U.S.C. 2680(b), making the Act inapplicable to "[a]ny claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter." The Court held that "negligent transmission" did not extend to physical injuries caused to the plaintiff when she tripped over mail that was negligently placed on her doorstep, because such a holding would be inconsistent with the other terms of the exception - "loss and miscarriage." The Court gave "decisive weight" to its conclusion in Kosak v. United States, 465 U.S. 848 (1984), that "[o]ne of the principal purposes of the Federal Tort Claims Act was to waive the Government's immunity from liability for injuries resulting from auto accidents in which employees of the Postal System were at fault." Justice Thomas dissented. Justice Alito did not participate.

- ***Tenth Circuit Holds that the Federal Food, Drug, and Cosmetic Act Authorizes the Equitable Remedy of Disgorgement***
  United States v. Rx Depot [Tenth Circuit; Northern District of Oklahoma]. On February 22, the Tenth Circuit (Henry, McWilliams, Murphy) held that the traditional equitable remedy of disgorgement is available in civil actions under the Federal Food, Drug, and Cosmetic Act. FDA obtained a consent decree and permanent injunction against defendant Rx Depot and several of its corporate officers for illegally importing prescription drugs from Canada. The district court denied the government's request for disgorgement of Rx Depot's illegal profits, however, concluding that the FDCA "does not contemplate such a remedy." The Tenth Circuit reversed that determination, concluding that disgorgement is authorized because the FDCA confers equity jurisdiction on the district courts, and absent an inescapable indication to the contrary, Congress is presumed to intend such a grant to authorize all traditional equitable remedies.

- ***Court Remands to Agency in Suit Challenging Privatization of Certain Air Traffic Control Services***
  National Air Traffic Controllers Association v. Mineta [Northern District Ohio]. On February 23, Judge Ann Aldrich denied plaintiff National Air Traffic Controllers Association's (NATCA's) motion for summary judgment and granted in part and denied in part the Federal Aviation Administration's (FAA's) summary judgment motion and remanded the case to the FAA. The air traffic controllers union had brought this suit to challenge the FAA's policy of contracting out to private entities air traffic control services at control towers that guided a relatively low number of flights per hour. The Court rejected NATCA's national security argument against privatization. The Court also held that plaintiffs lack standing to challenge the privatization program on the basis that the FAA failed to perform any cost comparison study required by the Office of Management and Budget's Circular A-76.

- ***Court Upholds Cost-Containment Regulations for Supplemental Nutrition Program***
  National Women, Infants, and Children Grocers Association et al. v. Food and Nutrition Service [District of Columbia]. On February 23, Judge Emmet G. Sullivan granted defendant's motion for summary judgment. This ruling upholds new regulations issued under the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), administered by the Department of Agriculture and individual state agencies. The Child Nutrition and WIC Reauthorization Act of 2004 requires state agencies to adopt new cost-containment measures affecting vendors that derive more than 50 percent of their annual food sales revenue from the WIC program. Plaintiffs, several WIC vendors and their trade association, challenged regulations recently promulgated to implement these requirements as inconsistent with the statute and as improperly issued without notice and comment or a regulatory flexibility analysis. Judge Sullivan concluded that the agency's interpretation of the Reauthorization Act is a permissible one, that the agency had good cause for issuing an interim rule without prior notice and comment, and that the agency was not required to perform a regulatory flexibility analysis.

- ***Reply Brief Filed in Support of Government's Subpoena to Google***
  Gonzales v. Google Inc. [Northern District of California]. On February 24, the government filed its reply brief in support of its motion to compel compliance with a subpoena duces tecum. This action is ancillary to *ACLU, et al. v. Gonzales* (Eastern District of Pennsylvania), which concerns a challenge to the constitutionality of the Child Online Protection Act. The government's subpoena to Google seeks production of a sample of queries from its search engine and a sample of Internet addresses from its index of websites. The reply brief argues that these materials are relevant to the underlying action as they will form part of the test set to be used to prepare one of the government's expert reports. The brief further argues that these materials are not trade secrets of Google, and that Google nonetheless would be protected under the existing protective order. The brief also argues that Google would face only a minimal burden in complying with the subpoena, and that Google faces no risk of loss of customer confidence if it were to comply, as it already routinely allows the disclosure of the text of queries entered on to its search engine. Finally, the brief argues that the subpoena does not violate the Electronic Communications Privacy Act.

- ***Government Argues for Careful Consideration of Government Use Exceptions before Enjoining BlackBerry Use***

NTP, Inc. v. Research in Motion, Ltd., [E.D. Va.] (Spencer, C.J.). On February 24, 2006, the United States appeared at a hearing on injunctive relief relating to NTP, Inc.'s patent infringement lawsuit against Research in Motion, Ltd. (RIM), the manufacturer of BlackBerry devices. RIM was previously held to have willfully infringed three NTP patents, although the Patent and Trademark Office, which is now conducting a reexamination of the patents, has since rejected two patents as invalid, and is expected to reject the third soon. Those decisions, however, are subject to appeal, and the court has ruled that it will not stay proceedings pending a final decision. While NTP has proposed broad exceptions to any injunction for federal, state and local governments, as well as first responders, we stressed the difficulties in identifying federal users and the need for both a clear plan and at least a 90 day grace period before any injunction takes effect.

· ***Court Rejects Constitutional Challenge to Religious Land Use and Institutionalized Person Act***

The Church of the Hills of the Township of Bedminster, et al. v. The Township of Bedminster, et al. (District of New Jersey). On February 24, Judge Chesler upheld the constitutionality of the Religious Land Use and Institutionalized Person Act of 2000, 42 U.S.C. § 2000cc *et. seq*. (RLUIPA). Plaintiffs brought several claims, including a claim under RLUIPA, after the Township of Bedminster denied the Church's application for a variance. The United States intervened to defend the statute. In an unpublished opinion, the court held that RLUIPA represents a permissible religious accommodation rather than an establishment of religion; and it does not violate the Tenth Amendment, because Congress did not try to create a substantive change to constitutional law, nor did it violate any principle of federalism since local and state governments are not being required to "legislate on behalf of the federal government." The court held that Congress had proper authority under Section V of the Fourteenth Amendment to enact RLUIPA because it merely codified existing First Amendment jurisprudence regarding the requirement that a system of individualized assessments cannot interfere with the free exercise of religion without satisfying strict scrutiny. Finally, the court held that RLUIPA falls within Congress's power under the Commerce Clause because RLUIPA contains a jurisdictional requirement that interstate commerce be affected before it is applied.

Contact: August Flentje, Counsel,514-3309

Williams, Jan

From: Williams, Jan

Sent: Wednesday, March 01, 2006 4:30 PM

To: Garrett, Paul; Horvath, Jane; Fuentes, Maria; Davis, Michael; Cushmac, Anne Marie; /o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William; Balfe, Robert; Biskupic, Steven (USAWIE); Bogden, Daniel (USANV); Brooks, Susan; Brownlee, John (USAVAW); Buchanan, MaryBeth (USAPAW); Canary, Leura G. (USAALM); Charlton, Paul (USAAZ); Chiara, Margaret M. (USAMIW); Christie, Christopher (USANJ); Colantuono, Thomas P. (USANH);

Connolly, Colm (USADE); Corrente, Robert (USARI); Cummins, Bud (USAARE); Dugas, David R. (USALAM); Fitzgerald, Patrick J. (USAILN); Garcia, H; Garcia, Michael J (SDNY); Graves, Todd (USAMOW); Greenlee, Jim (USAMSN); Heavican, Michael (USANE); Heffelfinger, Tom (USAMN); Huber, David L. (USAKYW); Iglesias, David C. (USANM); Immergut, Karin (USAOR); Jenkins, Anthony; Kubo, Ed (USAHI); Lam, Carol (USACAS); Lampton, Dunn (USAMSS); Larson, Charles (USAIAN); Letten, James (USALAE); Lockhart, Gregory; Marino, Thomas (USAPAM); Martin, Alice (USAALN); Mauskopf, Roslynn; McDevitt, Jim A. (USAWAE); McKay, John (USAWAW); Mead, Matthew H. (USAWY); Meehan, Patrick (USAPAE); Melgren, Eric (USAKS); Mercer, Bill (USAMT); Miller, Gregory (USAFLN); Moss, Thomas (USAID); Murphy, Stephen J. (USAMIE); Nahmias, David (USAGAN); O'Connor, Kevin (USACT); O'Melia, Michael (USAAZ); Orwig, Matt (USATXE); Perez, Paul (USAFLM); Rapadas, Leonardo; Roper, Richard (USATXN); Rosenstein, Rod (USAMD); Ryan, Kevin (USACAN); Scott, McGregor (USACAE); Shappert, Gretchen (USANCW); Sperling, Sheldon J. (USAOKE); Suddaby, Glenn T. (USANYN); Sullivan, Michael (USAMA); Sutton, Johnny K. (USATXW); Vines, Jim (USATNM); Wagoner, Anna Mills S. (USANCM); Wainstein, Kenneth; Washington, Donald (USALAW); Whitaker, Matt (USAIAS); White, Greg (USAOHN); Whitney, Frank (USANCE); Wood, Lisa (USAGAS); Wood, Maxwell; Wrigley, Drew (USAND); Yang, Debra (USACAC)

Subject: White House Daily Update: 3/1/06

Attachments: tmp.htm

White House Daily Update: 3/1/06

After visiting with U.S. troops stationed in Afghanistan and meeting with President Karzai, President and Mrs. Bush continued their trip to New Delhi, India. Upon arriving in New Delhi, the President is meeting with India's Prime Minister to discuss a range of issues important to the broadening and deepening relationship between our two countries.

From Today's Morning Headlines

In Kabul, President Bush Meets With Afghan President Hamid Karzai.
"President Bush, on an unannounced visit to Afghanistan, said Wednesday he remains confident Osama bin Laden 'will be brought to justice' despite a so-far futile five-year hunt. ... 'People all over the world are watching the experience here in Afghanistan,' Bush said as he stood side-by-side with Afghan President Hamid Karzai. Amid extremely tight security, Bush made the surprise visit in Afghanistan at the onset of a scheduled visit to India and Pakistan. 'It's a thrill to come to a country which is dedicating itself to the dignity of every person who lives here,' Bush said. For his part, Karzai greeted Bush as 'our great friend, our great supporter, a man who helped us liberate.
<http://news.yahoo.com/s/ap/afghan_bush&printer=1;_ylt=ApWupU4A94rgjKsSA

IEwLef9xg8F;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE-http:/news.yahoo.com/s/ap/afghan_bush&printer=1;_ylt=ApWupU4A94rqjKsSAIEwLef9xg8F;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE-> '" (Terence Hunt, "Bush Confident Bin Laden Will Be Captured," The Associated Press, 3/1/06)

In ABC Interview, President Bush Discusses Iraq's Political Path Forward. THE PRESIDENT: "There's no question that the bomber of the mosque is trying to create sectarian violence, and there's no question there was reaction to it. On the other hand, I had the duty, which I did, to call these leaders, Shi'a and Sunni leaders, as well as Kurdish leaders. And the response was that we understand this is a moment that we've got to make a choice if we're going to have sectarian strife or whether or not we're going to unify. And I heard loud and clear that they understand that they're going to choose unification, and we're going to help them do so. The presence of the U.S. troops is there to protect as many Iraqis as we possibly can from thugs and violence, but it's also to help the Iraqis protect themselves, and we're making progress in terms of standing up to these Iraqi troops so they can deal with, deal with these incidents of violence. ... I mean the ultimate success in Iraq - and I believe we're going to be successful - is for the Iraqi citizens to continue to demand unity. <http://abcnews.go.com/WNT/print?id=1671087> " ("Bush Not Worried About Low Approval Ratings," ABC News, 2/28/06)

President Bush Meets With Italian Prime Minister Silvio Berlusconi.
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republic great. These debates about national security, however, should be serious and rational, devoid of stunts and shrill, partisan attacks on the motives of others. <http://www.thehill.com/thehill/export/TheHill/News/Frontpage/030106/ss_roberts.html> ... I urge my colleagues to check political opportunism at the door when they are dealing with national security issues. The stakes for the American people are too high." (Senator Pat Roberts, Op-Ed, "No Room For Political Opportunism In On Going National Security Debate," The Hill, 3/1/06)

Secretary Snow Calls The DP World Transaction "Entirely Consistent With The National Security." "The Bush administration will be able during a further review period to persuade the U.S. Congress to accept a deal for the management of six key U.S. ports by a state-owned Dubai company, U.S. Treasury Secretary John Snow <http://search.news.yahoo.com/search/news/?p=John+Snow> said on Tuesday. 'I think as Congress looks at this, they're going to be convinced as we were ... that this transaction is entirely consistent with the national security, <http://news.yahoo.com/s/nm/20060228/pl_nm/security_ports_snow_dc;_ylt=Aqxm9haNpFpembOKn_3p1cka.3QA;_ylu=X3oDMTA5aHJvMDdwBHNlYwN5bmNhdA--> ' Snow told CNBC cable television, asked about whether the administration would be able to head off threats from some lawmakers to block the deal.
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Yesterday From The White House

President Welcomes Italian Prime Minister Berlusconi To The White House <http://www.whitehouse.gov/news/releases/2006/02/20060228.html>

* In Focus: Global Democracy <http://www.whitehouse.gov/infocus/globaldiplomacy/>

Vice President's Remarks At The 46th Annual American Legion Conference <http://www.whitehouse.gov/news/releases/2006/02/20060228-2.html>

Proclamation By The President: To Implement The Dominican Republic-Central America-United States Free Trade Agreement <http://www.whitehouse.gov/news/releases/2006/02/20060228-3.html>

* In Focus: CAFTA-DR <http://www.whitehouse.gov/infocus/cafta/>

Save Your Vision Week, 2006
<http://www.whitehouse.gov/news/releases/2006/02/20060228-1.html>

The Morning Update

After visiting with U.S. troops stationed in Afghanistan and meeting with President Karzai, President and Mrs. Bush continued their trip to New Delhi, India. Upon arriving in New Delhi, the President is meeting with India's Prime Minister to discuss a range of issues important to the broadening and deepening relationship between our two countries.

From Today's Morning Headlines

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Save Your Vision Week, 2006

Williams, Jan

From: Williams, Jan

Sent: Thursday, March 02, 2006 8:34 AM

To: Horvath, Jane; Garrett, Paul; Cushmac, Anne Marie; Davis, Michael; Fuentes, Maria; Balfe, Robert; Biskupic, Steven (USAWIE); Bogden, Daniel (USANV); Brooks, Susan; Brownlee, John (USAVAW); Buchanan, MaryBeth (USAPAW); Canary, Leura G. (USAALM); Charlton, Paul (USAAZ); Chiara, Margaret M. (USAMIW); Christie, Christopher (USANJ); Colantuono, Thomas P. (USANH); Connolly, Colm (USADE); Corrente, Robert (USARI); Cummins, Bud (USAARE); Dugas, David R. (USALAM); Fitzgerald, Patrick J. (USAILN); Garcia, H; Garcia, Michael J (SDNY); Graves, Todd (USAMOW); Greenlee, Jim (USAMSN); Heavican, Michael (USANE); Heffelfinger, Tom (USAMN); Huber, David L. (USAKYW); Iglesias, David C. (USANM); Immergut, Karin (USAOR); Jenkins, Anthony; Kubo, Ed (USAHI); Lam, Carol (USACAS); Lampton, Dunn (USAMSS); Larson, Charles (USAIAN); Letten, James (USALAE); Lockhart, Gregory; Marino, Thomas (USAPAM); Martin, Alice (USAALN); Mauskopf, Roslynn; McDevitt, Jim A. (USAWAE); McKay, John (USAWAW); Mead, Matthew H. (USAWY); Meehan, Patrick (USAPAE); Melgren, Eric (USAKS); Mercer, Bill (USAMT); Miller, Gregory (USAFLN); Moss, Thomas (USAID); Murphy, Stephen J. (USAMIE); Nahmias, David (USAGAN); O'Connor, Kevin (USACT); O'Melia, Michael (USAAZ); Orwig, Matt (USATXE); Perez, Paul (USAFLM); Rapadas, Leonardo; Roper, Richard (USATXN); Rosenstein, Rod (USAMD); Ryan, Kevin (USACAN); Scott, McGregor (USACAE); Shappert, Gretchen (USANCW); Sperling, Sheldon J. (USAOKE); Suddaby, Glenn T. (USANYN); Sullivan, Michael (USAMA); Sutton, Johnny K. (USATXW); Vines, Jim (USATNM); Wagoner, Anna Mills S. (USANCM); Wainstein, Kenneth; Washington, Donald (USALAW); Whitaker, Matt (USAIAS); White, Greg (USAOHN); Whitney, Frank (USANCE); Wood, Lisa (USAGAS); Wood, Maxwell; Wrigley, Drew (USAND); Yang, Debra
(USACAC); /o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); /o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); Bianco, Joseph F.; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); Burch, Victoria; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; David, Matt; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; Greg Harris; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; Hofer, Patrick F. (TAX); Hoisington, Jana; Holland, Eric

W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; Neumayr, Mary (ENRD); Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Williams, Jan; Woodruff, William

Subject: The Morning Update: 3/2/06

Attachments: tmp.htm

Importance: Low

The Morning Update

The President and Mrs. Bush continue their visit to India today, with President Bush and Prime Minister Singh discussing the strategic relationship between both countries. The United States and India have pledged to further strengthen economic, energy and security ties, and announced a groundbreaking nuclear agreement.

From Today's Morning Headlines

In India, President Bush And Prime Minister Singh Announce Nuclear Agreement That Will Benefit American Consumers. "President Bush <http://search.news.yahoo.com/search/news/?p=President +Bush> defended a nuclear agreement reached with India Thursday, saying the use of such fuel by that country could help ease energy prices in the United States.
Bush and Indian Prime Minister Manmohan Singh announced the landmark deal during a joint news conference after a meeting. ... He also said the deal could be a boon for U.S. consumers. 'Proliferation is certainly a concern and a part of our discussions, and we've got a good faith gesture by the Indian government that I'll be able to take to the Congress,' Bush said. 'But the other thing that our Congress has got to understand - that it's in our economic interests that India have a civilian nuclear power

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President Bush And Prime Minister Singh Discuss Economic And Scientific Cooperation. "India and the United States agreed Thursday on a sweeping agenda for economic and scientific cooperation, one day after the two countries set a three-year target to double their trade. A joint commission on science and technology, more cooperation in cybersecurity and collaboration in agricultural research and the development of low-cost drugs to fight AIDS and bird flu were among the agreements reached during talks between President Bush and Indian Prime Minister Manmohan Singh, a joint statement said. ... 'People in the United States now understand trade with India is in their interest,' <http://news.yahoo.com/s/ap/20060302/ap_on_bi_ge/india_us_business_ties;_ylt=Ar4AXeW612jeiZ5kaj0M0nZu24cA;_ylu=X3oDMTA5aHJvMDdwBHNlYwN5bmNhdA> he said." (Rajesh Mahapatra, "India, U.S. Agree On Economic Cooperation," The Associated Press, 3/2/06)

President Bush Condemns Terrorist Attack In Pakistan. "Bush condemned the attack and said 'terrorists and killers' would not prevent him from going to Pakistan on the final leg of his tour of South Asia. 'We have lost at least one U.S. citizen in the bombing, a foreign service officer, and I send our country's deepest condolences to that person's loved ones and family,' Bush said at a news conference in neighboring India, without naming the diplomat. 'Terrorists and killers are not going to prevent me from going to Pakistan.' <http://news.yahoo.com/s/ap/20060302/ap_on_re_as/pakistan_blasts;_ylt=AnAt4fXomKsUlGObNsPeh1hI2ocA;_ylu=X3oDMTA5aHJvMDdwBHNlYwN5bmNhdA> " (Zarar Khan, "4 Dead, Dozens Wounded In Karachi Blast," The Associated Press, 3/2/06)

Bipartisan Senate Vote Shows Strong Support For Patriot Act Renewal. "On a vote of 84-15, the Senate moved to end debate on a separate House-passed measure to renew the Patriot Act, with a vote on passage of it expected on Thursday. 'It is now crystal clear that (renewal of) the Patriot Act is on its way to becoming law <http://news.yahoo.com/s/nm/20060301/pl_nm/security_patriot_dc> ,' said Senate Majority Leader Bill Frist, a Tennessee Republican. 'Today's bipartisan vote of 84 senators ... brings us one step closer to ending the obstruction of America's No. 1 anti-terrorist tool,' Frist said, adding Democrats should stop their remaining delaying tactics." (Thomas Ferraro, "Senate Adds Safeguards To Patriot Act," Reuters, 3/1/06)

House Judiciary Committee Chairman Rep. Sensenbrenner (R-WI) Calls The Patriot Act A "Tremendous Asset" To National Security. "So what has the Patriot Act done? It has been a tremendous asset in helping thwart other terrorist attacks. The Justice Department and other agencies have properly utilized these new tools to detect, disrupt and dismantle terrorist cells in New York, Virginia and Oregon before they strike.
Since 9/11, the Justice Department has charged hundreds of defendants, of whom more than half have

been convicted or pleaded guilty, as a result of terrorism-related investigations. Most important, this renewal would permanently tear down the pre-9/11 'wall' that prevented the FBI and CIA from communicating. This law recognizes the vital importance of sharing information to 'connect the dots.' The Patriot Act has made it much more difficult for America's enemies to live openly among us as they plot to murder innocent Americans.
<http://www.usatoday.com/news/opinion/editorials/2006-03-01-opposing-vie
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New Data Reflects Economic Strength. "Strong income gains and unseasonably warm weather prompted consumers to spend more money than usual in January. Along with data showing manufacturing activity expanded in February, that suggests the economy is on track for robust first-quarter growth <http://online.wsj.com/article/SB114121849664186415.html?mod=economy_lea
d_story_lsc> . Personal income of Americans increased 0.7% in January, the biggest jump since September, according to the Bureau of Economic Analysis. The gain amounted to roughly $75.2 billion. At the same time, consumer spending increased 0.9%, about $76.7 billion, the largest climb in six months." (Rafael Gerena-Morales, "Consumers Give Year A Robust Start," The Wall Street Journal, 3/2/06)

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President Meets With President Hamid Karzai In Kabul, Afghanistan <http://www.whitehouse.gov/ne
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* In Focus: Afghanistan
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President And Mrs. Bush Dedicate U.S. Embassy Building In Afghanistan <http://www.whitehouse.g
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President Thanks U.S. And Coalition Troops In Afghanistan <http://www.whitehouse.gov/news/release
s/2006/03/20060301-3.html>

* In Focus: Defense <http://www.whitehouse.gov/infocus/defense/>

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House Judiciary Committee Chairman Rep. Sensenbrenner (R-WI) Calls The Patriot Act A "Tremendous Asset" To National Security. "So what has the Patriot Act done? It has been a tremendous asset in helping thwart other terrorist attacks. The Justice Department and other agencies have properly utilized these new tools to detect, disrupt and dismantle terrorist cells in New York, Virginia and Oregon before they strike. Since 9/11, the Justice Department has charged hundreds of defendants, of whom more than half have been convicted or pleaded guilty, as a result of terrorism-related investigations. Most important, this renewal would permanently tear down the pre-9/11 'wall' that prevented the FBI and CIA from communicating. This law recognizes the vital

down the pre-9/11 wall that prevented the FBI and CIA from communicating. This law recognizes the vital importance of sharing information to 'connect the dots.' The Patriot Act has made it much more difficult for America's enemies to live openly among us as they plot to murder innocent Americans." (Rep. F. James Sensenbrenner, Jr., Op-Ed, "No Rights Have Been Violated," *USA Today*, 3/2/06)

New Data Reflects Economic Strength. "Strong income gains and unseasonably warm weather prompted consumers to spend more money than usual in January. Along with data showing manufacturing activity expanded in February, that suggests the economy is on track for robust first-quarter growth. Personal income of Americans increased 0.7% in January, the biggest jump since September, according to the Bureau of Economic Analysis. The gain amounted to roughly $75.2 billion. At the same time, consumer spending increased 0.9%, about $76.7 billion, the largest climb in six months." (Rafael Gerena-Morales, "Consumers Give Year A Robust Start," *The Wall Street Journal*, 3/2/06)

Yesterday From The White House

President Meets With President Hamid Karzai In Kabul, Afghanistan

- In Focus: Afghanistan
- In Focus: Global Diplomacy

President And Mrs. Bush Dedicate U.S. Embassy Building In Afghanistan

President Thanks U.S. And Coalition Troops In Afghanistan

- In Focus: Defense

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Sent:	Monday, March 6, 2006 9:10 AM
To:	Block, Jonathan; 'Ed.Cogswell@ic.fbi.gov'; 'William.Carter@ic.fbi.gov'; Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); McNulty, Paul J; Goodling, Monica; Moschella, William; Brand, Rachel; Courtney, Garrison K.; Jezierski, Crystal; Gorsuch, Neil M; 'Michael.Kortan@ic.fbi.gov'; 'Richard.Kolko@ic.fbi.gov'; 'John.Miller@ic.fbi.gov'; 'K.Hoffman@ic.fbi.gov'; Macklin, Kristi R; Mercer, Bill (ODAG); McCallum Jr, Robert L (LEO); Knocke, William (DHS); Besanceney, Brian (DHS); Bergman, Cynthia (DHS); DeZulovich, Mavis (USMS); Grant, William L.; Hines, Don (USMS); Marianos, Richard W.; Mixell, Sheree L.; Payne, Lawrence R.; Truman, Michael; Turner, David; Billingsley, Traci L; Cooper, Mary Irene; Seidel, Rebecca; Hertling, Richard; Williams, Jan; Bresson, Paul; Clinger, James H; Layne, Jennifer; Ames, Andrew; Beck, Brittany; Francis, Lynne (OPA); Holland, Eric W; Jackson, Christopher; Lesch, Jaclyn; Magnuson, Cynthia; McNeil, Tucker (OPA); Miller, Charles S; Nowacki, John; Pagliocca, Theresa; Peterson, Evan; Roehrkasse, Brian; Schwartz, Arthur; Scolinos, Tasia; Sierra, Bryan; Smith, Kimberly A; Talamona, Gina; Wade, Drew
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SUNDAY SHOW TRANSCRIPTS
3/5/06

NBC – MEET THE PRESS

MR. TIM RUSSERT: Our issues this Sunday: Iraq. Hundreds of civilians die as Iraqis, Sunnis and Shiites kill each other. Is this a civil war? What does it mean for the 130,000 American troops on the ground? With us: the top military man at the Pentagon, the chairman of the Joint Chiefs of Staff, General Peter Pace.

Then, the debate rages over foreign investment in our ports, and a Council on Foreign Relations task force focuses on the growing concern over the anti-Democratic behavior of Russian President Vladimir Putin. With us: the co-authors of that report. He was the Democratic candidate for vice president in 2004, former Senator John Edwards. And he was the Republican candidate for vice president in 1996, former Congressman Jack Kemp. Edwards and Kemp, together only on MEET THE PRESS.

But first, what is going on in Iraq? Why the dramatic increase in bloodshed?

With us: our nation's top military man, General Peter Pace.

General, welcome.

GEN. PETER PACE: Thanks, Tim.

MR. RUSSERT: What's going on in Iraq?

GEN. PACE: Well, what happened in Iraq was you have the extremists who see that the Iraqi people are going to the polls and voting for their own freely elected government. The terrorists are becoming more desperate—so desperate that they destroy one of their own most sacred shrines in an attempt to cause civil war and strife. The Iraqi people—the Kurds, Sunnis, and Shia—have walked up to that abyss, looked in and said, "That's not where we want to go." The Iraqi police, the Iraqi armed forces have maintained good calm, and the Iraqi people themselves and their leaders are saying, "Let's remain calm and let's figure this out together."

MR. RUSSERT: If you were to be asked whether things in Iraq are going well or badly, what would you say? How would you answer?

GEN. PACE: I'd say they're going well. I wouldn't put a great big smiley face on it, but I would say they're going very, very well from everything you look at, whether it be on the political side where they've had three elections, they've written their own constitution, they're forming their government. You look at the military side where this time last year there were just a handful of battalions in the field, Iraqi battalions in the field. Now there are over 100 battalions in the field. They had no brigades—that's about 3,000 men each. Now they've got about 31 brigades. No matter where you look at their military, their police, their society, things are much better this year than they were last.

MR. RUSSERT: The American people were asked that exact same question, how things are going in Iraq, and here's how they responded: Well, 36; badly, 62. Why do you think there's such a disconnect from your view and that of the American people?

GEN. PACE: I don't think we're getting the goodness out to the American people the way we should. Somehow we need to find a way to have balance in the amount of reporting that we're able to get out. If you remember back when the war began, we had 24/7 coverage. Folks could watch television, they could read newspapers, they could read magazines, and they could put together their own opinion of what's going on. Now the amount of coverage from the war zone is much less than it used to be, and understandably, the coverage, then, that comes out is the bombings and the things like that. People don't get a chance to see or hear about all the good things that are happening.

MR. RUSSERT: After the mosque was blown up, General Casey this week talked to the Pentagon reporters, and let me show you a small exchange he had with the press. Let's watch.

(Videotape):

General GEORGE CASEY (Commander, Multinational Force, Iraq): Could this happen again? Sure, yes, it could happen again. As I said, Iraq is not out of danger. There is still a terrorist threat here that is working to foment continued sectarian violence.

Unidentified Reporter: Is the country close to civil war, or could it fall into civil war?

GEN. CASEY: Anything can happen.

(End videotape)

MR. RUSSERT: Anything can happen. Seventy-three percent of the American people believe we are headed to a likely civil war.

GEN. PACE: Anything can happen, and I agree with George Casey, and he's a very practical commander because he needs to be focused on the worst that could happen so he can be ready for it. Having said that, I believe that the Iraqi people having shown—shown in the last week to 10 days that they do not want a civil war. They are not attacking each other's mosque—mask—excuse me—mosques. You know, there was reports that there were hundreds of mosques attacked, not true, the number is somewhere in the range of about 30, of which less than half a dozen actually had significant damage done. The Iraqi people want to have calm, and they're working hard together, especially amongst their leaders, both political and religious, to maintain that calm.

MR. RUSSERT: But three-fourths of the deaths that have occurred over the last few weeks are executions largely tied to militias—the Sunni militia, the Shiite militia. Isn't that an indication of

how insecure things are on the ground that these militias have risen up and are quite powerful entities?

GEN. PACE: The militia are a problem, they are a concern. The Iraqi government has clearly stated that there is no room in Iraq for militias that are not subordinate to the Iraqi government. There are some still that are out there performing duties for leaders who are not elected leaders. That is something to be dealt with, but it is not a major long-term problem as long as the Iraqi armed forces and the Iraqi police continue to be loyal to the central government, as they have been.

MR. RUSSERT: But the Interior Ministry has death squads that have—going into mosques and killing Sunnis.

GEN. PACE: I don't know that that's true. I know that there are death squads; I do not believe that they're responsive to leaders in the Interior Ministry. I think they're responsive to non-elected, non-appointed leaders. Regardless of who they're responsive to, they are a problem, they need to be dealt with. The Iraqi government is working very hard to vet all of those individuals who join their police forces, join their armed forces. They're working hard to ensure they have a balanced force—Sunni, Shia, Kurd—and they intend to have a loyal police force and a loyal army.

MR. RUSSERT: Do you have confidence in Mr. Jafari to be prime minister, the leader of Iraq?

GEN. PACE: Doesn't make any difference what Pete Pace thinks one way or the other. The only thing that's important is do the Iraqi people want him to be their prime minister? And if they do want him to be their prime minister, he should be. Or...

MR. RUSSERT: But if you have 130,000 American troops on the ground, the top military man doesn't have confidence in Mr. Jafari as a leader?

GEN. PACE: I didn't say that. What the top military man's saying, that's out of my lane. And although I certainly have an opinion and certainly will support the elected prime minister of the country, it's inappropriate for me to say one way or the other while the Iraqis are still deciding who their leader should be what my opinion is of one of their potential leaders.

MR. RUSSERT: Mr. Jafari said that one of his favorite American writers is Professor Noam Chomsky, someone who has written very, very strongly against the Iraq war and against most of the Bush administration foreign policy. Does that concern you?

GEN. PACE: I hope he has more than one book on his nightstand.

MR. RUSSERT: So it troubles you?

GEN. PACE: I would be concerned if the only access to foreign ideas that the prime minister had was that one author. If in fact that's one of many, and he's digesting many different opinions, that's probably healthy.

MR. RUSSERT: There's a lot of concern that the judgments made about the war before we went in have just proven not to be correct. There were no weapons of mass destruction, as been promised, in effect, as the primary rationale for the war; we were told we'd be greeted as liberators, that there would not be a long, protracted, bloody insurrection. How can we have been so wrong?

GEN. PACE: Well, first of all, with regard to the weapons of mass destruction, I certainly believed there were—that we would encounter them. We had our troops fully ready to be attacked by chemical weapons. So those of us who were in leadership responsibility positions believed that, that was in fact true. Turned out, at least to date, that we have not found any new. We have found some—some of the older caches, but no new weapons. Bottom line is that the Iraqi people are—are still so much better off today than they were under Saddam Hussein, that they've had three elections. They are getting their own government. They are able to move about to go to school, girls go to school. I mean, no matter what section of the society you look at right now, they are better off today than they were under Saddam Hussein.

MR. RUSSERT: Several conservative writers have reflected on the war this past week. Here's George Will in the Washington Post. He wrote this:

"Almost three years after the invasion, it is still not certain whether, or in what sense, Iraq is a nation. After two elections and a referendum on its constitution, Iraq barely has a government. A defining attribute of a government is that it has a monopoly on the legitimate exercise of violence. That attribute is incompatible with the existence of private militias of the sort that maraud in Iraq. Michael Rubin of the American Enterprise Institute, writing in the Wall Street Journal, reports that Shiite militias 'have broken up coed picnics, executed barbers [for the sin of shaving beards] and liquor store owners, instituted their own courts, and posted religious guards in front of girls' schools to ensure Iranian-style dress.' Iraq's other indispensable man, Grand Ayatollah Ali Sistani, says that unless the government can protect religious sites, 'the believers will.'"

Were there too few American troops in Iraq initially, in order to guarantee security for the Iraqi people? An absent security, this has created, fostered the growth of these militias and this sectarian war.

GEN. PACE: Let me take it backwards. First of all, there were many more militias before than there are now. That did not mean that militias are not a threat, they are. And as we've talked about already, the Iraqi government has a plan to deal with them so that the militias must be dealt with, and they must come under a central Iraqi government control.

With regard to the numbers of troops, it was then and is now a balancing act between having enough troops to get the job done and too many troops to be oppressive and creating more problems than resolving. I have been a member of the joint chiefs for the last four and a half years. I have been present when Tom Franks, early on, now George Casey and John Abizaid, each of the generals who've been in positions of responsibility, have come forward with their recommendations. I've sat with the joint chiefs of staff and reviewed those recommendations for

troop—troop strength. We have made the recommendation to the secretary of defense and the president that the troop strength that the commanders are recommending is correct, so I am, have been very comfortable that what size force that the commanders have asked for is correct and that the balance between having enough and too many is about right. Most importantly, what is needed is more Iraqi troops, and in the last year, over 100,000 additional troops have been added to the Iraqi government. There's 232,000 police and army Iraqis right now serving their country. That's a enormous increase in their schedule to get up to 335,000 by the end of this year, which is exactly what we want. You do want more troops, but you want them to be more Iraqi troops.

MR. RUSSERT: General, many observers—objective observers say that you cannot have an insurgency this robust without being enabled by the population. Now, Lawrence Kaplan in The New Republic, who—a supporter of the war, said that he wrote on a story of a young man that called emergency line 130 to report insurgents shooting mortars; no one answered the line. And then he said you don't do it again because if you call that emergency line, insurgents get a hold of your phone number and come kill you.

GEN. PACE: Think about the two things that you said. One—one was that they're being supportive, and another is fear. I believe it's the fear factor, not the support factor. The tip line last March was getting about 400 tips per month. Now it's upwards of 4,000 tips per month that are coming in from Iraqi citizens telling their government and telling us where—where problems are.

MR. RUSSERT: Do you believe that the insurgency is in its last throes?

GEN. PACE: I believe that the Iraqi people are waiting to see what their government is going to do. Are they going to provide the kind of future that they have voted their government to provide for them? And I believe that the vast majority of those who are currently either afraid of the insurgents or taking money from the insurgents because it's the only way they get—they have to provide sustenance for their families, that those individuals will move more and more over to the side of the government as they see that the government is providing the kinds of services that a government should provide for its people.

MR. RUSSERT: But we have been told the insurgency was just a small group of dead-enders, that it was in its last throes. That just isn't correct, is it?

GEN. PACE: I think what is correct is that the number of individuals who will participate in insurgent-like activities is going to be dependant on not only military power, but more importantly economic and political power that's taking place in the country.

If you have an opportunity to get a job and feed your family, you're much less likely to accept $100 dollars to go plant a bomb on the side of the road. This is not about ideology, it's about sustaining your families in many cases. Once we have the Iraqi government functioning the way it should be, I think you'll see that the vast majority of those who, in the past, had be willing to participate in insurgent-like activity, will no longer do so.

MR. RUSSERT: And if it doesn't?

GEN. PACE: If what does not?

MR. RUSSERT: If it doesn't happen that way? If it doesn't play out that way, what happens then?

GEN. PACE: We continue to press forward until we are able to have the government that, in Iraq, that provides those kinds of services. I believe that it will, that we will in fact have a government that provides services to the people that are needed, that provides job opportunities, and in those job opportunities and in that future that is hopeful and optimistic, you will have the young men not following the insurgents, not being fearful insurgents, but living more normal lives.

MR. RUSSERT: Knight-Ridder reported this week that U.S. intelligence agency more than two years ago said that the insurgency "had deep local roots, was likely to worsen, and could lead to civil war." And that was just ignored by political and military leadership because they wanted to believe their own rosy scenario.

GEN. PACE: I do not believe it has deep roots. I do not believe that they're on the verge of civil war. I do believe that there are a small number, relatively small number, of individuals who are ideologically committed to the terrorist ideology and are going to do whatever they need to do to try to bring those citizens back under tyrannical rule.

MR. RUSSERT: William F. Buckley, conservative writer, said this, this week. "One can't doubt that the American objective in Iraq has failed. ... Our mission has failed because Iraqi animosities have proved uncontainable by an invading army of 130,000 Americans. ..." And he put forward two postulates. "One of these postulates, from the beginning, was that the Iraqi people, whatever their tribal differences, would suspend internal divisions in order to get on with life in a political structure that guaranteed them religious freedom. The accompanying postulate was that the invading American army would succeed in training Iraqi soldiers and policymakers to cope with insurgents bent on violence. This last did not happen. And the administration has, now, to cope with failure." That's William F. Buckley.

GEN. PACE: Mr. Buckley would probably do well to take a trip over to Iraq and walk the streets and talk to Iraqis, and talk to Iraqi government, talk to Iraqi army, talk to Iraqi police. I believe that what is happening there is very, very positive with regard to the training of the army, the training of the police, the loyalty of that army and police who were—performed exceptionally well during this most recent crisis. This is not a failure. This is a very, very difficult situation, putting together a democracy inside of a country that for the last multiple decades has known nothing but tyranny. This is not going to be easy to do, but it is come—coming along and is coming along with good progress.

MR. RUSSERT: Do you really believe it'll be safe for William F. Buckley to walk the streets of Baghdad?

GEN. PACE: I think not all the places in Baghdad, no, but I do believe that if he had a chance to get over there, properly escorted—I would want to be escorted myself—but properly escorted, that he would have a chance to talk to folks and see that the Iraqi people are positive about their future; that the Iraqi armed force and the Iraqi police are loyal to their government and are getting much, much better each day.

MR. RUSSERT: Again, let me show you the views of our fellow Americans. The war in Iraq; is it worth the cost? Yes, 29; no, 63. Can you keep an army at war without the support of the populace?

GEN. PACE: No, you cannot, and therefore it's a very important, as we talked about earlier in the show already, that we get more of the entire picture to the American people. What they're seeing is the same bomb going off every 15 minutes on television, as opposed to having an opportunity to see all of what's happening in Iraq. I believe that the American people who are able to see all that is happening in Iraq would understand much better that progress is being made. It is not a great smiley picture, nor is it a disaster. What it is, is a very tough environment that still has a lot of work to be done, but one in which we're making very, very good progress and one of which the American people can and should be very, very proud.

MR. RUSSERT: Let me turn to Afghanistan. Here's President Bush who visited there on Wednesday meeting with President Karzai, shaking his hands there in Kabul. Afghanistan supplies 90 percent of the world's opium. More than a third of the economy of Afghanistan relies on drug trafficking. How could we have let that happen in the three—four years—five years we've been there?

GEN. PACE: First of all, we did not let that happen. That has been true for decades.

MR. RUSSERT: We've let it continue.

GEN. PACE: What has to happen now is we need to be able to assist and work with the Karzai government in providing alternative crops, alternative employment. Right now it's very difficult to walk up to a farmer and say, "Stop doing what you're doing with poppies," unless you have something else to offer that person. So it is—it is a problem. No country can continue to—can prosper if a large sector of its gross domestic product is based on an illegal crop. President Karzai knows that. The British government has been in the lead in that regard helping him. We're in support of both the UK and the Karzai government. We'll continue to work with them. It is a problem that needs to be worked on.

MR. RUSSERT: As much focus has been on Iraq, many have called Afghanistan the forgotten war. Suggestion that perhaps we've taken our eye off Afghanistan, the place where the Taliban and al-Qaeda were. Lieutenant General Michael Maples, the director of the Defense Intelligence Agency, testified this week before Congress—and this is sobering. This is how he described Afghanistan. "The Taliban-dominated insurgency remains a capable and resilient threat. In 2005, Taliban and other anti-coalition movement groups increased attacks by 20 percent over 2004. Insurgents also increased suicide attacks almost four-fold, more than doubled improvised explosive devices attacks and increasingly used beheadings to terrorize the local population. This

more active enemy will continue to negatively impact Afghan government and international efforts to create a stable Afghanistan. We judge insurgents now represent a greater threat to the expansion of Afghan government authority than at any point since late 2001." How has that happened?

GEN. PACE: I think what has happened is that terrorists are recognizing the fact that Afghanistan has been left alone by them among other things, and that inside of that relatively stable environment, the Afghan government has made enormous strides: that they've had presidential elections, that they've had their parliament elected, and that the Karzai government and the people of Afghanistan are embracing democracy. That's a real threat to the terrorists and they are therefore, looking to increase their attacks on that government.

By the way, the normal attacks in Afghanistan were about three or four per day. So a 20 percent increase means instead of four per day, you've gone to five per day. So in a relative sense, it's a very, very small number.

Having said that, with the NATO forces going in there now, with 26 countries adding their weight to support the Karzai government, I think you're going to see the terrorists attack those new countries, because they understand—they, the terrorists understand—that the weight of NATO, the weight of the free world is more and more on the side of Karzai—President Karzai and his government. And the terrorists are understandably afraid of that outcome.

MR. RUSSERT: In April of 2004 in Afghanistan, Army Ranger Corporal Pat Tillman, the former NFL football player.

GEN. PACE: Yeah.

MR. RUSSERT: Was killed. It took three weeks for America to find out that it was friendly fire, not enemy fire. Mr. Tillman's father, Patrick Sr., said that the government has outright lied, that they scripted this, that they covered up, that they were afraid they were blowing up their poster boy and it would affect their recruiting. "Your recruiting would go to hell in a hand-basket if the truth got out." That's his dad. There were three investigations, internal investigations. The inspector general of the Defense Department has now said they're not good enough, they're not credible, and there's going to be another investigation. What do you say to Mr. Tillman today? Why, in his words, the cover-up? Why not come out with the truth? Why have there been three investigations that have not satisfied the family or the military?

GEN. PACE: Yeah. Well, first of all, the Tillman family has gone through enormous anguish, and the fact that that has happened to them is really regrettable. Second, each of the investigations has been done as thoroughly as the investigating officers were able to do at the time. But in the review process, especially this most latest review, in the review process, it was determined that some other factor needed to be looked at to be sure we had a complete picture. So, for example, this latest event is the fact that, although there's no evidence that there was criminal activity, the investigators did not specifically look at whether or not there was criminal activity, criminal activity being when Corporal Tillman was killed by friendly fire, was that fire

by the friendly forces fire that should have been going on or was someone potentially firing a weapon when they should not have been? There's no indication that there was, but there was no specific recommendation in the report that there was not. And, therefore, the invest—inspector general reviewing as he should the investigation has said, "No, this is not the answer to all the questions, go back and look at into these things."

MR. RUSSERT: Governors across the country are very worried about the National Guard cuts proposed by the administration. Have you pledged to maintain National Guard at 350,000?

GEN. PACE: Yes, we have. There are—there are no cuts to the—to the Army National Guard. Three hundred and fifty thousand is the authorized end strength, and it will remain the authorized end strength. Currently, there are 333,000 soldiers actually in the Army National Guard. That is the part that has been funded in this budget. When the Army recruiting force is successful at filling those other 17,000, and as they do recruit to those additional spaces, that money will be provided. So the Guard will remain at 350,000.

MR. RUSSERT: General Peter Pace, we thank you for joining us. And as always, we wish the very best, and our prayers to your men and women on the ground in Iraq and Afghanistan.

GEN. PACE: Thank you very much. Thank you, Tim.

MR. RUSSERT: Thank you, sir.

Coming next, two men, both one-time presidential candidates: Democrat John Edwards, Republican Jack Kemp. They are next, right here, together, on MEET THE PRESS.

(Announcements)

MR. RUSSERT: What do John Edwards and Jack Kemp think about Iraq, foreign investment in American ports, poverty and the growing tension in U.S. Western relations? After this station break.

(Announcements)

MR. RUSSERT: And we are back.

Want-to-be-vice presidents, welcome.

FMR. REP. JACK KEMP (R-NY): Former.

MR. RUSSERT: Jack...

FMR. SEN. JOHN EDWARDS (D-NC): Can you find another way to describe us?

MR. RUSSERT: ... Jack Kemp, how much trouble are we in Iraq?

REP. KEMP: Well, we're in serious trouble to the extent that there is such a split between the Kurds and the Sunnis and the Shiites, and then you've got added to that an incredible pressure from the Syrian border and the Iranian border. I've long felt we didn't have enough troops on the border of Iran and Syria to wall off the insurgents coming in from outside.

My most serious problem is that there is no economic component to the war on terror. In other words, there's no 21st century Marshall aid plan to—I think we should be building on President Bush's idea of a trade zone in the Islamic world, but there has to be aid and some type of hope that life can be better for women, their children, families and, as the general pointed out, some economic component that will lead to jobs and an opportunity to better one's life, one's condition in life.

MR. RUSSERT: Were there some fundamental misjudgments, obviously about weapons of mass destruction, but what about the intensity of the insurgency and the number of troops necessary?

REP. KEMP: Absolutely. Fundamental misperceptions, misconceptions, and as I said earlier, there has been little reward to those who want to bring peace. Sixty-five percent of the people, according to all the polls in Iraq, are very happy, very glad that Saddam is gone, but 80 percent of the people want the United States to set a timetable to make sure that—unambiguously, we tell the people of Iraq and the Islamic world that we're not going to have bases in Iraq. I think there's a very important consideration that we have to announce, that we have absolutely no plans to leave bases in Iraq as—and in my opinion, it's very important to set some type of a timetable. Not '06 or '07, but they have to know that by '08 or '09 at the latest, we're going to be—totally be out of Iraq.

MR. RUSSERT: Senator Edwards, in November of 2005, you wrote an op-ed piece in The Washington Post, and said this: "I was wrong. Almost three years ago we went into Iraq to remove what we were told—and what many of us believed and argued—was a threat to America. But in fact we now know that Iraq did not have weapons of mass destruction when our forces invaded Iraq in 2003. The intelligence was deeply flawed and, in some cases, manipulated to fit a political agenda. It was a mistake to vote for this war in 2002. I take responsibility for that mistake." Why were you so wrong?

SEN. EDWARDS: I don't think I was the only one who was wrong, but I'm the one who had to make the judgement about how to vote on this resolution about Iraq. I listened to the information we got on the Intelligence Committee which I served on. I talked to former Clinton administration officials. And it turns out that the very premise for voting for the resolution and for the invasion of Iraq, which was the presence of weapons of mass destruction, was inaccurate. It was wrong. I had an independent responsibility to make a judgement and cast this vote. It turns out that the vote was wrong and my judgement was wrong.

MR. RUSSERT: In February of '05, you praised the turnout in the election as a wonderful, extraordinary thing. And then back in November of '03, you were on MEET THE PRESS and I asked you about your vote then. Let's listen to your response in November of '03.

(Videotape, November 2003):

MR. RUSSERT: Do you regret your vote in giving George Bush, in effect, a blank check for the War in Iraq?

SEN. EDWARDS: No. I voted for what I believe was in the best security interest of the American people.

(End videotape)

MR. RUSSERT: That was after the war had begun considerably. We hadn't found WMD. What, what caused the change in your thinking?

SEN. EDWARDS: Well, the truth is I was, then, I was still trying to defend my vote. When the election was over and I had time to think about this and reflect on it, it became increasingly clear to me that I talk a great deal about the need for moral leadership in America and for America to provide moral leadership for the world. Well, the foundation for moral leadership is the truth. And for me, saying that my vote was wrong is the truth. And so I thought it was important to say it.

MR. RUSSERT: In October—I'm sorry, in February of '02, you said, "I think Iraq is the most serious and imminent threat to our country." Do you believe that was accurate?

SEN. EDWARDS: No. No, it's not accurate. I was wrong.

MR. RUSSERT: Just dead wrong.

SEN. EDWARDS: I was wrong. Absolutely.

MR. RUSSERT: Based on faulty intelligence.

SEN. EDWARDS: Based on the information. It wasn't just me—the information I got, the information that the Congress got.

MR. RUSSERT: What do we do now?

SEN. EDWARDS: It's hard. I mean, I—no pie in the sky. You know, I'm worried that, I'm worried that Iraq is beginning to slip away. You see the ongoing violence. The stalemate and then the formation of the government. It's absolutely critical for success that there be a representative government formed where every group in Iraq feels like they're being represented and their voice is being heard. I also think that our footprint, the size of our presence there now is still way too big. It sends a signal that we're going to be there forever, that we're not going to let the Iraqis protect themselves, that we're not going to let the Iraqis govern themselves. It suggests that we're there for oil. All those things are bad.

I think we have to reduce the size of our footprint. I said months ago that I think 40,000 troops should be redeployed. There's a way to do that. Secondly, I think we have to intensify the training of Iraqis so they can provide their own security. There's not a single battalion that's ready to operate on its own in the Iraqi Security Force. And then—and this is the hardest and may not be successful—if we reduce our footprint, we need to intensify our efforts to bring others into this so that it's not just us.

MR. RUSSERT: If a civil war breaks out when we withdraw because there's no way there to secure each—one side against another, what do we do then?

SEN. EDWARDS: At the end of the day, we can't do this for them. The Iraqis are going to have to do this for themselves. They're going to have to form their own government. They're going to have to decide whether everyone in Iraq will be represented in that government. And they're going to have to protect themselves. America cannot continue to do this for them. They have to do it themselves.

MR. RUSSERT: Well, let me turn to the whole issues of the ports. Six American ports being operated by a company from Dubai. Jack Kemp, you wrote in The Washington Times, "It was disappointing to witness the pessimism, cynicism and hypocrisy of some left and right who have been using a rather straightforward, commercial port operations contract to rant against the friendly United Arab Emirates, a country that chose, post-September 11, 2001, to stand with the West, (and the United States) in the war on terror. ... To turn down this contract would further weaken our relationships with moderate Arab allies and I believe ultimately, our own national security and our chances for peace and liberalization throughout the Middle East and Africa." You're very against public opinion.

REP. KEMP: Yeah.

MR. RUSSERT: Very much against Congressional opinion.

REP. KEMP: It's the right thing to do. First of all, as you quoted, after 9/11, President Bush said to the Arab world, "You're either with us or against us." And the UAE from Abu Dhabi to Dubai said, "We're with you." There are U.S. Naval ships in Dubai ports. The United States Air Force is operating in Abu Dhabi and al-Jafra. They have made a decision to support the United States in the war on terror. General Tommy Franks said they're a valued ally of the United States. They have said they want to be with us, they want to invest. And 80 percent of all the ports in the United States of America are operated by companies with ties to governments from communist China to Denmark to Taiwan to Singapore, and in this case Dubai. So I think it would be a mistake for us to turn our back on a friendly Arab country that's supporting us in the war on terror.

MR. RUSSERT: Senator Edwards:

SEN. EDWARDS: Well, I don't think we should discriminate against anybody, including Dubai, the UAE, but I have a different view about what we should do.

I think that this is sufficiently important to the safety and security of America that American companies should be doing it. I would start by saying companies that are owned by foreign governments should not be operating or providing security for our ports.

I'd like to go further than that and say foreign companies shouldn't be doing this. We ought to be doing it ourselves. I think there's a practical issue with that, which Jack just made reference to, that they're already doing so much. So I—that's the starting place.

I also would like to see us use this as a vehicle to talk about what's actually happening in our ports. Five percent of our containers are inspected. We can do much better than we're doing right now. Number one, we ought to be moving toward the goal of screening all containers. We also ought to make sure that we have a tracking system so that we know what's happened to them in transit.

We also—we need to be—and by the way, these ins—these screenings—screening process, the use of that technology, we need to be careful, because some of these containers have lead around the outside of them, so it's difficult to see what's inside. And if the screening doesn't work we may have to physically inspect them.

And then last, we need to figure out a way, and there is—there are seals available that will do this—to make sure that these containers have not tampered with. So they're very specific practical things that have not been done by George Bush and this administration that very much need to be done.

MR. RUSSERT: You attended two conferences in the United Arab Emirates in 2005.

SEN. EDWARDS: Yes.

MR. RUSSERT: In 2000, President Clinton authorized sale of 80 F-16 Lockheed fighter jets that you did not object to.

SEN. EDWARDS: No.

MR. RUSSERT: Do you not trust the UAE?

SEN. EDWARDS: Oh, no. The UAE actually has done a lot of good things, and American's relationship with the UAE is a good relationship. I don't think this is about UAE, I don't think it's about Arab countries, I think this is—this is about whether America is going to operate and provide security for their own ports.

MR. RUSSERT: You don't think that being an Arab country and hijackers from—some of them came from that country has—is a factor?

SEN. EDWARDS: But at the end of the day there's a simple solution. The simple solution so that we don't discriminate against Arab country—countries, which I think is a terrible idea, the

simple solution is America and American companies need to provide this—operate the ports and provide security.

REP. KEMP: That is just at odds with the reality on the ground. That, as I said earlier, 80 percent of all the ports in the U.S. are operated—not the security, not the control, not ownership, but operated. The flow of goods in and out of the United States ports. We have the recognition that the UAE was the first country to sign the container security initiative. They have been a valued ally. And very frankly, in a global economy, as Tom Friedman points out, as the world is flattening how can the United States withdraw from the type of trade and commerce that we do, not only with Asia, but with the Arab world? So it's a big mistake, and this is pointed at an Arab country, and I think it would weaken the United States security to say the UAE, "We're going to let you out of—we're going to put you out of our commerce in our ports."

MR. RUSSERT: Let me turn to a domestic issue. The two of you have gone to the University of North Carolina and the University of Southern California to talk about poverty. Katrina: Jack Kemp, when you were in the Republican administration, you were seen as the outreach person to the African-American community. Do you believe that the Bush administration response to Katrina, has created an image problem with African-Americans?

REP. KEMP: There's an image problem, no doubt about it. And government at every level failed the Katrina victims. And they are victims. This was a horrible mismanaged at every level of government, and it uncovered not only a level of poverty that is unacceptable in the 21st-century America that we live, in, but a level of racism. I'm not accusing anybody, Republican or Democrat of racism, but the generic attempt by government to handle this problem has led to, I think, a very big image problem for both political parties—and my party, which it should be thinking big time about what could be done. Abraham Lincoln had a Homesteading act, Franklin Roosevelt had the FHA and GI Bill. We—I think the president has attempted to do the right thing. I think we need to go further. I think we need a total enterprise zone for the whole Gulf region. I think we need to bring Habitat for Humanity into this, and the president's talked about urban homesteading in the Gulf region. We need a massive effort, dramatic effort to build housing, schools and create job opportunities for people in the Gulf Coast region.

MR. RUSSERT: Senator, after Katrina, you heard a lot of discussion about the racial divide, the economic divide. Do you believe either party has stepped up to deal with that issue?

SEN. EDWARDS: America hasn't done what it needs to do. This is the great moral issue of our time. Thirty-seven million people who live in poverty every day in a country of our wealth is wrong, and we have responsibility to do something about it. I—over the course of the last year, you know, I've had a little time on my hands. I've been moving around the country and meeting with families who live in poverty, and the—the most striking thing to me is they don't feel like anyone speaks for them, they have no champion, they have no advocate. Katrina gives us, because of the window that opened with Katrina and the aftermath, gives us an opportunity to do something about poverty in America, and they're such obvious things that we can do. Part of it's financial, part of it's not.

On the financial side, we can do something about raising the minimum wage, we can do something to expand the earned income tax credit, particularly to make it more applicable to single workers. Get rid of the marriage penalty in the earned income tax credit. These families need assets. We saw these families on our television screen for the Lower Ninth Ward in New Orleans. They didn't have a car, they didn't have bank accounts, they didn't have credit cards. We need to help these folks be able to—to accumulate some assets. We can set up an account for them, match what they're able to save, they need access to college, you know, and so many young people would—the government's cutting funding for financial aid for kids who want to go to college. We—we started a program in a small county in eastern North Carolina where we make college available to every young person who graduates, qualified to go and is willing to work while—during the time that they're in college.

And then, finally, and this is a critical component, responsibility matters. You know we, the American people, our country, we expect people that we're helping to help themselves. And where we—we have to address things like teenage pregnancy. One—one of the things I find when I sit at these tables with families who live in poverty is the mother of four or five children has kids who are having kids. We have to do something about that. We have to do something about the hopelessness of the young African-American men who live in the inner city. But this is something we can do if America makes a commitment to do something about it.

MR. RUSSERT: The two of you, Mr. Edwards and Mr. Kemp, join authors of the Council on Foreign Relations Task Force, "Russia's Wrong Direction, What the United States Can and Should Do." Let me read a little bit for our viewers:

"U.S.-Russian relations are clearly headed in the wrong direction. Contention is crowding out consensus. The very idea of 'strategic partnership' no longer seems realistic." And then this: "The Task Force recommends the United States pursue 'selective cooperation' with Russia rather than seek a broad 'partnership" that is not now feasible."

Many observers say Russia invites Hamas to visit with them. Russia cuts off natural gas to the Ukraine. Russia clamps down on the free press. Putin centralizes power. Why should we have any kind of relationship with a country like that?

REP. KEMP: A good question, except you can point to many contradictions in our relations with Russia post-Cold War and here in the early years of the 21st century. But as John and I have discovered in our Task Force, and we don't speak for all 15 or 20 members, but there is a consensus that without Russia's cooperation, all of the great issues of the day from nuclear proliferation to terrorism, to dealing with Iran and North Korea, to dealing with HIV-AIDS or education and the problems of poverty in the Third World, we need the cooperation of Russia. So it is a pragmatic relationship with Russia that has to be nurtured, and, in my opinion, I come at this from—as a congenital optimist and a believer, that economics is extremely important to the future of our relationship. We believe that we must work with Russia, and here we are on the eve of the G8 in July, the...

MR. RUSSERT: Industrial nations.

REP. KEMP: ...seven industrial democracies of the world plus Russia are going to meet, with Putin as chair. We think, and I don't know that I speak for everybody, but I really believe that our nation should call the administers of foreign affairs together in a G7 to remind the Soviet Union—I'm sorry, the Russians, that the G8 is not a perpet—not a perpetual organization.

MR. RUSSERT: That Russia—Russia risk being taken out of that.

REP. KEMP: I don't want to take them out. But I want them to know, and I think we believe—we believe that they should know the we can go back to the G7 if they don't cooperate on things like Iran, North Korea, nuclear proliferation, and the war on terror.

MR. RUSSERT: Senator Edwards, John McCain, your co—former colleague in the Senate, said we should not go to the meeting in St. Petersburg in July, that—until Russia starts changing its behavior.

SEN. EDWARDS: Well, we came to the conclusion in the task force that that's not our recommendation.

I want to add one thing to what Jack just said. If you step back and look at this thing from altitude, there is the real potential in the world, if we do what we should and we have a smart foreign policy, that we can live in a world where the great powers attack the problems that face the planet, and that includes all the things that Jack just made reference to: HIV/AIDS, terrorism, proliferation, all the huge issues that the world's faced with. The reason our relationship with Russia matters is we want them working with us, not against us, to solve the world's problems. So it matters what our relationship with Russia is, it matters how we deal with Russia. The question on the G8 specifically is—and Jack just suggested it, it's a good idea—that we have a meeting of the G7, at least at the ministerial level, before anybody goes to St. Petersburg.

But the question on the G8 is, is it better to have Russia on the inside, or is it better to have them on the outside? At least for now, we believe it's better to have them on the inside, and the reason is we need their cooperation on issues that really matter to us, and the most glaring one of those issues is Iran. You know, we need the Russians to do what they've been doing, to cooperate, to continue to negotiate with the Iranians, to try to provide enriched uranium, control the fuel cycle in the dealings with the Iranians. And then at the end of the day—you know, the IAEA is meeting tomorrow, if they are—if Iran is referred to the Security Council, which a lot of us believe is what's going to happen, we're going to ultimately need Russia. We're going to need them in the Security Council. We want Russia, for example, if this—Iran continues on the track they're on now, we want Russia to stop helping them build this nuclear facility at Bushire.

We need Russia in this process, but we have to recognize all the things that are going wrong in Russia. Their economy has improved dramatically under Putin, but at the same time, the de-democratization is powerful. And on top of that, they're meddling, constantly meddling, and bullying the old Soviet states that are on their periphery.

MR. RUSSERT: Five years ago when President Bush first met with President Putin, the president was asked whether or not he trusted Mr. Putin, and this was President Bush's response.

(Videotape, June 16, 2001):

PRES. GEORGE W. BUSH: I'll answer the question. I looked the man in the eye, I found him to be very straightforward and trustworthy. We had a very good dialogue. I was able to get a sense of his soul; he's a man deeply committed to his country and the best interests of his country.

(End videotape)

MR. RUSSERT: Jack Kemp, "straightforward and trustworthy," are those two words you'd describe for Vladimir Putin?

REP. KEMP: I don't think the president would say that today. Albeit, we want Putin's cooperation in the things that John and I have alluded to earlier. When they shut off in January natural gas supplies to Ukraine, it absolutely affected Europe to a great degree. Twenty-five percent of all the gas going into Europe comes from Russia, in 10 years it'll be 75 percent. So that was a big mistake. But they backed off, and now they need to sign the European energy accords. When I was in Israel when Hamas was invited to Moscow, and then we saw yesterday, I think, or Friday, Sergei Lavrov, the foreign minister of Russia, said to Hamas, "You have to recognize Israel." So there's these contradictions in our relationship, and I think it was reflected in President Bush's comments.

MR. RUSSERT: John Edward, before we go, you've been traveling around a lot. I noticed these three states on your schedule the last 24 months: Iowa five times; New Hampshire four times; South Carolina two times.

SEN. EDWARDS: I can't imagine where this is going.

MR. RUSSERT: I'm asking you.

SEN. EDWARDS: Well, I've actually been traveling all over the country, not just into the places that you mentioned. And everywhere I go, I'm preaching the gospel about...

MR. RUSSERT: But you're thinking about running for president in '08?

SEN. EDWARDS: It is something I'm considering, yes.

MR. RUSSERT: Fair enough. It's nice to have a Democrat and a Republican sit here together.

John Edwards, Jack Kemp.

REP. KEMP: Pleasure. Thank you, Tim.

MR. RUSSERT: We'll be right back.

(Announcements)

MR. RUSSERT: That's all for today. We'll be back next week. If it's Sunday, it's MEET THE PRESS.

ABC – THIS WEEK

STEPHANOPOULOS: Is the port deal dead, and has it dulled the GOP edge on national security? We'll ask two key Republican, the head of the Homeland Security Committee, Senator Susan Collins, and the chairman of the Armed Services Committee, Congressman Duncan Hunter.

Then in a Sunday exclusive: Wesley Clark. He tried and failed in 2004, but is the general what the Democrats need in 2008?

George Will, Robert Reich and Bill Sammon debate the week's politics on our roundtable.

Plus as Jon Stewart prepares for the Oscars, advice from his protege.

(BEGIN VIDEO CLIP)

COLBERT: First off, do not look Russell Crowe in the eye. He sees it as a challenge.

(END VIDEO CLIP)

STEPHANOPOULOS: And as always, The Sunday Funnies.

(BEGIN VIDEO CLIP)

JAY LENO, HOST, TONIGHT SHOW: This marks the beginning of lent. You know what President Bush is giving up for lent? Our seaports. Yes.

(END VIDEO CLIP)

STEPHANOPOULOS: Good morning, everyone. President Bush landed at Andrews Air Force Base early this morning from his trip to South Asia to face a Congress still resisting that Dubai ports deal.

And our headliners are leading the fight, the chair of the Senate Homeland Committee, Senator Susan Collins, and the head of the House Armed Services Committee, Congressman Duncan Hunter.

Good morning to both you, and Congressman Hunter, let me begin with you. President Bush says Dubai has been a very strong ally in the war on terror. You call their track record terrifying. Do you no longer trust President Bush on national security?

HUNTER: No, I trust President Bush, but I think he needs to get more information. And the information that we've developed shows that in 2003, 66 high-speed electrical switches, that is triggers for nuclear weapons devices, were allowed to be transshipped through Dubai even over the protests of the United States.

And that same government that allowed those nuclear switches to go through also allowed former Nazi Alfred Hempel to ship 70 tons of heavy water, which is used again to develop nuclear systems, through Dubai.

And Dubai has a reputation of being the place where you go in -- if you want to ship something with anonymity, that is you want to mask the seller and you want to mask the buyer, you ship it through Dubai. And those people, that government is going to be under this ports deal the folks that own the regulation of our ports.

STEPHANOPOULOS: Well, sir, let me interrupt you there. Are you suggesting that President Bush does not have the information you just gave to our audience?

HUNTER: I don't think he has that information. I think that -- I think this thing was looked at by his board, this so-called CFIUS board, which is the Committee on Foreign Investment. I think they looked at it from a very superficial level, and they didn't get the intelligence briefs that go to Dubai's activities to transship things like centrifuge parts. They didn't look at the front companies that Germany has identified as operating in Dubai to secure nuclear components for Iran, and I think if the president gets that information, I think he's probably getting it now, I think we're going to see a turn around.

STEPHANOPOULOS: Senator Collins, I saw you nodding your head. You've called this CFIUS process very flawed. Do you agree with Congressman Hunter that the deal ought to be stopped?

COLLINS: We don't know enough yet to know whether the deal should go through. The problem is that the 45-day investigation that was clearly required by law was not conducted.

The other problem is that the committee that conducts the view is weighed towards the Treasury Department. I think we need to scrap the committee, start again, constitute it within the department of Homeland Security, have the secretary of Homeland Security chair it, have a member of the intelligence community on it, which is not the case now, broaden the review that is done and ensure that Congress is consulted .

STEPHANOPOULOS: That would be a big change. Are you going to offer legislation to make that change to move it from the Treasury Department over to Homeland Security?

COLLINS: I am. Senator Lieberman and I are going to introduce a bill to do just that next week. I think the process right now is deeply flawed. It's too weighed toward investment concerns when the purpose should be and needs to be national and homeland security.

STEPHANOPOULOS: Congressman Hunter, you're going to go even farther than that. You say you're going to propose legislation that would require, would actually prohibit any foreign entity from owning facilities that you deem critical to national security.

Now, right now, 80 percent of our port terminals are managed by foreign entities. Would you require all of them to divest and wouldn't that create economic chaos?

HUNTER: No, George. My bill would require divestiture after the Department of Defense and the Department of Homeland Security undertake a review and come up with a list of what they consider, not myself, not members of Congress, but what the Department of Defense and the Department of Homeland Security consider to be critical infrastructure for this country.

So it might be not only ports but power plants and other types of infrastructure. Once they put that list together, just like our maritime security program, which we've deemed to be important enough, that's our ships that we use in the vital operations in times of war, have to be operated by Americans and have to be owned by Americans.

By the same token, this list of critical infrastructure components would have to be owned by Americans. That would require divestment. But George, you know, back to this point of how much information is known by people, in our hearings just two days ago, your former boss, President Clinton, was referred to by the president of the ports deal as having made a phone call to the emir of Dubai, to the leader of Dubai, who is the sole stockholder and director of this company.

And President Clinton gave him advice on who he should hire to get this deal through. I don't think President Clinton, your old boss, knows the facts of the transshipments that take place through Dubai, sending nuclear components to all parts of the world, and especially to people who don't like America.

STEPHANOPOULOS: Well, actually let me just say one thing. The president's office did put out a statement where, in that statement, the president said that he actually supports the legislation proposed by you and Senator Clinton, which would ban foreign entities from managing our ports. But let me turn to you, Senator Collins. Do you agree with Chairman Hunter's idea that we should actually have divestiture of all foreign investment in our critical national security facilities?

COLLINS: No, I think that goes too far. Not all foreign investment is the problem. When you have an ally like Canada, for example, controlling aspects, I really don't have a problem with that. But in this case, we have a country that has a very mixed track record on terrorism, a country that the 9-11 Commission said had been both a valuable ally and a persistent problem.

And that's why we need an in-depth review. And only if the national security concerns are satisfied should the deal go forward. But I don't think we need a blanket prohibition. Obviously, I'd love to have all our ports operated by American companies, but I don't think that's practical.

STEPHANOPOULOS: Let me turn to the politics of this for a minute. Democrats are already starting to make hay on this, as you both know. And tomorrow, the first ad on this issue is going to go up. It's done by the Senate candidate down in Tennessee, Harold Ford. I want to show you some of it and have you respond.

(BEGIN VIDEO CLIP)

U.S. REP. HAROLD FORD (D-TN): President Bush wants to sell this port and five others to the United Arab Emirates, a country that had diplomatic ties with the Taliban. The home of two 9/11 hijackers whose banks wired money to the terrorists. I'm running for the Senate because we shouldn't outsource this to anyone.

(END VIDEO CLIP)

STEPHANOPOULOS: Chairman Hunter, he's basically making the same argument you are, but are you worried that this issue, because the president is going in the other direction, is going to hurt your party in the mid-term elections?

HUNTER: You know, I don't think it's going to hurt our party, George, because a few years ago when the Chinese military tried to buy the old naval base in Long Beach, California, we stopped that and that was stopped by Republicans in Congress, even though your boss, President Clinton, supported that. So, I think the Republicans in Congress have a good record for security and have a good record on this type of an issue.

We're the only people who have actually stopped a facility, what we consider to be an important facility, being purchased by a foreign entity that was suspect. So I think that -- and also I think that the fact that President Clinton now is on record, at least in our hearing, according to the CEO of the Dubai World Ports corporation, as advising the emir on how to make this deal go through, I think that makes it difficult for the Democrats to get a partisan leverage.

STEPHANOPOULOS: Senator Collins?

COLLINS: Well, I think it's too bad for this issue to be used in political campaigns. If it relates to our national security, then surely, we ought to all be behind the administration's new decision to have a thorough review, to report to Congress, and we ought to reform the entire process. That ought to be our focus. And I think it's unfortunate to see this issue used for political purposes.

STEPHANOPOULOS: Bottom line to both of you: Yes or no -- is this deal going to go through?

Chairman Hunter?

HUNTER: No.

STEPHANOPOULOS: Senator Collins?

COLLINS: Too soon to tell.

STEPHANOPOULOS: And before I let you go, let me also ask you. President Bush, when he was in India, he was talking about -- he reached a deal with the Indians to provide them with nuclear technology and -- in return for having their civilian nuclear facilities but not their military nuclear facilities come under inspection.

Chairman Hunter, two of your colleagues, Chairman Hyde of the International Relations Committee, Senator Lugar, have raised serious questions about this deal.

Are you for it or against it?

HUNTER: Big numbers here, George, 14 and 22. Fourteen of the nuclear reactors would be monitored under an international -- by international organizations, but eight of them which could produce weapons material, nuclear weapons material would not be -- would not be monitored.

The president is trying to ride the nuclear tiger here. It's a tough job.

I think we really need to look at this one. And I'm inclined to think that the problem -- that this type of thing is not good for us because the problem is that this nuclear development and weapons development is a function of equipment and it's also a function of people.

And, as we continue to develop a pool of technicians and scientists in India who have the capability to work in the nuclear arena, those people can quickly move their talents from domestic energy production to weapons production.

So this thing has to be looked at very, very carefully. I'm skeptical. STEPHANOPOULOS: Senator Collins?

COLLINS: I need to look carefully at the deal. We need to make sure there are sufficient safeguards. In general, I am leery whenever we put any kind of nuclear ability off-limits to international inspections.

STEPHANOPOULOS: OK, thank you to both of you.

HUNTER: Sure.

COLLINS: Thank you.

STEPHANOPOULOS: Up next, General Wesley Clark and, later, Jon Stewart gets some last-minute tips for tonight's Oscars.

(BEGIN VIDEO CLIP)

COLBERT: If anybody pulls one of those Marlon Brando send up an Indian to accept your award, don't stand for it. As the host, you have the authority to confiscate the award in the name of manifest destiny.

(END VIDEO CLIP)

(COMMERCIAL BREAK)

STEPHANOPOULOS: And we are back now with former NATO commander General Wesley Clark, former presidential candidate, as well. Welcome back to This Week.

CLARK: Thanks, George.

STEPHANOPOULOS: Let's pick up on that debate we just left off on. Are you for this Dubai Ports World deal or not?

CLARK: I think it ought to be reviewed. But, you know, the United States has to find a way to fit into the modern world.

Now, there's no reason American companies can't own and operate ports not only here and abroad. But our security doesn't depend on who owns the facility, in other words, who is collecting the money and taking the tolls. It depends on how we regulate the facility.

STEPHANOPOULOS: So it sounds like you're for this.

CLARK: Well, what I'm saying is that we have to strengthen port security overall in America.

It's weak and it doesn't matter who owns it, it's weak. We're not inspecting the containers that are coming in. We don't have the right radiation monitors out there. We don't know whose in the ports.

And port security actually starts abroad. You have to start with ports overseas that are loading the containers that are coming to America. It's too late once they reach our shores. So...

STEPHANOPOULOS: So you don't share the view this Dubai is a bad actor in the war on terror?

CLARK: Well, I've been to Dubai. I've met those people. A lot of the countries in that region have difficulties.

So I think that rather than labeling countries, what we need to do is take a very pragmatic look at what our own homeland security problems are.

In the area of port security even if we owned every port in America, that wouldn't be adequate for port security because the security has to start over there. We have to work with the people in

Dubai, the people in Rotterdam, the people in Korea, the people in Japan, the people in China, because that's where the threats originate that come to our ports.

So there's no walling off America. We're in a global economy whether we like it or not.

STEPHANOPOULOS: So that means you disagree then with Senator Clinton's legislation, which would require American ownership and management of American ports?

CLARK: I think Senator Clinton has done a good thing in terms of raising the visibility on this issue. We need to get in...

STEPHANOPOULOS: But you don't agree with the legislation?

CLARK: Well, when we go through the legislative process there's going to be some hearings, and we really need to take this apart.

Homeland security has not received the emphasis and attention it needs and in particular, port security hasn't. There have been any number of initiatives. There's money that's been laid out, but it hasn't been pulled together. So I think we need to look through the issue of ownership, the issue of control, the issue of regulation, the issue of how we relate to the ports overseas and all of that needs to be on the table. And then...

STEPHANOPOULOS: But you just said we can't wall off America.

CLARK: ... We cannot wall off America.

STEPHANOPOULOS: Well, if you can't wall off America that means you wouldn't prohibit foreign investment in these kinds operations, doesn't it?

CLARK: I think you have to recognize it's a very complicated place out there economically. Even labeling who is an American to own it, it's not a single American individual. It's an American company. Can it have foreign ownership in an American company? Can it be an international company with headquarters abroad but majority U.S. ownership?

It gets pretty complicated. What we need to be focusing on is how the ports are regulated and how we're dealing with the ports abroad...

STEPHANOPOULOS: Sir, I'm listening to you very closely. I have to catch you as no on that legislation.

But let's move on to Iraq. President Bush is scheduled to meet with General Abizaid and General Casey this week, and they're going to discuss this issue of whether and when we should start withdrawing troops.

There had been a hope that there would be a gradual reduction to about 100,000 troops by the end of this year. Do you think that should go forward?

CLARK: We're at the key point right now in Iraq. We've got a choice between kind of a C minus solution and F solution...

STEPHANOPOULOS: Not a very good choice.

CLARK: ... Getting involved was a big mistake. Pulling troops out and announcing a time line right now when we haven't set the conditions on the ground to do this would be a big mistake.

STEPHANOPOULOS: Even a gradual reduction down to about 100,000?

CLARK: Maybe we can reduce forces, but right now we shouldn't be focused on the troop strength. Right now we're at the decisive point of what's going to determine the future of Iraq. It's the politics inside Iraq.

What we have to do is we have to get the Sunni leadership into the government, and the constitution has to be modified so that there can't be a carve-up of Iraq into a Shia-dominated Iranian buffer state in the south, a Kurdish-controlled area in the north and leaving the Sunnis on the outside.

STEPHANOPOULOS: That seems to be the president's policy right now. The question is what kind of leverage do we have and what kind of leverage should we use over that Shiite majority to make sure they include the Sunnis?

CLARK: Well, starting with the idea of a U.S.-directed troop pull-down is the worst way to get that leverage.

What we have to do is we have to use the military leverage to gain political leverage. You can't just jawbone.

So I think we should be taking a number of military measures like deploying more troops on the border with Iran, like making it clear that we're going to be prepared to assist in the disarming of the Shiite militias if they don't comply with the disarmament requirements, like maybe selectively...

STEPHANOPOULOS: Wouldn't that put United States right in the middle of a civil war?

CLARK: We have to take leadership on the ground politically. We can't just mechanically go through a process of training the troops and leaving because we're leaving behind -- when we leave Iraq, that doesn't enter our interests in the region.

Iraq's part of that region so we've got interests in the Israeli- Palestinian issue, in the protection energy sources, in whether Iran gets nuclear weapons. We can't just walk away from the region.

And that means that it's not just about U.S. troop presence. It's about what kind of government is left behind in Iraq.

STEPHANOPOULOS: You've called this a decisive point. Some have feared that the last couple of weeks have been a tipping point where Iraq may tip over into civil war. General Casey says that crisis has passed. A lot of people question that. But my question to you is what should the United States do if this civil war does flare up? Should U.S. forces be put in between Shiites and Sunnis?

CLARK: Well, I don't think it's possible to do that in a practical sense for most of the country.

STEPHANOPOULOS: How so?

CLARK: Because there's not enough U.S. forces there, we don't speak the language, we don't know who all those people are. We can't control crime in Baghdad. We never could. We couldn't do it now. We might be able to protect certain key facilities, but the point is...

STEPHANOPOULOS: And you would be willing to deploy U.S. forces in that way?

CLARK: No. We're there right now doing this. What we have to do right now, we're at the edge of the abyss right now in Iraq. We have got to use all of our leverage to get responsible Sunni leaders into this government, whether that means moving the prime minister, Jaafari, out, whether it means playing the card of Arab Shiaism against Persian Shiaism. Whether it means...

STEPHANOPOULOS: What does that mean?

CLARK: ... threatening to move against the Shiite militias, whether it means using Muqtada al Sadr. There are a lot of different political forces. One of the things that's happened to us, George, is this debate, largely because the administration and the way it's been portrayed, is always about the military.

What's happening in Iraq is not about the military. It's about who controls the country and what the future policies of Iraq will be. Those are political questions. Our ambassador over there is trying to do that job, but he's not getting the help he needs. We've never established a regional dialogue we needed to with Syria, with Iran, with the other states in the region. We just haven't given the military the help it needs to resolve this problem.

And so I just have to shy away from the excessive focus on the military. This is not a problem the military can solve. They're part of the solution, and the military forces can be used to create political leverage, but we're not going to be able to change the forces in play in Iraq simply by jawboning. It won't be enough. We've got to use the leverage from the region and internally to get the responsible Sunnis into that government now and the constitution changed before it's too late.

STEPHANOPOULOS: Let me turn to Iran. You told the Council on Foreign Relations earlier this month that before we take Iran to the U.N. Security Council over their proposed nuclear weapons program, we should try talking to them directly and doing business with Iranian businesses. That's a very different approach from what other Democrats like Senator Evan Bayh

and Senator Clinton are calling for. They say we need tough sanctions now. Why are you convinced that your approach is better?

CLARK: Well, maybe we will need tough sanctions later on, but before any of that happens, years ago we should have talked to Iran, and it's not too late right now.

STEPHANOPOULOS: Directly.

CLARK: Directly to Iran. The Iranian state is not unified. There are differences in opinion in Iran, but rather than passing a $75 million Iranian Liberation Act funding proposal, why don't we just talk to the Iranian leadership, and see if there's not a way of...

STEPHANOPOULOS: But don't you believe that there's intent on developing a nuclear weapon?

CLARK: I think they are intent, and the more we press against them, the more difficult it would become for them to change their direction. Iran represents an historic opportunity for the Shias to have leadership in the Islamic world, and this nuclear issue is being crystallized in such a way that it's going to make it extremely difficult for them to back off.

STEPHANOPOULOS: But don't they know the message is, if you don't give up your nuclear program, then you're not going to be able to join this modern world? Isn't that what the United States is saying? Isn't that what the European community is saying?

CLARK: Well, it's a very mixed message going to the Iranians, frankly. We're not saying we're not going to buy their oil. China is not telling the Iranians, we won't help you build subways. The Russians aren't telling the Iranians, you're not going to get our billion dollars worth of weapons that you've ordered. It's a very mixed message, and really, it's the United States that hasn't taken its leadership responsibilities seriously enough to go and talk to the Iranians first before this crisis comes to a head.

STEPHANOPOULOS: Let's talk about some politics. It seems to me you're scratching the presidential itch just a little bit again heading up to New Hampshire later this month. What lessons did you learn from your campaign in 2004, and how will you decide whether to run in 2008?

CLARK: Well, what I'm trying to do is help the right Democrats get elected in 2006. That's the most important thing, and I'm very proud we've got something like 55 U.S. military veterans who are running for Congress as Democrats. I want to help each and every one of them. I think they can make a huge difference in the future of this country. I think having one-party domination of governments is very dangerous for American democracy. And frankly, that's where all of my energies and activities are focused.

STEPHANOPOULOS: Well, you've completely ignored my question, but let me re-ask one of them.

CLARK: Well, I just want to make it clear, George, right now I know there's a lot of speculation on 2008. And there's a lot of great people out there who are lining up and testing the waters and setting up exploratory committees.

I'm very proud of having had the opportunity to run in 2004. I did learn a lot.

And if you look at what qualities are required in a president today, this is a time where Americans are engaged and responding to foreign affairs like never before: the war on terror, the war in Iraq, the port issue, global trade, the avian flu. I mean, it just -- we cannot wall off the outside world.

So I think it's very important that Americans look to people who've got some experience.

Having said that, my focus is on 2006 and helping the right Democrats get in office because I think when you look at this country right now, we need a two-party system that works. We need Congress to do its job. We need real investigation of some of the abuses of authority that are apparently going on in the executive branch. We need to really...

STEPHANOPOULOS: Like what?

CLARK: We need to really get to the bottom of the Abramoff scandal. We should have a special prosecutor appointed for that. We really need a Congressional investigation of the whole business of the NSA wiretapping and how far that goes. Been a lot of squirrelling around the edges.

We've never finished the investigation of 9/11 and whether the administration actually misused the intelligence information it had. The evidence seems pretty clear to me. I've seen that for a long time.

I think Americans are best served by a strong two-party system, and that's been out of whack. And what I can do in 2006 is try to help the right Democrats get in office and that's what I'm going to do.

STEPHANOPOULOS: And we'll have you back after the midterms. General Clark, thanks very much.

CLARK: Thanks very much, George.

STEPHANOPOULOS: Coming up, Stephen Colbert on his boss hitting the big time.

(ROUNDTABLE)

(COMMERCIAL BREAK)

STEPHANOPOULOS: Our voice this week, Stephen Colbert. He carried Jon Stewart's water for years on The Daily Show.

So we turn to the man who now stars in his own show, The Colbert Report for his take on how his old boss should handle tonight's Oscars.

(BEGIN VIDEOTAPE)

COLBERT: I think it's great Jon is doing the Oscars. I would have been out there and done it with him but I had to do This Week with George Stephanopoulos. I made a promise and I don't go back on my word.

This could be a big one for Jon. After all, 10 billion people watch? Twenty -- 100 billion people watch the Oscars. And so, this could be enormous for him. And, if he fails, it could be terrible. This could be the end of his career.

(BEGIN VIDEO CLIP)

JON STEWART, HOST, THE DAILY SHOW: I have hosted other award shows -- the Grammys, actually, twice, and then a variety of lodge and rotary club events, so I'm ready.

(END VIDEO CLIP)

COLBERT: I expect a lot of jokes on the war in Iraq, a lot of jokes on abortion -- it's a funny word, like guacamole. I'd say he'll probably do a lot of jokes on the refugees from Katrina.

Advice for Jon? OK, first off, do not look Russell Crowe in the eye. He sees it as a challenge. Two, get drunk but not too drunk. Just fun drunk. Bring some hand sanitizer. A lot of people are going to want to shake your hand. You don't know where these stars have been.

Leave your mark on Hollywood. For instance, everybody calls Brad and Angelina Brangelina. Ben Affleck and Jennifer Garner already have the name Bennifer II. But there's not name so far for William H. Macy and Felicity Huffman. I recommend John refer to them as Filliam H. Muffman, especially if she wins.

Most of all, I'm glad I'm talking about this today because it is never too early to prejudge someone's performance. Finally, I would just say good luck because I think he will fail. I think I can say that because I am his friend. Yes, it's not going to work.

(END VIDEOTAPE)

STEPHANOPOULOS: Great friend. You can see more of Stephen Colbert on our Web site, thisweek.abcnews.com

Now, the Sunday funnies.

(BEGIN VIDEOTAPE)

JAY LENO, HOST, THE TONIGHT SHOW: It was reported in the paper this week that, even as Hillary Clinton was working to try and stop this Dubai Port deal her husband Bill Clinton was advising Dubai on how to get the deal through.

She's trying to stop it. He's trying to make the deal. Forget women. Now he's cheating on her with other countries.

(LAUGHTER)

COLBERT: Last week, tensions boiled over between Sunni and Shiite Muslims in Iraq with the destruction of the Shiite Golden Mosque, an action that could well foment a civil war, if we're lucky, because if there's truly a civil war in Iraq, by definition, we can't be part of it.

That's called an exit strategy, folks.

(LAUGHTER)

CRAIG FERGUSON, HOST, LATE LATE SHOW: The president has just been in India. He's going through Maharishi period, I think. He's made the headlines for defending outsourcing in India. A

And I think that may have been a mistake, you know, because I don't know that -- you know, that's kind of playing the room a little too much. You know, he's talking about, it's OK for American jobs to go to India. Doesn't he know that we get the news here?

(LAUGHTER)

LENO: You know that deal for the Arab country to run our ports, this is on everybody's mind. It's on talk radio. It's all anybody talks about.

Now let's go live now to the Port of New York and talk to Dubai Ports World chief officer and deputy ruler of the Emirate, Sheik Hamdin.

Didn't you expect this kind of reaction?

(UNKNOWN): No, no, because we couldn't believe we were given the job ourselves.

(LAUGHTER)

I mean, we submitted the name as a joke to crack ourselves up. I mean, who knew that they were going to take us seriously?

(LAUGHTER)

You are funny and a mysterious people, you are.

(END VIDEOTAPE)

STEPHANOPOULOS: That's our show for today. And tune in to ABC tonight to see if Steve Colbert and the round table were right about tonight's Oscars.

FOX – NEWS SUNDAY

WALLACE: I'm Chris Wallace. The Army will now launch a criminal investigation into the death of sports hero turned Army Ranger Pat Tillman, next on Fox News Sunday .

Civil unrest in Iraq. With the situation there so uncertain, can the U.S. continue to bring troops home? We'll get the latest from the chairman of the Joint Chiefs, General Peter Pace.

The storm over the storm. With new insights into the government's response to Hurricane Katrina, did President Bush have it right all along?

(BEGIN VIDEO CLIP)

GEORGE W. BUSH, PRESIDENT OF THE UNITED STATES: Brownie, you're doing a heck of a job.

(END VIDEO CLIP)

WALLACE: We'll talk with Brownie, former FEMA director Michael Brown, in his first Sunday show interview since Katrina.

Plus, what has opposition to the ports deal done to the president's political standing? We'll find out more from our panel, Brit Hume, Nina Easton, Bill Kristol and Juan Williams.

And our Power Player of the Week. Everyone talks about the weather, but he does something about it. All right now on Fox News Sunday .

And good morning again from Fox News in Washington. Let's start with a quick check of the latest headlines. The death of Army Ranger Pat Tillman, the former pro football star who quit sports to fight in the war on terror, will now be the subject of a criminal investigation.

Tillman was fighting in Afghanistan. The Army first said he was killed by the enemy, then later by accidental friendly fire.

Two London newspapers report this morning all U.S. and British troops will be pulled out of Iraq by early next year. According to the reports, the presence of foreign troops has become an obstacle to peace. More on this and the Tillman story in a moment.

And before dawn today, President Bush and the first lady returned to the White House from a three-nation overseas trip. The president said stops in Afghanistan, India and Pakistan helped enhance U.S. security.

And we're joined now by the chairman of the Joint Chiefs of Staff, General Peter Pace.

General, welcome back to Fox News Sunday .

PACE: Thank you, Chris.

WALLACE: What can you tell us about the decision to launch a criminal investigation into the death of Pat Tillman?

PACE: Well, first of all, for the Tillman family -- they've already been through a very, very long ordeal on this, and any additional pain to them is regretted.

But I think it's important to chase every single possibility, and the inspector generals have decided there's one more step to take, and they're going to do that to make sure that the entire picture is painted clearly and accurately so the family can have as much information as possible.

WALLACE: What's the difference between accidental friendly fire and negligent homicide?

PACE: That would be up to the lawyers, but as I understand what they want to make sure is that the individuals who fired their weapons were firing at a time when it was logical for them to be firing their weapons and not indiscriminately firing their weapons.

WALLACE: This will be -- and you talk about the pain for the Tillman family. This will be the fifth formal investigation into Pat Tillman's death. His family says they believe that there has been a cover-up.

Do you agree, at the very least, that this case has been mishandled? And what assurances can you give the Tillman family about this investigation?

PACE: I think every step of the way that the folks who have been responsible for investigating it have been trying to do the right thing, but, as we should be doing, we review the investigations. They go up the chain of command. Folks look at them to make sure they have complete information. If there's not complete information, they send it back.

In this case, it's unfortunate that it has to be looked at again, but I'm satisfied that it is being looked at again, because if one of the reviewing officials decided that there was something that had to be looked at, we should do that.

WALLACE: And your assurances to the Tillman family?

PACE: My assurances are that we will continue to look into this matter in great detail until we assure ourselves and them that all the facts have been looked at. WALLACE: President Bush is

set to meet this week with top military commanders, including yourself, to review the situation in Iraq. First of all, what about this British newspaper report that all U.S. troops will be out of Iraq within a year?

PACE: They're not true. We're going to do exactly what we said we're going to do, which is to make the assessments of situations on the ground.

The commanders in theater will make their recommendations up the chain of command, and that will eventually get through the secretary of defense to the president for decisions about U.S. troop levels.

WALLACE: Is it fair to say that the spike in sectarian violence and the failure to form a new Iraqi government make it harder to pull our troops out?

PACE: No, I think that the response of the yet-forming Iraqi government to this most recent attack on the sacred mosque shows great promise for the future.

Here you have a government that's not even fully formed yet. They're facing a terrorist act of a magnitude that you can't even imagine, that they would take on a sacred facility like that, and the police and the security forces and the government itself responds pretty well.

So I think that the Iraqi people -- Kurds, Shia, Sunni -- walked up to the abyss, took the look in, didn't like what they saw, have pulled together, have pulled back from violence, and are working together to keep things calm and to find the right mix for their own government.

WALLACE: You talk about the government. The fact is it's coming up on three months since they held that election to create a permanent national assembly. They still don't have a government.

Has the failure of Iraqi politicians to come together and create a government destabilized the military situation, the security situation, in Iraq?

PACE: No, not at all. The Iraqi security forces are performing extremely well. Their army, their police are doing extremely well. The fact that it's taking a while for that government to form -- you have many, many different groups that need to be represented in a fair and representative government. They're working hard at it.

Democracy is not clean, not easy, but they're working real hard, and that government, when it does form, will have the support of a much improved and improving military.

WALLACE: You talk about security forces performing well. There have been reports -- one -- that in some cases the Iraqi police allowed some of these militias in the street to go ahead and get engaged in revenge killings. And there's also been concern, as you know, for some period of time about infiltration, particularly of the police, by some of these Iraqi militias. Is that not a concern?

PACE: It is a concern. On balance, the Iraqi army and the Iraqi police have done extremely well, certainly compared to their capacities a year ago, they are way better than they were.

But the fact is that there are still elements -- there are still militias that are performing outside the bounds of government control, and we need -- we, meaning they, the Iraqi government -- need to get it under control.

WALLACE: What about this question of sectarian violence? Is it part of our mission there for U.S. soldiers to be put in the position of protecting some Iraqis from other Iraqis?

PACE: I don't think we need to do that. Certainly, if U.S. armed forces see violence, one group on another, they're going to step in and stop it.

But right now the Iraqi army has over 100 battalions that are in the field. The Iraqi police have over 30 battalions that are in the field. There's plenty of Iraqi security forces to do the work that needs to be done to maintain peace between Iraqis.

WALLACE: Let's turn, if we may, to the broader war on terror. During his surprise visit to Afghanistan this week, President Bush flatly predicted that Bin Laden and his gang will be either captured or killed. Here it is.

(BEGIN VIDEO CLIP)

BUSH: It's not a matter of if they're captured and brought to justice, it's when they're brought to justice.

(END VIDEO CLIP)

WALLACE: General, after more than four years of hunting for Bin Laden, is that just rhetoric, or are you really getting closer?

PACE: It's not rhetoric. I could not tell you we're getting closer. I can tell you we continue every day with every resource we have to track down Bin Laden, Zawahiri, Zarqawi, so the president of the United States is saying what is true, which is that we will continue to hunt these folks.

WALLACE: He says it's not a matter of if, it's when. I mean, it's been more than four years, so how can you really say when?

PACE: I can't say when, but I can say it will eventually happen.

WALLACE: Why?

PACE: Why? Because we're going to continue until we find them. WALLACE: U.S. force levels in Afghanistan are set to drop from 19,000 to 16,000 fairly soon. But on the other hand, just this week, the head of the Defense Intelligence Agency told Congress that attacks by the Taliban and other groups surged 20 percent this year and that the Taliban represents a greater threat to the

security of the government of Afghanistan than any time since late 2001. What's the situation there?

PACE: First of all, the current number is about 23,000, because we're going through a swap-out of units. So although it's a 19,000 base, with the units coming and going right now we're up about 23,000.

We will get down to around 16,000 and 17,000 U.S. troops, at the same time that NATO forces are coming in, and the size of the other countries that are there will increase. Clearly, as those forces enter the theater, the Taliban -- we're going to test them. And that's why we think there'll be violence in the future.

But remember, we're talking about small baselines. If there's four attacks in a day and you have a fifth attack, you've had an increase of 20 percent. And that's really the kinds of numbers we're talking about in Afghanistan.

WALLACE: Okay. New subject, the Dubai ports controversy. You say, and you've been saying this a lot in recent days as this has become a controversy, the United Arab Emirates is now a strong ally in the war on terror.

But this week Congressman Duncan Hunter, who, I don't have to tell you, is the chairman of the House Armed Services Committee, said that the deal should be killed and that the UAE has turned a blind eye to the transshipment of nuclear triggers to Pakistan and the shipment of nerve gas components to Iran.

Let's take a look.

(BEGIN VIDEO CLIP)

HUNTER: That's the nature of Dubai. It's a bazaar for terrorist nations to receive prohibited components from sources from the free world and from the non-free world.

(END VIDEO CLIP)

WALLACE: General, is Congressman Hunter wrong?

PACE: Well, I think the policy debate is going to continue in public, and that's outside of my lane. What I can tell you is that military to military, which is where my lane is, that we could not have better cooperation from United Arab Emirates.

They service our ships. They service more of our warships than any other port other than a U.S. port anywhere in the world. They have an air facility that they let us use for all of our needs in the region, specifically, especially, with regard to logistics. There's an air combat range where we're able to practice our combat maneuvers in the air.

Everything we do with the UAE military is very positive, very friendly, very supportive, and they've been very, very good partners.

WALLACE: But, sir, I want to press what Congressman Hunter is saying. He's talking about, in effect, a military and certainly an intelligence issue. He's saying that the UAE allows prohibited components of weapons of mass destruction to go through its ports, and, as he says, turn a blind eye to them. Is that true?

PACE: I do not know if that is true. I only know what I know about the military-to-military relationships, and they're very solid.

WALLACE: If that's true, would that change your judgment about the UAE?

PACE: I would not want to speculate on whether or not it's true, Chris. That would simply muddy the waters in a very, very important dialogue amongst the civilian leadership of this country.

WALLACE: Finally, sir, General Casey, your top commander in Iraq, says this week that he intends to continue the practice of paying for the placement of articles in the Iraqi media.

Two questions. First of all, has the Pentagon approved this, and do you see a contradiction between our efforts to build a free press in Iraq and the Pentagon putting out paid propaganda?

PACE: First of all, as I know the facts, General Casey has an ongoing investigation, and what he decided was that until he sees the final results of that investigation, he will continue to do what he was doing.

Secondly, it's really important, regardless of whether something is legal or not or authorized or not, to ensure that the perception is the correct perception. We do not want to do any damage at all to the correct perception of a free press and a press that is not influenced in a way that's incorrect or wrong. So we need to be very careful about how we do that.

WALLACE: Well, I'm confused, then. If you're concerned about that perception, why not stop the practice until you decide what to do?

PACE: Well, that's General Casey's investigation ongoing. What he knows about, what he's been doing so far, he's comfortable with. I have not seen the final results yet, but collectively, with General Casey, General Abizaid, my recommendation to the secretary of defense, the secretary -- we will determine what the proper functioning of that entity should be.

WALLACE: So you and the entire command of the Pentagon has not decided this issue.

PACE: That's correct. WALLACE: General Pace, we're going to have to leave it there. Once again, thank you so much for coming in. And please come back, sir.

PACE: Chris, thank you for your time, sir.

WALLACE: Up next, the man still in the eye of a political hurricane, Michael Brown, the former director of FEMA. Our exclusive interview with him in a moment.

WALLACE: Joining us now for his first Sunday show interview since Hurricane Katrina, the former director of FEMA, Michael Brown.

Welcome to Fox News Sunday . Thanks for coming in, sir.

BROWN: Thank you, Chris.

WALLACE: Let's start with the big picture. As you look back over last August, how do you assess responsibility for what went wrong? How big a percentage was the federal government's fault and how much of the blame do you apportion to the state and local level?

BROWN: Well, we have to remember in this country the primary responsibility is for state and local governments. FEMA and the federal government come in only in a catastrophe and only at the request of the governor to assist them.

WALLACE: So if you're going to say a percentage for federal, state and local for the responsibility for what went wrong, how would you assign it?

BROWN: Seventy percent state and local, 30 percent federal.

WALLACE: The most immediate problem, I think everybody would agree, was the failure to evacuate the city in the first place. We've all seen those pictures of the school...

BROWN: Right.

WALLACE: ... buses out in the parking lot. Here they are partially submerged. Why didn't they get used to get people out of New Orleans?

BROWN: To this day, I don't know. I mean, I literally called the president on Saturday and Sunday and said Mr. President, you've got to call Nagin and Blanco and through persuasive powers get them to do that mandatory evacuation. And when they...

WALLACE: And did he do that?

BROWN: He did do that. And when you think about the mayor saying well, I can get 90 percent of the people out, that still means 57,000 people are still stranded, people that cannot get out and people that wouldn't get out.

WALLACE: Let's talk about the federal role and the tapes that everybody has seen this week that has put Katrina back in the news. Sunday, August 28th, the day before the hurricane hits, you're on a video conference with the president and other key officials, and here is what he says.

(BEGIN VIDEO CLIP)

BUSH: I want to assure the folks at the state level that we are fully prepared to not only help you during the storm, but we will move in whatever resources and assets we have at our disposal after the storm.

(END VIDEO CLIP)

WALLACE: In fact, was the federal government fully prepared, as the president said?

BROWN: I don't think we were, Chris. I think that we had dropped the ball long before Katrina hit in not doing the kind of catastrophic disaster planning that the federal government should have been doing. That's where we dropped the ball.

WALLACE: So why did the president say they were fully prepared?

BROWN: Well, because I think the president was right in the sense that we were going to move every asset we could into New Orleans and Mississippi, into that 90,000 square mile area to help everybody.

WALLACE: In that same conference, the secretary of homeland security, Michael Chertoff, says -- and let's put it up -- If there is anything you need from the Coast Guard or any other components that you're not getting, please let us know. And you respond, I appreciate it. The Coast Guard and other DHS agencies have been incredibly good to us.

Sounds like you had what you needed.

BROWN: I did. And in fact, we always had cooperation from both the Coast Guard and all the other components of DHS, and I want to say on air, too, particularly from the Department of Defense. Secretary Rumsfeld and Secretary England had always advised me that I could get anything I needed.

WALLACE: So I mean, I guess the big question everybody asks is if you had all these assets -- this is the day before the storm hits -- why didn't they get to the people who needed them until Thursday or Friday or even later that week?

BROWN: Because I don't think that we realized -- I don't think the entire government apparatus realized what I knew in my gut on Saturday and Sunday, that this would be a catastrophic disaster of biblical proportions, beyond anything this country had faced before.

WALLACE: Well, why didn't they? I mean, that's your job as the head of FEMA. You're on these conferences. And you know, the tapes show you were sounding the alarm on Sunday, the day before the storm hit.

BROWN: Correct.

WALLACE: Why didn't they know and why didn't they then act in those first days?

BROWN: I don't know. And that's one of the things that I think we need to go back and find out, because I was sounding those alarm bells, and to this day I'm incredibly frustrated that we didn't move and could not move things faster.

WALLACE: All right. Secretary Chertoff says you were a big part of the problem, that on Tuesday, the first day after the storm, that you were out of touch. Let's watch.

(BEGIN VIDEO CLIP)

MICHAEL CHERTOFF, DHS SECRETARY: I heard that he was flying around with governors and other people, that he was thinking about a T.V. appearance. And I gave him a very clear message: Job one is to get this thing done. Sit in the operation center. Get with the relevant managers. Make sure you are taking care of all of these issues.

(END VIDEO CLIP)

WALLACE: I understand your wanting to get out and to get a firsthand view of what was going on, but doesn't it make sense that you should have been in the operations center coordinating things?

BROWN: Absolutely not. And in fact, that's not how FEMA's operated in its entire history. Every FEMA director is in the field with the troops making sure they have what they need and cutting through that red tape.

I think Secretary Chertoff's order for me to stay in Baton Rouge was one of the tipping points that caused this disaster to be even worse.

WALLACE: But let's take a look at what happened on that date. This is Tuesday. It's the crucial day. It's the first day after the storm. It's not till late Monday that you even know that the levees have been breached.

You spent that day on helicopter tours of Louisiana and of Mississippi, and here's what you had to say about problems you were having staying in touch. Let's watch.

(BEGIN VIDEO CLIP)

BROWN: We were having horrible cell phone problems making connections, and I was on two helicopters. I was on a helicopter with Governor Blanco in which we couldn't make contact, and then there was a time when I had flown MilAir to Mississippi to visit with Governor Barbour and my team in Mississippi, and we had a hard time making contact there.

(END VIDEO CLIP)

WALLACE: Is that really where you needed to be, on helicopters and, by your own admission, having trouble staying in touch?

BROWN: We had trouble staying in touch, but we stayed in touch. If you go back and look at my cell phone logs, I had constant communication with both the White House and with Chertoff and DHS throughout those two-day periods. It wasn't easy, but we had contact.

And I'd correct another misperception. We knew about the levees breaking at approximately 1:49, 2 o'clock that afternoon.

WALLACE: On Monday.

BROWN: On Monday. And so that's why we were out trying to find out everything going on, so we could move assets where they were needed.

WALLACE: But one of the big complaints, sir, is that you were holding things up. You had said that you knew about the hundreds of people stranded in the convention center on Wednesday of that week.

And yet according to the Senate investigation, it wasn't until Friday, two days later, that FEMA actually ordered food and water to get to those people. Why the two-day hold-up?

BROWN: And that's incorrect, and I think the Senate is absolutely wrong. The minute that we learned about those people in the convention center, we immediately started ordering supplies in there.

The problem was we made the orders to get things there. It was actually physically getting them there, because the FEMA logistics system by that point was not doing as well as it should have done.

WALLACE: Why not? I mean, again, you know, the media was there. They're reporting it. They're able to get back and forth, in and out of New Orleans. Why can't the U.S. government, the state government, the local government get food and water and medicine to those people?

BROWN: And I love that premise. You know, the media was able to get one person and a camera crew and a sound guy there, which is easy to do, as opposed to moving literally tons of food and supplies into an area that's flooded.

And you can't go in and just start air-lifting and dropping things in there, even though I tried to get that done. So it's a difference between getting one or two people in there and getting a convoy of supplies in there.

WALLACE: All right. The White House has just completed a review of Katrina, and here is what the president's top homeland security adviser, Fran Townsend, had to say. Let's watch.

(BEGIN VIDEO CLIP)

TOWNSEND: Michael Brown chose not to follow his chain of command. That can't happen again. That has to be very clear.

(END VIDEO CLIP)

WALLACE: Here's, I guess, the question. If, as you say, the secretary of homeland security, Michael Chertoff, was marginalizing FEMA, why wasn't it even more important for you to keep Chertoff and DHS fully in the loop?

BROWN: Because DHS and Chertoff don't provide anything that I need in that disaster. Chertoff can't move one bottle of water. He can't move one MRE.

And for Fran Townsend to now come out and say I wasn't following the chain of command completely belies exactly how we operated from the day this administration came in, from September 11th all the way through the Florida hurricanes in 2004.

I always dealt directly with the White House directly with the president.

WALLACE: But was that okay with Chertoff? Because he says -- and also, frankly, his predecessor, Tom Ridge, says -- you were -- I mean, one of the words that's been used, not by them specifically, is insubordinate. You were doing and end-run around your direct superiors at homeland security and going to the White House the whole time.

BROWN: You know, Tom Ridge was very smart. Tom Ridge knew that in a disaster he need to stay away. And in Florida in 2004, Tom Ridge stayed completely out of my way.

I never had any secretary of homeland security interfere with what my operations were up until Chertoff.

WALLACE: Well, wait. Interfere? I mean, they're your boss.

BROWN: Let me give you an example of what happened in Louisiana. I would give an order for something to happen. And somebody would go talk to Chertoff. And Chertoff would give a different order. And so there was this confusion about who was in charge.

I should have been in charge in there. I should have been making those decisions. And Chertoff should not have been second-guessing those decisions.

WALLACE: Did the White House know that you were doing an end-run around Chertoff during Hurricane Katrina, and did they, in effect, say that's fine with them, you can cut him out?

BROWN: Well, they continued to take my phone calls and they continued to talk to me about what I needed and what they could do to help me.

WALLACE: So how do you explain Fran Townsend saying that you didn't report up the chain of command?

BROWN: I think this is after the fact, trying to find an excuse.

WALLACE: You have said that calling Chertoff was a waste of time.

BROWN: Correct.

WALLACE: I want to put up some of the e-mails that you were sending at this same time. Let's take a look. August 29, the day the storm hit. Michael Brown to FEMA staff. If you'll look at my lovely FEMA attire, you'll really vomit. I am a fashion god.

August 30th, the day after the storm. Michael Brown to your assistant. Do you know of anyone who dog-sits? Bethany has backed out and Tamara is looking. If you know of any responsible kids, let me know.

And you can't take the time to call Secretary Chertoff?

BROWN: But I did call Secretary Chertoff. If you look -- again, if you look at my phone call logs, I kept that man in the loop. I have records showing that I called him and he called me.

But I think the other thing, Chris, is people like to take those e-mails and make fun of those. Those e-mails are no different than a heart surgeon who's in the middle of an open heart surgery moving a heart and saying hey, guys, do you want to play basketball? It's a little bit of levity. It's trying to bring some humor to keep the troops moving.

But for someone to come back now and say I didn't keep Chertoff in the loop -- I didn't...

WALLACE: Well, it's not somebody. Chertoff says you didn't keep him in the loop, and here's Fran Townsend saying you didn't keep Chertoff in the loop.

BROWN: And once again they are being disingenuous and they're still looking for a fall guy, because if you go back and look at the phone records, there is a constant chain of communication between me and Chertoff throughout the disaster.

WALLACE: Finally, and perhaps most important, from what you hear about all the changes the administration has made, all of this lesson learned report, the investigations by the Senate and the House, is the government any better prepared than it was last August 28th to deal with a disaster?

BROWN: Chris, I think we're worse off. If you look at what's happening in FEMA, they still have -- Chief Paulison is now talking about the hundreds of vacancies they can't fill. There's still this confusion about what FEMA is supposed to do and not do.

The partnerships between FEMA and state and local governments have been broken and will continue to be broken by the path that the secretary is headed down. So I think we're worse off today than we were even before Katrina.

WALLACE: And what about the White House? They just put out this more than 100-page report, lessons learned, big report that Fran Townsend presented to the president. Have they gotten their act together?

BROWN: Not yet. And I think what they need to do is recognize that FEMA -- despite the politics of it, FEMA needs to be pulled out of the Department of Homeland Security because it has a different mission, it has a different culture, and until it's independent, with its own budget and its own relationships with state and local government, it will continue to falter.

WALLACE: Hurricane season starts June 1st. What are you saying to the people of America?

BROWN: I'm telling you that they ought to demand right now that FEMA be pulled out. These people on the Hill ought to pull FEMA out right now, make it independent, and cut out the baloney.

WALLACE: Mr. Brown, we want to thank you so much for coming in.

BROWN: Thank you, Chris.

WALLACE: Up next, how much does the new storm over Hurricane Katrina actually change our understanding of what happened? We'll ask our panel, Brit Hume, Nina Easton, Bill Kristol and Juan Williams.

We'll be right back.

(BEGIN VIDEO CLIP)

BROWN: My gut tells me, I told you guys, my gut was that this is a bad one and a big one.

(END VIDEO CLIP)

WALLACE: That was then FEMA Director Michael Brown on the day before the storm hit, predicting the devastation from Hurricane Katrina.

And it's panel time now for Brit Hume, Washington managing editor of Fox News, and Fox News contributors Nina Easton of The Boston Globe, Bill Kristol of The Weekly Standard, and Juan Williams from National Public Radio.

So, Brit, what, if anything, did we learn this week from these government video conferences about what went wrong on Hurricane Katrina?

HUME: I would say we learned next to nothing. And what the Associated Press, which got all of this started, said we learned turned out not to be true, as the A.P. itself finally acknowledged on Friday evening in a very grudging three-paragraph, quote, clarification.

Basically, the story line that came out of this video, of an event, by the way, which was open -- at least in all relevant portions open to the press, attended by Fox News and other news organizations -- in fact, when you look at the tape of this supposedly confidential video, you see news cameras in the background in a number of the shots.

Well, there were news cameras there much of the time, and what the A.P. claimed we learned was that the president had been warned a day ahead of time that the levees stood a good chance of being breached.

What, in fact, he was warned was that the levees could be topped, and the briefing on that, by the way, also said that all the models predicted that while this was a possibility, that they were predicting that New Orleans would get very little flooding, relatively speaking.

Topping a levee means the water flows over the top. You get some flooding out of that. Breaching a levee means the whole levee gives way and water just comes pouring in, which was what happened in New Orleans.

So he received no such warning. The A.P. couldn't tell the difference between topping and breaching. Much of the rest of the media fell for it hook, line and sinker, forgetting the fact that, you know, it had been covered at the time, and we had, you know, a two or three-day frenzy over something that ended up turning out to be totally bogus.

WALLACE: Nina, the reason this became an issue -- and let's put up the quote from the president -- is on September 1st, in an interview, when obviously the blame game was going on, he said, I don't think anybody anticipated the breach of the levees.

Now, as Brit points out, in fact, A.P. got it wrong. He was warned in that August 28th briefing that the levees might be topped, not breached. On the other hand, the next day Brownie says -- Michael Brown -- that he had been talking to the president and there had been some discussion of breaches.

How big a deal is this?

EASTON: Well, it's clear from Michael Brown that he thought this was going to be a catastrophic event. I mean, if you listen to those tapes...

HUME: Well, everybody said that at that time.

EASTON: That's right. And I think one thing -- if you put all the pieces together, it's clear that Michael Brown is good at sounding alarms. He sounded alarms about what would happen to FEMA if it was put in the Department of Homeland Security. There's lots of e-mail traffic now that shows that way back he issued those warnings.

He issued warnings about this hurricane coming. What I think he probably wasn't good on is follow-through. And you saw that not just -- you know, you've got the White House playing the blame game with him, but let's step back and look at the House committee.

The Republican House committee that investigated this blamed Mayor Nagin and the governor, Kathleen Blanco, for not evacuating. They should have evacuated. They got the call to evacuate 56 hours before landfall. The hurricane center was warning them. They didn't issue evacuation orders until 19 hours before the landfall.

But the same committee also criticized FEMA for not engaging in emergency activities that weekend, before landfall, and I think, again, when you look at some of the video from this that was released, old as it may be, it does show that there's a sort of passivity.

There wasn't somebody taking a leadership role and saying look, this is an emergency, you go do that, you go do that. There was a sense of briefings going on, but not that sense of let's get something done.

WALLACE: Bill?

KRISTOL: It's striking in retrospect how much damage Katrina did to the Bush administration, I think, politically. I mean, they had had a rough first half of 2005. The Social Security initiative was going nowhere. But other things were going pretty well -- elections in Iraq, et cetera.

Katrina began a series of events -- Harriet Miers' nomination, the Scooter Libby indictment, subsequent events also -- in which the administration has looked defensive, or reactive or less than fully competent.

And now we have a former pretty senior administration official, Mr. Brown, shooting at a current senior administration official, Mr. Chertoff, which is never something an administration wants. I underestimated at the time -- I mean, I've been in government. Government makes mistakes.

I thought this was not a great performance by the federal government, an even worse performance by the state and local governments, but this happens, and you know, it's something that people move on from.

But I think it's become in people's minds an emblem of an administration that just isn't as serious about the competent execution of the functions of government as it should be. And I'm struck talking to conservatives and Republicans. They agree with the president on basic political philosophy. They agree with his basic policy agenda. But they're worried that they just don't seem to be able to execute as well as they should be.

WILLIAMS: You know, I think it's a matter of execution here. I don't think it's a matter of topping or breaching. When the president says -- I don't know that we put this quote up. He says we are fully prepared, which is what he said. I think that he should have had a sense well, there

are all sorts of possibilities of what could happen, do we have the facilities, the people on the ground to protect.

And so I think then it becomes a matter of people questioning competence, as you were saying, Bill. And I think that then people have questions going forward. Now, this morning, when Michael Brown says to you, Chris, that we are not fully prepared for the next time...

WALLACE: No, he says we're worse prepared.

WILLIAMS: Right. Yes. I mean, I think that's the alarm. I mean, if he's sounding alarms -- as Nina says -- if he's good at it, boy, we should listen to that. That's terrible.

I mean, the idea that, you know, we still don't have radio communications, we still don't have cooperation between local and state partners with federal officials -- that's terrible.

And then I don't know about his argument about whether or not FEMA should be removed from Homeland Security. I'm going to just put that off to two big boys having, you know, something in the backyard, Chertoff and Michael Brown.

But I just don't -- what I worry about is the reality, are we prepared for the next time and the possibility that it won't even be a natural disaster. You talked about hurricane season. But it could be a terror attack.

HUME: I think that there will never be a time when this government at all its levels or any other government will be prepared to do what anybody will think is a satisfactory job of responding to anything of the proportions that Hurricane Katrina was.

It was, as Michael Brown described it, of biblical proportions. And you know, that's -- it's just simply not going to be tidy. If one of these storms hits again somewhere, no matter how prepared or what your plans are, you're going to have a hell of a mess.

And there will be all kinds of finger-pointing, owing somewhat to the expectation that government can really quickly remedy a situation like that. Government can't when it's that big.

WILLIAMS: But shouldn't we practice...

HUME: It never will be able to.

WILLIAMS: Shouldn't there be practice? Shouldn't we be saying let's put more people on the ground, let's look at what the 9/11 Commission said, let's get the radios to communicate?

HUME: All of those things are being tried and, doubtless, things can be improved at the margins. But when it's this big and this bad, as we saw, government doesn't respond well and I don't think it ever will.

Now, you look at what happened in Florida, where you had a better prepared -- a smaller storm, but a bad one.

WILLIAMS: And the president's brother.

HUME: Well, you also had a better prepared state government and a better prepared local government. Now, Florida had had more recent experience. They'd gotten very good about the evacuations and very effective with them. And they did a better job.

But Florida didn't get hit with anything as big as Katrina. If it had, it would still be a terrible mess.

WALLACE: Nina, I want to pick up on something that Bill said, and that is the political damage to this administration that began with Katrina. The Democrats immediately pounced on this, called for an independent investigation. Can they continue to get political mileage on Katrina?

EASTON: Yes, I think Katrina is the gift that keeps on giving for the Democrats, absolutely. And I think the president did suffer from this. He doesn't want to be an ambulance chaser, as he saw Bill Clinton being, somebody who goes in after post riots in Los Angeles and so forth and wants to be there feeling everybody's pain.

On the other hand, he went off -- after Katrina hit, he went to San Diego. He went back to Texas. He gave speeches on other topics before he came back to Washington, before he ended up back on the ground on the Gulf, and that hurt.

WALLACE: All right. We're going to have to take a break here. But when we come back, the president takes another hit in the polls from the ports controversy. What's his strategy for bouncing back? The panel weighs in right after this.

(COMMERCIAL BREAK)

WALLACE: On this day in 1956, the U.S. Supreme Court voted 9-0 in Brown v. Board of Education to ban segregation in public schools. It was a landmark in the nation's civil rights movement.

Stay tuned for more from our panel and our Power Player of the Week.

HUNTER: I intend to do everything I can do to kill the deal.

(END VIDEO CLIP)

(BEGIN VIDEO CLIP)

REID: We don't need 45 days to review this. We don't need 45 seconds. This is a bad deal for the American people.

(END VIDEO CLIP)

WALLACE: That was just part of the bipartisan bashing that continued this week over the Dubai Ports World deal.

And we're back now with Brit, Nina, Bill and Juan. Well, it's clear, at least for now, that the decision by Dubai Ports World to call for this 45-day national security review has not stopped the political bleeding, and we have a new poll now from Fox News/Opinion Dynamics. Let's take a look at that.

The president's job approval rating has now dropped to 39 percent. His rating is now minus 15. Last month it was just at minus three. And when asked which party they trust more to protect the country, people still picked Republicans by a five-point margin, but in January they led by 13 points.

Brit, how much of this do you attribute to the ports controversy?

HUME: I think a lot. I think it's proved to be a surprisingly enduring and damaging political issue for the administration. And I mean, it clearly sneaked up on them. Somebody should have said you know, this is easy to demagogue, and it is really easy to demagogue them, and it's just as juicy as it can be, because it looks so awful on paper -- you know, Arabs controlling ports.

Well, they don't really control them, and all the details get lost in the argument. And the media, of course, being the media, have not been in any great hurry to correct the misimpressions created by political figures, and they make a fair share of their own.

I heard on one of the cable channels, not our own, the other day someone saying that this company was taking over port security. Not true. But the other thing is that on Capitol Hill, you have a very restive Republican population up there, and this president is not running again, and he is approaching lame duck status. Too early to say that, that he's there, but he's getting there.

And the Republicans are quite eager for opportunities to declare their independence. This was an easy one, and a lot of them did.

WALLACE: Yes, let me ask you about that, Nina, because we continue to see erosion this week from Republicans, I guess most famously, as we mentioned with General Pace, the chairman of the House Armed Services Committee, Duncan Hunter, who said I'm going to kill the deal, the UAE is dangerous.

Do you think at this point now that this deal is really in jeopardy?

EASTON: I think it could be. There's another poll -- you mentioned the Fox poll. There's a poll going around in Democratic circles which is showing -- it's causing some amount of glee -- it's the James Carville/Stan Greenberg poll -- because it is showing that there is a surge of Bush loyalists leaving the Bush camp and moving into the Democratic camp.

In white rural areas, Bush is losing supporters. Why? Because I think there is this convergence of this anti-immigrant sensibility and the Dubai deal. So you can replace Dubai sheiks with illegal immigrants.

And Duncan Hunter has been out front on the immigration issue as well. I mean, he's been -- he's not only been fighting illegal immigration, he also supports reductions in legal immigration. So I do think that this is the whole -- you put these two pieces together, and it becomes a real political danger for the president.

KRISTOL: I don't think Bush loyalists are moving to the Democratic camp. I think they may stay home, and these new polls are bad. The generic congressional ballot, whom do you intend to vote for, Republican or Democrat, is now, in the latest Fox poll, plus 14 Democrat, having been at the plus 11 or plus nine in the last two polls.

WALLACE: Well, let me actually put up a poll. We've got one right here. We asked about the November congressional election and which would be better for the country. Forty-five percent said if Democrats win. Thirty-one percent sided with Republicans. So go ahead.

KRISTOL: Right, and the next question is who do you intend to..

WALLACE: Who you're going to vote for.

KRISTOL: ... vote for, and it's 48-34. In 2002, the last off- year election where Republicans did well, won a narrow majority in both bodies, that number was about even through almost all of 2002, never went more than plus or minus... WALLACE: Even in 1994...

KRISTOL: ... five.

WALLACE: ... when we had the big Republican, you know, Contract with America, the Republicans just before the election only led, I think, by, I don't know, three points or six points or something.

KRISTOL: Right.

WALLACE: I mean, we're talking here about 14 points.

KRISTOL: It's a big number. There has been no ideological change in the country. That's what strikes me if you look into these polls. People have not become liberal overnight. They don't believe in tax hikes. The don't believe in dovish foreign policy. They don't believe in liberal judges.

A certain number of Republicans and conservatives have lost confidence in the Bush administration and have lost confidence in the Republican leadership in Congress, and they're going to stay home as of right now. Some of them will stay home in November. And as of right now, Republicans will lose the House.

WALLACE: Do you really think they might lose the House?

KRISTOL: Oh, yes. If this generic number holds up, Republicans will certainly lose the House.

WILLIAMS: Oh, come on. I'm sick of all this Bush bashing, Chris.

(LAUGHTER)

WALLACE: I can tell that you've had enough of that.

WILLIAMS: I'm tired of this. Let me just say this. First and foremost, I think that if you're thinking about how the president could react to this, you've got to see a president who's saying wait a second, you know, I'm going to be steadfast on the Dubai ports deal, I've got to handle national security issues and relationships with the Arab world.

Americans understand it, but I don't think it's come home, and I think a lot of the fear-mongering that Republicans have been engaged in in the past to exploit the terror issue is now coming back to bite them. I think that's part of it.

But secondly, I don't think they're going to lose the House, because I don't think most people are going to run on national issues. If you talk to Republicans and talk to Republicans in charge of these congressional races, they talk about localizing these elections.

And here's the big point. Democrats don't have some alternative strategy on Iraq that says oh, this is how we should deal with Iraq, this is an exit strategy, this is the way we should deal -- the democrats are vacuous on this point. Bill, I don't know if you noticed this from the Republican perspective...

WALLACE: This really is too much for me to handle.

KRISTOL: Vacuous opposition parties can win control of Congress if one party is in charge of the presidency and Congress, and if voters of that party, supporters of that party, get sufficiently disillusioned to stay home. And that is the danger in November.

WILLIAMS: Well, the danger...

KRISTOL: The Democrats don't need -- in all honesty, the Democrats should keep quiet. They don't need a positive program. Every time they talk, they hurt themselves. They should be quiet and let Michael Brown attack Michael Chertoff, and let Duncan Hunter attack…

WILLIAMS: Right.

KRISTOL: ... President Bush. And the Republicans are doing plenty of damage to themselves.

WILLIAMS: Well, I think you can anticipate the White House is going to rebound. While they're coming up with new ideas, they'll go back to your one in the pocket every time, more tax cuts, more tax cuts, right?

They'll talk about school vouchers, and religion and abortion, and that's how they'll come back. But it comes to the war in Iraq. When it comes to terror, there's trouble.

WALLACE: Brit, where do you stand? I mean, my whole universe has been rocked here.

HUME: Well, I would only add this, that straight-line projections very rarely play out in politics. This is March. Election's a long way off. A lot will happen. It could get worse for the president. But it also could very well get better, and a lot better.

Remember, there's some underlying things that are in his favor, chief among them the economy, which is doing very well indeed. It is normally the key issue in the election. You say well, then, gee, how can he be in so much trouble. And when you get down to it, yes, Katrina didn't help, and the continued reminders of it don't help.

But at the end of the day, if the situation improves in Iraq, and it may well, I think that the atmosphere will change in his favor, and that doesn't mean there will be a big Republican landslide, but they probably can hold on to the House and Senate, probably.

WILLIAMS: But you notice that on Iraq, most Americans think now it's going to be civil war.

WALLACE: We're going to have to leave it there. Thank you all, panel. That's it for today. See you next week. I just can't stand everybody taking different positions here. Time now for some mail about our interview with Massachusetts governor and potential presidential candidate Mitt Romney.

Charles H. Young III from Nevada writes, Your question about Mr. Romney's Mormon faith were answered evasively. He's clearly a flip- flopper when it comes to the question of abortion.

But Sandy Stewart from Arizona had a different view. Mr. Romney has integrity. Ted Kenney and Hillary Clinton have absolutely none. I'll take his devotion and quality of character over theirs any day.

Be sure to let us know your thoughts by e-mailing us at fnsfoxnews.com. Up next, our Power Player of the Week.

(COMMERCIAL BREAK)

WALLACE: It was a friend of Mark Twain who famously said everyone talks about the weather but nobody does anything about it. Well, Twain and his pal never met our Power Player of the Week.

(BEGIN VIDEOTAPE)

JOHNSON: Our job is to provide that information that allows us to save lives and property. It's literally the difference between life and death.

WALLACE: General David Johnson is head of the National Weather Service, 4,700 people working in 122 forecast offices across the nation telling Americans everything from whether to take an umbrella to whether to evacuate. And even then, they stay on the job.

JOHNSON: In Slidell, with Hurricane Katrina coming ashore, people stayed in the weather forecast office and continued to issue those forecasts.

WALLACE: A forecast station looks a lot less complicated than we expected. Armed with Doppler radar and satellite images, the lead forecaster sits at a bank of computers.

JOHNSON: He's looking at precipitation, he's looking at winds, he's looking at the satellite shot and trying to figure out the best, most accurate forecast that he can provide.

WALLACE: And Johnson emphasizes for all the gizmos, the forecaster still makes a lot of judgment calls, calls that he says are constantly getting more accurate -- for instance, tornadoes.

JOHNSON: Our lead times have grown from about six minutes to about 13 minutes on average for all tornadoes across the country.

WALLACE: Meaning you know 13 minutes ahead of time it's going to hit here?

JOHNSON: And we issue that warning out to the public.

WALLACE: They've also gotten better at tracking hurricanes. The weather service can say today within 100 miles where a hurricane will be 48 hours from now. Two thousand five was the worst year on record for hurricanes. And Johnson says the storms may stay bad for a while.

JOHNSON: This is a cyclical thing, and since about 1995 we have been above average and we anticipate that we will stay above average for another decade or so.

WALLACE: Is there global warming? Is the weather warmer than it was 20 years ago?

JOHNSON: That's a scientific fact, that you can see that the ice cap is reduced and that the temperatures are getting warmer overall.

WALLACE: But he says you can't draw a link between the warming and more dangerous storms.

Johnson spent three decades in the Air Force.

JOHNSON: I flew airplanes in the Air Force and was a consumer of weather information for about 27 years.

WALLACE: Then he became the Air Force director of weather, looking for ways to exploit this country's technological advantage.

JOHNSON: Perfect weather for me was undercast, raining cats and dogs and a moonless night. That's the weather I looked for, because I didn't want my airplane shot.

WALLACE: But now Johnson's customers are the public. And like any weatherman, he knows how demanding they can be.

Do you take it personally when the National Weather Service makes a mistake?

JOHNSON: You bet. And I think every weather forecast office out there does, too.

(END VIDEOTAPE)

WALLACE: If you're wondering about this year's hurricanes, Johnson says the National Weather Service will issue its annual forecast on May 16th, just before hurricane season officially starts in June.

And that's it for today. Have a great week and we'll see you next Fox News Sunday .

CBS – FACE THE NATION

SCHIEFFER: Today on Face the Nation three issues: The situation in Iraq, the Iranian nuclear program and the ports controversy.

Are U.S. troops in Iraq making the situation worse? That is what Congressman Jack Murtha believes even though the U.S. commander in Iraq says the current crisis has passed. What would happen if U.S. troops left?

Iran is threatening to speed up its nuclear program. What should the U.S. do? And what about that port arrangement? These are the questions for Congressman Murtha, Democrat of Pennsylvania, and the chairman of the Senate Foreign Relations Committee, Richard Lugar, Republican of Indiana.

I'll have a final word on the Katrina tapes.

But first Iraq again on Face the Nation.

Good morning again. Joining us in the studio, Congressman John Murtha. Of course, he is an ex-Marine. He was wounded in Vietnam. He was a hawk on Iraq.

But then last November, he said it is time to bring the troops home, and it rekindled a debate, made it even fiercer.

Congressman Murtha, thank you for coming this morning. And I want to start by quoting something that General Peter Pace, the chairman of the Joint Chiefs of Staff, said this morning on Meet the Press.

He said he believes the war in Iraq is going, in his words, very, very well. What is your assessment?

MURTHA: Well, would I believe him? I mean, that administration -- this administration, including the president, have mischaracterized this war for the last two years.

They first of all -- they said it will take 40,000 troops to settle this thing right after the invasion.

Then they said there's no insurgency. They're dead-enders is what the secretary of defense said.

On and on and on with mischaracterization of the war. They said there's nuclear weapons. There was no nuclear weapons there; there were no biological weapons, no Al Qaida connections.

So why would I believe the chairman of the Joint Chiefs when he says things are going well?

I ask my staff -- when my staff -- when they make a statement like this, I say, look, look in the latest report to the State Department puts out, the weekly report and tell me how much progress we've made.

So they look at it. And we've made no progress at all. Sixty percent unemployment. The Iraqis want us out of there, 80 percent of the Iraqis want us out of there. Oil production below pre-war level. Water production, only 30 percent of the people are getting water.

Now our troops are being fed well and being taken care of. They're doing everything they can do militarily, but they're in a situation where they're caught in a civil war.

And there's two participants fighting for survival and fighting for supremacy inside that country. And that's my definition of a civil war.

So I don't believe the secretary. I think we're not making progress. We're caught in a civil war. We've lost almost 20,000 people in this war, if you count the casualties, and the people who have been killed in the three years we've been involved.

SCHIEFFER: Now, I'm going to make sure I understand. I mean, I think I understand what you're saying. But you're talking about a Marine, and here you are an ex-Marine. This is a military man. This is not somebody, some civilian out there at the Pentagon.

You're saying you no longer believe what Marine General Peter Pace says when he says he thinks things are going well.

MURTHA: That's exactly right. Why would I believe him with all the misstatements and mischaracterizations they've made over the last two years?

And the public is way ahead of what's going on in Washington. They no longer believe. The troops themselves, 70 percent of the troops said we want to come home within a year.

The only solution to this is to redeploy.

Let me tell you, the only people who want us in Iraq is Iran and Al Qaida.

And I've talked to a top-level commander the other day, about two weeks ago. And he said China wants us there also. Why? Because we're depleting our resources, our physical -- our mental, not our mental, our troop resources and our fiscal resources.

SCHIEFFER: Well, now, Congressman, when you say Al Qaida wants us there, why would Al Qaida want us there?

MURTHA: Because we're depleting our resources, very small proportion of what's going on in Iraq.

And they've diverted their attention away from the war on terrorism. The war on terrorism is worldwide.

In Iraq it's a civil war.

And we have diverted ourselves away from that war on terrorism. We're spending our resources, and we're caught in a civil war which are mostly Iraqis.

Al Qaida is a very small proportion of the number of people fighting in Iraq. Iraq will take care of this themselves.

One of the problems I see and one of the frustrating things is our ambassador keeps giving advice to the Iraqis. Every time we give them advice, they vote for somebody else. Chalabi gets 1 percent of the vote; he was our guy. He was a Defense Department guy. Allawi, who was a State Department guy, he got 8 percent of the vote.

Then I asked Director Negroponte the other day, I says, how come he only got 8 percent of the vote. Well, he's a good man. Well, that's not a point.

The Iraqis don't pay attention to our advice. Eighty percent of them want us out of there; 47 percent say it's justified to kill Americans.

So we're caught in a civil war, and I'm convinced that we've diverted ourselves away from the fight on terrorism.

SCHIEFFER: But let me just ask you this, because you have said before, and I believe this is a direct quote. You say only 750 to 1,000 terrorists are in Iraq, and that Iraqis will kill or force them out if we leave. Why would it be easier for them to do that if we leave than if we stay?

MURTHA: Well, when I say terrorists, I'm saying al Qaida.

SCHIEFFER: Al Qaida.

MURTHA: They're using terrorist tactics. The Iraqis are using terrorist tactics. But I'm convinced they know where they are. They know who they are. But they won't tell us because they've turned against us. We've lost the hearts and minds of the people. I said on the floor of the House when the first supplemental came up, the $87 billion.

The most important part of that supplemental was the reconstruction. We had to win the hearts and minds of the people. We had to get water supplied. We had to get unemployment down. We had to do all the things, electricity. Now, we've got generators. Our troops have air conditioning in -- not the troops in the field, but the commanders and so forth. So they used to sit in their air-conditioned places, and they have good food and they're well -- the Iraqis know this. And as they see the casualties, they start to turn against us.

Our troops are doing everything they can. I go to the hospitals all the time. I've seen for a year the morale was starting to deteriorate because they don't believe there's a mission. It's open-ended. There's no point to them being there because there -- when they go out, what's your mission, I'll say to them after I question them for a while, talk to them. And they say, well, my mission was to find IEDs, and that means the way they find them was blow them up and lose a leg or lose an arm or be blinded, as I saw the other day, or lose both his hands, like I saw one.

SCHIEFFER: Congressman, why do you think that the Iraqis are having such a difficult time training their people? We keep being told that we've got to get this force trained up. How long does it take the Marines to make a Marine out of a recruit? What, 16 weeks?

MURTHA: Well, it takes about 16 weeks, but then you go into the training of the units themselves. So I'd say it would take a year. We suggested to them, we said to this administration two years ago, you got to start training Iraqis. They didn't do it seriously until a year ago, and now they went from one unit being trained to no units being trained.

So, you know, the thing is, the rhetoric is so frustrating. When they keep making statements which are very optimistic, and then it turns out to be the opposite. And the public has caught on to that, and they're very pessimistic about the outcome.

SCHIEFFER: What do you sense that the Republicans in Congress want to happen here?

MURTHA: Well, it's interesting. A lot of Democrats say to me, you know, you're helping the Republicans because if they start to get out, if they get a schedule and a timetable to get out, which I think they need to do, it will help the Republicans. So, they may not say it privately, but they understand how serious this is.

When you have the public against it, when you have the troops against what we're doing, when you have the people in Iraq against it, when you have the periphery against what we're doing, you have to understand that it's going to have a dramatic impact on the outcome of the election. I think right now I'd predict there's going to be a big turnover in Congress because people are so dissatisfied with a lot of things. They way they've handled and mishandled the war, Katrina, and of course, natural gas prices, the Medicare problem, all those things are -- just like it did in '94.

SCHIEFFER: Congressman, where do you come down on this whole controversy over whether an Arab country should be allowed to operate key ports in this country?

MURTHA: Well, that's an interesting thing. Roosevelt said, President Roosevelt said the only thing you have to fear is fear itself when he talked about World War II, when World War II started. These guys have used fear as a club. These guys have used fear as a club, and so then they wonder why the American people would react so viscerally when they talk about letting the Arabs take over the ports. It's no surprise to me. Now, you know...

SCHIEFFER: You think they should be allowed to take them over?

MURTHA: Well, I have mixed feelings about it. I really haven't seen enough about it. I mean, my initial reaction was against it. But I says, let me take a look at it before I can make up my mind. Dubai has been a good ally.

But I tell you I'd have to vote against it right now. I'd have to say that with all the concerns I have about security at the ports, which is not the best in the world that -- I'm not sure I'd like Dubai taking over the ports.

SCHIEFFER: Let me ask you also about this statement by Iran this morning. The Iranian government says that if this whole situation about whether or not they can produce, enrich uranium goes to the United Nations, they're just going to speed up the process, which is what the west says is another step toward building a nuclear weapon. What should we be doing about Iran right now?

MURTHA: Let me tell you, Bob, that's the problem we have. One of the reasons I spoke out after trying to do this privately, and for years and years I've done everything behind the scenes, tried not to speak publicly about many of these things, trying to give advice to the president, but here we have a situation where our military is in such bad shape, it couldn't deploy to a second front.

And the Iranians know this. This is not something I'm telling Iranians. North Korea knows it; China knows it.

We're depleting our resources in Iraq, which is a civil war. We should redeploy out of there and redo the Army, redo our military so that we can prevent a war on a second front, so we can say to Iran, look, fellows, you have to be very careful about what you do because we can use military force.

SCHIEFFER: But I guess the one thing that worries me about it, if we just left, isn't it going to send a signal that they're going to take this to mean that they defeated us and won't that just give them...won't their morale go up and cause them to try us in another place, perhaps here?

MURTHA: I know that's the common theory because that's the fear that they try to sell to the American people. I don't see that at all. There was no terrorism in Iraq before at all.

The Iraqis have to settle this themselves. This is in the a we thing. This is a them thing. They have a government now and they have to settle this.

No matter how complicated it is, they have to sit down, figure out what needs to be done and settle this civil war themselves. There will be some fighting. But the Al Qaida, the thing that we're worried about worldwide, the threat we're worried about in the United States, will disappear because the Iraqis do not like them.

It's just that they put up with them because we've become occupiers and we've united everybody against us.

SCHIEFFER: Congressman John Murtha, who says it's not a we thing but a them thing.

We'll be back with in a moment with the Republican view of all of this.

(COMMERCIAL BREAK)

SCHIEFFER: And, with us now, Senator Richard Lugar. He is, of course, the chairman of the Senate Foreign Relations Committee.

Senator, thank you very much for coming. Two points of view this morning: General Peter Pace, the chairman of the Joint Chiefs says, in his words, things are going, quote, very, very well in Iraq.

And then you just heard Congressman John Murtha say, we're in the midst of a civil war; we need to get out of there. Where do you come down?

LUGAR: Well, we are not certain yet whether it's civil war but it could be. The question really is whether Iraqis want to be Iraqis as opposed to Sunnis, Shiites and Kurds. And that hasn't been decided. We're on the cusp of the decision. When President Talabani was a Kurd that said that he doesn't like the idea of Mr. Jaafari and the current prime minister, a Shiite continuing, that Kurds and Sunnis want to have somebody else in that role and they want to bring the parliament, which, after all, was elected last December 15, into play, but you can't do that until you have the leadership and a Cabinet, this is a period of decision right immediately ahead of us.

If they don't make it, then the possibilities are that Sunnis will fight Shiites. Kurds would like to be left out of the whole picture altogether, but they're unlikely to escape. And the oil resources which, ideally, could be shared in the 18 provinces are not going to be shared.

And so, therefore, whether it's civil war or not, there's an internal conflict there that doesn't get to Iraq. It gets you to sects that continue to fight that have been suppressed by kings, by Saddam now have a chance to really make it on their own.

SCHIEFFER: But I take it you do not agree with General Pace that things are going very, very well, from what I just heard you say. Would that be...

LUGAR: Well, General Pace is correct that the training has gone reasonably well, and that was shown in the suppression of the fighting that occurred in the last couple of weeks. Now, some would say it's an a different success, some places did better than others. But nevertheless, substantial presence of an Iraqi government managing to bring things under control.

I think he's correct in the sense that, after all, there still is the hope for democracy, still a hope for a unified Iraq. That is important, because the absence of that we would have to examine also.

In other words, it's all well and good to suggest that the Iraqis want this or that, but the people are not thinking as Iraqis. They're thinking as sects, or as particular parts of Iraq. And in that kind of a turmoil, we're back into the war against terror in a big way, with an incubator for difficulty.

SCHIEFFER: Well, do you think that the administration -- and General Pace is part of that -- is giving us the straight story on what's going on there? Because it seems to me that they play down the bad news and have from the very beginning.

LUGAR: Well, it's certainly not emphasized. We've tried to, at least in a modest way in our office, to send out nine letters. I've sent covers with some of the materials Congressman Murtha mentioned, the March 1 report, which talks about oil. It talks about the problems of electricity not going on in lots of parts of the country, and the educational process, the commerce.

These are serious issues, which have to be a part of the discussion.

The heart of the matter, obviously for most Americans, is people are being killed, people dying, Iraqis and Americans. How are we going to bring order? Is there a desire for order on the part of the parties involved, and if there is not, what then is our strategy if Iraqis decide they don't want to be Iraqis?

SCHIEFFER: Well, that just brings me to my next question. What should we be doing here? I mean, Congressman Murtha just said it's not a we problem; it's a them problem. But we, it seems to me, have to decide where we go from here. Do we keep committing troops to this? Do we bring them home? Do we put them out to the side? Where should the United States be right now? What should we be doing?

LUGAR: President Talabani asked assurance from our military commanders this week that we would be with them during this critical period of time. The answer has to be yes. It can't be equivocal. Otherwise, the thing really does fall apart.

I think that's important. Talabani, the president of the country. And they're talking about putting their act together.

Now, the fact is that they may or may not be successful, but we better hope that they are, because the consequences for our country and the war against terror are very fateful if they are not.

SCHIEFFER: So -- so what you're saying is that we can't -- we can't draw down our troops at this time.

LUGAR: Not at this time.

SCHIEFFER: No?

LUGAR: No.

SCHIEFFER: The president is getting ready to meet with his commanders and they had been talking about reducing the troop levels.

LUGAR: Yes.

SCHIEFFER: You think no longer can we think about that.

LUGAR: No, I think we will be thinking about that. And I would not be at all surprised if the president and the troop commanders discussed various phases of withdrawal, but this is provided that this government comes into being, that the parliament meets, that the armed forces are able to suppress the dissidents. In other words, without our help, with us in the background. Those are the consequences at least of what we're looking at.

SCHIEFFER: But you don't think there are going to be any troop withdrawals in the immediate future.

LUGAR: Well, not in the next couple of weeks. I think it's been broadly discussed ever since some troops left, as I recall, after the December 15th election, that that was very possible, and the rotations might not occur in quite the same frame.

SCHIEFFER: Well, Congressman Murtha just said that some Republicans tell him privately that he's really helping them, because this war is very unpopular, and if he does bring pressure and they do begin to draw down these troops, it will help the Republicans in the coming election.

What's your sense of where Republicans are on this? Do they want troops out? Do they want to keep them there? I'm not asking you what you think.

LUGAR: Yes, yes... (CROSSTALK)

LUGAR: ... general support in the Republican ranks for the president and for the troops as they stand. I would say that very clearly, everybody reads polls. They have not been going well for

Republicans, for the administration, for the Congress. But I think likewise, most people who are in that sort of a game would say in the event that Iraq does actually form a democracy, in the event our economy strengthens, for example, in the event several things happen, then politics is a very fickle business. The polls then trickle up, and people say that was statesmanship at that point.

SCHIEFFER: It sort of sounds like my golf game. If I can hit that next shot just right, then I'm suddenly a good player. But there's a lot of things...

LUGAR: There's a lot of similarities.

SCHIEFFER: ... that have to happen here.

LUGAR: Yes.

SCHIEFFER: Let me ask you quickly about Iran. What should we be doing on this, and how serious is this situation?

LUGAR: We should be proceeding as we have been with the three European partners but even in a more concentrated way in diplomacy with Russia and with China and with India.

These are all players for different reasons. The Russians because they offer a potential solution. They could do the centrifuge technology in Russia, and the Iranians would not have to develop that. They could be the beneficiaries of nuclear energy.

Much the same sort of issue and fact that the president was discussing with the Indians in his visit. The provision of nuclear materials so they can do peaceful work.

Now at the same time the Chinese and the Russians and the Indians have a strategic interest in the country. The Chinese and the Indians because they're negotiating large billion-dollar multi-year deals for Iranian gas and oil.

To the extent that there are alternatives like nuclear energy, then perhaps they are not so intense with this.

And finally, some people in the United Nations, as we take a look at the security council, will have to decide is it important that there not be further nuclear weapons in the Middle East given all the volatile situations we're already discussed in Iraq, but we could discuss in Lebanon, in Jordan, in the Israeli-Palestinian problem across the board.

SCHIEFFER: Let me ask you quickly about the ports deal. Do you think it's wise to go forward with that?

LUGAR: I think it's wise to have the 45 days of examination, of two or three things, one of which is this procedure within the administration, not well-known to Congress, not very well-

briefed, probably reasonably well done in this particular case, likewise the relationship with Dubai and that's important to talk about.

And finally, port security. This is what Americans are genuinely interested in. Do we have control of our ports and how does anybody owning the operations affect that?

SCHIEFFER: All right. Senator, thank you so much for being with us this morning. Back with a final word in just a minute.

(COMMERCIAL BREAK)

SCHIEFFER: Finally today, I am glad that Washington and the rest of the nation got to see those tapes of government videoconferences, which showed that government officials from the top down were warned that Hurricane Katrina held a potential for catastrophe, yet managed to do virtually nothing but watch it happen.

But didn't we know that already, that the huge bureaucracy cobbled together after 9/11 was a monumental flop?

That political hacks performed like political hacks? Yes, it was a disgrace. But after two days in New Orleans this week, I am convinced that we have to stop the tape and go live. The people of New Orleans I talked to feel abandoned by government at every level, and forgotten by the rest of the country.

But their worry is about now. What happens next? Are the levees really going to hold the next time? Will they ever collect on their flood insurance? Will they ever get their schools open again? Only 20 of more than 120 are open now.

As government bureaucracies and Congress wrangle over who's to blame for last time, there is still no real plan about what to do the next time. What we do know is that the next hurricane season is less than three months away. Sheriff Jack Stephens of nearby St. Bernard Parish, whose entire 140-person deputy force is now living in trailers, told me the other night, No one knows what will happen if we get another big one. We're hanging on by our fingernails.

Can't we stop the tape recorder just long enough to think about that?

That's it for us. We'll see you next week, right here on Face the Nation.

CNN – LATE EDITION

WOLF BLITZER, HOST: It's 11 p.m. -- it's 8 p.m. here in Dubai, 11 a.m. back in Washington, 8 a.m. in Los Angeles, 7 p.m. in Baghdad. Wherever you're watching from around the world, thanks very much for joining us for this special "Late Edition" live from Dubai. We'll get to my interview with the CEO of Dubai Ports, an exclusive interview. We'll get to that in just a moment. First, though, let's get a quick check of what's in the news right now.

(NEWSBREAK)

BLITZER: Thanks very much, Fred, for that. The United Arab Emirates is a federation of seven independent states, including Dubai. It's been a longstanding ally of the United States in this part of the world. But there has been an uproar in recent weeks over a proposed deal that would allow Dubai Ports World to purchase a British company and run six major port operations in the United States.

Earlier today, I went to the headquarters of Dubai Ports World here in Dubai and spoke with the CEO, the chief executive officer, Mohammed Sharaf. We have this exclusive interview, an interview you will see only here on CNN.

(BEGIN VIDEOTAPE)

BLITZER: Mohammed Sharaf, thanks very much for joining us. Good to be here in Dubai. You realize now you're in the middle of a firestorm back in the United States. Our most recent CNN/USA Today/Gallup poll asked the American public if they support this deal. Sixty-six percent said they oppose it. Only 17 percent thought it was a good idea. Do you understand why people in the U.S. don't like this deal?

MOHAMMED SHARAF, DUBAI PORTS WORLD CEO: Well, Wolf, thank you very much for having me on your show here. We are an international terminal operator. We operate in five continents of the world. We are recognized as the best in the industry.

Obviously, the American people have an issue. We would like to know that and rectify if there are any security measures that we need to take and we have not taken it yet. But we are very confident that we have met and will meet all the requirements.

BLITZER: Well, let's talk about some of the criticisms that have been leveled, and I'm anxious to get your explanation. One of the criticisms that has been leveled is that security is not good. Duncan Hunter, the chairman of the house armed services committee, said, "Dubai can't be trusted. The people who will sell or allow a transshipment of anything to anyone, those people shouldn't be in charge of our ports."

SHARAF: Well, again, we are operating everywhere in the world, and transshipment is one of the core businesses that we handle, whether it is in Dubai or it's in Romania or it's in (inaudible) the Dominican Republic. And all the authorities are comfortable with the security measures that we take.

Plus, the security measures are not only the responsibility of the port operator. It is also the authorities, whether they are the custom authorities or the coast guard, whether it's in the U.S. or it's in the Middle East or it's in Africa or it's in Europe.

BLITZER: Now, how can you assure the American public that if this deal goes through the ports of Baltimore and Miami, New York, New Jersey, New Orleans -- these are some of the major

ports in the United States -- that terrorists won't come in, infiltrate through you, DP World, and create havoc at these ports?

SHARAF: I would say number one, we are ISPS-approved terminal operator.

BLITZER: What does that mean?

SHARAF: That means International Standards for the Port Security. So we are approved by the international organization. We are approved by the U.S. authority to come into the U.S. I would say, look at our credentials in different ports around the world, whether it's in Korea, it's in China, it's in Europe.

We are dealing with each and every authority in each and every country. And we abide by countries' law and the international terminal operator security measures we take. What better way to have a terminal operator who export your goods from China to U.S.? We are in China. Goods are being exported from China to U.S.

Goods are being operated from Korea to U.S. And goods are being exported from Europe to U.S., and we are in all those facilities. So I would say that we meet all those requirements as far as the security is concerned.

BLITZER: There was a former maritime head under the first President Bush, the first George Bush, who said this the other day, referring to what's going on here in Dubai. And we're at this facility right now, and we've had an extensive tour of what you guys are doing.

But Warren Leback says, "The security in the ports is very lax, as we all know. In an ordinary container, you could put a dirty bomb with a GPS or a cell phone and set it off in the middle of a city. If the United Arab Emirates decides they are clandestinely supporting terrorists, they could put pressure on personnel to look the other way on the containers." SHARAF: I would say that it's easier to say than done. Any container which is loaded on a ship, the ship owner must know what's inside that box. They would not load it until they are satisfied what's inside it, because they have an obligation toward the terminals or the ports they're calling at.

They need to advise the authorities what's inside that. If they don't know what's inside that, they will not take it. Simple as that. Now, for us to say that OK, United Arab Emirates, that's a sovereign issue. We as a terminal operator, we don't get involved in loading boxes.

BLITZER: What percentage of the containers here in Dubai are actually physically inspected?

SHARAF: That, I don't have the real figure. I think the customs people would be the right people...

BLITZER: The UAE customs people.

SHARAF: UAE customs, yes. They would be the right people to tell you what percentage.

BLITZER: You do have, one of your customers here is the United States Navy.

SHARAF: Yes, we do.

BLITZER: In fact, right behind me, not that far away. And they're a regular customer of yours.

SHARAF: Yes. They're not our customers only here, they are our customers in Djibouti, where we have built a purpose-built tank farm for them. They are customers in Germany. They use our facilities in Germersheim. So we treat them as a commercial customer of ours, and we take all the measures with them, the security measures that they require.

BLITZER: Joseph King, who is former head of U.S. customs involved in terrorism issues in New York, said this. He said, "Once this company," referring to DP World, "gets control of ports, they will be able to get a certain number of employees into the U.S. legally on work visas. Once people are in the country, it is much easier to establish sleeper cells. The people who pulled off 9/11 and who made the first attack on the World Trade Center in 1993 also had legitimate visas."

What kind of controls would there be on workers coming into the United States representing DP World in terms of background checks, in terms of making sure that these are not al Qaida operatives?

SHARAF: Well, I would say that number one, there's a misconception about port operators. Port operators don't control the security of the port. Any personnel coming in to work in U.S. will have to go through U.S. immigration, will have to go through U.S. security authorities, and then only they can come in and work. BLITZER: But if you recommend them and you're operating these ports, they would have a tremendous advantage in getting in.

SHARAF: We are an international company. We have all nationalities. We have Americans working with us, we have British people working for us, we have Rumanian people working for us. And yes, we have UAE nationals working with us.

So as an international company we have all nationalities, and all of them have to go through security measures, whether they're working here or anywhere else.

BLITZER: The White House press secretary, Scott McClellan, says that you've made some concessions, you've made some agreements to bolster security. He says, "One thing that is key is that this company agree to additional security measures that they will take beyond what some others do in transactions like this."

SHARAF: Yes we do.

BLITZER: Do you know what he's referring to?

SHARAF: Yes, yes...

BLITZER: What is he referring to?

SHARAF: What we have said is basically that within the 45 days we will not interfere in the running of the terminals in the U.S....

BLITZER: This 45-day investigation...

SHARAF: Yes.

BLITZER: ... that is about to begin?

SHARAF: Yes. And within that 45 days and later on if they would require, we would also go through all the security measures as far as personnel are concerned.

Meanwhile, we keep the personnel who are there today, who have been operating in the U.S. satisfactorily. They're mainly U.S. citizens and British citizens.

BLITZER: So you'd be willing to cooperate with the U.S. Government...

SHARAF: Definitely.

BLITZER: ... whatever they want, you'd be willing to say, DP World, from your perspective as a businessman, you'd be willing to cooperate?

SHARAF: Of course, because you see, it's unlikely for us to comfortably operate in an environment where the authorities don't have confidence in you. So first thing, we have to create that confidence, make them understand that what sort of operation we run around the world and what sort of operation we're going to be running in U.S.

BLITZER: There's been some suggestion that perhaps you should bring in some American subsidiaries or some American partners to work with you in Miami or Baltimore or New York and these six ports that you want to take over, at least the operations. Is that something you're considering doing?

SHARAF: We already have American partners there. As part of the P&O acquisition, they already have U.S. Partners. So the question of bringing more U.S. partners does not arise.

BLITZER: You don't need any more American partners?

SHARAF: No, we do have. And again, as partners we have them -- we consider the port authority as our partner because we need to work very closely with them because their security is our security. Our security is theirs.

BLITZER: Another argument that has been made against this deal is that the United Arab Emirates participates, supports the economic boycott of Israel, which is a close ally of the United States. What do you say about that, because you're owned by the United Arab Emirates?

SHARAF: I'm a commercial arm of the government-owned company. I don't get into that issues of boycott. But what I can say is that those issues are today a minor issue. Today we are dealing with Israeli companies here, like you know yourself, Zim. They call at our ports.

BLITZER: That's the major Israeli shipping company?

SHARAF: Yes, and they're the largest.

BLITZER: Are they allowed to come here to Dubai?

SHARAF: Yes, they call here in Dubai regularly, and they have the services coming into Dubai. They call at our other ports.

BLITZER: Are these having the name Zim or are they subsidiaries of Zim?

SHARAF: Some combination of all. We had Zim ships here with Zim boxes. We have the Gold Star Shipping Line call here regularly...

BLITZER: Which is a subsidiary of Zim.

SHARAF: Yes, yes. So on commercial basis as a commercial operator we don't get into those issues. Those are more of the politicians. They have to decide on the bigger picture, basically, they want to lift that boycott or not.

BLITZER: So as far as you're concerned you would be happy to deal with Israelis and deal with Israeli companies?

SHARAF: I'm doing that today, around the world.

BLITZER: No problem?

SHARAF: No problem.

BLITZER: And the government doesn't have a complaint about that?

SHARAF: No.

BLITZER: What about this other issue that has come up, that the opposition is the result of anti-Arab discrimination? Do you feel that?

SHARAF: I would say that we need to clarify to the American people, I think, again, it's a misunderstanding or misconception of us as DP World, what sort of an operator we are. We need to clarify that.

We need to educate the people in America that we are truly a global company, and it is not in our best interest to get into those areas where we feel or our customer feels that security is an issue.

We have customers whose vessels call at our terminals, which cost hundreds of millions. Not only the vessel, the goods on them cost hundreds of millions of dollars. If they don't have any confidence in our operation, they would not bring their ship to our terminals.

Each ship has up to 9,000, 10,000 containers on that. Can you imagine, each container costs -- the value of each container is around $100,000. What's the value of the total ship? Would they bring their ship to our terminals if they don't feel secured or safe? Never.

BLITZER: This is a really important deal for DP World, almost $7 billion. If it doesn't go through, what are the ramifications?

SHARAF: Well, as far as we are concerned, the deal is going to go through, and the British -- the government has approved it. We're just waiting for next week to conclude the deal.

There are big consequences for the British market if it doesn't go through because investors are waiting for the money. The deal has been made. The management, the board of the port, the company has approved the deal. The government has approved the deal. The matter is basically waiting for the money to be transferred to the investors. If they don't, big losses are going to be there for the investors.

BLITZER: We have to leave it there. Thanks very much for joining us.

SHARAF: Thank you very much. Thank you.

BLITZER: Mohammed Sharaf, a 1985 graduate of the University of Arizona in Tucson, now the CEO of Dubai Ports World. He gave us an exclusive tour of the facility earlier today. Much more of that coming up here on "Late Edition," as well as tomorrow in "The Situation Room," we'll be reporting live from Dubai.

Just ahead on this special "Late Edition," is international oversight of U.S. port operations a problem? Is it a risk for the United States? We'll hear from one outspoken critic, a very different perspective. Democratic Senator Chuck Schumer of New York. He's standing by live.

And later, more from Dubai. My conversation with a top minister, the minister of economy and planning, Shaikha Lubna al-Qasimi.

And later gauging the war on terror from Afghanistan to Iraq. We'll talk with Nato supreme allied commander, General James Jones.

Our special "Late Edition" from Dubai continues right after this.

BLITZER: Our web question of the week asks this: "How much of a threat would the sale of ports to Dubai really pose to U.S. security? A major threat, a minor threat, or not a threat at all?" Cast your vote, go to cnn.com/lateedition. We'll have the results at the end of this program.

Straight ahead: a critical view of this entire Dubai Ports World deal. New York Senator Chuck Schumer standing by live. You're watching a special "Late Edition" live from Dubai.

BLITZER: Welcome back to our special "Late Edition."

I'm live in Dubai in the United Arab Emirates. Many lawmakers, Democrats and Republicans, in the Senate and the House of Representatives, strongly concerned about this proposed deal that would allow Dubai Ports World to take control of operations at 6 major ports in the United States.

One of them, leading the opposition, is Democratic Senator Chuck Schumer of New York. He's joining us now live from New York. Senator Schumer, thanks for joining us on "Late Edition."

You just heard the CEO of Dubai Ports World make the case that this is one of the most reputable port operators in the world, a strong commitment to security. Did he reassure you that this deal should now go forward?

SEN. CHARLES SCHUMER (D), NEW YORK: No, not at all. In fact, I was a little bit disturbed by some of the interview. Obviously, he's a businessman. He knows the economics of his business.

But when it came to security, he knew virtually little. He didn't know the percentage of containers that are inspected in Dubai. Even though that might be the Dubai government's responsibility, you'd think the CEO of the company would know it.

He had very little idea of what kind of security checks were done in Dubai for potential employees who would get visas and come to the United States or, for that matter, security checks of people who worked at Dubai Ports World facilities in Dubai itself.

And I think it shows you that this deal was an economic deal. It was structured economically. It was approved by the CFIUS committee here in the United States, more or less on an economic basis.

And security concerns, which ought to be paramount, seem to take a back seat. No, I was disturbed by the interview.

BLITZER: (OFF-MIKE) customs, U.S. law enforcement. The port operators, basically -- they take these containers, they put them on the ships, they take them off the ships, and that's their major responsibility.

SCHUMER: Well, wolf, that's a far cry from what we're told by experts, some of the experts that you quoted.

But I've talked, for instance, to the Port Authority of New York and New Jersey, which is the government entity that runs our ports.

They say the terminal operators have a lot of say in security. They're responsible for controlling the perimeters. They're responsible for the employees. They're responsible for the cargo manifests going to the Coast Guard.

So, for instance, if you were to -- if you were a terrorist and you were to infiltrate one of these organizations, you could do untold damage.

Furthermore, many of the containers are not completely locked and tamperproof by a GPS system, which is something that ought to occur.

It is just poppycock that the port terminal operator has nothing to do with security. I know some pundits have latched on to that. Talk to anyone who knows about ports. They have a lot to do with security.

Are they the only people in charge of security? Absolutely not. And United States local authorities and federal authorities have real say and haven't been doing enough, frankly, particularly at the federal level.

But the port terminal operator has a great deal to do with security. And anyone who says otherwise doesn't know the business, hasn't talked to on-the-ground people.

BLITZER: Dubai Ports World now says they're willing to go through this 45-day review process to make sure that, from the U.S. national security perspective, this deal is worthwhile.

The Bush administration has begun that process, or will begin it within the next few days.

Do you believe this is going to be a real national security review, or is it simply going through the motions? SCHUMER: Well, there's a real worry that this review will be a rubber stamp. After all, it's the same people who went through it before. They are being required, under the 45-day review, to talk to many more people.

I was just shocked to learn, in their preliminary 30-day review, they didn't talk to any port operator, like the Port Authority of New York and New Jersey, when they went through that review.

Now they'll talk to them. So that's good.

But I have to tell you, wolf, there is a great deal of dubiousness about how thorough this review will be, how careful it will be, and, most of all, how independent it will be.

And that's why a group, bipartisan, ten senators, five Democrats, five Republicans, just sent a letter on Friday to both Senator Frist and Senator Reid saying, it's great to have the 45-day review, but we need a few other things: first, to make sure that the review is independent and thorough; second, to have the report, the full report, sent to the Congress so that we can review it, and then a redacted report, non-classified, to be made public; and, finally, to give the Congress

the opportunity to disapprove the deal because the president, in sort of an Alice-like Wonderland way has said, well, he's for this.

It's sort of first the verdict, then the trial. We need an independent -- both review and affirmation or disapproval that this is going to keep us safe.

BLITZER: Are you suggesting, Senator Schumer, that you have not yet made up your mind, that you're willing to go into this 45-day period with an open mind and that, under certain circumstances, you would support Dubai Ports World taking over operational control of these six ports of the United States?

SCHUMER: I'm very dubious of Ports Dubai World taking this over given the country's nexus with terrorism.

I've been made more dubious today by the interview where, you know, Mr. Sharif, the head of Dubai Ports World, didn't know basic security criteria that his company should use, the fact that he said, for instance, that if the deal didn't go through, British investors would be disappointed.

Well, I would say, to him and to everybody else, keeping the United States secure is a far greater concern.

So I'm very dubious of this deal and I want to see the review, but the strong burden of proof is on those who want the deal to go forward, given the country Dubai's nexus with terrorism in the past, not on those of us who say the deal shouldn't.

BLITZER: These six ports were being operated not by a U.S. firm over these years but by a British firm, P&O, which is now being bought by Dubai Ports World. Earlier in the week, I spoke with the Coast Guard admiral who's in charge of port security and I had this exchange. Listen to what he said.

(BEGIN VIDEO CLIP)

BLITZER; Can you assure the American public that the threat level will not increase as a result of this Dubai firm taking over the British firm's operations?

REAR ADM. CRAIG BONE: Yes. I can tell you that the measures that we put into place will assure that.

(END VIDEO CLIP)

BLITZER: Admiral Craig Bone.

You don't necessarily consider that to be the final word, his assurance to the American public?

SCHUMER: No, I don't, Wolf. And the reason is very simple, and that is that we don't know how thoroughly the Coast Guard explored this.

The initial report that the Coast Guard made in the CFIUS committee said, we have no way of knowing whether they're secure or not. And then it was overruled by the higher-ups. And no one knows why. No one knows who influenced that.

We've asked that. And I think that's one of the things I want to know, in terms of this 45-day review, why initial people who said, either don't do it or we don't have enough knowledge to approve or disapprove were overruled so quickly and so quietly.

If you go ahead and take a look at this deal down the road, Senator, are you among those who are suggesting now that only Americans should be operating ports in the United States?

Because you know, the American port operators basically went out of this business some 20, 30 years ago, and about 80 percent of all port operations right now are handled by foreign firms.

You know, we've sort of backed into this situation where ports are operated by foreign companies. And I suppose, before 9/11, it didn't make much of a difference.

One of the great problems is that this administration did no review after 9/11 to determine whether that should stay. After all, Wolf, we do not allow foreign companies or foreign countries to operate our airports, mainly for security reasons.

Why, then, do we allow them to operate our ports? I don't know if the answer -- if there's a definitive answer to that question yet, but it's certainly something that ought to be explored and asked.

So I think we need a whole review as to who should be operating our ports. And, having said that, the United States government, Washington, the administration, hasn't done enough on port security in general, no matter who operates our ports.

It's a disgrace that five percent of the containers are inspected, no more. It's a disgrace that we don't have nuclear detection devices at every port.

I've been talking about this since a few months after 9/11. And the only good thing that will come out of this sorry episode, however it comes out, is that there probably will be a lot more focus on the ports, as there should be, and secondly, there will be a whole change in the CFIUS process.

The CFIUS process, this secretive committee that approved this, was set up in the late 70s to, almost, provide, if you will, "security cover" to OK economic deals.

And, again, in the post-9/11 world, that doesn't work.

So we need to change the CFIUS process, to overhaul it, to make it more open, to make it more thorough, and to put a greater emphasis on national security. The CFIUS committee in the past

has let economic or diplomatic considerations trump security considerations. That's not good enough post-9/11.

BLITZER: CFIUS stands for the Committee on Foreign Investments in the United States. Senator Schumer, thanks very much for joining us. We'll continue this conversation down the road. Still ahead, we'll shift gears, talk a little bit about what's going on Iraq right now. The former foreign minister Adnan Pachachi, a key Sunni leader, joins us from Baghdad.

And later, we'll have more on the port controversy. I'm here in Dubai. I toured Dubai Ports World earlier today. Stay with "Late Edition." Our special report coming up.

(NEWSBREAK)

BLITZER: Welcome back to "Late Edition." We're reporting live from Dubai today. A bustling economic center in the Middle East now in the middle of a controversy over a port deal back in the United States. Major developments also in Iraq this week, more than 500 Iraqis have died since an attack on a key Shiite mosque on February 22.

Just a short while ago, I spoke with a key Sunni leader in Baghdad, the former Iraqi foreign minister Adnan Pachachi.

(BEGIN VIDEOTAPE)

BLITZER: Adnan Pachachi, thanks very much for joining us here on "Late Edition." Let me get right to the crunch of the matter. Is there a civil war already under way in Iraq?

ADNAN PACHACHI, IRAQI PARLIAMENT MEMBER: No, there is no civil war. There are a lot of tensions and differences, but no civil war. I don't think we'll ever have a civil war in the sense that you had a civil war in Northern Ireland or in Bosnia. I don't think this will happen in Iraq.

BLITZER: Why not? Because the tensions between the Sunnis and the Shia, they seem, at least the images that we're getting on a nearly daily basis, they seem so intense, they seem so ugly. Why don't you think your country could have a civil war?

PACHACHI: Wolf, the tensions are not between the Shia population and the Sunni population. It's really the militias, the armed militias, and certain fanatic groups that are really engaged in most of the acts of violence. But the idea that all the Shias will fight all the Sunnis in Iraq, no, this is not -- it's not a possibility at all.

And anyway, certain measures have already been taken. All the leaders from all sides have taken measures and they have undertaken, really, to defuse the crisis, and not to let this get out of hand.

I think this situation has greatly improved, but not sufficiently. But I think the idea of a civil war is getting further from possibility. But it's very important that we should form a national unity government very soon. I think that will help a great deal in diffusing the crisis, because a

national unity government will include all the political groups represented in the parliament which has just been elected.

And I think this will hopefully improve the security situation.

But efforts are being made to do that, and certain measures have been taken to protect mosques and other places, and to prevent as much as possible the confrontation between the various armed groups.

BLITZER: It seems that many of the Sunni leaders and the Kurdish leaders have lost confidence in the man designated by the dominant Shia political party, Ibrahim Al-Jaafari, to be the prime minister. He has been the prime minister in the interim government. Do you have confidence in Ibrahim Al-Jaafari?

PACHACHI: No, our group, the National Iraqi List, has also sent a letter to the coalition, asking them to review or to reconsider the selection of Dr. Jaafari for the premiership.

And we indicated this is not a personal matter, but we feel that in order to have a government of national unity, the prime minister has to be acceptable to all the components of this government, and he should not be a controversial figure, which unfortunately Dr. Jaafari is.

And we believe that perhaps, somebody else, who will be able to unite people, should be considered for this premiership. BLITZER: We quote from Tareq Al-Hashimi, one of the Iraqi parliament members, who says: "What happened last Wednesday and afterward led us to the conclusion that we cannot tolerate Jaafari for the next four years."

Who would you like? What Shia political leader would you like to see emerge as the next prime minister of Iraq?

PACHACHI: Well, you know, Wolf, I am not going to mention names, obviously, but we have not received a reply yet from the coalition to our request that they should reconsider the selection of Dr. Jaafari.

But of course, awaiting their reply, we'll consult among ourselves the four lists -- the Kurdish Alliance, the Accord List, which you call the Sunni list, ourselves and the (inaudible), which is the Dialogue Council. I think awaiting the reply of the coalition, then we'll be able to decide what to do, and who to support.

BLITZER: But this could...

PACHACHI: We are still waiting...

BLITZER: ... this could take some time...

PACHACHI: ... because I think there are...

BLITZER: ... and clearly, there's no government in the interim. This clearly could take -- let me read to you what Lieutenant General Michael Maples, the director of the U.S. military's Defense Intelligence Agency told a Senate committee this past week. He said: "Sunni Arab elites have little cause to support the rebuilding of Iraq. Many Sunni Arab leaders view the current political solutions as predicated on perpetual minority status in a Shia-Kurd-dominated government." Do you accept that gloomy assessment as far as your fellow Sunnis are concerned?

PACHACHI: No, I -- this is an over simplification. I wouldn't agree with this simplified kind of opinion, really.

We are waiting now -- we hope that the parliament will be convened before the end of this week, and this by itself will be a sign that we are proceeding to implement the constitution and build a democratic system.

It's not a question of Shia and Sunni anymore, really, because, for example, our list has more Shias than Sunnis. And some of them are religious figures. This is also true of the coalition itself. There are of course mostly Shias, but also there are personalities in that -- in that list who have secular tendencies.

So it's not sort of a black-and-white situation where you have Shias and Sunnis on one side, and then Kurds on the other side, or something like that, no.

BLITZER: As far as U.S. troops in Iraq are concerned, there are about 130,000, 135,000 U.S. troops right now. Is that enough? Is it too much? What is your bottom line assessment of the U.S. military presence right now?

PACHACHI: Well, you know, it's interesting that when this situation flared up after the explosions in Samarra, the holy shrines, there were demands from all sides that the coalition -- or rather, the multi-national force -- should play a more active role in the maintenance of law and order, and I think this is the view of most political leaders, even those who have been demanding an early withdrawal of the multi-national force.

They believe that until the Iraqi forces are in a position to undertake the -- to defend the security of the country, there must be some role for the multi-national force. And this is the situation.

And of course, one of the first things that a new government has to do, really, is to disband or to disarm at least the militias, and to reorganize the armed forces in such a way that they will not have any divided loyalties, but they will be a professional force under the sole and only authority of the government, and with no loyalty except that to the state. I think when this happens, then of course the multi-national forces...

BLITZER: As you know, Mr. Pachachi, the Kurdish groups are very loyal to their Peshmerga militia; the Shiites have their own Mehdi militia, among others. Do you see any signs at all, realistically, that anytime in the near future, these militias are going to be disbanded?

PACHACHI: Well, you know, you cannot have a state in which military militias roam around, and then you are going to have a situation similar to that of Afghanistan, warlords in various parts of the country, fighting for authority and for territory.

We have to try to really form a national force, with loyalty only to the state of Iraq, and eventually and gradually, we hope to disarm the militias and to disband them. Because this is what the constitution says. The constitution is very clear that it prohibits armed militias outside the armed forces of the state.

BLITZER: Adnan Pachachi, we have to leave it right there. Thanks very much for joining us on "Late Edition." Good luck to you. Good luck to all the people of Iraq.

PACHACHI: Thank you. It's always a -- always a pleasure to talk to you. Thank you very much.

BLITZER: And coming up, much more on the port controversy. Dubai Ports World seeking to take over port operations at six major ports in the United States. Is this just business as usual for this booming economy here in Dubai, or is something else going on? My special interview with the top cabinet minister in the United Arab Emirates, the economic and planning minister, Shaikha Lubna al-Qasimi.

We'll take a quick break. More from Dubai right after this.

BLITZER: CNN reporters will be "On the Story" coming up after "Late Edition." That begins at 1 p.m. Eastern, 10 a.m. Pacific. And don't forget our web question of the week, How much of a threat would the sale of ports to Dubai be to U.S. security? Major threat, a minor threat, or not a threat. Cast your vote. Go to cnn.com/lateedition. We'll have the results later in our program.

Stay with us. We're live in Dubai. We'll be right back.

BLITZER: I'm Wolf Blitzer in Dubai. We're reporting on the ports controversy back in the United States. Coming up, I'll have a special interview with a top cabinet minister here in the United Arab Emirates. That's coming up. Let's get a quick check of your e-mail on this subject right now.

Mary from Dover writes this, Dover, Delaware: "Once again, the Bush administration proves its disregard for separation of powers by allowing the UAE deal without the proper oversight and without involving Congress."

Alan from Virginia Beach, Virginia, has a different perspective: "This sale to the UAE is for container 'terminals' and not ports. The COO of the company is an American. We already have many foreign companies that own U.S. terminals. The port ownership remains with the city or state. Security will remain with the Coast Guard and U.S. Customs."

We always welcome your comments. Our e-mail address, lateedition@cnn.com. And there's much more coming up from Dubai, more on this port deal, plus my exclusive interview with the

president of Pakistan, General Pervez Musharraf, on this the day after his summit with the president of the United States.

My conversation with President Musharraf, that's coming up. And later, the hunt for Osama bin Laden. What will it take to capture the al Qaida leader? We'll speak with the supreme allied commander of NATO, General James Jones. "Late Edition" live from Dubai continues right at the top of the hour.

BLITZER: This is a special "Late Edition," live from Dubai, an exclusive on the ports controversy.

(BEGIN VIDEO CLIP)

GEORGE W. BUSH, PRESIDENT OF THE UNITED STATES: If there was any doubt in my mind or people in my administration's mind that our ports would be less secure and the American people in danger, this deal wouldn't go forward.

(END VIDEO CLIP)

BLITZER: A controversial deal on U.S. ports puts the spotlight on Dubai. We took an exclusive tour inside the port, and we'll take a closer look at the controversy in a special interview with the United Arab Emirates' minister of economy, Sheikha Lubna al Qasimi.

BLITZER: Welcome back to "Late Edition."

I'm Wolf Blitzer. We're reporting right now from Dubai. Earlier today, I spent time over at Dubai Ports World, had an exclusive tour of the port facility. My interview, coming up, with the economic minister of the United Arab Emirates, an exclusive.

That's coming up, as well as our exclusive with the president of Pakistan, President Musharraf on this day after his summit with President Bush.

First, though, let's get a quick check of what's in the news right now.

(NEWSBREAK)

BLITZER: Thanks very much, Fred. And we'll have much more on the ports controversy here in Dubai, what it means for U.S. ports as a result of a proposed takeover of port operations in six major ports in the United States. That's coming up.

But on this day after the president of the United States met with the president of Pakistan, I had an opportunity earlier today to speak exclusively with President Pervez Musharraf of Pakistan.

(BEGIN VIDEOTAPE)

BLITZER: President Musharraf, thanks very much for joining us. Welcome back to "Late Edition." I know you've been incredibly busy these past few days, receiving the president of the United States.

Were you satisfied with the outcome of your talks with President Bush?

PRES. PERVEZ MUSHARRAF, PAKISTAN: Yes, indeed. I think I'm very satisfied. We developed very close understanding and there was a lot of substance in the interaction.

BLITZER: What about the double standard that seems to be taking place, one standard for India, another standard for Pakistan as far as nuclear weapons are concerned?

You must be somewhat disappointed. Listen to what the president said in Pakistan. Listen to this.

(BEGIN VIDEO CLIP)

GEORGE W. BUSH, PRESIDENT OF THE UNITED STATES: We discussed the civilian nuclear program and I explained that Pakistan and India are different countries with different needs and different histories.

So as we proceed forward, our strategy will take in effect those well-known differences.

(END VIDEO CLIP)

BLITZER: What about that, Mr. President?

MUSHARRAF: I would tend to agree with him. When we are dealing with two countries, the interstate relations have different compunctions (ph); they have different nuances.

The relationship with India, who doesn't know which side it is directed, and the relationship with Pakistan has a totally different nuance.

So, therefore, one really, in interstate relations, countries have to look at each other's interests, the mutuality of interests.

Now, as far as the nuclear side is concerned, Pakistan really does not need much from United States at all.

What we need is nuclear energy. And we discussed that with him. And there was a very positive response from his side. So, our need, vis a vis, with the United States is totally different between -- as far as Indian needs with the United States is concerned.

And I'm a very strong believer that this tendency of being Indocentric in all relations doesn't have a rationale. And I wouldn't like to do that at all.

Pakistan has its interests and United States has its interests in Pakistan. We need to see that and we need to move forward on that track. And I think both of us move forward on the track, wherever there is mutual interest. And we don't have to bother what they are doing with India.

BLITZER: Mr. President, did the issue of A.Q. Khan, your nuclear scientist, whom the United States would like to question, did that come up during your talks with President Bush?

MUSHARRAF: No, it didn't come up during this talk. We already had spoken about it in the past, that we need to have some kind of an interrogation with him, which is mutually in a methodology which satisfied mutual concerns, and we are going forward on that, so there was no need of discussing it.

BLITZER: Let me read to you from an editorial that appeared in "The Washington Post" this past week.

It says this: "General Musharraf has been promising to restore democracy since his coup, yet throughout his years in power, he has sought to suppress Pakistan's secular democratic parties while striking deals with Muslim extremists."

The editorial goes on to say: "His refusal to restore democracy in his country has only made it more unstable."

I wonder if you'd want to respond to that editorial in "The Washington Post."

MUSHARRAF: Yes, I would like to respond very strongly against it. I think "Washington Post" doesn't know what he's -- what they are writing. I don't think they even know what our environment is.

When they are talking of restoring democracy, we have restored sustainable democracy in Pakistan.

What is democracy? I wonder whether "Washington Post" knows it. Democracy is really empowerment of people. We have empowered the people of Pakistan through the local government system, which was nonexistent in the past.

BLITZER: Mr. President, will there be free and fair democratic elections in Pakistan next year?

MUSHARRAF: Yes, surely. I think -- may I be allowed to go back to the question that you asked regarding -- this was regarding "Washington Post" about democracy in Pakistan?

BLITZER: Go ahead.

MUSHARRAF: And I was saying that we have introduced sustainable democracy in Pakistan. We have empowered democracy -- really mean the empowerment of people; we have empowered the people of Pakistan through a local democracy system, local government system, which was nonexistent in Pakistan.

It also means the empowerment of the women of Pakistan, and we have done that for the first time in the history of Pakistan. We have empowered the minorities of Pakistan, and we again, this is the first time that we've given them a joint electorate system, and they have been mainstreamed in the political milieu of Pakistan.

We have liberated the press and media. That is what is democracy, the freedom of speech and expression. Today, the electronic and press media in Pakistan are totally free, and there are dozens of private channels operating, whereas as there was only one in the past.

Then I myself have been elected, allowed to be a (INAUDIBLE) president in uniform through a two-thirds majority in the national assembly.

I hope "Washington Post" knows that that really is democracy. And I am here, holding this post through a very democratic and constitutional method.

I've been allowed, in the constitution of Pakistan, and I'm in the -- I hold two positions through a democratic process of being elected by two-thirds majority.

And ultimately, as far as my uniform issue is concerned, there will be elections in 2007, and I will abide by the constitution. "Washington Post" must know that this is democracy, unless they have some different kind of a version of democracy, which is their own, and I don't understand...

(CROSSTALK)

BLITZER: Mr. President, you will seek reelection, you will seek election next year, you will run. Is that right?

MUSHARRAF: Well, let next year come, and I'll look into that. With so much happening, let's see if the nation needs me. I'll serve the nation, certainly.

BLITZER: What about the hunt for Osama bin Laden? Only this weekend, we've heard from his deputy, Ayman Al-Zawahiri, once again. Are you any closer to having a better sense where these Al Qaida leaders are hiding out?

MUSHARRAF: Well, frankly, I wouldn't be able to say whether we are closer or farther. We don't know where they are.

We are launching our operations on all al Qaeda positions that we come to know, Al Qaeda or Taliban. And in the process, if we can get them, we'll get them.

But we don't exactly know where they are. I presume they're somewhere in the border area, on the Pakistan side or Afghan side. So I wouldn't be able to comment whether we've got any closer to them.

BLITZER: There was this story in the Associated Press the other day. Let me read a headline from it. "President Hamid Karzai of Afghanistan has handed intelligence to Pakistan that indicates Mullah Mohammed Omar, the supreme leader of the Taliban regime ousted by U.S.-led forces and key associates, are hiding in Pakistan. Afghanistan also provided information about the locations of alleged terrorist training camps along the border and in Pakistani cities.

Is that correct? Is that accurate?

MUSHARRAF: That is -- they have given us a list, and I am really surprised and shocked why they have disclosed this to the media.

They have given a list. Now that they have done that, let me answer very frankly. We've already gone through it, this list. Two- thirds of it is months old, and it is outdated, and there is nothing. What there, the telephone numbers that they are talking of, two-thirds of them are dead numbers, and even the CIA knows about it because we are sharing all this information with them.

The location that they are talking of Mullah Omar is nonsense. There's nobody there. We've gone there exactly and seen that there are families living there and there's no sign of Mullah Omar. This also seems to be very, very old information.

And lastly, let me say, why were they waiting for a presidential visit to hand me over this list? What was stopping them from giving this list or sharing these numbers immediately on occurrence? Is that the way intelligence functions? I am totally disappointed with their intelligence, and I feel there is a very, very deliberate attempt to malign Pakistan by some agents, and President Karzai is totally oblivious of what is happening in his own country.

So therefore, I will say he should pull up his intelligence, he should pull up his ministry of defense, he should coordinate with our intelligence, and intelligence coordination means pass the numbers, pass the intelligence immediately, on occurrence. Don't wait for months for a presidential visit to hand over these things.

In any case, now that he has raised this accusation against Pakistan, let me tell you that I passed on a lot of information to him, his own information, what is the conspiracy going on against Pakistan in his ministry of defense and his intelligence setup. He better set that in order before accusing Pakistan on any issue.

BLITZER: It sounds as if, Mr. President, you have a serious problem right now with President Hamid Karzai of Afghanistan. It certainly sounds like there's some tension in this relationship.

MUSHARRAF: Well, unfortunately, it is developing in the last one or two months. There was no tension. It was going on excellent, in an excellent way. Because he knows how he got elected, he knows how much we helped in the election process. If it was not for Pakistan, maybe he and his election would not have taken place smoothly. He knows that, because he's told me personally this.

Now, I know that there is a problem on the border area. There is a problem on the Pakistan side; there is a problem in Afghanistan also. Now, if anybody in the Afghan government throws the entire blame on Pakistan as if nothing is happening in Afghanistan, everyone is here, Mullah Omar is living in Quetta -- I keep going to Quetta so many times. Who is saying that he's living there? This is absolutely nonsense.

So whatever -- if at all he was there, he came in the past, then he should have said, told us exactly when he came so that we would have nabbed him. So this kind of nonsensical accusations are not acceptable.

Now, we know that how these are happening, and I have given this information entirely to him -- the intelligence, not information -- the intelligence, I pass -- when he gave me these numbers, I passed him intelligence on what is happening in his intelligence organization and in the ministry of defense.

He better set that right, because I feel now I am further confirmed that having passed this -- the intelligence that he want (ph), the information that he passed on to us, they leaked it out to the press. There was no need of doing that, because that certainly alerts whatever enemies we are operating against.

There is no need of releasing such sensitive information to the press. And he did that. His government people did that, and therefore the response, the harsh response that I am now giving against that.

BLITZER: President Musharraf, we have to leave it there, unfortunately. We're out of time, but thank you so much for joining us here on "Late Edition."

MUSHARRAF: Thank you very much.

(END VIDEOTAPE)

BLITZER: And coming up, more on the very tense situation in Afghanistan and Pakistan. We'll speak with NATO's supreme allied commander, a four-star general, General James Jones. He's standing by in Washington for NATO's role in this entire operation.

And after that, more on the port controversy back in the United States. My special interview with the economic minister of the United Arab Emirates, Sheikha Lubna al Qasimi.

All that coming up. We're live in Dubai. Stay with us.

BLITZER: There's still time for you to weigh in on our Web Question of the Week: "How much of a threat would the sale of ports to Dubai be to U.S. security?" You can cast your vote, go to cnn.com/lateedition. We'll have the results later this hour.

Straight ahead, President Bush traveled to Afghanistan this week. Where does the military situation in that country stand right now? We'll get a assessment from NATO supreme allied commander, General James Jones. He's standing by.

We're standing by in Dubai. More on the port controversy coming up as well.

You're watching a special "Late Edition" live from Dubai.

(BEGIN VIDEO CLIP)

BUSH: I hope the people of Afghanistan understand democracy takes hold. You're inspiring others.

(END VIDEO CLIP)

BLITZER: President Bush earlier in the week make a surprise stop-over in Afghanistan on his way to India and Pakistan.

Welcome back to our special "Late Edition." We're live in Dubai.

More on the ports controversy coming up, but let's speak to NATO supreme allied commander, General James Jones. He's joining us now live from Washington.

General Jones, as usual, thanks very much for joining us. I assume you just heard that criticism leveled by President Musharraf of Pakistan against the president of Afghanistan, Hamid Karzai. He was not diplomatic; he was very blunt in suggesting that President Karzai is not appreciative active of what Pakistan has been doing for Afghanistan.

I wonder if you'd want to comment since NATO plays such a key role right now in trying to bring some sort of stability to Afghanistan.

GEN. JAMES JONES, NATO SUPREME ALLIED COMMANDER: Well, I wouldn't want to comment on the relationship between two heads of state, but it is certainly a part of the region of the country where we have to find the accommodation of working together. And that has been something I know that General Abizaid and General Eikenberry from the coalition force, the U.S.-led coalition force have been working on, and it's something that NATO will take an increasing interest in as we expand the mission later on this year.

BLITZER: There was an editorial in January in The Washington Post that said this, referring to NATO. Let me read it to you. It said, "NATO has been irrelevant in Iraq and has moved with imperfect unity and uncertain commitment into Afghanistan." Has the situation as far as NATO and Afghanistan improved since that editorial was written on January 9?

JONES: Well, I wouldn't agree with either part of that editorial. Where Afghanistan is concerned, I think NATO has, in fact, since 2003, moved with surprising agility, given the fact

that there are 26 nations that have to agree on everything we do. And it's getting poised to take over the majority of the mission this calendar year in Afghanistan. And that's a real progress.

BLITZER: Afghanistan has been a very, very important part of the U.S. war on terrorism since 9/11. And shortly thereafter, the U.S. went in with its coalition partners and overthrew the Taliban regime there, went after al Qaida.

Take a look at the number of troops, though, killed in Afghanistan: 2003, 57 coalition troops were killed, 2004, 58, but last year, 129 were killed. That doesn't necessarily show the numbers moving in the right direction from the U.S. and coalition perspective. Is the situation in Afghanistan getting more dangerous now for U.S. forces?

JONES: Well, I think you can explain these numbers a couple of ways. One would be to say that as the Afghan national army develops more capacity, it's able to go into more places than ever before. And that's -- the same holds true for the coalition force as well. So, there are fewer hiding places for those who wish us ill in Afghanistan.

And I think, obviously, if you're going to go to more places, and the hiding places are being taken away, then you're going to have a little more of an uptick in violence. I think that the uptick in violence is fairly disparate. I think it's apportioned over the criminal element, the remnants of al Qaida and the Taliban and the narcotic industry, which is very much a part of the economy, unfortunately, of Afghanistan, but it's still fairly disparate.

But I do think we're going to see an uptick in violence in the spring, which is normal. But I don't think that means we have a resurgence or an insurgency that's returning.

BLITZER: There's been some suggestion that the insurgents in the Afghanistan are learning from the insurgents in Iraq in trying to follow that course. Listen to what Lieutenant General Michael Maples, the director of the DIA, the Defense Intelligence Agency, offered in his assessment earlier in the week. Listen to this.

(BEGIN VIDEO CLIP)

LT. GEN. MICHAEL MAPLES, DIRECTOR, DIA: The Taliban-dominated insurgency remains capable and resilient. In 2005, Taliban and other anti-coalition movement groups increased attacks by 20 percent. Insurgents also increased suicide attacks and more than doubled improvised explosive device attacks. We judge that the insurgency appears emboldened by perceived tactical successes and will be active this spring.

(END VIDEO CLIP)

BLITZER: Is it a situation where the insurgents in Afghanistan are copying what the insurgents in Iraq are doing?

JONES: Well, Wolf, I think certainly there's going to be a certain amount of copycat techniques. I would only add to that statement that the percentage increase has to be judged against a

baseline that's pretty low. In other words, if you've only had 20 or 25 attacks, and it goes up 20 percent, that's not statistically very revealing.

And that's really what we're -- that's the baseline we're working against in Afghanistan. There clearly are going to be instances of duplication and imitation. They're going to try everything that they can, because the tide and the times are moving out.

And the Afghan national army is now approaching 30,000 strong. They're a capable army. They're admired by the people. They're out there mixing it up and doing the things that they need to do. The coalition is getting stronger. NATO is going to add about 11,000 troops by the time we're finished building up.

The United States is going to get -- and its coalition friends are going to get a strong, helping hand. I think this is a turning moment for the -- for what's left of the insurgency and also for the criminal element, the narcotic traffickers and all the others who are working on their own, in their own way to destabilize the growth of the Karzai government.

BLITZER: One of the most frustrating parts of this whole operation in Afghanistan is the failure to find Osama bin Laden, his number two, Ayman al Zawahiri, who just released another audio, videotape this weekend. Listen to what the president said when he stopped off in Afghanistan earlier in the week as far as Osama bin Laden is concerned. Listen to this.

(BEGIN VIDEO CLIP)

BUSH: I am confident he will be brought to justice. What's happening is that we got U.S. forces on the hunt for not only bin Laden, but anybody who plots and plans with bin Laden. There are Afghan forces on the hunt for not only bin Laden, but those who plot and plan with him. We've got Pakistan forces on the hunt.

(END VIDEO CLIP)

BLITZER: Without revealing any sensitive or classified information, is there any information that you have that suggests that the president's use of the word confident, that he's confident that Osama bin Laden will be found, is there any new information that's come forward recently to justify that confidence?

JONES: If there is, I'm not sure that I'm aware of it. My NATO mission is obviously to expand our presence in Afghanistan. And it's not in, shall I say, the offensive counter-terrorism mission to participate actively in that hunt.

But I do agree that -- with the president in that ultimately if he's still alive, there's reason to believe that we'll eventually be successful, particularly if we get good working relationships across both sides of the border, which would be, in my view, very important.

BLITZER: Is there a NATO role in dealing with this enormous problem with the poppies, the opium, the drugs that have become so critical to the economic well-being of Afghanistan and causing so much damage outside of Afghanistan?

JONES: Wolf, we all have to be very, very cognizant of the fact that this may be the most important problem the Karzai government faces in terms of restoring the economy and moving it in a positive direction. NATO does not have an active role in the sense that you won't see NATO troops out participating in eradication projects and the like.

But NATO will adopt a more passive role, that is to say, information watching, overwatch, security, and needs to be aware of what's going on in the counter-narcotics campaign. My judgment is that this is really, perhaps, job one starting this year in Afghanistan in order to help the Karzai government and the people of Afghanistan achieve the progress that they both want to achieve in the reconstruction of that country.

BLITZER: General Jones, we're almost out of time. But I wonder if you'd want to comment -- you're a four-star general -- on this U.S. Army investigation that has opened up. At least we learned word of it this weekend thanks to our Pentagon correspondent, Barbara Starr, that Pat Tillman, who left a million-dollar contract, multi-million dollar contract as a professional football player to serve his country and go join the U.S. Army as a ranger and fight in Afghanistan, that there's now an investigation for negligent homicide regarding his friendly- fire death in 2004 in Afghanistan. I wonder if you'd want to offer some perspective on this investigation.

JONES: Well, Wolf, I have no personal knowledge of the circumstances because I work in another part of the world. But simply as a man in uniform, I would say that the most important thing that has to happen in any investigation is that the truth has to come out, and it has to come out emphatically. And I'm quite sure that my colleagues who are working on this are dedicated to finding truth and getting to the bottom of whatever remains to be found out.

BLITZER: General Jones, thanks so much for joining us. Good luck to you. Good luck to all the men and women under your command.

BLITZER: We appreciate your joining us here on "Late Edition."

JONES: Thanks, Wolf.

BLITZER: And a reminder that, coming up right after "Late Edition," CNN presents "On the Story," including senior Pentagon correspondent Jamie McIntyre, who is just back from Afghanistan with the story of General Jones's operation there. More on that coming up.

We're here in Dubai. And we're going to have the latest on the ports controversy, including a special interview with the United Arab Emirates economics minister right after this.

BLITZER: Dubai, here in the United Arab Emirates, considered a model in this part of the world for economic progress. In fact, you drive around Dubai and see the construction that's going on, it is simply amazing. Much more on that coming up tomorrow in "The Situation Room" on CNN.

But joining us now to talk about the economic impact of this country and the ports controversy back in the United States is the economics minister here in the United Arab Emirates, Sheikha Lubna al- Qasimi.

She's also the country's first female cabinet minister.

Sheikha, thank you very much for joining us on "Late Edition."

Let's talk about the port controversy first. You know very well -- you studied in the United States, you go there quite often -- the opposition that has developed over these past few weeks to this Dubai Ports World, a company you used to work for, taking over port operations in six major ports in the United States.

Do you understand the extent of the opposition back in the U.S.?

SHEIKHA LUBNA AL-QASIMI, UAE'S ECONOMICS MINISTER: Yes. I think, in my opinion, this is all about a business deal. This is about global trade. And, when you look at the Dubai Ports World operation within the U.S. as part of a global deal, basically, that has six operating ports in the U.S., there's a perception in the states that it's not correct. When you deal with ports handling of containers, that's ports management. It is not owning the ports. So, it's not about taking over.

BLITZER: But it is taking over -- excuse me for interrupting -- it is taking over the terminals in the United States for this British company, P&O, which had been operating them?

AL-QASIMI: Yes. But what you're doing is you're handling containers. You're not taking over the acquisition of the port itself. And the security impact of this is really more related to security jurisdiction, which is not really the core competence or the work of a port operation.

BLITZER: Well, we did hear Senator Schumer, one of the vocal critics on this program, within the last hour, say that either company, whether it's P&O, the British company that has been operating these ports or Dubai Ports World, which will if this deal goes through, they still will play a significant role in making sure that these ports are secure.

AL-QASIMI: Well, the security of a port operation is basically leaving it in the hands of the right people.

When you have segregation of responsibilities, i.e., basically, security organization that deals with it, there is no impact, because you're talking about a port operation in terms of handling the boxes as they come in.

But most boxes go through certain routines with a procedure there. So, to me, it reflects a lack of understanding about how a port operates.

BLITZER: The American public was asked about this proposed deal. Sixty-six percent opposed it in our CNN-USA Today Gallup poll. Only 17 percent in favor of it.

What do you know that you would like to share with the American public right now to try to reassure them that if this company that's based here in the United Arab Emirates, is owned by the government of Dubai, what would you like them to know that would, perhaps, reassure them if this deal goes through? Because the opposition is Republicans and Democrats, liberals and conservatives. It cuts across partisan lines.

AL-QASIMI: Well, first of all, let's understand this whole issue about Dubai Ports World is really a business deal. In a business deal you reflect foreign investment money that's coming to be invested in the states in various aspects, one of them is the port operation.

Now when you talk about certain developments of investment in the states, always remember that there is an impact on employment to people. The port is not replacing people. The people are actually maintaining the contracts that they had.

But in any foreign investment, for example, when -- for example, if you purchase or you buy American equipment, $1 billion worth of equipment, you're actually generating 10,000 jobs in the U.S. So when you start differentiating a particular business deal and look at it in a political environment and saying this is a deal and this is not, you're implicating environments that has to do with business. And therefore, benefits to the society in totality.

The port itself -- and I want to assure this -- this is not the first ports that they are actually managing. They manage over 20 ports worldwide in all different countries. And it's a world class operation. They are the top -- they are one of the top six so far.

BLITZER: Here is the criticism of the government, and you represent the government of the United Arab Emirates. As you well know, before 9/11, this government, United Arab Emirates, had relations, one of three countries, with the Taliban in Afghanistan, two of the 19 hijackers were from the United Arab Emirates. There were shipments of nuclear material that went through this port to Libya and Iran, and the financial operation that resulted in 9/11, at least a lot of it, went through the UAE, went through Dubai as well. You've heard these criticisms...

AL-QASIMI: Yes, I've heard. Yes, yeah.

BLITZER: ... What's the response?

AL-QASIMI: OK, let's look first in terms of the relationship with the Taliban. Remember the time, at that time, this was under the environment when the U.S. was actually fighting with the Russians and the acceptance of several countries being in a close relationship with the Taliban at the time was actually in an environment where the states was aware of it. As the country was notified about it, I think the relationship immediately discontinued.

If you look at the...

BLITZER: Well, they did have relations until almost the bitter end. Saudi Arabia and the United Arab Emirates were two of the three countries that did have relations.

AL-QASIMI: No, but you see, we were actually -- we don't even share the same theology. This is a country that actually has participation of women. I'm a woman minister. If you were part of the Taliban or we actually their ideology, I would not be sitting here as a minister.

But let's look at the -- if we look at in terms of the -- when you're talking about the hijacking, you're talking about two. Now look at all the different terrorists that actually had played a role in all of this global organization worldwide. They actually are multi-national. They are not all the UAE. And you can't actually accuse a country because of two. Two do not make a nation.

So, to me, the terrorism and -- is really borderless, and it has no geography as part of it.

However, I think I need to make sure to emphasize that the UAE has been a global player in terms of war against terror in collaboration with the U.S., in all different aspects, from intelligence reporting -- even some of the people from Al Qaida, in terms of securing dialogue on an international level, not only with the U.S. but worldwide.

So that in itself reflects actually the initiative that's being taken by the Emirates. When we talk about the shipments of...

BLITZER: Nuclear...

AL-QASIMI: That actually -- when you look at any port operation, you have to distinguish between products coming in and being re- exported and from products sitting in transshipment mode. Transshipment means that you don't inspect the box.

However, I think the states have taken initiative in acting about this by creating the container security acts, and UAE was the first one to actually deal with this.

On the money laundering again, money laundering was a global problem that took place I think in 96 countries. So UAE is not one, but we've taken certain measures, and these are actually part of the...

BLITZER: Have you tightened up since 9/11...

AL-QASIMI: Absolutely.

BLITZER: ... because The 9/11 Commission was pretty critical of the United Arab Emirates.

AL-QASIMI: Well, if you look at what had taken place then, we worked very closely with the treasury in the States. There has been clearance, absolutely, from the IMF and World Bank in

relation to clearing the UAE as being a site for money laundering. Definitely there has been a lot of tightening in terms of process of hawala (ph) and others and being on a network where there is dialogue worldwide to actually to combat in a money laundering.

BLITZER: The other argument that many members of Congress have made, and you've heard this, is that this is a country, the United Arab Emirates and you're the economics minister, that supports an economic boycott against Israel.

AL-QASIMI: Well, first of all, let's differentiate this. We actually had diminished the secondary and treasury boycotts to Israel. So this actually does not exist. That means these are the product that are actually part of American companies coming in here.

On the boycott at the primary level, in the framework of the FTA at the moment, basically part of the process is actually lifting the ban...

BLITZER: If you had a free trade agreement with the United States, what would you do? Would you eliminate that boycott of Israel? AL-QASIMI: Absolutely, yes. And we actually have our fifth round coming up next week. The whole team USCR team will be coming here on the 13th of March.

BLITZER: So why not just eliminate it right now? In practical terms, at least what we heard earlier today from Dubai Ports World's Mohammed Sharaf, that he trades with Israel, he lets Zim come into the ports here. Why not just say that you're going to cancel this boycott?

AL-QASIMI: It's a process that we have to go through, and we have to actually reflect in terms of which of these parts are coming in.

The issue right now is really more about perception about port handling. So when you talk about the perception in the states, it's all about handling boxes coming from Israel. Well, this is a world trade organization, and therefore, the handling of boxes takes place irrelevant where it's coming from.

BLITZER: Are you confident this deal is going to go through based on what you know, or do you think it will be stopped?

AL-QASIMI: I am very confident it will go through because in my belief this is purely a business deal. It has nothing to do with any other aspects of it.

But the concern I have in my mind in case something like this doesn't go, it will reflect on foreign investment worldwide because part of this is you have a business deal that got politicized, and what you do is you've increased entry barriers into the U.S. in terms foreign investments. The U.S. demands about $1 trillion per year in terms of foreign investments coming in.

The minute you put new legislation in, the minute you create other aspects that snaps core business...

BLITZER: We're almost out of time, but what you're suggesting is that if the deal were canceled, it would have economic ramifications for the U.S. and political ramifications in the Arab world or this part world?

AL-QASIMI: Well, and all -- because it's not about the Arab world. It's about competition for foreign investments, and at the moment you've got China, India, you've got Europe. And the environment there actually is pro for an investment. So you are competing worldwide, actually driving foreign money coming in for investment.

BLITZER: Sheikha, thank you very much for joining us. And you've got a beautiful country here in Dubai, and we're going to be spending a lot of time in the next few days looking around and getting a first-hand assessment. And we're going to be putting you into the "Situation Room" on CNN.

AL-QASIMI: Thank you. And I do hope that we have more Americans coming in to see what this place is all about. It's a beautiful country.

BLITZER: Appreciate it very much.

AL-QASIMI: Thank you.

BLITZER: We'll take a quick break. When we come back, we'll check our CNN poll. We'll get results of that. More of "Late Edition" from Dubai right after this.

BLITZER: And now, in case you missed it, some of the highlights from the other Sunday morning talk shows back in the United States.

On Fox News Sunday, the chairman of the U.S. Joint Chiefs of Staff General Peter Pace talked about the U.S. Army's decision to launch a criminal investigation into whether former NFL player Pat Tillman's friendly fire death, as it's called in Afghanistan, was the result of negligent homicide.

(BEGIN VIDEO CLIP)

GEN. PETER PACE, CHMN., JOINT CHIEFS OF STAFF: I think it's important to chase every single possibility. And the inspector generals have decided that there's one more step to take.

And they're going to do that to make sure that the entire picture is painted clearly and accurately so the family can have as much information as possible.

(END VIDEO CLIP)

BLITZER: On CBS's "Face the Nation," Republican Senator Richard Lugar and Democratic Congressman John Murtha talked about Iraq and the potential impact on the mid-term elections.

(BEGIN VIDEO CLIP)

SEN. RICHARD LUGAR (R), INDIANA: I would say that, very clearly, everybody reads polls. They have not been going well for Republicans for the administration, for the Congress.

But I think, likewise, most people who are in that sort of a game would say, in the event that Iraq does actually form a democracy, in the event our economy strengthens, for example, in the event several things happen...

REP. JOHN MURTHA (D), PENNSYLVANIA: When you have the public against it, when you have the troops against what we're doing, when you have the people in Iraq against it, when you have the periphery against what we're doing, you have to understand that it's going to have a dramatic impact on the outcome of the election.

I think, right now, I would predict there is going to be a big turnover in Congress because people are so dissatisfied with a lot of things. (END VIDEO CLIP)

BLITZER: On ABC's "This Week," former Democratic presidential candidate, retired U.S. Army General Wesley Clark sidestepped questions about whether he will run for the presidency again in 2008.

(BEGIN VIDEO CLIP)

WESLEY CLARK, FORMER DEMOCRATIC PRESIDENTIAL CANDIDATE: What I'm trying to do is help the right Democrats get elected in 2006. That's the most important thing.

And I'm very proud we've got something like 55 U.S. military veterans who are running for Congress as Democrats. I want to help each and every one of them. I think they can make a huge difference in the future of this country.

I think having one-party domination of government is very dangerous for American democracy. And, frankly, that's where all of my energies and activities are focused.

(END VIDEO CLIP)

BLITZER: Highlights from the other Sunday morning talk shows here on "Late Edition, the last word in Sunday talk. We'll be right back.

(BEGIN VIDEOTAPE)

(voice-over): Hillary Rodham Clinton: What's her story? The junior senator from New York is among those leading the effort to block a deal that would allow a Dubai company to operate several U.S. port terminals.

Clinton is planning to introduce legislation that would ban companies owned by foreign governments from controlling American port operations.

The former first lady is also in the middle of a reelection campaign for the Senate. While she hasn't publicly stated any political ambitions beyond 2006, Clinton is widely expected to seek the Democratic presidential nomination in 2008.

(END VIDEOTAPE)

BLITZER: Here are the results of the Web question of the week. Take a look at these numbers. Remember, though, this is not -- repeat, not -- a scientific poll.

I'll be back here tomorrow in "The Situation Room." We're live in Dubai. I'm Wolf Blitzer. See you next week on "Late Edition" as well. Thanks very much for joining us.

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Subject: Attorney General's News Briefing for Tuesday, March 07, 2006

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, MARCH 7, 2006 7:45 AM EST

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TERRORISM NEWS:

Specter May Recall Gonzales For More NSA Surveillance Testimony. The AP (3/7, Shrader) reports, "Attorney General Alberto Gonzales' written answers to questions about the Bush administration's eavesdropping program may require him to testify a second time before the Senate Judiciary Committee, the panel's Republican chairman said Monday. … 'There is a suggestion in his letter there are other classified intelligence programs that are currently under way,' Senate Judiciary Committee Chairman Arlen Specter, R-Pa., told reporters." The AP continues, "The comments from the moderate Republican come as the Bush administration is trying to quell criticism of its surveillance operations and work with the Senate on legislation that would write the program into law." The AP adds, "In a letter to Specter last week, Gonzales clarified his testimony in a half dozen areas covered in a daylong Senate Judiciary Committee hearing on Feb. 6. … Gonzales said his answers were focused only on President Bush's program granting intelligence officers the power to monitor - without court approval - the international calls and e-mails of U.S. residents, when those officers suspect terrorism may be involved. … 'In all of my testimony at the hearing I addressed - with limited exceptions - only the legal underpinnings of the Terrorist Surveillance Program,' Gonzales wrote. 'I did not and could not address operational aspects of the program or any other classified intelligence activities.' … The Justice Department has not received a formal request to testify, spokesman Brian Roehrkasse said. 'As a matter of practice, officials from the department do not discuss, confirm or deny the existence or nonexistence of any classified intelligence programs in public settings,' he added."

GOP Seeks To Limit Scope Of Probe Into NSA Surveillance Program. Key congressional Republicans are seeking to head off oversight investigation into President Bush's use of the National Security Agency to conduct domestic intelligence gathering, and at the same time establish a statutory foundation for the program. Knight Ridder (3/7, Kuhnhenn) reports the congressional Republicans are "trying to limit the scope of any investigation into" the NSA program, and "some key lawmakers are also working to legalize such spying on U.S. citizens in the future, perhaps with some judicial restrictions." The "dual-track effort is designed to protect the Bush administration from an all-out congressional inquiry into the secret program, while rejecting Bush's argument that he already has full legal authority to order such surveillance."

Penalty Phase Of Moussaoui Trial Begins. The penalty phase of admitted al Qaeda co-conspirator Zacarias Moussaoui got underway Monday with opening arguments from the prosecution and defense. Assistant US Attorney Robert Spencer urged the jurors to sentence Moussaoui to death, saying he concealed information about the 9/11 plot thereby enabling the attacks to succeed. However, Moussaoui's court-appointed defense lawyer, Edward J. MacMahon, said there was no evidence to support the prosecution's contention that Moussaoui's cooperation could have prevented the attacks.

The story was covered by each of the networks in full segments, and CBS ran a second story on the 9/11 family members who are following the trial. ABC World News Tonight (3/6, story 4, 2:35, Thomas) reported that legal scholars "say the defense faces an uphill battle." Prof. Jonathan Turley, George Washington University Law School: "For Zacarias Moussaoui, this is the wrong crime, in the wrong place with the wrong jury. He's going to be tried in the shadow of the Pentagon by a jury in one of the most conservative districts in the country." The CBS Evening News (3/6, story 3, 2:40, Stewart) noted that this "was the first time the government has argued that Moussaoui's silence was as much to blame for what happened that day as any of the dead 19 hijackers."

NBC Nightly News (3/6, story 3, 2:10, P. Williams) reported, "Moussaoui's lawyers said he knew none of the details of the 9/11 plan, not even the hijackers' names. They say he was shunned by al Qaeda members overseas, described by one as 'cuckoo in the head.'" MacMahon "said the death penalty would give Moussaoui martyrdom."

The New York Times (3/7, Lewis, 1.19M) reports Spencer said, "He killed the 9/11 victims as surely as if he had been at the controls in one of those airplanes." But MacMahon cited the 9/11 commission's conclusion that "the government had several indications of Al Qaeda's plans before that day" and contended that "there is no reason to believe that the authorities would have acted quickly on"

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information from Moussaoui "any more than they acted on other leads."

The Washington Post (3/7, A3, Markon, Dwyer, 744K) adds, "Prosecutors did not address the controversy over the failure to search Moussaoui's belongings before Sept. 11," saying only that "if Moussaoui had revealed all he knew…the belongings would have been searched in time." But MacMahon told jurors that "the real Moussaoui…was a bumbler who couldn't even fly a single-engine plane, a man so inconsequential that even his terrorist overseers dismissed him."

The AP (3/7, Sniffen) notes MacMahon "played videotapes of then-Attorney General John Ashcroft describing how the FBI and CIA didn't share information before the attacks, and of Secretary of State Condoleezza Rice saying any way to prevent Sept. 11 would have had to have been in place years earlier."

USA Today (3/7, 6A, Johnson, 2.31M) reports, "In pleading guilty, Moussaoui acknowledged he was aware of a planned attack against the United States but said he was not part of the Sept. 11 plot. He told authorities he was part of a separate plan to fly a plane into the White House sometime after Sept. 11."

Victims' Relatives Watch Trial Over Closed-Circuit Television. The CBS Evening News (3/6, story 4, 2:20, Schieffer) reported, "The trial is not open to broadcast media cameras but is being televised by closed circuit to five Federal courthouses around the country where the families of the 9/11 victims are being allowed to watch. But while some family members wanted to watch, others did not." The AP (3/7, Caruso) notes that in New York, some brought "photographs or buttons with images of their loved ones," and many "held scarves or other items emblazoned with the American flag."

Victim's Daughter Opposes Imposition Of Death Penalty. In a USA Today (3/7, 2.31M) op-ed, Families of September 11 co-founder Carie Lemack – whose mother was killed in the attacks – writes that she wants to see Moussaoui imprisoned for life. "I do not want to give him the dignity of a planned execution, time to say his goodbyes, eat his last meal. His comrades did not give that to my mother. Let him sit in a cold, dirty cell alone for the rest of his long days, unable to direct his rants at anyone."

AP Seeks FOIA Access To Lindh's Petitions For Sentence Reduction. The AP (3/7, Sherman) reports, "The Associated Press sued the Justice Department on Monday for access to American-born Taliban soldier John Walker Lindh's petitions to have his 20-year federal prison sentence shortened." The AP continues, "The federal Freedom of Information Act lawsuit, filed in U.S. District Court in New York, said the government has improperly refused to turn over Lindh's pleas to have his sentence reduced on the grounds that doing so would be an unwarranted invasion of his privacy. … AP's lawyers, in letters to the Justice Department and the lawsuit, however, said Lindh 'is a 'high-profile public figure' whose 'privacy interest in his petition is low to nonexistent.'" The AP adds, "Lindh's lawyer, James Brosnahan, also has told the news cooperative that he would have turned over the documents himself, but he can't under the terms of Lindh's imprisonment."

New York Imam Works To Bring Together Muslim Singles. In the third story of its special report "An Imam in America," The New York Times (3/7, A1, Elliot, 1.19M) again reports on Brooklyn imam Sheik Reda Shata, focusing today on his work counseling American Muslim singles about dating and marriage. The Times notes, "Whether issuing American-inspired fatwas or counseling the homesick, fielding questions from the F.B.I. or mediating neighborhood spats, Mr. Shata walks an endless labyrinth of problems. If anything seems conquerable, it is the solitude of Muslim singles. … It is his way of fashioning a future for his faith. It is his most heartfelt effort…to make Islam work in America."

PATRIOT ACT:

House Expected To Pass Patriot Act Renewal Today. The Washington Post (3/7, A15, Weisman, Birnbaum, 744K) reports, "For a legislative fight that has stretched on for months, pitting the House against the Senate and the White House against members of the president's party, the battle to renew the USA Patriot Act will likely end very quietly this week." The House votes today, and "Republican leaders are so confident in its passage that they have scheduled the vote on the fast-track 'suspension calendar,' where approval takes the vote of two-thirds of the House."

Patriot Act Provision Would Crack Down On Meth Production. The AP (3/6, Kellman) reports, "Suffer from springtime allergies? You could be among the first affected by

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the USA Patriot Act poised for final congressional passage this week." The AP continues, "Besides terrorism, the bill takes aim at the production of methamphetamine, a highly addictive drug that cannot be manufactured without a key ingredient of everyday cold and allergy medicines. The bill would impose new limits next month for how much relief a person can buy over the counter. … And beginning Sept. 30, it'll take a flash of ID to buy that medication." The AP adds, "The legislation sponsored by Sens. Dianne Feinstein, D-Calif. and Jim Talent, R-Mo., would blanket the nation with one policy that would put medicines containing pseudoephedrine behind the counter and out of the reach of meth cooks. … Rather than wait for localities to stitch together a patchwork of anti meth policies, the provision of the Patriot Act would leave meth producers nowhere to run but out of the country. It takes aim at the meth trade's weakest point — the supply of pseudoephedrine. … Beginning 30 days after President Bush signs the law, expected sometime this week, purchase limits go into effect. One person would be limited to buying 300, 30-mg pills in a month or 120 such pills in a day. The measure would make an exception for 'single-use' sales — individually packaged pseudoephedrine products."

HOMELAND RESPONSE:

Chertoff Says Dubai World Ports Deal Would Enhance Port Security. The Wall Street Journal (3/7, Block, 2.11M) reports Homeland Security Secretary Michael Chertoff said the "proposed takeover of terminal operations at five U.S. ports by a Dubai company would give U.S. law enforcement a better handle on security at U.S. terminal operations." But Chertoff "warned" that the "unprecedented access that the Department of Homeland Security and other federal agencies would have to monitor the United Arab Emirates shipping company's personnel and business records would 'evaporate' if Congress stopped the deal from proceeding." Chertoff's "statements to a group of Wall Street Journal reporters marked the first time that he has said that Homeland Security had something to lose if the deal fell through."

70% Oppose Dubai Ports Deal. ABC World News Tonight (3/6, story 3, 1:45, Vargas) reported, "The President's aggressive defense of the ports deal has not only proved ineffective, but it's kind of backfiring against foreign management of any kind involved in the ports." ABC (Stephanopoulos) added, "You now have about 70% of the country against this Dubai ports deal. But 70% of them are against any foreign management of the ports. This whole story has taught people something they didn't know, that foreigners manage many of our ports. And they don't like it one bit."

Collins Plans Vote On Port Security Bill For April. The Washington Times (3/7, Fagan, 90K) reports Senate Homeland Security Chairman Susan Collins "said her committee will vote next month on legislation to improve America's port security and thinks the concern over a Dubai company running some U.S. port operations may give the bill new momentum." Collins plans to move the "ports security bill she wrote last year with Sen. Patty Murray, Washington Democrat. The two are also working with House Homeland Security Chairman Peter T. King, New York Republican, and Rep. Jane Harman, California Democrat, on a similar House bill." The measure would "authorize $835 million each year for five years to improve current port security programs. It would create an office of cargo security policy, and set new requirements for examination of all inbound cargo."

Reuters (3/7, Cowan) reports Sen. Joseph Lieberman, ranking Democrat on the Senate Homeland Security and Governmental Affairs Committee, said the Bush Administration's "plan for securing America's ports is inadequate and funding should be nearly double the White House's budget request for next year." Lieberman "called for spending more than $1 billion on port security in fiscal 2007. In remarks to reporters, Lieberman noted that the Bush administration budget only calls for $551 million for port security in the fiscal year starting on October 1."

Hunter Seeking Co-Sponsors For Bill To Block Deal. The Hill (3/7, Tiron) reports House Armed Services Committee Chairman Rep. Duncan Hunter, "who has promised to try to sink the Dubai Ports World deal, started circulating a 'Dear Colleague' letter yesterday to attract co-sponsors for legislation he plans to introduce today." The letter co-signed by Rep. Jim Saxton outlines "several provisions of the legislation, which would halt the Dubai takeover of management at some U.S. port terminals. It would also require any corporation that owns, manages or operates 'national defense critical infrastructure to be majority-owned by American citizens.'"

King Offers Compromise. CNN's The Situation Room (5/6, Henry) reported, "Republican Peter King, the powerful chairman of the House Homeland Security

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Committee tells CNN that the mood among Republicans up here is increasingly sour about this port deal, so he has crafted a compromise that he presented to the White House with a warning: If they do not sign on, this whole port contract may blow up. He's basically proposing that the American portion of the contract be separated out so that the company, D.P. World, would have nothing to do with the actual operation of U.S. ports. Instead, that would be subcontracted out to various U.S. companies."

CQ (3/6, Speck) reports that in "discussions with the White House," Rep. King and Sen. Susan Collins "separately floated possible changes to the controversial DP World deal that would place a degree of separation between the company and port operations." Collins said, "What I have suggested to the White House is that [the company] create an American subsidiary." That would "give the U.S. government more authority over the company, and in that scenario, Collins said, American citizens would head up security operations."

Reid Says Port Deal Will Be Major Campaign Issue. CNN's The Situation Room (5/6, Henry) reported, "Senate Democratic Leader Harry Reid today on Capitol Hill signaled that this is going to be a major campaign issue and he expects other candidates to jump on the bandwagon." Reid: "It's resonating because people have come to the realization that the Bush administration is basically incompetent. And I mention some of those things in my presentation to you a few minutes ago. This port security issue is stunning."

British Court Dismisses Objection To DPW Purchase Of P&O. The AP (3/7, Wardell) reports the "controversial takeover of British shipping company P&O by Dubai's state-owned DP World received the green light Monday when Britain's Court of Appeal dismissed a Miami firm's objection to the deal." The Court of Appeal "declined to hear an appeal from Miami-based Eller & Co., which had tried to have the deal barred on technical grounds, arguing that U.S. concerns about a United Arab Emirates company owning significant operations at six major U.S. seaports could harm its business."

The Washington Post/AP (3/7, D2, Wardell) reports Eller & Co. "said that it will continue to pursue legal action in the U.S. courts in Florida. 'We will continue to fight to protect our business and the livelihood of thousands of our staff and subcontractors,' it said."

Port Deal Just One Instance Of Arab Investment In US. The Washington Post (3/7, A1, Blustein, 744K) reports in a front page story that the Dubai Ports World deal is only one of many instances of direct investment in the US by Arab concerns. Spearheading the "trend is Dubai's Mohammed bin Rashid al-Maktum (popularly known as "Sheik Mo"), ruler of the freewheeling city-state, which is part of the United Arab Emirates. The ports deal is just one of a series of recent purchases by companies he controls." Behind "such transactions are two powerful forces. One, of course, is the high price of energy, which has left several oil-producing Arab countries swimming in cash. The other is the burgeoning U.S. trade deficit -- $726 billion last year -- which means that the United States needs foreign capital; a country that imports more than it exports must cover the gap with money from abroad."

Report Says DHS Still Funding Low-Priority Port Security Projects. The AP (3/7, Sidoti) reports an inspector general report says "the Homeland Security Department still spends money on U.S. port projects that aren't considered national security priorities even though it has made some corrections." Homeland Security Inspector General Richard L. Skinner's office "studied the fifth and most recent round of port security grants, which awarded $142 million for 132 projects. Of those, the 20 projects Skinner's report said scored low on the agency's threat scale received about 20 percent of the money awarded, or $29.3 million."

Chertoff Plans Trip To China. The Wall Street Journal (3/6, 2.11M) reported in its "Washington Wire" column on its web site, "Homeland Security Secretary Michael Chertoff plans a trip to China later this month to convince Beijing to take back illegal immigrants picked up by U.S. immigration authorities. Chertoff has been pushing a catch-and-return policy on illegal immigrants from China and elsewhere since taking office last year."

Guards Say Security Lacking At DHS Headquarters. The AP (3/6, Margasak) reports, "Guards at the Department of Homeland Security say the agency mishandled a potential anthrax attack on its headquarters, one of several incidents that led two senators to request an investigation of the agency's own security." Derrick Daniels, a former employee of Wackenhut Services Inc., the private security firm used by DHS, told the AP, "I wouldn't feel safe nowhere on this compound as an officer." Democratic Sens. Byron Dorgan of North Dakota and Ron Wyden of Oregon have written "the agency's inspector general, seeking an investigation."

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$5.5 Million Bail Set For UNC Graduate In SUV Attack. The Washington Post/AP (3/7, A3) University of North Carolina graduate Mohammed Reza Taheri-azar, "accused of running down nine people on campus to avenge the treatment of Muslims, said at a hearing Monday that he was 'thankful for the opportunity to spread the will of Allah.'" Taheri-azar is charged with "nine counts of attempted murder and nine counts of assault" and "his bail was set at $5.5 million." Meanwhile, the AP notes, about 50 UNC students yesterday "held what they called an 'anti-terrorism' rally," which included "a group of Muslim students who debated with organizers and said Taheri-azar had not been linked to any terrorist group."

The Washington Times (3/7, Pfeiffer, 90K) reports, "When asked by The Washington Times as to why Mr. Taheri-azar was not charged with terrorism," the police department "said the investigation is ongoing and additional charges may yet be filed."

Federal Effort To Rebuild New Orleans Levees Questioned. Louisiana state officials have begun to question the Army Corps of Engineer's plans to rebuild the New Orleans levee system. ABC World News Tonight (3/6, story 6, 2:40, Vargas) reported, "There were 340 miles of levees protecting greater New Orleans. But large stretches were damaged by the storm. A $1.6 billion rebuilding project is 40% complete." But "a monitor says it will leave parts of the levees weaker than before Katrina, making New Orleans vulnerable to another catastrophe." ABC (Osunami) added, "The state's commission says the Army Corps of Engineers. responsible for fixing the levees, is still struggling with critical design issues." So far, "the plan is to concentrate on only the system's most vulnerable points. But most of this work will not even begin until sometime this summer."

NBC Nightly News (3/6, story 6, 2:05, Williams) reported, "They are already spending $1.6 billion on emergency repairs now and they've asked for more money in case we are headed into another bad storm season." NBC (Myers) added, "Today, the Army Corps of Engineers says 45% of repairs have been completed." Walter Baumy of the Corps of Engineers "promises the entire system will be rebuilt by June 1, just as strong as it was before Katrina." But "independent scientists question whether the levee repairs can be done in time. And even if they are, these scientists say design flaws and weak soils could again leave this city vulnerable to a major storm."

Following reports that two teams of independent experts had found that the Corps was rushing to rebuild New Orleans' levees and using inadequate materials, the AP (3/7, Pickler) reports the Bush Administration "defended the quality of materials" on Monday, "as President Bush got assurances from the Army Corps of Engineers that it was on track to restore the system by the start of hurricane season." Lt. Gen. Carl Strock, head of the Army Corps, "took issue with [the experts'] findings." He "said the Corps had yet to see the findings or information on where the teams took their samples. He suggested the monitors may have been testing the wrong soil."

WPost Runs "Clarification" On Katrina Briefing Editorial. In a "Clarification" of its March 4 editorial "Caught on Tape," on the leaked video of an Aug. 28 White House briefing on Hurricane Katrina, the Washington Post (3/7, A16, 744K) says, "We wrote that there was no evidence President Bush, after being briefed on the predicted damage, had asked follow-up questions. In fact, the full transcript shows that after Mr. Bush left the conference, some of his advisers, including Homeland Security Secretary Michael Chertoff, did ask about the involvement of the military and other preparedness issues."

FEMA Purchase Of Mobile Homes Criticized. NBC Nightly News (3/6, story 7, 1:00, Williams) reported, "A disturbing report tonight from the Inspector General of the Department of Homeland Security, the parent agency of FEMA, they found that FEMA bought way more mobile homes than it should have. More than 26,000 trailer homes meant for evacuees were purchased at a cost of almost $900 million. Now, when all we hear are stories of families without shelter still, many of these trailer homes are sitting empty, warping and sinking in the mud in some places where they're being stored at two different staging grounds in Texas and Arkansas. FEMA personnel apparently didn't realize these trailers can't be used in a flood plain area, so only about 5,000 of them will actually be used to house Katrina victims. FEMA now say it is will donate a lot of the surplus trailers to other Federal agencies."

Experts Tell Panel Of Communication Breakdowns During Katrina. The AP (3/7, Mohr) reports that Monday, experts told members of an independent panel gathering information for the FCC that communication problems "left emergency crews confused and isolated in the

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aftermath of Hurricane Katrina." According to Federal Communications Commission Chairman Kevin Martin, "Some 3 million telephone lines were knocked out as the violent storm hit the Gulf Coast on Aug. 29." He "said he hopes the panel's work will help strengthen communications throughout the nation, especially in areas vulnerable to natural disasters."

Congressional Delegation Views Hurricane Damage. Roll Call (3/7, Nelson) reports last week 34 House Members made up the first large-scale Congressional delegation to the Gulf region since Hurricane Katrina struck, in what Rep. Roger Wicker "a much more profound realization of the damage." They "stood at the levee breech that had destroyed the displaced residents' homes" and "were briefed by the Army Corps of Engineers on the ongoing levee fortification project along the Industrial Canal going on behind them." Roll Call adds, "Many lawmakers, including the Speaker [Rep. Dennis Hastert], seemed stunned by the scope of what they saw. 'I think you really have to be on the ground' to understand the extent of the destruction, Hastert said, particularly in Mississippi."

WAR NEWS:

US Ambassador Says "Potential Is There" For All-Out Civil War In Iraq. The Los Angeles Times (3/7, Daragahi, 958K) reports, "The top US envoy to Iraq said Monday that the 2003 toppling of Saddam Hussein's regime had opened a 'Pandora's box' of volatile ethnic and sectarian tensions that could engulf the region in all-out war and disrupt the global economy if America were to extricate itself from the country too soon." In remarks that were "among the frankest and bleakest public assessments of the Iraqi situation by a high-level American official," US Ambassador Zalmay Khalilzad "said the 'potential is there' for sectarian violence to become all-out civil war, but that Iraq for now had pulled back from that prospect after the wave of sectarian reprisals for the Feb. 22 bombing of a Shiite shrine in Samarra. … Abandoning Iraq in the way the US disengaged from civil wars in Lebanon, Afghanistan and Somalia could have dramatic global repercussions, he said."

Cheney Says Commanders, Conditions On Ground Will Drive Decisions On US Troop Levels. Fox News' Special Report (5/6, Baier) reported, "At a fundraising event in Florida, vice president Cheney said progress has not come easy in Iraq but has been steady, pointing to the Iraqi elections and the standing up of Iraqi forces." Cheney: "As that force grows in strength and the political process continues to advance, we'll be able to decrease troop levels without losing our capacity to defeat the terrorists." Fox added, "The Vice President went on to say that troop level decisions will be driven by conditions on the ground and by the recommendations of top US commanders."

US Working For "Better Balance" In Iraqi Police. As the threat of further sectarian violence looms, the New York Times (3/7, Wong, 1.19M) reports, "The American military is scrambling to try to weed out ethnic or religious partisans from the Iraqi security forces. The United States faces the possibility that it has been arming one side in a prospective civil war." According to the Times, "There is no quick or painless fix. The efforts risk alienating Shiite politicians, who have fiercely resisted attempts to wrest away their control of the security forces. The moves may appeal, though, to recalcitrant Sunni Arabs, whom the Americans want to draw into the political process."

Eighty Percent Of Americans Believe Sunni-Shiite Civil War Is Likely. ABC World News Tonight (3/6, story 3, 1:45, Vargas) reported, "An ABC News/Washington Post poll out today suggests that Americans are becoming increasingly frustrated with the situation in Iraq. Eight in ten Americans believe a civil war between Shiites and Sunnis is likely. 65% says the Bush Administration has no clear plan for ending the war." ABC (Stephanopoulos) added, "About half the public wants a withdrawal of American troops. But they're split. Fewer than one in five say bring the troops home right now. About a third say bring them home gradually over time. Another third says have the troop level stay exactly the same. And then you have about 10%, actually 11% of the country says increase troops now. You have a chaotic situation in Iraq which has left the public confused." The Washington Post (3/7, Morin, 744K) reports that "in the face of continuing violence, half -- 52 percent -- of those surveyed said the United States should begin withdrawing forces. One in six favors immediate withdrawal of all troops, however, while about one-third prefer a more gradual return." The Post adds, "In question after question, the new survey reflected a sharp decline in optimism, perhaps sparked by the sectarian violence that has flared in Iraq."

Talabani Loses Showdown In Parliament. The AP (3/7, Mroue) reports, "Iraq's president failed in a bid Monday to order parliament into session by March 12, further

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delaying formation of a government and raising questions whether the political process can withstand the unrelenting violence or disintegrate into civil war. ... At the heart of the dispute is a controversy over the second-term candidacy of the Shiite prime minister, Ibrahim al-Jaafari, whose most powerful supporter is the anti-American cleric Muqtada al-Sadr." According to the AP, "it remained unclear when parliament might convene, despite the constitutional directive that set Sunday as the deadline. Nor was it clear how the disagreement over al-Jaafari might be settled."

The Christian Science Monitor (3/7, Peterson, 61K) says "the crisis has laid bare a deepening divide within Iraq's majority Shiite community. The other contender was Vice President Adel Abdul-Mahdi, backed by the faction of Sadr rival Abdul Aziz al-Hakim, who has portrayed himself as a technocrat and centrist who can get the job done." Jaafari "has been widely blamed in Iraq for permitting the violence to erupt out of control."

The Washington Times (3/7, Behn, 90K) reports "Iraqi party leaders, deadlocked over whether Ibrahim al-Jaafari should serve another term as prime minister, are considering a plan that would allow him to serve for six months to a year and then review his performance."

At Least 16 Iraqis Dead In Wave Of Bombings. A series of insurgent bombings in Iraq left 16 dead. ABC World News Tonight (3/6, story 2, :15, Vargas) reported, "Security forces were targeted in most of the attacks. … Also, the US said today that 2,300 Americans have been killed in Iraq since the war began." The CBS Evening News (3/6, story 7, 0:10, Schieffer) reported, "Another American soldier has died in combat in Iraq." NBC Nightly News (3/6, story 4, 0:40, Williams) reported, "In another dramatic development today, a sniper assassinated the commander of the Iraqi Army's Sixth Division, the man in charge of the forces protecting the capital and the highest-ranking Iraqi military officer killed since the US invasion." The Los Angeles Times (3/7, Daragahi, 958K), Washington Post (3/7, Anderson, Tyson, 744K) and New York Times (3/7, Semple, 1.19M) focus there stories on the attacks on the assassinated general.

Meanwhile, the AP (3/7) reports this morning from Hillah, "Two car bombs exploded almost simultaneously at separate sites in this mostly Shiite city early Tuesday, wounding at least three people, police said." The blasts "were detonated by remote control and were about five minutes apart, said police Capt. Muthana Khalid."

Fearful Of Shiites, Some Sunnis Now Welcome US Troops. As a result of the outbreak of ethnic and sectarian violence in Iraq, US troops are now being welcomed in some Sunni areas. The CBS Evening News (3/6, story 8, 2:30, Schieffer) reported, "It has gotten so bad that Iraqis are welcoming American patrols to places like Dora, a mostly Sunni neighborhood in southwestern Baghdad." CBS (Dozier) added local Sunnis blame "car bombs, kidnappings and gangland executions" on "death squads that that they say operate within the mostly Shiite police force." US troops "never used to be this popular in this hotbed of Saddam loyalists. But now locals say you are most welcome in Arabic."

Tribal Leaders Declare War On Al Qaeda In Iraq. The Washington Post (3/7, Anderson, 744K) reports "tribal chiefs in Iraq's western Anbar province and in an area near the northern city of Kirkuk, two regions teeming with insurgents, are vowing to strike back at al-Qaeda in Iraq, a Sunni Arab-led group that is waging war against Sunni tribal leaders who are cooperating with the Iraqi government and the US military." Anbar tribes "have formed a militia that has killed 20 insurgents from al-Qaeda in Iraq, leaders said." The Post adds, "Separately, more than 300 tribal chiefs, politicians, clerics, security officials and other community leaders met last week in Hawijah, about 35 miles southwest of Kirkuk, and 'declared war' on al-Qaeda in Iraq."

US Officials Say Iran Exporting Shaped Charges To Iraq. US officials believe Iran is exporting deadly shaped charges to Iraq for use by insurgents as roadside bombs. The military believes Iran's goal is to increase the US' casualties. ABC World News Tonight (3/6, lead story, 2:45, Ross) reported, "US military and intelligence officials tell ABC News they've intercepted shipments of these dread bombs at the border of Iran and Iraq. But others are getting through." What the US "says links them to Iran are tell-tale manufacturing signatures, unique types of machine shop welds and materials powered by the same Japanese electronics, all indicating they are built in the same bomb factory, which the military believes is in Iran." US intelligence officials "say Iran is using the bombs as a way to drive up US casualties in Iraq but without provoking a direct confrontation." Reuters (3/6, Olivari, Al-Mehdawi) says Tarek al-Hashemi, "a leading Sunni politician and a contender for speaker when the new parliament opens on Sunday,

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accused Iran of fostering instability in Iraq, partly through militias loyal to Shi'ite parties, in a bid to divert US pressure over Tehran's nuclear program."

Germany To Investigate Reports Intelligence Service Aided US In Iraq. The New York Times (3/7, Bernstein, 1.19M) reports, "A German opposition party said Monday that it would vote for a formal parliamentary investigation into allegations that the German intelligence service provided help to the United States during the invasion of Iraq, which the government vehemently opposed. … Because the two other opposition parties, the leftist Greens and the new Left Party, have already declared their support, the Free Democrats' decision seems to ensure a formal investigation." Germany's government "has made vigorous efforts to head off an investigation, saying it could harm the functioning of Germany's intelligence service and efforts under way to improve relations with the United States." The Washington Times (3/7, Crossland, 90K) also reports the story, saying the probe "could hurt Chancellor Angela Merkel's government, even though she only took over last November, because her Foreign Minister Frank-Walter Steinmeier was chief of staff to Mr. Schroeder at the time of the war. Lengthy debate about the Iraq war and Germany's role in it could also put further strain on US-German relations at a time when Mrs. Merkel is trying hard to repair the damage done by Mr. Schroeder's opposition to the war."

Delays In Iraq Reconstruction Plan Draw Criticism. A plan for helping the new Iraqi government succeed is still "mostly dormant" four months after it was announced by Secretary of State Condoleezza Rice, USA Today (3/7, Komarow, 2.31M) reports. The plan "calls for sending teams of experts to help the fledgling governments in Iraq's 18 provinces establish democratic institutions, improve security and manage reconstruction. … However, after the first three of 16 teams were created in Mosul, Kirkuk and Hillah in conjunction with her visit, no more have been launched. … That pace is 'a huge problem' and means the United States is blowing its chance 'to quickly seize the momentum' as Iraq forms a permanent government based on December's elections, said Sen. Jack Reed, D-R.I., a member of the Senate Armed Services Committee."

Amnesty International Accuses US Of Widespread Prisoner Abuse. A report from Amnesty International accuses the US and its allies of committing widespread abuses in Iraq, including torture and the continued detention of thousands of prisoners without charge or trial. The New York Times (3/7, Cowell, 1.19M) reports that the report, entitled "Beyond Abu Ghraib: Detention and Torture in Iraq," says the US and its allies have "established procedures which deprive detainees of human rights guaranteed in international law and standards." The times adds, "Responding to the report, the United States military said all its detainees were treated in accordance with international conventions and Iraqi law."

Barone Says US Groups Have Vested Interest In Denying Saddam Had Ties to Al Qaeda. Michael Barone writes in the Washington Times (3/7, 90K), "Why, for two distinct groups of Americans, has it become a matter of conviction held with religious intensity that there cannot have been any relationship between al Qaeda and Saddam Hussein's regime in Iraq? One group consists of Democratic politicians who oppose the Bush administration's policy in Iraq. … The other group consists of intelligence and other career government professionals, many of them Arabists." The Democrats "fear more Americans would support Mr. Bush and the war effort if they believed there was. The career professionals, with their many years of training in the subtleties of the Middle East, have developed a vested interest in the notion that religious Wahhabis like al Qaeda could never collaborate with a secular tyrant like Saddam."

Pakistani Forces Battle Pro-Taliban Rebels Along Afghan Border. Nineteen pro-Taliban rebels were killed in fighting with Pakistani security forces along the Afghan border Monday. The Washington Post/Reuters (3/7, A13) reports, "The rebels launched attacks on government positions in Miran Shah on Saturday as President Bush met Pakistan's president, Gen. Pervez Musharraf, in the capital. The fighting has raged since. … The semiautonomous ethnic Pashtun lands along the Afghan border are Pakistan's front line in the war on terrorism."

Musharraf Lashes Out At Karzai. Meanwhile, Musharraf lashed out at Afghani President Hamid Karzai over his recent comments casting doubt on its commitment to fight terrorism. The New York Times (3/7, Gall, 1.19M) reports, "In a speech to Pakistani journalists in Rawalpindi that was broadcast on state television, Mr. Musharraf

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accused India of feeding false information to Afghan officials suggesting that the Pakistani intelligence agency was training terrorists. He dismissed the allegation, and he described as 'nonsense' a list of Taliban members, including the leader, Mullah Muhammad Omar, who Mr. Karzai said were operating in Pakistan."

NATO Commander In Afghanistan Downplays Insurgent Threat. Reuters (3/6, Dunham) reports, "NATO's top commander said on Monday he doubted Taliban and al Qaeda forces were capable of posing a serious insurgent threat as the alliance expands its Afghanistan operations, calling narcotics the top worry." NATO Supreme Allied Commander Europe Gen. James Jones also "said the 26-nation alliance remained 25 percent short of the troops and equipment envisioned for its rapid-reaction force, and expressed renewed doubt he will be able to declare it fully operational as planned on October 1." Knight Ridder (3/6, Brown) notes Jones "said Monday that a 20 percent increase in attacks 'is statistically not very significant' because the average number of daily attacks by Taliban and al-Qaida fighters had been 'quite low.'" The Washington Times (3/7, Scarborough, 90K) runs a similar story under the headline "NATO Shrugs Off Afghan Violence," while the Washington Post (3/7, Tyson, 744K) titles its report "Afghan Threat Played Down."

US Ambassador Says US Will Retain Preeminent Role In Afghanistan NATO Force. The Financial Times (3/7, Morarjee) reports its interview with Ambassador Ronald Neumann, in which he "said America's commitment to Afghanistan would not be compromised when NATO troops take command of the country's restive south later this year." Neumann added that "the success of the Nato mission in southern Afghanistan had ramifications far beyond the country's borders." The Times says these comments "come as Afghan officials become increasingly nervous that the withdrawal of about 3,000 US troops after the handover to Nato command will signal to the Taliban that American forces are gradually pulling out of the country."

Pentagon Opens Criminal Investigation Into Tillman Death. The Pentagon's decision to open a criminal investigation into the death of Army Ranger Pat Tillman once again was reported on the network news, with ABC and CBS running full segments on the story. ABC World News Tonight (3/6, story 5, 2:20, Karl) reported the "criminal investigation will seek to determine whether" Tillman's fellow "soldiers fired their weapons indiscriminately, without attempting to verify their target. If so, they could be found guilty of negligent homicide and face a maximum penalty of three years in prison. Privately, Pentagon officials doubt this investigation will result in criminal charges."

The CBS Evening News (3/6, story 2, 1:50, Martin) reported, "Charges could range from negligent homicide to involuntary manslaughter to dereliction of duty. But the investigators could also find the real culprit was the fog of war and not bring any charges."

Military Desertions Have Declined Since 9/11 Attacks. Pentagon records show that while the overall military desertion rate has declined since the 9/11 attacks in 2001, 4,387 Army soldiers 3,454 Navy sailors and 82 Air Force personnel have deserted. USA Today (3/7, Nichols, 2.31M) reports, "Desertion numbers have dropped since 9/11. The Army, Navy and Air Force reported 7,978 desertions in 2001, compared with 3,456 in 2005. The Marines showed 1,603 deserters in 2001. That declined by 148 in 2005. The desertion rate was much higher during the Vietnam era. The Army saw a high of 33,094 deserters in 1971 — 3.4% of the Army force. But there was a draft and the active-duty force was 2.7 million."

Pentagon Seen As Cracking Down On Vietnam Deserters As Message To Current Troops. In a separate story, USA Today (3/7, Nichols, 2.31M) reports that three decades after the Vietnam War, hundreds of deserters are still on the loose. Attorneys for one recently-captured Vietnam era deserter "say the Pentagon, and the Marine Corps in particular, are cracking down on long-term cases in an effort to warn current-day troops in Iraq against deserting. … Chief Warrant Officer James Averhart, who has commanded the Marine Corps Absentee Collection Center since September 2004, told the St. Petersburg (Fla.) Times that he had ordered cold cases reopened and that his squad had caught 27 deserters in his first 11 months on the job, a rate he suggested was higher than those of his predecessors."

CORPORATE SCANDALS:

Skilling Attorney Claims Enron Comment Was Sarcasm. Reuters (3/7, Daily) reports, "Former Enron Corp. CEO Jeffrey Skilling was using sarcasm when he told several top executives in 2001 'they're on to us,' his

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lawyer suggested on Monday at the trial of Skilling and ex-CEO Ken Lay. … The lawyer, Mark Holscher, sought to sow doubts about the comment that a witness, former executive Kevin Hannon, told the jury last week he heard Skilling say in reaction to a May 2001 analyst report that was sharply critical of Enron." Reuters adds, "Hannon had said he took Skilling's comment at the meeting to mean that investors were 'starting to understand how Enron made money,' and appeared to link Skilling to efforts to cover up the decaying state of Enron's finances. … 'Can you tell this jury whether (Skilling's voice) was dripping with sarcasm when he said "they're onto us?"' Holscher asked Hannon. … 'Anything's possible,' replied Hannon in the clipped manner he used throughout the day's cross examination. Hannon was formerly chief operating officer of Enron's Internet unit Enron Broadband Services."

Fastow Looms As Pivotal Witness. USA Today (3/7, Farrell) reports, "Finally, four years after Enron's spectacular collapse, the moment everyone's been waiting for has arrived: Andrew Fastow, the company's disgraced former chief financial officer, is expected to tell his side of the story in court here today." USA continues, "While the government's trial of former Enron CEOs Ken Lay and Jeff Skilling has been going on for more than five weeks, testimony from the first 10 witnesses has focused largely on the abysmal financial condition of two business units — Enron Broadband Services and Enron Energy Services. Several have said that Lay and Skilling made misleading statements about the units to the investing public. … But with Fastow, who pleaded guilty to two felonies, prosecutors are expected to zero in on what Lay and Skilling knew about the overall financial condition of Enron, and when they knew it. More than any other witness so far, the former CFO was in a position to know whether the defendants — particularly Skilling — were lying to investors or simply painting an optimistic, and legal, picture of Enron in 2000 and 2001."

The Washington Post (3/7, D1, Johnson) reports, "As early as Tuesday, Fastow will take center stage as the trial's most highly anticipated witness -- and one of its most unpredictable. His presence is expected to electrify the federal courthouse here, where court officials are preparing for an onslaught of bystanders eager to hear Fastow speak publicly for the first time since his January 2004 guilty plea. … Both the Justice Department's Enron Task Force and the defense team have plenty of reasons to fear Fastow and the impact of his testimony. Government lawyers have signaled that they hope to limit their questioning to a day or less, given the liabilities he brings with him -- admissions that he improperly pocketed millions of dollars during his tenure. Defense lawyers intend to keep him on the witness stand for days trying to tear apart his account. … On one point, however, both sides agree: Fastow, 44, remains the most elusive and demonized character in a story that has come to symbolize an era of corporate malfeasance."

Scrushy's Attorney Says Lay, Skilling "Doomed." USA Today (3/7, Farrell) reports, "As if former Enron CEOs Ken Lay and Jeff Skilling don't have enough to worry about with the government's star witness expected to begin testifying against them today, a prominent defense lawyer who helped win an acquittal for another embattled CEO says the two men are already toast, at least in the courtroom." USA continues, "Donald Watkins, a civil rights lawyer and businessman who last year helped former HealthSouth CEO Richard Scrushy beat charges that he masterminded a $2.7 billion fraud, said in an interview Friday that Lay and Skilling are 'doomed.' … 'There comes a time when you can forecast the outcome of a contest,' said Watkins, who has not attended the trial but has followed it closely in the media. 'In this contest, these guys have lost.' … The reason, according to Watkins, is that the two men settled on the wrong defense strategy. In their opening arguments, lawyers for the two men told the jury that Enron was a solid company done in by a loss of confidence among investors and trading partners after the disclosure that former chief financial officer Andrew Fastow had diverted tens of millions of dollars into his own pocket. … Watkins says this defense — that Enron was fundamentally a healthy company — is a non-starter. 'Nobody's going to buy that,' he says. Further, the tactics used so far by the defense — vigorous cross-examinations of cooperating witnesses who have already pleaded guilty — 'lacks imagination.'"

DaimlerChrysler Suspends Employees In Bribery Probe. The New York Times (3/7, Landler) reports, "DaimlerChrysler has dismissed or suspended several employees after an internal investigation uncovered evidence that its executives paid bribes in Asia, Africa and Eastern Europe." The Times continues, "In a report filed Monday with the Securities and Exchange Commission, the company said it had 'determined that improper payments were made in a number of jurisdictions.' The payments, it said, could violate both German law and the Foreign Corrupt Practices Act in the United States." The Times adds, "The Justice Department and the S.E.C. have been investigating

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accusations of bribery at DaimlerChrysler since last year. The company has cooperated with the investigations, and these latest disclosures shed more light on the far-flung corruption inquiry. … The filing, however, does not answer a crucial question: whether senior Mercedes managers knew about the payments. It does not identify the countries where bribes were paid, or say how many people were involved."

The AP (3/7, Moore) reports, "The U.S. Justice Department said in August 2005 that it was investigating whether DaimlerChrysler had paid bribes to foreign officials with the knowledge of its senior executives. The company said it is continuing to cooperate with the investigations. … That criminal investigation is tied to an inquiry opened in 2004 by the SEC after an employee fired by the automaker said he was dismissed for complaining that the company was using secret bank accounts to bribe government officials. … DaimlerChrysler said then, and reiterated Monday, that it was cooperating with the investigations, sharing with both agencies information from its internal probe."

Wallison Suggests Reducing Fannie Mae, Freddie Mac Portfolios. Peter Wallison, a resident fellow at the American Enterprise Institute, writes in the Wall Street Journal (3/7, 2.11M), "The Rudman Report on Fannie Mae recites facts eerily similar to what we now know about Enron. … What we should learn from this -- much of which occurred after the adoption of Sarbanes-Oxley -- is that a board made up primarily of independent directors, an audit committee made up entirely of independent directors, a Big Four accounting firm alerted to the dangers of accounting fraud, and a regulator that claimed to be fully on top of what was happening, could not prevent senior management from fudging the accounting and misleading the board and investors." Wallison adds, "As reform legislation languishes in the Senate, Congress should consider the lessons of Enron, Fannie and Freddie: Despite our best efforts, error and fraud will occur. That's why it's important to make sure -- by reducing the size of Fannie and Freddie's portfolios -- that no future management failure at either company will threaten the stability of the economy."

CRIMINAL LAW:

Prosecutors Castigate Ryan As Closing Arguments Begin. In a story widely-distributed by Knight Ridder, The Chicago Tribune (3/7, O'Connor, Bush, 643K) reports, "Closing arguments began in former Gov. George Ryan's trial Monday with prosecutors blasting him as a shameless, greedy politician at the center of a series of dirty deals that enriched cronies who kicked back cash and gifts to Ryan and his family. … In nearly five hours of arguments, prosecutors portrayed Ryan as a two-faced, serial liar who publicly claimed he did all he could to eliminate fraud at licensing facilities but privately gutted corruption-fighting efforts to keep his political fundraising machine humming along. … Ryan 'sacrificed public safety and integrity' to ensure the fundraising pipeline kept flowing," said Assistant US Attorney Joel R. Levin. The AP (3/7, Robinson) notes, "Defense attorney Bradley E. Lerman moved for a mistrial Monday in a dispute over a presentation Levin was making to the jury. Lerman said it included material concerning a 1994 crash that killed six children and had been ruled out as so emotional it could prejudice the jurors. … U.S. District Judge Rebecca R. Pallmeyer did not rule immediately on the motion."

Campbell Will Not Testify At Trial. The Atlanta Journal-Constitution (3/7, Scott, Warren, 430K) reports former Atlanta Mayor Bill Campbell announced Monday that he will not testify in his own defense at his corruption trial, saying, "I desperately wanted to testify. I wanted to tell the jury my story. They wanted to continue the character assassination, but I am not going to subject my family to further damage." His "criticism of the prosecutors apparently struck a nerve," and US Attorney David Nahmias "summoned reporters to respond." Nahmias said, "We will not make any special exceptions for this defendant. All of our questions would be relevant to the alleged criminal offenses." WXIA-TV Atlanta (Carnes, King) notes, "Campbell says he would be happy to testify -- if federal prosecutors would stay away from questions about his private life, including asking about two former girlfriends," but "Nahmias said any questions to Campbell about his private life would be relevant to the case, and no one can dictate what prosecutors ask and don't ask."

New York AFL-CIO Appointing Special Committee To Address FBI Probe. The New York Times (3/7, Greenhouse, 1.19M) report in "Metro Briefing" that New York State AFL-CIO President Denis Hughes "announced yesterday that he would appoint a special committee to handle matters at the New York City Central Labor Council regarding a federal investigation of the

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council and its president, Brian M. McLaughlin." Hughes said that McLaughlin "would remain in charge of the council, but would not have a voice in decisions regarding the investigation. Last Thursday, F.B.I. agents raided the council's offices and Mr. McLaughlin's Queens office as part of an investigation into accusations of bid rigging for city contracts for street and traffic lights." The New York Daily News (3/7, 729K) notes that "the labor council, whose headquarters was raided by more than 20 FBI agents last week, would create a small 'rapid-response team' of about a dozen city labor leaders to handle the federal probe without any involvement from McLaughlin," and "the council also would hire its own independent attorney to deal with the feds." The New York Post (3/7, Campanile, 624K) adds, "The action plan, which has been cleared by the leadership of the national AFL-CIO, shows how concerned the labor leaders are about the McLaughlin probe and the possibility that he might be charged with a crime. Meanwhile, the federal probe received a thumbs-up from former city transportation boss Wilbur Chapman. 'Thank God - finally,' Chapman told The Post."

Nevada Brothel Owner Charged With Attempted Bribery. The AP (3/7, Ritter) reports, "The owner of three southern Nevada brothels was charged Monday with trying to bribe a county commissioner to relax laws affecting bordellos." Joseph Maynard Richards "is accused of funneling $5,000 to a commissioner in rural Nye County in return for support for a law to let brothels be built closer to county roads and highways." Commission Chairwoman Candice Trummell, a Republican from Pahrump, confirmed for The Associated Press that she was the cooperating witness" mentioned in the complaint." "'This was done in cooperation with the FBI, Trummell added, describing the FBI probe as an ongoing public corruption investigation that began before she was elected…in 2003."

FBI Investigating Alleged Misappropriation By FEC Official In Harassment Complaint. Roll Call (3/7, Kane) reports, "The FBI is investigating allegations that a former top official at the Federal Election Commission," James Pehrkon, "tried to settle a sexual harassment complaint from a female staffer by attempting to misappropriate $100,000 in taxpayer funds last fall. The investigation has embroiled at least a handful of FEC employees, each of whom has been put on administrative leave or no longer works for the agency, leaving vacancies in critical posts heading into the campaign season."

Indictments Have Not Slowed AIPAC. The Washington Post (3/7, A2, Milbank, 744K) reports in its "Washington Sketch" column AIPAC staff members say the indictments Steve Rosen, "who goes on trial next month for disseminating classified information," and is deputy Keith Weissman "have not been mentioned in any of the group's public meetings so far. And they say the pro-Israel lobby, unharmed by the Rosen flap, is putting on its biggest and best show ever this week: 4,500 participants, including more than 1,000 students, paying visits to at least 450 House and Senate offices." The Post adds that the scandal "doesn't seem to have slowed down the group. … Any talk of Rosen is confined to private donor meetings and hallway conversations -- where opinions are split on AIPAC's decision to turn its back on Rosen and Weissman."

Testifying For Defense, Sliwa Co-Host Says Gotti Was "Sick Of This Life." The AP (3/7, Neumeister) reports, "John 'Junior' Gotti said in 1998 that he was 'sick of this life' and would plead guilty to criminal charges, a lawyer who co-hosts a radio show with Guardian Angels founder Curtis Sliwa testified Monday at Gotti's mob trial." Ron Kuby's testimony "was intended by defense lawyers to boost Gotti's argument that he had rejected life in the Gambino crime family when he pleaded guilty in 1999 to racketeering charges. On that front, they got mixed results." Kuby, who represented Gotti in 1998, "testified that Gotti said he 'wanted to rejoin his family and be done with this,' but the lawyer could not be more specific." WCBS-TV New York (3/6, Guzman) adds Kuby testified "By 'this', I asked Kuby, did he mean 'this mob life?' 'I took it to mean that he wanted to put criminal life behind him. That he was tired of being in jail, tired of being in court, tired of being away from his family. That he wanted that life to end.'"

Under the headline "Kuby's Testimony Radio-Active," The New York Post (3/7, Mangan, 624K) says Kuby's testimony gave "Gotti's defense yesterday…an unexpected boost," although "Under cross-examination, Kuby said he had no knowledge that Junior later stopped earning money from the mob -- and said Gotti never admitted to him he was in the mob." The New York Daily News (3/7, 729K) also reports on Kuby's testimony, under the headline "Sliwa Says Radio Partner 'Judas.'"

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Peter Gotti Testifies He Was Not Bagman. The New York Daily News (3/7, Zambito, 729K) reports John Gotti's youngest brother, Peter, testified yesterday, called by the defense "to refute allegations made by mob snitch Michael (Mikey Scars) DiLeonardo that he acted as the go-between for $50,000 in mob cash belonging to his brother. 'Never,' Gotti said when asked if he'd ever picked up money for his brother. He said his brother wouldn't have allowed it since he was well aware of his gambling habits."

Jury Selection Begins For "Mafia Cops" Trial. Reuters (3/7, Pierson) reports jury selection began Monday for the trial of former NYPD detectives Stephen Caracappa and Louis Eppolito, "accused of having been hit men for the mob." Brooklyn U.S. District Court Judge Jack Weinstein set opening arguments for March 13 and assured hundreds of potential jurors assembled in his courtroom the case 'will be one of the most interesting experiences of your life.' … When Eppolito showed up in court 75 minutes late, Weinstein ordered that he be rearrested and that his $5 million bail be revoked until a good explanation was provided." However, Newsday (3/7 DeStefano) reports, "But after defense attorney Bruce Cutler explained to Weinstein that two disabled tractor-trailers had shut down the roadway, Weinstein reinstated bail and revoked the arrest." The New York Post (3/7, Haberman, 624K) notes that Cutler "was apparently so concerned by the unexplained absence he almost called Nassau County cops to check the Plainview, L.I., home where Eppolito is staying while awaiting trial."

The New York Daily News (3/7, Marzulli, 729K) reports, "Prospective jurors answered 77 questions, including whether they had read Eppolito's autobiography, 'Mafia Cop,' or watched the defense lawyers' 'Cutler and Hayes Show' on Court TV."

Media Whirlwind Surrounding Trial. The New York Times (3/7, Feuer, 1.19M) reports, "Depending on whom you ask…there are four books and a movie, five books and a movie, four books but no movie or five books but no movie about" the trial, which "has become the latest scoop for the disheveled band of newspaper reporters who write about the courts and has led, in at least two cases, to a literary luncheon and a book deal. … United States v. Eppolito and Caracappa is a mob case, which is to say, a case with 'color' — and therein lies the interest."

Court Rules Bulger Brother Must Forfeit State Pension. The AP (3/7, Maguire) reports the Massachusetts Supreme Judicial Court "ruled Monday that a brother of fugitive mobster James 'Whitey' Bulger must forfeit his $65,000-a-year state pension because he lied to grand juries investigating the gangster's disappearance. Lawyers for John 'Jackie' Bulger, a retired court clerk magistrate, had argued that his crimes were based on family loyalty and didn't affect his job." The AP notes that Whitey Bulger "is wanted in connection with 21 murders and is on the FBI's 'Ten Most Wanted' list."

Judge Refuses To Delay Abramoff Sentencing In Fraud Case. The Washington Post/AP (3/7, A5) reports a Federal judge "refused Monday to allow a lengthy delay in the sentencing of lobbyist Jack Abramoff, even though lawyers for both sides said the move could jeopardize a federal corruption investigation involving Congress and the Bush administration." Abramoff attorney Abbe Lowell "warned that the defense would disclose information about the ongoing corruption investigation to demonstrate the level of Abramoff's cooperation, something that could affect his sentence in the fraud case." Lowell said, "We will name names. That is not a good thing for law enforcement."

Admitted Hitman Testifies He Did Not Commit Murder-For-Hire. The AP (3/7, Weber) reports, "In a stunning about-face," Phillip Harwood, "the admitted triggerman in the slaying" of Lita Sullivan, "denied Monday that he had ever seen the victim in person or that he killed her on orders" from her husband, James Sullivan, accused of hiring a hitman to kill her. Harwood testified "he was in a getaway car nearby when the murder was committed by a man named 'John' who worked as a bartender at a topless bar. … He admitted to the jurors that he bought the flowers that were delivered to the victim." The Atlanta Journal-Constitution (3/7, Montgomery, 430K) notes, "When prosecutor Clint Rucker asked Harwood if he agreed to kill Lita Sullivan, Harwood replied, 'To be honest, I have to answer no. The agreement was to "take care of her" but my intention was never to participate.' 'What do you think Sullivan meant by "take care of her,"' asked Rucker. 'I figured he meant to kill her, you don't pay $25,000 to scare nobody,' said Harwood." Court TV (3/6, Grinberg) notes Harwood "emerged as a wild card for both the defense and the state,

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implicating Sullivan one instant while denying being the shooter."

WXIA-TV Atlanta (3/6, Shirek, Christensen) reports, "Harwood said he first met James Sullivan when he delivered furniture to him from Sullivan's former home in Macon, Ga. Harwood said Sullivan started to hint around about needing help dealing with his estranged wife in Atlanta who was 'trying to take everything he has.' When Rucker asked Harwood how he knew Sullivan wasn't joking about having his wife killed, Harwood responded, 'When I received $12,500 in the mail.'"

Defense Lawyer Grills Harwood's Former Girlfriend. The Palm Beach Post (3/7, Keller) reports that before Harwood took the stand, his then-girlfriend, Belinda Trahan, "finished a grueling cross-examination from James Sullivan's attorney...by insisting he is the man she saw pass an envelope full of money" to Harwood "as payment for killing" Lita Sullivan. "Item by item, point by point," defense attorney Ed Garland "showed inconsistencies and contradictions in Trahan's trial testimony and earlier statements she has made to authorities. By his questions, Garland suggested Trahan was motivated to come forward with her story in 1998 in order to collect a reward that still has not been paid, and that her story was influenced by news accounts she had read."

US Indicts Army Official For Fraud, Bribery.

The Army Times (3/6, Tan) reports, "An official at Army Test and Evaluation Command was indicted March 1 for fraud and bribery, according to the U.S. Justice Department." The Times continues, "Jeffrey H. Stayton, chief of aviation for ATEC was charged with two counts of honest services fraud, one count of bribery and one count of obstruction of justice after an indictment was returned by a federal grand jury in the Middle District of Alabama." The Times adds, "The grand jury in Montgomery, Ala., also indicted William Curtis Childree, a private contractor based in Enterprise, Ala. Childree, 67, is charged with two counts of honest services fraud and one count of bribery. … According to the indictment, in or about November 2001, Maverick Aviation, a business owned and run by Childree that buys and distributes helicopters for its clients, was chosen to produce and modify two helicopters for use by the U.S. government. The contract was worth about $4.7 million. … Stayton, 55, is accused of taking actions that favored Maverick's selection to get thecontract and misleading government officials about Maverick's performance under the contract , according to the Justice Department."

US, Britain In Dispute Over Mutual Extradition Agreement.

The London Times (3/7, Baldwin) reports, "Britain and the United States were locked in a deepening diplomatic dispute last night over Washington's failure to implement a mutual extradition agreement that Parliament approved three years ago." The Times continues, "Congress's refusal to ratify the deal means that Britain cannot prosecute criminals residing in the US, including sex offenders and paedophiles. … America has sought the extradition of 44 alleged offenders since 2003, and 12 have already been sent to the US. The extradition of several others has been approved but is awaiting appeal. In contrast, Britain extradited only five suspects from the US in the same period under the previous thirty-year-old extradition treaty, including just one in 2005." The Times adds, "Ministers have repeatedly raised the issue with their US counterparts, and Charles Clarke, the Home Secretary, protested again when he met Alberto Gonzales, the US Attorney-General, in London yesterday. … Diplomats led by Sir David Manning, Ambassador to the US, have also held about 30 meetings on the issue on Capitol Hill in recent months. But pleas have fallen on deaf ears. Indeed, America's failure to abide by its side of the deal is fast becoming a political embarrassment for a British government often accused of showing undue deference to Washington. … A senior US official told The Times yesterday that the Administration was sympathetic to Britain's concerns and hinted that a fresh attempt to force the treaty through the Senate would be made within weeks. … The official said that the problem had been caused by the influential Irish-American lobby, which is worried that the treaty could be used to pursue IRA suspects. Senators are worried about alienating any section of voters before November's congressional elections. British diplomats have emphasised that, after the Good Friday agreement, Britain has little interest in pursuing IRA suspects."

US Targets White Supremacist Prison Gang.

The AP (3/7, Flaccus) reports, "The inmates had to heat the letter to draw out the message, written in invisible ink. When they did, their orders were clear. … Within hours, prosecutors say, members of the Aryan Brotherhood prison gang sneaked into a nearby cellblock and killed two black inmates with handmade shanks as part of an order to 'go to war' with blacks." The AP continues, "The deaths are two of the 32 murders and attempted murders detailed by federal

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prosecutors in a sweeping case against the Aryan Brotherhood, a violent white supremacist prison gang that has infiltrated nearly every federal and state prison since its beginnings in San Quentin in 1964. … Prosecutors hope to dismantle the gang - nicknamed the 'Brand' - in a series of trials that together make up what's believed to be the biggest capital murder case in U.S. history. Of the 40 men initially charged, as many as 16 could face the death penalty for crimes that reach back 30 years." The AP adds, "Prosecutors are pursuing the highly organized gang with a racketeering law originally passed to target Mafia leaders - a tactic recently used with some success against other prison gangs in California and Texas. … Opening statements in the trial of (Barry) Mills and three others are scheduled to begin March 14 in federal court in Santa Ana. Mills and another alleged ringleader, Tyler 'The Hulk' Bingham, face the death penalty in what could be a nine-month trial. … Four more defendants are set to go on trial in Los Angeles in October; court dates in California are pending for the remaining men. Nineteen of the 40 defendants struck plea bargains, and one has died. … The 140-page indictment against the gang alleges a web of conspiracies to murder fellow inmates who offended gang members, cheated them on drug deals, failed to comply with the orders of leaders or snitched to prison authorities. Prosecutors, who declined to be interviewed, spent six years compiling evidence and relied on informants for much of their case."

Nine Arrested On Billing Fraud Charges At California Medical Clinic. The San Diego Union-Tribune (3/7, Martinez, 353K) reports, "A Lemon Grove medical clinic was shut down after its owners and employees were charged with defrauding Medi-Cal out of more than $2 million, authorities said Monday. Nine people, including the owners and a doctor who worked at a medical clinic…were indicted last week on 47 counts that included conspiracy; insurance fraud; capping, or illegally referring patients; tax evasion; grand theft and operating a business without workers' compensation insurance, the District Attorney's Office announced." The Union-Tribune notes, "FBI agents first learned about the clinic in November 2004 when patients complained that they were being billed for treatment that they did not receive, said Daniel R. Dzwilewski, special agent in charge of the San Diego FBI office."

Michigan Credit Card Fraud Probe Expanded. The Detroit News (3/6, Shepardson) reported that the credit card fraud investigation of Dearborn perfume distributor Ali Abdul Karim Farhat and his brother, Hassan Farhat, "has grown into a money-laundering indictment charging the pair and 17 of their business associates and relatives. Defense attorneys now say prosecutors threatened to indict the suspects' family members unless they agreed to plead guilty," and they "accuse government investigators of improperly obtaining secret wiretaps in the investigation." The News notes that "hundreds of pages of secret wiretap records recently made public show that the FBI's Joint Terrorism Task Force went to great lengths in its investigation of the Farhats -- installing a secret surveillance camera outside a Dearborn business, stealing a suspect's trash and having an undercover agent pose as a businessman seated next to a suspect on an airplane flight."

Judge Hears List Of Complaints From Convicted Sniper Muhammad. The Washington Times/AP (3/7, Manning) reports, "Convicted sniper mastermind John Allen Muhammad appeared in Montgomery County Circuit Court in Rockville yesterday with a list of complaints, including charges that jailers have restricted his access to court documents in his trial for six Washington-area sniper shootings. … He also complained about disagreements with his attorneys over legal filings and that he had been denied long underwear to wear in court." The AP continues, "Muhammad also lost a pair of pretrial motions during yesterday's hearing in advance of his scheduled May 1 trial. He was transferred to Montgomery County last summer from Virginia, where he has been sentenced to death." The AP adds, "Circuit Judge John Ryan granted a request from county prosecutors to present evidence of other shootings Muhammad and accomplice Lee Boyd Malvo are accused of carrying out before and during the three-week October 2002 shooting rampage in the Washington region. … Judge Ryan also blocked a request by Muhammad's attorneys to hold separate trials for some of the six murders that occurred in Montgomery County, the first on Oct. 2 and the last on Oct. 22, 2002."

Baltimore Grand Jury Decries "Arrests Without Merit." The Baltimore Sun (3/7, Bykowicz) reports, "A Baltimore grand jury is calling for the number of city arrests that fail to result in criminal charges to be cut in

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half, saying such arrests erode public confidence in the Police Department, according to a report released Monday. … 'If the staggering number of arrests is to be validated, the percentage of arrests without merit must be drastically reduced,' the report says. The jurors also said that frequent police stops of residents is an approach 'bordering on violating a person's constitutional rights.'" The Sun adds, "The panel of 23 grand jurors that met from September to January was asked by a Baltimore Circuit Court judge to "address the lack of confidence that exists between many members of the public and law enforcement." … The grand jury appears to have done its research by reviewing media reports and arrest statistics, as well as speaking with each other and with 'several' residents, though the report does not say how many. Grand jurors talked to one person from the Police Department, the head of education and training."

New Jersey Verdict Highlights Crackdown ON Violent Animal Rights Activists. The Christian Science Monitor (3/7, Knickerbocker) reports, "Animal-rights activists around the country - at least the most extreme - are becoming increasingly militant. And law enforcement officials and lawmakers are stepping up efforts to combat those who break the law." The Monitor continues, "These interconnected trends came to a head in New Jersey last week when an animal rights group and six of its members were convicted of inciting violence in their campaign to shut down a company that uses animals to test drugs and other consumer products. … The group, Stop Huntingdon Animal Cruelty (SHAC), claims its actions constitute free speech. But federal prosecutors and the jury in a Trenton, N.J., courtroom called it harassment, stalking, and conspiracy - the first such conviction under the 1992 Animal Enterprise Protection Act. The lab, Huntingdon Life Sciences (HLS), the largest of its kind in the world, is based in Britain and New Jersey." The Monitor adds, "Antivivisectionists and other animal-rights proponents have been organized in the US since at least the mid-19th century. But recently, their most extreme members have become more aggressive. … Members of the US House and Senate are sponsoring the 'Animal Enterprise Terrorism Act.' It would toughen the 1992 Animal Enterprise Protection Act by imposing penalties for veiled threats to individuals and families, economic disruption or damage, and 'tertiary targeting.' … Along with the recent indictment of ALF activists charged with arson and other crimes in Oregon and other parts of the West, the convictions in New Jersey are a setback for extremist animal-rights activists."

CIVIL LAW:

Supreme Court Rules Colleges Must Permit Military Recruitment. The Supreme Court yesterday ruled the government can condition Federal aid to colleges and universities on their acceptance of military recruitment on campus. The story was reported briefly by each of the networks last night. NBC Nightly News (3/6, story 9, 0:20, Williams) reported, "In its unanimous opinion, the court said that if students and faculty disagree with the military's policies, they are free to protest, but they may not kick the recruiters off campus." The CBS Evening News (3/6, story 6, 0:15, Schieffer) reported, "Several law schools have barred recruiters from their campuses arguing that the Pentagon's don't ask don't tell rule discriminates against gays and violates freedom of speech."

ABC World News Tonight (3/6, story 7, :20, Vargas) said the ruling was "a major victory today for the Bush Administration." While the AP (3/7, Holland) calls it "a setback for universities that had become the latest battleground over the military policy allowing gay men and women to serve only if they keep their sexual orientation to themselves." Justices "seemed swayed by the Bush administration's arguments that after the terrorist attacks, and during the war in Iraq, the government had a responsibility to bolster its recruitment." Knight Ridder (3/7, Henderson) also says the decision "is a big boost to the military and a blow to 36 law schools that joined forces to fight what they'd described as overreaching by Congress." The schools "will now face a choice: Grant military recruiters full access to their campuses, or forfeit what in some cases is hundreds of millions of dollars."

Fox News' Special Report (5/6, Garrett) reported "the court ruled 8-0 that recruitment policy did not violate the first amendment because it governs conduct, not speech." The New York Times (3/7, Greenhouse, 1.19M) reports, "It was a setback, although hardly an unexpected one, to a coalition of law schools that brought the constitutional challenge, as well as to the Association of American Law Schools." The Wall Street Journal (3/7, Bravin, Hechinger, 2.11M) says that "at oral arguments in December, the justices sounded skeptical of the argument that schools were being forced to endorse a message of antipathy to homosexuals." The government's lawyer, Solicitor General Paul Clement, "said schools remain

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free to express their views of military policy in other ways." The Washington Times (3/7, Taylor, 90K) reports that "because he was not on the court in December when the case was argued, Justice Samuel A. Alito Jr. abstained from the ruling, which drew mixed reactions from court observers yesterday."

The Legal Times (3/7, Mauro) reports, "Georgetown law professor Mark Tushnet, a former president of the AALS, predicted that the ruling would lead to an increase in 'the number and intensity of protests against military recruiting in the fall.'"

The Los Angeles Times (3/7, Savage, 958K), USA Today (3/7, Biskupic, 2.31M), Christian Science Monitor (3/7, Teicher, 61K) and Washington Post (3/7, A1, Barbash, Romano, 744K), among other sources, run similar reports this morning.

More Commentary. Under the headline "Army 8, Yale 0," the Wall Street Journal (3/7, 2.11M) editorializes, "Yesterday the Supreme Court upheld a provision of a law called the Solomon Amendment, which conditions federal funding for colleges and universities on their providing military recruiters the same access they grant to other employers. The decision was no Solomonic compromise but a complete rout of the other-worldly professors who had challenged the law. … . If those who run America's institutions of higher education really have principled objections to the military's presence, let them take a stand by declining taxpayer money. Then the rest of us can find out how much their principles are worth."

The Washington Post (3/7, A16, 744K) editorializes that the ruling "is no surprise. It offers the correct answer to the legal question the case posed: Can the government deny federal money to universities that, in protest of the military's discrimination against homosexual service members, bar military recruiters from campus or grant them access on terms less welcoming than those given to other employers? As the court ruled, the universities don't have a right to that money. But the Pentagon's legal win should not obscure the indefensible nature of the policy that underlies the dispute." However, "the gay ban still needs to be repealed."

Google Court Date Postponed Again. CNET News (3/7) reports, "Google's courtroom date with the U.S. Justice Department has been delayed a second time." CNET continues, "U.S. District Judge James Ware in San Jose, Calif. on Friday postponed the hearing from March 13 to March 14 at 9:00 a.m PT." CNET adds, "The outcome will determine whether the Bush administration will prevail in its fight to force Google to help it defend an anti-pornography law in a trial in Philadelphia this fall. … Although the Justice Department also demanded that Yahoo, Microsoft and America Online hand over similar records, Google was the only recipient that chose to fight the subpoena in court."

CIVIL RIGHTS:

DOJ Probing Mandalay Bay Hotel-Casino's Compliance With ADA. The Las Vegas Business Press (3/7, Miller) reports, "Sixteen years after the passage of the Americans with Disabilities Act, the issue of hotel-casinos' compliance with the law's accessibility guidelines is again emerging as a hot-button issue. Numerous private complaints have been lodged against an assortment of casinos, and the Department of Justice told the Business Press that it is in the midst of a probe involving ADA compliance and Mandalay Bay Resort. … 'It's an ongoing, active investigation. It is the resort in general,' said DOJ spokesman Eric Holland, who couldn't comment further because of the investigation. He added that policy investigations must go through a preliminary review first, then, if warranted, an active investigation will be launched by the Justice Department." The Press continues, "MGM Mirage, which now owns Mandalay Bay, acknowledged the DOJ was looking into issues at the property prior to its absorption of the Mandalay Resort Group, which owned Mandalay Bay. That merger was completed last April. 'The Department of Justice had made that company aware of certain areas of concerns,' said MGM Mirage spokesperson Yvette Monet. 'We are working with the Department of Justice to resolve the issues in a timely manner.' Mandalay Bay's hotel does comply with the ADA's disable accessible room standards, according to information supplied by MGM Mirage. … Two other MGM Mirage-owned properties -- the MGM Grand and New York-New York -- have reached separate settlements with the Justice Department in the past. The agreements, last revised in 2001, called for both resorts to provide more access to disabled people."

Claims Of Anti-Semitic Jury Selection Reach California High Court. The California Recorder (3/7, Mckee) reports, "Attorneys arguing that Alameda County, Calif., prosecutors routinely excluded Jews from death

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penalty juries have been asked a tricky question: Does it matter if the court record doesn't establish that any of the excused jurors were actually Jewish?" The Recorder continues, "The justices of the California Supreme Court posed that question in a death row inmate's habeas case last month, and they're going to want answers during oral arguments Wednesday in San Francisco. … They also want to know whether there was actual wrongdoing if a prosecutor had a separate, valid reason for removing a juror." The Recorder adds, "The last-minute queries throw a new wrinkle into a case that has fascinated the Bay Area legal community since July 2004. That's when the high court in the habeas corpus case of death row inmate Fred Freeman ordered an investigation into whether the Alameda County district attorney's office -- in collusion with now-deceased Superior Court Judge Stanley Golde -- intentionally purged Jews from capital juries because of a perception that they wouldn't sentence someone to death. … Former Alameda County prosecutor John 'Jack' Quatman, who prosecuted Freeman, raised the allegations, but wound up being branded a 'dishonest and unethical' man by a Santa Clara County Superior Court judge who presided over a weeklong evidentiary hearing 11 months ago. … Judge Kevin Murphy ruled that Freeman got a fair trial and that there was ample evidence Quatman fabricated his claims to embarrass Alameda County DA Tom Orloff, who took Quatman off capital cases in 1993. … The latest questions by the Supreme Court seem to indicate that the justices could be leaning toward deciding the case on a narrow issue, possibly whether jurors were let go simply because they appeared Jewish or that their surnames -- Mishell, Peisker and Laput -- sounded Jewish."

Judge Calls for Elimination Of Preemptory Challenges In Jury Selection. Morris B. Hoffman, a state trial judge and an adjunct professor of law at the University of Colorado, writes in the New York Times (3/7) criticizes the jury selection process in US trials a "side show" that "all too often takes over the circus in American trials." Hoffman notes, "Since peremptory challenges are not mandated by the federal or any state constitutions, Congress and state legislatures could abolish them tomorrow."

South Dakota Enacts Abortion Ban In Bid To Test Roe. Gov. Mike Rounds of South Dakota yesterday signed into law a bill banning abortion except to save the life of the mother. State legislators had enacted the measure in an attempt to get the US Supreme Court to reconsider its decision in Roe vs. Wade, which legalized abortion. The Washington Post/AP (3/7, A5) reports the bill "would make it a crime for doctors to perform an abortion unless the procedure was necessary to save the woman's life. It would make no exception for cases of rape or incest."

The story was covered in a full segment by NBC, while ABC and CBS reported the story briefly. NBC Nightly News (3/6, story 10, 2:10, Tibbles) reported it is "a day South Dakota Governor Mike Rounds has been planning for." Gov. Mike Rounds, South Dakota: "We'll send a message to those individuals who are pro-life that we have tried the direct, frontal assault on Roe v. Wade." Tibbles: "The bill's sponsor says the ultimate goal is to force a showdown at the nation's highest court." Roger Hunt, South Dakota House of Representatives: "The United States Supreme Court is recognizing that there is a growing momentum to revisit Roe v. Wade." Tibbles: "Legislatures in at least 10 other states are considering their own abortion bans. Mississippi's could pass as early as next week."

ABC World News Tonight (3/6, story 8, Vargas) reported the law "was designed by lawmakers to invoke a legal battle they hope will lead to the overturning of Roe versus Wade." The CBS Evening News (3/6, story 5, 0:20, Schieffer) reported, "Lower Federal courts are almost certain to block the law before it takes effect July 1st." CNN's The Situation Room (5/6, King) reported that "that's just what supporters want, a direct challenge to the 1973 high court decision legalizing abortion." The New York Times (3/7, Davey, 1.19M) also says the law "will force a legal showdown before it ever comes into effect, an outcome its supporters, eager to overturn Roe, intended."

USA Today (3/7, Lawrence, 2.31M) reports, "Passions among supporters of the law were also running high. State Rep. Roger Hunt, the Republican sponsor of the law, said an unidentified donor has already given $1 million to offset legal costs." USA Today (3/7, Lawrence, 2.31M) runs a second story, reporting the "new law…is creating a rift among anti-abortion Republicans during an election year. … Some Republican abortion opponents say they would prefer to continue the incremental approach that has resulted in increasing restrictions on abortion. They worry South Dakota's frontal assault could scare away moderates, light a fire under liberals and even set back the anti-abortion cause." The Los Angeles Times (3/7, Muskal, 958K) reports Planned Parenthood "runs the state's only clinic where abortions are

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performed. About 800 abortions are done each year in South Dakota."

Report Finds Minorities Are Moving To Sun Belt. A Brookings Institution report to be released today says that almost one-third of US metropolitan areas have seen declines in their white populations this decade as minorities have brought diversity to large sections of the country. USA Today (3/7, El Nasser, 2.31M) reports, "The influx of immigrants and people moving to the Sun Belt and Western mountain states from other parts of the USA is rearranging the ethnic tapestry of urban centers in an unprecedented way. Blacks, Hispanics and Asians are going where the jobs are. They're driving population increases in the fastest-growing areas, including Las Vegas, Atlanta and Orlando, says demographer William Frey, author of the report on shifts in populations from 2000 to 2004."

Whites Could Be Minority In New York City Area Within Few Years. Demographers say the influx of foreigners to the New York city area combined with the continuing exodus or non-Hispanic whites to other parts of the country will result in whites being a minority of the region's population within a few years. The New York Times (3/7, Roberts, 1.19M) reports, "The shift would make New York the first large metropolitan area outside the South and West in which whites do not make up a majority, according to an analysis of 2004 Census estimates by the Brookings Institution that was released yesterday."

ANTITRUST:

Antitrust Approval Of AT&T-BellSouth Deal Seen As Likely. The Austin American-Statesman (3/7, Geewax) reports, "The Justice Department likely will approve AT&T Inc.'s $67 billion purchase of BellSouth Corp. without demanding any major antitrust concessions, analysts said Monday. … But the Federal Communications Commission, which also must review the transaction, may consider restricting the new company from charging new fees for faster delivery of premium Internet services, they predicted." The American-Statesman continues, "Together, AT&T and BellSouth would become the nation's No. 1 supplier of local, long-distance, wireless and high-speed-Internet services. … In recent reviews of telecom mergers, however, Justice Department officials decided that size alone could not shield phone companies from competition from cable, satellite and other companies providing telecom services. … As a result, the Justice Department demanded no significant changes in those cases, so 'we see no reason why it would treat this case differently,' according to an assessment issued by Anna-Maria Kovacs, president of Regulatory Source Associates LLC, a research firm in Cambridge, Mass."

Dow Jones (3/7) reports that the deal "will face few antitrust hurdles…analysts predicted Monday. … Announced Sunday, the deal follows SBC Communications Inc.'s acquisition of AT&T and the formation of the new AT&T Inc. in November. It also follows Verizon Communications' February 2005 purchase of MCI Corp. … Both those recent deals, observers say, give regulators case histories from which to work. … 'They have a template to look at these things and follow the same framework,' said Paul Glenchur of Stanford Washington Research Group. … 'I don't think there's going to be a great deal of regulatory resistance,' said Jonathan Rubin, a research fellow at the American Antitrust Institute."

Reuters (3/7) reports, "U.S. communications regulators and antitrust authorities on Monday pledged to carefully review AT&T Inc.'s $65 billion purchase of BellSouth Corp….. 'We will carefully weigh the information presented, examining any allegations of specific harm in individual markets and the potential benefits for the deployment of new services,' Federal Communications Commission Chairman Kevin Martin said in a statement." Reuters adds, "The agency must determine whether the deal benefits the public. The transaction must also receive approval from U.S. Justice Department antitrust authorities. … 'We're going to look at it closely,' the department's antitrust chief Thomas Barnett told reporters while attending a conference of attorneys general. … Analysts said they expect the deal to be approved, likely with similar conditions that were attached to two telecommunications deals given the green light last year, Verizon Communications' purchase of MCI Inc. and SBC Communications acquisition of AT&T Corp. to form AT&T Inc. … Lawmakers also said they plan to review the deal."

Dow Jones (3/7) reports that the proposed deal "is stirring up some unease on Capitol Hill, where lawmakers and competing telecommunications companies are questioning whether the transaction requires special scrutiny." Dow Jones continues, "Concerns hinge in on the size of the deal and on expectations that AT&T's purchase will escalate a trend of consolidation in the telecommunications industry. … 'AT&T's proposal to

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purchase BellSouth would remove yet another potential competitor from the communications marketplace and calls into question whether the future of communications policy will be marked by strategies to promote vigorous competition or by further efforts to facilitate new mergers,' Sen. Daniel Inouye, D-Hawaii, the top Democrat on the Senate Commerce Committee said in a statement." Dow Jones notes, "The transaction comes amid a favorable political climate for mergers, as the Bush administration has been friendly to large combinations. Many observers expect the Federal Communications Commission and antitrust regulators to approve the deal with few conditions even amid concerns the deal would leave companies with too much pricing power and consumers with two few choices."

AT&T Plans To Cut 10,000 Jobs After BellSouth Purchase. Bloomberg (3/7) reports, "AT&T Inc….plans to eliminate about 10,000 jobs after completing the $67 billion purchase of BellSouth Corp. … The reductions will come in 2007 through 2009, Chief Financial Officer Rick Lindner said on a conference call today with analysts. With BellSouth and Cingular, San Antonio-based AT&T's workforce will rise to 317,000 from 189,000, making AT&T among the top 10 U.S. employers, according to Bloomberg data." Bloomberg adds, "Job cuts, which are about 3 percent of total employment, represent about 50 percent of the planned $18 billion in cost savings AT&T expects to extract from the purchase. The acquisition will cement AT&T's position as the dominant U.S. provider of local, long-distance and wireless calling and enable it to better fend off new competition from cable-television companies and Internet calling companies. … The reductions, which Lindner said will come mostly through attrition, are in addition to the 13,000 jobs that AT&T plans to shed as part of last year's combination between SBC Communications Inc. and AT&T Corp., which created the largest U.S. phone provider. BellSouth and Cingular add 128,000 workers to the payroll."

AT&T-BellSouth Deal Could Change Vodafone-Verizon Dynamic. The Wall Street Journal (3/7, Bryan-low, Singer, Sharma) reports, "AT&T INC.'S planned $67 billion acquisition of BellSouth Corp. not only changes the U.S. telecommunications landscape but could cause an unexpected shift in the dynamic between Britain's Vodafone Group PLC and Verizon Communications Inc., the co-owners of Verizon Wireless." The Journal adds, "Verizon has long been interested in buying out Vodafone's 45% stake in the venture, but has been holding out for the right terms. For months, Vodafone has been under pressure from investors to do a deal in order to generate cash for the company and pay out dividends to large shareholders. That gave Verizon the upper hand. … But now Verizon needs to get control of the venture more than ever, analysts say, just to keep pace with AT&T, which will take full control of cellular carrier Cingular Wireless and thus increase its exposure to the telecom industry's growth area. The power balance may have shifted in Vodafone's favor."

The Financial Times (3/7, Taylor, Van Duyn, Politi) reports that the merger announcement "increased the pressure on rivals including Verizon Communications to join an industry-wide consolidation." The Times continues, "The BellSouth purchase would also give AT&T sole control of Cingular Wireless, the biggest wireless carrier in the US. As a result, analysts noted, Verizon, its main rival, would be under pressure to buy out Vodafone's 45 per cent stake in Verizon Wireless. … Shares in Vodafone gained 2.9 per cent in London to close at 125 pence. Verizon's shares were up 1.25 per cent at $34 at noon in New York. … 'Verizon may be pressured more to improve its business mix by becoming increasingly focused on its attempt to buy out the remaining 45 per cent of Verizon Wireless from Vodafone,' said Jason Armstrong of Goldman Sachs in a note to investors."

The Washington Post (3/7, D1, Mohammed) reports, "With Sunday's announcement of AT&T's agreement to buy BellSouth Corp. for about $67 billion in stock, (AT&T Chairman Edward E.) Whitacre, 64, capped a career that has transformed what was once the smallest of the Baby Bells, Southwestern Bell Corp., into the largest local-phone and wireless company in the country. … What immediately followed was speculation about what Verizon's (Chairman Ivan G.) Seidenberg, 59, might do next to one-up his biggest competitor for more than a decade. He has already said publicly that he'd like to buy out Vodafone Group PLC's 45 percent stake in Verizon Wireless, the second-largest U.S. mobile phone company."

Qwest Could Get Buyout Offer After AT&T Deal. USA Today (3/7, Iwata, Davidson) reports, "For months, Qwest has been considered anything but a prized acquisition target — mostly because of its heavy debt and its lack of the large-scale wireless and high-speed Internet assets that are the communications industry's engines for growth in coming years. … That view might be changing in the wake of AT&T's proposed $67 billion purchase of BellSouth." USA continues, "Qwest — as well as Alltel and Sprint Nextel — could become

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an acquisition target, as Verizon scrambles to keep pace with AT&T, predicts analyst Ken McGee at technology consultant Gartner. … A combined AT&T and BellSouth would knock Verizon from its No. 1 perch in the industry and put it at a disadvantage in both the wireless and large-business markets, possibly forcing it to respond, says Stifel Nicolaus analyst Chris King." USA adds, "McGee predicts that Qwest will garner Verizon's interest as merger bait. 'They're unlikely to remain an orphan,' he says, noting that Qwest CEO Richard Notebaert has kept Qwest from a bankruptcy reorganization and appears to be slowly turning it around. 'Qwest must feel awfully lonely sitting there, watching everyone else dance.'"

AT&T Back On Top 22 Years After Breakup. The Washington Post (3/7, D5, Noguchi) reports, "Just a year ago, the hallowed AT&T Inc. brand appeared to be in its twilight, on the cusp of being merged out of existence. Now, with a proposed $67 billion acquisition of BellSouth Corp., the AT&T name is about to retake its place as the biggest brand in telecommunications." The Post adds, "Though it's been hard to track the complicated handoff of the AT&T name in recent years, it's clear that the new AT&T is a far cry from the old 'Ma Bell' company that was formed after Alexander Graham Bell invented the telephone in 1876. … Before the breakup of the monopoly in 1984, there was effectively one company, AT&T, which sold telephones and supplied local and long-distance services. That was before cellular phones and the Internet. After the breakup, AT&T became a long-distance phone company. … In the late 1990s, AT&T for a brief period had a host of services under its umbrella. In addition to being the largest long-distance provider, it had a wireless operation, offered cable TV services, and sold dial-up and later high-speed Internet services. Over time, the pieces were spun off or sold. … By early last year, all iterations of the AT&T brand seemed headed for the dustbin of history -- again. In 2004, AT&T Wireless was subsumed by Cingular Wireless. … . Cingular's parent companies, BellSouth and SBC Communications Inc., had proposed an acquisition of AT&T, leaving no apparent heir to the name. But as marketing experts predicted, after closing its merger last year, SBC ditched its three-letter acronym for the nationally recognized AT&T name, which it now calls 'the new AT&T' in its advertisements."

Scripps Howard (3/7, Deibel) reports, "AT&T's $67-billion bid for BellSouth seems on the surface to go a long way toward reconstituting the old telephone monopoly, but 24 years after federal trustbusters forced the breakup, it's not your father's Ma Bell anymore. … Today's era of wireless and fiber optics convergence is light years away from the competitive landscape that U.S. District Judge Harold Green confronted when he OK'd the 1982 consent decree that divided AT&T into seven regional Bell operating companies two years later. … At stake now are upstart, low-cost challenges from Internet, cable and wireless competition, telecom analysts say."

Merger Could Lead To Lower Prices For Consumers. The Wall Street Journal (3/7, Young, Vascellaro) reports, "The $67 billion merger that will make BellSouth Corp. part of AT&T Inc. is expected to accelerate the battle of the bundles. … The cable industry and the phone companies are aggressively competing to attract new customers by offering attractively priced packages of home phone, Internet, cable and cellphone services. AT&T Chairman and Chief Executive Edward Whitacre has long identified $100 as a potential target price for a package of those four services. While that price hasn't been offered yet, the merger increases the pressure on the phone and cable rivals to deliver more competitive packages as a way to keep competing services from poaching customers." The Journal adds, "Prices are already in the $100 range for packages that don't include wireless -- and industry executives expect them to come down. A larger AT&T will be able to compete more aggressively with cable companies and, after cutting costs, will likely be able to reduce prices of service packages."

The Christian Science Monitor (3/7, Trumbull, Marks) reports, "Changes in the communications industry are spawning vast new choices - but not necessarily lower bills - for American consumers who dial, click, and channel surf. … Cellphones now carry video as well as voice. The Internet can be used for phone calls as well as data downloading. And television is fast becoming a digital medium, where content can be stored and retrieved anytime … This is the 'digital convergence' of communication platforms that telecom and cable companies have long been trying to create. The process holds great promise but means more volatility for consumers and firms. … The latest jolt is this week's announcement by AT&T that it plans to acquire BellSouth Corp. Together, the firms would create the world's biggest telecommunications company in terms of market capitalization and combine many of the pieces of the old 'Ma Bell' that in 1984 was broken into eight pieces by an antitrust settlement. … Indeed, for all the new competition, the scale

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of this $67 billion deal is just one sign of the market clout that telecom and cable companies still retain. The word monopoly no longer applies. But Americans are spending more than ever on communications services, and regulators still have a role to play as guardians of competition, consumer advocates say."

USA Today (3/7, Davidson) reports, "AT&T's proposed purchase of BellSouth gave fresh ammunition Monday to critics of a push by the big local phone companies to charge websites fees to ensure fast delivery of their content." USA continues, "Even before the deal, AT&T and BellSouth discussed plans to charge Internet-based phone company Vonage, Google and other Web providers new fees to ensure speedy delivery of their phone calls, video or other content. Though proposals in Congress would bar phone companies from blocking access to rival websites, none would prohibit their offering enhanced services." USA adds, "The question of whether an even bigger AT&T should have to comply with Internet non-discrimination principles is expected to take center stage as consumer advocates urge regulators to reject the deal. Some rivals say arguments for such restraints are bolstered by the clout a bigger AT&T customer base would have. 'Arguably, there's less competition as a result of these mergers,' says Paul Meisner of Amazon. … Consumer groups also fear the $67 billion deal will hamper competition for wireless and large business customers, driving up prices."

Deal Will Intensify Competition In Phone, TV, Internet. The Wall Street Journal (3/7, Grant, Schatz) reports, "The picture just got fuzzier for the cable-TV industry, a once-mighty monopoly now under assault by new technology and corporate mergers." The Journal adds, "Even before AT&T Inc.'s planned $67 billion acquisition of BellSouth Corp.…cable companies were under growing pressure. Their stocks have steadily declined amid investor alarm at new competition from satellite and phone companies. The explosion of video on the Internet is conjuring up a future when a cable middleman may no longer be necessary. Regulators are pushing the industry on decency issues and pricing policies. … And cable's once-commanding lead in the sale of high-speed Internet connections has eroded as telephone companies have steeply discounted competing offers. Cable used to enjoy a two-thirds market share, but in the past year telephone companies have picked up more new customers than cable operators did. … Now the AT&T megadeal could create the largest competitor yet for cable operators in the new race to sell packages of phone, TV and Internet services. Among phone companies, AT&T already had the most aggressive plans for pushing into the TV and broadband markets."

Consumers Groups Vow To Oppose Merger. The AP (3/7, Powell) reports, "Several of the nation's largest consumer groups said Monday they would oppose AT&T's purchase of BellSouth Corp., arguing that the deal will reduce competition and drive up prices in the telecommunications industry." The AP continues, "Consumers Union and the Consumer Federation of America said they would urge the Justice Department to block AT&T Inc.'s $67 billion offer. … The consumer groups also asked their members to contact the Federal Communications Commission, which must approve the acquisition, and to petition their congressmen to try to prevent the deal from going through." The AP adds, "The consumer groups warned that increasing consolidation in the telephone industry would boost the prices for local, long-distance and cell phone services. They added that more-limited choices for phone service — along with a similar merger trend in the cable industry — threatened to reduce the variety of broadband Internet services available to consumers. … 'If approved, this merger will lead to higher local, long-distance and cell phone prices for consumers across the country,' said Gene Kimmelman, a vice president of Consumers Union, which is headquartered in Yonkers, N.Y. … At the very least, Kimmelman said, federal regulators should 'require the merging companies to sell their Cingular wireless business to create more opportunities for competition between wireless and wireline services.'"

The CBS Evening News (3/6, story 1, 1:50, Schieffer) reported, "Consumer groups vowed today to stop the proposed $67 billion merger of AT&T and BellSouth. And some of the workers may hope they do stop it because AT&T has already said if the deal goes through, they intend to lay off as many as 10,000 people. The consumer groups say a merger would mean less competition in the telecom industry and higher prices for consumers." NBC Nightly News (3/6, lead story, 2:20, Thompson) reported, "For some, this acquisition has an unsettling sense of deja vu. 22 years ago, a court order split AT&T into seven regional companies. Four of those companies are now part of AT&T again, leading some to wonder if ol' Ma Bell is back." Rep. Edward J. Markey, Massachusetts: "We have to make sure that this deal doesn't send us backwards, back to 20 years ago, when AT&T had a monopoly." NBC Nightly News (3/6, story 2, 2:00, Quintanilla) ran a similar story.

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Deal Could Undermine Telephone Industry's Broader Agenda. The New York Times (3/7, Labaton, 1.19M) reports that AT&T's proposal to buy BellSouth is a sign of "how far the regulatory climate, as well as the marketplace, has traveled in less than a decade, as the cable and phone industries have gotten into each other's businesses and new forms of phone service have grown. … The deal threatens to undermine parts of the telephone industry's broader regulatory and legislative agenda by making it more difficult for the industry to claim it badly needs relief from regulators and Congress."

FCC, Telecom Law Changes Could Affect Merger Scrutiny. The Wall Street Journal (3/7, Schatz, Squeo) reports, "As AT&T Inc. and BellSouth Corp. make the case for their $67 billion merger, they'll be counting on their vaunted lobbying clout to win over skeptical lawmakers and regulators. … Their efforts could be complicated by two factors: The changing makeup of the Federal Communications Commission and a push to rewrite the landmark 1996 telecommunications law." The Journal adds, "Regulatory experts say that given (FCC Chairman Kevin) Martin's push last year to impose minimal conditions on SBC Communications Inc.'s purchase of AT&T Corp. and Verizon Communications Inc.'s acquisition of MCI, it would be surprising if he reversed his stance." The Journal notes, "Mr. Martin, though, represents just one vote on a five-member commission. The two Democrats likely will cast a skeptical eye toward such a transaction, especially given talk by phone companies to charge technology companies extra to guarantee speedy delivery on their networks. And the Bells may not be able to count on Mr. Martin's two Republican colleagues because of a shift in the makeup of the commission."

Two CEOs Likely To Play Big Role In Telecom Titan. The Wall Street Journal (3/7, Searcey) reports, "Over the years, AT&T Inc. chairman Edward Whitacre and BellSouth Corp. chief executive Duane Ackerman had talked many times about a deal before they finally agreed to the largest one in the history of the U.S. telecommunications industry. … In two years, though, both likely will be retired. The Journal continues, "Before the deal Randall Stephenson, AT&T's chief operating officer, and Mark Feidler, who held the same title at BellSouth, were widely acknowledged to be the heirs apparent of their respective companies once their bosses retire. While it is likely they will play significant leadership roles in the combined company, analysts and investors believe that Mr. Stephenson has the inside track to be chief executive. … 'Randall is clearly the anointed one within AT&T and Mark as the No. 2 in BellSouth needs to know that he'll have to be No. 2 or 3 in the new entity,' says a consultant who has worked with both companies. … Both men declined to be interviewed yesterday. But people familiar with the situation say that Mr. Stephenson, who has spent his 24-year career with the company mainly overseeing telecom finances, and Mr. Feidler, a former corporate lawyer and investment banker, have both been supporters of a deal between BellSouth and AT&T. The two executives have a good working relationship and already have one deal in common. They both helped negotiate the Cingular Wireless acquisition of AT&T Wireless. BellSouth and AT&T own Cingular in a joint venture."

WSJournal Says Changing Technology Driving Industry Consolidation. An editorial in the Wall Street Journal (3/7, 2.11M) says that while "all this telecom consolidation may or may not pay off for shareholders, the benefits to consumers are clear." The Journal adds, "Typical was the response from Massachusetts Democrat Ed Markey, a senior Member of the House Energy and Commerce Committee, who said 'Twenty years after the government broke up Ma Bell, this deal represents a mother-and-child reunion.' But the child has grown up and the mother has changed, even if Mr. Markey's rhetoric hasn't. Consolidation is being driven, as it should, by changing technologies, and by all manner of competition in a telecom world that Ma Bell wouldn't recognize."

More Commentary. In an op-ed in the Wall Street Journal (3/7), Bret Swanson, a senior fellow at Seattle's Discovery Institute and an editor of the Gilder Technology Report, writes, "Ma Bell's back: Run for your lives! -- or at least to the halls of Congress. That, it seems, is the overheated conventional wisdom. But the $170 billion combination of AT&T and BellSouth into the world's largest telecom company is a perfectly natural progression of business and technology. The merger will rationalize a market beset by decades of political mismanagement." Swanson adds, "Although this latest reintegration will not reduce the number of competitors in the marketplace, it is sure to supercharge the ever-present denunciations of monopoly that are behind every effort to regulate telecom. This time around, the main agent is the colossus Google. Exactly one decade after the disastrous 1996 act set us on a path for the telecom crash and a plunge to 16th in world broadband rankings, Google is

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leading an alliance of politicians, lobbyists and interested companies under the aegis of 'net neutrality.' If enacted, it will repeat the most basic mistakes of earlier legislation."

USA Today (3/7) editorializes, "Given the current, accommodating state of antitrust policy and the arrival of cable as a competitor in broadband and telephony, this deal might well be approved by federal regulators. It might even create economies of scale that would make the combination more efficient than the sum of its parts. … But it also should raise red flags for Congress and federal regulators. For all the talk of robust competition between cable and telephone, the reality has been less impressive. The most intense competition and the fastest roll-outs of new services have been largely limited to affluent areas. … What's more, the merger raises questions about the future of the Internet and digital entertainment. … For that reason, lawmakers and members of the Federal Communications Commission should take a long, hard look at where the Internet is headed and what might be done to prevent a handful of companies from gaining a chokehold over an evolving medium that is one of history's great innovations."

The Los Angeles Times (3/7) editorializes, "AT&T…now finds itself at the center of one of the largest mergers in business history. And concerns about the dangers of the" the purchase of BellSouth by AT&T "are exaggerated as well." The Times says the "merger would have practically no immediate effect on BellSouth's or AT&T's market. Customers would neither gain nor lose any options for phone, high-speed Internet or wireless services." In fact, the "proposed merger could actually promote…competition." Still, "regulators shouldn't just wave the merger through." The Times recommends, "Rather than trusting the company not to hamper the Internet or play favorites, regulators should require it to pledge to preserve a level playing field for all websites, programmers and services as a condition of the BellSouth deal."

Hybrid Program Seen As Key To NYSE Group's Future. The AP (3/7, Martinez) reports, "When the New York Stock Exchange transforms into a publicly traded company Tuesday, its agenda - staying competitive with faster all-electronic markets - will remain in place even as its corporate structure changes." The AP continues, "The NYSE's 214-year existence as a non-for-profit institution will end when it closes its $9 billion acquisition of all-electronic rival Archipelago Holdings Inc. On Wednesday, the combined company, called NYSE Group Inc., will begin trading on the floor of the Big Board under the symbol NYX." The AP adds, "Unfettered from the NYSE's seat holder leadership structure, in which the owners of 1,366 seats had a strong say in the direction of the Big Board, NYSE Group Chief Executive John Thain has big plans for the exchange, including trading options and corporate bonds, the possibility of extended trading hours and acquisitions of other exchanges and companies. … But as the $9 billion acquisition closes, the exchange can't look too far ahead, nor too quickly. The linchpin of its future is not new products or acquisitions, but its core business of trading stocks. And with the Nasdaq Stock Market's electronic trading platform slowly eating away at the NYSE's market share, the NYSE's new 'hybrid' program - the merging of electronic trading with traditional floor auctions - must be a fast and sure success."

Blackstone To Purchase CarrAmerica For $5.6 Billion. The Wall Street Journal (3/7, Forsyth) reports, "Blackstone Group agreed to acquire CarrAmerica Realty Corp., a real-estate investment trust with office properties across the U.S., for $5.6 billion." The Journal continues, "The deal is the largest in a string of transactions in which publicly traded real-estate companies have been bought by private or institutional investors willing to pay a premium for companies they believe are undervalued by Wall Street. .. Blackstone, a New York-based private-equity firm, has been aggressive in acquiring real-estate companies but has focused on the hotel sector. Two weeks ago, it said it would acquire MeriStar Hospitality Corp., a hotel REIT, for $940 million, plus debt, in a deal valued at $2.6 billion. The decision to grab a large office REIT is seen as an endorsement of the improving office market."

JP Morgan To Pay $1.5 Billion For Kohl's Card Unit. The Wall Street Journal (3/7, Sidel) reports, "J.P. Morgan Chase & Co. agreed to buy the credit-card operations of department-store chain Kohl's Corp. for $1.5 billion, reflecting the bank's push into the lucrative 'private-label' business." The Journal continues, "It is the latest in a flurry of deals in which retailers have shed their in-house card businesses to concentrate on core operations. Last year, for example, Federated Department Stores Inc. sold its private-label business to Citigroup Inc. … And British bank HSBC Holdings PLC recently snapped up the private-label portfolio of Neiman Marcus Group Inc." The Journal adds, "For banks,

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the private-label portfolios are attractive at a time when profit growth has been slowing for general-purpose cards -- those branded by card-issuing financial institutions and card associations such as Visa USA Inc. and MasterCard International Inc. … J.P. Morgan executives have repeatedly said they want to acquire more private-label portfolios; both Citigroup and General Electric Co. already have large presences in this area."

Linde Likely Clinches BOC Deal With Increased Bid. The Wall Street Journal (3/7, Hromadko, Esterl) reports, "German industrial conglomerate Linde AG raised its takeover bid for U.K.-based gas company BOC Group PLC to £16 ($28.06) a share, likely clinching a deal that will create the world's largest industrial-gas company in terms of sales." The Journal continues, "Linde said it intends to fund the deal -- which values BOC at £8.2 billion ($14.4 billion) -- with a fresh issue of equity and debt. … The transaction would create a leading world-wide industrial-gas and engineering group with combined sales of €11.9 billion ($14.3 billion), said Linde, based in Wiesbaden, Germany. The supplier of industrial gases, engineering services and forklift trucks said the BOC management board intends to recommend that its shareholders accept the offer. The bid represents a 39% premium to BOC's share price prior to Linde's offer in January."

ENVIRONMENT/INDIAN AFFAIRS:

Democrats Object To ANWR Language In Bush Budget. Democrats on the Senate Budget Committee said yesterday they oppose putting language in the 2007 budget bill that assumes the government will raise billions of dollars in oil drilling leases from ANWR. Reuters (3/6, Doggett) reported, "In its budget proposal to Congress, the Bush administration said it expected $7 billion would be raised by allowing oil drilling in the Alaskan refuge, and the Congressional Budget Office puts the figure at $6 billion. … 'It is irresponsible to base the country's budget on highly speculative and dubious projections of lease revenues for the coastal plain of the Arctic National Wildlife Refuge,' all nine Democrats on the budget panel said in a letter to the committee's Republican chairman, Judd Gregg."

Panel Issues New Guidelines For Flu Vaccines. The Washington Post (3/7, B1, Levine, 744K) reports that after hearing testimony from Gary Stein, whose 4 year old daughter Jessica died of the flu, the federal Advisory Committee on Immunization Practices, "voted for a surprise revision in national policy: It unanimously recommended that starting this fall, all children between 2 and 5 years old be vaccinated annually against influenza. … Children still suffer a 'substantial' amount of influenza, however, said Raymond A. Strikas, an associate director at the National Immunization Program, which is part of the federal Centers for Disease Control and Prevention. And that was the major impetus for the committee's decision late last month. Its expanded coverage even includes parents and older siblings, because they also suffer by getting sick themselves or taking time off work to care for ailing youngsters. All told, nearly 17 million additional people now will be urged to get protection against the flu, bringing the total to more than 120 million men, women and children across the United States."

NYTimes Says Navy Should Be Cautious When Using Sonar. An editorial in the New York Times (3/7, 1.19M) says, "The debate over whether the Navy's use of sonar to detect submarines is harming whales and other sound-sensitive species is back again. … No one can deny that the Navy needs to conduct sonar training in shallow waters, where sound propagates differently than in the deep ocean. But at a time when evidence is mounting that sonar has been responsible for at least some of the whale strandings around the world — and when we do not yet know what caused a large stranding last year in North Carolina — it behooves the Navy to move with extreme caution."

Sixteen Arrested On South Dakota Reservation For Drug Trafficking. Indian Country Today (3/7, Melmer) reports, "Sixteen people on the Pine Ridge Reservation have been charged with possession of cocaine and marijuana and with the intent to distribute the drugs. The arrests, which came days after national news organizations ran stories about drug trafficking on American Indian reservations, were not intended to coincide with those articles, according to Paul McCabe, FBI spokesman from the Minneapolis regional office." Indian Country notes McCabe said that arresting officers "stopped in a local restaurant and were greeted by locals with pats on the back and congratulatory praise, thanking them and saying, 'We appreciate it - get them out of here.' He added that the case

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is still under investigation and people may come forward with more information as long as it remains open."

FBI/DEA/ATF/USMS:

Israel Extradites Alleged Drug-Trafficking Mob Boss To US. The AP (3/7, Heller) reports, "A suspected Israeli mob boss, described by U.S. prosecutors as one of the world's most wanted drug traffickers, was extradited to the United States on Monday, police said." The AP continues, "Zeev Rosenstein, suspected of involvement in distributing more than 1 million Ecstasy pills in the United States, mostly in New York and Miami, was handed over to U.S. marshals at Ben Gurion International Airport near Tel Aviv arport and taken aboard a direct El Al flight to Miami, where he will face the drug charges, police spokesman Mickey Rosenfeld said." The AP adds, "The target of numerous gangland assassination attemps in the past, Rosenstein was driven to the airport in an undercover police car accompanied by several motorcycles, Israeli radios reported." Rosenfeld "said the extradition was the result of a long investigation conducted in coordination with U.S. law enforcement agencies. … Israeli police, acting on an international arrest warrant, arrested Rosenstein more than a year ago for allegedly smuggling drugs from Europe to the United States. … A U.S. extradition request, submitted in December 2004, said Rosenstein was involved in distributing more than 1 million pills of Ecstasy, court documents said."

Cable TV Coverage. Bloomberg –TV (3/6, 2:00 p.m.) reported, "A suspected Israeli mob boss, described by US prosecutors as one of the world's most-wanted drug traffickers, has been extradited to the US. He's suspected in involvement in distributing more than one million Ecstasy bills in the United States, mostly in New York and Miami. Israeli police arrested Rosenstein more than a year ago."

Local TV Coverage. WKRN-TV, Nashville, Tennessee (3/6, 5:00 p.m.) reported, "One of the world's most wanted drug kingpins was put on a plane for the US. US prosecutors say Zeev Rosenstein distributed more than one million Ecstasy tablets, mostly in New York and Miami. He's long been accused of being one of Israel's top mob leaders."

KCOY-TV, Santa Barbara-Santa Maria-San Luis Obispo, California (3/6, 7:00 a.m.) reported, "A suspected Israeli mob boss has been extradited to the United States. Zeev Rosenstein is described by US prosecutors as one of the world' s most wanted drug traffickers. He is suspected of involvement in distributing more than one million Ecstasy pills in the US. Police say he' s been handed over to US marshals in Israel and taken aboard a direct flight to Miami where he will face the drug charges." KRIS-TV, Corpus Christi, Texas (3/6, 5:00 p.m.) reported a similar story.

Man Extradited From Saint Kitts To Face Drug Charges In US. The AP (3/6) reports, "Federal officials say a man accused of importing cocaine has been extradited from his native Saint Kitts in the Caribbean. Noel Heath was one of the top ten fugitives of the Drug Enforcement Administration's New York field division." According to the AP, In 1995, Heath was indicted on charges of conspiring to import more than eleven pounds of cocaine in the Rochester, New York, area.

DEA Agent Accused Of Embezzling. The Atlanta Business Chronicle (3/7) reports, "A DEA agent who worked at Hartsfield-Jackson Atlanta International Airport has been indicted by a federal grand jury on charges of embezzling money as a federal officer, embezzling public money and money laundering. Gregory Campion, 44, of Orlando, Fla., is expected to be arraigned…on March 8." Campion is accused of stealing cash from a storage vault. The Chronicle says the money had been seized by law enforcement agents as currency involved in federal drug offenses and was subject to forfeiture to the U.S. The report notes that Campion has been suspended without pay.

California Man Arrested For Impersonating DEA Agent. The AP (3/7) reports federal authorities arrested a Manteca, California, man for impersonating a DEA agent by showing a phony badge as he entered a courtroom. "Thirty-seven-year-old John D. Cohen picked the wrong courthouse security officer to try to dupe -- a retired DEA special agent. The officer told the U-S Marshal's Service the badge looked suspicious." The AP says agents later found guns, DEA apparel, a police uniform, handcuffs, bulletproof vests and forged law enforcement training certificates at Cohen's home.

The Sacramento Bee (3/6) writes Cohen "presented a fake DEA badge to security officers at the Sacramento federal courthouse last week."

The Contra Costa (CA) Times (3/6, Fischer) reports, "Federal authorities say a Pleasanton mortgage broker posing as a narcotics agent entered a secure portion of Coast Guard Island in Alameda last month and sold guards a Ford

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Crown Victoria he claimed was a retired police car. That breach was the first of two in February that attracted real agents from the U.S. Drug Enforcement Agency." On Monday, DEA agents "visited the Manteca home of…Cohen and seized a cache of weapons and law enforcement paraphernalia, along with Cohen himself."

Local TV Coverage. KOVR-TV, Sacramento-Stockton-Modesto, California (3/6, 10:00 p.m.) reported, "Tonight a man is under arrest for posing as a federal drug agent…federal agents arrested 37-year-old John Cohen. The first red flag went up last week when he flashed a fake ID to the wrong person; the phony badge was only the beginning. DEA agent Gordon Taylor said the phony badge John Cohen flashed last week would pass as the real deal to a lay person but not to the security officer who knows the real badge would have an ID number."

Tandy Listed Among Defendants In Death-Row Lawsuit. The Terre Haute (IN) Tribune Star (3/7) reports three federal death-row inmates who contend that lethal injections are painful have been granted a stay of execution. In one case death-row inmate Clarence Edward Hill is suing the state of Florida, "alleging that lethal injection would violate his constitutional protection from cruel and unusual punishment." The U.S. Supreme Court "has agreed to hear the Florida case, to determine whether Hill's civil suit falls within federal appeals, as lower courts have ruled, or is a legitimate challenge to the conditions of a condemned inmate's death sentence." The Tribune Star says separately, attorneys also are alleging in a federal lawsuit that lethal injection is cruel and unusual punishment, and defendants in the case include Karen Tandy.

California Marijuana Clubs Said To Fear More Raids. The San Diego Union-Tribune (3/6, Mcdonald) reports, "Nearly three months after federal agents raided 13 medical marijuana dispensaries in San Diego County, the government has yet to make any arrests or file any criminal charges. Most of the pot clubs that closed during the high-profile searches reopened days later. Meanwhile, at least 10 new dispensaries, cooperatives and delivery services have set up shop." However, the Union-Tribune says some worry that federal agents will show up with warrants in hand and eventually force the clubs to close for good.

Bush Budget Blamed For Opening Southern Border To Increased Drug Trafficking. Senior Congressional and Colombian officials are blaming a Bush Administration decision to divert money for Colombian drug interdiction and eradication programs to the war on terrorism for opening up the southern US border to a new wave of cocaine and heroin. The Washington Times (3/7, Seper, 90K) reports that some lawmakers "plan to bypass the White House by dipping into a $72.4 billion supplemental appropriation for the war on terrorism to fund $99.4 million in military and police aid to Colombia. An amendment to the pending emergency supplemental bill likely will be offered by Republican Reps. Henry J. Hyde of Illinois, chairman of the House International Relations Committee, and Dan Burton of Indiana, a member of the House Government Reform Committee. It would pay for three DC-3 marine patrol aircraft for the Colombian navy and two UH-60 Black Hawk helicopters and 10 Huey II helicopters for the Colombian national police."

DEA Agents Find Meth "Superlab" In Georgia, 3 Arrested. UPI/Washington Times (3/6) writes, "U.S. federal drug agents said they have broken up a methamphetamine 'superlab' in Smyrna, Ga., and confiscated more than 12 pounds of the drug. The U.S. Drug Enforcement Agency said they arrested three men -- all illegal aliens from Mexico -- and that on Monday two of the defendants pleaded guilty to charges that include manufacturing methamphetamine." According to UPI, the DEA said 24 large trash bags also were found filled with emptied pseudoephedrine tablet boxes.

ATF Probes Florida Warehouse Fire. The Miami Herald (3/7, Fantz) reports, "An investigative team from the U.S. Bureau of Alcohol, Tobacco, and Firearms will begin examining what's left of a Pompano Beach warehouse gutted by an unrelenting inferno that began at 8 p.m. Friday and raged throughout the night." The Herald continues, "Officials who tried to stamp out the blaze at Pallet Consultant Corp. on Southwest 12th Avenue reported flames reaching 100 feet into the air. The blaze could be seen two miles away. … Sandra King, spokeswoman for the Pompano Beach Fire-Rescue, said one of the 120 firefighters from North Lauderdale, Fort Lauderdale, Lighthouse Point, Margate, and Broward Fire-Rescue was injured when a loaded water hose slammed into his stomach. He was treated and released

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Friday from North Ridge Medical Center in Fort Lauderdale. … King said ATF and explosive experts will help discern the cause of the blaze because propane tanks inside hundreds of pallets exploded. Damage is estimated to be $10 million to three businesses within the six-acre property."

IMMIGRATION:

RICO Being Used Against Employers Who Hire Illegal Workers. The Los Angeles Times (3/7, Gaouette) reports from Caldwell, Idaho, "Like many communities, this fast-growing agricultural pocket of southwestern Idaho is paying a high tab for illegal immigration. … When an illegal worker gave birth to a premature baby, Canyon County wound up with a $174,000 hospital bill. County officials say the jail spent thousands to house another illegal immigrant at a motel, after his tuberculosis threatened to infect fellow inmates. … But where others have merely chafed at paying costs like these, officials in Canyon County are trying a novel approach: The all-Republican county commission has filed a racketeering lawsuit against four big businesses in the area, charging that they deliberately hire illegal workers." The Times adds, "The spectacle of the county's political leaders taking its businesses to court has touched off a bitter local debate. But it has also put Canyon County, a largely Republican community of about 160,000, at the forefront of an emerging national effort to use racketeering laws to crack down on illegal immigration by seeking damages from employers. … So far, a handful of workers and businesses around the country have filed civil lawsuits under the RICO statute, known formally as the Racketeer Influenced and Corrupt Organizations Act. The targets are companies that, the lawsuits say, have unfairly used illegal labor to cut wage levels or prices. … . In Washington state, workers who filed a civil suit against their employer, a fruit company, won a $1.3-million settlement in January. The Supreme Court has agreed to hear another of the immigration-related RICO cases this year. … But Canyon County is the first municipality to bring a suit of this kind against employers. The lawsuit was dismissed by a federal district court but has been appealed to the U.S. 9th Circuit Court of Appeals. If it succeeds, it could touch off similar actions, says the county's lawyer, Howard Foster."

Specter Bill Seeks Middle Ground On Immigration. The Senate Judiciary Committee will begin debating the Senate's main immigration bill Wednesday with a goal of having a final version ready for the full Senate by March 27. Knight Ridder (3/7, Montgomery) reports, "Sponsored by Sen. Arlen Specter, R-Pa., the committee chairman, the legislation is designed to strike a middle course between a bill passed by the House of Representatives calling for tougher immigration enforcement and pro-immigration advocates who call for permanent legal status - and eventual citizenship - for the estimated 11 million aliens now in the country illegally." Judiciary Committee aides "said that the measure would create a 'gold card' program for illegal immigrants who entered the United States before Jan. 4, 2004. It also would create a guest-worker program to bring in more foreign laborers."

CQ (3/6, Sandler, Crowley) reported, "Specter's draft was received with a skeptical eye during the initial markup March 2, which resulted in no votes on proposed amendments but elicited lots of opinions. he Judiciary Committee will resume the markup Wednesday and likely will meet Thursday as well. But staff members say the initial focus is on border security, interior enforcement and employer provisions, so the panel may not begin considering the worker programs until next week."

Local Officials Say Federal Government Has Ignored Illegal Immigration. The New York Times (3/7, Vitello, 1.19M) reports that 100 local officials from 30 states gathered in Washington Monday generally agree the President Bush's record on illegal immigration is a "failure." The gathering, "organized and convened here under the banner of the Coalition of Mayors and County Executives for Immigration Reform, called for border security and, most urgently, reimbursement to localities for the cost of dealing with a problem its members say the federal government has ignored." The Times also reports, "The White House did not ignore the meeting, but at the last minute downgraded the rank of its representative. In place of Ruben Barrales, a deputy assistant to the president and White House director of intergovernmental affairs, who was originally scheduled to attend, the White House sent a liaison to city officials, Toby Burke."

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TAX:

DOJ Takes Action Against Nevada, Michigan Tax Preparers. The AP (3/7) reports, "The U.S. Justice Department filed suit today to stop four people from operating what it claims is a tax fraud scheme." The AP continues, "The suit filed in U.S. District Court in Las Vegas says the scheme cost the government at least 31 million dollars. … The government accuses the Las Vegas-based group of funneling income from clients through trusts in the Caribbean to help them avoid paying taxes. … It says the group returned the money through phony gifts or loans to the customers, their friends or family members."

The AP (3/6, Prichard) reports, "The U.S. Department of Justice has asked a federal court to prohibit three Hillsdale residents from preparing federal income tax returns for others, claiming the trio has cost the Treasury more than $25 million." The AP continues, "The government filed a complaint Monday in U.S. District Court in Grand Rapids against Joyce M. Stone, Charles J. Freed and Julie Shaffer. … Stone is Freed's mother, and together they own and operate an unincorporated tax-preparation business from their home, the department said Monday. The business also is a defendant in the lawsuit." The AP adds, "The complaint alleges that the defendants prepared customers' returns claiming improper deductions, including some for fictitious or inflated charitable contributions and employee expenses. … 'The Justice Department is working vigorously to stop the preparation and filing of the false or fraudulent returns that unfairly shift the tax burden to honest American taxpayers,' Eileen J. O'Connor, assistant attorney general for the Justice Department's Tax Division, said in a written statement."

CONGRESS-ADMINISTRATION:

Bush Urges Congress To Pass New Line-Item Veto Bill. Speaking at the swearing-in ceremony for Ed Lazear, the new chairman of the White House Council of Economic Advisers, President Bush yesterday urged Congress to give him line-item veto powers. Bush framed the issue as part of an effort to curtail "special interest" spending, and press accounts describe the move as an attempt to take the lead in the current debate over "earmarks." The story was not covered by the network newscasts.

The Washington Post (3/7, Fletcher, 744K), for example, says Bush is "seeking to reassert his party's scuffed reputation for fiscal conservatism," and adds "at first blush, Bush's proposal is being received with bipartisan approval in Congress." House Majority Leader John A. Boehner "praised the bill," while House Speaker Dennis Hastert and Senate Majority Leader Bill Frist, says the AP (3/6), "issued statements supporting Bush, as did several conservative lawmakers." Sen. John Kerry, "who promoted a similar approach in his presidential campaign against Bush in 2004, immediately jumped on board. 'It's no secret that President Bush and I don't agree on much, but I fully support giving him the line-item veto,' Kerry said."

The New York Times (3/7, Hulse, 1.19M) reports "Bush's push for the line-item veto could benefit from the current scrutiny over the growing practice by lawmakers of inserting spending for pet projects into legislation -- a practice that has figured into continuing corruption scandals." Senate Minority Leader Harry Reid called "the line-item veto 'old hat.'" He added, "I just think it's an effort by President Bush to divert attention from real issues this country has." However, the Washington Times (3/7, Dinan, 90K) says "the move thrilled conservative Republicans on Capitol Hill." Addressing the timing of Bush's proposal, "White House press secretary Scott McClellan said the administration thinks the time is ripe, given the interest on spending cuts on Capitol Hill. He said the fight against wasteful spending is bipartisan, so he predicted the line-item veto proposal would attract bipartisan support."

CNN's The Situation Room (5/6, Bash) reported that Bush tried to "prove that he wants to crack down on what many called frivolous spending. And what he did was he formally introduced to Congress the concept of a line-item veto, something that he said he will use to strip out pork barrel or earmarked spending tucked away in the bills that he gets." CNN added "the bottom line politically is that the White House no matter what happens really wants to get credit here for at least trying. And talking to Republican strategists, they say that this is a good first step." Reuters (3/6, Bohan) notes Bush "has never vetoed a spending bill," while the Financial Times (3/7, Swann) reports Bush's effort "to restore the veto comes at a time of growing concern about Washington's apparent inability to restrain the growth in government spending."

USA Today (3/7, 2.31M) reports President Clinton "was given line-item veto power in 1996, but the Supreme Court declared the law unconstitutional because it allowed the

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president to amend laws passed by Congress." The AP (3/6, Taylor) notes Bush "is now pressing for a modified, weaker version. Instead of being able to strike items from bills, he would send one or more items back to Congress for an up-or-down vote. Present law permits Congress to ignore these proposed rescissions, but under the Bush proposal lawmakers would have to vote on them. If majorities in both the House and the Senate agreed with the president, the cuts would take effect."

The Los Angeles Times (3/7, Gerstenzang, Havemann, 958K) reports, "Expressing optimism that the measure would win congressional approval and pass court tests, the White House said its proposal took into account objections the Supreme Court had raised in 1998 when it ruled that a similar provision signed two years earlier by President Clinton was unconstitutional." In Congress, however, "the outcome was less certain than the White House suggested." The Times adds, "Democratic leaders in the House and the Senate objected to the plan, but it probably will benefit from the momentum building to rein in 'earmarks.'"

House Conservatives Ready "Austere" Budget. The New York Times (3/7, Hulse, 1.19M) reports, "With Congress heading into a politically perilous budget season, influential House conservatives plan this week to propose an austere alternative spending plan that would pare more than $650 billion over five years, balance the budget and drastically shrink three cabinet agencies." The legislation is "part of a push by some Republicans to re-establish themselves as champions of fiscal restraint." House "conservative leaders would go far beyond the president's own budget proposal, illustrating the difficulty the White House and the Republican leadership have had in persuading the caucus to speak with one voice on the matter. Senior aides say the conservatives' plan would wring about $350 billion from Medicare, Medicaid and other social programs and save $300 billion partly through a major reorganization of the Education, Commerce and Energy Departments."

Meanwhile, Budget Panels Considering "Token" Spending Cuts. Roll Call (3/7, Pierce) reports in its "Roadmap" column that the House and Senate budget panels are "looking at including less than $10 billion in savings or mandatory spending cuts in their versions of the budget resolution this year." Roll Call says the move "may be more of a face-saving effort than any real attempt to reduce the deficit." The amount "being bandied around by lawmakers for possible inclusion in any fiscal 2007 spending reconciliation measure is 'more a token amount than anything else,' explained one knowledgeable former Senate Budget Committee aide."

Snow Urges Lawmakers To Pass New Debt Ceiling. Treasury Secretary John snow yesterday notified Congress that the Bush Administration has taken "all prudent and legal actions" to keep from reaching the $8.2 trillion national debt limit. The Wall Street Journal (3/7, 2.11M) reports that Snow, in a letter to Congressional leaders, "urged lawmakers to pass a new debt ceiling immediately to avoid the nation's first-ever default on its obligations."

DC Circuit Nominee's Conservative Credentials Could Keep Him Off Bench. The Legal Times (3/7, Schwartz) reports on "the complex politics and loyalties often just behind the scenes of the judicial nomination process" of Brett Kavanaugh, staff secretary for President George W. Bush, who is "in the midst of a bitter confirmation battle over his nomination to the U.S. Court of Appeals for the D.C. Circuit." The Times reports on "the challenge Democrats have facing off against this 41-year-old Maryland native, whose stalled nomination is expected to come before the Senate Judiciary Committee again as early as next month. … Kavanaugh's conservative credentials are etched indelibly into his résumé. In fact, he's something of the Zelig of young Republican lawyers. A protégé of independent counsel Kenneth Starr, he was a key figure in the Whitewater investigation. In the recount fight after the 2000 election, he served as a foot soldier in the legal army that descended on Florida and gave Bush his presidency. As a lawyer for Bush in the White House counsel's office, he shepherded most of the administration's contentious federal court nominees, including Miguel Estrada and Priscilla Owen. … But whether his right-wing bona fides will incite enough Democratic opposition to keep him off the bench remains an open question."

Arguing Before Supreme Court A Once-In-A-Lifetime Experience For Many. The Fulton County (GA) Daily Report (3/7, Palmer) reports, "When R. Jonathan Hart stepped up to the microphone before the country's nine most powerful jurists on March 1, he joined a small, eclectic club of Georgia attorneys who have argued before the U.S. Supreme Court. … The Chatham County Attorney sought to convince the high court to uphold the

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decision of a Savannah, Ga., federal judge, affirmed by the 11th U.S. Circuit Court of Appeals, that the county is immune from suit for damages arising from an accident involving a drawbridge maintained by the county. … In preparing for the argument and drafting the county's brief, Hart got the assistance of, among others, a law school professor who has argued before the high court several times. But rather than have the professor, David J. Bederman of Emory University, argue the case, Hart decided to handle the case himself. … 'You only get to do this every once in a while in your lifetime,' he said. … Unless you are someone like Miguel A. Estrada, Hart's opposing counsel last Wednesday." The Report adds, "Estrada, a former nominee to a federal appeals court, has argued at least 16 times before the high court, according to his profile on Gibson, Dunn & Crutcher's Web site. Before joining Gibson, Dunn, Estrada served as an assistant to the U.S. solicitor general from 1992 to 1997. … But for many non-government attorneys, the Supreme Court is usually a one-time gig. The 80 or so cases that the Supreme Court agrees to hear each year means that the Court entertains oral argument in a handful of cases coming out of Georgia federal and state courts in a given term."

Cheney Receives "Hero's Welcome" In Florida. Vice President Dick Cheney visited southwest Florida yesterday to speak to the Collier County Republican Party's "Victory 2006" event. The Naples Daily News (3/6, Hannan) reported on its web site that Cheney "received a hero's welcome" from "an adoring crowd of about 400." The Daily News added, "The vice president's Naples speech on Monday sounded like the beginning of the campaign for the 2006 congressional elections. It included a strong defense of President George W. Bush, and a call to elect Republicans to the House and Senate."

The Ft. Myers News Press (3/7, Parker) reports that Cheney "urged party faithful to work hard for Republicans in the fall elections and pressure Congress for tax cuts." The News Press also reports, "The packed crowd at the club included numerous party leaders and elected officials, including U.S. Rep. Connie Mack, R-Fort Myers, who introduced the vice president; Florida Republican Party Chairwoman Carole Jean Jordan; GOP gubernatorial candidate Charlie Crist; U.S. Rep. Mario Diaz-Balart, R-Miami, whose district includes part of Collier; and U.S. Rep. Katherine Harris, R-Sarasota, and the party's leading candidate in the U.S. Senate race against Democratic U.S. Sen. Bill Nelson."

WJXX-TV Jacksonville (3/6, 5:04 p.m.) reported that Cheney also "spoke in Boca Raton on behalf of Congressman Clay Shaw who's facing re-election this year."

The Miami Herald (3/7, Reinhard, 323K) reports that Cheney helped raise about $300,000 for Shaw at a luncheon yesterday.

Cheney's Failure To Mention Harris Raises Eyebrows. The South Florida Sun Sentinel (3/7, Man) reports, "The political buzz among several of those at Vice President Dick Cheney's fund-raiser for U.S. Rep. Clay Shaw, R-Fort Lauderdale, was more about how U.S. Rep. Katherine Harris' Senate campaign may be unraveling. Cheney even provided some fuel when he said he was looking forward to swearing in a Republican replacement for Democratic U.S. Sen. Bill Nelson -- but didn't mention Harris by name."

Bush Said To Be "Fixated' On Oval Office Rug. The Washington Post (3/7, A15, Baker, 744K) reports that President Bush "seems fixated" on the rug in the Oval Office. Virtually "all visitors to the Oval Office find him regaling them about how it was chosen and what it represents. Turns out, he always says, the first decision any president makes is what carpet he wants in his office. As a take-charge leader, he then explains, he of course made a command decision -- he delegated the decision to Laura Bush, who chose a yellow sunbeam design." Bush "has his own touches in the Oval Office -- some Western-themed paintings and an on-loan bust of Winston Churchill courtesy of British Prime Minister Tony Blair. But it is the rug that animates the president. … Sometimes Bush describes it as a metaphor for leadership. Sometimes he relates how Russian President Vladimir Putin admired the carpet. Sometimes he seems most taken by the lighting qualities."

Majority Lack Confidence In Bush Ability To Reform Health Care. A new Wall Street Journal/Harris Interactive poll has found that a majority of US adults lack confidence in the Bush Administration's ability to reform the US health care system. The Wall Street Journal (3/7, 2.11M) reports, "About three-quarters of those polled in the online survey of 2,426 US adults say they aren't confident President Bush will be able to effectively make changes such as slowing the increase in health-care costs for the US as a whole or reducing out-of-pocket health-care costs. But

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Americans are divided along party lines about the president's ability to improve health-care, the poll shows."

Stark Says HSAs Would Increase Healthcare Costs. In a letter to the Wall Street Journal (3/7, 2.11M), Rep. Pete Stark, ranking member of the House Ways and Means health Subcommittee, writes, "Health Savings Accounts would profoundly increase healthcare costs for many consumers, lead others to ration necessary care, and increase the number of uninsured. … While the richest among us can afford to deposit more than $10,000 a year in an HSA, few middle-income Americans have even $1,000 a year to spare."

Administration Set To Approve Arkansas Health Care Plan. The Bush Administration is set to approve a health insurance program proposed by the state of Arkansas to cover 80,000 uninsured low income people in the state. The New York Times (3/7, Pear, 1.19M) reports, 'Arkansas will carry out the program, to be announced on Tuesday, under a waiver allowing the state to receive federal Medicaid money for coverage that does not meet the usual Medicaid standards for eligibility and benefits. … Under the plan, to be approved by Michael O. Leavitt, secretary of health and human services, the state expects to enroll at least 50,000 workers with incomes less than twice the federal poverty level and 30,000 workers with higher incomes. The poverty level this year is $9,800 for an individual, $13,200 for a couple."

Report Criticizes Investigation Of Medicare Complaints. Senate investigators have found that Medicare's process for investigating complaints about bad care is "broken" and is of "no benefit to improving overall quality" of medical care received by beneficiaries. The Washington Post (3/7, A6, Gaul, 744K) reports, "The ongoing probe by the Senate Finance Committee determined that the number of complaints investigated by Medicare appears 'disproportionately low,' Sen. Charles E. Grassley (R-Iowa), the committee chairman, wrote in a five-page letter sent to Medicare officials Friday. Grassley called on federal officials to consider major reforms, including redesigning the program and re-bidding contracts."

Senate Takes Up Lobbying Reform Bill.

Reuters (3/7, Ferraro) reports the Senate "began consideration of legislation on Monday that would require lobbyists to disclose more about their activities and ban gifts by lobbyists to members of Congress and staff." The Senate "hopes to complete action after voting on a long list of possible amendments later this week."

The AP (3/7, Abrams) reports the measure, "which would require lobbyists to be more open about the meals they buy and the trips they arrange for members of Congress, is a response to the Jack Abramoff lobbying scandal that hit Washington with details of millions of dollars from Abramoff's clients going to win friends and buy influence on Capitol Hill." But the Senate bill, "which combines measures produced by two Senate committees last week, has already come under fire from advocacy groups and some lawmakers who say the proposed changes, the first to lobbying laws in 11 years, are mainly cosmetic." The section of the bill "prepared by the Rules Committee deals with a major source of criticism of Congress: the special projects or earmarks that lawmakers insert in larger bills, often with little or no debate."

The Hill (3/7, Allen) reports rank-and-file senators "are eyeing" the lobbying-disclosure measure "as a vehicle for a host of pet causes — issues ranging from budget-process reform to the controversial Dubai Ports World deal — as Republican and Democratic leaders try to shepherd the politically imperative bill through the chamber without turning it into a legislative Christmas tree." Conservatives, "eager to find the means to cut government spending, may try to insert the president's new line-item-veto proposal or legislation establishing biennial budgeting, according to a Senate Republican aide."

Frist Taps Lott To Shepherd Lobbyist Reform Bill. CQ (3/6, Retter) reports more than "half a dozen senators worked to have an imprint on the Senate's ethics overhaul package this year, but only one name could be at the top of the bill that backers hope will restore faith in the legislative branch." Senate Majority Leader Bill Frist "gave his predecessor, Trent Lott, that privilege Monday when he named the Mississippi Republican — who has a predilection for upstaging Frist — to shepherd the overhaul legislation through Congress." Eric Ueland, Frist's chief of staff, "said his boss selected Lott and Susan Collins, R-Maine, to take leading roles because they are the members most likely to get the bill to the finish line." CQ adds Lott also "may have helped himself secure the assignment — which carries the potential public relations boost that comes with the mantle 'reformer' — by vowing to win passage within three days."

House GOP To Include Restrictions On 527 Groups In Lobby Reform Bill. The Hill (3/7, Bolton) reports House Republican leaders "have told their Senate

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counterparts that legislation curtailing the activity of so-called 527 soft-money groups will be included in the House lobbying-reform bill that leaders intend for conference negotiations." The 527 group provisions "are expected to hew closely to a proposal crafted by Federal Election Commission (FEC) Chairman Michael Toner and former Commissioner Scott Thomas." Restrictions on 527 groups is "a high priority for Ken Mehlman, chairman of the Republican National Committee. Including 527 language in the lobbying bill, however, would put Democrats in a politically difficult position."

Lawmakers' Use Of Corporate Aircraft Scrutinized. USA Today (3/7, Drinkard, 2.31M) reports that for "members of Congress — its top leaders, in particular" – the use of corporate aircraft for travel is "an accepted convenience of immense value in their whirlwind schedules, worth far more than the reimbursements the rules require. They can skip security lines, ignore airline schedules and stretch out in roomy leather seats. For corporations that provide the service, it's a chance to do favors for the powerful and gain influence unavailable to those without air fleets." Public records and "internal company documents obtained by USA TODAY show that over the past four years, BellSouth has flown federal government officials on such political trips about 100 times. The internal records offer rare detail about who goes on the trips and why — information that lawmakers and companies aren't now required to reveal." Top travelers "with the regional telephone company include House Speaker Dennis Hastert of Illinois, House Majority Whip Roy Blunt of Missouri, Sen. Trent Lott, R-Miss., and Democratic Sens. Tom Daschle of South Dakota and John Breaux of Louisiana, both now retired." Ethics reform advocates, including Sen. John McCain and Sen. Russ Feingold, D-Wis., "have called for requiring lawmakers to reimburse companies for the full cost of a charter flight when they hop aboard their jets."

Bill Would Require Disclosure Of Grassroots Groups' Negative Phone Banks. The Hill (3/7, Schor) reports that as the Senate "begins debating proposed disclosure requirements for grassroots lobbying activity, a Democratic-leaning grassroots lobbying firm is helping to hit as many as 20 House Republicans with prerecorded, in-district phone calls attacking their records on port security." The calls "are funded by American Family Voices (AFV), a nonprofit group led by Clinton administration veteran Mike Lux and allied with Lux's firm Progressive Strategies." While Lux "declined to reveal the identities of the House Republicans targeted for calls, Reps. Rob Simmons (R-Conn.), Tom DeLay (R-Texas) and Bob Ney (R-Ohio) have reacted angrily to the calls taking place in their districts, charging AFV with capitalizing on the Dubai ports-management controversy for political gain." AFV and "other nonprofits engaging in grassroots lobbying soon could be forced to reveal political strategies and financial backers under an amendment attached to one of the Senate's two pending lobbying-reform bills."

Judge Refuses To Delay Abramoff Sentencing In Fraud Case. The Washington Post/AP (3/7, A5) reports a Federal judge "refused Monday to allow a lengthy delay in the sentencing of lobbyist Jack Abramoff, even though lawyers for both sides said the move could jeopardize a federal corruption investigation involving Congress and the Bush administration." Abramoff attorney Abbe Lowell "warned that the defense would disclose information about the ongoing corruption investigation to demonstrate the level of Abramoff's cooperation, something that could affect his sentence in the fraud case." Lowell said, "We will name names. That is not a good thing for law enforcement."

Thomas Won't Seek Reelection. CNN's The Situation Room (5/6, King) reported, "The influential chairman of the House Ways and Means Committee made it official, today: He's going to retire. California Congressman Bill Thomas says he won't seek a 15th term next November. Even if he ran, he'd be forced to give up the helm of the Ways and Means Committee because of Republican-imposed term limits on committee chairmen."

The Hill (3/7, O'Connor, Cusack) says "there has been speculation that Thomas could join the Bush administration next year, possibly as treasury secretary." Thomas "did not rule out the possibility of joining the administration down the road, before adding that he is 'taking it one step at a time.'" Meanwhile, the AP (3/7, Dalrymple) calls Thomas "the congressional engineer" who turned many of President Bush's "campaign promises for tax cuts, free trade and prescription drugs into reality." Yesterday, Bush called Thomas "a friend and a man of great accomplishment who has been a very effective leader."

USA Today (3/7, Kiely, Wolf, 2.31M) notes Democrats "need to pick up an additional 15 to win a majority. So far, only a few of the seats being vacated seem likely to be competitive. … Even so, some analysts believe that Thomas' decision to step down represents a troubling trend of

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experienced Republicans leaving." Thomas is "one of 17 Republican and eight Democratic House members who have decided not to run for re-election this fall. Five of the Republicans are losing their powerful committee posts because of term limits imposed by the caucus. They are Thomas; Jim Nussle, R-Iowa, chairman of the Budget Committee; Henry Hyde, R-Ill., chairman of the International Relations Committee; Michael Oxley, R-Ohio, chairman of the Financial Services Committee; and Jim Kolbe, R-Ariz., chairman of the Appropriations subcommittee that funds the nation's overseas operations." CQ (3/7, Ota) reports there are "eight senior House Republicans whose chairmanships end with the 2005 session under their caucus rules. So far, that prospect has helped create a glaring weakness for the GOP majority in a tough midterm election year."

The New York Times (3/7, Toner, 1.19M) reports Democrats "quickly cited Mr. Thomas's retirement as an example of Republican incumbents' 'sensing the winds of change blowing at gale force,' as Representative Rahm Emanuel of Illinois, the chairman of the Democratic Congressional Campaign Committee, put it." But "whatever the national outlook, political strategists expect Mr. Thomas's district to remain Republican."

The Washington Post (3/7, A4, Weisman, 744K) reports Thomas "will leave an impressive record of legislative accomplishment," but adds his "reputation as a shrewd legislative tactician has a dark side: He has shown himself willing to bully friends and adversaries alike if his arguments do not prove persuasive." Reuters (3/7), Roll Call (3/7, Drucker, Pershing), Washington Times (3/7, Hurt, 90K) and Wall Street Journal (3/7, 2.11M), among other sources, run similar stories on Thomas' decision.

Smart Card Project May Be Falling Behind Schedule. The Washington Post (3/7, D4, Barr, 744K) reports in its "Federal Diary" column, "The government's smart-card project appears at risk of falling behind schedule. Federal agencies are supposed to begin issuing government-wide identification cards that can vouch for the identity of federal employees and most contractors in October, but the Government Accountability Office warns that setting up and testing new ID systems may not be completed within deadlines set by the Bush administration. … The administration's timetable requires agencies to start issuing cards Oct. 27 and to verify or complete background investigations on employees and contractors in 2007 and 2008. But the project has hit some snags. The original guidelines called for the cards to carry electronic representations of two fingerprints, but the GAO said agency officials have objected because reading two fingerprint images will require a large amount of computer memory."

Goodman Says Barrett Report Contains Evidence Of Clinton-Era Misdeeds. Author Mark Goodman writes in the Washington Times (3/7, 90K) that the investigation by David Barrett, the independent counsel appointed in 1995 to investigate allegations against President Clinton's Department of Housing and Urban Development Secretary Henry Cisneros "led him into bleak wilds where unnumbered Clinton misdeeds allegedly lay beneath bureaucratic camouflage. These findings comprised a full 120 pages of his 684-page report -- but you won't find them in the final document published on January 19. That's because congressional Democrats, led by Sens. Byron Dorgan, Dick Durbin and John Kerry, used an appropriations bill to leverage a deal redacting the potentially lethal 120 pages. … What evil lurks in those 120 pages that made the Democratic congressmen press so hard for redaction? My money says, a den filled with opulent thieves, in white tie and tails."

Ornstein Criticizes "Part Time" Congress. Norman Ornstein, resident scholar at the American Enterprise Institute writes in the Washington Post (3/7, A17, 744K) that the 2006 House schedule, with its "total of 97 calendar days, counted generously, is the smallest number in 60 years and the days of what Harry Truman derided as that 'do-nothing 80th Congress.' … A part-time Congress in a country with a $13 trillion economy and federal budget near $3 trillion, in a globalized, technologically sophisticated world, is itself a danger to the checks and balances built into American democracy, and to high-quality, careful policymaking and oversight. It's not too much to ask Congress to commit to spending at least half the year -- 26 weeks -- working full-time, five days a week, thus providing at least a measure of the deliberation and attention to detail that are so lacking now."

NYTimes Criticizes Wade Contributions To Lawmakers. A New York Times (3/7, 1.19M) editorial says Mitchell Wade, the contractor who bribed former Rep. Duke Cunningham, "admitted he had made illegal campaign donations to two lawmakers while pressing them to earmark more defense appropriations." Rep. Virgil Goode Jr.

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"received $46,000 in illegal donations while successfully earmarking $9 million in taxpayer money as Mr. Wade talked of more jobs for the lawmaker's district. The other, Katherine Harris, the Florida Republican, received $32,000 of Wade money, illegally disguised as smaller contributions from Wade employees. … So goes licit political business these days in Washington. The prosecutor, Kenneth Wainstein, noted that Mr. Wade's company had been perceived as a classic 'American success story'…but was actually a model for spreading political corruption from Capitol Hill to the Pentagon."

WPost Says Congress Should Address Lawmakers' Involvement With Charities. An editorial in the Washington Post (3/7, A16, 744K) says, "Pennsylvania Sen. Rick Santorum created his charity, 'Operation Good Neighbor,' when the Republican National Convention was going to Philadelphia in 2000." In the years since its creation the charity "appears to have done a lot to help his political allies -- and less than it might have in its stated mission of combating poverty, teen pregnancy and other social ills. … The Santorum story highlights a largely unexplored area of congressional ethics: lawmakers' involvement with charitable organizations." The Post adds, "There is an inevitable element of extortion whenever politicians get involved in soliciting charitable donations. And when lawmakers have a personal interest in the charity, the opportunities for abuse are greatly magnified."

Judge Criticized For Backing Unions In Pentagon Personnel Lawsuit. The Wall Street Journal (3/7, 2.11M) says in an editorial that to "protect the Republic today, the executive branch must first comply with something James Madison never imagined -- union work rules." Federal Judge Emmet Sullivan last week "sided with union plaintiffs and tossed out the Pentagon's new personnel system, which the Defense Secretary and White House say they need to safeguard the nation. His decision comes after federal Judge Rosemary Collyer threw out a similar personnel system at the Department of Homeland Security in August. (That case is under appeal.)" The "danger here is that the collective bargaining rights of 650,000 civilian workers will trump the collective right we all have to a military organized to confront 21st-century threats."

OTHER NEWS:

January Factory Orders Post Largest Drop In Over Five Years. The Commerce Department yesterday reported that new orders for manufactured goods in January fell 4.5% from the previous month, its steepest decline in more than five years. The Wall Street Journal (3/7, Gerena-Morales, 2.11M) reports that the drop "reflected a 31% decline in orders for transportation products and equipment, such as autos and airplanes. … Overall orders for durable goods, including electronic equipment, were off 9.9%, also the sharpest decline since July 2000."

Stocks Decline In Monday Trading. Stocks closed down Monday after an increase in Treasury yields "raised concerns about the health of corporate profits, housing and the stability of stock prices," the Wall Street Journal (3/7, Patterson, 2.11M) reports. The Dow Jones Industrial Average finished down by 63 points to 10958.59. The Standard & Poor's 500-stock index declined 8.97 to 1278.26 and the Nasdaq Composite Index slipped 16.57 to 2286.03.

DeLay To Spend Primary Night At Fundraiser Hosted By Lobbyists. USA Today/AP (3/7) reports, "Rep. Tom DeLay, whose association with lobbyist Jack Abramoff has left him politically vulnerable, is spending Texas' primary night tonight at a Washington fundraiser hosted by two lobbyists." DeLay "has three opponents in the Republican primary and could face a serious challenge in the general election after leaving his job as House majority leader amid campaign finance scandals." The fundraiser "is being held by lobbyists Bill Paxon and Susan Molinari, both former members of Congress from New York. The event will raise money for DeLay's re-election campaign." DeLay spokeswoman Shannon Flaherty "said DeLay would be in Washington for votes and has other events on his schedule including the fundraiser. She said he was unavailable for an interview."

DeLay Expected To Win Primary. Roll Call (3/7, Drucker) reports DeLay "is expected to beat the three challengers opposing him in the Republican primary, but the extent to which he can avoid a runoff by securing more than 50 percent of the vote in the suburban Houston 22nd district -- and by how much, if he does -- could be telling for Democrats," who "hope to ride their 'Culture of Corruption' slogan to a House takeover in November." The Washington

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Times (3/7, Aynesworth, 90K) also says DeLay "is expected to defeat his three Republican opponents in the primary, setting up what political observers predict will be a tough general election race in November."

DeLay Makes Major Fundraising Push. The Hill (3/7, O'Connor) reports DeLay "is urging members of the National Rifle Association (NRA) and supporters of Texas Right to Life to dig deep into their pockets to help him retain his seat this year. The outreach is part of a broad direct-mail and telemarketing campaign to attract new donors and volunteers for the former majority leader's reelection." It also "marks a fundraising shift for DeLay this election cycle from a PAC-heavy strategy in which the once-powerful Republican doled out lobbyist dollars to his congressional colleagues to one in which DeLay and his team are primarily focused on his own reelection bid." The outreach "has three aims, said Shannon Flaherty, a spokeswoman for the campaign: get information directly to voters in the district, ask those voters to volunteer or donate money to the campaign and continue building a database of local and national supporters to contact between now and the November election."

Anti-DeLay Film Will Be Distributed This Spring. The New York Times (3/7, Halbfinger, 1.19M) reports, "A documentary about the Texas criminal investigation that led to the indictment of...DeLay...on campaign fund-raising charges is being put to use by Mr. DeLay's political opponents in an attempt to unseat him." The film, "The Big Buy: How Tom DeLay Stole Congress," will be "distributed this spring by the Hollywood producer and liberal provocateur Robert Greenwald, whose last release was a scathing attack on Wal-Mart sponsored by a variety of labor unions and other groups critical of the retailing giant." The Times adds, "A host of liberal organizations in Texas and nationwide, including People for the American Way, Democracy for America and the Pacifica radio station in Houston, are expected to sponsor the film's release."

Two Democrats Set To Square Off In Tuesday's Texas Gubernatorial Primary. The AP (3/7, Shannon) reports, "Two Democrats with long resumes but little name recognition are competing in Texas' gubernatorial primary election Tuesday for the chance to challenge popular GOP Gov. Rick Perry." Ex-Congressman Chris Bell (D) will face former Texas Supreme Court Justice Bob Gammage. Bell "gained notice as a freshman congressman for filing the first House ethics complaint against former House Majority Leader Tom DeLay. He made the complaint shortly after the Texas redistricting engineered by DeLay caused Bell to lose his re-election bid." Gammage "once represented the same suburban Houston district in Congress now served by DeLay.

NRSC Chair Says GOP Faces Challenging Climate. The Hill (3/7, Savodnik) reports, "Senate Republicans face a stormy 'atmosphere' but will 'retain a strong Republican majority' in November, says Sen. Elizabeth Dole (N.C.), the chairwoman of the National Republican Senatorial Committee (NRSC)." In an hour-long interview with The Hill, Dole "repeatedly noted that despite the political climate -- made worse by White House communications flops and GOP scandals -- Republican challengers are mounting viable bids in Michigan, West Virginia and elsewhere." But "she acknowledged that President Bush could have done a better job handling the Dubai ports deal, which has given Democrats an opportunity to look tougher on terrorism than Republicans, and that the president's poll numbers are less than optimal."

Democratic Effort To Deliver Unified Message Seen As Faltering. The Washington Post (3/7, A1, Murray, Babington, 744K) reports Democratic leaders had "set a goal of issuing their legislative manifesto by November 2005 to give voters a full year to digest their proposals. But some Democrats protested that the release date was too early, so they put it off until January. The new date slipped twice again, and now House Minority Leader Nancy Pelosi (Calif.) says the document will be unveiled in 'a matter of weeks.'" The "failure of congressional leaders to deliver a clear message has left some Democratic governors deeply frustrated and at odds with Washington Democrats over strategy." There is "no agreement on whether to try to nationalize the congressional campaign with a blueprint or 'contract' with voters, as the Republicans did successfully in 1994, or to keep the races more local in tone. And the party is still divided over the war in Iraq."

Poll Finds Public Losing Faith In Democrats. ABC World News Tonight (3/6, story 3, 1:45, Stephanopoulos) reported the public is "going in the wrong direction, for Democrats. Back in January, you asked, 'Who do you trust to handle the nation's problems?' Americans said Democrats, 51% to 37. Today, that's down to 42% to 40%. And you know,

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that goes back to Iraq, too. They don't think Democrats have an answer to Iraq. They're sour on both parties."

Democrats' First Failure Seen In Not Justifying Opposition To Bush. In his Washington Post column (3/7, A17), E.J. Dionne says the Democrats' "real problem" in taking control of Congress "is that they have failed to show how their critique of the Republican status quo is the essential first step toward the alternative program they will owe the voters in the presidential year of 2008." This "failure has made it easier for Republicans to cast anti-Bush feeling (aka, 'Bush hatred') as a psychological disorder. The GOP shrewdly makes the president's critics look crazed and suggests that opposition to Bush is of no more significance than, say, the loathing that many watchers of 'American Idol' love to express toward Simon Cowell, the meanest of the show's judges." Bush's "critics need to identify precisely why they oppose him, not only so they can make clear that they are not psycho basket cases but also to convey the idea that they know what needs to be put right."

Clinton Suggests Recent GOP Criticism May Be Gender-Based. The AP (2/7, Fouhy) reports, "Responding to Republican claims that she may be too angry to win national office, Sen. Hillary Rodham Clinton told an audience Monday to wear such criticism as 'a badge of honor' and suggested that gender played a role in the attacks. Democrats, particularly Democratic woman, who run for public office are 'going to draw some unfriendly fire,' Clinton said at a breakfast fundraiser hosted by black and Hispanic women supporters. 'People will be attacking you instead of your ideas, they may impugn your patriotism, they may even say you're angry.' 'If they do that, wear it as a badge of honor, because you know what? There are lots of things that we should be angry and outraged about these days,' she said." The AP notes, "Until now, Clinton had not said she considered the criticisms gender-based, although many observers have done so."

Former Pentagon Spokeswoman Announces Challenge To Clinton. CNN's The Situation Room (5/6, King) reported, "In New York State, a Republican announced today she's running for Democrat Hillary Clinton's senate seat. Kathleen McFarland is a former Pentagon spokeswoman under President Reagan. She's seeking the GOP nomination for the Senate after two other contenders opted out. Polls show Senator Clinton so far is well ahead of her potential Republican challengers."

The AP (3/7, Humbert) notes that McFarland's move "could put her into a September primary against former Yonkers Mayor John Spencer, already endorsed by top state Conservative Party leaders. No Republican has won statewide office in New York without Conservative Party support since 1974. … 'I don't know what this woman is thinking, I really don't,' Spencer said Monday, arguing that McFarland's candidacy would be 'divisive [and] I guess helpful to Clinton.' 'I'm the only one who can unite the Republican and Conservative parties, which I am doing,' he added." McFarland "refused to address Spencer's criticisms, but said she would 'go after every party.'"

Roll Call (3/7, Kurtz) adds that McFarland "had been gearing up to challenge Rep. Carolyn Maloney (D) but changed her focus after no 'big name' Republican decided to challenge" Clinton. Spencer campaign manager Christian Winthrop "called McFarland's entry into the race 'too liberal, too late.' But it wasn't too late for McFarland to receive some national publicity: She was a guest on Chris Matthews' 'Hardball' on Monday night."

Pataki Leaves Hospital 18 Days After Suffering Burst Appendix. The AP (3/7, Goldman) reports that New York Gov. George Pataki (R) "was released from a hospital Monday after 18 days of treatment for appendicitis and complications that followed surgery. … 'I'm not 100 percent but I'm a lot better than I was a few days ago,' he said." Pataki "was hospitalized in Westchester County on Feb. 16 and had his appendix removed. He was transferred to" a "Manhattan hospital on Feb. 21 and was operated on later that day to deal with a blockage of his intestine." The New York Times (3/7, Pérez-Peña, 1.19M) notes that Pataki "will have to rest at his home…for at least a week, with care from a visiting nurse, his doctors said."

Poll Shows Giuliani "Most Popular Person In National Politics." The AP (3/7) reports that ex-New York City Mayor Rudolph Giuliani (R) "is the most popular person in national politics, according to a national poll released Monday by Quinnipiac University." Giuliani "edged out U.S. Sen. Barack Obama, D-Ill., U.S. Sen. John McCain, R-Ariz., and Secretary of State Condoleezza Rice. The Quinnipiac poll asked voters to rate politicians on a scale of 0 to 100, with higher numbers representing more favorable opinions. Giuliani's mean score was 63.5, according to the poll. Obama averaged 59.9, McCain 59.7 and Rice 57.1."

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President Bush's "average rating was 44.1 and Vice President Dick Cheney's was 41." Four potential '08 Democratic presidential hopefuls "were also mentioned in the poll's top 10: Former North Carolina Sen. John Edwards received a 50.8 average, former Virginia Gov. Mark Warner scored 50.7, New York Sen. Hillary Clinton averaged 50.4 and Sen. Russ Feingold of Wisconsin scored 49. The telephone poll of 1,892 registered voters nationwide was conducted February 21-28 and has a margin of sampling error of plus or minus 2.3 percentage points."

The New York Post (3/7, Orin, 624K) notes that Quinnipiac's assistant polling director Peter Brown said, "Giuliani's ratings are uniform in all states. [He] is seen as the mayor of New York [during 9/11], and being a strong leader is the single strongest characteristic desired by voters in a presidential election."

Comcast Hiring Prominent Maryland Public Officials. A front page story in the Washington Post (3/7, A1, Mosk, Rich, 744K) reports that Comcast Cable Communications, Maryland's dominant cable provider, "has repeatedly given work to prominent public officials, their relatives or their friends. Those hired by Comcast and its affiliates have included two members of the University System of Maryland Board of Regents, two sons of a key General Assembly committee chairman and former county executives from Prince George's and Harford counties. … None of these politically connected workers has been accused of wrongdoing, and those who could be reached said they were hired on merit."

Sheehan Arrested In Protest Outside UN Headquarters. Antiwar activist Cindy Sheehan was arrested with three other protesters after a rally with Iraqi women outside UN headquarters in New York. Reuters (3/7) reports, "About 20 protesters went to the U.S. mission to the United Nations to deliver a petition with 60,000 signatures seeking an end to the war. Nobody from the mission received them so Sheehan and three other American women sat down in front of the building, refused to leave, and were arrested."

Unlike US, IAEA Chief Optimistic On Iran Deal. The New York Times (3/7, Hauser, 1.19M) reports, "The director of the International Atomic Energy Agency...said today that he hoped an agreement could be reached with Iran on its nuclear program." IAEA chief Mohamed ElBaradei is quoted as saying, "I am still very much hopeful that in the next week or so, an agreement could be reached." In its coverage, the AP (3/7, Jahn) reports, "ElBaradei's optimism was believed to be linked to a confidential Russian proposal to allow Iran to enrich some uranium domestically, diplomats said. But the plan was expected to meet strong resistance from the US, which opposes any enrichment on Iranian soil." In a separate story, the AP (3/7, Schweid) reports, "Unless Iran executes a dramatic about-face and suspends all its nuclear activities, the UN Security Council will intervene 'quite actively,'" Undersecretary of State Nicholas Burns said. "The message to Iran is that it has 'crossed the international red line' and engaged in unacceptable enrichment activity 'and there must be a UN Security Council process to deal with that.'" Reuters (3/7, Heinrich, Hafezi) runs a similar report.

The Wall Street Journal (3/7, Crawford, Cullison, 2.11M) reports ElBaradei's statement "is at odds with US determination to refer Iran swiftly to the Security Council, with U.S. and EU officials citing inspectors' evidence that Iran's program includes elements that would only be aimed toward producing weapons, not energy." The Journal also reports, "Yesterday, diplomats were debating the possibility of letting Iran continue to experiment with enrichment in 20 centrifuges. Diplomats close to the IAEA say that Iran would likely do those experiments anyway if there is no compromise but noted an agreement would allow the return of IAEA inspectors."

Russia-West Rift Emerges. The New York Times (3/7, Sciolino, 1.19M) reports, "A serious rift emerged Monday when Russia split with the United States and Europe over Iran's nuclear program after the Russians floated a last-minute proposal to allow Iran to make small quantities of nuclear fuel, according to European officials. The reports of the proposal prompted" Secretary Rice to telephone ElBaradei to, "according to an administration official who was briefed on the conversation," say "'the United States cannot support this.'" According to the Times, "American officials said they had been assured by the Russians that there was no formal proposal on the table." In its coverage, the Financial Times (3/7, Dombey) said Russia "is seeking to convince the US and the European Union to allow Iran to continue limited uranium enrichment, the process that can create weapons grade material. But the idea has already been rejected by the US and the EU's big powers, and western diplomats said it could disrupt the uneasy common front on Iran between the five permanent members of the" UNSC.

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Iran Stepping Up Development Of Shahab Missiles. Reuters (3/7, Charbonneau) reports, "As Iran pursues a nuclear program the West fears is aimed at producing bombs, Tehran also appears to be stepping up development of missiles capable of carrying atomic warheads, diplomats citing intelligence say. According to an intelligence report given to Reuters by a non-U.S. diplomat, a covert Iranian program run by people closely linked to Iran's military includes plans to arm its Shahab-3 missiles, which experts believe have a maximum range of around 2,000 km (1,240 miles), with nuclear warheads." The report, "which could not be independently confirmed, surfaced as the United States and its allies seek to highlight the potential security dangers of a nuclear-armed Iran."

Lead US Negotiator Defends US-India Nuclear Deal. The Washington Times (3/7, Sands, 90K) reports, "The proposed US-India nuclear deal will not open the door for Iran and other rogue states to acquire atomic weapons and technology, the Bush administration's lead negotiator insisted yesterday." Undersecretary of State R. Nicholas Burns said at the Heritage Foundation, "We don't see the connection between what Iran is doing and what India seeks to do." The Administration "has begun selling the India deal in earnest on Capitol Hill, where several top lawmakers are either cool to the accord or openly skeptical." Burns "rejected critics' assertions that bending the rules for India -- which has not signed the nuclear Non-Proliferation Treaty (NPT) -- will make it more difficult to rally opposition against Tehran."

Cohen Defends Deal. Under the headline "Judicious Double Standards," columnist Richard Cohen writes in the Washington Post (3/7, A17, 744K) that some are complaining Bush "has done something truly awful -- established a double standard. Well, duh -- yes. India is our friend and Iran, just to pick an example, is not. The cry of 'double standard' is a bit silly. … Reality imposes its own rules -- and they have nothing to do with double standards."

NYTimes Says Bush "Should Have Just Stayed Home." In a stinging editorial, the New York Times (3/7, 1.19M) bemoans President Bush's recently completed trip to Pakistan and India, claiming the visits "have done some real harm. The spectacularly misconceived trip may have inflicted serious damage to American goals in two vital areas," promoting nuclear nonproliferation and Pakistani anti-extremist efforts. "The nuclear deal that Mr. Bush concluded with India threatens to blast a bomb-size loophole through the Nuclear Nonproliferation Treaty," but "the most immediate damage was done on Mr. Bush's next stop, Pakistan. ... Sticking Mr. Musharraf with the unwelcome task of explaining to Pakistanis why" the US agreed to nuclear cooperation with "Pakistan's archrival, India, while withholding them from Pakistan left him less likely to do Washington any special, and politically unpopular, favors on the terrorism front. It's just baffling why Mr. Bush traveled halfway around the world to stand right next to one of his most important allies against terrorists — and embarrass him." The Times concludes, "Mr. Bush should have just stayed home."

Turkey To Press Ahead With Nuclear Plant Construction. The Washington Post (3/7, A14, Vick, 744K) reports, "Turkey is reviving its long-deferred quest for nuclear power, pressed both by serious energy shortfalls within its own borders and by strident nuclear ambitions in neighboring Iran that threaten to upset a regional balance of power." The Post adds that Energy Minister Hilmi Guler, in announcing the initiative to build as many as five nuclear plants, cited rising oil prices and his country's "need for multiple sources of energy make our need for nuclear energy an utmost priority," and notes that "Guler, who made his remarks while visiting a nuclear plant in Virginia, said the new Turkish reactors could provide about a tenth of the 54,000 megawatts the country expects to need over the next two decades." The Post adds that Iran's nuclear ambitions also factor into Turkey's decision to revive its nuclear "program, which has had numerous false starts since the early 1960s."

Hamas Revokes Some Powers From Abbas. Reuters (3/7) reports, "Hamas legislators voted on Monday to revoke all decisions made by the previous Palestinian parliament at its final session last month, including laws that gave President Mahmoud Abbas wider powers to appoint some judges." Senior Abbas aide Tayeb Abdel-Rahim "accused Hamas of attempting to oust the Palestinian president. 'We see this as a coup attempt to change the regime and they (Hamas) have to seriously reconsider their decisions.'" In its coverage, the New York Times (3/7, Myre, 1.19M) notes, "Shortly after the session began, it degenerated into shouting matches between the rival Hamas and Fatah factions, with Fatah legislators ultimately storming out." The Washington Post (3/7, A14, Wilson, 744K) quotes Fatah legislator and negotiator Saeb Erekat as saying the Hamas

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move was "absolutely unconstitutional," and that Fatah would appeal to the Palestinian High Court on Tuesday to overturn the vote. The Washington Times/AP (3/7, Barzak) and Los Angeles Times (3/7, King, 958K) run similar stories.

Mofaz Says Haniyeh Is Possible Target. The AP (3/7) reports Israeli Defense Minister Shaul Mofaz told Army Radio Tuesday that incoming Palestinian PM Ismail Haniyeh "will not be immune from pinpointed Israeli killings if the Islamic militant group were to resume its attacks on Israel."

North Korean To Hear US Counterfeiting Complaints Today. Ahead of today's briefing of senior North Korean diplomat Ri Gun by US Treasury Department officials in New York, Reuters (3/6, Eckert) reported Department spokesman Tom Casey "took pains to separate the technical explanation of the financial penalties from efforts to get North Korea to rejoin nuclear talks with the United States, China, Japan, Russia and South Korea." Reuters reported Casey said that "North Korea should return to six-country nuclear talks regardless of the outcome of discussions on the U.S. financial crackdown on Pyongyang over money laundering." Ri's trip to New York "has raised hopes that the North may be poised to return to" the talks.

Free Trade Talks To Begin In June. A separate Reuters (3/6, Kim) piece reported Washington and Seoul agreed yesterday "to start a formal round of free trade talks in June, dealing a blow to farmers and unionists demonstrating against the plans." Automobiles, rice and services are expected to be key areas of initial disagreement.

South American Border Region Seen As Haven For Smugglers. The CBS Evening News (3/6, story 9, 4:30, Regan) reported, "Deep in South America, just miles from the beauty of Brazil's Iguaçu Falls is one of the most lawless places in the world. The Tri-border area where three countries, Paraguay, Argentina and Brazil, meet it is a smuggler's paradise, home to the largest illicit economy in the Western Hemisphere. Trafficking in everything from drugs to arms to counterfeit goods is a 24/7 unchecked operation." Illegal trade "here is costing American companies hundreds of millions of dollars each year. Almost all the activity takes place on the Paraguayan side of the border in the Wild West jungle town of Ciudad Dalleste. What is unusual is that most of the trade is run by members of a large and influential Middle Eastern population, many of whom immigrated to the area from Lebanon and Syria in the 1970s. Some are making huge sums off illicit trade and western authorities believe they're sending money to terror groups in the Middle East." Sources "in the State Department tell CBS News that at one point there were seven terrorist training camps in the Tri-border region. And they have no doubt the area is still a safe haven for terrorists."

OPEC Unlikely To Cut Output. The New York Times (3/7, Mouawad, 1.19M) reports, "Strange as it may seem, some OPEC oil ministers are feeling sorry for themselves. For the last three months, a few of OPEC's top representatives have argued that their oil-producing cartel, which pumps nearly 4 of every 10 barrels of oil produced around the world, needs to trim output to avert a potential oil glut and a -- highly hypothetical -- price collapse." The Times adds, "The current argument for cutting output first came up when the Organization of the Petroleum Exporting Countries met in December in Kuwait. It resurfaced at a meeting in Vienna the following month and it is likely to top the agenda this week when the group meets here again to consider its production levels." It "almost certainly will not happen. For one thing, Saudi Arabia…is opposed."

The Wall Street Journal (3/7, 2.11M) reports, "Saudi Arabia's oil minister was reported as saying the Organization of Petroleum Exporting Countries shouldn't trim oil output at this week's meeting." In an interview "with pan-Arab daily newspaper Al Hayat, published Monday," Ali Naimi also said "fears stemming from threats to oil supplies were the main factor behind prices of more than $60 a barrel."

China Seen As Exercising Restraint In Dealings With Taiwan. USA Today (3/7, Wiseman, 2.31M) reports, "Not so long ago, China would have been lobbing missiles across the Taiwan Strait, mobilizing troops and issuing bloodcurdling threats in response to any Taiwanese move toward independence. Times have changed: The mainland calculates that restraint, not retaliation, is the best response to Taiwanese President Chen Shui-bian's provocative decision to scrap a neglected but symbolically important council dedicated to the reunification of China and Taiwan." USA Today adds, "Despite its conciliatory approach to the Taiwanese public, China passed an anti-secession law last year. That created a legal basis for attacking if the island declares independence. The mainland still has more than 700 missiles pointed at Taiwan."

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WTO Rules Against Mexico In Soft-Drink Dispute. The Wall Street Journal/AP (3/7) reports, "The World Trade Organization ruled that Mexico violated global trade rules in a soft-drink dispute with the US." A WTO panel "rejected a Mexican appeal, supporting US claims that Mexico was in breach of international law in imposing a 20% tax on drinks that are sweetened with anything other than cane sugar grown in Mexico."

Russia Reasserts Influence Over Former Soviet States. The Christian Science Monitor (3/7, Weir, 61K) reports elections in Belarus and Ukraine approach "amid dramatic accusations of planned coups, state coercion, and vote-fixing," but "Moscow isn't worried. Instead, there is a sense of calm and fresh confidence here that contrasts sharply with the Kremlin's panicky reactions to the surge of 'colored revolts' that swept through the region in recent years. … But the inability of new leaders to fulfill revolutionary pledges, together with the failure of popular pressure to effect change in other Soviet satellite states, has opened the way for Moscow to reassert its influence in the region."

Russia Approves Pipeline Plan Over Environmentalists' Objections. The New York Times (3/7, Chivers, 1.19M) reports the Russian government has approved a proposal by Transneft, the state-owned pipeline monopoly to build an oil pipeline "that would pass along the shoreline of Lake Baikal, the world's most voluminous fresh-water lake," despite "objections from scientists and environmental groups." The Washington Post (3/7, A14, Finn, 744K) reports, "The decision followed a review process that environmentalists and some Russian experts involved in assessing the route say was marked by manipulation of an expert panel and political pressure on dissenting scientists. … Greenpeace and other opponents of the project said they recognized the need for a pipeline and objected only to the route."

Serb War Criminal Assisting Prosecutors Commits Suicide. The New York Times (3/7, Simons, 1.19M) reports Milan Babic, "a wartime Serbian leader who was closely cooperating with prosecutors, committed suicide in a prison cell of the war crimes tribunal in The Hague, the court said Monday." Babic "was found dead in his cell on Sunday evening, the court said in a statement. A senior court official said he had hanged himself, but the court spokeswoman would not confirm that."

Kristoff Pleads With Bush To Stop Darfur Genocide. In his column for the New York Times (3/7, 1.19M) Nicholas Kristoff writes, "For more than two years, the world has pretty much ignored the genocide unfolding in the Darfur region of Sudan, just as it turned away from the slaughter of Armenians, Jews, Cambodians and Rwandans in earlier decades. And now, apparently encouraged by the world's acquiescence, Sudan is sending its proxy forces to invade neighboring Chad and kill and rape members of the same African tribes that have already been ethnically cleansed in Darfur itself. … In the last few weeks, President Bush has shown an increased willingness to address the slaughter in Darfur. He should now encourage the French to use their forces to defend Chad from proxy invasions, make a presidential speech to spotlight the issue, attend a donor conference for Darfur, encourage the use of a NATO bridging force until U.N. peacekeepers can arrive, enforce a no-fly zone and open a new initiative for peace talks among the sheiks of Darfur."

Wickham Criticizes Administration Policy On Issuing Visas To Cubans. USA Today (3/7, 2.31M) columnist DeWayne Wickham criticizes the fact that though he Bush Administration "refuses" to grant visas to Cuban academics seeking to attend a conference in Puerto Rico, the Cuban national baseball team was granted visas to play in the World Baseball Classic being held in San Juan, Puerto Rico.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"Envoy To Iraq Sees Threat of Wider War."
"Abortion Ban Puts Strategies In Doubt."
"A Battle For The High Ground."
"Alaska By Way Of Katrina."
"Iranians Defend Nuclear Rights."
"Uncommon Weapon In Immigration Fight."
"'Crash' Takes The Award For Best Oscar Campaign."

USA Today:

"Abortion Battle Gains New Intensity With Ban In S.D."

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"Sun Belt, Suburbs Get More Diverse."
"How Congress Benefits From Corporate Flights."
"Fewer Troops Desert Since 9/11."

New York Times:
"US Wins Ruling Over Recruiting At Universities."
"US Is Seeking Better Balance In Iraqi Police."
"Tending To Muslim Hearts And Islam's Future."
"South Dakota Bans Abortion, Setting Up A Battle."
"Still Evolving, Human Genes Tell New Story."
"Revising Art History's Big Book: Who's In And Who Comes Out?"

Washington Post:
"Mideast Investment Up In US."
"A Victory For Military Recruiters."
"Top Iraqi Commander Killed In Baghdad."
"Democrats Struggle To Seize Opportunity."
"Prominent Ties Among Comcast Hires."
"An Era Fades Away By The Side Of The Road."

Washington Times:
"Military Ban On Campus Rejected."
"Hamas Strips Abbas' Powers."
"Bush Calls For Line-Item Veto."
"India Nuclear Deal Pushed."
"Lending Law A Wrench In Home Finances."
"GOP's Bill Thomas Announces Retirement."
"Anorexia Largely Determined By Heredity."

Detroit Free Press:
"Camaro On Verge Of Revival."
"An Eye-Opening New Procedure In Michigan."
"Teen Rallies For Troops."
"Many Businesses Agree: Mich. Tax Is Stumbling Block."

Atlanta Journal-Constitution:
"New AT&T Will Shed 10,000 Jobs."
"Hometown Bond Charlotte's Ace."
"City Feels Mugged By Talk It Was Too Dangerous To Pick."
"Campbell, Eager To Talk, Won't Testify."

Dallas Morning News:
"For Voters, It's Decision Time."
"School Fund Shift Looms."
"Forces Of Compassion."
"Asylum Case Puts Spotlight On Nuns' Allegations Of Sex Abuse."

Houston Chronicle:
"Alvarado Steps Down – For Now."
"Car Kills Couple As They Sleep."
"Justices Deal A Victory To Military Recruiters."
"Today, Witness Fastow Becomes The Main Event."

Story Lineup From Last Night's Network News:
ABC: Iran-Iraq IEDs; Iraq Violence; Iraq-US Opinion; Moussaoui Trial; Tillman Investigation; New Orleans-Levee System; Supreme Court-Military Recruiters; South Dakota-Abortion Ban; Migraine Headache Treatment; Crash-Oscars.
CBS: AT&T-BellSouth Merger; Tillman Investigation; Moussaoui Trial; Moussaoui Trial-9/11 Relatives; South Dakota-Abortion Ban; Supreme Court-Military Recruiters; Iraq Violence; Iraq-Welcomed US Troops; South America-Pirated Goods; NASCAR Pit Crews.
NBC: AT&T-BellSouth Merger; AT&T-BellSouth Merger-Consumers; Moussaoui Trial; Iraq Violence; New Orleans-Lower Ninth Ward; New Orleans-Levee System; FEMA-Unused Trailers; Alzheimer's Disease-Ethical Concerns; Supreme Court-Military Recruiters; South Dakota-Abortion Ban; Stock Markets; Oscar-Best Picture.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Moussaoui Sentencing; Port Deal; New Orleans-Hurricane Recovery; Puckett Obit.
CBS: Moussaoui Sentencing; TX-Primary Election; Al Jazeera-Hostage Video; Israel-Warning To Hamas; Puckett Obit.; DNA Study; Wall Street.
NPR: Iraq-Car Bombs; Annan-UN Reforms Report; US, North Korea Meeting; South Dakota-Abortion Law; TX-Primary Election; Puckett Obit.; Sheehan Arrest.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH — Speaks at Women's History Month celebration, East Room; meets with the Foreign Minister of Russia; votes at the Crawford Fire Station, Crawford, Texas.

VICE PRESIDENT CHENEY — Speaks to the American Israel Public Affairs Committee Policy Conference. Washington Convention Center.

US Senate: 9:30 a.m. APPROPRIATIONS _ Full Committee. Hearing on the FY07 supplemental budget for additional resources for the Gulf Coast region. Govs. Bob Riley of Alabama, Kathleen Blanco of Louisiana, Haley

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Barbour of Mississippi and Rick Perry of Texas. Location: Room 192, Dirksen.

9:30 a.m. ARMED SERVICES _ Full Committee. Hearing on the FY07 budget for military operational requirements. Adm. William J. Fallon, commander, U.S. Pacific Command: Gen. Burwell B. Bell III, commander, United Nations Command and Republic of Korea and U.S. Combined Forces Command and commander, U.S. Forces Korea; Gen. James L. Jones Jr., commander, U.S. European Command and supreme allied commander, Europe. Location: Room 106, Dirksen. Notes: Closed session in Room 222, Russell may follow.

9:30 a.m. ENERGY AND NATURAL RESOURCES _ Full Committee. Hearing on energy independence. Former CIA Director R. James Woolsey; Susan M. Cischke, Ford Motor Co.; Amory B. Lovins, Rocky Mountain Institute, Snowmass, Colo.; Frank A. Verrastro, CSIS. Location: Room 366, Dirksen.

9:30 a.m. FOREIGN RELATIONS _ Full Committee. Hearing on the nomination of Randall Tobias to be USAID Administrator. Location: Room 419, Dirksen.

9:30 a.m. JUDICIARY _ Full Committee. Hearing on criminal penalties for corporate accountability when dealing with defective products. Barry Maron, Minneapolis Heart Institute Foundation; Brian Panish, Panish Shea and Boyle LLP, Los Angeles; John Engler, National Association of Manufacturers; Frank J. Vandall, Emory School of Law, Atlanta; Rob Steinbuch, School of Law, University of Arkansas; George J. Terwilliger, White and Case; Donald L. Mays, Consumers Union. Location: Room 226, Dirksen.

10 a.m. BANKING, HOUSING AND URBAN AFFAIRS _ Full Committee. Oversight hearing on the operations of credit rating agencies. Paul Schott Stevens, Investment Company Institute; Glenn Reynolds, CreditSights, Inc.; Vickie Tillman, Standard and Poor's; Frank Partnoy, University of San Diego School of Law; Damon Silvers, AFL-CIO; Jeffrey Diermeier, CFA Institute; Alex Pollock, American Enterprise Institute Location: Room 538, Dirksen.

10 a.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Full Committee. Hearing on rural telecommunications. Agriculture Undersecretary Thomas Dorr; Alaska Regulatory Commission Commissioner Mark Johnson; Oregon PUC Commissioner Ray Baum; Bill Squires, Blackfoot Telephone Cooperative; Larry Sarjeant, Qwest Communications; Craig Mundie, Microsoft; Joe Garcia, Nartional Congress of American Indians; Mark Goldstein, GAO. Location: Room 562, Dirksen.

10 a.m. HEALTH, EDUCATION, LABOR AND PENSIONS _ Full Committee. Hearing on the response of community organizations to the Gulf Coast hurricanes. Kay Wilkins, American Red Cross, Metairie, La.; Jayne Wright, Louisiana State Voluntary Organizations Active in Disaster and Food Bank of Central Louisiana, Alexandria, La.; Todd Hawks, Salvation Army, Arlington, Va.; Cynthia Fagnoni, GAO; Ande Miller, National Voluntary Organizations Active in Disaster; Craig Nemitz, Americas Second Harvest, Chicago; Mostafa Mahboob, Islamic Relief USA, Burbank, Calif.; Tom Hazelwood, United Methodist Committee on Relief; William Daroff, United Jewish Communities; Heather Feltman, Lutheran Disaster Response, Chicago; Almetra Franklin, St. Mary Community Action Agency, Franklin, La.; Tanya Harris, Association of Community Organizations for Reform Now, New Orleans; Welton Gaddy, President Interfaith Alliance; Lorna Bourg, Southern Mutual Help Association, New Iberia, La.; Thomas E. Green, Office of Community Services, Little Rock. Location: Room 430, Dirksen.

10 a.m. VETERANS AFFAIRS _ Full Committee. Hearing on the legislative agenda of the Veterans of Foreign Wars. Location: Room 216, Hart.

2:30 p.m. APPROPRIATIONS _ Defense Subcommittee. Hearing on FY07 appropriations. Undersecretary of Defense Tina Jonas; Vice Adm. Evan Chaink, Force Structure, Resources and Assessment. Location: Room 192, Dirksen.

2:30 p.m. SELECT INTELLIGENCE _ Full Committee. Meeting to consider pending matters. Location: Room 219, Hart.

2:45 p.m. ARMED SERVICES _ Strategic Forces Subcommittee. Hearing on the FY07 budget for nuclear weapons and defense envionrmental cleanups in the Energy Department. Linton Brooks, National Nuclear Security Administration; Assistant Energy Secretary James Rispoli. Location: Room 232A, Russell.

US House: FLOOR SCHEDULE _ 12:30 p.m. Meets for morning business. At 2 p.m. meets for legislative business. Highlights: Suspensions (6 bills): 1) H.R. 3934 - Gerard A. Fiorenza Post Office Designation Act: 2) H.R. 4054 - Dewey F. Bartlett Post Office Designation Act: 3) H.R. 4509 - Hiram L. Fong Post Office Designation Act: 4) S. 2271 - USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006: 5) H.R. 32 - Stop Counterfeiting in Manufactured Goods Act: 6)

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H.Res. 681 - Supporting the goals and ideals of National Engineers Week, and for other purposes.

9:30 a.m. APPROPRIATIONS _ Transportation, Treasury, HUD the Judiciary and District of Columbia Subcommittee. Hearing on FY07 Transpoprtation appropriations. Secretary Mineta. Location: Room 2359, Rayburn.

12 p.m. JUDICIARY _ Crime, Terrorism and Homeland Security Subcommittee. Hearing on attorney-clint privilege and corporate waivers in white collar crime. Associate Attorney General Robert McCallum, Jr.; former Attorney General Richard Thornburgh; U.S. Chamber of Commerce President Thomas Donohue; attorney William Sullivan, Jr. Location: Room 2141, Rayburn.

1:30 p.m. APPROPRIATIONS _ Military Quality of Life and Veterans Affairs and Related Agencies Subcommittee. Hearing on FY07 appropriations for the Air Force. Location: Room H-143, Capitol.

2 p.m. GOVERNMENT REFORM _ Criminal Jusatice, Drug Policy and Human Resources Subcommittee. Hearing on human cloning and stem cell research. James Battey, NIH; Bernard Schwetz, Office for Human Research Protections; Chris Pascal, Office of Research Integrity; Markus Grompe, Oregon Stem Cell Center; Richard Doerflinger, U.S. Conference of Catholic Bishops; Richard Hynes, MIT; Diane Beeson, California State University; Joe Brown, Parkinson's Action Network State Coordinator, Texas. Location: Room 2247, Rayburn.

2 p.m. GOVERNMENT REFORM _ National Security, Emerging Threats and International Relations Subcommittee. Hearing on international maritime security involving cruise ships. Passengers Kendall Carver, Phoenix; son Michael Pham, Bellevue, Wash.; Deborah Shaffer, Tucson; Janet Kelly, Cottonwood, Ariz.; Ira Leonard, Hamden, Conn.; Brian Mulvaney, Miami; attorney Brett Rivkind; Ron Gorsline, owner, Secure Ocean Service LLC; Lawrence W. Kaye, Kaye Rose and Partners LLP; Charley Mandigo, director, Fleet Security, Holland America Lines; Capt. William S. Wright, senior vice president, Marine Operations, Royal Caribbean International; James Fox, Northeastern University. Location: Room 2154, Rayburn.

5 p.m. RULES _ Full Committee. Hearing on rules for floor debate. Location: Room H-313, Capitol.

Other: COUNTIES _ The National Association of Counties holds its 2006 Legislative Conference. Highlights: 12:30 a.m. VA Secretary Jim Nicholson speaks on on the Federal-state partnership. 8:30 a.m. General session with Sen. Gordon Smith expected to address the meth problem and Medicaid; Tom Siebel, founder, Montana Meth Project. Location: Washington Hilton & Towers, 1919 Connecticut Ave. NW.

AMERICA-ISRAEL _ The American Israel Public Affairs Committee (AIPAC) holds its annual Policy Conference. Highlights: 9 a.m. - 10:30 a.m. Closing plenary, ``America and Israel: The View From Capitol Hill," with addresses by Vice President Dcik Cheney and Reps. Roy Blunt, R-Mo., House Majority Whip, and Steny Hoyer, D-Md., Hoouse Democratic Whip. Location: Washington Convention Center, Mt. Vernon Square.

AFGE CONFERENCE _ The American Federation of Government Employees holds its legislative and grassroots mobilization conference. Highlights: 2 p.m. News conference with AFGE President John Gage, others, to call on Defense Secretary Rumsfeld to resign. Location: Hyatt Regency-Washington on Capitol Hill, 400 New Jersey Ave. NW.

PUBLIC TRANSPORTATION _ The American Public Transportation Association (APTA) holds its two-day legislative conference to discuss a variety of topics including: implementation of SAFETEA-LU; Department of Homeland Security transit security funding; financing issues for the next reauthorization bill; new starts; and coordination of transportation services. Highlights: 8:15 a.m. - 11 a.m. Session on ``Get Started with Members of Congress," with Christopher P. Boylan, vice chair government affairs, APTA, and deputy executive director, corporate affairs and communications, Metropolitan Transportation Authority, New York, N.Y. (presiding); Sen. Patty Murray, D-Wash., ranking member, Subcommittee on Transportation; Rep. James L. Oberstar, D-Minn., ranking member, Committee on Transportation and Infrastructure; Rep. Thomas E. Petri , -Wis., chairman, Subcommittee on Highways, Transit and Pipelines, Committee on Transportation and Infrastructure. Location: J.W. Marriott Hotel, 1331 Pennsylvania Ave. NW.

VETERANS OF FOREIGN AFFAIRS _ The Veterans of Foreign Wars holds its Community Service and Legislative Conference. Location: Omni Shoreham Hotel, 2500 Calvert St. NW.

ATTORNEYS GENERAL _ The National Association of Attorneys General holds its spring meeting. Highlights: 10:45 a.m. Assistant Attorney General Regina Schofield. Location: Grand Hyatt Hotel, 1000 H St. NW.

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HOSPITALS _ The Federation of American Hospitals holds its 2006 Public Policy Conference and Business Exposition. Highlights: 8:30 a.m. - 11 a.m. Sen. Hillary Rodham Clinton, D-N.Y. 9 a.m. Sen. John Ensign. 9:30 a.m. CDC Director Julie Gerberding and National Economic Council Director Allan Hubbard. 10:45 a.m. U.S. Chamber of Commerce CEO Thomas Donohue. Location: Marriott Wardman Park, 2660 Woodley Road NW.

DATA PRIVACY _ 8 a.m. - 4 p.m. The Department of Homeland Security's Data Privacy and Integrity Advisory Committee holds a meeting. Secretary Chertoff participates in the meeting at 8:20 a.m. Location: Polaris Room, Reagan Building, 1300 Pennsylvania Ave. NW.

INTERNET-POLITICS _ 9 a.m. George Washington University's Institute for Politics, Democracy & the Internet hosts the 13th Politics Online Conference. The event will feature speakers involved in the media and Internet politics, including Doug Bailey, founder of The Hotline and Bailey-Deardorff, former CEO, Freedoms Answer; Ana Marie Cox, Wonkette Emeritus; Dan Gillmor, founder of Center for Citizen Media and author of We the Media; and Alex Jones, director of Joan Shorenstein Center on the Press, Politics, and Public Policy at Harvard Universitys Kennedy School of Government. Location: George Washington University, Marvin Center, 800 21st St. NW.

HOUSING _ 8:30 a.m. HUD Secretary Jackson addresses the National Council of State Housing Agencies. Location: L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW.

FUEL SUPPLY _ 9 a.m. The Community Power Alliance and Energy Daily hold a panel discussion with FERC Chairman Joseph Kelliher and former Sen. John Breaux discussing short and long term solutions to diversifying the nation's fuel supply. Location: Phoenix Hotel, 520 N. Capitol St.

METH-CRIME _ 9 a.m. Attorneys General hold a news conference to call on Congress to reject budget cuts to law enforcement and investments in children proven to prevent crimes. Participants include Attorneys General Lawrence Long of South Dakota, Mark Shurtleff of Utah, William Lockyer of California, W.S. Drew Edmondson of Oklahoma, others. Location: National Press Club.

ACLU-VOTING RIGHTS _ 10 a.m. The ACLU announces the launch of its campaign to renew the Voting Rights Act, the 41st anniversary of ``Bloody Sunday'', when voting rights marchers in Selma were attacked by Alabama state police. The ACLU will begin its ``Every voice. Every vote. Renew the Voting Rights Act'' campaign with the release of two comprehensive reports detailing the continuing need for the law. Location: National Press Club, Lisagor Room.

ATTORNEY-CLIENT _ 10 a.m. The US Chamber of Commerce holds a telephone briefing on results of a survey on attorney-client privilege. Notes: Callin number: 866-246-6862; passcode: 869366.

IRAQ-WOMEN _ 10 a.m. Anti-war activist Cindy Sheehan and Iraqi women lobby Congress to end the U.S. military presence in Iraq. Location: Outside 1029, Longworth.

VOTING RIGHTS ACT _ 10 a.m. The American Civil Liberties Union announces the launch of its campaign to renew the Voting Rights Act on the 41st anniversary of ``Bloody Selma.'' Location: National Press Club.

EXPLOSIVES-TRANSIT TICKETS _ 11 a.m. General Electric and Cubic Corp. hold a demonstration of the first explosives-detecting public transit ticket vending machine. Location: Salon IV, JW Marriott, 1331 Pennsylvania Ave, NW.

SECURITY-PREPAREDNESS _ 11 a.m. James Lee Witt, former FEMA director, and James Loy, former deputy homeland security secretary, release national survey showing that the US is unprepared for a catastrophe. They are co-chairs of Protecting America.org, a coalition to help Americans prepare for natural disasters. Location: Room 383, Hall of States, 444 N. Capitol St. NW.

HEALTH CARE _ 11:30 a.m. Democratic Senators Ted Kennedy, Tom Harkin, Barbara Boxer, and Debbie Stabenow join Congressmen Chris Van Hollen and Xavier Becerra and hundreds of students, seniors, and citizens to rally for a budget that makes education more affordable and health care more available. Location: West Front of the Capitol.

WACKENHUT-NUCLEAR _ 11:30 p.m. Security watchdogs hold press conference to call attention to what they say is the Wackenhut company's pattern of problems at U.S. nuclear facilities. The press conference follows an Associated Press story regarding DHS facilities and Wackenhut guards. Location: Across the street from U.S. Dept. of Homeland Security, Nebraska Avenue NW entrance.

RUMSFELD-EGYPT _ 12 p.m. Secretary of Defense Donald H. Rumsfeld hosts an honor cordon to welcome Egyptian Minister of Defense Field Marshal Mohamed Hussein Tantawi to the Pentagon. Location: The cordon will be held on the steps of the Pentagon Mall Entrance.

FOREIGN ENERGY SOURCES _ 12:15 p.m. Senators Domenici, Inhofe, Thomas, and Thune hold a press availability to discuss Senate efforts to promote Americas

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energy independence by reducing our reliance on foreign sources of energy. Location: Capitol at the Ohio Clock (Senate Side, Ohio Corridor).

BOEHNER _ 12:30 p.m. House Majority Leader Rep. John Boehner holds a pen and pad only briefing. Location: Room H-107, Capitol.

DEMOCRATS _ 12:30 p.m. The Democratic Policy Committee holds a closed meeting. Location: Room S-211, Capitol. Notes: Stakeout note: Gallery escort for policy luncheons leaves at 11:30 a.m. from the Ohio Clock Corridor.

MIGRANT POPULATION _ 12:30 p.m. The Pew Hispanic Center holds a telephone briefing to release a report on the size and characteristics of the migrant population in the U.S. Notes: Callin number: 800-322-0079.

REPUBLICANS _ 12:30 p.m. The Republican Policy Committee holds a closed meeting. Location: Room S-207, Capitol. Notes: Stakeout note: Gallery escort for policy luncheons leaves at 11:30 a.m. from the Ohio Clock Corridor.

GULF COAST REBUILDING _ 1 p.m. Federal Coordinator for Gulf Coast Rebuilding Donald Powell and Commerce Secretary Gutierrez hold a telephone news conference on stimulating economic development in the gulf Coast region. Notes: Callin number: 800-857-2846; passcode: Gulf Coast.

IMMIGRANT RIGHTS _ 1:30 p.m. The Border Community Alliance for Human Rights and the American Friends Service Committee hold a news conference to discuss H.R. 4437, a bill which would authorize a 700-mile border fence between the U.S. and Mexico. Location: United Methodist Building, 100 Maryland Ave. NE.

DEFENSE UNIONS-RUMSFELD _ 2 p.m. Defense union representatives from the American Federation of Government Employees (AFGE), the AFL-CIO and the United DoD Workers Coalition will call for a vote of no confidence against Secretary of Defense Donald Rumsfeld in response to the Department of Defenses decision to appeal a judges ruling that they say ``gutted DODs National Security Personnel System (NSPS)." Location: Hyatt Regency Hotel, Congressional Room A 400 New Jersey Ave., NW.

HOYER _ 2 p.m. House Minority Whip Rep. Steny Hoyer holds a pen and pad only briefing. Location: Room H-306, Capitol.

US-AUSTRALIA _ 2:15 p.m. USTR Rob Portman and Australian Deputy Prime Minister Mark Vaile hold a news conference. Location: USTR offices, 600 17th St. NW.

GOP-PORTS _ 3 p.m. Reps. Duncan Hunter, R-Calif., chairman of the House Armed Services Committee, and Jim Saxton, R-N.J., chairman of the House Armed Services Subcommittee on Terrorism, Unconventional Threats and Capabilities, tomorrow will unveil new legislation that they say would protect domestic infrastructure critical to national security. Additionally, the legislation would block Dubai Ports World's bid to take over operations at U.S. ports, reform the process to approve foreign investment in the United States and mandate 100 percent cargo inspection. Location: House Radi/TV Gallery.

UNINTENDED PREGNANCIES _ 3 p.m. NARAL Pro-Choice American holds a briefing to call on congressional leaders to allow votes on a series of measures to prevent unintended pregnancies and reduce the need for abortion. Participants include Reps. Tom Allen, Barbara Lee, Carolyn Maloney, Rush Holt. Location: Room HC-9, Capitol.

LA RAZA _ 5:30 p.m. The National Council of La Raza honors House Majority Leader Rep. John Boehner and Sen. Tom Harkin at its annual gala. Location: National Building Museum, 401 F St. NW.

INTELLIGENCE-IRAQ _ 6:30 p.m. The Council on Foreign Affairs holds an on-the-record meeting with former CIA officer Paul Pillar discussing intelligence, policy and Iraq. Location: 1779 Massachusetts Ave. NW.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, MARCH 7, 2006 7:45 AM EST

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TERRORISM NEWS:

Specter May Recall Gonzales For More NSA Surveillance Testimony. The AP (3/7, Shrader) reports, "Attorney General Alberto Gonzales' written answers to questions about the Bush administration's eavesdropping program may require him to testify a second time before the Senate Judiciary Committee, the panel's Republican chairman said Monday. … 'There is a suggestion in his letter there are other classified intelligence programs that are currently under way,' Senate Judiciary Committee Chairman Arlen Specter, R-Pa., told reporters." The AP continues, "The comments from the moderate Republican come as the Bush administration is trying to quell criticism of its surveillance operations and work with the Senate on legislation that would write the program into law." The AP adds, "In a letter to Specter last week, Gonzales clarified his testimony in a half dozen areas covered in a daylong Senate Judiciary Committee hearing on Feb. 6. … Gonzales said his answers were focused only on President Bush's program granting intelligence officers the power to monitor - without court approval - the international calls and e-mails of U.S. residents, when those officers suspect terrorism may be involved. … 'In all of my testimony at the hearing I addressed - with limited exceptions - only the legal underpinnings of the Terrorist Surveillance Program,' Gonzales wrote. 'I did not and could not address operational aspects of the program or any other classified intelligence activities.' … The Justice Department has not received a formal request to testify, spokesman Brian Roehrkasse said. 'As a matter of practice, officials from the department do not discuss, confirm or deny the existence or nonexistence of any classified intelligence programs in public settings,' he added."

GOP Seeks To Limit Scope Of Probe Into NSA Surveillance Program. Key congressional Republicans are seeking to head off oversight investigation into President Bush's use of the National Security Agency to conduct domestic intelligence gathering, and at the same time establish a statutory foundation for the program. Knight Ridder (3/7, Kuhnhenn) reports the congressional Republicans are "trying to limit the scope of any investigation into" the NSA program, and "some key lawmakers are also working to legalize such spying on U.S. citizens in the future, perhaps with some judicial restrictions." The "dual-track effort is designed to protect the Bush administration from an all-out congressional inquiry into the secret program, while rejecting Bush's argument that he already has full legal authority to order such surveillance."

Penalty Phase Of Moussaoui Trial Begins. The penalty phase of admitted al Qaeda co-conspirator Zacarias Moussaoui got underway Monday with opening arguments from the prosecution and defense. Assistant US Attorney Robert Spencer urged the jurors to sentence Moussaoui to death, saying he concealed information about the 9/11 plot thereby enabling the attacks to succeed. However, Moussaoui's court-appointed defense lawyer, Edward J. MacMahon, said there was no evidence to support the prosecution's contention that Moussaoui's cooperation could have prevented the attacks.

The story was covered by each of the networks in full segments, and CBS ran a second story on the 9/11 family members who are following the trial. ABC World News Tonight (3/6, story 4, 2:35, Thomas) reported that legal scholars "say the defense faces an uphill battle." Prof. Jonathan Turley, George Washington University Law School: "For Zacarias Moussaoui, this is the wrong crime, in the wrong place with the wrong jury. He's going to be tried in the shadow of the Pentagon by a jury in one of the most conservative districts in the country." The CBS Evening News (3/6, story 3, 2:40, Stewart) noted that this "was the first time the government has argued that Moussaoui's silence was as much to blame for what happened that day as any of the dead 19 hijackers."

NBC Nightly News (3/6, story 3, 2:10, P. Williams) reported, "Moussaoui's lawyers said he knew none of the details of the 9/11 plan, not even the hijackers' names. They say he was shunned by al Qaeda members overseas, described by one as 'cuckoo in the head.'" MacMahon "said the death penalty would give Moussaoui martyrdom."

The New York Times (3/7, Lewis, 1.19M) reports Spencer said, "He killed the 9/11 victims as surely as if he had been at the controls in one of those airplanes." But MacMahon cited the 9/11 commission's conclusion that "the government had several indications of Al Qaeda's plans before that day" and contended that "there is no reason to believe that the authorities would have acted quickly on" information from Moussaoui "any more than they acted on other leads."

The Washington Post (3/7, A3, Markon, Dwyer, 744K) adds, "Prosecutors did not address the controversy over the failure to search Moussaoui's belongings before Sept. 11," saying only that "if Moussaoui had revealed all he knew…the belongings would have been searched in time." But MacMahon told jurors that "the real Moussaoui…was a bumbler who couldn't even fly a single-engine plane, a man so inconsequential that even his terrorist overseers dismissed him."

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The AP (3/7, Sniffen) notes MacMahon "played videotapes of then-Attorney General John Ashcroft describing how the FBI and CIA didn't share information before the attacks, and of Secretary of State Condoleezza Rice saying any way to prevent Sept. 11 would have had to have been in place years earlier."

USA Today (3/7, 6A, Johnson, 2.31M) reports, "In pleading guilty, Moussaoui acknowledged he was aware of a planned attack against the United States but said he was not part of the Sept. 11 plot. He told authorities he was part of a separate plan to fly a plane into the White House sometime after Sept. 11."

Victims' Relatives Watch Trial Over Closed-Circuit Television. The CBS Evening News (3/6, story 4, 2:20, Schieffer) reported, "The trial is not open to broadcast media cameras but is being televised by closed circuit to five Federal courthouses around the country where the families of the 9/11 victims are being allowed to watch. But while some family members wanted to watch, others did not." The AP (3/7, Caruso) notes that in New York, some brought "photographs or buttons with images of their loved ones," and many "held scarves or other items emblazoned with the American flag."

Victim's Daughter Opposes Imposition Of Death Penalty. In a USA Today (3/7, 2.31M) op-ed, Families of September 11 co-founder Carie Lemack – whose mother was killed in the attacks – writes that she wants to see Moussaoui imprisoned for life. "I do not want to give him the dignity of a planned execution, time to say his goodbyes, eat his last meal. His comrades did not give that to my mother. Let him sit in a cold, dirty cell alone for the rest of his long days, unable to direct his rants at anyone."

AP Seeks FOIA Access To Lindh's Petitions For Sentence Reduction. The AP (3/7, Sherman) reports, "The Associated Press sued the Justice Department on Monday for access to American-born Taliban soldier John Walker Lindh's petitions to have his 20-year federal prison sentence shortened." The AP continues, "The federal Freedom of Information Act lawsuit, filed in U.S. District Court in New York, said the government has improperly refused to turn over Lindh's pleas to have his sentence reduced on the grounds that doing so would be an unwarranted invasion of his privacy. … AP's lawyers, in letters to the Justice Department and the lawsuit, however, said Lindh 'is a 'high-profile public figure' whose 'privacy interest in his petition is low to nonexistent.'" The AP adds, "Lindh's lawyer, James Brosnahan, also has told the news cooperative that he would have turned over the documents himself, but he can't under the terms of Lindh's imprisonment."

New York Imam Works To Bring Together Muslim Singles. In the third story of its special report "An Imam in America," The New York Times (3/7, A1, Elliot, 1.19M) again reports on Brooklyn imam Sheik Reda Shata, focusing today on his work counseling American Muslim singles about dating and marriage. The Times notes, "Whether issuing American-inspired fatwas or counseling the homesick, fielding questions from the F.B.I. or mediating neighborhood spats, Mr. Shata walks an endless labyrinth of problems. If anything seems conquerable, it is the solitude of Muslim singles. … It is his way of fashioning a future for his faith. It is his most heartfelt effort…to make Islam work in America."

PATRIOT ACT:

House Expected To Pass Patriot Act Renewal Today. The Washington Post (3/7, A15, Weisman, Birnbaum, 744K) reports, "For a legislative fight that has stretched on for months, pitting the House against the Senate and the White House against members of the president's party, the battle to renew the USA Patriot Act will likely end very quietly this week." The House votes today, and "Republican leaders are so confident in its passage that they have scheduled the vote on the fast-track 'suspension calendar,' where approval takes the vote of two-thirds of the House."

Patriot Act Provision Would Crack Down On Meth Production. The AP (3/6, Kellman) reports, "Suffer from springtime allergies? You could be among the first affected by the USA Patriot Act poised for final congressional passage this week." The AP continues, "Besides terrorism, the bill takes aim at the production of methamphetamine, a highly addictive drug that cannot be manufactured without a key ingredient of everyday cold and allergy medicines. The bill would impose new limits next month for how much relief a person can buy over the counter. … And beginning Sept. 30, it'll take a flash of ID to buy that medication." The AP adds, "The legislation sponsored by Sens. Dianne Feinstein, D-Calif. and Jim Talent, R-Mo., would blanket the nation with one policy that would put medicines containing pseudoephedrine behind the counter and out of the reach of meth cooks. … Rather than wait for localities to stitch together a patchwork of anti meth policies, the provision of the Patriot Act would leave meth producers nowhere to run but out of the country. It takes aim at the meth trade's weakest point — the supply of pseudoephedrine. … Beginning 30 days after President Bush signs the law, expected sometime this week, purchase limits go into effect. One person would be limited to buying 300, 30-mg pills in a month or 120 such pills in a day. The measure would make

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an exception for 'single-use' sales — individually packaged pseudoephedrine products."

HOMELAND RESPONSE:

Chertoff Says Dubai World Ports Deal Would Enhance Port Security. The Wall Street Journal (3/7, Block, 2.11M) reports Homeland Security Secretary Michael Chertoff said the "proposed takeover of terminal operations at five U.S. ports by a Dubai company would give U.S. law enforcement a better handle on security at U.S. terminal operations." But Chertoff "warned" that the "unprecedented access that the Department of Homeland Security and other federal agencies would have to monitor the United Arab Emirates shipping company's personnel and business records would 'evaporate' if Congress stopped the deal from proceeding." Chertoff's "statements to a group of Wall Street Journal reporters marked the first time that he has said that Homeland Security had something to lose if the deal fell through."

70% Oppose Dubai Ports Deal. ABC World News Tonight (3/6, story 3, 1:45, Vargas) reported, "The President's aggressive defense of the ports deal has not only proved ineffective, but it's kind of backfiring against foreign management of any kind involved in the ports." ABC (Stephanopoulos) added, "You now have about 70% of the country against this Dubai ports deal. But 70% of them are against any foreign management of the ports. This whole story has taught people something they didn't know, that foreigners manage many of our ports. And they don't like it one bit."

Collins Plans Vote On Port Security Bill For April. The Washington Times (3/7, Fagan, 90K) reports Senate Homeland Security Chairman Susan Collins "said her committee will vote next month on legislation to improve America's port security and thinks the concern over a Dubai company running some U.S. port operations may give the bill new momentum." Collins plans to move the "ports security bill she wrote last year with Sen. Patty Murray, Washington Democrat. The two are also working with House Homeland Security Chairman Peter T. King, New York Republican, and Rep. Jane Harman, California Democrat, on a similar House bill." The measure would "authorize $835 million each year for five years to improve current port security programs. It would create an office of cargo security policy, and set new requirements for examination of all inbound cargo."

Reuters (3/7, Cowan) reports Sen. Joseph Lieberman, ranking Democrat on the Senate Homeland Security and Governmental Affairs Committee, said the Bush Administration's "plan for securing America's ports is inadequate and funding should be nearly double the White House's budget request for next year." Lieberman "called for spending more than $1 billion on port security in fiscal 2007. In remarks to reporters, Lieberman noted that the Bush administration budget only calls for $551 million for port security in the fiscal year starting on October 1."

Hunter Seeking Co-Sponsors For Bill To Block Deal. The Hill (3/7, Tiron) reports House Armed Services Committee Chairman Rep. Duncan Hunter, "who has promised to try to sink the Dubai Ports World deal, started circulating a 'Dear Colleague' letter yesterday to attract co-sponsors for legislation he plans to introduce today." The letter co-signed by Rep. Jim Saxton outlines "several provisions of the legislation, which would halt the Dubai takeover of management at some U.S. port terminals. It would also require any corporation that owns, manages or operates 'national defense critical infrastructure to be majority-owned by American citizens.'"

King Offers Compromise. CNN's The Situation Room (5/6, Henry) reported, "Republican Peter King, the powerful chairman of the House Homeland Security Committee tells CNN that the mood among Republicans up here is increasingly sour about this port deal, so he has crafted a compromise that he presented to the White House with a warning: If they do not sign on, this whole port contract may blow up. He's basically proposing that the American portion of the contract be separated out so that the company, D.P. World, would have nothing to do with the actual operation of U.S. ports. Instead, that would be subcontracted out to various U.S. companies."

CQ (3/6, Speck) reports that in "discussions with the White House," Rep. King and Sen. Susan Collins "separately floated possible changes to the controversial DP World deal that would place a degree of separation between the company and port operations." Collins said, "What I have suggested to the White House is that [the company] create an American subsidiary." That would "give the U.S. government more authority over the company, and in that scenario, Collins said, American citizens would head up security operations."

Reid Says Port Deal Will Be Major Campaign Issue. CNN's The Situation Room (5/6, Henry) reported, "Senate Democratic Leader Harry Reid today on Capitol Hill signaled that this is going to be a major campaign issue and he expects other candidates to jump on the bandwagon." Reid: "It's resonating because people have come to the realization that the Bush administration is basically incompetent. And I mention some of those things in my presentation to you a few minutes ago. This port security issue is stunning."

British Court Dismisses Objection To DPW Purchase Of P&O. The AP (3/7, Wardell) reports the "controversial takeover of British shipping company P&O by Dubai's state-owned DP World received the green light Monday when Britain's Court of Appeal dismissed a Miami firm's objection to the deal." The Court of Appeal "declined to

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hear an appeal from Miami-based Eller & Co., which had tried to have the deal barred on technical grounds, arguing that U.S. concerns about a United Arab Emirates company owning significant operations at six major U.S. seaports could harm its business."

The Washington Post/AP (3/7, D2, Wardell) reports Eller & Co. "said that it will continue to pursue legal action in the U.S. courts in Florida. 'We will continue to fight to protect our business and the livelihood of thousands of our staff and subcontractors,' it said."

Port Deal Just One Instance Of Arab Investment In US. The Washington Post (3/7, A1, Blustein, 744K) reports in a front page story that the Dubai Ports World deal is only one of many instances of direct investment in the US by Arab concerns. Spearheading the "trend is Dubai's Mohammed bin Rashid al-Maktum (popularly known as "Sheik Mo"), ruler of the freewheeling city-state, which is part of the United Arab Emirates. The ports deal is just one of a series of recent purchases by companies he controls." Behind "such transactions are two powerful forces. One, of course, is the high price of energy, which has left several oil-producing Arab countries swimming in cash. The other is the burgeoning U.S. trade deficit -- $726 billion last year -- which means that the United States needs foreign capital; a country that imports more than it exports must cover the gap with money from abroad."

Report Says DHS Still Funding Low-Priority Port Security Projects. The AP (3/7, Sidoti) reports an inspector general report says "the Homeland Security Department still spends money on U.S. port projects that aren't considered national security priorities even though it has made some corrections." Homeland Security Inspector General Richard L. Skinner's office "studied the fifth and most recent round of port security grants, which awarded $142 million for 132 projects. Of those, the 20 projects Skinner's report said scored low on the agency's threat scale received about 20 percent of the money awarded, or $29.3 million."

Chertoff Plans Trip To China. The Wall Street Journal (3/6, 2.11M) reported in its "Washington Wire" column on its web site, "Homeland Security Secretary Michael Chertoff plans a trip to China later this month to convince Beijing to take back illegal immigrants picked up by U.S. immigration authorities. Chertoff has been pushing a catch-and-return policy on illegal immigrants from China and elsewhere since taking office last year."

Guards Say Security Lacking At DHS Headquarters. The AP (3/6, Margasak) reports, "Guards at the Department of Homeland Security say the agency mishandled a potential anthrax attack on its headquarters, one of several incidents that led two senators to request an investigation of the agency's own security." Derrick Daniels, a former employee of Wackenhut Services Inc., the private security firm used by DHS, told the AP, "I wouldn't feel safe nowhere on this compound as an officer." Democratic Sens. Byron Dorgan of North Dakota and Ron Wyden of Oregon have written "the agency's inspector general, seeking an investigation."

$5.5 Million Bail Set For UNC Graduate In SUV Attack. The Washington Post/AP (3/7, A3) University of North Carolina graduate Mohammed Reza Taheri-azar, "accused of running down nine people on campus to avenge the treatment of Muslims, said at a hearing Monday that he was 'thankful for the opportunity to spread the will of Allah.'" Taheri-azar is charged with "nine counts of attempted murder and nine counts of assault" and "his bail was set at $5.5 million." Meanwhile, the AP notes, about 50 UNC students yesterday "held what they called an 'anti-terrorism' rally," which included "a group of Muslim students who debated with organizers and said Taheri-azar had not been linked to any terrorist group."

The Washington Times (3/7, Pfeiffer, 90K) reports, "When asked by The Washington Times as to why Mr. Taheri-azar was not charged with terrorism," the police department "said the investigation is ongoing and additional charges may yet be filed."

Federal Effort To Rebuild New Orleans Levees Questioned. Louisiana state officials have begun to question the Army Corps of Engineer's plans to rebuild the New Orleans levee system. ABC World News Tonight (3/6, story 6, 2:40, Vargas) reported, "There were 340 miles of levees protecting greater New Orleans. But large stretches were damaged by the storm. A $1.6 billion rebuilding project is 40% complete." But "a monitor says it will leave parts of the levees weaker than before Katrina, making New Orleans vulnerable to another catastrophe." ABC (Osunami) added, "The state's commission says the Army Corps of Engineers. responsible for fixing the levees, is still struggling with critical design issues." So far, "the plan is to concentrate on only the system's most vulnerable points. But most of this work will not even begin until sometime this summer."

NBC Nightly News (3/6, story 6, 2:05, Williams) reported, "They are already spending $1.6 billion on emergency repairs now and they've asked for more money in case we are headed into another bad storm season." NBC (Myers) added, "Today, the Army Corps of Engineers says 45% of repairs have been completed." Walter Baumy of the Corps of Engineers "promises the entire system will be rebuilt by June 1, just as strong as it was before Katrina." But "independent scientists question whether the levee repairs can be done in time. And even if they are, these scientists

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say design flaws and weak soils could again leave this city vulnerable to a major storm."

Following reports that two teams of independent experts had found that the Corps was rushing to rebuild New Orleans' levees and using inadequate materials, the AP (3/7, Pickler) reports the Bush Administration "defended the quality of materials" on Monday, "as President Bush got assurances from the Army Corps of Engineers that it was on track to restore the system by the start of hurricane season." Lt. Gen. Carl Strock, head of the Army Corps, "took issue with [the experts'] findings." He "said the Corps had yet to see the findings or information on where the teams took their samples. He suggested the monitors may have been testing the wrong soil."

WPost Runs "Clarification" On Katrina Briefing Editorial. In a "Clarification" of its March 4 editorial "Caught on Tape," on the leaked video of an Aug. 28 White House briefing on Hurricane Katrina, the Washington Post (3/7, A16, 744K) says, "We wrote that there was no evidence President Bush, after being briefed on the predicted damage, had asked follow-up questions. In fact, the full transcript shows that after Mr. Bush left the conference, some of his advisers, including Homeland Security Secretary Michael Chertoff, did ask about the involvement of the military and other preparedness issues."

FEMA Purchase Of Mobile Homes Criticized. NBC Nightly News (3/6, story 7, 1:00, Williams) reported, "A disturbing report tonight from the Inspector General of the Department of Homeland Security, the parent agency of FEMA, they found that FEMA bought way more mobile homes than it should have. More than 26,000 trailer homes meant for evacuees were purchased at a cost of almost $900 million. Now, when all we hear are stories of families without shelter still, many of these trailer homes are sitting empty, warping and sinking in the mud in some places where they're being stored at two different staging grounds in Texas and Arkansas. FEMA personnel apparently didn't realize these trailers can't be used in a flood plain area, so only about 5,000 of them will actually be used to house Katrina victims. FEMA now say it is will donate a lot of the surplus trailers to other Federal agencies."

Experts Tell Panel Of Communication Breakdowns During Katrina. The AP (3/7, Mohr) reports that Monday, experts told members of an independent panel gathering information for the FCC that communication problems "left emergency crews confused and isolated in the aftermath of Hurricane Katrina." According to Federal Communications Commission Chairman Kevin Martin, "Some 3 million telephone lines were knocked out as the violent storm hit the Gulf Coast on Aug. 29." He "said he hopes the panel's work will help strengthen communications throughout the nation, especially in areas vulnerable to natural disasters."

Congressional Delegation Views Hurricane Damage. Roll Call (3/7, Nelson) reports last week 34 House Members made up the first large-scale Congressional delegation to the Gulf region since Hurricane Katrina struck, in what Rep. Roger Wicker "a much more profound realization of the damage." They "stood at the levee breech that had destroyed the displaced residents' homes" and "were briefed by the Army Corps of Engineers on the ongoing levee fortification project along the Industrial Canal going on behind them." Roll Call adds, "Many lawmakers, including the Speaker [Rep. Dennis Hastert], seemed stunned by the scope of what they saw. 'I think you really have to be on the ground' to understand the extent of the destruction, Hastert said, particularly in Mississippi."

WAR NEWS:

US Ambassador Says "Potential Is There" For All-Out Civil War In Iraq. The Los Angeles Times (3/7, Daragahi, 958K) reports, "The top US envoy to Iraq said Monday that the 2003 toppling of Saddam Hussein's regime had opened a 'Pandora's box' of volatile ethnic and sectarian tensions that could engulf the region in all-out war and disrupt the global economy if America were to extricate itself from the country too soon." In remarks that were "among the frankest and bleakest public assessments of the Iraqi situation by a high-level American official," US Ambassador Zalmay Khalilzad "said the 'potential is there' for sectarian violence to become all-out civil war, but that Iraq for now had pulled back from that prospect after the wave of sectarian reprisals for the Feb. 22 bombing of a Shiite shrine in Samarra. … Abandoning Iraq in the way the US disengaged from civil wars in Lebanon, Afghanistan and Somalia could have dramatic global repercussions, he said."

Cheney Says Commanders, Conditions On Ground Will Drive Decisions On US Troop Levels. Fox News' Special Report (5/6, Baier) reported, "At a fundraising event in Florida, vice president Cheney said progress has not come easy in Iraq but has been steady, pointing to the Iraqi elections and the standing up of Iraqi forces." Cheney: "As that force grows in strength and the political process continues to advance, we'll be able to decrease troop levels without losing our capacity to defeat the terrorists." Fox added, "The Vice President went on to say that troop level decisions will be driven by conditions on the ground and by the recommendations of top US commanders."

US Working For "Better Balance" In Iraqi Police. As the threat of further sectarian violence looms, the New York Times (3/7, Wong, 1.19M) reports, "The American military is scrambling to try to weed out ethnic or religious partisans from the Iraqi security forces. The United States faces the possibility that it has been arming one side in a prospective

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civil war." According to the Times, "There is no quick or painless fix. The efforts risk alienating Shiite politicians, who have fiercely resisted attempts to wrest away their control of the security forces. The moves may appeal, though, to recalcitrant Sunni Arabs, whom the Americans want to draw into the political process."

Eighty Percent Of Americans Believe Sunni-Shiite Civil War Is Likely. ABC World News Tonight (3/6, story 3, 1:45, Vargas) reported, "An ABC News/Washington Post poll out today suggests that Americans are becoming increasingly frustrated with the situation in Iraq. Eight in ten Americans believe a civil war between Shiites and Sunnis is likely. 65% says the Bush Administration has no clear plan for ending the war." ABC (Stephanopoulos) added, "About half the public wants a withdrawal of American troops. But they're split. Fewer than one in five say bring the troops home right now. About a third say bring them home gradually over time. Another third says have the troop level stay exactly the same. And then you have about 10%, actually 11% of the country says increase troops now. You have a chaotic situation in Iraq which has left the public confused." The Washington Post (3/7, Morin, 744K) reports that "in the face of continuing violence, half -- 52 percent -- of those surveyed said the United States should begin withdrawing forces. One in six favors immediate withdrawal of all troops, however, while about one-third prefer a more gradual return." The Post adds, "In question after question, the new survey reflected a sharp decline in optimism, perhaps sparked by the sectarian violence that has flared in Iraq."

Talabani Loses Showdown In Parliament. The AP (3/7, Mroue) reports, "Iraq's president failed in a bid Monday to order parliament into session by March 12, further delaying formation of a government and raising questions whether the political process can withstand the unrelenting violence or disintegrate into civil war. ... At the heart of the dispute is a controversy over the second-term candidacy of the Shiite prime minister, Ibrahim al-Jaafari, whose most powerful supporter is the anti-American cleric Muqtada al-Sadr." According to the AP, "it remained unclear when parliament might convene, despite the constitutional directive that set Sunday as the deadline. Nor was it clear how the disagreement over al-Jaafari might be settled."

The Christian Science Monitor (3/7, Peterson, 61K) says "the crisis has laid bare a deepening divide within Iraq's majority Shiite community. The other contender was Vice President Adel Abdul-Mahdi, backed by the faction of Sadr rival Abdul Aziz al-Hakim, who has portrayed himself as a technocrat and centrist who can get the job done." Jaafari "has been widely blamed in Iraq for permitting the violence to erupt out of control."

The Washington Times (3/7, Behn, 90K) reports "Iraqi party leaders, deadlocked over whether Ibrahim al-Jaafari should serve another term as prime minister, are considering a plan that would allow him to serve for six months to a year and then review his performance."

At Least 16 Iraqis Dead In Wave Of Bombings. A series of insurgent bombings in Iraq left 16 dead. ABC World News Tonight (3/6, story 2, :15, Vargas) reported, "Security forces were targeted in most of the attacks. … Also, the US said today that 2,300 Americans have been killed in Iraq since the war began." The CBS Evening News (3/6, story 7, 0:10, Schieffer) reported, "Another American soldier has died in combat in Iraq." NBC Nightly News (3/6, story 4, 0:40, Williams) reported, "In another dramatic development today, a sniper assassinated the commander of the Iraqi Army's Sixth Division, the man in charge of the forces protecting the capital and the highest-ranking Iraqi military officer killed since the US invasion." The Los Angeles Times (3/7, Daragahi, 958K), Washington Post (3/7, Anderson, Tyson, 744K) and New York Times (3/7, Semple, 1.19M) focus there stories on the attacks on the assassinated general.

Meanwhile, the AP (3/7) reports this morning from Hillah, "Two car bombs exploded almost simultaneously at separate sites in this mostly Shiite city early Tuesday, wounding at least three people, police said." The blasts "were detonated by remote control and were about five minutes apart, said police Capt. Muthana Khalid."

Fearful Of Shiites, Some Sunnis Now Welcome US Troops. As a result of the outbreak of ethnic and sectarian violence in Iraq, US troops are now being welcomed in some Sunni areas. The CBS Evening News (3/6, story 8, 2:30, Schieffer) reported, "It has gotten so bad that Iraqis are welcoming American patrols to places like Dora, a mostly Sunni neighborhood in southwestern Baghdad." CBS (Dozier) added local Sunnis blame "car bombs, kidnappings and gangland executions" on "death squads that that they say operate within the mostly Shiite police force." US troops "never used to be this popular in this hotbed of Saddam loyalists. But now locals say you are most welcome in Arabic."

Tribal Leaders Declare War On Al Qaeda In Iraq. The Washington Post (3/7, Anderson, 744K) reports "tribal chiefs in Iraq's western Anbar province and in an area near the northern city of Kirkuk, two regions teeming with insurgents, are vowing to strike back at al-Qaeda in Iraq, a Sunni Arab-led group that is waging war against Sunni tribal leaders who are cooperating with the Iraqi government and the US military." Anbar tribes "have formed a militia that has killed 20 insurgents from al-Qaeda in Iraq, leaders said." The Post adds, "Separately, more than 300 tribal chiefs, politicians, clerics, security officials and other community leaders met last week in Hawijah, about 35 miles southwest of Kirkuk, and 'declared war' on al-Qaeda in Iraq."

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US Officials Say Iran Exporting Shaped Charges To Iraq. US officials believe Iran is exporting deadly shaped charges to Iraq for use by insurgents as roadside bombs. The military believes Iran's goal is to increase the US' casualties. ABC World News Tonight (3/6, lead story, 2:45, Ross) reported, "US military and intelligence officials tell ABC News they've intercepted shipments of these dread bombs at the border of Iran and Iraq. But others are getting through." What the US "says links them to Iran are tell-tale manufacturing signatures, unique types of machine shop welds and materials powered by the same Japanese electronics, all indicating they are built in the same bomb factory, which the military believes is in Iran." US intelligence officials "say Iran is using the bombs as a way to drive up US casualties in Iraq but without provoking a direct confrontation." Reuters (3/6, Olivari, Al-Mehdawi) says Tarek al-Hashemi, "a leading Sunni politician and a contender for speaker when the new parliament opens on Sunday, accused Iran of fostering instability in Iraq, partly through militias loyal to Shi'ite parties, in a bid to divert US pressure over Tehran's nuclear program."

Germany To Investigate Reports Intelligence Service Aided US In Iraq. The New York Times (3/7, Bernstein, 1.19M) reports, "A German opposition party said Monday that it would vote for a formal parliamentary investigation into allegations that the German intelligence service provided help to the United States during the invasion of Iraq, which the government vehemently opposed. … Because the two other opposition parties, the leftist Greens and the new Left Party, have already declared their support, the Free Democrats' decision seems to ensure a formal investigation." Germany's government "has made vigorous efforts to head off an investigation, saying it could harm the functioning of Germany's intelligence service and efforts under way to improve relations with the United States." The Washington Times (3/7, Crossland, 90K) also reports the story, saying the probe "could hurt Chancellor Angela Merkel's government, even though she only took over last November, because her Foreign Minister Frank-Walter Steinmeier was chief of staff to Mr. Schroeder at the time of the war. Lengthy debate about the Iraq war and Germany's role in it could also put further strain on US-German relations at a time when Mrs. Merkel is trying hard to repair the damage done by Mr. Schroeder's opposition to the war."

Delays In Iraq Reconstruction Plan Draw Criticism. A plan for helping the new Iraqi government succeed is still "mostly dormant" four months after it was announced by Secretary of State Condoleezza Rice, USA Today (3/7, Komarow, 2.31M) reports. The plan "calls for sending teams of experts to help the fledgling governments in Iraq's 18 provinces establish democratic institutions, improve security and manage reconstruction. … However, after the first three of 16 teams were created in Mosul, Kirkuk and Hillah in conjunction with her visit, no more have been launched. … That pace is 'a huge problem' and means the United States is blowing its chance 'to quickly seize the momentum' as Iraq forms a permanent government based on December's elections, said Sen. Jack Reed, D-R.I., a member of the Senate Armed Services Committee."

Amnesty International Accuses US Of Widespread Prisoner Abuse. A report from Amnesty International accuses the US and its allies of committing widespread abuses in Iraq, including torture and the continued detention of thousands of prisoners without charge or trial. The New York Times (3/7, Cowell, 1.19M) reports that the report, entitled "Beyond Abu Ghraib: Detention and Torture in Iraq," says the US and its allies have "established procedures which deprive detainees of human rights guaranteed in international law and standards." The times adds, "Responding to the report, the United States military said all its detainees were treated in accordance with international conventions and Iraqi law."

Barone Says US Groups Have Vested Interest In Denying Saddam Had Ties to Al Qaeda. Michael Barone writes in the Washington Times (3/7, 90K), "Why, for two distinct groups of Americans, has it become a matter of conviction held with religious intensity that there cannot have been any relationship between al Qaeda and Saddam Hussein's regime in Iraq? One group consists of Democratic politicians who oppose the Bush administration's policy in Iraq. … The other group consists of intelligence and other career government professionals, many of them Arabists." The Democrats "fear more Americans would support Mr. Bush and the war effort if they believed there was. The career professionals, with their many years of training in the subtleties of the Middle East, have developed a vested interest in the notion that religious Wahhabis like al Qaeda could never collaborate with a secular tyrant like Saddam."

Pakistani Forces Battle Pro-Taliban Rebels Along Afghan Border. Nineteen pro-Taliban rebels were killed in fighting with Pakistani security forces along the Afghan border Monday. The Washington Post/Reuters (3/7, A13) reports, "The rebels launched attacks on government positions in Miran Shah on Saturday as President Bush met Pakistan's president, Gen. Pervez Musharraf, in the capital. The fighting has raged since. … The semiautonomous ethnic Pashtun lands along the Afghan border are Pakistan's front line in the war on terrorism."

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Musharraf Lashes Out At Karzai. Meanwhile, Musharraf lashed out at Afghani President Hamid Karzai over his recent comments casting doubt on its commitment to fight terrorism. The New York Times (3/7, Gall, 1.19M) reports, "In a speech to Pakistani journalists in Rawalpindi that was broadcast on state television, Mr. Musharraf accused India of feeding false information to Afghan officials suggesting that the Pakistani intelligence agency was training terrorists. He dismissed the allegation, and he described as 'nonsense' a list of Taliban members, including the leader, Mullah Muhammad Omar, who Mr. Karzai said were operating in Pakistan."

NATO Commander In Afghanistan Downplays Insurgent Threat. Reuters (3/6, Dunham) reports, "NATO's top commander said on Monday he doubted Taliban and al Qaeda forces were capable of posing a serious insurgent threat as the alliance expands its Afghanistan operations, calling narcotics the top worry." NATO Supreme Allied Commander Europe Gen. James Jones also "said the 26-nation alliance remained 25 percent short of the troops and equipment envisioned for its rapid-reaction force, and expressed renewed doubt he will be able to declare it fully operational as planned on October 1." Knight Ridder (3/6, Brown) notes Jones "said Monday that a 20 percent increase in attacks 'is statistically not very significant' because the average number of daily attacks by Taliban and al-Qaida fighters had been 'quite low.'" The Washington Times (3/7, Scarborough, 90K) runs a similar story under the headline "NATO Shrugs Off Afghan Violence," while the Washington Post (3/7, Tyson, 744K) titles its report "Afghan Threat Played Down."

US Ambassador Says US Will Retain Preeminent Role In Afghanistan NATO Force. The Financial Times (3/7, Morarjee) reports its interview with Ambassador Ronald Neumann, in which he "said America's commitment to Afghanistan would not be compromised when NATO troops take command of the country's restive south later this year." Neumann added that "the success of the Nato mission in southern Afghanistan had ramifications far beyond the country's borders." The Times says these comments "come as Afghan officials become increasingly nervous that the withdrawal of about 3,000 US troops after the handover to Nato command will signal to the Taliban that American forces are gradually pulling out of the country."

Pentagon Opens Criminal Investigation Into Tillman Death. The Pentagon's decision to open a criminal investigation into the death of Army Ranger Pat Tillman once again was reported on the network news, with ABC and CBS running full segments on the story. ABC World News Tonight (3/6, story 5, 2:20, Karl) reported the "criminal investigation will seek to determine whether" Tillman's fellow "soldiers fired their weapons indiscriminately, without attempting to verify their target. If so, they could be found guilty of negligent homicide and face a maximum penalty of three years in prison. Privately, Pentagon officials doubt this investigation will result in criminal charges."

The CBS Evening News (3/6, story 2, 1:50, Martin) reported, "Charges could range from negligent homicide to involuntary manslaughter to dereliction of duty. But the investigators could also find the real culprit was the fog of war and not bring any charges."

Military Desertions Have Declined Since 9/11 Attacks. Pentagon records show that while the overall military desertion rate has declined since the 9/11 attacks in 2001, 4,387 Army soldiers 3,454 Navy sailors and 82 Air Force personnel have deserted. USA Today (3/7, Nichols, 2.31M) reports, "Desertion numbers have dropped since 9/11. The Army, Navy and Air Force reported 7,978 desertions in 2001, compared with 3,456 in 2005. The Marines showed 1,603 deserters in 2001. That declined by 148 in 2005. The desertion rate was much higher during the Vietnam era. The Army saw a high of 33,094 deserters in 1971 — 3.4% of the Army force. But there was a draft and the active-duty force was 2.7 million."

Pentagon Seen As Cracking Down On Vietnam Deserters As Message To Current Troops. In a separate story, USA Today (3/7, Nichols, 2.31M) reports that three decades after the Vietnam War, hundreds of deserters are still on the loose. Attorneys for one recently-captured Vietnam era deserter "say the Pentagon, and the Marine Corps in particular, are cracking down on long-term cases in an effort to warn current-day troops in Iraq against deserting. … Chief Warrant Officer James Averhart, who has commanded the Marine Corps Absentee Collection Center since September 2004, told the St. Petersburg (Fla.) Times that he had ordered cold cases reopened and that his squad had caught 27 deserters in his first 11 months on the job, a rate he suggested was higher than those of his predecessors."

CORPORATE SCANDALS:

Skilling Attorney Claims Enron Comment Was Sarcasm. Reuters (3/7, Daily) reports, "Former Enron Corp. CEO Jeffrey Skilling was using sarcasm when he told several top executives in 2001 'they're on to us,' his lawyer suggested on Monday at the trial of Skilling and ex-CEO Ken Lay. … The lawyer, Mark Holscher, sought to sow doubts about the comment that a witness, former executive Kevin Hannon, told the jury last week he heard Skilling say in reaction to a May 2001 analyst report that was sharply critical

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of Enron." Reuters adds, "Hannon had said he took Skilling's comment at the meeting to mean that investors were 'starting to understand how Enron made money,' and appeared to link Skilling to efforts to cover up the decaying state of Enron's finances. … 'Can you tell this jury whether (Skilling's voice) was dripping with sarcasm when he said "they're onto us?"' Holscher asked Hannon. … 'Anything's possible,' replied Hannon in the clipped manner he used throughout the day's cross examination. Hannon was formerly chief operating officer of Enron's Internet unit Enron Broadband Services."

Fastow Looms As Pivotal Witness. USA Today (3/7, Farrell) reports, "Finally, four years after Enron's spectacular collapse, the moment everyone's been waiting for has arrived: Andrew Fastow, the company's disgraced former chief financial officer, is expected to tell his side of the story in court here today." USA continues, "While the government's trial of former Enron CEOs Ken Lay and Jeff Skilling has been going on for more than five weeks, testimony from the first 10 witnesses has focused largely on the abysmal financial condition of two business units — Enron Broadband Services and Enron Energy Services. Several have said that Lay and Skilling made misleading statements about the units to the investing public. … But with Fastow, who pleaded guilty to two felonies, prosecutors are expected to zero in on what Lay and Skilling knew about the overall financial condition of Enron, and when they knew it. More than any other witness so far, the former CFO was in a position to know whether the defendants — particularly Skilling — were lying to investors or simply painting an optimistic, and legal, picture of Enron in 2000 and 2001."

The Washington Post (3/7, D1, Johnson) reports, "As early as Tuesday, Fastow will take center stage as the trial's most highly anticipated witness -- and one of its most unpredictable. His presence is expected to electrify the federal courthouse here, where court officials are preparing for an onslaught of bystanders eager to hear Fastow speak publicly for the first time since his January 2004 guilty plea. … Both the Justice Department's Enron Task Force and the defense team have plenty of reasons to fear Fastow and the impact of his testimony. Government lawyers have signaled that they hope to limit their questioning to a day or less, given the liabilities he brings with him -- admissions that he improperly pocketed millions of dollars during his tenure. Defense lawyers intend to keep him on the witness stand for days trying to tear apart his account. … On one point, however, both sides agree: Fastow, 44, remains the most elusive and demonized character in a story that has come to symbolize an era of corporate malfeasance."

Scrushy's Attorney Says Lay, Skilling "Doomed." USA Today (3/7, Farrell) reports, "As if former Enron CEOs Ken Lay and Jeff Skilling don't have enough to worry about with the government's star witness expected to begin testifying against them today, a prominent defense lawyer who helped win an acquittal for another embattled CEO says the two men are already toast, at least in the courtroom." USA continues, "Donald Watkins, a civil rights lawyer and businessman who last year helped former HealthSouth CEO Richard Scrushy beat charges that he masterminded a $2.7 billion fraud, said in an interview Friday that Lay and Skilling are 'doomed.' … 'There comes a time when you can forecast the outcome of a contest,' said Watkins, who has not attended the trial but has followed it closely in the media. 'In this contest, these guys have lost.' … The reason, according to Watkins, is that the two men settled on the wrong defense strategy. In their opening arguments, lawyers for the two men told the jury that Enron was a solid company done in by a loss of confidence among investors and trading partners after the disclosure that former chief financial officer Andrew Fastow had diverted tens of millions of dollars into his own pocket. … Watkins says this defense — that Enron was fundamentally a healthy company — is a non-starter. 'Nobody's going to buy that,' he says. Further, the tactics used so far by the defense — vigorous cross-examinations of cooperating witnesses who have already pleaded guilty — 'lacks imagination.'"

DaimlerChrysler Suspends Employees In Bribery Probe. The New York Times (3/7, Landler) reports, "DaimlerChrysler has dismissed or suspended several employees after an internal investigation uncovered evidence that its executives paid bribes in Asia, Africa and Eastern Europe." The Times continues, "In a report filed Monday with the Securities and Exchange Commission, the company said it had 'determined that improper payments were made in a number of jurisdictions.' The payments, it said, could violate both German law and the Foreign Corrupt Practices Act in the United States." The Times adds, "The Justice Department and the S.E.C. have been investigating accusations of bribery at DaimlerChrysler since last year. The company has cooperated with the investigations, and these latest disclosures shed more light on the far-flung corruption inquiry. … The filing, however, does not answer a crucial question: whether senior Mercedes managers knew about the payments. It does not identify the countries where bribes were paid, or say how many people were involved."

The AP (3/7, Moore) reports, "The U.S. Justice Department said in August 2005 that it was investigating whether DaimlerChrysler had paid bribes to foreign officials with the knowledge of its senior executives. The company said it is continuing to cooperate with the investigations. … That criminal investigation is tied to an inquiry opened in 2004 by the SEC after an employee fired by the automaker said he was dismissed for complaining that the company was using secret bank accounts to bribe government officials. … DaimlerChrysler said then, and reiterated Monday, that it was

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cooperating with the investigations, sharing with both agencies information from its internal probe."

Wallison Suggests Reducing Fannie Mae, Freddie Mac Portfolios. Peter Wallison, a resident fellow at the American Enterprise Institute, writes in the Wall Street Journal (3/7, 2.11M), "The Rudman Report on Fannie Mae recites facts eerily similar to what we now know about Enron. … What we should learn from this -- much of which occurred after the adoption of Sarbanes-Oxley -- is that a board made up primarily of independent directors, an audit committee made up entirely of independent directors, a Big Four accounting firm alerted to the dangers of accounting fraud, and a regulator that claimed to be fully on top of what was happening, could not prevent senior management from fudging the accounting and misleading the board and investors." Wallison adds, "As reform legislation languishes in the Senate, Congress should consider the lessons of Enron, Fannie and Freddie: Despite our best efforts, error and fraud will occur. That's why it's important to make sure -- by reducing the size of Fannie and Freddie's portfolios -- that no future management failure at either company will threaten the stability of the economy."

CRIMINAL LAW:

Prosecutors Castigate Ryan As Closing Arguments Begin. In a story widely-distributed by Knight Ridder, The Chicago Tribune (3/7, O'Connor, Bush, 643K) reports, "Closing arguments began in former Gov. George Ryan's trial Monday with prosecutors blasting him as a shameless, greedy politician at the center of a series of dirty deals that enriched cronies who kicked back cash and gifts to Ryan and his family. … In nearly five hours of arguments, prosecutors portrayed Ryan as a two-faced, serial liar who publicly claimed he did all he could to eliminate fraud at licensing facilities but privately gutted corruption-fighting efforts to keep his political fundraising machine humming along. … Ryan 'sacrificed public safety and integrity' to ensure the fundraising pipeline kept flowing," said Assistant US Attorney Joel R. Levin. The AP (3/7, Robinson) notes, "Defense attorney Bradley E. Lerman moved for a mistrial Monday in a dispute over a presentation Levin was making to the jury. Lerman said it included material concerning a 1994 crash that killed six children and had been ruled out as so emotional it could prejudice the jurors. … U.S. District Judge Rebecca R. Pallmeyer did not rule immediately on the motion."

Campbell Will Not Testify At Trial. The Atlanta Journal-Constitution (3/7, Scott, Warren, 430K) reports former Atlanta Mayor Bill Campbell announced Monday that he will not testify in his own defense at his corruption trial, saying, "I desperately wanted to testify. I wanted to tell the jury my story. They wanted to continue the character assassination, but I am not going to subject my family to further damage." His "criticism of the prosecutors apparently struck a nerve," and US Attorney David Nahmias "summoned reporters to respond." Nahmias said, "We will not make any special exceptions for this defendant. All of our questions would be relevant to the alleged criminal offenses." WXIA-TV Atlanta (Carnes, King) notes, "Campbell says he would be happy to testify -- if federal prosecutors would stay away from questions about his private life, including asking about two former girlfriends," but "Nahmias said any questions to Campbell about his private life would be relevant to the case, and no one can dictate what prosecutors ask and don't ask."

New York AFL-CIO Appointing Special Committee To Address FBI Probe. The New York Times (3/7, Greenhouse, 1.19M) report in "Metro Briefing" that New York State AFL-CIO President Denis Hughes "announced yesterday that he would appoint a special committee to handle matters at the New York City Central Labor Council regarding a federal investigation of the council and its president, Brian M. McLaughlin." Hughes said that McLaughlin "would remain in charge of the council, but would not have a voice in decisions regarding the investigation. Last Thursday, F.B.I. agents raided the council's offices and Mr. McLaughlin's Queens office as part of an investigation into accusations of bid rigging for city contracts for street and traffic lights." The New York Daily News (3/7, 729K) notes that "the labor council, whose headquarters was raided by more than 20 FBI agents last week, would create a small 'rapid-response team' of about a dozen city labor leaders to handle the federal probe without any involvement from McLaughlin," and "the council also would hire its own independent attorney to deal with the feds." The New York Post (3/7, Campanile, 624K) adds, "The action plan, which has been cleared by the leadership of the national AFL-CIO, shows how concerned the labor leaders are about the McLaughlin probe and the possibility that he might be charged with a crime. Meanwhile, the federal probe received a thumbs-up from former city transportation boss Wilbur Chapman. 'Thank God - finally,' Chapman told The Post."

Nevada Brothel Owner Charged With Attempted Bribery. The AP (3/7, Ritter) reports, "The owner of three southern Nevada brothels was charged Monday with trying to bribe a county commissioner to relax laws affecting bordellos." Joseph Maynard Richards "is accused of funneling $5,000 to a commissioner in rural Nye County in return for support for a law to let brothels be built closer to county roads and highways." Commission

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Chairwoman Candice Trummell, a Republican from Pahrump, confirmed for The Associated Press that she was the cooperating witness" mentioned in the complaint." "'This was done in cooperation with the FBI, Trummell added, describing the FBI probe as an ongoing public corruption investigation that began before she was elected…in 2003."

FBI Investigating Alleged Misappropriation By FEC Official In Harassment Complaint. Roll Call (3/7, Kane) reports, "The FBI is investigating allegations that a former top official at the Federal Election Commission," James Pehrkon, "tried to settle a sexual harassment complaint from a female staffer by attempting to misappropriate $100,000 in taxpayer funds last fall. The investigation has embroiled at least a handful of FEC employees, each of whom has been put on administrative leave or no longer works for the agency, leaving vacancies in critical posts heading into the campaign season."

Indictments Have Not Slowed AIPAC. The Washington Post (3/7, A2, Milbank, 744K) reports in its "Washington Sketch" column AIPAC staff members say the indictments Steve Rosen, "who goes on trial next month for disseminating classified information," and is deputy Keith Weissman "have not been mentioned in any of the group's public meetings so far. And they say the pro-Israel lobby, unharmed by the Rosen flap, is putting on its biggest and best show ever this week: 4,500 participants, including more than 1,000 students, paying visits to at least 450 House and Senate offices." The Post adds that the scandal "doesn't seem to have slowed down the group. … Any talk of Rosen is confined to private donor meetings and hallway conversations -- where opinions are split on AIPAC's decision to turn its back on Rosen and Weissman."

Testifying For Defense, Sliwa Co-Host Says Gotti Was "Sick Of This Life." The AP (3/7, Neumeister) reports, "John 'Junior' Gotti said in 1998 that he was 'sick of this life' and would plead guilty to criminal charges, a lawyer who co-hosts a radio show with Guardian Angels founder Curtis Sliwa testified Monday at Gotti's mob trial." Ron Kuby's testimony "was intended by defense lawyers to boost Gotti's argument that he had rejected life in the Gambino crime family when he pleaded guilty in 1999 to racketeering charges. On that front, they got mixed results." Kuby, who represented Gotti in 1998, "testified that Gotti said he 'wanted to rejoin his family and be done with this,' but the lawyer could not be more specific." WCBS-TV New York (3/6, Guzman) adds Kuby testified "By 'this', I asked Kuby, did he mean 'this mob life?' 'I took it to mean that he wanted to put criminal life behind him. That he was tired of being in jail, tired of being in court, tired of being away from his family. That he wanted that life to end.'"

Under the headline "Kuby's Testimony Radio-Active," The New York Post (3/7, Mangan, 624K) says Kuby's testimony gave "Gotti's defense yesterday…an unexpected boost," although "Under cross-examination, Kuby said he had no knowledge that Junior later stopped earning money from the mob -- and said Gotti never admitted to him he was in the mob." The New York Daily News (3/7, 729K) also reports on Kuby's testimony, under the headline "Sliwa Says Radio Partner 'Judas.'"

Peter Gotti Testifies He Was Not Bagman. The New York Daily News (3/7, Zambito, 729K) reports John Gotti's youngest brother, Peter, testified yesterday, called by the defense "to refute allegations made by mob snitch Michael (Mikey Scars) DiLeonardo that he acted as the go-between for $50,000 in mob cash belonging to his brother. 'Never,' Gotti said when asked if he'd ever picked up money for his brother. He said his brother wouldn't have allowed it since he was well aware of his gambling habits."

Jury Selection Begins For "Mafia Cops" Trial. Reuters (3/7, Pierson) reports jury selection began Monday for the trial of former NYPD detectives Stephen Caracappa and Louis Eppolito, "accused of having been hit men for the mob." Brooklyn U.S. District Court Judge Jack Weinstein set opening arguments for March 13 and assured hundreds of potential jurors assembled in his courtroom the case 'will be one of the most interesting experiences of your life.' … When Eppolito showed up in court 75 minutes late, Weinstein ordered that he be rearrested and that his $5 million bail be revoked until a good explanation was provided." However, Newsday (3/7 DeStefano) reports, "But after defense attorney Bruce Cutler explained to Weinstein that two disabled tractor-trailers had shut down the roadway, Weinstein reinstated bail and revoked the arrest." The New York Post (3/7, Haberman, 624K) notes that Cutler "was apparently so concerned by the unexplained absence he almost called Nassau County cops to check the Plainview, L.I., home where Eppolito is staying while awaiting trial."

The New York Daily News (3/7, Marzulli, 729K) reports, "Prospective jurors answered 77 questions, including whether they had read Eppolito's autobiography, 'Mafia Cop,' or watched the defense lawyers' 'Cutler and Hayes Show' on Court TV."

Media Whirlwind Surrounding Trial. The New York Times (3/7, Feuer, 1.19M) reports, "Depending on whom you ask…there are four books and a movie, five books and a movie, four books but no movie or five books but no movie about" the trial, which "has become the latest scoop for the disheveled band of newspaper reporters who write about the courts and has led, in at least two cases, to a literary luncheon and a book deal. … United States v. Eppolito and Caracappa is a mob case, which is to say, a case with 'color' — and therein lies the interest."

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Court Rules Bulger Brother Must Forfeit State Pension. The AP (3/7, Maguire) reports the Massachusetts Supreme Judicial Court "ruled Monday that a brother of fugitive mobster James 'Whitey' Bulger must forfeit his $65,000-a-year state pension because he lied to grand juries investigating the gangster's disappearance. Lawyers for John 'Jackie' Bulger, a retired court clerk magistrate, had argued that his crimes were based on family loyalty and didn't affect his job." The AP notes that Whitey Bulger "is wanted in connection with 21 murders and is on the FBI's 'Ten Most Wanted' list."

Judge Refuses To Delay Abramoff Sentencing In Fraud Case. The Washington Post/AP (3/7, A5) reports a Federal judge "refused Monday to allow a lengthy delay in the sentencing of lobbyist Jack Abramoff, even though lawyers for both sides said the move could jeopardize a federal corruption investigation involving Congress and the Bush administration." Abramoff attorney Abbe Lowell "warned that the defense would disclose information about the ongoing corruption investigation to demonstrate the level of Abramoff's cooperation, something that could affect his sentence in the fraud case." Lowell said, "We will name names. That is not a good thing for law enforcement."

Admitted Hitman Testifies He Did Not Commit Murder-For-Hire. The AP (3/7, Weber) reports, "In a stunning about-face," Phillip Harwood, "the admitted triggerman in the slaying" of Lita Sullivan, "denied Monday that he had ever seen the victim in person or that he killed her on orders" from her husband, James Sullivan, accused of hiring a hitman to kill her. Harwood testified "he was in a getaway car nearby when the murder was committed by a man named 'John' who worked as a bartender at a topless bar. … He admitted to the jurors that he bought the flowers that were delivered to the victim." The Atlanta Journal-Constitution (3/7, Montgomery, 430K) notes, "When prosecutor Clint Rucker asked Harwood if he agreed to kill Lita Sullivan, Harwood replied, 'To be honest, I have to answer no. The agreement was to "take care of her" but my intention was never to participate.' 'What do you think Sullivan meant by "take care of her,"' asked Rucker. 'I figured he meant to kill her, you don't pay $25,000 to scare nobody,' said Harwood." Court TV (3/6, Grinberg) notes Harwood "emerged as a wild card for both the defense and the state, implicating Sullivan one instant while denying being the shooter."

WXIA-TV Atlanta (3/6, Shirek, Christensen) reports, "Harwood said he first met James Sullivan when he delivered furniture to him from Sullivan's former home in Macon, Ga. Harwood said Sullivan started to hint around about needing help dealing with his estranged wife in Atlanta who was 'trying to take everything he has.' When Rucker asked Harwood how he knew Sullivan wasn't joking about having his wife killed, Harwood responded, 'When I received $12,500 in the mail.'"

Defense Lawyer Grills Harwood's Former Girlfriend. The Palm Beach Post (3/7, Keller) reports that before Harwood took the stand, his then-girlfriend, Belinda Trahan, "finished a grueling cross-examination from James Sullivan's attorney…by insisting he is the man she saw pass an envelope full of money" to Harwood "as payment for killing" Lita Sullivan. "Item by item, point by point," defense attorney Ed Garland "showed inconsistencies and contradictions in Trahan's trial testimony and earlier statements she has made to authorities. By his questions, Garland suggested Trahan was motivated to come forward with her story in 1998 in order to collect a reward that still has not been paid, and that her story was influenced by news accounts she had read."

US Indicts Army Official For Fraud, Bribery. The Army Times (3/6, Tan) reports, "An official at Army Test and Evaluation Command was indicted March 1 for fraud and bribery, according to the U.S. Justice Department." The Times continues, "Jeffrey H. Stayton, chief of aviation for ATEC was charged with two counts of honest services fraud, one count of bribery and one count of obstruction of justice after an indictment was returned by a federal grand jury in the Middle District of Alabama." The Times adds, "The grand jury in Montgomery, Ala., also indicted William Curtis Childree, a private contractor based in Enterprise, Ala. Childree, 67, is charged with two counts of honest services fraud and one count of bribery. … According to the indictment, in or about November 2001, Maverick Aviation, a business owned and run by Childree that buys and distributes helicopters for its clients, was chosen to produce and modify two helicopters for use by the U.S. government. The contract was worth about $4.7 million. … Stayton, 55, is accused of taking actions that favored Maverick's selection to get thecontract and misleading government officials about Maverick's performance under the contract , according to the Justice Department."

US, Britain In Dispute Over Mutual Extradition Agreement. The London Times (3/7, Baldwin) reports, "Britain and the United States were locked in a deepening diplomatic dispute last night over Washington's failure to implement a mutual extradition agreement that Parliament approved three years ago." The Times continues, "Congress's refusal to ratify the deal means that Britain cannot prosecute criminals residing in the US, including sex offenders and paedophiles. … America has sought the extradition of 44 alleged offenders since 2003, and 12 have already been sent to the US. The extradition of several others has been approved but is awaiting appeal. In contrast, Britain

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extradited only five suspects from the US in the same period under the previous thirty-year-old extradition treaty, including just one in 2005." The Times adds, "Ministers have repeatedly raised the issue with their US counterparts, and Charles Clarke, the Home Secretary, protested again when he met Alberto Gonzales, the US Attorney-General, in London yesterday. … Diplomats led by Sir David Manning, Ambassador to the US, have also held about 30 meetings on the issue on Capitol Hill in recent months. But pleas have fallen on deaf ears. Indeed, America's failure to abide by its side of the deal is fast becoming a political embarrassment for a British government often accused of showing undue deference to Washington. … A senior US official told The Times yesterday that the Administration was sympathetic to Britain's concerns and hinted that a fresh attempt to force the treaty through the Senate would be made within weeks. … The official said that the problem had been caused by the influential Irish-American lobby, which is worried that the treaty could be used to pursue IRA suspects. Senators are worried about alienating any section of voters before November's congressional elections. British diplomats have emphasised that, after the Good Friday agreement, Britain has little interest in pursuing IRA suspects."

US Targets White Supremacist Prison Gang. The AP (3/7, Flaccus) reports, "The inmates had to heat the letter to draw out the message, written in invisible ink. When they did, their orders were clear. … Within hours, prosecutors say, members of the Aryan Brotherhood prison gang sneaked into a nearby cellblock and killed two black inmates with handmade shanks as part of an order to 'go to war' with blacks." The AP continues, "The deaths are two of the 32 murders and attempted murders detailed by federal prosecutors in a sweeping case against the Aryan Brotherhood, a violent white supremacist prison gang that has infiltrated nearly every federal and state prison since its beginnings in San Quentin in 1964. … Prosecutors hope to dismantle the gang - nicknamed the 'Brand' - in a series of trials that together make up what's believed to be the biggest capital murder case in U.S. history. Of the 40 men initially charged, as many as 16 could face the death penalty for crimes that reach back 30 years." The AP adds, "Prosecutors are pursuing the highly organized gang with a racketeering law originally passed to target Mafia leaders - a tactic recently used with some success against other prison gangs in California and Texas. … Opening statements in the trial of (Barry) Mills and three others are scheduled to begin March 14 in federal court in Santa Ana. Mills and another alleged ringleader, Tyler 'The Hulk' Bingham, face the death penalty in what could be a nine-month trial. … Four more defendants are set to go on trial in Los Angeles in October; court dates in California are pending for the remaining men. Nineteen of the 40 defendants struck plea bargains, and one has died. … The 140-page indictment against the gang alleges a web of conspiracies to murder fellow inmates who offended gang members, cheated them on drug deals, failed to comply with the orders of leaders or snitched to prison authorities. Prosecutors, who declined to be interviewed, spent six years compiling evidence and relied on informants for much of their case."

Nine Arrested On Billing Fraud Charges At California Medical Clinic. The San Diego Union-Tribune (3/7, Martinez, 353K) reports, "A Lemon Grove medical clinic was shut down after its owners and employees were charged with defrauding Medi-Cal out of more than $2 million, authorities said Monday. Nine people, including the owners and a doctor who worked at a medical clinic…were indicted last week on 47 counts that included conspiracy; insurance fraud; capping, or illegally referring patients; tax evasion; grand theft and operating a business without workers' compensation insurance, the District Attorney's Office announced." The Union-Tribune notes, "FBI agents first learned about the clinic in November 2004 when patients complained that they were being billed for treatment that they did not receive, said Daniel R. Dzwilewski, special agent in charge of the San Diego FBI office."

Michigan Credit Card Fraud Probe Expanded. The Detroit News (3/6, Shepardson) reported that the credit card fraud investigation of Dearborn perfume distributor Ali Abdul Karim Farhat and his brother, Hassan Farhat, "has grown into a money-laundering indictment charging the pair and 17 of their business associates and relatives. Defense attorneys now say prosecutors threatened to indict the suspects' family members unless they agreed to plead guilty," and they "accuse government investigators of improperly obtaining secret wiretaps in the investigation." The News notes that "hundreds of pages of secret wiretap records recently made public show that the FBI's Joint Terrorism Task Force went to great lengths in its investigation of the Farhats -- installing a secret surveillance camera outside a Dearborn business, stealing a suspect's trash and having an undercover agent pose as a businessman seated next to a suspect on an airplane flight."

Judge Hears List Of Complaints From Convicted Sniper Muhammad. The Washington Times/AP (3/7, Manning) reports, "Convicted sniper mastermind John Allen Muhammad appeared in Montgomery County Circuit Court in Rockville yesterday with a list of complaints, including charges that jailers have restricted his access to court documents in his trial for six Washington-area sniper shootings. … He also complained about disagreements with his attorneys over legal filings and that he had been denied long underwear to wear in court." The AP

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continues, "Muhammad also lost a pair of pretrial motions during yesterday's hearing in advance of his scheduled May 1 trial. He was transferred to Montgomery County last summer from Virginia, where he has been sentenced to death." The AP adds, "Circuit Judge John Ryan granted a request from county prosecutors to present evidence of other shootings Muhammad and accomplice Lee Boyd Malvo are accused of carrying out before and during the three-week October 2002 shooting rampage in the Washington region. … Judge Ryan also blocked a request by Muhammad's attorneys to hold separate trials for some of the six murders that occurred in Montgomery County, the first on Oct. 2 and the last on Oct. 22, 2002."

Baltimore Grand Jury Decries "Arrests Without Merit." The Baltimore Sun (3/7, Bykowicz) reports, "A Baltimore grand jury is calling for the number of city arrests that fail to result in criminal charges to be cut in half, saying such arrests erode public confidence in the Police Department, according to a report released Monday. … 'If the staggering number of arrests is to be validated, the percentage of arrests without merit must be drastically reduced,' the report says. The jurors also said that frequent police stops of residents is an approach 'bordering on violating a person's constitutional rights.'" The Sun adds, "The panel of 23 grand jurors that met from September to January was asked by a Baltimore Circuit Court judge to "address the lack of confidence that exists between many members of the public and law enforcement." … The grand jury appears to have done its research by reviewing media reports and arrest statistics, as well as speaking with each other and with 'several' residents, though the report does not say how many. Grand jurors talked to one person from the Police Department, the head of education and training."

New Jersey Verdict Highlights Crackdown ON Violent Animal Rights Activists. The Christian Science Monitor (3/7, Knickerbocker) reports, "Animal-rights activists around the country - at least the most extreme - are becoming increasingly militant. And law enforcement officials and lawmakers are stepping up efforts to combat those who break the law." The Monitor continues, "These interconnected trends came to a head in New Jersey last week when an animal rights group and six of its members were convicted of inciting violence in their campaign to shut down a company that uses animals to test drugs and other consumer products. … The group, Stop Huntingdon Animal Cruelty (SHAC), claims its actions constitute free speech. But federal prosecutors and the jury in a Trenton, N.J., courtroom called it harassment, stalking, and conspiracy - the first such conviction under the 1992 Animal Enterprise Protection Act. The lab, Huntingdon Life Sciences (HLS), the largest of its kind in the world, is based in Britain and New Jersey." The Monitor adds, "Antivivisectionists and other animal-rights proponents have been organized in the US since at least the mid-19th century. But recently, their most extreme members have become more aggressive. … Members of the US House and Senate are sponsoring the 'Animal Enterprise Terrorism Act.' It would toughen the 1992 Animal Enterprise Protection Act by imposing penalties for veiled threats to individuals and families, economic disruption or damage, and 'tertiary targeting.' … Along with the recent indictment of ALF activists charged with arson and other crimes in Oregon and other parts of the West, the convictions in New Jersey are a setback for extremist animal-rights activists."

CIVIL LAW:

Supreme Court Rules Colleges Must Permit Military Recruitment. The Supreme Court yesterday ruled the government can condition Federal aid to colleges and universities on their acceptance of military recruitment on campus. The story was reported briefly by each of the networks last night. NBC Nightly News (3/6, story 9, 0:20, Williams) reported, "In its unanimous opinion, the court said that if students and faculty disagree with the military's policies, they are free to protest, but they may not kick the recruiters off campus." The CBS Evening News (3/6, story 6, 0:15, Schieffer) reported, "Several law schools have barred recruiters from their campuses arguing that the Pentagon's don't ask don't tell rule discriminates against gays and violates freedom of speech."

ABC World News Tonight (3/6, story 7, :20, Vargas) said the ruling was "a major victory today for the Bush Administration." While the AP (3/7, Holland) calls it "a setback for universities that had become the latest battleground over the military policy allowing gay men and women to serve only if they keep their sexual orientation to themselves." Justices "seemed swayed by the Bush administration's arguments that after the terrorist attacks, and during the war in Iraq, the government had a responsibility to bolster its recruitment." Knight Ridder (3/7, Henderson) also says the decision "is a big boost to the military and a blow to 36 law schools that joined forces to fight what they'd described as overreaching by Congress." The schools "will now face a choice: Grant military recruiters full access to their campuses, or forfeit what in some cases is hundreds of millions of dollars."

Fox News' Special Report (5/6, Garrett) reported "the court ruled 8-0 that recruitment policy did not violate the first amendment because it governs conduct, not speech." The New York Times (3/7, Greenhouse, 1.19M) reports, "It was a setback, although hardly an unexpected one, to a coalition of law schools that brought the constitutional challenge, as well

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as to the Association of American Law Schools." The Wall Street Journal (3/7, Bravin, Hechinger, 2.11M) says that "at oral arguments in December, the justices sounded skeptical of the argument that schools were being forced to endorse a message of antipathy to homosexuals." The government's lawyer, Solicitor General Paul Clement, "said schools remain free to express their views of military policy in other ways." The Washington Times (3/7, Taylor, 90K) reports that "because he was not on the court in December when the case was argued, Justice Samuel A. Alito Jr. abstained from the ruling, which drew mixed reactions from court observers yesterday."

The Legal Times (3/7, Mauro) reports, "Georgetown law professor Mark Tushnet, a former president of the AALS, predicted that the ruling would lead to an increase in 'the number and intensity of protests against military recruiting in the fall.'"

The Los Angeles Times (3/7, Savage, 958K), USA Today (3/7, Biskupic, 2.31M), Christian Science Monitor (3/7, Teicher, 61K) and Washington Post (3/7, A1, Barbash, Romano, 744K), among other sources, run similar reports this morning.

More Commentary. Under the headline "Army 8, Yale 0," the Wall Street Journal (3/7, 2.11M) editorializes, "Yesterday the Supreme Court upheld a provision of a law called the Solomon Amendment, which conditions federal funding for colleges and universities on their providing military recruiters the same access they grant to other employers. The decision was no Solomonic compromise but a complete rout of the other-worldly professors who had challenged the law. … . If those who run America's institutions of higher education really have principled objections to the military's presence, let them take a stand by declining taxpayer money. Then the rest of us can find out how much their principles are worth."

The Washington Post (3/7, A16, 744K) editorializes that the ruling "is no surprise. It offers the correct answer to the legal question the case posed: Can the government deny federal money to universities that, in protest of the military's discrimination against homosexual service members, bar military recruiters from campus or grant them access on terms less welcoming than those given to other employers? As the court ruled, the universities don't have a right to that money. But the Pentagon's legal win should not obscure the indefensible nature of the policy that underlies the dispute." However, "the gay ban still needs to be repealed."

Google Court Date Postponed Again. CNET News (3/7) reports, "Google's courtroom date with the U.S. Justice Department has been delayed a second time." CNET continues, "U.S. District Judge James Ware in San Jose, Calif. on Friday postponed the hearing from March 13 to March 14 at 9:00 a.m PT." CNET adds, "The outcome will determine whether the Bush administration will prevail in its fight to force Google to help it defend an anti-pornography law in a trial in Philadelphia this fall. … Although the Justice Department also demanded that Yahoo, Microsoft and America Online hand over similar records, Google was the only recipient that chose to fight the subpoena in court."

CIVIL RIGHTS:

DOJ Probing Mandalay Bay Hotel-Casino's Compliance With ADA. The Las Vegas Business Press (3/7, Miller) reports, "Sixteen years after the passage of the Americans with Disabilities Act, the issue of hotel-casinos' compliance with the law's accessibility guidelines is again emerging as a hot-button issue. Numerous private complaints have been lodged against an assortment of casinos, and the Department of Justice told the Business Press that it is in the midst of a probe involving ADA compliance and Mandalay Bay Resort. … 'It's an ongoing, active investigation. It is the resort in general,' said DOJ spokesman Eric Holland, who couldn't comment further because of the investigation. He added that policy investigations must go through a preliminary review first, then, if warranted, an active investigation will be launched by the Justice Department." The Press continues, "MGM Mirage, which now owns Mandalay Bay, acknowledged the DOJ was looking into issues at the property prior to its absorption of the Mandalay Resort Group, which owned Mandalay Bay. That merger was completed last April. 'The Department of Justice had made that company aware of certain areas of concerns,' said MGM Mirage spokesperson Yvette Monet. 'We are working with the Department of Justice to resolve the issues in a timely manner.' Mandalay Bay's hotel does comply with the ADA's disable accessible room standards, according to information supplied by MGM Mirage. … Two other MGM Mirage-owned properties -- the MGM Grand and New York-New York -- have reached separate settlements with the Justice Department in the past. The agreements, last revised in 2001, called for both resorts to provide more access to disabled people."

Claims Of Anti-Semitic Jury Selection Reach California High Court. The California Recorder (3/7, Mckee) reports, "Attorneys arguing that Alameda County, Calif., prosecutors routinely excluded Jews from death penalty juries have been asked a tricky question: Does it matter if the court record doesn't establish that any of the excused jurors were actually Jewish?" The Recorder continues, "The justices of the California Supreme Court posed that question in a death row inmate's habeas case last month, and they're going to want answers during oral arguments Wednesday in San Francisco. … They also want

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to know whether there was actual wrongdoing if a prosecutor had a separate, valid reason for removing a juror." The Recorder adds, "The last-minute queries throw a new wrinkle into a case that has fascinated the Bay Area legal community since July 2004. That's when the high court in the habeas corpus case of death row inmate Fred Freeman ordered an investigation into whether the Alameda County district attorney's office -- in collusion with now-deceased Superior Court Judge Stanley Golde -- intentionally purged Jews from capital juries because of a perception that they wouldn't sentence someone to death. … Former Alameda County prosecutor John 'Jack' Quatman, who prosecuted Freeman, raised the allegations, but wound up being branded a 'dishonest and unethical' man by a Santa Clara County Superior Court judge who presided over a weeklong evidentiary hearing 11 months ago. … Judge Kevin Murphy ruled that Freeman got a fair trial and that there was ample evidence Quatman fabricated his claims to embarrass Alameda County DA Tom Orloff, who took Quatman off capital cases in 1993. … The latest questions by the Supreme Court seem to indicate that the justices could be leaning toward deciding the case on a narrow issue, possibly whether jurors were let go simply because they appeared Jewish or that their surnames -- Mishell, Peisker and Laput -- sounded Jewish."

Judge Calls for Elimination Of Preemptory Challenges In Jury Selection. Morris B. Hoffman, a state trial judge and an adjunct professor of law at the University of Colorado, writes in the New York Times (3/7) criticizes the jury selection process in US trials a "side show" that "all too often takes over the circus in American trials." Hoffman notes, "Since peremptory challenges are not mandated by the federal or any state constitutions, Congress and state legislatures could abolish them tomorrow."

South Dakota Enacts Abortion Ban In Bid To Test Roe. Gov. Mike Rounds of South Dakota yesterday signed into law a bill banning abortion except to save the life of the mother. State legislators had enacted the measure in an attempt to get the US Supreme Court to reconsider its decision in Roe vs. Wade, which legalized abortion. The Washington Post/AP (3/7, A5) reports the bill "would make it a crime for doctors to perform an abortion unless the procedure was necessary to save the woman's life. It would make no exception for cases of rape or incest."

The story was covered in a full segment by NBC, while ABC and CBS reported the story briefly. NBC Nightly News (3/6, story 10, 2:10, Tibbles) reported it is "a day South Dakota Governor Mike Rounds has been planning for." Gov. Mike Rounds, South Dakota: "We'll send a message to those individuals who are pro-life that we have tried the direct, frontal assault on Roe v. Wade." Tibbles: "The bill's sponsor says the ultimate goal is to force a showdown at the nation's highest court." Roger Hunt, South Dakota House of Representatives: "The United States Supreme Court is recognizing that there is a growing momentum to revisit Roe v. Wade." Tibbles: "Legislatures in at least 10 other states are considering their own abortion bans. Mississippi's could pass as early as next week."

ABC World News Tonight (3/6, story 8, Vargas) reported the law "was designed by lawmakers to invoke a legal battle they hope will lead to the overturning of Roe versus Wade." The CBS Evening News (3/6, story 5, 0:20, Schieffer) reported, "Lower Federal courts are almost certain to block the law before it takes effect July 1st." CNN's The Situation Room (5/6, King) reported that "that's just what supporters want, a direct challenge to the 1973 high court decision legalizing abortion." The New York Times (3/7, Davey, 1.19M) also says the law "will force a legal showdown before it ever comes into effect, an outcome its supporters, eager to overturn Roe, intended."

USA Today (3/7, Lawrence, 2.31M) reports, "Passions among supporters of the law were also running high. State Rep. Roger Hunt, the Republican sponsor of the law, said an unidentified donor has already given $1 million to offset legal costs." USA Today (3/7, Lawrence, 2.31M) runs a second story, reporting the "new law…is creating a rift among anti-abortion Republicans during an election year. … Some Republican abortion opponents say they would prefer to continue the incremental approach that has resulted in increasing restrictions on abortion. They worry South Dakota's frontal assault could scare away moderates, light a fire under liberals and even set back the anti-abortion cause." The Los Angeles Times (3/7, Muskal, 958K) reports Planned Parenthood "runs the state's only clinic where abortions are performed. About 800 abortions are done each year in South Dakota."

Report Finds Minorities Are Moving To Sun Belt. A Brookings Institution report to be released today says that almost one-third of US metropolitan areas have seen declines in their white populations this decade as minorities have brought diversity to large sections of the country. USA Today (3/7, El Nasser, 2.31M) reports, "The influx of immigrants and people moving to the Sun Belt and Western mountain states from other parts of the USA is rearranging the ethnic tapestry of urban centers in an unprecedented way. Blacks, Hispanics and Asians are going where the jobs are. They're driving population increases in the fastest-growing areas, including Las Vegas, Atlanta and Orlando, says demographer William Frey, author of the report on shifts in populations from 2000 to 2004."

Whites Could Be Minority In New York City Area Within Few Years. Demographers say the influx of

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foreigners to the New York city area combined with the continuing exodus or non-Hispanic whites to other parts of the country will result in whites being a minority of the region's population within a few years. The New York Times (3/7, Roberts, 1.19M) reports, "The shift would make New York the first large metropolitan area outside the South and West in which whites do not make up a majority, according to an analysis of 2004 Census estimates by the Brookings Institution that was released yesterday."

ANTITRUST:

Antitrust Approval Of AT&T-BellSouth Deal Seen As Likely. The Austin American-Statesman (3/7, Geewax) reports, "The Justice Department likely will approve AT&T Inc.'s $67 billion purchase of BellSouth Corp. without demanding any major antitrust concessions, analysts said Monday. … But the Federal Communications Commission, which also must review the transaction, may consider restricting the new company from charging new fees for faster delivery of premium Internet services, they predicted." The American-Statesman continues, "Together, AT&T and BellSouth would become the nation's No. 1 supplier of local, long-distance, wireless and high-speed-Internet services. … In recent reviews of telecom mergers, however, Justice Department officials decided that size alone could not shield phone companies from competition from cable, satellite and other companies providing telecom services. … As a result, the Justice Department demanded no significant changes in those cases, so 'we see no reason why it would treat this case differently,' according to an assessment issued by Anna-Maria Kovacs, president of Regulatory Source Associates LLC, a research firm in Cambridge, Mass."

Dow Jones (3/7) reports that the deal "will face few antitrust hurdles…analysts predicted Monday. … Announced Sunday, the deal follows SBC Communications Inc.'s acquisition of AT&T and the formation of the new AT&T Inc. in November. It also follows Verizon Communications' February 2005 purchase of MCI Corp. … Both those recent deals, observers say, give regulators case histories from which to work. … 'They have a template to look at these things and follow the same framework,' said Paul Glenchur of Stanford Washington Research Group. … 'I don't think there's going to be a great deal of regulatory resistance,' said Jonathan Rubin, a research fellow at the American Antitrust Institute."

Reuters (3/7) reports, "U.S. communications regulators and antitrust authorities on Monday pledged to carefully review AT&T Inc.'s $65 billion purchase of BellSouth Corp….. 'We will carefully weigh the information presented, examining any allegations of specific harm in individual markets and the potential benefits for the deployment of new services,' Federal Communications Commission Chairman Kevin Martin said in a statement." Reuters adds, "The agency must determine whether the deal benefits the public. The transaction must also receive approval from U.S. Justice Department antitrust authorities. … 'We're going to look at it closely,' the department's antitrust chief Thomas Barnett told reporters while attending a conference of attorneys general. … Analysts said they expect the deal to be approved, likely with similar conditions that were attached to two telecommunications deals given the green light last year, Verizon Communications' purchase of MCI Inc. and SBC Communications acquisition of AT&T Corp. to form AT&T Inc. … Lawmakers also said they plan to review the deal."

Dow Jones (3/7) reports that the proposed deal "is stirring up some unease on Capitol Hill, where lawmakers and competing telecommunications companies are questioning whether the transaction requires special scrutiny." Dow Jones continues, "Concerns hinge in on the size of the deal and on expectations that AT&T's purchase will escalate a trend of consolidation in the telecommunications industry. … 'AT&T's proposal to purchase BellSouth would remove yet another potential competitor from the communications marketplace and calls into question whether the future of communications policy will be marked by strategies to promote vigorous competition or by further efforts to facilitate new mergers,' Sen. Daniel Inouye, D-Hawaii, the top Democrat on the Senate Commerce Committee said in a statement." Dow Jones notes, "The transaction comes amid a favorable political climate for mergers, as the Bush administration has been friendly to large combinations. Many observers expect the Federal Communications Commission and antitrust regulators to approve the deal with few conditions even amid concerns the deal would leave companies with too much pricing power and consumers with two few choices."

AT&T Plans To Cut 10,000 Jobs After BellSouth Purchase. Bloomberg (3/7) reports, "AT&T Inc.…plans to eliminate about 10,000 jobs after completing the $67 billion purchase of BellSouth Corp. … The reductions will come in 2007 through 2009, Chief Financial Officer Rick Lindner said on a conference call today with analysts. With BellSouth and Cingular, San Antonio-based AT&T's workforce will rise to 317,000 from 189,000, making AT&T among the top 10 U.S. employers, according to Bloomberg data." Bloomberg adds, "Job cuts, which are about 3 percent of total employment, represent about 50 percent of the planned $18 billion in cost savings AT&T expects to extract from the purchase. The acquisition will cement AT&T's position as the dominant U.S. provider of local, long-distance and wireless calling and enable it to better fend off new competition from cable-television companies and Internet calling companies. … The reductions, which Lindner said will come mostly through attrition, are in addition to the 13,000 jobs that AT&T plans to

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shed as part of last year's combination between SBC Communications Inc. and AT&T Corp., which created the largest U.S. phone provider. BellSouth and Cingular add 128,000 workers to the payroll."

AT&T-BellSouth Deal Could Change Vodafone-Verizon Dynamic. The Wall Street Journal (3/7, Bryan-low, Singer, Sharma) reports, "AT&T INC.'S planned $67 billion acquisition of BellSouth Corp. not only changes the U.S. telecommunications landscape but could cause an unexpected shift in the dynamic between Britain's Vodafone Group PLC and Verizon Communications Inc., the co-owners of Verizon Wireless." The Journal adds, "Verizon has long been interested in buying out Vodafone's 45% stake in the venture, but has been holding out for the right terms. For months, Vodafone has been under pressure from investors to do a deal in order to generate cash for the company and pay out dividends to large shareholders. That gave Verizon the upper hand. … But now Verizon needs to get control of the venture more than ever, analysts say, just to keep pace with AT&T, which will take full control of cellular carrier Cingular Wireless and thus increase its exposure to the telecom industry's growth area. The power balance may have shifted in Vodafone's favor."

The Financial Times (3/7, Taylor, Van Duyn, Politi) reports that the merger announcement "increased the pressure on rivals including Verizon Communications to join an industry-wide consolidation." The Times continues, "The BellSouth purchase would also give AT&T sole control of Cingular Wireless, the biggest wireless carrier in the US. As a result, analysts noted, Verizon, its main rival, would be under pressure to buy out Vodafone's 45 per cent stake in Verizon Wireless. … Shares in Vodafone gained 2.9 per cent in London to close at 125 pence. Verizon's shares were up 1.25 per cent at $34 at noon in New York. … 'Verizon may be pressured more to improve its business mix by becoming increasingly focused on its attempt to buy out the remaining 45 per cent of Verizon Wireless from Vodafone,' said Jason Armstrong of Goldman Sachs in a note to investors."

The Washington Post (3/7, D1, Mohammed) reports, "With Sunday's announcement of AT&T's agreement to buy BellSouth Corp. for about $67 billion in stock, (AT&T Chairman Edward E.) Whitacre, 64, capped a career that has transformed what was once the smallest of the Baby Bells, Southwestern Bell Corp., into the largest local-phone and wireless company in the country. … What immediately followed was speculation about what Verizon's (Chairman Ivan G.) Seidenberg, 59, might do next to one-up his biggest competitor for more than a decade. He has already said publicly that he'd like to buy out Vodafone Group PLC's 45 percent stake in Verizon Wireless, the second-largest U.S. mobile phone company."

Qwest Could Get Buyout Offer After AT&T Deal. USA Today (3/7, Iwata, Davidson) reports, "For months, Qwest has been considered anything but a prized acquisition target — mostly because of its heavy debt and its lack of the large-scale wireless and high-speed Internet assets that are the communications industry's engines for growth in coming years. … That view might be changing in the wake of AT&T's proposed $67 billion purchase of BellSouth." USA continues, "Qwest — as well as Alltel and Sprint Nextel — could become an acquisition target, as Verizon scrambles to keep pace with AT&T, predicts analyst Ken McGee at technology consultant Gartner. … A combined AT&T and BellSouth would knock Verizon from its No. 1 perch in the industry and put it at a disadvantage in both the wireless and large-business markets, possibly forcing it to respond, says Stifel Nicolaus analyst Chris King." USA adds, "McGee predicts that Qwest will garner Verizon's interest as merger bait. 'They're unlikely to remain an orphan,' he says, noting that Qwest CEO Richard Notebaert has kept Qwest from a bankruptcy reorganization and appears to be slowly turning it around. 'Qwest must feel awfully lonely sitting there, watching everyone else dance.'"

AT&T Back On Top 22 Years After Breakup. The Washington Post (3/7, D5, Noguchi) reports, "Just a year ago, the hallowed AT&T Inc. brand appeared to be in its twilight, on the cusp of being merged out of existence. Now, with a proposed $67 billion acquisition of BellSouth Corp., the AT&T name is about to retake its place as the biggest brand in telecommunications." The Post adds, "Though it's been hard to track the complicated handoff of the AT&T name in recent years, it's clear that the new AT&T is a far cry from the old 'Ma Bell' company that was formed after Alexander Graham Bell invented the telephone in 1876. … Before the breakup of the monopoly in 1984, there was effectively one company, AT&T, which sold telephones and supplied local and long-distance services. That was before cellular phones and the Internet. After the breakup, AT&T became a long-distance phone company. … In the late 1990s, AT&T for a brief period had a host of services under its umbrella. In addition to being the largest long-distance provider, it had a wireless operation, offered cable TV services, and sold dial-up and later high-speed Internet services. Over time, the pieces were spun off or sold. … By early last year, all iterations of the AT&T brand seemed headed for the dustbin of history -- again. In 2004, AT&T Wireless was subsumed by Cingular Wireless. … . Cingular's parent companies, BellSouth and SBC Communications Inc., had proposed an acquisition of AT&T, leaving no apparent heir to the name. But as marketing experts predicted, after closing its merger last year, SBC ditched its three-letter acronym for the nationally recognized AT&T name, which it now calls 'the new AT&T' in its advertisements."

Scripps Howard (3/7, Deibel) reports, "AT&T's $67-billion bid for BellSouth seems on the surface to go a long way toward reconstituting the old telephone monopoly, but 24

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years after federal trustbusters forced the breakup, it's not your father's Ma Bell anymore. … Today's era of wireless and fiber optics convergence is light years away from the competitive landscape that U.S. District Judge Harold Green confronted when he OK'd the 1982 consent decree that divided AT&T into seven regional Bell operating companies two years later. … At stake now are upstart, low-cost challenges from Internet, cable and wireless competition, telecom analysts say."

Merger Could Lead To Lower Prices For Consumers. The Wall Street Journal (3/7, Young, Vascellaro) reports, "The $67 billion merger that will make BellSouth Corp. part of AT&T Inc. is expected to accelerate the battle of the bundles. … The cable industry and the phone companies are aggressively competing to attract new customers by offering attractively priced packages of home phone, Internet, cable and cellphone services. AT&T Chairman and Chief Executive Edward Whitacre has long identified $100 as a potential target price for a package of those four services. While that price hasn't been offered yet, the merger increases the pressure on the phone and cable rivals to deliver more competitive packages as a way to keep competing services from poaching customers." The Journal adds, "Prices are already in the $100 range for packages that don't include wireless -- and industry executives expect them to come down. A larger AT&T will be able to compete more aggressively with cable companies and, after cutting costs, will likely be able to reduce prices of service packages."

The Christian Science Monitor (3/7, Trumbull, Marks) reports, "Changes in the communications industry are spawning vast new choices - but not necessarily lower bills - for American consumers who dial, click, and channel surf. … Cellphones now carry video as well as voice. The Internet can be used for phone calls as well as data downloading. And television is fast becoming a digital medium, where content can be stored and retrieved anytime … This is the 'digital convergence' of communication platforms that telecom and cable companies have long been trying to create. The process holds great promise but means more volatility for consumers and firms. … The latest jolt is this week's announcement by AT&T that it plans to acquire BellSouth Corp. Together, the firms would create the world's biggest telecommunications company in terms of market capitalization and combine many of the pieces of the old 'Ma Bell' that in 1984 was broken into eight pieces by an antitrust settlement. … Indeed, for all the new competition, the scale of this $67 billion deal is just one sign of the market clout that telecom and cable companies still retain. The word monopoly no longer applies. But Americans are spending more than ever on communications services, and regulators still have a role to play as guardians of competition, consumer advocates say."

USA Today (3/7, Davidson) reports, "AT&T's proposed purchase of BellSouth gave fresh ammunition Monday to critics of a push by the big local phone companies to charge websites fees to ensure fast delivery of their content." USA continues, "Even before the deal, AT&T and BellSouth discussed plans to charge Internet-based phone company Vonage, Google and other Web providers new fees to ensure speedy delivery of their phone calls, video or other content. Though proposals in Congress would bar phone companies from blocking access to rival websites, none would prohibit their offering enhanced services." USA adds, "The question of whether an even bigger AT&T should have to comply with Internet non-discrimination principles is expected to take center stage as consumer advocates urge regulators to reject the deal. Some rivals say arguments for such restraints are bolstered by the clout a bigger AT&T customer base would have. 'Arguably, there's less competition as a result of these mergers,' says Paul Meisner of Amazon. … Consumer groups also fear the $67 billion deal will hamper competition for wireless and large business customers, driving up prices."

Deal Will Intensify Competition In Phone, TV, Internet. The Wall Street Journal (3/7, Grant, Schatz) reports, "The picture just got fuzzier for the cable-TV industry, a once-mighty monopoly now under assault by new technology and corporate mergers." The Journal adds, "Even before AT&T Inc.'s planned $67 billion acquisition of BellSouth Corp….cable companies were under growing pressure. Their stocks have steadily declined amid investor alarm at new competition from satellite and phone companies. The explosion of video on the Internet is conjuring up a future when a cable middleman may no longer be necessary. Regulators are pushing the industry on decency issues and pricing policies. … And cable's once-commanding lead in the sale of high-speed Internet connections has eroded as telephone companies have steeply discounted competing offers. Cable used to enjoy a two-thirds market share, but in the past year telephone companies have picked up more new customers than cable operators did. … Now the AT&T megadeal could create the largest competitor yet for cable operators in the new race to sell packages of phone, TV and Internet services. Among phone companies, AT&T already had the most aggressive plans for pushing into the TV and broadband markets."

Consumers Groups Vow To Oppose Merger. The AP (3/7, Powell) reports, "Several of the nation's largest consumer groups said Monday they would oppose AT&T's purchase of BellSouth Corp., arguing that the deal will reduce competition and drive up prices in the telecommunications industry." The AP continues, "Consumers Union and the Consumer Federation of America said they would urge the Justice Department to block AT&T Inc.'s $67 billion offer. … The consumer groups also asked their members to contact the Federal Communications Commission, which must

approve the acquisition, and to petition their congressmen to try to prevent the deal from going through." The AP adds, "The consumer groups warned that increasing consolidation in the telephone industry would boost the prices for local, long-distance and cell phone services. They added that more-limited choices for phone service — along with a similar merger trend in the cable industry — threatened to reduce the variety of broadband Internet services available to consumers. … 'If approved, this merger will lead to higher local, long-distance and cell phone prices for consumers across the country,' said Gene Kimmelman, a vice president of Consumers Union, which is headquartered in Yonkers, N.Y. … At the very least, Kimmelman said, federal regulators should 'require the merging companies to sell their Cingular wireless business to create more opportunities for competition between wireless and wireline services.'"

The CBS Evening News (3/6, story 1, 1:50, Schieffer) reported, "Consumer groups vowed today to stop the proposed $67 billion merger of AT&T and BellSouth. And some of the workers may hope they do stop it because AT&T has already said if the deal goes through, they intend to lay off as many as 10,000 people. The consumer groups say a merger would mean less competition in the telecom industry and higher prices for consumers." NBC Nightly News (3/6, lead story, 2:20, Thompson) reported, "For some, this acquisition has an unsettling sense of deja vu. 22 years ago, a court order split AT&T into seven regional companies. Four of those companies are now part of AT&T again, leading some to wonder if ol' Ma Bell is back." Rep. Edward J. Markey, Massachusetts: "We have to make sure that this deal doesn't send us backwards, back to 20 years ago, when AT&T had a monopoly." NBC Nightly News (3/6, story 2, 2:00, Quintanilla) ran a similar story.

Deal Could Undermine Telephone Industry's Broader Agenda. The New York Times (3/7, Labaton, 1.19M) reports that AT&T's proposal to buy BellSouth is a sign of "how far the regulatory climate, as well as the marketplace, has traveled in less than a decade, as the cable and phone industries have gotten into each other's businesses and new forms of phone service have grown. … The deal threatens to undermine parts of the telephone industry's broader regulatory and legislative agenda by making it more difficult for the industry to claim it badly needs relief from regulators and Congress."

FCC, Telecom Law Changes Could Affect Merger Scrutiny. The Wall Street Journal (3/7, Schatz, Squeo) reports, "As AT&T Inc. and BellSouth Corp. make the case for their $67 billion merger, they'll be counting on their vaunted lobbying clout to win over skeptical lawmakers and regulators. … Their efforts could be complicated by two factors: The changing makeup of the Federal Communications Commission and a push to rewrite the landmark 1996 telecommunications law." The Journal adds, "Regulatory experts say that given (FCC Chairman Kevin) Martin's push last year to impose minimal conditions on SBC Communications Inc.'s purchase of AT&T Corp. and Verizon Communications Inc.'s acquisition of MCI, it would be surprising if he reversed his stance." The Journal notes, "Mr. Martin, though, represents just one vote on a five-member commission. The two Democrats likely will cast a skeptical eye toward such a transaction, especially given talk by phone companies to charge technology companies extra to guarantee speedy delivery on their networks. And the Bells may not be able to count on Mr. Martin's two Republican colleagues because of a shift in the makeup of the commission."

Two CEOs Likely To Play Big Role In Telecom Titan. The Wall Street Journal (3/7, Searcey) reports, "Over the years, AT&T Inc. chairman Edward Whitacre and BellSouth Corp. chief executive Duane Ackerman had talked many times about a deal before they finally agreed to the largest one in the history of the U.S. telecommunications industry. … In two years, though, both likely will be retired. The Journal continues, "Before the deal Randall Stephenson, AT&T's chief operating officer, and Mark Feidler, who held the same title at BellSouth, were widely acknowledged to be the heirs apparent of their respective companies once their bosses retire. While it is likely they will play significant leadership roles in the combined company, analysts and investors believe that Mr. Stephenson has the inside track to be chief executive. … 'Randall is clearly the anointed one within AT&T and Mark as the No. 2 in BellSouth needs to know that he'll have to be No. 2 or 3 in the new entity,' says a consultant who has worked with both companies. … Both men declined to be interviewed yesterday. But people familiar with the situation say that Mr. Stephenson, who has spent his 24-year career with the company mainly overseeing telecom finances, and Mr. Feidler, a former corporate lawyer and investment banker, have both been supporters of a deal between BellSouth and AT&T. The two executives have a good working relationship and already have one deal in common. They both helped negotiate the Cingular Wireless acquisition of AT&T Wireless. BellSouth and AT&T own Cingular in a joint venture."

WSJournal Says Changing Technology Driving Industry Consolidation. An editorial in the Wall Street Journal (3/7, 2.11M) says that while "all this telecom consolidation may or may not pay off for shareholders, the benefits to consumers are clear." The Journal adds, "Typical was the response from Massachusetts Democrat Ed Markey, a senior Member of the House Energy and Commerce Committee, who said 'Twenty years after the government broke up Ma Bell, this deal represents a mother-and-child reunion.' But the child has grown up and the mother has changed, even if Mr. Markey's rhetoric hasn't. Consolidation is being driven, as it should, by changing technologies, and

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by all manner of competition in a telecom world that Ma Bell wouldn't recognize."

More Commentary. In an op-ed in the Wall Street Journal (3/7), Bret Swanson, a senior fellow at Seattle's Discovery Institute and an editor of the Gilder Technology Report, writes, "Ma Bell's back: Run for your lives! -- or at least to the halls of Congress. That, it seems, is the overheated conventional wisdom. But the $170 billion combination of AT&T and BellSouth into the world's largest telecom company is a perfectly natural progression of business and technology. The merger will rationalize a market beset by decades of political mismanagement." Swanson adds, "Although this latest reintegration will not reduce the number of competitors in the marketplace, it is sure to supercharge the ever-present denunciations of monopoly that are behind every effort to regulate telecom. This time around, the main agent is the colossus Google. Exactly one decade after the disastrous 1996 act set us on a path for the telecom crash and a plunge to 16th in world broadband rankings, Google is leading an alliance of politicians, lobbyists and interested companies under the aegis of 'net neutrality.' If enacted, it will repeat the most basic mistakes of earlier legislation."

USA Today (3/7) editorializes, "Given the current, accommodating state of antitrust policy and the arrival of cable as a competitor in broadband and telephony, this deal might well be approved by federal regulators. It might even create economies of scale that would make the combination more efficient than the sum of its parts. … But it also should raise red flags for Congress and federal regulators. For all the talk of robust competition between cable and telephone, the reality has been less impressive. The most intense competition and the fastest roll-outs of new services have been largely limited to affluent areas. … What's more, the merger raises questions about the future of the Internet and digital entertainment. … For that reason, lawmakers and members of the Federal Communications Commission should take a long, hard look at where the Internet is headed and what might be done to prevent a handful of companies from gaining a chokehold over an evolving medium that is one of history's great innovations."

The Los Angeles Times (3/7) editorializes, "AT&T…now finds itself at the center of one of the largest mergers in business history. And concerns about the dangers of the" the purchase of BellSouth by AT& T "are exaggerated as well." The Times says the "merger would have practically no immediate effect on BellSouth's or AT&T's market. Customers would neither gain nor lose any options for phone, high-speed Internet or wireless services." In fact, the "proposed merger could actually promote…competition." Still, "regulators shouldn't just wave the merger through." The Times recommends, "Rather than trusting the company not to hamper the Internet or play favorites, regulators should require it to pledge to preserve a level playing field for all websites, programmers and services as a condition of the BellSouth deal."

Hybrid Program Seen As Key To NYSE Group's Future. The AP (3/7, Martinez) reports, "When the New York Stock Exchange transforms into a publicly traded company Tuesday, its agenda - staying competitive with faster all-electronic markets - will remain in place even as its corporate structure changes." The AP continues, "The NYSE's 214-year existence as a non-for-profit institution will end when it closes its $9 billion acquisition of all-electronic rival Archipelago Holdings Inc. On Wednesday, the combined company, called NYSE Group Inc., will begin trading on the floor of the Big Board under the symbol NYX." The AP adds, "Unfettered from the NYSE's seat holder leadership structure, in which the owners of 1,366 seats had a strong say in the direction of the Big Board, NYSE Group Chief Executive John Thain has big plans for the exchange, including trading options and corporate bonds, the possibility of extended trading hours and acquisitions of other exchanges and companies. … But as the $9 billion acquisition closes, the exchange can't look too far ahead, nor too quickly. The linchpin of its future is not new products or acquisitions, but its core business of trading stocks. And with the Nasdaq Stock Market's electronic trading platform slowly eating away at the NYSE's market share, the NYSE's new 'hybrid' program - the merging of electronic trading with traditional floor auctions - must be a fast and sure success."

Blackstone To Purchase CarrAmerica For $5.6 Billion. The Wall Street Journal (3/7, Forsyth) reports, "Blackstone Group agreed to acquire CarrAmerica Realty Corp., a real-estate investment trust with office properties across the U.S., for $5.6 billion." The Journal continues, "The deal is the largest in a string of transactions in which publicly traded real-estate companies have been bought by private or institutional investors willing to pay a premium for companies they believe are undervalued by Wall Street. .. Blackstone, a New York-based private-equity firm, has been aggressive in acquiring real-estate companies but has focused on the hotel sector. Two weeks ago, it said it would acquire MeriStar Hospitality Corp., a hotel REIT, for $940 million, plus debt, in a deal valued at $2.6 billion. The decision to grab a large office REIT is seen as an endorsement of the improving office market."

JP Morgan To Pay $1.5 Billion For Kohl's Card Unit. The Wall Street Journal (3/7, Sidel) reports, "J.P. Morgan Chase & Co. agreed to buy the credit-card operations of department-store chain Kohl's Corp. for $1.5 billion, reflecting the bank's push into the lucrative 'private-

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label' business." The Journal continues, "It is the latest in a flurry of deals in which retailers have shed their in-house card businesses to concentrate on core operations. Last year, for example, Federated Department Stores Inc. sold its private-label business to Citigroup Inc. … And British bank HSBC Holdings PLC recently snapped up the private-label portfolio of Neiman Marcus Group Inc." The Journal adds, "For banks, the private-label portfolios are attractive at a time when profit growth has been slowing for general-purpose cards -- those branded by card-issuing financial institutions and card associations such as Visa USA Inc. and MasterCard International Inc. … J.P. Morgan executives have repeatedly said they want to acquire more private-label portfolios; both Citigroup and General Electric Co. already have large presences in this area."

Linde Likely Clinches BOC Deal With Increased Bid. The Wall Street Journal (3/7, Hromadko, Esterl) reports, "German industrial conglomerate Linde AG raised its takeover bid for U.K.-based gas company BOC Group PLC to £16 ($28.06) a share, likely clinching a deal that will create the world's largest industrial-gas company in terms of sales." The Journal continues, "Linde said it intends to fund the deal -- which values BOC at £8.2 billion ($14.4 billion) -- with a fresh issue of equity and debt. … The transaction would create a leading world-wide industrial-gas and engineering group with combined sales of €11.9 billion ($14.3 billion), said Linde, based in Wiesbaden, Germany. The supplier of industrial gases, engineering services and forklift trucks said the BOC management board intends to recommend that its shareholders accept the offer. The bid represents a 39% premium to BOC's share price prior to Linde's offer in January."

ENVIRONMENT/INDIAN AFFAIRS:

Democrats Object To ANWR Language In Bush Budget. Democrats on the Senate Budget Committee said yesterday they oppose putting language in the 2007 budget bill that assumes the government will raise billions of dollars in oil drilling leases from ANWR. Reuters (3/6, Doggett) reported, "In its budget proposal to Congress, the Bush administration said it expected $7 billion would be raised by allowing oil drilling in the Alaskan refuge, and the Congressional Budget Office puts the figure at $6 billion. … 'It is irresponsible to base the country's budget on highly speculative and dubious projections of lease revenues for the coastal plain of the Arctic National Wildlife Refuge,' all nine Democrats on the budget panel said in a letter to the committee's Republican chairman, Judd Gregg."

Panel Issues New Guidelines For Flu Vaccines. The Washington Post (3/7, B1, Levine, 744K) reports that after hearing testimony from Gary Stein, whose 4 year old daughter Jessica died of the flu, the federal Advisory Committee on Immunization Practices, "voted for a surprise revision in national policy: It unanimously recommended that starting this fall, all children between 2 and 5 years old be vaccinated annually against influenza. … Children still suffer a 'substantial' amount of influenza, however, said Raymond A. Strikas, an associate director at the National Immunization Program, which is part of the federal Centers for Disease Control and Prevention. And that was the major impetus for the committee's decision late last month. Its expanded coverage even includes parents and older siblings, because they also suffer by getting sick themselves or taking time off work to care for ailing youngsters. All told, nearly 17 million additional people now will be urged to get protection against the flu, bringing the total to more than 120 million men, women and children across the United States."

NYTimes Says Navy Should Be Cautious When Using Sonar. An editorial in the New York Times (3/7, 1.19M) says, "The debate over whether the Navy's use of sonar to detect submarines is harming whales and other sound-sensitive species is back again. … No one can deny that the Navy needs to conduct sonar training in shallow waters, where sound propagates differently than in the deep ocean. But at a time when evidence is mounting that sonar has been responsible for at least some of the whale strandings around the world — and when we do not yet know what caused a large stranding last year in North Carolina — it behooves the Navy to move with extreme caution."

Sixteen Arrested On South Dakota Reservation For Drug Trafficking. Indian Country Today (3/7, Melmer) reports, "Sixteen people on the Pine Ridge Reservation have been charged with possession of cocaine and marijuana and with the intent to distribute the drugs. The arrests, which came days after national news organizations ran stories about drug trafficking on American Indian reservations, were not intended to coincide with those articles, according to Paul McCabe, FBI spokesman from the Minneapolis regional office." Indian Country notes McCabe said that arresting officers "stopped in a local restaurant and were greeted by locals with pats on the back and congratulatory praise, thanking them and saying, 'We appreciate it - get them out of here.' He added that the case is still under investigation and people may come forward with more information as long as it remains open."

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FBI/DEA/ATF/USMS:

Israel Extradites Alleged Drug-Trafficking Mob Boss To US. The AP (3/7, Heller) reports, "A suspected Israeli mob boss, described by U.S. prosecutors as one of the world's most wanted drug traffickers, was extradited to the United States on Monday, police said." The AP continues, "Zeev Rosenstein, suspected of involvement in distributing more than 1 million Ecstasy pills in the United States, mostly in New York and Miami, was handed over to U.S. marshals at Ben Gurion International Airport near Tel Aviv arport and taken aboard a direct El Al flight to Miami, where he will face the drug charges, police spokesman Mickey Rosenfeld said." The AP adds, "The target of numerous gangland assassination attemps in the past, Rosenstein was driven to the airport in an undercover police car accompanied by several motorcycles, Israeli radios reported." Rosenfeld "said the extradition was the result of a long investigation conducted in coordination with U.S. law enforcement agencies. … Israeli police, acting on an international arrest warrant, arrested Rosenstein more than a year ago for allegedly smuggling drugs from Europe to the United States. … A U.S. extradition request, submitted in December 2004, said Rosenstein was involved in distributing more than 1 million pills of Ecstasy, court documents said."

Cable TV Coverage. Bloomberg –TV (3/6, 2:00 p.m.) reported, "A suspected Israeli mob boss, described by US prosecutors as one of the world's most-wanted drug traffickers, has been extradited to the US. He's suspected in involvement in distributing more than one million Ecstasy bills in the United States, mostly in New York and Miami. Israeli police arrested Rosenstein more than a year ago."

Local TV Coverage. WKRN-TV, Nashville, Tennessee (3/6, 5:00 p.m.) reported, "One of the world's most wanted drug kingpins was put on a plane for the US. US prosecutors say Zeev Rosenstein distributed more than one million Ecstasy tablets, mostly in New York and Miami. He's long been accused of being one of Israel's top mob leaders."

KCOY-TV, Santa Barbara-Santa Maria-San Luis Obispo, California (3/6, 7:00 a.m.) reported, "A suspected Israeli mob boss has been extradited to the United States. Zeev Rosenstein is described by US prosecutors as one of the world' s most wanted drug traffickers. He is suspected of involvement in distributing more than one million Ecstasy pills in the US. Police say he' s been handed over to US marshals in Israel and taken aboard a direct flight to Miami where he will face the drug charges." KRIS-TV, Corpus Christi, Texas (3/6, 5:00 p.m.) reported a similar story.

Man Extradited From Saint Kitts To Face Drug Charges In US. The AP (3/6) reports, "Federal officials say a man accused of importing cocaine has been extradited from his native Saint Kitts in the Caribbean. Noel Heath was one of the top ten fugitives of the Drug Enforcement Administration's New York field division." According to the AP, In 1995, Heath was indicted on charges of conspiring to import more than eleven pounds of cocaine in the Rochester, New York, area.

DEA Agent Accused Of Embezzling. The Atlanta Business Chronicle (3/7) reports, "A DEA agent who worked at Hartsfield-Jackson Atlanta International Airport has been indicted by a federal grand jury on charges of embezzling money as a federal officer, embezzling public money and money laundering. Gregory Campion, 44, of Orlando, Fla., is expected to be arraigned…on March 8." Campion is accused of stealing cash from a storage vault. The Chronicle says the money had been seized by law enforcement agents as currency involved in federal drug offenses and was subject to forfeiture to the U.S. The report notes that Campion has been suspended without pay.

California Man Arrested For Impersonating DEA Agent. The AP (3/7) reports federal authorities arrested a Manteca, California, man for impersonating a DEA agent by showing a phony badge as he entered a courtroom. "Thirty-seven-year-old John D. Cohen picked the wrong courthouse security officer to try to dupe -- a retired DEA special agent. The officer told the U-S Marshal's Service the badge looked suspicious." The AP says agents later found guns, DEA apparel, a police uniform, handcuffs, bulletproof vests and forged law enforcement training certificates at Cohen's home.

The Sacramento Bee (3/6) writes Cohen "presented a fake DEA badge to security officers at the Sacramento federal courthouse last week."

The Contra Costa (CA) Times (3/6, Fischer) reports, "Federal authorities say a Pleasanton mortgage broker posing as a narcotics agent entered a secure portion of Coast Guard Island in Alameda last month and sold guards a Ford Crown Victoria he claimed was a retired police car. That breach was the first of two in February that attracted real agents from the U.S. Drug Enforcement Agency." On Monday, DEA agents "visited the Manteca home of…Cohen and seized a cache of weapons and law enforcement paraphernalia, along with Cohen himself."

Local TV Coverage. KOVR-TV, Sacramento-Stockton-Modesto, California (3/6, 10:00 p.m.) reported, "Tonight a man is under arrest for posing as a federal drug agent…federal agents arrested 37-year-old John Cohen. The first red flag went up last week when he flashed a fake ID to the wrong person; the phony badge was only the beginning. DEA agent Gordon Taylor said the phony badge John Cohen flashed last week would pass as the real deal to

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a lay person but not to the security officer who knows the real badge would have an ID number."

Tandy Listed Among Defendants In Death-Row Lawsuit. The Terre Haute (IN) Tribune Star (3/7) reports three federal death-row inmates who contend that lethal injections are painful have been granted a stay of execution. In one case death-row inmate Clarence Edward Hill is suing the state of Florida, "alleging that lethal injection would violate his constitutional protection from cruel and unusual punishment." The U.S. Supreme Court "has agreed to hear the Florida case, to determine whether Hill's civil suit falls within federal appeals, as lower courts have ruled, or is a legitimate challenge to the conditions of a condemned inmate's death sentence." The Tribune Star says separately, attorneys also are alleging in a federal lawsuit that lethal injection is cruel and unusual punishment, and defendants in the case include Karen Tandy.

California Marijuana Clubs Said To Fear More Raids. The San Diego Union-Tribune (3/6, Mcdonald) reports, "Nearly three months after federal agents raided 13 medical marijuana dispensaries in San Diego County, the government has yet to make any arrests or file any criminal charges. Most of the pot clubs that closed during the high-profile searches reopened days later. Meanwhile, at least 10 new dispensaries, cooperatives and delivery services have set up shop." However, the Union-Tribune says some worry that federal agents will show up with warrants in hand and eventually force the clubs to close for good.

Bush Budget Blamed For Opening Southern Border To Increased Drug Trafficking. Senior Congressional and Colombian officials are blaming a Bush Administration decision to divert money for Colombian drug interdiction and eradication programs to the war on terrorism for opening up the southern US border to a new wave of cocaine and heroin. The Washington Times (3/7, Seper, 90K) reports that some lawmakers "plan to bypass the White House by dipping into a $72.4 billion supplemental appropriation for the war on terrorism to fund $99.4 million in military and police aid to Colombia. An amendment to the pending emergency supplemental bill likely will be offered by Republican Reps. Henry J. Hyde of Illinois, chairman of the House International Relations Committee, and Dan Burton of Indiana, a member of the House Government Reform Committee. It would pay for three DC-3 marine patrol aircraft for the Colombian navy and two UH-60 Black Hawk helicopters and 10 Huey II helicopters for the Colombian national police."

DEA Agents Find Meth "Superlab" In Georgia, 3 Arrested. UPI/Washington Times (3/6) writes, "U.S. federal drug agents said they have broken up a methamphetamine 'superlab' in Smyrna, Ga., and confiscated more than 12 pounds of the drug. The U.S. Drug Enforcement Agency said they arrested three men -- all illegal aliens from Mexico -- and that on Monday two of the defendants pleaded guilty to charges that include manufacturing methamphetamine." According to UPI, the DEA said 24 large trash bags also were found filled with emptied pseudoephedrine tablet boxes.

ATF Probes Florida Warehouse Fire. The Miami Herald (3/7, Fantz) reports, "An investigative team from the U.S. Bureau of Alcohol, Tobacco, and Firearms will begin examining what's left of a Pompano Beach warehouse gutted by an unrelenting inferno that began at 8 p.m. Friday and raged throughout the night." The Herald continues, "Officials who tried to stamp out the blaze at Pallet Consultant Corp. on Southwest 12th Avenue reported flames reaching 100 feet into the air. The blaze could be seen two miles away. … Sandra King, spokeswoman for the Pompano Beach Fire-Rescue, said one of the 120 firefighters from North Lauderdale, Fort Lauderdale, Lighthouse Point, Margate, and Broward Fire-Rescue was injured when a loaded water hose slammed into his stomach. He was treated and released Friday from North Ridge Medical Center in Fort Lauderdale. … King said ATF and explosive experts will help discern the cause of the blaze because propane tanks inside hundreds of pallets exploded. Damage is estimated to be $10 million to three businesses within the six-acre property."

IMMIGRATION:

RICO Being Used Against Employers Who Hire Illegal Workers. The Los Angeles Times (3/7, Gaouette) reports from Caldwell, Idaho, "Like many communities, this fast-growing agricultural pocket of southwestern Idaho is paying a high tab for illegal immigration. … When an illegal worker gave birth to a premature baby, Canyon County wound up with a $174,000 hospital bill. County officials say the jail spent thousands to house another illegal immigrant at a motel, after his tuberculosis threatened to infect fellow inmates. … But where others have merely chafed at paying costs like these, officials in Canyon County are trying a novel approach: The all-Republican county commission has filed a racketeering lawsuit against four big businesses in the area, charging that they deliberately hire illegal workers." The Times adds, "The spectacle of the county's political leaders taking its businesses to court has touched off a bitter local debate. But it has also put Canyon County, a largely

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Republican community of about 160,000, at the forefront of an emerging national effort to use racketeering laws to crack down on illegal immigration by seeking damages from employers. … So far, a handful of workers and businesses around the country have filed civil lawsuits under the RICO statute, known formally as the Racketeer Influenced and Corrupt Organizations Act. The targets are companies that, the lawsuits say, have unfairly used illegal labor to cut wage levels or prices. … . In Washington state, workers who filed a civil suit against their employer, a fruit company, won a $1.3-million settlement in January. The Supreme Court has agreed to hear another of the immigration-related RICO cases this year. … But Canyon County is the first municipality to bring a suit of this kind against employers. The lawsuit was dismissed by a federal district court but has been appealed to the U.S. 9th Circuit Court of Appeals. If it succeeds, it could touch off similar actions, says the county's lawyer, Howard Foster."

Specter Bill Seeks Middle Ground On Immigration. The Senate Judiciary Committee will begin debating the Senate's main immigration bill Wednesday with a goal of having a final version ready for the full Senate by March 27. Knight Ridder (3/7, Montgomery) reports, "Sponsored by Sen. Arlen Specter, R-Pa., the committee chairman, the legislation is designed to strike a middle course between a bill passed by the House of Representatives calling for tougher immigration enforcement and pro-immigration advocates who call for permanent legal status - and eventual citizenship - for the estimated 11 million aliens now in the country illegally." Judiciary Committee aides "said that the measure would create a 'gold card' program for illegal immigrants who entered the United States before Jan. 4, 2004. It also would create a guest-worker program to bring in more foreign laborers."

CQ (3/6, Sandler, Crowley) reported, "Specter's draft was received with a skeptical eye during the initial markup March 2, which resulted in no votes on proposed amendments but elicited lots of opinions. he Judiciary Committee will resume the markup Wednesday and likely will meet Thursday as well. But staff members say the initial focus is on border security, interior enforcement and employer provisions, so the panel may not begin considering the worker programs until next week."

Local Officials Say Federal Government Has Ignored Illegal Immigration. The New York Times (3/7, Vitello, 1.19M) reports that 100 local officials from 30 states gathered in Washington Monday generally agree the President Bush's record on illegal immigration is a "failure." The gathering, "organized and convened here under the banner of the Coalition of Mayors and County Executives for Immigration Reform, called for border security and, most urgently, reimbursement to localities for the cost of dealing with a problem its members say the federal government has ignored." The Times also reports, "The White House did not ignore the meeting, but at the last minute downgraded the rank of its representative. In place of Ruben Barrales, a deputy assistant to the president and White House director of intergovernmental affairs, who was originally scheduled to attend, the White House sent a liaison to city officials, Toby Burke."

TAX:

DOJ Takes Action Against Nevada, Michigan Tax Preparers. The AP (3/7) reports, "The U.S. Justice Department filed suit today to stop four people from operating what it claims is a tax fraud scheme." The AP continues, "The suit filed in U.S. District Court in Las Vegas says the scheme cost the government at least 31 million dollars. … The government accuses the Las Vegas-based group of funneling income from clients through trusts in the Caribbean to help them avoid paying taxes. … It says the group returned the money through phony gifts or loans to the customers, their friends or family members."

The AP (3/6, Prichard) reports, "The U.S. Department of Justice has asked a federal court to prohibit three Hillsdale residents from preparing federal income tax returns for others, claiming the trio has cost the Treasury more than $25 million." The AP continues, "The government filed a complaint Monday in U.S. District Court in Grand Rapids against Joyce M. Stone, Charles J. Freed and Julie Shaffer. … Stone is Freed's mother, and together they own and operate an unincorporated tax-preparation business from their home, the department said Monday. The business also is a defendant in the lawsuit." The AP adds, "The complaint alleges that the defendants prepared customers' returns claiming improper deductions, including some for fictitious or inflated charitable contributions and employee expenses. … 'The Justice Department is working vigorously to stop the preparation and filing of the false or fraudulent returns that unfairly shift the tax burden to honest American taxpayers,' Eileen J. O'Connor, assistant attorney general for the Justice Department's Tax Division, said in a written statement."

CONGRESS-ADMINISTRATION:

Bush Urges Congress To Pass New Line-Item Veto Bill. Speaking at the swearing-in ceremony for Ed Lazear, the new chairman of the White House Council of Economic Advisers, President Bush yesterday urged Congress to give him line-item veto powers. Bush framed the issue as part of an effort to curtail "special interest" spending,

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and press accounts describe the move as an attempt to take the lead in the current debate over "earmarks." The story was not covered by the network newscasts.

The Washington Post (3/7, Fletcher, 744K), for example, says Bush is "seeking to reassert his party's scuffed reputation for fiscal conservatism," and adds "at first blush, Bush's proposal is being received with bipartisan approval in Congress." House Majority Leader John A. Boehner "praised the bill," while House Speaker Dennis Hastert and Senate Majority Leader Bill Frist, says the AP (3/6), "issued statements supporting Bush, as did several conservative lawmakers." Sen. John Kerry, "who promoted a similar approach in his presidential campaign against Bush in 2004, immediately jumped on board. 'It's no secret that President Bush and I don't agree on much, but I fully support giving him the line-item veto,' Kerry said."

The New York Times (3/7, Hulse, 1.19M) reports "Bush's push for the line-item veto could benefit from the current scrutiny over the growing practice by lawmakers of inserting spending for pet projects into legislation -- a practice that has figured into continuing corruption scandals." Senate Minority Leader Harry Reid called "the line-item veto 'old hat.'" He added, "I just think it's an effort by President Bush to divert attention from real issues this country has." However, the Washington Times (3/7, Dinan, 90K) says "the move thrilled conservative Republicans on Capitol Hill." Addressing the timing of Bush's proposal, "White House press secretary Scott McClellan said the administration thinks the time is ripe, given the interest on spending cuts on Capitol Hill. He said the fight against wasteful spending is bipartisan, so he predicted the line-item veto proposal would attract bipartisan support."

CNN's The Situation Room (5/6, Bash) reported that Bush tried to "prove that he wants to crack down on what many called frivolous spending. And what he did was he formally introduced to Congress the concept of a line-item veto, something that he said he will use to strip out pork barrel or earmarked spending tucked away in the bills that he gets." CNN added "the bottom line politically is that the White House no matter what happens really wants to get credit here for at least trying. And talking to Republican strategists, they say that this is a good first step." Reuters (3/6, Bohan) notes Bush "has never vetoed a spending bill," while the Financial Times (3/7, Swann) reports Bush's effort "to restore the veto comes at a time of growing concern about Washington's apparent inability to restrain the growth in government spending."

USA Today (3/7, 2.31M) reports President Clinton "was given line-item veto power in 1996, but the Supreme Court declared the law unconstitutional because it allowed the president to amend laws passed by Congress." The AP (3/6, Taylor) notes Bush "is now pressing for a modified, weaker version. Instead of being able to strike items from bills, he would send one or more items back to Congress for an up-or-down vote. Present law permits Congress to ignore these proposed rescissions, but under the Bush proposal lawmakers would have to vote on them. If majorities in both the House and the Senate agreed with the president, the cuts would take effect."

The Los Angeles Times (3/7, Gerstenzang, Havemann, 958K) reports, "Expressing optimism that the measure would win congressional approval and pass court tests, the White House said its proposal took into account objections the Supreme Court had raised in 1998 when it ruled that a similar provision signed two years earlier by President Clinton was unconstitutional." In Congress, however, "the outcome was less certain than the White House suggested." The Times adds, "Democratic leaders in the House and the Senate objected to the plan, but it probably will benefit from the momentum building to rein in 'earmarks.'"

House Conservatives Ready "Austere" Budget. The New York Times (3/7, Hulse, 1.19M) reports, "With Congress heading into a politically perilous budget season, influential House conservatives plan this week to propose an austere alternative spending plan that would pare more than $650 billion over five years, balance the budget and drastically shrink three cabinet agencies." The legislation is "part of a push by some Republicans to re-establish themselves as champions of fiscal restraint." House "conservative leaders would go far beyond the president's own budget proposal, illustrating the difficulty the White House and the Republican leadership have had in persuading the caucus to speak with one voice on the matter. Senior aides say the conservatives' plan would wring about $350 billion from Medicare, Medicaid and other social programs and save $300 billion partly through a major reorganization of the Education, Commerce and Energy Departments."

Meanwhile, Budget Panels Considering "Token" Spending Cuts. Roll Call (3/7, Pierce) reports in its "Roadmap" column that the House and Senate budget panels are "looking at including less than $10 billion in savings or mandatory spending cuts in their versions of the budget resolution this year." Roll Call says the move "may be more of a face-saving effort than any real attempt to reduce the deficit." The amount "being bandied around by lawmakers for possible inclusion in any fiscal 2007 spending reconciliation measure is 'more a token amount than anything else,' explained one knowledgeable former Senate Budget Committee aide."

Snow Urges Lawmakers To Pass New Debt Ceiling. Treasury Secretary John snow yesterday notified Congress that the Bush Administration has taken "all prudent and legal actions" to keep from reaching the $8.2 trillion national debt limit. The Wall Street Journal (3/7, 2.11M) reports that Snow, in a letter to Congressional leaders, "urged lawmakers to

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pass a new debt ceiling immediately to avoid the nation's first-ever default on its obligations."

DC Circuit Nominee's Conservative Credentials Could Keep Him Off Bench. The Legal Times (3/7, Schwartz) reports on "the complex politics and loyalties often just behind the scenes of the judicial nomination process" of Brett Kavanaugh, staff secretary for President George W. Bush, who is "in the midst of a bitter confirmation battle over his nomination to the U.S. Court of Appeals for the D.C. Circuit." The Times reports on "the challenge Democrats have facing off against this 41-year-old Maryland native, whose stalled nomination is expected to come before the Senate Judiciary Committee again as early as next month. … Kavanaugh's conservative credentials are etched indelibly into his résumé. In fact, he's something of the Zelig of young Republican lawyers. A protégé of independent counsel Kenneth Starr, he was a key figure in the Whitewater investigation. In the recount fight after the 2000 election, he served as a foot soldier in the legal army that descended on Florida and gave Bush his presidency. As a lawyer for Bush in the White House counsel's office, he shepherded most of the administration's contentious federal court nominees, including Miguel Estrada and Priscilla Owen. … But whether his right-wing bona fides will incite enough Democratic opposition to keep him off the bench remains an open question."

Arguing Before Supreme Court A Once-In-A-Lifetime Experience For Many. The Fulton County (GA) Daily Report (3/7, Palmer) reports, "When R. Jonathan Hart stepped up to the microphone before the country's nine most powerful jurists on March 1, he joined a small, eclectic club of Georgia attorneys who have argued before the U.S. Supreme Court. … The Chatham County Attorney sought to convince the high court to uphold the decision of a Savannah, Ga., federal judge, affirmed by the 11th U.S. Circuit Court of Appeals, that the county is immune from suit for damages arising from an accident involving a drawbridge maintained by the county. … In preparing for the argument and drafting the county's brief, Hart got the assistance of, among others, a law school professor who has argued before the high court several times. But rather than have the professor, David J. Bederman of Emory University, argue the case, Hart decided to handle the case himself. … 'You only get to do this every once in a while in your lifetime,' he said. … Unless you are someone like Miguel A. Estrada, Hart's opposing counsel last Wednesday." The Report adds, "Estrada, a former nominee to a federal appeals court, has argued at least 16 times before the high court, according to his profile on Gibson, Dunn & Crutcher's Web site. Before joining Gibson, Dunn, Estrada served as an assistant to the U.S. solicitor general from 1992 to 1997. … But for many non-government attorneys, the Supreme Court is usually a one-time gig. The 80 or so cases that the Supreme Court agrees to hear each year means that the Court entertains oral argument in a handful of cases coming out of Georgia federal and state courts in a given term."

Cheney Receives "Hero's Welcome" In Florida. Vice President Dick Cheney visited southwest Florida yesterday to speak to the Collier County Republican Party's "Victory 2006" event. The Naples Daily News (3/6, Hannan) reported on its web site that Cheney "received a hero's welcome" from "an adoring crowd of about 400." The Daily News added, "The vice president's Naples speech on Monday sounded like the beginning of the campaign for the 2006 congressional elections. It included a strong defense of President George W. Bush, and a call to elect Republicans to the House and Senate."

The Ft. Myers News Press (3/7, Parker) reports that Cheney "urged party faithful to work hard for Republicans in the fall elections and pressure Congress for tax cuts." The News Press also reports, "The packed crowd at the club included numerous party leaders and elected officials, including U.S. Rep. Connie Mack, R-Fort Myers, who introduced the vice president; Florida Republican Party Chairwoman Carole Jean Jordan; GOP gubernatorial candidate Charlie Crist; U.S. Rep. Mario Diaz-Balart, R-Miami, whose district includes part of Collier; and U.S. Rep. Katherine Harris, R-Sarasota, and the party's leading candidate in the U.S. Senate race against Democratic U.S. Sen. Bill Nelson."

WJXX-TV Jacksonville (3/6, 5:04 p.m.) reported that Cheney also "spoke in Boca Raton on behalf of Congressman Clay Shaw who's facing re-election this year."

The Miami Herald (3/7, Reinhard, 323K) reports that Cheney helped raise about $300,000 for Shaw at a luncheon yesterday.

Cheney's Failure To Mention Harris Raises Eyebrows. The South Florida Sun Sentinel (3/7, Man) reports, "The political buzz among several of those at Vice President Dick Cheney's fund-raiser for U.S. Rep. Clay Shaw, R-Fort Lauderdale, was more about how U.S. Rep. Katherine Harris' Senate campaign may be unraveling. Cheney even provided some fuel when he said he was looking forward to swearing in a Republican replacement for Democratic U.S. Sen. Bill Nelson -- but didn't mention Harris by name."

Bush Said To Be "Fixated' On Oval Office Rug. The Washington Post (3/7, A15, Baker, 744K) reports that President Bush "seems fixated" on the rug in the Oval Office. Virtually "all visitors to the Oval Office find him regaling them about how it was chosen and what it represents. Turns out, he always says, the first decision any president makes is

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what carpet he wants in his office. As a take-charge leader, he then explains, he of course made a command decision -- he delegated the decision to Laura Bush, who chose a yellow sunbeam design." Bush "has his own touches in the Oval Office -- some Western-themed paintings and an on-loan bust of Winston Churchill courtesy of British Prime Minister Tony Blair. But it is the rug that animates the president. … Sometimes Bush describes it as a metaphor for leadership. Sometimes he relates how Russian President Vladimir Putin admired the carpet. Sometimes he seems most taken by the lighting qualities."

Majority Lack Confidence In Bush Ability To Reform Health Care. A new Wall Street Journal/Harris Interactive poll has found that a majority of US adults lack confidence in the Bush Administration's ability to reform the US health care system. The Wall Street Journal (3/7, 2.11M) reports, "About three-quarters of those polled in the online survey of 2,426 US adults say they aren't confident President Bush will be able to effectively make changes such as slowing the increase in health-care costs for the US as a whole or reducing out-of-pocket health-care costs. But Americans are divided along party lines about the president's ability to improve health-care, the poll shows."

Stark Says HSAs Would Increase Healthcare Costs. In a letter to the Wall Street Journal (3/7, 2.11M), Rep. Pete Stark, ranking member of the House Ways and Means health Subcommittee, writes, "Health Savings Accounts would profoundly increase healthcare costs for many consumers, lead others to ration necessary care, and increase the number of uninsured. … While the richest among us can afford to deposit more than $10,000 a year in an HSA, few middle-income Americans have even $1,000 a year to spare."

Administration Set To Approve Arkansas Health Care Plan. The Bush Administration is set to approve a health insurance program proposed by the state of Arkansas to cover 80,000 uninsured low income people in the state. The New York Times (3/7, Pear, 1.19M) reports, 'Arkansas will carry out the program, to be announced on Tuesday, under a waiver allowing the state to receive federal Medicaid money for coverage that does not meet the usual Medicaid standards for eligibility and benefits. … Under the plan, to be approved by Michael O. Leavitt, secretary of health and human services, the state expects to enroll at least 50,000 workers with incomes less than twice the federal poverty level and 30,000 workers with higher incomes. The poverty level this year is $9,800 for an individual, $13,200 for a couple."

Report Criticizes Investigation Of Medicare Complaints. Senate investigators have found that Medicare's process for investigating complaints about bad care is "broken" and is of "no benefit to improving overall quality" of medical care received by beneficiaries. The Washington Post (3/7, A6, Gaul, 744K) reports, "The ongoing probe by the Senate Finance Committee determined that the number of complaints investigated by Medicare appears 'disproportionately low,' Sen. Charles E. Grassley (R-Iowa), the committee chairman, wrote in a five-page letter sent to Medicare officials Friday. Grassley called on federal officials to consider major reforms, including redesigning the program and re-bidding contracts."

Senate Takes Up Lobbying Reform Bill. Reuters (3/7, Ferraro) reports the Senate "began consideration of legislation on Monday that would require lobbyists to disclose more about their activities and ban gifts by lobbyists to members of Congress and staff." The Senate "hopes to complete action after voting on a long list of possible amendments later this week."

The AP (3/7, Abrams) reports the measure, "which would require lobbyists to be more open about the meals they buy and the trips they arrange for members of Congress, is a response to the Jack Abramoff lobbying scandal that hit Washington with details of millions of dollars from Abramoff's clients going to win friends and buy influence on Capitol Hill." But the Senate bill, "which combines measures produced by two Senate committees last week, has already come under fire from advocacy groups and some lawmakers who say the proposed changes, the first to lobbying laws in 11 years, are mainly cosmetic." The section of the bill "prepared by the Rules Committee deals with a major source of criticism of Congress: the special projects or earmarks that lawmakers insert in larger bills, often with little or no debate."

The Hill (3/7, Allen) reports rank-and-file senators "are eyeing" the lobbying-disclosure measure "as a vehicle for a host of pet causes — issues ranging from budget-process reform to the controversial Dubai Ports World deal — as Republican and Democratic leaders try to shepherd the politically imperative bill through the chamber without turning it into a legislative Christmas tree." Conservatives, "eager to find the means to cut government spending, may try to insert the president's new line-item-veto proposal or legislation establishing biennial budgeting, according to a Senate Republican aide."

Frist Taps Lott To Shepherd Lobbyist Reform Bill. CQ (3/6, Retter) reports more than "half a dozen senators worked to have an imprint on the Senate's ethics overhaul package this year, but only one name could be at the top of the bill that backers hope will restore faith in the legislative branch." Senate Majority Leader Bill Frist "gave his predecessor, Trent Lott, that privilege Monday when he named the Mississippi Republican — who has a predilection for upstaging Frist — to shepherd the overhaul legislation through Congress." Eric Ueland, Frist's chief of staff, "said his boss selected Lott and Susan Collins, R-Maine, to take leading roles because they are the members most likely to get the bill to the finish line." CQ adds Lott also "may have

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helped himself secure the assignment — which carries the potential public relations boost that comes with the mantle 'reformer' — by vowing to win passage within three days."

House GOP To Include Restrictions On 527 Groups In Lobby Reform Bill. The Hill (3/7, Bolton) reports House Republican leaders "have told their Senate counterparts that legislation curtailing the activity of so-called 527 soft-money groups will be included in the House lobbying-reform bill that leaders intend for conference negotiations." The 527 group provisions "are expected to hew closely to a proposal crafted by Federal Election Commission (FEC) Chairman Michael Toner and former Commissioner Scott Thomas." Restrictions on 527 groups is "a high priority for Ken Mehlman, chairman of the Republican National Committee. Including 527 language in the lobbying bill, however, would put Democrats in a politically difficult position."

Lawmakers' Use Of Corporate Aircraft Scrutinized. USA Today (3/7, Drinkard, 2.31M) reports that for "members of Congress — its top leaders, in particular" – the use of corporate aircraft for travel is "an accepted convenience of immense value in their whirlwind schedules, worth far more than the reimbursements the rules require. They can skip security lines, ignore airline schedules and stretch out in roomy leather seats. For corporations that provide the service, it's a chance to do favors for the powerful and gain influence unavailable to those without air fleets." Public records and "internal company documents obtained by USA TODAY show that over the past four years, BellSouth has flown federal government officials on such political trips about 100 times. The internal records offer rare detail about who goes on the trips and why — information that lawmakers and companies aren't now required to reveal." Top travelers "with the regional telephone company include House Speaker Dennis Hastert of Illinois, House Majority Whip Roy Blunt of Missouri, Sen. Trent Lott, R-Miss., and Democratic Sens. Tom Daschle of South Dakota and John Breaux of Louisiana, both now retired." Ethics reform advocates, including Sen. John McCain and Sen. Russ Feingold, D-Wis., "have called for requiring lawmakers to reimburse companies for the full cost of a charter flight when they hop aboard their jets."

Bill Would Require Disclosure Of Grassroots Groups' Negative Phone Banks. The Hill (3/7, Schor) reports that as the Senate "begins debating proposed disclosure requirements for grassroots lobbying activity, a Democratic-leaning grassroots lobbying firm is helping to hit as many as 20 House Republicans with prerecorded, in-district phone calls attacking their records on port security." The calls "are funded by American Family Voices (AFV), a nonprofit group led by Clinton administration veteran Mike Lux and allied with Lux's firm Progressive Strategies." While Lux "declined to reveal the identities of the House Republicans targeted for calls, Reps. Rob Simmons (R-Conn.), Tom DeLay (R-Texas) and Bob Ney (R-Ohio) have reacted angrily to the calls taking place in their districts, charging AFV with capitalizing on the Dubai ports-management controversy for political gain." AFV and "other nonprofits engaging in grassroots lobbying soon could be forced to reveal political strategies and financial backers under an amendment attached to one of the Senate's two pending lobbying-reform bills."

Judge Refuses To Delay Abramoff Sentencing In Fraud Case. The Washington Post/AP (3/7, A5) reports a Federal judge "refused Monday to allow a lengthy delay in the sentencing of lobbyist Jack Abramoff, even though lawyers for both sides said the move could jeopardize a federal corruption investigation involving Congress and the Bush administration." Abramoff attorney Abbe Lowell "warned that the defense would disclose information about the ongoing corruption investigation to demonstrate the level of Abramoff's cooperation, something that could affect his sentence in the fraud case." Lowell said, "We will name names. That is not a good thing for law enforcement."

Thomas Won't Seek Reelection. CNN's The Situation Room (5/6, King) reported, "The influential chairman of the House Ways and Means Committee made it official, today: He's going to retire. California Congressman Bill Thomas says he won't seek a 15th term next November. Even if he ran, he'd be forced to give up the helm of the Ways and Means Committee because of Republican-imposed term limits on committee chairmen."

The Hill (3/7, O'Connor, Cusack) says "there has been speculation that Thomas could join the Bush administration next year, possibly as treasury secretary." Thomas "did not rule out the possibility of joining the administration down the road, before adding that he is 'taking it one step at a time.'" Meanwhile, the AP (3/7, Dalrymple) calls Thomas "the congressional engineer" who turned many of President Bush's "campaign promises for tax cuts, free trade and prescription drugs into reality." Yesterday, Bush called Thomas "a friend and a man of great accomplishment who has been a very effective leader."

USA Today (3/7, Kiely, Wolf, 2.31M) notes Democrats "need to pick up an additional 15 to win a majority. So far, only a few of the seats being vacated seem likely to be competitive. … Even so, some analysts believe that Thomas' decision to step down represents a troubling trend of experienced Republicans leaving." Thomas is "one of 17 Republican and eight Democratic House members who have decided not to run for re-election this fall. Five of the Republicans are losing their powerful committee posts because of term limits imposed by the caucus. They are Thomas; Jim Nussle, R-Iowa, chairman of the Budget Committee; Henry Hyde, R-Ill., chairman of the International Relations Committee; Michael Oxley, R-Ohio, chairman of the Financial Services Committee; and Jim Kolbe, R-Ariz.,

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chairman of the Appropriations subcommittee that funds the nation's overseas operations." CQ (3/7, Ota) reports there are "eight senior House Republicans whose chairmanships end with the 2005 session under their caucus rules. So far, that prospect has helped create a glaring weakness for the GOP majority in a tough midterm election year."

The New York Times (3/7, Toner, 1.19M) reports Democrats "quickly cited Mr. Thomas's retirement as an example of Republican incumbents' 'sensing the winds of change blowing at gale force,' as Representative Rahm Emanuel of Illinois, the chairman of the Democratic Congressional Campaign Committee, put it." But "whatever the national outlook, political strategists expect Mr. Thomas's district to remain Republican."

The Washington Post (3/7, A4, Weisman, 744K) reports Thomas "will leave an impressive record of legislative accomplishment," but adds his "reputation as a shrewd legislative tactician has a dark side: He has shown himself willing to bully friends and adversaries alike if his arguments do not prove persuasive." Reuters (3/7), Roll Call (3/7, Drucker, Pershing), Washington Times (3/7, Hurt, 90K) and Wall Street Journal (3/7, 2.11M), among other sources, run similar stories on Thomas' decision.

Smart Card Project May Be Falling Behind Schedule. The Washington Post (3/7, D4, Barr, 744K) reports in its "Federal Diary" column, "The government's smart-card project appears at risk of falling behind schedule. Federal agencies are supposed to begin issuing government-wide identification cards that can vouch for the identity of federal employees and most contractors in October, but the Government Accountability Office warns that setting up and testing new ID systems may not be completed within deadlines set by the Bush administration. … The administration's timetable requires agencies to start issuing cards Oct. 27 and to verify or complete background investigations on employees and contractors in 2007 and 2008. But the project has hit some snags. The original guidelines called for the cards to carry electronic representations of two fingerprints, but the GAO said agency officials have objected because reading two fingerprint images will require a large amount of computer memory."

Goodman Says Barrett Report Contains Evidence Of Clinton-Era Misdeeds. Author Mark Goodman writes in the Washington Times (3/7, 90K) that the investigation by David Barrett, the independent counsel appointed in 1995 to investigate allegations against President Clinton's Department of Housing and Urban Development Secretary Henry Cisneros "led him into bleak wilds where unnumbered Clinton misdeeds allegedly lay beneath bureaucratic camouflage. These findings comprised a full 120 pages of his 684-page report -- but you won't find them in the final document published on January 19. That's because congressional Democrats, led by Sens. Byron Dorgan, Dick Durbin and John Kerry, used an appropriations bill to leverage a deal redacting the potentially lethal 120 pages. … What evil lurks in those 120 pages that made the Democratic congressmen press so hard for redaction? My money says, a den filled with opulent thieves, in white tie and tails."

Ornstein Criticizes "Part Time" Congress. Norman Ornstein, resident scholar at the American Enterprise Institute writes in the Washington Post (3/7, A17, 744K) that the 2006 House schedule, with its "total of 97 calendar days, counted generously, is the smallest number in 60 years and the days of what Harry Truman derided as that 'do-nothing 80th Congress.' … A part-time Congress in a country with a $13 trillion economy and federal budget near $3 trillion, in a globalized, technologically sophisticated world, is itself a danger to the checks and balances built into American democracy, and to high-quality, careful policymaking and oversight. It's not too much to ask Congress to commit to spending at least half the year -- 26 weeks -- working full-time, five days a week, thus providing at least a measure of the deliberation and attention to detail that are so lacking now."

NYTimes Criticizes Wade Contributions To Lawmakers. A New York Times (3/7, 1.19M) editorial says Mitchell Wade, the contractor who bribed former Rep. Duke Cunningham, "admitted he had made illegal campaign donations to two lawmakers while pressing them to earmark more defense appropriations." Rep. Virgil Goode Jr. "received $46,000 in illegal donations while successfully earmarking $9 million in taxpayer money as Mr. Wade talked of more jobs for the lawmaker's district. The other, Katherine Harris, the Florida Republican, received $32,000 of Wade money, illegally disguised as smaller contributions from Wade employees. … So goes licit political business these days in Washington. The prosecutor, Kenneth Wainstein, noted that Mr. Wade's company had been perceived as a classic 'American success story'…but was actually a model for spreading political corruption from Capitol Hill to the Pentagon."

WPost Says Congress Should Address Lawmakers' Involvement With Charities. An editorial in the Washington Post (3/7, A16, 744K) says, "Pennsylvania Sen. Rick Santorum created his charity, 'Operation Good Neighbor,' when the Republican National Convention was going to Philadelphia in 2000." In the years since its creation the charity "appears to have done a lot to help his political allies -- and less than it might have in its stated mission of combating poverty, teen pregnancy and

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other social ills. … The Santorum story highlights a largely unexplored area of congressional ethics: lawmakers' involvement with charitable organizations." The Post adds, "There is an inevitable element of extortion whenever politicians get involved in soliciting charitable donations. And when lawmakers have a personal interest in the charity, the opportunities for abuse are greatly magnified."

Judge Criticized For Backing Unions In Pentagon Personnel Lawsuit. The Wall Street Journal (3/7, 2.11M) says in an editorial that to "protect the Republic today, the executive branch must first comply with something James Madison never imagined -- union work rules." Federal Judge Emmet Sullivan last week "sided with union plaintiffs and tossed out the Pentagon's new personnel system, which the Defense Secretary and White House say they need to safeguard the nation. His decision comes after federal Judge Rosemary Collyer threw out a similar personnel system at the Department of Homeland Security in August. (That case is under appeal.)" The "danger here is that the collective bargaining rights of 650,000 civilian workers will trump the collective right we all have to a military organized to confront 21st-century threats."

OTHER NEWS:

January Factory Orders Post Largest Drop In Over Five Years. The Commerce Department yesterday reported that new orders for manufactured goods in January fell 4.5% from the previous month, its steepest decline in more than five years. The Wall Street Journal (3/7, Gerena-Morales, 2.11M) reports that the drop "reflected a 31% decline in orders for transportation products and equipment, such as autos and airplanes. … Overall orders for durable goods, including electronic equipment, were off 9.9%, also the sharpest decline since July 2000."

Stocks Decline In Monday Trading. Stocks closed down Monday after an increase in Treasury yields "raised concerns about the health of corporate profits, housing and the stability of stock prices," the Wall Street Journal (3/7, Patterson, 2.11M) reports. The Dow Jones Industrial Average finished down by 63 points to 10958.59. The Standard & Poor's 500-stock index declined 8.97 to 1278.26 and the Nasdaq Composite Index slipped 16.57 to 2286.03.

DeLay To Spend Primary Night At Fundraiser Hosted By Lobbyists. USA Today/AP (3/7) reports, "Rep. Tom DeLay, whose association with lobbyist Jack Abramoff has left him politically vulnerable, is spending Texas' primary night tonight at a Washington fundraiser hosted by two lobbyists." DeLay "has three opponents in the Republican primary and could face a serious challenge in the general election after leaving his job as House majority leader amid campaign finance scandals." The fundraiser "is being held by lobbyists Bill Paxon and Susan Molinari, both former members of Congress from New York. The event will raise money for DeLay's re-election campaign." DeLay spokeswoman Shannon Flaherty "said DeLay would be in Washington for votes and has other events on his schedule including the fundraiser. She said he was unavailable for an interview."

DeLay Expected To Win Primary. Roll Call (3/7, Drucker) reports DeLay "is expected to beat the three challengers opposing him in the Republican primary, but the extent to which he can avoid a runoff by securing more than 50 percent of the vote in the suburban Houston 22nd district -- and by how much, if he does -- could be telling for Democrats," who "hope to ride their 'Culture of Corruption' slogan to a House takeover in November." The Washington Times (3/7, Aynesworth, 90K) also says DeLay "is expected to defeat his three Republican opponents in the primary, setting up what political observers predict will be a tough general election race in November."

DeLay Makes Major Fundraising Push. The Hill (3/7, O'Connor) reports DeLay "is urging members of the National Rifle Association (NRA) and supporters of Texas Right to Life to dig deep into their pockets to help him retain his seat this year. The outreach is part of a broad direct-mail and telemarketing campaign to attract new donors and volunteers for the former majority leader's reelection." It also "marks a fundraising shift for DeLay this election cycle from a PAC-heavy strategy in which the once-powerful Republican doled out lobbyist dollars to his congressional colleagues to one in which DeLay and his team are primarily focused on his own reelection bid." The outreach "has three aims, said Shannon Flaherty, a spokeswoman for the campaign: get information directly to voters in the district, ask those voters to volunteer or donate money to the campaign and continue building a database of local and national supporters to contact between now and the November election."

Anti-DeLay Film Will Be Distributed This Spring. The New York Times (3/7, Halbfinger, 1.19M) reports, "A documentary about the Texas criminal investigation that led to the indictment of…DeLay…on campaign fund-raising charges is being put to use by Mr. DeLay's political opponents in an attempt to unseat him." The film, "The Big Buy: How Tom DeLay Stole Congress," will be "distributed this spring by the Hollywood producer and liberal provocateur Robert Greenwald, whose last release was a scathing attack on Wal-Mart sponsored by a variety of labor unions and other groups critical of the retailing giant." The Times adds, "A host of liberal organizations in Texas and nationwide, including People for the American Way, Democracy for America and

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the Pacifica radio station in Houston, are expected to sponsor the film's release."

Two Democrats Set To Square Off In Tuesday's Texas Gubernatorial Primary. The AP (3/7, Shannon) reports, "Two Democrats with long resumes but little name recognition are competing in Texas' gubernatorial primary election Tuesday for the chance to challenge popular GOP Gov. Rick Perry." Ex-Congressman Chris Bell (D) will face former Texas Supreme Court Justice Bob Gammage. Bell "gained notice as a freshman congressman for filing the first House ethics complaint against former House Majority Leader Tom DeLay. He made the complaint shortly after the Texas redistricting engineered by DeLay caused Bell to lose his re-election bid." Gammage "once represented the same suburban Houston district in Congress now served by DeLay.

NRSC Chair Says GOP Faces Challenging Climate. The Hill (3/7, Savodnik) reports, "Senate Republicans face a stormy 'atmosphere' but will 'retain a strong Republican majority' in November, says Sen. Elizabeth Dole (N.C.), the chairwoman of the National Republican Senatorial Committee (NRSC)." In an hour-long interview with The Hill, Dole "repeatedly noted that despite the political climate -- made worse by White House communications flops and GOP scandals -- Republican challengers are mounting viable bids in Michigan, West Virginia and elsewhere." But "she acknowledged that President Bush could have done a better job handling the Dubai ports deal, which has given Democrats an opportunity to look tougher on terrorism than Republicans, and that the president's poll numbers are less than optimal."

Democratic Effort To Deliver Unified Message Seen As Faltering. The Washington Post (3/7, A1, Murray, Babington, 744K) reports Democratic leaders had "set a goal of issuing their legislative manifesto by November 2005 to give voters a full year to digest their proposals. But some Democrats protested that the release date was too early, so they put it off until January. The new date slipped twice again, and now House Minority Leader Nancy Pelosi (Calif.) says the document will be unveiled in 'a matter of weeks.'" The "failure of congressional leaders to deliver a clear message has left some Democratic governors deeply frustrated and at odds with Washington Democrats over strategy." There is "no agreement on whether to try to nationalize the congressional campaign with a blueprint or 'contract' with voters, as the Republicans did successfully in 1994, or to keep the races more local in tone. And the party is still divided over the war in Iraq."

Poll Finds Public Losing Faith In Democrats. ABC World News Tonight (3/6, story 3, 1:45, Stephanopoulos) reported the public is "going in the wrong direction, for Democrats. Back in January, you asked, 'Who do you trust to handle the nation's problems?' Americans said Democrats, 51% to 37. Today, that's down to 42% to 40%. And you know, that goes back to Iraq, too. They don't think Democrats have an answer to Iraq. They're sour on both parties."

Democrats' First Failure Seen In Not Justifying Opposition To Bush. In his Washington Post column (3/7, A17), E.J. Dionne says the Democrats' "real problem" in taking control of Congress "is that they have failed to show how their critique of the Republican status quo is the essential first step toward the alternative program they will owe the voters in the presidential year of 2008." This "failure has made it easier for Republicans to cast anti-Bush feeling (aka, 'Bush hatred') as a psychological disorder. The GOP shrewdly makes the president's critics look crazed and suggests that opposition to Bush is of no more significance than, say, the loathing that many watchers of 'American Idol' love to express toward Simon Cowell, the meanest of the show's judges." Bush's "critics need to identify precisely why they oppose him, not only so they can make clear that they are not psycho basket cases but also to convey the idea that they know what needs to be put right."

Clinton Suggests Recent GOP Criticism May Be Gender-Based. The AP (2/7, Fouhy) reports, "Responding to Republican claims that she may be too angry to win national office, Sen. Hillary Rodham Clinton told an audience Monday to wear such criticism as 'a badge of honor' and suggested that gender played a role in the attacks. Democrats, particularly Democratic woman, who run for public office are 'going to draw some unfriendly fire,' Clinton said at a breakfast fundraiser hosted by black and Hispanic women supporters. 'People will be attacking you instead of your ideas, they may impugn your patriotism, they may even say you're angry.' 'If they do that, wear it as a badge of honor, because you know what? There are lots of things that we should be angry and outraged about these days,' she said." The AP notes, "Until now, Clinton had not said she considered the criticisms gender-based, although many observers have done so."

Former Pentagon Spokeswoman Announces Challenge To Clinton. CNN's The Situation Room (5/6, King) reported, "In New York State, a Republican announced today she's running for Democrat Hillary Clinton's senate seat. Kathleen McFarland is a former Pentagon spokeswoman under President Reagan. She's seeking the GOP nomination for the Senate after two other contenders opted out. Polls show Senator Clinton so far is well ahead of her potential Republican challengers."

The AP (3/7, Humbert) notes that McFarland's move "could put her into a September primary against former

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Yonkers Mayor John Spencer, already endorsed by top state Conservative Party leaders. No Republican has won statewide office in New York without Conservative Party support since 1974. … 'I don't know what this woman is thinking, I really don't,' Spencer said Monday, arguing that McFarland's candidacy would be 'divisive [and] I guess helpful to Clinton.' 'I'm the only one who can unite the Republican and Conservative parties, which I am doing,' he added." McFarland "refused to address Spencer's criticisms, but said she would 'go after every party.'"

Roll Call (3/7, Kurtz) adds that McFarland "had been gearing up to challenge Rep. Carolyn Maloney (D) but changed her focus after no 'big name' Republican decided to challenge" Clinton. Spencer campaign manager Christian Winthrop "called McFarland's entry into the race 'too liberal, too late.' But it wasn't too late for McFarland to receive some national publicity: She was a guest on Chris Matthews' 'Hardball' on Monday night."

Pataki Leaves Hospital 18 Days After Suffering Burst Appendix. The AP (3/7, Goldman) reports that New York Gov. George Pataki (R) "was released from a hospital Monday after 18 days of treatment for appendicitis and complications that followed surgery. … 'I'm not 100 percent but I'm a lot better than I was a few days ago,' he said." Pataki "was hospitalized in Westchester County on Feb. 16 and had his appendix removed. He was transferred to" a "Manhattan hospital on Feb. 21 and was operated on later that day to deal with a blockage of his intestine." The New York Times (3/7, Pérez-Peña, 1.19M) notes that Pataki "will have to rest at his home…for at least a week, with care from a visiting nurse, his doctors said."

Poll Shows Giuliani "Most Popular Person In National Politics." The AP (3/7) reports that ex-New York City Mayor Rudolph Giuliani (R) "is the most popular person in national politics, according to a national poll released Monday by Quinnipiac University." Giuliani "edged out U.S. Sen. Barack Obama, D-Ill., U.S. Sen. John McCain, R-Ariz., and Secretary of State Condoleezza Rice. The Quinnipiac poll asked voters to rate politicians on a scale of 0 to 100, with higher numbers representing more favorable opinions. Giuliani's mean score was 63.5, according to the poll. Obama averaged 59.9, McCain 59.7 and Rice 57.1." President Bush's "average rating was 44.1 and Vice President Dick Cheney's was 41." Four potential '08 Democratic presidential hopefuls "were also mentioned in the poll's top 10: Former North Carolina Sen. John Edwards received a 50.8 average, former Virginia Gov. Mark Warner scored 50.7, New York Sen. Hillary Clinton averaged 50.4 and Sen. Russ Feingold of Wisconsin scored 49. The telephone poll of 1,892 registered voters nationwide was conducted February 21-28 and has a margin of sampling error of plus or minus 2.3 percentage points."

The New York Post (3/7, Orin, 624K) notes that Quinnipiac's assistant polling director Peter Brown said, "Giuliani's ratings are uniform in all states. [He] is seen as the mayor of New York [during 9/11], and being a strong leader is the single strongest characteristic desired by voters in a presidential election."

Comcast Hiring Prominent Maryland Public Officials. A front page story in the Washington Post (3/7, A1, Mosk, Rich, 744K) reports that Comcast Cable Communications, Maryland's dominant cable provider, "has repeatedly given work to prominent public officials, their relatives or their friends. Those hired by Comcast and its affiliates have included two members of the University System of Maryland Board of Regents, two sons of a key General Assembly committee chairman and former county executives from Prince George's and Harford counties. … None of these politically connected workers has been accused of wrongdoing, and those who could be reached said they were hired on merit."

Sheehan Arrested In Protest Outside UN Headquarters. Antiwar activist Cindy Sheehan was arrested with three other protesters after a rally with Iraqi women outside UN headquarters in New York. Reuters (3/7) reports, "About 20 protesters went to the U.S. mission to the United Nations to deliver a petition with 60,000 signatures seeking an end to the war. Nobody from the mission received them so Sheehan and three other American women sat down in front of the building, refused to leave, and were arrested."

Unlike US, IAEA Chief Optimistic On Iran Deal. The New York Times (3/7, Hauser, 1.19M) reports, "The director of the International Atomic Energy Agency...said today that he hoped an agreement could be reached with Iran on its nuclear program." IAEA chief Mohamed ElBaradei is quoted as saying, "I am still very much hopeful that in the next week or so, an agreement could be reached." In its coverage, the AP (3/7, Jahn) reports, "ElBaradei's optimism was believed to be linked to a confidential Russian proposal to allow Iran to enrich some uranium domestically, diplomats said. But the plan was expected to meet strong resistance from the US, which opposes any enrichment on Iranian soil." In a separate story, the AP (3/7, Schweid) reports, "Unless Iran executes a dramatic about-face and suspends all its nuclear activities, the UN Security Council will intervene 'quite actively,'" Undersecretary of State Nicholas Burns said. "The message to Iran is that it has 'crossed the international red line' and engaged in unacceptable enrichment activity 'and there must be a UN Security Council process to deal with that.'" Reuters (3/7, Heinrich, Hafezi) runs a similar report.

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The Wall Street Journal (3/7, Crawford, Cullison, 2.11M) reports ElBaradei's statement "is at odds with US determination to refer Iran swiftly to the Security Council, with U.S. and EU officials citing inspectors' evidence that Iran's program includes elements that would only be aimed toward producing weapons, not energy." The Journal also reports, "Yesterday, diplomats were debating the possibility of letting Iran continue to experiment with enrichment in 20 centrifuges. Diplomats close to the IAEA say that Iran would likely do those experiments anyway if there is no compromise but noted an agreement would allow the return of IAEA inspectors."

Russia-West Rift Emerges. The New York Times (3/7, Sciolino, 1.19M) reports, "A serious rift emerged Monday when Russia split with the United States and Europe over Iran's nuclear program after the Russians floated a last-minute proposal to allow Iran to make small quantities of nuclear fuel, according to European officials. The reports of the proposal prompted" Secretary Rice to telephone ElBaradei to, "according to an administration official who was briefed on the conversation," say "'the United States cannot support this.'" According to the Times, "American officials said they had been assured by the Russians that there was no formal proposal on the table." In its coverage, the Financial Times (3/7, Dombey) said Russia "is seeking to convince the US and the European Union to allow Iran to continue limited uranium enrichment, the process that can create weapons grade material. But the idea has already been rejected by the US and the EU's big powers, and western diplomats said it could disrupt the uneasy common front on Iran between the five permanent members of the" UNSC.

Iran Stepping Up Development Of Shahab Missiles. Reuters (3/7, Charbonneau) reports, "As Iran pursues a nuclear program the West fears is aimed at producing bombs, Tehran also appears to be stepping up development of missiles capable of carrying atomic warheads, diplomats citing intelligence say. According to an intelligence report given to Reuters by a non-U.S. diplomat, a covert Iranian program run by people closely linked to Iran's military includes plans to arm its Shahab-3 missiles, which experts believe have a maximum range of around 2,000 km (1,240 miles), with nuclear warheads." The report, "which could not be independently confirmed, surfaced as the United States and its allies seek to highlight the potential security dangers of a nuclear-armed Iran."

Lead US Negotiator Defends US-India Nuclear Deal. The Washington Times (3/7, Sands, 90K) reports, "The proposed US-India nuclear deal will not open the door for Iran and other rogue states to acquire atomic weapons and technology, the Bush administration's lead negotiator insisted yesterday." Undersecretary of State R. Nicholas Burns said at the Heritage Foundation, "We don't see the connection between what Iran is doing and what India seeks to do." The Administration "has begun selling the India deal in earnest on Capitol Hill, where several top lawmakers are either cool to the accord or openly skeptical." Burns "rejected critics' assertions that bending the rules for India -- which has not signed the nuclear Non-Proliferation Treaty (NPT) -- will make it more difficult to rally opposition against Tehran."

Cohen Defends Deal. Under the headline "Judicious Double Standards," columnist Richard Cohen writes in the Washington Post (3/7, A17, 744K) that some are complaining Bush "has done something truly awful -- established a double standard. Well, duh -- yes. India is our friend and Iran, just to pick an example, is not. The cry of 'double standard' is a bit silly. … Reality imposes its own rules -- and they have nothing to do with double standards."

NYTimes Says Bush "Should Have Just Stayed Home." In a stinging editorial, the New York Times (3/7, 1.19M) bemoans President Bush's recently completed trip to Pakistan and India, claiming the visits "have done some real harm. The spectacularly misconceived trip may have inflicted serious damage to American goals in two vital areas," promoting nuclear nonproliferation and Pakistani anti-extremist efforts. "The nuclear deal that Mr. Bush concluded with India threatens to blast a bomb-size loophole through the Nuclear Nonproliferation Treaty," but "the most immediate damage was done on Mr. Bush's next stop, Pakistan. ... Sticking Mr. Musharraf with the unwelcome task of explaining to Pakistanis why" the US agreed to nuclear cooperation with "Pakistan's archrival, India, while withholding them from Pakistan left him less likely to do Washington any special, and politically unpopular, favors on the terrorism front. It's just baffling why Mr. Bush traveled halfway around the world to stand right next to one of his most important allies against terrorists — and embarrass him." The Times concludes, "Mr. Bush should have just stayed home."

Turkey To Press Ahead With Nuclear Plant Construction. The Washington Post (3/7, A14, Vick, 744K) reports, "Turkey is reviving its long-deferred quest for nuclear power, pressed both by serious energy shortfalls within its own borders and by strident nuclear ambitions in neighboring Iran that threaten to upset a regional balance of power." The Post adds that Energy Minister Hilmi Guler, in announcing the initiative to build as many as five nuclear plants, cited rising oil prices and his country's "need for multiple sources of energy make our need for nuclear energy an utmost priority," and notes that "Guler, who made his remarks while visiting a nuclear plant in Virginia, said the new Turkish reactors could provide about a tenth of the 54,000 megawatts the country expects to need over the next two

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decades." The Post adds that Iran's nuclear ambitions also factor into Turkey's decision to revive its nuclear "program, which has had numerous false starts since the early 1960s."

Hamas Revokes Some Powers From Abbas. Reuters (3/7) reports, "Hamas legislators voted on Monday to revoke all decisions made by the previous Palestinian parliament at its final session last month, including laws that gave President Mahmoud Abbas wider powers to appoint some judges." Senior Abbas aide Tayeb Abdel-Rahim "accused Hamas of attempting to oust the Palestinian president. 'We see this as a coup attempt to change the regime and they (Hamas) have to seriously reconsider their decisions.'" In its coverage, the New York Times (3/7, Myre, 1.19M) notes, "Shortly after the session began, it degenerated into shouting matches between the rival Hamas and Fatah factions, with Fatah legislators ultimately storming out." The Washington Post (3/7, A14, Wilson, 744K) quotes Fatah legislator and negotiator Saeb Erekat as saying the Hamas move was "absolutely unconstitutional," and that Fatah would appeal to the Palestinian High Court on Tuesday to overturn the vote. The Washington Times/AP (3/7, Barzak) and Los Angeles Times (3/7, King, 958K) run similar stories.

Mofaz Says Haniyeh Is Possible Target. The AP (3/7) reports Israeli Defense Minister Shaul Mofaz told Army Radio Tuesday that incoming Palestinian PM Ismail Haniyeh "will not be immune from pinpointed Israeli killings if the Islamic militant group were to resume its attacks on Israel."

North Korean To Hear US Counterfeiting Complaints Today. Ahead of today's briefing of senior North Korean diplomat Ri Gun by US Treasury Department officials in New York, Reuters (3/6, Eckert) reported Department spokesman Tom Casey "took pains to separate the technical explanation of the financial penalties from efforts to get North Korea to rejoin nuclear talks with the United States, China, Japan, Russia and South Korea." Reuters reported Casey said that "North Korea should return to six-country nuclear talks regardless of the outcome of discussions on the U.S. financial crackdown on Pyongyang over money laundering." Ri's trip to New York "has raised hopes that the North may be poised to return to" the talks.

Free Trade Talks To Begin In June. A separate Reuters (3/6, Kim) piece reported Washington and Seoul agreed yesterday "to start a formal round of free trade talks in June, dealing a blow to farmers and unionists demonstrating against the plans." Automobiles, rice and services are expected to be key areas of initial disagreement.

South American Border Region Seen As Haven For Smugglers. The CBS Evening News (3/6, story 9, 4:30, Regan) reported, "Deep in South America, just miles from the beauty of Brazil's Iguaçu Falls is one of the most lawless places in the world. The Tri-border area where three countries, Paraguay, Argentina and Brazil, meet it is a smuggler's paradise, home to the largest illicit economy in the Western Hemisphere. Trafficking in everything from drugs to arms to counterfeit goods is a 24/7 unchecked operation." Illegal trade "here is costing American companies hundreds of millions of dollars each year. Almost all the activity takes place on the Paraguayan side of the border in the Wild West jungle town of Ciudad Dalleste. What is unusual is that most of the trade is run by members of a large and influential Middle Eastern population, many of whom immigrated to the area from Lebanon and Syria in the 1970s. Some are making huge sums off illicit trade and western authorities believe they're sending money to terror groups in the Middle East." Sources "in the State Department tell CBS News that at one point there were seven terrorist training camps in the Tri-border region. And they have no doubt the area is still a safe haven for terrorists."

OPEC Unlikely To Cut Output. The New York Times (3/7, Mouawad, 1.19M) reports, "Strange as it may seem, some OPEC oil ministers are feeling sorry for themselves. For the last three months, a few of OPEC's top representatives have argued that their oil-producing cartel, which pumps nearly 4 of every 10 barrels of oil produced around the world, needs to trim output to avert a potential oil glut and a -- highly hypothetical -- price collapse." The Times adds, "The current argument for cutting output first came up when the Organization of the Petroleum Exporting Countries met in December in Kuwait. It resurfaced at a meeting in Vienna the following month and it is likely to top the agenda this week when the group meets here again to consider its production levels." It "almost certainly will not happen. For one thing, Saudi Arabia…is opposed."

The Wall Street Journal (3/7, 2.11M) reports, "Saudi Arabia's oil minister was reported as saying the Organization of Petroleum Exporting Countries shouldn't trim oil output at this week's meeting." In an interview "with pan-Arab daily newspaper Al Hayat, published Monday," Ali Naimi also said "fears stemming from threats to oil supplies were the main factor behind prices of more than $60 a barrel."

China Seen As Exercising Restraint In Dealings With Taiwan. USA Today (3/7, Wiseman, 2.31M) reports, "Not so long ago, China would have been lobbing missiles across the Taiwan Strait, mobilizing troops and issuing bloodcurdling threats in response to any Taiwanese move toward independence. Times have changed: The mainland calculates that restraint, not retaliation, is the best response to Taiwanese President Chen Shui-bian's provocative decision to scrap a neglected but symbolically important council dedicated to the reunification of China and Taiwan." USA Today adds, "Despite its conciliatory approach to the

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Taiwanese public, China passed an anti-secession law last year. That created a legal basis for attacking if the island declares independence. The mainland still has more than 700 missiles pointed at Taiwan."

WTO Rules Against Mexico In Soft-Drink Dispute. The Wall Street Journal/AP (3/7) reports, "The World Trade Organization ruled that Mexico violated global trade rules in a soft-drink dispute with the US." A WTO panel "rejected a Mexican appeal, supporting US claims that Mexico was in breach of international law in imposing a 20% tax on drinks that are sweetened with anything other than cane sugar grown in Mexico."

Russia Reasserts Influence Over Former Soviet States. The Christian Science Monitor (3/7, Weir, 61K) reports elections in Belarus and Ukraine approach "amid dramatic accusations of planned coups, state coercion, and vote-fixing," but "Moscow isn't worried. Instead, there is a sense of calm and fresh confidence here that contrasts sharply with the Kremlin's panicky reactions to the surge of 'colored revolts' that swept through the region in recent years. … But the inability of new leaders to fulfill revolutionary pledges, together with the failure of popular pressure to effect change in other Soviet satellite states, has opened the way for Moscow to reassert its influence in the region."

Russia Approves Pipeline Plan Over Environmentalists' Objections. The New York Times (3/7, Chivers, 1.19M) reports the Russian government has approved a proposal by Transneft, the state-owned pipeline monopoly to build an oil pipeline "that would pass along the shoreline of Lake Baikal, the world's most voluminous fresh-water lake," despite "objections from scientists and environmental groups." The Washington Post (3/7, A14, Finn, 744K) reports, "The decision followed a review process that environmentalists and some Russian experts involved in assessing the route say was marked by manipulation of an expert panel and political pressure on dissenting scientists. … Greenpeace and other opponents of the project said they recognized the need for a pipeline and objected only to the route."

Serb War Criminal Assisting Prosecutors Commits Suicide. The New York Times (3/7, Simons, 1.19M) reports Milan Babic, "a wartime Serbian leader who was closely cooperating with prosecutors, committed suicide in a prison cell of the war crimes tribunal in The Hague, the court said Monday." Babic "was found dead in his cell on Sunday evening, the court said in a statement. A senior court official said he had hanged himself, but the court spokeswoman would not confirm that."

Kristoff Pleads With Bush To Stop Darfur Genocide. In his column for the New York Times (3/7, 1.19M) Nicholas Kristoff writes, "For more than two years, the world has pretty much ignored the genocide unfolding in the Darfur region of Sudan, just as it turned away from the slaughter of Armenians, Jews, Cambodians and Rwandans in earlier decades. And now, apparently encouraged by the world's acquiescence, Sudan is sending its proxy forces to invade neighboring Chad and kill and rape members of the same African tribes that have already been ethnically cleansed in Darfur itself. … In the last few weeks, President Bush has shown an increased willingness to address the slaughter in Darfur. He should now encourage the French to use their forces to defend Chad from proxy invasions, make a presidential speech to spotlight the issue, attend a donor conference for Darfur, encourage the use of a NATO bridging force until U.N. peacekeepers can arrive, enforce a no-fly zone and open a new initiative for peace talks among the sheiks of Darfur."

Wickham Criticizes Administration Policy On Issuing Visas To Cubans. USA Today (3/7, 2.31M) columnist DeWayne Wickham criticizes the fact that though he Bush Administration "refuses" to grant visas to Cuban academics seeking to attend a conference in Puerto Rico, the Cuban national baseball team was granted visas to play in the World Baseball Classic being held in San Juan, Puerto Rico.

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Envoy To Iraq Sees Threat of Wider War."
"Abortion Ban Puts Strategies In Doubt."
"A Battle For The High Ground."
"Alaska By Way Of Katrina."
"Iranians Defend Nuclear Rights."
"Uncommon Weapon In Immigration Fight."
"'Crash' Takes The Award For Best Oscar Campaign."

USA Today:
"Abortion Battle Gains New Intensity With Ban In S.D."
"Sun Belt, Suburbs Get More Diverse."
"How Congress Benefits From Corporate Flights."
"Fewer Troops Desert Since 9/11."

New York Times:
"US Wins Ruling Over Recruiting At Universities."
"US Is Seeking Better Balance In Iraqi Police."
"Tending To Muslim Hearts And Islam's Future."

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"South Dakota Bans Abortion, Setting Up A Battle."
"Still Evolving, Human Genes Tell New Story."
"Revising Art History's Big Book: Who's In And Who Comes Out?"

Washington Post:
"Mideast Investment Up In US."
"A Victory For Military Recruiters."
"Top Iraqi Commander Killed In Baghdad."
"Democrats Struggle To Seize Opportunity."
"Prominent Ties Among Comcast Hires."
"An Era Fades Away By The Side Of The Road."

Washington Times:
"Military Ban On Campus Rejected."
"Hamas Strips Abbas' Powers."
"Bush Calls For Line-Item Veto."
"India Nuclear Deal Pushed."
"Lending Law A Wrench In Home Finances."
"GOP's Bill Thomas Announces Retirement."
"Anorexia Largely Determined By Heredity."

Detroit Free Press:
"Camaro On Verge Of Revival."
"An Eye-Opening New Procedure In Michigan."
"Teen Rallies For Troops."
"Many Businesses Agree: Mich. Tax Is Stumbling Block."

Atlanta Journal-Constitution:
"New AT&T Will Shed 10,000 Jobs."
"Hometown Bond Charlotte's Ace."
"City Feels Mugged By Talk It Was Too Dangerous To Pick."
"Campbell, Eager To Talk, Won't Testify."

Dallas Morning News:
"For Voters, It's Decision Time."
"School Fund Shift Looms."
"Forces Of Compassion."
"Asylum Case Puts Spotlight On Nuns' Allegations Of Sex Abuse."

Houston Chronicle:
"Alvarado Steps Down – For Now."
"Car Kills Couple As They Sleep."
"Justices Deal A Victory To Military Recruiters."
"Today, Witness Fastow Becomes The Main Event."

Story Lineup From Last Night's Network News:
ABC: Iran-Iraq IEDs; Iraq Violence; Iraq-US Opinion; Moussaoui Trial; Tillman Investigation; New Orleans-Levee System; Supreme Court-Military Recruiters; South Dakota-Abortion Ban; Migraine Headache Treatment; Crash-Oscars.
CBS: AT&T-BellSouth Merger; Tillman Investigation; Moussaoui Trial; Moussaoui Trial-9/11 Relatives; South Dakota-Abortion Ban; Supreme Court-Military Recruiters; Iraq Violence; Iraq-Welcomed US Troops; South America-Pirated Goods; NASCAR Pit Crews.
NBC: AT&T-BellSouth Merger; AT&T-BellSouth Merger-Consumers; Moussaoui Trial; Iraq Violence; New Orleans-Lower Ninth Ward; New Orleans-Levee System; FEMA-Unused Trailers; Alzheimer's Disease-Ethical Concerns; Supreme Court-Military Recruiters; South Dakota-Abortion Ban; Stock Markets; Oscar-Best Picture.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Moussaoui Sentencing; Port Deal; New Orleans-Hurricane Recovery; Puckett Obit.
CBS: Moussaoui Sentencing; TX-Primary Election; Al Jazeera-Hostage Video; Israel-Warning To Hamas; Puckett Obit.; DNA Study; Wall Street.
NPR: Iraq-Car Bombs; Annan-UN Reforms Report; US, North Korea Meeting; South Dakota-Abortion Law; TX-Primary Election; Puckett Obit.; Sheehan Arrest.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH — Speaks at Women's History Month celebration, East Room; meets with the Foreign Minister of Russia; votes at the Crawford Fire Station, Crawford, Texas.

VICE PRESIDENT CHENEY — Speaks to the American Israel Public Affairs Committee Policy Conference. Washington Convention Center.

US Senate: 9:30 a.m. APPROPRIATIONS _ Full Committee. Hearing on the FY07 supplemental budget for additional resources for the Gulf Coast region. Govs. Bob Riley of Alabama, Kathleen Blanco of Louisiana, Haley Barbour of Mississippi and Rick Perry of Texas. Location: Room 192, Dirksen.

9:30 a.m. ARMED SERVICES _ Full Committee. Hearing on the FY07 budget for military operational requirements. Adm. William J. Fallon, commander, U.S. Pacific Command: Gen. Burwell B. Bell III, commander, United Nations Command and Republic of Korea and U.S. Combined Forces Command and commander, U.S. Forces Korea; Gen. James L. Jones Jr., commander, U.S. European Command and supreme allied commander, Europe. Location: Room 106, Dirksen. Notes: Closed session in Room 222, Russell may follow.

9:30 a.m. ENERGY AND NATURAL RESOURCES _ Full Committee. Hearing on energy independence. Former CIA Director R. James Woolsey; Susan M. Cischke, Ford Motor Co.; Amory B. Lovins, Rocky Mountain Institute, Snowmass, Colo.; Frank A. Verrastro, CSIS. Location: Room 366, Dirksen.

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9:30 a.m. FOREIGN RELATIONS _ Full Committee. Hearing on the nomination of Randall Tobias to be USAID Administrator. Location: Room 419, Dirksen.

9:30 a.m. JUDICIARY _ Full Committee. Hearing on criminal penalties for corporate accountability when dealing with defective products. Barry Maron, Minneapolis Heart Institute Foundation; Brian Panish, Panish Shea and Boyle LLP, Los Angeles; John Engler, National Association of Manufacturers; Frank J. Vandall, Emory School of Law, Atlanta; Rob Steinbuch, School of Law, University of Arkansas; George J. Terwilliger, White and Case; Donald L. Mays, Consumers Union. Location: Room 226, Dirksen.

10 a.m. BANKING, HOUSING AND URBAN AFFAIRS _ Full Committee. Oversight hearing on the operations of credit rating agencies. Paul Schott Stevens, Investment Company Institute; Glenn Reynolds, CreditSights, Inc.; Vickie Tillman, Standard and Poor's; Frank Partnoy, University of San Diego School of Law; Damon Silvers, AFL-CIO; Jeffrey Diermeier, CFA Institute; Alex Pollock, American Enterprise Institute Location: Room 538, Dirksen.

10 a.m. COMMERCE, SCIENCE AND TRANSPORTATION _ Full Committee. Hearing on rural telecommunications. Agriculture Undersecretary Thomas Dorr; Alaska Regulatory Commission Commissioner Mark Johnson; Oregon PUC Commissioner Ray Baum; Bill Squires, Blackfoot Telephone Cooperative; Larry Sarjeant, Qwest Communications; Craig Mundie, Microsoft; Joe Garcia, Nartional Congress of American Indians; Mark Goldstein, GAO. Location: Room 562, Dirksen.

10 a.m. HEALTH, EDUCATION, LABOR AND PENSIONS _ Full Committee. Hearing on the response of community organizations to the Gulf Coast hurricanes. Kay Wilkins, American Red Cross, Metairie, La.; Jayne Wright, Louisiana State Voluntary Organizations Active in Disaster and Food Bank of Central Louisiana, Alexandria, La.; Todd Hawks, Salvation Army, Arlington, Va.; Cynthia Fagnoni, GAO; Ande Miller, National Voluntary Organizations Active in Disaster; Craig Nemitz, Americas Second Harvest, Chicago; Mostafa Mahboob, Islamic Relief USA, Burbank, Calif.; Tom Hazelwood, United Methodist Committee on Relief; William Daroff, United Jewish Communities; Heather Feltman, Lutheran Disaster Response, Chicago; Almetra Franklin, St. Mary Community Action Agency, Franklin, La.; Tanya Harris, Association of Community Organizations for Reform Now, New Orleans; Welton Gaddy, President Interfaith Alliance; Lorna Bourg, Southern Mutual Help Association, New Iberia, La.; Thomas E. Green, Office of Community Services, Little Rock. Location: Room 430, Dirksen.

10 a.m. VETERANS AFFAIRS _ Full Committee. Hearing on the legislative agenda of the Veterans of Foreign Wars. Location: Room 216, Hart.

2:30 p.m. APPROPRIATIONS _ Defense Subcommittee. Hearing on FY07 appropriations. Undersecretary of Defense Tina Jonas; Vice Adm. Evan Chaink, Force Structure, Resources and Assessment. Location: Room 192, Dirksen.

2:30 p.m. SELECT INTELLIGENCE _ Full Committee. Meeting to consider pending matters. Location: Room 219, Hart.

2:45 p.m. ARMED SERVICES _ Strategic Forces Subcommittee. Hearing on the FY07 budget for nuclear weapons and defense envionrmental cleanups in the Energy Department. Linton Brooks, National Nuclear Security Administration; Assistant Energy Secretary James Rispoli. Location: Room 232A, Russell.

US House: FLOOR SCHEDULE _ 12:30 p.m. Meets for morning business. At 2 p.m. meets for legislative business. Highlights: Suspensions (6 bills): 1) H.R. 3934 - Gerard A. Fiorenza Post Office Designation Act: 2) H.R. 4054 - Dewey F. Bartlett Post Office Designation Act: 3) H.R. 4509 - Hiram L. Fong Post Office Designation Act: 4) S. 2271 - USA PATRIOT Act Additional Reauthorizing Amendments Act of 2006: 5) H.R. 32 - Stop Counterfeiting in Manufactured Goods Act: 6) H.Res. 681 - Supporting the goals and ideals of National Engineers Week, and for other purposes.

9:30 a.m. APPROPRIATIONS _ Transportation, Treasury, HUD the Judiciary and District of Columbia Subcommittee. Hearing on FY07 Transpoprtation appropriations. Secretary Mineta. Location: Room 2359, Rayburn.

12 p.m. JUDICIARY _ Crime, Terrorism and Homeland Security Subcommittee. Hearing on attorney-clint privilege and corporate waivers in white collar crime. Associate Attorney General Robert McCallum, Jr.; former Attorney General Richard Thornburgh; U.S. Chamber of Commerce President Thomas Donohue; attorney William Sullivan, Jr. Location: Room 2141, Rayburn.

1:30 p.m. APPROPRIATIONS _ Military Quality of Life and Veterans Affairs and Related Agencies Subcommittee. Hearing on FY07 appropriations for the Air Force. Location: Room H-143, Capitol.

2 p.m. GOVERNMENT REFORM _ Criminal Jusatice, Drug Policy and Human Resources Subcommittee. Hearing on human cloning and stem cell research. James Battey, NIH; Bernard Schwetz, Office for Human Research Protections; Chris Pascal, Office of Research Integrity; Markus Grompe, Oregon Stem Cell Center; Richard Doerflinger, U.S. Conference of Catholic Bishops; Richard Hynes, MIT; Diane Beeson, California State University; Joe Brown, Parkinson's Action Network State Coordinator, Texas. Location: Room 2247, Rayburn.

2 p.m. GOVERNMENT REFORM _ National Security, Emerging Threats and International Relations Subcommittee. Hearing on international maritime security involving cruise ships. Passengers Kendall Carver, Phoenix; son Michael

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Pham, Bellevue, Wash.; Deborah Shaffer, Tucson; Janet Kelly, Cottonwood, Ariz.; Ira Leonard, Hamden, Conn.; Brian Mulvaney, Miami; attorney Brett Rivkind; Ron Gorsline, owner, Secure Ocean Service LLC; Lawrence W. Kaye, Kaye Rose and Partners LLP; Charley Mandigo, director, Fleet Security, Holland America Lines; Capt. William S. Wright, senior vice president, Marine Operations, Royal Caribbean International; James Fox, Northeastern University. Location: Room 2154, Rayburn.

5 p.m. RULES _ Full Committee. Hearing on rules for floor debate. Location: Room H-313, Capitol.

Other: COUNTIES _ The National Association of Counties holds its 2006 Legislative Conference. Highlights: 12:30 a.m. VA Secretary Jim Nicholson speaks on on the Federal-state partnership. 8:30 a.m. General session with Sen. Gordon Smith expected to address the meth problem and Medicaid; Tom Siebel, founder, Montana Meth Project. Location: Washington Hilton & Towers, 1919 Connecticut Ave. NW.

AMERICA-ISRAEL _ The American Israel Public Affairs Committee (AIPAC) holds its annual Policy Conference. Highlights: 9 a.m. - 10:30 a.m. Closing plenary, ``America and Israel: The View From Capitol Hill," with addresses by Vice President Dcik Cheney and Reps. Roy Blunt, R-Mo., House Majority Whip, and Steny Hoyer, D-Md., Hoouse Democratic Whip. Location: Washington Convention Center, Mt. Vernon Square.

AFGE CONFERENCE _ The American Federation of Government Employees holds its legislative and grassroots mobilization conference. Highlights: 2 p.m. News conference with AFGE President John Gage, others, to call on Defense Secretary Rumsfeld to resign. Location: Hyatt Regency-Washington on Capitol Hill, 400 New Jersey Ave. NW.

PUBLIC TRANSPORTATION _ The American Public Transportation Association (APTA) holds its two-day legislative conference to discuss a variety of topics including: implementation of SAFETEA-LU; Department of Homeland Security transit security funding; financing issues for the next reauthorization bill; new starts; and coordination of transportation services. Highlights: 8:15 a.m. - 11 a.m. Session on ``Get Started with Members of Congress," with Christopher P. Boylan, vice chair government affairs, APTA, and deputy executive director, corporate affairs and communications, Metropolitan Transportation Authority, New York, N.Y. (presiding); Sen. Patty Murray, D-Wash., ranking member, Subcommittee on Transportation; Rep. James L. Oberstar, D-Minn., ranking member, Committee on Transportation and Infrastructure; Rep. Thomas E. Petri , -Wis., chairman, Subcommittee on Highways, Transit and Pipelines, Committee on Transportation and Infrastructure. Location: J.W. Marriott Hotel, 1331 Pennsylvania Ave. NW.

VETERANS OF FOREIGN AFFAIRS _ The Veterans of Foreign Wars holds its Community Service and Legislative Conference. Location: Omni Shoreham Hotel, 2500 Calvert St. NW.

ATTORNEYS GENERAL _ The National Association of Attorneys General holds its spring meeting. Highlights: 10:45 a.m. Assistant Attorney General Regina Schofield. Location: Grand Hyatt Hotel, 1000 H St. NW.

HOSPITALS _ The Federation of American Hospitals holds its 2006 Public Policy Conference and Business Exposition. Highlights: 8:30 a.m. - 11 a.m. Sen. Hillary Rodham Clinton, D-N.Y. 9 a.m. Sen. John Ensign. 9:30 a.m. CDC Director Julie Gerberding and National Economic Council Director Allan Hubbard. 10:45 a.m. U.S. Chamber of Commerce CEO Thomas Donohue. Location: Marriott Wardman Park, 2660 Woodley Road NW.

DATA PRIVACY _ 8 a.m. - 4 p.m. The Department of Homeland Security's Data Privacy and Integrity Advisory Committee holds a meeting. Secretary Chertoff participates in the meeting at 8:20 a.m. Location: Polaris Room, Reagan Building, 1300 Pennsylvania Ave. NW.

INTERNET-POLITICS _ 9 a.m. George Washington University's Institute for Politics, Democracy & the Internet hosts the 13th Politics Online Conference. The event will feature speakers involved in the media and Internet politics, including Doug Bailey, founder of The Hotline and Bailey-Deardorff, former CEO, Freedoms Answer; Ana Marie Cox, Wonkette Emeritus; Dan Gillmor, founder of Center for Citizen Media and author of We the Media; and Alex Jones, director of Joan Shorenstein Center on the Press, Politics, and Public Policy at Harvard Universitys Kennedy School of Government. Location: George Washington University, Marvin Center, 800 21st St. NW.

HOUSING _ 8:30 a.m. HUD Secretary Jackson addresses the National Council of State Housing Agencies. Location: L'Enfant Plaza Hotel, 480 L'Enfant Plaza, SW.

FUEL SUPPLY _ 9 a.m. The Community Power Alliance and Energy Daily hold a panel discussion with FERC Chairman Joseph Kelliher and former Sen. John Breaux discussing short and long term solutions to diversifying the nation's fuel supply. Location: Phoenix Hotel, 520 N. Capitol St.

METH-CRIME _ 9 a.m. Attorneys General hold a news conference to call on Congress to reject budget cuts to law enforcement and investments in children proven to prevent crimes. Participants include Attorneys General Lawrence Long of South Dakota, Mark Shurtleff of Utah, William Lockyer of California, W.S. Drew Edmondson of Oklahoma, others. Location: National Press Club.

ACLU-VOTING RIGHTS _ 10 a.m. The ACLU announces the launch of its campaign to renew the Voting Rights Act, the 41st anniversary of ``Bloody Sunday", when voting rights marchers in Selma were attacked by Alabama

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state police. The ACLU will begin its ``Every voice. Every vote. Renew the Voting Rights Act'' campaign with the release of two comprehensive reports detailing the continuing need for the law. Location: National Press Club, Lisagor Room.

ATTORNEY-CLIENT _ 10 a.m. The US Chamber of Commerce holds a telephone briefing on results of a survey on attorney-client privilege. Notes: Callin number: 866-246-6862; passcode: 869366.

IRAQ-WOMEN _ 10 a.m. Anti-war activist Cindy Sheehan and Iraqi women lobby Congress to end the U.S. military presence in Iraq. Location: Outside 1029, Longworth.

VOTING RIGHTS ACT _ 10 a.m. The American Civil Liberties Union announces the launch of its campaign to renew the Voting Rights Act on the 41st anniversary of ``Bloody Selma.'' Location: National Press Club.

EXPLOSIVES-TRANSIT TICKETS _ 11 a.m. General Electric and Cubic Corp. hold a demonstration of the first explosives-detecting public transit ticket vending machine. Location: Salon IV, JW Marriott, 1331 Pennsylvania Ave, NW.

SECURITY-PREPAREDNESS _ 11 a.m. James Lee Witt, former FEMA director, and James Loy, former deputy homeland security secretary, release national survey showing that the US is unprepared for a catastrophe. They are co-chairs of Protecting America.org, a coalition to help Americans prepare for natural disasters. Location: Room 383, Hall of States, 444 N. Capitol St. NW.

HEALTH CARE _ 11:30 a.m. Democratic Senators Ted Kennedy, Tom Harkin, Barbara Boxer, and Debbie Stabenow join Congressmen Chris Van Hollen and Xavier Becerra and hundreds of students, seniors, and citizens to rally for a budget that makes education more affordable and health care more available. Location: West Front of the Capitol.

WACKENHUT-NUCLEAR _ 11:30 p.m. Security watchdogs hold press conference to call attention to what they say is the Wackenhut company's pattern of problems at U.S. nuclear facilities. The press conference follows an Associated Press story regarding DHS facilities and Wackenhut guards. Location: Across the street from U.S. Dept. of Homeland Security, Nebraska Avenue NW entrance.

RUMSFELD-EGYPT _ 12 p.m. Secretary of Defense Donald H. Rumsfeld hosts an honor cordon to welcome Egyptian Minister of Defense Field Marshal Mohamed Hussein Tantawi to the Pentagon. Location: The cordon will be held on the steps of the Pentagon Mall Entrance.

FOREIGN ENERGY SOURCES _ 12:15 p.m. Senators Domenici, Inhofe, Thomas, and Thune hold a press availability to discuss Senate efforts to promote Americas energy independence by reducing our reliance on foreign sources of energy. Location: Capitol at the Ohio Clock (Senate Side, Ohio Corridor).

BOEHNER _ 12:30 p.m. House Majority Leader Rep. John Boehner holds a pen and pad only briefing. Location: Room H-107, Capitol.

DEMOCRATS _ 12:30 p.m. The Democratic Policy Committee holds a closed meeting. Location: Room S-211, Capitol. Notes: Stakeout note: Gallery escort for policy luncheons leaves at 11:30 a.m. from the Ohio Clock Corridor.

MIGRANT POPULATION _ 12:30 p.m. The Pew Hispanic Center holds a telephone briefing to release a report on the size and characteristics of the migrant population in the U.S. Notes: Callin number: 800-322-0079.

REPUBLICANS _ 12:30 p.m. The Republican Policy Committee holds a closed meeting. Location: Room S-207, Capitol. Notes: Stakeout note: Gallery escort for policy luncheons leaves at 11:30 a.m. from the Ohio Clock Corridor.

GULF COAST REBUILDING _ 1 p.m. Federal Coordinator for Gulf Coast Rebuilding Donald Powell and Commerce Secretary Gutierrez hold a telephone news conference on stimulating economic development in the gulf Coast region. Notes: Callin number: 800-857-2846; passcode: Gulf Coast.

IMMIGRANT RIGHTS _ 1:30 p.m. The Border Community Alliance for Human Rights and the American Friends Service Committee hold a news conference to discuss H.R. 4437, a bill which would authorize a 700-mile border fence between the U.S. and Mexico. Location: United Methodist Building, 100 Maryland Ave. NE.

DEFENSE UNIONS-RUMSFELD _ 2 p.m. Defense union representatives from the American Federation of Government Employees (AFGE), the AFL-CIO and the United DoD Workers Coalition will call for a vote of no confidence against Secretary of Defense Donald Rumsfeld in response to the Department of Defenses decision to appeal a judges ruling that they say ``gutted DODs National Security Personnel System (NSPS).'' Location: Hyatt Regency Hotel, Congressional Room A 400 New Jersey Ave., NW.

HOYER _ 2 p.m. House Minority Whip Rep. Steny Hoyer holds a pen and pad only briefing. Location: Room H-306, Capitol.

US-AUSTRALIA _ 2:15 p.m. USTR Rob Portman and Australian Deputy Prime Minister Mark Vaile hold a news conference. Location: USTR offices, 600 17th St. NW.

GOP-PORTS _ 3 p.m. Reps. Duncan Hunter, R-Calif., chairman of the House Armed Services Committee, and Jim Saxton, R-N.J., chairman of the House Armed Services Subcommittee on Terrorism, Unconventional Threats and Capabilities, tomorrow will unveil new legislation that they say would protect domestic infrastructure critical to national security. Additionally, the legislation would block Dubai Ports World's bid to take over operations at U.S. ports, reform the process to approve foreign investment in the United States and mandate 100 percent cargo inspection. Location: House Radi/TV Gallery.

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UNINTENDED PREGNANCIES _ 3 p.m. NARAL Pro-Choice American holds a briefing to call on congressional leaders to allow votes on a series of measures to prevent unintended pregnancies and reduce the need for abortion. Participants include Reps. Tom Allen, Barbara Lee, Carolyn Maloney, Rush Holt. Location: Room HC-9, Capitol.

LA RAZA _ 5:30 p.m. The National Council of La Raza honors House Majority Leader Rep. John Boehner and Sen. Tom Harkin at its annual gala. Location: National Building Museum, 401 F St. NW.

INTELLIGENCE-IRAQ _ 6:30 p.m. The Council on Foreign Affairs holds an on-the-record meeting with former CIA officer Paul Pillar discussing intelligence, policy and Iraq. Location: 1779 Massachusetts Ave. NW.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

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TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

Gonzales May Be Recalled On Eavesdropping (AP)

By KATHERINE SHRADER, Associated Press Writer

AP, March 7, 2006

WASHINGTON (AP) - Attorney General Alberto Gonzales' written answers to questions about the Bush administration's eavesdropping program may require him to testify a second time before the Senate Judiciary Committee, the panel's Republican chairman said Monday.

"There is a suggestion in his letter there are other classified intelligence programs that are currently under way," Senate Judiciary Committee Chairman Arlen Specter, R-Pa., told reporters.

The comments from the moderate Republican come as the Bush administration is trying to quell criticism of its surveillance operations and work with the Senate on legislation that would write the program into law.

In a letter to Specter last week, Gonzales clarified his testimony in a half dozen areas covered in a daylong Senate Judiciary Committee hearing on Feb. 6.

Gonzales said his answers were focused only on President Bush's program granting intelligence officers the power to monitor - without court approval - the international calls and e-mails of U.S. residents, when those officers suspect terrorism may be involved.

"In all of my testimony at the hearing I addressed - with limited exceptions - only the legal underpinnings of the Terrorist Surveillance Program," Gonzales wrote. "I did not and could not address operational aspects of the program or any other classified intelligence activities."

Vermont Sen. Patrick Leahy, the Judiciary Committee's top Democrat, said Monday that Gonzales should come back before the panel to "clear up the confusion he created first by ducking our questions, and later by further clouding the issues with a 'clarifying' letter that substantially revised his unsworn testimony."

Specter's comments suggest he too has concerns about Gonzales' letter. "We may have to have him back before the Judiciary Committee," Specter said.

The Justice Department has not received a formal request to testify, spokesman Brian Roehrkasse said. "As a matter of practice, officials from the department do not discuss, confirm or deny the existence or nonexistence of any classified intelligence programs in public settings," he added.

Specter was one of the first Republicans to break with the White House to question the surveillance program when it was disclosed in December. He's drafting legislation that would require a secret federal intelligence court to conduct regular reviews of the constitutionality of the monitoring.

GOP Lawmakers Work To Limit Probe Of Domestic Spying Program (KRT)

By James Kuhnhenn

Knight Ridder, March 6, 2006

WASHINGTON - Republicans in Congress are trying to limit the scope of any investigation into how President Bush's secret domestic-surveillance program has operated. Some key lawmakers are also working to legalize such spying on U.S. citizens in the future, perhaps with some judicial restrictions.

The dual-track effort is designed to protect the Bush administration from an all-out congressional inquiry into the secret program, while rejecting Bush's argument that he already has full legal authority to order such surveillance.

The Senate Intelligence Committee is scheduled to vote Tuesday on a Democratic plan to conduct a broad investigation into the program. Committee chairman Pat Roberts, R-Kan., is trying to win support for a more limited inquiry. Roberts refused to say Monday whether he had the votes to forestall the Democratic demand for an investigation. Democrats need only one Republican to side with them to order such a probe.

Under Bush's order and without court warrants, the National Security Agency has tracked electronic communications of U.S. residents the administration says are in contact with suspected al-Qaida members abroad. The program was first disclosed by The New York Times and acknowledged by Bush in December. Critics say Bush's action violates the 1978 Foreign Intelligence Surveillance Act, which requires warrants from a special secret court to authorize government spying inside the United States.

The partisan clash over the scope of an investigation prompted Senate Republican Leader Bill Frist of Tennessee last week to demand a meeting with Senate Democratic Leader Harry Reid of Nevada. He also threatened to restructure the Intelligence Committee in a way that would weaken Democrats.

Reid on Monday dismissed Frist's call for talks.

"Let's have the Intelligence Committee do its work," Reid said. "I believe that we should see if Senator Roberts, who is a man of his word, is going to allow a vote on whether there should be an investigation. So when that' s completed ... I'll be happy to consider a meeting, but until then, what's there to meet about?"

In the Senate, a handful of Republicans has been working to give the president statutory authority to approve the NSA program. The administration argues that the president already has that power under the Constitution and a congressional resolution that gave Bush authority to use force in hunting down terrorists. Most Democrats and some Republicans reject that interpretation.

Republican Sens. Chuck Hagel of Nebraska, Mike DeWine of Ohio and Lindsey Graham of South Carolina met Friday to discuss DeWine's proposal to legalize the warrantless spying while giving Congress the right regularly to review it. Graham wants a special federal court to have some authority over the program.

Sen. Arlen Specter, R-Pa., chairman of the Senate Judiciary Committee, is proposing his own legislation that would require the foreign intelligence surveillance court to determine whether the NSA program is constitutional. Specter said Monday that only after such a determination can Congress decide whether and how to restrict the program legislatively.

Meanwhile, Specter said Monday that he wants Attorney General Alberto Gonzales to testify again before his committee about the legal rationale for the NSA program. Specter said he worried that Gonzales' subsequent written responses to the committee suggested that the administration was conducting other secret programs.

"The letter that he sent to clarify his testimony raises a lot more questions," Specter said. "There is a suggestion in his letter that there are other intelligence programs which are currently under way."

The ranking Democrat on the House Intelligence Committee, Rep. Jane Harman of California, said last week that Gonzales and White House counsel Harriet Miers assured her by telephone that no broader program exists. Harman's conversation was first reported by The Washington Post on Friday.

Prosecutor Urges Death For Concealing Sept. 11 Plot (NYT)

By Neil A. Lewis

The New York Times, March 7, 2006

ALEXANDRIA, Va., March 6 — A federal prosecutor on Monday asked a jury to sentence Zacarias Moussaoui to death, saying his willful decision to conceal his knowledge of the Sept. 11 terrorist plot when he was arrested weeks earlier made him responsible for the thousands of deaths that day.

In response, a court-appointed lawyer for Mr. Moussaoui told jurors they could not order the execution of a man on no more than a supposition: that had he revealed his knowledge of Al Qaeda's interest in flying planes into public buildings, the federal authorities would have prevented the attacks of Sept. 11, 2001.

Mr. Moussaoui, a 37-year-old Frenchman of Moroccan heritage, is the only person to be charged in the United States justice system with direct involvement in the Sept. 11 attacks. He was in jail on that day, having been arrested three weeks earlier in Minnesota on immigration charges while he was taking flight lessons.

He has pleaded guilty to six conspiracy counts and admitted that he was taking flight training to be available for a Qaeda campaign to fly aircraft into buildings. But he has insisted that he was not part of the Sept. 11 plot and that he does not deserve to die.

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Because he has pleaded guilty, the trial that got under way on Monday is solely over whether he is to be executed by lethal injection at a federal prison in Indiana or spend his life in prison.

In their opening statements, lawyers for the government and for Mr. Moussaoui presented starkly different portraits of his importance to Al Qaeda's plans to wage war on the United States.

Robert Spencer, an assistant United States attorney, told the jury that Mr. Moussaoui was "in the thick of the plot" but that because he had been arrested, his contribution to the attacks "in the end was to lie so his Al Qaeda brothers could go forward."

Mr. Spencer said that had Mr. Moussaoui told a Federal Bureau of Investigation agent in August 2001 what he knew about Al Qaeda's plans, the bureau and the Federal Aviation Administration would have gone on full alert and taken steps to hunt down the hijackers and increased security at the nation's airports.

He said documents recovered from Mr. Moussaoui's home after Sept. 11 provided valuable clues that would have led directly to many of the 19 hijackers of that day.

"He killed the 9/11 victims as surely as if he had been at the controls in one of those airplanes," Mr. Spencer said.

Edward J. MacMahon, one of the court-appointed lawyers who is conducting the defense over Mr. Moussaoui's objections, said it was true that his client had proudly proclaimed himself a member of Al Qaeda and said he was planning to fly a plane into the White House at the orders of Osama bin Laden.

But Mr. MacMahon attacked the government's argument that had Mr. Moussaoui spoken truthfully of what he knew when he was arrested it would have prevented the attacks. He cited the official commission that investigated the attacks and found the government had several indications of Al Qaeda's plans before that day. The report found that the authorities never fully appreciated the significance of some of the leads.

"You can't judge him to get revenge for 9/11," Mr. MacMahon said. "You can't make him some substitute for Osama bin Laden. And you can't make him a scapegoat for what government officials did not do" to prevent the attacks.

Even if Mr. Moussaoui had not lied, he said, there is no reason to believe that the authorities would have acted quickly on that information any more than they acted on other leads. What officials would have done is speculative, he said, adding that Mr. Moussaoui was regarded as unreliable even by his Qaeda colleagues.

"No one should be executed on such flimsy evidence, not even a member of Al Qaeda," Mr. MacMahon said.

Throughout it all, Mr. Moussaoui sat back quietly in a chair to the side, slowly stroking his beard, often staring intently at spectators, who included about 10 family members of the attack victims.

The jury was whittled down on Monday to 17 people who will hear the case over the next several weeks. When it comes time to deliberate, 12 of that group will decide Mr. Moussaoui's fate. The jurors, 7 women and 10 men, are all from the Northern Virginia area.

Under the federal death penalty law, the jury's first task is to decide whether the crimes to which Mr. Moussaoui has pleaded to resulted in the death of anybody. If the jury is unanimous on that issue, it will consider aggravating factors, like the severity of the crime, as well as mitigating factors. If it finds the aggravating factors outweigh any mitigating factors, it will vote on whether to recommend the death penalty. If it does so, again unanimously, the judge is obliged to impose it.

Because Mr. Moussaoui pleaded guilty, the arguments that would have been at the heart of a jury trial on the question of his guilt will now get an airing before the newly installed jury, which is to decide his sentence. So the proceedings to come will resemble in almost every way the kind of trial that usually determines guilt or innocence in a capital case, and therefore may last for several weeks.

In addition to arguing that Mr. Moussaoui played no part in the Sept. 11 conspiracy, his lawyers are expected to argue that he is mentally unstable, a potentially mitigating factor. The lawyers have arranged for a psychologist to testify that Mr. Moussaoui's behavior, notably his frequent outbursts in the courtroom during the earlier proceedings, show him to be suffering from a mental disorder, "most likely schizophrenia," that began with his experiencing racism as a youth in France.

The government, for its part, plans to emphasize the losses of the Sept. 11 attacks. Prosecutors have prepared more than 40 family members to testify about the devastating impact on their lives.

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The trial will include statements from six Qaeda officials in secret United States custody, including Khalid Shaikh Mohammed, the chief planner of the Sept. 11 attacks. But those statements that will be included at the order of Judge Leonie M. Brinkema are likely to be solely about Mr. Moussaoui's role in Al Qaeda and also may not be made public.

Mr. Moussaoui's actual role in the Sept. 11 attacks has remained an intriguing mystery to investigators. The official commission that studied the attacks concluded that Qaeda leaders might have considered using him as "a potential substitute pilot" on Sept. 11 because of friction among other participants, but that his arrest scuttled that possibility. The commission also speculated that he might have been meant to be part of a second wave of attacks and noted that Al Qaeda spent some $50,000 on his training.

Moussaoui's Lies Led To 9/11, Jury Told (WP)

By Jerry Markon And Timothy Dwyer

The Washington Post, March 7, 2006

The Sept. 11, 2001, attacks would have been prevented and nearly 3,000 lives would have been saved if Zacarias Moussaoui had not lied to cover up the terrorist plot, prosecutors said yesterday as they began the long-awaited death penalty trial for the al-Qaeda conspirator.

If Moussaoui had revealed al-Qaeda's plans when he was arrested a month before Sept. 11, investigators would have identified 11 of the 19 hijackers and stopped the attacks, prosecutors said in their opening statements. The government would have tightened airport security and focused on the small knives and box cutters used in the hijackings, the prosecution contended.

"The FBI would have put on an all-out press," Assistant U.S. Attorney Robert A. Spencer told a jury in U.S. District Court in Alexandria. "Moussaoui lied and nearly 3,000 people died. . . . His lies killed the Sept. 11 victims as surely as if he had been at the controls of one of those planes."

But defense attorneys turned hindsight back on the government, arguing that investigators ignored warning signs before the attacks and likewise would have failed to act on Moussaoui's information. They portrayed Moussaoui as bumbling and unstable and someone associates called "cuckoo in the head" but implored jurors to give him a fair trial.

"Moussaoui poses the ultimate test for our legal system," attorney Edward B. MacMahon Jr. told the 12 jurors and five alternates. "You cannot judge him to get revenge for the victims of Sept. 11, or for what happened on 9/11 or as some substitute for Osama bin Laden."

The passionate interchanges marked the beginning of the first -- and probably the only -- trial in the United States that will probe the events that brought down the World Trade Center, damaged the Pentagon and killed 40 people in a field in Pennsylvania when four planes were hijacked and used as missiles. Moussaoui, 37, pleaded guilty in April to conspiring with al-Qaeda in the Sept. 11 plot and is the only person charged in this country in connection with the attacks. The trial will determine whether Moussaoui is executed for his role.

The opening statements ended 4 1/2 years of anticipation for many of the victims' families, who crammed the crowded courtroom or watched via closed-circuit television at private satellite locations in New York City, Long Island, New Jersey, Boston, Philadelphia and Alexandria, hoping for a measure of justice and some insight into what happened that day.

What they got yesterday was a glimpse of the man who for many has come to personify the attacks. Although Moussaoui admitted a role in the conspiracy, neither he nor the government has been specific about that role. He has said in court that he was part of a planned second wave of terrorism and was to fly a plane into the White House.

Still, he is a powerful presence for victims' families. When prosecutors began playing an al-Qaeda training video after opening statements, Moussaoui stroked his beard, smiled and sang along in Arabic: "We defend our religion with blood."

The sight evoked strong emotions in Bradley Burlingame, whose brother Charles was the pilot of the plane that crashed into the Pentagon. "I had my little fantasy of crossing the rail and strangling him, but that's not how the American process works," he said.

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Burlingame and his sister, Debra, said they hope Moussaoui is executed. "It was quite chilling to be in the courtroom with this man. He epitomized what you think evil will be, and I think he enjoys it," said Bradley Burlingame, who flew in from Los Angeles for the opening statements.

The courthouse itself was under tight security. Snipers patrolled nearby rooftops while officers checked the identification -- twice -- of everyone who entered the building.

Yet the proceedings lacked some of the more theatrical elements that have come to characterize the case since Moussaoui was first charged in December 2001. Moussaoui, who is known for his courtroom outbursts and was repeatedly ejected by the judge during jury selection, sat quietly at his own table in the corner yesterday.

The day began with prosecutors and defense attorneys winnowing a group of more than 80 prospective jurors to the final 17 through peremptory, or unexplained, challenges. Eighteen jurors were initially chosen, but after they were seated and sworn in, one woman asked to be excused and was allowed to leave without explanation.

The 10 men and seven women -- all Northern Virginia residents -- cover a range of private-sector and government jobs. They include a woman whose brother-in-law works for the New York Police Department and was a rescuer at the World Trade Center, a man who served on a Navy ship in the Persian Gulf War and a Muslim woman born in Iran.

U.S. District Judge Leonie M. Brinkema told the jurors that they will be exposed to classified national security information that they are never to disclose to others.

Prosecutors focused their argument on how Moussaoui lied to the FBI when he was arrested in Minnesota while training on a Boeing 747 simulator. He told agents he was only a tourist with a "dream" to fly, Spencer said, but later admitted when he pleaded guilty that he had lied to allow al-Qaeda to go forward with the plot.

Spencer began by evoking the emotion of Sept. 11, recalling a crisp fall day that dawned clear and blue, with workers at the World Trade Center sitting at their desks checking e-mail and passengers on the four hijacked planes sipping coffee.

"It started as an utterly normal day," Spencer said. "But a day that started so normally and with such promise soon became a day of abject horror."

Turning to face Moussaoui, Spencer pointed and said: "One of the people in that plan, one of the people in the conspiracy, is among us still. That man is the defendant, Zacarias Moussaoui." Spencer portrayed Moussaoui as "a loyal al-Qaeda soldier. . . . Moussaoui stands before you today, an admitted terrorist, a convicted terrorist, a proud and unrepentant terrorist."

Spencer also began outlining the details of the government's case for the death penalty. He told jurors that al-Qaeda wired $14,000 to Moussaoui. If Moussaoui had told the FBI of the money, agents would have traced it to the man in the United Arab Emirates who sent it. That man's cell phone number would have led them to a number of the hijackers, he said. In addition, others would have been traced through a list of flight schools later found in Moussaoui's belongings.

Prosecutors did not address the controversy over the failure to search Moussaoui's belongings before Sept. 11. The independent commission that investigated the attacks sketched a series of government missteps that led officials at FBI headquarters to believe that they could not gain a warrant. But if Moussaoui had revealed all he knew, prosecutors said yesterday, the belongings would have been searched in time.

"This man, the terrorist Moussaoui, did his part," Spencer said. "Moussaoui lied so that murders followed. He intended to kill Americans, and he did."

MacMahon sketched a different portrait. The real Moussaoui, he said, was a bumbler who couldn't even fly a single-engine plane, a man so inconsequential that even his terrorist overseers dismissed him: "Moussaoui was totally useless to al-Qaeda, a headache, totally obnoxious."

Defense attorneys honed in on the failure to stop the attacks, playing videos of former attorney general John D. Ashcroft and then-National Security Adviser Condoleezza Rice speaking about how the attacks revealed problems with the nation's intelligence structure that went back years.

"The government case for death is predicated on the unlikely pretense that the government would have carried out a flawless investigation" if Moussaoui had told the truth, MacMahon said. "You cannot look at this through post-9/11 glasses."

Prosecutor: Moussaoui Did His Part For 9/11 (AP-Y2)

DOJ_NMG_0016239

By Michael J. Sniffen

AP2, March 6, 2006

Opening its argument for executing al-Qaida conspirator Zacarias Moussaoui, the government said Monday he "lied so that murders could follow" on Sept. 11, 2001.

But the defense portrayed Moussaoui as a buffoon isolated even by al-Qaida and urged jurors to deny him the martyrdom of a death sentence.

In a heavily guarded courthouse just miles from the Pentagon, where some of the 2,972 victims of Sept. 11 died, prosecutor Rob Spencer opened his case by telling the jury that "even though he was in jail on Sept. 11, he did his part as a loyal al-Qaida soldier."

"Had he not lied to agents in 2001, the U.S. government would have stopped those deaths, or at least some of them," Spencer asserted.

Court-appointed defense attorney Edward MacMahon scoffed at that idea. He termed Moussaoui's dreams of being a terrorist "sound and fury signifying nothing."

Considered a headache and even called "cuckoo in the head" by one al-Qaida leader, Moussaoui "was intentionally isolated from the real hijackers in the United States," MacMahon argued. "Nothing Moussaoui did or said — even a lie — caused anyone to die that day."

Now Moussaoui yearns for martyrdom, MacMahon asserted. "The only way he can appear as a smiling face on an al-Qaida recruiting poster is by your verdict," MacMahon told jurors. "Please don't make him a hero. He doesn't deserve it."

The 37-year-old Frenchman of Moroccan descent, who faces either execution or life in prison without release, stroked his beard and intently studied the faces of jurors and the audience during opening statements.

Empaneled hours earlier, 10 men and seven women listened from the jury box. Across the hall, watching on closed circuit TV, Moussaoui's mother, Aicha, wept quietly when he entered court. One floor above, families of the Sept. 11 victims also watched on TV. Outside, snipers clad in black fatigues guarded the building.

Wearing a green prison jumpsuit and a white knit cap, Moussaoui remained quiet during proceedings, but as he left for a recess he told the lawyers, "All your stories, all your American creations have nothing to do with me."

Prosecutor Spencer said Moussaoui, the only man charged in this country in the Sept. 11 plot, should be held responsible for not stopping it after the FBI arrested him Aug. 16, 2001, while he was training in Eagan, Minn., to fly jetliners.

Moussaoui, Spencer said, was such an inexperienced pilot that the FBI suspected he might be a terrorist, but Moussaoui told them he was a tourist pursing a dream. That lie made him responsible for the deaths "as surely as if he had been at the controls of one of the planes" that al-Qaida hijacked and flew into the World Trade Center, the Pentagon and a field in Pennsylvania, the prosecutor said.

If Moussaoui had told the FBI the same plot details he described last April when he pleaded guilty to six conspiracy counts, that would have been "all the government needed to know to stop 9/11," Spencer said.

Moussaoui himself says he conspired with al-Qaida to fly planes into U.S. buildings but he wasn't part of the Sept. 11 planning. Instead, he says, he was training instead to fly into the White House as part of a possible later attack.

If Moussaoui had come clean in 2001, Spencer said, the FBI would have been able to use his records to locate 11 of the 19 Sept. 11 hijackers, including all four pilots. He also said the government would have keep those conspirators off airplanes and would have altered airport screeners to confiscate small knives and boxcutters.

MacMahon argued that Moussaoui knew less about the Sept. 11 plot than the government did. The inept government handling of the intelligence it had, he said, shows it would never have mounted the flawless probe Spencer described. "What the government wants you to believe is only a dream."

MacMahon said the U.S. government was told in 1995 that al-Qaida terrorists in the Philippines who had participated in the 1993 bombing of the World Trade Center were discussing hijacking a commercial jet and flying it into CIA headquarters, but they never changed their aviation security to prevent that.

He pointed out that the government knew two of the hijackers were in the United States for months before Sept. 11 and never put them on a no-fly list.

"Nothing they were told by some Muslim loner in Minnesota would have changed that" response by the government, MacMahon said.

He said the Sept. 11 hijackers traveled in teams and trained together, but Moussaoui traveled alone, didn't train with them and was never in the presence of a real hijacker.

He played videotapes of then-Attorney General John Ashcroft describing how the FBI and CIA didn't share information before the attacks, and of Secretary of State Condoleezza Rice saying any way to prevent Sept. 11 would have had to have been in place years earlier.

The 17 jurors included a high school math teacher who has traveled widely in the Middle East, a Navy veteran of the first Gulf War and an Iranian-born Sunni Muslim woman. The judge will later designate five as alternates.

The final group included only two of 21 prospective jurors who had some connection to the Sept. 11 attacks or victims.

One was a woman whose brother-in-law works for the New York City Police Department and helped with rescue at the World Trade Center. The math teacher had a more remote connection: The fathers of two of her pupils are firefighters who responded to the crash at the Pentagon. She helped freshmen make a quilt to give to the fire department.

One woman who was seated said earlier that she would tend to assume an al-Qaida member is evil. Jurors also included a mental health researcher, a man whose father retired from the CIA just before Sept. 11, a man who serves in the military reserves and a federal government employee who said he thought there was a lack of communication between the FBI and CIA before the attacks.

Outside the courthouse, D. Hamilton Peterson of Bethesda, Md., who lost his father, Donald, and stepmother, Jean, on the hijacked plane that crashed in Pennsylvania, declared, "I want accountability."

"I believe Moussaoui is an excellent candidate for the death penalty," he said outside the courtroom. "He is nothing less than a mass murderer."

Moussaoui Chose Not To Stop 9/11, Jury Told (USAT)

By Kevin Johnson

USA Today, March 7, 2006

ALEXANDRIA, Va. — The U.S. government opened its case for the execution of al-Qaeda operative Zacarias Moussaoui on Monday, charging that the French citizen withheld critical information that would have exposed the Sept. 11 plot.

“This man knew there was a ticking bomb in the United States,” prosecutor Robert Spencer told a federal jury. “He lied so his brothers could go forward with this,” he said. “He caused the deaths of nearly 3,000 people; he rejoiced in the death and destruction.”

Moussaoui, 37, is the only person charged in the USA in the 2001 attacks in which hijacked airliners crashed into the Pentagon, the World Trade Center and a field in rural Pennsylvania.

A Muslim of Moroccan descent, Moussaoui pleaded guilty last year to six counts of conspiracy. The hearing, which continues today, is to allow a 12-member jury to determine whether he should be executed or spend the rest of his life in prison.

Execution hinges on whether prosecutors prove that Moussaoui lied or withheld from federal agents critical information that could have been used to prevent some of the 9/11 deaths.

Moussaoui was arrested Aug. 16, 2001, on immigration violations while enrolled at a flight school in Eagan, Minn. Instructors alerted authorities to Moussaoui because he lacked experience piloting planes but wanted training to fly a 747.

In pleading guilty, Moussaoui acknowledged he was aware of a planned attack against the United States but said he was not part of the Sept. 11 plot. He told authorities he was part of a separate plan to fly a plane into the White House sometime after Sept. 11.

Defense lawyers dismissed the government's claims Monday as “entirely speculative.” Edward McMahon, one of Moussaoui's lawyers, said the government's assertion that it could have unraveled the Sept. 11 plot with Moussaoui's cooperation in the 25 days before the attacks defied “common sense.”

McMahon said Moussaoui never had specific knowledge of the Sept. 11 plot. He said he could not have known the date for the attacks because the 19 suicide hijackers did not begin buying their airline tickets until Aug. 25, after Moussaoui was arrested.

Describing his client as a “strange Muslim loner,” McMahon said that even Moussaoui's associates in al-Qaeda — the radical Islamic group that carried out the attacks — regarded him as “a headache” and “cuckoo in the head.” McMahon said Moussaoui never had contact with any of the hijackers before the attacks.

“There is little evidence that Moussaoui had the means or opportunity to anything,” McMahon said.

Moussaoui has captured much attention for his frequent outbursts in court, where he has been reprimanded repeatedly by U.S. District Judge Leonie Brinkema. The judge revoked his right to defend himself because of his misbehavior and appointed a defense team to represent him.

Moussaoui, dressed in a green inmate jumpsuit and white knit skullcap, sat quietly for the most part. He stroked his beard as lawyers he rarely has communicated with made their arguments to spare his life.

McMahon suggested a death sentence would make his client a hero for the terrorist cause.

“The only way to achieve that dream of martyrdom is by your verdict,” McMahon said. “Please don't make him a hero, ladies and gentlemen. He just doesn't deserve it.”

Among the victims' family members were Brad and Debra Burlingame, siblings of Charles Burlingame, the pilot of American Airlines Flight 77, the jet that hijackers crashed into the Pentagon.

“This is a very bad, bad evil man,” Debra Burlingame said of Moussaoui. “I would feel very comfortable with saying goodbye to Mr. Moussaoui for good.”

In an interview Monday with CNN, Moussaoui's mother, Aicha El Waifi, said she doubted her son could receive a fair hearing. “The only thing that I do hope is that my son will not be used as a scapegoat,” she said.

Sept. 11 Families Watch Moussaoui Trial (AP-Y2)

By David B. Caruso

AP2, March 7, 2006

Relatives of Sept. 11 victims gathered Monday at a courthouse near the site of the World Trade Center to watch a broadcast of the only man charged in the terrorist attacks as he stood before a judge to begin a sentencing trial.

The trial for Zacarias Moussaoui is taking place in Virginia, but victims' families watched via closed-circuit television at federal courthouses in New York City, Boston, Central Islip, N.Y., Newark, N.J. and Philadelphia.

The trial will determine whether Moussaoui, 37, is executed or serves life in prison for conspiring with al-Qaida to hijack planes and commit other crimes.

The families gathered at the courthouse just a few blocks from where the World Trade center once stood, some carrying photographs or buttons with images of their loved ones. Many also held scarves or other items emblazoned with the American flag.

"After 4 1/2 long years, this is our only attempt to get a scintilla of justice," said Sally Regenhard, whose son, firefighter Christian Regenhard, died in the attack.

"What does accountability feel like? That's what eluded the families of the victims," she said. "They all got away with murder, so we only have him left."

Christie Coombs of Massachusetts, who lost her husband in the attack, said Moussaoui murdered him "as much as if he had the controls in his hands and flown the plane into the building, which is what his intent was."

Moussaoui pleaded guilty in April. To obtain the death penalty, prosecutors must first prove a direct link between him and the Sept. 11 attacks. Moussaoui denies any connection to 9/11, but says he was training for a possible future attack.

Barry Zelman, whose brother Kenneth died on the 99th floor of the Oracle Corp., said some part of him wanted to see Moussaoui on trial in person. He said, "He's al Qaida in the flesh."

Zelman said he expects watching the trial to be difficult. He and others said it was ridiculous to think the trial would bring families a sense of closure or justice.

"There's going to be a lot of anger, a lot of emotion," he said.

Mindy Kleinberg of New Jersey, whose husband, Alan, died in the trade center, said she hopes the trial will yield answers to questions about Sept. 11.

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"We had a lot of questions that weren't answered because of this trial," she said.

Joyce Woods, of Pearl River, whose 26-year-old son, James Woods, worked for Cantor Fitzgerald, said she came "because we need to know that our government is protecting us."

But, she said, she anguished over whether to come. She said, "I'm afraid of his ranting," referring to Moussaoui's frequent courtroom outbursts.

Let Moussaoui Live (USAT)

By Carie Lemack

USA Today, March 7, 2006

Arguments begin this week in the sentencing trial of a man accused of conspiracy in my mother's murder. The U.S. government wants to put the confessed terrorist to death. But I want him to live. And I think Mom would, too.

The accused, Zacarias Moussaoui, has admitted he is a member of al-Qaeda and has publicly pledged allegiance to Osama bin Laden. Last April, he pleaded guilty to the six terrorism conspiracy charges, admitting his intent to commit terrorism and aircraft piracy, and to use weapons of mass destruction. His admission earns him life in prison. The reason for the trial is to put him to death, thereby doing to him what he was willing to do to himself.

My mom, Judy Larocque, was murdered by madmen who yearned to die in their crazed belief that slamming the plane she had the misfortune to board into the World Trade Center in New York would bring them everlasting paradise. As a passenger on American Airlines Flight 11 on Sept. 11, 2001, Mom was granted neither a trial nor justice when she unwittingly became part of their evil plan.

Now, the government wants to put to death a man who it says had foreknowledge of the plot that killed my mom and 2,971 others. This man says that he was not supposed to be part of the 9/11 plan, but that he was going to "martyr" himself at a later date by crashing a plane into the White House. This man wants to die. So why is the government fighting to give him what he wants? A U.S. attorney close to the investigation denied that that was the government's intent. He explained that Moussaoui does not want to die at the hands of American officials and American courts.

Moussaoui's forum

But I disagree. Moussaoui wanted to tear the bonds that hold our country together — in the case of 9/11, literally limb by limb. His ongoing antics and sporadic outbursts in the courtroom, sometimes leading to his removal, have done just that, making a mockery of the trial.

The U.S. government should not give him a forum. He pleaded guilty to crimes that require life in prison. Let's give it to him. Take him away, so we don't have to hear from him again.

My opposition to his execution does not stem from compassion. Quite the contrary. Rather, it stems from two thoughts — one rational, the other pure emotion.

First, it costs more to put Moussaoui to death, according to several state studies cited by the non-profit Death Penalty Information Center, a group that opposes capital punishment.

In Moussaoui's case, there wouldn't even have to be a trial if U.S. officials agreed that life in prison was enough for the terrorist. They don't, and are prepared to spend millions arguing the case.

I prefer to see that money spent on almost anything else rather than on Moussaoui. Give it to the families of soldiers fighting Moussaoui's allies in Afghanistan, give it to New York City firefighters to buy walkie-talkies that work, but don't give it to a confessed terrorist seeking an audience.

The second reason is embarrassing to admit but true. I want Moussaoui to die a slow, painful death. I do not want to give him the dignity of a planned execution, time to say his goodbyes, eat his last meal. His comrades did not give that to my mother. Let him sit in a cold, dirty cell alone for the rest of his long days, unable to direct his rants at anyone.

True to Mom

I know that some 9/11 families will not agree with me, and I respect their views.

If I learned anything after Mom's murder, it is that we all grieve differently. But I also know that I have to be true to myself, and to Mom. This realization hit me when I was standing in my shower last week and the song on the radio made me cry.

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"She's gone so long. What can I do? Where could she be? ... Don't know what I'm gonna do

"I gotta get back to you."

Sweet Talkin' Woman by '70s rock sensation Electric Light Orchestra was my favorite song when I was2 years old. At my insistence, my mom played the record over and over as I danced in circles, screaming the words at the top of my lungs. But now those words have another meaning, one I did not fully understand until Mom's murder.

Getting back to Mom means getting back to living as she would want me to, dancing as I did when I was 2. But I cannot enjoy my life with the heavy conscience of someone who has been involved in taking one.

I would rather spend my energy getting back to living a life Mom would be proud of. Because, as the song's final line reminded me when I stood sobbing in the shower, it's so sad if that's the way it's over.

AP Sues For Access To Lindh's Petitions To Cut His Prison Sentence (AP)

By MARK SHERMAN, The Associated Press

AP, March 7, 2006

WASHINGTON -- The Associated Press sued the Justice Department on Monday for access to American-born Taliban soldier John Walker Lindh's petitions to have his 20-year federal prison sentence shortened.

The federal Freedom of Information Act lawsuit, filed in U.S. District Court in New York, said the government has improperly refused to turn over Lindh's pleas to have his sentence reduced on the grounds that doing so would be an unwarranted invasion of his privacy.

AP's lawyers, in letters to the Justice Department and the lawsuit, however, said Lindh "is a 'high-profile public figure' whose 'privacy interest in his petition is low to nonexistent.'"

Lindh's lawyer, James Brosnahan, also has told the news cooperative that he would have turned over the documents himself, but he can't under the terms of Lindh's imprisonment.

The Justice Department did not immediately comment on the lawsuit.

Lindh, 25, was captured in Afghanistan in November 2001 in the U.S.-led effort to topple the Taliban following the Sept. 11 attacks. Lindh grew up in Marin County, Calif.

Prosecutors charged him with conspiring to kill Americans and supporting terrorists. He pleaded guilty to lesser offenses in 2002, including carrying weapons against U.S. forces. He avoided a potential life sentence and agreed to withdraw claims that he had been abused or tortured in U.S. custody.

The AP said it believes Lindh "contends in his petition that he was prosecuted and convicted unfairly in the immediate wake of the September 11, 2001 attacks, and that he was not, in fact, knowingly fighting the United States in Afghanistan."

The president decides whether to commute sentences or pardon people who have been convicted of crimes and have completed their sentences, usually on the recommendation of the department's Pardon Attorney.

Lindh, who is held at the medium security federal penitentiary in Victorville, Calif., first applied for clemency in September 2004, following up on his request 15 months later. Justice officials told him it would be at least a year before any decision is made.

AP first sought the records on Jan. 4. Nine days later, the department replied it could only release the documents with Lindh's written consent, according to the lawsuit. But Lindh is barred from making any public comment on the matter, including consenting to the release, under the terms of his plea agreement, the suit said.

A similar privacy issue is at the center of a long dispute between AP and the government over access to information about detainees at the U.S. military facility at Guantanamo Bay, Cuba. U.S. District Judge Jed S. Rakoff last month ordered the Pentagon to release the identities of hundreds of detainees.

Tending To Muslim Hearts And Islam's Future (NYT)

By Andrea Elliott

The New York Times, March 7, 2006

The young Egyptian professional could pass for any New York bachelor.

Dressed in a crisp polo shirt and swathed in cologne, he races his Nissan Maxima through the rain-slicked streets of Manhattan, late for a date with a tall brunette. At red lights, he fusses with his hair.

What sets the bachelor apart from other young men on the make is the chaperon sitting next to him — a tall, bearded man in a white robe and stiff embroidered hat.

"I pray that Allah will bring this couple together," the man, Sheik Reda Shata, says, clutching his seat belt and urging the bachelor to slow down.

Christian singles have coffee hour. Young Jews have JDate. But many Muslims believe that it is forbidden for an unmarried man and woman to meet in private. In predominantly Muslim countries, the job of making introductions and even arranging marriages typically falls to a vast network of family and friends.

In Brooklyn, there is Mr. Shata.

Week after week, Muslims embark on dates with him in tow. Mr. Shata, the imam of a Bay Ridge mosque, juggles some 550 "marriage candidates," from a gold-toothed electrician to a professor at Columbia University. The meetings often unfold on the green velour couch of his office, or over a meal at his favorite Yemeni restaurant on Atlantic Avenue.

The bookish Egyptian came to America in 2002 to lead prayers, not to dabble in matchmaking. He was far more conversant in Islamic jurisprudence than in matters of the heart. But American imams must wear many hats, none of which come tailor-made.

Whether issuing American-inspired fatwas or counseling the homesick, fielding questions from the F.B.I. or mediating neighborhood spats, Mr. Shata walks an endless labyrinth of problems.

If anything seems conquerable, it is the solitude of Muslim singles. Nothing brings the imam more joy than guiding them to marriage. It is his way of fashioning a future for his faith. It is his most heartfelt effort — by turns graceful and comedic, vexing and hopeful — to make Islam work in America.

Word of the imam's talents has traveled far, eliciting lonely calls from Muslims in Chicago and Los Angeles, or from meddlesome parents in Cairo and Damascus.

From an estimated 250 chaperoned dates, Mr. Shata has produced 10 marriages.

"The prophet said whoever brings a man and woman together, it is as if he has worshiped for an entire year," said Mr. Shata, 37, speaking through an Arabic translator.

The task is not easy. In a country of plentiful options, Muslim immigrants can become picky, even rude, the imam complains.

During one date, a woman studied the red-circled eyes of a prospective husband and asked, "Have you brought me an alcoholic?"

On another occasion, an Egyptian man stared at the flat chest of a pleasant young Moroccan woman and announced, "She looks like a log!" the imam recalled.

"This would never happen in Egypt," said Mr. Shata, turning red at the memory. "Never, never. If I knew this boy had no manners I never would have let him into my office."

The Imam's Little Black Book

The concept of proper courtship in Islam, like much about the faith, is open to interpretation.

Islamic law specifies that a man and woman who are unmarried may not be alone in closed quarters. Some Muslims reject any mingling before marriage. Others freely date. Many fall somewhere in between, meeting in groups, getting engaged and spending time alone before the wedding, while their parents look the other way.

For one Syrian in New York, a date at Starbucks is acceptable if it begins and ends on the premises: The public is his chaperon.

Mr. Shata is a traditionalist. There were few strangers in his rural town of birth, Kafr al Battikh, in northeastern Egypt. Men and women often agreed to marry the day they met, and a few made the deal sight unseen. It was rare to meet anyone from a distant province, let alone another country.

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New York is not only the capital of the world, imams often joke, but also the crossroads of Islam, a human sampling more diverse than anywhere save Mecca during the annual pilgrimage known as the Hajj. Beyond the city's five boroughs, Muslim immigrants have formed Islamic hubs in California, Illinois, Michigan and Texas.

At the center of these hubs stands a familiar sight in a foreign land, the mosque. What was a place of worship in Pakistan or Algeria becomes, in Houston or Detroit, a social haven. But inside, the sexes remain largely apart.

A growing number of Muslim Web sites advertise marriage candidates, and housewives often double as matchmakers. One mosque in Princeton, N.J., plays host to a closely supervised version of speed dating. And so many singles worship at the Islamic Society of Boston that a committee was formed to match them up.

Fearing a potential surplus of single Muslim women, one Brooklyn imam reportedly urged his wealthier male congregants during a Ramadan sermon last year to take two wives. When a woman complained about the sermon to Mr. Shata, he laughed.

"You know that preacher who said Hugo Chávez should be shot?" he asked. "We have our idiots, too."

More than a matchmaker, Mr. Shata sees himself as a surrogate elder to young Muslims, many of whom live far from their parents. In America, only an imam is thought to have the connections, wisdom and respect to step into the role.

Mr. Shata began the service three months after arriving in Brooklyn in 2002, recruited to lead the Islamic Society of Bay Ridge, a mosque on Fifth Avenue.

Dates chaperoned by Mr. Shata — or "meetings between candidates," as the imam prefers to call them — often take place in his distinctly unromantic office, amid rows of Islamic texts. As a couple get acquainted, the imam sits quietly at his desk, writing a sermon or surfing the Arabic Web sites of CNN and the BBC.

If there is an awkward silence, the imam perks up and asks a question ("So tell me, Ilham, how many siblings do you have?") and the conversation is moving again.

Candidates are vetted carefully, and those without personal references need not apply. But instinct is Mr. Shata's best guide. He refused to help a Saudi from California because the man would consider only a teenage wife. Others have shown an all-too-keen interest in a green card.

Those who pass initial inspection are listed in the imam's version of a little black book — their names, phone numbers, specifications and desires. Some prefer "silky hair," others "a virgin." Nearly all candidates, men and women alike, want a mate with devotion to Islam, decent looks and legal immigration status.

Scanning the book, the imam makes his pitch with the precision of a car salesman.

"There is a girl, an American convert, Dominican, looks a little Egyptian. Skin-wise, not white, not dark. Wheat-colored. She's 19, studies accounting," Mr. Shata told a 24-year-old Palestinian man one afternoon.

"This is my only choice?" replied the man, Yamal Othman, who lives in Queens.

Such questions annoy Mr. Shata. An imam, he says, should be trusted to select the best candidate. Often, though, his recommendations are met with skepticism.

"It's harder than choosing a diamond," said Mr. Shata.

Sometimes, on the imam's three-legged dates, no one seems more excited than Mr. Shata himself. He makes hurried, hearty introductions and then steps back to watch, as if mixing chemicals in a lab experiment. Love is rarely ignited, but the imam remains awed by its promise.

Mr. Shata discovered love 15 years ago, when he walked into the living room of the most stately house in Kafr al Battikh.

The imam was tall, 22, a rising star at the local mosque. For months, Omyma Elshabrawy knew only his voice. She would listen to his thunderous sermons from the women's section, out of view. Then, one evening, he appeared at her home, presented as a prospective groom to her father, a distinguished reciter of the Koran.

The young woman, then 20, walked toward Mr. Shata carrying a tray of lemonade.

"She entered my heart," said the imam.

After serving the drinks, she disappeared. Right then, Mr. Shata asked her father for her hand in marriage. The older man paused. His daughter was the town beauty, an English student with marriage offers from doctors. The imam was penniless.

But before Mr. Elshabrawy could respond, a sugary voice interrupted. "I accept," his daughter said from behind a door.

"I loved him from the moment I saw him," Ms. Elshabrawy said.

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They now have four children.

The family posed last year for a Sears-style portrait, taken by a woman in Bay Ridge who photographs Muslim families in her basement. A blue sky and white picket fence adorn the background. The imam sits at center, with the baby, Mohammed, in his lap, his three daughters smiling, his wife wrapped in a lime-green hijab.

Mr. Shata carries the picture in the breast pocket of his robe. It is as close as most people get to his family. At the mosque, they are a mystery. His wife has been there twice.

Their years in America have come with great hardship, a subject the imam rarely discusses. The trouble is the illness of his 7-year-old daughter, Rawda, who is severely epileptic. She has dozens of seizures every day and rarely leaves home. No combination of medicine seems to help.

"Rawda is the wound in my heart," the imam said.

Mr. Shata offers long, stubborn theories about the value of marriage, but to observe him at home is to understand the commitment he seeks to foster in other Muslims.

The family lives in a spare, dimly lighted apartment two blocks from the mosque. Headscarves are piled over Pokémon cards. The gold-painted words "Allah is Great" are framed over a threadbare couch. In the next room, an "I {sheart} New York" bumper sticker is slapped on the wall.

Mr. Shata spends long hours away from his family, lecturing at mosques, settling disputes, whispering the call to prayer in the ears of newborn babies. On his walk home at night, he shops for groceries, never forgetting the Honey Nut Cheerios, a favorite American discovery of his children.

When he walks in the door, his face softens. Loud kisses are planted on tender cheeks. Mohammed squeals, the girls smile, sweet laughter echoes.

But then there is Rawda.

"My beautiful girl," the imam says softly one evening, holding his limp daughter in his lap after a seizure has passed. He places one pill in Rawda's mouth, then another. She looks at him weakly.

"There we go," he whispers. "Inshallah."

Her lids close with sleep. He lays her in bed and shuts off the light.

Hardship, the imam believes — like marriage, like life — is a test from God.

Foreign and Familiar

It is proof of the imam's uncommon popularity among women that he is trusted with roughly 300 female marriage candidates.

The mosque on Fifth Avenue is a decidedly male place. Men occupy every position on the board of directors. They crowd the sidewalk after prayer. Only they may enter the mosque's central room of worship. Only men, they often point out, are required to attend the Friday prayer.

One floor below is the cramped room where the women worship. On Fridays, they sit pressed together, their headscarves itching with heat. They must watch their imam on a closed-circuit television that no one seems to have adjusted in years.

But they listen devotedly. Teenage girls often roll their eyes at foreign imams, who seem to them like extraterrestrials. Their immigrant mothers often find these clerics too strict, an uncomfortable reminder of their conservative homelands.

Mr. Shata is both foreign and familiar. He presides over a patriarchal world, sometimes upholding it, and other times challenging it. In one sermon, he said that a man was in charge of his home and had the right to "choose his wife's friends."

Another day, to the consternation of his male congregants, he invited a female Arab social worker to lecture on domestic violence. The women were allowed to sit next to the men in the main section of the mosque.

The imam frowns at career women who remain single in their 30's, but boasts of their accomplishments to interest marriage candidates. He employs his own brand of feminism, vetting marriage contracts closely to ensure brides receive a fair dowry and fighting for them when they don't.

Far more than is customary, he spends hours listening to women: to their worries and confessions, their intimate secrets and frank questions about everything from menstruation to infidelity. They line up outside his office and call his home at all hours,

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often referring to him as "my brother" or "father." He can summon the details of their lives with the same encyclopedic discipline he once used to memorize the Koran.

"Are you separated yet?" Mr. Shata asked a woman he encountered at Lutheran Medical Center one day last July. She nodded. "May God make it easier for you," he said.

A Chaperoned Date

By most standards, the Egyptian bachelor was a catch. He had broad shoulders and a playful smile. He was witty. He earned a comfortable salary as an engineer, and came from what he called "a good family."

But the imam saw him differently, as a young man in danger of losing his faith. The right match might save him.

The bachelor, who is 33, came to Brooklyn from Alexandria, Egypt, six years earlier. He craved a better salary, and freedom from controlling parents. He asked that his name not be printed for fear of causing embarrassment to his family.

America was not like Egypt, where his family's connections could secure a good job. In Brooklyn, he found work as a busboy. He traded the plush comfort of his parents' home for an apartment crowded with other Egyptian immigrants. His nights were lonely. Temptation was abundant.

Women covered far less of their bodies. Bare limbs, it seemed, were everywhere. In Islam, men are instructed to lower their gaze to avoid falling into sin.

"In the summertime, it's a disaster for us," said the bachelor. "Especially a guy like me, who's looking all the time."

Curiosity lured him into bars, clubs and the occasional one-night stand.

But with freedom came guilt, he said. After drifting from his faith, he visited Mr. Shata's mosque during Ramadan in 2004.

The imam struck him as oddly disarming. He made jokes, and explained Islam in simple, passionate paragraphs. The bachelor soon began praying daily, attending weekly lectures and reading the Koran. By then, he had his own apartment and a consulting job.

Now he wanted a Muslim wife.

If the bachelor had been in Egypt, his parents would offer a stream of marriage candidates. The distance had not stopped them entirely. His mother sent him a video of his brother's wedding, directing him to footage of a female guest. He was unimpressed.

"I'm a handsome guy," he explained one evening as he sped toward Manhattan. It was his second date with Mr. Shata in attendance. "I have a standard in beauty."

From the passenger seat, the imam flipped open the glove compartment to find an assortment of pricey colognes. He inspected a bottle of Gio and, with a nod from the bachelor, spritzed it over his robe.

The imam and the bachelor were at odds over the material world, but on one thing they agreed: it is a Muslim duty to smell good. The religion's founder, the Prophet Muhammad, was said to wear musk.

The car slowed before a brick high-rise on Second Avenue. Soon the pair rode up in the elevator. The bachelor took a breath and rang the doorbell. An older woman answered. Behind her stood a slender, fetching woman with a shy smile.

The young woman, Engy Abdelkader, had been presented to the imam by another matchmaker. A woman of striking beauty and poise, Ms. Abdelkader is less timid than she first seems. She works as an immigration and human rights lawyer, and speaks in forceful, eloquent bursts. She is proud of her faith, and lectures publicly on Islam and civil liberties.

She was not always so outspoken. The daughter of Egyptian immigrants, Ms. Abdelkader, 30, was raised in suburban Howell, N.J., where she longed to fit in. Though she grew up praying, in high school she chose not to wear a hijab, the head scarf donned by Muslim girls when they reach puberty.

But Sept. 11 awakened her, Ms. Abdelkader said. For her and other Muslims, the terrorist attacks prompted a return to the faith, driven by what she said was a need to reclaim Islam from terrorists and a vilifying media. Headscarves became a statement, equal parts political and religious.

"There's nothing oppressive about it," said Ms. Abdelkader. "As a Muslim woman I am asking people to pay attention to the content of my character rather than my physical appearance."

The pair sat on a couch, awkwardly sipping tea. They began by talking, in English, about their professions. The bachelor was put off by the fact that Ms. Abdelkader had a law degree, yet earned a modest salary.

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"Why go to law school and not make money?" he asked later.

Ms. Abdelkader's mother and a female friend who lived in the apartment sat listening nearby until the imam mercifully distracted them. The first hint of trouble came soon after.

It was his dream, the engineer told Ms. Abdelkader, to buy a half-million-dollar house. But he was uncertain that the mortgage he would need is lawful in Islam.

Ms. Abdelkader straightened her back and replied, "I would rather have eternal bliss in the hereafter than live in a house or apartment with a mortgage."

An argument ensued. Voices rose. Ms. Abdelkader's mother took her daughter's side. The friend wavered. The bachelor held his ground. The imam tried to mediate.

Indeed, he was puzzled. Here was a woman who had grown up amid tended lawns and new cars, yet she rejected materialism. And here was a man raised by Muslim hands, yet he was rebelliously moderate.

After the date, the bachelor told the imam, "I want a woman, not a sheik."

Months later, he married another immigrant; she was not especially devoted to Islam but she made him laugh, he said. They met through friends in New York.

Ms. Abdelkader remains single. The imam still believes she was the perfect match.

That evening, the imam stood on the sidewalk outside. Rain fell in stinging drops.

"I never wanted to be a sheik," he said. "I used to think that a religious person is very extreme and never smiles. And I love to smile. I love to laugh. I used to think that religious people were isolated and I love to be among people."

The rain soaked the imam's robe and began to pool in his sandals. A moment later, he ducked inside the building.

"The surprise for me was that the qualities I thought would not make a good sheik — simplicity and humor and being close to people — those are the most important qualities. People love those who smile and laugh. They need someone who lives among them and knows their pain."

"I know them," said Mr. Shata. "Like a brother."

PATRIOT ACT:

A Tame End To Patriot Act Debate (WP)

By Jonathan Weisman And Jeffrey H. Birnbaum

The Washington Post, March 7, 2006

For a legislative fight that has stretched on for months, pitting the House against the Senate and the White House against members of the president's party, the battle to renew the USA Patriot Act will likely end very quietly this week.

Between three post office renamings and a measure to clamp down on the counterfeiting of manufactured goods, the House will give its final assent today on the Patriot Act's reauthorization. Republican leaders are so confident in its passage that they have scheduled the vote on the fast-track "suspension calendar," where approval takes the vote of two-thirds of the House. Just after they pass the Patriot Act, House members will vote to support the goals and ideals of National Engineers Week.

Passed after the 2001 terrorist attacks, the law made it easier for federal agents to secretly tap phones, obtain library and bank records, and search homes of terrorism suspects. Complaints by civil libertarians, librarians and others prompted lawmakers last year to insist on adding safeguards to the act before renewing it.

Some of the revisions affect National Security Letters, which are subpoenas for financial and electronic records that do not require a judge's approval. Libraries functioning "in their traditional capacity" will no longer be subject to such letters. Also modified is "Section 215 subpoenas," which are granted by the Foreign Intelligence Surveillance Act Court. Recipients now will have the explicit right to challenge the subpoenas' nondisclosure or "gag order" requirements.

Some civil liberties groups, however, say the law is written in a way that will make it very difficult for a targeted individual to prevail in such an appeal.Less Call for Sweeping Lobbying Reform?

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As the Patriot Act battle ends with a whimper, the fight over the rules governing lobbying will begin. But just as the Patriot Act fight started with promises of major changes and ended largely with the status quo, the push for sweeping lobbying reform may be losing steam.

The Senate is scheduled to take up ethics and lobbying legislation this week. But first, Majority Leader Bill Frist (R-Tenn.) hopes to merge two bills on the subject passed last week by the Senate Committee on Rules and Administration, and the Committee on Homeland Security and Governmental Affairs.

Senate aides do not expect much trouble accomplishing the combination. The rules bill deals basically with lawmakers' actions, and the governmental affairs bill involves mostly demands on lobbyists. Together they would represent the Senate's response to the Jack Abramoff lobbying scandals.

The bills lean heavily toward expanding disclosure requirements on both lawmakers and lobbyists. In addition, one pending proposal would make it harder for lawmakers to pass narrowly targeted spending measures called earmarks. The bill would also double to two years the time that former lawmakers must wait before they can lobby their ex-colleagues on Capitol Hill.

Senators have said they expect debate on a variety of measures on the floor including a plan, once rejected in committee, to establish an independent office of public integrity. Some senators also plan to offer an amendment that would force lawmakers to pay charter fares for their private airplane trips rather than the first-class rates allowed under current law.Food Bill No Longer Small Potatoes

The biggest rhetorical battle in Congress may be a food fight. Tomorrow or Thursday, the House is scheduled to vote on the National Uniformity for Food Act, a measure to establish a federal system of food warnings that would replace the patchwork regulations of the states.

The measure has bipartisan support and was expected to pass with little controversy. But in recent days, the protests of state government officials and environmental groups have changed the equation. State attorneys general say the legislation will federalize a regulatory issue that has been handled at the state level and could replace some tough state standards with weaker federal rules.

The Natural Resources Defense Council hand-delivered bottles of Pepto-Bismol to House members and their staff with a special label warning that "H.R. 4167 side effects may include vomiting, diarrhea, birth defects, cancer and worse." A bipartisan group of attorneys general will protest the measure today at a news conference near the Capitol.

Rep. Mike Rogers (R-Mich.), the bill's author, said yesterday that his measure is the victim of a disinformation campaign.

"The uniformity in food warnings under the bill will enhance food safety and public health," he said. "Contrary to the assertions of the attorneys general, H.R. 4167 is sound public policy that provides protection for all citizens of all states."

Patriot Act Includes Crackdown On Meth Use (AP)

By LAURIE KELLMAN, The Associated Press

AP, March 6, 2006

WASHINGTON (AP) — Suffer from springtime allergies? You could be among the first affected by the USA Patriot Act poised for final congressional passage this week.

Besides terrorism, the bill takes aim at the production of methamphetamine, a highly addictive drug that cannot be manufactured without a key ingredient of everyday cold and allergy medicines. The bill would impose new limits next month for how much relief a person can buy over the counter.

And beginning Sept. 30, it'll take a flash of ID to buy that medication.

The legislation sponsored by Sens. Dianne Feinstein, D-Calif. and Jim Talent, R-Mo., would blanket the nation with one policy that would put medicines containing pseudoephedrine behind the counter and out of the reach of meth cooks.

"If we leave it up to local jurisdiction, we're simply going to move the problem from one jurisdiction to another without addressing the root cause," said Fresno, Calif., Police Chief Jerry Dyer.

Pass a state or local law cracking down on methamphetamine production, set off a cycle that goes something like this:

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The black market price of cold tablets needed to make the drug skyrockets, driving the meth makers to the jurisdiction next door. There, they buy it in bulk — legally, cheaply, anonymously.

That is, until that state or city gets tough on meth with new laws of its own.

Rather than wait for localities to stitch together a patchwork of anti meth policies, the provision of the Patriot Act would leave meth producers nowhere to run but out of the country. It takes aim at the meth trade's weakest point — the supply of pseudoephedrine.

Beginning 30 days after President Bush signs the law, expected sometime this week, purchase limits go into effect. One person would be limited to buying 300, 30-mg pills in a month or 120 such pills in a day. The measure would make an exception for "single-use" sales — individually packaged pseudoephedrine products.

Many retailers, such as Kmart, Walgreens, Target and Wal-Mart, have already adopted guidelines to limit customer access to cold products or to limit their sales.

Similar state and local restrictions have caused seizures of meth labs to plunge by double-digit percentages in such states as Arkansas, Oregon and Missouri.

At the same time, drug agents began finding more meth from Mexican cartels on the street.

Still, closing down domestic meth labs is of unique urgency to public health and safety, law enforcement officials said.

The drug is made in clandestine labs with battery acid, drain cleaner or other chemicals that help turn the cold and allergy medicine into powder.

One quart of ether, another ingredient, holds the explosive power of several sticks of dynamite, said Sgt. Jason Grellner of the Franklin County, Mo., Narcotics Enforcement Unit, which has seized 600 meth labs since 1998 in a jurisdiction of 100,000 people.

Wading into the toxic soup of a meth lab puts officers in situations for which they are not necessarily trained, Grellner said.

"They have to know the job of a hazardous-waste chemist. They have to have the mindset of a firefighter. They have to be a natural-resources worker," Grellner said. "Wearing that many hats is a safety concern."

And an abandoned lab becomes an environmental hazard, pointed out Dyer.

"They were leaving the chemicals and equipment out in the open and vacating the property," Dyer said. "They found out that we started to trace down suspects with that equipment. Now they are burying these same items underground."

Oklahoma provides evidence that driving out meth labs doesn't mean getting rid of meth. Oklahoma's meth lab seizures have fallen 90 percent since April 2004, when it became the first state to ban over-the-counter sales of everyday cold and allergy medications.

At the same time, seizures of smokeable Mexican meth known as "crystal ice" rose nearly fivefold, from 384 cases in the 15 months before the law to 1,875 since.

"We're going to see trafficking by Mexican cartel organizations, on a much larger scale," Grellner said.

HOMELAND RESPONSE:

Chertoff Says U.S. Ports Takeover Would Tighten Grip On Security (WSJ)

By Robert Block

The Wall Street Journal, March 7, 2006

WASHINGTON -- Homeland Security Secretary Michael Chertoff yesterday said the proposed takeover of terminal operations at five U.S. ports by a Dubai company would give U.S. law enforcement a better handle on security at U.S. terminal operations.

But the unprecedented access that the Department of Homeland Security and other federal agencies would have to monitor the United Arab Emirates shipping company's personnel and business records would "evaporate" if Congress stopped the deal from proceeding, he warned.

Mr. Chertoff has said on many occasions that he didn't consider Dubai Ports World's proposed $6.8 billion buyout of London's Peninsular & Oriental Steam Navigation Co. a security threat to the U.S. However, his statements to a group of Wall

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Street Journal reporters marked the first time that he has said that Homeland Security had something to lose if the deal fell through.

"We are in a position now where we can and, assuming this deal goes through, we intend to have a deep look into their practices, certainly in the U.S. ports," Mr. Chertoff said.

Mr. Chertoff also denied rumors he had any intention of resigning following criticism of how his department handled the aftermath of Hurricane Katrina. On the contrary, he said that as the hurricane season approaches, he intends to remake the Federal Emergency Management Agency. He said he will recommend not just a new FEMA director, but an entire management team to head the agency, which has been without a director since Michael Brown resigned 10 days after Hurricane Katrina struck the Gulf Coast.

On the ports issue, Mr. Chertoff said his department was beginning to review and inspect P&O's current operations in the U.S. Members of Congress and governors from both parties were outraged at the prospect of an Arab government operating U.S. port terminals, and are angry that the White House didn't consult them before approving the deal.

Mr. Chertoff said DP World has committed to continue its participation in U.S.-sponsored port-security initiatives at all its overseas operations and to "assist and support federal, state and local law-enforcement agencies" as part of conditions for approving the acquisition.

According to the letter to the Homeland Security Department containing DP World's agreement, the company agreed to provide U.S. law enforcement, if asked, with information about its U.S. operations, facilities and personnel. It also agreed to provide federal agencies with any records in the U.S. involving its foreign operations. Since the terrorist attacks of Sept. 11, 2001, federal law-enforcement and intelligence agencies have been trying to get inside information about global shipping operations, long seen as a potential conduit for smuggling terrorists and weapons around the globe.

Mr. Chertoff described the arrangement as a template for other foreign-owned port-terminal operators. "This actually gives us a better opportunity to raise the baseline of security, first with this set of terminal operators, but eventually, hopefully, unless Congress says you can't have foreign companies own or run terminal operations, we'll be able to raise the level for all them too," he said.

DP World has agreed to an additional 45-day review of the deal, but lawmakers are considering legislation that would bar it. If that happened, Mr. Chertoff said, the U.S. would lose the ability it would gain through the deal to more closely scrutinize terminal operations. "Obviously if the deal doesn't go through, these assurances evaporate."

Mr. Chertoff, who took over from the department's first secretary, Tom Ridge, just over a year ago, also said that some lawmakers still aren't completely committed to the Department of Homeland Security, and would like to see it broken up. He said the hope was destructive and hampered his agency's effectiveness.

After the federal government's initial response to Hurricane Katrina, there are calls on Capitol Hill to break FEMA out of Homeland Security, a move Mr. Chertoff said would be a mistake. Mr. Chertoff said he hoped to have an emergency team in place along with supply contracts from companies that can track shipments of relief commodities like water, food and ice, before the hurricane season starts June 1.

April Vote Expected On Port Security (WT)

By Amy Fagan

The Washington Times, March 7, 2006

Senate homeland security panel Chairman Susan Collins said her committee will vote next month on legislation to improve America's port security and thinks the concern over a Dubai company running some U.S. port operations may give the bill new momentum.

"My hope is that the silver lining of the controversy over the Dubai transaction is that it will prompt Congress once and for all to pass comprehensive legislation to deal with the broader underlying issue of port security," said Miss Collins, Maine Republican.

The administration is conducting a new 45-day review of DP World's $6.8 billion bid to purchase terminal operations at several key U.S. ports from a British company.

The deal is moving forward, however. Yesterday, Britain's Court of Appeal dismissed a Miami firm's objection to it. The takeover is now set to become effective tomorrow, the British company said in a statement.

Meanwhile, Miss Collins plans to move a ports security bill she wrote last year with Sen. Patty Murray, Washington Democrat. The two are also working with House Homeland Security Chairman Peter T. King, New York Republican, and Rep. Jane Harman, California Democrat, on a similar House bill.

Miss Collins' measure would authorize $835 million each year for five years to improve current port security programs. It would create an office of cargo security policy, and set new requirements for examination of all inbound cargo.

Miss Collins said the Homeland Security Department is taking far too long to implement some security steps, like minimum standards for mechanical seals on cargo and identity cards for transportation workers.

"We want to make this a priority for the department, set clear deadlines, set clear standards, and I think it will make a real difference," she said.

The bill would create a program to entice private importers to enact top security standards for cargo in exchange for special treatment, like fewer searches. And it also would direct the department to come up with a detailed plan of how trade would resume after an attack at a U.S. port. There is no such plan in place now.

Mrs. Murray said an attack on one port would require all ports to be shut down for perhaps as long as four months, with devastating consequences.

"People in the Midwest who think they have nothing to do with ports would soon not have anything on the shelves of their grocery stores or Wal-Marts," she said.

Miss Collins also plans to introduce a new bill later this week with Sen. Joe Lieberman, the ranking Democrat on the homeland security panel. It would move the Committee on Foreign Investment in the United States (CFIUS) -- which approved the DP World takeover deal -- under the purview of the Homeland Security Department, as opposed to the Treasury, as is now the case.

Lieberman Calls For More US Port Security Funds (REU-Y2)

By Richard Cowan

Reuters, March 6, 2006

The Bush administration's plan for securing America's ports is inadequate and funding should be nearly double the White House's budget request for next year, a key Senate Democrat said on Monday.

Sen. Joseph Lieberman (news, bio, voting record) of Connecticut, the senior Democrat on the Senate Homeland Security and Governmental Affairs Committee, called for spending more than $1 billion on port security in fiscal 2007.

In remarks to reporters, Lieberman noted that the Bush administration budget only calls for $551 million for port security in the fiscal year starting on October 1.

"This budget fails to address the damage that terrorists can do to us with weapons of mass destruction or dirty bombs in containers shipped into this country," Lieberman said.

Democrats' criticism of the administration's spending priorities came amid an uproar over White House approval of a state-owned Arab company's plan to manage six American ports.

The plan for Dubai Ports World to buy British port operator P&O is under a 45-day review and some Republicans in Congress have vowed to block it.

Separately, a White House spokesman expressed confidence that lawmakers would ultimately support the $6.85 billion Dubai Ports World deal.

"We're confident that at the end of this review process that more members will be comfortable with this transaction moving forward," said spokesman Scott McClellan.

However, the Republican chairman of the House Armed Services Committee planned to introduce a bill on Tuesday that would block the Dubai deal, his spokesman said.

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The legislation being prepared by Rep. Duncan Hunter (news, bio, voting record) of California and Republican Rep. Jim Saxton (news, bio, voting record) of New Jersey would also force foreign owners of U.S. ports, electricity plants and other "critical" infrastructure to sell their holdings and require inspection of all cargo.

Other details of the bill were not yet available, a Hunter spokesman said.

Later this week, the Senate Budget Committee is expected to craft a budget blueprint for next year and Lieberman has urged the panel to beef up domestic security by spending $8 billion more than President George W. Bush has proposed.

Besides port security, the added money would fund Coast Guard operations, emergency health preparedness, first responders and other Department of Homeland Security activities.

The Democrat's demand for more domestic security funds comes as the Republican-controlled Congress tries to find ways to control massive federal budget deficits. Next year's deficit is expected to come in around $355 billion.

Sen. Kent Conrad (news, bio, voting record) of North Dakota, the senior Democrat on the budget committee, said he would pay for more domestic security spending by improving tax collection. Government experts have testified that about $350 billion in taxes due are not being collected by the Internal Revenue Service each year.

"It has been more than three years since the Coast Guard estimated more than $7 billion would be needed just to provide basic physical security at all U.S. ports" and to implement a 2002 maritime transportation security law, Lieberman said.

He added that Congress so far has appropriated about $750 million. "Much more clearly remains to be done," Lieberman told the Senate Budget Committee.

Hunter Readies Ports Bill (HILL)

By Roxana Tiron

The Hill, March 7, 2006

Rep. Duncan Hunter (R-Calif.), who has promised to try to sink the Dubai Ports World deal, started circulating a “Dear Colleague” letter yesterday to attract co-sponsors for legislation he plans to introduce today.

In the letter, co-signed by Rep. Jim Saxton (R-N.J.), Hunter outlined several provisions of the legislation, which would halt the Dubai takeover of management at some U.S. port terminals. It would also require any corporation that owns, manages or operates “national defense critical infrastructure to be majority-owned by American citizens.”

The secretaries of defense and homeland security would have to prepare and maintain and a national defense critical infrastructure list, the letter says.

Hunter and Saxton also call for reforming the interagency Committee on Foreign Investment in the United States by mandating a 45-day investigation into transactions that may have national-security implications. The legislation would, additionally, require the president to provide regulations that mandate written notification to the administration of mergers, acquisitions and takeovers that may be subject to investigation by the committee.

British Court Allows Dubai Deal To Proceed (AP-Y2)

By Jane Wardell

AP2, March 6, 2006

The controversial takeover of British shipping company P&O by Dubai's state-owned DP World received the green light Monday when Britain's Court of Appeal dismissed a Miami firm's objection to the deal.

The Court of Appeal declined to hear an appeal from Miami-based Eller & Co., which had tried to have the deal barred on technical grounds, arguing that U.S. concerns about a United Arab Emirates company owning significant operations at six major U.S. seaports could harm its business.

The lower High Court had already approved the 3.9 billion pound ($6.8 billion) acquisition of the Peninsular and Oriental Steam Navigation Co. and Monday's unanimous decision by the three judges of the Court of Appeal means that the deal is now free to proceed through the final regulatory stages.

In a statement following the decision, P&O said the takeover will now become effective on March 8 and that the shipping company's shares will be delisted from the London, Sydney and Tokyo stock exchanges on March 9.

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The deal was originally due to be closed last Thursday, but Eller's last-minute petition resulted in an extended three-day hearing in the High Court — which must give approval for the takeover to go ahead.

Justice Nicholas Warren gave that approval on Thursday, but placed a hold on his ruling to allow Eller to take the case to the higher court.

Justices Anthony Lloyd, David Neuberger and Martin Moore-Bick lifted the hold order Monday as they ruled that Eller had no case on four technical grounds, including an argument that hundreds of shareholders in Australia were not given adequate notice of a vote on the deal because of a mailing problem.

Eller said after the ruling that it was disappointed by the decision, but it did not intend to appeal the judgment. However, it said it would continue to pursue legal action in the U.S. courts in Florida.

"We are not alone in opposing this deal — many elected politicians in the U.S. and indeed the American public, share many of our concerns about the takeover," the company said in a statement.

"We will continue to fight to protect our business and the livelihood of thousands of our staff and subcontractors," it added.

P&O runs shipping terminals in New York, New Jersey, Baltimore, New Orleans, Miami and Philadelphia — a fact that has caused unease among some lawmakers and businesses in the United States who have cited security concerns about an Arab company taking over the ports.

DP World has attempted to defuse some of the tension by saying the U.S. ports will remain separate to the overall deal and submitting itself to a second 45-day investigation by the U.S. government, despite already receiving regulatory approval.

Chief Executive Mohammed Sharaf said Sunday he expected the deal to be completed.

"All the authorities are comfortable with the security measures that we take," he said. "As far as we are concerned, the deal is going to go through, and the British government has approved it."

"There are big consequences for the British market if it doesn't go through because investors are waiting for the money," he said on CNN's "Late Edition."

Lawyers for DP World warned last week that a delay beyond Friday meant that the company will not be able to access the money it needs to pay shareholders on time. Lawyers for P&O said they will pursue Eller for the costs of the British legislation.

President Bush has supported the takeover deal and lawmakers that were initially opposed seem to have softened slightly, tempering calls for an immediate vote to block the takeover. Many said the new probe reassured them and negated the need for legislation for now.

A U.S. federal judge has also ruled against a request by New Jersey to order an investigation into the takeover.

The High Court's Warren said in his ruling last week that U.S. concerns about port security and threats of port authorities withdrawing business were partly fueled by Eller and he did not find them credible.

U.S. Firm Loses Appeal Of P& O Sale (WP)

By Jane Wardell

The Washington Post, March 7, 2006

LONDON, March 6 -- A British appeals court on Monday declined to hear a Miami firm's objection to the takeover of British shipping company P&O Group by Dubai's state-owned Dubai Ports World, giving the go-ahead to a deal that has caused an uproar in the United States over port security.

Miami-based Eller & Co. had argued that U.S. concerns about a United Arab Emirates company managing significant operations at six major U.S. seaports could harm its business. Eller had tried to have the deal barred on technical grounds.

Eller said that it will continue to pursue legal action in the U.S. courts in Florida. "We will continue to fight to protect our business and the livelihood of thousands of our staff and subcontractors," it said.

The $6.8 billion acquisition of the Peninsular and Oriental Steam Navigation Co. was given the required approval by the High Court last week. But High Court Justice Nicholas Warren placed a hold on his ruling to allow Eller to take the case to the higher court.

The rejection of the appeal means that P&O can now list the deal at the British registry Companies House, the final regulatory stage of the transaction.

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Mideast Investment Up In U.S. (WP)

By Paul Blustein

The Washington Post, March 7, 2006

Middle Eastern investment in the United States is once again picking up steam, showing big gains since the tense period following the Sept. 11, 2001, terrorist attacks. And while some takeovers are triggering alarm -- most famously, the purchase by a Dubai-owned company of a seaports management firm -- others are evoking warm welcomes.

Spearheading the trend is Dubai's Mohammed bin Rashid al-Maktum (popularly known as "Sheik Mo"), ruler of the freewheeling city-state, which is part of the United Arab Emirates. The ports deal is just one of a series of recent purchases by companies he controls.

Other acquisitions include a $1 billion portfolio of 21,000 apartments in U.S. Sun Belt cities; a 2.2 percent stake in the automotive giant DaimlerChrysler AG that cost another $1 billion; and a Manhattan landmark building, 230 Park Ave. The emirate also made major purchases in other countries over the past year, notably a $1.5 billion takeover of Britain's Tussauds Group, which owns the famous waxworks, along with theme parks, roller coasters and other entertainment-oriented businesses.

On Thursday came news that yet another Dubai acquisition is drawing Bush administration scrutiny because of the national security risks -- this time of plants in Georgia and Connecticut that make precision components used in engines for military aircraft and tanks.

But an entirely different reaction greeted the disclosure several months ago that Dubai Investment Group had acquired the Essex House hotel in Manhattan and promised to sink $50 million into renovating it.

That announcement prompted New York City Mayor Michael R. Bloomberg to exult: "Another iconic hotel overlooking Central Park will be preserved and its unionized workforce protected. This is excellent news for New York's tourism and hospitality industries."

Behind such transactions are two powerful forces. One, of course, is the high price of energy, which has left several oil-producing Arab countries swimming in cash. The other is the burgeoning U.S. trade deficit -- $726 billion last year -- which means that the United States needs foreign capital; a country that imports more than it exports must cover the gap with money from abroad.

Until now, investments in the United States from Europe and other parts of Asia have dwarfed those from the Middle East. But an increasing share of the foreign money required to fuel the U.S. economy is likely to come from places that, like Dubai, trigger visceral reactions among Americans seared by memories of the Sept. 11 attacks.

"The price of oil is going only one way -- up -- for the next five years, because it is going to take at least that long for alternatives to kick in," said Youssef M. Ibrahim, managing director of the Strategic Energy Investment Group, a consulting firm based in Dubai. "So there is no question in my mind that billions of dollars will continue flowing this way, and people cannot handle all of that kind of money here. You've got to circulate the money, and the United States is still the biggest market."

Already, the list of U.S. businesses owned by Arab investors -- not just from Dubai -- includes some well-known names. Among them are Caribou Coffee Co., the fast-growing rival to Starbucks Corp.; Church's Chicken, a fast-food concern; Loehmann's, a specialty retailer; TLC Health Care Services Inc., a provider of home nursing and hospice care; and even several financial publications, including the American Banker.

Such "direct" investment in hard assets -- companies, factories and real estate -- is generally preferable for the U.S. economy, in the view of most economists, to foreign investment in bonds, stocks and other financial assets. One advantage of direct investments is that they cannot be dumped in a panic the way that, say, a Treasury bond can. Moreover, they often involve high-wage jobs. Average annual compensation per worker at U.S. subsidiaries of foreign companies is about $60,500, 34 percent higher than the rate at all U.S. companies, according to the Organization for International Investment.

The main drawback of a direct investment is that it involves foreign control, which can raise national security concerns. That is why an interagency government panel, the Committee on Foreign Investment in the United States, reviews many foreign takeovers. That process may be revamped by Congress due to indignation over the panel's decision to approve the purchase by Dubai Ports World of Peninsular and Oriental Steam Navigation Co., a British firm that manages container terminals on the East Coast.

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Arab direct investments would probably be more extensive were it not for the political and legal atmosphere in the post-Sept. 11 era. "Middle Eastern investors are still a little skittish about investing in the United States," said James A. Fetgatter, chief executive of the Association of Foreign Investors in Real Estate.

To some extent, Arab investors think U.S. property is overpriced, so they are putting more of their overseas bets in Asia, said Gary Sheehan, an executive with Sentinel Real Estate Corp. in New York. But an additional factor is their fear about what might befall their holdings at the hands of U.S. authorities.

"I was in Bahrain the week before last and had a meeting at a bank where they said they would love to invest in the States," Sheehan said. "But they said: 'Syrian interests own 12 percent of our bank. So we know that if push comes to shove' " -- that is, a serious confrontation between Washington and Damascus -- " 'our assets will be frozen.' "

Such negativity toward investing in the United States could well deepen as a result of the controversy over the Dubai ports deal, some in the region warn. Sheikha Lubna al-Qassimi, the UAE economy minister, told the Financial Times last week that the United States will become less attractive if investment decisions are subject to political interference. "There are other countries that are competing for [our] money," she said.

But worries about a drying-up of Arab investment are overblown, according to others, including C. MacLaine Kenan, an executive in the Atlanta office of Arcapita Inc., one of the biggest firms serving as a conduit for foreign Arab investors in U.S. businesses.

Arcapita has raised billions of dollars from investors in the UAE, Saudi Arabia, Qatar and neighboring countries and has invested the majority of it in the United States, where it owns Caribou Coffee, Church's Chicken and other companies, as well as real estate. The investments have to conform with sharia, or Islamic law, which means that they cannot involve businesses that traffic in alcohol, pork, pornography or gambling and that they have to use special types of financing to avoid violating Muslim rules against charging interest.

"Our investors will spend some time complaining about U.S. politics, but at the end of the day, they're pretty shrewd in divorcing the economic opportunity from the political issue," Kenan said. "And they generally know the political problems will in most cases blow over. So every now and again, we get people saying: 'I wish this [U.S.] administration would do better. But by the way, how's this investment going?' "

The typical Middle Eastern investor is "a pretty happy camper," Kenan added, because markets in the region have soared along with oil prices. "So they have more appetite for investment abroad, and they know the United States is a place a smart investor needs to have some money."

Whatever Arab investors abroad finally do, their clout is relatively small -- at least for now. At the end of 2004, investors from Arab countries held just $4 billion in direct investment in the United States, according to Commerce Department data.

British investors, by contrast, held $252 billion, Japanese investors held $177 billion, Dutch investors held $167 billion and German investors held $163 billion. Their holdings span industries often deemed "critical," such as telecommunications (Finland's Nokia Corp. and Sweden's Ericsson Inc.), energy (British Petroleum PLC and Royal Dutch Shell PLC) and utilities (E.On AG of Germany, which controls much of the gas and electricity distribution in Kentucky).

Although foreign investors are far from controlling the U.S. economy -- their payrolls constitute an estimated 3.5 percent of the nation's workforce -- the United States is growing increasingly dependent on them as the trade gap widens. To obtain the money necessary to pay for imports, the United States this year will probably need to attract foreign capital at the rate of about $20 billion a week, which is equal to selling three companies the size of the maritime firm purchased by Dubai Ports World, noted Brad Setser, an economist with Roubini Global Economics LLC in New York.

To be sure, most of the money flowing into the United States comes in the form of Treasury bonds and other financial assets rather than corporate acquisitions. Foreigners held roughly $9 trillion of U.S. financial assets at the end of 2004, according to government data. Middle Eastern oil exporters held a modest percentage of that, including about $121 billion in U.S. government securities, the data show.

But the oil revenue flooding into the Mideast means that the region's financial strength is rising apace. The cumulative trade surplus of Middle Eastern oil exporters, which was $500 billion from 2000 to 2005, will come close to $800 billion by year-end, Setser wrote recently.

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"Which is just to say," he said, "that there are a lot more Dubai Ports Worlds out there."

Report Questions Homeland Security Plans (AP)

By Liz Sidoti

The Associated Press, March 6, 2006

WASHINGTON - The Homeland Security Department still spends money on U.S. port projects that aren't considered national security priorities even though it has made some corrections, a new report says.

In a report to be made public Tuesday, Homeland Security Inspector General Richard L. Skinner praises the agency for overhauling the Port Security Grant Program in 2005 to award money based on risk and to make only the 66 most vulnerable ports eligible.

However, Skinner said, the agency still has not entirely fixed the problems that led the inspector general's office in January 2005 to issue a dozen recommendations for improving design, management and oversight of the program.

This time, Skinner said, "We identified 20 projects that reviewers determined did not meet national security priorities but were funded nonetheless."

His office studied the fifth and most recent round of port security grants, which awarded $142 million for 132 projects. Of those, the 20 projects Skinner's report said scored low on the agency's threat scale received about 20 percent of the money awarded, or $29.3 million.

The report did not say where those projects were located. In one example, a grant applicant proposed installing card readers on critical buildings and upgrading current software for controlling access to the facility. The project received no score as a national security priority threat but received funding anyway.

Marc Short, a Homeland Security spokesman, defended the grant program. "Despite the scoring, the results are absolutely in accord with our risk assessment," he said.

The new report comes amid increased attention in Congress on port security as Dubai-owned DP World seeks to takeover significant operations at six U.S. ports. Republicans and Democrats alike oppose the deal and have introduced legislation to block it.

Although dated February 2006, Skinner's report is being made public Tuesday. The Associated Press obtained an advanced copy.

In October, Congress, at the behest of Sen. John Kerry, D-Mass., ordered a review of the steps the agency has taken to comply with recommendations in the January 2005 report.

"It's been more than four years since 9/11, and the government still can't get port security right," Kerry said in a statement.

Since its inception, the grant program has awarded more than $700 million to make U.S. ports less vulnerable to terrorist attacks.

Because of that investment, Skinner's report said, the agency has "raised the overall bar of preparedness but it is not clear that DHS knows now much actual risk reduction has been achieved."

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On the Net:

Homeland Security Department: http://www.dhs.gov/

Washington Wire (WSJ)

By John R. Wilke, June Kronholz, Gary Fields, And Greg Jaffe

Wall Street Journal, March 7, 2006

March 6, 2006, 4:13 pm Smooth Sailing Predicted for AT&T Deal

Philip Verveer, who filed the lawsuit that led to the 1984 breakup of the Bell System monopoly, said he doesn't expect the Justice Department to block AT&T Inc.'s planned $67 billion buyout of BellSouth Corp.

"This is a reassembly of many of the pieces we worked to take apart," said Verveer, who led the first Justice Department team that prosecuted the AT&T case. "But the circumstances are completely different today."

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The wave of technological innovation that followed the breakup has fundamentally changed the game, said Verveer, now a partner at Willkie Farr & Gallagher in Washington, where he represents communications companies including cable and satellite firms. Antitrust enforcers have already allowed the former Bells to buy their local-phone rivals and last year were permitted to take over long-distance providers AT&T and MCI, he noted. As a result, "there is simply not enough to block or significantly reconfigure this deal."

Verveer, who left Justice before the case was settled to become a top FCC regulator, said the broader concern is whether the Bells and others will continue to compete and innovate in providing broadband Internet-access service.

Verveer, now 62 years old, said he expects the FCC to require that AT&T accept the "net neutrality" nondiscrimination principles that it adopted last fall. "The critical issue for society and the economy is whether there will be a workably competitive environment for broadband," he said. "It's an essential service, and if it's not competitive, then inevitably there will be calls for new regulation."

Read more about the deal. Compare telecom titans AT&T, Verizon, read the transcript of AT&T's conference call and see a graphic on the new telecom sector. Plus, should regulators approve the deal?

March 6, 2006, 4:12 pm Chertoff Focuses on Chinese Illegals

Homeland Security Secretary Michael Chertoff plans a trip to China later this month to convince Beijing to take back illegal immigrants picked up by U.S. immigration authorities.

Chertoff has been pushing a catch-and-return policy on illegal immigrants from China and elsewhere since taking office last year. In an interview with Wall Street Journal reporters and editors, he said many Latin American countries are starting to streamline their repatriation programs, particularly Honduras and Guatemala. But China remains a problem that could grow over time, he said.

Chertoff estimated that U.S. authorities hold 19,000 Chinese illegal immigrants who the Chinese government hasn't repatriated for reasons it hasn't explained. He also said the problem is brewing with India, too. If left unchecked, it could become a major problem as more Chinese and Indian illegals make their way to the U.S. and the U.S. authorities run out of detention space. "How much is bureaucracy and how much is other motives" he said he can't tell. But governments move fast when they want to, he added.

March 6, 2006, 2:46 pm Police to Walk the Washington Beat

Top police executives from around the country are arriving in Washington Monday and Tuesday to ask Congress to restore cuts in law enforcement spending contained in the Bush budget plan.

The International Association of Chiefs of Police, which represents 18,000 law enforcement police chiefs and executives, is leading the effort. An IACP analysis of the budget for fiscal 2007 shows that assistance to local law enforcement agencies would be reduced to $1.535 billion from $2.609 billion in fiscal 2006. Community Oriented Policing for instance, was cut to $ 102 million from $478 million and local block grant programs for law enforcement has been zeroed out altogether from $416 million in the current year.

March 6, 2006, 11:40 am An Army of Enough

The Army hit its recruiting goals for February — the ninth month in a row that it has made its recruiting numbers, senior Army officials said. The service plans to announce that it reached its goal later this week. The active-duty Army, Army National Guard and reserves all missed their recruiting goals last year.

This year, the Army's numbers have been buoyed by the presence of more recruiters and bigger enlistment bonuses. It's still not clear that the Army will make its recruiting numbers for the year. Typically the summer months, following high school graduations, are the most crucial. But service officials are optimistic they can make both the active duty and National Guard numbers for the year — a big change from this time last year when the Army was struggling to meet its goals for the winter months.

The Supreme Court's 8-0 ruling Monday on university recruiting isn't expected to have much effect on the military's numbers. The court decided that in order to retain federal funding, universities must allow military recruiters on campus even though their ban on homosexuals violates the schools' equal-employment policies. The opinion by Chief Justice Roberts found no First Amendment violation by the Solomon Amendment, the law requiring that the military have access equal to other

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employers recruiting on campus, in part because the schools remain free to express their opposition to the military's antigay policies.

Guards Fault Homeland Security Protection (WP)

By Larry Margasak

The Washington Post, March 7, 2006

WASHINGTON -- Guards at the Department of Homeland Security say the agency mishandled a potential anthrax attack on its headquarters, one of several incidents that led two senators to request an investigation of the agency's own security.

The private guards complained that inadequate training led to confusion in handling bomb and biological threats and failure to stop test vehicles that were sent to checkpoints with improper identification.

"I wouldn't feel safe nowhere on this compound as an officer," former guard Derrick Daniels told The Associated Press. Daniels was employed until last fall by Wackenhut Services Inc., the private firm that protects a Homeland Security complex that includes sensitive, classified information.

An envelope with suspicious powder was opened last fall at the headquarters. Daniels and other current and former guards said they were shocked when superiors carried it past the office of Secretary Michael Chertoff, took it outside and then shook it outside Chertoff's window without evacuating people nearby.

The scare, caused by white powder that proved to be harmless, "stands as one glaring example" of the agency's security problems, Daniels said. "I had never previously been given training ... describing how to respond to a possible chemical attack."

"If the allegations brought forward by the whistleblowers are correct, they represent both a security threat and a waste of taxpayer dollars," Democratic Sens. Byron Dorgan of North Dakota and Ron Wyden of Oregon wrote to the agency's inspector general, seeking an investigation.

"It would be ironic, to say the least, if DHS were unable to secure its own headquarters," they wrote.

The IG's office had no immediate response to the request.

Homeland Security spokesman Brian Doyle said Wackenhut guards are still operating under a contract signed with the Navy, and the agency has little control over their training. A soon-to-be-implemented replacement contract will impose new requirements on security guards, he said.

Daniels, saying he was among the first guards to respond to the white powder incident, said the area where the powder was found wasn't evacuated for more than an hour. Available biohazard face shields went unused. When a belated order was given to evacuate the area, employees had already gone to lunch and had to be rounded up and quarantined.

Doyle, the Homeland spokesman, said the concerns were overblown because all mail going to the Homeland Security complex is irradiated to kill anthrax. "The incident was resolved before anything was moved," he said.

Daniels now works security for another company at another federal building. He is among 14 current and former Wackenhut employees _ mostly guards _ who were interviewed by The Associated Press or submitted written statements to Congress that were obtained by AP.

Wackenhut President Dave Foley disputed the allegations, saying officers have a minimum of one year's security experience, proper security clearances and training in vehicle screening, identification of personnel, handling of suspicious items and emergency response.

"In short, we believe our security personnel have been properly trained, have responded correctly to the various incidents that have occurred ... and that this facility is secure," Foley said. He declined, however, to discuss any of the current or former employees who have become whistleblowers.

A litany of problems were listed by the guards, whose pay ranges from $15.60 to $23 an hour based on their position and level of security clearance. Among their examples of lax security:

_They have no training in responding to attacks with weapons of mass destruction.

_Chemical-sniffing dogs have been replaced with ineffective equipment that falsely indicates the presence of explosives.

_Vehicle entrances to Homeland Security's complex are lightly guarded.

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_Guards with radios have trouble hearing each other, or have no radios, no batons and no pepper spray, leaving them with few options beyond lethal force with their handguns.

Wackenhut is no stranger to criticism.

Over the last two years, the Energy Department inspector general concluded that Wackenhut guards had thwarted simulated terrorist attacks at a nuclear lab only after they were tipped off to the test; and that guards had improperly handled the transport of nuclear and conventional weapons.

Homeland Security is based at a gated, former Navy campus near American University _ several miles from the heavily trafficked streets that house the FBI, Capitol, Treasury Department and White House.

Former guard Bryan Adams recognized his inadequate training one day last August, when an employee reported a suspicious bag in the parking lot.

"I didn't have a clue about what to do," he said.

Adams said he closed the vehicle checkpoint with a cone, walked over to the bag and called superiors. Nobody cordoned off the area. Eventually, someone called a federal bomb squad, which arrived more than an hour after the discovery.

"If the bag had, in fact, contained the explosive device that was anticipated, the bomb could have detonated several times over in the hour that the bag sat there," Adams said.

The bag, it turned out, contained gym clothes.

Doyle, the Homeland spokesman, responded to several allegations raised by the guards. He said dogs were replaced because "if you overuse them, their effectiveness drops." The detection equipment that substitutes for the dogs is a better method for detecting explosives, he said.

Guards who used the equipment said it was no match for the reliability of the dogs.

The AP videotaped two vehicle entrances at Homeland headquarters with light security.

One is guarded only during morning and evening rush hours. Movable metal barriers and an unmanned security vehicle only partially blocked the driveway, leaving enough room for a small car or motorcycle to drive through.

Another entrance was guarded with a manned vehicle with two guards but no other barriers.

Doyle said the vehicle entrances were adequate because, in all cases, a 10-foot fence topped with barbed wire separates vehicles from all buildings.

Some guards who continue to work at Homeland, who would speak only on condition of anonymity because of fear of losing their jobs, said they knew of two instances in which individuals without identification got into the sensitive complex.

Another described how guards flunked a test by the Secret Service, which sent vehicles into the compound with dummy government identification tags hanging from inside mirrors. Guards cleared such vehicles through on two occasions, this guard said, and one officer even copied down the false information without realizing it was supposed to match information on the employee's government badge.

Doyle, the agency spokesman, said such tests are conducted routinely. "I can assure you that if people fail the test they are let go," he said.

Marixa Farrar, a former guard, said two guards always should have been stationed inside the main building where Chertoff had his office, but she often was on duty alone.

One day last fall a fire alarm rang. As employees walked by Farrar, they asked if this was a fire or a test.

"There were no radios, so I couldn't figure out if it was a serious alarm," she said.

There was no fire.

Driver At UNC Cites Vengeance For Muslims (WP/AP)

By Associated Press

The Washington Post, March 7, 2006

CHAPEL HILL, N.C., March 6 -- A University of North Carolina graduate from Iran, accused of running down nine people on campus to avenge the treatment of Muslims, said at a hearing Monday that he was "thankful for the opportunity to spread the will of Allah."

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Mohammed Reza Taheri-azar was accused of driving a sport-utility vehicle through the Pit, a popular campus gathering spot, injuring nine people Friday. None of the victims was seriously hurt.

University Police Chief Derek Poarch said Taheri-azar told investigators he intentionally hit people to "avenge the deaths of Muslims around the world." In a 911 call after the incident, Taheri-azar said he wanted to "punish the government of the United States for their actions around the world."

Taheri-azar, 22, appeared in Orange County District Court on nine counts of attempted murder and nine counts of assault.

His bail was set at $5.5 million and he was assigned a public defender, but he said after the hearing: "The truth is my lawyer."

Taheri-azar graduated from North Carolina in December after studying psychology and philosophy. Investigators believe he has spent most of his life in the United States.

On campus, UNC students held what they called an "anti-terrorism" rally. "We don't want terrorism here, and we're not going to stand for that where we live and where we go to school," said Kris Wampler, a student at UNC and member of the College Republicans, which helped organize the rally.

About 50 students attended the rally, including several Muslim students who debated with organizers and said Taheri-azar had not been linked to any terrorist group.

"When you think in terms of a global context, this was an isolated incident," said student Khurram Bilal Tariq, 22.

Stephen Mann, an 18-year-old freshman, said he was not singling out Islam with his call to label Friday's incident terrorism. He said a member of any religion who did what Taheri-azar is accused of doing should be called a terrorist.

"If you try to hurt someone in the name of a cause, that's terrorism," he said.

UNC Grad Driven To Kill (WT)

By Eric Pfeiffer

The Washington Times, March 7, 2006

An Iranian native and recent University of North Carolina graduate admitted that his motive for driving a rental car across the UNC campus was to kill people.

Friday afternoon, Mohammed Reza Taheri-azar, 22, admittedly drove his rented Jeep Cherokee through a heavily trafficked section of the UNC campus known as "the Pit," injuring nine.

When asked by reporters if he was trying to kill his victims, Mr. Taheri-azar said, "Yes."

No one was seriously hurt in the vehicular ambush, and some are loathe to call it an act of terror. However, Mr. Taheri-azar apparently disagrees. After turning himself in Friday, he told authorities his attack was designed to "avenge the deaths of Muslims around the world," according to a statement from police Chief Derek Poarch.

The UNC's Department of Public Safety charged Mr. Taheri-azar with nine counts of attempted murder and "nine counts of assault with a deadly weapon inflicting serious injury with intent to kill."

Mr. Taheri-azar could, if convicted, face more than 100 years in prison. He is being held on $5.5 million bail.

When asked by The Washington Times as to why Mr. Taheri-azar was not charged with terrorism, Chief Poarch's office said the investigation is ongoing and additional charges may yet be filed.

When asked by Orange County District Court Judge Patricia Devine if he had any questions, Mr. Taheri-azar said, "I actually don't have any questions. I am thankful you are going to hear this trial to learn more about the will of Allah, the creator."

After leaving court, Mr. Taheri-azar said his attack was, "the will of Allah, the creator."

He said he intends to defend himself at his scheduled March 16 hearing.

But was it a terrorist attack?

"I think we are edging closer to that," said UNC professor Cori Dauber, "It's clear that he was trying to kill people." She hopes the FBI and the terrorism task force will release details about what was found inside Mr. Taheri-azar's apartment during their investigation and whether he received training from terrorist Web sites.

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The question of terrorism is already sparking a debate on campus. UNC senior Kris Wampler organized an anti-terrorism protest on campus yesterday that attracted dozens of students. "The university is very pro-Islamic, and it's been that way the whole time I've been here," Mr. Wampler said in a telephone interview.

Mr. Wampler thinks Mr. Taheri-azar's comments add fuel to the terrorist angle. "I think it really does justify what we're saying," Mr. Wampler said. "I hope he keeps talking. He's just building the case."

UNC's Muslim student association said Mr. Taheri-azar was not a member of the group and denounced his actions on its Web site Friday.

"Regardless of what his intentions prove to be, we wholeheartedly deplore this action," the group said on its site.

A statement from University Chancellor James Moeser described the attack as a "contemptible act of violence," but stopped short of calling it terrorism.

White House Defends Levee Reconstruction (AP-Y2)

By Nedra Pickler

AP2, March 6, 2006

The White House on Monday defended the quality of materials being used to rebuild the levees around New Orleans, as President Bush got assurances from the Army Corps of Engineers that it was on track to restore the system by the start of hurricane season.

Lt. Gen. Carl Strock, head of the Army Corps, told Bush in a private briefing that 100 miles of the 169 miles of levees damaged by the Aug. 29 hurricane have been restored. He repeated the briefing later for reporters at the White House.

Strock took issue with findings from two teams of independent experts who said the Corps was taking shortcuts and using substandard materials, leaving large sections of the system substantially weaker than before the hurricane.

"We are using the right kind of materials," Strock said. "There is no question about that."

The findings, first reported Monday in The Washington Post, were made by engineers on a National Science Foundation-funded panel and by a Louisiana team appointed to monitor the rebuilding.

Strock said the Corps had yet to see the findings or information on where the teams took their samples. He suggested the monitors may have been testing the wrong soil. He said the Corps is trucking in clay from Mississippi to rebuild the system because the local soil does not meet quality standards.

Strock acknowledged that the levees will not be able to protect low-lying areas in the event of another Katrina-like storm this year.

"If we were going to have another Katrina-like event, I think I can say with a high level of confidence you wouldn't see the catastrophic flooding that we saw in the first event," Strock said. "You would see overtopping, though, of levees. You would see flooding in low-lying areas."

Strock said the president, who is visiting the Gulf Coast Wednesday, told him he appreciated the Corps' work and that it was meeting the commitments that he made to restore the levees in time for the next hurricane season.

"He expressed confidence that we're doing that," Strock said. "So I think that he's comfortable with where we are."

White House press secretary Scott McClellan also rejected allegations of inferior rebuilding.

"The Corps of Engineers is using modern design and construction methods, which have greatly improved the last 40 years, which is the time when those levees were originally built," McClellan said.

The White House also defended Bush on Monday against fresh criticism that he was disengaged and uninformed in the run-up to Katrina's landfall.

Last week's reports about Federal Emergency Management Agency briefings, particularly before Katrina hit, prompted fresh criticism by lawmakers who said the government should have been better prepared for the storm that flooded New Orleans and killed more than 1,300 people. A video of an Aug. 28 briefing showed officials warning Bush and others that the storm might overtop levees, put lives at risk in the Superdome and overwhelm rescuers.

McClellan said the criticism of Bush for not asking questions during the video ignores the fact that before the videoconference he had been on the phone with governors in the region and received updates from then-FEMA chief Michael

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Brown and his own staff. Bush got on the videoconference to boost morale, not collect information, McClellan said, and he left before it ended for a previously scheduled press event at which he made a statement on the hurricane.

"Some have twisted the facts to fit a story line," McClellan said. "He was not there to participate in the full briefing. He was there for that purpose: to lift their spirits."

McClellan also said that referring to Bush's statement four days after the storm that "I don't think anybody anticipated the breach of the levees," ignores the explanations given by the White House and Bush himself about what he meant.

"What the president was referring to was the sense that, after the storm had initially passed, that there was a sense that that worst-case scenario had not happened," McClellan said. "Some have taken it out of context to suggest he was referring to any predictions before the hurricane hit."

Clarification (WP)

The Washington Post, March 7, 2006

In the March 4 editorial "Caught on Tape," on the leaked video of a White House briefing before Hurricane Katrina made landfall, we wrote that there was no evidence President Bush, after being briefed on the predicted damage, had asked follow-up questions. In fact, the full transcript shows that after Mr. Bush left the conference, some of his advisers, including Homeland Security Secretary Michael Chertoff, did ask about the involvement of the military and other preparedness issues.

FCC, Others Face Katrina Phone Problems (AP-Y2)

By Holbrook Mohr

AP2, March 6, 2006

Downed telephone lines and damaged cellular towers left emergency crews confused and isolated in the aftermath of Hurricane Katrina, experts told federal regulators Monday.

Julliette Saussy, director of Emergency Medical Service of New Orleans, said communications eroded as the waters rose and only got worse.

"Surrounded by water and stranded ourselves, our worst fears were realized," Saussy told members of an independent panel gathering information to be presented to the FCC in June.

"We had no way to communicate except by line of sight. Our radios were not operable, most land lines and cell phones were useless and our communications centers were under water. When help arrived we could not communicate with them either," she said.

Some 3 million telephone lines were knocked out as the violent storm hit the Gulf Coast on Aug. 29, Federal Communications Commission Chairman Kevin Martin said.

At least 38 911 call centers went down, and more than 1,000 cellular towers were out of service. As many as 20,000 calls failed to go through the day after the storm, and about 100 TV and radio stations were knocked off the air, he said.

Martin said he hopes the panel's work will help strengthen communications throughout the nation, especially in areas vulnerable to natural disasters.

Harlin McEwen, chairman of the Communications and Technology Committee of the International Association of Police Chiefs, described Katrina's destruction as overwhelming.

"Usually, what happens is you have other resources surrounding where the incident occurred to come to the aid of those that are in need," McEwen said. "When you have an issue like Katrina, that affects three states and where much of the public safety infrastructure was wiped out ... that's a different issue."

In Jackson County, Miss., many first responders lacked the training in using backup systems such as satellite phones, said 911 director George Sholl.

Keith Parker, director of the National Association of Emergency Medical Service Officials, said the Mississippi Department of Health couldn't even reach local EMS agencies during the storm.

"The lack of communication created times of confusion and chaos," he said. "There will always be catastrophic events, the question is will we be better prepared for the next one."

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Members Struck By Gulf Devastation (RC)

By Suzanne Nelson

Roll Call, March 7, 2006

NEW ORLEANS — By almost any measure, what awaited the 34 House Members on last week's Congressional delegation as their bus approached the Royal Senesta Hotel on Bourbon Street was poor preparation for the rest of their trip.

WAR NEWS:

U.S. Envoy Offers Bleak View Of Situation In Iraq (LAT)

By Borzou Daragahi

The Los Angeles Times, March 7, 2006

BAGHDAD, Iraq -- The top U.S. envoy to Iraq said Monday that the 2003 toppling of Saddam Hussein's regime had opened a "Pandora's box" of volatile ethnic and sectarian tensions that could engulf the region in all-out war and disrupt the global economy if America were to extricate itself from the country too soon.

In remarks that were among the frankest and bleakest public assessments of the Iraqi situation by a high-level American official, U.S. Ambassador Zalmay Khalilzad said the "potential is there" for sectarian violence to become all-out civil war, but that Iraq for now had pulled back from that prospect after the wave of sectarian reprisals for the Feb. 22 bombing of a Shiite shrine in Samarra.

"If another incident (occurs), Iraq is really vulnerable to it at this time, in my judgment," Khalilzad said, in an interview with correspondents of the Los Angeles Times Baghdad bureau and a visiting editor.

Abandoning Iraq in the way the U.S. disengaged from civil wars in Lebanon, Afghanistan and Somalia could have dramatic global repercussions, he said.

"We have opened the Pandora's Box and the question is, what is the way forward?" Khalilzad said. The way forward, in my view, is an effort to build bridges across these communities."

Khalilzad's central message of maintaining a U.S. presence in Iraq jibed with Bush administration policy. But he offered a far gloomier justification for it than assessments made in recent days by U.S. military spokesmen.

On Sunday, Marine Gen. Peter Pace, chairman of the Joint Chiefs of Staff, said in a televised interview that things in Iraq are "going very, very well, from everything you look at."

Khalilzad's comments came just before key U.S. decisions are expected on whether the situation in Iraq has improved enough to allow for a reduction of U.S. forces this year.

Army Gens. John P. Abizaid and George W. Casey, the top U.S. commanders in Iraq, plan to meet with President Bush as early as this week to make troop levels recommendations

Military officials must decide this month whether to cancel scheduled deployments of several Army combat brigades -- a decision that would lead to a reduction in the total number of U.S. troops in Iraq by mid-year from about 130,000 to about 100,000. For nearly a year, Gen. Casey has said that a "substantial reduction" of U.S. troops could occur in 2006, and pointed to spring as the time when the critical decisions would be made.

A reduction would signal the Bush administration's confidence in progress in the country. On Friday, however, Casey said that war planners factoring the recent violence is "certainly something that we will consider in our decisions."

Without touching on the issue of troop-reduction, Khalilzad described a highly flammable atmosphere in Iraq that dates at least to the highly polarizing Dec. 15 elections that handed Shiites a dominant share of authority.

"Right now there's a vacuum of authority, and there's a lot of distrust," said the diplomat, who is among the architects of the U.S. plan to reshape the political balance of the Middle East following the Sept. 11, 2001 attacks.

The Samarra bombing and the subsequent outbreak of violent reprisals by Shiites against Sunnis demonstrated that insurgents fully understand Iraq's fragility and will seek to exploit it, he said.

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"Khalilzad, who actively and publicly is involved in government talks, repeated his weeks-long assertion that the best way to prevent civil war or large-scale sectarian violence is to form a government of national unity drawing from all of Iraq's disparate groups as a way "to build trust and narrow the fault line that exists" between Shiite and Sunni.

In any case, Khalilzad said the U.S. has little choice but to maintain a strong presence in Iraq, or risk a regional conflict with Arabs siding with Sunnis and Iranians backing Shiite co-religionists in what could be a more-encompassing version of the 1980s Iran-Iraq war, which left as many as 1 million people dead. He described a worst-case scenario in which religious extremists could take over sections of Iraq and begin to expand outward.

"That would make Taliban Afghanistan look like child's play," said Khalilzad, an American of Afghan descent who served as U.S. envoy to Kabul, the Afghan capital, before taking on the post in Baghdad.

"What we've described reflects the aspirations of the people," he said. "If we were at variance with the aspirations of the people we'd be in trouble."

Khalilzad said U.S. officials have tried to enlist the support of governments of neighboring countries, even exploring "modalities of setting up a meeting" with Iran, which he said had been unhelpful in securing Iraq.

On Monday, Iraqi politicians continued to wrangle over the composition of a new government. President Jalal Talabani announced a decision to convene parliament on Sunday, only to be quickly countered by Shiite political leaders who asked him to postpone the session.

Shiites have nominated interim Prime Minister Ibrahim al-Jaafari to serve a full term. Kurds have pushed to derail his candidacy.

Khalilzad described such day-to-day political jousting as healthy. "They are bargaining; They are shadow-boxing," he said. "This is a much better way than with guns."

Still, the politics of the gun spoke loudly Monday.

Violence, much of it with sectarian overtones, left at least 18 Iraqis dead across the country as multiple car bombs exploded across the capital. One U.S. soldier was reported killed in a combat incident in western Iraq.

Maj. Gen. Mubdir Hatam Jabouri, commander of the Iraqi Army in Baghdad, was killed by a single bullet to the neck while driving through western Baghdad in a lengthy vehicle convoy shortly after 5 p.m., said Mohammed Askari, an adviser to the Defense Ministry.

Jabouri, a Sunni Arab, commanded a force that is seen by many as a counterweight to those of the Interior Ministry, whose Shiite Muslim-dominated police and commando units have been accused of extrajudicial killings.

The U.S. military reported Monday that a U.S. soldier had died Sunday as a result of "enemy action." The soldier was killed in rural western Iraq, but much of the insurgent violence in the country has shifted to religiously diverse urban areas, said a U.S. official who requested anonymity.

On Monday, a car bomb in a crowded market of downtown Baqubah, a religiously mixed provincial capital 45 miles northeast of the capital, killed at least six people, including two children, and injured 21. The bomb exploded as police and passersby gathered near a murder scene, one of three fatal shootings reported in Baqubah.

Gunmen killed three Shiite laborers in the Sunni town of Hawija, near the northern city of Kirkuk. A roadside bomb targeting a U.S. patrol in Mosul killed one Iraqi civilian bystander.

At least two car bombs and sporadic mortar fire shook the capital. A car bomb near a bank killed one person and injured five in the Dora district, a religiously mixed area on Baghdad's southern edge.

Gunmen kidnapped a prominent university professor. Dr. Ali Hussein Khafaji, dean of the Engineering College at Mustansirya University, was abducted by two carloads of men as he left his home.

U.S. Is Seeking Better Balance In Iraqi Police (NYT)

By Edward Wong

The New York Times, March 7, 2006

BAGHDAD, Iraq, March 6 — As the threat of full-scale sectarian strife looms, the American military is scrambling to try to weed out ethnic or religious partisans from the Iraqi security forces.

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The United States faces the possibility that it has been arming one side in a prospective civil war. Early on, Americans ceded operational control of the police to the Iraqi government. Now, the police forces are overseen at the highest levels by religious Shiite parties with militias, and reports of uniformed death squads have risen sharply in the past year.

The American military is trying an array of possible solutions, including quotas to increase the number of Sunni Arab recruits in police academies, firing Shiite police commanders who appear to tolerate militias, and sending 200 training teams composed of military police officers or former civilian police officers to Iraqi stations, even in remote and risky locations.

There is no quick or painless fix. The efforts risk alienating Shiite politicians, who have fiercely resisted attempts to wrest away their control of the security forces. The moves may appeal, though, to recalcitrant Sunni Arabs, whom the Americans want to draw into the political process.

Trying to reform the police forces could take years, because sectarian loyalties have become entrenched, and police officers are rooted in their communities, senior military officials acknowledge. Critics say American efforts to train the Iraqi police also continue to be hampered by a shortage of troops and civilian advisers.

Several of the initiatives, such as enrolling more Sunni Arab students in police academies, have been going on for months. Others, such as the deployment of the new police training teams, are just beginning on a large scale. The wave of sectarian violence that followed the bombing of a Shiite shrine in Samarra on Feb. 22 has heightened the urgency of the measures.

After the bombing, mobs led by Shiite militiamen attacked dozens of Sunni mosques and left hundreds dead. Many police units stood aside, either out of confusion or sectarian loyalties, according to Iraqi witnesses. Gen. George W. Casey Jr., the top American commander in Iraq, said Friday that police officers had allowed militiamen through checkpoints in eastern Baghdad, where much of the violence occurred.

The Iraqi Army poses less of a problem than the police, because the American military has direct operational control over it, and because the Americans took more care in building it up. Kurdish militiamen, though, make up a significant part of it.

The military's efforts to revamp the police are taking place alongside a strong push by the American ambassador, Zalmay Khalilzad, to press Iraqi politicians who are forming the new government to appoint a nonsectarian figure as head of the Interior Ministry, which controls the police.

"When you're forming a government, you can't form it with any kind of sectarian element," said Maj. Gen. J. D. Thurman, commander of the Fourth Infantry Division, charged with controlling Baghdad. "That's got to be put aside, particularly with military forces." The attempts to erase sectarianism dovetail with a broader American initiative to strengthen police training this year by diverting more resources away from mentoring the Iraqi Army. The military hopes to have 200,000 Iraqi police officers in place by early 2007.

The development of the police is in some ways more crucial than that of the army, because the Americans want the police to handle all security inside Iraq.

The units believed to be most plagued by militia recruitment and sectarian loyalties are the police paramilitary forces, which have a total of 17,500 members, the American military says. The regular blue-uniformed police force numbers 89,000, and the border force totals 20,000. But there are serious doubts about whether anyone has an accurate overall tally.

The paramilitary forces are divided three ways — the commandos, the public order brigades and a mechanized brigade that will soon be shifted to the army. Matthew Sherman, a former Interior Ministry adviser, said Shiite parties were especially keen to seize control of those forces because they can operate anywhere in the country and have great autonomy.

The Interior Ministry is accused of sponsoring death squads in police or paramilitary uniforms. Mr. Khalilzad has been outspoken in his criticism of the interior minister, Bayan Jabr, and hinted last month that the Americans may withhold financing if sectarianism continues to dominate the security forces.

Officials at the most powerful Shiite party, the Supreme Council for the Islamic Revolution in Iraq, which oversees the Interior Ministry, have lashed out at the Americans, arguing that the majority Shiites had every right to control security, because Saddam Hussein's Sunni-dominated government had used the army and the police to abduct, torture and kill Shiites.

"The Shiites were beheaded by the security forces before, and we are not ready to be beheaded again," said Hadi al-Amiri, the head of the Badr Organization, the Supreme Council's Iranian-trained militia. "We can relinquish any part of the government except for the security forces."

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American commanders say they have recently learned that virtually all the members of the 7,700-member public order brigades, which do light infantry duty, were Shiites. The brigades were founded in 2004, and were expanded after the Supreme Council took control of the Interior Ministry in early 2005.

"When we stood them up, we didn't ask, 'Are you Sunni or are you Shia?' " Maj. Gen. Joseph D. Peterson, in charge of police training, said in an interview at a base in Taji, north of Baghdad, as he was visiting soldiers newly assigned to the Iraqi police. "They ended up being 99 percent Shia. Now, when we look at that, we say, 'They do not reflect the population of Iraq.' "

No accurate census of Iraq exists, but the country is believed to be about 60 percent Shiite Arab, 20 percent Sunni Arab and 20 percent Kurdish (most Kurds are Sunni.)

Americans officials have pushed the Interior Ministry to diversify the forces. All recruits in the public order brigades have to go through a six- or seven-week training course, with 1,200 in each class.

The Americans ensured that the last three classes enrolled greater numbers of Sunni Arabs: The first of those was 42 percent Sunni Arab, the second 92 percent Sunni and the third, just starting, was virtually all Sunni, General Peterson said.

American officers say that when they try to talk to Iraqi commanders about the religious or ethnic breakdown of the forces, the commanders tend to shy away from those conversations, as most Iraqis do, saying they prefer to think of themselves as one people rather than in terms of sect.

Col. Gordon B. Davis, the top adviser to the public order brigades, said the senior commander of that force, a Shiite Arab from the old Iraqi Army, addressed the issue only with much reluctance. " 'You shouldn't be talking like this,' he tells us," the colonel said in an interview at the Iraqi command base in Baghdad's Kadhimiya neighborhood.

Colonel Davis said his advisers had no qualms about removing Iraqi commanders if it became evident they have sectarian loyalties.

For much of last year, the Second Public Order Brigade had a particularly bad reputation. It was accused by many Iraqis, especially Sunni Arabs, of detainee torture and illegal killings. Its ranks were filled with men recruited from eastern Baghdad who were loyal to Moktada al-Sadr, the firebrand Shiite cleric who had led two rebellions against the Americans.

The head of the brigade was the former police chief of Nasiriya, a southern city under the sway of hard-line Shiite parties, and was "rumored to tolerate" militias, Colonel Davis said. The Americans replaced him with a Sunni Arab commander in December, who then fired 160 people below him, presumably because those men had suspected militia ties, the colonel said. Since then, he added, officers have removed images of Mr. Sadr from gunstocks and vehicles.

In contrast to the public order brigades, the police commandos, an 8,300-member force that was founded in 2004 under a Sunni-led Interior Ministry, are more diverse, American commanders said. Many came from the old Iraqi Army, which had an officer corps dominated by Sunni Arabs, and from the domestic security services, which Saddam Hussein used to terrorize the population.

The commandos and the public order brigades essentially perform the same job, and will soon be combined as members of the "national police."

Mr. Sherman, though, said the commandos also have significant numbers of Shiites loyal to the Supreme Council. Maj. Gen. Adnan Thabit, a Sunni Arab, is the head of the commandos in name only, he said, having ceded control to Shiite partisans. "They've just taken a more kind of political bent over the past 10 months or so," said Mr. Sherman, the former Interior Ministry adviser.

The Americans hope that new mentorship programs this year will result in greater oversight of the police. For the last year, the police paramilitary units have had 11-member American military adviser teams assigned to them at the division, brigade and battalion command levels. That program will soon be bolstered by sending regular American troops into the field with the police.

"It's a huge difference, because now you've got a battalion partnering with another battalion," General Peterson said. "Instead of just 11 guys, you have that entire battalion, 500 or 600 guys."

In addition, the American command is reorganizing thousands of members of the American military police and former civilian police officers who are currently working with the Iraqi police in Iraq. Most are now based at police academies or high-level headquarters.

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Under the new plan, they will be sent across the country to smaller police stations, some in remote areas. There are a total of 200 teams, with the first already dispatched to more volatile areas like Baquba, northeast of Baghdad.

A senior American officer, who works with the Iraqi police and army units, said that, in handling the surge in violence after the shrine bombing, Iraqi units with American trainers attached generally performed better than those without. But many police units still lack American advisers, in part because finding experienced trainers willing to spend long periods attached to police units has been hard.

"It should be obvious that the presence of our embedded advisory teams in the army and police forces were an important stabilizing influence," said the officer, who was not authorized to speak publicly on this matter. "The question becomes how long that stabilizing influence is necessary."

Majority In U.S. Fears Iraq Civil War (WP)

By Richard Morin

The Washington Post, March 7, 2006

An overwhelming majority of Americans believe that fighting between Sunni and Shiite Muslims in Iraq will lead to civil war, and half say the United States should begin withdrawing its forces from that violence-torn country, according to the latest Washington Post-ABC News poll.

The survey found that 80 percent believe that recent sectarian violence makes civil war in Iraq likely, and more than a third say such a conflict is "very likely" to occur. These expectations extend beyond party lines: More than seven in 10 Republicans and eight in 10 Democrats and political independents say they believe such a conflict is coming.

In the face of continuing violence, half -- 52 percent -- of those surveyed said the United States should begin withdrawing forces. One in six favors immediate withdrawal of all troops, however, while about one-third prefer a more gradual return.

The survey also found growing doubt that the Bush administration has a strategy in Iraq. Two-thirds of those interviewed said they do not think the president has a clear plan for handling the Iraq situation, the highest level of doubt recorded since the question was first asked three years ago. But an even larger share -- 70 percent -- questions whether Democrats in Congress have a plan for dealing with Iraq, suggesting Americans see neither party as offering a coherent exit strategy.

The survey highlights how support for the war in Iraq dissolved since the first months after the U.S. invasion. At the end of 2003, nearly six in 10 -- 59 percent -- said the conflict was worth the cost; today, 42 percent share that view. In the past nine months, the proportion in Post-ABC polls who say the United States should begin withdrawing its troops has increased from 38 percent to a 52 percent majority.

Recent U.S. reversals in Iraq have not dramatically reduced overall support for President Bush, in contrast to some other national polls. His overall job approval rating stood at 41 percent, essentially unchanged from January. Nearly six in 10 disapproved of his job performance, the 11th consecutive survey since last April in which at least half the country has been critical of Bush's leadership.

In only one area -- terrorism -- does more than half of the public see Bush positively, and even here 46 percent disapprove while 52 percent approve. On every other issue tested in the poll -- including the economy, international affairs and health care -- Bush received negative marks.

Americans also expressed disappointment with Congress, which is now controlled by Republicans. Slightly more than a third -- 36 percent -- said they approve of the way Congress is doing its job, down seven percentage points in the past five weeks and the lowest marks for the legislative branch since October 1997.

But the survey showed Democrats slipping also. Asked which party they trust to deal with the country's biggest problems, 42 percent said the Democratic Party and 40 percent said the GOP. Barely five weeks ago, Democrats held a 14-point advantage.

Americans continue to fault the administration's performance in Iraq. Well under half -- 40 percent -- think Bush is doing a good job there, unchanged from late January but still down six points from December. Nearly six in 10 -- 57 percent -- said the war was not worth fighting, marking the 12th consecutive poll since December 2004 in which a majority said invading Iraq was a mistake.

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In question after question, the new survey reflected a sharp decline in optimism, perhaps sparked by the sectarian violence that has flared in Iraq after the bombings of a revered Shiite mosque two weeks ago. Since then, deadly confrontations have occurred between Shiites and Sunnis, who are a minority in Iraq but were favored under Saddam Hussein's regime.

The poll found that 56 percent think the United States is not making significant progress toward restoring civil order in Iraq, while 43 percent think that stability is being reestablished -- a 17-point drop in optimism since December and the most pessimistic reading on this question since it was first asked in June 2004.

The nation is split down the middle over whether the United States is moving ahead toward establishing a democratic government in Iraq. About half, 49 percent, say the United States is making progress on the political front, with 48 percent saying the nation and its allies are not gaining ground. Shortly after the December elections, almost two in three Americans said the country was making significant progress toward democracy.

Over the weekend, pressure mounted on Prime Minister Ibrahim al-Jafari to give up his bid for a new term, a move that would add to the political turmoil engulfing Iraq.

Although news from Iraq has not been good, the survey suggests Bush has been helped somewhat by improving perceptions of the U.S. economy. Forty-three percent believe the economy is either excellent or good, up from 35 percent four months ago. And nearly half -- 48 percent -- of the country approve of the way Bush is handling the economy, 12 points higher than in November. Still, slightly more than half (51 percent) disapprove.

Bush's standing in other areas is mixed as well. More than six in 10 disapprove of the way he handled Hurricane Katrina, a nine-point increase since early September. A growing majority (58 percent) also disapproves of the way he is dealing with the prescription drug issue. But his overall approval ratings on terrorism (52 percent), health care (38 percent), international affairs (44 percent) and ethics in government (40 percent) remain basically unchanged from recent Post-ABC polls.

Perceptions of Democrats, who have struggled to take advantage of Bush's lack of popularity, declined on several measures. In late January, Democrats held a clear advantage over Republicans -- 55 to 37 percent -- on which party could best handle the economy. In the new poll, Democrats still led, but by 49 to 40 percent.

The survey found a similar shift on Iraq. In January, Democrats had an advantage of 47 to 40 percent on which party could better handle the situation there, but the new poll found Americans evenly divided -- 42 percent on each side -- on that question.

A total of 1,000 randomly selected Americans were interviewed March 2 to 5. The margin of sampling error for the overall results is plus or minus three percentage points.

Assistant polling director Claudia Deane and staff writer Dan Balz contributed to this report.

Iraqi President Loses Try For Parliament (AP)

By Bassem Mroue, Associated Press Writer

AP, March 7, 2006

Iraq's president failed in a bid Monday to order parliament into session by March 12, further delaying formation of a government and raising questions whether the political process can withstand the unrelenting violence or disintegrate into civil war.

The deadlock came as snipers assassinated Maj. Gen. Mibder Hatim al-Dulaimi, the Sunni Arab in charge of Iraqi forces protecting the capital. A torrent of bombings and shootings killed 25 more Iraqis on Monday, ending a relative lull in violence. Officials also found four bodies.

At the heart of the dispute is a controversy over the second-term candidacy of the Shiite prime minister, Ibrahim al-Jaafari, whose most powerful supporter is the anti-American cleric Muqtada al-Sadr.

The Sunni Arab minority blames al-Jaafari for failing to control the Shiite militiamen who attacked Sunni mosques and clerics after the Feb. 22 shrine bombing in Samarra. Kurds are angry because they believe al-Jaafari is holding up resolution of their claims to control the oil-rich city of Kirkuk.

In a bid to force a showdown in the dispute, President Jalal Talabani, a Kurd, announced he would order parliament to convene Sunday for the first time since the elections in December and the ratification of the results on Feb. 12.

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Such a meeting would have started a 60-day countdown for the legislators to elect a president, approve al-Jaafari's nomination as prime minister and sign off on his Cabinet.

Talabani was mistakenly counting on the signature of Vice President Adil Abdul-Mahdi, a Shiite, who lost his own bid for the prime minister's nomination by one vote to al-Jaafari. Talabani had in hand a power of attorney from the other vice president, Ghazi al-Yawer, a Sunni, who was out of the country.

The Shiite bloc closed ranks and Abdul-Mahdi declined to sign, at least for now. In an emergency meeting with Talabani on Monday, seven Shiite leaders rejected the president's demand for them to abandon al-Jaafari's nomination.

It remained unclear when parliament might convene, despite the constitutional directive that set Sunday as the deadline. Nor was it clear how the disagreement over al-Jaafari might be settled.

The president first issued the challenge Wednesday in concert with Sunni Arab and some secular politicians.

"We want a prime minister who can gather all the political blocs around him, so that the government would be one of national unity," Talabani told reporters in Baghdad around midday Monday.

Leaders of all Iraq's major political factions scheduled a meeting Tuesday evening in an attempt to untangle the religious and sectarian differences behind the crisis, deeply compounded by continuing violence.

The attacks underscore the dangerous leadership vacuum and fresh political infighting that have torn apart many tenuous political bonds among the country's many religious and ethnic factions.

There also were increasing signs of a split in the Shiite factions, even though they managed to come together Monday night to reject the move to dump al-Jaafari.

Nevertheless, al-Sadr, the firebrand cleric whose backing had insured al-Jaafari's nomination at the Shiite caucus last month, predicted a "quick solution" on approving a government.

There were reports that al-Sadr had threatened to order parliamentarians loyal to him to boycott a Sunday session if Abdul-Mahdi, the Shiite vice president, had signed the Talabani order to convene the legislature.

"All obstacles to forming a national unity government soon will be resolved," al-Sadr said after meeting with Deputy Prime Minister and acting Oil Minister Ahmad Chalabi in the Shiite holy city of Najaf.

Many of Monday's attacks targeted the country's Shiite-led security forces, accused by Sunni Arabs of repeated abuses against them under the cover of fighting the Sunni-driven insurgency. The government denies the accusations.

In Baqouba, a car bomb targeting an Iraqi police patrol exploded near the mayor's office and a market, killing six people and wounding 23, including four patrolmen, police said. Piles of charred, twisted wreckage and pools of blood marked the site.

Elsewhere, two bombs went off in Baghdad's notorious southern Dora neighborhood. One targeted an Interior Ministry patrol, killing six Iraqis. A second exploded as a U.S. patrol was passing, wounding five policemen who were guarding a bank and two civilians.

A U.S. soldier was also killed Sunday in insurgency-plagued western Anbar province, the military announced, bringing to 2,300 the number of U.S. service members who have died in Iraq since the war began three years ago, according to an Associated Press count.

Al-Dulaimi, the Sunni in charge patrolling Baghdad with his 6th army division, was killed when gunmen fired at his convoy.

The U.S. commander in Iraq, Gen. George W. Casey, sent condolences to "his family, tribe, and the Iraqi Army during this tragic loss."

"This tragic incident will neither impede the 6th Iraqi Army Division from continuing its mission of securing Baghdad nor derail the formation of the government of Iraq," Casey said in a statement.

Iraqi Leadership Crisis Grows (CSM)

By Scott Peterson

The Christian Science Monitor, March 7, 2006

BAGHDAD - Pushing the legal deadline to the limit, Iraqi President Jalal Talabani Monday declared that Iraq's new parliament will convene for the first time on March 12.

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But an event that was expected to bring a glimmer of hope - and the formation of a US-backed unity government - is instead being overshadowed by a perfect political storm. While Iraq's leaders are battling over the post of prime minister, sectarian bloodshed has left more than 500 dead over the past two weeks. Party militias are exerting more control over the streets, and Iraqis are fed up with a weak government and collapsing services.

The political crisis revolves around the decision by the main Shiite bloc to extend the rule of Prime Minister Ibrahim al-Jaafari. He edged out his rival by just one vote with the support of anti-US Shiite cleric Moqtada al-Sadr.

Last week, an alliance of Sunni Arabs, Kurds, and others called for Mr. Jaafari to step down and a new candidate to come forward. The call for a new premier followed shortly after the deadly bombing of an important Shiite shrine in Samarra sparked a rash of the sectarian violence between Shiites and Sunni Arabs, sliding Iraq further into civil conflict.

"The most likely scenario is the worst," says Toby Dodge, an Iraq expert at Queen Mary, University of London. "[Jaafari] staggers through, with Kurds and Sunnis and others undermining him. So you get a vastly weaker prime minister, backed by radicals."

The crisis has laid bare a deepening divide within Iraq's majority Shiite community. The other contender was Vice President Adel Abdul-Mahdi, backed by the faction of Sadr rival Abdul Aziz al-Hakim, who has portrayed himself as a technocrat and centrist who can get the job done.

Forming a stable government is seen by US officials as a key step to enabling the start of any military withdrawal. A more distant goal, but one required before any US exit, is to ensure that Iraqi police and security forces are 2capable of halting sectarian violence and coping with the insurgency.

Jaafari has been widely blamed in Iraq for permitting the violence to erupt out of control - yielding a week of sectarian killings and attacks on mosques that mostly targeted Sunni Arabs - after the gold roof of the Askariya Shrine in Samarra was destroyed on Feb. 22.

Days of curfew finally brought relative calm. But insurgent violence continued Monday, with eight car bombs - five of them in Baghdad alone - that took at least 28 lives, according to news agencies. One morning blast struck a packed market in Baquba, 40 miles northeast of Baghdad, killing six, including two children. Two of the car bombs, one driven by a suicide bomber, struck at Mahmudiyah, 25 miles south of the capital.

Sunni Arabs blame the lethal result on Jaafari's inability to control Shiite militias and Shiite-dominated security forces, as well as a strategic inability to come to grips with the insurgency. Kurds further took issue with Jaafari's trip to Ankara, Turkey, without cabinet approval, which has strained relations with Iraqi Kurds.

Jaafari's entourage included no Iraqi Kurds, who hold top government positions in Baghdad, but some minority Iraqi Turkomen who are often at odds with ethnic Kurds, but have close ties to Turkey.

"The Jaafari government has a long history of failure," says Mustafa Alani, head of the Security and Terrorism program at the Gulf Research Center in Dubai. "Everything has deteriorated: security, basic services, corruption. There is no major achievement."

"Weak government contributes [to the violence], state infrastructure is disintegrating gradually, and militias are taking over," says Mr. Alani. "Those people [militiamen] are becoming more loyal to their parties than the state. I don't see how this can be changed."

The convening of parliament begins a 60-day period in which a new head of state must be elected, and a new prime minister and cabinet agreed upon. Lobbying has been fierce for weeks. On Sunday, President Talabani increased pressure against Jaafari, by sending an adviser to push the case with Grand Ayatollah Ali al-Sistani, Iraq's preeminent Shiite cleric, in Najaf.

"We reject Jaafari because we believe that Iraq needs a government of national unity and new faces," said envoy Barham Saleh, who is also planning minister, after the meetings.

Sunni Arab leaders have found unlikely champions in US diplomats, trying to ensure their place at the table of a unity government.

They have also been most recent targets of apparent revenge attacks. Gunmen on Sunday killed the nephew and cousin of Sheikh Harith al-Dari, leader of the main Sunni Arab religious group, the Muslim Clerics Association.

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Last Thursday, Adnan al-Dulaimi, leader of the Iraqi Accordance Front, part of the Sunni parliamentary bloc trying to oust Jaafari, survived an assassination attempt on his convoy that killed one guard and wounded five others.

In a separate incident the same day, a convoy of bodyguards for Defense Minister Saadoun al-Dulaimi, also a Sunni Arab, was attacked, killing one guard and wounding others.

"You can argue that Iraq has been without a government since the fall of the [Hussein] regime, and after three years we are in a very messy situation," says Hassan Bazaaz, an aide to Adnan al-Dulaimi. "We are on the brink of a civil war; in fact, we are in a civil war. The reason is because there is no government."

The December national election was meant to usher in Iraq's first postinvasion permanent government. But the hopes of Iraqis expressed on election day - almost as vociferous and hopeful as they had been when they first went to the polls in January 2005 - have faded with the passing of time, and amid political deadlock.

The result is growing, popular exasperation.

"What difference does [a new government] make?" asks an Iraqi political analyst who asked not to be named. "The real crisis is the daily killing of Iraqis, which no one writes about. This is because of the US occupation. Whether Jaafari gets back in is of no concern to Iraqis. Who is going to stop [the violence]?"

Any hope of effective rule will require real change, regardless of who holds the PM post.

"A new government along the old line will be weak, and divided on the sectarian side; they are only concerned about how much they can steal," says the Iraqi analyst. "The ministries of Interior and Defense tell you everything is fine and under control. If you listen to the minister of electricity, you would think people live in a state of full electric power. The minister of oil says Iraqis are living with everything."

That sentiment echoes Khalaf al-Olayan, another Sunni leader in parliament, who wrote on the Iraqi Accordance Front website that Iraq has gone from "bad to worse" with Jaafari.

"Jaafari's government failed to solve the chaos that followed the Samarra explosions and did not take any measures to solve the security crisis that could have pushed the country into civil war," wrote Mr. Olayan.

Another Jaafari government would mean "much more of the same - a many headed hydra, without the power to nail down the [pro-Shiite and abuse] problems in the Ministry of Interior," says Mr. Dodge at Queen Mary.

Sadr supports Jaafari "not because of who he is, but who he is not," says Dodge. "They would nominate anyone, to get around Abdul Mahdi getting it."

Leaders Consider Al-Jaafari Future (WT)

By Sharon Behn

The Washington Times, March 7, 2006

Iraqi party leaders, deadlocked over whether Ibrahim al-Jaafari should serve another term as prime minister, are considering a plan that would allow him to serve for six months to a year and then review his performance.

The behind-the-scenes wrangling occurred as several bomb attacks around Iraq killed at least nine persons, including children.

"There is no power, there is no government; the country is really in a vacuum," said a source close to the political negotiations, speaking on the condition of anonymity.

The Kurds think that Mr. al-Jaafari has not supported their bid for the northern city of Kirkuk, the Sunnis are trying to weaken the Shi'ite-led United Iraqi Alliance (UIA) -- which they think wants to wipe out the Sunni minority -- and both are coming together in a political marriage of convenience to put pressure on the UIA, the source said.

For its part, the Shi'ite alliance -- with such powerful figures as Abdel Aziz al-Hakim, the leader of the Supreme Council for the Islamic Revolution in Iraq (SCIRI), and nationalist cleric Muqtada al-Sadr, who backed Mr. al-Jaafari -- is refusing to back down on its nomination.

If the talks collapse, some party leaders are ready to punt the issue over to the 275-seat National Assembly and put the question of the country's prime minister to a vote -- forcing the political infighting into the open.

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"In the coming days, we will see many dramatic political actions ... in which we will reach an agreement -- or if we cannot reach an agreement with the other slates, we will transfer the whole situation to the parliamentary council," said Karim al-Musawi, SCIRI's spokesman in Washington.

President Jalal Talabani said yesterday that he would convene the National Assembly in six days, but there were conflicting reports over whether he had received the required backing of other leaders for the session to proceed.

A Kurdish official familiar with the negotiations said there were two options on the table: taking Mr. al-Jaafari's nomination to parliament and face the possibility of it being rejected, or have the UIA propose a new candidate for the post of prime minister.

"We want a candidate who can work with all of us and not treat the government as his own," said the Kurdish official, who described the ongoing talks in Baghdad as "intense."

But none of the major political slates currently holds the necessary two-thirds majority in the National Assembly to approve any candidate.

"They have to compromise," the source said.

One suggestion, he said, was to "give Jaafari a chance, then have a six-month or one-year review."

In violence yesterday, six bombs in Baghdad killed at least nine persons, including two children. A sniper also fatally shot one of Iraq's most senior army officers, Maj. Gen. Mubdar Hatim al-Dulaimi, as he drove through west Baghdad, the U.S. military said.

In London, newspapers quoted the top British commander in Iraq as saying that Britain's 8,000 troops could be withdrawn from Iraq by summer 2008, with the first drawdown expected within weeks.

But Lt. Gen. Nick Houghton told the London Daily Telegraph the timetable was "reversible" if Iraq's political leaders failed to create a stable central government and curb sectarian violence.

18 Killed As Iraqi Parliament Prepares To Meet (LAT)

By Borzou Daragahi

The Los Angeles Times, March 7, 2006

BAGHDAD — A sniper shot and killed the Iraqi officer commanding army forces in the capital today as officials reported that bombings and other violence had killed at least 16 Iraqis and a U.S. soldier.

Maj. Gen. Mubdir Hatam Jabouri was killed by a single bullet to the neck while driving through western Baghdad in a lengthy convoy shortly after 5 p.m., said Mohammed Askari, an advisor to the Defense Ministry.

"He was such a dedicated and good-disciplined veteran officer of the Iraqi army," said Askari.

Jabouri, a Sunni Arab, was a commander of troops seen by many as a counterweight to the increasingly powerful forces of the Interior Ministry, whose Shiite Muslim-dominated police and commando units allegedly have been involved in extrajudicial killings.

Meanwhile, the U.S. military reported that a U.S. soldier in western Iraq died Sunday as a result of "enemy action."

Sporadic sectarian violence continued to erupt in the wake of the Feb. 22 bombing of a Shiite shrine in Samarra and reprisal attacks on Sunnis. Iraqi and U.S. officials hope a broad-based government drawing on Iraq's majority Shiites, Sunnis and Kurdish minority might cool sectarian tempters. But political talks have become bogged down.

Officials have announced that the newly elected parliament will meet next Sunday, an important step in the process of building a new government.

Meanwhile, much of the insurgent violence in the country has shifted to religiously diverse urban areas, said a U.S. official who requested anonymity.

A car bomb in a crowded market of downtown Baqubah, a religiously mixed provincial capital 45 miles northeast of the capital, killed at least six, including two children, and injured 21. The bomb exploded as police and passersby gathered near a murder scene, one of three reported fatal shootings in Baqubah today.

Gunmen killed three Shiite laborers in the Sunni town of Hawija, in northern Iraq near the city of Kirkuk.

At least two car bombs and sporadic mortar fire shook the capital. A car bomb near a bank killed one person and injured five in the Dora district, a religiously mixed area on Baghdad's southern edge.

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A car bomb explosion on the road to the Ministry of Industry compound injured five. Another car bomb struck a police commando patrol in the Mustansirya district, though there were no reports of injuries.

Yarmuk hospital officials reported receiving at least three unidentified corpses from Sunni Arab neighborhoods.

Gunmen kidnapped a prominent university professor. Dr. Ali Hussein Khafaji, dean of the Engineering College at Mustansirya University, was abducted by two carloads of men as he left his home.

Senior Iraqi General Killed In Ambush (WP)

By John Ward Anderson And Ann Scott Tyson

The Washington Post, March 7, 2006

BAGHDAD, March 6 -- The top commander of the Iraqi army division in Baghdad was killed Monday when his car came under small-arms fire while traveling through the capital, the U.S. military said.

Maj. Gen. Mubdar Hatim Hazya al-Dulaimi was one of the highest-ranking members of the new Iraqi army to be killed in insurgent violence. Under his leadership, the 6th Iraqi Army Division has been gradually assuming control of parts of the capital from U.S. forces.

His killing could set back security efforts in Baghdad, particularly following the recent outbreak of sectarian violence, according to a senior U.S. commander who worked closely with him.

"It could be a blow that takes a long time to overcome," said Maj. Gen. William G. Webster Jr., commander of the Army's 3rd Infantry Division, who oversaw U.S. troops in Baghdad for a year ending in January. "Losing a strong commander for even a little while in Baghdad could cause a further power shift toward what looks like the Shia control of the city."

Still, Dulaimi strove to cultivate strong subordinates, which could help the transition, Webster said. The Defense Ministry is expected to select Dulaimi's replacement.

The attack was one of the violent incidents across Iraq on Monday that left more than 20 people dead after a relative lull in bloodshed over the weekend.

President Jalal Talabani, meanwhile, announced that the country's new parliament, which was elected Dec. 15, would hold its first meeting on Sunday, the deadline set by the constitution for its first session. Lawmakers and political parties have been unable to agree on the composition of a new government, delaying the opening of parliament.

Dulaimi was killed about 4:35 p.m. in the western part of the capital when his convoy was attacked, a U.S. military statement said.

"Mubdar had been visiting his soldiers in Kadamiyah and was returning to his headquarters when his convoy came under small-arms fire attack," the statement said. It was not clear whether anyone else had been killed or injured in the incident.

"General Mubdar was a true Iraqi patriot," Maj. Gen. J.D. Thurman, commander of the Multi-National Division in Baghdad, said in a statement. "He leaves behind a professional and capable fighting force that will continue the fight for Iraqi freedom."

U.S. officials training the new Iraqi army hope it will take over combat operations in Iraq, enabling an eventual withdrawal of U.S. troops. Iraqi forces are currently in charge of security in about 60 percent of Baghdad. Only two weeks ago, Dulaimi had predicted that insurgent activity would decline because of the Iraqi army's operations.

"Because of the bravery of our armed forces that sacrifice themselves on a daily basis, the amount of insurgent activity will continue to decrease," Dulaimi was quoted as saying in a U.S. military statement.

The Iraqi general, in his mid-fifties, was an aggressive, inspirational leader and rising star within the army, Webster said. A Sunni Arab sheik from southern Baghdad, Dulaimi led a division under Saddam Hussein during the Iran-Iraq war in the 1980s, and since Hussein's fall had commanded two other divisions before being selected by the Defense Ministry for the critical job in Baghdad. "He was certainly destined to be a senior leader of all the armed forces," Webster said.

But Dulaimi's hands-on style and unusual drive to lead from the front -- as well as his habit of shunning body armor -- also put him in greater danger. "He knew he had to be out with his soldiers for them to trust him," Webster said. "He put himself at more risk than his predecessors."

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Elsewhere in the capital on Monday, at least four car bombs exploded, killing four people and injuring 24, police said. Another four people were killed and 10 wounded when three car bombs detonated in the town of Mahmudiyah, about 15 miles south of the capital, security officials said.

In the worst attack of the day, seven people, including five children, were killed and 17 were injured when a car bomb exploded in a crowded market in central Baqubah, about 35 miles northeast of Baghdad, police said.

A U.S. military statement said the explosion occurred near the office of the mayor, who was meeting with community leaders at the time to discuss ways to improve security. The statement blamed the attack on insurgent attempts to "incite sectarian violence within the community."

Five policemen who rushed to the scene were reportedly injured in a secondary bombing that targeted them.

The U.S. military reported the death of a U.S. soldier "due to enemy action" in the western province of Anbar on Sunday. Additional details were not available.

The bodies of a father and two of his sons were found Monday in the city of Hawijah, about 35 miles southwest of the northern city of Kirkuk, according to police. They said the victims were Shiite Muslims who appeared to have been shot execution-style, presumably by the Sunni-led insurgent group al-Qaeda in Iraq.

An offshoot of the group recently distributed leaflets in the town demanding the expulsion of Shiites in retaliation after Sunnis fled their communities around Baghdad.

Fearing sectarian violence, some Sunni families abandoned their homes following the destruction of a revered Shiite mosque in Samarra on Feb. 22. Attracted by the rich agricultural land around Hawijah, many Shiites had moved to the area during the rule of Hussein, residents said.

Residents of the town were "shocked by these leaflets, because many of these families who work in agriculture and cattle raising, as well as other jobs, have intermarried and lived here for many years without any problem," said local police Capt. Emad Khider.

11 Including An Iraqi General Are Killed In Baghdad Attacks; Army Says A G.I. Died Sunday (NYT)

By Kirk Semple

The New York Times, March 7, 2006

BAGHDAD, Iraq, March 6 — A series of guerrilla attacks in and around Baghdad killed at least 11 people on Monday, including an Iraqi general, and wounded at least 58, officials said. The American military announced that an American soldier had been killed in Anbar Province, the western desert region that has become a wellspring of the insurgency.

The eruption of violence came as the country's sclerotic political process inched forward with an announcement by President Jalal Talabani that he would convene the newly elected Parliament on Sunday.

Maj. Gen. Mubdar Hatim Hazya al-Duleimi, the commander of the Sixth Division of the Iraqi Army, was fatally shot by a sniper on Monday afternoon while driving in western Baghdad, according to American and Iraqi officials. General Duleimi was the highest-ranking Iraqi military officer to be killed since the American-led invasion in 2003.

For more than a year the Sixth Division has been gradually assuming control of sectors of the capital from American forces.

In the deadliest attack of the day, a car bomb exploded in a marketplace in Baquba, just north of the capital, killing 7 people, including 2 young girls, and wounding 23, including 5 children, Diyala Province officials and hospital workers in Baquba said. The attack was one of at least seven on Monday involving car bombs.

The American military offered no further information on the American casualty in Anbar, except to say the soldier was killed Sunday and had been assigned to Regimental Combat Team 7, which is under Marine command.

Against this violent backdrop, Iraq's political leaders continued to jockey over the choice of a prime minister, the government's most powerful executive. The main Shiite bloc is backing Prime Minister Ibrahim al-Jaafari, who has held the post since a transitional government was formed last April, but he is opposed by a coalition of Sunni Arab, Kurdish and some secular politicians.

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Although the Shiite bloc won 130 of the 275 parliamentary seats, the Iraqi Constitution effectively requires a two-thirds majority to choose the prime minister, giving the Kurdish, Sunni and secular parties, with about 140 seats among them, a de facto veto.

Ahmad Chalabi, a secular Shiite politician and former Pentagon favorite, met Monday with Grand Ayatollah Ali al-Sistani, the country's most revered Shiite leader, to discuss the issue. Mr. Chalabi also met with Moktada al-Sadr, the militant Shiite cleric whose power has grown as Mr. Chalabi's has faded. Mr. Sadr's bloc, the largest within the Shiite Alliance, has been backing Mr. Jaafari for the nomination.

"Mr. Jaafari must be given a chance to work on forming a government," Mr. Chalabi told reporters as he emerged from his meetings in the Shiite holy city of Najaf.

For his part, Mr. Sadr predicted a "quick solution" to the impasse.

Ayatollah Sistani, who opposes a direct clerical role in government, made no statement.

American officials have been putting pressure on their Iraqi counterparts to pull together a broadbased coalition in the hope that widespread political representation would help unify the country and defuse the insurgency.

According to the Iraqi Constitution, the legislature must first approve a president by a two-thirds vote. The president must then pick a prime minister within 15 days. The prime minister has another 15 days to select a cabinet.

The selection of the prime minister and cabinet must be approved by a majority of Parliament, or the cycle is renewed with a new 15-day deadline for the president to choose a new prime minister.

But the expectation is that the politicians will have negotiated the package of president, prime minister and cabinet before the legislature announces its presidential choice.

Two Car Bombs Explode In Iraqi City (WP/AP)

By The Associated Press

The Washington Post, March 7, 2006

HILLAH, Iraq -- Two car bombs exploded almost simultaneously at separate sites in this mostly Shiite city early Tuesday, wounding at least three people, police said.

The blasts were detonated by remote control and were about five minutes apart, said police Capt. Muthana Khalid.

The first went off on a road on the northern side of the city, hurting no one, Khalid said.

Five minutes later, the second car bomb exploded at a bustling market, injuring at least three people, Khalid said.

Hillah, 60 miles south of Baghdad, has suffered repeated attacks. It is also the site of the single deadliest attack in the two-year insurgency, a suicide car bombing outside a medical clinic on Feb. 28, 2005 that killed 110 people.

Also Tuesday, police said four Iraqi officers were killed in two separate attacks on police patrols in Baqouba and Beiji, north of Baghdad. The assailants were not identified.

Iraqi Tribes Strike Back At Insurgents (WP)

By John Ward Anderson

The Washington Post, March 7, 2006

BAGHDAD, March 6 -- First they killed the chief of the Naim tribe and his son. Then they killed a top tribal sheik who headed the Fallujah city council. Then they assassinated the leader of the al-Jubur tribe.

And now the reported killers of all these men -- al-Qaeda in Iraq, the insurgent group of Abu Musab al-Zarqawi -- have a powerful new enemy.

Tribal chiefs in Iraq's western Anbar province and in an area near the northern city of Kirkuk, two regions teeming with insurgents, are vowing to strike back at al-Qaeda in Iraq, a Sunni Arab-led group that is waging war against Sunni tribal leaders who are cooperating with the Iraqi government and the U.S. military. Anbar tribes have formed a militia that has killed 20 insurgents from al-Qaeda in Iraq, leaders said.

Separately, more than 300 tribal chiefs, politicians, clerics, security officials and other community leaders met last week in Hawijah, about 35 miles southwest of Kirkuk, and "declared war" on al-Qaeda in Iraq. In a communique, the participants vowed

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"the shedding of blood" of anyone involved in "sabotage, killings, kidnappings, targeting police and army, attacking the oil and gas pipelines and their transporters, assassinating the religious and tribal figures, technicians, and doctors."

"Hawijah was never a hideout for terrorists and fugitives," the statement added. "Anyone who provides refuge to terrorists will be considered and dealt with like a criminal and terrorist."

Last month at a briefing in Baghdad, Maj. Gen Rick Lynch, a U.S. military spokesman, said Zarqawi "finds these tribal leaders who have opted to embrace the democratic process . . . and he works to assassinate" them.

"What we're finding is indeed the people of al-Anbar -- Fallujah and Ramadi, specifically -- have decided to turn against terrorists and foreign fighters," he said. "The tribal leaders, if you will, said, 'Okay, that's enough, let's take out Zarqawi and his network and get them out of our cities.' " Lynch said "local insurgents" had killed six Zarqawi deputies in Ramadi since September.

Anbar province is a center of the insurgency and the deadliest region of the country outside of Baghdad for Iraqi civilians and U.S. forces. Tribal chiefs there said their militia, the al-Anbar Revolutionaries, has killed 20 foreign fighters from al-Qaeda in Iraq and 33 Iraqi sympathizers who aided the insurgents with arms and money in the past two months.

"Forming the group did not come from nothing," said Khalaf al-Fahdawi, a leader of the Sunni Albu Fahd tribe in Anbar. "It came from a need to destroy al-Qaeda, which we thought the Marines might have been able to do. We were wrong, since these armed men became stronger and raped other cities."

Leaders in Anbar and south of Kirkuk said they opposed both Zarqawi and the American military occupation of Iraq, describing them as feeding off each other to the detriment of the country.

"We are a group of the Anbar people who want to get rid of Zarqawi . . . because this is the only way to make the Americans withdraw from Ramadi or Iraq in general," said Ahmed Abu Ilaf, 30, a welder and member of the new Anbar militia from Ramadi, about 60 miles west of the capital.

"We are against Zarqawi and his followers because they aim to extend the presence of the occupation and hurt our forces to make them weak," said Hussein Ali al-Jubouri, a Sunni tribal leader and Hawijah city council member.

Hawijah leaders said they, too, wanted to create a militia to enforce their threats, but that U.S. military officials were opposed to the idea. For the time being, they said, they would intensify their cooperation with Iraqi military and police units.

Members of the Anbar militia said the group comprised about 100 people who have had relatives slain by al-Qaeda in Iraq. The group is led by Ahmed Ftaikhan, a former Iraqi intelligence officer from the now-disbanded Iraqi army who lives in Ramadi.

Fahdawi, the sheik from the Albu Fahd tribe, said the militia was forged in a series of secret meetings among tribal leaders, each of whom was asked to help form the group. Some contributed men, some money, Fahdawi said. U.S. military officers attended some of the meetings, he said, and helped "with "all kinds of financial support."

Lt. Col. Barry Johnson, a U.S. military spokesman in Baghdad, denied that American forces were funding the militia.

"All military activity is conducted through the legitimate structures of the Iraqi government and security forces," he said in an e-mail. "We are working hard to ensure these structures function properly, and funding a program such as this would only undermine that process."

A fighter in Zarqawi's group, calling himself Abu Azzam, said the al-Anbar Revolutionaries "are collaborators and dogs for America. They kill the mujaheddin to get money from the American crusaders. They are cowards and we have killed a lot of them. . . . All the people here support us and our jihad against the Americans and their followers."

Fahdawi said, "I cannot say that all the people in Ramadi support us, but I can say 80 percent of them do."

Ilaf, the militia member and welder from Ramadi, said the group has had real success.

"We have killed a number of the Arabs, including Saudis, Egyptians, Syrians, Kuwaitis, Syrians and Jordanians," he said. "We were also able to foil an attack by Zarqawi's men who were trying to attack an oil pipeline outside Ramadi. We killed four Iraqis trying to plant the bomb under the pipeline."

Iraq's Talabani Summons Parliament (REU-Y2)

By Nick Olivari And Faris Al-mehdawi

Reuters, March 6, 2006

DOJ_NMG_0016278

Iraqi President Jalal Talabani said on Monday he would convene parliament in six days, but political wrangling means a government of national unity is unlikely to be formed any time soon.

As Talabani met a constitutional requirement to summon parliament after elections in December, a car bomb north of Baghdad killed six people, including two children. Five other car bombs exploded in the capital, killing three police officers and wounding at least 24 people.

Nearly three months after the election, Iraq's political leaders are still fighting over the post of prime minister. The row is unlikely to end soon, meaning parliament may only get as far as naming a speaker in its first session.

"I will call today for parliament to hold the first session on the 12th of the current month since it is the last day that the constitution allows," Talabani said.

According to the Transitional Administrative Law, the U.S.-sponsored interim constitution still in force, lawmakers must first elect a speaker of parliament and then a president and two deputies, who in turn will name a prime minister to form a new government within two weeks.

But there is no timeframe for these posts to be filled. The new constitution, approved in a referendum last October, does give a timetable, but it will take effect only after the country's first four-year government is formed.

JAAFARI OPPOSED

Sunnis, Kurds and others are opposed to the nomination of Shi'ite Prime Minister Ibrahim al-Jaafari and are calling for the Shi'ite Alliance, parliament's biggest bloc, to replace him.

The dispute has delayed the formation of the grand coalition government that Washington promoted in the hope of fostering stability and allowing U.S. troops to begin withdrawing.

Deputy Prime Minister Ahmad Chalabi, a secular Shi'ite whose list failed to win a single seat in parliament, said an "urgent and radical solution" would be found to break the impasse.

Hussein Falluji, a Sunni politician, said there were three options, none of which included Jaafari.

The Shi'ite Alliance could change Jaafari and the political process could resume, he said, a new alliance could form a bigger bloc and name a new prime minister, or parliament could veto Jaafari by not giving him the two-thirds majority he needs.

Tarek al-Hashemi, a leading Sunni politician and a contender for speaker when the new parliament opens on Sunday, accused Iran of fostering instability in Iraq, partly through militias loyal to Shi'ite parties, in a bid to divert U.S. pressure over Tehran's nuclear program.

"The main player in Iraq is Iran," Hashemi said in an interview in Jordan. "It wants to create chaos for America in Iraq as part of the conflict over the nuclear issue."

Iran denies interfering in Iraqi affairs but Hashemi's views, typical of Sunni leaders, signal future tension for both Iraqi unity and potentially between Baghdad and Tehran.

DEATH TOLL RISES

Sectarian violence that has killed hundreds since the February 22 bombing of Samarra's Golden Mosque claimed more lives on Monday.

A bomb in Baquba killed six people, two of whom were girls aged three and four, and wounded 23 in what the U.S. military said was an attack aimed at sowing sectarian bloodshed.

It exploded near a market, packed with women and children, after police arrived to check a separate incident in which one person had been killed. Five policemen were wounded.

The blast shattered windows and wrecked stalls. Sandals and broken spectacles lay amid body parts in pools of blood.

"What did these people do to be killed by this bomb," said a distraught man at the scene. "They targeted innocent civilians."

The religiously mixed city of Baquba, 65 km (40 miles) northeast of Baghdad, has been the scene of several sectarian attacks since the Samarra bombing.

Sunni insurgents battling the Shi'ite-led government frequently launch attacks against U.S.-trained Iraqi security forces. Five separate car bombs around Baghdad killed three police officers, wounded five other policeman and at least 19 civilians. One other civilian was wounded in a mortar attack.

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Two other car bombs, one of them driven by a suicide bomber, killed three people, including two Iraqi soldiers, and wounded five, in Mahmudiya, some 40 km south of Baghdad on Monday, police said.

The two blasts occurred 10 minutes apart with one targeting an Iraqi army checkpoint.

Human rights in Iraq were also at the forefront on Monday when Amnesty International condemned the detention of 14,000 prisoners without charge or trial, saying the lessons of the Abu Ghraib prison abuse scandal had not been learned.

U.S. officials did not respond to a request for comment.

Germans Set To Investigate Help To U.S. In Iraq Invasion (NYT)

By Richard Bernstein

The New York Times, March 7, 2006

BERLIN, March 6 — A German opposition party said Monday that it would vote for a formal parliamentary investigation into allegations that the German intelligence service provided help to the United States during the invasion of Iraq, which the government vehemently opposed.

An official of the Free Democratic Party, which has 61 seats in Parliament, said the party favored an investigation. Because the two other opposition parties, the leftist Greens and the new Left Party, have already declared their support, the Free Democrats' decision seems to ensure a formal investigation.

Germany's government, in which power is shared between the main left-of-center and right-of-center parties, has made vigorous efforts to head off an investigation, saying it could harm the functioning of Germany's intelligence service and efforts under way to improve relations with the United States.

Earlier the government had furnished a report on the allegation that two agents of the country's intelligence service were posted to Iraq starting shortly before the American military mounted the invasion.

That report was released some 10 days ago, but some in the opposition criticized it as falling short of a full, detailed disclosure of what the government may have been doing behind the scenes to support American policy.

In a full parliamentary investigation, rare in Germany, members of the Parliament would very likely publicly interrogate former and current members of the government under oath. In their comments on Monday, leaders of the Free Democrats said they wanted to investigate the roles of figures like Gerhard Schröder, the former chancellor; Joschka Fischer, the former foreign minister; and Frank-Walter Steinmeier, the current foreign minister, who was Mr. Schröder's chief of staff at the time of the invasion.

The likelihood of a full parliamentary investigation promises to breathe new life into a political scandal that has ebbed and flowed in Germany since January, when the German press first reported that German agents in Iraq gave information to the United States during the war, including information in choosing targets for the air and land combat.

The government conceded that intelligence agents did operate in Baghdad, but denied that they provided information about military targets.

The report to Parliament issued last month acknowledged exchanges of intelligence with the United States, but said none of the information would have helped the United States in the combat. After the government report appeared, new disclosures in the press — including articles in The New York Times, vehemently denied by the government, that Germany provided the United States with Iraq's secret plan for the defense of Baghdad — had the effect of intensifying the opposition's calls for an investigation.

"This was not sufficient in our eyes," Wolfgang Gerhardt, the Free Democrats' parliamentary leader said in a telephone interview on Monday, referring to the earlier government report. "It did not deliver the necessary information on the rendition of a German citizen, on C.I.A. flights and even not on the question of the political leadership in the former government.

"Our main question is not, 'What did the security service do?' Our main question is, 'What was the aim of the former Red-Green government to declare openly to be against the Iraq invasion and to treat the work of the security service without political leadership?' " The phrase Red-Green denotes the former coalition government of Social Democrats and the Green Party.

Opposition Parties Press For Iraq Probe (WT)

By David Crossland

The Washington Times, March 7, 2006

DOJ_NMG_0016280

BERLIN -- German opposition parties have joined forces to require a parliamentary inquiry into whether German spies helped the U.S. military in the 2003 Iraq war, in a move that could hurt Berlin's efforts to mend fences with the United States.

The liberal Free Democrats voted among themselves yesterday to demand the investigation, providing enough votes in the Bundestag to compel a probe into reports that German agents handed over sensitive documents detailing Saddam Hussein's defense strategy to the Americans.

The claim, first reported in the New York Times last week, exposed the former government of Gerhard Schroeder to accusations that it publicly opposed the war to gain popularity while privately helping the Americans to wage it.

Officials have warned that a probe, in which current and former officials would have to testify under oath, will put the spotlight on the Bundesnachrichtendienst (BND) foreign-intelligence service in coming months and thereby hamper its activities.

The inquiry also could hurt Chancellor Angela Merkel's government, even though she only took over last November, because her Foreign Minister Frank-Walter Steinmeier was chief of staff to Mr. Schroeder at the time of the war.

Lengthy debate about the Iraq war and Germany's role in it could also put further strain on U.S.-German relations at a time when Mrs. Merkel is trying hard to repair the damage done by Mr. Schroeder's opposition to the war.

Yesterday's move by the FDP ends weeks of uncertainty about whether the Bundestag, or lower house of the German parliament, will launch an inquiry.

The other two opposition parties, the Left Wing Party and the Greens, had already called for a probe. The FDP's support gives the combined opposition sufficient votes to force an investigation.

The question now is what terms of reference the inquiry will be given. The FDP and Left Wing party want it to include the previous government's entire policy during the Iraq war. That would put the inquiry on course to look at some sensitive German-U.S. security issues.

These include the purported abduction of a German national to Afghanistan by the U.S. Central Intelligence Agency, as well as revelations that German security officials accepted a U.S. invitation to question two inmates at the Guantanamo Bay detention camp for terrorism suspects in Cuba.

The Greens, who were a junior coalition partner in Mr. Schroeder's government, want a narrower investigation focusing on the activities of the BND.

The German press has speculated that the various leaks to U.S. newspapers in recent months about German cooperation with U.S. agencies may have been deliberately planted by U.S. authorities to get back at Germany for not supporting the Iraq war and to tarnish Mr. Schroeder's image.

FDP domestic-policy specialist Max Stadler said: "We don't want an investigating committee against the BND; instead, we want a debate about the political responsibility for all that happened and what conclusions to draw from it."

The German government has admitted that its spies passed on information about locations of Saddam Hussein's Republican Guards and of an Iraqi secret-service base to the U.S. government.

But Mr. Steinmeier reiterated his denial yesterday of the New York Times claim that the BND handed the Americans a sketch of Iraqi defense installations around Baghdad in 2003.

Mr. Steinmeier told the Frankfurter Allgemeine Zeitung that the BND had found no trace of the sketch despite making an intense search. "So I can and must assume that it wasn't passed on by the BND," he told the paper.

Germany has so far confirmed that two BND agents were in Baghdad at the start of the U.S. invasion in March 2003 and has acknowledged that they provided some descriptions of the police and military presence in Baghdad.

Iraq Reconstruction Plan Draws Criticism Following Delays (USAT)

By Steven Komarow

USA Today, March 7, 2006

A key program for helping Iraq's new government succeed and thus speed withdrawal of U.S. troops is still mostly dormant nearly four months after it was announced by Secretary of State Condoleezza Rice.

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The plan calls for sending teams of experts to help the fledgling governments in Iraq's 18 provinces establish democratic institutions, improve security and manage reconstruction. That combination of military, State Department and other government personnel is critical to Iraq's future, Rice said during a November visit to Iraq.

However, after the first three of 16 teams were created in Mosul, Kirkuk and Hillah in conjunction with her visit, no more have been launched. Tom Casey, a State Department spokesman, said time was needed to work out security procedures and other needs, and more teams will be formed this year.

That pace is "a huge problem" and means the United States is blowing its chance "to quickly seize the momentum" as Iraq forms a permanent government based on December's elections, said Sen. Jack Reed, D-R.I., a member of the Senate Armed Services Committee. "We need action," said Reed, who met with Provincial Reconstruction Team (PRT) members in Iraq last month.

Reed says the delays are emblematic of bureaucratic snags that have hurt U.S. efforts in Iraq since the beginning. It's taken more than three years to adopt the PRT concept, even though similar teams have been operating in Afghanistan and have been credited by the U.S. Institute for Peace with improving conditions and governance in Afghanistan's provinces.

Zalmay Khalilzad, who became U.S. ambassador to Iraq last summer, helped create and mobilize the teams while he was the ambassador to Afghanistan and advocated them for Iraq. The embassy plan calls for 16 teams, one for each province except for a single team handling the three provinces in the semi-autonomous Kurdish region of northeast Iraq.

Complaints about delays are off base, said Daniel Speckhard, who is Khalilzad's top aide overseeing Iraqi reconstruction. He said several new teams would be announced soon, based on the experience of the first three. They'll include a U.S.-led team in Baghdad. Great Britain and Italy also plan to sponsor teams, he said. NATO allies have sponsored many of the PRTs in Afghanistan.

"I actually feel pretty good about it," Speckhard said. "We're moving at an incredibly rapid pace for how significant the initiative is."

While the Afghan teams were mostly military, those in Iraq will include people from the State and Justice departments and the U.S. Agency for International Development and other agencies. They'll be led by a diplomat, not a military officer, and have about 100 members.

The Iraq insurgency has left the State Department and civilian agencies struggling to fill positions even in the relative safety of Baghdad's Green Zone. They don't have built-in, military-style units that can surge into the field for duty on PRTs. "It takes us 60 to 90 days to fill positions like that … we're looking for real expertise," Speckhard said.

There also have been bureaucratic delays. It wasn't until two weeks after Rice's visit that the Defense Department on Nov. 28 issued a directive that commits forces to supporting PRTs and similar efforts. The White House on Dec. 7 issued a new directive, giving the secretary of State clear authority to lead the multiagency efforts in Iraq and elsewhere. Those directives only began discussions between the agencies over who was responsible for security and other support for the teams.

"Setting these up requires careful planning, and we're moving forward with the logistical arrangements for them now," Casey said. "There is no delay in that."

He also said the State Department has enough qualified volunteers to fill the positions.

However, the government isn't backing up its plans with enough money for training and staff, said Anthony Holmes, president of the American Foreign Service Association, an organization of diplomats and other government officials who represent the United States overseas. A major problem is a shortage of Arabic-speaking officials to meet demand, Holmes said. The State Department doesn't have ready-to-go teams of diplomats for such missions, Holmes said, or the security people to protect them.

While the teams have their roots in similar units used during the Vietnam War, the concept gained new momentum after the U.S. involvement in Bosnia in the mid-1990s.

Along with the teams in Afghanistan and Iraq, the Pentagon's Joint Forces Command is developing exercises to streamline the creation of civilian-military teams and eliminate the delays holding up the Iraqi PRTs.

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"There is an intense effort underway to fix this problem," says retired Army colonel Paul Hughes of the U.S. Institute for Peace, who worked in the U.S. occupational government in Iraq in 2003. The teams, Hughes said, can make a big difference in Iraq, and it's critical they work quickly to stop Iraqi insurgents from gaining more influence.

"That is what insurgencies are all about," he said. The enemy doesn't have to accomplish anything positive, yet insurgents can win if they "show the people the government can't meet the peoples' expectations."

Amnesty Report On 14,000 Finds Prisoner Abuse Continues In Iraq (NYT)

By Alan Cowell

The New York Times, March 7, 2006

LONDON, March 6 — Amnesty International accused the United States and its allies on Monday of committing widespread abuses in Iraq, including torture and the continued detention of thousands of prisoners without charge or trial.

The accusations could fuel the debate over the treatment of detainees that flared after the publication of graphic photographs showing prisoners at Abu Ghraib prison in Baghdad being mistreated by American guards. More recently, British forces in Iraq have been criticized after videotapes showed British soldiers beating Iraqi youths after demonstrations in southern Iraq.

In its report, "Beyond Abu Ghraib: Detention and Torture in Iraq," Amnesty International also said the level of abuse by Iraqi forces since the transfer of power in June 2004 was increasing.

The United States and its allies, the report said, have "established procedures which deprive detainees of human rights guaranteed in international law and standards."

"The record of these forces, including U.S. forces and their United Kingdom allies, is an unpalatable one," it said. In particular, coalition forces deny "detainees their right to challenge the lawfulness of their detention before a court."

Hassiba Hadj-Sahraoui, the deputy director of the group's Middle East and North Africa program, described the way prisoners are detained as "arbitrary and a recipe for possible abuse."

At the end of November 2005, the report said, quoting coalition figures, more than 14,000 prisoners were held in Iraq: about 4,850 in Baghdad, 7,365 at Camp Bucca (near Basra, in southern Iraq), and more than 1,100 in the north, at Sulaimaniya.

Responding to the report, the United States military said all its detainees were treated in accordance with international conventions and Iraqi law, The Associated Press reported.

A British Foreign Office spokesman, speaking in return for anonymity under departmental rules, also denied the allegations. He said British forces in Iraq were currently holding 43 Iraqi prisoners under United Nations resolutions permitting detention of people deemed threatening to the security of coalition or Iraqi personnel.

All 43 were visited by the Red Cross and by Iraqi government officials, had their cases reviewed every month and had access to their lawyers and families, the spokesman said. Britain has some 8,000 soldiers in Iraq, mainly in the south. The Amnesty International report took particular issue with conditions in detention facilities run by Iraqis.

"Many cases of torture and ill treatment of detainees held in facilities controlled by the Iraqi authorities have been reported since the handover of power in June 2004," the report said. "Among other methods, victims have been subjected to electric shocks or have been beaten with plastic cable. The picture that is emerging is one in which the Iraqi authorities are systematically violating the rights of detainees in breach of guarantees contained both in Iraqi legislation and in international law and standards."

Lurking In Saddam's Old Tent? (WT)

By Michael Barone

The Washington Times, March 7, 2006

The issue is historical now, but still worth exploring. Why, for two distinct groups of Americans, has it become a matter of conviction held with religious intensity that there cannot have been any relationship between al Qaeda and Saddam Hussein's regime in Iraq?

One group consists of Democratic politicians who oppose the Bush administration's policy in Iraq. The Minnesota Democratic Party recently protested as "un-American" an ad showing military veterans and their families supporting the

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president's policies for saying, "Our enemy in Iraq is al Qaeda -- the same terrorists who killed 3,000 Americans on September 11, the same terrorists from the first World Trade Center bombing, the USS Cole, Madrid, London and many more."

The Democrats, unfactually, say these words "make a connection between Iraq and the September 11 [2001] terrorist attacks and suggest the war in Iraq will prevent an attack by al Qaeda in America."

But of course, the ad is factually correct: Al Qaeda is attacking Americans in Iraq. And the Minnesota Democratic Party is in no position to guarantee al Qaeda will not attack America.

The other group consists of intelligence and other career government professionals, many of them Arabists. Case in point: Paul Pillar, CIA national intelligence officer for the Near East and South Asia, 2000-2005, now retired, writing in the most recent Foreign Affairs magazine. The "greatest discrepancy between the administration's public statements and the intelligence community's judgments concerned not WMD (there was indeed a broad consensus that such programs existed), but the relationship between Saddam and al Qaeda. The enormous attention devoted to this subject did not reflect any judgment by intelligence officials that there was or was likely to be anything like the 'alliance' the administration said existed." But the Senate Intelligence Committee report showed the CIA did obtain evidence of an al Qaeda-Saddam relationship from foreign intelligence and open sources.

That's not surprising. CIA Director George Tenet in October 2002 told Congress of "growing indications of a relationship with al Qaeda." And of course evidence of contacts between al Qaeda and Saddam's regime went back to the 1990s and were cited, without murmur of dissent, by President Bill Clinton.

So why do these Democrats and these government professionals seem to be so convinced there must have been no collaboration between al Qaeda and Saddam? The Democrats fear more Americans would support Mr. Bush and the war effort if they believed there was.

The career professionals, with their many years of training in the subtleties of the Middle East, have developed a vested interest in the notion that religious Wahhabis like al Qaeda could never collaborate with a secular tyrant like Saddam. If alliances could be formed across religious lines, what use would all their learning be?

The Minnesota Democrats cite the September 11 commission's report finding of no evidence of "operational" cooperation between al Qaeda and Iraq, although it did find evidence of many contacts. But, as Donald Rumsfeld likes to say, absence of evidence is not evidence of absence.

Neither al Qaeda nor Saddam operated under a Freedom of Information Act. Any collaboration between them on September 11 would have been kept very secret -- al Qaeda did not want to leave a return address. We do not know there was such collaboration. Nor do we know there was not.

Going back to the days before our military action in Iraq, it would have been irresponsible for any president to have assumed there was no relationship between al Qaeda and Iraq, given previous contacts between them and their proven hostility to the United States. President Clinton, responsibly, did not assume that, and neither did President Bush. Nor was there any indication intelligence could have been acquired that could have assured us, with 100 percent certainty, there was no such relationship.

Light on the Saddam regime's collaboration with terrorists will almost certainly be shed by analysis of some 2 million documents captured in Iraq. But, as the intrepid Stephen Hayes of the Weekly Standard has noted, almost none of those documents has been translated or released either to the public or to the congressional intelligence committees. It appears career professionals and, perhaps, political appointees have been blocking release of these documents.

Why do their superiors not order them released? Many Americans cling with religious intensity to the notion that Saddam somehow had no terrorist ties -- a notion used to delegitimize our war effort. We should bring the truth, or as much of it as is available, out into the open.

Pro-Taliban Rebel Holdouts Give Pakistanis A Fierce Fight (WP/REU)

By Reuters

The Washington Post, March 7, 2006

Toll Among Militants Exceeds 120, Military Says

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ISLAMABAD, Pakistan, March 6 -- Pakistani security forces battled pro-Taliban rebels holding out in a town near the Afghan border on Monday, killing 19 of them as the toll from three days of clashes rose to more than 120, the military said.

The rebels launched attacks on government positions in Miran Shah on Saturday as President Bush met Pakistan's president, Gen. Pervez Musharraf, in the capital. The fighting has raged since.

"Helicopter gunships have been pounding militant positions around Miran Shah," said a resident of the town that serves as the administrative capital of North Waziristan, a tribal region. "The situation is very tense."

The semiautonomous ethnic Pashtun lands along the Afghan border are Pakistan's front line in the war on terrorism.

After U.S. and Afghan opposition forces ousted the Taliban in late 2001, many al-Qaeda militants fled to the area, which was awash in weapons. Taliban supporters among the Pashtun clans offered al-Qaeda a refuge.

Hundreds of people have been killed since late 2004 as Pakistani forces have been trying to clear foreign militants from the border area and subdue their Pakistani allies.

Government forces faced stiff resistance as they tried to remove the last of the rebels from Miran Shah on Monday, said a military spokesman, Maj. Gen. Shaukat Sultan.

Militants launched attacks and seized government buildings Saturday in Miran Shah in revenge for a government attack Wednesday that killed 45 fighters.

The toll from the first day of fighting rose from 46 to more than 100 militants as more detailed reports arrived, Sultan said. Two militants were killed Sunday.

Five troops were killed and two wounded over the three days, he said.

Thousands had left Miran Shah since last week's violence and the exodus was continuing Monday, said the resident, who spoke on condition of anonymity for fear of reprisals.

Violence targeting the U.S.-backed Afghan government and foreign troops has strained relations between Afghanistan and Pakistan. On Sunday, Musharraf derided Afghan accusations that the Taliban leader, Mohammad Omar, was in Pakistan.

A U.S. military spokesman in Afghanistan welcomed the Pakistani action in Waziristan.

"We see this as a very positive move," Col. Jim Yonts said. "This issue in Waziristan is an example that they are fighting the war on terrorism."

2 Leaders Trade Barbs Over Fight Against Taliban (NYT)

By Carlotta Gall

The New York Times, March 7, 2006

ISLAMABAD, Pakistan, March 6 — President Pervez Musharraf lashed out Monday at President Hamid Karzai of Afghanistan for "bad-mouthing" Pakistan in recent weeks and casting doubt on its commitment to fight terrorism.

In a speech to Pakistani journalists in Rawalpindi that was broadcast on state television, Mr. Musharraf accused India of feeding false information to Afghan officials suggesting that the Pakistani intelligence agency was training terrorists.

He dismissed the allegation, and he described as "nonsense" a list of Taliban members, including the leader, Mullah Muhammad Omar, who Mr. Karzai said were operating in Pakistan.

The comments, echoing a message Mr. Musharraf has delivered in recent interviews, point not just to a new low in relations between Afghanistan and Pakistan, but also to difficulties with the United States.

President Bush visited Afghanistan and Pakistan last week, and Mr. Musharraf said he had sought to discredit the Afghan allegations in his meeting with Mr. Bush.

"The bad-mouthing against Pakistan is a deliberate, articulated conspiracy," Mr. Musharraf said. The Karzai administration, after several years of careful diplomacy with Pakistan, has become increasingly outspoken as violence has increased, including suicide bombings, beheadings and roadside bombs. Mr. Karzai came to Islamabad two weeks ago, and handed over what he said were intelligence files on Taliban members and others who, he said, were operating in Pakistan.

Mr. Musharraf said much of that information was outdated or wrong. He said, for example, that Pakistani officials found "decent people" living at an address given for Mr. Omar.

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Mr. Musharraf faces increasing international pressure to stem the infiltration of insurgents into Afghanistan and to prevent the recruitment and training of suicide bombers, which the Afghans say takes place in Pakistan, Western diplomats said.

President Musharraf's spokesman, Maj. Gen. Sahukat Sultan, said fierce fighting against militants in North Waziristan over the weekend was proof of Pakistan's commitment. More than 100 people, including five soldiers, have been killed.

NATO Commander Downplays Afghan Insurgency Threat (REU-Y2)

By Will Dunham

Reuters, March 6, 2006

NATO's top commander said on Monday he doubted Taliban and al Qaeda forces were capable of posing a serious insurgent threat as the alliance expands its Afghanistan operations, calling narcotics the top worry.

NATO Supreme Allied Commander Europe Gen. James Jones also said the 26-nation alliance remained 25 percent short of the troops and equipment envisioned for its rapid-reaction force, and expressed renewed doubt he will be able to declare it fully operational as planned on October 1.

U.S.-led forces in 2001 overthrew Afghanistan's Taliban rulers who had harbored the al Qaeda network responsible for the September 11 attacks, and 23,000 U.S. troops currently are targeting Taliban and al Qaeda forces.

A wave of suicide bombings in recent months has killed dozens of people, part of an intensified insurgency that has killed more than 1,500 people since the start of last year. It has been the bloodiest period since the Taliban's overthrow, and the U.S. military warned of stepped up militant activity this spring.

"I think they are remnants," Jones said of the Taliban and al Qaeda at a Pentagon briefing. "... And I think that the upticks in violence are, in part, attributable to the fact that we're actually going to more places and taking the engagement to the enemy."

"My take on the situation in Afghanistan is that the Taliban and al Qaeda are not in a position to where they can restart an insurgency of any size and major scope," said Jones, a U.S. Marine Corps general.

Afghanistan, he said, was "fighting some internal demons."

"And one is certainly the narcotics culture and the dependence of the economy on narcotics -- which, from my standpoint, is probably the most serious problem facing the restructuring and the new path that Afghanistan would like to go on."

HEADING SOUTH

NATO is preparing to expand its International Security Assistance Force mission -- already in the north, west and the capital Kabul -- to the more volatile south, going from 9,000 to 16,000 troops, and ultimately the east. Jones sees the southward expansion by July.

The State Department last week said opium production and trafficking make up a third of Afghanistan's economy. Afghanistan produces 90 percent of the world's opium poppies and is the largest heroin-producing and trafficking country.

Jones said concerted international action was needed.

"NATO's role in it is not to be an active participant, for example, in destroying crops and eradication. NATO does have a responsibility to be supportive and helpful, but in the more passive areas -- in other words, in the intelligence-gathering, oversight, overwatch, security," Jones said.

"Ninety percent of the harvest in Afghanistan is bought on the streets of Europe and translated back into supporting terrorist activities in Europe. So there's a real reason that we should all be concerned about this."

The NATO Response Force, proposed by Defense Secretary Donald Rumsfeld in 2002, was supposed to have 25,000 troops deployable to distant trouble spots with five days' notice.

"At this point, we have not generated the force in sufficient numbers for me to be comfortable with standing up here and saying we will be successful," Jones said. "... We have generated about 75 percent of the requirement. So we're about 25 percent short."

Jones said he was "hopeful" but added, "As of right now, if this were 1 October today, I would not be standing here saying that we're fully operationally capable."

Jones said last month NATO was scaling back the force's first major maneuvers set for June.

NATO Commander: Drug Trade Is The Greatest Threat To Afghanistan (KRT)

By Drew Brown

Knight Ridder, March 6, 2006

WASHINGTON -The top military commander of the North Atlantic Treaty Organization said Monday that the narcotics trade poses a greater threat to Afghanistan than a rekindled insurgency by Taliban and al-Qaida fighters.

Marine Corps Gen. James Jones, NATO's supreme commander, said he doesn't think that Taliban and al-Qaida remnants can "restart an insurgency of any size or major scope," but that they're part of a "wider span of problems" that includes the opium trade and rampant criminality.

Last week, however, Defense Intelligence Agency chief Lt. Gen. Michael D. Maples said that attacks by Taliban and al-Qaida forces had increased by 20 percent in the last year.

Maples told the Senate Armed Services Committee that the insurgents represent a greater threat to Afghanistan now "than at any point since 2001," when U.S. troops and Afghan Northern Alliance rebels ousted the fundamentalist Taliban regime.

A total of 129 soldiers from the United States and its allies died in Afghanistan last year, more coalition deaths than in any other year since the Taliban were ousted in 2001, according to icasualties.org, a Web site that tracks U.S. and allied casualties. Of those, 99 were Americans. Those fatalities included combat deaths and deaths resulting from accidents and other non-combat related causes.

Jones said Monday that a 20 percent increase in attacks "is statistically not very significant" because the average number of daily attacks by Taliban and al-Qaida fighters had been "quite low."

"I don't think we're heading towards a revitalized insurgency," Jones told reporters at the Pentagon. "And I think that the upticks in violence are in part attributable to the fact that we're actually going to more places and taking the engagement to the enemy."

About 21,000 NATO troops from 36 countries are preparing to take over stability and security operations in southern and eastern Afghanistan in coming months. NATO will very likely take over stability operations throughout Afghanistan by the end of 2006, Jones said.

Some U.S. troops will be included in the NATO force, but that number hasn't been determined. Most U.S. troops, however, will concentrate on areas in eastern Afghanistan along the Pakistan border, where Taliban, al-Qaida and other anti-government groups remain active and where Osama bin Laden is believed to be hiding. Those soldiers will operate under a separate authority that reports to U.S. Central Command. There currently are about 23,000 U.S. troops in the country.

Jones said NATO's primary mission will be to assist in extending the authority of Afghan President Hamid Karzai's government across the country. Much of Afghanistan has never known central government rule and has been under the sway of powerful warlords since the Taliban's ouster.

Many of those figures are close U.S. allies, but some are believed to have profited immensely from the opium trade, which was nearly wiped out by the Taliban, but has exploded since its collapse. U.S. intelligence officials believe the Taliban, al-Qaida and other anti-government groups are financing their insurgency in part through the narcotics trade.

Karzai's government undertook an opium eradication program in 2004, and last year Afghanistan experienced a 21 percent decline in land devoted to poppy cultivation, the first since 2001. But opium production is likely to rise again this year, according to a U.N. report issued Monday.

The U.N. report, based on a survey carried out in December and January, said poppy cultivation is increasing in 13 Afghan provinces, remaining the same in 16 and decreasing in three.

Despite last year's decrease in overall land devoted to poppies, good weather and a low incidence of plant disease yielded a bumper crop of opium, the U.N. reported in November.

Last year, Afghanistan produced an estimated 4,100 tons of opium, the main ingredient in heroin, about 87 percent of the world's supply, the U.N. reported.

Most of the resulting heroin ended up in Europe, which is partly why NATO member countries have a keen interest in the Afghanistan mission, Jones said. He said that NATO troops won't participate directly in eradication, but will provide intelligence-gathering and surveillance.

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NATO Shrugs Off Afghan Violence (WT)

By Rowan Scarborough

The Washington Times, March 7, 2006

NATO's supreme allied commander downplayed yesterday press reports of a rejuvenated insurgency in Afghanistan, saying some of the violence stems from the drug trade and simple criminality, and not attacks by the ousted Taliban or al Qaeda.

"My take on the situation in Afghanistan is that the Taliban and al Qaeda are not in a position to where they can restart an insurgency of any size and major scope," said Marine Corps Gen. James Jones, whose NATO command is scheduled to take over the Afghanistan military and reconstruction mission later this year.

"Afghanistan is on the way to recovery, but is also fighting some internal demons," he said.

Since U.S.-led forces routed the harsh Taliban regime in December 2001, Afghanistan has held two nearly violence-free national elections that selected President Hamid Karzai and a new parliament. Al Qaeda leader Osama bin Laden planned the September 11, 2001, attacks from Afghanistan, where he built an army, terror training camps and a finance network.

Last year, there was an uptick in attacks as new Taliban and al Qaeda recruits organized in neighboring Pakistan and slipped across the border to Afghanistan to plant deadly improvised explosive devices and ambush security patrols.

Still, Afghanistan is far more peaceful than Iraq, the site of another al Qaeda-fed insurgency. And Gen. Jones seemed to signal that the Taliban-al Qaeda alliance is short-lived. He said one reason attacks are up percentagewise is that there were so few in 2004 that any increase seems significant.

He also said the emerging Afghan army is now operating in places it dare not go to a few years ago. "So the hiding places and the areas that were previously off-limits are now not off-limits," he said.

Gen. Jones has a keen interest in Afghanistan, even though it falls within the operational responsibility of U.S. Central Command, led by Army Gen. John Abizaid.

A major component in Afghanistan is NATO's International Security Assistance Force (ISAF), a group of European security forces who are training the Afghans, reconstructing public services, running the international airport and conducting counterinsurgency missions.

The ISAF is slated to take over the military mission, providing NATO with its first combat operation command far outside its traditional boundaries.

"At the end of the day, when ISAF takes over in Afghanistan, it will be roughly a 21,000-man force from 36 different nations," Gen. Jones said. There are 10,000 ISAF troops and 20,000 U.S. forces in Afghanistan. More than doubling the ISAF presence could mean that some of the U.S. troops will come home.

Central Command will continue to head the offensive counterterrorism mission, which includes the hunt for bin Laden, who is thought to be in the tribal areas of western Pakistan.

Defense and congressional officials say Afghanistan will not become a fully stable democracy until it rids itself of an embedded opium and heroin trade that corrupts the government and finances the insurgency.

Afghan Threat Played Down (WP)

By Ann Scott Tyson

The Washington Post, March 7, 2006

The commander of NATO forces said yesterday that rising attacks in Afghanistan will test NATO troops as the alliance expands into volatile southern regions of the country this summer, but he stressed that al-Qaeda and Taliban rebels lack the ability to reignite a major insurgency.

Marine Gen. James L. Jones, NATO's supreme allied commander, played down an increase in violence more than four years after the U.S.-led military campaign ousted the Taliban from power in 2001. He said remnants of al-Qaeda and the Taliban in pockets of the country cannot "restart an insurgency of any size and major scope."

Instead, Jones cited the growing cultivation and trade of opium poppies as the "most serious problem" facing the central Asian nation today. A field survey released yesterday by the Afghan government and the United Nations predicted an increase in poppy cultivation in 2006 in 13 provinces and a decrease in three, with 16 others remaining unchanged.

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"Afghanistan is on the way to recovery but is also fighting some internal demons. And one is certainly the narcotics culture and the dependence of the economy on narcotics," Jones said at a Pentagon news briefing. He said the military will play a supporting role in counternarcotics efforts, supplying intelligence and security while the Afghan government takes the lead in destroying crops.

Jones's assessment of the Afghan insurgency differed slightly in tone from that given last week by a senior military intelligence official. Army Lt. Gen. Michael Maples, director of the Defense Intelligence Agency, testified before the Senate that "the Taliban-dominated insurgency remains capable and resilient." Attacks by the Taliban and other "anti-coalition" groups had increased by 20 percent in 2005, he said, including more suicide bombings and a doubling of strikes by improvised explosive devices.

"We judge that the insurgency appears emboldened by perceived tactical successes and will be active this spring," Maples said.

Jones also said violence is likely to grow this spring -- often a time of insurgent offensives in Afghanistan. "I think you're going to see more testing, more attacks," he said. "NATO, when it comes into the southern part, will be tested."

NATO plans by July to expand its military presence from the north and west and send several thousand more troops into the former Taliban stronghold of southern Afghanistan. That will leave the main mission of U.S. military forces as the eastern region along the Pakistan border, where much of the fighting takes place. Ultimately, Jones said, a 21,000-strong force from the 26 NATO member states and 10 other countries will assume the overall security mission in Afghanistan, although the U.S. military will continue to lead counter-terrorist operations under a distinct chain of command.

US Envoy Vows Commitment To Calm Afghan Fears (FT)

By Rachel Morarjee In Kabul

Financial Times, March 7, 2006

Ronald Neumann, the US ambassador to Afghanistan, said America's commitment to Afghanistan would not be compromised when Nato troops take command of the country's restive south later this year.

Mr Neumann said the US was the lead nation in Nato and the success of the Nato mission in southern Afghanistan had ramifications far beyond the country's borders. "This is the biggest mission Nato has taken on and it is a defining opportunity for the future of Nato," he said in an interview with the Financial Times.

His comments follow President George W. Bush's unscheduled stopover in Afghanistan last Wednesday on his way to India and Pakistan, where he reaffirmed US commitment to the war-torn nation.

Canada will take over command of the fight against the insurgency in southern Afghanistan as 6,000 British, Dutch and other Nato troops are deployed across the region in coming months.

Mr Neumann's remarks come as Afghan officials become increasingly nervous that the withdrawal of about 3,000 US troops after the handover to Nato command will signal to the Taliban that American forces are gradually pulling out of the country.

"Troops from the Dutch, the Romanians, the Canadian and the British may be very good, but their differing missions will result in confusion that militants will be able to exploit," a top Af-ghan government official said. With escalating tensions between Afghanistan and Pakistan, where Afghan intelligence officials believe militants are training and picking up supplies before launching attacks in Afghanistan, a major US troop presence is seen as a deterrent.

"Our neighbours have a history of hostile interference in Afghanistan, and only the US is strong enough to act as a bulwark against them," the Afghan official added.

Mr Neumann said the US would remain the lead nation of Nato and continue to provide air and logistical support, and troops in southern Afghanistan as well as leading the fight against the Taliban in the east.

"It is not acceptable for us to go away. We are a part of Nato," he said ahead of a meeting in Washington to discuss the details of a long-term strategic partnership between Afghanistan and the US later this month.

US training of the Afghan national army would also continue.

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Mr Neumann said it would ensure a sizeable US presence across the country. "The idea that we would leave those people out there on their own without support is a political fallacy."

Fewer Troops Desert Since 9/11 (USAT)

By Bill Nichols

USA Today, March 7, 2006

WASHINGTON — At least 8,000 members of the all-volunteer U.S. military have deserted since the Iraq war began, Pentagon records show, although the overall desertion rate has plunged since the Sept. 11 attacks in 2001.

Since fall 2003, 4,387 Army soldiers, 3,454 Navy sailors and 82 Air Force personnel have deserted. The Marine Corps does not track the number of desertions each year but listed 1,455 Marines in desertion status last September, the end of fiscal 2005, says Capt. Jay Delarosa, a Marine Corps spokesman.

Desertion records are kept by fiscal year, so there are no figures from the beginning of the war in March 2003 until that fall.

Some lawyers who represent deserters say the war in Iraq is driving more soldiers to question their service and that the Pentagon is cracking down on deserters to discourage anti-war sentiment.

"The last thing (Pentagon officials) want is for people to think … that this is like Vietnam," says Tod Ensign, head of Citizen Soldier, an anti-war group that offers legal aid to deserters.

Desertion numbers have dropped since 9/11. The Army, Navy and Air Force reported 7,978 desertions in 2001, compared with 3,456 in 2005. The Marines showed 1,603 deserters in 2001. That declined by 148 in 2005.

The desertion rate was much higher during the Vietnam era. The Army saw a high of 33,094 deserters in 1971 — 3.4% of the Army force. But there was a draft and the active-duty force was 2.7 million.

Desertions in 2005 represent 0.24% of the 1.4 million U.S. forces.

Opposition to the war prompts a small fraction of desertions, says Army spokeswoman Maj. Elizabeth Robbins. "People always desert, and most do it because they don't adapt well to the military," she says. The majority of desertions happen inside the USA, Robbins says. There is only one known case of desertion in Iraq.

Most deserters return without coercion. Commander Randy Lescault, spokesman for the Naval Personnel Command, says that between 2001 and 2005, 58% of Navy deserters walked back in. Of the rest, most are apprehended during traffic stops.

Penalties range from other-than-honorable discharges to death for desertion during wartime.

Decades Later, Marines Hunt Vietnam-era Deserters (USAT)

By Bill Nichols

USA Today, March 7, 2006

WASHINGTON — In the summer of 1965, Marine Cpl. Jerry Texiero quietly disappeared from his California base, plagued by personal demons and a mounting opposition to the Vietnam War.

Forty years later, in the summer of 2005, Texiero — now known as Gerome Conti — was taken into custody by police in Tarpon Springs, Fla., after the Marine Corps tracked him down.

Three decades after the war ended, hundreds of Vietnam-era deserters are still on the loose. Conti's attorneys, Louis Font and Tod Ensign, say the Pentagon, and the Marine Corps in particular, are cracking down on long-term cases in an effort to warn current-day troops in Iraq against deserting.

"My view is that the Marines are trying to send a message to people in the ranks today that they, too, will be required to participate in a war, whether they think it's illegal or immoral," Font says.

Marine spokesman Capt. Jay Delarosa says there was nothing unusual about the treatment of Conti.

However, the Marine official in charge of bringing in deserters said after Conti's arrest that his office was being more aggressive.

Chief Warrant Officer James Averhart, who has commanded the Marine Corps Absentee Collection Center since September 2004, told the St. Petersburg (Fla.) Times that he had ordered cold cases reopened and that his squad had caught 27 deserters in his first 11 months on the job, a rate he suggested was higher than those of his predecessors. The Corps last month updated that number to 33 cases.

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"I have a different leadership style than the guys who have had this job. My job is to catch deserters. And that's what I do," Averhart told the newspaper.

Delarosa said Averhart would not answer questions from USA TODAY. Asked whether the Marine Corps stands by Averhart's comments, Delarosa said, "I wasn't involved in that particular interview with CWO Averhart." He added that the Marine Corps has "discouraged most requests for interviews because CWO Averhart has been frequently misquoted."

Will Van Sant, who wrote the Times article, says the Marines never contacted him after it appeared.

Conti, 65, says he was surprised. "I thought they couldn't possibly be looking for me anymore. I would think they would have stopped looking for anybody who had been gone as long as I had."

Conti was held for five months — four in solitary confinement — then given an other-than-honorable discharge in January. If he had been court-martialed and convicted, he could have faced three years in the brig and a dishonorable discharge.

Another long-term Marine deserter, Ernest "Buck" McQueen, was arrested in Fort Worth in January. McQueen was Ernest Johnson Jr. when he left Camp Lejeune, N.C., in November 1969 because of concerns about going to Vietnam. McQueen, 55, was discharged without disciplinary action.

McQueen says he didn't take a new name to hide. His Social Security card says "McQueen." He says he was born Ernest Johnson Jr., but when his biological father left, his mother raised her son by her married name, McQueen. When he joined the Marines, he says, they insisted he go by Ernest Johnson Jr.

The government drafted men for the armed forces during wartime from the Civil War until 1973. Conti and McQueen enlisted.

In 1974, President Ford offered clemency to Vietnam draft resisters and deserters. Only 27,000 of 350,000 eligible applied. The offer expired on April 1, 1975. In 1977, President Carter pardoned those who dodged the war by not registering or fleeing the country. Neither Conti nor McQueen applied for the Ford pardon. Both spent decades hiding their past from families and employers. McQueen kept his military experience from two wives and two children, and even Conti's best friend in Florida, Elaine Smith, knew nothing of his history with the Marines.

McQueen says he had been in the Marines for nearly two years when he learned of the My Lai massacre in 1968, when hundreds of Vietnamese civilians were killed by U.S. soldiers. "I saw photos of guys with ears on their chains. I lost my desire to be a part of it."

Conti says his decision to desert was a combination of lingering emotional scars from a childhood lived in foster homes and concerns about stories he also was hearing about Vietnam.

Special Agent Tom Lorang of the Air Force Office of Special Investigations (OSI) says most older desertion cases are filed away after an initial investigation is completed, although some are re-examined.

Except for the Marine Corps, military officials say long-term cases normally are closed when deserters voluntarily come back in or are stopped by civilian law officials, not through efforts to track them down.

That's not Conti's or McQueen's story. Conti says he was told his file was reopened and his fingerprints were run through a national database. He was in the database because he had been convicted of fraud and theft in 1998. He was on probation and paying restitution when the Marines caught up with him.

McQueen, a carpenter, says his former brother-in-law was called by Marine investigators, and he told them where to find him. "This kind of … put me in a financial bind," says McQueen, who had been doing carpentry for a church when he was seized.

Conti has returned to his job selling boats, which his employer kept open for him while he was locked up.

"They just need to declare amnesty for everybody from a certain time back or from certain conflicts," says Elaine Smith, Conti's friend. "These guys … just had issues, as we all did back in the '60s."

Military officials maintain that those who deserted the service are liable under law, no matter how unpopular a war was. "We actively investigate all cases of desertion," says Fred Hall, a spokesman for the Naval Personnel Command. "For each of the active deserters we have on our rolls — 1,190 as of 31 Jan. '06 — there is a federal warrant out for their arrest."

CORPORATE SCANDALS:

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Lawyer Defends Skilling's Enron Comment As Sarcasm (REU)

By Matt Daily

Reuters, March 7, 2006

HOUSTON (Reuters) - Former Enron Corp. CEO Jeffrey Skilling was using sarcasm when he told several top executives in 2001 "they're on to us," his lawyer suggested on Monday at the trial of Skilling and ex-CEO Ken Lay.

The lawyer, Mark Holscher, sought to sow doubts about the comment that a witness, former executive Kevin Hannon, told the jury last week he heard Skilling say in reaction to a May 2001 analyst report that was sharply critical of Enron.

Hannon had said he took Skilling's comment at the meeting to mean that investors were "starting to understand how Enron made money," and appeared to link Skilling to efforts to cover up the decaying state of Enron's finances.

"Can you tell this jury whether (Skilling's voice) was dripping with sarcasm when he said 'they're onto us?'" Holscher asked Hannon.

"Anything's possible," replied Hannon in the clipped manner he used throughout the day's cross examination. Hannon was formerly chief operating officer of Enron's Internet unit Enron Broadband Services.

Lay, 63, and Skilling, 52, are on trial for conspiracy and fraud charges linked to the collapse of Enron into bankruptcy in December 2001.

That filing, the largest U.S. bankruptcy until then, was the first of a wave of corporate scandals that rocked Wall Street and prompted tighter financial disclosure laws.

Skilling also faces insider trading charges.

Hannon, 45, is the latest in a string of former top Enron executives to testify against Lay and Skilling. Hannon has pleaded guilty to conspiracy to commit securities and wire fraud and could face up to five years in prison -- a sentence that could be reduced by helping prosecutors.

All attention on Tuesday will be focused on the prosecutors' star witness, Andrew Fastow, the company's former chief financial officer who operated the off-balance-sheet partnerships the company used to hide billions of dollars in debt while inflating earnings.

Lay and Skilling have blamed Fastow and his theft of tens of millions of dollars from his illicit side deals as the cause of a "run on the bank" that lead to the company's demise.

Fastow, 44, pleaded guilty in January 2004 to two counts of conspiracy to commit wire and securities fraud and will forfeit nearly $24 million and spend 10 years in prison. His wife, Lea, served a one-year sentence in jail for filing a false tax return in a case that was an outcropping of his.

Fastow arrived at the federal courthouse in downtown Houston on Monday morning and had to be ushered by marshals through a horde of photographers awaiting his appearance. He remained behind closed doors inside the courthouse, awaiting the end of Hannon's time on the witness stand.

Star Witness Fastow To Take Stage Today (USAT)

By Greg Farrell

USA Today, March 7, 2006

HOUSTON — Finally, four years after Enron's spectacular collapse, the moment everyone's been waiting for has arrived: Andrew Fastow, the company's disgraced former chief financial officer, is expected to tell his side of the story in court here today.

While the government's trial of former Enron CEOs Ken Lay and Jeff Skilling has been going on for more than five weeks, testimony from the first 10 witnesses has focused largely on the abysmal financial condition of two business units — Enron Broadband Services and Enron Energy Services. Several have said that Lay and Skilling made misleading statements about the units to the investing public.

But with Fastow, who pleaded guilty to two felonies, prosecutors are expected to zero in on what Lay and Skilling knew about the overall financial condition of Enron, and when they knew it. More than any other witness so far, the former CFO was in a position to know whether the defendants — particularly Skilling — were lying to investors or simply painting an optimistic, and legal, picture of Enron in 2000 and 2001.

Enron collapsed in fall 2001 after the public learned it met earnings targets by selling assets to private partnerships controlled by Fastow. That shook investor confidence, but when they also learned that Fastow had diverted more than $30 million from those transactions into his own pocket, people were outraged.

With Lay and Skilling, he was vilified as a symbol of executive greed. Unlike Lay and Skilling, who vocally defended themselves even before they were indicted, Fastow has been silent the past four years. So excitement surrounds what he'll say in court this week.

"We're about to find out if he operated with a wink and a nod with Mr. Lay and Mr. Skilling," says Philip Hilder, a Houston attorney who represents Enron internal whistle-blower Sherron Watkins and several other former employees.

But Hilder doesn't think Fastow's testimony will be explosive. "Andy Fastow is a single witness, but I don't think he's a make-it-or-break-it witness," he says. "The government has been putting on a steady stream of witnesses that corroborate the actions Fastow will talk about."

In fact, the prosecution should keep its questioning of Fastow narrowly focused on conversations with Skilling and Lay, says law professor John Coffee at Columbia University. "I don't think they'll let Mr. Fastow get anywhere near the exotic accounting techniques used by Enron," he says. "From the prosecution standpoint, they don't want him to be Hamlet, the brooding prince of Denmark. They want him to be Rosencrantz or Guildenstern, just a minor character."

Fastow Looms Large At Enron Trial (WP)

By Carrie Johnson

The Washington Post, March 7, 2006

HOUSTON, March 6 -- For five weeks, the shadow of former Enron Corp. finance chief Andrew S. Fastow has hovered over the fraud trial of his onetime bosses.

Jurors have heard lawyers for former chief executive Jeffrey K. Skilling and chairman Kenneth L. Lay denounce Fastow for "stealing Enron's good name." They caught a glimpse of Fastow promoting secretive business partnerships that enriched him by more than $45 million at the company's expense. And they listened last week to testimony that Fastow called the structures "a good deal for me" in the presence of both defendants, leaving Enron employees at that meeting in a "stunned silence."

As early as Tuesday, Fastow will take center stage as the trial's most highly anticipated witness -- and one of its most unpredictable. His presence is expected to electrify the federal courthouse here, where court officials are preparing for an onslaught of bystanders eager to hear Fastow speak publicly for the first time since his January 2004 guilty plea.

Both the Justice Department's Enron Task Force and the defense team have plenty of reasons to fear Fastow and the impact of his testimony. Government lawyers have signaled that they hope to limit their questioning to a day or less, given the liabilities he brings with him -- admissions that he improperly pocketed millions of dollars during his tenure. Defense lawyers intend to keep him on the witness stand for days trying to tear apart his account.

On one point, however, both sides agree: Fastow, 44, remains the most elusive and demonized character in a story that has come to symbolize an era of corporate malfeasance.

To hear former Enron employees tell it, Fastow is far from likable. Under hostile fire at Enron, Fastow did not hesitate to wield his power to cow subordinates and bully investment bankers. The son of a New Jersey salesman, he exuded confidence in his own abilities and punished analysts who dared to cross him. Fastow and the prosecutors will probably try to keep that side of his personality off display.

But defense lawyers must walk a fine line as they seek to discredit Fastow as a liar and a thief. For years, he was the company's go-to man, an award-winning finance chief lauded for his ability to devise clever financial structures. Top executives compensated him handsomely, they said later, because they feared he might defect.

Skilling handpicked Fastow to ascend to the job of chief financial officer, took him on motorcycle races and vested him with tremendous responsibility. Lay insisted for months that Fastow had his "complete confidence" during warnings about his behavior, only to fire him abruptly in late October 2001 after reporters and analysts requested information about his private partnerships.

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If Fastow was motivated by greed and the desire for validation, Enron's leaders and its board of directors did little to rein him in. According to congressional testimony, no one at Enron bothered to inquire exactly how much Fastow was making from the deals, which helped the company generate cash flow and move billions of dollars in underperforming assets off its books. When the answer finally came in the fall of 2001, then-board member Charles A. LeMaistre jotted down the word "incredible" on his notepad. Within days, Fastow was gone.

After Enron filed for bankruptcy protection in December 2001 and investigators pounced, Fastow's lawyer at the time took the unusual step of holding a news conference to quash rumors that Fastow had fled to Israel. Fastow steadfastly denied requests to testify before Congress and other investigative bodies, telling lawyers for the company's board the following January that he acted to help Enron and did nothing without the approval of his superiors, accountants and lawyers.

But a former colleague, Jordan Mintz, later told investigators that Fastow had said Skilling would fire him if the chief executive knew the scale of Fastow's profit from the partnerships.

People close to Fastow say he is furious about attempts to portray him as the fall guy for Enron's collapse. The company's downfall carried powerful consequences not only for Fastow, whose black hair has since turned gray, but also for his family.

His wife, Lea W. Fastow, heiress to a Texas real estate and grocery fortune, emerged from a halfway house in July. She spent most of her one-year sentence in an 8-by-10-foot cell in downtown Houston's Federal Detention Center alongside drug offenders and women awaiting trial on violent crime charges. She pleaded guilty to a single misdemeanor tax count for failing to report $141,000 in income from her husband's partnerships. At the time of her plea, she told the judge she was taking prescription drugs often used to treat depression and anxiety.

Andrew S. Fastow pleaded guilty to two conspiracy charges that will send him to prison for 10 years -- agreeing to the deal only when his wife was on the verge of heading to trial. Their sons, Jeffrey and Michael, will be in high school and college by the time Fastow returns from prison. Because parole has been abolished in the federal system, Fastow must serve at least 85 percent of his sentence -- more than eight years.

Fastow's lawyer, David Gerger, declined to comment, as did many of Fastow's friends. Fastow mostly has been keeping out of the public eye, working with government lawyers to decode Enron's byzantine accounting practices. He occasionally walks through a local park and dines with his family at local restaurants in the neighborhood surrounding Rice University, near the city's finest museums and his immaculately maintained, ivy-covered home assessed at $690,000 in 2003.

As part of his deal with the government, Fastow turned over $24 million in cash and assets, including his unfinished $3.4 million dream house in another tony Houston neighborhood, waterfront property in Galveston, Tex., and 68 acres in Norwich, Vt.

Prosecutors sandwiched Fastow in the middle of their case in a strategic attempt not to leave jurors with any lasting, negative impressions. The witness scheduled to follow Fastow on the stand is Chris Loehr, a young analyst trainee who went to work for the Fastow-operated partnership LJM, named after the first initials of Fastow's wife and two sons. Loehr has never been charged with a crime, and he has cooperated with investigators for nearly four years -- making him a more difficult target for defense lawyers to sully. Former Enron treasurer Ben F. Glisan Jr., who is serving a five-year prison sentence for his work on some of the partnerships, also will testify for the government.

Lawyer For Scrushy Sees Skilling, Lay As 'doomed' (USAT)

By Greg Farrell

USA Today, March 7, 2006

HOUSTON — As if former Enron CEOs Ken Lay and Jeff Skilling don't have enough to worry about with the government's star witness expected to begin testifying against them today, a prominent defense lawyer who helped win an acquittal for another embattled CEO says the two men are already toast, at least in the courtroom.

Donald Watkins, a civil rights lawyer and businessman who last year helped former HealthSouth CEO Richard Scrushy beat charges that he masterminded a $2.7 billion fraud, said in an interview Friday that Lay and Skilling are "doomed."

"There comes a time when you can forecast the outcome of a contest," said Watkins, who has not attended the trial but has followed it closely in the media. "In this contest, these guys have lost."

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The reason, according to Watkins, is that the two men settled on the wrong defense strategy. In their opening arguments, lawyers for the two men told the jury that Enron was a solid company done in by a loss of confidence among investors and trading partners after the disclosure that former chief financial officer Andrew Fastow had diverted tens of millions of dollars into his own pocket.

Watkins says this defense — that Enron was fundamentally a healthy company — is a non-starter. "Nobody's going to buy that," he says. Further, the tactics used so far by the defense — vigorous cross-examinations of cooperating witnesses who have already pleaded guilty — "lacks imagination."

"These types of trials involve not only legal issues, but political and social issues. You have to address all of that. They have ignored the political and social angles. When you do that, you lose every time. They never put the government on trial."

"Lay and Skilling are the poster boys for Sarbanes-Oxley," says Watkins, referring to the law passed after the exposure of accounting problems drove Enron and WorldCom into bankruptcy. "They're part of a Justice Department campaign to clean up accounting in Corporate America. The defense is treating it like it is a regular white-collar criminal case."

Watkins says the Lay-Skilling defense would have been better off putting the government itself on trial, digging into the process by which prosecutors built their case. In the Scrushy trial last year in Birmingham, Ala., Watkins and his legal team challenged the prosecution at every turn, forcing the government to put FBI agents on the stand to testify about how secret recordings of the defendant were made and handled.

"There are certain things that resonate with jurors," Watkins says. "They will not tolerate government misconduct, period. Every juror scans the courtroom and wonders privately, 'If I were sitting there, would they be coming after me, too?' You have to address these thoughts and make them think, 'Yes, they would steamroll me, too.' "

Lay's attorney, Mike Ramsey, respectfully disagreed with Watkins, saying, "It's very hard to handicap a case without being in the middle of it." But he did concede that so far, at least, "There have not been a lot of over-the-top attacks on people in the courtroom."

But after five weeks, Ramsey says, "I'm very happy with the position we're in right now. It's hard to know in the middle of a fight, in the fog of battle, whether you're winning. We're probably in better shape now than we thought."

As for the prosecution, Watkins says it is doing a good job pacing the trial. For the first two weeks, jurors listened to testimony from Mark Koenig, Enron's former head of investor relations. Koenig, who pleaded guilty to one count of aiding and abetting securities fraud, was a minor player in the fraud that Lay and Skilling are alleged to have covered up at Enron, but he came across as credible and set the table for a number of issues that subsequent witnesses addressed.

Since Koenig stepped down, nine others have testified about accounting problems at Enron or other related issues. Today, prosecutors will call Fastow, and he is expected to implicate Lay and Skilling in the conspiracy to prop up Enron's earnings.

"In Scrushy's case, the government couldn't wait to trot out their big cooperators," Watkins says. The Enron prosecutors brought out "their more credible witnesses first" and put their biggest witness in a position where the entire case doesn't ride on his credibility.

According to Watkins' rules for managing white-collar criminal cases, there is some hope. In the Scrushy trial, the primary defense lawyer, Jim Parkman, emerged as a folksy, likable character who frequently got jurors and the judge to laugh.

"If the jury is not laughing with you, you are losing," Watkins says. In the Scrushy trial, "They bonded with Parkman. I have never seen jurors convict a defendant when they're laughing with a defendant. If there's no smiles, no laughter, those guys are doomed."

That's good news for Skilling. His lead attorney, Daniel Petrocelli, has emerged as the star of the trial, cracking up jurors with unscripted remarks and amusing U.S. District Judge Sim Lake with lively banter.

As for Watkins, Ramsey suggested he travel to Houston this week "to watch us work over Mr. Fastow."

DaimlerChrysler Suspends Employees In Bribery Inquiry (NYT)

By Mark Landler

The New York Times, March 7, 2006

DOJ_NMG_0016295

FRANKFURT, March 6 — DaimlerChrysler has dismissed or suspended several employees after an internal investigation uncovered evidence that its executives paid bribes in Asia, Africa and Eastern Europe.

In a report filed Monday with the Securities and Exchange Commission, the company said it had "determined that improper payments were made in a number of jurisdictions." The payments, it said, could violate both German law and the Foreign Corrupt Practices Act in the United States.

The Justice Department and the S.E.C. have been investigating accusations of bribery at DaimlerChrysler since last year. The company has cooperated with the investigations, and these latest disclosures shed more light on the far-flung corruption inquiry.

The filing, however, does not answer a crucial question: whether senior Mercedes managers knew about the payments. It does not identify the countries where bribes were paid, or say how many people were involved.

A spokesman for DaimlerChrysler, Thomas Fröhlich, declined to comment beyond the facts in the filing. But he said, "Dieter Zetsche and Bodo Uebber are keen to take action on this."

Mr. Zetsche is DaimlerChrysler's chief executive, and Mr. Uebber is the chief financial officer.

Last October, a report on the United Nations oil-for-food scandal said DaimlerChrysler paid a kickback of 6,950 euros ($8,372) to Iraqi officials in return for a contract from the government of Saddam Hussein. The Justice Department and the S.E.C. are investigating this as well.

Bribery of foreign officials used to be fairly common in the auto industry. As recently as 1997, bribes paid to foreigners by German companies were tax-deductible in Germany. Now, foreign corruption is illegal in the European Union, as it is in the United States.

The investigation is a distraction for Mr. Zetsche, as he begins to turn around the company's flagship Mercedes-Benz division. The brand has been tarnished by quality problems in recent years, but sales of the Mercedes car group rose 16 percent in February, the company said Monday.

DaimlerChrysler painted an optimistic picture of sales at Mercedes and Chrysler, as both divisions roll out new models. It warned, however, that sales at its truck division would suffer because of a downturn in the market and stricter emissions standards in the United States and Japan.

With DaimlerChrysler's performance improving, analysts have not paid much attention to the scandal. They prefer to focus on other issues, like DaimlerChrysler's effort to fix its ailing Smart minicar division. Mercedes will also update the design of its best-selling E-class sedan this year.

"The make or break for Mercedes will be the face-lift of the E-class," said Arndt Ellinghorst, an analyst at Dresdner Kleinwort Wasserstein, adding, "I have confidence in Dieter Zetsche."

Still, the bribery payments took a bite out of DaimlerChrysler's bottom line. It said it reduced its 2005 operating profit by 16 million euros ($17.2 million) and its net income by 64 million euros ($76.8 million).

To reflect improper payments made from 1994 to 2002, DaimlerChrysler said it had reduced the balance of stockholders' equity, as of Jan. 1, 2003, by 222 million euros ($266 million).

DaimlerChrysler's practices came to light in 2004 in a lawsuit filed by a former Chrysler accountant, David J. Bazzetta, who said the company had maintained secret bank accounts to bribe foreign government officials. Mr. Bazzetta sued after being fired from his job.

In its filing, DaimlerChrysler said it had set up a global compliance organization to review its policies and practices.

"We have initiated improvements in our business processes as well as in compliance, control and training activities in order to foster a culture defined by openness and honesty," the company said.

DaimlerChrysler Finds Improper Payments (AP)

By MATT MOORE, AP BUSINESS WRITER

AP, March 7, 2006

DOJ_NMG_0016296

FRANKFURT, Germany -- Automaker DaimlerChrysler AG said Monday that an internal investigation of bribery claims found evidence of "improper payments" in Africa, Asia and Eastern Europe. It said several employees had been dismissed or suspended.

The company disclosed the findings in a filing with the U.S. Securities and Exchange Commission on Monday.

The German-American automaker is still under investigation by the SEC and the Department of Justice over whether it violated U.S. anti-bribery laws.

"We have determined that improper payments were made in a number of jurisdictions, primarily in Africa, Asia and Eastern Europe," the company said in its filing. "These payments raise concerns under the U.S. FCPA, German law, and the laws of other jurisdictions."

"In connection with our internal investigation, we have identified and self-reported potential tax liabilities to tax authorities in several jurisdictions," it added. "These tax liabilities of DaimlerChrysler AG and certain foreign affiliates result from misclassifications of, or the failure to record, commissions and other payments and expenses."

The filing did not specify how many employees were dismissed or suspended, and did not identify them.

The U.S. Foreign Corrupt Practices Act prohibits the payment of bribes to foreign officials.

DaimlerChrysler disclosed the investigation last year in a similar filing with the SEC.

The U.S. Justice Department said in August 2005 that it was investigating whether DaimlerChrysler had paid bribes to foreign officials with the knowledge of its senior executives. The company said it is continuing to cooperate with the investigations.

That criminal investigation is tied to an inquiry opened in 2004 by the SEC after an employee fired by the automaker said he was dismissed for complaining that the company was using secret bank accounts to bribe government officials.

DaimlerChrysler said then, and reiterated Monday, that it was cooperating with the investigations, sharing with both agencies information from its internal probe.

Company spokesman Thomas Froehlich told The Associated Press that both Chief Executive Dieter Zetsche and Chief Financial Officer Bodo Uebber had taken steps to ensure the company operates in a transparent and ethical manner.

"(They) are very much committed to taking action," he said.

The filing also said that because of the bribery claims, the company "recognized charges in our 2005 consolidated statement of income to correct misstatements relating to the years 2003 and 2004 which had the effect of reducing 2005 operating profit by 16 million euros and reducing 2005 net income by 64 million euros."

$1.5 Trillion Of Debt (WSJ)

By Peter J. Wallison

The Wall Street Journal, March 7, 2006

The Rudman Report on Fannie Mae recites facts eerily similar to what we now know about Enron. According to the report, the CFO of Fannie misled the board (and possibly the CEO) about the financial position of the company. The CEO, head of the corporate governance committee of the powerful Business Roundtable, regularly misled Wall Street and the board, but may not have understood the accounting. The auditors (this time not Arthur Andersen) failed to stand up to the management or didn't understand what was happening. The board, primarily made up of independent directors, and the audit committee, made up entirely of independent directors, were unable to penetrate the scam and remained clueless as earnings were manipulated. In Fannie's case there was also a regulator, but the regulator did not begin to look into any problems until it had been surprised by similar wrongdoing at Fannie's smaller sibling, Freddie Mac.

What we should learn from this -- much of which occurred after the adoption of Sarbanes-Oxley -- is that a board made up primarily of independent directors, an audit committee made up entirely of independent directors, a Big Four accounting firm alerted to the dangers of accounting fraud, and a regulator that claimed to be fully on top of what was happening, could not prevent senior management from fudging the accounting and misleading the board and investors. No surprise there. Many observers were saying, both before and after the enactment of SOX, that a management determined to defraud or mislead could evade the scrutiny of all the gatekeepers.

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This has important implications for the legislation now before Congress to reform the regulation of Fannie and Freddie and limit the size of their portfolios. Since dishonesty and incompetence are an unavoidable fact of life, and gatekeepers are unreliable, investors must protect themselves by diversifying their investments. But there is good reason to believe that diversification would not be available if dishonesty or incompetence at Fannie or Freddie in the future resulted in the collapse or financial incapacity of either.

Fannie and Freddie are not ordinary companies. They have almost $1.5 trillion of debt outstanding, which they borrowed to buy and carry portfolios of mortgages and mortgage-backed securities; these portfolios expose both companies to enormous interest-rate and prepayment risk. To hedge this risk, Fannie and Freddie are parties to derivatives transactions with notional values in the trillions, in which the counterparties are some of the largest financial institutions; any failure of Fannie or Freddie to meet its obligations would expose these institutions to substantial losses. Fannie and Freddie debt is also held widely by banks and other financial institutions, in some cases accounting for more than 100% of their capital; a decline in the value of that debt would seriously weaken these organizations and reduce their capacity to lend.

Finally, both companies are central to the real-estate financing market. If either of them could not function normally, that market -- amounting to almost a third of the economy -- would freeze up. As Alan Greenspan has pointed out for years, the risks inherent in the portfolios carried by Fannie and Freddie add up to huge systemic risk -- the danger that a failure at either company will spread to the economy as a whole.

So here is the key difference between Enron and either Fannie or Freddie. Dishonesty or incompetence in Enron's management hurt shareholders and employees, both of whom could have protected themselves through diversification of investments. Dishonesty or incompetence in Fannie's or Freddie's managements could throw the economy into chaos, and from that catastrophe diversification provides no shelter. Faith in boards, audit committees, auditors and even regulators has been shown to be misplaced. Sure, Congress would likely come in and bail them out -- but immediately, without extended debate, and with trillions of taxpayer dollars potentially at risk? Not a chance. And the damage in the meantime would be devastating.

As reform legislation languishes in the Senate, Congress should consider the lessons of Enron, Fannie and Freddie: Despite our best efforts, error and fraud will occur. That's why it's important to make sure -- by reducing the size of Fannie and Freddie's portfolios -- that no future management failure at either company will threaten the stability of the economy.

CRIMINAL LAW:

Prosecutors Slam Ryan, Call Him Shameless (CHIT)

By Matt O'connor And Rudolph Bush, Tribune Staff Reporters

Chicago Tribune, March 7, 2006

Closing arguments began in former Gov. George Ryan's trial Monday with prosecutors blasting him as a shameless, greedy politician at the center of a series of dirty deals that enriched cronies who kicked back cash and gifts to Ryan and his family.

"You've heard of 12 days of Christmas. This was 12 years of Christmas," Assistant U.S. Atty. Joel Levin said of Ryan's four years as governor and eight years as secretary of state.

In nearly five hours of arguments, prosecutors portrayed Ryan as a two-faced, serial liar who publicly claimed he did all he could to eliminate fraud at licensing facilities but privately gutted corruption-fighting efforts to keep his political fundraising machine humming along.

Early in his years as secretary of state, Ryan received two warnings about questionable conduct by co-defendant Lawrence Warner, prosecutors said, but Ryan ran interference for his friend rather than demand a halt to the wrongdoing.

Prosecutors spoke of compelling circumstantial evidence that Ryan pocketed cash from Warner and lobbyist Arthur "Ron" Swanson, pointing out Ryan had scant known sources of cash for almost a decade, yet gambled thousands of dollars. After he left the governor's office, Ryan regularly took out cash from personal bank accounts, in sharp contrast to his few withdrawals when he was an officeholder, they said.

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"When this 12 years of Christmas fun comes to an end, what you find is he starts withdrawing cash on a regular basis like everybody else," Levin said.

After more than five months of testimony, jurors listened intently on the first day of what is expected to be at least four days of closing arguments. Levin shared his duties with Assistant U.S. Atty. Laurie Barsella, who is set to wrap up her remarks Tuesday before Dan Webb, Ryan's lead lawyer, delivers his closing argument. Warner's lawyer, Edward Genson, could argue beginning Wednesday.

The closing arguments played out in a packed courtroom. Ryan, wife Lura Lynn and their five adult children showed little reaction to the prosecution arguments.

Also in the courtroom for the fourth time during the trial were Rev. Duane "Scott" and Janet Willis, whose six children were killed in a 1994 crash caused by defective equipment that fell off a truck whose driver paid a bribe for his license.

U.S. District Judge Rebecca Pallmeyer has limited details of that accident in a bid to try to keep jurors from figuring out that it was the horrific crash that has come to symbolize the tragic consequences of Illinois' licenses-for-bribes scandal.

But Monday Ryan's lawyers sought a mistrial after the prosecution displayed to jurors a document on the accident that referred to a "mudflap frame," the heavy part that fell from the truck. Prosecutors disputed the reference would trigger a connection by jurors to the Willis tragedy.

Pallmeyer has rejected numerous previous defense requests for mistrial, and the success of one this late in the trial would seem highly unlikely. Pallmeyer appeared displeased at the timing of the motion.

"I myself have this job for life, and I would be happy to start this case over on Monday morning," she said, her voice dripping with sarcasm.

Levin told jurors that Ryan's fingerprints were all over a series of crooked contracts and lease deals that went to Warner, Swanson and Harry Klein, another friend.

Klein played host to Ryan for 10 years at his Jamaican villa, where the two entered a corrupt arrangement to create a paper trail showing Ryan paid for the trips when, in fact, Klein reimbursed Ryan in cash for the cost of the stays, a combined $13,500 over the decade, Levin said.

In return, prosecutors allege Klein, a currency exchange operator, got a sweetheart lease on a building in South Holland and benefited from a Ryan-approved rate hike on the amount exchanges charge for selling state license plate stickers.

Even after Ryan allegedly lied to the FBI about his cash-back arrangement with Klein, the then-governor continued to travel to Klein's Jamaican villa every year, Levin said.

Ryan also steered another deal—the move of a secretary of state department to a Springfield complex represented by Swanson—on the heels of a Cancun vacation in which Ryan stayed at Swanson's time-share condominium, Ryan said.

Barsella said Warner "hit the jackpot" after Ryan was elected secretary of state in 1990.

For years, Warner had been an insurance adjuster. But after Ryan took office, Warner suddenly became a lobbyist, striking deals with vendors that brought him about $3 million even though he concealed his role, she said.

The benefits went to Ryan's family as well as himself, the prosecution contended.

Warner secretly funded loans of $145,000 to Comguard, a failing business owned by Ryan's brother, former Kankakee Mayor Tom Ryan.

Warner also lent Ryan's son-in-law Michael Fairman $5,000 and invested $6,000 in the cigar business of his son, George "Homer" Ryan. And he footed the $3,185 cost for the band at the wedding of Ryan's daughter, Jeanette Schneider.

"If your last name was Ryan, you knew you didn't have to repay these loans," Levin said.

Ryan was "like a walking conflict of interest" because he accepted gifts and benefits from friends who were doing business with his office, Levin said.

Early in his term in office, Ryan was warned by lobbyist Robert Cook about a shakedown by Warner and Donald Udstuen, a close Ryan political adviser, but Ryan tried to make it appear that Cook had misinterpreted their actions, Barsella said.

In addition, James Covert, a high-ranking secretary of state official, raised concerns with Ryan about Warner's access to the office. Ryan insisted Covert continue to work with Warner, Barsella said.

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Prosecutors alleged that Ryan's few cash withdrawals—only $6,703 from his bank from early 1993 through late 2002—were strong circumstantial evidence that Ryan's cash came from kickbacks from Warner and Swanson.

"Something is wrong with this picture," Levin said. "This man had another source of cash."

Swanson's bank records show numerous large cash withdrawals a day or two before meetings with Ryan, often on his birthday, the prosecution said.

Prosecutors also alleged that Ryan knew that Scott Fawell, his top political operative, often diverted state resources to election campaigns of Ryan and political allies. For Ryan's re-election as secretary of state in 1994, Fawell ran the campaign in his government office a few feet from Ryan, Levin said.

"Was it any secret how Scott Fawell was conducting business? No, it wasn't," Levin told jurors. "Ryan gave the keys to his political future to Fawell. Never once was Fawell reined in."

The prosecution also hit hard at fundraising among secretary of state employees by Ryan's political operation, saying it fueled the license-selling at driver's facilities.

Ryan's handpicked inspector general, called "a political hack" by Levin, scuttled investigations that threatened to expose the link between fundraising and license-selling, he said. With Ryan's support, the department was reorganized and many of the investigators were laid off, Levin said.

Ryan "sacrificed public safety and integrity" to ensure the fundraising pipeline kept flowing, the prosecutor said.

"Citizens for Ryan was for all intents and purposes George Ryan's pot of gold," Levin said. "He used the inspector general's office to protect that pot of gold."

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III. Ex-governor's Trial Nearing Its End (AP)

By Mike Robinson

AP, March 7, 2006

CHICAGO - Former Gov. George Ryan presided over payoffs and fundraising abuses so bad he "might as well have put up a `For Sale' sign over his office," a federal prosecutor said Monday at the close of his racketeering and fraud trial.

"You've heard of the 12 days of Christmas? This was 12 years of Christmas for Mr. Ryan, his family and his friends," prosecutor Joel R. Levin said.

The 72-year-old Republican who served one term as governor practiced concealment, deception and lies on a regular basis to cover up dirty deals in which he steered state contracts and leases, Levin said.

Ryan and longtime friend Larry Warner, 67, a lobbyist, were charged in a 22-count indictment with racketeering, mail fraud and other offenses. Testimony began more than five months ago, with as many as 22 hours of closing arguments scheduled to continue through Thursday.

As secretary of state for eight years in the 1990s and as governor for one term, beginning in 1999, Ryan allegedly steered state leases and contracts to Warner and other friends. In return, he was rewarded with free vacations, loans for his brother's business and even money to pay the band at his daughter's wedding reception, prosecutors say.

Ryan and Warner say they did nothing illegal.

Defense attorney Bradley E. Lerman moved for a mistrial Monday in a dispute over a presentation Levin was making to the jury. Lerman said it included material concerning a 1994 crash that killed six children and had been ruled out as so emotional it could prejudice the jurors. The crash was part of the initial investigation that later turned to corruption in state government.

U.S. District Judge Rebecca R. Pallmeyer did not rule immediately on the motion.

Sitting solemn-faced in the spectator seats were the Rev. Scott Willis and his wife, Janet, whose six children were killed in the fiery accident involving a truck driver whose drivers license allegedly was obtained with payoff money from a woman raising Ryan campaign funds.

Ryan's chief defense attorney, Dan K. Webb, who is expected to address the jury on Tuesday, has said that the former governor's decisions in awarding state leases and contracts were made in good faith and had nothing to do with his friendship with Warner and other political figures.

But Levin said that Ryan had "sold his office."

"He might as well have put up a 'For Sale' sign over his office," Levin said.

Levin saved some of his richest sarcasm for his description of the Citizens for Ryan campaign fund, which he claimed financed his lifestyle.

On the visual display screen he projected a photo of Ryan with his arm around a woman who went to prison for selling licenses to unqualified truck drivers - including, prosecutors say, the one involved in the Willis case - and putting much of the cash into Ryan's campaign fund.

Levin said that Ryan appointed his old friend, Dean Bauer, as the inspector general in the secretary of state's office not to root out corruption but to protect the campaign fundraising operation which he described as "the goose that laid the golden egg."

Campbell, Eager To Talk, Won't Testify (AJC)

By Jeffry Scott , Beth Warren, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, March 7, 2006

Bill Campbell has told his story on radio, television, in newspapers and before church congregations. But he won't tell it to the jury.

Despite his frequent expressions of willingness — if not eagerness — to tell his story in court, the former Atlanta mayor said Monday that he will not take the witness stand in his own defense at his federal corruption trial.

Outside the courtroom, Campbell said he reached the decision after the prosecutors refused to agree not to ask him about his personal life.

"I desperately wanted to testify," said Campbell, who has met nearly daily with reporters to give his assessment of the trial . "I wanted to tell the jury my story. They wanted to continue the character assassination, but I am not going to subject my family to further damage."

The ex-mayor is on trial in federal court on charges that he used his office to extract bribes from contractors seeking business with the city.

Campbell's criticism of the prosecutors apparently struck a nerve. For the first time since the trial began seven weeks ago, U.S. Attorney David Nahmias summoned reporters to respond to comments by the former mayor.

"We will not make any special exceptions for this defendant," Nahmias said, reading a statement. "All of our questions would be relevant to the alleged criminal offenses."

The prosecution maintains that Campbell's personal life is fair game because his alleged crimes are inseparable from his personal life. They have called two women they portrayed as Campbell's girlfriends to testify about romantic getaways with the mayor purportedly bankrolled with cash bribes.

Campbell has acknowledged that there was corruption in his administration, but he blames a few of his underlings for abusing his trust by soliciting and keeping the bribes themselves. He insists that he is innocent of the federal charges of racketeering, tax fraud and bribery.

Throughout the trial, Campbell has indicated that he wanted to testify. On Monday, U.S. District Judge Richard Story demanded that his legal team say once and for all whether it intended to put the ex-mayor on the witness stand.

After the jury was sent home for the day, Story asked Campbell to stand as he reviewed Campbell's rights regarding testimony.

"You'd be subject to cross-examination just like any other witnesses," the judge said. "You also have a right not to testify. It is your decision."

The judge noted that Campbell himself is a lawyer but advised him to consult with his defense team.

"I would actually like a little more time," Campbell responded.

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Story told Campbell that he could have a few more minutes to continue discussing the issue with his defense team. Instead, Campbell replied, "It's my inclination not to testify. If I change my mind, I would e-mail lawyers."

The judge urged Campbell to be certain about his answer, because the prosecutors would need time to prepare their cross-examination.

"Based on your consultation with counsel, you have elected not to testify?" he asked.

"Yes," Campbell answered.

This is the seventh, and possibly final, week of Campbell's trial. The government's case stretched out over five weeks, while the defense team took five days to bring in witnesses to dispute the allegations. Unless Campbell has a change of heart today, the defense is expected to rest its case, and the government will be ready in the morning to call rebuttal witnesses.

Lawyers asked for some free time Wednesday to craft closing arguments, which probably will be heard Thursday morning.

Speculation over whether Campbell would testify has added a touch of tension to the already lively testimony.

Ron Carlson, a University of Georgia professor of criminal law who has observed testimony in the trial, expressed surprise at the decision not to testify.

"The defense could be thinking, 'We've got a good shot at winning this thing without Bill taking the stand,' " Carlson said.

Jurors aren't supposed to consider whether a defendant testifies or not, but it is human nature to question why defendants who talk publicly balk at facing cross-examination, Carlson said.

"He has announced he wanted to take this opportunity and clear his name," the professor said. "The jury will wonder, 'Why didn't he testify?' "

Campbell Will Not Testify (WXIA-TV)

WXIA-TV, March 7, 2006

Bill Campbell will not testify in his federal corruption trial. For days, Campbell has said he wanted to testify, but on Monday, he blamed federal prosecutors for keeping him from the witness stand.

Campbell left the door open, albeit slightly, as he suggested that he might change his mind overnight. However, it appears the jury will not hear from the one man who says he wants to tell his story.

“I absolutely want to testify,” Campbell said. “Every fiber of my being wants to testify.”

Campbell said he would be happy to testify -- if federal prosecutors would stay away from questions about his private life, including asking about two former extramarital girlfriends, both of whom were previously called to the witness stand. The women talked about travel and spending.

When told that he would be queried about the women and the money spent, Campbell said that for the sake of his family that he would not testify.

“The prosecution is not interested in the allegations in the indictment. They simply want to delve into my private life and that’s unfortunate, and that’s regrettable. And I’m not going to allow any more damage to be done to my family,” Campbell said.

Late on Monday, US Attorney David Nahmias said any questions to Campbell about his private life would be relevant to the case, and no one can dictate what prosecutors ask and don’t ask.

It is expected the jury would get the case late Thursday or Friday.

Metro Briefing (NYT)

The New York Times, March 7, 2006

NEW YORK

POTENTIAL OPPONENT FOR CLINTON K. T. McFarland, left, a former spokeswoman for the Reagan Defense Department, formed an exploratory committee yesterday to raise money to challenge Senator Hillary Rodham Clinton in this year's Senate race. A stay-at-home mother for the last 21 years, Ms. McFarland, a Manhattan Republican, also set about raising her national profile. She appeared on MSNBC's "Hardball," and in response to questions, said that a nuclear Iran was "the single biggest national security situation we face." Ms. McFarland would oppose John Spencer, a former mayor of Yonkers and a favorite of conservatives, for the Republican nomination.PATRICK HEALY (NYT)

UNION LEADER TO FORM SPECIAL COMMITTEE The president of the New York State A.F.L.-C.I.O., Denis M. Hughes, announced yesterday that he would appoint a special committee to handle matters at the New York City Central Labor Council regarding a federal investigation of the council and its president, Brian M. McLaughlin. Mr. Hughes said that Mr. McLaughlin, a Democratic assemblyman from Queens, would remain in charge of the council, but would not have a voice in decisions regarding the investigation. Last Thursday, F.B.I. agents raided the council's offices and Mr. McLaughlin's Queens office as part of an investigation into accusations of bid rigging for city contracts for street and traffic lights. Carolyn Daly, Mr. McLaughlin's spokeswoman, said yesterday that Mr. McLaughlin insisted he was innocent.STEVEN GREENHOUSE (NYT)

MANHATTAN: ANTIWAR PROTESTERS ARRESTED Protesters demanding the withdrawal of American troops from Iraq marched from the United Nations to the United States Mission yesterday, where four of them, including Cindy Sheehan — a Californian who became an antiwar activist after her son was killed in Iraq — were arrested, the police said. The group Women Say No to War, which helped organize the march, said that the protesters were arrested while trying to deliver a petition. Richard Grenell, a spokesman for the mission, said that Ms. Sheehan and a few others were invited in but that they declined because reporters could not go with them. Detective Kevin Czartoryski said the protesters had criminally trespassed and resisted arrest.(AP)

SUOZZI REJECTS RUNNING ON REPUBLICAN LINE The Nassau County executive, Thomas R. Suozzi, a Democrat running for governor, has ruled out the possibility of running on the Republican line. Mr. Suozzi, who is running in a primary against Attorney General Eliot Spitzer, said yesterday that he had received support from Republicans in local races, but dismissed speculation that he would run on that line. Joseph L. Bruno, the Republican leader of the state Senate, said in a television interview on Sunday that there was speculation about "the possibility of crossover," but yesterday, he said he would not pursue the idea.JENNIFER MEDINA (NYT)

PROPERTY TAX REBATES OFFSET INCREASES The city finance commissioner, Martha E. Stark, said yesterday that the $400 annual property-tax rebate approved in 2004 largely offset the effect of higher property-tax rates that took effect in 2003. Ms. Stark said that the average increase in taxes for one-, two- and three-family houses totaled $743 in the last three years, while most owners received two rebates totaling $800. The figure, presented at a City Council hearing, surprised several lawmakers and the city comptroller, William C. Thompson Jr. An assistant finance commissioner, Sam Miller, said taxes increased far more slowly than market values because of state-mandated assessment capsSEWELL CHAN (NYT)

SLEEPY HOLLOW: BOY DIES IN ICY POND A 6-year-old boy died after he fell into a pond while walking his neighbor's dog last evening, the police said. The boy, Julian Geach, left home about 5:30 p.m. with the dog, which his family was caring for. About 6:15 p.m., when the boy had not returned, his parents called the police. The dog was found near Fremont Pond, about a half-mile from the boy's home. A team of divers broke through the thin sheet of ice and slush on the pond's surface and recovered the boy's body, about 30 feet from the shore. He was taken to Phelps Memorial Hospital Center in Sleepy Hollow, where he was declared dead at 10 p.m.JENNIFER 8. LEE (NYT)

ANTHRAX PATIENT IMPROVES Vado Diomande, the New York City musician and drummer who contracted inhalation anthrax last month from making drums with untreated animal skins, was upgraded from serious to fair condition yesterday, the first change since Feb. 24, when his condition was downgraded from stable to serious. "He is breathing without assistance and eating solid food," said Alexander Harman, Mr. Diomande's brother-in-law. "He has his voice back." Mr. Diomande has been hospitalized in Pennsylvania since he collapsed after a musical performance there on Feb. 16. Meanwhile, workers continued to clean an eight-story Brooklyn warehouse where Mr. Diomande worked on the skins. The third and sixth floors of the warehouse, which house commercial lofts used by about 30 tenants, remained sealed yesterday.SEWELL CHAN (NYT)

MANHATTAN: WOMAN DIES IN FALL An elderly woman died from a suspicious fall in the stairwell of her East Side apartment building yesterday afternoon, the police said. The woman, Phyllis Weiner, 89, was taken to NewYork-Presbyterian/Weill Cornell hospital about 2:20 p.m., where she was pronounced dead on arrival. Ms. Weiner lived in an 11th-floor apartment at 157 East 57th Street. It is an elevator building, but her body was found on the 10th-floor landing. Investigators said it was unlikely that she had entered the stairwell by herself because she used a walker, which was found on the 11th floor. Ms. Weiner's purse was missing and a nephew, Michael Zerin, said she had gone to the bank earlier in the day. The police said they had no suspects.JENNIFER 8. LEE (NYT)

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Compiled by John Sullivan

Labor Leader Brian McLaughlin Is Target Of Probe Into Bid- Rigging On Contracts. (NYDN)

By Juan Gonzalez

New York Daily News, March 7, 2006

Council Prez McLaughlin may be asked to curtail his leadership responsibility

Brian McLaughlin - a target of a federal probe into possible bid-rigging of city street-lighting contracts - may be asked to curtail his role as president of the city's Central Labor Council.

Under a plan fashioned by Denis Hughes, president of the New York State AFL-CIO, McLaughlin would continue to serve as president, but Ed Ott, a top staff person, would assume some of the public functions normally handled by the president.

At the same time, the labor council, whose headquarters was raided by more than 20 FBI agents last week, would create a small "rapid-response team" of about a dozen city labor leaders to handle the federal probe without any involvement from McLaughlin, a Queens assemblyman. The council also would hire its own independent attorney to deal with the feds.

"Brian hasn't been accused of any crime and we have to be careful about a presumption ofinnocence," Hughes told me yesterday. "But this is the beginning and I don't know where it [the investigation] is going to go."

Hughes' goal is to keep McLaughlin's legal problems separate from the day-to-day work of the council, the powerful umbrella group that represents the city's 1 million union members.

All day yesterday, Hughes feverishly worked the telephones to win support for his plan from key city labor leaders. He is expected to hold an emergency meeting of the council's leadership this week to win formal approval for the plan.

"I spoke with Brian today and he understands what has to be done," Hughes said, adding that he also consulted with top officials at the AFL-CIO in Washington this weekend.

Hughes is perhaps the only labor official with enough influence over all sectors of the city's normally fractious labor movement to secure quick agreement on a strategy.

He is well-regarded by both the big municipal and service sector union leaders as well as by the construction trades, the group that has historically controlled the Central Labor Council.

With the federal investigation of McLaughlin likely to take months, Hughes and other top union leaders have reluctantly concluded that the council can't risk being paralyzed until the results are known. "Denis has stepped in and taken charge and the national is onboard," a labor source said.

Several union leaders told me yesterday they were troubled by McLaughlin's failure to speak out or even to contact many of his fellow union leaders. He has not been seen in public since Thursday morning's FBI raid on the council's W. 15th St. headquarters. He did report to work at the headquarters yesterday, but did not return phone calls for comment.

Late Friday, his lawyer, Paul Driscoll, issued a short statement that McLaughlin "denies all allegations against him."

Many union leaders are furious at the FBI's high-profile raid on Central Labor Council headquarters, given that there is no suggestion of any wrongdoing by the council itself. "This is a fishing expedition by the feds," said Arthur Cheliotes, president of Local 1180. "Until anyone proves otherwise, I'm with Brian and supporting him completely."

"Brian's been with us in very tough fights and many of us on a personal level are rooting for him," said Randi Weingarten, president of the teachers union and one of McLaughlin's closest allies in the labor movement.

As for Ott, who may soon assume many of McLaughlin's functions, he is currently the director of public policy and worker education for the council and is known as a fiery orator. Before coming to the council, he was a staff member at both Local 1180 and the Public Employees Federation.

TOUGH JOB FOR LABOR (NYPOST)

By CARL CAMPANILE

The New York Post, March 7, 2006

March 7, 2006 -- The New York state AFL-CIO went into crisis mode yesterday to respond to a federal probe linking powerful labor boss and Queens Assemblyman Brian McLaughlin to alleged bid rigging of city street-lighting contracts.

State AFL-CIO President Denis Hughes announced that the New York City Central Labor Council will hire its own lawyer to comply with questions from the feds about the scandal. McLaughlin is head of the CLC, which is part of the AFL-CIO.

About a half-dozen city labor leaders - all executive board members - will also be put on a special panel to help make rapid decisions about the probe and CLC business, sources said.

"We're going to do this in a upfront, aboveboard way," Hughes said.

Hughes also said McLaughlin will remain CLC president - for the time being - because he has not been charged with a crime.

Hughes said he informed McLaughlin of the planned actions.

The action plan, which has been cleared by the leadership of the national AFL-CIO, shows how concerned the labor leaders are about the McLaughlin probe and the possibility that he might be charged with a crime.

Meanwhile, the federal probe received a thumbs-up from former city transportation boss Wilbur Chapman.

"Thank God - finally," Chapman told The Post. "I'm happy that someone from the outside is looking at the process."

Chapman confirmed yesterday's Post report that when he was transportation boss, he questioned why just two firms - Petrocelli Electric and Welsbach Electric - continued to be awarded all the street- and traffic-light repair contracts throughout the five boroughs year after year, even after the DOT switched to new light-emitting diode technology in 1999.

"There has to be more than one or two companies to provide street lighting. I have trouble with that," Chapman said yesterday. "General Motors doesn't have a monopoly on selling cars in America."

Brothel Owner In Nevada Faces Federal Corruption Charge (AP)

By KEN RITTER, ASSOCIATED PRESS

AP, March 7, 2006

LAS VEGAS (AP) - The owner of three southern Nevada brothels was charged Monday with trying to bribe a county commissioner to relax laws affecting bordellos.

Joseph Maynard Richards, 72, is accused of funneling $5,000 to a commissioner in rural Nye County in return for support for a law to let brothels be built closer to county roads and highways. He could face up to 20 years in prison and a $250,000 fine if convicted.

Richards told a judge he understood the wire fraud corruption charge on which he was arrested Saturday. Richards will plead not guilty, his lawyer said outside court.

"I'm surprised they brought the case, from what they have in the complaint," lawyer Leo Flangas said.

The 16-page complaint describes video and audiotaped conversations between Richards and an unnamed commissioner from June to November 2005.

Commission Chairwoman Candice Trummell, a Republican from Pahrump, confirmed for The Associated Press that she was the cooperating witness.

"I was told I never was a target of the investigation," the 27-year-old commissioner said, describing how she rewrote an ordinance "with Mr. Richards' interests in mind in exchange for the money."

"This was done in cooperation with the FBI," Trummell added, describing the FBI probe as an ongoing public corruption investigation that began before she was elected to the five-member commission in 2003.

Nye County ordinances require that brothels be 300 yards from a road or highway. Richards owns a property on which the complaint alleges he is prevented from building a brothel because of the rule.

No vote was ever taken on revising 300-yard limit, Trummell said.

Trummell said her discussions with Richards involved using the money to pay law school tuition at the University of Nevada, Las Vegas. She has not enrolled.

Flangas noted that the complaint describes a signed document under which Richards transferred the money to Trummell through his Richards Family Trust.

"I don't know if it was a loan or a gift," Flangas said. "But it was done aboveboard. It was not a quid pro quo."

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Nye, which has seven brothels, is one of 10 rural counties in which prostitution is legal under county and state oversight. Prostitution is illegal in Nevada's most populous areas, including Las Vegas and surrounding Clark County, and Reno and surrounding Washoe County.

Richards owns the Mabel's Ranch, Cherry Patch Ranch and Cherry Patch II Ranch brothels, plus two massage salons and a striptease club in the Pahrump area about 60 miles west of Las Vegas.

U.S. District Court Magistrate Judge Peggy Leen freed Richards without bail but with electronic home monitoring pending a March 22 preliminary hearing.

Chief Assistant U.S. Attorney Steven Myhre had asked Leen to set a $1 million bail. Although he offered no proof, Myhre said Richards had been in contact with Nevada's most notorious fugitive brothel owner, Joseph Conforte.

Conforte, who used to own the Mustang Ranch brothel east of Reno, was accused of owing $13 million in back taxes when the IRS seized the property in 1990. Conforte reportedly fled to Brazil, where his lawyer has said courts wouldn't let him be extradited to the U.S.

Myhre said Richards is a multimillionaire who has passports and cash buried in an ammunition can in the desert that he would use to flee before he is prosecuted.

Richards shook his head no, causing his long mane of silver hair to brush the shoulders of his orange jail jump suit.

Flangas told the judge that Richards had no contact with Conforte.

Trial in an unrelated case in which a Las Vegas striptease club owner is accused of funneling money to Clark County commissioners in return for their support for laws benefiting his business is due to begin next week.

FBI Probes Use Of Funds By Ex-FEC Aide (RC)

By Paul Kane

Roll Call, March 7, 2006

The FBI is investigating allegations that a former top official at the Federal Election Commission tried to settle a sexual harassment complaint from a female staffer by attempting to misappropriate $100,000 in taxpayer funds last fall.

Amid AIPAC's Big Show, Straight Talk With A Noticeable Silence (WP)

By Dana Milbank

The Washington Post, March 7, 2006

Words are seldom minced at the annual meeting of the American Israel Public Affairs Committee.

During a luncheon speech yesterday at the convention center, Daniel Gillerman, the Israeli ambassador to the United Nations, shouted a barnyard obscenity involving a bull when he dismissed the theory that Iran and Hamas might soften their anti-Israel views. The audience gave Gillerman a standing ovation.

The undiplomatic diplomat went on to describe a war on radical Islam: "While it may be true -- and probably is -- that not all Muslims are terrorists, it also happens to be true that nearly all terrorists are Muslim."

But ask people at this week's gathering about Steve Rosen, the father of modern AIPAC, who goes on trial next month for disseminating classified information, and you get the sort of look you'd expect if you inquired about an embarrassing medical condition.

"I'm not the person to ask about that," says Nathan Diament, a Washington representative for Orthodox Jews.

"Who?" responds Neil Cooper, a delegate from the Philadelphia area.

"Rosen? Which one is he?" answers a charity executive, with a smile.

"I need to read more about it," demurs Etan Cohen, a college student.

AIPAC staff members note that, with Iran and the Palestinians to worry about, the indictments of Rosen and former deputy Keith Weissman have not been mentioned in any of the group's public meetings so far. And they say the pro-Israel lobby, unharmed by the Rosen flap, is putting on its biggest and best show ever this week: 4,500 participants, including more than 1,000 students, paying visits to at least 450 House and Senate offices.

Indeed, the scandal doesn't seem to have slowed down the group. At last night's dinner, AIPAC set aside 27 minutes for the reading of its annual "Roll Call" of lawmakers, diplomats and administration officials attending the gathering. As of midday

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yesterday, RSVPs had come in from 57 embassies, from Burundi to Turkey; a score of Bush administration officials; a majority of the Senate; and a quarter of the House. Even the ambassadors of Pakistan and Oman supped at AIPAC's table.

Any talk of Rosen is confined to private donor meetings and hallway conversations -- where opinions are split on AIPAC's decision to turn its back on Rosen and Weissman.

"I don't like the way AIPAC handled it, hanging them out to dry," said one West Coast delegate, after delivering an on-the-record no comment. "They didn't do anything different from what everybody else does in this town every day."

Rosen and Weissman are the first nongovernment officials to be prosecuted under the all-but-forgotten Espionage Act of 1917. The law, amended in 1950, makes it a crime for an unauthorized person even to have classified information knowingly; if Rosen broke that law, so do hundreds of other lobbyists and journalists as part of their normal course of business.

The New Yorker magazine reported last year that AIPAC's lawyer, Nathan Lewin, recommended that the two officials be fired after he heard from prosecutors about an FBI-recorded telephone call between Rosen, Weissman and The Washington Post's Glenn Kessler, in which Rosen observed that "at least we have no Official Secrets Act." Lewin and the prosecutors may not have realized that the line -- referring to a British law about publishing classified information -- was a stock joke Rosen used in conversations with Kessler and other reporters.

AIPAC at first defended Rosen vigorously, then dismissed him in April over unspecified conduct "beneath the standards AIPAC sets for its employees." The group has advised members that it has not taken a position on whether Rosen acted legally.

That nuance was understandably lost on most of the attendees asked about the matter at yesterday's session. "AIPAC doesn't support passing of state secrets to Israel, and that's my view, too," said Daniel Rathauser, a high school senior from New Jersey.

Max Newman, from Michigan, had no complaints, either. "I respect the way the organization handled it," he said. "What they did was against the policy of AIPAC."

Exactly what they did should come out in next month's trial. In the meantime, AIPAC is clamping down on what information it lets out.

Luncheon speeches by former House speaker Newt Gingrich (R-Ga.) and former Virginia governor Mark Warner (D) were declared off the record. At another speech yesterday by Republican National Committee Chairman Ken Mehlman, reporters were turned away at the door; an AIPAC spokeswoman went through the room making sure no journalists had infiltrated.

At the public sessions, the message was uniform: AIPAC is strong, and getting stronger. "Thank God for AIPAC," Gillerman told the participants. "This is for us the greatest guarantee and insurance policy for the survival of Israel," he added. "Please don't ever change."

As Rosen and Weissman have learned, it already has.

Junior Gotti Was 'Sick Of This Life,' Radio Show Host Kuby Says (NSDY/AP)

By Larry Neumeister, Associated Press Writer

Long Island Newsday, March 7, 2006

NEW YORK -- John "Junior" Gotti said in 1998 that he was "sick of this life" and would plead guilty to criminal charges, a lawyer who co-hosts a radio show with Guardian Angels founder Curtis Sliwa testified Monday at Gotti's mob trial.

The testimony by Ron Kuby, a veteran civil rights attorney, was intended by defense lawyers to boost Gotti's argument that he had rejected life in the Gambino crime family when he pleaded guilty in 1999 to racketeering charges. On that front, they got mixed results.

Kuby, who had represented a Gotti co-defendant, testified that Gotti said he "wanted to rejoin his family and be done with this," but the lawyer could not be more specific.

"He told me he was sick of this life," Kuby said. "He wanted this to be over."

Outside court, Kuby said he never asked Gotti what he was referring to when he said he wanted out.

"I was functioning as a lawyer, not a priest," Kuby said. "He did not elaborate. I did not ask."

He said he assumed Gotti meant he was "tired of being a criminal, tired of being a defendant, tired of being in prison, tired of being away from family."

The government last year brought a new racketeering case against Gotti related to crimes not covered in his April 1999 plea deal. Prosecutors said Gotti continued to do mob business from prison after claiming he had quit the Mafia.

The testimony by Kuby put the radio personality in an odd position with Sliwa, who prosecutors say was shot twice in 1992 after Gotti ordered him kidnapped and beaten because of on-air rants against Gotti's father, John Gotti. The elder Gotti was convicted of racketeering in 1992 and died in prison a decade later.

Junior Gotti insists he had nothing to do with the attack on Sliwa.

Sliwa testified about the shooting during the current trial and another trial last September that ended with a hung jury.

On their radio show Monday morning before Kuby testified, Sliwa poked fun at his co-host, calling the liberal counterpoint to Sliwa's conservative viewpoints a Judas.

"Maybe you should be doing a radio show with John Gotti Jr.," Sliwa said.

Kuby said Sliwa had nothing to fear.

"I don't have a dog in this fight, outside of my allegiance to the truth," he said.

Final arguments in the case were scheduled for Tuesday.

Sliwa's Radio Co-Host Testifies For Gotti (WCBS-TV)

By Pablo Guzman

WCBS-TV, March 7, 2006

(CBS) NEW YORK "Curtis & Kuby" are a well-known WABC radio morning team. Partners. "Curtis", of course, is Guardian Angels co-founder Curtis Sliwa. In 1992, someone shot him after he got into a cab. From inside the cab. The Feds say that was done on the orders of John Gotti, who wanted to teach Sliwa a lesson for badmouthing his father on their radio show. And for that, Gotti is on trial.

"Kuby" is Ron Kuby, the activist lawyer who came of age with William Kunstler. Sliwa took the stand last Monday to, as he put it, "stare Gotti down." But now that it's the turn of the Gotti defense, his lawyer Charles Carnesi called Kuby to the stand. A rather interesting turn of events in a trial that has seen the government use the re-direct of their star witness, "Mikey Scars" DiLeonardo, to bring out that young Gotti and "Mikey Scars" allegedly took girlfriends (behind their wives' backs) to party on a yacht Gotti supposedly hired for "Scars' " 40th birthday; and, to reveal that Gotti's father had a mistress. And a daughter in that illicit relationship. Or so it's alleged.

This, with the Gotti family --- particularly, the women and young Gotti's father-in-law --- in court.

In turn, one of the first witnesses Gotti's lawyer called was DiLeonardo's ex-wife. To say how embarrassed their son was about both the father being a rat AND putting his mistress up in a house on Staten Island near theirs.

It's been that kind of trial.

Enter Ron Kuby.

Part of Gotti's case revolves around his contention that by 1998, he became disillusioned with "this life of ours." That he was ready to do one last prison time, if it would settle the books with the government. So he could walk out of the slammer, and just be with his wife and five kids (that wife, by the way, Kim, expecting their sixth child, was in court today for the first time).

Kuby testified on the stand that while representing Gotti in 1998 (in the case alleging a Gambino shakedown of the strip joint "Scores"), that Gotti approached him "and he told me he was willing to plead to time in jail, so he could put all this behind him." By "this", I asked Kuby, did he mean "this mob life?" "I took it to mean that he wanted to put criminal life behind him . That he was tired of being in jail, tired of being in court, tired of being away from his family. That he wanted that life to end."

Now, at the end of the trial, the government will probably tell the jury to ignore whatever anyone says about Mr. Gotti wanting out of the Mafia after 1998. Because the time covered in the trial is a shooting of Curtis Sliwa in 1992. When, the Feds say, Mr. Gotti was very much a prince of the mob.

But that is not really Mr. Gotti's and his lawyer, Mr. Carnesi's, point. They are hoping that the jury interprets Kuby's testimony as another hole in what the government's star witness, Michael DiLeonardo --- "Mikey Scars" --- said on the witness stand. He said no one leaves the mob. Who will the jury believe? Kuby, the radio host, who said Gotti told him he wanted out? Or "Scars"? Who said, no one gets out. Not alive, anyhow.

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Because if “Mikey Scars” is lying about that, then --- could he also be lying about something else? And if a couple of jurors begin to have doubts about the government’s case, then --- could it affect the verdict?

The jury should start discussing just that within a couple of days.

KUBY'S TESTIMONY RADIO-ACTIVE (NYPOST)

By DAN MANGAN

The New York Post, March 7, 2006

March 7, 2006 -- John "Junior" Gotti's defense yesterday received an unexpected boost from Curtis Sliwa's radio partner, who testified that the ex-mob boss declared eight years ago he was leaving organized crime because he wanted to go legit.

"He told me he was sick of this life," criminal-defense and civil-rights lawyer Ron Kuby testified. "He wanted to get out of this life, to do real prison time . . . He wanted to rejoin his family and be done with this. He wanted this to be over."

Kuby, who co-hosts a WABC radio show with Sliwa, said he was representing Gotti's co-defendant in a racketeering case in 1998 when Junior made the confession.

Kuby's testimony in Manhattan federal court put the radio personality at odds with Sliwa, who prosecutors say was shot twice in 1992 after Gotti ordered him kidnapped and beaten because he was blasting his "Dapper Don" father on the air.

Yesterday's explosive testimony saying Gotti had left the mob in 1998 backed the defense's claim that the five-year statute of limitations had run out on Junior's alleged racketeering before he was indicted in 2004.

Kuby said the conversation occurred when Junior asked him to approach the feds to discuss a plea bargain for everyone involved in the earlier racketeering case.

Under cross-examination, Kuby said he had no knowledge that Junior later stopped earning money from the mob - and said Gotti never admitted to him he was in the mob.

Outside court, Kuby said he never asked Gotti what he was referring to when he said he wanted out.

"I was functioning as a lawyer, not a priest," he said. "He did not elaborate. I did not ask."

On their radio show earlier yesterday, Sliwa took aim at Kuby's willingness to testify.

"Maybe you should be doing a radio show with John Gotti Jr.," Sliwa said.

Two of Gotti's cousins also claimed Gotti left the mob by 1998.

Michael DiGiorgio said he visited his brother John, a Gambino crime-family associate, in federal prison in Miami, where he met John's cellmate, Gambino captain Tony Morelli.

Morelli asked Michael DiGiorgio to pass a message to Gotti that his family was having money trouble.

"Tony had complained to me that he felt abandoned . . . financially, that his wife was in financial straits," Michael testified.

When Michael, 43, relayed the message during a visit to Gotti in his Westchester County jail in 1998, Junior wasn't receptive, he said.

"John told me to tell Tony that he was out of that life . . . but there was nothing he could do to help him," Michael said.

Michael claimed he relayed the message to Morelli.

"I know what it meant - that [Junior] was no longer involved in the Mafia," he said.

Outside the presence of the jury, John DiGiorgio, 50, said Gotti's message meant "he threw in the towel. He was finished."

Also yesterday, Gotti's younger brother, Peter, testified about how criminal prosecutions had disrupted his family's life.

On cross-examination, prosecutor Michael McGovern asked him what his father, the Teflon Don, did for a living. Peter Gotti, 31, paused, then smiled.

"Boss," he said.

After a chuckle, he added, "I have no idea, Mr. McGovern."

Asked whether he was aware of his brother's role in the mob, he said, "I assumed he was definitely, you know, in a family."

Sliwa Says Radio Partner 'Judas' (NYDN)

New York Daily News, March 7, 2006

"The Curtis & Kuby Show" played on the radio - and in court - yesterday as Curtis Sliwa called his on-air partner Ron Kuby a "Judas" for testifying on behalf of John A. (Junior) Gotti.

Kuby, a lawyer, bolstered Gotti's defense against claims the mobster sent two thugs to beat Sliwa for his on-air attacks against the Dapper Don John Gotti in 1992.

Gotti contends that he left the mob in 1998.

"He told me he was sick of this life," Kuby testified. "He wanted this to be over. He wanted to rejoin his family and be done with this." Kuby said the spring 1998 chat occurred while Gotti and dozens of others were under indictment for a loansharking and extortion scheme that involved the Manhattan strip club Scores.

"John Gotti . . . specifically asked me if I would do him a favor," Kuby testified.

Gotti, 42, wanted Kuby, then representing co-defendant Stephen Sergio, to approach federal prosecutors and discuss a plea deal for everyone involved.

Outside court, Kuby said he didn't question Gotti further about ending his mob life.

"I was functioning as a lawyer, not a priest," he said. "He did not elaborate. I did not ask."

Kuby gave a preview of his testimony on his morning WABC radio show yesterday - prompting Sliwa to call his decade-long radio partner "Judas."

"Curtis, you should have nothing to fear from the truth," Kuby said.

Sliwa was shot near his East Village apartment after he hailed a cab carrying two men prosecutors say were sent by Gotti.

The issue of Gotti's pre-1999 withdrawal from the mob is key because prosecutors must show at least one crime in the long-running conspiracy case occurred within five years of his 2004 indictment.

Gotti's attorneys want to play for jurors a recording of a prison visit with his father that they say will feature the Mafia scion using coded language to say he wants out of the mob.

Peter Outs Dead Dad On Stand (NYDN)

By THOMAS ZAMBITO, DAILY NEWS STAFF WRITER

New York Daily News, March 7, 2006

Dapper Don called 'Boss'

Peter Gotti (in September photo) testified his father, John (Dapper Don) Gotti, 'probably' was Gambino crime family head.

As he entered the witness stand yesterday, the youngest son of John (Dapper Don) Gotti made family history - then cemented his place in it with a one-word answer.

"Boss," Peter Gotti said.

That's how the Dapper Don's 31-year-old son described what his father did for a living, saying in a second what prosecutors spent a decade trying to prove.

No Gotti family member has ever testified at a criminal trial until yesterday, when Peter Gotti took the stand in his brother John A. (Junior) Gotti's defense to federal kidnapping and extortion charges in Manhattan.

Then again, Peter Gotti never had much to hide.

He was the one son of the Dapper Don who didn't embrace the life of a mobster, staying out of the headlines and living a trouble-free life - aside from a few gambling debts.

Heavyset, he bore just a slight resemblance to his late father. He wore an all-black outfit and his accent was rooted in the Howard Beach, Queens, neighborhood where he was reared.

After taking the oath and promising to tell the whole truth, Gotti started nervously.

But as he scrolled through family photos, he seemed more at ease, joking with his brother's attorney, Charles Carnesi, and making cracks about his brother's hair.

By using old family snapshots, Carnesi was trying to counter prosecutors' claims that several men were his brother's criminal associates - suggesting they were longtime childhood pals.

There was a photo of Junior Gotti, wearing the number 71 for his peewee football team in Howard Beach. "That's him with the Afro," Gotti joked.

And there were childhood photos that included the late Frankie Gotti, killed after being hit by a car near the family's Howard Beach home.

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Mother Victoria Gotti, seated in the audience, appeared to look away when the photo appeared on a courtroom screen.

But after he did his brother's bidding, federal prosecutor Michael McGovern made things interesting.

"Do you know what your father did for a living?" McGovern asked.

The question startled Gotti, as he shifted uneasily in his chair for several seconds before finally answering sheepishly.

"Boss," he said.

Asked if he knew his father was the head of the Gambino crime family, Gotti responded:

"I have no idea, Mr. McGovern," Gotti said. "I would probably say he was."

Under the old Mafia rules, such an admission could have merited a death sentence.

But Junior Gotti has admitted his mob membership, saying he quit the life by 1999, hoping to spare his children from the legacy of crime he inherited.

Asked whether he knew that his father was responsible for the deaths of former Gambino mob boss Paul Castellano and his bodyguard in a bloody takeover of the Gambino family, he said: "That's what I've read. I've heard."

McGovern peppered Gotti with questions, asking him if he knew that his brother, several uncles and a former brother-in-law - sister Victoria's ex Carmine Agnello - were in the mob. He said he had no direct knowledge but after 20 years of reading media accounts, he assumed they were.

"I'm in a bubble, not in a cave," he said. He added: "It's not my business. I don't really care."

He was shown surveillance photographs of himself with his uncle Peter Gotti outside his father's Queens headquarters, the Bergin Hunt and Fish Club. "I was at the Bergin as a young kid," he said. "My uncle was just another guy who was there."

Gotti was called to refute allegations made by mob snitch Michael (Mikey Scars) DiLeonardo that he acted as the go-between for $50,000 in mob cash belonging to his brother.

"Never," Gotti said when asked if he'd ever picked up money for his brother.

He said his brother wouldn't have allowed it since he was well aware of his gambling habits. "He simply didn't trust me with money," he said.

McGovern will continue his cross-examination today and Gotti promised he'll be ready.

"I'm gonna rack 'em up again tomorrow," he said.

Trial Begins Of NY Cops Charged As Mafia Hit Men (REU)

By Ransdell Pierson

Reuters, March 7, 2006

NEW YORK (Reuters) - Jury selection began on Monday in the federal trial of two former New York detectives accused of having been hit men for the mob in a case the judge predicts will captivate the jurors.

Defendants Stephen Caracappa, 64, and Louis Eppolito, 57, were charged early last year with secretly working for the Luchese crime family while employed as police officers and involvement in 11 murders or attempted murders.

The charges, which also include kidnapping and other crimes, set the stage for a colorful and closely watched trial. Both defendants had served on the force more than 20 years.

Brooklyn U.S. District Court Judge Jack Weinstein set opening arguments for March 13 and assured hundreds of potential jurors assembled in his courtroom the case "will be one of the most interesting experiences of your life." Twelve jurors and six alternates will be selected.

When Eppolito showed up in court 75 minutes late, Weinstein ordered that he be rearrested and that his $5 million bail be revoked until a good explanation was provided.

Weinstein, an 85-year-old former Columbia Law School professor known for toughness, set Eppolito free again after defense lawyer Bruce Cutler explained that his client had been seriously delayed by a "trailer accident" on the highway.

In the courtroom, the tall and overweight defendant seemed at ease, embracing Cutler and trading smiles and pleasantries with Caracappa and his co-defendant's high-profile lawyer, Edward Hayes.

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Cutler, best known for his successful defense of the late Gambino crime family boss John Gotti in several trials, said it will be tougher to defend Eppolito because federal prosecutors plan to have at least four Mafia informants and turncoats testify against him.

"The federal government is making sweetheart deals with all kinds of people -- including (crime family) acting bosses -- that will say what the government wants to hear," Cutler said in a telephone interview.

After retiring, Eppolito played a bit role as "Fat Andy" in the mob movie "Goodfellas" and played character roles in several other Hollywood productions.

BQE Jam Holds Up Cop Trial (NSDY)

By Anthony M. Destefano, Staff Writer

Long Island Newsday, March 7, 2006

You think you have traffic problems?

Yesterday's huge jam on the Brooklyn-Queens Expressway almost sent one of the "Mafia Cops" to jail before his racketeering trial even began after he was late to federal court for the start of jury selection.

Louis Eppolito, 57, who is living under house arrest with relatives in Plainview, walked into Brooklyn federal court about 90 minutes late after stewing in traffic on the BQE for nearly as long. When Eppolito finally arrived at the Cadman Plaza courthouse, an angry Judge Jack Weinstein ordered him arrested by federal marshals and his $5 million bail revoked.

But after defense attorney Bruce Cutler explained to Weinstein that two disabled tractor-trailers had shut down the roadway, Weinstein reinstated bail and revoked the arrest.

Eppolito and Stephen Caracappa, 64, former New York City police detectives, are accused of being paid assassins for the mob in the late 1980s and early 1990s. Both have denied wrongdoing and are under house arrest.

Outside court, Eppolito told Newsday that he had left the home of his brother and sister-in-law at around 7:40 a.m. After an uneventful ride westbound on the Long Island Expressway, the trip suddenly turned chaotic when his car exited for the BQE, said Eppolito. Under the terms of his bail he is not allowed to have a cell phone, so Eppolito said he could not call the court.

Opening statements are set for March 13.

'MAFIA' COP IN A JAM (NYPOST)

By ZACH HABERMAN

The New York Post, March 7, 2006

March 7, 2006 -- A traffic jam almost landed reputed mob cop Louis Eppolito back in prison yesterday.

The ex-NYPD detective, accused along with his partner, Stephen Caracappa, of being paid hit men for the Mafia, arrived at Brooklyn federal court over an hour late - holding up the start of jury selection.

"Did you arrest him like I ordered?" a fuming Judge Jack Weinstein asked a courtroom marshall after Eppolito finally arrived.

While he was placed in their custody, a shaken Eppolito - who had been free on $5 million bail - was neither handcuffed nor had his arrest processed. The judge called off the guards after Eppolito explained he was not jumping bail - he was simply stuck in bumper-to-bumper traffic on the Brooklyn-Queens Expressway.

"It was beyond my control," Eppolito, 57, said outside court. "I just sat in traffic in the car."

One of Eppolito's bail restrictions prevents him from having a cellphone, so he had no way of contacting the court or his attorney.

His lawyer, Bruce Cutler, was apparently so concerned by the unexplained absence he almost called Nassau County cops to check the Plainview, L.I., home where Eppolito is staying while awaiting trial.

Two hundred potential jurors in the hotly anticipated police-corruption trial filled out questionnaires yesterday, while Weinstein promised the trial would be "the most interesting experience of your life."

Caracappa, 64, and Eppolito are accused of using their positions within the department to leak sensitive NYPD intelligence to the Luchese crime family, information allegedly used to commit eight gangland slayings.

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The 42-page questionnaire asked a range of questions such as whether potential jurors had ever read Eppolito's autobiography, "Mafia Cop."

They were also asked if they recognized the names of well-known wiseguys, such as the late Gambino boss John Gotti, his whacked predecessor Paul Castellano, and turncoat Salvatore "Sammy Bull" Gravano.

The trial is set to get under way on Monday.

'Mafia Cop' Angers Judge, But Dodges Jail With Quick Excuse (NYDN)

By JOHN MARZULLI, DAILY NEWS STAFF WRITER

New York Daily News, March 7, 2006

Saved by gridlock! Blames BQE for missing court

Here's not the best way to start off your trial: Reputed Mafia cop Louis Eppolito got himself arrested briefly yesterday when he ticked off the judge by showing up late.

The portly ex-NYPD detective, accused of being a hit man for the mob, waddled into Brooklyn Federal Court more than an hour late, incurring the wrath of Judge Jack Weinstein.

After 140 prospective jurors had filled out a lengthy questionnaire in another room, Weinstein called an impromptu courtroom conference.

"Is he under arrest?" Weinstein asked a U.S. marshal, causing the color to drain from Eppolito's face.

When the lawman indicated Eppolito was not, Weinstein barked: "He's now under arrest and bail has been revoked."

Defense lawyer Bruce Cutler explained his client wasn't AWOL - he had been stuck in a traffic jam on the Brooklyn-Queens Expressway caused by an overturned tractor-trailer.

The judge accepted the explanation and reinstated Eppolito's $5 million bail.

"I just sat in traffic in the car. It was beyond my control," Eppolito said outside court.

Eppolito and his former NYPD partner Thomas Caracappa are accused of leaking information about confidential informants and investigations to the Luchese crime family for years. Eppolito is charged with participating in eight gangland murders and Caracappa seven.

Prospective jurors answered 77 questions, including whether they had read Eppolito's autobiography, "Mafia Cop," or watched the defense lawyers' "Cutler and Hayes Show" on Court TV.

"For many of you [the trial] will be one of the most interesting experiences of your life," Weinstein told the jurors.

Take 1 Trial. Add The Mob. Yield: 4-5 Books And A Film. (NYT)

By Alan Feuer

The New York Times, March 7, 2006

Depending on whom you ask, when you ask them and how honest they are, there are four books and a movie, five books and a movie, four books but no movie or five books but no movie about the federal racketeering trial of Louis J. Eppolito and Stephen Caracappa in the works.

The trial, which began yesterday with jury selection in Federal District Court in Brooklyn, has become the latest scoop for the disheveled band of newspaper reporters who write about the courts and has led, in at least two cases, to a literary luncheon and a book deal. It has also served as a midcareer change of pace for two investigators on the case who have cashed in on their inside knowledge, signing book deals of their own.

Almost from the day last March when Mr. Eppolito, 57, and Mr. Caracappa, 64, two former New York police detectives, were slapped in handcuffs over dinner in Las Vegas, literary agents and Hollywood types have descended on the case. There were articles in Playboy and Vanity Fair, not to mention the city's newspapers. At a pretrial hearing in September, Mr. Caracappa's lawyer, Edward Hayes, mused aloud that every member of the prosecution team, except the two chief prosecutors, seemed to have a book deal.

But five books and (possibly) a movie? Without a doubt, the charges in the case are fairly spectacular, revolving around the accusation that the two men betrayed their badges in the 1980's and early 90's by helping to kill at least eight people while

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working for the mob. But the charges are also fairly old — some 20 years old. And dramatic as they are, they are not entirely surprising: the police and F.B.I. investigated the pair in 1994, but were unable to make a case.

It is true that a gallery of "characters" will emerge at trial, including Burton Kaplan, a drug smuggler and wholesale clothier expected to testify that he served as the liaison between the two men and their Mafia overlord, Anthony Casso, who has the chilling nickname Gaspipe. Then there is Mr. Eppolito, who after his retirement, appeared in several movies, playing bit roles of the sort that one could easily miss while bending down to set one's popcorn on the floor.

It is also true, however, that the case does not really touch upon the larger sorts of issues that usually make a criminal trial— even a police-corruption trial — of interest. It does not, for instance, have the broader theme of cover-up, as did the Abner Louima case, in which one officer was charged with sodomizing Mr. Louima with a broomstick while others were charged with erecting a "blue wall of silence" to protect him. Nor does it have the bitter racial tensions of the Amadou Diallo case, in which white officers killed Mr. Diallo, a black man, in a hail of 41 shots.

United States v. Eppolito and Caracappa is a mob case, which is to say, a case with "color" — and therein lies the interest. On Feb. 9, USA Today ran a story deciding that it and other Mafia trials "have the ruthlessness, and the color, that America has come to expect from the mob." A subhead proclaimed: "A lot more colorful than ... Enron."

"This case has allure," said Bruce Cutler, Mr. Eppolito's lawyer, who has been known to wax poetic on America's "psychological obsession" with the mob. "It's a throwback to an atavistic, bygone age."

In a time, and in a city, where it sometimes seems as if all the grit has packed up and moved away, "Mafia cops," as everyone calls the case, will offer glimpses of a salty, old-time Brooklyn. Testimony will include the tale of Eddie Lino, a Gambino family captain shot to death in his Mercedes on the Belt Parkway, and the story of Nicholas Guido, an innocent man killed in a case of mistaken identity because he shared a mobster's name.

"People like these trials for the same reason they're captivated by car accidents," said James Walden, a lawyer who spent six years in the United States attorney's office in Brooklyn prosecuting mobsters. "It's awful, it's degrading and all the characters are vile, but there's something in the theater of it that people can't seem to get enough of."

It helps, of course, when the theater allows catharsis without danger — when, morally speaking, the seats are free of charge.

"If you live a nonmob life, there's no reason to be threatened by the mob," said Gerald L. Shargel, a lawyer whose clients have included John J. Gotti, the late Gambino family don. "You can watch the stories unfold from a safe perch."

The safe perch in this case was the next-to-last row of the second-floor courtroom, where reporters, including three with book deals, sat to watch the trial begin. Not much happened: the jurors received a questionnaire asking if they had ever seen Mr. Hayes and Mr. Cutler on their show on Court TV. Mr. Eppolito, explaining that a tractor-trailer accident on the Brooklyn-Queens Expressway delayed him, was late.

Mr. Cutler is an operatic presence, gruff and voluble and built like a tugboat. Mr. Hayes, by contrast, is lean and adrenal, with the quick wit of a bookie and a closetful of alligator shoes.

The prosecutors, Robert Henoch and Mitra Hormozi, are less prone to flaunt their personalities, but even Judge Jack B. Weinstein, as sober as they come, seemed to acknowledge that the trial would be a drama marked by courtroom flair.

"It will be an interesting trial," he told the jurors. "For many of you, it will be the most interesting experience of your life."

Bulger Brother To Lose Pension For Lying (LAT/AP)

By Ken Maguire, Associated Press Writer

The Los Angeles Times, March 7, 2006

BOSTON — The state's highest court ruled Monday that a brother of fugitive mobster James "Whitey" Bulger must forfeit his $65,000-a-year state pension because he lied to grand juries investigating the gangster's disappearance.

Lawyers for John "Jackie" Bulger, a retired court clerk magistrate, had argued that his crimes were based on family loyalty and didn't affect his job.

But the Supreme Judicial Court ruled that he had an "unwavering obligation to tell the truth" to grand juries investigating his brother's disappearance.

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John Bulger, 67, pleaded guilty to perjury and obstruction of justice in 2003 for lying to two federal grand juries. He admitted that he lied when he testified he had not heard from his brother since he fled in 1995. He also admitted lying to a grand jury in 1996 when he said had no knowledge about a deposit box owned by his brother.

Because his crimes were committed while in office, John Bulger may have to repay $243,000 in pension money he has already received. The state had not yet decided whether to seek repayment.

It's not the only Bulger pension dispute.

The state is appealing a Superior Court's November ruling that gave another brother, former University of Massachusetts President William Bulger, $29,000 more than what he was awarded by the state's pension system. William Bulger's annual pension is now $208,000.

Whitey Bulger, 76, the oldest of the brothers, is wanted in connection with 21 murders and is on the FBI's "Ten Most Wanted" list. Prosecutors say he ran the Winter Hill Gang and was an FBI informant who ratted out his competitors in the 1970s and '80s.

Paul T. Hynes, attorney for John Bulger, did not immediately return a call to comment. A phone listing in South Boston for Bulger was temporarily disconnected Monday.

Judge Refuses To Delay Abramoff Sentencing (WP/AP)

By Associated Press

The Washington Post, March 7, 2006

MIAMI, March 6 -- A federal judge refused Monday to allow a lengthy delay in the sentencing of lobbyist Jack Abramoff, even though lawyers for both sides said the move could jeopardize a federal corruption investigation involving Congress and the Bush administration.

Abramoff attorney Abbe Lowell warned that the defense would disclose information about the ongoing corruption investigation to demonstrate the level of Abramoff's cooperation, something that could affect his sentence in the fraud case.

"We will name names," Lowell said by telephone at a hearing before U.S. District Judge Paul C. Huck. "That is not a good thing for law enforcement."

The judge agreed to delay sentencing from March 16 to March 29, but he rejected a joint motion by federal prosecutors and attorneys for Abramoff and co-defendant Adam Kidan to hold off for at least 90 days.

"I just don't want to get involved in a situation where it just goes on and on and on," Huck said. "I don't see any reason for postponing the sentencing."

Huck said the government can always request a reduction in Abramoff's sentence later and that he probably would allow both Abramoff and Kidan to remain free for a reasonable amount of time after they are sentenced.

Abramoff pleaded guilty Jan. 4 to charges that he and Kidan fabricated a wire transfer to make it appear they were putting a sizable chunk of their own money into the $147.5 million purchase of the SunCruz Casinos gambling fleet in 2000. Kidan pleaded guilty late last year.

Abramoff also pleaded guilty in January to charges stemming from an investigation into his ties to members of Congress and the Bush administration.

Shooter Now Denies Killing Ga. Socialite (WP)

By Harry R. Weber

The Washington Post, March 7, 2006

ATLANTA -- In a stunning about-face, the admitted triggerman in the slaying of an Atlanta socialite denied Monday that he had ever seen the victim in person or that he killed her on orders from the woman's estranged husband.

Testifying at the murder trial of millionaire James Sullivan, Phillip Harwood also denied having any intention to take part in the January 1987 murder of Lita Sullivan at her upscale town house.

The denials came even though Harwood is serving a 20-year sentence for manslaughter after pleading guilty to killing Lita Sullivan. As part of the plea, he agreed to testify against James Sullivan.

"Have you ever laid eyes on her face before today," prosecutor Clint Rucker asked Harwood.

"Other than on the news, no," Harwood responded.

"Did you agree to participate in the death of Lita Sullivan?" Rucker asked.

After a long pause, Harwood turned toward the judge and responded, "Well, your honor, I'd have to answer no. I did not agree to murder Lita Sullivan. The agreement was to take care of her. That was what was spoken to me. As far as participating, my intention was never to participate."

Sullivan, 64, was captured in Thailand in 2002. He's accused of paying Harwood $25,000 to kill his 35-year-old second wife. She was shot by a man carrying a dozen roses and posing as a flower delivery man.

Prosecutors, who are seeking the death penalty, say Sullivan feared losing money and his Palm Beach, Fla., mansion in the divorce.

Harwood said he was in a getaway car nearby when the murder was committed by a man named "John" who worked as a bartender at a topless bar. He said he met the man through a stripper friend of his. Harwood didn't give the man's last name.

"I heard two shots. He came running back and I drove off," Harwood said.

He admitted to the jurors that he bought the flowers that were delivered to the victim.

Harwood also testified that Sullivan had approached him a few months before the slaying and inquired whether he knew anyone who could "take care of" Lita Sullivan. Harwood said he took that to mean one of two things, "either to kill her or to take care of her."

He testified that Sullivan mentioned that bringing his wife flowers would be a good way to get her to come to the door, and said he told Sullivan it might cost him $25,000 to fix his problem.

Harwood confirmed for jurors that he accepted two payments from Sullivan: a pair of cashier's checks for about $12,500 before Lita Sullivan was killed and an envelope filled with cash after she was dead. He said he met with Sullivan in a restaurant in Florida, where he was given the final payment.

Asked by the prosecutor why he took the money, Harwood said he did so because he was scared.

"What's he gonna think if I didn't take the last part of the money?" Harwood said. "He paid me to have somebody kill his wife. Don't you think he might want to take care of loose ends?"

Harwoods' denials put the prosecutor in the unusual position of having to aggressively cross-examine his own witness.

"Do you bear any responsibility Mr. Harwood as you sit here?" Rucker said.

"I guess I do by proxy," Harwood responded, though he didn't clarify what he meant by that.

Rucker pressed Harwood about a claim that he wanted to warn Lita Sullivan three days before the murder.

"Didn't you have her phone number? Why didn't you just call her?" Rucker asked.

"I never thought about it," Harwood responded.

Rucker also questioned Harwood's other claims.

"Would you admit that that story by you is unbelievable?" Rucker asked.

"No, I wouldn't admit that," Harwood responded.

"Look at these jurors in the eyes and tell them you did not kill Lita Sullivan," Rucker asked.

"I did not shoot and kill Lita Sullivan," Harwood said.

Alleged Hitman In Sullivan Trial Blames Another Admits To Being Paid $25,000 To Kill Buckhead Woman (AJC)

By Bill Montgomery, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, March 7, 2006

The man serving time for the 1987 killing of Buckhead resident Lita McClinton testified Monday that he wasn't the triggerman.

Phillip Anthony "Tony" Harwood said that although millionaire murder for hire defendant James Vincent Sullivan paid him $25,000 to kill his estranged wife, she was killed by a man he knew only as "John the bartender."

Harwood said on Jan. 13, he, John, and a woman he described as a hooker, travelled from North Carolina to the Atlanta area and checked into a hotel.

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On the morning of Jan. 16, Harwood said he drove John to McClinton's Buckhead townhome. Harwood said he sat in the car while John left the car. He heard two gunshots "a heartbeat apart" and when John returned he had blood on his face, Harwood testified.

Harwood said he then drove to a Suwanee reststop and called Sullivan, informing him of the hit.

Harwood, 55, pleaded guilty in 2003 to voluntary manslaughter in McClinton's death and received a 20-year prison sentence, avoiding the death penalty, in return for a pledge to testify against Sullivan.

When prosecutor Clint Rucker asked Harwood if he agreed to kill Lita Sullivan, Harwood replied, "To be honest, I have to answer no. The agreement was to 'take care of her' but my intention was never to participate."

"What do you think Sullivan meant by 'take care of her,'" asked Rucker.

"I figured he meant to kill her, you don't pay $25,000 to scare nobody," said Harwood.

Harwood said Sullivan first broached the subject at Sullivan's Palm Beach mansion on Nov. 24, 1986, nearly two months before the murder. Harwood had just moved Sullivan's furniture from Macon to Palm Beach, Fla.

"Mr. Sullivan told me he was having problems with his soon-to-be ex-wife — she was going to take him for everything he's got. He asked me if I knew of anyone who could take care of his problem," Harwood testified.

"I recognize shoe shuffling and BS-ing when I hear it. I think he was jiving me. He was angry and I didn't take nothing serious," he said.

Rucker asked Harwood when he knew Sullivan was no longer joking.

"When I got $12,500 in the mail," the witness said.

Earlier Monday, Harwood's former girlfriend was questioned for more than three hours by defense attorneys.

Belinda Trahan once again pointed out millionaire James Vincent Sullivan as the man she saw hand Harwood $25,000 in a Florida diner for the contract killing.

Defense attorney Ed Garland was questioning Trahan on the relatively short amount of time she had been in Sullivan's presence, when, in a voice bordering on anger, Trahan said, "I know what I saw and you can't take that from me no matter what you do."

Trahan didn't hesitate on the witness stand last week when she was asked to point out the person who gave her boyfriend money not long after the murder.

"He's right there," Trahan said, pointing to Sullivan. "Glasses. Blue suit. White hair."

Sullivan, 64, showed no reaction to Trahan's identification.

One of the most compelling witnesses in the trial to date, Trahan, 47, who now lives in Texas, spent almost two hours testifying for the prosecution Friday. Prosecutors are seeking the death penalty for Sullivan.

Trahan came forward about the murder in 1998, after hearing of a television show about the unsolved killing. Employed by Texas attorney Ed Lieck, she told him she recalled being with Harwood when he met a man she later learned was Sullivan at a Florida diner.

Trahan testified Harwood, then living in Albemarle, N.C., had told her right before the slaying, " 'Some white guy wanted to take out his black wife.' They were in a divorce and he didn't want her to have anything."

Sullivan is white; Lita Sullivan was black.

Defense attorney Ed Garland questioned Trahan on details of the clothing she said Sullivan had worn in the diner. Under cross-examination, she admitted she had never heard Sullivan's name until she had heard it from Lieck.

Accused Hit Man And Star Witness Denies Shooting Millionaire's Wife (COURTTV)

By Emanuella Grinberg, Court TV

Court TV, March 7, 2006

ATLANTA — Prosecutors have cast convicted felon Phillip Anthony Harwood as the key to their 19-year-old case against a millionaire they believe took out a hit on his wife.

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But less than 10 minutes into his testimony in James Sullivan's capital murder trial Tuesday, the former truck driver turned jailhouse lawyer emerged as a wild card for both the defense and the state, implicating Sullivan one instant while denying being the shooter.

"Did you agree to participate in the death of Lita Sullivan?" Fulton County Assistant District Attorney Clint Rucker asked Harwood, 55, who is serving a 20-year sentence for voluntary manslaughter in exchange for his testimony.

"To be honest, I'd have to answer no. I didn't directly agree to murder Lita Sullivan," the tall, lanky witness answered after a long pause, setting the tone for his largely unapologetic testimony.

Story continues

advertisement

To the contrary, Harwood cast himself as an unwitting pawn in James Sullivan's plot despite numerous good intentions, from an attempt to withdraw from the plot to his plan to tell Lita Sullivan of the hit and turn the tables on her husband.

Harwood was unwavering in his story that, with the help of a topless dancer named Tracy, he enlisted a man simply known as John the bartender to gun down Lita Sullivan in her upscale Buckhead townhouse the morning of Jan. 16, 1987.

"Do you bear any responsibility, Mr. Harwood?" Rucker asked, his own tone incredulous at time of his witness.

"I guess I do, by what you may call proxy," said Harwood, whose jeans and beige shirt concealed a remote-controlled restraining mechanism. "I believe we're all accountable for our own acts, but I guess if you got down to the brass tax of it, it all began with Mr. Sullivan."

Prosecutors entered into evidence a piece of paper on which Tony Harwood had written James Sullivan's phone number.

Harwood testified James Sullivan asked him for help in November 1986, after the trucker hauled the wealthy investor's furniture from his home in Macon, Ga., to his Palm Beach mansion. Sullivan was living alone in the midst of an acrimonious divorce from his estranged wife, who was 10 years younger.

"He kind of goes, 'I've got this wife in Atlanta, and she's just trying to take me for everything I've got, do you know anyone who can take care of my problem?'" Harwood testified as he rubbed his forehead and flailed his arms in an attempt to imitate Sullivan.

Harwood said he tried to brush off the request. Even so, a few weeks later, he received a down payment of $12,500 in the form of two certified checks from Sullivan.

"I didn't take him seriously but then, when checks came, I thought what am I going to do now?" he testified.

Ultimately, Harwood testified he decided to keep the money out of fear for what might happen should he refuse it.

After the group's first trip to Atlanta to warn Lita Sullivan of the plot, according to Harwood, they returned a second time at John the bartender's behest, perhaps to see if they could persuade Lita to contract a similar hit on her husband.

With a picture of Lita Sullivan holding a bouquet of flowers projected behind him, the witness testified that he purchased the box of flowers that John the bartender carried to Lita's doorstep at the recommendation of James Sullivan, who said his wife adored flowers.

Even so, Harwood insisted he remained in the car, and expressed shock when his crony came running out of the complex after two gunshots rang out, his face spattered with Lita Sullivan's blood.

James Sullivan listened to the testimony Monday.

The sequestered jury panel of 13 women and three men appeared skeptical of Harwood's claims, taking notes mostly when his version of events contradicted those testified to by previous trial witnesses.

His story clashed most with that of his ex-girlfriend, Belinda Trahan, who spent two days on the stand describing how she finally came to realize her boyfriend was involved in Lita Sullivan's murder.

Nearly 11 years after Lita Sullivan's death, Trahan's tip to authorities finally enabled them to connect the dots between the defendant and his wife's death.

While Trahan testified that she saw Sullivan pass her boyfriend a newspaper concealing an envelope of cash at a restaurant table, Harwood insisted that the trade-off occurred in the bathroom.

Trahan also claimed that the meeting occurred days, maybe weeks, after the January shooting, while Harwood said they made the trip to Florida in August 1987.

Even so, Harwood said he bore no animus toward the woman he referred to as his common-law wife of three years.

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"I worshipped the ground she walked on," Harwood said. "Belinda was everything I had ever dreamed of. She was kind, considerate, a kid at heart, a good mother... she'd make any man proud."

"How do you feel about her today?" Rucker asked as Lita Sullivan's parents and relatives listened intently from the gallery.

"I'm glad she had more courage than I had," he said, referring to her decision to turn him in.

The prosecutor's questioning of his own witness grew increasingly testy as Harwood refused to acknowledge he was the shooter.

"Mr. Harwood, this is an opportunity for you to tell these jurors the whole truth," Rucker said, as Lita McClinton's father, Emory, wiped a tear from under his eyeglasses. "Can you look at these jurors and tell them you did not shoot and kill Lita Sullivan?"

"I did not shoot and kill Lita Sullivan," Harwood said as he turned his chair to face the panel.

Lawyers for James Sullivan will cross-examine the witness Tuesday.

Hit Man: James Sullivan Hired Me (WXIA-TV)

WXIA-TV, March 7, 2006

Tony Harwood points to James Sullivan.

The convicted hit man in the murder-for-hire trial of Palm Beach, Fla. millionaire James Sullivan took the stand as the state's star witness Monday afternoon.

Under questioning by Fulton County prosecutor Clint Rucker, Phillip Anthony Harwood said he first met the defendant when he delivered furniture to him from Sullivan's former home in Macon, Ga. Harwood said Sullivan started to hint around about needing help dealing with his estranged wife in Atlanta who was "trying to take everything he has."

When Rucker asked Harwood how he knew Sullivan wasn't joking about having his wife killed, Harwood responded, "When I received $12,500 in the mail." Harwood said Sullivan suggested he could "get to her by delivering flowers because she liked flowers." Harwood said he named his price at $25,000.

Lita Sullivan was shot and killed at her Buckhead condominium in January 1987 by a man posing as a flower deliveryman. Harwood avoided a death penalty trial in deal to testify at Sullivan's death penalty trial in Atlanta. Harwood has changed a part of his confession and claims he did not actually fire the shots that killed Lita Sullivan. He said in court that he hired his own hitman to carry out the job.

When asked to point out the man who paid him to kill Lita Sullivan, Harwood said, "Mr. Sullivan's sitting right over there," pointing at the defendant. When asked if Sullivan looked any different than when they met 20 years earlier, Harwood said he looked a lot older.

Earlier Monday, the woman Harwood described as his former common law wife, wrapped up her testimony. Belinda Trahan told jurors that James Sullivan was the man who sat down at a diner with her and Harwood and that Sullivan pushed a newspaper full of money toward Harwood as payment for killing Lita Sullivan.

During cross examination, Sullivan's attorney, Ed Garland, said Trahan's motive for testifying against Sullivan is greed. She responded, "Like I said before, I'm not interested in any reward so can we move on?"

While Garland tried to shake Trahan, he attacked her memory as faulty and her identification of James Sullivan as uncertain and unreliable.

"I know what I saw and you can't take that from me no matter what you do," said Trahan.

Alleged Hitman's Ex Cross-examined At Sullivan Trial (PALMBEACHP)

By Larry Keller, Palm Beach Post Staff Writer

Palm Beach Post (FL), March 7, 2006

ATLANTA — Belinda Trahan finished a grueling cross-examination from James Sullivan's attorney Monday by insisting he is the man she saw pass an envelope full of money to her then-boyfriend as payment for killing Sullivan's second wife 19 years ago.

"I'm absolutely sure of the man I saw," Trahan, 47, said, her voice rising. Then, as she did on Friday, Trahan stood in the witness box and pointed at Sullivan seated at the defense table, "looking down again, not looking at me." Trahan was questioned

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for more than five hours on Friday and Monday, and about three hours of that was an interrogation by Ed Garland, one of Sullivan's attorneys. Item by item, point by point, he showed inconsistencies and contradictions in Trahan's trial testimony and earlier statements she has made to authorities.

By his questions, Garland suggested Trahan was motivated to come forward with her story in 1998 in order to collect a reward that still has not been paid, and that her story was influenced by news accounts she had read.

Trahan says that Philip "Tony" Harwood told her he had participated in the 1987 slaying of Lita Sullivan, who was about to divorce James Sullivan, a millionaire who lived in Palm Beach at the time.

Harwood was subsequently arrested and told police that Sullivan paid him $25,000 for the job. Some evidence points to Harwood as being the man who delivered a dozen roses to Lita Sullivan, then shot her in the head. He has denied being the shooter.

Garland had Trahan refer to a synopsis of events that she typed in 1998, and to statements she made to police that year. She said back then that "I really wasn't paying attention" at the meeting with Sullivan and Harwood at a restaurant, and that "I didn't look at (Sullivan) real good." She also said she had never seen Harwood with a gun, but she testified that he always kept a 9 mm pistol in the moving van he drove. Lita Sullivan was killed with a 9 mm pistol.

Trahan denied having read about Lita Sullivan's murder prior to talking to police in 1998. Where did you get the information you gave them, prosecutor Kellie Stevens Hill asked.

"From real life," the earthy Trahan replied.

Harwood's much-anticipated testimony is expected this afternoon.

Sullivan, 64, was indicted for his wife's murder by a Fulton County grand jury in 1998. He was arrested in Thailand in 2002, and finally extradited to Atlanta in 2004.

Official Indicted For Fraud, Bribery (ARMYTIME)

By Michelle Tan, Times staff writer

Army Times, March 6, 2006

An official at Army Test and Evaluation Command was indicted March 1 for fraud and bribery, according to the U.S. Justice Department.

Jeffrey H. Stayton, chief of aviation for ATEC was charged with two counts of honest services fraud, one count of bribery and one count of obstruction of justice after an indictment was returned by a federal grand jury in the Middle District of Alabama.

The grand jury in Montgomery, Ala., also indicted William Curtis Childree, a private contractor based in Enterprise, Ala. Childree, 67, is charged with two counts of honest services fraud and one count of bribery.

According to the indictment, in or about November 2001, Maverick Aviation, a business owned and run by Childree that buys and distributes helicopters for its clients, was chosen to produce and modify two helicopters for use by the U.S. government. The contract was worth about $4.7 million.

Stayton, 55, is accused of taking actions that favored Maverick's selection to get thecontract and misleading government officials about Maverick's performance under the contract , according to the Justice Department.

The indictment against the men also states that in exchange for Stayton's actions, Childree secretly wired to a third party $61,071.75 from a Maverick bank account to pay off Stayton's mortgage in Spotsylvania County, Va.

Stayton didn't disclose receipt of the payment to other ATEC or Army personnel or in his financial disclosure statements, according to the Justice Department.

The indictment goes on to say that in or around June 2005, after the grand jury investigation had begun, Stayton appeared before the grand jury and falsely testified that Childree's $61,000 payment was a loan.

ATEC plans and conducts tests and evaluations of weapons and equipment . Its headquarters is in Alexandria, Va.

The fraud charge carries up to 20 years in prison, a fine of up to $250,000 or both. If found guilty of bribery, the men could face up to 15 years in prison, a fine of up to $250,000 or both. And if Stayton is found guilty of obstruction of justice he could be given up to 10 more years in prison, a fine of up to $250,000 or both.

The case was investigated by Army Criminal Investigation Command and the FBI.

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US Snubs Britain Over Sex Criminals (TIMES)

By Tom Baldwin in Washington

London Times, March 7, 2006

BRITAIN and the United States were locked in a deepening diplomatic dispute last night over Washington's failure to implement a mutual extradition agreement that Parliament approved three years ago.

Congress's refusal to ratify the deal means that Britain cannot prosecute criminals residing in the US, including sex offenders and paedophiles.

America has sought the extradition of 44 alleged offenders since 2003, and 12 have already been sent to the US. The extradition of several others has been approved but is awaiting appeal. In contrast, Britain extradited only five suspects from the US in the same period under the previous thirty-year-old extradition treaty, including just one in 2005.

Ministers have repeatedly raised the issue with their US counterparts, and Charles Clarke, the Home Secretary, protested again when he met Alberto Gonzales, the US Attorney-General, in London yesterday.

Diplomats led by Sir David Manning, Ambassador to the US, have also held about 30 meetings on the issue on Capitol Hill in recent months. But pleas have fallen on deaf ears. Indeed, America's failure to abide by its side of the deal is fast becoming a political embarrassment for a British government often accused of showing undue deference to Washington.

A total of 145 MPs, including many Labour backbenchers, have signed a Commons motion demanding that extraditions to the US be halted until the Senate ratifies the treaty.

A Home Office spokeswoman confirmed that it was encountering obstacles in extraditing suspects, particularly sex offenders, from the US. This is because the existing treaty, dating to 1972 and listing a schedule of extraditable offences, "was drawn up before the internet was invented". She said: "There are people we want who are successfully evading justice."

A senior US official told The Times yesterday that the Administration was sympathetic to Britain's concerns and hinted that a fresh attempt to force the treaty through the Senate would be made within weeks.

The official said that the problem had been caused by the influential Irish-American lobby, which is worried that the treaty could be used to pursue IRA suspects. Senators are worried about alienating any section of voters before November's congressional elections. British diplomats have emphasised that, after the Good Friday agreement, Britain has little interest in pursuing IRA suspects.

Those currently facing extradition to the US under the 2003 deal include the "Nat West Three" who face up to 35 years in prison if convicted of Enron-related fraud charges. Their lawyers, who are appealing to the House of Lords, claim they are victims of an unequal law.

Another Briton extradited to the US for financial offences is Nigel Potter, former chief executive of Wembley plc, who will today begin an appeal against a three-year sentence for fraud.

Potter was convicted of conspiring to bribe a US politician so that his company could install fruit machines at an American greyhound track. No bribes were paid, however, and Potter was acquitted of all but three charges of wire fraud.

In contrast to the white collar suspects being sent to the US, Britain is being prevented from bringing to justice US suppliers of computer child pornography, including some of those related to Operation Ore two years ago, which discovered 6,000 Britons using an American website.

The 1972 treaty also contains a statute of limitations which does not allow extradition for offences that took place more than six years ago. Officials say this is a particular problem in child abuse cases because victims often do not come foward until they are adults.

Since the new treaty was agreed in March 2003, countries such as Lithuania, the Marshall Islands, Micronesia and Peru have had extradition deals ratified by Congress. John Ashcroft, the US AttorneyGeneral in 2003, said that the new treaty "should serve as a model to the world for successful and efficient co-operation."

Prosecutors Target White Supremacist Gang (FINDLAW/AP)

By Gillian Flaccus, Associated Press Writer

AP, March 7, 2006

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(AP) - SANTA ANA, Calif.-The inmates had to heat the letter to draw out the message, written in invisible ink. When they did, their orders were clear.

Within hours, prosecutors say, members of the Aryan Brotherhood prison gang sneaked into a nearby cellblock and killed two black inmates with handmade shanks as part of an order to "go to war" with blacks.

The deaths are two of the 32 murders and attempted murders detailed by federal prosecutors in a sweeping case against the Aryan Brotherhood, a violent white supremacist prison gang that has infiltrated nearly every federal and state prison since its beginnings in San Quentin in 1964.

Prosecutors hope to dismantle the gang - nicknamed the "Brand" - in a series of trials that together make up what's believed to be the biggest capital murder case in U.S. history. Of the 40 men initially charged, as many as 16 could face the death penalty for crimes that reach back 30 years.

Prosecutors are pursuing the highly organized gang with a racketeering law originally passed to target Mafia leaders - a tactic recently used with some success against other prison gangs in California and Texas.

"We're looking at this huge list of charges, and I'm unaware of any other case that's even close to this," said Dean Steward, attorney for Barry "The Baron" Mills, a lead defendant.

Opening statements in the trial of Mills and three others are scheduled to begin March 14 in federal court in Santa Ana. Mills and another alleged ringleader, Tyler "The Hulk" Bingham, face the death penalty in what could be a nine-month trial.

Four more defendants are set to go on trial in Los Angeles in October; court dates in California are pending for the remaining men. Nineteen of the 40 defendants struck plea bargains, and one has died.

The 140-page indictment against the gang alleges a web of conspiracies to murder fellow inmates who offended gang members, cheated them on drug deals, failed to comply with the orders of leaders or snitched to prison authorities. Prosecutors, who declined to be interviewed, spent six years compiling evidence and relied on informants for much of their case.

Court documents suggest that patient gang members waited months to carry out the violent tasks ordered by their leaders, passing information from prison to prison and member to member using friends and spouses on the outside, corrupt prison guards and notes written with invisible ink.

In one case, for example, members of the Aryan Brotherhood allegedly spent a year planning the murder of Richard Barnes, the father of a fellow gang member who had testified against the gang. Members funneled his address and firearms to someone on the outside, who shot him in the head in 1983, according to court documents.

"This has the potential of being incredibly damaging to the brotherhood," said Joanna Mendelson, an investigative researcher with the Anti-Defamation League, which tracks the Aryan Brotherhood. "They rank among the most organized, systematic gangs in all the prison system."

Mills, who faces a number of charges in the current case, has already been convicted of luring another inmate into a recreation shack at a federal lockup in Atlanta in 1979 with the promise that he would get a new tattoo.

Instead, Mills nearly decapitated the man with a handmade knife - his punishment for cheating the brotherhood on a drug deal, according to court documents.

Mills, now 57, went on to become a founder of a three-member group that prosecutors say ordered and approved murders carried out by gang members or aspiring members. He is currently serving two life terms for the 1979 murder, which is detailed in the indictment as part of the government's racketeering case.

Mills, Bingham and the others going to trial have pleaded not guilty.

"The reality is, federal penitentiaries are violent and dangerous places and all of these guys - white guys - are a small minority and they're just trying to survive," Steward said.

Civil rights groups that monitor the Aryan Brotherhood say highly disciplined gang members managed to communicate frequently, despite 23 hours a day in solitary confinement.

Accused members often acted as their own attorneys and subpoenaed other brotherhood members to testify, allowing them to pass messages in court through hand signals and code words or slip messages into legal files, said Melissa Carr, an expert on the gang with the Anti-Defamation League.

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Some gang members write messages to outside helpers using coded alphabets or invisible ink made with their own urine, she said, while others pass tiny messages on a string, called "kites," from one cell to another when guards aren't looking.

Experts say prosecutors will face challenges in their push for death penalties - particularly because nearly all the victims were convicted felons and many defendants are already serving long prison terms.

"The jury says, 'Well, these people are in prison already and if they kill other prison inmates, who cares?'" said William McGuigan, a defense attorney who has worked on several Mexican Mafia cases. "They aren't outraged like they are if the victims are ordinary citizens."

Lemon Grove Medical Clinic Shut Down In Alleged Fraud Conspiracy (SDUT)

By Angelica Martinez, UNION-TRIBUNE BREAKING NEWS TEAM

The San Diego Union-Tribune, March 7, 2006

SAN DIEGO – A Lemon Grove medical clinic was shut down after its owners and employees were charged with defrauding Medi-Cal out of more than $2 million, authorities said Monday.

Nine people, including the owners and a doctor who worked at a medical clinic on Golden Avenue east of Lemon Grove Avenue, were indicted last week on 47 counts that included conspiracy; insurance fraud; capping, or illegally referring patients; tax evasion; grand theft and operating a business without workers' compensation insurance, the District Attorney's Office announced.

During the course of a 15-month investigation, the clinic billed Medi-Cal more than $2 million for services patients did not receive, said District Attorney Bonnie Dumanis.

“This was a tremendous amount of money and they were targeting vulnerable people,” Dumanis said.

FBI agents first learned about the clinic in November 2004 when patients complained that they were being billed for treatment that they did not receive, said Daniel R. Dzwilewski, special agent in charge of the San Diego FBI office.

Dumanis said the scheme targeted patients who are elderly and speak poor English. She said they were recruited at casinos, trolley stops and senior citizen homes.

The services the clinic billed Medi-Cal for but did not perform included nerve conduction studies, elaborate dizziness testing and other tests.

“The clinic was like a cash register,” said Rita Hanscom, a deputy district attorney.

Several of the employees also did not report the fraudulent income they earned from Medi-Cal and did not file related employment taxes, officials said. They said the clinic also did not have workers' compensation insurance.

One of those charged, Dr. Arthur Vallejo, wrote repetitive or useless prescriptions that cost Medi-Cal more than $53,000, officials said.

Vallejo, 46, and his wife, Cynthia, 28, both of Downey, were indicted along with clinic owners Anush Manukyan, 45, and her husband, Rafik, 50, both of Van Nuys.

Others indicted were Tommie L. Williams Jr., 52, of La Mesa; Marites Ramano Dioso, 34, of National City; Fernando C. Lantano, 40, and Alicia Musa Leonardo, 72, both of San Diego and Erlinda Solon Cabungcal, 62, of National City.

Patients told investigators they were paid to go to the clinic by Cabungcal, Dioso, Lantana and Leonardo.

Authorities said a North Hollywood clinic owned by the Manukyans was also under investigation.

Feds Expand Dearborn Credit Fraud Case With Indictments (DEN)

By David Shepardson

Detroit News, March 7, 2006

What started with two brothers now has 17 more people; racketeering, conspiracy are alleged.

DEARBORN -- What began as an investigation into whether two Dearborn brothers committed credit card fraud has grown into a money-laundering indictment charging the pair and 17 of their business associates and relatives.

Defense attorneys now say prosecutors threatened to indict the suspects' family members unless they agreed to plead guilty. They also accuse government investigators of improperly obtaining secret wiretaps in the investigation of Dearborn perfume distributor Ali Abdul Karim Farhat and his brother, Hassan Farhat.

When plea negotiations with some suspects failed, a federal grand jury in recent months charged additional people with bankruptcy fraud, conspiracy, false statements, mail fraud, bank fraud, money laundering and racketeering. In total, the indictments allege that the ring defrauded banks of $1.7 million.

At the same time, hundreds of pages of secret wiretap records recently made public show that the FBI's Joint Terrorism Task Force went to great lengths in its investigation of the Farhats -- installing a secret surveillance camera outside a Dearborn business, stealing a suspect's trash and having an undercover agent pose as a businessman seated next to a suspect on an airplane flight.

In January 2004, the two brothers were charged with conspiracy to distribute cocaine and held without bond for two weeks. Their arrest came largely on the basis of testimony from Myron Strong, a longtime FBI informant who later pleaded guilty to inventing evidence and conning the FBI out of $240,000. Strong is serving a 10-year-prison sentence.

The Farhats also were accused of supporting Hezbollah, the Lebanese terror group -- a claim withdrawn in February 2004 when, based on the unreliability of Strong's testimony, government prosecutors also dismissed the drug charge.

In April 2004, a federal grand jury indicted Ali Farhat and his brother, along with eight other people. In two later indictments, the grand jury added nine additional suspects.

The group was charged with running a "credit card bust-out scheme" that involved obtaining credit cards, racking up large balances and defaulting on the loans.

Defense lawyers say that by December 2004, the U.S. attorney's office began circulating plea agreements contingent on all defendants pleading guilty. At the time, 12 people had been indicted.

Defense lawyers say the plea offers were coercive.

"The government made threats and used intimidation in an attempt to coerce guilty pleas from the defendants," said a filing signed by eight defense lawyers and written by Philip J. Thomas, a lawyer for Abdul Halim Berro, one of the defendants.

"It is beyond comprehension how a federal prosecutor could be allowed to engage in bribe tactics in order to induce a guilty plea," Thomas wrote.

Assistant U.S. Attorney Cathleen Corken, the lead prosecutor, said the government would respond to the defense motions by March 8 -- Wednesday. A U.S. district judge set a March 30 hearing.

Sniper Lists Complaints To Judge (WT/AP)

By Stephen Manning

The Washington Times, March 7, 2006

Convicted sniper mastermind John Allen Muhammad appeared in Montgomery County Circuit Court in Rockville yesterday with a list of complaints, including charges that jailers have restricted his access to court documents in his trial for six Washington-area sniper shootings.

He also complained about disagreements with his attorneys over legal filings and that he had been denied long underwear to wear in court.

Muhammad also lost a pair of pretrial motions during yesterday's hearing in advance of his scheduled May 1 trial. He was transferred to Montgomery County last summer from Virginia, where he has been sentenced to death.

Circuit Judge John Ryan granted a request from county prosecutors to present evidence of other shootings Muhammad and accomplice Lee Boyd Malvo are accused of carrying out before and during the three-week October 2002 shooting rampage in the Washington region.

Judge Ryan also blocked a request by Muhammad's attorneys to hold separate trials for some of the six murders that occurred in Montgomery County, the first on Oct. 2 and the last on Oct. 22, 2002.

When the motion was first presented in court, Muhammad cut short his court-appointed attorney, saying he never agreed to filing the motion.

"I ask for that motion not to be put in," he said before the motion was heard. "I disagree with it 100 percent, Your Honor."

Throughout a legal process that began with his 2003 murder trial, conviction and death sentence in Virginia, Muhammad has actively inserted himself into his defense.

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Shortly before his first trial began, he briefly dismissed his attorneys and handled his own case, making an opening statement and questioning some witnesses. He eventually allowed his attorneys to return.

In court yesterday, Montgomery corrections officials testified that Muhammad has seven boxes of legal documents that he brought with him from Virginia.

He worked out an agreement with his jailers that gives him access to the material, but he complained that prison officials only give him limited records at a time. He said he needed to review much of it at the same time.

"I asked for access to all the material," he said. "All of the quote-unquote crimes that I committed occurred together."

Robert Green, warden of the Montgomery County jail, testified that Muhammad has adequate access to his records. Judge Ryan agreed after hearing both arguments.

Prosecutors say Muhammad and Malvo tried to extort $10 million from local governments during their spree. In all, they are accused of killing 10 persons and wounding three in Maryland, Virginia and the District in October 2002. They have been linked to earlier killings in Alabama, Georgia, Louisiana and Washington state.

Malvo was also convicted in Virginia and sentenced to life in prison. He is scheduled to go on trial in Montgomery County in the fall for the six murders.

Malvo is not eligible for a death sentence because he was 17 when the murders occurred, and prosecutors said last week that they will not seek a death sentence for Muhammad in Maryland.

Grand Jury Decries 'Arrests Without Merit' (BSUN)

By Julie Bykowicz

The Baltimore Sun, March 7, 2006

A Baltimore grand jury is calling for the number of city arrests that fail to result in criminal charges to be cut in half, saying such arrests erode public confidence in the Police Department, according to a report released Monday.

"If the staggering number of arrests is to be validated, the percentage of arrests without merit must be drastically reduced," the report says. The jurors also said that frequent police stops of residents is an approach "bordering on violating a person's constitutional rights."

The panel of 23 grand jurors that met from September to January was asked by a Baltimore Circuit Court judge to "address the lack of confidence that exists between many members of the public and law enforcement."

The grand jury appears to have done its research by reviewing media reports and arrest statistics, as well as speaking with each other and with "several" residents, though the report does not say how many. Grand jurors talked to one person from the Police Department, the head of education and training.

The report gives about two dozen recommendations, but few are specific. One example: "Improve the quality of narcotics arrests." One recommendation was to reduce "arrests without merit" -- an apparent reference to arrests that don't result in charges -- by at least 50 percent before the end of this year.

The report cites a state Department of Public Safety and Correctional Services report that 21,721 African-Americans in Baltimore were arrested but not charged between April 2004 and March 2005. Grand jurors said this number shows that "countless people have been harassed."

Lt. Paul M. Blair Jr., president of the city police union, had not read the report, but he said that the recommendation to make fewer arrests conflicts with what officers hear at neighborhood meetings where residents complain about quality-of-life issues.

"Can they tell us which neighborhoods we should stop making arrests in?" Blair asked. "It sounds like it was a waste of paper if that's all they came out with."

Matt Jablow, a Police Department spokesman, said the phrase "without merit" does not make sense. "Officers are not allowed to make arrests without merit," he said. "There has to be probable cause, and that is merit."

If the grand jury is referring to reducing the number of arrests that fail to result in criminal charges, Jablow said, "we share that sentiment." He said the department has taken steps to improve training and report-writing.

The percentage of arrests that fail to generate charges has decreased from 23 percent in December to 14 percent last month, said Kristen Mahoney, chief of technical services for the city Police Department, referring to public safety statistics.

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The main function of a grand jury is to decide which criminal cases warrant indictments. Among the cases handled by this grand jury were the indictments of three Southwestern District officers. One officer is accused of raping a woman brought to the station house in handcuffs, and the other two are accused of doing nothing to stop it.

The grand jury is forbidden to discuss individual cases it hears, so those indictments are not mentioned in its report, nor is a public hearing in early January at which the police commissioner and mayor were criticized for what residents called aggressive tactics.

Circuit Judge Joseph P. McCurdy assigned the topic in September, on the heels of a Sun report about two judges saying in open court that they didn't believe police officers who were testifying in two particular cases.

"This is something the community as a whole needs to address," McCurdy said at the time.

Five years ago, another judge assigned a grand jury to study whether the public was losing confidence in the Police Department. This latest grand jury report was intended to build on those findings, which found distrust, McCurdy said. The judge did not return phone calls Monday.

The jurors -- 21 women and two men -- devoted 20 pages of its report to McCurdy's topic, touching on everything from media coverage to the number of arrests. Several recommendations were made for each topic.

Some examples:

Police officers should be "retrained to use better judgment and common sense in determining if an individual is actually involved in criminal activity."

Increase neighborhood patrols and build relationships by having officers participate in programs such as the Police Athletic League and school programs.

Create a public service announcement "emphasizing the progress that the [Police Department] has made."

Jablow, the police spokesman, said the report would be "a useful tool" in the department's efforts to build relationships. "We'll do whatever it takes to make this a safer city and to improve relations with citizens," he said.

Crackdown On Animal-rights Activists (CSM)

By Brad Knickerbocker

The Christian Science Monitor, March 7, 2006

Animal-rights activists around the country - at least the most extreme - are becoming increasingly militant. And law enforcement officials and lawmakers are stepping up efforts to combat those who break the law.

These interconnected trends came to a head in New Jersey last week when an animal rights group and six of its members were convicted of inciting violence in their campaign to shut down a company that uses animals to test drugs and other consumer products.

The group, Stop Huntingdon Animal Cruelty (SHAC), claims its actions constitute free speech. But federal prosecutors and the jury in a Trenton, N.J., courtroom called it harassment, stalking, and conspiracy - the first such conviction under the 1992 Animal Enterprise Protection Act. The lab, Huntingdon Life Sciences (HLS), the largest of its kind in the world, is based in Britain and New Jersey.

Antivivisectionists and other animal-rights proponents have been organized in the US since at least the mid-19th century. But recently, their most extreme members have become more aggressive.

Much of the focus for animal-rights supporters is on companies that produce animal products (mainly meat and fur). In their sights, too, are universities, hospitals, and other institutions that kill animals for medical research or product development. And they have been targeting anyone who does business with animal testers - financial institutions, contractors, and service providers, some with only a tenuous connection.

Activists' tactics include vandalism, personal warnings by e-mail and phone message, and other threats directed at family members - what's called "tertiary targeting."

"There really isn't a week that goes by that I don't hear about an incident," says Jacquie Calnan, president of Americans for Medical Progress in Alexandria, Va., which represents universities, pharmaceutical and biomedical corporations, and research organizations.

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Most of those engaged in medical science say animal testing is crucial to find cures for disease and new devices meant to keep people healthy.

"Virtually every human being in the country has benefited from animal research," says John Young, a lab animal veterinarian and director of comparative medicine at Cedars-Sinai Medical Center in Los Angeles.

For example, recent research (including the human genome project) established that mice and humans are virtually identical in their genetic makeup. Specially bred mice are used to investigate ways to treat human diseases.

US research facilities use more than 1 million animals every year: dogs, cats, guinea pigs, hamsters, monkeys, sheep, and other farm animals. Add in mice and rats (more than 90 percent of all lab animals), and the total jumps to nearly 30 million, according to the US Department of Agriculture.

While most such animals eventually are killed, supporters of such research say avoiding animal suffering is a major consideration in their work.

"I don't know of a scientist or veterinarian who is not committed to the welfare of the animals," says Dr. Young.

Members of SHAC, the Animal Liberation Front (ALF), and People for the Ethical Treatment of Animals (PETA), strongly disagree. In some cases, they've infiltrated research labs to produce photos and videos that show otherwise.

"It's clear that if you look at the science we have much better ways of testing drugs to see whether they're going to be toxic or helpful in human beings," says Jerry Vlasak, a trauma surgeon in Canoga Park, Calif.

"Unfortunately ... the FDA [US Food and Drug Administration] is still requiring animal testing, but they're way behind the science on this issue," says Dr. Vlasak, who's also a spokesman for radical animal rights activists that often announce their "direct actions" anonymously. "The scientific alternatives are out there."

That's a minority view in the medical community, and it is one that many lawmakers oppose.

Members of the US House and Senate are sponsoring the "Animal Enterprise Terrorism Act." It would toughen the 1992 Animal Enterprise Protection Act by imposing penalties for veiled threats to individuals and families, economic disruption or damage, and "tertiary targeting."

Along with the recent indictment of ALF activists charged with arson and other crimes in Oregon and other parts of the West, the convictions in New Jersey are a setback for extremist animal-rights activists.

Still, the crackdown by the FBI and other police agencies has not slowed activists' efforts. One anonymous group just launched a website listing the home addresses of 2,000 employees from 30 companies doing business with Huntingdon Life Sciences.

"From CEOs to lowly sales reps, from Alabama to Hawaii, we've sniffed them out," activists are told. "Visit them often, and make the message clear: when you contract with HLS... you get us!"

CIVIL LAW:

Court Upholds Campus Military Recruiting (AP-Y2)

By Gina Holland, Associated Press Writer

AP2, March 6, 2006

The Supreme Court ruled unanimously Monday that the government can force colleges to open their campuses to military recruiters despite university objections to the Pentagon's "don't ask, don't tell" policy on gays.

Justices rejected a free-speech challenge from law schools and professors who claimed they should not have to associate with military recruiters or promote their campus appearances.

The decision was a setback for universities that had become the latest battleground over the military policy allowing gay men and women to serve only if they keep their sexual orientation to themselves.

The ruling does not, however, answer broader questions about the policy itself. Challenges are pending in courts in Boston and Los Angeles that could eventually reach the high court.

Justices seemed swayed by the Bush administration's arguments that after the terrorist attacks, and during the war in Iraq, the government had a responsibility to bolster its recruitment.

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Chief Justice John Roberts said that campus visits are an effective recruiting tool. And, he said, "a military recruiter's mere presence on campus does not violate a law school's right to associate, regardless of how repugnant the law school considers the recruiter's message."

The 8-0 decision upheld a federal law that says universities must give the military the same access as other recruiters or forfeit federal money.

Justices ruled even more broadly, saying that Congress could directly demand military access on campus without linking the requirement to federal money.

"When you're in the middle of war, even if it's not a terribly popular one, courts are hesitant to tie the hands of the military," said Jon Davidson, legal director of gay rights group Lambda Legal.

Jay Sekulow, chief counsel for the American Center for Law and Justice, called the decision "an important victory for the military and ultimately for our national security."

The military's policy had put college leaders in a thorny situation because of campus rules that forbid participation of recruiters representing agencies or private companies that have discriminatory policies.

Most college leaders have said they could not afford to lose federal help, some $35 billion a year.

Roberts, writing his third decision since joining the court last fall, said there are other less drastic options for protesting the policy. "Students and faculty are free to associate to voice their disapproval of the military's message," he wrote.

Joshua Rosenkranz, the attorney for the challengers of the law, said that the case called attention to the military policy. "A silver lining to the Supreme Court's opinion is the court made it clear," he said, "law schools are free to organize protests."

Geoffrey Shields, dean of Vermont Law School, said the school since 1999 has given up some federal money and will continue to bar recruiters "as a symbol of the importance of fair treatment of all people."

"We've stuck to our guns and I anticipate we'll continue to stick to our guns," he said.

Roberts' decision carefully sidestepped taking a stand on the policy itself, although he explained in a footnote that under don't ask, don't tell, "a person generally may not serve in the Armed Forces if he has engaged in homosexual acts, stated that he is a homosexual, or married a person of the same sex."

The court roundly rejected arguments that the policy raised important First Amendment free-speech issues for school leaders.

"Compelling a law school that sends scheduling e-mails for other recruiters to send one for a military recruiter is simply not the same as forcing a student to pledge allegiance, or forcing a Jehovah's Witness to display the motto 'Live Free or Die,'" Roberts wrote.

Roberts filed the only opinion, which was joined by every justice but Samuel Alito. Alito did not participate because he was not on the bench when the case was argued three months ago.

Congress passed the law, known as the Solomon Amendment after its first congressional sponsor, in 1994 — the same year that the "don't ask, don't tell" law took effect. Since then, an estimated 10,000 people have been discharged.

Air Force Lt. Col. Ellen Krenke, a Pentagon spokeswoman, said Monday that "equal access to law school, and all schools for that matter, for our recruiters is crucial to ensuring we attract a diverse and highly qualified pool of applicants."

"The Solomon Amendment neither limits what law schools may say nor requires them to say anything," the chief justice said.

The case is Rumsfeld v. Forum for Academic and Institutional Rights, 04-1152.

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On the Net:

Supreme Court: http://www.supremecourtus.gov/

Supreme Court Sides With Military On Recruiters' Access To Campuses (KRT)

By Stephen Henderson

Knight Ridder, March 6, 2006

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WASHINGTON - The Supreme Court said Monday that Congress isn't trampling free speech by threatening to withhold federal funding from universities that kick military recruiters off campus because the Pentagon's "don't ask, don't tell" policy on gays conflicts with the schools' anti-discrimination practices.

In a unanimous 8-0 ruling, the justices said Congress isn't stopping the universities from protesting the policy, nor is it asking the schools to endorse the policy by granting military recruiters the same access they give other employers.

Congress' Solomon Amendment merely seeks to regulate what universities "must do - afford equal access to military recruiters - not what they may or may not say," Chief Justice John G. Roberts wrote for the court.

The ruling is a big boost to the military and a blow to 36 law schools that joined forces to fight what they'd described as overreaching by Congress. The schools will now face a choice: Grant military recruiters full access to their campuses, or forfeit what in some cases is hundreds of millions of dollars.

"It's an untenable choice, there's just no question about it," said E. Joshua Rosenkranz, the attorney for the schools. "But this is a skirmish in a much bigger war about equality and human dignity. That's a war we're winning."

The case ends a dispute that dates back decades but intensified in 2002, when lawmakers eager to boost military recruiting in the wake of the Sept. 11, 2001, terrorist attacks got tough on universities.

In essence, they tied federal funding for universities to the hospitality they extend to military recruiters. Schools that treated the military like other employers would get their money. Those that chose to express their displeasure with the military's policy on gays by sending recruiters off campus or denying them the kind of reception that other employers received would have to forfeit their funds.

Since 1994, the military's policy of "don't ask, don't tell" has allowed gay men and women to serve as long as they didn't disclose their sexual preference or perform blatant homosexual acts in public.

Many law schools have stringent anti-discrimination policies that include protections for homosexuals; they give the same chilly welcome to recruiters from all employers that they feel discriminate.

A group of law schools objected to the new rules, saying Congress' edict was a violation of their free speech rights. They argued that it not only slapped down their protest, but also forced them to "associate" with the military's message by facilitating their recruitment efforts.

A federal district court rejected their arguments, but the 3rd Circuit Court of Appeals in Philadelphia sided with the schools, saying Congress' action was likely unconstitutional.

At the Supreme Court last fall, it seemed clear that the justices weren't buying the schools' argument. Several justices said it was within Congress' power to tie funding to access.

Roberts asked several times why, if the law schools felt so strongly about the policy, they didn't forgo the federal money.

In his opinion on Monday, he outlined how First Amendment protections of free speech and association weren't jeopardized by what Congress did.

"The Solomon Amendment neither limits what law schools may say nor requires them to say anything," Roberts wrote. "Law schools remain free under the statute to express whatever views they may have on the military's congressionally mandated employment policy, all the while retaining eligibility for federal funds."

He noted that the law might require schools to send e-mails or post notices about military recruiters because they do it for other businesses. But he said such "compelled speech" was only incidental to the requirement that military recruiters be treated equally.

Comparing that situation to similar ones the court has faced, Roberts wrote: "Compelling a law school that sends scheduling e-mails for other recruiters to send one for a military recruiter is simply not the same as forcing a student to pledge allegiance, or forcing a Jehovah's Witness to display the motto `Live Free or Die.'" He said it "trivializes" constitutional protections to suggest that the law schools face similar burdens.

Roberts said law schools aren't "speaking" when they aid students in the recruitment process.

"Unlike a parade organizer's choice of parade contingents, a law school's decision to allow recruiters on campus is not inherently expressive," Roberts wrote. "Law schools facilitate recruiting to assist their students in obtaining jobs. A law school's recruiting services lack the expressive quality of a parade, a newsletter, or the editorial page of a newspaper."

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Rosenkranz, picking up on the court's insistence that the law didn't prohibit law schools from opposing the military's policy, said some might respond with more aggressive protests.

"Imagine signs over interview rooms saying: `Danger: Discriminating employer inside.' Or imagine school-sponsored protests when military recruiters come," he said. "You haven't even seen protests until now."

The court's 8-0 ruling reflects the absence of Justice Samuel Alito, who hadn't been confirmed to the court when the case was argued and thus didn't vote.

U.S. Wins Ruling Over Recruiting At Universities (NYT)

By Linda Greenhouse

The New York Times, March 7, 2006

WASHINGTON, March 6 — The Supreme Court on Monday upheld a law that cuts federal financing for universities if they do not give military recruiters the same access to students that other potential employers receive. The court ruled that the law does not violate the free-speech rights of universities that object to the military's exclusion of gay men and lesbians who are open about their sexual orientation.

The opinion by Chief Justice John G. Roberts Jr. was unanimous.

It was a setback, although hardly an unexpected one, to a coalition of law schools that brought the constitutional challenge, as well as to the Association of American Law Schools, which represents nearly all accredited law schools and since 1991 has required adherence to a nondiscrimination policy on sexual orientation as a condition of membership.

Many law schools initially chose to comply with the association's policy by barring military recruiters or by taking such steps as refusing to help the recruiters schedule appointments or relegating them to less favorable locations for meeting with students.

Congress responded with a series of increasingly punitive measures, all known as the Solomon Amendment, culminating in the 2004 statute at issue in the case. It requires access for military recruiters "that is at least equal in quality and scope" to access for other employers, on pain of forfeiting grants to the entire university from eight federal agencies, including the Departments of Defense, Education, and Health and Human Services.

With hundreds of millions of dollars at stake, all but a handful of law schools yielded. Nearly three dozen banded together as the Forum for Academic and Institutional Rights and turned to the courts.

Carl C. Monk, executive director of the law school association, said in an interview on Monday that the group would continue to require its member schools to engage in "significant" activities to counter the impact of the Solomon Amendment, such as organizing faculty forums at which the military's policy could be analyzed and challenged.

The plaintiffs had persuaded the federal appeals court in Philadelphia that the Solomon Amendment imposed an "unconstitutional condition" on the universities' receipt of federal money by requiring them to surrender their First Amendment rights and become involuntary carriers of the government's anti-gay message.

But Chief Justice Roberts said on Monday that the plaintiffs' theory of the case, as well as the opinion by the United States Court of Appeals for the Third Circuit, was based on a fundamental misperception about what the Solomon Amendment was imposing.

"As a general matter, the Solomon Amendment regulates conduct, not speech," the chief justice said. "It affects what law schools must do — afford equal access to military recruiters — not what they may or may not say."

Pointing out that law schools remained free to disavow the military's policy, to denounce it or even to help students organize protests, Chief Justice Roberts said that "the Solomon Amendment neither limits what law schools may say nor requires them to say anything."

Citing a 1990 Supreme Court decision that upheld an equal-access requirement for student religious clubs in high schools, he continued: "We have held that high school students can appreciate the difference between speech a school sponsors and speech the school permits because legally required to do so. Surely students have not lost that ability by the time they get to law school."

To the extent that speech is involved when a military recruiter visits a campus, the chief justice said, the speech is "clearly" the government's, not the law school's. He said that placing the incidental assistance that universities must provide to military

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recruiters on the same plane as compelling students to recite the Pledge of Allegiance "trivializes the freedom protected" by a 1943 Supreme Court decision holding that the Pledge may not be required.

While the conclusion that the Solomon Amendment does not directly infringe on the law schools' free-speech rights was at the heart of the court's analysis, the opinion contained several other important threads.

One was the conclusion that allowing military recruiters on campus was not an "inherently expressive" activity. Therefore, Chief Justice Roberts said, the case was not governed by two Supreme Court precedents dealing with freedom of expression. One of them declared unconstitutional a Florida law that required newspapers to grant a "right of reply." The other allowed organizers of the St. Patrick's Day parade in Boston to exclude a gay-pride group despite a nondiscrimination ordinance.

The difference, the chief justice said, was that both the newspaper and the parade organizers were engaged in expression with which the government could not constitutionally interfere, while law schools "are not speaking when they host interviews and recruiting receptions."

Another conclusion was that the Solomon Amendment did not interfere with another interest protected by the First Amendment, the law schools' freedom of association. The appeals court had found a violation of this freedom by analogy to a Supreme Court decision in 2000 that gave the Boy Scouts the right to exclude a gay scoutmaster despite a New Jersey nondiscrimination law.

The analogy was incorrect, Chief Justice Roberts said. Unlike Boy Scout leaders who become part of the organization, "recruiters are, by definition, outsiders who come onto campus for the limited purpose of trying to hire students — not to become members of the school's expressive association," he said, adding, "This distinction is critical."

The court also rejected an alternative theory of the case put forward by groups of professors from Harvard and Columbia Law Schools. Under their theory, the Solomon Amendment's mandate for equal access could be met by a school that simply excluded all employers who did not attest to a nondiscrimination policy. "That is rather clearly not what Congress had in mind," Chief Justice Roberts said, adding that this interpretation of the Solomon Amendment "would render it a largely meaningless exercise."

The constitutional power of Congress to "raise and support armies" was another significant thread in the opinion. Chief Justice Roberts said that in exercising that power, Congress could have directly required universities to admit military recruiters, instead of taking the more indirect approach of making access a condition of federal financing. "It is clear that a funding condition cannot be unconstitutional if it could be constitutionally imposed directly," he said.

The military interviews about 2,500 law students each year and hires about 400 for its Judge Advocate General's Corps, said Ellen Krenke, a spokeswoman for the Defense Department. The court's decision will not change the actual practice on most campuses because all but a few are in compliance with the amendment, she said.

The decision, Rumsfeld v. Forum for Academic and Institutional Rights, No. 04-1152, was announced on a day when, coincidentally, some four dozen uniformed Army lawyers were in the courtroom to be sworn in as members of the Supreme Court bar.

Paula C. Johnson, a named plaintiff in the lawsuit who is a law professor at Syracuse University and a visiting professor this semester at the City University of New York's law school, said that it was too early to talk about what campuses might do, but that she expected "things will begin to happen" as opponents of the military's policy had time to better organize.

"This could be a very important galvanizing measure," she said.

Mr. Monk, of the law school association, said in the interview that law schools retained the obligation to "create a welcoming environment for all their students." He added, "Ultimately, our hope is that gay and lesbian students who want to serve their country by becoming military attorneys will be able to do so."

Justices Back Military Recruiting At Colleges Taking Federal Aid (WSJ)

By Jess Bravin And John Hechinger

The Wall Street Journal, March 7, 2006

WASHINGTON -- Universities must give the military equal standing with other employers in on-campus recruiting or lose federal funding, the Supreme Court ruled.

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The unanimous decision, written by Chief Justice John Roberts, addresses a protest waged by many law schools against the military's policy of excluding homosexuals, but is unlikely to end it.

Chai R. Feldblum, a professor at Georgetown University Law Center, said the decision would mean that law professors and students would now rechannel their efforts. The Supreme Court decision said schools were free to protest military recruiters, and Prof. Feldblum said she expected those protests to intensify and proliferate.

"I see that as a gauntlet thrown down by the Supreme Court, and I hope and expect that the law schools will pick it up," said Prof. Feldblum, a founding member of the Forum for Academic and Institutional Rights, or FAIR, the group of 36 law schools and faculties mounting the challenge. Prof. Feldblum said she also believed law schools would support legal challenges to the constitutionality of the military's "don't ask, don't tell" policy, as well as efforts in Congress to change the law.

The schools had sought to deny military recruiters access to job fairs and other placement activities, citing the policy of the institutions' governing body, the American Association of Law Schools. Since 1990, the group has included sexual orientation along with race, religion, sex and other characteristics for which discrimination is forbidden. The schools required employers participating in placement activities to pledge that they didn't discriminate on such grounds.

Although the schools said they were holding the military to the same standard as other employers, the practice outraged many in Congress, which voted to require the schools to admit recruiters or lose federal funding. The Solomon Amendment, named for its sponsor, the late Rep. Gerald Solomon (R., N.Y.), imposed the following penalty: a cutoff in funding for the entire university, not just its law school, from all federal agencies. Individual students, however, wouldn't lose financial aid, and schools with "a longstanding policy of pacifism based on historical religious affiliation" were exempt.

FAIR sued to block the Solomon Amendment, claiming it violated First Amendment freedoms of speech and association. A federal appeals court in Philadelphia agreed, pointedly citing Supreme Court freedom-of-association precedents that allowed the Boy Scouts to bar gay scoutmasters and the Boston St. Patrick's Day parade to keep a gay group from marching.

But at oral arguments in December, the justices sounded skeptical of the argument that schools were being forced to endorse a message of antipathy to homosexuals. The government's lawyer, Solicitor General Paul Clement, said schools remain free to express their views of military policy in other ways. "They could put signs on the bulletin board next to the door, they could engage in speech, they could help organize student protests," he said.

Not all law students and professors oppose the Solomon Amendment, however. At various points in the litigation, a group of law students and professors, including several well-known conservative academics, filed a brief supporting the government's position, as did a group of law students who are veterans or currently serve in the military reserves.

In yesterday's opinion, the chief justice wrote that the military stands apart from other institutions, as the Constitution grants Congress power to "provide for the common defense" and to "raise and support armies."

The military's legal branch, the Judge Advocate General's Corps, annually visits about 200 law schools, at which recruiters interview approximately 2,500 students. Ultimately, about 1,000 of that number seek to join and 400 are accepted, said Pentagon spokeswoman, Lt. Col. Ellen Krenke.

Yale Law School's dean, Harold Hongju Koh, said a separate challenge to the Solomon Amendment he and several faculty members filed remains before a lower court. He said that the Supreme Court's "decision is clearly an invitation for law schools to engage in more speech, not less, in the months ahead. Many of us here at Yale Law School plan to accept that invitation."

Billions of dollars were at stake in the dispute. At Yale alone, $300 million in annual federal funding was in jeopardy because of the university's stance, according to the Yale faculty's lawsuit.

Dean Larry Kramer of Stanford Law School said that his administration would continue to endorse student demonstrations against military recruiters. But he said that the issue largely was symbolic. "For what it's worth, there's very little interest among our students in going into the JAG Corps, quite apart" from the military's antigay policies, Mr. Kramer said.

Michael Armini, a spokesman for Harvard Law School, said the decision wouldn't affect military recruiting on campus because the school already was in compliance with the Solomon Amendment.

Military Ban On Campus Rejected (WT)

By Guy Taylor

DOJ_NMG_0016332

The Washington Times, March 7, 2006

The Supreme Court yesterday ruled against universities that had prohibited military recruiters on campus.

The justices unanimously upheld a 1996 federal law that permits the government to withhold funds from universities that deny military recruiters the same access to students that is allowed other potential employers.

"Recruiters are, by definition, outsiders who come onto campus for the limited purpose of trying to hire students," Chief Justice John G. Roberts Jr. wrote for the court in his third opinion since being confirmed six months ago.

Several universities had banned military recruiters to protest the Pentagon's policy against open homosexuality in the armed forces.

The ruling arrives as the Pentagon struggles to achieve recruiting goals for an all-volunteer military force facing the strain of prolonged deployments required by the ongoing war on terrorism.

The case grew from a suit brought by a coalition of law schools and professors, who argued that their First Amendment right of free expression was violated by the 1996 law on grounds that it forced them to associate with and promote the activities of military recruiters.

Chief Justice Roberts rejected that argument, saying, "A military recruiter's mere presence on campus does not violate a law school's right to associate, regardless of how repugnant the law school considers the recruiter's message."

The chief justice said that the legal core of the case had nothing to do with the "don't ask, don't tell" policy and that allowing military recruiters at universities is paramount to attracting talent to the armed forces -- particularly to the ranks of military lawyers.

Because he was not on the court in December when the case was argued, Justice Samuel A. Alito Jr. abstained from the ruling, which drew mixed reactions from court observers yesterday.

"This decision is particularly important given that our nation is at war," said Senate Majority Leader Bill Frist, Tennessee Republican, who added the ruling "leaves no doubt that the United States military will continue to have equal access to all segments of our population ... and will be able to recruit the best and brightest that America has to offer."

The American Civil Liberties Union had filed a brief supporting the law schools, and ACLU legal director Steven R. Shapiro said universities "should not be punished by the loss of their federal funding merely because they apply the same nondiscrimination policies to the military that they apply to every other employer that seeks to recruit on campus."

Nationwide, universities and colleges receive about $35 billion in federal funding annually.

Various universities have moved to bar military recruiters in the past, most notably during widespread demonstrations against the Vietnam War in the late 1960s and early 1970s. But campus outcry took a new turn in 1993, when President Clinton signed the "don't ask, don't tell" policy into law.

The policy allows homosexuals to serve in the military, but warrants their dismissal if they announce their orientation to others.

By the mid-1990s, several university law schools began barring military recruiters, along with those of any employer who could not promise that it would not discriminate on the basis of sexual orientation, from operating on campus.

Congress responded with a law to block Defense Department funding to universities that refused to allow military recruiters. The law was later amended to block all federal funding, with the exception of student loan money, to any university that took such action

It was not clear yesterday what the Supreme Court's ruling may mean for the future of the "don't ask, don't tell policy."

Mr. Shapiro asserted that nothing in the ruling "endorses the military's 'don't ask, don't tell' policy or any other form of discrimination against gay people."

Joseph Zengerle of George Mason University School of Law -- the only law school to publicly side with the government in the case -- said the ruling fits within a high court pattern of giving "great deference to the military and how it organizes itself and handles its policies."

Citing the ongoing war on terror, Mr. Zengerle, a Vietnam veteran who heads a clinic giving free legal assistance to military personnel and their families, added, "The closer you are to a hot war, the more deference the court is going to give the executive branch and Congress in handling national security matters."

In other action yesterday, the Supreme Court:

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c Agreed to clarify when inmates can file civil rights lawsuits contesting prison conditions.

c Refused to consider whether a top judge in Illinois improperly voted to throw out a $1 billion judgment against State Farm after accepting campaign donations from company lawyers and executives.

•Declined to consider making it harder for grandparents to win visitation rights.

•Refused to hear a challenge to a statue at a Kansas college depicting a clergyman with a bishop's headdress that angered some Roman Catholics because of its phallic appearance.

Supreme Court Sides With Military Recruiters (LAW)

By Tony Mauro, Legal Times

Legal Times, March 7, 2006

Rejecting the views of some of the nation's top law schools and professors, the Supreme Court on Monday upheld the so-called Solomon Amendment, which requires universities receiving federal funds to give equal access to military recruiters on campus.

The unanimous decision was a sharp rebuke of the legal academe, many of whose members objected on First Amendment grounds to hosting military recruiters, because of the armed forces' policies against allowing open homosexuals in their ranks.

Writing for the 8-0 Court, Chief Justice John Roberts Jr. said the academics' arguments "trivialize" some of the Court's First Amendment precedents while "exaggerating" others. Justice Samuel Alito Jr. did not participate in the ruling.

"This decision will force our schools to carve out an exception to our nondiscrimination policies for the military, and that is unfortunate," said Carl Monk, executive director of the Association of American Law Schools, which has opposed discrimination in legal education on the basis of sex since 1970. But he said law schools will obey what is now "the law of the land." Monk expressed the hope that "the day is not far off when gays and lesbians will be able to serve as military lawyers."

The challenge to the Solomon Amendment was brought by the Forum for Academic and Institutional Rights, which includes the law school faculties of Stanford, Georgetown, George Washington, New York and other universities. The AALS also joined the challenge, but not as a lead plaintiff.

Georgetown law professor Mark Tushnet, a former president of the AALS, predicted that the ruling would lead to an increase in "the number and intensity of protests against military recruiting in the fall."

Roberts wrote that the law, first passed by Congress in 1994, bears no resemblance to the compelled speech the Court has struck down in other cases, such as West Virginia Board of Education v. Barnette and Wooley v. Maynard, which said states could not require students to recite the Pledge of Allegiance or force drivers to display a state motto on their license plates.

"There is nothing in this case approaching a Government-mandated pledge or motto that the school must endorse," wrote Roberts. Law schools argued that to give military recruiters equal access, they would be forced to distribute fliers or send e-mails to students that would convey an unwanted government message, but Roberts said those actions are "plainly incidental."

The ruling came as little surprise after oral arguments last December when justices showed little sympathy for the law schools' argument, especially after Solicitor General Paul Clement said law schools were free to show their disapproval of military recruiters in a variety of ways, including organizing student protests against them.

Referring to Clement's statement at oral arguments, Roberts wrote, "The Solomon Amendment neither limits what law schools may say nor requires them to say anything." Roberts added, "As a general matter, the Solomon Amendment regulates conduct, not speech. It affects what law schools must do -- afford equal access to military recruiters -- not what they may or may not say."

Roberts also rejected an argument made by former acting Solicitor General Walter Dellinger III on behalf of a group of Harvard Law School professors that includes Dean Elena Kagan (in her capacity as a professor), Laurence Tribe, Lani Guinier, Randall Kennedy, and Robert Clark (a former dean).

They argued that by giving military recruiters disfavored treatment, Harvard and other law schools were, in fact, abiding by the Solomon Amendment because they would treat any other employer who violated their nondiscrimination policies in the same disfavored way.

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But Roberts, a Harvard Law School alumnus, rejected the argument, asserting that the federal law looks to the actual access military recruiters are given, not to the policy that leads to that access. "It is insufficient for a law school to treat the military as it treats all other employers who violate its nondiscrimination policy," Roberts wrote. "Under the statute, military recruiters must be given the same access as recruiters who comply with the policy."

The law was also attacked as an unconstitutional condition on federal funding, but the Court rejected that argument, too. Roberts said that because Congress has "broad authority" in the area of military recruiting, it could have imposed the access requirement on universities directly, rather than making it a condition of federal funding. "Because the First Amendment would not prevent Congress from directly imposing the Solomon Amendment's access requirement, the statute does not place an unconstitutional condition on the receipt of federal funds," Roberts wrote.

The ruling was Roberts' third majority opinion, and all have been without dissents or separate concurrences. Some critics of the military-recruiting decision took solace in that fact Monday, suggesting it means that the Court was not announcing a sweeping new doctrine.

"The unanimity of today's decision strongly suggests that the Court did not think it was changing any existing constitutional rules," said Steve Shapiro, legal director of the American Civil Liberties Union. "Certainly, nothing in today's decision endorses the military's 'Don't ask, don't tell' policy or any other form of discrimination against gay people."

Supreme Court Upholds Campus Military Recruiting (LAT)

By David G. Savage

The Los Angeles Times, March 7, 2006

WASHINGTON — The military has a right to recruit on college campuses and at law schools nationwide, the Supreme Court ruled Monday, despite the Pentagon's policy of excluding openly gay men and women from its ranks.

The justices unanimously rejected a free speech claim brought by some law schools and professors who said they should not be forced to aid an employer who discriminates against job applicants because of their sexual orientation.

In his first major opinion for the court, Chief Justice John G. Roberts Jr. called this legal claim a stretch. The decision upheld the Solomon Amendment, in which Congress said that colleges and universities that take federal money must give the Pentagon the same right to recruit on campus as other employers.

"The Solomon Amendment regulates conduct, not speech," Roberts said. "It affects what law schools must do — afford equal access to military recruiters — not what they may or may not say. ..(It) neither limits what the law schools may say nor requires them to say anything."

Monday's case did not arise from campus opposition to the Iraq war, nor have there been major protests over military recruiting. Unlike the Vietnam era, campuses are not centers of widespread protests these days, nor have military recruiters been barred from entering campus grounds.

Nonetheless, several law schools have carried on a mostly symbolic protest against the Pentagon's refusal to change its policy against gays. Since the 1960s, the Association of American Law Schools had a policy of refusing to aid recruiting by employers who had discriminatory hiring practices. In 1990, this policy was amended to include sexual orientation.

To enforce this policy, some law schools refused to post information on recruiters for the armed forces who planned to visit, nor would they make rooms available where they could meet with students who were interested in becoming military lawyers.

"No one was denying them access. We just withheld affirmative support," said Stanford Law School dean Larry Kramer, who was a New York University law professor when the case began.

Lawmakers in Congress objected to what they saw as second-class treatment for military recruiters. In 1995, they adopted an amendment sponsored by the late Rep. Gerald Solomon (R-N.Y.) that threatened a cutoff of federal funds to a college or university that prevents the armed forces from recruiting on campus. In recent years, Congress has strengthened this amendment to say the military must be given full equal treatment when its recruiters visit a campus.

Colleges and universities did not challenge the law. They had $35 billion a year in federal aid at stake.

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"We are in a war, whether properly declared or not, and during a war, 1st Amendment rights nearly always retract," said Matthew Spitzer, dean at the USC law school. "The idea the Supreme Court would tell the federal government it could not attach a condition to the receipt of federal funds is unthinkable."

However, the law faculty at several dozen schools, including Stanford, NYU, Georgetown and the University of San Francisco, joined a lawsuit to challenge the measure as unconstitutional.

They relied in part on a Supreme Court ruling that was seen as a major setback for gays six years ago. The court in a 5-4 decision said the Boy Scouts of America had a free speech right to expel an openly gay Scout master because his presence conflicted with their message of "morally straight" behavior.

The challengers to the Solomon Amendment said the same logic should work in reverse. They said they had a free speech right to exclude anti-gay employers — including the Pentagon — because their presence would conflict with their message of tolerance and nondiscrimination.

The U.S. Court of Appeals in Philadelphia agreed and said the Solomon Amendment was unconstitutional because it "compels law schools to propagate the military's message," including its bias against gays.

The Bush administration appealed that ruling on behalf of Defense Secretary Donald Rumsfeld, and the Supreme Court had no troubling in reversing it Monday in Rumsfeld vs. FAIR.

The chief justice said the law posed no free speech problems. First, the law schools and the faculty are not required to speak in favor of the military. Second, they may speak openly against the military without losing federal money. And third, he said, students will not be fooled into thinking the law school agrees with the Pentagon because it has permitted the Pentagon to recruit on campus.

"We have held that high school students can appreciate the difference between speech a school sponsors and speech the school permits," he wrote, referring to a decision that allowed a Bible study group to meet on campus at a high school. "Surely students have not lost that ability by the time they get to law school," Roberts said.

All the justices signed his opinion except for new Justice Samuel A. Alito Jr., who did not participate.

"I am obviously disappointed. There is no sensitivity in this opinion to the important concern the law schools have," said Duke Law professor Erwin Chemerinsky, who joined the lawsuit.

At USC, the protests over the Solomon Amendment have been low-key. "We have had students sign up for an interview with a military recruiter, and they demand to know why the 'don't ask, don't tell' policy hasn't been changed," Spitzer said.

UCLA Law School dean Michael Schill said the University of California system has a policy that required giving military recruiters access to the campus. "Even if the Solomon Amendment had been struck down, we would have had our own policy that allowed them to be here," he said.

While some faculty members and students oppose the Pentagon's policy, "it has not generated a large amount of controversy in the 18 months that I've been here," he said.

Gay rights advocates said they hoped school officials would make use of their free speech rights. The court's opinion "leaves room for students and universities themselves to speak out ... and show their abhorrence of the military's policy that discriminates against gay and lesbian people," said Jon Davidson, legal director of Lambda Legal.

Court Upholds Military Recruiting Law (USAT)

By Joan Biskupic

USA Today, March 7, 2006

WASHINGTON — The U.S. government can withhold funds from universities that protest the Pentagon's ban on gay men and lesbians by denying military recruiters access to campuses and students, the Supreme Court ruled Monday.

In a unanimous opinion by Chief Justice John Roberts, the court rejected arguments from a group of law schools that claimed a federal law that allows the government to withhold funding in such situations violates colleges' First Amendment rights of free speech and free association.

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The law, known as the Solomon Amendment for its original sponsor in 1994, U.S. Rep. Gerald Solomon, R-N.Y., allows the U.S. government to deny funding to colleges that do not give military recruiters the same access and campus privileges that are given to other recruiters.

Most law schools that host recruiters insist that they sign a statement saying they do not discriminate based on sexual orientation. The law school consortium that brought the case, the Forum for Academic and Institutional Rights, said requiring schools to accept military recruiters undermined their opposition to bias and forced them to adopt a message they oppose. The military's "don't ask, don't tell" policy bars anyone who reveals his or her homosexuality from serving in the armed forces.

The case was not a test of the "don't ask, don't tell" policy. It drew attention in part because it became part of the national debate over gay civil rights and arrived at the court as the Pentagon was becoming increasingly aggressive in its wartime recruiting.

The American Association of University Professors, the American Civil Liberties Union and several universities filed briefs urging the justices to uphold a lower-court ruling that said the Solomon Amendment wrongly compelled schools to send, and subsidize, a message of discrimination.

In his first major opinion since becoming chief justice last fall, Roberts wrote, "Accommodating the military's message does not affect the law schools' speech, because the schools are not speaking when they host interviews and recruiting receptions."

Roberts said the basic communications required of colleges were bulletin board notices and e-mails. The chief justice said they hardly could be compared to the kind of "compelled" government speech that has been invalidated through the years, such as a West Virginia law that required schoolchildren to recite the Pledge of Allegiance and to salute the American flag, or a New Hampshire law that ordered the state motto — "Live Free or Die" — to be on license plates.

Joshua Rosenkranz, who represented the law schools challenging the law, said he did not expect universities to decline federal funds so they could block military recruiters. However, he said he expects faculty members and students will accelerate their public opposition to "don't ask, don't tell."

"Schools are not going to give up the money," Rosenkranz said, noting that billions in college funding are at stake. "But there are other ways to get the message across. You are going to see banners over military interview rooms and signs that say, 'Danger: Discriminating recruiters inside.' "

New Justice Samuel Alito did not participate in the case; he had not yet joined the court when the case was heard in December.

Justices Side With Military Recruiters (CSM)

By Stacy A. Teicher

The Christian Science Monitor, March 7, 2006

Military officials might have to run a bigger gantlet of protesters as they search for recruits on America's university campuses. But they no longer have to worry that they'll be shut out altogether because of the "don't ask, don't tell" policy related to gay members of the armed forces.

The Supreme Court ruled unanimously Monday that military recruiters must have the same kind of access as other employers coming onto campus to give out information and conduct job interviews, if the campus receives federal money. Most campuses rely on some share of the $35 billion the government channels each year to higher education.

An association of law schools and professors, the Forum for Academic and Institutional Rights (FAIR), filed suit against Defense Secretary Donald Rumsfeld to challenge the law that ties recruiters' access to federal funding - known as the Solomon Amendment. FAIR argued that campuses should be free to extend their own philosophy of nondiscrimination by requiring recruiters to sign pledges that they would not discriminate before being allowed the use of campus facilities. Under the Pentagon's policy, gay men and women can serve in the military only if they keep their sexual orientation to themselves.

"A military recruiter's mere presence on campus does not violate a law school's right to associate, regardless of how repugnant the law school considers the recruiter's message," wrote Chief Justice John Roberts. "The Solomon Amendment neither limits what law schools may say nor requires them to say anything."

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Supporters of the law schools' position were undeterred. "We're disappointed with the legal outcome of the case ... but this unanimous opinion is a call to arms to the law school administrations across the country," says Chai Feldblum, a law professor at Georgetown University and a board member of FAIR. The organization hopes "to see every single law school helping students to organize protests" against military recruiters on campus, "because the Supreme Court has told us that the way to exercise our First Amendment beliefs is by speaking out more."

The decision will come as welcome news for the armed services, which have worked diligently to overcome shortfalls in recruiting nationwide. In the last recruiting year, which ended in September, the Army missed its year-long goal for the first time since 1999, falling short of its target by 6,627 recruits. It represented the largest deficit since 1979.

At a time when the Pentagon is relying heavily on the Army in Iraq, recruiting is a matter of crucial importance to the military. Though higher-than-expected reenlistment rates have forestalled fears of a "broken Army," the Pentagon has made recruiting a top priority in recent months, approving enlistment bonuses of up to $40,000 and additional bonuses of $1,000 for soldiers who refer new recruits. It has also added more recruiters to the beat.

But with only a tiny fraction of recruits coming from law schools, some see the case as having a more symbolic significance.

"This was a very challenging case in some ways because, as the opinion makes clear, if you go too far in saying that allowing recruitment efforts you don't like violates your First Amendment rights, that might allow employment agencies to refuse to provide services on the basis of race, or religion, or national origin. There has to be some limit there," says Jon Davidson, legal director at Lambda Legal, a gay-rights advocacy group. Despite those intricate issues, the organization joined an amicus brief with the American Civil Liberties Union on behalf of FAIR.

Now that the campus-recruitment issue has been resolved, "the next real piece of the fight will go directly to 'don't ask, don't tell' itself," Ms. Feldblum says. She adds that cases challenging the military policy are already under way in Massachusetts and California, and a bill has been proposed in the US Congress to replace the policy with a nondiscrimination clause that includes sexual orientation.

A Victory For Military Recruiters (WP)

By Fred Barbash And Lois Romano

The Washington Post, March 7, 2006

The Supreme Court yesterday unanimously upheld a federal law that forces colleges and universities to permit military recruiting on campus, despite the schools' objections to the Pentagon ban on openly gay people serving in the armed forces.

By a vote of 8 to 0, the court upheld the Solomon Amendment, which permits the denial of federal funding to schools that do not allow military recruiters the same access given to all other job recruiters. But in ruling that schools must provide the military the same access to students as they would for any other recruiters, the justices noted that schools are still free to protest their presence on campus.

The Forum for Academic and Institutional Rights (FAIR) -- a coalition of law schools and professors that formed to sue the government -- had said the law "compelled speech" that made it appear schools were endorsing the government's exclusion of acknowledged gays in the military, thus violating the schools' right to free speech under the First Amendment.

But in writing for the court, Chief Justice John G. Roberts Jr. said that Solomon "neither limits what law schools may say nor requires them to say anything."

"Law schools remain free under the statute to express whatever views they may have on the military's congressionally mandated employment policy. . . . Nothing about recruiting suggests that law schools agree with any speech by recruiters and nothing in the Solomon Amendment restricts what the law schools may say about the military's policies," Roberts wrote.

Justice Samuel A. Alito Jr., the newest member of the court, did not take part in the case.

Though a federal district court had sided with the government, an appeals court in Philadelphia reversed that decision, ruling in favor of FAIR last year and blocking enforcement of Solomon. But yesterday's Supreme Court opinion rejected each argument that had been advanced on FAIR's behalf.

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"In this case, FAIR has attempted to stretch a number of First Amendment doctrines well beyond the sort of activities these doctrines protect," Roberts wrote.

So thorough was the court's rejection of FAIR's arguments that it ruled Congress could have achieved equal access not only indirectly, by threatening a funding cutoff, but also directly, through legislation based on its constitutional power to raise military forces. In fact, the court suggested in passing, even colleges and universities that do not receive any federal funding could be compelled by Congress to allow military recruiters.

"Congress's power in this area is broad and sweeping," Roberts wrote, "and there is no dispute in this cases that it includes the authority to require campus access to military recruiters."

So far, however, the government has chosen the more indirect approach of the Solomon Amendment. With yesterday's decision, many universities will now have to choose between their law schools' anti-discrimination principles and their dependence on federal money.

Most schools have made it clear that they could not afford to lose federal aid, which totals about $35 billion a year. Only a few schools -- including the law schools of New York University and George Washington University -- allowed their names to be publicly attached to the lawsuit.

Geoffrey Shields, dean of Vermont Law School, told the Associated Press yesterday that since 1999 his school has given up some federal money and will continue to bar recruiters "as a symbol of the importance of fair treatment of all people."

"We've stuck to our guns, and I anticipate we'll continue to stick to our guns," he said.

Sen. John Cornyn (R-Tex.), who had called the appellate court's decision in favor of FAIR an "insult" to the military, said in a statement yesterday that "this decision will ensure that the military will continue to be comprised of our nation's finest -- men and women who know how to defend our country in a manner consistent with our values and principles."

Supporters of FAIR took solace in passages of the opinion that noted students and others would still be free to protest military recruiters. Tensions between Congress and academia over university efforts to restrict military recruitment date to the Vietnam War and campus protests against it.

"The court affirmed the idea of a vigorous public forum and that's what's refreshing," said Michael Tigar, a law professor at American University and an opponent of Solomon. "The opinion sounds these First Amendment themes. The message is: If you don't like something, there is always more speech."

Joshua Rosencranz, a New York lawyer who represented FAIR in the case, said the schools always saw the suit as a "scrimmage in a broader war" about equality.

"We brought the suit in part because there are those saying 'How dare you let protesters on campus when the recruiters were there?' " he said. "Well, this opinion makes clear that those rights are still in tact. It forced the government to state what the line was."

Attaching various strings to federal funding is itself standard practice, used most famously to secure equal treatment for women in athletic programs. It's been upheld by the courts in part because the educational institutions are free to reject the money if they object to the strings.

The decision, while closely watched, was unsurprising after the oral arguments in the case, during which the justices expressed great skepticism about equating the recruiting with protected expression. Roberts wrote that although the court held in 1977 that New Hampshire motorists cannot be compelled to display the state motto -- "Live Free or Die" -- on license plates, in this case the government "does not require any similar expression by law schools" and "does not dictate the content of speech at all."

"Compelling a law school that sends scheduling e-mails for other recruiters to send one for a military recruiter is simply not the same as forcing a student to pledge allegiance, or forcing a Jehovah's Witness to display the motto 'Live Free or Die,' " Roberts wrote.

Army 8, Yale 0 (WSJ)

The Wall Street Journal, March 7, 2006

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Yesterday the Supreme Court upheld a provision of a law called the Solomon Amendment, which conditions federal funding for colleges and universities on their providing military recruiters the same access they grant to other employers. The decision was no Solomonic compromise but a complete rout of the other-worldly professors who had challenged the law.

Those professors, opponents of the Clinton-era law barring open homosexuals from military service, had claimed the Solomon Amendment violated their First Amendment rights by forcing them, as the Yale faculty put it in a friend-of-the-court brief, "to assist the military in telling some Yale Law students that they are not fit to serve in our country's armed forces because of their sexual orientation."

Chief Justice John Roberts, in an 8-0 decision (Justice Samuel Alito joined too late to participate), laughed the free-speech claim out of court: "Congress, for example, can prohibit employers from discriminating in hiring on the basis of race. The fact that this will require an employer to take down a sign reading 'White Applicants Only' hardly means that the law should be analyzed as one regulating the employer's speech rather than conduct."

And of course anti-military professors, unlike racist employers, are completely free to speak their minds on the subject. Yale can even show its disagreement with mainstream America, as it recently did, by admitting as a student a former senior official of Afghanistan's Taliban, a regime that treated homosexuals far more harshly than the U.S. military ever has.

The Solomon Amendment only denies federal funding to schools that discriminate against the military, but the High Court went one step further: It held that Congress, under its Constitutional authority to "provide for the common Defence," "to raise and support Armies" and "to provide and maintain a Navy," could mandate that colleges and universities permit military recruiters on campus, whether they accept federal money or not.

We hope Congress does not do so. If those who run America's institutions of higher education really have principled objections to the military's presence, let them take a stand by declining taxpayer money. Then the rest of us can find out how much their principles are worth.

Now Repeal The Ban (WP)

The Washington Post, March 7, 2006

THE SUPREME Court's unanimous decision yesterday upholding the Solomon Amendment is no surprise. It offers the correct answer to the legal question the case posed: Can the government deny federal money to universities that, in protest of the military's discrimination against homosexual service members, bar military recruiters from campus or grant them access on terms less welcoming than those given to other employers? As the court ruled, the universities don't have a right to that money. But the Pentagon's legal win should not obscure the indefensible nature of the policy that underlies the dispute. The gay ban still needs to be repealed.

The Solomon Amendment, named for the late representative Gerald B.H. Solomon (R-N.Y.), is bad policy, but it's not unconstitutional. The threat to withhold federal money leaves law schools with an uncomfortable choice between forsaking federal support and violating their own anti-discrimination policies. But the First Amendment does not prohibit the government from attaching conditions to its largess. Universities remain free to oppose U.S. policy as vocally as they like. They just can't frustrate military recruiting efforts while accepting federal dollars. As Chief Justice John G. Roberts Jr. put it for the court, "Compelling a law school that sends e-mails for other recruiters to send one for a military recruiter is simply not the same as forcing a student to pledge allegiance to the flag . . . or forcing a Jehovah's Witness to display a particular motto on his license plate" -- forms of compelled speech the court has struck down. It "trivializes the freedom protected in [those cases] to suggest that it is."

It also trivializes the plight of gays in the military to focus on the ancillary consequences of the gay ban for American law schools. Universities are not the primary victim here. The real problem, which this litigation has tended to obscure, is that the military, even while fighting two wars, continues to root out Americans who wish to help by maintaining a policy that bars anyone who is openly gay. It robs itself of much-needed talent by way of their humiliation and exposure while forcing those in uniform to hide who they are.

This would be distasteful even if their presence in the military posed some real problem. But there's no evidence of that. A combination of bigotry and inertia keeps the gay ban in place. Now that the military has proved it can constitutionally exempt itself

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from university nondiscrimination rules, Congress should decide whether it really wants a military that requires such an exemption.

Justice Department V. Google Court Date Postponed Again (CNET)

CNET News, March 7, 2006

Google's courtroom date with the U.S. Justice Department has been delayed a second time.

U.S. District Judge James Ware in San Jose, Calif. on Friday postponed the hearing from March 13 to March 14 at 9:00 a.m PT.

The outcome will determine whether the Bush administration will prevail in its fight to force Google to help it defend an anti-pornography law in a trial in Philadelphia this fall.

Although the Justice Department also demanded that Yahoo, Microsoft and America Online hand over similar records, Google was the only recipient that chose to fight the subpoena in court.

CIVIL RIGHTS:

Mandalay Bay Undergoes ADA Scrutiny (LVBIZ)

By VALERIE MILLER, BUSINESS PRESS

Las Vegas Business Press, March 7, 2006

Hotel says it is working with DOJ 'to resolve issues in timely manner'

Sixteen years after the passage of the Americans with Disabilities Act, the issue of hotel-casinos' compliance with the law's accessibility guidelines is again emerging as a hot-button issue. Numerous private complaints have been lodged against an assortment of casinos, and the Department of Justice told the Business Press that it is in the midst of a probe involving ADA compliance and Mandalay Bay Resort.

"It's an ongoing, active investigation. It is the resort in general," said DOJ spokesman Eric Holland, who couldn't comment further because of the investigation. He added that policy investigations must go through a preliminary review first, then, if warranted, an active investigation will be launched by the Justice Department.

MGM Mirage, which now owns Mandalay Bay, acknowledged the DOJ was looking into issues at the property prior to its absorption of the Mandalay Resort Group, which owned Mandalay Bay. That merger was completed last April. "The Department of Justice had made that company aware of certain areas of concerns," said MGM Mirage spokesperson Yvette Monet. "We are working with the Department of Justice to resolve the issues in a timely manner." Mandalay Bay's hotel does comply with the ADA's disable accessible room standards, according to information supplied by MGM Mirage.

Department of Justice is investigating whether Mandalay Bay Resort is ADA-compliant.

Two other MGM Mirage-owned properties -- the MGM Grand and New York-New York -- have reached separate settlements with the Justice Department in the past. The agreements, last revised in 2001, called for both resorts to provide more access to disabled people.

While casinos are not specifically mentioned in the Americans with Disabilities Act, it does distinguish between hotels as either "newly constructed" or "existing." Although the act was passed in 1990, the cut-off for "existing facility" status depended on whether all building permit applications and extensions were certified as complete prior to Jan. 26, 1992. Besides offering accessible restaurants, pathways and assembly areas (including convention centers, arenas, movie theaters and showrooms), the newer hotels are required to have a certain number of disabled-accessible parking spaces and rooms for wheelchair users. That room count can go as high as 4 percent of the total room inventory, but the percentage decreases as more rooms are added. A smaller number of rooms must be made available to the hearing impaired.

Existing hotels only have to do what's "readily achievable" to comply with the ADA, unless they are being renovated and are thus considered "new." "They (hotels) only have to do what can be 'easily accomplished and can be carried out without much expense,' " UNLV Boyd Law School Professor and Chair Ann McGinley said, quoting the law. "It's just when it is expensive that they don't have to do it."

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She noted that while mom-and-pop shops may find it tough to become accessible for the disabled, Las Vegas resorts might have a hard time making that case. "So much is readily achievable," she said. "When you see casinos ... they make so much money, and they can't move a toilet seat?"

VENETIAN UNDER SCRUTINY

One recently constructed Las Vegas resort isn't passing muster with Nevadans for Equal Access, a disability rights group. The Venetian Resort, according to the group's president, Paul Martin, has failed to comply with the ADA requirements by making its main bridge over its lagoon too steep for wheelchairs.

"The (Rialto) Bridge from the (Venetian's) shopping center to the (Campanile) clock tower is totally inaccessible to anybody using a wheelchair," stated the complaint sent by Nevadans for Equal Access' attorneys at the Clark County Legal Services Program to the Department of Justice in late August 2001. The Venetian was also notified, Martin said, but neither the resort nor the department ever responded. DOJ's Holland said the department never received the complaint, and surmised it was lost as a part of the mail disruption after the 9/11 terrorist attacks. The Venetian did not respond to the Business Press inquiries at press time.

While Nevadans for Equal Access had sued Binion's Horseshoe, the Plaza and the then-Showboat hotels and casinos in the mid-1990s, forcing the properties to make the needed upgrades, Martin said his group doesn't have the wherewithal to take on the behemoth Venetian without the help of the DOJ. "It would use up all the resources of Clark County Legal."

Despite the complaints, Las Vegas hotels received high marks from one disability travel resource, Emerging Horizons. The California newspaper's editor, Candy Harrington, ranked Las Vegas above cities like Orlando when it came to meeting the needs of the disabled. Most of the complaints Harrington receives about Las Vegas concerns disabled-access rooms not being available because of previous reservations.

By the Business Press' count, most hotels have either met or exceeded ADA standards. However, a source familiar with the MGM Mirage-owned Luxor, which was built on the bubble in 1993, said the property was in the midst of trying to reach an ADA-required 51 wheelchair-accessible rooms and had 38 as of a month ago. MGM Mirage's Monet maintained all of its properties are compliant with the disability act, including the Luxor, which she said had 91 accessible rooms. "I cannot comment on information from an unofficial source," she said.

The properties of the MGM Mirage go the extra mile in trying to accommodate guests with disabilities, Monet added. That includes putting in necessities such as ceiling track bars (to hoist them out of bed) in some rooms at the Mirage Resort. "If they are going to that level, they are going way beyond what the government requires," ADA consultant Thomas Schmokel, who is wheelchair-bound, said. "I never see that in hotels. Tell me who they are and I'll put them in for an award."

WYNN RESORT EARNS KUDOS

Wynn Las Vegas has installed ceiling lifts with slings in some rooms, according to Richard Cotter, Wynn's executive vice president for hotel and food and beverage. He added that all table games are accessible for wheelchair customers and that the resort in the short time it has been open received an award from a group of disabled veterans.

"I'm sure you can find non-compliance, but most of the large properties are in compliance," said Tom Jones, a UNLV professor of hotel administration, who teaches accessibility requirements.

If a lawsuit is filed against a Nevada hotel or casino because of non-ADA compliance, monetary compensation is not awarded. Salt Lake City attorney Richard Armknecht, however, believes the Nevada law can be interpreted in a way to award damages. He successfully sued the Coast Resorts' Orleans Hotel and Casino in 2001, forcing it to renovate more than 800 rooms. The attorney currently represents a woman who said she was denied public accommodations at the Tropicana's Tiffany Theater. The casino denied the charge, saying an employee gave incorrect information.

"The whole enforcement of the ADA is through the courts," added UNLV professor Jones. "Somebody might not be in compliance for years, but if nobody brings a suit, then it may never come to light."

Judicial Bias Claims Reach Calif. High Court (LAW)

By Mike Mckee, The Recorder

California Recorder, March 7, 2006

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Attorneys arguing that Alameda County, Calif., prosecutors routinely excluded Jews from death penalty juries have been asked a tricky question: Does it matter if the court record doesn't establish that any of the excused jurors were actually Jewish?

The justices of the California Supreme Court posed that question in a death row inmate's habeas case last month, and they're going to want answers during oral arguments Wednesday in San Francisco.

They also want to know whether there was actual wrongdoing if a prosecutor had a separate, valid reason for removing a juror.

The last-minute queries throw a new wrinkle into a case that has fascinated the Bay Area legal community since July 2004. That's when the high court in the habeas corpus case of death row inmate Fred Freeman ordered an investigation into whether the Alameda County district attorney's office -- in collusion with now-deceased Superior Court Judge Stanley Golde -- intentionally purged Jews from capital juries because of a perception that they wouldn't sentence someone to death.

Former Alameda County prosecutor John "Jack" Quatman, who prosecuted Freeman, raised the allegations, but wound up being branded a "dishonest and unethical" man by a Santa Clara County Superior Court judge who presided over a weeklong evidentiary hearing 11 months ago.

Judge Kevin Murphy ruled that Freeman got a fair trial and that there was ample evidence Quatman fabricated his claims to embarrass Alameda County DA Tom Orloff, who took Quatman off capital cases in 1993.

The latest questions by the Supreme Court seem to indicate that the justices could be leaning toward deciding the case on a narrow issue, possibly whether jurors were let go simply because they appeared Jewish or that their surnames -- Mishell, Peisker and Laput -- sounded Jewish.

"The whole point here is that the court is not going to be focusing on the law," said Dennis Maio, a former Supreme Court research attorney who's now of counsel in Reed Smith's San Francisco office. "The question is, was this person a member of a cognizable group and if so, did the prosecutor strike this person for that reason?"

The court's questions also seem to put a heavier burden on Freeman's attorneys at San Francisco's Habeas Corpus Resource Center -- namely, to show that prosecutors discriminated during jury selection in violation of the standards set out in People v. Wheeler, 22 Cal.3d 258, and Batson v. Kentucky, 476 U.S. 79, even though the record apparently doesn't establish who, if anyone, was Jewish.

Wheeler, issued by the state Supreme Court in 1978, and Batson, handed down by the U.S. Supreme Court in 1986, are the guidepost decisions on jury selection bias.

Neither Gary Sowards, Freeman's HCRC lawyer, nor Morris Lenk, the San Francisco deputy attorney general handling the state's case, returned calls seeking comment.

But both laid out their positions in papers filed exactly two weeks after the Supreme Court's Feb. 14 order for supplemental briefing. Predictably, they offered diametrically opposite views.

Sowards argued that the high court's own case law in 1985's People v. Motton, 39 Cal.3d 596, holds that litigants need not know the "self-reported race or ethnicity" of a juror to violate anti-discrimination standards.

"Whether or not the prospective jurors excused by the prosecutor in this case actually were Jewish," he wrote, "is irrelevant to the question of whether the prosecutor exercised his peremptory challenges with the intent to systematically exclude a cognizable class from [Freeman's] jury.

"The prosecutor," he continued, "exercised his peremptory challenges against jurors who were Jewish or that he believed were Jewish."

Sowards noted that such exclusions result in an "error of constitutional magnitude requiring reversal."

In response, Lenk pointed to the high court's own 2002 decision in People v. Gutierrez, 28 Cal.4th 1083, which involved a prospective juror who acquired her Hispanic surname through marriage.

"Absent proof that any prospective jurors excluded by a prosecutor's peremptory challenges were, in fact, members of a cognizable group, no Wheeler violation has been stated," he wrote. "In other words, the right to trial by a representative jury is not violated unless it is established that the prosecutor has excluded a person who actually is a member of a constitutionally protected group."

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Lenk and Sowards also butted heads on the court's second question, which asked whether prosecutors violate Wheeler or Batson if they not only excuse a juror for the improper reason of religious faith, but at the same time for a valid reason, such as a juror being unwilling to impose the death penalty.

Sowards argued that other reasons would be irrelevant and that "discrimination based on race or religion cannot have a place in a prosecutor's decision to strike jurors from a criminal case."

But Lenk contended that the court itself has "repeatedly declared" that prospective jurors cannot be excluded solely on the presumption they are biased because of race, religion and ethnicity. He also pointed out that the evidentiary hearing judge concluded that Quatman had lied when he claimed he had excluded jurors based on religion.

Although it's not clear what prompted the high court's questions, Stephen Barnett, a professor emeritus at Boalt Hall School of Law, speculated the justices could be reacting to the U.S. Supreme Court's Jan. 18 ruling in Rice v. Collins, 126 S.Ct. 969.

In that decision, the court held that a Los Angeles prosecutor who dismissed a black woman from a jury pool to achieve gender balance in a cocaine possession case had "a number of other permissible and plausible race-neutral reasons." Among them, the woman was young, lacked community ties and had rolled her eyes in apparent disrespect when answering a voir dire question.

"It could be that the California [Supreme] Court just wants to make sure it's up to date," Barnett said in an e-mail response. "Rice doesn't necessarily present the issues raised by the court's questions, but it can be read as doing so."

Justice Carol Corrigan, who was a witness in the underlying evidentiary hearing, will not participate in Wednesday's arguments in In re Freeman, S122590. Justice Ming Chin has also recused himself.

Subbing for them will be Justices Paul Boland, of Los Angeles' 2nd District Court of Appeal, and Judith Haller, of San Diego's 4th District.

Unnatural Selection (NYT)

By Morris B. Hoffman

The New York Times, March 7, 2006

Denver

THE side show of jury selection all too often takes over the circus in American trials. And the central culprit in that takeover is the peremptory challenge, a practice by which lawyers may exclude a certain number of prospective jurors without having to prove, or even state, a justification. Since peremptory challenges are not mandated by the federal or any state constitutions, Congress and state legislatures could abolish them tomorrow. They should.

It took Judge Lance Ito more than a month to pick the O. J. Simpson criminal jury. Selection of the Martha Stewart jury took a full week. When Judge Sim Lake of the Federal District Court in Houston spent just one day picking the jury that is hearing the criminal case against two former Enron executives, Kenneth Lay and Jeffrey Skilling, he drew scorn from some defense lawyers, who seem to presume that fairness and inefficiency are inseparable bedfellows.

His lightning performance also drew praise from some jury reformers, who have been calling for the application of many of the techniques that Judge Lake used to streamline the selection process, including limiting questioning by lawyers and having prospective jurors fill out questionnaires before selection day.

But this debate has overlooked the real problem behind ponderous and insulting jury selection. Peremptory challenges give trial lawyers the power to manipulate jury membership by rejecting perfectly fair prospective jurors for any reason or none, as long as the rejection does not smack of race, sex or ethnic discrimination.

O. J. Simpson's lawyers and their jury consultants spent weeks poring over, and following up on, the prospective jurors' answers to a questionnaire that included such questions as "What is your political affiliation?" and "Do you have a religious affiliation or preference?" The modern raison d'être of these kinds of questions is not to discover disqualifying prejudice, but quite the opposite: to allow lawyers to discover jurors they think are secretly biased in their clients' favor while using peremptory challenges to disqualify those they imagine are not.

Under current constitutional limitations, lawyers may strike you from a jury pool because you are an Aries, but not because you are a female. But it is impossible to ferret out the striking lawyers' real motives, in a system that allows them to be completely

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irrational but not discriminatory. The inquiry itself drives biased lawyers to fabricate non-discriminatory pretexts. It is often difficult, even for the challenging lawyers themselves, let alone trial judges, to know whether some deeply lurking impermissible animus might taint gestalt judgments about particular jurors.

In one famous case, a prosecutor excluded two African-American jurors because they had mustaches and beards that looked "suspicious." Is this perfectly permissible stereotypical nonsense, or unconstitutional stereotypical nonsense?

Even when they are not discriminatorily used, peremptory challenges are inconsistent with the fundamental ideal that trials are about truth detection, not about whose lawyer is the cleverest. The whole notion that lawyers may apply their own home-grown stereotypes to excuse perfectly impartial jurors, as long as those stereotypes do not touch on race, gender and ethnicity, infects the jury system with a profoundly trivializing gamesmanship. How can we expect the results of jury trials to be respected as rational applications of the law to facts found by disinterested citizens, when the process by which those citizens are selected devotes more time and energy to discovering their taste in music than their ability to be impartial?

For these and other reasons, some academics and lower court judges, jury foes and friends alike, have long criticized peremptory challenges. But last year, in a criminal case called Miller-El v. Dretke, Justice Stephen Breyer became just the second sitting Supreme Court justice in history to call formally, in a written case opinion, for the elimination of the peremptory challenge (for the record, he cited my 1977 law review article on the subject).

The first justice to do so was Thurgood Marshall, in a concurrence in Batson v. Kentucky, the 1986 case that first outlawed a prosecutor's discriminatory use of peremptory challenges in a single case (as opposed to a pattern of discrimination over many cases, which had been outlawed since 1965). As Justice Marshall presciently put it: "The decision today will not end the racial discrimination that peremptories inject into the jury-selection process. That goal can be accomplished only by eliminating peremptory challenges entirely."

Some critics of the existing system object not to peremptory challenges per se but to the notion that barring their discriminatory use is either meaningful or lawful. Justice Antonin Scalia, in particular, has been consistent and adamant in opposing extensions of the Batson doctrine — first to civil cases, then to criminal defendants (one might ask in both these circumstances what is unconstitutional about a private civil litigant, or a private criminal defendant, exhibiting racial bias in jury selection?), then to gender and ethnicity. Can religion or sexual orientation be far behind? And if it makes no sense to bar the discriminatory use of peremptory challenges on these grounds, how can we make sense of their use to discriminate on other grounds? The only solution is to get rid of them altogether.

Each extension of the Batson doctrine has subtly, and sometimes not so subtly, shifted the constitutional inquiry from the litigant's right to a fair and impartial jury (a right guaranteed, at least in the criminal arena, by the Sixth Amendment) to the prospective juror's right not to suffer race, sex or ethnic discrimination during jury selection (a right nowhere to be found in the Constitution). Today, almost 20 years after Batson, the problem is not just that racial discrimination continues to haunt jury selection, but also that the methods created to prevent it have overcorrected and now seem to value some disembodied notion of juror diversity over the constitutional command for fair trials.

To those of us who believe that jurors take their oaths seriously, that most jurors can put aside their biases, that strong facts rather than tricky lawyers win cases and that the jury system is an incredibly accurate albeit imperfect truth-finding device, the peremptory challenge system has become an embarrassment. After the latest string of California and New York celebrity trials, with 24-hour pundits constantly barraging us with their tactical and strategic views as if trials were procedural wars unrelated to any underlying truth, Justice Breyer's call for the abolition of the peremptory challenge is a welcome one. Congress and state legislatures, take note.

S.D. Enacts Ban On Nearly All Abortions (WP/AP)

By Associated Press

The Washington Post, March 7, 2006

PIERRE, S.D., March 6 -- Gov. Mike Rounds (R) signed legislation Monday banning nearly all abortions in South Dakota, setting up a court fight aimed at challenging the 1973 Supreme Court decision that legalized abortion nationwide.

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The bill would make it a crime for doctors to perform an abortion unless the procedure was necessary to save the woman's life. It would make no exception for cases of rape or incest.

Planned Parenthood, which operates the state's only abortion clinic, in Sioux Falls, has pledged to challenge the measure.

Rounds issued a written statement saying he expects the law to be tied up in court for years and not to take effect unless the Supreme Court upholds it.

"In the history of the world, the true test of a civilization is how well people treat the most vulnerable and most helpless in their society. The sponsors and supporters of this bill believe that abortion is wrong because unborn children are the most vulnerable and most helpless persons in our society. I agree with them," Rounds said in the statement.

The legislature passed the bill last month after supporters argued that the recent appointment of conservatives John G. Roberts Jr. and Samuel A. Alito Jr. have made the Supreme Court more likely to overturn Roe v. Wade .

Abortion opponents already are offering money to help the state pay legal bills for the anticipated court challenge, Rounds has said. Lawmakers said an anonymous donor has pledged $1 million to defend the ban, and the legislature set up a special account to accept donations for legal fees.

Under the new law, to go into effect July 1, doctors could be sentenced to up to five years in prison for performing an illegal abortion.

Rounds noted that it was written to make sure existing restrictions would still be enforced during the legal battle. Current state law sets increasingly stringent restrictions on abortions as pregnancy progresses; after the 24th week, the procedure is allowed only to protect the woman's health and safety.

South Dakota Bans Abortion, Setting Up A Battle (NYT)

By Monica Davey

The New York Times, March 7, 2006

Gov. Michael Rounds of South Dakota signed into law the nation's most sweeping state abortion ban on Monday, an intentional provocation meant to set up a direct legal challenge to Roe v. Wade, the 1973 United States Supreme Court decision that made abortion legal.

The law makes it a felony to perform any abortion except in a case of a pregnant woman's life being in jeopardy. Though the law is not scheduled to go into effect until July, officials working at the state's only abortion clinic, in Sioux Falls, where about 800 abortions take place each year, said they spent much of the day consoling women.

"This is a very real issue for a lot of people," said Kate Looby, state director of Planned Parenthood. "That's the part I think the legislators don't quite understand."

Mr. Rounds, a Republican, said in a statement after signing the legislation in Pierre that it was the right thing to do. The law will force a legal showdown before it ever comes into effect, an outcome its supporters, eager to overturn Roe, intended.

"In the history of the world, the true test of a civilization is how well people treat the most vulnerable and most helpless in their society," the governor said. "The sponsors and supporters of this bill believe that abortion is wrong because unborn children are the most vulnerable and most helpless persons in our society. I agree with them."

Around the country, abortion rights advocates responded with fury, calling the new law "blatantly unconstitutional," dangerous and counter to what a majority of Americans would support. Planned Parenthood, which operates the abortion clinic in South Dakota, pledged to use any means necessary — whether a federal lawsuit or a statewide referendum — to sideline the statute.

Under state law, if opponents collect 16,728 signatures of registered voters in the next three months the law will be delayed and a vote held on the issue in November.

"We're trying to evaluate the timing and the options now, but we're committed to making sure this does not come into effect," Cecile Richards, president of the Planned Parenthood Federation of America, said in a telephone interview. "It's a sad day for the women of South Dakota. We had really hoped that the governor would weigh women's health as more important than politics."

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Leaders on each side of the abortion debate said South Dakota's law had stirred new support and fervor for their causes. Abortion rights advocates reported a flood of donations, volunteers and membership requests since the abortion bill began drawing national attention last month.

Opponents said they, too, had had a flood of calls, including numerous donations to a defense fund to fight what is expected to be expensive litigation on behalf of South Dakota.

Already, the state's move seems to have emboldened legislators opposed to abortion elsewhere. For months, similar bills had been proposed in the statehouses of at least a half-dozen states, including Ohio, Georgia and Tennessee, but some efforts have gained steam in the weeks since the South Dakota Legislature overwhelmingly passed its ban.

"Legislators feel that now is the time to wrestle back their authority from the courts," said Tony Perkins, president of the Family Research Council, based in Washington. "The courts have overstepped their bounds on issues like gay marriage, and the legislators are speaking up."

In Mississippi, an abortion ban with exceptions for rape, incest and the life of the mother passed the House on Thursday. In Missouri, legislation that would outlaw all abortions except to save the life of the mother was proposed last week.

But opponents of abortion have split over South Dakota's approach, a fact that Mr. Rounds acknowledged in recent weeks as he weighed whether to sign the legislation.

Some, including those who led efforts to pass the ban in South Dakota, said they considered this the ideal time to return the central question of Roe to the Supreme Court. State Representative Roger Hunt, who sponsored the bill in South Dakota, pointed to the appointments of Chief Justice John G. Roberts Jr. and Justice Samuel A. Alito Jr., both conservatives, and what he described as the "strong possibility" of the retirement of Justice John Paul Stevens in the near future and the naming of a conservative as his successor.

"This is our time," Mr. Hunt said on Monday.

Other national anti-abortion groups, though, have quietly disagreed with the timing, pressing instead to cut down on abortions by creating restrictions that may be more palatable to a wider audience, restrictions like parental and spousal notification laws and clinic regulations. If the Supreme Court upholds Roe, they have argued, the damage for those opposed to abortion rights will be grave.

"As much as this isn't the best strategic thing to do, it's there and it's the law of South Dakota now," said Daniel S. McConchie, vice president of Americans United for Life, another group. "We'll defend our position now — which is to oppose abortion."

Cristina Minniti, a spokeswoman for the National Right to Life Committee, said no one from her organization was available to be interviewed on the South Dakota law. Instead, she issued a one paragraph statement which stated, in part: "Currently there are at least five votes, a majority, on the U.S. Supreme Court to uphold Roe v. Wade."

Mr. Rounds, who became governor in 2003 after serving in the South Dakota Senate for a decade, declined to speak with reporters after the signing. In an earlier interview, he said that he personally felt uncertain about the timing of a challenge to Roe, but that he was leaning toward signing the bill, in part because he did not wish to divide the people who, like him, oppose abortion.

In the statement he issued on Monday, Mr. Rounds said he fully expected the law to be challenged, and that it might wind up in the nation's highest court. He compared the possibility of a reversal on Roe to that of the changing legal precedents around segregation.

"The reversal of a Supreme Court opinion is possible," the governor said. "For example, in 1896, the United States Supreme Court ruled in the Plessy vs. Ferguson case that a state could require racial segregation in public facilities if the facilities offered to different races were equal. However, 58 years later, the Supreme Court reconsidered that opinion and reversed itself in Brown vs. Board of Education."

Abortion Battle Gains New Intensity With Ban In S.D. (USAT)

By Jill Lawrence

USA Today, March 7, 2006

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The near-total ban on abortion signed into law Monday in South Dakota sets the stage for renewed battles over abortion rights in courts, legislatures and political campaigns.

The new law bans all abortions in the state except to save a woman's life. Under any other circumstances, including rape or incest, performing an abortion would be a crime.

Gov. Mike Rounds said he signed the law because "unborn children are the most vulnerable and helpless persons in our society." He said he hoped the Supreme Court would overturn the 1973 ruling in Roe v. Wade that legalized abortion nationwide, as it had overturned "separate but equal" racial segregation in 1954. "The reversal of a Supreme Court opinion is possible," he said.

Planned Parenthood Foundation of America, the only abortion provider in South Dakota, vowed to fight the ban in court. Democratic strategist Steve Hildebrand said some South Dakota activists are considering putting the new law before voters in November. He said 17,000 signatures would be required by May 2 to get it on the ballot.

Passions among supporters of the law were also running high. State Rep. Roger Hunt, the Republican sponsor of the law, said an unidentified donor has already given $1 million to offset legal costs.

Rounds described the new law as "a direct challenge to … Roe v. Wade," the ruling that struck down state laws banning abortion. He said lower court action probably will prevent the law from taking effect July 1 as scheduled.

Cecile Richards, president of Planned Parenthood, called the new law "a complete wake-up call" that's already drawn "an enormous influx of new donors."

Abortion rights groups say similar bans are pending in at least eight states. Three were introduced last week, following passage of the South Dakota bill.

Some Abortion Foes Balk At S.D. Law (USAT)

By Jill Lawrence

USA Today, March 7, 2006

WASHINGTON — South Dakota's new law banning almost all abortions is creating a rift among anti-abortion Republicans during an election year.

The law bars abortions unless they're needed to save a woman's life. The ban has underscored disagreements between the law's supporters and those who favor exceptions for rape and incest. It has also exposed Republican disagreements over how best to reduce abortions when most Americans support keeping them legal.

State Rep. Roger Hunt, the Republican who sponsored the law, says "this is the right time" to tackle the issue head-on. "Every year that goes by, there are more and more unborn children whose lives are being terminated."

Some Republican abortion opponents say they would prefer to continue the incremental approach that has resulted in increasing restrictions on abortion. They worry South Dakota's frontal assault could scare away moderates, light a fire under liberals and even set back the anti-abortion cause.

"I am very purely pro-life, and I would not have undertaken this strategy," Republican pollster Kellyanne Conway says. She says it plays into "somewhat hysterical claims of extremism" by the left and "seems to give a largely dying, discredited (abortion rights) movement a little bit of gas."

Daniel McConchie, vice president of the anti-abortion Americans United for Life, says taxpayers could be burdened with legal fees and state courts could be provoked to create state versions of the Roe v. Wade Supreme Court decision, which legalized abortion nationwide in 1973. "It's a very high-stakes tactic," he says.

Democratic strategist Steve Hildebrand predicts the law will be "a huge benefit" for his party as it wends its way through the courts. He gives a preview of the case abortion rights supporters could make: If a murderer gets out of prison and rapes a woman, she's forced to have his child. If a father brutally rapes his daughter, she is forced to have his child. "You present those arguments to women voters, they are going to be outraged," Hildebrand says.

Two-thirds in a USA TODAY/CNN/Gallup Poll in January said they did not want the Supreme Court to overturn Roe, compared with 25% who said they did.

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Many Republicans who oppose abortion, President Bush and Arizona Sen. John McCain among them, favor exceptions for rape and incest as well as when a woman's life is in danger. “There is no consensus in the Republican Party,” GOP pollster David Hill says.

That has been apparent as the party's 2008 White House prospects respond to questions on the South Dakota ban. Arkansas Gov. Mike Huckabee and Virginia Sen. George Allen said they would have signed it. McCain said last month on ABC's This Week that “my position has been consistently pro-life but (with exceptions for) rape, incest and the health of the mother.” McCain's aides later said he meant to say “life” of the mother, his longtime view and a much narrower exception than “health.”

Deirdre McQuade of the U.S. Conference of Catholic Bishops calls the law a chance to end Roe's “stranglehold” on legislatures and “open up the possibility of people's values being reflected in their own state laws.”

Hunt says there's “national momentum” for the law he sponsored — similar legislation popping up in other states and the elevation of two new conservative Supreme Court justices, John Roberts and Samuel Alito. He says it's likely liberal Justice John Paul Stevens, 85, will retire within the two to three years he estimates it will take the new law to reach the high court.

South Dakota state Sen. J.P. Duniphan, a self-described “pro-life” Republican, opposed the law. “It is a very unnecessary, expensive challenge. And it is dividing the party.”

South Dakota Governor Signs Abortion Ban (LAT)

By Michael Muskal

The Los Angeles Times, March 7, 2006

South Dakota Gov. Mike Rounds announced today that he has signed legislation prohibiting nearly all abortions in his state, a move designed to invite a more conservative U.S. Supreme Court to revisit the 1973 decision that established a woman's right to choose.

The governor's action, which had been expected, makes South Dakota the first state to ban most abortions since the high court ruled in Roe vs. Wade. About half a dozen states are considering similar legislation.

"In the history of the world, the true test of a civilization is how well people treat the most vulnerable and most helpless in their society," Rounds said in a statement posted on his website. "The sponsors and supporters of this bill believe that abortion is wrong because unborn children are the most vulnerable and most helpless persons in our society.

"I agree with them," stated the governor.

The ban is scheduled to go into effect in July, but advocates for abortion rights have announced that they will challenge it in the courts.

"This ban is an attack on women's fundamental right of privacy and their ability to make the most intimate and personal choice about when and whether to have a child," Eve Gartner, senior staff attorney for the Planned Parenthood Federation of America, said in a statement released before Rounds announced he had signed the bill. "The U.S. Supreme Court has reaffirmed time and again the constitutional right to make the private choice to have an abortion. South Dakota is entering dangerous territory with this ban."

Planned Parenthood runs the state's only clinic where abortions are performed. About 800 abortions are done each year in South Dakota.

Rounds said he expected the South Dakota law to end up in the courts. He cited another Supreme Court reversal — the 1954 decision to end racial segregation — as a reason for optimism.

The South Dakota law "will give the United States Supreme Court a similar opportunity to reconsider an earlier opinion," he stated.

Since the 1973 ruling, the addition of new justices may have created a 5-4 majority opposed to Roe. Two recent additions, Chief Justice John G. Roberts Jr. and Associate Justice Samuel A. Alito Jr., are believed to have questions about the decision. Alito replaced Sandra Day O'Connor, the first woman on the court.

The South Dakota law eliminates most abortions in the state, but Rounds said that it allows doctors to perform abortions in order to save the life of the mother. Abortion rights advocates question that assertion.

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Last month, the Supreme Court announced that it will hear another abortion case dealing with the legality of a 2003 federal law that banned a procedure known as partial birth abortions.

Sun Belt, Suburbs Get More Diverse (USAT)

By Haya El Nasser

USA Today, March 7, 2006

Almost a third of the nation's 361 metropolitan areas have registered declines in their white populations this decade as minorities bring ethnic and racial diversity to vast sections of the USA, according to a Brookings Institution report to be released today.

The influx of immigrants and people moving to the Sun Belt and Western mountain states from other parts of the USA is rearranging the ethnic tapestry of urban centers in an unprecedented way.

Blacks, Hispanics and Asians are going where the jobs are. They're driving population increases in the fastest-growing areas, including Las Vegas, Atlanta and Orlando, says demographer William Frey, author of the report on shifts in populations from 2000 to 2004.

The white population declined in 111 metropolitan areas, including Los Angeles, New York and San Francisco. Aging whites are gravitating toward smaller communities such as St. George, Utah, and Coeur d'Alene, Idaho, Frey says.

The white population still dominates exurbs and "spillover" communities outside large metropolitan centers but minorities also are moving to these areas.

"These minorities are now spilling to parts of the country — the interior Sun Belt, suburbs and exurbs — which were once bastions of middle-class whites," Frey says. "As a consequence, white-bread America is experiencing diversity firsthand, rather than in magazines or TV images. … Politicians are going to have to figure out how to satisfy both groups."

Frey's key findings:

•Minorities now constitute a majority of children under age 15 in almost a third of large metropolitan areas, including Chicago, Phoenix and Atlanta.

•The black return migration to the South has gained momentum this decade. But blacks are gravitating less to the "Old South" states of Louisiana, Mississippi and Alabama and more to "New South" job hubs in Texas, North Carolina, Georgia and Florida.

•An area's ability to attract and hire immigrants increasingly can make or break it economically.

"The most distressing news is from the Northeast and Midwest," says Ned Hill, vice president of economic development at Cleveland State University. "White retirement is heading south without a compensating inflow of people and fewer births because of fewer immigrants." Cleveland registered one of the biggest losses in white population.

•Four of the metropolitan areas showing the fastest growth in Hispanics are in Florida.

Mickey Rosado, 37, is the first Hispanic on the city council in Cape Coral, Fla., near Fort Myers. The area had the nation's biggest jump in Hispanics, up 55.4% from 2000 to 2004. Hispanics are opening small businesses and working in agriculture, he says. Officials have to balance the needs of younger Hispanic families and older white residents. "It's a major issue," he says.

Whites To Be Minority In New York Area Soon, Data Show (NYT)

By Sam Roberts

The New York Times, March 7, 2006

The influx of foreigners to New York and its suburbs and the continuing exodus of non-Hispanic whites to other parts of the country have transformed the face of metropolitan New York so profoundly that whites will constitute a minority of the region's population within a few years, demographers say.

The shift would make New York the first large metropolitan area outside the South and West in which whites do not make up a majority, according to an analysis of 2004 Census estimates by the Brookings Institution that was released yesterday.

The analysis also reveals a historic reversal: For the first time since at least the 19th century, the black population of both the city and, to a lesser extent, the region, has declined. In the five boroughs, according to the estimates, the number of blacks

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declined by about 30,000 since 2000, dipping below 30 percent of the overall population, as the migration of blacks to the suburbs and areas like the South outpaced immigration from the Caribbean and Africa.

In contrast, the analysis found that while the greater New York region over all lost 162,000 non-Hispanic whites and several hundred blacks from 2000 to 2004, the region gained 288,000 Hispanic people and 201,000 Asians — more Asians, in fact, than any other metropolitan area.

Increasingly, the New York region's growing multiracial makeup reflects the changing face of the inner ring of suburbs as many new immigrants bypass the city altogether or migrate from the city to neighboring counties after a generation or less.

What makes the city and the region unusual, though, is that among the nation's 88 metropolitan areas with half a million or more people, New York is one of only three — Houston and Honolulu are the others — where the proportion of blacks, Hispanics and Asians each exceeds their share of the national population.

Whites have been a minority in New York City since the 1980's. But now that shift is extending to the wider metropolitan area, driven by immigration and higher birth rates among immigrants. Already, non-Hispanic whites are a minority of the metropolitan area's population younger than 15.

"New York is still the classic melting pot, with a whole diverse array of immigrants coming in, but the suburbs are now becoming part of this bigger melting pot," said William H. Frey, the Brookings Institution demographer who conducted the analysis. "The suburbs are now tasting this new diversity."

His analysis found that whites declined to 52.2 percent of the population in 2004 from 54.2 percent in 2000 in the census-defined metropolitan area, which includes the city, Long Island, the northern suburbs, northern New Jersey and northeastern Pennsylvania, but not Connecticut.

"We went down 2.1 percent from 2000 to 2004," Dr. Frey said. "If we go another 2 percent before the end of the decade, you're there." He added: "The suburbs are now contributing to this. They've all shown a decline in the percent of whites since 1990."

The approaching statistical milestone in the New York region has not been unexpected by demographers.

"What this shows is that the pattern is spreading out," said Andrew A. Beveridge, a demographer at Queens College of the City University of New York, "and the non-Hispanic white population is continuing to dwindle."

"The New York metropolitan area is becoming more like the city, and the nation's metropolitan areas are becoming more like New York," Dr. Beveridge said.

The trend was foreshadowed in an earlier analysis by New York's Department of City Planning, which found that while the region's ethnic and racial numbers had been driven for several decades by changes in the five boroughs, those changes were also being mirrored in the suburban counties closest to the city.

"The inner-ring suburbs are emulating the city," said Joseph J. Salvo, director of the department's population division.

What's happening in New York has already occurred in metropolitan areas in the West and South, including Los Angeles, Miami, Houston and San Francisco.

The proportion of whites has also dipped to just over a majority in the San Diego, Washington, Dallas and Las Vegas metropolitan regions as Asian and Hispanic people disperse beyond central cities and their suburbs and as blacks migrate to the South. In each of those areas, whites are already a minority of the population under age 15.

Atlanta led large metropolitan areas in black population growth and is poised to overtake Chicago as the region with the second-highest black population in total numbers, after New York.

In 1990, metropolitan Los Angeles and New York accounted for 30 percent of the nation's Hispanic population. By 2004, those two regions were home to only 23 percent of Hispanic people.

"For immigrant minorities, especially, friendship and family networks have drawn them to traditional ports of entry, even during times when labor market considerations would suggest they move elsewhere," Dr. Frey wrote. "Blacks, as well, have tended to follow well-worn patterns, initially out of the South and, later, to a network of cities across the North and West."

But more recently, he concluded, "many lower-skilled Hispanic migrants are moving to fast-growing areas of the country, in response to retail, service and construction job growth, while higher-skilled minority migrants are following the same professional opportunities that have attracted whites."

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ANTITRUST:

Phone Merger's Approval Is Likely (AAS)

By Marilyn Geewax, WASHINGTON BUREAU

Austin American-Statesman, March 7, 2006

FCC might impose some limits on the new AT&T.

WASHINGTON — The Justice Department likely will approve AT&T Inc.'s $67 billion purchase of BellSouth Corp. without demanding any major antitrust concessions, analysts said Monday.

But the Federal Communications Commission, which also must review the transaction, may consider restricting the new company from charging new fees for faster delivery of premium Internet services, they predicted.

Together, AT&T and BellSouth would become the nation's No. 1 supplier of local, long-distance, wireless and high-speed-Internet services.

In recent reviews of telecom mergers, however, Justice Department officials decided that size alone could not shield phone companies from competition from cable, satellite and other companies providing telecom services.

As a result, the Justice Department demanded no significant changes in those cases, so "we see no reason why it would treat this case differently," according to an assessment issued by Anna-Maria Kovacs, president of Regulatory Source Associates LLC, a research firm in Cambridge, Mass.

Consumer advocates say they nevertheless will raise objections to hold back the approval process.

Getting regulators and antitrust prosecutors to stop the merger would be "highly unlikely," said Jeff Chester, executive director of the Center for Digital Democracy. "Our job is to slow the deal down and make their lives so miserable that they have to impose safeguards" to protect consumers, he said.

Chester has his work cut out for him. Under the Bush administration, the Justice Department has been highly amenable to mergers.

Supporters of the AT&T-BellSouth transaction will argue that it presents no serious antitrust problems because AT&T's operations are concentrated in the Southwest and Midwest, while BellSouth's are in the Southeast.

The merger could run into bigger speed bumps at the FCC.

Chairman Kevin Martin required few changes in last year's two enormous phone company mergers. But some observers think the two new Republican members — Deborah Taylor Tate and, once he's confirmed, Robert McDowell — might take relatively tough positions on the AT&T-BellSouth merger because of their past experiences. Tate previously worked with state utility commissioners, who often tangled with the regional phone companies over rates and service.

McDowell was assistant general counsel at Comptel, a trade group for smaller phone firms that opposes this transaction.

With Tate and McDowell, the commission may be more likely to block the merged company from charging fees for fast delivery of new Internet services, such as voice and video. Executives at both AT&T and BellSouth have said they want to start doing that.

Sen. Daniel K. Inouye, D-Hawaii, co-chairman of the Senate Commerce Committee, warned Monday that the merger "will call into question our commitment . . . to preserve fair rules that guarantee nondiscriminatory access to new services."

UPDATE: Few Antitrust Hurdles Seen For AT&T Deal (DOW)

Dow Jones, March 7, 2006

WASHINGTON (Dow Jones) -- AT&T (T) will face few antitrust hurdles in its $67 billion acquisition of BellSouth (BLS), analysts predicted Monday.

Announced Sunday, the deal follows SBC Communications Inc.'s acquisition of AT&T (T) and the formation of the new AT&T Inc. (T) (T) in November. It also follows Verizon Communications' February 2005 purchase of MCI Corp.

Both those recent deals, observers say, give regulators case histories from which to work.

"They have a template to look at these things and follow the same framework," said Paul Glenchur of Stanford Washington Research Group.

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"I don't think there's going to be a great deal of regulatory resistance," said Jonathan Rubin, a research fellow at the American Antitrust Institute.

Announced Sunday, the acquisition would cement AT&T's (T) position as the country's largest supplier of local, long-distance, wireless and high-speed- Internet services. The combination would serve 70 million local-phone customers, 54 million-plus wireless subscribers and more than 10 million DSL Internet users.

The combined company would likely have to divest some "special access" lines used by businesses to send high volumes of data, analysts said.

Combined with BellSouth (BLS) (BLS) , AT&T (T) would control the local phone market in 22 states, including the most populous areas of the South and Midwest. Rival Verizon would control the East and the much-smaller Qwest most of the less-populated West.

But consumer-activist groups have quickly announced their opposition to the deal, and some suggest the Justice Department and the Federal Trade Commission have let big telecom mergers go through without proper scrutiny.

"The regulators are permitting these mergers to proceed without installing adequate consumer and competition safeguards," said the antitrust institute's Rubin.

Shares of AT&T (T) were trading lower early Monday afternoon. They were recently off 35 cents to $27.64.

US Officials To Closely Review AT&T-BellSouth (REU)

Reuters, March 7, 2006

WASHINGTON (Reuters) - U.S. communications regulators and antitrust authorities on Monday pledged to carefully review AT&T Inc.'s $65 billion purchase of BellSouth Corp..

"We will carefully weigh the information presented, examining any allegations of specific harm in individual markets and the potential benefits for the deployment of new services," Federal Communications Commission Chairman Kevin Martin said in a statement.

The agency must determine whether the deal benefits the public. The transaction must also receive approval from U.S. Justice Department antitrust authorities.

"We're going to look at it closely," the department's antitrust chief Thomas Barnett told reporters while attending a conference of attorneys general.

Analysts said they expect the deal to be approved, likely with similar conditions that were attached to two telecommunications deals given the green light last year, Verizon Communications' purchase of MCI Inc. and SBC Communications acquisition of AT&T Corp. to form AT&T Inc.

Lawmakers also said they plan to review the deal.

Senate Commerce Committee Chairman Ted Stevens and his staff "will review the AT&T-BellSouth merger during the coming weeks, a process which will include meetings with the involved parties," said panel spokesman Aaron Saunders.

Sen. Daniel Inouye, the ranking Democrat on the committee, issued a statement expressing concern about the consolidation, particularly so soon after the SBC-AT&T deal closed.

"The proposed recombination of two of the remaining four Baby Bells will call into question our commitment to promote competition in the communications marketplace and to preserve fair rules that guarantee nondiscriminatory access to new services," said Inouye of Hawaii.

AT&T shares fell 97 cents, or 3.5 percent, to close at $27.02 while BellSouth shares rose $3.05, or 9.7 percent, to $34.51.

UPDATE:AT&T-BellSouth Deal Draws Scrutiny On Capitol Hill (DOW)

Dow Jones, March 7, 2006

WASHINGTON -(Dow Jones)- AT&T Inc.'s (T) (T) proposed purchase of BellSouth Corp. (BLS)(BLS) is stirring up some unease on Capitol Hill, where lawmakers and competing telecommunications companies are questioning whether the transaction requires special scrutiny.

The combination would create the world's largest telecommunications company and reunite portions of AT&T (T) that the government broke up in 1984. The new entity would be a behemoth, with customers from California to Florida. It would offer

phone and Internet access and roll out new television services, giving customers a new option for bundling services in a single package.

Concerns hinge in on the size of the deal and on expectations that AT&T's (T)purchase will escalate a trend of consolidation in the telecommunications industry. Just four months ago, regulators approved the takeover of AT&T (T) itself by SBC Communications Inc. and Verizon Communications Inc.'s (VZ) (VZ) purchase of MCI.

"AT&T's (T) proposal to purchase BellSouth (BLS) would remove yet another potential competitor from the communications marketplace and calls into question whether the future of communications policy will be marked by strategies to promote vigorous competition or by further efforts to facilitate new mergers," Sen. Daniel Inouye, D-Hawaii, the top Democrat on the Senate Commerce Committee said in a statement.

The transaction comes amid a favorable political climate for mergers, as the Bush administration has been friendly to large combinations. Many observers expect the Federal Communications Commission and antitrust regulators to approve the deal with few conditions even amid concerns the deal would leave companies with too much pricing power and consumers with two few choices.

Mergers are a particular threat for the small phone companies. The small companies are urging regulators to block AT&T's (T) plans to buy BellSouth (BLS), citing the risks of diminished competition.

"There are no benefits in this merger for consumers or the U.S. economy," said Earl Comstock, president of Comptel, a trade group for small phone companies. " This merger continues the anticompetitive resurrection of the old Bell monopoly."

The cable industry is also weighing in, arguing that the transaction undercuts AT&T's (T) efforts to persuade Congress to overhaul laws that require phone companies to get permission from each municipality in which they hope to offer television business.

"My point here is not to question the merger, which will be handled appropriately by the relevant federal agencies and Congressional committees," Kyle McSlarrow, the president of the National Cable & Telecommunications Association, wrote in a letter Monday to the leaders of the Senate and House committees that oversee the telecommunications industry.

"Rather, it is to suggest how extraordinary it is for an industry, in which one company alone - AT&T (T) - has a market capitalization greater than that of the entire cable industry, not only to ask for special favors from Congress but in fact demand free license to enter the video market while maintaining all current regulation on a much smaller cable industry."

- By Siobhan Hughes, Dow Jones Newswires; 202-862-6654; Siobhan.Hughes@ dowjones.com

AT&T Plans 10,000 Job Cuts After BellSouth Purchase (Update4) (BLOOM)

Bloomberg, March 7, 2006

March 6 (Bloomberg) -- AT&T Inc., the largest U.S. telephone company, plans to eliminate about 10,000 jobs after completing the $67 billion purchase of BellSouth Corp.

The reductions will come in 2007 through 2009, Chief Financial Officer Rick Lindner said on a conference call today with analysts. With BellSouth and Cingular, San Antonio-based AT&T's workforce will rise to 317,000 from 189,000, making AT&T among the top 10 U.S. employers, according to Bloomberg data.

Job cuts, which are about 3 percent of total employment, represent about 50 percent of the planned $18 billion in cost savings AT&T expects to extract from the purchase. The acquisition will cement AT&T's position as the dominant U.S. provider of local, long-distance and wireless calling and enable it to better fend off new competition from cable-television companies and Internet calling companies.

``It's a realization that the world is changing and it's changing faster and faster," AT&T Chief Executive Officer Ed Whitacre said on the call. ``We saw that the sooner we did this, the better off we'd be."

The reductions, which Lindner said will come mostly through attrition, are in addition to the 13,000 jobs that AT&T plans to shed as part of last year's combination between SBC Communications Inc. and AT&T Corp., which created the largest U.S. phone provider. BellSouth and Cingular add 128,000 workers to the payroll.

The combined BellSouth-AT&T will have 70 million local-phone customers in 22 states including four of the largest: Texas, California, Illinois and Florida. Ownership of Cingular Wireless LLC, the largest mobile-phone carrier, will give AT&T 54.1 million wireless subscribers and along with the business segment will make up 72 percent of total revenue.

Profit Booster in 2008

AT&T and BellSouth combined had almost $100 billion in revenue last year and today have a stock market value of more than $160 billion, dwarfing the $98 billion of No. 2. Verizon Communications Inc. Sales at the new company are expected to return to growth in 2007, a year earlier than AT&T forecast on Jan. 31.

The deal, expected to close in early 2007, won't affect profit excluding amortization and merger-related costs in 2007 and will add to profit on that basis starting in 2008, Lindner said.

``The industry itself has become increasingly competitive," said John Cunningham, who manages $3 billion as the chief investment officer of J&W Seligman & Co. in New York and holds BellSouth shares. ``You need to see these kinds of mergers for these companies to thrive and survive."

BellSouth shares surged 9.7 percent. The company's shareholders will receive AT&T shares worth $37.09 for each BellSouth share, the companies said yesterday in a statement. AT&T will also take on $17 billion of BellSouth debt and plans to buy back $10 billion of shares.

Roll Up

By buying BellSouth, Whitacre is continuing his roll up of the companies formed when AT&T Corp. was split in 1984. Back then, AT&T Corp. dominated local- and long-distance phone services. The company had $150 billion in assets and employed more than 1 million. A year later, the business was split into eight pieces, one long-distance company and local-telephone providers, the Baby Bells. SBC was the smallest.

The combined AT&T-BellSouth will have more than $200 billion in assets, a reflection of both the expansion of the telephone industry into mobile service and fiber-optic lines and the push to automate more functions.

``The old AT&T is practically put together," said Sean Egan, managing director of Egan-Jones Ratings Co. said. ``A big portion of the split-up of the Bells has been reconstituted."

Regulatory Scrutiny

The purchase will help Whitacre, 64, form a company to compete with mobile-phone companies, cable-television operators such as Comcast Corp. and Internet phone-service providers like EBay Inc.'s Skype. As part of his plan, Whitacre bought AT&T Corp., the largest U.S. long-distance provider, for $16.5 billion in November and is preparing to offer television service along fiber-optic lines.

That competition may help AT&T win regulatory approval, analysts said. BellSouth, which operates in nine states, also doesn't compete in AT&T's states.

``The battle with cable is here," said Felix Rohatyn, the former Ambassador to France and Lazard Ltd. partner who advised Whitacre on the bid. ``This deal will make the new AT&T better able to compete, not just with cable and satellite but with all the new technologies that are coming at them."

The U.S. Justice Department, which last year approved SBC Communications Inc.'s purchase of AT&T and Verizon's acquisition of MCI Inc., is unlikely to raise major antitrust concerns, said Stifel Nicolaus & Co. analyst Blair Levin, a former U.S. Federal Communications Commission chief of staff.

``They looked at those other deals, went through lots of paperwork, and they ultimately decided not that much was required," Levin said.

Shares

Shares of Atlanta-based BellSouth, the No. 3 local-phone company, rose $3.04 to $34.50 in New York Stock Exchange composite trading after earlier reaching $35.25. Before today, the shares had gained 16 percent this year and were trading at their highest in more than four years on speculation AT&T would make a bid. AT&T will pay 1.325 shares for each BellSouth stock.

AT&T shares, up 10 year, fell 97 cents, or 3.5 percent, to $27.02. AT&T will pay BellSouth $1.7 billion if the deal is terminated, according to regulatory filings.

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The deal sparked investor speculation that other telecommunications deals may be in the works. Shares of Sprint Nextel Corp., the third-largest wireless services provider, rose $1.10, or 4.5 percent, to $25.30.

Analysts Divided

Analysts were divided on the benefits of the merger. Wachovia Securities raised its rating on AT&T, while Sanford C. Bernstein & Co. cut the shares. JPMorgan called the agreement a ``clear positive" for BellSouth and said the implications for AT&T shareholders are unclear. Credit Suisse said the cost savings AT&T expects from the combination seem high.

Whitacre, who will be Chairman and CEO of the combined company through April 2008, said the most immediate benefits will come from combining Cingular ownership under one roof. AT&T said it will save about $2 billion a year, by merging networks, firing workers and forming one brand under AT&T.

The agreement to buy BellSouth is the biggest in the industry in six years. It caps a spending spree of more than $200 million during his 16 years at the helm of the company formerly known as SBC Communications Inc. AT&T Inc. was formed when SBC bought AT&T Corp. and changed its name.

Shareholders `Rewarded'

``AT&T is going to be a faster-growing, much larger, stronger company," said John Hodulik, an analyst at UBS AG in New York. Hodulik, among the most accurate analysts ranked by StarMine Corp., rates AT&T a ``buy" and has a ``neutral" rating on BellSouth. ``Shareholders will be rewarded for it."

BellSouth CEO Duane Ackerman will leave three months after the deal closes. Ackerman said it's the ``right time" for the merger. Whitacre and Ackerman pieced the deal together, AT&T Chief Operating Officer Randall Stephenson said in an interview.

``It will benefit customers. It will facilitate the industry's technological evolution. It will allow us reduce costs," Ackerman said today.

Cingular Wireless has driven revenue growth at AT&T and BellSouth. In the third quarter last year, for example, SBC's revenue was little changed excluding Atlanta-based Cingular. With the mobile-phone business, SBC revenue was up 21 percent. The wireless provider added a record 1.82 million subscribers. Verizon Wireless, its nearest competitor, added 2 million to 51.3 million.

``Wireless really drove this deal," Hodulik said.

AT&T and BellSouth have shared ownership of the business, AT&T with 60 percent and BellSouth with 40 percent, preventing each from reaping the full benefits.

Name Change

``No partnership between two independent companies, no matter how well run, can match the speed, effectiveness, responsiveness and efficiency of a solely owned company," Whitacre said.

The structure impeded Cingular's ability to develop services such as Internet access on mobile phones and televisions, Stephenson said. Cingular will change its name to AT&T.

``This really enhances our ability to get these services to market quick," Stephenson said.

Whitacre, a 6-foot-4 Texan, completed his first large acquisition in 1997 with the purchase of Pacific Telesis Group. In 1998, SBC bought Southern New England Telecommunications and a year later Whitacre orchestrated the $80.6 billion purchase of Chicago-based Ameritech Corp.

`Surprised the World'

``Whitacre surprised the world," said Atlanta-based telecom analyst Jeff Kagan. ``He's taken the smallest Bell and made it the largest Bell. He's done a lot more than anyone thought he could."

AT&T will pick up BellSouth's phone lines in parts of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee. About 60 percent of AT&T's lines are in California, Texas and Illinois.

Verizon and Denver-based Qwest Communications International Inc. are the only other remaining telephone providers from the breakup. Verizon offers service in 28 states including New York and California, as well as Washington D.C.

Whitacre sought advice from Lehman Brothers Holdings Inc., Evercore Partners, and Rohatyn Associates for the transaction. Citigroup Inc. and Goldman Sachs Group Inc. advised BellSouth.

The banks will be sharing fees for the biggest acquisition in the telecommunications industry since Verizon was created in June 2000 with the $71 billion merger of Bell Atlantic Corp. and GTE Corp., according to data compiled by Bloomberg. The last deal in any industry that was as large was Sanofi-Synthelabo SA's purchase of Aventis SA in France for $73 billion in August 2004.

AT&T-Verizon Battle

The combination sets up a battle between AT&T and Verizon. Until last year, the two companies operated mainly in separate states and barely competed. Since then, SBC Communications bought AT&T and Verizon acquired MCI, enabling them both to expand beyond their local-phone states and tap business customers.

Verizon had been the largest U.S. telephone company until SBC and AT&T combined. Verizon Wireless also lost its spot as the top provider of mobile-phone service when Cingular bought AT&T Wireless Services Inc. in 2004. Verizon is focused on acquiring the 45 percent of Verizon Wireless that it doesn't own from partner Vodafone Group Plc, spokesman Peter Thonis said today.

``It's a priority for us," Thonis said in an e-mail. He said Verizon's business plan is unchanged after AT&T's announcement and called the offer ``a logical and predictable move."

Whitacre's strategy has paid off for him. He received $17.2 million in total compensation last year, a 9.5 percent raise, according to a regulatory filing.

``He's a Texan, and he's winning," Kagan said. ``He does what he has to do to make the deals and grow the company. He doesn't take no for an answer. And everybody wins. The companies he acquires, the stockholders."

(AT&T executives began a call to discuss the purchase today at 10 a.m. New York time. To listen click on {LIVE} or listen on the Internet at http://www.att.com/investor.relations or http://www.bellsouth.com/investor)

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AT&T's BellSouth Call May Ring At Vodafone (WSJ)

By Cassell Bryan-low And Jason Singer In London And Amol Sharma In New York

The Wall Street Journal, March 7, 2006

AT&T INC.'S planned $67 billion acquisition of BellSouth Corp. not only changes the U.S. telecommunications landscape but could cause an unexpected shift in the dynamic between Britain's Vodafone Group PLC and Verizon Communications Inc., the co-owners of Verizon Wireless.

Verizon has long been interested in buying out Vodafone's 45% stake in the venture, but has been holding out for the right terms. For months, Vodafone has been under pressure from investors to do a deal in order to generate cash for the company and pay out dividends to large shareholders. That gave Verizon the upper hand.

But now Verizon needs to get control of the venture more than ever, analysts say, just to keep pace with AT&T, which will take full control of cellular carrier Cingular Wireless and thus increase its exposure to the telecom industry's growth area. The power balance may have shifted in Vodafone's favor.

"In terms of negotiating leverage, I think there's been a slight shift toward more bargaining power for Vodafone," said Andy Belt, a telecom consultant at Adventis Corp., a Boston consulting firm.

The two sides may well find common ground.

Vodafone's stake in Verizon Wireless could be valued at as much as $45 billion, analysts say. Investors seemed to warm to the prospect yesterday of a Verizon buyout, pushing Vodafone's shares in London 2.9% higher to 125 pence ($2.19). In 4 p.m. composite trading on the New York Stock Exchange, Vodafone's American depositary shares were at $21.90, up 90 cents, or 4.3%.

As the joint venture's name suggests, Verizon has always had greater brand and operational control of the company. That has led some Vodafone investors to ask recently why Vodafone Group's chief executive, Arun Sarin, doesn't bail out of the venture, especially because Verizon Wireless uses a different technology from Vodafone's other operations.

A sale of the Verizon Wireless stake could leave Vodafone, after returning some cash to investors, with enough left over to make acquisitions. One possibility: T-Mobile USA Inc., a unit of Deutsche Telekom AG. While Deutsche Telekom has said it

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aims to keep its U.S. division, the German company has considered selling in the recent past. T-Mobile USA also faces huge investments for new spectrum licenses in the near future. And it would give Vodafone its own brand name in the U.S. and a network based on the same technology it uses elsewhere.

But that isn't in the cards yet. "We would not be interested" in T-Mobile USA, a Vodafone spokesman said yesterday. T-Mobile USA declined to comment.

Some observers say AT&T's bold strike means Verizon has to respond. Moving more aggressively to purchase all of Verizon Wireless is the most likely option, some say. Owning 100% of Verizon Wireless would help boost Verizon Communications' growth profile as it would be able to reflect all of the wireless carrier's growth.

It would also free Verizon Communications to offer wireless-related discounts and integrate its land line and wireless networks with new service offerings, particularly for business customers. As it stands, Verizon Communications must manage Verizon Wireless in the best interests of the joint venture.

Verizon Communications spokesman Peter Thonis said Verizon has a strong interest in buying out Vodafone, but added, "It isn't because we're reacting or responding in any way to AT&T."

Vodafone appears to be softening its stance on selling its stake. In a recent interview, Mr. Sarin said he wouldn't rule out a sale. "It's not a question of 'no, never, not at any price,'" he said. But, "we're not in a hurry," he added. "Verizon Wireless provides us a very good rate of return on our capital."

Because AT&T's integration of its land line and wireless business could have a negative competitive effect on Verizon Wireless, "the announcement of the deal may nudge Verizon [Communications] and Vodafone closer to each other," says David Barden, an analyst at Banc of America Securities. But, he adds, "It isn't clear it will nudge them enough to close the gap between them." Mr. Barden doesn't own shares in Verizon Communications or Vodafone. Banc of America has an investment-banking relationship with Verizon Communications, but not with Vodafone.

A sale would likely incur a hefty capital-gains tax for Vodafone. One way to mitigate that tax could involve Vodafone Omnitel NV, the Italian carrier in which Verizon Communications owns a 23.1% stake and Vodafone owns the rest. Verizon Communications could swap its holdings in Omnitel in part payment for Vodafone's Verizon Wireless stake.

Vodafone's Mr. Sarin has shown he is willing to quit countries when he thinks the time is right. The company said Friday that it was in talks to sell a majority stake of its Japanese business, which has struggled to stem a loss of customers. Some analysts say Vodafone's consideration of a sale in Japan could ease the pressure on the United Kingdom company to sell its stake in Verizon Wireless in the near term, but that shedding the U.S. business remains a possibility down the road.

"We view an exit in Japan as the better option than selling out of the U.S. at this stage," wrote Lehman Brothers in a research report yesterday. But, "we believe that the willingness of Vodafone's management to take decisive corporate action could well lead to a U.S. exit over the mid- to long-term."

Merger Pressure Rises After AT&T Deal (FT)

By Paul Taylor, Aline Van Duyn And James Politi In New York

Financial Times, March 7, 2006

The $67bn merger of AT&T and BellSouth to create the world's largest telecoms company on Monday increased the pressure on rivals including Verizon Communications to join an industry-wide consolidation.

Announcing the deal on Monday, Edward Whitacre, AT&T's chairman and chief executive, said the tie-up was "a logical fit" that would enable the enlarged group to offer a full range of fixed line, wireless and advanced IP-based services to consumers and businesses. The merger reflected "a realisation that the world is changing and it's changing faster and faster," he said. "We saw that the sooner we did this, the better off we'd be."

AT&T said it expected to cut 10,000 jobs between 2007 and 2009, as part of plans to eliminate $18bn in costs.

Although the Federal Communications Commission said it would "carefully weigh" the proposed deal, senior company executives were confident it could win regulatory approval and be closed within a year. "As a substantive matter, there are no obvious issues that would allow the government to block the deal; there could be things that we see on later, once the companies file their papers," Michael Powell, a former FCC chairman, told the Financial Times.

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Outside experts also expected regulatory scrutiny to be largely a matter of what conditions should be attached.

AT&T said the combined company would be better placed to roll out new services including internet television services and advanced broadband video, in competition with cable companies. Annual savings would average $2bn, starting in 2008.

AT&T said the merger would help position the combined company to roll out new services including IPTV and advanced broadband video services in competition with cable companies. Average annual savings per year would be $2bn starting in 2008.

The BellSouth purchase would also give AT&T sole control of Cingular Wireless, the biggest wireless carrier in the US. As a result, analysts noted, Verizon, its main rival, would be under pressure to buy out Vodafone's 45 per cent stake in Verizon Wireless.

Shares in Vodafone gained 2.9 per cent in London to close at 125 pence. Verizon's shares were up 1.25 per cent at $34 at noon in New York.

"Verizon may be pressured more to improve its business mix by becoming increasingly focused on its attempt to buy out the remaining 45 per cent of Verizon Wireless from Vodafone," said Jason Armstrong of Goldman Sachs in a note to investors.

Verizon acknowledged that getting control of the Vodafone stake – a deal that could be worth up to $50bn – was a priority. It was "working to acquire from Vodafone the remaining 45 percent of Verizon Wireless". Vodafone reacted cautiously, saying its "position has not changed".

Verizon declined to say whether active talks with Vodafone were under way. "This a logical and predictable move by AT&T," said Peter Thonis of Verizon. "This kind of consolidation of assets makes sense, providing new leverage and capabilities as Verizon and AT&T compete against cable."

Arun Sarin, chief executive, has recently signalled the board would consider selling stake in Verizon Wireless although he insisted last month he thought it was a "good idea" to stay in the US.

Mr Sarin has come under pressure from shareholders, unhappy about the group's share price performance and overall strategy, to dispose of the stake in Verizon Wireless because Vodafone has no clear path to control.

Instead, Vodafone is looking at exiting the troubled Japanese market, another bone of contention for investors, after confirming at the end of last week it was in talks with Softbank to sell at least a controlling stake in the Japanese subsidiary.

The Titans Of Telecom Face Off (WP)

By Arshad Mohammed

The Washington Post, March 7, 2006

One started out as an engineer in Lubbock, Tex.; the other as a cable-splicer's assistant in the Bronx.

From those humble beginnings, AT&T Inc. Chairman Edward E. Whitacre Jr. and Verizon Communications Inc. Chairman Ivan G. Seidenberg have built the two biggest U.S. telecommunications companies.

With Sunday's announcement of AT&T's agreement to buy BellSouth Corp. for about $67 billion in stock, Whitacre, 64, capped a career that has transformed what was once the smallest of the Baby Bells, Southwestern Bell Corp., into the largest local-phone and wireless company in the country.

What immediately followed was speculation about what Verizon's Seidenberg, 59, might do next to one-up his biggest competitor for more than a decade. He has already said publicly that he'd like to buy out Vodafone Group PLC's 45 percent stake in Verizon Wireless, the second-largest U.S. mobile phone company.

For years, since Whitacre was the head of Southwestern Bell Corp. and Seidenberg was running Bell Atlantic and before that Nynex, the two have outdone each other through a string of mergers, acquisitions and partnerships.

People who have followed Whitacre's trajectory describe him as unusually aggressive and competitive, fond of the bold stroke and seldom given to self-doubt afterward.

"It's a sport. It's a competition. In this business, scale really matters," said Reed Hundt, a former chairman of the Federal Communications Commission who has dealt with both men over many years. "It's like NFL linemen. You want 'em big, you want 'em fast, but most important, you want 'em big."

The aim of the AT&T-BellSouth merger is to strengthen AT&T for what is shaping up as a battle against the cable companies to sell consumers bundles of video, high-speed Internet, wireless and traditional land-line telephone service. The

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deal, if approved by regulators, would also give AT&T full control of Cingular Wireless, the nation's largest mobile phone company, which it runs as a joint venture with BellSouth.

San Antonio-based AT&T yesterday said it planned to cut about 10,000 jobs, through attrition where possible, as part of $18 billion in cost savings it projects from the merger with Atlanta-based BellSouth. AT&T's stock price slid 97 cents, to $27.02, as the market digested the merger, while BellSouth's rose $3.04, to $34.50. Verizon shares rose 15 cents, to $33.73.

The AT&T-BellSouth merger, which will give the combined company local-phone service in 22 states in the South, Midwest and West, immediately raised questions whether Verizon would try to buy another Bell.

Michael H. Salsbury, a telecom lawyer with Chadbourne & Parke LLP who was a former top executive at MCI Inc., said Seidenberg would continue with his basic strategy and dismissed speculation he might bid for heavily indebted Qwest Communications International Inc., the main local phone company in much of the West.

"If you had a dollar to invest and you were Ivan Seidenberg, would you invest it in Qwest or in wireless? Where would you get a better return? Wireless." Salsbury said.

Verizon spokesman Peter Thonis declined comment on whether the New York-based company might be interested in Qwest, and he reiterated the company's long-standing position on Vodafone's stake in Verizon Wireless.

While Whitacre has a reputation for boldness, Seidenberg is pursuing what many in the industry regard as a more audacious and costly strategy of running fiber-optic cables right to people's homes to carry what he hopes will be increasing video and high-speed Internet traffic. It is far more expensive to run new fiber-optic cables to customers' homes, but the technology allows for the transmission of more data than traditional copper wires because glass fibers can carry data faster.

Verizon is spending billions of dollars to build out its new all-fiber network, while AT&T is taking a less-costly approach by running fiber-optic cable to neighborhoods and using copper wires from there, which may allow it to offer such services at lower cost, albeit with less bandwidth. Bandwidth is the rate that information can be transmitted along a communications line.

"The risk associated with [Verizon's fiber-optic] build-out is higher. That risk may be acceptable because the returns are so great -- lots more bandwidth," said Ellen Daley, an analyst with Forrester Research Inc. "The risk on the AT&T side is less, and the gain is less as well."

Analysts said that one advantage to AT&T's strategy is that it may be able to build its high-speed network faster than Verizon, allowing it to achieve economies of scale and to negotiate discounts from content providers as it competes directly with cable companies.

Consumer groups said the AT&T-BellSouth merger would probably lead to higher prices, arguing that the telephone companies and the cable companies will effectively be a duopoly with little interest in aggressive competition.

While the consensus view among analysts was that the merger would be approved, the concentration of power could still trip some concerns on Capitol Hill or among regulators, especially when it comes to open access on the Internet.

"These companies were going to compete against each other. Instead, we have just the opposite," and that makes it all the more important to ensure that these companies don't become gatekeepers of the Internet, said Rep. Edward J. Markey (D-Mass.), the ranking Democrat on the House subcommittee on telecommunications. "The United States needs open networks."

As a condition of approval for both the Verizon-MCI and SBC-AT&T mergers last year, the companies agreed not to impose restrictions on Internet traffic, which in effect would enable some programs to work better than others. That provision sunsets two years after the close of those mergers.

In recent months, Seidenberg, Whitacre and BellSouth chief technology officer Bill Smith have all said they would prefer a system that would allow the carriers to charge to carry some kinds of traffic -- statements that have prompted concern from Internet companies such as Google Inc., which rely on Internet pipes to reach consumers.

With the latest proposed merger, critics of further consolidation say consumers, regulators and software companies should seek to codify "network neutrality" into law for all carriers.

"This time around, this merger should put media and content providers on high alert," said Jason Oxman, vice president of regulatory affairs for Comptel, an association of competitive carriers. "This could be the end of the line if the Internet community doesn't recognize the threat to the open Internet."

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Federal Communications Commission Chairman Kevin J. Martin, who initially opposed the network neutrality provisions in the earlier two mergers but voted for them in the end, did not tip his hand yesterday.

"We will carefully weigh the information presented, examining any allegations of specific harm in individual markets and the potential benefits for the deployment of new services," he said in a written statement.

Qwest May Get A Buyout Nibble (USAT)

By Edward Iwata And Paul Davidson

USA Today, March 7, 2006

For months, Qwest has been considered anything but a prized acquisition target — mostly because of its heavy debt and its lack of the large-scale wireless and high-speed Internet assets that are the communications industry's engines for growth in coming years.

That view might be changing in the wake of AT&T's proposed $67 billion purchase of BellSouth.

Qwest — as well as Alltel and Sprint Nextel — could become an acquisition target, as Verizon scrambles to keep pace with AT&T, predicts analyst Ken McGee at technology consultant Gartner.

A combined AT&T and BellSouth would knock Verizon from its No. 1 perch in the industry and put it at a disadvantage in both the wireless and large-business markets, possibly forcing it to respond, says Stifel Nicolaus analyst Chris King.

McGee predicts that Qwest will garner Verizon's interest as merger bait. “They're unlikely to remain an orphan,” he says, noting that Qwest CEO Richard Notebaert has kept Qwest from a bankruptcy reorganization and appears to be slowly turning it around. “Qwest must feel awfully lonely sitting there, watching everyone else dance.”

Verizon declined comment. Qwest spokesman Robert Toevs said the company continues “to watch industry consolidation with interest.”

Qwest, which posted a $757 million loss last year, also has been plagued by heavy debt and an accounting scandal that led to shareholder lawsuits and criminal prosecutions of former executives. It tried unsuccessfully last year to buy MCI, later acquired by Verizon.

Qwest and smaller telecoms without wireless assets likely will be victims of corporate Darwinism, predicts Fariborz Ghadar, director of Penn State University's Center for Global Business Studies.

In industries such as telecom that require billions of dollars in capital and new technology, only two or three large players boast enough assets, customers and brand recognition to survive, he says.

“Consumers demand a spectrum of services, and if you can't afford to invest in that spectrum of services, you're going to be bought out,” Ghadar says.

The competition is getting brutal. If the AT&T deal is approved by regulators, Cingular Wireless — now owned jointly by AT&T and BellSouth — would increase AT&T's stock value as the company takes control of the fast-growing asset.

Verizon owns just 55% of the USA's top wireless carrier, Verizon Wireless, and has unsuccessfully tried to buy out its European partner, Vodafone. Verizon's stock would suffer relative to AT&T's if Verizon doesn't snap up the rest of Vodafone, King says. And the British company, which recently considered selling its Japanese wireless assets, might unload all its “far-flung global properties.”

In the large-business market, Verizon's MCI unit now competes head-on with market leader AT&T. AT&T's purchase of BellSouth will give it a further inroad in the corporate market in the Southeast. Robin Diedrich, an analyst at Edward Jones, says that federal antitrust regulators are likely to approve the AT&T-BellSouth deal as well as others in the telecom industry because new Internet and wireless firms are creating enough competition and choices for consumers.

Plus, Diedrich says, growing wireless companies such as Alltel appeal to investors now, as millions of consumers and more businesses favor wireless and Internet phones over old landline telephones.

Revival Of The Fittest (WP)

By Yuki Noguchi

The Washington Post, March 7, 2006

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Just a year ago, the hallowed AT&T Inc. brand appeared to be in its twilight, on the cusp of being merged out of existence. Now, with a proposed $67 billion acquisition of BellSouth Corp., the AT&T name is about to retake its place as the biggest brand in telecommunications.

Though it's been hard to track the complicated handoff of the AT&T name in recent years, it's clear that the new AT&T is a far cry from the old "Ma Bell" company that was formed after Alexander Graham Bell invented the telephone in 1876.

Before the breakup of the monopoly in 1984, there was effectively one company, AT&T, which sold telephones and supplied local and long-distance services. That was before cellular phones and the Internet. After the breakup, AT&T became a long-distance phone company. The company reached its marketing heyday during that time, with its "Reach Out and Touch Someone" advertising campaign, which promoted relatively expensive long-distance calling.

"I think it's still a slogan that people still remember," said Eli M. Noam, professor of finance and economics and director of the Institute for Tele-Information at Columbia University. "What they managed to do was maintain a reasonable market share," even in the face of competition from companies like MCI Communications Inc.

In the late 1990s, AT&T for a brief period had a host of services under its umbrella. In addition to being the largest long-distance provider, it had a wireless operation, offered cable TV services, and sold dial-up and later high-speed Internet services. Over time, the pieces were spun off or sold.

By early last year, all iterations of the AT&T brand seemed headed for the dustbin of history -- again. In 2004, AT&T Wireless was subsumed by Cingular Wireless.

Cingular's parent companies, BellSouth and SBC Communications Inc., had proposed an acquisition of AT&T, leaving no apparent heir to the name. But as marketing experts predicted, after closing its merger last year, SBC ditched its three-letter acronym for the nationally recognized AT&T name, which it now calls "the new AT&T" in its advertisements.

"It is one of the classic American brands," Noam said. "It has clearly lost some of its strength in recent years, but particularly for older Americans, the Ma Bell stands for quality and reliability."

Monopoly Concerns Resurface With Re-forming Of AT&T (SCRIPPS)

By MARY DEIBEL, Scripps Howard News Service

Scripps Howard, March 7, 2006

AT&T's $67-billion bid for BellSouth seems on the surface to go a long way toward reconstituting the old telephone monopoly, but 24 years after federal trustbusters forced the breakup, it's not your father's Ma Bell anymore.

Today's era of wireless and fiber optics convergence is light years away from the competitive landscape that U.S. District Judge Harold Green confronted when he OK'd the 1982 consent decree that divided AT&T into seven regional Bell operating companies two years later.

At stake now are upstart, low-cost challenges from Internet, cable and wireless competition, telecom analysts say.

To be sure, bringing BellSouth back under the AT&T rubric will reunite four of the original Baby Bells, including SBC, Ameritech and Pacific Telesis. Others are former Bell babies Verizon - a combination of onetime East and West Coast telecom firms Bell Atlantic, Nynex and independent GTE - and the Denver-based Qwest, which is comprised primarily of former Baby Bell U.S. West.

AT&T's BellSouth acquisition also will extend the AT&T brand to No. 1 cell phone company Cingular, a joint venture by the two firms that was central to their negotiations, although growth potential may be limited when more than 80 percent of Americans already have at least one cell phone.

As important are the fiber-optic "pipes" that BellSouth has already run fiber-optic cable to many of the 14 million homes and 5 million businesses it serves in parts of nine Southeast states, including Alabama, Florida, Georgia, Kentucky, Louisiana, North and South Carolina and Tennessee.

Unlike BellSouth, AT&T is poised to enter the video business big time with Project Lightspeed in competition with cable, broadcast and broadband. With BellSouth's fiber-optic backbone, AT&T will be able speed video, music, Internet and telecom services to customers in 22 states.

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These concerns prompted consumer groups to voice opposition to this new step in the consolidation of the telephone industry on grounds the sale will provide fewer choices for customers.

But others counter that, despite the dwindling number of telephone companies, there's increased competition from other firms including onetime local cable TV monopolies and others to "bundle" Internet, video, telecom and the like.

Where there was once a single company - AT&T - offering telecommunications services locally and long-distance, telecom analyst Jeffrey Kagan now points to multiple firms offering Internet, telephone, TV and wireless service.

As for AT&T's impending roll-out of video service nationwide, offering four digital channels simultaneously, Kagan said AT&T's game plan has sent cable companies "back to the drawing board to come up with a better package of services."

"Customers who make a move to a big telephone company or a big cable operator will do so because they're offering multiple services at a discount, or you can buy a la carte from multiple service providers if one-stop-shopping can't compete on price," Kagan said. "Unlike Ma Bell a quarter-century ago, consumers have a lot more choices today and they're growing."

Consumers Union and the Consumer Federation of America are not impressed and will urge the Justice Department and Federal Communications Commission to reject the deal.

"Despite claims that the merger might foster competition between phone companies and cable giants, cable companies are just now entering the phone market and are not yet positioned to compete with the national phone duopoly that will exist if the merger is approved," the two groups said in a joint statement."

"The only other potential competitor - voice-over-internet phone service (VOIP) which relies on broadband connections - is threatened by the ability of the Bells and cable companies who own broadband wires to disrupt their VOIP transmissions."

Fast-growing VOIP companies including startups Skype and Vonage as well as AT&T's own CallVantage offer local and long-distance calling at cut-rate prices, now reach 4.4 million homes, up from 1 million a year ago. The Telecommunications Industry Association, a trade group of equipment makers, predicted last week that VOIP will expand to 18 million users by 2009.

Meantime, Jeff Chester, founder of the Center for Digital Democracy, worries that AT&T fees could turn the Internet into a "toll road."

"Instead of the Internet reflecting what the federal courts not long ago called 'the most participatory form of mass speech yet developed,' it's now threatened to be reduced to what AT&T called its private pipes," Chester said.

Alternately, Kagan said any attempt to turn the Internet into a toll road could spread competition for wireless Internet beyond neighborhood coffee houses and other Wi-Fi hotspots and into every home.

What The AT&T Deal Means For Consumers (WSJ)

By Shawn Young And Jessica E. Vascellaro

The Wall Street Journal, March 7, 2006

The $67 billion merger that will make BellSouth Corp. part of AT&T Inc. is expected to accelerate the battle of the bundles.

The cable industry and the phone companies are aggressively competing to attract new customers by offering attractively priced packages of home phone, Internet, cable and cellphone services. AT&T Chairman and Chief Executive Edward Whitacre has long identified $100 as a potential target price for a package of those four services. While that price hasn't been offered yet, the merger increases the pressure on the phone and cable rivals to deliver more competitive packages as a way to keep competing services from poaching customers.

Prices are already in the $100 range for packages that don't include wireless -- and industry executives expect them to come down. A larger AT&T will be able to compete more aggressively with cable companies and, after cutting costs, will likely be able to reduce prices of service packages.

Comcast Corp. is rolling out a $99 a month Internet, phone and cable bundle. The package -- currently available in parts of New England, the Philadelphia area and a few other markets -- represents about $30 off the price of purchasing each service individually. The package will soon be available elsewhere in the nation.

The basic bundles from Time Warner Inc. include digital cable, high-speed Internet, and home phone service, and range from $99 to $129.95 depending on the city. Packages are available in all 27 of the states Time Warner serves and savings start at roughly $15 a month over a la carte rates.

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Bundles do benefit big spenders and those who prize convenience. But they aren't great deals for everyone. People who spend very little on wireless or long-distance might be better off cherry-picking from different companies. And consumer advocates caution that customers shouldn't add services they don't already use just because they are cheaper in a package.

Another issue for consumers: Bundle prices often are introductory rates that will rise after a set amount of time. AT&T, for instance, increases its high-speed Internet price to $30 from $13 a month after the first year. The prices also don't include the taxes and fees that can add 20% or more to the total bill.

Bundling is still something of a novelty for consumers, though it is slowly catching on. In 2004, only 8% of consumers surveyed by Forrester Research, a consulting firm based in Cambridge, Mass., had a package of video, Internet and voice service from their phone or cable company, but by late last year 11% were buying packages.

For the companies that sell bundles, the goal is a more loyal customer and a larger share of that customer's spending. Customers who take several products together are much less likely to defect just because a rival offers a slightly better price. A survey by Yankee Group, a Boston-based consulting firm, found that 84% of households that got a package of Internet and video services from their cable company were satisfied with their carrier, compared with 67% of households without the bundle. Still, the survey found that some customers become willing to switch for savings of $15 a month or more.

Phone and cable companies have been locked in an intensifying battle as phone companies expand into video and cable companies start to offer phone service. The prize is the potential to provide all of a household's communications services. Bundle offers can be a way for service providers to cut off a competitor's link to the consumer's home altogether.

Cablevision Systems Corp. offers all its subscribers an introductory package of voice, cable and high-speed Internet for $89.85 a month. After a year, the price climbs to around $115. A la carte prices are $44.95 for Internet, $34.95 for voice and roughly $55 for digital cable. Verizon Communications Corp. offers packages that start at around $89.89 for home phone, high-speed Internet and satellite TV service.

AT&T has a four-way deal that includes wireless for $121 a month. The merger could make it easier for AT&T to extend its bundled offers, says company spokesman Michael Coe. The merger will give AT&T full control of the Cingular Wireless venture that is now a joint venture between AT&T and BellSouth.

Packages are convenient and can be good deals for consumers who already spend a lot on communications and entertainment. Bundles that now mostly appeal to consumers on the basis of price and convenience could develop into truly integrated services with features like cellphones that automatically become home-phone extensions when plugged into a base station at home, caller ID that is displayed on the TV screen, or video recorders that can be programmed with a cellphone.

Not all consumers stand to benefit from service packages, however, and many consumer advocates fear that the phone and cable companies will eventually become so large that they essentially can dictate prices. Bill Hardekopf, chief executive of SaveOnPhone.com, a consumer Web site, believes that consumers who spend little on long distance or wireless won't benefit from packages. One of the only alternatives will be through Internet-based phone services. Vonage Holdings Corp. and the Skype Technologies unit of eBay Inc. offer cheaper prices for Internet-based home phone service than most phone or cable companies. Vonage offers unlimited local and long-distance service in the U.S. and Canada for $24.99 a month with minimal taxes and fees. Internet-based services often can't offer full-service 911 and won't work if the power or Internet connection fails. Customers must already have high-speed Internet service.

Some of the current package offers that combine TV, phone and Internet service.

The Telecoms Strike Back (CSM)

By Mark Trumbull And Alexandra Marks

The Christian Science Monitor, March 7, 2006

BOSTON AND NEW YORK - Changes in the communications industry are spawning vast new choices - but not necessarily lower bills - for American consumers who dial, click, and channel surf.

Cellphones now carry video as well as voice. The Internet can be used for phone calls as well as data downloading. And television is fast becoming a digital medium, where content can be stored and retrieved anytime, not according to a schedule in "TV Guide."

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This is the "digital convergence" of communication platforms that telecom and cable companies have long been trying to create. The process holds great promise but means more volatility for consumers and firms.

The latest jolt is this week's announcement by AT&T that it plans to acquire BellSouth Corp. Together, the firms would create the world's biggest telecommunications company in terms of market capitalization and combine many of the pieces of the old "Ma Bell" that in 1984 was broken into eight pieces by an antitrust settlement.

Indeed, for all the new competition, the scale of this $67 billion deal is just one sign of the market clout that telecom and cable companies still retain. The word monopoly no longer applies. But Americans are spending more than ever on communications services, and regulators still have a role to play as guardians of competition, consumer advocates say.

"The average consumer today wakes up with only two choices for full-service broadband communications, which is the future: the telephone company and the cable company," says Mark Cooper of the Consumer Federation of America in Washington. "What we've gone from is a regulated monopoly to an unregulated duopoly."

Other observers argue that, by and large, the marketplace is fulfilling its competitive promise.

What's clear to all, however, is that businesses are adapting quickly - with much of the focus for both companies and regulators now on how traditional phone companies will compete with cable TV providers in offering new services.

For their part, AT&T and BellSouth are positioning their planned merger as a win for consumers - and a way to go head to head with the cable industry.

"Together, we will lead the way into a new era of converged and bundled communications, video, and entertainment services," AT&T chairman Edward Whitacre said in a statement Sunday announcing the deal.

The companies would offer wireless service (through the Cingular brand), Internet, and traditional telephony with a dominant presence throughout the South and Midwest, and increasingly video services as well.

The pattern on prices varies from platform to platform.

"There's definitely some downward pressure" on prices for traditional phone service, thanks in part to new choices for making calls over the Internet, says Joe Laszlo, a senior analyst at Jupiter Research in New York. Wireless, too, is a "robustly competitive" market, he says, with customers paying less per minute as their usage continues to rise.

Online, the pattern is more subtle, with basic broadband rates steady even while special offers are pitched to new users.

Cable TV, many observers say, is an area where prices have tended to keep rising over the years, making that industry a source of particular scrutiny. One idea under review at the Federal Communications Commission: making companies offer "a la carte" services so customers can buy only the channels they want to watch.

Such plans might cut customer costs, some studies suggest.

But the overall trend is that communications of various sorts have been garnering a growing share of the time and money of the typical consumer. "I don't know how much further that can go," Mr. Laszlo says.

Some say companies will find themselves competing intensely for business.

But consumer advocates argue that regulatory vigilance remains much needed.

In particular, they contend the proposed AT&T-BellSouth merger is anticompetitive and will end up leading to higher prices, fewer choices and less innovation, just what the 1984 breakup of Ma Bell was supposed to prevent.

"They couldn't put Humpty Dumpty back together again, but they're putting Ma Bell back together again," says Edmund Mierzwinski, the consumer program director at US Public Interest Research Group in Washington.

He and other consumer advocates have pledged to fight the deal at the Justice Department, the Federal Trade Commission, and the FCC. They contend that while the merger will not create a monopoly situation for phone service, it will eventually lead to a duopoly with each phone giant controlling a series of services in different parts of the country.

"This one is about the future of communication writ large," Mr. Mierzwinski says. "It's not just about telephone service, it's about the Internet, the delivery of video and about all of the convergences that have been occurring."

Consumers can now watch TV on their cellphones, call a neighbor over their cable line, or hook up to the Internet over the phone lines. In that sense there is more choice. But it doesn't necessarily mean many choices of which company provides the services.

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The upshot, some consumer advocates say, is a situation where prices have fallen on some services, but consumers often have to buy a bundle of services from the same company to get the best deals.

"If you're a consumer who can afford to spend $200 or $250 a month on communications services, then maybe your total costs have come down," says Jeannine Kenney, a Consumer's Union analyst in Washington. "The reality is now that competition is all about the bundle of services, and each company has a vested interest in maximizing sales of bundled services within their own territory."

The AT&T-BellSouth deal is hardly the first. AT&T already incorporates other former "Baby Bells" Ameritech and SBC. And consumer groups are keeping a close eye on whether past mergers are resulting in higher or lower prices.

Some consumer groups believe it's too soon to see the effects of mergers on long-distance services. For example, last fall, the Ohio Consumers' Counsel, a residential consumer advocate, argued against the SBC and AT&T merger unless the companies agreed to cap its basic rates for three years and cap the price of such features as call waiting and call forwarding.

"Most of the recommendations were not implemented and we believe residential customers are not getting their share of the benefits," says Ryan Lippe, a spokesman. "Consolidation often means fewer choices for customers."

In fact, Tuesday, the Public Utilities Commission of Ohio is expected to vote on changes of regulation for basic local phone service. "We could be seeing the potential for companies to increase their prices for just a dial tone," says Mr. Lippe. "If the proposed rules go into effect, a company like SBC could come in and become eligible to raise prices by as much as 20 percent per year."

However, it's not a given that a company will get a price hike, he adds. "We could still advocate for consumers."

AT& T Deal Puts Focus On Net Fees (USAT)

By Paul Davidson

USA Today, March 7, 2006

AT&T's proposed purchase of BellSouth gave fresh ammunition Monday to critics of a push by the big local phone companies to charge websites fees to ensure fast delivery of their content.

Even before the deal, AT&T and BellSouth discussed plans to charge Internet-based phone company Vonage, Google and other Web providers new fees to ensure speedy delivery of their phone calls, video or other content. Though proposals in Congress would bar phone companies from blocking access to rival websites, none would prohibit their offering enhanced services.

The question of whether an even bigger AT&T should have to comply with Internet non-discrimination principles is expected to take center stage as consumer advocates urge regulators to reject the deal. Some rivals say arguments for such restraints are bolstered by the clout a bigger AT&T customer base would have. “Arguably, there's less competition as a result of these mergers,” says Paul Meisner of Amazon.

Consumer groups also fear the $67 billion deal will hamper competition for wireless and large business customers, driving up prices.

Yet while the proposed merger faces tough regulatory scrutiny, most analysts say the Justice Department and Federal Communications Commission will approve it with only minor conditions.

FCC Chairman Kevin Martin says the agency will examine “any allegations of specific harm in individual markets and the potential benefits” for new services.

“It'll get through relatively easily with light conditions,” says Stifel Nicolaus analyst Blair Levin.

But there will be fallout. AT&T plans to cut 10,000 jobs, or about 3% of its new workforce, largely through attrition as it achieves more than $2 billion in cost savings.

The merger creates a behemoth with 70 million wire-line customers and 54 million wireless subscribers. Local phone companies such as AT&T now face their biggest competitive threats in residential service from wireless companies, cable companies and Internet-based phone companies.

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Gene Kimmelman of Consumers Union says the deal gives Cingular Wireless, jointly owned by AT&T and BellSouth, even less reason to offer its wireless service as a replacement for home phone service. The new company should have to divest Cingular, he says.

But Levin says it will be tough for regulators to justify tougher conditions than those placed on the SBC-AT&T and Verizon-MCI mergers. So AT&T-BellSouth might have to promise it won't block rival Net-based phone services or websites, among other things. It also will likely have to sell fiber lines serving some businesses, Levin says.

Battle Lines For Cable Giants, AT&T Deal Is One More Reason To Worry (WSJ)

By Peter Grant And Amy Schatz

The Wall Street Journal, March 7, 2006

The picture just got fuzzier for the cable-TV industry, a once-mighty monopoly now under assault by new technology and corporate mergers.

Even before AT&T Inc.'s planned $67 billion acquisition of BellSouth Corp. -- a deal that would create the world's biggest phone company -- cable companies were under growing pressure. Their stocks have steadily declined amid investor alarm at new competition from satellite and phone companies. The explosion of video on the Internet is conjuring up a future when a cable middleman may no longer be necessary. Regulators are pushing the industry on decency issues and pricing policies.

And cable's once-commanding lead in the sale of high-speed Internet connections has eroded as telephone companies have steeply discounted competing offers. Cable used to enjoy a two-thirds market share, but in the past year telephone companies have picked up more new customers than cable operators did.

Comcast Corp., the U.S.'s largest cable operator with more than 21 million subscribers, saw its stock fall 22% in 2005. While it has picked up a little bit of ground this year, it's still down 17% from the beginning of 2004. Mediacom Communications Corp., the No. 7 operator, is down 33% from the beginning of 2004. Charter Communications Inc., No. 4, is down 72%.

Now the AT&T megadeal could create the largest competitor yet for cable operators in the new race to sell packages of phone, TV and Internet services. Among phone companies, AT&T already had the most aggressive plans for pushing into the TV and broadband markets. Adding BellSouth's customers would lift AT&T's annual sales to $120 billion in 22 states, giving the company cash and scale to pursue its strategy nationwide. AT&T already is planning to streamline its operations. It announced yesterday plans to cut 10,000 jobs following its purchase of BellSouth.

The likely result for cable operators: more pressure to cut prices for high-speed Internet and slower growth of price increases for television. Cable companies also may have to increase capital spending to keep up with the new TV technology the phone companies are planning. In November, Comcast's stock fell 5% after it raised its estimated 2005 capital spending to $3.5 billion from an earlier prediction of $3.2 billion to $3.3 billion.

Consolidation in the telephone industry could put pressure on cable operators to get bigger as well. Both Comcast and the cable unit of Time Warner Inc. are expected to bulk up later this year when they divide up the systems of Adelphia Communications Corp., which has been operating under bankruptcy protection. As part of that deal, Time Warner Cable will issue public stock, giving it a currency for future acquisitions.

Cable operators are hoping that, at least in the short term, a merger of AT&T and BellSouth would slow AT&T's launch of TV service. They point out that for months, if not years, management's attention will likely be focused on integrating the two companies.

Meanwhile, the cable companies aren't standing still. Comcast has greatly increased its video-on-demand offerings with ambitious plans to offer a library equivalent to 5,000 hours of movies, programs and other features by year's end. Large cable operators are also pushing into a wide range of other new technologies that will give them interactive commercials and many of the other features that AT&T is planning.

"There's not a thing that [phone companies] can offer that we can't offer to our customers as well," Steve Burke, Comcast's chief operating officer, said yesterday after the AT&T deal with BellSouth was announced.

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WSJ's Dennis Berman discusses10 the impact of AT&T's $67 billion deal to buy BellSouth. • Plus, WSJ's Almar Latour, Julie Ask of Jupiter Research and Om Malik of Business 2.011 discuss the possible effects of an AT&T -BellSouth merger on the telecoms sector.

The cable industry, like the phone business, has been in upheaval for years, as both try to jam more services through their pipelines into America's homes. While telephone companies have been planning to move into the TV business, cable operators have been racing to offer phone service. Late last year, a venture of Sprint Nextel Corp. and a consortium of cable operators including Comcast, Time Warner and Cox Communications Inc. announced plans to offer wireless phone service together.

The cable guys have notched some victories. While phone giants like AT&T and Verizon Communications Inc. have barely launched television service, cable companies already provide phone service to more than five million U.S. subscribers. The cable-phone business is expected to grow even more this year because Comcast is launching the service on a massive scale.

"Cable operators have been able to prove their ability to compete and adapt to a changing environment," says Michael Willner, chief executive of Insight Communications Co., the country's eighth-largest cable operator. "The cable market is oversold [by Wall Street] because of unwarranted fears."

Cable enjoyed an early lead in the race to sell high-speed Internet connections. By moving faster than phone companies with a more attractive and problem-free product, cable companies dominated the early business.

Aggressive Strategy

But about two years ago, phone companies embarked on an aggressive strategy to grab market share through steep price cuts. Last year was the first full year that telephone companies added more broadband subscribers than cable operators -- 5.2 million vs. 4.4 million -- according to Leichtman Research Group Inc. The market share of the top cable providers has been whittled down to about 57%, according to Leichtman.

Telephone companies also currently enjoy a clear edge in the wireless business. A merger of AT&T and BellSouth would strengthen AT&T's hand in wireless because the companies are co-owners of Cingular Wireless. With a single owner, Cingular will be freed up from the conflicts that occur when a company has to serve two masters.

Meanwhile, the cable industry's wireless venture with Sprint is facing delays. When it was announced late last year, executives predicted that the service would be launched in the first half of 2006; now, they are saying it will be in the second half of the year. A spokeswoman for the venture, Melinda Tiemeyer, pointed out that the venture involves numerous companies and requires "a lot of different areas coming together" like marketing, retail and the actual product.

Satellite continues to pose a formidable threat, with Rupert Murdoch's DirecTV Group Inc. planning to offer more than 150 national high-definition channels by 2007, as well as 1,500 local high-definition channels, surpassing what most cable companies can currently offer. Satellite operators have more than 27 million subscribers, compared with about 66 million cable customers.

Many investors saw a powerful signal when Comcast made its unsuccessful bid to buy Walt Disney Co. in 2004. The message they read: Comcast believed that TV distribution wasn't enough to sustain its growth, and it needed more TV content. While Comcast executives have vehemently denied this, the company's stock has mostly stayed well below $33.93 price it hit the day before it announced the Disney bid. Comcast's shares were down 11 cents at $27.06 in 4 p.m. trading yesterday on the Nasdaq Stock Market.

Before AT&T announced its plans to buy BellSouth, the phone giant said it planned to offer its own television service to 18 million homes by the first half of 2008. AT&T also is planning to beef up its alliance with satellite-TV operator EchoStar Communications Corp. by offering consumers a service, named HomeZone, that combines satellite TV with movies, programs and other on-demand content off the Internet.

It is still unclear whether AT&T will be able to execute its TV plans. So far, it is offering its TV service only in San Antonio and some experts are skeptical that the company will be able to move ahead with a broad rollout later this year. AT&T and EchoStar already are months behind in their plans to launch HomeZone.

Starting in the 1970s and 1980s, cable operators shook up the television industry by offering better reception and racier fare than the traditional networks, which are beholden to federal decency standards because their signals travel over government-

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granted airwaves. The cable industry also benefited from local monopolies, painstakingly negotiated one market at a time across the country.

But in the converging worlds of telecommunications and media, cable's competitors increasingly are the better-connected telephone giants, which have maneuvered through the federal legislative and regulatory landscape for decades.

Since taking over a year ago from Michael Powell, FCC Chairman Kevin Martin has ordered several major reviews of the cable business. The commission recently issued a report suggesting consumers would have lower cable bills if cable operators offered channels using an "a la carte" lineup -- selling individual channels rather than a prepackaged bundle. It is also examining whether to cap the cable giants' ability to extend their reach through mergers. FCC action on either of those issues would require congressional action.

An effort to force the cable giants to meet the same decency requirements as broadcasters has failed so far in Congress. But in response, the cable companies have offered new family-friendly packages of programming. The new packages haven't been well-received in Washington because they don't include ESPN or other popular channels. FCC Chairman Martin has continued to keep up pressure on the industry.

Meanwhile, as soon as this week, key House lawmakers could release a draft of a bill that would help clear the way for the Bells to get into the cable-television business. Essentially, the bill is expected to establish national video franchises. That would allow the phone companies to avoid having to seek permission from local governments to offer video service in their communities.

Separately, Arizona Republican Sen. John McCain is planning to introduce a cable "a la carte" bill this month. That legislation may not get very far, but Mr. McCain's presidential aspirations could easily result in the proposal ending up as at least part of any potential campaign platform.

Fighting Back

In the cities where phone giants have invaded cable's turf, cable companies are fighting back with aggressive pricing packages. Cablevision Systems Corp., facing competition in the New York region from Verizon, is offering new customers the first year of phone, cable and high-speed Internet service for about $90 a month. Insight Communications introduced a similar package about a year ago and is still evaluating what to charge customers once their initial discount period burns off. "We're packaging aggressively and getting more customers for it," Mr. Willner says.

In Keller, Texas, the first city where Verizon offered TV service, the local cable operator, Charter Communications, dropped the price of a package of TV and broadband services to $50 a month from $100 for the first year. Verizon recently announced that 23% of the Keller market is now taking its TV service, which charges $39.95 for 180 channels, $34.95 if the subscriber also takes Verizon's broadband service. A Charter spokeswoman said its special offer, which recently was increased by $10 a month, was partly a response to satellite competition.

Cable companies also have come out with new ways to hold on to customers who are about to switch providers. Time Warner Cable typically charges $39.95 a month for its broadband service for subscribers who also take its TV service. If customers call to disconnect their broadband, they're offered a slower service for $29.95 a month.

Time Warner doesn't generally advertise the lower priced service, says Mark Harrad, a company spokesman. "It's a save tactic," he says.

Consumer Groups To Oppose AT&T Purchase (AP)

By EILEEN ALT POWELL, AP Business Writer

AP, March 7, 2006

NEW YORK — Several of the nation's largest consumer groups said Monday they would oppose AT&T's purchase of BellSouth Corp., arguing that the deal will reduce competition and drive up prices in the telecommunications industry.

Consumers Union and the Consumer Federation of America said they would urge the Justice Department to block AT&T Inc.'s $67 billion offer.

The consumer groups also asked their members to contact the Federal Communications Commission, which must approve the acquisition, and to petition their congressmen to try to prevent the deal from going through.

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If approved, the combined company would become one of the largest telecommunications operators in the world and include Cingular Wireless LLC, the nation's largest wireless operator. Cingular today is jointly owned by AT&T and BellSouth.

The consumer groups warned that increasing consolidation in the telephone industry would boost the prices for local, long-distance and cell phone services. They added that more-limited choices for phone service — along with a similar merger trend in the cable industry — threatened to reduce the variety of broadband Internet services available to consumers.

"If approved, this merger will lead to higher local, long-distance and cell phone prices for consumers across the country," said Gene Kimmelman, a vice president of Consumers Union, which is headquartered in Yonkers, N.Y.

At the very least, Kimmelman said, federal regulators should "require the merging companies to sell their Cingular wireless business to create more opportunities for competition between wireless and wireline services."

Mark Cooper, director of research for the Consumer Federation of America in Washington, D.C., said consumers should be worried that the promise of broadband Internet technologies was being compromised by consolidation in both the telephone and cable industries. Those companies control the circuits on which data, television and phone communications move.

"We've been through a series of mergers that have reconstructed most of the old Ma Bell system," Cooper said, referring to the historic 1984 government breakup of the old AT&T monopoly into seven "baby bell" telephone providers.

The phone companies have argued that they face growing competition from cable companies, which have been getting into the phone market and offering an increasing array of broadband services, such as high-speed Internet access.

Randall Stephenson, AT&T's chief operating officer, told analysts Monday that AT&T already was feeling competitive pressure, saying the phone company has to tailor its prices to reflect those of local cable companies.

"We're finding that we're having to be far more targeted in our pricing based on who the competitor is in a particular market," he said. "I don't see that effect changing as we bring BellSouth into this equation."

But the CFA's Cooper said consolidation in both the phone and cable industries meant "that when consumers wake up in the morning, they have two choices for a full-service broadband network, telephone and cable."

He called it "an unregulated duopoly" and added: "Every consumer knows that two is not enough for real competition."

Jeff Chester, executive director of the Center for Digital Democracy in Washington, D.C., which promotes democratic access to broadband, fears that companies the size of a merged AT&T-BellSouth will have the heft to become "a virtual toll booth" on the Internet.

That's because the communications industry is moving to broadband, which allows voice, data, video and mobile communications to move over a single wire.

"The cable industry and the phone industry have the same business model, which is to begin charging increasing fees to consumers for using broadband communication," Chester said.

At the same time, he argues, they have the ability to give priority on their circuits to "premium" services or to companies with which they have alliances. This will make it harder for new technologies to emerge, because they will have trouble getting access to the delivery system.

"We need to make a stand today," Chester said. "If we allow them to turn today's Internet into a digital dirt road while only they and their partners can run lightening-fast operations, you won't see competition."

Bill Hardekopf, chief executive of the SaveonPhone.com long-distance search site, said the sheer size of the combined AT&T-BellSouth company was likely to be a red flag to federal regulators.

"This company will have a tremendous amount of market share and say as to what goes on in the industry," Hardekopf said. "To have that much of a share and that much of a voice in one company cannot be healthy for consumers."

In fact, the merged company would have 70 million local-line phone customers, 54.1 million wireless subscribers and nearly 10 million broadband subscribers in nearly two dozen states.

"This is not a done deal," Hardekopf said. "Regulators can still block it for competitive reasons."

Is Antitrust No Longer The Issue? (NYT)

By Stephen Labaton

The New York Times, March 7, 2006

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WASHINGTON, March 6 — As head of the Federal Communications Commission during the Clinton administration, Reed E. Hundt killed talks about a possible merger in 1997 when he said that a proposed deal between AT&T and SBC would be "unthinkable" under antitrust laws.

Last year those two companies combined with little resistance. And on Monday Mr. Hundt said that AT&T's proposal to buy BellSouth for $67 billion was "eminently thinkable," and that if he were still at the commission, "I would bless the deal."

His statement was a sign of how far the regulatory climate, as well as the marketplace, has traveled in less than a decade, as the cable and phone industries have gotten into each other's businesses and new forms of phone service have grown.

While government officials and industry lobbyists say the AT&T-BellSouth deal faces few regulatory obstacles, those same changes in the marketplace may bring different political headwinds.

The deal threatens to undermine parts of the telephone industry's broader regulatory and legislative agenda by making it more difficult for the industry to claim it badly needs relief from regulators and Congress.

The Bell telephone companies have lobbied hard for the last year to get Congress to adopt a measure that would make it easier for them to offer video services. The phone companies want federal legislation that would pre-empt local authority over such services. (The cable industry has fought equally hard against the measure.) That fight is central to the telephone companies' new strategy of offering video service to compete head-on with cable and satellite companies that offer paid television services.

As Internet service providers, the large phone companies are meanwhile involved in a political fight over whether they must offer equal access to all Web providers, an approach called "Net neutrality." Content providers like Google and Yahoo, and companies providing Internet-based phone service like Vonage, seek legislation to prevent phone companies from favoring their own Web sites and those offered by their partners, over rivals and Internet phone companies.

While the phone companies fight that move, they are also battling legislative efforts to make it easier for municipalities to offer free wireless Internet services.

But the continued consolidation of the telephone industry that the latest deal contemplates gives the phone companies' opponents significant political leverage in all three debates — and for the time being, could make it harder for AT&T and Verizon, the two largest phone companies, to prevail on all fronts.

"The reverberations at first will be subterranean, but they will be of earthquake proportions," Mr. Hundt said.

The cable industry, awaiting regulatory approval of its own major consolidation in which Time Warner and Comcast expect to divide up Adelphia, was quick Monday to point out the perils of a consolidating telephone industry. But Verizon, signaling that it will not raise major objections to the BellSouth deal, issued a statement that called it "logical and predictable." And Kevin J. Martin, the chairman of the F.C.C., issued a noncommittal statement.

"The F.C.C.'s primary responsibility is to determine whether the proposed transaction is in the best interest of consumers," Mr. Martin said. "We will carefully weigh the information presented, examining any allegations of specific harm in individual markets and the potential benefits for the deployment of new services."

The agency will be considering what conditions to impose on the deal in a process that could take as long as a year.

The AT&T-BellSouth deal provides a vehicle for regulators and lawmakers to consider what to do in the "Net neutrality" debate and whether the telephone companies can charge more money for certain content providers. The issue came to national attention in November when Edward E. Whitacre Jr., the blunt-speaking leader of AT&T, complained in an interview in Business Week Online about the current state of affairs.

"We and the cable companies have made an investment, and for Google or Yahoo or Vonage or anybody to expect to use these pipes free is nuts," Mr. Whitacre said.

In the same interview, Mr. Whitacre was asked whether it was possible that his company would ever acquire BellSouth.

"It sure would be nice, but it doesn't have much chance of happening because of market power, size, etc.," he replied. "I think it would be real hard to do. I don't think the regulators would let that happen, in my judgment."

While AT&T seems to have overcome that concern, lobbyists and others in the industry said Monday that there would be pressure on regulators to impose conditions assuring that consumers continue to have unfettered access to the Internet, and precluding discrimination by AT&T against companies like Google and Yahoo.

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Any new rules, however, might not prevent phone companies from offering a more expensive tier of service providing faster Internet access for the transfer of video and other large files.

In the case of the video-franchise legislation, the telephone companies in recent weeks had begun to see progress on favorable legislation in the House that could be derailed by the deal.

Wasting no time, the National Cable and Telecommunications Association, the cable industry lobbying and trade organization, sent a letter to top lawmakers on Monday arguing against legislation that would remove local control over the introduction of video services by the Bell companies.

The cable industry, having put together its franchises city by city, contends that the phone companies should face the same hurdles for video delivery.

"It is important to take stock of where we are in 2006," said the letter from Kyle McSlarrow, president and chief executive of the association. "In the last decade, the Bell monopolies have all but wiped out their telephone competitors; they have swallowed their long-distance competitors; and with the announcement of the AT&T-BellSouth merger, they are on the verge of recreating Ma Bell. And only one competitor really stands in their way: the cable industry."

Next Step In Phone Deal: P.R. (WSJ)

By Amy Schatz And Anne Marie Squeo

The Wall Street Journal, March 7, 2006

WASHINGTON -- As AT&T Inc. and BellSouth Corp. make the case for their $67 billion merger, they'll be counting on their vaunted lobbying clout to win over skeptical lawmakers and regulators.

Their efforts could be complicated by two factors: The changing makeup of the Federal Communications Commission and a push to rewrite the landmark 1996 telecommunications law.

In a statement yesterday, FCC Chairman Kevin Martin said the agency would "carefully weigh" the deal. Regulatory experts say that given Mr. Martin's push last year to impose minimal conditions on SBC Communications Inc.'s purchase of AT&T Corp. and Verizon Communications Inc.'s acquisition of MCI, it would be surprising if he reversed his stance.

Mr. Martin, though, represents just one vote on a five-member commission. The two Democrats likely will cast a skeptical eye toward such a transaction, especially given talk by phone companies to charge technology companies extra to guarantee speedy delivery on their networks. And the Bells may not be able to count on Mr. Martin's two Republican colleagues because of a shift in the makeup of the commission.

Deborah Taylor Tate is a Republican commissioner sworn in earlier this year. Ms. Tate is a former Tennessee regulator who remains largely an unknown figure in Washington. Ms. Tate, whose term expires in June 2007, has kept her home in Tennessee and is expected to return there and possibly run for office, so she may not want to adopt a position that is perceived as anticonsumer.

The other Republican seat is vacant. President Bush has nominated veteran telecommunications attorney Robert McDowell to fill that slot. Mr. McDowell is assistant general counsel for Comptel, a group that represents small phone companies that have fought pitched battles with the Bells over access rates and interconnection issues.

It would be unwise to assume Mr. McDowell might automatically side with small companies while considering conditions for the merger, says Earl Comstock, chief executive at Comptel. "He's good at representing his client."

Mr. McDowell faces a confirmation hearing Thursday in the Senate and is expected to be questioned by senators about his thoughts on competition and the need for some sort of "Internet neutrality" legislation, which says consumers can use the Internet as they choose and network owners can't slow or discriminate against rivals' data traffic. If his confirmation drags on and the commission is deadlocked, it can't approve the AT&T-BellSouth transaction.

Another element muddying the waters is the looming rewrite of the nation's telecommunications law. The current laws were written in 1996 when most consumers relied on traditional telephones for local and long-distance calling. Now, wireless phone and Internet phones are taking up a greater share of the market, which has led phone companies to seek new revenue streams, notably pay-TV service, to replace that lost business.

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There are all kinds of new issues on the table because of increased reliance on the Internet. The phone companies were looking to Congress to make it easier to launch video services across the country by adopting a national video franchising requirement, which would allow phone companies to avoid seeking permission from local authorities to offer pay-TV services.

Former Rep. Thomas Bliley, one of the key authors of the 1996 Telecom Act, sees competition among traditional phone, wireless and cable as the future. "But right now, the only meaningful choice other than the Verizons and AT&Ts, especially for business customers," are small phone companies, he said. "Many of these companies are spending billions to build their own networks. And if we move too fast, these companies could get shut out and business and residential customers would have less choice."

Business customers protested last year's big deals, saying they would further consolidate the industry and result in higher prices for high-volume data lines. "When I'm at home, I have choices. At least it's a duopoly of phone and cable. In the enterprise market, we don't have any choices," said Brian Moir, a Washington attorney who represents large corporate users of telecom services and wants regulators to impose conditions, as part of the deal, to protect business customers.

Sen. Daniel Inouye (D., Hawaii), the top Democrat on the Senate Commerce Committee yesterday said that the proposed recombination "will call into question our commitment to promote competition in the communications marketplace and to preserve fair rules that guarantee nondiscriminatory access to new services."

In a statement, he said that "coming only 125 days after the FCC's approval of the SBC-AT&T merger, AT&T's proposal to purchase BellSouth would remove yet another potential competitor from the communications marketplace and calls into question whether the future of communications policy will be marked by strategies to promote vigorous competition or by further efforts to facilitate new mergers."

Philip Verveer, who filed the lawsuit that led to the 1984 breakup of the Bell System monopoly, said he doesn't expect the Justice Department to block the deal. "This is a reassembly of many of the pieces we worked to take apart, but the circumstances are completely different today," said Mr. Verveer, now a partner at Willkie Farr & Gallagher in Washington.

Mr. Verveer, though, said he expects the FCC to require that AT&T agree to accept the "net neutrality" nondiscrimination principles pledged to the FCC last fall as a condition of the SBC-AT&T deal.

In the end much will depend on AT&T's government-relations executives. Indeed, lobbyists in town frequently remark that one of the best elements of SBC's purchase of AT&T was its inheritance of AT&T's lobbying shop, which has deep relationships with Republicans and Democrats.

Jim Cicconi, a Texan with close ties to President Bush, was the head of AT&T's Washington office before its acquisition. Afterward, he bypassed SBC's team to become the senior executive vice president of external and legislative affairs for the combined company. He served in both the Reagan and first Bush administrations and is close to James Baker and former President George H.W. Bush.

BellSouth's Washington operation isn't too shabby either. Led by Herschel Abbott Jr., who has been with the company since 1991, BellSouth has been a force in key issues in the telecom industry. Mr. Abbott played a critical role in persuading the White House in mid-2004 not to appeal a court ruling about fees the Bells charged others to lease access to their local-phone networks. Recently, BellSouth tried to persuade lawmakers to launch a narrowly focused telecom rewrite that only addressed the video franchising issue.

Two Young Men Likely To Play Big Roles In Telecom Giant (WSJ)

By Dionne Searcey

The Wall Street Journal, March 7, 2006

Over the years, AT&T Inc. chairman Edward Whitacre and BellSouth Corp. chief executive Duane Ackerman had talked many times about a deal before they finally agreed to the largest one in the history of the U.S. telecommunications industry.

In two years, though, both likely will be retired.

Before the deal Randall Stephenson, AT&T's chief operating officer, and Mark Feidler, who held the same title at BellSouth, were widely acknowledged to be the heirs apparent of their respective companies once their bosses retire. While it is

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likely they will play significant leadership roles in the combined company, analysts and investors believe that Mr. Stephenson has the inside track to be chief executive.

"Randall is clearly the anointed one within AT&T and Mark as the No. 2 in BellSouth needs to know that he'll have to be No. 2 or 3 in the new entity," says a consultant who has worked with both companies.

Both men declined to be interviewed yesterday. But people familiar with the situation say that Mr. Stephenson, who has spent his 24-year career with the company mainly overseeing telecom finances, and Mr. Feidler, a former corporate lawyer and investment banker, have both been supporters of a deal between BellSouth and AT&T. The two executives have a good working relationship and already have one deal in common. They both helped negotiate the Cingular Wireless acquisition of AT&T Wireless. BellSouth and AT&T own Cingular in a joint venture.

Mr. Feidler, 49, a graduate of Vanderbilt Law School who joined BellSouth in 1991, is known for getting into the nitty-gritty of the business. Associates say he has an excellent, almost impish sense of humor. He isn't a practical joker but is known for his wit, and he makes it clear he doesn't take himself or his situation too seriously.

"Mark is probably the smartest guy in whatever room he's in. He's a strategic thinker with a giant brain," says a former consultant who has also worked with both companies. "Unfortunately, I don't think he has a shot at the top job."

What has endeared Mr. Stephenson, 45 years old, to Wall Street is a blunt and charismatic style. He has been a patient and competent sideman to Mr. Whitacre and is known for his rapid recall of matters at hand. Like Mr. Whitacre, he is a very hands-on manager and focused on the minutiae of his business. He is known as a gentleman and is popular with the upper-echelon of management at AT&T.

In an era of new regulations, many executives and companies have become tight-lipped and stick to scripts. But Mr. Stephenson, who holds a master's degree in accounting from the University of Oklahoma, always makes an effort to explain issues and to be as forthcoming as possible, analysts who have dealt with him say.

"He's not the kind of executive who says I'll get back to you on that," says one telecom analyst who has met with him frequently.

A loyal lieutenant to Mr. Whitacre, Mr. Stephenson nevertheless pushed the company to change and was a proponent of the Cingular deal with BellSouth, the consultant said. He was also a proponent the decision of AT&T to have a presence in Hollywood near the content providers for its Internet television venture, Project Lightspeed, the consultant said.

Mr. Stephenson and Mr. Feidler are energetic executives approaching the prime of their careers, but they must still answer to and take direction from a chief executive who is for now firmly in charge. Their roots are starkly different from Mr. Whitacre, 64, and Mr. Ackerman, 63, both of whom started at the bottom of the phone business, working on equipment in the field, before ascending through the executive ranks.

And as much as Mr. Stephenson and Mr. Feidler pushed for the deal between AT&T and BellSouth, it was still Mr. Whitacre who finally convinced Mr. Ackerman to sign. "Ed and Duane largely did the deals themselves. The key meetings were those guys one-on-one," said one person familiar with the deal.

Mr. Ackerman and Mr. Whitacre have a great deal of respect for one another and share a cultural affinity for one another's similar telecom backgrounds. After many attempts at a deal through the years Mr. Ackerman finally relented because he found his company in somewhat of a pickle. SBC Communications had acquired AT&T Corp. and all its enterprise assets to become AT&T Inc., and Verizon had taken over the business assets of MCI Inc. Suddenly, BellSouth had two major competitors who could sell a better package of services to companies in its own backyard. The two men met a handful of times to discuss terms of the deal, but there wasn't much wrangling. Their companies' stocks have been trading at roughly similar prices and because they had contemplated a deal for so long there wasn't much to haggle over.

Mr. Whitacre is known as an operator. He is a master of the deal and a broker who has honed his skills at timing with his many acquisitions through the years. His board members trust him implicitly and he can assemble them rapidly if he wants to move fast on a deal.

It has long been assumed that the gentlemanly, restrained Mr. Ackerman would end his career by finally relinquishing his longstanding caution about the deal-making that has transformed the industry while BellSouth stayed close to its regional roots.

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Since the late 1990s BellSouth flirted with several deals but always backed away. The company bid unsuccessfully against the former WorldCom Inc. for Sprint Corp. several years ago and later held talks with both MCI and AT&T Corp.

Last year, according to people familiar with the situation, Mr. Ackerman approached Mr. Whitacre about a merger deal that would have split BellSouth into separate directories, landline and wireless businesses. Mr. Whitacre declined, these people say. Officials from neither company could confirm that situation. Mr. Whitacre was unhappy when BellSouth tried to pursue a takeover of AT&T, people familiar with that situation say. Mr. Ackerman backed off, and Mr. Whitacre, then chief executive of SBC Communications Inc., bought AT&T, they added. That deal was only completed five months ago.

It had been expected that Mr. Whitacre would retire close to November, when he turns 65. His associates said he wasn't ready to retire, and, last week AT&T's board extended his contract until spring 2008. Mr. Ackerman has said he would stay on at BellSouth to shepherd the acquisition, which is expected to take about a year to close. If asked to leave, Mr. Ackerman would collect $9 million as well as millions of dollars' worth of restricted stock and options, according to public filings.

Not Your Ma's Bell (WSJ)

The Wall Street Journal, March 7, 2006

If the criticism of AT&T's plans to buy BellSouth for $67 billion sounds familiar, it's because the same hyperventilating occurred last year when SBC bought AT&T and Verizon acquired MCI. We're back at the same old stand, and while all this telecom consolidation may or may not pay off for shareholders, the benefits to consumers are clear.

Consumer "activists" and other critics are convinced that these telecom mergers mean fewer competitors and higher prices. But they're using a model of the industry that dates to the break up of Ma Bell in 1984, when cable companies and phone companies didn't provide each others' services and the consumer wireless market was practically nonexistent. So when Mark Cooper of the Consumer Federation of America asks the Justice Department to block the AT&T/BellSouth merger because there won't be "enough competition" for phone service, he's looking for competitors in the wrong places.

Mr. Cooper refuses to acknowledge phone services offered by cable companies, wireless carriers and VOIP providers in today's telecom market. But these mergers are a direct result of competitive pressures from those very technologies. AT&T knows it has more to fear from a cable giant like Comcast than from a fellow phone company like Verizon.

Today's traditional phone companies have been steadily losing lines to wireless providers, and they need the size and synergies to invest in broadband, where cable companies already have a big head start. The most obvious benefit to consumers is the lower prices that result from increased "intermodal" -- or cross-technology -- competition. But another benefit is the faster rollout of new services made possible by economies of scale.

The biggest battle in telecom right now involves Bell companies that want to offer cable programming via Internet protocol television, or IPTV. AT&T and Verizon have been pushing their own version of IPTV to compete with traditional cable service, but BellSouth has not been involved in this effort thus far, mainly because it couldn't afford the investment risks. With the additional resources available through an AT&T merger, BellSouth customers in the Southeast could be getting cable competition sooner than they otherwise would.

Others argue that wireless competition would suffer from a combined AT&T/BellSouth because AT&T would control all of Cingular. But Cingular has been jointly owned and operated by BellSouth and AT&T for some time, which means the merger would do nothing to alter wireless market share. Besides, it would be difficult for Cingular to become a predatory monopolist in a marketplace with Verizon, T-Mobile and other wireless rivals.

Among the regulatory bodies that will vet this deal is the Federal Communications Commission, and Chairman Kevin Martin's record is encouraging. It's true the FCC's approval of the Verizon-MCI merger last year included some bad provisions like a temporary rate freeze and bundling requirements. But Mr. Martin was working without a Republican majority on the five-member panel and had to make concessions to win over the two Democrat commissioners.

He shouldn't have that problem this time around; confirmation hearings for a third GOP appointee -- Robert McDowell -- are scheduled for this week. Still, consumer groups are likely to push for other anti-competitive concessions like net neutrality, which would prevent AT&T/BellSouth from providing faster Internet connections for certain premium services to people willing to

pay for it. We don't know if providing these so-called "fast lanes" on the Web is a viable business model, but that's for the market to decide, not the regulators.

A bigger hurdle might be the Department of Justice's Antitrust Division, which is likely to receive pressure from Democrats on Capitol Hill aligned with consumer activists. Typical was the response from Massachusetts Democrat Ed Markey, a senior Member of the House Energy and Commerce Committee, who said "Twenty years after the government broke up Ma Bell, this deal represents a mother-and-child reunion."

But the child has grown up and the mother has changed, even if Mr. Markey's rhetoric hasn't. Consolidation is being driven, as it should, by changing technologies, and by all manner of competition in a telecom world that Ma Bell wouldn't recognize.

Let There Be Bandwidth (WSJ)

By Bret Swanson

The Wall Street Journal, March 7, 2006

Ma Bell's back: Run for your lives! -- or at least to the halls of Congress. That, it seems, is the overheated conventional wisdom. But the $170 billion combination of AT&T and BellSouth into the world's largest telecom company is a perfectly natural progression of business and technology. The merger will rationalize a market beset by decades of political mismanagement.

Some 22 years ago, Judge Harold Greene famously ruled that AT&T violated antitrust law and broke up the company along two axes. First, he divided the telecom market into local and long-distance. But just 15 years later, fiber optics and mobile phones obliterated long-distance as a meaningful market, replacing it with fixed-price, anywhere-in-America bundles, which are now under assault from voice over IP. Judge Greene's other 1984 ruling, which split Ma Bell's local operations into eight regional companies, was even more arbitrary from the outset. Because they were fixed by geography, more local companies did not yield more local competition, only diseconomies of smaller scale. So by the late 1990s, after the 1996 Telecom Act acknowledged some of these problems (but created still others), the regional companies began an inevitable reintegration into Verizon, AT&T (née SBC) and USQwest, which will likely soon be gobbled up as well. * * *

Although this latest reintegration will not reduce the number of competitors in the marketplace, it is sure to supercharge the ever-present denunciations of monopoly that are behind every effort to regulate telecom. This time around, the main agent is the colossus Google. Exactly one decade after the disastrous 1996 act set us on a path for the telecom crash and a plunge to 16th in world broadband rankings, Google is leading an alliance of politicians, lobbyists and interested companies under the aegis of "net neutrality." If enacted, it will repeat the most basic mistakes of earlier legislation.

Net neutrality supposedly seeks the modest goal of stopping the cable TV or telecom companies from "blocking" or "degrading" the content or services of online companies like Google, Vonage or AOL, which are invading traditional voice and video businesses. But the interwoven issues of content and conduit pervade the entire information economy, including the systems of Google itself. Barely recovering from the FCC's "open access" mandates that chopped up and assigned ownership rights and prices to the physical infrastructure -- the hardware -- of the Net, we now face the prospect of rigid reassignment of content, applications, services and protocols, too.

Blocking and degrading Internet access would quite simply be business suicide for incumbent service providers. Compared to cable's other content operations like basic and premium TV channels, its broadband cable modem services are more than 50 times as profitable per unit of bandwidth consumed. This means that with just a tiny sliver of the usable bandwidth in its pipes, cable's Internet services supply about 20% of the revenue and the majority of their net income. Does anyone really think the bandwidth providers are going to kill their golden goose?

The continuing advance of semiconductor and fiber-optic technologies will inexorably push cable and telecom operators to dedicate more and more of their networks to open Internet access. In such a highly volatile market, how much of service providers' capacity will be used for Internet access and how much will go for integrated products like high-definition video programming and video conferencing services is a tough business question. With the millions of competing enterprises involved, this is a complex and rapidly evolving system far beyond the capacity of Congress or the courts to micromanage.

A net neutrality regime would invite endless litigation among service providers, hardware and software vendors, and content and applications dot-coms. Who gets access, when, and on what terms, to the other's network, the other's operating system, the

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other's platform? These questions -- the very ones that have stifled innovation in telecom for the last two decades -- should be left to business competition and, if all else fails, to common law and antitrust. Congress and the FCC cannot be the arbiters of every connection, interface and transaction. And if such laws somehow only targeted the incumbent bandwidth service providers, then they would turn out to be merely malicious political tools for business rivals, decidedly not "neutral" and unlikely to survive the scrutiny of the courts.

The solution to all this is rather simple -- more bandwidth. Abundant bandwidth means the vast majority of online services, such as Web pages, email and voice, won't pose any congestion problems and will thus easily reach end-users. It also means bandwidth cheap enough that content companies won't mind paying for access. Across the network, different carriers have always charged different prices for varying amounts and qualities. Abundant bandwidth also gives the cable and telecom service providers the flexibility they need to manage this transition from a world of 200 dedicated channels to one with millions of open channels.

Abundant bandwidth will reverse America's communications decline and transcend monopoly worries or any need for complex net-neutrality regulation. But it will take more than $100 billion of massive and risky new investment, which cannot be made under the current regulatory caprice. Telecom deregulation begun by Michael Powell and continued by current FCC chairman Kevin Martin must be accelerated. Most importantly, we should banish the decades-old local video franchising process.

Since granting monopolies to local cable TV broadcasters some four decades ago, video franchising is obsolete. Yet the prospect of new broadband service providers haggling with some 30,000 mayors and city councils for the privilege of serving new customers is now America's chief obstacle to real broadband. Texas and Indiana have passed statewide franchises, which grant quick, simple and almost automatic licenses for the whole state, and they are already reaping a broadband investment harvest. Around $1 billion worth of new fiber optic bandwidth has already been announced in Texas. The other 48 states should follow suit, or Congress should adopt a simple national franchise without any "shot-clocks" or "build-out" baggage that invite litigation and discourage investment.

In the metro New York area, one of the few places where Verizon has won a video franchise and built its advanced optical network, competitor Cablevision has increased its basic cable modem service to 15 megabits per second and is offering premium services of 30 and 50 megabits. Where it exists, real competition between cable and telecom -- not faux competition among distinct telecom brand names -- is thus already yielding networks and speeds on par with the most advanced countries in the world.

AT&T's biggest challenge may be branding itself to a new generation of voracious communications consumers who are oblivious to "long-distance" and only know a world of no-distance chats, texts and blogs. It would be far better if Washington listened to these teeny-bopper baby belles instead of basing its merger, net neutrality and franchising policies on a Great Grandma Bell world that no longer exists.

Ma Bell Revives; Watch Her With A Very Wary Eye (USAT)

USA Today, March 7, 2006

Recent years have not been good to the businesses formerly known as phone companies. They got off to a slower start than cable in rolling out broadband service. And they lost core customers who signed up with Internet telephony services, or opted to go wireless.

But, not to worry, this is an industry with a plan: Bring back Ma Bell — the AT&T monopoly that once ruled the wired world, throttling competition.

While other industries have decided to race forward to keep pace with innovation, this one sees a bright future in turning back the clock. Maybe there is even a black, rotary-dial telephone in our future.

Sunday's announced merger between AT&T and BellSouth would reunite five of the eight companies created when an antitrust suit splintered the phone monopoly in 1984, igniting a communications revolution. (AT&T had already been merged with three of its offspring: Pacific Telesis, Ameritech and Southwestern Bell.)

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Given the current, accommodating state of antitrust policy and the arrival of cable as a competitor in broadband and telephony, this deal might well be approved by federal regulators. It might even create economies of scale that would make the combination more efficient than the sum of its parts.

But it also should raise red flags for Congress and federal regulators. For all the talk of robust competition between cable and telephone, the reality has been less impressive. The most intense competition and the fastest roll-outs of new services have been largely limited to affluent areas.

Reassembling the old Bell system would hardly provide companies with greater incentives to do what they are not doing already. If anything, it would give this new behemoth greater market strength with which to dictate prices and services.

What's more, the merger raises questions about the future of the Internet and digital entertainment. Even before Sunday, AT&T was vocal in its determination to impose limits on the Internet. The company envisions charging high-flying Internet companies such as Google and Yahoo for the privilege of flowing quickly through its high-speed pipes. It argues that because it invested in new lines, it deserves a greater piece of the action.

This merger might well increase its power to bring about such an unfortunate reality. With its massive customer base and ability to offer telephone, wireless telephone, broadband and video, it could bring enormous pressure to bear on Internet companies to pay its ransom, regardless of what its cable competitors do.

For that reason, lawmakers and members of the Federal Communications Commission should take a long, hard look at where the Internet is headed and what might be done to prevent a handful of companies from gaining a chokehold over an evolving medium that is one of history's great innovations.

Such an outcome would not only punish innovative companies, but in its most extreme form it would also make decisions for consumers on where they shop online, how they conduct their searches and which social networking sites they should use.

More broadly, Washington policymakers might want to examine the state of competition almost 10 years after the passage of a massive telecommunications law that partially deregulated the industry. If a company such as AT&T is able to erect tollbooths on the Internet, and if competition on price and service in many parts of the country remains anemic, then the law and subsequent court rulings further deregulating the industry are not having their desired effect.

Telephone and cable companies were freed of their regulatory shackles on the premise they would compete aggressively with each other. Progress on that front has been, at best, mixed.

Now the public is being asked to believe that putting the Bell system back together is going to stimulate competition and help consumers. It's hard to believe there is much progress to be made by going backward.

Competition Calling (LAT)

The Los Angeles Times, March 7, 2006

Reports of Ma Bell's death were greatly exaggerated. AT&T, which lost its independence (and almost its name) when it was purchased by SBC in November, now finds itself at the center of one of the largest mergers in business history. And concerns about the dangers of the deal are exaggerated as well.

This time, the newly reconstituted AT&T, formerly known as SBC, has agreed to buy BellSouth, the dominant local phone company in the South, in a stock swap worth about $67 billion. The merger, which must be approved by the companies' shareholders and federal regulators, would combine the erstwhile Ma Bell's market-leading long-distance business with local phone companies serving 22 states, or about 40% of the country's phone lines.

The numbers may be eye-popping, but the new Ma Bell is unlikely to be as powerful — or as dangerous — as the old Ma Bell. AT&T competes halfheartedly today for business customers in a few cities served by BellSouth, and BellSouth doesn't even try to compete with AT&T on the latter's home turf. And rather than operating rival wireless networks, AT&T and BellSouth jointly own one — Cingular.

As a consequence, the merger would have practically no immediate effect on BellSouth's or AT&T's market. Customers would neither gain nor lose any options for phone, high-speed Internet or wireless services.

Some critics argue that AT&T's chairman, Edward E. Whitacre Jr., is trying to reassemble the phone monopoly that the federal government broke up in 1984. As head of SBC, Whitacre has already gobbled up two of the regional Bells (Pacific Telesis

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and Ameritech) and last year acquired the struggling AT&T for $16 billion. The phone market is fundamentally different now, however. Cable TV companies sell phone and high-speed Internet service over their networks; mobile phones have become an increasingly affordable alternative to a home phone line; and numerous Web-based companies let users make calls through the Internet for little or no charge.

Meanwhile, phone companies such as AT&T and Verizon are starting to offer video services through high-speed Internet lines that can compete with cable and satellite TV operators. The proposed merger could actually promote that competition. Offering video through broadband connections also could serve as the Trojan horse that pushes high-speed Internet service into more homes.

Still, regulators shouldn't just wave the merger through. In much of the country, there isn't very much competition among high-speed Internet networks. So AT&T could be tempted to soak customers or extract extra fees from Web-based companies. And Whitacre has made some troubling comments about companies such as Google having to pay to use "his" pipes.

AT&T says it merely wants to charge websites for delivering faster service to users. Rather than trusting the company not to hamper the Internet or play favorites, regulators should require it to pledge to preserve a level playing field for all websites, programmers and services as a condition of the BellSouth deal. Customers and websites shouldn't have to pay twice to connect to each other, nor should AT&T or any other network operator be able to give any site or service an unfair advantage over its competitors.

Hybrid Program Key To NYSE Group's Future (AP)

By MICHAEL J. MARTINEZ, AP Business Writer

AP, March 7, 2006

NEW YORK (AP) - When the New York Stock Exchange transforms into a publicly traded company Tuesday, its agenda - staying competitive with faster all-electronic markets - will remain in place even as its corporate structure changes.

The NYSE's 214-year existence as a non-for-profit institution will end when it closes its $9 billion acquisition of all-electronic rival Archipelago Holdings Inc. On Wednesday, the combined company, called NYSE Group Inc., will begin trading on the floor of the Big Board under the symbol NYX.

Unfettered from the NYSE's seat holder leadership structure, in which the owners of 1,366 seats had a strong say in the direction of the Big Board, NYSE Group Chief Executive John Thain has big plans for the exchange, including trading options and corporate bonds, the possibility of extended trading hours and acquisitions of other exchanges and companies.

But as the $9 billion acquisition closes, the exchange can't look too far ahead, nor too quickly. The linchpin of its future is not new products or acquisitions, but its core business of trading stocks. And with the Nasdaq Stock Market's electronic trading platform slowly eating away at the NYSE's market share, the NYSE's new "hybrid" program - the merging of electronic trading with traditional floor auctions - must be a fast and sure success.

"I would say that getting hybrid in place, up and running, is the absolute most important thing they have to do," said Michael Pagano, assistant professor of economics at Villanova University's College of Commerce and Finance. "If they don't get hybrid right, all their competitors can come and pick them off."

The hybrid is the result of a new Securities and Exchange Commission rule due to take effect this summer. Under that rule, the NYSE must move to electronic trading in order to be considered a "fast market" and thus compete with the Nasdaq and other electronic markets for orders. However, for its entire history, the Big Board has been a human-driven system, with specialists serving as auctioneers to buy and sell stocks and maintain orderly markets by keeping prices reasonable.

To attain fast-market status, the NYSE plans to create a system it hopes will combine the speed of electronic trading with the market-management skills of humans. It's a tricky balance - if the human element proves too slow, more orders will head to the Nasdaq or elsewhere.

But if the floor system is minimized too much, the NYSE loses a key asset that differentiates it from other exchanges.

"If they get this balance right, their market share and trading volume can really take off," Pagano said. "If they don't, all the acquisitions and other products won't help them. They have to get this right, right off the bat."

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The NYSE has repeatedly said a pilot hybrid program is in place, involving 147 stocks as of March 1, and will continue to be implemented as the summer deadline approaches.

At least one NYSE customer is pleased with the effort thus far.

"They've made a lot of the technology pretty transparent to us, and we've had good conversations with folks there to see what that's going to look like for us," said Vincent Phillips, CEO of the active trading service CyberTrader, a Schwab Corp. subsidiary. "Given the things they have on their plate, I think things have gone surprisingly well."

Thain has expressed confidence in the hybrid program and appears to be poised to take advantage of the exchange's newfound independence from its seat holders. The former Goldman Sachs president hopes to expand the NYSE's offerings to include derivatives trading, including equity options side-by-side with sales of the stocks themselves, as well as corporate bond trading.

Trading could also expand as Thain works to integrate Archipelago's trading system with that of the rest of the NYSE. In the future, it's possible that floor traders could not only trade NYSE-listed stocks, but also those listed on the Nasdaq. With NYSE-listed stocks already electronically traded on Nasdaq, as well as Archipelago, the NYSE could not only retain some of its own market share, but also eat into Nasdaq's.

Thain has also said he is still considering expanding the NYSE's operating hours in order to compete with European markets, though that has run into some resistance from traders on the West Coast, who are already up at 6:30 a.m. Pacific time for the opening bell.

And of course, Thain has previously said he's interested in using his newfound equity capital for acquisitions. The London Stock Exchange, currently on the block, is a favored target of speculation, though there are smaller exchanges in the U.S., including the American Stock Exchange and a number of regional exchanges, that could become tempting targets.

Alternatively, the NYSE could go after the Chicago Board of Options Exchange or the International Securities Exchange in order to get a bigger piece of the options and derivatives trade.

"Whatever they do, they're going to be in a good position," Philips said. "We can't wait until Thursday to see what the new world looks like."

Blackstone To Acquire CarrAmerica For $5.6 Billion (WSJ)

By Jennifer S. Forsyth

The Wall Street Journal, March 7, 2006

Blackstone Group agreed to acquire CarrAmerica Realty Corp., a real-estate investment trust with office properties across the U.S., for $5.6 billion.

The deal is the largest in a string of transactions in which publicly traded real-estate companies have been bought by private or institutional investors willing to pay a premium for companies they believe are undervalued by Wall Street.

Blackstone, a New York-based private-equity firm, has been aggressive in acquiring real-estate companies but has focused on the hotel sector. Two weeks ago, it said it would acquire MeriStar Hospitality Corp., a hotel REIT, for $940 million, plus debt, in a deal valued at $2.6 billion. The decision to grab a large office REIT is seen as an endorsement of the improving office market.

"Whenever you see a smart, well-capitalized private-equity firm entering into a transaction like this, to my mind, it's a stamp of approval on the sector," said Jim Sullivan, senior REIT analyst for Green Street Advisors, a real-estate research and trading firm.

CarrAmerica, based in Washington, D.C., holds about 26 million square feet of office space in markets including Los Angeles, Dallas and Denver.

Under the terms announced yesterday, Blackstone will acquire all of the outstanding common stock of CarrAmerica for $44.75 a share. The purchase price represents an 18.4% premium over CarrAmerica's closing stock price on Feb. 16, the day news began to circulate about a possible deal. Blackstone will also assume a limited amount of debt, although the precise figure wasn't disclosed. CarrAmerica shares rose $3.45, or 8.4%, to $44.53 yesterday in 4 p.m. composite trading on the New York Stock Exchange.

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Credit-rating service Fitch Ratings said late yesterday it has placed CarrAmerica on "rating watch negative" in anticipation of a possible downgrade based on the likelihood that Blackstone could increase CarrAmerica's leverage.

"The bottom line is we were offered an extremely attractive price from Blackstone," said CarrAmerica Chief Executive Thomas Carr.

Jonathan Gray, Blackstone's senior managing director, said in a prepared statement that CarrAmerica "will provide us with a valuable platform for future investments in the office sector." The deal is expected to close in the second quarter.

A year ago, a REIT as large as CarrAmerica wouldn't have been considered a likely candidate for privatization or acquisition. That changed in December when General Electric Co. agreed to pay $3.2 billion and assume $1.6 billion in debt for Arden Realty, an office REIT.

"The entire REIT universe seems to be fair game at this point," said Paul Adornato, senior analyst for REIT research at Harris Nesbitt, the U.S. research and investment-banking subsidiary of Toronto-based BMO Financial Group.

J.P. Morgan To Buy Kohl's Card Unit For $1.5 Billion (WSJ)

By Robin Sidel

The Wall Street Journal, March 7, 2006

NEW YORK -- J.P. Morgan Chase & Co. agreed to buy the credit-card operations of department-store chain Kohl's Corp. for $1.5 billion, reflecting the bank's push into the lucrative "private-label" business.

It is the latest in a flurry of deals in which retailers have shed their in-house card businesses to concentrate on core operations. Last year, for example, Federated Department Stores Inc. sold its private-label business to Citigroup Inc.

And British bank HSBC Holdings PLC recently snapped up the private-label portfolio of Neiman Marcus Group Inc.

For banks, the private-label portfolios are attractive at a time when profit growth has been slowing for general-purpose cards -- those branded by card-issuing financial institutions and card associations such as Visa USA Inc. and MasterCard International Inc.

J.P. Morgan executives have repeatedly said they want to acquire more private-label portfolios; both Citigroup and General Electric Co. already have large presences in this area.

In the past two years, J.P. Morgan has bought the in-house card businesses of Circuit City Stores Inc. and Sears Canada Inc.

The Kohl's portfolio includes 13 million accounts with approximately $1.5 billion in outstanding balances. The deal is expected to close in 90 days. Kohl's is based in Menomonee Falls, Wis.

As part of the transaction, the two companies will coordinate programs aimed at spurring Kohl's sales and card use. Kohl's will continue to manage customer service, advertising and marketing for the cards.

Linde Raises Bid For BOC, Likely Clinching A Deal (WSJ)

By Jan Hromadko And Mike Esterl

The Wall Street Journal, March 7, 2006

German industrial conglomerate Linde AG raised its takeover bid for U.K.-based gas company BOC Group PLC to £16 ($28.06) a share, likely clinching a deal that will create the world's largest industrial-gas company in terms of sales.

Linde said it intends to fund the deal -- which values BOC at £8.2 billion ($14.4 billion) -- with a fresh issue of equity and debt.

The transaction would create a leading world-wide industrial-gas and engineering group with combined sales of €11.9 billion ($14.3 billion), said Linde, based in Wiesbaden, Germany. The supplier of industrial gases, engineering services and forklift trucks said the BOC management board intends to recommend that its shareholders accept the offer. The bid represents a 39% premium to BOC's share price prior to Linde's offer in January.

BOC Chief Executive Tony Isaac said in an interview that Linde's bid "is a very good offer for shareholders, and significantly 'derisked' compared with the one we turned down in January."

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On Jan. 24, BOC revealed that Linde had made an unsolicited approach for £15 a share. BOC's board unanimously rejected the offer on grounds it undervalued the bigger company and had too many conditions, including financing, antitrust approval and due diligence.

A combination of Linde and BOC would create a company with some 22% of global sales within the industrial-gas market. BOC and Linde, the current No. 2 and No. 5 globally, hold a 13% and 9% market share, respectively.

Shares of BOC fell 0.1% to £15.43 in London. In Frankfurt, Linde shares rose 7.5% to €70.45.

ENVIRONMENT/INDIAN AFFAIRS:

Senate Democrats Oppose ANWR Oil Drilling In Budget (REU-Y2)

By Tom Doggett

Reuters, March 6, 2006

Democratic lawmakers on the U.S. Senate Budget Committee said on Monday they opposed putting in the 2007 budget bill language assuming the government will raise billions of dollars in oil drilling leasing fees from Alaska's Arctic National Wildlife Refuge.

In its budget proposal to Congress, the Bush administration said it expected $7 billion would be raised by allowing oil drilling in the Alaskan refuge, and the Congressional Budget Office puts the figure at $6 billion.

No matter what the number, most Senate and House Democrats are against opening the refuge to oil companies.

"It is irresponsible to base the country's budget on highly speculative and dubious projections of lease revenues for the coastal plain of the Arctic National Wildlife Refuge," all nine Democrats on the budget panel said in a letter to the committee's Republican chairman, Judd Gregg.

Putting the ANWR leasing revenues in the budget bill is a way to get around a threatened filibuster of any legislation that would open to refuge to oil drilling, because budget bills can't be filibustered.

"We encourage you to reject any requests that are intended to misuse the budget process to open the refuge to oil and gas drilling and exploration," the Democratic lawmakers said.

The Senate Budget Committee is scheduled to vote Wednesday on whether to include the ANWR leasing revenue in the government's 2007 budget.

Last week, 24 House Republicans sent a letter to House Budget Committee chairman, Republican Rep. Jim Nussle (news, bio, voting record), urging him to keep Arctic refuge drilling out of the 2007 budget bill.

The administration has failed every year to convince Congress to give energy companies access to the refuge, which is a key part of the White House's national energy plan.

The refuge, which is home to a variety of wildlife such as polar bears and migratory birds, stretches across 19 million acres in the northeast corner of Alaska. But the White House only wants to offer 1.5 million acres

in the refuge's coastal plain for oil and natural gas exploration leases.

The Interior Department estimates the refuge could hold between 5.7 billion and 16 billion barrels of recoverable oil.

If the refuge was opened to drilling, it would take about eight years before the area reached full production of around 800,000 to 1 million barrels per day, according to the Energy Department.

The Face That Helped Alter Nation's Flu Policy (WP)

By Susan Levine

The Washington Post, March 7, 2006

As he waited his turn at the microphone, in an Atlanta auditorium filled with doctors and scientists, Gary Stein wondered whether what he had to say would make much difference. These were the experts, he realized, the people who spend a lifetime studying viruses and vaccines. They already knew all the facts, the statistics.

Still, they didn't know 4-year-old Jessica.

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So Stein began talking, as a father who once had a little girl with hair the color and shimmer of champagne, a child who loved dress-up and Barbies and who was as healthy as they come until the day in January 2002 when she caught the flu. Less than 72 hours later, she was dead. Stein thought he could get through the main points of his remarks without stumbling. But as he stood before the federal Advisory Committee on Immunization Practices, explaining how his Falls Church family had been devastated, he choked up.

"Nothing and no one will ever fill the void left by Jessica," Stein told the gathering.

"It hit me pretty hard," he admitted later. It may have hit the experts hard, too.

The next morning, the 15-member committee voted for a surprise revision in national policy: It unanimously recommended that starting this fall, all children between 2 and 5 years old be vaccinated annually against influenza.

The previous recommendation only advised flu shots for children ages 6 months to 23 months and those 6 months and older with chronic illnesses. As long as they are generally healthy, children older than toddlers tend to just get sick from the flu. They go to doctor's offices or outpatient clinics but are seldom admitted to the hospital.

Children still suffer a "substantial" amount of influenza, however, said Raymond A. Strikas, an associate director at the National Immunization Program, which is part of the federal Centers for Disease Control and Prevention. And that was the major impetus for the committee's decision late last month. Its expanded coverage even includes parents and older siblings, because they also suffer by getting sick themselves or taking time off work to care for ailing youngsters.

All told, nearly 17 million additional people now will be urged to get protection against the flu, bringing the total to more than 120 million men, women and children across the United States.

"We're saying, 'This is the standard of care,' " Strikas said. "This is what you should be doing."

For Jessica Stein's parents, the new recommendation brings some comfort.

"If there are other kids that will get vaccinated," explained Doris Stein, the words hanging in the air without elaboration. The inference was clear: Other parents won't have to bury a child.

In this country, influenza is a serious public health problem that many health officials complain does not get the respect it deserves. It kills more than 36,000 Americans a year, of whom most are very young or very old or suffering from conditions or diseases that compromise their body's ability to fight the virus.

Children do die, however. During the 2003-04 flu season, when the new guideline was first broached, a particularly nasty strain struck earlier than usual and began killing healthy children -- more than 70 by the final count. One of its victims was 3-year-old Emily Lastinger. Her father traveled from Texas to Atlanta to address the advisory committee with Stein.

"It took great courage," said Gregory A. Poland, an internist at the Mayo Clinic who specializes in immunology and vaccine development. As a committee member, he has pushed for a recommendation to make universal coverage the national standard. Others support incremental progress, worrying that vaccine supplies could never meet demand otherwise. Any disruption to yearly production of flu vaccine would only worsen the problem, they fear.

"It's absolutely heart-wrenching to me to hear these stories and have people die of something so preventable," Poland said. "It's as if each person, each generation, each community has to learn the hard way."

This influenza season has seen few aberrations and no unusual virulence. As of mid-February, the CDC reported that just a dozen children had died. But each of those is an individual tragedy, stress the Steins, who recently began venturing into advocacy, connecting with other parents through a nonprofit organization called Families Fighting Flu. "It's very therapeutic," Doris Stein said.

Jessica is rarely out of sight in her family's home. Photos remain on the refrigerator, on a kitchen counter. On one end of the living room mantel is a picture of her, her parents and her younger brother, Eric, taken the Christmas before her death. At the mantel's other end is a more recent shot, of Doris and Gary, Eric and Johnny and Katie, the children born after Jessica died.

"It's like we have two different families," Doris said quietly as Katie, a 15-month-old burst of energy, took off across the room. Her older sister would be 8 now and in third grade, and "not a day goes by that you don't think about what she would be doing, what she would be like," Gary said.

Neither parent had any time to prepare emotionally when Jessica got sick. A virus had been going around her preschool, and both she and Eric caught it and then both got better. More than a week later, Jessica had a play date, and only after that did

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her mother notice that she seemed more tired than normal. By morning, all symptoms pointed to the flu, but Jessica was still eating well, her energy was no worse and she had no fever.

The third day was different. Jessica's hands were icy cold, and by evening her breathing seemed somewhat labored. Her mother called the pediatrician, who suggested they "walk -- don't run" to the hospital to check for dehydration. The next several hours replayed for a long time in her parents' minds: their daughter suddenly having trouble breathing, Doris being asked to step out of the room, Gary rushing over from home, a doctor saying Jessica had been stabilized. Five minutes later, an entire medical team emerged. The virus had fatally attacked Jessica's heart.

No one in the family had gotten a flu shot that year.

But no one in the family will ever again go without.

Whales In The Way Of Sonar (NYT)

The New York Times, March 7, 2006

The debate over whether the Navy's use of sonar to detect submarines is harming whales and other sound-sensitive species is back again. This time the battleground is the waters off the southeastern United States, where the Navy hopes to establish a training area for sailors who need to practice their sonar skills in a shallow ocean environment. The plan has aroused justifiable concern not only from environmental groups, but also from the federal and state agencies responsible for protecting marine life. If these concerns cannot be allayed, the project should be denied a permit to proceed as now planned.

The Navy's favored site is an area off the coast of North Carolina — 500 square nautical miles — but the Navy would settle for backup sites off Virginia or Florida if its first choice is rejected. In a draft environmental impact statement, the Navy argues that the training sites would have negligible impacts on marine life, but that judgment looks far too rosy.

The National Oceanic and Atmospheric Administration has expressed "significant concerns" about the proposed sonar activity, including its potential to injure or kill beaked whales, which are especially sensitive, and its possible adverse impact on right whales, a highly endangered species. The agency also contends that the sound thresholds the Navy deems acceptable are well above the levels known to disrupt marine mammal behavior in the wild. Florida's fish and wildlife agency went so far as to urge that the project be abandoned, and North Carolina's marine and wildlife agencies weighed in with their own concerns.

No one can deny that the Navy needs to conduct sonar training in shallow waters, where sound propagates differently than in the deep ocean. But at a time when evidence is mounting that sonar has been responsible for at least some of the whale strandings around the world — and when we do not yet know what caused a large stranding last year in North Carolina — it behooves the Navy to move with extreme caution.

The three sites favored by the Navy were chosen for practical reasons: they were close to home ports, air stations and federal shore facilities; had appropriate water depths; and had a satisfactory climate. Whales were at best an afterthought, but they deserve to be a priority.

Sixteen Arrested In Drug Bust On Pine Ridge (ICT)

Indian Country Today, March 7, 2006

RAPID CITY, S.D. - Sixteen people on the Pine Ridge Reservation have been charged with possession of cocaine and marijuana and with the intent to distribute the drugs.

The arrests, which came days after national news organizations ran stories about drug trafficking on American Indian reservations, were not intended to coincide with those articles, according to Paul McCabe, FBI spokesman from the Minneapolis regional office.

Twelve were arrested in the village of Pine Ridge without incident. The other four were already in federal or state custody.

Arrested were Geraldine Blue Bird; her son, Clarence Behan; Travis Elk Boy; Colin Spotted Elk; Dawnee Frogg; Howard Blue Bird; Thomas Spotted Bear; Flint Thomas Red Feather; Justin Hawk Wing; Sage Richards; Norton Richards; Wenona Richards; Jody Richards; Jay Dee Spotted Elk; Joe Garcia and Rusty Richards.

In December 2005, authorities were called to a Rapid City hotel to investigate a complaint that the aroma of marijuana was coming from one or two rooms.

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When federal authorities and an officer from the Rapid City Police Department arrived, they were given permission to enter the hotel room, where they smelled marijuana smoke. They then observed a clear plastic baggie of marijuana, according to court documents.

Blue Bird, who rented the room, was determined to have outstanding arrest warrants. She also admitted to having cocaine in a jacket pocket, telling officers it belonged to her son. When the officers let her in the room, another woman, Jody Richards, picked up a sweater to put on and the officers noticed a Tupperware container with a white substance on the bed. They then sought a warrant.

In an adjoining room were two other people in Blue Bird's party, Norton Richards and Wenona Richards. All four were arrested at the scene.

Authorities recovered more than $16,000 and one and one-half pounds of cocaine from the rooms. Also confiscated were three revolvers and ammunition, including an assault rifle magazine, according to court documents.

Blue Bird was charged with possession of a firearm in connection with a drug trafficking crime and seven other counts of drug-related offenses. Two others, part of the dozen who were arrested, were also charged with possession of a rifle in the act of drug trafficking.

All 16 defendants appeared in federal court in Rapid City and entered not guilty pleas. No trial dates have been set.

Authorities said the shooting death of a 16-year-old in December 2005 at Blue Bird's residence expedited the investigation.

Blue Bird became somewhat famous during President Clinton's visit to Pine Ridge in 2000. She lived in a home in Pine Ridge with an attached trailer that housed 28 people. Clinton sat on her porch and discussed jobs, housing and other issues with her and family members.

She later received a new double-wide home, the result of a generous out-of-state donor who read about her in the national media.

If convicted, she and the others could receive up to life in prison and a $4 million fine. They will all be required to forfeit any drug-related funds and property.

The arrests at Pine Ridge brought praise for the arresting officers. McCabe said many stopped in a local restaurant and were greeted by locals with pats on the back and congratulatory praise, thanking them and saying, "We appreciate it - get them out of here." He added that the case is still under investigation and people may come forward with more information as long as it remains open.

The national media has placed great emphasis on methamphetamine use and distribution. In South Dakota, the drug has been a major source of concern and discussion in the state Legislature, among local communities and law enforcement agencies.

The arrests on Pine Ridge, however, did not involve crystal meth, McCabe said.

"Meth is a problem. We've seen meth increase, but any drug is considered a problem. Since meth is on the rise, not too many years ago, there has been an increase in the traffic of any kind of drug," he said.

The Pine Ridge law enforcement is currently understaffed, with one officer for every 1,000 people. At the end of March, a Community Oriented Policing Services grant will expire and the force will be cut by 58 offices - roughly in half. That will leave one officer for every 2,000 people.

In order to investigate and carry out any type of arrest, a "force multiplier" is put into place, McCabe said. That means other agencies work together to create a greater number of officers and agencies to aid in the investigations.

"Law enforcement in general, throughout the country, is under a budget constraint. That's why the force multiplier is used to bring in all the expertise and intelligence together. That's an important piece for maintaining safety, on or off the reservations.

"Indian country matters are a high priority. A great deal of the manpower in Minneapolis involved crimes on reservations," he said.

The FBI; Bureau of Alcohol, Tobacco, Firearms and Explosives; the Unified Narcotics Enforcement Team; the Rapid City Police Department; the Northern Plains Safe Trails Task Force; and the Oglala Sioux Tribe Department of Public Safety cooperated in the investigation and arrests.

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The U.S. Marshals Service, the Department of Homeland Security and the Drug Enforcement Administration assisted in the arrests.

FBI/DEA/ATF/USMS:

Israel Extradites Alleged Drug Trafficker To United States (FINDLAW)

By ARON HELLER, Associated Press Writer

AP, March 7, 2006

(AP) - JERUSALEM-A suspected Israeli mob boss, described by U.S. prosecutors as one of the world's most wanted drug traffickers, was extradited to the United States on Monday, police said.

Zeev Rosenstein, suspected of involvement in distributing more than 1 million Ecstasy pills in the United States, mostly in New York and Miami, was handed over to U.S. marshals at Ben Gurion International Airport near Tel Aviv arport and taken aboard a direct El Al flight to Miami, where he will face the drug charges, police spokesman Mickey Rosenfeld said.

The target of numerous gangland assassination attemps in the past, Rosenstein was driven to the airport in an undercover police car accompanied by several motorcycles, Israeli radios reported.

"It was a carefully-planned operation, under sensitive circumstances, designed to ensure that he arrived at the airport in peace and quiet, without any disturbance to public order," Rosenfeld said.

He said the extradition was the result of a long investigation conducted in coordination with U.S. law enforcement agencies.

Israeli police, acting on an international arrest warrant, arrested Rosenstein more than a year ago for allegedly smuggling drugs from Europe to the United States.

A U.S. extradition request, submitted in December 2004, said Rosenstein was involved in distributing more than 1 million pills of Ecstasy, court documents said.

In November, Israel's Supreme Court ruled he could be extradited, a decision later endorsed by the Israeli justice minister.

In one shipment, Rosenstein allegedly planned distribution of 700,000 Ecstasy pills that were seized in a Manhattan apartment along with $187,000 in July 2001, according to the extradition request. The drugs, which originated in Europe, were seized after they were offered for sale to an undercover Miami-Dade County police informant. The informant also worked for the U.S. Drug Enforcement Administration.

The investigation leading to Rosenstein's arrest spanned three years and several countries.

Rosenstein, 51, has long been accused of being one of Israel's top mob leaders, but aside from a five-year stint in prison for armed robbery in the 1970s, he had eluded authorities.

In December 2003, a bomb attack in Tel Aviv targeted Rosenstein - the seventh attempt on his life - leaving him with scratches but killing three passers-by and wounding 18 others. The attack was believed to have been ordered by rival mob bosses.

Rosenstein has been charged in the United States with conspiracy to distribute a controlled substance and conspiracy to import a controlled substance into the United States. The maximum penalty under American law is 20 years in prison, or more if the drugs sold caused death or serious injury.

In an interview, published Friday in the Yediot Ahronot daily, Rosenstein said he was a victim of a conspiracy orchestrated by Israeli police.

"I'm not the head of a crime family, and I don't have soldiers," he said.

According to the extradition agreement between Israel and the United States, Rosenstein could serve any prison sentence he receives in Israel.

Fugitive Extradited From Caribbean On Drug Charges (AP)

AP, March 7, 2006

DOJ_NMG_0016386

ROCHESTER, N.Y. Federal officials say a man accused of importing cocaine has been extradited from his native Saint Kitts in the Caribbean.Noel Heath was one of the top ten fugitives of the Drug Enforcement Administration's New York field division.He was indicted in 1995 on charges of conspiring to import more than eleven pounds of cocaine in the Rochester area. If convicted, he could get up to life in prison and be fined up to 4 (m) million dollars.

Atlanta Federal Agent Charged With Embezzlement (DBCH)

Atlanta Business Chronicle, March 6, 2006

A DEA agent who worked at Hartsfield-Jackson Atlanta International Airport has been indicted by a federal grand jury on charges of embezzling money as a federal officer, embezzling public money and money laundering.

Gregory Campion, 44, of Orlando, Fla., is expected to be arraigned before U.S. Magistrate Judge Alan J. Baverman on March 8.

A federal grand jury returned an indictment against Campion on March 1. The indictment charges that on seven occasions in 2004 and 2005, Campion, a special agent with the U.S. Drug Enforcement Administration assigned to the Atlanta Airport Task Force, allegedly stole cash from the secure storage vault maintained by the Task Force. These funds had been seized by law enforcement agents as currency involved in federal narcotics offenses and were subject to forfeiture to the United States.

The indictment also charges that Campion allegedly engaged in two transactions in excess of $10,000 with the proceeds of these thefts to buy real estate in Orlando. The indictment seeks forfeiture of that real estate.

Campion, who now lives in Florida, has been suspended without pay from his position at the DEA.

"We have no tolerance for criminal conduct by law enforcement officers sworn to uphold the law, particularly federal agents," said U.S. Attorney David E. Nahmias. "We will thoroughly investigate and vigorously prosecute alleged lawbreaking by law enforcers."

Feds Arrest Manteca Man For Impersonating DEA (AP)

AP, March 6, 2006

(AP) MANTECA Federal authorities arrested a Manteca man today for impersonating a Drug Enforcement Administration agent by flashing a phony badge as he entered a courtroom.

Thirty-seven-year-old John D. Cohen picked the wrong courthouse security officer to try to dupe -- a retired DEA special agent. The officer told the U-S Marshal's Service the badge looked suspicious.

Federal agents who later raided Cohen's home found guns, DEA apparel, a police uniform, handcuffs, bulletproof vests and forged law enforcement training certificates. They also found what they believe is several small bags of marijuana.

Cohen could face up to three years in prison if convicted of impersonating an agent, and five years if convicted of making false statements to federal authorities.

Man Charged With Presenting Fake DEA Badge At Federal Courthouse (SACBEE)

The Sacramento Bee, March 6, 2006

The federal Drug Enforcement Administration announced Monday it has arrested a Manteca man who presented a fake DEA badge to security officers at the Sacramento federal courthouse last week.

John D. Cohen, 37, was arrested on suspicion of impersonating a DEA special agent. After searching Cohen's home, officials seized two handguns, a shotgun, DEA apparel, an Oakland Police Department uniform, and other police gear, the DEA said in a statement. Several small bags of what officials believe to be marijuana were also found.

"Impersonating a DEA Agent is a very serious offense because it undermines the public trust necessary for DEA agents to safely do their jobs," said Gordon D. Taylor, special agent in charge of the agency's Sacramento office. "This guy wanted to be on the inside. Well, he'll get that opportunity when real DEA agents take him to jail and put him behind bars."

The investigation into Cohen began last Monday, when authorities said he falsely identified himself to a U.S. Marshal security officer at the Sacramento federal courthouse. A retired DEA agent, the security officer alerted the U.S. Marshal's office to a possible imposter.

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DEA Accuses Pleasanton Broker Of Impersonating Agent (CCT)

By Karl Fischer

The Contra Costa Times, March 6, 2006

Federal authorities say a Pleasanton mortgage broker posing as a narcotics agent entered a secure portion of Coast Guard Island in Alameda last month and sold guards a Ford Crown Victoria he claimed was a retired police car.

That breach was the first of two in February that attracted real agents from the U.S. Drug Enforcement Agency. On Monday, they visited the Manteca home of 37-year-old John Cohen and seized a cache of weapons and law enforcement paraphernalia, along with Cohen himself.

"Impersonating a DEA agent is, of course, a very serious crime," DEA special agent Casey McEnry said. "And he did it multiple times."

On Feb. 27, the week after the Coast Guard Island incident, Cohen showed a counterfeit DEA badge to a U.S. Marshal Service security agent while entering a federal building in Sacramento, authorities said. The agent, who was a retired DEA agent, became suspicious. Security detained Cohen minutes after he entered.

"Cohen stated he was given the badge and ID card from his commander when he was discharged from the U.S. Navy, as a token of his service," according to the affidavit written by Special Agent Gary Cummings.

DEA agents interviewed Cohen, who admitted the badge was a fake, but they let him go, according to an affidavit filed by the agency in federal court.

"As Cohen was departing, (he) stated if we ever needed someone to go undercover to call him," according to the affidavit. "Cohen also stated he had wanted to be a DEA special agent all of his life."

Two days later, agents learned that Cohen had met a private guard from King Security, the firm that serves Coast Guard Island, on Feb. 22 and sold him a 2000 Ford Crown Victoria outfitted with police lights the following day.

Cohen appeared at the gate of Coast Guard Island at least once, on the day of the sale, wearing a jacket emblazoned with the letters "DEA" and with DEA identification.

"My understanding is that he impersonated a DEA agent" to gain access to the facility, said U.S. Coast Guard spokeswoman Amy Thomas. "As far as I know, nothing was compromised. Our security people were suspicious and reported the contact soon after the visit."

Authorities searching Cohen's home Monday found two handguns, a shotgun, an Oakland Police Department uniform, apparel from the DEA and U.S. Immigration and Customs Enforcement, police equipment including red and blue car lights, forged law enforcement training certificates and several small bags of marijuana, according to a DEA press release.

They booked Cohen into Sacramento County Jail on suspicion of several federal offenses, including impersonating a federal agent.

Cohen works for Hilltop Financial Mortgage Inc. in Pleasanton. A woman who answered his cell phone Monday evening declined comment.

Judge Puts Upcoming Executions On Hold (THTS)

By Karin Grunden, The Tribune-Star

Terre Haute Tribune Star, March 7, 2006

Three federal death row inmates who contend in a lawsuit that lethal injections are painful have been granted a stay of execution, court records show.

U.S. District Court Judge Ellen Segal Huvelle ordered a preliminary injunction Feb. 24, barring the Bureau of Prisons from executing James H. Roane Jr., Richard Tipton and Cory Johnson.

The three co-defendants had been scheduled to die in May at the Federal Correctional Complex in Terre Haute, home to the nation's federal death row. The trio were sentenced to die after being convicted in a string of drug-related murders in Richmond, Va.

"Any news like this is good," said Stephen Northup, an attorney who represents Tipton. But "it's really just temporary relief."

A spokeswoman for the Bureau of Prisons confirmed the delay Monday, and declined further comment.

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This case marks at least the sixth since January in which executions have been delayed after inmates have raised legal challenges about the lethal injection process, according to information on Death Penalty Information Center's Web site.

At least six other men, included one from Indiana, have been executed in the same time period.

The injunction in the federal death case is indefinite, until further order of the court. In her ruling, Huvelle also stayed the three men's federal lawsuit on the constitutionality of lethal injections, pending a decision by the U.S. Supreme Court in a Florida case.

In that case, death row inmate Clarence Edward Hill is suing the state of Florida, alleging that lethal injection would violate his constitutional protection from cruel and unusual punishment.

In a court document, Hill's attorney claims that a succession of the three chemicals commonly used in used in lethal injection — sodium pentothal, pancuronium bromide and potassium chloride — could inflict pain "contrary to the contemporary standards of decency."

The document cites a study published last year in a British medical journal. In the study, which appeared in The Lancet, the authors found that toxicology reports of 49 executed inmates showed 43 had post-mortem concentrations of thiopental lower than required in surgery. In addition, 21 of the 49 inmates had concentrations consistent with awareness, according to the study.

The Supreme Court has agreed to hear the Florida case, to determine whether Hill's civil suit falls within federal appeals, as lower courts have ruled, or is a legitimate challenge to the conditions of a condemned inmate's death sentence.

Separately, attorneys for Roane, Tipton and Johnson also are alleging in a federal lawsuit that lethal injection is cruel and unusual punishment. They filed the suit in December in the U.S. District Court for the District of Columbia.

The defendants in the case are U.S. Attorney Alberto Gonzales, DEA Administrator Karen Tandy, Bureau of Prisons Director Harley Lappin, Bureau Medical Director Newton E. Kendig II, penitentiary Warden Mark Bezy, and penitentiary Clinical Director Dr. Thomas Webster. The list of defendants also includes "John Does I-V," a reference to the unknown people charged with carrying out the execution.

In the complaint, attorneys for the three death row inmates claim while sodium pentothal "supposedly will render the plaintiffs insensible to the pain of their deaths, it in fact can and will merely cast a 'chemical veil' over this excruciating pain, leaving plaintiffs conscious but trapped in a paralyzed body wracked with the pain of suffocation and heart attack.

"At the same time, this 'cocktail' will make it impossible for those observing the execution – including witnesses to it … to recognize and prevent the gratuitous pain and suffering being inflicted upon the plaintiffs."

While the attorneys await the outcome of the Florida case, they have filed paperwork asking President Bush to grant clemency to their clients, Northup said.

Karin Grunden can be reached at (812) 231-4257 or karin.grunden@tribstar.com.

A look at the crimes

--Richard Tipton, 35, Cory Johnson, 37, and James H. Roane Jr., 40, were gang leaders in a crack-cocaine ring in Richmond, Va.

--The three were tied to nine slayings of suspected informants, competitors and underlings. One man was stabbed 84 times for mishandling a drug transaction, according to a U.S. Court of Appeals brief. Three other people were critically injured during the series of killings, which happened over a month in early 1992, court records show.

--Tipton, Johnson and Roane were sentenced under the Anti-Drug Abuse Act of 1988, which includes federal execution as a sentence. The three have exhausted all appeals.

Medical-marijuana Clubs Fear New Raids By Feds (SDUT)

By Jeff Mcdonald, Union-tribune Staff Writer

The San Diego Union-Tribune, March 6, 2006

December searches yield no arrests yet

Nearly three months after federal agents raided 13 medical marijuana dispensaries in San Diego County, the government has yet to make any arrests or file any criminal charges.

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Most of the pot clubs that closed during the high-profile searches reopened days later. Meanwhile, at least 10 new dispensaries, cooperatives and delivery services have set up shop.

Even though it appears to be business as usual within the close-knit medical marijuana community, an uneasy cloud hovers over the dispensaries and their customers.

The operators worry that federal agents will show up any minute, guns drawn and warrants in hand; patients are afraid they may be arrested or that another sweep would force the clubs to close for good.

Few dispensary operators are willing to speak publicly, even though the names, addresses and telephone numbers of their organizations are easily found on the Internet. Instead, they lie low and hope for the best.

“There's a lot of trepidation out there,” said Dale Gieringer of California NORML, a San Francisco group working to reform marijuana laws. “A lot of the patients are concerned and wondering how long the clubs are going to last down there.”

Law enforcement officers converged on most of the county's medical marijuana dispensaries Dec. 12, confiscating about 50 pounds of marijuana and related products, computers, patient records and other materials.

The government insisted the records would remain confidential and legitimate patients would not be prosecuted.

The sweep was organized by the U.S. Drug Enforcement Administration, with assistance from county sheriff's deputies and San Diego and other local police agencies after six months of surveillance and investigation.

Although dispensaries are legal under California law, the federal government does not recognize medicinal benefits of marijuana, which remains illegal under national drug laws.

The conflicting laws have left patients, police and local officials in a lurch for the past 10 years.

San Diego County supervisors voted to sue the state over the legality of its marijuana laws, a move that prompted the American Civil Liberties Union and other advocacy groups to petition the court to intervene in the case. Activists launched a bid to impose term limits on county supervisors.

The U.S. Attorney's Office did not return telephone calls seeking comment last week. The investigation remains active, a DEA spokesman said.

“We're being diligent in the evidence that we're collecting,” Special Agent Misha Piastro said. “The proliferation of the dispensaries does concern us.”

Damon Mosler, who runs the narcotics unit of the District Attorney's Office, said he expected criminal charges would be filed against some dispensary operators as soon as next month.

Mosler said he does not know whether cases would be presented in state court, where the permissive medical-marijuana laws apply, or in federal court, which does not allow any medical-necessity defense.

“They're using federal resources for the investigation, but it will be both agencies making the decision at the same time,” he said.

Reaction to the raids, one of the largest medical-marijuana sweeps ever conducted by the DEA, has varied dramatically among dispensary operators.

Some shops closed altogether. One changed its name and removed a colorful sign above its North Park storefront. Another expanded into plush new office space. At least 10 new operations opened, according to California NORML, which posts the services on its Web site.

Steph Sherer of Americans for Safe Access, an Oakland group that promotes legal access to medical marijuana, said the rising number of dispensaries would prompt more cities to pass ordinances that accommodate the clubs.

“The patient community is standing up for itself,” said Sherer, whose organization is among those planning to fight the county's lawsuit against the state. “Voters of California are saying, 'This is not what we think the federal government should be doing.' ”

Jon Sullivan, who closed his local dispensaries after the December raids, said San Diego is the nation's main battleground pitting federal drug laws against states' rights to permit medical marijuana.

Sullivan said he expects to be arrested at some point despite the allowances under California law but looks forward to the case being put before a jury.

"We need to end this 10-year battle. It's just plain wrong," Sullivan said. "They gave us rules, we followed the rules and they come in and steal all our stuff."

Prosecutor Mosler said resolving the conflict between state and federal law, or at least adopting guidelines each side could agreed to, would benefit patients and law enforcement officials.

People "need to get their elected officials to create some more certainties," he said. "That is the best route to have access to medicine."

Bush Budget Faulted In Drug-war Setback (WT)

By Jerry Seper

The Washington Times, March 7, 2006

A Bush administration decision to divert money for Colombian drug interdiction and eradication programs to the war on terrorism has opened up the southern U.S. border to a new flood of heroin and cocaine, say senior congressional and Colombian officials.

Some members of Congress, angry that appeals by Colombian President Alvaro Uribe for help in rebuilding his depleted and aging fleet of surveillance and interdiction aircraft have been ignored, plan to bypass the White House by dipping into a $72.4 billion supplemental appropriation for the war on terrorism to fund $99.4 million in military and police aid to Colombia.

An amendment to the pending emergency supplemental bill likely will be offered by Republican Reps. Henry J. Hyde of Illinois, chairman of the House International Relations Committee, and Dan Burton of Indiana, a member of the House Government Reform Committee. It would pay for three DC-3 marine patrol aircraft for the Colombian navy and two UH-60 Black Hawk helicopters and 10 Huey II helicopters for the Colombian national police.

Colombia is the source for about 90 percent of the cocaine that ends up each year in the U.S., along with a majority of the heroin.

"After seven years of work on anti-narcotics efforts in the Andean region, we are now seeing the fruits of our labors in the drug war in Colombia and making great progress with our Colombian security partners in preventing drugs from reaching the United States," Mr. Hyde said in a letter to Secretary of State Condoleezza Rice.

"Colombian President Alvaro Uribe often finds himself standing alone with us in our common goals of a democratic, secure and drug-and-terrorism-free Andean region. We must continue our support for him," he said. "We cannot assume we need do no more in order to continue the success we have been seeing."

Colombian officials said escalating violence along the U.S.-Mexico border, called "overwhelming" last week by Texas sheriffs during a Senate hearing, was being fueled by the increase in drugs from Colombia and the illicit profits they generate.

"These smugglers have the latest equipment, most expensive weapons and they are more willing to shoot it out with us and our U.S. counterparts," one Colombian official said. "We're asking the U.S. for help, and by helping us, you help yourself."

The officials said that because of aircraft and equipment shortages, if Colombian smugglers can get their product to the coast -- either the Pacific Ocean on the south or the Caribbean in the north -- there is a 65 percent probability it will find its way through Mexico and into the U.S.

Using airplanes, cruise vessels, freighters, and fishing and patrol boats, they said, the smugglers elude a rapidly thinning line of Colombian ships and aircraft, handing off their drugs to Mexican dealers for shipment into this country.

In the past three years, said a senior congressional aide, homeland security demands in the United States have resulted in a 70 percent reduction in the aircraft available to the Colombian and U.S. navies for interdiction efforts. Many of the surveillance planes were grounded because of wing-structure problems and another 22 aircraft, including spray planes and helicopters, were either shot down by smugglers or crashed.

In November, the Government Accountability Office (GAO) questioned the government's ability to sustain interdiction operations in the transit zone, saying the availability of aircraft and other key assets was declining. A report said interdiction flight hours in the transit zone declined from 6,860 in 2000 to 6,500 in 2002, but dropped more rapidly to 2,940 hours in 2005.

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For two years, Mr. Uribe has asked the administration for funds to replace spray planes and for assistance in rebuilding his military and police in the war against narcoterrorists, which last year claimed more than 250 Colombian police officers. His requests were not included in the 2006 foreign aid funding bill and do not appear in the administration's 2007 aid request.

DEA Nets Meth 'superlab' (UPI/ WT)

United Press International, March 6, 2006

ATLANTA, March 6 (UPI) -- U.S. federal drug agents said they have broken up a methamphetamine "superlab" in Smyrna, Ga., and confiscated more than 12 pounds of the drug.

The U.S. Drug Enforcement Agency said they arrested three men -- all illegal aliens from Mexico -- and that on Monday two of the defendants pleaded guilty to charges that include manufacturing methamphetamine. The third man is to go on trial this month.

A release Monday from the DEA said the raid on a house in a residential neighborhood of Smyrna, near Atlanta, resulted in them finding 12.4 pounds of methamphetamine in the house and another pound in a nearby vehicle. In addition they said 24 large trash bags were found filled with emptied pseudoephedrine tablet boxes and contained holding 35 pounds of pure d-psuedophredrine hydrochloride, key ingredients in the production of methamphetamines.

U.S. Attorney David Nahmias said: "The dismantling of this superlab represents a significant blow to methamphetamine traffickers in George. At the same time, the discovery of such a large lab here in Atlanta reveals the growing threat that methamphetamine poses to our citizens."

ATF Investigating Pompano Warehouse Fire (MH)

By Ashley Fantz

The Miami Herald, March 7, 2006

An investigative team from the U.S. Bureau of Alcohol, Tobacco, and Firearms will begin examining what's left of a Pompano Beach warehouse gutted by an unrelenting inferno that began at 8 p.m. Friday and raged throughout the night.

Officials who tried to stamp out the blaze at Pallet Consultant Corp. on Southwest 12th Avenue reported flames reaching 100 feet into the air. The blaze could be seen two miles away.

Sandra King, spokeswoman for the Pompano Beach Fire-Rescue, said one of the 120 firefighters from North Lauderdale, Fort Lauderdale, Lighthouse Point, Margate, and Broward Fire-Rescue was injured when a loaded water hose slammed into his stomach. He was treated and released Friday from North Ridge Medical Center in Fort Lauderdale.

"It was huge," King said. ``We had six cities pitching in to help us."

King said ATF and explosive experts will help discern the cause of the blaze because propane tanks inside hundreds of pallets exploded. Damage is estimated to be $10 million to three businesses within the six-acre property.

IMMIGRATION:

Uncommon Weapon In Immigration Fight (LAT)

An Idaho County Tries A Racketeering Law Against Employers Who Hire Illegal Workers. By Nicole Gaoue

The Los Angeles Times, March 7, 2006

CALDWELL, Idaho — Like many communities, this fast-growing agricultural pocket of southwestern Idaho is paying a high tab for illegal immigration.

When an illegal worker gave birth to a premature baby, Canyon County wound up with a $174,000 hospital bill. County officials say the jail spent thousands to house another illegal immigrant at a motel, after his tuberculosis threatened to infect fellow inmates.

But where others have merely chafed at paying costs like these, officials in Canyon County are trying a novel approach: The all-Republican county commission has filed a racketeering lawsuit against four big businesses in the area, charging that they deliberately hire illegal workers.

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The spectacle of the county's political leaders taking its businesses to court has touched off a bitter local debate. But it has also put Canyon County, a largely Republican community of about 160,000, at the forefront of an emerging national effort to use racketeering laws to crack down on illegal immigration by seeking damages from employers.

So far, a handful of workers and businesses around the country have filed civil lawsuits under the RICO statute, known formally as the Racketeer Influenced and Corrupt Organizations Act. The targets are companies that, the lawsuits say, have unfairly used illegal labor to cut wage levels or prices.

In Washington state, workers who filed a civil suit against their employer, a fruit company, won a $1.3-million settlement in January. The Supreme Court has agreed to hear another of the immigration-related RICO cases this year.

But Canyon County is the first municipality to bring a suit of this kind against employers. The lawsuit was dismissed by a federal district court but has been appealed to the U.S. 9th Circuit Court of Appeals. If it succeeds, it could touch off similar actions, says the county's lawyer, Howard Foster.

"There are other county officials who are looking at this, who have called me," said Foster, an advocate of tougher immigration controls, who is behind most of the other RICO lawsuits.

In Canyon County, where working farms sit cheek-by-jowl against new residential developments, locals have traditionally welcomed the Latino immigrants who moved in seasonally to take agricultural jobs. But since the early 1990s, many immigrants have been finding year-round work in other industries, leaving some long-time residents struggling to adjust to permanent neighbors with different customs.

Even though the Senate aims to pass immigration legislation by early next month and the House has already produced an enforcement-only bill, people here are angry that the federal government has not done more to stop the influx.

Yet even some who want an immigration crackdown say the county commissioners stepped over the line when they went to court against two local seed companies, a meatpacker and large cheese-making operation.

"I think they should shut down the border and end services" to illegal immigrants, said Joel Bettancourt, a grocery store owner in Caldwell, Idaho, who described himself as Mexican American. "But to do the RICO Act — that's too far. Who knows who they're going to go after next?"

But some people say they are so fed up with changes they attribute to immigration — increasing gang violence, competition for manual labor jobs, and more services devoted to immigrants — that they hope the lawsuit succeeds. Letters to the local paper appear to be running slightly in favor of the commissioners.

"We have young guys, white and Hispanic, in here legally who want [construction] jobs — but companies give them to people who they can pay half the going wage," said Joyce Yelm, who grew up pulling beets alongside migrant farm laborers but has hardened after watching her old neighborhood become, in her words, a largely Spanish-speaking "shanty town."

Much of the controversy also centers on the man who has been the primary force behind the lawsuit — County Commissioner Robert Vasquez. A former radio commentator and veteran who was wounded in Vietnam, Vasquez, 57, has long been a provocative force in the immigration debate.

The grandson of legal Mexican immigrants, Vasquez was elected to the county commission in 2002 and soon after sent the Mexican government a $2-million bill for services he said his county had provided to illegal immigrants. He has asked Idaho Gov. Dirk Kempthorne to declare the county a disaster area because of illegal immigration and to grant it emergency funds. And he has proposed unsuccessful state legislation that would have denied welfare payments to illegal immigrants.

"For every dollar for an illegal alien, it's one less dollar in my constituents' pocket," said Vasquez, who is running for Congress. In 2005, Vasquez heard about Howard Foster.

The Chicago lawyer has largely spearheaded the use of RICO statutes as a tool against illegal immigration. A member of the Federation for American Immigration Reform, a group that advocates immigration restrictions, Foster took note when Congress toughened immigration laws in 1996 and amended the RICO statute to make knowing employment of illegal immigrants a violation.

"For the first time ever in the country, it became possible for a person to bring a private lawsuit against an employer … for violating immigration laws," Foster said.

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RICO targets a person or group for crimes committed systematically as part of an ongoing enterprise. It carries tough criminal penalties. Its civil component, which the immigration suits fall under, allows plaintiffs to sue for triple damages.

In four RICO suits since 1998, Foster has alleged that companies have knowingly and repeatedly conspired with labor contractors over a period of years to hire illegal immigrants.

His first case, in 2000, was on behalf of a Connecticut cleaning company that sued a competitor for hiring illegal immigrants. That case settled.

His other cases have been on behalf of employees, alleging that companies have kept wages low by hiring illegal workers. In 2001, he sued the Washington state fruit company, leading to the $1.3-million settlement. A suit he brought against Tyson Foods Inc. is scheduled to be heard next year.

In 2004, he filed suit against Mohawk Industries Inc., based in Calhoun, Ga., the country's second largest carpet maker. That case will be heard by the Supreme Court in April, potentially shaping the use of RICO as a weapon in the immigration wars.

Other lawyers besides Foster are also trying the RICO strategy. In 2003, the RICO statute was used to file suit on behalf of contract janitors against Wal-Mart Stores Inc. A court dismissed the RICO portion of the case, but that is now under appeal.

In Canyon County, after speaking with Foster, Vasquez and the two other commissioners filed suit in July, charging that Syngenta Seeds Inc., a Swiss company, and Harris Moran Seed Co., of Hayward, Calif., knowingly hired illegal immigrants for many years through a local farm labor contractor, Roberto Corral. The suit alleges that the seed companies knew most of Corral's recruits were illegal immigrants, but they used the contractor as a "front company" to distance themselves from their criminal activity.

"Many of these illegal immigrants have committed crimes resulting in criminal justice expenses to the county. Others have become public charges by seeking medical services, which the county has had to pay," the lawsuit states. It does not detail what those costs have been.

The lawsuit made similar claims against meatpacker Swift & Co., of Greeley, Colo., and Sorrento Lactalis Inc., a cheese company based in Buffalo, N.Y.

In December, a federal district court in Idaho dismissed the case on a legal principle that prohibits municipalities from suing to recoup the cost of services they provide in the normal course of business. The case is now before the 9th Circuit, where Foster successfully settled his case against the Washington fruit company.

A Syngenta representative dismissed the lawsuit as "baseless." At Swift, spokesman Sean McHugh said: "We believe the suit is without merit." Spokesmen for Sorrento Lactalis and Harris Moran declined to comment, citing the ongoing lawsuit.

Thomas G. Walker, a lawyer for the labor contractor Corral, said his client "didn't do anything wrong. He fulfills all of the requirements under the immigration statutes."

About a month after the suit was filed, Swift told its 408 Canyon County workers that the local facility, in operation since 1916, would be shut down. It said the closure was due to restrictions on Canadian beef imports. But many residents see the lawsuit as the last straw for the company.

"It's a horrible lawsuit," said Maurice Clements, a former state legislator and farmer. "Swift closed their plant, the other three companies — God, I hope they don't leave. They provide a huge market for farmers in this area."

The companies named in the suit generate almost $700,000 a year in tax revenue for the county and pay millions to local growers, according to the Canyon County Farm Bureau.

Syngenta has been in Idaho for 90 years and produces one-third of the world's sweet corn seed there. "Those four companies are a huge part of our agricultural base and therefore our economic base," said Terri Ottens, the farm bureau's executive secretary.

The commissioners counter by citing the costs of illegal immigration. Idaho law mandates that the county cover hospital fees for anyone who has lived there for more than six months and is unable to pay. That leads to bills such as the $1.25-million tab to care for an illegal immigrant who was left a quadriplegic because of a car accident.

Vasquez said also that a recently completed welfare analysis showed that from 1999 to 2005, claims by illegal immigrants totaled $1.2 million.

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But Ottens, of the farm bureau, is skeptical of the commissioners' claims. Her group says much of the cost of jailing illegal immigrants is often reimbursed by the state.

"We found the amount of money the county pays out is minimal compared to what these companies [being sued] pay in property tax," Ottens said.

Yet many residents are deeply grateful to Vasquez for taking a stand against illegal immigration.

Construction company owner Brad Tracy, who says he refuses to hire under the table, said it was almost impossible to compete against businesses that use illegal labor.

"I've got to pay workman's comp, health insurance, fuel costs, property tax," he said. "Then I've got to compete against people who say they have no employees, just contract labor at $10 an hour."

*

(BEGIN TEXT OF INFOBOX)

Canyon County snapshot

The issue of how to deal with illegal immigrants is taking an unusual path in Canyon County, Idaho, a predominantly white area with a substantial Latino population:

Canyon County, Idaho
Population: 160,540
Growth, 2000-05: 22%
--
Race/Ethnicity
White: 76%
Latino: 20%
All other: 4%
--
Age Median age: 31
--
Education Median household income: $40,338
--
Occupation
Blue collar: 31%
White collar: 50
Service/farm: 19
--
Income by household*
White: $36,772
Black: 46,964
Asian: 37,273
Latino: 30,800
--
Place of birth**
United States: 91%
Foreign: 9
--
Foreign-born home**
Latin America: 83%
Europe: 8%
Asia: 6%

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All other: 3%

Note: Unless otherwise stated, all data are 2005 estimates

* Median by race/ethnicity of head of household, 2000

** 2000 census data

Sources: U.S. Census Bureau, Claritas Inc.

Specter's Proposal Seeks Compromise On Immigration Reform (BSH)

By Dave Montgomery

Biloxi Sun Herald, March 7, 2006

WASHINGTON - The Senate's main immigration bill would enable most illegal immigrants now in the United States to remain indefinitely as long as they stay employed, but it wouldn't put them on a glide path to U.S. citizenship.

The Senate Judiciary Committee will begin debating the measure Wednesday under a three-week timetable aimed at producing a final version for the full Senate by March 27.

Sponsored by Sen. Arlen Specter, R-Pa., the committee chairman, the legislation is designed to strike a middle course between a bill passed by the House of Representatives calling for tougher immigration enforcement and pro-immigration advocates who call for permanent legal status - and eventual citizenship - for the estimated 11 million aliens now in the country illegally.

President Bush, defying objections from conservatives, has called for an overhaul of the nation's immigration laws and the creation of a temporary guest-worker program to ensure a steady source of labor for U.S. business. Under Bush's plan, qualified workers, including residents now here illegally, could stay in jobs for up to six years, then would be required to return home.

Senate Judiciary Committee staff members who explained key provisions of Specter's bill on Monday said that the measure would create a "gold card" program for illegal immigrants who entered the United States before Jan. 4, 2004. It also would create a guest-worker program to bring in more foreign laborers.

Applicants for the gold card would undergo a background check by the Department of Homeland Security, then be eligible for two-year work visas that could be renewed indefinitely, committee aides said, speaking on the condition of anonymity to avoid upstaging their boss. The workers wouldn't participate in the Social Security system but would contribute to future savings through worker investment accounts.

One top committee staffer described the "gold-card" proposal as "a reasonable compromise" in dealing with illegal immigrants, many of whom have lived in the country for decades. The undesirable alternative, he said, would be an unworkable massive roundup, which administration officials have said would cost billions of dollars.

Unlike other proposals, Specter's bill wouldn't require the immigrants to pay a fine to step forward, aides said. They also said that the proposal wasn't a form of amnesty since it wouldn't offer an automatic track toward citizenship. However, they noted that the measure wouldn't preclude applicants from eventual citizenship.

Under the separate guest-worker program, which would be based on U.S. labor needs, foreign applicants could work for three years, then could apply to work for another three years before returning home. They'd be required to remain in their home country for a year before reapplying.

Advocates on both sides of the immigration debate criticized Specter's proposal as an inadequate attempt to placate opposing groups.

"Some people are going to say it's amnesty, and others are going to say it creates a second-class caste of workers," said Tamar Jacoby of the Manhattan Institute, a New York-based think tank that leans right. "It's a non-starter for both sides."

Tensions between opposing groups escalated on the eve of the committee's deliberations, underscoring the passions surrounding the immigration issue. The National Capital Immigration Coalition announced plans for a Capitol Hill rally on Tuesday afternoon to demand eventual citizenship for illegal immigrants.

Specter's 305-page bill included elements from two other major bills, one co-sponsored by Sen. John Cornyn, R-Texas, and Sen. Jon Kyl, R-Ariz., the other by Sens. John McCain, R-Ariz., and Edward Kennedy, D-Mass.

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Many pro-immigrant groups, as well as a number of business organizations, have lined up behind McCain-Kennedy, which has a guest-worker program that would put undocumented residents on a path to eventual citizenship.

The Cornyn-Kyl bill also creates a guest-worker program, but illegal aliens would first be required to return to their home countries following a five-year grace period before they could participate.

Local Officials Seek Help From U.S. On Immigration (NYT)

By Paul Vitello

The New York Times, March 7, 2006

WASHINGTON, March 6 — Gather 100 local officials from 30 states — Democrats and Republicans from big states and little ones — and there are probably few issues on which all will agree. But President Bush's record on illegal immigration apparently is one.

"It is a failure," said Mark D. Boughton, speaking on Monday at a gathering of those officials here. Mr. Boughton, the mayor of Danbury, Conn., created a stir last year when he sought, unsuccessfully, to have State Police troopers deputized as immigration control agents.

"A terrible hardship for my taxpayers," said Gloria D. Whisenhunt, chairwoman of the Forsyth County board of commissioners, in Winston-Salem, N.C. The schools there are crammed with the children of illegal immigrants, she said.

"Enough is enough," said Steve Levy, the Suffolk County executive and co-organizer of the event. Mr. Levy became a sort of guiding light among local officials around the country after he decided last summer to help shut down boarding houses in Farmingville, N.Y., where hundreds of illegal immigrants lived in crowded conditions.

"The federal government has to adopt a sane immigration policy," Mr. Levy said.

The gathering, organized and convened here under the banner of the Coalition of Mayors and County Executives for Immigration Reform, called for border security and, most urgently, reimbursement to localities for the cost of dealing with a problem its members say the federal government has ignored.

"In recent polls, 88 percent of the people said that illegal immigration is a serious or 'somewhat serious' problem," Mr. Levy said. "Yet there just seems to be a disconnect between that and what the Congress and the media think."

In the contentious national debate over what is called immigration reform, there are a half-dozen factions at odds, factions representing the interests of business, of labor, of immigrant advocates and opponents, of Republican presidential hopefuls and Democratic partisans.

For good measure, because most illegal immigrants are Hispanic, the issue is loaded with racial and ethnic overtones, a reality that Mr. Levy had to face last summer when immigrant advocates in Suffolk County labeled his boarding house sweeps as racist.

"But this group has nothing to do with racism or bigotry," said Robert Vasquez, a county commissioner from Canyon County, Idaho. "We are here because we are elected United States officials, and it's our duty to uphold the laws."

Major bills under review in the House and Senate promote an array of conflicting responses to the question of how to define the issue, and how to deal with the reality of 11 million illegal aliens in the United States. Among the suggested solutions are amnesty, deportation, temporary worker status, permanent guest work status and an impermeable wall at the Mexican border.

But Monday's assembly of local officials introduced a new faction into the fray. This one, its members say, is composed of officials who must deal every day with the realities of illegal immigration as they intersect with taxpayers.

The officials raised many questions for the federal government. Who pays for the shuttering of boarding houses like those in Farmingville? Who pays for the extra classroom space, the unreimbursed cost of medical care, the cost of police and fire protection for the additional human lives? Where will they be housed?

The White House did not ignore the meeting, but at the last minute downgraded the rank of its representative. In place of Ruben Barrales, a deputy assistant to the president and White House director of intergovernmental affairs, who was originally scheduled to attend, the White House sent a liaison to city officials, Toby Burke.

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Mr. Burke, who listened respectfully, at one point said the president was seeking "a comprehensive, not a piecemeal, solution" to the problem of illegal immigration. He said the president's proposal to create guest worker status for some or all illegal aliens would not constitute an amnesty.

Then, while the officials vented for two hours with what seemed like the relief of troubled individuals finding their first support group, Mr. Burke said little else.

TAX:

Federal Prosecutors Sue Nevada Tax Preparers For Fraud (AP)

ASSOCIATED PRESS

AP, March 7, 2006

LAS VEGAS (AP) - The U.S. Justice Department filed suit today to stop four people from operating what it claims is a tax fraud scheme.

The suit filed in U.S. District Court in Las Vegas says the scheme cost the government at least 31 million dollars.

The government accuses the Las Vegas-based group of funneling income from clients through trusts in the Caribbean to help them avoid paying taxes.

It says the group returned the money through phony gifts or loans to the customers, their friends or family members.

The government names Reinhold Sommerstedt and Daniel Young of Las Vegas; Lynn Lakers, a Boulder City tax-return preparer; and Stephen Nestor, a former Internal Revenue Service officer, in the suit.

Justice Wants 3 Hillsdale Residents To Stop Preparing Returns (AP)

By JAMES PRICHARD, The Associated Press

AP, March 6, 2006

GRAND RAPIDS, Mich. (AP) — The U.S. Department of Justice has asked a federal court to prohibit three Hillsdale residents from preparing federal income tax returns for others, claiming the trio has cost the Treasury more than $25 million.

The government filed a complaint Monday in U.S. District Court in Grand Rapids against Joyce M. Stone, Charles J. Freed and Julie Shaffer.

Stone is Freed's mother, and together they own and operate an unincorporated tax-preparation business from their home, the department said Monday. The business also is a defendant in the lawsuit.

The complaint alleges that the defendants prepared customers' returns claiming improper deductions, including some for fictitious or inflated charitable contributions and employee expenses.

Contacted Monday at their homes, all three denied any wrongdoing. Stone said she had been contacted by her lawyer about some questions involving some of her returns but believed the matter had been resolved.

"I thought we got that straightened out," she said.

Shaffer, a friend of Stone, said she was unaware of the complaint until a reporter told her about it.

"This is news to me," she said.

The government said Stone and Freed, acting either individually or through their business, prepared income tax returns for about 1,000 clients. Shaffer prepared returns for more than 1,000 clients and also assisted in the e-filing of returns prepared by Stone or Freed.

The returns that Stone, Freed or Shaffer prepared for the 2000 through 2003 tax years may have cost the U.S. Treasury more than $25 million, based on projections made from 115 audited returns, according to the complaint.

The government also sought an order directing the defendants to provide prosecutors with their customers' names, telephone and Social Security numbers, and mailing and e-mail addresses.

"The Justice Department is working vigorously to stop the preparation and filing of the false or fraudulent returns that unfairly shift the tax burden to honest American taxpayers," Eileen J. O'Connor, assistant attorney general for the Justice Department's Tax Division, said in a written statement.

DOJ_NMG_0016398

CONGRESS-ADMINISTRATION:

Bush Proposes Law To Give The President Line-Item Veto Power (WP)

By Michael A. Fletcher

The Washington Post, March 7, 2006

Seeking to reassert his party's scuffed reputation for fiscal conservatism, President Bush yesterday proposed a law giving him authority to veto individual items in legislation as a way to curb fast-growing federal spending.

Bush, who has never exercised his veto power in more than five years as president, said the line-item veto would give him authority to clamp down on special-interest items, known on Capitol Hill as earmarks, increasingly slipped into legislation to benefit the home districts of lawmakers.

"Too many bills passed by Congress include unnecessary spending," Bush said at a White House ceremony to swear in Edward Lazear as chairman of the White House Council of Economic Advisers. "These earmarks reflect special interests instead of the people's interests."

The proposal, scheduled to be introduced today by Republican Sens. Bill Frist (Tenn.), John McCain (Ariz.) and Mitch McConnell (Ky.), would allow the president to identify items he wants to strike from larger legislation and return the bill to Congress, which would have 10 days to vote on the proposed cuts.

Congress passed legislation authorizing the line-item veto in 1996, but the Supreme Court struck it down as an unconstitutional abridgement of the separation of powers shortly after it was enacted by President Bill Clinton. By requiring that the cuts made by the president be approved by Congress, the White House believes it will avoid any constitutional problems with the new legislation.

"Congress gave the president a line-item veto in 1996, but because of problems with the way the law was written, the Supreme Court struck it down," Bush said. "That should not be the end of the story."

Bush has asked for the line-item veto in years past as part of his overall budget requests. But he has never before offered specific legislation seeking the authority. White House aides said the proposal is timely because of growing outrage over the widening budget deficit and the growth of legislative earmarks, which has threatened to undermine the image of Republicans as proponents of small government. Some conservatives said Bush's own credibility on the issue is open to question.

"Under President Bush, the government has expanded by 45 percent in five years," said Brian Riedl, a federal budget analyst with the conservative Heritage Foundation. While he praised the line-item veto as a good "common-sense" tool, Riedl said that "there is no substitute for vetoing expensive spending bills."

Since the Republicans took control of Congress in 1994, the number of home-district earmarks has jumped from 4,155 valued at about $29 billion in 1994 to 14,211 worth nearly $53 billion 10 years later, according to the Congressional Research Service. Meanwhile, the Bush administration has forecast a record budget deficit for 2007 of $439 billion.

"Now seems like a very good time to move," Joshua B. Bolten, director of the White House Office of Management and Budget, said of the line-item veto proposal. Bolten said the measure gives "the president a scalpel to reduce unnecessary or wasteful spending," while creating a mechanism to increase public and legislative scrutiny of earmarks.

At first blush, Bush's proposal is being received with bipartisan approval in Congress. Sen. John F. Kerry (D-Mass.), who proposed similar legislation during his 2004 presidential campaign, called the measure overdue. He introduced his own version of the measure yesterday, which his office said appears to be no different from Bush's proposal.

"It's no secret that President Bush and I don't agree on much, but I fully support giving him the line-item veto," he said.

House Majority Leader John A. Boehner (R-Ohio) also praised the bill. "I have always supported giving the president the authority to exercise the line-item veto as a means to help rein in wasteful spending," he said.

Bush Seeks To Slim Down 'Pork' Projects (AP-Y2)

By Andrew Taylor, Associated Press Writer

AP2, March 6, 2006

DOJ_NMG_0016399

Seeking new power to weed hometown projects from legislation passed by Congress, President Bush on Monday asked lawmakers to give him a modified version of the line-item veto struck down by the Supreme Court eight years ago.

Like presidents dating back to Ulysses S. Grant, Bush wants the power to strike individual items from a bill without having to veto the entire measure.

President Clinton got that wish in 1996, when the new Republican majority in the House pushed through a line-item veto law that allowed him to kill individual spending projects and special-interest tax breaks.

Two years later, the Supreme Court declared the law — one of the key planks of the House GOP's "Contract With America" — unconstitutional because it allowed the president to amend laws passed by Congress.

Bush is now pressing for a modified, weaker version. Instead of being able to strike items from bills, he would send one or more items back to Congress for an up-or-down vote. Present law permits Congress to ignore these proposed rescissions, but under the Bush proposal lawmakers would have to vote on them. If majorities in both the House and the Senate agreed with the president, the cuts would take effect.

"Forty-three governors have this line-item veto in their states," Bush said. "Now it's time to bring this important tool of fiscal discipline to Washington, D.C."

Bush has not vetoed any legislation during five years in office, but he said the modified line-item proposal would help "reduce wasteful spending, reduce the budget deficit and ensure that taxpayer dollars are spent wisely."

House Speaker Dennis Hastert, R-Ill., and Senate Majority Leader Bill Frist, R-Tenn., issued statements supporting Bush, as did several conservative lawmakers.

And Sen. John Kerry, D-Mass., who promoted a similar approach in his presidential campaign against Bush in 2004, immediately jumped on board.

"It's no secret that President Bush and I don't agree on much, but I fully support giving him the line-item veto," Kerry said. "I'm going to introduce this legislation, Congress should immediately pass it, and I want to see President Bush use this veto pen to get tough on wasteful spending."

"Giving the president line-item veto authority is essential to enforcing the budget and restoring fiscal sanity in Washington," said Rep. Jeb Hensarling (news, bio, voting record), R-Texas.

The proposal may be helped along by the drive on Capitol Hill for so-called "earmark reform."

Senate Democratic leader Harry Reid of Nevada said he was opposed to the idea even though he supported a similar plan in 1995 when offered as a weaker alternative to the GOP version.

The earlier version of the line-item veto was used by Clinton in 1997 against about 80 parochial projects and a handful of special-interest tax breaks. Lawmakers' enthusiasm for the earlier veto power waned sharply, leading lawmakers like Sen. Robert Bennett (news, bio, voting record), R-Utah, to change their minds and oppose the idea.

Congress, by a huge margin, overturned Clinton's vetoes of 38 military construction projects.

Bush's version was actually pushed by Democrats in the 1990s — including Sen. Robert C. Byrd (news, bio, voting record) of West Virginia, who filed suit against the 1996 law.

Still, a proposal similar to Bush's veto plan was actually voted down by the House two years ago on a 237-174 vote, with three out of four Democrats voting "nay." Some 89 Republicans, including then-Majority Leader Tom DeLay of Texas and Rules Committee Chairman David Dreier, R-Calif., also opposed the measure.

Lawmakers opposed to the line-item veto idea say that Congress should carefully guard its power of the purse and that presidents could use the expanded power against their political enemies.

Supporters say the practice of larding legislation with hometown projects and special-interest tax breaks has gotten out of control. Too often, a president has to accept such "pork" as the price of adopting legislation that he has little choice but to sign.

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On the Net:

The White House: http://www.whitehouse.gov

House Conservatives Prepare Austere Alternative Budget (NYT)

DOJ_NMG_0016400

By Carl Hulse

The New York Times, March 7, 2006

WASHINGTON, March 6 — With Congress heading into a politically perilous budget season, influential House conservatives plan this week to propose an austere alternative spending plan that would pare more than $650 billion over five years, balance the budget and drastically shrink three cabinet agencies.

The legislation, part of a push by some Republicans to re-establish themselves as champions of fiscal restraint, was taking shape as President Bush struck a similar theme on Monday by asking Congress to grant him line-item veto power to eliminate federal spending that he might judge wasteful.

"We can't be all things to all people when it comes to spending the taxpayers' money," Mr. Bush said at a ceremony installing a new chairman of the Council of Economic Advisers.

But House conservative leaders would go far beyond the president's own budget proposal, illustrating the difficulty the White House and the Republican leadership have had in persuading the caucus to speak with one voice on the matter.

Senior aides say the conservatives' plan would wring about $350 billion from Medicare, Medicaid and other social programs and save $300 billion partly through a major reorganization of the Education, Commerce and Energy Departments.

"We are putting our money where our mouth is," said one of the officials, who would discuss the proposal only without being identified because it was still being prepared for release Wednesday by leaders of the Republican Study Committee.

The officials said it was particularly important for conservatives to lay down a marker because the Senate is facing an imminent vote on whether to increase the statutory debt limit, which will remind the public of the increasing deficits under the Bush administration.

Treasury Secretary John W. Snow warned Congress on Monday that the federal government risked default without an increase in the debt limit and that the Republican-controlled Congress would soon be forced to address that issue.

Conservatives contend that voters are disillusioned with Republicans over spending and that without a bold statement, the party faces potential losses in November. But some moderate Republicans are anxious about additional spending reductions, particularly after Congress enacted nearly $40 billion in cuts last year after a difficult fight.

The new budget proposal is certain to be assailed by Democrats who accuse Republicans of forging ahead with tax cuts that benefit the affluent and add to the deficit while reducing support for those most in need.

"This president will have piled up more debt than all of the presidents preceding him," Senator Kent Conrad of North Dakota, the senior Democrat on the Budget Committee, said Monday as he joined other Democrats in accusing Republicans of shortchanging domestic security.

The budget debate could be the first big challenge for Representative John A. Boehner of Ohio, the majority leader, who won his position last month with help from House conservatives who will now be looking to him to help hold down spending.

Under the proposal, expected to be introduced by Representative Mike Pence, Republican of Indiana, and Representative Jeb Hensarling, Republican of Texas, military spending would continue to rise, administration tax cuts would be protected and Social Security would be spared. But many other programs and foreign aid would be greatly scaled back.

The authors of the proposal describe it as a sequel to the Contract With America, which helped catapult Republicans to power in 1994. An outline of the plan says the proposals require "tough choices, but members have expressed a serious desire to do the hard things to save America."

Mr. Bush's push for the line-item veto could benefit from the current scrutiny over the growing practice by lawmakers of inserting spending for pet projects into legislation — a practice that has figured into continuing corruption scandals.

Congress gave President Bill Clinton line-item veto authority in 1996, but the Supreme Court overturned the law, saying it violated the Constitution by giving the president the power to amend legislation. Under the new proposal, the president would be able to identify objectionable projects and then send them back to Capitol Hill for an up-or-down vote without requiring a veto of the entire bill.

Though members of Congress are typically reluctant to cede too much power over spending to the executive branch, several lawmakers gave initial expressions of support, including House Speaker J. Dennis Hastert, Republican of Illinois, and Senator John Kerry, Democrat of Massachusetts.

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"It's no secret that President Bush and I don't agree on much," Mr. Kerry said, "but I fully support giving him the line-item veto."

But Senator Harry Reid of Nevada, the Democratic leader, had an opposite view, calling the line-item veto "old hat."

"I don't think this Congress is ready for line-item veto," Mr. Reid said, adding, "I just think it's an effort by President Bush to divert attention from real issues this country has."

Bush Calls For Line-item Veto (WT)

By Stephen Dinan

The Washington Times, March 7, 2006

President Bush yesterday demanded that Congress give him a line-item veto power and sent a bill to Capitol Hill that he said satisfies the constitutional concerns that sunk the last version a decade ago.

Wading into the congressional spending debate, Mr. Bush took a hard line on the practice of earmarks, which critics call pork-barrel spending, and promised to be the sheriff who will enforce discipline.

"Too many bills passed by Congress include unnecessary spending," Mr. Bush said.

"Today, I'm sending Congress legislation that will meet [constitutional] standards and give me the authority to strip special spending and earmarks out of a bill, and then send them back to Congress for an up-or-down vote," he said.

The move thrilled conservative Republicans on Capitol Hill, but Democratic leaders said Mr. Bush was ducking responsibility for budget deficits.

"If the president were really serious about the deficit, he would begin by submitting a balanced budget," said House Minority Leader Nancy Pelosi, California Democrat. "Instead, President Bush has presided over the largest fiscal turnaround in our nation's history, turning a projected $5.6 trillion surplus to a deficit of $3.3 trillion."

White House officials said Mr. Bush, who has never vetoed a bill, needs a more finely tuned scalpel to deal with wasteful spending.

The proposal is not technically a "veto" under the Constitution, because it doesn't require a two-thirds vote to overturn it.

Under Mr. Bush's plan, the president could cull items from a bill and send the cut items back in a rescission package to Congress, which would have 10 days to vote on the whole package. The president could eliminate targeted tax cuts as well as spending.

"To see him putting the full weight of his office behind a specific proposal to create a constitutional line-item veto is thrilling to those of us who know when it comes to federal spending, it's not so much bad people as bad process," said Rep. Mike Pence, Indiana Republican and chairman of the Republican Study Committee, the conservative caucus in the House.

Mr. Pence said Mr. Bush would use the line-item veto because the "stakes are so much lower" in targeting individual spending than blocking an entire bill passed by a Republican Congress.

"There is no single reform that would do more to put our fiscal house in order than the line-item veto. The problem with federal spending is no one's in charge, so everyone is," he said.

House Republican leaders said they support the concept, and Senate Republican leaders went further. Senate Majority Leader Bill Frist, Tennessee Republican, is sponsoring the Senate version of the bill, along with Sen. John McCain, Arizona Republican, and Majority Whip Mitch McConnell, Kentucky Republican.

White House press secretary Scott McClellan said the administration thinks the time is ripe, given the interest on spending cuts on Capitol Hill. He said the fight against wasteful spending is bipartisan, so he predicted the line-item veto proposal would attract bipartisan support.

Although Mrs. Pelosi and Senate Minority Leader Harry Reid, Nevada Democrat, have opposed line-item authority, Sen. John Kerry, Massachusetts Democrat and Mr. Bush's opponent in the 2004 election, said he supports the concept and will introduce his own proposal.

Congress passed a line-item veto in 1996, but in 1998, the Supreme Court ruled 6-3 that it was unconstitutional because it gave the president the power to amend a law after it had been passed by Congress. The majority ruled that sort of change must come through constitutional amendment, not law.

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Under that system, the president had five days after he signed a bill to make line-item cuts. Congress could only reinstate the cuts by passing a separate bill, subject to a regular presidential veto and requiring a two-thirds vote of each chamber to overturn it.

Bush administration officials said their version doesn't violate the Constitution because it doesn't give the president unilateral authority. Instead, it sets up a process to push Congress to act on his recommendations.

Bush Asks Congress For "Line-item Veto" Power (REU-Y2)

By Caren Bohan

Reuters, March 6, 2006

President George W. Bush, who has never vetoed a spending bill, asked the U.S. Congress on Monday to give him a line-item veto that would allow him to propose canceling specific spending projects.

But Bush's proposal faces hurdles because an earlier version that Congress passed under former President Bill Clinton was rejected by the Supreme Court as unconstitutional.

Bush said the 1998 court decision "should not be the end of the story" and said his proposal was crafted in a way to satisfy the court's concerns.

"By passing this version of the line-item veto, the administration will work with the Congress to reduce wasteful spending, reduce the budget deficit and ensure that taxpayer dollars are spent wisely," he said.

Senate Majority Leader Bill Frist, a Tennessee Republican, said he would introduce the legislation.

In striking down the Clinton-era line-item veto by a vote of 6-3, the Supreme Court said Congress was not authorized under the Constitution to hand the president that power.

But White House spokesman Scott McClellan said the Bush proposal would differ from that 1996 law, which allowed the president to pencil out specific spending items only after a bill was passed by Congress.

Under the Bush proposal, the president would identify areas in a spending bill he considered wasteful and then send the package back to Congress. Congress would have 10 days to hold an up or down vote on the package.

Democrats, who have criticized Bush's tax cuts as fiscally reckless, said the line-item veto was not a panacea for record budget deficits.

"The Bush administration has spent us into record deficits and piled mountains of debt onto our children," said House Democratic leader Nancy Pelosi of California. But she added, "Budget experts agree that the line-item veto would do little to control deficits."

However, Democratic Sen. John Kerry of Massachusetts, who ran against Bush in the 2004, supported the line-item veto proposal, which mirrored one Kerry had previously proposed.

"Billions of dollars are being wasted on things like research to enhance the flavor of roasted peanuts and the infamous 'bridge to nowhere,'" Kerry said.

Announcing the line-item veto proposal at a swearing-in ceremony for Ed Lazear, his new chairman of the White House Council of Economic Advisers, Bush said it would allow him to take aim at "special-interest spending."

'BRIDGE TO NOWHERE'

A major congressional lobbying scandal involving Jack Abramoff and the conviction of former California Republican Rep. Randy "Duke" Cunningham on bribery charges have put a spotlight on pet projects that lawmakers often add to bills to please constituents in their home states.

Bush has been criticized by many conservatives for the surge in federal spending on his watch.

One example of a pet project critics often cite was a bridge proposal in Alaska ridiculed as the "Bridge to Nowhere" because it would have served a very small population.

The bridge was part of $287-billion transportation bill that many conservatives had urged Bush to veto. Bush signed the transportation bill and hailed it as a job-creating measure.

Spending on the Alaska bridge was later canceled, but the state received the money anyway in its general transportation funds.

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Republicans worry that big deficits could hurt them in this year's midterm election in which Democrats are seeking to regain control of both houses of Congress.

The Bush administration has forecast a fiscal 2006 budget deficit of $423 billion, an all-time high.

Bush Seeks To Restore 'pork-barrel Spending' Veto (FT)

By Christopher Swann

Financial Times, March 7, 2006

The White House sought on Monday to restore the president's power to veto specific spending measures, a move that could sharply increase his authority to block items deemed wasteful, "pork barrel" spending.

President George W. Bush proposed legislation that would be designed "to meet Supreme Court standards" and would "give me the authority to strip special-interest spending and earmarks out of a bill and then send them back to Congress for an up-or-down vote".

The Republican-controlled Congress gave the White House a line-item veto in 1996, but it was struck down by the Supreme Court in 1998, with six of the nine justices ruling that it overstepped the president's constitutional authority.

Mr Bush's effort to restore the veto comes at a time of growing concern about Washington's apparent inability to restrain the growth in government spending. The Congressional Budget Office said last week that the budget deficit would rise to $371bn this year, from $318bn in 2005, in spite of record tax revenues.

While most of the spending growth has come from the military and homeland security, and from entitlement programmes such as Medicare and Social Security, it has been exacerbated by the growth of so-called "earmarks" – specific spending measures targeted at constituencies favoured by members of Congress.

Circumventing the Supreme Court's judgment on the line-item veto may not be easy. The 1996 bill allowed the president to strip out specific spending items and required a two-thirds majority vote by Congress to reinstate them.

Justice John Paul Stevens, writing for the majority on the court, said Congress could alter the president's role in determining the final text of a law only through a constitutional amendment. The White House proposal would allow the president to split out spending items and send them back to the Congress.

Congress would be required to consider the spending within 10 days for an up or down vote. The president could be defeated by a simple majority rather than a two thirds majority required to defeat a normal veto. But the measure could not be filibustered.

Dan Coats, the former US senator who sponsored the line-item veto in the 1990s, said the law would need to be carefully drafted. "They will need to find some way that does not violate the separation of powers, unless they are just trying to score political points," he said.

Joshua Bolten, director of the White House Office of Management and Budget, said that the legislation would be "air tight" in constitutional terms. The bill will be sponsored in the Senate by Bill Frist, majority leader, and John McCain, a Republican fiscal conservative.

President Bill Clinton used the budget-cutting tool 82 times in 1997, saving $2bn over five years.

But Chris Edwards, head of tax studies at Cato, a libertarian think-tank, while supportive of a line-item veto, said it would not get to the heart of America's fiscal problems.

"There has been a broad failure to keep spending under control and earmarks have just been a small part of this," he said.

Bush Wants Modified Line-item Veto Power (USAT)

USA Today, March 7, 2006

President Bush asked Congress on Monday to give him a line-item veto power that would allow him to propose canceling specific spending projects without having to veto an entire bill. The Supreme Court struck down a similar law eight years ago, but Bush said his version is crafted to satisfy the court's concerns.

He said 43 governors have line-item veto power, and "it's time to bring this important tool of fiscal discipline to Washington."

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President Clinton was given line-item veto power in 1996, but the Supreme Court declared the law unconstitutional because it allowed the president to amend laws passed by Congress. Under the Bush proposal, instead of being able to strike items from bills, the president would send one or more items back to Congress for an up-or-down vote.

Treasury chief asks for higher debt ceiling

Treasury Secretary John Snow notified Congress that the administration has now taken "all prudent and legal actions," including tapping certain government retirement funds, to keep from hitting the $8.2 trillion national debt limit. Snow urged lawmakers to pass a new debt ceiling to avoid the nation's first-ever default on its obligations. Treasury officials have said the current limit will be surpassed sometime during the week of March 20.

An actual default on the debt, a situation when the government misses making payments to current bondholders, is a doomsday scenario that would severely damage the government's credit rating.

Army Corps defends levee reconstruction

The Army Corps of Engineers defended the quality of materials being used to rebuild the levees around New Orleans. Lt. Gen. Carl Strock, head of the Army Corps, said he told President Bush that 100 miles of the 169 miles of levees damaged by Hurricane Katrina have been restored.

Strock took issue with findings from two teams of independent experts who said the corps was taking shortcuts and using substandard materials, leaving large sections of the system substantially weaker than before the Aug. 29 storm.

Bush Seeks Limited Veto Power On Spending (LAT)

The Los Angeles Times, March 7, 2006

WASHINGTON — President Bush asked Congress on Monday to give him limited authority to veto individual items in spending measures, resurrecting a top priority of fiscal conservatives.

Expressing optimism that the measure would win congressional approval and pass court tests, the White House said its proposal took into account objections the Supreme Court had raised in 1998 when it ruled that a similar provision signed two years earlier by President Clinton was unconstitutional.

In Congress, however, the outcome was less certain than the White House suggested.

Democratic leaders in the House and the Senate objected to the plan, but it probably will benefit from the momentum building to rein in "earmarks" — the practice of inserting into legislation specific spending measures that benefit only individual projects or communities.

Referring to the court's rejection of the law eight years ago, Bush said: "That should not be the end of the story."

He said his proposed measure would give him "the authority to strip special spending and earmarks out of a bill, and then send them back to Congress for an up-or-down vote."

The president has frequently expressed his interest in obtaining the line-item veto — an authority granted to 43 of 50 U.S. governors — but he has not made a concerted push to gain congressional approval for it and had not sent a specific proposal to Congress until Monday. As Democrats frequently point out, the budget has gone from healthy surplus to spiraling deficit during his five years in office, while Bush has failed to veto any legislation.

But "fertile ground … exists now in Congress," said Josh Bolten, the director of the Office of Management and Budget — referring to the growing pressure in the House and the Senate to limit earmarks.

Under Bush's formula, unlike the one ruled unconstitutional eight years ago, Congress would retain the last word.

If the president opposes certain provisions in a spending bill, the proposal would allow him to sign the legislation but defer spending the disputed money.

Congress would then be asked to approve a second measure killing the offending provisions. It would have 10 days to comply, and would not be allowed to amend it or delay a vote by filibuster. If Congress did not support the president's request, the targeted spending would have to proceed.

Under the Constitution, the House and Senate must pass a bill, and the president must sign it, for legislation to become law. In a 6-3 decision, the Supreme Court ruled that the Line Item Veto Act amended that process by giving the president new power to cancel some parts of a bill.

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By White House count, presidents as far back as Ulysses S. Grant, who served from 1869 to 1877, have sought the line-item veto — and Congress has objected, because it allows a president to pick and choose among spending items that Congress sends to the White House.

Although details of the proposal remained sketchy, some Supreme Court experts said the new measure might get around judicial objections.

"This might work," said Mark V. Tushnet, an expert on constitutional law at Georgetown University Law Center.

Walter Dellinger, who as acting solicitor general argued on behalf of the Clinton administration in favor of the measure the court struck down, was more certain.

"This is unquestionably constitutional," he said. "It is possible to construct a constitutionally defensible provision under which Congress would be required to cast a recorded vote on particular items."

Besides, he said, the president would likely be playing a strong hand by asking Congress to hold back on specific spending.

It would be politically costly for Congress to vote to override a line-item veto, Dellinger said.

In striking down the 1996 legislation, the court voted along non-ideological lines. The conservative chief justice, William H. Rehnquist, voted with the majority; while frequent swing vote Sandra Day O'Connor, liberal Stephen G. Breyer and conservative Antonin Scalia formed the minority.

Supreme Court experts said there was no suggestion how the current court — with John G. Roberts Jr. replacing Rehnquist and Samuel A. Alito Jr. replacing O'Connor — would receive any challenge to the legislation.

The politics of the line-item veto makes for unusual teammates.

In 2004, Congress rejected a provision that would have done what Bush says he wants to do: require Congress to vote on recommendations to eliminate specific projects from appropriations bills. The vote was 237-174, with 89 Republicans joining the 147 Democrats and one independent who voted against it.

Bolten was happy to point out Monday that during the 2004 presidential campaign, Sen. John F. Kerry, the Democratic candidate, proposed a measure similar to that advanced by the White House.

On Monday, the Massachusetts senator said: "It's no secret that President Bush and I don't agree on much, but I fully support giving him the line-item veto." He said he would introduce such legislation.

Senate Minority Leader Harry Reid (D-Nev.) objected to Bush's plan, and House Minority Leader Nancy Pelosi (D-San Francisco) said: "President Bush has presided over the largest fiscal turnaround in our nation's history, turning a projected $5.6 trillion surplus [over 10 years] to a deficit of $3.3 trillion.

"The line-item veto would do little to control deficits," she said.

And Sen. Jim DeMint (R-S.C.), while supporting the line-item veto, pointed out that if Bush wanted to curtail earmarks, he could simply refuse to fund many of them.

This is because many earmarks are not in legislation, but in the congressional committee report accompanying the bill. Thus, he said, the appropriations bill this year that funds the science agencies and the Departments of State, Justice and Commerce contains 2,394 earmarks — 228 of which are in the text of the law.

Reconciliation A Tough Sell In 2006 (RC)

By Emily Pierce

Roll Call, March 7, 2006

In what may be more of a face-saving effort than any real attempt to reduce the deficit this year, both the House and Senate Budget panels are looking at including less than $10 billion in savings or mandatory spending cuts in their versions of the budget resolution this year.

Snow Says U.S. Has Taken 'All Steps' To Avoid Debt Limit (WSJ)

A Wall Street Journal Online News Roundup

The Wall Street Journal, March 7, 2006

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Treasury Secretary John Snow notified Congress on Monday that the administration has now taken "all prudent and legal actions" to keep from hitting the $8.2 trillion national debt limit.

In a letter to Congressional leaders, Mr. Snow urged lawmakers to pass a new debt ceiling immediately to avoid the nation's first-ever default on its obligations. "I know that you share the president's and my commitment to maintaining the full faith and credit of the U.S. government," Mr. Snow wrote.

Treasury officials, briefing congressional aides last week, said that the government will run out of maneuvering room to keep from exceeding the current limit sometime during the week of March 20.

Mr. Snow said government debt managers are starting to use the Civil Service Retirement and Disability Fund to stay below the current limit. Mr. Snow said he has declared a "debt issuance suspension period," a technical designation that lets Treasury suspend new investments for the civil-service fund and redeem some of that fund's investments, "as authorized by law."

The Treasury secretary said "it is important to understand" that this maneuver "provides only a few days of additional borrowing capacity, which we expect will be exhausted by mid-March."

Treasury officials also announced that on Friday they had used the $15 billion in the Exchange Stabilization Fund, a reserve the Treasury secretary has that is normally used to smooth out volatile movements in the value of the dollar in currency markets.

Treasury has also been taking investments out of a $65.3 billion government pension fund known as the G-fund. Officials have said that once the debt limit is raised, the investments taken out of the pension funds would be replaced and any lost interest payments would be made up. The formal title for the G-fund is the Government Securities Investment Fund of the Federal Employees Retirement System.

An actual default on the debt, a situation when the government misses making payments to current bondholders, is a doomsday scenario considered highly unlikely given what it would do to the government's credit rating.

It is expected that Congress will approve an increase in the current $8.18 trillion debt limit by perhaps $781 billion. Mr. Snow will be meeting privately this week with U.S. lawmakers to discuss the importance of raising the debt limit, Treasury spokesman Tony Fratto said at a routine press briefing on Monday.

Senate Democrats have asked the Republican leadership for extended debate before raising the debt limit. Senate Minority Leader Harry Reid (D., Nev.) has said he wants to amend debt limit-increase legislation "to reduce the need for further debt increases in the future."

Whatever concerns Congress may have about the longer-term budget outlook, "we cannot hold hostage the full faith and credit of the United States of America," Mr. Fratto said Monday. Any indication from lawmakers that they can't support an increase is "not appropriate and certainly not sustainable," he said. "At the end of the day, the debt ceiling needs to be raised."

Congress has put off a debt-limit increase until "the eleventh hour" several times during President Bush's administration, but "we cannot take it for granted" that putting off the increase this time won't be problematic, Mr. Fratto said.

The administration has sent Congress a budget that on paper would cut the deficit in half by 2009, the year Mr. Bush leaves office. But Democrats contend the administration met its deficit-reduction goal only by leaving out major spending items such as the full costs of the Iraq war. They say the deficit won't improve unless Mr. Bush abandons his effort to make his first-term tax cuts permanent.

Sen. Max Baucus (D., Mont.) said last week that under Mr. Bush the total of the deficits has increased by $3 trillion, a 40% increase from where the national debt, the total of previous deficits, stood when Mr. Bush took office in January 2001.

Will D.C. Circuit Nominee's Conservative Credentials Be His Undoing? (LAW)

By Emma Schwartz, Legal Times

Legal Times, March 7, 2006

Most nights a line snakes out the door at Lauriol Plaza, the trendy Mexican restaurant on 18th Street in Dupont Circle that draws a cross section of the Washington, D.C., cognoscenti, many of whom come as much to make the scene as to sample the cuisine.

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On one such evening about two years ago, James Brochin, a New York lawyer, was waiting to be seated with a few buddies from Yale Law School, including Brett Kavanaugh, staff secretary for President George W. Bush.

Nearby, Jeff Berman, then counsel to Sen. Charles Schumer, D-N.Y., on the Senate Judiciary Committee, caught Kavanaugh's eye and walked over. Kavanaugh was in the midst of a bitter confirmation battle over his nomination to the U.S. Court of Appeals for the D.C. Circuit, but the staffer still wanted to trade a few friendly words before heading out the door.

"I was struck at the time by the irony that this guy's boss was spending a great deal of energy trying to shoot Brett down, yet he was still good friends with this staffer," recalls Brochin, a partner at Paul, Weiss, Rifkind, Wharton & Garrison.

It might seem unusual, but the story is emblematic of the complex politics and loyalties often just behind the scenes of the judicial nomination process. It also illustrates the challenge Democrats have facing off against this 41-year-old Maryland native, whose stalled nomination is expected to come before the Senate Judiciary Committee again as early as next month.

Kavanaugh's conservative credentials are etched indelibly into his résumé. In fact, he's something of the Zelig of young Republican lawyers. A protégé of independent counsel Kenneth Starr, he was a key figure in the Whitewater investigation. In the recount fight after the 2000 election, he served as a foot soldier in the legal army that descended on Florida and gave Bush his presidency. As a lawyer for Bush in the White House counsel's office, he shepherded most of the administration's contentious federal court nominees, including Miguel Estrada and Priscilla Owen.

But whether his right-wing bona fides will incite enough Democratic opposition to keep him off the bench remains an open question.

THE LONG AND WINDING ROAD

Kavanaugh was first nominated to the D.C. Circuit in July 2003, but faced sharp opposition at his hearing the following April, where Senate Democrats lambasted him for his youth, lack of judicial experience and partisanship. Although the American Bar Association rated him "well qualified," Schumer bluntly labeled Kavanaugh's nomination "payment for political services rendered."

Attention shifted, however, to the 2004 presidential election, and Kavanaugh's nomination was marooned in committee. He was then left out of the "Gang of 14" deal last summer, which allowed three previously controversial nominees to be voted on in the Senate, and that seemed to signal nobody was interested in a brawl over him. Then came more than six months of bruising Supreme Court confirmation fights, during which Kavanaugh remained buried.

But when the Senate moved to hold over all nominees at the end of the last congressional session, Kavanaugh was again left out because of Democratic opposition. So the White House renominated him in January, sending the message that it won't allow Kavanaugh to be forgotten.

Now he's back at the front of the confirmation line. And while Sen. Arlen Specter, R-Pa., chairman of the Judiciary Committee, has made Kavanaugh a priority this session, his path looks just as rocky as it did two years ago. Just last Friday, Senate Democrats renewed their call for another hearing on Kavanaugh. The D.C. Circuit -- often called the second-most-important court in the country because of its jurisdiction over federal government agencies -- has been fertile ground for past confirmation fights. Exhibit A: the controversy over Miguel Estrada, so nasty that it led him to withdraw in September 2003.

Senate Democrats are girding for a similar knock-down, drag-out fight over Kavanaugh, and that fight looms as the latest test of Democrats' clout on future federal court confirmations.

"If the Democrats weren't able to stop [Samuel] Alito," says Sheldon Goldman, a political science professor at the University of Massachusetts at Amherst, "the question that is being asked now is, How can they stop anyone who is as professionally qualified as Brett Kavanaugh?"

MAKING A MODEL CONSERVATIVE

Politics have always threaded through Kavanaugh's life. Raised in Bethesda, Md., he was the only child in a tight-knit family of lawyers. His mother, Martha, was a prosecutor in the state attorney's office and later worked as a criminal defense lawyer. She was nominated to the Montgomery County Circuit Court in 1995, where she served until retiring, nearly five years ago.

Kavanaugh's father, Edward, was a prominent figure inside the Beltway. As head of the Cosmetic, Toiletry and Fragrance Association for 22 years, he was friends with congressional heavyweights including the late Speaker of the House Thomas "Tip" O'Neill, D-Mass., and Sen. Orrin Hatch, R-Utah. (Indeed, Hatch gave him a special welcome at his son's nomination hearing.)

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Bright, hard working and unflappable, Kavanaugh attended all-boys Catholic schools, first at Mater Dei and then at Georgetown Preparatory High School, where he excelled both in class and in sports, playing on the basketball and football teams. Friends also recall him being infused with a sense of religious faith that remains important to him today.

From an early age, Kavanaugh seems to have been drawn to the law. Growing up, he sat in on some of his mother's cases and spent a few summers interning on Capitol Hill. But unlike many children of well-connected Washingtonians, Kavanaugh didn't come off to others as arrogant or transparently ambitious. "Brett's a chess player," says Steve Ochs, Kavanaugh's high school history teacher. "He always sees moves ahead without having guile."

That sense of reserve carried over to Yale University, where friends recall him as more of a sports guy than a campus partisan involved in student politics. Kavanaugh's more liberal friends certainly knew he was conservative but say he based friendships on shared interests rather than shared politics.

Kavanaugh went directly to Yale Law School, graduating in 1990. While there he wrote an article in the Yale Law Journal analyzing the 1986 Supreme Court case Batson v. Kentucky, which restricted the use of peremptory challenges to strike jurors on the basis of race. Kavanaugh argued that the decision still left the exact enforcement procedures to the lower courts, but advocated a defendant's right to be present during any hearing on the proper use of peremptory challenges.

After law school, Kavanaugh spent two years clerking in federal appeals courts, first for Judge Walter Stapleton on the 3rd U.S. Circuit Court of Appeals and then for 9th Circuit Judge Alex Kozinski (an icon for many legal conservatives, but something of an iconoclast himself).

Kozinski's clerkships are notoriously demanding, a kind of boot camp for young lawyers with Federalist Society credentials. A perfectionist and an outspoken conservative on a liberal court, Kozinski routinely cycles through dozens of drafts on opinions. To meet the workload, Kavanaugh and his fellow clerks worked in shifts. Mark Perry, now co-chair of Gibson, Dunn & Crutcher's D.C. office, recalls that when he clerked alongside Kavanaugh, he took the early shift, which started at 6 a.m., while Kavanaugh had the "late" one, which began at 8 a.m. -- and ran until 9 or 10 at night, six days a week.

In Kozinski, Kavanaugh found a mentor and an intellectual sparring partner. "He's not one to sort of jump to conclusions. He weighs and he considers and goes back and forth," Kozinski recalls of their legal debates. "I think we sort of reinforce each other." Kozinski likens Kavanaugh's legal philosophy to that of Chief Justice John Roberts Jr. and Alito. "The question is what he would do in close cases," he says. "I think in close cases he would offer the conservative-libertarian result."

From Kozinski's chambers, Kavanaugh moved to a yearlong fellowship in the solicitor general's office under Starr. There he worked alongside conservative luminaries such as Roberts and Maureen Mahoney and had a chance to argue his first appeals court case. In 1993, Kavanaugh moved up the clerkship ladder again, this time into the chambers of Justice Anthony Kennedy on the Supreme Court.

PLUNGING INTO WHITEWATER

As Kavanaugh's Kennedy clerkship was ending in the summer of 1994, Starr was tapped to replace Robert Fiske as independent counsel in the Whitewater investigation. One of his first moves was to bring Kavanaugh on board.

It was a watershed moment for the 29-year-old lawyer, one that would earn him both acclaim and lasting enemies. One of his initial duties was to lead the probe into the apparent suicide of White House counsel Vincent Foster, a close personal friend of President Bill Clinton and first lady Hillary and a former colleague of Hillary's at the Rose Law Firm in Arkansas -- which Kavanaugh also investigated. Though Starr closed these investigations without prosecuting, Kavanaugh did not make any friends in the Clinton White House. Now-Sen. Clinton, D-N.Y., in particular took bitter exception to Kavanaugh's investigatory tactics, which she viewed as a partisan witch hunt meant to destroy her and her husband.

In 1997, Kavanaugh briefly retreated into private practice, joining Kirkland & Ellis, Starr's old firm. But after less than a year, Starr asked him to return to the independent counsel's office to argue a case stemming from the Foster investigation that had been granted certiorari by the Supreme Court.

The case, Swidler & Berlin v. United States, led to an important decision on the scope of attorney-client privilege -- but not one in Kavanaugh's favor. The issue was whether attorney James Hamilton was required to turn over notes to Starr on a conversation he had with his now-deceased client, Foster. Kavanaugh argued that lower court precedent, particularly in criminal

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cases, suggested that the attorney-client privilege did not survive the death of the client. Many attorneys found the position controversial because it encroached on a well-established privilege.

Hamilton, who argued the case himself, says despite the loss, Kavanaugh was impressive. "Brett is obviously a very talented lawyer. Although he lost the Swidler case -- to the benefit of both clients and the profession -- he did well with a most difficult position."

According to Bob Woodward's book "Shadow: Five Presidents and the Legacy of Watergate," Kavanaugh was also something of a moderating force in the office. He was among those who encouraged Starr to seek direct testimony from White House intern Monica Lewinsky and Clinton about their affair rather than simply write the report based on secondhand accounts. He questioned whether Starr needed to hand over the narrative section of the final report to Congress. And though he helped assemble the 11 possible legal violations laid out in the report, he was opposed to Congress' decision to release the report to the public.

Even after he left Starr's office, Kavanaugh continued to express concerns over the power afforded the independent counsel, going so far as to write an article for the Georgetown Law Journal arguing that Congress should change the statute to limit the politicization of the independent counsel position.

Yet Kavanaugh's tenure with Starr continues to enrage Democrats, who note that he has defended the former independent counsel's work in newspaper editorials. In one such piece for The Washington Post, Kavanaugh said that subsequent congressional action, such as the vote by the House of Representatives to impeach Clinton, fully vindicated Starr's investigation.

THE PRESIDENT'S LAW FIRM

In 1999, Kavanaugh returned to Kirkland, where he mostly handled appellate cases for corporate clients such as Verizon Communications Inc., America Online Inc., and General Motors Corp.

Even in private practice, Kavanaugh managed to get involved in charged cases. For instance, he and a colleague joined the last-ditch appeal of Elian Gonzalez's deportation back to Cuba after a panel on the 11th U.S. Circuit Court of Appeals ruled that it did not have jurisdiction to overturn the Department of Justice's decision. The Supreme Court denied cert.

Kavanaugh also filed an amicus brief in the 1999 case Santa Fe School District v. Jane Doe, in which he represented two Republican congressmen who were supporting a school district's policy that allowed student-initiated prayer at football games. The Supreme Court ruled that the policy violated the Constitution's establishment clause.

But Kavanaugh's true return to politics came in 2000, when he joined the Bush recount team in Florida, overseeing Volusia County. After the election he was offered a spot in the White House counsel's office, then headed by Alberto Gonzales, where he joined an A-list of top conservative lawyers, including Rachel Brand, now assistant attorney general for the Office of Legal Counsel; Stuart Bowen, now special inspector general for Iraq reconstruction; and Courtney Elwood, the current deputy chief of staff for Gonzales.

That office, however, has come under scrutiny recently for its role in drafting memos justifying the use of torture in questioning terrorism suspects and validating the National Security Agency's domestic eavesdropping program. Although he worked in the office at the time, Kavanaugh hasn't been directly tied to those controversial policies.

He was, however, at the forefront of other divisive issues, most notably serving as a chief architect of the administration's judicial selection process. He helped vet candidates and worked as a liaison between the White House and Capitol Hill, coordinating hearings with Republican staffers.

Along with judicial nominations, Kavanaugh pushed tort reform legislation on issues including asbestos, class actions and terrorism risk insurance. He was also the main author of a controversial executive memo that allows presidents and their families to limit the release of presidential documents.

Once again in a place known for grueling hours, Kavanaugh stood out. He became a fast favorite of Gonzales, who put him forward as a candidate for a seat on the 4th U.S. Circuit Court of Appeals. Maryland senators objected because they wanted a nominee who had practiced in their home state.

Meanwhile, Kavanaugh replaced Harriet Miers as staff secretary, a little-known but powerful post in the Executive Office of the President. It's more a political than a policy job, but lawyers often hold it because it requires reviewing every piece of paper before it lands on the president's desk. Kavanaugh's position has brought him close to Bush, with whom he has traveled around

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the globe. The president even made a special appearance at Kavanaugh's 2004 wedding to Bush's personal secretary, Ashley Estes, held at Georgetown's Christ Episcopal Church.

The close association with the president has only fanned Democratic furor over Kavanaugh's nomination. Democrats especially want to question him on whether he had a role in approving the NSA wiretapping program. "He doesn't have the legal philosophy that ought to be had for that position," says Elliot Mincberg, legal director of the liberal People For the American Way. "Most of his career has been spent as a far-right advocate." Maybe so, but Democrats have few options to derail Kavanaugh, without resorting to a filibuster.

In the meantime, in his West Wing office, Kavanaugh remains busy serving the president he helped put in the White House. In that office three large photographs adorn the front wall.

In the first, the president appears at his Oval Office desk with Kavanaugh and now-Chief Justice Roberts. To the right is a picture of Bush greeting the late Pope John Paul II at the Vatican. The third shot shows the president, behind a wooden podium, introducing his first crop of judicial nominees from the spring of 2001, a group that included Roberts, Estrada and Owen.

It's a display befitting of a presidential aide, no doubt. But nervous Democrats might wonder how they would look in a judge's chambers.

How Do You Get To The Supreme Court? Practice, Practice, Practice (LAW)

By Alyson M. Palmer, Fulton County Daily Report

Fulton County (GA) Daily Report, March 7, 2006

When R. Jonathan Hart stepped up to the microphone before the country's nine most powerful jurists on March 1, he joined a small, eclectic club of Georgia attorneys who have argued before the U.S. Supreme Court.

The Chatham County Attorney sought to convince the high court to uphold the decision of a Savannah, Ga., federal judge, affirmed by the 11th U.S. Circuit Court of Appeals, that the county is immune from suit for damages arising from an accident involving a drawbridge maintained by the county.

In preparing for the argument and drafting the county's brief, Hart got the assistance of, among others, a law school professor who has argued before the high court several times. But rather than have the professor, David J. Bederman of Emory University, argue the case, Hart decided to handle the case himself.

"You only get to do this every once in a while in your lifetime," he said.

Unless you are someone like Miguel A. Estrada, Hart's opposing counsel last Wednesday.

Estrada, a former nominee to a federal appeals court, has argued at least 16 times before the high court, according to his profile on Gibson, Dunn & Crutcher's Web site. Before joining Gibson, Dunn, Estrada served as an assistant to the U.S. solicitor general from 1992 to 1997.

But for many non-government attorneys, the Supreme Court is usually a one-time gig. The 80 or so cases that the Supreme Court agrees to hear each year means that the Court entertains oral argument in a handful of cases coming out of Georgia federal and state courts in a given term.

Hart said that his time in the marbled courtroom was "certainly something that I would do again."

Indeed, David F. Walbert, an Atlanta lawyer who has argued before the Supreme Court several times in his career, called it "as much fun as you can have if you're not intimidated."

Walbert and other Georgia attorneys who have participated in Supreme Court oral argument are not short on stories about their experiences -- or advice for a first-timer.

Walbert said he did not participate in moot court arguments before his first Supreme Court argument in 1982 or a redistricting case that he argued in 2003.

PRACTICE RUNS

But several other local litigators with Supreme Court experience said that such practice runs are essential.

Hart prepared for his argument by coming up to Atlanta for a moot court session with Bederman and other attorneys and law students. That exercise was so helpful, said Hart, "if I had to do it over again, I would have done two of them."

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W. Warren Plowden Jr. of Macon, Ga., said that before he represented Monroe County in a school sexual harassment case at the Supreme Court in 1999, he participated in a moot argument that included now-Chief Justice John G. Roberts Jr.

Roberts was tough, but Plowden did not mind, saying, "That's the point of the whole thing."

Attorneys emphasized basics such as knowing the case law and facts inside and out but said that rehearsing a 30-minute presentation was a waste of time -- or worse.

"I'm a real believer since my 9th grade speech class," said Walbert, "that if you have a prepared spiel, you're dead."

Atlanta attorney Michael K. Wolensky, who argued a securities case two terms ago, agreed. He said that he needed his notes but had no occasion to use any prepared remarks, encountering his first question approximately 18 seconds into his time.

"Preparing a presentation is useless," said Wolensky. "It's a trap you want to avoid."

Experienced Supreme Court practitioners give the same advice of mothers and grandmothers -- be on time, arriving in Washington preferably several days before the big day.

Hart visited the Supreme Court a day early but found that he had to fight his way through the crowd of onlookers hoping to get a glimpse of former Playboy playmate Anna Nicole Smith, whose inheritance from her late husband was the subject of arguments heard Feb. 28. He said he couldn't get a seat for that argument but managed to secure a spot for another case.

He said that preview allowed him to get familiar with the courtroom and the justices' voices, noting that because the justices' voices are projected through a central sound system, it is sometimes hard to tell from which seat a question is posed.

IN THE SPOTLIGHT

Another attorney said that she had to fight her way through the crowds to get to her own argument.

Paula K. Smith, a senior assistant attorney general, last fall represented the state of Georgia in a case over whether police violated the Fourth Amendment when they searched a home against a defendant's protests but with his wife's consent.

She said that intense interest in that case made the argument all the more difficult.

"Knowing that you're in that kind of spotlight ... it just adds to the pressure, and you have to be careful that you don't let it divert you from the case and the job that you have to do," said Smith.

Fewer eyes were on Hart when he stepped up to the microphone. The courtroom was packed for a prior argument on state tax incentives for corporations but cleared out afterward. But he said that he still felt the pressure.

By some measures, Hart got off easy, not facing any obviously off-the-wall questions or a series of bizarre hypothetical situations justices sometimes pose.

Walbert said that he was told before his first argument that a key challenge was to get past the then-Chief Justice Warren E. Burger's first question.

"It was almost always irrelevant," Walbert said he was told.

Sure enough, Burger posed the first question as Walbert rose to defend a district court opinion that ruled in favor of his clients' voter discrimination claim.

Burger asked, "Well, how many women governors are there in the country, counselor?" recalled Walbert.

Laurie Webb Daniel, who heads Holland & Knight's appellate practice group, was in her early 30s when she argued before the high court. Despite her youth, she said that only Justice Antonin Scalia's questions caught her off guard.

"He is just dogged in his approach," she said. "And he would ask a hypothetical that I was ready for, and I would answer, and he wouldn't let go."

"Every time I gave him an answer, he would change the facts, because he didn't want me to give him an answer," continued Daniel.

After Justice John Paul Stephens had tested Plowden with a series of hypotheticals "that were getting worse and worse," according to Plowden, Stevens stopped and got a laugh. "He looked over and smiled and said, 'I guess you have to keep saying no, don't you,' and I said, 'Yes sir.'"

"They tell you not to make any jokes," continued Plowden, "but everybody laughed."

Perhaps most important, Hart avoided perhaps the biggest pitfall a litigant can face before the bench of nine justices -- calling a justice by the wrong name, a mistake that has tripped up Supreme Court experts such as Theodore Olson, Walter Dellinger and Laurence Tribe.

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(During the 2000 arguments over the presidential election, Miami lawyer Joseph Klock Jr., representing Florida Secretary of State Katherine Harris, addressed Justice John Paul Stevens as "Justice Brennan" and misidentified Justice David Souter as "Justice Breyer.")

Hart decided to keep it simple with "your honor."

"The one thing I was scared about was calling them 'judge,' and that's a big no-no," he said.

Hart kept his wits about him, though, remembering to collect the quills that lawyers appearing before the high court are permitted to take from counsel table as a memento.

Worried that she would be distracted, Daniel told her attorney husband, who sat as her co-counsel, how he could help. "I told him, "Remember to grab the pens.'"

Get On Your Phone Cheney Receives Warm Welcome During Naples Speech (NDN)

By Larry Hannan

Naples Daily News, March 7, 2006

He is one of the most unpopular politicians in America right now. But Vice President Dick Cheney received a hero's welcome tonight when he came to Southwest Florida.

Cheney, who became an object of derision upon shooting a friend on a hunting trip last month, spoke tonight to an adoring crowd of about 400 Collier County Republicans as part of "Victory 2006" at the Naples Beach Hotel and Golf Club.

The event was sponsored by the Collier County Republican Party.

For a few hours Cheney was able to put his approval ratings, 18 percent in a recent CBS poll, out of his mind and speak to a crowd that thinks he's doing a great job.

"It's good to be back in Naples again," Cheney said. "I see a lot of old friends here."

There was no mention of the February shooting during his speech. Cheney accidentally shot Harry Whittington, 78, a lawyer and acquaintance on a quail hunting trip in Corpus Christi, Texas. Whittington spent several days in the hospital and the vice president later apologized.

Monday's event cost $500 per person for dinner and a photo with Cheney. The cost was $150 for a person who didn't want their picture with the vice president.

Carla Dean, chairwoman of the Collier GOP, declined to say how much money was raised at the event. Dean said the money would go toward the grass-roots Republican movement.

This was Cheney's first appearance in Southwest Florida since during his re-election bid in October 2004. Earlier in the day he stumped for GOP candidates in Boca Raton.

The vice president's Naples speech on Monday sounded like the beginning of the campaign for the 2006 congressional elections. It included a strong defense of President George W. Bush, and a call to elect Republicans to the House and Senate.

"We're grateful to our friends in Collier County and throughout Florida," Cheney said. "A great grass-roots campaign helped elect us in 2004 and it will help us again in 2006."

Cheney, who is the president of the Senate, said he was looking forward to swearing in a Republican senator from Florida in January.

That person would have to defeat incumbent Democratic Sen. Bill Nelson. Rep. Katherine Harris is the only Republican currently running against Nelson, but recent speculation has more people entering the race.

Harris was in the Naples crowd Monday night.

Cheney also defended the administration on the Iraq war, the Patriot Act and the decision to launch a wiretapping program within American to fight terrorism.

For years terrorists could strike America without fearing reprisals. Now that has changed, Cheney said.

"In the last two years we have brought freedom to Iraq," Cheney said. "With each successive election there has been less violence and a greater (voter) turnout."

Bill Barton, a former GOP state committeeman from Collier County, said he felt Cheney was speaking from his heart about protecting America from another terrorist attack.

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"He works at it every day. What could be more important?" Barton said.

The wiretapping program, which has been heavily criticized by Democrats and some Republicans, is needed, Cheney said.

"The president authorized a terrorist surveillance program," Cheney said. "Our critics call this a domestic surveillance program but that is inaccurate."

The wiretapping program is not a threat to civil liberties. It only attempts to monitor people in the United States who are communicating with terrorists, Cheney said.

Despite Cheney not mentioning his hunting mishap, U.S. Rep. Mario Diaz-Balart, R-Miami, whose district includes parts of Collier, lauded Cheney for not avoiding controversial issues such as the surveillance program.

"The vice president, as he always does, calls it as he sees it," Diaz-Balart said.

The vice president also said tax cuts enacted by Congress in the last five years should be made permanent. Comments

This site does not necessarily agree with comments posted below — responsibility lies with the relevant reader alone. Read our blog agreement.

2 of 3 people found this comment useful.

Posted by neoconnot (anonymous) at 10:32 p.m. on March 6, 2006 (Suggest removal)

Obviously an early report, but where is the mention of the peaceful protest against this criminal, Cheney? How the supposed "conservatives" in Collier County fall for this neocon crook is beyond me. "Country Club" Republicans, I guess--caught in la-la land. Clean the fog off your goggles or cataracts, as the case may be, and see how this band of neocons travels from Democrat to Republican circles pushing for endless war. Iran is next as the reason for being in Iraq in the first place was to establish the bases we need to attack Iran. Ol' Rummy, Richard Perle, Wolfowitz, Cheney and the gang have been pushing for this since the sordid Clinton era.

Cheney Delivers GOP Pep Talk (NEP)

By Betty Parker

News Press, March 7, 2006

NAPLES — Vice President Dick Cheney urged party faithful to work hard for Republicans in the fall elections and pressure Congress for tax cuts in a speech to Collier County Republicans on Monday night.

Brought to Naples because of his 30-year friendship with Collier state committeeman Al Abrams of Naples, Cheney reiterated many of the themes President Bush stressed in his state of the union speech.

Cheney spoke for about 20 minutes at the start of the 6:30 p.m. event at the Naples Beach Hotel and Golf Club — before the meal was served — and left immediately for Southwest Florida International Airport, causing slight delays on Interstate 75 after landing at 3:45 p.m. and on departure.

Dinner and a photo $500

Cynthia Odierna and a group of protesters demonstrate against Vice President Cheney outside the Naples Beach Hotel and Golf Club on Monday. About 425 people attended, paying $500 for a photo with the vice president and the dinner, and $150 for dinner and speech.

The crowd in Collier's GOP stronghold was clearly enthusiastic about Cheney and Bush, with many sporting campaign buttons from past races.

"I'm so excited to hear him in person," said Bobbie Dusek of Naples, who came attired in red, white and blue.

"He's a such an eloquent speaker with such a great mind. It's thrilling just to sit in the same room with him."

A group of about 20 protesters kept a block away was far outnumbered, but not deterred. Several carried peace signs and war protests.

John Riccio of Naples wore a T-shirt that said, "Don't Shoot Me, I'm Not A Quail."

He also had a sign saying, "How many more must die?" to show his opposition to the war in Iraq.

"I'm a veteran myself, and I know what it is to be a soldier," said Riccio, adding that he has two sons who recently returned home after serving in Iraq.

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"They don't always agree with me, but this is not a just war. We went under false pretenses."

Hunting mishap ignored

Cheney made no reference to the recent shooting incident in Texas when he accidentally peppered a hunter with birdshot.

But he praised America's strong economy, and said that tax cuts under Bush have left $880 billion in citizens' hands that otherwise would have gone to the government.

"Congress needs to make the Bush tax cuts permanent," he said.

Congress also needs to work on changing the way they do the national budget, Cheney said, "and we look forward to working with responsible members on the Hill for budget reform."

Many of his comments, however, dealt with the battle against terrorists.

"There's still hard work ahead on the war on terror," he said, adding that "the war on terror involves the home front as well. The Patriot Act is vital to protecting the American public."

Debate over the administration's watchdog actions at home has caused some to wrongly criticize the administration actions as "domestic surveillance,"

Cheney said. "That is not accurate."

In actuality, he said, "one end is the United States, and one end, we believe, is connected to al-Qaida."

Although critics say it's gone too far, he said, "this program has helped prevent terrorist attacks."

The packed crowd at the club included numerous party leaders and elected officials, including U.S. Rep. Connie Mack, R-Fort Myers, who introduced the vice president; Florida Republican Party Chairwoman Carole Jean Jordan; GOP gubernatorial candidate Charlie Crist; U.S. Rep. Mario Diaz-Balart, R-Miami, whose district includes part of Collier; and U.S. Rep. Katherine Harris, R-Sarasota, and the party's leading candidate in the U.S. Senate race against Democratic U.S. Sen. Bill Nelson.

Harris rode back to Washington on Monday night in Cheney's jet.

"It's not often you get to spend that much time with the vice president talking about the campaign and the needs of the district," Harris said.

Cheney Touts Shaw, Harris (MH)

By Beth Reinhard

The Miami Herald, March 7, 2006

BOCA RATON - Vice President Dick Cheney helped raise about $300,000 for Republican U.S. Rep. Clay Shaw at a luncheon Monday and declared that his administration was fulfilling its most important duty -- ``protecting the American people and winning the war on terror."

Yet even some members of Cheney's own party have recently questioned his national security policies, the Bush administration's biggest selling point since the 2001 terrorist attacks.

Some Republicans -- including Shaw -- have disagreed with Bush's approval of a United Arab Emirates-owned company running commercial operations at six seaports, including the Port of Miami. Shaw is co-sponsoring a bill that would ban foreign government-owned companies from operating American ports.

Still, Shaw's reelection opponent, Democratic state Sen. Ron Klein, described the 25-year congressman as an "alter-ego" of Cheney and Bush. Klein, who spoke at a senior center in an event organized to contrast with Cheney's appearance at the posh Boca Raton Resort & Club, is seeking to link Shaw with the administration's drooping poll numbers.

Democratic Sen. Bill Nelson used the same tactic Monday against his reelection rival, U.S. Rep. Katherine Harris, sending out a fundraising appeal that mocked her Monday evening appearance with Cheney at a Collier County Republican Party fundraiser. Cheney did not mention her by name in Boca Raton but said that he looks forward to swearing in another Republican senator from Florida.

While Harris' role as Florida Secretary of State during the 2000 presidential recount makes her a villain to many Democrats, Shaw is harder to demonize. In a sign of his reputation for bipartisanship, the heavily Democratic Broward County Commission plans to honor him and Democratic U.S. Rep. Alcee Hastings today for securing federal aid for security and other issues.

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Also on Monday, Shaw affirmed his bid to lead the Ways and Means Committee after Chairman Bill Thomas officially announced his plans to retire. Shaw's competitors include Republicans Jim McCrery of Louisiana and Nancy L. Johnson of Connecticut.

U.S. Rep. Tom Reynolds, chairman of the National Republican Congressional Committee, noted Shaw's chairmanship hopes at a meeting with reporters Monday at the Biltmore Hotel in Coral Gables. With U.S. Rep. Lincoln Diaz-Balart as vice chairman of the rules committee, and U.S. Rep. Ileana Ros-Lehtinen vying for chairmanship of the international relations committee, South Florida's delegation has "tremendous opportunities," he said.

"There is not any place I can think of, or a region of the country, that has more of that opportunity right here, right now than South Florida," Reynolds said.

In Boca Raton, Cheney addressed about 250 people who had donated at least $500 each to Shaw's reelection campaign.

He urged Congress to continue the president's tax cuts, commended the recent Supreme Court appointments of Samuel Alito and John Roberts, and said withdrawing troops from Iraq would not be on an "artificial timetable set by politicians in Washington, D.C." He also defended the government's surveillance of suspected terrorists without court warrants.

"Our national security has been protected by more than just luck," he said. ``The enemy is weak and fractured, yet still evil and willing to hurt Americans."

Outside the hotel, about a dozen protesters chanted through Cheney's visit. Their straw hats and flowery skirts contrasted with stoic, dark-suited security detail.

Just a few miles away at the Mae Volen Senior Center, Klein criticized the Republican-sponsored prescription drug plan as a "sham." He said the program is is too confusing and not cost-effective.

"Mr. Shaw continues to apologize for it, and Mr. Bush and Mr. Cheney are unwilling to fix it," Klein told about 50 seniors. Later he added: ``This plan is going to be a campaign issue throughout the country, especially in competitive districts."

The race in the senior-rich congressional district promises to be one of the most expensive in the country. The 22nd congressional district runs along the coast from Fort Lauderdale to Jupiter and takes in parts of Coral Springs, Parkland and Plantation.

Shaw issued a press release Monday noting that 53 percent of his district has enrolled in the prescription drug plan.

He has held several public workshops led by Medicare experts.

"The program is working, and it has proven to be a very real benefit for a large number of my constituents," Shaw said in the statement.

No Mention Of Harris Fuels Rumors (FLSUNSEN)

By Anthony Man

South Florida Sun-Sentinel, March 7, 2006

The political buzz among several of those at Vice President Dick Cheney's fund-raiser for U.S. Rep. Clay Shaw, R-Fort Lauderdale, was more about how U.S. Rep. Katherine Harris' Senate campaign may be unraveling.

Cheney even provided some fuel when he said he was looking forward to swearing in a Republican replacement for Democratic U.S. Sen. Bill Nelson -- but didn't mention Harris by name.

"As vice president I look forward to the opportunity to swear in a new Republican senator to serve next to Mel Martinez in the United States Senate," Cheney said.

Morgan Dobbs, Harris' campaign press secretary, said her boss wasn't dropping out.

"We are continuing to move forward to charge ahead in the campaign," she said.

Dobbs didn't have any reaction to Cheney's failure to mention her boss' name. "I can't really comment on an event I wasn't at," she said.

If Harris doesn't run, the biggest potential candidate is Gov. Jeb Bush.

The hometown favorite for Palm Beach County Republicans is U.S. Rep. Mark Foley, R-Fort Pierce, who got his political start in the county and still represents part of the area in Congress.

Foley ran for the 2004 Senate nomination, but eventually dropped out of the race.

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Foley said Monday speculation about his running was premature.

"Nothing's really changed in my life because she's still the candidate," he said, adding that if Harris leaves the race, "then I'd have to make a decision."

Sid Dinerstein, chairman of the Palm Beach County Republican Party, also said discussion about Harris dropping out is "all highly speculative."

Foley would be a good candidate, Dinerstein said.

"Would he do it? There's a downside. He loves being a congressman, and the race would be a difficult one."

Bush Weaves Rug Story Into Many An Occasion (WP)

By Peter Baker

The Washington Post, March 7, 2006

Nothing says power like the Oval Office. The paintings of George Washington and Abraham Lincoln. The bust of Dwight D. Eisenhower. The desk used by both Roosevelts.

And then there's the rug. Don't forget the rug. President Bush never does.

For whatever reason, Bush seems fixated on his rug. Virtually all visitors to the Oval Office find him regaling them about how it was chosen and what it represents. Turns out, he always says, the first decision any president makes is what carpet he wants in his office. As a take-charge leader, he then explains, he of course made a command decision -- he delegated the decision to Laura Bush, who chose a yellow sunbeam design.

Elizabeth Vargas, the ABC News anchor, was the latest to get the treatment. She went by last week to interview Bush before his trip to Afghanistan, India and Pakistan. Sure enough, she wasn't in the room but a minute or two before he started telling her about the carpet.

"You know an interesting story about the rug?" he asked. "Laura designed the rug."

"She did?" Vargas said.

"Yeah, she did. Presidents are able to pick their own rugs or design their own rugs."

Bush went on: "The interesting thing about this rug and why I like it in here is 'cause I told Laura one thing. I said, 'Look, I can't pick the colors and all that. But make it say 'optimistic person.' "

The oval-shaped carpet covers most of the world's most famous office, first occupied in 1909 by William Howard Taft, who found a checkerboard floor made out of mahajua wood from the Philippines. Subsequent presidents have chosen one design or another, but the consistent theme has been the seal in the center with the American eagle holding olive branches in one claw and arrows in the other. In a fit of postwar symbolism, Harry S. Truman changed the seal so that the eagle would face toward the olive branches, not the arrows.

Many presidents have added their own tastes to the Oval Office. "They use the office's imagery," said Fred I. Greenstein, a professor emeritus at Princeton University who has written on presidential leadership. He recalled John F. Kennedy's son John peeking out from under the desk, an image that conveyed youth and family. Lyndon B. Johnson, who was obsessed with breaking news, kept a ticker-tape machine and three television sets in his Oval Office. Ronald Reagan's aide Michael K. Deaver revamped the lighting to make it better for television addresses.

"Ford very deliberately changed the Oval Office to get rid of some of the imperial presidency image," Greenstein recalled of Gerald R. Ford. After the trauma of Watergate, he said, Ford replaced portraits of dour-faced Calvin Coolidge and Woodrow Wilson with paintings of the unpretentious Truman and Lincoln.

Bush has his own touches in the Oval Office -- some Western-themed paintings and an on-loan bust of Winston Churchill courtesy of British Prime Minister Tony Blair. But it is the rug that animates the president.

"He loves his rug," said Nicolle Wallace, the White House communications director. "I've heard him describe it countless times."

Sometimes Bush describes it as a metaphor for leadership. Sometimes he relates how Russian President Vladimir Putin admired the carpet. Sometimes he seems most taken by the lighting qualities.

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"When you're giving a tour of the Oval Office, you're trying to point to things that emphasize what you're trying to do" Wallace said. "For him, the optimism is very symbolic of what he wants his presidency to be about."

Not only does the president describe the rug to journalists and foreign leaders, he does so to virtual visitors. During "An Oval Office Tour With President George W. Bush" on the White House site (http://www.whitehouse.gov), he wastes no time pointing out the carpet. "It helps make this room an open and optimistic place," Bush tells viewers.

Some visitors have the impression that the rug story is revealing. In his new book, "Rebel-in-Chief," Fred Barnes recounts how Bush told him about the carpet: "His job, he told me, is to 'stay out of minutiae, keep the big picture in mind, but also make sure that I know enough about what's going on to get the best information possible.' To stress the point, during our interview in the Oval Office Bush called my attention to the rug."

Barnes notes that Bush delegated to the first lady. "Typical of his governing style, though, he gave a clear principle as guidance: he wanted the rug to express the view that an 'optimistic person comes here,' " Barnes reports. "The rug she designed is sunshine yellow."

But if Barnes or other visitors had the idea that Bush was sharing an intimacy just with them, they should listen to his speeches. Bush doesn't need the Oval Office to talk about the Oval Office carpet. Lately he's been taking the story on the road, sharing it with workers at a moving company in Sterling on Jan. 19, then with students at Kansas State University on Jan. 23, and again with supporters at Nashville's Grand Ole Opry on Feb. 1.

"If you walk in that Oval Office," Bush said in Sterling, "I think you're going to say, just like you know it, 'This guy's optimistic.' "

When it came her turn last week, Vargas expressed dutiful admiration for the rug and then tried to move on to more serious issues. Noting that Bush has two daughters in their twenties, she asked, "Any chances of a White House wedding for either of them, do you think?"

"All I can tell you is this," Bush answered. "If a suitor shows up and asks for their hand, he's going to get to come here to the Oval Office and give me an explanation."

Sounds as though he'll be called on the carpet.

Americans Lack Confidence In Health Reform, Poll Finds (WSJ)

By The Wall Street Journal Online

The Wall Street Journal, March 7, 2006

A majority of U.S. adults lack confidence in the Bush administration's ability to reform the nation's health-care system, a new Wall Street Journal Online/Harris Interactive health-care poll shows.

About three-quarters of those polled in the online survey of 2,426 U.S. adults say they aren't confident President Bush will be able to effectively make changes such as slowing the increase in health-care costs for the U.S. as a whole or reducing out-of-pocket health-care costs.

But Americans are divided along party lines about the president's ability to improve health-care, the poll shows. For example, about 5% of Democrats polled say they are confident in his ability to reduce out-of-pocket costs, compared with 40% of Republicans.

Overall, about 30% of those surveyed say they trust the Bush administration's ability to come up with good policies for improving and reforming the U.S. health-care system. But Americans aren't much more confident in Republicans (31%), Democrats (45%) and Sen. Hillary Clinton (41%) to reform the health-care system.

About 80% of Democrats surveyed say they trust their own party to come up with good health-care policies, compared with 67% of Republicans who have confidence in Republican-led initiatives.

See full results of the poll:

--Beckey Bright "How much do you trust each of the following to come up with good policies for improving and reforming the U.S. health-care system?"

Base: All Adults * * * "How much do you trust each of the following to come up with good policies for improving and reforming the U.S. health-care system?" Summary of A Great Deal/To Some Extent

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Base: All Adults * * * "In his State of the Union speech this past January, the President referred briefly to his plans for health care. Since then the White House has provided more details on his proposals. How familiar are you with Bush's new health-care proposals?"

Base: All Adults

Note: Percentages may not add up exactly to 100% due to rounding. * * * "Even if you are not sure what his proposals are, how confident are you that President Bush can do the following?"

Base: All Adults

Note: Percentages may not add up exactly to 100% due to rounding. * * * "…How confident are you that President Bush can do the following?" Summary of Very/Somewhat Confident

Base: All Adults * * * "…How confident are you that President Bush can do the following?" Summary of Not Very/Not At All Confident

Base: All Adults

Methodology:

Harris Interactive conducted this online survey in the U.S., Feb. 23-27, 2006, among a nationwide cross section of 2,426 adults. Figures for age, gender, race/ethnicity, education, income and region were weighted where necessary to align with population proportions. Propensity score weighting was also used to adjust for respondents' propensity to be online. In theory, with probability samples of this size, one can say with 95% certainty that the overall results have a sampling error of =/- 3 percentage points of what they would be if the entire U.S. adult population had been polled with complete accuracy. Sampling error for the sub-samples of Republicans (729), Democrats (663) and Independents (614) is higher and varies. This online sample is not a probability sample.

Harris Interactive is a world-wide market research and consulting firm, best known for The Harris Poll and its use of the Internet to conduct scientifically accurate market research. For more information, see www.harrisinteractive.com1. To become a participant in The Harris Poll Online and join future online surveys, see www.harrispollonline.com2.

HSAs Won't Benefit Those Who Need Insurance Most (WSJ)

The Wall Street Journal, March 7, 2006

Your Feb. 21 editorial "Big Health-Care Ideas" noted that the impact of President Bush's proposed health-care reforms would be "profound." You're not whistling "Dixie." Health Savings Accounts would profoundly increase healthcare costs for many consumers, lead others to ration necessary care, and increase the number of uninsured.

Unlike President Bush, your editorial at least acknowledges that fully equalizing the tax treatment for health insurance purchases would undermine employer-sponsored health care. Much as corporations used 401(k)s and IRAs as an excuse to stop providing pensions, employers will use HSAs as an excuse to cease paying for health care.

The beneficiaries of the president's proposals will be corporations and wealthy individuals rather than working families. While the richest among us can afford to deposit more than $10,000 a year in an HSA, few middle-income Americans have even $1,000 a year to spare.

Republicans theorize that high-deductible "catastrophic" policies will motivate cost-conscious consumers to rein in health-care spending. But the information necessary to compare the cost and quality of health-care procedures does not exist. Even if it did, many medical interventions require immediate attention. A patient in an ambulance, for example, shouldn't be asked -- and would often be unable -- to choose between emergency rooms.

Rep. Pete Stark (D., Calif.)

Ranking Member

Ways and Means Health Subcommittee

Washington

Arkansas Set To Undertake A Novel Effort In Health Care (NYT)

By Robert Pear

The New York Times, March 7, 2006

DOJ_NMG_0016419

WASHINGTON, March 6 — The Bush administration is poised to approve an innovative health insurance program, proposed by Arkansas, for 80,000 low-income uninsured people in the state, officials said Monday.

Arkansas will carry out the program, to be announced on Tuesday, under a waiver allowing the state to receive federal Medicaid money for coverage that does not meet the usual Medicaid standards for eligibility and benefits.

The employer-based program is novel in two ways. The benefit package is extremely limited, much more austere than Medicaid's. In addition, if an employer wants to participate, it must guarantee that all its employees, regardless of income or other factors, will be covered.

"Everyone in the employment pool has to have coverage," Mike Huckabee, governor of Arkansas, said in an interview. "Employers cannot cherry-pick the employees who get coverage."

Under the plan, to be approved by Michael O. Leavitt, secretary of health and human services, the state expects to enroll at least 50,000 workers with incomes less than twice the federal poverty level and 30,000 workers with higher incomes. The poverty level this year is $9,800 for an individual, $13,200 for a couple.

Mr. Huckabee, a second-term Republican, said the new program would help small businesses that currently offer no health insurance. That help will enable them to compete better for workers with larger companies that do provide benefits.

"Forty-six percent of all workers in our state are in companies that have fewer than 100 employees," the governor said. "Only 26 percent of companies with fewer than 50 workers offer any health benefit."

Federal officials said the Arkansas program could be a model for other states that want to expand coverage without substantially increasing costs.

People who sign up for the program will receive a basic benefit package covering six doctor visits a year, seven days of inpatient hospital care a year, two outpatient hospital procedures or emergency room visits a year and two prescription drugs a month.

Beneficiaries will have to pay an annual deductible of $100 and 15 percent of the cost of each service, with a maximum out-of-pocket cost of $1,000 a year, state officials said.

In its application to the government, Arkansas said the new program would "cover most basic health needs" of the intended beneficiaries.

"It won't be an elaborate or upscale model," Mr. Huckabee said in the interview. "It will be very basic coverage."

Mr. Huckabee said participating employers would have to contribute $15 a month for each employee with income less than twice the poverty level and $100 a month for higher-income workers. Julie R. Munsell, a spokeswoman for the Arkansas Department of Health and Human Services, said employers could require workers to pay some or all of these fees.

But Dr. Joseph W. Thompson, who helped devise the program as director of the Arkansas Center for Health Improvement, an independent health policy institute, said: "In reality, employers will have to pay most or all of the premiums for their employees. If a single employee says, 'I don't want to participate,' the employer becomes ineligible for the program. The employer could not get the benefit for any of its employees."

David Johnson, a Democratic member of the Arkansas House who worked on legislation for the new program, predicted that it would be attractive to small businesses.

"Employers will get more bang for the buck from this program than from private health insurance," Mr. Johnson said. "They can insure employees for a predictable, modest amount, which is less than they would have to pay to private insurers."

Mr. Johnson said the state would help pay for the new benefits with proceeds of the multistate settlement negotiated with tobacco companies in 1998.

Other states have subsidized or supplemented health insurance provided by employers. But Dr. Thompson said this was not an option in Arkansas because most small employers provided no coverage.

"Small businesses have money in their pockets, and they want to offer some health insurance," he said, "but they cannot afford the products on the market."

Senate Report Faults Medicare's Handling Of Complaints (WP)

By Gilbert M. Gaul

DOJ_NMG_0016420

The Washington Post, March 7, 2006

Medicare's process for investigating complaints about bad care is "broken," leaves patients in the dark, and is of "no benefit to improving the overall quality" of medical care received by millions of elderly and disabled beneficiaries, Senate investigators have found.

The ongoing probe by the Senate Finance Committee determined that the number of complaints investigated by Medicare appears "disproportionately low," Sen. Charles E. Grassley (R-Iowa), the committee chairman, wrote in a five-page letter sent to Medicare officials Friday. Grassley called on federal officials to consider major reforms, including redesigning the program and re-bidding contracts.

Medicare pays private contractors known as Quality Improvement Organizations about $300 million a year to work with hospitals, doctors and nursing homes to improve care and investigate complaints in the giant health insurance program. There are 53 QIOs -- one in each state plus one each in the District, Puerto Rico and U.S. Virgin Islands. Most are set up as nonprofits.

As the QIOs come under increased scrutiny from Congress, the prestigious Institute of Medicine is scheduled on Thursday to release findings of its 18-month review of the groups. Yesterday, the QIO trade group issued its own call to improve the beneficiary-complaint process, agreeing that it was broken.

Under the existing system, QIOs that investigate patients' complaints and find serious breaches are supposed to refer their findings to the Office of Inspector General for possible discipline of doctors and hospitals. A Washington Post investigation last July found that QIOs rarely make referrals and treat complaint investigations as a low priority.

In 2004, the contractors investigated 3,100 complaints for 43 million Medicare patients. Even then, patients had only a 1 in 4 chance of having their complaints upheld, and the findings often were not shared with patients, The Post found.

The Post also documented lavish salaries and perks paid to some QIO executives and directors, and it reported that the physician-dominated boards included few consumers.

In August, Grassley's committee began a probe of the QIOs, requesting a broad range of documents covering their finances and policies. He expanded the probe to look at salaries, potential conflicts of interest, travel by some QIO executives and Medicare's oversight of the contractors.

In his letter last week to Mark B. McClellan, head of the Centers for Medicare and Medicaid Services, Grassley noted that his committee's preliminary review raised "a number of concerns regarding questionable expenditures, board member and executive staff conflicts of interest and the quality and effectiveness of QIO services."

Grassley noted that little of the money paid to the QIOs is based on their performance, and he questioned why so few contracts are subject to competitive bids. In the most recent three-year contract cycle, six contracts were bid, and of the six only one was not renewed. Yet at the same time, Grassley wrote, "There is sparse evidence to suggest that QIOs are effective."

Grassley noted in his letter that some QIO board members appeared to be paid "exorbitant" amounts compared with other nonprofit groups. For example, he wrote, one QIO paid its trustees an average of $25,000 in 2003. According to the Washington-based group BoardSource, most charities do not pay board members.

Grassley wrote that some QIO trustees have traveled to expensive retreats at resorts in Colorado Springs; Cape Cod, Mass.; and Stowe, Vt. In addition, "it appears that some QIOs have financial arrangements or relationships" with board members that "appear to pose conflicts of interest," he wrote.

One QIO trustee was paid $37,000 annually as a consultant. A government audit concluded that the arrangement could "cause a loss of objectivity . . . or otherwise interfere with free exercise of his or her judgment," Grassley wrote.

Medicare officials said yesterday that they are reviewing the letter from the Senate committee, adding in a statement that the QIO program "is improving the quality of American health care."

In a statement yesterday, the American Health Quality Association, the QIO trade group, said Congress should rewrite a two-decades-old law barring contractors from sharing the results of their investigations with patients without first obtaining the permission of the doctors being investigated. The association said findings should be given to patients "along with information about actions taken to prevent the problem from recurring."

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The trade group also said Medicare should allow QIOs to publish annual quality reports for each state, including data on the performance of hospitals, doctors and nursing homes, in addition to releasing the names of providers who have been referred for enforcement actions.

Late last year, the association announced what it called a "new code of conduct" to ensure that QIOs conform to the "highest standards for business practices, governance and public accountability."

Among other things, the code called for increased consumer representation on QIO boards. Two-thirds of the 53 QIOs have adopted the code, the trade group said.

Senate Begins Consideration Of Lobby Reform (REU-Y2)

By Thomas Ferraro

Reuters, March 6, 2006

The U.S. Senate began consideration of legislation on Monday that would require lobbyists to disclose more about their activities and ban gifts by lobbyists to members of Congress and staff.

The measure, which has strong bipartisan support in the wake of scandals that rocked the Republican-led Congress, would also impose stiff fines for violation of lobbying curbs.

The Senate hopes to complete action after voting on a long list of possible amendments later this week. They include one that would deny congressional pensions to lawmakers convicted of accepting bribes.

That proposal was inspired largely by the case of former Republican U.S. Rep. Randy "Duke" Cunningham of California, who was sentenced last week to eight years and four months in jail for accepting $2.4 million in bribes from defense contractors.

Ethics reform became a top priority after lobbyist Jack Abramoff pleaded guilty in January in a wide-ranging public corruption case. He is now cooperating with prosecutors and the probe may reach a number of lawmakers.

Members on both sides of the political aisle have demanded reform, saying lawmakers need to clean up Congress and reverse polls that show declining confidence in political leaders.

But some Democrats have blamed much of the recent ethical woes on a Republican "culture of corruption," and hope to use it to gain advantage in the November congressional elections.

"America deserves a government as good as its people," said Senate Minority Leader Harry Reid, a Nevada Democrat.

Senate Majority Leader Bill Frist, a Tennessee Republican, said, "The American people expect us to work together to develop meaningful bipartisan solutions."

"We are obligated to protect the integrity of this great institution, and, most importantly, to represent the genuine interests of the voters who sent us here," Frist said.

The legislation before the Senate is the product of bills produced last week on bipartisan votes by two committees.

The Republican-led House of Representatives is expected to produce legislation of its own in coming weeks.

Senate Takes Up Bill On Lobbying Ethics (AP-Y2)

By Jim Abrams, Associated Press Writer

AP2, March 6, 2006

Legislation to curb excesses of both lobbyists and lawmakers reached the Senate floor Monday as leaders from both parties warned that the integrity of Congress is at stake.

The legislation, which would require lobbyists to be more open about the meals they buy and the trips they arrange for members of Congress, is a response to the Jack Abramoff lobbying scandal that hit Washington with details of millions of dollars from Abramoff's clients going to win friends and buy influence on Capitol Hill.

It also comes just three days after former Rep. Randy "Duke" Cunningham, R-Calif., was sentenced to more than eight years in federal prison for accepting $2.4 million in bribes.

"It is time for us to re-examine the rules so that bad apples are exposed before they spoil the whole lot," Senate Majority Leader Bill Frist, R-Tenn., said in opening debate.

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The Senate bill, which combines measures produced by two Senate committees last week, has already come under fire from advocacy groups and some lawmakers who say the proposed changes, the first to lobbying laws in 11 years, are mainly cosmetic.

The measure would require senators to reveal more information on their privately funded trips, but would not ban such trips as sought by some. The Homeland Security and Governmental Affairs Committee last week also rejected a provision to set up an independent ethics investigator to oversee lobbying and ethics questions.

"Overall, this measure is insufficient because it focuses on disclosing corruption, rather than deterring it," Public Citizen's Joan Claybrook said of that committee's bill.

But Senate Minority Leader Harry Reid, D-Nev., while blaming the recent scandals on "a Republican culture that has distorted government priorities," defended the Senate bill. "Maybe there are some outside groups who think we haven't done enough. We've done a lot." he said.

The section of the bill prepared by the Rules Committee deals with a major source of criticism of Congress: the special projects or earmarks that lawmakers insert in larger bills, often with little or no debate.

Under the measure, a senator could raise a point of order, stripping out any earmark inserted when the House and Senate negotiate the final version of a bill. It would take a 60-vote majority to waive that point of order.

The Rules Committee portion also would require lawmakers to post on their Web sites within 15 days any meals or drinks they receive from lobbyists and within 30 days details of privately funded trips. Gifts and travel directly paid for by lobbyists would continue to be banned.

Relatives of a senator who are registered lobbyists could not have official contact with the senator's staff, and senators could not pressure lobbying firms to hire people based on their political affiliation.

The Homeland Security panel's bill would require that retiring members of Congress wait two years before taking jobs lobbying Congress, and it would oblige lobbyists to reveal information about grass-roots lobbying, helping clients to encourage the general public — through mass mailings or advertising — to contact federal officials.

Lobbyists also would have to file reports quarterly, rather than the current rule of twice a year, on their contacts with lawmakers and their fundraising and political contribution activities.

Frist said he hoped to finish work on the bill by the end of the week. The House is also working on the lobbying issue, but GOP leaders there have yet to develop a specific plan.

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On the Net:

Congress: http://thomas.loc.gov/

Senators Eye Lobbying Bill As Ready Vehicle For Pet Causes (HILL)

By Jonathan Allen

The Hill, March 7, 2006

Rank-and-file senators are eyeing a lobbying-disclosure measure as a vehicle for a host of pet causes — issues ranging from budget-process reform to the controversial Dubai Ports World deal — as Republican and Democratic leaders try to shepherd the politically imperative bill through the chamber without turning it into a legislative Christmas tree.

“Let’s keep amendments on the issue that is at hand, amendments surrounding lobbying,” Senate Majority Leader Bill Frist (R-Tenn.) pleaded yesterday on the floor. “Tying up with other amendments, what we call non-germane amendments, is not going to be in anybody’s best interests.”

Conservatives, eager to find the means to cut government spending, may try to insert the president’s new line-item-veto proposal or legislation establishing biennial budgeting, according to a Senate Republican aide.

A powerful new weapon for earmark foes is already included in the committee-approved lobbying-reform bill. The most significant institutional change in the measure would allow rank-and-file lawmakers to strike conference provisions — in any legislation, spending or otherwise — on a point of order without killing the conference report. A 60-vote supermajority would be needed to overcome the objection.

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While many lawmakers have been preoccupied with the more parochial issues of a stricter gift ban and increased disclosure for lobbyists and grassroots groups, some congressional aides recognize the reach of the new point of order.

"It's like the Holy Grail of process reform," said a senior House Republican aide who likes the idea but doubts that the Senate will ultimately adopt it. "The Senate's doing a little window-dressing and hoping it will fall out in conference," the aide said.

"I haven't addressed it yet," Frist said when asked how aggressively the Republican leadership would push for adoption.

A similar procedure was used — under a bipartisan agreement — to keep last year's Pentagon spending measure alive after lawmakers voted to strip out arctic-drilling provisions.

Rules Committee Chairman Trent Lott (R-Miss.) expressed support for the new point of order yesterday, despite ceding ground on his original 50-vote threshold because of a committee amendment by Sen. Dianne Feinstein (D-Calif.).

Still, he cautioned, "I hope it's not abused."

Sen. Jim DeMint (R-S.C.), a longtime critic of pork-barrel spending, also is getting behind the new point of order.

"Sunshine is the best disinfectant. If we subject earmarks to a budget point of order, it will force members to justify earmarks to other senators and the American people," DeMint said through a spokesman.

The point of order was included in a package approved by the Rules Committee that would increase disclosure on privately funded congressional travel, restrict floor access for lawmakers who have become lobbyists, ban non-meal gifts and change the rules that govern how members and their aides are allowed to transition into lobbying jobs.

That bill is being combined with a measure approved by the Homeland Security and Governmental Affairs Committee that increases disclosure requirements for lobbyists and grassroots organizations. Democrats are likely to offer the text of their alternative lobbying-reform legislation as an amendment, according to a Democratic leadership aide.

That legislation would prohibit privately funded congressional travel, ban gifts from lobbyists, attach criminal penalties for efforts to exert partisan influence on private-sector hiring, adopt increased disclosure for lobbyists, and extend a waiting period on lobbying by former members and high-level staff from one year to two years.

Democrats are also considering a variety of piecemeal amendments targeted at those issues and others, the aide said.

Sen. Joe Lieberman (D-Conn.) said yesterday that he would sponsor or support several amendments. That could include a second effort to establish an Office of Public Integrity to act as a clearinghouse for disclosures and investigate ethics complaints, a proposal that was rejected during Homeland Security and Governmental Affairs consideration of the bill.

Republican and Democratic leaders want to limit the scope of amendments adopted on the floor, hoping to prevent the measure from losing its focus on lobbying.

Lawmakers, aides and outside groups are watching closely to see if anyone opens up the politically sensitive issue of campaign-finance reform, which cuts across party lines. Any changes to current law could give one party or the other a leg up in future elections.

Lott said yesterday that if anyone raises a campaign-finance amendment he is ready to offer a second-degree amendment addressing largely unregulated "527" groups. The House GOP version of the lobbying-reform bill, which likely will be unveiled this week, contains a provision aimed at cracking down 527 activities.

Lott also warned yesterday that it is easy to "lose control emotionally" and become overzealous when Congress looks at its own operations.

But skeptics in the lobbying community are quick to point out that lawmakers are paying more attention to them than congressional operations.

"They certainly aren't ratcheting down your ability to deliver a [campaign] check," said one Republican lobbyist.

Congressional aides said yesterday that they expect the amendment picture to become clearer after lawmakers meet for lunch today.

It was not clear whether leading critics of Dubai's involvement with American ports would offer an amendment. Israel Klein, a spokesman for Sen. Charles Schumer (D-N.Y.), declined to rule out that possibility.

"We're obviously exploring all the options," Klein said.

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House GOP To Include 527 Language In Its Bill (HILL)

By Alexander Bolton

The Hill, March 7, 2006

House Republican leaders have told their Senate counterparts that legislation curtailing the activity of so-called 527 soft-money groups will be included in the House lobbying-reform bill that leaders intend for conference negotiations, according to knowledgeable sources.

The provisions affecting the 527 groups are expected to hew closely to a proposal crafted by Federal Election Commission (FEC) Chairman Michael Toner and former Commissioner Scott Thomas. Toner and Thomas unveiled the proposal in 2004 when Thomas was chairman of the agency, but it failed to muster enough support among their fellow commissioners to pass.

Restricting the activity of 527 groups, which generally are not subject to the campaign-finance regulations governing federal parties and candidates, is a high priority for Ken Mehlman, chairman of the Republican National Committee. Including 527 language in the lobbying bill, however, would put Democrats in a politically difficult position.

Democrats have staked their campaign-year political message on cleaning up corruption in Washington, but they are so opposed to restricting 527 activity that many of them would vote against a bill that includes language affecting the groups.

Sen. Chris Dodd (Conn.), the ranking Democrat on the Senate Rules Committee, which has jurisdiction over lobbying reform, took to the floor yesterday to speak against linking lobbying reform with campaign-finance reform.

"There is a real risk of weighing down this bill with so many campaign-finance amendments that we will effectively kill it," Dodd said. "I hope that does not happen, and I urge my colleagues to withhold campaign-finance-related amendments until we get to a more appropriate vehicle for them to offer their ideas."

Democrats in general strongly oppose 527 restrictions because they have derived much more benefit from the groups than Republicans. Über-rich liberal donors such as George Soros and Peter Lewis poured tens of millions of dollars of their own money into 527 groups that campaigned for Democrats during the 2004 election cycle. The GOP has struggled to find conservative donors with pockets deep enough to counter them.

Lawmakers are considering lobbying reform on the Senate floor this week.

Sen. John McCain (R-Ariz.), whom his colleagues consider the leading voice on campaign-finance reform in the Senate and who is also active in Senate negotiations over lobbying reform, said the issue of what to do with 527 groups has yet to be settled.

"We haven't sorted that out," he said about linking 527 with lobbying legislation, though he noted that Mehlman has been outspoken on the need to curb soft-money groups.

McCain said he had discussed the issue with Senate colleagues but not with House leaders. He also said that he did not believe that all Democrats are opposed to 527 restrictions, citing as an example his ally on campaign-finance issues, Sen. Russ Feingold (D-Wis.).

The FEC has set spending regulations for 527 groups that register with the agency as political committees, but it has failed to answer the crucial question of what types of 527s must register. The failure to answer that question opened a gaping loophole in the regulation of 527s. Groups can avoid regulation simply by not registering with the FEC.

The Toner-Thomas proposal would require all 527 groups spending money for the purpose of influencing federal elections to register as political committees, said Don Simon, a lawyer with Sonosky Chambers Sachse Endeson and Perry, who closely follows 527 regulation proposals. Simon said he was not aware that House leaders had committed to linking 527 and lobby reform.

Simon said that if 527 groups are required to register as political committees they would be subject to spending limits. Any 527-funded ads that mention a federal candidate would have to be paid for with hard money. Hard money can only be raised in limited increments, in contrast to soft money, which can be raised in unlimited-size donations.

Requiring 527 groups to fund their activities with hard money would dramatically erode their political effectiveness. Republican leaders fear that if the law remains unchanged, 527s will soon rival the national parties in political power and ability.

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If required to register with the FEC, 527s would also have to fund 50 percent of their generic voter-mobilization activity with hard money, Simon said. 527s that air ads mentioning federal and nonfederal candidates would have to pay for the activity with a mix of hard and soft money based on how the ads divided time and space between the candidates, he said.

A senior House Republican aide said he did not know when leaders would unveil their lobbying-reform bill, which Speaker Dennis Hastert (R-Ill.) has worked on alongside Rules Committee Chairman David Dreier (R-Calif.).

Jennifer Crider, spokeswoman for House Minority Leader Nancy Pelosi (D-Calif.), said that Republicans should work on a bipartisan basis with Democrats on lobbying reform.

She referred questions about linking 527 and lobbying reform to Rep. Marty Meehan (D-Mass.), who has sponsored legislation regulating 527s.

"[Meehan] believes that real lobbying reform must be clean and straightforward and should not encompass other issues, be it 527 reform or anything else," said his spokeswoman, Sandra Salstrom.

How Congress Benefits From Corporate Flights (USAT)

By Jim Drinkard

USA Today, March 7, 2006

WASHINGTON — It was a busy weekend last November for the flight crew of BellSouth's corporate jet. Over three days, they crisscrossed the Southeast, ferrying six U.S. senators, two of their wives, a trio of political consultants and two of the company's Washington lobbyists to Republican and Democratic fundraising events.

To charter a comparable Cessna Citation for that three-day itinerary would have cost $40,800, not including food and drinks. The two parties' campaign committees reimbursed BellSouth $8,364.94 for the flights, in line with campaign-finance rules that call for the equivalent of first-class commercial airfare for each traveler.

For members of Congress — its top leaders, in particular — the service is an accepted convenience of immense value in their whirlwind schedules, worth far more than the reimbursements the rules require. They can skip security lines, ignore airline schedules and stretch out in roomy leather seats. For corporations that provide the service, it's a chance to do favors for the powerful and gain influence unavailable to those without air fleets.

Public records and internal company documents obtained by USA TODAY show that over the past four years, BellSouth has flown federal government officials on such political trips about 100 times. The internal records offer rare detail about who goes on the trips and why — information that lawmakers and companies aren't now required to reveal.

This perk for lawmakers is under scrutiny this week as the Senate seeks to rewrite the rules of the influence game in the midst of the Jack Abramoff lobbying scandal. Sens. John McCain, R-Ariz., and Joe Lieberman, D-Conn., are pushing to curb the cut-rate travel service.

BellSouth's internal documents, covering 2002 through 2005, were provided by Vicki Taylor, who has worked for 15 years as a secretary in BellSouth's Washington lobbying office. Taylor, 53, said she sought out reporters because she was concerned about company practices she believed violated internal expense-account rules. She is now on paid administrative leave pending an internal investigation.

BellSouth spokesman Bill McCloskey acknowledged the documents were authentic.

Top travelers with the regional telephone company include House Speaker Dennis Hastert of Illinois, House Majority Whip Roy Blunt of Missouri, Sen. Trent Lott, R-Miss., and Democratic Sens. Tom Daschle of South Dakota and John Breaux of Louisiana, both now retired.

The lawmakers' campaign committees or the political parties routinely reimbursed the company for first-class airfare — normally a fraction of the market value of the trips — but neither they nor the company are required to disclose anything else. Campaign funds can be used to pay political expenses or costs associated with lawmakers' official duties, such as meetings with constituents, says Kenneth Gross, a campaign-finance lawyer.

BellSouth is one of dozens of large corporations with intense lobbying agendas in Washington that use their corporate jets to curry favor with key lawmakers. BellSouth has agreed to be acquired by AT&T, which was recently purchased by another telecommunications company, SBC. Neither SBC nor AT&T has provided the same level of service on its corporate jets.

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FedEx, U.S. Tobacco, Union Pacific, the Texas plaintiff's law firm of Baron & Budd, Burlington Northern Santa Fe, R.J. Reynolds and generic-drug maker Barr Laboratories are among those companies that most frequently whisk members of Congress around the country upon request, according to figures released Monday by PoliticalMoneyLine, which compiles data on money and politics.

In the past five years, federal politicians and political parties reimbursed 286 corporations $3.7 million for 2,154 trips, according to the PoliticalMoneyLine figures.

"You can sit down and have a cocktail and talk casually about a matter, rather than rushing in between meetings on Capitol Hill," says Wright Andrews, a veteran Washington lobbyist. "You are a heavy hitter if you've got a jet."

BellSouth's McCloskey said providing transportation to federal officials "gives us an opportunity to form relationships, to have a long stretch of time to explain issues that are technical and complicated. If it wasn't useful, we wouldn't do it." The company lobbies Congress on issues ranging from broadband to copyrights, international trade and excise taxes on phone service.

Advocates of an ethics overhaul, including McCain and Sen. Russ Feingold, D-Wis., have called for requiring lawmakers to reimburse companies for the full cost of a charter flight when they hop aboard their jets. That would make the practice so costly it would be tantamount to banning it, says Fred Wertheimer, president of the ethics watchdog group Democracy 21.

McCain and Lieberman plan to offer an amendment during Senate debate that would require politicians to reimburse the full charter rate and disclose details of corporate plane trips. The current rule "provides an end-run of limitations on what corporations can contribute or give as gifts," Lieberman said Monday.

A poll in January found strong public support for ending cut-rate travel by lawmakers on corporate planes. The Los Angeles Times/Bloomberg Poll found 72% of Americans support banning the practice, and 21% oppose a ban.

Details about corporate plane use are not normally disclosed. The only way the public can find out about the trips is by combing through campaign-finance reports. That reveals nothing about who went on the trip, where they went or the purpose of the travel.

The practice was spotlighted in the case of Randy "Duke" Cunningham, a California Republican who resigned his House seat Nov. 28 after pleading guilty to taking at least $2.4 million in bribes from defense contractors. Brent Wilkes, founder of the defense company ADCS, flew Cunningham to an Idaho hunting trip on Group W Transportation, his private Lear jet, according to campaign-finance records.

"It's a big perk for members of Congress, which I can assure you is not available to the general public," Wertheimer says. "There is no legitimate rationale for it."

On Friday, Nov. 11, BellSouth's Cessna 560 XL, tail number N404SB, left its Atlanta base and flew to Washington's Dulles Airport to pick up Republican Sens. Bob Bennett of Utah, Mike Crapo of Idaho and Kit Bond of Missouri. Two of the senators' wives and Ward White, a BellSouth lobbyist, were along for the trip, according to a company flight manifest. The trip was arranged by the GOP Senate campaign committee, which like its Democratic counterpart keeps a list of companies that make their planes available.

The group flew to St. Simons Island, Ga., for a weekend retreat at the sumptuous Sea Island resort with members of the party's Senate Council, a club for corporate donors whose political action committees have given at least $5,000. (BellSouth's PAC gave $12,500 to the Republican Senate committee last year.) The party included White in a private dinner Nov. 11 with Bond and Sens. Arlen Specter of Pennsylvania and John Warner of Virginia.

While the senators joined contributors and their lobbyists for a weekend of briefings, golf, tennis, skeet and trap shooting, and a guided nature walk, the corporate jet headed back to Washington on Nov. 12 to pick up more senators.

This time, according to the company documents, it was Democrats: Senate Minority Leader Harry Reid of Nevada and Sen. Maria Cantwell of Washington, headed for a party fundraising event near Orlando. They were accompanied by BellSouth lobbyist Broderick Johnson. After dropping them off, the BellSouth jet returned to Georgia, where on Sunday, it picked up Bennett, Crapo and Sen. Elizabeth Dole, R-N.C., and lobbyist White for the trip to Washington.

Reid and Cantwell turned to another special interest for the rest of their trip: the Texas law firm of Mikal Watts, which flew them on to Oxford, Miss., for another party fundraiser, according to campaign-finance records. Cantwell took a commercial flight

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back to Washington, while Reid continued to Dallas on the Watts plane for another money event, then returned to Washington aboard the plane of the Baron & Budd law firm. The law firms did not respond to requests for comment.

Campaign-finance records show the Democratic Senate committee reimbursed Watts $4,510.10 and Baron & Budd $2,836.80. The Texas law firms lobby Congress against limiting the liability lawsuits that are their primary business.

Lawmakers asked about the travel defended their use of corporate planes as a necessity in the fast-paced world of politics.

Reid's spokesman, Jim Manley, said the practice is essential for top congressional leaders. “It would be impossible to keep the kind of schedule that he does on these trips throughout the country without being able to use these jets every once in a while,” Manley said.

Hastert did not respond to calls for comment. As the No. 3 House GOP leader, Blunt has responsibilities to help Republicans get elected and preserve the party's House majority, said spokeswoman Jessica Boulanger. “Private travel enabled him to reach multiple campaign events — many times in remote locations — often in a single day,” she wrote in an e-mail response to questions.

Bond's spokesman, Rob Ostrander, said the senator believes that “as long as the practice is not abused and there is appropriate reimbursement, it should remain an option.”

Attending political fundraisers was the most common purpose for congressional travelers aboard BellSouth's jet, but not the only purpose. In 2004, the company flew Rep. Dick Gephardt and Sen. John Edwards as part of their presidential campaigns; shuttled Sen. John Breaux, D-La., home from his party's convention in Boston; and took Sen. Hillary Rodham Clinton from New York to the Kennedy family clambake in Hyannis, Mass., the company's records show.

BellSouth also flew Rep. Joe Barton, R-Texas, to a U.S. Telecom Association meeting in Denver in 2003. Barton is chairman of the House Energy and Commerce Committee, which controls telecommunications policy. Lott flew home or to Washington with the company on at least four occasions. Sen. Thad Cochran, R-Miss., caught a ride to give a speech and attend the Kentucky Derby in 2003.

The most frequent flier with BellSouth in 2002-04 was Hastert, who traveled aboard the company's planes nine times, company documents show. Blunt, the No. 3 House leader, flew eight times, and Lott, who was Senate majority leader in 2002, was aboard six times during that period. A company lobbyist was aboard each time.

The rules that require reimbursement at the first-class commercial ticket rate date back two decades or more, says Scott Thomas, a former member of the Federal Election Commission who advises legal clients on ethics issues. At the time, “there wasn't any good way to track what the actual fair-market charter rate would be,” he says, so the commission adopted the rule requiring reimbursement at the first-class rate.

That rationale was made obsolete by the Internet, which makes it easy to look up the cost of a charter flight, Thomas says, but the rules haven't kept up. “It's ripe for reconsideration,” he says. At a minimum, there should be greater disclosure of trips, Thomas says.

The demand for convenient travel apparently drives the practice at least as much as corporations' desire to gain a lobbying advantage.

As often as BellSouth transported lawmakers, it turned down even more requests. A company document shows that in 2004, its planes took 28 trips for members of the House and Senate — 18 for Republicans, 10 for Democrats. It turned down requests for an additional 109 trips because planes weren't available.

Two senators turned down for requested trips in 2004 — McCain and Democrat Barack Obama of Illinois — have since emerged as spokesmen for sweeping ethics changes and have voluntarily imposed limits on their own use of corporate planes.

McCain, a likely candidate for the Republican presidential nomination, decided late last year to abandon the practice entirely, instead using charter flights when needed. Obama announced in January that he would reimburse the full market value of such flights.

Robo-caller Thrives Amid Talk Of Change (HILL)

By Elana Schor

The Hill, March 7, 2006

As the Senate today begins debating proposed disclosure requirements for grassroots lobbying activity, a Democratic-leaning grassroots lobbying firm is helping to hit as many as 20 House Republicans with prerecorded, in-district phone calls attacking their records on port security.

The calls are funded by American Family Voices (AFV), a nonprofit group led by Clinton administration veteran Mike Lux and allied with Lux's firm Progressive Strategies. According to its website, the firm promotes "extensive experience in grassroots organizing and politics."

While Lux declined to reveal the identities of the House Republicans targeted for calls, Reps. Rob Simmons (R-Conn.), Tom DeLay (R-Texas) and Bob Ney (R-Ohio) have reacted angrily to the calls taking place in their districts, charging AFV with capitalizing on the Dubai ports-management controversy for political gain.

Lux founded AFV in 2000 after leaving the lobbying team at People for the American Way, adding a 527 group called MainStreet USA to his arsenal during the 2004 election cycle. Lux said the main advantage of AFV's grassroots push on port security, which Democrats have begun seizing on as a winning issue for this November's midterms, is the ability to keep his donors and expenses secret.

"This is all a game of chess," Lux said, and if your opponent knows where you're moving "you kind of lose your advantage.

"Frankly, that's one advantage of calls over ads — we can do this and send a shot across their bow without the other side knowing exactly where we're going."

But AFV and other nonprofits engaging in grassroots lobbying soon could be forced to reveal political strategies and financial backers under an amendment attached to one of the Senate's two pending lobbying-reform bills.

The amendment, sponsored by Sens. Joe Lieberman (D-Conn.) and Carl Levin (D-Mich.), would require grassroots lobbyists such as Lux to register with the clerk of the House and disclose their spending within 45 days after starting an initiative.

Conservative nonprofit groups last month assembled a coalition called LobbySense to help bring down the Senate's original grassroots lobbying-disclosure provision, authored by Sen. John McCain (R-Ariz.) but replaced with the Lieberman-Levin language at last week's markup in the Senate Homeland Security and Governmental Affairs Committee.

LobbySense members include Grover Norquist of Americans for Tax Reform, Tom McClusky of the Family Research Council and Tom Schatz of Citizens Against Government Waste. Spokeswoman Kerri Houston said the coalition plans to recruit liberal partners if the new grassroots disclosure rules spring up in any future House lobbying-reform bills.

While critical of AFV's political stance, Houston defended the group's right to run the phone calls against Republican lawmakers without having to reveal its supporters.

"From an ideological perspective, I wish they would go away because I completely disagree with them, but I'd defend to the death their right to say things I disagree with," Houston said. Echoing Lux's argument in favor of preserving secrecy for grassroots-issue campaigns, Houston added that under the Lieberman-Levin provision, "you're now explaining to your competition what your plans are."

House Republicans on the receiving end of the AFV automated phone messages, a style known as "robo calls" for their robotic narration, were loath to condone AFV's right to operate in secret.

"What we're seeing in our district is part of a coordination of Democrat groups to use front groups" such as AFV as political messengers, Ney spokesman Brian Walsh said. "It's the pot calling the kettle black. They say one thing in Washington [about lobbying reform], then they turn around in the districts" and run robo-call operations.

Walsh pointed out Ney's quick opposition to the White House's approval of the Dubai ports-management deal, cleared for national security risks in January but sharply criticized in recent weeks by Republicans and Democrats alike. Ney also has signed on to a bill written by Rep. Peter King (R-N.Y.), chairman of the House Homeland Security Committee, that would give Congress ultimate veto power over the Dubai deal.

In a statement issued last week, DeLay campaign spokeswoman Shannon Flaherty defended the former House majority leader against AFV's robo calls.

"As everyone who has picked up a newspaper in the last week knows, Congressman DeLay said he disagreed with the president on the Dubai ports deal," said Flaherty, who played up AFV's past support from the Association of Trial Lawyers of America and Lux's experience in the Clinton administration.

Senators supporting the Lieberman-Levin provision argue that transparency will make grassroots lobbying operations more accountable without having a chilling effect. But AFV, which uses its Campaign for a Cleaner Congress affiliate to help marshal support for lobbying-reform legislation, greatly benefits from the current lack of reporting restrictions.

"My whole goal is to work in close connection with the rest of the progressive community and have our organization be a free safety that can move on a dime, plug holes, work on issues that come up all of a sudden and go where other people aren't going to provide some political muscle," Lux said. AFV's role model, he added, is the conservative nonprofit Progress for America, well-known for its potent grassroots lobbying on Supreme Court nominations.

Although Lux blasted House Republicans for shooting down a Democratic parliamentary maneuver to force consideration of a bill similar to King's, he said the calls were aimed more at embarrassing Republicans than scoring on port security.

"We want to win on the issue … but from a political point of view, exposing the other side as hypocrites is always a good thing to do," Lux said.

Simmons has long crusaded against the national do-not-call registry's exemption for political robo calls, sponsoring three bills that would crack down on prerecorded messages from AFV and other groups. Stealing a page from Lux's playbook, Simmons's office urged constituents to call AFV and complain about the calls.

"For the past two years, stealthy partisan organizations led by American Family Voices have used robo calls to bother, harass and annoy while disseminating false information about me and my voting record," said Simmons, who is also co-sponsoring the King port-security legislation.

'I Will Not Seek Reelection' (HILL)

By Patrick O'Connor And Bob Cusack

The Hill, March 7, 2006

Rep. Bill Thomas (R-Calif.), the fiery chairman of the House Ways and Means Committee, announced yesterday that he will not seek reelection this year, ending the congressional tenure of one of Capitol Hill's most polarizing but effective figures.

Forced to relinquish the Ways and Means gavel at the end of this Congress because of GOP term limits on the post, Thomas announced the decision from his district office in Bakersfield, Calif., with his wife, Sharon, at his side.

"Today, I am announcing that I will not seek reelection to the United States Congress," Thomas said, according to a release from his office.

During his tenure, Thomas passed a number of President Bush's legislative priorities, including a series of large tax cuts, trade-promotion authority for the administration to negotiate trade deals and the controversial Medicare prescription-drug plan.

However, the 64-year-old lawmaker did not get an opportunity to enact Social Security reform, Bush's top legislative initiative in 2005. Before Thomas could introduce his retirement-savings package, political momentum for a Social Security revamp plummeted.

Thomas declined to say what he intends to do after leaving Congress at the end of this term, and he hinted yesterday that he would still like to reform the country's tax code before leaving office.

His announcement sparked fawning praise from Republicans throughout Washington.

"Chairman Bill Thomas is one of America's finest servants and one of the most thoughtful, determined members of the House of Representatives," House Speaker Dennis Hastert (R-Ill.) said in a statement. "I'm sorry to see him go."

House Majority Leader John Boehner (R-Ohio) hinted that Thomas's life in public service may not be over: "I wish him the best and look forward to working with him for the rest of this Congress and again in the future."

There has been speculation that Thomas could join the Bush administration next year, possibly as treasury secretary. Thomas did not rule out the possibility of joining the administration down the road, before adding that he is "taking it one step at a time."

Bush said Thomas "is a friend and a man of great accomplishment who has been a very effective leader."

Thomas kept his retirement decision a closely held secret right up until yesterday's announcement. The Californian told Hastert late last week about his decision to retire, a senior GOP leadership aide said, but he never told National Republican

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Congressional Committee Chairman Tom Reynolds (R-N.Y.), a spokesman said, and was typically tight-lipped with his closest supporters in California.

Rep. Devin Nunes (Calif.), a second-term Republican representing a neighboring district, said that he has known of Thomas's decision to retire for a few weeks but that Thomas never explicitly told him his plans. Instead, he laid out the scenario for what would happen if he chose to retire, tipping Nunes and others off to the decision announced yesterday.

"I don't think there is any talking Bill out of it," Nunes said of his occasional mentor. "I would be surprised if he doesn't go down as the best Ways and Means chairman … or at least at the top of the list."

Unable to get a waiver for that chairmanship, some believed that Thomas would become the next chairman of the House Budget Committee if he chose to remain in Congress. He has opted to pursue a life off Capitol Hill after an almost-28-year congressional career.

Thomas has a rare institutional acumen that has allowed him to pass a number of controversial bills through the House. He has also proved to be a partisan battler who has stoked the ire of his Democratic colleagues.

The combative Republican once called the Capitol Police to remove committee Democrats from a Ways and Means library during panel deliberations on pension reform. He later broke into tears on the House floor while apologizing for the move.

As chairman of the Ways and Means Subcommittee on Health in from 1995-2000, Thomas conducted rigorous oversight of the Clinton administration. During one such hearing, Thomas admonished a Clinton administration official for mentioning a Medicare website without referring to the "www" prefix.

Thomas also regularly clashed with his counterpart in the upper chamber, Senate Finance Committee Chairman Chuck Grassley (R-Iowa), over a range of legislative matters.

Grassley yesterday said, "Chairman Thomas has another nine months as chairman. He's not a lame-duck type. … The media like to make a lot of the so-called differences between Chairman Thomas and me. In reality, we have a lot more in common than people might think."

In an interview on C-SPAN last month, Thomas promised to unveil major bills on tax, trade and healthcare in the coming weeks.

"I'm not walking away into the sunset. I'm going to work," he said yesterday.

Thomas has been a forceful member of the Republican Conference during its 11-plus years in the majority. He often reminds members who are wavering on legislation how much harder life was as a member of the minority, imploring them to rally around their leaders and cast difficult votes.

He has also caused fits for Republican leaders in both chambers. He was reluctant to share details of his Social Security reform plan with Hastert and other leaders in the House and Senate. More recently, he opposed an appropriations bill late last fall because a provision in the legislation had the potential to undermine the Medicare prescription-drug benefit he helped craft.

He and then-Education and the Workforce Chairman Boehner late last year went around leadership to pass a House version of pension-reform legislation after acting Majority Leader Roy Blunt (R-Mo.) suggested the bill did not have sufficient support to bring to the floor.

Thomas subsequently gave Boehner's nominating speech during his successful campaign to be majority leader.

He has been grooming Republican state Sen. Kevin McCarthy to replace him in Washington, but a fellow GOP state senator, Roy Ashburn, who lost his race to unseat Rep. Jim Costa (D-Calif.) last cycle, might challenge McCarthy for the seat.

The district is staunchly Republican, but Democratic state Sen. Dean Florez has also been mentioned as a possible candidate. The registration deadline is Friday.

Highlights of the career of REP. Bill thomas (R-Calif.)

1978 — Wins election to Congress

1995 — Becomes chairman of the House Administration Committee and the Ways and Means Health Subcommittee

1997 — Plays key role in passing the Balanced Budget Act of 1997

2001 — Is appointed chairman of the Ways and Means Committee and subsequently pushes through President Bush's $1.3 billion tax-cut package

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2003 — Apologizes on the House floor for ordering his staff to call the Capitol Police after Democrats refused to leave the Ways and Means Committee library

2003 — Crafts the Medicare prescription-drug bill, which narrowly clears Congress

2006 — Gives the nominating speech for Rep. John Boehner (R-Ohio) to become majority leader

2006 — Announces his retirement

Ways And Means Chairman Thomas To Retire (AP-Y2)

By Mary Dalrymple, Ap Tax Writer

AP2, March 6, 2006

President Bush lost the congressional engineer who turned many of his campaign promises for tax cuts, free trade and prescription drugs into reality with the retirement of Ways and Means Committee Chairman Bill Thomas.

The former college professor, a Republican from California, announced Monday that he will retire from Congress at the end of the year, when GOP rules force him to step down as chairman. The committee, Thomas said from his hometown in Bakersfield, Calif., "has the most impact on every American's life."

Since 2001, when Bush took office and Thomas took the helm of the panel, he steered several major tax cuts into law that lowered tax rates on most wage earners and shrank tax bills on investment income. He turned a long-promised Medicare prescription drug subsidy for the elderly into law, and eased the president's ability to pass trade pacts negotiated with other nations.

Bush called Thomas "a friend and a man of great accomplishment who has been a very effective leader," praising him in a statement for helping pass legislation that led to strong job creation, economic growth, improved health care and free and fair trade.

One failure proved the rule. Thomas could not muster the support needed to transform the Social Security retirement and disability benefits program. He recently called it "a personal failure and very disappointing" that he could not spark a debate over the government's support programs for health care and retirement, which grow automatically each year.

He's rumored to be a future contender for Treasury secretary, but Thomas said Monday he will wait until the end of the year to make plans for his life after lawmaking. He's the 14th House Republican to retire this year, compared with only five Democrats.

The Republican next in line on the panel — Rep. Clay Shaw of Florida — immediately spoke up to say he's ready to fill Thomas' shoes. "As Ways and Means chairman, I intend to move legislation that makes our tax code more fair and efficient," Shaw said in a statement.

Next in line after Shaw, Rep. Nancy Johnson (news, bio, voting record), R-Conn., said in an interview that she would be comfortable with Shaw taking the helm, but added, "If it becomes an open race, then I am a candidate."

Rep. Jim McCrery (news, bio, voting record), R-La., who has a very close working relationship with Thomas and is most mentioned as his replacement, remained mum regarding the panel's future leadership. He issued a statement calling Thomas "one of the most capable and successful chairmen in the 204-year history of the House Ways and Means Committee."

Lawmakers and others attribute Thomas' success to a rare ability to master the intricacies of policy while keeping an accurate pulse on the lawmakers he needs to vote for his bills.

"He understood the policy extremely well, and he also understood how to legislate," said Mark Weinberger, Bush's first assistant secretary for tax policy at the Treasury Department. "You need both."

In more than a quarter century in Congress, Thomas displayed an impatience and fiery streak that sometimes led to conflict with other lawmakers, often Democrats. Three years ago, he called the Capitol Police to break up a meeting of committee Democrats, then expressed teary regrets on the House floor.

Jim DeMint, R-S.C., once a House lawmaker and now a senator, criticized Thomas for not listening to some in the GOP during a debate over contentious legislation giving the president fast-track authority to negotiate global trade agreements.

"Bill Thomas has kept us in the dark," DeMint said at the time.

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That's a criticism echoed by the Ways and Means Committee's top Democrat, Rep. Charles Rangel (news, bio, voting record) of New York, who said Thomas was so successful because he exercised nearly complete control over legislation, circumventing the traditional collaborative process.

It was "more like a poker game where the hands were already dealt out before you sat at the table," Rangel said in an interview.

Despite their repeated political and legislative clashes on the committee, Rangel said he and the chairman never had any personal conflicts. If Thomas might sometimes be too abrasive, Rangel said, it's balanced by the fact that "he's probably one of the brightest members in the House of Representatives."

"God doesn't give you everything," he said.

House Ways And Means Chairman Says He's Retiring (USAT)

By Kathy Kiely And Richard Wolf

USA Today, March 7, 2006

WASHINGTON — One of the most powerful Republicans on Capitol Hill, House Ways and Means Committee Chairman Bill Thomas of California, announced Monday that he will not seek re-election in November, when his party will be fighting to retain its majority.

Thomas, 64, has headed the tax-writing committee since 2001. He played a key role in winning passage of President Bush's tax-cut proposals, the Medicare prescription-drug plan and free trade agreements. Sixty-eight percent of his district voted for President Bush in 2004, so his decision to retire may not pose any immediate opportunities for Democrats.

All 435 House seats are up for election this year. Democrats need to pick up an additional 15 to win a majority. So far, only a few of the seats being vacated seem likely to be competitive.

“I would say the open seats at this point haven't yielded for Democrats what they need,” says Stu Rothenberg, editor of the non-partisan Rothenberg Political Report.

Even so, some analysts believe that Thomas' decision to step down represents a troubling trend of experienced Republicans leaving.

Thomas is one of 17 Republican and eight Democratic House members who have decided not to run for re-election this fall. Five of the Republicans are losing their powerful committee posts because of term limits imposed by the caucus. They are Thomas; Jim Nussle, R-Iowa, chairman of the Budget Committee; Henry Hyde, R-Ill., chairman of the International Relations Committee; Michael Oxley, R-Ohio, chairman of the Financial Services Committee; and Jim Kolbe, R-Ariz., chairman of the Appropriations subcommittee that funds the nation's overseas operations.

Under rules adopted after Republicans won control of the House in 1994, committee chairs must give up their posts after six years. The idea was to prevent the development of political fiefdoms by rotating power among members.

Other retirements are possible. Rep. Sherwood Boehlert, R-N.Y., who loses his post as House Science Committee chairman at the end of the year, has said he'll announce his re-election plans this month. His district may be competitive.

Norman Ornstein, a congressional scholar at the American Enterprise Institute, says it has also created a problem in the Republican ranks. Term limits for chairmen have resulted in “an acceleration of retirements, often from among the most able members,” he says.

Thomas' decision also may indicate that ambitious policymakers don't see many opportunities in the next session of Congress, Rothenberg says. “The last two years of the Bush administration are not going to be a good time for doing big, important things,” he says.

In a news conference at his California district office, Thomas quoted Los Angeles Dodger pitching star Sandy Koufax, who retired at the peak of his career. “I could pitch another game, but why?” he said.

One of Congress' memorable personalities, Thomas once called Capitol Hill police to round up Democrats for a committee vote, then burst into tears during an apology on the House floor. GOP colleagues hailed him as a skilled strategist. “He's the best I've ever seen at developing a legislative strategy to get important pieces of legislation passed,” said Rep. Jim McCrery, R-La., a leading candidate to replace Thomas as Ways and Means chairman.

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Democrats said Thomas ignored them. “Picking up one or two Democratic votes was his idea of bipartisanship,” said Rep. Charles Rangel, D-N.Y., top Ways and Means Democrat.

A Powerful House Republican Plans To Retire (NYT)

By Robin Toner

The New York Times, March 7, 2006

WASHINGTON, March 6 — Representative Bill Thomas, chairman of the House Ways and Means Committee and a chief legislative architect of the Medicare prescription drug law and the Bush administration's tax cut agenda, announced Monday that he would retire at the end of this year.

Mr. Thomas is in the final year of his term as chairman, under Republican House rules limiting chairmanships to six years, and his announcement was not unexpected.

A member of the House since 1978, when Republicans were in the minority, Mr. Thomas waited a long time for power and relished his job as chairman of a committee with sweeping influence over tax policy, health care, trade and the economy. Many had found it hard to imagine Mr. Thomas, a proud and mercurial man, remaining in Congress without that job.

"At a time when my party controlled the House, the Senate and the presidency, it was my privilege to chair the committee that I believe has the most impact on every American's life," Mr. Thomas said Monday, according to a transcript of a news conference held in his Congressional district in Bakersfield, Calif.

Mr. Thomas invoked the example of the Dodgers pitcher Sandy Koufax retiring at his peak: "I admired him when he said, 'I could pitch another game, but why?' "

Democrats quickly cited Mr. Thomas's retirement as an example of Republican incumbents' "sensing the winds of change blowing at gale force," as Representative Rahm Emanuel of Illinois, the chairman of the Democratic Congressional Campaign Committee, put it. "It says they have a sense of what's out there, politically, this year," said Mr. Emanuel, who predicts a Democratic wave in this fall's elections.

But whatever the national outlook, political strategists expect Mr. Thomas's district to remain Republican; it gave 68 percent of its vote to President Bush in 2004. "We'll easily retain it," said Carl Forti, a spokesman for the National Republican Congressional Committee.

Mr. Thomas's successor as committee chairman will be chosen by the House Republican steering committee, which is dominated by the leadership, and then ratified by the full Republican conference. The maneuvering for the job quickly intensified. Representative E. Clay Shaw Jr. of Florida is next in line by virtue of seniority, and quickly signaled his interest. But House Republicans do not always follow strict seniority rules.

Representative Jim McCrery of Louisiana, who ranks below Mr. Shaw, is also considered a leading candidate. And Representative Nancy L. Johnson of Connecticut, who ranks between them, indicated Monday that she would defer to Mr. Shaw, but that "if it becomes an open race," she would jump in.

Mr. Thomas's retirement will mean the passing of one of the most effective — and polarizing — legislators. Nowhere was his legislative power more apparent than on the 2003 overhaul of Medicare, which offered the nation's retirees and disabled a long-promised prescription drug benefit and created a sweeping new role for private health plans in the government insurance program.

Democrats said they were essentially shut out of the legislative conference that produced the final bill — part of what they asserted was a long pattern by Mr. Thomas. And while Mr. Thomas and his fellow Republicans succeeded in passing the Medicare law, the partisan and ideological fights it spawned continue.

Mr. Thomas, who had served 16 years under a Democratic majority, said that the Democrats simply could not accept their life in the minority, and that they viewed power as "their birthright."

While acknowledging that he had shortcomings, Mr. Thomas argued in an interview in 2002 that his personality was ideally suited for pushing through his party's economic agenda with what was often a razor-thin majority.

"Why did Eisenhower give Patton the job of moving across Germany at lighting speed?" he asked. "Because he knew Patton would do it. Sometimes hills just need to be captured."

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In fact, even his enemies rarely disputed Mr. Thomas's effectiveness or his command of sprawling, complex programs like Medicare. In Mr. Bush's second term, however, the president's agenda has proved a far harder sell, and Mr. Thomas was unable to move the administration's proposal to create private accounts in Social Security.

In his news conference Monday, Mr. Thomas noted that he still had about nine months left in his term and a full agenda on tax cuts, trade and pension restructuring.

"Rather than read my headstone now, let's see if I can't carve a few more things in it before you retire me," said Mr. Thomas, a 64-year-old former political science professor.

There was speculation in political circles that Mr. Thomas might end up with a job in the Bush administration, and Mr. Bush praised him effusively on Monday as "a friend and a man of great accomplishment." But Mr. Thomas was coy about his future.

"I've got nine months still to go," he said. "I'm not walking away into the sunset. I'm going to work."

Ways And Means Chairman To Step Down (WP)

By Jonathan Weisman

The Washington Post, March 7, 2006

Rep. Bill Thomas (R-Calif.), the irascible House Ways and Means Committee chairman who helped shepherd through President Bush's biggest domestic policy initiatives, announced yesterday that he will retire at the end of the year.

House Republican term limits would have forced Thomas, 64, to give up his perch on the powerful committee before the next Congress, a prospect that pushed the 14-term lawmaker toward his decision. His is the highest-profile in a string of retirement announcements that brings the total of seats being vacated to 26, 16 of them by Republicans.

"Ever since I was first elected to Congress in 1978, I set a goal to study the issues and become as effective a legislator as I could be to promote the interests of my constituents, the state of California and our nation," Thomas said from his office in Bakersfield, Calif. "In doing so, I have been extremely grateful to the voters who have returned me to office over the past four decades, and I hope, through legislation, advocacy and constituent service, that I have returned that appreciation."

"Congressman Bill Thomas is a friend and a man of great accomplishment who has been a very effective leader in the House of Representatives," Bush said.

Thomas will leave an impressive record of legislative accomplishment that includes passage of six tax cuts in the past five years, a Medicare prescription drug benefit that was the most significant expansion of the program since its inception, and a slew of hard-fought free trade agreements. Still within reach is a major restructuring of the nation's private pension system.

"Thomas was terrific," said Mark Weinberger, who was assistant Treasury secretary for tax policy during the 2001 tax cut fight. "Not only did he understand the policy of arcane trade, tax and health care issues, but he knew how to legislate. And when you have both of those things, you become a very formidable negotiator."

But Thomas's reputation as a shrewd legislative tactician has a dark side: He has shown himself willing to bully friends and adversaries alike if his arguments do not prove persuasive.

"There's no question the chairman rubs people the wrong way with his brusqueness and his irascible countenance. He doesn't suffer fools well, and that gets him into trouble," said Rep. Jim McCrery (R-La.), who is widely seen as the front-runner to succeed Thomas if Republicans maintain control of the House. "But if he didn't have something like that, he'd be darned near perfect."

In July 2003, GOP leaders forced him to deliver a tearful apology on the House floor for summoning the Capitol Police to evict committee Democrats from a Ways and Means library. He also apologized to Sen. Dianne Feinstein (D-Calif.) after accusing her of taking a stance on medical malpractice legislation because she faced reelection, which she was not.

Democrats may have a hard time forgiving him for the imperial way he ran his committee. Thomas held only a few perfunctory hearings, keeping even Republicans largely in the dark as he drafted legislation, then giving committee members just hours to digest complex, voluminous bills before slamming them through on party-line votes, said Rep. Charles B. Rangel (N.Y.), the Ways and Means Committee's ranking Democrat.

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"I really think the methods he used to accomplish his goals have done severe damage to the legislative process . . . and really damaged relations between the parties," Rangel said.

Thomas is likely to retire without one marquee law that is seen as his masterwork. Bush had hoped last year that Thomas could rescue his foundering Social Security restructuring by folding it into a broader, more popular retirement security initiative. But even Bush aides say Thomas was brought into the process too late to save it.

But in little more than five years as chairman, Thomas left a mark. He leapfrogged over a more senior committee member, former representative Phil Crane (R-Ill.), to become chairman.

That year, Thomas folded provisions to entice more retirement and pension savings into the president's 2001 tax cut. Then, against the wishes of the White House, he broke the 10-year, $1.35 trillion tax reduction into small pieces that passed Congress with unexpected ease.

In 2003, he rejected Bush's complex proposal to end taxation of dividends from fully taxed corporate earnings, replacing it with a simpler 15-percent tax rate on dividends and capital gains.

Rep. Thomas Announces Retirement From Congress (REU-Y2)

Reuters, March 6, 2006

U.S. House Ways and Means Committee Chairman Bill Thomas said on Monday he would retire from the House of Representatives at the end of his current term, leaving open to speculation the future for the veteran lawmaker.

The California Republican, who was instrumental in helping President George W. Bush win passage of his tax cut proposals, would have stepped down as chairman of the powerful tax writing committee after this year anyway because of term limits set by House Republicans.

"Over the next nine months, I intend to continue to work hard and finish my congressional term with the same vigor as the first," Thomas said in a statement. He made the announcement at a news conference in Bakersfield, California, in his home district.

"Challenges lie ahead, and I intend to work hard to tackle the problems caused by our outdated entitlement programs and our currently flawed income tax structure," he added.

Known for his sharp wit and sometimes sharp tongue, Thomas, 65, was first elected to Congress in 1978. He took over chairmanship of Ways and Means in January 2001.

Thomas' grasp of details and knowledge of the Medicare prescription drug plan for the elderly proved valuable in helping get that complex legislation through Congress in 2003.

He has been mentioned by some Republican sources as among those being considered by the White House to eventually replace Treasury Secretary John Snow. It is widely believed that Snow may not stay through the end of Bush's term.

Thomas Leaves On Top (RC)

By David M. Drucker and Ben Pershing

Roll Call, March 7, 2006

Fourteen-term Rep. Bill Thomas (R-Calif.) announced Monday that he will retire at the end of this Congress, leaving a notable legislative and institutional stamp on the House and heated races to replace him atop the Ways and Means Committee and in California's 22nd district.

Thomas' former district director, state Assembly Minority Leader Kevin McCarthy (R), is hoping to succeed his old boss. McCarthy's most likely challenger in the June 6 Republican primary is another former Thomas aide, state Sen. Roy Ashburn (R), although he had a previous falling out with the incumbent.

"McCarthy is going to have the support of Washington because of Thomas and myself, so I don't see how Ashburn can make much of a race of it," said Rep. Devin Nunes (R-Calif.), who holds the district adjacent to the 22nd after Thomas helped him survive a tough GOP primary in 2002.

Nunes said McCarthy has nailed down commitments from most donors and secured the endorsements of almost all of the local elected officials in Bakersfield and San Luis Obispo County.

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"I'm not trying to skew this thing. The political reality of it is, it's not going to be a race if Ashburn runs, and I think he knows that," Nunes said.

Thomas last year was one of the very few Republicans in California's Congressional delegation to support Gov. Arnold Schwarzenegger's (R) failed effort to inject competition into California's redistricting process and overhaul how House and legislative seats are drawn. Not coincidentally, McCarthy was one of the most ardent proponents of the effort, carrying the primary legislative vehicle for the reform in the state Assembly.

In explaining his decision to retire, Thomas said he hoped to spend more time with his wife and grandchildren, and that he no longer relished the thought of spending eight hours on an airplane twice a week at the age of 65.

"Twenty-eight years of that probably should be enough for anyone, don't you think?" Thomas said.

And while he is still young enough to do the work, Thomas — a longtime Los Angeles Dodgers fan — cited the example of one of his heroes who retired at the top of his game.

"I've used as an analogy Sandy Koufax," Thomas said. "He was one of my favorites on the Dodgers, and I admired him when he said, 'I could pitch another game, but why?'"

The 22nd district, stretching from Bakersfield to the San Luis Obispo County Coast, gave President Bush 68 percent of the vote in 2004 and Thomas ran unopposed in that election, and it should be won without a problem by the victor in the Republican primary.

Knowledgeable Republican sources say McCarthy has been preparing for weeks to run to succeed Thomas, and confirm Nunes account that he has secured the key endorsements and fundraising commitments from throughout the district.

When Thomas does endorse McCarthy, he will most assuredly be able to connect the Assemblyman to the business-based fundraising pipeline that has long backed his campaigns, something he was able to do for Nunes in 2002. Still, an Ashburn aide confirmed Monday that the state Senator is planning to forgo re-election to his safe legislative seat to run in the GOP primary.

The deadline to file to run for Congress in California is Friday, with some Republicans speculating that Ashburn ultimately won't run, as he has already filed to run for re-election to his state Senate seat. McCarthy, though he had claimed not to be aware of Thomas' plans, never filed to run for re-election to the Assembly.

McCarthy said Monday he would publicize his future plans at 3 p.m. EST today at a news conference in Bakersfield. Beyond that, he did not want to intrude on a day that he said belonged to Thomas.

"He's done a great job for his community, his state and his country," McCarthy said. Thomas, when asked by reporters Monday, declined to endorse any candidates, saying he would wait to see who files to run for his seat.

Thomas has long engendered mixed feelings in his colleagues.

Lawmakers from both parties have complained over the years about the Californian's stubbornness and condescending attitude. His relationship with Ways and Means Democrats has been particularly rough, especially since he called the Capitol Police in 2003 to remove Democrats from a committee room during a contentious markup.

At the same time, Thomas' fellow Republicans have come to appreciate him for his policy acumen and his ability to shepherd difficult, complex pieces of legislation to passage.

While retiring lawmakers usually garner praise from the leadership, Thomas' announcement brought forth an unusual amount of hyperbole.

Speaker Dennis Hastert (R-Ill.) said Thomas was "one of America's finest servants and one of the most thoughtful, determined Members of the House of Representatives."

Majority Leader John Boehner (R-Ohio) said the work Thomas "has accomplished on behalf of the American people, whether to lower taxes, provide quality health care, or create new jobs, has quite frankly been extraordinary. He has been one of the most effective and successful legislators Congress has seen in years."

(Boehner has particular reason to be grateful. On Feb. 2, Thomas gave the Ohioan's nominating speech before the vote to elect a new Majority Leader. Some observers suggested afterwards that Thomas' forceful endorsement of Boehner may have helped swing some undecided votes his way.)

Praise also came from the other side of the Capitol.

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Senate Majority Leader Bill Frist (R-Tenn.) called Thomas "smart, tenacious, hard-driving and steeped in the traditions and subtle nuances of the House," while Senate Finance Chairman Chuck Grassley (R-Iowa) pointed out that Thomas "has another nine months as chairman. He's not a lame duck type. I know we'll get at least one more major tax bill done and probably more legislation in the next nine months."

Over the years, Grassley and Thomas have clashed repeatedly both in public and in private on several different issues. With Thomas on his way out, however, Grassley played down those squabbles.

"The media like to make a lot of the so-called differences between Chairman Thomas and me," Grassley said. "In reality, we have a lot more in common than people might think. ... I think we both know it's important to not only have strongly held views, but also to do the homework to back them up."

Thomas' departure, meanwhile, prompted more attention to be focused on the race to replace him on Ways and Means, where his gavel tenure would have ended anyway due to term limits.

Rep. Jim McCrery (R-La.), Thomas' closest ally on the committee, is seen as the frontrunner for that position over Reps. Clay Shaw (R-Fla.) and Nancy Johnson (R-Conn.). But Shaw is not conceding anything.

In a long statement issued Monday, Shaw devoted a few words to Thomas' legacy and several paragraphs outlining his own vision for the Ways and Means chairmanship.

While Thomas is best known among current lawmakers for his work on Ways and Means passing tax cuts, free trade measures and the Medicare prescription drug bill, he has also made a permanent impact on the House as an institution.

As chairman of the House Administration Committee from 1995 to 2001, Thomas oversaw a wide range of reforms that transformed the way the chamber operates. Thomas implemented yearly independent audits of House finances, which had been in shambles, and also helped end Members perks such as daily ice deliveries to House offices.

Thomas won the Ways and Means gavel in 2001, beating out more senior then-Rep. Phil Crane (R-Ill.) in a heated contest. Since then he has had a broad impact on everything from trade to taxes to health care, though he has not been able to accomplish two of his most desired reform goals — overhauling Social Security and the tax code.

While neither of those issues appears likely to be on the House calendar this year, Thomas cautioned against closing the books on his service too soon.

"I'm not walking away into the sunset, I'm going to work," Thomas said.

GOP's Bill Thomas Announces Retirement (WT)

By Charles Hurt

The Washington Times, March 7, 2006

House Ways and Means Committee Chairman Bill Thomas, one of the most powerful lawmakers and colorful characters on Capitol Hill, announced yesterday that he will not seek re-election to his California seat.

The 14-term Republican -- widely loved and loathed for his bombastic nature and detailed grasp of the federal government's most complex issues -- is credited with guiding through Congress President Bush's tax cuts and writing legislation on Medicare and Social Security.

Majority Leader John A. Boehner, Ohio Republican, called Mr. Thomas "one of the most effective and successful legislators Congress has seen in years."

"Bill's devotion to the issues that matter and passion for seeing them through will be sorely missed," he said.

Mr. Bush called Mr. Thomas "a friend and a man of great accomplishment who has been a very effective leader in the House of Representatives," citing "legislation that has brought about strong job creation and economic growth, improved health care for people of all ages, and ensured that America continues to benefit from free and fair trade."

Mr. Thomas, who is 64 and has been chairman of the House's lead tax committee since 2001, had been expected to retire because Republican term limit rules would have prohibited him from serving another term as committee chairman.

Other panel Republicans are jockeying to succeed him. Rep. E. Clay Shaw Jr. of Florida issued a statement immediately after Mr. Thomas' announcement, saying: "As Ways and Means chairman, I intend to move legislation that makes our tax code more fair and efficient."

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Announcing his decision in Bakersfield, Calif., Mr. Thomas listed among his accomplishments tax cuts and prescription drug benefits for Americans and greater authority for the president to engage in foreign trade.

"We passed over $2 trillion in tax relief for hardworking American families; we provided the president with trade promotion authority so that he could seek freer and fairer trade markets; and we approved a long-overdue voluntary prescription drug benefit in Medicare for the first time in the program's history," he said.

His mastery of the federal tax code, Medicare and Social Security matters will be sorely missed by Republican leaders.

"His retirement will create a void in the Congress," said Rep. David Dreier, California Republican and chairman of the influential Rules Committee. "He is a very skilled legislator who recognizes the importance of cutting taxes and opening up new markets to benefit American workers and consumers. He will leave a legacy of strong economic growth."

But Mr. Thomas likely will not be missed by Democrats, with whom he has clashed bitterly. Most notably, Mr. Thomas in 2003 called Capitol Police to a room in which Democrats on his committee were meeting and ordered them removed. He later gave a tearful apology on the House floor.

Still, Democrats have little hope of capturing the open seat, which is in one of California's most heavily Republican districts.

Mr. Bush has won the district twice with at least 64 percent of the vote. In 2002, Mr. Thomas defeated his Democratic challenger with 73 percent of the vote. In 2004, he ran unopposed.

House Ways And Means Chief To Retire (WSJ)

By A Wall Street Journal Staff Reporter

The Wall Street Journal, March 7, 2006

WASHINGTON -- Rep. Bill Thomas, a California Republican who helped to craft President Bush's tax cuts, said he will retire from Congress this term.

Chairman of the House Ways and Means Committee that oversees tax, trade, Social Security and Medicare legislation, Mr. Thomas must give up the post under House Republican term-limit rules. At a press briefing at his district office in Bakersfield, he said he still intends to press ahead with significant tax, health and trade legislation during the rest of the year.

"Over the next nine months, I intend to continue to work hard and finish my congressional term with the same vigor as my first," Mr. Thomas said in a statement. He didn't discuss his plans.

Mr. Thomas, 64 years old, had many legislative successes but he was unable to advance Mr. Bush's top domestic priority last year, overhaul of the Social Security system. His strategy was to broaden the discussion to encompass retirement security and health reform, but he never advanced a comprehensive bill.

The announcement clears the way for a Thomas protégé, Rep. Jim McCrery (R.,-La.), to assume the committee chair next year. Tax analysts and lobbyists have said Mr. McCrery, chairman of the Social Security subcommittee, is the front-runner for the chairmanship. Rep. Clay Shaw (R., Fla.), chairman of the trade subcommittee, is also seeking the post.

Government Smart-Card Project Hits Snags On Fingerprints, Costs (WP)

By Stephen Barr

The Washington Post, March 7, 2006

The government's smart-card project appears at risk of falling behind schedule.

Federal agencies are supposed to begin issuing government-wide identification cards that can vouch for the identity of federal employees and most contractors in October, but the Government Accountability Office warns that setting up and testing new ID systems may not be completed within deadlines set by the Bush administration.

The GAO reviewed the progress of six agencies in developing smart-card systems and found differences in implementation plans, which could hamper efforts to create a government-wide ID card accepted by all agencies. The congressional watchdog agency also found a lack of reliable information about the costs of buying cards and equipment and modifying software systems.

"We acknowledge much more work must be done in order to be successful," the Office of Management and Budget said in a letter accompanying the GAO report. The letter was signed by Karen S. Evans , who is in charge of technology policy at the Office of Management and Budget.

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President Bush launched the smart-card project in August 2004, calling for more secure and reliable forms of identification for government workers as part of a broader effort to keep terrorists, criminals and other unauthorized people from getting into federal buildings or hacking into computer systems.

Federal employees are issued a variety of ID cards, and many can be easily forged or altered to gain access to federal buildings. Some agencies, such as the departments of Defense and State, have developed versions of smart cards for many of their employees.

Smart cards, which resemble plastic credit cards, are embedded with a computer chip that permits an exchange of data with another system. The card can store biometric information, such as fingerprints, and can track where a person goes, based on clearances through security checkpoints. In addition to building access, smart cards can be used to supplement passwords for logging onto computers, with users inserting the card into readers on their desktops.

Under the federal project, cards must display the name of the government employee or contractor, a photograph, the name of their agency or affiliation, a serial number, and an expiration date.

There is no estimate of how many smart cards will be handed out across government (although the Defense Department has said it plans to issue 3.6 million cards to the military, civil service, contractor and other employee groups).

The administration's timetable requires agencies to start issuing cards Oct. 27 and to verify or complete background investigations on employees and contractors in 2007 and 2008.

But the project has hit some snags. The original guidelines called for the cards to carry electronic representations of two fingerprints, but the GAO said agency officials have objected because reading two fingerprint images will require a large amount of computer memory.

The GAO report said it could take 30 seconds to read the fingerprints, "a length of time that would likely cause unacceptable delays in admitting individuals to federal buildings."

Some agency officials prefer to store only details of the ridges in a fingertip, which would cut the transmission time between the cards and card readers to less than 10 seconds. But GAO said that the partial images are of "questionable reliability" and that vendors use techniques that are "proprietary and incompatible." Efforts are underway to resolve the matter, GAO said.

The cost of converting ID systems, however, may be one of the largest problems facing the government. The GAO said some agencies may find it difficult to cover conversion costs out of existing budgets.

"Agencies have been faced with having to potentially make substantial new investments in smart card technology systems with little time to adequately plan and budget for such investments and little cost information about products they will need to acquire," the GAO said.

Clinton Cover-ups (WT)

By Mark Goodman

The Washington Times, March 7, 2006

Lost in the tumult over Islamic port deals and Katrina video capers is the recently released -- and willfully ignored -- Barrett Report. David Barrett, you'll recall, is the independent counsel appointed in 1995 to investigate allegations of impropriety against President Clinton's Department of Housing and Urban Development Secretary Henry Cisneros.

Mr. Barrett found his path mined by the Justice Department, the Internal Revenue Service and President Clinton's attorneys, even after Mr. Clinton departed the White House. He prepared 18 felony indictments against Mr. Cisneros but had to settle for a guilty plea on a misdemeanor charge (lying to the FBI about his mistress, a poor choice for a tax write-off). He sought to prosecute Mr. Cisneros for tax fraud over a period of years but was thwarted by Attorney General Janet Reno. Ultimately Mr. Cisneros resigned his post, whereupon President Clinton, constitutionally bound to men who lie about their mistresses, pardoned him.

Worse, Mr. Barrett's investigations led him into bleak wilds where unnumbered Clinton misdeeds allegedly lay beneath bureaucratic camouflage. These findings comprised a full 120 pages of his 684-page report -- but you won't find them in the final document published on January 19. That's because congressional Democrats, led by Sens. Byron Dorgan, Dick Durbin and John Kerry, used an appropriations bill to leverage a deal redacting the potentially lethal 120 pages.

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A frustrated Mr. Barrett released this statement: "An accurate title for the report could be, 'What We Were Prevented From Investigating.'" He added: "After a thorough reading of the report it would not be unreasonable to conclude as I have that there was a cover-up at high levels of our government and it appears to have been substantial and coordinated. The question is why? And that question will regrettably go unanswered. Unlike some other cover-ups, this one succeeded." Just so.

The media in the main treated Mr. Barrett as if he had spent the past ten years chasing ambulances down Pennsylvania Avenue. The New York Times, in self-imposed redaction, nimbly sidestepped the issue of the missing pages. NBC and CBS ignored the report entirely, while ABC cited unnamed critics as branding the study "incompetent, wasteful and without merit." Objection. One witness may be questionable testimony, but two witnesses are corroborating evidence.

I'm an avowed liberal and a registered Democrat, but I can appreciate Mr. Barrett's ordeal like no other because for nine years I've been negotiating a parallel minefield. Herewith, the redacted portion of my life: In 1997, attending to dark rumors, I contracted with a Washington financial investigator -- I'll call him "Deep" for originality's sake -- to run a background check on Norman Pearlstine, former editor of The Wall Street Journal, who'd been hired by his crony, Time Warner CEO Gerry Levin, as Time Inc's editor-in-chief.

Sure enough, Deep reported that Mr. Pearlstine was living far beyond his evident means -- for instance, he had three lavish houses plus a Manhattan co-op. On request, I turned the report over to the chief of the IRS Criminal Investigation Division in Newark, N.J. Two weeks later, Deep's main IRS contact told him Mr. Pearlstine's tax returns "did not remotely match" his assets and that the agency had assigned two top criminal investigators to the case.

Deep lost the Pearlstine trail, then picked it up again in 2001. "Gerry Levin went to his pal Bill Clinton to get The White House to quash the investigation," he told me. "The two agents assigned to the case were transferred to less sensitive jobs and told to keep their mouths shut or lose their pensions." (Deep pleaded for anonymity; a confidential experience in his NSA years left him in mortal fear of the Clintons.) Whoa.

I suddenly felt like some hapless Hitchcock non-hero who opens the wrong drawing-room door and finds a den filled with opulent thieves, in white tie and tails. Time Warner had already harassed me out of a retaliation suit with the injudicious assistance of Justice Miriam Cedarbaum (Yes, the Martha Stewart judge and my own private Janet Reno).The Justice Department and the FBI then stonewalled me. Fool that I am, I actually thought my colleagues would pounce on such a story. Wrong. Media Blue Wall Law says: No rummaging in the backstage dressing-room of a diva Manhattan editor, especially not with Bill Clinton squinting in the loge.

Surreally, the IRS rang in to threaten me, the whistleblower, with criminal investigation. I accused them of conspiring with Time Warner and the Clinton camp to keep me barefoot and button-lipped. The agency not only backed off, but the Secretary of the Treasury, John Snow, ordered a second inquiry. I'm currently cooperating with CID agents. But I suspect that, not unlike David Barrett, I've been invited on a snipe hunt.

So: We have here twin cautionary tales of fraud, corruption, obstruction and cover-up converging on -- surprise! -- Bill Clinton. It's the Barrett Report, of course, which begs the most disturbing question: What evil lurks in those 120 pages that made the Democratic congressmen press so hard for redaction? My money says, a den filled with opulent thieves, in white tie and tails.

Mark Goodman, who is currently writing his professional memoir, is the author of "Hurrah for the Next Man Who Dies."

Part-Time Congress (WP)

By Norman Ornstein

The Washington Post, March 7, 2006

The House of Representatives returns this week to an overloaded agenda. A promise of aggressive oversight of the deal with Dubai to manage U.S. ports will compete with the following:

Renewal of the Patriot Act; the conflict with the White House over electronic surveillance; the need to hammer out a budget by the beginning of April; health care and pension reform (highlighted by the desire to find a fix for the bumpy rollout of the Medicare prescription drug law); Katrina relief and repair of a dysfunctional Department of Homeland Security; lobbying and ethics reform; and a host of other issues.

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The House should be well-rested to take on its daunting workload, after a generous recess (known officially as a "district work period") over President's Day. That was preceded by a recess for the entire month of January and by a February in which voting was done on all of three days (along with another three days with no votes before 6:30 p.m.). And members had better be rested, because if their published schedule for the year ahead is followed, they'll have to compress their work into a tiny number of days. The House schedule for 2006, the second session of the 109th Congress, has a grand total of 71 days when votes are scheduled to take place, along with an additional 26 when no votes will occur before 6:30 p.m. The total of 97 calendar days, counted generously, is the smallest number in 60 years and the days of what Harry Truman derided as that "do-nothing 80th Congress."

During the 1960s and '70s, the average Congress was in session 323 days. In the 1980s and '90s, the average declined to 278. The days in session have plummeted since; it's likely that the average per two-year Congress for the first six years of the Bush presidency will be below 250.

Of course, days in session and days voting don't give a full picture of Congress and its work. Committees and subcommittees hold hearings, do oversight and mark up bills. Still, the average Congress in the 1960s and '70s had 5,372 committee and subcommittee meetings; in the 1980s and 1990s, the average was 4,793. In the last Congress, the 108th, the number was 2,135. We do not have final figures yet for 2005, but they are likely to be lower yet, and with oversight practically nonexistent.

When I came to Washington in 1969, I became familiar with what was called the "Tuesday-to-Thursday Club," the band of members, mostly from the Northeast and regions near Washington, who would try to limit their time in the capital to three days a week. They would leave late Thursday evening or early Friday morning to go home and return here late Monday night or early Tuesday. Those club members were in the minority; most legislators spent the full workweek in Washington and were here two or three weekends a month as well when Congress was in session.

Today the "Tuesday-to-Thursday Club" includes nearly all members, with one distinction from the earlier era: They get back into Washington late Tuesday night, or even early Wednesday, and head out again early Thursday afternoon, having spent just one full day and parts of two others on Capitol Hill.

Why the change? One reason is that most lawmakers now leave their families back in the district instead of having them live in Washington. Another is the explosion in the number of flights from area airports, making it easier for lawmakers from all over the country, including even Alaska and Hawaii, to go back and forth.

But there are other, more important reasons. One is the drive for members to get out and raise money, both for their own campaigns and for those of their current and prospective party colleagues. Many members now have "leadership PACs," which are required for those who want to become subcommittee or committee chairmen or to move up in party leadership. These PACs raise hundreds of thousands of dollars in campaign contributions over and above a member's own needs, in order to help "the team." Another is the visceral distaste of current members, especially the majority Republicans who set the schedule, for Washington. Service in Congress is not a privilege and an experience to be savored so much as it is like taking castor oil -- an unpleasant necessity, and one indulged in as little as possible.

Then there is the strategy of the majority leadership. Getting bills passed, keeping party discipline and satisfying interest groups means folding legislation into a small number of huge omnibus bills, bringing them up with little notice and less debate, structuring the votes around restrictive rules that limit or forbid amendments, and demanding party fealty on the votes that take place by labeling them "procedural." The less time the members spend in hearings, floor debate and generally poking around the Hill, the easier it is for the leaders to get their way without scrutiny or challenge.

Mention the part-time nature of this Congress to many people, and the reaction is, "Good, the less time they're in session, the less the danger to the country." Wrong. Congress does not do less -- it has its full impact on society -- it just does things in a shoddier way.

A part-time Congress in a country with a $13 trillion economy and federal budget near $3 trillion, in a globalized, technologically sophisticated world, is itself a danger to the checks and balances built into American democracy, and to high-quality, careful policymaking and oversight. It's not too much to ask Congress to commit to spending at least half the year -- 26

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weeks -- working full-time, five days a week, thus providing at least a measure of the deliberation and attention to detail that are so lacking now.

The Business Of Government (NYT)

The New York Times, March 7, 2006

There are any number of object lessons in the downfall of former Representative Randy Cunningham, the greedy politician, dubbed Duke, who took millions of dollars in bribes in return for doling out scores of millions in sweetheart defense contracts. Mr. Cunningham, a Republican, was sentenced to eight years in prison. His ill-gained riches included a Rolls-Royce, a yacht and a Louis-Philippe commode. For all that, far more stunning dimensions of influence peddling in Washington came to light recently when Mitchell Wade, the contractor who bribed Mr. Cunningham, also confessed to providing jobs to the son of a Pentagon official charged with oversight of his business and, later, to that official.

Mr. Wade, seeking more than one friend in Congress, also admitted he had made illegal campaign donations to two lawmakers while pressing them to earmark more defense appropriations to keep his company growing. Earmarks are one of the scandalous goodies in Congress's quid pro quo culture — the secretive doling out, beyond public notice, of millions in favors in the rushed passage of budget bills.

One of the solicited representatives, Virgil Goode Jr., a Virginia Republican, received $46,000 in illegal donations while successfully earmarking $9 million in taxpayer money as Mr. Wade talked of more jobs for the lawmaker's district. The other, Katherine Harris, the Florida Republican, received $32,000 of Wade money, illegally disguised as smaller contributions from Wade employees. A $10 million earmark for the Wade company was requested but not delivered by Ms. Harris.

Justice officials say there is no evidence of criminal violations by the two lawmakers. Once the scandal broke, they forwarded the illegal donations to charity. Proclaiming her innocence, Ms. Harris insists that she was duped in the "perils of a process in which candidates are sometimes asked to determine the intent of a contributor." Mr. Wade's intent, however, was hardly murky because the investigation established that he had taken Ms. Harris to dinner and that the two had discussed the possibility of further political contributions, of earmarked government money for Mr. Wade's company and of a company branch in her district.

So goes licit political business these days in Washington. The prosecutor, Kenneth Wainstein, noted that Mr. Wade's company had been perceived as a classic "American success story" — garnering $150 million in government contracts in just three years — but was actually a model for spreading political corruption from Capitol Hill to the Pentagon.

Charities On The Hill (WP)

The Washington Post, March 7, 2006

PENNSYLVANIA Sen. Rick Santorum created his charity, "Operation Good Neighbor," when the Republican National Convention was going to Philadelphia in 2000. "I thought: 'Wouldn't it be a great thing to leave something positive behind other than a bunch of parties and a bunch of garbage,' " Mr. Santorum told the Philadelphia Inquirer at the time. But in the years since, Mr. Santorum's charity appears to have done a lot to help his political allies -- and less than it might have in its stated mission of combating poverty, teen pregnancy and other social ills.

According to reports by the American Prospect magazine and the Associated Press, Mr. Santorum's charity spent $1.25 million between 2001 and 2004, but it devoted just 40 percent of that to charity. (A letter from the charity's treasurer, who also serves as treasurer of Mr. Santorum's political action committee, explains that fundraising expenses alone are "close to 37% of expenditures, as these fundraising events are recreational outings such as golf tournaments.")

Meanwhile, a Santorum campaign fundraiser, Maria Diesel, received nearly $200,000 in fundraising fees from Operation Good Neighbor; another Santorum campaign fundraiser, Rob Bickhart, received $75,000 in salary from the charity since 2001, and Mr. Bickhart's business, Capitol Resource Group, rents office space to the charity.

The Santorum story highlights a largely unexplored area of congressional ethics: lawmakers' involvement with charitable organizations. According to a 2004 review of Internal Revenue Service records by the research group PoliticalMoneyLine, 48 members of Congress are connected to charitable foundations. These groups may do good works, but they also present

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opportunities for misuse -- to bolster members' political operations, for example, or to underwrite swank parties at political conventions.

Politicians and their spouses hit up companies and lobbyists that have interests before them to contribute to their pet charities, personal and otherwise, often dangling the lure of access to themselves and colleagues. Christine DeLay, the wife of former House majority leader Tom DeLay (R-Tex.), was remarkably straightforward about this phenomenon in a recent interview with Post columnist George F. Will that touched on the DeLays' charitable efforts on behalf of foster children. "I hated to lose the leadership position because it helps me to raise money for those kids," she said. And this all takes place outside public view, since, unlike political contributions, charitable donations aren't publicly reported -- though lawmakers obviously know who's kicking in to help their cause.

We're all for altruism, but that's not necessarily what's going on here. There is an inevitable element of extortion whenever politicians get involved in soliciting charitable donations. And when lawmakers have a personal interest in the charity, the opportunities for abuse are greatly magnified. Provisions contained in an ethics measure approved by the Senate Committee on Homeland Security and Governmental Affairs last week, and parallel language offered by House Democrats, would require that lobbyists report donations they make or arrange to lawmakers' charities, or gifts they make to other charities in recognition of politicians. That would shed some valuable light on a now-dark corner of money and politics.

Union War Rules (WSJ)

The Wall Street Journal, March 7, 2006

In drafting the U.S. Constitution, the Founders entrusted national security largely to the President. But to protect the Republic today, the executive branch must first comply with something James Madison never imagined -- union work rules.

In a decision last week, federal Judge Emmet Sullivan sided with union plaintiffs and tossed out the Pentagon's new personnel system, which the Defense Secretary and White House say they need to safeguard the nation. His decision comes after federal Judge Rosemary Collyer threw out a similar personnel system at the Department of Homeland Security in August. (That case is under appeal.) The danger here is that the collective bargaining rights of 650,000 civilian workers will trump the collective right we all have to a military organized to confront 21st-century threats.

Five years ago Donald Rumsfeld returned to the Pentagon to find that its personnel system was even more outdated than GM's. He was forced to negotiate with some 1,300 unions and operate under rules that rewarded seniority over initiative and prevented managers from redirecting civilian workers to more pressing assignments.

This is especially dangerous in wartime, when the Defense Department is forced to put uniformed troops in administrative jobs that need to be filled quickly even though they might be put to better use in Iraq or elsewhere. Not so incidentally, this also encourages the best civilian employees to quit for private-sector jobs that will pay them better. So the Administration pushed for basing pay on performance, allowing the Pentagon to shift employees to meet emerging threats and allowing the new rules to go into effect even if the American Federation of Government Employees and other unions didn't agree to them.

Congress passed legislation in 2003 calling for a "flexible" and "contemporary" personnel system. But thanks in large part to Republican Senators Susan Collins (Maine) and George Voinovich (Ohio), the bill also said that employees were allowed to "bargain collectively" through their unions. It was on this hook that Judge Sullivan hung his decision, arguing that the new regulations would undermine agreements with union officials. So the Defense Department can have a new personnel system, but only if it's identical to the old system.

We doubt this is what Congress had in mind in authorizing the Pentagon to "establish and from time to time adjust a labor relations system . . . to address the unique role that the Department's civilian workforce plays in supporting the Department's national security mission." It also glosses over the fact that, even under the new system, Defense officials will continue to negotiate with unions over pay and benefits and will have every incentive to use their new flexibility in a way that doesn't produce labor tension.

The Pentagon hasn't decided what its next step will be, but we hope the Administration will appeal. It's hard to see how Mr. Rumsfeld's drive to use his uniformed soldiers more effectively can proceed if he doesn't gain the flexibility to better use his civilian workforce. Improving Defense's "tooth-to-tail ratio" requires getting the civilian tail out from under union work rules.

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OTHER NEWS:

Factory Orders Slid 4.5% In January (WSJ)

By Rafael Gerena-morales

The Wall Street Journal, March 7, 2006

Factory orders took their steepest drop in more than five years in January, pulled down by a sharp decline in orders for airplanes. Excluding aircraft, however, factory orders were robust.

New orders for manufactured goods in January fell 4.5% from the previous month, the Commerce Department reported yesterday. That was the sharpest decline since an 8.7% drop in July 2000, and largely reflected a 31% decline in orders for transportation products and equipment, such as autos and airplanes.

Because of the volatility of aircraft orders, economists often look at factory orders excluding transportation, to better gauge the economy's underlying health. That indicator posted 1.6% growth in January, the biggest gain in five months. And an important barometer of business spending -- orders for nondefense capital goods excluding aircraft -- rose 0.1% in January and was up 7.5% from a year earlier.

Overall orders for durable goods, including electronic equipment, were off 9.9%, also the sharpest decline since July 2000. Durable goods are big-ticket items expected to last at least three years.

Yesterday's data "confirm that underlying manufacturing conditions remain upbeat," said Conrad DeQuadros, a senior economist at Bear Stearns Cos. "Businesses are fairly confident that this [economic expansion] is sustainable. They feel further business investment is necessary" to keep up with demand in coming months, which will stimulate additional spending, he said.

Mr. DeQuadros projects that spending on business equipment in the first quarter will rise roughly 10% from the fourth quarter, and that the steady demand should help the economy offset the effects of a softening housing market this year.

Last month, an Indian airline ordered 68 planes from Boeing Co. in a deal valued at around $11 billion. That will likely push February's aircraft orders sharply higher when they are reported next month. Moreover, U.S. companies hope that the Indian air force will buy about 125 fighter jets in the near future.

Separately, data released yesterday by the National Association of Realtors showed the housing market continued to slow in January. The trade group reported that its index of pending sales of existing homes, which includes single-family units, condos and co-ops, fell 1.1% in January from December and was down 4.8% from a year earlier. After peaking in August the index fell an average of nearly three percentage points a month through December. The current index is based on contracts signed in January, which typically close within two months.

David Lereah, NAR's chief economist, points to January's 1.1% decline, after sharper drops in preceding months, as evidence that the housing market is "plateauing." He adds: "We're at a more sustainable level of home sales right now. Demand is still strong but we're seeing a transition from a seller's market to a buyer's market. This is a soft landing scenario."

Still, other analysts warn that the slowdown could be painful, at least for sellers. Daniel Oppenheim, a housing analyst at Bank of America Corp., reported last week that his monthly survey of real-estate agents in February showed flat or lower prices in 13 of 20 major metropolitan areas.

Bond Yields Weigh On Stocks (WSJ)

By Scott Patterson

The Wall Street Journal, March 7, 2006

Utility stocks were the first to fall. Small companies followed. By afternoon, most stocks were mired in the red as a jump in Treasury yields raised concerns about the health of corporate profits, housing and the stability of stock prices.

One group that escaped Monday's downward spiral: telecom stocks, which rose in the wake of the announced tie-up between AT&T and BellSouth.

Stocks regained some territory in the final hour of trading. The Dow Jones Industrial Average, off more than 90 points earlier, finished down by 63 points to 10958.59. Alcoa, Caterpillar and Honeywell International all lost about 2%, as did AT&T.

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General Motors was a standout, gaining 3.1% after it said it could get about $2 billion after selling most of its stake1 in Japan's Suzuki Motors.

The Standard & Poor's 500-stock index slid 8.97 to 1278.26 and the Nasdaq Composite Index fell 16.57 to 2286.03.

The yield on the benchmark 10-year Treasury note rose to 4.742%, its highest level since June 2004, when the Federal Reserve first started lifting rates. The decline by Treasury bonds continued a trend that began last week after the European Central Bank raised a benchmark refinancing rate to 2.5%. "It certainly looks like a breakout on the yield of the 10-year Treasury," said Robert Pavlik, chief investment officer at Oaktree Asset Management.

The bond market is likely signaling that the Fed may raise rates higher than equity investors hope, said Owen Fitzpatrick, managing director at Deutsche Bank Private Wealth Management. "There's definitely more concern that the Fed could be planning more than just one or two more rate hikes," he said, possibly boosting the overnight bank-lending rate to as high as 5.5%.

The bond carnage spilled over into the utility sector. Utility companies, which offer high dividend yields, often compete against bonds for investor dollars. The Dow Jones Utility Average, which tracks 15 utility stocks such as Williams and Consolidated Edison, shed 2.7%.

Higher yields make it more expensive for companies and consumers to do business, which can hurt corporate profits. Housing stocks also suffer from higher yields, which make mortgages more costly. The Philadelphia Housing Sector Index fell 1%. Small companies, generally more sensitive to interest rates, since they generally rely more on loans to finance their businesses, also suffered. The Russell 2000 index of small-cap stocks fell 1%.

Light, sweet crude-oil prices fell $1.26 to $62.41 a barrel on the New York Mercantile Exchange amid expectations that the Organization of Petroleum Exporting Countries will leave its output quotas unchanged after meeting later this week. Comex gold prices slid $11.20 to $556.80 on the Nymex.

Meanwhile, investors weighed AT&T's agreement to buy9 smaller rival BellSouth in a $67 billion stock deal that would create the largest telecommunications company in the world with a market capitalization of as much as $170 billion. The announced deal, the fifth-biggest ever, comes after several blockbusters in the industry last year, including combinations between SBC Communications and AT&T and Verizon Communications and MCI.

Shares of AT&T fell 3.5%, and BellSouth's jumped 9.7%. Investors often unload shares of an acquiring company and purchase the stock of the company being acquired, though concerns about whether the deal will survive regulatory scrutiny are also playing a role in the stock action.

Talk of other potential deals in the business boosted the sector: Verizon gained nearly 1%; European telecom operator Vodafone Group, Verizon's partner in Verizon Wireless, gained 4.3%; Sprint Nextel rose 4.6%; and Qwest Communications International was up 3.8%.

In major market action:

Stocks declined10. On the New York Stock Exchange, where 1.7 billion shares traded, 1,008 stocks rose and 2,351 fell. On the Nasdaq Stock Market, where 2.2 billion shares traded, 1,123 rose and 1,933 declined.

Bonds dipped11. The benchmark 10-year Treasury fell 14/32, or $4.38 per $1,000 invested, to yield 4.742%. The 30-year bond fell 1 2/32 to yield 4.728%. Yields move inversely to prices.

The dollar rose.12 It traded at 117.58 yen, up from 116.39 yen late Friday, while the euro fell to $1.2020 from $1.2037.

DeLay To Spend Primary Night As Star Guest Of Lobbyists (USAT/AP)

By The Associated Press

USA Today, March 7, 2006

Rep. Tom DeLay, whose association with lobbyist Jack Abramoff has left him politically vulnerable, is spending Texas' primary night tonight at a Washington fundraiser hosted by two lobbyists.

DeLay has three opponents in the Republican primary and could face a serious challenge in the general election after leaving his job as House majority leader amid campaign finance scandals.

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The fundraiser is being held by lobbyists Bill Paxon and Susan Molinari, both former members of Congress from New York. The event will raise money for DeLay's re-election campaign.

DeLay spokeswoman Shannon Flaherty said DeLay would be in Washington for votes and has other events on his schedule including the fundraiser. She said he was unavailable for an interview.

DeLay's toughest primary challenger, attorney Tom Campbell, criticized the congressman's plans. "I think it's amazingly ironic and callous he would be spending election night with a group of lobbyists," he said.

DeLay is awaiting trial in Texas on charges of money laundering. DeLay has denied wrongdoing and has labeled the Texas investigation a witch hunt.

The former House majority leader has been behind in the fundraising race against the Democrat he would oppose if he wins today. In reports filed with the Federal Election Commission late last month, DeLay had raised about $153,000 between Jan. 1 and Feb. 15, compared with $248,000 for Nick Lampson, a former congressman. DeLay had about $1.3 million in cash as of Feb. 15, while Lampson had $1.4 million.

In the state's gubernatorial primary election today, two Democrats are competing for the chance to challenge Republican Gov. Rick Perry. Chris Bell, a former one-term congressman from Houston, has raised more than three times as much money as his opponent, former Texas Supreme Court justice Bob Gammage.

The general election could also include two independents: the state comptroller, who calls herself "one tough grandma," and a cigar-chomping comedian. Texas Comptroller Carole Keeton Strayhorn and humorist Kinky Friedman have to collect 45,540 signatures each from voters who did not cast ballots in the primary to make the November ballot as independents.

Texas Voters Have Their Say (RC)

By David M. Drucker

Roll Call, March 7, 2006

Voters in Texas go to the polls today to decide the fate of embattled Rep. Tom DeLay (R) and others running in contentious Lone Star State primaries, with the national spotlight shining on the former Majority Leader and how he fares with his constituents.

Democrats will be closely watching the rematch between Rep. Henry Cuellar and the man he ousted two years ago, ex-Rep. Ciro Rodriguez.

DeLay is expected to beat the three challengers opposing him in the Republican primary, but the extent to which he can avoid a runoff by securing more than 50 percent of the vote in the suburban Houston 22nd district — and by how much, if he does — could be telling for Democrats, who hope to ride their "Culture of Corruption" slogan to a House takeover in November.

Attorney Tom Campbell (R), seen as most likely to give DeLay trouble in today's vote if anyone does, maintains that DeLay's constituents are tired of behavior Campbell describes as unseemly and unethical (DeLay has been indicted for violating Texas election law by a Democratic district attorney and has ties to disgraced Republican lobbyist Jack Abramoff).

But the DeLay camp insists voters realize such attacks are the result of angry Democrats who have impugned the Congressman's integrity because they couldn't defeat Republicans at the polls. Signaling his confidence in the outcome of today's vote, DeLay is scheduled to be in Washington, D.C., today for House business and to hold a fundraiser.

"We've put together a sophisticated and effective campaign organization that's not only prepared for [today], but ready to topple [former Democratic Rep.] Nick Lampson in November," DeLay campaign spokeswoman Shannon Flaherty said. "We've identified our supporters and now we just need to get them out to vote."

Despite the volatility and national attention on a race featuring the former House Majority Leader, the shenanigans in the primary have been fairly tame. The Free Enterprise Fund, based in D.C., has been running ads touting DeLay, with the latest ad attacking liberal politicians and their supporters.

Opposing DeLay, a group calling itself American Family Voices has lobbed pre-recorded phone calls into the district accusing the Congressman of being weak on port security. Lampson, DeLay's presumed Democratic opponent in the general election, also has been hitting DeLay on the port security issue.

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The wild card, Flaherty said, is the behavior of Democratic voters, who are allowed to vote in either the Democratic or Republican primary under Texas' open primary system. Flaherty said Democratic voters in Harris County have been more active in this Republican primary than in past GOP primaries, with some anecdotal evidence showing that they may be turning out to vote against DeLay.

"With early voting we're seeing low turnout in some areas of the district, and even Democrat crossover that can swing any election," Flaherty said.

Campbell spokesman Michael Stanley believes voters have tired of DeLay, and said Monday it is highly likely there will be a runoff, which would occur on April 11 if no candidate in the four-way race manages to secure more than 50 percent of the vote.

"It's going very well," Stanley said.

Two other primaries that have seen negative campaigning take hold as today's elections have approached are the 28th district Democratic primary and the 17th district Republican primary.

In 28th district, which encompasses much of San Antonio and Laredo, Cuellar and Rodriguez have been trading ethics charges in the press and via their campaign advertisements.

Third-party groups also have entered the fray, with the Lone Star Project on Friday sending out a news release that questions Cuellar's use of campaign funds in his 2002 Congressional race and charges he misused state funds while still Texas secretary of state, which is an appointed position.

The Cuellar campaign has capitalized on a private investigator suing Rodriguez to collect a campaign debt he claims is unpaid, calling him a "Deadbeat Candidate," and accused him of using his position while in Congress to go on

lobbyist-paid junkets that betray his supposed concern for the working people of the 28th district.

Both sides were claiming on Monday to be the victims of false, unfair attacks.

"We intend to win without a runoff and send a strong message that the last-minute special interest mudslinging can't overcome good old-fashioned hard work," Cuellar campaign spokesman Colin Strother said. "These are the same folks who we beat in 2004 and we feel supremely confident that voters will rebel against the lies and the venom some of these groups are spewing."

Cuellar has had a significant fundraising advantage, but Rodriguez narrowed the gap in recent weeks with help from donations from Democratic House members, liberal interest groups and solicitations for small donations by left-wing Web logs.

Cuellar is the incumbent, but many Democratic leaders would love to see Rodriguez beat him because they feel he is too conservative and too friendly with President Bush.

"I think that Mr. Cuellar and his campaign took us for granted, and now they're struggling and bringing all kinds of dirty stuff, but in end voters will decide," Rodriguez campaign spokesman Oscar Sanchez said. "We feel very confident that we're going to show really great numbers tomorrow and we're counting on a victory."

But there is a third candidate in the race, which means an April runoff is possible.

Perhaps the muddiest primary fight — though it has gotten less attention outside Texas — has been waged in Rep. Chet Edwards' (D) 17th district, where two Republicans are battling for the right to run against the Congressman in a district drawn for the GOP but won by the veteran Democrat in 2004.

Iraq war combat veteran and wealthy businessman Van Taylor (R) has been sparring with attorney and former Congressional aide Tucker Anderson (R), with the accusations becoming increasingly nasty as today's election approached. Taylor, endorsed late last week by Gov. Rick Perry (R), claims Anderson is using "liberal Democrats and anti-Christian activists" to attack him, while in another slam insinuates wrongdoing by asking whether his opponent "pays property taxes on the home in which he lives."

Anderson, whose former boss, Rep. Pete Sessions (R-Texas), recorded phone calls encouraging voters to elect his old employee, has sent out a mailer featuring a letter to the editor of a local newspaper that highlights this excerpt:

"Van Taylor ... refused to answer the question and instead gave a long-winded answer that left me with no idea what he believed in. I thought I was listening to" Sen. John Kerry (D-Mass.).

The Taylor campaign claims it tracked down the letter writer and discovered she is an Edwards supporter masquerading as a Republican.

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Both sides claim they are responding to negative attacks initiated by the other. “We continue to want to have a positive issue-based campaign, and for several months had stayed on that same message, even though we were taking hits on daily basis,” Taylor campaign spokesman Mike Spellings said. “Mr. Anderson finally crossed the line.”

Anderson has served the Taylor campaign with legal papers accusing his political operation of slander and libel. In one news release, he says Taylor should “stop slandering my good name in an attempt to save his failing candidacy,” while, in another release, encourages voters to call him directly if they have any questions.

“I have nothing to hide,” Anderson said. “If anyone wants to know where I stand on any issue, call me directly.”

The negative campaigning from both sides indicates a close race, with Anderson leading in newspaper endorsements and Taylor leading in money. Anderson said Monday he feels “very good” about his chances.

Facing Primary Challenge, DeLay Touts Clout, Pork (WT)

By Hugh Aynesworth

The Washington Times, March 7, 2006

SUGAR LAND, Texas -- Rep. Tom DeLay faces the first hurdle to re-election today in the Republican primary, but the 11-term congressman has been campaigning since his indictment last year cost him the House majority leader post.

The former powerhouse behind House Republicans' conservative agenda is running a retail political campaign in his suburban Houston district, touting his political clout --and the federal money he has guided home.

In one recent handout, Mr. DeLay boasts of securing more than $1 billion in federal money for Houston-area transportation projects, NASA, area universities, the port and various law-enforcement entities.

"You can't be replaced without hurting Houston or Texas," Houston lawyer Joe Slovacek told Mr. DeLay when introducing him recently to more than 200 Realtors and other businessmen.

Mr. DeLay is expected to defeat his three Republican opponents in the primary, setting up what political observers predict will be a tough general election race in November.

Since last year, he has been dogged by an indictment, secured by Travis County District Attorney Ronnie Earle, charging him with illegally funneling campaign money to Republican candidates to help the GOP take control of the Texas Legislature in 2002. That case is in limbo, pending the outcome of appeals before the state Supreme Court.

Mr. DeLay has also been the subject of news stories linking him to lobbyist Jack Abramoff, who has pleaded guilty to felony fraud and bribery charges, and though Mr. DeLay denies wrongdoing in both situations, the charges have damaged him.

"Getting beat up by the national media and the Chronicle [Houston's daily newspaper] has taken its toll," said Mr. DeLay at one stop.

"It's polarized my district. You either love me or hate me. Thank God there are more that love me."

Mr. DeLay doesn't mention the indictment on the campaign trail unless somebody asks him about it, said his spokeswoman, Shannon Flaherty. She also said one of eight mailers the campaign had sent out included one where Mr. DeLay explained the entire matter.

The DeLay camp exudes confidence even though most polls indicate the congressman's negatives are the highest in his political history and he actually trails his Democratic challenger, Nick Lampson.

Mr. Lampson, a four-time congressman before DeLay-led state redistricting rendered him virtually unelectable in his Beaumont-area district two years ago, has solid financial backing. Another ex-congressman, Steve Stockman, indicates he might run as an independent in November.

The three Republican candidates -- schoolteacher Pat Baig and lawyers Tom Campbell and Michael Fjetland -- probably won't spend one-tenth as much in the race all together as the well-heeled DeLay campaign, and since none are well-known, most political watchers think it's Mr. DeLay's to lose.

It's the first race for Mrs. Baig and Mr. Campbell. Mr. Fjetland has run unsuccessfully thrice before.

Mr. DeLay has singled out the candidate he figures is the strongest challenger and has attacked him in several venues: Mr. Campbell, the DeLay campaign says, doesn't represent conservative issues and has seldom even voted in Republican primaries.

"He isn't qualified to be a precinct chairman, let alone a congressman," said Miss Flaherty.

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Mr. Campbell's campaign manager, Michael Stanley, says his candidate is not a career politician like Mr. DeLay, which he considers a plus, considering Mr. DeLay's current legal troubles.

Mr. Campbell stresses a "return to integrity" in his campaign ads on cable TV and in persistent public appearances.

"If I wasn't hurting him, he wouldn't be attacking me," he said of Mr. DeLay.

DeLay Cash May Prove Record High (HILL)

By Patrick O'Connor

The Hill, March 7, 2006

Rep. Tom DeLay (R-Texas) is urging members of the National Rifle Association (NRA) and supporters of Texas Right to Life to dig deep into their pockets to help him retain his seat this year.

The outreach is part of a broad direct-mail and telemarketing campaign to attract new donors and volunteers for the former majority leader's reelection.

It also marks a fundraising shift for DeLay this election cycle from a PAC-heavy strategy in which the once-powerful Republican doled out lobbyist dollars to his congressional colleagues to one in which DeLay and his team are primarily focused on his own reelection bid.

The former majority leader faces his first real test in today's Texas primary, but he has been gearing up for this fight since late fall, after he was forced to step aside as leader following his indictment by a Texas grand jury in a controversial campaign-finance-related case.

The outreach has three aims, said Shannon Flaherty, a spokeswoman for the campaign: get information directly to voters in the district, ask those voters to volunteer or donate money to the campaign and continue building a database of local and national supporters to contact between now and the November election.

"Most of the mail is for donors and volunteers," Flaherty said.

DeLay's prominence and the expected flood of outside money from national Democrats could make this race one of the most expensive in House history.

The DeLay campaign recently mailed a series of pieces to district voters to boost turnout among potential supporters during the early voting period for today's primary, according to three such pieces. They do not refer to DeLay's three Republican challengers but instead to former Democratic Rep. Nick Lampson (D-Texas), who lost reelection last cycle to current Rep. Ted Poe (R-Texas) after his district was redrawn. Lampson is challenging DeLay this year.

The purpose of this early mailing, which was conducted both locally and nationally, was to identify likely supporters in and out of the district with an eye on the general election.

"We're working on a list that will take us to November," Flaherty said. "We're already at the point where most campaigns are [at the end of the race]."

Flaherty said the campaign would not release the number of donors or supporters on its list, but she suggested a sizable increase in donors and volunteers.

One casualty of DeLay's newfound focus on his own reelection is his leadership PAC, Americans for a Republican Majority, or ARMPAC.

The PAC raised $3.7 million last cycle, according to PoliticalMoneyLine, but has only raised $962,827 this cycle and took in a modest $17,065 during the first month of this year. In addition, ARMPAC requested to file quarterly reports with the Federal Election Commission (FEC) instead of monthly reports, as it had throughout each of the past four years.

"It stands to reason that the campaign continues to be the focal point of what we do this year," said ARMPAC director Jim Ellis, who does not hold an official role with DeLay's reelection campaign. "The emphasis has to be on the reelect."

Ellis said that the request to file quarterly reports was simply an accounting decision and that the PAC will return to form when DeLay is cleared of his legal troubles and wins in November.

"We'll be back," Ellis said.

Because the FEC limits PAC donations, the most a candidate can raise during a particular cycle is around $2.5 million, a number of GOP fundraisers said. DeLay's associates have hinted the congressman hopes to raise somewhere in the

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neighborhood of $8 million to $9 million this cycle. Direct mail and telemarketing are the most effective ways to reach a sizable enough donor pool to make up that difference, but it can be a costly process.

The DeLay campaign has contracted with the telemarketing firm Feather, Larson and Synhorst of Phoenix and the direct-mail firm Olsen Shuvalov of Austin, Texas, to conduct this outreach campaign, according to FEC filings from the past six months.

The campaign committee paid Feather, Larson and Synhorst more than $150,000 last year and has paid Olsen Shuvalov almost $300,000 since the beginning of last July, according to FEC records.

The campaign has also rented member information from the NRA, the Right to Life PAC of Houston and ARMPAC. FEC rules require members to separate their leadership PACs from their reelection campaigns, preventing them from sharing information directly.

Campaign officials sift through those lists for potential supporters in and out of the district and then send preliminary mailings hoping to attract volunteers and donors and get information out about their candidate. About 3 to 5 percent of the recipients typically contribute time or money with the first mailer, but that number can get as high as 8 percent if the information is more specific, fundraisers said.

The NRA mailer sent out by the DeLay campaign includes a historical comparison of DeLay and Lampson done by the Gun Owners of America, in which DeLay earned an A to Lampson's C, and a statement from NRA Executive Vice President Wayne LaPierre praising DeLay's advocacy on behalf of gun owners.

Democratic National Committee Chairman Howard Dean, documentary filmmaker Michael Moore and Jane Fonda are on the cover of all three early-voting mail pieces, positioned above a panoramic shot of the Hollywood sign.

In addition, DeLay must raise money for that run from outside the current leadership, without a clear path to return, and without a chairmanship within his group.

"Tom DeLay is an experienced guy," National Republican Congressional Committee Chairman Tom Reynolds (R-N.Y.) said during a retreat of House Republicans last month. "He knows exactly what he has to do to win an election."

Asked how much money the committee would spend on DeLay's race, Reynolds said, "If he asks for something, he's an incumbent Republican and we'll do that."

In the most expensive House race to date, former Rep. Jim Rogan (R-Calif.) raised $6.6 million in his unsuccessful reelection fight against Rep. Adam Schiff (D-Calif.) in 2000. Rogan was one of the three House prosecutors of then-President Bill Clinton during the impeachment fight and was the only one in a competitive seat.

Expecting a tough reelection fight, Schiff's campaign manager, Jason Roe, did a single direct-mail piece to start building a donor list in the fall of 1999 with the hopes of just breaking even. Rogan's name identification was so high among conservative Republicans that the campaign tripled its money on the first mailing, Roe said. It built its list of supporters from 4,000 names to 70,000 by the end of the campaign.

Rogan's name identification was responsible for the success of that fundraising campaign. DeLay's own notoriety suggests that he could have similar success raising money from a national direct-mail campaign.

"DeLay's situation is ready-made," Roe said. "Martyrs are the best guys."

Opponents Of DeLay Make Use Of A Film (NYT)

By David M. Halbfinger

The New York Times, March 7, 2006

LOS ANGELES, March 6 — A documentary about the Texas criminal investigation that led to the indictment of Representative Tom DeLay, the former House majority leader, on campaign fund-raising charges is being put to use by Mr. DeLay's political opponents in an attempt to unseat him.

The film, "The Big Buy: How Tom DeLay Stole Congress," will be distributed this spring by the Hollywood producer and liberal provocateur Robert Greenwald, whose last release was a scathing attack on Wal-Mart sponsored by a variety of labor unions and other groups critical of the retailing giant.

A host of liberal organizations in Texas and nationwide, including People for the American Way, Democracy for America and the Pacifica radio station in Houston, are expected to sponsor the film's release. It will not follow a traditional theatrical rollout

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but will instead open in a few cities before being made widely available on DVD, as was the Wal-Mart movie, Mr. Greenwald said in an interview.

An important aspect of the release plan is to organize hundreds, if not thousands, of house parties in May and June at which the movie will be shown, Mr. Greenwald said. The distribution strategy is to be detailed on Tuesday — primary day in Texas — as a "welcoming gift" to Mr. DeLay, he said.

Mr. DeLay's lawyer, Dick DeGuerin, called the movie, an early version of which he had seen, a "hatchet job," and said he had refused to sit down with the filmmakers for an interview. (Mr. DeGuerin appears on camera in public question-and-answer sessions with the news media.)

The filmmakers, Mark Birnbaum and Jim Schermbeck, spent three years and about $100,000 following what began as a nasty state legislative battle over Mr. DeLay's push to redraw Congressional districts in Texas in 2002, and mushroomed into a nationally watched partisan standoff, complete with Democratic lawmakers fleeing across state lines. It ultimately wound up as a criminal case, with Mr. DeLay and his allies coming into the cross hairs of Ronnie Earle, the Democratic district attorney of Travis County, Tex.

It was Mr. Earle's argument, in the indictment last September, that Mr. DeLay had engineered the Republican takeover of the Texas legislature in 2002 by breaking a state law banning companies from donating to individual candidates, essentially laundering tens of thousands of dollars in contributions through the Republican National Committee.

It is the film's argument that Mr. DeLay had a grander purpose in mind: using the newly Republican-run legislature to redraw the state's Congressional map, erasing five seats held by Democrats despite Republican majorities, causing a 10-vote shift in the House, and thereby giving Republicans a solid majority with which to enact corporate-friendly federal legislation. All of which, the film asserts, worked like a charm.

Mr. Birnbaum, 57, of Dallas, a veteran documentary maker who started out in public television, and Mr. Schermbeck, 47, of Lubbock, Tex., a longtime community organizer, said in a telephone interview that they had tried mightily but failed to get Mr. DeLay to return their calls, while the district attorney, Mr. Earle, made himself readily available. Nonetheless, they said, they had strived for an evenhanded approach, one they had used in their only previous collaboration, a 2003 film for the PBS series "P.O.V." about high school drug testing in Lockney, Tex. They edited a version of "The Big Buy" in which Mr. DeLay was not so central to the story, and showed it at a Dallas film festival in August.

Then came the indictment of Mr. DeLay.

Quickly, the congressman and his aides used the existence of the film to attack the prosecutor, saying Mr. Earle's cooperation with Mr. Birnbaum and Mr. Schermbeck was proof that he was merely chasing headlines. When Mr. Earle was quoted insisting he had said and done nothing unusual or inappropriate — "I'm just doing my job" — Mr. DeLay went on a Houston talk-radio show and retorted: "Oh yeah, he's just doing his job. He's just doing his job. He's got a film crew that has been following him around for two years to document how he's going to get Tom DeLay."

Mr. DeGuerin maintained in a telephone interview Monday that the movie "puts the lie to Ronnie Earle's protestations for a year, before the indictment came down on DeLay, that DeLay was not a target." He added, "In truth, all the time he was cooperating with the moviemakers."

But Mr. DeGuerin said that he had not followed through on a threat to subpoena the filmmakers' outtakes, and that he doubted the movie would become a factor at trial.

Mr. Birnbaum and Mr. Schermbeck insist that Mr. Earle had shared no secrets with them, and that they acted and were treated no differently from any journalists covering the case.

In California last fall, Mr. Greenwald watched the coverage of the DeLay indictment unfold and wondered if there wasn't a good documentary in it. "Then somebody told me these two Texas guys had done one," he said in an interview.

The Sundance Film Festival had already expressed interest in "The Big Buy," and Mr. Birnbaum and Mr. Schermbeck were mulling whether to go the festival route, which could take the film a year or more to get into theaters. But Mr. Greenwald had just distributed his Wal-Mart movie through a grass-roots campaign of house parties and internet sales of DVD's — and scored a huge publicity coup when Wal-Mart attacked him — so he proposed a similar strategy for the DeLay film. It is to have its premiere either in Houston or Austin, he said, before opening in a few other cities and being offered for sale on the Internet for $14.95.

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Now, of course, the two Texans' supposedly balanced movie is being distributed by the man behind "Outfoxed," a stalwart of the partisan left. Yet they say the net effect will be negligible.

"With Tom DeLay you're either in his camp or you're not," Mr. Schermbeck said. "It wouldn't matter what distributor we chose. You could broadcast this on 'Masterpiece Theater,' and we'd still be Satan's messengers to Tom DeLay and his friends."

Mr. Schermbeck insisted the documentary was fair to Mr. DeLay; it includes comments by three of the congressman's lawyers and some of Mr. DeLay's Republican allies, for example. But he made clear he had no pretensions to neutrality.

"Timing was everything," he said, explaining the choice of Mr. Greenwald's company, Brave New Films. "It was important to get this out as soon as possible, given the trial, the Supreme Court and, frankly, given the elections this November."

Added Mr. Greenwald: "With Wal-Mart, 4,000 groups took it on. I'm assuming there are going to be people all over the country gleeful and joyous to have a tool that they can use for organizing, fund-raising, issue work, all of that."

Mr. Schermbeck suggested the film could well prove to have bipartisan utility. "I'm sure Tom DeLay will use this for fund-raising," he said. "Will it be a great fund-raising tool? It remains to be seen. But I'm hoping to make some money back myself after three years of labor that haven't been compensated."

Two Little-Known Dems Seek Texas Gov. Seat (AP-Y2)

By Kelley Shannon

AP2, March 6, 2006

AUSTIN, Texas — Two Democrats with long resumes but little name recognition are competing in Texas' gubernatorial primary election Tuesday for the chance to challenge popular GOP Gov. Rick Perry.

The general election could also include two independents — the comptroller who calls herself "one tough grandma" and a cigar-chomping comedian.

Chris Bell, a former one-term Houston congressman, has raised more than three times as much money as his Democratic opponent, former Texas Supreme Court Justice Bob Gammage.

The two campaigns tried to stir last-minute voter interest Monday. In the two weeks of early voting, just 3.3 percent of registered voters from both parties cast ballots. The state elections chief predicts a 13-percent overall turnout.

Texas Comptroller Carole Keeton Strayhorn and humorist Kinky Friedman hope to capitalize on low turnout among Republicans and Democrats. They have to collect 45,540 signatures each from voters who did not cast ballots in the primary to make the November ballot as independents.

Strayhorn, elected to her current job as a Republican, wanted to avoid a costly and uphill primary battle against Perry, who was heavily favored to win re-election. Two of her four sons hold high-ranking jobs in President Bush's administration, including White House spokesman Scott McClellan.

Friedman is a musician, author and comedian who once toured with his band called the Texas Jewboys. He is rarely seen without his signature black cowboy hat and cigar and has the same political consultant former pro wrestler Jesse Ventura hired to help capture the governorship of Minnesota.

If Strayhorn and Friedman get on the ballot, Perry could face a four-way race in November against two candidates with political charisma and a Democrat hoping to break the Republicans Party's hold on all the statewide offices in Texas.

"It's great for the people of Texas. It means we're going to have a choice," said Mike Lavigne, former chief of staff for the state Democratic Party. "I think you're going to have everybody focused on Rick Perry. You'll have attacks there."

Perry portrays himself as being above the political fray and busy governing the state. He faces minor opposition against three primary opponents.

Bell, 46, gained notice as a freshman congressman for filing the first House ethics complaint against former House Majority Leader Tom DeLay. He made the complaint shortly after the Texas redistricting engineered by DeLay caused Bell to lose his re-election bid.

A former broadcast reporter and lawyer, Bell served as chairman of the Houston City Council's ethics committee and came in last in a three-way contest for Houston mayor in 2001. He has said as governor he wants to improve Texas' standing nationally on several fronts.

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"My motive for running is to get Texas out of the 'Thank God for Mississippi' club," Bell said, referring to national figures on uninsured children and teen pregnancies in which Texas often ranks just above lowest-ranking Mississippi. He also said he wants to restore bipartisanship to the Legislature after gridlock stymied efforts to change Texas' public school finance system.

Gammage, 67, once represented the same suburban Houston district in Congress now served by DeLay. He also served in the state Legislature and on the Texas Supreme Court, but retired from public life 11 years ago.

In the early 1970s, Gammage was part of a group of legislators who rallied against the speaker of the Texas House and other officials. The speaker, Gus Mutscher, was later convicted and sentenced to five years' probation for conspiring to accept a bribe.

He said recent corruption scandals in Washington and Texas brought him out of retirement.

"My ego doesn't need this," he said. "I don't need the title 'governor.' I care about getting the job done."

GOP Faces Tough Climate, The NRSC's Dole Concedes (HILL)

By Peter Savodnik

The Hill, March 7, 2006

Senate Republicans face a stormy "atmosphere" but will "retain a strong Republican majority" in November, says Sen. Elizabeth Dole (N.C.), the chairwoman of the National Republican Senatorial Committee (NRSC).

In an hour-long interview with The Hill, Dole repeatedly noted that despite the political climate — made worse by White House communications flops and GOP scandals — Republican challengers are mounting viable bids in Michigan, West Virginia and elsewhere.

But she acknowledged that President Bush could have done a better job handling the Dubai ports deal, which has given Democrats an opportunity to look tougher on terrorism than Republicans, and that the president's poll numbers are less than optimal.

"There are highs and lows for any president," Dole said, "and I think that you'll see things change, and it's still a long way, light-years away, from the election. But the bottom line is races are really run and won at the local and state levels."

Other campaign-committee chairmen strike a more pugnacious pose than Dole. Sen. Charles Schumer (N.Y.), Dole's counterpart at the Democratic Senatorial Campaign Committee (DSCC), is viewed as a Brooklyn street fighter unafraid of making tough, politically savvy calls. Last year, for instance, Schumer elbowed aside a more liberal candidate in Pennsylvania to make room for state Treasurer Bob Casey Jr., an abortion-rights foe challenging Sen. Rick Santorum (R).

Similarly, Rep. Tom Reynolds (N.Y.), the chairman of the National Republican Campaign Committee (NRCC), when asked at a press conference if he fears losing seats this cycle, pounded on the table in front of him, booming: "Combat!" Sen. George Allen (R-Va.), Dole's predecessor at the NRSC, is known for his football analogies and aggressive politicking. In 2004, the former University of Virginia quarterback led the GOP to pick up four Senate seats.

Dole, the only woman to run any of the campaign committees this cycle, is also the oldest committee head. This year, she turns 70. Unlike many politicians, who go off the record to trash their rivals, Dole goes off the record to pay compliments.

While Republicans have privately voiced concerns about NRSC fundraising — the committee ended 2005 with $9.2 million in the bank versus the DSCC's $22.4 million — Dole was quick to point out that the Republicans outpaced Democrats in January.

In the first month of the year, the NRSC raised $4.3 million, compared to the DSCC's $2.1 million. Dole said she and her former Senate campaign manager, Mark Stephens, now NRSC executive director, had replicated her strategy back home, "prospecting" for small donors. "Two million of that $4.3 million was people giving $200 or less," she said.

Dole added that GOP senators are being asked to pitch in to campaigns more than in previous cycles. She conceded that Democrats have been more successful at getting their members to help struggling Senate campaigns.

Republicans have also had trouble recruiting candidates in such GOP-leaning states as North Dakota, where Sen. Kent Conrad (D) is up for reelection; Florida, where Sen. Bill Nelson (D) is seeking a second term; and New Mexico, where Sen. Jeff Bingaman (D) is running for a fifth term. Republicans have been unable to find a viable contender to take on Sen. Hillary Rodham Clinton (D-N.Y.).

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Dole stressed that the NRSC does not take sides in Republican primaries — this has not always been the case — but did single out certain Republican candidates who, she said, are running strong races, including Oakland County Sheriff Mike Bouchard in Michigan and former Ameritrade executive Pete Ricketts in Nebraska. Both Bouchard and Ricketts face primary opponents.

"Despite the atmosphere, these outstanding people have declared that they want to run, and it's been our privilege to work with them," Dole said.

Dole also praised media mogul John Raese, a West Virginia Republican running against Sen. Robert Byrd (D). The senator won his eighth term in 2000 with 78 percent of the vote.

Echoing her communications department, Dole sought to play up the roles played by liberal interest groups and bloggers such as MoveOn.org and DailyKos in boosting Democratic candidates.

The senator, the first woman to head the NRSC, also said the committee is trolling for female donors, particularly in the business world, who might run for office themselves one day.

And she suggested that the NRSC would be following the campaign strategy mapped out earlier this year by White House political adviser Karl Rove and Republican National Committee Chairman Ken Mehlman.

Rove and Mehlman, addressing Republican state party leaders at a meeting in Washington earlier this year, highlighted Democrats' vulnerability when it came to national security, indicating 2006 would be something of a replay of 2002 and 2004.

Dole, in the interview, observed that Democratic leaders had fought the recently reauthorized Patriot Act and that, in Washington and in liberal bastions across the country, Democrats had skewered Sen. Joe Lieberman (D-Conn.) for backing the Iraq war.

Dole declined to make any predictions about how the balance of power might shift after the elections. "I don't really put any numbers down, but let me put it this way," she said. "When I came into this position, I knew that midterms are tougher. There is no question that midterms are tougher."

Excerpts from Dole interview

Let's talk about fundraising [at the National Republican Senatorial Committee (NRSC)].

Dole: We had about 120,000 brand-new donors, people that had never given to the NRSC, and we're going to continue down this path for some months here.

And the Women's Majority Network is one that I would love to tell you about. Our senators have gotten very much interested in this.

The network is really an outreach of women business owners or CEOs or opinion leaders or community leaders that have not been so involved in the political arena. So the overall idea is to get women more involved in the political process, and hopefully as they help us learn more about what happens, learn more in the senatorial committee, they'll become more interested in having a place at the policy table.

Why was January so good for fundraising, but 2005 — not so good?

Dole: [Senate Majority Leader] Bill Frist [R-Tenn.] was down in Florida, and he met all these women who were coming to a Majority Makers event who were all passionate and excited and into it. … Each one of them is going out to tap their networks because they all have networks of people and get them involved … and my view is that we will institutionalize this and once I'm gone after this year there will be a Women's Majority Network that remains a permanent part of the National Republican Senatorial Committee. So people have noticed this in various parts of the country that these women are very passionate and enthusiastic.

Did Republicans hurt themselves by coming out so strongly against the Dubai project?

Dole: There has been a lot of miscommunication, a lot of confusion, a lot of misinformation there. … My feeling is that a better foundation could have been laid. I mean, that's just the way I see it.

I think that 45 days provides a time to get all the facts out. … I really think that this will resolve itself. We really need all the information on the table to understand everything about it, which is really important.

The Medicare prescription-drug plan — do you think by the end of the year that will be an asset to Republicans?

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Dole: For so many [years], Democrats have talked about getting prescription drugs for seniors, and we [got it passed]. … When you've got such a massive change for the first time in 40 years, you're going to [have a] problem, but I think … they're doing everything to straighten out where the problems have been, and I'm hearing that we're making real progress there.

Democrats Struggle To Seize Opportunity (WP)

By Shailagh Murray And Charles Babington

The Washington Post, March 7, 2006

News about GOP political corruption, inept hurricane response and chaos in Iraq has lifted Democrats' hopes of winning control of Congress this fall. But seizing the opportunity has not been easy, as they found when they tried to unveil an agenda of their own.

Democratic leaders had set a goal of issuing their legislative manifesto by November 2005 to give voters a full year to digest their proposals. But some Democrats protested that the release date was too early, so they put it off until January. The new date slipped twice again, and now House Minority Leader Nancy Pelosi (Calif.) says the document will be unveiled in "a matter of weeks."

Some Democrats fear that the hesitant handling is symbolic of larger problems facing the party in trying to seize control of the House and Senate after more than a decade of almost unbroken minority status. Lawmakers and strategists have complained about erratic or uncertain leadership and repeated delays in resolving important issues.

The conflict goes well beyond Capitol Hill. The failure of congressional leaders to deliver a clear message has left some Democratic governors deeply frustrated and at odds with Washington Democrats over strategy.

Party leaders, for example, have yet to decide whether Democrats should focus on a sharply negative campaign against President Bush and the Republicans, by jumping on debacles such as the administration's handling of the Dubai port deal -- or stress their own priorities and values.

There is no agreement on whether to try to nationalize the congressional campaign with a blueprint or "contract" with voters, as the Republicans did successfully in 1994, or to keep the races more local in tone. And the party is still divided over the war in Iraq: Some Democrats, including Pelosi, call for a phased withdrawal; many others back a longer-term military and economic commitment.

"It could be a great year for Democrats," said Rep. Jim Cooper (D-Tenn.), but the party must present a more moderate face and distinguish itself more clearly from the GOP on issues such as ethics. "The comment I hear is 'I'd really like to vote for you guys, but I can't stand the folks I see on TV,' " Cooper said in a telephone interview from Nashville.

On issues such as explaining that former lobbyist Jack Abramoff's work "was a 110 percent Republican operation," Cooper said, "we're not making nearly as much headway as we should." Abramoff has pleaded guilty in a corruption scandal.

The Democratic leaders in Congress -- Pelosi and Sen. Harry M. Reid (Nev.) -- are the party's chief strategists and architects of the agenda, which they view as a way to market party ideas on energy, health care, education and other issues. They have held countless meetings to construct the right list, consulting with governors, mayors and just about every Democratic adviser in town.

"By the time the election rolls around, people are going to know where Democrats stand," Reid said.

But many in the party have their doubts. On Feb. 27, Reid and Pelosi appeared before the Democratic Governors Association. At one point in the conversation, Iowa Gov. Tom Vilsack, noting that the two leaders had talked about a variety of themes and ideas, asked for help. Could they reduce the message to just two or three core ideas that governors could echo in the states?

According to multiple accounts from those in the room, Reid said they had narrowed the list to six and proceeded to talk about them. Pelosi then offered her six -- not all the same as Reid's. Oregon Gov. Ted Kulongoski said later: "One of the other governors said 'What do you think?' and I said 'You know what I think? I don't think we have a message.' "

Others, including Sen. Charles E. Schumer (N.Y.) and Rep. Rahm Emanuel (Ill.) -- who head the Senate and House campaign efforts -- believe the November election will turn mainly on how voters view Republicans. Schumer is leading the

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Democratic attack on the port deal, excoriating the administration for jeopardizing national security -- a realm in which Republicans have held the advantage with voters.

He and Emanuel have sought to delay the agenda's release to allow Democratic attacks to hold the stage with minimum distraction. "When you're in the opposition, you both propose and oppose," Emanuel said. "But fundamentally, this is going to be a referendum on [Republican] stewardship."

Also dividing Democratic strategists is the question of what lessons to take from the Republican landslide of 1994, when the GOP won the Senate and picked up 54 House seats, wiping out 40 years of Democratic rule. Some Democrats associate that breakthrough with the House Republicans' "Contract With America," a list of proposals on policy and government.

"We should take a page from their book" and have "an overarching theme" similar to the 1994 contract, said Sen. Thomas R. Carper (D-Del.).

Many of his colleagues agree, but not Reid. "We're not going to do a 'Contract With America,' " Reid said in an interview. He noted that the GOP document received scant attention when it was presented a few weeks before the 1994 election, and political historians say it played a minor role in the outcome. "There's a great mythology about the contract," Reid said.

Even the party's five-word 2006 motto has preoccupied congressional Democrats for months. "We had meetings where senators offered suggestions," Reid said. "We had focus groups. We worked hard on that. . . . It's a long, slow, arduous process."

That slogan -- "Together, America Can Do Better" -- was revived from the 2004 presidential campaign of Sen. John F. Kerry. It was the last line of Virginia Gov. Timothy M. Kaine's response to President Bush's State of the Union address, and Reid, Pelosi and Democratic National Committee Chairman Howard Dean have used it in speeches. But there is an effort afoot to drop the word "together." It tests well in focus groups and audiences, Democratic sources said, but it makes the syntax incorrect.

Governors privately scoff at the slogan. They also say the message coming from congressional leaders has been too relentlessly negative. "They want to coordinate. They want to collaborate. That's all good," said one Democratic governor who declined to be identified in order to talk candidly about a closed-door meeting. "The question is: Coordinate or collaborate on what? People need to know not just what we're against but what we're for. That's the kind of message the governors are interested in developing at the national level."

Reid spokesman Jim Manley said congressional Democrats have spent the past year redefining the debates over terrorism and Iraq and have prepared the ground for a shift to a more positive message that will focus on energy, health care and homeland security, all areas in which the governors would concur, he predicted. "We've had an unprecedented level of cooperation," he said.

Pelosi spokesman Brendan Daly added: "At the end of the day, I think everyone will be on board."

Perhaps the Democrats' greatest dilemma is how to respond to the Iraq war. It looms as the biggest question mark over Bush's administration and the Republican lawmakers who have backed him on the conflict almost without question.

Congressional Democrats have been split over the war since 2002, when many voted to authorize military action. The ground shifted last November when Rep. John P. Murtha (Pa.), a leading Democratic voice on military matters, called for U.S. troops to be withdrawn as soon as possible. Two weeks later, Pelosi endorsed his stance.

Although Pelosi said she was not speaking for her caucus, some colleagues complained that she was handing Republicans a gift by enabling them to tag Democrats as soft on terrorism and forcing Democratic candidates to explain whether they agreed with their House leader.

There is little question that the political landscape looks promising for Democrats. A Feb. 9 poll by the Pew Research Center found that Democrats lead Republicans 50 to 41 percent in a generic ballot.

But congressional Democrats have some key deficiencies. For instance, they lack the hard-charging, charismatic figurehead that Gingrich represented for the House GOP in 1994. But the Democrats have an abundance of presidential hopefuls, and their agendas sometimes differ from those of Reid, Schumer, Pelosi and Emanuel.

For instance, Sen. Russell Feingold (Wis.) tried to filibuster the renewal of the USA Patriot Act, a move opposed by most of his Senate colleagues, including Reid. Kerry (Mass.) led an unsuccessful filibuster attempt against Samuel A. Alito Jr.'s confirmation as a Supreme Court justice. The best-known Democrat is Sen. Hillary Rodham Clinton (N.Y.), whose plans for a 2008 presidential bid leave many of her colleagues wary of how her famous but divisive presence might affect them.

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"There are lots of skeptics," Schumer conceded. But the polls look better and better, he stressed. "There may be some inside-the-Beltway babble, but it's not affecting the voters," said Schumer, who wants the agenda delayed again -- until summer.

The Democrats' Real Problem (WP)

By E. J. Dionne Jr.

The Washington Post, March 7, 2006

It is now an ingrained journalistic habit: After a period of bad news for President Bush, media outlets invariably devote time and space to "balancing" stories that all say more or less: "Yes, the Republicans are in trouble, but the Democrats have no alternatives, no plans," etc.

The pattern began to fall in place this weekend in the wake of two truly miserable weeks for Bush.

The stories about the Democrats are by no means flatly false -- Democrats don't yet have a fully worked-out alternative program -- but they are based on a false premise, and they underestimate what I'll call the positive power of negative thinking.

The false premise is that oppositions win midterm elections by offering a clear program, such as the Republicans' 1994 Contract With America. I've been testing this idea with such architects of the 1994 "Republican revolution" as former representative Vin Weber and Tony Blankley, who was Newt Gingrich's top communications adviser and now edits the Washington Times editorial page.

Both said the main contribution of the contract was to give inexperienced Republican candidates something to say once the political tide started moving the GOP's way. But both insisted that it was disaffection with Bill Clinton, not the contract, that created the Republicans' opportunity -- something Bob Dole said at the time.

The Democrats' real problem is that they have failed to show how their critique of the Republican status quo is the essential first step toward the alternative program they will owe the voters in the presidential year of 2008.

This failure has made it easier for Republicans to cast anti-Bush feeling (aka, "Bush hatred") as a psychological disorder. The GOP shrewdly makes the president's critics look crazed and suggests that opposition to Bush is of no more significance than, say, the loathing that many watchers of "American Idol" love to express toward Simon Cowell, the meanest of the show's judges.

The president's critics need to identify precisely why they oppose him, not only so they can make clear that they are not psycho basket cases but also to convey the idea that they know what needs to be put right.

Bush critics will almost always point first to the administration's arrogance, a word used recently not by some left-wing Bush hater but by the loyal conservative writer Byron York. In the New Republic, York chose the A-word to explain why Republicans are turning on the White House's "we-know-best approach."

The cure for an arrogant government that doesn't take critics seriously is accountability. Divided government never looked so good. That's especially true at a moment when polls suggest that a majority is yearning for more competence and greater moderation.

For example, moderates and liberals alike are mystified by budget policies saddling our kids with debt tomorrow to pay for tax cuts for the wealthy today. Moderating this radical fiscal approach is something the voters clearly could accomplish with their ballots this fall.

But Democrats have no good answer to Iraq. True. And neither does Bush, who started the war and should be held accountable for where we are now.

The philosophical man who owns our neighborhood Chinese restaurant recently shared with me a brilliant aphorism to describe how to build a good business. "You have to do the right thing," he said, "and you have to do the thing right."

That summarizes what unites Bush's Iraq critics. Many Americans opposed the war in the first place, but many who supported it are aghast that the administration did the thing so badly. It did not dispatch enough troops to achieve order at the outset, and it failed to plan for the inevitable conflicts that would arise among the country's ethnic and religious groups.

What comes from this is not isolationism but an awareness that even a very powerful country needs to be a careful steward of its power. It should never go into a war without considering the probability of unintended consequences and planning for the worst case and not just the best one.

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This is the basis for a saner foreign policy in the long run. As for Iraq, the voters should let the president know that he can no longer keep repeating his rah-rah mantras about standing down when the Iraqis stand up. Presidents deserve to be punished for insulting our intelligence.

Thus the shortcoming of Democratic leaders is not that they don't have a program but that they have not yet convinced opinion makers that fighting bad policies is actually constructive -- and that, between presidential elections, keeping matters from getting worse is sometimes the most positive alternative on offer.

Sen. Clinton Says Wear 'Anger' As Honor (AP-Y2)

By Beth Fouhy

AP2, March 6, 2006

Responding to Republican claims that she may be too angry to win national office, Sen. Hillary Rodham Clinton told an audience Monday to wear such criticism as "a badge of honor" and suggested that gender played a role in the attacks.

Democrats, particularly Democratic woman, who run for public office are "going to draw some unfriendly fire," Clinton said at a breakfast fundraiser hosted by black and Hispanic women supporters. "People will be attacking you instead of your ideas, they may impugn your patriotism, they may even say you're angry."

"If they do that, wear it as a badge of honor, because you know what? There are lots of things that we should be angry and outraged about these days," she said.

She cited, among other things, the federal budget deficit, lobbying scandals in Washington, and the government's slow response in the Hurricane Katrina disaster.

It was the latest volley in a rhetorical back-and-forth between Clinton and leading GOP strategists that began last month, when Republican National Committee Chairman Ken Mehlman said Clinton "seems to have a lot of anger" and that American voters tend not to elect angry candidates.

Mehlman pointed to comments Clinton made on Martin Luther King Day, when she called the Bush administration "one of the worst" in history, and compared the Republican-controlled House to a plantation.

Top White House strategist Karl Rove later echoed Mehlman's view, telling a Washington Times reporter in a new book that Clinton could have trouble winning the White House because there is a "brittleness about her."

Clinton, who has not yet said whether she's considering a presidential run in 2008, first called the attacks a diversion from Republican "failures and shortcomings."

Then, last week, she said, "Karl Rove spends a lot of time obsessing about me," suggesting he spends more time thinking about her political future than she does.

Until now, Clinton had not said she considered the criticisms gender-based, although many observers have done so. New York Times columnist Maureen Dowd said Republicans are casting Clinton "as an Angry Woman, a she-monster melding images of Medea, the Furies, harpies, a knife-wielding Glenn Close in 'Fatal Attraction.'"

Ross Baker, a political scientist at Rutgers University, said he agreed with Clinton's assessment but questioned whether she should have said anything.

"I think she's right, but whether or not it was prudent to acknowledge it this way is another thing," Baker said. "I think another politician might have dealt with it more humorously, to defuse its influence."

Republican National Committee spokeswoman Tara Wall declined to address the suggestion that gender played a role in the attacks.

"When you vote to consistently raise people's taxes, vote against common sense judicial nominees and use Martin Luther King Jr.'s birthday to divide Americans along racial lines, you're likely to encourage criticism of both your ideas and temperament," she said.

Ex-Pentagon Aide Seeks To Unseat Clinton (AP-Y2)

By Marc Humbert

AP2, March 7, 2006

DOJ_NMG_0016459

A former Pentagon official under President Reagan said Monday she will seek the Republican nomination to challenge Democratic Sen. Hillary Rodham Clinton's re-election bid this year.

"I am running to be my party's nominee for the United States Senate from the state of New York," Kathleen Troia "KT" McFarland wrote in a letter to supporters. "Toward that end, I have formed an exploratory committee, which I expect to upgrade to a full Senate campaign committee in the coming days."

The move by the political neophyte could put her into a September primary against former Yonkers Mayor John Spencer, already endorsed by top state Conservative Party leaders. No Republican has won statewide office in New York without Conservative Party support since 1974.

Clinton, asked Friday about a possible challenge from McFarland, said: "I am going to remain focused on my job and my race. I will leave it to the other side to sort out their own candidacies."

Polls have shown Clinton far ahead of her potential Senate challengers and leading among possible candidates for the 2008 Democratic presidential nomination.

McFarland, a former National Security Council staffer, has never run for public office and has been out of the public sector since she left her job as a deputy assistant secretary of defense for public affairs in 1985, a post she had held for three years, to raise a family.

Spencer's supporters have in the past dismissed McFarland, a supporter of abortion rights, as an "elitist liberal."

"I don't know what this woman is thinking, I really don't," Spencer said Monday, arguing that McFarland's candidacy would be "divisive (and) I guess helpful to Clinton."

"I'm the only one who can unite the Republican and Conservative parties, which I am doing," he added.

McFarland, in a telephone interview with The Associated Press, refused to address Spencer's criticisms, but said she would "go after every party."

"This is about so much more than that," she said. "This is about offering a candidate who will run an issues-oriented, substantive campaign."

McFarland said she plans to stress her expertise in defense and security issues.

"We are confronted with a dangerous and determined enemy abroad and political divisions at home that are eroding our national spirit," she wrote. "At a time when Americans should be working most closely together, we are being pulled apart by partisan rancor and counterproductive 'gotcha' politics."

She declined to discuss differences with Clinton and said she didn't know how she would have voted on legislation to authorize President Bush to go to war in Iraq. "The important thing now is to move forward and to get it right," she said.

State Republican leaders originally settled on Jeanine Pirro as their Clinton challenger, but Pirro, then Westchester County district attorney, pulled out of the race in December, unable to raise much money or interest in her candidacy.

Ohio: Chabot Had 49 Percent In Democrat's New Poll (RC)

Roll Call, March 7, 2006

A new Democratic poll taken in the 1st district race showed Rep. Steve Chabot (R) leading Cincinnati City Councilman John Cranley (D) by a margin of 49 percent to 40 percent.

N.Y. Gov. Pataki Leaves Hospital (AP-Y2)

By Adam Goldman

AP2, March 7, 2006

Gov. George Pataki was released from a hospital Monday after 18 days of treatment for appendicitis and complications that followed surgery.

"It's great to feel the fresh air and sunshine," Pataki said as he walked out of New York-Prebyterian Hospital/Columbia University Medical School.

"I'm not 100 percent but I'm a lot better than I was a few days ago," he said.

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The New York Republican, who is weighing a run for the 2008 GOP presidential nomination, was hospitalized in Westchester County on Feb. 16 and had his appendix removed. He was transferred to the Manhattan hospital on Feb. 21 and was operated on later that day to deal with a blockage of his intestine.

Pataki told reporters last week he was "chomping at the bit" to go home and have a pizza and a cold beer.

"I'm still waiting for that pizza and hamburger, but it's still a few days off," he said outside the hospital Monday.

Pataki, 60, has been in generally good health during his three terms as governor.

"He will still require some intravenous antibiotics at home," said his doctor, Spencer Amory. "There is still a small possibility ... of infection later."

18 Days After Burst Appendix, Smiling Governor Goes Home (NYT)

By Richard Pérez-peña

The New York Times, March 7, 2006

Eighteen days after suffering a burst appendix, Gov. George E. Pataki left the hospital and went home at last yesterday, walking slowly but smiling and saying, "I never thought I'd enjoy the fresh air as much as I do today."

Mr. Pataki is able to digest enough food so that he no longer needs intravenous nutrition, and he has no signs of fever, said his doctors at NewYork-Presbyterian/Columbia hospital. Even so, they said, to ensure that there is no return of a dangerous abdominal infection, he will continue to receive intravenous antibiotics for a week or more.

The governor, who is doing some of his official work by phone, will have to rest at his home in Garrison, in the Hudson Valley, for at least a week, with care from a visiting nurse, his doctors said. He also remains on a restricted diet and will have to keep an intravenous tube in his arm until doctors say he can do without antibiotics. But such limitations did not appear to dampen his good cheer and relief yesterday.

"It's great to feel the fresh air and the sunshine, and I am going home," he told reporters under a sunny, hazy sky outside the hospital, in the Washington Heights section of Manhattan. "I have to tell you, I'm so, so pleased and happy to be doing that."

Mr. Pataki, who ordinarily might spend a brisk winter morning running, hiking or snowshoeing in the Hudson Highlands, has chafed at being kept in the hospital, suggesting that he misses even the official drudgery of Albany. When asked about negotiations with leaders of the Legislature on a state budget, he said with a grin, "I never looked forward with such excitement to sitting down with the leaders and talking about the budget as I do today."

Last week, the governor said that he looked forward to the next time he could have pizza and beer. But yesterday, he acknowledged that such food was still "a few days off."

Though the most obvious sign of infection — his fever — has gone, Mr. Pataki will continue to have antibiotic treatment, to clean up whatever residual infection might remain, said Dr. Spencer E. Amory, one of the surgeons who treated him. He added, "There is still a small possibility that there can be exacerbation of infection again there."

Mr. Pataki began suffering abdominal pain on Feb. 15, and in the middle of the night, he went to Hudson Valley Hospital Center in Cortlandt Manor, near his home, where he had an appendectomy on the morning of the 16th.

Five days later, he was transferred to the Manhattan hospital, where he had surgery to correct an intestinal blockage, a common complication but one that does not often require surgery. Abdominal surgery often causes the intestine to stop its regular contractions for several days, bringing digestion to a halt, but last week, doctors said Mr. Pataki's intestinal function was gradually returning.

In his first week at Columbia, the governor's doctors there and his aides said little publicly about his condition. Then, last Tuesday, the doctors revealed that when he arrived there, Mr. Pataki had suffered from peritonitis — an inflammation of the abdominal lining — and abscesses, or pockets of infection, and that he continued to run an intermittent fever. Abscesses and peritonitis, both potentially very serious conditions, are also common side effects from a burst appendix.

Doctors not involved in the case said that both the complications he suffered and the amount of time he was in hospitals were a bit worse than average but well within the normal range. His aides have bristled at some of the news coverage of the governor's illness, objecting to statements that he was in danger or that his recovery was slow, and to assertions that they had not been open about his condition.

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Mr. Pataki is in his 12th and last year as governor, and is mulling a run for president in 2008; his appendicitis forced him to cancel a trip to New Hampshire.

Giuliani Tops Poll For Political Favorability (BOS)

The Boston Globe, March 7, 2006

HAMDEN, Conn. --Former New York City Mayor Rudolph Giuliani is the most popular person in national politics, according to a national poll released Monday by Quinnipiac University.

Giuliani, a Republican who is considered a possible candidate for president in 2008, edged out U.S. Sen. Barack Obama, D-Ill., U.S. Sen. John McCain, R-Ariz., and Secretary of State Condoleezza Rice.

The Quinnipiac poll asked voters to rate politicians on a scale of 0 to 100, with higher numbers representing more favorable opinions. Giuliani's mean score was 63.5, according to the poll.

Obama averaged 59.9, McCain 59.7 and Rice 57.1.

"Not only do Mayor Giuliani and Sen. McCain get the best ratings, but their numbers are uniform across the country," said Peter A. Brown, assistant director of the Quinnipiac University Polling Institute.

President Bush's average rating was 44.1 and Vice President Dick Cheney's was 41.

Four Democrats who are considered potential presidential candidates were also mentioned in the poll's top 10: Former North Carolina Sen. John Edwards received a 50.8 average, former Virginia Gov. Mark Warner scored 50.7, New York Sen. Hillary Clinton averaged 50.4 and Sen. Russ Feingold of Wisconsin scored 49.

The telephone poll of 1,892 registered voters nationwide was conducted February 21-28 and has a margin of sampling error of plus or minus 2.3 percentage points.

Giuliani Is 'Hot' Stuff in New Poll (NYPOST)

By Deborah Orin

The New York Post, March 7, 2006

March 7, 2006 -- WASHINGTON - America loves Rudy Giuliani. A new poll shows "America's Mayor" inspiring the warmest feelings nationwide among 2008 presidential contenders.

Sen. John McCain (R-Ariz.) and Secretary of State Condoleezza Rice were close behind - but not so Sen. Hillary Rodham Clinton (D-N.Y.).

The Quinnipiac University poll asked some 1,900 voters to rate 15 political leaders on a "feeling thermometer" from 0 to 100, the higher numbers reflecting "warmer" feelings. Giuliani's 63.5 was followed by McCain's 59.7 and Rice's 57.1.

Actually, Illinois Sen. Barack Obama, at 59.9, came in second, but more than half of the voters admitted to not knowing enough about him to rank him.

"Giuliani's ratings are uniform in all states," said assistant polling director Peter Brown. "[He] is seen as the mayor of New York [during 9/11], and being a strong leader is the single strongest characteristic desired by voters in a presidential election."

Clinton got a 50.4 but exhibited little crossover appeal, getting a 24.7 from Republicans. President Bush, meanwhile, scored 23.9 with Democrats - but just 44.1 overall. Giuliani and McCain each scored 58.0 among Democrats.

And former President Bill Clinton scored 55.9 with women and 56.5 with men - to his wife's 54.3 and 46.0, respectively.

Prominent Ties Among Comcast Hires (WP)

By Matthew Mosk And Eric Rich

The Washington Post, March 7, 2006

For more than a year, Maryland first lady Kendel S. Ehrlich has been executive producer and star of a largely unnoticed half-hour television talk show about drug and alcohol abuse.

Comcast Cable Communications Inc. paid her an undisclosed sum to host 16 episodes of "Live Right: Straight Talk on Substance Abuse," which can be seen only in the cable provider's on-demand library.

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Ehrlich's day job represents more than an abrupt change in career path for the governor's wife, a lawyer by training. It also illustrates the reach of Comcast, the state's dominant cable provider with more than 1 million subscribers, as it has repeatedly given work to prominent public officials, their relatives or their friends.

Those hired by Comcast and its affiliates have included two members of the University System of Maryland Board of Regents, two sons of a key General Assembly committee chairman and former county executives from Prince George's and Harford counties.

Responsible for most of that hiring was Stephen A. Burch, who until recently served as president of Comcast's Atlantic Division, according to one former and one current senior Comcast official and some of the workers. The officials, who spoke on condition of anonymity out of fear of reprisal, said that within the company, the recruits were known informally as "FOBs" -- Friends of Burch.

None of these politically connected workers has been accused of wrongdoing, and those who could be reached said they were hired on merit.

Still, dual roles such as these raise questions about possible ethics violations and conflicts of interest. Such hires also illustrate a discreet way that some corporations can seek influence with decision makers, not just in Maryland but on Capitol Hill and elsewhere.

"Comcast has to go before every governing body in the state for something," said Bobbie Walton, executive director of Common Cause Maryland. "If they're giving jobs to people because of who they are, it looks a lot like payola."

It is, said Sen. Brian E. Frosh (D-Montgomery), "quite clearly a conflict of interest."

In some cases, Comcast's personnel moves in Maryland came amid public policy debates affecting the company's bottom line. For instance, Comcast hired then-Sen. Thomas L. Bromwell's two sons shortly after the Baltimore County Democrat championed legislation that has enabled cable companies to collect millions in late fees.

Ehrlich was first hired as a lawyer by Comcast when her husband, Robert L. Ehrlich Jr. (R), sat on the House of Representatives' telecommunications subcommittee. She was brought back as a producer in 2004 -- as the cable giant began facing competition over franchises from Verizon Communications. That battle has not come before regulators in Maryland, as it has in some states.

Comcast spokesmen said the company has no reason to suspect that Burch's hiring decisions violated company policy but added that, because he has left to lead a British company, they would neither discuss nor defend his actions.

"Steve Burch is no longer employed by Comcast," said Jim Gordon, a company spokesman. "We are not in a position to comment on decisions made by or relationships entered into by former employees."

Burch responded in an e-mail that said: "To the extent I was involved in these decisions, my actions were appropriate, known to Comcast, and in compliance with Comcast policies."

Comcast's affiliation with Bromwell, the former chairman of the finance committee, has drawn scrutiny from federal investigators. The company received a subpoena in 2003 in connection with the probe that led to Bromwell's indictment in October on corruption and fraud charges, Comcast officials said. They said the company has been assured it is not a target of any probe.

Public officials working on the Comcast payroll say they have been careful to recuse themselves from votes involving the company.

That was the case in 2000, when Comcast was involved in talks with the University of Maryland, seeking a long-term contract to provide cable service in student residences and negotiating for naming rights to a basketball arena. At the same time, the company had a contract with the public relations firm run by David H. Nevins, a member of the board that oversees the university system.

A year after the $20 million deal for naming rights was struck, Comcast tapped Nevins to be president of its newly acquired regional sports network, Comcast SportsNet. He held that post until 2004.

Nevins, who now chairs the Board of Regents, has recused himself from votes related to Comcast, according to ethics filings.

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His decision to accept the job at the sports network, though, might violate state ethics law. Ethics Commission Executive Director Suzanne S. Fox said she could not comment on specific cases but noted that the law says a regent "may not have a financial interest in or be employed by an entity having or negotiating a contract with" the university, unless that relationship existed prior to his appointment.

Nevins said his conduct was proper because his initial contract with Comcast predated his joining the board. "While I took on an additional role with them, it did not change my responsibility to continue to recuse myself from those Board matters, which I always did," he said in an e-mail.

Even so, at a time when Nevins headed the regents' finance committee, his public relations firm continued to represent Comcast in its dealings with College Park, negotiating placement of signs and logos at the arena, Nevins said. "Recusal means from the U of M board, not from my own business," he said.

Another regent, lawyer Leronia A. Josey, found an unusual way to satisfy the ethics requirement when Burch contacted her about a job in 2000, one year after she had joined the board.

"I had to resign, and then I was reappointed," Josey said, describing the maneuver that allowed her to become a regional director of government and community relations. The former regent, who now consults with Comcast, said she did not even miss a meeting.

Josey said she was hired solely for her skills and experience. "They were looking for somebody who knew people and could help them establish a local presence."

The Comcast employee with access to the highest-ranking politician in Maryland, though, is Kendel Ehrlich.

The first lady, a former prosecutor and public defender, has worked for Comcast in a variety of capacities since her husband served in Congress. Shortly after the couple came to Annapolis, she moved from Comcast's legal office to a Comcast job described in disclosure forms as "education liaison."

In June 2003, when the governor vetoed a bill that would have stopped Comcast and other companies from shifting the state tax burden to Delaware holding companies, the advocacy group Progressive Maryland publicly questioned whether the first lady's job posed a conflict. The governor's office dismissed the allegation.

Soon after, a pregnant Kendel Ehrlich announced she was leaving Comcast to have her second son. There was no public announcement when she returned, but her salaried job as a "production manager" reappears on her husband's disclosure forms for 2004. She is not required to disclose how much she is being paid and would not say, when asked.

Her return came as Verizon was beginning to offer cable television over its fiber optic phone lines. In Indiana, Missouri and elsewhere, Comcast has tried to block Verizon by appealing to state officials.

In Virginia's legislature this year, Comcast and other cable companies have lobbied furiously against a bill that would give Verizon short cuts around local franchise rules. Verizon officials said that battle will come to Maryland inevitably.

Kendel Ehrlich declined through her spokesman to be interviewed about her show, but each segment opens with an explanation of her motivation.

"I got involved in this project because I'm a mom," she says. "I have a 5- and a 1-year-old, and I'm trying to guide them through life. It's not easy. In fact, it's pretty scary."

In each episode, she interviews people about addiction. She talks with the wife of the Colombian ambassador, whom she asks, "Coming from a supplier nation, what is it like?" Talking about drugs with a group of Anne Arundel Community College students, she asks: "It's all about instant gratification, right?" In the final episode, she reenacts the cross-examination of a drunk driver. "That was a fatal decision, wasn't it?" she presses.

In the credits, she directs special thanks to Burch.

Burch, 55, is a University of Maryland graduate who has served on bank boards and with charitable organizations in the Baltimore area and has become friendly with many of the state's power brokers.

"He's a very affable, capable, well-spoken and likable figure in the business community and in all of the corridors of Maryland politics," said Wayne K. Curry (D), a former Prince George's county executive.

Late in 2000, Burch hired Eric M. Bromwell, a son of the Baltimore County Democrat who was then a state senator. Within a few weeks, brother Thomas L. Bromwell Jr. was also on the payroll.

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Earlier that year, their father sponsored a bill that had a dramatic impact on Comcast revenue. The state's highest court had capped late fees and ordered that millions in refunds be paid to subscribers. Bromwell's bill lifted the cap.

A court later struck down a retroactive provision in the legislation, and Comcast was forced to pay the refunds. But the lasting impact of the bill was to restore a revenue stream for Comcast and other cable providers.

The former senator said in an interview that his sons got their work on their own, and he said any suggestion that the jobs came in response to his legislative work would be ridiculous. "I heard they were hiring, and they went through the process," he said.

Eric Bromwell, who now serves in the House of Delegates, said he recuses himself from any debate that touches on Comcast.

Because cable franchises are granted by counties or municipalities, Comcast's business is often negotiated with local officials. In 2001, the company faced an assault on its monopoly in Prince George's when rival Starpower Communications sought a franchise there.

Curry's administration initially reached an agreement with Starpower. But after the County Council approved it, the administration insisted that Starpower pay for an additional $400,000 in technological improvements. Faced with the new demand, Starpower dropped out.

"We're at a loss to explain why additional requirements were proposed after the fact," a Starpower spokeswoman, Patricia MacEwan, said at the time.

In February 2003, three months after Curry left office, Comcast hired him as a "general business consultant," a position he still holds, the company said.

Curry said any suggestion his job was a reward would be "absurd" and added, "the Comcast people were angry with me," because of the initial contract. Curry said he believes Starpower dropped out because of financial troubles and added he "would never have had even the slightest inkling of a detail that trivial in the transaction."

Gordon, Comcast's spokesman, said, "It's not really uncommon for past elected officials to become consultants." Hiring such officials as Eileen M. Rehrmann, a former Harford County executive and Democratic candidate for governor, "can add value to our in-house workforce," he said. Rehrmann did not return calls for comment.

Comcast announced in December that Burch was leaving the company to become chief executive of NTL International, a British telecommunications company. In January, Comcast announced a restructuring that could result in 125 layoffs.

Eric Bromwell said he is among those whose jobs are in jeopardy. He worked directly for Burch and called him "the best boss I ever had."

Peace Activist Sheehan Arrested In NY Protest (REU-Y2)

By Irwin Arieff

Reuters, March 6, 2006

Cindy Sheehan, the anti-war activist whose son was killed in the Iraq war, was arrested with three other protesters in New York on Monday after a rally with women from Iraq.

Sheehan became a central figure in the U.S. anti-war movement last summer after she camped outside President George W. Bush's Texas ranch and has been arrested at least two other times at protests.

On Monday, she had joined a delegation of women from Iraq at the rally at the United Nations, urging the United Nations to help prevent civil war in Iraq.

About 20 protesters went to the U.S. mission to the United Nations to deliver a petition with 60,000 signatures seeking an end to the war. Nobody from the mission received them so Sheehan and three other American women sat down in front of the building, refused to leave, and were arrested.

A police spokesman said they were expected to be released later on Monday.

The Iraqi women plan to deliver a petition to the White House on Wednesday. Earlier they held a news conference at U.N. headquarters calling for the United States to withdraw its forces.

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Entisar Mohammad Ariabi, a pharmacist at Baghdad's Yarmook Teaching Hospital, wept as she told reporters of the hardships experienced by Iraqi women.

"U.S. occupation has destroyed our country, made it into a prison," she said. "Schools are bombed, hospitals are bombed."

"We thank you, Mr. Bush, for liberating our country from Saddam. But now, go out! Please go out!" she said.

Chief Of Atomic Agency Sounds Optimistic On Iran (NYT)

By Christine Hauser

The New York Times, March 7, 2006

The director of the International Atomic Energy Agency, the nuclear watchdog for the United Nations, said today that he hoped an agreement could be reached with Iran on its nuclear program.

Mohamed ElBaradei spoke before a meeting of the nuclear agency's board of governors in Vienna. The board, which is reviewing Dr. ElBaradei's latest report on Iran this week, voted in February to refer Iran's nuclear case to the United Nations Security Council amid growing suspicions that Iran is determined to develop nuclear weapons.

The United States and the Europeans are certain to use Dr. ElBaradei's most recent report to push for a resolution critical of Iran during the agency's board meeting.

In the past three years, Dr. ElBaradei noted today, the agency has been conducting intensive investigations of Iran's nuclear program to provide assurances about its peaceful nature.

"During these investigations, the agency has not seen indications of diversion of nuclear material to nuclear weapons or other nuclear explosive devices," he said. "Regrettably, however, after three years of intensive verification, there remain uncertainties with regard to both the scope and the nature of Iran's nuclear program."

He said there were still questions about "the past and current direction" of the program.

"I am still very much hopeful that in the next week or so, an agreement could be reached," Dr. ElBaradei said in televised remarks to reporters.

Iran agreed with Britain, France and Germany in November 2004 to voluntarily freeze all of its uranium conversion, enrichment and reprocessing activities. But when promised economic and political rewards were not forthcoming, Iran broke the agreement. It restarted uranium conversion last August and then began tests of enriching uranium on Feb. 11.

Last week, Dr. ElBaradei released an 11-page report that said Iran has accelerated its nuclear fuel enrichment activities and rejected demands of international inspectors to explain evidence that had raised suspicions of a nuclear weapons program. That assessment could make it easier for the United States and its European partners to seek punitive action in the Security Council.

The report made no definitive judgment about whether the nuclear program was peaceful, or intended to create the capacity to produce weapons.

Dr. ElBaradei today also mentioned a surge of diplomacy in which Iran has offered not to pursue industrial-scale uranium enrichment for up to two years. The Reuters news agency quoted an unnamed diplomat close to the talks between Iran and the European Union as saying that Iran may agree to extend that moratorium if it is permitted to run a small-scale enrichment research program.

Iran says that it has the right to develop a program for power.

The deputy secretary of Iran's national security council, Javad Vaeedi, told Reuters in Vienna that enrichment "research and development" in Iran was irreversible.

U.N. Agency Chief Hopes For Deal With Iran (AP)

By George Jahn, Associated Press Writer

AP, March 7, 2006

The head of the U.N. atomic watchdog agency said Monday a deal on Iran's suspect nuclear program could be only a few days away, making U.N. Security Council action unneeded.

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Mohamed ElBaradei's optimism was believed to be linked to a confidential Russian proposal to allow Iran to enrich some uranium domestically, diplomats said. But the plan was expected to meet strong resistance from the U.S., which opposes any enrichment on Iranian soil.

"It's been a core element of our view and the view of the European three, and certainly of the Russian Federation that no enrichment in Iran is permissible," John Bolton, the U.S. ambassador to the United Nations, said in New York.

He said "even small so-called research enrichment programs could give Iran the possibility of mastering the technical deficiencies that it's currently encountering in its program" and translate them into large-scale enrichment later. The United States uranium enriched in Iran could be misused to make nuclear weapons.

ElBaradei, without elaborating, nonetheless said he hoped "that in the next week, an agreement could be reached."

The Russian proposal would allow Tehran to conduct small-scale enrichment and ask the IAEA to set the parameters of such activity to minimize the chances of abuse, according to the diplomats, who spoke on condition of anonymity because they were not authorized to divulge details of the plan.

In return, the diplomats said Iran would be asked to recommit to in-depth IAEA probes of its program on short notice — something Tehran canceled last month after the agency's 35-nation board voted Feb. 4 to alert the Security Council by passing on Iran's nuclear dossier resulting from almost three years of agency investigations.

Russian Foreign Minister Sergey Lavrov planned to discuss the plan with officials in Washington.

Russia and China, which both have economic and strategic ties with Iran, voted with the majority of IAEA board members but insisted the council do nothing until after this week's IAEA meeting in Vienna.

Moscow, with the support of the United States and other countries, has offered to enrich Iran's uranium in Russia, which would ensure greater oversight. But Tehran, insisting its goals are peaceful, has said it should be free to carry out some enrichment domestically.

The Russian proposal was driving a wedge into what had been a relatively united front on uranium enrichment, with Germany cautiously supportive and France and Britain opposed and backing the United States.

Undersecretary of State Nicholas Burns underlined U.S. determination, saying in Washington that "unless Iran does a dramatic about-face," he expected the issue to be taken up by the Security Council.

Tom Casey, a State Department spokesman, also downplayed the latest twist in the Russian proposal.

"You can't be just a little pregnant," Casey said of the U.S. attitude toward small-scale uranium work by Iran.

France, Britain and Germany broke off negotiations on behalf of the European Union with Iran last year after it resumed enrichment-related activities, which can make both nuclear fuel and the fissile core of warheads. Since then, those three countries, as well as the United States, Canada, Australia and Japan, have been at the forefront of efforts to have the Security Council take up the issue.

The diplomats said negotiations continued on the sidelines of a board meeting of the IAEA, which began Monday and would focus on Iran later in the week.

A senior European diplomat the deal would likely stand or fall "on the response Lavrov gets in Washington" in a meeting later Monday with Secretary of State Conzoleezza Rice and other senior administration officials.

But he said all involved — whether or not they supported allowing Iran some control of enrichment — were firm on the need for Tehran to first return to a freeze of all such activities for a prolonged time "to re-establish confidence."

He said the Russians had proposed eight years — something unlikely to be accepted by the Iranians who publicly reject calls for a return to a freeze. A State Department official, who also demanded anonymity, refused to specify a length but said in response to a question that two years would be too short.

The meeting is scheduled to hear a report by ElBaradei focusing on Iran's nuclear program, including its decision to deny information requested by U.N. inspectors on diagrams related to nuclear weapons and other issues and ongoing enrichment plans that include setting up thousands of uranium-enriching centrifuges later this year.

"We have not seen indication of diversion of ... material to nuclear weapons or other explosive devices," ElBaradei said. "However, there are still a number of important uncertainties that need to be clarified.

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"Unfortunately, the picture is not very clear as to the scope of the program and as to the nature of the program," he said, alluding to documents, past experiments and activities that could be used to develop nuclear arms.

The last board meeting sent the complete Iran file to the Security Council. This week's meeting is scheduled to pass the ElBaradei report to the council, which then can decide whether to take action. The board was not likely to discuss Iran until Tuesday or Wednesday.

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Associated Press Writers Edith Lederer at the United Nations, Barry Schweid in Washington and Palma Benczenleitner in Vienna contributed to this report.

U.S. Dismisses Talk Of Compromise On Iran (AP)

By Barry Schweid, Ap Diplomatic Writer

AP, March 7, 2006

Unless Iran executes a dramatic about-face and suspends all its nuclear activities, the U.N. Security Council will intervene "quite actively," a senior State Department official said Monday.

The message to Iran is that it has "crossed the international red line" and engaged in unacceptable enrichment activity "and there must be a U.N. Security Council process to deal with that," Undersecretary of State Nicholas Burns said.

Burns did not say what the United States would ask the Security Council to do. While the Bush administration takes a stern line toward Tehran it might not be able to persuade other nations to impose economic or other penalties on Iran.

The U.N. nuclear watchdog agency, which voted to refer the dispute to the Security Council, will reaffirm its stance this week in Vienna, Austria, "unless Iran does a dramatic about-face and suspends all of its nuclear activities," Burns said at the Heritage Foundation, a private research group.

His remarks followed a State Department spokesman's dismissal of reports an eleventh-hour compromise might be struck over Iran's nuclear program.

Mohamed ElBaradei, head of the U.N. International Atomic Energy Agency, said at his agency's Vienna headquarters on Monday that the council might not have to consider Iran's actions. Talks between Moscow and Tehran have focused on shifting Iran's fuel enrichment activities to Russia.

Later, State Department spokesman Tom Casey said Secretary of State Condoleezza Rice telephoned ElBaradei "to reiterate the U.S. position that Iran should cease all enrichment-related activity." In response, ElBaradei agreed that Iran must not be allowed to have enrichment activity on its territory, said a U.S. official who spoke on condition of anonymity beause he was not in position to speak for the IAEA.

The United States has long spearheaded a campaign to haul Iran before the Security Council, which has the power to impose economic or other sanctions. There was no hint of optimism at the State Department about the latest efforts to defuse the issue, which ElBaradei said he hoped could produce a resolution in a week.

"I am not aware of any specific proposals or any specific ideas that would require or force any kind of delay in Security Council action," spokesman Casey said.

Casey also downplayed a new twist to the Russian proposal that diplomats described to The Associated Press. Under it, the U.N. atomic watchdog agency would set a level of small-scale uranium enrichment that Iran would be allowed to conduct on its own soil as part of an attempt to keep Iran from using the fuel for nuclear weapons, said the diplomats, who spoke on condition of anonymity.

"You can't be just a little pregnant," Casey said of the U.S. attitude toward small-scale uranium work by Iran.

The U.N.'s atomic energy agency voted last month to refer the Iran dispute to the Security Council. "There is no obstacle to that discussion being taken up and we certainly believe that will happen shortly," Casey said.

North Korea took a civilian nuclear program and quickly turned it into a bomb-making program, Casey said.

The process of bringing Iran before the Security Council has been delayed several times. The European Union attempted to negotiate with Iran with the aim of halting the program in exchange for economic concessions. Then Russia came up with its enrichment proposal.

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Russian Foreign Minister Sergey Lavrov had dinner in Washington on Monday evening with Rice, and was due to meet with her and President Bush and Rice.

On Wednesday, Lavrov is due to meet in New York with U.N. Secretary-General Kofi Annan.

On his way to Washington, Lavrov stopped in Ottawa for talks with Canadian officials. Russian news agencies quoted him as saying Russia's proposal to shift Iran's uranium enrichment to Russia remains on the negotiating table but Iran must suspend enrichment on Iranian territory.

In Vienna, headquarters for the nuclear watchdog group, ElBaradei said the Council might not have to explore Iran's actions. "I am still very much hopeful that in the next week an agreement could be reached," he said.

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Associated Press Writer Foster Klug contributed to this story.

Iran Deal Still Feasible: ElBaradei (REU-Y2)

By Mark Heinrich And Parisa Hafezi

Reuters, March 6, 2006

The International Atomic Energy Agency chief said on Monday a deal to defuse a standoff over Iran's nuclear aims was still feasible and diplomats outlined a compromise that would let Tehran pursue limited atomic research.

Mohamed ElBaradei cited a surge of diplomacy in which Iran has offered not to pursue industrial-scale uranium enrichment for up to two years. He was speaking before debate on Iran at an IAEA board meeting that could presage U.N. Security Council action.

Iran may agree to extend that moratorium if it is permitted to run a small-scale enrichment research program, said a diplomat close to talks between Iran and the European Union.

Iran's insistence on doing enrichment research has been a red line for the West, eager to ensure Tehran does not acquire technology that can be used for atom bombs. The Islamic Republic says it seeks only nuclear-generated electricity, not weapons.

"I am still very much hopeful that in the next week or so an agreement could be reached," ElBaradei said, while acknowledging that Russia's proposal to enrich uranium for Iran had snagged on Tehran's determination to purify nuclear fuel itself.

Javad Vaeedi, deputy secretary of Iran's national security council, highlighted that obstacle when he told Reuters that enrichment "research and development" in Iran was irreversible.

"Iran is ready to compromise on the period of suspension (of large-scale enrichment) if it can keep its nuclear research activities," the diplomat close to the Iran-EU talks said.

But the United States dismissed the possibility that Iran might be allowed to continue small-scale nuclear enrichment and said the council would likely take up Iran's case.

"You can't have the regime pursuing enrichment on any scale, because ... (it would allow) them to master the technology, complete the fuel cycle -- and then that technology can easily be applied to a clandestine program for making nuclear weapons," said U.S. State Department spokesman Tom Casey.

SMALL-SCALE ENRICHMENT

On Friday, Iran said it could delay industrial-scale enrichment for up to two years but the EU countered with a demand for a 10-year moratorium on all enrichment activity.

"The (IAEA) board of governors, EU3 and Russia have made clear that there needs to be a suspension of these enrichment capabilities and ... a prolonged period of time necessary to restore confidence. Two years is not a prolonged period of time," a U.S. State Department official said.

A senior official close to the IAEA, who asked not be named, said trying to distinguish between research work and productive enrichment was like "trying to draw a line in water."

However, EU diplomats said Russia and ElBaradei are pushing the West to let Iran continue small-scale enrichment research under IAEA surveillance as a face-saving solution.

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The Security Council could desist from any action for the time being if the proposal won agreement, one diplomat said.

Of the three leading European powers, Germany is the one that "could most live with a pilot enrichment plant in Iran," said a European diplomat close to the talks with Iran.

But he said Germany would not break ranks with its EU partners France and Britain over the issue.

"We are not in the Security Council, unlike Britain or France. So one should not over-estimate Germany's position. Paris and London seem to be much more skeptical," said another EU3 diplomat, speaking on condition of anonymity.

Aliasghar Soltanieh, Iran's envoy to the IAEA, told Reuters there was a good chance of agreement with EU powers and Russia.

In defying calls to suspend all enrichment-related work, Iran seems to be counting on divisions in the Security Council over whether to resort to sanctions mooted by the United States.

Wielding vetoes in the council, Russia and China could block sanctions that would disrupt their trade ties to Iran.

Iran's past secrecy over its nuclear program, its failure to satisfy IAEA inspectors and its public calls for Israel's destruction have stoked Western suspicions about its intentions.

But Iran's chief nuclear negotiator denied the country was seeking nuclear weapons and said it was no threat to Israel since Tehran sought only democratic change in the region.

"The national security doctrine of Iran has no place for an atomic bomb," Ali Larijani said in an interview with Britain's Channel Four news. "You cannot destroy a country or wipe it off the map through democratic means," he said with reference to Israel.

HARDLINERS

ElBaradei believes U.N. intervention could close diplomatic avenues and bolster Iranian hardliners, diplomats say. Tehran has warned it could bolt a nuclear safeguards treaty if pushed.

"Confrontation (between the West and Iran) could be counterproductive and would not (give) us a durable solution," said ElBaradei, calling for verbal restraint on all sides.

"There is universal recognition that the Iran issue has serious implications for international security. Everyone understands that escalation is not going to help a situation that is highly, highly volatile in the Middle East," he said.

The IAEA's 35-member board reported Iran to the Security Council a month ago. It urged Iran to heed resolutions to halt uranium enrichment work and stop stonewalling IAEA inquiries.

On Tuesday the IAEA board will consider ElBaradei's latest report before it is sent to the council, which might eventually consider sanctions if diplomacy fails.

Tehran has complained of double standards -- India, Israel and Pakistan enjoy good ties with the West although they built atom bombs in secret -- and President Mahmoud Ahmadinejad warned of unspecified consequences if Tehran faces a U.N. crackdown.

ElBaradei's report said Iran plans to begin installing 3,000 centrifuges this year. Iran denies this implies industrial scale fuel production, an assertion the West says is not credible.

Around 1,500 centrifuges running optimally for a year could yield enough highly-enriched uranium for a bomb, experts say.

The Security Council's first step would probably be to urge Iran to heed IAEA resolutions. It might also consider endowing the IAEA with more intrusive, short-notice inspection powers.

Enacting sanctions will be much harder given international reluctance to isolate the world's fourth biggest oil exporter.

New Calls Emerge For Nuclear Deal With Tehran (WSJ)

By David Crawford And Alan Cullison

The Wall Street Journal, March 7, 2006

Russian officials and United Nations nuclear inspectors renewed calls for a compromise on Iran's nuclear plans before the U.N. Security Council takes up the issue, a move in conflict with U.S. and European goals.

Speaking before a meeting of the U.N.'s International Atomic Energy Agency Board of Governors in Vienna, IAEA Director General Mohamed ElBaradei said he is "cautiously optimistic" a compromise is possible this week.

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That statement is at odds with U.S. determination to refer Iran swiftly to the Security Council, with U.S. and EU officials citing inspectors' evidence that Iran's program includes elements that would only be aimed toward producing weapons, not energy.

The IAEA's board agreed Feb. 4 to pass the matter on so the Security Council could consider sanctions or other measures against Iran -- but with the unusual proviso that the Security Council not take it up until after this week's meeting in Vienna. That left the way open for continued efforts at compromise. Since then, Russia has held frequent but rocky talks with the Iranians aimed at defusing the standoff. EU officials also held renewed talks but said they went nowhere.

Russia, which helped build Iran's nuclear program, has been interested in a deal in which Russia would be paid to enrich uranium on Iran's behalf, while Iran would agree to a moratorium on enriching uranium itself. Iran's announcement in December that it intended to end its compliance with voluntary inspections and enrich uranium led to the current crisis.

Yesterday, diplomats were debating the possibility of letting Iran continue to experiment with enrichment in 20 centrifuges. Diplomats close to the IAEA say that Iran would likely do those experiments anyway if there is no compromise but noted an agreement would allow the return of IAEA inspectors. U.S. and EU officials have been resistant to the Russian plan on enrichment, even before the additional compromise on Iranian centrifuges was unveiled. A U.S. State Department official and EU diplomat each said yesterday that the operation of even 20 centrifuges would give Iran valuable experience it needs for an advanced enrichment program.

Hopes that Iran will strike a deal that would avert U.N. action against its nuclear program helped push down oil prices yesterday. (See related article7.)

The continued conflicts among major powers over how to handle the situation renewed questions over what the Security Council, with many of the same members as the IAEA board, could agree to do in that forum. Russian Foreign Minister Sergei Lavrov was due to meet U.S. Secretary of State Condoleezza Rice over dinner in Washington last night. On Sunday, U.S. Ambassador to the U.N. John Bolton warned of "tangible and painful consequences" for Iran if it doesn't give up its plans to enrich uranium. But as recently as Friday, Mr. Lavrov warned against referring Iran to the Security Council, saying it would lead to "escalation of the situation."

Part of what bothers Russia is its previous experience with the Security Council over Iraq. After Moscow backed a Security Council resolution demanding Saddam Hussein cooperate with weapons inspectors, the U.S. later used noncompliance with the resolution as a justification for military force -- something the Russians said they never intended.

Speaking to a group of Western reporters in Moscow before departing for Washington, Mr. Lavrov said, "I know how the Security Council works -- you start with soft reminder -- then you demand, then you threaten," he said. "It will become a self-propelling function."

On Sunday Iran's chief nuclear negotiator, Ali Larijani, repeated warnings that Iran would resume large-scale uranium enrichment if Iran's nuclear dossier is referred to the Security Council. It hasn't agreed to the moratorium proposed by Russia, though it has expressed interest in Russia's joint-venture plan.

Iranian Embassy spokesman Ali Esmaili said key talks were under way in Vienna, but described the discussions as difficult. "The positions on both sides are very hard," Mr. Esmaili said. A top Russian involved in negotiations said hope was scarce for an agreement with the Iranians, but that if one were reached it would come "at the last possible moment."

Until recently, the Russians haven't spoken openly about any proposal to allow limited enrichment on Iranian soil. But the idea is presumably something the Iranians have been pushing all along as a deadlock breaker, said Ivan Safranchuk, head of the Moscow office of the World Security Institute.

"That's the position I would expect everyone to lean toward," said Mr. Safranchuk. "It's clearly a position the U.S. would be disappointed in, because the Iranians will be suspected of enlarging enrichment operations. They tend to push everything to the limit, and so this will probably only postpone the confrontation."

Russia And West Split On Iran Nuclear Issue (NYT)

By Elaine Sciolino

The New York Times, March 7, 2006

DOJ_NMG_0016471

VIENNA, March 6 — A serious rift emerged Monday when Russia split with the United States and Europe over Iran's nuclear program after the Russians floated a last-minute proposal to allow Iran to make small quantities of nuclear fuel, according to European officials.

The reports of the proposal prompted Secretary of State Condoleezza Rice to call Mohamed ElBaradei, the director of the International Atomic Energy Agency, and according to an administration official who was briefed on the conversation, "she said the United States cannot support this."

Ms. Rice's call came after Dr. ElBaradei suggested to reporters that the standoff with Iran could be resolved in a week or so, apparently an allusion to the Russian proposal. Washington's strategy is to get past the meeting of the I.A.E.A. that opened Monday and, under a resolution passed by the agency's board in February, have the issue turned over to the United Nations Security Council immediately. But officials clearly fear that the Russian proposal is intended to slow that process.

American officials said they had been assured by the Russians that there was no formal proposal on the table. The Russian foreign minister, Sergey V. Lavrov, had dinner in Washington on Monday evening with Ms. Rice and the national security adviser, Stephen Hadley, and he is scheduled to meet President Bush in the Oval Office on Tuesday.

Under the Russian proposal, Iran would temporarily suspend all uranium enrichment activities at its facility at Natanz but then be allowed to do what Russia describes as "limited research activities" in Iran's uranium enrichment program, said the European officials, who spoke on condition of anonymity under normal diplomatic rules.

Iran would have to agree to a moratorium on production of enriched uranium on an industrial scale for between seven to nine years, ratify additional measures that let the nuclear agency conduct intrusive inspections of its nuclear facilities and create a joint venture with Russia on the production of enriched uranium on Russian soil, the officials said. The proposal, which has not been made public, spurred Dr. ElBaradei to give an upbeat assessment about a possible swift resolution of the impasse over Iran's program, an official familiar with his thinking said.

In a tonal shift, Dr. ElBaradei said Iran had made concessions on some issues. Calling Iran's activities at its uranium enrichment plant at Natanz "the sticking point," he added, "That issue is still being discussed this week, and I still hope that in the next week or so that agreement could still be reached."

In an interview on Monday evening, R. Nicholas Burns, the under secretary of state for political affairs, said the administration would reject any proposal that did not require the Iranians to stop domestic nuclear enrichment and reprocessing activities. "The United States will not support any halfway measures," he said. "That means full suspension of all nuclear activities, and a return to negotiations on that basis."

Ms. Rice told Dr. ElBaradei that Washington wanted to see Iran's case before the Security Council as soon as this week's agency board meeting was over; that the United States would seek a presidential statement, which does not carry the weight of a resolution, noting Iran's past failures to comply with its international commitments; and that Iran's case would then be sent back to the nuclear agency for further review, according to an official with knowledge of the conversation.

The Russian proposal is a reversal of its previous stance and seemed motivated by its determination to protect Iran from judgment by the Security Council.

Russia — and even China — had joined the United States and the Europeans in demanding that Iran resume a freeze of uranium enrichment activities at Natanz, reflecting mounting global suspicion that Iran's nuclear program is intended to produce weapons.

The Russian proposal surfaced late last week, when Sergei Kisliak, Russia's chief nuclear negotiator, presented it to officials of Britain, France and Germany.

He said Iran would have to resume full suspension of all enrichment-related activities, including what it calls its small-scale "research and development" while the agreement on the package was negotiated. Once there was an agreement, however, Iran would be allowed to conduct limited uranium enrichment research activities under a pilot program as agreed with the I.A.E.A.

As soon as Iran and the agency agreed on the small-scale enrichment, Iran's Parliament would ratify the "Additional Protocol" to Iran's nuclear agreement. That protocol gives the nuclear agency's inspectors the right to ask for exceptional access to Iran's nuclear facilities. When one of the Europeans asked Mr. Kisliak for his definition of a pilot program, he said there was no real definition, one official said.

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A moratorium on industrial-scale enrichment and reprocessing activities would last two to three years while the nuclear agency carried out an investigation of Iran's past nuclear activities and five to six years more until trust with Iran could be rebuilt.

Mr. Kisliak conceded that a major risk of such a package was that Iran would inch closer to mastering the technology for a small cascade of centrifuges that turn uranium gas into enriched uranium that can be used to produce electricity or to make bombs. He added that it would shorten the period needed for Iran to "manufacture a weapon" by a number of months, one official familiar with the briefing said.

Iran has always contended its nuclear program is for peaceful purposes, although Russia, like the United States and the Europeans, is convinced it intends to make nuclear weapons.

Mr. Kisliak speculated that Iran was unlikely to accept the proposal, in part because of the long-term constraints on its industrial-scale enrichment program. The proposal threatened to derail a carefully formulated, but fragile strategy to send Iran's case to the Security Council. Last month's resolution by the nuclear agency board demanded that no action be taken in the Council until after the current board meeting, a way to give Iran one last chance to comply with agency demands.

Even though there is no specific timetable to seek economic sanctions on Iran, both Russia and China are opposed to sanctions. There is no need for another resolution to be passed by the agency board this time for the Security Council to act. Certainly, Dr. ElBaradei is looking for a negotiated solution to the Iran impasse even if it means giving Iran a significant concession on making nuclear fuel.

In a conversation with the German and French foreign ministers, a senior British Foreign Office envoy and the European Union's foreign policy chief, Javier Solana, in Vienna last Friday, Dr. ElBaradei expressed the view that Iran needed to continue some uranium enrichment work as a face-saving measure, a European official said. The Europeans, who met earlier with Iran's chief nuclear negotiator, Ali Larijani, replied that it was not a question of saving face but of maintaining both the credibility of the nuclear agency and a firm position toward Iran.

The crucial issue for Iran is mastering the fuel cycle by enriching uranium. Indeed, in Tehran on Sunday, Mr. Larijani reiterated Iran's position that it would not freeze small-scale production of nuclear fuel even if its case came before the Security Council.

Russia Presses US And EU On Iran (FT)

By Daniel Dombey

Financial Times, March 7, 2006

Russia is seeking to convince the US and the European Union to allow Iran to continue limited uranium enrichment, the process that can create weapons grade material.

But the idea has already been rejected by the US and the EU's big powers, and western diplomats said it could disrupt the uneasy common front on Iran between the five permanent members of the United Nations Security Council.

Yesterday, Mohamed ElBaradei, director-general of the International Atomic Energy Agency, called for both Iran and the west to soften their "hard positions" on enrichment. "I still hope that in the next week or so . . . agreement could still be reached."

Moscow argues that there is little danger if Tehran restricts its activity to the 20 centrifuges it has been operating since last month, since thousands of centrifuges would be necessary to develop nuclear weapons. Dan Dombey, Brussels

Iran Said To Step Up Plans For Shahab Missiles (REU-Y2)

By Louis Charbonneau

Reuters, March 6, 2006

As Iran pursues a nuclear program the West fears is aimed at producing bombs, Tehran also appears to be stepping up development of missiles capable of carrying atomic warheads, diplomats citing intelligence say.

According to an intelligence report given to Reuters by a non-U.S. diplomat, a covert Iranian program run by people closely linked to Iran's military includes plans to arm its Shahab-3 missiles, which experts believe have a maximum range of around 2,000 km (1,240 miles), with nuclear warheads.

The report, which could not be independently confirmed, surfaced as the United States and its allies seek to highlight the potential security dangers of a nuclear-armed Iran.

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The report said it was code-named Project 111 and that the "aim is arming Shahab-3 missiles with nuclear warheads."

An Iranian official, who asked not to be named, denied the charge.

The assessment that Iran has nuclear ambitions for the Shahab-3 is shared by the European Union, Washington and Israel, said an EU diplomat who asked not to be named.

Tehran says it only wants nuclear power stations, not bombs. After three years of inquiries, U.N. inspectors have been unable to verify that Tehran's nuclear program is purely peaceful.

An Iranian exile who has reported accurately on Tehran's nuclear program in the past said Iran had significantly increased production of Shahab-3 missiles.

The International Atomic Energy Agency's board of governors met in Vienna on Monday to consider the latest IAEA report on Iran's nuclear program. It will be sent to the U.N. Security Council, which could impose sanctions on Iran.

Project 111 was first mentioned last month in a report by the Washington Post, which described it as "a nuclear research effort that includes work on missile development." The Post said U.S. officials believe it is the successor of Project 110, which they believe is the military arm of Iran's atomic program.

GERMANY WARNS COMPANIES

German intelligence officials believe Iran has stepped up covert efforts to procure missile technology, said a German government official, who asked not to be named.

The intelligence officials are sending "early-warning letters" to German firms, urging them to be alert for Iranian agents hunting for missile technology, he said.

German authorities have detained several Germans and at least one foreigner as part of a series of investigations of suspected attempts to purchase missile and other arms technology in Germany on behalf of Iranian intelligence, the official said.

Iran has repeatedly warned it would not hesitate to deploy the Shahab-3 missiles, which can reach Israel and U.S. military bases in the Gulf, if it comes under attack.

Material recovered by U.S. intelligence from a stolen laptop computer also suggests Iranian missile experts have been trying to develop a missile re-entry vehicle capable of carrying a relatively small nuclear warhead, EU diplomats have said.

But David Albright, a former U.N. weapons inspector and head of a U.S.-based think-tank, cautioned that however credible, all this intelligence is based on assessments, not certainty.

"I don't think any of the available intelligence represents a smoking gun," Albright said.

His Institute for Science and International Security estimates that Iran could not produce a bomb before 2009.

Alireza Jafarzadeh, an Iranian exile who heads a think-tank in Washington, told Reuters Tehran had sharply accelerated production of Shahab-3 missiles to around 90 a year from 15-20.

Jafarzadeh, formerly a spokesman for the National Council of Resistance in Iran (NCRI), listed by Washington as a terrorist organization, revealed the existence of Iran's secret uranium enrichment plant at Natanz and other sites in August 2002.

North Korea has also been key to Iran's missile development.

Last month a German diplomat, citing his country's intelligence, confirmed a German newspaper report from December that said Iran had purchased 18 disassembled BM-25 mobile missiles with a range of around 2,500 km from North Korea.

The NCRI said at a news conference in London on Monday that Iran was also working on developing so-called Ghadr missiles, with a range of up to 3,000 km. Unlike the Shahab, which is based on North Korean Nodong missile technology, the Ghadr missile is based neither on North Korean or Russian designs.

No comment from Iran was immediately available.

India Nuclear Deal Pushed (WT)

By David R. Sands

The Washington Times, March 7, 2006

The proposed U.S.-India nuclear deal will not open the door for Iran and other rogue states to acquire atomic weapons and technology, the Bush administration's lead negotiator insisted yesterday.

DOJ_NMG_0016474

"We don't see the connection between what Iran is doing and what India seeks to do," Undersecretary of State R. Nicholas Burns said at the Heritage Foundation.

The administration has begun selling the India deal in earnest on Capitol Hill, where several top lawmakers are either cool to the accord or openly skeptical.

Mr. Burns, speaking five days after helping nail down the deal in New Delhi, rejected critics' assertions that bending the rules for India -- which has not signed the nuclear Non-Proliferation Treaty (NPT) -- will make it more difficult to rally opposition against Tehran.

Mr. Burns said Iran's Islamic regime was an "autocratic state" that hid its nuclear programs from international inspectors for nearly two decades. Iran enjoys "no trust in the international community."

India, however, is a peaceful democracy that, under theagreement, would place 14 of its 22 nuclear reactors under monitoring and inspection by the United Nations.

"We think these are two countries that are going in diametrically opposed directions," he said. "India in the responsible one; Iran is the irresponsible one."

South Korean analysts also have warned that the India agreement could complicate the multilateral effort to pressure North Korea to abandon its nuclear programs.

Administration officials conceded they have a major selling job to do on Capitol Hill, where lawmakers complained that they had been given little notice when the agreement was floated in the summer.

Key Republican lawmakers such as Senate Majority Leader Bill Frist of Tennessee, Senate Foreign Relations Committee Chairman Richard G. Lugar of Indiana and House International Relations Committee Chairman Henry J. Hyde of Illinois have taken a wait-and-see stance, saying they needed to examine the details of the New Delhi deal.

House Armed Services Committee Chairman Duncan Hunter, California Republican, said sharing U.S. nuclear expertise would help train a generation of researchers in India who could help the country's military nuclear programs -- which are not covered by the accord.

"This thing has to be looked at very, very carefully," he told ABC's "This Week" Sunday. "I'm very, very skeptical."

The administration is scheduling briefings for members and staff on Capitol Hill. Congress must amend several U.S. nonproliferation statutes to implement the accord.

Mr. Burns did not rule out a parliamentary maneuver in which the agreement would go into effect unless the House and Senate voted to kill it.

"We're very open to Congress on how to proceed," he said, adding that the process could take several months.

Although more than a third of India's nuclear reactors will not be subject to U.N. oversight under the accord, Mr. Burns said India had agreed that all future nuclear sites devoted to civilian power also would be automatically covered and monitored. U.S. officials had been told that the "great majority" of India's nuclear activity in the coming years will be on the civilian side.

The percentage of India's nuclear work subject to international controls will be "much broader by the year 2020," he said.

But India insisted on the right to designate which of its sites would be for civilian and which for military uses. That, critics say, allows India to build so-called fast-breeder nuclear reactors that could accelerate the country's bomb-making potential and upset the military balance with rival Pakistan.

In New Delhi yesterday, Indian officials pressed visiting Australian Prime Minister John Howard to end a ban on sales of uranium to India in the wake of the U.S. deal. Australia has the world's largest uranium deposits but does not sell to countries that have not signed the NPT.

Mr. Howard called the U.S.-India accord "very significant" but said his government "was not going to suddenly change" its policy on uranium exports.

Judicious Double Standards (WP)

By Richard Cohen

The Washington Post, March 7, 2006

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Back behind my high school one day, we all assembled to watch a fistfight. To my immense pleasure, a bully was being bested by his victim. Then the bully's friend stepped in and ended matters with a swift kick to the other guy's midsection. It was an unfair ending to what was supposed to be a fair fight, but it taught me a valuable lesson: You treat your friends differently than you do your enemies.

This elemental principle of life, love and other matters seems utterly lost on so many critics of George Bush's agreement to provide India with civilian nuclear technology. In doing so, we are told, he has done something truly awful -- established a double standard. Well, duh -- yes. India is our friend and Iran, just to pick an example, is not.

The cry of "double standard" is a bit silly. It asks us not to recognize certain realities -- the difference between friends and enemies, for instance, or good and bad democracies, to give another example. In the case of the nuclear agreement, we are somehow supposed to believe that by favoring India, Bush has made it much harder to put pressure on Iran to abandon its apparent weapons program and become a "good guy" nation. This overlooks the fact that Iran is governed by a zealot who has pledged to eradicate Israel and who firmly believes in the inherent evil of the United States of America. As Bush once said about himself, the Iranians do not do nuance.

Reality imposes its own rules -- and they have nothing to do with double standards. North Korea probably already has a nuclear weapon. Iran is going that way, and it is going to happen no matter what the United States and its allies do. For Iran, going nuclear has been a national goal ever since the shah headed the government. Now this is even more the case, especially since the United States, which lumped Iran along with Iraq into the "axis of evil," invaded Iraq. It would hardly be the height of paranoia for Iran to think it is next.

The invocation of the term "double standard" is often applied where Israel is concerned. Israel is presumed to have a nuclear arsenal. Why should the United States look the other way at Israel's bomb and go nuts over Iran's effort to get one? The answer ought to be clear: Because Israel has not threatened to blow Iran off the map; because it is vastly outnumbered in a tough, belligerent neighborhood; and because it is the lone real democracy in a region run mostly by thugs.

The same accusation of a double standard is made with regard to the effort to discriminate between election outcomes. We are supposed to treat the victory of Hamas in Palestine as we would that of the Labor Party in Britain. But the outcome of one democratic election is not threatening and the other is, and we ought to be able to say so -- and do something about it. If, for instance, we are supposed to continue aiding a Palestinian government that has now fallen into the hands of religious fanatics and proponents of a virulent brand of anti-Semitism, then we have lost our minds. It will not matter to some poor Israeli that the terrorist who kills him represented a democratically elected government.

The "double standard" accusation has a schoolyard quality to it. Why a boycott of Cuba and not of China? Because you can with one and not with the other. Why attack Saddam Hussein and not all the other vile dictators? Because you do what you can. Why not ask why you leave your estate to your kids and not strangers? Because your kids are your kids. It is the ultimate double standard.

It is true, of course, that Bush has upended 30 years of American nuclear policy -- and there will be consequences. Maybe, as some of the critics say, he has made it easier for India to increase its nuclear arsenal. But India will make all the weapons it feels it needs -- no matter what the United States does. America is a superpower, but not even a superpower is all-powerful.

The Israeli bomb threatens nobody. An Iranian bomb does. India has transferred its nuclear technology to no one. Pakistan has. No one worries about India or Israel making the technology available to terrorists. Everyone worries about Iran doing that. These are distinctions with great differences. They are, as critics charge, double standards, but to apply a single standard to both friend and enemy, while it might be fair, would be singularly stupid.

Mr. Bush's Asian Road Trip (NYT)

The New York Times, March 7, 2006

There is a lot of good a president can do on a visit to another country: negotiate treaties that enhance American security, shore up a shaky alliance, generate good will in important parts of the world. Unfortunately, President Bush didn't do any of those good things on his just-completed visit to Pakistan and India and may have done some real harm.

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The spectacularly misconceived trip may have inflicted serious damage to American goals in two vital areas, namely, mobilizing international diplomacy against the spread of nuclear weapons and encouraging Pakistan to take more effective action against the Taliban and Al Qaeda fighters operating from its territory.

The nuclear deal that Mr. Bush concluded with India threatens to blast a bomb-size loophole through the Nuclear Nonproliferation Treaty. It would have been bad enough on its own, and disastrously ill timed, because it undercuts some of the most powerful arguments Washington can make to try to galvanize international opposition to Iran's nuclear adventurism.

But the most immediate damage was done on Mr. Bush's next stop, Pakistan. Washington is trying to persuade Gen. Pervez Musharraf, the Pakistani military dictator, to defy nationalist and Islamic objections and move more aggressively against Pakistani-based terrorists. This is no small issue because both Osama bin Laden and the Taliban's leader, Mullah Muhammad Omar, are now believed to operate from Pakistani soil.

But sticking Mr. Musharraf with the unwelcome task of explaining to Pakistanis why his friend and ally, Mr. Bush, had granted favorable nuclear terms to Pakistan's archrival, India, while withholding them from Pakistan left him less likely to do Washington any special, and politically unpopular, favors on the terrorism front.

It's just baffling why Mr. Bush traveled halfway around the world to stand right next to one of his most important allies against terrorists — and embarrass him. India and Pakistan are military rivals that have fought each other repeatedly. They have both developed nuclear weapons outside the nonproliferation treaty, which both refuse to sign. When India exploded its first acknowledged nuclear weapons eight years ago, Pakistan felt obliged to follow suit within weeks.

So when Mr. Bush agreed to carve out an exception to global nonproliferation rules for India, it should have been obvious that Pakistani opinion would demand the same privileged treatment, and that Mr. Musharraf would be embarrassed by Mr. Bush's explicit refusal to provide it.

Mr. Bush was right to say no to Pakistan. It would be an unthinkably bad idea to grant a loophole to a country whose top nuclear scientist helped transfer nuclear technology to leading rogue states. Granting India a loophole that damages a vital treaty and lets New Delhi accelerate production of nuclear bombs makes no sense either.

Mr. Bush should have just stayed home.

Energy, Iran Spur Turkey's Revival Of Nuclear Plans (WP)

By Karl Vick

Washington Post, March 7, 2006

ISTANBUL -- Turkey is reviving its long-deferred quest for nuclear power, pressed both by serious energy shortfalls within its own borders and by strident nuclear ambitions in neighboring Iran that threaten to upset a regional balance of power.

"The rise in oil prices and the need for multiple sources of energy make our need for nuclear energy an utmost priority," Energy Minister Hilmi Guler said last month in announcing plans to build as many as five atomic energy plants. The first, to be located on the Black Sea at Sinop, would come on line in 2012 and ease Turkey's costly dependence on natural gas, 90 percent of which arrives by pipeline from Russia and Iran.

With a rapidly expanding economy, a population of 70 million and scarce petroleum deposits, Turkey appears to be a logical candidate for nuclear power. Guler, who made his remarks while visiting a nuclear plant in Virginia, said the new Turkish reactors could provide about a tenth of the 54,000 megawatts the country expects to need over the next two decades.

"Turkey is a very poor country in respect to power. This has made the country very vulnerable," said Fatih Birol, chief international economist at the energy agency of the Organization for Economic Cooperation and Development, a cooperative of 30 countries that fosters good governance. Birol said that after briefing Turkey's foreign and energy ministers in recent weeks, "I think this government is rather determined to go ahead."

Neighboring Iran's nuclear program, which the United States and other countries have called a cover for developing nuclear weapons, also looms over the revival of Turkey's program, which has had numerous false starts since the early 1960s. Iran and Turkey are almost identical in population and economy and regard each other roughly as equals in a famously combustible region with no dominant power.

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"Iran with nuclear production will be the dominant power," said Ozdem Sanberk, a former ambassador to Washington who heads the Turkish Economic and Social Studies research group in Istanbul. "There will be an asymmetrical relationship."

Sanberk has argued recently that Turkey has no choice but to pursue a nuclear program of its own under the nuclear Non-Proliferation Treaty.

"If we want to leave an independent country to our future generations, we do not have the luxury to delay," Sanberk wrote.

U.S. officials are trying to use Turkey's unease over developments in Iran as part of international efforts to persuade Tehran to suspend its nuclear program. Last month, the U.S. ambassador to the International Atomic Energy Agency, Greg Schulte, spent two days in Ankara for what the U.S. Embassy described as "intense dialogue and cooperation" on the Iranian question. Senior officials of Turkey's ruling Justice and Development Party, whose roots in Islam afford some entree with Tehran, lately have turned up the volume. Foreign Minister Abdullah Gul said Turkey was "saddened by Iran's restarting uranium enrichment."

Any Turkish move toward a nuclear weapons program would mark a dramatic departure from long-standing foreign policy and military doctrine. Guided by the slogan of the country's founder, Mustafa Kemal Ataturk, "Peace at home, peace in the world," Turkish diplomats and the powerful general staff have invested heavily in international institutions, deploying troops repeatedly to Afghanistan and ratifying the most stringent additions to the nuclear Non-Proliferation Treaty.

"Turkey's state policy is always: Play the game within the rules," said Mustafa Kibaroglu, a nuclear proliferation expert at Bilkent University in Ankara. But "if Iran goes nuclear, then who knows?"

In the past, Kibaroglu saw merit in a domestic nuclear industry for Turkey. In a recent interview, however, he argued for alternatives, including improvements to the electrical grid, which leaks as much as a quarter of the power it produces.

"I'm not supporting Turkey's nuclear energy program anymore," he said, "because I'm not clear about what the real intention is. Let's put it that way."

Hamas Revokes Abbas's Wider Powers (FT/REU)

Financial Times, March 7, 2006

Hamas legislators voted on Monday to revoke all decisions made by the previous Palestinian parliament at its final session last month, including laws that gave President Mahmoud Abbas wider powers to appoint some judges.

The move was seen as a challenge to Abbas, whose once-dominant Fatah faction suffered a resounding defeat at the hands of Hamas in parliamentary elections on Jan. 25.

A senior Abbas aide accused Hamas of attempting to oust the Palestinian president.

"We see this as a coup attempt to change the regime and they (Hamas) have to seriously reconsider their decisions," said Tayeb Abdel-Rahim.

In the final session of the previous parliament on Feb. 13, majority Fatah members pushed through an amendment to an existing law, giving Abbas power to appoint judges to a constitutional court without seeking legislative approval.

The judges could be asked to decide whether laws approved by the new parliament are constitutional. Hamas has said the move would effectively give Abbas veto power over new laws.

In the first parliamentary session since being sworn in, Hamas lawmakers -- who dominate the 132-seat parliament, nullified all decisions taken in the session.

"The law is very clear. It gives us the right to endorse or reject the resolutions or the decisions of that session," senior Hamas lawmaker Mahmoud Ramahi told Reuters before the annulment vote was taken.

Fatah members had earlier walked out of the first working session of the new parliament on Monday in protest after Hamas began steps to revoke the previous decisions. © Reuters Limited Click for restrictions

Hamas Legislators Strip Palestinian President Of Wider Powers (NYT)

By Greg Myre

The New York Times, March 7, 2006

JERUSALEM, March 6 — In the first working session of the new Palestinian parliament, Hamas lawmakers voted overwhelmingly on Monday to strip the president of the Palestinian Authority, Mahmoud Abbas, of the expanded powers he had been granted by the legislature before Hamas took control of it.

Shortly after the session began, it degenerated into shouting matches between the rival Hamas and Fatah factions, with Fatah legislators ultimately storming out. After the walkout, lawmakers from Hamas, the radical Islamic faction, voted to nullify all actions taken last month in the final session of the previous legislature, including the decision to give Mr. Abbas additional authority.

In violence on Monday, an Israeli airstrike on a vehicle killed five people in Gaza City: two Islamic Jihad members, who were the targets, and three young bystanders, Palestinian witnesses and medical workers said.

As for the discord in parliament, Azzam al-Ahmed, the head of the Fatah bloc, said, "We have tried through dialogue and contacts with Hamas to resolve this issue, but they are insisting on domination."

Dr. Mahmoud Zahar, a senior Hamas leader, said, "Every time we present an important point, Azzam al-Ahmed stands up and tries to disrupt our work."

For the most part, Hamas and Fatah have spoken of each other in respectful tones since the Hamas election victory in January, which toppled Fatah, the secular nationalist movement that dominated Palestinian politics for decades. Hamas won 74 of the 132 seats; Fatah captured only 45.

Hamas has invited Fatah and other factions to join the cabinet. But Monday's stormy session pointed to the likelihood of a tense, confrontational relationship, and seemed to rule out the already remote prospect that Fatah might take part.

Monday's events also did not augur well for Mr. Abbas, the Fatah leader, who remains president and will have to work with the Hamas-led cabinet.

On Feb. 13, more than two weeks after the election and only five days before the new parliament was sworn in, Fatah lawmakers in the departing parliament gave additional authority to Mr. Abbas.

The most controversial move formed a nine-judge constitutional court, to be appointed by the president. The court would have the power to strike down laws judged to violate the Basic Law, which effectively serves as the constitution for the Palestinian Authority. Mr. Abbas would then be able to work through the court to veto laws passed by Hamas legislators, according to Hamas.

Fatah lawmakers argued Monday that the session last month was legitimate. But in the view of Hamas, the measures passed in the final session were not valid because many lawmakers had already been voted out of office.

Because Israel has barred many legislators from traveling, those from the Gaza Strip gathered in Gaza City, while West Bank legislators met in Ramallah. They were connected in a video conference, which has become the norm for such sessions.

At Monday's session, 20 of the 132 Palestinian lawmakers were absent. Some are wanted by Israel and are in hiding; others are in Israeli jails. Large portraits of a dozen imprisoned lawmakers were placed in their vacant seats.

Aziz Dweik, the speaker of parliament and a Hamas member, opened Monday's session by saying: "The Palestinian people will be our leaders, and we will want to follow the path of the great Palestinian people, who have showed us how to resist. Our main guide will be the teachings of God and of Muhammad."

In the streets of Gaza City, about a dozen Fatah gunmen walked near the parliament building while the legislature was in session and fired their automatic rifles into the air. After a short time, they left the area.

Israel said the airstrike was aimed at Islamic Jihad, which has been behind many recent attacks against Israel.

The dead were identified by Agence France-Presse as Munir Sukar, 25, and Ashraf Shalluf, 24. Three bystanders also died: Raed al-Batsh, 10; his brother Ala al-Batsh, 14; and Ahmed Sousi, 17, according to Palestinian reports.

Israel's military confirmed that it had carried out the airstrike but said it had no information on casualties.

Also on Monday, two Palestinian teenage brothers were killed in a blast in central Gaza that was caused by a bomb that apparently went off accidentally while they were handling it, the Palestinians said.

Hamas Picks A First-Day Fight (WP)

By Scott Wilson

The Washington Post, March 7, 2006

JERUSALEM, March 6 -- In its first working session, the Hamas-controlled Palestinian legislature swiftly asserted its new political clout Monday by nullifying a law approved by the previous parliament that gave new powers to Palestinian leader Mahmoud Abbas, leader of the rival Fatah movement.

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The law was passed on the final day of the lame-duck legislature dominated by Fatah, the secular-nationalist movement that Hamas trounced in the Jan. 25 parliamentary elections. Fatah lawmakers called the Hamas vote to void the law illegal and stormed out of parliament in protest.

The measure gave Abbas, president of the Palestinian Authority, power to name members of a constitutional court without parliamentary approval. The panel rules on the legality of legislation, meaning that Hamas's program could have been blocked if Abbas had packed the court with Fatah members.

The incoming Hamas lawmakers had vowed to reverse the law, which they denounced as an illegitimate attempt to strengthen Abbas's power before its new majority took office.

But in fulfilling that pledge Monday, as the parliament met simultaneously in the West Bank city of Ramallah and the Gaza Strip through a video feed, Hamas infuriated Fatah lawmakers whom they are courting to join a coalition cabinet.

"They got beaten in the first round," said Ahmed al-Hajj Ali, a Hamas legislator. "This is the first day of the victory of law that has been absent from the Palestinian arena for many, many years."

Hamas, formally known as the Islamic Resistance Movement, is designated a terrorist organization by the United States and the European Union for its declared war against Israel. The party controls 74 of parliament's 132 seats. But it is seeking to bring Fatah into the cabinet to assuage international concern over its political agenda, which has jeopardized the government's lifeblood foreign aid.

Hamas rejects a negotiated two-state solution to the Israeli-Palestinian conflict, the approach endorsed by Fatah. The new cabinet is due to be installed by March 28, but so far, Fatah leaders have said they would rather see Hamas fail on its own than join the cabinet.

Saeb Erekat, a Fatah legislator, said Hamas's decision to void legislation passed by a previous parliament was "absolutely unconstitutional." After meeting with Abbas on Monday evening, Erekat said Fatah would ask the Palestinian High Court on Tuesday to overturn the vote nullifying the law.

"This is a new day in the parliament, a whole new ballgame," Erekat said. "We have a government, an opposition, and Hamas in the driver's seat. If we can manage this, we will be doing a great job. But the question is how do we manage it."

In the Gaza Strip, meanwhile, an Israeli airstrike Monday killed five Palestinians and wounded eight others. Israeli military aircraft fired on a car carrying two senior members of the radical Islamic Jihad movement, the group chiefly responsible for the daily rocket fire from Gaza into southern Israel.

Three bystanders were also killed, including an 8-year-old boy, identified as Raed al-Batesh, and Ahmed al-Sousi, 17.

Hamas Strips Abbas' Powers (WT/AP)

By Ibrahim Barzak, Associated Press

The Washington Times, March 7, 2006

GAZA CITY, Gaza Strip -- Hamas headed into a full-blown confrontation with Palestinian Authority President Mahmoud Abbas yesterday, voting to strip him of powers that he was awarded hastily by his Fatah party in the last session of the outgoing parliament.

The Hamas-Fatah conflict has been simmering since Hamas swept Fatah out of office in the Jan. 25 parliamentary elections, ending four decades of unchallenged rule by the party of the late Yasser Arafat.

Hamas has 74 seats in the new parliament and Fatah has 45. The first order of business for Hamas was to cancel the powers the outgoing parliament gave Mr. Abbas, the Fatah leader, authorizing him to cancel laws passed by the new parliament and appointing Fatah officials to key positions.

In the West Bank administrative capital of Ramallah, Fatah delegates walked out, accusing Hamas of twisting the rules to weaken Mr. Abbas' authority.

About 15 Fatah gunmen marched on parliament in Gaza City, firing into the air. The gunmen eventually headed to a Fatah meeting, where they demanded that their party stay out of the government that Hamas is setting up and threatened to kill any Fatah official who joined.

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With its absolute majority, Hamas can set up a government by itself, but Hamas leaders prefer to bring in other parties, partly to deflect international criticism and threatened economic sanctions because of Hamas' record of violence and refusal to recognize Israel.

Israel, which considers Hamas a terror group, refuses to allow members of the Palestinian parliament to travel from Gaza to the West Bank, so the two buildings were linked by teleconferencing equipment to allow the session to take place.

In the final session of the previous parliament on Feb. 13, majority Fatah members pushed through an amendment that gave Mr. Abbas power to appoint judges to a constitutional court without seeking legislative approval.

Yesterday, Hamas easily passed legislation to rescind Mr. Abbas' new powers, but some analysts said Mr. Abbas has the authority to cancel the resolution, perpetuating the standoff.

Fatah complained that the Hamas action yesterday "undermines the basis of dialogue and partnership in any institution with Hamas." A Fatah legislator said the decisions would be appealed to the Palestinian supreme court.

Hamas lawmaker Mushir al-Masri ridiculed the Fatah reaction.

"It is obvious that some people until now have not understood the rules of the democratic game," he said.

Mr. Abbas was elected president of the Palestinian Authority in January 2005, and his term has three years remaining, regardless of the makeup of parliament.

Although Mr. Abbas is seen as a moderate and remains in power, Israel has reacted to the Hamas victory by cutting off transfer of vital tax money to the Palestinian Authority, charging that it now is controlled by terrorists.

As parliament was wrapping up its session yesterday, the Israeli air force targeted an ice-cream truck in Gaza City, killing two Islamic Jihad militants and three bystanders, two of them children, the military and Palestinian officials said.

A spokesman for the group who gave his name as Abu Dajana vowed retaliation.

"God willing, we are going to get revenge for the honorable bloodshed today," he told reporters outside a morgue at the Shifa hospital in Gaza, where angry Palestinians chanted, "Death to Israel."

Mr. Abbas appealed for international intervention to stop Israeli attacks.

"These aggressive actions threaten the exerted efforts to maintain the truce," he said. "Achieving security would come only through negotiations, not unilateral action and aggression."

The "unilateral action" reference came as Israeli security officials outlined plans for Israel to cut itself off further from the Gaza Strip, after the summer withdrawal of soldiers and settlers. The security chiefs are expected to present the plan after Israel's March 28 election.

Hamas Undoes New Powers Given To Palestinian President (LAT)

The Los Angeles Times, March 7, 2006

JERUSALEM — In a sharp challenge to Palestinian Authority President Mahmoud Abbas, the Hamas-dominated parliament Monday annulled a series of measures by the outgoing legislature aimed at strengthening the president's powers.

Hours later, tensions were stoked when an Israeli airstrike in Gaza City killed two Palestinian militants and three passersby, one of them an 8-year-old boy. Israel acknowledged having carried out the "targeted killing" of an Islamic Jihad field operative it said was responsible for a number of attacks against Israelis. It expressed regret over any civilian casualties.

The confrontation in the Palestinian parliament raised fears that Hamas, the militant movement that decisively won January's legislative elections, was turning its back on the notion of compromise and conciliation with Abbas' Fatah, the more moderate and secular faction it defeated.

Fatah lawmakers walked out in protest just before the annulment vote, which took place during the parliament's first full working session. The new legislature had met just once previously, on Feb. 18, for a ceremonial swearing-in.

Monday's stormy six-hour session was held at separate parliament buildings in the West Bank town of Ramallah and in Gaza City, which were connected by a video link. Many lawmakers from Gaza, including the seaside territory's entire Hamas contingent, are prevented by Israel from traveling to the West Bank.

The distance did little to paper over the clear animosity between the two sides. Fatah stalwart Mohammed Dahlan told the Hamas lawmakers that seeking to annul decisions by the previous parliament was "a dangerous precedent." Mahmoud Zahar,

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the majority leader and a senior Hamas figure, visibly glowered as he accused Fatah of trying to disrupt the new parliament's work.

"This is something we will not accept," he said.

The annulled measures would have given Abbas the power to appoint a constitutional court with the authority to rule on any dispute between the executive branch and lawmakers, or between the president and the new Cabinet that Hamas is expected to put forth in coming weeks.

The nine-member court also would have had the power to veto laws deemed in violation of the Palestinians' quasi-constitutional Basic Law.

Hamas lawmakers also overturned five appointments to senior posts, all of them Fatah members, which were approved by the previous parliament.

As has often been the case since Hamas' upset victory, the threat of violence hung over the gathering.

Fatah gunmen, who have gone on shooting rampages to protest the loss of government privileges, strode up and down outside the parliament building in Gaza City.

The parliamentary quarrel makes it even more unlikely that Fatah will agree to enter into a governing coalition with Hamas. Fatah's senior leaders as well as the rank and file have brushed aside the prospect of such an alliance.

In Gaza City, an angry crowd gathered outside the main Shifa Hospital, where the bodies of those killed and injured in the Israeli airstrike had been brought. Doctors said eight people were wounded in the explosion in the city's Shajaiyeh district, which came as many people were heading home from work or shopping for evening meals.

A spokesman for Islamic Jihad's military wing promised to take revenge for what he confirmed to be the deaths of two of the group's fighters.

"We will escalate our attacks at the Zionist enemy," said the spokesman, who goes by the name of Abu Hamza. "We will strike at the heart of Israel…. We call on the Zionists to get some coffins ready."

The Israeli army said in a statement that the raid had targeted Munir Mahmed Mahmed Sukhar, a 30-year-old Islamic Jihad operative it said was responsible for rocket attacks against Israel and the attempted smuggling of would-be suicide bombers and explosives into Israel from Egypt.

Islamic Jihad, which has rejected a truce that is largely being adhered to by Hamas, was responsible for all six suicide bombings in Israel last year. Hamas halted its campaign of suicide bombings when it entered politics a year ago.

In recent months, Israel has steadily been targeting Islamic Jihad militants, often with airstrikes like Monday's in urban areas.

A witness, Zohir Maarouf, said he and other onlookers rushed to help the injured after the massive explosion rocked his busy street.

"I grabbed a woman who was hurt and bleeding and carried her to my car and rushed to the hospital," he said.

In an unrelated incident, two teenage Palestinian brothers were killed in an explosion on the outskirts of the Bureij refugee camp in the central Gaza Strip.

The camp's mayor, Kamal Bughdadi, said the boys, ages 14 and 15, were thought to have been playing with unexploded Israeli ordnance, perhaps a tank shell.

Special correspondents Maher Abukhater in Ramallah and Rushdie abu Alouf in Gaza City contributed to this report.

Hamas Leaders Not Immune From Targeted Killing, Israeli Defense Chief Says (WSJ/AP)

Associated Press

The Wall Street Journal, March 7, 2006

JERUSALEM – Israel's defense minister warned that Hamas leaders, including incoming Palestinian Prime Minister Ismail Haniyeh, will not be immune from pinpointed Israeli killings if the Islamic militant group were to resume its attacks on Israel.

The defense minister, Shaul Mofaz, spoke a day after an Israeli air strike against an ice-cream truck killed two Islamic Jihad militants and three bystanders, including two children, in Gaza City.

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Hamas, which is sworn to Israel's destruction, swept January parliamentary elections and is in the process of forming a cabinet. It has rejected international calls to renounce its violent, anti-Israel ideology, but has maintained a year-old moratorium on suicide bombings.

Mr. Mofaz told Israel's Army Radio Tuesday that Israel's policy of targeted killings has proven to be effective, and will continue. "There is no question about its efficacy," Mr. Mofaz said. "Look what happened to Hamas in the years it conducted an untrammeled suicide bombing war against us. When we started the targeted killings, the situation changed, he said.

"We will continue the targeted killings at this pace," Mr. Mofaz added. "No one will be immune."

Asked if Mr. Haniyeh would be a target if Hamas were to resume attacks, Mr. Mofaz replied: "If Hamas, a terror organization that doesn't recognize agreements with us and isn't willing to renounce violence, presents us with the challenge of having to confront a terror organization, then no one there will be immune. Not just Ismail Haniyeh. No one will be immune."

Salah al-Bardawil, a Hamas spokesman, denounced Mr. Mofaz's comments. "This statement and Israeli practices on the ground reflect the bloody, inhumane and inflammatory character of the Zionist enemy," Mr. Bardawil said. "We are not seeking immunity or mercy from Israel. We are in a confrontation. The side that is most steadfast is the side that will survive," he said.

Hamas headed into a domestic confrontation on Monday by stripping Palestinian President Mahmoud Abbas of powers his then-ruling Fatah Party granted him in its last session. Fatah delegates walked out of parliament in protest, charging that Hamas was twisting the rules to nullify Mr. Abbas's additional authority. They plan to extend their protest Tuesday by boycotting the parliamentary session, a Fatah official said.

The Hamas-Fatah conflict has been simmering since Hamas swept Fatah out of office in January, winning 74 seats in the new parliament to Fatah's 45. Azzam al-Ahmed, Fatah's parliamentary faction leader, said Tuesday that Fatah would file suit against Hamas in the Palestinian Supreme Court in the course of the day. "They used their majority to infringe the law on behalf of their interests, and we are resorting now to the judiciary to help us protect the law," Mr. Ahmed said.

Some legal experts say Mr. Abbas has the authority to cancel Hamas's action on Monday, a move that would perpetuate the standoff. Mr. Abbas was elected president of the Palestinian Authority in an election in January 2005, and his term has three years to run, regardless of the makeup of the parliament.

US Says Door Remains Open To N.Korea Nuclear Talks (REU-Y2)

By Paul Eckert

Reuters, March 7, 2006

North Korea should return to six-country nuclear talks regardless of the outcome of discussions on the U.S. financial crackdown on Pyongyang over money laundering, the State Department said on Monday.

Senior North Korean diplomat Ri Gun was due in New York on Tuesday for a briefing from a U.S. team led by the Treasury Department on measures imposed to combat Pyongyang's suspected money laundering and counterfeiting of U.S. currency.

State Department spokesman Tom Casey took pains to separate the technical explanation of the financial penalties from efforts to get North Korea to rejoin nuclear talks with the United States, China, Japan, Russia and South Korea.

"It's not related to the six-party talks," Casey said.

"We think that regardless of this briefing, and regardless of anything else, that the North Koreans ought to come back to those talks as soon as is possible," he told reporters.

North Korea has denied involvement in any illegal activities and has boycotted the talks since November, arguing that the crackdown was an attempt to topple its leadership.

But the visit to New York by Ri, the North's deputy envoy to the six-party talks, has raised hopes that the North may be poised to return to negotiations hosted by China.

The meeting in New York is "an opportunity for us to explain to the North Koreans simply how our law works and the kind of actions that we took," said Casey, who reiterated Washington's stance on the nuclear talks.

"The door is not closed to the resumption of the six-party talks. We're ready to go back today," he said.

NORTH TO COOPERATE?

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The six countries agreed in principle in September that the North would dismantle its nuclear programs in exchange for aid and better diplomatic ties. But their last session in November ended without progress.

Japan's Kyodo news agency quoted Ri as saying in Beijing at the weekend that North Korea was a "victim" of money laundering. "We plan to convey our readiness to cooperate in international efforts" to tackle financial crime, Ri said.

In September, the Treasury Department branded Banco Delta Asia -- a bank in Macau that did business with North Korean firms -- a "willing pawn" in Pyongyang's illicit financial activities. The bank denied the allegations, but said in February that it had stopped dealing with North Korea.

The State Department's International Narcotics Control Strategy Report issued on March 1 cited "compelling evidence" that North Korea was involved in a wide range of criminal activities, including trafficking in counterfeit cigarettes and high-quality counterfeit U.S. currency.

Estimates of North Korea's illicit earnings from trafficking and counterfeiting range as high as $1 billion a year. Some U.S. officials have said Pyongyang has enough paper and ink to make $2 billion in counterfeit American money.

The Institute for International Economics' Marcus Noland, a leading expert on the North's economy, said North Korea probably makes only a fraction of the face value of the fake currency it sells to criminal groups in bulk.

S.Korea, U.S. To Start Free Trade Talks In June (REU-Y2)

By Jack Kim

Reuters, March 6, 2006

The United States and South Korea agreed on Monday to start a formal round of free trade talks in June, dealing a blow to farmers and unionists demonstrating against the plans.

A group of about 40 rallied on Monday in Seoul as trade negotiators from the two countries agreed to hold their first official talks, aimed at bringing down trade barriers, on June 5 to June 9 in Washington.

South Korea's chief negotiator, Kim Jong-hoon, told reporters four additional rounds of talks were planned in alternate capitals for this year to open up trade between the two countries that in 2004 totaled more than $70 billion.

"I believe we should finish this job once we start it," he said, adding the two sides had not set a date for when the talks should be finalized.

"We have not set a deadline for the talks," he said.

Kim and the U.S. chief negotiator Assistant Trade Representative Wendy Cutler met at South Korea's Foreign Ministry.

However, Korean opponents, fearing free trade will spark a flood of cheap imports from the United States that could ruin their livelihoods, promised fierce demonstrations against the government of President Roh Moo-hyun to try to prevent a deal going ahead.

"The Roh Moo-hyun government will never be excused," said Moon Kyung-sik, the head of the Korea Peasants' League. "We will be fighting stronger battles than we did last year."

Two members of the Korea Peasants' League were killed last year in clashes with riot police when they demonstrated against a multi-lateral agreement by South Korea to gradually raise rice imports.

Rice will be one contentious area in the talks between Seoul and Washington. South Korea insists rice will not be part of a free trade deal, while the United States says it must be included in the talks.

Another contentious area is likely to be exports of South Korea autos to the United States. U.S. car makers are already feeling the heat as they lose market share to Asian producers.

South Korea's service sector could also create bottlenecks in the talks because of large state involvement or restrictions on foreign ownership in such fields as telecommunications.

"Opening agriculture is definitely a big barrier, but opening (South Korean) services will also be important," said Daniella Markheim, a trade economist at the Heritage Foundation in Washington.

Kim said the talks will be open-ended even though White House authority to negotiate a trade pact that can not be amended by Congress runs out in July next year.

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President Roh said last month reaching a free trade deal with the United States would be one of the top priorities in the remainder of his term that runs to February 2008.

The United States, which has the world's biggest economy, ran a trade deficit with South Korea, which has the world's 11th biggest economy, of $19.8 billion in 2004.

For OPEC, New Talks On Output (NYT)

By Jad Mouawad

The New York Times, March 7, 2006

VIENNA, March 6 — Strange as it may seem, some OPEC oil ministers are feeling sorry for themselves.

For the last three months, a few of OPEC's top representatives have argued that their oil-producing cartel, which pumps nearly 4 of every 10 barrels of oil produced around the world, needs to trim output to avert a potential oil glut and a — highly hypothetical — price collapse.

The current argument for cutting output first came up when the Organization of the Petroleum Exporting Countries met in December in Kuwait. It resurfaced at a meeting in Vienna the following month and it is likely to top the agenda this week when the group meets here again to consider its production levels.

It almost certainly will not happen. For one thing, Saudi Arabia, by far the most powerful OPEC producer, is opposed. For another, such a decision would probably boomerang.

That is because oil prices, rather than falling as some OPEC ministers had feared, remain so high that any action to limit supply while oil still costs more than $60 a barrel would inevitably lead to a political reaction in oil-consuming countries.

"Many oil ministers are itching for a cut," said Frédéric Lasserre, the head of commodity research at Société Générale in Paris. "But politically a decision to cut supplies would be impossible to explain. They would just look greedy."

So far, oil producers have the best of all worlds: high prices and high demand. After Hurricane Katrina, OPEC waived its traditional country-by-country quota system and said it would keep its oil taps fully open. That policy is still in effect.

But because demand for some oil products typically slows in the second quarter, allowing refiners to build up stocks of gasoline, some of OPEC's harder-line ministers have argued that the group should pare its output to avoid a sharp price drop.

Venezuela's oil minister, Rafael Ramírez, said on Thursday that he would propose a production cut of 500,000 to a million barrels a day. "It's our proposal and we're going to discuss it," he told reporters in Caracas.

In January, a similar proposal was briefly floated by Iran, another of the cartel's price hawks.

The group's current president, Edmund Daukoru of Nigeria, who was in Washington last week to meet with Bush administration officials, also expressed some concerns about the level of commercial inventory held in the United States. Too much oil in stock, he implied, could push prices down.

"Currently we believe there is an overhang," Mr. Daukoru said, according to Bloomberg News. "When there's a huge buildup of stocks, it can swing prices drastically. You can get even a drop of up to $4 on a single day."

That view strikes many oil traders as at odds with market reality. If anything, they say, the greater risk is that prices will rise even further because of domestic turmoil in Mr. Daukoru's backyard and elsewhere.

Rebels seeking a greater share of Nigeria's oil wealth have attacked oil pipelines and production platforms, kidnapped foreign workers and threatened to disrupt exports.

Their campaign has forced Nigeria to cut production by nearly 20 percent, or about 450,000 barrels a day. The country is the biggest oil producer in Africa and the fifth-largest exporter to the United States.

Elsewhere, a drop in Iraq's production, the diplomatic dance surrounding Iran's nuclear program and the failed attacks against the world's largest oil-processing operation in Saudi Arabia have also stoked fears of supply disruptions. Some analysts have argued that the supply cuts from Nigeria and other areas amounted to a de facto cut by OPEC.

All of this has kept oil traders on edge and oil prices between $60 and $70 a barrel. On the New York Mercantile Exchange, crude oil futures closed at $62.41 a barrel Monday.

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Given the volatile market and the lack of much spare capacity, not every producer sees the need for a production cut from OPEC anytime soon. Last month, Saudi Arabia's oil minister, Ali al-Naimi, said OPEC was unlikely to cut production for the rest of the year.

"The Saudis understand the current vulnerability in the market," said Lawrence J. Goldstein, the president of the New York-based Petroleum Industry Research Foundation. "They want to make sure the market is well supplied."

One thing producers can count on is strong demand, particularly from China. This year, oil demand is forecast to grow by 2.2 percent, to 85 million barrels a day, according to the International Energy Agency. Last year, oil consumption rose 1.1 percent and in 2004, it jumped a staggering 3.8 percent, more than twice the last decade's average pace.

Given that longer-term pressure, industry experts see little reason for OPEC to worry about today's inventory levels, which stood on Feb. 24 at 328.3 million barrels, up from 300.9 million barrels a year earlier.

"The market is tenuously balanced because inventories aren't high enough to cover tomorrow's surprises," Mr. Goldstein said. "OPEC has used product seasonality as an excuse but it's not a valid argument."

Much of OPEC's anxiety has less to do with the level of consumer-held oil stocks held than by the price the group will seek to defend. The price of the so-called OPEC basket, a composite of the types of oil sold by OPEC members, was $56 a barrel last week. Most analysts argue that oil ministers will consider action if the OPEC basket price falls to $50.

While little change is actually expected, the talk does serve OPEC's interests.

"Before each meeting, ministers come out and say all sorts of things and create confusion in the market," said Yasser Elguindi, a senior managing director at Medley Global Advisers, a consulting firm for hedge funds. "We call it the 'OPEC kabuki.' "

Saudi Minister Doesn't Want Cut To OPEC Output (WSJ)

By A Wall Street Journal News Roundup

The Wall Street Journal, March 7, 2006

Saudi Arabia's oil minister was reported as saying the Organization of Petroleum Exporting Countries shouldn't trim oil output at this week's meeting. In an interview with pan-Arab daily newspaper Al Hayat, published Monday, Ali Naimi also said fears stemming from threats to oil supplies were the main factor behind prices of more than $60 a barrel.

Mr. Naimi said it wasn't likely an extraordinary OPEC conference would convene before June 11, when the 11-member producer group meets in Venezuela.

"OPEC should not take any decision to decrease production because any such decision would be the main reason for price hikes," Mr. Naimi said. He said oil supply was "stable" while the main reason for high prices were fears of supply disruptions caused by political instability in Nigeria, Venezuela, Iran, Iraq and a failed suicide attempt in Saudi Arabia.

Mr. Naimi said OPEC member states should focus on trying to offset shortages caused by the decrease in supply of 450,000 barrels a day in Nigeria, and 500,000 b/d from the effects of hurricane Katrina in the U.S.

Mr. Naimi was reported as saying state-owned Saudi Arabian Oil Co., or Aramco, and Total SA of France were in advanced talks to build an oil refinery in the Persian Gulf city of Al Jubail. London-based Al Hayat said the refinery, a joint venture between Aramco and Total, would have a production capacity of 400,000 barrels a day and cost $4 billion to $5 billion to build.

Sunday, Mr. Naimi met with French Minister of Economy, Finance and Industry Thierry Breton and Total Chief Executive Thierry Desmarest, who were visiting the country as part of a delegation accompanying French President Jacques Chirac. In Riyadh, Mr. Desmarest said "discussions have been going on for several months." There were a number of options on economic and technical issues being considered, he said.

China Exercises Restraint With Taiwan (USAT)

By Paul Wiseman

USA Today, March 7, 2006

HONG KONG — Not so long ago, China would have been lobbing missiles across the Taiwan Strait, mobilizing troops and issuing bloodcurdling threats in response to any Taiwanese move toward independence.

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Times have changed: The mainland calculates that restraint, not retaliation, is the best response to Taiwanese President Chen Shui-bian's provocative decision to scrap a neglected but symbolically important council dedicated to the reunification of China and Taiwan.

"They prefer to keep a low profile," says Andrew Yang, executive director of the Chinese Council of Advanced Policy Studies, a think tank in the Taiwanese capital Taipei.

Symbols are everything when it comes to the prickly relationship between China and Taiwan, an island just off the Chinese mainland. Chen took a sledgehammer to one symbol Feb. 27 when he announced he was shutting down the Taiwanese government's National Unification Council. The 16-year-old council hadn't met since Chen took office in 2000, but it represented Taiwan's willingness to consider eventual reunification with the mainland.

Chen's Democratic Progressive Party (DPP) advocates independence, but he promised not to abolish the council in his inaugural address in 2000.

China and Taiwan have been separate since 1949 when the communists seized power on the mainland and Chiang Kai-shek's vanquished Nationalists fled across the Taiwan Strait to set up a rival government. Mainland China has never relinquished its claim to the island of 23 million, threatening to resort to force if necessary to reunite.

More than 87% of Taiwanese responding to a National Chengchi University poll in November want to maintain the status quo, at least for now: real but undeclared independence. Taiwanese don't want to provoke China to war by declaring independence outright.

In 1996, the Chinese fired missiles across the Taiwan Strait in an attempt to intimidate Taiwanese voters into rejecting pro-independence presidential candidate Lee Teng-hui. In response, the United States sent warships to the waters off Taiwan. Four years later, the Chinese threatened to attack Taiwan if voters picked Chen.

After Chen's move last week, China ratcheted up the rhetoric. On Monday, the official Xinhua News Agency quoted Guo Boxiong, vice chairman of the Central Military Commission, as saying the closing of the council was a "grave provocation" that would undermine peace. "We … will never allow 'Taiwan independence' secessionist forces to make Taiwan secede from China," he said. Despite the warning, a more-serious Chinese response is not likely. Reasons:

•Threats haven't worked. The bombast of 1996 and 2000 backfired. Both times, Taiwanese voters defied China, electing first Lee and then Chen. "Beijing learned a serious lesson: that Chinese coercive policies are counterproductive in Taiwan," Chen-yuan Tung, a political analyst at National Chengchi University, wrote last year in the academic journal Asian Survey. China has tried to butter up the Taiwanese public instead. Beijing has encouraged Taiwanese businesses to invest and sell their products on the mainland, welcomed visits by opposition Taiwanese politicians and offered to send pandas to the Taipei Zoo.

•Chinese officials prefer to stand back and let Chen's behavior drive a wedge between Taiwan and its No. 1 ally, the United States. Washington is required by law to help Taiwan defend itself, but the United States opposes Taiwanese independence and wants to prevent a cross-strait military conflict.

"They've decided it's more efficient for Washington to tell Taiwan what to do and what not to do," says Philip Yang, a political scientist at National Taiwan University. It doesn't always work perfectly: The United States warned Chen against shuttering the reunification council. Taipei decided to cease activity at the council but did not abolish it when Chen took office.

•China has other priorities. Conflict probably would jeopardize economic growth, spoil President Hu Jintao's summit in April in Washington and sabotage the 2008 Olympics in Beijing.

Despite its conciliatory approach to the Taiwanese public, China passed an anti-secession law last year. That created a legal basis for attacking if the island declares independence. The mainland still has more than 700 missiles pointed at Taiwan.

Chen is using political brinkmanship with China to rejuvenate his party's pro-independence base after big losses in local elections in December, says National Taiwan University's Philip Yang. "Chen wants to return to center stage in Taiwanese politics," he says.

Last week, Chen told The Daily Yomiuri, a Tokyo newspaper, that he wanted to draft a Taiwanese constitution, a move China probably would view as a precursor to a declaration of independence.

"The termination of the reunification council is a signal that Taiwan will take a more antagonistic approach toward China," Tung says. "There will be trouble among the three parties" — China, Taiwan and the United States.

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WTO Finds Mexico Violated Trade Rules In Soft-Drink Case (WSJ/AP)

By Associated Press

The Wall Street Journal, March 7, 2006

GENEVA -- The World Trade Organization ruled that Mexico violated global trade rules in a soft-drink dispute with the U.S.

A WTO panel rejected a Mexican appeal, supporting U.S. claims that Mexico was in breach of international law in imposing a 20% tax on drinks that are sweetened with anything other than cane sugar grown in Mexico.

Mexico was a top market for high-fructose corn syrup from the U.S. before the tax was imposed in 2002. The tax made it too expensive to use the corn sweetener in soft drinks, and today, the U.S. share of the market is about 6% of pretax levels, according to the U.S. trade representative's office.

The dispute over sugar and corn sweetener has cost U.S. corn refiners $944 million annually, according to the Washington-based Corn Refiners Association.

Separately, officials signed an agreement that will boost shipments of Mexican cement into the U.S., resolving a 16-year trade fight.

The agreement, which will take effect on April 3, will allow imports of Mexican cement to rise to three million tons annually until April 2009, at which point Mexico will be allowed unlimited shipments. U.S. contractors estimate the U.S. imported 2.2 million tons of Mexican cement last year. Penalty tariffs on the cement will drop from $26 a ton to $3 a ton and are scheduled to end completely in April 2009.

'Color' Revolutions Wane (CSM)

By Fred Weir

The Christian Science Monitor, March 7, 2006

MOSCOW - Two key former Soviet states - Belarus and Ukraine - head into elections this month amid dramatic accusations of planned coups, state coercion, and vote-fixing.

But Moscow isn't worried.

Instead, there is a sense of calm and fresh confidence here that contrasts sharply with the Kremlin's panicky reactions to the surge of "colored revolts" that swept through the region in recent years. That revolutionary wave - which began with Georgia's 2003 Rose Revolution and continued with Ukraine's Orange Revolution - seemed unstoppable just a year ago, when Krygyz President Askar Akayev was overthrown.

But the inability of new leaders to fulfill revolutionary pledges, together with the failure of popular pressure to effect change in other Soviet satellite states, has opened the way for Moscow to reassert its influence in the region.

"Those upsurges were the response of people to bad governance and worsening conditions, and the new leaders that came in have shown themselves unable to offer improvements," says Gennady Chuffrin, deputy director of the official Institute of World Economy and International Relations in Moscow. "Ukraine could even see a reversal of what happened a year ago. Obviously the Kremlin would like to see a weakening of [Ukrainian President Viktor] Yushchenko, and I think that's what's going to happen."

Ukraine's economic decline and disillusionment have propelled the pro-Moscow opposition party into first place in opinion surveys for parliamentary elections on March 26. In an ironic twist, the opposition leader Mr. Yanukovych, who was forced out of power after being accused of rigging Ukraine's 2004 presidential election in his favor, claims the authorities are preparing to steal the polls. "The orange team can only remain in power through massive falsifications, and this is what they are doing," he said last week.

According to a survey conducted last week by the Institute of Social and Political Psychology in Kiev, Ukraine, Yanukovych's Party of Regions leads with 27 percent support, followed by former prime minister Yulia Tymoshenko's Bloc with 19 percent and Mr. Yushchenko's Our Ukraine movement with 17 percent.

If the elections bring in a deeply split parliament, it could lead to an extended political crisis that would play into Moscow's hands. A January gas blockade by Russia appears to have deepened Ukraine's economic slump while strengthening the hand of the pro-Moscow Yanukovych.

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"We can make Ukraine strong and rich, because democracy is impossible in a poor country," Yanukovych told his campaign workers last week. "Unlike the present leadership, we will not build our strategy to the detriment of relations with Russia."

In Belarus, good relations with Russia are not an issue. The Kremlin will try to put the best face on President Alexander Lukashenko's almost certain third-term victory in polls slated for March 19. But even Russian experts who support the Belarussian leader refrain from calling the election process democratic.

Two candidates running against Lukashenko, Alexander Kozulin and Alexander Milinkevich, have been all but barred from media and their rallies have been broken up by force. Last Thursday, Mr. Kozulin was arrested and allegedly beaten by police after he attempted to stage an impromptu press conference at the Palace of the Republic, Belarus' parliament, in Minsk. "I wanted to tell the truth about the dictatorship that we live in," Kozulin told journalists.

Lukashenko, a former collective farm chairman who has maintained a strict, state-controlled economy, can point to healthy growth rates, low unemployment and stable, if meager, living standards.

"Lukashenko, for all his lack of democracy, has the support of his people and is pursuing sensible policies," says Mikhail Delyagin, director of the independent Globalization Institute in Moscow. "He may be the devil incarnate to the West, but Belarussians regard him as their legitimate leader."

But at least a few Belarussians apparently have other ideas. Last week, the chief of Belarus's KGB security service accused an allegedly foreign-funded opposition group of planning to stage an election-day coup after publishing faked voting results.

Opposition leaders deny the allegations. Mr. Milinkevich has called for peaceful protests if vote-rigging occurs. But all election-day demonstrations were banned by government decree last week. "These elections are being held under conditions of total falsification and persecution of the opposition," Milinkevich told journalists Friday.

The turmoil prompted US Deputy Secretary of State David Kramer to warn Belarussian leaders that "there will be consequences" for incidents like Kozulin's arrest. "We are paying very close attention to those who are involved in activities that promote either fraudulent elections or promote violence," he said.

Many Russian experts worry that the perceived rivalry between Moscow and Washington for influence in the post-Soviet arena, as played out through these events, is accelerating a chill between the two countries. A US Council on Foreign Relations report released over the weekend noted a "downward trajectory" in US-Russian ties, in part due to Moscow's alleged meddling in the affairs of its neighbors, through energy squeezes and political pressure. "Russia's relations with other post-Soviet states have become a source of significantly heightened US-Russian friction," the report said.

That view is mirrored in Moscow. "Unfortunately, the [wave of revolutions] was perceived in Russia as a kind of conspiracy against Russian interests," mainly promoted by the US, says Irina Zvigelskaya, an analyst with the independent Center for Strategic and International Studies in Moscow. She says the problem results from poor communication over each other's policies in the region. "The US has been obsessed with the notion of democracy, while we have been obsessed with the notion of stability," she says. "It's a deeply fraught misunderstanding"

Russian Panel Backs Pipeline Near Baikal (NYT)

By C. J. Chivers

The New York Times, March 7, 2006

MOSCOW, March 6 — A Russian regulatory panel reviewing plans to build an oil pipeline that would pass along the shoreline of Lake Baikal, the world's most voluminous fresh-water lake, announced Monday that it had approved the proposal over objections from scientists and environmental groups.

The announcement, by the Federal Environmental, Technological and Nuclear Oversight Service, will allow Transneft, the state-owned pipeline monopoly, to proceed with plans to build a pipeline to ship Siberian oil eastward to Asian markets.

The project, roughly 2,500 miles long and known as the East Siberia-Pacific Ocean pipeline, would pass within 900 yards of Lake Baikal's northern shore.

Lake Baikal is a chasm more than a mile deep formed tens of millions of years ago by a crack in the earth's crust.

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Nearly 400 miles long and 30 miles wide, it holds more than 20 percent of the world's unfrozen fresh water, and is widely regarded as one of Russia's unique natural gems. Much of its plant and animal life lives nowhere else, and the United Nations has placed the lake on the World Heritage list, a designation it shares with the Serengeti and the Great Barrier Reef.

Scientists have warned that because the region remains seismically active and the lake is still expanding, earthquakes could sever any pipeline, causing its contents to flow into the lake. They also say that because Transneft's planned route will require crossing many of the lake's tributaries, the project will cause erosion and send dirt and pollution into the lake's nearly pristine water.

"It looks very bleak for the environment," said Michiel Hotte of the Zoological Society of London, who has campaigned against the pipeline plan.

The decision announced Monday followed months of maneuvering.

Russia's prime minister, Mikhail Y. Fradkov, signed a resolution late in 2004 detailing the plan, under which Russia, the world's second largest oil exporter, would build the pipeline and diversify its oil sales. President Vladimir V. Putin has signaled his approval.

Opponents of the plan said such powerful support doomed a chance for a genuine environmental review.

They noted that even though a commission of Russian experts working for the oversight service rejected Transneft's planned route on environmental grounds, the ruling was not accepted. Instead, a new commission, with additional members, was ordered to review the project again.

Greenpeace Russia, which has also campaigned against the plan, said that the new commission was under intense pressure, and that its decision was all but a foregone conclusion. Signs of the pressure appeared evident last month, when Transneft's leadership threatened to sue the oversight body and seek financial damages against experts who blocked or delayed the pipe's construction.

Greenpeace Russia said it planned to file a lawsuit against the decision. It was not hopeful about its prospects. "Suing a state-owned business with close ties to the Kremlin is quite a tricky thing," said Roman Vazhenkov, the campaign coordinator. "But we have to try."

During months of meetings and quarrels, environmentalists had proposed another path for the pipeline that would have swung north and east away from the lake and its watershed before joining another section of the route.

The idea never gained traction with Transneft, whose route follows the course of existing railway lines, making development less expensive. "This is a classic conflict between the cost and the environment," Mr. Hotte said. "It is just a matter of convenience."

A spokesman for Transneft declined Monday to comment about the decision. Company officials have previously played down the environmental concerns, saying the pipeline will be constructed to high standards and noting that trains carrying oil and petroleum products already pass by the lake on the railway each day.

In an interview last month with the state-owned newspaper Rossiskaya Gazeta, Simon Vainshtok, Transneft's president, also suggested that Greenpeace was a tool used by unidentified international interests to prevent Russia from opening Asian and Pacific oil markets.

Transneft has said it hopes to have the pipeline completed within three years at a cost of $11.5 billion. Environmentalists said that even without delays from lawsuits, that schedule was optimistic.

Russia Approves Divisive Pipeline Plan (WP)

By Peter Finn

The Washington Post, March 7, 2006

Critics Cite Threat to Lake Baikal, Political Pressure on Panel

MOSCOW, March 6 -- A controversial plan to build a major oil pipeline passing within half a mile of Siberia's Lake Baikal, the world's largest freshwater lake, was approved by a Russian government regulatory agency Monday.

The decision followed a review process that environmentalists and some Russian experts involved in assessing the route say was marked by manipulation of an expert panel and political pressure on dissenting scientists.

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"Even if billions of dollars are at stake, the Russian government cannot put Lake Baikal at risk," Andrei Poyarkov, a member of the expert panel and a biologist at the Institute of Ecology and Evolution in the Russian Academy of Sciences, said at a news conference in Moscow. "They do not have the right."

The head of Rostekhnadzor, the Federal Service for Environmental, Technological and Nuclear Oversight, signed a decree Monday accepting the vote of an expert commission last week to give the project the green light, according to the Russian news agency Interfax.

The expert panel's vote overturned one last month by the same group to reject the route on grounds that a pipeline rupture in the earthquake-prone area could send thousands of tons of crude oil into the lake, a Russian natural treasure. UNESCO designated the lake a World Heritage Site 10 years ago.

Transneft, the state-controlled pipeline operator, is set to build the 2,500-mile pipeline, which would run from Taishet in eastern Siberia to the Pacific coast. With an annual capacity of 80 million tons of crude, it would allow Russia to increase its oil exports to China, Japan and other Asia-Pacific economies.

The $11.5 billion project is a strategic goal of President Vladimir Putin's government, which wants to diversify the country's export network and build Russia into an energy superpower.

Officials at Transneft argue that rerouting the pipeline would add hundreds of millions of dollars to the project's costs and cause major delays in starting construction. They also insist that the project will not endanger the lake.

"Transneft will take all the requisite precautions for Baikal to stay safe," said Simon Vainshtok, president of the company, in an interview last month with the government newspaper Rossiyskaya Gazeta. "For instance, the average thickness of the pipe we use across Russia is 9 millimeters, whereas in the vicinity of Baikal it is 27 millimeters." Those measurements are equivalent to about 0.35 inches and 1.1 inches.

The project has a history of rejection, then acceptance by official bodies. Last September, the Natural Resources Ministry turned down the proposal for the route near Lake Baikal but reversed itself two months later under what Russian news reports have called pressure from the Kremlin.

In a vote last month, 46 of 52 members of an expert panel that Rostekhnadzor had appointed to study the project rejected the route.

After that vote, Rostekhnadzor added 34 experts to the group, all of whom favored the proposed route, according to Gennady Chegasov, a dissenting member of the panel. Chegasov said group members who voted to reject the pipeline came under strong pressure. People were told, "If you vote against construction, it will be the end of your scientific career," he said.

Supporters of the plan still had trouble mustering the two-thirds majority necessary to approve construction, Chegasov said. In the end, 58 members of the expanded commission voted for the project, with 27 against.

"I remember the Communist Party and the meetings of the party were not like this," said Stanislav Tronin, another member of the panel and a chemist at the Institute for Emergency Situations.

Last week, Putin was presented with a petition signed by 14,000 Russians asking him to take measures to change the route.

A spokesman for Rostekhnadzor could not be reached Monday. In the past week, the agency has declined to comment on allegations that it manipulated the process.

Roman Vazhenkov, the Baikal Campaign coordinator for Greenpeace, said opponents would appeal to the Russian courts and seek to influence international lenders not to finance the pipeline. He said his organization had already written to major banks in the United States, Europe and Japan.

Greenpeace and other opponents of the project said they recognized the need for a pipeline and objected only to the route.

Vainshtok, Transneft's president, told Rossiyskaya Gazeta that Greenpeace and other environmental groups were being manipulated by "puppet masters" outside Russia who do not want China to grow in strength by importing more Russian oil.

Serb Who Aided Hague Tribunal Called A Suicide (NYT)

By Marlise Simons

The New York Times, March 7, 2006

DOJ_NMG_0016491

PARIS, March 6 — Milan Babic, a wartime Serbian leader who was closely cooperating with prosecutors, committed suicide in a prison cell of the war crimes tribunal in The Hague, the court said Monday.

Mr. Babic, 50, was found dead in his cell on Sunday evening, the court said in a statement. A senior court official said he had hanged himself, but the court spokeswoman would not confirm that. The official requested anonymity because he was not authorized to speak on the subject.

Mr. Babic's death deprives the prosecution of one of its valuable insider witnesses, a onetime close ally of the former Serbian president, Slobodan Milosevic. He was one of the leaders of an ethnic Serbs' rebellion in Croatia in 1991, and was in close contact with the top of the Serb government in Belgrade.

But he later said he had been deceived by Belgrade and turned himself in and pleaded guilty to crimes against humanity. Since then, he has testified against three senior fellow Serbian politicians, including Mr. Milosevic, and he was to give evidence in three more trials.

"He was a star witness for the prosecution, a key insider, no question," said Edgar Chen, a lawyer who monitors trials at the tribunal for the Coalition for International Justice.

One crucial question, Mr. Chen said, was whether Mr. Babic's past testimony would remain part of the record. Court officials said it was up to the judges in each trial to decide.

Among Serbs, Mr. Babic was widely seen as a turncoat, and tribunal officials had been so concerned for his safety that they would not disclose where he was serving his 13-year sentence.

He was brought back to the Netherlands in February to testify against another Croatian Serb and former comrade, Milan Martic. His testimony was to finish Monday.

It was the second suicide at the prison. Another Croatian Serb, Slavko Dokmanovic, hanged himself with his tie in 1998.

In recent weeks, Mr. Babic described how the rebellion of Croatian Serbs had been run from Serbia and led by Mr. Milosevic.

At various times, Mr. Babic and Mr. Milosevic shouted insults at each other across the courtroom. At one point, Mr. Babic told his former ally: "You dragged the Serbian people into war. You brought shame upon the Serbian people. You brought misfortune on the Croatian people, on the Muslim people."

Where Killers Roam, The Poison Spreads (NYT)

By Nicholas D. Kristof

The New York Times, March 7, 2006

ALONG THE CHAD-SUDAN BORDER

For more than two years, the world has pretty much ignored the genocide unfolding in the Darfur region of Sudan, just as it turned away from the slaughter of Armenians, Jews, Cambodians and Rwandans in earlier decades.

And now, apparently encouraged by the world's acquiescence, Sudan is sending its proxy forces to invade neighboring Chad and kill and rape members of the same African tribes that have already been ethnically cleansed in Darfur itself.

I've spent the last three days along the Chad-Sudan border, where this brutal war is unfolding. But "war" doesn't feel like the right term, for that implies combat between armies.

What is happening here is more like what happens in a stockyard. Militias backed by Sudan race on camels and pickup trucks into Chadian villages and use machine guns to mow down farming families, whose only offense is that they belong to the wrong tribes and have black skin.

I found it eerie to drive on the dirt track along the border because countless villages have been torched or abandoned. Many tens of thousands of peasants have fled their villages, and you can drive for mile after mile and see no sign of life — except for the smoke of the villages or fields being burned by the Sudan-armed janjaweed militia.

In some places the janjaweed, made up of nomadic Arab tribes that persecute several black African tribes, have turned villages into grazing lands for the livestock they have stolen. At one point, my vehicle got stuck in the sand, and a group of janjaweed children materialized and helped push me out. The children were watching a huge herd of cattle with many different brands. Their fathers were presumably off killing people.

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This is my sixth trip to the Darfur region, and I've often seen burned villages within Darfur itself, but now the cancer has spread to Chad.

One young man, Haroun Ismael, returned with me — very nervously — to the edge of his village of Karmadodo, between the towns of Adré and Adé. Eleven days earlier, Sudanese military aircraft and a force of several hundred janjaweed had suddenly attacked the village. Mr. Haroun and his wife had run for their lives, with his wife carrying their 3-month-old baby, Ahmed.

The janjaweed raiders overtook Mr. Haroun's wife and beat her so badly that she is still unconscious. They also grabbed Ahmed from her arms.

"They looked at the baby," Mr. Haroun added, "and since he was a boy, they shot him."

Sudan is also arming and equipping a proxy army of Chadian rebels under a commander named Muhammad Nour. The rebels were repulsed when they tried to invade Chad in late December, and now they are regrouping for another attempt.

Sudan's aim seems to be to overthrow Chad's president and install a pawn in his place, in part because this would allow Sudan's Army to attack rebels in Darfur from both directions.

Regardless of whether the rebels succeed in overthrowing Chad's government, they could ignite a new civil war in Chad. Much will depend on whether the French will use their military base in Chad to fight any Sudanese-sponsored invasion; the French aren't saying what they'll do.

Chad's army is too small to defend its border, so it tries to defend potential invasion routes. That leaves villages in other areas defenseless.

"See that smoke over there?" asked Ali Muhammad in the market town of Borota. "The janjaweed are burning our fields today."

"Most people here have fled," he added, "but I have old family members to look after, so I can't leave."

These areas are too insecure for the United Nations and most international aid workers, who are already doing a heroic and dangerous job in Darfur and Chad. So Mr. Ali and others left behind get no food aid and go hungry.

In the last few weeks, President Bush has shown an increased willingness to address the slaughter in Darfur. He should now encourage the French to use their forces to defend Chad from proxy invasions, make a presidential speech to spotlight the issue, attend a donor conference for Darfur, encourage the use of a NATO bridging force until U.N. peacekeepers can arrive, enforce a no-fly zone and open a new initiative for peace talks among the sheiks of Darfur.

The present Western policy of playing down genocide and hoping it will peter out has proved to be bankrupt practically as well as morally. Granted, there are no neat solutions in Darfur. But ignoring brutality has only magnified it, and it's just shameful to pretend not to notice the terrified villagers here, huddling with their children each night and wondering when they are going to be massacred.

U.S. Pushes Foolish Policy Of 'Baseball, Sí, Academics, No' (USAT)

By DeWayne Wickham

USA Today, March 7, 2006

HAVANA — How insane is this?

Digna Castañeda, a frail and aging professor of Caribbean history and philosophy at the University of Havana, cannot go to Puerto Rico next week to attend the International Congress of the Latin American Studies Association.

She is one of 59 Cuban academics who have been denied visas to enter the U.S. commonwealth to take part in LASA's meeting because the Bush administration says it would be "detrimental to the interests of the United States" to permit them to do so.

On Wednesday, however, Cuba's national baseball team will take the field in San Juan's Hiram Bithorn Stadium to play its first game in the World Baseball Classic, a competition among 16 nations. While a group of young, brawny, bat-wielding Cuban men can get visas (admittedly after some strong protests of the U.S. government's initial refusal), a diminutive Havana college professor cannot.

This "baseball si, academics no" policy severely limits the kind of personal contacts and intellectual exchanges between Cubans and Americans that could be the taproot of improved diplomatic relations. One of the workshops scheduled to be held at

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this year's LASA meeting is titled, "The Never-Ending Cold War: The United States, Cuba, and LASA's Battle for Academic Freedom."

Visas denied

The academics were denied visas pursuant to a 1985 Cold War-era presidential proclamation that "suspends entry into the U.S. of officers and employees of the Cuban government and Communist Party," says the State Department's Justin Higgins. "Cuban academic institutions are state-run, and the Cuban government tightly controls the activities of its academic researchers."

But this rule wasn't always broadly applied. In 2000, '01 and '03, Cuban academics were allowed to attend LASA meetings. Then in October '04 — three months after the Bush administration stepped up its effort to topple the Castro government — more than 60 Cuban scholars were refused visas to attend LASA's meeting in Las Vegas.

Castañeda, who has visited 22 U.S. universities during her 42-year career, is miffed by the denial of her visa. But I am not surprised. The Bush administration has been unwavering in its refusal to let Cuban academics participate in the LASA conference because it's easier to demonize the Castro regime when people-to-people contact is cut off.

Castro the real target

Shielding Americans from some of Cuba's best and brightest people makes it easier for neo-conservatives to portray this island nation as a place that is driven by the thinking of just one man: Fidel Castro.

"Castro has stated publicly that the universities (in Cuba) are available only to those who share his revolutionary beliefs," Higgins says in explaining why the Cuban academics were denied visas.

Apparently, the Bush administration doesn't want Americans to think that saving the lives of impoverished children might be one of Castro's "revolutionary beliefs." Last year, the State Department refused to permit scientist Vicente Verez-Bencomo into the country. He had been invited by California's Tech Museum of Innovation, which wanted to honor him for leading a team of researchers that developed a low-cost synthetic vaccine to keep children from getting meningitis and pneumonia. Each year, these diseases take the lives of up to 700,000 children, many living in countries where regular mass immunizations are too costly. The vaccine Verez-Bencomo helped develop might save millions of lives, Science magazine said.

Cuba is no utopia. It's a communist state struggling to find the right mix of social programs to safeguard its people and joint ventures with foreign capitalists to fuel its sputtering economy.

Cuba is also a nation that is besieged by policies of the Bush administration that are arbitrary, capricious and simpleminded.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, MARCH 7, 2006 7:45 AM EST

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TERRORISM NEWS:

Gonzales May Be Recalled On Eavesdropping (AP)

By KATHERINE SHRADER, Associated Press Writer
AP, March 7, 2006

WASHINGTON (AP) - Attorney General Alberto Gonzales' written answers to questions about the Bush administration's eavesdropping program may require him to testify a second time before the Senate Judiciary Committee, the panel's Republican chairman said Monday.

"There is a suggestion in his letter there are other classified intelligence programs that are currently under way," Senate Judiciary Committee Chairman Arlen Specter, R-Pa., told reporters.

The comments from the moderate Republican come as the Bush administration is trying to quell criticism of its surveillance operations and work with the Senate on legislation that would write the program into law.

In a letter to Specter last week, Gonzales clarified his testimony in a half dozen areas covered in a daylong Senate Judiciary Committee hearing on Feb. 6.

Gonzales said his answers were focused only on President Bush's program granting intelligence officers the power to monitor - without court approval - the international calls and e-mails of U.S. residents, when those officers suspect terrorism may be involved.

"In all of my testimony at the hearing I addressed - with limited exceptions - only the legal underpinnings of the Terrorist Surveillance Program," Gonzales wrote. "I did not and could not address operational aspects of the program or any other classified intelligence activities."

Vermont Sen. Patrick Leahy, the Judiciary Committee's top Democrat, said Monday that Gonzales should come back before the panel to "clear up the confusion he created first by ducking our questions, and later by further clouding the issues with a 'clarifying' letter that substantially revised his unsworn testimony."

Specter's comments suggest he too has concerns about Gonzales' letter. "We may have to have him back before the Judiciary Committee," Specter said.

The Justice Department has not received a formal request to testify, spokesman Brian Roehrkasse said. "As a matter of practice, officials from the department do not discuss, confirm or deny the existence or nonexistence of any classified intelligence programs in public settings," he added.

Specter was one of the first Republicans to break with the White House to question the surveillance program when it was disclosed in December. He's drafting legislation that would require a secret federal intelligence court to conduct regular reviews of the constitutionality of the monitoring.

GOP Lawmakers Work To Limit Probe Of Domestic Spying Program (KRT)

By James Kuhnhenn
Knight Ridder, March 6, 2006

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WASHINGTON - Republicans in Congress are trying to limit the scope of any investigation into how President Bush's secret domestic-surveillance program has operated. Some key lawmakers are also working to legalize such spying on U.S. citizens in the future, perhaps with some judicial restrictions.

The dual-track effort is designed to protect the Bush administration from an all-out congressional inquiry into the secret program, while rejecting Bush's argument that he already has full legal authority to order such surveillance.

The Senate Intelligence Committee is scheduled to vote Tuesday on a Democratic plan to conduct a broad investigation into the program. Committee chairman Pat Roberts, R-Kan., is trying to win support for a more limited inquiry. Roberts refused to say Monday whether he had the votes to forestall the Democratic demand for an investigation. Democrats need only one Republican to side with them to order such a probe.

Under Bush's order and without court warrants, the National Security Agency has tracked electronic communications of U.S. residents the administration says are in contact with suspected al-Qaida members abroad. The program was first disclosed by The New York Times and acknowledged by Bush in December. Critics say Bush's action violates the 1978 Foreign Intelligence Surveillance Act, which requires warrants from a special secret court to authorize government spying inside the United States.

The partisan clash over the scope of an investigation prompted Senate Republican Leader Bill Frist of Tennessee last week to demand a meeting with Senate Democratic Leader Harry Reid of Nevada. He also threatened to restructure the Intelligence Committee in a way that would weaken Democrats.

Reid on Monday dismissed Frist's call for talks.

"Let's have the Intelligence Committee do its work," Reid said. "I believe that we should see if Senator Roberts, who is a man of his word, is going to allow a vote on whether there should be an investigation. So when that' s completed ... I'll be happy to consider a meeting, but until then, what's there to meet about?"

In the Senate, a handful of Republicans has been working to give the president statutory authority to approve the NSA program. The administration argues that the president already has that power under the Constitution and a congressional resolution that gave Bush authority to use force in hunting down terrorists. Most Democrats and some Republicans reject that interpretation.

Republican Sens. Chuck Hagel of Nebraska, Mike DeWine of Ohio and Lindsey Graham of South Carolina met Friday to discuss DeWine's proposal to legalize the warrantless spying while giving Congress the right regularly to review it. Graham wants a special federal court to have some authority over the program.

Sen. Arlen Specter, R-Pa., chairman of the Senate Judiciary Committee, is proposing his own legislation that would require the foreign intelligence surveillance court to determine whether the NSA program is constitutional. Specter said Monday that only after such a determination can Congress decide whether and how to restrict the program legislatively.

Meanwhile, Specter said Monday that he wants Attorney General Alberto Gonzales to testify again before his committee about the legal rationale for the NSA program. Specter said he worried that Gonzales' subsequent written responses to the committee suggested that the administration was conducting other secret programs.

"The letter that he sent to clarify his testimony raises a lot more questions," Specter said. "There is a suggestion in his letter that there are other intelligence programs which are currently under way."

The ranking Democrat on the House Intelligence Committee, Rep. Jane Harman of California, said last week that Gonzales and White House counsel Harriet Miers assured her by telephone that no broader program exists. Harman's conversation was first reported by The Washington Post on Friday.

Prosecutor Urges Death For Concealing Sept. 11 Plot (NYT)

By Neil A. Lewis

The New York Times, March 7, 2006

ALEXANDRIA, Va., March 6 — A federal prosecutor on Monday asked a jury to sentence Zacarias Moussaoui to death, saying his willful decision to conceal his knowledge of the Sept. 11 terrorist plot when he was arrested weeks earlier made him responsible for the thousands of deaths that day.

In response, a court-appointed lawyer for Mr. Moussaoui told jurors they could not order the execution of a man on no more than a supposition: that had he revealed his knowledge of Al Qaeda's interest in flying planes into public buildings, the federal authorities would have prevented the attacks of Sept. 11, 2001.

Mr. Moussaoui, a 37-year-old Frenchman of Moroccan heritage, is the only person to be charged in the United States justice system with direct involvement in the Sept. 11 attacks. He was in jail on that day, having been arrested three weeks earlier in Minnesota on immigration charges while he was taking flight lessons.

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He has pleaded guilty to six conspiracy counts and admitted that he was taking flight training to be available for a Qaeda campaign to fly aircraft into buildings. But he has insisted that he was not part of the Sept. 11 plot and that he does not deserve to die.

Because he has pleaded guilty, the trial that got under way on Monday is solely over whether he is to be executed by lethal injection at a federal prison in Indiana or spend his life in prison.

In their opening statements, lawyers for the government and for Mr. Moussaoui presented starkly different portraits of his importance to Al Qaeda's plans to wage war on the United States.

Robert Spencer, an assistant United States attorney, told the jury that Mr. Moussaoui was "in the thick of the plot" but that because he had been arrested, his contribution to the attacks "in the end was to lie so his Al Qaeda brothers could go forward."

Mr. Spencer said that had Mr. Moussaoui told a Federal Bureau of Investigation agent in August 2001 what he knew about Al Qaeda's plans, the bureau and the Federal Aviation Administration would have gone on full alert and taken steps to hunt down the hijackers and increased security at the nation's airports.

He said documents recovered from Mr. Moussaoui's home after Sept. 11 provided valuable clues that would have led directly to many of the 19 hijackers of that day.

"He killed the 9/11 victims as surely as if he had been at the controls in one of those airplanes," Mr. Spencer said.

Edward J. MacMahon, one of the court-appointed lawyers who is conducting the defense over Mr. Moussaoui's objections, said it was true that his client had proudly proclaimed himself a member of Al Qaeda and said he was planning to fly a plane into the White House at the orders of Osama bin Laden.

But Mr. MacMahon attacked the government's argument that had Mr. Moussaoui spoken truthfully of what he knew when he was arrested it would have prevented the attacks. He cited the official commission that investigated the attacks and found the government had several indications of Al Qaeda's plans before that day. The report found that the authorities never fully appreciated the significance of some of the leads.

"You can't judge him to get revenge for 9/11," Mr. MacMahon said. "You can't make him some substitute for Osama bin Laden. And you can't make him a scapegoat for what government officials did not do" to prevent the attacks.

Even if Mr. Moussaoui had not lied, he said, there is no reason to believe that the authorities would have acted quickly on that information any more than they acted on other leads. What officials would have done is speculative, he said, adding that Mr. Moussaoui was regarded as unreliable even by his Qaeda colleagues.

"No one should be executed on such flimsy evidence, not even a member of Al Qaeda," Mr. MacMahon said.

Throughout it all, Mr. Moussaoui sat back quietly in a chair to the side, slowly stroking his beard, often staring intently at spectators, who included about 10 family members of the attack victims.

The jury was whittled down on Monday to 17 people who will hear the case over the next several weeks. When it comes time to deliberate, 12 of that group will decide Mr. Moussaoui's fate. The jurors, 7 women and 10 men, are all from the Northern Virginia area.

Under the federal death penalty law, the jury's first task is to decide whether the crimes to which Mr. Moussaoui has pleaded to resulted in the death of anybody. If the jury is unanimous on that issue, it will consider aggravating factors, like the severity of the crime, as well as mitigating factors. If it finds the aggravating factors outweigh any mitigating factors, it will vote on whether to recommend the death penalty. If it does so, again unanimously, the judge is obliged to impose it.

Because Mr. Moussaoui pleaded guilty, the arguments that would have been at the heart of a jury trial on the question of his guilt will now get an airing before the newly installed jury, which is to decide his sentence. So the proceedings to come will resemble in almost every way the kind of trial that usually determines guilt or innocence in a capital case, and therefore may last for several weeks.

In addition to arguing that Mr. Moussaoui played no part in the Sept. 11 conspiracy, his lawyers are expected to argue that he is mentally unstable, a potentially mitigating factor. The lawyers have arranged for a psychologist to testify that Mr. Moussaoui's behavior, notably his frequent outbursts in the courtroom during the earlier proceedings, show him to be suffering from a mental disorder, "most likely schizophrenia," that began with his experiencing racism as a youth in France.

The government, for its part, plans to emphasize the losses of the Sept. 11 attacks. Prosecutors have prepared more than 40 family members to testify about the devastating impact on their lives.

The trial will include statements from six Qaeda officials in secret United States custody, including Khalid Shaikh Mohammed, the chief planner of the Sept. 11 attacks. But those statements that will be included at the order of Judge Leonie M. Brinkema are likely to be solely about Mr. Moussaoui's role in Al Qaeda and also may not be made public.

Mr. Moussaoui's actual role in the Sept. 11 attacks has remained an intriguing mystery to investigators. The official commission that studied the attacks concluded that Qaeda leaders might have considered using him as "a potential substitute pilot" on Sept. 11 because of friction among other participants, but that his arrest scuttled that possibility. The commission also

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speculated that he might have been meant to be part of a second wave of attacks and noted that Al Qaeda spent some $50,000 on his training.

Moussaoui's Lies Led To 9/11, Jury Told (WP)

By Jerry Markon And Timothy Dwyer

The Washington Post, March 7, 2006

The Sept. 11, 2001, attacks would have been prevented and nearly 3,000 lives would have been saved if Zacarias Moussaoui had not lied to cover up the terrorist plot, prosecutors said yesterday as they began the long-awaited death penalty trial for the al-Qaeda conspirator.

If Moussaoui had revealed al-Qaeda's plans when he was arrested a month before Sept. 11, investigators would have identified 11 of the 19 hijackers and stopped the attacks, prosecutors said in their opening statements. The government would have tightened airport security and focused on the small knives and box cutters used in the hijackings, the prosecution contended.

"The FBI would have put on an all-out press," Assistant U.S. Attorney Robert A. Spencer told a jury in U.S. District Court in Alexandria. "Moussaoui lied and nearly 3,000 people died. . . . His lies killed the Sept. 11 victims as surely as if he had been at the controls of one of those planes."

But defense attorneys turned hindsight back on the government, arguing that investigators ignored warning signs before the attacks and likewise would have failed to act on Moussaoui's information. They portrayed Moussaoui as bumbling and unstable and someone associates called "cuckoo in the head" but implored jurors to give him a fair trial.

"Moussaoui poses the ultimate test for our legal system," attorney Edward B. MacMahon Jr. told the 12 jurors and five alternates. "You cannot judge him to get revenge for the victims of Sept. 11, or for what happened on 9/11 or as some substitute for Osama bin Laden."

The passionate interchanges marked the beginning of the first -- and probably the only -- trial in the United States that will probe the events that brought down the World Trade Center, damaged the Pentagon and killed 40 people in a field in Pennsylvania when four planes were hijacked and used as missiles. Moussaoui, 37, pleaded guilty in April to conspiring with al-Qaeda in the Sept. 11 plot and is the only person charged in this country in connection with the attacks. The trial will determine whether Moussaoui is executed for his role.

The opening statements ended 4 1/2 years of anticipation for many of the victims' families, who crammed the crowded courtroom or watched via closed-circuit television at private satellite locations in New York City, Long Island, New Jersey, Boston, Philadelphia and Alexandria, hoping for a measure of justice and some insight into what happened that day.

What they got yesterday was a glimpse of the man who for many has come to personify the attacks. Although Moussaoui admitted a role in the conspiracy, neither he nor the government has been specific about that role. He has said in court that he was part of a planned second wave of terrorism and was to fly a plane into the White House.

Still, he is a powerful presence for victims' families. When prosecutors began playing an al-Qaeda training video after opening statements, Moussaoui stroked his beard, smiled and sang along in Arabic: "We defend our religion with blood."

The sight evoked strong emotions in Bradley Burlingame, whose brother Charles was the pilot of the plane that crashed into the Pentagon. "I had my little fantasy of crossing the rail and strangling him, but that's not how the American process works," he said.

Burlingame and his sister, Debra, said they hope Moussaoui is executed. "It was quite chilling to be in the courtroom with this man. He epitomized what you think evil will be, and I think he enjoys it," said Bradley Burlingame, who flew in from Los Angeles for the opening statements.

The courthouse itself was under tight security. Snipers patrolled nearby rooftops while officers checked the identification -- twice -- of everyone who entered the building.

Yet the proceedings lacked some of the more theatrical elements that have come to characterize the case since Moussaoui was first charged in December 2001. Moussaoui, who is known for his courtroom outbursts and was repeatedly ejected by the judge during jury selection, sat quietly at his own table in the corner yesterday.

The day began with prosecutors and defense attorneys winnowing a group of more than 80 prospective jurors to the final 17 through peremptory, or unexplained, challenges. Eighteen jurors were initially chosen, but after they were seated and sworn in, one woman asked to be excused and was allowed to leave without explanation.

The 10 men and seven women -- all Northern Virginia residents -- cover a range of private-sector and government jobs. They include a woman whose brother-in-law works for the New York Police Department and was a rescuer at the World Trade Center, a man who served on a Navy ship in the Persian Gulf War and a Muslim woman born in Iran.

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U.S. District Judge Leonie M. Brinkema told the jurors that they will be exposed to classified national security information that they are never to disclose to others.

Prosecutors focused their argument on how Moussaoui lied to the FBI when he was arrested in Minnesota while training on a Boeing 747 simulator. He told agents he was only a tourist with a "dream" to fly, Spencer said, but later admitted when he pleaded guilty that he had lied to allow al-Qaeda to go forward with the plot.

Spencer began by evoking the emotion of Sept. 11, recalling a crisp fall day that dawned clear and blue, with workers at the World Trade Center sitting at their desks checking e-mail and passengers on the four hijacked planes sipping coffee.

"It started as an utterly normal day," Spencer said. "But a day that started so normally and with such promise soon became a day of abject horror."

Turning to face Moussaoui, Spencer pointed and said: "One of the people in that plan, one of the people in the conspiracy, is among us still. That man is the defendant, Zacarias Moussaoui." Spencer portrayed Moussaoui as "a loyal al-Qaeda soldier. . . . Moussaoui stands before you today, an admitted terrorist, a convicted terrorist, a proud and unrepentant terrorist."

Spencer also began outlining the details of the government's case for the death penalty. He told jurors that al-Qaeda wired $14,000 to Moussaoui. If Moussaoui had told the FBI of the money, agents would have traced it to the man in the United Arab Emirates who sent it. That man's cell phone number would have led them to a number of the hijackers, he said. In addition, others would have been traced through a list of flight schools later found in Moussaoui's belongings.

Prosecutors did not address the controversy over the failure to search Moussaoui's belongings before Sept. 11. The independent commission that investigated the attacks sketched a series of government missteps that led officials at FBI headquarters to believe that they could not gain a warrant. But if Moussaoui had revealed all he knew, prosecutors said yesterday, the belongings would have been searched in time.

"This man, the terrorist Moussaoui, did his part," Spencer said. "Moussaoui lied so that murders followed. He intended to kill Americans, and he did."

MacMahon sketched a different portrait. The real Moussaoui, he said, was a bumbler who couldn't even fly a single-engine plane, a man so inconsequential that even his terrorist overseers dismissed him: "Moussaoui was totally useless to al-Qaeda, a headache, totally obnoxious."

Defense attorneys honed in on the failure to stop the attacks, playing videos of former attorney general John D. Ashcroft and then-National Security Adviser Condoleezza Rice speaking about how the attacks revealed problems with the nation's intelligence structure that went back years.

"The government case for death is predicated on the unlikely pretense that the government would have carried out a flawless investigation" if Moussaoui had told the truth, MacMahon said. "You cannot look at this through post-9/11 glasses."

Prosecutor: Moussaoui Did His Part For 9/11 (AP-Y2)

By Michael J. Sniffen

AP2, March 6, 2006

Opening its argument for executing al-Qaida conspirator Zacarias Moussaoui, the government said Monday he "lied so that murders could follow" on Sept. 11, 2001.

But the defense portrayed Moussaoui as a buffoon isolated even by al-Qaida and urged jurors to deny him the martyrdom of a death sentence.

In a heavily guarded courthouse just miles from the Pentagon, where some of the 2,972 victims of Sept. 11 died, prosecutor Rob Spencer opened his case by telling the jury that "even though he was in jail on Sept. 11, he did his part as a loyal al-Qaida soldier."

"Had he not lied to agents in 2001, the U.S. government would have stopped those deaths, or at least some of them," Spencer asserted.

Court-appointed defense attorney Edward MacMahon scoffed at that idea. He termed Moussaoui's dreams of being a terrorist "sound and fury signifying nothing."

Considered a headache and even called "cuckoo in the head" by one al-Qaida leader, Moussaoui "was intentionally isolated from the real hijackers in the United States," MacMahon argued. "Nothing Moussaoui did or said — even a lie — caused anyone to die that day."

Now Moussaoui yearns for martyrdom, MacMahon asserted. "The only way he can appear as a smiling face on an al-Qaida recruiting poster is by your verdict," MacMahon told jurors. "Please don't make him a hero. He doesn't deserve it."

The 37-year-old Frenchman of Moroccan descent, who faces either execution or life in prison without release, stroked his beard and intently studied the faces of jurors and the audience during opening statements.

Empaneled hours earlier, 10 men and seven women listened from the jury box. Across the hall, watching on closed circuit TV, Moussaoui's mother, Aicha, wept quietly when he entered court. One floor above, families of the Sept. 11 victims also watched on TV. Outside, snipers clad in black fatigues guarded the building.

Wearing a green prison jumpsuit and a white knit cap, Moussaoui remained quiet during proceedings, but as he left for a recess he told the lawyers, "All your stories, all your American creations have nothing to do with me."

Prosecutor Spencer said Moussaoui, the only man charged in this country in the Sept. 11 plot, should be held responsible for not stopping it after the FBI arrested him Aug. 16, 2001, while he was training in Eagan, Minn., to fly jetliners.

Moussaoui, Spencer said, was such an inexperienced pilot that the FBI suspected he might be a terrorist, but Moussaoui told them he was a tourist pursing a dream. That lie made him responsible for the deaths "as surely as if he had been at the controls of one of the planes" that al-Qaida hijacked and flew into the World Trade Center, the Pentagon and a field in Pennsylvania, the prosecutor said.

If Moussaoui had told the FBI the same plot details he described last April when he pleaded guilty to six conspiracy counts, that would have been "all the government needed to know to stop 9/11," Spencer said.

Moussaoui himself says he conspired with al-Qaida to fly planes into U.S. buildings but he wasn't part of the Sept. 11 planning. Instead, he says, he was training instead to fly into the White House as part of a possible later attack.

If Moussaoui had come clean in 2001, Spencer said, the FBI would have been able to use his records to locate 11 of the 19 Sept. 11 hijackers, including all four pilots. He also said the government would have keep those conspirators off airplanes and would have altered airport screeners to confiscate small knives and boxcutters.

MacMahon argued that Moussaoui knew less about the Sept. 11 plot than the government did. The inept government handling of the intelligence it had, he said, shows it would never have mounted the flawless probe Spencer described. "What the government wants you to believe is only a dream."

MacMahon said the U.S. government was told in 1995 that al-Qaida terrorists in the Philippines who had participated in the 1993 bombing of the World Trade Center were discussing hijacking a commercial jet and flying it into CIA headquarters, but they never changed their aviation security to prevent that.

He pointed out that the government knew two of the hijackers were in the United States for months before Sept. 11 and never put them on a no-fly list.

"Nothing they were told by some Muslim loner in Minnesota would have changed that" response by the government, MacMahon said.

He said the Sept. 11 hijackers traveled in teams and trained together, but Moussaoui traveled alone, didn't train with them and was never in the presence of a real hijacker.

He played videotapes of then-Attorney General John Ashcroft describing how the FBI and CIA didn't share information before the attacks, and of Secretary of State Condoleezza Rice saying any way to prevent Sept. 11 would have had to have been in place years earlier.

The 17 jurors included a high school math teacher who has traveled widely in the Middle East, a Navy veteran of the first Gulf War and an Iranian-born Sunni Muslim woman. The judge will later designate five as alternates.

The final group included only two of 21 prospective jurors who had some connection to the Sept. 11 attacks or victims.

One was a woman whose brother-in-law works for the New York City Police Department and helped with rescue at the World Trade Center. The math teacher had a more remote connection: The fathers of two of her pupils are firefighters who responded to the crash at the Pentagon. She helped freshmen make a quilt to give to the fire department.

One woman who was seated said earlier that she would tend to assume an al-Qaida member is evil. Jurors also included a mental health researcher, a man whose father retired from the CIA just before Sept. 11, a man who serves in the military reserves and a federal government employee who said he thought there was a lack of communication between the FBI and CIA before the attacks.

Outside the courthouse, D. Hamilton Peterson of Bethesda, Md., who lost his father, Donald, and stepmother, Jean, on the hijacked plane that crashed in Pennsylvania, declared, "I want accountability."

"I believe Moussaoui is an excellent candidate for the death penalty," he said outside the courtroom. "He is nothing less than a mass murderer."

Moussaoui Chose Not To Stop 9/11, Jury Told (USAT)

By Kevin Johnson

USA Today, March 7, 2006

ALEXANDRIA, Va. — The U.S. government opened its case for the execution of al-Qaeda operative Zacarias Moussaoui on Monday, charging that the French citizen withheld critical information that would have exposed the Sept. 11 plot.

"This man knew there was a ticking bomb in the United States," prosecutor Robert Spencer told a federal jury. "He lied so his brothers could go forward with this," he said. "He caused the deaths of nearly 3,000 people; he rejoiced in the death and destruction."

Moussaoui, 37, is the only person charged in the USA in the 2001 attacks in which hijacked airliners crashed into the Pentagon, the World Trade Center and a field in rural Pennsylvania.

A Muslim of Moroccan descent, Moussaoui pleaded guilty last year to six counts of conspiracy. The hearing, which continues today, is to allow a 12-member jury to determine whether he should be executed or spend the rest of his life in prison.

Execution hinges on whether prosecutors prove that Moussaoui lied or withheld from federal agents critical information that could have been used to prevent some of the 9/11 deaths.

Moussaoui was arrested Aug. 16, 2001, on immigration violations while enrolled at a flight school in Eagan, Minn. Instructors alerted authorities to Moussaoui because he lacked experience piloting planes but wanted training to fly a 747.

In pleading guilty, Moussaoui acknowledged he was aware of a planned attack against the United States but said he was not part of the Sept. 11 plot. He told authorities he was part of a separate plan to fly a plane into the White House sometime after Sept. 11.

Defense lawyers dismissed the government's claims Monday as "entirely speculative." Edward McMahon, one of Moussaoui's lawyers, said the government's assertion that it could have unraveled the Sept. 11 plot with Moussaoui's cooperation in the 25 days before the attacks defied "common sense."

McMahon said Moussaoui never had specific knowledge of the Sept. 11 plot. He said he could not have known the date for the attacks because the 19 suicide hijackers did not begin buying their airline tickets until Aug. 25, after Moussaoui was arrested.

Describing his client as a "strange Muslim loner," McMahon said that even Moussaoui's associates in al-Qaeda — the radical Islamic group that carried out the attacks — regarded him as "a headache" and "cuckoo in the head." McMahon said Moussaoui never had contact with any of the hijackers before the attacks.

"There is little evidence that Moussaoui had the means or opportunity to anything," McMahon said.

Moussaoui has captured much attention for his frequent outbursts in court, where he has been reprimanded repeatedly by U.S. District Judge Leonie Brinkema. The judge revoked his right to defend himself because of his misbehavior and appointed a defense team to represent him.

Moussaoui, dressed in a green inmate jumpsuit and white knit skullcap, sat quietly for the most part. He stroked his beard as lawyers he rarely has communicated with made their arguments to spare his life.

McMahon suggested a death sentence would make his client a hero for the terrorist cause.

"The only way to achieve that dream of martyrdom is by your verdict," McMahon said. "Please don't make him a hero, ladies and gentlemen. He just doesn't deserve it."

Among the victims' family members were Brad and Debra Burlingame, siblings of Charles Burlingame, the pilot of American Airlines Flight 77, the jet that hijackers crashed into the Pentagon.

"This is a very bad, bad evil man," Debra Burlingame said of Moussaoui. "I would feel very comfortable with saying goodbye to Mr. Moussaoui for good."

In an interview Monday with CNN, Moussaoui's mother, Aicha El Waifi, said she doubted her son could receive a fair hearing. "The only thing that I do hope is that my son will not be used as a scapegoat," she said.

Sept. 11 Families Watch Moussaoui Trial (AP-Y2)

By David B. Caruso

AP2, March 7, 2006

Relatives of Sept. 11 victims gathered Monday at a courthouse near the site of the World Trade Center to watch a broadcast of the only man charged in the terrorist attacks as he stood before a judge to begin a sentencing trial.

The trial for Zacarias Moussaoui is taking place in Virginia, but victims' families watched via closed-circuit television at federal courthouses in New York City, Boston, Central Islip, N.Y., Newark, N.J. and Philadelphia.

The trial will determine whether Moussaoui, 37, is executed or serves life in prison for conspiring with al-Qaida to hijack planes and commit other crimes.

The families gathered at the courthouse just a few blocks from where the World Trade center once stood, some carrying photographs or buttons with images of their loved ones. Many also held scarves or other items emblazoned with the American flag.

"After 4 1/2 long years, this is our only attempt to get a scintilla of justice," said Sally Regenhard, whose son, firefighter Christian Regenhard, died in the attack.

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"What does accountability feel like? That's what eluded the families of the victims," she said. "They all got away with murder, so we only have him left."

Christie Coombs of Massachusetts, who lost her husband in the attack, said Moussaoui murdered him "as much as if he had the controls in his hands and flown the plane into the building, which is what his intent was."

Moussaoui pleaded guilty in April. To obtain the death penalty, prosecutors must first prove a direct link between him and the Sept. 11 attacks. Moussaoui denies any connection to 9/11, but says he was training for a possible future attack.

Barry Zelman, whose brother Kenneth died on the 99th floor of the Oracle Corp., said some part of him wanted to see Moussaoui on trial in person. He said, "He's al Qaida in the flesh."

Zelman said he expects watching the trial to be difficult. He and others said it was ridiculous to think the trial would bring families a sense of closure or justice.

"There's going to be a lot of anger, a lot of emotion," he said.

Mindy Kleinberg of New Jersey, whose husband, Alan, died in the trade center, said she hopes the trial will yield answers to questions about Sept. 11.

"We had a lot of questions that weren't answered because of this trial," she said.

Joyce Woods, of Pearl River, whose 26-year-old son, James Woods, worked for Cantor Fitzgerald, said she came "because we need to know that our government is protecting us."

But, she said, she anguished over whether to come. She said, "I'm afraid of his ranting," referring to Moussaoui's frequent courtroom outbursts.

Let Moussaoui Live (USAT)

By Carie Lemack

USA Today, March 7, 2006

Arguments begin this week in the sentencing trial of a man accused of conspiracy in my mother's murder. The U.S. government wants to put the confessed terrorist to death. But I want him to live. And I think Mom would, too.

The accused, Zacarias Moussaoui, has admitted he is a member of al-Qaeda and has publicly pledged allegiance to Osama bin Laden. Last April, he pleaded guilty to the six terrorism conspiracy charges, admitting his intent to commit terrorism and aircraft piracy, and to use weapons of mass destruction. His admission earns him life in prison. The reason for the trial is to put him to death, thereby doing to him what he was willing to do to himself.

My mom, Judy Larocque, was murdered by madmen who yearned to die in their crazed belief that slamming the plane she had the misfortune to board into the World Trade Center in New York would bring them everlasting paradise. As a passenger on American Airlines Flight 11 on Sept. 11, 2001, Mom was granted neither a trial nor justice when she unwittingly became part of their evil plan.

Now, the government wants to put to death a man who it says had foreknowledge of the plot that killed my mom and 2,971 others. This man says that he was not supposed to be part of the 9/11 plan, but that he was going to "martyr" himself at a later date by crashing a plane into the White House. This man wants to die. So why is the government fighting to give him what he wants? A U.S. attorney close to the investigation denied that that was the government's intent. He explained that Moussaoui does not want to die at the hands of American officials and American courts.

Moussaoui's forum

But I disagree. Moussaoui wanted to tear the bonds that hold our country together — in the case of 9/11, literally limb by limb. His ongoing antics and sporadic outbursts in the courtroom, sometimes leading to his removal, have done just that, making a mockery of the trial.

The U.S. government should not give him a forum. He pleaded guilty to crimes that require life in prison. Let's give it to him. Take him away, so we don't have to hear from him again.

My opposition to his execution does not stem from compassion. Quite the contrary. Rather, it stems from two thoughts — one rational, the other pure emotion.

First, it costs more to put Moussaoui to death, according to several state studies cited by the non-profit Death Penalty Information Center, a group that opposes capital punishment.

In Moussaoui's case, there wouldn't even have to be a trial if U.S. officials agreed that life in prison was enough for the terrorist. They don't, and are prepared to spend millions arguing the case.

I prefer to see that money spent on almost anything else rather than on Moussaoui. Give it to the families of soldiers fighting Moussaoui's allies in Afghanistan, give it to New York City firefighters to buy walkie-talkies that work, but don't give it to a confessed terrorist seeking an audience.

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The second reason is embarrassing to admit but true. I want Moussaoui to die a slow, painful death. I do not want to give him the dignity of a planned execution, time to say his goodbyes, eat his last meal. His comrades did not give that to my mother. Let him sit in a cold, dirty cell alone for the rest of his long days, unable to direct his rants at anyone.

True to Mom

I know that some 9/11 families will not agree with me, and I respect their views.

If I learned anything after Mom's murder, it is that we all grieve differently. But I also know that I have to be true to myself, and to Mom. This realization hit me when I was standing in my shower last week and the song on the radio made me cry.

"She's gone so long. What can I do? Where could she be? ... Don't know what I'm gonna do

"I gotta get back to you."

Sweet Talkin' Woman by '70s rock sensation Electric Light Orchestra was my favorite song when I was2 years old. At my insistence, my mom played the record over and over as I danced in circles, screaming the words at the top of my lungs. But now those words have another meaning, one I did not fully understand until Mom's murder.

Getting back to Mom means getting back to living as she would want me to, dancing as I did when I was 2. But I cannot enjoy my life with the heavy conscience of someone who has been involved in taking one.

I would rather spend my energy getting back to living a life Mom would be proud of. Because, as the song's final line reminded me when I stood sobbing in the shower, it's so sad if that's the way it's over.

AP Sues For Access To Lindh's Petitions To Cut His Prison Sentence (AP)

By MARK SHERMAN, The Associated Press

AP, March 7, 2006

WASHINGTON -- The Associated Press sued the Justice Department on Monday for access to American-born Taliban soldier John Walker Lindh's petitions to have his 20-year federal prison sentence shortened.

The federal Freedom of Information Act lawsuit, filed in U.S. District Court in New York, said the government has improperly refused to turn over Lindh's pleas to have his sentence reduced on the grounds that doing so would be an unwarranted invasion of his privacy.

AP's lawyers, in letters to the Justice Department and the lawsuit, however, said Lindh "is a 'high-profile public figure' whose 'privacy interest in his petition is low to nonexistent.'"

Lindh's lawyer, James Brosnahan, also has told the news cooperative that he would have turned over the documents himself, but he can't under the terms of Lindh's imprisonment.

The Justice Department did not immediately comment on the lawsuit.

Lindh, 25, was captured in Afghanistan in November 2001 in the U.S.-led effort to topple the Taliban following the Sept. 11 attacks. Lindh grew up in Marin County, Calif.

Prosecutors charged him with conspiring to kill Americans and supporting terrorists. He pleaded guilty to lesser offenses in 2002, including carrying weapons against U.S. forces. He avoided a potential life sentence and agreed to withdraw claims that he had been abused or tortured in U.S. custody.

The AP said it believes Lindh "contends in his petition that he was prosecuted and convicted unfairly in the immediate wake of the September 11, 2001 attacks, and that he was not, in fact, knowingly fighting the United States in Afghanistan."

The president decides whether to commute sentences or pardon people who have been convicted of crimes and have completed their sentences, usually on the recommendation of the department's Pardon Attorney.

Lindh, who is held at the medium security federal penitentiary in Victorville, Calif., first applied for clemency in September 2004, following up on his request 15 months later. Justice officials told him it would be at least a year before any decision is made.

AP first sought the records on Jan. 4. Nine days later, the department replied it could only release the documents with Lindh's written consent, according to the lawsuit. But Lindh is barred from making any public comment on the matter, including consenting to the release, under the terms of his plea agreement, the suit said.

A similar privacy issue is at the center of a long dispute between AP and the government over access to information about detainees at the U.S. military facility at Guantanamo Bay, Cuba. U.S. District Judge Jed S. Rakoff last month ordered the Pentagon to release the identities of hundreds of detainees.

Tending To Muslim Hearts And Islam's Future (NYT)

By Andrea Elliott

The New York Times, March 7, 2006

The young Egyptian professional could pass for any New York bachelor.

Dressed in a crisp polo shirt and swathed in cologne, he races his Nissan Maxima through the rain-slicked streets of Manhattan, late for a date with a tall brunette. At red lights, he fusses with his hair.

What sets the bachelor apart from other young men on the make is the chaperon sitting next to him — a tall, bearded man in a white robe and stiff embroidered hat.

"I pray that Allah will bring this couple together," the man, Sheik Reda Shata, says, clutching his seat belt and urging the bachelor to slow down.

Christian singles have coffee hour. Young Jews have JDate. But many Muslims believe that it is forbidden for an unmarried man and woman to meet in private. In predominantly Muslim countries, the job of making introductions and even arranging marriages typically falls to a vast network of family and friends.

In Brooklyn, there is Mr. Shata.

Week after week, Muslims embark on dates with him in tow. Mr. Shata, the imam of a Bay Ridge mosque, juggles some 550 "marriage candidates," from a gold-toothed electrician to a professor at Columbia University. The meetings often unfold on the green velour couch of his office, or over a meal at his favorite Yemeni restaurant on Atlantic Avenue.

The bookish Egyptian came to America in 2002 to lead prayers, not to dabble in matchmaking. He was far more conversant in Islamic jurisprudence than in matters of the heart. But American imams must wear many hats, none of which come tailor-made.

Whether issuing American-inspired fatwas or counseling the homesick, fielding questions from the F.B.I. or mediating neighborhood spats, Mr. Shata walks an endless labyrinth of problems.

If anything seems conquerable, it is the solitude of Muslim singles. Nothing brings the imam more joy than guiding them to marriage. It is his way of fashioning a future for his faith. It is his most heartfelt effort — by turns graceful and comedic, vexing and hopeful — to make Islam work in America.

Word of the imam's talents has traveled far, eliciting lonely calls from Muslims in Chicago and Los Angeles, or from meddlesome parents in Cairo and Damascus.

From an estimated 250 chaperoned dates, Mr. Shata has produced 10 marriages.

"The prophet said whoever brings a man and woman together, it is as if he has worshiped for an entire year," said Mr. Shata, 37, speaking through an Arabic translator.

The task is not easy. In a country of plentiful options, Muslim immigrants can become picky, even rude, the imam complains.

During one date, a woman studied the red-circled eyes of a prospective husband and asked, "Have you brought me an alcoholic?"

On another occasion, an Egyptian man stared at the flat chest of a pleasant young Moroccan woman and announced, "She looks like a log!" the imam recalled.

"This would never happen in Egypt," said Mr. Shata, turning red at the memory. "Never, never. If I knew this boy had no manners I never would have let him into my office."

The Imam's Little Black Book

The concept of proper courtship in Islam, like much about the faith, is open to interpretation.

Islamic law specifies that a man and woman who are unmarried may not be alone in closed quarters. Some Muslims reject any mingling before marriage. Others freely date. Many fall somewhere in between, meeting in groups, getting engaged and spending time alone before the wedding, while their parents look the other way.

For one Syrian in New York, a date at Starbucks is acceptable if it begins and ends on the premises: The public is his chaperon.

Mr. Shata is a traditionalist. There were few strangers in his rural town of birth, Kafr al Battikh, in northeastern Egypt. Men and women often agreed to marry the day they met, and a few made the deal sight unseen. It was rare to meet anyone from a distant province, let alone another country.

New York is not only the capital of the world, imams often joke, but also the crossroads of Islam, a human sampling more diverse than anywhere save Mecca during the annual pilgrimage known as the Hajj. Beyond the city's five boroughs, Muslim immigrants have formed Islamic hubs in California, Illinois, Michigan and Texas.

At the center of these hubs stands a familiar sight in a foreign land, the mosque. What was a place of worship in Pakistan or Algeria becomes, in Houston or Detroit, a social haven. But inside, the sexes remain largely apart.

A growing number of Muslim Web sites advertise marriage candidates, and housewives often double as matchmakers. One mosque in Princeton, N.J., plays host to a closely supervised version of speed dating. And so many singles worship at the Islamic Society of Boston that a committee was formed to match them up.

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Fearing a potential surplus of single Muslim women, one Brooklyn imam reportedly urged his wealthier male congregants during a Ramadan sermon last year to take two wives. When a woman complained about the sermon to Mr. Shata, he laughed.

"You know that preacher who said Hugo Chávez should be shot?" he asked. "We have our idiots, too."

More than a matchmaker, Mr. Shata sees himself as a surrogate elder to young Muslims, many of whom live far from their parents. In America, only an imam is thought to have the connections, wisdom and respect to step into the role.

Mr. Shata began the service three months after arriving in Brooklyn in 2002, recruited to lead the Islamic Society of Bay Ridge, a mosque on Fifth Avenue.

Dates chaperoned by Mr. Shata — or "meetings between candidates," as the imam prefers to call them — often take place in his distinctly unromantic office, amid rows of Islamic texts. As a couple get acquainted, the imam sits quietly at his desk, writing a sermon or surfing the Arabic Web sites of CNN and the BBC.

If there is an awkward silence, the imam perks up and asks a question ("So tell me, Ilham, how many siblings do you have?") and the conversation is moving again.

Candidates are vetted carefully, and those without personal references need not apply. But instinct is Mr. Shata's best guide. He refused to help a Saudi from California because the man would consider only a teenage wife. Others have shown an all-too-keen interest in a green card.

Those who pass initial inspection are listed in the imam's version of a little black book — their names, phone numbers, specifications and desires. Some prefer "silky hair," others "a virgin." Nearly all candidates, men and women alike, want a mate with devotion to Islam, decent looks and legal immigration status.

Scanning the book, the imam makes his pitch with the precision of a car salesman.

"There is a girl, an American convert, Dominican, looks a little Egyptian. Skin-wise, not white, not dark. Wheat-colored. She's 19, studies accounting," Mr. Shata told a 24-year-old Palestinian man one afternoon.

"This is my only choice?" replied the man, Yamal Othman, who lives in Queens.

Such questions annoy Mr. Shata. An imam, he says, should be trusted to select the best candidate. Often, though, his recommendations are met with skepticism.

"It's harder than choosing a diamond," said Mr. Shata.

Sometimes, on the imam's three-legged dates, no one seems more excited than Mr. Shata himself. He makes hurried, hearty introductions and then steps back to watch, as if mixing chemicals in a lab experiment. Love is rarely ignited, but the imam remains awed by its promise.

Mr. Shata discovered love 15 years ago, when he walked into the living room of the most stately house in Kafr al Battikh.

The imam was tall, 22, a rising star at the local mosque. For months, Omyma Elshabrawy knew only his voice. She would listen to his thunderous sermons from the women's section, out of view. Then, one evening, he appeared at her home, presented as a prospective groom to her father, a distinguished reciter of the Koran.

The young woman, then 20, walked toward Mr. Shata carrying a tray of lemonade.

"She entered my heart," said the imam.

After serving the drinks, she disappeared. Right then, Mr. Shata asked her father for her hand in marriage. The older man paused. His daughter was the town beauty, an English student with marriage offers from doctors. The imam was penniless.

But before Mr. Elshabrawy could respond, a sugary voice interrupted. "I accept," his daughter said from behind a door.

"I loved him from the moment I saw him," Ms. Elshabrawy said.

They now have four children.

The family posed last year for a Sears-style portrait, taken by a woman in Bay Ridge who photographs Muslim families in her basement. A blue sky and white picket fence adorn the background. The imam sits at center, with the baby, Mohammed, in his lap, his three daughters smiling, his wife wrapped in a lime-green hijab.

Mr. Shata carries the picture in the breast pocket of his robe. It is as close as most people get to his family. At the mosque, they are a mystery. His wife has been there twice.

Their years in America have come with great hardship, a subject the imam rarely discusses. The trouble is the illness of his 7-year-old daughter, Rawda, who is severely epileptic. She has dozens of seizures every day and rarely leaves home. No combination of medicine seems to help.

"Rawda is the wound in my heart," the imam said.

Mr. Shata offers long, stubborn theories about the value of marriage, but to observe him at home is to understand the commitment he seeks to foster in other Muslims.

The family lives in a spare, dimly lighted apartment two blocks from the mosque. Headscarves are piled over Pokémon cards. The gold-painted words "Allah is Great" are framed over a threadbare couch. In the next room, an "I {sheart} New York" bumper sticker is slapped on the wall.

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Mr. Shata spends long hours away from his family, lecturing at mosques, settling disputes, whispering the call to prayer in the ears of newborn babies. On his walk home at night, he shops for groceries, never forgetting the Honey Nut Cheerios, a favorite American discovery of his children.

When he walks in the door, his face softens. Loud kisses are planted on tender cheeks. Mohammed squeals, the girls smile, sweet laughter echoes.

But then there is Rawda.

"My beautiful girl," the imam says softly one evening, holding his limp daughter in his lap after a seizure has passed. He places one pill in Rawda's mouth, then another. She looks at him weakly.

"There we go," he whispers. "Inshallah."

Her lids close with sleep. He lays her in bed and shuts off the light.

Hardship, the imam believes — like marriage, like life — is a test from God.

Foreign and Familiar

It is proof of the imam's uncommon popularity among women that he is trusted with roughly 300 female marriage candidates.

The mosque on Fifth Avenue is a decidedly male place. Men occupy every position on the board of directors. They crowd the sidewalk after prayer. Only they may enter the mosque's central room of worship. Only men, they often point out, are required to attend the Friday prayer.

One floor below is the cramped room where the women worship. On Fridays, they sit pressed together, their headscarves itching with heat. They must watch their imam on a closed-circuit television that no one seems to have adjusted in years.

But they listen devotedly. Teenage girls often roll their eyes at foreign imams, who seem to them like extraterrestrials. Their immigrant mothers often find these clerics too strict, an uncomfortable reminder of their conservative homelands.

Mr. Shata is both foreign and familiar. He presides over a patriarchal world, sometimes upholding it, and other times challenging it. In one sermon, he said that a man was in charge of his home and had the right to "choose his wife's friends."

Another day, to the consternation of his male congregants, he invited a female Arab social worker to lecture on domestic violence. The women were allowed to sit next to the men in the main section of the mosque.

The imam frowns at career women who remain single in their 30's, but boasts of their accomplishments to interest marriage candidates. He employs his own brand of feminism, vetting marriage contracts closely to ensure brides receive a fair dowry and fighting for them when they don't.

Far more than is customary, he spends hours listening to women: to their worries and confessions, their intimate secrets and frank questions about everything from menstruation to infidelity. They line up outside his office and call his home at all hours, often referring to him as "my brother" or "father." He can summon the details of their lives with the same encyclopedic discipline he once used to memorize the Koran.

"Are you separated yet?" Mr. Shata asked a woman he encountered at Lutheran Medical Center one day last July. She nodded. "May God make it easier for you," he said.

A Chaperoned Date

By most standards, the Egyptian bachelor was a catch. He had broad shoulders and a playful smile. He was witty. He earned a comfortable salary as an engineer, and came from what he called "a good family."

But the imam saw him differently, as a young man in danger of losing his faith. The right match might save him.

The bachelor, who is 33, came to Brooklyn from Alexandria, Egypt, six years earlier. He craved a better salary, and freedom from controlling parents. He asked that his name not be printed for fear of causing embarrassment to his family.

America was not like Egypt, where his family's connections could secure a good job. In Brooklyn, he found work as a busboy. He traded the plush comfort of his parents' home for an apartment crowded with other Egyptian immigrants. His nights were lonely. Temptation was abundant.

Women covered far less of their bodies. Bare limbs, it seemed, were everywhere. In Islam, men are instructed to lower their gaze to avoid falling into sin.

"In the summertime, it's a disaster for us," said the bachelor. "Especially a guy like me, who's looking all the time."

Curiosity lured him into bars, clubs and the occasional one-night stand.

But with freedom came guilt, he said. After drifting from his faith, he visited Mr. Shata's mosque during Ramadan in 2004.

The imam struck him as oddly disarming. He made jokes, and explained Islam in simple, passionate paragraphs. The bachelor soon began praying daily, attending weekly lectures and reading the Koran. By then, he had his own apartment and a consulting job.

Now he wanted a Muslim wife.

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If the bachelor had been in Egypt, his parents would offer a stream of marriage candidates. The distance had not stopped them entirely. His mother sent him a video of his brother's wedding, directing him to footage of a female guest. He was unimpressed.

"I'm a handsome guy," he explained one evening as he sped toward Manhattan. It was his second date with Mr. Shata in attendance. "I have a standard in beauty."

From the passenger seat, the imam flipped open the glove compartment to find an assortment of pricey colognes. He inspected a bottle of Gio and, with a nod from the bachelor, spritzed it over his robe.

The imam and the bachelor were at odds over the material world, but on one thing they agreed: it is a Muslim duty to smell good. The religion's founder, the Prophet Muhammad, was said to wear musk.

The car slowed before a brick high-rise on Second Avenue. Soon the pair rode up in the elevator. The bachelor took a breath and rang the doorbell. An older woman answered. Behind her stood a slender, fetching woman with a shy smile.

The young woman, Engy Abdelkader, had been presented to the imam by another matchmaker. A woman of striking beauty and poise, Ms. Abdelkader is less timid than she first seems. She works as an immigration and human rights lawyer, and speaks in forceful, eloquent bursts. She is proud of her faith, and lectures publicly on Islam and civil liberties.

She was not always so outspoken. The daughter of Egyptian immigrants, Ms. Abdelkader, 30, was raised in suburban Howell, N.J., where she longed to fit in. Though she grew up praying, in high school she chose not to wear a hijab, the head scarf donned by Muslim girls when they reach puberty.

But Sept. 11 awakened her, Ms. Abdelkader said. For her and other Muslims, the terrorist attacks prompted a return to the faith, driven by what she said was a need to reclaim Islam from terrorists and a vilifying media. Headscarves became a statement, equal parts political and religious.

"There's nothing oppressive about it," said Ms. Abdelkader. "As a Muslim woman I am asking people to pay attention to the content of my character rather than my physical appearance."

The pair sat on a couch, awkwardly sipping tea. They began by talking, in English, about their professions. The bachelor was put off by the fact that Ms. Abdelkader had a law degree, yet earned a modest salary.

"Why go to law school and not make money?" he asked later.

Ms. Abdelkader's mother and a female friend who lived in the apartment sat listening nearby until the imam mercifully distracted them. The first hint of trouble came soon after.

It was his dream, the engineer told Ms. Abdelkader, to buy a half-million-dollar house. But he was uncertain that the mortgage he would need is lawful in Islam.

Ms. Abdelkader straightened her back and replied, "I would rather have eternal bliss in the hereafter than live in a house or apartment with a mortgage."

An argument ensued. Voices rose. Ms. Abdelkader's mother took her daughter's side. The friend wavered. The bachelor held his ground. The imam tried to mediate.

Indeed, he was puzzled. Here was a woman who had grown up amid tended lawns and new cars, yet she rejected materialism. And here was a man raised by Muslim hands, yet he was rebelliously moderate.

After the date, the bachelor told the imam, "I want a woman, not a sheik."

Months later, he married another immigrant; she was not especially devoted to Islam but she made him laugh, he said. They met through friends in New York.

Ms. Abdelkader remains single. The imam still believes she was the perfect match.

That evening, the imam stood on the sidewalk outside. Rain fell in stinging drops.

"I never wanted to be a sheik," he said. "I used to think that a religious person is very extreme and never smiles. And I love to smile. I love to laugh. I used to think that religious people were isolated and I love to be among people."

The rain soaked the imam's robe and began to pool in his sandals. A moment later, he ducked inside the building.

"The surprise for me was that the qualities I thought would not make a good sheik — simplicity and humor and being close to people — those are the most important qualities. People love those who smile and laugh. They need someone who lives among them and knows their pain."

"I know them," said Mr. Shata. "Like a brother."

PATRIOT ACT:

A Tame End To Patriot Act Debate (WP)

By Jonathan Weisman And Jeffrey H. Birnbaum

DOJ_NMG_0016510

The Washington Post, March 7, 2006

For a legislative fight that has stretched on for months, pitting the House against the Senate and the White House against members of the president's party, the battle to renew the USA Patriot Act will likely end very quietly this week.

Between three post office renamings and a measure to clamp down on the counterfeiting of manufactured goods, the House will give its final assent today on the Patriot Act's reauthorization. Republican leaders are so confident in its passage that they have scheduled the vote on the fast-track "suspension calendar," where approval takes the vote of two-thirds of the House. Just after they pass the Patriot Act, House members will vote to support the goals and ideals of National Engineers Week.

Passed after the 2001 terrorist attacks, the law made it easier for federal agents to secretly tap phones, obtain library and bank records, and search homes of terrorism suspects. Complaints by civil libertarians, librarians and others prompted lawmakers last year to insist on adding safeguards to the act before renewing it.

Some of the revisions affect National Security Letters, which are subpoenas for financial and electronic records that do not require a judge's approval. Libraries functioning "in their traditional capacity" will no longer be subject to such letters. Also modified is "Section 215 subpoenas," which are granted by the Foreign Intelligence Surveillance Act Court. Recipients now will have the explicit right to challenge the subpoenas' nondisclosure or "gag order" requirements.

Some civil liberties groups, however, say the law is written in a way that will make it very difficult for a targeted individual to prevail in such an appeal.Less Call for Sweeping Lobbying Reform?

As the Patriot Act battle ends with a whimper, the fight over the rules governing lobbying will begin. But just as the Patriot Act fight started with promises of major changes and ended largely with the status quo, the push for sweeping lobbying reform may be losing steam.

The Senate is scheduled to take up ethics and lobbying legislation this week. But first, Majority Leader Bill Frist (R-Tenn.) hopes to merge two bills on the subject passed last week by the Senate Committee on Rules and Administration, and the Committee on Homeland Security and Governmental Affairs.

Senate aides do not expect much trouble accomplishing the combination. The rules bill deals basically with lawmakers' actions, and the governmental affairs bill involves mostly demands on lobbyists. Together they would represent the Senate's response to the Jack Abramoff lobbying scandals.

The bills lean heavily toward expanding disclosure requirements on both lawmakers and lobbyists. In addition, one pending proposal would make it harder for lawmakers to pass narrowly targeted spending measures called earmarks. The bill would also double to two years the time that former lawmakers must wait before they can lobby their ex-colleagues on Capitol Hill.

Senators have said they expect debate on a variety of measures on the floor including a plan, once rejected in committee, to establish an independent office of public integrity. Some senators also plan to offer an amendment that would force lawmakers to pay charter fares for their private airplane trips rather than the first-class rates allowed under current law.Food Bill No Longer Small Potatoes

The biggest rhetorical battle in Congress may be a food fight. Tomorrow or Thursday, the House is scheduled to vote on the National Uniformity for Food Act, a measure to establish a federal system of food warnings that would replace the patchwork regulations of the states.

The measure has bipartisan support and was expected to pass with little controversy. But in recent days, the protests of state government officials and environmental groups have changed the equation. State attorneys general say the legislation will federalize a regulatory issue that has been handled at the state level and could replace some tough state standards with weaker federal rules.

The Natural Resources Defense Council hand-delivered bottles of Pepto-Bismol to House members and their staff with a special label warning that "H.R. 4167 side effects may include vomiting, diarrhea, birth defects, cancer and worse." A bipartisan group of attorneys general will protest the measure today at a news conference near the Capitol.

Rep. Mike Rogers (R-Mich.), the bill's author, said yesterday that his measure is the victim of a disinformation campaign.

"The uniformity in food warnings under the bill will enhance food safety and public health," he said. "Contrary to the assertions of the attorneys general, H.R. 4167 is sound public policy that provides protection for all citizens of all states."

Patriot Act Includes Crackdown On Meth Use (AP)

By LAURIE KELLMAN, The Associated Press

AP, March 6, 2006

WASHINGTON (AP) — Suffer from springtime allergies? You could be among the first affected by the USA Patriot Act poised for final congressional passage this week.

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Besides terrorism, the bill takes aim at the production of methamphetamine, a highly addictive drug that cannot be manufactured without a key ingredient of everyday cold and allergy medicines. The bill would impose new limits next month for how much relief a person can buy over the counter.

And beginning Sept. 30, it'll take a flash of ID to buy that medication.

The legislation sponsored by Sens. Dianne Feinstein, D-Calif. and Jim Talent, R-Mo., would blanket the nation with one policy that would put medicines containing pseudoephedrine behind the counter and out of the reach of meth cooks.

"If we leave it up to local jurisdiction, we're simply going to move the problem from one jurisdiction to another without addressing the root cause," said Fresno, Calif., Police Chief Jerry Dyer.

Pass a state or local law cracking down on methamphetamine production, set off a cycle that goes something like this:

The black market price of cold tablets needed to make the drug skyrockets, driving the meth makers to the jurisdiction next door. There, they buy it in bulk — legally, cheaply, anonymously.

That is, until that state or city gets tough on meth with new laws of its own.

Rather than wait for localities to stitch together a patchwork of anti meth policies, the provision of the Patriot Act would leave meth producers nowhere to run but out of the country. It takes aim at the meth trade's weakest point — the supply of pseudoephedrine.

Beginning 30 days after President Bush signs the law, expected sometime this week, purchase limits go into effect. One person would be limited to buying 300, 30-mg pills in a month or 120 such pills in a day. The measure would make an exception for "single-use" sales — individually packaged pseudoephedrine products.

Many retailers, such as Kmart, Walgreens, Target and Wal-Mart, have already adopted guidelines to limit customer access to cold products or to limit their sales.

Similar state and local restrictions have caused seizures of meth labs to plunge by double-digit percentages in such states as Arkansas, Oregon and Missouri.

At the same time, drug agents began finding more meth from Mexican cartels on the street.

Still, closing down domestic meth labs is of unique urgency to public health and safety, law enforcement officials said.

The drug is made in clandestine labs with battery acid, drain cleaner or other chemicals that help turn the cold and allergy medicine into powder.

One quart of ether, another ingredient, holds the explosive power of several sticks of dynamite, said Sgt. Jason Grellner of the Franklin County, Mo., Narcotics Enforcement Unit, which has seized 600 meth labs since 1998 in a jurisdiction of 100,000 people.

Wading into the toxic soup of a meth lab puts officers in situations for which they are not necessarily trained, Grellner said.

"They have to know the job of a hazardous-waste chemist. They have to have the mindset of a firefighter. They have to be a natural-resources worker," Grellner said. "Wearing that many hats is a safety concern."

And an abandoned lab becomes an environmental hazard, pointed out Dyer.

"They were leaving the chemicals and equipment out in the open and vacating the property," Dyer said. "They found out that we started to trace down suspects with that equipment. Now they are burying these same items underground."

Oklahoma provides evidence that driving out meth labs doesn't mean getting rid of meth. Oklahoma's meth lab seizures have fallen 90 percent since April 2004, when it became the first state to ban over-the-counter sales of everyday cold and allergy medications.

At the same time, seizures of smokeable Mexican meth known as "crystal ice" rose nearly fivefold, from 384 cases in the 15 months before the law to 1,875 since.

"We're going to see trafficking by Mexican cartel organizations, on a much larger scale," Grellner said.

HOMELAND RESPONSE:

Chertoff Says U.S. Ports Takeover Would Tighten Grip On Security (WSJ)

By Robert Block

The Wall Street Journal, March 7, 2006

WASHINGTON -- Homeland Security Secretary Michael Chertoff yesterday said the proposed takeover of terminal operations at five U.S. ports by a Dubai company would give U.S. law enforcement a better handle on security at U.S. terminal operations.

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But the unprecedented access that the Department of Homeland Security and other federal agencies would have to monitor the United Arab Emirates shipping company's personnel and business records would "evaporate" if Congress stopped the deal from proceeding, he warned.

Mr. Chertoff has said on many occasions that he didn't consider Dubai Ports World's proposed $6.8 billion buyout of London's Peninsular & Oriental Steam Navigation Co. a security threat to the U.S. However, his statements to a group of Wall Street Journal reporters marked the first time that he has said that Homeland Security had something to lose if the deal fell through.

"We are in a position now where we can and, assuming this deal goes through, we intend to have a deep look into their practices, certainly in the U.S. ports," Mr. Chertoff said.

Mr. Chertoff also denied rumors he had any intention of resigning following criticism of how his department handled the aftermath of Hurricane Katrina. On the contrary, he said that as the hurricane season approaches, he intends to remake the Federal Emergency Management Agency. He said he will recommend not just a new FEMA director, but an entire management team to head the agency, which has been without a director since Michael Brown resigned 10 days after Hurricane Katrina struck the Gulf Coast.

On the ports issue, Mr. Chertoff said his department was beginning to review and inspect P&O's current operations in the U.S. Members of Congress and governors from both parties were outraged at the prospect of an Arab government operating U.S. port terminals, and are angry that the White House didn't consult them before approving the deal.

Mr. Chertoff said DP World has committed to continue its participation in U.S.-sponsored port-security initiatives at all its overseas operations and to "assist and support federal, state and local law-enforcement agencies" as part of conditions for approving the acquisition.

According to the letter to the Homeland Security Department containing DP World's agreement, the company agreed to provide U.S. law enforcement, if asked, with information about its U.S. operations, facilities and personnel. It also agreed to provide federal agencies with any records in the U.S. involving its foreign operations. Since the terrorist attacks of Sept. 11, 2001, federal law-enforcement and intelligence agencies have been trying to get inside information about global shipping operations, long seen as a potential conduit for smuggling terrorists and weapons around the globe.

Mr. Chertoff described the arrangement as a template for other foreign-owned port-terminal operators. "This actually gives us a better opportunity to raise the baseline of security, first with this set of terminal operators, but eventually, hopefully, unless Congress says you can't have foreign companies own or run terminal operations, we'll be able to raise the level for all them too," he said.

DP World has agreed to an additional 45-day review of the deal, but lawmakers are considering legislation that would bar it. If that happened, Mr. Chertoff said, the U.S. would lose the ability it would gain through the deal to more closely scrutinize terminal operations. "Obviously if the deal doesn't go through, these assurances evaporate."

Mr. Chertoff, who took over from the department's first secretary, Tom Ridge, just over a year ago, also said that some lawmakers still aren't completely committed to the Department of Homeland Security, and would like to see it broken up. He said the hope was destructive and hampered his agency's effectiveness.

After the federal government's initial response to Hurricane Katrina, there are calls on Capitol Hill to break FEMA out of Homeland Security, a move Mr. Chertoff said would be a mistake. Mr. Chertoff said he hoped to have an emergency team in place along with supply contracts from companies that can track shipments of relief commodities like water, food and ice, before the hurricane season starts June 1.

April Vote Expected On Port Security (WT)

By Amy Fagan

The Washington Times, March 7, 2006

Senate homeland security panel Chairman Susan Collins said her committee will vote next month on legislation to improve America's port security and thinks the concern over a Dubai company running some U.S. port operations may give the bill new momentum.

"My hope is that the silver lining of the controversy over the Dubai transaction is that it will prompt Congress once and for all to pass comprehensive legislation to deal with the broader underlying issue of port security," said Miss Collins, Maine Republican.

The administration is conducting a new 45-day review of DP World's $6.8 billion bid to purchase terminal operations at several key U.S. ports from a British company.

The deal is moving forward, however. Yesterday, Britain's Court of Appeal dismissed a Miami firm's objection to it. The takeover is now set to become effective tomorrow, the British company said in a statement.

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Meanwhile, Miss Collins plans to move a ports security bill she wrote last year with Sen. Patty Murray, Washington Democrat. The two are also working with House Homeland Security Chairman Peter T. King, New York Republican, and Rep. Jane Harman, California Democrat, on a similar House bill.

Miss Collins' measure would authorize $835 million each year for five years to improve current port security programs. It would create an office of cargo security policy, and set new requirements for examination of all inbound cargo.

Miss Collins said the Homeland Security Department is taking far too long to implement some security steps, like minimum standards for mechanical seals on cargo and identity cards for transportation workers.

"We want to make this a priority for the department, set clear deadlines, set clear standards, and I think it will make a real difference," she said.

The bill would create a program to entice private importers to enact top security standards for cargo in exchange for special treatment, like fewer searches. And it also would direct the department to come up with a detailed plan of how trade would resume after an attack at a U.S. port. There is no such plan in place now.

Mrs. Murray said an attack on one port would require all ports to be shut down for perhaps as long as four months, with devastating consequences.

"People in the Midwest who think they have nothing to do with ports would soon not have anything on the shelves of their grocery stores or Wal-Marts," she said.

Miss Collins also plans to introduce a new bill later this week with Sen. Joe Lieberman, the ranking Democrat on the homeland security panel. It would move the Committee on Foreign Investment in the United States (CFIUS) -- which approved the DP World takeover deal -- under the purview of the Homeland Security Department, as opposed to the Treasury, as is now the case.

Lieberman Calls For More US Port Security Funds (REU-Y2)

By Richard Cowan

Reuters, March 6, 2006

The Bush administration's plan for securing America's ports is inadequate and funding should be nearly double the White House's budget request for next year, a key Senate Democrat said on Monday.

Sen. Joseph Lieberman (news, bio, voting record) of Connecticut, the senior Democrat on the Senate Homeland Security and Governmental Affairs Committee, called for spending more than $1 billion on port security in fiscal 2007.

In remarks to reporters, Lieberman noted that the Bush administration budget only calls for $551 million for port security in the fiscal year starting on October 1.

"This budget fails to address the damage that terrorists can do to us with weapons of mass destruction or dirty bombs in containers shipped into this country," Lieberman said.

Democrats' criticism of the administration's spending priorities came amid an uproar over White House approval of a state-owned Arab company's plan to manage six American ports.

The plan for Dubai Ports World to buy British port operator P&O is under a 45-day review and some Republicans in Congress have vowed to block it.

Separately, a White House spokesman expressed confidence that lawmakers would ultimately support the $6.85 billion Dubai Ports World deal.

"We're confident that at the end of this review process that more members will be comfortable with this transaction moving forward," said spokesman Scott McClellan.

However, the Republican chairman of the House Armed Services Committee planned to introduce a bill on Tuesday that would block the Dubai deal, his spokesman said.

The legislation being prepared by Rep. Duncan Hunter (news, bio, voting record) of California and Republican Rep. Jim Saxton (news, bio, voting record) of New Jersey would also force foreign owners of U.S. ports, electricity plants and other "critical" infrastructure to sell their holdings and require inspection of all cargo.

Other details of the bill were not yet available, a Hunter spokesman said.

Later this week, the Senate Budget Committee is expected to craft a budget blueprint for next year and Lieberman has urged the panel to beef up domestic security by spending $8 billion more than President George W. Bush has proposed.

Besides port security, the added money would fund Coast Guard operations, emergency health preparedness, first responders and other Department of Homeland Security activities.

The Democrat's demand for more domestic security funds comes as the Republican-controlled Congress tries to find ways to control massive federal budget deficits. Next year's deficit is expected to come in around $355 billion.

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Sen. Kent Conrad (news, bio, voting record) of North Dakota, the senior Democrat on the budget committee, said he would pay for more domestic security spending by improving tax collection. Government experts have testified that about $350 billion in taxes due are not being collected by the Internal Revenue Service each year.

"It has been more than three years since the Coast Guard estimated more than $7 billion would be needed just to provide basic physical security at all U.S. ports" and to implement a 2002 maritime transportation security law, Lieberman said.

He added that Congress so far has appropriated about $750 million. "Much more clearly remains to be done," Lieberman told the Senate Budget Committee.

Hunter Readies Ports Bill (HILL)

By Roxana Tiron

The Hill, March 7, 2006

Rep. Duncan Hunter (R-Calif.), who has promised to try to sink the Dubai Ports World deal, started circulating a "Dear Colleague" letter yesterday to attract co-sponsors for legislation he plans to introduce today.

In the letter, co-signed by Rep. Jim Saxton (R-N.J.), Hunter outlined several provisions of the legislation, which would halt the Dubai takeover of management at some U.S. port terminals. It would also require any corporation that owns, manages or operates "national defense critical infrastructure to be majority-owned by American citizens."

The secretaries of defense and homeland security would have to prepare and maintain and a national defense critical infrastructure list, the letter says.

Hunter and Saxton also call for reforming the interagency Committee on Foreign Investment in the United States by mandating a 45-day investigation into transactions that may have national-security implications. The legislation would, additionally, require the president to provide regulations that mandate written notification to the administration of mergers, acquisitions and takeovers that may be subject to investigation by the committee.

British Court Allows Dubai Deal To Proceed (AP-Y2)

By Jane Wardell

AP2, March 6, 2006

The controversial takeover of British shipping company P&O by Dubai's state-owned DP World received the green light Monday when Britain's Court of Appeal dismissed a Miami firm's objection to the deal.

The Court of Appeal declined to hear an appeal from Miami-based Eller & Co., which had tried to have the deal barred on technical grounds, arguing that U.S. concerns about a United Arab Emirates company owning significant operations at six major U.S. seaports could harm its business.

The lower High Court had already approved the 3.9 billion pound ($6.8 billion) acquisition of the Peninsular and Oriental Steam Navigation Co. and Monday's unanimous decision by the three judges of the Court of Appeal means that the deal is now free to proceed through the final regulatory stages.

In a statement following the decision, P&O said the takeover will now become effective on March 8 and that the shipping company's shares will be delisted from the London, Sydney and Tokyo stock exchanges on March 9.

The deal was originally due to be closed last Thursday, but Eller's last-minute petition resulted in an extended three-day hearing in the High Court — which must give approval for the takeover to go ahead.

Justice Nicholas Warren gave that approval on Thursday, but placed a hold on his ruling to allow Eller to take the case to the higher court.

Justices Anthony Lloyd, David Neuberger and Martin Moore-Bick lifted the hold order Monday as they ruled that Eller had no case on four technical grounds, including an argument that hundreds of shareholders in Australia were not given adequate notice of a vote on the deal because of a mailing problem.

Eller said after the ruling that it was disappointed by the decision, but it did not intend to appeal the judgment. However, it said it would continue to pursue legal action in the U.S. courts in Florida.

"We are not alone in opposing this deal — many elected politicians in the U.S. and indeed the American public, share many of our concerns about the takeover," the company said in a statement.

"We will continue to fight to protect our business and the livelihood of thousands of our staff and subcontractors," it added.

P&O runs shipping terminals in New York, New Jersey, Baltimore, New Orleans, Miami and Philadelphia — a fact that has caused unease among some lawmakers and businesses in the United States who have cited security concerns about an Arab company taking over the ports.

DP World has attempted to defuse some of the tension by saying the U.S. ports will remain separate to the overall deal and submitting itself to a second 45-day investigation by the U.S. government, despite already receiving regulatory approval.

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Chief Executive Mohammed Sharaf said Sunday he expected the deal to be completed.

"All the authorities are comfortable with the security measures that we take," he said. "As far as we are concerned, the deal is going to go through, and the British government has approved it."

"There are big consequences for the British market if it doesn't go through because investors are waiting for the money," he said on CNN's "Late Edition."

Lawyers for DP World warned last week that a delay beyond Friday meant that the company will not be able to access the money it needs to pay shareholders on time. Lawyers for P&O said they will pursue Eller for the costs of the British legislation.

President Bush has supported the takeover deal and lawmakers that were initially opposed seem to have softened slightly, tempering calls for an immediate vote to block the takeover. Many said the new probe reassured them and negated the need for legislation for now.

A U.S. federal judge has also ruled against a request by New Jersey to order an investigation into the takeover.

The High Court's Warren said in his ruling last week that U.S. concerns about port security and threats of port authorities withdrawing business were partly fueled by Eller and he did not find them credible.

U.S. Firm Loses Appeal Of P& O Sale (WP)

By Jane Wardell

The Washington Post, March 7, 2006

LONDON, March 6 -- A British appeals court on Monday declined to hear a Miami firm's objection to the takeover of British shipping company P&O Group by Dubai's state-owned Dubai Ports World, giving the go-ahead to a deal that has caused an uproar in the United States over port security.

Miami-based Eller & Co. had argued that U.S. concerns about a United Arab Emirates company managing significant operations at six major U.S. seaports could harm its business. Eller had tried to have the deal barred on technical grounds.

Eller said that it will continue to pursue legal action in the U.S. courts in Florida. "We will continue to fight to protect our business and the livelihood of thousands of our staff and subcontractors," it said.

The $6.8 billion acquisition of the Peninsular and Oriental Steam Navigation Co. was given the required approval by the High Court last week. But High Court Justice Nicholas Warren placed a hold on his ruling to allow Eller to take the case to the higher court.

The rejection of the appeal means that P&O can now list the deal at the British registry Companies House, the final regulatory stage of the transaction.

Mideast Investment Up In U.S. (WP)

By Paul Blustein

The Washington Post, March 7, 2006

Middle Eastern investment in the United States is once again picking up steam, showing big gains since the tense period following the Sept. 11, 2001, terrorist attacks. And while some takeovers are triggering alarm -- most famously, the purchase by a Dubai-owned company of a seaports management firm -- others are evoking warm welcomes.

Spearheading the trend is Dubai's Mohammed bin Rashid al-Maktum (popularly known as "Sheik Mo"), ruler of the freewheeling city-state, which is part of the United Arab Emirates. The ports deal is just one of a series of recent purchases by companies he controls.

Other acquisitions include a $1 billion portfolio of 21,000 apartments in U.S. Sun Belt cities; a 2.2 percent stake in the automotive giant DaimlerChrysler AG that cost another $1 billion; and a Manhattan landmark building, 230 Park Ave. The emirate also made major purchases in other countries over the past year, notably a $1.5 billion takeover of Britain's Tussauds Group, which owns the famous waxworks, along with theme parks, roller coasters and other entertainment-oriented businesses.

On Thursday came news that yet another Dubai acquisition is drawing Bush administration scrutiny because of the national security risks -- this time of plants in Georgia and Connecticut that make precision components used in engines for military aircraft and tanks.

But an entirely different reaction greeted the disclosure several months ago that Dubai Investment Group had acquired the Essex House hotel in Manhattan and promised to sink $50 million into renovating it.

That announcement prompted New York City Mayor Michael R. Bloomberg to exult: "Another iconic hotel overlooking Central Park will be preserved and its unionized workforce protected. This is excellent news for New York's tourism and hospitality industries."

Behind such transactions are two powerful forces. One, of course, is the high price of energy, which has left several oil-producing Arab countries swimming in cash. The other is the burgeoning U.S. trade deficit -- $726 billion last year -- which

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means that the United States needs foreign capital; a country that imports more than it exports must cover the gap with money from abroad.

Until now, investments in the United States from Europe and other parts of Asia have dwarfed those from the Middle East. But an increasing share of the foreign money required to fuel the U.S. economy is likely to come from places that, like Dubai, trigger visceral reactions among Americans seared by memories of the Sept. 11 attacks.

"The price of oil is going only one way -- up -- for the next five years, because it is going to take at least that long for alternatives to kick in," said Youssef M. Ibrahim, managing director of the Strategic Energy Investment Group, a consulting firm based in Dubai. "So there is no question in my mind that billions of dollars will continue flowing this way, and people cannot handle all of that kind of money here. You've got to circulate the money, and the United States is still the biggest market."

Already, the list of U.S. businesses owned by Arab investors -- not just from Dubai -- includes some well-known names. Among them are Caribou Coffee Co., the fast-growing rival to Starbucks Corp.; Church's Chicken, a fast-food concern; Loehmann's, a specialty retailer; TLC Health Care Services Inc., a provider of home nursing and hospice care; and even several financial publications, including the American Banker.

Such "direct" investment in hard assets -- companies, factories and real estate -- is generally preferable for the U.S. economy, in the view of most economists, to foreign investment in bonds, stocks and other financial assets. One advantage of direct investments is that they cannot be dumped in a panic the way that, say, a Treasury bond can. Moreover, they often involve high-wage jobs. Average annual compensation per worker at U.S. subsidiaries of foreign companies is about $60,500, 34 percent higher than the rate at all U.S. companies, according to the Organization for International Investment.

The main drawback of a direct investment is that it involves foreign control, which can raise national security concerns. That is why an interagency government panel, the Committee on Foreign Investment in the United States, reviews many foreign takeovers. That process may be revamped by Congress due to indignation over the panel's decision to approve the purchase by Dubai Ports World of Peninsular and Oriental Steam Navigation Co., a British firm that manages container terminals on the East Coast.

Arab direct investments would probably be more extensive were it not for the political and legal atmosphere in the post-Sept. 11 era. "Middle Eastern investors are still a little skittish about investing in the United States," said James A. Fetgatter, chief executive of the Association of Foreign Investors in Real Estate.

To some extent, Arab investors think U.S. property is overpriced, so they are putting more of their overseas bets in Asia, said Gary Sheehan, an executive with Sentinel Real Estate Corp. in New York. But an additional factor is their fear about what might befall their holdings at the hands of U.S. authorities.

"I was in Bahrain the week before last and had a meeting at a bank where they said they would love to invest in the States," Sheehan said. "But they said: 'Syrian interests own 12 percent of our bank. So we know that if push comes to shove' " -- that is, a serious confrontation between Washington and Damascus -- " 'our assets will be frozen.' "

Such negativity toward investing in the United States could well deepen as a result of the controversy over the Dubai ports deal, some in the region warn. Sheikha Lubna al-Qassimi, the UAE economy minister, told the Financial Times last week that the United States will become less attractive if investment decisions are subject to political interference. "There are other countries that are competing for [our] money," she said.

But worries about a drying-up of Arab investment are overblown, according to others, including C. MacLaine Kenan, an executive in the Atlanta office of Arcapita Inc., one of the biggest firms serving as a conduit for foreign Arab investors in U.S. businesses.

Arcapita has raised billions of dollars from investors in the UAE, Saudi Arabia, Qatar and neighboring countries and has invested the majority of it in the United States, where it owns Caribou Coffee, Church's Chicken and other companies, as well as real estate. The investments have to conform with sharia, or Islamic law, which means that they cannot involve businesses that traffic in alcohol, pork, pornography or gambling and that they have to use special types of financing to avoid violating Muslim rules against charging interest.

"Our investors will spend some time complaining about U.S. politics, but at the end of the day, they're pretty shrewd in divorcing the economic opportunity from the political issue," Kenan said. "And they generally know the political problems will in most cases blow over. So every now and again, we get people saying: 'I wish this [U.S.] administration would do better. But by the way, how's this investment going?' "

The typical Middle Eastern investor is "a pretty happy camper," Kenan added, because markets in the region have soared along with oil prices. "So they have more appetite for investment abroad, and they know the United States is a place a smart investor needs to have some money."

Whatever Arab investors abroad finally do, their clout is relatively small -- at least for now. At the end of 2004, investors from Arab countries held just $4 billion in direct investment in the United States, according to Commerce Department data.

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British investors, by contrast, held $252 billion, Japanese investors held $177 billion, Dutch investors held $167 billion and German investors held $163 billion. Their holdings span industries often deemed "critical," such as telecommunications (Finland's Nokia Corp. and Sweden's Ericsson Inc.), energy (British Petroleum PLC and Royal Dutch Shell PLC) and utilities (E.On AG of Germany, which controls much of the gas and electricity distribution in Kentucky).

Although foreign investors are far from controlling the U.S. economy -- their payrolls constitute an estimated 3.5 percent of the nation's workforce -- the United States is growing increasingly dependent on them as the trade gap widens. To obtain the money necessary to pay for imports, the United States this year will probably need to attract foreign capital at the rate of about $20 billion a week, which is equal to selling three companies the size of the maritime firm purchased by Dubai Ports World, noted Brad Setser, an economist with Roubini Global Economics LLC in New York.

To be sure, most of the money flowing into the United States comes in the form of Treasury bonds and other financial assets rather than corporate acquisitions. Foreigners held roughly $9 trillion of U.S. financial assets at the end of 2004, according to government data. Middle Eastern oil exporters held a modest percentage of that, including about $121 billion in U.S. government securities, the data show.

But the oil revenue flooding into the Mideast means that the region's financial strength is rising apace. The cumulative trade surplus of Middle Eastern oil exporters, which was $500 billion from 2000 to 2005, will come close to $800 billion by year-end, Setser wrote recently.

"Which is just to say," he said, "that there are a lot more Dubai Ports Worlds out there."

Report Questions Homeland Security Plans (AP)

By Liz Sidoti

The Associated Press, March 6, 2006

WASHINGTON - The Homeland Security Department still spends money on U.S. port projects that aren't considered national security priorities even though it has made some corrections, a new report says.

In a report to be made public Tuesday, Homeland Security Inspector General Richard L. Skinner praises the agency for overhauling the Port Security Grant Program in 2005 to award money based on risk and to make only the 66 most vulnerable ports eligible.

However, Skinner said, the agency still has not entirely fixed the problems that led the inspector general's office in January 2005 to issue a dozen recommendations for improving design, management and oversight of the program.

This time, Skinner said, "We identified 20 projects that reviewers determined did not meet national security priorities but were funded nonetheless."

His office studied the fifth and most recent round of port security grants, which awarded $142 million for 132 projects. Of those, the 20 projects Skinner's report said scored low on the agency's threat scale received about 20 percent of the money awarded, or $29.3 million.

The report did not say where those projects were located. In one example, a grant applicant proposed installing card readers on critical buildings and upgrading current software for controlling access to the facility. The project received no score as a national security priority threat but received funding anyway.

Marc Short, a Homeland Security spokesman, defended the grant program. "Despite the scoring, the results are absolutely in accord with our risk assessment," he said.

The new report comes amid increased attention in Congress on port security as Dubai-owned DP World seeks to takeover significant operations at six U.S. ports. Republicans and Democrats alike oppose the deal and have introduced legislation to block it.

Although dated February 2006, Skinner's report is being made public Tuesday. The Associated Press obtained an advanced copy.

In October, Congress, at the behest of Sen. John Kerry, D-Mass., ordered a review of the steps the agency has taken to comply with recommendations in the January 2005 report.

"It's been more than four years since 9/11, and the government still can't get port security right," Kerry said in a statement.

Since its inception, the grant program has awarded more than $700 million to make U.S. ports less vulnerable to terrorist attacks.

Because of that investment, Skinner's report said, the agency has "raised the overall bar of preparedness but it is not clear that DHS knows now much actual risk reduction has been achieved."

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On the Net:

Homeland Security Department: http://www.dhs.gov/

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Washington Wire (WSJ)

By John R. Wilke, June Kronholz, Gary Fields, And Greg Jaffe

Wall Street Journal, March 7, 2006

March 6, 2006, 4:13 pm Smooth Sailing Predicted for AT&T Deal

Philip Verveer, who filed the lawsuit that led to the 1984 breakup of the Bell System monopoly, said he doesn't expect the Justice Department to block AT&T Inc.'s planned $67 billion buyout of BellSouth Corp.

"This is a reassembly of many of the pieces we worked to take apart," said Verveer, who led the first Justice Department team that prosecuted the AT&T case. "But the circumstances are completely different today."

The wave of technological innovation that followed the breakup has fundamentally changed the game, said Verveer, now a partner at Willkie Farr & Gallagher in Washington, where he represents communications companies including cable and satellite firms. Antitrust enforcers have already allowed the former Bells to buy their local-phone rivals and last year were permitted to take over long-distance providers AT&T and MCI, he noted. As a result, "there is simply not enough to block or significantly reconfigure this deal."

Verveer, who left Justice before the case was settled to become a top FCC regulator, said the broader concern is whether the Bells and others will continue to compete and innovate in providing broadband Internet-access service.

Verveer, now 62 years old, said he expects the FCC to require that AT&T accept the "net neutrality" nondiscrimination principles that it adopted last fall. "The critical issue for society and the economy is whether there will be a workably competitive environment for broadband," he said. "It's an essential service, and if it's not competitive, then inevitably there will be calls for new regulation."

Read more about the deal. Compare telecom titans AT&T, Verizon, read the transcript of AT&T's conference call and see a graphic on the new telecom sector. Plus, should regulators approve the deal?

March 6, 2006, 4:12 pm Chertoff Focuses on Chinese Illegals

Homeland Security Secretary Michael Chertoff plans a trip to China later this month to convince Beijing to take back illegal immigrants picked up by U.S. immigration authorities.

Chertoff has been pushing a catch-and-return policy on illegal immigrants from China and elsewhere since taking office last year. In an interview with Wall Street Journal reporters and editors, he said many Latin American countries are starting to streamline their repatriation programs, particularly Honduras and Guatemala. But China remains a problem that could grow over time, he said.

Chertoff estimated that U.S. authorities hold 19,000 Chinese illegal immigrants who the Chinese government hasn't repatriated for reasons it hasn't explained. He also said the problem is brewing with India, too. If left unchecked, it could become a major problem as more Chinese and Indian illegals make their way to the U.S. and the U.S. authorities run out of detention space. "How much is bureaucracy and how much is other motives" he said he can't tell. But governments move fast when they want to, he added.

March 6, 2006, 2:46 pm Police to Walk the Washington Beat

Top police executives from around the country are arriving in Washington Monday and Tuesday to ask Congress to restore cuts in law enforcement spending contained in the Bush budget plan.

The International Association of Chiefs of Police, which represents 18,000 law enforcement police chiefs and executives, is leading the effort. An IACP analysis of the budget for fiscal 2007 shows that assistance to local law enforcement agencies would be reduced to $1.535 billion from $2.609 billion in fiscal 2006. Community Oriented Policing for instance, was cut to $102 million from $478 million and local block grant programs for law enforcement has been zeroed out altogether from $416 million in the current year.

March 6, 2006, 11:40 am An Army of Enough

The Army hit its recruiting goals for February — the ninth month in a row that it has made its recruiting numbers, senior Army officials said. The service plans to announce that it reached its goal later this week. The active-duty Army, Army National Guard and reserves all missed their recruiting goals last year.

This year, the Army's numbers have been buoyed by the presence of more recruiters and bigger enlistment bonuses. It's still not clear that the Army will make its recruiting numbers for the year. Typically the summer months, following high school graduations, are the most crucial. But service officials are optimistic they can make both the active duty and National Guard numbers for the year — a big change from this time last year when the Army was struggling to meet its goals for the winter months.

The Supreme Court's 8-0 ruling Monday on university recruiting isn't expected to have much effect on the military's numbers. The court decided that in order to retain federal funding, universities must allow military recruiters on campus even

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though their ban on homosexuals violates the schools' equal-employment policies. The opinion by Chief Justice Roberts found no First Amendment violation by the Solomon Amendment, the law requiring that the military have access equal to other employers recruiting on campus, in part because the schools remain free to express their opposition to the military's antigay policies.

Guards Fault Homeland Security Protection (WP)

By Larry Margasak

The Washington Post, March 7, 2006

WASHINGTON -- Guards at the Department of Homeland Security say the agency mishandled a potential anthrax attack on its headquarters, one of several incidents that led two senators to request an investigation of the agency's own security.

The private guards complained that inadequate training led to confusion in handling bomb and biological threats and failure to stop test vehicles that were sent to checkpoints with improper identification.

"I wouldn't feel safe nowhere on this compound as an officer," former guard Derrick Daniels told The Associated Press. Daniels was employed until last fall by Wackenhut Services Inc., the private firm that protects a Homeland Security complex that includes sensitive, classified information.

An envelope with suspicious powder was opened last fall at the headquarters. Daniels and other current and former guards said they were shocked when superiors carried it past the office of Secretary Michael Chertoff, took it outside and then shook it outside Chertoff's window without evacuating people nearby.

The scare, caused by white powder that proved to be harmless, "stands as one glaring example" of the agency's security problems, Daniels said. "I had never previously been given training ... describing how to respond to a possible chemical attack."

"If the allegations brought forward by the whistleblowers are correct, they represent both a security threat and a waste of taxpayer dollars," Democratic Sens. Byron Dorgan of North Dakota and Ron Wyden of Oregon wrote to the agency's inspector general, seeking an investigation.

"It would be ironic, to say the least, if DHS were unable to secure its own headquarters," they wrote.

The IG's office had no immediate response to the request.

Homeland Security spokesman Brian Doyle said Wackenhut guards are still operating under a contract signed with the Navy, and the agency has little control over their training. A soon-to-be-implemented replacement contract will impose new requirements on security guards, he said.

Daniels, saying he was among the first guards to respond to the white powder incident, said the area where the powder was found wasn't evacuated for more than an hour. Available biohazard face shields went unused. When a belated order was given to evacuate the area, employees had already gone to lunch and had to be rounded up and quarantined.

Doyle, the Homeland spokesman, said the concerns were overblown because all mail going to the Homeland Security complex is irradiated to kill anthrax. "The incident was resolved before anything was moved," he said.

Daniels now works security for another company at another federal building. He is among 14 current and former Wackenhut employees _ mostly guards _ who were interviewed by The Associated Press or submitted written statements to Congress that were obtained by AP.

Wackenhut President Dave Foley disputed the allegations, saying officers have a minimum of one year's security experience, proper security clearances and training in vehicle screening, identification of personnel, handling of suspicious items and emergency response.

"In short, we believe our security personnel have been properly trained, have responded correctly to the various incidents that have occurred ... and that this facility is secure," Foley said. He declined, however, to discuss any of the current or former employees who have become whistleblowers.

A litany of problems were listed by the guards, whose pay ranges from $15.60 to $23 an hour based on their position and level of security clearance. Among their examples of lax security:

_They have no training in responding to attacks with weapons of mass destruction.

_Chemical-sniffing dogs have been replaced with ineffective equipment that falsely indicates the presence of explosives.

_Vehicle entrances to Homeland Security's complex are lightly guarded.

_Guards with radios have trouble hearing each other, or have no radios, no batons and no pepper spray, leaving them with few options beyond lethal force with their handguns.

Wackenhut is no stranger to criticism.

Over the last two years, the Energy Department inspector general concluded that Wackenhut guards had thwarted simulated terrorist attacks at a nuclear lab only after they were tipped off to the test; and that guards had improperly handled the transport of nuclear and conventional weapons.

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Homeland Security is based at a gated, former Navy campus near American University _ several miles from the heavily trafficked streets that house the FBI, Capitol, Treasury Department and White House.

Former guard Bryan Adams recognized his inadequate training one day last August, when an employee reported a suspicious bag in the parking lot.

"I didn't have a clue about what to do," he said.

Adams said he closed the vehicle checkpoint with a cone, walked over to the bag and called superiors. Nobody cordoned off the area. Eventually, someone called a federal bomb squad, which arrived more than an hour after the discovery.

"If the bag had, in fact, contained the explosive device that was anticipated, the bomb could have detonated several times over in the hour that the bag sat there," Adams said.

The bag, it turned out, contained gym clothes.

Doyle, the Homeland spokesman, responded to several allegations raised by the guards. He said dogs were replaced because "if you overuse them, their effectiveness drops." The detection equipment that substitutes for the dogs is a better method for detecting explosives, he said.

Guards who used the equipment said it was no match for the reliability of the dogs.

The AP videotaped two vehicle entrances at Homeland headquarters with light security.

One is guarded only during morning and evening rush hours. Movable metal barriers and an unmanned security vehicle only partially blocked the driveway, leaving enough room for a small car or motorcycle to drive through.

Another entrance was guarded with a manned vehicle with two guards but no other barriers.

Doyle said the vehicle entrances were adequate because, in all cases, a 10-foot fence topped with barbed wire separates vehicles from all buildings.

Some guards who continue to work at Homeland, who would speak only on condition of anonymity because of fear of losing their jobs, said they knew of two instances in which individuals without identification got into the sensitive complex.

Another described how guards flunked a test by the Secret Service, which sent vehicles into the compound with dummy government identification tags hanging from inside mirrors. Guards cleared such vehicles through on two occasions, this guard said, and one officer even copied down the false information without realizing it was supposed to match information on the employee's government badge.

Doyle, the agency spokesman, said such tests are conducted routinely. "I can assure you that if people fail the test they are let go," he said.

Marixa Farrar, a former guard, said two guards always should have been stationed inside the main building where Chertoff had his office, but she often was on duty alone.

One day last fall a fire alarm rang. As employees walked by Farrar, they asked if this was a fire or a test.

"There were no radios, so I couldn't figure out if it was a serious alarm," she said.

There was no fire.

Driver At UNC Cites Vengeance For Muslims (WP/AP)

By Associated Press

The Washington Post, March 7, 2006

CHAPEL HILL, N.C., March 6 -- A University of North Carolina graduate from Iran, accused of running down nine people on campus to avenge the treatment of Muslims, said at a hearing Monday that he was "thankful for the opportunity to spread the will of Allah."

Mohammed Reza Taheri-azar was accused of driving a sport-utility vehicle through the Pit, a popular campus gathering spot, injuring nine people Friday. None of the victims was seriously hurt.

University Police Chief Derek Poarch said Taheri-azar told investigators he intentionally hit people to "avenge the deaths of Muslims around the world." In a 911 call after the incident, Taheri-azar said he wanted to "punish the government of the United States for their actions around the world."

Taheri-azar, 22, appeared in Orange County District Court on nine counts of attempted murder and nine counts of assault.

His bail was set at $5.5 million and he was assigned a public defender, but he said after the hearing: "The truth is my lawyer."

Taheri-azar graduated from North Carolina in December after studying psychology and philosophy. Investigators believe he has spent most of his life in the United States.

On campus, UNC students held what they called an "anti-terrorism" rally. "We don't want terrorism here, and we're not going to stand for that where we live and where we go to school," said Kris Wampler, a student at UNC and member of the College Republicans, which helped organize the rally.

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About 50 students attended the rally, including several Muslim students who debated with organizers and said Taheri-azar had not been linked to any terrorist group.

"When you think in terms of a global context, this was an isolated incident," said student Khurram Bilal Tariq, 22.

Stephen Mann, an 18-year-old freshman, said he was not singling out Islam with his call to label Friday's incident terrorism. He said a member of any religion who did what Taheri-azar is accused of doing should be called a terrorist.

"If you try to hurt someone in the name of a cause, that's terrorism," he said.

UNC Grad Driven To Kill (WT)

By Eric Pfeiffer

The Washington Times, March 7, 2006

An Iranian native and recent University of North Carolina graduate admitted that his motive for driving a rental car across the UNC campus was to kill people.

Friday afternoon, Mohammed Reza Taheri-azar, 22, admittedly drove his rented Jeep Cherokee through a heavily trafficked section of the UNC campus known as "the Pit," injuring nine.

When asked by reporters if he was trying to kill his victims, Mr. Taheri-azar said, "Yes."

No one was seriously hurt in the vehicular ambush, and some are loathe to call it an act of terror. However, Mr. Taheri-azar apparently disagrees. After turning himself in Friday, he told authorities his attack was designed to "avenge the deaths of Muslims around the world," according to a statement from police Chief Derek Poarch.

The UNC's Department of Public Safety charged Mr. Taheri-azar with nine counts of attempted murder and "nine counts of assault with a deadly weapon inflicting serious injury with intent to kill."

Mr. Taheri-azar could, if convicted, face more than 100 years in prison. He is being held on $5.5 million bail.

When asked by The Washington Times as to why Mr. Taheri-azar was not charged with terrorism, Chief Poarch's office said the investigation is ongoing and additional charges may yet be filed.

When asked by Orange County District Court Judge Patricia Devine if he had any questions, Mr. Taheri-azar said, "I actually don't have any questions. I am thankful you are going to hear this trial to learn more about the will of Allah, the creator."

After leaving court, Mr. Taheri-azar said his attack was, "the will of Allah, the creator."

He said he intends to defend himself at his scheduled March 16 hearing.

But was it a terrorist attack?

"I think we are edging closer to that," said UNC professor Cori Dauber, "It's clear that he was trying to kill people." She hopes the FBI and the terrorism task force will release details about what was found inside Mr. Taheri-azar's apartment during their investigation and whether he received training from terrorist Web sites.

The question of terrorism is already sparking a debate on campus. UNC senior Kris Wampler organized an anti-terrorism protest on campus yesterday that attracted dozens of students. "The university is very pro-Islamic, and it's been that way the whole time I've been here," Mr. Wampler said in a telephone interview.

Mr. Wampler thinks Mr. Taheri-azar's comments add fuel to the terrorist angle. "I think it really does justify what we're saying," Mr. Wampler said. "I hope he keeps talking. He's just building the case."

UNC's Muslim student association said Mr. Taheri-azar was not a member of the group and denounced his actions on its Web site Friday.

"Regardless of what his intentions prove to be, we wholeheartedly deplore this action," the group said on its site.

A statement from University Chancellor James Moeser described the attack as a "contemptible act of violence," but stopped short of calling it terrorism.

White House Defends Levee Reconstruction (AP-Y2)

By Nedra Pickler

AP2, March 6, 2006

The White House on Monday defended the quality of materials being used to rebuild the levees around New Orleans, as President Bush got assurances from the Army Corps of Engineers that it was on track to restore the system by the start of hurricane season.

Lt. Gen. Carl Strock, head of the Army Corps, told Bush in a private briefing that 100 miles of the 169 miles of levees damaged by the Aug. 29 hurricane have been restored. He repeated the briefing later for reporters at the White House.

Strock took issue with findings from two teams of independent experts who said the Corps was taking shortcuts and using substandard materials, leaving large sections of the system substantially weaker than before the hurricane.

"We are using the right kind of materials," Strock said. "There is no question about that."

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The findings, first reported Monday in The Washington Post, were made by engineers on a National Science Foundation-funded panel and by a Louisiana team appointed to monitor the rebuilding.

Strock said the Corps had yet to see the findings or information on where the teams took their samples. He suggested the monitors may have been testing the wrong soil. He said the Corps is trucking in clay from Mississippi to rebuild the system because the local soil does not meet quality standards.

Strock acknowledged that the levees will not be able to protect low-lying areas in the event of another Katrina-like storm this year.

"If we were going to have another Katrina-like event, I think I can say with a high level of confidence you wouldn't see the catastrophic flooding that we saw in the first event," Strock said. "You would see overtopping, though, of levees. You would see flooding in low-lying areas."

Strock said the president, who is visiting the Gulf Coast Wednesday, told him he appreciated the Corps' work and that it was meeting the commitments that he made to restore the levees in time for the next hurricane season.

"He expressed confidence that we're doing that," Strock said. "So I think that he's comfortable with where we are."

White House press secretary Scott McClellan also rejected allegations of inferior rebuilding.

"The Corps of Engineers is using modern design and construction methods, which have greatly improved the last 40 years, which is the time when those levees were originally built," McClellan said.

The White House also defended Bush on Monday against fresh criticism that he was disengaged and uninformed in the run-up to Katrina's landfall.

Last week's reports about Federal Emergency Management Agency briefings, particularly before Katrina hit, prompted fresh criticism by lawmakers who said the government should have been better prepared for the storm that flooded New Orleans and killed more than 1,300 people. A video of an Aug. 28 briefing showed officials warning Bush and others that the storm might overtop levees, put lives at risk in the Superdome and overwhelm rescuers.

McClellan said the criticism of Bush for not asking questions during the video ignores the fact that before the videoconference he had been on the phone with governors in the region and received updates from then-FEMA chief Michael Brown and his own staff. Bush got on the videoconference to boost morale, not collect information, McClellan said, and he left before it ended for a previously scheduled press event at which he made a statement on the hurricane.

"Some have twisted the facts to fit a story line," McClellan said. "He was not there to participate in the full briefing. He was there for that purpose: to lift their spirits."

McClellan also said that referring to Bush's statement four days after the storm that "I don't think anybody anticipated the breach of the levees," ignores the explanations given by the White House and Bush himself about what he meant.

"What the president was referring to was the sense that, after the storm had initially passed, that there was a sense that that worst-case scenario had not happened," McClellan said. "Some have taken it out of context to suggest he was referring to any predictions before the hurricane hit."

Clarification (WP)

The Washington Post, March 7, 2006

In the March 4 editorial "Caught on Tape," on the leaked video of a White House briefing before Hurricane Katrina made landfall, we wrote that there was no evidence President Bush, after being briefed on the predicted damage, had asked follow-up questions. In fact, the full transcript shows that after Mr. Bush left the conference, some of his advisers, including Homeland Security Secretary Michael Chertoff, did ask about the involvement of the military and other preparedness issues.

FCC, Others Face Katrina Phone Problems (AP-Y2)

By Holbrook Mohr

AP2, March 6, 2006

Downed telephone lines and damaged cellular towers left emergency crews confused and isolated in the aftermath of Hurricane Katrina, experts told federal regulators Monday.

Julliette Saussy, director of Emergency Medical Service of New Orleans, said communications eroded as the waters rose and only got worse.

"Surrounded by water and stranded ourselves, our worst fears were realized," Saussy told members of an independent panel gathering information to be presented to the FCC in June.

"We had no way to communicate except by line of sight. Our radios were not operable, most land lines and cell phones were useless and our communications centers were under water. When help arrived we could not communicate with them either," she said.

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Some 3 million telephone lines were knocked out as the violent storm hit the Gulf Coast on Aug. 29, Federal Communications Commission Chairman Kevin Martin said.

At least 38 911 call centers went down, and more than 1,000 cellular towers were out of service. As many as 20,000 calls failed to go through the day after the storm, and about 100 TV and radio stations were knocked off the air, he said.

Martin said he hopes the panel's work will help strengthen communications throughout the nation, especially in areas vulnerable to natural disasters.

Harlin McEwen, chairman of the Communications and Technology Committee of the International Association of Police Chiefs, described Katrina's destruction as overwhelming.

"Usually, what happens is you have other resources surrounding where the incident occurred to come to the aid of those that are in need," McEwen said. "When you have an issue like Katrina, that affects three states and where much of the public safety infrastructure was wiped out ... that's a different issue."

In Jackson County, Miss., many first responders lacked the training in using backup systems such as satellite phones, said 911 director George Sholl.

Keith Parker, director of the National Association of Emergency Medical Service Officials, said the Mississippi Department of Health couldn't even reach local EMS agencies during the storm.

"The lack of communication created times of confusion and chaos," he said. "There will always be catastrophic events, the question is will we be better prepared for the next one."

Members Struck By Gulf Devastation (RC)

By Suzanne Nelson

Roll Call, March 7, 2006

NEW ORLEANS — By almost any measure, what awaited the 34 House Members on last week's Congressional delegation as their bus approached the Royal Senesta Hotel on Bourbon Street was poor preparation for the rest of their trip.

WAR NEWS:

U.S. Envoy Offers Bleak View Of Situation In Iraq (LAT)

By Borzou Daragahi

The Los Angeles Times, March 7, 2006

BAGHDAD, Iraq -- The top U.S. envoy to Iraq said Monday that the 2003 toppling of Saddam Hussein's regime had opened a "Pandora's box" of volatile ethnic and sectarian tensions that could engulf the region in all-out war and disrupt the global economy if America were to extricate itself from the country too soon.

In remarks that were among the frankest and bleakest public assessments of the Iraqi situation by a high-level American official, U.S. Ambassador Zalmay Khalilzad said the "potential is there" for sectarian violence to become all-out civil war, but that Iraq for now had pulled back from that prospect after the wave of sectarian reprisals for the Feb. 22 bombing of a Shiite shrine in Samarra.

"If another incident (occurs), Iraq is really vulnerable to it at this time, in my judgment," Khalilzad said, in an interview with correspondents of the Los Angeles Times Baghdad bureau and a visiting editor.

Abandoning Iraq in the way the U.S. disengaged from civil wars in Lebanon, Afghanistan and Somalia could have dramatic global repercussions, he said.

"We have opened the Pandora's Box and the question is, what is the way forward?" Khalilzad said. The way forward, in my view, is an effort to build bridges across these communities."

Khalilzad's central message of maintaining a U.S. presence in Iraq jibed with Bush administration policy. But he offered a far gloomier justification for it than assessments made in recent days by U.S. military spokesmen.

On Sunday, Marine Gen. Peter Pace, chairman of the Joint Chiefs of Staff, said in a televised interview that things in Iraq are "going very, very well, from everything you look at."

Khalilzad's comments came just before key U.S. decisions are expected on whether the situation in Iraq has improved enough to allow for a reduction of U.S. forces this year.

Army Gens. John P. Abizaid and George W. Casey, the top U.S. commanders in Iraq, plan to meet with President Bush as early as this week to make troop levels recommendations

Military officials must decide this month whether to cancel scheduled deployments of several Army combat brigades -- a decision that would lead to a reduction in the total number of U.S. troops in Iraq by mid-year from about 130,000 to about

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100,000. For nearly a year, Gen. Casey has said that a "substantial reduction" of U.S. troops could occur in 2006, and pointed to spring as the time when the critical decisions would be made.

A reduction would signal the Bush administration's confidence in progress in the country. On Friday, however, Casey said that war planners factoring the recent violence is "certainly something that we will consider in our decisions."

Without touching on the issue of troop-reduction, Khalilzad described a highly flammable atmosphere in Iraq that dates at least to the highly polarizing Dec. 15 elections that handed Shiites a dominant share of authority.

"Right now there's a vacuum of authority, and there's a lot of distrust," said the diplomat, who is among the architects of the U.S. plan to reshape the political balance of the Middle East following the Sept. 11, 2001 attacks.

The Samarra bombing and the subsequent outbreak of violent reprisals by Shiites against Sunnis demonstrated that insurgents fully understand Iraq's fragility and will seek to exploit it, he said.

"Khalilzad, who actively and publicly is involved in government talks, repeated his weeks-long assertion that the best way to prevent civil war or large-scale sectarian violence is to form a government of national unity drawing from all of Iraq's disparate groups as a way "to build trust and narrow the fault line that exists" between Shiite and Sunni.

In any case, Khalilzad said the U.S. has little choice but to maintain a strong presence in Iraq, or risk a regional conflict with Arabs siding with Sunnis and Iranians backing Shiite co-religionists in what could be a more-encompassing version of the 1980s Iran-Iraq war, which left as many as 1 million people dead. He described a worst-case scenario in which religious extremists could take over sections of Iraq and begin to expand outward.

"That would make Taliban Afghanistan look like child's play," said Khalilzad, an American of Afghan descent who served as U.S. envoy to Kabul, the Afghan capital, before taking on the post in Baghdad.

"What we've described reflects the aspirations of the people," he said. "If we were at variance with the aspirations of the people we'd be in trouble."

Khalilzad said U.S. officials have tried to enlist the support of governments of neighboring countries, even exploring "modalities of setting up a meeting" with Iran, which he said had been unhelpful in securing Iraq.

On Monday, Iraqi politicians continued to wrangle over the composition of a new government. President Jalal Talabani announced a decision to convene parliament on Sunday, only to be quickly countered by Shiite political leaders who asked him to postpone the session.

Shiites have nominated interim Prime Minister Ibrahim al-Jaafari to serve a full term. Kurds have pushed to derail his candidacy.

Khalilzad described such day-to-day political jousting as healthy. "They are bargaining; They are shadow-boxing," he said. "This is a much better way than with guns."

Still, the politics of the gun spoke loudly Monday.

Violence, much of it with sectarian overtones, left at least 18 Iraqis dead across the country as multiple car bombs exploded across the capital. One U.S. soldier was reported killed in a combat incident in western Iraq.

Maj. Gen. Mubdir Hatam Jabouri, commander of the Iraqi Army in Baghdad, was killed by a single bullet to the neck while driving through western Baghdad in a lengthy vehicle convoy shortly after 5 p.m., said Mohammed Askari, an adviser to the Defense Ministry.

Jabouri, a Sunni Arab, commanded a force that is seen by many as a counterweight to those of the Interior Ministry, whose Shiite Muslim-dominated police and commando units have been accused of extrajudicial killings.

The U.S. military reported Monday that a U.S. soldier had died Sunday as a result of "enemy action." The soldier was killed in rural western Iraq, but much of the insurgent violence in the country has shifted to religiously diverse urban areas, said a U.S. official who requested anonymity.

On Monday, a car bomb in a crowded market of downtown Baqubah, a religiously mixed provincial capital 45 miles northeast of the capital, killed at least six people, including two children, and injured 21. The bomb exploded as police and passersby gathered near a murder scene, one of three fatal shootings reported in Baqubah.

Gunmen killed three Shiite laborers in the Sunni town of Hawija, near the northern city of Kirkuk. A roadside bomb targeting a U.S. patrol in Mosul killed one Iraqi civilian bystander.

At least two car bombs and sporadic mortar fire shook the capital. A car bomb near a bank killed one person and injured five in the Dora district, a religiously mixed area on Baghdad's southern edge.

Gunmen kidnapped a prominent university professor. Dr. Ali Hussein Khafaji, dean of the Engineering College at Mustansirya University, was abducted by two carloads of men as he left his home.

U.S. Is Seeking Better Balance In Iraqi Police (NYT)

By Edward Wong

DOJ_NMG_0016525

The New York Times, March 7, 2006

BAGHDAD, Iraq, March 6 — As the threat of full-scale sectarian strife looms, the American military is scrambling to try to weed out ethnic or religious partisans from the Iraqi security forces.

The United States faces the possibility that it has been arming one side in a prospective civil war. Early on, Americans ceded operational control of the police to the Iraqi government. Now, the police forces are overseen at the highest levels by religious Shiite parties with militias, and reports of uniformed death squads have risen sharply in the past year.

The American military is trying an array of possible solutions, including quotas to increase the number of Sunni Arab recruits in police academies, firing Shiite police commanders who appear to tolerate militias, and sending 200 training teams composed of military police officers or former civilian police officers to Iraqi stations, even in remote and risky locations.

There is no quick or painless fix. The efforts risk alienating Shiite politicians, who have fiercely resisted attempts to wrest away their control of the security forces. The moves may appeal, though, to recalcitrant Sunni Arabs, whom the Americans want to draw into the political process.

Trying to reform the police forces could take years, because sectarian loyalties have become entrenched, and police officers are rooted in their communities, senior military officials acknowledge. Critics say American efforts to train the Iraqi police also continue to be hampered by a shortage of troops and civilian advisers.

Several of the initiatives, such as enrolling more Sunni Arab students in police academies, have been going on for months. Others, such as the deployment of the new police training teams, are just beginning on a large scale. The wave of sectarian violence that followed the bombing of a Shiite shrine in Samarra on Feb. 22 has heightened the urgency of the measures.

After the bombing, mobs led by Shiite militiamen attacked dozens of Sunni mosques and left hundreds dead. Many police units stood aside, either out of confusion or sectarian loyalties, according to Iraqi witnesses. Gen. George W. Casey Jr., the top American commander in Iraq, said Friday that police officers had allowed militiamen through checkpoints in eastern Baghdad, where much of the violence occurred.

The Iraqi Army poses less of a problem than the police, because the American military has direct operational control over it, and because the Americans took more care in building it up. Kurdish militiamen, though, make up a significant part of it.

The military's efforts to revamp the police are taking place alongside a strong push by the American ambassador, Zalmay Khalilzad, to press Iraqi politicians who are forming the new government to appoint a nonsectarian figure as head of the Interior Ministry, which controls the police.

"When you're forming a government, you can't form it with any kind of sectarian element," said Maj. Gen. J. D. Thurman, commander of the Fourth Infantry Division, charged with controlling Baghdad. "That's got to be put aside, particularly with military forces." The attempts to erase sectarianism dovetail with a broader American initiative to strengthen police training this year by diverting more resources away from mentoring the Iraqi Army. The military hopes to have 200,000 Iraqi police officers in place by early 2007.

The development of the police is in some ways more crucial than that of the army, because the Americans want the police to handle all security inside Iraq.

The units believed to be most plagued by militia recruitment and sectarian loyalties are the police paramilitary forces, which have a total of 17,500 members, the American military says. The regular blue-uniformed police force numbers 89,000, and the border force totals 20,000. But there are serious doubts about whether anyone has an accurate overall tally.

The paramilitary forces are divided three ways — the commandos, the public order brigades and a mechanized brigade that will soon be shifted to the army. Matthew Sherman, a former Interior Ministry adviser, said Shiite parties were especially keen to seize control of those forces because they can operate anywhere in the country and have great autonomy.

The Interior Ministry is accused of sponsoring death squads in police or paramilitary uniforms. Mr. Khalilzad has been outspoken in his criticism of the interior minister, Bayan Jabr, and hinted last month that the Americans may withhold financing if sectarianism continues to dominate the security forces.

Officials at the most powerful Shiite party, the Supreme Council for the Islamic Revolution in Iraq, which oversees the Interior Ministry, have lashed out at the Americans, arguing that the majority Shiites had every right to control security, because Saddam Hussein's Sunni-dominated government had used the army and the police to abduct, torture and kill Shiites.

"The Shiites were beheaded by the security forces before, and we are not ready to be beheaded again," said Hadi al-Amiri, the head of the Badr Organization, the Supreme Council's Iranian-trained militia. "We can relinquish any part of the government except for the security forces."

American commanders say they have recently learned that virtually all the members of the 7,700-member public order brigades, which do light infantry duty, were Shiites. The brigades were founded in 2004, and were expanded after the Supreme Council took control of the Interior Ministry in early 2005.

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"When we stood them up, we didn't ask, 'Are you Sunni or are you Shia?' " Maj. Gen. Joseph D. Peterson, in charge of police training, said in an interview at a base in Taji, north of Baghdad, as he was visiting soldiers newly assigned to the Iraqi police. "They ended up being 99 percent Shia. Now, when we look at that, we say, 'They do not reflect the population of Iraq.' "

No accurate census of Iraq exists, but the country is believed to be about 60 percent Shiite Arab, 20 percent Sunni Arab and 20 percent Kurdish (most Kurds are Sunni.)

Americans officials have pushed the Interior Ministry to diversify the forces. All recruits in the public order brigades have to go through a six- or seven-week training course, with 1,200 in each class.

The Americans ensured that the last three classes enrolled greater numbers of Sunni Arabs: The first of those was 42 percent Sunni Arab, the second 92 percent Sunni and the third, just starting, was virtually all Sunni, General Peterson said.

American officers say that when they try to talk to Iraqi commanders about the religious or ethnic breakdown of the forces, the commanders tend to shy away from those conversations, as most Iraqis do, saying they prefer to think of themselves as one people rather than in terms of sect.

Col. Gordon B. Davis, the top adviser to the public order brigades, said the senior commander of that force, a Shiite Arab from the old Iraqi Army, addressed the issue only with much reluctance. " 'You shouldn't be talking like this,' he tells us," the colonel said in an interview at the Iraqi command base in Baghdad's Kadhimiya neighborhood.

Colonel Davis said his advisers had no qualms about removing Iraqi commanders if it became evident they have sectarian loyalties.

For much of last year, the Second Public Order Brigade had a particularly bad reputation. It was accused by many Iraqis, especially Sunni Arabs, of detainee torture and illegal killings. Its ranks were filled with men recruited from eastern Baghdad who were loyal to Moktada al-Sadr, the firebrand Shiite cleric who had led two rebellions against the Americans.

The head of the brigade was the former police chief of Nasiriya, a southern city under the sway of hard-line Shiite parties, and was "rumored to tolerate" militias, Colonel Davis said. The Americans replaced him with a Sunni Arab commander in December, who then fired 160 people below him, presumably because those men had suspected militia ties, the colonel said. Since then, he added, officers have removed images of Mr. Sadr from gunstocks and vehicles.

In contrast to the public order brigades, the police commandos, an 8,300-member force that was founded in 2004 under a Sunni-led Interior Ministry, are more diverse, American commanders said. Many came from the old Iraqi Army, which had an officer corps dominated by Sunni Arabs, and from the domestic security services, which Saddam Hussein used to terrorize the population.

The commandos and the public order brigades essentially perform the same job, and will soon be combined as members of the "national police."

Mr. Sherman, though, said the commandos also have significant numbers of Shiites loyal to the Supreme Council. Maj. Gen. Adnan Thabit, a Sunni Arab, is the head of the commandos in name only, he said, having ceded control to Shiite partisans. "They've just taken a more kind of political bent over the past 10 months or so," said Mr. Sherman, the former Interior Ministry adviser.

The Americans hope that new mentorship programs this year will result in greater oversight of the police. For the last year, the police paramilitary units have had 11-member American military adviser teams assigned to them at the division, brigade and battalion command levels. That program will soon be bolstered by sending regular American troops into the field with the police.

"It's a huge difference, because now you've got a battalion partnering with another battalion," General Peterson said. "Instead of just 11 guys, you have that entire battalion, 500 or 600 guys."

In addition, the American command is reorganizing thousands of members of the American military police and former civilian police officers who are currently working with the Iraqi police in Iraq. Most are now based at police academies or high-level headquarters.

Under the new plan, they will be sent across the country to smaller police stations, some in remote areas. There are a total of 200 teams, with the first already dispatched to more volatile areas like Baquba, northeast of Baghdad.

A senior American officer, who works with the Iraqi police and army units, said that, in handling the surge in violence after the shrine bombing, Iraqi units with American trainers attached generally performed better than those without. But many police units still lack American advisers, in part because finding experienced trainers willing to spend long periods attached to police units has been hard.

"It should be obvious that the presence of our embedded advisory teams in the army and police forces were an important stabilizing influence," said the officer, who was not authorized to speak publicly on this matter. "The question becomes how long that stabilizing influence is necessary."

Majority In U.S. Fears Iraq Civil War (WP)

DOJ_NMG_0016527

By Richard Morin

The Washington Post, March 7, 2006

An overwhelming majority of Americans believe that fighting between Sunni and Shiite Muslims in Iraq will lead to civil war, and half say the United States should begin withdrawing its forces from that violence-torn country, according to the latest Washington Post-ABC News poll.

The survey found that 80 percent believe that recent sectarian violence makes civil war in Iraq likely, and more than a third say such a conflict is "very likely" to occur. These expectations extend beyond party lines: More than seven in 10 Republicans and eight in 10 Democrats and political independents say they believe such a conflict is coming.

In the face of continuing violence, half -- 52 percent -- of those surveyed said the United States should begin withdrawing forces. One in six favors immediate withdrawal of all troops, however, while about one-third prefer a more gradual return.

The survey also found growing doubt that the Bush administration has a strategy in Iraq. Two-thirds of those interviewed said they do not think the president has a clear plan for handling the Iraq situation, the highest level of doubt recorded since the question was first asked three years ago. But an even larger share -- 70 percent -- questions whether Democrats in Congress have a plan for dealing with Iraq, suggesting Americans see neither party as offering a coherent exit strategy.

The survey highlights how support for the war in Iraq dissolved since the first months after the U.S. invasion. At the end of 2003, nearly six in 10 -- 59 percent -- said the conflict was worth the cost; today, 42 percent share that view. In the past nine months, the proportion in Post-ABC polls who say the United States should begin withdrawing its troops has increased from 38 percent to a 52 percent majority.

Recent U.S. reversals in Iraq have not dramatically reduced overall support for President Bush, in contrast to some other national polls. His overall job approval rating stood at 41 percent, essentially unchanged from January. Nearly six in 10 disapproved of his job performance, the 11th consecutive survey since last April in which at least half the country has been critical of Bush's leadership.

In only one area -- terrorism -- does more than half of the public see Bush positively, and even here 46 percent disapprove while 52 percent approve. On every other issue tested in the poll -- including the economy, international affairs and health care -- Bush received negative marks.

Americans also expressed disappointment with Congress, which is now controlled by Republicans. Slightly more than a third -- 36 percent -- said they approve of the way Congress is doing its job, down seven percentage points in the past five weeks and the lowest marks for the legislative branch since October 1997.

But the survey showed Democrats slipping also. Asked which party they trust to deal with the country's biggest problems, 42 percent said the Democratic Party and 40 percent said the GOP. Barely five weeks ago, Democrats held a 14-point advantage.

Americans continue to fault the administration's performance in Iraq. Well under half -- 40 percent -- think Bush is doing a good job there, unchanged from late January but still down six points from December. Nearly six in 10 -- 57 percent -- said the war was not worth fighting, marking the 12th consecutive poll since December 2004 in which a majority said invading Iraq was a mistake.

In question after question, the new survey reflected a sharp decline in optimism, perhaps sparked by the sectarian violence that has flared in Iraq after the bombings of a revered Shiite mosque two weeks ago. Since then, deadly confrontations have occurred between Shiites and Sunnis, who are a minority in Iraq but were favored under Saddam Hussein's regime.

The poll found that 56 percent think the United States is not making significant progress toward restoring civil order in Iraq, while 43 percent think that stability is being reestablished -- a 17-point drop in optimism since December and the most pessimistic reading on this question since it was first asked in June 2004.

The nation is split down the middle over whether the United States is moving ahead toward establishing a democratic government in Iraq. About half, 49 percent, say the United States is making progress on the political front, with 48 percent saying the nation and its allies are not gaining ground. Shortly after the December elections, almost two in three Americans said the country was making significant progress toward democracy.

Over the weekend, pressure mounted on Prime Minister Ibrahim al-Jafari to give up his bid for a new term, a move that would add to the political turmoil engulfing Iraq.

Although news from Iraq has not been good, the survey suggests Bush has been helped somewhat by improving perceptions of the U.S. economy. Forty-three percent believe the economy is either excellent or good, up from 35 percent four months ago. And nearly half -- 48 percent -- of the country approve of the way Bush is handling the economy, 12 points higher than in November. Still, slightly more than half (51 percent) disapprove.

Bush's standing in other areas is mixed as well. More than six in 10 disapprove of the way he handled Hurricane Katrina, a nine-point increase since early September. A growing majority (58 percent) also disapproves of the way he is dealing with the

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prescription drug issue. But his overall approval ratings on terrorism (52 percent), health care (38 percent), international affairs (44 percent) and ethics in government (40 percent) remain basically unchanged from recent Post-ABC polls.

Perceptions of Democrats, who have struggled to take advantage of Bush's lack of popularity, declined on several measures. In late January, Democrats held a clear advantage over Republicans -- 55 to 37 percent -- on which party could best handle the economy. In the new poll, Democrats still led, but by 49 to 40 percent.

The survey found a similar shift on Iraq. In January, Democrats had an advantage of 47 to 40 percent on which party could better handle the situation there, but the new poll found Americans evenly divided -- 42 percent on each side -- on that question.

A total of 1,000 randomly selected Americans were interviewed March 2 to 5. The margin of sampling error for the overall results is plus or minus three percentage points.

Assistant polling director Claudia Deane and staff writer Dan Balz contributed to this report.

Iraqi President Loses Try For Parliament (AP)

By Bassem Mroue, Associated Press Writer

AP, March 7, 2006

Iraq's president failed in a bid Monday to order parliament into session by March 12, further delaying formation of a government and raising questions whether the political process can withstand the unrelenting violence or disintegrate into civil war.

The deadlock came as snipers assassinated Maj. Gen. Mibder Hatim al-Dulaimi, the Sunni Arab in charge of Iraqi forces protecting the capital. A torrent of bombings and shootings killed 25 more Iraqis on Monday, ending a relative lull in violence. Officials also found four bodies.

At the heart of the dispute is a controversy over the second-term candidacy of the Shiite prime minister, Ibrahim al-Jaafari, whose most powerful supporter is the anti-American cleric Muqtada al-Sadr.

The Sunni Arab minority blames al-Jaafari for failing to control the Shiite militiamen who attacked Sunni mosques and clerics after the Feb. 22 shrine bombing in Samarra. Kurds are angry because they believe al-Jaafari is holding up resolution of their claims to control the oil-rich city of Kirkuk.

In a bid to force a showdown in the dispute, President Jalal Talabani, a Kurd, announced he would order parliament to convene Sunday for the first time since the elections in December and the ratification of the results on Feb. 12.

Such a meeting would have started a 60-day countdown for the legislators to elect a president, approve al-Jaafari's nomination as prime minister and sign off on his Cabinet.

Talabani was mistakenly counting on the signature of Vice President Adil Abdul-Mahdi, a Shiite, who lost his own bid for the prime minister's nomination by one vote to al-Jaafari. Talabani had in hand a power of attorney from the other vice president, Ghazi al-Yawer, a Sunni, who was out of the country.

The Shiite bloc closed ranks and Abdul-Mahdi declined to sign, at least for now. In an emergency meeting with Talabani on Monday, seven Shiite leaders rejected the president's demand for them to abandon al-Jaafari's nomination.

It remained unclear when parliament might convene, despite the constitutional directive that set Sunday as the deadline. Nor was it clear how the disagreement over al-Jaafari might be settled.

The president first issued the challenge Wednesday in concert with Sunni Arab and some secular politicians.

"We want a prime minister who can gather all the political blocs around him, so that the government would be one of national unity," Talabani told reporters in Baghdad around midday Monday.

Leaders of all Iraq's major political factions scheduled a meeting Tuesday evening in an attempt to untangle the religious and sectarian differences behind the crisis, deeply compounded by continuing violence.

The attacks underscore the dangerous leadership vacuum and fresh political infighting that have torn apart many tenuous political bonds among the country's many religious and ethnic factions.

There also were increasing signs of a split in the Shiite factions, even though they managed to come together Monday night to reject the move to dump al-Jaafari.

Nevertheless, al-Sadr, the firebrand cleric whose backing had insured al-Jaafari's nomination at the Shiite caucus last month, predicted a "quick solution" on approving a government.

There were reports that al-Sadr had threatened to order parliamentarians loyal to him to boycott a Sunday session if Abdul-Mahdi, the Shiite vice president, had signed the Talabani order to convene the legislature.

"All obstacles to forming a national unity government soon will be resolved," al-Sadr said after meeting with Deputy Prime Minister and acting Oil Minister Ahmad Chalabi in the Shiite holy city of Najaf.

Many of Monday's attacks targeted the country's Shiite-led security forces, accused by Sunni Arabs of repeated abuses against them under the cover of fighting the Sunni-driven insurgency. The government denies the accusations.

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In Baqouba, a car bomb targeting an Iraqi police patrol exploded near the mayor's office and a market, killing six people and wounding 23, including four patrolmen, police said. Piles of charred, twisted wreckage and pools of blood marked the site.

Elsewhere, two bombs went off in Baghdad's notorious southern Dora neighborhood. One targeted an Interior Ministry patrol, killing six Iraqis. A second exploded as a U.S. patrol was passing, wounding five policemen who were guarding a bank and two civilians.

A U.S. soldier was also killed Sunday in insurgency-plagued western Anbar province, the military announced, bringing to 2,300 the number of U.S. service members who have died in Iraq since the war began three years ago, according to an Associated Press count.

Al-Dulaimi, the Sunni in charge patrolling Baghdad with his 6th army division, was killed when gunmen fired at his convoy.

The U.S. commander in Iraq, Gen. George W. Casey, sent condolences to "his family, tribe, and the Iraqi Army during this tragic loss."

"This tragic incident will neither impede the 6th Iraqi Army Division from continuing its mission of securing Baghdad nor derail the formation of the government of Iraq," Casey said in a statement.

Iraqi Leadership Crisis Grows (CSM)

By Scott Peterson

The Christian Science Monitor, March 7, 2006

BAGHDAD - Pushing the legal deadline to the limit, Iraqi President Jalal Talabani Monday declared that Iraq's new parliament will convene for the first time on March 12.

But an event that was expected to bring a glimmer of hope - and the formation of a US-backed unity government - is instead being overshadowed by a perfect political storm. While Iraq's leaders are battling over the post of prime minister, sectarian bloodshed has left more than 500 dead over the past two weeks. Party militias are exerting more control over the streets, and Iraqis are fed up with a weak government and collapsing services.

The political crisis revolves around the decision by the main Shiite bloc to extend the rule of Prime Minister Ibrahim al-Jaafari. He edged out his rival by just one vote with the support of anti-US Shiite cleric Moqtada al-Sadr.

Last week, an alliance of Sunni Arabs, Kurds, and others called for Mr. Jaafari to step down and a new candidate to come forward. The call for a new premier followed shortly after the deadly bombing of an important Shiite shrine in Samarra sparked a rash of the sectarian violence between Shiites and Sunni Arabs, sliding Iraq further into civil conflict.

"The most likely scenario is the worst," says Toby Dodge, an Iraq expert at Queen Mary, University of London. "[Jaafari] staggers through, with Kurds and Sunnis and others undermining him. So you get a vastly weaker prime minister, backed by radicals."

The crisis has laid bare a deepening divide within Iraq's majority Shiite community. The other contender was Vice President Adel Abdul-Mahdi, backed by the faction of Sadr rival Abdul Aziz al-Hakim, who has portrayed himself as a technocrat and centrist who can get the job done.

Forming a stable government is seen by US officials as a key step to enabling the start of any military withdrawal. A more distant goal, but one required before any US exit, is to ensure that Iraqi police and security forces are 2capable of halting sectarian violence and coping with the insurgency.

Jaafari has been widely blamed in Iraq for permitting the violence to erupt out of control - yielding a week of sectarian killings and attacks on mosques that mostly targeted Sunni Arabs - after the gold roof of the Askariya Shrine in Samarra was destroyed on Feb. 22.

Days of curfew finally brought relative calm. But insurgent violence continued Monday, with eight car bombs - five of them in Baghdad alone - that took at least 28 lives, according to news agencies. One morning blast struck a packed market in Baquba, 40 miles northeast of Baghdad, killing six, including two children. Two of the car bombs, one driven by a suicide bomber, struck at Mahmudiyah, 25 miles south of the capital.

Sunni Arabs blame the lethal result on Jaafari's inability to control Shiite militias and Shiite-dominated security forces, as well as a strategic inability to come to grips with the insurgency. Kurds further took issue with Jaafari's trip to Ankara, Turkey, without cabinet approval, which has strained relations with Iraqi Kurds.

Jaafari's entourage included no Iraqi Kurds, who hold top government positions in Baghdad, but some minority Iraqi Turkomen who are often at odds with ethnic Kurds, but have close ties to Turkey.

"The Jaafari government has a long history of failure," says Mustafa Alani, head of the Security and Terrorism program at the Gulf Research Center in Dubai. "Everything has deteriorated: security, basic services, corruption. There is no major achievement."

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"Weak government contributes [to the violence], state infrastructure is disintegrating gradually, and militias are taking over," says Mr. Alani. "Those people [militiamen] are becoming more loyal to their parties than the state. I don't see how this can be changed."

The convening of parliament begins a 60-day period in which a new head of state must be elected, and a new prime minister and cabinet agreed upon. Lobbying has been fierce for weeks. On Sunday, President Talabani increased pressure against Jaafari, by sending an adviser to push the case with Grand Ayatollah Ali al-Sistani, Iraq's preeminent Shiite cleric, in Najaf.

"We reject Jaafari because we believe that Iraq needs a government of national unity and new faces," said envoy Barham Saleh, who is also planning minister, after the meetings.

Sunni Arab leaders have found unlikely champions in US diplomats, trying to ensure their place at the table of a unity government.

They have also been most recent targets of apparent revenge attacks. Gunmen on Sunday killed the nephew and cousin of Sheikh Harith al-Dari, leader of the main Sunni Arab religious group, the Muslim Clerics Association.

Last Thursday, Adnan al-Dulaimi, leader of the Iraqi Accordance Front, part of the Sunni parliamentary bloc trying to oust Jaafari, survived an assassination attempt on his convoy that killed one guard and wounded five others.

In a separate incident the same day, a convoy of bodyguards for Defense Minister Saadoun al-Dulaimi, also a Sunni Arab, was attacked, killing one guard and wounding others.

"You can argue that Iraq has been without a government since the fall of the [Hussein] regime, and after three years we are in a very messy situation," says Hassan Bazaaz, an aide to Adnan al-Dulaimi. "We are on the brink of a civil war; in fact, we are in a civil war. The reason is because there is no government."

The December national election was meant to usher in Iraq's first postinvasion permanent government. But the hopes of Iraqis expressed on election day - almost as vociferous and hopeful as they had been when they first went to the polls in January 2005 - have faded with the passing of time, and amid political deadlock.

The result is growing, popular exasperation.

"What difference does [a new government] make?" asks an Iraqi political analyst who asked not to be named. "The real crisis is the daily killing of Iraqis, which no one writes about. This is because of the US occupation. Whether Jaafari gets back in is of no concern to Iraqis. Who is going to stop [the violence]?"

Any hope of effective rule will require real change, regardless of who holds the PM post.

"A new government along the old line will be weak, and divided on the sectarian side; they are only concerned about how much they can steal," says the Iraqi analyst. "The ministries of Interior and Defense tell you everything is fine and under control. If you listen to the minister of electricity, you would think people live in a state of full electric power. The minister of oil says Iraqis are living with everything."

That sentiment echoes Khalaf al-Olayan, another Sunni leader in parliament, who wrote on the Iraqi Accordance Front website that Iraq has gone from "bad to worse" with Jaafari.

"Jaafari's government failed to solve the chaos that followed the Samarra explosions and did not take any measures to solve the security crisis that could have pushed the country into civil war," wrote Mr. Olayan.

Another Jaafari government would mean "much more of the same - a many headed hydra, without the power to nail down the [pro-Shiite and abuse] problems in the Ministry of Interior," says Mr. Dodge at Queen Mary.

Sadr supports Jaafari "not because of who he is, but who he is not," says Dodge. "They would nominate anyone, to get around Abdul Mahdi getting it."

Leaders Consider Al-Jaafari Future (WT)

By Sharon Behn

The Washington Times, March 7, 2006

Iraqi party leaders, deadlocked over whether Ibrahim al-Jaafari should serve another term as prime minister, are considering a plan that would allow him to serve for six months to a year and then review his performance.

The behind-the-scenes wrangling occurred as several bomb attacks around Iraq killed at least nine persons, including children.

"There is no power, there is no government; the country is really in a vacuum," said a source close to the political negotiations, speaking on the condition of anonymity.

The Kurds think that Mr. al-Jaafari has not supported their bid for the northern city of Kirkuk, the Sunnis are trying to weaken the Shi'ite-led United Iraqi Alliance (UIA) -- which they think wants to wipe out the Sunni minority -- and both are coming together in a political marriage of convenience to put pressure on the UIA, the source said.

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For its part, the Shi'ite alliance -- with such powerful figures as Abdel Aziz al-Hakim, the leader of the Supreme Council for the Islamic Revolution in Iraq (SCIRI), and nationalist cleric Muqtada al-Sadr, who backed Mr. al-Jaafari -- is refusing to back down on its nomination.

If the talks collapse, some party leaders are ready to punt the issue over to the 275-seat National Assembly and put the question of the country's prime minister to a vote -- forcing the political infighting into the open.

"In the coming days, we will see many dramatic political actions ... in which we will reach an agreement -- or if we cannot reach an agreement with the other slates, we will transfer the whole situation to the parliamentary council," said Karim al-Musawi, SCIRI's spokesman in Washington.

President Jalal Talabani said yesterday that he would convene the National Assembly in six days, but there were conflicting reports over whether he had received the required backing of other leaders for the session to proceed.

A Kurdish official familiar with the negotiations said there were two options on the table: taking Mr. al-Jaafari's nomination to parliament and face the possibility of it being rejected, or have the UIA propose a new candidate for the post of prime minister.

"We want a candidate who can work with all of us and not treat the government as his own," said the Kurdish official, who described the ongoing talks in Baghdad as "intense."

But none of the major political slates currently holds the necessary two-thirds majority in the National Assembly to approve any candidate.

"They have to compromise," the source said.

One suggestion, he said, was to "give Jaafari a chance, then have a six-month or one-year review."

In violence yesterday, six bombs in Baghdad killed at least nine persons, including two children. A sniper also fatally shot one of Iraq's most senior army officers, Maj. Gen. Mubdar Hatim al-Dulaimi, as he drove through west Baghdad, the U.S. military said.

In London, newspapers quoted the top British commander in Iraq as saying that Britain's 8,000 troops could be withdrawn from Iraq by summer 2008, with the first drawdown expected within weeks.

But Lt. Gen. Nick Houghton told the London Daily Telegraph the timetable was "reversible" if Iraq's political leaders failed to create a stable central government and curb sectarian violence.

18 Killed As Iraqi Parliament Prepares To Meet (LAT)

By Borzou Daragahi

The Los Angeles Times, March 7, 2006

BAGHDAD — A sniper shot and killed the Iraqi officer commanding army forces in the capital today as officials reported that bombings and other violence had killed at least 16 Iraqis and a U.S. soldier.

Maj. Gen. Mubdir Hatam Jabouri was killed by a single bullet to the neck while driving through western Baghdad in a lengthy convoy shortly after 5 p.m., said Mohammed Askari, an advisor to the Defense Ministry.

"He was such a dedicated and good-disciplined veteran officer of the Iraqi army," said Askari.

Jabouri, a Sunni Arab, was a commander of troops seen by many as a counterweight to the increasingly powerful forces of the Interior Ministry, whose Shiite Muslim-dominated police and commando units allegedly have been involved in extrajudicial killings.

Meanwhile, the U.S. military reported that a U.S. soldier in western Iraq died Sunday as a result of "enemy action."

Sporadic sectarian violence continued to erupt in the wake of the Feb. 22 bombing of a Shiite shrine in Samarra and reprisal attacks on Sunnis. Iraqi and U.S. officials hope a broad-based government drawing on Iraq's majority Shiites, Sunnis and Kurdish minority might cool sectarian tempters. But political talks have become bogged down.

Officials have announced that the newly elected parliament will meet next Sunday, an important step in the process of building a new government.

Meanwhile, much of the insurgent violence in the country has shifted to religiously diverse urban areas, said a U.S. official who requested anonymity.

A car bomb in a crowded market of downtown Baqubah, a religiously mixed provincial capital 45 miles northeast of the capital, killed at least six, including two children, and injured 21. The bomb exploded as police and passersby gathered near a murder scene, one of three reported fatal shootings in Baqubah today.

Gunmen killed three Shiite laborers in the Sunni town of Hawija, in northern Iraq near the city of Kirkuk.

At least two car bombs and sporadic mortar fire shook the capital. A car bomb near a bank killed one person and injured five in the Dora district, a religiously mixed area on Baghdad's southern edge.

A car bomb explosion on the road to the Ministry of Industry compound injured five. Another car bomb struck a police commando patrol in the Mustansirya district, though there were no reports of injuries.

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Yarmuk hospital officials reported receiving at least three unidentified corpses from Sunni Arab neighborhoods.

Gunmen kidnapped a prominent university professor. Dr. Ali Hussein Khafaji, dean of the Engineering College at Mustansirya University, was abducted by two carloads of men as he left his home.

Senior Iraqi General Killed In Ambush (WP)

By John Ward Anderson And Ann Scott Tyson

The Washington Post, March 7, 2006

BAGHDAD, March 6 -- The top commander of the Iraqi army division in Baghdad was killed Monday when his car came under small-arms fire while traveling through the capital, the U.S. military said.

Maj. Gen. Mubdar Hatim Hazya al-Dulaimi was one of the highest-ranking members of the new Iraqi army to be killed in insurgent violence. Under his leadership, the 6th Iraqi Army Division has been gradually assuming control of parts of the capital from U.S. forces.

His killing could set back security efforts in Baghdad, particularly following the recent outbreak of sectarian violence, according to a senior U.S. commander who worked closely with him.

"It could be a blow that takes a long time to overcome," said Maj. Gen. William G. Webster Jr., commander of the Army's 3rd Infantry Division, who oversaw U.S. troops in Baghdad for a year ending in January. "Losing a strong commander for even a little while in Baghdad could cause a further power shift toward what looks like the Shia control of the city."

Still, Dulaimi strove to cultivate strong subordinates, which could help the transition, Webster said. The Defense Ministry is expected to select Dulaimi's replacement.

The attack was one of the violent incidents across Iraq on Monday that left more than 20 people dead after a relative lull in bloodshed over the weekend.

President Jalal Talabani, meanwhile, announced that the country's new parliament, which was elected Dec. 15, would hold its first meeting on Sunday, the deadline set by the constitution for its first session. Lawmakers and political parties have been unable to agree on the composition of a new government, delaying the opening of parliament.

Dulaimi was killed about 4:35 p.m. in the western part of the capital when his convoy was attacked, a U.S. military statement said.

"Mubdar had been visiting his soldiers in Kadamiyah and was returning to his headquarters when his convoy came under small-arms fire attack," the statement said. It was not clear whether anyone else had been killed or injured in the incident.

"General Mubdar was a true Iraqi patriot," Maj. Gen. J.D. Thurman, commander of the Multi-National Division in Baghdad, said in a statement. "He leaves behind a professional and capable fighting force that will continue the fight for Iraqi freedom."

U.S. officials training the new Iraqi army hope it will take over combat operations in Iraq, enabling an eventual withdrawal of U.S. troops. Iraqi forces are currently in charge of security in about 60 percent of Baghdad. Only two weeks ago, Dulaimi had predicted that insurgent activity would decline because of the Iraqi army's operations.

"Because of the bravery of our armed forces that sacrifice themselves on a daily basis, the amount of insurgent activity will continue to decrease," Dulaimi was quoted as saying in a U.S. military statement.

The Iraqi general, in his mid-fifties, was an aggressive, inspirational leader and rising star within the army, Webster said. A Sunni Arab sheik from southern Baghdad, Dulaimi led a division under Saddam Hussein during the Iran-Iraq war in the 1980s, and since Hussein's fall had commanded two other divisions before being selected by the Defense Ministry for the critical job in Baghdad. "He was certainly destined to be a senior leader of all the armed forces," Webster said.

But Dulaimi's hands-on style and unusual drive to lead from the front -- as well as his habit of shunning body armor -- also put him in greater danger. "He knew he had to be out with his soldiers for them to trust him," Webster said. "He put himself at more risk than his predecessors."

Elsewhere in the capital on Monday, at least four car bombs exploded, killing four people and injuring 24, police said. Another four people were killed and 10 wounded when three car bombs detonated in the town of Mahmudiyah, about 15 miles south of the capital, security officials said.

In the worst attack of the day, seven people, including five children, were killed and 17 were injured when a car bomb exploded in a crowded market in central Baqubah, about 35 miles northeast of Baghdad, police said.

A U.S. military statement said the explosion occurred near the office of the mayor, who was meeting with community leaders at the time to discuss ways to improve security. The statement blamed the attack on insurgent attempts to "incite sectarian violence within the community."

Five policemen who rushed to the scene were reportedly injured in a secondary bombing that targeted them.

The U.S. military reported the death of a U.S. soldier "due to enemy action" in the western province of Anbar on Sunday. Additional details were not available.

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The bodies of a father and two of his sons were found Monday in the city of Hawijah, about 35 miles southwest of the northern city of Kirkuk, according to police. They said the victims were Shiite Muslims who appeared to have been shot execution-style, presumably by the Sunni-led insurgent group al-Qaeda in Iraq.

An offshoot of the group recently distributed leaflets in the town demanding the expulsion of Shiites in retaliation after Sunnis fled their communities around Baghdad.

Fearing sectarian violence, some Sunni families abandoned their homes following the destruction of a revered Shiite mosque in Samarra on Feb. 22. Attracted by the rich agricultural land around Hawijah, many Shiites had moved to the area during the rule of Hussein, residents said.

Residents of the town were "shocked by these leaflets, because many of these families who work in agriculture and cattle raising, as well as other jobs, have intermarried and lived here for many years without any problem," said local police Capt. Emad Khider.

11 Including An Iraqi General Are Killed In Baghdad Attacks; Army Says A G.I. Died Sunday (NYT)

By Kirk Semple

The New York Times, March 7, 2006

BAGHDAD, Iraq, March 6 — A series of guerrilla attacks in and around Baghdad killed at least 11 people on Monday, including an Iraqi general, and wounded at least 58, officials said. The American military announced that an American soldier had been killed in Anbar Province, the western desert region that has become a wellspring of the insurgency.

The eruption of violence came as the country's sclerotic political process inched forward with an announcement by President Jalal Talabani that he would convene the newly elected Parliament on Sunday.

Maj. Gen. Mubdar Hatim Hazya al-Duleimi, the commander of the Sixth Division of the Iraqi Army, was fatally shot by a sniper on Monday afternoon while driving in western Baghdad, according to American and Iraqi officials. General Duleimi was the highest-ranking Iraqi military officer to be killed since the American-led invasion in 2003.

For more than a year the Sixth Division has been gradually assuming control of sectors of the capital from American forces.

In the deadliest attack of the day, a car bomb exploded in a marketplace in Baquba, just north of the capital, killing 7 people, including 2 young girls, and wounding 23, including 5 children, Diyala Province officials and hospital workers in Baquba said. The attack was one of at least seven on Monday involving car bombs.

The American military offered no further information on the American casualty in Anbar, except to say the soldier was killed Sunday and had been assigned to Regimental Combat Team 7, which is under Marine command.

Against this violent backdrop, Iraq's political leaders continued to jockey over the choice of a prime minister, the government's most powerful executive. The main Shiite bloc is backing Prime Minister Ibrahim al-Jaafari, who has held the post since a transitional government was formed last April, but he is opposed by a coalition of Sunni Arab, Kurdish and some secular politicians.

Although the Shiite bloc won 130 of the 275 parliamentary seats, the Iraqi Constitution effectively requires a two-thirds majority to choose the prime minister, giving the Kurdish, Sunni and secular parties, with about 140 seats among them, a de facto veto.

Ahmad Chalabi, a secular Shiite politician and former Pentagon favorite, met Monday with Grand Ayatollah Ali al-Sistani, the country's most revered Shiite leader, to discuss the issue. Mr. Chalabi also met with Moktada al-Sadr, the militant Shiite cleric whose power has grown as Mr. Chalabi's has faded. Mr. Sadr's bloc, the largest within the Shiite Alliance, has been backing Mr. Jaafari for the nomination.

"Mr. Jaafari must be given a chance to work on forming a government," Mr. Chalabi told reporters as he emerged from his meetings in the Shiite holy city of Najaf.

For his part, Mr. Sadr predicted a "quick solution" to the impasse.

Ayatollah Sistani, who opposes a direct clerical role in government, made no statement.

American officials have been putting pressure on their Iraqi counterparts to pull together a broadbased coalition in the hope that widespread political representation would help unify the country and defuse the insurgency.

According to the Iraqi Constitution, the legislature must first approve a president by a two-thirds vote. The president must then pick a prime minister within 15 days. The prime minister has another 15 days to select a cabinet.

The selection of the prime minister and cabinet must be approved by a majority of Parliament, or the cycle is renewed with a new 15-day deadline for the president to choose a new prime minister.

But the expectation is that the politicians will have negotiated the package of president, prime minister and cabinet before the legislature announces its presidential choice.

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Two Car Bombs Explode In Iraqi City (WP/AP)

By The Associated Press

The Washington Post, March 7, 2006

HILLAH, Iraq -- Two car bombs exploded almost simultaneously at separate sites in this mostly Shiite city early Tuesday, wounding at least three people, police said.

The blasts were detonated by remote control and were about five minutes apart, said police Capt. Muthana Khalid.

The first went off on a road on the northern side of the city, hurting no one, Khalid said.

Five minutes later, the second car bomb exploded at a bustling market, injuring at least three people, Khalid said.

Hillah, 60 miles south of Baghdad, has suffered repeated attacks. It is also the site of the single deadliest attack in the two-year insurgency, a suicide car bombing outside a medical clinic on Feb. 28, 2005 that killed 110 people.

Also Tuesday, police said four Iraqi officers were killed in two separate attacks on police patrols in Baqouba and Beiji, north of Baghdad. The assailants were not identified.

Iraqi Tribes Strike Back At Insurgents (WP)

By John Ward Anderson

The Washington Post, March 7, 2006

BAGHDAD, March 6 -- First they killed the chief of the Naim tribe and his son. Then they killed a top tribal sheik who headed the Fallujah city council. Then they assassinated the leader of the al-Jubur tribe.

And now the reported killers of all these men -- al-Qaeda in Iraq, the insurgent group of Abu Musab al-Zarqawi -- have a powerful new enemy.

Tribal chiefs in Iraq's western Anbar province and in an area near the northern city of Kirkuk, two regions teeming with insurgents, are vowing to strike back at al-Qaeda in Iraq, a Sunni Arab-led group that is waging war against Sunni tribal leaders who are cooperating with the Iraqi government and the U.S. military. Anbar tribes have formed a militia that has killed 20 insurgents from al-Qaeda in Iraq, leaders said.

Separately, more than 300 tribal chiefs, politicians, clerics, security officials and other community leaders met last week in Hawijah, about 35 miles southwest of Kirkuk, and "declared war" on al-Qaeda in Iraq. In a communique, the participants vowed "the shedding of blood" of anyone involved in "sabotage, killings, kidnappings, targeting police and army, attacking the oil and gas pipelines and their transporters, assassinating the religious and tribal figures, technicians, and doctors."

"Hawijah was never a hideout for terrorists and fugitives," the statement added. "Anyone who provides refuge to terrorists will be considered and dealt with like a criminal and terrorist."

Last month at a briefing in Baghdad, Maj. Gen Rick Lynch, a U.S. military spokesman, said Zarqawi "finds these tribal leaders who have opted to embrace the democratic process . . . and he works to assassinate" them.

"What we're finding is indeed the people of al-Anbar -- Fallujah and Ramadi, specifically -- have decided to turn against terrorists and foreign fighters," he said. "The tribal leaders, if you will, said, 'Okay, that's enough, let's take out Zarqawi and his network and get them out of our cities.' " Lynch said "local insurgents" had killed six Zarqawi deputies in Ramadi since September.

Anbar province is a center of the insurgency and the deadliest region of the country outside of Baghdad for Iraqi civilians and U.S. forces. Tribal chiefs there said their militia, the al-Anbar Revolutionaries, has killed 20 foreign fighters from al-Qaeda in Iraq and 33 Iraqi sympathizers who aided the insurgents with arms and money in the past two months.

"Forming the group did not come from nothing," said Khalaf al-Fahdawi, a leader of the Sunni Albu Fahd tribe in Anbar. "It came from a need to destroy al-Qaeda, which we thought the Marines might have been able to do. We were wrong, since these armed men became stronger and raped other cities."

Leaders in Anbar and south of Kirkuk said they opposed both Zarqawi and the American military occupation of Iraq, describing them as feeding off each other to the detriment of the country.

"We are a group of the Anbar people who want to get rid of Zarqawi . . . because this is the only way to make the Americans withdraw from Ramadi or Iraq in general," said Ahmed Abu Ilaf, 30, a welder and member of the new Anbar militia from Ramadi, about 60 miles west of the capital.

"We are against Zarqawi and his followers because they aim to extend the presence of the occupation and hurt our forces to make them weak," said Hussein Ali al-Jubouri, a Sunni tribal leader and Hawijah city council member.

Hawijah leaders said they, too, wanted to create a militia to enforce their threats, but that U.S. military officials were opposed to the idea. For the time being, they said, they would intensify their cooperation with Iraqi military and police units.

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Members of the Anbar militia said the group comprised about 100 people who have had relatives slain by al-Qaeda in Iraq. The group is led by Ahmed Ftaikhan, a former Iraqi intelligence officer from the now-disbanded Iraqi army who lives in Ramadi.

Fahdawi, the sheik from the Albu Fahd tribe, said the militia was forged in a series of secret meetings among tribal leaders, each of whom was asked to help form the group. Some contributed men, some money, Fahdawi said. U.S. military officers attended some of the meetings, he said, and helped "with "all kinds of financial support."

Lt. Col. Barry Johnson, a U.S. military spokesman in Baghdad, denied that American forces were funding the militia.

"All military activity is conducted through the legitimate structures of the Iraqi government and security forces," he said in an e-mail. "We are working hard to ensure these structures function properly, and funding a program such as this would only undermine that process."

A fighter in Zarqawi's group, calling himself Abu Azzam, said the al-Anbar Revolutionaries "are collaborators and dogs for America. They kill the mujaheddin to get money from the American crusaders. They are cowards and we have killed a lot of them. . . . All the people here support us and our jihad against the Americans and their followers."

Fahdawi said, "I cannot say that all the people in Ramadi support us, but I can say 80 percent of them do."

Ilaf, the militia member and welder from Ramadi, said the group has had real success.

"We have killed a number of the Arabs, including Saudis, Egyptians, Syrians, Kuwaitis, Syrians and Jordanians," he said. "We were also able to foil an attack by Zarqawi's men who were trying to attack an oil pipeline outside Ramadi. We killed four Iraqis trying to plant the bomb under the pipeline."

Iraq's Talabani Summons Parliament (REU-Y2)

By Nick Olivari And Faris Al-mehdawi

Reuters, March 6, 2006

Iraqi President Jalal Talabani said on Monday he would convene parliament in six days, but political wrangling means a government of national unity is unlikely to be formed any time soon.

As Talabani met a constitutional requirement to summon parliament after elections in December, a car bomb north of Baghdad killed six people, including two children. Five other car bombs exploded in the capital, killing three police officers and wounding at least 24 people.

Nearly three months after the election, Iraq's political leaders are still fighting over the post of prime minister. The row is unlikely to end soon, meaning parliament may only get as far as naming a speaker in its first session.

"I will call today for parliament to hold the first session on the 12th of the current month since it is the last day that the constitution allows," Talabani said.

According to the Transitional Administrative Law, the U.S.-sponsored interim constitution still in force, lawmakers must first elect a speaker of parliament and then a president and two deputies, who in turn will name a prime minister to form a new government within two weeks.

But there is no timeframe for these posts to be filled. The new constitution, approved in a referendum last October, does give a timetable, but it will take effect only after the country's first four-year government is formed.

JAAFARI OPPOSED

Sunnis, Kurds and others are opposed to the nomination of Shi'ite Prime Minister Ibrahim al-Jaafari and are calling for the Shi'ite Alliance, parliament's biggest bloc, to replace him.

The dispute has delayed the formation of the grand coalition government that Washington promoted in the hope of fostering stability and allowing U.S. troops to begin withdrawing.

Deputy Prime Minister Ahmad Chalabi, a secular Shi'ite whose list failed to win a single seat in parliament, said an "urgent and radical solution" would be found to break the impasse.

Hussein Falluji, a Sunni politician, said there were three options, none of which included Jaafari.

The Shi'ite Alliance could change Jaafari and the political process could resume, he said, a new alliance could form a bigger bloc and name a new prime minister, or parliament could veto Jaafari by not giving him the two-thirds majority he needs.

Tarek al-Hashemi, a leading Sunni politician and a contender for speaker when the new parliament opens on Sunday, accused Iran of fostering instability in Iraq, partly through militias loyal to Shi'ite parties, in a bid to divert U.S. pressure over Tehran's nuclear program.

"The main player in Iraq is Iran," Hashemi said in an interview in Jordan. "It wants to create chaos for America in Iraq as part of the conflict over the nuclear issue."

Iran denies interfering in Iraqi affairs but Hashemi's views, typical of Sunni leaders, signal future tension for both Iraqi unity and potentially between Baghdad and Tehran.

DEATH TOLL RISES

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Sectarian violence that has killed hundreds since the February 22 bombing of Samarra's Golden Mosque claimed more lives on Monday.

A bomb in Baquba killed six people, two of whom were girls aged three and four, and wounded 23 in what the U.S. military said was an attack aimed at sowing sectarian bloodshed.

It exploded near a market, packed with women and children, after police arrived to check a separate incident in which one person had been killed. Five policemen were wounded.

The blast shattered windows and wrecked stalls. Sandals and broken spectacles lay amid body parts in pools of blood.

"What did these people do to be killed by this bomb," said a distraught man at the scene. "They targeted innocent civilians."

The religiously mixed city of Baquba, 65 km (40 miles) northeast of Baghdad, has been the scene of several sectarian attacks since the Samarra bombing.

Sunni insurgents battling the Shi'ite-led government frequently launch attacks against U.S.-trained Iraqi security forces. Five separate car bombs around Baghdad killed three police officers, wounded five other policeman and at least 19 civilians. One other civilian was wounded in a mortar attack.

Two other car bombs, one of them driven by a suicide bomber, killed three people, including two Iraqi soldiers, and wounded five, in Mahmudiya, some 40 km south of Baghdad on Monday, police said.

The two blasts occurred 10 minutes apart with one targeting an Iraqi army checkpoint.

Human rights in Iraq were also at the forefront on Monday when Amnesty International condemned the detention of 14,000 prisoners without charge or trial, saying the lessons of the Abu Ghraib prison abuse scandal had not been learned.

U.S. officials did not respond to a request for comment.

Germans Set To Investigate Help To U.S. In Iraq Invasion (NYT)

By Richard Bernstein

The New York Times, March 7, 2006

BERLIN, March 6 — A German opposition party said Monday that it would vote for a formal parliamentary investigation into allegations that the German intelligence service provided help to the United States during the invasion of Iraq, which the government vehemently opposed.

An official of the Free Democratic Party, which has 61 seats in Parliament, said the party favored an investigation. Because the two other opposition parties, the leftist Greens and the new Left Party, have already declared their support, the Free Democrats' decision seems to ensure a formal investigation.

Germany's government, in which power is shared between the main left-of-center and right-of-center parties, has made vigorous efforts to head off an investigation, saying it could harm the functioning of Germany's intelligence service and efforts under way to improve relations with the United States.

Earlier the government had furnished a report on the allegation that two agents of the country's intelligence service were posted to Iraq starting shortly before the American military mounted the invasion.

That report was released some 10 days ago, but some in the opposition criticized it as falling short of a full, detailed disclosure of what the government may have been doing behind the scenes to support American policy.

In a full parliamentary investigation, rare in Germany, members of the Parliament would very likely publicly interrogate former and current members of the government under oath. In their comments on Monday, leaders of the Free Democrats said they wanted to investigate the roles of figures like Gerhard Schröder, the former chancellor; Joschka Fischer, the former foreign minister; and Frank-Walter Steinmeier, the current foreign minister, who was Mr. Schröder's chief of staff at the time of the invasion.

The likelihood of a full parliamentary investigation promises to breathe new life into a political scandal that has ebbed and flowed in Germany since January, when the German press first reported that German agents in Iraq gave information to the United States during the war, including information in choosing targets for the air and land combat.

The government conceded that intelligence agents did operate in Baghdad, but denied that they provided information about military targets.

The report to Parliament issued last month acknowledged exchanges of intelligence with the United States, but said none of the information would have helped the United States in the combat. After the government report appeared, new disclosures in the press — including articles in The New York Times, vehemently denied by the government, that Germany provided the United States with Iraq's secret plan for the defense of Baghdad — had the effect of intensifying the opposition's calls for an investigation.

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"This was not sufficient in our eyes," Wolfgang Gerhardt, the Free Democrats' parliamentary leader said in a telephone interview on Monday, referring to the earlier government report. "It did not deliver the necessary information on the rendition of a German citizen, on C.I.A. flights and even not on the question of the political leadership in the former government.

"Our main question is not, 'What did the security service do?' Our main question is, 'What was the aim of the former Red-Green government to declare openly to be against the Iraq invasion and to treat the work of the security service without political leadership?' " The phrase Red-Green denotes the former coalition government of Social Democrats and the Green Party.

Opposition Parties Press For Iraq Probe (WT)

By David Crossland

The Washington Times, March 7, 2006

BERLIN -- German opposition parties have joined forces to require a parliamentary inquiry into whether German spies helped the U.S. military in the 2003 Iraq war, in a move that could hurt Berlin's efforts to mend fences with the United States.

The liberal Free Democrats voted among themselves yesterday to demand the investigation, providing enough votes in the Bundestag to compel a probe into reports that German agents handed over sensitive documents detailing Saddam Hussein's defense strategy to the Americans.

The claim, first reported in the New York Times last week, exposed the former government of Gerhard Schroeder to accusations that it publicly opposed the war to gain popularity while privately helping the Americans to wage it.

Officials have warned that a probe, in which current and former officials would have to testify under oath, will put the spotlight on the Bundesnachrichtendienst (BND) foreign-intelligence service in coming months and thereby hamper its activities.

The inquiry also could hurt Chancellor Angela Merkel's government, even though she only took over last November, because her Foreign Minister Frank-Walter Steinmeier was chief of staff to Mr. Schroeder at the time of the war.

Lengthy debate about the Iraq war and Germany's role in it could also put further strain on U.S.-German relations at a time when Mrs. Merkel is trying hard to repair the damage done by Mr. Schroeder's opposition to the war.

Yesterday's move by the FDP ends weeks of uncertainty about whether the Bundestag, or lower house of the German parliament, will launch an inquiry.

The other two opposition parties, the Left Wing Party and the Greens, had already called for a probe. The FDP's support gives the combined opposition sufficient votes to force an investigation.

The question now is what terms of reference the inquiry will be given. The FDP and Left Wing party want it to include the previous government's entire policy during the Iraq war. That would put the inquiry on course to look at some sensitive German-U.S. security issues.

These include the purported abduction of a German national to Afghanistan by the U.S. Central Intelligence Agency, as well as revelations that German security officials accepted a U.S. invitation to question two inmates at the Guantanamo Bay detention camp for terrorism suspects in Cuba.

The Greens, who were a junior coalition partner in Mr. Schroeder's government, want a narrower investigation focusing on the activities of the BND.

The German press has speculated that the various leaks to U.S. newspapers in recent months about German cooperation with U.S. agencies may have been deliberately planted by U.S. authorities to get back at Germany for not supporting the Iraq war and to tarnish Mr. Schroeder's image.

FDP domestic-policy specialist Max Stadler said: "We don't want an investigating committee against the BND; instead, we want a debate about the political responsibility for all that happened and what conclusions to draw from it."

The German government has admitted that its spies passed on information about locations of Saddam Hussein's Republican Guards and of an Iraqi secret-service base to the U.S. government.

But Mr. Steinmeier reiterated his denial yesterday of the New York Times claim that the BND handed the Americans a sketch of Iraqi defense installations around Baghdad in 2003.

Mr. Steinmeier told the Frankfurter Allgemeine Zeitung that the BND had found no trace of the sketch despite making an intense search. "So I can and must assume that it wasn't passed on by the BND," he told the paper.

Germany has so far confirmed that two BND agents were in Baghdad at the start of the U.S. invasion in March 2003 and has acknowledged that they provided some descriptions of the police and military presence in Baghdad.

Iraq Reconstruction Plan Draws Criticism Following Delays (USAT)

By Steven Komarow

USA Today, March 7, 2006

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A key program for helping Iraq's new government succeed and thus speed withdrawal of U.S. troops is still mostly dormant nearly four months after it was announced by Secretary of State Condoleezza Rice.

The plan calls for sending teams of experts to help the fledgling governments in Iraq's 18 provinces establish democratic institutions, improve security and manage reconstruction. That combination of military, State Department and other government personnel is critical to Iraq's future, Rice said during a November visit to Iraq.

However, after the first three of 16 teams were created in Mosul, Kirkuk and Hillah in conjunction with her visit, no more have been launched. Tom Casey, a State Department spokesman, said time was needed to work out security procedures and other needs, and more teams will be formed this year.

That pace is “a huge problem” and means the United States is blowing its chance “to quickly seize the momentum” as Iraq forms a permanent government based on December's elections, said Sen. Jack Reed, D-R.I., a member of the Senate Armed Services Committee. “We need action,” said Reed, who met with Provincial Reconstruction Team (PRT) members in Iraq last month.

Reed says the delays are emblematic of bureaucratic snags that have hurt U.S. efforts in Iraq since the beginning. It's taken more than three years to adopt the PRT concept, even though similar teams have been operating in Afghanistan and have been credited by the U.S. Institute for Peace with improving conditions and governance in Afghanistan's provinces.

Zalmay Khalilzad, who became U.S. ambassador to Iraq last summer, helped create and mobilize the teams while he was the ambassador to Afghanistan and advocated them for Iraq. The embassy plan calls for 16 teams, one for each province except for a single team handling the three provinces in the semi-autonomous Kurdish region of northeast Iraq.

Complaints about delays are off base, said Daniel Speckhard, who is Khalilzad's top aide overseeing Iraqi reconstruction. He said several new teams would be announced soon, based on the experience of the first three. They'll include a U.S.-led team in Baghdad. Great Britain and Italy also plan to sponsor teams, he said. NATO allies have sponsored many of the PRTs in Afghanistan.

“I actually feel pretty good about it,” Speckhard said. “We're moving at an incredibly rapid pace for how significant the initiative is.”

While the Afghan teams were mostly military, those in Iraq will include people from the State and Justice departments and the U.S. Agency for International Development and other agencies. They'll be led by a diplomat, not a military officer, and have about 100 members.

The Iraq insurgency has left the State Department and civilian agencies struggling to fill positions even in the relative safety of Baghdad's Green Zone. They don't have built-in, military-style units that can surge into the field for duty on PRTs. “It takes us 60 to 90 days to fill positions like that … we're looking for real expertise,” Speckhard said.

There also have been bureaucratic delays. It wasn't until two weeks after Rice's visit that the Defense Department on Nov. 28 issued a directive that commits forces to supporting PRTs and similar efforts. The White House on Dec. 7 issued a new directive, giving the secretary of State clear authority to lead the multiagency efforts in Iraq and elsewhere. Those directives only began discussions between the agencies over who was responsible for security and other support for the teams.

“Setting these up requires careful planning, and we're moving forward with the logistical arrangements for them now,” Casey said. “There is no delay in that.”

He also said the State Department has enough qualified volunteers to fill the positions.

However, the government isn't backing up its plans with enough money for training and staff, said Anthony Holmes, president of the American Foreign Service Association, an organization of diplomats and other government officials who represent the United States overseas. A major problem is a shortage of Arabic-speaking officials to meet demand, Holmes said. The State Department doesn't have ready-to-go teams of diplomats for such missions, Holmes said, or the security people to protect them.

While the teams have their roots in similar units used during the Vietnam War, the concept gained new momentum after the U.S. involvement in Bosnia in the mid-1990s.

Along with the teams in Afghanistan and Iraq, the Pentagon's Joint Forces Command is developing exercises to streamline the creation of civilian-military teams and eliminate the delays holding up the Iraqi PRTs.

“There is an intense effort underway to fix this problem,” says retired Army colonel Paul Hughes of the U.S. Institute for Peace, who worked in the U.S. occupational government in Iraq in 2003. The teams, Hughes said, can make a big difference in Iraq, and it's critical they work quickly to stop Iraqi insurgents from gaining more influence.

“That is what insurgencies are all about,” he said. The enemy doesn't have to accomplish anything positive, yet insurgents can win if they “show the people the government can't meet the peoples' expectations.”

Amnesty Report On 14,000 Finds Prisoner Abuse Continues In Iraq (NYT)

By Alan Cowell

The New York Times, March 7, 2006

LONDON, March 6 — Amnesty International accused the United States and its allies on Monday of committing widespread abuses in Iraq, including torture and the continued detention of thousands of prisoners without charge or trial.

The accusations could fuel the debate over the treatment of detainees that flared after the publication of graphic photographs showing prisoners at Abu Ghraib prison in Baghdad being mistreated by American guards. More recently, British forces in Iraq have been criticized after videotapes showed British soldiers beating Iraqi youths after demonstrations in southern Iraq.

In its report, "Beyond Abu Ghraib: Detention and Torture in Iraq," Amnesty International also said the level of abuse by Iraqi forces since the transfer of power in June 2004 was increasing.

The United States and its allies, the report said, have "established procedures which deprive detainees of human rights guaranteed in international law and standards."

"The record of these forces, including U.S. forces and their United Kingdom allies, is an unpalatable one," it said. In particular, coalition forces deny "detainees their right to challenge the lawfulness of their detention before a court."

Hassiba Hadj-Sahraoui, the deputy director of the group's Middle East and North Africa program, described the way prisoners are detained as "arbitrary and a recipe for possible abuse."

At the end of November 2005, the report said, quoting coalition figures, more than 14,000 prisoners were held in Iraq: about 4,850 in Baghdad, 7,365 at Camp Bucca (near Basra, in southern Iraq), and more than 1,100 in the north, at Sulaimaniya.

Responding to the report, the United States military said all its detainees were treated in accordance with international conventions and Iraqi law, The Associated Press reported.

A British Foreign Office spokesman, speaking in return for anonymity under departmental rules, also denied the allegations. He said British forces in Iraq were currently holding 43 Iraqi prisoners under United Nations resolutions permitting detention of people deemed threatening to the security of coalition or Iraqi personnel.

All 43 were visited by the Red Cross and by Iraqi government officials, had their cases reviewed every month and had access to their lawyers and families, the spokesman said. Britain has some 8,000 soldiers in Iraq, mainly in the south. The Amnesty International report took particular issue with conditions in detention facilities run by Iraqis.

"Many cases of torture and ill treatment of detainees held in facilities controlled by the Iraqi authorities have been reported since the handover of power in June 2004," the report said. "Among other methods, victims have been subjected to electric shocks or have been beaten with plastic cable. The picture that is emerging is one in which the Iraqi authorities are systematically violating the rights of detainees in breach of guarantees contained both in Iraqi legislation and in international law and standards."

Lurking In Saddam's Old Tent? (WT)

By Michael Barone

The Washington Times, March 7, 2006

The issue is historical now, but still worth exploring. Why, for two distinct groups of Americans, has it become a matter of conviction held with religious intensity that there cannot have been any relationship between al Qaeda and Saddam Hussein's regime in Iraq?

One group consists of Democratic politicians who oppose the Bush administration's policy in Iraq. The Minnesota Democratic Party recently protested as "un-American" an ad showing military veterans and their families supporting the president's policies for saying, "Our enemy in Iraq is al Qaeda -- the same terrorists who killed 3,000 Americans on September 11, the same terrorists from the first World Trade Center bombing, the USS Cole, Madrid, London and many more."

The Democrats, unfactually, say these words "make a connection between Iraq and the September 11 [2001] terrorist attacks and suggest the war in Iraq will prevent an attack by al Qaeda in America."

But of course, the ad is factually correct: Al Qaeda is attacking Americans in Iraq. And the Minnesota Democratic Party is in no position to guarantee al Qaeda will not attack America.

The other group consists of intelligence and other career government professionals, many of them Arabists. Case in point: Paul Pillar, CIA national intelligence officer for the Near East and South Asia, 2000-2005, now retired, writing in the most recent Foreign Affairs magazine. The "greatest discrepancy between the administration's public statements and the intelligence community's judgments concerned not WMD (there was indeed a broad consensus that such programs existed), but the relationship between Saddam and al Qaeda. The enormous attention devoted to this subject did not reflect any judgment by intelligence officials that there was or was likely to be anything like the 'alliance' the administration said existed." But the Senate

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Intelligence Committee report showed the CIA did obtain evidence of an al Qaeda-Saddam relationship from foreign intelligence and open sources.

That's not surprising. CIA Director George Tenet in October 2002 told Congress of "growing indications of a relationship with al Qaeda." And of course evidence of contacts between al Qaeda and Saddam's regime went back to the 1990s and were cited, without murmur of dissent, by President Bill Clinton.

So why do these Democrats and these government professionals seem to be so convinced there must have been no collaboration between al Qaeda and Saddam? The Democrats fear more Americans would support Mr. Bush and the war effort if they believed there was.

The career professionals, with their many years of training in the subtleties of the Middle East, have developed a vested interest in the notion that religious Wahhabis like al Qaeda could never collaborate with a secular tyrant like Saddam. If alliances could be formed across religious lines, what use would all their learning be?

The Minnesota Democrats cite the September 11 commission's report finding of no evidence of "operational" cooperation between al Qaeda and Iraq, although it did find evidence of many contacts. But, as Donald Rumsfeld likes to say, absence of evidence is not evidence of absence.

Neither al Qaeda nor Saddam operated under a Freedom of Information Act. Any collaboration between them on September 11 would have been kept very secret -- al Qaeda did not want to leave a return address. We do not know there was such collaboration. Nor do we know there was not.

Going back to the days before our military action in Iraq, it would have been irresponsible for any president to have assumed there was no relationship between al Qaeda and Iraq, given previous contacts between them and their proven hostility to the United States. President Clinton, responsibly, did not assume that, and neither did President Bush. Nor was there any indication intelligence could have been acquired that could have assured us, with 100 percent certainty, there was no such relationship.

Light on the Saddam regime's collaboration with terrorists will almost certainly be shed by analysis of some 2 million documents captured in Iraq. But, as the intrepid Stephen Hayes of the Weekly Standard has noted, almost none of those documents has been translated or released either to the public or to the congressional intelligence committees. It appears career professionals and, perhaps, political appointees have been blocking release of these documents.

Why do their superiors not order them released? Many Americans cling with religious intensity to the notion that Saddam somehow had no terrorist ties -- a notion used to delegitimize our war effort. We should bring the truth, or as much of it as is available, out into the open.

Pro-Taliban Rebel Holdouts Give Pakistanis A Fierce Fight (WP/REU)

By Reuters

The Washington Post, March 7, 2006

Toll Among Militants Exceeds 120, Military Says

ISLAMABAD, Pakistan, March 6 -- Pakistani security forces battled pro-Taliban rebels holding out in a town near the Afghan border on Monday, killing 19 of them as the toll from three days of clashes rose to more than 120, the military said.

The rebels launched attacks on government positions in Miran Shah on Saturday as President Bush met Pakistan's president, Gen. Pervez Musharraf, in the capital. The fighting has raged since.

"Helicopter gunships have been pounding militant positions around Miran Shah," said a resident of the town that serves as the administrative capital of North Waziristan, a tribal region. "The situation is very tense."

The semiautonomous ethnic Pashtun lands along the Afghan border are Pakistan's front line in the war on terrorism.

After U.S. and Afghan opposition forces ousted the Taliban in late 2001, many al-Qaeda militants fled to the area, which was awash in weapons. Taliban supporters among the Pashtun clans offered al-Qaeda a refuge.

Hundreds of people have been killed since late 2004 as Pakistani forces have been trying to clear foreign militants from the border area and subdue their Pakistani allies.

Government forces faced stiff resistance as they tried to remove the last of the rebels from Miran Shah on Monday, said a military spokesman, Maj. Gen. Shaukat Sultan.

Militants launched attacks and seized government buildings Saturday in Miran Shah in revenge for a government attack Wednesday that killed 45 fighters.

The toll from the first day of fighting rose from 46 to more than 100 militants as more detailed reports arrived, Sultan said. Two militants were killed Sunday.

Five troops were killed and two wounded over the three days, he said.

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Thousands had left Miran Shah since last week's violence and the exodus was continuing Monday, said the resident, who spoke on condition of anonymity for fear of reprisals.

Violence targeting the U.S.-backed Afghan government and foreign troops has strained relations between Afghanistan and Pakistan. On Sunday, Musharraf derided Afghan accusations that the Taliban leader, Mohammad Omar, was in Pakistan.

A U.S. military spokesman in Afghanistan welcomed the Pakistani action in Waziristan.

"We see this as a very positive move," Col. Jim Yonts said. "This issue in Waziristan is an example that they are fighting the war on terrorism."

2 Leaders Trade Barbs Over Fight Against Taliban (NYT)

By Carlotta Gall

The New York Times, March 7, 2006

ISLAMABAD, Pakistan, March 6 — President Pervez Musharraf lashed out Monday at President Hamid Karzai of Afghanistan for "bad-mouthing" Pakistan in recent weeks and casting doubt on its commitment to fight terrorism.

In a speech to Pakistani journalists in Rawalpindi that was broadcast on state television, Mr. Musharraf accused India of feeding false information to Afghan officials suggesting that the Pakistani intelligence agency was training terrorists.

He dismissed the allegation, and he described as "nonsense" a list of Taliban members, including the leader, Mullah Muhammad Omar, who Mr. Karzai said were operating in Pakistan.

The comments, echoing a message Mr. Musharraf has delivered in recent interviews, point not just to a new low in relations between Afghanistan and Pakistan, but also to difficulties with the United States.

President Bush visited Afghanistan and Pakistan last week, and Mr. Musharraf said he had sought to discredit the Afghan allegations in his meeting with Mr. Bush.

"The bad-mouthing against Pakistan is a deliberate, articulated conspiracy," Mr. Musharraf said. The Karzai administration, after several years of careful diplomacy with Pakistan, has become increasingly outspoken as violence has increased, including suicide bombings, beheadings and roadside bombs. Mr. Karzai came to Islamabad two weeks ago, and handed over what he said were intelligence files on Taliban members and others who, he said, were operating in Pakistan.

Mr. Musharraf said much of that information was outdated or wrong. He said, for example, that Pakistani officials found "decent people" living at an address given for Mr. Omar.

Mr. Musharraf faces increasing international pressure to stem the infiltration of insurgents into Afghanistan and to prevent the recruitment and training of suicide bombers, which the Afghans say takes place in Pakistan, Western diplomats said.

President Musharraf's spokesman, Maj. Gen. Sahukat Sultan, said fierce fighting against militants in North Waziristan over the weekend was proof of Pakistan's commitment. More than 100 people, including five soldiers, have been killed.

NATO Commander Downplays Afghan Insurgency Threat (REU-Y2)

By Will Dunham

Reuters, March 6, 2006

NATO's top commander said on Monday he doubted Taliban and al Qaeda forces were capable of posing a serious insurgent threat as the alliance expands its Afghanistan operations, calling narcotics the top worry.

NATO Supreme Allied Commander Europe Gen. James Jones also said the 26-nation alliance remained 25 percent short of the troops and equipment envisioned for its rapid-reaction force, and expressed renewed doubt he will be able to declare it fully operational as planned on October 1.

U.S.-led forces in 2001 overthrew Afghanistan's Taliban rulers who had harbored the al Qaeda network responsible for the September 11 attacks, and 23,000 U.S. troops currently are targeting Taliban and al Qaeda forces.

A wave of suicide bombings in recent months has killed dozens of people, part of an intensified insurgency that has killed more than 1,500 people since the start of last year. It has been the bloodiest period since the Taliban's overthrow, and the U.S. military warned of stepped up militant activity this spring.

"I think they are remnants," Jones said of the Taliban and al Qaeda at a Pentagon briefing. "... And I think that the upticks in violence are, in part, attributable to the fact that we're actually going to more places and taking the engagement to the enemy."

"My take on the situation in Afghanistan is that the Taliban and al Qaeda are not in a position to where they can restart an insurgency of any size and major scope," said Jones, a U.S. Marine Corps general.

Afghanistan, he said, was "fighting some internal demons."

"And one is certainly the narcotics culture and the dependence of the economy on narcotics -- which, from my standpoint, is probably the most serious problem facing the restructuring and the new path that Afghanistan would like to go on."

HEADING SOUTH

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NATO is preparing to expand its International Security Assistance Force mission -- already in the north, west and the capital Kabul -- to the more volatile south, going from 9,000 to 16,000 troops, and ultimately the east. Jones sees the southward expansion by July.

The State Department last week said opium production and trafficking make up a third of Afghanistan's economy. Afghanistan produces 90 percent of the world's opium poppies and is the largest heroin-producing and trafficking country.

Jones said concerted international action was needed.

"NATO's role in it is not to be an active participant, for example, in destroying crops and eradication. NATO does have a responsibility to be supportive and helpful, but in the more passive areas -- in other words, in the intelligence-gathering, oversight, overwatch, security," Jones said.

"Ninety percent of the harvest in Afghanistan is bought on the streets of Europe and translated back into supporting terrorist activities in Europe. So there's a real reason that we should all be concerned about this."

The NATO Response Force, proposed by Defense Secretary Donald Rumsfeld in 2002, was supposed to have 25,000 troops deployable to distant trouble spots with five days' notice.

"At this point, we have not generated the force in sufficient numbers for me to be comfortable with standing up here and saying we will be successful," Jones said. "... We have generated about 75 percent of the requirement. So we're about 25 percent short."

Jones said he was "hopeful" but added, "As of right now, if this were 1 October today, I would not be standing here saying that we're fully operationally capable."

Jones said last month NATO was scaling back the force's first major maneuvers set for June.

NATO Commander: Drug Trade Is The Greatest Threat To Afghanistan (KRT)

By Drew Brown

Knight Ridder, March 6, 2006

WASHINGTON -The top military commander of the North Atlantic Treaty Organization said Monday that the narcotics trade poses a greater threat to Afghanistan than a rekindled insurgency by Taliban and al-Qaida fighters.

Marine Corps Gen. James Jones, NATO's supreme commander, said he doesn't think that Taliban and al-Qaida remnants can "restart an insurgency of any size or major scope," but that they're part of a "wider span of problems" that includes the opium trade and rampant criminality.

Last week, however, Defense Intelligence Agency chief Lt. Gen. Michael D. Maples said that attacks by Taliban and al-Qaida forces had increased by 20 percent in the last year.

Maples told the Senate Armed Services Committee that the insurgents represent a greater threat to Afghanistan now "than at any point since 2001," when U.S. troops and Afghan Northern Alliance rebels ousted the fundamentalist Taliban regime.

A total of 129 soldiers from the United States and its allies died in Afghanistan last year, more coalition deaths than in any other year since the Taliban were ousted in 2001, according to icasualties.org, a Web site that tracks U.S. and allied casualties. Of those, 99 were Americans. Those fatalities included combat deaths and deaths resulting from accidents and other non-combat related causes.

Jones said Monday that a 20 percent increase in attacks "is statistically not very significant" because the average number of daily attacks by Taliban and al-Qaida fighters had been "quite low."

"I don't think we're heading towards a revitalized insurgency," Jones told reporters at the Pentagon. "And I think that the upticks in violence are in part attributable to the fact that we're actually going to more places and taking the engagement to the enemy."

About 21,000 NATO troops from 36 countries are preparing to take over stability and security operations in southern and eastern Afghanistan in coming months. NATO will very likely take over stability operations throughout Afghanistan by the end of 2006, Jones said.

Some U.S. troops will be included in the NATO force, but that number hasn't been determined. Most U.S. troops, however, will concentrate on areas in eastern Afghanistan along the Pakistan border, where Taliban, al-Qaida and other anti-government groups remain active and where Osama bin Laden is believed to be hiding. Those soldiers will operate under a separate authority that reports to U.S. Central Command. There currently are about 23,000 U.S. troops in the country.

Jones said NATO's primary mission will be to assist in extending the authority of Afghan President Hamid Karzai's government across the country. Much of Afghanistan has never known central government rule and has been under the sway of powerful warlords since the Taliban's ouster.

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Many of those figures are close U.S. allies, but some are believed to have profited immensely from the opium trade, which was nearly wiped out by the Taliban, but has exploded since its collapse. U.S. intelligence officials believe the Taliban, al-Qaida and other anti-government groups are financing their insurgency in part through the narcotics trade.

Karzai's government undertook an opium eradication program in 2004, and last year Afghanistan experienced a 21 percent decline in land devoted to poppy cultivation, the first since 2001. But opium production is likely to rise again this year, according to a U.N. report issued Monday.

The U.N. report, based on a survey carried out in December and January, said poppy cultivation is increasing in 13 Afghan provinces, remaining the same in 16 and decreasing in three.

Despite last year's decrease in overall land devoted to poppies, good weather and a low incidence of plant disease yielded a bumper crop of opium, the U.N. reported in November.

Last year, Afghanistan produced an estimated 4,100 tons of opium, the main ingredient in heroin, about 87 percent of the world's supply, the U.N. reported.

Most of the resulting heroin ended up in Europe, which is partly why NATO member countries have a keen interest in the Afghanistan mission, Jones said. He said that NATO troops won't participate directly in eradication, but will provide intelligence-gathering and surveillance.

NATO Shrugs Off Afghan Violence (WT)

By Rowan Scarborough

The Washington Times, March 7, 2006

NATO's supreme allied commander downplayed yesterday press reports of a rejuvenated insurgency in Afghanistan, saying some of the violence stems from the drug trade and simple criminality, and not attacks by the ousted Taliban or al Qaeda.

"My take on the situation in Afghanistan is that the Taliban and al Qaeda are not in a position to where they can restart an insurgency of any size and major scope," said Marine Corps Gen. James Jones, whose NATO command is scheduled to take over the Afghanistan military and reconstruction mission later this year.

"Afghanistan is on the way to recovery, but is also fighting some internal demons," he said.

Since U.S.-led forces routed the harsh Taliban regime in December 2001, Afghanistan has held two nearly violence-free national elections that selected President Hamid Karzai and a new parliament. Al Qaeda leader Osama bin Laden planned the September 11, 2001, attacks from Afghanistan, where he built an army, terror training camps and a finance network.

Last year, there was an uptick in attacks as new Taliban and al Qaeda recruits organized in neighboring Pakistan and slipped across the border to Afghanistan to plant deadly improvised explosive devices and ambush security patrols.

Still, Afghanistan is far more peaceful than Iraq, the site of another al Qaeda-fed insurgency. And Gen. Jones seemed to signal that the Taliban-al Qaeda alliance is short-lived. He said one reason attacks are up percentagewise is that there were so few in 2004 that any increase seems significant.

He also said the emerging Afghan army is now operating in places it dare not go to a few years ago. "So the hiding places and the areas that were previously off-limits are now not off-limits," he said.

Gen. Jones has a keen interest in Afghanistan, even though it falls within the operational responsibility of U.S. Central Command, led by Army Gen. John Abizaid.

A major component in Afghanistan is NATO's International Security Assistance Force (ISAF), a group of European security forces who are training the Afghans, reconstructing public services, running the international airport and conducting counterinsurgency missions.

The ISAF is slated to take over the military mission, providing NATO with its first combat operation command far outside its traditional boundaries.

"At the end of the day, when ISAF takes over in Afghanistan, it will be roughly a 21,000-man force from 36 different nations," Gen. Jones said. There are 10,000 ISAF troops and 20,000 U.S. forces in Afghanistan. More than doubling the ISAF presence could mean that some of the U.S. troops will come home.

Central Command will continue to head the offensive counterterrorism mission, which includes the hunt for bin Laden, who is thought to be in the tribal areas of western Pakistan.

Defense and congressional officials say Afghanistan will not become a fully stable democracy until it rids itself of an embedded opium and heroin trade that corrupts the government and finances the insurgency.

Afghan Threat Played Down (WP)

By Ann Scott Tyson

The Washington Post, March 7, 2006

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The commander of NATO forces said yesterday that rising attacks in Afghanistan will test NATO troops as the alliance expands into volatile southern regions of the country this summer, but he stressed that al-Qaeda and Taliban rebels lack the ability to reignite a major insurgency.

Marine Gen. James L. Jones, NATO's supreme allied commander, played down an increase in violence more than four years after the U.S.-led military campaign ousted the Taliban from power in 2001. He said remnants of al-Qaeda and the Taliban in pockets of the country cannot "restart an insurgency of any size and major scope."

Instead, Jones cited the growing cultivation and trade of opium poppies as the "most serious problem" facing the central Asian nation today. A field survey released yesterday by the Afghan government and the United Nations predicted an increase in poppy cultivation in 2006 in 13 provinces and a decrease in three, with 16 others remaining unchanged.

"Afghanistan is on the way to recovery but is also fighting some internal demons. And one is certainly the narcotics culture and the dependence of the economy on narcotics," Jones said at a Pentagon news briefing. He said the military will play a supporting role in counternarcotics efforts, supplying intelligence and security while the Afghan government takes the lead in destroying crops.

Jones's assessment of the Afghan insurgency differed slightly in tone from that given last week by a senior military intelligence official. Army Lt. Gen. Michael Maples, director of the Defense Intelligence Agency, testified before the Senate that "the Taliban-dominated insurgency remains capable and resilient." Attacks by the Taliban and other "anti-coalition" groups had increased by 20 percent in 2005, he said, including more suicide bombings and a doubling of strikes by improvised explosive devices.

"We judge that the insurgency appears emboldened by perceived tactical successes and will be active this spring," Maples said.

Jones also said violence is likely to grow this spring -- often a time of insurgent offensives in Afghanistan. "I think you're going to see more testing, more attacks," he said. "NATO, when it comes into the southern part, will be tested."

NATO plans by July to expand its military presence from the north and west and send several thousand more troops into the former Taliban stronghold of southern Afghanistan. That will leave the main mission of U.S. military forces as the eastern region along the Pakistan border, where much of the fighting takes place. Ultimately, Jones said, a 21,000-strong force from the 26 NATO member states and 10 other countries will assume the overall security mission in Afghanistan, although the U.S. military will continue to lead counter-terrorist operations under a distinct chain of command.

US Envoy Vows Commitment To Calm Afghan Fears (FT)

By Rachel Morarjee In Kabul

Financial Times, March 7, 2006

Ronald Neumann, the US ambassador to Afghanistan, said America's commitment to Afghanistan would not be compromised when Nato troops take command of the country's restive south later this year.

Mr Neumann said the US was the lead nation in Nato and the success of the Nato mission in southern Afghanistan had ramifications far beyond the country's borders. "This is the biggest mission Nato has taken on and it is a defining opportunity for the future of Nato," he said in an interview with the Financial Times.

His comments follow President George W. Bush's unscheduled stopover in Afghanistan last Wednesday on his way to India and Pakistan, where he reaffirmed US commitment to the war-torn nation.

Canada will take over command of the fight against the insurgency in southern Afghanistan as 6,000 British, Dutch and other Nato troops are deployed across the region in coming months.

Mr Neumann's remarks come as Afghan officials become increasingly nervous that the withdrawal of about 3,000 US troops after the handover to Nato command will signal to the Taliban that American forces are gradually pulling out of the country.

"Troops from the Dutch, the Romanians, the Canadian and the British may be very good, but their differing missions will result in confusion that militants will be able to exploit," a top Af-ghan government official said. With escalating tensions between Afghanistan and Pakistan, where Afghan intelligence officials believe militants are training and picking up supplies before launching attacks in Afghanistan, a major US troop presence is seen as a deterrent.

"Our neighbours have a history of hostile interference in Afghanistan, and only the US is strong enough to act as a bulwark against them," the Afghan official added.

Mr Neumann said the US would remain the lead nation of Nato and continue to provide air and logistical support, and troops in southern Afghanistan as well as leading the fight against the Taliban in the east.

"It is not acceptable for us to go away. We are a part of Nato," he said ahead of a meeting in Washington to discuss the details of a long-term strategic partnership between Afghanistan and the US later this month.

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US training of the Afghan national army would also continue.

Mr Neumann said it would ensure a sizeable US presence across the country. “The idea that we would leave those people out there on their own without support is a political fallacy.”

Fewer Troops Desert Since 9/11 (USAT)

By Bill Nichols

USA Today, March 7, 2006

WASHINGTON — At least 8,000 members of the all-volunteer U.S. military have deserted since the Iraq war began, Pentagon records show, although the overall desertion rate has plunged since the Sept. 11 attacks in 2001.

Since fall 2003, 4,387 Army soldiers, 3,454 Navy sailors and 82 Air Force personnel have deserted. The Marine Corps does not track the number of desertions each year but listed 1,455 Marines in desertion status last September, the end of fiscal 2005, says Capt. Jay Delarosa, a Marine Corps spokesman.

Desertion records are kept by fiscal year, so there are no figures from the beginning of the war in March 2003 until that fall.

Some lawyers who represent deserters say the war in Iraq is driving more soldiers to question their service and that the Pentagon is cracking down on deserters to discourage anti-war sentiment.

“The last thing (Pentagon officials) want is for people to think … that this is like Vietnam,” says Tod Ensign, head of Citizen Soldier, an anti-war group that offers legal aid to deserters.

Desertion numbers have dropped since 9/11. The Army, Navy and Air Force reported 7,978 desertions in 2001, compared with 3,456 in 2005. The Marines showed 1,603 deserters in 2001. That declined by 148 in 2005.

The desertion rate was much higher during the Vietnam era. The Army saw a high of 33,094 deserters in 1971 — 3.4% of the Army force. But there was a draft and the active-duty force was 2.7 million.

Desertions in 2005 represent 0.24% of the 1.4 million U.S. forces.

Opposition to the war prompts a small fraction of desertions, says Army spokeswoman Maj. Elizabeth Robbins. “People always desert, and most do it because they don't adapt well to the military,” she says. The majority of desertions happen inside the USA, Robbins says. There is only one known case of desertion in Iraq.

Most deserters return without coercion. Commander Randy Lescault, spokesman for the Naval Personnel Command, says that between 2001 and 2005, 58% of Navy deserters walked back in. Of the rest, most are apprehended during traffic stops.

Penalties range from other-than-honorable discharges to death for desertion during wartime.

Decades Later, Marines Hunt Vietnam-era Deserters (USAT)

By Bill Nichols

USA Today, March 7, 2006

WASHINGTON — In the summer of 1965, Marine Cpl. Jerry Texiero quietly disappeared from his California base, plagued by personal demons and a mounting opposition to the Vietnam War.

Forty years later, in the summer of 2005, Texiero — now known as Gerome Conti — was taken into custody by police in Tarpon Springs, Fla., after the Marine Corps tracked him down.

Three decades after the war ended, hundreds of Vietnam-era deserters are still on the loose. Conti's attorneys, Louis Font and Tod Ensign, say the Pentagon, and the Marine Corps in particular, are cracking down on long-term cases in an effort to warn current-day troops in Iraq against deserting.

“My view is that the Marines are trying to send a message to people in the ranks today that they, too, will be required to participate in a war, whether they think it's illegal or immoral,” Font says.

Marine spokesman Capt. Jay Delarosa says there was nothing unusual about the treatment of Conti.

However, the Marine official in charge of bringing in deserters said after Conti's arrest that his office was being more aggressive.

Chief Warrant Officer James Averhart, who has commanded the Marine Corps Absentee Collection Center since September 2004, told the St. Petersburg (Fla.) Times that he had ordered cold cases reopened and that his squad had caught 27 deserters in his first 11 months on the job, a rate he suggested was higher than those of his predecessors. The Corps last month updated that number to 33 cases.

“I have a different leadership style than the guys who have had this job. My job is to catch deserters. And that's what I do,” Averhart told the newspaper.

Delarosa said Averhart would not answer questions from USA TODAY. Asked whether the Marine Corps stands by Averhart's comments, Delarosa said, “I wasn't involved in that particular interview with CWO Averhart.” He added that the Marine Corps has “discouraged most requests for interviews because CWO Averhart has been frequently misquoted.”

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Will Van Sant, who wrote the Times article, says the Marines never contacted him after it appeared.

Conti, 65, says he was surprised. “I thought they couldn't possibly be looking for me anymore. I would think they would have stopped looking for anybody who had been gone as long as I had.”

Conti was held for five months — four in solitary confinement — then given an other-than-honorable discharge in January. If he had been court-martialed and convicted, he could have faced three years in the brig and a dishonorable discharge.

Another long-term Marine deserter, Ernest “Buck” McQueen, was arrested in Fort Worth in January. McQueen was Ernest Johnson Jr. when he left Camp Lejeune, N.C., in November 1969 because of concerns about going to Vietnam. McQueen, 55, was discharged without disciplinary action.

McQueen says he didn't take a new name to hide. His Social Security card says “McQueen.” He says he was born Ernest Johnson Jr., but when his biological father left, his mother raised her son by her married name, McQueen. When he joined the Marines, he says, they insisted he go by Ernest Johnson Jr.

The government drafted men for the armed forces during wartime from the Civil War until 1973. Conti and McQueen enlisted.

In 1974, President Ford offered clemency to Vietnam draft resisters and deserters. Only 27,000 of 350,000 eligible applied. The offer expired on April 1, 1975. In 1977, President Carter pardoned those who dodged the war by not registering or fleeing the country. Neither Conti nor McQueen applied for the Ford pardon. Both spent decades hiding their past from families and employers. McQueen kept his military experience from two wives and two children, and even Conti's best friend in Florida, Elaine Smith, knew nothing of his history with the Marines.

McQueen says he had been in the Marines for nearly two years when he learned of the My Lai massacre in 1968, when hundreds of Vietnamese civilians were killed by U.S. soldiers. “I saw photos of guys with ears on their chains. I lost my desire to be a part of it.”

Conti says his decision to desert was a combination of lingering emotional scars from a childhood lived in foster homes and concerns about stories he also was hearing about Vietnam.

Special Agent Tom Lorang of the Air Force Office of Special Investigations (OSI) says most older desertion cases are filed away after an initial investigation is completed, although some are re-examined.

Except for the Marine Corps, military officials say long-term cases normally are closed when deserters voluntarily come back in or are stopped by civilian law officials, not through efforts to track them down.

That's not Conti's or McQueen's story. Conti says he was told his file was reopened and his fingerprints were run through a national database. He was in the database because he had been convicted of fraud and theft in 1998. He was on probation and paying restitution when the Marines caught up with him.

McQueen, a carpenter, says his former brother-in-law was called by Marine investigators, and he told them where to find him. “This kind of … put me in a financial bind,” says McQueen, who had been doing carpentry for a church when he was seized.

Conti has returned to his job selling boats, which his employer kept open for him while he was locked up.

“They just need to declare amnesty for everybody from a certain time back or from certain conflicts,” says Elaine Smith, Conti's friend. “These guys … just had issues, as we all did back in the '60s.”

Military officials maintain that those who deserted the service are liable under law, no matter how unpopular a war was. “We actively investigate all cases of desertion,” says Fred Hall, a spokesman for the Naval Personnel Command. “For each of the active deserters we have on our rolls — 1,190 as of 31 Jan. '06 — there is a federal warrant out for their arrest.”

CORPORATE SCANDALS:

Lawyer Defends Skilling's Enron Comment As Sarcasm (REU)

By Matt Daily

Reuters, March 7, 2006

HOUSTON (Reuters) - Former Enron Corp. CEO Jeffrey Skilling was using sarcasm when he told several top executives in 2001 "they're on to us," his lawyer suggested on Monday at the trial of Skilling and ex-CEO Ken Lay.

The lawyer, Mark Holscher, sought to sow doubts about the comment that a witness, former executive Kevin Hannon, told the jury last week he heard Skilling say in reaction to a May 2001 analyst report that was sharply critical of Enron.

Hannon had said he took Skilling's comment at the meeting to mean that investors were "starting to understand how Enron made money," and appeared to link Skilling to efforts to cover up the decaying state of Enron's finances.

"Can you tell this jury whether (Skilling's voice) was dripping with sarcasm when he said 'they're onto us?'" Holscher asked Hannon.

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"Anything's possible," replied Hannon in the clipped manner he used throughout the day's cross examination. Hannon was formerly chief operating officer of Enron's Internet unit Enron Broadband Services.

Lay, 63, and Skilling, 52, are on trial for conspiracy and fraud charges linked to the collapse of Enron into bankruptcy in December 2001.

That filing, the largest U.S. bankruptcy until then, was the first of a wave of corporate scandals that rocked Wall Street and prompted tighter financial disclosure laws.

Skilling also faces insider trading charges.

Hannon, 45, is the latest in a string of former top Enron executives to testify against Lay and Skilling. Hannon has pleaded guilty to conspiracy to commit securities and wire fraud and could face up to five years in prison -- a sentence that could be reduced by helping prosecutors.

All attention on Tuesday will be focused on the prosecutors' star witness, Andrew Fastow, the company's former chief financial officer who operated the off-balance-sheet partnerships the company used to hide billions of dollars in debt while inflating earnings.

Lay and Skilling have blamed Fastow and his theft of tens of millions of dollars from his illicit side deals as the cause of a "run on the bank" that lead to the company's demise.

Fastow, 44, pleaded guilty in January 2004 to two counts of conspiracy to commit wire and securities fraud and will forfeit nearly $24 million and spend 10 years in prison. His wife, Lea, served a one-year sentence in jail for filing a false tax return in a case that was an outcropping of his.

Fastow arrived at the federal courthouse in downtown Houston on Monday morning and had to be ushered by marshals through a horde of photographers awaiting his appearance. He remained behind closed doors inside the courthouse, awaiting the end of Hannon's time on the witness stand.

Star Witness Fastow To Take Stage Today (USAT)

By Greg Farrell

USA Today, March 7, 2006

HOUSTON — Finally, four years after Enron's spectacular collapse, the moment everyone's been waiting for has arrived: Andrew Fastow, the company's disgraced former chief financial officer, is expected to tell his side of the story in court here today.

While the government's trial of former Enron CEOs Ken Lay and Jeff Skilling has been going on for more than five weeks, testimony from the first 10 witnesses has focused largely on the abysmal financial condition of two business units — Enron Broadband Services and Enron Energy Services. Several have said that Lay and Skilling made misleading statements about the units to the investing public.

But with Fastow, who pleaded guilty to two felonies, prosecutors are expected to zero in on what Lay and Skilling knew about the overall financial condition of Enron, and when they knew it. More than any other witness so far, the former CFO was in a position to know whether the defendants — particularly Skilling — were lying to investors or simply painting an optimistic, and legal, picture of Enron in 2000 and 2001.

Enron collapsed in fall 2001 after the public learned it met earnings targets by selling assets to private partnerships controlled by Fastow. That shook investor confidence, but when they also learned that Fastow had diverted more than $30 million from those transactions into his own pocket, people were outraged.

With Lay and Skilling, he was vilified as a symbol of executive greed. Unlike Lay and Skilling, who vocally defended themselves even before they were indicted, Fastow has been silent the past four years. So excitement surrounds what he'll say in court this week.

“We're about to find out if he operated with a wink and a nod with Mr. Lay and Mr. Skilling,” says Philip Hilder, a Houston attorney who represents Enron internal whistle-blower Sherron Watkins and several other former employees.

But Hilder doesn't think Fastow's testimony will be explosive. “Andy Fastow is a single witness, but I don't think he's a make-it-or-break-it witness,” he says. “The government has been putting on a steady stream of witnesses that corroborate the actions Fastow will talk about.”

In fact, the prosecution should keep its questioning of Fastow narrowly focused on conversations with Skilling and Lay, says law professor John Coffee at Columbia University. “I don't think they'll let Mr. Fastow get anywhere near the exotic accounting techniques used by Enron,” he says. “From the prosecution standpoint, they don't want him to be Hamlet, the brooding prince of Denmark. They want him to be Rosencrantz or Guildenstern, just a minor character.”

Fastow Looms Large At Enron Trial (WP)

By Carrie Johnson

The Washington Post, March 7, 2006

HOUSTON, March 6 -- For five weeks, the shadow of former Enron Corp. finance chief Andrew S. Fastow has hovered over the fraud trial of his onetime bosses.

Jurors have heard lawyers for former chief executive Jeffrey K. Skilling and chairman Kenneth L. Lay denounce Fastow for "stealing Enron's good name." They caught a glimpse of Fastow promoting secretive business partnerships that enriched him by more than $45 million at the company's expense. And they listened last week to testimony that Fastow called the structures "a good deal for me" in the presence of both defendants, leaving Enron employees at that meeting in a "stunned silence."

As early as Tuesday, Fastow will take center stage as the trial's most highly anticipated witness -- and one of its most unpredictable. His presence is expected to electrify the federal courthouse here, where court officials are preparing for an onslaught of bystanders eager to hear Fastow speak publicly for the first time since his January 2004 guilty plea.

Both the Justice Department's Enron Task Force and the defense team have plenty of reasons to fear Fastow and the impact of his testimony. Government lawyers have signaled that they hope to limit their questioning to a day or less, given the liabilities he brings with him -- admissions that he improperly pocketed millions of dollars during his tenure. Defense lawyers intend to keep him on the witness stand for days trying to tear apart his account.

On one point, however, both sides agree: Fastow, 44, remains the most elusive and demonized character in a story that has come to symbolize an era of corporate malfeasance.

To hear former Enron employees tell it, Fastow is far from likable. Under hostile fire at Enron, Fastow did not hesitate to wield his power to cow subordinates and bully investment bankers. The son of a New Jersey salesman, he exuded confidence in his own abilities and punished analysts who dared to cross him. Fastow and the prosecutors will probably try to keep that side of his personality off display.

But defense lawyers must walk a fine line as they seek to discredit Fastow as a liar and a thief. For years, he was the company's go-to man, an award-winning finance chief lauded for his ability to devise clever financial structures. Top executives compensated him handsomely, they said later, because they feared he might defect.

Skilling handpicked Fastow to ascend to the job of chief financial officer, took him on motorcycle races and vested him with tremendous responsibility. Lay insisted for months that Fastow had his "complete confidence" during warnings about his behavior, only to fire him abruptly in late October 2001 after reporters and analysts requested information about his private partnerships.

If Fastow was motivated by greed and the desire for validation, Enron's leaders and its board of directors did little to rein him in. According to congressional testimony, no one at Enron bothered to inquire exactly how much Fastow was making from the deals, which helped the company generate cash flow and move billions of dollars in underperforming assets off its books. When the answer finally came in the fall of 2001, then-board member Charles A. LeMaistre jotted down the word "incredible" on his notepad. Within days, Fastow was gone.

After Enron filed for bankruptcy protection in December 2001 and investigators pounced, Fastow's lawyer at the time took the unusual step of holding a news conference to quash rumors that Fastow had fled to Israel. Fastow steadfastly denied requests to testify before Congress and other investigative bodies, telling lawyers for the company's board the following January that he acted to help Enron and did nothing without the approval of his superiors, accountants and lawyers.

But a former colleague, Jordan Mintz, later told investigators that Fastow had said Skilling would fire him if the chief executive knew the scale of Fastow's profit from the partnerships.

People close to Fastow say he is furious about attempts to portray him as the fall guy for Enron's collapse. The company's downfall carried powerful consequences not only for Fastow, whose black hair has since turned gray, but also for his family.

His wife, Lea W. Fastow, heiress to a Texas real estate and grocery fortune, emerged from a halfway house in July. She spent most of her one-year sentence in an 8-by-10-foot cell in downtown Houston's Federal Detention Center alongside drug offenders and women awaiting trial on violent crime charges. She pleaded guilty to a single misdemeanor tax count for failing to report $141,000 in income from her husband's partnerships. At the time of her plea, she told the judge she was taking prescription drugs often used to treat depression and anxiety.

Andrew S. Fastow pleaded guilty to two conspiracy charges that will send him to prison for 10 years -- agreeing to the deal only when his wife was on the verge of heading to trial. Their sons, Jeffrey and Michael, will be in high school and college by the time Fastow returns from prison. Because parole has been abolished in the federal system, Fastow must serve at least 85 percent of his sentence -- more than eight years.

Fastow's lawyer, David Gerger, declined to comment, as did many of Fastow's friends. Fastow mostly has been keeping out of the public eye, working with government lawyers to decode Enron's byzantine accounting practices. He occasionally walks through a local park and dines with his family at local restaurants in the neighborhood surrounding Rice University, near the city's finest museums and his immaculately maintained, ivy-covered home assessed at $690,000 in 2003.

As part of his deal with the government, Fastow turned over $24 million in cash and assets, including his unfinished $3.4 million dream house in another tony Houston neighborhood, waterfront property in Galveston, Tex., and 68 acres in Norwich, Vt.

Prosecutors sandwiched Fastow in the middle of their case in a strategic attempt not to leave jurors with any lasting, negative impressions. The witness scheduled to follow Fastow on the stand is Chris Loehr, a young analyst trainee who went to work for the Fastow-operated partnership LJM, named after the first initials of Fastow's wife and two sons. Loehr has never been charged with a crime, and he has cooperated with investigators for nearly four years -- making him a more difficult target for defense lawyers to sully. Former Enron treasurer Ben F. Glisan Jr., who is serving a five-year prison sentence for his work on some of the partnerships, also will testify for the government.

Lawyer For Scrushy Sees Skilling, Lay As 'doomed' (USAT)

By Greg Farrell

USA Today, March 7, 2006

HOUSTON — As if former Enron CEOs Ken Lay and Jeff Skilling don't have enough to worry about with the government's star witness expected to begin testifying against them today, a prominent defense lawyer who helped win an acquittal for another embattled CEO says the two men are already toast, at least in the courtroom.

Donald Watkins, a civil rights lawyer and businessman who last year helped former HealthSouth CEO Richard Scrushy beat charges that he masterminded a $2.7 billion fraud, said in an interview Friday that Lay and Skilling are "doomed."

"There comes a time when you can forecast the outcome of a contest," said Watkins, who has not attended the trial but has followed it closely in the media. "In this contest, these guys have lost."

The reason, according to Watkins, is that the two men settled on the wrong defense strategy. In their opening arguments, lawyers for the two men told the jury that Enron was a solid company done in by a loss of confidence among investors and trading partners after the disclosure that former chief financial officer Andrew Fastow had diverted tens of millions of dollars into his own pocket.

Watkins says this defense — that Enron was fundamentally a healthy company — is a non-starter. "Nobody's going to buy that," he says. Further, the tactics used so far by the defense — vigorous cross-examinations of cooperating witnesses who have already pleaded guilty — "lacks imagination."

"These types of trials involve not only legal issues, but political and social issues. You have to address all of that. They have ignored the political and social angles. When you do that, you lose every time. They never put the government on trial."

"Lay and Skilling are the poster boys for Sarbanes-Oxley," says Watkins, referring to the law passed after the exposure of accounting problems drove Enron and WorldCom into bankruptcy. "They're part of a Justice Department campaign to clean up accounting in Corporate America. The defense is treating it like it is a regular white-collar criminal case."

Watkins says the Lay-Skilling defense would have been better off putting the government itself on trial, digging into the process by which prosecutors built their case. In the Scrushy trial last year in Birmingham, Ala., Watkins and his legal team challenged the prosecution at every turn, forcing the government to put FBI agents on the stand to testify about how secret recordings of the defendant were made and handled.

"There are certain things that resonate with jurors," Watkins says. "They will not tolerate government misconduct, period. Every juror scans the courtroom and wonders privately, 'If I were sitting there, would they be coming after me, too?' You have to address these thoughts and make them think, 'Yes, they would steamroll me, too.' "

Lay's attorney, Mike Ramsey, respectfully disagreed with Watkins, saying, "It's very hard to handicap a case without being in the middle of it." But he did concede that so far, at least, "There have not been a lot of over-the-top attacks on people in the courtroom."

But after five weeks, Ramsey says, "I'm very happy with the position we're in right now. It's hard to know in the middle of a fight, in the fog of battle, whether you're winning. We're probably in better shape now than we thought."

As for the prosecution, Watkins says it is doing a good job pacing the trial. For the first two weeks, jurors listened to testimony from Mark Koenig, Enron's former head of investor relations. Koenig, who pleaded guilty to one count of aiding and abetting securities fraud, was a minor player in the fraud that Lay and Skilling are alleged to have covered up at Enron, but he came across as credible and set the table for a number of issues that subsequent witnesses addressed.

Since Koenig stepped down, nine others have testified about accounting problems at Enron or other related issues. Today, prosecutors will call Fastow, and he is expected to implicate Lay and Skilling in the conspiracy to prop up Enron's earnings.

"In Scrushy's case, the government couldn't wait to trot out their big cooperators," Watkins says. The Enron prosecutors brought out "their more credible witnesses first" and put their biggest witness in a position where the entire case doesn't ride on his credibility.

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According to Watkins' rules for managing white-collar criminal cases, there is some hope. In the Scrushy trial, the primary defense lawyer, Jim Parkman, emerged as a folksy, likable character who frequently got jurors and the judge to laugh.

"If the jury is not laughing with you, you are losing," Watkins says. In the Scrushy trial, "They bonded with Parkman. I have never seen jurors convict a defendant when they're laughing with a defendant. If there's no smiles, no laughter, those guys are doomed."

That's good news for Skilling. His lead attorney, Daniel Petrocelli, has emerged as the star of the trial, cracking up jurors with unscripted remarks and amusing U.S. District Judge Sim Lake with lively banter.

As for Watkins, Ramsey suggested he travel to Houston this week "to watch us work over Mr. Fastow."

DaimlerChrysler Suspends Employees In Bribery Inquiry (NYT)

By Mark Landler

The New York Times, March 7, 2006

FRANKFURT, March 6 — DaimlerChrysler has dismissed or suspended several employees after an internal investigation uncovered evidence that its executives paid bribes in Asia, Africa and Eastern Europe.

In a report filed Monday with the Securities and Exchange Commission, the company said it had "determined that improper payments were made in a number of jurisdictions." The payments, it said, could violate both German law and the Foreign Corrupt Practices Act in the United States.

The Justice Department and the S.E.C. have been investigating accusations of bribery at DaimlerChrysler since last year. The company has cooperated with the investigations, and these latest disclosures shed more light on the far-flung corruption inquiry.

The filing, however, does not answer a crucial question: whether senior Mercedes managers knew about the payments. It does not identify the countries where bribes were paid, or say how many people were involved.

A spokesman for DaimlerChrysler, Thomas Fröhlich, declined to comment beyond the facts in the filing. But he said, "Dieter Zetsche and Bodo Uebber are keen to take action on this."

Mr. Zetsche is DaimlerChrysler's chief executive, and Mr. Uebber is the chief financial officer.

Last October, a report on the United Nations oil-for-food scandal said DaimlerChrysler paid a kickback of 6,950 euros ($8,372) to Iraqi officials in return for a contract from the government of Saddam Hussein. The Justice Department and the S.E.C. are investigating this as well.

Bribery of foreign officials used to be fairly common in the auto industry. As recently as 1997, bribes paid to foreigners by German companies were tax-deductible in Germany. Now, foreign corruption is illegal in the European Union, as it is in the United States.

The investigation is a distraction for Mr. Zetsche, as he begins to turn around the company's flagship Mercedes-Benz division. The brand has been tarnished by quality problems in recent years, but sales of the Mercedes car group rose 16 percent in February, the company said Monday.

DaimlerChrysler painted an optimistic picture of sales at Mercedes and Chrysler, as both divisions roll out new models. It warned, however, that sales at its truck division would suffer because of a downturn in the market and stricter emissions standards in the United States and Japan.

With DaimlerChrysler's performance improving, analysts have not paid much attention to the scandal. They prefer to focus on other issues, like DaimlerChrysler's effort to fix its ailing Smart minicar division. Mercedes will also update the design of its best-selling E-class sedan this year.

"The make or break for Mercedes will be the face-lift of the E-class," said Arndt Ellinghorst, an analyst at Dresdner Kleinwort Wasserstein, adding, "I have confidence in Dieter Zetsche."

Still, the bribery payments took a bite out of DaimlerChrysler's bottom line. It said it reduced its 2005 operating profit by 16 million euros ($17.2 million) and its net income by 64 million euros ($76.8 million).

To reflect improper payments made from 1994 to 2002, DaimlerChrysler said it had reduced the balance of stockholders' equity, as of Jan. 1, 2003, by 222 million euros ($266 million).

DaimlerChrysler's practices came to light in 2004 in a lawsuit filed by a former Chrysler accountant, David J. Bazzetta, who said the company had maintained secret bank accounts to bribe foreign government officials. Mr. Bazzetta sued after being fired from his job.

In its filing, DaimlerChrysler said it had set up a global compliance organization to review its policies and practices.

"We have initiated improvements in our business processes as well as in compliance, control and training activities in order to foster a culture defined by openness and honesty," the company said.

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DaimlerChrysler Finds Improper Payments (AP)

By MATT MOORE, AP BUSINESS WRITER

AP, March 7, 2006

FRANKFURT, Germany -- Automaker DaimlerChrysler AG said Monday that an internal investigation of bribery claims found evidence of "improper payments" in Africa, Asia and Eastern Europe. It said several employees had been dismissed or suspended.

The company disclosed the findings in a filing with the U.S. Securities and Exchange Commission on Monday.

The German-American automaker is still under investigation by the SEC and the Department of Justice over whether it violated U.S. anti-bribery laws.

"We have determined that improper payments were made in a number of jurisdictions, primarily in Africa, Asia and Eastern Europe," the company said in its filing. "These payments raise concerns under the U.S. FCPA, German law, and the laws of other jurisdictions."

"In connection with our internal investigation, we have identified and self-reported potential tax liabilities to tax authorities in several jurisdictions," it added. "These tax liabilities of DaimlerChrysler AG and certain foreign affiliates result from misclassifications of, or the failure to record, commissions and other payments and expenses."

The filing did not specify how many employees were dismissed or suspended, and did not identify them.

The U.S. Foreign Corrupt Practices Act prohibits the payment of bribes to foreign officials.

DaimlerChrysler disclosed the investigation last year in a similar filing with the SEC.

The U.S. Justice Department said in August 2005 that it was investigating whether DaimlerChrysler had paid bribes to foreign officials with the knowledge of its senior executives. The company said it is continuing to cooperate with the investigations.

That criminal investigation is tied to an inquiry opened in 2004 by the SEC after an employee fired by the automaker said he was dismissed for complaining that the company was using secret bank accounts to bribe government officials.

DaimlerChrysler said then, and reiterated Monday, that it was cooperating with the investigations, sharing with both agencies information from its internal probe.

Company spokesman Thomas Froehlich told The Associated Press that both Chief Executive Dieter Zetsche and Chief Financial Officer Bodo Uebber had taken steps to ensure the company operates in a transparent and ethical manner.

"(They) are very much committed to taking action," he said.

The filing also said that because of the bribery claims, the company "recognized charges in our 2005 consolidated statement of income to correct misstatements relating to the years 2003 and 2004 which had the effect of reducing 2005 operating profit by 16 million euros and reducing 2005 net income by 64 million euros."

$1.5 Trillion Of Debt (WSJ)

By Peter J. Wallison

The Wall Street Journal, March 7, 2006

The Rudman Report on Fannie Mae recites facts eerily similar to what we now know about Enron. According to the report, the CFO of Fannie misled the board (and possibly the CEO) about the financial position of the company. The CEO, head of the corporate governance committee of the powerful Business Roundtable, regularly misled Wall Street and the board, but may not have understood the accounting. The auditors (this time not Arthur Andersen) failed to stand up to the management or didn't understand what was happening. The board, primarily made up of independent directors, and the audit committee, made up entirely of independent directors, were unable to penetrate the scam and remained clueless as earnings were manipulated. In Fannie's case there was also a regulator, but the regulator did not begin to look into any problems until it had been surprised by similar wrongdoing at Fannie's smaller sibling, Freddie Mac.

What we should learn from this -- much of which occurred after the adoption of Sarbanes-Oxley -- is that a board made up primarily of independent directors, an audit committee made up entirely of independent directors, a Big Four accounting firm alerted to the dangers of accounting fraud, and a regulator that claimed to be fully on top of what was happening, could not prevent senior management from fudging the accounting and misleading the board and investors. No surprise there. Many observers were saying, both before and after the enactment of SOX, that a management determined to defraud or mislead could evade the scrutiny of all the gatekeepers.

This has important implications for the legislation now before Congress to reform the regulation of Fannie and Freddie and limit the size of their portfolios. Since dishonesty and incompetence are an unavoidable fact of life, and gatekeepers are unreliable, investors must protect themselves by diversifying their investments. But there is good reason to believe that

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diversification would not be available if dishonesty or incompetence at Fannie or Freddie in the future resulted in the collapse or financial incapacity of either.

Fannie and Freddie are not ordinary companies. They have almost $1.5 trillion of debt outstanding, which they borrowed to buy and carry portfolios of mortgages and mortgage-backed securities; these portfolios expose both companies to enormous interest-rate and prepayment risk. To hedge this risk, Fannie and Freddie are parties to derivatives transactions with notional values in the trillions, in which the counterparties are some of the largest financial institutions; any failure of Fannie or Freddie to meet its obligations would expose these institutions to substantial losses. Fannie and Freddie debt is also held widely by banks and other financial institutions, in some cases accounting for more than 100% of their capital; a decline in the value of that debt would seriously weaken these organizations and reduce their capacity to lend.

Finally, both companies are central to the real-estate financing market. If either of them could not function normally, that market -- amounting to almost a third of the economy -- would freeze up. As Alan Greenspan has pointed out for years, the risks inherent in the portfolios carried by Fannie and Freddie add up to huge systemic risk -- the danger that a failure at either company will spread to the economy as a whole.

So here is the key difference between Enron and either Fannie or Freddie. Dishonesty or incompetence in Enron's management hurt shareholders and employees, both of whom could have protected themselves through diversification of investments. Dishonesty or incompetence in Fannie's or Freddie's managements could throw the economy into chaos, and from that catastrophe diversification provides no shelter. Faith in boards, audit committees, auditors and even regulators has been shown to be misplaced. Sure, Congress would likely come in and bail them out -- but immediately, without extended debate, and with trillions of taxpayer dollars potentially at risk? Not a chance. And the damage in the meantime would be devastating.

As reform legislation languishes in the Senate, Congress should consider the lessons of Enron, Fannie and Freddie: Despite our best efforts, error and fraud will occur. That's why it's important to make sure -- by reducing the size of Fannie and Freddie's portfolios -- that no future management failure at either company will threaten the stability of the economy.

CRIMINAL LAW:

Prosecutors Slam Ryan, Call Him Shameless (CHIT)

By Matt O'connor And Rudolph Bush, Tribune Staff Reporters

Chicago Tribune, March 7, 2006

Closing arguments began in former Gov. George Ryan's trial Monday with prosecutors blasting him as a shameless, greedy politician at the center of a series of dirty deals that enriched cronies who kicked back cash and gifts to Ryan and his family.

"You've heard of 12 days of Christmas. This was 12 years of Christmas," Assistant U.S. Atty. Joel Levin said of Ryan's four years as governor and eight years as secretary of state.

In nearly five hours of arguments, prosecutors portrayed Ryan as a two-faced, serial liar who publicly claimed he did all he could to eliminate fraud at licensing facilities but privately gutted corruption-fighting efforts to keep his political fundraising machine humming along.

Early in his years as secretary of state, Ryan received two warnings about questionable conduct by co-defendant Lawrence Warner, prosecutors said, but Ryan ran interference for his friend rather than demand a halt to the wrongdoing.

Prosecutors spoke of compelling circumstantial evidence that Ryan pocketed cash from Warner and lobbyist Arthur "Ron" Swanson, pointing out Ryan had scant known sources of cash for almost a decade, yet gambled thousands of dollars. After he left the governor's office, Ryan regularly took out cash from personal bank accounts, in sharp contrast to his few withdrawals when he was an officeholder, they said.

"When this 12 years of Christmas fun comes to an end, what you find is he starts withdrawing cash on a regular basis like everybody else," Levin said.

After more than five months of testimony, jurors listened intently on the first day of what is expected to be at least four days of closing arguments. Levin shared his duties with Assistant U.S. Atty. Laurie Barsella, who is set to wrap up her remarks Tuesday before Dan Webb, Ryan's lead lawyer, delivers his closing argument. Warner's lawyer, Edward Genson, could argue beginning Wednesday.

The closing arguments played out in a packed courtroom. Ryan, wife Lura Lynn and their five adult children showed little reaction to the prosecution arguments.

Also in the courtroom for the fourth time during the trial were Rev. Duane "Scott" and Janet Willis, whose six children were killed in a 1994 crash caused by defective equipment that fell off a truck whose driver paid a bribe for his license.

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U.S. District Judge Rebecca Pallmeyer has limited details of that accident in a bid to try to keep jurors from figuring out that it was the horrific crash that has come to symbolize the tragic consequences of Illinois' licenses-for-bribes scandal.

But Monday Ryan's lawyers sought a mistrial after the prosecution displayed to jurors a document on the accident that referred to a "mudflap frame," the heavy part that fell from the truck. Prosecutors disputed the reference would trigger a connection by jurors to the Willis tragedy.

Pallmeyer has rejected numerous previous defense requests for mistrial, and the success of one this late in the trial would seem highly unlikely. Pallmeyer appeared displeased at the timing of the motion.

"I myself have this job for life, and I would be happy to start this case over on Monday morning," she said, her voice dripping with sarcasm.

Levin told jurors that Ryan's fingerprints were all over a series of crooked contracts and lease deals that went to Warner, Swanson and Harry Klein, another friend.

Klein played host to Ryan for 10 years at his Jamaican villa, where the two entered a corrupt arrangement to create a paper trail showing Ryan paid for the trips when, in fact, Klein reimbursed Ryan in cash for the cost of the stays, a combined $13,500 over the decade, Levin said.

In return, prosecutors allege Klein, a currency exchange operator, got a sweetheart lease on a building in South Holland and benefited from a Ryan-approved rate hike on the amount exchanges charge for selling state license plate stickers.

Even after Ryan allegedly lied to the FBI about his cash-back arrangement with Klein, the then-governor continued to travel to Klein's Jamaican villa every year, Levin said.

Ryan also steered another deal—the move of a secretary of state department to a Springfield complex represented by Swanson—on the heels of a Cancun vacation in which Ryan stayed at Swanson's time-share condominium, Ryan said.

Barsella said Warner "hit the jackpot" after Ryan was elected secretary of state in 1990.

For years, Warner had been an insurance adjuster. But after Ryan took office, Warner suddenly became a lobbyist, striking deals with vendors that brought him about $3 million even though he concealed his role, she said.

The benefits went to Ryan's family as well as himself, the prosecution contended.

Warner secretly funded loans of $145,000 to Comguard, a failing business owned by Ryan's brother, former Kankakee Mayor Tom Ryan.

Warner also lent Ryan's son-in-law Michael Fairman $5,000 and invested $6,000 in the cigar business of his son, George "Homer" Ryan. And he footed the $3,185 cost for the band at the wedding of Ryan's daughter, Jeanette Schneider.

"If your last name was Ryan, you knew you didn't have to repay these loans," Levin said.

Ryan was "like a walking conflict of interest" because he accepted gifts and benefits from friends who were doing business with his office, Levin said.

Early in his term in office, Ryan was warned by lobbyist Robert Cook about a shakedown by Warner and Donald Udstuen, a close Ryan political adviser, but Ryan tried to make it appear that Cook had misinterpreted their actions, Barsella said.

In addition, James Covert, a high-ranking secretary of state official, raised concerns with Ryan about Warner's access to the office. Ryan insisted Covert continue to work with Warner, Barsella said.

Prosecutors alleged that Ryan's few cash withdrawals—only $6,703 from his bank from early 1993 through late 2002—were strong circumstantial evidence that Ryan's cash came from kickbacks from Warner and Swanson.

"Something is wrong with this picture," Levin said. "This man had another source of cash."

Swanson's bank records show numerous large cash withdrawals a day or two before meetings with Ryan, often on his birthday, the prosecution said.

Prosecutors also alleged that Ryan knew that Scott Fawell, his top political operative, often diverted state resources to election campaigns of Ryan and political allies. For Ryan's re-election as secretary of state in 1994, Fawell ran the campaign in his government office a few feet from Ryan, Levin said.

"Was it any secret how Scott Fawell was conducting business? No, it wasn't," Levin told jurors. "Ryan gave the keys to his political future to Fawell. Never once was Fawell reined in."

The prosecution also hit hard at fundraising among secretary of state employees by Ryan's political operation, saying it fueled the license-selling at driver's facilities.

Ryan's handpicked inspector general, called "a political hack" by Levin, scuttled investigations that threatened to expose the link between fundraising and license-selling, he said. With Ryan's support, the department was reorganized and many of the investigators were laid off, Levin said.

Ryan "sacrificed public safety and integrity" to ensure the fundraising pipeline kept flowing, the prosecutor said.

"Citizens for Ryan was for all intents and purposes George Ryan's pot of gold," Levin said. "He used the inspector general's office to protect that pot of gold."

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Ill. Ex-governor's Trial Nearing Its End (AP)

By Mike Robinson
AP, March 7, 2006

CHICAGO - Former Gov. George Ryan presided over payoffs and fundraising abuses so bad he "might as well have put up a `For Sale' sign over his office," a federal prosecutor said Monday at the close of his racketeering and fraud trial.

"You've heard of the 12 days of Christmas? This was 12 years of Christmas for Mr. Ryan, his family and his friends," prosecutor Joel R. Levin said.

The 72-year-old Republican who served one term as governor practiced concealment, deception and lies on a regular basis to cover up dirty deals in which he steered state contracts and leases, Levin said.

Ryan and longtime friend Larry Warner, 67, a lobbyist, were charged in a 22-count indictment with racketeering, mail fraud and other offenses. Testimony began more than five months ago, with as many as 22 hours of closing arguments scheduled to continue through Thursday.

As secretary of state for eight years in the 1990s and as governor for one term, beginning in 1999, Ryan allegedly steered state leases and contracts to Warner and other friends. In return, he was rewarded with free vacations, loans for his brother's business and even money to pay the band at his daughter's wedding reception, prosecutors say.

Ryan and Warner say they did nothing illegal.

Defense attorney Bradley E. Lerman moved for a mistrial Monday in a dispute over a presentation Levin was making to the jury. Lerman said it included material concerning a 1994 crash that killed six children and had been ruled out as so emotional it could prejudice the jurors. The crash was part of the initial investigation that later turned to corruption in state government.

U.S. District Judge Rebecca R. Pallmeyer did not rule immediately on the motion.

Sitting solemn-faced in the spectator seats were the Rev. Scott Willis and his wife, Janet, whose six children were killed in the fiery accident involving a truck driver whose drivers license allegedly was obtained with payoff money from a woman raising Ryan campaign funds.

Ryan's chief defense attorney, Dan K. Webb, who is expected to address the jury on Tuesday, has said that the former governor's decisions in awarding state leases and contracts were made in good faith and had nothing to do with his friendship with Warner and other political figures.

But Levin said that Ryan had "sold his office."

"He might as well have put up a 'For Sale' sign over his office," Levin said.

Levin saved some of his richest sarcasm for his description of the Citizens for Ryan campaign fund, which he claimed financed his lifestyle.

On the visual display screen he projected a photo of Ryan with his arm around a woman who went to prison for selling licenses to unqualified truck drivers - including, prosecutors say, the one involved in the Willis case - and putting much of the cash into Ryan's campaign fund.

Levin said that Ryan appointed his old friend, Dean Bauer, as the inspector general in the secretary of state's office not to root out corruption but to protect the campaign fundraising operation which he described as "the goose that laid the golden egg."

Campbell, Eager To Talk, Won't Testify (AJC)

By Jeffry Scott , Beth Warren, The Atlanta Journal-constitution
The Atlanta Journal-Constitution, March 7, 2006

Bill Campbell has told his story on radio, television, in newspapers and before church congregations. But he won't tell it to the jury.

Despite his frequent expressions of willingness — if not eagerness — to tell his story in court, the former Atlanta mayor said Monday that he will not take the witness stand in his own defense at his federal corruption trial.

Outside the courtroom, Campbell said he reached the decision after the prosecutors refused to agree not to ask him about his personal life.

"I desperately wanted to testify," said Campbell, who has met nearly daily with reporters to give his assessment of the trial. "I wanted to tell the jury my story. They wanted to continue the character assassination, but I am not going to subject my family to further damage."

The ex-mayor is on trial in federal court on charges that he used his office to extract bribes from contractors seeking business with the city.

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Campbell's criticism of the prosecutors apparently struck a nerve. For the first time since the trial began seven weeks ago, U.S. Attorney David Nahmias summoned reporters to respond to comments by the former mayor.

"We will not make any special exceptions for this defendant," Nahmias said, reading a statement. "All of our questions would be relevant to the alleged criminal offenses."

The prosecution maintains that Campbell's personal life is fair game because his alleged crimes are inseparable from his personal life. They have called two women they portrayed as Campbell's girlfriends to testify about romantic getaways with the mayor purportedly bankrolled with cash bribes.

Campbell has acknowledged that there was corruption in his administration, but he blames a few of his underlings for abusing his trust by soliciting and keeping the bribes themselves. He insists that he is innocent of the federal charges of racketeering, tax fraud and bribery.

Throughout the trial, Campbell has indicated that he wanted to testify. On Monday, U.S. District Judge Richard Story demanded that his legal team say once and for all whether it intended to put the ex-mayor on the witness stand.

After the jury was sent home for the day, Story asked Campbell to stand as he reviewed Campbell's rights regarding testimony.

"You'd be subject to cross-examination just like any other witnesses," the judge said. "You also have a right not to testify. It is your decision."

The judge noted that Campbell himself is a lawyer but advised him to consult with his defense team.

"I would actually like a little more time," Campbell responded.

Story told Campbell that he could have a few more minutes to continue discussing the issue with his defense team. Instead, Campbell replied, "It's my inclination not to testify. If I change my mind, I would e-mail lawyers."

The judge urged Campbell to be certain about his answer, because the prosecutors would need time to prepare their cross-examination.

"Based on your consultation with counsel, you have elected not to testify?" he asked.

"Yes," Campbell answered.

This is the seventh, and possibly final, week of Campbell's trial. The government's case stretched out over five weeks, while the defense team took five days to bring in witnesses to dispute the allegations. Unless Campbell has a change of heart today, the defense is expected to rest its case, and the government will be ready in the morning to call rebuttal witnesses.

Lawyers asked for some free time Wednesday to craft closing arguments, which probably will be heard Thursday morning.

Speculation over whether Campbell would testify has added a touch of tension to the already lively testimony.

Ron Carlson, a University of Georgia professor of criminal law who has observed testimony in the trial, expressed surprise at the decision not to testify.

"The defense could be thinking, 'We've got a good shot at winning this thing without Bill taking the stand,' " Carlson said.

Jurors aren't supposed to consider whether a defendant testifies or not, but it is human nature to question why defendants who talk publicly balk at facing cross-examination, Carlson said.

"He has announced he wanted to take this opportunity and clear his name," the professor said. "The jury will wonder, 'Why didn't he testify?' "

Campbell Will Not Testify (WXIA-TV)

WXIA-TV, March 7, 2006

Bill Campbell will not testify in his federal corruption trial. For days, Campbell has said he wanted to testify, but on Monday, he blamed federal prosecutors for keeping him from the witness stand.

Campbell left the door open, albeit slightly, as he suggested that he might change his mind overnight. However, it appears the jury will not hear from the one man who says he wants to tell his story.

“I absolutely want to testify,” Campbell said. “Every fiber of my being wants to testify.”

Campbell said he would be happy to testify -- if federal prosecutors would stay away from questions about his private life, including asking about two former extramarital girlfriends, both of whom were previously called to the witness stand. The women talked about travel and spending.

When told that he would be queried about the women and the money spent, Campbell said that for the sake of his family that he would not testify.

“The prosecution is not interested in the allegations in the indictment. They simply want to delve into my private life and that’s unfortunate, and that’s regrettable. And I’m not going to allow any more damage to be done to my family,” Campbell said.

Late on Monday, US Attorney David Nahmias said any questions to Campbell about his private life would be relevant to the case, and no one can dictate what prosecutors ask and don’t ask.

It is expected the jury would get the case late Thursday or Friday.

Metro Briefing (NYT)

The New York Times, March 7, 2006

NEW YORK

POTENTIAL OPPONENT FOR CLINTON K. T. McFarland, left, a former spokeswoman for the Reagan Defense Department, formed an exploratory committee yesterday to raise money to challenge Senator Hillary Rodham Clinton in this year's Senate race. A stay-at-home mother for the last 21 years, Ms. McFarland, a Manhattan Republican, also set about raising her national profile. She appeared on MSNBC's "Hardball," and in response to questions, said that a nuclear Iran was "the single biggest national security situation we face." Ms. McFarland would oppose John Spencer, a former mayor of Yonkers and a favorite of conservatives, for the Republican nomination.PATRICK HEALY (NYT)

UNION LEADER TO FORM SPECIAL COMMITTEE The president of the New York State A.F.L.-C.I.O., Denis M. Hughes, announced yesterday that he would appoint a special committee to handle matters at the New York City Central Labor Council regarding a federal investigation of the council and its president, Brian M. McLaughlin. Mr. Hughes said that Mr. McLaughlin, a Democratic assemblyman from Queens, would remain in charge of the council, but would not have a voice in decisions regarding the investigation. Last Thursday, F.B.I. agents raided the council's offices and Mr. McLaughlin's Queens office as part of an investigation into accusations of bid rigging for city contracts for street and traffic lights. Carolyn Daly, Mr. McLaughlin's spokeswoman, said yesterday that Mr. McLaughlin insisted he was innocent.STEVEN GREENHOUSE (NYT)

MANHATTAN: ANTIWAR PROTESTERS ARRESTED Protesters demanding the withdrawal of American troops from Iraq marched from the United Nations to the United States Mission yesterday, where four of them, including Cindy Sheehan — a Californian who became an antiwar activist after her son was killed in Iraq — were arrested, the police said. The group Women Say No to War, which helped organize the march, said that the protesters were arrested while trying to deliver a petition. Richard Grenell, a spokesman for the mission, said that Ms. Sheehan and a few others were invited in but that they declined because reporters could not go with them. Detective Kevin Czartoryski said the protesters had criminally trespassed and resisted arrest.(AP)

SUOZZI REJECTS RUNNING ON REPUBLICAN LINE The Nassau County executive, Thomas R. Suozzi, a Democrat running for governor, has ruled out the possibility of running on the Republican line. Mr. Suozzi, who is running in a primary against Attorney General Eliot Spitzer, said yesterday that he had received support from Republicans in local races, but dismissed speculation that he would run on that line. Joseph L. Bruno, the Republican leader of the state Senate, said in a television interview on Sunday that there was speculation about "the possibility of crossover," but yesterday, he said he would not pursue the idea.JENNIFER MEDINA (NYT)

PROPERTY TAX REBATES OFFSET INCREASES The city finance commissioner, Martha E. Stark, said yesterday that the $400 annual property-tax rebate approved in 2004 largely offset the effect of higher property-tax rates that took effect in 2003. Ms. Stark said that the average increase in taxes for one-, two- and three-family houses totaled $743 in the last three years, while most owners received two rebates totaling $800. The figure, presented at a City Council hearing, surprised several lawmakers and the city comptroller, William C. Thompson Jr. An assistant finance commissioner, Sam Miller, said taxes increased far more slowly than market values because of state-mandated assessment capsSEWELL CHAN (NYT)

SLEEPY HOLLOW: BOY DIES IN ICY POND A 6-year-old boy died after he fell into a pond while walking his neighbor's dog last evening, the police said. The boy, Julian Geach, left home about 5:30 p.m. with the dog, which his family was caring for. About 6:15 p.m., when the boy had not returned, his parents called the police. The dog was found near Fremont Pond, about a half-mile from the boy's home. A team of divers broke through the thin sheet of ice and slush on the pond's surface and recovered the boy's body, about 30 feet from the shore. He was taken to Phelps Memorial Hospital Center in Sleepy Hollow, where he was declared dead at 10 p.m.JENNIFER 8. LEE (NYT)

ANTHRAX PATIENT IMPROVES Vado Diomande, the New York City musician and drummer who contracted inhalation anthrax last month from making drums with untreated animal skins, was upgraded from serious to fair condition yesterday, the first change since Feb. 24, when his condition was downgraded from stable to serious. "He is breathing without assistance and eating solid food," said Alexander Harman, Mr. Diomande's brother-in-law. "He has his voice back." Mr. Diomande has been hospitalized in Pennsylvania since he collapsed after a musical performance there on Feb. 16. Meanwhile, workers continued to clean an eight-story Brooklyn warehouse where Mr. Diomande worked on the skins. The third and sixth floors of the warehouse, which house commercial lofts used by about 30 tenants, remained sealed yesterday.SEWELL CHAN (NYT)

MANHATTAN: WOMAN DIES IN FALL An elderly woman died from a suspicious fall in the stairwell of her East Side apartment building yesterday afternoon, the police said. The woman, Phyllis Weiner, 89, was taken to NewYork-Presbyterian/Weill Cornell hospital about 2:20 p.m., where she was pronounced dead on arrival. Ms. Weiner lived in an 11th-floor

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apartment at 157 East 57th Street. It is an elevator building, but her body was found on the 10th-floor landing. Investigators said it was unlikely that she had entered the stairwell by herself because she used a walker, which was found on the 11th floor. Ms. Weiner's purse was missing and a nephew, Michael Zerin, said she had gone to the bank earlier in the day. The police said they had no suspects.JENNIFER 8. LEE (NYT)

Compiled by John Sullivan

Labor Leader Brian McLaughlin Is Target Of Probe Into Bid- Rigging On Contracts. (NYDN)

By Juan Gonzalez

New York Daily News, March 7, 2006

Council Prez McLaughlin may be asked to curtail his leadership responsibility

Brian McLaughlin - a target of a federal probe into possible bid-rigging of city street-lighting contracts - may be asked to curtail his role as president of the city's Central Labor Council.

Under a plan fashioned by Denis Hughes, president of the New York State AFL-CIO, McLaughlin would continue to serve as president, but Ed Ott, a top staff person, would assume some of the public functions normally handled by the president.

At the same time, the labor council, whose headquarters was raided by more than 20 FBI agents last week, would create a small "rapid-response team" of about a dozen city labor leaders to handle the federal probe without any involvement from McLaughlin, a Queens assemblyman. The council also would hire its own independent attorney to deal with the feds.

"Brian hasn't been accused of any crime and we have to be careful about a presumption ofinnocence," Hughes told me yesterday. "But this is the beginning and I don't know where it [the investigation] is going to go."

Hughes' goal is to keep McLaughlin's legal problems separate from the day-to-day work of the council, the powerful umbrella group that represents the city's 1 million union members.

All day yesterday, Hughes feverishly worked the telephones to win support for his plan from key city labor leaders. He is expected to hold an emergency meeting of the council's leadership this week to win formal approval for the plan.

"I spoke with Brian today and he understands what has to be done," Hughes said, adding that he also consulted with top officials at the AFL-CIO in Washington this weekend.

Hughes is perhaps the only labor official with enough influence over all sectors of the city's normally fractious labor movement to secure quick agreement on a strategy.

He is well-regarded by both the big municipal and service sector union leaders as well as by the construction trades, the group that has historically controlled the Central Labor Council.

With the federal investigation of McLaughlin likely to take months, Hughes and other top union leaders have reluctantly concluded that the council can't risk being paralyzed until the results are known. "Denis has stepped in and taken charge and the national is onboard," a labor source said.

Several union leaders told me yesterday they were troubled by McLaughlin's failure to speak out or even to contact many of his fellow union leaders. He has not been seen in public since Thursday morning's FBI raid on the council's W. 15th St. headquarters. He did report to work at the headquarters yesterday, but did not return phone calls for comment.

Late Friday, his lawyer, Paul Driscoll, issued a short statement that McLaughlin "denies all allegations against him."

Many union leaders are furious at the FBI's high-profile raid on Central Labor Council headquarters, given that there is no suggestion of any wrongdoing by the council itself. "This is a fishing expedition by the feds," said Arthur Cheliotes, president of Local 1180. "Until anyone proves otherwise, I'm with Brian and supporting him completely."

"Brian's been with us in very tough fights and many of us on a personal level are rooting for him," said Randi Weingarten, president of the teachers union and one of McLaughlin's closest allies in the labor movement.

As for Ott, who may soon assume many of McLaughlin's functions, he is currently the director of public policy and worker education for the council and is known as a fiery orator. Before coming to the council, he was a staff member at both Local 1180 and the Public Employees Federation.

TOUGH JOB FOR LABOR (NYPOST)

By CARL CAMPANILE

The New York Post, March 7, 2006

March 7, 2006 -- The New York state AFL-CIO went into crisis mode yesterday to respond to a federal probe linking powerful labor boss and Queens Assemblyman Brian McLaughlin to alleged bid rigging of city street-lighting contracts.

State AFL-CIO President Denis Hughes announced that the New York City Central Labor Council will hire its own lawyer to comply with questions from the feds about the scandal. McLaughlin is head of the CLC, which is part of the AFL-CIO.

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About a half-dozen city labor leaders - all executive board members - will also be put on a special panel to help make rapid decisions about the probe and CLC business, sources said.

"We're going to do this in a upfront, aboveboard way," Hughes said.

Hughes also said McLaughlin will remain CLC president - for the time being - because he has not been charged with a crime.

Hughes said he informed McLaughlin of the planned actions.

The action plan, which has been cleared by the leadership of the national AFL-CIO, shows how concerned the labor leaders are about the McLaughlin probe and the possibility that he might be charged with a crime.

Meanwhile, the federal probe received a thumbs-up from former city transportation boss Wilbur Chapman.

"Thank God - finally," Chapman told The Post. "I'm happy that someone from the outside is looking at the process."

Chapman confirmed yesterday's Post report that when he was transportation boss, he questioned why just two firms - Petrocelli Electric and Welsbach Electric - continued to be awarded all the street- and traffic-light repair contracts throughout the five boroughs year after year, even after the DOT switched to new light-emitting diode technology in 1999.

"There has to be more than one or two companies to provide street lighting. I have trouble with that," Chapman said yesterday. "General Motors doesn't have a monopoly on selling cars in America."

Brothel Owner In Nevada Faces Federal Corruption Charge (AP)

By KEN RITTER, ASSOCIATED PRESS

AP, March 7, 2006

LAS VEGAS (AP) - The owner of three southern Nevada brothels was charged Monday with trying to bribe a county commissioner to relax laws affecting bordellos.

Joseph Maynard Richards, 72, is accused of funneling $5,000 to a commissioner in rural Nye County in return for support for a law to let brothels be built closer to county roads and highways. He could face up to 20 years in prison and a $250,000 fine if convicted.

Richards told a judge he understood the wire fraud corruption charge on which he was arrested Saturday. Richards will plead not guilty, his lawyer said outside court.

"I'm surprised they brought the case, from what they have in the complaint," lawyer Leo Flangas said.

The 16-page complaint describes video and audiotaped conversations between Richards and an unnamed commissioner from June to November 2005.

Commission Chairwoman Candice Trummell, a Republican from Pahrump, confirmed for The Associated Press that she was the cooperating witness.

"I was told I never was a target of the investigation," the 27-year-old commissioner said, describing how she rewrote an ordinance "with Mr. Richards' interests in mind in exchange for the money."

"This was done in cooperation with the FBI," Trummell added, describing the FBI probe as an ongoing public corruption investigation that began before she was elected to the five-member commission in 2003.

Nye County ordinances require that brothels be 300 yards from a road or highway. Richards owns a property on which the complaint alleges he is prevented from building a brothel because of the rule.

No vote was ever taken on revising 300-yard limit, Trummell said.

Trummell said her discussions with Richards involved using the money to pay law school tuition at the University of Nevada, Las Vegas. She has not enrolled.

Flangas noted that the complaint describes a signed document under which Richards transferred the money to Trummell through his Richards Family Trust.

"I don't know if it was a loan or a gift," Flangas said. "But it was done aboveboard. It was not a quid pro quo."

Nye, which has seven brothels, is one of 10 rural counties in which prostitution is legal under county and state oversight. Prostitution is illegal in Nevada's most populous areas, including Las Vegas and surrounding Clark County, and Reno and surrounding Washoe County.

Richards owns the Mabel's Ranch, Cherry Patch Ranch and Cherry Patch II Ranch brothels, plus two massage salons and a striptease club in the Pahrump area about 60 miles west of Las Vegas.

U.S. District Court Magistrate Judge Peggy Leen freed Richards without bail but with electronic home monitoring pending a March 22 preliminary hearing.

Chief Assistant U.S. Attorney Steven Myhre had asked Leen to set a $1 million bail. Although he offered no proof, Myhre said Richards had been in contact with Nevada's most notorious fugitive brothel owner, Joseph Conforte.

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Conforte, who used to own the Mustang Ranch brothel east of Reno, was accused of owing $13 million in back taxes when the IRS seized the property in 1990. Conforte reportedly fled to Brazil, where his lawyer has said courts wouldn't let him be extradited to the U.S.

Myhre said Richards is a multimillionaire who has passports and cash buried in an ammunition can in the desert that he would use to flee before he is prosecuted.

Richards shook his head no, causing his long mane of silver hair to brush the shoulders of his orange jail jump suit.

Flangas told the judge that Richards had no contact with Conforte.

Trial in an unrelated case in which a Las Vegas striptease club owner is accused of funneling money to Clark County commissioners in return for their support for laws benefiting his business is due to begin next week.

FBI Probes Use Of Funds By Ex-FEC Aide (RC)

By Paul Kane

Roll Call, March 7, 2006

The FBI is investigating allegations that a former top official at the Federal Election Commission tried to settle a sexual harassment complaint from a female staffer by attempting to misappropriate $100,000 in taxpayer funds last fall.

Amid AIPAC's Big Show, Straight Talk With A Noticeable Silence (WP)

By Dana Milbank

The Washington Post, March 7, 2006

Words are seldom minced at the annual meeting of the American Israel Public Affairs Committee.

During a luncheon speech yesterday at the convention center, Daniel Gillerman, the Israeli ambassador to the United Nations, shouted a barnyard obscenity involving a bull when he dismissed the theory that Iran and Hamas might soften their anti-Israel views. The audience gave Gillerman a standing ovation.

The undiplomatic diplomat went on to describe a war on radical Islam: "While it may be true -- and probably is -- that not all Muslims are terrorists, it also happens to be true that nearly all terrorists are Muslim."

But ask people at this week's gathering about Steve Rosen, the father of modern AIPAC, who goes on trial next month for disseminating classified information, and you get the sort of look you'd expect if you inquired about an embarrassing medical condition.

"I'm not the person to ask about that," says Nathan Diament, a Washington representative for Orthodox Jews.

"Who?" responds Neil Cooper, a delegate from the Philadelphia area.

"Rosen? Which one is he?" answers a charity executive, with a smile.

"I need to read more about it," demurs Etan Cohen, a college student.

AIPAC staff members note that, with Iran and the Palestinians to worry about, the indictments of Rosen and former deputy Keith Weissman have not been mentioned in any of the group's public meetings so far. And they say the pro-Israel lobby, unharmed by the Rosen flap, is putting on its biggest and best show ever this week: 4,500 participants, including more than 1,000 students, paying visits to at least 450 House and Senate offices.

Indeed, the scandal doesn't seem to have slowed down the group. At last night's dinner, AIPAC set aside 27 minutes for the reading of its annual "Roll Call" of lawmakers, diplomats and administration officials attending the gathering. As of midday yesterday, RSVPs had come in from 57 embassies, from Burundi to Turkey; a score of Bush administration officials; a majority of the Senate; and a quarter of the House. Even the ambassadors of Pakistan and Oman supped at AIPAC's table.

Any talk of Rosen is confined to private donor meetings and hallway conversations -- where opinions are split on AIPAC's decision to turn its back on Rosen and Weissman.

"I don't like the way AIPAC handled it, hanging them out to dry," said one West Coast delegate, after delivering an on-the-record no comment. "They didn't do anything different from what everybody else does in this town every day."

Rosen and Weissman are the first nongovernment officials to be prosecuted under the all-but-forgotten Espionage Act of 1917. The law, amended in 1950, makes it a crime for an unauthorized person even to have classified information knowingly; if Rosen broke that law, so do hundreds of other lobbyists and journalists as part of their normal course of business.

The New Yorker magazine reported last year that AIPAC's lawyer, Nathan Lewin, recommended that the two officials be fired after he heard from prosecutors about an FBI-recorded telephone call between Rosen, Weissman and The Washington Post's Glenn Kessler, in which Rosen observed that "at least we have no Official Secrets Act." Lewin and the prosecutors may not have realized that the line -- referring to a British law about publishing classified information -- was a stock joke Rosen used in conversations with Kessler and other reporters.

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AIPAC at first defended Rosen vigorously, then dismissed him in April over unspecified conduct "beneath the standards AIPAC sets for its employees." The group has advised members that it has not taken a position on whether Rosen acted legally.

That nuance was understandably lost on most of the attendees asked about the matter at yesterday's session. "AIPAC doesn't support passing of state secrets to Israel, and that's my view, too," said Daniel Rathauser, a high school senior from New Jersey.

Max Newman, from Michigan, had no complaints, either. "I respect the way the organization handled it," he said. "What they did was against the policy of AIPAC."

Exactly what they did should come out in next month's trial. In the meantime, AIPAC is clamping down on what information it lets out.

Luncheon speeches by former House speaker Newt Gingrich (R-Ga.) and former Virginia governor Mark Warner (D) were declared off the record. At another speech yesterday by Republican National Committee Chairman Ken Mehlman, reporters were turned away at the door; an AIPAC spokeswoman went through the room making sure no journalists had infiltrated.

At the public sessions, the message was uniform: AIPAC is strong, and getting stronger. "Thank God for AIPAC," Gillerman told the participants. "This is for us the greatest guarantee and insurance policy for the survival of Israel," he added. "Please don't ever change."

As Rosen and Weissman have learned, it already has.

Junior Gotti Was 'Sick Of This Life,' Radio Show Host Kuby Says (NSDY/AP)

By Larry Neumeister, Associated Press Writer

Long Island Newsday, March 7, 2006

NEW YORK -- John "Junior" Gotti said in 1998 that he was "sick of this life" and would plead guilty to criminal charges, a lawyer who co-hosts a radio show with Guardian Angels founder Curtis Sliwa testified Monday at Gotti's mob trial.

The testimony by Ron Kuby, a veteran civil rights attorney, was intended by defense lawyers to boost Gotti's argument that he had rejected life in the Gambino crime family when he pleaded guilty in 1999 to racketeering charges. On that front, they got mixed results.

Kuby, who had represented a Gotti co-defendant, testified that Gotti said he "wanted to rejoin his family and be done with this," but the lawyer could not be more specific.

"He told me he was sick of this life," Kuby said. "He wanted this to be over."

Outside court, Kuby said he never asked Gotti what he was referring to when he said he wanted out.

"I was functioning as a lawyer, not a priest," Kuby said. "He did not elaborate. I did not ask."

He said he assumed Gotti meant he was "tired of being a criminal, tired of being a defendant, tired of being in prison, tired of being away from family."

The government last year brought a new racketeering case against Gotti related to crimes not covered in his April 1999 plea deal. Prosecutors said Gotti continued to do mob business from prison after claiming he had quit the Mafia.

The testimony by Kuby put the radio personality in an odd position with Sliwa, who prosecutors say was shot twice in 1992 after Gotti ordered him kidnapped and beaten because of on-air rants against Gotti's father, John Gotti. The elder Gotti was convicted of racketeering in 1992 and died in prison a decade later.

Junior Gotti insists he had nothing to do with the attack on Sliwa.

Sliwa testified about the shooting during the current trial and another trial last September that ended with a hung jury.

On their radio show Monday morning before Kuby testified, Sliwa poked fun at his co-host, calling the liberal counterpoint to Sliwa's conservative viewpoints a Judas.

"Maybe you should be doing a radio show with John Gotti Jr.," Sliwa said.

Kuby said Sliwa had nothing to fear.

"I don't have a dog in this fight, outside of my allegiance to the truth," he said.

Final arguments in the case were scheduled for Tuesday.

Sliwa's Radio Co-Host Testifies For Gotti (WCBS-TV)

By Pablo Guzman

WCBS-TV, March 7, 2006

(CBS) NEW YORK “Curtis & Kuby” are a well-known WABC radio morning team. Partners. “Curtis”, of course, is Guardian Angels co-founder Curtis Sliwa. In 1992, someone shot him after he got into a cab. From inside the cab. The Feds say that was done on the orders of John Gotti, who wanted to teach Sliwa a lesson for badmouthing his father on their radio show. And for that, Gotti is on trial.

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"Kuby" is Ron Kuby, the activist lawyer who came of age with William Kunstler. Sliwa took the stand last Monday to, as he put it, "stare Gotti down." But now that it's the turn of the Gotti defense, his lawyer Charles Carnesi called Kuby to the stand. A rather interesting turn of events in a trial that has seen the government use the re-direct of their star witness, "Mikey Scars" DiLeonardo, to bring out that young Gotti and "Mikey Scars" allegedly took girlfriends (behind their wives' backs) to party on a yacht Gotti supposedly hired for "Scars' " 40th birthday; and, to reveal that Gotti's father had a mistress. And a daughter in that illicit relationship. Or so it's alleged.

This, with the Gotti family --- particularly, the women and young Gotti's father-in-law --- in court.

In turn, one of the first witnesses Gotti's lawyer called was DiLeonardo's ex-wife. To say how embarrassed their son was about both the father being a rat AND putting his mistress up in a house on Staten Island near theirs.

It's been that kind of trial.

Enter Ron Kuby.

Part of Gotti's case revolves around his contention that by 1998, he became disillusioned with "this life of ours." That he was ready to do one last prison time, if it would settle the books with the government. So he could walk out of the slammer, and just be with his wife and five kids (that wife, by the way, Kim, expecting their sixth child, was in court today for the first time).

Kuby testified on the stand that while representing Gotti in 1998 (in the case alleging a Gambino shakedown of the strip joint "Scores"), that Gotti approached him "and he told me he was willing to plead to time in jail, so he could put all this behind him." By "this", I asked Kuby, did he mean "this mob life?" "I took it to mean that he wanted to put criminal life behind him. That he was tired of being in jail, tired of being in court, tired of being away from his family. That he wanted that life to end."

Now, at the end of the trial, the government will probably tell the jury to ignore whatever anyone says about Mr. Gotti wanting out of the Mafia after 1998. Because the time covered in the trial is a shooting of Curtis Sliwa in 1992. When, the Feds say, Mr. Gotti was very much a prince of the mob.

But that is not really Mr. Gotti's and his lawyer, Mr. Carnesi's, point. They are hoping that the jury interprets Kuby's testimony as another hole in what the government's star witness, Michael DiLeonardo --- "Mikey Scars" --- said on the witness stand. He said no one leaves the mob. Who will the jury believe? Kuby, the radio host, who said Gotti told him he wanted out? Or "Scars"? Who said, no one gets out. Not alive, anyhow.

Because if "Mikey Scars" is lying about that, then --- could he also be lying about something else? And if a couple of jurors begin to have doubts about the government's case, then --- could it affect the verdict?

The jury should start discussing just that within a couple of days.

KUBY'S TESTIMONY RADIO-ACTIVE (NYPOST)

By DAN MANGAN

The New York Post, March 7, 2006

March 7, 2006 -- John "Junior" Gotti's defense yesterday received an unexpected boost from Curtis Sliwa's radio partner, who testified that the ex-mob boss declared eight years ago he was leaving organized crime because he wanted to go legit.

"He told me he was sick of this life," criminal-defense and civil-rights lawyer Ron Kuby testified. "He wanted to get out of this life, to do real prison time . . . He wanted to rejoin his family and be done with this. He wanted this to be over."

Kuby, who co-hosts a WABC radio show with Sliwa, said he was representing Gotti's co-defendant in a racketeering case in 1998 when Junior made the confession.

Kuby's testimony in Manhattan federal court put the radio personality at odds with Sliwa, who prosecutors say was shot twice in 1992 after Gotti ordered him kidnapped and beaten because he was blasting his "Dapper Don" father on the air.

Yesterday's explosive testimony saying Gotti had left the mob in 1998 backed the defense's claim that the five-year statute of limitations had run out on Junior's alleged racketeering before he was indicted in 2004.

Kuby said the conversation occurred when Junior asked him to approach the feds to discuss a plea bargain for everyone involved in the earlier racketeering case.

Under cross-examination, Kuby said he had no knowledge that Junior later stopped earning money from the mob - and said Gotti never admitted to him he was in the mob.

Outside court, Kuby said he never asked Gotti what he was referring to when he said he wanted out.

"I was functioning as a lawyer, not a priest," he said. "He did not elaborate. I did not ask."

On their radio show earlier yesterday, Sliwa took aim at Kuby's willingness to testify.

"Maybe you should be doing a radio show with John Gotti Jr.," Sliwa said.

Two of Gotti's cousins also claimed Gotti left the mob by 1998.

Michael DiGiorgio said he visited his brother John, a Gambino crime-family associate, in federal prison in Miami, where he met John's cellmate, Gambino captain Tony Morelli.

Morelli asked Michael DiGiorgio to pass a message to Gotti that his family was having money trouble.

"Tony had complained to me that he felt abandoned . . . financially, that his wife was in financial straits," Michael testified.

When Michael, 43, relayed the message during a visit to Gotti in his Westchester County jail in 1998, Junior wasn't receptive, he said.

"John told me to tell Tony that he was out of that life . . . but there was nothing he could do to help him," Michael said.

Michael claimed he relayed the message to Morelli.

"I know what it meant - that [Junior] was no longer involved in the Mafia," he said.

Outside the presence of the jury, John DiGiorgio, 50, said Gotti's message meant "he threw in the towel. He was finished."

Also yesterday, Gotti's younger brother, Peter, testified about how criminal prosecutions had disrupted his family's life.

On cross-examination, prosecutor Michael McGovern asked him what his father, the Teflon Don, did for a living. Peter Gotti, 31, paused, then smiled.

"Boss," he said.

After a chuckle, he added, "I have no idea, Mr. McGovern."

Asked whether he was aware of his brother's role in the mob, he said, "I assumed he was definitely, you know, in a family."

Sliwa Says Radio Partner 'Judas' (NYDN)

New York Daily News, March 7, 2006

"The Curtis & Kuby Show" played on the radio - and in court - yesterday as Curtis Sliwa called his on-air partner Ron Kuby a "Judas" for testifying on behalf of John A. (Junior) Gotti.

Kuby, a lawyer, bolstered Gotti's defense against claims the mobster sent two thugs to beat Sliwa for his on-air attacks against the Dapper Don John Gotti in 1992.

Gotti contends that he left the mob in 1998.

"He told me he was sick of this life," Kuby testified. "He wanted this to be over. He wanted to rejoin his family and be done with this." Kuby said the spring 1998 chat occurred while Gotti and dozens of others were under indictment for a loansharking and extortion scheme that involved the Manhattan strip club Scores.

"John Gotti . . . specifically asked me if I would do him a favor," Kuby testified.

Gotti, 42, wanted Kuby, then representing co-defendant Stephen Sergio, to approach federal prosecutors and discuss a plea deal for everyone involved.

Outside court, Kuby said he didn't question Gotti further about ending his mob life.

"I was functioning as a lawyer, not a priest," he said. "He did not elaborate. I did not ask."

Kuby gave a preview of his testimony on his morning WABC radio show yesterday - prompting Sliwa to call his decade-long radio partner "Judas."

"Curtis, you should have nothing to fear from the truth," Kuby said.

Sliwa was shot near his East Village apartment after he hailed a cab carrying two men prosecutors say were sent by Gotti.

The issue of Gotti's pre-1999 withdrawal from the mob is key because prosecutors must show at least one crime in the long-running conspiracy case occurred within five years of his 2004 indictment.

Gotti's attorneys want to play for jurors a recording of a prison visit with his father that they say will feature the Mafia scion using coded language to say he wants out of the mob.

Peter Outs Dead Dad On Stand (NYDN)

By THOMAS ZAMBITO, DAILY NEWS STAFF WRITER

New York Daily News, March 7, 2006

Dapper Don called 'Boss'

Peter Gotti (in September photo) testified his father, John (Dapper Don) Gotti, 'probably' was Gambino crime family head.

As he entered the witness stand yesterday, the youngest son of John (Dapper Don) Gotti made family history - then cemented his place in it with a one-word answer.

"Boss," Peter Gotti said.

That's how the Dapper Don's 31-year-old son described what his father did for a living, saying in a second what prosecutors spent a decade trying to prove.

No Gotti family member has ever testified at a criminal trial until yesterday, when Peter Gotti took the stand in his brother John A. (Junior) Gotti's defense to federal kidnapping and extortion charges in Manhattan.

Then again, Peter Gotti never had much to hide.

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He was the one son of the Dapper Don who didn't embrace the life of a mobster, staying out of the headlines and living a trouble-free life - aside from a few gambling debts.

Heavyset, he bore just a slight resemblance to his late father. He wore an all-black outfit and his accent was rooted in the Howard Beach, Queens, neighborhood where he was reared.

After taking the oath and promising to tell the whole truth, Gotti started nervously.

But as he scrolled through family photos, he seemed more at ease, joking with his brother's attorney, Charles Carnesi, and making cracks about his brother's hair.

By using old family snapshots, Carnesi was trying to counter prosecutors' claims that several men were his brother's criminal associates - suggesting they were longtime childhood pals.

There was a photo of Junior Gotti, wearing the number 71 for his peewee football team in Howard Beach. "That's him with the Afro," Gotti joked.

And there were childhood photos that included the late Frankie Gotti, killed after being hit by a car near the family's Howard Beach home.

Mother Victoria Gotti, seated in the audience, appeared to look away when the photo appeared on a courtroom screen.

But after he did his brother's bidding, federal prosecutor Michael McGovern made things interesting.

"Do you know what your father did for a living?" McGovern asked.

The question startled Gotti, as he shifted uneasily in his chair for several seconds before finally answering sheepishly.

"Boss," he said.

Asked if he knew his father was the head of the Gambino crime family, Gotti responded:

"I have no idea, Mr. McGovern," Gotti said. "I would probably say he was."

Under the old Mafia rules, such an admission could have merited a death sentence.

But Junior Gotti has admitted his mob membership, saying he quit the life by 1999, hoping to spare his children from the legacy of crime he inherited.

Asked whether he knew that his father was responsible for the deaths of former Gambino mob boss Paul Castellano and his bodyguard in a bloody takeover of the Gambino family, he said: "That's what I've read. I've heard."

McGovern peppered Gotti with questions, asking him if he knew that his brother, several uncles and a former brother-in-law - sister Victoria's ex Carmine Agnello - were in the mob. He said he had no direct knowledge but after 20 years of reading media accounts, he assumed they were.

"I'm in a bubble, not in a cave," he said. He added: "It's not my business. I don't really care."

He was shown surveillance photographs of himself with his uncle Peter Gotti outside his father's Queens headquarters, the Bergin Hunt and Fish Club. "I was at the Bergin as a young kid," he said. "My uncle was just another guy who was there."

Gotti was called to refute allegations made by mob snitch Michael (Mikey Scars) DiLeonardo that he acted as the go-between for $50,000 in mob cash belonging to his brother.

"Never," Gotti said when asked if he'd ever picked up money for his brother.

He said his brother wouldn't have allowed it since he was well aware of his gambling habits. "He simply didn't trust me with money," he said.

McGovern will continue his cross-examination today and Gotti promised he'll be ready.

"I'm gonna rack 'em up again tomorrow," he said.

Trial Begins Of NY Cops Charged As Mafia Hit Men (REU)

By Ransdell Pierson

Reuters, March 7, 2006

NEW YORK (Reuters) - Jury selection began on Monday in the federal trial of two former New York detectives accused of having been hit men for the mob in a case the judge predicts will captivate the jurors.

Defendants Stephen Caracappa, 64, and Louis Eppolito, 57, were charged early last year with secretly working for the Luchese crime family while employed as police officers and involvement in 11 murders or attempted murders.

The charges, which also include kidnapping and other crimes, set the stage for a colorful and closely watched trial. Both defendants had served on the force more than 20 years.

Brooklyn U.S. District Court Judge Jack Weinstein set opening arguments for March 13 and assured hundreds of potential jurors assembled in his courtroom the case "will be one of the most interesting experiences of your life." Twelve jurors and six alternates will be selected.

When Eppolito showed up in court 75 minutes late, Weinstein ordered that he be rearrested and that his $5 million bail be revoked until a good explanation was provided.

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Weinstein, an 85-year-old former Columbia Law School professor known for toughness, set Eppolito free again after defense lawyer Bruce Cutler explained that his client had been seriously delayed by a "trailer accident" on the highway.

In the courtroom, the tall and overweight defendant seemed at ease, embracing Cutler and trading smiles and pleasantries with Caracappa and his co-defendant's high-profile lawyer, Edward Hayes.

Cutler, best known for his successful defense of the late Gambino crime family boss John Gotti in several trials, said it will be tougher to defend Eppolito because federal prosecutors plan to have at least four Mafia informants and turncoats testify against him.

"The federal government is making sweetheart deals with all kinds of people -- including (crime family) acting bosses -- that will say what the government wants to hear," Cutler said in a telephone interview.

After retiring, Eppolito played a bit role as "Fat Andy" in the mob movie "Goodfellas" and played character roles in several other Hollywood productions.

BQE Jam Holds Up Cop Trial (NSDY)

By Anthony M. Destefano, Staff Writer

Long Island Newsday, March 7, 2006

You think you have traffic problems?

Yesterday's huge jam on the Brooklyn-Queens Expressway almost sent one of the "Mafia Cops" to jail before his racketeering trial even began after he was late to federal court for the start of jury selection.

Louis Eppolito, 57, who is living under house arrest with relatives in Plainview, walked into Brooklyn federal court about 90 minutes late after stewing in traffic on the BQE for nearly as long. When Eppolito finally arrived at the Cadman Plaza courthouse, an angry Judge Jack Weinstein ordered him arrested by federal marshals and his $5 million bail revoked.

But after defense attorney Bruce Cutler explained to Weinstein that two disabled tractor-trailers had shut down the roadway, Weinstein reinstated bail and revoked the arrest.

Eppolito and Stephen Caracappa, 64, former New York City police detectives, are accused of being paid assassins for the mob in the late 1980s and early 1990s. Both have denied wrongdoing and are under house arrest.

Outside court, Eppolito told Newsday that he had left the home of his brother and sister-in-law at around 7:40 a.m. After an uneventful ride westbound on the Long Island Expressway, the trip suddenly turned chaotic when his car exited for the BQE, said Eppolito. Under the terms of his bail he is not allowed to have a cell phone, so Eppolito said he could not call the court.

Opening statements are set for March 13.

'MAFIA' COP IN A JAM (NYPOST)

By ZACH HABERMAN

The New York Post, March 7, 2006

March 7, 2006 -- A traffic jam almost landed reputed mob cop Louis Eppolito back in prison yesterday.

The ex-NYPD detective, accused along with his partner, Stephen Caracappa, of being paid hit men for the Mafia, arrived at Brooklyn federal court over an hour late - holding up the start of jury selection.

"Did you arrest him like I ordered?" a fuming Judge Jack Weinstein asked a courtroom marshall after Eppolito finally arrived.

While he was placed in their custody, a shaken Eppolito - who had been free on $5 million bail - was neither handcuffed nor had his arrest processed. The judge called off the guards after Eppolito explained he was not jumping bail - he was simply stuck in bumper-to-bumper traffic on the Brooklyn-Queens Expressway.

"It was beyond my control," Eppolito, 57, said outside court. "I just sat in traffic in the car."

One of Eppolito's bail restrictions prevents him from having a cellphone, so he had no way of contacting the court or his attorney.

His lawyer, Bruce Cutler, was apparently so concerned by the unexplained absence he almost called Nassau County cops to check the Plainview, L.I., home where Eppolito is staying while awaiting trial.

Two hundred potential jurors in the hotly anticipated police-corruption trial filled out questionnaires yesterday, while Weinstein promised the trial would be "the most interesting experience of your life."

Caracappa, 64, and Eppolito are accused of using their positions within the department to leak sensitive NYPD intelligence to the Luchese crime family, information allegedly used to commit eight gangland slayings.

The 42-page questionnaire asked a range of questions such as whether potential jurors had ever read Eppolito's autobiography, "Mafia Cop."

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They were also asked if they recognized the names of well-known wiseguys, such as the late Gambino boss John Gotti, his whacked predecessor Paul Castellano, and turncoat Salvatore "Sammy Bull" Gravano.

The trial is set to get under way on Monday.

'Mafia Cop' Angers Judge, But Dodges Jail With Quick Excuse (NYDN)

By JOHN MARZULLI, DAILY NEWS STAFF WRITER

New York Daily News, March 7, 2006

Saved by gridlock! Blames BQE for missing court

Here's not the best way to start off your trial: Reputed Mafia cop Louis Eppolito got himself arrested briefly yesterday when he ticked off the judge by showing up late.

The portly ex-NYPD detective, accused of being a hit man for the mob, waddled into Brooklyn Federal Court more than an hour late, incurring the wrath of Judge Jack Weinstein.

After 140 prospective jurors had filled out a lengthy questionnaire in another room, Weinstein called an impromptu courtroom conference.

"Is he under arrest?" Weinstein asked a U.S. marshal, causing the color to drain from Eppolito's face.

When the lawman indicated Eppolito was not, Weinstein barked: "He's now under arrest and bail has been revoked."

Defense lawyer Bruce Cutler explained his client wasn't AWOL - he had been stuck in a traffic jam on the Brooklyn-Queens Expressway caused by an overturned tractor-trailer.

The judge accepted the explanation and reinstated Eppolito's $5 million bail.

"I just sat in traffic in the car. It was beyond my control," Eppolito said outside court.

Eppolito and his former NYPD partner Thomas Caracappa are accused of leaking information about confidential informants and investigations to the Luchese crime family for years. Eppolito is charged with participating in eight gangland murders and Caracappa seven.

Prospective jurors answered 77 questions, including whether they had read Eppolito's autobiography, "Mafia Cop," or watched the defense lawyers' "Cutler and Hayes Show" on Court TV.

"For many of you [the trial] will be one of the most interesting experiences of your life," Weinstein told the jurors.

Take 1 Trial. Add The Mob. Yield: 4-5 Books And A Film. (NYT)

By Alan Feuer

The New York Times, March 7, 2006

Depending on whom you ask, when you ask them and how honest they are, there are four books and a movie, five books and a movie, four books but no movie or five books but no movie about the federal racketeering trial of Louis J. Eppolito and Stephen Caracappa in the works.

The trial, which began yesterday with jury selection in Federal District Court in Brooklyn, has become the latest scoop for the disheveled band of newspaper reporters who write about the courts and has led, in at least two cases, to a literary luncheon and a book deal. It has also served as a midcareer change of pace for two investigators on the case who have cashed in on their inside knowledge, signing book deals of their own.

Almost from the day last March when Mr. Eppolito, 57, and Mr. Caracappa, 64, two former New York police detectives, were slapped in handcuffs over dinner in Las Vegas, literary agents and Hollywood types have descended on the case. There were articles in Playboy and Vanity Fair, not to mention the city's newspapers. At a pretrial hearing in September, Mr. Caracappa's lawyer, Edward Hayes, mused aloud that every member of the prosecution team, except the two chief prosecutors, seemed to have a book deal.

But five books and (possibly) a movie? Without a doubt, the charges in the case are fairly spectacular, revolving around the accusation that the two men betrayed their badges in the 1980's and early 90's by helping to kill at least eight people while working for the mob. But the charges are also fairly old — some 20 years old. And dramatic as they are, they are not entirely surprising: the police and F.B.I. investigated the pair in 1994, but were unable to make a case.

It is true that a gallery of "characters" will emerge at trial, including Burton Kaplan, a drug smuggler and wholesale clothier expected to testify that he served as the liaison between the two men and their Mafia overlord, Anthony Casso, who has the chilling nickname Gaspipe. Then there is Mr. Eppolito, who after his retirement, appeared in several movies, playing bit roles of the sort that one could easily miss while bending down to set one's popcorn on the floor.

It is also true, however, that the case does not really touch upon the larger sorts of issues that usually make a criminal trial— even a police-corruption trial — of interest. It does not, for instance, have the broader theme of cover-up, as did the Abner Louima case, in which one officer was charged with sodomizing Mr. Louima with a broomstick while others were charged with

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erecting a "blue wall of silence" to protect him. Nor does it have the bitter racial tensions of the Amadou Diallo case, in which white officers killed Mr. Diallo, a black man, in a hail of 41 shots.

United States v. Eppolito and Caracappa is a mob case, which is to say, a case with "color" — and therein lies the interest. On Feb. 9, USA Today ran a story deciding that it and other Mafia trials "have the ruthlessness, and the color, that America has come to expect from the mob." A subhead proclaimed: "A lot more colorful than ... Enron."

"This case has allure," said Bruce Cutler, Mr. Eppolito's lawyer, who has been known to wax poetic on America's "psychological obsession" with the mob. "It's a throwback to an atavistic, bygone age."

In a time, and in a city, where it sometimes seems as if all the grit has packed up and moved away, "Mafia cops," as everyone calls the case, will offer glimpses of a salty, old-time Brooklyn. Testimony will include the tale of Eddie Lino, a Gambino family captain shot to death in his Mercedes on the Belt Parkway, and the story of Nicholas Guido, an innocent man killed in a case of mistaken identity because he shared a mobster's name.

"People like these trials for the same reason they're captivated by car accidents," said James Walden, a lawyer who spent six years in the United States attorney's office in Brooklyn prosecuting mobsters. "It's awful, it's degrading and all the characters are vile, but there's something in the theater of it that people can't seem to get enough of."

It helps, of course, when the theater allows catharsis without danger — when, morally speaking, the seats are free of charge.

"If you live a nonmob life, there's no reason to be threatened by the mob," said Gerald L. Shargel, a lawyer whose clients have included John J. Gotti, the late Gambino family don. "You can watch the stories unfold from a safe perch."

The safe perch in this case was the next-to-last row of the second-floor courtroom, where reporters, including three with book deals, sat to watch the trial begin. Not much happened: the jurors received a questionnaire asking if they had ever seen Mr. Hayes and Mr. Cutler on their show on Court TV. Mr. Eppolito, explaining that a tractor-trailer accident on the Brooklyn-Queens Expressway delayed him, was late.

Mr. Cutler is an operatic presence, gruff and voluble and built like a tugboat. Mr. Hayes, by contrast, is lean and adrenal, with the quick wit of a bookie and a closetful of alligator shoes.

The prosecutors, Robert Henoch and Mitra Hormozi, are less prone to flaunt their personalities, but even Judge Jack B. Weinstein, as sober as they come, seemed to acknowledge that the trial would be a drama marked by courtroom flair.

"It will be an interesting trial," he told the jurors. "For many of you, it will be the most interesting experience of your life."

Bulger Brother To Lose Pension For Lying (LAT/AP)

By Ken Maguire, Associated Press Writer

The Los Angeles Times, March 7, 2006

BOSTON — The state's highest court ruled Monday that a brother of fugitive mobster James "Whitey" Bulger must forfeit his $65,000-a-year state pension because he lied to grand juries investigating the gangster's disappearance.

Lawyers for John "Jackie" Bulger, a retired court clerk magistrate, had argued that his crimes were based on family loyalty and didn't affect his job.

But the Supreme Judicial Court ruled that he had an "unwavering obligation to tell the truth" to grand juries investigating his brother's disappearance.

John Bulger, 67, pleaded guilty to perjury and obstruction of justice in 2003 for lying to two federal grand juries. He admitted that he lied when he testified he had not heard from his brother since he fled in 1995. He also admitted lying to a grand jury in 1996 when he said had no knowledge about a deposit box owned by his brother.

Because his crimes were committed while in office, John Bulger may have to repay $243,000 in pension money he has already received. The state had not yet decided whether to seek repayment.

It's not the only Bulger pension dispute.

The state is appealing a Superior Court's November ruling that gave another brother, former University of Massachusetts President William Bulger, $29,000 more than what he was awarded by the state's pension system. William Bulger's annual pension is now $208,000.

Whitey Bulger, 76, the oldest of the brothers, is wanted in connection with 21 murders and is on the FBI's "Ten Most Wanted" list. Prosecutors say he ran the Winter Hill Gang and was an FBI informant who ratted out his competitors in the 1970s and '80s.

Paul T. Hynes, attorney for John Bulger, did not immediately return a call to comment. A phone listing in South Boston for Bulger was temporarily disconnected Monday.

Judge Refuses To Delay Abramoff Sentencing (WP/AP)

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By Associated Press
The Washington Post, March 7, 2006

MIAMI, March 6 -- A federal judge refused Monday to allow a lengthy delay in the sentencing of lobbyist Jack Abramoff, even though lawyers for both sides said the move could jeopardize a federal corruption investigation involving Congress and the Bush administration.

Abramoff attorney Abbe Lowell warned that the defense would disclose information about the ongoing corruption investigation to demonstrate the level of Abramoff's cooperation, something that could affect his sentence in the fraud case.

"We will name names," Lowell said by telephone at a hearing before U.S. District Judge Paul C. Huck. "That is not a good thing for law enforcement."

The judge agreed to delay sentencing from March 16 to March 29, but he rejected a joint motion by federal prosecutors and attorneys for Abramoff and co-defendant Adam Kidan to hold off for at least 90 days.

"I just don't want to get involved in a situation where it just goes on and on and on," Huck said. "I don't see any reason for postponing the sentencing."

Huck said the government can always request a reduction in Abramoff's sentence later and that he probably would allow both Abramoff and Kidan to remain free for a reasonable amount of time after they are sentenced.

Abramoff pleaded guilty Jan. 4 to charges that he and Kidan fabricated a wire transfer to make it appear they were putting a sizable chunk of their own money into the $147.5 million purchase of the SunCruz Casinos gambling fleet in 2000. Kidan pleaded guilty late last year.

Abramoff also pleaded guilty in January to charges stemming from an investigation into his ties to members of Congress and the Bush administration.

Shooter Now Denies Killing Ga. Socialite (WP)

By Harry R. Weber
The Washington Post, March 7, 2006

ATLANTA -- In a stunning about-face, the admitted triggerman in the slaying of an Atlanta socialite denied Monday that he had ever seen the victim in person or that he killed her on orders from the woman's estranged husband.

Testifying at the murder trial of millionaire James Sullivan, Phillip Harwood also denied having any intention to take part in the January 1987 murder of Lita Sullivan at her upscale town house.

The denials came even though Harwood is serving a 20-year sentence for manslaughter after pleading guilty to killing Lita Sullivan. As part of the plea, he agreed to testify against James Sullivan.

"Have you ever laid eyes on her face before today," prosecutor Clint Rucker asked Harwood.

"Other than on the news, no," Harwood responded.

"Did you agree to participate in the death of Lita Sullivan?" Rucker asked.

After a long pause, Harwood turned toward the judge and responded, "Well, your honor, I'd have to answer no. I did not agree to murder Lita Sullivan. The agreement was to take care of her. That was what was spoken to me. As far as participating, my intention was never to participate."

Sullivan, 64, was captured in Thailand in 2002. He's accused of paying Harwood $25,000 to kill his 35-year-old second wife. She was shot by a man carrying a dozen roses and posing as a flower delivery man.

Prosecutors, who are seeking the death penalty, say Sullivan feared losing money and his Palm Beach, Fla., mansion in the divorce.

Harwood said he was in a getaway car nearby when the murder was committed by a man named "John" who worked as a bartender at a topless bar. He said he met the man through a stripper friend of his. Harwood didn't give the man's last name.

"I heard two shots. He came running back and I drove off," Harwood said.

He admitted to the jurors that he bought the flowers that were delivered to the victim.

Harwood also testified that Sullivan had approached him a few months before the slaying and inquired whether he knew anyone who could "take care of" Lita Sullivan. Harwood said he took that to mean one of two things, "either to kill her or to take care of her."

He testified that Sullivan mentioned that bringing his wife flowers would be a good way to get her to come to the door, and said he told Sullivan it might cost him $25,000 to fix his problem.

Harwood confirmed for jurors that he accepted two payments from Sullivan: a pair of cashier's checks for about $12,500 before Lita Sullivan was killed and an envelope filled with cash after she was dead. He said he met with Sullivan in a restaurant in Florida, where he was given the final payment.

Asked by the prosecutor why he took the money, Harwood said he did so because he was scared.

"What's he gonna think if I didn't take the last part of the money?" Harwood said. "He paid me to have somebody kill his wife. Don't you think he might want to take care of loose ends?"

Harwoods' denials put the prosecutor in the unusual position of having to aggressively cross-examine his own witness.

"Do you bear any responsibility Mr. Harwood as you sit here?" Rucker said.

"I guess I do by proxy," Harwood responded, though he didn't clarify what he meant by that.

Rucker pressed Harwood about a claim that he wanted to warn Lita Sullivan three days before the murder.

"Didn't you have her phone number? Why didn't you just call her?" Rucker asked.

"I never thought about it," Harwood responded.

Rucker also questioned Harwood's other claims.

"Would you admit that that story by you is unbelievable?" Rucker asked.

"No, I wouldn't admit that," Harwood responded.

"Look at these jurors in the eyes and tell them you did not kill Lita Sullivan," Rucker asked.

"I did not shoot and kill Lita Sullivan," Harwood said.

Alleged Hitman In Sullivan Trial Blames Another Admits To Being Paid $25,000 To Kill Buckhead Woman (AJC)

By Bill Montgomery, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, March 7, 2006

The man serving time for the 1987 killing of Buckhead resident Lita McClinton testified Monday that he wasn't the triggerman.

Phillip Anthony "Tony" Harwood said that although millionaire murder for hire defendant James Vincent Sullivan paid him $25,000 to kill his estranged wife, she was killed by a man he knew only as "John the bartender."

Harwood said on Jan. 13, he, John, and a woman he described as a hooker, travelled from North Carolina to the Atlanta area and checked into a hotel.

On the morning of Jan. 16, Harwood said he drove John to McClinton's Buckhead townhome. Harwood said he sat in the car while John left the car. He heard two gunshots "a heartbeat apart" and when John returned he had blood on his face, Harwood testified.

Harwood said he then drove to a Suwanee reststop and called Sullivan, informing him of the hit.

Harwood, 55, pleaded guilty in 2003 to voluntary manslaughter in McClinton's death and received a 20-year prison sentence, avoiding the death penalty, in return for a pledge to testify against Sullivan.

When prosecutor Clint Rucker asked Harwood if he agreed to kill Lita Sullivan, Harwood replied, "To be honest, I have to answer no. The agreement was to 'take care of her' but my intention was never to participate."

"What do you think Sullivan meant by 'take care of her,'" asked Rucker.

"I figured he meant to kill her, you don't pay $25,000 to scare nobody," said Harwood.

Harwood said Sullivan first broached the subject at Sullivan's Palm Beach mansion on Nov. 24, 1986, nearly two months before the murder. Harwood had just moved Sullivan's furniture from Macon to Palm Beach, Fla.

"Mr. Sullivan told me he was having problems with his soon-to-be ex-wife —- she was going to take him for everything he's got. He asked me if I knew of anyone who could take care of his problem," Harwood testified.

"I recognize shoe shuffling and BS-ing when I hear it. I think he was jiving me. He was angry and I didn't take nothing serious," he said.

Rucker asked Harwood when he knew Sullivan was no longer joking.

"When I got $12,500 in the mail," the witness said.

Earlier Monday, Harwood's former girlfriend was questioned for more than three hours by defense attorneys.

Belinda Trahan once again pointed out millionaire James Vincent Sullivan as the man she saw hand Harwood $25,000 in a Florida diner for the contract killing.

Defense attorney Ed Garland was questioning Trahan on the relatively short amount of time she had been in Sullivan's presence, when, in a voice bordering on anger, Trahan said, "I know what I saw and you can't take that from me no matter what you do."

Trahan didn't hesitate on the witness stand last week when she was asked to point out the person who gave her boyfriend money not long after the murder.

"He's right there," Trahan said, pointing to Sullivan. "Glasses. Blue suit. White hair."

Sullivan, 64, showed no reaction to Trahan's identification.

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One of the most compelling witnesses in the trial to date, Trahan, 47, who now lives in Texas, spent almost two hours testifying for the prosecution Friday. Prosecutors are seeking the death penalty for Sullivan.

Trahan came forward about the murder in 1998, after hearing of a television show about the unsolved killing. Employed by Texas attorney Ed Lieck, she told him she recalled being with Harwood when he met a man she later learned was Sullivan at a Florida diner.

Trahan testified Harwood, then living in Albemarle, N.C., had told her right before the slaying, " 'Some white guy wanted to take out his black wife.' They were in a divorce and he didn't want her to have anything."

Sullivan is white; Lita Sullivan was black.

Defense attorney Ed Garland questioned Trahan on details of the clothing she said Sullivan had worn in the diner. Under cross-examination, she admitted she had never heard Sullivan's name until she had heard it from Lieck.

Accused Hit Man And Star Witness Denies Shooting Millionaire's Wife (COURTTV)

By Emanuella Grinberg, Court TV

Court TV, March 7, 2006

ATLANTA — Prosecutors have cast convicted felon Phillip Anthony Harwood as the key to their 19-year-old case against a millionaire they believe took out a hit on his wife.

But less than 10 minutes into his testimony in James Sullivan's capital murder trial Tuesday, the former truck driver turned jailhouse lawyer emerged as a wild card for both the defense and the state, implicating Sullivan one instant while denying being the shooter.

"Did you agree to participate in the death of Lita Sullivan?" Fulton County Assistant District Attorney Clint Rucker asked Harwood, 55, who is serving a 20-year sentence for voluntary manslaughter in exchange for his testimony.

"To be honest, I'd have to answer no. I didn't directly agree to murder Lita Sullivan," the tall, lanky witness answered after a long pause, setting the tone for his largely unapologetic testimony.

Story continues

advertisement

To the contrary, Harwood cast himself as an unwitting pawn in James Sullivan's plot despite numerous good intentions, from an attempt to withdraw from the plot to his plan to tell Lita Sullivan of the hit and turn the tables on her husband.

Harwood was unwavering in his story that, with the help of a topless dancer named Tracy, he enlisted a man simply known as John the bartender to gun down Lita Sullivan in her upscale Buckhead townhouse the morning of Jan. 16, 1987.

"Do you bear any responsibility, Mr. Harwood?" Rucker asked, his own tone incredulous at time of his witness.

"I guess I do, by what you may call proxy," said Harwood, whose jeans and beige shirt concealed a remote-controlled restraining mechanism. "I believe we're all accountable for our own acts, but I guess if you got down to the brass tax of it, it all began with Mr. Sullivan."

Prosecutors entered into evidence a piece of paper on which Tony Harwood had written James Sullivan's phone number.

Harwood testified James Sullivan asked him for help in November 1986, after the trucker hauled the wealthy investor's furniture from his home in Macon, Ga., to his Palm Beach mansion. Sullivan was living alone in the midst of an acrimonious divorce from his estranged wife, who was 10 years younger.

"He kind of goes, 'I've got this wife in Atlanta, and she's just trying to take me for everything I've got, do you know anyone who can take care of my problem?'" Harwood testified as he rubbed his forehead and flailed his arms in an attempt to imitate Sullivan.

Harwood said he tried to brush off the request. Even so, a few weeks later, he received a down payment of $12,500 in the form of two certified checks from Sullivan.

"I didn't take him seriously but then, when checks came, I thought what am I going to do now?" he testified.

Ultimately, Harwood testified he decided to keep the money out of fear for what might happen should he refuse it.

After the group's first trip to Atlanta to warn Lita Sullivan of the plot, according to Harwood, they returned a second time at John the bartender's behest, perhaps to see if they could persuade Lita to contract a similar hit on her husband.

With a picture of Lita Sullivan holding a bouquet of flowers projected behind him, the witness testified that he purchased the box of flowers that John the bartender carried to Lita's doorstep at the recommendation of James Sullivan, who said his wife adored flowers.

Even so, Harwood insisted he remained in the car, and expressed shock when his crony came running out of the complex after two gunshots rang out, his face spattered with Lita Sullivan's blood.

James Sullivan listened to the testimony Monday.

The sequestered jury panel of 13 women and three men appeared skeptical of Harwood's claims, taking notes mostly when his version of events contradicted those testified to by previous trial witnesses.

His story clashed most with that of his ex-girlfriend, Belinda Trahan, who spent two days on the stand describing how she finally came to realize her boyfriend was involved in Lita Sullivan's murder.

Nearly 11 years after Lita Sullivan's death, Trahan's tip to authorities finally enabled them to connect the dots between the defendant and his wife's death.

While Trahan testified that she saw Sullivan pass her boyfriend a newspaper concealing an envelope of cash at a restaurant table, Harwood insisted that the trade-off occurred in the bathroom.

Trahan also claimed that the meeting occurred days, maybe weeks, after the January shooting, while Harwood said they made the trip to Florida in August 1987.

Even so, Harwood said he bore no animus toward the woman he referred to as his common-law wife of three years.

"I worshipped the ground she walked on," Harwood said. "Belinda was everything I had ever dreamed of. She was kind, considerate, a kid at heart, a good mother... she'd make any man proud."

"How do you feel about her today?" Rucker asked as Lita Sullivan's parents and relatives listened intently from the gallery.

"I'm glad she had more courage than I had," he said, referring to her decision to turn him in.

The prosecutor's questioning of his own witness grew increasingly testy as Harwood refused to acknowledge he was the shooter.

"Mr. Harwood, this is an opportunity for you to tell these jurors the whole truth," Rucker said, as Lita McClinton's father, Emory, wiped a tear from under his eyeglasses. "Can you look at these jurors and tell them you did not shoot and kill Lita Sullivan?"

"I did not shoot and kill Lita Sullivan," Harwood said as he turned his chair to face the panel.

Lawyers for James Sullivan will cross-examine the witness Tuesday.

Hit Man: James Sullivan Hired Me (WXIA-TV)

WXIA-TV, March 7, 2006

Tony Harwood points to James Sullivan.

The convicted hit man in the murder-for-hire trial of Palm Beach, Fla. millionaire James Sullivan took the stand as the state's star witness Monday afternoon.

Under questioning by Fulton County prosecutor Clint Rucker, Phillip Anthony Harwood said he first met the defendant when he delivered furniture to him from Sullivan's former home in Macon, Ga. Harwood said Sullivan started to hint around about needing help dealing with his estranged wife in Atlanta who was "trying to take everything he has."

When Rucker asked Harwood how he knew Sullivan wasn't joking about having his wife killed, Harwood responded, "When I received $12,500 in the mail." Harwood said Sullivan suggested he could "get to her by delivering flowers because she liked flowers." Harwood said he named his price at $25,000.

Lita Sullivan was shot and killed at her Buckhead condominium in January 1987 by a man posing as a flower deliveryman. Harwood avoided a death penalty trial in deal to testify at Sullivan's death penalty trial in Atlanta. Harwood has changed a part of his confession and claims he did not actually fire the shots that killed Lita Sullivan. He said in court that he hired his own hitman to carry out the job.

When asked to point out the man who paid him to kill Lita Sullivan, Harwood said, "Mr. Sullivan's sitting right over there," pointing at the defendant. When asked if Sullivan looked any different than when they met 20 years earlier, Harwood said he looked a lot older.

Earlier Monday, the woman Harwood described as his former common law wife, wrapped up her testimony. Belinda Trahan told jurors that James Sullivan was the man who sat down at a diner with her and Harwood and that Sullivan pushed a newspaper full of money toward Harwood as payment for killing Lita Sullivan.

During cross examination, Sullivan's attorney, Ed Garland, said Trahan's motive for testifying against Sullivan is greed. She responded, "Like I said before, I'm not interested in any reward so can we move on?"

While Garland tried to shake Trahan, he attacked her memory as faulty and her identification of James Sullivan as uncertain and unreliable.

"I know what I saw and you can't take that from me no matter what you do," said Trahan.

Alleged Hitman's Ex Cross-examined At Sullivan Trial (PALMBEACHP)

By Larry Keller, Palm Beach Post Staff Writer

Palm Beach Post (FL), March 7, 2006

DOJ_NMG_0016571

ATLANTA — Belinda Trahan finished a grueling cross-examination from James Sullivan's attorney Monday by insisting he is the man she saw pass an envelope full of money to her then-boyfriend as payment for killing Sullivan's second wife 19 years ago.

"I'm absolutely sure of the man I saw," Trahan, 47, said, her voice rising. Then, as she did on Friday, Trahan stood in the witness box and pointed at Sullivan seated at the defense table, "looking down again, not looking at me." Trahan was questioned for more than five hours on Friday and Monday, and about three hours of that was an interrogation by Ed Garland, one of Sullivan's attorneys. Item by item, point by point, he showed inconsistencies and contradictions in Trahan's trial testimony and earlier statements she has made to authorities.

By his questions, Garland suggested Trahan was motivated to come forward with her story in 1998 in order to collect a reward that still has not been paid, and that her story was influenced by news accounts she had read.

Trahan says that Philip "Tony" Harwood told her he had participated in the 1987 slaying of Lita Sullivan, who was about to divorce James Sullivan, a millionaire who lived in Palm Beach at the time.

Harwood was subsequently arrested and told police that Sullivan paid him $25,000 for the job. Some evidence points to Harwood as being the man who delivered a dozen roses to Lita Sullivan, then shot her in the head. He has denied being the shooter.

Garland had Trahan refer to a synopsis of events that she typed in 1998, and to statements she made to police that year. She said back then that "I really wasn't paying attention" at the meeting with Sullivan and Harwood at a restaurant, and that "I didn't look at (Sullivan) real good." She also said she had never seen Harwood with a gun, but she testified that he always kept a 9 mm pistol in the moving van he drove. Lita Sullivan was killed with a 9 mm pistol.

Trahan denied having read about Lita Sullivan's murder prior to talking to police in 1998. Where did you get the information you gave them, prosecutor Kellie Stevens Hill asked.

"From real life," the earthy Trahan replied.

Harwood's much-anticipated testimony is expected this afternoon.

Sullivan, 64, was indicted for his wife's murder by a Fulton County grand jury in 1998. He was arrested in Thailand in 2002, and finally extradited to Atlanta in 2004.

Official Indicted For Fraud, Bribery (ARMYTIME)

By Michelle Tan, Times staff writer

Army Times, March 6, 2006

An official at Army Test and Evaluation Command was indicted March 1 for fraud and bribery, according to the U.S. Justice Department.

Jeffrey H. Stayton, chief of aviation for ATEC was charged with two counts of honest services fraud, one count of bribery and one count of obstruction of justice after an indictment was returned by a federal grand jury in the Middle District of Alabama.

The grand jury in Montgomery, Ala., also indicted William Curtis Childree, a private contractor based in Enterprise, Ala. Childree, 67, is charged with two counts of honest services fraud and one count of bribery.

According to the indictment, in or about November 2001, Maverick Aviation, a business owned and run by Childree that buys and distributes helicopters for its clients, was chosen to produce and modify two helicopters for use by the U.S. government. The contract was worth about $4.7 million.

Stayton, 55, is accused of taking actions that favored Maverick's selection to get thecontract and misleading government officials about Maverick's performance under the contract , according to the Justice Department.

The indictment against the men also states that in exchange for Stayton's actions, Childree secretly wired to a third party $61,071.75 from a Maverick bank account to pay off Stayton's mortgage in Spotsylvania County, Va.

Stayton didn't disclose receipt of the payment to other ATEC or Army personnel or in his financial disclosure statements, according to the Justice Department.

The indictment goes on to say that in or around June 2005, after the grand jury investigation had begun, Stayton appeared before the grand jury and falsely testified that Childree's $61,000 payment was a loan.

ATEC plans and conducts tests and evaluations of weapons and equipment . Its headquarters is in Alexandria, Va.

The fraud charge carries up to 20 years in prison, a fine of up to $250,000 or both. If found guilty of bribery, the men could face up to 15 years in prison, a fine of up to $250,000 or both. And if Stayton is found guilty of obstruction of justice he could be given up to 10 more years in prison, a fine of up to $250,000 or both.

The case was investigated by Army Criminal Investigation Command and the FBI.

US Snubs Britain Over Sex Criminals (TIMES)

By Tom Baldwin in Washington
London Times, March 7, 2006

BRITAIN and the United States were locked in a deepening diplomatic dispute last night over Washington's failure to implement a mutual extradition agreement that Parliament approved three years ago.

Congress's refusal to ratify the deal means that Britain cannot prosecute criminals residing in the US, including sex offenders and paedophiles.

America has sought the extradition of 44 alleged offenders since 2003, and 12 have already been sent to the US. The extradition of several others has been approved but is awaiting appeal. In contrast, Britain extradited only five suspects from the US in the same period under the previous thirty-year-old extradition treaty, including just one in 2005.

Ministers have repeatedly raised the issue with their US counterparts, and Charles Clarke, the Home Secretary, protested again when he met Alberto Gonzales, the US Attorney-General, in London yesterday.

Diplomats led by Sir David Manning, Ambassador to the US, have also held about 30 meetings on the issue on Capitol Hill in recent months. But pleas have fallen on deaf ears. Indeed, America's failure to abide by its side of the deal is fast becoming a political embarrassment for a British government often accused of showing undue deference to Washington.

A total of 145 MPs, including many Labour backbenchers, have signed a Commons motion demanding that extraditions to the US be halted until the Senate ratifies the treaty.

A Home Office spokeswoman confirmed that it was encountering obstacles in extraditing suspects, particularly sex offenders, from the US. This is because the existing treaty, dating to 1972 and listing a schedule of extraditable offences, "was drawn up before the internet was invented". She said: "There are people we want who are successfully evading justice."

A senior US official told The Times yesterday that the Administration was sympathetic to Britain's concerns and hinted that a fresh attempt to force the treaty through the Senate would be made within weeks.

The official said that the problem had been caused by the influential Irish-American lobby, which is worried that the treaty could be used to pursue IRA suspects. Senators are worried about alienating any section of voters before November's congressional elections. British diplomats have emphasised that, after the Good Friday agreement, Britain has little interest in pursuing IRA suspects.

Those currently facing extradition to the US under the 2003 deal include the "Nat West Three" who face up to 35 years in prison if convicted of Enron-related fraud charges. Their lawyers, who are appealing to the House of Lords, claim they are victims of an unequal law.

Another Briton extradited to the US for financial offences is Nigel Potter, former chief executive of Wembley plc, who will today begin an appeal against a three-year sentence for fraud.

Potter was convicted of conspiring to bribe a US politician so that his company could install fruit machines at an American greyhound track. No bribes were paid, however, and Potter was acquitted of all but three charges of wire fraud.

In contrast to the white collar suspects being sent to the US, Britain is being prevented from bringing to justice US suppliers of computer child pornography, including some of those related to Operation Ore two years ago, which discovered 6,000 Britons using an American website.

The 1972 treaty also contains a statute of limitations which does not allow extradition for offences that took place more than six years ago. Officials say this is a particular problem in child abuse cases because victims often do not come foward until they are adults.

Since the new treaty was agreed in March 2003, countries such as Lithuania, the Marshall Islands, Micronesia and Peru have had extradition deals ratified by Congress. John Ashcroft, the US AttorneyGeneral in 2003, said that the new treaty "should serve as a model to the world for successful and efficient co-operation."

Prosecutors Target White Supremacist Gang (FINDLAW/AP)

By Gillian Flaccus, Associated Press Writer
AP, March 7, 2006

(AP) - SANTA ANA, Calif.-The inmates had to heat the letter to draw out the message, written in invisible ink. When they did, their orders were clear.

Within hours, prosecutors say, members of the Aryan Brotherhood prison gang sneaked into a nearby cellblock and killed two black inmates with handmade shanks as part of an order to "go to war" with blacks.

The deaths are two of the 32 murders and attempted murders detailed by federal prosecutors in a sweeping case against the Aryan Brotherhood, a violent white supremacist prison gang that has infiltrated nearly every federal and state prison since its beginnings in San Quentin in 1964.

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Prosecutors hope to dismantle the gang - nicknamed the "Brand" - in a series of trials that together make up what's believed to be the biggest capital murder case in U.S. history. Of the 40 men initially charged, as many as 16 could face the death penalty for crimes that reach back 30 years.

Prosecutors are pursuing the highly organized gang with a racketeering law originally passed to target Mafia leaders - a tactic recently used with some success against other prison gangs in California and Texas.

"We're looking at this huge list of charges, and I'm unaware of any other case that's even close to this," said Dean Steward, attorney for Barry "The Baron" Mills, a lead defendant.

Opening statements in the trial of Mills and three others are scheduled to begin March 14 in federal court in Santa Ana. Mills and another alleged ringleader, Tyler "The Hulk" Bingham, face the death penalty in what could be a nine-month trial.

Four more defendants are set to go on trial in Los Angeles in October; court dates in California are pending for the remaining men. Nineteen of the 40 defendants struck plea bargains, and one has died.

The 140-page indictment against the gang alleges a web of conspiracies to murder fellow inmates who offended gang members, cheated them on drug deals, failed to comply with the orders of leaders or snitched to prison authorities. Prosecutors, who declined to be interviewed, spent six years compiling evidence and relied on informants for much of their case.

Court documents suggest that patient gang members waited months to carry out the violent tasks ordered by their leaders, passing information from prison to prison and member to member using friends and spouses on the outside, corrupt prison guards and notes written with invisible ink.

In one case, for example, members of the Aryan Brotherhood allegedly spent a year planning the murder of Richard Barnes, the father of a fellow gang member who had testified against the gang. Members funneled his address and firearms to someone on the outside, who shot him in the head in 1983, according to court documents.

"This has the potential of being incredibly damaging to the brotherhood," said Joanna Mendelson, an investigative researcher with the Anti-Defamation League, which tracks the Aryan Brotherhood. "They rank among the most organized, systematic gangs in all the prison system."

Mills, who faces a number of charges in the current case, has already been convicted of luring another inmate into a recreation shack at a federal lockup in Atlanta in 1979 with the promise that he would get a new tattoo.

Instead, Mills nearly decapitated the man with a handmade knife - his punishment for cheating the brotherhood on a drug deal, according to court documents.

Mills, now 57, went on to become a founder of a three-member group that prosecutors say ordered and approved murders carried out by gang members or aspiring members. He is currently serving two life terms for the 1979 murder, which is detailed in the indictment as part of the government's racketeering case.

Mills, Bingham and the others going to trial have pleaded not guilty.

"The reality is, federal penitentiaries are violent and dangerous places and all of these guys - white guys - are a small minority and they're just trying to survive," Steward said.

Civil rights groups that monitor the Aryan Brotherhood say highly disciplined gang members managed to communicate frequently, despite 23 hours a day in solitary confinement.

Accused members often acted as their own attorneys and subpoenaed other brotherhood members to testify, allowing them to pass messages in court through hand signals and code words or slip messages into legal files, said Melissa Carr, an expert on the gang with the Anti-Defamation League.

Some gang members write messages to outside helpers using coded alphabets or invisible ink made with their own urine, she said, while others pass tiny messages on a string, called "kites," from one cell to another when guards aren't looking.

Experts say prosecutors will face challenges in their push for death penalties - particularly because nearly all the victims were convicted felons and many defendants are already serving long prison terms.

"The jury says, 'Well, these people are in prison already and if they kill other prison inmates, who cares?'" said William McGuigan, a defense attorney who has worked on several Mexican Mafia cases. "They aren't outraged like they are if the victims are ordinary citizens."

Lemon Grove Medical Clinic Shut Down In Alleged Fraud Conspiracy (SDUT)

By Angelica Martinez, UNION-TRIBUNE BREAKING NEWS TEAM

The San Diego Union-Tribune, March 7, 2006

SAN DIEGO – A Lemon Grove medical clinic was shut down after its owners and employees were charged with defrauding Medi-Cal out of more than $2 million, authorities said Monday.

Nine people, including the owners and a doctor who worked at a medical clinic on Golden Avenue east of Lemon Grove Avenue, were indicted last week on 47 counts that included conspiracy; insurance fraud; capping, or illegally referring patients;

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tax evasion; grand theft and operating a business without workers' compensation insurance, the District Attorney's Office announced.

During the course of a 15-month investigation, the clinic billed Medi-Cal more than $2 million for services patients did not receive, said District Attorney Bonnie Dumanis.

“This was a tremendous amount of money and they were targeting vulnerable people,” Dumanis said.

FBI agents first learned about the clinic in November 2004 when patients complained that they were being billed for treatment that they did not receive, said Daniel R. Dzwilewski, special agent in charge of the San Diego FBI office.

Dumanis said the scheme targeted patients who are elderly and speak poor English. She said they were recruited at casinos, trolley stops and senior citizen homes.

The services the clinic billed Medi-Cal for but did not perform included nerve conduction studies, elaborate dizziness testing and other tests.

“The clinic was like a cash register,” said Rita Hanscom, a deputy district attorney.

Several of the employees also did not report the fraudulent income they earned from Medi-Cal and did not file related employment taxes, officials said. They said the clinic also did not have workers' compensation insurance.

One of those charged, Dr. Arthur Vallejo, wrote repetitive or useless prescriptions that cost Medi-Cal more than $53,000, officials said.

Vallejo, 46, and his wife, Cynthia, 28, both of Downey, were indicted along with clinic owners Anush Manukyan, 45, and her husband, Rafik, 50, both of Van Nuys.

Others indicted were Tommie L. Williams Jr., 52, of La Mesa; Marites Ramano Dioso, 34, of National City; Fernando C. Lantano, 40, and Alicia Musa Leonardo, 72, both of San Diego and Erlinda Solon Cabungcal, 62, of National City.

Patients told investigators they were paid to go to the clinic by Cabungcal, Dioso, Lantana and Leonardo.

Authorities said a North Hollywood clinic owned by the Manukyans was also under investigation.

Feds Expand Dearborn Credit Fraud Case With Indictments (DEN)

By David Shepardson

Detroit News, March 7, 2006

What started with two brothers now has 17 more people; racketeering, conspiracy are alleged.

DEARBORN -- What began as an investigation into whether two Dearborn brothers committed credit card fraud has grown into a money-laundering indictment charging the pair and 17 of their business associates and relatives.

Defense attorneys now say prosecutors threatened to indict the suspects' family members unless they agreed to plead guilty. They also accuse government investigators of improperly obtaining secret wiretaps in the investigation of Dearborn perfume distributor Ali Abdul Karim Farhat and his brother, Hassan Farhat.

When plea negotiations with some suspects failed, a federal grand jury in recent months charged additional people with bankruptcy fraud, conspiracy, false statements, mail fraud, bank fraud, money laundering and racketeering. In total, the indictments allege that the ring defrauded banks of $1.7 million.

At the same time, hundreds of pages of secret wiretap records recently made public show that the FBI's Joint Terrorism Task Force went to great lengths in its investigation of the Farhats -- installing a secret surveillance camera outside a Dearborn business, stealing a suspect's trash and having an undercover agent pose as a businessman seated next to a suspect on an airplane flight.

In January 2004, the two brothers were charged with conspiracy to distribute cocaine and held without bond for two weeks. Their arrest came largely on the basis of testimony from Myron Strong, a longtime FBI informant who later pleaded guilty to inventing evidence and conning the FBI out of $240,000. Strong is serving a 10-year-prison sentence.

The Farhats also were accused of supporting Hezbollah, the Lebanese terror group -- a claim withdrawn in February 2004 when, based on the unreliability of Strong's testimony, government prosecutors also dismissed the drug charge.

In April 2004, a federal grand jury indicted Ali Farhat and his brother, along with eight other people. In two later indictments, the grand jury added nine additional suspects.

The group was charged with running a "credit card bust-out scheme" that involved obtaining credit cards, racking up large balances and defaulting on the loans.

Defense lawyers say that by December 2004, the U.S. attorney's office began circulating plea agreements contingent on all defendants pleading guilty. At the time, 12 people had been indicted.

Defense lawyers say the plea offers were coercive.

"The government made threats and used intimidation in an attempt to coerce guilty pleas from the defendants," said a filing signed by eight defense lawyers and written by Philip J. Thomas, a lawyer for Abdul Halim Berro, one of the defendants.

"It is beyond comprehension how a federal prosecutor could be allowed to engage in bribe tactics in order to induce a guilty plea," Thomas wrote.

Assistant U.S. Attorney Cathleen Corken, the lead prosecutor, said the government would respond to the defense motions by March 8 -- Wednesday. A U.S. district judge set a March 30 hearing.

Sniper Lists Complaints To Judge (WT/AP)

By Stephen Manning

The Washington Times, March 7, 2006

Convicted sniper mastermind John Allen Muhammad appeared in Montgomery County Circuit Court in Rockville yesterday with a list of complaints, including charges that jailers have restricted his access to court documents in his trial for six Washington-area sniper shootings.

He also complained about disagreements with his attorneys over legal filings and that he had been denied long underwear to wear in court.

Muhammad also lost a pair of pretrial motions during yesterday's hearing in advance of his scheduled May 1 trial. He was transferred to Montgomery County last summer from Virginia, where he has been sentenced to death.

Circuit Judge John Ryan granted a request from county prosecutors to present evidence of other shootings Muhammad and accomplice Lee Boyd Malvo are accused of carrying out before and during the three-week October 2002 shooting rampage in the Washington region.

Judge Ryan also blocked a request by Muhammad's attorneys to hold separate trials for some of the six murders that occurred in Montgomery County, the first on Oct. 2 and the last on Oct. 22, 2002.

When the motion was first presented in court, Muhammad cut short his court-appointed attorney, saying he never agreed to filing the motion.

"I ask for that motion not to be put in," he said before the motion was heard. "I disagree with it 100 percent, Your Honor."

Throughout a legal process that began with his 2003 murder trial, conviction and death sentence in Virginia, Muhammad has actively inserted himself into his defense.

Shortly before his first trial began, he briefly dismissed his attorneys and handled his own case, making an opening statement and questioning some witnesses. He eventually allowed his attorneys to return.

In court yesterday, Montgomery corrections officials testified that Muhammad has seven boxes of legal documents that he brought with him from Virginia.

He worked out an agreement with his jailers that gives him access to the material, but he complained that prison officials only give him limited records at a time. He said he needed to review much of it at the same time.

"I asked for access to all the material," he said. "All of the quote-unquote crimes that I committed occurred together."

Robert Green, warden of the Montgomery County jail, testified that Muhammad has adequate access to his records. Judge Ryan agreed after hearing both arguments.

Prosecutors say Muhammad and Malvo tried to extort $10 million from local governments during their spree. In all, they are accused of killing 10 persons and wounding three in Maryland, Virginia and the District in October 2002. They have been linked to earlier killings in Alabama, Georgia, Louisiana and Washington state.

Malvo was also convicted in Virginia and sentenced to life in prison. He is scheduled to go on trial in Montgomery County in the fall for the six murders.

Malvo is not eligible for a death sentence because he was 17 when the murders occurred, and prosecutors said last week that they will not seek a death sentence for Muhammad in Maryland.

Grand Jury Decries 'Arrests Without Merit' (BSUN)

By Julie Bykowicz

The Baltimore Sun, March 7, 2006

A Baltimore grand jury is calling for the number of city arrests that fail to result in criminal charges to be cut in half, saying such arrests erode public confidence in the Police Department, according to a report released Monday.

"If the staggering number of arrests is to be validated, the percentage of arrests without merit must be drastically reduced," the report says. The jurors also said that frequent police stops of residents is an approach "bordering on violating a person's constitutional rights."

The panel of 23 grand jurors that met from September to January was asked by a Baltimore Circuit Court judge to "address the lack of confidence that exists between many members of the public and law enforcement."

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The grand jury appears to have done its research by reviewing media reports and arrest statistics, as well as speaking with each other and with "several" residents, though the report does not say how many. Grand jurors talked to one person from the Police Department, the head of education and training.

The report gives about two dozen recommendations, but few are specific. One example: "Improve the quality of narcotics arrests." One recommendation was to reduce "arrests without merit" -- an apparent reference to arrests that don't result in charges -- by at least 50 percent before the end of this year.

The report cites a state Department of Public Safety and Correctional Services report that 21,721 African-Americans in Baltimore were arrested but not charged between April 2004 and March 2005. Grand jurors said this number shows that "countless people have been harassed."

Lt. Paul M. Blair Jr., president of the city police union, had not read the report, but he said that the recommendation to make fewer arrests conflicts with what officers hear at neighborhood meetings where residents complain about quality-of-life issues.

"Can they tell us which neighborhoods we should stop making arrests in?" Blair asked. "It sounds like it was a waste of paper if that's all they came out with."

Matt Jablow, a Police Department spokesman, said the phrase "without merit" does not make sense. "Officers are not allowed to make arrests without merit," he said. "There has to be probable cause, and that is merit."

If the grand jury is referring to reducing the number of arrests that fail to result in criminal charges, Jablow said, "we share that sentiment." He said the department has taken steps to improve training and report-writing.

The percentage of arrests that fail to generate charges has decreased from 23 percent in December to 14 percent last month, said Kristen Mahoney, chief of technical services for the city Police Department, referring to public safety statistics.

The main function of a grand jury is to decide which criminal cases warrant indictments. Among the cases handled by this grand jury were the indictments of three Southwestern District officers. One officer is accused of raping a woman brought to the station house in handcuffs, and the other two are accused of doing nothing to stop it.

The grand jury is forbidden to discuss individual cases it hears, so those indictments are not mentioned in its report, nor is a public hearing in early January at which the police commissioner and mayor were criticized for what residents called aggressive tactics.

Circuit Judge Joseph P. McCurdy assigned the topic in September, on the heels of a Sun report about two judges saying in open court that they didn't believe police officers who were testifying in two particular cases.

"This is something the community as a whole needs to address," McCurdy said at the time.

Five years ago, another judge assigned a grand jury to study whether the public was losing confidence in the Police Department. This latest grand jury report was intended to build on those findings, which found distrust, McCurdy said. The judge did not return phone calls Monday.

The jurors -- 21 women and two men -- devoted 20 pages of its report to McCurdy's topic, touching on everything from media coverage to the number of arrests. Several recommendations were made for each topic.

Some examples:

Police officers should be "retrained to use better judgment and common sense in determining if an individual is actually involved in criminal activity."

Increase neighborhood patrols and build relationships by having officers participate in programs such as the Police Athletic League and school programs.

Create a public service announcement "emphasizing the progress that the [Police Department] has made."

Jablow, the police spokesman, said the report would be "a useful tool" in the department's efforts to build relationships. "We'll do whatever it takes to make this a safer city and to improve relations with citizens," he said.

Crackdown On Animal-rights Activists (CSM)

By Brad Knickerbocker

The Christian Science Monitor, March 7, 2006

Animal-rights activists around the country - at least the most extreme - are becoming increasingly militant. And law enforcement officials and lawmakers are stepping up efforts to combat those who break the law.

These interconnected trends came to a head in New Jersey last week when an animal rights group and six of its members were convicted of inciting violence in their campaign to shut down a company that uses animals to test drugs and other consumer products.

The group, Stop Huntingdon Animal Cruelty (SHAC), claims its actions constitute free speech. But federal prosecutors and the jury in a Trenton, N.J., courtroom called it harassment, stalking, and conspiracy - the first such conviction under the 1992

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Animal Enterprise Protection Act. The lab, Huntingdon Life Sciences (HLS), the largest of its kind in the world, is based in Britain and New Jersey.

Antivivisectionists and other animal-rights proponents have been organized in the US since at least the mid-19th century. But recently, their most extreme members have become more aggressive.

Much of the focus for animal-rights supporters is on companies that produce animal products (mainly meat and fur). In their sights, too, are universities, hospitals, and other institutions that kill animals for medical research or product development. And they have been targeting anyone who does business with animal testers - financial institutions, contractors, and service providers, some with only a tenuous connection.

Activists' tactics include vandalism, personal warnings by e-mail and phone message, and other threats directed at family members - what's called "tertiary targeting."

"There really isn't a week that goes by that I don't hear about an incident," says Jacquie Calnan, president of Americans for Medical Progress in Alexandria, Va., which represents universities, pharmaceutical and biomedical corporations, and research organizations.

Most of those engaged in medical science say animal testing is crucial to find cures for disease and new devices meant to keep people healthy.

"Virtually every human being in the country has benefited from animal research," says John Young, a lab animal veterinarian and director of comparative medicine at Cedars-Sinai Medical Center in Los Angeles.

For example, recent research (including the human genome project) established that mice and humans are virtually identical in their genetic makeup. Specially bred mice are used to investigate ways to treat human diseases.

US research facilities use more than 1 million animals every year: dogs, cats, guinea pigs, hamsters, monkeys, sheep, and other farm animals. Add in mice and rats (more than 90 percent of all lab animals), and the total jumps to nearly 30 million, according to the US Department of Agriculture.

While most such animals eventually are killed, supporters of such research say avoiding animal suffering is a major consideration in their work.

"I don't know of a scientist or veterinarian who is not committed to the welfare of the animals," says Dr. Young.

Members of SHAC, the Animal Liberation Front (ALF), and People for the Ethical Treatment of Animals (PETA), strongly disagree. In some cases, they've infiltrated research labs to produce photos and videos that show otherwise.

"It's clear that if you look at the science we have much better ways of testing drugs to see whether they're going to be toxic or helpful in human beings," says Jerry Vlasak, a trauma surgeon in Canoga Park, Calif.

"Unfortunately ... the FDA [US Food and Drug Administration] is still requiring animal testing, but they're way behind the science on this issue," says Dr. Vlasak, who's also a spokesman for radical animal rights activists that often announce their "direct actions" anonymously. "The scientific alternatives are out there."

That's a minority view in the medical community, and it is one that many lawmakers oppose.

Members of the US House and Senate are sponsoring the "Animal Enterprise Terrorism Act." It would toughen the 1992 Animal Enterprise Protection Act by imposing penalties for veiled threats to individuals and families, economic disruption or damage, and "tertiary targeting."

Along with the recent indictment of ALF activists charged with arson and other crimes in Oregon and other parts of the West, the convictions in New Jersey are a setback for extremist animal-rights activists.

Still, the crackdown by the FBI and other police agencies has not slowed activists' efforts. One anonymous group just launched a website listing the home addresses of 2,000 employees from 30 companies doing business with Huntingdon Life Sciences.

"From CEOs to lowly sales reps, from Alabama to Hawaii, we've sniffed them out," activists are told. "Visit them often, and make the message clear: when you contract with HLS... you get us!"

CIVIL LAW:

Court Upholds Campus Military Recruiting (AP-Y2)

By Gina Holland, Associated Press Writer

AP2, March 6, 2006

The Supreme Court ruled unanimously Monday that the government can force colleges to open their campuses to military recruiters despite university objections to the Pentagon's "don't ask, don't tell" policy on gays.

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Justices rejected a free-speech challenge from law schools and professors who claimed they should not have to associate with military recruiters or promote their campus appearances.

The decision was a setback for universities that had become the latest battleground over the military policy allowing gay men and women to serve only if they keep their sexual orientation to themselves.

The ruling does not, however, answer broader questions about the policy itself. Challenges are pending in courts in Boston and Los Angeles that could eventually reach the high court.

Justices seemed swayed by the Bush administration's arguments that after the terrorist attacks, and during the war in Iraq, the government had a responsibility to bolster its recruitment.

Chief Justice John Roberts said that campus visits are an effective recruiting tool. And, he said, "a military recruiter's mere presence on campus does not violate a law school's right to associate, regardless of how repugnant the law school considers the recruiter's message."

The 8-0 decision upheld a federal law that says universities must give the military the same access as other recruiters or forfeit federal money.

Justices ruled even more broadly, saying that Congress could directly demand military access on campus without linking the requirement to federal money.

"When you're in the middle of war, even if it's not a terribly popular one, courts are hesitant to tie the hands of the military," said Jon Davidson, legal director of gay rights group Lambda Legal.

Jay Sekulow, chief counsel for the American Center for Law and Justice, called the decision "an important victory for the military and ultimately for our national security."

The military's policy had put college leaders in a thorny situation because of campus rules that forbid participation of recruiters representing agencies or private companies that have discriminatory policies.

Most college leaders have said they could not afford to lose federal help, some $35 billion a year.

Roberts, writing his third decision since joining the court last fall, said there are other less drastic options for protesting the policy. "Students and faculty are free to associate to voice their disapproval of the military's message," he wrote.

Joshua Rosenkranz, the attorney for the challengers of the law, said that the case called attention to the military policy. "A silver lining to the Supreme Court's opinion is the court made it clear," he said, "law schools are free to organize protests."

Geoffrey Shields, dean of Vermont Law School, said the school since 1999 has given up some federal money and will continue to bar recruiters "as a symbol of the importance of fair treatment of all people."

"We've stuck to our guns and I anticipate we'll continue to stick to our guns," he said.

Roberts' decision carefully sidestepped taking a stand on the policy itself, although he explained in a footnote that under don't ask, don't tell, "a person generally may not serve in the Armed Forces if he has engaged in homosexual acts, stated that he is a homosexual, or married a person of the same sex."

The court roundly rejected arguments that the policy raised important First Amendment free-speech issues for school leaders.

"Compelling a law school that sends scheduling e-mails for other recruiters to send one for a military recruiter is simply not the same as forcing a student to pledge allegiance, or forcing a Jehovah's Witness to display the motto 'Live Free or Die,'" Roberts wrote.

Roberts filed the only opinion, which was joined by every justice but Samuel Alito. Alito did not participate because he was not on the bench when the case was argued three months ago.

Congress passed the law, known as the Solomon Amendment after its first congressional sponsor, in 1994 — the same year that the "don't ask, don't tell" law took effect. Since then, an estimated 10,000 people have been discharged.

Air Force Lt. Col. Ellen Krenke, a Pentagon spokeswoman, said Monday that "equal access to law school, and all schools for that matter, for our recruiters is crucial to ensuring we attract a diverse and highly qualified pool of applicants."

"The Solomon Amendment neither limits what law schools may say nor requires them to say anything," the chief justice said.

The case is Rumsfeld v. Forum for Academic and Institutional Rights, 04-1152.

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On the Net:

Supreme Court: http://www.supremecourtus.gov/

Supreme Court Sides With Military On Recruiters' Access To Campuses (KRT)

By Stephen Henderson

Knight Ridder, March 6, 2006

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WASHINGTON - The Supreme Court said Monday that Congress isn't trampling free speech by threatening to withhold federal funding from universities that kick military recruiters off campus because the Pentagon's "don't ask, don't tell" policy on gays conflicts with the schools' anti-discrimination practices.

In a unanimous 8-0 ruling, the justices said Congress isn't stopping the universities from protesting the policy, nor is it asking the schools to endorse the policy by granting military recruiters the same access they give other employers.

Congress' Solomon Amendment merely seeks to regulate what universities "must do - afford equal access to military recruiters - not what they may or may not say," Chief Justice John G. Roberts wrote for the court.

The ruling is a big boost to the military and a blow to 36 law schools that joined forces to fight what they'd described as overreaching by Congress. The schools will now face a choice: Grant military recruiters full access to their campuses, or forfeit what in some cases is hundreds of millions of dollars.

"It's an untenable choice, there's just no question about it," said E. Joshua Rosenkranz, the attorney for the schools. "But this is a skirmish in a much bigger war about equality and human dignity. That's a war we're winning."

The case ends a dispute that dates back decades but intensified in 2002, when lawmakers eager to boost military recruiting in the wake of the Sept. 11, 2001, terrorist attacks got tough on universities.

In essence, they tied federal funding for universities to the hospitality they extend to military recruiters. Schools that treated the military like other employers would get their money. Those that chose to express their displeasure with the military's policy on gays by sending recruiters off campus or denying them the kind of reception that other employers received would have to forfeit their funds.

Since 1994, the military's policy of "don't ask, don't tell" has allowed gay men and women to serve as long as they didn't disclose their sexual preference or perform blatant homosexual acts in public.

Many law schools have stringent anti-discrimination policies that include protections for homosexuals; they give the same chilly welcome to recruiters from all employers that they feel discriminate.

A group of law schools objected to the new rules, saying Congress' edict was a violation of their free speech rights. They argued that it not only slapped down their protest, but also forced them to "associate" with the military's message by facilitating their recruitment efforts.

A federal district court rejected their arguments, but the 3rd Circuit Court of Appeals in Philadelphia sided with the schools, saying Congress' action was likely unconstitutional.

At the Supreme Court last fall, it seemed clear that the justices weren't buying the schools' argument. Several justices said it was within Congress' power to tie funding to access.

Roberts asked several times why, if the law schools felt so strongly about the policy, they didn't forgo the federal money.

In his opinion on Monday, he outlined how First Amendment protections of free speech and association weren't jeopardized by what Congress did.

"The Solomon Amendment neither limits what law schools may say nor requires them to say anything," Roberts wrote. "Law schools remain free under the statute to express whatever views they may have on the military's congressionally mandated employment policy, all the while retaining eligibility for federal funds."

He noted that the law might require schools to send e-mails or post notices about military recruiters because they do it for other businesses. But he said such "compelled speech" was only incidental to the requirement that military recruiters be treated equally.

Comparing that situation to similar ones the court has faced, Roberts wrote: "Compelling a law school that sends scheduling e-mails for other recruiters to send one for a military recruiter is simply not the same as forcing a student to pledge allegiance, or forcing a Jehovah's Witness to display the motto `Live Free or Die.'" He said it "trivializes" constitutional protections to suggest that the law schools face similar burdens.

Roberts said law schools aren't "speaking" when they aid students in the recruitment process.

"Unlike a parade organizer's choice of parade contingents, a law school's decision to allow recruiters on campus is not inherently expressive," Roberts wrote. "Law schools facilitate recruiting to assist their students in obtaining jobs. A law school's recruiting services lack the expressive quality of a parade, a newsletter, or the editorial page of a newspaper."

Rosenkranz, picking up on the court's insistence that the law didn't prohibit law schools from opposing the military's policy, said some might respond with more aggressive protests.

"Imagine signs over interview rooms saying: `Danger: Discriminating employer inside.' Or imagine school-sponsored protests when military recruiters come," he said. "You haven't even seen protests until now."

The court's 8-0 ruling reflects the absence of Justice Samuel Alito, who hadn't been confirmed to the court when the case was argued and thus didn't vote.

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U.S. Wins Ruling Over Recruiting At Universities (NYT)

By Linda Greenhouse

The New York Times, March 7, 2006

WASHINGTON, March 6 — The Supreme Court on Monday upheld a law that cuts federal financing for universities if they do not give military recruiters the same access to students that other potential employers receive. The court ruled that the law does not violate the free-speech rights of universities that object to the military's exclusion of gay men and lesbians who are open about their sexual orientation.

The opinion by Chief Justice John G. Roberts Jr. was unanimous.

It was a setback, although hardly an unexpected one, to a coalition of law schools that brought the constitutional challenge, as well as to the Association of American Law Schools, which represents nearly all accredited law schools and since 1991 has required adherence to a nondiscrimination policy on sexual orientation as a condition of membership.

Many law schools initially chose to comply with the association's policy by barring military recruiters or by taking such steps as refusing to help the recruiters schedule appointments or relegating them to less favorable locations for meeting with students.

Congress responded with a series of increasingly punitive measures, all known as the Solomon Amendment, culminating in the 2004 statute at issue in the case. It requires access for military recruiters "that is at least equal in quality and scope" to access for other employers, on pain of forfeiting grants to the entire university from eight federal agencies, including the Departments of Defense, Education, and Health and Human Services.

With hundreds of millions of dollars at stake, all but a handful of law schools yielded. Nearly three dozen banded together as the Forum for Academic and Institutional Rights and turned to the courts.

Carl C. Monk, executive director of the law school association, said in an interview on Monday that the group would continue to require its member schools to engage in "significant" activities to counter the impact of the Solomon Amendment, such as organizing faculty forums at which the military's policy could be analyzed and challenged.

The plaintiffs had persuaded the federal appeals court in Philadelphia that the Solomon Amendment imposed an "unconstitutional condition" on the universities' receipt of federal money by requiring them to surrender their First Amendment rights and become involuntary carriers of the government's anti-gay message.

But Chief Justice Roberts said on Monday that the plaintiffs' theory of the case, as well as the opinion by the United States Court of Appeals for the Third Circuit, was based on a fundamental misperception about what the Solomon Amendment was imposing.

"As a general matter, the Solomon Amendment regulates conduct, not speech," the chief justice said. "It affects what law schools must do — afford equal access to military recruiters — not what they may or may not say."

Pointing out that law schools remained free to disavow the military's policy, to denounce it or even to help students organize protests, Chief Justice Roberts said that "the Solomon Amendment neither limits what law schools may say nor requires them to say anything."

Citing a 1990 Supreme Court decision that upheld an equal-access requirement for student religious clubs in high schools, he continued: "We have held that high school students can appreciate the difference between speech a school sponsors and speech the school permits because legally required to do so. Surely students have not lost that ability by the time they get to law school."

To the extent that speech is involved when a military recruiter visits a campus, the chief justice said, the speech is "clearly" the government's, not the law school's. He said that placing the incidental assistance that universities must provide to military recruiters on the same plane as compelling students to recite the Pledge of Allegiance "trivializes the freedom protected" by a 1943 Supreme Court decision holding that the Pledge may not be required.

While the conclusion that the Solomon Amendment does not directly infringe on the law schools' free-speech rights was at the heart of the court's analysis, the opinion contained several other important threads.

One was the conclusion that allowing military recruiters on campus was not an "inherently expressive" activity. Therefore, Chief Justice Roberts said, the case was not governed by two Supreme Court precedents dealing with freedom of expression. One of them declared unconstitutional a Florida law that required newspapers to grant a "right of reply." The other allowed organizers of the St. Patrick's Day parade in Boston to exclude a gay-pride group despite a nondiscrimination ordinance.

The difference, the chief justice said, was that both the newspaper and the parade organizers were engaged in expression with which the government could not constitutionally interfere, while law schools "are not speaking when they host interviews and recruiting receptions."

Another conclusion was that the Solomon Amendment did not interfere with another interest protected by the First Amendment, the law schools' freedom of association. The appeals court had found a violation of this freedom by analogy to a

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Supreme Court decision in 2000 that gave the Boy Scouts the right to exclude a gay scoutmaster despite a New Jersey nondiscrimination law.

The analogy was incorrect, Chief Justice Roberts said. Unlike Boy Scout leaders who become part of the organization, "recruiters are, by definition, outsiders who come onto campus for the limited purpose of trying to hire students — not to become members of the school's expressive association," he said, adding, "This distinction is critical."

The court also rejected an alternative theory of the case put forward by groups of professors from Harvard and Columbia Law Schools. Under their theory, the Solomon Amendment's mandate for equal access could be met by a school that simply excluded all employers who did not attest to a nondiscrimination policy. "That is rather clearly not what Congress had in mind," Chief Justice Roberts said, adding that this interpretation of the Solomon Amendment "would render it a largely meaningless exercise."

The constitutional power of Congress to "raise and support armies" was another significant thread in the opinion. Chief Justice Roberts said that in exercising that power, Congress could have directly required universities to admit military recruiters, instead of taking the more indirect approach of making access a condition of federal financing. "It is clear that a funding condition cannot be unconstitutional if it could be constitutionally imposed directly," he said.

The military interviews about 2,500 law students each year and hires about 400 for its Judge Advocate General's Corps, said Ellen Krenke, a spokeswoman for the Defense Department. The court's decision will not change the actual practice on most campuses because all but a few are in compliance with the amendment, she said.

The decision, Rumsfeld v. Forum for Academic and Institutional Rights, No. 04-1152, was announced on a day when, coincidentally, some four dozen uniformed Army lawyers were in the courtroom to be sworn in as members of the Supreme Court bar.

Paula C. Johnson, a named plaintiff in the lawsuit who is a law professor at Syracuse University and a visiting professor this semester at the City University of New York's law school, said that it was too early to talk about what campuses might do, but that she expected "things will begin to happen" as opponents of the military's policy had time to better organize.

"This could be a very important galvanizing measure," she said.

Mr. Monk, of the law school association, said in the interview that law schools retained the obligation to "create a welcoming environment for all their students." He added, "Ultimately, our hope is that gay and lesbian students who want to serve their country by becoming military attorneys will be able to do so."

Justices Back Military Recruiting At Colleges Taking Federal Aid (WSJ)

By Jess Bravin And John Hechinger

The Wall Street Journal, March 7, 2006

WASHINGTON -- Universities must give the military equal standing with other employers in on-campus recruiting or lose federal funding, the Supreme Court ruled.

The unanimous decision, written by Chief Justice John Roberts, addresses a protest waged by many law schools against the military's policy of excluding homosexuals, but is unlikely to end it.

Chai R. Feldblum, a professor at Georgetown University Law Center, said the decision would mean that law professors and students would now rechannel their efforts. The Supreme Court decision said schools were free to protest military recruiters, and Prof. Feldblum said she expected those protests to intensify and proliferate.

"I see that as a gauntlet thrown down by the Supreme Court, and I hope and expect that the law schools will pick it up," said Prof. Feldblum, a founding member of the Forum for Academic and Institutional Rights, or FAIR, the group of 36 law schools and faculties mounting the challenge. Prof. Feldblum said she also believed law schools would support legal challenges to the constitutionality of the military's "don't ask, don't tell" policy, as well as efforts in Congress to change the law.

The schools had sought to deny military recruiters access to job fairs and other placement activities, citing the policy of the institutions' governing body, the American Association of Law Schools. Since 1990, the group has included sexual orientation along with race, religion, sex and other characteristics for which discrimination is forbidden. The schools required employers participating in placement activities to pledge that they didn't discriminate on such grounds.

Although the schools said they were holding the military to the same standard as other employers, the practice outraged many in Congress, which voted to require the schools to admit recruiters or lose federal funding. The Solomon Amendment, named for its sponsor, the late Rep. Gerald Solomon (R., N.Y.), imposed the following penalty: a cutoff in funding for the entire university, not just its law school, from all federal agencies. Individual students, however, wouldn't lose financial aid, and schools with "a longstanding policy of pacifism based on historical religious affiliation" were exempt.

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FAIR sued to block the Solomon Amendment, claiming it violated First Amendment freedoms of speech and association. A federal appeals court in Philadelphia agreed, pointedly citing Supreme Court freedom-of-association precedents that allowed the Boy Scouts to bar gay scoutmasters and the Boston St. Patrick's Day parade to keep a gay group from marching.

But at oral arguments in December, the justices sounded skeptical of the argument that schools were being forced to endorse a message of antipathy to homosexuals. The government's lawyer, Solicitor General Paul Clement, said schools remain free to express their views of military policy in other ways. "They could put signs on the bulletin board next to the door, they could engage in speech, they could help organize student protests," he said.

Not all law students and professors oppose the Solomon Amendment, however. At various points in the litigation, a group of law students and professors, including several well-known conservative academics, filed a brief supporting the government's position, as did a group of law students who are veterans or currently serve in the military reserves.

In yesterday's opinion, the chief justice wrote that the military stands apart from other institutions, as the Constitution grants Congress power to "provide for the common defense" and to "raise and support armies."

The military's legal branch, the Judge Advocate General's Corps, annually visits about 200 law schools, at which recruiters interview approximately 2,500 students. Ultimately, about 1,000 of that number seek to join and 400 are accepted, said Pentagon spokeswoman, Lt. Col. Ellen Krenke.

Yale Law School's dean, Harold Hongju Koh, said a separate challenge to the Solomon Amendment he and several faculty members filed remains before a lower court. He said that the Supreme Court's "decision is clearly an invitation for law schools to engage in more speech, not less, in the months ahead. Many of us here at Yale Law School plan to accept that invitation."

Billions of dollars were at stake in the dispute. At Yale alone, $300 million in annual federal funding was in jeopardy because of the university's stance, according to the Yale faculty's lawsuit.

Dean Larry Kramer of Stanford Law School said that his administration would continue to endorse student demonstrations against military recruiters. But he said that the issue largely was symbolic. "For what it's worth, there's very little interest among our students in going into the JAG Corps, quite apart" from the military's antigay policies, Mr. Kramer said.

Michael Armini, a spokesman for Harvard Law School, said the decision wouldn't affect military recruiting on campus because the school already was in compliance with the Solomon Amendment.

Military Ban On Campus Rejected (WT)

By Guy Taylor

The Washington Times, March 7, 2006

The Supreme Court yesterday ruled against universities that had prohibited military recruiters on campus.

The justices unanimously upheld a 1996 federal law that permits the government to withhold funds from universities that deny military recruiters the same access to students that is allowed other potential employers.

"Recruiters are, by definition, outsiders who come onto campus for the limited purpose of trying to hire students," Chief Justice John G. Roberts Jr. wrote for the court in his third opinion since being confirmed six months ago.

Several universities had banned military recruiters to protest the Pentagon's policy against open homosexuality in the armed forces.

The ruling arrives as the Pentagon struggles to achieve recruiting goals for an all-volunteer military force facing the strain of prolonged deployments required by the ongoing war on terrorism.

The case grew from a suit brought by a coalition of law schools and professors, who argued that their First Amendment right of free expression was violated by the 1996 law on grounds that it forced them to associate with and promote the activities of military recruiters.

Chief Justice Roberts rejected that argument, saying, "A military recruiter's mere presence on campus does not violate a law school's right to associate, regardless of how repugnant the law school considers the recruiter's message."

The chief justice said that the legal core of the case had nothing to do with the "don't ask, don't tell" policy and that allowing military recruiters at universities is paramount to attracting talent to the armed forces -- particularly to the ranks of military lawyers.

Because he was not on the court in December when the case was argued, Justice Samuel A. Alito Jr. abstained from the ruling, which drew mixed reactions from court observers yesterday.

"This decision is particularly important given that our nation is at war," said Senate Majority Leader Bill Frist, Tennessee Republican, who added the ruling "leaves no doubt that the United States military will continue to have equal access to all segments of our population ... and will be able to recruit the best and brightest that America has to offer."

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The American Civil Liberties Union had filed a brief supporting the law schools, and ACLU legal director Steven R. Shapiro said universities "should not be punished by the loss of their federal funding merely because they apply the same nondiscrimination policies to the military that they apply to every other employer that seeks to recruit on campus."

Nationwide, universities and colleges receive about $35 billion in federal funding annually.

Various universities have moved to bar military recruiters in the past, most notably during widespread demonstrations against the Vietnam War in the late 1960s and early 1970s. But campus outcry took a new turn in 1993, when President Clinton signed the "don't ask, don't tell" policy into law.

The policy allows homosexuals to serve in the military, but warrants their dismissal if they announce their orientation to others.

By the mid-1990s, several university law schools began barring military recruiters, along with those of any employer who could not promise that it would not discriminate on the basis of sexual orientation, from operating on campus.

Congress responded with a law to block Defense Department funding to universities that refused to allow military recruiters. The law was later amended to block all federal funding, with the exception of student loan money, to any university that took such action

It was not clear yesterday what the Supreme Court's ruling may mean for the future of the "don't ask, don't tell policy."

Mr. Shapiro asserted that nothing in the ruling "endorses the military's 'don't ask, don't tell' policy or any other form of discrimination against gay people."

Joseph Zengerle of George Mason University School of Law -- the only law school to publicly side with the government in the case -- said the ruling fits within a high court pattern of giving "great deference to the military and how it organizes itself and handles its policies."

Citing the ongoing war on terror, Mr. Zengerle, a Vietnam veteran who heads a clinic giving free legal assistance to military personnel and their families, added, "The closer you are to a hot war, the more deference the court is going to give the executive branch and Congress in handling national security matters."

In other action yesterday, the Supreme Court:

c Agreed to clarify when inmates can file civil rights lawsuits contesting prison conditions.

c Refused to consider whether a top judge in Illinois improperly voted to throw out a $1 billion judgment against State Farm after accepting campaign donations from company lawyers and executives.

·Declined to consider making it harder for grandparents to win visitation rights.

·Refused to hear a challenge to a statue at a Kansas college depicting a clergyman with a bishop's headdress that angered some Roman Catholics because of its phallic appearance.

Supreme Court Sides With Military Recruiters (LAW)

By Tony Mauro, Legal Times

Legal Times, March 7, 2006

Rejecting the views of some of the nation's top law schools and professors, the Supreme Court on Monday upheld the so-called Solomon Amendment, which requires universities receiving federal funds to give equal access to military recruiters on campus.

The unanimous decision was a sharp rebuke of the legal academe, many of whose members objected on First Amendment grounds to hosting military recruiters, because of the armed forces' policies against allowing open homosexuals in their ranks.

Writing for the 8-0 Court, Chief Justice John Roberts Jr. said the academics' arguments "trivialize" some of the Court's First Amendment precedents while "exaggerating" others. Justice Samuel Alito Jr. did not participate in the ruling.

"This decision will force our schools to carve out an exception to our nondiscrimination policies for the military, and that is unfortunate," said Carl Monk, executive director of the Association of American Law Schools, which has opposed discrimination in legal education on the basis of sex since 1970. But he said law schools will obey what is now "the law of the land." Monk expressed the hope that "the day is not far off when gays and lesbians will be able to serve as military lawyers."

The challenge to the Solomon Amendment was brought by the Forum for Academic and Institutional Rights, which includes the law school faculties of Stanford, Georgetown, George Washington, New York and other universities. The AALS also joined the challenge, but not as a lead plaintiff.

Georgetown law professor Mark Tushnet, a former president of the AALS, predicted that the ruling would lead to an increase in "the number and intensity of protests against military recruiting in the fall."

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Roberts wrote that the law, first passed by Congress in 1994, bears no resemblance to the compelled speech the Court has struck down in other cases, such as West Virginia Board of Education v. Barnette and Wooley v. Maynard, which said states could not require students to recite the Pledge of Allegiance or force drivers to display a state motto on their license plates.

"There is nothing in this case approaching a Government-mandated pledge or motto that the school must endorse," wrote Roberts. Law schools argued that to give military recruiters equal access, they would be forced to distribute fliers or send e-mails to students that would convey an unwanted government message, but Roberts said those actions are "plainly incidental."

The ruling came as little surprise after oral arguments last December when justices showed little sympathy for the law schools' argument, especially after Solicitor General Paul Clement said law schools were free to show their disapproval of military recruiters in a variety of ways, including organizing student protests against them.

Referring to Clement's statement at oral arguments, Roberts wrote, "The Solomon Amendment neither limits what law schools may say nor requires them to say anything." Roberts added, "As a general matter, the Solomon Amendment regulates conduct, not speech. It affects what law schools must do -- afford equal access to military recruiters -- not what they may or may not say."

Roberts also rejected an argument made by former acting Solicitor General Walter Dellinger III on behalf of a group of Harvard Law School professors that includes Dean Elena Kagan (in her capacity as a professor), Laurence Tribe, Lani Guinier, Randall Kennedy, and Robert Clark (a former dean).

They argued that by giving military recruiters disfavored treatment, Harvard and other law schools were, in fact, abiding by the Solomon Amendment because they would treat any other employer who violated their nondiscrimination policies in the same disfavored way.

But Roberts, a Harvard Law School alumnus, rejected the argument, asserting that the federal law looks to the actual access military recruiters are given, not to the policy that leads to that access. "It is insufficient for a law school to treat the military as it treats all other employers who violate its nondiscrimination policy," Roberts wrote. "Under the statute, military recruiters must be given the same access as recruiters who comply with the policy."

The law was also attacked as an unconstitutional condition on federal funding, but the Court rejected that argument, too. Roberts said that because Congress has "broad authority" in the area of military recruiting, it could have imposed the access requirement on universities directly, rather than making it a condition of federal funding. "Because the First Amendment would not prevent Congress from directly imposing the Solomon Amendment's access requirement, the statute does not place an unconstitutional condition on the receipt of federal funds," Roberts wrote.

The ruling was Roberts' third majority opinion, and all have been without dissents or separate concurrences. Some critics of the military-recruiting decision took solace in that fact Monday, suggesting it means that the Court was not announcing a sweeping new doctrine.

"The unanimity of today's decision strongly suggests that the Court did not think it was changing any existing constitutional rules," said Steve Shapiro, legal director of the American Civil Liberties Union. "Certainly, nothing in today's decision endorses the military's 'Don't ask, don't tell' policy or any other form of discrimination against gay people."

Supreme Court Upholds Campus Military Recruiting (LAT)

By David G. Savage

The Los Angeles Times, March 7, 2006

WASHINGTON — The military has a right to recruit on college campuses and at law schools nationwide, the Supreme Court ruled Monday, despite the Pentagon's policy of excluding openly gay men and women from its ranks.

The justices unanimously rejected a free speech claim brought by some law schools and professors who said they should not be forced to aid an employer who discriminates against job applicants because of their sexual orientation.

In his first major opinion for the court, Chief Justice John G. Roberts Jr. called this legal claim a stretch. The decision upheld the Solomon Amendment, in which Congress said that colleges and universities that take federal money must give the Pentagon the same right to recruit on campus as other employers.

"The Solomon Amendment regulates conduct, not speech," Roberts said. "It affects what law schools must do — afford equal access to military recruiters — not what they may or may not say. ..(It) neither limits what the law schools may say nor requires them to say anything."

Monday's case did not arise from campus opposition to the Iraq war, nor have there been major protests over military recruiting. Unlike the Vietnam era, campuses are not centers of widespread protests these days, nor have military recruiters been barred from entering campus grounds.

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Nonetheless, several law schools have carried on a mostly symbolic protest against the Pentagon's refusal to change its policy against gays. Since the 1960s, the Association of American Law Schools had a policy of refusing to aid recruiting by employers who had discriminatory hiring practices. In 1990, this policy was amended to include sexual orientation.

To enforce this policy, some law schools refused to post information on recruiters for the armed forces who planned to visit, nor would they make rooms available where they could meet with students who were interested in becoming military lawyers.

"No one was denying them access. We just withheld affirmative support," said Stanford Law School dean Larry Kramer, who was a New York University law professor when the case began.

Lawmakers in Congress objected to what they saw as second-class treatment for military recruiters. In 1995, they adopted an amendment sponsored by the late Rep. Gerald Solomon (R-N.Y.) that threatened a cutoff of federal funds to a college or university that prevents the armed forces from recruiting on campus. In recent years, Congress has strengthened this amendment to say the military must be given full equal treatment when its recruiters visit a campus.

Colleges and universities did not challenge the law. They had $35 billion a year in federal aid at stake.

"We are in a war, whether properly declared or not, and during a war, 1st Amendment rights nearly always retract," said Matthew Spitzer, dean at the USC law school. "The idea the Supreme Court would tell the federal government it could not attach a condition to the receipt of federal funds is unthinkable."

However, the law faculty at several dozen schools, including Stanford, NYU, Georgetown and the University of San Francisco, joined a lawsuit to challenge the measure as unconstitutional.

They relied in part on a Supreme Court ruling that was seen as a major setback for gays six years ago. The court in a 5-4 decision said the Boy Scouts of America had a free speech right to expel an openly gay Scout master because his presence conflicted with their message of "morally straight" behavior.

The challengers to the Solomon Amendment said the same logic should work in reverse. They said they had a free speech right to exclude anti-gay employers — including the Pentagon — because their presence would conflict with their message of tolerance and nondiscrimination.

The U.S. Court of Appeals in Philadelphia agreed and said the Solomon Amendment was unconstitutional because it "compels law schools to propagate the military's message," including its bias against gays.

The Bush administration appealed that ruling on behalf of Defense Secretary Donald Rumsfeld, and the Supreme Court had no troubling in reversing it Monday in Rumsfeld vs. FAIR.

The chief justice said the law posed no free speech problems. First, the law schools and the faculty are not required to speak in favor of the military. Second, they may speak openly against the military without losing federal money. And third, he said, students will not be fooled into thinking the law school agrees with the Pentagon because it has permitted the Pentagon to recruit on campus.

"We have held that high school students can appreciate the difference between speech a school sponsors and speech the school permits," he wrote, referring to a decision that allowed a Bible study group to meet on campus at a high school. "Surely students have not lost that ability by the time they get to law school," Roberts said.

All the justices signed his opinion except for new Justice Samuel A. Alito Jr., who did not participate.

"I am obviously disappointed. There is no sensitivity in this opinion to the important concern the law schools have," said Duke Law professor Erwin Chemerinsky, who joined the lawsuit.

At USC, the protests over the Solomon Amendment have been low-key. "We have had students sign up for an interview with a military recruiter, and they demand to know why the 'don't ask, don't tell' policy hasn't been changed," Spitzer said.

UCLA Law School dean Michael Schill said the University of California system has a policy that required giving military recruiters access to the campus. "Even if the Solomon Amendment had been struck down, we would have had our own policy that allowed them to be here," he said.

While some faculty members and students oppose the Pentagon's policy, "it has not generated a large amount of controversy in the 18 months that I've been here," he said.

Gay rights advocates said they hoped school officials would make use of their free speech rights. The court's opinion "leaves room for students and universities themselves to speak out ... and show their abhorrence of the military's policy that discriminates against gay and lesbian people," said Jon Davidson, legal director of Lambda Legal.

Court Upholds Military Recruiting Law (USAT)

By Joan Biskupic

USA Today, March 7, 2006

WASHINGTON — The U.S. government can withhold funds from universities that protest the Pentagon's ban on gay men and lesbians by denying military recruiters access to campuses and students, the Supreme Court ruled Monday.

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In a unanimous opinion by Chief Justice John Roberts, the court rejected arguments from a group of law schools that claimed a federal law that allows the government to withhold funding in such situations violates colleges' First Amendment rights of free speech and free association.

The law, known as the Solomon Amendment for its original sponsor in 1994, U.S. Rep. Gerald Solomon, R-N.Y., allows the U.S. government to deny funding to colleges that do not give military recruiters the same access and campus privileges that are given to other recruiters.

Most law schools that host recruiters insist that they sign a statement saying they do not discriminate based on sexual orientation. The law school consortium that brought the case, the Forum for Academic and Institutional Rights, said requiring schools to accept military recruiters undermined their opposition to bias and forced them to adopt a message they oppose. The military's "don't ask, don't tell" policy bars anyone who reveals his or her homosexuality from serving in the armed forces.

The case was not a test of the "don't ask, don't tell" policy. It drew attention in part because it became part of the national debate over gay civil rights and arrived at the court as the Pentagon was becoming increasingly aggressive in its wartime recruiting.

The American Association of University Professors, the American Civil Liberties Union and several universities filed briefs urging the justices to uphold a lower-court ruling that said the Solomon Amendment wrongly compelled schools to send, and subsidize, a message of discrimination.

In his first major opinion since becoming chief justice last fall, Roberts wrote, "Accommodating the military's message does not affect the law schools' speech, because the schools are not speaking when they host interviews and recruiting receptions."

Roberts said the basic communications required of colleges were bulletin board notices and e-mails. The chief justice said they hardly could be compared to the kind of "compelled" government speech that has been invalidated through the years, such as a West Virginia law that required schoolchildren to recite the Pledge of Allegiance and to salute the American flag, or a New Hampshire law that ordered the state motto — "Live Free or Die" — to be on license plates.

Joshua Rosenkranz, who represented the law schools challenging the law, said he did not expect universities to decline federal funds so they could block military recruiters. However, he said he expects faculty members and students will accelerate their public opposition to "don't ask, don't tell."

"Schools are not going to give up the money," Rosenkranz said, noting that billions in college funding are at stake. "But there are other ways to get the message across. You are going to see banners over military interview rooms and signs that say, 'Danger: Discriminating recruiters inside.' "

New Justice Samuel Alito did not participate in the case; he had not yet joined the court when the case was heard in December.

Justices Side With Military Recruiters (CSM)

By Stacy A. Teicher

The Christian Science Monitor, March 7, 2006

Military officials might have to run a bigger gantlet of protesters as they search for recruits on America's university campuses. But they no longer have to worry that they'll be shut out altogether because of the "don't ask, don't tell" policy related to gay members of the armed forces.

The Supreme Court ruled unanimously Monday that military recruiters must have the same kind of access as other employers coming onto campus to give out information and conduct job interviews, if the campus receives federal money. Most campuses rely on some share of the $35 billion the government channels each year to higher education.

An association of law schools and professors, the Forum for Academic and Institutional Rights (FAIR), filed suit against Defense Secretary Donald Rumsfeld to challenge the law that ties recruiters' access to federal funding - known as the Solomon Amendment. FAIR argued that campuses should be free to extend their own philosophy of nondiscrimination by requiring recruiters to sign pledges that they would not discriminate before being allowed the use of campus facilities. Under the Pentagon's policy, gay men and women can serve in the military only if they keep their sexual orientation to themselves.

"A military recruiter's mere presence on campus does not violate a law school's right to associate, regardless of how repugnant the law school considers the recruiter's message," wrote Chief Justice John Roberts. "The Solomon Amendment neither limits what law schools may say nor requires them to say anything."

Supporters of the law schools' position were undeterred. "We're disappointed with the legal outcome of the case ... but this unanimous opinion is a call to arms to the law school administrations across the country," says Chai Feldblum, a law professor at Georgetown University and a board member of FAIR. The organization hopes "to see every single law school helping students to organize protests" against military recruiters on campus, "because the Supreme Court has told us that the way to exercise our First Amendment beliefs is by speaking out more."

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The decision will come as welcome news for the armed services, which have worked diligently to overcome shortfalls in recruiting nationwide. In the last recruiting year, which ended in September, the Army missed its year-long goal for the first time since 1999, falling short of its target by 6,627 recruits. It represented the largest deficit since 1979.

At a time when the Pentagon is relying heavily on the Army in Iraq, recruiting is a matter of crucial importance to the military. Though higher-than-expected reenlistment rates have forestalled fears of a "broken Army," the Pentagon has made recruiting a top priority in recent months, approving enlistment bonuses of up to $40,000 and additional bonuses of $1,000 for soldiers who refer new recruits. It has also added more recruiters to the beat.

But with only a tiny fraction of recruits coming from law schools, some see the case as having a more symbolic significance.

"This was a very challenging case in some ways because, as the opinion makes clear, if you go too far in saying that allowing recruitment efforts you don't like violates your First Amendment rights, that might allow employment agencies to refuse to provide services on the basis of race, or religion, or national origin. There has to be some limit there," says Jon Davidson, legal director at Lambda Legal, a gay-rights advocacy group. Despite those intricate issues, the organization joined an amicus brief with the American Civil Liberties Union on behalf of FAIR.

Now that the campus-recruitment issue has been resolved, "the next real piece of the fight will go directly to 'don't ask, don't tell' itself," Ms. Feldblum says. She adds that cases challenging the military policy are already under way in Massachusetts and California, and a bill has been proposed in the US Congress to replace the policy with a nondiscrimination clause that includes sexual orientation.

A Victory For Military Recruiters (WP)

By Fred Barbash And Lois Romano

The Washington Post, March 7, 2006

The Supreme Court yesterday unanimously upheld a federal law that forces colleges and universities to permit military recruiting on campus, despite the schools' objections to the Pentagon ban on openly gay people serving in the armed forces.

By a vote of 8 to 0, the court upheld the Solomon Amendment, which permits the denial of federal funding to schools that do not allow military recruiters the same access given to all other job recruiters. But in ruling that schools must provide the military the same access to students as they would for any other recruiters, the justices noted that schools are still free to protest their presence on campus.

The Forum for Academic and Institutional Rights (FAIR) -- a coalition of law schools and professors that formed to sue the government -- had said the law "compelled speech" that made it appear schools were endorsing the government's exclusion of acknowledged gays in the military, thus violating the schools' right to free speech under the First Amendment.

But in writing for the court, Chief Justice John G. Roberts Jr. said that Solomon "neither limits what law schools may say nor requires them to say anything."

"Law schools remain free under the statute to express whatever views they may have on the military's congressionally mandated employment policy. . . . Nothing about recruiting suggests that law schools agree with any speech by recruiters and nothing in the Solomon Amendment restricts what the law schools may say about the military's policies," Roberts wrote.

Justice Samuel A. Alito Jr., the newest member of the court, did not take part in the case.

Though a federal district court had sided with the government, an appeals court in Philadelphia reversed that decision, ruling in favor of FAIR last year and blocking enforcement of Solomon. But yesterday's Supreme Court opinion rejected each argument that had been advanced on FAIR's behalf.

"In this case, FAIR has attempted to stretch a number of First Amendment doctrines well beyond the sort of activities these doctrines protect," Roberts wrote.

So thorough was the court's rejection of FAIR's arguments that it ruled Congress could have achieved equal access not only indirectly, by threatening a funding cutoff, but also directly, through legislation based on its constitutional power to raise military forces. In fact, the court suggested in passing, even colleges and universities that do not receive any federal funding could be compelled by Congress to allow military recruiters.

"Congress's power in this area is broad and sweeping," Roberts wrote, "and there is no dispute in this cases that it includes the authority to require campus access to military recruiters."

So far, however, the government has chosen the more indirect approach of the Solomon Amendment. With yesterday's decision, many universities will now have to choose between their law schools' anti-discrimination principles and their dependence on federal money.

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Most schools have made it clear that they could not afford to lose federal aid, which totals about $35 billion a year. Only a few schools -- including the law schools of New York University and George Washington University -- allowed their names to be publicly attached to the lawsuit.

Geoffrey Shields, dean of Vermont Law School, told the Associated Press yesterday that since 1999 his school has given up some federal money and will continue to bar recruiters "as a symbol of the importance of fair treatment of all people."

"We've stuck to our guns, and I anticipate we'll continue to stick to our guns," he said.

Sen. John Cornyn (R-Tex.), who had called the appellate court's decision in favor of FAIR an "insult" to the military, said in a statement yesterday that "this decision will ensure that the military will continue to be comprised of our nation's finest -- men and women who know how to defend our country in a manner consistent with our values and principles."

Supporters of FAIR took solace in passages of the opinion that noted students and others would still be free to protest military recruiters. Tensions between Congress and academia over university efforts to restrict military recruitment date to the Vietnam War and campus protests against it.

"The court affirmed the idea of a vigorous public forum and that's what's refreshing," said Michael Tigar, a law professor at American University and an opponent of Solomon. "The opinion sounds these First Amendment themes. The message is: If you don't like something, there is always more speech."

Joshua Rosencranz, a New York lawyer who represented FAIR in the case, said the schools always saw the suit as a "scrimmage in a broader war" about equality.

"We brought the suit in part because there are those saying 'How dare you let protesters on campus when the recruiters were there?' " he said. "Well, this opinion makes clear that those rights are still in tact. It forced the government to state what the line was."

Attaching various strings to federal funding is itself standard practice, used most famously to secure equal treatment for women in athletic programs. It's been upheld by the courts in part because the educational institutions are free to reject the money if they object to the strings.

The decision, while closely watched, was unsurprising after the oral arguments in the case, during which the justices expressed great skepticism about equating the recruiting with protected expression. Roberts wrote that although the court held in 1977 that New Hampshire motorists cannot be compelled to display the state motto -- "Live Free or Die" -- on license plates, in this case the government "does not require any similar expression by law schools" and "does not dictate the content of speech at all."

"Compelling a law school that sends scheduling e-mails for other recruiters to send one for a military recruiter is simply not the same as forcing a student to pledge allegiance, or forcing a Jehovah's Witness to display the motto 'Live Free or Die,' " Roberts wrote.

Army 8, Yale 0 (WSJ)

The Wall Street Journal, March 7, 2006

Yesterday the Supreme Court upheld a provision of a law called the Solomon Amendment, which conditions federal funding for colleges and universities on their providing military recruiters the same access they grant to other employers. The decision was no Solomonic compromise but a complete rout of the other-worldly professors who had challenged the law.

Those professors, opponents of the Clinton-era law barring open homosexuals from military service, had claimed the Solomon Amendment violated their First Amendment rights by forcing them, as the Yale faculty put it in a friend-of-the-court brief, "to assist the military in telling some Yale Law students that they are not fit to serve in our country's armed forces because of their sexual orientation."

Chief Justice John Roberts, in an 8-0 decision (Justice Samuel Alito joined too late to participate), laughed the free-speech claim out of court: "Congress, for example, can prohibit employers from discriminating in hiring on the basis of race. The fact that this will require an employer to take down a sign reading 'White Applicants Only' hardly means that the law should be analyzed as one regulating the employer's speech rather than conduct."

And of course anti-military professors, unlike racist employers, are completely free to speak their minds on the subject. Yale can even show its disagreement with mainstream America, as it recently did, by admitting as a student a former senior official of Afghanistan's Taliban, a regime that treated homosexuals far more harshly than the U.S. military ever has.

The Solomon Amendment only denies federal funding to schools that discriminate against the military, but the High Court went one step further: It held that Congress, under its Constitutional authority to "provide for the common Defence," "to raise and support Armies" and "to provide and maintain a Navy," could mandate that colleges and universities permit military recruiters on campus, whether they accept federal money or not.

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We hope Congress does not do so. If those who run America's institutions of higher education really have principled objections to the military's presence, let them take a stand by declining taxpayer money. Then the rest of us can find out how much their principles are worth.

Now Repeal The Ban (WP)

The Washington Post, March 7, 2006

THE SUPREME Court's unanimous decision yesterday upholding the Solomon Amendment is no surprise. It offers the correct answer to the legal question the case posed: Can the government deny federal money to universities that, in protest of the military's discrimination against homosexual service members, bar military recruiters from campus or grant them access on terms less welcoming than those given to other employers? As the court ruled, the universities don't have a right to that money. But the Pentagon's legal win should not obscure the indefensible nature of the policy that underlies the dispute. The gay ban still needs to be repealed.

The Solomon Amendment, named for the late representative Gerald B.H. Solomon (R-N.Y.), is bad policy, but it's not unconstitutional. The threat to withhold federal money leaves law schools with an uncomfortable choice between forsaking federal support and violating their own anti-discrimination policies. But the First Amendment does not prohibit the government from attaching conditions to its largess. Universities remain free to oppose U.S. policy as vocally as they like. They just can't frustrate military recruiting efforts while accepting federal dollars. As Chief Justice John G. Roberts Jr. put it for the court, "Compelling a law school that sends e-mails for other recruiters to send one for a military recruiter is simply not the same as forcing a student to pledge allegiance to the flag . . . or forcing a Jehovah's Witness to display a particular motto on his license plate" -- forms of compelled speech the court has struck down. It "trivializes the freedom protected in [those cases] to suggest that it is."

It also trivializes the plight of gays in the military to focus on the ancillary consequences of the gay ban for American law schools. Universities are not the primary victim here. The real problem, which this litigation has tended to obscure, is that the military, even while fighting two wars, continues to root out Americans who wish to help by maintaining a policy that bars anyone who is openly gay. It robs itself of much-needed talent by way of their humiliation and exposure while forcing those in uniform to hide who they are.

This would be distasteful even if their presence in the military posed some real problem. But there's no evidence of that. A combination of bigotry and inertia keeps the gay ban in place. Now that the military has proved it can constitutionally exempt itself from university nondiscrimination rules, Congress should decide whether it really wants a military that requires such an exemption.

Justice Department V. Google Court Date Postponed Again (CNET)

CNET News, March 7, 2006

Google's courtroom date with the U.S. Justice Department has been delayed a second time.

U.S. District Judge James Ware in San Jose, Calif. on Friday postponed the hearing from March 13 to March 14 at 9:00 a.m PT.

The outcome will determine whether the Bush administration will prevail in its fight to force Google to help it defend an anti-pornography law in a trial in Philadelphia this fall.

Although the Justice Department also demanded that Yahoo, Microsoft and America Online hand over similar records, Google was the only recipient that chose to fight the subpoena in court.

CIVIL RIGHTS:

Mandalay Bay Undergoes ADA Scrutiny (LVBIZ)

By VALERIE MILLER, BUSINESS PRESS

Las Vegas Business Press, March 7, 2006

Hotel says it is working with DOJ 'to resolve issues in timely manner'

Sixteen years after the passage of the Americans with Disabilities Act, the issue of hotel-casinos' compliance with the law's accessibility guidelines is again emerging as a hot-button issue. Numerous private complaints have been lodged against an assortment of casinos, and the Department of Justice told the Business Press that it is in the midst of a probe involving ADA compliance and Mandalay Bay Resort.

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"It's an ongoing, active investigation. It is the resort in general," said DOJ spokesman Eric Holland, who couldn't comment further because of the investigation. He added that policy investigations must go through a preliminary review first, then, if warranted, an active investigation will be launched by the Justice Department.

MGM Mirage, which now owns Mandalay Bay, acknowledged the DOJ was looking into issues at the property prior to its absorption of the Mandalay Resort Group, which owned Mandalay Bay. That merger was completed last April. "The Department of Justice had made that company aware of certain areas of concerns," said MGM Mirage spokesperson Yvette Monet. "We are working with the Department of Justice to resolve the issues in a timely manner." Mandalay Bay's hotel does comply with the ADA's disable accessible room standards, according to information supplied by MGM Mirage.

Department of Justice is investigating whether Mandalay Bay Resort is ADA-compliant.

Two other MGM Mirage-owned properties -- the MGM Grand and New York-New York -- have reached separate settlements with the Justice Department in the past. The agreements, last revised in 2001, called for both resorts to provide more access to disabled people.

While casinos are not specifically mentioned in the Americans with Disabilities Act, it does distinguish between hotels as either "newly constructed" or "existing." Although the act was passed in 1990, the cut-off for "existing facility" status depended on whether all building permit applications and extensions were certified as complete prior to Jan. 26, 1992. Besides offering accessible restaurants, pathways and assembly areas (including convention centers, arenas, movie theaters and showrooms), the newer hotels are required to have a certain number of disabled-accessible parking spaces and rooms for wheelchair users. That room count can go as high as 4 percent of the total room inventory, but the percentage decreases as more rooms are added. A smaller number of rooms must be made available to the hearing impaired.

Existing hotels only have to do what's "readily achievable" to comply with the ADA, unless they are being renovated and are thus considered "new." "They (hotels) only have to do what can be 'easily accomplished and can be carried out without much expense,' " UNLV Boyd Law School Professor and Chair Ann McGinley said, quoting the law. "It's just when it is expensive that they don't have to do it."

She noted that while mom-and-pop shops may find it tough to become accessible for the disabled, Las Vegas resorts might have a hard time making that case. "So much is readily achievable," she said. "When you see casinos ... they make so much money, and they can't move a toilet seat?"

VENETIAN UNDER SCRUTINY

One recently constructed Las Vegas resort isn't passing muster with Nevadans for Equal Access, a disability rights group. The Venetian Resort, according to the group's president, Paul Martin, has failed to comply with the ADA requirements by making its main bridge over its lagoon too steep for wheelchairs.

"The (Rialto) Bridge from the (Venetian's) shopping center to the (Campanile) clock tower is totally inaccessible to anybody using a wheelchair," stated the complaint sent by Nevadans for Equal Access' attorneys at the Clark County Legal Services Program to the Department of Justice in late August 2001. The Venetian was also notified, Martin said, but neither the resort nor the department ever responded. DOJ's Holland said the department never received the complaint, and surmised it was lost as a part of the mail disruption after the 9/11 terrorist attacks. The Venetian did not respond to the Business Press inquiries at press time.

While Nevadans for Equal Access had sued Binion's Horseshoe, the Plaza and the then-Showboat hotels and casinos in the mid-1990s, forcing the properties to make the needed upgrades, Martin said his group doesn't have the wherewithal to take on the behemoth Venetian without the help of the DOJ. "It would use up all the resources of Clark County Legal."

Despite the complaints, Las Vegas hotels received high marks from one disability travel resource, Emerging Horizons. The California newspaper's editor, Candy Harrington, ranked Las Vegas above cities like Orlando when it came to meeting the needs of the disabled. Most of the complaints Harrington receives about Las Vegas concerns disabled-access rooms not being available because of previous reservations.

By the Business Press' count, most hotels have either met or exceeded ADA standards. However, a source familiar with the MGM Mirage-owned Luxor, which was built on the bubble in 1993, said the property was in the midst of trying to reach an ADA-required 51 wheelchair-accessible rooms and had 38 as of a month ago. MGM Mirage's Monet maintained all of its properties are compliant with the disability act, including the Luxor, which she said had 91 accessible rooms. "I cannot comment on information from an unofficial source," she said.

The properties of the MGM Mirage go the extra mile in trying to accommodate guests with disabilities, Monet added. That includes putting in necessities such as ceiling track bars (to hoist them out of bed) in some rooms at the Mirage Resort. "If they are going to that level, they are going way beyond what the government requires," ADA consultant Thomas Schmokel, who is wheelchair-bound, said. "I never see that in hotels. Tell me who they are and I'll put them in for an award."

WYNN RESORT EARNS KUDOS

Wynn Las Vegas has installed ceiling lifts with slings in some rooms, according to Richard Cotter, Wynn's executive vice president for hotel and food and beverage. He added that all table games are accessible for wheelchair customers and that the resort in the short time it has been open received an award from a group of disabled veterans.

"I'm sure you can find non-compliance, but most of the large properties are in compliance," said Tom Jones, a UNLV professor of hotel administration, who teaches accessibility requirements.

If a lawsuit is filed against a Nevada hotel or casino because of non-ADA compliance, monetary compensation is not awarded. Salt Lake City attorney Richard Armknecht, however, believes the Nevada law can be interpreted in a way to award damages. He successfully sued the Coast Resorts' Orleans Hotel and Casino in 2001, forcing it to renovate more than 800 rooms. The attorney currently represents a woman who said she was denied public accommodations at the Tropicana's Tiffany Theater. The casino denied the charge, saying an employee gave incorrect information.

"The whole enforcement of the ADA is through the courts," added UNLV professor Jones. "Somebody might not be in compliance for years, but if nobody brings a suit, then it may never come to light."

Judicial Bias Claims Reach Calif. High Court (LAW)

By Mike Mckee, The Recorder

California Recorder, March 7, 2006

Attorneys arguing that Alameda County, Calif., prosecutors routinely excluded Jews from death penalty juries have been asked a tricky question: Does it matter if the court record doesn't establish that any of the excused jurors were actually Jewish?

The justices of the California Supreme Court posed that question in a death row inmate's habeas case last month, and they're going to want answers during oral arguments Wednesday in San Francisco.

They also want to know whether there was actual wrongdoing if a prosecutor had a separate, valid reason for removing a juror.

The last-minute queries throw a new wrinkle into a case that has fascinated the Bay Area legal community since July 2004. That's when the high court in the habeas corpus case of death row inmate Fred Freeman ordered an investigation into whether the Alameda County district attorney's office -- in collusion with now-deceased Superior Court Judge Stanley Golde -- intentionally purged Jews from capital juries because of a perception that they wouldn't sentence someone to death.

Former Alameda County prosecutor John "Jack" Quatman, who prosecuted Freeman, raised the allegations, but wound up being branded a "dishonest and unethical" man by a Santa Clara County Superior Court judge who presided over a weeklong evidentiary hearing 11 months ago.

Judge Kevin Murphy ruled that Freeman got a fair trial and that there was ample evidence Quatman fabricated his claims to embarrass Alameda County DA Tom Orloff, who took Quatman off capital cases in 1993.

The latest questions by the Supreme Court seem to indicate that the justices could be leaning toward deciding the case on a narrow issue, possibly whether jurors were let go simply because they appeared Jewish or that their surnames -- Mishell, Peisker and Laput -- sounded Jewish.

"The whole point here is that the court is not going to be focusing on the law," said Dennis Maio, a former Supreme Court research attorney who's now of counsel in Reed Smith's San Francisco office. "The question is, was this person a member of a cognizable group and if so, did the prosecutor strike this person for that reason?"

The court's questions also seem to put a heavier burden on Freeman's attorneys at San Francisco's Habeas Corpus Resource Center -- namely, to show that prosecutors discriminated during jury selection in violation of the standards set out in People v. Wheeler, 22 Cal.3d 258, and Batson v. Kentucky, 476 U.S. 79, even though the record apparently doesn't establish who, if anyone, was Jewish.

Wheeler, issued by the state Supreme Court in 1978, and Batson, handed down by the U.S. Supreme Court in 1986, are the guidepost decisions on jury selection bias.

Neither Gary Sowards, Freeman's HCRC lawyer, nor Morris Lenk, the San Francisco deputy attorney general handling the state's case, returned calls seeking comment.

But both laid out their positions in papers filed exactly two weeks after the Supreme Court's Feb. 14 order for supplemental briefing. Predictably, they offered diametrically opposite views.

Sowards argued that the high court's own case law in 1985's People v. Motton, 39 Cal.3d 596, holds that litigants need not know the "self-reported race or ethnicity" of a juror to violate anti-discrimination standards.

"Whether or not the prospective jurors excused by the prosecutor in this case actually were Jewish," he wrote, "is irrelevant to the question of whether the prosecutor exercised his peremptory challenges with the intent to systematically exclude a cognizable class from [Freeman's] jury.

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"The prosecutor," he continued, "exercised his peremptory challenges against jurors who were Jewish or that he believed were Jewish."

Sowards noted that such exclusions result in an "error of constitutional magnitude requiring reversal."

In response, Lenk pointed to the high court's own 2002 decision in People v. Gutierrez, 28 Cal.4th 1083, which involved a prospective juror who acquired her Hispanic surname through marriage.

"Absent proof that any prospective jurors excluded by a prosecutor's peremptory challenges were, in fact, members of a cognizable group, no Wheeler violation has been stated," he wrote. "In other words, the right to trial by a representative jury is not violated unless it is established that the prosecutor has excluded a person who actually is a member of a constitutionally protected group."

Lenk and Sowards also butted heads on the court's second question, which asked whether prosecutors violate Wheeler or Batson if they not only excuse a juror for the improper reason of religious faith, but at the same time for a valid reason, such as a juror being unwilling to impose the death penalty.

Sowards argued that other reasons would be irrelevant and that "discrimination based on race or religion cannot have a place in a prosecutor's decision to strike jurors from a criminal case."

But Lenk contended that the court itself has "repeatedly declared" that prospective jurors cannot be excluded solely on the presumption they are biased because of race, religion and ethnicity. He also pointed out that the evidentiary hearing judge concluded that Quatman had lied when he claimed he had excluded jurors based on religion.

Although it's not clear what prompted the high court's questions, Stephen Barnett, a professor emeritus at Boalt Hall School of Law, speculated the justices could be reacting to the U.S. Supreme Court's Jan. 18 ruling in Rice v. Collins, 126 S.Ct. 969.

In that decision, the court held that a Los Angeles prosecutor who dismissed a black woman from a jury pool to achieve gender balance in a cocaine possession case had "a number of other permissible and plausible race-neutral reasons." Among them, the woman was young, lacked community ties and had rolled her eyes in apparent disrespect when answering a voir dire question.

"It could be that the California [Supreme] Court just wants to make sure it's up to date," Barnett said in an e-mail response. "Rice doesn't necessarily present the issues raised by the court's questions, but it can be read as doing so."

Justice Carol Corrigan, who was a witness in the underlying evidentiary hearing, will not participate in Wednesday's arguments in In re Freeman, S122590. Justice Ming Chin has also recused himself.

Subbing for them will be Justices Paul Boland, of Los Angeles' 2nd District Court of Appeal, and Judith Haller, of San Diego's 4th District.

Unnatural Selection (NYT)

By Morris B. Hoffman

The New York Times, March 7, 2006

Denver

THE side show of jury selection all too often takes over the circus in American trials. And the central culprit in that takeover is the peremptory challenge, a practice by which lawyers may exclude a certain number of prospective jurors without having to prove, or even state, a justification. Since peremptory challenges are not mandated by the federal or any state constitutions, Congress and state legislatures could abolish them tomorrow. They should.

It took Judge Lance Ito more than a month to pick the O. J. Simpson criminal jury. Selection of the Martha Stewart jury took a full week. When Judge Sim Lake of the Federal District Court in Houston spent just one day picking the jury that is hearing the criminal case against two former Enron executives, Kenneth Lay and Jeffrey Skilling, he drew scorn from some defense lawyers, who seem to presume that fairness and inefficiency are inseparable bedfellows.

His lightning performance also drew praise from some jury reformers, who have been calling for the application of many of the techniques that Judge Lake used to streamline the selection process, including limiting questioning by lawyers and having prospective jurors fill out questionnaires before selection day.

But this debate has overlooked the real problem behind ponderous and insulting jury selection. Peremptory challenges give trial lawyers the power to manipulate jury membership by rejecting perfectly fair prospective jurors for any reason or none, as long as the rejection does not smack of race, sex or ethnic discrimination.

O. J. Simpson's lawyers and their jury consultants spent weeks poring over, and following up on, the prospective jurors' answers to a questionnaire that included such questions as "What is your political affiliation?" and "Do you have a religious affiliation or preference?" The modern raison d'être of these kinds of questions is not to discover disqualifying prejudice, but quite the opposite: to allow lawyers to discover jurors they think are secretly biased in their clients' favor while using peremptory challenges to disqualify those they imagine are not.

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Under current constitutional limitations, lawyers may strike you from a jury pool because you are an Aries, but not because you are a female. But it is impossible to ferret out the striking lawyers' real motives, in a system that allows them to be completely irrational but not discriminatory. The inquiry itself drives biased lawyers to fabricate non-discriminatory pretexts. It is often difficult, even for the challenging lawyers themselves, let alone trial judges, to know whether some deeply lurking impermissible animus might taint gestalt judgments about particular jurors.

In one famous case, a prosecutor excluded two African-American jurors because they had mustaches and beards that looked "suspicious." Is this perfectly permissible stereotypical nonsense, or unconstitutional stereotypical nonsense?

Even when they are not discriminatorily used, peremptory challenges are inconsistent with the fundamental ideal that trials are about truth detection, not about whose lawyer is the cleverest. The whole notion that lawyers may apply their own home-grown stereotypes to excuse perfectly impartial jurors, as long as those stereotypes do not touch on race, gender and ethnicity, infects the jury system with a profoundly trivializing gamesmanship. How can we expect the results of jury trials to be respected as rational applications of the law to facts found by disinterested citizens, when the process by which those citizens are selected devotes more time and energy to discovering their taste in music than their ability to be impartial?

For these and other reasons, some academics and lower court judges, jury foes and friends alike, have long criticized peremptory challenges. But last year, in a criminal case called Miller-El v. Dretke, Justice Stephen Breyer became just the second sitting Supreme Court justice in history to call formally, in a written case opinion, for the elimination of the peremptory challenge (for the record, he cited my 1977 law review article on the subject).

The first justice to do so was Thurgood Marshall, in a concurrence in Batson v. Kentucky, the 1986 case that first outlawed a prosecutor's discriminatory use of peremptory challenges in a single case (as opposed to a pattern of discrimination over many cases, which had been outlawed since 1965). As Justice Marshall presciently put it: "The decision today will not end the racial discrimination that peremptories inject into the jury-selection process. That goal can be accomplished only by eliminating peremptory challenges entirely."

Some critics of the existing system object not to peremptory challenges per se but to the notion that barring their discriminatory use is either meaningful or lawful. Justice Antonin Scalia, in particular, has been consistent and adamant in opposing extensions of the Batson doctrine — first to civil cases, then to criminal defendants (one might ask in both these circumstances what is unconstitutional about a private civil litigant, or a private criminal defendant, exhibiting racial bias in jury selection?), then to gender and ethnicity. Can religion or sexual orientation be far behind? And if it makes no sense to bar the discriminatory use of peremptory challenges on these grounds, how can we make sense of their use to discriminate on other grounds? The only solution is to get rid of them altogether.

Each extension of the Batson doctrine has subtly, and sometimes not so subtly, shifted the constitutional inquiry from the litigant's right to a fair and impartial jury (a right guaranteed, at least in the criminal arena, by the Sixth Amendment) to the prospective juror's right not to suffer race, sex or ethnic discrimination during jury selection (a right nowhere to be found in the Constitution). Today, almost 20 years after Batson, the problem is not just that racial discrimination continues to haunt jury selection, but also that the methods created to prevent it have overcorrected and now seem to value some disembodied notion of juror diversity over the constitutional command for fair trials.

To those of us who believe that jurors take their oaths seriously, that most jurors can put aside their biases, that strong facts rather than tricky lawyers win cases and that the jury system is an incredibly accurate albeit imperfect truth-finding device, the peremptory challenge system has become an embarrassment. After the latest string of California and New York celebrity trials, with 24-hour pundits constantly barraging us with their tactical and strategic views as if trials were procedural wars unrelated to any underlying truth, Justice Breyer's call for the abolition of the peremptory challenge is a welcome one. Congress and state legislatures, take note.

S.D. Enacts Ban On Nearly All Abortions (WP/AP)

By Associated Press

The Washington Post, March 7, 2006

PIERRE, S.D., March 6 -- Gov. Mike Rounds (R) signed legislation Monday banning nearly all abortions in South Dakota, setting up a court fight aimed at challenging the 1973 Supreme Court decision that legalized abortion nationwide.

The bill would make it a crime for doctors to perform an abortion unless the procedure was necessary to save the woman's life. It would make no exception for cases of rape or incest.

Planned Parenthood, which operates the state's only abortion clinic, in Sioux Falls, has pledged to challenge the measure.

Rounds issued a written statement saying he expects the law to be tied up in court for years and not to take effect unless the Supreme Court upholds it.

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"In the history of the world, the true test of a civilization is how well people treat the most vulnerable and most helpless in their society. The sponsors and supporters of this bill believe that abortion is wrong because unborn children are the most vulnerable and most helpless persons in our society. I agree with them," Rounds said in the statement.

The legislature passed the bill last month after supporters argued that the recent appointment of conservatives John G. Roberts Jr. and Samuel A. Alito Jr. have made the Supreme Court more likely to overturn Roe v. Wade .

Abortion opponents already are offering money to help the state pay legal bills for the anticipated court challenge, Rounds has said. Lawmakers said an anonymous donor has pledged $1 million to defend the ban, and the legislature set up a special account to accept donations for legal fees.

Under the new law, to go into effect July 1, doctors could be sentenced to up to five years in prison for performing an illegal abortion.

Rounds noted that it was written to make sure existing restrictions would still be enforced during the legal battle. Current state law sets increasingly stringent restrictions on abortions as pregnancy progresses; after the 24th week, the procedure is allowed only to protect the woman's health and safety.

South Dakota Bans Abortion, Setting Up A Battle (NYT)

By Monica Davey

The New York Times, March 7, 2006

Gov. Michael Rounds of South Dakota signed into law the nation's most sweeping state abortion ban on Monday, an intentional provocation meant to set up a direct legal challenge to Roe v. Wade, the 1973 United States Supreme Court decision that made abortion legal.

The law makes it a felony to perform any abortion except in a case of a pregnant woman's life being in jeopardy. Though the law is not scheduled to go into effect until July, officials working at the state's only abortion clinic, in Sioux Falls, where about 800 abortions take place each year, said they spent much of the day consoling women.

"This is a very real issue for a lot of people," said Kate Looby, state director of Planned Parenthood. "That's the part I think the legislators don't quite understand."

Mr. Rounds, a Republican, said in a statement after signing the legislation in Pierre that it was the right thing to do. The law will force a legal showdown before it ever comes into effect, an outcome its supporters, eager to overturn Roe, intended.

"In the history of the world, the true test of a civilization is how well people treat the most vulnerable and most helpless in their society," the governor said. "The sponsors and supporters of this bill believe that abortion is wrong because unborn children are the most vulnerable and most helpless persons in our society. I agree with them."

Around the country, abortion rights advocates responded with fury, calling the new law "blatantly unconstitutional," dangerous and counter to what a majority of Americans would support. Planned Parenthood, which operates the abortion clinic in South Dakota, pledged to use any means necessary — whether a federal lawsuit or a statewide referendum — to sideline the statute.

Under state law, if opponents collect 16,728 signatures of registered voters in the next three months the law will be delayed and a vote held on the issue in November.

"We're trying to evaluate the timing and the options now, but we're committed to making sure this does not come into effect," Cecile Richards, president of the Planned Parenthood Federation of America, said in a telephone interview. "It's a sad day for the women of South Dakota. We had really hoped that the governor would weigh women's health as more important than politics."

Leaders on each side of the abortion debate said South Dakota's law had stirred new support and fervor for their causes. Abortion rights advocates reported a flood of donations, volunteers and membership requests since the abortion bill began drawing national attention last month.

Opponents said they, too, had had a flood of calls, including numerous donations to a defense fund to fight what is expected to be expensive litigation on behalf of South Dakota.

Already, the state's move seems to have emboldened legislators opposed to abortion elsewhere. For months, similar bills had been proposed in the statehouses of at least a half-dozen states, including Ohio, Georgia and Tennessee, but some efforts have gained steam in the weeks since the South Dakota Legislature overwhelmingly passed its ban.

"Legislators feel that now is the time to wrestle back their authority from the courts," said Tony Perkins, president of the Family Research Council, based in Washington. "The courts have overstepped their bounds on issues like gay marriage, and the legislators are speaking up."

In Mississippi, an abortion ban with exceptions for rape, incest and the life of the mother passed the House on Thursday. In Missouri, legislation that would outlaw all abortions except to save the life of the mother was proposed last week.

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But opponents of abortion have split over South Dakota's approach, a fact that Mr. Rounds acknowledged in recent weeks as he weighed whether to sign the legislation.

Some, including those who led efforts to pass the ban in South Dakota, said they considered this the ideal time to return the central question of Roe to the Supreme Court. State Representative Roger Hunt, who sponsored the bill in South Dakota, pointed to the appointments of Chief Justice John G. Roberts Jr. and Justice Samuel A. Alito Jr., both conservatives, and what he described as the "strong possibility" of the retirement of Justice John Paul Stevens in the near future and the naming of a conservative as his successor.

"This is our time," Mr. Hunt said on Monday.

Other national anti-abortion groups, though, have quietly disagreed with the timing, pressing instead to cut down on abortions by creating restrictions that may be more palatable to a wider audience, restrictions like parental and spousal notification laws and clinic regulations. If the Supreme Court upholds Roe, they have argued, the damage for those opposed to abortion rights will be grave.

"As much as this isn't the best strategic thing to do, it's there and it's the law of South Dakota now," said Daniel S. McConchie, vice president of Americans United for Life, another group. "We'll defend our position now — which is to oppose abortion."

Cristina Minniti, a spokeswoman for the National Right to Life Committee, said no one from her organization was available to be interviewed on the South Dakota law. Instead, she issued a one paragraph statement which stated, in part: "Currently there are at least five votes, a majority, on the U.S. Supreme Court to uphold Roe v. Wade."

Mr. Rounds, who became governor in 2003 after serving in the South Dakota Senate for a decade, declined to speak with reporters after the signing. In an earlier interview, he said that he personally felt uncertain about the timing of a challenge to Roe, but that he was leaning toward signing the bill, in part because he did not wish to divide the people who, like him, oppose abortion.

In the statement he issued on Monday, Mr. Rounds said he fully expected the law to be challenged, and that it might wind up in the nation's highest court. He compared the possibility of a reversal on Roe to that of the changing legal precedents around segregation.

"The reversal of a Supreme Court opinion is possible," the governor said. "For example, in 1896, the United States Supreme Court ruled in the Plessy vs. Ferguson case that a state could require racial segregation in public facilities if the facilities offered to different races were equal. However, 58 years later, the Supreme Court reconsidered that opinion and reversed itself in Brown vs. Board of Education."

Abortion Battle Gains New Intensity With Ban In S.D. (USAT)

By Jill Lawrence

USA Today, March 7, 2006

The near-total ban on abortion signed into law Monday in South Dakota sets the stage for renewed battles over abortion rights in courts, legislatures and political campaigns.

The new law bans all abortions in the state except to save a woman's life. Under any other circumstances, including rape or incest, performing an abortion would be a crime.

Gov. Mike Rounds said he signed the law because “unborn children are the most vulnerable and helpless persons in our society.” He said he hoped the Supreme Court would overturn the 1973 ruling in Roe v. Wade that legalized abortion nationwide, as it had overturned “separate but equal” racial segregation in 1954. “The reversal of a Supreme Court opinion is possible,” he said.

Planned Parenthood Foundation of America, the only abortion provider in South Dakota, vowed to fight the ban in court. Democratic strategist Steve Hildebrand said some South Dakota activists are considering putting the new law before voters in November. He said 17,000 signatures would be required by May 2 to get it on the ballot.

Passions among supporters of the law were also running high. State Rep. Roger Hunt, the Republican sponsor of the law, said an unidentified donor has already given $1 million to offset legal costs.

Rounds described the new law as “a direct challenge to … Roe v. Wade,” the ruling that struck down state laws banning abortion. He said lower court action probably will prevent the law from taking effect July 1 as scheduled.

Cecile Richards, president of Planned Parenthood, called the new law “a complete wake-up call” that's already drawn “an enormous influx of new donors.”

Abortion rights groups say similar bans are pending in at least eight states. Three were introduced last week, following passage of the South Dakota bill.

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Some Abortion Foes Balk At S.D. Law (USAT)

By Jill Lawrence

USA Today, March 7, 2006

WASHINGTON — South Dakota's new law banning almost all abortions is creating a rift among anti-abortion Republicans during an election year.

The law bars abortions unless they're needed to save a woman's life. The ban has underscored disagreements between the law's supporters and those who favor exceptions for rape and incest. It has also exposed Republican disagreements over how best to reduce abortions when most Americans support keeping them legal.

State Rep. Roger Hunt, the Republican who sponsored the law, says "this is the right time" to tackle the issue head-on. "Every year that goes by, there are more and more unborn children whose lives are being terminated."

Some Republican abortion opponents say they would prefer to continue the incremental approach that has resulted in increasing restrictions on abortion. They worry South Dakota's frontal assault could scare away moderates, light a fire under liberals and even set back the anti-abortion cause.

"I am very purely pro-life, and I would not have undertaken this strategy," Republican pollster Kellyanne Conway says. She says it plays into "somewhat hysterical claims of extremism" by the left and "seems to give a largely dying, discredited (abortion rights) movement a little bit of gas."

Daniel McConchie, vice president of the anti-abortion Americans United for Life, says taxpayers could be burdened with legal fees and state courts could be provoked to create state versions of the Roe v. Wade Supreme Court decision, which legalized abortion nationwide in 1973. "It's a very high-stakes tactic," he says.

Democratic strategist Steve Hildebrand predicts the law will be "a huge benefit" for his party as it wends its way through the courts. He gives a preview of the case abortion rights supporters could make: If a murderer gets out of prison and rapes a woman, she's forced to have his child. If a father brutally rapes his daughter, she is forced to have his child. "You present those arguments to women voters, they are going to be outraged," Hildebrand says.

Two-thirds in a USA TODAY/CNN/Gallup Poll in January said they did not want the Supreme Court to overturn Roe, compared with 25% who said they did.

Many Republicans who oppose abortion, President Bush and Arizona Sen. John McCain among them, favor exceptions for rape and incest as well as when a woman's life is in danger. "There is no consensus in the Republican Party," GOP pollster David Hill says.

That has been apparent as the party's 2008 White House prospects respond to questions on the South Dakota ban. Arkansas Gov. Mike Huckabee and Virginia Sen. George Allen said they would have signed it. McCain said last month on ABC's This Week that "my position has been consistently pro-life but (with exceptions for) rape, incest and the health of the mother." McCain's aides later said he meant to say "life" of the mother, his longtime view and a much narrower exception than "health."

Deirdre McQuade of the U.S. Conference of Catholic Bishops calls the law a chance to end Roe's "stranglehold" on legislatures and "open up the possibility of people's values being reflected in their own state laws."

Hunt says there's "national momentum" for the law he sponsored — similar legislation popping up in other states and the elevation of two new conservative Supreme Court justices, John Roberts and Samuel Alito. He says it's likely liberal Justice John Paul Stevens, 85, will retire within the two to three years he estimates it will take the new law to reach the high court.

South Dakota state Sen. J.P. Duniphan, a self-described "pro-life" Republican, opposed the law. "It is a very unnecessary, expensive challenge. And it is dividing the party."

South Dakota Governor Signs Abortion Ban (LAT)

By Michael Muskal

The Los Angeles Times, March 7, 2006

South Dakota Gov. Mike Rounds announced today that he has signed legislation prohibiting nearly all abortions in his state, a move designed to invite a more conservative U.S. Supreme Court to revisit the 1973 decision that established a woman's right to choose.

The governor's action, which had been expected, makes South Dakota the first state to ban most abortions since the high court ruled in Roe vs. Wade. About half a dozen states are considering similar legislation.

"In the history of the world, the true test of a civilization is how well people treat the most vulnerable and most helpless in their society," Rounds said in a statement posted on his website. "The sponsors and supporters of this bill believe that abortion is wrong because unborn children are the most vulnerable and most helpless persons in our society.

"I agree with them," stated the governor.

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The ban is scheduled to go into effect in July, but advocates for abortion rights have announced that they will challenge it in the courts.

"This ban is an attack on women's fundamental right of privacy and their ability to make the most intimate and personal choice about when and whether to have a child," Eve Gartner, senior staff attorney for the Planned Parenthood Federation of America, said in a statement released before Rounds announced he had signed the bill. "The U.S. Supreme Court has reaffirmed time and again the constitutional right to make the private choice to have an abortion. South Dakota is entering dangerous territory with this ban."

Planned Parenthood runs the state's only clinic where abortions are performed. About 800 abortions are done each year in South Dakota.

Rounds said he expected the South Dakota law to end up in the courts. He cited another Supreme Court reversal — the 1954 decision to end racial segregation — as a reason for optimism.

The South Dakota law "will give the United States Supreme Court a similar opportunity to reconsider an earlier opinion," he stated.

Since the 1973 ruling, the addition of new justices may have created a 5-4 majority opposed to Roe. Two recent additions, Chief Justice John G. Roberts Jr. and Associate Justice Samuel A. Alito Jr., are believed to have questions about the decision. Alito replaced Sandra Day O'Connor, the first woman on the court.

The South Dakota law eliminates most abortions in the state, but Rounds said that it allows doctors to perform abortions in order to save the life of the mother. Abortion rights advocates question that assertion.

Last month, the Supreme Court announced that it will hear another abortion case dealing with the legality of a 2003 federal law that banned a procedure known as partial birth abortions.

Sun Belt, Suburbs Get More Diverse (USAT)

By Haya El Nasser

USA Today, March 7, 2006

Almost a third of the nation's 361 metropolitan areas have registered declines in their white populations this decade as minorities bring ethnic and racial diversity to vast sections of the USA, according to a Brookings Institution report to be released today.

The influx of immigrants and people moving to the Sun Belt and Western mountain states from other parts of the USA is rearranging the ethnic tapestry of urban centers in an unprecedented way.

Blacks, Hispanics and Asians are going where the jobs are. They're driving population increases in the fastest-growing areas, including Las Vegas, Atlanta and Orlando, says demographer William Frey, author of the report on shifts in populations from 2000 to 2004.

The white population declined in 111 metropolitan areas, including Los Angeles, New York and San Francisco. Aging whites are gravitating toward smaller communities such as St. George, Utah, and Coeur d'Alene, Idaho, Frey says.

The white population still dominates exurbs and “spillover” communities outside large metropolitan centers but minorities also are moving to these areas.

“These minorities are now spilling to parts of the country — the interior Sun Belt, suburbs and exurbs — which were once bastions of middle-class whites,” Frey says. “As a consequence, white-bread America is experiencing diversity firsthand, rather than in magazines or TV images. … Politicians are going to have to figure out how to satisfy both groups.”

Frey's key findings:

·Minorities now constitute a majority of children under age 15 in almost a third of large metropolitan areas, including Chicago, Phoenix and Atlanta.

·The black return migration to the South has gained momentum this decade. But blacks are gravitating less to the “Old South” states of Louisiana, Mississippi and Alabama and more to “New South” job hubs in Texas, North Carolina, Georgia and Florida.

·An area's ability to attract and hire immigrants increasingly can make or break it economically.

“The most distressing news is from the Northeast and Midwest,” says Ned Hill, vice president of economic development at Cleveland State University. “White retirement is heading south without a compensating inflow of people and fewer births because of fewer immigrants.” Cleveland registered one of the biggest losses in white population.

·Four of the metropolitan areas showing the fastest growth in Hispanics are in Florida.

Mickey Rosado, 37, is the first Hispanic on the city council in Cape Coral, Fla., near Fort Myers. The area had the nation's biggest jump in Hispanics, up 55.4% from 2000 to 2004. Hispanics are opening small businesses and working in agriculture, he says. Officials have to balance the needs of younger Hispanic families and older white residents. “It's a major issue,” he says.

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Whites To Be Minority In New York Area Soon, Data Show (NYT)

By Sam Roberts

The New York Times, March 7, 2006

The influx of foreigners to New York and its suburbs and the continuing exodus of non-Hispanic whites to other parts of the country have transformed the face of metropolitan New York so profoundly that whites will constitute a minority of the region's population within a few years, demographers say.

The shift would make New York the first large metropolitan area outside the South and West in which whites do not make up a majority, according to an analysis of 2004 Census estimates by the Brookings Institution that was released yesterday.

The analysis also reveals a historic reversal: For the first time since at least the 19th century, the black population of both the city and, to a lesser extent, the region, has declined. In the five boroughs, according to the estimates, the number of blacks declined by about 30,000 since 2000, dipping below 30 percent of the overall population, as the migration of blacks to the suburbs and areas like the South outpaced immigration from the Caribbean and Africa.

In contrast, the analysis found that while the greater New York region over all lost 162,000 non-Hispanic whites and several hundred blacks from 2000 to 2004, the region gained 288,000 Hispanic people and 201,000 Asians — more Asians, in fact, than any other metropolitan area.

Increasingly, the New York region's growing multiracial makeup reflects the changing face of the inner ring of suburbs as many new immigrants bypass the city altogether or migrate from the city to neighboring counties after a generation or less.

What makes the city and the region unusual, though, is that among the nation's 88 metropolitan areas with half a million or more people, New York is one of only three — Houston and Honolulu are the others — where the proportion of blacks, Hispanics and Asians each exceeds their share of the national population.

Whites have been a minority in New York City since the 1980's. But now that shift is extending to the wider metropolitan area, driven by immigration and higher birth rates among immigrants. Already, non-Hispanic whites are a minority of the metropolitan area's population younger than 15.

"New York is still the classic melting pot, with a whole diverse array of immigrants coming in, but the suburbs are now becoming part of this bigger melting pot," said William H. Frey, the Brookings Institution demographer who conducted the analysis. "The suburbs are now tasting this new diversity."

His analysis found that whites declined to 52.2 percent of the population in 2004 from 54.2 percent in 2000 in the census-defined metropolitan area, which includes the city, Long Island, the northern suburbs, northern New Jersey and northeastern Pennsylvania, but not Connecticut.

"We went down 2.1 percent from 2000 to 2004," Dr. Frey said. "If we go another 2 percent before the end of the decade, you're there." He added: "The suburbs are now contributing to this. They've all shown a decline in the percent of whites since 1990."

The approaching statistical milestone in the New York region has not been unexpected by demographers.

"What this shows is that the pattern is spreading out," said Andrew A. Beveridge, a demographer at Queens College of the City University of New York, "and the non-Hispanic white population is continuing to dwindle."

"The New York metropolitan area is becoming more like the city, and the nation's metropolitan areas are becoming more like New York," Dr. Beveridge said.

The trend was foreshadowed in an earlier analysis by New York's Department of City Planning, which found that while the region's ethnic and racial numbers had been driven for several decades by changes in the five boroughs, those changes were also being mirrored in the suburban counties closest to the city.

"The inner-ring suburbs are emulating the city," said Joseph J. Salvo, director of the department's population division.

What's happening in New York has already occurred in metropolitan areas in the West and South, including Los Angeles, Miami, Houston and San Francisco.

The proportion of whites has also dipped to just over a majority in the San Diego, Washington, Dallas and Las Vegas metropolitan regions as Asian and Hispanic people disperse beyond central cities and their suburbs and as blacks migrate to the South. In each of those areas, whites are already a minority of the population under age 15.

Atlanta led large metropolitan areas in black population growth and is poised to overtake Chicago as the region with the second-highest black population in total numbers, after New York.

In 1990, metropolitan Los Angeles and New York accounted for 30 percent of the nation's Hispanic population. By 2004, those two regions were home to only 23 percent of Hispanic people.

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"For immigrant minorities, especially, friendship and family networks have drawn them to traditional ports of entry, even during times when labor market considerations would suggest they move elsewhere," Dr. Frey wrote. "Blacks, as well, have tended to follow well-worn patterns, initially out of the South and, later, to a network of cities across the North and West."

But more recently, he concluded, "many lower-skilled Hispanic migrants are moving to fast-growing areas of the country, in response to retail, service and construction job growth, while higher-skilled minority migrants are following the same professional opportunities that have attracted whites."

ANTITRUST:

Phone Merger's Approval Is Likely (AAS)

By Marilyn Geewax, WASHINGTON BUREAU

Austin American-Statesman, March 7, 2006

FCC might impose some limits on the new AT&T.

WASHINGTON — The Justice Department likely will approve AT&T Inc.'s $67 billion purchase of BellSouth Corp. without demanding any major antitrust concessions, analysts said Monday.

But the Federal Communications Commission, which also must review the transaction, may consider restricting the new company from charging new fees for faster delivery of premium Internet services, they predicted.

Together, AT&T and BellSouth would become the nation's No. 1 supplier of local, long-distance, wireless and high-speed-Internet services.

In recent reviews of telecom mergers, however, Justice Department officials decided that size alone could not shield phone companies from competition from cable, satellite and other companies providing telecom services.

As a result, the Justice Department demanded no significant changes in those cases, so "we see no reason why it would treat this case differently," according to an assessment issued by Anna-Maria Kovacs, president of Regulatory Source Associates LLC, a research firm in Cambridge, Mass.

Consumer advocates say they nevertheless will raise objections to hold back the approval process.

Getting regulators and antitrust prosecutors to stop the merger would be "highly unlikely," said Jeff Chester, executive director of the Center for Digital Democracy. "Our job is to slow the deal down and make their lives so miserable that they have to impose safeguards" to protect consumers, he said.

Chester has his work cut out for him. Under the Bush administration, the Justice Department has been highly amenable to mergers.

Supporters of the AT&T-BellSouth transaction will argue that it presents no serious antitrust problems because AT&T's operations are concentrated in the Southwest and Midwest, while BellSouth's are in the Southeast.

The merger could run into bigger speed bumps at the FCC.

Chairman Kevin Martin required few changes in last year's two enormous phone company mergers. But some observers think the two new Republican members — Deborah Taylor Tate and, once he's confirmed, Robert McDowell — might take relatively tough positions on the AT&T-BellSouth merger because of their past experiences. Tate previously worked with state utility commissioners, who often tangled with the regional phone companies over rates and service.

McDowell was assistant general counsel at Comptel, a trade group for smaller phone firms that opposes this transaction.

With Tate and McDowell, the commission may be more likely to block the merged company from charging fees for fast delivery of new Internet services, such as voice and video. Executives at both AT&T and BellSouth have said they want to start doing that.

Sen. Daniel K. Inouye, D-Hawaii, co-chairman of the Senate Commerce Committee, warned Monday that the merger "will call into question our commitment . . . to preserve fair rules that guarantee nondiscriminatory access to new services."

UPDATE: Few Antitrust Hurdles Seen For AT&T Deal (DOW)

Dow Jones, March 7, 2006

WASHINGTON (Dow Jones) -- AT&T (T) will face few antitrust hurdles in its $67 billion acquisition of BellSouth (BLS), analysts predicted Monday.

Announced Sunday, the deal follows SBC Communications Inc.'s acquisition of AT&T (T) and the formation of the new AT&T Inc. (T) (T) in November. It also follows Verizon Communications' February 2005 purchase of MCI Corp.

Both those recent deals, observers say, give regulators case histories from which to work.

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"They have a template to look at these things and follow the same framework," said Paul Glenchur of Stanford Washington Research Group.

"I don't think there's going to be a great deal of regulatory resistance," said Jonathan Rubin, a research fellow at the American Antitrust Institute.

Announced Sunday, the acquisition would cement AT&T's (T) position as the country's largest supplier of local, long-distance, wireless and high-speed- Internet services. The combination would serve 70 million local-phone customers, 54 million-plus wireless subscribers and more than 10 million DSL Internet users.

The combined company would likely have to divest some "special access" lines used by businesses to send high volumes of data, analysts said.

Combined with BellSouth (BLS) (BLS) , AT&T (T) would control the local phone market in 22 states, including the most populous areas of the South and Midwest. Rival Verizon would control the East and the much-smaller Qwest most of the less-populated West.

But consumer-activist groups have quickly announced their opposition to the deal, and some suggest the Justice Department and the Federal Trade Commission have let big telecom mergers go through without proper scrutiny.

"The regulators are permitting these mergers to proceed without installing adequate consumer and competition safeguards," said the antitrust institute's Rubin.

Shares of AT&T (T) were trading lower early Monday afternoon. They were recently off 35 cents to $27.64.

US Officials To Closely Review AT&T-BellSouth (REU)

Reuters, March 7, 2006

WASHINGTON (Reuters) - U.S. communications regulators and antitrust authorities on Monday pledged to carefully review AT&T Inc.'s $65 billion purchase of BellSouth Corp..

"We will carefully weigh the information presented, examining any allegations of specific harm in individual markets and the potential benefits for the deployment of new services," Federal Communications Commission Chairman Kevin Martin said in a statement.

The agency must determine whether the deal benefits the public. The transaction must also receive approval from U.S. Justice Department antitrust authorities.

"We're going to look at it closely," the department's antitrust chief Thomas Barnett told reporters while attending a conference of attorneys general.

Analysts said they expect the deal to be approved, likely with similar conditions that were attached to two telecommunications deals given the green light last year, Verizon Communications' purchase of MCI Inc. and SBC Communications acquisition of AT&T Corp. to form AT&T Inc.

Lawmakers also said they plan to review the deal.

Senate Commerce Committee Chairman Ted Stevens and his staff "will review the AT&T-BellSouth merger during the coming weeks, a process which will include meetings with the involved parties," said panel spokesman Aaron Saunders.

Sen. Daniel Inouye, the ranking Democrat on the committee, issued a statement expressing concern about the consolidation, particularly so soon after the SBC-AT&T deal closed.

"The proposed recombination of two of the remaining four Baby Bells will call into question our commitment to promote competition in the communications marketplace and to preserve fair rules that guarantee nondiscriminatory access to new services," said Inouye of Hawaii.

AT&T shares fell 97 cents, or 3.5 percent, to close at $27.02 while BellSouth shares rose $3.05, or 9.7 percent, to $34.51.

UPDATE:AT&T-BellSouth Deal Draws Scrutiny On Capitol Hill (DOW)

Dow Jones, March 7, 2006

WASHINGTON -(Dow Jones)- AT&T Inc.'s (T) (T) proposed purchase of BellSouth Corp. (BLS)(BLS) is stirring up some unease on Capitol Hill, where lawmakers and competing telecommunications companies are questioning whether the transaction requires special scrutiny.

The combination would create the world's largest telecommunications company and reunite portions of AT&T (T) that the government broke up in 1984. The new entity would be a behemoth, with customers from California to Florida. It would offer phone and Internet access and roll out new television services, giving customers a new option for bundling services in a single package.

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Concerns hinge in on the size of the deal and on expectations that AT&T's (T)purchase will escalate a trend of consolidation in the telecommunications industry. Just four months ago, regulators approved the takeover of AT&T (T) itself by SBC Communications Inc. and Verizon Communications Inc.'s (VZ) (VZ) purchase of MCI.

"AT&T's (T) proposal to purchase BellSouth (BLS) would remove yet another potential competitor from the communications marketplace and calls into question whether the future of communications policy will be marked by strategies to promote vigorous competition or by further efforts to facilitate new mergers," Sen. Daniel Inouye, D-Hawaii, the top Democrat on the Senate Commerce Committee said in a statement.

The transaction comes amid a favorable political climate for mergers, as the Bush administration has been friendly to large combinations. Many observers expect the Federal Communications Commission and antitrust regulators to approve the deal with few conditions even amid concerns the deal would leave companies with too much pricing power and consumers with two few choices.

Mergers are a particular threat for the small phone companies. The small companies are urging regulators to block AT&T's (T) plans to buy BellSouth (BLS), citing the risks of diminished competition.

"There are no benefits in this merger for consumers or the U.S. economy," said Earl Comstock, president of Comptel, a trade group for small phone companies. " This merger continues the anticompetitive resurrection of the old Bell monopoly."

The cable industry is also weighing in, arguing that the transaction undercuts AT&T's (T) efforts to persuade Congress to overhaul laws that require phone companies to get permission from each municipality in which they hope to offer television business.

"My point here is not to question the merger, which will be handled appropriately by the relevant federal agencies and Congressional committees," Kyle McSlarrow, the president of the National Cable & Telecommunications Association, wrote in a letter Monday to the leaders of the Senate and House committees that oversee the telecommunications industry.

"Rather, it is to suggest how extraordinary it is for an industry, in which one company alone - AT&T (T) - has a market capitalization greater than that of the entire cable industry, not only to ask for special favors from Congress but in fact demand free license to enter the video market while maintaining all current regulation on a much smaller cable industry."

- By Siobhan Hughes, Dow Jones Newswires; 202-862-6654; Siobhan.Hughes@ dowjones.com

AT&T Plans 10,000 Job Cuts After BellSouth Purchase (Update4) (BLOOM)

Bloomberg, March 7, 2006

March 6 (Bloomberg) -- AT&T Inc., the largest U.S. telephone company, plans to eliminate about 10,000 jobs after completing the $67 billion purchase of BellSouth Corp.

The reductions will come in 2007 through 2009, Chief Financial Officer Rick Lindner said on a conference call today with analysts. With BellSouth and Cingular, San Antonio-based AT&T's workforce will rise to 317,000 from 189,000, making AT&T among the top 10 U.S. employers, according to Bloomberg data.

Job cuts, which are about 3 percent of total employment, represent about 50 percent of the planned $18 billion in cost savings AT&T expects to extract from the purchase. The acquisition will cement AT&T's position as the dominant U.S. provider of local, long-distance and wireless calling and enable it to better fend off new competition from cable-television companies and Internet calling companies.

``It's a realization that the world is changing and it's changing faster and faster," AT&T Chief Executive Officer Ed Whitacre said on the call. ``We saw that the sooner we did this, the better off we'd be."

The reductions, which Lindner said will come mostly through attrition, are in addition to the 13,000 jobs that AT&T plans to shed as part of last year's combination between SBC Communications Inc. and AT&T Corp., which created the largest U.S. phone provider. BellSouth and Cingular add 128,000 workers to the payroll.

The combined BellSouth-AT&T will have 70 million local-phone customers in 22 states including four of the largest: Texas, California, Illinois and Florida. Ownership of Cingular Wireless LLC, the largest mobile-phone carrier, will give AT&T 54.1 million wireless subscribers and along with the business segment will make up 72 percent of total revenue.

Profit Booster in 2008

AT&T and BellSouth combined had almost $100 billion in revenue last year and today have a stock market value of more than $160 billion, dwarfing the $98 billion of No. 2. Verizon Communications Inc. Sales at the new company are expected to return to growth in 2007, a year earlier than AT&T forecast on Jan. 31.

The deal, expected to close in early 2007, won't affect profit excluding amortization and merger-related costs in 2007 and will add to profit on that basis starting in 2008, Lindner said.

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``The industry itself has become increasingly competitive," said John Cunningham, who manages $3 billion as the chief investment officer of J&W Seligman & Co. in New York and holds BellSouth shares. ``You need to see these kinds of mergers for these companies to thrive and survive."

BellSouth shares surged 9.7 percent. The company's shareholders will receive AT&T shares worth $37.09 for each BellSouth share, the companies said yesterday in a statement. AT&T will also take on $17 billion of BellSouth debt and plans to buy back $10 billion of shares.

Roll Up

By buying BellSouth, Whitacre is continuing his roll up of the companies formed when AT&T Corp. was split in 1984. Back then, AT&T Corp. dominated local- and long-distance phone services. The company had $150 billion in assets and employed more than 1 million. A year later, the business was split into eight pieces, one long-distance company and local-telephone providers, the Baby Bells. SBC was the smallest.

The combined AT&T-BellSouth will have more than $200 billion in assets, a reflection of both the expansion of the telephone industry into mobile service and fiber-optic lines and the push to automate more functions.

``The old AT&T is practically put together," said Sean Egan, managing director of Egan-Jones Ratings Co. said. ``A big portion of the split-up of the Bells has been reconstituted."

Regulatory Scrutiny

The purchase will help Whitacre, 64, form a company to compete with mobile-phone companies, cable-television operators such as Comcast Corp. and Internet phone-service providers like EBay Inc.'s Skype. As part of his plan, Whitacre bought AT&T Corp., the largest U.S. long-distance provider, for $16.5 billion in November and is preparing to offer television service along fiber-optic lines.

That competition may help AT&T win regulatory approval, analysts said. BellSouth, which operates in nine states, also doesn't compete in AT&T's states.

``The battle with cable is here," said Felix Rohatyn, the former Ambassador to France and Lazard Ltd. partner who advised Whitacre on the bid. ``This deal will make the new AT&T better able to compete, not just with cable and satellite but with all the new technologies that are coming at them."

The U.S. Justice Department, which last year approved SBC Communications Inc.'s purchase of AT&T and Verizon's acquisition of MCI Inc., is unlikely to raise major antitrust concerns, said Stifel Nicolaus & Co. analyst Blair Levin, a former U.S. Federal Communications Commission chief of staff.

``They looked at those other deals, went through lots of paperwork, and they ultimately decided not that much was required," Levin said.

Shares

Shares of Atlanta-based BellSouth, the No. 3 local-phone company, rose $3.04 to $34.50 in New York Stock Exchange composite trading after earlier reaching $35.25. Before today, the shares had gained 16 percent this year and were trading at their highest in more than four years on speculation AT&T would make a bid. AT&T will pay 1.325 shares for each BellSouth stock.

AT&T shares, up 10 year, fell 97 cents, or 3.5 percent, to $27.02. AT&T will pay BellSouth $1.7 billion if the deal is terminated, according to regulatory filings.

The deal sparked investor speculation that other telecommunications deals may be in the works. Shares of Sprint Nextel Corp., the third-largest wireless services provider, rose $1.10, or 4.5 percent, to $25.30.

Analysts Divided

Analysts were divided on the benefits of the merger. Wachovia Securities raised its rating on AT&T, while Sanford C. Bernstein & Co. cut the shares. JPMorgan called the agreement a ``clear positive" for BellSouth and said the implications for AT&T shareholders are unclear. Credit Suisse said the cost savings AT&T expects from the combination seem high.

Whitacre, who will be Chairman and CEO of the combined company through April 2008, said the most immediate benefits will come from combining Cingular ownership under one roof. AT&T said it will save about $2 billion a year, by merging networks, firing workers and forming one brand under AT&T.

The agreement to buy BellSouth is the biggest in the industry in six years. It caps a spending spree of more than $200 million during his 16 years at the helm of the company formerly known as SBC Communications Inc. AT&T Inc. was formed when SBC bought AT&T Corp. and changed its name.

Shareholders `Rewarded'

``AT&T is going to be a faster-growing, much larger, stronger company," said John Hodulik, an analyst at UBS AG in New York. Hodulik, among the most accurate analysts ranked by StarMine Corp., rates AT&T a ``buy" and has a ``neutral" rating on BellSouth. ``Shareholders will be rewarded for it."

BellSouth CEO Duane Ackerman will leave three months after the deal closes. Ackerman said it's the ``right time'' for the merger. Whitacre and Ackerman pieced the deal together, AT&T Chief Operating Officer Randall Stephenson said in an interview.

``It will benefit customers. It will facilitate the industry's technological evolution. It will allow us reduce costs,'' Ackerman said today.

Cingular Wireless has driven revenue growth at AT&T and BellSouth. In the third quarter last year, for example, SBC's revenue was little changed excluding Atlanta-based Cingular. With the mobile-phone business, SBC revenue was up 21 percent. The wireless provider added a record 1.82 million subscribers. Verizon Wireless, its nearest competitor, added 2 million to 51.3 million.

``Wireless really drove this deal,'' Hodulik said.

AT&T and BellSouth have shared ownership of the business, AT&T with 60 percent and BellSouth with 40 percent, preventing each from reaping the full benefits.

Name Change

``No partnership between two independent companies, no matter how well run, can match the speed, effectiveness, responsiveness and efficiency of a solely owned company,'' Whitacre said.

The structure impeded Cingular's ability to develop services such as Internet access on mobile phones and televisions, Stephenson said. Cingular will change its name to AT&T.

``This really enhances our ability to get these services to market quick,'' Stephenson said.

Whitacre, a 6-foot-4 Texan, completed his first large acquisition in 1997 with the purchase of Pacific Telesis Group. In 1998, SBC bought Southern New England Telecommunications and a year later Whitacre orchestrated the $80.6 billion purchase of Chicago-based Ameritech Corp.

`Surprised the World'

``Whitacre surprised the world,'' said Atlanta-based telecom analyst Jeff Kagan. ``He's taken the smallest Bell and made it the largest Bell. He's done a lot more than anyone thought he could.''

AT&T will pick up BellSouth's phone lines in parts of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee. About 60 percent of AT&T's lines are in California, Texas and Illinois.

Verizon and Denver-based Qwest Communications International Inc. are the only other remaining telephone providers from the breakup. Verizon offers service in 28 states including New York and California, as well as Washington D.C.

Whitacre sought advice from Lehman Brothers Holdings Inc., Evercore Partners, and Rohatyn Associates for the transaction. Citigroup Inc. and Goldman Sachs Group Inc. advised BellSouth.

The banks will be sharing fees for the biggest acquisition in the telecommunications industry since Verizon was created in June 2000 with the $71 billion merger of Bell Atlantic Corp. and GTE Corp., according to data compiled by Bloomberg. The last deal in any industry that was as large was Sanofi-Synthelabo SA's purchase of Aventis SA in France for $73 billion in August 2004.

AT&T-Verizon Battle

The combination sets up a battle between AT&T and Verizon. Until last year, the two companies operated mainly in separate states and barely competed. Since then, SBC Communications bought AT&T and Verizon acquired MCI, enabling them both to expand beyond their local-phone states and tap business customers.

Verizon had been the largest U.S. telephone company until SBC and AT&T combined. Verizon Wireless also lost its spot as the top provider of mobile-phone service when Cingular bought AT&T Wireless Services Inc. in 2004. Verizon is focused on acquiring the 45 percent of Verizon Wireless that it doesn't own from partner Vodafone Group Plc, spokesman Peter Thonis said today.

``It's a priority for us,'' Thonis said in an e-mail. He said Verizon's business plan is unchanged after AT&T's announcement and called the offer ``a logical and predictable move.''

Whitacre's strategy has paid off for him. He received $17.2 million in total compensation last year, a 9.5 percent raise, according to a regulatory filing.

``He's a Texan, and he's winning,'' Kagan said. ``He does what he has to do to make the deals and grow the company. He doesn't take no for an answer. And everybody wins. The companies he acquires, the stockholders.''

(AT&T executives began a call to discuss the purchase today at 10 a.m. New York time. To listen click on {LIVE } or listen on the Internet at http://www.att.com/investor.relations or http://www.bellsouth.com/investor)

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AT&T's BellSouth Call May Ring At Vodafone (WSJ)

By Cassell Bryan-low And Jason Singer In London And Amol Sharma In New York

The Wall Street Journal, March 7, 2006

AT&T INC.'S planned $67 billion acquisition of BellSouth Corp. not only changes the U.S. telecommunications landscape but could cause an unexpected shift in the dynamic between Britain's Vodafone Group PLC and Verizon Communications Inc., the co-owners of Verizon Wireless.

Verizon has long been interested in buying out Vodafone's 45% stake in the venture, but has been holding out for the right terms. For months, Vodafone has been under pressure from investors to do a deal in order to generate cash for the company and pay out dividends to large shareholders. That gave Verizon the upper hand.

But now Verizon needs to get control of the venture more than ever, analysts say, just to keep pace with AT&T, which will take full control of cellular carrier Cingular Wireless and thus increase its exposure to the telecom industry's growth area. The power balance may have shifted in Vodafone's favor.

"In terms of negotiating leverage, I think there's been a slight shift toward more bargaining power for Vodafone," said Andy Belt, a telecom consultant at Adventis Corp., a Boston consulting firm.

The two sides may well find common ground.

Vodafone's stake in Verizon Wireless could be valued at as much as $45 billion, analysts say. Investors seemed to warm to the prospect yesterday of a Verizon buyout, pushing Vodafone's shares in London 2.9% higher to 125 pence ($2.19). In 4 p.m. composite trading on the New York Stock Exchange, Vodafone's American depositary shares were at $21.90, up 90 cents, or 4.3%.

As the joint venture's name suggests, Verizon has always had greater brand and operational control of the company. That has led some Vodafone investors to ask recently why Vodafone Group's chief executive, Arun Sarin, doesn't bail out of the venture, especially because Verizon Wireless uses a different technology from Vodafone's other operations.

A sale of the Verizon Wireless stake could leave Vodafone, after returning some cash to investors, with enough left over to make acquisitions. One possibility: T-Mobile USA Inc., a unit of Deutsche Telekom AG. While Deutsche Telekom has said it aims to keep its U.S. division, the German company has considered selling in the recent past. T-Mobile USA also faces huge investments for new spectrum licenses in the near future. And it would give Vodafone its own brand name in the U.S. and a network based on the same technology it uses elsewhere.

But that isn't in the cards yet. "We would not be interested" in T-Mobile USA, a Vodafone spokesman said yesterday. T-Mobile USA declined to comment.

Some observers say AT&T's bold strike means Verizon has to respond. Moving more aggressively to purchase all of Verizon Wireless is the most likely option, some say. Owning 100% of Verizon Wireless would help boost Verizon Communications' growth profile as it would be able to reflect all of the wireless carrier's growth.

It would also free Verizon Communications to offer wireless-related discounts and integrate its land line and wireless networks with new service offerings, particularly for business customers. As it stands, Verizon Communications must manage Verizon Wireless in the best interests of the joint venture.

Verizon Communications spokesman Peter Thonis said Verizon has a strong interest in buying out Vodafone, but added, "It isn't because we're reacting or responding in any way to AT&T."

Vodafone appears to be softening its stance on selling its stake. In a recent interview, Mr. Sarin said he wouldn't rule out a sale. "It's not a question of 'no, never, not at any price,'" he said. But, "we're not in a hurry," he added. "Verizon Wireless provides us a very good rate of return on our capital."

Because AT&T's integration of its land line and wireless business could have a negative competitive effect on Verizon Wireless, "the announcement of the deal may nudge Verizon [Communications] and Vodafone closer to each other," says David Barden, an analyst at Banc of America Securities. But, he adds, "It isn't clear it will nudge them enough to close the gap between them." Mr. Barden doesn't own shares in Verizon Communications or Vodafone. Banc of America has an investment-banking relationship with Verizon Communications, but not with Vodafone.

A sale would likely incur a hefty capital-gains tax for Vodafone. One way to mitigate that tax could involve Vodafone Omnitel NV, the Italian carrier in which Verizon Communications owns a 23.1% stake and Vodafone owns the rest. Verizon Communications could swap its holdings in Omnitel in part payment for Vodafone's Verizon Wireless stake.

Vodafone's Mr. Sarin has shown he is willing to quit countries when he thinks the time is right. The company said Friday that it was in talks to sell a majority stake of its Japanese business, which has struggled to stem a loss of customers. Some analysts say Vodafone's consideration of a sale in Japan could ease the pressure on the United Kingdom company to sell its stake in Verizon Wireless in the near term, but that shedding the U.S. business remains a possibility down the road.

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"We view an exit in Japan as the better option than selling out of the U.S. at this stage," wrote Lehman Brothers in a research report yesterday. But, "we believe that the willingness of Vodafone's management to take decisive corporate action could well lead to a U.S. exit over the mid- to long-term."

Merger Pressure Rises After AT&T Deal (FT)

By Paul Taylor, Aline Van Duyn And James Politi In New York

Financial Times, March 7, 2006

The $67bn merger of AT&T and BellSouth to create the world's largest telecoms company on Monday increased the pressure on rivals including Verizon Communications to join an industry-wide consolidation.

Announcing the deal on Monday, Edward Whitacre, AT&T's chairman and chief executive, said the tie-up was "a logical fit" that would enable the enlarged group to offer a full range of fixed line, wireless and advanced IP-based services to consumers and businesses. The merger reflected "a realisation that the world is changing and it's changing faster and faster," he said. "We saw that the sooner we did this, the better off we'd be."

AT&T said it expected to cut 10,000 jobs between 2007 and 2009, as part of plans to eliminate $18bn in costs.

Although the Federal Communications Commission said it would "carefully weigh" the proposed deal, senior company executives were confident it could win regulatory approval and be closed within a year. "As a substantive matter, there are no obvious issues that would allow the government to block the deal; there could be things that we see on later, once the companies file their papers," Michael Powell, a former FCC chairman, told the Financial Times.

Outside experts also expected regulatory scrutiny to be largely a matter of what conditions should be attached.

AT&T said the combined company would be better placed to roll out new services including internet television services and advanced broadband video, in competition with cable companies. Annual savings would average $2bn, starting in 2008.

AT&T said the merger would help position the combined company to roll out new services including IPTV and advanced broadband video services in competition with cable companies. Average annual savings per year would be $2bn starting in 2008.

The BellSouth purchase would also give AT&T sole control of Cingular Wireless, the biggest wireless carrier in the US. As a result, analysts noted, Verizon, its main rival, would be under pressure to buy out Vodafone's 45 per cent stake in Verizon Wireless.

Shares in Vodafone gained 2.9 per cent in London to close at 125 pence. Verizon's shares were up 1.25 per cent at $34 at noon in New York.

"Verizon may be pressured more to improve its business mix by becoming increasingly focused on its attempt to buy out the remaining 45 per cent of Verizon Wireless from Vodafone," said Jason Armstrong of Goldman Sachs in a note to investors.

Verizon acknowledged that getting control of the Vodafone stake – a deal that could be worth up to $50bn – was a priority. It was "working to acquire from Vodafone the remaining 45 percent of Verizon Wireless". Vodafone reacted cautiously, saying its "position has not changed".

Verizon declined to say whether active talks with Vodafone were under way. "This a logical and predictable move by AT&T," said Peter Thonis of Verizon. "This kind of consolidation of assets makes sense, providing new leverage and capabilities as Verizon and AT&T compete against cable."

Arun Sarin, chief executive, has recently signalled the board would consider selling stake in Verizon Wireless although he insisted last month he thought it was a "good idea" to stay in the US.

Mr Sarin has come under pressure from shareholders, unhappy about the group's share price performance and overall strategy, to dispose of the stake in Verizon Wireless because Vodafone has no clear path to control.

Instead, Vodafone is looking at exiting the troubled Japanese market, another bone of contention for investors, after confirming at the end of last week it was in talks with Softbank to sell at least a controlling stake in the Japanese subsidiary.

The Titans Of Telecom Face Off (WP)

By Arshad Mohammed

The Washington Post, March 7, 2006

One started out as an engineer in Lubbock, Tex.; the other as a cable-splicer's assistant in the Bronx.

From those humble beginnings, AT&T Inc. Chairman Edward E. Whitacre Jr. and Verizon Communications Inc. Chairman Ivan G. Seidenberg have built the two biggest U.S. telecommunications companies.

With Sunday's announcement of AT&T's agreement to buy BellSouth Corp. for about $67 billion in stock, Whitacre, 64, capped a career that has transformed what was once the smallest of the Baby Bells, Southwestern Bell Corp., into the largest local-phone and wireless company in the country.

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What immediately followed was speculation about what Verizon's Seidenberg, 59, might do next to one-up his biggest competitor for more than a decade. He has already said publicly that he'd like to buy out Vodafone Group PLC's 45 percent stake in Verizon Wireless, the second-largest U.S. mobile phone company.

For years, since Whitacre was the head of Southwestern Bell Corp. and Seidenberg was running Bell Atlantic and before that Nynex, the two have outdone each other through a string of mergers, acquisitions and partnerships.

People who have followed Whitacre's trajectory describe him as unusually aggressive and competitive, fond of the bold stroke and seldom given to self-doubt afterward.

"It's a sport. It's a competition. In this business, scale really matters," said Reed Hundt, a former chairman of the Federal Communications Commission who has dealt with both men over many years. "It's like NFL linemen. You want 'em big, you want 'em fast, but most important, you want 'em big."

The aim of the AT&T-BellSouth merger is to strengthen AT&T for what is shaping up as a battle against the cable companies to sell consumers bundles of video, high-speed Internet, wireless and traditional land-line telephone service. The deal, if approved by regulators, would also give AT&T full control of Cingular Wireless, the nation's largest mobile phone company, which it runs as a joint venture with BellSouth.

San Antonio-based AT&T yesterday said it planned to cut about 10,000 jobs, through attrition where possible, as part of $18 billion in cost savings it projects from the merger with Atlanta-based BellSouth. AT&T's stock price slid 97 cents, to $27.02, as the market digested the merger, while BellSouth's rose $3.04, to $34.50. Verizon shares rose 15 cents, to $33.73.

The AT&T-BellSouth merger, which will give the combined company local-phone service in 22 states in the South, Midwest and West, immediately raised questions whether Verizon would try to buy another Bell.

Michael H. Salsbury, a telecom lawyer with Chadbourne & Parke LLP who was a former top executive at MCI Inc., said Seidenberg would continue with his basic strategy and dismissed speculation he might bid for heavily indebted Qwest Communications International Inc., the main local phone company in much of the West.

"If you had a dollar to invest and you were Ivan Seidenberg, would you invest it in Qwest or in wireless? Where would you get a better return? Wireless." Salsbury said.

Verizon spokesman Peter Thonis declined comment on whether the New York-based company might be interested in Qwest, and he reiterated the company's long-standing position on Vodafone's stake in Verizon Wireless.

While Whitacre has a reputation for boldness, Seidenberg is pursuing what many in the industry regard as a more audacious and costly strategy of running fiber-optic cables right to people's homes to carry what he hopes will be increasing video and high-speed Internet traffic. It is far more expensive to run new fiber-optic cables to customers' homes, but the technology allows for the transmission of more data than traditional copper wires because glass fibers can carry data faster.

Verizon is spending billions of dollars to build out its new all-fiber network, while AT&T is taking a less-costly approach by running fiber-optic cable to neighborhoods and using copper wires from there, which may allow it to offer such services at lower cost, albeit with less bandwidth. Bandwidth is the rate that information can be transmitted along a communications line.

"The risk associated with [Verizon's fiber-optic] build-out is higher. That risk may be acceptable because the returns are so great -- lots more bandwidth," said Ellen Daley, an analyst with Forrester Research Inc. "The risk on the AT&T side is less, and the gain is less as well."

Analysts said that one advantage to AT&T's strategy is that it may be able to build its high-speed network faster than Verizon, allowing it to achieve economies of scale and to negotiate discounts from content providers as it competes directly with cable companies.

Consumer groups said the AT&T-BellSouth merger would probably lead to higher prices, arguing that the telephone companies and the cable companies will effectively be a duopoly with little interest in aggressive competition.

While the consensus view among analysts was that the merger would be approved, the concentration of power could still trip some concerns on Capitol Hill or among regulators, especially when it comes to open access on the Internet.

"These companies were going to compete against each other. Instead, we have just the opposite," and that makes it all the more important to ensure that these companies don't become gatekeepers of the Internet, said Rep. Edward J. Markey (D-Mass.), the ranking Democrat on the House subcommittee on telecommunications. "The United States needs open networks."

As a condition of approval for both the Verizon-MCI and SBC-AT&T mergers last year, the companies agreed not to impose restrictions on Internet traffic, which in effect would enable some programs to work better than others. That provision sunsets two years after the close of those mergers.

In recent months, Seidenberg, Whitacre and BellSouth chief technology officer Bill Smith have all said they would prefer a system that would allow the carriers to charge to carry some kinds of traffic -- statements that have prompted concern from Internet companies such as Google Inc., which rely on Internet pipes to reach consumers.

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With the latest proposed merger, critics of further consolidation say consumers, regulators and software companies should seek to codify "network neutrality" into law for all carriers.

"This time around, this merger should put media and content providers on high alert," said Jason Oxman, vice president of regulatory affairs for Comptel, an association of competitive carriers. "This could be the end of the line if the Internet community doesn't recognize the threat to the open Internet."

Federal Communications Commission Chairman Kevin J. Martin, who initially opposed the network neutrality provisions in the earlier two mergers but voted for them in the end, did not tip his hand yesterday.

"We will carefully weigh the information presented, examining any allegations of specific harm in individual markets and the potential benefits for the deployment of new services," he said in a written statement.

Qwest May Get A Buyout Nibble (USAT)

By Edward Iwata And Paul Davidson

USA Today, March 7, 2006

For months, Qwest has been considered anything but a prized acquisition target — mostly because of its heavy debt and its lack of the large-scale wireless and high-speed Internet assets that are the communications industry's engines for growth in coming years.

That view might be changing in the wake of AT&T's proposed $67 billion purchase of BellSouth.

Qwest — as well as Alltel and Sprint Nextel — could become an acquisition target, as Verizon scrambles to keep pace with AT&T, predicts analyst Ken McGee at technology consultant Gartner.

A combined AT&T and BellSouth would knock Verizon from its No. 1 perch in the industry and put it at a disadvantage in both the wireless and large-business markets, possibly forcing it to respond, says Stifel Nicolaus analyst Chris King.

McGee predicts that Qwest will garner Verizon's interest as merger bait. “They're unlikely to remain an orphan,” he says, noting that Qwest CEO Richard Notebaert has kept Qwest from a bankruptcy reorganization and appears to be slowly turning it around. “Qwest must feel awfully lonely sitting there, watching everyone else dance.”

Verizon declined comment. Qwest spokesman Robert Toevs said the company continues “to watch industry consolidation with interest.”

Qwest, which posted a $757 million loss last year, also has been plagued by heavy debt and an accounting scandal that led to shareholder lawsuits and criminal prosecutions of former executives. It tried unsuccessfully last year to buy MCI, later acquired by Verizon.

Qwest and smaller telecoms without wireless assets likely will be victims of corporate Darwinism, predicts Fariborz Ghadar, director of Penn State University's Center for Global Business Studies.

In industries such as telecom that require billions of dollars in capital and new technology, only two or three large players boast enough assets, customers and brand recognition to survive, he says.

“Consumers demand a spectrum of services, and if you can't afford to invest in that spectrum of services, you're going to be bought out,” Ghadar says.

The competition is getting brutal. If the AT&T deal is approved by regulators, Cingular Wireless — now owned jointly by AT&T and BellSouth — would increase AT&T's stock value as the company takes control of the fast-growing asset.

Verizon owns just 55% of the USA's top wireless carrier, Verizon Wireless, and has unsuccessfully tried to buy out its European partner, Vodafone. Verizon's stock would suffer relative to AT&T's if Verizon doesn't snap up the rest of Vodafone, King says. And the British company, which recently considered selling its Japanese wireless assets, might unload all its “far-flung global properties.”

In the large-business market, Verizon's MCI unit now competes head-on with market leader AT&T. AT&T's purchase of BellSouth will give it a further inroad in the corporate market in the Southeast. Robin Diedrich, an analyst at Edward Jones, says that federal antitrust regulators are likely to approve the AT&T-BellSouth deal as well as others in the telecom industry because new Internet and wireless firms are creating enough competition and choices for consumers.

Plus, Diedrich says, growing wireless companies such as Alltel appeal to investors now, as millions of consumers and more businesses favor wireless and Internet phones over old landline telephones.

Revival Of The Fittest (WP)

By Yuki Noguchi

The Washington Post, March 7, 2006

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Just a year ago, the hallowed AT&T Inc. brand appeared to be in its twilight, on the cusp of being merged out of existence. Now, with a proposed $67 billion acquisition of BellSouth Corp., the AT&T name is about to retake its place as the biggest brand in telecommunications.

Though it's been hard to track the complicated handoff of the AT&T name in recent years, it's clear that the new AT&T is a far cry from the old "Ma Bell" company that was formed after Alexander Graham Bell invented the telephone in 1876.

Before the breakup of the monopoly in 1984, there was effectively one company, AT&T, which sold telephones and supplied local and long-distance services. That was before cellular phones and the Internet. After the breakup, AT&T became a long-distance phone company. The company reached its marketing heyday during that time, with its "Reach Out and Touch Someone" advertising campaign, which promoted relatively expensive long-distance calling.

"I think it's still a slogan that people still remember," said Eli M. Noam, professor of finance and economics and director of the Institute for Tele-Information at Columbia University. "What they managed to do was maintain a reasonable market share," even in the face of competition from companies like MCI Communications Inc.

In the late 1990s, AT&T for a brief period had a host of services under its umbrella. In addition to being the largest long-distance provider, it had a wireless operation, offered cable TV services, and sold dial-up and later high-speed Internet services. Over time, the pieces were spun off or sold.

By early last year, all iterations of the AT&T brand seemed headed for the dustbin of history -- again. In 2004, AT&T Wireless was subsumed by Cingular Wireless.

Cingular's parent companies, BellSouth and SBC Communications Inc., had proposed an acquisition of AT&T, leaving no apparent heir to the name. But as marketing experts predicted, after closing its merger last year, SBC ditched its three-letter acronym for the nationally recognized AT&T name, which it now calls "the new AT&T" in its advertisements.

"It is one of the classic American brands," Noam said. "It has clearly lost some of its strength in recent years, but particularly for older Americans, the Ma Bell stands for quality and reliability."

Monopoly Concerns Resurface With Re-forming Of AT&T (SCRIPPS)

By MARY DEIBEL, Scripps Howard News Service

Scripps Howard, March 7, 2006

AT&T's $67-billion bid for BellSouth seems on the surface to go a long way toward reconstituting the old telephone monopoly, but 24 years after federal trustbusters forced the breakup, it's not your father's Ma Bell anymore.

Today's era of wireless and fiber optics convergence is light years away from the competitive landscape that U.S. District Judge Harold Green confronted when he OK'd the 1982 consent decree that divided AT&T into seven regional Bell operating companies two years later.

At stake now are upstart, low-cost challenges from Internet, cable and wireless competition, telecom analysts say.

To be sure, bringing BellSouth back under the AT&T rubric will reunite four of the original Baby Bells, including SBC, Ameritech and Pacific Telesis. Others are former Bell babies Verizon - a combination of onetime East and West Coast telecom firms Bell Atlantic, Nynex and independent GTE - and the Denver-based Qwest, which is comprised primarily of former Baby Bell U.S. West.

AT&T's BellSouth acquisition also will extend the AT&T brand to No. 1 cell phone company Cingular, a joint venture by the two firms that was central to their negotiations, although growth potential may be limited when more than 80 percent of Americans already have at least one cell phone.

As important are the fiber-optic "pipes" that BellSouth has already run fiber-optic cable to many of the 14 million homes and 5 million businesses it serves in parts of nine Southeast states, including Alabama, Florida, Georgia, Kentucky, Louisiana, North and South Carolina and Tennessee.

Unlike BellSouth, AT&T is poised to enter the video business big time with Project Lightspeed in competition with cable, broadcast and broadband. With BellSouth's fiber-optic backbone, AT&T will be able speed video, music, Internet and telecom services to customers in 22 states.

These concerns prompted consumer groups to voice opposition to this new step in the consolidation of the telephone industry on grounds the sale will provide fewer choices for customers.

But others counter that, despite the dwindling number of telephone companies, there's increased competition from other firms including onetime local cable TV monopolies and others to "bundle" Internet, video, telecom and the like.

Where there was once a single company - AT&T - offering telecommunications services locally and long-distance, telecom analyst Jeffrey Kagan now points to multiple firms offering Internet, telephone, TV and wireless service.

As for AT&T's impending roll-out of video service nationwide, offering four digital channels simultaneously, Kagan said AT&T's game plan has sent cable companies "back to the drawing board to come up with a better package of services."

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"Customers who make a move to a big telephone company or a big cable operator will do so because they're offering multiple services at a discount, or you can buy a la carte from multiple service providers if one-stop-shopping can't compete on price," Kagan said. "Unlike Ma Bell a quarter-century ago, consumers have a lot more choices today and they're growing."

Consumers Union and the Consumer Federation of America are not impressed and will urge the Justice Department and Federal Communications Commission to reject the deal.

"Despite claims that the merger might foster competition between phone companies and cable giants, cable companies are just now entering the phone market and are not yet positioned to compete with the national phone duopoly that will exist if the merger is approved," the two groups said in a joint statement."

"The only other potential competitor - voice-over-internet phone service (VOIP) which relies on broadband connections - is threatened by the ability of the Bells and cable companies who own broadband wires to disrupt their VOIP transmissions."

Fast-growing VOIP companies including startups Skype and Vonage as well as AT&T's own CallVantage offer local and long-distance calling at cut-rate prices, now reach 4.4 million homes, up from 1 million a year ago. The Telecommunications Industry Association, a trade group of equipment makers, predicted last week that VOIP will expand to 18 million users by 2009.

Meantime, Jeff Chester, founder of the Center for Digital Democracy, worries that AT&T fees could turn the Internet into a "toll road."

"Instead of the Internet reflecting what the federal courts not long ago called 'the most participatory form of mass speech yet developed,' it's now threatened to be reduced to what AT&T called its private pipes," Chester said.

Alternately, Kagan said any attempt to turn the Internet into a toll road could spread competition for wireless Internet beyond neighborhood coffee houses and other Wi-Fi hotspots and into every home.

What The AT&T Deal Means For Consumers (WSJ)

By Shawn Young And Jessica E. Vascellaro

The Wall Street Journal, March 7, 2006

The $67 billion merger that will make BellSouth Corp. part of AT&T Inc. is expected to accelerate the battle of the bundles.

The cable industry and the phone companies are aggressively competing to attract new customers by offering attractively priced packages of home phone, Internet, cable and cellphone services. AT&T Chairman and Chief Executive Edward Whitacre has long identified $100 as a potential target price for a package of those four services. While that price hasn't been offered yet, the merger increases the pressure on the phone and cable rivals to deliver more competitive packages as a way to keep competing services from poaching customers.

Prices are already in the $100 range for packages that don't include wireless -- and industry executives expect them to come down. A larger AT&T will be able to compete more aggressively with cable companies and, after cutting costs, will likely be able to reduce prices of service packages.

Comcast Corp. is rolling out a $99 a month Internet, phone and cable bundle. The package -- currently available in parts of New England, the Philadelphia area and a few other markets -- represents about $30 off the price of purchasing each service individually. The package will soon be available elsewhere in the nation.

The basic bundles from Time Warner Inc. include digital cable, high-speed Internet, and home phone service, and range from $99 to $129.95 depending on the city. Packages are available in all 27 of the states Time Warner serves and savings start at roughly $15 a month over a la carte rates.

Bundles do benefit big spenders and those who prize convenience. But they aren't great deals for everyone. People who spend very little on wireless or long-distance might be better off cherry-picking from different companies. And consumer advocates caution that customers shouldn't add services they don't already use just because they are cheaper in a package.

Another issue for consumers: Bundle prices often are introductory rates that will rise after a set amount of time. AT&T, for instance, increases its high-speed Internet price to $30 from $13 a month after the first year. The prices also don't include the taxes and fees that can add 20% or more to the total bill.

Bundling is still something of a novelty for consumers, though it is slowly catching on. In 2004, only 8% of consumers surveyed by Forrester Research, a consulting firm based in Cambridge, Mass., had a package of video, Internet and voice service from their phone or cable company, but by late last year 11% were buying packages.

For the companies that sell bundles, the goal is a more loyal customer and a larger share of that customer's spending. Customers who take several products together are much less likely to defect just because a rival offers a slightly better price. A survey by Yankee Group, a Boston-based consulting firm, found that 84% of households that got a package of Internet and video services from their cable company were satisfied with their carrier, compared with 67% of households without the bundle. Still, the survey found that some customers become willing to switch for savings of $15 a month or more.

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Phone and cable companies have been locked in an intensifying battle as phone companies expand into video and cable companies start to offer phone service. The prize is the potential to provide all of a household's communications services. Bundle offers can be a way for service providers to cut off a competitor's link to the consumer's home altogether.

Cablevision Systems Corp. offers all its subscribers an introductory package of voice, cable and high-speed Internet for $89.85 a month. After a year, the price climbs to around $115. A la carte prices are $44.95 for Internet, $34.95 for voice and roughly $55 for digital cable. Verizon Communications Corp. offers packages that start at around $89.89 for home phone, high-speed Internet and satellite TV service.

AT&T has a four-way deal that includes wireless for $121 a month. The merger could make it easier for AT&T to extend its bundled offers, says company spokesman Michael Coe. The merger will give AT&T full control of the Cingular Wireless venture that is now a joint venture between AT&T and BellSouth.

Packages are convenient and can be good deals for consumers who already spend a lot on communications and entertainment. Bundles that now mostly appeal to consumers on the basis of price and convenience could develop into truly integrated services with features like cellphones that automatically become home-phone extensions when plugged into a base station at home, caller ID that is displayed on the TV screen, or video recorders that can be programmed with a cellphone.

Not all consumers stand to benefit from service packages, however, and many consumer advocates fear that the phone and cable companies will eventually become so large that they essentially can dictate prices. Bill Hardekopf, chief executive of SaveOnPhone.com, a consumer Web site, believes that consumers who spend little on long distance or wireless won't benefit from packages. One of the only alternatives will be through Internet-based phone services. Vonage Holdings Corp. and the Skype Technologies unit of eBay Inc. offer cheaper prices for Internet-based home phone service than most phone or cable companies. Vonage offers unlimited local and long-distance service in the U.S. and Canada for $24.99 a month with minimal taxes and fees. Internet-based services often can't offer full-service 911 and won't work if the power or Internet connection fails. Customers must already have high-speed Internet service.

Some of the current package offers that combine TV, phone and Internet service.

The Telecoms Strike Back (CSM)

By Mark Trumbull And Alexandra Marks

The Christian Science Monitor, March 7, 2006

BOSTON AND NEW YORK - Changes in the communications industry are spawning vast new choices - but not necessarily lower bills - for American consumers who dial, click, and channel surf.

Cellphones now carry video as well as voice. The Internet can be used for phone calls as well as data downloading. And television is fast becoming a digital medium, where content can be stored and retrieved anytime, not according to a schedule in "TV Guide."

This is the "digital convergence" of communication platforms that telecom and cable companies have long been trying to create. The process holds great promise but means more volatility for consumers and firms.

The latest jolt is this week's announcement by AT&T that it plans to acquire BellSouth Corp. Together, the firms would create the world's biggest telecommunications company in terms of market capitalization and combine many of the pieces of the old "Ma Bell" that in 1984 was broken into eight pieces by an antitrust settlement.

Indeed, for all the new competition, the scale of this $67 billion deal is just one sign of the market clout that telecom and cable companies still retain. The word monopoly no longer applies. But Americans are spending more than ever on communications services, and regulators still have a role to play as guardians of competition, consumer advocates say.

"The average consumer today wakes up with only two choices for full-service broadband communications, which is the future: the telephone company and the cable company," says Mark Cooper of the Consumer Federation of America in Washington. "What we've gone from is a regulated monopoly to an unregulated duopoly."

Other observers argue that, by and large, the marketplace is fulfilling its competitive promise.

What's clear to all, however, is that businesses are adapting quickly - with much of the focus for both companies and regulators now on how traditional phone companies will compete with cable TV providers in offering new services.

For their part, AT&T and BellSouth are positioning their planned merger as a win for consumers - and a way to go head to head with the cable industry.

"Together, we will lead the way into a new era of converged and bundled communications, video, and entertainment services," AT&T chairman Edward Whitacre said in a statement Sunday announcing the deal.

The companies would offer wireless service (through the Cingular brand), Internet, and traditional telephony with a dominant presence throughout the South and Midwest, and increasingly video services as well.

The pattern on prices varies from platform to platform.

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"There's definitely some downward pressure" on prices for traditional phone service, thanks in part to new choices for making calls over the Internet, says Joe Laszlo, a senior analyst at Jupiter Research in New York. Wireless, too, is a "robustly competitive" market, he says, with customers paying less per minute as their usage continues to rise.

Online, the pattern is more subtle, with basic broadband rates steady even while special offers are pitched to new users.

Cable TV, many observers say, is an area where prices have tended to keep rising over the years, making that industry a source of particular scrutiny. One idea under review at the Federal Communications Commission: making companies offer "a la carte" services so customers can buy only the channels they want to watch.

Such plans might cut customer costs, some studies suggest.

But the overall trend is that communications of various sorts have been garnering a growing share of the time and money of the typical consumer. "I don't know how much further that can go," Mr. Laszlo says.

Some say companies will find themselves competing intensely for business.

But consumer advocates argue that regulatory vigilance remains much needed.

In particular, they contend the proposed AT&T-BellSouth merger is anticompetitive and will end up leading to higher prices, fewer choices and less innovation, just what the 1984 breakup of Ma Bell was supposed to prevent.

"They couldn't put Humpty Dumpty back together again, but they're putting Ma Bell back together again," says Edmund Mierzwinski, the consumer program director at US Public Interest Research Group in Washington.

He and other consumer advocates have pledged to fight the deal at the Justice Department, the Federal Trade Commission, and the FCC. They contend that while the merger will not create a monopoly situation for phone service, it will eventually lead to a duopoly with each phone giant controlling a series of services in different parts of the country.

"This one is about the future of communication writ large," Mr. Mierzwinski says. "It's not just about telephone service, it's about the Internet, the delivery of video and about all of the convergences that have been occurring."

Consumers can now watch TV on their cellphones, call a neighbor over their cable line, or hook up to the Internet over the phone lines. In that sense there is more choice. But it doesn't necessarily mean many choices of which company provides the services.

The upshot, some consumer advocates say, is a situation where prices have fallen on some services, but consumers often have to buy a bundle of services from the same company to get the best deals.

"If you're a consumer who can afford to spend $200 or $250 a month on communications services, then maybe your total costs have come down," says Jeannine Kenney, a Consumer's Union analyst in Washington. "The reality is now that competition is all about the bundle of services, and each company has a vested interest in maximizing sales of bundled services within their own territory."

The AT&T-BellSouth deal is hardly the first. AT&T already incorporates other former "Baby Bells" Ameritech and SBC. And consumer groups are keeping a close eye on whether past mergers are resulting in higher or lower prices.

Some consumer groups believe it's too soon to see the effects of mergers on long-distance services. For example, last fall, the Ohio Consumers' Counsel, a residential consumer advocate, argued against the SBC and AT&T merger unless the companies agreed to cap its basic rates for three years and cap the price of such features as call waiting and call forwarding.

"Most of the recommendations were not implemented and we believe residential customers are not getting their share of the benefits," says Ryan Lippe, a spokesman. "Consolidation often means fewer choices for customers."

In fact, Tuesday, the Public Utilities Commission of Ohio is expected to vote on changes of regulation for basic local phone service. "We could be seeing the potential for companies to increase their prices for just a dial tone," says Mr. Lippe. "If the proposed rules go into effect, a company like SBC could come in and become eligible to raise prices by as much as 20 percent per year."

However, it's not a given that a company will get a price hike, he adds. "We could still advocate for consumers."

AT& T Deal Puts Focus On Net Fees (USAT)

By Paul Davidson

USA Today, March 7, 2006

AT&T's proposed purchase of BellSouth gave fresh ammunition Monday to critics of a push by the big local phone companies to charge websites fees to ensure fast delivery of their content.

Even before the deal, AT&T and BellSouth discussed plans to charge Internet-based phone company Vonage, Google and other Web providers new fees to ensure speedy delivery of their phone calls, video or other content. Though proposals in Congress would bar phone companies from blocking access to rival websites, none would prohibit their offering enhanced services.

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The question of whether an even bigger AT&T should have to comply with Internet non-discrimination principles is expected to take center stage as consumer advocates urge regulators to reject the deal. Some rivals say arguments for such restraints are bolstered by the clout a bigger AT&T customer base would have. “Arguably, there's less competition as a result of these mergers,” says Paul Meisner of Amazon.

Consumer groups also fear the $67 billion deal will hamper competition for wireless and large business customers, driving up prices.

Yet while the proposed merger faces tough regulatory scrutiny, most analysts say the Justice Department and Federal Communications Commission will approve it with only minor conditions.

FCC Chairman Kevin Martin says the agency will examine “any allegations of specific harm in individual markets and the potential benefits” for new services.

“It'll get through relatively easily with light conditions,” says Stifel Nicolaus analyst Blair Levin.

But there will be fallout. AT&T plans to cut 10,000 jobs, or about 3% of its new workforce, largely through attrition as it achieves more than $2 billion in cost savings.

The merger creates a behemoth with 70 million wire-line customers and 54 million wireless subscribers. Local phone companies such as AT&T now face their biggest competitive threats in residential service from wireless companies, cable companies and Internet-based phone companies.

Gene Kimmelman of Consumers Union says the deal gives Cingular Wireless, jointly owned by AT&T and BellSouth, even less reason to offer its wireless service as a replacement for home phone service. The new company should have to divest Cingular, he says.

But Levin says it will be tough for regulators to justify tougher conditions than those placed on the SBC-AT&T and Verizon-MCI mergers. So AT&T-BellSouth might have to promise it won't block rival Net-based phone services or websites, among other things. It also will likely have to sell fiber lines serving some businesses, Levin says.

Battle Lines For Cable Giants, AT&T Deal Is One More Reason To Worry (WSJ)

By Peter Grant And Amy Schatz

The Wall Street Journal, March 7, 2006

The picture just got fuzzier for the cable-TV industry, a once-mighty monopoly now under assault by new technology and corporate mergers.

Even before AT&T Inc.'s planned $67 billion acquisition of BellSouth Corp. -- a deal that would create the world's biggest phone company -- cable companies were under growing pressure. Their stocks have steadily declined amid investor alarm at new competition from satellite and phone companies. The explosion of video on the Internet is conjuring up a future when a cable middleman may no longer be necessary. Regulators are pushing the industry on decency issues and pricing policies.

And cable's once-commanding lead in the sale of high-speed Internet connections has eroded as telephone companies have steeply discounted competing offers. Cable used to enjoy a two-thirds market share, but in the past year telephone companies have picked up more new customers than cable operators did.

Comcast Corp., the U.S.'s largest cable operator with more than 21 million subscribers, saw its stock fall 22% in 2005. While it has picked up a little bit of ground this year, it's still down 17% from the beginning of 2004. Mediacom Communications Corp., the No. 7 operator, is down 33% from the beginning of 2004. Charter Communications Inc., No. 4, is down 72%.

Now the AT&T megadeal could create the largest competitor yet for cable operators in the new race to sell packages of phone, TV and Internet services. Among phone companies, AT&T already had the most aggressive plans for pushing into the TV and broadband markets. Adding BellSouth's customers would lift AT&T's annual sales to $120 billion in 22 states, giving the company cash and scale to pursue its strategy nationwide. AT&T already is planning to streamline its operations. It announced yesterday plans to cut 10,000 jobs following its purchase of BellSouth.

The likely result for cable operators: more pressure to cut prices for high-speed Internet and slower growth of price increases for television. Cable companies also may have to increase capital spending to keep up with the new TV technology the phone companies are planning. In November, Comcast's stock fell 5% after it raised its estimated 2005 capital spending to $3.5 billion from an earlier prediction of $3.2 billion to $3.3 billion.

Consolidation in the telephone industry could put pressure on cable operators to get bigger as well. Both Comcast and the cable unit of Time Warner Inc. are expected to bulk up later this year when they divide up the systems of Adelphia Communications Corp., which has been operating under bankruptcy protection. As part of that deal, Time Warner Cable will issue public stock, giving it a currency for future acquisitions.

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Cable operators are hoping that, at least in the short term, a merger of AT&T and BellSouth would slow AT&T's launch of TV service. They point out that for months, if not years, management's attention will likely be focused on integrating the two companies.

Meanwhile, the cable companies aren't standing still. Comcast has greatly increased its video-on-demand offerings with ambitious plans to offer a library equivalent to 5,000 hours of movies, programs and other features by year's end. Large cable operators are also pushing into a wide range of other new technologies that will give them interactive commercials and many of the other features that AT&T is planning.

"There's not a thing that [phone companies] can offer that we can't offer to our customers as well," Steve Burke, Comcast's chief operating officer, said yesterday after the AT&T deal with BellSouth was announced.

WSJ's Dennis Berman discusses10 the impact of AT&T's $67 billion deal to buy BellSouth. · Plus, WSJ's Almar Latour, Julie Ask of Jupiter Research and Om Malik of Business 2.011 discuss the possible effects of an AT&T-BellSouth merger on the telecoms sector.

The cable industry, like the phone business, has been in upheaval for years, as both try to jam more services through their pipelines into America's homes. While telephone companies have been planning to move into the TV business, cable operators have been racing to offer phone service. Late last year, a venture of Sprint Nextel Corp. and a consortium of cable operators including Comcast, Time Warner and Cox Communications Inc. announced plans to offer wireless phone service together.

The cable guys have notched some victories. While phone giants like AT&T and Verizon Communications Inc. have barely launched television service, cable companies already provide phone service to more than five million U.S. subscribers. The cable-phone business is expected to grow even more this year because Comcast is launching the service on a massive scale.

"Cable operators have been able to prove their ability to compete and adapt to a changing environment," says Michael Willner, chief executive of Insight Communications Co., the country's eighth-largest cable operator. "The cable market is oversold [by Wall Street] because of unwarranted fears."

Cable enjoyed an early lead in the race to sell high-speed Internet connections. By moving faster than phone companies with a more attractive and problem-free product, cable companies dominated the early business.

Aggressive Strategy

But about two years ago, phone companies embarked on an aggressive strategy to grab market share through steep price cuts. Last year was the first full year that telephone companies added more broadband subscribers than cable operators -- 5.2 million vs. 4.4 million -- according to Leichtman Research Group Inc. The market share of the top cable providers has been whittled down to about 57%, according to Leichtman.

Telephone companies also currently enjoy a clear edge in the wireless business. A merger of AT&T and BellSouth would strengthen AT&T's hand in wireless because the companies are co-owners of Cingular Wireless. With a single owner, Cingular will be freed up from the conflicts that occur when a company has to serve two masters.

Meanwhile, the cable industry's wireless venture with Sprint is facing delays. When it was announced late last year, executives predicted that the service would be launched in the first half of 2006; now, they are saying it will be in the second half of the year. A spokeswoman for the venture, Melinda Tiemeyer, pointed out that the venture involves numerous companies and requires "a lot of different areas coming together" like marketing, retail and the actual product.

Satellite continues to pose a formidable threat, with Rupert Murdoch's DirecTV Group Inc. planning to offer more than 150 national high-definition channels by 2007, as well as 1,500 local high-definition channels, surpassing what most cable companies can currently offer. Satellite operators have more than 27 million subscribers, compared with about 66 million cable customers.

Many investors saw a powerful signal when Comcast made its unsuccessful bid to buy Walt Disney Co. in 2004. The message they read: Comcast believed that TV distribution wasn't enough to sustain its growth, and it needed more TV content. While Comcast executives have vehemently denied this, the company's stock has mostly stayed well below $33.93 price it hit the day before it announced the Disney bid. Comcast's shares were down 11 cents at $27.06 in 4 p.m. trading yesterday on the Nasdaq Stock Market.

Before AT&T announced its plans to buy BellSouth, the phone giant said it planned to offer its own television service to 18 million homes by the first half of 2008. AT&T also is planning to beef up its alliance with satellite-TV operator EchoStar Communications Corp. by offering consumers a service, named HomeZone, that combines satellite TV with movies, programs and other on-demand content off the Internet.

It is still unclear whether AT&T will be able to execute its TV plans. So far, it is offering its TV service only in San Antonio and some experts are skeptical that the company will be able to move ahead with a broad rollout later this year. AT&T and EchoStar already are months behind in their plans to launch HomeZone.

Starting in the 1970s and 1980s, cable operators shook up the television industry by offering better reception and racier fare than the traditional networks, which are beholden to federal decency standards because their signals travel over

government-granted airwaves. The cable industry also benefited from local monopolies, painstakingly negotiated one market at a time across the country.

But in the converging worlds of telecommunications and media, cable's competitors increasingly are the better-connected telephone giants, which have maneuvered through the federal legislative and regulatory landscape for decades.

Since taking over a year ago from Michael Powell, FCC Chairman Kevin Martin has ordered several major reviews of the cable business. The commission recently issued a report suggesting consumers would have lower cable bills if cable operators offered channels using an "a la carte" lineup -- selling individual channels rather than a prepackaged bundle. It is also examining whether to cap the cable giants' ability to extend their reach through mergers. FCC action on either of those issues would require congressional action.

An effort to force the cable giants to meet the same decency requirements as broadcasters has failed so far in Congress. But in response, the cable companies have offered new family-friendly packages of programming. The new packages haven't been well-received in Washington because they don't include ESPN or other popular channels. FCC Chairman Martin has continued to keep up pressure on the industry.

Meanwhile, as soon as this week, key House lawmakers could release a draft of a bill that would help clear the way for the Bells to get into the cable-television business. Essentially, the bill is expected to establish national video franchises. That would allow the phone companies to avoid having to seek permission from local governments to offer video service in their communities.

Separately, Arizona Republican Sen. John McCain is planning to introduce a cable "a la carte" bill this month. That legislation may not get very far, but Mr. McCain's presidential aspirations could easily result in the proposal ending up as at least part of any potential campaign platform.

Fighting Back

In the cities where phone giants have invaded cable's turf, cable companies are fighting back with aggressive pricing packages. Cablevision Systems Corp., facing competition in the New York region from Verizon, is offering new customers the first year of phone, cable and high-speed Internet service for about $90 a month. Insight Communications introduced a similar package about a year ago and is still evaluating what to charge customers once their initial discount period burns off. "We're packaging aggressively and getting more customers for it," Mr. Willner says.

In Keller, Texas, the first city where Verizon offered TV service, the local cable operator, Charter Communications, dropped the price of a package of TV and broadband services to $50 a month from $100 for the first year. Verizon recently announced that 23% of the Keller market is now taking its TV service, which charges $39.95 for 180 channels, $34.95 if the subscriber also takes Verizon's broadband service. A Charter spokeswoman said its special offer, which recently was increased by $10 a month, was partly a response to satellite competition.

Cable companies also have come out with new ways to hold on to customers who are about to switch providers. Time Warner Cable typically charges $39.95 a month for its broadband service for subscribers who also take its TV service. If customers call to disconnect their broadband, they're offered a slower service for $29.95 a month.

Time Warner doesn't generally advertise the lower priced service, says Mark Harrad, a company spokesman. "It's a save tactic," he says.

Consumer Groups To Oppose AT&T Purchase (AP)

By EILEEN ALT POWELL, AP Business Writer

AP, March 7, 2006

NEW YORK — Several of the nation's largest consumer groups said Monday they would oppose AT&T's purchase of BellSouth Corp., arguing that the deal will reduce competition and drive up prices in the telecommunications industry.

Consumers Union and the Consumer Federation of America said they would urge the Justice Department to block AT&T Inc.'s $67 billion offer.

The consumer groups also asked their members to contact the Federal Communications Commission, which must approve the acquisition, and to petition their congressmen to try to prevent the deal from going through.

If approved, the combined company would become one of the largest telecommunications operators in the world and include Cingular Wireless LLC, the nation's largest wireless operator. Cingular today is jointly owned by AT&T and BellSouth.

The consumer groups warned that increasing consolidation in the telephone industry would boost the prices for local, long-distance and cell phone services. They added that more-limited choices for phone service — along with a similar merger trend in the cable industry — threatened to reduce the variety of broadband Internet services available to consumers.

"If approved, this merger will lead to higher local, long-distance and cell phone prices for consumers across the country," said Gene Kimmelman, a vice president of Consumers Union, which is headquartered in Yonkers, N.Y.

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At the very least, Kimmelman said, federal regulators should "require the merging companies to sell their Cingular wireless business to create more opportunities for competition between wireless and wireline services."

Mark Cooper, director of research for the Consumer Federation of America in Washington, D.C., said consumers should be worried that the promise of broadband Internet technologies was being compromised by consolidation in both the telephone and cable industries. Those companies control the circuits on which data, television and phone communications move.

"We've been through a series of mergers that have reconstructed most of the old Ma Bell system," Cooper said, referring to the historic 1984 government breakup of the old AT&T monopoly into seven "baby bell" telephone providers.

The phone companies have argued that they face growing competition from cable companies, which have been getting into the phone market and offering an increasing array of broadband services, such as high-speed Internet access.

Randall Stephenson, AT&T's chief operating officer, told analysts Monday that AT&T already was feeling competitive pressure, saying the phone company has to tailor its prices to reflect those of local cable companies.

"We're finding that we're having to be far more targeted in our pricing based on who the competitor is in a particular market," he said. "I don't see that effect changing as we bring BellSouth into this equation."

But the CFA's Cooper said consolidation in both the phone and cable industries meant "that when consumers wake up in the morning, they have two choices for a full-service broadband network, telephone and cable."

He called it "an unregulated duopoly" and added: "Every consumer knows that two is not enough for real competition."

Jeff Chester, executive director of the Center for Digital Democracy in Washington, D.C., which promotes democratic access to broadband, fears that companies the size of a merged AT&T-BellSouth will have the heft to become "a virtual toll booth" on the Internet.

That's because the communications industry is moving to broadband, which allows voice, data, video and mobile communications to move over a single wire.

"The cable industry and the phone industry have the same business model, which is to begin charging increasing fees to consumers for using broadband communication," Chester said.

At the same time, he argues, they have the ability to give priority on their circuits to "premium" services or to companies with which they have alliances. This will make it harder for new technologies to emerge, because they will have trouble getting access to the delivery system.

"We need to make a stand today," Chester said. "If we allow them to turn today's Internet into a digital dirt road while only they and their partners can run lightening-fast operations, you won't see competition."

Bill Hardekopf, chief executive of the SaveonPhone.com long-distance search site, said the sheer size of the combined AT&T-BellSouth company was likely to be a red flag to federal regulators.

"This company will have a tremendous amount of market share and say as to what goes on in the industry," Hardekopf said. "To have that much of a share and that much of a voice in one company cannot be healthy for consumers."

In fact, the merged company would have 70 million local-line phone customers, 54.1 million wireless subscribers and nearly 10 million broadband subscribers in nearly two dozen states.

"This is not a done deal," Hardekopf said. "Regulators can still block it for competitive reasons."

Is Antitrust No Longer The Issue? (NYT)

By Stephen Labaton

The New York Times, March 7, 2006

WASHINGTON, March 6 — As head of the Federal Communications Commission during the Clinton administration, Reed E. Hundt killed talks about a possible merger in 1997 when he said that a proposed deal between AT&T and SBC would be "unthinkable" under antitrust laws.

Last year those two companies combined with little resistance. And on Monday Mr. Hundt said that AT&T's proposal to buy BellSouth for $67 billion was "eminently thinkable," and that if he were still at the commission, "I would bless the deal."

His statement was a sign of how far the regulatory climate, as well as the marketplace, has traveled in less than a decade, as the cable and phone industries have gotten into each other's businesses and new forms of phone service have grown.

While government officials and industry lobbyists say the AT&T-BellSouth deal faces few regulatory obstacles, those same changes in the marketplace may bring different political headwinds.

The deal threatens to undermine parts of the telephone industry's broader regulatory and legislative agenda by making it more difficult for the industry to claim it badly needs relief from regulators and Congress.

The Bell telephone companies have lobbied hard for the last year to get Congress to adopt a measure that would make it easier for them to offer video services. The phone companies want federal legislation that would pre-empt local authority over such services. (The cable industry has fought equally hard against the measure.) That fight is central to the telephone

companies' new strategy of offering video service to compete head-on with cable and satellite companies that offer paid television services.

As Internet service providers, the large phone companies are meanwhile involved in a political fight over whether they must offer equal access to all Web providers, an approach called "Net neutrality." Content providers like Google and Yahoo, and companies providing Internet-based phone service like Vonage, seek legislation to prevent phone companies from favoring their own Web sites and those offered by their partners, over rivals and Internet phone companies.

While the phone companies fight that move, they are also battling legislative efforts to make it easier for municipalities to offer free wireless Internet services.

But the continued consolidation of the telephone industry that the latest deal contemplates gives the phone companies' opponents significant political leverage in all three debates — and for the time being, could make it harder for AT&T and Verizon, the two largest phone companies, to prevail on all fronts.

"The reverberations at first will be subterranean, but they will be of earthquake proportions," Mr. Hundt said.

The cable industry, awaiting regulatory approval of its own major consolidation in which Time Warner and Comcast expect to divide up Adelphia, was quick Monday to point out the perils of a consolidating telephone industry. But Verizon, signaling that it will not raise major objections to the BellSouth deal, issued a statement that called it "logical and predictable." And Kevin J. Martin, the chairman of the F.C.C., issued a noncommittal statement.

"The F.C.C.'s primary responsibility is to determine whether the proposed transaction is in the best interest of consumers," Mr. Martin said. "We will carefully weigh the information presented, examining any allegations of specific harm in individual markets and the potential benefits for the deployment of new services."

The agency will be considering what conditions to impose on the deal in a process that could take as long as a year.

The AT&T-BellSouth deal provides a vehicle for regulators and lawmakers to consider what to do in the "Net neutrality" debate and whether the telephone companies can charge more money for certain content providers. The issue came to national attention in November when Edward E. Whitacre Jr., the blunt-speaking leader of AT&T, complained in an interview in Business Week Online about the current state of affairs.

"We and the cable companies have made an investment, and for Google or Yahoo or Vonage or anybody to expect to use these pipes free is nuts," Mr. Whitacre said.

In the same interview, Mr. Whitacre was asked whether it was possible that his company would ever acquire BellSouth.

"It sure would be nice, but it doesn't have much chance of happening because of market power, size, etc.," he replied. "I think it would be real hard to do. I don't think the regulators would let that happen, in my judgment."

While AT&T seems to have overcome that concern, lobbyists and others in the industry said Monday that there would be pressure on regulators to impose conditions assuring that consumers continue to have unfettered access to the Internet, and precluding discrimination by AT&T against companies like Google and Yahoo.

Any new rules, however, might not prevent phone companies from offering a more expensive tier of service providing faster Internet access for the transfer of video and other large files.

In the case of the video-franchise legislation, the telephone companies in recent weeks had begun to see progress on favorable legislation in the House that could be derailed by the deal.

Wasting no time, the National Cable and Telecommunications Association, the cable industry lobbying and trade organization, sent a letter to top lawmakers on Monday arguing against legislation that would remove local control over the introduction of video services by the Bell companies.

The cable industry, having put together its franchises city by city, contends that the phone companies should face the same hurdles for video delivery.

"It is important to take stock of where we are in 2006," said the letter from Kyle McSlarrow, president and chief executive of the association. "In the last decade, the Bell monopolies have all but wiped out their telephone competitors; they have swallowed their long-distance competitors; and with the announcement of the AT&T-BellSouth merger, they are on the verge of recreating Ma Bell. And only one competitor really stands in their way: the cable industry."

Next Step In Phone Deal: P.R. (WSJ)

By Amy Schatz And Anne Marie Squeo

The Wall Street Journal, March 7, 2006

WASHINGTON -- As AT&T Inc. and BellSouth Corp. make the case for their $67 billion merger, they'll be counting on their vaunted lobbying clout to win over skeptical lawmakers and regulators.

Their efforts could be complicated by two factors: The changing makeup of the Federal Communications Commission and a push to rewrite the landmark 1996 telecommunications law.

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In a statement yesterday, FCC Chairman Kevin Martin said the agency would "carefully weigh" the deal. Regulatory experts say that given Mr. Martin's push last year to impose minimal conditions on SBC Communications Inc.'s purchase of AT&T Corp. and Verizon Communications Inc.'s acquisition of MCI, it would be surprising if he reversed his stance.

Mr. Martin, though, represents just one vote on a five-member commission. The two Democrats likely will cast a skeptical eye toward such a transaction, especially given talk by phone companies to charge technology companies extra to guarantee speedy delivery on their networks. And the Bells may not be able to count on Mr. Martin's two Republican colleagues because of a shift in the makeup of the commission.

Deborah Taylor Tate is a Republican commissioner sworn in earlier this year. Ms. Tate is a former Tennessee regulator who remains largely an unknown figure in Washington. Ms. Tate, whose term expires in June 2007, has kept her home in Tennessee and is expected to return there and possibly run for office, so she may not want to adopt a position that is perceived as anticonsumer.

The other Republican seat is vacant. President Bush has nominated veteran telecommunications attorney Robert McDowell to fill that slot. Mr. McDowell is assistant general counsel for Comptel, a group that represents small phone companies that have fought pitched battles with the Bells over access rates and interconnection issues.

It would be unwise to assume Mr. McDowell might automatically side with small companies while considering conditions for the merger, says Earl Comstock, chief executive at Comptel. "He's good at representing his client."

Mr. McDowell faces a confirmation hearing Thursday in the Senate and is expected to be questioned by senators about his thoughts on competition and the need for some sort of "Internet neutrality" legislation, which says consumers can use the Internet as they choose and network owners can't slow or discriminate against rivals' data traffic. If his confirmation drags on and the commission is deadlocked, it can't approve the AT&T-BellSouth transaction.

Another element muddying the waters is the looming rewrite of the nation's telecommunications law. The current laws were written in 1996 when most consumers relied on traditional telephones for local and long-distance calling. Now, wireless phone and Internet phones are taking up a greater share of the market, which has led phone companies to seek new revenue streams, notably pay-TV service, to replace that lost business.

There are all kinds of new issues on the table because of increased reliance on the Internet. The phone companies were looking to Congress to make it easier to launch video services across the country by adopting a national video franchising requirement, which would allow phone companies to avoid seeking permission from local authorities to offer pay-TV services.

Former Rep. Thomas Bliley, one of the key authors of the 1996 Telecom Act, sees competition among traditional phone, wireless and cable as the future. "But right now, the only meaningful choice other than the Verizons and AT&Ts, especially for business customers," are small phone companies, he said. "Many of these companies are spending billions to build their own networks. And if we move too fast, these companies could get shut out and business and residential customers would have less choice."

Business customers protested last year's big deals, saying they would further consolidate the industry and result in higher prices for high-volume data lines. "When I'm at home, I have choices. At least it's a duopoly of phone and cable. In the enterprise market, we don't have any choices," said Brian Moir, a Washington attorney who represents large corporate users of telecom services and wants regulators to impose conditions, as part of the deal, to protect business customers.

Sen. Daniel Inouye (D., Hawaii), the top Democrat on the Senate Commerce Committee yesterday said that the proposed recombination "will call into question our commitment to promote competition in the communications marketplace and to preserve fair rules that guarantee nondiscriminatory access to new services."

In a statement, he said that "coming only 125 days after the FCC's approval of the SBC-AT&T merger, AT&T's proposal to purchase BellSouth would remove yet another potential competitor from the communications marketplace and calls into question whether the future of communications policy will be marked by strategies to promote vigorous competition or by further efforts to facilitate new mergers."

Philip Verveer, who filed the lawsuit that led to the 1984 breakup of the Bell System monopoly, said he doesn't expect the Justice Department to block the deal. "This is a reassembly of many of the pieces we worked to take apart, but the circumstances are completely different today," said Mr. Verveer, now a partner at Willkie Farr & Gallagher in Washington.

Mr. Verveer, though, said he expects the FCC to require that AT&T agree to accept the "net neutrality" nondiscrimination principles pledged to the FCC last fall as a condition of the SBC-AT&T deal.

In the end much will depend on AT&T's government-relations executives. Indeed, lobbyists in town frequently remark that one of the best elements of SBC's purchase of AT&T was its inheritance of AT&T's lobbying shop, which has deep relationships with Republicans and Democrats.

Jim Cicconi, a Texan with close ties to President Bush, was the head of AT&T's Washington office before its acquisition. Afterward, he bypassed SBC's team to become the senior executive vice president of external and legislative affairs for the

combined company. He served in both the Reagan and first Bush administrations and is close to James Baker and former President George H.W. Bush.

BellSouth's Washington operation isn't too shabby either. Led by Herschel Abbott Jr., who has been with the company since 1991, BellSouth has been a force in key issues in the telecom industry. Mr. Abbott played a critical role in persuading the White House in mid-2004 not to appeal a court ruling about fees the Bells charged others to lease access to their local-phone networks. Recently, BellSouth tried to persuade lawmakers to launch a narrowly focused telecom rewrite that only addressed the video franchising issue.

Two Young Men Likely To Play Big Roles In Telecom Giant (WSJ)

By Dionne Searcey

The Wall Street Journal, March 7, 2006

Over the years, AT&T Inc. chairman Edward Whitacre and BellSouth Corp. chief executive Duane Ackerman had talked many times about a deal before they finally agreed to the largest one in the history of the U.S. telecommunications industry.

In two years, though, both likely will be retired.

Before the deal Randall Stephenson, AT&T's chief operating officer, and Mark Feidler, who held the same title at BellSouth, were widely acknowledged to be the heirs apparent of their respective companies once their bosses retire. While it is likely they will play significant leadership roles in the combined company, analysts and investors believe that Mr. Stephenson has the inside track to be chief executive.

"Randall is clearly the anointed one within AT&T and Mark as the No. 2 in BellSouth needs to know that he'll have to be No. 2 or 3 in the new entity," says a consultant who has worked with both companies.

Both men declined to be interviewed yesterday. But people familiar with the situation say that Mr. Stephenson, who has spent his 24-year career with the company mainly overseeing telecom finances, and Mr. Feidler, a former corporate lawyer and investment banker, have both been supporters of a deal between BellSouth and AT&T. The two executives have a good working relationship and already have one deal in common. They both helped negotiate the Cingular Wireless acquisition of AT&T Wireless. BellSouth and AT&T own Cingular in a joint venture.

Mr. Feidler, 49, a graduate of Vanderbilt Law School who joined BellSouth in 1991, is known for getting into the nitty-gritty of the business. Associates say he has an excellent, almost impish sense of humor. He isn't a practical joker but is known for his wit, and he makes it clear he doesn't take himself or his situation too seriously.

"Mark is probably the smartest guy in whatever room he's in. He's a strategic thinker with a giant brain," says a former consultant who has also worked with both companies. "Unfortunately, I don't think he has a shot at the top job."

What has endeared Mr. Stephenson, 45 years old, to Wall Street is a blunt and charismatic style. He has been a patient and competent sideman to Mr. Whitacre and is known for his rapid recall of matters at hand. Like Mr. Whitacre, he is a very hands-on manager and focused on the minutiae of his business. He is known as a gentleman and is popular with the upper-echelon of management at AT&T.

In an era of new regulations, many executives and companies have become tight-lipped and stick to scripts. But Mr. Stephenson, who holds a master's degree in accounting from the University of Oklahoma, always makes an effort to explain issues and to be as forthcoming as possible, analysts who have dealt with him say.

"He's not the kind of executive who says I'll get back to you on that," says one telecom analyst who has met with him frequently.

A loyal lieutenant to Mr. Whitacre, Mr. Stephenson nevertheless pushed the company to change and was a proponent of the Cingular deal with BellSouth, the consultant said. He was also a proponent the decision of AT&T to have a presence in Hollywood near the content providers for its Internet television venture, Project Lightspeed, the consultant said.

Mr. Stephenson and Mr. Feidler are energetic executives approaching the prime of their careers, but they must still answer to and take direction from a chief executive who is for now firmly in charge. Their roots are starkly different from Mr. Whitacre, 64, and Mr. Ackerman, 63, both of whom started at the bottom of the phone business, working on equipment in the field, before ascending through the executive ranks.

And as much as Mr. Stephenson and Mr. Feidler pushed for the deal between AT&T and BellSouth, it was still Mr. Whitacre who finally convinced Mr. Ackerman to sign. "Ed and Duane largely did the deals themselves. The key meetings were those guys one-on-one," said one person familiar with the deal.

Mr. Ackerman and Mr. Whitacre have a great deal of respect for one another and share a cultural affinity for one another's similar telecom backgrounds. After many attempts at a deal through the years Mr. Ackerman finally relented because he found his company in somewhat of a pickle. SBC Communications had acquired AT&T Corp. and all its enterprise assets to become AT&T Inc., and Verizon had taken over the business assets of MCI Inc. Suddenly, BellSouth had two major competitors who

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could sell a better package of services to companies in its own backyard. The two men met a handful of times to discuss terms of the deal, but there wasn't much wrangling. Their companies' stocks have been trading at roughly similar prices and because they had contemplated a deal for so long there wasn't much to haggle over.

Mr. Whitacre is known as an operator. He is a master of the deal and a broker who has honed his skills at timing with his many acquisitions through the years. His board members trust him implicitly and he can assemble them rapidly if he wants to move fast on a deal.

It has long been assumed that the gentlemanly, restrained Mr. Ackerman would end his career by finally relinquishing his longstanding caution about the deal-making that has transformed the industry while BellSouth stayed close to its regional roots. Since the late 1990s BellSouth flirted with several deals but always backed away. The company bid unsuccessfully against the former WorldCom Inc. for Sprint Corp. several years ago and later held talks with both MCI and AT&T Corp.

Last year, according to people familiar with the situation, Mr. Ackerman approached Mr. Whitacre about a merger deal that would have split BellSouth into separate directories, landline and wireless businesses. Mr. Whitacre declined, these people say. Officials from neither company could confirm that situation. Mr. Whitacre was unhappy when BellSouth tried to pursue a takeover of AT&T, people familiar with that situation say. Mr. Ackerman backed off, and Mr. Whitacre, then chief executive of SBC Communications Inc., bought AT&T, they added. That deal was only completed five months ago.

It had been expected that Mr. Whitacre would retire close to November, when he turns 65. His associates said he wasn't ready to retire, and, last week AT&T's board extended his contract until spring 2008. Mr. Ackerman has said he would stay on at BellSouth to shepherd the acquisition, which is expected to take about a year to close. If asked to leave, Mr. Ackerman would collect $9 million as well as millions of dollars' worth of restricted stock and options, according to public filings.

Not Your Ma's Bell (WSJ)

The Wall Street Journal, March 7, 2006

If the criticism of AT&T's plans to buy BellSouth for $67 billion sounds familiar, it's because the same hyperventilating occurred last year when SBC bought AT&T and Verizon acquired MCI. We're back at the same old stand, and while all this telecom consolidation may or may not pay off for shareholders, the benefits to consumers are clear.

Consumer "activists" and other critics are convinced that these telecom mergers mean fewer competitors and higher prices. But they're using a model of the industry that dates to the break up of Ma Bell in 1984, when cable companies and phone companies didn't provide each others' services and the consumer wireless market was practically nonexistent. So when Mark Cooper of the Consumer Federation of America asks the Justice Department to block the AT&T/BellSouth merger because there won't be "enough competition" for phone service, he's looking for competitors in the wrong places.

Mr. Cooper refuses to acknowledge phone services offered by cable companies, wireless carriers and VOIP providers in today's telecom market. But these mergers are a direct result of competitive pressures from those very technologies. AT&T knows it has more to fear from a cable giant like Comcast than from a fellow phone company like Verizon.

Today's traditional phone companies have been steadily losing lines to wireless providers, and they need the size and synergies to invest in broadband, where cable companies already have a big head start. The most obvious benefit to consumers is the lower prices that result from increased "intermodal" -- or cross-technology -- competition. But another benefit is the faster rollout of new services made possible by economies of scale.

The biggest battle in telecom right now involves Bell companies that want to offer cable programming via Internet protocol television, or IPTV. AT&T and Verizon have been pushing their own version of IPTV to compete with traditional cable service, but BellSouth has not been involved in this effort thus far, mainly because it couldn't afford the investment risks. With the additional resources available through an AT&T merger, BellSouth customers in the Southeast could be getting cable competition sooner than they otherwise would.

Others argue that wireless competition would suffer from a combined AT&T/BellSouth because AT&T would control all of Cingular. But Cingular has been jointly owned and operated by BellSouth and AT&T for some time, which means the merger would do nothing to alter wireless market share. Besides, it would be difficult for Cingular to become a predatory monopolist in a marketplace with Verizon, T-Mobile and other wireless rivals.

Among the regulatory bodies that will vet this deal is the Federal Communications Commission, and Chairman Kevin Martin's record is encouraging. It's true the FCC's approval of the Verizon-MCI merger last year included some bad provisions like a temporary rate freeze and bundling requirements. But Mr. Martin was working without a Republican majority on the five-member panel and had to make concessions to win over the two Democrat commissioners.

He shouldn't have that problem this time around; confirmation hearings for a third GOP appointee -- Robert McDowell -- are scheduled for this week. Still, consumer groups are likely to push for other anti-competitive concessions like net neutrality, which would prevent AT&T/BellSouth from providing faster Internet connections for certain premium services to people willing to pay for

it. We don't know if providing these so-called "fast lanes" on the Web is a viable business model, but that's for the market to decide, not the regulators.

A bigger hurdle might be the Department of Justice's Antitrust Division, which is likely to receive pressure from Democrats on Capitol Hill aligned with consumer activists. Typical was the response from Massachusetts Democrat Ed Markey, a senior Member of the House Energy and Commerce Committee, who said "Twenty years after the government broke up Ma Bell, this deal represents a mother-and-child reunion."

But the child has grown up and the mother has changed, even if Mr. Markey's rhetoric hasn't. Consolidation is being driven, as it should, by changing technologies, and by all manner of competition in a telecom world that Ma Bell wouldn't recognize.

Let There Be Bandwidth (WSJ)

By Bret Swanson

The Wall Street Journal, March 7, 2006

Ma Bell's back: Run for your lives! -- or at least to the halls of Congress. That, it seems, is the overheated conventional wisdom. But the $170 billion combination of AT&T and BellSouth into the world's largest telecom company is a perfectly natural progression of business and technology. The merger will rationalize a market beset by decades of political mismanagement.

Some 22 years ago, Judge Harold Greene famously ruled that AT&T violated antitrust law and broke up the company along two axes. First, he divided the telecom market into local and long-distance. But just 15 years later, fiber optics and mobile phones obliterated long-distance as a meaningful market, replacing it with fixed-price, anywhere-in-America bundles, which are now under assault from voice over IP. Judge Greene's other 1984 ruling, which split Ma Bell's local operations into eight regional companies, was even more arbitrary from the outset. Because they were fixed by geography, more local companies did not yield more local competition, only diseconomies of smaller scale. So by the late 1990s, after the 1996 Telecom Act acknowledged some of these problems (but created still others), the regional companies began an inevitable reintegration into Verizon, AT&T (née SBC) and USQwest, which will likely soon be gobbled up as well. * * *

Although this latest reintegration will not reduce the number of competitors in the marketplace, it is sure to supercharge the ever-present denunciations of monopoly that are behind every effort to regulate telecom. This time around, the main agent is the colossus Google. Exactly one decade after the disastrous 1996 act set us on a path for the telecom crash and a plunge to 16th in world broadband rankings, Google is leading an alliance of politicians, lobbyists and interested companies under the aegis of "net neutrality." If enacted, it will repeat the most basic mistakes of earlier legislation.

Net neutrality supposedly seeks the modest goal of stopping the cable TV or telecom companies from "blocking" or "degrading" the content or services of online companies like Google, Vonage or AOL, which are invading traditional voice and video businesses. But the interwoven issues of content and conduit pervade the entire information economy, including the systems of Google itself. Barely recovering from the FCC's "open access" mandates that chopped up and assigned ownership rights and prices to the physical infrastructure -- the hardware -- of the Net, we now face the prospect of rigid reassignment of content, applications, services and protocols, too.

Blocking and degrading Internet access would quite simply be business suicide for incumbent service providers. Compared to cable's other content operations like basic and premium TV channels, its broadband cable modem services are more than 50 times as profitable per unit of bandwidth consumed. This means that with just a tiny sliver of the usable bandwidth in its pipes, cable's Internet services supply about 20% of the revenue and the majority of their net income. Does anyone really think the bandwidth providers are going to kill their golden goose?

The continuing advance of semiconductor and fiber-optic technologies will inexorably push cable and telecom operators to dedicate more and more of their networks to open Internet access. In such a highly volatile market, how much of service providers' capacity will be used for Internet access and how much will go for integrated products like high-definition video programming and video conferencing services is a tough business question. With the millions of competing enterprises involved, this is a complex and rapidly evolving system far beyond the capacity of Congress or the courts to micromanage.

A net neutrality regime would invite endless litigation among service providers, hardware and software vendors, and content and applications dot-coms. Who gets access, when, and on what terms, to the other's network, the other's operating system, the other's platform? These questions -- the very ones that have stifled innovation in telecom for the last two decades -- should be left to business competition and, if all else fails, to common law and antitrust. Congress and the FCC cannot be the arbiters of every connection, interface and transaction. And if such laws somehow only targeted the incumbent bandwidth service providers, then they would turn out to be merely malicious political tools for business rivals, decidedly not "neutral" and unlikely to survive the scrutiny of the courts.

The solution to all this is rather simple -- more bandwidth. Abundant bandwidth means the vast majority of online services, such as Web pages, email and voice, won't pose any congestion problems and will thus easily reach end-users. It also means

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bandwidth cheap enough that content companies won't mind paying for access. Across the network, different carriers have always charged different prices for varying amounts and qualities. Abundant bandwidth also gives the cable and telecom service providers the flexibility they need to manage this transition from a world of 200 dedicated channels to one with millions of open channels.

Abundant bandwidth will reverse America's communications decline and transcend monopoly worries or any need for complex net-neutrality regulation. But it will take more than $100 billion of massive and risky new investment, which cannot be made under the current regulatory caprice. Telecom deregulation begun by Michael Powell and continued by current FCC chairman Kevin Martin must be accelerated. Most importantly, we should banish the decades-old local video franchising process.

Since granting monopolies to local cable TV broadcasters some four decades ago, video franchising is obsolete. Yet the prospect of new broadband service providers haggling with some 30,000 mayors and city councils for the privilege of serving new customers is now America's chief obstacle to real broadband. Texas and Indiana have passed statewide franchises, which grant quick, simple and almost automatic licenses for the whole state, and they are already reaping a broadband investment harvest. Around $1 billion worth of new fiber optic bandwidth has already been announced in Texas. The other 48 states should follow suit, or Congress should adopt a simple national franchise without any "shot-clocks" or "build-out" baggage that invite litigation and discourage investment.

In the metro New York area, one of the few places where Verizon has won a video franchise and built its advanced optical network, competitor Cablevision has increased its basic cable modem service to 15 megabits per second and is offering premium services of 30 and 50 megabits. Where it exists, real competition between cable and telecom -- not faux competition among distinct telecom brand names -- is thus already yielding networks and speeds on par with the most advanced countries in the world.

AT&T's biggest challenge may be branding itself to a new generation of voracious communications consumers who are oblivious to "long-distance" and only know a world of no-distance chats, texts and blogs. It would be far better if Washington listened to these teeny-bopper baby belles instead of basing its merger, net neutrality and franchising policies on a Great Grandma Bell world that no longer exists.

Ma Bell Revives; Watch Her With A Very Wary Eye (USAT)

USA Today, March 7, 2006

Recent years have not been good to the businesses formerly known as phone companies. They got off to a slower start than cable in rolling out broadband service. And they lost core customers who signed up with Internet telephony services, or opted to go wireless.

But, not to worry, this is an industry with a plan: Bring back Ma Bell — the AT&T monopoly that once ruled the wired world, throttling competition.

While other industries have decided to race forward to keep pace with innovation, this one sees a bright future in turning back the clock. Maybe there is even a black, rotary-dial telephone in our future.

Sunday's announced merger between AT&T and BellSouth would reunite five of the eight companies created when an antitrust suit splintered the phone monopoly in 1984, igniting a communications revolution. (AT&T had already been merged with three of its offspring: Pacific Telesis, Ameritech and Southwestern Bell.)

Given the current, accommodating state of antitrust policy and the arrival of cable as a competitor in broadband and telephony, this deal might well be approved by federal regulators. It might even create economies of scale that would make the combination more efficient than the sum of its parts.

But it also should raise red flags for Congress and federal regulators. For all the talk of robust competition between cable and telephone, the reality has been less impressive. The most intense competition and the fastest roll-outs of new services have been largely limited to affluent areas.

Reassembling the old Bell system would hardly provide companies with greater incentives to do what they are not doing already. If anything, it would give this new behemoth greater market strength with which to dictate prices and services.

What's more, the merger raises questions about the future of the Internet and digital entertainment. Even before Sunday, AT&T was vocal in its determination to impose limits on the Internet. The company envisions charging high-flying Internet companies such as Google and Yahoo for the privilege of flowing quickly through its high-speed pipes. It argues that because it invested in new lines, it deserves a greater piece of the action.

This merger might well increase its power to bring about such an unfortunate reality. With its massive customer base and ability to offer telephone, wireless telephone, broadband and video, it could bring enormous pressure to bear on Internet companies to pay its ransom, regardless of what its cable competitors do.

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For that reason, lawmakers and members of the Federal Communications Commission should take a long, hard look at where the Internet is headed and what might be done to prevent a handful of companies from gaining a chokehold over an evolving medium that is one of history's great innovations.

Such an outcome would not only punish innovative companies, but in its most extreme form it would also make decisions for consumers on where they shop online, how they conduct their searches and which social networking sites they should use.

More broadly, Washington policymakers might want to examine the state of competition almost 10 years after the passage of a massive telecommunications law that partially deregulated the industry. If a company such as AT&T is able to erect tollbooths on the Internet, and if competition on price and service in many parts of the country remains anemic, then the law and subsequent court rulings further deregulating the industry are not having their desired effect.

Telephone and cable companies were freed of their regulatory shackles on the premise they would compete aggressively with each other. Progress on that front has been, at best, mixed.

Now the public is being asked to believe that putting the Bell system back together is going to stimulate competition and help consumers. It's hard to believe there is much progress to be made by going backward.

Competition Calling (LAT)

The Los Angeles Times, March 7, 2006

Reports of Ma Bell's death were greatly exaggerated. AT&T, which lost its independence (and almost its name) when it was purchased by SBC in November, now finds itself at the center of one of the largest mergers in business history. And concerns about the dangers of the deal are exaggerated as well.

This time, the newly reconstituted AT&T, formerly known as SBC, has agreed to buy BellSouth, the dominant local phone company in the South, in a stock swap worth about $67 billion. The merger, which must be approved by the companies' shareholders and federal regulators, would combine the erstwhile Ma Bell's market-leading long-distance business with local phone companies serving 22 states, or about 40% of the country's phone lines.

The numbers may be eye-popping, but the new Ma Bell is unlikely to be as powerful — or as dangerous — as the old Ma Bell. AT&T competes halfheartedly today for business customers in a few cities served by BellSouth, and BellSouth doesn't even try to compete with AT&T on the latter's home turf. And rather than operating rival wireless networks, AT&T and BellSouth jointly own one — Cingular.

As a consequence, the merger would have practically no immediate effect on BellSouth's or AT&T's market. Customers would neither gain nor lose any options for phone, high-speed Internet or wireless services.

Some critics argue that AT&T's chairman, Edward E. Whitacre Jr., is trying to reassemble the phone monopoly that the federal government broke up in 1984. As head of SBC, Whitacre has already gobbled up two of the regional Bells (Pacific Telesis and Ameritech) and last year acquired the struggling AT&T for $16 billion. The phone market is fundamentally different now, however. Cable TV companies sell phone and high-speed Internet service over their networks; mobile phones have become an increasingly affordable alternative to a home phone line; and numerous Web-based companies let users make calls through the Internet for little or no charge.

Meanwhile, phone companies such as AT&T and Verizon are starting to offer video services through high-speed Internet lines that can compete with cable and satellite TV operators. The proposed merger could actually promote that competition. Offering video through broadband connections also could serve as the Trojan horse that pushes high-speed Internet service into more homes.

Still, regulators shouldn't just wave the merger through. In much of the country, there isn't very much competition among high-speed Internet networks. So AT&T could be tempted to soak customers or extract extra fees from Web-based companies. And Whitacre has made some troubling comments about companies such as Google having to pay to use "his" pipes.

AT&T says it merely wants to charge websites for delivering faster service to users. Rather than trusting the company not to hamper the Internet or play favorites, regulators should require it to pledge to preserve a level playing field for all websites, programmers and services as a condition of the BellSouth deal. Customers and websites shouldn't have to pay twice to connect to each other, nor should AT&T or any other network operator be able to give any site or service an unfair advantage over its competitors.

Hybrid Program Key To NYSE Group's Future (AP)

By MICHAEL J. MARTINEZ, AP Business Writer

AP, March 7, 2006

NEW YORK (AP) - When the New York Stock Exchange transforms into a publicly traded company Tuesday, its agenda - staying competitive with faster all-electronic markets - will remain in place even as its corporate structure changes.

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The NYSE's 214-year existence as a non-for-profit institution will end when it closes its $9 billion acquisition of all-electronic rival Archipelago Holdings Inc. On Wednesday, the combined company, called NYSE Group Inc., will begin trading on the floor of the Big Board under the symbol NYX.

Unfettered from the NYSE's seat holder leadership structure, in which the owners of 1,366 seats had a strong say in the direction of the Big Board, NYSE Group Chief Executive John Thain has big plans for the exchange, including trading options and corporate bonds, the possibility of extended trading hours and acquisitions of other exchanges and companies.

But as the $9 billion acquisition closes, the exchange can't look too far ahead, nor too quickly. The linchpin of its future is not new products or acquisitions, but its core business of trading stocks. And with the Nasdaq Stock Market's electronic trading platform slowly eating away at the NYSE's market share, the NYSE's new "hybrid" program - the merging of electronic trading with traditional floor auctions - must be a fast and sure success.

"I would say that getting hybrid in place, up and running, is the absolute most important thing they have to do," said Michael Pagano, assistant professor of economics at Villanova University's College of Commerce and Finance. "If they don't get hybrid right, all their competitors can come and pick them off."

The hybrid is the result of a new Securities and Exchange Commission rule due to take effect this summer. Under that rule, the NYSE must move to electronic trading in order to be considered a "fast market" and thus compete with the Nasdaq and other electronic markets for orders. However, for its entire history, the Big Board has been a human-driven system, with specialists serving as auctioneers to buy and sell stocks and maintain orderly markets by keeping prices reasonable.

To attain fast-market status, the NYSE plans to create a system it hopes will combine the speed of electronic trading with the market-management skills of humans. It's a tricky balance - if the human element proves too slow, more orders will head to the Nasdaq or elsewhere.

But if the floor system is minimized too much, the NYSE loses a key assetthat differentiates it from other exchanges.

"If they get this balance right, their market share and trading volume can really take off," Pagano said. "If they don't, all the acquisitions and other products won't help them. They have to get this right, right off the bat."

The NYSE has repeatedly said a pilot hybrid program is in place, involving 147 stocks as of March 1, and will continue to be implemented as the summer deadline approaches.

At least one NYSE customer is pleased with the effort thus far.

"They've made a lot of the technology pretty transparent to us, and we've had good conversations with folks there to see what that's going to look like for us," said Vincent Phillips, CEO of the active trading service CyberTrader, a Schwab Corp. subsidiary. "Given the things they have on their plate, I think things have gone surprisingly well."

Thain has expressed confidence in the hybrid program and appears to be poised to take advantage of the exchange's newfound independence from its seat holders. The former Goldman Sachs president hopes to expand the NYSE's offerings to include derivatives trading, including equity options side-by-side with sales of the stocks themselves, as well as corporate bond trading.

Trading could also expand as Thain works to integrate Archipelago's trading system with that of the rest of the NYSE. In the future, it's possible that floor traders could not only trade NYSE-listed stocks, but also those listed on the Nasdaq. With NYSE-listed stocks already electronically traded on Nasdaq, as well as Archipelago, the NYSE could not only retain some of its own market share, but also eat into Nasdaq's.

Thain has also said he is still considering expanding the NYSE's operating hours in order to compete with European markets, though that has run into some resistance from traders on the West Coast, who are already up at 6:30 a.m. Pacific time for the opening bell.

And of course, Thain has previously said he's interested in using his newfound equity capital for acquisitions. The London Stock Exchange, currently on the block, is a favored target of speculation, though there are smaller exchanges in the U.S., including the American Stock Exchange and a number of regional exchanges, that could become tempting targets.

Alternatively, the NYSE could go after the Chicago Board of Options Exchange or the International Securities Exchange in order to get a bigger piece of the options and derivatives trade.

"Whatever they do, they're going to be in a good position," Philips said. "We can't wait until Thursday to see what the new world looks like."

Blackstone To Acquire CarrAmerica For $5.6 Billion (WSJ)

By Jennifer S. Forsyth

The Wall Street Journal, March 7, 2006

Blackstone Group agreed to acquire CarrAmerica Realty Corp., a real-estate investment trust with office properties across the U.S., for $5.6 billion.

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The deal is the largest in a string of transactions in which publicly traded real-estate companies have been bought by private or institutional investors willing to pay a premium for companies they believe are undervalued by Wall Street.

Blackstone, a New York-based private-equity firm, has been aggressive in acquiring real-estate companies but has focused on the hotel sector. Two weeks ago, it said it would acquire MeriStar Hospitality Corp., a hotel REIT, for $940 million, plus debt, in a deal valued at $2.6 billion. The decision to grab a large office REIT is seen as an endorsement of the improving office market.

"Whenever you see a smart, well-capitalized private-equity firm entering into a transaction like this, to my mind, it's a stamp of approval on the sector," said Jim Sullivan, senior REIT analyst for Green Street Advisors, a real-estate research and trading firm.

CarrAmerica, based in Washington, D.C., holds about 26 million square feet of office space in markets including Los Angeles, Dallas and Denver.

Under the terms announced yesterday, Blackstone will acquire all of the outstanding common stock of CarrAmerica for $44.75 a share. The purchase price represents an 18.4% premium over CarrAmerica's closing stock price on Feb. 16, the day news began to circulate about a possible deal. Blackstone will also assume a limited amount of debt, although the precise figure wasn't disclosed. CarrAmerica shares rose $3.45, or 8.4%, to $44.53 yesterday in 4 p.m. composite trading on the New York Stock Exchange.

Credit-rating service Fitch Ratings said late yesterday it has placed CarrAmerica on "rating watch negative" in anticipation of a possible downgrade based on the likelihood that Blackstone could increase CarrAmerica's leverage.

"The bottom line is we were offered an extremely attractive price from Blackstone," said CarrAmerica Chief Executive Thomas Carr.

Jonathan Gray, Blackstone's senior managing director, said in a prepared statement that CarrAmerica "will provide us with a valuable platform for future investments in the office sector." The deal is expected to close in the second quarter.

A year ago, a REIT as large as CarrAmerica wouldn't have been considered a likely candidate for privatization or acquisition. That changed in December when General Electric Co. agreed to pay $3.2 billion and assume $1.6 billion in debt for Arden Realty, an office REIT.

"The entire REIT universe seems to be fair game at this point," said Paul Adornato, senior analyst for REIT research at Harris Nesbitt, the U.S. research and investment-banking subsidiary of Toronto-based BMO Financial Group.

J.P. Morgan To Buy Kohl's Card Unit For $1.5 Billion (WSJ)

By Robin Sidel

The Wall Street Journal, March 7, 2006

NEW YORK -- J.P. Morgan Chase & Co. agreed to buy the credit-card operations of department-store chain Kohl's Corp. for $1.5 billion, reflecting the bank's push into the lucrative "private-label" business.

It is the latest in a flurry of deals in which retailers have shed their in-house card businesses to concentrate on core operations. Last year, for example, Federated Department Stores Inc. sold its private-label business to Citigroup Inc.

And British bank HSBC Holdings PLC recently snapped up the private-label portfolio of Neiman Marcus Group Inc.

For banks, the private-label portfolios are attractive at a time when profit growth has been slowing for general-purpose cards -- those branded by card-issuing financial institutions and card associations such as Visa USA Inc. and MasterCard International Inc.

J.P. Morgan executives have repeatedly said they want to acquire more private-label portfolios; both Citigroup and General Electric Co. already have large presences in this area.

In the past two years, J.P. Morgan has bought the in-house card businesses of Circuit City Stores Inc. and Sears Canada Inc.

The Kohl's portfolio includes 13 million accounts with approximately $1.5 billion in outstanding balances. The deal is expected to close in 90 days. Kohl's is based in Menomonee Falls, Wis.

As part of the transaction, the two companies will coordinate programs aimed at spurring Kohl's sales and card use. Kohl's will continue to manage customer service, advertising and marketing for the cards.

Linde Raises Bid For BOC, Likely Clinching A Deal (WSJ)

By Jan Hromadko And Mike Esterl

The Wall Street Journal, March 7, 2006

German industrial conglomerate Linde AG raised its takeover bid for U.K.-based gas company BOC Group PLC to £16 ($28.06) a share, likely clinching a deal that will create the world's largest industrial-gas company in terms of sales.

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Linde said it intends to fund the deal -- which values BOC at £8.2 billion ($14.4 billion) -- with a fresh issue of equity and debt.

The transaction would create a leading world-wide industrial-gas and engineering group with combined sales of €11.9 billion ($14.3 billion), said Linde, based in Wiesbaden, Germany. The supplier of industrial gases, engineering services and forklift trucks said the BOC management board intends to recommend that its shareholders accept the offer. The bid represents a 39% premium to BOC's share price prior to Linde's offer in January.

BOC Chief Executive Tony Isaac said in an interview that Linde's bid "is a very good offer for shareholders, and significantly 'derisked' compared with the one we turned down in January."

On Jan. 24, BOC revealed that Linde had made an unsolicited approach for £15 a share. BOC's board unanimously rejected the offer on grounds it undervalued the bigger company and had too many conditions, including financing, antitrust approval and due diligence.

A combination of Linde and BOC would create a company with some 22% of global sales within the industrial-gas market. BOC and Linde, the current No. 2 and No. 5 globally, hold a 13% and 9% market share, respectively.

Shares of BOC fell 0.1% to £15.43 in London. In Frankfurt, Linde shares rose 7.5% to €70.45.

ENVIRONMENT/INDIAN AFFAIRS:

Senate Democrats Oppose ANWR Oil Drilling In Budget (REU-Y2)

By Tom Doggett

Reuters, March 6, 2006

Democratic lawmakers on the U.S. Senate Budget Committee said on Monday they opposed putting in the 2007 budget bill language assuming the government will raise billions of dollars in oil drilling leasing fees from Alaska's Arctic National Wildlife Refuge.

In its budget proposal to Congress, the Bush administration said it expected $7 billion would be raised by allowing oil drilling in the Alaskan refuge, and the Congressional Budget Office puts the figure at $6 billion.

No matter what the number, most Senate and House Democrats are against opening the refuge to oil companies.

"It is irresponsible to base the country's budget on highly speculative and dubious projections of lease revenues for the coastal plain of the Arctic National Wildlife Refuge," all nine Democrats on the budget panel said in a letter to the committee's Republican chairman, Judd Gregg.

Putting the ANWR leasing revenues in the budget bill is a way to get around a threatened filibuster of any legislation that would open to refuge to oil drilling, because budget bills can't be filibustered.

"We encourage you to reject any requests that are intended to misuse the budget process to open the refuge to oil and gas drilling and exploration," the Democratic lawmakers said.

The Senate Budget Committee is scheduled to vote Wednesday on whether to include the ANWR leasing revenue in the government's 2007 budget.

Last week, 24 House Republicans sent a letter to House Budget Committee chairman, Republican Rep. Jim Nussle (news, bio, voting record), urging him to keep Arctic refuge drilling out of the 2007 budget bill.

The administration has failed every year to convince Congress to give energy companies access to the refuge, which is a key part of the White House's national energy plan.

The refuge, which is home to a variety of wildlife such as polar bears and migratory birds, stretches across 19 million acres in the northeast corner of Alaska. But the White House only wants to offer 1.5 million acres

in the refuge's coastal plain for oil and natural gas exploration leases.

The Interior Department estimates the refuge could hold between 5.7 billion and 16 billion barrels of recoverable oil.

If the refuge was opened to drilling, it would take about eight years before the area reached full production of around 800,000 to 1 million barrels per day, according to the Energy Department.

The Face That Helped Alter Nation's Flu Policy (WP)

By Susan Levine

The Washington Post, March 7, 2006

As he waited his turn at the microphone, in an Atlanta auditorium filled with doctors and scientists, Gary Stein wondered whether what he had to say would make much difference. These were the experts, he realized, the people who spend a lifetime studying viruses and vaccines. They already knew all the facts, the statistics.

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Still, they didn't know 4-year-old Jessica.

So Stein began talking, as a father who once had a little girl with hair the color and shimmer of champagne, a child who loved dress-up and Barbies and who was as healthy as they come until the day in January 2002 when she caught the flu. Less than 72 hours later, she was dead. Stein thought he could get through the main points of his remarks without stumbling. But as he stood before the federal Advisory Committee on Immunization Practices, explaining how his Falls Church family had been devastated, he choked up.

"Nothing and no one will ever fill the void left by Jessica," Stein told the gathering.

"It hit me pretty hard," he admitted later. It may have hit the experts hard, too.

The next morning, the 15-member committee voted for a surprise revision in national policy: It unanimously recommended that starting this fall, all children between 2 and 5 years old be vaccinated annually against influenza.

The previous recommendation only advised flu shots for children ages 6 months to 23 months and those 6 months and older with chronic illnesses. As long as they are generally healthy, children older than toddlers tend to just get sick from the flu. They go to doctor's offices or outpatient clinics but are seldom admitted to the hospital.

Children still suffer a "substantial" amount of influenza, however, said Raymond A. Strikas, an associate director at the National Immunization Program, which is part of the federal Centers for Disease Control and Prevention. And that was the major impetus for the committee's decision late last month. Its expanded coverage even includes parents and older siblings, because they also suffer by getting sick themselves or taking time off work to care for ailing youngsters.

All told, nearly 17 million additional people now will be urged to get protection against the flu, bringing the total to more than 120 million men, women and children across the United States.

"We're saying, 'This is the standard of care,' " Strikas said. "This is what you should be doing."

For Jessica Stein's parents, the new recommendation brings some comfort.

"If there are other kids that will get vaccinated," explained Doris Stein, the words hanging in the air without elaboration. The inference was clear: Other parents won't have to bury a child.

In this country, influenza is a serious public health problem that many health officials complain does not get the respect it deserves. It kills more than 36,000 Americans a year, of whom most are very young or very old or suffering from conditions or diseases that compromise their body's ability to fight the virus.

Children do die, however. During the 2003-04 flu season, when the new guideline was first broached, a particularly nasty strain struck earlier than usual and began killing healthy children -- more than 70 by the final count. One of its victims was 3-year-old Emily Lastinger. Her father traveled from Texas to Atlanta to address the advisory committee with Stein.

"It took great courage," said Gregory A. Poland, an internist at the Mayo Clinic who specializes in immunology and vaccine development. As a committee member, he has pushed for a recommendation to make universal coverage the national standard. Others support incremental progress, worrying that vaccine supplies could never meet demand otherwise. Any disruption to yearly production of flu vaccine would only worsen the problem, they fear.

"It's absolutely heart-wrenching to me to hear these stories and have people die of something so preventable," Poland said. "It's as if each person, each generation, each community has to learn the hard way."

This influenza season has seen few aberrations and no unusual virulence. As of mid-February, the CDC reported that just a dozen children had died. But each of those is an individual tragedy, stress the Steins, who recently began venturing into advocacy, connecting with other parents through a nonprofit organization called Families Fighting Flu. "It's very therapeutic," Doris Stein said.

Jessica is rarely out of sight in her family's home. Photos remain on the refrigerator, on a kitchen counter. On one end of the living room mantel is a picture of her, her parents and her younger brother, Eric, taken the Christmas before her death. At the mantel's other end is a more recent shot, of Doris and Gary, Eric and Johnny and Katie, the children born after Jessica died.

"It's like we have two different families," Doris said quietly as Katie, a 15-month-old burst of energy, took off across the room. Her older sister would be 8 now and in third grade, and "not a day goes by that you don't think about what she would be doing, what she would be like," Gary said.

Neither parent had any time to prepare emotionally when Jessica got sick. A virus had been going around her preschool, and both she and Eric caught it and then both got better. More than a week later, Jessica had a play date, and only after that did her mother notice that she seemed more tired than normal. By morning, all symptoms pointed to the flu, but Jessica was still eating well, her energy was no worse and she had no fever.

The third day was different. Jessica's hands were icy cold, and by evening her breathing seemed somewhat labored. Her mother called the pediatrician, who suggested they "walk -- don't run" to the hospital to check for dehydration. The next several hours replayed for a long time in her parents' minds: their daughter suddenly having trouble breathing, Doris being asked to step

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out of the room, Gary rushing over from home, a doctor saying Jessica had been stabilized. Five minutes later, an entire medical team emerged. The virus had fatally attacked Jessica's heart.

No one in the family had gotten a flu shot that year.

But no one in the family will ever again go without.

Whales In The Way Of Sonar (NYT)

The New York Times, March 7, 2006

The debate over whether the Navy's use of sonar to detect submarines is harming whales and other sound-sensitive species is back again. This time the battleground is the waters off the southeastern United States, where the Navy hopes to establish a training area for sailors who need to practice their sonar skills in a shallow ocean environment. The plan has aroused justifiable concern not only from environmental groups, but also from the federal and state agencies responsible for protecting marine life. If these concerns cannot be allayed, the project should be denied a permit to proceed as now planned.

The Navy's favored site is an area off the coast of North Carolina — 500 square nautical miles — but the Navy would settle for backup sites off Virginia or Florida if its first choice is rejected. In a draft environmental impact statement, the Navy argues that the training sites would have negligible impacts on marine life, but that judgment looks far too rosy.

The National Oceanic and Atmospheric Administration has expressed "significant concerns" about the proposed sonar activity, including its potential to injure or kill beaked whales, which are especially sensitive, and its possible adverse impact on right whales, a highly endangered species. The agency also contends that the sound thresholds the Navy deems acceptable are well above the levels known to disrupt marine mammal behavior in the wild. Florida's fish and wildlife agency went so far as to urge that the project be abandoned, and North Carolina's marine and wildlife agencies weighed in with their own concerns.

No one can deny that the Navy needs to conduct sonar training in shallow waters, where sound propagates differently than in the deep ocean. But at a time when evidence is mounting that sonar has been responsible for at least some of the whale strandings around the world — and when we do not yet know what caused a large stranding last year in North Carolina — it behooves the Navy to move with extreme caution.

The three sites favored by the Navy were chosen for practical reasons: they were close to home ports, air stations and federal shore facilities; had appropriate water depths; and had a satisfactory climate. Whales were at best an afterthought, but they deserve to be a priority.

Sixteen Arrested In Drug Bust On Pine Ridge (ICT)

Indian Country Today, March 7, 2006

RAPID CITY, S.D. - Sixteen people on the Pine Ridge Reservation have been charged with possession of cocaine and marijuana and with the intent to distribute the drugs.

The arrests, which came days after national news organizations ran stories about drug trafficking on American Indian reservations, were not intended to coincide with those articles, according to Paul McCabe, FBI spokesman from the Minneapolis regional office.

Twelve were arrested in the village of Pine Ridge without incident. The other four were already in federal or state custody.

Arrested were Geraldine Blue Bird; her son, Clarence Behan; Travis Elk Boy; Colin Spotted Elk; Dawnee Frogg; Howard Blue Bird; Thomas Spotted Bear; Flint Thomas Red Feather; Justin Hawk Wing; Sage Richards; Norton Richards; Wenona Richards; Jody Richards; Jay Dee Spotted Elk; Joe Garcia and Rusty Richards.

In December 2005, authorities were called to a Rapid City hotel to investigate a complaint that the aroma of marijuana was coming from one or two rooms.

When federal authorities and an officer from the Rapid City Police Department arrived, they were given permission to enter the hotel room, where they smelled marijuana smoke. They then observed a clear plastic baggie of marijuana, according to court documents.

Blue Bird, who rented the room, was determined to have outstanding arrest warrants. She also admitted to having cocaine in a jacket pocket, telling officers it belonged to her son. When the officers let her in the room, another woman, Jody Richards, picked up a sweater to put on and the officers noticed a Tupperware container with a white substance on the bed. They then sought a warrant.

In an adjoining room were two other people in Blue Bird's party, Norton Richards and Wenona Richards. All four were arrested at the scene.

Authorities recovered more than $16,000 and one and one-half pounds of cocaine from the rooms. Also confiscated were three revolvers and ammunition, including an assault rifle magazine, according to court documents.

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Blue Bird was charged with possession of a firearm in connection with a drug trafficking crime and seven other counts of drug-related offenses. Two others, part of the dozen who were arrested, were also charged with possession of a rifle in the act of drug trafficking.

All 16 defendants appeared in federal court in Rapid City and entered not guilty pleas. No trial dates have been set.

Authorities said the shooting death of a 16-year-old in December 2005 at Blue Bird's residence expedited the investigation.

Blue Bird became somewhat famous during President Clinton's visit to Pine Ridge in 2000. She lived in a home in Pine Ridge with an attached trailer that housed 28 people. Clinton sat on her porch and discussed jobs, housing and other issues with her and family members.

She later received a new double-wide home, the result of a generous out-of-state donor who read about her in the national media.

If convicted, she and the others could receive up to life in prison and a $4 million fine. They will all be required to forfeit any drug-related funds and property.

The arrests at Pine Ridge brought praise for the arresting officers. McCabe said many stopped in a local restaurant and were greeted by locals with pats on the back and congratulatory praise, thanking them and saying, "We appreciate it - get them out of here." He added that the case is still under investigation and people may come forward with more information as long as it remains open.

The national media has placed great emphasis on methamphetamine use and distribution. In South Dakota, the drug has been a major source of concern and discussion in the state Legislature, among local communities and law enforcement agencies.

The arrests on Pine Ridge, however, did not involve crystal meth, McCabe said.

"Meth is a problem. We've seen meth increase, but any drug is considered a problem. Since meth is on the rise, not too many years ago, there has been an increase in the traffic of any kind of drug," he said.

The Pine Ridge law enforcement is currently understaffed, with one officer for every 1,000 people. At the end of March, a Community Oriented Policing Services grant will expire and the force will be cut by 58 offices - roughly in half. That will leave one officer for every 2,000 people.

In order to investigate and carry out any type of arrest, a "force multiplier" is put into place, McCabe said. That means other agencies work together to create a greater number of officers and agencies to aid in the investigations.

"Law enforcement in general, throughout the country, is under a budget constraint. That's why the force multiplier is used to bring in all the expertise and intelligence together. That's an important piece for maintaining safety, on or off the reservations.

"Indian country matters are a high priority. A great deal of the manpower in Minneapolis involved crimes on reservations," he said.

The FBI; Bureau of Alcohol, Tobacco, Firearms and Explosives; the Unified Narcotics Enforcement Team; the Rapid City Police Department; the Northern Plains Safe Trails Task Force; and the Oglala Sioux Tribe Department of Public Safety cooperated in the investigation and arrests.

The U.S. Marshals Service, the Department of Homeland Security and the Drug Enforcement Administration assisted in the arrests.

FBI/DEA/ATF/USMS:

Israel Extradites Alleged Drug Trafficker To United States (FINDLAW)

By ARON HELLER, Associated Press Writer

AP, March 7, 2006

(AP) - JERUSALEM-A suspected Israeli mob boss, described by U.S. prosecutors as one of the world's most wanted drug traffickers, was extradited to the United States on Monday, police said.

Zeev Rosenstein, suspected of involvement in distributing more than 1 million Ecstasy pills in the United States, mostly in New York and Miami, was handed over to U.S. marshals at Ben Gurion International Airport near Tel Aviv arport and taken aboard a direct El Al flight to Miami, where he will face the drug charges, police spokesman Mickey Rosenfeld said.

The target of numerous gangland assassination attemps in the past, Rosenstein was driven to the airport in an undercover police car accompanied by several motorcycles, Israeli radios reported.

"It was a carefully-planned operation, under sensitive circumstances, designed to ensure that he arrived at the airport in peace and quiet, without any disturbance to public order," Rosenfeld said.

He said the extradition was the result of a long investigation conducted in coordination with U.S. law enforcement agencies.

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Israeli police, acting on an international arrest warrant, arrested Rosenstein more than a year ago for allegedly smuggling drugs from Europe to the United States.

A U.S. extradition request, submitted in December 2004, said Rosenstein was involved in distributing more than 1 million pills of Ecstasy, court documents said.

In November, Israel's Supreme Court ruled he could be extradited, a decision later endorsed by the Israeli justice minister.

In one shipment, Rosenstein allegedly planned distribution of 700,000 Ecstasy pills that were seized in a Manhattan apartment along with $187,000 in July 2001, according to the extradition request. The drugs, which originated in Europe, were seized after they were offered for sale to an undercover Miami-Dade County police informant. The informant also worked for the U.S. Drug Enforcement Administration.

The investigation leading to Rosenstein's arrest spanned three years and several countries.

Rosenstein, 51, has long been accused of being one of Israel's top mob leaders, but aside from a five-year stint in prison for armed robbery in the 1970s, he had eluded authorities.

In December 2003, a bomb attack in Tel Aviv targeted Rosenstein - the seventh attempt on his life - leaving him with scratches but killing three passers-by and wounding 18 others. The attack was believed to have been ordered by rival mob bosses.

Rosenstein has been charged in the United States with conspiracy to distribute a controlled substance and conspiracy to import a controlled substance into the United States. The maximum penalty under American law is 20 years in prison, or more if the drugs sold caused death or serious injury.

In an interview, published Friday in the Yediot Ahronot daily, Rosenstein said he was a victim of a conspiracy orchestrated by Israeli police.

"I'm not the head of a crime family, and I don't have soldiers," he said.

According to the extradition agreement between Israel and the United States, Rosenstein could serve any prison sentence he receives in Israel.

Fugitive Extradited From Caribbean On Drug Charges (AP)

AP, March 7, 2006

ROCHESTER, N.Y. Federal officials say a man accused of importing cocaine has been extradited from his native Saint Kitts in the Caribbean.Noel Heath was one of the top ten fugitives of the Drug Enforcement Administration's New York field division.He was indicted in 1995 on charges of conspiring to import more than eleven pounds of cocaine in the Rochester area.If convicted, he could get up to life in prison and be fined up to 4 (m) million dollars.

Atlanta Federal Agent Charged With Embezzlement (DBCH)

Atlanta Business Chronicle, March 6, 2006

A DEA agent who worked at Hartsfield-Jackson Atlanta International Airport has been indicted by a federal grand jury on charges of embezzling money as a federal officer, embezzling public money and money laundering.

Gregory Campion, 44, of Orlando, Fla., is expected to be arraigned before U.S. Magistrate Judge Alan J. Baverman on March 8.

A federal grand jury returned an indictment against Campion on March 1. The indictment charges that on seven occasions in 2004 and 2005, Campion, a special agent with the U.S. Drug Enforcement Administration assigned to the Atlanta Airport Task Force, allegedly stole cash from the secure storage vault maintained by the Task Force. These funds had been seized by law enforcement agents as currency involved in federal narcotics offenses and were subject to forfeiture to the United States.

The indictment also charges that Campion allegedly engaged in two transactions in excess of $10,000 with the proceeds of these thefts to buy real estate in Orlando. The indictment seeks forfeiture of that real estate.

Campion, who now lives in Florida, has been suspended without pay from his position at the DEA.

"We have no tolerance for criminal conduct by law enforcement officers sworn to uphold the law, particularly federal agents," said U.S. Attorney David E. Nahmias. "We will thoroughly investigate and vigorously prosecute alleged lawbreaking by law enforcers."

Feds Arrest Manteca Man For Impersonating DEA (AP)

AP, March 6, 2006

(AP) MANTECA Federal authorities arrested a Manteca man today for impersonating a Drug Enforcement Administration agent by flashing a phony badge as he entered a courtroom.

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Thirty-seven-year-old John D. Cohen picked the wrong courthouse security officer to try to dupe -- a retired DEA special agent. The officer told the U-S Marshal's Service the badge looked suspicious.

Federal agents who later raided Cohen's home found guns, DEA apparel, a police uniform, handcuffs, bulletproof vests and forged law enforcement training certificates. They also found what they believe is several small bags of marijuana.

Cohen could face up to three years in prison if convicted of impersonating an agent, and five years if convicted of making false statements to federal authorities.

Man Charged With Presenting Fake DEA Badge At Federal Courthouse (SACBEE)

The Sacramento Bee, March 6, 2006

The federal Drug Enforcement Administration announced Monday it has arrested a Manteca man who presented a fake DEA badge to security officers at the Sacramento federal courthouse last week.

John D. Cohen, 37, was arrested on suspicion of impersonating a DEA special agent. After searching Cohen's home, officials seized two handguns, a shotgun, DEA apparel, an Oakland Police Department uniform, and other police gear, the DEA said in a statement. Several small bags of what officials believe to be marijuana were also found.

"Impersonating a DEA Agent is a very serious offense because it undermines the public trust necessary for DEA agents to safely do their jobs," said Gordon D. Taylor, special agent in charge of the agency's Sacramento office. "This guy wanted to be on the inside. Well, he'll get that opportunity when real DEA agents take him to jail and put him behind bars."

The investigation into Cohen began last Monday, when authorities said he falsely identified himself to a U.S. Marshal security officer at the Sacramento federal courthouse. A retired DEA agent, the security officer alerted the U.S. Marshal's office to a possible imposter.

DEA Accuses Pleasanton Broker Of Impersonating Agent (CCT)

By Karl Fischer

The Contra Costa Times, March 6, 2006

Federal authorities say a Pleasanton mortgage broker posing as a narcotics agent entered a secure portion of Coast Guard Island in Alameda last month and sold guards a Ford Crown Victoria he claimed was a retired police car.

That breach was the first of two in February that attracted real agents from the U.S. Drug Enforcement Agency. On Monday, they visited the Manteca home of 37-year-old John Cohen and seized a cache of weapons and law enforcement paraphernalia, along with Cohen himself.

"Impersonating a DEA agent is, of course, a very serious crime," DEA special agent Casey McEnry said. "And he did it multiple times."

On Feb. 27, the week after the Coast Guard Island incident, Cohen showed a counterfeit DEA badge to a U.S. Marshal Service security agent while entering a federal building in Sacramento, authorities said. The agent, who was a retired DEA agent, became suspicious. Security detained Cohen minutes after he entered.

"Cohen stated he was given the badge and ID card from his commander when he was discharged from the U.S. Navy, as a token of his service," according to the affidavit written by Special Agent Gary Cummings.

DEA agents interviewed Cohen, who admitted the badge was a fake, but they let him go, according to an affidavit filed by the agency in federal court.

"As Cohen was departing, (he) stated if we ever needed someone to go undercover to call him," according to the affidavit. "Cohen also stated he had wanted to be a DEA special agent all of his life."

Two days later, agents learned that Cohen had met a private guard from King Security, the firm that serves Coast Guard Island, on Feb. 22 and sold him a 2000 Ford Crown Victoria outfitted with police lights the following day.

Cohen appeared at the gate of Coast Guard Island at least once, on the day of the sale, wearing a jacket emblazoned with the letters "DEA" and with DEA identification.

"My understanding is that he impersonated a DEA agent" to gain access to the facility, said U.S. Coast Guard spokeswoman Amy Thomas. "As far as I know, nothing was compromised. Our security people were suspicious and reported the contact soon after the visit."

Authorities searching Cohen's home Monday found two handguns, a shotgun, an Oakland Police Department uniform, apparel from the DEA and U.S. Immigration and Customs Enforcement, police equipment including red and blue car lights, forged law enforcement training certificates and several small bags of marijuana, according to a DEA press release.

They booked Cohen into Sacramento County Jail on suspicion of several federal offenses, including impersonating a federal agent.

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Cohen works for Hilltop Financial Mortgage Inc. in Pleasanton. A woman who answered his cell phone Monday evening declined comment.

Judge Puts Upcoming Executions On Hold (THTS)

By Karin Grunden, The Tribune-Star

Terre Haute Tribune Star, March 7, 2006

Three federal death row inmates who contend in a lawsuit that lethal injections are painful have been granted a stay of execution, court records show.

U.S. District Court Judge Ellen Segal Huvelle ordered a preliminary injunction Feb. 24, barring the Bureau of Prisons from executing James H. Roane Jr., Richard Tipton and Cory Johnson.

The three co-defendants had been scheduled to die in May at the Federal Correctional Complex in Terre Haute, home to the nation's federal death row. The trio were sentenced to die after being convicted in a string of drug-related murders in Richmond, Va.

"Any news like this is good," said Stephen Northup, an attorney who represents Tipton. But "it's really just temporary relief."

A spokeswoman for the Bureau of Prisons confirmed the delay Monday, and declined further comment.

This case marks at least the sixth since January in which executions have been delayed after inmates have raised legal challenges about the lethal injection process, according to information on Death Penalty Information Center's Web site.

At least six other men, included one from Indiana, have been executed in the same time period.

The injunction in the federal death case is indefinite, until further order of the court. In her ruling, Huvelle also stayed the three men's federal lawsuit on the constitutionality of lethal injections, pending a decision by the U.S. Supreme Court in a Florida case.

In that case, death row inmate Clarence Edward Hill is suing the state of Florida, alleging that lethal injection would violate his constitutional protection from cruel and unusual punishment.

In a court document, Hill's attorney claims that a succession of the three chemicals commonly used in used in lethal injection — sodium pentothal, pancuronium bromide and potassium chloride — could inflict pain "contrary to the contemporary standards of decency."

The document cites a study published last year in a British medical journal. In the study, which appeared in The Lancet, the authors found that toxicology reports of 49 executed inmates showed 43 had post-mortem concentrations of thiopental lower than required in surgery. In addition, 21 of the 49 inmates had concentrations consistent with awareness, according to the study.

The Supreme Court has agreed to hear the Florida case, to determine whether Hill's civil suit falls within federal appeals, as lower courts have ruled, or is a legitimate challenge to the conditions of a condemned inmate's death sentence.

Separately, attorneys for Roane, Tipton and Johnson also are alleging in a federal lawsuit that lethal injection is cruel and unusual punishment. They filed the suit in December in the U.S. District Court for the District of Columbia.

The defendants in the case are U.S. Attorney Alberto Gonzales, DEA Administrator Karen Tandy, Bureau of Prisons Director Harley Lappin, Bureau Medical Director Newton E. Kendig II, penitentiary Warden Mark Bezy, and penitentiary Clinical Director Dr. Thomas Webster. The list of defendants also includes "John Does I-V," a reference to the unknown people charged with carrying out the execution.

In the complaint, attorneys for the three death row inmates claim while sodium pentothal "supposedly will render the plaintiffs insensible to the pain of their deaths, it in fact can and will merely cast a 'chemical veil' over this excruciating pain, leaving plaintiffs conscious but trapped in a paralyzed body wracked with the pain of suffocation and heart attack.

"At the same time, this 'cocktail' will make it impossible for those observing the execution – including witnesses to it … to recognize and prevent the gratuitous pain and suffering being inflicted upon the plaintiffs."

While the attorneys await the outcome of the Florida case, they have filed paperwork asking President Bush to grant clemency to their clients, Northup said.

Karin Grunden can be reached at (812) 231-4257 or karin.grunden@tribstar.com.

A look at the crimes

--Richard Tipton, 35, Cory Johnson, 37, and James H. Roane Jr., 40, were gang leaders in a crack-cocaine ring in Richmond, Va.

--The three were tied to nine slayings of suspected informants, competitors and underlings. One man was stabbed 84 times for mishandling a drug transaction, according to a U.S. Court of Appeals brief. Three other people were critically injured during the series of killings, which happened over a month in early 1992, court records show.

--Tipton, Johnson and Roane were sentenced under the Anti-Drug Abuse Act of 1988, which includes federal execution as a sentence. The three have exhausted all appeals.

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Medical-marijuana Clubs Fear New Raids By Feds (SDUT)

By Jeff Mcdonald, Union-tribune Staff Writer

The San Diego Union-Tribune, March 6, 2006

December searches yield no arrests yet

Nearly three months after federal agents raided 13 medical marijuana dispensaries in San Diego County, the government has yet to make any arrests or file any criminal charges.

Most of the pot clubs that closed during the high-profile searches reopened days later. Meanwhile, at least 10 new dispensaries, cooperatives and delivery services have set up shop.

Even though it appears to be business as usual within the close-knit medical marijuana community, an uneasy cloud hovers over the dispensaries and their customers.

The operators worry that federal agents will show up any minute, guns drawn and warrants in hand; patients are afraid they may be arrested or that another sweep would force the clubs to close for good.

Few dispensary operators are willing to speak publicly, even though the names, addresses and telephone numbers of their organizations are easily found on the Internet. Instead, they lie low and hope for the best.

“There's a lot of trepidation out there,” said Dale Gieringer of California NORML, a San Francisco group working to reform marijuana laws. “A lot of the patients are concerned and wondering how long the clubs are going to last down there.”

Law enforcement officers converged on most of the county's medical marijuana dispensaries Dec. 12, confiscating about 50 pounds of marijuana and related products, computers, patient records and other materials.

The government insisted the records would remain confidential and legitimate patients would not be prosecuted.

The sweep was organized by the U.S. Drug Enforcement Administration, with assistance from county sheriff's deputies and San Diego and other local police agencies after six months of surveillance and investigation.

Although dispensaries are legal under California law, the federal government does not recognize medicinal benefits of marijuana, which remains illegal under national drug laws.

The conflicting laws have left patients, police and local officials in a lurch for the past 10 years.

San Diego County supervisors voted to sue the state over the legality of its marijuana laws, a move that prompted the American Civil Liberties Union and other advocacy groups to petition the court to intervene in the case. Activists launched a bid to impose term limits on county supervisors.

The U.S. Attorney's Office did not return telephone calls seeking comment last week. The investigation remains active, a DEA spokesman said.

“We're being diligent in the evidence that we're collecting,” Special Agent Misha Piastro said. “The proliferation of the dispensaries does concern us.”

Damon Mosler, who runs the narcotics unit of the District Attorney's Office, said he expected criminal charges would be filed against some dispensary operators as soon as next month.

Mosler said he does not know whether cases would be presented in state court, where the permissive medical-marijuana laws apply, or in federal court, which does not allow any medical-necessity defense.

“They're using federal resources for the investigation, but it will be both agencies making the decision at the same time,” he said.

Reaction to the raids, one of the largest medical-marijuana sweeps ever conducted by the DEA, has varied dramatically among dispensary operators.

Some shops closed altogether. One changed its name and removed a colorful sign above its North Park storefront. Another expanded into plush new office space. At least 10 new operations opened, according to California NORML, which posts the services on its Web site.

Steph Sherer of Americans for Safe Access, an Oakland group that promotes legal access to medical marijuana, said the rising number of dispensaries would prompt more cities to pass ordinances that accommodate the clubs.

“The patient community is standing up for itself,” said Sherer, whose organization is among those planning to fight the county's lawsuit against the state. “Voters of California are saying, 'This is not what we think the federal government should be doing.' ”

Jon Sullivan, who closed his local dispensaries after the December raids, said San Diego is the nation's main battleground pitting federal drug laws against states' rights to permit medical marijuana.

Sullivan said he expects to be arrested at some point despite the allowances under California law but looks forward to the case being put before a jury.

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"We need to end this 10-year battle. It's just plain wrong," Sullivan said. "They gave us rules, we followed the rules and they come in and steal all our stuff."

Prosecutor Mosler said resolving the conflict between state and federal law, or at least adopting guidelines each side could agreed to, would benefit patients and law enforcement officials.

People "need to get their elected officials to create some more certainties," he said. "That is the best route to have access to medicine."

Bush Budget Faulted In Drug-war Setback (WT)

By Jerry Seper

The Washington Times, March 7, 2006

A Bush administration decision to divert money for Colombian drug interdiction and eradication programs to the war on terrorism has opened up the southern U.S. border to a new flood of heroin and cocaine, say senior congressional and Colombian officials.

Some members of Congress, angry that appeals by Colombian President Alvaro Uribe for help in rebuilding his depleted and aging fleet of surveillance and interdiction aircraft have been ignored, plan to bypass the White House by dipping into a $72.4 billion supplemental appropriation for the war on terrorism to fund $99.4 million in military and police aid to Colombia.

An amendment to the pending emergency supplemental bill likely will be offered by Republican Reps. Henry J. Hyde of Illinois, chairman of the House International Relations Committee, and Dan Burton of Indiana, a member of the House Government Reform Committee. It would pay for three DC-3 marine patrol aircraft for the Colombian navy and two UH-60 Black Hawk helicopters and 10 Huey II helicopters for the Colombian national police.

Colombia is the source for about 90 percent of the cocaine that ends up each year in the U.S., along with a majority of the heroin.

"After seven years of work on anti-narcotics efforts in the Andean region, we are now seeing the fruits of our labors in the drug war in Colombia and making great progress with our Colombian security partners in preventing drugs from reaching the United States," Mr. Hyde said in a letter to Secretary of State Condoleezza Rice.

"Colombian President Alvaro Uribe often finds himself standing alone with us in our common goals of a democratic, secure and drug-and-terrorism-free Andean region. We must continue our support for him," he said. "We cannot assume we need do no more in order to continue the success we have been seeing."

Colombian officials said escalating violence along the U.S.-Mexico border, called "overwhelming" last week by Texas sheriffs during a Senate hearing, was being fueled by the increase in drugs from Colombia and the illicit profits they generate.

"These smugglers have the latest equipment, most expensive weapons and they are more willing to shoot it out with us and our U.S. counterparts," one Colombian official said. "We're asking the U.S. for help, and by helping us, you help yourself."

The officials said that because of aircraft and equipment shortages, if Colombian smugglers can get their product to the coast -- either the Pacific Ocean on the south or the Caribbean in the north -- there is a 65 percent probability it will find its way through Mexico and into the U.S.

Using airplanes, cruise vessels, freighters, and fishing and patrol boats, they said, the smugglers elude a rapidly thinning line of Colombian ships and aircraft, handing off their drugs to Mexican dealers for shipment into this country.

In the past three years, said a senior congressional aide, homeland security demands in the United States have resulted in a 70 percent reduction in the aircraft available to the Colombian and U.S. navies for interdiction efforts. Many of the surveillance planes were grounded because of wing-structure problems and another 22 aircraft, including spray planes and helicopters, were either shot down by smugglers or crashed.

In November, the Government Accountability Office (GAO) questioned the government's ability to sustain interdiction operations in the transit zone, saying the availability of aircraft and other key assets was declining. A report said interdiction flight hours in the transit zone declined from 6,860 in 2000 to 6,500 in 2002, but dropped more rapidly to 2,940 hours in 2005.

For two years, Mr. Uribe has asked the administration for funds to replace spray planes and for assistance in rebuilding his military and police in the war against narcoterrorists, which last year claimed more than 250 Colombian police officers. His requests were not included in the 2006 foreign aid funding bill and do not appear in the administration's 2007 aid request.

DEA Nets Meth 'superlab' (UPI/ WT)

United Press International, March 6, 2006

ATLANTA, March 6 (UPI) -- U.S. federal drug agents said they have broken up a methamphetamine "superlab" in Smyrna, Ga., and confiscated more than 12 pounds of the drug.

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The U.S. Drug Enforcement Agency said they arrested three men -- all illegal aliens from Mexico -- and that on Monday two of the defendants pleaded guilty to charges that include manufacturing methamphetamine. The third man is to go on trial this month.

A release Monday from the DEA said the raid on a house in a residential neighborhood of Smyrna, near Atlanta, resulted in them finding 12.4 pounds of methamphetamine in the house and another pound in a nearby vehicle. In addition they said 24 large trash bags were found filled with emptied pseudoephedrine tablet boxes and contained holding 35 pounds of pure d-psuedophredrine hydrochloride, key ingredients in the production of methamphetamines.

U.S. Attorney David Nahmias said: "The dismantling of this superlab represents a significant blow to methamphetamine traffickers in George. At the same time, the discovery of such a large lab here in Atlanta reveals the growing threat that methamphetamine poses to our citizens."

ATF Investigating Pompano Warehouse Fire (MH)

By Ashley Fantz

The Miami Herald, March 7, 2006

An investigative team from the U.S. Bureau of Alcohol, Tobacco, and Firearms will begin examining what's left of a Pompano Beach warehouse gutted by an unrelenting inferno that began at 8 p.m. Friday and raged throughout the night.

Officials who tried to stamp out the blaze at Pallet Consultant Corp. on Southwest 12th Avenue reported flames reaching 100 feet into the air. The blaze could be seen two miles away.

Sandra King, spokeswoman for the Pompano Beach Fire-Rescue, said one of the 120 firefighters from North Lauderdale, Fort Lauderdale, Lighthouse Point, Margate, and Broward Fire-Rescue was injured when a loaded water hose slammed into his stomach. He was treated and released Friday from North Ridge Medical Center in Fort Lauderdale.

"It was huge," King said. ``We had six cities pitching in to help us."

King said ATF and explosive experts will help discern the cause of the blaze because propane tanks inside hundreds of pallets exploded. Damage is estimated to be $10 million to three businesses within the six-acre property.

IMMIGRATION:

Uncommon Weapon In Immigration Fight (LAT)

An Idaho County Tries A Racketeering Law Against Employers Who Hire Illegal Workers. By Nicole Gaoue

The Los Angeles Times, March 7, 2006

CALDWELL, Idaho — Like many communities, this fast-growing agricultural pocket of southwestern Idaho is paying a high tab for illegal immigration.

When an illegal worker gave birth to a premature baby, Canyon County wound up with a $174,000 hospital bill. County officials say the jail spent thousands to house another illegal immigrant at a motel, after his tuberculosis threatened to infect fellow inmates.

But where others have merely chafed at paying costs like these, officials in Canyon County are trying a novel approach: The all-Republican county commission has filed a racketeering lawsuit against four big businesses in the area, charging that they deliberately hire illegal workers.

The spectacle of the county's political leaders taking its businesses to court has touched off a bitter local debate. But it has also put Canyon County, a largely Republican community of about 160,000, at the forefront of an emerging national effort to use racketeering laws to crack down on illegal immigration by seeking damages from employers.

So far, a handful of workers and businesses around the country have filed civil lawsuits under the RICO statute, known formally as the Racketeer Influenced and Corrupt Organizations Act. The targets are companies that, the lawsuits say, have unfairly used illegal labor to cut wage levels or prices.

In Washington state, workers who filed a civil suit against their employer, a fruit company, won a $1.3-million settlement in January. The Supreme Court has agreed to hear another of the immigration-related RICO cases this year.

But Canyon County is the first municipality to bring a suit of this kind against employers. The lawsuit was dismissed by a federal district court but has been appealed to the U.S. 9th Circuit Court of Appeals. If it succeeds, it could touch off similar actions, says the county's lawyer, Howard Foster.

"There are other county officials who are looking at this, who have called me," said Foster, an advocate of tougher immigration controls, who is behind most of the other RICO lawsuits.

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In Canyon County, where working farms sit cheek-by-jowl against new residential developments, locals have traditionally welcomed the Latino immigrants who moved in seasonally to take agricultural jobs. But since the early 1990s, many immigrants have been finding year-round work in other industries, leaving some long-time residents struggling to adjust to permanent neighbors with different customs.

Even though the Senate aims to pass immigration legislation by early next month and the House has already produced an enforcement-only bill, people here are angry that the federal government has not done more to stop the influx.

Yet even some who want an immigration crackdown say the county commissioners stepped over the line when they went to court against two local seed companies, a meatpacker and large cheese-making operation.

"I think they should shut down the border and end services" to illegal immigrants, said Joel Bettancourt, a grocery store owner in Caldwell, Idaho, who described himself as Mexican American. "But to do the RICO Act — that's too far. Who knows who they're going to go after next?"

But some people say they are so fed up with changes they attribute to immigration — increasing gang violence, competition for manual labor jobs, and more services devoted to immigrants — that they hope the lawsuit succeeds. Letters to the local paper appear to be running slightly in favor of the commissioners.

"We have young guys, white and Hispanic, in here legally who want [construction] jobs — but companies give them to people who they can pay half the going wage," said Joyce Yelm, who grew up pulling beets alongside migrant farm laborers but has hardened after watching her old neighborhood become, in her words, a largely Spanish-speaking "shanty town."

Much of the controversy also centers on the man who has been the primary force behind the lawsuit — County Commissioner Robert Vasquez. A former radio commentator and veteran who was wounded in Vietnam, Vasquez, 57, has long been a provocative force in the immigration debate.

The grandson of legal Mexican immigrants, Vasquez was elected to the county commission in 2002 and soon after sent the Mexican government a $2-million bill for services he said his county had provided to illegal immigrants. He has asked Idaho Gov. Dirk Kempthorne to declare the county a disaster area because of illegal immigration and to grant it emergency funds. And he has proposed unsuccessful state legislation that would have denied welfare payments to illegal immigrants.

"For every dollar for an illegal alien, it's one less dollar in my constituents' pocket," said Vasquez, who is running for Congress. In 2005, Vasquez heard about Howard Foster.

The Chicago lawyer has largely spearheaded the use of RICO statutes as a tool against illegal immigration. A member of the Federation for American Immigration Reform, a group that advocates immigration restrictions, Foster took note when Congress toughened immigration laws in 1996 and amended the RICO statute to make knowing employment of illegal immigrants a violation.

"For the first time ever in the country, it became possible for a person to bring a private lawsuit against an employer … for violating immigration laws," Foster said.

RICO targets a person or group for crimes committed systematically as part of an ongoing enterprise. It carries tough criminal penalties. Its civil component, which the immigration suits fall under, allows plaintiffs to sue for triple damages.

In four RICO suits since 1998, Foster has alleged that companies have knowingly and repeatedly conspired with labor contractors over a period of years to hire illegal immigrants.

His first case, in 2000, was on behalf of a Connecticut cleaning company that sued a competitor for hiring illegal immigrants. That case settled.

His other cases have been on behalf of employees, alleging that companies have kept wages low by hiring illegal workers. In 2001, he sued the Washington state fruit company, leading to the $1.3-million settlement. A suit he brought against Tyson Foods Inc. is scheduled to be heard next year.

In 2004, he filed suit against Mohawk Industries Inc., based in Calhoun, Ga., the country's second largest carpet maker. That case will be heard by the Supreme Court in April, potentially shaping the use of RICO as a weapon in the immigration wars.

Other lawyers besides Foster are also trying the RICO strategy. In 2003, the RICO statute was used to file suit on behalf of contract janitors against Wal-Mart Stores Inc. A court dismissed the RICO portion of the case, but that is now under appeal.

In Canyon County, after speaking with Foster, Vasquez and the two other commissioners filed suit in July, charging that Syngenta Seeds Inc., a Swiss company, and Harris Moran Seed Co., of Hayward, Calif., knowingly hired illegal immigrants for many years through a local farm labor contractor, Roberto Corral. The suit alleges that the seed companies knew most of Corral's recruits were illegal immigrants, but they used the contractor as a "front company" to distance themselves from their criminal activity.

"Many of these illegal immigrants have committed crimes resulting in criminal justice expenses to the county. Others have become public charges by seeking medical services, which the county has had to pay," the lawsuit states. It does not detail what those costs have been.

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The lawsuit made similar claims against meatpacker Swift & Co., of Greeley, Colo., and Sorrento Lactalis Inc., a cheese company based in Buffalo, N.Y.

In December, a federal district court in Idaho dismissed the case on a legal principle that prohibits municipalities from suing to recoup the cost of services they provide in the normal course of business. The case is now before the 9th Circuit, where Foster successfully settled his case against the Washington fruit company.

A Syngenta representative dismissed the lawsuit as "baseless." At Swift, spokesman Sean McHugh said: "We believe the suit is without merit." Spokesmen for Sorrento Lactalis and Harris Moran declined to comment, citing the ongoing lawsuit.

Thomas G. Walker, a lawyer for the labor contractor Corral, said his client "didn't do anything wrong. He fulfills all of the requirements under the immigration statutes."

About a month after the suit was filed, Swift told its 408 Canyon County workers that the local facility, in operation since 1916, would be shut down. It said the closure was due to restrictions on Canadian beef imports. But many residents see the lawsuit as the last straw for the company.

"It's a horrible lawsuit," said Maurice Clements, a former state legislator and farmer. "Swift closed their plant, the other three companies — God, I hope they don't leave. They provide a huge market for farmers in this area."

The companies named in the suit generate almost $700,000 a year in tax revenue for the county and pay millions to local growers, according to the Canyon County Farm Bureau.

Syngenta has been in Idaho for 90 years and produces one-third of the world's sweet corn seed there. "Those four companies are a huge part of our agricultural base and therefore our economic base," said Terri Ottens, the farm bureau's executive secretary.

The commissioners counter by citing the costs of illegal immigration. Idaho law mandates that the county cover hospital fees for anyone who has lived there for more than six months and is unable to pay. That leads to bills such as the $1.25-million tab to care for an illegal immigrant who was left a quadriplegic because of a car accident.

Vasquez said also that a recently completed welfare analysis showed that from 1999 to 2005, claims by illegal immigrants totaled $1.2 million.

But Ottens, of the farm bureau, is skeptical of the commissioners' claims. Her group says much of the cost of jailing illegal immigrants is often reimbursed by the state.

"We found the amount of money the county pays out is minimal compared to what these companies [being sued] pay in property tax," Ottens said.

Yet many residents are deeply grateful to Vasquez for taking a stand against illegal immigration.

Construction company owner Brad Tracy, who says he refuses to hire under the table, said it was almost impossible to compete against businesses that use illegal labor.

"I've got to pay workman's comp, health insurance, fuel costs, property tax," he said. "Then I've got to compete against people who say they have no employees, just contract labor at $10 an hour."

*

(BEGIN TEXT OF INFOBOX)

Canyon County snapshot

The issue of how to deal with illegal immigrants is taking an unusual path in Canyon County, Idaho, a predominantly white area with a substantial Latino population:

Canyon County, Idaho
Population: 160,540
Growth, 2000-05: 22%
--
Race/Ethnicity
White: 76%
Latino: 20%
All other: 4%
--
Age Median age: 31
--
Education Median household income: $40,338
--
Occupation
Blue collar: 31%

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White collar: 50
Service/farm: 19
--
Income by household*
White: $36,772
Black: 46,964
Asian: 37,273
Latino: 30,800
--
Place of birth**
United States: 91%
Foreign: 9
--
Foreign-born home**
Latin America: 83%
Europe: 8%
Asia: 6%
All other: 3%
Note: Unless otherwise stated, all data are 2005 estimates
* Median by race/ethnicity of head of household, 2000
** 2000 census data
Sources: U.S. Census Bureau, Claritas Inc.

Specter's Proposal Seeks Compromise On Immigration Reform (BSH)

By Dave Montgomery
Biloxi Sun Herald, March 7, 2006

WASHINGTON - The Senate's main immigration bill would enable most illegal immigrants now in the United States to remain indefinitely as long as they stay employed, but it wouldn't put them on a glide path to U.S. citizenship.

The Senate Judiciary Committee will begin debating the measure Wednesday under a three-week timetable aimed at producing a final version for the full Senate by March 27.

Sponsored by Sen. Arlen Specter, R-Pa., the committee chairman, the legislation is designed to strike a middle course between a bill passed by the House of Representatives calling for tougher immigration enforcement and pro-immigration advocates who call for permanent legal status - and eventual citizenship - for the estimated 11 million aliens now in the country illegally.

President Bush, defying objections from conservatives, has called for an overhaul of the nation's immigration laws and the creation of a temporary guest-worker program to ensure a steady source of labor for U.S. business. Under Bush's plan, qualified workers, including residents now here illegally, could stay in jobs for up to six years, then would be required to return home.

Senate Judiciary Committee staff members who explained key provisions of Specter's bill on Monday said that the measure would create a "gold card" program for illegal immigrants who entered the United States before Jan. 4, 2004. It also would create a guest-worker program to bring in more foreign laborers.

Applicants for the gold card would undergo a background check by the Department of Homeland Security, then be eligible for two-year work visas that could be renewed indefinitely, committee aides said, speaking on the condition of anonymity to avoid upstaging their boss. The workers wouldn't participate in the Social Security system but would contribute to future savings through worker investment accounts.

One top committee staffer described the "gold-card" proposal as "a reasonable compromise" in dealing with illegal immigrants, many of whom have lived in the country for decades. The undesirable alternative, he said, would be an unworkable massive roundup, which administration officials have said would cost billions of dollars.

Unlike other proposals, Specter's bill wouldn't require the immigrants to pay a fine to step forward, aides said. They also said that the proposal wasn't a form of amnesty since it wouldn't offer an automatic track toward citizenship. However, they noted that the measure wouldn't preclude applicants from eventual citizenship.

Under the separate guest-worker program, which would be based on U.S. labor needs, foreign applicants could work for three years, then could apply to work for another three years before returning home. They'd be required to remain in their home country for a year before reapplying.

Advocates on both sides of the immigration debate criticized Specter's proposal as an inadequate attempt to placate opposing groups.

"Some people are going to say it's amnesty, and others are going to say it creates a second-class caste of workers," said Tamar Jacoby of the Manhattan Institute, a New York-based think tank that leans right. "It's a non-starter for both sides."

Tensions between opposing groups escalated on the eve of the committee's deliberations, underscoring the passions surrounding the immigration issue. The National Capital Immigration Coalition announced plans for a Capitol Hill rally on Tuesday afternoon to demand eventual citizenship for illegal immigrants.

Specter's 305-page bill included elements from two other major bills, one co-sponsored by Sen. John Cornyn, R-Texas, and Sen. Jon Kyl, R-Ariz., the other by Sens. John McCain, R-Ariz., and Edward Kennedy, D-Mass.

Many pro-immigrant groups, as well as a number of business organizations, have lined up behind McCain-Kennedy, which has a guest-worker program that would put undocumented residents on a path to eventual citizenship.

The Cornyn-Kyl bill also creates a guest-worker program, but illegal aliens would first be required to return to their home countries following a five-year grace period before they could participate.

Local Officials Seek Help From U.S. On Immigration (NYT)

By Paul Vitello

The New York Times, March 7, 2006

WASHINGTON, March 6 — Gather 100 local officials from 30 states — Democrats and Republicans from big states and little ones — and there are probably few issues on which all will agree. But President Bush's record on illegal immigration apparently is one.

"It is a failure," said Mark D. Boughton, speaking on Monday at a gathering of those officials here. Mr. Boughton, the mayor of Danbury, Conn., created a stir last year when he sought, unsuccessfully, to have State Police troopers deputized as immigration control agents.

"A terrible hardship for my taxpayers," said Gloria D. Whisenhunt, chairwoman of the Forsyth County board of commissioners, in Winston-Salem, N.C. The schools there are crammed with the children of illegal immigrants, she said.

"Enough is enough," said Steve Levy, the Suffolk County executive and co-organizer of the event. Mr. Levy became a sort of guiding light among local officials around the country after he decided last summer to help shut down boarding houses in Farmingville, N.Y., where hundreds of illegal immigrants lived in crowded conditions.

"The federal government has to adopt a sane immigration policy," Mr. Levy said.

The gathering, organized and convened here under the banner of the Coalition of Mayors and County Executives for Immigration Reform, called for border security and, most urgently, reimbursement to localities for the cost of dealing with a problem its members say the federal government has ignored.

"In recent polls, 88 percent of the people said that illegal immigration is a serious or 'somewhat serious' problem," Mr. Levy said. "Yet there just seems to be a disconnect between that and what the Congress and the media think."

In the contentious national debate over what is called immigration reform, there are a half-dozen factions at odds, factions representing the interests of business, of labor, of immigrant advocates and opponents, of Republican presidential hopefuls and Democratic partisans.

For good measure, because most illegal immigrants are Hispanic, the issue is loaded with racial and ethnic overtones, a reality that Mr. Levy had to face last summer when immigrant advocates in Suffolk County labeled his boarding house sweeps as racist.

"But this group has nothing to do with racism or bigotry," said Robert Vasquez, a county commissioner from Canyon County, Idaho. "We are here because we are elected United States officials, and it's our duty to uphold the laws."

Major bills under review in the House and Senate promote an array of conflicting responses to the question of how to define the issue, and how to deal with the reality of 11 million illegal aliens in the United States. Among the suggested solutions are amnesty, deportation, temporary worker status, permanent guest work status and an impermeable wall at the Mexican border.

But Monday's assembly of local officials introduced a new faction into the fray. This one, its members say, is composed of officials who must deal every day with the realities of illegal immigration as they intersect with taxpayers.

The officials raised many questions for the federal government. Who pays for the shuttering of boarding houses like those in Farmingville? Who pays for the extra classroom space, the unreimbursed cost of medical care, the cost of police and fire protection for the additional human lives? Where will they be housed?

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The White House did not ignore the meeting, but at the last minute downgraded the rank of its representative. In place of Ruben Barrales, a deputy assistant to the president and White House director of intergovernmental affairs, who was originally scheduled to attend, the White House sent a liaison to city officials, Toby Burke.

Mr. Burke, who listened respectfully, at one point said the president was seeking "a comprehensive, not a piecemeal, solution" to the problem of illegal immigration. He said the president's proposal to create guest worker status for some or all illegal aliens would not constitute an amnesty.

Then, while the officials vented for two hours with what seemed like the relief of troubled individuals finding their first support group, Mr. Burke said little else.

TAX:

Federal Prosecutors Sue Nevada Tax Preparers For Fraud (AP)

ASSOCIATED PRESS

AP, March 7, 2006

LAS VEGAS (AP) - The U.S. Justice Department filed suit today to stop four people from operating what it claims is a tax fraud scheme.

The suit filed in U.S. District Court in Las Vegas says the scheme cost the government at least 31 million dollars.

The government accuses the Las Vegas-based group of funneling income from clients through trusts in the Caribbean to help them avoid paying taxes.

It says the group returned the money through phony gifts or loans to the customers, their friends or family members.

The government names Reinhold Sommerstedt and Daniel Young of Las Vegas; Lynn Lakers, a Boulder City tax-return preparer; and Stephen Nestor, a former Internal Revenue Service officer, in the suit.

Justice Wants 3 Hillsdale Residents To Stop Preparing Returns (AP)

By JAMES PRICHARD, The Associated Press

AP, March 6, 2006

GRAND RAPIDS, Mich. (AP) — The U.S. Department of Justice has asked a federal court to prohibit three Hillsdale residents from preparing federal income tax returns for others, claiming the trio has cost the Treasury more than $25 million.

The government filed a complaint Monday in U.S. District Court in Grand Rapids against Joyce M. Stone, Charles J. Freed and Julie Shaffer.

Stone is Freed's mother, and together they own and operate an unincorporated tax-preparation business from their home, the department said Monday. The business also is a defendant in the lawsuit.

The complaint alleges that the defendants prepared customers' returns claiming improper deductions, including some for fictitious or inflated charitable contributions and employee expenses.

Contacted Monday at their homes, all three denied any wrongdoing. Stone said she had been contacted by her lawyer about some questions involving some of her returns but believed the matter had been resolved.

"I thought we got that straightened out," she said.

Shaffer, a friend of Stone, said she was unaware of the complaint until a reporter told her about it.

"This is news to me," she said.

The government said Stone and Freed, acting either individually or through their business, prepared income tax returns for about 1,000 clients. Shaffer prepared returns for more than 1,000 clients and also assisted in the e-filing of returns prepared by Stone or Freed.

The returns that Stone, Freed or Shaffer prepared for the 2000 through 2003 tax years may have cost the U.S. Treasury more than $25 million, based on projections made from 115 audited returns, according to the complaint.

The government also sought an order directing the defendants to provide prosecutors with their customers' names, telephone and Social Security numbers, and mailing and e-mail addresses.

"The Justice Department is working vigorously to stop the preparation and filing of the false or fraudulent returns that unfairly shift the tax burden to honest American taxpayers," Eileen J. O'Connor, assistant attorney general for the Justice Department's Tax Division, said in a written statement.

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CONGRESS-ADMINISTRATION:

Bush Proposes Law To Give The President Line-Item Veto Power (WP)

By Michael A. Fletcher

The Washington Post, March 7, 2006

Seeking to reassert his party's scuffed reputation for fiscal conservatism, President Bush yesterday proposed a law giving him authority to veto individual items in legislation as a way to curb fast-growing federal spending.

Bush, who has never exercised his veto power in more than five years as president, said the line-item veto would give him authority to clamp down on special-interest items, known on Capitol Hill as earmarks, increasingly slipped into legislation to benefit the home districts of lawmakers.

"Too many bills passed by Congress include unnecessary spending," Bush said at a White House ceremony to swear in Edward Lazear as chairman of the White House Council of Economic Advisers. "These earmarks reflect special interests instead of the people's interests."

The proposal, scheduled to be introduced today by Republican Sens. Bill Frist (Tenn.), John McCain (Ariz.) and Mitch McConnell (Ky.), would allow the president to identify items he wants to strike from larger legislation and return the bill to Congress, which would have 10 days to vote on the proposed cuts.

Congress passed legislation authorizing the line-item veto in 1996, but the Supreme Court struck it down as an unconstitutional abridgement of the separation of powers shortly after it was enacted by President Bill Clinton. By requiring that the cuts made by the president be approved by Congress, the White House believes it will avoid any constitutional problems with the new legislation.

"Congress gave the president a line-item veto in 1996, but because of problems with the way the law was written, the Supreme Court struck it down," Bush said. "That should not be the end of the story."

Bush has asked for the line-item veto in years past as part of his overall budget requests. But he has never before offered specific legislation seeking the authority. White House aides said the proposal is timely because of growing outrage over the widening budget deficit and the growth of legislative earmarks, which has threatened to undermine the image of Republicans as proponents of small government. Some conservatives said Bush's own credibility on the issue is open to question.

"Under President Bush, the government has expanded by 45 percent in five years," said Brian Riedl, a federal budget analyst with the conservative Heritage Foundation. While he praised the line-item veto as a good "common-sense" tool, Riedl said that "there is no substitute for vetoing expensive spending bills."

Since the Republicans took control of Congress in 1994, the number of home-district earmarks has jumped from 4,155 valued at about $29 billion in 1994 to 14,211 worth nearly $53 billion 10 years later, according to the Congressional Research Service. Meanwhile, the Bush administration has forecast a record budget deficit for 2007 of $439 billion.

"Now seems like a very good time to move," Joshua B. Bolten, director of the White House Office of Management and Budget, said of the line-item veto proposal. Bolten said the measure gives "the president a scalpel to reduce unnecessary or wasteful spending," while creating a mechanism to increase public and legislative scrutiny of earmarks.

At first blush, Bush's proposal is being received with bipartisan approval in Congress. Sen. John F. Kerry (D-Mass.), who proposed similar legislation during his 2004 presidential campaign, called the measure overdue. He introduced his own version of the measure yesterday, which his office said appears to be no different from Bush's proposal.

"It's no secret that President Bush and I don't agree on much, but I fully support giving him the line-item veto," he said.

House Majority Leader John A. Boehner (R-Ohio) also praised the bill. "I have always supported giving the president the authority to exercise the line-item veto as a means to help rein in wasteful spending," he said.

Bush Seeks To Slim Down 'Pork' Projects (AP-Y2)

By Andrew Taylor, Associated Press Writer

AP2, March 6, 2006

Seeking new power to weed hometown projects from legislation passed by Congress, President Bush on Monday asked lawmakers to give him a modified version of the line-item veto struck down by the Supreme Court eight years ago.

Like presidents dating back to Ulysses S. Grant, Bush wants the power to strike individual items from a bill without having to veto the entire measure.

President Clinton got that wish in 1996, when the new Republican majority in the House pushed through a line-item veto law that allowed him to kill individual spending projects and special-interest tax breaks.

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Two years later, the Supreme Court declared the law — one of the key planks of the House GOP's "Contract With America" — unconstitutional because it allowed the president to amend laws passed by Congress.

Bush is now pressing for a modified, weaker version. Instead of being able to strike items from bills, he would send one or more items back to Congress for an up-or-down vote. Present law permits Congress to ignore these proposed rescissions, but under the Bush proposal lawmakers would have to vote on them. If majorities in both the House and the Senate agreed with the president, the cuts would take effect.

"Forty-three governors have this line-item veto in their states," Bush said. "Now it's time to bring this important tool of fiscal discipline to Washington, D.C."

Bush has not vetoed any legislation during five years in office, but he said the modified line-item proposal would help "reduce wasteful spending, reduce the budget deficit and ensure that taxpayer dollars are spent wisely."

House Speaker Dennis Hastert, R-Ill., and Senate Majority Leader Bill Frist, R-Tenn., issued statements supporting Bush, as did several conservative lawmakers.

And Sen. John Kerry, D-Mass., who promoted a similar approach in his presidential campaign against Bush in 2004, immediately jumped on board.

"It's no secret that President Bush and I don't agree on much, but I fully support giving him the line-item veto," Kerry said. "I'm going to introduce this legislation, Congress should immediately pass it, and I want to see President Bush use this veto pen to get tough on wasteful spending."

"Giving the president line-item veto authority is essential to enforcing the budget and restoring fiscal sanity in Washington," said Rep. Jeb Hensarling (news, bio, voting record), R-Texas.

The proposal may be helped along by the drive on Capitol Hill for so-called "earmark reform."

Senate Democratic leader Harry Reid of Nevada said he was opposed to the idea even though he supported a similar plan in 1995 when offered as a weaker alternative to the GOP version.

The earlier version of the line-item veto was used by Clinton in 1997 against about 80 parochial projects and a handful of special-interest tax breaks. Lawmakers' enthusiasm for the earlier veto power waned sharply, leading lawmakers like Sen. Robert Bennett (news, bio, voting record), R-Utah, to change their minds and oppose the idea.

Congress, by a huge margin, overturned Clinton's vetoes of 38 military construction projects.

Bush's version was actually pushed by Democrats in the 1990s — including Sen. Robert C. Byrd (news, bio, voting record) of West Virginia, who filed suit against the 1996 law.

Still, a proposal similar to Bush's veto plan was actually voted down by the House two years ago on a 237-174 vote, with three out of four Democrats voting "nay." Some 89 Republicans, including then-Majority Leader Tom DeLay of Texas and Rules Committee Chairman David Dreier, R-Calif., also opposed the measure.

Lawmakers opposed to the line-item veto idea say that Congress should carefully guard its power of the purse and that presidents could use the expanded power against their political enemies.

Supporters say the practice of larding legislation with hometown projects and special-interest tax breaks has gotten out of control. Too often, a president has to accept such "pork" as the price of adopting legislation that he has little choice but to sign.

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On the Net:

The White House: http://www.whitehouse.gov

House Conservatives Prepare Austere Alternative Budget (NYT)

By Carl Hulse

The New York Times, March 7, 2006

WASHINGTON, March 6 — With Congress heading into a politically perilous budget season, influential House conservatives plan this week to propose an austere alternative spending plan that would pare more than $650 billion over five years, balance the budget and drastically shrink three cabinet agencies.

The legislation, part of a push by some Republicans to re-establish themselves as champions of fiscal restraint, was taking shape as President Bush struck a similar theme on Monday by asking Congress to grant him line-item veto power to eliminate federal spending that he might judge wasteful.

"We can't be all things to all people when it comes to spending the taxpayers' money," Mr. Bush said at a ceremony installing a new chairman of the Council of Economic Advisers.

But House conservative leaders would go far beyond the president's own budget proposal, illustrating the difficulty the White House and the Republican leadership have had in persuading the caucus to speak with one voice on the matter.

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Senior aides say the conservatives' plan would wring about $350 billion from Medicare, Medicaid and other social programs and save $300 billion partly through a major reorganization of the Education, Commerce and Energy Departments.

"We are putting our money where our mouth is," said one of the officials, who would discuss the proposal only without being identified because it was still being prepared for release Wednesday by leaders of the Republican Study Committee.

The officials said it was particularly important for conservatives to lay down a marker because the Senate is facing an imminent vote on whether to increase the statutory debt limit, which will remind the public of the increasing deficits under the Bush administration.

Treasury Secretary John W. Snow warned Congress on Monday that the federal government risked default without an increase in the debt limit and that the Republican-controlled Congress would soon be forced to address that issue.

Conservatives contend that voters are disillusioned with Republicans over spending and that without a bold statement, the party faces potential losses in November. But some moderate Republicans are anxious about additional spending reductions, particularly after Congress enacted nearly $40 billion in cuts last year after a difficult fight.

The new budget proposal is certain to be assailed by Democrats who accuse Republicans of forging ahead with tax cuts that benefit the affluent and add to the deficit while reducing support for those most in need.

"This president will have piled up more debt than all of the presidents preceding him," Senator Kent Conrad of North Dakota, the senior Democrat on the Budget Committee, said Monday as he joined other Democrats in accusing Republicans of shortchanging domestic security.

The budget debate could be the first big challenge for Representative John A. Boehner of Ohio, the majority leader, who won his position last month with help from House conservatives who will now be looking to him to help hold down spending.

Under the proposal, expected to be introduced by Representative Mike Pence, Republican of Indiana, and Representative Jeb Hensarling, Republican of Texas, military spending would continue to rise, administration tax cuts would be protected and Social Security would be spared. But many other programs and foreign aid would be greatly scaled back.

The authors of the proposal describe it as a sequel to the Contract With America, which helped catapult Republicans to power in 1994. An outline of the plan says the proposals require "tough choices, but members have expressed a serious desire to do the hard things to save America."

Mr. Bush's push for the line-item veto could benefit from the current scrutiny over the growing practice by lawmakers of inserting spending for pet projects into legislation — a practice that has figured into continuing corruption scandals.

Congress gave President Bill Clinton line-item veto authority in 1996, but the Supreme Court overturned the law, saying it violated the Constitution by giving the president the power to amend legislation. Under the new proposal, the president would be able to identify objectionable projects and then send them back to Capitol Hill for an up-or-down vote without requiring a veto of the entire bill.

Though members of Congress are typically reluctant to cede too much power over spending to the executive branch, several lawmakers gave initial expressions of support, including House Speaker J. Dennis Hastert, Republican of Illinois, and Senator John Kerry, Democrat of Massachusetts.

"It's no secret that President Bush and I don't agree on much," Mr. Kerry said, "but I fully support giving him the line-item veto."

But Senator Harry Reid of Nevada, the Democratic leader, had an opposite view, calling the line-item veto "old hat."

"I don't think this Congress is ready for line-item veto," Mr. Reid said, adding, "I just think it's an effort by President Bush to divert attention from real issues this country has."

Bush Calls For Line-item Veto (WT)

By Stephen Dinan

The Washington Times, March 7, 2006

President Bush yesterday demanded that Congress give him a line-item veto power and sent a bill to Capitol Hill that he said satisfies the constitutional concerns that sunk the last version a decade ago.

Wading into the congressional spending debate, Mr. Bush took a hard line on the practice of earmarks, which critics call pork-barrel spending, and promised to be the sheriff who will enforce discipline.

"Too many bills passed by Congress include unnecessary spending," Mr. Bush said.

"Today, I'm sending Congress legislation that will meet [constitutional] standards and give me the authority to strip special spending and earmarks out of a bill, and then send them back to Congress for an up-or-down vote," he said.

The move thrilled conservative Republicans on Capitol Hill, but Democratic leaders said Mr. Bush was ducking responsibility for budget deficits.

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"If the president were really serious about the deficit, he would begin by submitting a balanced budget," said House Minority Leader Nancy Pelosi, California Democrat. "Instead, President Bush has presided over the largest fiscal turnaround in our nation's history, turning a projected $5.6 trillion surplus to a deficit of $3.3 trillion."

White House officials said Mr. Bush, who has never vetoed a bill, needs a more finely tuned scalpel to deal with wasteful spending.

The proposal is not technically a "veto" under the Constitution, because it doesn't require a two-thirds vote to overturn it.

Under Mr. Bush's plan, the president could cull items from a bill and send the cut items back in a rescission package to Congress, which would have 10 days to vote on the whole package. The president could eliminate targeted tax cuts as well as spending.

"To see him putting the full weight of his office behind a specific proposal to create a constitutional line-item veto is thrilling to those of us who know when it comes to federal spending, it's not so much bad people as bad process," said Rep. Mike Pence, Indiana Republican and chairman of the Republican Study Committee, the conservative caucus in the House.

Mr. Pence said Mr. Bush would use the line-item veto because the "stakes are so much lower" in targeting individual spending than blocking an entire bill passed by a Republican Congress.

"There is no single reform that would do more to put our fiscal house in order than the line-item veto. The problem with federal spending is no one's in charge, so everyone is," he said.

House Republican leaders said they support the concept, and Senate Republican leaders went further. Senate Majority Leader Bill Frist, Tennessee Republican, is sponsoring the Senate version of the bill, along with Sen. John McCain, Arizona Republican, and Majority Whip Mitch McConnell, Kentucky Republican.

White House press secretary Scott McClellan said the administration thinks the time is ripe, given the interest on spending cuts on Capitol Hill. He said the fight against wasteful spending is bipartisan, so he predicted the line-item veto proposal would attract bipartisan support.

Although Mrs. Pelosi and Senate Minority Leader Harry Reid, Nevada Democrat, have opposed line-item authority, Sen. John Kerry, Massachusetts Democrat and Mr. Bush's opponent in the 2004 election, said he supports the concept and will introduce his own proposal.

Congress passed a line-item veto in 1996, but in 1998, the Supreme Court ruled 6-3 that it was unconstitutional because it gave the president the power to amend a law after it had been passed by Congress. The majority ruled that sort of change must come through constitutional amendment, not law.

Under that system, the president had five days after he signed a bill to make line-item cuts. Congress could only reinstate the cuts by passing a separate bill, subject to a regular presidential veto and requiring a two-thirds vote of each chamber to overturn it.

Bush administration officials said their version doesn't violate the Constitution because it doesn't give the president unilateral authority. Instead, it sets up a process to push Congress to act on his recommendations.

Bush Asks Congress For "Line-item Veto" Power (REU-Y2)

By Caren Bohan

Reuters, March 6, 2006

President George W. Bush, who has never vetoed a spending bill, asked the U.S. Congress on Monday to give him a line-item veto that would allow him to propose canceling specific spending projects.

But Bush's proposal faces hurdles because an earlier version that Congress passed under former President Bill Clinton was rejected by the Supreme Court as unconstitutional.

Bush said the 1998 court decision "should not be the end of the story" and said his proposal was crafted in a way to satisfy the court's concerns.

"By passing this version of the line-item veto, the administration will work with the Congress to reduce wasteful spending, reduce the budget deficit and ensure that taxpayer dollars are spent wisely," he said.

Senate Majority Leader Bill Frist, a Tennessee Republican, said he would introduce the legislation.

In striking down the Clinton-era line-item veto by a vote of 6-3, the Supreme Court said Congress was not authorized under the Constitution to hand the president that power.

But White House spokesman Scott McClellan said the Bush proposal would differ from that 1996 law, which allowed the president to pencil out specific spending items only after a bill was passed by Congress.

Under the Bush proposal, the president would identify areas in a spending bill he considered wasteful and then send the package back to Congress. Congress would have 10 days to hold an up or down vote on the package.

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Democrats, who have criticized Bush's tax cuts as fiscally reckless, said the line-item veto was not a panacea for record budget deficits.

"The Bush administration has spent us into record deficits and piled mountains of debt onto our children," said House Democratic leader Nancy Pelosi of California. But she added, "Budget experts agree that the line-item veto would do little to control deficits."

However, Democratic Sen. John Kerry of Massachusetts, who ran against Bush in the 2004, supported the line-item veto proposal, which mirrored one Kerry had previously proposed.

"Billions of dollars are being wasted on things like research to enhance the flavor of roasted peanuts and the infamous 'bridge to nowhere,'" Kerry said.

Announcing the line-item veto proposal at a swearing-in ceremony for Ed Lazear, his new chairman of the White House Council of Economic Advisers, Bush said it would allow him to take aim at "special-interest spending."

'BRIDGE TO NOWHERE'

A major congressional lobbying scandal involving Jack Abramoff and the conviction of former California Republican Rep. Randy "Duke" Cunningham on bribery charges have put a spotlight on pet projects that lawmakers often add to bills to please constituents in their home states.

Bush has been criticized by many conservatives for the surge in federal spending on his watch.

One example of a pet project critics often cite was a bridge proposal in Alaska ridiculed as the "Bridge to Nowhere" because it would have served a very small population.

The bridge was part of $287-billion transportation bill that many conservatives had urged Bush to veto. Bush signed the transportation bill and hailed it as a job-creating measure.

Spending on the Alaska bridge was later canceled, but the state received the money anyway in its general transportation funds.

Republicans worry that big deficits could hurt them in this year's midterm election in which Democrats are seeking to regain control of both houses of Congress.

The Bush administration has forecast a fiscal 2006 budget deficit of $423 billion, an all-time high.

Bush Seeks To Restore 'pork-barrel Spending' Veto (FT)

By Christopher Swann

Financial Times, March 7, 2006

The White House sought on Monday to restore the president's power to veto specific spending measures, a move that could sharply increase his authority to block items deemed wasteful, "pork barrel" spending.

President George W. Bush proposed legislation that would be designed "to meet Supreme Court standards" and would "give me the authority to strip special-interest spending and earmarks out of a bill and then send them back to Congress for an up-or-down vote".

The Republican-controlled Congress gave the White House a line-item veto in 1996, but it was struck down by the Supreme Court in 1998, with six of the nine justices ruling that it overstepped the president's constitutional authority.

Mr Bush's effort to restore the veto comes at a time of growing concern about Washington's apparent inability to restrain the growth in government spending. The Congressional Budget Office said last week that the budget deficit would rise to $371bn this year, from $318bn in 2005, in spite of record tax revenues.

While most of the spending growth has come from the military and homeland security, and from entitlement programmes such as Medicare and Social Security, it has been exacerbated by the growth of so-called "earmarks" – specific spending measures targeted at constituencies favoured by members of Congress.

Circumventing the Supreme Court's judgment on the line-item veto may not be easy. The 1996 bill allowed the president to strip out specific spending items and required a two-thirds majority vote by Congress to reinstate them.

Justice John Paul Stevens, writing for the majority on the court, said Congress could alter the president's role in determining the final text of a law only through a constitutional amendment. The White House proposal would allow the president to split out spending items and send them back to the Congress.

Congress would be required to consider the spending within 10 days for an up or down vote. The president could be defeated by a simple majority rather than a two thirds majority required to defeat a normal veto. But the measure could not be filibustered.

Dan Coats, the former US senator who sponsored the line-item veto in the 1990s, said the law would need to be carefully drafted. "They will need to find some way that does not violate the separation of powers, unless they are just trying to score political points," he said.

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Joshua Bolten, director of the White House Office of Management and Budget, said that the legislation would be "air tight" in constitutional terms. The bill will be sponsored in the Senate by Bill Frist, majority leader, and John McCain, a Republican fiscal conservative.

President Bill Clinton used the budget-cutting tool 82 times in 1997, saving $2bn over five years.

But Chris Edwards, head of tax studies at Cato, a libertarian think-tank, while supportive of a line-item veto, said it would not get to the heart of America's fiscal problems.

"There has been a broad failure to keep spending under control and earmarks have just been a small part of this," he said.

Bush Wants Modified Line-item Veto Power (USAT)

USA Today, March 7, 2006

President Bush asked Congress on Monday to give him a line-item veto power that would allow him to propose canceling specific spending projects without having to veto an entire bill. The Supreme Court struck down a similar law eight years ago, but Bush said his version is crafted to satisfy the court's concerns.

He said 43 governors have line-item veto power, and "it's time to bring this important tool of fiscal discipline to Washington."

President Clinton was given line-item veto power in 1996, but the Supreme Court declared the law unconstitutional because it allowed the president to amend laws passed by Congress. Under the Bush proposal, instead of being able to strike items from bills, the president would send one or more items back to Congress for an up-or-down vote.

Treasury chief asks for higher debt ceiling

Treasury Secretary John Snow notified Congress that the administration has now taken "all prudent and legal actions," including tapping certain government retirement funds, to keep from hitting the $8.2 trillion national debt limit. Snow urged lawmakers to pass a new debt ceiling to avoid the nation's first-ever default on its obligations. Treasury officials have said the current limit will be surpassed sometime during the week of March 20.

An actual default on the debt, a situation when the government misses making payments to current bondholders, is a doomsday scenario that would severely damage the government's credit rating.

Army Corps defends levee reconstruction

The Army Corps of Engineers defended the quality of materials being used to rebuild the levees around New Orleans. Lt. Gen. Carl Strock, head of the Army Corps, said he told President Bush that 100 miles of the 169 miles of levees damaged by Hurricane Katrina have been restored.

Strock took issue with findings from two teams of independent experts who said the corps was taking shortcuts and using substandard materials, leaving large sections of the system substantially weaker than before the Aug. 29 storm.

Bush Seeks Limited Veto Power On Spending (LAT)

The Los Angeles Times, March 7, 2006

WASHINGTON — President Bush asked Congress on Monday to give him limited authority to veto individual items in spending measures, resurrecting a top priority of fiscal conservatives.

Expressing optimism that the measure would win congressional approval and pass court tests, the White House said its proposal took into account objections the Supreme Court had raised in 1998 when it ruled that a similar provision signed two years earlier by President Clinton was unconstitutional.

In Congress, however, the outcome was less certain than the White House suggested.

Democratic leaders in the House and the Senate objected to the plan, but it probably will benefit from the momentum building to rein in "earmarks" — the practice of inserting into legislation specific spending measures that benefit only individual projects or communities.

Referring to the court's rejection of the law eight years ago, Bush said: "That should not be the end of the story."

He said his proposed measure would give him "the authority to strip special spending and earmarks out of a bill, and then send them back to Congress for an up-or-down vote."

The president has frequently expressed his interest in obtaining the line-item veto — an authority granted to 43 of 50 U.S. governors — but he has not made a concerted push to gain congressional approval for it and had not sent a specific proposal to Congress until Monday. As Democrats frequently point out, the budget has gone from healthy surplus to spiraling deficit during his five years in office, while Bush has failed to veto any legislation.

But "fertile ground … exists now in Congress," said Josh Bolten, the director of the Office of Management and Budget — referring to the growing pressure in the House and the Senate to limit earmarks.

Under Bush's formula, unlike the one ruled unconstitutional eight years ago, Congress would retain the last word.

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If the president opposes certain provisions in a spending bill, the proposal would allow him to sign the legislation but defer spending the disputed money.

Congress would then be asked to approve a second measure killing the offending provisions. It would have 10 days to comply, and would not be allowed to amend it or delay a vote by filibuster. If Congress did not support the president's request, the targeted spending would have to proceed.

Under the Constitution, the House and Senate must pass a bill, and the president must sign it, for legislation to become law. In a 6-3 decision, the Supreme Court ruled that the Line Item Veto Act amended that process by giving the president new power to cancel some parts of a bill.

By White House count, presidents as far back as Ulysses S. Grant, who served from 1869 to 1877, have sought the line-item veto — and Congress has objected, because it allows a president to pick and choose among spending items that Congress sends to the White House.

Although details of the proposal remained sketchy, some Supreme Court experts said the new measure might get around judicial objections.

"This might work," said Mark V. Tushnet, an expert on constitutional law at Georgetown University Law Center.

Walter Dellinger, who as acting solicitor general argued on behalf of the Clinton administration in favor of the measure the court struck down, was more certain.

"This is unquestionably constitutional," he said. "It is possible to construct a constitutionally defensible provision under which Congress would be required to cast a recorded vote on particular items."

Besides, he said, the president would likely be playing a strong hand by asking Congress to hold back on specific spending.

It would be politically costly for Congress to vote to override a line-item veto, Dellinger said.

In striking down the 1996 legislation, the court voted along non-ideological lines. The conservative chief justice, William H. Rehnquist, voted with the majority; while frequent swing vote Sandra Day O'Connor, liberal Stephen G. Breyer and conservative Antonin Scalia formed the minority.

Supreme Court experts said there was no suggestion how the current court — with John G. Roberts Jr. replacing Rehnquist and Samuel A. Alito Jr. replacing O'Connor — would receive any challenge to the legislation.

The politics of the line-item veto makes for unusual teammates.

In 2004, Congress rejected a provision that would have done what Bush says he wants to do: require Congress to vote on recommendations to eliminate specific projects from appropriations bills. The vote was 237-174, with 89 Republicans joining the 147 Democrats and one independent who voted against it.

Bolten was happy to point out Monday that during the 2004 presidential campaign, Sen. John F. Kerry, the Democratic candidate, proposed a measure similar to that advanced by the White House.

On Monday, the Massachusetts senator said: "It's no secret that President Bush and I don't agree on much, but I fully support giving him the line-item veto." He said he would introduce such legislation.

Senate Minority Leader Harry Reid (D-Nev.) objected to Bush's plan, and House Minority Leader Nancy Pelosi (D-San Francisco) said: "President Bush has presided over the largest fiscal turnaround in our nation's history, turning a projected $5.6 trillion surplus [over 10 years] to a deficit of $3.3 trillion.

"The line-item veto would do little to control deficits," she said.

And Sen. Jim DeMint (R-S.C.), while supporting the line-item veto, pointed out that if Bush wanted to curtail earmarks, he could simply refuse to fund many of them.

This is because many earmarks are not in legislation, but in the congressional committee report accompanying the bill. Thus, he said, the appropriations bill this year that funds the science agencies and the Departments of State, Justice and Commerce contains 2,394 earmarks — 228 of which are in the text of the law.

Reconciliation A Tough Sell In 2006 (RC)

By Emily Pierce

Roll Call, March 7, 2006

In what may be more of a face-saving effort than any real attempt to reduce the deficit this year, both the House and Senate Budget panels are looking at including less than $10 billion in savings or mandatory spending cuts in their versions of the budget resolution this year.

Snow Says U.S. Has Taken 'All Steps' To Avoid Debt Limit (WSJ)

A Wall Street Journal Online News Roundup

DOJ_NMG_0016647

The Wall Street Journal, March 7, 2006

Treasury Secretary John Snow notified Congress on Monday that the administration has now taken "all prudent and legal actions" to keep from hitting the $8.2 trillion national debt limit.

In a letter to Congressional leaders, Mr. Snow urged lawmakers to pass a new debt ceiling immediately to avoid the nation's first-ever default on its obligations. "I know that you share the president's and my commitment to maintaining the full faith and credit of the U.S. government," Mr. Snow wrote.

Treasury officials, briefing congressional aides last week, said that the government will run out of maneuvering room to keep from exceeding the current limit sometime during the week of March 20.

Mr. Snow said government debt managers are starting to use the Civil Service Retirement and Disability Fund to stay below the current limit. Mr. Snow said he has declared a "debt issuance suspension period," a technical designation that lets Treasury suspend new investments for the civil-service fund and redeem some of that fund's investments, "as authorized by law."

The Treasury secretary said "it is important to understand" that this maneuver "provides only a few days of additional borrowing capacity, which we expect will be exhausted by mid-March."

Treasury officials also announced that on Friday they had used the $15 billion in the Exchange Stabilization Fund, a reserve the Treasury secretary has that is normally used to smooth out volatile movements in the value of the dollar in currency markets.

Treasury has also been taking investments out of a $65.3 billion government pension fund known as the G-fund. Officials have said that once the debt limit is raised, the investments taken out of the pension funds would be replaced and any lost interest payments would be made up. The formal title for the G-fund is the Government Securities Investment Fund of the Federal Employees Retirement System.

An actual default on the debt, a situation when the government misses making payments to current bondholders, is a doomsday scenario considered highly unlikely given what it would do to the government's credit rating.

It is expected that Congress will approve an increase in the current $8.18 trillion debt limit by perhaps $781 billion. Mr. Snow will be meeting privately this week with U.S. lawmakers to discuss the importance of raising the debt limit, Treasury spokesman Tony Fratto said at a routine press briefing on Monday.

Senate Democrats have asked the Republican leadership for extended debate before raising the debt limit. Senate Minority Leader Harry Reid (D., Nev.) has said he wants to amend debt limit-increase legislation "to reduce the need for further debt increases in the future."

Whatever concerns Congress may have about the longer-term budget outlook, "we cannot hold hostage the full faith and credit of the United States of America," Mr. Fratto said Monday. Any indication from lawmakers that they can't support an increase is "not appropriate and certainly not sustainable," he said. "At the end of the day, the debt ceiling needs to be raised."

Congress has put off a debt-limit increase until "the eleventh hour" several times during President Bush's administration, but "we cannot take it for granted" that putting off the increase this time won't be problematic, Mr. Fratto said.

The administration has sent Congress a budget that on paper would cut the deficit in half by 2009, the year Mr. Bush leaves office. But Democrats contend the administration met its deficit-reduction goal only by leaving out major spending items such as the full costs of the Iraq war. They say the deficit won't improve unless Mr. Bush abandons his effort to make his first-term tax cuts permanent.

Sen. Max Baucus (D., Mont.) said last week that under Mr. Bush the total of the deficits has increased by $3 trillion, a 40% increase from where the national debt, the total of previous deficits, stood when Mr. Bush took office in January 2001.

Will D.C. Circuit Nominee's Conservative Credentials Be His Undoing? (LAW)

By Emma Schwartz, Legal Times

Legal Times, March 7, 2006

Most nights a line snakes out the door at Lauriol Plaza, the trendy Mexican restaurant on 18th Street in Dupont Circle that draws a cross section of the Washington, D.C., cognoscenti, many of whom come as much to make the scene as to sample the cuisine.

On one such evening about two years ago, James Brochin, a New York lawyer, was waiting to be seated with a few buddies from Yale Law School, including Brett Kavanaugh, staff secretary for President George W. Bush.

Nearby, Jeff Berman, then counsel to Sen. Charles Schumer, D-N.Y., on the Senate Judiciary Committee, caught Kavanaugh's eye and walked over. Kavanaugh was in the midst of a bitter confirmation battle over his nomination to the U.S. Court of Appeals for the D.C. Circuit, but the staffer still wanted to trade a few friendly words before heading out the door.

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"I was struck at the time by the irony that this guy's boss was spending a great deal of energy trying to shoot Brett down, yet he was still good friends with this staffer," recalls Brochin, a partner at Paul, Weiss, Rifkind, Wharton & Garrison.

It might seem unusual, but the story is emblematic of the complex politics and loyalties often just behind the scenes of the judicial nomination process. It also illustrates the challenge Democrats have facing off against this 41-year-old Maryland native, whose stalled nomination is expected to come before the Senate Judiciary Committee again as early as next month.

Kavanaugh's conservative credentials are etched indelibly into his résumé. In fact, he's something of the Zelig of young Republican lawyers. A protégé of independent counsel Kenneth Starr, he was a key figure in the Whitewater investigation. In the recount fight after the 2000 election, he served as a foot soldier in the legal army that descended on Florida and gave Bush his presidency. As a lawyer for Bush in the White House counsel's office, he shepherded most of the administration's contentious federal court nominees, including Miguel Estrada and Priscilla Owen.

But whether his right-wing bona fides will incite enough Democratic opposition to keep him off the bench remains an open question.

THE LONG AND WINDING ROAD

Kavanaugh was first nominated to the D.C. Circuit in July 2003, but faced sharp opposition at his hearing the following April, where Senate Democrats lambasted him for his youth, lack of judicial experience and partisanship. Although the American Bar Association rated him "well qualified," Schumer bluntly labeled Kavanaugh's nomination "payment for political services rendered."

Attention shifted, however, to the 2004 presidential election, and Kavanaugh's nomination was marooned in committee. He was then left out of the "Gang of 14" deal last summer, which allowed three previously controversial nominees to be voted on in the Senate, and that seemed to signal nobody was interested in a brawl over him. Then came more than six months of bruising Supreme Court confirmation fights, during which Kavanaugh remained buried.

But when the Senate moved to hold over all nominees at the end of the last congressional session, Kavanaugh was again left out because of Democratic opposition. So the White House renominated him in January, sending the message that it won't allow Kavanaugh to be forgotten.

Now he's back at the front of the confirmation line. And while Sen. Arlen Specter, R-Pa., chairman of the Judiciary Committee, has made Kavanaugh a priority this session, his path looks just as rocky as it did two years ago. Just last Friday, Senate Democrats renewed their call for another hearing on Kavanaugh. The D.C. Circuit -- often called the second-most-important court in the country because of its jurisdiction over federal government agencies -- has been fertile ground for past confirmation fights. Exhibit A: the controversy over Miguel Estrada, so nasty that it led him to withdraw in September 2003.

Senate Democrats are girding for a similar knock-down, drag-out fight over Kavanaugh, and that fight looms as the latest test of Democrats' clout on future federal court confirmations.

"If the Democrats weren't able to stop [Samuel] Alito," says Sheldon Goldman, a political science professor at the University of Massachusetts at Amherst, "the question that is being asked now is, How can they stop anyone who is as professionally qualified as Brett Kavanaugh?"

MAKING A MODEL CONSERVATIVE

Politics have always threaded through Kavanaugh's life. Raised in Bethesda, Md., he was the only child in a tight-knit family of lawyers. His mother, Martha, was a prosecutor in the state attorney's office and later worked as a criminal defense lawyer. She was nominated to the Montgomery County Circuit Court in 1995, where she served until retiring, nearly five years ago.

Kavanaugh's father, Edward, was a prominent figure inside the Beltway. As head of the Cosmetic, Toiletry and Fragrance Association for 22 years, he was friends with congressional heavyweights including the late Speaker of the House Thomas "Tip" O'Neill, D-Mass., and Sen. Orrin Hatch, R-Utah. (Indeed, Hatch gave him a special welcome at his son's nomination hearing.)

Bright, hard working and unflappable, Kavanaugh attended all-boys Catholic schools, first at Mater Dei and then at Georgetown Preparatory High School, where he excelled both in class and in sports, playing on the basketball and football teams. Friends also recall him being infused with a sense of religious faith that remains important to him today.

From an early age, Kavanaugh seems to have been drawn to the law. Growing up, he sat in on some of his mother's cases and spent a few summers interning on Capitol Hill. But unlike many children of well-connected Washingtonians, Kavanaugh didn't come off to others as arrogant or transparently ambitious. "Brett's a chess player," says Steve Ochs, Kavanaugh's high school history teacher. "He always sees moves ahead without having guile."

That sense of reserve carried over to Yale University, where friends recall him as more of a sports guy than a campus partisan involved in student politics. Kavanaugh's more liberal friends certainly knew he was conservative but say he based friendships on shared interests rather than shared politics.

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Kavanaugh went directly to Yale Law School, graduating in 1990. While there he wrote an article in the Yale Law Journal analyzing the 1986 Supreme Court case Batson v. Kentucky, which restricted the use of peremptory challenges to strike jurors on the basis of race. Kavanaugh argued that the decision still left the exact enforcement procedures to the lower courts, but advocated a defendant's right to be present during any hearing on the proper use of peremptory challenges.

After law school, Kavanaugh spent two years clerking in federal appeals courts, first for Judge Walter Stapleton on the 3rd U.S. Circuit Court of Appeals and then for 9th Circuit Judge Alex Kozinski (an icon for many legal conservatives, but something of an iconoclast himself).

Kozinski's clerkships are notoriously demanding, a kind of boot camp for young lawyers with Federalist Society credentials. A perfectionist and an outspoken conservative on a liberal court, Kozinski routinely cycles through dozens of drafts on opinions. To meet the workload, Kavanaugh and his fellow clerks worked in shifts. Mark Perry, now co-chair of Gibson, Dunn & Crutcher's D.C. office, recalls that when he clerked alongside Kavanaugh, he took the early shift, which started at 6 a.m., while Kavanaugh had the "late" one, which began at 8 a.m. -- and ran until 9 or 10 at night, six days a week.

In Kozinski, Kavanaugh found a mentor and an intellectual sparring partner. "He's not one to sort of jump to conclusions. He weighs and he considers and goes back and forth," Kozinski recalls of their legal debates. "I think we sort of reinforce each other." Kozinski likens Kavanaugh's legal philosophy to that of Chief Justice John Roberts Jr. and Alito. "The question is what he would do in close cases," he says. "I think in close cases he would offer the conservative-libertarian result."

From Kozinski's chambers, Kavanaugh moved to a yearlong fellowship in the solicitor general's office under Starr. There he worked alongside conservative luminaries such as Roberts and Maureen Mahoney and had a chance to argue his first appeals court case. In 1993, Kavanaugh moved up the clerkship ladder again, this time into the chambers of Justice Anthony Kennedy on the Supreme Court.

PLUNGING INTO WHITEWATER

As Kavanaugh's Kennedy clerkship was ending in the summer of 1994, Starr was tapped to replace Robert Fiske as independent counsel in the Whitewater investigation. One of his first moves was to bring Kavanaugh on board.

It was a watershed moment for the 29-year-old lawyer, one that would earn him both acclaim and lasting enemies. One of his initial duties was to lead the probe into the apparent suicide of White House counsel Vincent Foster, a close personal friend of President Bill Clinton and first lady Hillary and a former colleague of Hillary's at the Rose Law Firm in Arkansas -- which Kavanaugh also investigated. Though Starr closed these investigations without prosecuting, Kavanaugh did not make any friends in the Clinton White House. Now-Sen. Clinton, D-N.Y., in particular took bitter exception to Kavanaugh's investigatory tactics, which she viewed as a partisan witch hunt meant to destroy her and her husband.

In 1997, Kavanaugh briefly retreated into private practice, joining Kirkland & Ellis, Starr's old firm. But after less than a year, Starr asked him to return to the independent counsel's office to argue a case stemming from the Foster investigation that had been granted certiorari by the Supreme Court.

The case, Swidler & Berlin v. United States, led to an important decision on the scope of attorney-client privilege -- but not one in Kavanaugh's favor. The issue was whether attorney James Hamilton was required to turn over notes to Starr on a conversation he had with his now-deceased client, Foster. Kavanaugh argued that lower court precedent, particularly in criminal cases, suggested that the attorney-client privilege did not survive the death of the client. Many attorneys found the position controversial because it encroached on a well-established privilege.

Hamilton, who argued the case himself, says despite the loss, Kavanaugh was impressive. "Brett is obviously a very talented lawyer. Although he lost the Swidler case -- to the benefit of both clients and the profession -- he did well with a most difficult position."

According to Bob Woodward's book "Shadow: Five Presidents and the Legacy of Watergate," Kavanaugh was also something of a moderating force in the office. He was among those who encouraged Starr to seek direct testimony from White House intern Monica Lewinsky and Clinton about their affair rather than simply write the report based on secondhand accounts. He questioned whether Starr needed to hand over the narrative section of the final report to Congress. And though he helped assemble the 11 possible legal violations laid out in the report, he was opposed to Congress' decision to release the report to the public.

Even after he left Starr's office, Kavanaugh continued to express concerns over the power afforded the independent counsel, going so far as to write an article for the Georgetown Law Journal arguing that Congress should change the statute to limit the politicization of the independent counsel position.

Yet Kavanaugh's tenure with Starr continues to enrage Democrats, who note that he has defended the former independent counsel's work in newspaper editorials. In one such piece for The Washington Post, Kavanaugh said that subsequent congressional action, such as the vote by the House of Representatives to impeach Clinton, fully vindicated Starr's investigation.

THE PRESIDENT'S LAW FIRM

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In 1999, Kavanaugh returned to Kirkland, where he mostly handled appellate cases for corporate clients such as Verizon Communications Inc., America Online Inc., and General Motors Corp.

Even in private practice, Kavanaugh managed to get involved in charged cases. For instance, he and a colleague joined the last-ditch appeal of Elian Gonzalez's deportation back to Cuba after a panel on the 11th U.S. Circuit Court of Appeals ruled that it did not have jurisdiction to overturn the Department of Justice's decision. The Supreme Court denied cert.

Kavanaugh also filed an amicus brief in the 1999 case Santa Fe School District v. Jane Doe, in which he represented two Republican congressmen who were supporting a school district's policy that allowed student-initiated prayer at football games. The Supreme Court ruled that the policy violated the Constitution's establishment clause.

But Kavanaugh's true return to politics came in 2000, when he joined the Bush recount team in Florida, overseeing Volusia County. After the election he was offered a spot in the White House counsel's office, then headed by Alberto Gonzales, where he joined an A-list of top conservative lawyers, including Rachel Brand, now assistant attorney general for the Office of Legal Counsel; Stuart Bowen, now special inspector general for Iraq reconstruction; and Courtney Elwood, the current deputy chief of staff for Gonzales.

That office, however, has come under scrutiny recently for its role in drafting memos justifying the use of torture in questioning terrorism suspects and validating the National Security Agency's domestic eavesdropping program. Although he worked in the office at the time, Kavanaugh hasn't been directly tied to those controversial policies.

He was, however, at the forefront of other divisive issues, most notably serving as a chief architect of the administration's judicial selection process. He helped vet candidates and worked as a liaison between the White House and Capitol Hill, coordinating hearings with Republican staffers.

Along with judicial nominations, Kavanaugh pushed tort reform legislation on issues including asbestos, class actions and terrorism risk insurance. He was also the main author of a controversial executive memo that allows presidents and their families to limit the release of presidential documents.

Once again in a place known for grueling hours, Kavanaugh stood out. He became a fast favorite of Gonzales, who put him forward as a candidate for a seat on the 4th U.S. Circuit Court of Appeals. Maryland senators objected because they wanted a nominee who had practiced in their home state.

Meanwhile, Kavanaugh replaced Harriet Miers as staff secretary, a little-known but powerful post in the Executive Office of the President. It's more a political than a policy job, but lawyers often hold it because it requires reviewing every piece of paper before it lands on the president's desk. Kavanaugh's position has brought him close to Bush, with whom he has traveled around the globe. The president even made a special appearance at Kavanaugh's 2004 wedding to Bush's personal secretary, Ashley Estes, held at Georgetown's Christ Episcopal Church.

The close association with the president has only fanned Democratic furor over Kavanaugh's nomination. Democrats especially want to question him on whether he had a role in approving the NSA wiretapping program. "He doesn't have the legal philosophy that ought to be had for that position," says Elliot Mincberg, legal director of the liberal People For the American Way. "Most of his career has been spent as a far-right advocate." Maybe so, but Democrats have few options to derail Kavanaugh, without resorting to a filibuster.

In the meantime, in his West Wing office, Kavanaugh remains busy serving the president he helped put in the White House. In that office three large photographs adorn the front wall.

In the first, the president appears at his Oval Office desk with Kavanaugh and now-Chief Justice Roberts. To the right is a picture of Bush greeting the late Pope John Paul II at the Vatican. The third shot shows the president, behind a wooden podium, introducing his first crop of judicial nominees from the spring of 2001, a group that included Roberts, Estrada and Owen.

It's a display befitting of a presidential aide, no doubt. But nervous Democrats might wonder how they would look in a judge's chambers.

How Do You Get To The Supreme Court? Practice, Practice, Practice (LAW)

By Alyson M. Palmer, Fulton County Daily Report

Fulton County (GA) Daily Report, March 7, 2006

When R. Jonathan Hart stepped up to the microphone before the country's nine most powerful jurists on March 1, he joined a small, eclectic club of Georgia attorneys who have argued before the U.S. Supreme Court.

The Chatham County Attorney sought to convince the high court to uphold the decision of a Savannah, Ga., federal judge, affirmed by the 11th U.S. Circuit Court of Appeals, that the county is immune from suit for damages arising from an accident involving a drawbridge maintained by the county.

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In preparing for the argument and drafting the county's brief, Hart got the assistance of, among others, a law school professor who has argued before the high court several times. But rather than have the professor, David J. Bederman of Emory University, argue the case, Hart decided to handle the case himself.

"You only get to do this every once in a while in your lifetime," he said.

Unless you are someone like Miguel A. Estrada, Hart's opposing counsel last Wednesday.

Estrada, a former nominee to a federal appeals court, has argued at least 16 times before the high court, according to his profile on Gibson, Dunn & Crutcher's Web site. Before joining Gibson, Dunn, Estrada served as an assistant to the U.S. solicitor general from 1992 to 1997.

But for many non-government attorneys, the Supreme Court is usually a one-time gig. The 80 or so cases that the Supreme Court agrees to hear each year means that the Court entertains oral argument in a handful of cases coming out of Georgia federal and state courts in a given term.

Hart said that his time in the marbled courtroom was "certainly something that I would do again."

Indeed, David F. Walbert, an Atlanta lawyer who has argued before the Supreme Court several times in his career, called it "as much fun as you can have if you're not intimidated."

Walbert and other Georgia attorneys who have participated in Supreme Court oral argument are not short on stories about their experiences -- or advice for a first-timer.

Walbert said he did not participate in moot court arguments before his first Supreme Court argument in 1982 or a redistricting case that he argued in 2003.

PRACTICE RUNS

But several other local litigators with Supreme Court experience said that such practice runs are essential.

Hart prepared for his argument by coming up to Atlanta for a moot court session with Bederman and other attorneys and law students. That exercise was so helpful, said Hart, "if I had to do it over again, I would have done two of them."

W. Warren Plowden Jr. of Macon, Ga., said that before he represented Monroe County in a school sexual harassment case at the Supreme Court in 1999, he participated in a moot argument that included now-Chief Justice John G. Roberts Jr.

Roberts was tough, but Plowden did not mind, saying, "That's the point of the whole thing."

Attorneys emphasized basics such as knowing the case law and facts inside and out but said that rehearsing a 30-minute presentation was a waste of time -- or worse.

"I'm a real believer since my 9th grade speech class," said Walbert, "that if you have a prepared spiel, you're dead."

Atlanta attorney Michael K. Wolensky, who argued a securities case two terms ago, agreed. He said that he needed his notes but had no occasion to use any prepared remarks, encountering his first question approximately 18 seconds into his time.

"Preparing a presentation is useless," said Wolensky. "It's a trap you want to avoid."

Experienced Supreme Court practitioners give the same advice of mothers and grandmothers -- be on time, arriving in Washington preferably several days before the big day.

Hart visited the Supreme Court a day early but found that he had to fight his way through the crowd of onlookers hoping to get a glimpse of former Playboy playmate Anna Nicole Smith, whose inheritance from her late husband was the subject of arguments heard Feb. 28. He said he couldn't get a seat for that argument but managed to secure a spot for another case.

He said that preview allowed him to get familiar with the courtroom and the justices' voices, noting that because the justices' voices are projected through a central sound system, it is sometimes hard to tell from which seat a question is posed.

IN THE SPOTLIGHT

Another attorney said that she had to fight her way through the crowds to get to her own argument.

Paula K. Smith, a senior assistant attorney general, last fall represented the state of Georgia in a case over whether police violated the Fourth Amendment when they searched a home against a defendant's protests but with his wife's consent.

She said that intense interest in that case made the argument all the more difficult.

"Knowing that you're in that kind of spotlight ... it just adds to the pressure, and you have to be careful that you don't let it divert you from the case and the job that you have to do," said Smith.

Fewer eyes were on Hart when he stepped up to the microphone. The courtroom was packed for a prior argument on state tax incentives for corporations but cleared out afterward. But he said that he still felt the pressure.

By some measures, Hart got off easy, not facing any obviously off-the-wall questions or a series of bizarre hypothetical situations justices sometimes pose.

Walbert said that he was told before his first argument that a key challenge was to get past the then-Chief Justice Warren E. Burger's first question.

"It was almost always irrelevant," Walbert said he was told.

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Sure enough, Burger posed the first question as Walbert rose to defend a district court opinion that ruled in favor of his clients' voter discrimination claim.

Burger asked, "Well, how many women governors are there in the country, counselor?" recalled Walbert.

Laurie Webb Daniel, who heads Holland & Knight's appellate practice group, was in her early 30s when she argued before the high court. Despite her youth, she said that only Justice Antonin Scalia's questions caught her off guard.

"He is just dogged in his approach," she said. "And he would ask a hypothetical that I was ready for, and I would answer, and he wouldn't let go."

"Every time I gave him an answer, he would change the facts, because he didn't want me to give him an answer," continued Daniel.

After Justice John Paul Stephens had tested Plowden with a series of hypotheticals "that were getting worse and worse," according to Plowden, Stevens stopped and got a laugh. "He looked over and smiled and said, 'I guess you have to keep saying no, don't you,' and I said, 'Yes sir.'"

"They tell you not to make any jokes," continued Plowden, "but everybody laughed."

Perhaps most important, Hart avoided perhaps the biggest pitfall a litigant can face before the bench of nine justices -- calling a justice by the wrong name, a mistake that has tripped up Supreme Court experts such as Theodore Olson, Walter Dellinger and Laurence Tribe.

(During the 2000 arguments over the presidential election, Miami lawyer Joseph Klock Jr., representing Florida Secretary of State Katherine Harris, addressed Justice John Paul Stevens as "Justice Brennan" and misidentified Justice David Souter as "Justice Breyer.")

Hart decided to keep it simple with "your honor."

"The one thing I was scared about was calling them 'judge,' and that's a big no-no," he said.

Hart kept his wits about him, though, remembering to collect the quills that lawyers appearing before the high court are permitted to take from counsel table as a memento.

Worried that she would be distracted, Daniel told her attorney husband, who sat as her co-counsel, how he could help. "I told him, "Remember to grab the pens.'"

Get On Your Phone Cheney Receives Warm Welcome During Naples Speech (NDN)

By Larry Hannan

Naples Daily News, March 7, 2006

He is one of the most unpopular politicians in America right now. But Vice President Dick Cheney received a hero's welcome tonight when he came to Southwest Florida.

Cheney, who became an object of derision upon shooting a friend on a hunting trip last month, spoke tonight to an adoring crowd of about 400 Collier County Republicans as part of "Victory 2006" at the Naples Beach Hotel and Golf Club.

The event was sponsored by the Collier County Republican Party.

For a few hours Cheney was able to put his approval ratings, 18 percent in a recent CBS poll, out of his mind and speak to a crowd that thinks he's doing a great job.

"It's good to be back in Naples again," Cheney said. "I see a lot of old friends here."

There was no mention of the February shooting during his speech. Cheney accidentally shot Harry Whittington, 78, a lawyer and acquaintance on a quail hunting trip in Corpus Christi, Texas. Whittington spent several days in the hospital and the vice president later apologized.

Monday's event cost $500 per person for dinner and a photo with Cheney. The cost was $150 for a person who didn't want their picture with the vice president.

Carla Dean, chairwoman of the Collier GOP, declined to say how much money was raised at the event. Dean said the money would go toward the grass-roots Republican movement.

This was Cheney's first appearance in Southwest Florida since during his re-election bid in October 2004. Earlier in the day he stumped for GOP candidates in Boca Raton.

The vice president's Naples speech on Monday sounded like the beginning of the campaign for the 2006 congressional elections. It included a strong defense of President George W. Bush, and a call to elect Republicans to the House and Senate.

"We're grateful to our friends in Collier County and throughout Florida," Cheney said. "A great grass-roots campaign helped elect us in 2004 and it will help us again in 2006."

Cheney, who is the president of the Senate, said he was looking forward to swearing in a Republican senator from Florida in January.

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That person would have to defeat incumbent Democratic Sen. Bill Nelson. Rep. Katherine Harris is the only Republican currently running against Nelson, but recent speculation has more people entering the race.

Harris was in the Naples crowd Monday night.

Cheney also defended the administration on the Iraq war, the Patriot Act and the decision to launch a wiretapping program within American to fight terrorism.

For years terrorists could strike America without fearing reprisals. Now that has changed, Cheney said.

"In the last two years we have brought freedom to Iraq," Cheney said. "With each successive election there has been less violence and a greater (voter) turnout."

Bill Barton, a former GOP state committeeman from Collier County, said he felt Cheney was speaking from his heart about protecting America from another terrorist attack.

"He works at it every day. What could be more important?" Barton said.

The wiretapping program, which has been heavily criticized by Democrats and some Republicans, is needed, Cheney said.

"The president authorized a terrorist surveillance program," Cheney said. "Our critics call this a domestic surveillance program but that is inaccurate."

The wiretapping program is not a threat to civil liberties. It only attempts to monitor people in the United States who are communicating with terrorists, Cheney said.

Despite Cheney not mentioning his hunting mishap, U.S. Rep. Mario Diaz-Balart, R-Miami, whose district includes parts of Collier, lauded Cheney for not avoiding controversial issues such as the surveillance program.

"The vice president, as he always does, calls it as he sees it," Diaz-Balart said.

The vice president also said tax cuts enacted by Congress in the last five years should be made permanent. Comments

This site does not necessarily agree with comments posted below — responsibility lies with the relevant reader alone. Read our blog agreement.

2 of 3 people found this comment useful.

Posted by neoconnot (anonymous) at 10:32 p.m. on March 6, 2006 (Suggest removal)

Obviously an early report, but where is the mention of the peaceful protest against this criminal, Cheney? How the supposed "conservatives" in Collier County fall for this neocon crook is beyond me. "Country Club" Republicans, I guess--caught in la-la land. Clean the fog off your goggles or cataracts, as the case may be, and see how this band of neocons travels from Democrat to Republican circles pushing for endless war. Iran is next as the reason for being in Iraq in the first place was to establish the bases we need to attack Iran. Ol' Rummy, Richard Perle, Wolfowitz, Cheney and the gang have been pushing for this since the sordid Clinton era.

Cheney Delivers GOP Pep Talk (NEP)

By Betty Parker

News Press, March 7, 2006

NAPLES — Vice President Dick Cheney urged party faithful to work hard for Republicans in the fall elections and pressure Congress for tax cuts in a speech to Collier County Republicans on Monday night.

Brought to Naples because of his 30-year friendship with Collier state committeeman Al Abrams of Naples, Cheney reiterated many of the themes President Bush stressed in his state of the union speech.

Cheney spoke for about 20 minutes at the start of the 6:30 p.m. event at the Naples Beach Hotel and Golf Club — before the meal was served — and left immediately for Southwest Florida International Airport, causing slight delays on Interstate 75 after landing at 3:45 p.m. and on departure.

Dinner and a photo $500

Cynthia Odierna and a group of protesters demonstrate against Vice President Cheney outside the Naples Beach Hotel and Golf Club on Monday. About 425 people attended, paying $500 for a photo with the vice president and the dinner, and $150 for dinner and speech.

The crowd in Collier's GOP stronghold was clearly enthusiastic about Cheney and Bush, with many sporting campaign buttons from past races.

"I'm so excited to hear him in person," said Bobbie Dusek of Naples, who came attired in red, white and blue.

"He's a such an eloquent speaker with such a great mind. It's thrilling just to sit in the same room with him."

A group of about 20 protesters kept a block away was far outnumbered, but not deterred. Several carried peace signs and war protests.

John Riccio of Naples wore a T-shirt that said, "Don't Shoot Me, I'm Not A Quail."

He also had a sign saying, "How many more must die?" to show his opposition to the war in Iraq.

"I'm a veteran myself, and I know what it is to be a soldier," said Riccio, adding that he has two sons who recently returned home after serving in Iraq.

"They don't always agree with me, but this is not a just war. We went under false pretenses."

Hunting mishap ignored

Cheney made no reference to the recent shooting incident in Texas when he accidentally peppered a hunter with birdshot.

But he praised America's strong economy, and said that tax cuts under Bush have left $880 billion in citizens' hands that otherwise would have gone to the government.

"Congress needs to make the Bush tax cuts permanent," he said.

Congress also needs to work on changing the way they do the national budget, Cheney said, "and we look forward to working with responsible members on the Hill for budget reform."

Many of his comments, however, dealt with the battle against terrorists.

"There's still hard work ahead on the war on terror," he said, adding that "the war on terror involves the home front as well. The Patriot Act is vital to protecting the American public."

Debate over the administration's watchdog actions at home has caused some to wrongly criticize the administration actions as "domestic surveillance,"

Cheney said. "That is not accurate."

In actuality, he said, "one end is the United States, and one end, we believe, is connected to al-Qaida."

Although critics say it's gone too far, he said, "this program has helped prevent terrorist attacks."

The packed crowd at the club included numerous party leaders and elected officials, including U.S. Rep. Connie Mack, R-Fort Myers, who introduced the vice president; Florida Republican Party Chairwoman Carole Jean Jordan; GOP gubernatorial candidate Charlie Crist; U.S. Rep. Mario Diaz-Balart, R-Miami, whose district includes part of Collier; and U.S. Rep. Katherine Harris, R-Sarasota, and the party's leading candidate in the U.S. Senate race against Democratic U.S. Sen. Bill Nelson.

Harris rode back to Washington on Monday night in Cheney's jet.

"It's not often you get to spend that much time with the vice president talking about the campaign and the needs of the district," Harris said.

Cheney Touts Shaw, Harris (MH)

By Beth Reinhard

The Miami Herald, March 7, 2006

BOCA RATON - Vice President Dick Cheney helped raise about $300,000 for Republican U.S. Rep. Clay Shaw at a luncheon Monday and declared that his administration was fulfilling its most important duty -- ``protecting the American people and winning the war on terror."

Yet even some members of Cheney's own party have recently questioned his national security policies, the Bush administration's biggest selling point since the 2001 terrorist attacks.

Some Republicans -- including Shaw -- have disagreed with Bush's approval of a United Arab Emirates-owned company running commercial operations at six seaports, including the Port of Miami. Shaw is co-sponsoring a bill that would ban foreign government-owned companies from operating American ports.

Still, Shaw's reelection opponent, Democratic state Sen. Ron Klein, described the 25-year congressman as an "alter-ego" of Cheney and Bush. Klein, who spoke at a senior center in an event organized to contrast with Cheney's appearance at the posh Boca Raton Resort & Club, is seeking to link Shaw with the administration's drooping poll numbers.

Democratic Sen. Bill Nelson used the same tactic Monday against his reelection rival, U.S. Rep. Katherine Harris, sending out a fundraising appeal that mocked her Monday evening appearance with Cheney at a Collier County Republican Party fundraiser. Cheney did not mention her by name in Boca Raton but said that he looks forward to swearing in another Republican senator from Florida.

While Harris' role as Florida Secretary of State during the 2000 presidential recount makes her a villain to many Democrats, Shaw is harder to demonize. In a sign of his reputation for bipartisanship, the heavily Democratic Broward County Commission plans to honor him and Democratic U.S. Rep. Alcee Hastings today for securing federal aid for security and other issues.

Also on Monday, Shaw affirmed his bid to lead the Ways and Means Committee after Chairman Bill Thomas officially announced his plans to retire. Shaw's competitors include Republicans Jim McCrery of Louisiana and Nancy L. Johnson of Connecticut.

U.S. Rep. Tom Reynolds, chairman of the National Republican Congressional Committee, noted Shaw's chairmanship hopes at a meeting with reporters Monday at the Biltmore Hotel in Coral Gables. With U.S. Rep. Lincoln Diaz-Balart as vice

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chairman of the rules committee, and U.S. Rep. Ileana Ros-Lehtinen vying for chairmanship of the international relations committee, South Florida's delegation has "tremendous opportunities," he said.

"There is not any place I can think of, or a region of the country, that has more of that opportunity right here, right now than South Florida," Reynolds said.

In Boca Raton, Cheney addressed about 250 people who had donated at least $500 each to Shaw's reelection campaign.

He urged Congress to continue the president's tax cuts, commended the recent Supreme Court appointments of Samuel Alito and John Roberts, and said withdrawing troops from Iraq would not be on an "artificial timetable set by politicians in Washington, D.C." He also defended the government's surveillance of suspected terrorists without court warrants.

"Our national security has been protected by more than just luck," he said. ``The enemy is weak and fractured, yet still evil and willing to hurt Americans."

Outside the hotel, about a dozen protesters chanted through Cheney's visit. Their straw hats and flowery skirts contrasted with stoic, dark-suited security detail.

Just a few miles away at the Mae Volen Senior Center, Klein criticized the Republican-sponsored prescription drug plan as a "sham." He said the program is is too confusing and not cost-effective.

"Mr. Shaw continues to apologize for it, and Mr. Bush and Mr. Cheney are unwilling to fix it," Klein told about 50 seniors. Later he added: ``This plan is going to be a campaign issue throughout the country, especially in competitive districts."

The race in the senior-rich congressional district promises to be one of the most expensive in the country. The 22nd congressional district runs along the coast from Fort Lauderdale to Jupiter and takes in parts of Coral Springs, Parkland and Plantation.

Shaw issued a press release Monday noting that 53 percent of his district has enrolled in the prescription drug plan.

He has held several public workshops led by Medicare experts.

"The program is working, and it has proven to be a very real benefit for a large number of my constituents," Shaw said in the statement.

No Mention Of Harris Fuels Rumors (FLSUNSEN)

By Anthony Man

South Florida Sun-Sentinel, March 7, 2006

The political buzz among several of those at Vice President Dick Cheney's fund-raiser for U.S. Rep. Clay Shaw, R-Fort Lauderdale, was more about how U.S. Rep. Katherine Harris' Senate campaign may be unraveling.

Cheney even provided some fuel when he said he was looking forward to swearing in a Republican replacement for Democratic U.S. Sen. Bill Nelson -- but didn't mention Harris by name.

"As vice president I look forward to the opportunity to swear in a new Republican senator to serve next to Mel Martinez in the United States Senate," Cheney said.

Morgan Dobbs, Harris' campaign press secretary, said her boss wasn't dropping out.

"We are continuing to move forward to charge ahead in the campaign," she said.

Dobbs didn't have any reaction to Cheney's failure to mention her boss' name. "I can't really comment on an event I wasn't at," she said.

If Harris doesn't run, the biggest potential candidate is Gov. Jeb Bush.

The hometown favorite for Palm Beach County Republicans is U.S. Rep. Mark Foley, R-Fort Pierce, who got his political start in the county and still represents part of the area in Congress.

Foley ran for the 2004 Senate nomination, but eventually dropped out of the race.

Foley said Monday speculation about his running was premature.

"Nothing's really changed in my life because she's still the candidate," he said, adding that if Harris leaves the race, "then I'd have to make a decision."

Sid Dinerstein, chairman of the Palm Beach County Republican Party, also said discussion about Harris dropping out is "all highly speculative."

Foley would be a good candidate, Dinerstein said.

"Would he do it? There's a downside. He loves being a congressman, and the race would be a difficult one."

Bush Weaves Rug Story Into Many An Occasion (WP)

By Peter Baker

The Washington Post, March 7, 2006

DOJ_NMG_0016656

Nothing says power like the Oval Office. The paintings of George Washington and Abraham Lincoln. The bust of Dwight D. Eisenhower. The desk used by both Roosevelts.

And then there's the rug. Don't forget the rug. President Bush never does.

For whatever reason, Bush seems fixated on his rug. Virtually all visitors to the Oval Office find him regaling them about how it was chosen and what it represents. Turns out, he always says, the first decision any president makes is what carpet he wants in his office. As a take-charge leader, he then explains, he of course made a command decision -- he delegated the decision to Laura Bush, who chose a yellow sunbeam design.

Elizabeth Vargas, the ABC News anchor, was the latest to get the treatment. She went by last week to interview Bush before his trip to Afghanistan, India and Pakistan. Sure enough, she wasn't in the room but a minute or two before he started telling her about the carpet.

"You know an interesting story about the rug?" he asked. "Laura designed the rug."

"She did?" Vargas said.

"Yeah, she did. Presidents are able to pick their own rugs or design their own rugs."

Bush went on: "The interesting thing about this rug and why I like it in here is 'cause I told Laura one thing. I said, 'Look, I can't pick the colors and all that. But make it say 'optimistic person.' "

The oval-shaped carpet covers most of the world's most famous office, first occupied in 1909 by William Howard Taft, who found a checkerboard floor made out of mahajua wood from the Philippines. Subsequent presidents have chosen one design or another, but the consistent theme has been the seal in the center with the American eagle holding olive branches in one claw and arrows in the other. In a fit of postwar symbolism, Harry S. Truman changed the seal so that the eagle would face toward the olive branches, not the arrows.

Many presidents have added their own tastes to the Oval Office. "They use the office's imagery," said Fred I. Greenstein, a professor emeritus at Princeton University who has written on presidential leadership. He recalled John F. Kennedy's son John peeking out from under the desk, an image that conveyed youth and family. Lyndon B. Johnson, who was obsessed with breaking news, kept a ticker-tape machine and three television sets in his Oval Office. Ronald Reagan's aide Michael K. Deaver revamped the lighting to make it better for television addresses.

"Ford very deliberately changed the Oval Office to get rid of some of the imperial presidency image," Greenstein recalled of Gerald R. Ford. After the trauma of Watergate, he said, Ford replaced portraits of dour-faced Calvin Coolidge and Woodrow Wilson with paintings of the unpretentious Truman and Lincoln.

Bush has his own touches in the Oval Office -- some Western-themed paintings and an on-loan bust of Winston Churchill courtesy of British Prime Minister Tony Blair. But it is the rug that animates the president.

"He loves his rug," said Nicolle Wallace, the White House communications director. "I've heard him describe it countless times."

Sometimes Bush describes it as a metaphor for leadership. Sometimes he relates how Russian President Vladimir Putin admired the carpet. Sometimes he seems most taken by the lighting qualities.

"When you're giving a tour of the Oval Office, you're trying to point to things that emphasize what you're trying to do" Wallace said. "For him, the optimism is very symbolic of what he wants his presidency to be about."

Not only does the president describe the rug to journalists and foreign leaders, he does so to virtual visitors. During "An Oval Office Tour With President George W. Bush" on the White House site (http://www.whitehouse.gov), he wastes no time pointing out the carpet. "It helps make this room an open and optimistic place," Bush tells viewers.

Some visitors have the impression that the rug story is revealing. In his new book, "Rebel-in-Chief," Fred Barnes recounts how Bush told him about the carpet: "His job, he told me, is to 'stay out of minutiae, keep the big picture in mind, but also make sure that I know enough about what's going on to get the best information possible.' To stress the point, during our interview in the Oval Office Bush called my attention to the rug."

Barnes notes that Bush delegated to the first lady. "Typical of his governing style, though, he gave a clear principle as guidance: he wanted the rug to express the view that an 'optimistic person comes here,' " Barnes reports. "The rug she designed is sunshine yellow."

But if Barnes or other visitors had the idea that Bush was sharing an intimacy just with them, they should listen to his speeches. Bush doesn't need the Oval Office to talk about the Oval Office carpet. Lately he's been taking the story on the road, sharing it with workers at a moving company in Sterling on Jan. 19, then with students at Kansas State University on Jan. 23, and again with supporters at Nashville's Grand Ole Opry on Feb. 1.

"If you walk in that Oval Office," Bush said in Sterling, "I think you're going to say, just like you know it, 'This guy's optimistic.' "

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When it came her turn last week, Vargas expressed dutiful admiration for the rug and then tried to move on to more serious issues. Noting that Bush has two daughters in their twenties, she asked, "Any chances of a White House wedding for either of them, do you think?"

"All I can tell you is this," Bush answered. "If a suitor shows up and asks for their hand, he's going to get to come here to the Oval Office and give me an explanation."

Sounds as though he'll be called on the carpet.

Americans Lack Confidence In Health Reform, Poll Finds (WSJ)

By The Wall Street Journal Online

The Wall Street Journal, March 7, 2006

A majority of U.S. adults lack confidence in the Bush administration's ability to reform the nation's health-care system, a new Wall Street Journal Online/Harris Interactive health-care poll shows.

About three-quarters of those polled in the online survey of 2,426 U.S. adults say they aren't confident President Bush will be able to effectively make changes such as slowing the increase in health-care costs for the U.S. as a whole or reducing out-of-pocket health-care costs.

But Americans are divided along party lines about the president's ability to improve health-care, the poll shows. For example, about 5% of Democrats polled say they are confident in his ability to reduce out-of-pocket costs, compared with 40% of Republicans.

Overall, about 30% of those surveyed say they trust the Bush administration's ability to come up with good policies for improving and reforming the U.S. health-care system. But Americans aren't much more confident in Republicans (31%), Democrats (45%) and Sen. Hillary Clinton (41%) to reform the health-care system.

About 80% of Democrats surveyed say they trust their own party to come up with good health-care policies, compared with 67% of Republicans who have confidence in Republican-led initiatives.

See full results of the poll:

--Beckey Bright "How much do you trust each of the following to come up with good policies for improving and reforming the U.S. health-care system?"

Base: All Adults * * * "How much do you trust each of the following to come up with good policies for improving and reforming the U.S. health-care system?" Summary of A Great Deal/To Some Extent

Base: All Adults * * * "In his State of the Union speech this past January, the President referred briefly to his plans for health care. Since then the White House has provided more details on his proposals. How familiar are you with Bush's new health-care proposals?"

Base: All Adults

Note: Percentages may not add up exactly to 100% due to rounding. * * * "Even if you are not sure what his proposals are, how confident are you that President Bush can do the following?"

Base: All Adults

Note: Percentages may not add up exactly to 100% due to rounding. * * * "…How confident are you that President Bush can do the following?" Summary of Very/Somewhat Confident

Base: All Adults * * * "…How confident are you that President Bush can do the following?" Summary of Not Very/Not At All Confident

Base: All Adults

Methodology:

Harris Interactive conducted this online survey in the U.S., Feb. 23-27, 2006, among a nationwide cross section of 2,426 adults. Figures for age, gender, race/ethnicity, education, income and region were weighted where necessary to align with population proportions. Propensity score weighting was also used to adjust for respondents' propensity to be online. In theory, with probability samples of this size, one can say with 95% certainty that the overall results have a sampling error of =/- 3 percentage points of what they would be if the entire U.S. adult population had been polled with complete accuracy. Sampling error for the sub-samples of Republicans (729), Democrats (663) and Independents (614) is higher and varies. This online sample is not a probability sample.

Harris Interactive is a world-wide market research and consulting firm, best known for The Harris Poll and its use of the Internet to conduct scientifically accurate market research. For more information, see www.harrisinteractive.com1. To become a participant in The Harris Poll Online and join future online surveys, see www.harrispollonline.com2.

HSAs Won't Benefit Those Who Need Insurance Most (WSJ)

DOJ_NMG_0016658

The Wall Street Journal, March 7, 2006

Your Feb. 21 editorial "Big Health-Care Ideas" noted that the impact of President Bush's proposed health-care reforms would be "profound." You're not whistling "Dixie." Health Savings Accounts would profoundly increase healthcare costs for many consumers, lead others to ration necessary care, and increase the number of uninsured.

Unlike President Bush, your editorial at least acknowledges that fully equalizing the tax treatment for health insurance purchases would undermine employer-sponsored health care. Much as corporations used 401(k)s and IRAs as an excuse to stop providing pensions, employers will use HSAs as an excuse to cease paying for health care.

The beneficiaries of the president's proposals will be corporations and wealthy individuals rather than working families. While the richest among us can afford to deposit more than $10,000 a year in an HSA, few middle-income Americans have even $1,000 a year to spare.

Republicans theorize that high-deductible "catastrophic" policies will motivate cost-conscious consumers to rein in health-care spending. But the information necessary to compare the cost and quality of health-care procedures does not exist. Even if it did, many medical interventions require immediate attention. A patient in an ambulance, for example, shouldn't be asked -- and would often be unable -- to choose between emergency rooms.

Rep. Pete Stark (D., Calif.)
Ranking Member
Ways and Means Health Subcommittee
Washington

Arkansas Set To Undertake A Novel Effort In Health Care (NYT)

By Robert Pear

The New York Times, March 7, 2006

WASHINGTON, March 6 — The Bush administration is poised to approve an innovative health insurance program, proposed by Arkansas, for 80,000 low-income uninsured people in the state, officials said Monday.

Arkansas will carry out the program, to be announced on Tuesday, under a waiver allowing the state to receive federal Medicaid money for coverage that does not meet the usual Medicaid standards for eligibility and benefits.

The employer-based program is novel in two ways. The benefit package is extremely limited, much more austere than Medicaid's. In addition, if an employer wants to participate, it must guarantee that all its employees, regardless of income or other factors, will be covered.

"Everyone in the employment pool has to have coverage," Mike Huckabee, governor of Arkansas, said in an interview. "Employers cannot cherry-pick the employees who get coverage."

Under the plan, to be approved by Michael O. Leavitt, secretary of health and human services, the state expects to enroll at least 50,000 workers with incomes less than twice the federal poverty level and 30,000 workers with higher incomes. The poverty level this year is $9,800 for an individual, $13,200 for a couple.

Mr. Huckabee, a second-term Republican, said the new program would help small businesses that currently offer no health insurance. That help will enable them to compete better for workers with larger companies that do provide benefits.

"Forty-six percent of all workers in our state are in companies that have fewer than 100 employees," the governor said. "Only 26 percent of companies with fewer than 50 workers offer any health benefit."

Federal officials said the Arkansas program could be a model for other states that want to expand coverage without substantially increasing costs.

People who sign up for the program will receive a basic benefit package covering six doctor visits a year, seven days of inpatient hospital care a year, two outpatient hospital procedures or emergency room visits a year and two prescription drugs a month.

Beneficiaries will have to pay an annual deductible of $100 and 15 percent of the cost of each service, with a maximum out-of-pocket cost of $1,000 a year, state officials said.

In its application to the government, Arkansas said the new program would "cover most basic health needs" of the intended beneficiaries.

"It won't be an elaborate or upscale model," Mr. Huckabee said in the interview. "It will be very basic coverage."

Mr. Huckabee said participating employers would have to contribute $15 a month for each employee with income less than twice the poverty level and $100 a month for higher-income workers. Julie R. Munsell, a spokeswoman for the Arkansas Department of Health and Human Services, said employers could require workers to pay some or all of these fees.

But Dr. Joseph W. Thompson, who helped devise the program as director of the Arkansas Center for Health Improvement, an independent health policy institute, said: "In reality, employers will have to pay most or all of the premiums for their

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employees. If a single employee says, 'I don't want to participate,' the employer becomes ineligible for the program. The employer could not get the benefit for any of its employees."

David Johnson, a Democratic member of the Arkansas House who worked on legislation for the new program, predicted that it would be attractive to small businesses.

"Employers will get more bang for the buck from this program than from private health insurance," Mr. Johnson said. "They can insure employees for a predictable, modest amount, which is less than they would have to pay to private insurers."

Mr. Johnson said the state would help pay for the new benefits with proceeds of the multistate settlement negotiated with tobacco companies in 1998.

Other states have subsidized or supplemented health insurance provided by employers. But Dr. Thompson said this was not an option in Arkansas because most small employers provided no coverage.

"Small businesses have money in their pockets, and they want to offer some health insurance," he said, "but they cannot afford the products on the market."

Senate Report Faults Medicare's Handling Of Complaints (WP)

By Gilbert M. Gaul

The Washington Post, March 7, 2006

Medicare's process for investigating complaints about bad care is "broken," leaves patients in the dark, and is of "no benefit to improving the overall quality" of medical care received by millions of elderly and disabled beneficiaries, Senate investigators have found.

The ongoing probe by the Senate Finance Committee determined that the number of complaints investigated by Medicare appears "disproportionately low," Sen. Charles E. Grassley (R-Iowa), the committee chairman, wrote in a five-page letter sent to Medicare officials Friday. Grassley called on federal officials to consider major reforms, including redesigning the program and re-bidding contracts.

Medicare pays private contractors known as Quality Improvement Organizations about $300 million a year to work with hospitals, doctors and nursing homes to improve care and investigate complaints in the giant health insurance program. There are 53 QIOs -- one in each state plus one each in the District, Puerto Rico and U.S. Virgin Islands. Most are set up as nonprofits.

As the QIOs come under increased scrutiny from Congress, the prestigious Institute of Medicine is scheduled on Thursday to release findings of its 18-month review of the groups. Yesterday, the QIO trade group issued its own call to improve the beneficiary-complaint process, agreeing that it was broken.

Under the existing system, QIOs that investigate patients' complaints and find serious breaches are supposed to refer their findings to the Office of Inspector General for possible discipline of doctors and hospitals. A Washington Post investigation last July found that QIOs rarely make referrals and treat complaint investigations as a low priority.

In 2004, the contractors investigated 3,100 complaints for 43 million Medicare patients. Even then, patients had only a 1 in 4 chance of having their complaints upheld, and the findings often were not shared with patients, The Post found.

The Post also documented lavish salaries and perks paid to some QIO executives and directors, and it reported that the physician-dominated boards included few consumers.

In August, Grassley's committee began a probe of the QIOs, requesting a broad range of documents covering their finances and policies. He expanded the probe to look at salaries, potential conflicts of interest, travel by some QIO executives and Medicare's oversight of the contractors.

In his letter last week to Mark B. McClellan, head of the Centers for Medicare and Medicaid Services, Grassley noted that his committee's preliminary review raised "a number of concerns regarding questionable expenditures, board member and executive staff conflicts of interest and the quality and effectiveness of QIO services."

Grassley noted that little of the money paid to the QIOs is based on their performance, and he questioned why so few contracts are subject to competitive bids. In the most recent three-year contract cycle, six contracts were bid, and of the six only one was not renewed. Yet at the same time, Grassley wrote, "There is sparse evidence to suggest that QIOs are effective."

Grassley noted in his letter that some QIO board members appeared to be paid "exorbitant" amounts compared with other nonprofit groups. For example, he wrote, one QIO paid its trustees an average of $25,000 in 2003. According to the Washington-based group BoardSource, most charities do not pay board members.

Grassley wrote that some QIO trustees have traveled to expensive retreats at resorts in Colorado Springs; Cape Cod, Mass.; and Stowe, Vt. In addition, "it appears that some QIOs have financial arrangements or relationships" with board members that "appear to pose conflicts of interest," he wrote.

One QIO trustee was paid $37,000 annually as a consultant. A government audit concluded that the arrangement could "cause a loss of objectivity . . . or otherwise interfere with free exercise of his or her judgment," Grassley wrote.

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Medicare officials said yesterday that they are reviewing the letter from the Senate committee, adding in a statement that the QIO program "is improving the quality of American health care."

In a statement yesterday, the American Health Quality Association, the QIO trade group, said Congress should rewrite a two-decades-old law barring contractors from sharing the results of their investigations with patients without first obtaining the permission of the doctors being investigated. The association said findings should be given to patients "along with information about actions taken to prevent the problem from recurring."

The trade group also said Medicare should allow QIOs to publish annual quality reports for each state, including data on the performance of hospitals, doctors and nursing homes, in addition to releasing the names of providers who have been referred for enforcement actions.

Late last year, the association announced what it called a "new code of conduct" to ensure that QIOs conform to the "highest standards for business practices, governance and public accountability."

Among other things, the code called for increased consumer representation on QIO boards. Two-thirds of the 53 QIOs have adopted the code, the trade group said.

Senate Begins Consideration Of Lobby Reform (REU-Y2)

By Thomas Ferraro

Reuters, March 6, 2006

The U.S. Senate began consideration of legislation on Monday that would require lobbyists to disclose more about their activities and ban gifts by lobbyists to members of Congress and staff.

The measure, which has strong bipartisan support in the wake of scandals that rocked the Republican-led Congress, would also impose stiff fines for violation of lobbying curbs.

The Senate hopes to complete action after voting on a long list of possible amendments later this week. They include one that would deny congressional pensions to lawmakers convicted of accepting bribes.

That proposal was inspired largely by the case of former Republican U.S. Rep. Randy "Duke" Cunningham of California, who was sentenced last week to eight years and four months in jail for accepting $2.4 million in bribes from defense contractors.

Ethics reform became a top priority after lobbyist Jack Abramoff pleaded guilty in January in a wide-ranging public corruption case. He is now cooperating with prosecutors and the probe may reach a number of lawmakers.

Members on both sides of the political aisle have demanded reform, saying lawmakers need to clean up Congress and reverse polls that show declining confidence in political leaders.

But some Democrats have blamed much of the recent ethical woes on a Republican "culture of corruption," and hope to use it to gain advantage in the November congressional elections.

"America deserves a government as good as its people," said Senate Minority Leader Harry Reid, a Nevada Democrat.

Senate Majority Leader Bill Frist, a Tennessee Republican, said, "The American people expect us to work together to develop meaningful bipartisan solutions."

"We are obligated to protect the integrity of this great institution, and, most importantly, to represent the genuine interests of the voters who sent us here," Frist said.

The legislation before the Senate is the product of bills produced last week on bipartisan votes by two committees.

The Republican-led House of Representatives is expected to produce legislation of its own in coming weeks.

Senate Takes Up Bill On Lobbying Ethics (AP-Y2)

By Jim Abrams, Associated Press Writer

AP2, March 6, 2006

Legislation to curb excesses of both lobbyists and lawmakers reached the Senate floor Monday as leaders from both parties warned that the integrity of Congress is at stake.

The legislation, which would require lobbyists to be more open about the meals they buy and the trips they arrange for members of Congress, is a response to the Jack Abramoff lobbying scandal that hit Washington with details of millions of dollars from Abramoff's clients going to win friends and buy influence on Capitol Hill.

It also comes just three days after former Rep. Randy "Duke" Cunningham, R-Calif., was sentenced to more than eight years in federal prison for accepting $2.4 million in bribes.

"It is time for us to re-examine the rules so that bad apples are exposed before they spoil the whole lot," Senate Majority Leader Bill Frist, R-Tenn., said in opening debate.

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The Senate bill, which combines measures produced by two Senate committees last week, has already come under fire from advocacy groups and some lawmakers who say the proposed changes, the first to lobbying laws in 11 years, are mainly cosmetic.

The measure would require senators to reveal more information on their privately funded trips, but would not ban such trips as sought by some. The Homeland Security and Governmental Affairs Committee last week also rejected a provision to set up an independent ethics investigator to oversee lobbying and ethics questions.

"Overall, this measure is insufficient because it focuses on disclosing corruption, rather than deterring it," Public Citizen's Joan Claybrook said of that committee's bill.

But Senate Minority Leader Harry Reid, D-Nev., while blaming the recent scandals on "a Republican culture that has distorted government priorities," defended the Senate bill. "Maybe there are some outside groups who think we haven't done enough. We've done a lot." he said.

The section of the bill prepared by the Rules Committee deals with a major source of criticism of Congress: the special projects or earmarks that lawmakers insert in larger bills, often with little or no debate.

Under the measure, a senator could raise a point of order, stripping out any earmark inserted when the House and Senate negotiate the final version of a bill. It would take a 60-vote majority to waive that point of order.

The Rules Committee portion also would require lawmakers to post on their Web sites within 15 days any meals or drinks they receive from lobbyists and within 30 days details of privately funded trips. Gifts and travel directly paid for by lobbyists would continue to be banned.

Relatives of a senator who are registered lobbyists could not have official contact with the senator's staff, and senators could not pressure lobbying firms to hire people based on their political affiliation.

The Homeland Security panel's bill would require that retiring members of Congress wait two years before taking jobs lobbying Congress, and it would oblige lobbyists to reveal information about grass-roots lobbying, helping clients to encourage the general public — through mass mailings or advertising — to contact federal officials.

Lobbyists also would have to file reports quarterly, rather than the current rule of twice a year, on their contacts with lawmakers and their fundraising and political contribution activities.

Frist said he hoped to finish work on the bill by the end of the week. The House is also working on the lobbying issue, but GOP leaders there have yet to develop a specific plan.

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On the Net:

Congress: http://thomas.loc.gov/

Senators Eye Lobbying Bill As Ready Vehicle For Pet Causes (HILL)

By Jonathan Allen

The Hill, March 7, 2006

Rank-and-file senators are eyeing a lobbying-disclosure measure as a vehicle for a host of pet causes — issues ranging from budget-process reform to the controversial Dubai Ports World deal — as Republican and Democratic leaders try to shepherd the politically imperative bill through the chamber without turning it into a legislative Christmas tree.

“Let’s keep amendments on the issue that is at hand, amendments surrounding lobbying,” Senate Majority Leader Bill Frist (R-Tenn.) pleaded yesterday on the floor. “Tying up with other amendments, what we call non-germane amendments, is not going to be in anybody’s best interests.”

Conservatives, eager to find the means to cut government spending, may try to insert the president’s new line-item-veto proposal or legislation establishing biennial budgeting, according to a Senate Republican aide.

A powerful new weapon for earmark foes is already included in the committee-approved lobbying-reform bill. The most significant institutional change in the measure would allow rank-and-file lawmakers to strike conference provisions — in any legislation, spending or otherwise — on a point of order without killing the conference report. A 60-vote supermajority would be needed to overcome the objection.

While many lawmakers have been preoccupied with the more parochial issues of a stricter gift ban and increased disclosure for lobbyists and grassroots groups, some congressional aides recognize the reach of the new point of order.

“It’s like the Holy Grail of process reform,” said a senior House Republican aide who likes the idea but doubts that the Senate will ultimately adopt it. “The Senate’s doing a little window-dressing and hoping it will fall out in conference,” the aide said.

“I haven’t addressed it yet,” Frist said when asked how aggressively the Republican leadership would push for adoption.

A similar procedure was used — under a bipartisan agreement — to keep last year’s Pentagon spending measure alive after lawmakers voted to strip out arctic-drilling provisions.

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Rules Committee Chairman Trent Lott (R-Miss.) expressed support for the new point of order yesterday, despite ceding ground on his original 50-vote threshold because of a committee amendment by Sen. Dianne Feinstein (D-Calif.).

Still, he cautioned, "I hope it's not abused."

Sen. Jim DeMint (R-S.C.), a longtime critic of pork-barrel spending, also is getting behind the new point of order.

"Sunshine is the best disinfectant. If we subject earmarks to a budget point of order, it will force members to justify earmarks to other senators and the American people," DeMint said through a spokesman.

The point of order was included in a package approved by the Rules Committee that would increase disclosure on privately funded congressional travel, restrict floor access for lawmakers who have become lobbyists, ban non-meal gifts and change the rules that govern how members and their aides are allowed to transition into lobbying jobs.

That bill is being combined with a measure approved by the Homeland Security and Governmental Affairs Committee that increases disclosure requirements for lobbyists and grassroots organizations. Democrats are likely to offer the text of their alternative lobbying-reform legislation as an amendment, according to a Democratic leadership aide.

That legislation would prohibit privately funded congressional travel, ban gifts from lobbyists, attach criminal penalties for efforts to exert partisan influence on private-sector hiring, adopt increased disclosure for lobbyists, and extend a waiting period on lobbying by former members and high-level staff from one year to two years.

Democrats are also considering a variety of piecemeal amendments targeted at those issues and others, the aide said.

Sen. Joe Lieberman (D-Conn.) said yesterday that he would sponsor or support several amendments. That could include a second effort to establish an Office of Public Integrity to act as a clearinghouse for disclosures and investigate ethics complaints, a proposal that was rejected during Homeland Security and Governmental Affairs consideration of the bill.

Republican and Democratic leaders want to limit the scope of amendments adopted on the floor, hoping to prevent the measure from losing its focus on lobbying.

Lawmakers, aides and outside groups are watching closely to see if anyone opens up the politically sensitive issue of campaign-finance reform, which cuts across party lines. Any changes to current law could give one party or the other a leg up in future elections.

Lott said yesterday that if anyone raises a campaign-finance amendment he is ready to offer a second-degree amendment addressing largely unregulated "527" groups. The House GOP version of the lobbying-reform bill, which likely will be unveiled this week, contains a provision aimed at cracking down 527 activities.

Lott also warned yesterday that it is easy to "lose control emotionally" and become overzealous when Congress looks at its own operations.

But skeptics in the lobbying community are quick to point out that lawmakers are paying more attention to them than congressional operations.

"They certainly aren't ratcheting down your ability to deliver a [campaign] check," said one Republican lobbyist.

Congressional aides said yesterday that they expect the amendment picture to become clearer after lawmakers meet for lunch today.

It was not clear whether leading critics of Dubai's involvement with American ports would offer an amendment. Israel Klein, a spokesman for Sen. Charles Schumer (D-N.Y.), declined to rule out that possibility.

"We're obviously exploring all the options," Klein said.

House GOP To Include 527 Language In Its Bill (HILL)

By Alexander Bolton

The Hill, March 7, 2006

House Republican leaders have told their Senate counterparts that legislation curtailing the activity of so-called 527 soft-money groups will be included in the House lobbying-reform bill that leaders intend for conference negotiations, according to knowledgeable sources.

The provisions affecting the 527 groups are expected to hew closely to a proposal crafted by Federal Election Commission (FEC) Chairman Michael Toner and former Commissioner Scott Thomas. Toner and Thomas unveiled the proposal in 2004 when Thomas was chairman of the agency, but it failed to muster enough support among their fellow commissioners to pass.

Restricting the activity of 527 groups, which generally are not subject to the campaign-finance regulations governing federal parties and candidates, is a high priority for Ken Mehlman, chairman of the Republican National Committee. Including 527 language in the lobbying bill, however, would put Democrats in a politically difficult position.

Democrats have staked their campaign-year political message on cleaning up corruption in Washington, but they are so opposed to restricting 527 activity that many of them would vote against a bill that includes language affecting the groups.

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Sen. Chris Dodd (Conn.), the ranking Democrat on the Senate Rules Committee, which has jurisdiction over lobbying reform, took to the floor yesterday to speak against linking lobbying reform with campaign-finance reform.

"There is a real risk of weighing down this bill with so many campaign-finance amendments that we will effectively kill it," Dodd said. "I hope that does not happen, and I urge my colleagues to withhold campaign-finance-related amendments until we get to a more appropriate vehicle for them to offer their ideas."

Democrats in general strongly oppose 527 restrictions because they have derived much more benefit from the groups than Republicans. Über-rich liberal donors such as George Soros and Peter Lewis poured tens of millions of dollars of their own money into 527 groups that campaigned for Democrats during the 2004 election cycle. The GOP has struggled to find conservative donors with pockets deep enough to counter them.

Lawmakers are considering lobbying reform on the Senate floor this week.

Sen. John McCain (R-Ariz.), whom his colleagues consider the leading voice on campaign-finance reform in the Senate and who is also active in Senate negotiations over lobbying reform, said the issue of what to do with 527 groups has yet to be settled.

"We haven't sorted that out," he said about linking 527 with lobbying legislation, though he noted that Mehlman has been outspoken on the need to curb soft-money groups.

McCain said he had discussed the issue with Senate colleagues but not with House leaders. He also said that he did not believe that all Democrats are opposed to 527 restrictions, citing as an example his ally on campaign-finance issues, Sen. Russ Feingold (D-Wis.).

The FEC has set spending regulations for 527 groups that register with the agency as political committees, but it has failed to answer the crucial question of what types of 527s must register. The failure to answer that question opened a gaping loophole in the regulation of 527s. Groups can avoid regulation simply by not registering with the FEC.

The Toner-Thomas proposal would require all 527 groups spending money for the purpose of influencing federal elections to register as political committees, said Don Simon, a lawyer with Sonosky Chambers Sachse Endeson and Perry, who closely follows 527 regulation proposals. Simon said he was not aware that House leaders had committed to linking 527 and lobby reform.

Simon said that if 527 groups are required to register as political committees they would be subject to spending limits. Any 527-funded ads that mention a federal candidate would have to be paid for with hard money. Hard money can only be raised in limited increments, in contrast to soft money, which can be raised in unlimited-size donations.

Requiring 527 groups to fund their activities with hard money would dramatically erode their political effectiveness. Republican leaders fear that if the law remains unchanged, 527s will soon rival the national parties in political power and ability.

If required to register with the FEC, 527s would also have to fund 50 percent of their generic voter-mobilization activity with hard money, Simon said. 527s that air ads mentioning federal and nonfederal candidates would have to pay for the activity with a mix of hard and soft money based on how the ads divided time and space between the candidates, he said.

A senior House Republican aide said he did not know when leaders would unveil their lobbying-reform bill, which Speaker Dennis Hastert (R-Ill.) has worked on alongside Rules Committee Chairman David Dreier (R-Calif.).

Jennifer Crider, spokeswoman for House Minority Leader Nancy Pelosi (D-Calif.), said that Republicans should work on a bipartisan basis with Democrats on lobbying reform.

She referred questions about linking 527 and lobbying reform to Rep. Marty Meehan (D-Mass.), who has sponsored legislation regulating 527s.

"[Meehan] believes that real lobbying reform must be clean and straightforward and should not encompass other issues, be it 527 reform or anything else," said his spokeswoman, Sandra Salstrom.

How Congress Benefits From Corporate Flights (USAT)

By Jim Drinkard

USA Today, March 7, 2006

WASHINGTON — It was a busy weekend last November for the flight crew of BellSouth's corporate jet. Over three days, they crisscrossed the Southeast, ferrying six U.S. senators, two of their wives, a trio of political consultants and two of the company's Washington lobbyists to Republican and Democratic fundraising events.

To charter a comparable Cessna Citation for that three-day itinerary would have cost $40,800, not including food and drinks. The two parties' campaign committees reimbursed BellSouth $8,364.94 for the flights, in line with campaign-finance rules that call for the equivalent of first-class commercial airfare for each traveler.

For members of Congress — its top leaders, in particular — the service is an accepted convenience of immense value in their whirlwind schedules, worth far more than the reimbursements the rules require. They can skip security lines, ignore airline

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schedules and stretch out in roomy leather seats. For corporations that provide the service, it's a chance to do favors for the powerful and gain influence unavailable to those without air fleets.

Public records and internal company documents obtained by USA TODAY show that over the past four years, BellSouth has flown federal government officials on such political trips about 100 times. The internal records offer rare detail about who goes on the trips and why — information that lawmakers and companies aren't now required to reveal.

This perk for lawmakers is under scrutiny this week as the Senate seeks to rewrite the rules of the influence game in the midst of the Jack Abramoff lobbying scandal. Sens. John McCain, R-Ariz., and Joe Lieberman, D-Conn., are pushing to curb the cut-rate travel service.

BellSouth's internal documents, covering 2002 through 2005, were provided by Vicki Taylor, who has worked for 15 years as a secretary in BellSouth's Washington lobbying office. Taylor, 53, said she sought out reporters because she was concerned about company practices she believed violated internal expense-account rules. She is now on paid administrative leave pending an internal investigation.

BellSouth spokesman Bill McCloskey acknowledged the documents were authentic.

Top travelers with the regional telephone company include House Speaker Dennis Hastert of Illinois, House Majority Whip Roy Blunt of Missouri, Sen. Trent Lott, R-Miss., and Democratic Sens. Tom Daschle of South Dakota and John Breaux of Louisiana, both now retired.

The lawmakers' campaign committees or the political parties routinely reimbursed the company for first-class airfare — normally a fraction of the market value of the trips — but neither they nor the company are required to disclose anything else. Campaign funds can be used to pay political expenses or costs associated with lawmakers' official duties, such as meetings with constituents, says Kenneth Gross, a campaign-finance lawyer.

BellSouth is one of dozens of large corporations with intense lobbying agendas in Washington that use their corporate jets to curry favor with key lawmakers. BellSouth has agreed to be acquired by AT&T, which was recently purchased by another telecommunications company, SBC. Neither SBC nor AT&T has provided the same level of service on its corporate jets.

FedEx, U.S. Tobacco, Union Pacific, the Texas plaintiff's law firm of Baron & Budd, Burlington Northern Santa Fe, R.J. Reynolds and generic-drug maker Barr Laboratories are among those companies that most frequently whisk members of Congress around the country upon request, according to figures released Monday by PoliticalMoneyLine, which compiles data on money and politics.

In the past five years, federal politicians and political parties reimbursed 286 corporations $3.7 million for 2,154 trips, according to the PoliticalMoneyLine figures.

“You can sit down and have a cocktail and talk casually about a matter, rather than rushing in between meetings on Capitol Hill,” says Wright Andrews, a veteran Washington lobbyist. “You are a heavy hitter if you've got a jet.”

BellSouth's McCloskey said providing transportation to federal officials “gives us an opportunity to form relationships, to have a long stretch of time to explain issues that are technical and complicated. If it wasn't useful, we wouldn't do it.” The company lobbies Congress on issues ranging from broadband to copyrights, international trade and excise taxes on phone service.

Advocates of an ethics overhaul, including McCain and Sen. Russ Feingold, D-Wis., have called for requiring lawmakers to reimburse companies for the full cost of a charter flight when they hop aboard their jets. That would make the practice so costly it would be tantamount to banning it, says Fred Wertheimer, president of the ethics watchdog group Democracy 21.

McCain and Lieberman plan to offer an amendment during Senate debate that would require politicians to reimburse the full charter rate and disclose details of corporate plane trips. The current rule “provides an end-run of limitations on what corporations can contribute or give as gifts,” Lieberman said Monday.

A poll in January found strong public support for ending cut-rate travel by lawmakers on corporate planes. The Los Angeles Times/Bloomberg Poll found 72% of Americans support banning the practice, and 21% oppose a ban.

Details about corporate plane use are not normally disclosed. The only way the public can find out about the trips is by combing through campaign-finance reports. That reveals nothing about who went on the trip, where they went or the purpose of the travel.

The practice was spotlighted in the case of Randy “Duke” Cunningham, a California Republican who resigned his House seat Nov. 28 after pleading guilty to taking at least $2.4 million in bribes from defense contractors. Brent Wilkes, founder of the defense company ADCS, flew Cunningham to an Idaho hunting trip on Group W Transportation, his private Lear jet, according to campaign-finance records.

“It's a big perk for members of Congress, which I can assure you is not available to the general public,” Wertheimer says. “There is no legitimate rationale for it.”

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On Friday, Nov. 11, BellSouth's Cessna 560 XL, tail number N404SB, left its Atlanta base and flew to Washington's Dulles Airport to pick up Republican Sens. Bob Bennett of Utah, Mike Crapo of Idaho and Kit Bond of Missouri. Two of the senators' wives and Ward White, a BellSouth lobbyist, were along for the trip, according to a company flight manifest. The trip was arranged by the GOP Senate campaign committee, which like its Democratic counterpart keeps a list of companies that make their planes available.

The group flew to St. Simons Island, Ga., for a weekend retreat at the sumptuous Sea Island resort with members of the party's Senate Council, a club for corporate donors whose political action committees have given at least $5,000. (BellSouth's PAC gave $12,500 to the Republican Senate committee last year.) The party included White in a private dinner Nov. 11 with Bond and Sens. Arlen Specter of Pennsylvania and John Warner of Virginia.

While the senators joined contributors and their lobbyists for a weekend of briefings, golf, tennis, skeet and trap shooting, and a guided nature walk, the corporate jet headed back to Washington on Nov. 12 to pick up more senators.

This time, according to the company documents, it was Democrats: Senate Minority Leader Harry Reid of Nevada and Sen. Maria Cantwell of Washington, headed for a party fundraising event near Orlando. They were accompanied by BellSouth lobbyist Broderick Johnson. After dropping them off, the BellSouth jet returned to Georgia, where on Sunday, it picked up Bennett, Crapo and Sen. Elizabeth Dole, R-N.C., and lobbyist White for the trip to Washington.

Reid and Cantwell turned to another special interest for the rest of their trip: the Texas law firm of Mikal Watts, which flew them on to Oxford, Miss., for another party fundraiser, according to campaign-finance records. Cantwell took a commercial flight back to Washington, while Reid continued to Dallas on the Watts plane for another money event, then returned to Washington aboard the plane of the Baron & Budd law firm. The law firms did not respond to requests for comment.

Campaign-finance records show the Democratic Senate committee reimbursed Watts $4,510.10 and Baron & Budd $2,836.80. The Texas law firms lobby Congress against limiting the liability lawsuits that are their primary business.

Lawmakers asked about the travel defended their use of corporate planes as a necessity in the fast-paced world of politics.

Reid's spokesman, Jim Manley, said the practice is essential for top congressional leaders. “It would be impossible to keep the kind of schedule that he does on these trips throughout the country without being able to use these jets every once in a while,” Manley said.

Hastert did not respond to calls for comment. As the No. 3 House GOP leader, Blunt has responsibilities to help Republicans get elected and preserve the party's House majority, said spokeswoman Jessica Boulanger. “Private travel enabled him to reach multiple campaign events — many times in remote locations — often in a single day,” she wrote in an e-mail response to questions.

Bond's spokesman, Rob Ostrander, said the senator believes that “as long as the practice is not abused and there is appropriate reimbursement, it should remain an option.”

Attending political fundraisers was the most common purpose for congressional travelers aboard BellSouth's jet, but not the only purpose. In 2004, the company flew Rep. Dick Gephardt and Sen. John Edwards as part of their presidential campaigns; shuttled Sen. John Breaux, D-La., home from his party's convention in Boston; and took Sen. Hillary Rodham Clinton from New York to the Kennedy family clambake in Hyannis, Mass., the company's records show.

BellSouth also flew Rep. Joe Barton, R-Texas, to a U.S. Telecom Association meeting in Denver in 2003. Barton is chairman of the House Energy and Commerce Committee, which controls telecommunications policy. Lott flew home or to Washington with the company on at least four occasions. Sen. Thad Cochran, R-Miss., caught a ride to give a speech and attend the Kentucky Derby in 2003.

The most frequent flier with BellSouth in 2002-04 was Hastert, who traveled aboard the company's planes nine times, company documents show. Blunt, the No. 3 House leader, flew eight times, and Lott, who was Senate majority leader in 2002, was aboard six times during that period. A company lobbyist was aboard each time.

The rules that require reimbursement at the first-class commercial ticket rate date back two decades or more, says Scott Thomas, a former member of the Federal Election Commission who advises legal clients on ethics issues. At the time, “there wasn't any good way to track what the actual fair-market charter rate would be,” he says, so the commission adopted the rule requiring reimbursement at the first-class rate.

That rationale was made obsolete by the Internet, which makes it easy to look up the cost of a charter flight, Thomas says, but the rules haven't kept up. “It's ripe for reconsideration,” he says. At a minimum, there should be greater disclosure of trips, Thomas says.

The demand for convenient travel apparently drives the practice at least as much as corporations' desire to gain a lobbying advantage.

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As often as BellSouth transported lawmakers, it turned down even more requests. A company document shows that in 2004, its planes took 28 trips for members of the House and Senate — 18 for Republicans, 10 for Democrats. It turned down requests for an additional 109 trips because planes weren't available.

Two senators turned down for requested trips in 2004 — McCain and Democrat Barack Obama of Illinois — have since emerged as spokesmen for sweeping ethics changes and have voluntarily imposed limits on their own use of corporate planes.

McCain, a likely candidate for the Republican presidential nomination, decided late last year to abandon the practice entirely, instead using charter flights when needed. Obama announced in January that he would reimburse the full market value of such flights.

Robo-caller Thrives Amid Talk Of Change (HILL)

By Elana Schor

The Hill, March 7, 2006

As the Senate today begins debating proposed disclosure requirements for grassroots lobbying activity, a Democratic-leaning grassroots lobbying firm is helping to hit as many as 20 House Republicans with prerecorded, in-district phone calls attacking their records on port security.

The calls are funded by American Family Voices (AFV), a nonprofit group led by Clinton administration veteran Mike Lux and allied with Lux's firm Progressive Strategies. According to its website, the firm promotes "extensive experience in grassroots organizing and politics."

While Lux declined to reveal the identities of the House Republicans targeted for calls, Reps. Rob Simmons (R-Conn.), Tom DeLay (R-Texas) and Bob Ney (R-Ohio) have reacted angrily to the calls taking place in their districts, charging AFV with capitalizing on the Dubai ports-management controversy for political gain.

Lux founded AFV in 2000 after leaving the lobbying team at People for the American Way, adding a 527 group called MainStreet USA to his arsenal during the 2004 election cycle. Lux said the main advantage of AFV's grassroots push on port security, which Democrats have begun seizing on as a winning issue for this November's midterms, is the ability to keep his donors and expenses secret.

"This is all a game of chess," Lux said, and if your opponent knows where you're moving "you kind of lose your advantage.

"Frankly, that's one advantage of calls over ads — we can do this and send a shot across their bow without the other side knowing exactly where we're going."

But AFV and other nonprofits engaging in grassroots lobbying soon could be forced to reveal political strategies and financial backers under an amendment attached to one of the Senate's two pending lobbying-reform bills.

The amendment, sponsored by Sens. Joe Lieberman (D-Conn.) and Carl Levin (D-Mich.), would require grassroots lobbyists such as Lux to register with the clerk of the House and disclose their spending within 45 days after starting an initiative.

Conservative nonprofit groups last month assembled a coalition called LobbySense to help bring down the Senate's original grassroots lobbying-disclosure provision, authored by Sen. John McCain (R-Ariz.) but replaced with the Lieberman-Levin language at last week's markup in the Senate Homeland Security and Governmental Affairs Committee.

LobbySense members include Grover Norquist of Americans for Tax Reform, Tom McClusky of the Family Research Council and Tom Schatz of Citizens Against Government Waste. Spokeswoman Kerri Houston said the coalition plans to recruit liberal partners if the new grassroots disclosure rules spring up in any future House lobbying-reform bills.

While critical of AFV's political stance, Houston defended the group's right to run the phone calls against Republican lawmakers without having to reveal its supporters.

"From an ideological perspective, I wish they would go away because I completely disagree with them, but I'd defend to the death their right to say things I disagree with," Houston said. Echoing Lux's argument in favor of preserving secrecy for grassroots-issue campaigns, Houston added that under the Lieberman-Levin provision, "you're now explaining to your competition what your plans are."

House Republicans on the receiving end of the AFV automated phone messages, a style known as "robo calls" for their robotic narration, were loath to condone AFV's right to operate in secret.

"What we're seeing in our district is part of a coordination of Democrat groups to use front groups" such as AFV as political messengers, Ney spokesman Brian Walsh said. "It's the pot calling the kettle black. They say one thing in Washington [about lobbying reform], then they turn around in the districts" and run robo-call operations.

Walsh pointed out Ney's quick opposition to the White House's approval of the Dubai ports-management deal, cleared for national security risks in January but sharply criticized in recent weeks by Republicans and Democrats alike. Ney also has signed on to a bill written by Rep. Peter King (R-N.Y.), chairman of the House Homeland Security Committee, that would give Congress ultimate veto power over the Dubai deal.

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In a statement issued last week, DeLay campaign spokeswoman Shannon Flaherty defended the former House majority leader against AFV's robo calls.

"As everyone who has picked up a newspaper in the last week knows, Congressman DeLay said he disagreed with the president on the Dubai ports deal," said Flaherty, who played up AFV's past support from the Association of Trial Lawyers of America and Lux's experience in the Clinton administration.

Senators supporting the Lieberman-Levin provision argue that transparency will make grassroots lobbying operations more accountable without having a chilling effect. But AFV, which uses its Campaign for a Cleaner Congress affiliate to help marshal support for lobbying-reform legislation, greatly benefits from the current lack of reporting restrictions.

"My whole goal is to work in close connection with the rest of the progressive community and have our organization be a free safety that can move on a dime, plug holes, work on issues that come up all of a sudden and go where other people aren't going to provide some political muscle," Lux said. AFV's role model, he added, is the conservative nonprofit Progress for America, well-known for its potent grassroots lobbying on Supreme Court nominations.

Although Lux blasted House Republicans for shooting down a Democratic parliamentary maneuver to force consideration of a bill similar to King's, he said the calls were aimed more at embarrassing Republicans than scoring on port security.

"We want to win on the issue … but from a political point of view, exposing the other side as hypocrites is always a good thing to do," Lux said.

Simmons has long crusaded against the national do-not-call registry's exemption for political robo calls, sponsoring three bills that would crack down on prerecorded messages from AFV and other groups. Stealing a page from Lux's playbook, Simmons's office urged constituents to call AFV and complain about the calls.

"For the past two years, stealthy partisan organizations led by American Family Voices have used robo calls to bother, harass and annoy while disseminating false information about me and my voting record," said Simmons, who is also co-sponsoring the King port-security legislation.

'I Will Not Seek Reelection' (HILL)

By Patrick O'Connor And Bob Cusack

The Hill, March 7, 2006

Rep. Bill Thomas (R-Calif.), the fiery chairman of the House Ways and Means Committee, announced yesterday that he will not seek reelection this year, ending the congressional tenure of one of Capitol Hill's most polarizing but effective figures.

Forced to relinquish the Ways and Means gavel at the end of this Congress because of GOP term limits on the post, Thomas announced the decision from his district office in Bakersfield, Calif., with his wife, Sharon, at his side.

"Today, I am announcing that I will not seek reelection to the United States Congress," Thomas said, according to a release from his office.

During his tenure, Thomas passed a number of President Bush's legislative priorities, including a series of large tax cuts, trade-promotion authority for the administration to negotiate trade deals and the controversial Medicare prescription-drug plan.

However, the 64-year-old lawmaker did not get an opportunity to enact Social Security reform, Bush's top legislative initiative in 2005. Before Thomas could introduce his retirement-savings package, political momentum for a Social Security revamp plummeted.

Thomas declined to say what he intends to do after leaving Congress at the end of this term, and he hinted yesterday that he would still like to reform the country's tax code before leaving office.

His announcement sparked fawning praise from Republicans throughout Washington.

"Chairman Bill Thomas is one of America's finest servants and one of the most thoughtful, determined members of the House of Representatives," House Speaker Dennis Hastert (R-Ill.) said in a statement. "I'm sorry to see him go."

House Majority Leader John Boehner (R-Ohio) hinted that Thomas's life in public service may not be over: "I wish him the best and look forward to working with him for the rest of this Congress and again in the future."

There has been speculation that Thomas could join the Bush administration next year, possibly as treasury secretary. Thomas did not rule out the possibility of joining the administration down the road, before adding that he is "taking it one step at a time."

Bush said Thomas "is a friend and a man of great accomplishment who has been a very effective leader."

Thomas kept his retirement decision a closely held secret right up until yesterday's announcement. The Californian told Hastert late last week about his decision to retire, a senior GOP leadership aide said, but he never told National Republican Congressional Committee Chairman Tom Reynolds (R-N.Y.), a spokesman said, and was typically tight-lipped with his closest supporters in California.

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Rep. Devin Nunes (Calif.), a second-term Republican representing a neighboring district, said that he has known of Thomas's decision to retire for a few weeks but that Thomas never explicitly told him his plans. Instead, he laid out the scenario for what would happen if he chose to retire, tipping Nunes and others off to the decision announced yesterday.

"I don't think there is any talking Bill out of it," Nunes said of his occasional mentor. "I would be surprised if he doesn't go down as the best Ways and Means chairman … or at least at the top of the list."

Unable to get a waiver for that chairmanship, some believed that Thomas would become the next chairman of the House Budget Committee if he chose to remain in Congress. He has opted to pursue a life off Capitol Hill after an almost-28-year congressional career.

Thomas has a rare institutional acumen that has allowed him to pass a number of controversial bills through the House. He has also proved to be a partisan battler who has stoked the ire of his Democratic colleagues.

The combative Republican once called the Capitol Police to remove committee Democrats from a Ways and Means library during panel deliberations on pension reform. He later broke into tears on the House floor while apologizing for the move.

As chairman of the Ways and Means Subcommittee on Health in from 1995-2000, Thomas conducted rigorous oversight of the Clinton administration. During one such hearing, Thomas admonished a Clinton administration official for mentioning a Medicare website without referring to the "www" prefix.

Thomas also regularly clashed with his counterpart in the upper chamber, Senate Finance Committee Chairman Chuck Grassley (R-Iowa), over a range of legislative matters.

Grassley yesterday said, "Chairman Thomas has another nine months as chairman. He's not a lame-duck type. … The media like to make a lot of the so-called differences between Chairman Thomas and me. In reality, we have a lot more in common than people might think."

In an interview on C-SPAN last month, Thomas promised to unveil major bills on tax, trade and healthcare in the coming weeks.

"I'm not walking away into the sunset. I'm going to work," he said yesterday.

Thomas has been a forceful member of the Republican Conference during its 11-plus years in the majority. He often reminds members who are wavering on legislation how much harder life was as a member of the minority, imploring them to rally around their leaders and cast difficult votes.

He has also caused fits for Republican leaders in both chambers. He was reluctant to share details of his Social Security reform plan with Hastert and other leaders in the House and Senate. More recently, he opposed an appropriations bill late last fall because a provision in the legislation had the potential to undermine the Medicare prescription-drug benefit he helped craft.

He and then-Education and the Workforce Chairman Boehner late last year went around leadership to pass a House version of pension-reform legislation after acting Majority Leader Roy Blunt (R-Mo.) suggested the bill did not have sufficient support to bring to the floor.

Thomas subsequently gave Boehner's nominating speech during his successful campaign to be majority leader.

He has been grooming Republican state Sen. Kevin McCarthy to replace him in Washington, but a fellow GOP state senator, Roy Ashburn, who lost his race to unseat Rep. Jim Costa (D-Calif.) last cycle, might challenge McCarthy for the seat.

The district is staunchly Republican, but Democratic state Sen. Dean Florez has also been mentioned as a possible candidate. The registration deadline is Friday.

Highlights of the career of REP. Bill thomas (R-Calif.)

1978 — Wins election to Congress

1995 — Becomes chairman of the House Administration Committee and the Ways and Means Health Subcommittee

1997 — Plays key role in passing the Balanced Budget Act of 1997

2001 — Is appointed chairman of the Ways and Means Committee and subsequently pushes through President Bush's $1.3 billion tax-cut package

2003 — Apologizes on the House floor for ordering his staff to call the Capitol Police after Democrats refused to leave the Ways and Means Committee library

2003 — Crafts the Medicare prescription-drug bill, which narrowly clears Congress

2006 — Gives the nominating speech for Rep. John Boehner (R-Ohio) to become majority leader

2006 — Announces his retirement

Ways And Means Chairman Thomas To Retire (AP-Y2)

By Mary Dalrymple, Ap Tax Writer

AP2, March 6, 2006

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President Bush lost the congressional engineer who turned many of his campaign promises for tax cuts, free trade and prescription drugs into reality with the retirement of Ways and Means Committee Chairman Bill Thomas.

The former college professor, a Republican from California, announced Monday that he will retire from Congress at the end of the year, when GOP rules force him to step down as chairman. The committee, Thomas said from his hometown in Bakersfield, Calif., "has the most impact on every American's life."

Since 2001, when Bush took office and Thomas took the helm of the panel, he steered several major tax cuts into law that lowered tax rates on most wage earners and shrank tax bills on investment income. He turned a long-promised Medicare prescription drug subsidy for the elderly into law, and eased the president's ability to pass trade pacts negotiated with other nations.

Bush called Thomas "a friend and a man of great accomplishment who has been a very effective leader," praising him in a statement for helping pass legislation that led to strong job creation, economic growth, improved health care and free and fair trade.

One failure proved the rule. Thomas could not muster the support needed to transform the Social Security retirement and disability benefits program. He recently called it "a personal failure and very disappointing" that he could not spark a debate over the government's support programs for health care and retirement, which grow automatically each year.

He's rumored to be a future contender for Treasury secretary, but Thomas said Monday he will wait until the end of the year to make plans for his life after lawmaking. He's the 14th House Republican to retire this year, compared with only five Democrats.

The Republican next in line on the panel — Rep. Clay Shaw of Florida — immediately spoke up to say he's ready to fill Thomas' shoes. "As Ways and Means chairman, I intend to move legislation that makes our tax code more fair and efficient," Shaw said in a statement.

Next in line after Shaw, Rep. Nancy Johnson (news, bio, voting record), R-Conn., said in an interview that she would be comfortable with Shaw taking the helm, but added, "If it becomes an open race, then I am a candidate."

Rep. Jim McCrery (news, bio, voting record), R-La., who has a very close working relationship with Thomas and is most mentioned as his replacement, remained mum regarding the panel's future leadership. He issued a statement calling Thomas "one of the most capable and successful chairmen in the 204-year history of the House Ways and Means Committee."

Lawmakers and others attribute Thomas' success to a rare ability to master the intricacies of policy while keeping an accurate pulse on the lawmakers he needs to vote for his bills.

"He understood the policy extremely well, and he also understood how to legislate," said Mark Weinberger, Bush's first assistant secretary for tax policy at the Treasury Department. "You need both."

In more than a quarter century in Congress, Thomas displayed an impatience and fiery streak that sometimes led to conflict with other lawmakers, often Democrats. Three years ago, he called the Capitol Police to break up a meeting of committee Democrats, then expressed teary regrets on the House floor.

Jim DeMint, R-S.C., once a House lawmaker and now a senator, criticized Thomas for not listening to some in the GOP during a debate over contentious legislation giving the president fast-track authority to negotiate global trade agreements.

"Bill Thomas has kept us in the dark," DeMint said at the time.

That's a criticism echoed by the Ways and Means Committee's top Democrat, Rep. Charles Rangel (news, bio, voting record) of New York, who said Thomas was so successful because he exercised nearly complete control over legislation, circumventing the traditional collaborative process.

It was "more like a poker game where the hands were already dealt out before you sat at the table," Rangel said in an interview.

Despite their repeated political and legislative clashes on the committee, Rangel said he and the chairman never had any personal conflicts. If Thomas might sometimes be too abrasive, Rangel said, it's balanced by the fact that "he's probably one of the brightest members in the House of Representatives."

"God doesn't give you everything," he said.

House Ways And Means Chairman Says He's Retiring (USAT)

By Kathy Kiely And Richard Wolf

USA Today, March 7, 2006

WASHINGTON — One of the most powerful Republicans on Capitol Hill, House Ways and Means Committee Chairman Bill Thomas of California, announced Monday that he will not seek re-election in November, when his party will be fighting to retain its majority.

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Thomas, 64, has headed the tax-writing committee since 2001. He played a key role in winning passage of President Bush's tax-cut proposals, the Medicare prescription-drug plan and free trade agreements. Sixty-eight percent of his district voted for President Bush in 2004, so his decision to retire may not pose any immediate opportunities for Democrats.

All 435 House seats are up for election this year. Democrats need to pick up an additional 15 to win a majority. So far, only a few of the seats being vacated seem likely to be competitive.

"I would say the open seats at this point haven't yielded for Democrats what they need," says Stu Rothenberg, editor of the non-partisan Rothenberg Political Report.

Even so, some analysts believe that Thomas' decision to step down represents a troubling trend of experienced Republicans leaving.

Thomas is one of 17 Republican and eight Democratic House members who have decided not to run for re-election this fall. Five of the Republicans are losing their powerful committee posts because of term limits imposed by the caucus. They are Thomas; Jim Nussle, R-Iowa, chairman of the Budget Committee; Henry Hyde, R-Ill., chairman of the International Relations Committee; Michael Oxley, R-Ohio, chairman of the Financial Services Committee; and Jim Kolbe, R-Ariz., chairman of the Appropriations subcommittee that funds the nation's overseas operations.

Under rules adopted after Republicans won control of the House in 1994, committee chairs must give up their posts after six years. The idea was to prevent the development of political fiefdoms by rotating power among members.

Other retirements are possible. Rep. Sherwood Boehlert, R-N.Y., who loses his post as House Science Committee chairman at the end of the year, has said he'll announce his re-election plans this month. His district may be competitive.

Norman Ornstein, a congressional scholar at the American Enterprise Institute, says it has also created a problem in the Republican ranks. Term limits for chairmen have resulted in "an acceleration of retirements, often from among the most able members," he says.

Thomas' decision also may indicate that ambitious policymakers don't see many opportunities in the next session of Congress, Rothenberg says. "The last two years of the Bush administration are not going to be a good time for doing big, important things," he says.

In a news conference at his California district office, Thomas quoted Los Angeles Dodger pitching star Sandy Koufax, who retired at the peak of his career. "I could pitch another game, but why?" he said.

One of Congress' memorable personalities, Thomas once called Capitol Hill police to round up Democrats for a committee vote, then burst into tears during an apology on the House floor. GOP colleagues hailed him as a skilled strategist. "He's the best I've ever seen at developing a legislative strategy to get important pieces of legislation passed," said Rep. Jim McCrery, R-La., a leading candidate to replace Thomas as Ways and Means chairman.

Democrats said Thomas ignored them. "Picking up one or two Democratic votes was his idea of bipartisanship," said Rep. Charles Rangel, D-N.Y., top Ways and Means Democrat.

A Powerful House Republican Plans To Retire (NYT)

By Robin Toner

The New York Times, March 7, 2006

WASHINGTON, March 6 — Representative Bill Thomas, chairman of the House Ways and Means Committee and a chief legislative architect of the Medicare prescription drug law and the Bush administration's tax cut agenda, announced Monday that he would retire at the end of this year.

Mr. Thomas is in the final year of his term as chairman, under Republican House rules limiting chairmanships to six years, and his announcement was not unexpected.

A member of the House since 1978, when Republicans were in the minority, Mr. Thomas waited a long time for power and relished his job as chairman of a committee with sweeping influence over tax policy, health care, trade and the economy. Many had found it hard to imagine Mr. Thomas, a proud and mercurial man, remaining in Congress without that job.

"At a time when my party controlled the House, the Senate and the presidency, it was my privilege to chair the committee that I believe has the most impact on every American's life," Mr. Thomas said Monday, according to a transcript of a news conference held in his Congressional district in Bakersfield, Calif.

Mr. Thomas invoked the example of the Dodgers pitcher Sandy Koufax retiring at his peak: "I admired him when he said, 'I could pitch another game, but why?' "

Democrats quickly cited Mr. Thomas's retirement as an example of Republican incumbents' "sensing the winds of change blowing at gale force," as Representative Rahm Emanuel of Illinois, the chairman of the Democratic Congressional Campaign Committee, put it. "It says they have a sense of what's out there, politically, this year," said Mr. Emanuel, who predicts a Democratic wave in this fall's elections.

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But whatever the national outlook, political strategists expect Mr. Thomas's district to remain Republican; it gave 68 percent of its vote to President Bush in 2004. "We'll easily retain it," said Carl Forti, a spokesman for the National Republican Congressional Committee.

Mr. Thomas's successor as committee chairman will be chosen by the House Republican steering committee, which is dominated by the leadership, and then ratified by the full Republican conference. The maneuvering for the job quickly intensified. Representative E. Clay Shaw Jr. of Florida is next in line by virtue of seniority, and quickly signaled his interest. But House Republicans do not always follow strict seniority rules.

Representative Jim McCrery of Louisiana, who ranks below Mr. Shaw, is also considered a leading candidate. And Representative Nancy L. Johnson of Connecticut, who ranks between them, indicated Monday that she would defer to Mr. Shaw, but that "if it becomes an open race," she would jump in.

Mr. Thomas's retirement will mean the passing of one of the most effective — and polarizing — legislators. Nowhere was his legislative power more apparent than on the 2003 overhaul of Medicare, which offered the nation's retirees and disabled a long-promised prescription drug benefit and created a sweeping new role for private health plans in the government insurance program.

Democrats said they were essentially shut out of the legislative conference that produced the final bill — part of what they asserted was a long pattern by Mr. Thomas. And while Mr. Thomas and his fellow Republicans succeeded in passing the Medicare law, the partisan and ideological fights it spawned continue.

Mr. Thomas, who had served 16 years under a Democratic majority, said that the Democrats simply could not accept their life in the minority, and that they viewed power as "their birthright."

While acknowledging that he had shortcomings, Mr. Thomas argued in an interview in 2002 that his personality was ideally suited for pushing through his party's economic agenda with what was often a razor-thin majority.

"Why did Eisenhower give Patton the job of moving across Germany at lighting speed?" he asked. "Because he knew Patton would do it. Sometimes hills just need to be captured."

In fact, even his enemies rarely disputed Mr. Thomas's effectiveness or his command of sprawling, complex programs like Medicare. In Mr. Bush's second term, however, the president's agenda has proved a far harder sell, and Mr. Thomas was unable to move the administration's proposal to create private accounts in Social Security.

In his news conference Monday, Mr. Thomas noted that he still had about nine months left in his term and a full agenda on tax cuts, trade and pension restructuring.

"Rather than read my headstone now, let's see if I can't carve a few more things in it before you retire me," said Mr. Thomas, a 64-year-old former political science professor.

There was speculation in political circles that Mr. Thomas might end up with a job in the Bush administration, and Mr. Bush praised him effusively on Monday as "a friend and a man of great accomplishment." But Mr. Thomas was coy about his future.

"I've got nine months still to go," he said. "I'm not walking away into the sunset. I'm going to work."

Ways And Means Chairman To Step Down (WP)

By Jonathan Weisman

The Washington Post, March 7, 2006

Rep. Bill Thomas (R-Calif.), the irascible House Ways and Means Committee chairman who helped shepherd through President Bush's biggest domestic policy initiatives, announced yesterday that he will retire at the end of the year.

House Republican term limits would have forced Thomas, 64, to give up his perch on the powerful committee before the next Congress, a prospect that pushed the 14-term lawmaker toward his decision. His is the highest-profile in a string of retirement announcements that brings the total of seats being vacated to 26, 16 of them by Republicans.

"Ever since I was first elected to Congress in 1978, I set a goal to study the issues and become as effective a legislator as I could be to promote the interests of my constituents, the state of California and our nation," Thomas said from his office in Bakersfield, Calif. "In doing so, I have been extremely grateful to the voters who have returned me to office over the past four decades, and I hope, through legislation, advocacy and constituent service, that I have returned that appreciation."

"Congressman Bill Thomas is a friend and a man of great accomplishment who has been a very effective leader in the House of Representatives," Bush said.

Thomas will leave an impressive record of legislative accomplishment that includes passage of six tax cuts in the past five years, a Medicare prescription drug benefit that was the most significant expansion of the program since its inception, and a slew of hard-fought free trade agreements. Still within reach is a major restructuring of the nation's private pension system.

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"Thomas was terrific," said Mark Weinberger, who was assistant Treasury secretary for tax policy during the 2001 tax cut fight. "Not only did he understand the policy of arcane trade, tax and health care issues, but he knew how to legislate. And when you have both of those things, you become a very formidable negotiator."

But Thomas's reputation as a shrewd legislative tactician has a dark side: He has shown himself willing to bully friends and adversaries alike if his arguments do not prove persuasive.

"There's no question the chairman rubs people the wrong way with his brusqueness and his irascible countenance. He doesn't suffer fools well, and that gets him into trouble," said Rep. Jim McCrery (R-La.), who is widely seen as the front-runner to succeed Thomas if Republicans maintain control of the House. "But if he didn't have something like that, he'd be darned near perfect."

In July 2003, GOP leaders forced him to deliver a tearful apology on the House floor for summoning the Capitol Police to evict committee Democrats from a Ways and Means library. He also apologized to Sen. Dianne Feinstein (D-Calif.) after accusing her of taking a stance on medical malpractice legislation because she faced reelection, which she was not.

Democrats may have a hard time forgiving him for the imperial way he ran his committee. Thomas held only a few perfunctory hearings, keeping even Republicans largely in the dark as he drafted legislation, then giving committee members just hours to digest complex, voluminous bills before slamming them through on party-line votes, said Rep. Charles B. Rangel (N.Y.), the Ways and Means Committee's ranking Democrat.

"I really think the methods he used to accomplish his goals have done severe damage to the legislative process . . . and really damaged relations between the parties," Rangel said.

Thomas is likely to retire without one marquee law that is seen as his masterwork. Bush had hoped last year that Thomas could rescue his foundering Social Security restructuring by folding it into a broader, more popular retirement security initiative. But even Bush aides say Thomas was brought into the process too late to save it.

But in little more than five years as chairman, Thomas left a mark. He leapfrogged over a more senior committee member, former representative Phil Crane (R-Ill.), to become chairman.

That year, Thomas folded provisions to entice more retirement and pension savings into the president's 2001 tax cut. Then, against the wishes of the White House, he broke the 10-year, $1.35 trillion tax reduction into small pieces that passed Congress with unexpected ease.

In 2003, he rejected Bush's complex proposal to end taxation of dividends from fully taxed corporate earnings, replacing it with a simpler 15-percent tax rate on dividends and capital gains.

Rep. Thomas Announces Retirement From Congress (REU-Y2)

Reuters, March 6, 2006

U.S. House Ways and Means Committee Chairman Bill Thomas said on Monday he would retire from the House of Representatives at the end of his current term, leaving open to speculation the future for the veteran lawmaker.

The California Republican, who was instrumental in helping President George W. Bush win passage of his tax cut proposals, would have stepped down as chairman of the powerful tax writing committee after this year anyway because of term limits set by House Republicans.

"Over the next nine months, I intend to continue to work hard and finish my congressional term with the same vigor as the first," Thomas said in a statement. He made the announcement at a news conference in Bakersfield, California, in his home district.

"Challenges lie ahead, and I intend to work hard to tackle the problems caused by our outdated entitlement programs and our currently flawed income tax structure," he added.

Known for his sharp wit and sometimes sharp tongue, Thomas, 65, was first elected to Congress in 1978. He took over chairmanship of Ways and Means in January 2001.

Thomas' grasp of details and knowledge of the Medicare prescription drug plan for the elderly proved valuable in helping get that complex legislation through Congress in 2003.

He has been mentioned by some Republican sources as among those being considered by the White House to eventually replace Treasury Secretary John Snow. It is widely believed that Snow may not stay through the end of Bush's term.

Thomas Leaves On Top (RC)

By David M. Drucker and Ben Pershing

Roll Call, March 7, 2006

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Fourteen-term Rep. Bill Thomas (R-Calif.) announced Monday that he will retire at the end of this Congress, leaving a notable legislative and institutional stamp on the House and heated races to replace him atop the Ways and Means Committee and in California's 22nd district.

Thomas' former district director, state Assembly Minority Leader Kevin McCarthy (R), is hoping to succeed his old boss. McCarthy's most likely challenger in the June 6 Republican primary is another former Thomas aide, state Sen. Roy Ashburn (R), although he had a previous falling out with the incumbent.

"McCarthy is going to have the support of Washington because of Thomas and myself, so I don't see how Ashburn can make much of a race of it," said Rep. Devin Nunes (R-Calif.), who holds the district adjacent to the 22nd after Thomas helped him survive a tough GOP primary in 2002.

Nunes said McCarthy has nailed down commitments from most donors and secured the endorsements of almost all of the local elected officials in Bakersfield and San Luis Obispo County.

"I'm not trying to skew this thing. The political reality of it is, it's not going to be a race if Ashburn runs, and I think he knows that," Nunes said.

Thomas last year was one of the very few Republicans in California's Congressional delegation to support Gov. Arnold Schwarzenegger's (R) failed effort to inject competition into California's redistricting process and overhaul how House and legislative seats are drawn. Not coincidentally, McCarthy was one of the most ardent proponents of the effort, carrying the primary legislative vehicle for the reform in the state Assembly.

In explaining his decision to retire, Thomas said he hoped to spend more time with his wife and grandchildren, and that he no longer relished the thought of spending eight hours on an airplane twice a week at the age of 65.

"Twenty-eight years of that probably should be enough for anyone, don't you think?" Thomas said.

And while he is still young enough to do the work, Thomas — a longtime Los Angeles Dodgers fan — cited the example of one of his heroes who retired at the top of his game.

"I've used as an analogy Sandy Koufax," Thomas said. "He was one of my favorites on the Dodgers, and I admired him when he said, 'I could pitch another game, but why?'"

The 22nd district, stretching from Bakersfield to the San Luis Obispo County Coast, gave President Bush 68 percent of the vote in 2004 and Thomas ran unopposed in that election, and it should be won without a problem by the victor in the Republican primary.

Knowledgeable Republican sources say McCarthy has been preparing for weeks to run to succeed Thomas, and confirm Nunes account that he has secured the key endorsements and fundraising commitments from throughout the district.

When Thomas does endorse McCarthy, he will most assuredly be able to connect the Assemblyman to the business-based fundraising pipeline that has long backed his campaigns, something he was able to do for Nunes in 2002. Still, an Ashburn aide confirmed Monday that the state Senator is planning to forgo re-election to his safe legislative seat to run in the GOP primary.

The deadline to file to run for Congress in California is Friday, with some Republicans speculating that Ashburn ultimately won't run, as he has already filed to run for re-election to his state Senate seat. McCarthy, though he had claimed not to be aware of Thomas' plans, never filed to run for re-election to the Assembly.

McCarthy said Monday he would publicize his future plans at 3 p.m. EST today at a news conference in Bakersfield. Beyond that, he did not want to intrude on a day that he said belonged to Thomas.

"He's done a great job for his community, his state and his country," McCarthy said. Thomas, when asked by reporters Monday, declined to endorse any candidates, saying he would wait to see who files to run for his seat.

Thomas has long engendered mixed feelings in his colleagues.

Lawmakers from both parties have complained over the years about the Californian's stubbornness and condescending attitude. His relationship with Ways and Means Democrats has been particularly rough, especially since he called the Capitol Police in 2003 to remove Democrats from a committee room during a contentious markup.

At the same time, Thomas' fellow Republicans have come to appreciate him for his policy acumen and his ability to shepherd difficult, complex pieces of legislation to passage.

While retiring lawmakers usually garner praise from the leadership, Thomas' announcement brought forth an unusual amount of hyperbole.

Speaker Dennis Hastert (R-Ill.) said Thomas was "one of America's finest servants and one of the most thoughtful, determined Members of the House of Representatives."

Majority Leader John Boehner (R-Ohio) said the work Thomas "has accomplished on behalf of the American people, whether to lower taxes, provide quality health care, or create new jobs, has quite frankly been extraordinary. He has been one of the most effective and successful legislators Congress has seen in years."

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(Boehner has particular reason to be grateful. On Feb. 2, Thomas gave the Ohioan's nominating speech before the vote to elect a new Majority Leader. Some observers suggested afterwards that Thomas' forceful endorsement of Boehner may have helped swing some undecided votes his way.)

Praise also came from the other side of the Capitol.

Senate Majority Leader Bill Frist (R-Tenn.) called Thomas "smart, tenacious, hard-driving and steeped in the traditions and subtle nuances of the House," while Senate Finance Chairman Chuck Grassley (R-Iowa) pointed out that Thomas "has another nine months as chairman. He's not a lame duck type. I know we'll get at least one more major tax bill done and probably more legislation in the next nine months."

Over the years, Grassley and Thomas have clashed repeatedly both in public and in private on several different issues. With Thomas on his way out, however, Grassley played down those squabbles.

"The media like to make a lot of the so-called differences between Chairman Thomas and me," Grassley said. "In reality, we have a lot more in common than people might think. ... I think we both know it's important to not only have strongly held views, but also to do the homework to back them up."

Thomas' departure, meanwhile, prompted more attention to be focused on the race to replace him on Ways and Means, where his gavel tenure would have ended anyway due to term limits.

Rep. Jim McCrery (R-La.), Thomas' closest ally on the committee, is seen as the frontrunner for that position over Reps. Clay Shaw (R-Fla.) and Nancy Johnson (R-Conn.). But Shaw is not conceding anything.

In a long statement issued Monday, Shaw devoted a few words to Thomas' legacy and several paragraphs outlining his own vision for the Ways and Means chairmanship.

While Thomas is best known among current lawmakers for his work on Ways and Means passing tax cuts, free trade measures and the Medicare prescription drug bill, he has also made a permanent impact on the House as an institution.

As chairman of the House Administration Committee from 1995 to 2001, Thomas oversaw a wide range of reforms that transformed the way the chamber operates. Thomas implemented yearly independent audits of House finances, which had been in shambles, and also helped end Members perks such as daily ice deliveries to House offices.

Thomas won the Ways and Means gavel in 2001, beating out more senior then-Rep. Phil Crane (R-Ill.) in a heated contest. Since then he has had a broad impact on everything from trade to taxes to health care, though he has not been able to accomplish two of his most desired reform goals — overhauling Social Security and the tax code.

While neither of those issues appears likely to be on the House calendar this year, Thomas cautioned against closing the books on his service too soon.

"I'm not walking away into the sunset, I'm going to work," Thomas said.

GOP's Bill Thomas Announces Retirement (WT)

By Charles Hurt

The Washington Times, March 7, 2006

House Ways and Means Committee Chairman Bill Thomas, one of the most powerful lawmakers and colorful characters on Capitol Hill, announced yesterday that he will not seek re-election to his California seat.

The 14-term Republican -- widely loved and loathed for his bombastic nature and detailed grasp of the federal government's most complex issues -- is credited with guiding through Congress President Bush's tax cuts and writing legislation on Medicare and Social Security.

Majority Leader John A. Boehner, Ohio Republican, called Mr. Thomas "one of the most effective and successful legislators Congress has seen in years."

"Bill's devotion to the issues that matter and passion for seeing them through will be sorely missed," he said.

Mr. Bush called Mr. Thomas "a friend and a man of great accomplishment who has been a very effective leader in the House of Representatives," citing "legislation that has brought about strong job creation and economic growth, improved health care for people of all ages, and ensured that America continues to benefit from free and fair trade."

Mr. Thomas, who is 64 and has been chairman of the House's lead tax committee since 2001, had been expected to retire because Republican term limit rules would have prohibited him from serving another term as committee chairman.

Other panel Republicans are jockeying to succeed him. Rep. E. Clay Shaw Jr. of Florida issued a statement immediately after Mr. Thomas' announcement, saying: "As Ways and Means chairman, I intend to move legislation that makes our tax code more fair and efficient."

Announcing his decision in Bakersfield, Calif., Mr. Thomas listed among his accomplishments tax cuts and prescription drug benefits for Americans and greater authority for the president to engage in foreign trade.

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"We passed over $2 trillion in tax relief for hardworking American families; we provided the president with trade promotion authority so that he could seek freer and fairer trade markets; and we approved a long-overdue voluntary prescription drug benefit in Medicare for the first time in the program's history," he said.

His mastery of the federal tax code, Medicare and Social Security matters will be sorely missed by Republican leaders.

"His retirement will create a void in the Congress," said Rep. David Dreier, California Republican and chairman of the influential Rules Committee. "He is a very skilled legislator who recognizes the importance of cutting taxes and opening up new markets to benefit American workers and consumers. He will leave a legacy of strong economic growth."

But Mr. Thomas likely will not be missed by Democrats, with whom he has clashed bitterly. Most notably, Mr. Thomas in 2003 called Capitol Police to a room in which Democrats on his committee were meeting and ordered them removed. He later gave a tearful apology on the House floor.

Still, Democrats have little hope of capturing the open seat, which is in one of California's most heavily Republican districts.

Mr. Bush has won the district twice with at least 64 percent of the vote. In 2002, Mr. Thomas defeated his Democratic challenger with 73 percent of the vote. In 2004, he ran unopposed.

House Ways And Means Chief To Retire (WSJ)

By A Wall Street Journal Staff Reporter

The Wall Street Journal, March 7, 2006

WASHINGTON -- Rep. Bill Thomas, a California Republican who helped to craft President Bush's tax cuts, said he will retire from Congress this term.

Chairman of the House Ways and Means Committee that oversees tax, trade, Social Security and Medicare legislation, Mr. Thomas must give up the post under House Republican term-limit rules. At a press briefing at his district office in Bakersfield, he said he still intends to press ahead with significant tax, health and trade legislation during the rest of the year.

"Over the next nine months, I intend to continue to work hard and finish my congressional term with the same vigor as my first," Mr. Thomas said in a statement. He didn't discuss his plans.

Mr. Thomas, 64 years old, had many legislative successes but he was unable to advance Mr. Bush's top domestic priority last year, overhaul of the Social Security system. His strategy was to broaden the discussion to encompass retirement security and health reform, but he never advanced a comprehensive bill.

The announcement clears the way for a Thomas protégé, Rep. Jim McCrery (R.,-La.), to assume the committee chair next year. Tax analysts and lobbyists have said Mr. McCrery, chairman of the Social Security subcommittee, is the front-runner for the chairmanship. Rep. Clay Shaw (R., Fla.), chairman of the trade subcommittee, is also seeking the post.

Government Smart-Card Project Hits Snags On Fingerprints, Costs (WP)

By Stephen Barr

The Washington Post, March 7, 2006

The government's smart-card project appears at risk of falling behind schedule.

Federal agencies are supposed to begin issuing government-wide identification cards that can vouch for the identity of federal employees and most contractors in October, but the Government Accountability Office warns that setting up and testing new ID systems may not be completed within deadlines set by the Bush administration.

The GAO reviewed the progress of six agencies in developing smart-card systems and found differences in implementation plans, which could hamper efforts to create a government-wide ID card accepted by all agencies. The congressional watchdog agency also found a lack of reliable information about the costs of buying cards and equipment and modifying software systems.

"We acknowledge much more work must be done in order to be successful," the Office of Management and Budget said in a letter accompanying the GAO report. The letter was signed by Karen S. Evans , who is in charge of technology policy at the Office of Management and Budget.

President Bush launched the smart-card project in August 2004, calling for more secure and reliable forms of identification for government workers as part of a broader effort to keep terrorists, criminals and other unauthorized people from getting into federal buildings or hacking into computer systems.

Federal employees are issued a variety of ID cards, and many can be easily forged or altered to gain access to federal buildings. Some agencies, such as the departments of Defense and State, have developed versions of smart cards for many of their employees.

Smart cards, which resemble plastic credit cards, are embedded with a computer chip that permits an exchange of data with another system. The card can store biometric information, such as fingerprints, and can track where a person goes, based

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on clearances through security checkpoints. In addition to building access, smart cards can be used to supplement passwords for logging onto computers, with users inserting the card into readers on their desktops.

Under the federal project, cards must display the name of the government employee or contractor, a photograph, the name of their agency or affiliation, a serial number, and an expiration date.

There is no estimate of how many smart cards will be handed out across government (although the Defense Department has said it plans to issue 3.6 million cards to the military, civil service, contractor and other employee groups).

The administration's timetable requires agencies to start issuing cards Oct. 27 and to verify or complete background investigations on employees and contractors in 2007 and 2008.

But the project has hit some snags. The original guidelines called for the cards to carry electronic representations of two fingerprints, but the GAO said agency officials have objected because reading two fingerprint images will require a large amount of computer memory.

The GAO report said it could take 30 seconds to read the fingerprints, "a length of time that would likely cause unacceptable delays in admitting individuals to federal buildings."

Some agency officials prefer to store only details of the ridges in a fingertip, which would cut the transmission time between the cards and card readers to less than 10 seconds. But GAO said that the partial images are of "questionable reliability" and that vendors use techniques that are "proprietary and incompatible." Efforts are underway to resolve the matter, GAO said.

The cost of converting ID systems, however, may be one of the largest problems facing the government. The GAO said some agencies may find it difficult to cover conversion costs out of existing budgets.

"Agencies have been faced with having to potentially make substantial new investments in smart card technology systems with little time to adequately plan and budget for such investments and little cost information about products they will need to acquire," the GAO said.

Clinton Cover-ups (WT)

By Mark Goodman

The Washington Times, March 7, 2006

Lost in the tumult over Islamic port deals and Katrina video capers is the recently released -- and willfully ignored -- Barrett Report. David Barrett, you'll recall, is the independent counsel appointed in 1995 to investigate allegations of impropriety against President Clinton's Department of Housing and Urban Development Secretary Henry Cisneros.

Mr. Barrett found his path mined by the Justice Department, the Internal Revenue Service and President Clinton's attorneys, even after Mr. Clinton departed the White House. He prepared 18 felony indictments against Mr. Cisneros but had to settle for a guilty plea on a misdemeanor charge (lying to the FBI about his mistress, a poor choice for a tax write-off). He sought to prosecute Mr. Cisneros for tax fraud over a period of years but was thwarted by Attorney General Janet Reno. Ultimately Mr. Cisneros resigned his post, whereupon President Clinton, constitutionally bound to men who lie about their mistresses, pardoned him.

Worse, Mr. Barrett's investigations led him into bleak wilds where unnumbered Clinton misdeeds allegedly lay beneath bureaucratic camouflage. These findings comprised a full 120 pages of his 684-page report -- but you won't find them in the final document published on January 19. That's because congressional Democrats, led by Sens. Byron Dorgan, Dick Durbin and John Kerry, used an appropriations bill to leverage a deal redacting the potentially lethal 120 pages.

A frustrated Mr. Barrett released this statement: "An accurate title for the report could be, 'What We Were Prevented From Investigating.'" He added: "After a thorough reading of the report it would not be unreasonable to conclude as I have that there was a cover-up at high levels of our government and it appears to have been substantial and coordinated. The question is why? And that question will regrettably go unanswered. Unlike some other cover-ups, this one succeeded." Just so.

The media in the main treated Mr. Barrett as if he had spent the past ten years chasing ambulances down Pennsylvania Avenue. The New York Times, in self-imposed redaction, nimbly sidestepped the issue of the missing pages. NBC and CBS ignored the report entirely, while ABC cited unnamed critics as branding the study "incompetent, wasteful and without merit." Objection. One witness may be questionable testimony, but two witnesses are corroborating evidence.

I'm an avowed liberal and a registered Democrat, but I can appreciate Mr. Barrett's ordeal like no other because for nine years I've been negotiating a parallel minefield. Herewith, the redacted portion of my life: In 1997, attending to dark rumors, I contracted with a Washington financial investigator -- I'll call him "Deep" for originality's sake -- to run a background check on Norman Pearlstine, former editor of The Wall Street Journal, who'd been hired by his crony, Time Warner CEO Gerry Levin, as Time Inc's editor-in-chief.

Sure enough, Deep reported that Mr. Pearlstine was living far beyond his evident means -- for instance, he had three lavish houses plus a Manhattan co-op. On request, I turned the report over to the chief of the IRS Criminal Investigation Division in

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Newark, N.J. Two weeks later, Deep's main IRS contact told him Mr. Pearlstine's tax returns "did not remotely match" his assets and that the agency had assigned two top criminal investigators to the case.

Deep lost the Pearlstine trail, then picked it up again in 2001. "Gerry Levin went to his pal Bill Clinton to get The White House to quash the investigation," he told me. "The two agents assigned to the case were transferred to less sensitive jobs and told to keep their mouths shut or lose their pensions." (Deep pleaded for anonymity; a confidential experience in his NSA years left him in mortal fear of the Clintons.) Whoa.

I suddenly felt like some hapless Hitchcock non-hero who opens the wrong drawing-room door and finds a den filled with opulent thieves, in white tie and tails. Time Warner had already harassed me out of a retaliation suit with the injudicious assistance of Justice Miriam Cedarbaum (Yes, the Martha Stewart judge and my own private Janet Reno).The Justice Department and the FBI then stonewalled me. Fool that I am, I actually thought my colleagues would pounce on such a story. Wrong. Media Blue Wall Law says: No rummaging in the backstage dressing-room of a diva Manhattan editor, especially not with Bill Clinton squinting in the loge.

Surreally, the IRS rang in to threaten me, the whistleblower, with criminal investigation. I accused them of conspiring with Time Warner and the Clinton camp to keep me barefoot and button-lipped. The agency not only backed off, but the Secretary of the Treasury, John Snow, ordered a second inquiry. I'm currently cooperating with CID agents. But I suspect that, not unlike David Barrett, I've been invited on a snipe hunt.

So: We have here twin cautionary tales of fraud, corruption, obstruction and cover-up converging on -- surprise! -- Bill Clinton. It's the Barrett Report, of course, which begs the most disturbing question: What evil lurks in those 120 pages that made the Democratic congressmen press so hard for redaction? My money says, a den filled with opulent thieves, in white tie and tails.

Mark Goodman, who is currently writing his professional memoir, is the author of "Hurrah for the Next Man Who Dies."

Part-Time Congress (WP)

By Norman Ornstein

The Washington Post, March 7, 2006

The House of Representatives returns this week to an overloaded agenda. A promise of aggressive oversight of the deal with Dubai to manage U.S. ports will compete with the following:

Renewal of the Patriot Act; the conflict with the White House over electronic surveillance; the need to hammer out a budget by the beginning of April; health care and pension reform (highlighted by the desire to find a fix for the bumpy rollout of the Medicare prescription drug law); Katrina relief and repair of a dysfunctional Department of Homeland Security; lobbying and ethics reform; and a host of other issues.

The House should be well-rested to take on its daunting workload, after a generous recess (known officially as a "district work period") over President's Day. That was preceded by a recess for the entire month of January and by a February in which voting was done on all of three days (along with another three days with no votes before 6:30 p.m.). And members had better be rested, because if their published schedule for the year ahead is followed, they'll have to compress their work into a tiny number of days. The House schedule for 2006, the second session of the 109th Congress, has a grand total of 71 days when votes are scheduled to take place, along with an additional 26 when no votes will occur before 6:30 p.m. The total of 97 calendar days, counted generously, is the smallest number in 60 years and the days of what Harry Truman derided as that "do-nothing 80th Congress."

During the 1960s and '70s, the average Congress was in session 323 days. In the 1980s and '90s, the average declined to 278. The days in session have plummeted since; it's likely that the average per two-year Congress for the first six years of the Bush presidency will be below 250.

Of course, days in session and days voting don't give a full picture of Congress and its work. Committees and subcommittees hold hearings, do oversight and mark up bills. Still, the average Congress in the 1960s and '70s had 5,372 committee and subcommittee meetings; in the 1980s and 1990s, the average was 4,793. In the last Congress, the 108th, the number was 2,135. We do not have final figures yet for 2005, but they are likely to be lower yet, and with oversight practically nonexistent.

When I came to Washington in 1969, I became familiar with what was called the "Tuesday-to-Thursday Club," the band of members, mostly from the Northeast and regions near Washington, who would try to limit their time in the capital to three days a week. They would leave late Thursday evening or early Friday morning to go home and return here late Monday night or early Tuesday. Those club members were in the minority; most legislators spent the full workweek in Washington and were here two or three weekends a month as well when Congress was in session.

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Today the "Tuesday-to-Thursday Club" includes nearly all members, with one distinction from the earlier era: They get back into Washington late Tuesday night, or even early Wednesday, and head out again early Thursday afternoon, having spent just one full day and parts of two others on Capitol Hill.

Why the change? One reason is that most lawmakers now leave their families back in the district instead of having them live in Washington. Another is the explosion in the number of flights from area airports, making it easier for lawmakers from all over the country, including even Alaska and Hawaii, to go back and forth.

But there are other, more important reasons. One is the drive for members to get out and raise money, both for their own campaigns and for those of their current and prospective party colleagues. Many members now have "leadership PACs," which are required for those who want to become subcommittee or committee chairmen or to move up in party leadership. These PACs raise hundreds of thousands of dollars in campaign contributions over and above a member's own needs, in order to help "the team." Another is the visceral distaste of current members, especially the majority Republicans who set the schedule, for Washington. Service in Congress is not a privilege and an experience to be savored so much as it is like taking castor oil -- an unpleasant necessity, and one indulged in as little as possible.

Then there is the strategy of the majority leadership. Getting bills passed, keeping party discipline and satisfying interest groups means folding legislation into a small number of huge omnibus bills, bringing them up with little notice and less debate, structuring the votes around restrictive rules that limit or forbid amendments, and demanding party fealty on the votes that take place by labeling them "procedural." The less time the members spend in hearings, floor debate and generally poking around the Hill, the easier it is for the leaders to get their way without scrutiny or challenge.

Mention the part-time nature of this Congress to many people, and the reaction is, "Good, the less time they're in session, the less the danger to the country." Wrong. Congress does not do less -- it has its full impact on society -- it just does things in a shoddier way.

A part-time Congress in a country with a $13 trillion economy and federal budget near $3 trillion, in a globalized, technologically sophisticated world, is itself a danger to the checks and balances built into American democracy, and to high-quality, careful policymaking and oversight. It's not too much to ask Congress to commit to spending at least half the year -- 26 weeks -- working full-time, five days a week, thus providing at least a measure of the deliberation and attention to detail that are so lacking now.

The Business Of Government (NYT)

The New York Times, March 7, 2006

There are any number of object lessons in the downfall of former Representative Randy Cunningham, the greedy politician, dubbed Duke, who took millions of dollars in bribes in return for doling out scores of millions in sweetheart defense contracts. Mr. Cunningham, a Republican, was sentenced to eight years in prison. His ill-gained riches included a Rolls-Royce, a yacht and a Louis-Philippe commode. For all that, far more stunning dimensions of influence peddling in Washington came to light recently when Mitchell Wade, the contractor who bribed Mr. Cunningham, also confessed to providing jobs to the son of a Pentagon official charged with oversight of his business and, later, to that official.

Mr. Wade, seeking more than one friend in Congress, also admitted he had made illegal campaign donations to two lawmakers while pressing them to earmark more defense appropriations to keep his company growing. Earmarks are one of the scandalous goodies in Congress's quid pro quo culture — the secretive doling out, beyond public notice, of millions in favors in the rushed passage of budget bills.

One of the solicited representatives, Virgil Goode Jr., a Virginia Republican, received $46,000 in illegal donations while successfully earmarking $9 million in taxpayer money as Mr. Wade talked of more jobs for the lawmaker's district. The other, Katherine Harris, the Florida Republican, received $32,000 of Wade money, illegally disguised as smaller contributions from Wade employees. A $10 million earmark for the Wade company was requested but not delivered by Ms. Harris.

Justice officials say there is no evidence of criminal violations by the two lawmakers. Once the scandal broke, they forwarded the illegal donations to charity. Proclaiming her innocence, Ms. Harris insists that she was duped in the "perils of a process in which candidates are sometimes asked to determine the intent of a contributor." Mr. Wade's intent, however, was hardly murky because the investigation established that he had taken Ms. Harris to dinner and that the two had discussed the possibility of further political contributions, of earmarked government money for Mr. Wade's company and of a company branch in her district.

So goes licit political business these days in Washington. The prosecutor, Kenneth Wainstein, noted that Mr. Wade's company had been perceived as a classic "American success story" — garnering $150 million in government contracts in just three years — but was actually a model for spreading political corruption from Capitol Hill to the Pentagon.

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Charities On The Hill (WP)

The Washington Post, March 7, 2006

PENNSYLVANIA Sen. Rick Santorum created his charity, "Operation Good Neighbor," when the Republican National Convention was going to Philadelphia in 2000. "I thought: 'Wouldn't it be a great thing to leave something positive behind other than a bunch of parties and a bunch of garbage,' " Mr. Santorum told the Philadelphia Inquirer at the time. But in the years since, Mr. Santorum's charity appears to have done a lot to help his political allies -- and less than it might have in its stated mission of combating poverty, teen pregnancy and other social ills.

According to reports by the American Prospect magazine and the Associated Press, Mr. Santorum's charity spent $1.25 million between 2001 and 2004, but it devoted just 40 percent of that to charity. (A letter from the charity's treasurer, who also serves as treasurer of Mr. Santorum's political action committee, explains that fundraising expenses alone are "close to 37% of expenditures, as these fundraising events are recreational outings such as golf tournaments.")

Meanwhile, a Santorum campaign fundraiser, Maria Diesel, received nearly $200,000 in fundraising fees from Operation Good Neighbor; another Santorum campaign fundraiser, Rob Bickhart, received $75,000 in salary from the charity since 2001, and Mr. Bickhart's business, Capitol Resource Group, rents office space to the charity.

The Santorum story highlights a largely unexplored area of congressional ethics: lawmakers' involvement with charitable organizations. According to a 2004 review of Internal Revenue Service records by the research group PoliticalMoneyLine, 48 members of Congress are connected to charitable foundations. These groups may do good works, but they also present opportunities for misuse -- to bolster members' political operations, for example, or to underwrite swank parties at political conventions.

Politicians and their spouses hit up companies and lobbyists that have interests before them to contribute to their pet charities, personal and otherwise, often dangling the lure of access to themselves and colleagues. Christine DeLay, the wife of former House majority leader Tom DeLay (R-Tex.), was remarkably straightforward about this phenomenon in a recent interview with Post columnist George F. Will that touched on the DeLays' charitable efforts on behalf of foster children. "I hated to lose the leadership position because it helps me to raise money for those kids," she said. And this all takes place outside public view, since, unlike political contributions, charitable donations aren't publicly reported -- though lawmakers obviously know who's kicking in to help their cause.

We're all for altruism, but that's not necessarily what's going on here. There is an inevitable element of extortion whenever politicians get involved in soliciting charitable donations. And when lawmakers have a personal interest in the charity, the opportunities for abuse are greatly magnified. Provisions contained in an ethics measure approved by the Senate Committee on Homeland Security and Governmental Affairs last week, and parallel language offered by House Democrats, would require that lobbyists report donations they make or arrange to lawmakers' charities, or gifts they make to other charities in recognition of politicians. That would shed some valuable light on a now-dark corner of money and politics.

Union War Rules (WSJ)

The Wall Street Journal, March 7, 2006

In drafting the U.S. Constitution, the Founders entrusted national security largely to the President. But to protect the Republic today, the executive branch must first comply with something James Madison never imagined -- union work rules.

In a decision last week, federal Judge Emmet Sullivan sided with union plaintiffs and tossed out the Pentagon's new personnel system, which the Defense Secretary and White House say they need to safeguard the nation. His decision comes after federal Judge Rosemary Collyer threw out a similar personnel system at the Department of Homeland Security in August. (That case is under appeal.) The danger here is that the collective bargaining rights of 650,000 civilian workers will trump the collective right we all have to a military organized to confront 21st-century threats.

Five years ago Donald Rumsfeld returned to the Pentagon to find that its personnel system was even more outdated than GM's. He was forced to negotiate with some 1,300 unions and operate under rules that rewarded seniority over initiative and prevented managers from redirecting civilian workers to more pressing assignments.

This is especially dangerous in wartime, when the Defense Department is forced to put uniformed troops in administrative jobs that need to be filled quickly even though they might be put to better use in Iraq or elsewhere. Not so incidentally, this also encourages the best civilian employees to quit for private-sector jobs that will pay them better. So the Administration pushed for basing pay on performance, allowing the Pentagon to shift employees to meet emerging threats and allowing the new rules to go into effect even if the American Federation of Government Employees and other unions didn't agree to them.

Congress passed legislation in 2003 calling for a "flexible" and "contemporary" personnel system. But thanks in large part to Republican Senators Susan Collins (Maine) and George Voinovich (Ohio), the bill also said that employees were allowed to

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"bargain collectively" through their unions. It was on this hook that Judge Sullivan hung his decision, arguing that the new regulations would undermine agreements with union officials. So the Defense Department can have a new personnel system, but only if it's identical to the old system.

We doubt this is what Congress had in mind in authorizing the Pentagon to "establish and from time to time adjust a labor relations system . . . to address the unique role that the Department's civilian workforce plays in supporting the Department's national security mission." It also glosses over the fact that, even under the new system, Defense officials will continue to negotiate with unions over pay and benefits and will have every incentive to use their new flexibility in a way that doesn't produce labor tension.

The Pentagon hasn't decided what its next step will be, but we hope the Administration will appeal. It's hard to see how Mr. Rumsfeld's drive to use his uniformed soldiers more effectively can proceed if he doesn't gain the flexibility to better use his civilian workforce. Improving Defense's "tooth-to-tail ratio" requires getting the civilian tail out from under union work rules.

OTHER NEWS:

Factory Orders Slid 4.5% In January (WSJ)

By Rafael Gerena-morales

The Wall Street Journal, March 7, 2006

Factory orders took their steepest drop in more than five years in January, pulled down by a sharp decline in orders for airplanes. Excluding aircraft, however, factory orders were robust.

New orders for manufactured goods in January fell 4.5% from the previous month, the Commerce Department reported yesterday. That was the sharpest decline since an 8.7% drop in July 2000, and largely reflected a 31% decline in orders for transportation products and equipment, such as autos and airplanes.

Because of the volatility of aircraft orders, economists often look at factory orders excluding transportation, to better gauge the economy's underlying health. That indicator posted 1.6% growth in January, the biggest gain in five months. And an important barometer of business spending -- orders for nondefense capital goods excluding aircraft -- rose 0.1% in January and was up 7.5% from a year earlier.

Overall orders for durable goods, including electronic equipment, were off 9.9%, also the sharpest decline since July 2000. Durable goods are big-ticket items expected to last at least three years.

Yesterday's data "confirm that underlying manufacturing conditions remain upbeat," said Conrad DeQuadros, a senior economist at Bear Stearns Cos. "Businesses are fairly confident that this [economic expansion] is sustainable. They feel further business investment is necessary" to keep up with demand in coming months, which will stimulate additional spending, he said.

Mr. DeQuadros projects that spending on business equipment in the first quarter will rise roughly 10% from the fourth quarter, and that the steady demand should help the economy offset the effects of a softening housing market this year.

Last month, an Indian airline ordered 68 planes from Boeing Co. in a deal valued at around $11 billion. That will likely push February's aircraft orders sharply higher when they are reported next month. Moreover, U.S. companies hope that the Indian air force will buy about 125 fighter jets in the near future.

Separately, data released yesterday by the National Association of Realtors showed the housing market continued to slow in January. The trade group reported that its index of pending sales of existing homes, which includes single-family units, condos and co-ops, fell 1.1% in January from December and was down 4.8% from a year earlier. After peaking in August the index fell an average of nearly three percentage points a month through December. The current index is based on contracts signed in January, which typically close within two months.

David Lereah, NAR's chief economist, points to January's 1.1% decline, after sharper drops in preceding months, as evidence that the housing market is "plateauing." He adds: "We're at a more sustainable level of home sales right now. Demand is still strong but we're seeing a transition from a seller's market to a buyer's market. This is a soft landing scenario."

Still, other analysts warn that the slowdown could be painful, at least for sellers. Daniel Oppenheim, a housing analyst at Bank of America Corp., reported last week that his monthly survey of real-estate agents in February showed flat or lower prices in 13 of 20 major metropolitan areas.

Bond Yields Weigh On Stocks (WSJ)

By Scott Patterson

The Wall Street Journal, March 7, 2006

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Utility stocks were the first to fall. Small companies followed. By afternoon, most stocks were mired in the red as a jump in Treasury yields raised concerns about the health of corporate profits, housing and the stability of stock prices.

One group that escaped Monday's downward spiral: telecom stocks, which rose in the wake of the announced tie-up between AT&T and BellSouth.

Stocks regained some territory in the final hour of trading. The Dow Jones Industrial Average, off more than 90 points earlier, finished down by 63 points to 10958.59. Alcoa, Caterpillar and Honeywell International all lost about 2%, as did AT&T. General Motors was a standout, gaining 3.1% after it said it could get about $2 billion after selling most of its stake1 in Japan's Suzuki Motors.

The Standard & Poor's 500-stock index slid 8.97 to 1278.26 and the Nasdaq Composite Index fell 16.57 to 2286.03.

The yield on the benchmark 10-year Treasury note rose to 4.742%, its highest level since June 2004, when the Federal Reserve first started lifting rates. The decline by Treasury bonds continued a trend that began last week after the European Central Bank raised a benchmark refinancing rate to 2.5%. "It certainly looks like a breakout on the yield of the 10-year Treasury," said Robert Pavlik, chief investment officer at Oaktree Asset Management.

The bond market is likely signaling that the Fed may raise rates higher than equity investors hope, said Owen Fitzpatrick, managing director at Deutsche Bank Private Wealth Management. "There's definitely more concern that the Fed could be planning more than just one or two more rate hikes," he said, possibly boosting the overnight bank-lending rate to as high as 5.5%.

The bond carnage spilled over into the utility sector. Utility companies, which offer high dividend yields, often compete against bonds for investor dollars. The Dow Jones Utility Average, which tracks 15 utility stocks such as Williams and Consolidated Edison, shed 2.7%.

Higher yields make it more expensive for companies and consumers to do business, which can hurt corporate profits. Housing stocks also suffer from higher yields, which make mortgages more costly. The Philadelphia Housing Sector Index fell 1%. Small companies, generally more sensitive to interest rates, since they generally rely more on loans to finance their businesses, also suffered. The Russell 2000 index of small-cap stocks fell 1%.

Light, sweet crude-oil prices fell $1.26 to $62.41 a barrel on the New York Mercantile Exchange amid expectations that the Organization of Petroleum Exporting Countries will leave its output quotas unchanged after meeting later this week. Comex gold prices slid $11.20 to $556.80 on the Nymex.

Meanwhile, investors weighed AT&T's agreement to buy9 smaller rival BellSouth in a $67 billion stock deal that would create the largest telecommunications company in the world with a market capitalization of as much as $170 billion. The announced deal, the fifth-biggest ever, comes after several blockbusters in the industry last year, including combinations between SBC Communications and AT&T and Verizon Communications and MCI.

Shares of AT&T fell 3.5%, and BellSouth's jumped 9.7%. Investors often unload shares of an acquiring company and purchase the stock of the company being acquired, though concerns about whether the deal will survive regulatory scrutiny are also playing a role in the stock action.

Talk of other potential deals in the business boosted the sector: Verizon gained nearly 1%; European telecom operator Vodafone Group, Verizon's partner in Verizon Wireless, gained 4.3%; Sprint Nextel rose 4.6%; and Qwest Communications International was up 3.8%.

In major market action:

Stocks declined10. On the New York Stock Exchange, where 1.7 billion shares traded, 1,008 stocks rose and 2,351 fell. On the Nasdaq Stock Market, where 2.2 billion shares traded, 1,123 rose and 1,933 declined.

Bonds dipped11. The benchmark 10-year Treasury fell 14/32, or $4.38 per $1,000 invested, to yield 4.742%. The 30-year bond fell 1 2/32 to yield 4.728%. Yields move inversely to prices.

The dollar rose.12 It traded at 117.58 yen, up from 116.39 yen late Friday, while the euro fell to $1.2020 from $1.2037.

DeLay To Spend Primary Night As Star Guest Of Lobbyists (USAT/AP)

By The Associated Press

USA Today, March 7, 2006

Rep. Tom DeLay, whose association with lobbyist Jack Abramoff has left him politically vulnerable, is spending Texas' primary night tonight at a Washington fundraiser hosted by two lobbyists.

DeLay has three opponents in the Republican primary and could face a serious challenge in the general election after leaving his job as House majority leader amid campaign finance scandals.

The fundraiser is being held by lobbyists Bill Paxon and Susan Molinari, both former members of Congress from New York. The event will raise money for DeLay's re-election campaign.

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DeLay spokeswoman Shannon Flaherty said DeLay would be in Washington for votes and has other events on his schedule including the fundraiser. She said he was unavailable for an interview.

DeLay's toughest primary challenger, attorney Tom Campbell, criticized the congressman's plans. "I think it's amazingly ironic and callous he would be spending election night with a group of lobbyists," he said.

DeLay is awaiting trial in Texas on charges of money laundering. DeLay has denied wrongdoing and has labeled the Texas investigation a witch hunt.

The former House majority leader has been behind in the fundraising race against the Democrat he would oppose if he wins today. In reports filed with the Federal Election Commission late last month, DeLay had raised about $153,000 between Jan. 1 and Feb. 15, compared with $248,000 for Nick Lampson, a former congressman. DeLay had about $1.3 million in cash as of Feb. 15, while Lampson had $1.4 million.

In the state's gubernatorial primary election today, two Democrats are competing for the chance to challenge Republican Gov. Rick Perry. Chris Bell, a former one-term congressman from Houston, has raised more than three times as much money as his opponent, former Texas Supreme Court justice Bob Gammage.

The general election could also include two independents: the state comptroller, who calls herself "one tough grandma," and a cigar-chomping comedian. Texas Comptroller Carole Keeton Strayhorn and humorist Kinky Friedman have to collect 45,540 signatures each from voters who did not cast ballots in the primary to make the November ballot as independents.

Texas Voters Have Their Say (RC)

By David M. Drucker

Roll Call, March 7, 2006

Voters in Texas go to the polls today to decide the fate of embattled Rep. Tom DeLay (R) and others running in contentious Lone Star State primaries, with the national spotlight shining on the former Majority Leader and how he fares with his constituents.

Democrats will be closely watching the rematch between Rep. Henry Cuellar and the man he ousted two years ago, ex-Rep. Ciro Rodriguez.

DeLay is expected to beat the three challengers opposing him in the Republican primary, but the extent to which he can avoid a runoff by securing more than 50 percent of the vote in the suburban Houston 22nd district — and by how much, if he does — could be telling for Democrats, who hope to ride their "Culture of Corruption" slogan to a House takeover in November.

Attorney Tom Campbell (R), seen as most likely to give DeLay trouble in today's vote if anyone does, maintains that DeLay's constituents are tired of behavior Campbell describes as unseemly and unethical (DeLay has been indicted for violating Texas election law by a Democratic district attorney and has ties to disgraced Republican lobbyist Jack Abramoff).

But the DeLay camp insists voters realize such attacks are the result of angry Democrats who have impugned the Congressman's integrity because they couldn't defeat Republicans at the polls. Signaling his confidence in the outcome of today's vote, DeLay is scheduled to be in Washington, D.C., today for House business and to hold a fundraiser.

"We've put together a sophisticated and effective campaign organization that's not only prepared for [today], but ready to topple [former Democratic Rep.] Nick Lampson in November," DeLay campaign spokeswoman Shannon Flaherty said. "We've identified our supporters and now we just need to get them out to vote."

Despite the volatility and national attention on a race featuring the former House Majority Leader, the shenanigans in the primary have been fairly tame. The Free Enterprise Fund, based in D.C., has been running ads touting DeLay, with the latest ad attacking liberal politicians and their supporters.

Opposing DeLay, a group calling itself American Family Voices has lobbed pre-recorded phone calls into the district accusing the Congressman of being weak on port security. Lampson, DeLay's presumed Democratic opponent in the general election, also has been hitting DeLay on the port security issue.

The wild card, Flaherty said, is the behavior of Democratic voters, who are allowed to vote in either the Democratic or Republican primary under Texas' open primary system. Flaherty said Democratic voters in Harris County have been more active in this Republican primary than in past GOP primaries, with some anecdotal evidence showing that they may be turning out to vote against DeLay.

"With early voting we're seeing low turnout in some areas of the district, and even Democrat crossover that can swing any election," Flaherty said.

Campbell spokesman Michael Stanley believes voters have tired of DeLay, and said Monday it is highly likely there will be a runoff, which would occur on April 11 if no candidate in the four-way race manages to secure more than 50 percent of the vote.

"It's going very well," Stanley said.

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Two other primaries that have seen negative campaigning take hold as today's elections have approached are the 28th district Democratic primary and the 17th district Republican primary.

In 28th district, which encompasses much of San Antonio and Laredo, Cuellar and Rodriguez have been trading ethics charges in the press and via their campaign advertisements.

Third-party groups also have entered the fray, with the Lone Star Project on Friday sending out a news release that questions Cuellar's use of campaign funds in his 2002 Congressional race and charges he misused state funds while still Texas secretary of state, which is an appointed position.

The Cuellar campaign has capitalized on a private investigator suing Rodriguez to collect a campaign debt he claims is unpaid, calling him a "Deadbeat Candidate," and accused him of using his position while in Congress to go on

lobbyist-paid junkets that betray his supposed concern for the working people of the 28th district.

Both sides were claiming on Monday to be the victims of false, unfair attacks.

"We intend to win without a runoff and send a strong message that the last-minute special interest mudslinging can't overcome good old-fashioned hard work," Cuellar campaign spokesman Colin Strother said. "These are the same folks who we beat in 2004 and we feel supremely confident that voters will rebel against the lies and the venom some of these groups are spewing."

Cuellar has had a significant fundraising advantage, but Rodriguez narrowed the gap in recent weeks with help from donations from Democratic House members, liberal interest groups and solicitations for small donations by left-wing Web logs.

Cuellar is the incumbent, but many Democratic leaders would love to see Rodriguez beat him because they feel he is too conservative and too friendly with President Bush.

"I think that Mr. Cuellar and his campaign took us for granted, and now they're struggling and bringing all kinds of dirty stuff, but in end voters will decide," Rodriguez campaign spokesman Oscar Sanchez said. "We feel very confident that we're going to show really great numbers tomorrow and we're counting on a victory."

But there is a third candidate in the race, which means an April runoff is possible.

Perhaps the muddiest primary fight — though it has gotten less attention outside Texas — has been waged in Rep. Chet Edwards' (D) 17th district, where two Republicans are battling for the right to run against the Congressman in a district drawn for the GOP but won by the veteran Democrat in 2004.

Iraq war combat veteran and wealthy businessman Van Taylor (R) has been sparring with attorney and former Congressional aide Tucker Anderson (R), with the accusations becoming increasingly nasty as today's election approached. Taylor, endorsed late last week by Gov. Rick Perry (R), claims Anderson is using "liberal Democrats and anti-Christian activists" to attack him, while in another slam insinuates wrongdoing by asking whether his opponent "pays property taxes on the home in which he lives."

Anderson, whose former boss, Rep. Pete Sessions (R-Texas), recorded phone calls encouraging voters to elect his old employee, has sent out a mailer featuring a letter to the editor of a local newspaper that highlights this excerpt:

"Van Taylor ... refused to answer the question and instead gave a long-winded answer that left me with no idea what he believed in. I thought I was listening to" Sen. John Kerry (D-Mass.).

The Taylor campaign claims it tracked down the letter writer and discovered she is an Edwards supporter masquerading as a Republican.

Both sides claim they are responding to negative attacks initiated by the other. "We continue to want to have a positive issue-based campaign, and for several months had stayed on that same message, even though we were taking hits on daily basis," Taylor campaign spokesman Mike Spellings said. "Mr. Anderson finally crossed the line."

Anderson has served the Taylor campaign with legal papers accusing his political operation of slander and libel. In one news release, he says Taylor should "stop slandering my good name in an attempt to save his failing candidacy," while, in another release, encourages voters to call him directly if they have any questions.

"I have nothing to hide," Anderson said. "If anyone wants to know where I stand on any issue, call me directly."

The negative campaigning from both sides indicates a close race, with Anderson leading in newspaper endorsements and Taylor leading in money. Anderson said Monday he feels "very good" about his chances.

Facing Primary Challenge, DeLay Touts Clout, Pork (WT)

By Hugh Aynesworth

The Washington Times, March 7, 2006

SUGAR LAND, Texas -- Rep. Tom DeLay faces the first hurdle to re-election today in the Republican primary, but the 11-term congressman has been campaigning since his indictment last year cost him the House majority leader post.

The former powerhouse behind House Republicans' conservative agenda is running a retail political campaign in his suburban Houston district, touting his political clout --and the federal money he has guided home.

In one recent handout, Mr. DeLay boasts of securing more than $1 billion in federal money for Houston-area transportation projects, NASA, area universities, the port and various law-enforcement entities.

"You can't be replaced without hurting Houston or Texas," Houston lawyer Joe Slovacek told Mr. DeLay when introducing him recently to more than 200 Realtors and other businessmen.

Mr. DeLay is expected to defeat his three Republican opponents in the primary, setting up what political observers predict will be a tough general election race in November.

Since last year, he has been dogged by an indictment, secured by Travis County District Attorney Ronnie Earle, charging him with illegally funneling campaign money to Republican candidates to help the GOP take control of the Texas Legislature in 2002. That case is in limbo, pending the outcome of appeals before the state Supreme Court.

Mr. DeLay has also been the subject of news stories linking him to lobbyist Jack Abramoff, who has pleaded guilty to felony fraud and bribery charges, and though Mr. DeLay denies wrongdoing in both situations, the charges have damaged him.

"Getting beat up by the national media and the Chronicle [Houston's daily newspaper] has taken its toll," said Mr. DeLay at one stop.

"It's polarized my district. You either love me or hate me. Thank God there are more that love me."

Mr. DeLay doesn't mention the indictment on the campaign trail unless somebody asks him about it, said his spokeswoman, Shannon Flaherty. She also said one of eight mailers the campaign had sent out included one where Mr. DeLay explained the entire matter.

The DeLay camp exudes confidence even though most polls indicate the congressman's negatives are the highest in his political history and he actually trails his Democratic challenger, Nick Lampson.

Mr. Lampson, a four-time congressman before DeLay-led state redistricting rendered him virtually unelectable in his Beaumont-area district two years ago, has solid financial backing. Another ex-congressman, Steve Stockman, indicates he might run as an independent in November.

The three Republican candidates -- schoolteacher Pat Baig and lawyers Tom Campbell and Michael Fjetland -- probably won't spend one-tenth as much in the race all together as the well-heeled DeLay campaign, and since none are well-known, most political watchers think it's Mr. DeLay's to lose.

It's the first race for Mrs. Baig and Mr. Campbell. Mr. Fjetland has run unsuccessfully thrice before.

Mr. DeLay has singled out the candidate he figures is the strongest challenger and has attacked him in several venues: Mr. Campbell, the DeLay campaign says, doesn't represent conservative issues and has seldom even voted in Republican primaries.

"He isn't qualified to be a precinct chairman, let alone a congressman," said Miss Flaherty.

Mr. Campbell's campaign manager, Michael Stanley, says his candidate is not a career politician like Mr. DeLay, which he considers a plus, considering Mr. DeLay's current legal troubles.

Mr. Campbell stresses a "return to integrity" in his campaign ads on cable TV and in persistent public appearances.

"If I wasn't hurting him, he wouldn't be attacking me," he said of Mr. DeLay.

DeLay Cash May Prove Record High (HILL)

By Patrick O'Connor

The Hill, March 7, 2006

Rep. Tom DeLay (R-Texas) is urging members of the National Rifle Association (NRA) and supporters of Texas Right to Life to dig deep into their pockets to help him retain his seat this year.

The outreach is part of a broad direct-mail and telemarketing campaign to attract new donors and volunteers for the former majority leader's reelection.

It also marks a fundraising shift for DeLay this election cycle from a PAC-heavy strategy in which the once-powerful Republican doled out lobbyist dollars to his congressional colleagues to one in which DeLay and his team are primarily focused on his own reelection bid.

The former majority leader faces his first real test in today's Texas primary, but he has been gearing up for this fight since late fall, after he was forced to step aside as leader following his indictment by a Texas grand jury in a controversial campaign-finance-related case.

The outreach has three aims, said Shannon Flaherty, a spokeswoman for the campaign: get information directly to voters in the district, ask those voters to volunteer or donate money to the campaign and continue building a database of local and national supporters to contact between now and the November election.

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"Most of the mail is for donors and volunteers," Flaherty said.

DeLay's prominence and the expected flood of outside money from national Democrats could make this race one of the most expensive in House history.

The DeLay campaign recently mailed a series of pieces to district voters to boost turnout among potential supporters during the early voting period for today's primary, according to three such pieces. They do not refer to DeLay's three Republican challengers but instead to former Democratic Rep. Nick Lampson (D-Texas), who lost reelection last cycle to current Rep. Ted Poe (R-Texas) after his district was redrawn. Lampson is challenging DeLay this year.

The purpose of this early mailing, which was conducted both locally and nationally, was to identify likely supporters in and out of the district with an eye on the general election.

"We're working on a list that will take us to November," Flaherty said. "We're already at the point where most campaigns are [at the end of the race]."

Flaherty said the campaign would not release the number of donors or supporters on its list, but she suggested a sizable increase in donors and volunteers.

One casualty of DeLay's newfound focus on his own reelection is his leadership PAC, Americans for a Republican Majority, or ARMPAC.

The PAC raised $3.7 million last cycle, according to PoliticalMoneyLine, but has only raised $962,827 this cycle and took in a modest $17,065 during the first month of this year. In addition, ARMPAC requested to file quarterly reports with the Federal Election Commission (FEC) instead of monthly reports, as it had throughout each of the past four years.

"It stands to reason that the campaign continues to be the focal point of what we do this year," said ARMPAC director Jim Ellis, who does not hold an official role with DeLay's reelection campaign. "The emphasis has to be on the reelect."

Ellis said that the request to file quarterly reports was simply an accounting decision and that the PAC will return to form when DeLay is cleared of his legal troubles and wins in November.

"We'll be back," Ellis said.

Because the FEC limits PAC donations, the most a candidate can raise during a particular cycle is around $2.5 million, a number of GOP fundraisers said. DeLay's associates have hinted the congressman hopes to raise somewhere in the neighborhood of $8 million to $9 million this cycle. Direct mail and telemarketing are the most effective ways to reach a sizable enough donor pool to make up that difference, but it can be a costly process.

The DeLay campaign has contracted with the telemarketing firm Feather, Larson and Synhorst of Phoenix and the direct-mail firm Olsen Shuvalov of Austin, Texas, to conduct this outreach campaign, according to FEC filings from the past six months.

The campaign committee paid Feather, Larson and Synhorst more than $150,000 last year and has paid Olsen Shuvalov almost $300,000 since the beginning of last July, according to FEC records.

The campaign has also rented member information from the NRA, the Right to Life PAC of Houston and ARMPAC. FEC rules require members to separate their leadership PACs from their reelection campaigns, preventing them from sharing information directly.

Campaign officials sift through those lists for potential supporters in and out of the district and then send preliminary mailings hoping to attract volunteers and donors and get information out about their candidate. About 3 to 5 percent of the recipients typically contribute time or money with the first mailer, but that number can get as high as 8 percent if the information is more specific, fundraisers said.

The NRA mailer sent out by the DeLay campaign includes a historical comparison of DeLay and Lampson done by the Gun Owners of America, in which DeLay earned an A to Lampson's C, and a statement from NRA Executive Vice President Wayne LaPierre praising DeLay's advocacy on behalf of gun owners.

Democratic National Committee Chairman Howard Dean, documentary filmmaker Michael Moore and Jane Fonda are on the cover of all three early-voting mail pieces, positioned above a panoramic shot of the Hollywood sign.

In addition, DeLay must raise money for that run from outside the current leadership, without a clear path to return, and without a chairmanship within his group.

"Tom DeLay is an experienced guy," National Republican Congressional Committee Chairman Tom Reynolds (R-N.Y.) said during a retreat of House Republicans last month. "He knows exactly what he has to do to win an election."

Asked how much money the committee would spend on DeLay's race, Reynolds said, "If he asks for something, he's an incumbent Republican and we'll do that."

In the most expensive House race to date, former Rep. Jim Rogan (R-Calif.) raised $6.6 million in his unsuccessful reelection fight against Rep. Adam Schiff (D-Calif.) in 2000. Rogan was one of the three House prosecutors of then-President Bill Clinton during the impeachment fight and was the only one in a competitive seat.

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Expecting a tough reelection fight, Schiff's campaign manager, Jason Roe, did a single direct-mail piece to start building a donor list in the fall of 1999 with the hopes of just breaking even. Rogan's name identification was so high among conservative Republicans that the campaign tripled its money on the first mailing, Roe said. It built its list of supporters from 4,000 names to 70,000 by the end of the campaign.

Rogan's name identification was responsible for the success of that fundraising campaign. DeLay's own notoriety suggests that he could have similar success raising money from a national direct-mail campaign.

"DeLay's situation is ready-made," Roe said. "Martyrs are the best guys."

Opponents Of DeLay Make Use Of A Film (NYT)

By David M. Halbfinger

The New York Times, March 7, 2006

LOS ANGELES, March 6 — A documentary about the Texas criminal investigation that led to the indictment of Representative Tom DeLay, the former House majority leader, on campaign fund-raising charges is being put to use by Mr. DeLay's political opponents in an attempt to unseat him.

The film, "The Big Buy: How Tom DeLay Stole Congress," will be distributed this spring by the Hollywood producer and liberal provocateur Robert Greenwald, whose last release was a scathing attack on Wal-Mart sponsored by a variety of labor unions and other groups critical of the retailing giant.

A host of liberal organizations in Texas and nationwide, including People for the American Way, Democracy for America and the Pacifica radio station in Houston, are expected to sponsor the film's release. It will not follow a traditional theatrical rollout but will instead open in a few cities before being made widely available on DVD, as was the Wal-Mart movie, Mr. Greenwald said in an interview.

An important aspect of the release plan is to organize hundreds, if not thousands, of house parties in May and June at which the movie will be shown, Mr. Greenwald said. The distribution strategy is to be detailed on Tuesday — primary day in Texas — as a "welcoming gift" to Mr. DeLay, he said.

Mr. DeLay's lawyer, Dick DeGuerin, called the movie, an early version of which he had seen, a "hatchet job," and said he had refused to sit down with the filmmakers for an interview. (Mr. DeGuerin appears on camera in public question-and-answer sessions with the news media.)

The filmmakers, Mark Birnbaum and Jim Schermbeck, spent three years and about $100,000 following what began as a nasty state legislative battle over Mr. DeLay's push to redraw Congressional districts in Texas in 2002, and mushroomed into a nationally watched partisan standoff, complete with Democratic lawmakers fleeing across state lines. It ultimately wound up as a criminal case, with Mr. DeLay and his allies coming into the cross hairs of Ronnie Earle, the Democratic district attorney of Travis County, Tex.

It was Mr. Earle's argument, in the indictment last September, that Mr. DeLay had engineered the Republican takeover of the Texas legislature in 2002 by breaking a state law banning companies from donating to individual candidates, essentially laundering tens of thousands of dollars in contributions through the Republican National Committee.

It is the film's argument that Mr. DeLay had a grander purpose in mind: using the newly Republican-run legislature to redraw the state's Congressional map, erasing five seats held by Democrats despite Republican majorities, causing a 10-vote shift in the House, and thereby giving Republicans a solid majority with which to enact corporate-friendly federal legislation. All of which, the film asserts, worked like a charm.

Mr. Birnbaum, 57, of Dallas, a veteran documentary maker who started out in public television, and Mr. Schermbeck, 47, of Lubbock, Tex., a longtime community organizer, said in a telephone interview that they had tried mightily but failed to get Mr. DeLay to return their calls, while the district attorney, Mr. Earle, made himself readily available. Nonetheless, they said, they had strived for an evenhanded approach, one they had used in their only previous collaboration, a 2003 film for the PBS series "P.O.V." about high school drug testing in Lockney, Tex. They edited a version of "The Big Buy" in which Mr. DeLay was not so central to the story, and showed it at a Dallas film festival in August.

Then came the indictment of Mr. DeLay.

Quickly, the congressman and his aides used the existence of the film to attack the prosecutor, saying Mr. Earle's cooperation with Mr. Birnbaum and Mr. Schermbeck was proof that he was merely chasing headlines. When Mr. Earle was quoted insisting he had said and done nothing unusual or inappropriate — "I'm just doing my job" — Mr. DeLay went on a Houston talk-radio show and retorted: "Oh yeah, he's just doing his job. He's just doing his job. He's got a film crew that has been following him around for two years to document how he's going to get Tom DeLay."

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Mr. DeGuerin maintained in a telephone interview Monday that the movie "puts the lie to Ronnie Earle's protestations for a year, before the indictment came down on DeLay, that DeLay was not a target." He added, "In truth, all the time he was cooperating with the moviemakers."

But Mr. DeGuerin said that he had not followed through on a threat to subpoena the filmmakers' outtakes, and that he doubted the movie would become a factor at trial.

Mr. Birnbaum and Mr. Schermbeck insist that Mr. Earle had shared no secrets with them, and that they acted and were treated no differently from any journalists covering the case.

In California last fall, Mr. Greenwald watched the coverage of the DeLay indictment unfold and wondered if there wasn't a good documentary in it. "Then somebody told me these two Texas guys had done one," he said in an interview.

The Sundance Film Festival had already expressed interest in "The Big Buy," and Mr. Birnbaum and Mr. Schermbeck were mulling whether to go the festival route, which could take the film a year or more to get into theaters. But Mr. Greenwald had just distributed his Wal-Mart movie through a grass-roots campaign of house parties and internet sales of DVD's — and scored a huge publicity coup when Wal-Mart attacked him — so he proposed a similar strategy for the DeLay film. It is to have its premiere either in Houston or Austin, he said, before opening in a few other cities and being offered for sale on the Internet for $14.95.

Now, of course, the two Texans' supposedly balanced movie is being distributed by the man behind "Outfoxed," a stalwart of the partisan left. Yet they say the net effect will be negligible.

"With Tom DeLay you're either in his camp or you're not," Mr. Schermbeck said. "It wouldn't matter what distributor we chose. You could broadcast this on 'Masterpiece Theater,' and we'd still be Satan's messengers to Tom DeLay and his friends."

Mr. Schermbeck insisted the documentary was fair to Mr. DeLay; it includes comments by three of the congressman's lawyers and some of Mr. DeLay's Republican allies, for example. But he made clear he had no pretensions to neutrality.

"Timing was everything," he said, explaining the choice of Mr. Greenwald's company, Brave New Films. "It was important to get this out as soon as possible, given the trial, the Supreme Court and, frankly, given the elections this November."

Added Mr. Greenwald: "With Wal-Mart, 4,000 groups took it on. I'm assuming there are going to be people all over the country gleeful and joyous to have a tool that they can use for organizing, fund-raising, issue work, all of that."

Mr. Schermbeck suggested the film could well prove to have bipartisan utility. "I'm sure Tom DeLay will use this for fund-raising," he said. "Will it be a great fund-raising tool? It remains to be seen. But I'm hoping to make some money back myself after three years of labor that haven't been compensated."

Two Little-Known Dems Seek Texas Gov. Seat (AP-Y2)

By Kelley Shannon

AP2, March 6, 2006

AUSTIN, Texas — Two Democrats with long resumes but little name recognition are competing in Texas' gubernatorial primary election Tuesday for the chance to challenge popular GOP Gov. Rick Perry.

The general election could also include two independents — the comptroller who calls herself "one tough grandma" and a cigar-chomping comedian.

Chris Bell, a former one-term Houston congressman, has raised more than three times as much money as his Democratic opponent, former Texas Supreme Court Justice Bob Gammage.

The two campaigns tried to stir last-minute voter interest Monday. In the two weeks of early voting, just 3.3 percent of registered voters from both parties cast ballots. The state elections chief predicts a 13-percent overall turnout.

Texas Comptroller Carole Keeton Strayhorn and humorist Kinky Friedman hope to capitalize on low turnout among Republicans and Democrats. They have to collect 45,540 signatures each from voters who did not cast ballots in the primary to make the November ballot as independents.

Strayhorn, elected to her current job as a Republican, wanted to avoid a costly and uphill primary battle against Perry, who was heavily favored to win re-election. Two of her four sons hold high-ranking jobs in President Bush's administration, including White House spokesman Scott McClellan.

Friedman is a musician, author and comedian who once toured with his band called the Texas Jewboys. He is rarely seen without his signature black cowboy hat and cigar and has the same political consultant former pro wrestler Jesse Ventura hired to help capture the governorship of Minnesota.

If Strayhorn and Friedman get on the ballot, Perry could face a four-way race in November against two candidates with political charisma and a Democrat hoping to break the Republicans Party's hold on all the statewide offices in Texas.

"It's great for the people of Texas. It means we're going to have a choice," said Mike Lavigne, former chief of staff for the state Democratic Party. "I think you're going to have everybody focused on Rick Perry. You'll have attacks there."

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Perry portrays himself as being above the political fray and busy governing the state. He faces minor opposition against three primary opponents.

Bell, 46, gained notice as a freshman congressman for filing the first House ethics complaint against former House Majority Leader Tom DeLay. He made the complaint shortly after the Texas redistricting engineered by DeLay caused Bell to lose his re-election bid.

A former broadcast reporter and lawyer, Bell served as chairman of the Houston City Council's ethics committee and came in last in a three-way contest for Houston mayor in 2001. He has said as governor he wants to improve Texas' standing nationally on several fronts.

"My motive for running is to get Texas out of the 'Thank God for Mississippi' club," Bell said, referring to national figures on uninsured children and teen pregnancies in which Texas often ranks just above lowest-ranking Mississippi. He also said he wants to restore bipartisanship to the Legislature after gridlock stymied efforts to change Texas' public school finance system.

Gammage, 67, once represented the same suburban Houston district in Congress now served by DeLay. He also served in the state Legislature and on the Texas Supreme Court, but retired from public life 11 years ago.

In the early 1970s, Gammage was part of a group of legislators who rallied against the speaker of the Texas House and other officials. The speaker, Gus Mutscher, was later convicted and sentenced to five years' probation for conspiring to accept a bribe.

He said recent corruption scandals in Washington and Texas brought him out of retirement.

"My ego doesn't need this," he said. "I don't need the title 'governor.' I care about getting the job done."

GOP Faces Tough Climate, The NRSC's Dole Concedes (HILL)

By Peter Savodnik

The Hill, March 7, 2006

Senate Republicans face a stormy "atmosphere" but will "retain a strong Republican majority" in November, says Sen. Elizabeth Dole (N.C.), the chairwoman of the National Republican Senatorial Committee (NRSC).

In an hour-long interview with The Hill, Dole repeatedly noted that despite the political climate — made worse by White House communications flops and GOP scandals — Republican challengers are mounting viable bids in Michigan, West Virginia and elsewhere.

But she acknowledged that President Bush could have done a better job handling the Dubai ports deal, which has given Democrats an opportunity to look tougher on terrorism than Republicans, and that the president's poll numbers are less than optimal.

"There are highs and lows for any president," Dole said, "and I think that you'll see things change, and it's still a long way, light-years away, from the election. But the bottom line is races are really run and won at the local and state levels."

Other campaign-committee chairmen strike a more pugnacious pose than Dole. Sen. Charles Schumer (N.Y.), Dole's counterpart at the Democratic Senatorial Campaign Committee (DSCC), is viewed as a Brooklyn street fighter unafraid of making tough, politically savvy calls. Last year, for instance, Schumer elbowed aside a more liberal candidate in Pennsylvania to make room for state Treasurer Bob Casey Jr., an abortion-rights foe challenging Sen. Rick Santorum (R).

Similarly, Rep. Tom Reynolds (N.Y.), the chairman of the National Republican Campaign Committee (NRCC), when asked at a press conference if he fears losing seats this cycle, pounded on the table in front of him, booming: "Combat!" Sen. George Allen (R-Va.), Dole's predecessor at the NRSC, is known for his football analogies and aggressive politicking. In 2004, the former University of Virginia quarterback led the GOP to pick up four Senate seats.

Dole, the only woman to run any of the campaign committees this cycle, is also the oldest committee head. This year, she turns 70. Unlike many politicians, who go off the record to trash their rivals, Dole goes off the record to pay compliments.

While Republicans have privately voiced concerns about NRSC fundraising — the committee ended 2005 with $9.2 million in the bank versus the DSCC's $22.4 million — Dole was quick to point out that the Republicans outpaced Democrats in January.

In the first month of the year, the NRSC raised $4.3 million, compared to the DSCC's $2.1 million. Dole said she and her former Senate campaign manager, Mark Stephens, now NRSC executive director, had replicated her strategy back home, "prospecting" for small donors. "Two million of that $4.3 million was people giving $200 or less," she said.

Dole added that GOP senators are being asked to pitch in to campaigns more than in previous cycles. She conceded that Democrats have been more successful at getting their members to help struggling Senate campaigns.

Republicans have also had trouble recruiting candidates in such GOP-leaning states as North Dakota, where Sen. Kent Conrad (D) is up for reelection; Florida, where Sen. Bill Nelson (D) is seeking a second term; and New Mexico, where Sen. Jeff

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Bingaman (D) is running for a fifth term. Republicans have been unable to find a viable contender to take on Sen. Hillary Rodham Clinton (D-N.Y.).

Dole stressed that the NRSC does not take sides in Republican primaries — this has not always been the case — but did single out certain Republican candidates who, she said, are running strong races, including Oakland County Sheriff Mike Bouchard in Michigan and former Ameritrade executive Pete Ricketts in Nebraska. Both Bouchard and Ricketts face primary opponents.

"Despite the atmosphere, these outstanding people have declared that they want to run, and it's been our privilege to work with them," Dole said.

Dole also praised media mogul John Raese, a West Virginia Republican running against Sen. Robert Byrd (D). The senator won his eighth term in 2000 with 78 percent of the vote.

Echoing her communications department, Dole sought to play up the roles played by liberal interest groups and bloggers such as MoveOn.org and DailyKos in boosting Democratic candidates.

The senator, the first woman to head the NRSC, also said the committee is trolling for female donors, particularly in the business world, who might run for office themselves one day.

And she suggested that the NRSC would be following the campaign strategy mapped out earlier this year by White House political adviser Karl Rove and Republican National Committee Chairman Ken Mehlman.

Rove and Mehlman, addressing Republican state party leaders at a meeting in Washington earlier this year, highlighted Democrats' vulnerability when it came to national security, indicating 2006 would be something of a replay of 2002 and 2004.

Dole, in the interview, observed that Democratic leaders had fought the recently reauthorized Patriot Act and that, in Washington and in liberal bastions across the country, Democrats had skewered Sen. Joe Lieberman (D-Conn.) for backing the Iraq war.

Dole declined to make any predictions about how the balance of power might shift after the elections. "I don't really put any numbers down, but let me put it this way," she said. "When I came into this position, I knew that midterms are tougher. There is no question that midterms are tougher."

Excerpts from Dole interview

Let's talk about fundraising [at the National Republican Senatorial Committee (NRSC)].

Dole: We had about 120,000 brand-new donors, people that had never given to the NRSC, and we're going to continue down this path for some months here.

And the Women's Majority Network is one that I would love to tell you about. Our senators have gotten very much interested in this.

The network is really an outreach of women business owners or CEOs or opinion leaders or community leaders that have not been so involved in the political arena. So the overall idea is to get women more involved in the political process, and hopefully as they help us learn more about what happens, learn more in the senatorial committee, they'll become more interested in having a place at the policy table.

Why was January so good for fundraising, but 2005 — not so good?

Dole: [Senate Majority Leader] Bill Frist [R-Tenn.] was down in Florida, and he met all these women who were coming to a Majority Makers event who were all passionate and excited and into it. … Each one of them is going out to tap their networks because they all have networks of people and get them involved … and my view is that we will institutionalize this and once I'm gone after this year there will be a Women's Majority Network that remains a permanent part of the National Republican Senatorial Committee. So people have noticed this in various parts of the country that these women are very passionate and enthusiastic.

Did Republicans hurt themselves by coming out so strongly against the Dubai project?

Dole: There has been a lot of miscommunication, a lot of confusion, a lot of misinformation there. … My feeling is that a better foundation could have been laid. I mean, that's just the way I see it.

I think that 45 days provides a time to get all the facts out. … I really think that this will resolve itself. We really need all the information on the table to understand everything about it, which is really important.

The Medicare prescription-drug plan — do you think by the end of the year that will be an asset to Republicans?

Dole: For so many [years], Democrats have talked about getting prescription drugs for seniors, and we [got it passed]. … When you've got such a massive change for the first time in 40 years, you're going to [have a] problem, but I think … they're doing everything to straighten out where the problems have been, and I'm hearing that we're making real progress there.

Democrats Struggle To Seize Opportunity (WP)

By Shailagh Murray And Charles Babington

The Washington Post, March 7, 2006

News about GOP political corruption, inept hurricane response and chaos in Iraq has lifted Democrats' hopes of winning control of Congress this fall. But seizing the opportunity has not been easy, as they found when they tried to unveil an agenda of their own.

Democratic leaders had set a goal of issuing their legislative manifesto by November 2005 to give voters a full year to digest their proposals. But some Democrats protested that the release date was too early, so they put it off until January. The new date slipped twice again, and now House Minority Leader Nancy Pelosi (Calif.) says the document will be unveiled in "a matter of weeks."

Some Democrats fear that the hesitant handling is symbolic of larger problems facing the party in trying to seize control of the House and Senate after more than a decade of almost unbroken minority status. Lawmakers and strategists have complained about erratic or uncertain leadership and repeated delays in resolving important issues.

The conflict goes well beyond Capitol Hill. The failure of congressional leaders to deliver a clear message has left some Democratic governors deeply frustrated and at odds with Washington Democrats over strategy.

Party leaders, for example, have yet to decide whether Democrats should focus on a sharply negative campaign against President Bush and the Republicans, by jumping on debacles such as the administration's handling of the Dubai port deal -- or stress their own priorities and values.

There is no agreement on whether to try to nationalize the congressional campaign with a blueprint or "contract" with voters, as the Republicans did successfully in 1994, or to keep the races more local in tone. And the party is still divided over the war in Iraq: Some Democrats, including Pelosi, call for a phased withdrawal; many others back a longer-term military and economic commitment.

"It could be a great year for Democrats," said Rep. Jim Cooper (D-Tenn.), but the party must present a more moderate face and distinguish itself more clearly from the GOP on issues such as ethics. "The comment I hear is 'I'd really like to vote for you guys, but I can't stand the folks I see on TV,' " Cooper said in a telephone interview from Nashville.

On issues such as explaining that former lobbyist Jack Abramoff's work "was a 110 percent Republican operation," Cooper said, "we're not making nearly as much headway as we should." Abramoff has pleaded guilty in a corruption scandal.

The Democratic leaders in Congress -- Pelosi and Sen. Harry M. Reid (Nev.) -- are the party's chief strategists and architects of the agenda, which they view as a way to market party ideas on energy, health care, education and other issues. They have held countless meetings to construct the right list, consulting with governors, mayors and just about every Democratic adviser in town.

"By the time the election rolls around, people are going to know where Democrats stand," Reid said.

But many in the party have their doubts. On Feb. 27, Reid and Pelosi appeared before the Democratic Governors Association. At one point in the conversation, Iowa Gov. Tom Vilsack, noting that the two leaders had talked about a variety of themes and ideas, asked for help. Could they reduce the message to just two or three core ideas that governors could echo in the states?

According to multiple accounts from those in the room, Reid said they had narrowed the list to six and proceeded to talk about them. Pelosi then offered her six -- not all the same as Reid's. Oregon Gov. Ted Kulongoski said later: "One of the other governors said 'What do you think?' and I said 'You know what I think? I don't think we have a message.' "

Others, including Sen. Charles E. Schumer (N.Y.) and Rep. Rahm Emanuel (Ill.) -- who head the Senate and House campaign efforts -- believe the November election will turn mainly on how voters view Republicans. Schumer is leading the Democratic attack on the port deal, excoriating the administration for jeopardizing national security -- a realm in which Republicans have held the advantage with voters.

He and Emanuel have sought to delay the agenda's release to allow Democratic attacks to hold the stage with minimum distraction. "When you're in the opposition, you both propose and oppose," Emanuel said. "But fundamentally, this is going to be a referendum on [Republican] stewardship."

Also dividing Democratic strategists is the question of what lessons to take from the Republican landslide of 1994, when the GOP won the Senate and picked up 54 House seats, wiping out 40 years of Democratic rule. Some Democrats associate that breakthrough with the House Republicans' "Contract With America," a list of proposals on policy and government.

"We should take a page from their book" and have "an overarching theme" similar to the 1994 contract, said Sen. Thomas R. Carper (D-Del.).

Many of his colleagues agree, but not Reid. "We're not going to do a 'Contract With America,' " Reid said in an interview. He noted that the GOP document received scant attention when it was presented a few weeks before the 1994 election, and political historians say it played a minor role in the outcome. "There's a great mythology about the contract," Reid said.

Even the party's five-word 2006 motto has preoccupied congressional Democrats for months. "We had meetings where senators offered suggestions," Reid said. "We had focus groups. We worked hard on that. . . . It's a long, slow, arduous process."

That slogan -- "Together, America Can Do Better" -- was revived from the 2004 presidential campaign of Sen. John F. Kerry. It was the last line of Virginia Gov. Timothy M. Kaine's response to President Bush's State of the Union address, and Reid, Pelosi and Democratic National Committee Chairman Howard Dean have used it in speeches. But there is an effort afoot to drop the word "together." It tests well in focus groups and audiences, Democratic sources said, but it makes the syntax incorrect.

Governors privately scoff at the slogan. They also say the message coming from congressional leaders has been too relentlessly negative. "They want to coordinate. They want to collaborate. That's all good," said one Democratic governor who declined to be identified in order to talk candidly about a closed-door meeting. "The question is: Coordinate or collaborate on what? People need to know not just what we're against but what we're for. That's the kind of message the governors are interested in developing at the national level."

Reid spokesman Jim Manley said congressional Democrats have spent the past year redefining the debates over terrorism and Iraq and have prepared the ground for a shift to a more positive message that will focus on energy, health care and homeland security, all areas in which the governors would concur, he predicted. "We've had an unprecedented level of cooperation," he said.

Pelosi spokesman Brendan Daly added: "At the end of the day, I think everyone will be on board."

Perhaps the Democrats' greatest dilemma is how to respond to the Iraq war. It looms as the biggest question mark over Bush's administration and the Republican lawmakers who have backed him on the conflict almost without question.

Congressional Democrats have been split over the war since 2002, when many voted to authorize military action. The ground shifted last November when Rep. John P. Murtha (Pa.), a leading Democratic voice on military matters, called for U.S. troops to be withdrawn as soon as possible. Two weeks later, Pelosi endorsed his stance.

Although Pelosi said she was not speaking for her caucus, some colleagues complained that she was handing Republicans a gift by enabling them to tag Democrats as soft on terrorism and forcing Democratic candidates to explain whether they agreed with their House leader.

There is little question that the political landscape looks promising for Democrats. A Feb. 9 poll by the Pew Research Center found that Democrats lead Republicans 50 to 41 percent in a generic ballot.

But congressional Democrats have some key deficiencies. For instance, they lack the hard-charging, charismatic figurehead that Gingrich represented for the House GOP in 1994. But the Democrats have an abundance of presidential hopefuls, and their agendas sometimes differ from those of Reid, Schumer, Pelosi and Emanuel.

For instance, Sen. Russell Feingold (Wis.) tried to filibuster the renewal of the USA Patriot Act, a move opposed by most of his Senate colleagues, including Reid. Kerry (Mass.) led an unsuccessful filibuster attempt against Samuel A. Alito Jr.'s confirmation as a Supreme Court justice. The best-known Democrat is Sen. Hillary Rodham Clinton (N.Y.), whose plans for a 2008 presidential bid leave many of her colleagues wary of how her famous but divisive presence might affect them.

"There are lots of skeptics," Schumer conceded. But the polls look better and better, he stressed. "There may be some inside-the-Beltway babble, but it's not affecting the voters," said Schumer, who wants the agenda delayed again -- until summer.

The Democrats' Real Problem (WP)

By E. J. Dionne Jr.

The Washington Post, March 7, 2006

It is now an ingrained journalistic habit: After a period of bad news for President Bush, media outlets invariably devote time and space to "balancing" stories that all say more or less: "Yes, the Republicans are in trouble, but the Democrats have no alternatives, no plans," etc.

The pattern began to fall in place this weekend in the wake of two truly miserable weeks for Bush.

The stories about the Democrats are by no means flatly false -- Democrats don't yet have a fully worked-out alternative program -- but they are based on a false premise, and they underestimate what I'll call the positive power of negative thinking.

The false premise is that oppositions win midterm elections by offering a clear program, such as the Republicans' 1994 Contract With America. I've been testing this idea with such architects of the 1994 "Republican revolution" as former representative Vin Weber and Tony Blankley, who was Newt Gingrich's top communications adviser and now edits the Washington Times editorial page.

Both said the main contribution of the contract was to give inexperienced Republican candidates something to say once the political tide started moving the GOP's way. But both insisted that it was disaffection with Bill Clinton, not the contract, that created the Republicans' opportunity -- something Bob Dole said at the time.

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The Democrats' real problem is that they have failed to show how their critique of the Republican status quo is the essential first step toward the alternative program they will owe the voters in the presidential year of 2008.

This failure has made it easier for Republicans to cast anti-Bush feeling (aka, "Bush hatred") as a psychological disorder. The GOP shrewdly makes the president's critics look crazed and suggests that opposition to Bush is of no more significance than, say, the loathing that many watchers of "American Idol" love to express toward Simon Cowell, the meanest of the show's judges.

The president's critics need to identify precisely why they oppose him, not only so they can make clear that they are not psycho basket cases but also to convey the idea that they know what needs to be put right.

Bush critics will almost always point first to the administration's arrogance, a word used recently not by some left-wing Bush hater but by the loyal conservative writer Byron York. In the New Republic, York chose the A-word to explain why Republicans are turning on the White House's "we-know-best approach."

The cure for an arrogant government that doesn't take critics seriously is accountability. Divided government never looked so good. That's especially true at a moment when polls suggest that a majority is yearning for more competence and greater moderation.

For example, moderates and liberals alike are mystified by budget policies saddling our kids with debt tomorrow to pay for tax cuts for the wealthy today. Moderating this radical fiscal approach is something the voters clearly could accomplish with their ballots this fall.

But Democrats have no good answer to Iraq. True. And neither does Bush, who started the war and should be held accountable for where we are now.

The philosophical man who owns our neighborhood Chinese restaurant recently shared with me a brilliant aphorism to describe how to build a good business. "You have to do the right thing," he said, "and you have to do the thing right."

That summarizes what unites Bush's Iraq critics. Many Americans opposed the war in the first place, but many who supported it are aghast that the administration did the thing so badly. It did not dispatch enough troops to achieve order at the outset, and it failed to plan for the inevitable conflicts that would arise among the country's ethnic and religious groups.

What comes from this is not isolationism but an awareness that even a very powerful country needs to be a careful steward of its power. It should never go into a war without considering the probability of unintended consequences and planning for the worst case and not just the best one.

This is the basis for a saner foreign policy in the long run. As for Iraq, the voters should let the president know that he can no longer keep repeating his rah-rah mantras about standing down when the Iraqis stand up. Presidents deserve to be punished for insulting our intelligence.

Thus the shortcoming of Democratic leaders is not that they don't have a program but that they have not yet convinced opinion makers that fighting bad policies is actually constructive -- and that, between presidential elections, keeping matters from getting worse is sometimes the most positive alternative on offer.

Sen. Clinton Says Wear 'Anger' As Honor (AP-Y2)

By Beth Fouhy

AP2, March 6, 2006

Responding to Republican claims that she may be too angry to win national office, Sen. Hillary Rodham Clinton told an audience Monday to wear such criticism as "a badge of honor" and suggested that gender played a role in the attacks.

Democrats, particularly Democratic woman, who run for public office are "going to draw some unfriendly fire," Clinton said at a breakfast fundraiser hosted by black and Hispanic women supporters. "People will be attacking you instead of your ideas, they may impugn your patriotism, they may even say you're angry."

"If they do that, wear it as a badge of honor, because you know what? There are lots of things that we should be angry and outraged about these days," she said.

She cited, among other things, the federal budget deficit, lobbying scandals in Washington, and the government's slow response in the Hurricane Katrina disaster.

It was the latest volley in a rhetorical back-and-forth between Clinton and leading GOP strategists that began last month, when Republican National Committee Chairman Ken Mehlman said Clinton "seems to have a lot of anger" and that American voters tend not to elect angry candidates.

Mehlman pointed to comments Clinton made on Martin Luther King Day, when she called the Bush administration "one of the worst" in history, and compared the Republican-controlled House to a plantation.

Top White House strategist Karl Rove later echoed Mehlman's view, telling a Washington Times reporter in a new book that Clinton could have trouble winning the White House because there is a "brittleness about her."

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Clinton, who has not yet said whether she's considering a presidential run in 2008, first called the attacks a diversion from Republican "failures and shortcomings."

Then, last week, she said, "Karl Rove spends a lot of time obsessing about me," suggesting he spends more time thinking about her political future than she does.

Until now, Clinton had not said she considered the criticisms gender-based, although many observers have done so. New York Times columnist Maureen Dowd said Republicans are casting Clinton "as an Angry Woman, a she-monster melding images of Medea, the Furies, harpies, a knife-wielding Glenn Close in 'Fatal Attraction.'"

Ross Baker, a political scientist at Rutgers University, said he agreed with Clinton's assessment but questioned whether she should have said anything.

"I think she's right, but whether or not it was prudent to acknowledge it this way is another thing," Baker said. "I think another politician might have dealt with it more humorously, to defuse its influence."

Republican National Committee spokeswoman Tara Wall declined to address the suggestion that gender played a role in the attacks.

"When you vote to consistently raise people's taxes, vote against common sense judicial nominees and use Martin Luther King Jr.'s birthday to divide Americans along racial lines, you're likely to encourage criticism of both your ideas and temperament," she said.

Ex-Pentagon Aide Seeks To Unseat Clinton (AP-Y2)

By Marc Humbert

AP2, March 7, 2006

A former Pentagon official under President Reagan said Monday she will seek the Republican nomination to challenge Democratic Sen. Hillary Rodham Clinton's re-election bid this year.

"I am running to be my party's nominee for the United States Senate from the state of New York," Kathleen Troia "KT" McFarland wrote in a letter to supporters. "Toward that end, I have formed an exploratory committee, which I expect to upgrade to a full Senate campaign committee in the coming days."

The move by the political neophyte could put her into a September primary against former Yonkers Mayor John Spencer, already endorsed by top state Conservative Party leaders. No Republican has won statewide office in New York without Conservative Party support since 1974.

Clinton, asked Friday about a possible challenge from McFarland, said: "I am going to remain focused on my job and my race. I will leave it to the other side to sort out their own candidacies."

Polls have shown Clinton far ahead of her potential Senate challengers and leading among possible candidates for the 2008 Democratic presidential nomination.

McFarland, a former National Security Council staffer, has never run for public office and has been out of the public sector since she left her job as a deputy assistant secretary of defense for public affairs in 1985, a post she had held for three years, to raise a family.

Spencer's supporters have in the past dismissed McFarland, a supporter of abortion rights, as an "elitist liberal."

"I don't know what this woman is thinking, I really don't," Spencer said Monday, arguing that McFarland's candidacy would be "divisive (and) I guess helpful to Clinton."

"I'm the only one who can unite the Republican and Conservative parties, which I am doing," he added.

McFarland, in a telephone interview with The Associated Press, refused to address Spencer's criticisms, but said she would "go after every party."

"This is about so much more than that," she said. "This is about offering a candidate who will run an issues-oriented, substantive campaign."

McFarland said she plans to stress her expertise in defense and security issues.

"We are confronted with a dangerous and determined enemy abroad and political divisions at home that are eroding our national spirit," she wrote. "At a time when Americans should be working most closely together, we are being pulled apart by partisan rancor and counterproductive 'gotcha' politics."

She declined to discuss differences with Clinton and said she didn't know how she would have voted on legislation to authorize President Bush to go to war in Iraq. "The important thing now is to move forward and to get it right," she said.

State Republican leaders originally settled on Jeanine Pirro as their Clinton challenger, but Pirro, then Westchester County district attorney, pulled out of the race in December, unable to raise much money or interest in her candidacy.

Ohio: Chabot Had 49 Percent In Democrat's New Poll (RC)

DOJ_NMG_0016694

Roll Call, March 7, 2006

A new Democratic poll taken in the 1st district race showed Rep. Steve Chabot (R) leading Cincinnati City Councilman John Cranley (D) by a margin of 49 percent to 40 percent.

N.Y. Gov. Pataki Leaves Hospital (AP-Y2)

By Adam Goldman

AP2, March 7, 2006

Gov. George Pataki was released from a hospital Monday after 18 days of treatment for appendicitis and complications that followed surgery.

"It's great to feel the fresh air and sunshine," Pataki said as he walked out of New York-Prebyterian Hospital/Columbia University Medical School.

"I'm not 100 percent but I'm a lot better than I was a few days ago," he said.

The New York Republican, who is weighing a run for the 2008 GOP presidential nomination, was hospitalized in Westchester County on Feb. 16 and had his appendix removed. He was transferred to the Manhattan hospital on Feb. 21 and was operated on later that day to deal with a blockage of his intestine.

Pataki told reporters last week he was "chomping at the bit" to go home and have a pizza and a cold beer.

"I'm still waiting for that pizza and hamburger, but it's still a few days off," he said outside the hospital Monday.

Pataki, 60, has been in generally good health during his three terms as governor.

"He will still require some intravenous antibiotics at home," said his doctor, Spencer Amory. "There is still a small possibility ... of infection later."

18 Days After Burst Appendix, Smiling Governor Goes Home (NYT)

By Richard Pérez-peña

The New York Times, March 7, 2006

Eighteen days after suffering a burst appendix, Gov. George E. Pataki left the hospital and went home at last yesterday, walking slowly but smiling and saying, "I never thought I'd enjoy the fresh air as much as I do today."

Mr. Pataki is able to digest enough food so that he no longer needs intravenous nutrition, and he has no signs of fever, said his doctors at NewYork-Presbyterian/Columbia hospital. Even so, they said, to ensure that there is no return of a dangerous abdominal infection, he will continue to receive intravenous antibiotics for a week or more.

The governor, who is doing some of his official work by phone, will have to rest at his home in Garrison, in the Hudson Valley, for at least a week, with care from a visiting nurse, his doctors said. He also remains on a restricted diet and will have to keep an intravenous tube in his arm until doctors say he can do without antibiotics. But such limitations did not appear to dampen his good cheer and relief yesterday.

"It's great to feel the fresh air and the sunshine, and I am going home," he told reporters under a sunny, hazy sky outside the hospital, in the Washington Heights section of Manhattan. "I have to tell you, I'm so, so pleased and happy to be doing that."

Mr. Pataki, who ordinarily might spend a brisk winter morning running, hiking or snowshoeing in the Hudson Highlands, has chafed at being kept in the hospital, suggesting that he misses even the official drudgery of Albany. When asked about negotiations with leaders of the Legislature on a state budget, he said with a grin, "I never looked forward with such excitement to sitting down with the leaders and talking about the budget as I do today."

Last week, the governor said that he looked forward to the next time he could have pizza and beer. But yesterday, he acknowledged that such food was still "a few days off."

Though the most obvious sign of infection — his fever — has gone, Mr. Pataki will continue to have antibiotic treatment, to clean up whatever residual infection might remain, said Dr. Spencer E. Amory, one of the surgeons who treated him. He added, "There is still a small possibility that there can be exacerbation of infection again there."

Mr. Pataki began suffering abdominal pain on Feb. 15, and in the middle of the night, he went to Hudson Valley Hospital Center in Cortlandt Manor, near his home, where he had an appendectomy on the morning of the 16th.

Five days later, he was transferred to the Manhattan hospital, where he had surgery to correct an intestinal blockage, a common complication but one that does not often require surgery. Abdominal surgery often causes the intestine to stop its regular contractions for several days, bringing digestion to a halt, but last week, doctors said Mr. Pataki's intestinal function was gradually returning.

In his first week at Columbia, the governor's doctors there and his aides said little publicly about his condition. Then, last Tuesday, the doctors revealed that when he arrived there, Mr. Pataki had suffered from peritonitis — an inflammation of the

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abdominal lining — and abscesses, or pockets of infection, and that he continued to run an intermittent fever. Abscesses and peritonitis, both potentially very serious conditions, are also common side effects from a burst appendix.

Doctors not involved in the case said that both the complications he suffered and the amount of time he was in hospitals were a bit worse than average but well within the normal range. His aides have bristled at some of the news coverage of the governor's illness, objecting to statements that he was in danger or that his recovery was slow, and to assertions that they had not been open about his condition.

Mr. Pataki is in his 12th and last year as governor, and is mulling a run for president in 2008; his appendicitis forced him to cancel a trip to New Hampshire.

Giuliani Tops Poll For Political Favorability (BOS)

The Boston Globe, March 7, 2006

HAMDEN, Conn. --Former New York City Mayor Rudolph Giuliani is the most popular person in national politics, according to a national poll released Monday by Quinnipiac University.

Giuliani, a Republican who is considered a possible candidate for president in 2008, edged out U.S. Sen. Barack Obama, D-Ill., U.S. Sen. John McCain, R-Ariz., and Secretary of State Condoleezza Rice.

The Quinnipiac poll asked voters to rate politicians on a scale of 0 to 100, with higher numbers representing more favorable opinions. Giuliani's mean score was 63.5, according to the poll.

Obama averaged 59.9, McCain 59.7 and Rice 57.1.

"Not only do Mayor Giuliani and Sen. McCain get the best ratings, but their numbers are uniform across the country," said Peter A. Brown, assistant director of the Quinnipiac University Polling Institute.

President Bush's average rating was 44.1 and Vice President Dick Cheney's was 41.

Four Democrats who are considered potential presidential candidates were also mentioned in the poll's top 10: Former North Carolina Sen. John Edwards received a 50.8 average, former Virginia Gov. Mark Warner scored 50.7, New York Sen. Hillary Clinton averaged 50.4 and Sen. Russ Feingold of Wisconsin scored 49.

The telephone poll of 1,892 registered voters nationwide was conducted February 21-28 and has a margin of sampling error of plus or minus 2.3 percentage points.

Giuliani Is 'Hot' Stuff in New Poll (NYPOST)

By Deborah Orin

The New York Post, March 7, 2006

March 7, 2006 -- WASHINGTON - America loves Rudy Giuliani. A new poll shows "America's Mayor" inspiring the warmest feelings nationwide among 2008 presidential contenders.

Sen. John McCain (R-Ariz.) and Secretary of State Condoleezza Rice were close behind - but not so Sen. Hillary Rodham Clinton (D-N.Y.).

The Quinnipiac University poll asked some 1,900 voters to rate 15 political leaders on a "feeling thermometer" from 0 to 100, the higher numbers reflecting "warmer" feelings. Giuliani's 63.5 was followed by McCain's 59.7 and Rice's 57.1.

Actually, Illinois Sen. Barack Obama, at 59.9, came in second, but more than half of the voters admitted to not knowing enough about him to rank him.

"Giuliani's ratings are uniform in all states," said assistant polling director Peter Brown. "[He] is seen as the mayor of New York [during 9/11], and being a strong leader is the single strongest characteristic desired by voters in a presidential election."

Clinton got a 50.4 but exhibited little crossover appeal, getting a 24.7 from Republicans. President Bush, meanwhile, scored 23.9 with Democrats - but just 44.1 overall. Giuliani and McCain each scored 58.0 among Democrats.

And former President Bill Clinton scored 55.9 with women and 56.5 with men - to his wife's 54.3 and 46.0, respectively.

Prominent Ties Among Comcast Hires (WP)

By Matthew Mosk And Eric Rich

The Washington Post, March 7, 2006

For more than a year, Maryland first lady Kendel S. Ehrlich has been executive producer and star of a largely unnoticed half-hour television talk show about drug and alcohol abuse.

Comcast Cable Communications Inc. paid her an undisclosed sum to host 16 episodes of "Live Right: Straight Talk on Substance Abuse," which can be seen only in the cable provider's on-demand library.

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Ehrlich's day job represents more than an abrupt change in career path for the governor's wife, a lawyer by training. It also illustrates the reach of Comcast, the state's dominant cable provider with more than 1 million subscribers, as it has repeatedly given work to prominent public officials, their relatives or their friends.

Those hired by Comcast and its affiliates have included two members of the University System of Maryland Board of Regents, two sons of a key General Assembly committee chairman and former county executives from Prince George's and Harford counties.

Responsible for most of that hiring was Stephen A. Burch, who until recently served as president of Comcast's Atlantic Division, according to one former and one current senior Comcast official and some of the workers. The officials, who spoke on condition of anonymity out of fear of reprisal, said that within the company, the recruits were known informally as "FOBs" -- Friends of Burch.

None of these politically connected workers has been accused of wrongdoing, and those who could be reached said they were hired on merit.

Still, dual roles such as these raise questions about possible ethics violations and conflicts of interest. Such hires also illustrate a discreet way that some corporations can seek influence with decision makers, not just in Maryland but on Capitol Hill and elsewhere.

"Comcast has to go before every governing body in the state for something," said Bobbie Walton, executive director of Common Cause Maryland. "If they're giving jobs to people because of who they are, it looks a lot like payola."

It is, said Sen. Brian E. Frosh (D-Montgomery), "quite clearly a conflict of interest."

In some cases, Comcast's personnel moves in Maryland came amid public policy debates affecting the company's bottom line. For instance, Comcast hired then-Sen. Thomas L. Bromwell's two sons shortly after the Baltimore County Democrat championed legislation that has enabled cable companies to collect millions in late fees.

Ehrlich was first hired as a lawyer by Comcast when her husband, Robert L. Ehrlich Jr. (R), sat on the House of Representatives' telecommunications subcommittee. She was brought back as a producer in 2004 -- as the cable giant began facing competition over franchises from Verizon Communications. That battle has not come before regulators in Maryland, as it has in some states.

Comcast spokesmen said the company has no reason to suspect that Burch's hiring decisions violated company policy but added that, because he has left to lead a British company, they would neither discuss nor defend his actions.

"Steve Burch is no longer employed by Comcast," said Jim Gordon, a company spokesman. "We are not in a position to comment on decisions made by or relationships entered into by former employees."

Burch responded in an e-mail that said: "To the extent I was involved in these decisions, my actions were appropriate, known to Comcast, and in compliance with Comcast policies."

Comcast's affiliation with Bromwell, the former chairman of the finance committee, has drawn scrutiny from federal investigators. The company received a subpoena in 2003 in connection with the probe that led to Bromwell's indictment in October on corruption and fraud charges, Comcast officials said. They said the company has been assured it is not a target of any probe.

Public officials working on the Comcast payroll say they have been careful to recuse themselves from votes involving the company.

That was the case in 2000, when Comcast was involved in talks with the University of Maryland, seeking a long-term contract to provide cable service in student residences and negotiating for naming rights to a basketball arena. At the same time, the company had a contract with the public relations firm run by David H. Nevins, a member of the board that oversees the university system.

A year after the $20 million deal for naming rights was struck, Comcast tapped Nevins to be president of its newly acquired regional sports network, Comcast SportsNet. He held that post until 2004.

Nevins, who now chairs the Board of Regents, has recused himself from votes related to Comcast, according to ethics filings.

His decision to accept the job at the sports network, though, might violate state ethics law. Ethics Commission Executive Director Suzanne S. Fox said she could not comment on specific cases but noted that the law says a regent "may not have a financial interest in or be employed by an entity having or negotiating a contract with" the university, unless that relationship existed prior to his appointment.

Nevins said his conduct was proper because his initial contract with Comcast predated his joining the board. "While I took on an additional role with them, it did not change my responsibility to continue to recuse myself from those Board matters, which I always did," he said in an e-mail.

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Even so, at a time when Nevins headed the regents' finance committee, his public relations firm continued to represent Comcast in its dealings with College Park, negotiating placement of signs and logos at the arena, Nevins said. "Recusal means from the U of M board, not from my own business," he said.

Another regent, lawyer Leronia A. Josey, found an unusual way to satisfy the ethics requirement when Burch contacted her about a job in 2000, one year after she had joined the board.

"I had to resign, and then I was reappointed," Josey said, describing the maneuver that allowed her to become a regional director of government and community relations. The former regent, who now consults with Comcast, said she did not even miss a meeting.

Josey said she was hired solely for her skills and experience. "They were looking for somebody who knew people and could help them establish a local presence."

The Comcast employee with access to the highest-ranking politician in Maryland, though, is Kendel Ehrlich.

The first lady, a former prosecutor and public defender, has worked for Comcast in a variety of capacities since her husband served in Congress. Shortly after the couple came to Annapolis, she moved from Comcast's legal office to a Comcast job described in disclosure forms as "education liaison."

In June 2003, when the governor vetoed a bill that would have stopped Comcast and other companies from shifting the state tax burden to Delaware holding companies, the advocacy group Progressive Maryland publicly questioned whether the first lady's job posed a conflict. The governor's office dismissed the allegation.

Soon after, a pregnant Kendel Ehrlich announced she was leaving Comcast to have her second son. There was no public announcement when she returned, but her salaried job as a "production manager" reappears on her husband's disclosure forms for 2004. She is not required to disclose how much she is being paid and would not say, when asked.

Her return came as Verizon was beginning to offer cable television over its fiber optic phone lines. In Indiana, Missouri and elsewhere, Comcast has tried to block Verizon by appealing to state officials.

In Virginia's legislature this year, Comcast and other cable companies have lobbied furiously against a bill that would give Verizon short cuts around local franchise rules. Verizon officials said that battle will come to Maryland inevitably.

Kendel Ehrlich declined through her spokesman to be interviewed about her show, but each segment opens with an explanation of her motivation.

"I got involved in this project because I'm a mom," she says. "I have a 5- and a 1-year-old, and I'm trying to guide them through life. It's not easy. In fact, it's pretty scary."

In each episode, she interviews people about addiction. She talks with the wife of the Colombian ambassador, whom she asks, "Coming from a supplier nation, what is it like?" Talking about drugs with a group of Anne Arundel Community College students, she asks: "It's all about instant gratification, right?" In the final episode, she reenacts the cross-examination of a drunk driver. "That was a fatal decision, wasn't it?" she presses.

In the credits, she directs special thanks to Burch.

Burch, 55, is a University of Maryland graduate who has served on bank boards and with charitable organizations in the Baltimore area and has become friendly with many of the state's power brokers.

"He's a very affable, capable, well-spoken and likable figure in the business community and in all of the corridors of Maryland politics," said Wayne K. Curry (D), a former Prince George's county executive.

Late in 2000, Burch hired Eric M. Bromwell, a son of the Baltimore County Democrat who was then a state senator. Within a few weeks, brother Thomas L. Bromwell Jr. was also on the payroll.

Earlier that year, their father sponsored a bill that had a dramatic impact on Comcast revenue. The state's highest court had capped late fees and ordered that millions in refunds be paid to subscribers. Bromwell's bill lifted the cap.

A court later struck down a retroactive provision in the legislation, and Comcast was forced to pay the refunds. But the lasting impact of the bill was to restore a revenue stream for Comcast and other cable providers.

The former senator said in an interview that his sons got their work on their own, and he said any suggestion that the jobs came in response to his legislative work would be ridiculous. "I heard they were hiring, and they went through the process," he said.

Eric Bromwell, who now serves in the House of Delegates, said he recuses himself from any debate that touches on Comcast.

Because cable franchises are granted by counties or municipalities, Comcast's business is often negotiated with local officials. In 2001, the company faced an assault on its monopoly in Prince George's when rival Starpower Communications sought a franchise there.

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Curry's administration initially reached an agreement with Starpower. But after the County Council approved it, the administration insisted that Starpower pay for an additional $400,000 in technological improvements. Faced with the new demand, Starpower dropped out.

"We're at a loss to explain why additional requirements were proposed after the fact," a Starpower spokeswoman, Patricia MacEwan, said at the time.

In February 2003, three months after Curry left office, Comcast hired him as a "general business consultant," a position he still holds, the company said.

Curry said any suggestion his job was a reward would be "absurd" and added, "the Comcast people were angry with me," because of the initial contract. Curry said he believes Starpower dropped out because of financial troubles and added he "would never have had even the slightest inkling of a detail that trivial in the transaction."

Gordon, Comcast's spokesman, said, "It's not really uncommon for past elected officials to become consultants." Hiring such officials as Eileen M. Rehrmann, a former Harford County executive and Democratic candidate for governor, "can add value to our in-house workforce," he said. Rehrmann did not return calls for comment.

Comcast announced in December that Burch was leaving the company to become chief executive of NTL International, a British telecommunications company. In January, Comcast announced a restructuring that could result in 125 layoffs.

Eric Bromwell said he is among those whose jobs are in jeopardy. He worked directly for Burch and called him "the best boss I ever had."

Peace Activist Sheehan Arrested In NY Protest (REU-Y2)

By Irwin Arieff

Reuters, March 6, 2006

Cindy Sheehan, the anti-war activist whose son was killed in the Iraq war, was arrested with three other protesters in New York on Monday after a rally with women from Iraq.

Sheehan became a central figure in the U.S. anti-war movement last summer after she camped outside President George W. Bush's Texas ranch and has been arrested at least two other times at protests.

On Monday, she had joined a delegation of women from Iraq at the rally at the United Nations, urging the United Nations to help prevent civil war in Iraq.

About 20 protesters went to the U.S. mission to the United Nations to deliver a petition with 60,000 signatures seeking an end to the war. Nobody from the mission received them so Sheehan and three other American women sat down in front of the building, refused to leave, and were arrested.

A police spokesman said they were expected to be released later on Monday.

The Iraqi women plan to deliver a petition to the White House on Wednesday. Earlier they held a news conference at U.N. headquarters calling for the United States to withdraw its forces.

Entisar Mohammad Ariabi, a pharmacist at Baghdad's Yarmook Teaching Hospital, wept as she told reporters of the hardships experienced by Iraqi women.

"U.S. occupation has destroyed our country, made it into a prison," she said. "Schools are bombed, hospitals are bombed."

"We thank you, Mr. Bush, for liberating our country from Saddam. But now, go out! Please go out!" she said.

Chief Of Atomic Agency Sounds Optimistic On Iran (NYT)

By Christine Hauser

The New York Times, March 7, 2006

The director of the International Atomic Energy Agency, the nuclear watchdog for the United Nations, said today that he hoped an agreement could be reached with Iran on its nuclear program.

Mohamed ElBaradei spoke before a meeting of the nuclear agency's board of governors in Vienna. The board, which is reviewing Dr. ElBaradei's latest report on Iran this week, voted in February to refer Iran's nuclear case to the United Nations Security Council amid growing suspicions that Iran is determined to develop nuclear weapons.

The United States and the Europeans are certain to use Dr. ElBaradei's most recent report to push for a resolution critical of Iran during the agency's board meeting.

In the past three years, Dr. ElBaradei noted today, the agency has been conducting intensive investigations of Iran's nuclear program to provide assurances about its peaceful nature.

"During these investigations, the agency has not seen indications of diversion of nuclear material to nuclear weapons or other nuclear explosive devices," he said. "Regrettably, however, after three years of intensive verification, there remain uncertainties with regard to both the scope and the nature of Iran's nuclear program."

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He said there were still questions about "the past and current direction" of the program.

"I am still very much hopeful that in the next week or so, an agreement could be reached," Dr. ElBaradei said in televised remarks to reporters.

Iran agreed with Britain, France and Germany in November 2004 to voluntarily freeze all of its uranium conversion, enrichment and reprocessing activities. But when promised economic and political rewards were not forthcoming, Iran broke the agreement. It restarted uranium conversion last August and then began tests of enriching uranium on Feb. 11.

Last week, Dr. ElBaradei released an 11-page report that said Iran has accelerated its nuclear fuel enrichment activities and rejected demands of international inspectors to explain evidence that had raised suspicions of a nuclear weapons program. That assessment could make it easier for the United States and its European partners to seek punitive action in the Security Council.

The report made no definitive judgment about whether the nuclear program was peaceful, or intended to create the capacity to produce weapons.

Dr. ElBaradei today also mentioned a surge of diplomacy in which Iran has offered not to pursue industrial-scale uranium enrichment for up to two years. The Reuters news agency quoted an unnamed diplomat close to the talks between Iran and the European Union as saying that Iran may agree to extend that moratorium if it is permitted to run a small-scale enrichment research program.

Iran says that it has the right to develop a program for power.

The deputy secretary of Iran's national security council, Javad Vaeedi, told Reuters in Vienna that enrichment "research and development" in Iran was irreversible.

U.N. Agency Chief Hopes For Deal With Iran (AP)

By George Jahn, Associated Press Writer

AP, March 7, 2006

The head of the U.N. atomic watchdog agency said Monday a deal on Iran's suspect nuclear program could be only a few days away, making U.N. Security Council action unneeded.

Mohamed ElBaradei's optimism was believed to be linked to a confidential Russian proposal to allow Iran to enrich some uranium domestically, diplomats said. But the plan was expected to meet strong resistance from the U.S., which opposes any enrichment on Iranian soil.

"It's been a core element of our view and the view of the European three, and certainly of the Russian Federation that no enrichment in Iran is permissible," John Bolton, the U.S. ambassador to the United Nations, said in New York.

He said "even small so-called research enrichment programs could give Iran the possibility of mastering the technical deficiencies that it's currently encountering in its program" and translate them into large-scale enrichment later. The United States uranium enriched in Iran could be misused to make nuclear weapons.

ElBaradei, without elaborating, nonetheless said he hoped "that in the next week, an agreement could be reached."

The Russian proposal would allow Tehran to conduct small-scale enrichment and ask the IAEA to set the parameters of such activity to minimize the chances of abuse, according to the diplomats, who spoke on condition of anonymity because they were not authorized to divulge details of the plan.

In return, the diplomats said Iran would be asked to recommit to in-depth IAEA probes of its program on short notice — something Tehran canceled last month after the agency's 35-nation board voted Feb. 4 to alert the Security Council by passing on Iran's nuclear dossier resulting from almost three years of agency investigations.

Russian Foreign Minister Sergey Lavrov planned to discuss the plan with officials in Washington.

Russia and China, which both have economic and strategic ties with Iran, voted with the majority of IAEA board members but insisted the council do nothing until after this week's IAEA meeting in Vienna.

Moscow, with the support of the United States and other countries, has offered to enrich Iran's uranium in Russia, which would ensure greater oversight. But Tehran, insisting its goals are peaceful, has said it should be free to carry out some enrichment domestically.

The Russian proposal was driving a wedge into what had been a relatively united front on uranium enrichment, with Germany cautiously supportive and France and Britain opposed and backing the United States.

Undersecretary of State Nicholas Burns underlined U.S. determination, saying in Washington that "unless Iran does a dramatic about-face," he expected the issue to be taken up by the Security Council.

Tom Casey, a State Department spokesman, also downplayed the latest twist in the Russian proposal.

"You can't be just a little pregnant," Casey said of the U.S. attitude toward small-scale uranium work by Iran.

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France, Britain and Germany broke off negotiations on behalf of the European Union with Iran last year after it resumed enrichment-related activities, which can make both nuclear fuel and the fissile core of warheads. Since then, those three countries, as well as the United States, Canada, Australia and Japan, have been at the forefront of efforts to have the Security Council take up the issue.

The diplomats said negotiations continued on the sidelines of a board meeting of the IAEA, which began Monday and would focus on Iran later in the week.

A senior European diplomat the deal would likely stand or fall "on the response Lavrov gets in Washington" in a meeting later Monday with Secretary of State Conzoleezza Rice and other senior administration officials.

But he said all involved — whether or not they supported allowing Iran some control of enrichment — were firm on the need for Tehran to first return to a freeze of all such activities for a prolonged time "to re-establish confidence."

He said the Russians had proposed eight years — something unlikely to be accepted by the Iranians who publicly reject calls for a return to a freeze. A State Department official, who also demanded anonymity, refused to specify a length but said in response to a question that two years would be too short.

The meeting is scheduled to hear a report by ElBaradei focusing on Iran's nuclear program, including its decision to deny information requested by U.N. inspectors on diagrams related to nuclear weapons and other issues and ongoing enrichment plans that include setting up thousands of uranium-enriching centrifuges later this year.

"We have not seen indication of diversion of ... material to nuclear weapons or other explosive devices," ElBaradei said. "However, there are still a number of important uncertainties that need to be clarified.

"Unfortunately, the picture is not very clear as to the scope of the program and as to the nature of the program," he said, alluding to documents, past experiments and activities that could be used to develop nuclear arms.

The last board meeting sent the complete Iran file to the Security Council. This week's meeting is scheduled to pass the ElBaradei report to the council, which then can decide whether to take action. The board was not likely to discuss Iran until Tuesday or Wednesday.

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Associated Press Writers Edith Lederer at the United Nations, Barry Schweid in Washington and Palma Benczenleitner in Vienna contributed to this report.

U.S. Dismisses Talk Of Compromise On Iran (AP)

By Barry Schweid, Ap Diplomatic Writer

AP, March 7, 2006

Unless Iran executes a dramatic about-face and suspends all its nuclear activities, the U.N. Security Council will intervene "quite actively," a senior State Department official said Monday.

The message to Iran is that it has "crossed the international red line" and engaged in unacceptable enrichment activity "and there must be a U.N. Security Council process to deal with that," Undersecretary of State Nicholas Burns said.

Burns did not say what the United States would ask the Security Council to do. While the Bush administration takes a stern line toward Tehran it might not be able to persuade other nations to impose economic or other penalties on Iran.

The U.N. nuclear watchdog agency, which voted to refer the dispute to the Security Council, will reaffirm its stance this week in Vienna, Austria, "unless Iran does a dramatic about-face and suspends all of its nuclear activities," Burns said at the Heritage Foundation, a private research group.

His remarks followed a State Department spokesman's dismissal of reports an eleventh-hour compromise might be struck over Iran's nuclear program.

Mohamed ElBaradei, head of the U.N. International Atomic Energy Agency, said at his agency's Vienna headquarters on Monday that the council might not have to consider Iran's actions. Talks between Moscow and Tehran have focused on shifting Iran's fuel enrichment activities to Russia.

Later, State Department spokesman Tom Casey said Secretary of State Condoleezza Rice telephoned ElBaradei "to reiterate the U.S. position that Iran should cease all enrichment-related activity." In response, ElBaradei agreed that Iran must not be allowed to have enrichment activity on its territory, said a U.S. official who spoke on condition of anonymity beause he was not in position to speak for the IAEA.

The United States has long spearheaded a campaign to haul Iran before the Security Council, which has the power to impose economic or other sanctions. There was no hint of optimism at the State Department about the latest efforts to defuse the issue, which ElBaradei said he hoped could produce a resolution in a week.

"I am not aware of any specific proposals or any specific ideas that would require or force any kind of delay in Security Council action," spokesman Casey said.

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Casey also downplayed a new twist to the Russian proposal that diplomats described to The Associated Press. Under it, the U.N. atomic watchdog agency would set a level of small-scale uranium enrichment that Iran would be allowed to conduct on its own soil as part of an attempt to keep Iran from using the fuel for nuclear weapons, said the diplomats, who spoke on condition of anonymity.

"You can't be just a little pregnant," Casey said of the U.S. attitude toward small-scale uranium work by Iran.

The U.N.'s atomic energy agency voted last month to refer the Iran dispute to the Security Council. "There is no obstacle to that discussion being taken up and we certainly believe that will happen shortly," Casey said.

North Korea took a civilian nuclear program and quickly turned it into a bomb-making program, Casey said.

The process of bringing Iran before the Security Council has been delayed several times. The European Union attempted to negotiate with Iran with the aim of halting the program in exchange for economic concessions. Then Russia came up with its enrichment proposal.

Russian Foreign Minister Sergey Lavrov had dinner in Washington on Monday evening with Rice, and was due to meet with her and President Bush and Rice.

On Wednesday, Lavrov is due to meet in New York with U.N. Secretary-General Kofi Annan.

On his way to Washington, Lavrov stopped in Ottawa for talks with Canadian officials. Russian news agencies quoted him as saying Russia's proposal to shift Iran's uranium enrichment to Russia remains on the negotiating table but Iran must suspend enrichment on Iranian territory.

In Vienna, headquarters for the nuclear watchdog group, ElBaradei said the Council might not have to explore Iran's actions. "I am still very much hopeful that in the next week an agreement could be reached," he said.

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Associated Press Writer Foster Klug contributed to this story.

Iran Deal Still Feasible: ElBaradei (REU-Y2)

By Mark Heinrich And Parisa Hafezi

Reuters, March 6, 2006

The International Atomic Energy Agency chief said on Monday a deal to defuse a standoff over Iran's nuclear aims was still feasible and diplomats outlined a compromise that would let Tehran pursue limited atomic research.

Mohamed ElBaradei cited a surge of diplomacy in which Iran has offered not to pursue industrial-scale uranium enrichment for up to two years. He was speaking before debate on Iran at an IAEA board meeting that could presage U.N. Security Council action.

Iran may agree to extend that moratorium if it is permitted to run a small-scale enrichment research program, said a diplomat close to talks between Iran and the European Union.

Iran's insistence on doing enrichment research has been a red line for the West, eager to ensure Tehran does not acquire technology that can be used for atom bombs. The Islamic Republic says it seeks only nuclear-generated electricity, not weapons.

"I am still very much hopeful that in the next week or so an agreement could be reached," ElBaradei said, while acknowledging that Russia's proposal to enrich uranium for Iran had snagged on Tehran's determination to purify nuclear fuel itself.

Javad Vaeedi, deputy secretary of Iran's national security council, highlighted that obstacle when he told Reuters that enrichment "research and development" in Iran was irreversible.

"Iran is ready to compromise on the period of suspension (of large-scale enrichment) if it can keep its nuclear research activities," the diplomat close to the Iran-EU talks said.

But the United States dismissed the possibility that Iran might be allowed to continue small-scale nuclear enrichment and said the council would likely take up Iran's case.

"You can't have the regime pursuing enrichment on any scale, because ... (it would allow) them to master the technology, complete the fuel cycle -- and then that technology can easily be applied to a clandestine program for making nuclear weapons," said U.S. State Department spokesman Tom Casey.

SMALL-SCALE ENRICHMENT

On Friday, Iran said it could delay industrial-scale enrichment for up to two years but the EU countered with a demand for a 10-year moratorium on all enrichment activity.

"The (IAEA) board of governors, EU3 and Russia have made clear that there needs to be a suspension of these enrichment capabilities and ... a prolonged period of time necessary to restore confidence. Two years is not a prolonged period of time," a U.S. State Department official said.

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A senior official close to the IAEA, who asked not be named, said trying to distinguish between research work and productive enrichment was like "trying to draw a line in water."

However, EU diplomats said Russia and ElBaradei are pushing the West to let Iran continue small-scale enrichment research under IAEA surveillance as a face-saving solution.

The Security Council could desist from any action for the time being if the proposal won agreement, one diplomat said.

Of the three leading European powers, Germany is the one that "could most live with a pilot enrichment plant in Iran," said a European diplomat close to the talks with Iran.

But he said Germany would not break ranks with its EU partners France and Britain over the issue.

"We are not in the Security Council, unlike Britain or France. So one should not over-estimate Germany's position. Paris and London seem to be much more skeptical," said another EU3 diplomat, speaking on condition of anonymity.

Aliasghar Soltanieh, Iran's envoy to the IAEA, told Reuters there was a good chance of agreement with EU powers and Russia.

In defying calls to suspend all enrichment-related work, Iran seems to be counting on divisions in the Security Council over whether to resort to sanctions mooted by the United States.

Wielding vetoes in the council, Russia and China could block sanctions that would disrupt their trade ties to Iran.

Iran's past secrecy over its nuclear program, its failure to satisfy IAEA inspectors and its public calls for Israel's destruction have stoked Western suspicions about its intentions.

But Iran's chief nuclear negotiator denied the country was seeking nuclear weapons and said it was no threat to Israel since Tehran sought only democratic change in the region.

"The national security doctrine of Iran has no place for an atomic bomb," Ali Larijani said in an interview with Britain's Channel Four news. "You cannot destroy a country or wipe it off the map through democratic means," he said with reference to Israel.

HARDLINERS

ElBaradei believes U.N. intervention could close diplomatic avenues and bolster Iranian hardliners, diplomats say. Tehran has warned it could bolt a nuclear safeguards treaty if pushed.

"Confrontation (between the West and Iran) could be counterproductive and would not (give) us a durable solution," said ElBaradei, calling for verbal restraint on all sides.

"There is universal recognition that the Iran issue has serious implications for international security. Everyone understands that escalation is not going to help a situation that is highly, highly volatile in the Middle East," he said.

The IAEA's 35-member board reported Iran to the Security Council a month ago. It urged Iran to heed resolutions to halt uranium enrichment work and stop stonewalling IAEA inquiries.

On Tuesday the IAEA board will consider ElBaradei's latest report before it is sent to the council, which might eventually consider sanctions if diplomacy fails.

Tehran has complained of double standards -- India, Israel and Pakistan enjoy good ties with the West although they built atom bombs in secret -- and President Mahmoud Ahmadinejad warned of unspecified consequences if Tehran faces a U.N. crackdown.

ElBaradei's report said Iran plans to begin installing 3,000 centrifuges this year. Iran denies this implies industrial scale fuel production, an assertion the West says is not credible.

Around 1,500 centrifuges running optimally for a year could yield enough highly-enriched uranium for a bomb, experts say.

The Security Council's first step would probably be to urge Iran to heed IAEA resolutions. It might also consider endowing the IAEA with more intrusive, short-notice inspection powers.

Enacting sanctions will be much harder given international reluctance to isolate the world's fourth biggest oil exporter.

New Calls Emerge For Nuclear Deal With Tehran (WSJ)

By David Crawford And Alan Cullison

The Wall Street Journal, March 7, 2006

Russian officials and United Nations nuclear inspectors renewed calls for a compromise on Iran's nuclear plans before the U.N. Security Council takes up the issue, a move in conflict with U.S. and European goals.

Speaking before a meeting of the U.N.'s International Atomic Energy Agency Board of Governors in Vienna, IAEA Director General Mohamed ElBaradei said he is "cautiously optimistic" a compromise is possible this week.

That statement is at odds with U.S. determination to refer Iran swiftly to the Security Council, with U.S. and EU officials citing inspectors' evidence that Iran's program includes elements that would only be aimed toward producing weapons, not energy.

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The IAEA's board agreed Feb. 4 to pass the matter on so the Security Council could consider sanctions or other measures against Iran -- but with the unusual proviso that the Security Council not take it up until after this week's meeting in Vienna. That left the way open for continued efforts at compromise. Since then, Russia has held frequent but rocky talks with the Iranians aimed at defusing the standoff. EU officials also held renewed talks but said they went nowhere.

Russia, which helped build Iran's nuclear program, has been interested in a deal in which Russia would be paid to enrich uranium on Iran's behalf, while Iran would agree to a moratorium on enriching uranium itself. Iran's announcement in December that it intended to end its compliance with voluntary inspections and enrich uranium led to the current crisis.

Yesterday, diplomats were debating the possibility of letting Iran continue to experiment with enrichment in 20 centrifuges. Diplomats close to the IAEA say that Iran would likely do those experiments anyway if there is no compromise but noted an agreement would allow the return of IAEA inspectors. U.S. and EU officials have been resistant to the Russian plan on enrichment, even before the additional compromise on Iranian centrifuges was unveiled. A U.S. State Department official and EU diplomat each said yesterday that the operation of even 20 centrifuges would give Iran valuable experience it needs for an advanced enrichment program.

Hopes that Iran will strike a deal that would avert U.N. action against its nuclear program helped push down oil prices yesterday. (See related article7.)

The continued conflicts among major powers over how to handle the situation renewed questions over what the Security Council, with many of the same members as the IAEA board, could agree to do in that forum. Russian Foreign Minister Sergei Lavrov was due to meet U.S. Secretary of State Condoleezza Rice over dinner in Washington last night. On Sunday, U.S. Ambassador to the U.N. John Bolton warned of "tangible and painful consequences" for Iran if it doesn't give up its plans to enrich uranium. But as recently as Friday, Mr. Lavrov warned against referring Iran to the Security Council, saying it would lead to "escalation of the situation."

Part of what bothers Russia is its previous experience with the Security Council over Iraq. After Moscow backed a Security Council resolution demanding Saddam Hussein cooperate with weapons inspectors, the U.S. later used noncompliance with the resolution as a justification for military force -- something the Russians said they never intended.

Speaking to a group of Western reporters in Moscow before departing for Washington, Mr. Lavrov said, "I know how the Security Council works -- you start with soft reminder -- then you demand, then you threaten," he said. "It will become a self-propelling function."

On Sunday Iran's chief nuclear negotiator, Ali Larijani, repeated warnings that Iran would resume large-scale uranium enrichment if Iran's nuclear dossier is referred to the Security Council. It hasn't agreed to the moratorium proposed by Russia, though it has expressed interest in Russia's joint-venture plan.

Iranian Embassy spokesman Ali Esmaili said key talks were under way in Vienna, but described the discussions as difficult. "The positions on both sides are very hard," Mr. Esmaili said. A top Russian involved in negotiations said hope was scarce for an agreement with the Iranians, but that if one were reached it would come "at the last possible moment."

Until recently, the Russians haven't spoken openly about any proposal to allow limited enrichment on Iranian soil. But the idea is presumably something the Iranians have been pushing all along as a deadlock breaker, said Ivan Safranchuk, head of the Moscow office of the World Security Institute.

"That's the position I would expect everyone to lean toward," said Mr. Safranchuk. "It's clearly a position the U.S. would be disappointed in, because the Iranians will be suspected of enlarging enrichment operations. They tend to push everything to the limit, and so this will probably only postpone the confrontation."

Russia And West Split On Iran Nuclear Issue (NYT)

By Elaine Sciolino

The New York Times, March 7, 2006

VIENNA, March 6 — A serious rift emerged Monday when Russia split with the United States and Europe over Iran's nuclear program after the Russians floated a last-minute proposal to allow Iran to make small quantities of nuclear fuel, according to European officials.

The reports of the proposal prompted Secretary of State Condoleezza Rice to call Mohamed ElBaradei, the director of the International Atomic Energy Agency, and according to an administration official who was briefed on the conversation, "she said the United States cannot support this."

Ms. Rice's call came after Dr. ElBaradei suggested to reporters that the standoff with Iran could be resolved in a week or so, apparently an allusion to the Russian proposal. Washington's strategy is to get past the meeting of the I.A.E.A. that opened Monday and, under a resolution passed by the agency's board in February, have the issue turned over to the United Nations Security Council immediately. But officials clearly fear that the Russian proposal is intended to slow that process.

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American officials said they had been assured by the Russians that there was no formal proposal on the table. The Russian foreign minister, Sergey V. Lavrov, had dinner in Washington on Monday evening with Ms. Rice and the national security adviser, Stephen Hadley, and he is scheduled to meet President Bush in the Oval Office on Tuesday.

Under the Russian proposal, Iran would temporarily suspend all uranium enrichment activities at its facility at Natanz but then be allowed to do what Russia describes as "limited research activities" in Iran's uranium enrichment program, said the European officials, who spoke on condition of anonymity under normal diplomatic rules.

Iran would have to agree to a moratorium on production of enriched uranium on an industrial scale for between seven to nine years, ratify additional measures that let the nuclear agency conduct intrusive inspections of its nuclear facilities and create a joint venture with Russia on the production of enriched uranium on Russian soil, the officials said. The proposal, which has not been made public, spurred Dr. ElBaradei to give an upbeat assessment about a possible swift resolution of the impasse over Iran's program, an official familiar with his thinking said.

In a tonal shift, Dr. ElBaradei said Iran had made concessions on some issues. Calling Iran's activities at its uranium enrichment plant at Natanz "the sticking point," he added, "That issue is still being discussed this week, and I still hope that in the next week or so that agreement could still be reached."

In an interview on Monday evening, R. Nicholas Burns, the under secretary of state for political affairs, said the administration would reject any proposal that did not require the Iranians to stop domestic nuclear enrichment and reprocessing activities. "The United States will not support any halfway measures," he said. "That means full suspension of all nuclear activities, and a return to negotiations on that basis."

Ms. Rice told Dr. ElBaradei that Washington wanted to see Iran's case before the Security Council as soon as this week's agency board meeting was over; that the United States would seek a presidential statement, which does not carry the weight of a resolution, noting Iran's past failures to comply with its international commitments; and that Iran's case would then be sent back to the nuclear agency for further review, according to an official with knowledge of the conversation.

The Russian proposal is a reversal of its previous stance and seemed motivated by its determination to protect Iran from judgment by the Security Council.

Russia — and even China — had joined the United States and the Europeans in demanding that Iran resume a freeze of uranium enrichment activities at Natanz, reflecting mounting global suspicion that Iran's nuclear program is intended to produce weapons.

The Russian proposal surfaced late last week, when Sergei Kisliak, Russia's chief nuclear negotiator, presented it to officials of Britain, France and Germany.

He said Iran would have to resume full suspension of all enrichment-related activities, including what it calls its small-scale "research and development" while the agreement on the package was negotiated. Once there was an agreement, however, Iran would be allowed to conduct limited uranium enrichment research activities under a pilot program as agreed with the I.A.E.A.

As soon as Iran and the agency agreed on the small-scale enrichment, Iran's Parliament would ratify the "Additional Protocol" to Iran's nuclear agreement. That protocol gives the nuclear agency's inspectors the right to ask for exceptional access to Iran's nuclear facilities. When one of the Europeans asked Mr. Kisliak for his definition of a pilot program, he said there was no real definition, one official said.

A moratorium on industrial-scale enrichment and reprocessing activities would last two to three years while the nuclear agency carried out an investigation of Iran's past nuclear activities and five to six years more until trust with Iran could be rebuilt.

Mr. Kisliak conceded that a major risk of such a package was that Iran would inch closer to mastering the technology for a small cascade of centrifuges that turn uranium gas into enriched uranium that can be used to produce electricity or to make bombs. He added that it would shorten the period needed for Iran to "manufacture a weapon" by a number of months, one official familiar with the briefing said.

Iran has always contended its nuclear program is for peaceful purposes, although Russia, like the United States and the Europeans, is convinced it intends to make nuclear weapons.

Mr. Kisliak speculated that Iran was unlikely to accept the proposal, in part because of the long-term constraints on its industrial-scale enrichment program. The proposal threatened to derail a carefully formulated, but fragile strategy to send Iran's case to the Security Council. Last month's resolution by the nuclear agency board demanded that no action be taken in the Council until after the current board meeting, a way to give Iran one last chance to comply with agency demands.

Even though there is no specific timetable to seek economic sanctions on Iran, both Russia and China are opposed to sanctions. There is no need for another resolution to be passed by the agency board this time for the Security Council to act. Certainly, Dr. ElBaradei is looking for a negotiated solution to the Iran impasse even if it means giving Iran a significant concession on making nuclear fuel.

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In a conversation with the German and French foreign ministers, a senior British Foreign Office envoy and the European Union's foreign policy chief, Javier Solana, in Vienna last Friday, Dr. ElBaradei expressed the view that Iran needed to continue some uranium enrichment work as a face-saving measure, a European official said. The Europeans, who met earlier with Iran's chief nuclear negotiator, Ali Larijani, replied that it was not a question of saving face but of maintaining both the credibility of the nuclear agency and a firm position toward Iran.

The crucial issue for Iran is mastering the fuel cycle by enriching uranium. Indeed, in Tehran on Sunday, Mr. Larijani reiterated Iran's position that it would not freeze small-scale production of nuclear fuel even if its case came before the Security Council.

Russia Presses US And EU On Iran (FT)

By Daniel Dombey

Financial Times, March 7, 2006

Russia is seeking to convince the US and the European Union to allow Iran to continue limited uranium enrichment, the process that can create weapons grade material.

But the idea has already been rejected by the US and the EU's big powers, and western diplomats said it could disrupt the uneasy common front on Iran between the five permanent members of the United Nations Security Council.

Yesterday, Mohamed ElBaradei, director-general of the International Atomic Energy Agency, called for both Iran and the west to soften their "hard positions" on enrichment. "I still hope that in the next week or so . . . agreement could still be reached."

Moscow argues that there is little danger if Tehran restricts its activity to the 20 centrifuges it has been operating since last month, since thousands of centrifuges would be necessary to develop nuclear weapons. Dan Dombey, Brussels

Iran Said To Step Up Plans For Shahab Missiles (REU-Y2)

By Louis Charbonneau

Reuters, March 6, 2006

As Iran pursues a nuclear program the West fears is aimed at producing bombs, Tehran also appears to be stepping up development of missiles capable of carrying atomic warheads, diplomats citing intelligence say.

According to an intelligence report given to Reuters by a non-U.S. diplomat, a covert Iranian program run by people closely linked to Iran's military includes plans to arm its Shahab-3 missiles, which experts believe have a maximum range of around 2,000 km (1,240 miles), with nuclear warheads.

The report, which could not be independently confirmed, surfaced as the United States and its allies seek to highlight the potential security dangers of a nuclear-armed Iran.

The report said it was code-named Project 111 and that the "aim is arming Shahab-3 missiles with nuclear warheads."

An Iranian official, who asked not to be named, denied the charge.

The assessment that Iran has nuclear ambitions for the Shahab-3 is shared by the European Union, Washington and Israel, said an EU diplomat who asked not to be named.

Tehran says it only wants nuclear power stations, not bombs. After three years of inquiries, U.N. inspectors have been unable to verify that Tehran's nuclear program is purely peaceful.

An Iranian exile who has reported accurately on Tehran's nuclear program in the past said Iran had significantly increased production of Shahab-3 missiles.

The International Atomic Energy Agency's board of governors met in Vienna on Monday to consider the latest IAEA report on Iran's nuclear program. It will be sent to the U.N. Security Council, which could impose sanctions on Iran.

Project 111 was first mentioned last month in a report by the Washington Post, which described it as "a nuclear research effort that includes work on missile development." The Post said U.S. officials believe it is the successor of Project 110, which they believe is the military arm of Iran's atomic program.

GERMANY WARNS COMPANIES

German intelligence officials believe Iran has stepped up covert efforts to procure missile technology, said a German government official, who asked not to be named.

The intelligence officials are sending "early-warning letters" to German firms, urging them to be alert for Iranian agents hunting for missile technology, he said.

German authorities have detained several Germans and at least one foreigner as part of a series of investigations of suspected attempts to purchase missile and other arms technology in Germany on behalf of Iranian intelligence, the official said.

Iran has repeatedly warned it would not hesitate to deploy the Shahab-3 missiles, which can reach Israel and U.S. military bases in the Gulf, if it comes under attack.

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Material recovered by U.S. intelligence from a stolen laptop computer also suggests Iranian missile experts have been trying to develop a missile re-entry vehicle capable of carrying a relatively small nuclear warhead, EU diplomats have said.

But David Albright, a former U.N. weapons inspector and head of a U.S.-based think-tank, cautioned that however credible, all this intelligence is based on assessments, not certainty.

"I don't think any of the available intelligence represents a smoking gun," Albright said.

His Institute for Science and International Security estimates that Iran could not produce a bomb before 2009.

Alireza Jafarzadeh, an Iranian exile who heads a think-tank in Washington, told Reuters Tehran had sharply accelerated production of Shahab-3 missiles to around 90 a year from 15-20.

Jafarzadeh, formerly a spokesman for the National Council of Resistance in Iran (NCRI), listed by Washington as a terrorist organization, revealed the existence of Iran's secret uranium enrichment plant at Natanz and other sites in August 2002.

North Korea has also been key to Iran's missile development.

Last month a German diplomat, citing his country's intelligence, confirmed a German newspaper report from December that said Iran had purchased 18 disassembled BM-25 mobile missiles with a range of around 2,500 km from North Korea.

The NCRI said at a news conference in London on Monday that Iran was also working on developing so-called Ghadr missiles, with a range of up to 3,000 km. Unlike the Shahab, which is based on North Korean Nodong missile technology, the Ghadr missile is based neither on North Korean or Russian designs.

No comment from Iran was immediately available.

India Nuclear Deal Pushed (WT)

By David R. Sands

The Washington Times, March 7, 2006

The proposed U.S.-India nuclear deal will not open the door for Iran and other rogue states to acquire atomic weapons and technology, the Bush administration's lead negotiator insisted yesterday.

"We don't see the connection between what Iran is doing and what India seeks to do," Undersecretary of State R. Nicholas Burns said at the Heritage Foundation.

The administration has begun selling the India deal in earnest on Capitol Hill, where several top lawmakers are either cool to the accord or openly skeptical.

Mr. Burns, speaking five days after helping nail down the deal in New Delhi, rejected critics' assertions that bending the rules for India -- which has not signed the nuclear Non-Proliferation Treaty (NPT) -- will make it more difficult to rally opposition against Tehran.

Mr. Burns said Iran's Islamic regime was an "autocratic state" that hid its nuclear programs from international inspectors for nearly two decades. Iran enjoys "no trust in the international community."

India, however, is a peaceful democracy that, under theagreement, would place 14 of its 22 nuclear reactors under monitoring and inspection by the United Nations.

"We think these are two countries that are going in diametrically opposed directions," he said. "India in the responsible one; Iran is the irresponsible one."

South Korean analysts also have warned that the India agreement could complicate the multilateral effort to pressure North Korea to abandon its nuclear programs.

Administration officials conceded they have a major selling job to do on Capitol Hill, where lawmakers complained that they had been given little notice when the agreement was floated in the summer.

Key Republican lawmakers such as Senate Majority Leader Bill Frist of Tennessee, Senate Foreign Relations Committee Chairman Richard G. Lugar of Indiana and House International Relations Committee Chairman Henry J. Hyde of Illinois have taken a wait-and-see stance, saying they needed to examine the details of the New Delhi deal.

House Armed Services Committee Chairman Duncan Hunter, California Republican, said sharing U.S. nuclear expertise would help train a generation of researchers in India who could help the country's military nuclear programs -- which are not covered by the accord.

"This thing has to be looked at very, very carefully," he told ABC's "This Week" Sunday. "I'm very, very skeptical."

The administration is scheduling briefings for members and staff on Capitol Hill. Congress must amend several U.S. nonproliferation statutes to implement the accord.

Mr. Burns did not rule out a parliamentary maneuver in which the agreement would go into effect unless the House and Senate voted to kill it.

"We're very open to Congress on how to proceed," he said, adding that the process could take several months.

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Although more than a third of India's nuclear reactors will not be subject to U.N. oversight under the accord, Mr. Burns said India had agreed that all future nuclear sites devoted to civilian power also would be automatically covered and monitored. U.S. officials had been told that the "great majority" of India's nuclear activity in the coming years will be on the civilian side.

The percentage of India's nuclear work subject to international controls will be "much broader by the year 2020," he said.

But India insisted on the right to designate which of its sites would be for civilian and which for military uses. That, critics say, allows India to build so-called fast-breeder nuclear reactors that could accelerate the country's bomb-making potential and upset the military balance with rival Pakistan.

In New Delhi yesterday, Indian officials pressed visiting Australian Prime Minister John Howard to end a ban on sales of uranium to India in the wake of the U.S. deal. Australia has the world's largest uranium deposits but does not sell to countries that have not signed the NPT.

Mr. Howard called the U.S.-India accord "very significant" but said his government "was not going to suddenly change" its policy on uranium exports.

Judicious Double Standards (WP)

By Richard Cohen

The Washington Post, March 7, 2006

Back behind my high school one day, we all assembled to watch a fistfight. To my immense pleasure, a bully was being bested by his victim. Then the bully's friend stepped in and ended matters with a swift kick to the other guy's midsection. It was an unfair ending to what was supposed to be a fair fight, but it taught me a valuable lesson: You treat your friends differently than you do your enemies.

This elemental principle of life, love and other matters seems utterly lost on so many critics of George Bush's agreement to provide India with civilian nuclear technology. In doing so, we are told, he has done something truly awful -- established a double standard. Well, duh -- yes. India is our friend and Iran, just to pick an example, is not.

The cry of "double standard" is a bit silly. It asks us not to recognize certain realities -- the difference between friends and enemies, for instance, or good and bad democracies, to give another example. In the case of the nuclear agreement, we are somehow supposed to believe that by favoring India, Bush has made it much harder to put pressure on Iran to abandon its apparent weapons program and become a "good guy" nation. This overlooks the fact that Iran is governed by a zealot who has pledged to eradicate Israel and who firmly believes in the inherent evil of the United States of America. As Bush once said about himself, the Iranians do not do nuance.

Reality imposes its own rules -- and they have nothing to do with double standards. North Korea probably already has a nuclear weapon. Iran is going that way, and it is going to happen no matter what the United States and its allies do. For Iran, going nuclear has been a national goal ever since the shah headed the government. Now this is even more the case, especially since the United States, which lumped Iran along with Iraq into the "axis of evil," invaded Iraq. It would hardly be the height of paranoia for Iran to think it is next.

The invocation of the term "double standard" is often applied where Israel is concerned. Israel is presumed to have a nuclear arsenal. Why should the United States look the other way at Israel's bomb and go nuts over Iran's effort to get one? The answer ought to be clear: Because Israel has not threatened to blow Iran off the map; because it is vastly outnumbered in a tough, belligerent neighborhood; and because it is the lone real democracy in a region run mostly by thugs.

The same accusation of a double standard is made with regard to the effort to discriminate between election outcomes. We are supposed to treat the victory of Hamas in Palestine as we would that of the Labor Party in Britain. But the outcome of one democratic election is not threatening and the other is, and we ought to be able to say so -- and do something about it. If, for instance, we are supposed to continue aiding a Palestinian government that has now fallen into the hands of religious fanatics and proponents of a virulent brand of anti-Semitism, then we have lost our minds. It will not matter to some poor Israeli that the terrorist who kills him represented a democratically elected government.

The "double standard" accusation has a schoolyard quality to it. Why a boycott of Cuba and not of China? Because you can with one and not with the other. Why attack Saddam Hussein and not all the other vile dictators? Because you do what you can. Why not ask why you leave your estate to your kids and not strangers? Because your kids are your kids. It is the ultimate double standard.

It is true, of course, that Bush has upended 30 years of American nuclear policy -- and there will be consequences. Maybe, as some of the critics say, he has made it easier for India to increase its nuclear arsenal. But India will make all the weapons it feels it needs -- no matter what the United States does. America is a superpower, but not even a superpower is all-powerful.

The Israeli bomb threatens nobody. An Iranian bomb does. India has transferred its nuclear technology to no one. Pakistan has. No one worries about India or Israel making the technology available to terrorists. Everyone worries about Iran doing that.

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These are distinctions with great differences. They are, as critics charge, double standards, but to apply a single standard to both friend and enemy, while it might be fair, would be singularly stupid.

Mr. Bush's Asian Road Trip (NYT)

The New York Times, March 7, 2006

There is a lot of good a president can do on a visit to another country: negotiate treaties that enhance American security, shore up a shaky alliance, generate good will in important parts of the world. Unfortunately, President Bush didn't do any of those good things on his just-completed visit to Pakistan and India and may have done some real harm.

The spectacularly misconceived trip may have inflicted serious damage to American goals in two vital areas, namely, mobilizing international diplomacy against the spread of nuclear weapons and encouraging Pakistan to take more effective action against the Taliban and Al Qaeda fighters operating from its territory.

The nuclear deal that Mr. Bush concluded with India threatens to blast a bomb-size loophole through the Nuclear Nonproliferation Treaty. It would have been bad enough on its own, and disastrously ill timed, because it undercuts some of the most powerful arguments Washington can make to try to galvanize international opposition to Iran's nuclear adventurism.

But the most immediate damage was done on Mr. Bush's next stop, Pakistan. Washington is trying to persuade Gen. Pervez Musharraf, the Pakistani military dictator, to defy nationalist and Islamic objections and move more aggressively against Pakistani-based terrorists. This is no small issue because both Osama bin Laden and the Taliban's leader, Mullah Muhammad Omar, are now believed to operate from Pakistani soil.

But sticking Mr. Musharraf with the unwelcome task of explaining to Pakistanis why his friend and ally, Mr. Bush, had granted favorable nuclear terms to Pakistan's archrival, India, while withholding them from Pakistan left him less likely to do Washington any special, and politically unpopular, favors on the terrorism front.

It's just baffling why Mr. Bush traveled halfway around the world to stand right next to one of his most important allies against terrorists — and embarrass him. India and Pakistan are military rivals that have fought each other repeatedly. They have both developed nuclear weapons outside the nonproliferation treaty, which both refuse to sign. When India exploded its first acknowledged nuclear weapons eight years ago, Pakistan felt obliged to follow suit within weeks.

So when Mr. Bush agreed to carve out an exception to global nonproliferation rules for India, it should have been obvious that Pakistani opinion would demand the same privileged treatment, and that Mr. Musharraf would be embarrassed by Mr. Bush's explicit refusal to provide it.

Mr. Bush was right to say no to Pakistan. It would be an unthinkably bad idea to grant a loophole to a country whose top nuclear scientist helped transfer nuclear technology to leading rogue states. Granting India a loophole that damages a vital treaty and lets New Delhi accelerate production of nuclear bombs makes no sense either.

Mr. Bush should have just stayed home.

Energy, Iran Spur Turkey's Revival Of Nuclear Plans (WP)

By Karl Vick

Washington Post, March 7, 2006

ISTANBUL -- Turkey is reviving its long-deferred quest for nuclear power, pressed both by serious energy shortfalls within its own borders and by strident nuclear ambitions in neighboring Iran that threaten to upset a regional balance of power.

"The rise in oil prices and the need for multiple sources of energy make our need for nuclear energy an utmost priority," Energy Minister Hilmi Guler said last month in announcing plans to build as many as five atomic energy plants. The first, to be located on the Black Sea at Sinop, would come on line in 2012 and ease Turkey's costly dependence on natural gas, 90 percent of which arrives by pipeline from Russia and Iran.

With a rapidly expanding economy, a population of 70 million and scarce petroleum deposits, Turkey appears to be a logical candidate for nuclear power. Guler, who made his remarks while visiting a nuclear plant in Virginia, said the new Turkish reactors could provide about a tenth of the 54,000 megawatts the country expects to need over the next two decades.

"Turkey is a very poor country in respect to power. This has made the country very vulnerable," said Fatih Birol, chief international economist at the energy agency of the Organization for Economic Cooperation and Development, a cooperative of 30 countries that fosters good governance. Birol said that after briefing Turkey's foreign and energy ministers in recent weeks, "I think this government is rather determined to go ahead."

Neighboring Iran's nuclear program, which the United States and other countries have called a cover for developing nuclear weapons, also looms over the revival of Turkey's program, which has had numerous false starts since the early 1960s. Iran and Turkey are almost identical in population and economy and regard each other roughly as equals in a famously combustible region with no dominant power.

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"Iran with nuclear production will be the dominant power," said Ozdem Sanberk, a former ambassador to Washington who heads the Turkish Economic and Social Studies research group in Istanbul. "There will be an asymmetrical relationship."

Sanberk has argued recently that Turkey has no choice but to pursue a nuclear program of its own under the nuclear Non-Proliferation Treaty.

"If we want to leave an independent country to our future generations, we do not have the luxury to delay," Sanberk wrote.

U.S. officials are trying to use Turkey's unease over developments in Iran as part of international efforts to persuade Tehran to suspend its nuclear program. Last month, the U.S. ambassador to the International Atomic Energy Agency, Greg Schulte, spent two days in Ankara for what the U.S. Embassy described as "intense dialogue and cooperation" on the Iranian question. Senior officials of Turkey's ruling Justice and Development Party, whose roots in Islam afford some entree with Tehran, lately have turned up the volume. Foreign Minister Abdullah Gul said Turkey was "saddened by Iran's restarting uranium enrichment."

Any Turkish move toward a nuclear weapons program would mark a dramatic departure from long-standing foreign policy and military doctrine. Guided by the slogan of the country's founder, Mustafa Kemal Ataturk, "Peace at home, peace in the world," Turkish diplomats and the powerful general staff have invested heavily in international institutions, deploying troops repeatedly to Afghanistan and ratifying the most stringent additions to the nuclear Non-Proliferation Treaty.

"Turkey's state policy is always: Play the game within the rules," said Mustafa Kibaroglu, a nuclear proliferation expert at Bilkent University in Ankara. But "if Iran goes nuclear, then who knows?"

In the past, Kibaroglu saw merit in a domestic nuclear industry for Turkey. In a recent interview, however, he argued for alternatives, including improvements to the electrical grid, which leaks as much as a quarter of the power it produces.

"I'm not supporting Turkey's nuclear energy program anymore," he said, "because I'm not clear about what the real intention is. Let's put it that way."

Hamas Revokes Abbas's Wider Powers (FT/REU)

Financial Times, March 7, 2006

Hamas legislators voted on Monday to revoke all decisions made by the previous Palestinian parliament at its final session last month, including laws that gave President Mahmoud Abbas wider powers to appoint some judges.

The move was seen as a challenge to Abbas, whose once-dominant Fatah faction suffered a resounding defeat at the hands of Hamas in parliamentary elections on Jan. 25.

A senior Abbas aide accused Hamas of attempting to oust the Palestinian president.

"We see this as a coup attempt to change the regime and they (Hamas) have to seriously reconsider their decisions," said Tayeb Abdel-Rahim.

In the final session of the previous parliament on Feb. 13, majority Fatah members pushed through an amendment to an existing law, giving Abbas power to appoint judges to a constitutional court without seeking legislative approval.

The judges could be asked to decide whether laws approved by the new parliament are constitutional. Hamas has said the move would effectively give Abbas veto power over new laws.

In the first parliamentary session since being sworn in, Hamas lawmakers -- who dominate the 132-seat parliament, nullified all decisions taken in the session.

"The law is very clear. It gives us the right to endorse or reject the resolutions or the decisions of that session," senior Hamas lawmaker Mahmoud Ramahi told Reuters before the annulment vote was taken.

Fatah members had earlier walked out of the first working session of the new parliament on Monday in protest after Hamas began steps to revoke the previous decisions. © Reuters Limited Click for restrictions

Hamas Legislators Strip Palestinian President Of Wider Powers (NYT)

By Greg Myre

The New York Times, March 7, 2006

JERUSALEM, March 6 — In the first working session of the new Palestinian parliament, Hamas lawmakers voted overwhelmingly on Monday to strip the president of the Palestinian Authority, Mahmoud Abbas, of the expanded powers he had been granted by the legislature before Hamas took control of it.

Shortly after the session began, it degenerated into shouting matches between the rival Hamas and Fatah factions, with Fatah legislators ultimately storming out. After the walkout, lawmakers from Hamas, the radical Islamic faction, voted to nullify all actions taken last month in the final session of the previous legislature, including the decision to give Mr. Abbas additional authority.

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In violence on Monday, an Israeli airstrike on a vehicle killed five people in Gaza City: two Islamic Jihad members, who were the targets, and three young bystanders, Palestinian witnesses and medical workers said.

As for the discord in parliament, Azzam al-Ahmed, the head of the Fatah bloc, said, "We have tried through dialogue and contacts with Hamas to resolve this issue, but they are insisting on domination."

Dr. Mahmoud Zahar, a senior Hamas leader, said, "Every time we present an important point, Azzam al-Ahmed stands up and tries to disrupt our work."

For the most part, Hamas and Fatah have spoken of each other in respectful tones since the Hamas election victory in January, which toppled Fatah, the secular nationalist movement that dominated Palestinian politics for decades. Hamas won 74 of the 132 seats; Fatah captured only 45.

Hamas has invited Fatah and other factions to join the cabinet. But Monday's stormy session pointed to the likelihood of a tense, confrontational relationship, and seemed to rule out the already remote prospect that Fatah might take part.

Monday's events also did not augur well for Mr. Abbas, the Fatah leader, who remains president and will have to work with the Hamas-led cabinet.

On Feb. 13, more than two weeks after the election and only five days before the new parliament was sworn in, Fatah lawmakers in the departing parliament gave additional authority to Mr. Abbas.

The most controversial move formed a nine-judge constitutional court, to be appointed by the president. The court would have the power to strike down laws judged to violate the Basic Law, which effectively serves as the constitution for the Palestinian Authority. Mr. Abbas would then be able to work through the court to veto laws passed by Hamas legislators, according to Hamas.

Fatah lawmakers argued Monday that the session last month was legitimate. But in the view of Hamas, the measures passed in the final session were not valid because many lawmakers had already been voted out of office.

Because Israel has barred many legislators from traveling, those from the Gaza Strip gathered in Gaza City, while West Bank legislators met in Ramallah. They were connected in a video conference, which has become the norm for such sessions.

At Monday's session, 20 of the 132 Palestinian lawmakers were absent. Some are wanted by Israel and are in hiding; others are in Israeli jails. Large portraits of a dozen imprisoned lawmakers were placed in their vacant seats.

Aziz Dweik, the speaker of parliament and a Hamas member, opened Monday's session by saying: "The Palestinian people will be our leaders, and we will want to follow the path of the great Palestinian people, who have showed us how to resist. Our main guide will be the teachings of God and of Muhammad."

In the streets of Gaza City, about a dozen Fatah gunmen walked near the parliament building while the legislature was in session and fired their automatic rifles into the air. After a short time, they left the area.

Israel said the airstrike was aimed at Islamic Jihad, which has been behind many recent attacks against Israel.

The dead were identified by Agence France-Presse as Munir Sukar, 25, and Ashraf Shalluf, 24. Three bystanders also died: Raed al-Batsh, 10; his brother Ala al-Batsh, 14; and Ahmed Sousi, 17, according to Palestinian reports.

Israel's military confirmed that it had carried out the airstrike but said it had no information on casualties.

Also on Monday, two Palestinian teenage brothers were killed in a blast in central Gaza that was caused by a bomb that apparently went off accidentally while they were handling it, the Palestinians said.

Hamas Picks A First-Day Fight (WP)

By Scott Wilson

The Washington Post, March 7, 2006

JERUSALEM, March 6 -- In its first working session, the Hamas-controlled Palestinian legislature swiftly asserted its new political clout Monday by nullifying a law approved by the previous parliament that gave new powers to Palestinian leader Mahmoud Abbas, leader of the rival Fatah movement.

The law was passed on the final day of the lame-duck legislature dominated by Fatah, the secular-nationalist movement that Hamas trounced in the Jan. 25 parliamentary elections. Fatah lawmakers called the Hamas vote to void the law illegal and stormed out of parliament in protest.

The measure gave Abbas, president of the Palestinian Authority, power to name members of a constitutional court without parliamentary approval. The panel rules on the legality of legislation, meaning that Hamas's program could have been blocked if Abbas had packed the court with Fatah members.

The incoming Hamas lawmakers had vowed to reverse the law, which they denounced as an illegitimate attempt to strengthen Abbas's power before its new majority took office.

But in fulfilling that pledge Monday, as the parliament met simultaneously in the West Bank city of Ramallah and the Gaza Strip through a video feed, Hamas infuriated Fatah lawmakers whom they are courting to join a coalition cabinet.

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"They got beaten in the first round," said Ahmed al-Hajj Ali, a Hamas legislator. "This is the first day of the victory of law that has been absent from the Palestinian arena for many, many years."

Hamas, formally known as the Islamic Resistance Movement, is designated a terrorist organization by the United States and the European Union for its declared war against Israel. The party controls 74 of parliament's 132 seats. But it is seeking to bring Fatah into the cabinet to assuage international concern over its political agenda, which has jeopardized the government's lifeblood foreign aid.

Hamas rejects a negotiated two-state solution to the Israeli-Palestinian conflict, the approach endorsed by Fatah. The new cabinet is due to be installed by March 28, but so far, Fatah leaders have said they would rather see Hamas fail on its own than join the cabinet.

Saeb Erekat, a Fatah legislator, said Hamas's decision to void legislation passed by a previous parliament was "absolutely unconstitutional." After meeting with Abbas on Monday evening, Erekat said Fatah would ask the Palestinian High Court on Tuesday to overturn the vote nullifying the law.

"This is a new day in the parliament, a whole new ballgame," Erekat said. "We have a government, an opposition, and Hamas in the driver's seat. If we can manage this, we will be doing a great job. But the question is how do we manage it."

In the Gaza Strip, meanwhile, an Israeli airstrike Monday killed five Palestinians and wounded eight others. Israeli military aircraft fired on a car carrying two senior members of the radical Islamic Jihad movement, the group chiefly responsible for the daily rocket fire from Gaza into southern Israel.

Three bystanders were also killed, including an 8-year-old boy, identified as Raed al-Batesh, and Ahmed al-Sousi, 17.

Hamas Strips Abbas' Powers (WT/AP)

By Ibrahim Barzak, Associated Press

The Washington Times, March 7, 2006

GAZA CITY, Gaza Strip -- Hamas headed into a full-blown confrontation with Palestinian Authority President Mahmoud Abbas yesterday, voting to strip him of powers that he was awarded hastily by his Fatah party in the last session of the outgoing parliament.

The Hamas-Fatah conflict has been simmering since Hamas swept Fatah out of office in the Jan. 25 parliamentary elections, ending four decades of unchallenged rule by the party of the late Yasser Arafat.

Hamas has 74 seats in the new parliament and Fatah has 45. The first order of business for Hamas was to cancel the powers the outgoing parliament gave Mr. Abbas, the Fatah leader, authorizing him to cancel laws passed by the new parliament and appointing Fatah officials to key positions.

In the West Bank administrative capital of Ramallah, Fatah delegates walked out, accusing Hamas of twisting the rules to weaken Mr. Abbas' authority.

About 15 Fatah gunmen marched on parliament in Gaza City, firing into the air. The gunmen eventually headed to a Fatah meeting, where they demanded that their party stay out of the government that Hamas is setting up and threatened to kill any Fatah official who joined.

With its absolute majority, Hamas can set up a government by itself, but Hamas leaders prefer to bring in other parties, partly to deflect international criticism and threatened economic sanctions because of Hamas' record of violence and refusal to recognize Israel.

Israel, which considers Hamas a terror group, refuses to allow members of the Palestinian parliament to travel from Gaza to the West Bank, so the two buildings were linked by teleconferencing equipment to allow the session to take place.

In the final session of the previous parliament on Feb. 13, majority Fatah members pushed through an amendment that gave Mr. Abbas power to appoint judges to a constitutional court without seeking legislative approval.

Yesterday, Hamas easily passed legislation to rescind Mr. Abbas' new powers, but some analysts said Mr. Abbas has the authority to cancel the resolution, perpetuating the standoff.

Fatah complained that the Hamas action yesterday "undermines the basis of dialogue and partnership in any institution with Hamas." A Fatah legislator said the decisions would be appealed to the Palestinian supreme court.

Hamas lawmaker Mushir al-Masri ridiculed the Fatah reaction.

"It is obvious that some people until now have not understood the rules of the democratic game," he said.

Mr. Abbas was elected president of the Palestinian Authority in January 2005, and his term has three years remaining, regardless of the makeup of parliament.

Although Mr. Abbas is seen as a moderate and remains in power, Israel has reacted to the Hamas victory by cutting off transfer of vital tax money to the Palestinian Authority, charging that it now is controlled by terrorists.

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As parliament was wrapping up its session yesterday, the Israeli air force targeted an ice-cream truck in Gaza City, killing two Islamic Jihad militants and three bystanders, two of them children, the military and Palestinian officials said.

A spokesman for the group who gave his name as Abu Dajana vowed retaliation.

"God willing, we are going to get revenge for the honorable bloodshed today," he told reporters outside a morgue at the Shifa hospital in Gaza, where angry Palestinians chanted, "Death to Israel."

Mr. Abbas appealed for international intervention to stop Israeli attacks.

"These aggressive actions threaten the exerted efforts to maintain the truce," he said. "Achieving security would come only through negotiations, not unilateral action and aggression."

The "unilateral action" reference came as Israeli security officials outlined plans for Israel to cut itself off further from the Gaza Strip, after the summer withdrawal of soldiers and settlers. The security chiefs are expected to present the plan after Israel's March 28 election.

Hamas Undoes New Powers Given To Palestinian President (LAT)

The Los Angeles Times, March 7, 2006

JERUSALEM — In a sharp challenge to Palestinian Authority President Mahmoud Abbas, the Hamas-dominated parliament Monday annulled a series of measures by the outgoing legislature aimed at strengthening the president's powers.

Hours later, tensions were stoked when an Israeli airstrike in Gaza City killed two Palestinian militants and three passersby, one of them an 8-year-old boy. Israel acknowledged having carried out the "targeted killing" of an Islamic Jihad field operative it said was responsible for a number of attacks against Israelis. It expressed regret over any civilian casualties.

The confrontation in the Palestinian parliament raised fears that Hamas, the militant movement that decisively won January's legislative elections, was turning its back on the notion of compromise and conciliation with Abbas' Fatah, the more moderate and secular faction it defeated.

Fatah lawmakers walked out in protest just before the annulment vote, which took place during the parliament's first full working session. The new legislature had met just once previously, on Feb. 18, for a ceremonial swearing-in.

Monday's stormy six-hour session was held at separate parliament buildings in the West Bank town of Ramallah and in Gaza City, which were connected by a video link. Many lawmakers from Gaza, including the seaside territory's entire Hamas contingent, are prevented by Israel from traveling to the West Bank.

The distance did little to paper over the clear animosity between the two sides. Fatah stalwart Mohammed Dahlan told the Hamas lawmakers that seeking to annul decisions by the previous parliament was "a dangerous precedent." Mahmoud Zahar, the majority leader and a senior Hamas figure, visibly glowered as he accused Fatah of trying to disrupt the new parliament's work.

"This is something we will not accept," he said.

The annulled measures would have given Abbas the power to appoint a constitutional court with the authority to rule on any dispute between the executive branch and lawmakers, or between the president and the new Cabinet that Hamas is expected to put forth in coming weeks.

The nine-member court also would have had the power to veto laws deemed in violation of the Palestinians' quasi-constitutional Basic Law.

Hamas lawmakers also overturned five appointments to senior posts, all of them Fatah members, which were approved by the previous parliament.

As has often been the case since Hamas' upset victory, the threat of violence hung over the gathering.

Fatah gunmen, who have gone on shooting rampages to protest the loss of government privileges, strode up and down outside the parliament building in Gaza City.

The parliamentary quarrel makes it even more unlikely that Fatah will agree to enter into a governing coalition with Hamas. Fatah's senior leaders as well as the rank and file have brushed aside the prospect of such an alliance.

In Gaza City, an angry crowd gathered outside the main Shifa Hospital, where the bodies of those killed and injured in the Israeli airstrike had been brought. Doctors said eight people were wounded in the explosion in the city's Shajaiyeh district, which came as many people were heading home from work or shopping for evening meals.

A spokesman for Islamic Jihad's military wing promised to take revenge for what he confirmed to be the deaths of two of the group's fighters.

"We will escalate our attacks at the Zionist enemy," said the spokesman, who goes by the name of Abu Hamza. "We will strike at the heart of Israel…. We call on the Zionists to get some coffins ready."

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The Israeli army said in a statement that the raid had targeted Munir Mahmed Mahmed Sukhar, a 30-year-old Islamic Jihad operative it said was responsible for rocket attacks against Israel and the attempted smuggling of would-be suicide bombers and explosives into Israel from Egypt.

Islamic Jihad, which has rejected a truce that is largely being adhered to by Hamas, was responsible for all six suicide bombings in Israel last year. Hamas halted its campaign of suicide bombings when it entered politics a year ago.

In recent months, Israel has steadily been targeting Islamic Jihad militants, often with airstrikes like Monday's in urban areas.

A witness, Zohir Maarouf, said he and other onlookers rushed to help the injured after the massive explosion rocked his busy street.

"I grabbed a woman who was hurt and bleeding and carried her to my car and rushed to the hospital," he said.

In an unrelated incident, two teenage Palestinian brothers were killed in an explosion on the outskirts of the Bureij refugee camp in the central Gaza Strip.

The camp's mayor, Kamal Bughdadi, said the boys, ages 14 and 15, were thought to have been playing with unexploded Israeli ordnance, perhaps a tank shell.

Special correspondents Maher Abukhater in Ramallah and Rushdie abu Alouf in Gaza City contributed to this report.

Hamas Leaders Not Immune From Targeted Killing, Israeli Defense Chief Says (WSJ/AP)

Associated Press

The Wall Street Journal, March 7, 2006

JERUSALEM – Israel's defense minister warned that Hamas leaders, including incoming Palestinian Prime Minister Ismail Haniyeh, will not be immune from pinpointed Israeli killings if the Islamic militant group were to resume its attacks on Israel.

The defense minister, Shaul Mofaz, spoke a day after an Israeli air strike against an ice-cream truck killed two Islamic Jihad militants and three bystanders, including two children, in Gaza City.

Hamas, which is sworn to Israel's destruction, swept January parliamentary elections and is in the process of forming a cabinet. It has rejected international calls to renounce its violent, anti-Israel ideology, but has maintained a year-old moratorium on suicide bombings.

Mr. Mofaz told Israel's Army Radio Tuesday that Israel's policy of targeted killings has proven to be effective, and will continue. "There is no question about its efficacy," Mr. Mofaz said. "Look what happened to Hamas in the years it conducted an untrammeled suicide bombing war against us. When we started the targeted killings, the situation changed, he said.

"We will continue the targeted killings at this pace," Mr. Mofaz added. "No one will be immune."

Asked if Mr. Haniyeh would be a target if Hamas were to resume attacks, Mr. Mofaz replied: "If Hamas, a terror organization that doesn't recognize agreements with us and isn't willing to renounce violence, presents us with the challenge of having to confront a terror organization, then no one there will be immune. Not just Ismail Haniyeh. No one will be immune."

Salah al-Bardawil, a Hamas spokesman, denounced Mr. Mofaz's comments. "This statement and Israeli practices on the ground reflect the bloody, inhumane and inflammatory character of the Zionist enemy," Mr. Bardawil said. "We are not seeking immunity or mercy from Israel. We are in a confrontation. The side that is most steadfast is the side that will survive," he said.

Hamas headed into a domestic confrontation on Monday by stripping Palestinian President Mahmoud Abbas of powers his then-ruling Fatah Party granted him in its last session. Fatah delegates walked out of parliament in protest, charging that Hamas was twisting the rules to nullify Mr. Abbas's additional authority. They plan to extend their protest Tuesday by boycotting the parliamentary session, a Fatah official said.

The Hamas-Fatah conflict has been simmering since Hamas swept Fatah out of office in January, winning 74 seats in the new parliament to Fatah's 45. Azzam al-Ahmed, Fatah's parliamentary faction leader, said Tuesday that Fatah would file suit against Hamas in the Palestinian Supreme Court in the course of the day. "They used their majority to infringe the law on behalf of their interests, and we are resorting now to the judiciary to help us protect the law," Mr. Ahmed said.

Some legal experts say Mr. Abbas has the authority to cancel Hamas's action on Monday, a move that would perpetuate the standoff. Mr. Abbas was elected president of the Palestinian Authority in an election in January 2005, and his term has three years to run, regardless of the makeup of the parliament.

US Says Door Remains Open To N.Korea Nuclear Talks (REU-Y2)

By Paul Eckert

Reuters, March 7, 2006

North Korea should return to six-country nuclear talks regardless of the outcome of discussions on the U.S. financial crackdown on Pyongyang over money laundering, the State Department said on Monday.

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Senior North Korean diplomat Ri Gun was due in New York on Tuesday for a briefing from a U.S. team led by the Treasury Department on measures imposed to combat Pyongyang's suspected money laundering and counterfeiting of U.S. currency.

State Department spokesman Tom Casey took pains to separate the technical explanation of the financial penalties from efforts to get North Korea to rejoin nuclear talks with the United States, China, Japan, Russia and South Korea.

"It's not related to the six-party talks," Casey said.

"We think that regardless of this briefing, and regardless of anything else, that the North Koreans ought to come back to those talks as soon as is possible," he told reporters.

North Korea has denied involvement in any illegal activities and has boycotted the talks since November, arguing that the crackdown was an attempt to topple its leadership.

But the visit to New York by Ri, the North's deputy envoy to the six-party talks, has raised hopes that the North may be poised to return to negotiations hosted by China.

The meeting in New York is "an opportunity for us to explain to the North Koreans simply how our law works and the kind of actions that we took," said Casey, who reiterated Washington's stance on the nuclear talks.

"The door is not closed to the resumption of the six-party talks. We're ready to go back today," he said.

NORTH TO COOPERATE?

The six countries agreed in principle in September that the North would dismantle its nuclear programs in exchange for aid and better diplomatic ties. But their last session in November ended without progress.

Japan's Kyodo news agency quoted Ri as saying in Beijing at the weekend that North Korea was a "victim" of money laundering. "We plan to convey our readiness to cooperate in international efforts" to tackle financial crime, Ri said.

In September, the Treasury Department branded Banco Delta Asia -- a bank in Macau that did business with North Korean firms -- a "willing pawn" in Pyongyang's illicit financial activities. The bank denied the allegations, but said in February that it had stopped dealing with North Korea.

The State Department's International Narcotics Control Strategy Report issued on March 1 cited "compelling evidence" that North Korea was involved in a wide range of criminal activities, including trafficking in counterfeit cigarettes and high-quality counterfeit U.S. currency.

Estimates of North Korea's illicit earnings from trafficking and counterfeiting range as high as $1 billion a year. Some U.S. officials have said Pyongyang has enough paper and ink to make $2 billion in counterfeit American money.

The Institute for International Economics' Marcus Noland, a leading expert on the North's economy, said North Korea probably makes only a fraction of the face value of the fake currency it sells to criminal groups in bulk.

S.Korea, U.S. To Start Free Trade Talks In June (REU-Y2)

By Jack Kim

Reuters, March 6, 2006

The United States and South Korea agreed on Monday to start a formal round of free trade talks in June, dealing a blow to farmers and unionists demonstrating against the plans.

A group of about 40 rallied on Monday in Seoul as trade negotiators from the two countries agreed to hold their first official talks, aimed at bringing down trade barriers, on June 5 to June 9 in Washington.

South Korea's chief negotiator, Kim Jong-hoon, told reporters four additional rounds of talks were planned in alternate capitals for this year to open up trade between the two countries that in 2004 totaled more than $70 billion.

"I believe we should finish this job once we start it," he said, adding the two sides had not set a date for when the talks should be finalized.

"We have not set a deadline for the talks," he said.

Kim and the U.S. chief negotiator Assistant Trade Representative Wendy Cutler met at South Korea's Foreign Ministry.

However, Korean opponents, fearing free trade will spark a flood of cheap imports from the United States that could ruin their livelihoods, promised fierce demonstrations against the government of President Roh Moo-hyun to try to prevent a deal going ahead.

"The Roh Moo-hyun government will never be excused," said Moon Kyung-sik, the head of the Korea Peasants' League. "We will be fighting stronger battles than we did last year."

Two members of the Korea Peasants' League were killed last year in clashes with riot police when they demonstrated against a multi-lateral agreement by South Korea to gradually raise rice imports.

Rice will be one contentious area in the talks between Seoul and Washington. South Korea insists rice will not be part of a free trade deal, while the United States says it must be included in the talks.

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Another contentious area is likely to be exports of South Korea autos to the United States. U.S. car makers are already feeling the heat as they lose market share to Asian producers.

South Korea's service sector could also create bottlenecks in the talks because of large state involvement or restrictions on foreign ownership in such fields as telecommunications.

"Opening agriculture is definitely a big barrier, but opening (South Korean) services will also be important," said Daniella Markheim, a trade economist at the Heritage Foundation in Washington.

Kim said the talks will be open-ended even though White House authority to negotiate a trade pact that can not be amended by Congress runs out in July next year.

President Roh said last month reaching a free trade deal with the United States would be one of the top priorities in the remainder of his term that runs to February 2008.

The United States, which has the world's biggest economy, ran a trade deficit with South Korea, which has the world's 11th biggest economy, of $19.8 billion in 2004.

For OPEC, New Talks On Output (NYT)

By Jad Mouawad

The New York Times, March 7, 2006

VIENNA, March 6 — Strange as it may seem, some OPEC oil ministers are feeling sorry for themselves.

For the last three months, a few of OPEC's top representatives have argued that their oil-producing cartel, which pumps nearly 4 of every 10 barrels of oil produced around the world, needs to trim output to avert a potential oil glut and a — highly hypothetical — price collapse.

The current argument for cutting output first came up when the Organization of the Petroleum Exporting Countries met in December in Kuwait. It resurfaced at a meeting in Vienna the following month and it is likely to top the agenda this week when the group meets here again to consider its production levels.

It almost certainly will not happen. For one thing, Saudi Arabia, by far the most powerful OPEC producer, is opposed. For another, such a decision would probably boomerang.

That is because oil prices, rather than falling as some OPEC ministers had feared, remain so high that any action to limit supply while oil still costs more than $60 a barrel would inevitably lead to a political reaction in oil-consuming countries.

"Many oil ministers are itching for a cut," said Frédéric Lasserre, the head of commodity research at Société Générale in Paris. "But politically a decision to cut supplies would be impossible to explain. They would just look greedy."

So far, oil producers have the best of all worlds: high prices and high demand. After Hurricane Katrina, OPEC waived its traditional country-by-country quota system and said it would keep its oil taps fully open. That policy is still in effect.

But because demand for some oil products typically slows in the second quarter, allowing refiners to build up stocks of gasoline, some of OPEC's harder-line ministers have argued that the group should pare its output to avoid a sharp price drop.

Venezuela's oil minister, Rafael Ramírez, said on Thursday that he would propose a production cut of 500,000 to a million barrels a day. "It's our proposal and we're going to discuss it," he told reporters in Caracas.

In January, a similar proposal was briefly floated by Iran, another of the cartel's price hawks.

The group's current president, Edmund Daukoru of Nigeria, who was in Washington last week to meet with Bush administration officials, also expressed some concerns about the level of commercial inventory held in the United States. Too much oil in stock, he implied, could push prices down.

"Currently we believe there is an overhang," Mr. Daukoru said, according to Bloomberg News. "When there's a huge buildup of stocks, it can swing prices drastically. You can get even a drop of up to $4 on a single day."

That view strikes many oil traders as at odds with market reality. If anything, they say, the greater risk is that prices will rise even further because of domestic turmoil in Mr. Daukoru's backyard and elsewhere.

Rebels seeking a greater share of Nigeria's oil wealth have attacked oil pipelines and production platforms, kidnapped foreign workers and threatened to disrupt exports.

Their campaign has forced Nigeria to cut production by nearly 20 percent, or about 450,000 barrels a day. The country is the biggest oil producer in Africa and the fifth-largest exporter to the United States.

Elsewhere, a drop in Iraq's production, the diplomatic dance surrounding Iran's nuclear program and the failed attacks against the world's largest oil-processing operation in Saudi Arabia have also stoked fears of supply disruptions. Some analysts have argued that the supply cuts from Nigeria and other areas amounted to a de facto cut by OPEC.

All of this has kept oil traders on edge and oil prices between $60 and $70 a barrel. On the New York Mercantile Exchange, crude oil futures closed at $62.41 a barrel Monday.

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Given the volatile market and the lack of much spare capacity, not every producer sees the need for a production cut from OPEC anytime soon. Last month, Saudi Arabia's oil minister, Ali al-Naimi, said OPEC was unlikely to cut production for the rest of the year.

"The Saudis understand the current vulnerability in the market," said Lawrence J. Goldstein, the president of the New York-based Petroleum Industry Research Foundation. "They want to make sure the market is well supplied."

One thing producers can count on is strong demand, particularly from China. This year, oil demand is forecast to grow by 2.2 percent, to 85 million barrels a day, according to the International Energy Agency. Last year, oil consumption rose 1.1 percent and in 2004, it jumped a staggering 3.8 percent, more than twice the last decade's average pace.

Given that longer-term pressure, industry experts see little reason for OPEC to worry about today's inventory levels, which stood on Feb. 24 at 328.3 million barrels, up from 300.9 million barrels a year earlier.

"The market is tenuously balanced because inventories aren't high enough to cover tomorrow's surprises," Mr. Goldstein said. "OPEC has used product seasonality as an excuse but it's not a valid argument."

Much of OPEC's anxiety has less to do with the level of consumer-held oil stocks held than by the price the group will seek to defend. The price of the so-called OPEC basket, a composite of the types of oil sold by OPEC members, was $56 a barrel last week. Most analysts argue that oil ministers will consider action if the OPEC basket price falls to $50.

While little change is actually expected, the talk does serve OPEC's interests.

"Before each meeting, ministers come out and say all sorts of things and create confusion in the market," said Yasser Elguindi, a senior managing director at Medley Global Advisers, a consulting firm for hedge funds. "We call it the 'OPEC kabuki.' "

Saudi Minister Doesn't Want Cut To OPEC Output (WSJ)

By A Wall Street Journal News Roundup

The Wall Street Journal, March 7, 2006

Saudi Arabia's oil minister was reported as saying the Organization of Petroleum Exporting Countries shouldn't trim oil output at this week's meeting. In an interview with pan-Arab daily newspaper Al Hayat, published Monday, Ali Naimi also said fears stemming from threats to oil supplies were the main factor behind prices of more than $60 a barrel.

Mr. Naimi said it wasn't likely an extraordinary OPEC conference would convene before June 11, when the 11-member producer group meets in Venezuela.

"OPEC should not take any decision to decrease production because any such decision would be the main reason for price hikes," Mr. Naimi said. He said oil supply was "stable" while the main reason for high prices were fears of supply disruptions caused by political instability in Nigeria, Venezuela, Iran, Iraq and a failed suicide attempt in Saudi Arabia.

Mr. Naimi said OPEC member states should focus on trying to offset shortages caused by the decrease in supply of 450,000 barrels a day in Nigeria, and 500,000 b/d from the effects of hurricane Katrina in the U.S.

Mr. Naimi was reported as saying state-owned Saudi Arabian Oil Co., or Aramco, and Total SA of France were in advanced talks to build an oil refinery in the Persian Gulf city of Al Jubail. London-based Al Hayat said the refinery, a joint venture between Aramco and Total, would have a production capacity of 400,000 barrels a day and cost $4 billion to $5 billion to build.

Sunday, Mr. Naimi met with French Minister of Economy, Finance and Industry Thierry Breton and Total Chief Executive Thierry Desmarest, who were visiting the country as part of a delegation accompanying French President Jacques Chirac. In Riyadh, Mr. Desmarest said "discussions have been going on for several months." There were a number of options on economic and technical issues being considered, he said.

China Exercises Restraint With Taiwan (USAT)

By Paul Wiseman

USA Today, March 7, 2006

HONG KONG — Not so long ago, China would have been lobbing missiles across the Taiwan Strait, mobilizing troops and issuing bloodcurdling threats in response to any Taiwanese move toward independence.

Times have changed: The mainland calculates that restraint, not retaliation, is the best response to Taiwanese President Chen Shui-bian's provocative decision to scrap a neglected but symbolically important council dedicated to the reunification of China and Taiwan.

“They prefer to keep a low profile,” says Andrew Yang, executive director of the Chinese Council of Advanced Policy Studies, a think tank in the Taiwanese capital Taipei.

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Symbols are everything when it comes to the prickly relationship between China and Taiwan, an island just off the Chinese mainland. Chen took a sledgehammer to one symbol Feb. 27 when he announced he was shutting down the Taiwanese government's National Unification Council. The 16-year-old council hadn't met since Chen took office in 2000, but it represented Taiwan's willingness to consider eventual reunification with the mainland.

Chen's Democratic Progressive Party (DPP) advocates independence, but he promised not to abolish the council in his inaugural address in 2000.

China and Taiwan have been separate since 1949 when the communists seized power on the mainland and Chiang Kai-shek's vanquished Nationalists fled across the Taiwan Strait to set up a rival government. Mainland China has never relinquished its claim to the island of 23 million, threatening to resort to force if necessary to reunite.

More than 87% of Taiwanese responding to a National Chengchi University poll in November want to maintain the status quo, at least for now: real but undeclared independence. Taiwanese don't want to provoke China to war by declaring independence outright.

In 1996, the Chinese fired missiles across the Taiwan Strait in an attempt to intimidate Taiwanese voters into rejecting pro-independence presidential candidate Lee Teng-hui. In response, the United States sent warships to the waters off Taiwan. Four years later, the Chinese threatened to attack Taiwan if voters picked Chen.

After Chen's move last week, China ratcheted up the rhetoric. On Monday, the official Xinhua News Agency quoted Guo Boxiong, vice chairman of the Central Military Commission, as saying the closing of the council was a “grave provocation” that would undermine peace. “We … will never allow ‘Taiwan independence' secessionist forces to make Taiwan secede from China,” he said. Despite the warning, a more-serious Chinese response is not likely. Reasons:

·Threats haven't worked. The bombast of 1996 and 2000 backfired. Both times, Taiwanese voters defied China, electing first Lee and then Chen. “Beijing learned a serious lesson: that Chinese coercive policies are counterproductive in Taiwan,” Chen-yuan Tung, a political analyst at National Chengchi University, wrote last year in the academic journal Asian Survey. China has tried to butter up the Taiwanese public instead. Beijing has encouraged Taiwanese businesses to invest and sell their products on the mainland, welcomed visits by opposition Taiwanese politicians and offered to send pandas to the Taipei Zoo.

·Chinese officials prefer to stand back and let Chen's behavior drive a wedge between Taiwan and its No. 1 ally, the United States. Washington is required by law to help Taiwan defend itself, but the United States opposes Taiwanese independence and wants to prevent a cross-strait military conflict.

“They've decided it's more efficient for Washington to tell Taiwan what to do and what not to do,” says Philip Yang, a political scientist at National Taiwan University. It doesn't always work perfectly: The United States warned Chen against shuttering the reunification council. Taipei decided to cease activity at the council but did not abolish it when Chen took office.

·China has other priorities. Conflict probably would jeopardize economic growth, spoil President Hu Jintao's summit in April in Washington and sabotage the 2008 Olympics in Beijing.

Despite its conciliatory approach to the Taiwanese public, China passed an anti-secession law last year. That created a legal basis for attacking if the island declares independence. The mainland still has more than 700 missiles pointed at Taiwan.

Chen is using political brinkmanship with China to rejuvenate his party's pro-independence base after big losses in local elections in December, says National Taiwan University's Philip Yang. “Chen wants to return to center stage in Taiwanese politics,” he says.

Last week, Chen told The Daily Yomiuri, a Tokyo newspaper, that he wanted to draft a Taiwanese constitution, a move China probably would view as a precursor to a declaration of independence.

“The termination of the reunification council is a signal that Taiwan will take a more antagonistic approach toward China,” Tung says. “There will be trouble among the three parties” — China, Taiwan and the United States.

WTO Finds Mexico Violated Trade Rules In Soft-Drink Case (WSJ/AP)

By Associated Press

The Wall Street Journal, March 7, 2006

GENEVA -- The World Trade Organization ruled that Mexico violated global trade rules in a soft-drink dispute with the U.S.

A WTO panel rejected a Mexican appeal, supporting U.S. claims that Mexico was in breach of international law in imposing a 20% tax on drinks that are sweetened with anything other than cane sugar grown in Mexico.

Mexico was a top market for high-fructose corn syrup from the U.S. before the tax was imposed in 2002. The tax made it too expensive to use the corn sweetener in soft drinks, and today, the U.S. share of the market is about 6% of pretax levels, according to the U.S. trade representative's office.

The dispute over sugar and corn sweetener has cost U.S. corn refiners $944 million annually, according to the Washington-based Corn Refiners Association.

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Separately, officials signed an agreement that will boost shipments of Mexican cement into the U.S., resolving a 16-year trade fight.

The agreement, which will take effect on April 3, will allow imports of Mexican cement to rise to three million tons annually until April 2009, at which point Mexico will be allowed unlimited shipments. U.S. contractors estimate the U.S. imported 2.2 million tons of Mexican cement last year. Penalty tariffs on the cement will drop from $26 a ton to $3 a ton and are scheduled to end completely in April 2009.

'Color' Revolutions Wane (CSM)

By Fred Weir

The Christian Science Monitor, March 7, 2006

MOSCOW - Two key former Soviet states - Belarus and Ukraine - head into elections this month amid dramatic accusations of planned coups, state coercion, and vote-fixing.

But Moscow isn't worried.

Instead, there is a sense of calm and fresh confidence here that contrasts sharply with the Kremlin's panicky reactions to the surge of "colored revolts" that swept through the region in recent years. That revolutionary wave - which began with Georgia's 2003 Rose Revolution and continued with Ukraine's Orange Revolution - seemed unstoppable just a year ago, when Krygyz President Askar Akayev was overthrown.

But the inability of new leaders to fulfill revolutionary pledges, together with the failure of popular pressure to effect change in other Soviet satellite states, has opened the way for Moscow to reassert its influence in the region.

"Those upsurges were the response of people to bad governance and worsening conditions, and the new leaders that came in have shown themselves unable to offer improvements," says Gennady Chuffrin, deputy director of the official Institute of World Economy and International Relations in Moscow. "Ukraine could even see a reversal of what happened a year ago. Obviously the Kremlin would like to see a weakening of [Ukrainian President Viktor] Yushchenko, and I think that's what's going to happen."

Ukraine's economic decline and disillusionment have propelled the pro-Moscow opposition party into first place in opinion surveys for parliamentary elections on March 26. In an ironic twist, the opposition leader Mr. Yanukovych, who was forced out of power after being accused of rigging Ukraine's 2004 presidential election in his favor, claims the authorities are preparing to steal the polls. "The orange team can only remain in power through massive falsifications, and this is what they are doing," he said last week.

According to a survey conducted last week by the Institute of Social and Political Psychology in Kiev, Ukraine, Yanukovych's Party of Regions leads with 27 percent support, followed by former prime minister Yulia Tymoshenko's Bloc with 19 percent and Mr. Yushchenko's Our Ukraine movement with 17 percent.

If the elections bring in a deeply split parliament, it could lead to an extended political crisis that would play into Moscow's hands. A January gas blockade by Russia appears to have deepened Ukraine's economic slump while strengthening the hand of the pro-Moscow Yanukovych.

"We can make Ukraine strong and rich, because democracy is impossible in a poor country," Yanukovych told his campaign workers last week. "Unlike the present leadership, we will not build our strategy to the detriment of relations with Russia."

In Belarus, good relations with Russia are not an issue. The Kremlin will try to put the best face on President Alexander Lukashenko's almost certain third-term victory in polls slated for March 19. But even Russian experts who support the Belarussian leader refrain from calling the election process democratic.

Two candidates running against Lukashenko, Alexander Kozulin and Alexander Milinkevich, have been all but barred from media and their rallies have been broken up by force. Last Thursday, Mr. Kozulin was arrested and allegedly beaten by police after he attempted to stage an impromptu press conference at the Palace of the Republic, Belarus' parliament, in Minsk. "I wanted to tell the truth about the dictatorship that we live in," Kozulin told journalists.

Lukashenko, a former collective farm chairman who has maintained a strict, state-controlled economy, can point to healthy growth rates, low unemployment and stable, if meager, living standards.

"Lukashenko, for all his lack of democracy, has the support of his people and is pursuing sensible policies," says Mikhail Delyagin, director of the independent Globalization Institute in Moscow. "He may be the devil incarnate to the West, but Belarussians regard him as their legitimate leader."

But at least a few Belarussians apparently have other ideas. Last week, the chief of Belarus's KGB security service accused an allegedly foreign-funded opposition group of planning to stage an election-day coup after publishing faked voting results.

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Opposition leaders deny the allegations. Mr. Milinkevich has called for peaceful protests if vote-rigging occurs. But all election-day demonstrations were banned by government decree last week. "These elections are being held under conditions of total falsification and persecution of the opposition," Milinkevich told journalists Friday.

The turmoil prompted US Deputy Secretary of State David Kramer to warn Belarussian leaders that "there will be consequences" for incidents like Kozulin's arrest. "We are paying very close attention to those who are involved in activities that promote either fraudulent elections or promote violence," he said.

Many Russian experts worry that the perceived rivalry between Moscow and Washington for influence in the post-Soviet arena, as played out through these events, is accelerating a chill between the two countries. A US Council on Foreign Relations report released over the weekend noted a "downward trajectory" in US-Russian ties, in part due to Moscow's alleged meddling in the affairs of its neighbors, through energy squeezes and political pressure. "Russia's relations with other post-Soviet states have become a source of significantly heightened US-Russian friction," the report said.

That view is mirrored in Moscow. "Unfortunately, the [wave of revolutions] was perceived in Russia as a kind of conspiracy against Russian interests," mainly promoted by the US, says Irina Zvigelskaya, an analyst with the independent Center for Strategic and International Studies in Moscow. She says the problem results from poor communication over each other's policies in the region. "The US has been obsessed with the notion of democracy, while we have been obsessed with the notion of stability," she says. "It's a deeply fraught misunderstanding"

Russian Panel Backs Pipeline Near Baikal (NYT)

By C. J. Chivers

The New York Times, March 7, 2006

MOSCOW, March 6 — A Russian regulatory panel reviewing plans to build an oil pipeline that would pass along the shoreline of Lake Baikal, the world's most voluminous fresh-water lake, announced Monday that it had approved the proposal over objections from scientists and environmental groups.

The announcement, by the Federal Environmental, Technological and Nuclear Oversight Service, will allow Transneft, the state-owned pipeline monopoly, to proceed with plans to build a pipeline to ship Siberian oil eastward to Asian markets.

The project, roughly 2,500 miles long and known as the East Siberia-Pacific Ocean pipeline, would pass within 900 yards of Lake Baikal's northern shore.

Lake Baikal is a chasm more than a mile deep formed tens of millions of years ago by a crack in the earth's crust.

Nearly 400 miles long and 30 miles wide, it holds more than 20 percent of the world's unfrozen fresh water, and is widely regarded as one of Russia's unique natural gems. Much of its plant and animal life lives nowhere else, and the United Nations has placed the lake on the World Heritage list, a designation it shares with the Serengeti and the Great Barrier Reef.

Scientists have warned that because the region remains seismically active and the lake is still expanding, earthquakes could sever any pipeline, causing its contents to flow into the lake. They also say that because Transneft's planned route will require crossing many of the lake's tributaries, the project will cause erosion and send dirt and pollution into the lake's nearly pristine water.

"It looks very bleak for the environment," said Michiel Hotte of the Zoological Society of London, who has campaigned against the pipeline plan.

The decision announced Monday followed months of maneuvering.

Russia's prime minister, Mikhail Y. Fradkov, signed a resolution late in 2004 detailing the plan, under which Russia, the world's second largest oil exporter, would build the pipeline and diversify its oil sales. President Vladimir V. Putin has signaled his approval.

Opponents of the plan said such powerful support doomed a chance for a genuine environmental review.

They noted that even though a commission of Russian experts working for the oversight service rejected Transneft's planned route on environmental grounds, the ruling was not accepted. Instead, a new commission, with additional members, was ordered to review the project again.

Greenpeace Russia, which has also campaigned against the plan, said that the new commission was under intense pressure, and that its decision was all but a foregone conclusion. Signs of the pressure appeared evident last month, when Transneft's leadership threatened to sue the oversight body and seek financial damages against experts who blocked or delayed the pipe's construction.

Greenpeace Russia said it planned to file a lawsuit against the decision. It was not hopeful about its prospects. "Suing a state-owned business with close ties to the Kremlin is quite a tricky thing," said Roman Vazhenkov, the campaign coordinator. "But we have to try."

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During months of meetings and quarrels, environmentalists had proposed another path for the pipeline that would have swung north and east away from the lake and its watershed before joining another section of the route.

The idea never gained traction with Transneft, whose route follows the course of existing railway lines, making development less expensive. "This is a classic conflict between the cost and the environment," Mr. Hotte said. "It is just a matter of convenience."

A spokesman for Transneft declined Monday to comment about the decision. Company officials have previously played down the environmental concerns, saying the pipeline will be constructed to high standards and noting that trains carrying oil and petroleum products already pass by the lake on the railway each day.

In an interview last month with the state-owned newspaper Rossiskaya Gazeta, Simon Vainshtok, Transneft's president, also suggested that Greenpeace was a tool used by unidentified international interests to prevent Russia from opening Asian and Pacific oil markets.

Transneft has said it hopes to have the pipeline completed within three years at a cost of $11.5 billion. Environmentalists said that even without delays from lawsuits, that schedule was optimistic.

Russia Approves Divisive Pipeline Plan (WP)

By Peter Finn

The Washington Post, March 7, 2006

Critics Cite Threat to Lake Baikal, Political Pressure on Panel

MOSCOW, March 6 -- A controversial plan to build a major oil pipeline passing within half a mile of Siberia's Lake Baikal, the world's largest freshwater lake, was approved by a Russian government regulatory agency Monday.

The decision followed a review process that environmentalists and some Russian experts involved in assessing the route say was marked by manipulation of an expert panel and political pressure on dissenting scientists.

"Even if billions of dollars are at stake, the Russian government cannot put Lake Baikal at risk," Andrei Poyarkov, a member of the expert panel and a biologist at the Institute of Ecology and Evolution in the Russian Academy of Sciences, said at a news conference in Moscow. "They do not have the right."

The head of Rostekhnadzor, the Federal Service for Environmental, Technological and Nuclear Oversight, signed a decree Monday accepting the vote of an expert commission last week to give the project the green light, according to the Russian news agency Interfax.

The expert panel's vote overturned one last month by the same group to reject the route on grounds that a pipeline rupture in the earthquake-prone area could send thousands of tons of crude oil into the lake, a Russian natural treasure. UNESCO designated the lake a World Heritage Site 10 years ago.

Transneft, the state-controlled pipeline operator, is set to build the 2,500-mile pipeline, which would run from Taishet in eastern Siberia to the Pacific coast. With an annual capacity of 80 million tons of crude, it would allow Russia to increase its oil exports to China, Japan and other Asia-Pacific economies.

The $11.5 billion project is a strategic goal of President Vladimir Putin's government, which wants to diversify the country's export network and build Russia into an energy superpower.

Officials at Transneft argue that rerouting the pipeline would add hundreds of millions of dollars to the project's costs and cause major delays in starting construction. They also insist that the project will not endanger the lake.

"Transneft will take all the requisite precautions for Baikal to stay safe," said Simon Vainshtok, president of the company, in an interview last month with the government newspaper Rossiyskaya Gazeta. "For instance, the average thickness of the pipe we use across Russia is 9 millimeters, whereas in the vicinity of Baikal it is 27 millimeters." Those measurements are equivalent to about 0.35 inches and 1.1 inches.

The project has a history of rejection, then acceptance by official bodies. Last September, the Natural Resources Ministry turned down the proposal for the route near Lake Baikal but reversed itself two months later under what Russian news reports have called pressure from the Kremlin.

In a vote last month, 46 of 52 members of an expert panel that Rostekhnadzor had appointed to study the project rejected the route.

After that vote, Rostekhnadzor added 34 experts to the group, all of whom favored the proposed route, according to Gennady Chegasov, a dissenting member of the panel. Chegasov said group members who voted to reject the pipeline came under strong pressure. People were told, "If you vote against construction, it will be the end of your scientific career," he said.

Supporters of the plan still had trouble mustering the two-thirds majority necessary to approve construction, Chegasov said. In the end, 58 members of the expanded commission voted for the project, with 27 against.

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"I remember the Communist Party and the meetings of the party were not like this," said Stanislav Tronin, another member of the panel and a chemist at the Institute for Emergency Situations.

Last week, Putin was presented with a petition signed by 14,000 Russians asking him to take measures to change the route.

A spokesman for Rostekhnadzor could not be reached Monday. In the past week, the agency has declined to comment on allegations that it manipulated the process.

Roman Vazhenkov, the Baikal Campaign coordinator for Greenpeace, said opponents would appeal to the Russian courts and seek to influence international lenders not to finance the pipeline. He said his organization had already written to major banks in the United States, Europe and Japan.

Greenpeace and other opponents of the project said they recognized the need for a pipeline and objected only to the route.

Vainshtok, Transneft's president, told Rossiyskaya Gazeta that Greenpeace and other environmental groups were being manipulated by "puppet masters" outside Russia who do not want China to grow in strength by importing more Russian oil.

Serb Who Aided Hague Tribunal Called A Suicide (NYT)

By Marlise Simons

The New York Times, March 7, 2006

PARIS, March 6 — Milan Babic, a wartime Serbian leader who was closely cooperating with prosecutors, committed suicide in a prison cell of the war crimes tribunal in The Hague, the court said Monday.

Mr. Babic, 50, was found dead in his cell on Sunday evening, the court said in a statement. A senior court official said he had hanged himself, but the court spokeswoman would not confirm that. The official requested anonymity because he was not authorized to speak on the subject.

Mr. Babic's death deprives the prosecution of one of its valuable insider witnesses, a onetime close ally of the former Serbian president, Slobodan Milosevic. He was one of the leaders of an ethnic Serbs' rebellion in Croatia in 1991, and was in close contact with the top of the Serb government in Belgrade.

But he later said he had been deceived by Belgrade and turned himself in and pleaded guilty to crimes against humanity. Since then, he has testified against three senior fellow Serbian politicians, including Mr. Milosevic, and he was to give evidence in three more trials.

"He was a star witness for the prosecution, a key insider, no question," said Edgar Chen, a lawyer who monitors trials at the tribunal for the Coalition for International Justice.

One crucial question, Mr. Chen said, was whether Mr. Babic's past testimony would remain part of the record. Court officials said it was up to the judges in each trial to decide.

Among Serbs, Mr. Babic was widely seen as a turncoat, and tribunal officials had been so concerned for his safety that they would not disclose where he was serving his 13-year sentence.

He was brought back to the Netherlands in February to testify against another Croatian Serb and former comrade, Milan Martic. His testimony was to finish Monday.

It was the second suicide at the prison. Another Croatian Serb, Slavko Dokmanovic, hanged himself with his tie in 1998.

In recent weeks, Mr. Babic described how the rebellion of Croatian Serbs had been run from Serbia and led by Mr. Milosevic.

At various times, Mr. Babic and Mr. Milosevic shouted insults at each other across the courtroom. At one point, Mr. Babic told his former ally: "You dragged the Serbian people into war. You brought shame upon the Serbian people. You brought misfortune on the Croatian people, on the Muslim people."

Where Killers Roam, The Poison Spreads (NYT)

By Nicholas D. Kristof

The New York Times, March 7, 2006

ALONG THE CHAD-SUDAN BORDER

For more than two years, the world has pretty much ignored the genocide unfolding in the Darfur region of Sudan, just as it turned away from the slaughter of Armenians, Jews, Cambodians and Rwandans in earlier decades.

And now, apparently encouraged by the world's acquiescence, Sudan is sending its proxy forces to invade neighboring Chad and kill and rape members of the same African tribes that have already been ethnically cleansed in Darfur itself.

I've spent the last three days along the Chad-Sudan border, where this brutal war is unfolding. But "war" doesn't feel like the right term, for that implies combat between armies.

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What is happening here is more like what happens in a stockyard. Militias backed by Sudan race on camels and pickup trucks into Chadian villages and use machine guns to mow down farming families, whose only offense is that they belong to the wrong tribes and have black skin.

I found it eerie to drive on the dirt track along the border because countless villages have been torched or abandoned. Many tens of thousands of peasants have fled their villages, and you can drive for mile after mile and see no sign of life — except for the smoke of the villages or fields being burned by the Sudan-armed janjaweed militia.

In some places the janjaweed, made up of nomadic Arab tribes that persecute several black African tribes, have turned villages into grazing lands for the livestock they have stolen. At one point, my vehicle got stuck in the sand, and a group of janjaweed children materialized and helped push me out. The children were watching a huge herd of cattle with many different brands. Their fathers were presumably off killing people.

This is my sixth trip to the Darfur region, and I've often seen burned villages within Darfur itself, but now the cancer has spread to Chad.

One young man, Haroun Ismael, returned with me — very nervously — to the edge of his village of Karmadodo, between the towns of Adré and Adé. Eleven days earlier, Sudanese military aircraft and a force of several hundred janjaweed had suddenly attacked the village. Mr. Haroun and his wife had run for their lives, with his wife carrying their 3-month-old baby, Ahmed.

The janjaweed raiders overtook Mr. Haroun's wife and beat her so badly that she is still unconscious. They also grabbed Ahmed from her arms.

"They looked at the baby," Mr. Haroun added, "and since he was a boy, they shot him."

Sudan is also arming and equipping a proxy army of Chadian rebels under a commander named Muhammad Nour. The rebels were repulsed when they tried to invade Chad in late December, and now they are regrouping for another attempt.

Sudan's aim seems to be to overthrow Chad's president and install a pawn in his place, in part because this would allow Sudan's Army to attack rebels in Darfur from both directions.

Regardless of whether the rebels succeed in overthrowing Chad's government, they could ignite a new civil war in Chad. Much will depend on whether the French will use their military base in Chad to fight any Sudanese-sponsored invasion; the French aren't saying what they'll do.

Chad's army is too small to defend its border, so it tries to defend potential invasion routes. That leaves villages in other areas defenseless.

"See that smoke over there?" asked Ali Muhammad in the market town of Borota. "The janjaweed are burning our fields today."

"Most people here have fled," he added, "but I have old family members to look after, so I can't leave."

These areas are too insecure for the United Nations and most international aid workers, who are already doing a heroic and dangerous job in Darfur and Chad. So Mr. Ali and others left behind get no food aid and go hungry.

In the last few weeks, President Bush has shown an increased willingness to address the slaughter in Darfur. He should now encourage the French to use their forces to defend Chad from proxy invasions, make a presidential speech to spotlight the issue, attend a donor conference for Darfur, encourage the use of a NATO bridging force until U.N. peacekeepers can arrive, enforce a no-fly zone and open a new initiative for peace talks among the sheiks of Darfur.

The present Western policy of playing down genocide and hoping it will peter out has proved to be bankrupt practically as well as morally. Granted, there are no neat solutions in Darfur. But ignoring brutality has only magnified it, and it's just shameful to pretend not to notice the terrified villagers here, huddling with their children each night and wondering when they are going to be massacred.

U.S. Pushes Foolish Policy Of 'Baseball, Sí, Academics, No' (USAT)

By DeWayne Wickham

USA Today, March 7, 2006

HAVANA — How insane is this?

Digna Castañeda, a frail and aging professor of Caribbean history and philosophy at the University of Havana, cannot go to Puerto Rico next week to attend the International Congress of the Latin American Studies Association.

She is one of 59 Cuban academics who have been denied visas to enter the U.S. commonwealth to take part in LASA's meeting because the Bush administration says it would be "detrimental to the interests of the United States" to permit them to do so.

On Wednesday, however, Cuba's national baseball team will take the field in San Juan's Hiram Bithorn Stadium to play its first game in the World Baseball Classic, a competition among 16 nations. While a group of young, brawny, bat-wielding Cuban

DOJ_NMG_0016723

men can get visas (admittedly after some strong protests of the U.S. government's initial refusal), a diminutive Havana college professor cannot.

This "baseball si, academics no" policy severely limits the kind of personal contacts and intellectual exchanges between Cubans and Americans that could be the taproot of improved diplomatic relations. One of the workshops scheduled to be held at this year's LASA meeting is titled, "The Never-Ending Cold War: The United States, Cuba, and LASA's Battle for Academic Freedom."

Visas denied

The academics were denied visas pursuant to a 1985 Cold War-era presidential proclamation that "suspends entry into the U.S. of officers and employees of the Cuban government and Communist Party," says the State Department's Justin Higgins. "Cuban academic institutions are state-run, and the Cuban government tightly controls the activities of its academic researchers."

But this rule wasn't always broadly applied. In 2000, '01 and '03, Cuban academics were allowed to attend LASA meetings. Then in October '04 — three months after the Bush administration stepped up its effort to topple the Castro government — more than 60 Cuban scholars were refused visas to attend LASA's meeting in Las Vegas.

Castañeda, who has visited 22 U.S. universities during her 42-year career, is miffed by the denial of her visa. But I am not surprised. The Bush administration has been unwavering in its refusal to let Cuban academics participate in the LASA conference because it's easier to demonize the Castro regime when people-to-people contact is cut off.

Castro the real target

Shielding Americans from some of Cuba's best and brightest people makes it easier for neo-conservatives to portray this island nation as a place that is driven by the thinking of just one man: Fidel Castro.

"Castro has stated publicly that the universities (in Cuba) are available only to those who share his revolutionary beliefs," Higgins says in explaining why the Cuban academics were denied visas.

Apparently, the Bush administration doesn't want Americans to think that saving the lives of impoverished children might be one of Castro's "revolutionary beliefs." Last year, the State Department refused to permit scientist Vicente Verez-Bencomo into the country. He had been invited by California's Tech Museum of Innovation, which wanted to honor him for leading a team of researchers that developed a low-cost synthetic vaccine to keep children from getting meningitis and pneumonia. Each year, these diseases take the lives of up to 700,000 children, many living in countries where regular mass immunizations are too costly. The vaccine Verez-Bencomo helped develop might save millions of lives, Science magazine said.

Cuba is no utopia. It's a communist state struggling to find the right mix of social programs to safeguard its people and joint ventures with foreign capitalists to fuel its sputtering economy.

Cuba is also a nation that is besieged by policies of the Bush administration that are arbitrary, capricious and simpleminded.

DOJ_NMG_0016724

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, March 7, 2006 9:25 AM
To: Comisac, Rena (CRT)
Subject: Next Weds

I was glancing at the calendar and noticed that the human trafficking event is slated for next Wednesday and thought I'd just ask how the preparations coming and whether there's anything you need from OASG by way of support.

Comisac, Rena (CRT)

From: Comisac, Rena (CRT)
Sent: Tuesday, March 07, 2006 9:54 AM
To: Gorsuch, Neil M
Subject: RE: Next Weds

Thanks, Neil. We are in good shape.

The first 500 copies of the report will be ready on Friday. Omar is working with OPA on the logistics of getting them up to Chicago in time for the event. The rest of the copies will be ready on Tuesday or Wednesday of next week for distribution here. I will send a reminder email today to OPA, OIPL, and OLA so that they can have their distribution lists ready.

Tucker is working on the AG's remarks; we are providing him with background information. He expects to circulate a draft by the end of this week.

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Tuesday, March 07, 2006 9:56 AM
To: Comisac, Rena (CRT)
Subject: RE: Next Weds

Sounds great. Thanks again for all the hard work on this.

From: Comisac, Rena (CRT)
Sent: Tuesday, March 07, 2006 9:54 AM
To: Gorsuch, Neil M
Subject: RE: Next Weds

Thanks, Neil. We are in good shape.

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[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Tuesday, March 7, 2006 10:10 AM
To: Henry, Terry (CIV); Gorsuch, Neil M
Subject: FW: ** McCain Letter**
Attachments: tmp.htm; McCain letter March 07 2006.pdf
Importance: High

FYI

> -----Original Message-----
> From: [redacted] DoD OGC
> Sent: Tuesday, March 07, 2006 10:09
> To: [redacted] DoD OGC
> Cc: [redacted] DoD OGC; [redacted] DoD OGC
> Subject: FW: ** McCain Letter**
> Importance: High
>
> Detainee Affairs is heading up getting the response together, as you can > see below. I am going to review the declarations and see what we have in > there that can be used to directly address his concerns. We are also > going to keep Terry in the loop, we think DOJ may have received a similar > letter but not sure.
>
[redacted]
>
> -----Original Message-----
> From: [redacted] CIV, OSD-POLICY
> Sent: Tuesday, March 07, 2006 09:47
> To: [redacted] JCS J5; [redacted] CIV, JCS J5;
> [redacted] JCS J4; [redacted] @hq.southcom.mil'; [redacted]
> [redacted] DoD OGC; [redacted] DoD OGC;
> [redacted] Ms, DoD OGC; [redacted] OASD(HA); [redacted]
> [redacted] CIV, OASD(HA); [redacted] @jtfgtmo.southcom.mil'; [redacted]
> (L)'
> Cc: [redacted] CIV, OSD-POLICY; [redacted] CIV,
> OSD-POLICY; [redacted] CIV, USA, OSD-POLICY
> Subject: ** McCain Letter**
> Importance: High
>
> All,
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> Attached is a letter SECDEF received from Senator McCain regarding the > humane treatment of detainees who are involuntarily fed. Although the > letter specifically cites the case of Mohammad Bawazir, Senator McCain is > primarily asking about the methods we use for involuntarily feeding any > detainee who needs it.
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>
> <<McCain letter March 07, 2006.pdf>>
>
> V/R,
>
> [redacted]
> [redacted]
> Office of Detainee Affairs
[redacted]

JOHN McCAIN
ARIZONA

CHAIRMAN
COMMITTEE ON INDIAN AFFAIRS
COMMITTEE ON ARMED SERVICES
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

United States Senate

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(520) 670-6334

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(602) 952-0170

OFFICE OF THE SECRETARY OF DEFENSE
2006 MAR -6 AM 11: 43

March 3, 2006

VIA FACSIMILE AND FIRST CLASS MAIL

The Honorable Donald H. Rumsfeld
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Mr. Secretary:

Lawyers acting on behalf of Mr. Mohammad Bawazir, a Guantanamo detainee, filed suit this week alleging that authorities have force-fed Mr. Bawazir in a manner that constitutes cruel and inhumane treatment. While I do not believe that intervening to save the life of a detainee who wishes to commit suicide constitutes cruel, inhumane, or degrading treatment, I do have concerns about the intent of the methods employed.

Mr. Bawazir's lawyers have cited several actions that they believe are designed to inflict pain and punishment for the hunger strike, rather than merely to deliver nutrients in an effective and safe manner. They allege that Guantanamo personnel forcibly strapped Mr. Bawazir into a restraint chair; inserted a feeding tube that was larger than the tube that had previously been left in Mr. Bawazir's nose, increasing the pain of the insertion and extraction; poured four bottles of water into his stomach through the nasal gastric tube each time he was fed, even though Mr. Bawazir has never refused to drink water by mouth; and performed other unnecessarily painful procedures.

If these measures are designed to induce detainees, through pain and cruel treatment, to abandon their hunger strikes, that is a disturbing breach of medical ethics and may be in violation of the law recently enacted on detainee treatment. U.S. District Judge Gladys Kessler said in a hearing yesterday, "These allegations . . . describe disgusting treatment that, if proven, is treatment that is cruel, profoundly disturbing and violative of [ ]" United States and foreign treaties banning torture. Why have Guantanamo personnel not chosen to deliver nutrients intravenously while the detainee is restrained and unable to remove his needle or use it as a weapon? Are there not other methods personnel could employ that would lessen the pain accompanying the force-feeding?

I hope you will personally look into this matter as soon as possible. If medical personnel at Guantanamo must intervene to preserve the lives of detainees, they should do so in the most humane and effective manner.

Thank you for responding to this matter, your prompt attention to these concerns is appreciated.

Sincerely,

John McCain

John McCain
United States Senate

OSD 03552-06

PRINTED ON RECYCLED PAPER

FYI

-----Original Message-----

From: French, Christina, Ms, DoD OGC

Sent: Tuesday, March 07, 2006 10:09

To: Jimenez, Frank, Mr, DoD OGC

Cc: Hecker, Karen, Ms DoD OGC; Beaver, Diane, Ms, DoD OGC

Subject: FW: ** McCain Letter**

Importance: High

Detainee Affairs is heading up getting the response together, as you can see below. I am going to review the declarations and see what we have in there that can be used to directly address his concerns. We are also going to keep Terry in the loop, we think DOJ may have received a similar letter but not sure.

Christina

-----Original Message-----

From: Hyams, Ross, CIV, OSD-POLICY

Sent: Tuesday, March 07, 2006 09:47

To: Coble, Barry B Col JCS J5; Teitel, Kathleen A, CIV, JCS J5; Whitehead, Mary M, LtCol, JCS J4; 'Schoenbt@hq.southcom.mil'; Swanson, Steven, Mr; Hecker, Karen, Ms DoD OGC; French, Christina, Ms, DoD OGC; Beaver, Diane, Ms, DoD OGC; Ireland, Robert, COL, OASD(HA); Smith, Jack, Dr., CIV, OASD(HA); 'Hagergl@jtfgtmo.southcom.mil'; 'Parke, Stephen M. LTC (L)'

Cc: Stimson, Charles D. (Cully), CIV, OSD-POLICY; Liotta, Alan, CIV, OSD-POLICY; Fortune, Anthony, CIV, USA, OSD-POLICY

Subject: ** McCain Letter**

Importance: High

All,

Attached is a letter SECDEF received from Senator McCain regarding the humane treatment of detainees who are involuntarily fed. Although the letter specifically cites the case of Mohammad Bawazir, Senator McCain is primarily asking about the methods we use for involuntarily feeding any detainee who needs it.

SECDEF wants this letter answered by COB today. Some of the information we need for a response is in the most recent filling from the Bawazir case. However, we believe that without the answer to the ICRC report, SECDEF will be unable to accurately respond to this letter. To prevent a phone call from the SECDEF to General Craddock, we need the response to the ICRC report by noon today.

<<McCain letter March 07, 2006.pdf>>

V/R,

Ross Hyams
OSD
Office of Detainee Affairs
703-695-7974

Henry, Terry (CIV)

From:	Henry, Terry (CIV)
Sent:	Tuesday, March 7, 2006 10:15 AM
To:	Nichols, Carl (CIV); Gorsuch, Neil M
Cc:	Roehrkasse, Brian
Subject:	FW: ** McCain Letter re use of restraint chair**
Attachments:	tmp.htm; McCain letter March 07 2006.pdf
Importance:	High

FYI. Sec Rumsfeld received the attached letter from Sen. McCain complaining about use of the "restraint chair" for involuntary feedings at GTMO. DoD thinks DoJ may have received a similar letter.

Terry M. Henry
Senior Trial Counsel
Civil Division, Federal Programs Branch
U.S. Department of Justice
Tel. 202.514.4107

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto[redacted]@dodgc.osd.mil]
Sent: Tuesday, March 07, 2006 10:06 AM
To: Henry, Terry (CIV)
Cc: [redacted]@dodgc.osd.mil
Subject: FW: ** McCain Letter**
Importance: High

Terry-- [redacted] will be working this. DOD is trying to determine if DOJ got a similar letter. We'll clear our draft thru you.

[redacted]
Office of the DoD General Counsel (Legal Counsel)

[redacted] (fax)

This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without prior approval from the Office of the DoD General Counsel.

> -----Original Message-----
> From: [redacted] CIV, OSD-POLICY
> Sent: Tuesday, March 07, 2006 09:47

> To: [redacted] JCS J5; [redacted] CIV, JCS J5;
> [redacted] JCS J4; [redacted] @hq.southcom.mil'; [redacted]
> [redacted] DoD OGC; [redacted] DoD OGC;
> [redacted] DoD OGC; [redacted] OASD(HA); [redacted]
> [redacted] CIV, OASD(HA); [redacted] @jtfgtmo.southcom.mil'; [redacted]
> [redacted] (L)'
> Cc: [redacted], CIV, OSD-POLICY; [redacted] CIV,
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>
> [redacted]
> [redacted]
> Office of Detainee Affairs
> [redacted]

JOHN McCAIN
ARIZONA

CHAIRMAN
COMMITTEE ON INDIAN AFFAIRS
COMMITTEE ON ARMED SERVICES
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

United States Senate

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2006 MAR -6 AM 11: 43

March 3, 2006

VIA FACSIMILE AND FIRST CLASS MAIL

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Sincerely,

John McCain

John McCain
United States Senate

OSD 03552-06

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Terry--Christina will be working this. DOD is trying to determine if DOJ got a similar letter. We'll clear our draft thru you.

Karen L. Hecker
Office of the DoD General Counsel (Legal Counsel)

Room 3B652
(703) 571-9349 (DSN 671)
(703) 614-6745 (fax)

This message may contain information protected by the attorney-client, attorney work product, deliberative process, or other privilege. Do not disseminate without prior approval from the Office of the DoD General Counsel.

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Sent: Tuesday, March 07, 2006 09:47

To: Coble, Barry B Col JCS J5; Teitel, Kathleen A, CIV, JCS J5; Whitehead, Mary M, LtCol, JCS J4; 'Schoenbt@hq.southcom.mil'; Swanson, Steven, Mr; Hecker, Karen, Ms DoD OGC; French, Christina, Ms, DoD OGC; Beaver, Diane, Ms, DoD OGC; Ireland, Robert, COL, OASD(HA); Smith, Jack, Dr., CIV, OASD(HA); 'Hagergl@jtfgtmo.southcom.mil'; 'Parke, Stephen M. LTC (L)'

Cc: Stimson, Charles D. (Cully), CIV, OSD-POLICY; Liotta, Alan, CIV, OSD-POLICY; Fortune, Anthony, CIV, USA, OSD-POLICY

Subject: ** McCain Letter**

Importance: High

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<<McCain letter March 07, 2006.pdf>>

V/R,

Ross Hyams
OSD
Office of Detainee Affairs
703-695-7974

From: Miller, Charles S
Sent: Tuesday, March 07, 2006 11:04 AM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Meron, Daniel (CIV); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 3/7/06 Civil Division News

AP Sues for Access to Lindh's Petitions

US asks court to drop ex-detainees' torture suit

Supreme Court Sides With Military Recruiters

Feds in N.J. subpoena Bayer over cholesterol drug linked to deaths

Glaxo Loses U.S. Court Bid to Block Generic Flonase

Closing arguments set to begin in war contractor case

Newspaper companies join in on FEMA fight

Air Force Vet Wants To Limit Proselytizing

AP

March 7, 2006

AP Sues for Access to Lindh's Petitions

By MARK SHERMAN

Associated Press Writer

WASHINGTON_The Associated Press sued the Justice Department on Monday for access to American-born Taliban soldier John Walker Lindh's petitions to have his 20-year federal prison sentence shortened.

The federal Freedom of Information Act lawsuit, filed in U.S. District Court in New York, said the government has improperly refused to turn over Lindh's pleas to have his sentence reduced on the grounds that doing so would be an unwarranted invasion of his privacy.

AP's lawyers, in letters to the Justice Department and the lawsuit, however, said Lindh "is a 'high-profile public figure' whose 'privacy interest in his petition is low to nonexistent.'"

Lindh's lawyer, James Brosnahan, also has told the news cooperative that he would have turned over the documents

DOJ_NMG_0016736

himself, but he can't under the terms of Lindh's imprisonment.

The Justice Department did not immediately comment on the lawsuit\l "l".

Lindh, 25, was captured in Afghanistan in November 2001 in the U.S.-led effort to topple the Taliban following the Sept\l "l". 11\l "l" attacks.

Prosecutors charged him with conspiring to kill Americans and supporting terrorists. He pleaded guilty to lesser offenses in 2002, including carrying weapons against U.S. forces. He avoided a potential life sentence and agreed to withdraw claims that he had been abused or tortured in U.S. custody.

The AP said it believes Lindh "contends in his petition that he was prosecuted and convicted unfairly in the immediate wake of the September 11, 2001 attacks, and that he was not, in fact, knowingly fighting the United States in Afghanistan."

The president decides whether to commute sentences or pardon people who have been convicted of crimes and have completed their sentences, usually on the recommendation of the department's Pardon Attorney.

Lindh, who is held at the medium security federal penitentiary in Victorville, Calif., first applied for clemency in September 2004, following up on his request 15 months later. Justice officials told him it would be at least a year before any decision is made.

AP first sought the records on Jan. 4. Nine days later, the department replied it could only release the documents with Lindh's written consent, according to the lawsuit. But Lindh is barred from making any public comment on the matter, including consenting to the release, under the terms of his plea agreement, the suit said.

A similar privacy issue is at the center of a long dispute between AP and the government over access to information about detainees at the U.S. military facility at Guantanamo Bay, Cuba. U.S. District Judge Jed S. Rakoff last month ordered the Pentagon to release the identities of hundreds of detainees.

END

Reuters

3/7/06

US asks court to drop ex-detainees' torture suit

WASHINGTON (Reuters) - The U.S. Justice Department asked a federal court on Monday to dismiss a lawsuit charging that Defense Secretary Donald Rumsfeld bears responsibility for the torture of detainees in Iraq and Afghanistan.

In its first substantive response to the lawsuit filed by two rights groups, the Justice Department said the suit against Rumsfeld should be dismissed based on the "absolute immunity" granted federal officials under 1988 legislation on civil lawsuits.

"That act bars suits against federal officials for conduct performed with the scope of their employment except for claims for violations of the Constitution or of federal statutes," the filing said.

The government also said that the court had no jurisdiction over cases seeking damages for alleged violations of international law.

The American Civil Liberties Union and Human Rights First filed suit on March 1, 2005 on behalf of nine men -- five Iraqis and four Afghans -- who said they were tortured by U.S. forces while in custody. None of the men were ever prosecuted. All were released.

The suit focuses on an order Rumsfeld signed in December 2002, that authorized new interrogation techniques for detainees in the "war on terror," including "stress positions," 20-hour interrogations, removal of clothing, the use of dogs and prolonged isolation and sensory deprivation.

The suit alleges that when evidence became overwhelming that prisoners were being tortured, Rumsfeld turned a blind eye.

"Secretary Rumsfeld takes the extraordinary position in his brief that ordering torture was 'within the scope of his employment' as Secretary of Defense. Especially in light of recent finds that no one at senior levels has been held to

account for gross acts of torture and abuse of detainees, this is a remarkable abdication of the responsibility of command," said Deborah Pearlstein, a representative of Human Rights First.

The plaintiffs want the court to declare Rumsfeld's actions unconstitutional and a violation of U.S. and international law. They are also seeking monetary damages for their injuries.

The rights groups amended the original complaint in January to include similar suits against three other senior officers: Col. Thomas Pappas, Gen. Janis Karpinski and Lt. Gen. Ricardo Sanchez.

END

Legal Times
03-07-2006

Supreme Court Sides With Military Recruiters

By Tony Mauro

Rejecting the views of some of the nation's top law schools and professors, the Supreme Court on Monday upheld the so-called Solomon Amendment, which requires universities receiving federal funds to give equal access to military recruiters on campus.

The unanimous decision was a sharp rebuke of the legal academe, many of whose members objected on First Amendment grounds to hosting military recruiters, because of the armed forces' policies against allowing open homosexuals in their ranks.

Writing for the 8-0 Court, Chief Justice John Roberts Jr. said the academics' arguments "trivialize" some of the Court's First Amendment precedents while "exaggerating" others. Justice Samuel Alito Jr. did not participate in the ruling.

"This decision will force our schools to carve out an exception to our nondiscrimination policies for the military, and that is unfortunate," said Carl Monk, executive director of the Association of American Law Schools, which has opposed discrimination in legal education on the basis of sex since 1970. But he said law schools will obey what is now "the law of the land." Monk expressed the hope that "the day is not far off when gays and lesbians will be able to serve as military lawyers."

The challenge to the Solomon Amendment was brought by the Forum for Academic and Institutional Rights, which includes the law school faculties of Stanford, Georgetown, George Washington, New York and other universities. The AALS also joined the challenge, but not as a lead plaintiff.

Georgetown law professor Mark Tushnet, a former president of the AALS, predicted that the ruling would lead to an increase in "the number and intensity of protests against military recruiting in the fall."

Roberts wrote that the law, first passed by Congress in 1994, bears no resemblance to the compelled speech the Court has struck down in other cases, such as *West Virginia Board of Education v. Barnette* and *Wooley v. Maynard*, which said states could not require students to recite the Pledge of Allegiance or force drivers to display a state motto on their license plates.

"There is nothing in this case approaching a Government-mandated pledge or motto that the school must endorse," wrote Roberts. Law schools argued that to give military recruiters equal access, they would be forced to distribute fliers or send e-mails to students that would convey an unwanted government message, but Roberts said those actions are "plainly incidental."

The ruling came as little surprise after oral arguments last December when justices showed little sympathy for the law schools' argument, especially after Solicitor General Paul Clement said law schools were free to show their disapproval of military recruiters in a variety of ways, including organizing student protests against them.

Referring to Clement's statement at oral arguments, Roberts wrote, "The Solomon Amendment neither limits what law schools may say nor requires them to say anything." Roberts added, "As a general matter, the Solomon Amendment regulates conduct, not speech. It affects what law schools must do -- afford equal access to military recruiters -- not what they may or may not say."

Roberts also rejected an argument made by former acting Solicitor General Walter Dellinger III on behalf of a group of Harvard Law School professors that includes Dean Elena Kagan (in her capacity as a professor), Laurence Tribe, Lani Guinier, Randall Kennedy, and Robert Clark (a former dean).

They argued that by giving military recruiters disfavored treatment, Harvard and other law schools were, in fact, abiding by the Solomon Amendment because they would treat any other employer who violated their nondiscrimination policies in the same disfavored way.

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But Roberts, a Harvard Law School alumnus, rejected the argument, asserting that the federal law looks to the actual access military recruiters are given, not to the policy that leads to that access. "It is insufficient for a law school to treat the military as it treats all other employers who violate its nondiscrimination policy," Roberts wrote. "Under the statute, military recruiters must be given the same access as recruiters who comply with the policy."

The law was also attacked as an unconstitutional condition on federal funding, but the Court rejected that argument, too. Roberts said that because Congress has "broad authority" in the area of military recruiting, it could have imposed the access requirement on universities directly, rather than making it a condition of federal funding. "Because the First Amendment would not prevent Congress from directly imposing the Solomon Amendment's access requirement, the statute does not place an unconstitutional condition on the receipt of federal funds," Roberts wrote.

The ruling was Roberts' third majority opinion, and all have been without dissents or separate concurrences. Some critics of the military-recruiting decision took solace in that fact Monday, suggesting it means that the Court was not announcing a sweeping new doctrine.

"The unanimity of today's decision strongly suggests that the Court did not think it was changing any existing constitutional rules," said Steve Shapiro, legal director of the American Civil Liberties Union. "Certainly, nothing in today's decision endorses the military's 'Don't ask, don't tell' policy or any other form of discrimination against gay people."

END

AP

3/7/06

Feds in N.J. subpoena Bayer over cholesterol drug linked to deaths

WASHINGTON — Bayer AG disclosed Monday that it received a subpoena from the U.S. attorney for New Jersey relating to its withdrawn Baycol/Cerivastatin anti-cholesterol drug, which has allegedly been linked to about 100 deaths.

Bayer received the subpoena last month, according to the company's annual report filed with the Securities and Exchange Commission.

The Germany-based pharmaceutical and chemical company had received a subpoena in January 2004 that also related to its Baycol drug from the Defense Criminal Investigative Service of the U.S. Department of Defense Inspector General.

Bayer withdrew Baycol from the market in August 2001 after it was allegedly linked to about 100 deaths.

The company said that as of Jan. 13, it had paid $1.15 billion to settle 3,082 Baycol cases, without acknowledging any liability.

Bayer American depositary shares fell $1.97, or 4.8 percent, to $38.75 in afternoon trading on the New York Stock Exchange.

Bayer AG also said Monday its fourth-quarter profit fell 33 percent after it set aside $330.5 million to settle claims that it colluded on prices of rubber and plastic in the United States.

END

Bloomberg

2/6/06

Glaxo Loses U.S. Court Bid to Block Generic Flonase

March 6 (Bloomberg) -- GlaxoSmithKline Plc, the world's second-biggest drugmaker, lost a U.S. bid to prevent sales of generic versions of its $900 million-a-year allergy drug Flonase.

Boehringer Ingelheim GmbH's generic version may reach the market tomorrow after U.S. District Judge Andre Davis in Baltimore refused to block sales while Glaxo pursues a lawsuit against the Food and Drug Administration, Glaxo spokeswoman Mary Anne Rhyne said. The company doesn't plan to appeal, she said.

Glaxo sued the FDA Feb. 23, seeking to set aside approval given to Boehringer. The suit claimed the agency hadn't developed appropriate guidelines for determining whether generic copies would work the same as the original nasal spray. Davis on Feb. 24 ordered Boehringer to halt sales until today's hearing.

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``He was giving the FDA an abundant amount of deference on any matter of science and we weren't able to persuade him that this warranted intervention,'' Rhyne said of today's three-hour hearing. Glaxo, based in Brentford, England, won't fight the judge's order, she said.

``From a practical standpoint, once generics have hit the market, it's virtually impossible to restore our sales,'' Rhyne said. ``We asked the judge for an injunction and he said no, so we're not going to go any further.''

Par Agreement

Par Pharmaceutical Cos. has an agreement with Glaxo to sell an ``authorized generic,'' or unbranded version of Glaxo's drug, as soon as an FDA-approved generic reached the market. Par also had to halt sales after the judge's Feb. 24 hearing and will be able to re-enter the market as soon as Boehringer does.

Boehringer, based in Ingelheim, Germany, is the world's biggest family-owned drugmaker. Pfizer Inc. is the world's largest drugmaker overall, ahead of Glaxo.

Glaxo said in its lawsuit against the FDA that the agency doesn't have guidelines in place to determine whether the generic is absorbed in the body the same way as Flonase. Most generic drugs are approved on that basis, known as bioequivalence.

Measuring whether two nasal sprays are similar is different from gauging equivalence in pills or injections because nasal sprays don't enter the bloodstream, which is where scientists often look to see how a chemical is absorbed in the body.

Flonase also is different from many other nasal sprays because its active ingredient, fluticasone propionate, is held in a suspension, which is a solid dispersed throughout a liquid, the lawsuit says. Many sprays are solutions.

The case is Glaxo Group Ltd. v. Michael O. Leavitt, in his official capacity as secretary, Department of Health and Human Services, 06cv469, U.S. District Court for the District of Maryland.

END

AP

3/7/06

Closing arguments set to begin in war contractor case

ALEXANDRIA, V.A. (AP) -- Closing arguments are expected today in the civil trial of a Middletown-based contractor accused of defrauding the government during work in Iraq.

Scott Custer, co-founder of Custer Battles LLC, testified in his own defense yesterday. He and his business partner Michael Battles are accused of bilking the government of millions of dollars by using sham companies and submitting false invoices.

Custer told jurors about his experiences in Iraq, but he did not spend much time speaking about the whistleblowers' allegations. The whistleblowers who filed the lawsuit could win a portion of any reimbursements made to the government.

Custer and Battles deny the allegations. They say their accusers are disgruntled former employees.

END

Ft. Myers, FL, News-Press

March 7, 2006

Newspaper companies join in on FEMA fight

By Melanie Payne

Three Gannett Co. newspapers' legal battle with the federal government has found friends in the competition.

On Monday, four newspaper organizations filed a brief supporting The News-Press, Pensacola News Journal and Florida Today in its appeal of a court ruling that allowed the Federal Emergency Management Agency, or FEMA, to keep confidential the names and addresses of people who received disaster aid after four hurricanes hit Florida in 2004.

Attorneys representing The Associated Press, E.W. Scripps Co., Media General Corp. and the Tribune Co. filed a brief Monday urging the 11th U.S. Circuit Court of Appeals to reverse a lower court's ruling.

"We appreciate that AP and others are supporting our effort to compel FEMA to release these records," said Cindy McCurry-Ross, The News-Press managing editor. "The names and addresses we've requested are necessary to determine whether billions of taxpayer dollars were distributed equitably. That kind of analysis of government's performance is truly in the public interest, but can't be done without the detailed information we've asked for."

The News-Press and the other Gannett Inc.-owned papers in Florida have appealed to the Court of Appeals to reverse the November 2005 ruling of Judge John Steele of the U.S. District Court Middle District of Florida Fort Myers Division.

Steele wrote the names and addresses were exempt from the Freedom of Information Act. Disclosing the information would be a "clearly unwarranted invasion of personal privacy," he wrote.

Charles Tobin, the attorney for Gannett Inc. newspapers that filed the lawsuit and appeal, said privacy isn't an issue following a natural disaster — victims are obvious.

"The reason people receive government money is not because they are down on their luck or are ill, that doesn't apply when we are talking about disaster relief," Tobin said. "Everyone knows when you are hit by a hurricane or a tornado. This does not rise to the same level of personal or private matters as some other aid programs."

AP is the world's largest news organization, Media General publishes the Tampa Tribune and the Tribune Co. publishes the South Florida Sun-Sentinel and Orlando Sentinel. The E.W. Scripps Co. publishes The Naples Daily News.

"The decision in this case will have a direct and immediate impact on the ability of the (media outlets) to report about both relief efforts that already have taken place and those that will take place in the future," the attorneys for the media groups wrote in their brief.

END

AP

3/6/06

Air Force Vet Wants To Limit Proselytizing

(AP) COLORADO SPRINGS, Colo. An Air Force veteran who filed suit seeking a limit on proselytizing in the military said his proposal is less strict than a ban that now covers the American military in the Middle East."Why is (proselytizing) acceptable over here but not in the combat zone?" Mikey Weinstein told The Gazette of Colorado Springs in its Monday editions. "This is hypocrisy of the highest order."

After allegations that evangelical Christians at the Air Force Academy -- including officers -- were pressuring cadets with other beliefs to convert, Weinstein filed a lawsuit in federal court seeking a ban on uninvited proselytizing across the Air Force.The U.S. Central Command prohibits "proselytizing of any religion, faith or practice" for service personnel in the Middle East, including Iraq and Afghanistan.

The order was designed to keep U.S. personnel from trying to convert residents of Islamic nations because of the potential to upset the host government, Central Command spokesman Ensign Joseph P. Vermette said.The order applies to contacts among U.S. service personnel, although on U.S. military camps, local commanders decide how to interpret and enforce it, Vermette said.

Weinstein, an academy graduate who lives in Albuquerque, N.M., said his proposed ban would still allow religious speech if it took place off duty and if all those involved were participating willingly.The Air Force won't comment on the case.

Kyle Fisk, executive administrator of the National Association of Evangelicals in Colorado Springs, said the Central Command order is necessary "for good order and discipline."But he said it should not be applied in this U.S. because it would violate free-speech rights.

Tom Minnery of the conservative Christian ministry Focus on the Family said the rule could be keep soldiers from finding faith when they most need it."On a battlefield is precisely where a soldier might want to begin considering their ultimate values, and to deny someone the chance to depend on God is a concern," said Minnery, vice president of public policy for the Colorado Springs-based group."We would respect it as it applies to conduct in a Muslim country, but as it applies to soldier-to-soldier religious discussion, its problematic," he said.

Michael O'Hanlon of the Washington-based Brookings Institution, a nonpartisan research group, said American forces have to distance themselves from religion in Iraq and Afghanistan to avoid the possibility of increased violence."It raises

the specter of religion and force of arms being combined against the Muslims," O'Hanlon said. "Proselytizing plays into that image and our enemies would use it against us."

END

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Image not available for this document, ID: 0.7.10316.23973-000002

[redacted]@dodgc.osd.mil

From: [redacted]@dodgc.osd.mil
Sent: Wednesday, March 08, 2006 3:32 PM
To: Gorsuch, Neil M
Subject: FW: Press on AG speech
Attachments: tmp.htm

> -----Original Message-----
> From: [redacted] Ms DoD OGC
> Sent: Wednesday, March 08, 2006 11:29
> To: [redacted] Mr, DoD OGC
> Cc: [redacted] Ms, DoD OGC; [redacted] Ms, DoD OGC;
> Neil.Gorsuch@usdoj.gov; 'Terry.Henry@usdoj.gov'
> Subject: Press on AG speech
>
> Gonzales defends conditions at American prison camp
> Mar. 8, 2006. 01:00 AM
> TIM HARPER
> <ContentServer?pagename=thestar/Render&c=Page&cid=968332188492&ce=Columnis >
t&colid=1053514084392>
> WASHINGTON BUREAU
> WASHINGTON-U.S. Attorney General Alberto Gonzales painted a brilliant > portrait of the American prison camp at Guantanamo Bay yesterday, touting > its "state-of-the-art'' medical care, healthy meals and unprecedented > legal protections for detainees.
> Gonzales mounted the defence of the much-criticized facility in Cuba > during a speech in London as mounting calls for the closure of the camp > come from U.S. allies and the United Nations.
> He also said his government does not use the airspace or landing strips of > countries in Europe or anywhere else to transport detainees to places > where they will be tortured.
> "Not all of the facts about Guantanamo seem to be widely known,'' Gonzales > told the International Institute for Strategic Studies.
> "Detainees are permitted access to state-of-the-art medical care, healthy > meals consistent with their cultural and religious requirements, and > opportunities to observe their religious beliefs.''
> Calls for the shutdown of the prison camp have come from Britain, France, > Germany and the United Nations and the release last week of some 5,000 > pages of testimony from military panels held at the prison have softened > the edges on some of those who the U.S. have called the worst of the > worst.
> While some of the testimony clearly indicates detainees bent on killing > Westerners, others appear to be perplexed as to why they have been > detained, in some cases for three years or more.
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> "While some clearly deserve prosecution, these stories undermine the > administration's argument that none of these people can be released.''
> Gonzales told his British audience that he is not aware of any other > nation in history that has afforded such procedural protections to enemy > combatants, including access to civilian courts. He

said more than 265 > detainees have been transferred out of the Cuban prison, but 15 have > returned to fight and have been recaptured or killed on the battlefield.
> "Some say that in pursuing the war on terror America has failed to respect > human rights and the rule of law,'' he said.
> "Nothing could be further from the truth. Dealing with captured terrorists > is a difficult challenge in this very different kind of war and we are > constantly working to improve our detainee policies and procedures.''
> The U.S., he said, is a great defender of human rights and the rule of > law.
> Almost 500 prisoners remain, including Canadian teen Omar Khadr, who > appears before a tribunal again next month to face murder charges.
> Gonzales said many of those remaining are highly dangerous, including > "terrorist trainers, bomb makers, terrorist financiers, bodyguards for > Osama bin Laden and potential suicide bombers.''
> Gonzales received some backing for his arguments yesterday from a Belgian > senator who had visited Guantanamo for the Organization for Security and > Co-operation in Europe, which had urged Washington set a date to close the > camp.
> Anne Marie Lizin, an outspoken critic of the prison who is preparing a > report for the OSCE, told Belgian newspapers that operations had improved > and treatment of detainees had become "more humane."
> "The prison lives up to European norms; the jail cells are even bigger > than those in Belgium,'' she said.
> Gonzales also delivered a highly nuanced denial that his government > engages in the practice of rendition, saying Washington does not transport > anyone to a country if the administration believes it "more likely than > not" that the individual will be tortured.
> He added that Washington seeks assurances "where appropriate'' that > transferred persons will not be tortured.
> "We do not use the airports or air space of any country in Europe or > anywhere in the world for the purpose of transporting a detainee to a > country where he will be tortured,'' he said.
> However, on the same day Gonzales was speaking, The Guardian newspaper in > London reported the Tony Blair government admitted aircraft suspected of > being used by the CIA to transport detainees to secret interrogation > centres had used British military airfields.
> Britain's armed forces minister, Adam Ingram, told the leader of the > Liberal Democrats, Menzies Campbell that two aircraft landed 14 times in > Britain between October 2003 and May 2004.
> The government did not call them CIA planes in a letter released to the > British media.
> In Canada, documents obtained by The Canadian Press indicate 20 planes > with alleged CIA ties have made 74 flights to Canada since the terrorist > attacks of Sept. 11, 2001.
>
> US govt lawyer defends conditions at Guantanamo
> Web posted at: 3/8/2006 1:33:25
> Source ::: Reuters
> LONDON: The US government's leading lawyer defended the Guantanamo Bay > prison camp yesterday, saying detainees there were granted > state-of-the-art health care, good food and "unprecedented legal > protection".
> Responding to complaints by the United Nations, human rights groups, > religious leaders and some national governments, Attorney General Alberto > Gonzales said the camp was entirely lawful and essential to the protection > of the United States.
> "We operate Guantanamo because there's a necessity, a need, for the United > States to detain enemy combatants somewhere," he said in a speech in > London. "That was the genesis of Guantanamo. This need continues today."
> Gonzales said all detainees at the camp in eastern Cuba were granted an > assessment by US authorities, a right of reply and a separate, formal > hearing of their case before a three-member tribunal with a right to > appeal.

> "We are aware of no other nation in history that has afforded such > protection for enemy combatants," he told the International Institute for > Strategic Studies (IISS).
> Included among the 500 detainees at the camp are terrorist trainers, bomb > makers, former bodyguards of Al Qaeda leader Osama bin Laden and potential > suicide bombers, he said.
> "Detainees are permitted access to state-of-the-art medical care, healthy > meals consistent with their cultural and religious requirements and an > opportunity to observe religious beliefs."
> Organisations across the world, from the United Nations to the Vatican, > have decried US use of indefinite detentions without charge at Guantanamo.
> In four years, only 10 detainees from the camp have been formally charged > with a crime.
> "Gonzales appears to be missing the point completely. He completely fails > to acknowledge the numerous allegations of ill treatment coming from > Guantanamo," human rights group Amnesty International said.
> "If the conditions of detention for detainees are as great as he claims > then why not allow the UN and human rights organisations such as Amnesty > to visit Guantanamo and speak directly to the detainees themselves," it > added.
> Former detainees have also accused US authorities of using torture at > Guantanamo, a charge denied by the Pentagon.
> "Some say that in pursuing the war on terror, America has failed to > respect human rights and the rule of law," Gonzales said.
> "Nothing could be further from the truth."
> He said around 265 detainees had been either freed or transferred from > Guantanamo since it opened in the wake of the attacks on the United States > on September 11, 2001.
> Of those, 15 had since been recaptured or killed.
> Top US official denies 'torture' US Attorney General Alberto Gonzales has > defended the treatment of terrorism suspects held at the US military base > at Guantanamo Bay.
> Speaking on a visit to the UK, Mr Gonzales denied prisoners at the camp in > Cuba had been tortured.
> He told the BBC that of thousands of allegations of mistreatment, only > five had been found to be genuine.
> He also denied the US had used airports in Europe to transfer prisoners to > countries where they would be tortured.
> The notion that you can't embarrass or insult someone, I would > question if that makes sense today
> Alberto Gonzales
> Last month a UN report called for the prison camp at Guantanamo Bay to be > closed immediately, saying prisoners had no access to justice and were > subjected to treatment that amounted to torture.
> Mr Gonzales said his message to critics was "we hear what you're saying".
> "We are aware of your concerns, we are here to communicate exactly what's > going on in Guantanamo," he said.
> "If there are alternatives, we are always willing to look at that."
> 'Interests of America'
> In an interview with the BBC, Mr Gonzales said the detention camp was > necessary in the interests of America and was consistent with the > provisions of the Geneva Convention, which deals with the treatment of > prisoners of war.
> He would not say whether the US government planned to close the camp.
> "We have been and continue to reassess all of our activities in the war on > terrorism to ensure they are in fact effective and to ensure they are in > fact lawful," Mr Gonzales said.
> The attorney general said only five cases of torture had been verified at > Guantanamo Bay.
> He acknowledged some people had a different interpretation of what > constituted torture.
> "There is a disagreement about what constitutes cruel, inhumane or > degrading treatment. The notion that you can't embarrass or insult > someone, I would question if that makes sense today," he

said.
> Mr Gonzales also said the relevance of some provisions of the Geneva > Convention were questionable in respect to "this new kind of war, against > this new kind of enemy".
> "I'm not talking about the basic provision of human dignity - I'm talking > about provisions that say you have to provide these detainees with > commissary privileges, a monthly allowance - I think the average British > citizen would say that sounds rather strange."
> UK airspace
> Mr Gonzales said the US respected the sovereignty of every European > country when asked if rendition flights had moved through UK airspace or > UK airports without the government's permission.
> The UK government has said there have been no requests for such flights > since 11 September 2001.
> "We do not render individuals where we believe it's more likely than not > that they will be tortured," Mr Gonzales added.
> Mr Gonzales also said he wanted to see the UK-US extradition treaty > ratified as soon as possible.
> The UK government is unhappy their parliament has ratified the treaty, but > the US Senate still has not - which makes extradition easier for > prosecutors in the US than in the UK.
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>
> US A-G defends Guantanamo Bay
> By Stephanie Kennedy
> The Attorney-General of the United States has defended Guantanamo Bay, > arguing the prison camp is lawful and consistent with the Geneva > Convention.
> In the past week, the British Prime Minister and the head of the Anglican > Church, the Archbishop of Canterbury, have called for the US detention > camp to close.
> Both have described it as a legal anomaly.
> Speaking on a visit to Britain, US Attorney-General Alberto Gonzales > insists the camp is consistent with the Geneva Convention, but he > questions the relevance of the Convention in today's world.
> "I think it's always appropriate to look to see whether or not in this new > kind of war against ... this new kind of enemy, are the conventions, are > all the provisions of the conventions [relevant]," he said.
> Mr Gonzales rejects allegations that prisoners have been mistreated and > tortured at Guantanamo Bay.
> Australian David Hicks has been held at Guantanamo Bay for more than four > years.
>
> Gonzales defends Guantanamo treatment
> LONDON, March 7 (UPI) -- On a British tour, U.S. Attorney General Alberto > Gonzales defended treatment of terror suspects at the U.S. military base > at Guantanamo Bay, Cuba.
> Gonzales denied Guantanamo Bay prisoners had been tortured. He also said > that of thousands of allegations of mistreatment only five were found to > be warranted.
> "There is a disagreement about what constitutes cruel, inhumane or > degrading treatment," Gonzales told the BBC. "The notion that you can't > embarrass or insult someone, I would question if that makes sense today."
> Gonzales also denied the United States used European airports to transfer > terror suspects to countries where they would be tortured.
> "We do not render individuals where we believe it's more likely than not > that they will be tortured," Gonzales said.
> Gonzales, who said he was in Britain to "provide reassurance," would not > say if the United States would heed the U.N. call to close Guantanamo > immediately.
> Gonzales also called on Britain to ratify a British-U.S. extradition > treaty.
>
>
> [redacted]

> Office of the DoD General Counsel (Legal Counsel)
>
> Room 3B652
> [redacted]
> (703) 614-6745 (fax)
>
>
> This message may contain information protected by the attorney-client, > attorney work product, deliberative process, or other privilege. Do not > disseminate without prior approval from the Office of the DoD General > Counsel.
>
>

-----Original Message-----

From: [redacted] Ms DoD OGC

Sent: Wednesday, March 08, 2006 11:29

To: [redacted] Mr, DoD OGC

Cc: [redacted] Ms, DoD OGC; [redacted] DoD OGC; Neil.Gorsuch@usdoj.gov; 'Terry.Henry@usdoj.gov'

Subject: Press on AG speech

Gonzales defends conditions at American prison camp
Mar. 8, 2006. 01:00 AM
TIM HARPER
WASHINGTON BUREAU

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Gonzales defends Guantanamo treatment

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Gonzales also called on Britain to ratify a British-U.S. extradition treaty.

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(703) 614-6745 (fax)

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Wednesday, March 8, 2006 5:02 PM
To: Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG)
Subject: FW: Press on AG speech
Attachments: tmp.htm

Some more - pretty good - press on speech

-----Original Message-----
From: [redacted]@dodgc.osd.mil [mailto [redacted]@dodgc.osd.mil]
Sent: Wednesday, March 08, 2006 3:32 PM
To: Gorsuch, Neil M
Subject: FW: Press on AG speech

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> From: [redacted] Ms DoD OGC
> Sent: Wednesday, March 08, 2006 11:29
> To: [redacted] Mr, DoD OGC
> Cc: [redacted] Ms, DoD OGC; [redacted] Ms, DoD OGC;
> Neil.Gorsuch@usdoj.gov; 'Terry.Henry@usdoj.gov'
> Subject: Press on AG speech
>
> Gonzales defends conditions at American prison camp
> Mar. 8, 2006. 01:00 AM
> TIM HARPER
> <ContentServer?pagename=thestar/Render&c=Page&cid=968332188492&ce=Columnis >
t&colid=1053514084392>
> WASHINGTON BUREAU
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> Web posted at: 3/8/2006 1:33:25
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>
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>
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>

-----Original Message-----

From: [redacted] Ms DoD OGC

Sent: Wednesday, March 08, 2006 11:29

To: [redacted] Mr, DoD OGC

Cc: [redacted] Ms, DoD OGC; [redacted] DoD OGC; Neil.Gorsuch@usdoj.gov; 'Terry.Henry@usdoj.gov'

Subject: Press on AG speech

Gonzales defends conditions at American prison camp
Mar. 8, 2006. 01:00 AM
TIM HARPER
WASHINGTON BUREAU

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Williams, Jan

From: Williams, Jan

Sent: Thursday, March 09, 2006 10:11 AM

To: Williams, Jan; Horvath, Jane; Garrett, Paul; Cushmac, Anne Marie; Davis, Michael; Fuentes, Maria; Balfe, Robert; Biskupic, Steven (USAWIE); Bogden, Daniel (USANV); Brooks, Susan; Brownlee, John (USAVAW); Buchanan, MaryBeth (USAPAW); Canary, Leura G. (USAALM); Charlton, Paul (USAAZ); Chiara, Margaret M. (USAMIW); Christie, Christopher (USANJ); Colantuono, Thomas P. (USANH); Connolly, Colm (USADE); Corrente, Robert (USARI); Cummins, Bud (USAARE); Dugas, David R. (USALAM); Fitzgerald, Patrick J. (USAILN); Garcia, H; Garcia, Michael J (SDNY); Graves, Todd (USAMOW); Greenlee, Jim (USAMSN); Heavican, Michael (USANE); Heffelfinger, Tom (USAMN); Huber, David L. (USAKYW); Iglesias, David C. (USANM); Immergut, Karin (USAOR); Jenkins, Anthony; Kubo, Ed (USAHI); Lam, Carol (USACAS); Lampton, Dunn (USAMSS); Larson, Charles (USAIAN); Letten, James (USALAE); Lockhart, Gregory; Marino, Thomas (USAPAM); Martin, Alice (USAALN); Mauskopf, Roslynn; McDevitt, Jim A. (USAWAE); McKay, John (USAWAW); Mead, Matthew H. (USAWY); Meehan, Patrick (USAPAE); Melgren, Eric (USAKS); Mercer, Bill (USAMT); Miller, Gregory (USAFLN); Moss, Thomas (USAID); Murphy, Stephen J. (USAMIE); Nahmias, David (USAGAN); O'Connor, Kevin (USACT); 'O'Melia, Michael (USAAZ)'; Orwig, Matt (USATXE); Perez, Paul (USAFLM); Rapadas, Leonardo; Roper, Richard (USATXN); Rosenstein, Rod (USAMD); Ryan, Kevin (USACAN); Scott, McGregor (USACAE); Shappert, Gretchen (USANCW); Sperling, Sheldon J. (USAOKE); Suddaby, Glenn T. (USANYN); Sullivan, Michael (USAMA); Sutton, Johnny K. (USATXW); Vines, Jim (USATNM); Wagoner, Anna Mills S. (USANCM); Wainstein, Kenneth; Washington, Donald (USALAW); Whitaker, Matt (USAIAS); White, Greg (USAOHN); Whitney, Frank (USANCE); Wood, Lisa (USAGAS); Wood, Maxwell; Wrigley, Drew (USAND); Yang, Debra Wong (USACAC); '/o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez'; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); '/o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy'; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); 'Bianco, Joseph F.'; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); 'Burch, Victoria'; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; 'David, Matt'; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; 'Gambatesa, Donald (USMS)'; Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; 'Greg Harris'; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; 'Hofer, Patrick F. (TAX)'; Hoisington, Jana; Holland, Eric

W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; 'Neumayr, Mary (ENRD)'; Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Woodruff, William; Lewis, Matthew; Nelson, Ryan (ENRD); Becker, Grace (CRT); Masugi, Ken (OPA); Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford

Subject: The Morning Update: 3/9/06

Attachments: tmp.htm

Importance: Low

The Morning Update

Today, President Bush addresses the second White House National Conference on Faith-Based and Community Initiatives, highlighting the important role corporations and foundations play in funding social services. This afternoon, the President signs legislation reauthorizing the USA PATRIOT Act. The Patriot Act gives law enforcement critical tools to prosecute the War on Terror and safeguard the American people.
This legislation also reorganizes the U.S. Department of Justice to help law enforcement detect and disrupt terrorist threats, strengthens seaport and waterway security and provides law enforcement new tools to combat methamphetamine abuse.

11:25 am: THE PRESIDENT participates in a Meeting on Faith-Based and Community Initiatives

EST Washington Hilton Hotel | Washington, DC

12:00 pm: THE PRESIDENT makes Remarks at the White House National Conference on Faith-

EST Based and Community Initiatives

Washington Hilton Hotel | Washington, DC

2:40 pm: THE PRESIDENT participates in Signing of H.R. 3199, USA PATRIOT and Terrorism

EST Prevention Reauthorization Act of 2005

The White House | Washington, DC

6:20 pm: THE PRESIDENT makes Remarks at Georgia Republican Party's President's Day Dinner

EST Georgia International Convention Center | College Park, Georgia

From Today's Morning Headlines

In The Gulf Coast Region, President Bush Assesses The Progress Made And The Work Still To Be Done. "Making his 10th visit to this storm-battered region in the last six months, President Bush promised Wednesday to rebuild and strengthen the breached levees that flooded New Orleans during Hurricane Katrina and chastised Congress for cutting $1.5 billion from Louisiana's recovery funds. As pile drivers clanged in the background, Bush pledged that the levees would be 'equal or better to what they were before Katrina.' 'We fully understand that if the people don't have confidence in the levee system, they're not going to want to come back,' <http://www.latimes.com/news/printedition/asection/la-na-bush9mar09,1,70
59952,print.story?coll=la-news-a_section> he said. 'People aren't going to want to spend money or invest.' Bush urged Congress to make good on the White House's request in December for $3.1 billion to fund New Orleans levee projects." (Johanna Neuman, "Bush Pledges Support In Visit To Gulf Coast," Los Angeles Times, 3/9/06)

The New York Times Interviews Secretary Chertoff. "Even by Washington's caffeinated standards, Michael Chertoff's to-do list is ambitious: cut illegal immigration, make ports, subways and chemical plants less vulnerable to terrorist attack and fix FEMA fast, because hurricane season starts in less than 90 days. It is part of the reason, Mr.
Chertoff, the secretary of homeland security, is trying to steer clear of the roiling debate over who most deserves blame for the government's flawed response last summer to Hurricane Katrina. 'There is no value in me engaging in that,' Mr. Chertoff said in an interview on Tuesday. 'My job is to make sure we are better prepared for the next time.' <http://www.nytimes.com/2006/03/09/politics/09chertoff.html?_r=2&oref=sl

ogin&pagewanted=print&oref=slogin> " (Eric Lipton, "With An Ambitious Agenda, Homeland Security Chief Steers Clear Of Fault-Finding," The New York Times, 3/9/06)

Attorney General Alberto Gonzales Discusses The Importance Of The Patriot Act. ATTORNEY GENERAL GONZALES: "Well, the Congress has decided to make 14 of the 16 provisions permanent. ... Importantly, though, the Act also creates a new national security division within the Department of Justice. Fighting terrorism is the number one priority for the Department, and we will now have a new assistant attorney general in charge of the national security division and I think that's an important change in the Patriot Act. It provides for additional port security, there are provisions that provide additional enforcement tools for law enforcement in dealing with our ports. It provides for additional tools for the law enforcement community to deal with the severe meth problem that we have in this country. So there are many things that are important for the law enforcement community in order to make our communities safe, not only against terrorists but other kinds of problems like methamphetamines." (CNN's "American Morning," 3/9/06)

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"An even more promising idea is this week's White House request that Congress pass a line-item veto. <http://online.wsj.com/article/SB114187330501393346.html?mod=opinion_main_review_and_outlooks> This would allow the President to delete, one by one, some of the most wasteful items in the 1,000-page spending bills that are delivered, practically via fork lift, to the Oval Office. Such veto power would give a President greater leverage over bridges to nowhere in Alaska, asparagus research grants and any of the other 13,994 projects that Congressmen delivered to their districts last year to buy votes for their re-election." (Editorial, "Walk The Line," The Wall Street Journal, 3/9/06)

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Jim Towey, who directs the so-called faith-based initiative for Bush, said the most important measure is not how many dollars were awarded but whether religious charities are being treated fairly. 'We think faith-based groups are more competitive, but there are barriers they still face,' he said in an interview. 'The president is changing a culture of grant-making and there's a headwind. <http://www.syracuse.com/newsflash/washington/index.ssf?/base/politics-7/1141895951212600.xml&storylist=washington> '" (Jennifer Loven, "Religious Charities Get More Federal Money," The Associated Press, 3/9/06)

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'Malaysia's rapidly growing economy will help generate meaningful export opportunities for our workers, service providers and farmers.
<http://news.yahoo.com/s/ap/20060308/ap_on_go_ot/us_malaysia_trade&printer=1;_ylt=AueuDUpBVmuh332oTDd3fVl2wPIE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE-> '" (Martin Crutsinger, "U.S., Malaysia To Launch Free-Trade Talks," The Associated Press, 3/8/06)

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President And Mrs. Bush Discuss Gulf Coast Rebuilding In New Orleans <http://www.whitehouse.gov/news/releases/2006/03/20060308-1.html>

* In Focus: Hurricane Recovery <http://www.whitehouse.gov/infocus/hurricane/>

President And Mrs. Bush Visit Elementary School In Mississippi <http://www.whitehouse.gov/news/releases/2006/03/20060308-4.html>

* In Focus: Education <http://www.whitehouse.gov/infocus/education/>

President Bush And Governor Barbour Discuss Rebuilding In Mississippi <http://www.whitehouse.gov/news/releases/2006/03/20060308-9.html>

India Civil Nuclear Cooperation: Responding To Critics <http://www.whitehouse.gov/news/releases/2006/03/20060308-3.html>

Fact Sheet: Gulf Coast Update: Hurricane Relief, Recovery, And Rebuilding Continues <http://www.whitehouse.gov/news/releases/2006/03/20060308-8.html>

Statement By The President On U.S.-Malaysia Free Trade Agreement <http://www.whitehouse.gov/news/releases/2006/03/20060308-10.html>

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McFarland, Steven T (ODAG)

From:	McFarland, Steven T (ODAG)
Sent:	Thursday, March 09, 2006 10:15 AM
To:	McCallum, Robert (SMO)
Cc:	Gorsuch, Neil M
Subject:	This Morning's POTUS speech
Attachments:	tmp.htm
Importance:	Low

Neil:
If Robert goes, may I and my Deputy Miriam Moore hitch a ride?

Steven T. McFarland
Director, Task Force For Faith-Based And Community Initiatives U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Suite 4413
Washington, D.C. 20530
(202) 514-2987
Fax (202) 616-9627
Steven.T.Mcfarland@usdoj.gov

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Sent: Thursday, March 09, 2006 10:11 AM
To: Williams, Jan; Horvath, Jane; Garrett, Paul; Cushmac, Anne Marie; Davis, Michael; Fuentes, Maria; Balfe, Robert; Biskupic, Steven (USAWIE); Bogden, Daniel (USANV); Brooks, Susan; Brownlee, John (USAVAW); Buchanan, MaryBeth (USAPAW); Canary, Leura G. (USAALM); Charlton, Paul (USAAZ); Chiara, Margaret M. (USAMIW); Christie, Christopher (USANJ); Colantuono, Thomas P. (USANH); Connolly, Colm (USADE); Corrente, Robert (USARI); Cummins, Bud (USAARE); Dugas, David R. (USALAM); Fitzgerald, Patrick J. (USAILN); Garcia, H; Garcia, Michael J (SDNY); Graves, Todd (USAMOW); Greenlee, Jim (USAMSN); Heavican, Michael (USANE); Heffelfinger, Tom (USAMN); Huber, David L. (USAKYW); Iglesias, David C. (USANM); Immergut, Karin (USAOR); Jenkins, Anthony; Kubo, Ed (USAHI); Lam, Carol (USACAS); Lampton, Dunn (USAMSS); Larson, Charles (USAIAN); Letten, James (USALAE); Lockhart, Gregory; Marino, Thomas (USAPAM); Martin, Alice (USAALN); Mauskopf, Roslynn; McDevitt, Jim A. (USAWAE); McKay, John (USAWAW); Mead, Matthew H. (USAWY); Meehan, Patrick (USAPAE); Melgren, Eric (USAKS); Mercer, Bill (USAMT); Miller, Gregory (USAFLN); Moss, Thomas (USAID); Murphy, Stephen J. (USAMIE); Nahmias, David (USAGAN); O'Connor, Kevin (USACT); 'O'Melia, Michael (USAAZ)'; Orwig, Matt (USATXE); Perez, Paul (USAFLM); Rapadas, Leonardo; Roper, Richard (USATXN); Rosenstein, Rod (USAMD); Ryan, Kevin (USACAN); Scott, McGregor (USACAE); Shappert, Gretchen (USANCW); Sperling, Sheldon J. (USAOKE); Suddaby, Glenn T. (USANYN); Sullivan, Michael (USAMA); Sutton, Johnny K. (USATXW); Vines, Jim (USATNM); Wagoner, Anna Mills S. (USANCM); Wainstein, Kenneth; Washington, Donald (USALAW); Whitaker, Matt (USAIAS); White, Greg (USAOHN); Whitney, Frank (USANCE); Wood, Lisa (USAGAS); Wood, Maxwell; Wrigley, Drew (USAND); Yang, Debra Wong (USACAC); '/o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez'; Bradbury, Steve;

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India Civil Nuclear Cooperation: Responding To Critics <http://www.whitehouse.gov/news/releases/2006/03/20060308-3.html>

Fact Sheet: Gulf Coast Update: Hurricane Relief, Recovery, And Rebuilding Continues <http://www.whitehouse.gov/news/releases/2006/03/20060308-8.html>

Statement By The President On U.S.-Malaysia Free Trade Agreement <http://www.whitehouse.gov/news/releases/2006/03/20060308-10.html>

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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, March 09, 2006 10:16 AM
To: McFarland, Steven T (ODAG); McCallum, Robert (SMO); Gunn, Currie (SMO)
Subject: RE: This Morning's POTUS speech
Importance: High

Robert can do it and I'm sure he'd be pleased to have you hitch a ride. Have you set up a car yet or should we do so?

-----Original Message-----
From: McFarland, Steven T (ODAG)
Sent: Thursday, March 09, 2006 10:15 AM
To: McCallum, Robert (SMO)
Cc: Gorsuch, Neil M
Subject: This Morning's POTUS speech
Importance: Low

Neil:
If Robert goes, may I and my Deputy Miriam Moore hitch a ride?

Steven T. McFarland
Director, Task Force For Faith-Based And Community Initiatives U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Suite 4413
Washington, D.C. 20530
(202) 514-2987
Fax (202) 616-9627
Steven.T.Mcfarland@usdoj.gov

-----Original Message-----
From: Williams, Jan
Sent: Thursday, March 09, 2006 10:11 AM
To: Williams, Jan; Horvath, Jane; Garrett, Paul; Cushmac, Anne Marie; Davis, Michael; Fuentes, Maria; Balfe, Robert; Biskupic, Steven (USAWIE); Bogden, Daniel (USANV); Brooks, Susan; Brownlee, John (USAVAW); Buchanan, MaryBeth (USAPAW); Canary, Leura G. (USAALM); Charlton, Paul (USAAZ); Chiara, Margaret M. (USAMIW); Christie, Christopher (USANJ); Colantuono, Thomas P. (USANH); Connolly, Colm (USADE); Corrente, Robert (USARI); Cummins, Bud (USAARE); Dugas, David R. (USALAM); Fitzgerald, Patrick J. (USAILN); Garcia, H; Garcia, Michael J (SDNY); Graves, Todd (USAMOW); Greenlee, Jim (USAMSN); Heavican, Michael (USANE); Heffelfinger, Tom (USAMN); Huber, David L. (USAKYW); Iglesias, David C. (USANM); Immergut, Karin (USAOR); Jenkins, Anthony; Kubo, Ed (USAHI); Lam, Carol (USACAS); Lampton, Dunn (USAMSS); Larson, Charles (USAIAN); Letten, James (USALAE); Lockhart, Gregory; Marino, Thomas (USAPAM); Martin, Alice (USAALN); Mauskopf, Roslynn; McDevitt, Jim A. (USAWAE); McKay, John (USAWAW); Mead, Matthew H. (USAWY); Meehan, Patrick

(USAPAE); Melgren, Eric (USAKS); Mercer, Bill (USAMT); Miller, Gregory (USAFLN); Moss, Thomas (USAID); Murphy, Stephen J. (USAMIE); Nahmias, David (USAGAN); O'Connor, Kevin (USACT); 'O'Melia, Michael (USAAZ)'; Orwig, Matt (USATXE); Perez, Paul (USAFLM); Rapadas, Leonardo; Roper, Richard (USATXN); Rosenstein, Rod (USAMD); Ryan, Kevin (USACAN); Scott, McGregor (USACAE); Shappert, Gretchen (USANCW); Sperling, Sheldon J. (USAOKE); Suddaby, Glenn T. (USANYN); Sullivan, Michael (USAMA); Sutton, Johnny K. (USATXW); Vines, Jim (USATNM); Wagoner, Anna Mills S. (USANCM); Wainstein, Kenneth; Washington, Donald (USALAW); Whitaker, Matt (USAIAS); White, Greg (USAOHN); Whitney, Frank (USANCE); Wood, Lisa (USAGAS); Wood, Maxwell; Wrigley, Drew (USAND); Yang, Debra Wong (USACAC); '/o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez'; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); '/o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy'; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); 'Bianco, Joseph F.'; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); 'Burch, Victoria'; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; 'David, Matt'; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; 'Gambatesa, Donald (USMS)'; Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; 'Greg Harris'; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; 'Hofer, Patrick F. (TAX)'; Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; 'Neumayr, Mary (ENRD)'; Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Woodruff, William; Lewis, Matthew; Nelson, Ryan (ENRD); Becker, Grace (CRT); Masugi, Ken (OPA); Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford
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Importance: Low

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<http://news.yahoo.com/s/ap/20060308/ap_on_go_ot/us_malaysia_trade&printer=1;_ylt=AueuDUpBVmuh332oTDd3fVl2wPIE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE-> '" (Martin Crutsinger, "U.S., Malaysia To Launch Free-Trade Talks," The Associated Press, 3/8/06)

Yesterday From The White House

President And Mrs. Bush Discuss Gulf Coast Rebuilding In New Orleans <http://www.whitehouse.gov/news/releases/2006/03/20060308-1.html>

* In Focus: Hurricane Recovery
<http://www.whitehouse.gov/infocus/hurricane/>

President And Mrs. Bush Visit Elementary School In Mississippi <http://www.whitehouse.gov/news/releases/2006/03/20060308-4.html>

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President Bush And Governor Barbour Discuss Rebuilding In Mississippi <http://www.whitehouse.gov/news/releases/2006/03/20060308-9.html>

India Civil Nuclear Cooperation: Responding To Critics <http://www.whitehouse.gov/news/releases/2006/03/20060308-3.html>

Fact Sheet: Gulf Coast Update: Hurricane Relief, Recovery, And Rebuilding Continues <http://www.whitehouse.gov/news/releases/2006/03/20060308-8.html>

Statement By The President On U.S.-Malaysia Free Trade Agreement <http://www.whitehouse.gov/news/releases/2006/03/20060308-10.html>

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McFarland, Steven T (ODAG)

From: McFarland, Steven T (ODAG)
Sent: Thursday, March 09, 2006 10:17 AM
To: Gorsuch, Neil M
Subject: RE: This Morning's POTUS speech

We have not.

Steven T. McFarland
Director, Task Force For Faith-Based And Community Initiatives U.S. Department of Justice 950 Pennsylvania Avenue, N.W.
Suite 4413
Washington, D.C. 20530
(202) 514-2987
Fax (202) 616-9627
Steven.T.Mcfarland@usdoj.gov

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Sent: Thursday, March 09, 2006 10:16 AM
To: McFarland, Steven T (ODAG); McCallum, Robert (SMO); Gunn, Currie (SMO)
Subject: RE: This Morning's POTUS speech
Importance: High

Robert can do it and I'm sure he'd be pleased to have you hitch a ride. Have you set up a car yet or should we do so?

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Importance: Low

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If Robert goes, may I and my Deputy Miriam Moore hitch a ride?

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Sent: Thursday, March 09, 2006 10:11 AM
To: Williams, Jan; Horvath, Jane; Garrett, Paul; Cushmac, Anne Marie; Davis, Michael; Fuentes, Maria; Balfe, Robert; Biskupic, Steven (USAWIE); Bogden, Daniel (USANV); Brooks, Susan; Brownlee, John (USAVAW); Buchanan, MaryBeth (USAPAW); Canary, Leura G. (USAALM); Charlton, Paul (USAAZ); Chiara, Margaret M. (USAMIW); Christie, Christopher (USANJ); Colantuono, Thomas P. (USANH); Connolly, Colm (USADE); Corrente, Robert (USARI); Cummins, Bud (USAARE); Dugas, David R. (USALAM); Fitzgerald, Patrick J. (USAILN); Garcia, H; Garcia, Michael J (SDNY); Graves, Todd (USAMOW); Greenlee, Jim (USAMSN); Heavican, Michael (USANE); Heffelfinger, Tom (USAMN); Huber, David L. (USAKYW); Iglesias, David C. (USANM); Immergut, Karin (USAOR); Jenkins, Anthony; Kubo, Ed (USAHI); Lam, Carol (USACAS); Lampton, Dunn (USAMSS); Larson, Charles (USAIAN); Letten, James (USALAE); Lockhart, Gregory; Marino, Thomas (USAPAM); Martin, Alice (USAALN); Mauskopf, Roslynn; McDevitt, Jim A. (USAWAE); McKay, John (USAWAW); Mead, Matthew H. (USAWY); Meehan, Patrick (USAPAE); Melgren, Eric (USAKS); Mercer, Bill (USAMT); Miller, Gregory (USAFLN); Moss, Thomas (USAID); Murphy, Stephen J. (USAMIE); Nahmias, David (USAGAN); O'Connor, Kevin (USACT); 'O'Melia, Michael (USAAZ)'; Orwig, Matt (USATXE); Perez, Paul (USAFLM); Rapadas, Leonardo; Roper, Richard (USATXN); Rosenstein, Rod (USAMD); Ryan, Kevin (USACAN); Scott, McGregor (USACAE); Shappert, Gretchen (USANCW); Sperling, Sheldon J. (USAOKE); Suddaby, Glenn T. (USANYN); Sullivan, Michael (USAMA); Sutton, Johnny K. (USATXW); Vines, Jim (USATNM); Wagoner, Anna Mills S. (USANCM); Wainstein, Kenneth; Washington, Donald (USALAW); Whitaker, Matt (USAIAS); White, Greg (USAOHN); Whitney, Frank (USANCE); Wood, Lisa (USAGAS); Wood, Maxwell; Wrigley, Drew (USAND); Yang, Debra Wong (USACAC); '/o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez'; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); '/o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy'; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); 'Bianco, Joseph F.'; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); 'Burch, Victoria'; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; 'David, Matt'; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; 'Gambatesa, Donald (USMS)'; Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; 'Greg Harris'; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; 'Hofer, Patrick F. (TAX)'; Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; 'Neumayr, Mary (ENRD)'; Nichols, Carl (CIV);

Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Woodruff, William; Lewis, Matthew; Nelson, Ryan (ENRD); Becker, Grace (CRT); Masugi, Ken (OPA); Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford
Subject: The Morning Update: 3/9/06
Importance: Low

The Morning Update

Today, President Bush addresses the second White House National Conference on Faith-Based and Community Initiatives, highlighting the important role corporations and foundations play in funding social services. This afternoon, the President signs legislation reauthorizing the USA PATRIOT Act. The Patriot Act gives law enforcement critical tools to prosecute the War on Terror and safeguard the American people.
This legislation also reorganizes the U.S. Department of Justice to help law enforcement detect and disrupt terrorist threats, strengthens seaport and waterway security and provides law enforcement new tools to combat methamphetamine abuse.

11:25 am: THE PRESIDENT participates in a Meeting on Faith-Based and Community Initiatives

EST Washington Hilton Hotel | Washington, DC

12:00 pm: THE PRESIDENT makes Remarks at the White House National Conference on Faith-

EST Based and Community Initiatives

Washington Hilton Hotel | Washington, DC

2:40 pm: THE PRESIDENT participates in Signing of H.R. 3199, USA PATRIOT and Terrorism

EST Prevention Reauthorization Act of 2005

The White House | Washington, DC

6:20 pm: THE PRESIDENT makes Remarks at Georgia Republican Party's President's Day Dinner

EST Georgia International Convention Center | College Park, Georgia

From Today's Morning Headlines

In The Gulf Coast Region, President Bush Assesses The Progress Made And The Work Still To Be Done. "Making his 10th visit to this storm-battered region in the last six months, President Bush promised Wednesday to rebuild and strengthen the breached levees that flooded New Orleans during Hurricane Katrina and chastised Congress for cutting $1.5 billion from Louisiana's recovery funds. As pile drivers clanged in the background, Bush pledged that the levees would be 'equal or better to what they were before Katrina.' 'We fully understand that if the people don't have confidence in the levee system, they're not going to want to come back,' <http://www.latimes.com/news/printedition/asection/la-na-bush9mar09,1,7059952,print.story?coll=la-news-a_section> he said. 'People aren't going to want to spend money or invest.' Bush urged Congress to make good on the White House's request in December for $3.1 billion to fund New Orleans levee projects." (Johanna Neuman, "Bush Pledges Support In Visit To Gulf Coast," Los Angeles Times, 3/9/06)

The New York Times Interviews Secretary Chertoff. "Even by Washington's caffeinated standards, Michael Chertoff's to-do list is ambitious: cut illegal immigration, make ports, subways and chemical plants less vulnerable to terrorist attack and fix FEMA fast, because hurricane season starts in less than 90 days. It is part of the reason, Mr.
Chertoff, the secretary of homeland security, is trying to steer clear of the roiling debate over who most deserves blame for the government's flawed response last summer to Hurricane Katrina. 'There is no value in me engaging in that,' Mr. Chertoff said in an interview on Tuesday. 'My job is to make sure we are better prepared for the next time.' <http://www.nytimes.com/2006/03/09/politics/09chertoff.html?_r=2&oref=slogin&pagewanted=print&oref=slogin> " (Eric Lipton, "With An Ambitious Agenda, Homeland Security Chief Steers Clear Of Fault-Finding," The New York Times, 3/9/06)

Attorney General Alberto Gonzales Discusses The Importance Of The Patriot Act. ATTORNEY GENERAL GONZALES: "Well, the Congress has decided to make 14 of the 16 provisions permanent. ... Importantly, though, the Act also creates a new national security division within the Department of Justice. Fighting terrorism is the number one priority for the Department, and we will now have a new assistant attorney general in charge of the national security division and I think that's an important change in the Patriot Act. It provides for additional port security, there are provisions that provide additional enforcement tools for law enforcement in dealing with our ports. It provides for additional tools for the law enforcement community to deal with the severe meth problem that we have in this country. So there are many things that are important for the law enforcement community in order to make our communities safe, not only against terrorists but other kinds of problems like methamphetamines." (CNN's "American Morning," 3/9/06)

The Wall Street Journal Praises The President's Line-Item Veto Proposal.
"An even more promising idea is this week's White House request that Congress pass a line-item veto. <http://online.wsj.com/article/SB114187330501393346.html?mod=opinion_main_review_and_outlooks> This would allow the President to delete, one by one, some of the most wasteful items in the 1,000-page spending bills that are delivered, practically via fork lift, to the Oval Office. Such veto power would give a President greater leverage over bridges to nowhere in Alaska, asparagus research grants and any of the other 13,994 projects that Congressmen delivered to their districts last year to buy votes for their re-election." (Editorial, "Walk The Line," The Wall Street Journal, 3/9/06)

White House Report Finds Faith-Based Organizations Playing A Larger Role In Delivering Services To Americans In Need. "The Bush administration says it is making steady progress in steering more federal taxpayer dollars to religious charities. In the budget year that ended Sept. 30, religious charities received $2.15 billion in federal grants to administer a range of social service programs for the needy. That represented 10.9 percent of the total grants from the seven federal agencies such charities were eligible to apply to in fiscal 2005, according to a White House report obtained by The Associated Press. ...
Jim Towey, who directs the so-called faith-based initiative for Bush, said the most important measure is not how many dollars were awarded but whether religious charities are being treated fairly. 'We think faith-based groups are more competitive, but there are barriers they still face,' he said in an interview. 'The president is changing a culture of grant-making and there's a headwind. <http://www.syracuse.com/newsflash/washington/index.ssf?/base/politics-7/1141895951212600.xml&storylist=washington> '" (Jennifer Loven, "Religious Charities Get More Federal Money," The Associated Press, 3/9/06)

President Bush Signs Executive Order Creating An Office For Faith-Based Initiatives At The Department Of Homeland Security. "A day before returning to the ravaged Gulf Coast region, President Bush created an office for faith-based initiatives within the Department of Homeland Security to improve disaster recovery efforts. ... Homeland Security Secretary Michael Chertoff yesterday said the Bush directive calls for the department to establish a center for faith-based and community initiatives to advance the administration's 'overall mission and strengthen the department's preparedness efforts.' ... He said faith-based and community groups 'played an instrumental role in response to Hurricane Katrina, and they continue to be an essential partner in helping victims in the Gulf-states region rebuild their lives and communities.' <http://www.washingtontimes.com/national/20060309-123110-2544r.htm> " (Eric Pfeiffer, "Bush Orders Faith-Based Office," The Washington Times, 3/9/06)

The United States And Malaysia Agree To Begin Free Trade Negotiations.
"The United States and Malaysia announced Wednesday that they have agreed to begin negotiating a free trade deal to eliminate trade barriers between the two nations. ... 'Malaysia has been at the forefront of the economic dynamism transforming Asia in recent years,' U.S. Trade Representative Rob Portman said at the news conference.
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Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, March 09, 2006 10:18 AM
To: McFarland, Steven T (ODAG); Gunn, Currie (SMO)
Cc: McCallum, Robert (SMO)
Subject: RE: This Morning's POTUS speech
Importance: High

Currie - could you set up transport for Robert? He will need a car at 11, return circa 1230.

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Friedrich, Matthew; Gambatesa, Donald (USMS); Garre, Gregory G; Gist, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; 'Greg Harris'; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; 'Hofer, Patrick F. (TAX)'; Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; 'Neumayr, Mary (ENRD)'; Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Woodruff, William; Lewis, Matthew; Nelson, Ryan (ENRD); Becker, Grace (CRT); Masugi, Ken (OPA); Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford
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EST Georgia International Convention Center | College Park, Georgia

From Today's Morning Headlines

In The Gulf Coast Region, President Bush Assesses The Progress Made And The Work Still To Be Done. "Making his 10th visit to this storm-battered region in the last six months, President Bush promised Wednesday to rebuild and strengthen the breached levees that flooded New Orleans during Hurricane Katrina and chastised Congress for cutting $1.5 billion from Louisiana's recovery funds. As pile drivers clanged in the background, Bush pledged that the levees would be 'equal or better to what they were before Katrina.' 'We fully understand that if the people don't have confidence in the levee system, they're not going to want to come back,' <http://www.latimes.com/news/printedition/asection/la-na-bush9mar09,1,7059952,print.story?coll=la-news-a_section> he said. 'People aren't going to want to spend money or invest.' Bush urged Congress to make good on the White House's request in December for $3.1 billion to fund New Orleans levee projects." (Johanna Neuman, "Bush Pledges Support In Visit To Gulf Coast," Los Angeles Times, 3/9/06)

The New York Times Interviews Secretary Chertoff. "Even by Washington's caffeinated standards, Michael Chertoff's to-do list is ambitious: cut illegal immigration, make ports, subways and chemical plants less vulnerable to terrorist attack and fix FEMA fast, because hurricane season starts in less than 90 days. It is part of the reason, Mr.
Chertoff, the secretary of homeland security, is trying to steer clear of the roiling debate over who most deserves blame for the government's flawed response last summer to Hurricane Katrina. 'There is no value in me engaging in that,' Mr. Chertoff said in an interview on Tuesday. 'My job is to make sure we are better prepared for the next time.' <http://www.nytimes.com/2006/03/09/politics/09chertoff.html?_r=2&oref=slogin&pagewanted=print&oref=slogin> " (Eric Lipton, "With An Ambitious Agenda, Homeland Security Chief Steers Clear Of Fault-Finding," The New York Times, 3/9/06)

Attorney General Alberto Gonzales Discusses The Importance Of The Patriot Act. ATTORNEY GENERAL

Attorney General Alberto Gonzales Discusses The Importance Of The Patriot Act. ATTORNEY GENERAL GONZALES: "Well, the Congress has decided to make 14 of the 16 provisions permanent. ... Importantly, though, the Act also creates a new national security division within the Department of Justice. Fighting terrorism is the number one priority for the Department, and we will now have a new assistant attorney general in charge of the national security division and I think that's an important change in the Patriot Act. It provides for additional port security, there are provisions that provide additional enforcement tools for law enforcement in dealing with our ports. It provides for additional tools for the law enforcement community to deal with the severe meth problem that we have in this country. So there are many things that are important for the law enforcement community in order to make our communities safe, not only against terrorists but other kinds of problems like methamphetamines." (CNN's "American Morning," 3/9/06)

The Wall Street Journal Praises The President's Line-Item Veto Proposal.
"An even more promising idea is this week's White House request that Congress pass a line-item veto. <http://online.wsj.com/article/SB114187330501393346.html?mod=opinion_main_review_and_outlooks> This would allow the President to delete, one by one, some of the most wasteful items in the 1,000-page spending bills that are delivered, practically via fork lift, to the Oval Office. Such veto power would give a President greater leverage over bridges to nowhere in Alaska, asparagus research grants and any of the other 13,994 projects that Congressmen delivered to their districts last year to buy votes for their re-election." (Editorial, "Walk The Line," The Wall Street Journal, 3/9/06)

White House Report Finds Faith-Based Organizations Playing A Larger Role In Delivering Services To Americans In Need. "The Bush administration says it is making steady progress in steering more federal taxpayer dollars to religious charities. In the budget year that ended Sept. 30, religious charities received $2.15 billion in federal grants to administer a range of social service programs for the needy. That represented 10.9 percent of the total grants from the seven federal agencies such charities were eligible to apply to in fiscal 2005, according to a White House report obtained by The Associated Press. ...
Jim Towey, who directs the so-called faith-based initiative for Bush, said the most important measure is not how many dollars were awarded but whether religious charities are being treated fairly. 'We think faith-based groups are more competitive, but there are barriers they still face,' he said in an interview. 'The president is changing a culture of grant-making and there's a headwind. <http://www.syracuse.com/newsflash/washington/index.ssf?/base/politics-7/1141895951212600.xml&storylist=washington> '" (Jennifer Loven, "Religious Charities Get More Federal Money," The Associated Press, 3/9/06)

President Bush Signs Executive Order Creating An Office For Faith-Based Initiatives At The Department Of Homeland Security. "A day before returning to the ravaged Gulf Coast region, President Bush created an office for faith-based initiatives within the Department of Homeland Security to improve disaster recovery efforts. ... Homeland Security Secretary Michael Chertoff yesterday said the Bush directive calls for the department to establish a center for faith-based and community initiatives to advance the administration's 'overall mission and strengthen the department's preparedness efforts.' ... He said faith-based and community groups 'played an instrumental role in response to Hurricane Katrina, and they continue to be an essential partner in helping victims in the Gulf-states

region rebuild their lives and communities.' <http://www.washingtontimes.com/national/20060309-123110-2544r.htm> " (Eric Pfeiffer, "Bush Orders Faith-Based Office," The Washington Times, 3/9/06)

The United States And Malaysia Agree To Begin Free Trade Negotiations.
"The United States and Malaysia announced Wednesday that they have agreed to begin negotiating a free trade deal to eliminate trade barriers between the two nations. ... 'Malaysia has been at the forefront of the economic dynamism transforming Asia in recent years,' U.S. Trade Representative Rob Portman said at the news conference.
'Malaysia's rapidly growing economy will help generate meaningful export opportunities for our workers, service providers and farmers.
<http://news.yahoo.com/s/ap/20060308/ap_on_go_ot/us_malaysia_trade&printer=1;_ylt=AueuDUpBVmuh332oTDd3fVl2wPIE;_ylu=X3oDMTA3MXN1bHE0BHNlYwN0bWE-> '" (Martin Crutsinger, "U.S., Malaysia To Launch Free-Trade Talks," The Associated Press, 3/8/06)

Yesterday From The White House

President And Mrs. Bush Discuss Gulf Coast Rebuilding In New Orleans <http://www.whitehouse.gov/news/releases/2006/03/20060308-1.html>

* In Focus: Hurricane Recovery <http://www.whitehouse.gov/infocus/hurricane/>

President And Mrs. Bush Visit Elementary School In Mississippi <http://www.whitehouse.gov/news/releases/2006/03/20060308-4.html>

* In Focus: Education <http://www.whitehouse.gov/infocus/education/>

President Bush And Governor Barbour Discuss Rebuilding In Mississippi <http://www.whitehouse.gov/news/releases/2006/03/20060308-9.html>

India Civil Nuclear Cooperation: Responding To Critics <http://www.whitehouse.gov/news/releases/2006/03/20060308-3.html>

Fact Sheet: Gulf Coast Update: Hurricane Relief, Recovery, And Rebuilding Continues <http://www.whitehouse.gov/news/releases/2006/03/20060308-8.html>

Statement By The President On U.S.-Malaysia Free Trade Agreement <http://www.whitehouse.gov/news/releases/2006/03/20060308-10.html>

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From: Miller, Charles S
Sent: Thursday, March 09, 2006 11:10 AM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 3/9/06 Civil Division News

U.S. to join lawsuit against Gamco Investors

US says to pursue fraud claims against Mario Gabelli

U.S. Plans To Take On Gabelli Suit

Press Release: Justice Department Continues to Stonewall on NSA Spying Program

Guidant Consultant Advised Company to Release Data on Defects

Women sue U.S. Marine Corps over alleged recruiter rapes

Judge rules that rice levy legal

DoD lawyers to review judge's block of new personnel system

Editorial: Union War Rules; A not-so-flexible civilian fighting machine

Bloomberg News

March 9, 2006

U.S. to join lawsuit against Gamco Investors

Shares of Mario Gabelli's Gamco Investors Inc. fell as much as 9.4 percent, after a Justice Department lawyer said the government will seek to pursue civil fraud claims against the money manager and his firm.

Gabelli, 64, is accused in a lawsuit of masterminding a plan to use dozens of related companies and partnerships to bid for licenses the United States sold at discounts to small telecommunications businesses in the 1990s. The suit was filed in 2001 by R.C. Taylor III, a lawyer representing rival bidders at FCC auctions.

At a hearing yesterday in Manhattan, a Justice Department lawyer told U.S. District Judge Paul Crotty the government will file legal papers seeking to join the suit.

In a letter to the judge Tuesday, Assistant U.S. Attorney David Kennedy said the government decided there's "good cause" to intervene, based on information Taylor's lawyers learned during the pretrial discovery phase.

DOJ_NMG_0016816

"There is no fraud involved here," Gabelli said in an interview. "We have been defending ourselves for the last four years. We applaud Judge Crotty's statement to the FCC that he would allow the government to intervene only if we get all the documents we need."

The Justice Department's move is a blow to Gabelli, who has said the government's failure to intervene in the case underscored its weakness, according to John Phillips, an attorney for Taylor. Damages may top $1 billion, Phillips said.

Shares of Rye, N.Y.-based Gamco dropped $3.58, to $40.14, in New York Stock Exchange composite trading, after falling to $39.60 earlier in the afternoon.

Charles Miller, a Justice Department spokesman in Washington, said the government asked Crotty for permission to intervene in the case. The judge is expected to rule on the request sometime after April 10, Miller said.

In bringing the case against Gabelli, Taylor made use of a law that lets individuals sue on the government's behalf for a violation of the federal False Claims Act. If his suit is successful, he'll get a cut of any settlement or verdict.

END

Reuters

Wed Mar 8, 2006 7:47 PM ET

US says to pursue fraud claims against Mario Gabelli

By Herbert Lash

NEW YORK (Reuters) - The U.S. Justice Department said on Wednesday it would pursue civil fraud claims against investor Mario Gabelli, alleging that he was at the center of a scheme to deceive the government during federal auctions of wireless telephone licenses in the 1990s.

The main charge in the case is that Gabelli and the other defendants created "sham" bidding entities that defrauded the U.S. Treasury by improperly participating in the auctions.

A federal prosecutor told the U.S. District Court in Manhattan that the government would move to take over a 5-year-old lawsuit against Gabelli, one of Wall Street's best-known money managers, and others defendants in the case.

Shares of Gabelli-run GAMCO Investors Inc. <GBL.N> closed down $3.58, or 8.19 percent, at a 9-month low of $40.14 on the New York Stock Exchange.

A call to Gabelli's office in Rye, New York, was not immediately returned.

Justice Department spokesman Charles Miller said Judge Paul Crotty did not immediately rule on the government's request. Crotty set a schedule for both sides to file briefs laying out their arguments between March 20 and April 10, Miller said.

The Wall Street Journal reported in its online edition on Wednesday that Crotty rebuked the Federal Communications Commission (FCC) for failing to provide all the documents that Gabelli's lawyers say they need to complete their defense.

Crotty made the government's entry into the case "contingent on full, open-book discovery on all matters," the newspaper said in its online report.

"I think it's extraordinarily unfair that in the last minute the government has chosen to intervene," said Lanny Breuer, who argued for the defendants at the hearing. "For years they have denied us access to the documents that are at the very heart of this case."

Gabelli and Gabelli-related companies, including Lynch Interactive Corp. <LICT.PK>, are defendants in the lawsuit filed in 2001. Lynch has said that Lynch Corp., as it was previously known, was involved in 12 auctions conducted by the FCC starting a decade ago.

In the auctions, the sole function of Lynch, whose chairman is Gabelli, was to provide bidding and administrative services to bidders, the company has said. Lynch was an investor in some of the bidding entities.

Lynch has said it was always compliant with the law and FCC regulations, and that the suit is without merit.

Gabelli has delivered an enviable record on Wall Street. In a filing last year to raise capital for Gabelli Group Capital Partners Inc. it was revealed GGCP has returned an annual 26.6 percent since 1977, the year he struck out on his own.

In 2004, Gabelli's compensation as chief executive of GAMCO was $55 million, among the top on Wall Street, and he earned more from other investments and as an executive at Lynch.

Gabelli is a disciple of "value" investing. His forte is in-depth research and a willingness to take big stakes in mostly small- and mid-size companies.

Known for his media industry expertise, Gabelli holds or has held stakes in such newspaper stocks Tribune Co., Knight Ridder Inc., Media General, Journal Register Co. and in the broadcasting area Liberty Corp.

END

New York Times (NY)

March 9, 2006

U.S. Plans To Take On Gabelli Suit

JULIE CRESWELL

The Justice Department announced yesterday that it planned to pursue civil fraud claims against the famed money manager Mario J. Gabelli, contending that he orchestrated a scheme to deceive the Federal Communications Commission in its auctions of wireless spectrum licenses several years ago.

The government is seeking to take over a civil lawsuit filed by a lawyer involved in the auction process in 2001 that accused Mr. Gabelli of creating a series of sham companies that bid for F.C. C. licenses at a discount under a program that favored minorities and small businesses.

Most of these Gabelli-backed companies were fronted by individuals who were friends and associates of Mr. Gabelli, and they had virtually no experience in telecommunications. Most never began companies to sell cellphone or other communication-related services to customers, according to the 2001 lawsuit.

Instead, the companies resold the licenses at a substantial profit, with Mr. Gabelli pocketing much of the gains, according to the lawsuit.

One of the nation's most successful and high-profile fund managers, Mr. Gabelli controls a number of companies worth an estimated total of $28 billion. He is often featured on investor panels and quoted in the financial media.

For years, Mr. Gabelli has played down the significance of the lawsuit, calling it a "form of legal extortion" in a statement last fall. He suggested the suit was started by contingency-fee lawyers seeking their own payday from him. He also said the suit lacked merit because the Justice Department initially chose not to join it.

That, of course, may no longer be the case. The judge overseeing the lawsuit did not immediately rule on the government's motion. A trial is scheduled to begin June 1, although it could be delayed. A call to Mr. Gabelli's office was not returned. A call to the assistant United States attorney on the case was also not returned.

Nevertheless, the government's attempt to join the suit was seen as a major victory for the side of the plaintiff, Russell C. Taylor III, who was working at a law firm involved in the bidding for spectrum. He contends he witnessed anomalies in the process by the companies backed by Mr. Gabelli.

"This is excellent news," said John Phillips, a lawyer representing Mr. Taylor. "It's good to have the government totally acknowledging the validity of the claim and joining us in it."

A lawyer for Mr. Gabelli questioned the timing of the government's move. "I think the government conduct in this matter has been outrageous," said Lanny A. Breuer, a former White House lawyer in the Clinton administration who also represents the Gabelli-backed bidders. "For years we asked the government to play a constructive role in this case and on the eve of trial to come in and try to join the case while they denied us most of the documents we were entitled to and are essential to this defense is very, very troubling."

This is not the only lawsuit facing Mr. Gabelli, who made his name by being a vocal champion of shareholder rights. Some of his biggest shareholders in a Gabelli-controlled private holding company have sued him, saying he paid himself too well -- his publicly disclosed income for 2004 was $55 million -- and he prevented them from selling their shares.

The fraud lawsuit against Mr. Gabelli dates to the mid-1990's, when the F.C.C., noting the intense demand from communications companies, realized it had been giving away a prized asset for years: radio spectrum. It decided to auction off slices of radio spectrum for cellphone service.

Recognizing that large telecommunications companies could spend billions and billions of dollars -- which they did -- to win spectrum in the auctions, the government set aside some of that spectrum to be sold at a steep discount to small and minority-owned companies.

In the days and even, in some cases, hours before the series of auctions from 1995 to 2000, several bidding corporations were founded by individuals with close ties to Mr. Gabelli and were financed by a private investment firm Mr. Gabelli owns, according to the lawsuit.

Most of these individuals lacked any experience in the telecommunications industry. One company was headed by Trent Tucker, a former New York Knicks basketball player who later claimed in testimony that he believed he was a passive investor in the scheme.

Another company was owned by Thomas Wilson, a Bronxville dentist and the father-in-law of Mr. Gabelli's daughter. Other companies were owned by an aerobics instructor and a couple that owned a media buying and advertising agency, according to the lawsuit.

Bidding for spectrum through these companies, Mr. Gabelli and his partners qualified for $90 million in federal discounts as well as $70 million in favorable financing on federal loans, the lawsuit stated. After being awarded the licenses, several were quickly sold to others at a profit of $206 million, the lawsuit states.

"The F.C.C. did not know all of these relationships or the scope of control that Mr. Gabelli had," Mr. Phillips, the plaintiff's lawyer, said.

Mr. Breuer disputes that, claiming that the commission knew that most of the minority-owned companies or small businesses that applied for the licenses had bigger backers helping them and that the practice was not discouraged. He also argued that the F.C.C. never required the companies or individuals applying for the licenses to have a background in telecommunications. Furthermore, he argues, many of the Gabelli-backed companies indeed tried to start communications operations.

"It was an extraordinary time -- people overbid throughout the auctions and a number of players went bankrupt," Mr. Breuer said. "The notion that there were start-ups that were unable to have a viable business and should be sued is a very unfair perspective."

Mr. Breuer added that the F.C.C. approved not only every sale of the spectrum through the bidding process, but also every resale of that spectrum.

The lawsuit itself is filed under the False\l "l" Claims\l "l" Act\l "l", a Civil War-era law that is designed to uncover fraud against the government. If the case is successful, the plaintiff, Mr. Taylor, could receive 15 percent to 25 percent of the amount recovered. He is currently studying for a doctorate at Oxford University, according to his lawyer, Mr. Phillips.

END

ACLU

3/8/06

Press Release: Justice Department Continues to Stonewall on NSA Spying Program

NEW YORK -- In response to a Freedom of Information Act lawsuit filed by the American Civil Liberties Union, the Justice Department today released documents on the National Security Agency's warrantless surveillance program. The ACLU said the documents, which include copies of articles, are a rehash of previously released information, and charged the Justice Department with stonewalling on its obligation to comply with a federal court order.

The following statement can be attributed to ACLU Executive Director Anthony D. Romero.

"We would expect the Bush administration to be eager to prove to the public that the warrantless surveillance program is within the law, as Alberto Gonzales has repeatedly claimed. Yet the government is once again refusing to inform Americans of the extent to which our phone conversations and e-mails are monitored without court approval.

"History has shown us what happens when the government is allowed to spy on innocent Americans without judicial or

Congressional oversight, and Congress passed laws to prevent the abuses of executive power that were rampant in the Nixon administration. Our system of democracy depends on the rule of law, and not even the president can issue illegal orders that violate Constitutional principles.

“Some members of Congress are now eager to bail out the president by ratifying his illegal actions after the fact, but we need to know the facts before we take any action.”

END

New York Times (NY)d.

March 9, 2006

Guidant Consultant Advised Company to Release Data on Defects

BARRY MEIER

A consultant to the Guidant Corporation told the company last year that he believed it had a clear ethical obligation to tell physicians about heart device defects, and urged the company to overhaul its practices, newly released court records show.

In two lengthy memos written just before Guidant was swamped by controversy, the consultant, Dr. Richard N. Fogoros, also told company executives that their decision to withhold such data, while statistically defensible, was questionable. Guidant executives have said they did not publicize defibrillator flaws because they believed that patients faced greater risks from replacement surgery than from the units.

But Dr. Fogoros wrote in one memo that Guidant, while believing it was acting in the patients' best interest, had violated a "sacred obligation" it had to doctors by interposing its medical judgment for theirs. He also noted that Guidant had a clear conflict of interest that would naturally lead it to disclose product failures only when "absolutely necessary."

"This conflict is not tacit; it is obvious for all to see," Dr. Fogoros wrote in a memo dated May 18, 2005, adding: "This means that when a tragedy occurs, our decisions will be viewed in the harshest light possible, without any objective consideration of the statistical niceties supporting our actions."

The memos written by Dr. Fogoros are the latest internal Guidant records to emerge from a product liability lawsuit filed in a Texas state court by patients who received Guidant defibrillators. But the records may prove especially damaging to Guidant because they show a paid company consultant challenging the device maker's arguments.

The documents are coming to light as the Senate Judiciary Committee plans a hearing tomorrow on possible new legislation that would make it a federal crime for a corporate executive to knowingly ship a defective product. A Minneapolis physician, Dr. Barry J. Maron, whose patient died after a defective Guidant defibrillator failed, is among those scheduled to testify.

Steven Tragash, a spokesman for Guidant, which is based in Indianapolis, said that the documents show "how seriously Guidant takes the very complex issue of how and when to communicate potential device risks to physicians -- an issue that is being discussed and debated not only within Guidant but also throughout the industry."

Dr. Fogoros, reached at his home yesterday, said that he had been asked not to comment on the documents because of active litigation. His memos, which make reference to Dr. Maron, were written last May, just after Guidant told the Minneapolis physician that his patient had had a type of Guidant defibrillator that had repeatedly short-circuited because of an electrical flaw.

At that time, Dr. Maron and a colleague, Dr. Robert G. Hauser, urged Guidant to alert physicians about the device defect; the company had known about the defect for three years. When the company failed to do so, Dr. Maron and Dr. Hauser contacted other physicians and The New York Times, which published an article in late May about the device.

Since then, Guidant has recalled more than 100,000 implantable heart devices, including three models of defibrillators with similar electrical flaws that are tied to at least seven patient deaths. The company, which is based in Indianapolis, is also under investigation by the Justice\l "l" Department\l "l" and the Food and Drug Administration. A defibrillator is a device that uses electricity to disrupt a potentially fatal heart rhythm.

Last May, soon after The Times article appeared, Dr. Fogoros, a cardiologist in Pittsburgh, vigorously defended Guidant's

actions in an interview published on an Internet Web site, Medscape. "This data's been out there in public the whole time," he was quoted as saying about the device.

But in internal memos written just two weeks earlier, Dr. Fogoros took a critical view of Guidant's policies when it came to data disclosure, court records show. Those memos also predict, with an eerie accuracy, the crisis Guidant soon faced for failing to inform doctors about potentially life-threatening product failures.

In essence, Dr. Fogoros wrote that Guidant was caught between two conflicting impulses, doing what it thought was right for patients or allowing doctors to make that decision. He concluded that the company, by withholding data from doctors, was violating its basic ethical duty to be forthright with physicians.

"Neither the doctor nor the patient consider themselves to have signed up to have Guidant dictate any treatment plans," he wrote in his May 18 memo.

Dr. Fogoros, who is still a company consultant, sent his memos to the chief medical officer of Guidant's heart device unit, Dr. Joseph M. Smith, records show. Guidant executives like Dr. Smith have defended their decision not to alert doctors earlier about heart device problems by saying that doing so would have led to unnecessary removal, exposing patients to surgical complications like infections.

Implanted heart devices like defibrillators are normally replaced about every five years when their batteries wear out. A doctor's decision about whether to replace a problem device earlier is typically determined by how dependent an individual patient is on that unit.

Dr. Fogoros wrote that he believed the device used by Dr. Maron's patient was highly reliable and that Guidant executives could defend their actions with statistics. But he added that it was in Guidant's best interest to overhaul its disclosure practices by "exposing our dirty laundry as well as our clean."

He also predicted that the company's use of statistics to justify its actions would be met "with bitter derision towards our protests that we were only acting with the patients' best interests at heart."

Dr. Fogoros added that the company could capitalize on a new disclosure by combining its announcement with a marketing initiative for a new product that allowed doctors to remotely monitor how well a device is working. He also wrote that he believed that Guidant products were superior to its competitors'.

It was not until November, six months later, that Guidant began publishing more detailed information on product failure.

The newly released documents were produced by Guidant in connection with a pretrial deposition last month of Dr. Smith, the Guidant medical officer. Last Friday, the company dropped its claim that Dr. Fogoros's memos were covered by a court-approved confidentiality agreement, said Robert Hilliard, a plaintiffs' lawyer in Corpus Christi, Tex., who is involved in the case.

END

AP

March 9, 2006

Women sue U.S. Marine Corps over alleged recruiter rapes

By KIM CURTIS

Associated Press Writer

SAN FRANCISCO_Two teenage women who claimed a pair of former U.S\l "I". Marine Corps sergeants raped them in a Ukiah recruiting office sued\l "I" the military Wednesday in federal court for failing to properly train and supervise recruiters.

The women were in high school and excited about joining the military when Joseph Dunzweiler, 25, and Brian Fukushima, 26, allegedly raped them, according to the suit. Both recruiters were demoted after court-martial proceedings, but acquitted of the most serious charges they faced.

"I have always dreamed of being a Marine," plaintiff Jane Doe said in a news release. "I thought they were the elite, the

ones who stepped in when everyone else failed."

The 18-year-old women, who were allowed to sue under pseudonyms to protect their identities, live and work in Ukiah, according to their lawyers.

"They would still consider a career in the Marines if they could be safe," attorney Michael Sorgen said at a news conference. "We're asking the court to order them to do what is necessary to prevent this from happening again."

The suit, which names as defendants the recruiters, the U.S. Navy and the U.S. Marine Corps, which is under Navy jurisdiction, seeks unspecified damages and an injunction requiring the military to train and supervise recruiters, among other things.

Both of the recruiters have been discharged from the military, according to Marine spokesman Maj. Joe Kloppel, who said he's prohibited from revealing the type of discharge for privacy reasons. He also cited their courts-martial and discharges as evidence the Marine Corps doesn't "tolerate this type of behavior."

"The Marine Corps did everything they could under the Uniform Code of Military Justice to discipline" Dunzweiler and Fukushima, Kloppel said.

Jane Doe said she met Dunzweiler in late 2004, according to court documents. She said he immediately began flirting with her, asking her out and sending her e-mails about how he wanted to "get her alone."

Doe believed Dunzweiler would prevent her from joining the Marines if she didn't have sex with him, according to the suit. Doe said Dunzweiler ended up giving her chlamydia, a sexually transmitted disease.

The other plaintiff, identified only as Mary Roe, said Fukushima raped her during a "sleep over" at the Ukiah recruiting office, according to court documents. She said she was very drunk, had vomited and could not resist his advances.

The women's lawsuit is among the latest in a series of scandals involving military recruiters. Last week, 14 Army recruiters in Southern California were suspended amid accusations they falsified documents.

The former Ukiah recruiters were court-martialed last fall at the Marine Corps Recruit Depot in San Diego.

Dunzweiler was acquitted of charges he coerced Doe into having sex with him. However, he was convicted of five lesser charges, including having sex with another potential recruit, providing alcohol to recruits, lying to Marine investigators and asking others to lie for him. His rank was reduced from staff sergeant to corporal, his pay was docked by $1,300 and he was restricted to base for 30 days.

Sgt. Brian Fukushima was convicted by the military in September of sexual misconduct, adultery and asking a recruit to lie to investigators. He was demoted to corporal, his pay was docked $1,000 and he was restricted to base for 30 days.

A third recruiter, Marine Reserve Cpl. William McFarland admitted guilt and was punished administratively. The terms of his agreement weren't made public and he isn't part of Wednesday's suit.

A third woman who accused one of the recruiters of rape in court-martial proceedings opted not to join the suit, according to lawyer Barry Vogel.

The case is Doe and Roe v. Gen. Michael W. Hagee et al, C061777.

END

AP

March 8, 2006

Judge rules that rice levy legal

LITTLE ROCK_A judge has ruled in favor of the Arkansas Rice Research and Promotion Board in a lawsuit that challenged how the board spends money collected from growers.

DOJ_NMG_0016822

Circuit Judge Willard Proctor Jr. on Tuesday turned away a lawsuit by Lonoke County rice farmer Joe Bryant, who claimed fees collected by the board were improperly used for promotion. Proctor, in granting a summary judgment, said the money collected between Aug. 25, 2004, and March 15, 2005, was for research, not marketing.

Bryant, represented by Little Rock attorney Richard Quintus, also has a suit pending against the Arkansas Wheat Promotion Board. Quintus represents other clients in suits against the Arkansas Beef Council and the Arkansas Pork Producers Association.

Each of the suits asks a judge to allow farmers to opt out of paying mandatory marketing fees.

Proctor's ruling could be appealed.

In May, the U.S. Supreme Court ruled that the federal government could legally require beef producers to pay for an advertising program, even though some producers did not want the advertising.

The court ruled that the government is allowed to promote its own message and compel producers to pay fees.

Attorney Bill Waddell, representing the rice board, said the compelled speech issue was not a valid concern in Bryant's suit because the rice board used money from producers for research. Quintus said the rice program is different from the beef program that was before the U.S\l "l". Supreme Court.

Assessments were made mandatory by a state law passed in 1995. The board was sued\l "l" by Gulf Rice Arkansas Inc., now Harvest Rice Inc., on grounds that the assessment was an illegal tax. The Arkansas Supreme Court ruled in 1999 in favor of Gulf Rice and ordered it be repaid $50,000.

"As a result of that decision, the Legislature passed Act 16 of 1999; they removed the unlawful delegation (of taxing authority) issue," Waddell said.

A subsequent class-action suit over buyer assessments was settled in 2004 with buyers eligible for credits on future marketing assessments equal to a third of their original claims.

Last year, the Legislature modified the rice program again, stipulating that 1.35 cents per bushel paid by farmers on rice they produce would go to research, and 1.35 cents a bushel paid by buyers would go to marketing and promotion.

END

American Forces Press Service

March 9, 2006

DoD lawyers to review judge's block of new personnel system

WASHINGTON, - Defense Department attorneys are reviewing a federal judge's decision today to block a new civilian personnel system to determine their next course of action a system spokesperson, said.

U.S. District Judge Emmet G. Sullivan ruled that provisions of the new National Security Personnel System would fail to protect civilian employees' ability to bargain collectively.

These provisions pertain to labor relations, collective bargaining, independent third-party review, adverse actions and the National Security Labor Relations Board, DoD's proposed internal labor relations panel, the 77-page decision noted.

The American Federation of Government Employees and 12 other labor unions filed a lawsuit in February 2005 challenging the proposed system.

NSPS is one of Defense Secretary Donald H. Rumsfeld's key initiatives designed to transform DoD operations to better meet 21st-century needs. It is designed to replace an outdated, 50-year-old civilian personnel management system that had rewarded employees for length of service rather than performance.

The new program, in development since 2003, seeks to replace the current general-schedule personnel ranking system with broad pay bands.

DoD and the Office of Personnel Management are partnering to establish the system, which eventually will affect more than 650,000 DoD civilian employees.

END

DOJ_NMG_0016823

Wall Street Journal

Editorial: Union War Rules; A not-so-flexible civilian fighting machine.

Tuesday, March 7, 2006

In drafting the U.S. Constitution, the Founders entrusted national security largely to the President. But to protect the Republic today, the executive branch must first comply with something James Madison never imagined--union work rules.

In a decision last week, Judge Emmet Sullivan sided with union plaintiffs and tossed out the Pentagon's new personnel system, which the Defense Secretary and White House say they need to safeguard the nation. His decision comes after Judge Rosemary Collyer threw out a similar personnel system at the Department of Homeland Security in August. (That case is under appeal.) The danger here is that the collective bargaining rights of 650,000 civilian workers will trump the collective right we all have to a military organized to confront 21st-century threats.

Five years ago Donald Rumsfeld returned to the Pentagon to find that its personnel system was even more outdated than GM's. He was forced to negotiate with some 1,300 unions and operate under rules that rewarded seniority over initiative and prevented managers from redirecting civilian workers to more pressing assignments.

This is especially dangerous in wartime, when the Defense Department is forced to put uniformed troops in administrative jobs that need to be filled quickly even though they might be put to better use in Iraq or elsewhere. Not so incidentally, this also encourages the best civilian employees to quit for private-sector jobs that will pay them better. So the Administration pushed for basing pay on performance, allowing the Pentagon to shift employees to meet emerging threats and allowing the new rules to go into effect even if the American Federation of Government Employees and other unions didn't agree to them.

Congress passed legislation in 2003 calling for a "flexible" and "contemporary" personnel system. But thanks in large part to Republican Senators Susan Collins (Maine) and George Voinovich (Ohio), the bill also said that employees were allowed to "bargain collectively" through their unions. It was on this hook that Judge Sullivan hung his decision, arguing that the new regulations would undermine agreements with union officials. So the Defense Department can have a new personnel system, but only if it's identical to the old system.

We doubt this is what Congress had in mind in authorizing the Pentagon to "establish and from time to time adjust a labor relations system . . . to address the unique role that the Department's civilian workforce plays in supporting the Department's national security mission." It also glosses over the fact that, even under the new system, Defense officials will continue to negotiate with unions over pay and benefits and will have every incentive to use their new flexibility in a way that doesn't produce labor tension.

The Pentagon hasn't decided what its next step will be, but we hope the Administration will appeal. It's hard to see how Mr. Rumsfeld's drive to use his uniformed soldiers more effectively can proceed if he doesn't gain the flexibility to better use his civilian workforce. Improving Defense's "tooth-to-tail ratio" requires getting the civilian tail out from under union work rules.

END

DOJ_NMG_0016824

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Williams, Jan

From: Williams, Jan

Sent: Friday, March 10, 2006 8:07 AM

To: Williams, Jan; Horvath, Jane; Garrett, Paul; Cushmac, Anne Marie; Davis, Michael; Fuentes, Maria; Balfe, Robert; Biskupic, Steven (USAWIE); Bogden, Daniel (USANV); Brooks, Susan; Brownlee, John (USAVAW); Buchanan, MaryBeth (USAPAW); Canary, Leura G. (USAALM); Charlton, Paul (USAAZ); Chiara, Margaret M. (USAMIW); Christie, Christopher (USANJ); Colantuono, Thomas P. (USANH); Connolly, Colm (USADE); Corrente, Robert (USARI); Cummins, Bud (USAARE); Dugas, David R. (USALAM); Fitzgerald, Patrick J. (USAILN); Garcia, H; Garcia, Michael J (SDNY); Graves, Todd (USAMOW); Greenlee, Jim (USAMSN); Heavican, Michael (USANE); Heffelfinger, Tom (USAMN); Huber, David L. (USAKYW); Iglesias, David C. (USANM); Immergut, Karin (USAOR); Jenkins, Anthony; Kubo, Ed (USAHI); Lam, Carol (USACAS); Lampton, Dunn (USAMSS); Larson, Charles (USAIAN); Letten, James (USALAE); Lockhart, Gregory; Marino, Thomas (USAPAM); Martin, Alice (USAALN); Mauskopf, Roslynn; McDevitt, Jim A. (USAWAE); McKay, John (USAWAW); Mead, Matthew H. (USAWY); Meehan, Patrick (USAPAE); Melgren, Eric (USAKS); Mercer, Bill (USAMT); Miller, Gregory (USAFLN); Moss, Thomas (USAID); Murphy, Stephen J. (USAMIE); Nahmias, David (USAGAN); O'Connor, Kevin (USACT); 'O'Melia, Michael (USAAZ)'; Orwig, Matt (USATXE); Perez, Paul (USAFLM); Rapadas, Leonardo; Roper, Richard (USATXN); Rosenstein, Rod (USAMD); Ryan, Kevin (USACAN); Scott, McGregor (USACAE); Shappert, Gretchen (USANCW); Sperling, Sheldon J. (USAOKE); Suddaby, Glenn T. (USANYN); Sullivan, Michael (USAMA); Sutton, Johnny K. (USATXW); Vines, Jim (USATNM); Wagoner, Anna Mills S. (USANCM); Wainstein, Kenneth; Washington, Donald (USALAW); Whitaker, Matt (USAIAS); White, Greg (USAOHN); Whitney, Frank (USANCE); Wood, Lisa (USAGAS); Wood, Maxwell; Wrigley, Drew (USAND); Yang, Debra Wong (USACAC); '/o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez'; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); '/o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy'; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); 'Bianco, Joseph F.'; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); 'Burch, Victoria'; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; 'David, Matt'; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; 'Gambatesa, Donald (USMS)'; Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; Golden, Lois; Goodling, Monica; Gorsuch, Neil M; 'Greg Harris'; Hagle, Timothy; Harris, Gregory; Henke, Tracy (SMO); Hertling, Richard; 'Hofer, Patrick F. (TAX)'; Hoisington, Jana; Holland, Eric

W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; 'Neumayr, Mary (ENRD)'; Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Woodruff, William; Lewis, Matthew; Nelson, Ryan (ENRD); Becker, Grace (CRT); Masugi, Ken (OPA); Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford

Subject: The Morning Update: 3/10/06

Attachments: tmp.htm

Importance: Low

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EST Affairs Conference

Wyndham Washington Hotel | Washington, DC

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EST The White House | Washington, DC

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EST Military

The White House | Washington, DC

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* Fact Sheet: Safeguarding America: President Bush Signs Patriot Act Reauthorization <http://www.whitehouse.gov/news/releases/2006/03/20060309-7.html>
* In Focus: USA PATRIOT Act <http://www.whitehouse.gov/infocus/patriotact/>
* In Focus: National Security <http://www.whitehouse.gov/infocus/nationalsecurity/>

President's Statement On H.R. 199, The "USA PATRIOT Improvement And Reauthorization Act Of 2005" <http://www.whitehouse.gov/news/releases/2006/03/20060309-8.html>

Statement By The Press Secretary <http://www.whitehouse.gov/news/releases/2006/03/20060309-9.html>

President Highlights Faith-Based Results At National Conference <http://www.whitehouse.gov/news/releases/2006/03/20060309-5.html>

* Fact Sheet: Compassion In Action: Producing Real Results For Americans Most In Need <http://www.whitehouse.gov/news/releases/2006/03/20060309-3.html>
* Office Of Faith-Based And Community Initiatives <http://www.whitehouse.gov/government/fbci/>

President Attends Faith-Based And Community Initiatives Conference <http://www.whitehouse.gov/news/releases/2006/03/20060309-2.html>

President's Remarks At Georgia Republican Party's President's Day Dinner <http://www.whitehouse.gov/news/releases/2006/03/20060309-10.html>

President To Travel To Mexico To Meet With Mexican President Fox And Canadian Prime Minister Harper <http://www.whitehouse.gov/news/releases/2006/03/20060309.html>

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To:	Block, Jonathan; 'Ed.Cogswell@ic.fbi.gov'; 'William.Carter@ic.fbi.gov'; Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); McNulty, Paul J; Goodling, Monica; Moschella, William; Brand, Rachel; Courtney, Garrison K.; Jezierski, Crystal; Gorsuch, Neil M; 'Michael.Kortan@ic.fbi.gov'; 'Richard.Kolko@ic.fbi.gov'; 'John.Miller@ic.fbi.gov'; 'K.Hoffman@ic.fbi.gov'; Macklin, Kristi R; Mercer, Bill (ODAG); McCallum Jr, Robert L (LEO); Knocke, William (DHS); Besanceney, Brian (DHS); Bergman, Cynthia (DHS); DeZulovich, Mavis (USMS); Grant, William L.; Hines, Don (USMS); Marianos, Richard W.; Mixell, Sheree L.; Payne, Lawrence R.; Truman, Michael; Turner, David; Billingsley, Traci L; Cooper, Mary Irene; Seidel, Rebecca; Hertling, Richard; Williams, Jan; Bresson, Paul; Clinger, James H; Layne, Jennifer; Ames, Andrew; Beck, Brittany; Francis, Lynne (OPA); Holland, Eric W; Jackson, Christopher; Lesch, Jaclyn; Magnuson, Cynthia; McNeil, Tucker (OPA); Miller, Charles S; Nowacki, John; Pagliocca, Theresa; Peterson, Evan; Roehrkasse, Brian; Schwartz, Arthur; Scolinos, Tasia; Sierra, Bryan; Smith, Kimberly A; Talamona, Gina; Wade, Drew
Cc:	Webb, Lauren; Nichols, Grant W
Subject:	Sunday Show Transcripts 03/12/06
Attachments:	SUNDAY SHOW TRANSCRIPTS 3.12.doc

Attached, please find the Sunday morning talk show transcripts from March 12, 2006.

--Jonathan

SUNDAY SHOW TRANSCRIPTS
3/12/06

NBC – MEET THE PRESS

MR. TIM RUSSERT: Our issues this Sunday: What should we do about Iraq?What should we do about Iran? And how has the port controversy affected the Bush presidency. With us: Two men who would like to be the next president of the United States. For the Republicans, Senator George Allen of Virginia. For the Democrats, Senator Joe Biden of Delaware. Allen and Biden square off.

Then, a new book, "Cobra II," details the inside story of the invasion and occupation of Iraq. Here in their first television interview are the authors, chief military correspondent for The New York Times, Michael Gordon, and retired Marine Corps Lieutenant General Bernard Trainor.

But first, joining us now, two United States senators: Republican George Allen of Virginia, Democrat Joe Biden of Delaware.

Welcome, both.

SEN. JOE BIDEN, (D-Del.): Good to be with you.

SEN. GEORGE ALLEN, (R-Va.): Good to be here.

MR. RUSSERT: Senator Allen, how goes things in Iraq?

SEN. ALLEN: It's going tough. Some progress, but obviously when they used the burning-of-the-Reichstag tactic of hitting that mosque in Samarra and trying to create this religious violence back and forth, that was, that was a setback. But things seem to be calming down.

There's been—there was a lot of progress in the last year, politically, which I think's very important, where the people have a consent in who's governing them. They passed—they ratified by referendum their Constitution. But I—but it's been set back because they have such a difficult way of trying to form a government there, where you need a two-thirds vote, which is to make sure that Kurds, Shia, Sunnis and all are involved and there's a consensus.

I think it's very important that those who are elected in these recent elections in February get together—and they are being delayed now—but nonetheless, get together and form a unity government. That is absolutely essential, I think, to keep moving forward. It's far—and so far as training troops and police forces and so forth, progress is being made there. But politically, action needs to be taken. They need to come together, and then I think there'll be a greater confidence on the part of the people of Iraq.

MR. RUSSERT: When General Pace, who was here last week, says things are going very, very well, is that a bit overly optimistic?

SEN. ALLEN: I would say things are moving forward, it's—but it's very, very difficult.

MR. RUSSERT: Senator Biden, you voted for the war. Senator Edwards was on this program last week, and he said he was wrong in voting for that war. Were you wrong?

SEN. BIDEN: I was—the mistake I made was that I never imagined they'd be this incompetent in the pursuit of the war. I—on your program not almost a year ago I said that, Tim. It has stunned me, the incompetence and way in which they pursued the war, what they're doing now.

And I think, by the way, General Pace is very, very wrong in his assessment. I think we're in, we're at a point where in the next six to eight weeks, we don't get something moving in terms of a government—and that's just the first step, by the way. The idea that once a government is formed here that somehow things are going to begin to roll is, is really another misrepresentation.

MR. RUSSERT: But finish that statement. If they don't get another government in the next six to eight weeks, what happens?

SEN. BIDEN: I think what happens is you're—we have to decide how we're going to deal with, it's going to be a different circumstance. It'll be closer to a civil war. We're going to have to have a different function for our troops. You're going to have to have a plan B. You're going to have figure out how to contain rather than how to, how to build. And that's a very much tougher circumstance to be in.

MR. RUSSERT: Should we get out?

SEN. BIDEN: No. No, I think we're going to have to get out. Look, this administration is already on the glide path to get out. We're already drawing down troops. They're going to draw down troops, as I said on your program a while ago, they're going to get down to 100,000 before the end of this year. They're going to be down to somewhere around 30,000 next year. There's not a whole lot of difference between the Murtha Plan, what these guys are talking about, in terms of timing, that's the difference.

But, look, we, we have vital interests that are there. We—it's bad enough it's a civil war. It'll be a lot worse if it's a regional war. So, and I don't see, look, if the president, instead of deciding to make a series of speeches here at home, should be on a plane. He should get on a plane and be dealing with world leaders to try to generate an international consensus to put international pressure on the parties to make the concessions that are needed. I can't imagine if this were Reagan or Kennedy or FDR, they wouldn't be on a plane. We don't have to convince the Americans, but you've got to convince these folks to get together. And it's very, very, very, very difficult. It will not be done just by our ambassador alone.

MR. RUSSERT: Knowing what you know now, that there were not significant levels of weapons of mass destruction, if the vote happened today, would you still vote yes?

SEN. BIDEN: No. Not knowing, knowing what I know how this administration used the power we gave them. Everybody kind of forgets, Tim, the issue was...

MR. RUSSERT: Do you vote no?

SEN. BIDEN: I vote no. The issue was, though, whether or not the status quo—not whether the status quo would remain, which we have inspectors. I mean, excuse me, we continue to contain Saddam. The question was, do we take those shackles off of Saddam, let him roll, or do we give the president the power to demonstrate to the world, where we're united, to use pressure to bring other folks in to help us put pressure on him? And remember, from the time we gave him the power, we didn't go to war for another six months. So, it was—I, I think it was mishandled. I didn't ever think they would be as incompetent as they were. If I'd known that, I wouldn't have voted for it.

MR. RUSSERT: Senator Allen, let me show you what the American people are thinking. "How are things going in Iraq?" Well, 36; badly, 62. "The war in Iraq, is it worth fighting?" Yes, say 42; 57 percent, a solid majority, say no. Can we continue the war in Iraq without the support of the American people?

SEN. ALLEN: It is vitally important to have the support of the American people. They're the owners of our government. And it is important for the people to get the information, and obviously, most of the news is—that gets coverage are, are incidents of car bombings, of blowing up mosques, of, of fractiousness and so forth, and not some of the more positive things that are actually occurring. And I think General Pace was trying to get to some of those positive aspects of it. I do think, and I do agree with Joe, that it's vitally important for the, the government, those who are elected, to form a government. Again, let's recognize how difficult that is. In this country, if we had to get two thirds of the Congress to agree who our president would be, for example, we, we'd still be fussing through the 2000 election. And so there's...

MR. RUSSERT: But, senator, it's been three year, it's been three years. If the Iraqis are not able to put together a unity government that in fact can secure the country, what do we do then?

SEN. ALLEN: Well, the point is is they have to; and, and in fact, their elections, again, were in February, here we are in March, they still haven't put it together. And there's all sorts of talk now that the Kurds might join up with the Sunnis and try to get the non-sectarian Shiites together. Regardless of how it's done, they do need to get a coalition government. Joe made a good point, and I think we should, and I think our administration is, trying to get other countries in the Middle East region to put pressure on those to settle this issue. Because I think, ultimately, the constitution that the people passed and ratified in Iraq does stand up a pretty free and just society where women have freedom of expression as well as men, where they do have religious freedom where rights are not enhanced nor diminished on account of religious beliefs.

The terrorists in Iraq, I don't see them winning the hearts and minds of the people of Iraq. Their main goal is to cause disruption, to, to wreak havoc, to cause factionalism and so forth. But I think that if you look, if you listen to those who are training, whether it's police or military

forces who are attacked a great deal by these terrorists, there are many who are enlisting or, or applying for those jobs. So I think the people of Iraq are also turning against these terrorists as well.

But again, it is important that the Iraqis themselves work out their differences and, and put together this unity government.

SEN. BIDEN: We can't want peace in Iraq more than the Iraqis want it. We can't want it more than they want it, and if they don't step up to the ball we're going to be gone. The—no foreign policy can be sustained without the informed consent of the American people.

MR. RUSSERT: And what do you leave behind?

SEN. BIDEN: You leave behind chaos. You traded dictator for chaos, open civil war, and the concern of a regional war. Worse off than we were when we had him sitting there. It's good he's gone, but what are you trading him for? What are we going to trade him for?

MR. RUSSERT: Is this a distinct possibility?

SEN. BIDEN: Absolutely, it's a distinct possibility. And you even have our generals on the ground saying it's a distinct possibility.

MR. RUSSERT: When...

SEN. BIDEN: And that's why—sorry.

MR. RUSSERT: When is decision day? When do we have to look up and say, "They have not put a government in place. We have to get out"?

SEN. BIDEN: If they don't have a constitution in place by this summer that is viewed as a uniting document, where everybody signs on to it, it's game over. Now, how you pull them out, where you pull them to, whether you have them over the horizon, whether you kept a containment policy that, that, that secures the region in a different way, that's a whole different question. But status quo, the way it is now, is over.

MR. RUSSERT: Do you agree with that, senator? If they don't have a government in place by the summer, that's it, we're out?

SEN. ALLEN: You have to look at the facts and situation at the time. We're both in agreement, everyone recognizes, and I think the Iraqis themselves recognize, that the longer that they wait to actually form this unity government, the more that allows the terrorists to, to have that uncertainty in, insofar as authority in the country, and the people themselves of Iraq wondering, "Well, what's going to come of it?" So the sooner, obviously, the better. I don't want to have some, some deadline, "If you don't get it done by, by June 1, well, then we're pulling out." Or, "It's, it's a failure."

The point of the matter is, is we need to pressure and try to get others in that region, as well as other countries outside of the region, to really tell them what the stakes are. And I think they recognize what the stakes are, but, but action needs to be taken. There's going to need to be concessions from various points. And then ultimately, this government—they can get a unity government, but there's going to need to be some credibility, particularly in the security forces, the secretary, so to speak, of the interior, to make sure that law enforcement and military actions are, are fair and just and not based upon any sort of religion or, or ethnic biases.

MR. RUSSERT: Senator Biden, if they don't get a government together, and we do get out, and we leave chaos behind, is that not a foreign policy disaster for the U.S.?

SEN. BIDEN: It is an absolute foreign policy disaster. What I said was that we're going to have to have a different deployment of the troops. We're going to have to figure out a containment policy, Tim. You may find a debate begins to ensue: Do we help the Badr Brigade and the Peshmerga deal with the Sunnis? Do we decide to cordon off the north? Do we decide—it'll be a different policy. We're not going to just be able to walk away. It will be a disaster. I—when I got back from Iraq a little while ago, I went down to see the president, and I sat with the president, and he kept talking about terrorists. And I said, "Mr. President, if every single al-Qaeda personality, every single al-Qaeda operative or anyone like him tomorrow were blown away, you still have a war, Mr. President. This is well beyond terrorists."

There's an insurgency, Tim, a gigantic insurgency that has nothing to do with terrorists. It's a big deal. And there's no serious—we put these military guys so far behind the eight ball, because we didn't go in with the 5,000 police trainers that I talked about on your show two and a half years ago and others did, because they said we didn't need it, because we said we had all the oil we needed when in fact the oil companies told us we needed $30 billion dollars in. These guys are about two years behind the curve. The civilians have done a disservice, in my view, to the military on the ground. We said we needed more troops. Remember on your show, I called for more troops the year we went in? Then John McCain called for more troops. What were we told? "No, the folks on the ground don't want the troops." Now what's coming out, including Bremer? "Yeah, we needed more troops, we wanted more troops." This has been a debacle. This has been a debacle. The president, literally, this is a test of his leadership. He's got to unite the international community to bring every pressure possible on these guys or it's not going to get done.

MR. RUSSERT: Let me talk about another issue confronting us, and that's Iran. Vice President Cheney on Tuesday, gave a speech, and let me show you and share with our viewers exactly what he said:

(Videotape, March 7, 2006):

VICE PRES. DICK CHENEY: The Iranian regime needs to know that if it stays on its present course, the international community is prepared to impose meaningful consequences. We will not allow Iran to have a nuclear weapon.

(End of videotape)

MR. RUSSERT: "Meaningful consequences."

Senator Allen, if the president decides that we are going to remove the Iranian nuclear threat militarily, must he, should he go to Congress for authorization before he does that?

SEN. ALLEN: I believe he should and I believe he would, if, if necessary.

One thing—let me just, on the, on the previous question: Yes, these are tough times in Iraq. Let's not get everyone so depressed, so demoralized about things. It is difficult. However, I think that we can hopefully prevail. Not us, but the Iraqi people, because I do believe the people, regardless of their ethnicity or religion, do want to have a better life for themselves and their children, and have, have a say in who their public servants are. And I, and I'm hopeful. We have to be realistic, but let's not get everyone so depressed that is—it's, it's definitely going to fail.

Now on Iran, on Iran, which is a very pressing, dangerous situation, fortunately we have the French and the Germans and the British all with us. We are working with the international community. The Russians are, are clearly the most important. They're the ones making money off this deal as far as nuclear capabilities for—whether it's—well supposedly, for electricity generation, which is, is relatively legitimate. The worry is weaponization of those nuclear capabilities. There's going to be a step-by-step-by-step approach to this. But we are dealing with a theocracy that is deadly serious when they said they want to take Israel off the map. They cannot be allowed to get nuclear weapons. It is dangerous to our, to our friend Israel, it's a danger to us, the United States, our allies, it is dangerous to other countries in the Middle East. We'll start a nuclear—we won't, but they will start, almost, a nuclear arms race in the Middle East, and...

MR. RUSSERT: But how do you stop them? If the Russians don't go along with sanctions, what do you do?

SEN. ALLEN: Well, of course you go through the sanctions, embargoes and so forth, and it—to the extent you have sanctions, it can't just be the United States alone, it has to be other countries of the world as well. Internally, and this is, this is kind of a long shot, but internally, you would hope that the people of Iran, who are getting isolated by these mullahs, and some of these sanctions could have an impact, obviously, on their economy, which is going well because oil prices are up, but if, in the event that this has an impact on their own society there, you could have a change from within. That's, that's a long shot. Ultimately, it—you never want to take military action off the table, but you never want it to get that far. But if, if necessary, it is, it is an option.

MR. RUSSERT: But you agree with the vice president, they will not be allowed to build a nuclear weapon. Period.

SEN. ALLEN: We can't allow them to have a nuclear weapon. It would be too dangerous for us, for our allies, and for the rest of the world.

MR. RUSSERT: Senator Biden, would, should the president, would the president go to Congress for authorization if he wanted military action in Iran?

SEN. BIDEN: He has to do that. Look, I think there's two things here, Tim. I heard the vice president put a prefix in front of "stop them." He said the international community stops them. The fact of the matter is that the administration's gotten it right, in my view, finally, on Iran. They have joined with the international community so that we end up isolating Iran, not us being isolated like we were before, number one.

Number two, it disturbs me a little bit that the administration has not, not done a cold calculation on the issue of whether or not an oil embargo would hurt the Iranians—the Iraqis—I mean, the Iranians more than would hurt the rest of the world. The truth is, the Iraqis—the Iranians cannot sustain an oil embargo. They import all their finished product. They import it all. We could break their back if we are able to organize the international community to stay in place. And this is a matter of time, Tim. If you're telling me they're about to have a nuclear weapon that they can have—put in the tip of a missile, they're going to do that in six months, that changes the dynamics of whether it's in 10 years. There's a big difference here. And we're not allowed to talk about that, that classified judgments that are had among the various capitals.

But there is time here, and it's critically important that we keep the world together to keep pressure on the Iranians, and if need be go to sanctions short of military sanctions. But obviously no president can take off the table the possible use of military force.

MR. RUSSERT: And our policy is simply stated: Iran will not get a nuclear weapon, period.

SEN. BIDEN: That is the policy stated by us, stated by the Europeans, stated by the Russians and stated by the Chinese right now. How that policy works out is a different deal. But that's the stated policy of all those countries right now.

MR. RUSSERT: Do you think ultimately they'll have a nuclear weapon?

SEN. BIDEN: I think ultimately we can stop them from having a nuclear weapon. I think we can stop them from having a nuclear weapon short of war.

SEN. ALLEN: And, by the way, once again I agree, I agree with Joe on this. Not—that's not once again. But on this, it is absolutely essential that we have the rest of the world with us on it, including Middle Eastern countries. Remember, in addition to their threats to Israel, Iran is a state sponsor of terror. They may not even use some of their missile capabilities if they had a nuclear weapon. They could give it to Hezbollah or Hamas or any one of these terrorist organizations.

This also is an occasion for us as Americans to recognize that we need to get greater energy independence in this country so we are not worrying about the whims of some Mullah in Iran 8,000 miles away. We need development of oil and natural gas in this country, more biofuels, the use of advanced nuclear and clean-coal technology, and some other battery-powered approaches,

say for in solar photovoltaics and from nanotechnology. We need to unleash the minds of the people of this country so that we have American energy produced here at home, and a diversity of fuel so we're not so dependent on that one region that is so unstable and in some cases hostile to our country.

MR. RUSSERT: Let me turn to presidential politics. Senator Allen, you were in Tennessee yesterday talking to some Southern Republicans. There was a straw vote taken last night, and here are the results from the Southern Republican Leadership Conference: Bill Frist, his home state, 37 percent;

Mitt Romney, the governor of Massachusetts, 14 percent; George Allen, 10;

President Bush as a write-in, 10 percent. That was initiated by John McCain.

And McCain himself got 5 percent. What do you make of that result?

SEN. ALLEN: It's fine Bill—Bill Frist is popular in Tennessee.

MR. RUSSERT: How about Mitt Romney?

SEN. ALLEN: That's fine. It's good. It's a straw poll.

MR. RUSSERT: He's a—he's a Northeasterner and you're, you're a Southerner.

SEN. ALLEN: Well, it's OK...

SEN. BIDEN: Hang on, man, it doesn't matter. Don't worry about that. Don't worry about that number.

SEN. ALLEN: ...it's OK. I don't think it matters much at all. No, it was great. There were actually—actually it wasn't just the South. There were folks from the Midwest there, too. And for—saw folks from Michigan and Iowa and so forth. At any rate, it was fun. The main thing of that is great hospitality there from folks in Tennessee, and there were a good number from—from Mississippi, and it was I think a good chance for us to all get rejuvenated. And that—that's what most important. I had a great time at it and I think that for this having any meaning, it's kind of like a pick-up game.

MR. RUSSERT: A pick-up game?

SEN. ALLEN: Yeah. Since I'm...

MR. RUSSERT: Not even a scrimmage?

SEN. ALLEN: Inter—intrasquad scrimmages matter. That determines who starts. Pick-up games are just fun.

MR. RUSSERT: Let me turn to the travel each of you've undertaken. Here's Senator Allen recent travel in six months: New Hampshire, Georgia, Michigan, Nevada, Colorado, Arizona, North Carolina, Tennessee, India, China, Pakistan and Taiwan.

Your colleague, Mary Landrieu from Louisiana, had this to say, "I don't think anyone can run for president—Democrat or Republican—until they've been in the shoes of [Gulf Coast residents], walked through their neighborhoods and visited their churches." Why haven't you been down to the Gulf region?

SEN. ALLEN: We've been trying to figure it out and get a time to go. In fact, we have set it up. I, I've talked to Mary—Senator Landrieu as well as David Vitter and I'm going to be there April 7. And initially.

MR. RUSSERT: So it is important.

SEN. ALLEN: I do think it's important.

MR. RUSSERT: Senator Biden, you've been to Kansas, Kentucky, New Hampshire, Texas, California, New York, New Jersey, Italy, Iraq, Israel. Why not the Gulf region?

SEN. BIDEN: Two reasons. I—by the way, I'm set up over the recess to go down there as well. But two reasons: One, I was worried in the beginning that we look like we're all down there grandstanding. I was worried that, quite frankly, some of the folks down there I didn't know really what they were adding. And so the very beginning of that I deliberately didn't go down because I think it just, it just, it—I, I didn't go down because it didn't feel comfortable.

MR. RUSSERT: But you are now going?

SEN. BIDEN: Yes.

MR. RUSSERT: Something else happened this week, Senator Allen, in South Dakota. And this is how The New York Times reported it: "Governor Michael Rounds, the Republican Governor of South Dakota, signed into law the nation's most sweeping state abortion ban. ... The law makes it a felony to perform any abortion except in a case of a pregnant woman's life being in jeopardy." No exceptions for rape, incest, health of the mother. Would you like to see that law, the law of the United States of America?

SEN. ALLEN: Well, first of all I respect and support the right of the people in the states to pass laws that reflect their values and their desires. For the country, I think each state ought to make those decisions. Personally, I think that there should be exceptions for rape and incest because I look at the person. There is a victim of a crime, and if they so choose they ought to have that option.

MR. RUSSERT: But you would outlaw all abortion except in cases of rape, incest?

SEN. ALLEN: Oh, I don't think the federal government ought to be making such laws. I think the laws ought to be determined by the people in the states. If South Dakota wants a law like that, they can have that. If South Carolina wants a different law, that's up to South Carolina or Virginia or California.

MR. RUSSERT: And if a state said unlimited abortion on demand, you would abide by that?

SEN. ALLEN: Well, I don't agree with that approach.

MR. RUSSERT: But you said states should determine...

SEN. ALLEN: But the, but the—if a state did that—I can't imagine too many states or any state having one that allows abortion for all nine months for any reason or no reason at all. But that would be the right of the people of the states. And for those—but if a state like South Dakota wants a law like that, even though it's not exactly what I would think is appropriate, that does reflect the will of the people. This is a representative democracy and I think that's appropriate approach.

MR. RUSSERT: It would means that Roe vs. Wade would have to be overturned, which you would support?

SEN. ALLEN: I think Roe vs. Wade has been interpreted in such a way that it precludes the rights of the people to decide their laws. When I was governor, we passed the law on parental notification. I think parents ought to be involved if a girl who's 16, 17 years old...

MR. RUSSERT: So you say overturn Roe. You hope Roe is overturned.

SEN. ALLEN: Well, Roe—if you need parental notification for ear piercing or a tattoo, they certainly ought to be involved with it. And so I think Roe vs. Wade has been interpreted in such a way as to restrict the will of people. Moreover, that decision was from the early 1970s and medical science has advanced a great deal. We know a lot more and of course, unborn children have an earlier stage of development.

MR. RUSSERT: So overturn?

SEN. ALLEN: The point is, rather than arguing on a legal term, the point of the matter is the people in the states ought to be making these decisions. And if that's contrary to the dictates of Roe vs. Wade, so be it. Because the way that Roe vs. Wade has been interpreted is taking away the rights of the people in the states to make these decisions.

MR. RUSSERT: Senator Biden, what has the port controversy done to the Bush presidency?

SEN. BIDEN: It's sort of stripped away the curtain that there was any competence on, on homeland security.

I heard you on another show with Katie Couric, Tim, saying something in effect that Congress hadn't done much, either. Back in 2001, we introduced legislation for port security and rail security; 2002, 2003, 2004, 2005. It's been repeatedly spurned by the administration. Virtually nothing's been done. Their priorities are backwards, Tim. Tim, if, in fact, they spent as much money on homeland security as they do one year on Star Wars, we could fund another 13,000 police locally, another 1,000 FBI agents. We could have every container at every port inspected with gamma rays as well as with radiation. We could, in fact, secure our railroads. These guys have priorities that are backwards and they're dangerously, dangerously incompetent. And this is going to be the next place you're going to see that incompetence show.

MR. RUSSERT: Senator Allen, let me show you two polls from the Associated Press. The approval of George W. Bush, 37; disapproval 60. And should the Democrats or Republicans control Congress, people--47 percent now say Democrats; 36 percent say Republicans. You're running for reelection this year. How concerned are you about running in this particular climate, and are you proud to run as a Bush Republican?

SEN. ALLEN: I run as a common-sense, Jeffersonian conservative, trusting free people and free enterprise...

MR. RUSSERT: Why not a Bush Republican?

SEN. ALLEN: Because I've always called myself a common-sense Jeffersonian conservative since the days I had Mr. Jefferson's seat in the House of Delegates. And the people of Virginia know me, they know my record as governor of the Commonwealth, and as well as a U.S. senator. I'm, I—look, I support President Bush, I have in the past, I'm not running away from that. But I'm my own person with my own philosophy.

MR. RUSSERT: Of a hundred, a hundred United States senators, you ranked three in your support of the president. Ninety-six percent of the time, you supported George W. Bush. Are you concerned about being presented as a rubber stamp for the president?

SEN. ALLEN: Well, look at the—whatever those 96 percent are. If—obviously I agreed with whatever that position was, 96 percent of the time. Look at—maybe it's on tax cuts. I do think we ought to cut taxes on people and small businesses and capital gains and dividends. I, I do very much believe that we do need to have, for example, exploration of oil on the north slope of Alaska, so we're less dependent on foreign sources of energy. So I don't know what those specific votes are, but regardless what the president's position is, I, I obviously feel that way and voted that way.

MR. RUSSERT: Senator Biden, if the election were held today, 2006 midterm elections, what would happen?

SEN. BIDEN: I think the Democrats would clearly take back the House and I think we have a clear shot at the Senate.

MR. RUSSERT: In 2008, you're up for reelection. Will you run for reelection to the Senate, or run for president?

SEN. BIDEN: I'm going to try to get the nomination for president, and I think that'll be decided by the time the New Hampshire primary's over, as a practical matter, maybe South Carolina, and I'll make a decision then.

MR. RUSSERT: Then you could fall back and run for the Senate.

SEN. BIDEN: Yes, I could. I don't know what I'll do, but yes, I could. I mean look, as you know, in politics that's a lifetime. It's about two and a half years, and that's a lifetime. It's actually probably three lifetimes. And so—but my intention now is to see if I can garner enough support to get the Democratic nomination. If I can I stay in the race until the end of this. If it turns out that I can't raise the money or I can't get any support, then you know, then I make a decision about my Senate career.

MR. RUSSERT: Senator Allen, you get reelected, there's a good chance you'll seek the presidency?

SEN. ALLEN: I'll look at it after that. No matter what I'm doing, I'm going to keep advocating these ideas that I think are important, such as securing our freedom, making this country a land of opportunity for all. We need to get much more competitive for investment and jobs and education, particularly for science and engineering and getting more women, more Latinos, more African-Americans interested. And I also think it's important that we preserve the values of our country. So no matter where I am, I'm going to keep advocating those ideas because I think it's important to make sure this country's a better place for us to live and learn and work and raise our families.

MR. RUSSERT: Candidate A, Allen, Candidate B, Biden, thank you very much for joining us and sharing your views.

SEN. BIDEN: Thank you very much.

MR. RUSSERT: Coming next: the inside story of the invasion and occupation of Iraq, chronicled in a new book "Cobra II." What went right, what went wrong with Iraq? We'll ask the authors, Michael Gordon of The New York Times, and retired Marine Corps Lieutenant General Bernard Trainor. The authors in their first television interview are right here next on MEET THE PRESS.

(Announcements)

MR. RUSSERT: And we'll go inside the invasion and occupation of Iraq.

Co-authors of a new book, "Cobra II," after this station break.

(Announcements)

MR. RUSSERT: And we're back.

Michael Gordon, General Trainor, welcome, both. The new book, "Cobra II." And this is what you write: "The violent chaos that followed Saddam's defeat was not a matter of not having a plan but of adhering too rigidly to the wrong one. ... President Bush and his team committed five grievous errors." And we'll try to go through them.

The first, you write: "They underestimated their opponent and failed to understand the welter of ethnic groups and tribes that is Iraq." A sense of misreading the culture. One of the examples you pointed out, and this is quite striking, "On May 19, [2003]," Secretary of Defense "Rumsfeld himself sent a classified set of planning instructions to [Paul] Bremer," who was on the ground in Iraq as our ranking American, "on how to establish the New Iraqi Corps. 'The NIC will contribute to setting the conditions necessary for a stable, self-sustaining Iraq, with a viable governing body.' ... For all the talk of building Iraqi pride, the name of the new force betrayed a certain cultural insensitivity: NIC, when pronounced, sounded very much like the 'F...' word in Arabic. It was a graphic demonstration of just how little the liberators understood the nation they occupied." How did we misread this so much?

MR. MICHAEL GORDON: Well, Tim, in my view, basically, the American security establishment essentially fought the last war. And by that, I mean their view was that the Republican Guard was the main enemy, you defeat them, you take Baghdad, cut off the head of the snake, so to speak, and you—victory is in hand. And what they really failed to see is that, in addition to the Republican Guard, there was a whole 'nother security force out there, the Fedayeen. And they had a very simplistic view, that if you take the capital of the country, you've basically achieved your victory. You know, they called it the center of gravity. The center of gravity really wasn't a physical place, like the capital of Iraq, it was the Sunni Triangle and really the Iraqi population.

MR. RUSSERT: But what about this notion that we'd be greeted as liberators, that people would welcome us, that we understood their culture, that Shiites and Sunnis intermarried and there would not be this kind of sectarian violence?

MR. GORDON: Well, that was an assumption that they made, and you know there were—I was there as an imbedded reporter—there were places where American forces were indeed welcomed. We shouldn't, you know, forget that. But this was a core assumption, because what they didn't want to do was the heavy lifting of nation-building. They looked askance at the Clinton administration and the efforts in Bosnia. They decided they weren't going to do that, so their concept, this was going to be a turnkey operation. The U.S. liberates the country, we hand it over to Iraqis that we support and who support us, they run the country, and then the allies are brought in to essentially pacify it. The U.S. forces were to be reduced, according to a scheme General Franks had in mind, to like a division-plus, maybe 30,000 by the end of the summer of 2003.

MR. RUSSERT: So in April of 2003, General Franks was planning to remove all troops from Iraq by September, other than 30,000?

MR. GORDON: On April 16, 2003, General Franks flew to Baghdad—I was there at the time—and he delivered guidance to his commanders to be prepared—not necessarily to leave, but be, to be prepared to reduce forces down to a division-plus by September, conditions permitting, but it was his assumption and hope that the conditions would allow that.

MR. RUSSERT: General Trainor, you also write, "They did not bring the right tools to the fight and put too much confidence in technology." We had all, and have been discussing General Shinseki, the Army chief of staff who was recommending hundreds of thousands of troops for years in order to stabilize, occupy Iraq, but in the book, you write that there were several other people, other studies, also advocating supporting that same notion.

GEN. BERNARD TRAINOR, (Ret.): Yeah, Tim. It was—you have to come back to kind of the philosophical aspect of Rumsfeld, who was the secretary of defense. He's a businessman and he wanted to do things efficiently at the smallest possible price, and in terms of the military the smallest possible numbers elitely prepared with all this high technology. The military, of course, tends to be conservative, and if one is good, three is better. So when they were looking at the plans and going back to the contingency plans that predated the war itself, they talked in terms of about 385,000 people and not so much for, for taking out the Iraqi Army, but for, for governing, taking over the occupation of Iraq. Well, this was poo-pooed by the administration because they didn't feel that there was—those numbers were necessary for victory, and they were correct. They didn't need those for the victory, but they did need it for the post-victory phase, which was what the military was insisting upon. But Rumsfeld, as Michael has already indicated, and the administration, had poo-pooed the idea of a long occupation, that we win the war and we get out and the Iraqis govern themselves and the international community comes in to help. So, therefore, they had a small number of people, enough to win the war, but not enough to win the peace.

MR. RUSSERT: As a military man, should the military have pushed back harder on the secretary of defense?

GEN. TRAINOR: Secretary Rumsfeld is a tough hombre to deal with, and he has a management technique that wears you down. Constantly asks questions and diverts you from the position that you're trying to establish by attacking you from a different direction. Just wears you down. Having said that, I'd say that the U.S. military did not shine in, in pushing back against Rumsfeld more effectively. They, in effect, gave up and did everything that he pretty, pretty much wanted to do.

MR. RUSSERT: Let me read from the Chicago Tribune back in March of 2003:

"Ground troops entered southern Iraq, sweeping through a desert landscape...as the military campaign to oust Saddam Hussein began its second day. ... U.S. officials said they were confident that Hussein and possibly his sons were inside the suburban Baghdad compound struck by the initial salvo against Iraq, but did not know if they had been injured or killed. ... Asked if the man who appeared on Iraqi television after the initial strike was Hussein or a double, Secretary Rumsfeld replied: 'There's debate about that.'"

Now this was the "shock and awe." And this is Mr. Hussein, with his glasses on, rushing to get to the air to talk to the Iraqi people, telling them he was alive. He was supposedly staying at a place called Dora Farms, which we had been tipped, we bombed it, and yet you, you write that's there's some indication, evidence, that Saddam Hussein had not been there for years. What happened?

MR. GORDON: Well, this is a very striking moment because this is how the war begins and it was really a bold gamble, I think, by the administration. George Tenet, the CIA director, came to the president. He said the CIA had absolutely firm intelligence that Saddam Hussein was at Dora Farms and there was supposedly a bunker there, it's near Baghdad. And the president had to make a decision whether to strike. And this was right as the 48-hour ultimatum expired. Two F117s were sent to bomb it at some risk to themselves. They couldn't guarantee the pilots could get back. They bombed the exact target that they were given. They hit it squarely. Almost 40 cruise missiles came in afterwards. They obliterated the place. And afterwards, this figure came on television wearing glasses and people said, "Well, surely he must be a double, an imposter. What is this?"

And what we now know are two things: one, from—they've captured the presidential secretary to Saddam Hussein and debriefed him. Turns out Saddam was nowhere near this location when this occurred and, according to presidential secretary, hadn't been there in years. He went to his house. He wanted to film a speech to the nation. There was no TelePrompTer or printer to put up cue cards in this Iraqi TV operation, so he, he wrote the speech by hand and he had to wear his glasses to read it. It was Saddam. And then US forces, by the way, Tim, later went to that very site that had been bombed to see what happened at that bunker. There was no bunker at all. Not only was Saddam not there, there was no underground bunker there. These pilots risked their lives to bomb a target that simply didn't exist.

MR. RUSSERT: General Trainor, we were wrong about weapons of mass destruction, we were wrong about gauging the level of insurgency, whether or not there would be sectarian violence, whether or not Saddam was in that bunker that didn't exist. Why these problems with intelligence, this magnitude?

GEN. TRAINOR: Well, there's no question that the whole war was—and the build-up to the war was flawed by imperfect intelligence, the intelligence community. One of the reasons was, that, you know, the intelligence community was stretched rather, rather thin throughout the world. And there was a lot of focus, not on Iraq, because Iraq was, to a certain degree, from the intelligence standpoint, contained, but looking at Iran, looking at North Korea, we didn't have experts. We had experts on Afghanistan because we had agents in Afghanistan ever since the Soviet occupation. We didn't have the same sort of thing in, in Iraq, and they were doing imperfect intelligence.

But there was also mindset. If you have—if you are convinced that Iraq is a threat, now you may not going to cook the books to come to the conclusions that you have to invade Iraq, but you are going to look for evidence that is going to support you, your preconceptions. And I think that's

what the administration was guilty of. And in the process they misread. I mean, the assumptions that were made on the basis of, of their, their intelligence were almost consistently wrong, and one of the problems with it, they never adjusted to it, never realized it. The people in the field did, but the, the hierarchy, at the secretary of defense level and even at General Franks' level, they totally misread the effects, the, the events that were taking place on the ground.

MR. RUSSERT: In terms of a midcourse correction, and this is particularly

striking in your book, Michael, "They failed to adapt to developments on the

ground and remained wedded to their prewar analysis even after Iraqis showed

their penchant for guerrilla tactics in the first days of the war." And you go

on to write, "[CENTCOM Commander] Tommy Franks never acknowledged the enemy he

faced, nor did he comprehend the nature of the war he was directing. He denigrated the Fedayeen as little more than a speed bump on the way to Baghdad and never appreciated their resilience and determination." And then you write, "They presided over a system in which differing military and political perspectives were discouraged." And you refer to this interview given by General William Wallace. "The removal of the Iraqi government is likely to take longer than originally thought, Lieutenant General William Wallace, the commander of the Army forces in the Persian Gulf, said. 'The enemy we're fighting is a bit different than the one we war-gamed against, because of these paramilitary forces,' General Wallace said. 'We knew they were here, we did not know how they would fight.'"

Fair enough. But you write that General Wallace was almost removed from his position because of speaking out with that candid analysis. True?

MR. GORDON: That's true and it's in the book, and here's a plug for The New York Times. It's in the next edition of, of the, of The New York Times and the series we're doing on it.

But what happened is, granted the intelligence was wrong. That's not the fault of the military. But in the first few weeks of the war, in Nasiriyah, in Samawa, in An Najaf, in all of these towns in southern Iraq, there were fierce battles with a paramilitary, irregular enemy that didn't wear uniforms, that fought with RPGs in Toyota pickup trucks. And the field commanders, General Wallace, General Conway from the Marines, General McKiernan, the land war commander, they all agreed that something had to be done, you ought to pause the march to Baghdad, turn to these paramilitary foes and defeat them. But back at Central Command, General Franks was very impatient with them, he wanted to press the march to Baghdad. I don't think Secretary Rumsfeld ever really appreciated the significance of the Fedayeen.

And so the larger point here is that there was a sense in the first few weeks of the war that we were fighting an entirely different kind of enemy, an irregular enemy, a guerrilla—with guerrilla-style tactics, an enemy that wasn't going to go away after Baghdad falled, that didn't depend on

explicit orders from Saddam Hussein. And it was a Marine intelligence officer who had a prescient analysis he sent through the classified channels saying that these, these Fedayeen could indeed become involved in an insurgency. This is in the first few weeks of the war. General Franks, Secretary Rumsfeld never internalized this message, they stuck with the plan. Not only, not only did they send more troops, they actually stopped the flow of reinforcements by not sending the First Cavalry Division.

MR. RUSSERT: General Trainor, almost three years ago the president landed on an aircraft carrier, this was May 1st of 2003, and he offered these comments to our country and the world. Let's listen.

(Videotape, May 1, 2003):

PRES. GEORGE W. BUSH: My fellow Americans, major combat operations in Iraq have ended. In the battle of Iraq, the United States and our allies have prevailed.

(End videotape)

MR. RUSSERT: That was nearly three years ago. What do we new—do now as a country? You're a military man, you understand that you can't just send an army to war without the support of its people. What do we do?

GEN. TRAINOR: Well, this war has, has changed in its complexion on, on a number of occasions. Number one, it was the battle that the president talked about, taking Baghdad and defeating the Iraqi regular army and Republican Guard. That phase—that was just one round in, in a 15-round bout. Then the next thing, of course, you see the, the rise of the insurgency, and we have adjusted to that, and now seem—the, the, the target now does no longer seem to be the, the American forces, it seems to be the Iraqi governance. And then that's another round. And now we're moving into another phase which people, of course, call it possible civil war, but at least it's a sectarian war between the Sunnis and, and the Shias. So each time we have seen a, a different complexion to this particular war.

In this, this particular junction, the Americans are almost like a, a policeman on the beat getting involved in a domestic dispute, the last thing a policeman wants to do. And hopefully that they will be able to have some conciliatory group bringing the—a sense of national unity to Iraq with us standing in the background so they solve their own problems.

From the outset, from the day that Baghdad fell, what we were facing was a power struggle as to who was going to run Iraq at the end of the day. And that battle goes on. And in that sense, the Americans are irrelevant; we're in there, we just can't move—leave precipitously. But we should look and accept the fact that this is going to require an Iraqi solution to an Iraqi and an Arab problem.

MR. RUSSERT: There is a paragraph, I think, that pretty much summarizes what you have found in your book, Michael Gordon, and I'll read it. "There's a direct link between the way the Iraq War was planned and the bitter insurgency the American-led coalition subsequently

confronted. The ambitious plans that the president announced to transform American defense proved at to be at odds with his bold plan to transform a region." Explain.

MR. GORDON: Well, I think that, that, from the beginning, for, I think, for the administration, this is really a lot—about a lot more than weapons of mass destruction. They wanted to take Iraq, which was always the red square, the enemy square, and make it a blue square. And really by—through the invasion of Iraq, through the installation of a friendly government—a government friendly to the United States, they we're going to teach the Iranians an object lesson, the Syrians an object lesson, they we're going to change the, the kind of strategic kind of calculus in the Middle East. This was always part of their thinking. That was the transformational foreign policy. And the tragedy, really, is that the resources committed to this were inadequate for that task. They simply didn't have enough forces for the peacekeeping. Enough to take Baghdad, but not to secure the country. They didn't make the commitment to nation-building that would be necessary to win over the Iraqi people.

And one thing, when I was in, in Iraq in that long, hot summer of 2003, almost all the senior military officers then thought there was a window of opportunity; yes, there would be resistance, but not this kind of virulent insurgency. There was an opportunity to do things better, and to direct Iraq on a somewhat better course. It would have been more difficult the administration—than the administration thought, but it need not have been this difficult.

MR. RUSSERT: What are your friends at the Pentagon telling you?

GEN. TRAINOR: Well, obviously, they're frustrated. Nobody anticipated this thing was going to go on this long and take this, this characteristic. And...

MR. RUSSERT: How does it end?

GEN. TRAINOR: How does it end? Oh, I wish I'd be able to predict that, Tim, but, but I can't. I—it doesn't necessarily have to end up in civil war. I think after the, the explosion on mosque a couple of weeks ago, and the, the trouble that emerged from that, I think a lot of the Iraqi people on both Shia and Sunni and Kurds saw a vision of the future, and a future that they didn't want. And hopefully that's the sort of thing that would lead to some sort of a national conciliatory government, and avoid a civil war. But whatever happens, the United States at this particular point is somewhat helpless. There's not much that we can possibly do. This is an Iraqi problem, which will require an Iraqi solution.

MR. RUSSERT: General Bernard Trainor, Michael Gordon, thank you for your writing and your research and "Cobra II."

And we'll be right back.

(Announcements)

MR. RUSSERT: For more information on today's guests, and a link to The New York Times book excerpt from "Cobra II," logon to the viewer resources page of our Web site: mtp.msnbc.com.

That's all for today. We'll be back next week. If it's Sunday, it's MEET THE PRESS. Go, you Boston College Eagles.

ABC – THIS WEEK

STEPHANOPOULOS: Good morning, everyone. President Bush is coming off a week that one top GOP strategist called the worst of his presidency. And on Friday, our first headliner said it was time to get tough with the president.

Senator Russ Feingold, welcome back to This Week.

FEINGOLD: Good morning, George.

STEPHANOPOULOS: Tomorrow in the Senate, you're going to introduce a resolution to censure George W. Bush. Let me show that to our viewers.

It says, Resolved that the United States Senate does hereby censure George W. Bush, president of the United States, and does condemn his unlawful authorization of wiretaps of Americans.

That is a big step. Why are you taking it now?

FEINGOLD: It's an unusual step. It's a big step, but what the president did by consciously and intentionally violating the Constitution and laws of this country with this illegal wiretapping, has to be answered.

There can be debate about whether the law should be changed. There can be debate about how best to fight terrorism. We all believe that there should be wiretapping in appropriate cases -- but the idea that the president can just make up a law, in violation of his oath of office, has to be answered .

STEPHANOPOULOS: But as you know, the president says he was acting on his inherent authority under the Constitution -- and even your resolution acknowledges that no federal court has ruled that a president does not have that authority as commander in chief.

So aren't you jumping the gun?

FEINGOLD: Not at all. You know, we've had a chance here for three months to look at whether there's any legal basis for this -- and they're using shifting legal justifications.

First, they try to argue that, somehow under the Foreign Intelligence Surveillance Act, they can do this. It's pretty clear that they can't.

Then there's the argument that somehow the military authorization for Afghanistan allowed this. This has basically been laughed out of the room in the Congress.

So the last resort is to somehow say that the president has inherent authority to ignore the law of the United States of America.

STEPHANOPOULOS: Inherent authority...

FEINGOLD: And that has a consequence that the president could even order the assassination of American citizens if that's the law. So there is no sort of independent, inherent authority that allows the president to override the laws passed by the Congress of the United States.

STEPHANOPOULOS: So if you're so convinced -- if you're so convinced -- that the president has broken the law, why not file an article of impeachment?

FEINGOLD: Well, you know, that's an option that we could look at, if somebody thought that was a really good idea.

There are other options out there.

In fact, this conduct is right in the strike zone. Even though the founding fathers, they didn't have strike zones; they didn't have baseball -- but this is right in the strike zone of the concept of high crimes and misdemeanors.

STEPHANOPOULOS: So are you pulling your punch?

FEINGOLD: We have to consider: Is it best for the country to start impeachment proceedings? Is it best for the country to consider removing the president from office?

We're not mandated to impeach a president who has broken the law, but I think we are required to do our job to live up to our oath of office and say, Wait a minute, there has to be -- at least as a first step -- some accountability.

STEPHANOPOULOS: But...

FEINGOLD: Proper accountability is a censuring of the president -- saying: Mr. President, acknowledge that you broke the law, return to the law, return to our system of government.

That's what I think we should do.

STEPHANOPOULOS: But censure appears nowhere in the Constitution. The Constitution spells out the impeachment proceedings quite clearly -- and you just said yourself, it's right in the strike zone of high crimes and misdemeanor.

Let me ask it again: Why not impeachment?

FEINGOLD: Well, censure isn't prohibited by the Constitution...

STEPHANOPOULOS: It's not prohibited, but it's not talked about.

FEINGOLD: Well, in fact, there have been six or seven instances that I have here where presidents have been attempted to be censured -- and Andrew Jackson was censured.

STEPHANOPOULOS: But the only one censured.

FEINGOLD: So it certainly is not prohibited. And what we have to do here is do what's right for the country. Our number one priority is fighting terrorism. The president is right about this.

His intentions here may have been honorable. He may have been just trying to do everything he could to protect the country.

But that's not our system of government. He has a right to do everything he can to protect our country within our laws. We have to respond in a way that's responsible.

I'm not ruling out other actions.

STEPHANOPOULOS: So you might go for impeachment down the road?

FEINGOLD: I think we have to look at all the options. But I think this one could help us resolve this.

The problem here is that we're trying to just gloss this over. Almost every member of Congress is saying, Well, yes, he broke the law -- but let's see if we can fix the law.

Well, if we have that kind of a system, if we don't answer the president now with a censure, then we're not going to get back on track.

We're not going to get back to a system where the Congress makes the law and the president signs the law. He doesn't get the laws -- to make up the laws by himself.

STEPHANOPOULOS: So, have any other members of Congress or senators signed on to your resolution?

FEINGOLD: I'm announcing it right now, George, so we'll talk to them about it...

STEPHANOPOULOS: You haven't talked to any of them about it?

FEINGOLD: No. I'm announcing it right now.

STEPHANOPOULOS: And what do you expect? I mean, do you expect this is something you're going to push for and demand a vote on and make sure everyone goes on record?

FEINGOLD: You know, I think this is a great way to resolve the problem, at least initially, on a bipartisan basis. Many Republican senators have said, wait a minute, I didn't vote when I voted for the military authorization for any illegal wiretapping.

This is an option for members of both parties, without getting into impeachment, without getting into some of the other things, to say we have to answer. We have to stand up for our constitutional form of government. This gives both parties a chance to say, Mr. President, you made a mistake here. We're going to pass this censure.

Hopefully, he would apologize for having done this. Say that he did it with good intentions, and then let's get back to work together to resolve the problems of this country, especially the fight against terrorism. It's a reasonable approach. It's not a harsh approach, and it's one that I think should lead to bipartisan support.

STEPHANOPOULOS: I'm not sure the president would not see it as not a harsh approach, and I'm not sure he's going to come out and apologize. But -- in fact, I'm pretty sure he probably will not do that. But...

FEINGOLD: What I'm interested in is my colleagues acknowledging that we as a Congress have to stand up to a president who acts as if the Bill of Rights and the Constitution were repealed on September 11. We didn't enact martial law on September 11. We still have a constitutional form of government, and if the Congress of the United States does not stand up for that authority at this point, it will be an historic failure of our system of government.

STEPHANOPOULOS: You were the only senator to vote against the Patriot Act. Do you think you might be the only person to be for this right now?

FEINGOLD: No. I think others will for it, and I'm no longer the only senator to vote against the Patriot Act. Even though I was the one four years ago, now we've increased it tenfold. There are now ten senators that voted against the Patriot Act.

STEPHANOPOULOS: Let's talk about the politics of this. Are you concerned at all that this might backfire? The Republicans in the Senate and the House have been pulling away from President bush. Do you think this might unify them behind him?

FEINGOLD: This is the tough question for us, especially the Democratic Party. We have a choice here. We can try to sort of gloss this over. In other words, go out like a lamb in March and say, OK, the president broke the law, but we're going to get in political trouble if we talk about that.

That is not the way for Democrats to talk. Democrats have to be as tough as they can on national security. This whole Dubai thing has indicated that. But we also have to be the party that stands up for the rule of law and for protecting the civil liberties of innocent Americans. We are the party, if we do it right, that can do both of those things, and I think that's the right message for the American people.

I agree with you, though. There is a possibility -- I've even heard some Democratic potential presidential candidates saying, you know, the president might have broken the law, but we shouldn't touch that. We have an absolute obligation as members of Congress and public servants to stand up for our system of government. And that overrides any political considerations that might exist.

STEPHANOPOULOS: Do you think President Clinton should have been censured?

FEINGOLD: You know, that was an option there that I think was not a bad idea. I understand that people were determined in the House to go through the whole impeachment process, but this conduct here is so much more serious, clearly, than anything Bill Clinton ever did that it can't even be compared.

This is an open and shut case for the censure of the president. This is the foundation of our nation. It's the whole reason that we created our system of government is that the president can't take authority and violate the laws of the country.

Bill Clinton got into a bad situation and he didn't handle it very well, but this is a conscious and repeated attempt where the president continues to say that what he did was proper, and has repeatedly misled the public.

STEPHANOPOULOS: But even though you voted against the articles of impeachment for President Clinton, you did -- in fact, you were the only Democrat to vote against dismissing the charges before the trial went forward. Do you stand by that vote today?

FEINGOLD: Oh, absolutely. And I hope this points out that this is certainly not a partisan attempt on my part. I was the only senator to call for independent counsel on the campaign finance issues under President Clinton. I was the only senator on the Democratic side to say, let's hear the evidence.

And I'll tell you something, George. When I saw the evidence, the case against the president was pretty weak. I concluded that there was not a clear case that he had obstructed justice. This president, however, has openly, and almost thumbing his nose at the American people and the Congress, said, I can make up this law. I'm here to protect the American people.

Well, of course, he's there to protect the American people, but not against the laws and our system of government. That's a different kind of system of government, and it's inappropriate, and the president has got to be condemned for having done it.

STEPHANOPOULOS: And finally on this issue, you are committed, then, not only to introducing it but to putting it forward for a vote and putting all senators on record.

FEINGOLD: Oh, I would very much like to have a vote on this censure resolution. I would hope there would be bipartisan support and a recognition that this is a way, without going too far, without sort of causing a constitutional crisis, to say, Mr. President, this was a mistake. This is

how we feel. This is a censure. And we hope the president would acknowledge it in an appropriate way.

STEPHANOPOULOS: Before we go, you mentioned the Dubai ports deal. It seemed to go down this week. The company said it was going to transfer its assets. Are you now prepared to join other Democrats, like Senator Hillary Clinton, and pass legislation that would prohibit any foreign entities from managing American ports?

FEINGOLD: I'm willing to look at legislation like that. I think it has to be a reasonable approach. I don't think it should be an extremely harsh approach. But I think it's something...

STEPHANOPOULOS: Is the Hillary approach reasonable?

FEINGOLD: I haven't had a chance to review it in enough detail to say I'm for it or against it, but I'll give it a fair look.

I'm extremely concerned that we have a good image throughout the world. I do support stopping this Dubai deal, but I hear the president talking about not wanting to alienate the Islamic world, and I find that somewhat ironic in light of the fact that his conduct in taking us into Iraq war was the most damaging thing to our reputation in the Islamic world of anything that's been done.

But I will want to take a rational, careful look at any legislation that is going to regulate this.

But homeland security, port security is a great example of where we must do a better job, and this administration is not handling the war against terrorism well at all.

STEPHANOPOULOS: Are you really positive that this is going to make any difference in our national security? As the administration pointed out again and again and again, the security at our ports is going to be done by Customs, it's going to be done by the Coast Guard. Wasn't this just the Democrats and some Republicans playing politics?

FEINGOLD: You know, I'm not certain it's going to make a difference, but you know, we have to err on the side of safety when it comes to this kind of an issue. We have to make sure that we do everything we can, and that means not just sort of opening up every kind of port deal to the free market. It would be nice if we could do that, but it's too dangerous. So we do have to consider our national security in these situations, and I think it's a good point of caution that the president I think would even admit was not the finest hour of his administration.

STEPHANOPOULOS: Finally before you go, last time you were on the show, you said the chances of you running for president were better than 100:1. Now, how much closer are they to certain?

FEINGOLD: You know, I'm so busy trying to deal with the problems that this administration is causing with not getting the fight against terrorism right and not handling the situations that are relevant to the American people that I haven't really had a chance to figure that out. I'm going to worry about that after the 2006 election.

STEPHANOPOULOS: So no decision until 2007?

FEINGOLD: Probably not. This is -- I'm focused on this kind of concern. I am frankly -- if there was a way that I could get this president to say that he had violated the law, to reverse course on this Iraq mess and to stop promoting the policies that he has in the USA Patriot Act, I'd be happy not to run for president. I want to change these laws. I want to make sure that we're protecting the American people and protecting our rights. That's what matters to me most.

STEPHANOPOULOS: Senator Feingold, thanks very much.

FEINGOLD: Thank you.

STEPHANOPOULOS: Senate Majority Leader Bill Frist is next. And later, Art Buchwald, savoring and sharing his final days.

(BEGIN VIDEO CLIP)

BUCHWALD: What's really good (ph) and really crazy is I am hearing from everybody. I am hearing from girlfriends that I didn't know I even had.

(COMMERCIAL BREAK)

STEPHANOPOULOS: And we're back now with the Senate Majority Leader and the winner of the first straw poll of 2008, Senator Bill Frist.

Welcome, Senator.

FRIST: George, good to be with you. Good to be with you, George.

STEPHANOPOULOS: You heard Senator Feingold there. He wants Democrats and Republicans to come together on the censure resolution he's going to introduce tomorrow.

I can't imagine you're going to support that.

FRIST: George, what was interesting in listening to my good friend, Russ, is that he mentioned protecting the American people only one time.

And although you went to politics a little bit later, I think it's a crazy political move.

And I think it, in part, is a political move because here we are, the Republican Party, the leadership in the Congress, supporting the president of the United States as commander in chief who is out there fighting Al Qaida and the Taliban and Osama bin Laden and the people who have sworn -- have sworn -- to destroy Western civilization and all the families listening to us; and they're out now attacking -- at least today through this proposed censure vote -- out attacking our commander in chief.

It doesn't make sense.

STEPHANOPOULOS: So you're against it. Are you going to allow it to come up for a vote?

FRIST: Well, George, this is the first I've heard about it. I really am surprised about it, because Russ is just wrong. He is flat wrong. He is dead wrong.

And as I was listening to it, I was hoping deep inside that the leadership in Iran and other people who really have the U.S. not in their best interests are not listening because of the terrible -- the terrible -- signal it sends.

STEPHANOPOULOS: So you're saying that censure resolution actually weakens America abroad?

FRIST: Yes. Well, I think it does because we are right now at a war, in an unprecedented war, where we do have people who really want to take us down. And we think back to 9/11 and that war on terror is out there.

So the signal that it sends that there is in any way a lack of support for our commander in chief who is leading us with a bold vision in a way that we know is making our homeland safer is wrong. And it sends a perception around the world.

And, again, that's why I'm saying -- as leader at least of the Republican side of this equation -- that it's wrong, because leadership around the world of our sworn enemies are going to say, Well, now we have a little crack there.

There is no crack. The American people are solidly behind this president in conducting this war on terror.

STEPHANOPOULOS: Well, Senator, you say that -- but your own party has been running away from the president on several issues, most recently this Dubai Ports deal. And one of your colleagues, Senator Norm Coleman, told the New York Times that it's time for a White House shake-up.

Do you agree with that?

FRIST: Yes. But before you move to that, let's come back to that.

This proposal, at least as I just heard it, was on international terrorist wiretapping -- which affects the safety and security of the American people.

The American people feel vulnerable now. The people listening to us now feel this insecurity -- and we're seeing it a little in the Dubai Port deal, as well -- and this censure proposal really goes at the heart of a program that is lawful, that is constitutional and it is protecting the American people.

And that's the bad signal that it sends.

STEPHANOPOULOS: Well, let's go to that Dubai Ports deal, because you broke with President Bush early on that. You said the deal raises serious questions about homeland security.

But about a week after that, you seemed to change your tune. And I want to show our viewers something written in the Lexington Herald- Leader on February 25th:

Frist said last night that, after recent briefings, he is now comfortable with an Arab-owned company running port security for six American cities, and backed off a pledge to pass legislation to stop the deal.

'My comfort level is good. The Senate is behind the president 100 percent. We believe the decision, in all likelihood, is absolutely the right one'.

So was this deal bad for national security or not?

FRIST: You know, we don't know yet -- and that's the problem. And that is: the review process, this Committee on Foreign Investment, is a broken process -- the process by which we review these foreign investments is a process that needs to be fixed.

We will fix it in the United States Senate. It lacks full transparency. It does not have any congressional oversight.

And the fact that the law is written that way today means that I don't know -- United States senators don't know because we don't have access to the information of the deal.

Thus what I did -- I said, to the administration, let's go back, let's re-review, let's make available the information and data that you put forward and then let's make a decision.

Let's take a 45-day pause, do the investigation so that we can have the information to share with the American people. And that's why I achieved, and that's why it's not necessary to pass legislation to stall the deal -- or it wasn't at the time. Let's give it those 45 days.

All of it has changed as of last Friday in that the companies said that they are going to sever these six ports out of the deal. It does not yet fix the process itself, the transparency of this -- this is called CFIUS, but it's the Committee on Foreign Investment.

We need to have better oversight there, congressional oversight. I would argue we need to have stronger intelligence input into that committee. And also, we need to go back and fix our port security. We are not as secure in our ports as we'd like.

STEPHANOPOULOS: Excuse me, sir. You said that the company announced the deal -- they would transfer their assets.

And everybody is assuming the deal is dead. But they also said in their statement that this was on the understanding that the company would not suffer economic loss. And a lot of people are looking at that and wondering if that's some legal room to get out of killing the deal if they can't sell it at the price they want.

Are you committed -- is that your understanding, first of all, and are you committed to killing the deal no matter what?

FRIST: No, well, I think, George, you're right in the sense that we don't know what the outcome will be. We have their press statement that said what the company intends to do.

And we have to wait and see if they're going to do it. I would still encourage the CFIUS process to stay under way in the event they don't, so that we, in the event it doesn't work out, it's not a total separation, they can't find a buyer, that we can act and act accordingly.

And I haven't taken legislation off the table. But the fact that they've say that they're taking it to sever themselves completely -- it means we don't have to go to the United States Congress and, again, vote. At least it doesn't now.

Let's continue that investigation. If they don't sever it -- and then we can wait and see.

STEPHANOPOULOS: But that's what I'm asking, though. If they can't find a buyer, will you vote to kill the deal?

FRIST: Well, it depends on the outcome of the investigation. If everything that the president, the administration has said, and that is that there is absolutely no threatening or jeopardy to our security and safety of the American people and they tell us and they prove that to our satisfaction and we go to the American people and they understand, I don't see how the deal would have to be canceled.

But we don't have that information yet because that process is broken. And it's a process that we will fix.

STEPHANOPOULOS: Well, I understand. I'm surprised here, Senator. You're saying it's still possible that Dubai Ports World will end up managing six American ports.

FRIST: Well, what I'm saying, under your hypothetical, is that they don't have a buyer and they can't sell it. I'm not agreeing with that presumption at all.

All I know is that right now, they said they are going to sell; they're looking for a buyer. That's what I expect them to do.

And if that's what happened to me, the deal is over with. There is no issue except that we need to fix the process that caused it in the first place, number one, and, number two, we need to tighten up our port security.

STEPHANOPOULOS: This week, Governor Mike Rounds of South Dakota signed into a law a ban in his state on all abortions except when a woman's life was in danger, no exceptions for rape, no exceptions for incest.

I want to show our viewers what your fellow prospects for 2008 are saying about that bill.

Senator George Allen says he would not sign it. Senator John McCain, Governor Mitt Romney, Governor Mike Huckabee, Senator Sam Brownback all said say they would sign that bill. What would you do?

FRIST: Well, you know, I made it very clear from day one when I first really started making public statements about my personal views that I am pro-life, that I am opposed to abortion except in exceptions, rare exceptions of rape and of incest and of life of the mother, that there are too many abortions in this country today.

I'm opposed to abortion. I'm not -- the governor myself, didn't have to vote on it, but if I ever did have to vote on a situation like that, it would be around that feeling, opposition to abortion with those exceptions.

STEPHANOPOULOS: But with those exceptions, so you would not sign the South Dakota ban?

FRIST: Well, again, I'm not going to put myself in that situation. I can tell you what my feelings are, my beliefs are and my philosophy is about it. And that's how I vote and vote accordingly. I am pro-life and I have a 100 percent pro-life voting record. And I would vote accordingly.

STEPHANOPOULOS: You did have this win yesterday in the straw poll. I guess that was expected because it is your home state of Tennessee. But I was wondering, were you surprised that Governor Romney, a northerner from Massachusetts, came in second, beat out Senator Allen, beat out Senator McCain, Governor Huckabee?

FRIST: Well, I don't know if I'm surprised. Mitt Romney and I are very close friends. Everybody on that list, we're all close friends. Let me say, I wouldn't make too much over the poll.

I know a lot are trying to analyze and reanalyze and all. It really is a reflection of the energy, enthusiasm that 1,600 people came together in Memphis from 26 states, actually over 30 states but 26 with delegates, around those core principles of limited government and low taxes, a more prosperous America with a strong military and individual responsibility.

What was interesting, which I should mention, is that every time President Bush's name was mentioned here, because you mentioned some fracturing in the future, the round of applause was unbelievable, standing applause each and every time that President Bush and his leadership was mentioned here.

STEPHANOPOULOS: Finally, sir, immigration is scheduled to come before the Senate in the next couple of weeks.

Senator Allen is against a guest worker program. Senator McCain, President Bush are for it.

Again, this is something you haven't taken a position on. Are you for a guest worker program or against it?

FRIST: Well, George, let me tell you what we're going to do. And it's going be about 10 days from now -- no, about 12 days from now. We're going to go to the floor of the United States Senate, and we're going to stress border security, enforcement first. We're a nation of immigrants, and immigrants have made this nation strong.

At the same time, we're a nation of rule of law, and we've not been enforcing that rule of law. We're going to focus on border security. We're going to tighten our borders. Secondly, we're going to move to interior enforcement. What happens when immigrants illegally come to Tennessee or to Ohio or to Michigan? What do we do with them? How do we enforce that interior, addressing issues surrounding employers, where we actually send these illegal immigrants back to.

And then thirdly, we're going to come to the question of more comprehensive immigration reform, guest worker immigration reform. And we will take that to the floor. We will be voting on it. I will end up at the end of the day as we go through this debate making a decision of exactly how far we need to go on a guest worker program. But we will have a guest worker program of some sort, I predict, by the time we finish on the Senate floor.

STEPHANOPOULOS: And you will vote for it?

FRIST: It depends on what the nature of it is. I'm against amnesty. I've made that very clear. On the other hand, I understand that there are many, many workers who come here legally, who need to continue to work legally. I want to maximize the number of legal workers that we can -- that can come from other countries. And we need to clearly improve their documentation to see if they're legal or illegal. If they're here illegally, they need to be sent back home.

STEPHANOPOULOS: Senator Frist, thank you very much.

FRIST: Good to be with you, George.

STEPHANOPOULOS: The roundtable is next with George Will, Donna Brazile, Jay Carney and Claire Shipman. And later, the Sunday Funnies.

(BEGIN VIDEO CLIP) JAY LENO, HOST, THE TONIGHT SHOW : That's something you rarely see, Republicans rejecting a business deal. That's like a Democrat turning down a hooker. That never happens.

(LAUGHTER)

(END VIDEO CLIP)

(COMMERCIAL BREAK)

STEPHANOPOULOS: The roundtable, Art Buchwald and the Sunday Funnies after this from our ABC stations.

(COMMERCIAL BREAK)

STEPHANOPOULOS: Our voice this week, Art Buchwald. The Pulitzer Prize winner is best known for his razor-sharp columns published in more than 300 newspapers. And now, Buchwald is scripting his final days. Refusing dialysis, the 80-year-old author has decided it's time to die. From a bed in his Washington hospice, he tells us why.

(BEGIN VIDEOTAPE)

BUCHWALD: It was a tough decision, because you're affecting other people. You know, yourself, you're affecting your family. But I made it. I was relieved. It was over. The decision was made. The only part of it that I don't understand, and nobody else understands, is why I'm still here.

But, you know, it's a no-no. You're not supposed to talk about death. You're not to talk about where you're going. Yet everybody that's listening to this show knows they're going to go. And so it shouldn't be a secret. It shouldn't be banned. It should be a good thing. At least, you know, the way you go, I can't predict that. But you don't have to make it a terrible thing.

I'm having the best time of my life. Wouldn't you, to be sitting here, and everybody thinks you're a wonderful person? And you can't take it all, because first of all, you know, you start to feel like John Glenn. The big question that keeps coming up all the time with anybody -- an interviewer talks to me -- is: Do I believe in God?

The answer is: I believe in God, but I'm not too certain that the people that are telling me, It's God's will are the ones I want to listen to. I've found a way that not a lot of people have to make other people laugh. And I'm proud. I hope I can be remembered for that. Because everybody wants to be remembered for something when they go.

Well, I enjoyed talking to you. And I hope I see you next week and the week after and the next month. And we'll say something's wrong with the camera. He's still going.

(END VIDEOTAPE)

STEPHANOPOULOS: Here's to broken cameras and Art Buchwald. Now, the Sunday Funnies.

(BEGIN VIDEO CLIP)

LENO: You hear about this? The people have spoken. The Dubai Port deal is dead. We got our ports back. Dubai announced that it will sell ownership of the six American ports to another investor. The bad news: It's Iran.

(LAUGHTER)

But OK, it's a step in the right direction. They're calling this the biggest setback to the Bush administration all day.

(LAUGHTER)

(END VIDEO CLIP)

(BEGIN VIDEO CLIP)

CONAN O'BRIEN, HOST, LATE NIGHT WITH CONAN O'BRIEN : According to The Washington Post, newly retired Federal Reserve Chairman Alan Greenspan has been offered $8 million to write a book. Yeah. Yeah. Finally, a book that captures the romance and excitement of an old man talking about interest rates.

(LAUGHTER)

(END VIDEO CLIP)

(LAUGHTER)

LENO: Oh, did you hear about this? Now, to get even with us, the United Arab Emirates -- they're talking about not buying any American-made products. Ooh. Yes, we got them there, too. We don't make any products in America anymore.

(LAUGHTER)

(END VIDEO CLIP)

STEPHANOPOULOS: That's our show for today. Stay tuned to ABC News this week for a special series: Bird Flu: Fears, facts and fiction; what Americans need to know.

Thanks for sharing part of your Sunday with us. We'll see you next week.

FOX – NEWS SUNDAY

WALLACE: I'm Chris Wallace. Now the government finds holes in U.S. port security, next on Fox News Sunday .

The Dubai ports deal exposes division in the Republican Party and hands the president an embarrassing defeat. We'll talk with two Republicans who disagree with the White House, Congressmen Duncan Hunter and Mike Pence.

Democrats seem in good shape for the November elections, but will they grab defeat from the jaws of victory? We'll ask one of their party leaders, Senator Chris Dodd.

Plus, the GOP's first presidential straw poll. Who's the early leader for 2008? We'll discuss that with our panel, Brit Hume, Mara Liasson, Bill Kristol and Juan Williams, and our Power Player of the Week, who may just have the world's greatest voice, all right now on Fox News Sunday .

And good morning again from Fox News in Washington. Here's a quick check of the latest headlines. Weapons of mass destruction could be smuggled by terrorists through America's ports, that according to a new study by the Department of Homeland Security. According to A.P., the report found serious lapses by private companies at foreign and U.S. ports.

Iran has rejected a proposal to move its uranium enrichment program to Russia. According to a spokesman, Iran will start its own large-scale program.

And with 37 percent of the vote, the home state favorite, Senate Majority Leader Bill Frist, easily won last night's straw poll at a Republican conference in Memphis. Massachusetts Governor Mitt Romney finished second. We'll have more of the results a bit later.

After the GOP revolt over the Dubai ports deal, what's the fallout for the president and congressional Republicans? And who will be setting the agenda this election year? We turn to Republican Congressmen Duncan Hunter and Mike Pence, who have both had their differences with the Bush White House.

And, gentlemen, welcome back to Fox News Sunday .

PENCE: Thanks, Chris.

WALLACE: Good to have you here. I want to start by asking you both about the Dubai ports deal and about assurances the president gave the American people that it would be safe for homeland security. Let's take a look.

(BEGIN VIDEO CLIP)

GEORGE W. BUSH, PRESIDENT OF THE UNITED STATES: People don't need to worry about security. This deal wouldn't go forward if we were concerned about the security for the United States of America.

(END VIDEO CLIP)

WALLACE: Mr. Bush said that U.S. intelligence agencies okayed the plan. He was satisfied with it.

Congressman Hunter, why wasn't the president's endorsement enough for you?

HUNTER: Well, the president has an arm of government. It's called the Committee on Foreign Investment, CFI. It is supposed to look at these foreign acquisitions and look at them from a security standpoint. These folks let him down.

The Dubai government in 2003 shipped 66 nuclear triggers, high- speed switches that can be used to detonate nuclear weapons -- allowed that shipment to go to Islamabad, even while we had an American agent standing on the dock asking the customs director of Dubai not to let this shipment go.

That information was not given to the Committee on Foreign Investment. They didn't get it. They let him down. They did a superficial look at this thing. And when the president turned to his people that he'd relied on, they gave him the go sign. They had rubber stamped this thing. So they let him down.

And you know, I gave the president the federal district court documents, the affidavits of our customs agents, and he was very interested in getting those before they made the decision to -- before Dubai pulled the plug on this thing. So I think the president, having all the information, would have stopped this deal.

WALLACE: Let me bring Congressman Pence in and ask it a little bit differently.

You're a loyal Republican. This is a Republican president. He says I'm satisfied with the security of this deal. Why not follow the line, follow the leader?

PENCE: Well, Chris, let me tell you, I thank God every day that George W. Bush is a president more determined than the enemies of this country to keep the American people out of harm's way.

On this deal, I just think the president was ill-served by an antiquated process in the so-called CFI plan that Chairman Hunter refers to. We simply ought to talk in an orderly way about changing that in ways that reflect the post-9/11 world.

This new homeland security report confirms what the common sense of the American people felt about this deal, that while we cherish our relationship with the United Arab Emirates, that this was just a bridge too far in that new relationship given some of their troubling associations in the past.

But let me also say I think it's extremely important, Chris, that the United States Congress and this administration seek a way in the immediate future to reaffirm our sense of the importance of our new relationship with the United Arab Emirates.

WALLACE: And how do you do that?

PENCE: Well, there are a variety of means, economic and diplomatic, and as a member of the International Relations Committee, I hope to be a part of some conversations on the Hill and with the White House about ensuring that the royal family in Dubai knows that while this

particular deal was not possible in our new relationship, that there's a great deal of gratitude for their support of our war on terror.

WALLACE: Congressman Hunter, you not only wanted to block the ports deal, you have proposed legislation that would mandate all critical infrastructure in the United States be American-owned.

HUNTER: Sure.

WALLACE: Are you going to go ahead with that bill?

HUNTER: Yes, we're moving ahead with the bill. Now, part of what was in the bill, which was to kill the Dubai deal, is now done. And of course, that would be stripped away.

But it's important that the secretary of defense, in consultation with Homeland Security, identifies what is critical infrastructure. That is, infrastructure that is critical to national security. And having identified that, that that infrastructure be owned, operated and managed by Americans.

And you know something, Chris, it can be. And the idea that somehow we Americans can project enormous power halfway around the globe, we can offload tons and tons of material, and we can send people to far reaches of the globe in very short periods of time, but we can't run a port -- that idea is just not logical.

And we've got lots of great people coming back from Afghanistan, from Iraq. Let's get a good colonel out of the 101st Airborne, retired, and let him operate some of this critical infrastructure.

WALLACE: Congressman, I want you to take a look, though, at this list, if you will. Foreign companies now operate about 80 percent of U.S. port terminals. Another Dubai company, Inchcape, moves ships in and out of two dozen American ports.

An Australian company owns the Chicago Skyway Bridge and the Detroit Windsor Tunnel. And German and French firms purify water for 24 million Americans. Congressman, would you ban all of that?

HUNTER: Well, what we do in this bill is require that you have a security committee, if something is defined by the secretary of defense as being critical American infrastructure.

WALLACE: Well, we're talking about water purification, key bridges, key tunnels.

HUNTER: Well, whatever he goes with, we give a five-year period for divestment by the parent companies. You don't have a fire sale.

And we have a requirement that you have a security committee made up of independent directors in that entity that runs that critical infrastructure, and that has to work with the secretary of defense to put together a security plan.

The point is, Chris, you know, we talk about having a strong homeland security, checking 100 percent of cargo containers, et cetera. In the end, our commercial interests get ahead of us, and here we are, years after 9/11, still with a relatively small percentage of cargo being checked. We have to move ahead.

And the other point is this, Chris. You couldn't open a hamburger stand in Dubai because Americans can't own anything. All we're asking to foreclose to foreign ownership is a tiny percentage of that vast array of economic opportunities. Let's let people buy apartments in Chicago or farmland in Iowa, but they can't own and operate port operations.

WALLACE: Let's do a lightning round on other issues that are likely to come up this year.

Congressman Pence, you proposed a budget this week that would cut spending faster and deeper than the president. No problem at all separating yourself from the president's budget?

PENCE: Well, it wouldn't be the first time that House conservatives disagreed with this administration, Chris. Many of us broke with the president on the expansion of the Education Department and No Child Left Behind, and a few dozen of us broke with the president when he advanced the creation of the first new entitlement in the Medicare prescription drug bill.

What we put out this week we actually call the Contract With America Renewed, because it was based on the budget that the brand new Republican majority passed out of the House of Representatives in 1995. We balanced the budget in five years. It is significantly more aggressive than the budget that the president sent to the Hill.

But, Chris, I really believe that we are in danger of becoming the party of big government. And despite the fact that we just passed the first deficit reduction bill since 1997, I think the American people long for leadership, independent leadership, on Capitol Hill that hews to the conservative principles that minted this majority in 1994.

WALLACE: Let me ask you about another issue, immigration. The president wants a guest worker program to provide a basis for immigrants to work in this country. Are you going to support that? PENCE: Well, just as many Americans that feel that we can't control spending worry that we won't control the border, and I along with many House conservatives believe that the first priority of our government in this immigration issue is to secure our borders.

A nation without borders is not a nation. But once we secure our borders and the American people are confident that we have control of the south, in particular, I believe that we will be able to have a rational national debate about what to do with the 8 million to 10 million souls that are here.

WALLACE: Given these issues, Congressman Pence, and given past concerns when it came to Social Security, or the Miers nomination or the Katrina response, are Republicans moving away from this president? Is Mr. Bush becoming a lame duck?

PENCE: Well, I don't believe this president's a lame anything. He is a determined and focused leader who is going to continue to be that energetic executive that the American people have come to appreciate.

I think what you're actually seeing is that the Congress is simply beginning to step back up to its truly independent role. You know, I always tell those eighth grade kids that I give tours of the Capitol to that the Congress, even if it's of the same party, doesn't work for the president of the United States, that they are two co- equal branches of government.

And to some extent, I think what you see here is a very healthy constitutional friction that our founders contemplated.

WALLACE: But you know, taking the long look at this, Congressman Hunter, over the course of the first five-plus years, I think it would be fair to say you followed the party lines set by the White House. What's changed?

HUNTER: Well, I followed the party line except on trade. We've always had a difference of opinion on that and, you know...

WALLACE: But now it goes to a lot more areas -- and not just you. I'm talking just generally.

HUNTER: I disagree with that. I think that the president's main role now -- because everything, I think, is taken against the backdrop of the war against terror, and specifically the war in Iraq and Afghanistan.

There is strong, strong support for the president as commander in chief. And if you -- you know, this guy's a tough guy, and he's also a guy that likes Congress to stand up. When you go to the White House and you disagree with the president, I've never seen him do anything but say okay, that's your position. In the end, he tries to change your position. Let's move ahead.

He's good at that. He's resilient. He's tough. He's got a lot of endurance. He's a good leader. And he's been doing a great job in the war against terror.

In this particular ports deal, he got totally let down by this Committee on Foreign Investment that rubber-stamped it, said we've checked it out. They hadn't checked out anything. And so the president was left in an embarrassing position, but he's recovered from that already.

WALLACE: Congressman Pence, I want to show you a comment by one of your colleagues. Take a look at this. Republican Congressman Tom Davis said this week, This is probably the worst administration ever in getting Congress' opinion on anything.

Truth to tell, has this White House been high-handed in dealing with Congress and has that caught up with the White House?

PENCE: I really don't think so. I mean, I disagreed with the president along with a few others on his top priority during the first session of Congress, No Child Left Behind. I disagreed with him on the creation of the new Medicare entitlement. If anybody...

WALLACE: You disagree with him on the budget. You disagree with him on...

PENCE: Well, yes.

WALLACE: ... immigration. You disagree with him on ports.

PENCE: But, Chris, if anybody would have felt the high hand, I think it would have been me and House conservatives. And I think it's actually what Duncan Hunter just said. This president is a man of strong opinions, and he's always been more than willing to have members of Congress down to the West Wing and have a conversation about that.

But I haven't sensed a high-handedness. I really do believe -- and I've only served under one president. I've been in Congress for five years. I really do believe that what you are seeing happen is not that the president has changed, but that Congress is beginning to assume that independent role that our founders contemplated here.

And whether it be Duncan Hunter's leadership on Dubai Ports World or what House conservatives are doing on trying to reassert fiscal discipline, I think this is really the kind of friction between the two co-equal branches of government that our founders contemplated.

HUNTER: And, Chris, Let me follow up on what -- Mike has just said something I think is really important. This president is very busy. When he was back here to -- the last time I saw him on the Dubai ports thing, he was coming back to brief us on being on the India trip, talking with Pakistan, India, about their nuclear relations.

He didn't have the time to have a seven-hour hearing, which the House Armed Services Committee did. He didn't have time to get into the weeds in this and drill down on this Dubai ports thing. We provided, I think, a valuable service in doing a lot of investigation and coming up and shoring up this Committee on Foreign Investment and uncovering some of this.

WALLACE: I'm not sure he'd thank you for that, but we're going to have to...

HUNTER: Oh, I'm sure he would.

WALLACE: We're going to have to leave it there. Congressman Hunter, Congressman Pence, I want to thank you both so much for coming in and talking with us today.

PENCE: Thank you, Chris.

HUNTER: Good to be with you.

WALLACE: Up next, with Republicans split, some question whether the Democrats are prepared to take back Congress. We'll talk with Senator Chris Dodd in a moment.

WALLACE: With Republicans fighting amongst themselves, do Democrats have their house in order to take back Congress this fall? We want to talk about that with one of their key leaders, Senator Chris Dodd.

And, Senator, welcome back to Fox News Sunday .

DODD: Good to be with you, Chris.

WALLACE: I want to start with something that General John Abizaid, head of U.S. Central Command, said this week about the opposition to the Dubai ports world deal. Here it is.

(BEGIN VIDEO CLIP)

GEN. JOHN ABIZAID, COMMANDER, U.S. CENTRAL COMMAND: I'm very dismayed by the emotional responses that some people have put on the table here in the United States that really comes down to Arab and Muslim bashing that was totally unnecessary.

(END VIDEO CLIP)

WALLACE: Wasn't there a good deal of demagoguery by Republicans and Democrats in opposing this ports deal?

DODD: Not necessarily. This hit a very, very responsive nerve, Chris, in the country. This didn't go away. This issue wasn't going to disappear. Some issues like this do after a few days.

When you have after -- and now we're almost five years after 9/11, where still almost 90 percent, or more than 90 percent, of our ports are being controlled by foreign entities, less than 5 percent of the cargo coming in, year after year after year -- Congress has tried to have better port security, going back to Fritz Hollings, my former colleague from South Carolina.

I've offered on four different occasions the Rudman report recommendations on port security, been defeated every time. Even in this budget, we'll be voting on this week, there's no separate line item, despite the glaring problems we have on port security in the country.

You know, you could argue some of the -- I'm not going to say that every member of Congress who spoke on the issue, Republican or Democrat, necessarily chose words that I would choose, but it was indicative of the public feeling about this issue. And I don't think you can dismiss that.

WALLACE: But, Senator, does the United Arab Emirates represent a security threat? Over the years, we look back at your record, you have voted to sell UAE jet fighters, missiles. Since 9/11, they turned over the mastermind to the USS Cole. They allow our warships to use their ports. They allow our warplanes to use their bases.

I mean, did the UAE deserve this?

DODD: Well, I don't think they did. But I think I'd begin discussing this with the administration's failure to recognize that this is a country, again, that has some serious issues and problems. You just heard Duncan Hunter talk about some of the history here.

Remember, we had a very good relationship with a guy named Saddam Hussein not many years ago, either, in that part of the world. And today, of course, we have a very different situation on our hands.

I didn't like to hear some of the rhetoric I did, but the fact of the matter remains this is a country that has a very spotty record when it comes to national security issues. And the world did change on 9/11.

Now, my hope is that we'll deal with this issue more thoroughly and step back from it. And again, I point out, the administration should have set up at least a 45-day examination period here and didn't do that.

Now we need to look at this Committee for Foreign Investment. We need to have the CIA representative on that committee, the national intelligence director on it. There should be a pause when you have a foreign government going to operate a port at least to examine the national security implications today. That didn't happen at all.

So we need to reform that process. So not necessarily pointing a finger at the UAE or other countries here, but today to take a closer look at how these ports are being operated.

WALLACE: You have been in the Senate -- I hope you won't mind me saying this -- for a quarter century now.

DODD: Yes. A very young man I am.

WALLACE: What does it tell you about this president's standing when members of his own party desert him the way they did in the past couple of weeks?

DODD: Well, it's not unique. I've seen it happen over the last 25 years in Congress, Democrats and Republicans, particularly in the second term. But again, I think they get lazy, I think what happens. You know, the term limits -- they're not going to run again. And so people begin to let down their guard.

Bob Kim -- and I have a great deal of respect for -- who's the undersecretary of treasury, who is in charge of the CFIUS program -- why didn't someone raise their hand in that room and say wait a minute, here's a country with a record that's a little spotty, they want to operate six or seven major ports in the country, a $7 billion deal, shouldn't we check with the boss on this one?

I think the laziness of it, not paying attention -- the cabinet secretary should have been on there, much better prepared for that kind of a thing. So this happens, and clearly the Republicans are

getting ready for 2006 elections. They're worried about issues like this, and so they're going to distance themselves.

WALLACE: But let's talk about your party...

DODD: Sure.

WALLACE: ... because according to the polls, this should be a good election year for Democrats, but a number of top Democrats are worried. And in fact, when asked about the health of the Democratic Party about a month ago, you said this -- and let's put it up on the screen -- A lot worse than it should be. We seem to be losing our voice when it comes to the basic things people worry about.

DODD: Well, again, at that point here, I was concerned we were going off on some tangents here and not coming back. But just recently, you'll see the kind of unity the Democrats have shown, just last week, on the issue of bringing up the lobbying reform, ethics reform package -- dealing with this issue, allowing one of our colleagues to be able to offer an amendment or work out some time agreement to do so.

I think Democrats on issues of national security, support for our troops, for educating our children, health care, energy policy, are standing for progress for the future and for a better future -- a better chance for people in this country.

WALLACE: But, Senator, your party keeps promising to put out a plan, an affirmative agenda of what Democrats stand for. They promised to put it out in November. They promised to put it out in January. They've promised to put it out this spring.

Now we still don't know when it's going to come out. What's the problem?

DODD: Well, no, they are doing it. I think we are doing it on issue by issue as they come along here. And again, you're going to see more of that in the coming days. But remember, we don't control either the Senate, the House of Representatives or the presidency.

WALLACE: But you control your own party. You can put out your own plan.

DODD: Well, and we are laying out these issues and we're doing it in a united way. Remember, we've got 45 Democrats in the Senate. You've got around 200 in the house -- governors.

Putting all of that together with one coherent plan all the time is not necessarily easy, particularly when you're battling upstream as we are in the House, the Senate and dealing with the president every day.

WALLACE: Is it enough for Democrats simply to oppose the president?

DODD: Well, again, I don't think you can do that alone. I think people do want to hear proactive, positive ideas. And I think we've done that -- again, I emphasize to you -- on things like national

security and support for our troops, a number of issues coming along -- on energy policy, and education, on health care.

You're watching a very united Democratic Party here.

WALLACE: Not on Iraq. You're all over the place.

DODD: Not necessarily. There are some differences here, but basically people want to see us succeed.

WALLACE: Well, stay in, leave. I mean, that's a pretty big difference.

DODD: Well, I think generally, people want us to succeed. But also, again, we're not setting the policy. And again, you know, the president -- again, look at some of the lead editorials today. This is cratering.

We're now three months since the elections and still no government in Iraq. And what we're saying is here this government has to get its act together. These people have to get their act together -- certainly, the leaders of the Shias and the Sunnis.
And if they don't, then nothing we're going to be able to do is going to save that country. That's really their responsibility.

WALLACE: Senator, I want to put up an article written by the editor of Slate Magazine, a magazine that's generally pretty friendly to Democrats, about three leaders of your party, House leader Nancy Pelosi, Senate leader Harry Reid, and Party Chair Howard Dean.

Here's what it said. Under the title The Three Stooges, it says, The three of them have shown themselves to be somewhere between useless and disastrous as party leaders. Individually they lack substance and party smarts -- Pelosi -- coherence and force -- Reid -- and steadiness and mainstream appeal -- Dean. Collectively, they convey an image of liberal elitism, disarray and crabbiness.

Other than that, Senator, I think he was a big fan. Doesn't he have a point?

DODD: No, not at all. Listen, in this day and age, with the ability to transmit information like that around -- that's mild what you get sometimes. Get back to the major point here.

WALLACE: Well, I want to ask you about that, though. Are you really... DODD: I totally disagree with that. Nancy Pelosi has been a wonderful leader in the House. Harry Reid is doing a great job of uniting Democrats, as I mentioned, on these issues I've talked about. And certainly, Howard Dean -- they bring different perspectives.

And the party is not a party that's homogenic in that sense. There are differences within our party. But that's one of the strengths of the Democratic Party. And each of these leaders I think brings that strength to this party.

That's one of the reasons why I think we're going to be very successful, and most people do as well, in the November elections, winning back the House, winning back the United States Senate, and setting itself in a very strong position to win the presidency in 2008.

WALLACE: But do Democrats have -- pardon the expression -- a Newt Gingrich, who in 1994 was so successful in setting out a vision, an affirmative plan that connected with the country and helped persuade them to vote for change -- in that case to push out the Democrats who were in the majority in the House and the Senate?

Who's your messenger and what's your message?

DODD: Well, again, I'll tell you, in 1994, I watched those elections very carefully. The problem was less about Newt Gingrich as it was with -- the president was in the mid part of that first term, and there were serious problems. The president's numbers were very, very low, not unlike the president's numbers today.

I think that probably had more to do with why the Congress went the different direction it did politically than Newt Gingrich, with all due respect. So I don't necessarily see that as the key to success in 2006.

The key is going to be a continued failure by this administration, its leadership in Congress, to provide an alternative sound idea of where we need to go as a people, and alternatively for Democrats to lay out some good ideas -- is exactly what I think we're doing.

WALLACE: And finally, and we have about a minute left, lobbying reform. There was a period right after the 1st of the year where the Abramoff scandal -- when it looked like this was a big, hot issue. There's a general feeling on Capitol Hill it's losing some steam.

DODD: Well, I'm worried about that, and I'm hoping that Bill Frist will bring this matter back up again. He could have the other day. We had a unanimous vote out of the Senate Rules Committee...

WALLACE: But didn't Senator Schumer put an amendment on?

DODD: That's very legitimate in the United States Senate. And the Democratic leader, Harry Reid, said by the way, we'll take this amendment off, give us a time certain for a one-hour debate, or a two- hour debate, after the consideration of this bill, and we'll take the amendment down and get back to lobbying reform.

And the Republican leader refused to do that. Now, my hope is we get back to this issue. It's up to the Republican leadership to set that back up on the agenda again. I'm not convinced they're going to do that. That would be a great mistake.

WALLACE: Senator Dodd, we're going to have to leave it there. Thank you...

DODD: Thank you, Chris.

WALLACE: ... as always, for joining us.

DODD: Thank you.

WALLACE: Always a pleasure to talk to you.

DODD: Good to be with you as well.

WALLACE: Up next, it's never too soon for political junkies to talk 2008 presidential politics. We'll discuss last night's GOP straw poll with our panel, Brit Hume, Mara Liasson, Bill Kristol and Juan Williams. Stay tuned.

(BEGIN VIDEO CLIP)

U.S. SENATOR BILL FRIST (R-TN), MAJORITY LEADER: I will do everything in my power to bury the death tax once and for all.

(END VIDEO CLIP)

(BEGIN VIDEO CLIP)

GOV. MITT ROMNEY (R), MASSACHUSETTS: Every child in America has the right to a mother and a father.

(END VIDEO CLIP)

(BEGIN VIDEO CLIP)

U.S. SENATOR GEORGE ALLEN (R-VA): Let's remember Ronald Reagan's inspiring call to action: If not us, who? If not now, when?

(END VIDEO CLIP)

WALLACE: That was just a sampling of the campaign rhetoric at the Southern Republican Leadership Conference in Memphis the past few days.

And it's panel time now for Brit Hume, Washington managing editor of Fox News, and Fox News contributors Mara Liasson of National Public Radio, Bill Kristol of The Weekly Standard, and Juan Williams, also from National Public Radio.

Well, it's still almost two years before anyone casts a real vote for president, but over the weekend 2,000 republicans went to Memphis to hear all of the leading contenders, or most of the leading contenders, who showed up for the 2008 presidential race, and here are the results. Let's take a look.

Home state favorite Bill Frist finished first with 37 percent. In a bit of a surprise, Massachusetts Governor Romney took second. The unofficial front runner, John McCain, urged his followers to write in President Bush, who tied for third with George Allen, and McCain took fifth.

Brit, what, if anything, do you make of all this? HUME: Well, you said earlier that it's not too hard for political junkies to start talking about this kind of thing. I think for this particular thing you have to be an actual junky to think that anything important has happened here.

This would have been a bad thing for Bill Frist if he had not been able to win it in his home state of Tennessee. He did, so he sort of passes that test, for what it's worth. The rest of the numbers strike me as more or less cats and dogs. McCain didn't real compete and didn't do anything. Mitt Romney does, I suppose, a little better than one might have imagined with southern Republicans, who knows?

But you're talking about 14 percent of, you know, a couple thousand people at most. It doesn't add up to too much.

LIASSON: Yes, I agree with Brit. The only person that this mattered to was Bill Frist, and then only if he lost. He won in his own state. Ho-hum. But if he had lost, it would have been a big deal.

I think the interesting story here is John McCain, who -- the conventional wisdom used to be on McCain -- oh, great crossover appeal but can never be nominated in the Republican Party because he has too much bad blood with parts of the conservative base. I think that's changing.

The transformation of McCain over the past six years -- he's moved, I think, pretty skillfully to be a loyal defender of the president, at the same time being an independent and a maverick on a lot of issues that are important to conservatives like spending, like earmarks.

And I think what he did in terms of taking his name out of the running here and encouraging his supporters to vote for Bush, because he probably would have lost to Frist -- I think that's pretty clever and shows that he's kind of tactically agile.

I think the question now to look for -- is the Republican Party getting over its McCain problem. I think he is getting over his problem with parts of the Republican Party. And we'll see as that does forward. April 7th, South Carolina Republicans have a big meeting. We'll see what happens there.

WALLACE: But you can see -- now, is she a junky or a political...

(LAUGHTER)

HUME: We need some heroin for that one.

WALLACE: Or methadone.

But anyway, let me ask you about this, Bill. Two aspects. First of all, did the ploy work, the idea he's taking a beating anyway, so let's show his loyalty to George W. Bush by saying look, the president needs our support, let's all write in his name?

And secondly, do you think he really is at this point the frontrunner in this race?

KRISTOL: He being McCain?

WALLACE: Yes, not George W. Bush.

KRISTOL: Right. That would be good. I think a coup -- you know, is -- well, I was a conservative who liked McCain before it was cool for conservatives to like McCain, so I'm glad that he's -- some of the conservatives are rethinking their opposition to McCain.

But I think the big story out of Tennessee -- there was no big story, but the story out of Nashville was the split among the voters, among the activists. Frist won. More than half of the people there were from Tennessee.

If you look at the second choice of the people who voted for Frist, the leading second choice person is other. They're undecided. And really, if you look at the fragmentation of the field, McCain and Bush together -- if you take the Bush votes as proxies for McCain -- we're now over-interpreting this, but anyway, it's 15 percent. Romney, 14 percent. It's a fragmented field.

This is the first Republican race in ages where there's no establishment -- there's no one establishment candidate. There's no Bush or a Dole. And there's no one conservative movement candidate. There's usually one of those. There's sometimes both of those.

So this is something we haven't seen in a long time, a wide open Republican race where candidates get to define themselves. Candidates get to adopt different issues. An issue like immigration is going to come into the race one way or the other.

Someone like Newt Gingrich, who is a very able politician and didn't compete down in Tennessee, is really out there working the Republican grassroots. He shouldn't be underestimated. So I think it's a very fluid and unpredictable situation.

WALLACE: All right. You can take any of the above, McCain, Frist, Romney finishing second, George Allen.

WILLIAMS: Well, I think it's the people that weren't mentioned. I mean, I think Giuliani -- I think Rice, Condoleezza Rice -- you know, she says she's not running, but I think that if you look at the numbers, you look at the polls, when people are asked about who they'd like to see out there, Rice is consistent. Giuliani is consistent.

You ask people in Washington -- I think it was National Journal that did a thing about insiders. George Allen comes up way big. People think George Allen has the goods and has the ability to get out there and deliver a strong message.

McCain seems to me fascinating because I think he at this point is known to the American people, who like him. The question is whether or not he's liked inside the party. I think what you heard from Bill Kristol is right. Would conservatives think that John McCain is truly a conservative and going to stand with them on everything from Supreme Court nominations to abortion -- I could continue.

But it's just that quality that makes him attractive to independents and would make him, therefore, electable. And that's going to be a challenge for the Republican base moving away from George W. Bush into, you know, whatever the next era is for them.

WALLACE: Brit, let me ask you about these two people who, at least in the polls, are two of the leading contenders who didn't show up, and that's Rudy Giuliani and Condoleezza Rice.

First, do you think either of them is actually going to run for president? And secondly, if so, how do they get into the race?

HUME: I don't think there's a particle of evidence that Condoleezza Rice is running for president or will run for president. All indications are to the contrary.

WALLACE: Even though she had herself photographed working out the other day?

HUME: Well, who knows what that's about? I mean, I'm not sure that if you're running for president as the secretary of state, a woman of considerable dignity and style, that being photographed wearing sweats in a gym is the way to get there. So I suspect that's not what that was about, but who knows?

Giuliani, it seems to me, is a man who would like to be president and thinks he could be president. And you know, there's some evidence to that effect. Let's look back to the Republican Convention this last time around.

On the same night Giuliani and John McCain made speeches. And both of them, in the eyes of Republicans, were very good speeches. The one that really wowed them, though, was Giuliani's -- confident and tough and all the things that Republicans like. Now, he's got some ideological baggage to carry on important issues, the most important being abortion. But I think he'd be a very interesting candidate.

What I'm interested in here is what Mara said about John McCain, indicating that he has mended fences and is on his way to being favored by the Republican right, which is the nominating force in that party. I don't think there's much evidence that he's there yet. He may be moving in that direction, but I'm not sure he's there yet.

LIASSON: No, I raised it as a question. I think that is the question about McCain. In terms of Giuliani, first of all, I agree with Brit. Condoleezza Rice is not running. I mean, maybe she'd be drafted to be the vice presidential candidate, but she is not running for president.

Giuliani -- I still question his ability to be nominated in this Republican Party. I think he's one of the most popular speakers on the Republican circuit, fund-raisers. He's the hero of 9/11. People want to hear from him. But when they find out he's pro-gay rights, pro-gun control, pro-choice, he's been married three times -- I mean, all of the things that he would have to contend with -- I just don't see it.

WALLACE: What do you make of, Bill Kristol, the strategy -- I mean, John McCain is continuing to go out all the time, does plenty of interviews, is a frequent guest. And we're happy to have him on this and other Sunday talk shows. Rudy Giuliani has basically disappeared. I mean, we tried to get him on. Everybody tries to get him on, and he's done almost no public interviews.

What do you make of the strategy, if he is thinking about running for president, to basically just go to ground until the end of the 2006 election?

KRISTOL: I think each person's strategy makes sense for himself. I mean, McCain is a Senator. He's expected to have opinions on the issues of the day. He has helped himself a lot by being the most resolute, forceful and eloquent defender of the president's foreign policy.

And if Republicans want to nominate someone who will fight the war, the global war, against Islamic radicalism, McCain will look like a very credible candidate in 2008, and that will swamp, I think, whatever differences people have had with him in the past on some issues.

If for some reason McCain falters, Giuliani then, I think, is wise to sit back. He can't compete with McCain right now. McCain's a senator. Giuliani's in the private sector -- sit back, see if McCain somehow falters, and step up in 2007 as the embodiment of the post- 9/11 spirit, a tough executive who ran New York well and who could run the country well at a time of war.

So I think each of them actually -- I'd say McCain, Giuliani, Gingrich and Romney are all running extremely intelligent campaigns for where they are. And I think those four are formidable candidates.

WALLACE: Juan, I loved the fact that we all said how silly it was to talk about this, and we've now spent the last nine minutes -- your final thoughts.

WILLIAMS: Well, the thing is the Democrats -- they've got to think about who they're running against. I think Hillary Clinton is out there. I think that's why it's not ridiculous to have some imagination about a Condi Rice.

Also, the Democrats, you should know, this week said they're going to possibly have more diverse contests between Iowa and New Hampshire, and so that means that I think you're going to see a different kind of result in terms of the Democratic nominating process that would bring in an opportunity maybe for Al Gore or John Edwards to come back.

WALLACE: Oh, boy. More to talk about. All right.

We have to take a break here. But when we return, we'll take a look at the collapse of the Dubai ports deal. Where does it leave U.S. policy and the president's political standing? We'll chew over that in a moment.

(COMMERCIAL BREAK)

WALLACE: On this day in 1933, President Roosevelt delivered his first fireside chat.

(BEGIN VIDEO CLIP)

FRANKLIN DELANO ROOSEVELT, PRESIDENT OF THE UNITED STATES: You people must have faith. Let us unite.

(END VIDEO CLIP)

WALLACE: He used the chats to reassure Americans during the Great Depression.

Stay tuned for more panel and our Power Player of the Week.

(COMMERCIAL BREAK)

(BEGIN VIDEO CLIP)

BUSH: I'm concerned about a broader message this issue could send to our friends and allies around the world.

(END VIDEO CLIP)

WALLACE: That was President Bush on Friday talking about the long-term consequences of the defeat of the Dubai ports deal.

We're back now with Brit, Mara, Bill and Juan. Let's examine what happened to the ports deal from several different angles.

Brit, first of all, the profile and political courage by congressional Republicans and what it says about the president's political standing.

HUME: It was so bad that it was almost hilarious. The 62-2 vote in the House committee was a case of members of Congress heading in full flight for the tall grass because there's an issue easily demagogued out there on the table, without regard really to the extent to which the UAE had been an important ally in the war on terror in a part of the world where we need allies.

We have the military officials, others, talking about what a good friend and ally they've been and how much we depend on them. Never mind. Not since the anthrax scare have we seen so dispiriting a spectacle in the U.S. Congress.

You may recall that that shut the Congress down and showed just how tough these people were going to be in the war on terror. This goes in the same category. It was pretty discouraging.

WALLACE: And what does it say, Mara, about the president's standing, that they felt free to jump ship the way they did?

LIASSON: Well, I would say...

HUME: Free? They're scared.

LIASSON: Yes, I would say they're quite panicked, and his approval ratings and not only not giving them any comfort, they're making them even more panicked. And they're facing an election. I think on issue after issue, this was the latest and most dramatic breach of the Republican Congress and the president.

But there's a long list of things that they've broken with him on -- I mean, immigration, and Social Security, and the budget. And I think this -- I think it doesn't get us anywhere to say that now he's a lame duck and before this he wasn't. But he doesn't have the pull he had.

And also I think that there's some resentment. I mean, you talked about it with the guests earlier, that there was no consultation. It wasn't just the facts of this deal. It was the fact that Congress was blind-sided. They weren't consulted. And that certainly has happened before.

WALLACE: Bill, let me ask you about a different aspect of this. Now that you look back, do you think the ports deal raised any legitimate concern about security, or was this all political demagoguery? KRISTOL: The more I learned about it, the less concerned I got about security, and I think it was basically ridiculous demagoguery, shameless by Senators Schumer and Clinton, who claim to be in favor of America reaching out to moderate Arab regimes and care about our relationships with allies around the world, and just slapped around the UAE, which has more American port calls than any other nation, any other -- Dubai has more than any other place in the world, where thousands of American soldiers and sailors are right now on port leave, where we have very close intelligence cooperation.

And then the Republicans demagogued it as well. I think it was a bad couple of weeks for the global war on terror, for the war against Islamic radicalism. I think the -- I mean, I think the president could have done more, frankly, though, to make his case. They gave up too early, in my view.

He said he would veto the legislation. He stupidly, then -- or some of his aides stupidly tried to denigrate all the opponents as xenophobes or quasi-racists, which was not fair. People were just confused.

And if he had spent a week or two saying let me make the case for this, I'm not sure he couldn't have turned this around. But they threw in the towel. And Karl Rove called someone in Dubai, I guess, last Wednesday night and said please withdraw the deal. And they're a pretty good ally, and they didn't want to be embarrassed, so they did.

WILLIAMS: Right, but I mean, it's -- I think it's unfair to suggest that this White House was caught -- I mean, gosh, this White House has been involved in this fear-mongering all along. And I think it's just come back to bite them. That's all.

And so now they're going to say oh, gee, these guys were playing politics...

KRISTOL: What fear-mongering? What fear-mongering?

WILLIAMS: ... you call these guys demagogues...

KRISTOL: This White House is talking about moderate Arab regimes.

WILLIAMS: You call these people demagogues.

KRISTOL: I do call them demagogues.

WILLIAMS: They're not demagogues. They're reacting to a public, an American public, that had concern about the idea of Arabs controlling our ports. Why do they have that concern? Because of the kind of attitude...

KRISTOL: And what is it called to react to an uninformed and, in this case, false concern? What is it called to exploit an uninformed concern?

WILLIAMS: You're wrong. KRISTOL: It is demagoguery.

WILLIAMS: Let me just tell you something.

KRISTOL: It is demagoguery.

WILLIAMS: You're absolutely wrong on this -- that when the pollsters asked the American people are you aware...

HUME: Juan...

WILLIAMS: ... that the United Arab Emirates is an ally, are you aware that they give us opportunities for support and a base in the Middle East, American people still said overwhelming we oppose the ports deal. It wasn't uninformed.

HUME: Juan, it is...

WILLIAMS: Don't think everybody is a dummy up here, and don't think these congressmen -- you said last week they were clowns. Now they're demagogues. These guys are reacting to what they're hearing from the American people going forward toward the midterm elections.

HUME: Juan, reacting to poll numbers on an issue like this is not a source of legitimacy for what these people did.

WILLIAMS: Why is that?

HUME: There are two ways you can go when you confront an issue like this, and the public is leaning in one direction and you might tend to be leaning the other. You can stand for what you think and know, or find out more and then stand up for what you believe.

What we saw here in Congress the last couple weeks was a head- long flight based on limited or bad information and early poll numbers.

WILLIAMS: Right, but they always ask...

HUME: And to say they didn't demagogue the issue is ridiculous. All kinds of crazy things were said. We had people reciting -- even after the deal was canceled, we had one member of Congress saying -- a woman from Pennsylvania, a Republican, said we don't know enough about the ownership of our ports.

WILLIAMS: That's ridiculous.

LIASSON: Look. I think the big question, the political question, for Republicans is did this strategy make sense. In other words, in breaking with the president, did they help themselves? Did they make themselves safer in November? or will it be exactly the opposite, that they kind of demoralized their base so much that, in the end, this was not a good political move? That's...

WALLACE: And, Ms. Liasson, what's your answer to that very good question? LIASSON: I don't know yet. I mean, that, I think, is the question coming out of this politically. You know, is this some that helped or hurt Republicans? Clearly, the vast majority of them thought this was the way to go.

WILLIAMS: Well, Democrats though -- that it helped Democrats, because suddenly you saw the American people saying hey, wait a second, this president...

LIASSON: Well, they were hoping that Republicans...

WILLIAMS: ... and Republicans aren't doing the job...

LIASSON: ... would have been on the other side of the issue.

WILLIAMS: ... of defending America against terror and, therefore, Democrats saw it as an opportunity to get rid of the key Republican leverage coming forward to the midterms.

The one thing in terms of a future contract with America that you're hearing about from Rahm Emanuel and the Democrats is the first thing we'll do if there's a Democratic majority in the

House is enact the recommendations of the 9/11 Commission. They're speaking to the terror issue.

KRISTOL: It's pathetic. I mean, look. The president had agreed to another 45-day review. That was a reasonable compromise. Republicans should have supported that. The president should have threatened to veto a precipitate denial to this company of the ability to run the ports pending the serious review, which would have had congressional oversight.

The president went to India last week and signed an important agreement with a huge Democratic friendly country which tightens the relationship with us. That's important in the global war against Islamic radicalism. It got no attention at all because everyone around here was screaming and yelling about this ports deal when they didn't have to.

The Republicans hurt the president and they hurt themselves by their behavior over the last two or three weeks.

WILLIAMS: So what do you say about the study that's just out today from homeland security saying you know what, we are vulnerable in terms of our ports -- and this is how many years after 9/11? Why hasn't this administration acted?

HUME: In fact, the administration has acted, to some extent, on the issue of ports, and more is happening than did before. Are there still gaps? You bet. There are gaps everywhere. But it's a work in progress.

WALLACE: Got to go. Thank you, panel. Spirited conversation. See you next week. Thank you. That's it for today.

Time now for some mail, much of it about our interview last week with the former director of FEMA, Michael Brown. Linda Meyers from Virginia writes, The real problem wasn't that Brown was in a helicopter. It was that the new, confused DHS bureaucracy didn't know who was supposed to be doing what.

But Jim Archer sees it differently. Michael Brown has no leadership qualities. A good leader would have taken over and saved lives.

And many of you were as surprised as we were by this exchange from our panel.

(BEGIN VIDEO CLIP)

KRISTOL: If this generic number holds up, Republicans will certainly lose the House.

WILLIAMS: Oh, come on. I'm sick of all this Bush bashing, Chris.

(END VIDEO CLIP)

WALLACE: Margie Tompros from Virginia writes, Were my senses deceiving me while watching my beloved Fox News Sunday? Did someone switch Juan and Bill's brains?

Be sure to let us know your thoughts by emailing us at fnsfoxnews.com. Their brains are back in place.

Up next, our Power Player of the Week.

(COMMERCIAL BREAK)

WALLACE: While Washington focuses on politicians and sports stars, there's another figure in this town who is a true national treasure. We are honored to call him our Power Player of the Week.

(BEGIN VIDEOTAPE)

DOMINGO: I can sing it as much as the birds who sing the whole time. I think I consider myself one bird.

WALLACE: Placido Domingo on singing. He's been called the king of opera who has played 122 different roles, more than any other tenor.

We asked him how he regards the remarkable voice that has made him an international superstar.

DOMINGO: I think the voice is -- it is like a tremendous, demanding, jealous woman, you know. So you better treat her as the most beautiful woman in the world, but demanding and difficult.

WALLACE: Domingo didn't even know he had a good voice till he was a teenager, sitting with his mother, who was herself a singer.

DOMINGO: My mother was playing the piano for me, and I start singing. And then I hit a note, and I see her crying. And I say what happened. And she say that's beautiful.

WALLACE: He's now 65 and had not sung in months because of a respiratory infection. But we asked him to hit the note that made his mother cry.

Can you just do a little for us?

DOMINGO: I don't know if I have voice now. So that was the sound.

WALLACE: In 1990, Domingo became a huge pop star when he toured as the Three Tenors with Pavarotti and Carreras. But while he has sung for crowds of hundreds of thousands, his true love are full operas, where he gets to play a very dramatic role.

Do you enjoy suffering in an opera?

DOMINGO: Suffering on the stage is the best thing. I mean, I love to suffer on the stage, not in real life.

WALLACE: But 10 years ago, bowing to the demands of real life, Domingo decided to play a different role, becoming general director of the Washington National Opera.

DOMINGO: I thought that I was close to finished, my career, so I said it's the right time to do it.

WALLACE: It's a transition, performing to..

DOMINGO: Yes. And the fact is that I'm still singing.

WALLACE: For the last decade, he has run the artistic and business sides of the Washington Opera while continuing to perform. But he still thinks about that inevitable transition.

What are your thoughts about retiring as a performer?

Domingo said he did not want to do one of those long farewell tours, calling it pretentious. He has a different plan.

DOMINGO: I hope that the last performance of opera, when I can just go out in front of the public, and nobody will know, and say it, ladies and gentlemen, that was it. That was my last performance.

I just want -- when the public knows, then I have give everything that I can possibly give, which it has been all my soul and my feeling.

(END VIDEOTAPE)

WALLACE: While we hope his retirement is still a long, long way off, the Washington Opera celebrates its 50th anniversary this week, and Domingo his 10th year as general director.

And that's it for today. Have a great week, and we'll see you next Fox News Sunday .

CBS – FACE THE NATION

SCHIEFFER: And joining us now, Senator Barack Obama is in the studio with us. Senator, thank you for coming. And I must say, before we get serious, you were the absolute star of last night's Grid Iron show in Washington, which is put on by local journalists. It's all parody, where people from both parties come together.

And I must say, when you said that you were a little nerve nervous at the beginning of your speech because you realized people were drinking alcoholic beverages and the vice president was just 30 yards away, it really brought down the house.

What would the Grid Iron have done this year without Vice President Cheney? He became the target of targets.

OBAMA: You know, it was like shooting quail in a barrel.

(LAUGHTER)

So we appreciated it. You know, he was a great sport about it. The president was a great sport about it. And the truth is, though, in my family, my wife is the funny one.

So I'm glad she didn't get up on there because she could have done a riff on me that would have lasted 20 minutes.

SCHIEFFER: Well, I'll tell you, if she's funnier than you are, then she's my candidate to host the Academy Awards next year because you were my candidate until you said that.

Well, we need to get serious, Senator. We're coming upon the third anniversary of the war in Iraq. What do we do now?

OBAMA: Well, at this point, I think it's clear that there is not going to be a military solution to this. I think there's going to have to be a political solution determined by the Iraqis.

And, obviously, all of us have been watching with growing concern when we see the Shias, the Sunnis, at each other. The bombing of the mosque, I think, brought us close to civil war.

Now it's Iraqi leadership that is going to have to come to the fore and say we want a nation that is unified and are willing to make sacrifices, each faction saying we are willing to give something up to accomplish that vision.

If they are not willing to do that-- and I think we'll know in the next several months-- if you don't see concessions from the Shias on the constitution, if you don't see, in the interior ministry and the security apparatus of the country, Sunnis as well as Shias who are in power and that there's a nonsectarian perspective in how the central government should be run, then it's hard for me to imagine how we can be successful.

And I think that, at that point, we're going to have to make some serious determinations about how we deploy our troops.

SCHIEFFER: Well, what do we do? Let's suppose that a civil war does break out. What should American troops do?

OBAMA: Well, you know....

SCHIEFFER: Whose side are they on?

OBAMA: You know, I'm not a military expert. What I know is that this year should be the year in which we start withdrawing our troops. I think the footprint that we have on the ground is actually exacerbating some of the tensions.

My view -- and I always thought that this enterprise was poorly thought out, but I also felt once we were there we should try to make the best of a bad situation -- but if, in fact, the Iraqi leadership is not interested, we can't function essentially as a replacement for Saddam's revolutionary guard and try to hold the country together by sheer force.

What we can do is advise, help build up the Iraqi security forces. But if politics break down and you start seeing all-out civil war, it is not appropriate for our troops to be in the middle of that.

And I think I would then be asking the joint chiefs of staff and others to figure out how do we deploy ourselves where we can be helpful in minimizing death and destruction?

SCHIEFFER: Well, what you're talking about is pulling out.

OBAMA: Well, you know there are certain sections of the country, even if there was a civil war, that I think remain safe and stable.

Certainly, that's true in the Kurdish north. There are certain portions, both in western Iraq and southern Iraq where, conceivably, some of our troops could be deployed.

But certainly what would not be appropriate would be for American troops to be placed in the midst of a civil war, having to choose sides, not knowing who our allies were and who our enemies were.

That would be a recipe for disaster.

SCHIEFFER: So you're not with Congressman John Murtha, who says it's time to leave, that we've done all we can do?

If, in fact, the United States did pull the troops out, do think that would be seen as a sign of weakness by the insurgents and that they would strike America some place else?

OBAMA: You know, the challenge right now is not simply the insurgency. The challenge is the Shias and the Sunnis maintaining their own militias, engaging in a low-level civil war, as it is. That is the real problem.

And so what we have to recognize is that if you don't see significant political accommodations between these various parties, then our role -- necessarily -- is limited.

It's not going to matter how many troops we have there. If the Iraqi people have not taken the responsibility for forming a government that recognizes the importance of all parties being involved -- and, most importantly, makes certain that the government apparatus, the security

apparatus is in the hands of nonsectarians -- then we are not going to be able to impose order in that country.

SCHIEFFER: Senator, let's talk a little bit about politics. The White House is -- I think even their strongest supporters would say they've had a very hard time lately, kind of culminating in this port deal that went haywire.

Yet Democrats do not seem to be getting their act together at all. What do Democrats need to do here -- because I'm not sure I understand what the Democrats' message is right now? Do you have one?

OBAMA: Well look, it's always more difficult when you don't control any branch of government. And we don't have one central figure who is delivering the message in a consistent way, in a disciplined way.

But the Democrats, I think, stand for some things that the American people stand for, and it's a matter of us projecting it going into the '06 election.

I think we all believe that we should achieve energy independence; that the notion that we're sending billions of dollars to countries like Iran that are hostile towards us makes no sense.

And so, being serious about an energy policy that switches to alternative fuels -- and biodiesel something that the American people, I think, can get behind.

The health care crisis -- since I've been in Washington, we have not had a single serious debate on the floor of the Senate about what to do for not just the uninsured, but people who have insurance and are seeing their co-payments and deductibles going up, for businesses that are straining under the costs and can't compete internationally.

So having a serious message that said, you know, by '08 we're going to have every child in America insured, and by 2012 we've got every American who's working able to have accessible health insurance, that would be an agenda that makes sense.

Education -- being serious about ensuring that our young people are competitive around issues of math and science.

And on security -- being serious about the ports, chemical plants, rails that the 9/11 Commission says we have not adequately protected since 9/11, and has to be part of our national security apparatus.

Those are all issues where I think, if the Democrats are clear, focused and, frankly, are willing to repeat themselves -- sometimes, we have more problems than the Republicans just keeping our talking points simple so that the American people can understand them -- then I think we can be successful.

SCHIEFFER: Let me ask you this: Are you going to have to campaign on these social issues like abortion rights, on gay marriage -- these hot-button issues that seem to be so much in favor of many people and, by the same token, so many people are opposed to them?

Where do you come down on all that? Do you emphasize those or do you not?

OBAMA: Well look, I think those are difficult issues. And I think the people feel passionately about them. I don't think you can avoid them completely.

And let me take the example of abortion. I think the Democrats historically have made a mistake just trying to avoid the issue or pretend that there's not a moral component to it. There is.

And I think that, no matter what side of the debate that you're on, you're going to agree that the decision to terminate a pregnancy is a profound decision for the woman and for society and that we have to have a serious conversation about how to reduce the circumstances in which women feel obliged to make that choice.

But I think...

SCHIEFFER: You are pro-choice?

OBAMA: I am pro-choice, but I also think that it's important -- even as I indicate that I'm pro-choice -- to say this is not a trivial issue. And we have to listen to the profound concerns that other people have.

More broadly, you know, the red state phenomenon where Democrats just say, well, we can't campaign in those areas because they're going to vote Republican, I think is a mistake.

I'm a Christian, for example. I want to go into churches and have a debate about moral values. Of course, my moral values don't just include issues of abortion or gay marriage. I'm interested in our obligations to the poor. I'm interested in Sermon on the Mount.

And I think it's important for us to willingly engage in a values discussion in America, because, ultimately, that's where a lot of people live. They're trying to figure out how to have meaning in their lives in a complicated, dynamic, topsy-turvy society. And the fact that we have not engaged in that, I think, has given the Republicans an advantage.

SCHIEFFER: Hillary Clinton is leading most of the polls as the Democratic favorite right now. Do you think she's the best candidate that the Democrats can put forward?

OBAMA: Well, I've got, I think half of my colleagues are running for president. So I'm not going to take the bait on that one, Bob. But I...

SCHIEFFER: Why not?

OBAMA: I think Hillary is a wonderfully intelligent and capable person. I'm sure that, should she decide to run for president, she will be a formidable candidate. I think there are a lot of other candidates who are running who bring terrific qualities to the table. I think right now, my focus is on '06 because it's critical, I think, for all Americans to say, we need some balance in our government.

You know, if we don't have any capacity to investigate the administration when it makes bad decisions around the port deal or wiretapping or a whole host of other issues, if we don't have some check on the unfettered power of the White House, then I think we're going to continue to see some of the problems that we've had over the last several months.

SCHIEFFER: One final and one quick question. It seems now that ethics reform, which was on the front burner of everybody for a while, looks like it's just almost about to slide right off the table. What happened?

OBAMA: Well, I'm not going to let it slide off the table. I mean, we've got a bill on the Senate floor that makes some small incremental steps. And it's my effort, along with some others on the Democratic side as well as some Republicans, to try to strengthen it. We're going to try to see if we can ban some of the corporate jets that are being used, and perks. We're going to see if we can put a strong enforcement agency in place that can take complaints outside of the Senate.

So we're going to work hard, and I think that, ultimately, we're going to see a product come out of the Senate that is a decent product. That's my hope, and I'm going to be pushing my colleagues. I'm a little concerned about what happens on the House side. There seems to be a lot of back-pedaling. Given that most of the scandals came out of the House side, I would think that they would be more interested in moving on this than they have been so far.

SCHIEFFER: All right. Senator, thank you very much, and good luck. I hope to have you again many times on Face the Nation.

OBAMA: Thank you, Bob.

SCHIEFFER: Thank you. We'll be back in a moment with Republican Governor Mike Huckabee.

SCHIEFFER: And with us now from Little Rock, Arkansas, the Arkansas Governor Mike Huckabee. He is also chairman of the National Governors Association. And earlier this weekend, he was in Memphis, where all the people who are thinking about running for the Republican nomination, all the wannabes, the think-about-it-ers, the people who are trying to get on the great mentioners list, they were all there. And Governor Huckabee was there with them.

Well, Governor, let's just clear it up. Do you want to announce today, this morning, that you're going to seek the Republican nomination?

HUCKABEE: I think I'll hold off just a little bit. I may go ahead and announce for 2016, but not for '08 just yet.

You know, it was a wonderful weekend in Memphis. I made the comment that it was one of those times where everyone was trying to go around acting as if no one of us had any ambition or ego and we really weren't thinking at all about '08. We just were there and going to places like Iowa, New Hampshire and South Carolina because we were invited to go make those speeches, and it just happened that that's where we ended up.

SCHIEFFER: Well, that's probably the most candor we'll get out of any of the people who were in Memphis over the weekend.

You know, Governor, I want to say one thing: Regardless of ideology or a party, you are a politician that I think anyone would admit leads by example. Like me, you came down some years ago with type II diabetes. One of the things you have to do is lose a little weight, and you really have to get on a program. And it is my understanding you lost how much weight, Governor?

HUCKABEE: Over 100 pounds. About 110 pounds total, Bob.

SCHIEFFER: Well, Governor, somehow -- do you hear me, Governor?

HUCKABEE: Yes, I hear you just fine.

SCHIEFFER: Because suddenly I have lost all communication with you. I'm very sorry to hear that. If you didn't -- and if it didn't come out, you lost 120 pounds...

HUCKABEE: Well... SCHIEFFER: ... which, I must say, is just a remarkable thing.

And, Governor, I guess I'm going to have to sit here and keep talking about you...

HUCKABEE: OK.

SCHIEFFER: ... because we seem to have lost all communication with you.

Governor Huckabee is a Republican, of course. He comes from what is becoming the home of recent presidents, because he comes from Hope, Arkansas. We all know who came from Hope, Arkansas some years back, and that would be Bill Clinton.

And Governor Huckabee in his effort to lose this weight, he's now on the program -- he lost 120 pounds -- he has enlisted the help of former junk food addict Bill Clinton.

And let's see, Governor, can you hear me now?

HUCKABEE: Yes, sir, I'm hearing you fine.

SCHIEFFER: All right, Governor, well, we're back on the program now. So I guess we'll try to get serious as we can here now that we have the sound back.

I want to ask you about what you're hearing from the people in Arkansas about Iraq and what we're going to do about that situation there. Obviously, the president has had a really hard time. What do you think the president needs to do?

HUCKABEE: Well, I just came back from Iraq. I was there a little over a month ago. It was a very enlightening experience, and I had a chance to meet with a number of Arkansas troops who have been there for some time, as well as to talk to some of those troops who have just come back having been there for 18 months. We've had about half of our entire 11,000-member National Guard over there at some time or another.

So I feel like that the information that I'm getting from them, those that are actually out there, as I say, sucking the sand in their lungs and putting their boots on the ground is a little more accurate than maybe those who have yet to go, or who really haven't seen it up close.

The reality is, establishing a beachhead of democracy in a place like Iraq is no easy task. It's a messy process. But it was messy in this country 260 years ago, too, and we're still working to get it right.

The good news is, the progress is significant. And I think a lot of Americans underestimate the incredible job our American military is doing in turning over the security to the Iraqis. We are no longer simply doing something for them; we're doing things with them. And we are making progress.

SCHIEFFER: You really do believe that. Now, the chairman of the Joint Chiefs of Staff, Peter Pace, said last week he thinks -- thought things were going very, very well. There's been a lot of talk about that statement, that maybe the administration is just trying to put the good spin on it here, when, in fact, the country appears to be sliding into civil war. You don't believe it's at that point yet?

HUCKABEE: I do not believe it's at that point. In fact again, with my own eyes and my own ears, I looked, I watched, I listened. And not only to the Americans, but I would pull the soldiers off line, not the official briefings that the Pentagon was going to give us, because I knew that they were going to tell me things were going well. They're supposed to do that.

But when I pulled the soldiers from Arkansas aside and said, look, I'm not going to quote, I'm not going to bust you out. I want to know, are you being equipped? The answer was yes. Are you doing something important? The answer was yes. Do you feel your mission here is accomplishing something worthwhile, and do the Iraqis appreciate what you're doing, and are you getting something done that you believe will have lasting value? And again, the answer was yes.

This was not from a diplomat. This was not from a politician. This was from a guy whose own life was at risk every day he was there, a person who has the most reason to want to come home today, but who said I'm ready to stay to get this job done.

I was impressed with the kind of commitment I saw out of our military, but also the competence and the sense of commitment to the task ahead and a belief that that mission was a vital mission to bring stability in the Middle East, and, for that matter, the rest of the world.

SCHIEFFER: Governor, I think even you would admit, as a Republican that this has been a very difficult time for the president. No matter what poll you look at, he is going down in those polls.

And he's, I think, at an all-time low for his presidency right now. Do you think, as a Republican, that he is now an asset or a liability for the Republican party?

HUCKABEE: Well, polls, I think, for an executive, are certainly troubling because when you make very tough decisions overnight, you can plummet.

I think governors understand that better than most members of Congress do because they're always able to, sort of, hide amidst the votes of others.

But when you're the sole executive having to make tough decisions, you often make them knowing they're going to be unpopular but also knowing that in the long term, you have to make those decisions.

One thing about this president that I respect very much and one of the reasons I like him a lot is that he's willing to make tough decisions, knowing full well they're not necessarily going to be popular.

But he makes them out of a deep sense of conviction and also a deep sense of believing that it's the long-term importance of the decision rather than the short-term political impact that ought to really gauge what he does.

SCHIEFFER: Well, let me just ask you this quickly. What do you think he ought to do right now? What's the most important thing he could do right now?

HUCKABEE: Well, there's about 270 million people all telling him what he ought to do. I'm not sure I'm best qualified to do it.

But I think the most important thing is not so much to change the course but to continue to communicate in clear, plain language the value of seeing democracy established in that part of the world and making sure that Americans understand that, if we succeed there, the ramifications are going to be dramatic for generations.

But, by the same token, if we fail there, not only will the ramifications for our security and safety be compromised but I believe the credibility of the United States is going to be compromised for generations with people not believing that we have, in essence, the stamina to stay to the task that we announced that we're going to engage in.

SCHIEFFER: All right. Governor, I'm sorry about the loss of communications there. Thank you so much for being with us. I hope we'll see you again on Face the Nation.

HUCKABEE: I'll look forward to it, Bob. Thanks.

SCHIEFFER: Back in a minute.

SCHIEFFER: This week marks the third anniversary of America's invasion of Iraq. And tomorrow, the president will deliver the first in a new series of speeches on why we must persevere.

We need to hear the reasons.

We're in a situation now where none of us -- those of us who believe we had to invade and disarm Saddam and those who opposed it -- can say with any real certainty what action will guarantee success.

But it's the Iraqis who need an explanation more than we do.

What needs to be explained to them is this: If you can't stop killing each other and form a government, we cannot help you.

On this broadcast last week, Senator Richard Lugar, the chairman of the Foreign Relations Committee, said it comes down to whether Iraqis want to be Sunnis and Shiites or if they really want to come together and be Iraqis.

In a sardonic column, my friend Tom Friedman of the New York Times picked Vice President Cheney to deliver just that message because, he said, Cheney can deliver it in the toughest way.

What must stop is the ongoing government effort to sugarcoat it, trying to blame it on the media or saying it's all going very, very well -- as our top general, Peter Pace, did last week.

The Iraqis hear that and take it to mean we believe their excuses; then they'll continue to dawdle.

At this table last week, Congressman John Murtha said it's not a

we problem, it's a them problem. The Iraqis need to be told that.

Sure, if threatening to leave is a risk, but when people realize they have to do something to survive and they are the only ones to do it, they generally give it their best effort.

We'll see you next week right here on Face the Nation.

CNN – LATE EDITION

WOLF BLITZER, HOST: This is "Late Edition," the last word in Sunday talk.

(BEGIN VIDEO CLIP)

DONALD RUMSFELD, U.S. SECRETARY OF DEFENSE: The plan is to prevent a civil war.

(END VIDEO CLIP)

BLITZER: Sectarian violence grows alongside Iraq's insurgency. Can the country survive the double threat?

We'll ask the U.S. ambassador to Iraq, Zalmay Khalilzad.

Plus, insight on Iraq, the war on terror and more from two former vice presidential candidates, Republican Jack Kemp and Democrat John Edwards.

And Democratic National Committee Chairman Howard Dead outlines his party's plan for winning back the majority in Congress.

(BEGIN VIDEO CLIP)

GEORGE W. BUSH, PRESIDENT OF THE UNITED STATES: I'm concerned about a broader message this issue could send to our friends and allies around the world.

(END VIDEO CLIP)

BLITZER: A political firestorm kills a Dubai company's deal to manage U.S. ports. How will it impact Arab allies in the war on terror?

We'll talk to the two top members of the Senate Armed Services Committee, Republican Chairman John Warner and Democrat Carl Levin.

Highlights of my exclusive firsthand look at the company and the ports at the center of the storm.

And a unique visit to Dubai, the city of gold -- by air, land, and sea.

ANNOUNCER: Live from CNN in Washington, this is "Late Edition" with Wolf Blitzer.

BLITZER: It's 11:00 a.m. in Washington, 8:00 a.m. in Los Angeles, 7:00 p.m. in Baghdad, 8:00 p.m. in Dubai.

Wherever you're watching from around the world, thanks very much for joining us for "Late Edition."

We'll get to my exclusive interview with the United States ambassador to Iraq, Zalmay Khalilzad, in just a moment.

First, though, let's get a quick check of what's in the news right now.

(NEWS BREAK)

BLITZER: Thanks very much, Fred.

Let's go to Iraq right now. As if the insurgency isn't a big enough challenge for U.S. forces and the country's struggling government, there's also now the problem of escalating sectarian violence among Shiite and Sunni Muslims.

Joining us now live from Baghdad is the United States ambassador to Iraq, Zalmay Khalilzad.

Mr. Ambassador, thanks very much for joining us. I know you've just emerged -- only within the past several moments -- from emergency meetings with top Iraqi leaders.

What, if anything, did you accomplish?

ZALMAY KHALILZAD, U.S. AMBASSADOR TO IRAQ: Well, first of all, it's good to be with you.

The meeting was a very positive step. It was a good day today in Baghdad. The leaders decided to bring forward the opening of the assembly -- now, rather than on the 19th, the assembly would be opened on the 16th.

And, two, there was an agreement among the leaders to meet continuously as of the day after tomorrow, 10:00 o'clock, until there is an agreement on the government -- including the prime minister and the process for decision-making by the new government.

And lastly, which was very important, there was agreement by all the leaders of the factions that there is no red line in terms of the inclusion of any faction in the formation of the government.

And I think this was important. The leaders rose to the occasion. This indicates they are taking the problems of the country seriously.

BLITZER: I know that one of the major issues is who's going to be the prime minister of Iraq under this new government -- and Ibrahim al-Jaafari, the interim prime minister, I take it, did not participate in these high-level discussions you just completed?

What does that mean, if anything, about his future as the prime minister of Iraq? KHALILZAD: Well, the reason he did not participate is that he's not the leader of the faction that he's a part of. Abdel Aziz Hakim is the leader of that faction, the United Iraqi Alliance, and he was there.

And also there was principal deputy speaker Mr. Shahristani, representing the alliance. There were two representatives from each of the major groups, and those two represented the alliance.

With regard to Mr. Jaafari's future, I think there was a good discussion that there needs to be a broadly acceptable nominee for the prime minister.

And the Shia alliance indicated flexibility -- there has to be a broad agreement, someone who can bring the country together, someone who's effective in leading Iraq.

But obviously the issue was not decided on as to who. This will be, of course, one of the key issues that, in the coming days, the Iraqi political leaders will have to decide on.

BLITZER: Well, you're leaving open the possibility that, even though in a narrow vote he emerged as the candidate of the Shiite faction, Ibrahim al-Jaafari, he still might not be the next prime minister.

I want you to listen to what Adnan Pachachi, one of the Sunni leaders with whom you met today -- I want you to listen to what he told me on "Late Edition" last Sunday.

He said this, and I'll read it to you: "This is not a personal matter, but we feel that in order to have a government of national unity, the prime minister has to be acceptable to all the components of this government and he should not be a controversial figure, which unfortunately Dr. Jaafari is."

Bottom line: Is it possible that the Shiite leadership, the Shiite political faction, will now have a change of heart and nominate someone else like Adel Abdel-Mehdi to be the next prime minister?

KHALILZAD: Everyone agrees that the prime minister has to be someone that can bring the country together, someone who is competent in terms of dealing with the problems of Iraq -- and that the person has to be from the largest bloc, and that is the UIA, the Shia alliance.

And as I said before, this is an issue that will have to come up in the coming days and be agreed to. There was a lot of flexibility on all sides. I think I would leave it at that at the present time.

BLITZER: All right. You're leaving it a little bit ambiguous, which clearly is what the parties want.

Bottom line: How much longer do you think it will take for a new government to be formed?
KHALILZAD: It's very important to remember, Wolf, that this decision, the formation of a government of national unity, is an extremely important decision that the Iraqis face. If they make the right decision, forming a national unity government, competent ministers, a good process for decision-making with a good program governing from the center, it will put Iraq on the right trajectory. It will be a major step forward for Iraq.

So given the toughness of the situation, of the decisions that they have to make, it's still going to take a bit of time. But I have urged them -- and they understand that they need to move as quickly as possible. But I do not want to give you a date or how many days it will take.

We'll work with them to do it as quickly as possible. They understand that it's an urgent situation.

BLITZER: Let me read to you from what Lieutenant General Michael Maples, the director of the U.S. Pentagon's Defense Intelligence Agency, testified before Congress at the end of February. He said this, he said:

"Sunni Arab elites have little cause to support the rebuilding of Iraq. Many Sunni leaders view the current political solutions as predicated on a perpetual minority status in a Shia-Kurd dominated government."

Are you convinced, Mr. Ambassador -- and no one is closer to the negotiations right now than you are -- that Iraqi Sunnis, who did dominate the political structure under Saddam Hussein, will participate fully in this new government of national unity, as you call it?

KHALILZAD: Well, absolutely. It's very important that they participate, and I believe they will.

The Sunnis did not participate in the first elections that took place in Iraq over a year ago. They did participate in the last election on December 15th. That was a major positive development.

Now the next step is to have them -- along with the Shias and Kurds -- participate in a national unity government and to, as I said, have a program for governing from the center.

The terrorists would like to provoke a sectarian war. The appropriate answer to that is a government of national unity with a good program, good ministers, and a good process for decision-making.

That's what's needed and that's what we're working for.

BLITZER: Let me read to you, Mr. Ambassador, from an article in today's New York Times entitled the juggler -- that's a reference to you, as the headline calls it.

"The Shiite religious parties who dominate Iraq's government have now grown tired of hearing the ambassador tell them that they must share power with Sunni Arab leaders, whom they view as terrorists. Some Shiite leaders even say they suspect the ambassador of betraying them in his recent criticisms of Shiite militia tactics. They interpreted those comments as a shift from democratic idealism to a cold concern with the balance of power."

I wonder if you'd want to react those words that were reported in today's New York Times.

KHALILZAD: Well, it is true that I have been speaking repeatedly privately and publicly with them with regard to the need for a government of national unity and with regard to a program and with regard to the ministers being competent and broadly accepted. I hope they have not grown tired of me, but they agree with me when I talk with them that they need that.

Sometimes, of course, they'd rather I not say some of those things that I say publicly but speak to them privately. But I have told them that I'm going to be frank with them, both publicly and privately, in terms of what I see the situation to be.

We are very much committed to defeating terrorists here. We are very much committed to building a democratic state in Iraq that's successful. And for all communities, including the Shias, to have the appropriate place, their rights respected and protected.

And I believe they understand where I'm coming from and what I am pushing for, and I understand them. I think we'll work together and achieve a government of national unity. That's what's necessary. And we're on the right track.

BLITZER: As you know, Mr. Ambassador, a lot of American analysts are worried that the big winner in Iraq might be its neighbor Iran. I know you've been authorized to hold talks with Iranian diplomats. Have you held such talks, whether in Iraq or outside of Iraq?

KHALILZAD: No. We have not had any meetings with them yet. There's still discussions about modalities. The offer is still on the table. With regard to the Iranian policy, we have concerns with regard to their support for some of the militias and some of the extremist groups.

We want good relations between Iraq and all its neighbors, and at the same time we do not want any of its neighbors to dominate Iraq. And that's our policy with regard to Iran as well. We have not sought to impose our differences with Iran on Iraq, but at the same time we are concerned about aspects of Iranian policy which supports extremists and interferes in the development of a successful democratic Iraq.

BLITZER: Do you know, Mr. Ambassador, who killed the American peace activist, the Quaker activist, Tom Fox?

KHALILZAD: Well, the terrorists did. And the Iraqis found his body in western Baghdad. And I'm very sorry about that. Tom was a good man. He came here to work with Iraqis for peace and reconciliation. The terrorists want nothing good, and they go after innocent people. They cannot confront our forces or Iraqi forces directly. So they want to make life difficult by provoking sectarian war and carrying the murder of people like Mr. Fox, Tom Fox.

BLITZER: Mr. Ambassador, thanks very much for joining us on this very, very hectic, busy day for you. We appreciate it. Good luck to you. Be careful over there. Stay safe. And we'll have you back here on CNN. The ambassador of the United States to Iraq, Zalmay Khalilzad joining us from Baghdad.

Just ahead, debating a troops timetable. Can the U.S. afford to set a deadline for withdrawal from Iraq? We'll get the views of two former U.S. Vice presidential candidates, Jack Kemp and John Edwards. They're standing by live.

Then, the Democratic party chairman Howard Dean. I'll ask him how his party claims to reclaim the balance of power on Capitol Hill in this year's midterm elections in the United States.

And later, my exclusive view of Dubai and the company at the center of the ports controversy. "Late Edition" continues right after this.

BLITZER: Our web question of the week asks this: Did Congress overreact to the United Arab Emirates ports deal? You can cast your vote. Go to cnn.com/lateedition. We'll have the results at the end of this program.

Straight ahead, defiant words from Iran. We'll talk with former vice presidential candidates Jack Kemp and John Edwards about how the U.S. should respond. You're watching "Late Edition, " the last word in Sunday talk.

BLITZER: Joining us now to talk about where the U.S. mission in Iraq is headed, as well as the week's other key developments, are two special guests. In Orlando, Florida the former Republican vice presidential candidate and U.S. congressman, Secretary Jack Kemp. And in his home state of North Carolina, the former Democratic vice presidential candidate and U.S. Senator John Edwards. Gentlemen, good to have both of you with us. And Secretary Kemp, I'll start with you. You just heard the ambassador say this has been a good day in Iraq as far as trying to bring together a government of national unity. But God knows there have been a lot of bad days. Is the country, in your opinion, heading toward civil war or genuine democracy?

JACK KEMP, FORMER VICE PRESIDENTIAL NOMINEE: Well, probably some form of democratic development if we do the right thing. The ambassador is doing a fabulous job. He's a wonderful human being, and he's exerting all his diplomatic skills in trying to get a government of national unity. We have to be of help. I think one or two ways we could be of help is number one, announce unambiguously that the United States is not there to keep bases in Iraq. And number two, I think by the year 2009 or the end of 2008, we've got to say to the Arab world and to Iraqis, we are going to be out. We are going to set a deadline, and then seal off the borders of Syria and Iran, make the job easier of keeping insurgents out.

BLITZER: So basically, let me just be precise. You're saying there should be a timetable for a U.S. withdrawal?

KEMP: A date certain. But more importantly, we have to make an unambiguous announcement that we're not there for bases or oil. We're going to be not keeping any bases in the Iraqi nation.

BLITZER: Senator Edwards, are you closer to your fellow Democrat John Murtha, Democratic senator from Pennsylvania, who wants a phased withdrawal over the, shall we say, the next six months, a redeployment of troops outside of Iraq? Or closer to Joe Lieberman, who himself was a former Democratic vice presidential candidate who basically takes a much more hard-line stance?

JOHN EDWARDS, FORMER VICE PRESIDENTIAL NOMINEE: Let me speak for myself. What I believe, and I just listened to the ambassador, what I believe is that it's absolutely critical that we reduce the size of the American presence there.

That's a judgment that has to be made. My judgment is the number of troops that we have in Iraq now, the footprint, so to speak, that we have there, is doing more harm than good, for some of the reasons that Jack just talked about.

You know, we've got to make it clear we're going to let the Iraqis govern themselves, we're going to let them provide their own security and that we're not there for oil.

In order to accomplish that, we need a substantial reduction in our troop presence. I have, for months, said we ought to take it down at least by 40,000 troops.

So I think that's the first and most important step to sending the right signal to both Iraq and to the Arab world.

And if I can add one last thing, you know, the one thing that's clear about this is, and I think the ambassador believes this, too, is ultimately we can't do this for the Iraqis.

They have to do it for themselves. They have to decide whether they're going to have a representative government, whether they're going to do the work to make sure that Iraq can be secured.

This is going to ultimately have to be their job, not our job.

BLITZER: There are some, though, who maintain, though, Senator Edwards, that the only thing standing in the way of a civil war is that U.S. military presence. If the U.S. were to significantly reduce that presence, then who knows what might happen.

Are you concerned about the ramifications of that kind of troop withdrawal that you're talking about?

EDWARDS: I think it's the right thing to do under the circumstances. I think we actually have a low-level civil war going on right now. The question is whether it's going to transition into a full-blown civil war.

Well, the key to that is not us. The key to that is the Iraqis, whether they're going to have a representative government, whether they're going to step to the plate and help provide security for their own country.

I'm not saying we pull everybody out immediately, but we have to have a serious and substantial reduction so that this transition is occurring. They've got to do this for themselves, ultimately.

BLITZER: Secretary Kemp, let's talk about the Dubai ports deal collapse. How much damage, in your opinion -- and you've been a student of this area for some time -- how much damage, if any, has there been to the U.S. strategic interests in that part of the world given the close relationship between the UAE and the U.S.?

KEMP: Well, first of all, let me congratulate you, Wolf, for going to Dubai and interviewing Sheikha Lubna. She did an outstanding job of speaking for the United Arab Emirates government.

And they are an ally. And this is a betrayal of a friend. We need friends in the Middle East. It's tough for Arab nations to be friendly to the United States.

And after 9/11, they were forced to make a choice. They made a choice. And I was pleased to hear Sheikh Maktoum suggest that they want continued good relations with the United States.

Just think, there are naval ships in Dubai ports right now, managed, controlled and securitized by Dubai Ports World.

Our Air Force is using air bases in UAE, serviced, managed and securitized by Dubai Ports World.

So they've been an ally. They will continue to be an ally. But this, in my opinion, is a betrayal of a friend and is a sad day for the United States, acting so small, to not even let the president have a full 45 days to give the American people the facts.

BLITZER: And I just want to be precise on this point because you're very outspoken on this issue, Secretary Kemp. You're speaking, not as someone who has been hired by the UAE or one of Dubai Ports World.

KEMP: No.

BLITZER: You have no financial stakes in this.

KEMP: Absolutely not. I've done business in the Middle East, both in Israel and in the UAE, or in Egypt, at least, in the past. But I have no current contract. If I were allowed to do business again, I'd be honored to do so. These are friends. This is a globalization. Tom Friedman is right. The world is becoming flatter. And this is an area of the world right below Pakistan, right below Iran, right near Saudi Arabia and Iraq which has decided to be an ally of the puts United States.

So I think -- I use the word betrayal. I think it is a betrayal of a good friend and good ally. And I'm glad to see they're going to continue to be good friends and allies of the United States in the future.

BLITZER: Senator Edwards, are you on the same page as Jack Kemp?

EDWARDS: No. No, Jack and I have become very good friends and I have enormous affection for him and professional respect for him because we've done all this work on Russia which I assume we're going to talk about in just a minute.

On this subject, we don't agree. I think it's very important to recognize that our relationship with the UAE is a very positive relationship.

What they've done in the war on terror has been enormously helpful to us. I don't think we should discriminate against anybody.

I just think there's a threshold question for America and that question is who is going to provide for the security and for the operation of our ports. And my own view is that both the security and the operation of ports here in this country should be provided by American companies.

BLITZER: Senator Edwards, let's talk about Russia because you and Jack Kemp have been involved in this committee from the Council on Foreign Relations, taking a look at the U.S.-Russian relationship.

Are you confident, Senator Edwards, that Vladimir Putin, the president of Russia, is democratic -- small "D" -- and is in charge of a country that's moving in the right direction as opposed to the wrong direction?

EDWARDS: No, I'm not at all confident that Vladimir Putin is a democrat -- small "D."

My view is that -- and we talk about this in the report -- two things have happened under Putin, one positive and one negative.

The positive is the economy has changed dramatically in a good direction. They're much more stable financially. They've had GDP growth, by the end of this year, of about 65 percent during the time Putin's been in power, contrasted with about a 40 percent contraction during the time that Yeltsin was in power.

So, on the economic side, they've done some very good things, propped up, of course, in part by oil and natural gas prices. But that's not all of it. They've done more than that. But, on the democratic side, which way is Russia moving? They clearly are moving in the wrong direction, across the waterfront, everything from the suppression of opposition political parties to taking over the mass media to going after the oligarchs, getting rid of the direct election of governors.

So, basically, they've got divergent tracks right now. Economically, they're doing some good under Putin. On the democratic side, no one in Russia -- we were there a little while ago -- no one even argues that they're a democracy. And, for America, if I can step back for just a second, for America this is important because it has to do with whether we have a real partnership with Russia or whether we have just selected items on which we can work with them on, for example, Iran, which is enormously important.

But the issue for America over the long term, Wolf, is whether we're going to live in a world where the great powers work together on the issues that face the world, everything from terrorism to proliferation to AIDS or whether we're only going to be able to work on selected things.

And it's a huge issue. That's why our relationship with Russia matters.

BLITZER: Secretary Kemp, as you know, the G8 is supposed to have their summit in St. Petersburg, Russia this coming summer in July.

In your report, you speak about an informal probation of Russia's involvement in the G-8, the world's largest industrialized democracies. Should this G-8 summit go forward in Russia this summer?

KEMP: I believe it should. And I agree with John that the G-8 summit -- this is the 31st anniversary of these summits that began at Rambouillet, France with Giscard d'Estaing and Gerald Ford in 1975.

It was G-6, then G-7 and now G-8. So John is right. We need Russia's cooperation on everything from Iran to energy security. And I believe that that partnership, or selective partnership, is extremely important.

And the G-8 is a good time to make a broader agenda at the G-8 in St. Petersburg, where it's not just energy security, education and HIV/AIDS. It's also, stop bullying your neighbors, lift the pressure up from Latvia, Georgia and Ukraine and make sure that they cooperate on Iran.

So, as far as I'm concerned, we really need more of an economic agenda -- get them into the WTO, begin the negotiations for a free trade agreement because, then, my study of history has convinced me, Wolf, since the end of World War II, it's been economic liberalization leading to political liberalization.

So whether or not he's a Jeffersonian Democrat or not right now is, I think, beside the point. We need their cooperation and we've got to bring them into this flattening world a la Tom Friedman.
BLITZER: Two former U.S. vice presidential nominees joining us: Jack Kemp and John Edwards. To both of you, thanks very much for joining us.

KEMP: Thank you, Wolf.

EDWARDS; Thanks, Wolf.

BLITZER: And coming up: while polls show Republicans vulnerable leading up to November's congressional elections, do Democrats have a unified message to win over voters?

We'll speak with the party chairman, Howard Dean, the chairman of the DNC. He's standing by to join us live.

But up next, a quick check of what's in the news right now, including the latest testimony in the trial of Saddam Hussein. Stay with "Late Edition."

(NEWSBREAK)

BLITZER: Welcome back to "Late Edition." I'm Wolf Blitzer in Washington.

From the ports deal collapse to Iraq to the Hurricane Katrina response, lots of bad news for Republicans -- appearing to give the Democrats their best chance in years for regaining a majority in the U.S. Congress.

But the party is finding that's easier said than done.

Joining us here in Washington is the Democratic National Committee chairman, Howard Dean.

Governor Dean, welcome to "Late Edition."

HOWARD DEAN, DNC CHAIRMAN: Thanks for having me on, Wolf.

BLITZER: You just heard the ambassador, Zalmay Khalilzad, say that this has been a good day in trying to form a new government of national unity in Iraq. A recent Washington Post/ABC News poll asked if Democrats in Congress have a clear plan for Iraq.

Seventy percent said they do not have a clear plan. Only 24 percent said they have a plan.

The Democrats seem to be all over the place.

DEAN: Well, certainly wouldn't say we're all over the place. The resolution that was passed by the Senate was originally a Democratic resolution, which said: This will be a year of transition, that we will -- in fact, there was a letter to the president from Senator Levin, who I think will be on this show a little bit later, Senator Collins, and Senator Reed, Jack Reed, saying that it's time for the Iraqis to get their house in order and we have to make clear that we're not going to be there forever and we need to make this the transition year.

So I do think that we do have a plan. We are much more united than we appear in the newspapers.

And I think -- as often happens -- small differences of opinion get blown up as newspaper articles.

BLITZER: Is this going to be the big issue -- Iraq -- this upcoming mid-term election year?

DEAN: I think big issues will be security, the desire for a change, and honesty and openness in government. I think we win on all three of those.

I think the people of this country have lost confidence in the president's ability to defend us, principally because he hasn't been very truthful with the American people.

BLITZER: And specifically on which he hasn't been truthful, are you saying he lied to the American people?

DEAN: I'm saying that he misled us not just on Iraq and not just on Katrina, but he misled us on issues -- for example, how much the drug benefit for Medicare was going to cost and then what a mess that was going to be; misled us on the fact that he said he was going to fire anyone who leaked information, and Karl Rove still has a security clearance today.

You know, this is not an administration that's been terribly truthful to the American people -- and I think the American people realize that now.

So what we offer is real reform. You can see the Republicans in the Senate have now backed off any kind of lobbying reform. Well, we still think that you shouldn't take private jet flights, you shouldn't take free lunches -- and we ought to change the conference committee routine so you can't stick things, like the Republicans stuck in before Christmas, $20 billion giveaways to HMOs and oil companies.

Those are fundamental ethics reforms that ought to be made. I don't care if the Abramoff scandals have faded into the background because of all this other business; we need to make those changes.

We need real openness and honesty in government again.

BLITZER: So what I hear you saying is that you really feel the Democrats could take over control -- at least of the House, but maybe the Senate this year -- is that what you're saying?

DEAN: Yes. If we are relentless about the same message in 435 districts. I make no bones about this. I look at Newt Gingrich as the model for how to do this.

BLITZER: What he did in '94. DEAN: Yes. I certainly don't agree with much of his political views, but I certainly think his strategy was excellent.

Give a consistent message about what Democrats want: honesty and openness in government, American jobs that will stay in America using energy independence as a new industry to create those jobs, a strong national defense based on telling the truth to the American people and our soldiers. Those are the kinds of things where we can really make difference -- health care...

BLITZER: It sounds, Governor...

DEAN: ... a health care system that works for everybody. Those things we've all agreed on -- governors, senators, congressmen, mayors have all agreed on those things.

BLITZER: It sounds like you want to have a contract for America the way that Newt Gingrich had his contract for America?

DEAN: Well, if we do, we certainly won't call it that. But there are some fundamental things...

BLITZER: Well, what are you guys thinking of calling it?

DEAN: Who knows? I mean, we haven't got to an agreement on that. I'm actually meeting with the leadership again this week to have further discussions.

But the agenda is very clear. Again: honesty and openness, security, jobs, health care, education, and retirement security.

BLITZER: Here's one of the biggest problems you have -- is money. And money in politics, as you well know -- as in a lot of other areas -- talks.

According to these Federal Election Commission statistics, the Republicans raised $103 million over the past year. Democrats have raised $50 million. That's a two to one advantage that they have.

DEAN: It's also not exactly accurate. If you throw in what the DCCC and the DSCC, the Senatorial Committee have raised...

BLITZER: Those are the Democratic House and Senate committees.

DEAN: ...and match us all together, it's not anything close to two to one. The DNC has had a record year. We raised 20 percent more money when we couldn't take soft money than has ever been raised in an off year before. We have now 200 organizers in every state in the country, which we've had now for several months, three years before the next presidential election. These folks for the first time are going to be able to help out in congressional elections.

BLITZER: But the Republicans still have a lot more money.

DEAN: Yeah, but, you know, if money won this election we'd have a Democrat in the White House right now. It's infrastructure that you have to have. We need to fight in every state and stop trying to think we're going to be a national party if we have an election in 18 states. We need to be in every state.

BLITZER: Speaking of infrastructure, and there's a lot that goes into winning elections, there was a little bit of a stir this week. Harold Ickes, a top adviser to Hillary Clinton and to Bill Clinton, he was a former White House deputy chief of staff under Bill Clinton, let me read to you what The Washington Post wrote on Wednesday: "Ickes and others involved in the effort acknowledge that their activities are in part a vote of no confidence that the DNC under Chairman Howard Dean is ready to compete with Republicans on the technological front." What he's trying to do, and our Mary Snow reported it this week as well, is he's trying to create some new computer statistics, some new technology to help someone like Hillary or someone else move down the road in 2008 to get the kind of advantage they need to recapture the White House.

DEAN: We looked at what they're doing. It's a fine thing for outside -- for in terms of outside organizations. But the Democratic National Committee has to be the one that develops the voter file to be used by Democratic candidates. That's the law. We now have, based on what my predecessor did in terms of gathering information, we now have a technological platform that will do that.

BLITZER: But he says the database isn't good enough, and that's why he wants to create another one. We're talking about Harold Ickes.

DEAN: The database is very, very good. I brought my own technological people from my campaign to do it. And one thing, you may or may not have liked what I did in the campaign, but nobody argues with the technical skills of my folks.

And we brought them in. They're creating what needs to be done, and we'll have that ready, not just for senators and Congressmen. It has to be ready for mayors, for city councilors, for state representatives. You can't win the presidency unless you can start doing what we're now doing in places like Mississippi and Alabama and Missouri and Utah. We're now starting to win races on the ground.

BLITZER: So is Harold Ickes wrong?

DEAN: I would disagree with Harold. He's a friend of mine, but I wouldn't agree with him on this one.

BLITZER: So they're just basically wasting money. They could use the DNC for their purposes.

DEAN: I wouldn't say he was wasting money. He may want to do this for his own purpose, but it won't basically help candidates. They have to rely on hard money. It can't help federal candidates.

BLITZER: Is Hillary Clinton too liberal to win the presidency?

DEAN: You know, I don't discuss 2008 at all because I have to be the referee in this one. Hillary Clinton is running for the United States Senate. She's done a terrific job in New York. And I think she'll sit down and decide what her options are afterwards, but right now she's very focused on New York City and we don't know for sure...

BLITZER: New York state.

DEAN: Excuse me. Well, New York state and New York City. And we have no idea if she's going to run or not. And I know everyone in Washington thinks, oh, Hillary's going to run, Hillary's going to run. I know Hillary Clinton very well. She's a very smart person. She'll figure out what's best for her and what's best for New York and make sure that New Yorkers are well taken care of no matter what she does in her future.

BLITZER: I'll just put it up on the screen. Our latest CNN/USA Today/Gallup poll among registered Democrats has her as the choice for 2008 39 percent, John Kerry at 15, Al Gore at 13, John Edwards at 12, Mark Warner and Joe Biden at 5. At least at this early stage, that could simply be name recognition.

DEAN: We all know that whatever happens today may have absolutely no relevance whatsoever in what's going to happen in November of 2008. We have to focus on 2006, Wolf. We really do. I believe that we can take back the House and the Senate.

You know, America really wants a change, and the bottom line in this next election, do you want more of the same or do you want a change? And the Democrats can represent the things that people really want changed: honesty and openness in government, real security changes, a health care system that works for everybody. Those are fundamental things that people want to see done differently.

BLITZER: I've spoken to a lot of Democrats, and you speak to a lot more than I do. They are really sensing that they could win in this November, given all the problems the Republicans have had, the president, the White House, Katrina, Iraq, Scooter Libby, the vice president's former chief of staff, the vice president shooting his friend in the face in that hunting accident, the warrantless wiretaps, the Dubai ports deal.

So much negative stuff for the Republicans. If the Democrats don't take advantage of this, as one person said to me, there's going to be all hell to pay.

DEAN: Well, first of all, I'd prefer not to look at it as taking advantage of Republican weaknesses. After all, what's really at stake here is the future of the country. This country's become much weaker under President Bush, not just security and the outsourcing of our ports operations and all that, but the deficits. We're about to vote next week on a new debt ceiling. I think the Democrats are going to vote no. And thank God. Somebody has to be fiscally responsible in this country.

And the Republicans have lost the mantle of fiscal responsibility. Democrats are the only party in the last 40 years who have run a surplus under Bill Clinton. We've got to return us to the basics, return this country to the basics, where we're focused. You know, the president talks about homeland security. Well, homeland security means hometown security. And the Republicans have forgotten about ordinary people in the streets of America.

BLITZER: Let me get your reaction to this proposal. As you know, for years the Iowa caucus was first going forward with the presidential nominee, followed by the first primary in New Hampshire. There's now a recommendation out there that after the Iowa caucus there be two other caucuses in other states that may be more diverse than Iowa or New Hampshire before there's the first primary in New Hampshire. Is this a good idea?

DEAN: Well, it's certainly a good idea to have more geographic diversity and more ethnic diversity in the Democratic nominating process. After all, we are the most diverse party, certainly in this country, and probably the most diverse party on the face of the earth in terms of the different kinds of people who keep us in power. And who we need to put us back in power.

So I'm very supportive of this notion that diversity, both geographic and ethnic, in the prewindow.

We are committed to leaving Iowa first as the first caucus in the country and New Hampshire as the first primary in the country.

BLITZER: But do you support adding two caucuses between those two events?

DEAN: Well, I'm not going to -- you know, there's some wriggle room. The only commitment I'm going to make to you right now is there will be earlier events, and there will be some events, or at least one event in between Iowa and New Hampshire, and there will be before the window somewhere between four and six events, including Iowa and New Hampshire. That's what the commission recommended. I haven't had a chance to sit down with the rules committee. But we will have diversity in the prewindow.

BLITZER: Howard Dean is the chairman of the Democratic Party. Thanks for joining us.

DEAN: Thanks, Wolf.

BLITZER: And coming up next, in case you missed it, "Late Edition's" highlights from the other Sunday morning talk shows here in the United States. But first this.

(BEGIN VIDEOTAPE)

BLITZER (voice-over): Gordon Parks. What's his story? The legendary photographer, poet and filmmaker died Tuesday at his home in New York. Parks, the son of a Kansas dirt farmer, is credited for opening doors for African Americans in the arts. Parks began his career as the first black photographer in the government Office of War Information, and later became the first black photographer at both Vogue and Life magazines, where he worked for 20 years.

In 1969 he became Hollywood's first black filmmaker to direct a major studio movie, "The Learning Tree," and went on to direct "Shaft," featuring the first black action hero onscreen. Parks was 93.

(END VIDEOTAPE)

BLITZER: And now in case you missed it, let's check some of the highlights from the other Sunday morning talk shows here in the United States.

On ABC's "This Week," Senate Majority Leader Bill Frist blasted plans by Democratic Senator Russ Feingold to introduce a resolution to censure President Bush for warrantless wiretapping.

(BEGIN VIDEO CLIP)

U.S. SENATOR BILL FRIST (R-TN): The signal that it sends, that there is in any way a lack of support for our commander in chief -- who is leading us with a bold vision in a way that we know is making our homeland safer -- is wrong.

(END VIDEO CLIP)

BLITZER: On NBC's "Meet the Press," Democratic Senator Joe Biden said time is running out for the U.S. military presence in Iraq to be effective.

(BEGIN VIDEO CLIP)

U.S. SENATOR JOSEPH BIDEN (D-DE): If they don't have a constitution in place by this summer that is viewed as a uniting document where everybody signs onto it, it's game over.

Now, how you pull them out, where you pull them to, whether you have them over the rise, and whether you have a containment policy that secures the region in a different way -- that's a whole different question.

But status quo, the way it is now, is over.

(END VIDEO CLIP)

BLITZER: On CBS's "Face the Nation," Democratic Senator Barack Obama went one step further.

(BEGIN VIDEO CLIP)

U.S. SENATOR BARACK OBAMA (D-IL): This year should be the year in which we start withdrawing our troops. I think the footprint that we have on the ground is actually exacerbating some of the tensions.

My view -- and I always thought that this enterprise was poorly thought out -- but I also felt that, once we were there, we should try to make the best of a bad situation.

(END VIDEO CLIP) BLITZER: On Fox News Sunday, the Republican chairman of the House Armed Services Committee, Duncan Hunter, defended the widespread opposition in Congress to the foreign government ownership of U.S. ports.

(BEGIN VIDEO CLIP)

U.S. REPRESENTATIVE DUNCAN HUNTER (R-CA): You couldn't open a hamburger stand in Dubai, because Americans can't own anything.

All we're asking to foreclose to foreign ownership is a tiny percentage of that vast array of economic opportunities. Let's let people buy apartments in Chicago or farmland in Iowa, but they can't own and operate port operations.

(END VIDEO CLIP)

BLITZER: Highlights from the other Sunday morning talk shows here on "Late Edition," the last word in Sunday talk.

Don't forget our Web question of the week. You can vote right now. There it is: Did Congress overreact to the United Arab Emirates ports deal?

We'll have the results in our next hour. Stay with us. We'll be right back.

BLITZER: Just ahead, the Senate Intelligence Committee member, Saxby Chambliss -- he's in Dubai right now. We're going to talk about where things stand after the ports deal collapsed.

And the two top members of the Senate Armed Services Committee, John Warner and Carl Levin -- they're standing by live to talk about the potential impact in the war on terror, Iraq, Dubai, much more.

All "Late Edition" -- coming up at the top of the hour.

BLITZER: This is "Late Edition," the last work in Sunday talk.

(BEGIN VIDEO CLIP)

BUSH: I'm committed to strengthening our relationship with the UAE and explaining why it's important to Congress and the American people.

(END VIDEO CLIP)

BLITZER: The plug is pulled on the Dubai ports deal. Is U.S. standing in the Arab world weakened? We'll ask the top two senators on the Armed Services Committee, Republican Chairman John Warner and Democrat Carl Levin.

Also, a conversation with Senate Intelligence Committee member Saxby Chambliss, who's on the ground in Dubai.

(BEGIN VIDEO CLIP)

(UNKNOWN): You just (INAUDIBLE) box and send it to a representative.

(END VIDEO CLIP)

BLITZER: Plus, highlights of my exclusive behind the scenes tour of the company in the eye of the storm: DP World.

And part Las Vegas, booming desert city; part Disneyworld, fantasy entertainment; part Riyadh, packed with mosques. A look inside diverse Dubai.

ANNOUNCER: Live from CNN in Washington, this is "Late Edition" with Wolf Blitzer.

BLITZER: Welcome back. We'll speak with Senators John Warner and Carl Levin in just a moment. First, though, let's get a quick check of what's in the news right now.

(NEWSBREAK)

BLITZER: Thanks, Fred.

Let's get the latest developments that we're following in Iraq right now, a deadly attack in Baghdad's Sadr City, occurring today just as the discovery of a security breach over at Baghdad's International airport and the resumption of the trial of Saddam Hussein. Our Aneesh Raman is in Baghdad. He's joining us now, live, with the latest details. Aneesh?

ANEESH RAMAN, CNN CORRESPONDENT: Wolf, good afternoon. As Fredricka mentioned, at least 36 people killed, over 100 wounded, after three car bombs detonated at two marketplaces in Sadr city.

That is the most highly populated Shia area of the capital. It is also home to the country's second largest Shia militia, the Mehdi militia, who are loyal followers of Shia cleric Muqtada al-Sadr.

This attack has devastating potential for the sectarian strife here, given where it took place and the casualties that we are seeing here tonight.

Meantime, another security scare, this time at the Baghdad International Airport, a major security breach, taking place on Thursday. Royal Jordanian Airlines, the main airline that flies out of Baghdad to Amman, telling CNN today that, on Thursday, explosives were found, suspected explosives, in a cigarette box near a flight as it was about to leave for Amman.

Officials out of Amman are saying that they are still testing that material. But sources with Royal Jordanian in Baghdad confirmed to CNN that they were in fact explosives. Now, the U.S. embassy prompted this inquiry because a warning message went out today prohibited travel for U.S. governmental employees on commercial flights out of Baghdad until further notice, following this security breach.

All of this, as the trial of Saddam Hussein continued today, Saddam Hussein not in court. For the first time, the five-judge panel brought in the defendants one by one.

We heard from three today, former low-level Baath party members in the village of Dujail. They were essentially given time to testify, to question the evidence that has been presented, the witness testimony as well.

Court adjourned, set to resume tomorrow, Wolf. We expect to hear Saddam himself testify at some point early this week. Wolf?

BLITZER: What about the latest efforts -- we spoke with the U.S. ambassador to Iraq, Zalmay Khalilzad -- the latest efforts to try to get some sort of new government, a national unity government.

I heard him say, and each of our viewers who were listening on the first hour of "Late Edition" that they are still open to the possibility that Ibrahim Al-Jaafari, the interim prime minister might not, when all is said and done, be the next prime minister.

RAMAN: Well, in that exclusive interview with you, Zalmay Khalilzad, putting some diplomatic words on a tense situation.

Neither side seems willing to budge at the moment. The Kurdish, Sunni and secular blocks have said they don't want Ibrahim Al-Jaafari as prime minister.

The Shia, it seems now, are perhaps fudging a bit, saying they're open to other possibilities. But Jaafari himself, in earlier press statements, has shown no indication that he wants to step down.

In fact, he's said he thinks this pressure is personal and not meant for the unity government that everyone is seeking. Wolf?

BLITZER: Aneesh, thanks very much. Aneesh Raman, on the scene for us in Baghdad.

And joining us now to talk about the latest developments in Iraq, the possibility of civil war breaking out, as well as the collapse of the Dubai Ports deal and much more, two guests, the Republican chairman of the Senate Armed Services Committee, John Warner of Virginia and the panel's top Democrat, Carl Levin of Michigan.

Senators, thanks very much for joining us.

Are you hopeful, right now, based on what you heard from the ambassador here on "Late Edition" in the past hour, Senator Warner, that they can, the Iraqis, despite all this sectarian violence, put together a government of unity, including Shia, Sunni and Kurd?

SEN. JOHN WARNER (R), VIRGINIA: Bottom line, if that's not achieved, then you really have the risk of civil war breaking out.

So, I was encouraged by Ambassador Khalilzad's remarks. We have a high regard for him in the Congress. He's done an extraordinary job.

But remember, that's a sovereign nation. We liberated that country. It's a sovereign nation. And we can only do so much before it's perceived that we're trying to dictate how that government goes about its activities.

But Khalilzad is a master at that. And, in a balanced way, he is letting them know that it's just not unlimited, indefinite support by the United States.

We're there. We're backing them. We liberated them. And if they can pull together this government, there's a high probability they can achieve the fundamental goals of a democracy that the people of Iraq desire.

BLITZER: You wrote a letter, Senator Levin, this week, a letter to the president, together with some Republican and Democratic Senate colleagues.

Among other things, you wrote this.

You wrote: "The U.S. needs to make it clear to Iraqi leaders that a prompt political settlement is not only essential to them, it is a condition for our continued presence."

You're getting pretty close to Democratic Congressman John Murtha of Pennsylvania, who want a phased withdrawal over, shall we say, the next six months, a redeployment outside of Iraq.

SEN. CARL LEVIN (D), MICHIGAN: The letter that I wrote with Senator Collins and Senator Jack Reed was very clear, urging the president that, unless he makes it clear to the Iraqis that we're not there for an unlimited period of time, we're not there as long as they need us -- that's been the message of the administration so far -- we've got to change the course in Iraq with any possible means at our disposal.

And the one leverage point we've got is to let them know that, unless they reach a prompt, political settlement, which is the only way that the insurgency can be defeated and civil war can be avoided -- unless they have a prompt, political settlement that we, then, are going to have to withdraw our troops because there is no purpose then in our staying.

BLITZER: But the counter-argument is that this encourages the insurgents, the terrorists to just simply hold their fire, wait for the U.S. to pull out and then take over Iraq.

LEVIN: I think if you set a specific timetable, you could argue that. But that's not what we're doing. We're telling them, I hope, something we've not told them before, which is they've got to reach a prompt political settlement. There is no other way of defeating the insurgency. There's no other way of avoiding civil war.

BLITZER: Is Senator Levin on the right track, Senator Warner?

WARNER: Let me say that all of us want this government to come into place. But, as I opened up, it should be left to the man on the scene, not the Congress, to use that rhetoric which he feels can move forward the reconciliation of differences and, at the same time, not give any encouragement, that we just saw in your film clip, of Sadr City up in flames again.

Sadr is the most dangerous, perhaps, of all of them within the Shiite. And his militia, private militia, is a very significant force that could make a factor if they were unleashed into a civil war.

LEVIN: Wolf, the insurgents, the terrorists don't need any encouragement. They are on the road to try to promote a civil war.

The only way a civil war can be avoided -- and maybe it's unavoidable, but the only hope is if the leadership in Iraq quit feuding while Baghdad is burning.

And they've got to come to a political settlement or else, it seems to me, this thing is doomed. And the only leverage we've got to pressure them to a political settlement is to put our presence on the line.

The leaders want our continuing presence. They have an open- ended commitment to that. It is a mistake when the president says, you're there as long as you need us. That is a mistake. It's the wrong message.

WARNER: But I want to follow up. This week, some the most valuable testimony that came before the Congress came from General Abizaid.

And I know you and I, Carl, hold him in the highest degree of professionalism. He said that the problem today is the secular strife, at the rate at which it's growing.

That's more difficult than the insurgents coming in from other countries.

BLITZER: Here is precisely what he said, this week, General Abizaid.

Listen to this:

(BEGIN VIDEO CLIP)

GENERAL JOHN ABIZAID, COMMANDER, U.S. CENTRAL COMMAND: It's my belief that the security situation in the country, while changing in its nature from insurgency toward sectarian violence, is controllable by Iraqi security forces and multinational force.

(END VIDEO CLIP)

BLITZER: That seems to be a significant -- almost three years into this war, it's not only an insurgency that's undermining the U.S.-led effort, but now it's turning into what he calls sectarian violence.

Senator, that's not necessarily complete civil war, but it's moving towards that.

LEVIN: Well, it has the vestiges of civil war. It has the ingredients of civil war, and it's moving in that direction.

And when I met with General Abizaid this week, he told me that when he met with the president of Iraq, Mr. Talabani, that when Talabani came out and told the media that he was assured that we are there as long as the Iraqis want us there, that that was not what General Abizaid told Talabani.

And I pray it was not. He told them that too often.

BLITZER: Here's what a lot of Americans fear, Senator Warner, and you're sensitive to the concerns of your constituents in Virginia and Americans all over the country.

WARNER: Very much so.

BLITZER: There's 132,000 U.S. troops in Iraq right now. There are thousands of Americans who are civilians and people from all over the world who have been brought in.

If there is a civil war, how are they protected?

WARNER: You know, another very important part...

BLITZER: Did you get answers from...

WARNER: We did.

Another very important thing was Secretary Rumsfeld. I met with him early on Thursday morning -- with the chairman of Joint Chiefs and Abizaid in his office -- basically to bring to bear the military factor on the ports issue, which we'll cover.

But at that time, we discussed their testimony before the Appropriations Committee.

Rumsfeld pointed out, if civil war breaks out, then it will be the primary responsibility of the Iraqi forces, which we have trained and equipped, to put that down. The American forces...

BLITZER: But let me interrupt you, Senator...

(CROSSTALK)

WARNER: The American forces will be in support.

BLITZER: Now would you trust Iraqi forces to protect all those tens of thousands of Americans?

WARNER: I didn't go quite that far. I said it's their responsibility to put down the civil war and support the government.

The American forces are there, and my assumption -- although I have no specific knowledge -- is that part of their mission would be some support to the Iraqis fighting, but at the same time, try and give whatever measure of protection possible to the American people.

BLITZER: Senator, do you have confidence in those Iraqi forces to protect those Americans?

LEVIN: No, and we cannot protect them from themselves, Wolf. They're going to have to decide whether they want a nation, whether they want a civil war.

We can't write a constitution for them. We can't pick their government for them. But what we can do is let them know it's not an open-ended commitment.

If they don't want a nation, if they want a civil war, that's going to be their decision. Our decision is how long to stay and under what conditions.

BLITZER: Because there's still fear -- and we're going to take a break, Senator Warner, and get into the Dubai Ports deal -- there's still fear Iraq, when all is said and done, could crumble into a Shiite state, a Kurdish state and a Sunni state. And this integrity that the U.S. has been talking about, together with the Iraqi leaders, that may be wishful thinking.

LEVIN: Well, we're not there yet. The only hope of avoiding it is if the Iraqis make a political decision to come together, to unify. And we've got to put pressure on them to do that.

And the way to do that, again, if we let them know that our continuing presence upon their taking action.

BLITZER: All right, Senator...

WARNER: That action is also not just coming together and forming a government, but looking at refinements in the constitution...

LEVIN: I agree.

WARNER: ... and putting capable people in the ministries -- far more capable than those who worked in this present government in Iraq; to have integrity to run the ministries.

BLITZER: We'll take a break. But do you have confidence in Ibrahim al-Jaafari?

WARNER: I'm not in that position to make that statement.

BLITZER: Do you have confidence in him?

LEVIN: I think they are going to have to decide that question. We should not dominate.

WARNER: That's correct.

LEVIN: We should not dictate.

BLITZER: We'll leave it there. But we're going to take a quick break. We've got a lot more to talk about with the senators. I'll ask both Senators Warner and Levin about the ports deal collapse -- also, President Bush's warrantless wiretapping program: Is it legal?

Then, mending fences in the aftermath of that port deal collapse. We'll hear from the Senate Intelligence Committee member Saxby Chambliss. He's on the ground in Dubai right now.

Later, my exclusive look inside Dubai, at the height of the ports controversy. I was just there that week. I'll tell you what I saw.

"Late Edition" will continue right after this.

BLITZER: There's still time for you to weigh in on our Web question of the week: Did Congress overreact to the United Arab Emirates ports deal?

You can cast your vote. Go to cnn.com/lateedition.

Straight ahead: Should the U.S. Congress censure President Bush for authorizing warrantless wiretaps? I'll as Senators John Warner and Carl Levin' they're standing now live.

You're watching "Late Edition," the last word in Sunday talk.

(BEGIN VIDEO CLIP)

BUSH: In order to win the war on terror, we have got to strengthen our relationships and friendships with moderate, Arab countries in the Middle East.

UAE is a committed ally in the war on terror. They are a key partner for our military in a critical region.

(END VIDEO CLIP)

BLITZER: Welcome back to "Late Edition." We're talking with the two top members of the U.S. Senate Armed Services Committee, the Republican chairman, Senator Warner of Virginia and Democrat Carl Levin of Michigan.

Senator Warner, was it a mistake to kill this deal?

WARNER: Let me say that history will have to decide that. I went into this situation with a good deal of vigor, held the first briefing -- Carl was in attendance of our committee, so he could get the facts out.

So many people in the American public just did not have the benefit of the full factual picture of exactly what it was they were getting -- not buying the ports.

How many times did I see that incorrect statement?

We carefully tried -- I did and others -- to get the facts out. I can't what went on in the House of Representatives. But I think the Senate was quietly and reflectively looking at this situation.

UAE and the other moderate Gulf nations are absolutely critical for our national security.

BLITZER: So, you're not happy the way this...

WARNER: It's not a matter of being unhappy or happy. I'm concerned about the future war on terrorism and our ability to work with those valuable I'll allies for basing aircraft and so forth.

What we should have done is stayed on course with the 45 days and not tried to -- as they did on the floor of the Senate -- bring on this amendment, which will complicate immeasurably the pulling apart of these two companies.

The deal is over. We have the leader of the UAE, the prime minister, and indeed our government now working to pull it and get it off the books. And it looks like in every respect a total divestiture.

BLITZER: Total? In other words, there won't be any connection between the United Arab Emirates...

WARNER: That's my judgment.

BLITZER: ... and these six port operations.

WARNER: That's the goal. Now, we've got to wait and see how that's achieved. But I do not think Congress should take any more action on this ports issue. Put its attention on legislation to strengthen port security and to rewrite the CFIUS law.

BLITZER: As you know, Senator Levin, there are several pieces of legislation out there on the House side and the Senate side. They just want to make sure that there are no foreigners, whether from the United Arab Emirates or any other country, operating ports or critical infrastructure in the United States at a time when 75 to 80 percent of the port operations in this country are already being run by foreign operations.

LEVIN: I thought that it was a big mistake for the administration to proceed with this deal without going through that 45-day investigation, which our law requires. We got -- we're supposed to have checks and balances in this country. They haven't operated very well with this administration, to put it mildly. But here's an example. Where you've got a law which very clearly says that if security concerns are raised about a transfer such as this, just raised, that then there must be a formal investigation, a 45-day period, and a report to the president and to Congress. The administration tried to bypass that clear requirement because there clearly were security concerns raised here. Raised by the Coast Guard.

They may have resolved their concerns, but there were concerns. And by the 9-11 Commission, which was never consulted. The 9-11 Commission report laid out a series of...

BLITZER: I think that's fair, Senator Warner. The administration mishandled this operation.

WARNER: Well, I'm not sure you want to leap to that conclusion. In the first place, the CFIUS process...

BLITZER: Let me explain to our viewers, that's the Committee on Foreign Investments in the United States, an interagency panel, mid- level officials, basically concluded there were no...

WARNER: Handling hundreds of these cases.

BLITZER: ... national security concerns.

WARNER: Handling hundreds of these cases. Protecting the proprietary interests of companies who come here to try an work out deals. I went back over the weekend, I say to my good friend, and checked accurately what our administration did in this process.

They followed the same patterns that the first Bush administration did, the Clinton administration did and this administration. Been total consistency in the process. But I do believe we should have stayed with that 45 days and Congress should not come in now and try and vitiate this contract on its own.

BLITZER: It's over with now. I want both of you...

LEVIN: I hope it is, but the only way to stop this deal from going forward was for Congress to introduce this legislation. Remember, what the administration said is, they're going ahead. They're closing the deal, despite the Congressional interest.

BLITZER: Listen to what Senator Russ Feingold, Democrat of Wisconsin, said earlier today on ABC. Listen to this.

(BEGIN VIDEO CLIP)

FEINGOLD: What the president did, by consciously and intentionally violating the constitution and the laws of this country with this illegal wiretapping has to be answered. There can be debate about whether the law should be changed. There can be debate about how best to fight terrorism. We all believe that there should be wiretapping at appropriate cases. But the idea that the president can just make up a law in violation of his oath of office has to be answered.

(END VIDEO CLIP)

BLITZER: And he says he's going to introduce legislation tomorrow, a resolution to censure the president. Are you going to support him?

LEVIN: I think what the president did was wrong. I don't think that he could possibly use the authorization that we passed to authorize him to use force in Afghanistan is a basis for the wiretaps. I think that the law which we have on the books required him to go to the court to get these intercepts. But even though I think he was wrong, I would rather wait until the investigation is completed, which has now been started, by the intelligence committee, before I go beyond that.

WARNER: You know, you left out one thing on that little piece. He admitted he's running for president. And this was political grandstanding. And regrettably, because as the world watches, at the same time Congress is trying to sort through the important legislation, and I was among those, Carl, you know, that said we should legislate on this issue, bring clarity to it, so that the president is not perceived as breaking the law. I don't think he has.

But that was political grandstanding. And it tends to weaken our president. Whether you like him or not, he's the president for the next three years. Our economic trade abroad dependents on this, how the world views us, our security arrangements, diplomacy, all of it is dependent on an active, strong president. And to shoot out like that, is the worst type of political grandstanding.

LEVIN: I think criticism of the president is legitimate. It was bipartisan criticism of the president relative to the intercepts here. And so, I think we ought to welcome some checks and balances on the president. We ought to welcome some criticism, particularly where it is bipartisan. And on the use...

WARNER: Carl, I agree with you.

LEVIN: Well, wait a minute. On the use of these intercepts here, that involve American citizens, it seems to me that the criticism is highly appropriate, which was given on a bipartisan basis.

WARNER: I spoke out that we should proceed as a body to revise these laws so there is no a perception that this president or any future president would be breaking the law. But those presidents must act instantaneously in the security interests of this country. And it's hard today.

LEVIN: This was thought out. This wasn't instantaneous.

WARNER: I know, but this old statute is 30 years old. And since that time, there's been dramatic change in technology.

LEVIN: Well, then come to the Congress and ask for a change. WARNER: Fine, Carl, but at this time, don't do something like one of our colleagues did, jump up and call for this thing.

BLITZER: We'll leave it right there. Senator Warner, as usual, thanks very much. Senator Levin, thanks to you as well.

We have to take another quick break. When we return, the next step for the United States and the United Arab Emirates. How frayed is the relationship now that the Dubai ports deal has collapsed. I'll speak with U.S. Senator Saxby Chambliss. He's in Dubai right now. We'll get the latest from there.

Up next, though, a quick check of what's in the news right now, including deadly storms in the Midwestern united states. Stay with us.

(BEGIN VIDEOTAPE)

BLITZER (voice-over): Ann Richards, what's her story? The outspoken Texas politician announced this week she's battling cancer of the esophagus. Richards first grabbed the national spotlight with her keynote address at the 1988 Democratic National Convention.

She went on to serve as governor of Texas for four years before being defeated by then-Texas Rangers owner George W. Bush in 1995. Richards frequently speaks out about her struggle with osteoporosis, and now uses her experienced to consult women on the importance of leading a healthier lifestyle.

(END VIDEOTAPE)

(NEWSBREAK)

BLITZER: Welcome back. It's still unclear exactly what impact the ports deal collapse will have on the United States' long-time relationship with the United Arab Emirates and other Arab allies.

Just a short while ago, I spoke with the Republican Senator Saxby Chambliss of Georgia, a member of the Senate Intelligence Committee. He's in Dubai right now, part of a congressional delegation.

(BEGIN VIDEOTAPE)

BLITZER: Senator Chambliss, thanks for joining us. Welcome back to "Late Edition."

Did your fellow Republicans in the Senate and House do the right thing by killing this Dubai ports deal?

SEN. SAXBY CHAMBLISS (R), GEORGIA: Well, I'm not sure whether they did or not, Wolf. Obviously, the deal has been pulled at this point in time and that issue really is over with. We're going to continue down the road, I think, of reforming CFIUS, which I have supported from day one.

I came to Dubai to try to find out, really, what the facts are surrounding this deal. And, as I said, it's over with now. The leadership here has made a decision to transfer ownership of the management contract to a U.S. entity. And that will be done in due course.

But it's been an interesting day here in Dubai to learn about the country as well as to learn about the people that are involved in this issue.

BLITZER: Would you have been comfortable, knowing what you know now, having seen D.P. World in action at the ports in Dubai, letting this company operate, for example, the port in Savannah, Georgia?

CHAMBLISS: Well, the fact of the matter, Wolf, is that this particular company operates 51 ports around the world. I know what percentage of containers we examine in Savannah, and that's one of the key issues in the war on terrorism and making sure that we don't let either bad people or weapons that shouldn't come into the United States come into our country.

They actually examine a greater percentage of containers at the 51 installations run by the Dubai group.

So you know, it's one of those issues that, obviously, is very emotional, but I will say this. The individuals that run the Dubai ports are very professional. They are great partners of America in helping us fight to win the war on terrorism.

So I'm comfortable with the individuals that I've met and I'm comfortable with the fact that they operate a very professional organization.

BLITZER: It sounds as if, Senator, you would have, with hindsight, knowing what you know now, you would have allowed this deal to go forward.

CHAMBLISS: Well, I don't know because that's not why I came here. Initially, that's what we came here looking for, was to try to figure out whether or not we ought to support it or whether we ought to be in opposition to it.

But the fact that the deal was -- the decision was made to transfer the ownership of the management contract before we got here gave us a different light with which to look at the folks that are here and the operation that is here. And that's exactly what we've done.

So I am very comfortable, as I say, with the way in which they conduct themselves in the operation of the port facility here, which actually was run by a U.S. company from 1979 to 1989. That's something I didn't know.

Dubai is one of the best kept secrets in the world. And we came over here to find out the facts. And I've been very impressed with the facts that I have found since we've been here.

BLITZER: There's been some concern expressed over the past couple days since the deal collapsed that there could be some negative consequences for the U.S.

What's been the reaction in your talks with officials from the United Arab Emirates and from D.P. World? How angry are they toward the United States?

CHAMBLISS: Well, we've had some really good meetings. We've met with the custom folks. We've met with folks who run D.P. World as well as a good, long meeting with Prime Minister Muhammad bin-Rashid.

And we have received assurances from everybody that we have talked to that the strong relationship between the United States and UAE is going to continue. They have been great allies in the war on terrorism. They're going to continue to be great allies.

We are approaching the negotiations of a bilateral trade agreement. They're going to continue to look to the United States with great respect, and they're going to continue to move toward a positive trade agreement with the United States.

So I think, from the leadership standpoint, there's simply no question but what there has been no damage done.

What's been doing in the Arab world -- obviously, I'm sure our enemies will try to use it against us.

But what really makes me feel good about is that when we talk with the leadership here, they have been very positive. They understand that we're in political times in the United States.

A lot of the folks who are members of the cabinet, so to speak, as we would think, of the prime minister were educated in the United States.

So they understand the real world that we live in and they have accepted it. They have made the right decision, in my mind, and now they're ready to move forward. And I think we should be ready to move forward.

BLITZER: Senator Chambliss, have a safe trip over there. Thanks for joining us on "Late Edition."

CHAMBLISS: Thanks, Wolf. Always a pleasure to be with you.

(END VIDEOTAPE)

BLITZER: And a reminder for our North American viewers, right after "Late Edition," CNN reporters are "On the Story," including our White House correspondent Dana Bash on what happened behind the scenes as the ports showdown unfolded. You won't want to miss it.

Up next, though, something you'll see only here on CNN, my up close and personal look at Dubai, the story of this very diverse and vibrant Middle Eastern ally of the United States. But first this.

(BEGIN VIDEO CLIP)

(UNKNOWN): The UAE has had a long, extensive history of cooperating with the U.S. on issues dealing with military intelligence cooperation, terrorism and so on since well before 9/11.

(END VIDEO CLIP)

BLITZER: Usabelo Taiba (ph), the national security adviser to a crown prince in the United Arab Emirates.

Welcome back to "Late Edition."

There were earlier problems but, since 9/11, the United States and the United Arab Emirates have established an incredibly close, strategic partnership on the war on terror.

I travelled to Dubai to get the full story. I had exclusive access to D.P. World, top company and government officials, the ports, and security operations.

It's something you'll see only on CNN.

Who is actually responsible for inspecting the millions of containers coming through these ports ever year? That job falls to Dubai customs. Here's how they do it.

It's state-of-the-art technology, designed to see through heavy metal containers. It can detect illegal drugs and contraband weapons and ammunition. It can detect chemicals and biological agents.

And, perhaps most important, it can detect nuclear equipment, as well.

So if there were, God forbid, a radiological bomb inside a container, they would be able to determine it -- they would see that?

AHMED BUTTI, DIRECTOR GENERAL, DUBAI CUSTOMS: Yes. Yes.

BLITZER: This handheld piece of equipment can detect radiation levels.

BUTTI: We have also the machine that will tell you that... Ahmed Butti is in charge of Dubai customs. During an exclusive, behind-the-scenes tour, he proudly showed off the technology -- the hardware and the software that are already used in Dubai.

We are in the process right now in working together with the Department of Energy, of establishing in all our gates, to put the radiation machine to detect that.

And we have a team from our inspectors -- already on the (inaudible) right now to be trained how to operate these machines. BLITZER: Here in Dubai, when it comes to security and checking what's inside of containers, they say they are not worried about politically incorrect ethnic profiling.

BUTTI: From certain countries, 100 percent sometimes. Some countries, no. Thirty percent. Some countries, 20 percent. It depends where it's coming from. It depends the companies.

BLITZER: How suspicious you are.

BUTTI: Absolutely.

BLITZER: He won't say which countries have everything inspected, through presumably this Iranian ship loaded with Iranian cargo -- which we drove by -- would be a prime target for a thorough inspection.

D.P. World CEO Mohammed Sharaf also gave us an exclusive look around the huge facility -- and he stressed his company's worldwide reputation for safety and security.

MOHAMMED SHARAF, CEO, D.P. WORLD: We have customers whose vessels call at our terminals, which costs hundreds of millions -- not only the vessel, the goods on them cost hundreds of million of dollars.

If they don't have any confidence in our operation, they could not bring their ship to our terminals. Each ship has up to 10,000 containers on them.

Can you imagine each container costs -- the value of each container is around $100,000. What's the value of the total ship? Would they bring their ship to our terminal if they didn't feel secure or safe?

BLITZER: In my three-day behind-the-scenes visit, I also had a chance to inspect the port operations from a tugboat ride in the harbor -- and it was very clear that the port operator, in this case D.P. World, can have a significant impact on security for good or for ill.

Up in the port control tower, I saw D.P. World employees who have advanced knowledge of ship itineraries, controlling which ships go to which berth, determining how fast ships are loaded and unloaded and directing giant cranes. One of D.P. World's biggest customers is the United States Navy. It makes over 500 port visits a year to Dubai.

I spoke with the Navy Captain Thomas Goodwin.

Explain the little operation you have got over here. How secure do you feel as we get a sense of the U.S. Navy presence that occasionally comes in here?

CAPTAIN THOMAS GOODWIN, U.S. NAVY: Well, Wolf, as you know, security is kind of a -- and a feeling of safety is kind of a relative thing.

If you look around here, pretty populated with U.S. Navy ships, Military Sealift Command ships -- I feel very safe here. I know the crews and the people who are stationed down here in the UAE feel very safe here as well.

BLITZER: How often do U.S. Navy vessels come to Dubai?

GOODWIN: On a daily basis, there is at least one U.S. ship in a port in the UAE -- and, oftentimes, more than that, as you can see in the port here behind me.

BLITZER: And they'll spend a day or two or three or whatever?

GOODWIN: Typically, a warship will come in here for four visits: re-provisioning of food and fuel, and they'll get back underway. Jebel Ali is where we're here now in the United Arab Emirates and the emirates of Dubai -- it seems to be at the top of the port visit request list for warships.

BLITZER: Can they accommodate carriers, too?

GOODWIN: They can accommodate a carrier here. As a matter of fact, it's probably the only other than -- well, it is the only port in the AOR that can accommodate a carrier.

BLITZER: Now, who provides the services? When a U.S. Navy vessel comes in here, Dubai Ports World -- I take it -- helps you guys as the port operator?

GOODWIN: In fact, it is. United Arab Emirates, it's Dubai Ports World -- they own the territory. This is their home territory. We work hand in glove with Dubai Ports World for services and to provide fuel, logistics, and everything that a warship or another logistics ship would need here. Absolutely.

BLITZER: How do they do? How's the receptivity? What kind of grade would you give them when you come here to Dubai?

GOODWIN: If I put them on a grading scale like you're back in college or something like that, I'd have to give them at least an A- plus.

BLITZER: Despite glowing assessments of the U.S.-UAE military relationship from top U.S. military commanders, the deal may have been doomed from the start in this post-9/11 era.

A Wall Street Journal article on Friday referred to my visit to the United Arab Emirates. It said this -- let me read it to you:

"A CNN report from Dubai showed articulate and Western-educated Dubai leaders offering assurance that they would strictly maintain security at any port facilities they operated in the United States.

"But aids to House Republican leaders reported that the sight of men in Arab dress saying they would handle port security only made the calls of complaint come faster."

Two of the 9/11 hijackers came from the United Arab Emirates, and the emirates was one of only three countries to have official relations with the Taliban regime in Afghanistan before 9/11.

In an exclusive interview, I asked the chairman of D.P. World, Sultan Ahmed Bin Sulayem, about that.

(BEGIN VIDEO CLIP)

SULTAN AHMED BIN SULAYEM, CHAIRMAN, D.P. WORLD: You've got 3 million people here. You can't really blame 3 million for the act of two.

I think there's a lot of changes in how to control transfers of money, how to declare it. We have signed the anti-money laundering. We apply the rules. I think the cooperation in that field is very strong between our country and the USA.

(END VIDEO CLIP)

BLITZER: The decision to pull out of the deal and transfer D.P. World's U.S. port operations to a U.S. entity was sudden.

All of the executives and government officials I spoke with -- who were there -- they expressed supreme confidence, at least before this deal collapsed, that the deal would absolutely go through.

They said they had no doubt. No doubt, they were stunned by the speedy collapse.

Still ahead, some extraordinary views of Dubai. We're going to show you why this city is called "the city of gold."

Is such a popular city a major tourist spot? The answer, yes. We're going to show you why. Snowing in Dubai. Plus, the results of our Web question of the week, "Did Congress overreact to the United Arab Emirates ports deal?"

We'll take a quick break. We'll be right back.

BLITZER: It's fair to say that most Americans have learned a great deal about Dubai in recent weeks.

During my visit, I learned it's a very popular vacation destination in the Persian Gulf and a fascinating place. Here's a taste of extraordinary Dubai.

(BEGIN VIDEOTAPE)

BLITZER: (voice over) This is the Burj al-Arab Hotel in Dubai, arguably one of the manmade wonders of the world. It's the world's tallest hotel, complete with a helipad near the top. It's also one of the world's most expensive. LUC DELAFOSSE, HOTEL GENERAL MANAGER: We have a magnificent sell (ph), anyway, and the building itself soars at 321 meters. So you are in Suite 2008. That is actually one of our panoramic suites.

And the particularity of this suite category is this fantastic window, where you can actually really see Dubai, you know, at your feet. So it's made of the ground floor, where you have a bar area; you have a lounge area. We call it, actually, the majelice (ph), here for example, in this region. You have a dining room. You have two bedrooms. You have a bedroom on the ground floor. And you also have the master bedroom on the mezzanine level on the upper floor.

BLITZER: This suite is, per night, how much?

DELAFOSSE: I would say, in terms of dollars, you know, it would be something like $4,000 and $5,000.

BLITZER: A night?

DELAFOSSE: A night. We have a magnificent spa located on the 18th floor. Our, actually, commitment or mission is to be, clearly, the world's most luxurious hotel.

BLITZER: Not far from the hotel is this mall. What's extraordinary is what's inside. It's called "Ski Dubai."

It's hard to believe that we're right in the middle of the desert. Yes, we're in the desert. But these people are skiing. They're going on chair lifts. And there are ski slopes indoors.

It's the most bizarre scene, people from all over the world snowboarding and skiing downhill, and indoors.

The snow is manmade, as is the below-freezing temperature. But everything else is very real. Check it out.

Back outside, in the subtropical climate, a helicopter tour of Dubai reveals a booming desert city. One can't help but gasp at the pace of construction on both real desert land and manmade land.

This is Palm Island, where multimillion-dollar villas spread out across the Gulf. It's shaped like a date palm tree.

What's billed as the world's tallest building is now under construction. The Burj Dubai will be the centerpiece of a new development downtown.

Traffic jams here are a daily and expected occurrence in this growing city of 1.2 million people. There are lush golf courses. Tiger Woods was here recently for the Dubai Desert Classic.

Camel racing is popular but controversial because the jockeys are young children. Dubai is promising UNICEF it's banning underage jockeys. And get this -- robot jockeys are in development.

Dubai hosts more than 5 million visitors a year and wants to increase that number ten times, for the city that is rightly known as Vegas on the Gulf.

(END VIDEOTAPE)

BLITZER: Here are the results of our Web question of the week. Check it out. Remember, though, it's not a scientific poll.

And that's all the time we have for this "Late Edition." I'm Wolf Blitzer in Washington. Thanks very much for joining us.

Miller, Charles S

From: Miller, Charles S
Sent: Monday, March 13, 2006 12:14 PM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Apisson, Elizabeth M; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 3/13/06 Civil Division News

Google, U.S. to face off in federal court

Government worries about mob ties at ports

Derailment lawsuit question might take Supreme Court ruling

El-Masri to testify in European Parliament

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Plan to unify immigrant appeals; Sen. Specter's provision to centralize jurisdiction draws fire

Liberal Law Professors and the Solomon Amendment Rout

San Jose Mercury News
3/13/05

Google, U.S. to face off in federal court

By Howard Mintz
Mercury News

It's showdown time for Google and the Bush administration.

In a widely anticipated hearing in San Jose federal court, lawyers for the Mountain View-based search engine and the government will square off Tuesday over whether Google should be forced to turn over a vast array of data, including 1 million Web addresses. The case is viewed by many experts as a test of how vulnerable the voracious search habits of the nation's Web users might be to the prying eyes of government.

Attorney General Alberto Gonzales triggered the clash in January, when Justice Department lawyers went to court to force Google to comply with a subpoena that asks the company to release a treasure trove of Web addresses and at least one week's worth of random search queries. The government is seeking the information to buttress its defense of the Child Online Protection Act, a federal law designed to keep children from sexually explicit content on the Internet.

Google, backed by privacy advocates, is resisting the subpoena on a variety of grounds, including the argument that it threatens the privacy rights of Web users and exposes the company's trade secrets to public release. The company also insists the information is irrelevant to the government's fight to revive the federal child protection law, which was put on hold by the U.S. Supreme Court two years ago.

U.S. District Judge James Ware's courtroom is expected to be jammed for this heavyweight legal bout between the world's largest search engine and the federal government. Despite the fact that the case has raised concerns about government intrusion into Web habits, legal experts say Ware may steer clear of that issue and decide the case on much narrower grounds, such as whether the government can justify its subpoena.

Nevertheless, the case is considered a crucial barometer of how much control a search engine has over its vault of Web traffic and whether the Internet habits of its users are insulated by a 20-year-old electronic privacy law. Orin Kerr, a law professor at George Washington University, said that if the government gets the information, it's conceivable Congress may eventually step in with legislation that would prevent the broad release of data collected on Internet searches.

``The subpoena was a wake-up call to everybody that search engines have these logs and can produce them,'' added Kevin Bankston, a lawyer with the Electronic Frontier Foundation, which opposes the release of the data. ``By storing all this data in perpetuity, they are creating a honey pot, not only for the government but for civil litigants'' who seek it for a host of reasons, from divorce fights to feuds between rival companies.

Justice Department lawyers declined comment on the case, but in court papers argue that Google and its supporters have overstated the risks of releasing the information. Government lawyers stress that the data they seek would not identify individual users.

The government has asked Google -- and other search engines such as Yahoo, Microsoft and America Online -- to provide data that can be used to study the prevalence of pornography on the Web and the effectiveness of filtering software to keep it from children.

The Supreme Court, in striking down the law, suggested that the government may be able to resurrect it if it can prove there is no alternative solution to effectively keeping adult content away from minors. As a result, the Bush administration is trying to pull together a study, using the Web data, to assess how often random searches turn up adult content and how that can be controlled.

Government lawyers went to great lengths in a recent brief to stress that the request poses no threat to the privacy of Google users, noting that the other major search engines have complied with similar subpoenas. The government relies heavily on Philip Stark, a statistician at the University of California-Berkeley who is helping assemble the data.

Stark declined comment. But in a recent declaration, he rejected Google's assertion that the data can be used to track the habits of individuals.

``Google queries are disclosed routinely to third parties when a user clicks any link in Google search results,'' Stark wrote. ``The government seeks less information about queries than Google publishes in Google Zeitgeist,'' a list of Google's most popular searches.

Google has argued that the government's request is in fact a direct threat to its relationship with users, who depend on assurances their Web browsing is a private matter. In court papers, the company balks at the government's argument that the data is needed for a study, saying it will tell the government

``absolutely nothing" about the effectiveness of the online protection law.

Whatever Ware decides, privacy experts say the government demand has raised awareness, in part because of increasing concerns about the extent of government surveillance programs.

``This case comes at a time when people are starting to recognize that the information they put into their computers creates a record," said Lauren Gelman, associate director of Stanford University's Center for Internet and Society. ``In the bigger picture, as people input more information into computers, they are losing control over that. We're leaving a digital footprint with all sorts of information about ourselves."

END

AP

3/13/06

Government worries about mob ties at ports

By DAVID B. CARUSO
The Associated Press

NEW YORK — Justice Department lawyers warned eight months ago that a nefarious element had infiltrated important East Coast ports, but they weren't talking about terrorists or Arab shipping companies.

They were talking about the Mafia.

In a civil suit filed in July, prosecutors accused the International Longshoremen's Association (ILA), the 65,000-member union that supplies labor to ports from Florida to Maine, of being a "vehicle for organized crime" on the waterfront.

Packed with tales of corruption, embezzlement and extortion, the complaint accused union executives of being associates of the Genovese and Gambino crime families.

The U.S. Attorney's Office asked a judge to seize control of the union, remove its officers and "put an end to the conspiracy among union officials, organized-crime figures and others that has plagued some of the nation's most important ports for decades."

The allegations, assailed by the union as unjust and untrue, are inching toward trial amid heightened concern over port security triggered by a Dubai-based company's purchase of several U.S. shipping-terminal operations. The company moved to defuse the controversy by pledging to turn over its U.S. operations to a U.S. firm.

But some port-security experts say the nation already has a problem on its docks: gangsters who have made the piers friendly territory for drug smugglers and cargo thieves.

"Do we really think that terrorists aren't going to exploit this situation?" asked New York Sen. Michael Balboni, chairman of the state Senate's Homeland Security Committee.

ILA spokesman James McNamara said any suggestion the union poses a security risk is "ludicrous."

"Nobody in America cares more about port security than the longshoremen," he said.

The ILA was among the early critics of the Dubai Ports World deal, calling on the Bush administration

Feb. 21 to scrutinize the company "to avoid even the impression of unnecessary risks."

Organized crime's role on the waterfront has long been the stuff of movies such as 1954's "On the Waterfront" and TV's "The Sopranos."

It has also been the subject of more than a few federal indictments. From 1977 through 1981, prosecutors won conviction of 52 union officials on various mob- and racketeering-related charges.

END

AP

March 12, 2006

Derailment lawsuit question might take Supreme Court ruling

FARGO, N.D._A lawyer representing people injured in a 2002 derailment and chemical spill on the west edge of Minot says it might take a U.S. Supreme Court ruling to determine the legal recourse for victims.

Federal\l "l" judges in North Dakota and Minnesota have ruled that private claims against the nation's railroads can't move forward because of the Federal\l "l" Railroad Safety Act, which makes railroads immune from such lawsuits.

The ruling last week by U.S. District Chief Judge Daniel Hovland in Bismarck threw out a class\l "l" action\l "l" lawsuit against Canadian Pacific Railway, raising questions about hundreds of lawsuits filed in Minnesota state court by the most severely injured.

"If Judge Hovland is correct, all cases have to be dismissed, no matter what court they are in," said Mike Miller, a Fargo lawyer handling hundreds of claims filed in Minnesota state court. "While it is so unbelievably bad for the people in Minot, it has ramifications throughout the country."

The Jan. 18, 2002, derailment sent a cloud of toxic anhydrous ammonia over Minot. One man was killed trying to escape the fumes and hundreds of people sought medical treatment.

Attorneys representing Minot victims affected by Hovland's decision may appeal it or move their claims to Minnesota state court, where the outcome is uncertain. Since last fall, Canadian Pacific has settled six lawsuits filed in Minnesota. A jury also ordered the company to pay $1.86 million to four other people. The railroad has appealed the cases it lost on claims of immunity.

Tim Thornton, an attorney for the railroad, said national interests outweigh private claims, a decision Congress made when voting to establish uniform standards for all railroads. While private claims aren't allowed, Thornton said, railroads aren't immune from fines and penalties levied by the Federal Railroad Administration.

Kristy Albrecht, who handled one of the cases settled last fall, said Hovland's decision surprised her.

"I don't think it was Congress' intent to take away innocent victims' remedy for railroad negligence," she said.

Hovland noted in his ruling that "the judicial system is left with a law that is inherently unfair to innocent bystanders and property owners who may be injured by the negligent actions of railroad companies."

Sen. Byron Dorgan, D-N.D., earlier this month asked the Congressional Research Service to investigate the Federal Railroad Safety Act, questioning why railroads should be given "some sort of special defense

in a court of law."

If Hovland's decision is appealed, it would go to the 8th U.S. Circuit Court of Appeals. Miller said the matter could end up in the U.S. Supreme Court regardless of the circuit court's decision.

END

Makfax (Macedonia)

El-Masri to testify in European Parliament

Skopje, 13.03.200609:31

Khalid El-Masri will testify on Monday in the Temporary Committee of the European Parliament on the secret detentions of the CIA in European countries.

Khalid El-Masri is a German citizen who claims that he was mistakenly kidnapped in Macedonia on 31.12.2003, later transferred to Afghanistan where he was tortured.

When the secret services realized that he was not Khalid El-Masri, an al-Qaeda mentor, he was released in Albania.

END

Chicago Tribune

March 12, 2006

FBI error a `watershed' in fingerprinting

PORTLAND, OREGON -- An FBI mistake linking a Portland lawyer, a Muslim convert, to the 2004 Madrid train bombings was a "watershed event" that led to improved fingerprint identification, but more needs to be done, according to a federal report.

The 330-page Justice Department report released Friday expanded on its January report that faulted the FBI for sloppy work but concluded the government did not misuse the anti-terror USA Patriot Act against Brandon Mayfield.

FBI experts mistakenly matched fingerprints on a bag of detonators in Madrid to Mayfield's after the March 11, 2004, bombings that killed 191 people.

Mayfield, who was jailed for two weeks in 2004, was released after the FBI acknowledged the fingerprint was not his. He is suing the federal government.

END

San Francisco Chronicle

Monday, March 13, 2006

Plan to unify immigrant appeals; Sen. Specter's provision to centralize jurisdiction draws fire

Bob Egelko, Chronicle Staff Writer

Tucked into a wide-ranging immigration bill now before a U.S. Senate committee is a proposal to send all future appeals in deportation and asylum cases to a court in Washington, D.C., where a single judge would have the authority to dismiss them.

The office of Sen. Arlen Specter, R-Pa., the bill's author, says the proposal would make immigration law uniform throughout the nation and relieve the other 12 federal appeals courts -- particularly those in San Francisco and New York -- of a glut of immigration cases.

But immigration lawyers and the American Civil Liberties Union say the plan is ill-conceived, dangerous and a thinly veiled attack on the Ninth U.S Circuit Court of Appeals in San Francisco, which now hears about half of the nation's immigration appeals. The critics were joined Friday by the Ninth Circuit's chief judge, Mary Schroeder.

"I don't think this is very constructive," she said in an interview. "I think it will limit representation" by requiring noncitizens to find lawyers who will travel to Washington to argue their cases.

In addition, Schroeder said, the judges on the Federal Circuit Court of Appeals in Washington, where the cases would be heard, "have no background" in immigration.

The change in court jurisdiction is one section of legislation sponsored by Specter, the Senate Judiciary Committee chairman, that also addresses such issues as temporary legalization for undocumented workers, increased border security and foreign visas. It is now undergoing committee review, without public testimony, and could come up for a vote by the end of this week.

Illegal immigrants seeking political asylum or fighting deportation orders now take their cases first to immigration courts, staffed by Justice Department employees. They can appeal unfavorable decisions to the U.S. Court of Appeals in their region, whose judges are appointed by the president and serve for life.

Increased immigration enforcement and limits ordered on immigration court review in 2002 by then-Attorney General John Ashcroft have led to a surge in such cases at the courts of appeals. Schroeder said they now make up 40 percent of the Ninth Circuit caseload, a situation that led to recent meetings with the Justice Department in which she and other judges urged upgrading the immigration court system.

Specter's bill would leave current appeals where they are, but send all such cases in the future to the Federal Circuit, which now handles mostly patent and trademark cases. Its roster of 12 judges, eight of them appointed by Republican presidents, would be increased by three.

The idea, according to Specter's office, is to eliminate regional discrepancies in immigration rulings -- and any incentive for illegal immigrants to look for a sympathetic court -- and create a single, nationwide set of legal standards.

Another provision would assign each incoming case to a single judge, who would decide whether the appeal contained an issue that was serious enough to warrant a hearing before a three-judge panel. If not, the judge would dismiss the case, and the immigrant would have no right of further appeal, said Marshall Fitz, director of advocacy for the 10,000-member American Immigration Lawyers Association.

"To try to ram this through as part of a broader immigration reform package ... without any hearings, any expert witnesses weighing in from the judiciary, any legal scholars ... is in my estimation irresponsible," Fitz said.

Among other things, he said, the change would add 10,000 cases to a court that now hears 1,500 cases a year. Specter's office denied that the judges would be overworked.

Tim Sparapani, an attorney with the American Civil Liberties Union, said immigrants already have trouble finding lawyers who will take their cases for free and would have more difficulty if their cases were moved to Washington.

"This would reduce the likelihood that attorneys will take cases on behalf of immigrants or would see them through until the end," Sparapani said.

Both he and Fitz contend the proposal is focusing in large part on the Ninth Circuit, whose liberal rulings and large size have prompted numerous attempts by Republicans over the last two decades to break it into two or three smaller circuits.

Specter's office would not allow any staffer members to be quoted by name, but aides said the senator's motivation was to make the law more uniform and effective, not to take cases away from the Ninth Circuit or any other court.

END

Special to law.com
3/13/2006 15:16:11

Liberal Law Professors and the Solomon Amendment Rout

Howard J. Bashman

Conservative commentators erupted in glee after the U.S. Supreme Court last week unanimously ruled in *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.* that Congress had not violated the First Amendment rights of law schools by requiring, on pain of a university's loss of substantial federal financial assistance, that military recruiters receive the same on–campus access to students as the most favored non–military recruiters.

The decision brings to an end a rather ingenious challenge to the "Don't Ask, Don't Tell" policy prohibiting openly homosexual individuals from serving in the U.S. Military. After several direct legal challenges to the policy failed, law school professors believed that they could pressure Congress and the military to abandon the policy by making it more difficult to recruit law students into the military.

To do so, law schools adopted policies that prohibited any employer unwilling or unable to sign a pledge promising that the employer did not discriminate in hiring on the basis of sexual orientation from being able to take advantage of the law schools' on–campus recruiting services, which included not only interview rooms located conveniently close to where the students were, but also assistance in announcing the employer's planned visit and scheduling interviews for the employer.

Congress, however, was both unwilling to end the "Don't Ask, Don't Tell" policy and to see military recruiters forced off–campus due to the military's inability to sign pledges against discrimination based on sexual orientation. As a result, Congress overwhelmingly passed a law that would cause an entire university to lose what often represented a very substantial amount of federal funding unless military recruiters were allowed onto campus and treated as favorably as those employers who were able to sign anti–discrimination pledges. That law was known as the Solomon Amendment, named after its original sponsor, Rep. Gerald Solomon, R–N.Y., who died in 2001.

Faced with a choice between declaring defeat in their protest of the military's hiring policies or fighting the Solomon Amendment in court, the law professors (perhaps unsurprisingly) chose the latter course. But instead of directly challenging the "Don't Ask, Don't Tell" policy, these law professors decided to mount a

First Amendment challenge to the Solomon Amendment's access requirement.

According to the law professors, the Solomon Amendment unconstitutionally required law schools to engage in speech to assist military recruiting that the law schools did not want to engage in, to associate against their will with an employer unwilling to sign the anti–discrimination pledge required of all other employers, and to engage in expressive conduct (treating the military the same as other employers) that the law schools would not voluntarily agree to engage in but for the threat of losing federal funds.

To be sure, the law professors' legal arguments were of questionable validity. I count myself among those who never thought that the lawsuit challenging the Solomon Amendment on First Amendment grounds should succeed, and the U.S. District Court for the District of New Jersey agreed, denying FAIR's request for a preliminary injunction against the law.

FAIR then appealed to the 3rd U.S. Circuit Court of Appeals. In the interest of full disclosure, I filed an amicus brief in the 3rd Circuit on behalf of several law student veterans groups that supported the federal government's position in the case. At the 3rd Circuit oral argument, it was clear that one judge on the three–judge panel clearly saw merit in FAIR's constitutional challenge to the Solomon Amendment, a second judge appeared to view FAIR's challenge as without merit, while the third judge said absolutely nothing. Several months later, the panel ruled 2–1 that the plaintiffs were entitled to a preliminary injunction blocking enforcement of the Solomon Amendment.

Too many other 3rd Circuit judges had recused themselves from the case to enable rehearing en banc to occur, so the federal government's only recourse from the 3rd Circuit's adverse ruling was to seek review in the U.S. Supreme Court. FAIR opposed the federal government's petition for writ of certiorari, arguing that no circuit split existed on the Solomon Amendment's constitutionality and that the 3rd Circuit's decision directing the entry of a preliminary injunction envisioned further evidentiary proceedings on remand. Supreme Court review, if it were to happen at all, should await the conclusion of the entire case, FAIR argued.

But FAIR's argument was to no avail, as the Supreme Court agreed to review the 3rd Circuit's ruling on the merits. At that point, there was no turning back for FAIR. And following a Supreme Court oral argument during which FAIR's position appeared to have little to no support from the bench, it appeared likely that FAIR would lose convincingly and perhaps by a unanimous margin.

Notwithstanding the 8–0 trouncing that FAIR's arguments received at the hands of the Supreme Court, it strikes me as a bit unfair to argue that the outcome calls into question the professional qualifications of those liberal law professors who devised and backed the Solomon Amendment litigation.

To begin with, before the Supreme Court ruled, FAIR's arguments had achieved victory in both the 3rd Circuit and in a federal district court in Connecticut. FAIR deserves credit for choosing the 3rd Circuit as the forum in which to litigate the initial challenge to the Solomon Amendment, based on that federal appellate court's reputation as moderate to liberal on First Amendment issues.

Second, notwithstanding its ultimate loss in the Supreme Court, FAIR has caused a great deal of additional attention to be focused on the existence of the "Don't Ask, Don't Tell" policy, which may cause many people who had never considered the policy to question its necessity. In fact, even in defeat FAIR may help undermine the policy, as law students who do not believe the policy is justified will now have easier access to military recruiters, allowing those students more readily to join the military and seek from within to overturn support for the policy.

FAIR's most significant achievement in the litigation resulted from a concession by the solicitor general at oral argument, in response to questioning from Justices Ruth Bader Ginsburg, Anthony Kennedy, and Antonin Scalia, recognizing that vocal and enthusiastic protests of on-campus military recruiters can occur without violating the Solomon Amendment. The Supreme Court's opinion mentions that concession, giving FAIR a small victory in the midst of an otherwise total defeat.

For FAIR and its supporters, the Solomon Amendment case was being litigated as a matter of principle,

and often litigating for a principle, instead of being able to compromise, results in an unmitigated loss. And sometimes losing 8–0 is preferable to losing by just a single vote. Yet to say that the law professors supporting FAIR are unqualified to instruct the next generation of lawyers or determine litigation strategy overlooks what FAIR actually accomplished earlier in the litigation and in the court of public opinion. FAIR may have lost the case, but the battle over the principle at stake continues.

END

Randall, Jenny (DHS)

From: Randall, Jenny (DHS)

Sent: Monday, March 13, 2006 7:12 PM

To: Otis, Lee L; Gorsuch, Neil M; fred_ames@ustr.eop.gov; williaa@nic.odci.gov; martin.bagley@dtra.mil; jbailey@doc.gov; nolan.barkdull@dhs.gov; Becker, Gary (DHS); sharon.betson@science.doe.gov; bird.ronald@dol.gov; Breuder, Jen (DHS); nsbrods@sandia.gov; brownlg@state.gov; tjbrown@sandia.gov; richard.chavez@osd.mil; dclancy@omb.eop.gov; rachel.cononi@do.treas.gov; michael.craig@dhs.gov; croddyaj@state.gov; victoria.davey@hq.med.va.gov; chrisgd@ucia.gov; smdelan@sandia.gov; angela.desmond@frb.gov; Nathan.Dickerson@dhs.gov; Domich, Paul (DHS); jerome.donlon@hhs.gov; donnellykd@state.gov; Kathleen.Downs@dhs.gov; tyler.duvall@dot.gov; eckstrai@nigms.nih.gov; maehlen@sandia.gov; nada.eissa@do.treas.gov; peter.estacio@hhs.gov; Finney, Tremika (DHS); bgellin@osophs.dhhs.gov; Mark.Giroux@dhs.gov; larry.m.granger@aphis.usda.gov; hatchettr@niaid.nih.gov; david.henry@esa.doc.gov; highnamp@mail.nih.gov; john.hill@fmcsa.dot.gov; Richard.L.Hinchion1@uscg.dhs.gov; howe.susan@dol.gov; jhrubovcak@oce.usda.gov; rkalmus@cea.eop.gov; amy.kircher@northcom.mil; kknapp@doc.gov; knouse.ruth@dol.gov; jkvach@afmic.detrick.army.mil; emily.lampkin@ed.gov; langdon.david@dol.gov; Lazarus, Lawrence (DHS); Maclaren, Jon (DHS); steve.malphrus@frb.gov; monique.mansoura@hhs.gov; Mares, Jan (DHS); robert.mariner@dot.gov; Martinez-fonts, Al (DHS); Mcclure, Laura (DHS); paul.mchale@osd.mil; melius1@llnl.gov; qzm4@cdc.gov; rem@lanl.gov; Jmiller@afmic.detrick.army.mil; jlmitch@sandia.gov; jane.molloy@esa.doc.gov; francesca.music.ctr@osd.mil; keith.nelson@hud.gov; kingram@qedllc.com; DOY.Noblitt@dhs.gov; michael.omalley@dot.gov; parrish.cayce@epa.gov; Penoyer, Brian (DHS); Sharon.Peyus@dhs.gov; michael.pierce@ios.doi.gov; pizzella.patrick@dol.gov; Purdy, Caroline (DHS); Randall, Jenny (DHS); timothy_l._reynolds@who.eop.gov; Jack.Richards@dhs.gov; robin.robinson@hhs.gov; ksroger@sandia.gov; Runge, Jeff (DHS); Keith.Ryan@dhs.gov; Diana.Schneider@dhs.gov; Schutte, Carol (DHS); jpsmith@lanl.gov; marty_p._smith@who.eop.gov; chris.soares@do.treas.gov; stidvent.veronica@dol.gov; Kemble.stokes@mail.doc.gov; jeremy.stump@usda.gov; john.sylvester@js.pentagon.mil; joel.szabat@dot.gov; thurmanss@state.gov; michael.viola@science.doe.gov; Wall, Joel (DHS); carlene.warren@dhs.gov; tom_weimer@ios.doi.gov; jack.wells@dot.gov; william.raub@hhs.gov; john.worth@do.treas.gov; steven.yevich@eh.doe.gov

Cc: Randall, Jenny (DHS)

Subject: MIDAS Information

Attachments: tmp.htm; Simulations to test proposed community template v9.doc; Modeling Comparison.ppt

Importance: High

All-

I wanted to get this out to all of you quickly as possible per today's meeting discussion. Richard

Hatchett would like you to provide any comments to him within the next few days. Please use 'reply all' so that everyone gets to see the comments that are sent out.

Best,
Jenny

Jenny Randall

Economist

Private Sector Office

O: 202.282.9801

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Comparing Models of Pandemic Influenza: Conclusions About Mitigation Strategies

Richard J. Hatchett, MD
Biodefense Directorate
Homeland Security Council
5 February 2006

Pandemic Influenza Threat

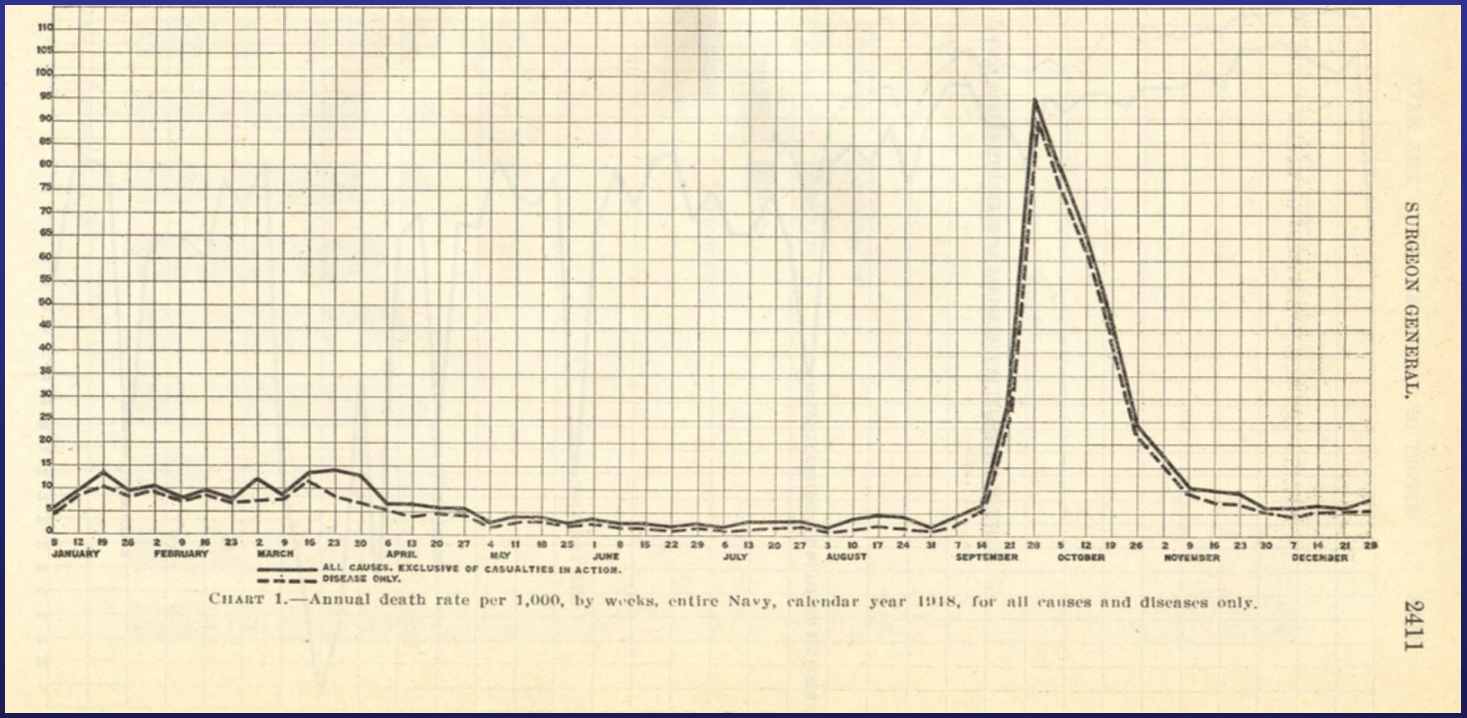

CHART 1.—Annual death rate per 1,000, by weeks, entire Navy, calendar year 1918, for all causes and diseases only.

Admiral Benson, CNO, Annual Report to Congress, 1919

Basic Tools

- ~~Vaccines~~
- Antiviral Medications
- Infection control / social distancing

Influenza Progression within an Individual Agent

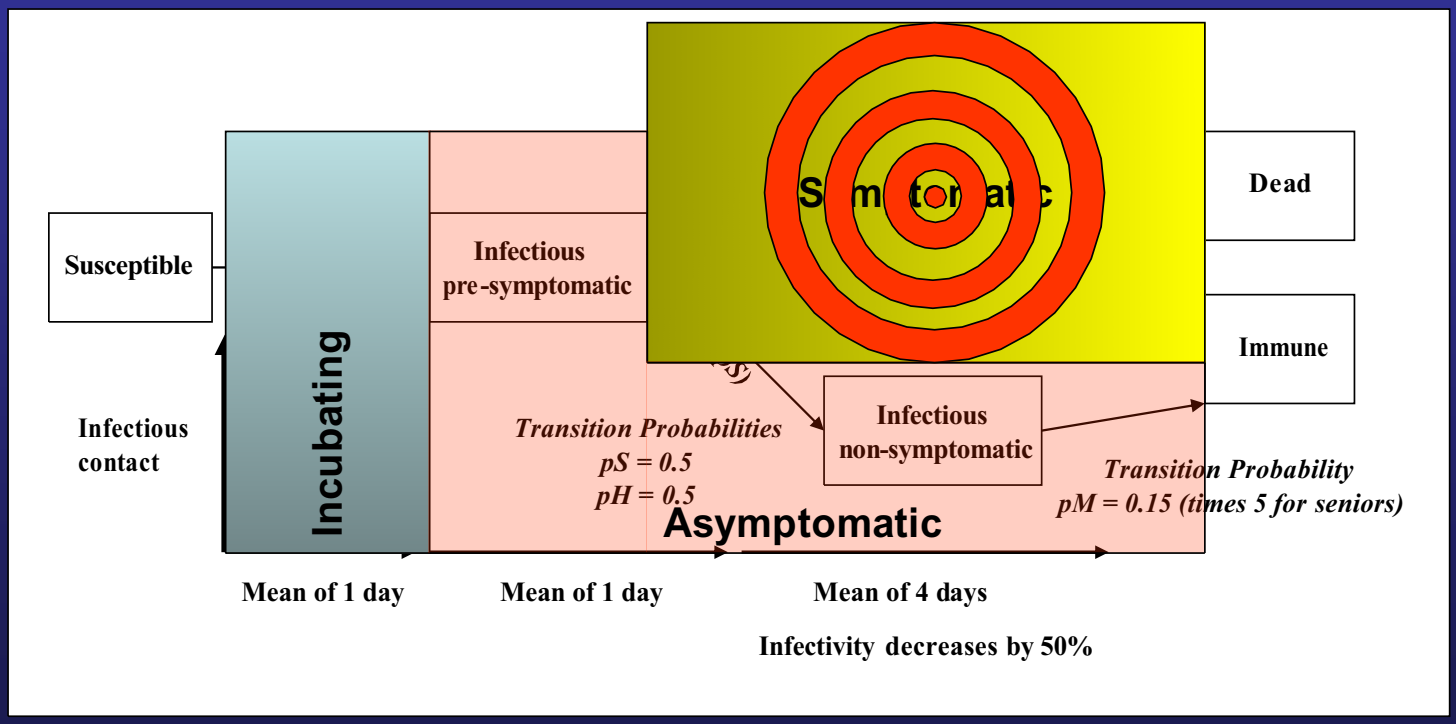

A Compromise between Ferguson 2005, Nature; Longini et al., 2005, Science; and Longini et al., 2004, Am J Epidemiology

Infectivity and Tamiflu

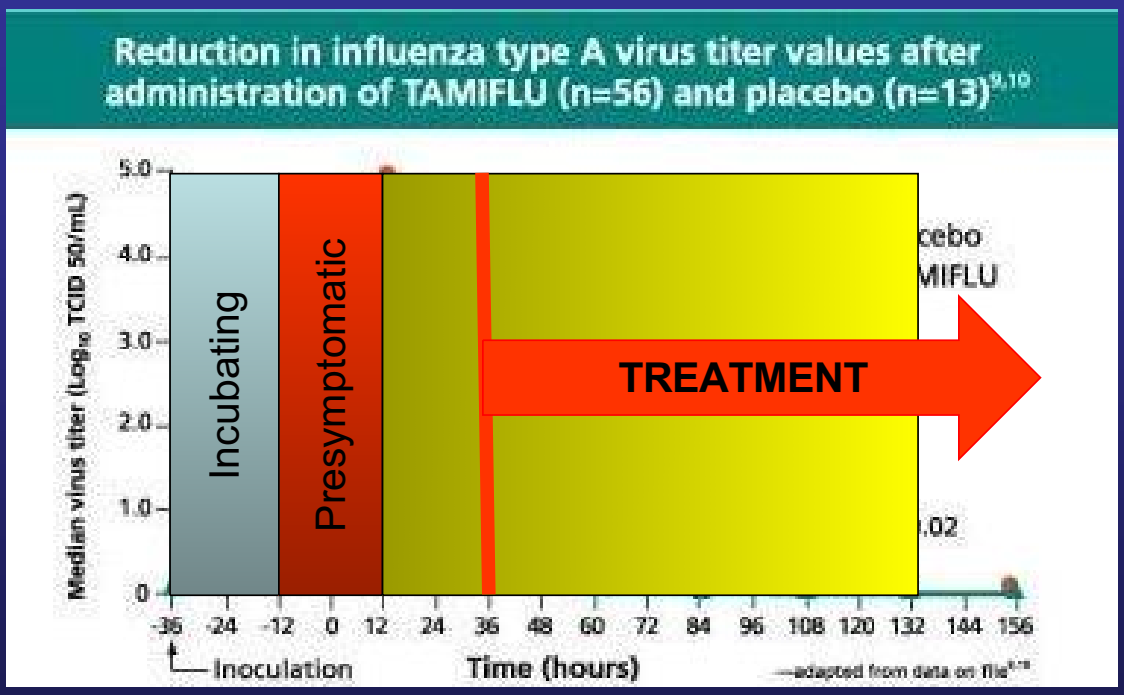

Data on file (Ref. #155-005 & #155-008), Hoffmann-La Roche Inc.

Antiviral Prophylaxis

- Overall protective efficacy of oseltamivir (once daily x 7 days) against clinical influenza is 89% for individuals and 84% for households
- Viral shedding is inhibited in contacts taking oseltamivir with 84% efficacy
- Efficacy in preventing clinical influenza (72 - 89%) is greater than preventing initial viral infection (63%)

Welliver, R, et al. Effectiveness of oseltamivir in preventing influenza in household contacts. JAMA 2001;285:748-754.

Hayden, FG, et al. Inhaled zanamivir for the prevention of influenza in families. N Engl J Med 2000;343:1282-1289.

Infection Control / Social Distancing

- Transmission Interventions (Infection Control)
  - Facemasks
  - Cough etiquette
  - Hand hygiene
- Contact Interventions (Social Distancing)
  - School closure
  - Telecommuting
  - Liberal leave

Effective Social Distance

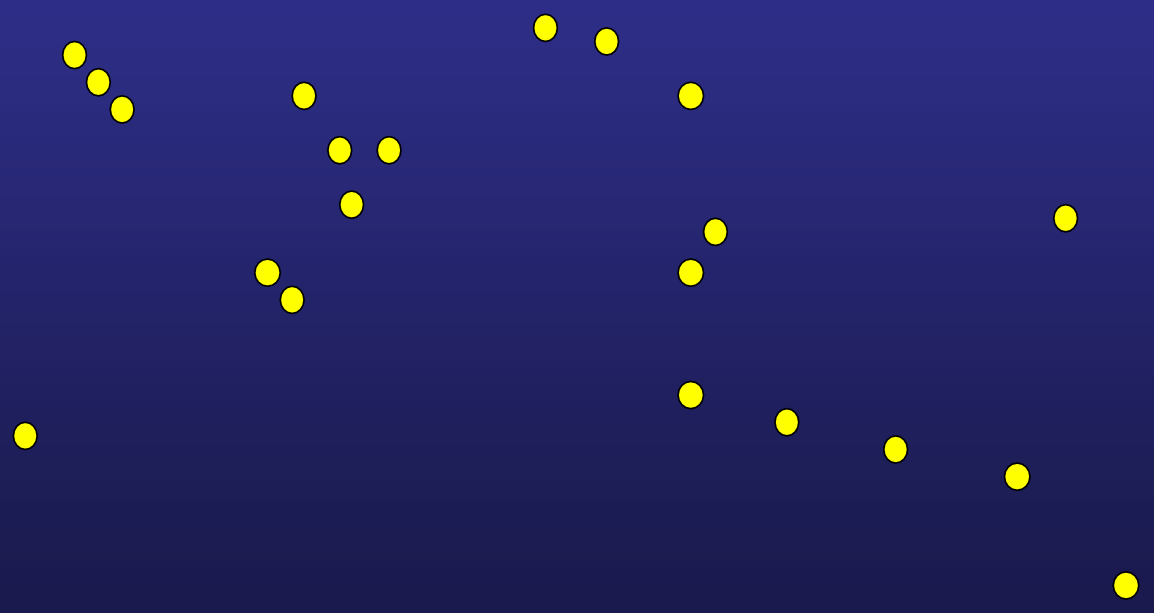

Effective Social Distance

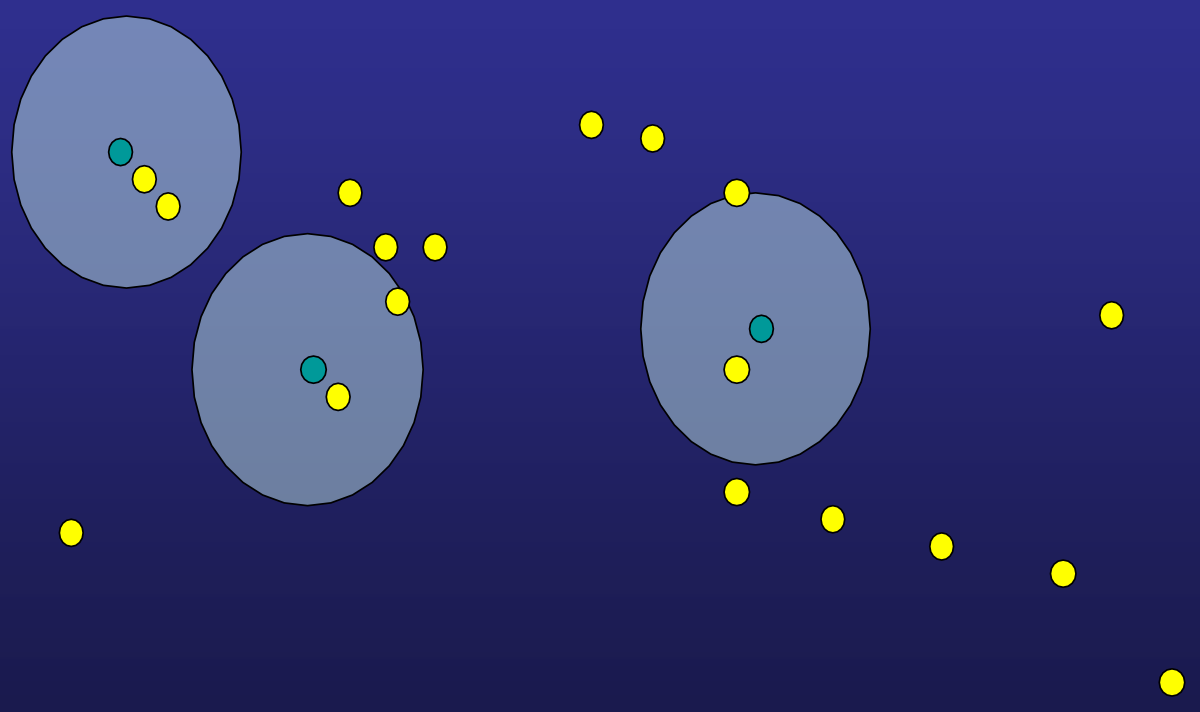

Effective Social Distance

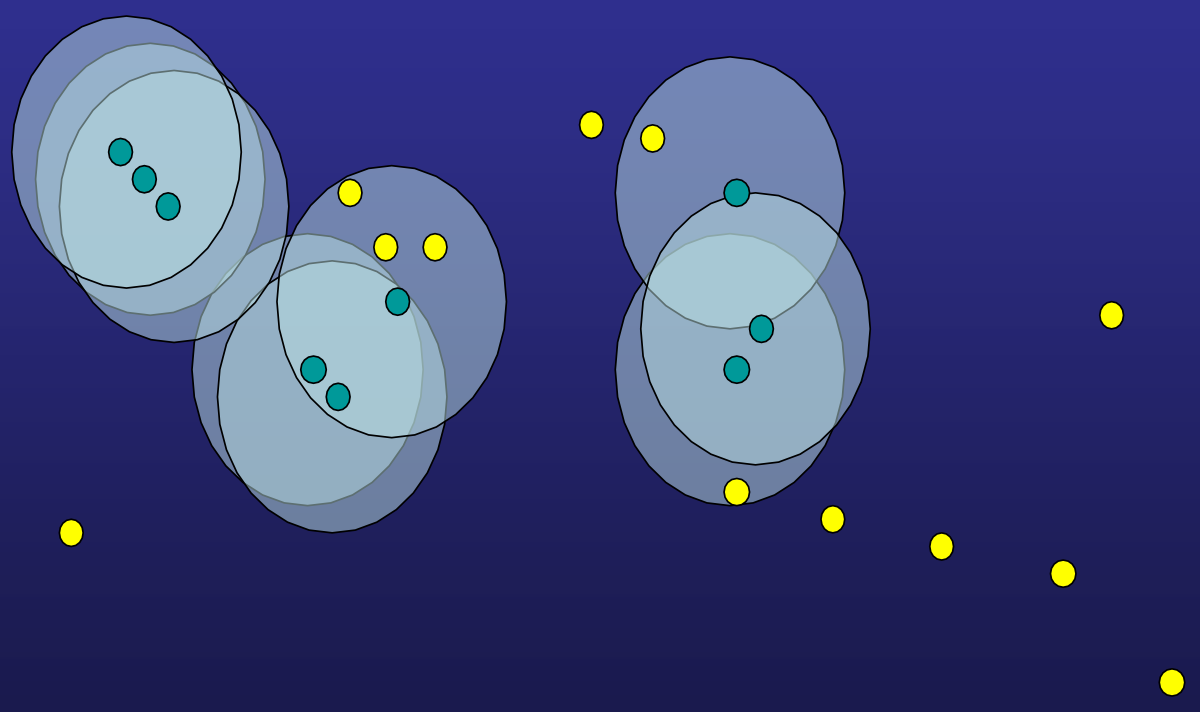

Effective Social Distance

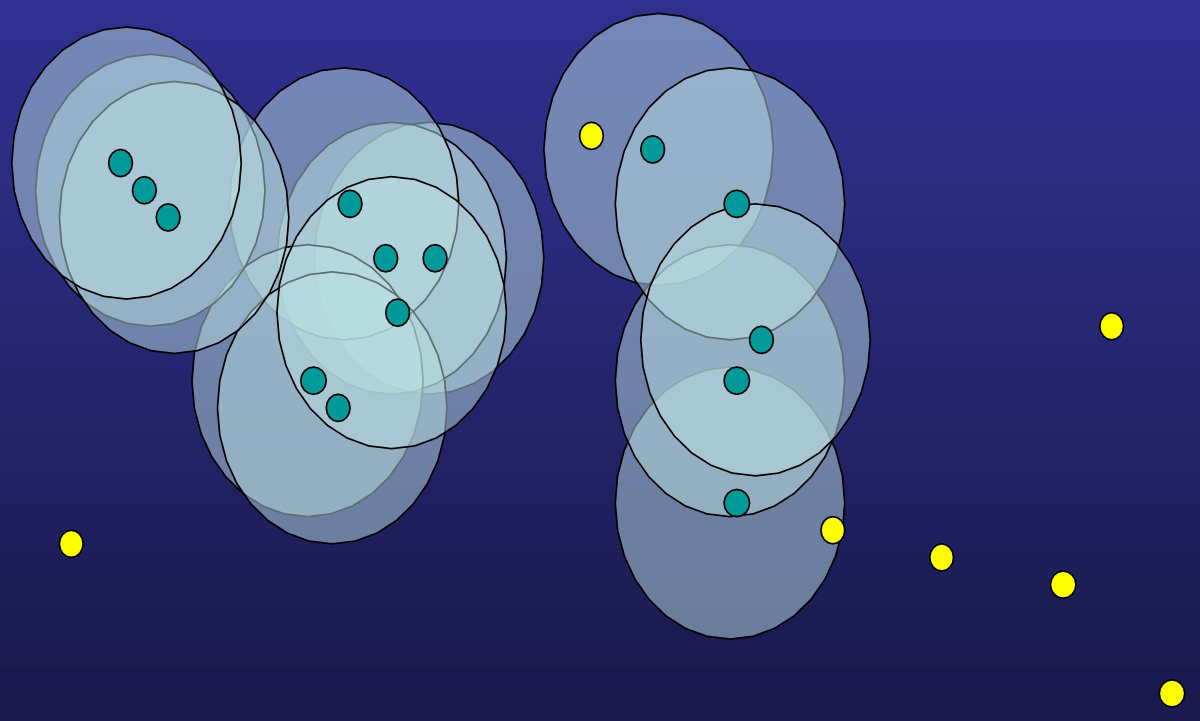

Effect of Increasing Social Distance

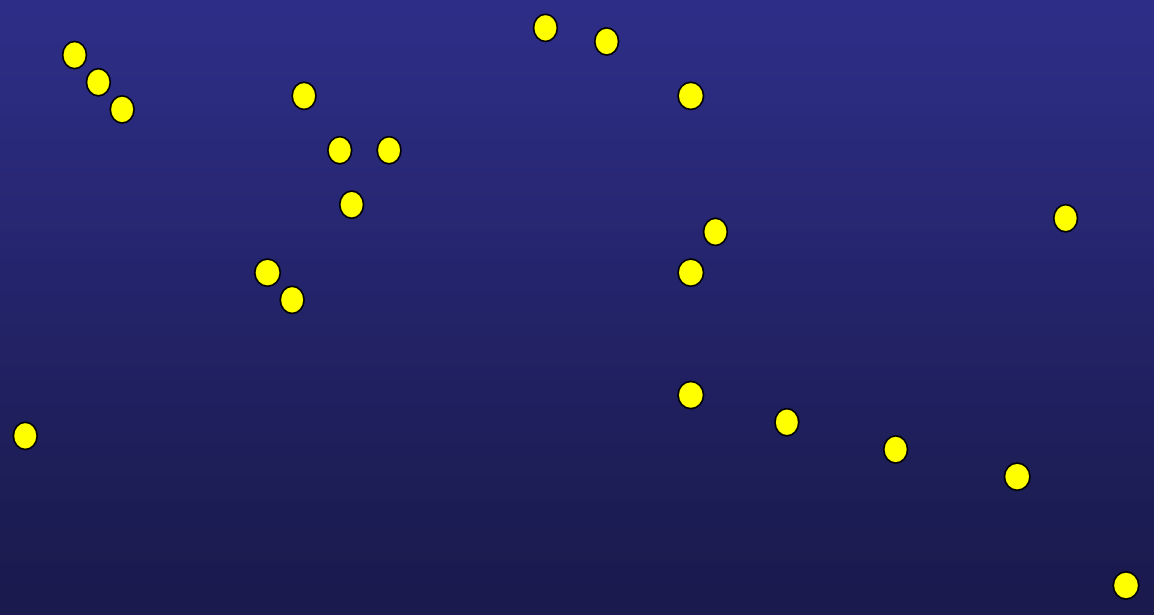

Effect of Increasing Social Distance

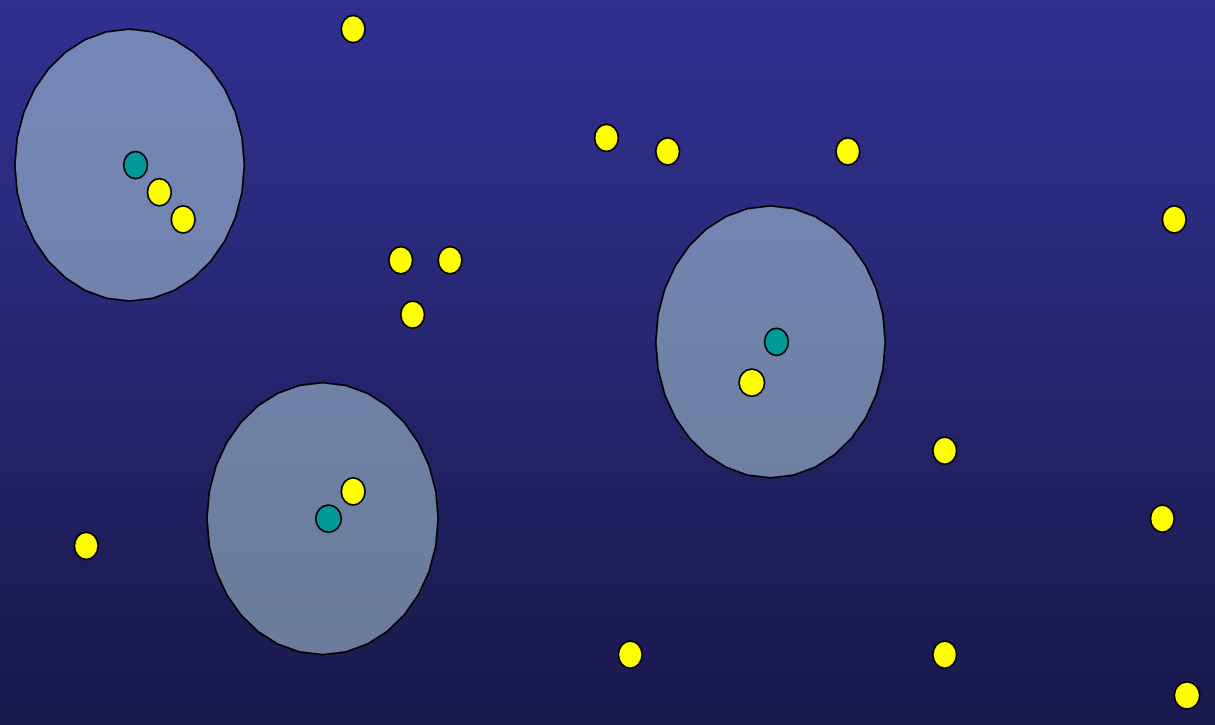

Effect of Increasing Social Distance

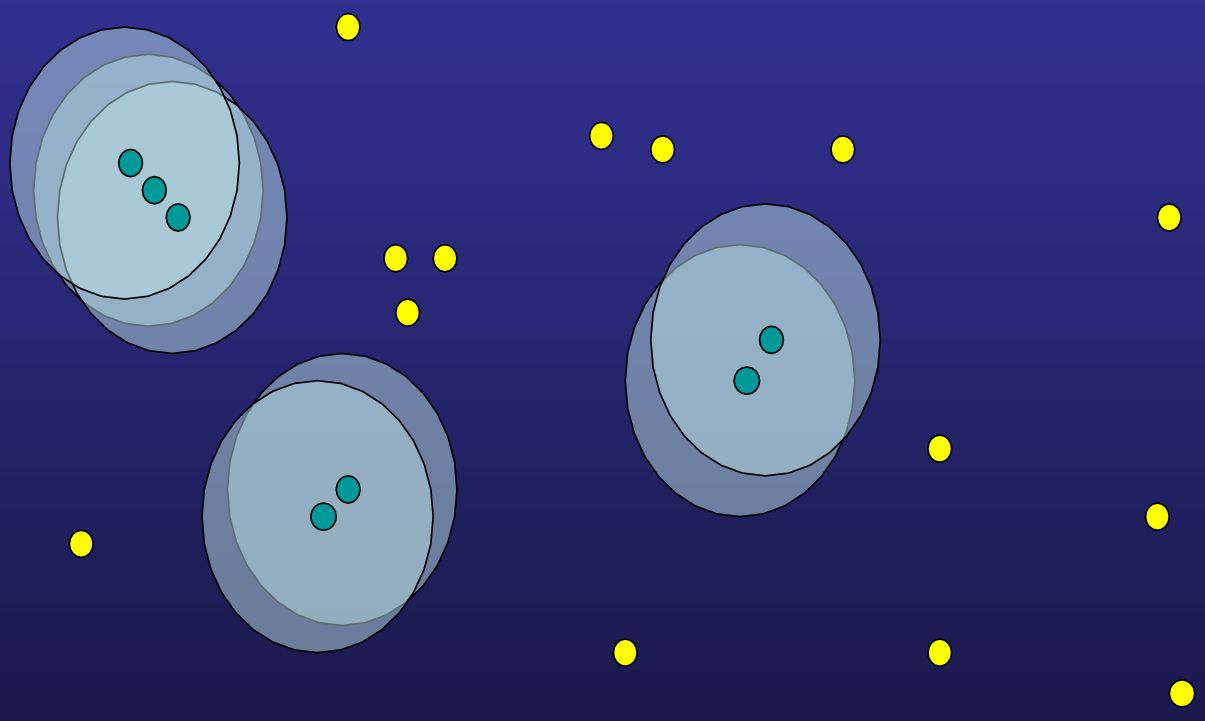

Some Preliminaries: Networks 101

Six Degrees of Separation

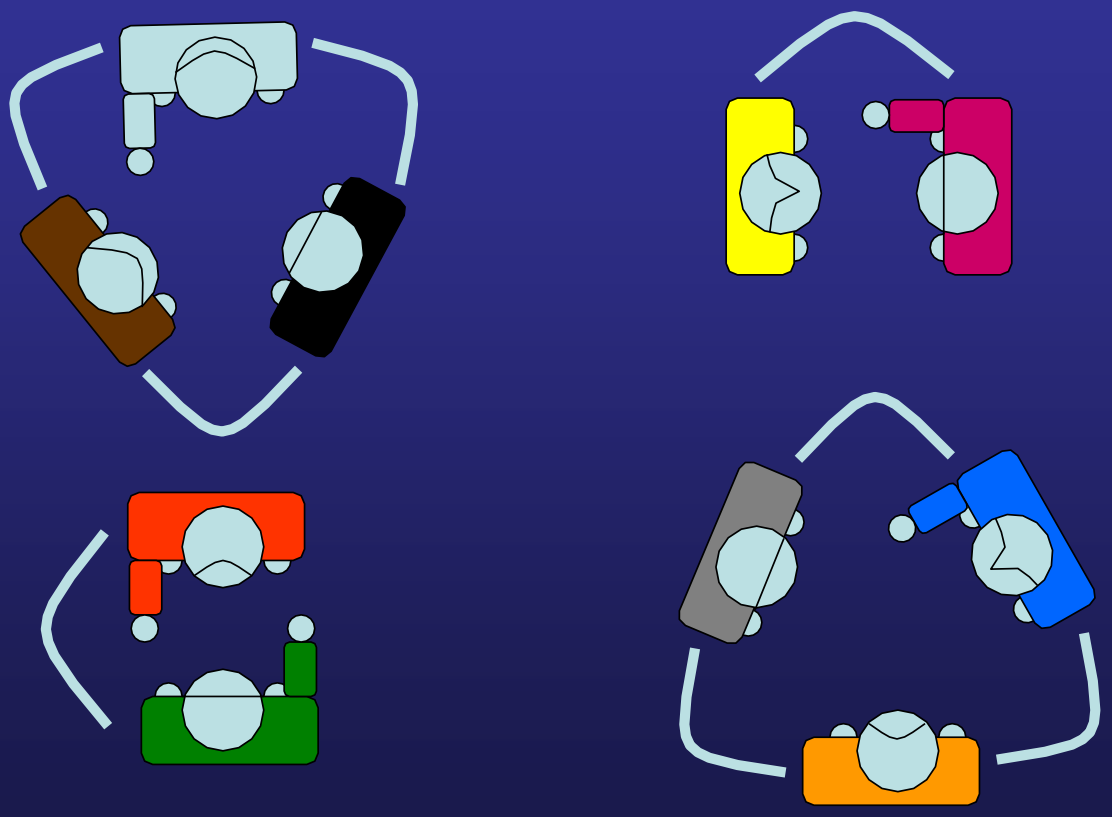

Barabasi AL. Linked (New York: Penguin, 2003).

Six Degrees of Separation

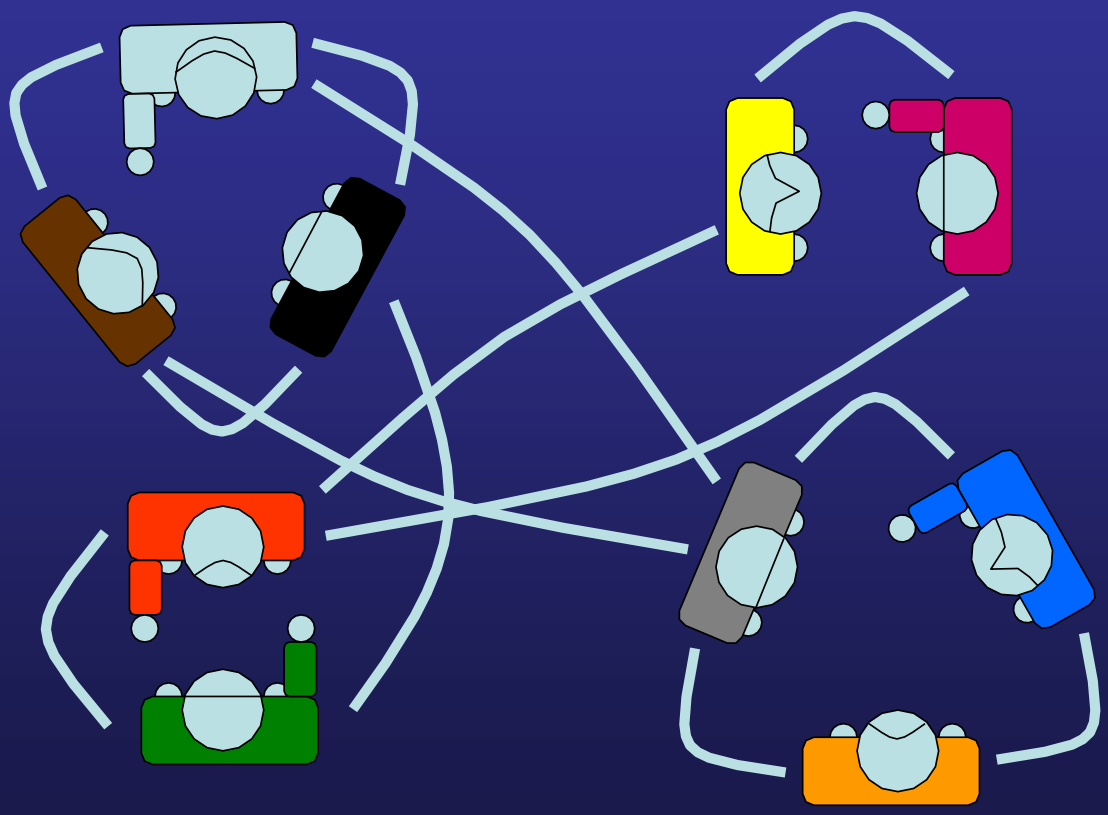

Barabasi AL. Linked (New York: Penguin, 2003).

Small World Networks

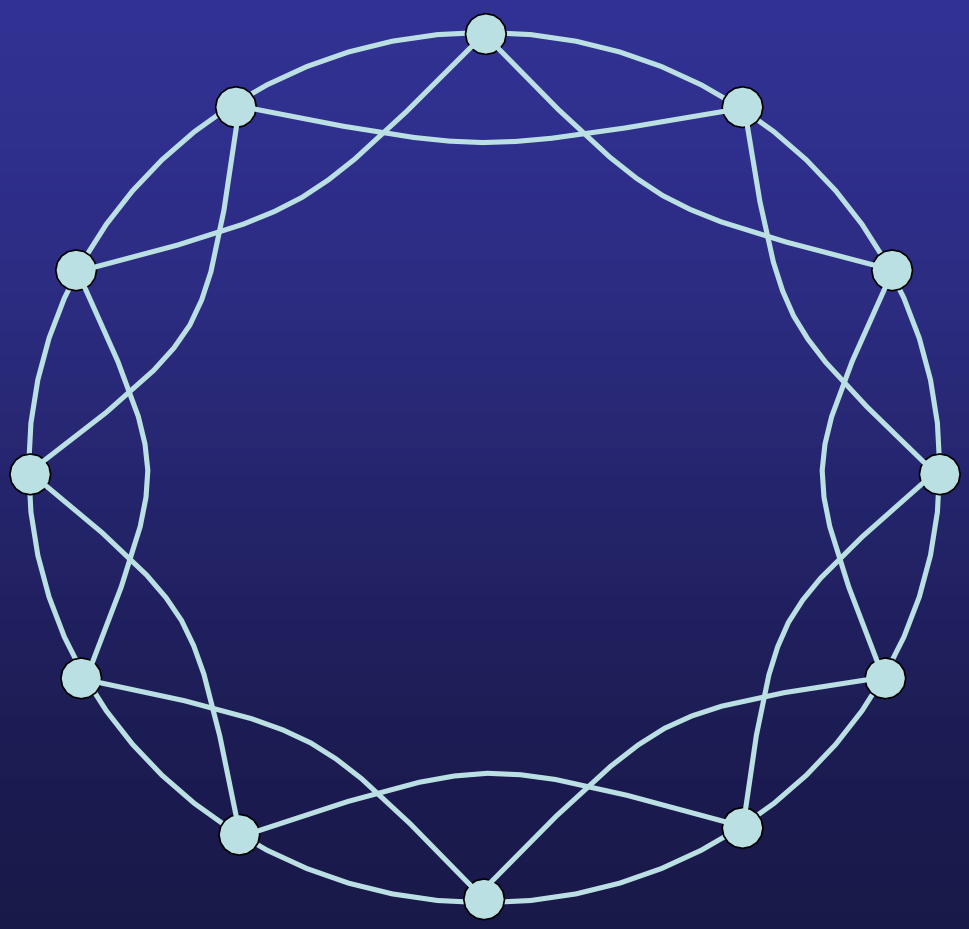

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Small World Networks

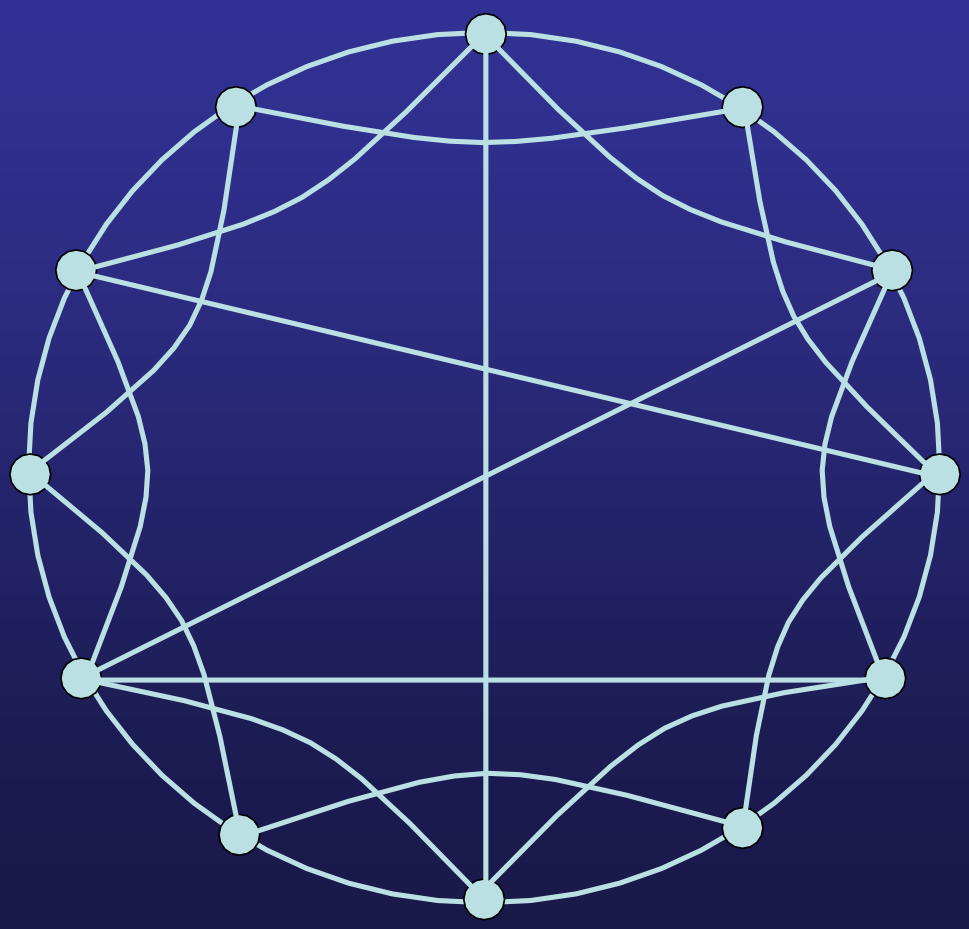

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Small World Networks

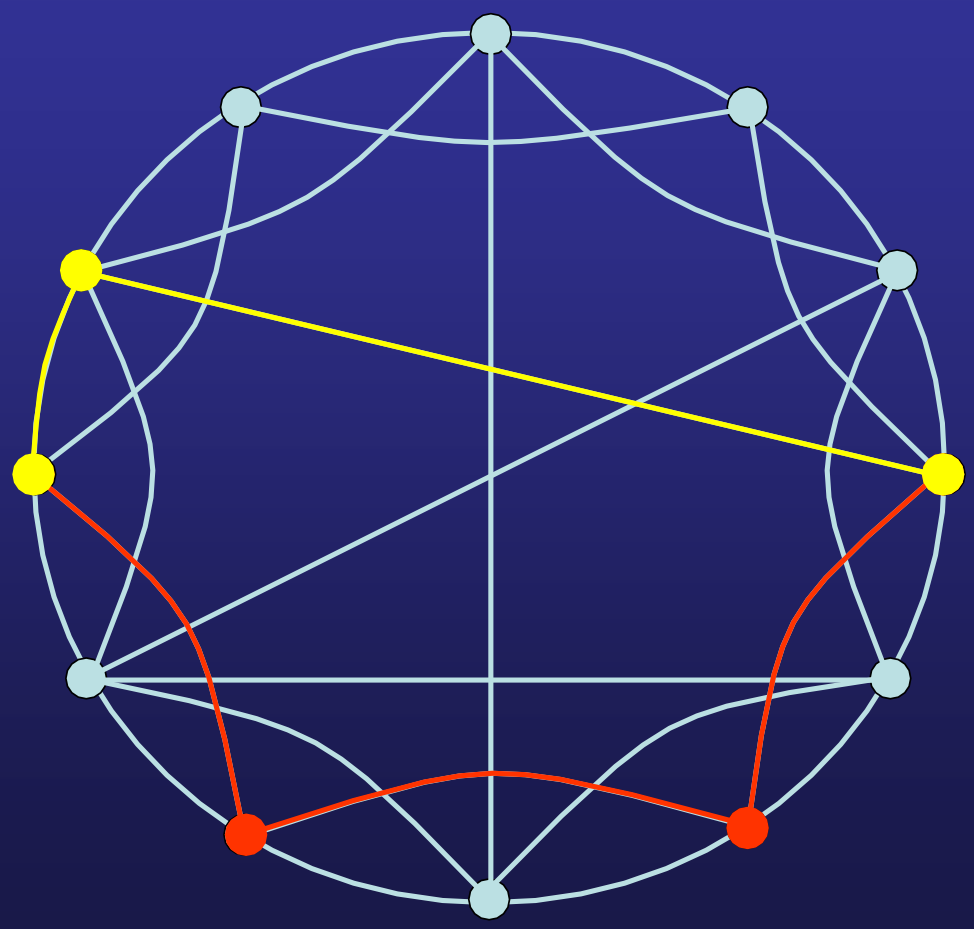

Barabasi AL. Linked (New York: Penguin, 2003).

Scale-free Networks

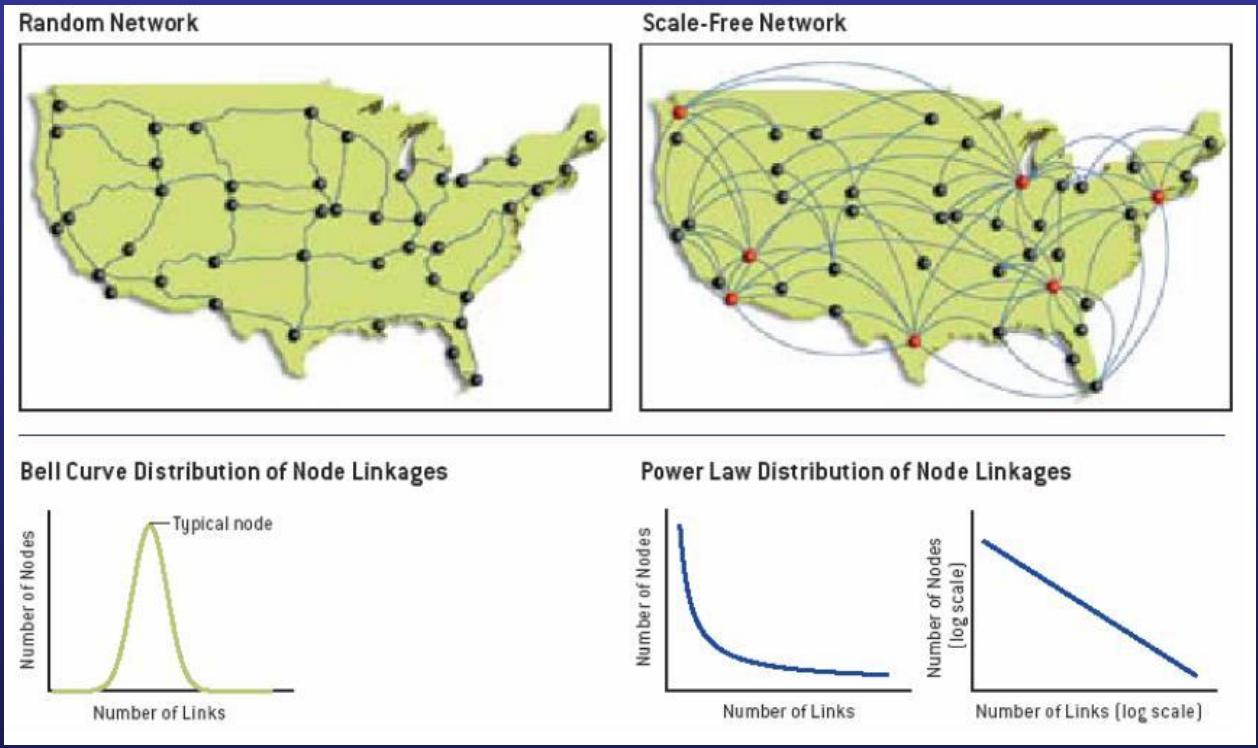

Barabasi AL, Bonabeau E. Scientific American 2003;288:60-69.

$$N(k) \sim k^{-\gamma}$$

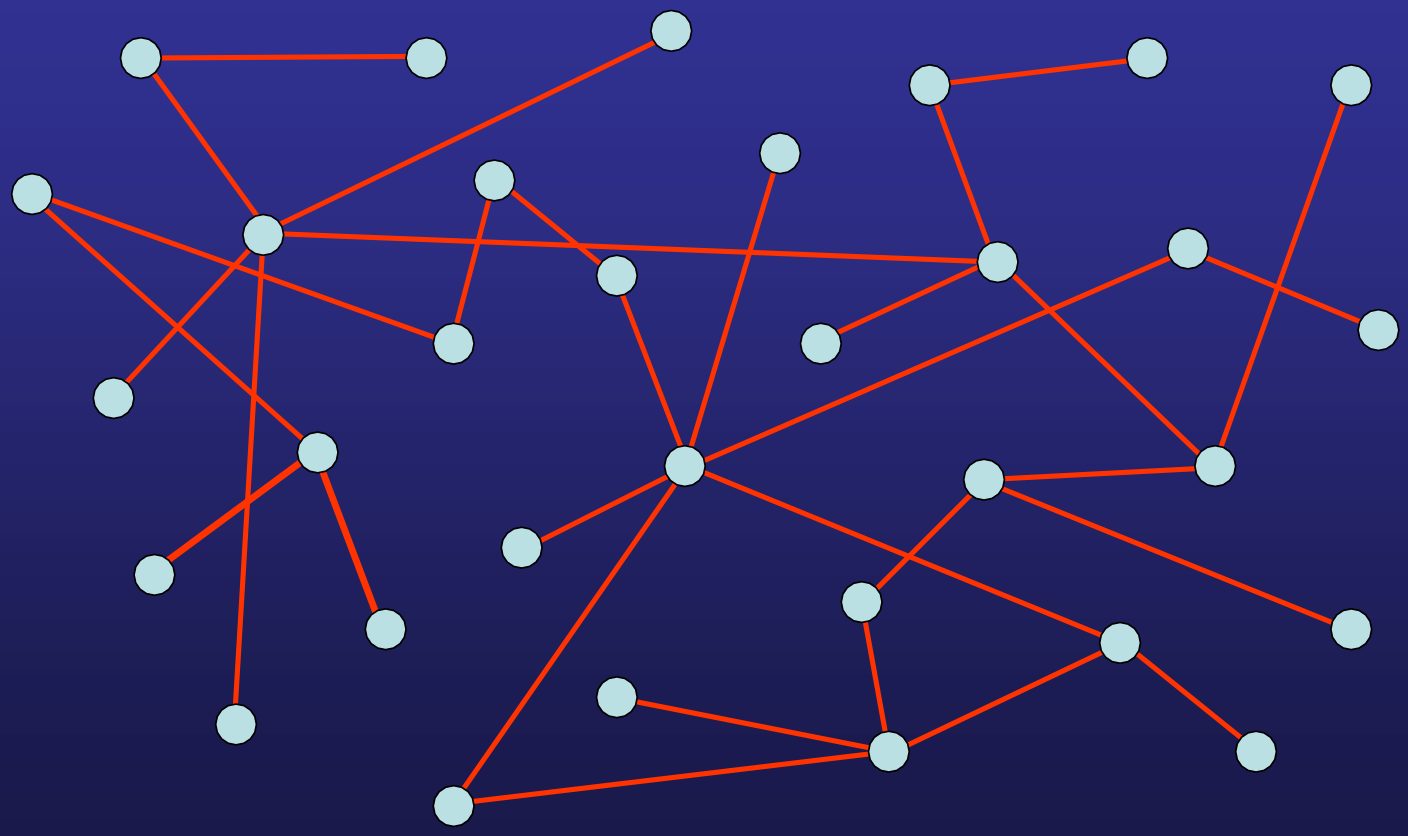

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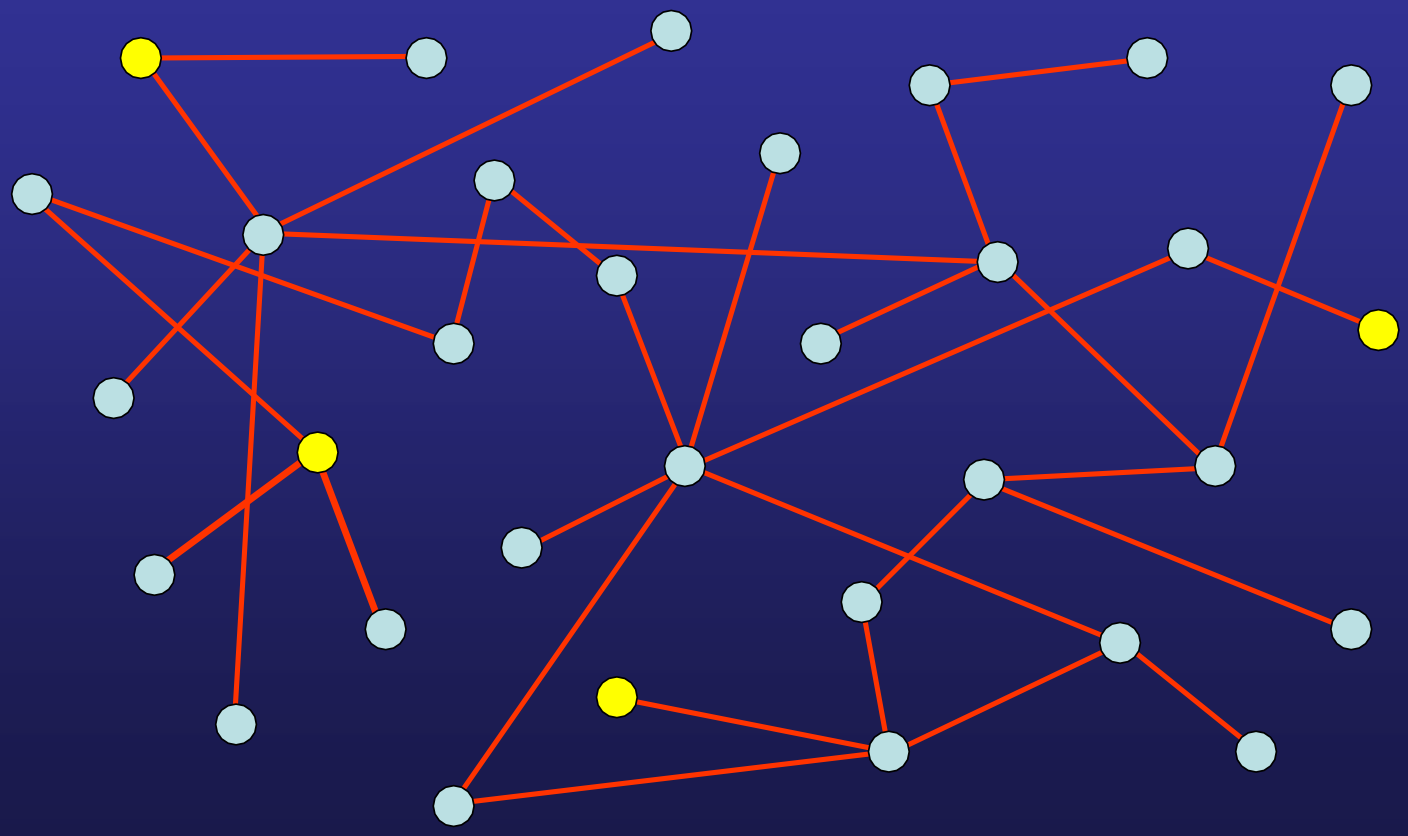

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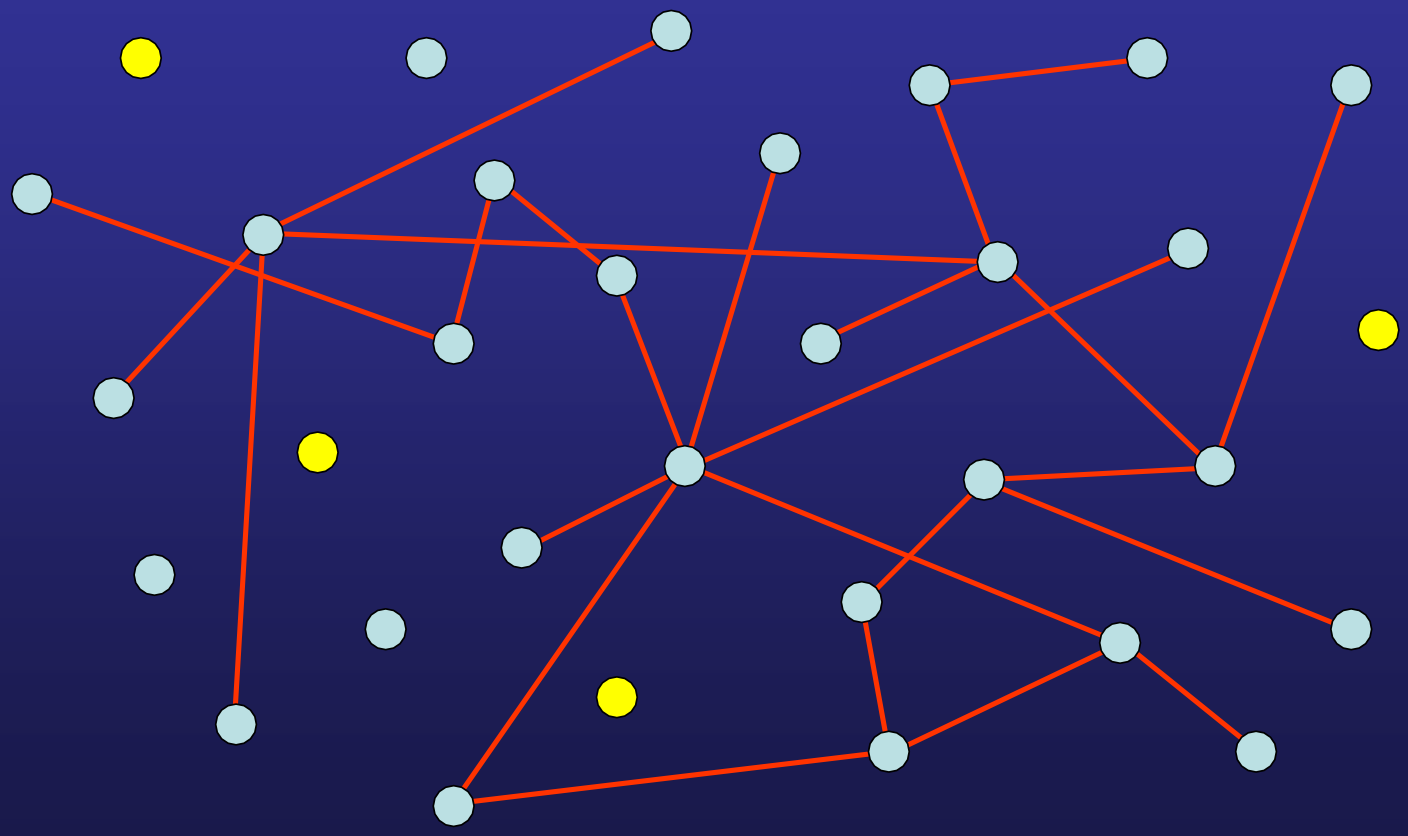

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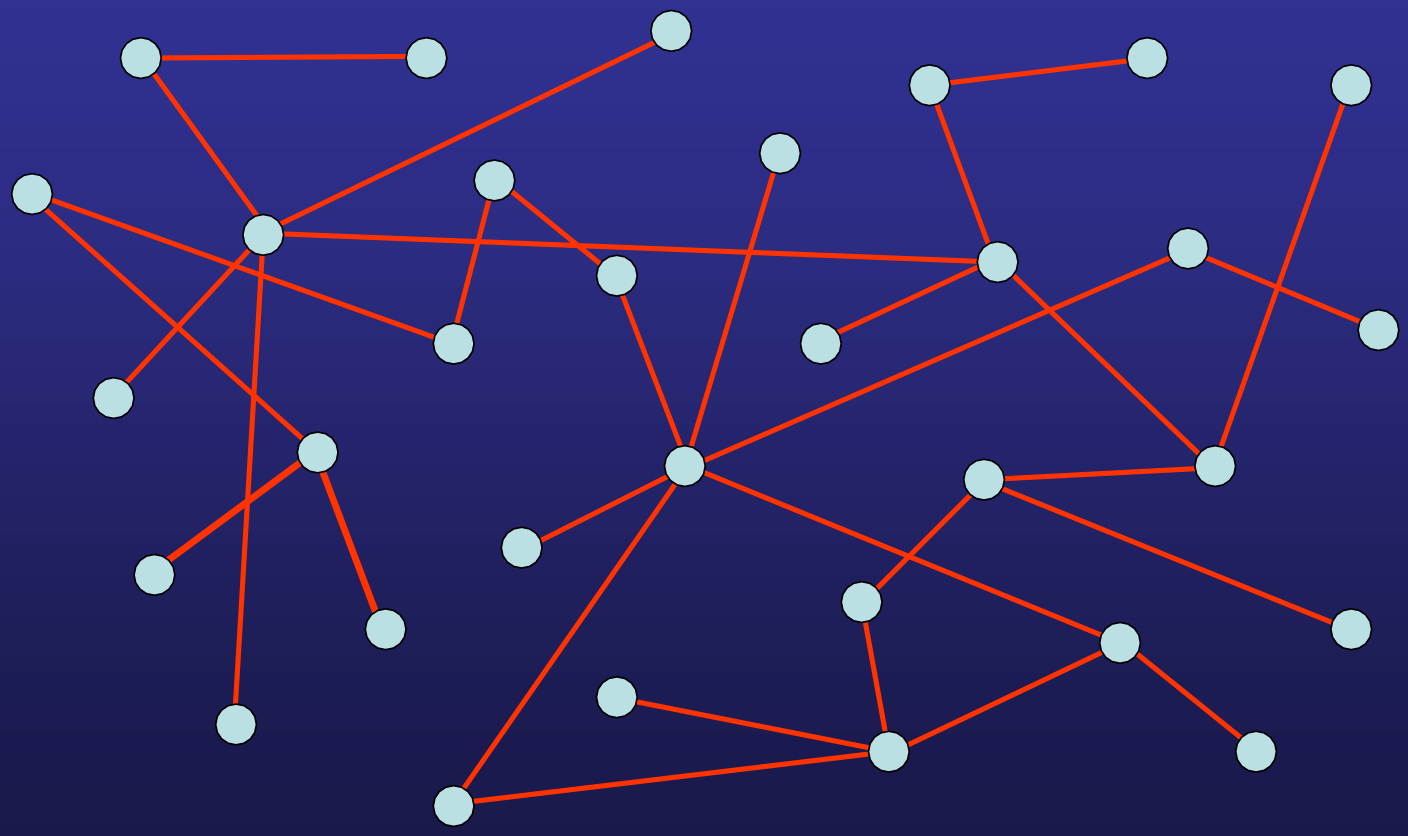

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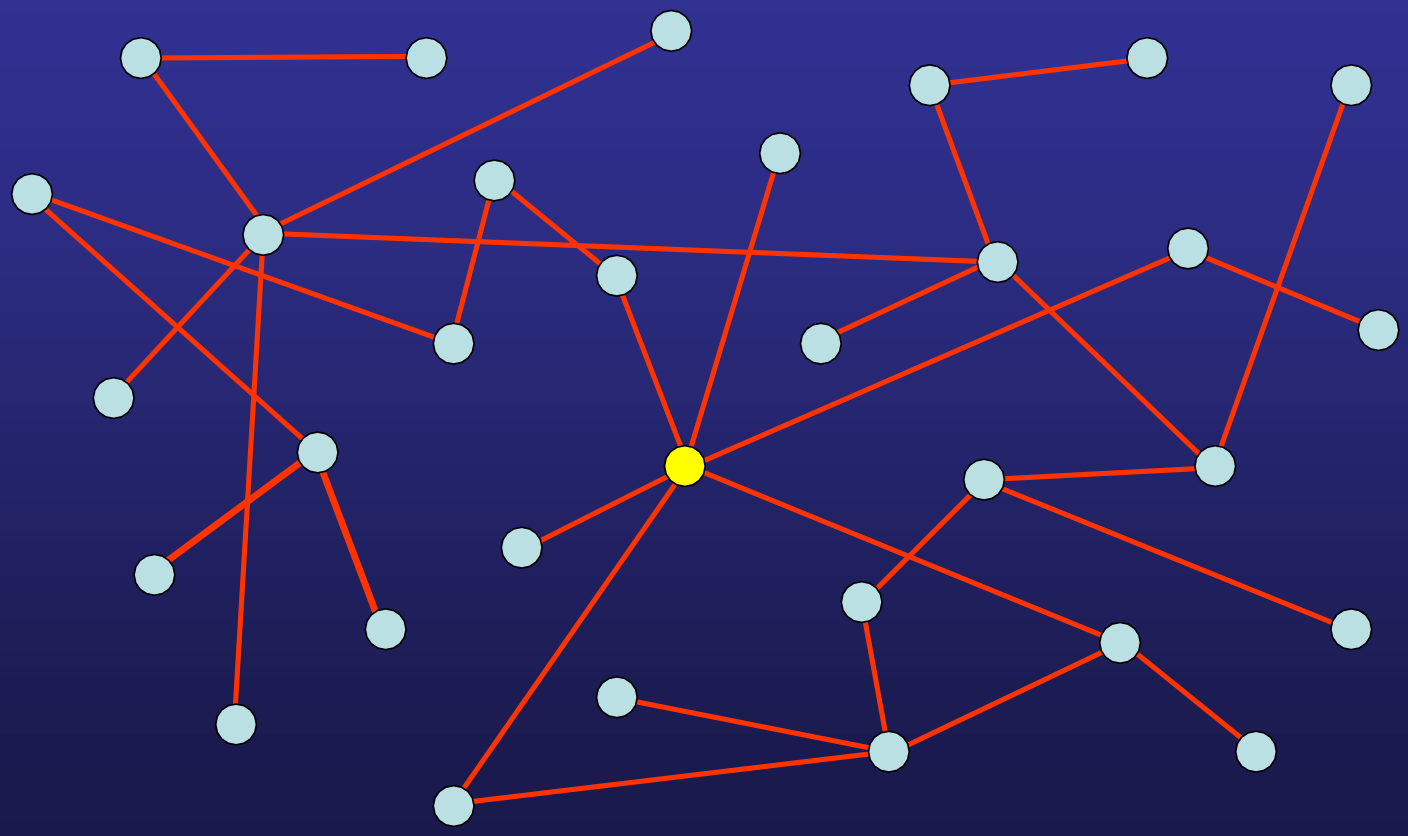

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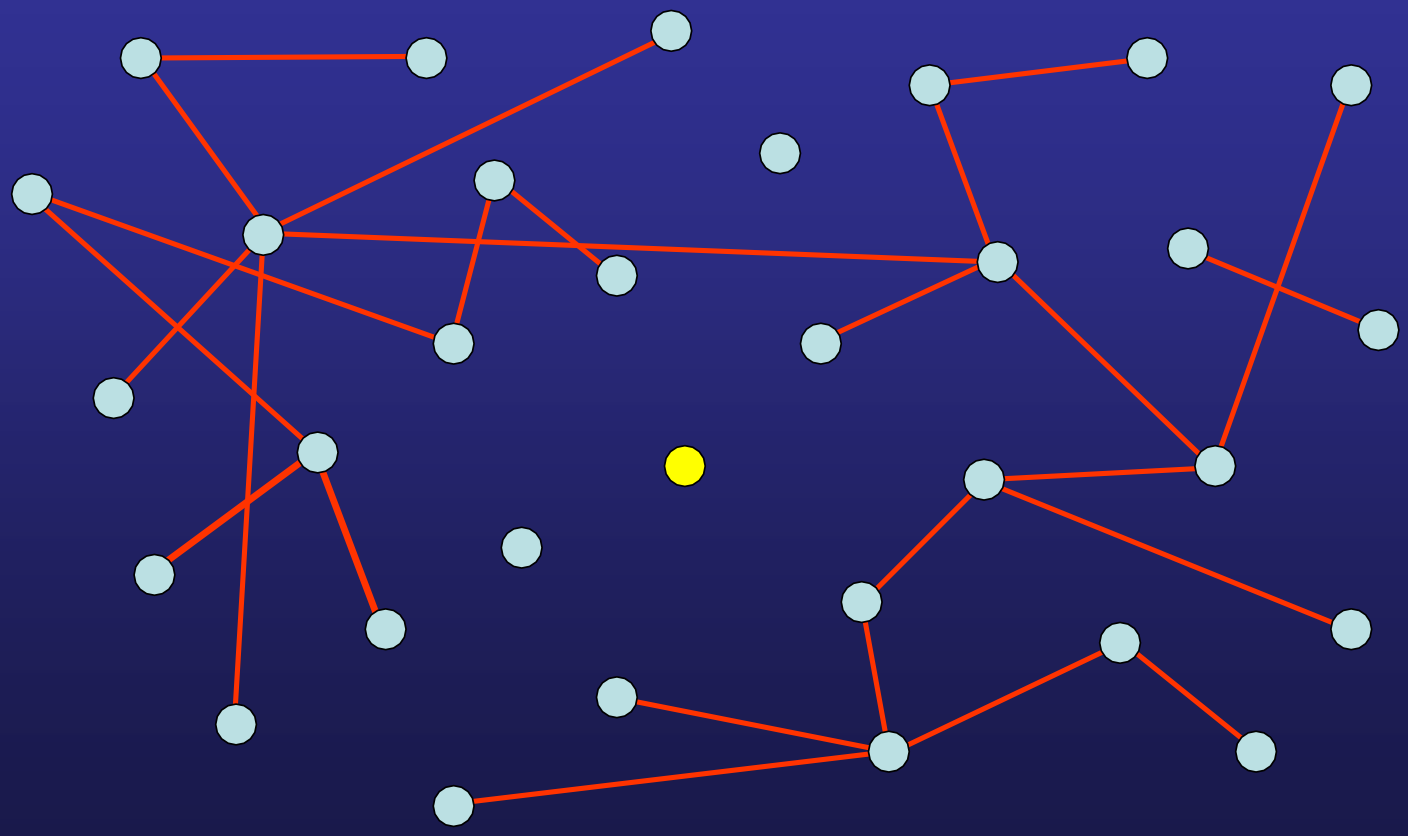

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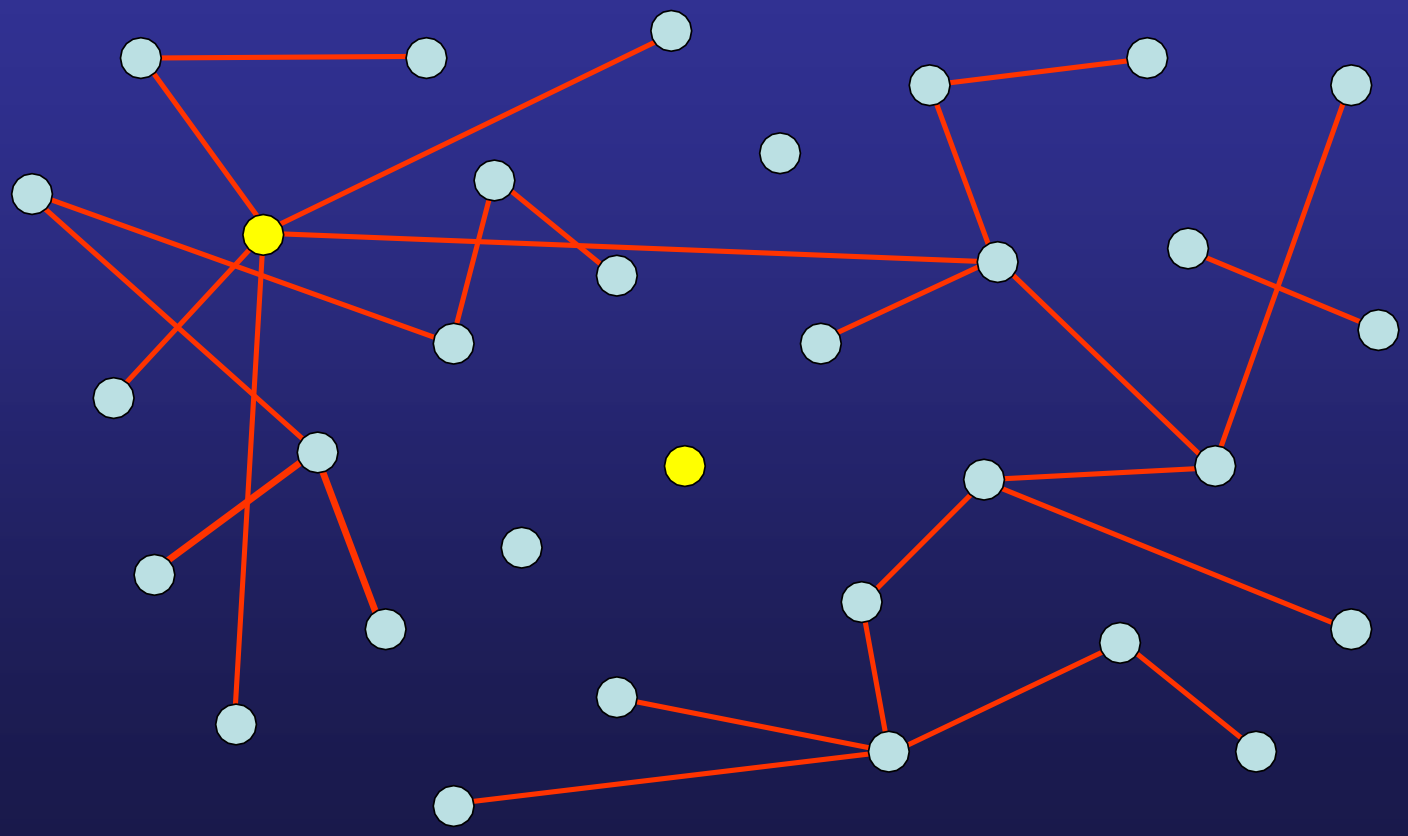

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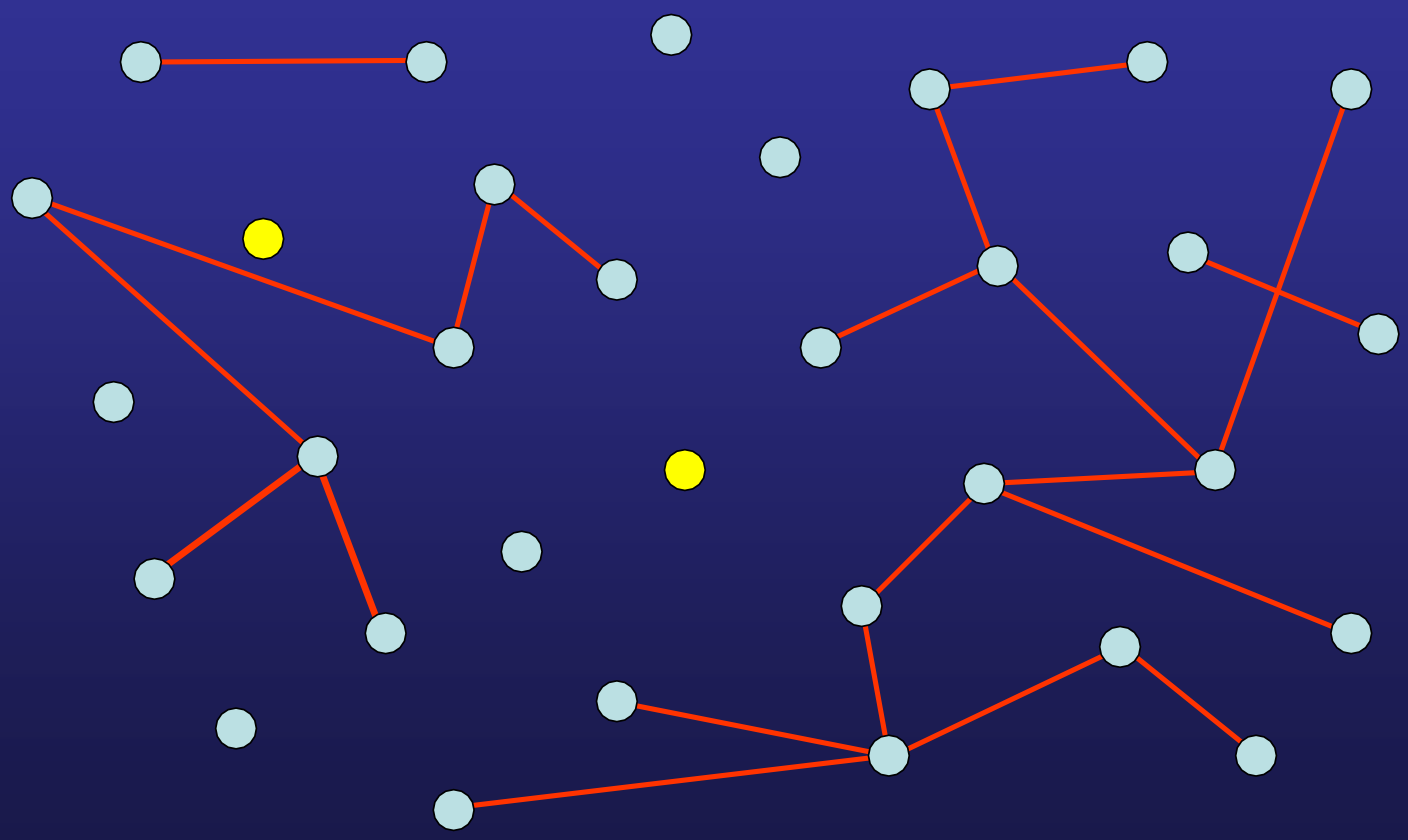

Effective Social Distance

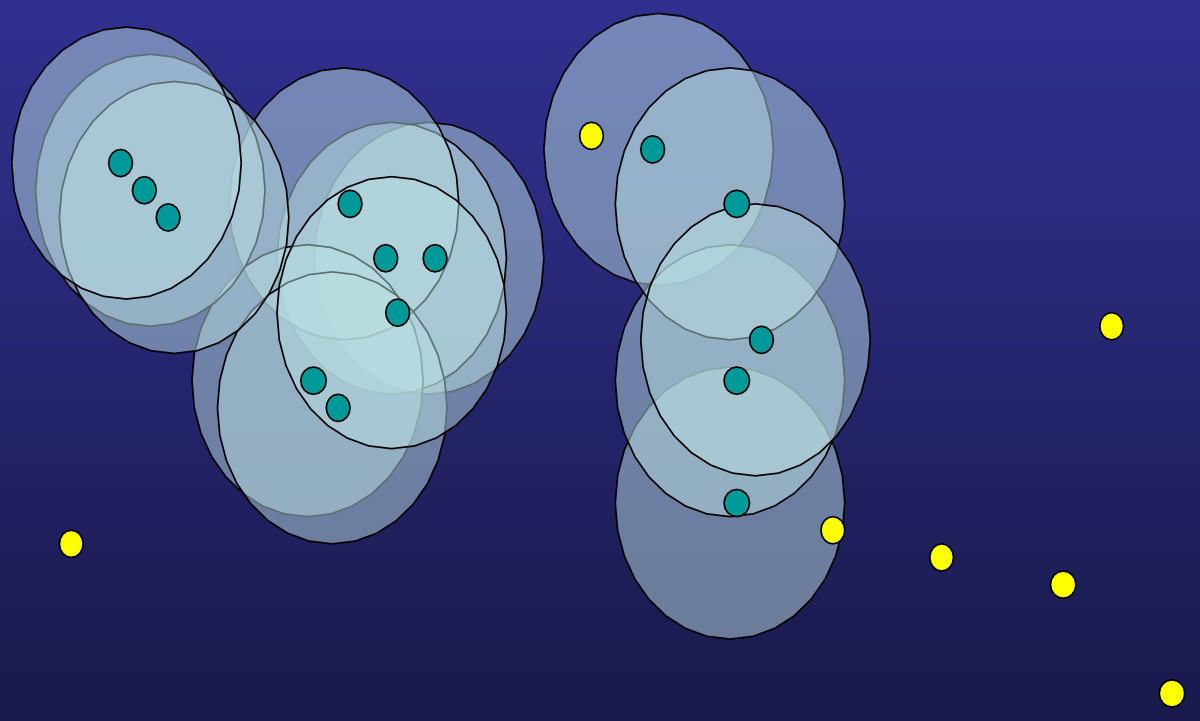

Effect of Increasing Social Distance

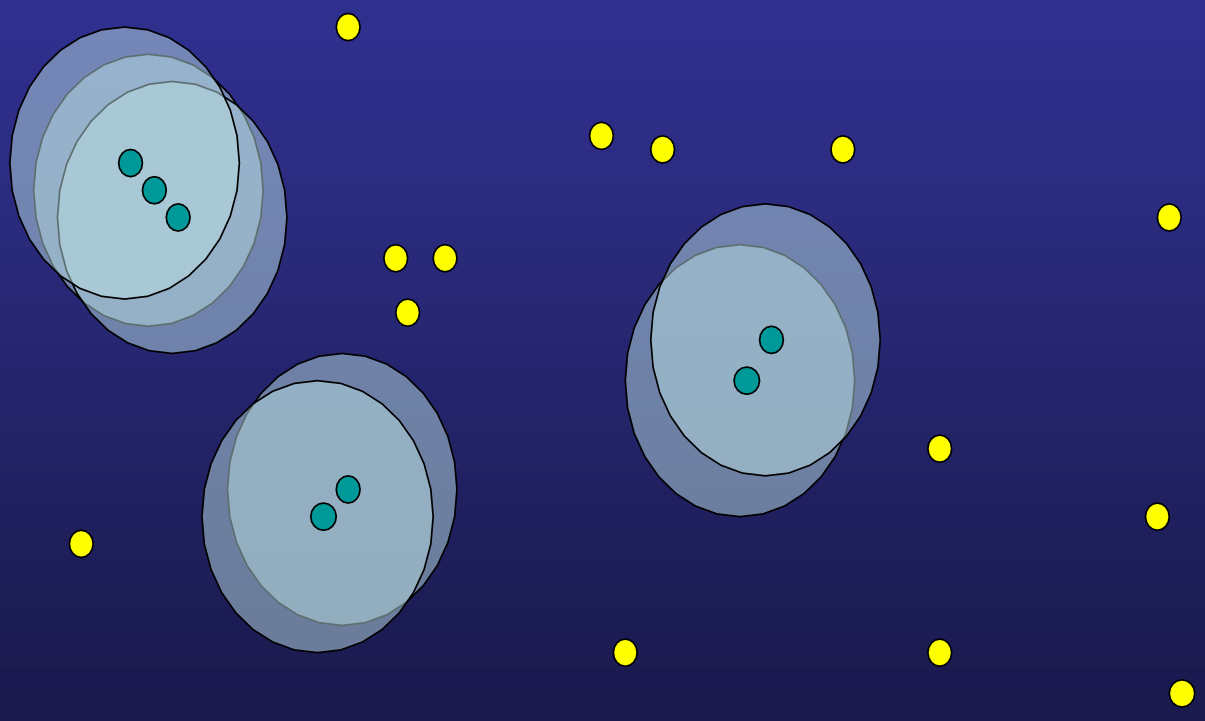

Social Network

Agent classes

- Kids
- Teens
- Adults
- Seniors

Social Network

Groups
  Links
    Contact frequency

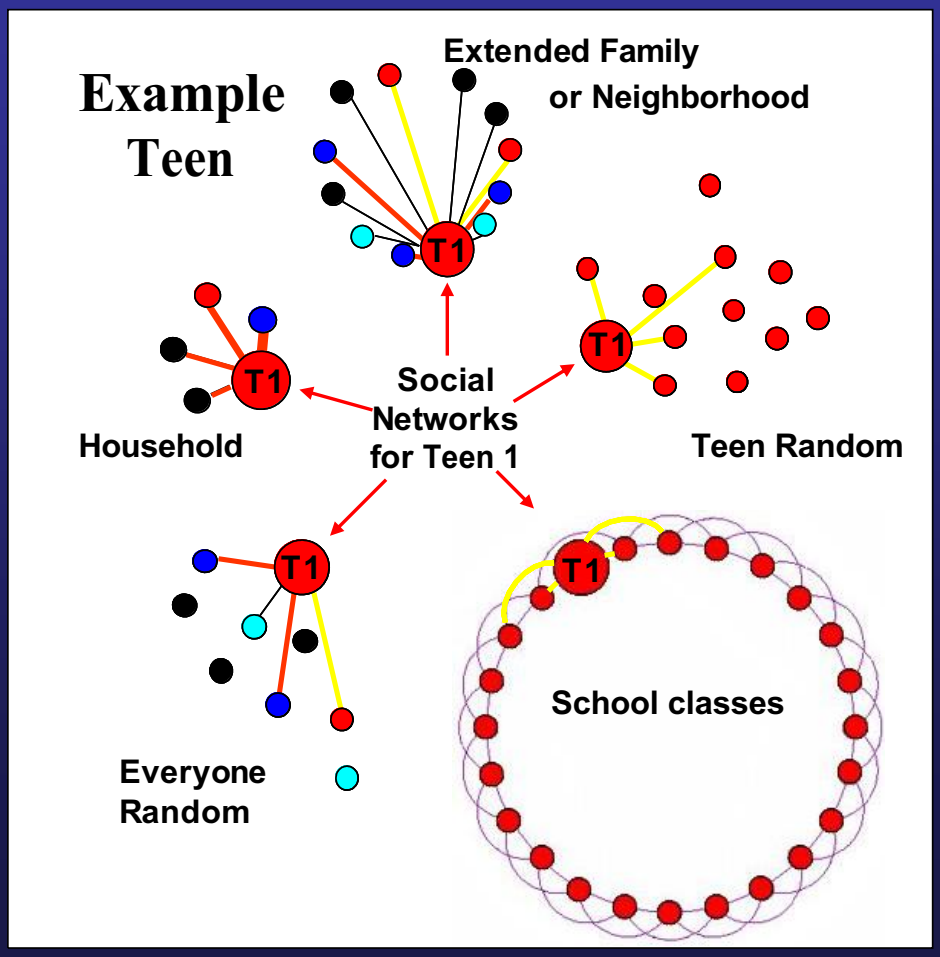

DOJ_NMG_0016980

Critical insight

Averaging over a highly heterogeneous contact network can hide critical features that could be exploited to design effective mitigation strategies

Summary

- Our best countermeasure – vaccine – will probably be unavailable during the first wave of a pandemic
- Antiviral treatment may improve outcomes but will have only modest effects on transmission
- Antiviral prophylaxis will have more substantial effects on reducing transmission
- Infection control and social distancing should reduce transmission, but strategy requires clarification

How does this relate to influenza?

Social Network

Agent classes

- Kids
- Teens
- Adults
- Seniors

Social Network

Groups
  Links
    Contact frequency

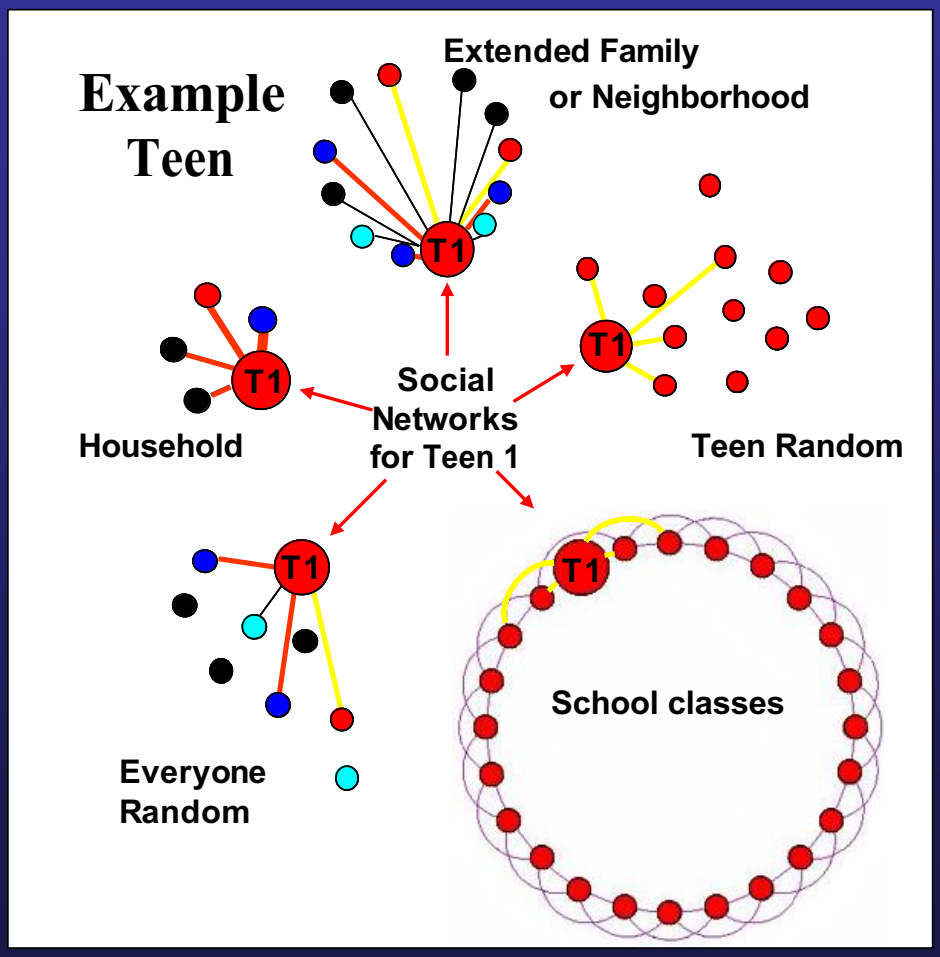

Age-specific attack rates vary

Age group	Asian Flu (1957)	Hong Kong Flu (1968)	Longini Ro=1.6	Glass Ro=1.6
Overall	33%	34%	34%	25%
Young Children	35%	34%	35%	40%
Older Children	62%	35%	48%	37%
Adults	24%	33%	~30%	~20%

Transmission Dynamics: Variability by Age and Time

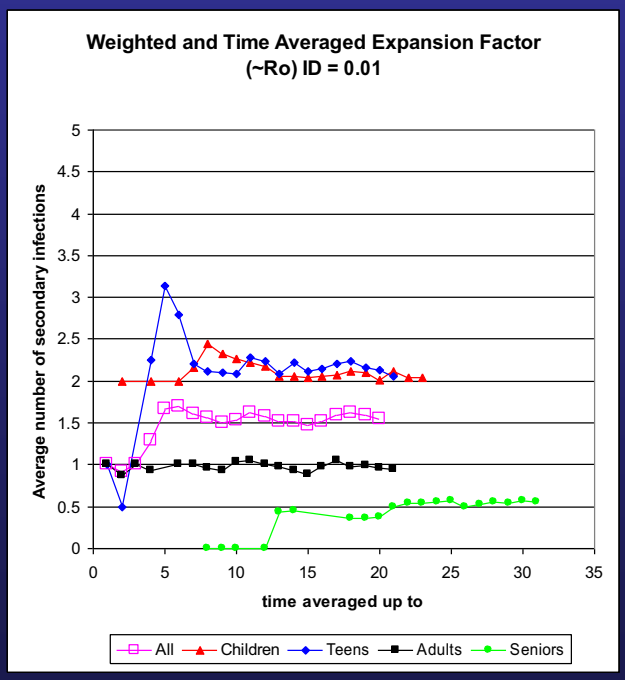

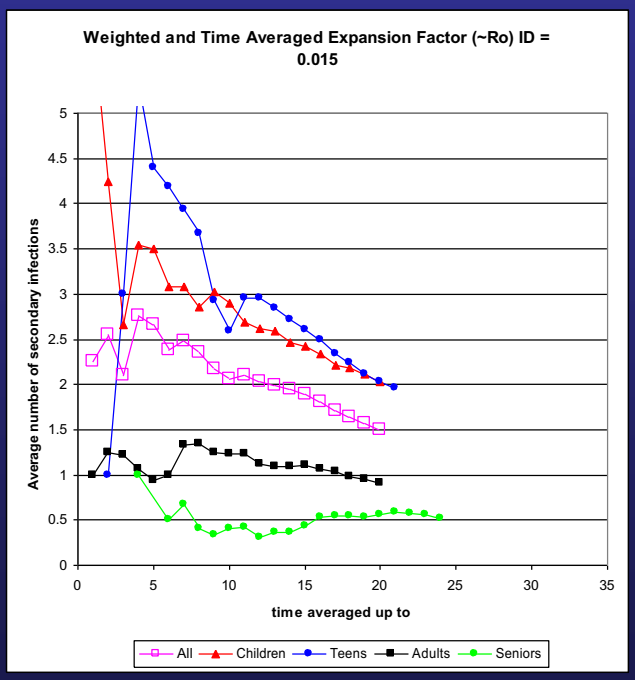

Glass, RJ, et al. Local mitigation strategies for pandemic influenza. NISAC, SAND Number: 2005-7955J

Animation of first 20 days, 10 Adult Seeds

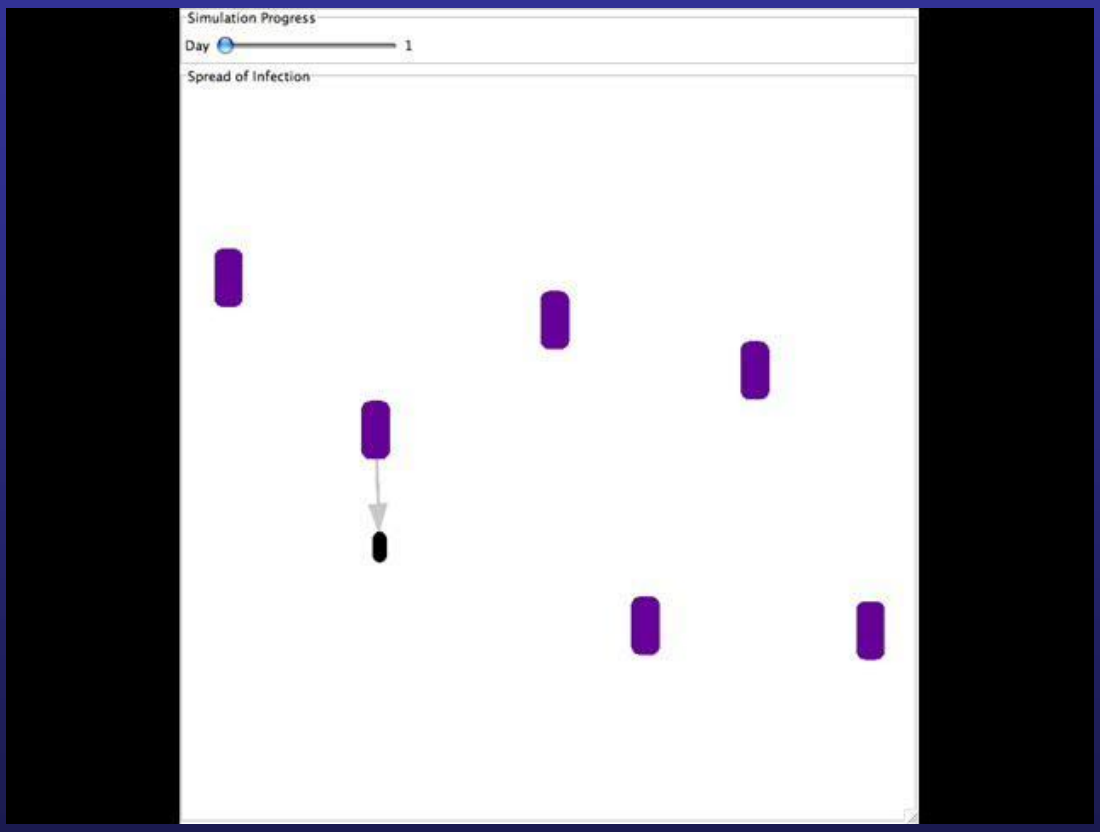

Adult Seeds (large blue), Adults (black), Children (red), Teens (blue), Seniors (green)

Final Network of Infected

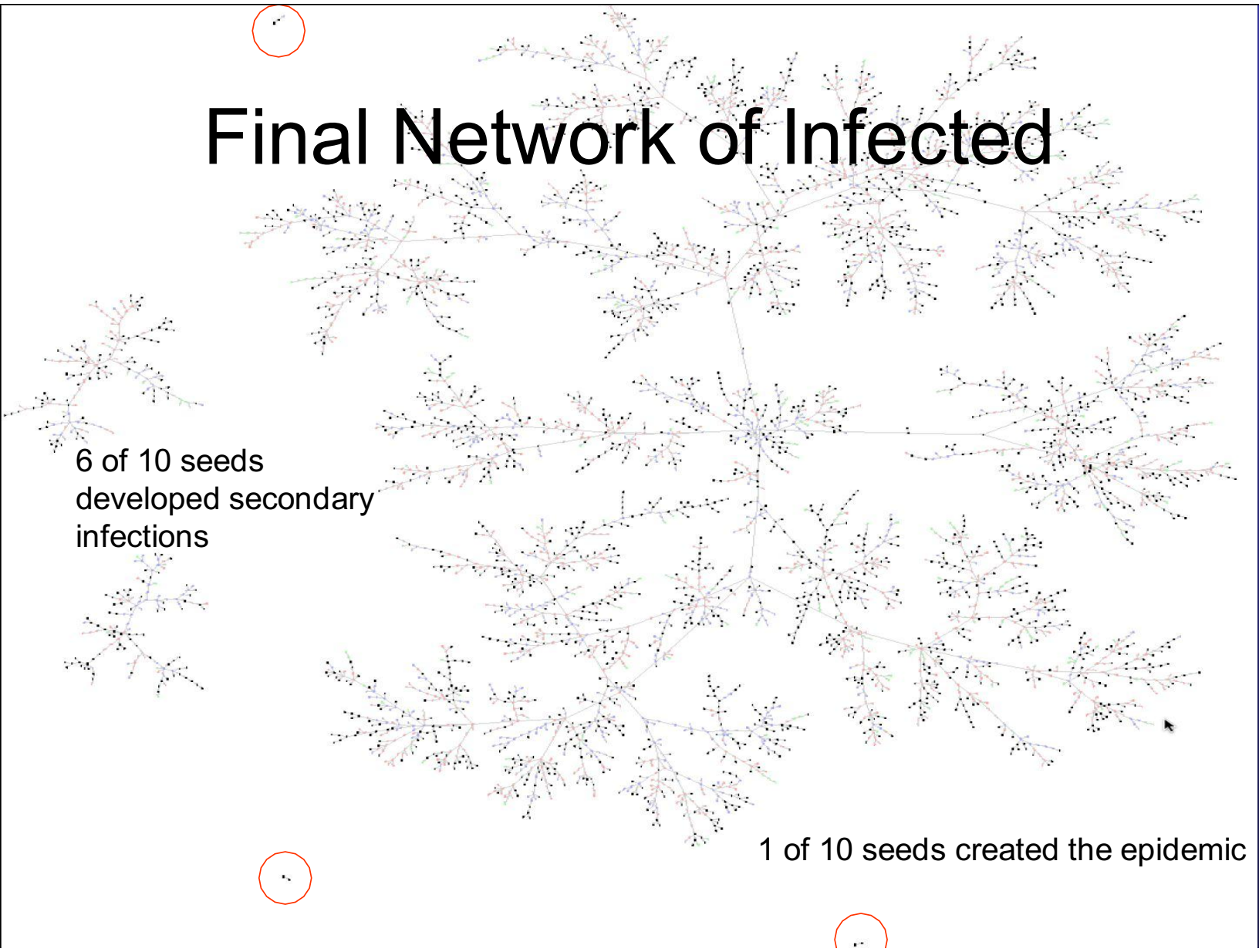

Final Network of Infected

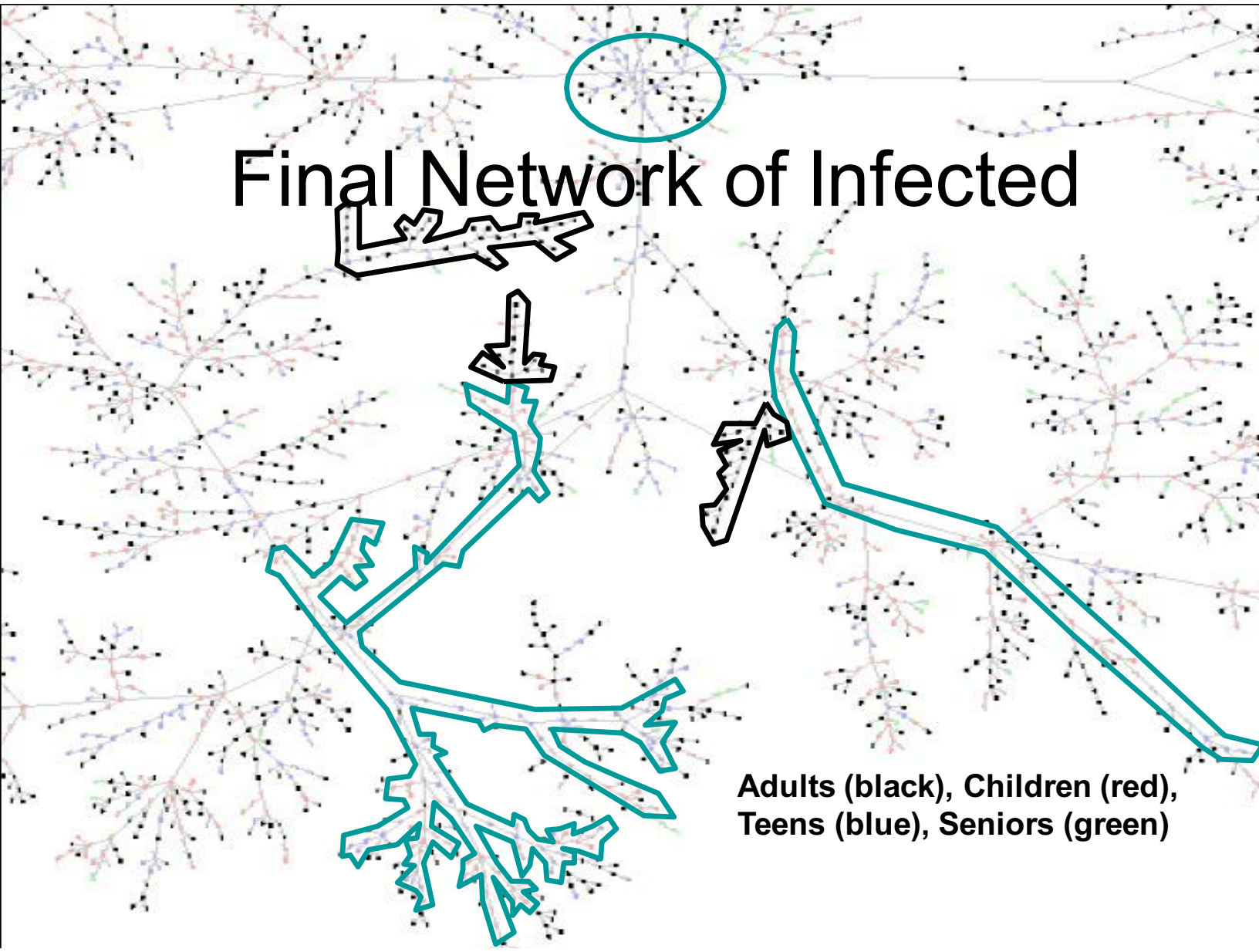

Glass: Infectious Contacts

	To Children	To Teenagers	To Adults	To Seniors	Total From
From Children	21.4	3.0	17.4	1.6	43.4
From Teenagers	2.4	10.4	8.5	0.7	21.9
From Adults	4.6	3.1	22.4	1.8	31.8
From Seniors	0.2	0.1	0.8	1.7	2.8
Total To	28.6	16.6	49.0	5.7	

Demographics
- Children/Teenagers 29%
- Adults 59%
- Seniors 12%

Glass: Infectious Contacts

- Children and teens have 52 contacts a day v. adults (34) and seniors (24)
- Children are both more infectious and more susceptible in Glass's model
- Most of contacts for children are like-to-like with nearly half taking place in school classes

Mitigated Outbreak

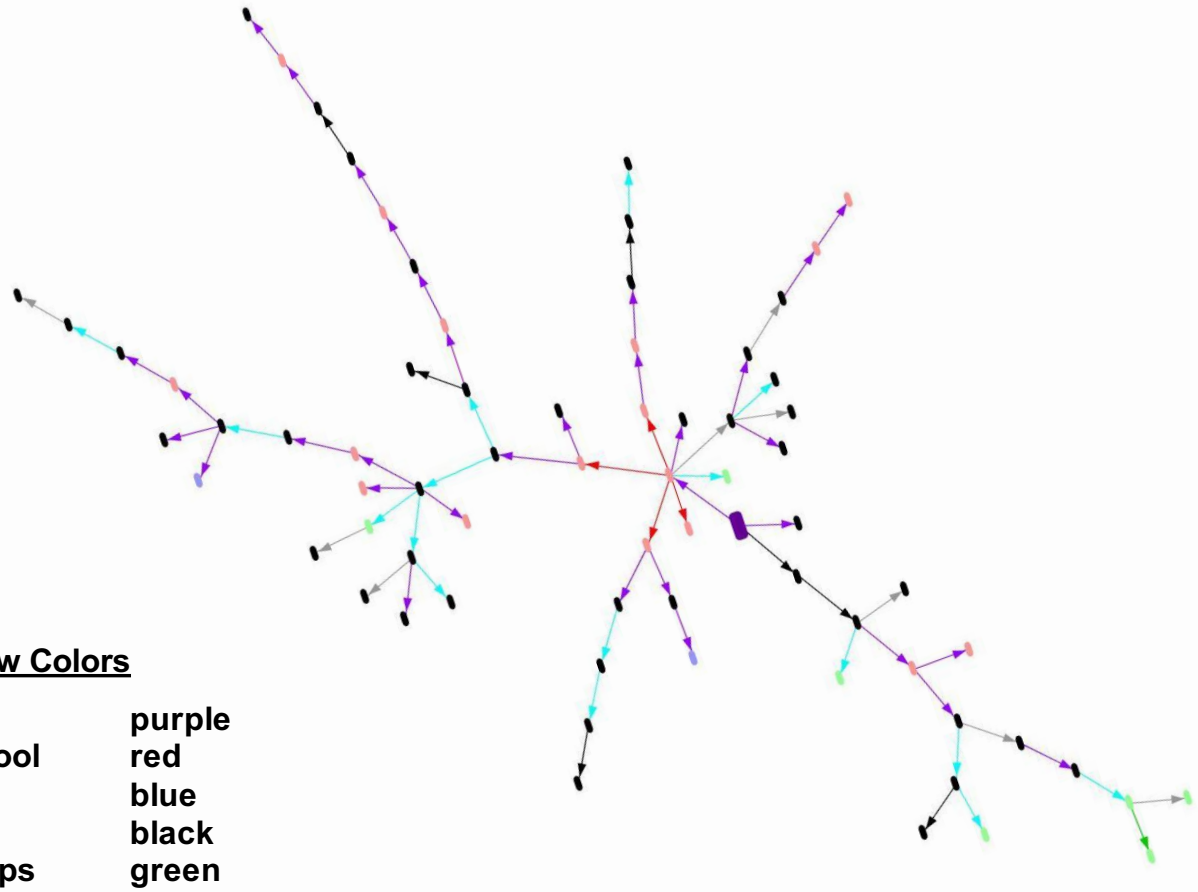

Arrow Colors

households	**purple**
children school	**red**
high shool	**blue**
workplace	**black**
seniors groups	**green**
neighbors	**light blue**
random	**grey**

Epidemic Exponentiation

Ro = 2.0, Progression = 1:2:4:8:16

Slowly Progressing Epidemic

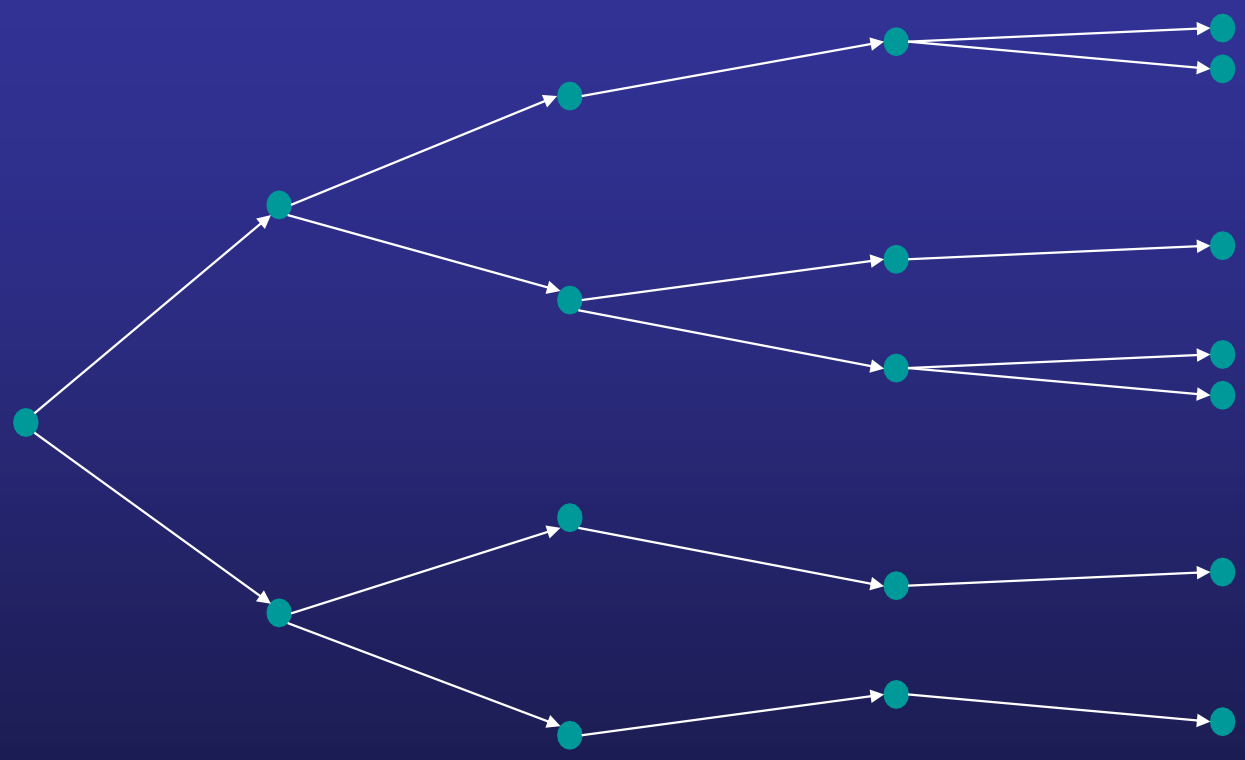

Ro = 1.34, Progression = 1:2:4:5:7

Percolating Epidemic

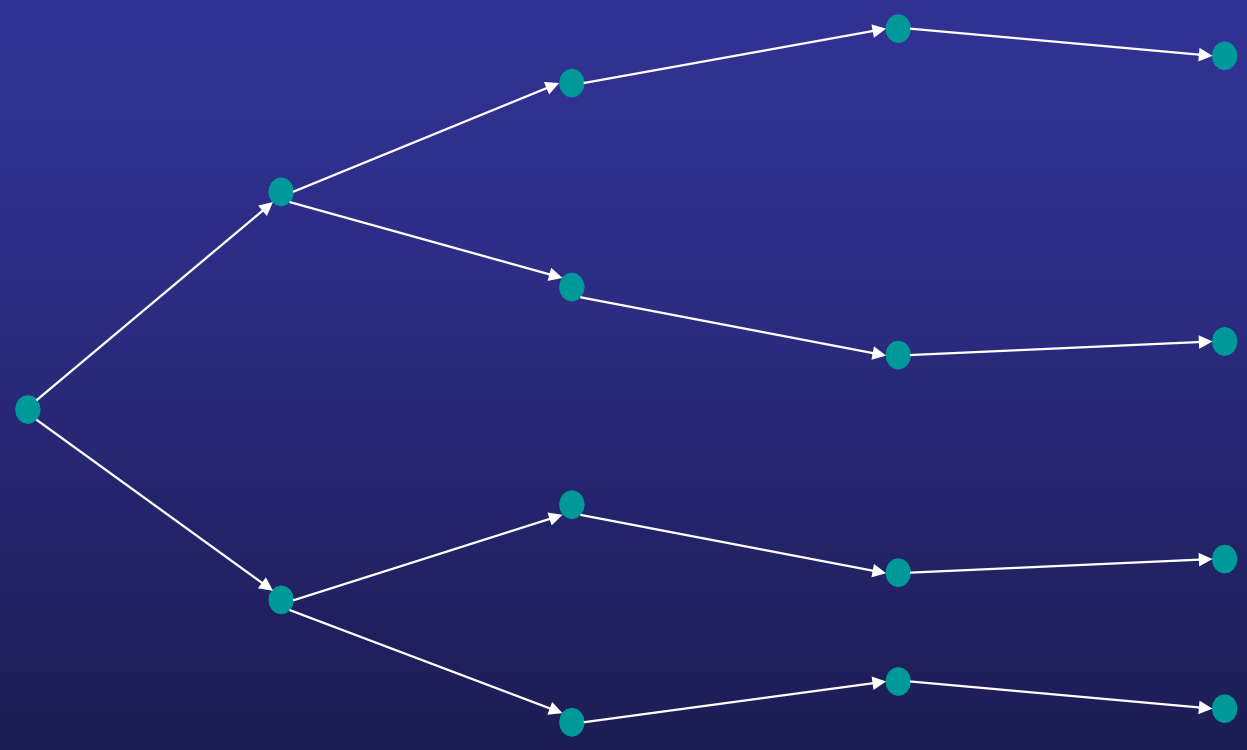

Ro = 1.0, Progression = 1:2:4:4:4

Epidemic Quenching

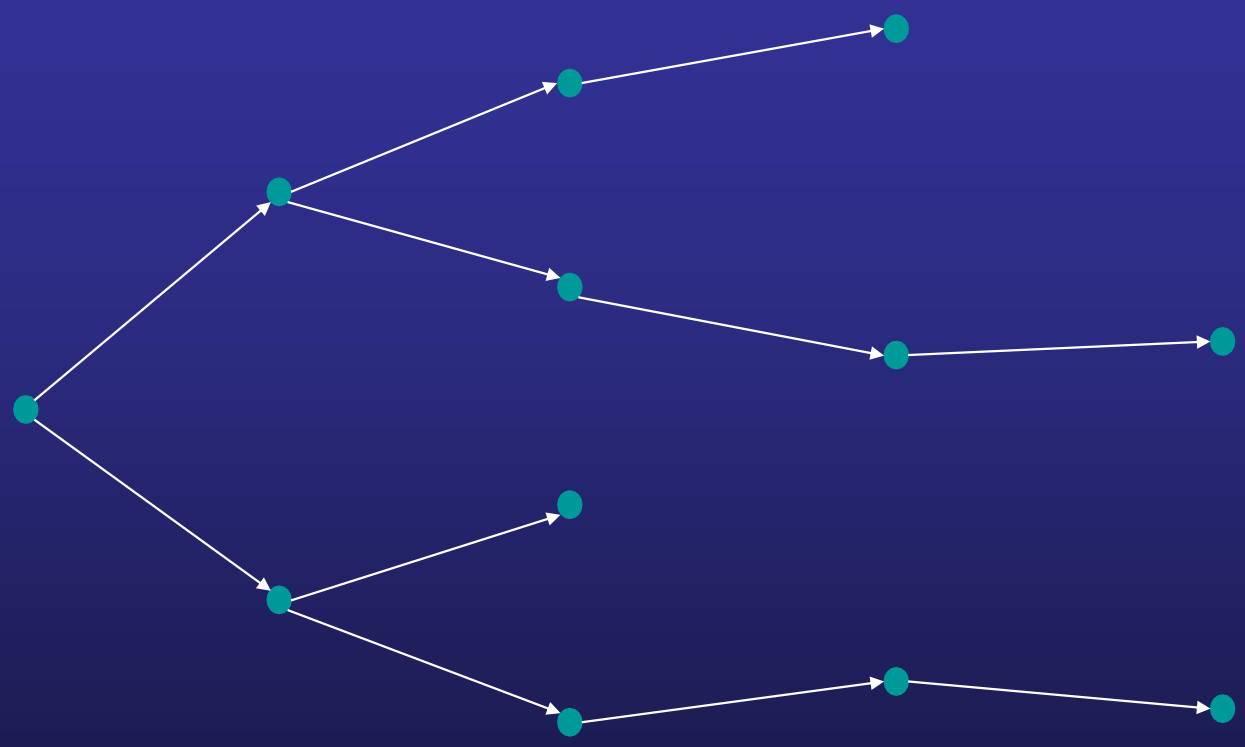

Ro = 0.67, Progression = 1:2:4:3:2

Value of combining strategies – Ferguson model

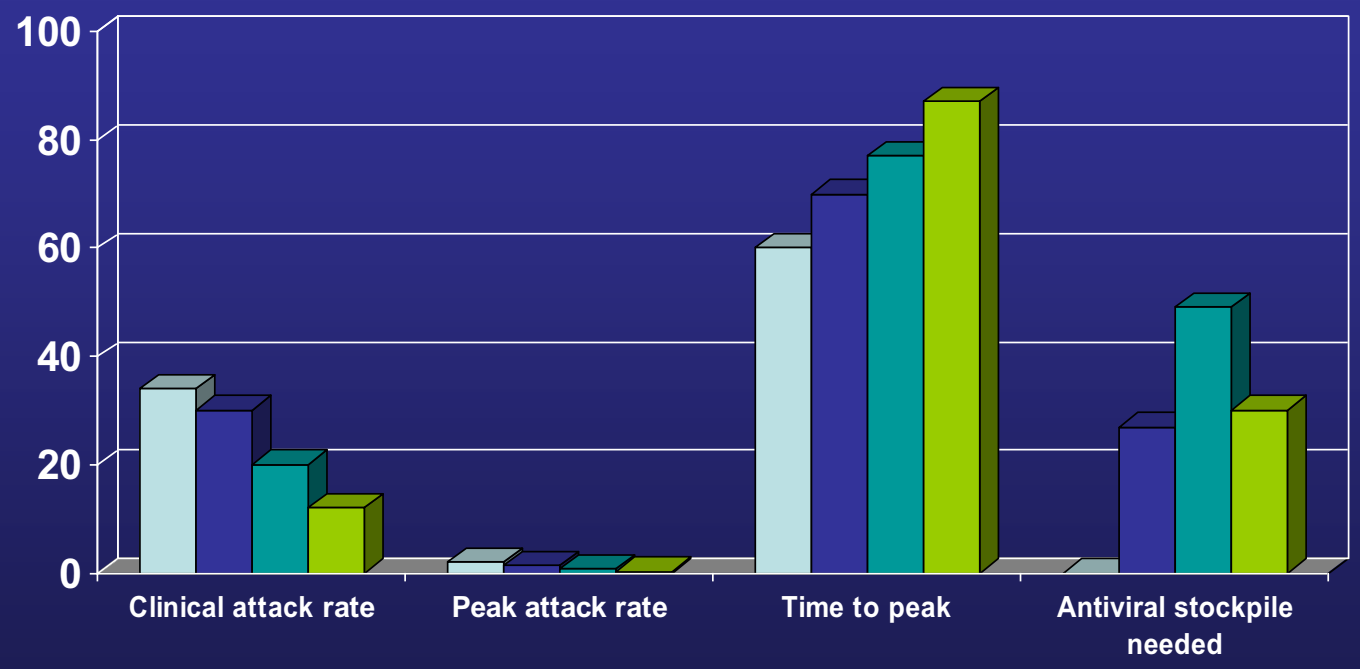

- Base case (Ro=2.0)
- 90% case treatment + school closure
- 90% case treatment + school closure + 90% household prophylaxis
- 90% case treatment + school closure + 90% household prophylaxis + 70% household quarantine

Value of combining strategies – Longini model

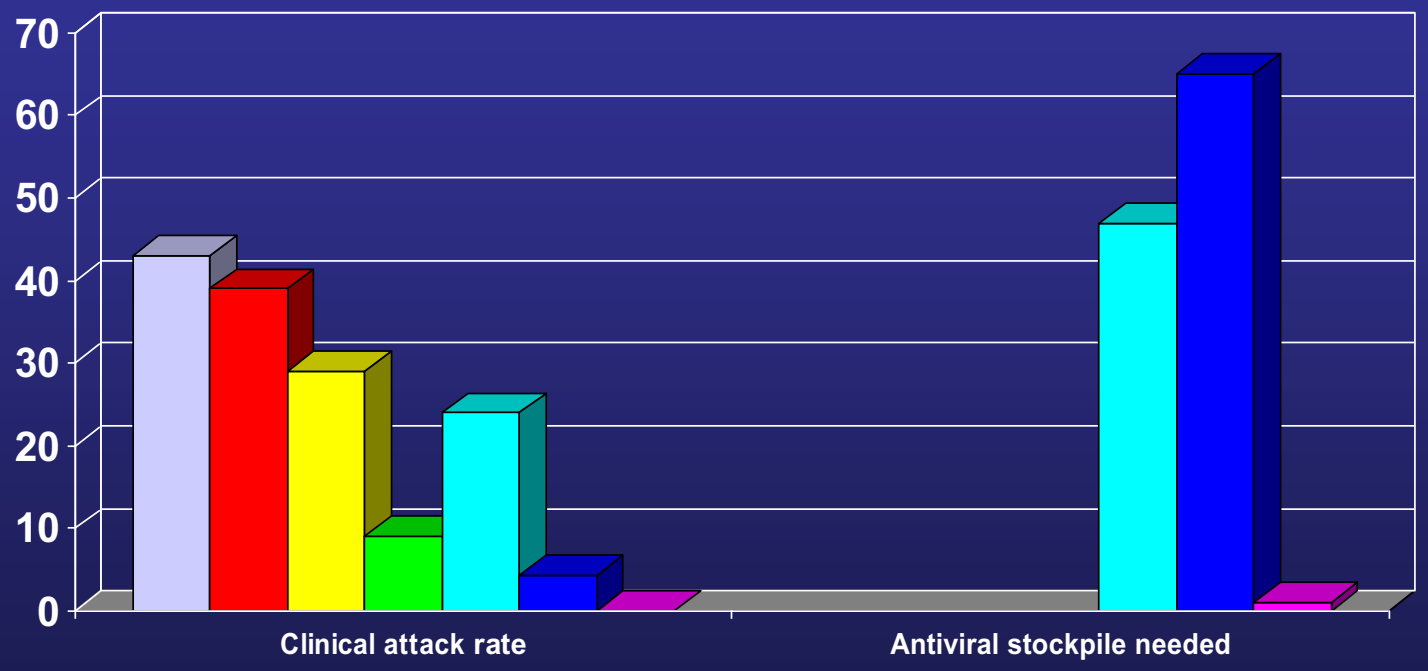

- Base case (Ro=1.9)
- Generic social distancing
- School closure
- School closure + generic social distancing
- 60% Case treatment + 60% household prophylaxis
- 60% Case treatment + 60% household prophylaxis + 60% social prophylaxis (60% TAP)
- 60% TAP + School closure + generic social distancing

Targeted Antiviral Prophylaxis

- Only for Ro ≤ 1.6 can reasonable control using TAP alone be achieved with small stockpile
- TAP strategy requires identification of effective sizes of the close-contact mixing groups **DIFFICULT TO DO**
- As the clinical attack rate increases, case-targeted control policies become more effective. Socially-targeted prophylaxis will also be slightly more effective, much more so if the percentage of cases occurring in easily identified social compartments increases
- If a greater proportion of transmission occurs in schools and workplaces, overall and peak attack rates drop substantially (due to mixing being much more focused on school-age children) and effect of socially targeted control policies is markedly enhanced

Ferguson, NM, et al. Strategies for mitigating an influenza pandemic.
Germann, TC, et al. Strategies for controlling pandemic influenza in the United States.

Combining strategies – Glass model: Targeted Social Distancing

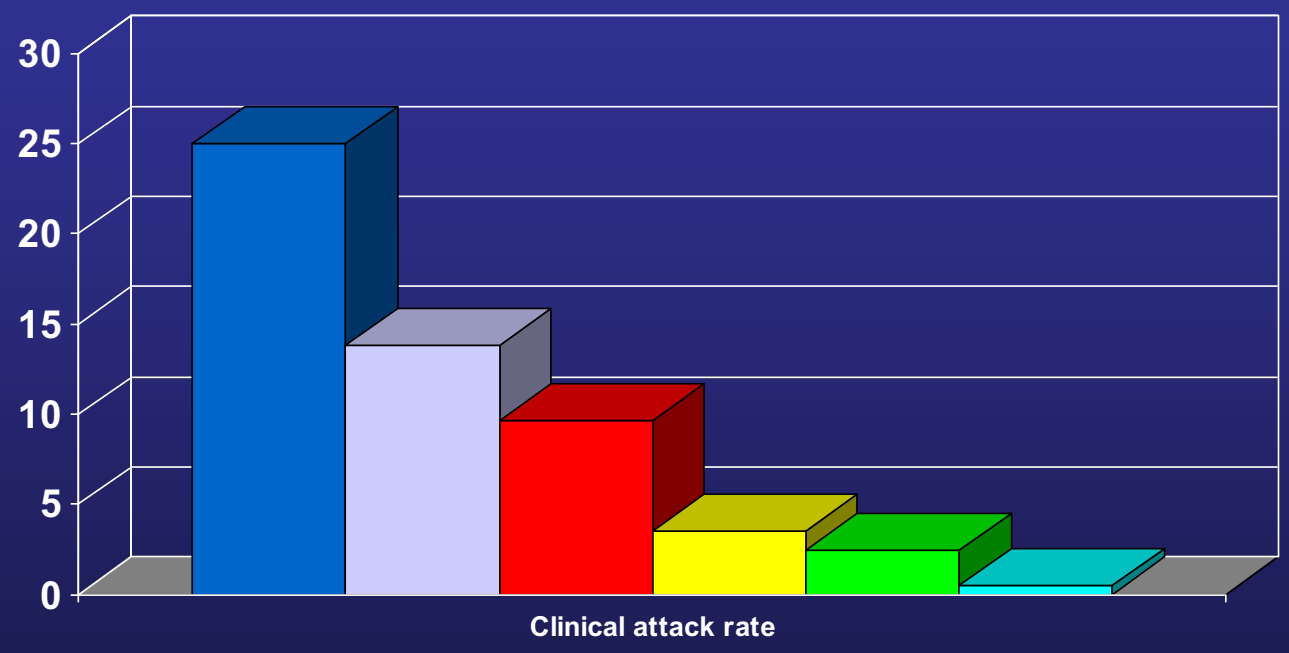

- Base case (Ro ~ 1.6)
- School closure alone
- School closure + targeted social distancing (10% compliance)
- School closure + targeted social distancing (30% compliance)
- School closure + targeted social distancing (50% compliance)
- School closure + targeted social distancing (90% compliance)

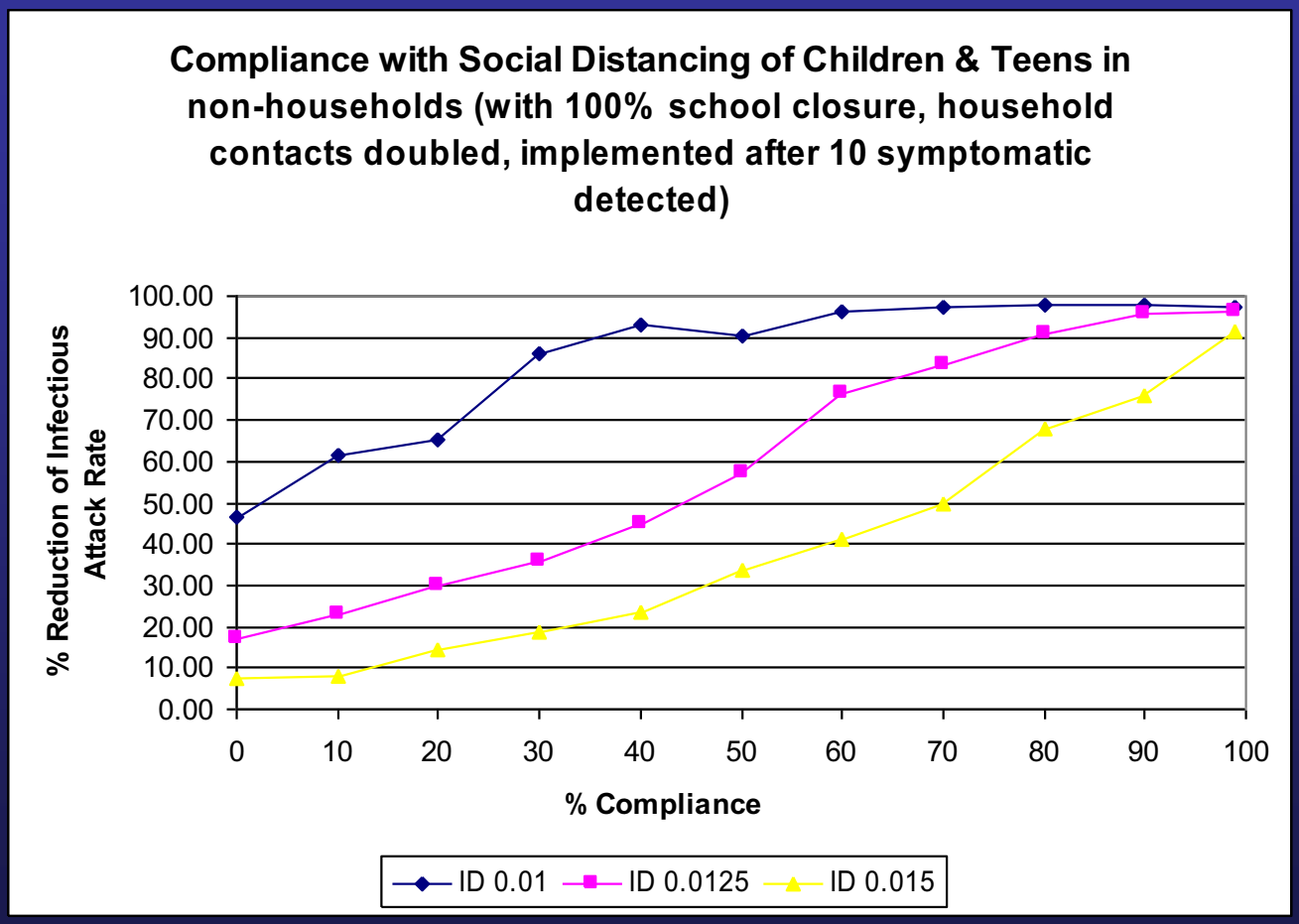

Glass, RJ. Personal communication

ID 0.01 ~ Ro 1.6
ID 0.0125 ~ Ro 2.0
ID 0.015 ~ Ro 2.4

Evidence to support school closure

- Children appear to be more susceptible to influenza and more infectious than adults in well-designed prospective studies of risk factors of influenza transmission in households.
- Nationwide school closure in Israel during an influenza epidemic resulted in significant decreases in the diagnoses of respiratory infections (42%), visits to physicians (28%) and emergency departments (28%), and medication purchases (35%).
- Japanese experience demonstrated 1 death prevented for every 420 children vaccinated (coverage 50-65% when denominator is children ages 3-18, but program achieved coverage of 80% for target population of children age 7-15; presumed mortality ~0.1%).
- Vaccination of 85% of schoolchildren in Tecumseh, Michigan resulted in two-thirds reduction in adult cases in community.

Shunting transmission to easily defined social compartments

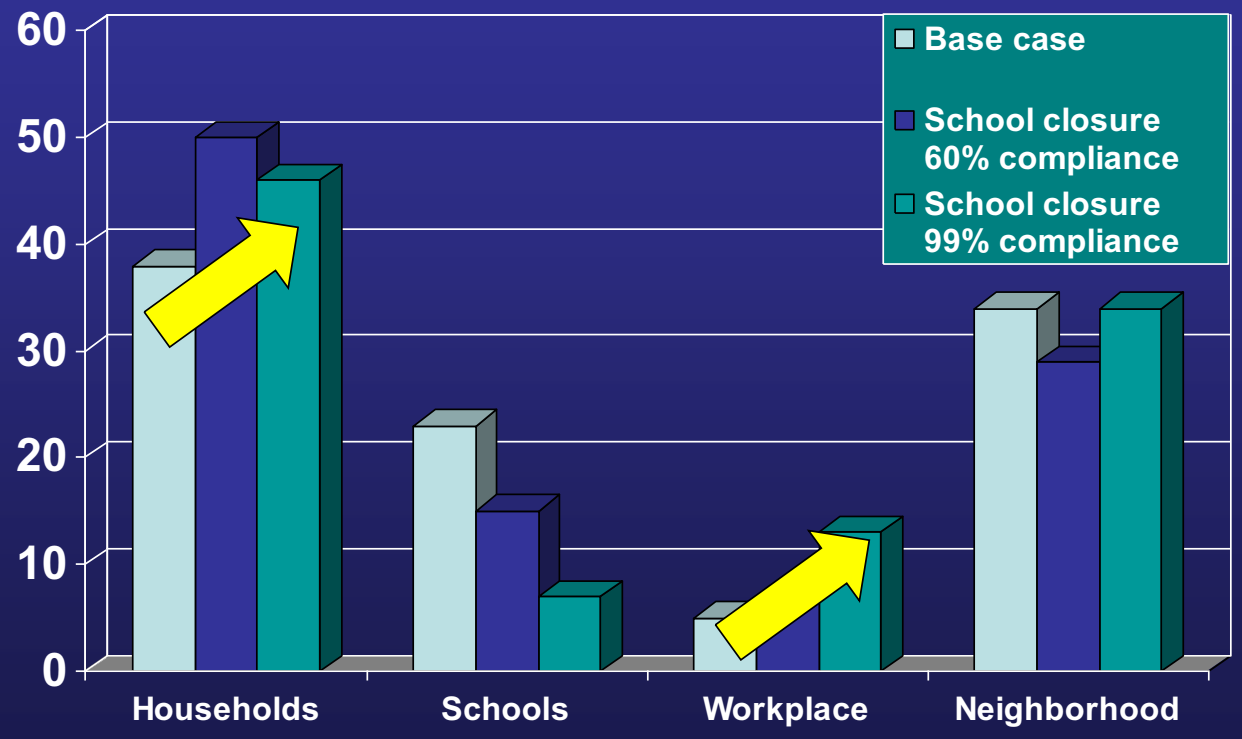

Base case = 24% attack rate, peak ~d45, ends ~d114
60% compliance = 11% attack rate, peak~d75, ends ~d202
99% compliance = 0.5% attack rate, peak ~d12, ends ~d51

Reduction in case numbers by transmission compartment

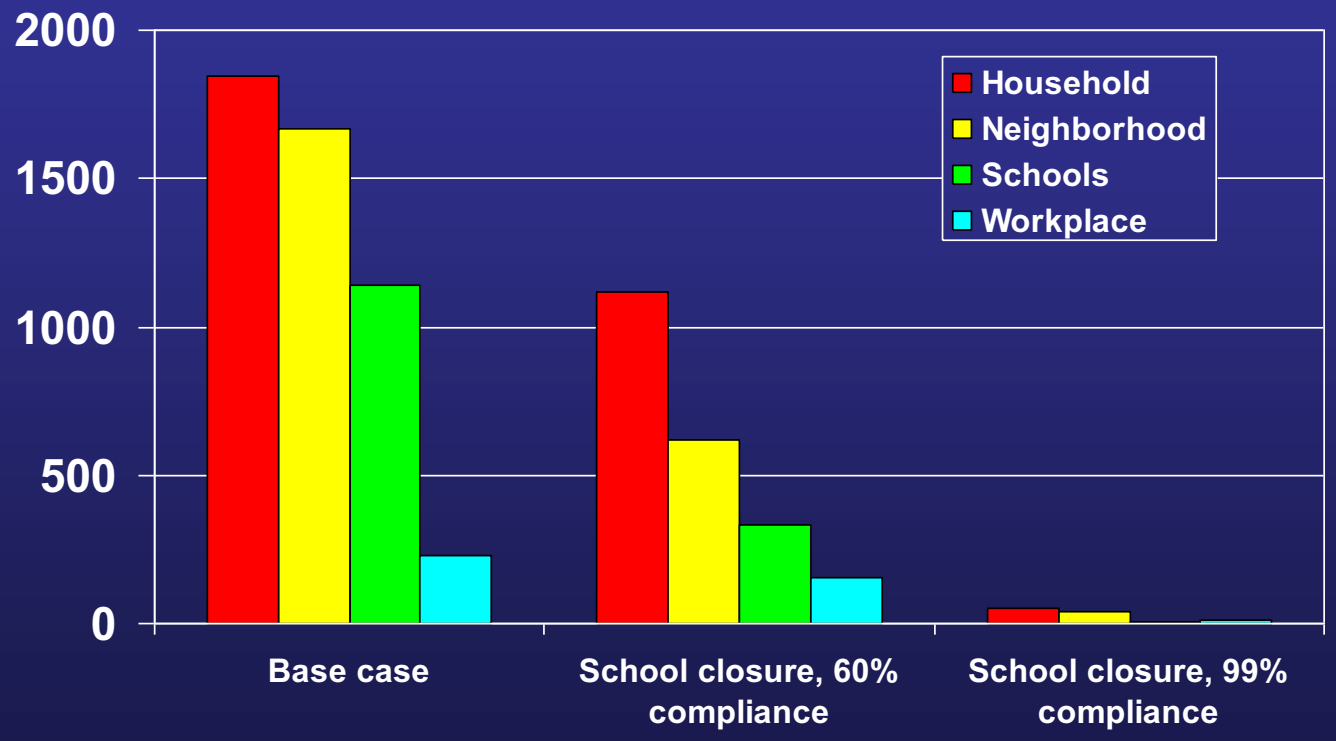

Base case = 24% attack rate, peak ~d45, ends ~d114
60% compliance = 11% attack rate, peak~d75, ends ~d202
99% compliance = 0.5% attack rate, peak ~d12, ends ~d51

Factors that influence transmission dynamics

• Relative individual infectiousness ↑	↑ importance of like-to-like transmission compartments
• Social network size ↑	↑ transmission per agent (Ro)
• Ratio of within- to between-group mixing in schools and workplaces ↑	↑ efficacy of socially targeted prophylaxis
• Infected individuals continue to circulate	↑ proportion of transmission occurring outside households
• Household size ↑	↑ proportion of transmission occurring inside households and cumulative attack rate

Social Distancing Maneuvers

Targeting zones of high infectious contact

- Closing schools (eliminates like-to-like transmission / amplification)
- Keeping children and teens home (reduces household transmission)
- Social distancing in the workplace
- Liberal leave policies (reduces workplace transmission)

Shunting transmission into easily defined compartments

- Home isolation of patients / quarantine of family members
- Closing schools (increases proportion of transmission occurring in households and workplaces)
- Canceling public gatherings (may decrease occult community transmission)
- Reducing utilization of transit systems (may decrease occult community transmission)

A Strategy for Communities

Elements

Rapid Diagnosis

- RT-PCR confirmation of first cases in community
- Rapid influenza diagnostics for case ascertainment
- Clinical diagnosis if rapid diagnostics not available

Treatment / Isolation

- Antiviral medications (oseltamivir or zanamivir) as treatment for all persons with *confirmed* diagnosis of pandemic influenza
- All persons who are symptomatic with suspected or possible influenza are asked to remain in their homes for duration of illness
- Hospitalized patients isolated or cohorted with other influenza patients

Prophylaxis / Quarantine

- Household contacts of confirmed cases receive oseltamivir prophylaxis
- Household contacts of confirmed cases requested to comply with voluntary quarantine x 1 incubation period

Elements

Targeting zones of high infectious contact

- Schools close for duration of outbreak after first case confirmed in community
- Parents requested to keep children/teens home during outbreak
- Social distancing measures implemented in the workplace (e.g., self-contained small workgroups), but workplaces remain open
- Liberal leave policies to reduce circulation of ill or exposed adults

Shunting transmission into easily defined compartments

- Public gatherings cancelled
- Public advised to avoid crowds, minimize use of transit systems
- Public advised to postpone non-essential travel

Elements

Infection Control

- Hospitals implement infection control programs in waiting areas and emergency rooms and on clinical wards
- Public provided information about the use of facemasks
- Public advised of importance of maintaining physical separation from others, good hand hygiene, cough etiquette, etc.

If countermeasure supplies are adequate

- Prophylaxis of defined compartment (workplace) social contacts of patients with confirmed pandemic influenza

Caveat

Communities must be ready to implement measures immediately and public must sustain reasonable compliance for strategy to work.

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Backup Slides

Effect of Agent and Disease "Realism"

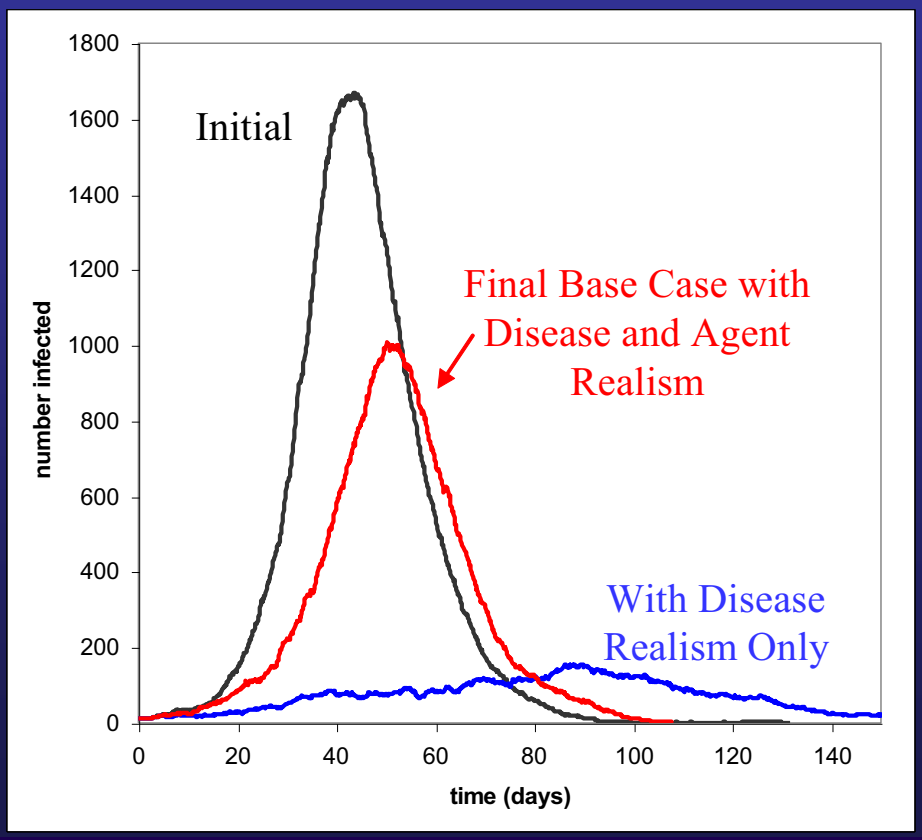

Factors that influence the shape of a pandemic but not transmission dynamics

• Ro ↑	↑ cumulative attack rate; requires more intensive containment measures
• Tg ↑	↑ time to peak, if no Δ Ro
• Incubation time ↑	↑ time to peak
• Peak infectiousness later	↑ time to peak
• Duration infectiousness ↑ but no Δ Ro	↑ time to peak; control policies more efficacious if case detection > 24 h from onset of symptoms

Vaccination

- Vaccinating 2N people with vaccine with 0.5X efficacy provides more protection than vaccinating N people with vaccine with X efficacy.
- For Ro ≤ 1.6, spread could be controlled if pandemic vaccine could be distributed nationally at rate of 10 million doses per week for 25 weeks initiated within 2 weeks of pandemic alert (day 40-50).
- Glass finds that vaccination of 60% of schoolchildren (1740 people) results in 98% reductions in case numbers and mortality (456 deaths, or 1 death for every 3.8 people vaccinated, for virus with mortality of 15% for symptomatic patients).

Targeted Antiviral Prophylaxis

- Only for Ro ≤ 1.6 can reasonable control using TAP alone be achieved with small stockpile
- TAP strategy requires identification of effective sizes of the close-contact mixing groups DIFFICULT TO DO
- As the clinical attack rate increases, the number of household infections increases and case-targeted control policies become more effective. Socially-targeted prophylaxis will also be slightly more effective, much moreso if the percentage of cases occurring in easily identified social compartments increases
- If a greater proportion of transmission occurs in schools and workplaces, overall and peak attack rates drop substantially (due to mixing being much more focused on school-age children) and effect of socially targeted control policies is markedly enhanced

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Germann, TC, et al. Strategies for controlling pandemic influenza in the United States.

Reduction from base case due to social distancing of children / teens

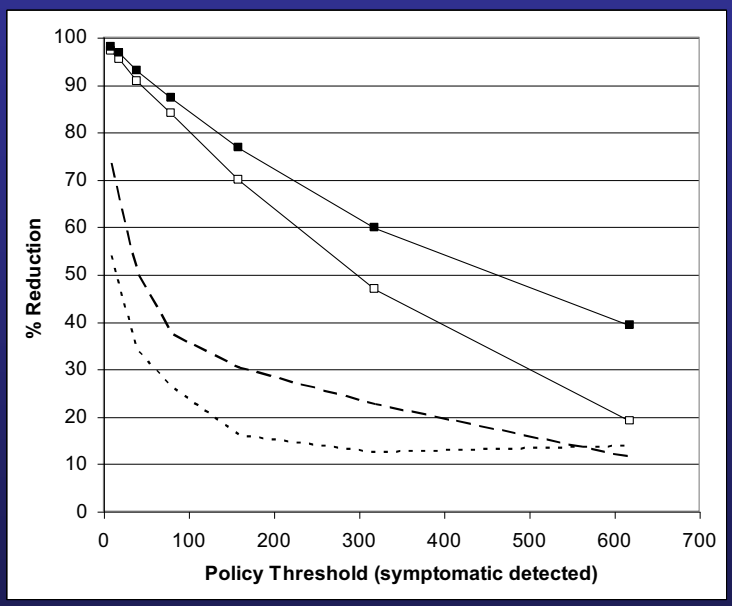

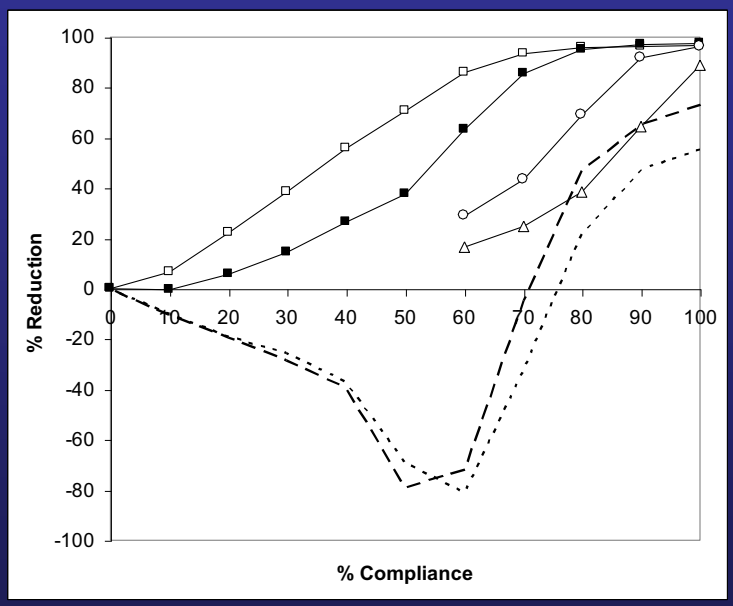

Solid squares = attack and death rates
Open squares = peak afffected
Long dashes = time to peak
Short dashes = total time of epidemic

Open circles = ID 0.0125
Open triangles = ID 0.015

Reduction from base case due to vaccination of children / teens

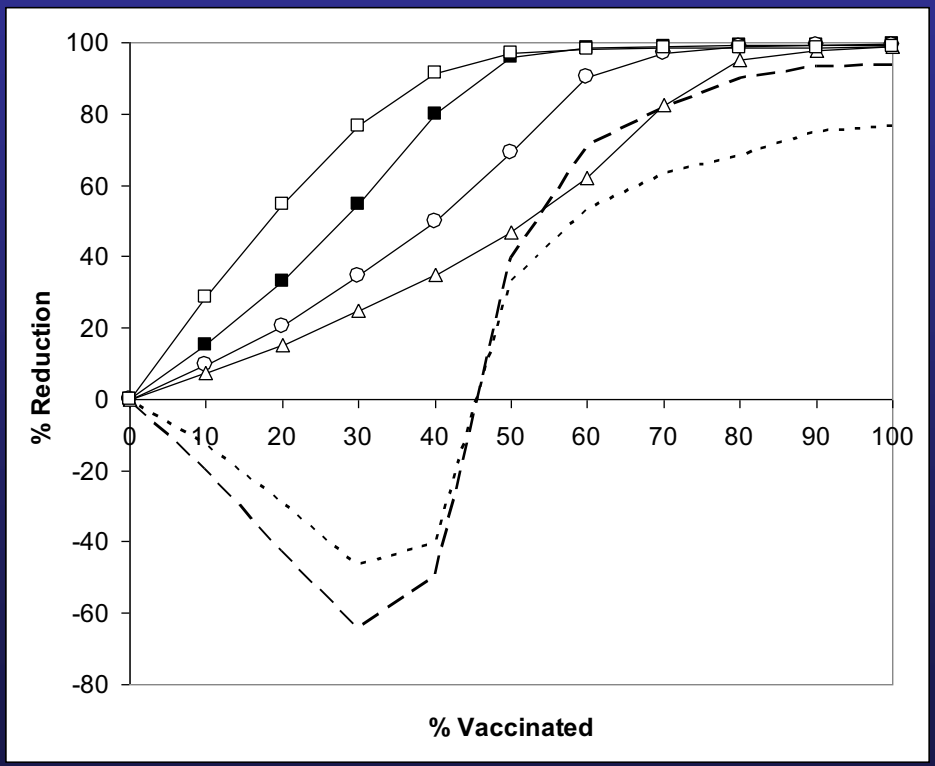

Reduction from base case due to vaccination of children / teens

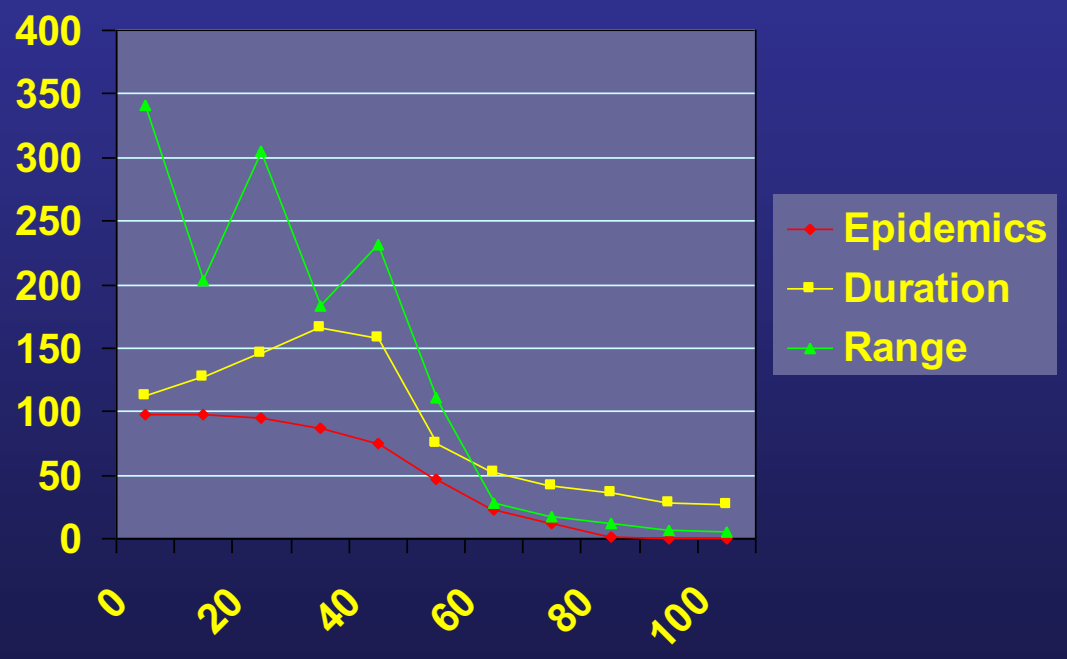

Social Distancing Measures

- Disease transmission parameters and the structure of social networks determine the Ro at which phase transition occurs, making a disease difficult to control with individual measures. Cf. effects of school closure between Longini/Ferguson

- The value of social distancing may emerge only in combination with other measures. Cf. comparison of combination measures between Longini/Ferguson

Circulation

- If infected individuals continue to circulate, greater proportion of transmission will occur outside of households
- In Ferguson/Glass models peak infectiousness occurs while individual is in pre-symptomatic period, while in Longini peak infectiousness is associated with symptoms.

Risk of Contracting Influenza and Bringing the Infection Home

Children—Schools/Community Adults—Work/Community

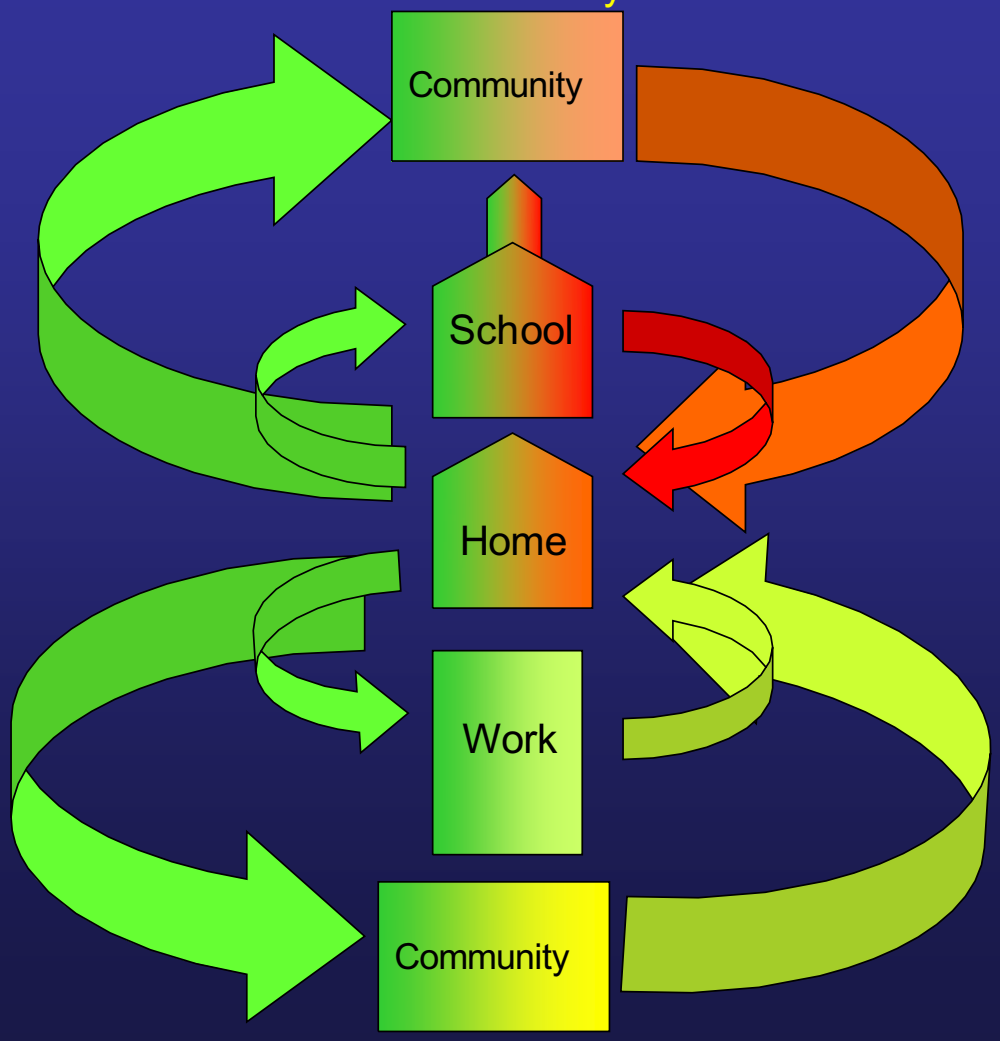

Risk of Infected Individuals Transmitting Influenza to Others Each Day
Children—Schools/Community Adults—Work/Community

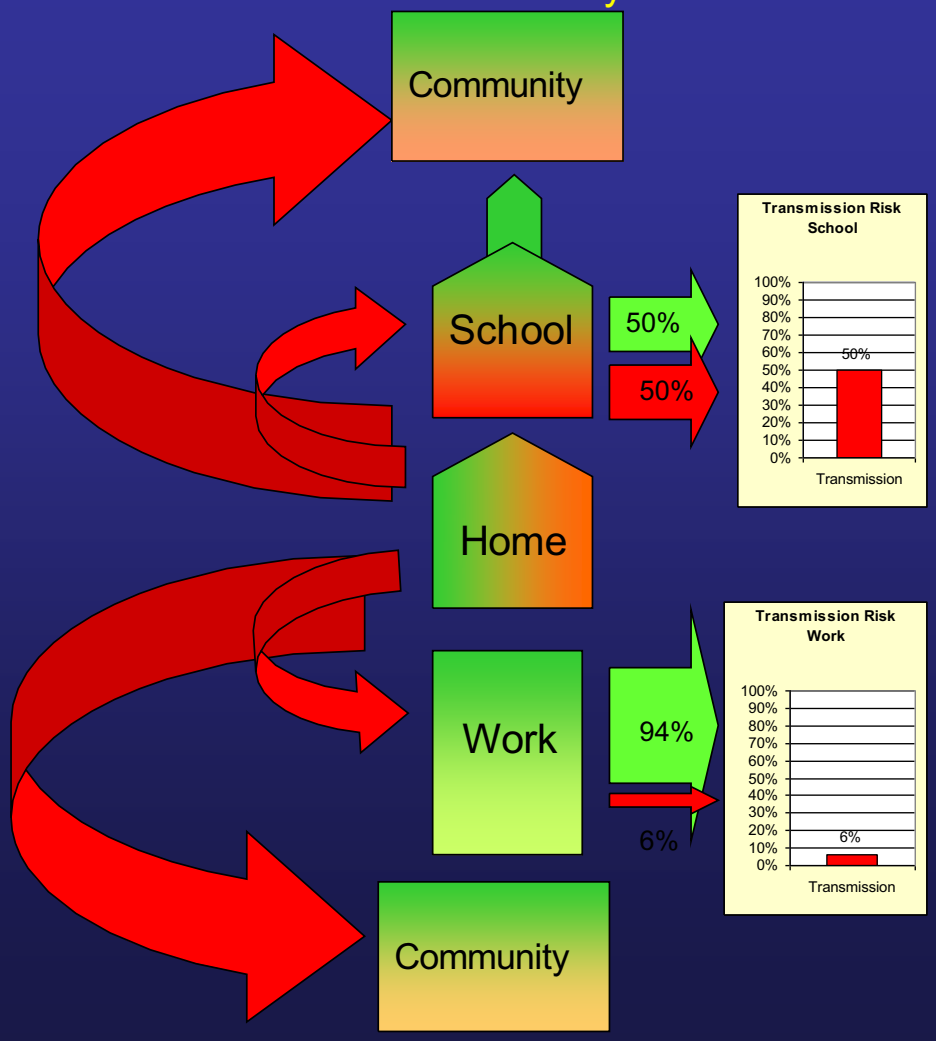

Sensitivity

• Ro ↑	↑ cumulative attack rate with ↑ household size
• Tg ↑	↑ time to peak, if no Δ Ro
• Ratio of within- to between-group mixing in schools and workplaces	Affect only measures specifically targeting schools and workplaces
• Household size ↑	↑ cumulative attack rate

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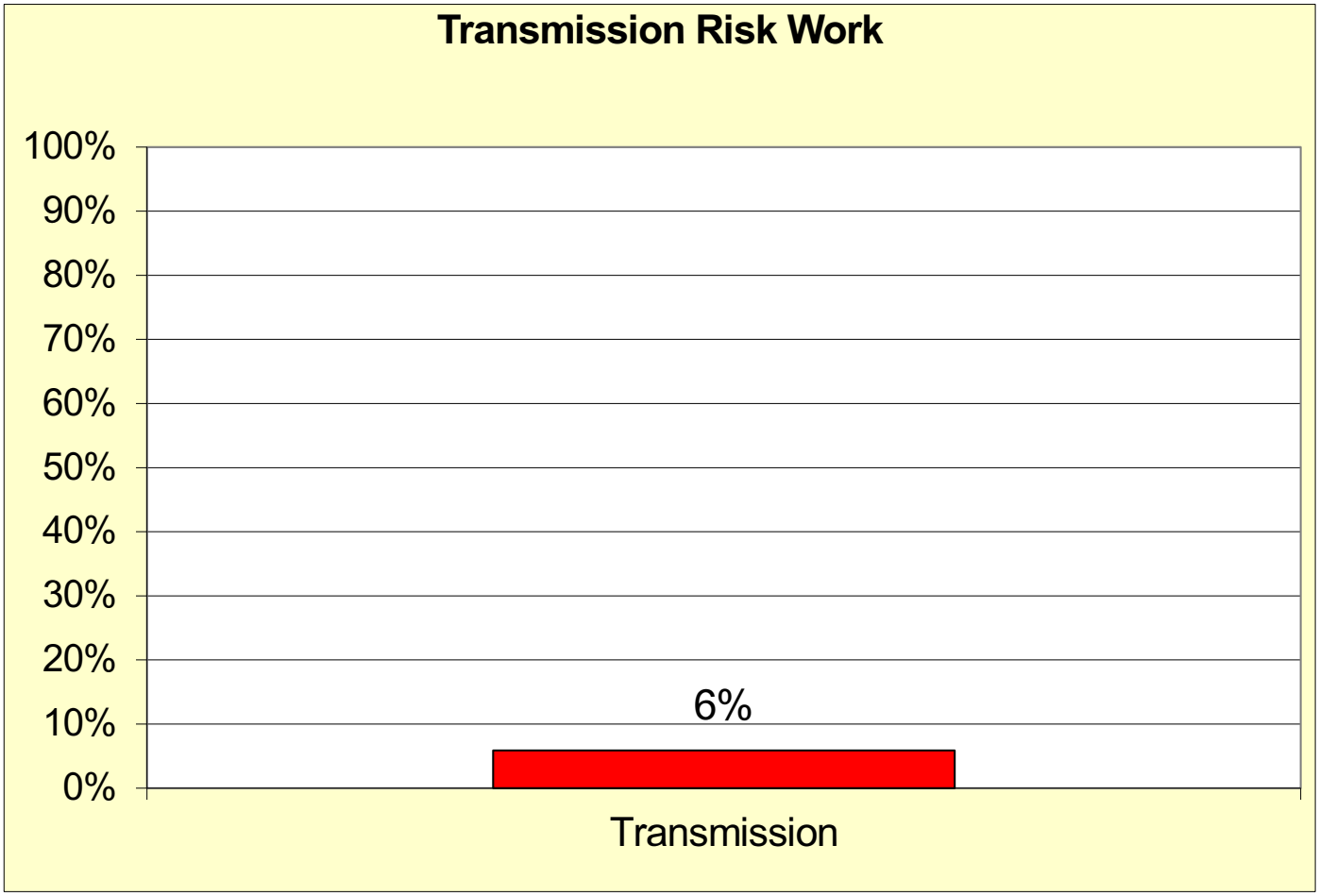
Transmission Risk Work
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
6%
Transmission

	Transmission
School	50%
Work	6%

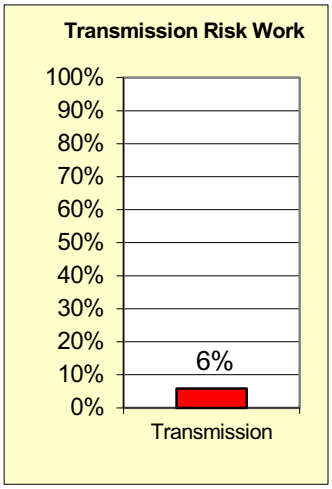

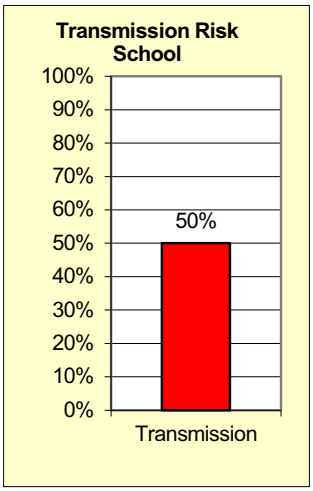

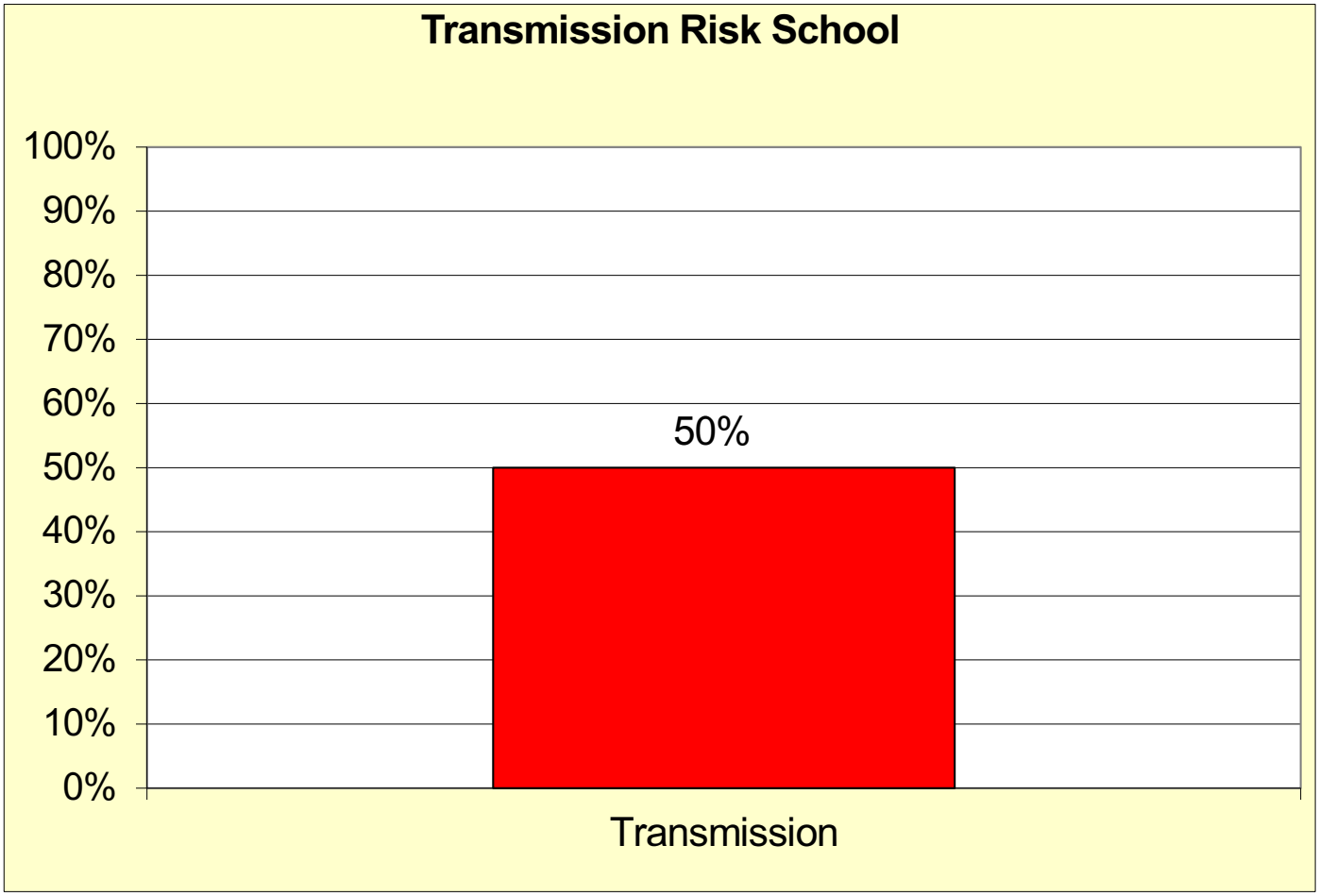
Transmission Risk School
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
50%
Transmission

	Transmission
School	50%
Work	6%

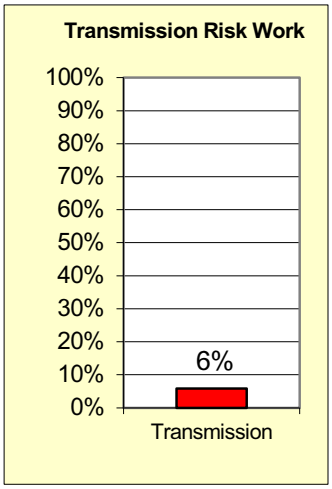

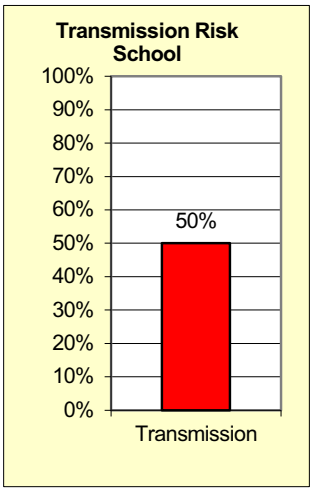

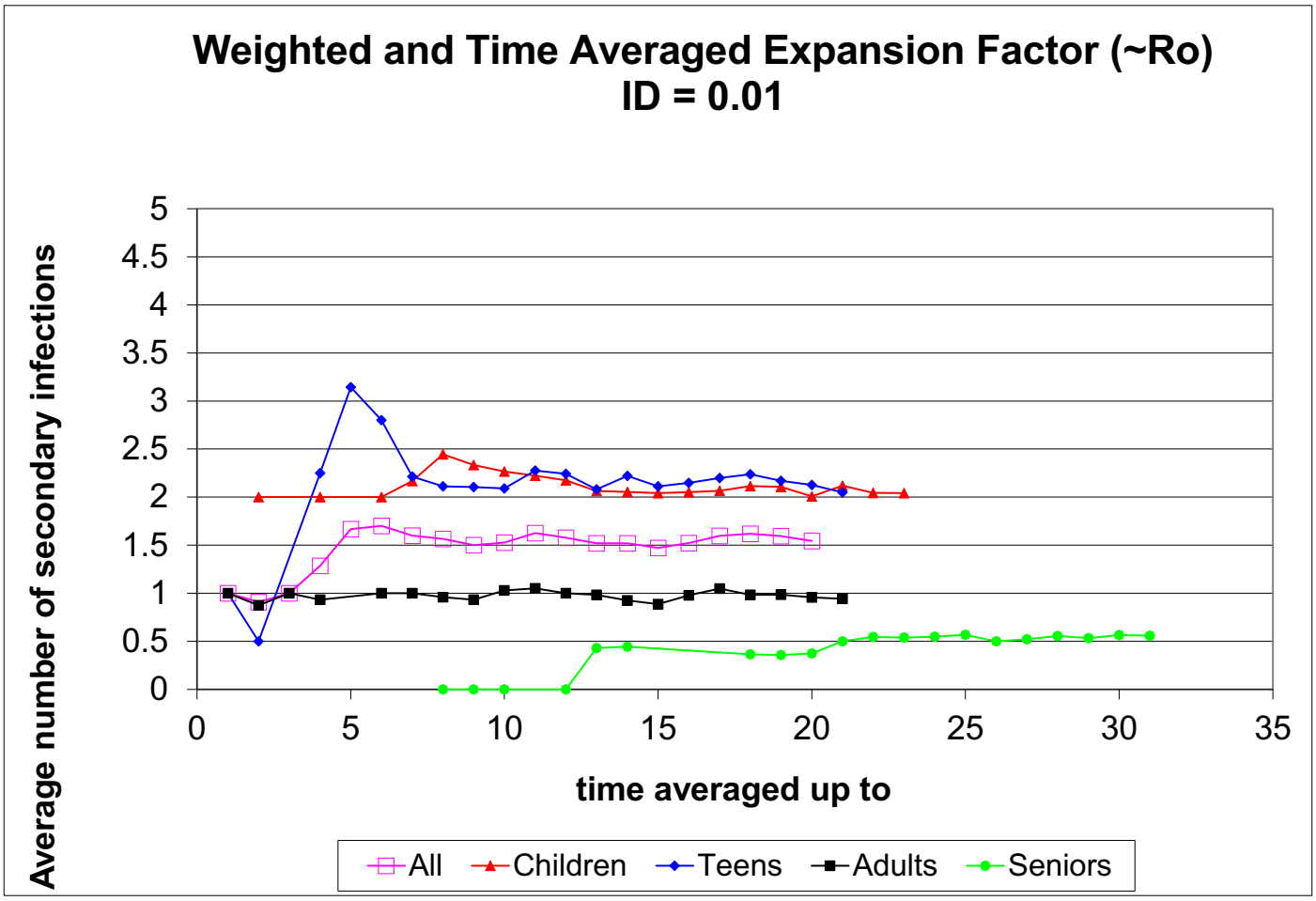
Weighted and Time Averaged Expansion Factor (~Ro)
ID = 0.01
Average number of secondary infections
5
4.5
4
3.5
3
2.5
2
1.5
1
0.5
0
0
5
10
15
20
25
30
35
time averaged up to
All
Children
Teens
Adults
Seniors

Decade	ToType	f Number In	f Number In	Nobs
2	1	2	2	1
4	1	2	2	1
6	1	2	2	1
7	1	2.333333	5	3
8	1	3	6	3
9	1	2	4	3
10	1	2	3	3
11	1	2	4	3
12	1	2	3	5
13	1	1.75	4	8
14	1	2	5	7
15	1	2	3	9
16	1	2.090909	7	11
17	1	2.111111	5	18
18	1	2.285714	5	21
19	1	2.066667	6	15
20	1	1.576923	7	26
21	1	2.857143	7	21
22	1	1.45	4	20
23	1	2	7	18
24	1	1.615385	8	26
25	1	1.777778	8	36
26	1	1.909091	5	44
27	1	1.9	8	40
28	1	1.792453	6	53
29	1	1.906977	5	43
30	1	1.298246	6	57
31	1	1.785714	6	56
32	1	1.488372	8	43
33	1	1.516667	6	60
34	1	1.872727	6	55
35	1	1.40625	5	64
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40	1	1.166667	5	54
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43	1	1.03125	4	32
44	1	1.457143	6	35
45	1	1.25641	5	39
46	1	1.241379	4	29
47	1	1.033333	4	30
48	1	1.26087	4	23
49	1	0.966667	4	30
50	1	0.777778	3	27
51	1	1.210526	5	19
52	1	0.772727	2	22
53	1	1.434783	5	23
54	1	0.384615	2	13

2	1	2	2.07145
4	2	2	
6	3	2	
13	6	2.166667	
22	9	2.444444	
28	12	2.333333	
34	15	2.266667	
40	18	2.222222	
50	23	2.173913	
64	31	2.064516	
78	38	2.052632	
96	47	2.042553	
119	58	2.051724	
157	76	2.065789	
205	97	2.113402	
236	112	2.107143	
277	138	2.007246	
337	159	2.119497	
366	179	2.044693	
402	197	2.040609	

55	1	1.125	3	8
56	1	0.25	1	8
57	1	1.111111	2	9
58	1	1	2	10
59	1	1.285714	3	7
60	1	0.833333	3	6
61	1	1.333333	3	9
62	1	1.25	2	4
63	1	0.5	1	2
65	1	0	0	1
66	1	0	0	1
67	1	1	3	3
69	1	2	2	1
70	1	0	0	1
71	1	0.5	1	2
72	1	0.666667	2	3
73	1	0.333333	1	3
75	1	0	0	1
77	1	0	0	1
78	1	0	0	3
79	1	0	0	1
82	1	0	0	1
105	1	0	0	1
1	2	1	1	1
2	2	0	0	1
4	2	4	5	2
5	2	4.333333	10	3
6	2	2	3	3
7	2	0.75	1	4
8	2	1.75	3	4
9	2	2	2	1
10	2	2	4	3
11	2	2.857143	6	7
12	2	2	4	4
13	2	0.75	3	4
14	2	3.5	8	4
15	2	1	2	4
16	2	3	4	2
17	2	2.5	5	8
18	2	2.5	7	8
19	2	1.857143	5	14
20	2	1.8	4	10
21	2	1.538462	5	13
22	2	1.388889	5	18
23	2	1.583333	4	12
24	2	2.076923	6	13
25	2	1.571429	8	14
26	2	1.5625	5	16
27	2	1.666667	8	21
28	2	2	11	15
29	2	1.7	6	20
30	2	1.5	3	12

31	2	1.5	7	28
32	2	1.541667	4	24
33	2	1.25	4	24
34	2	1.571429	6	28
35	2	1.46875	4	32
36	2	1.567568	7	37
37	2	0.97619	5	42
38	2	1.307692	6	26
39	2	0.807692	3	26
40	2	1.071429	3	28
41	2	1.407407	4	27
42	2	1.875	5	16
43	2	0.945946	4	37
44	2	1.064516	3	31
45	2	1.074074	3	27
46	2	1.25	4	24
47	2	1.571429	5	21
48	2	0.962963	5	27
49	2	1.083333	4	12
50	2	0.818182	2	11
51	2	0.9375	5	16
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53	2	1.4	5	10
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55	2	1	2	4
56	2	0.857143	3	7
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58	2	0.2	1	5
59	2	0.666667	2	6
60	2	0.5	1	2
61	2	0.5	1	2
62	2	0.6	1	5
63	2	1.5	2	2
64	2	1	3	3
65	2	1.25	2	4
66	2	1	2	2
68	2	1	1	1
69	2	0	0	1
72	2	2	2	2
73	2	0.333333	1	3
74	2	1	1	1
75	2	0	0	1
76	2	0.5	1	2
77	2	2	2	1
78	2	2	2	1
79	2	0	0	1
81	2	0	0	1
83	2	0.5	1	2
84	2	0.5	1	2
87	2	0	0	1
99	2	2	2	1
103	2	0.5	1	2

1	3	1	2	5
2	3	0.666667	1	3
3	3	1.2	4	5
4	3	0.5	1	2
6	3	1.5	2	2
7	3	1	3	3
8	3	0.75	2	4
9	3	0.833333	2	6
10	3	1.6	3	5
11	3	1.2	2	5
12	3	0.75	2	8
13	3	0.875	2	8
14	3	0.6	3	10
15	3	0.692308	3	13
16	3	1.5	3	14
17	3	1.538462	4	13
18	3	0.222222	1	9
19	3	1	4	24
20	3	0.8	3	25
21	3	0.857143	2	28
22	3	0.73913	3	23
23	3	1.037037	3	27
24	3	1.166667	4	18
25	3	1.105263	5	38
26	3	1	3	39
27	3	0.8	4	45
28	3	0.863636	4	66
29	3	0.865385	4	52
30	3	0.693333	4	75
31	3	0.816667	5	60
32	3	0.84	4	75
33	3	0.679487	4	78
34	3	0.728571	4	70
35	3	0.802198	4	91
36	3	0.553846	2	65
37	3	0.835165	4	91
38	3	0.522222	4	90
39	3	0.602151	3	93
40	3	0.697674	5	86
41	3	0.468468	5	111
42	3	0.647059	5	85
43	3	0.657895	5	76
44	3	0.537313	3	67
45	3	0.621622	4	74
46	3	0.475	3	80
47	3	0.527778	3	72
48	3	0.421875	4	64
49	3	0.661765	5	68
50	3	0.62	3	50
51	3	0.491228	2	57
52	3	0.408163	2	49
53	3	0.317073	2	41

5	5	1	0.959368
7	8	0.875	
13	13	1	
14	15	0.933333	
17	17	1	
20	20	1	
23	24	0.958333	
28	30	0.933333	
36	35	1.028571	
42	40	1.05	
48	48	1	
55	56	0.982143	
61	66	0.924242	
70	79	0.886076	
91	93	0.978495	
111	106	1.04717	
113	115	0.982609	
137	139	0.985612	
157	164	0.957317	
181	192	0.942708	

54	3	0.432432	3	37
55	3	0.5	3	42
56	3	0.447368	2	38
57	3	0.4	3	30
58	3	0.24	1	25
59	3	0.428571	3	14
60	3	0.666667	3	21
61	3	1.071429	3	14
62	3	0.32	2	25
63	3	0.454545	2	22
64	3	0.333333	3	12
65	3	0.35	1	20
66	3	0.166667	2	12
67	3	1	2	2
68	3	0.2	1	10
69	3	0.333333	1	3
70	3	0.333333	1	9
71	3	0.714286	2	7
72	3	0.25	1	8
73	3	0.666667	2	6
74	3	1.666667	3	3
75	3	1	2	3
76	3	1	3	3
77	3	0	0	4
79	3	1	1	1
80	3	2	3	2
83	3	0.714286	2	7
84	3	0	0	1
85	3	0.5	1	6
87	3	0	0	1
90	3	0	0	1
92	3	0	0	1
94	3	0	0	1
8	4	0	0	2
9	4	0	0	1
10	4	0	0	1
12	4	0	0	1
13	4	1.5	3	2
14	4	0.5	1	2
18	4	0	0	2
19	4	0.333333	1	3
20	4	0.5	1	2
21	4	1.5	2	2
22	4	0.75	1	4
23	4	0.5	1	4
24	4	0.6	2	5
25	4	0.666667	2	6
26	4	0.142857	1	7
27	4	0.75	2	4
28	4	0.833333	2	6
29	4	0.333333	1	6
30	4	0.777778	2	9

0	2	0	0.509858
0	3	0	
0	4	0	
0	5	0	
3	7	0.428571	
4	9	0.444444	
4	11	0.363636	
5	14	0.357143	
6	16	0.375	
9	18	0.5	
12	22	0.545455	
14	26	0.538462	
17	31	0.548387	
21	37	0.567568	
22	44	0.5	
25	48	0.520833	
30	54	0.555556	
32	60	0.533333	
39	69	0.565217	

31	4	0.5	2	8
32	4	0.705882	2	17
33	4	0.5	1	4
34	4	0.5	2	4
35	4	0.555556	2	9
36	4	0.111111	1	9
37	4	0.1	1	10
38	4	0.545455	2	11
39	4	0.7	3	10
40	4	0.444444	2	9
41	4	0.25	2	12
42	4	0.4	1	10
43	4	0.333333	1	12
44	4	0.142857	1	7
45	4	0	0	4
46	4	0.555556	2	9
47	4	0.444444	1	9
48	4	0.666667	1	3
49	4	0.666667	1	3
50	4	1.285714	3	7
51	4	0.2	1	5
52	4	0.357143	2	14
53	4	0.125	1	8
54	4	0	0	1
55	4	0.111111	1	9
56	4	0	0	5
57	4	0	0	1
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59	4	0.333333	1	3
60	4	1	2	3
61	4	0.333333	1	3
62	4	0	0	2
63	4	0.5	1	2
64	4	0	0	1
65	4	0	0	1
66	4	0	0	1
67	4	0	0	1
69	4	0	0	2
74	4	0	0	1
77	4	0	0	1
90	4	2	2	1
92	4	0	0	1

43	77	0.558442

Decade	f Number In	f Number In	Nobs
1	1	2	6
2	0.8	2	5
3	1.2	4	5
4	2.2	5	5
5	4.333333	10	3
6	1.833333	3	6
7	1.3	5	10
8	1.461538	6	13
9	1.181818	4	11
10	1.666667	4	12
11	2.133333	6	15
12	1.333333	4	18
13	1.227273	4	22
14	1.521739	8	23
15	1.192308	3	26
16	1.851852	7	27
17	2	5	39
18	1.75	7	40
19	1.464286	6	56
20	1.269841	7	63
21	1.671875	7	64
22	1.138462	5	65
23	1.393443	7	61
24	1.5		
25	1.404255		
26	1.40566		
27	1.363636		
28	1.335714		
29	1.347107		
30	0.986928		
31	1.282895		
32	1.106918		
33	1.060241		
34	1.273885		
35	1.096939		
36	1.045455		
37	0.994975		
38	0.935294		
39	0.944444		
40	0.887006		
41	0.8		
42	0.9375		
43	0.77707		
44	0.864286		
45	0.861111		
46	0.767606		
47	0.80303		
48	0.717949		
49	0.787611		
50	0.736842		
51	0.690722		

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6	6	1	1.660972	
10	11	0.909091		
16	16	1		
27	21	1.285714		
40	24	1.666667		
51	30	1.7		
64	40	1.6		
83	53	1.566038		
96	64	1.5		
116	76	1.526316		
148	91	1.626374		
172	109	1.577982		
199	131	1.519084		
234	154	1.519481		
265	180	1.472222		
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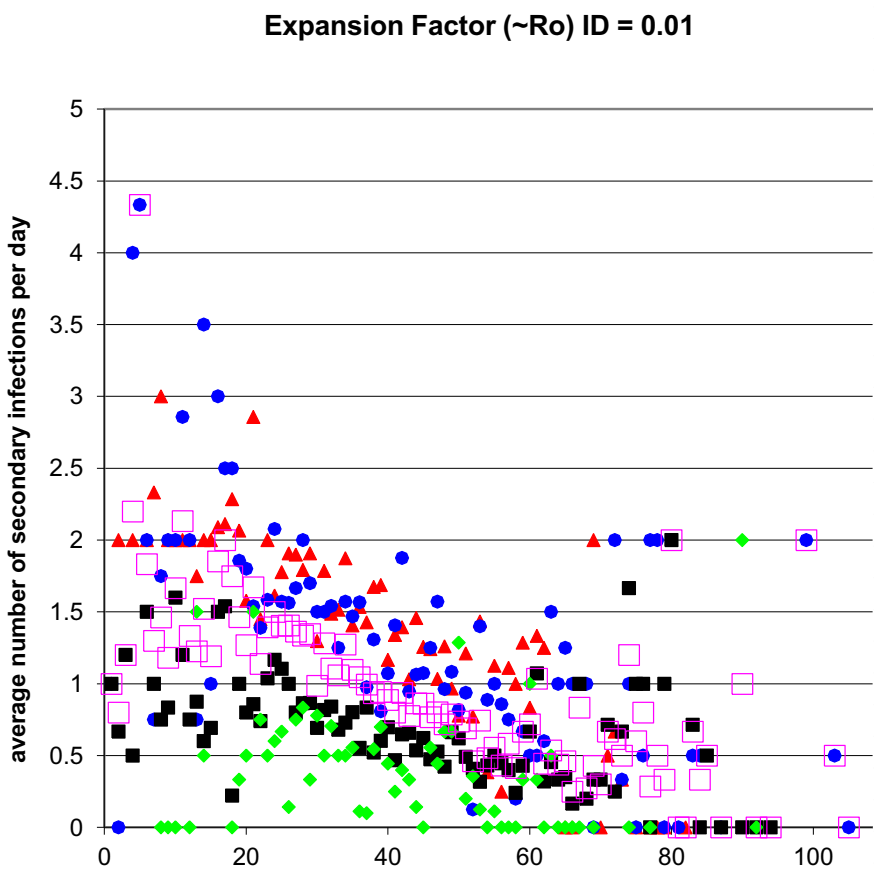

52	0.462366		
53	0.743902		
54	0.483333		
55	0.555556		
56	0.431034		
57	0.583333		
58	0.414634		
59	0.666667		
60	0.71875		
61	1.035714		
62	0.444444		
63	0.535714		
64	0.4375		
65	0.461538		
66	0.25		
67	0.833333		
68	0.272727		
69	0.428571		
70	0.3		
71	0.666667		
72	0.615385		
73	0.5		
74	1.2		
75	0.6		
76	0.8		
77	0.285714		
78	0.5		
79	0.333333		
80	2		
81	0		
82	0		
83	0.666667		
84	0.333333		
85	0.5		
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92	0		
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99	2	2	1
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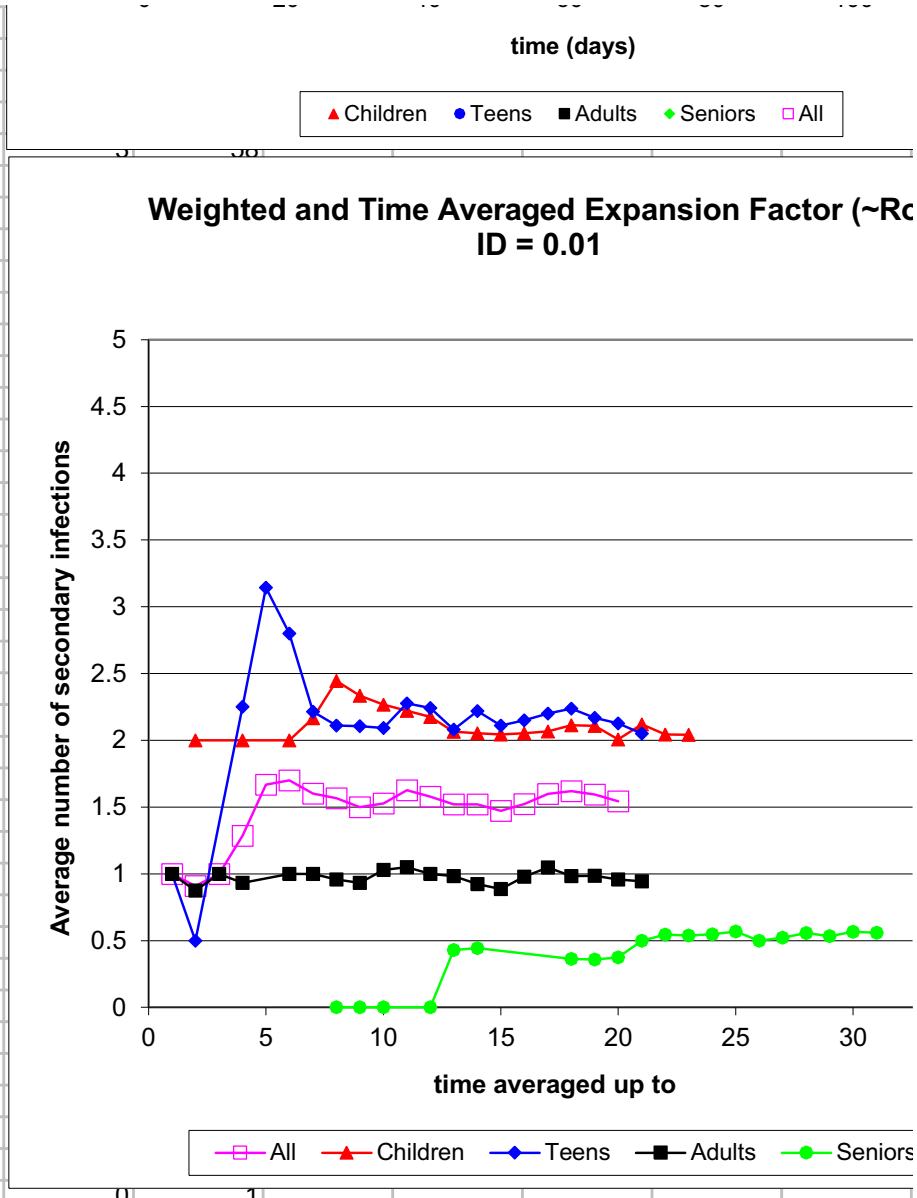

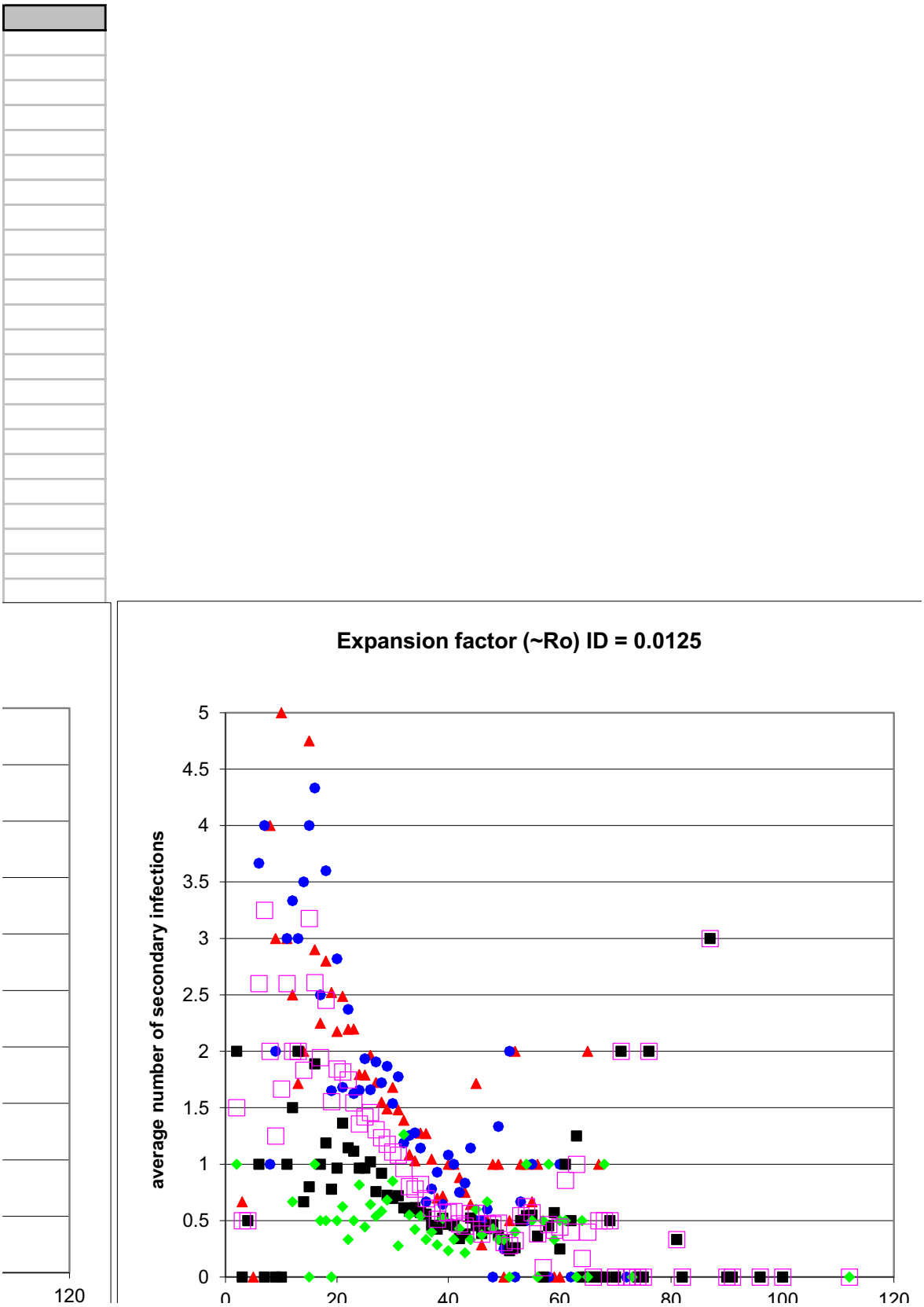
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average number of secondary infections
5
4.5
4
3.5
3
2.5
2
1.5
1
0.5
0
0
20
40
60
80
100
120
120

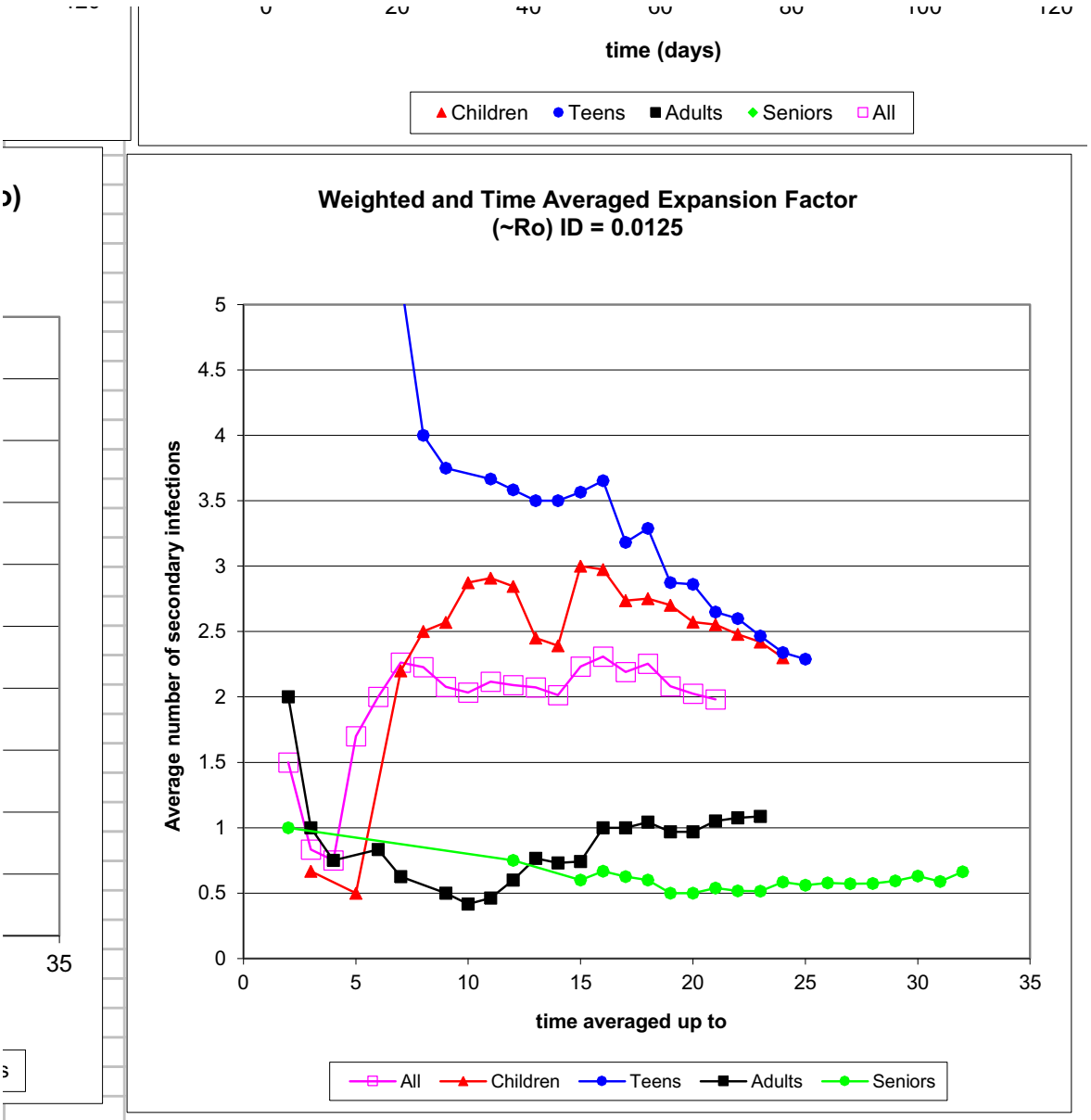
time (days)
Children
Teens
Adults
Seniors
All
Weighted and Time Averaged Expansion Factor
(~Ro) ID = 0.0125
Average number of secondary infections
time averaged up to
All
Children
Teens
Adults
Seniors

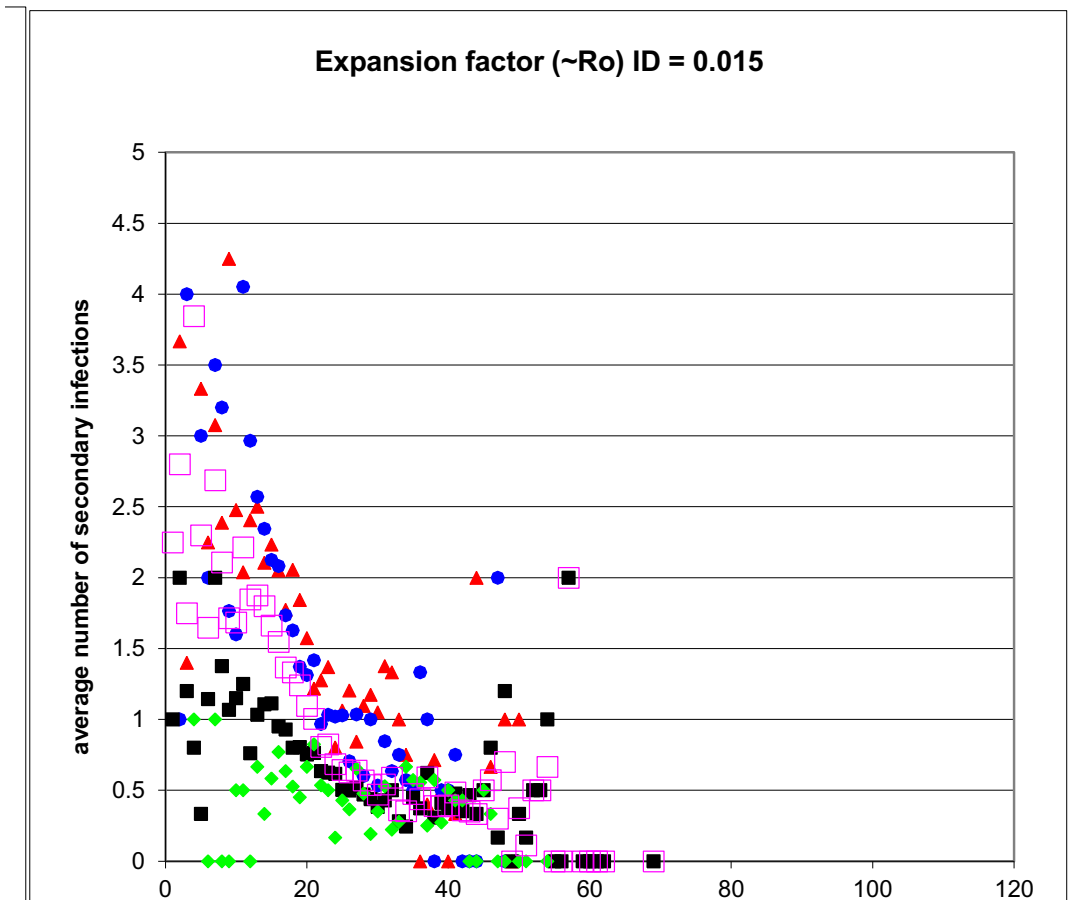
Expansion factor (~Ro) ID = 0.015
average number of secondary infections
5
4.5
4
3.5
3
2.5
2
1.5
1
0.5
0
0
20
40
60
80
100
120

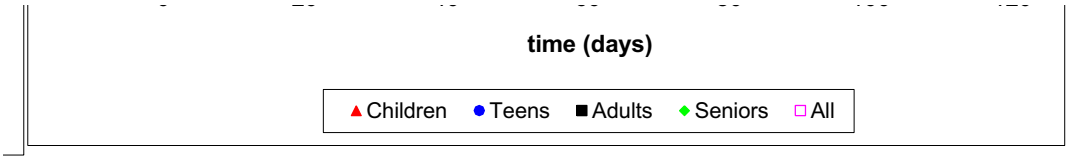
time (days)
Children
Teens
Adults
Seniors
All

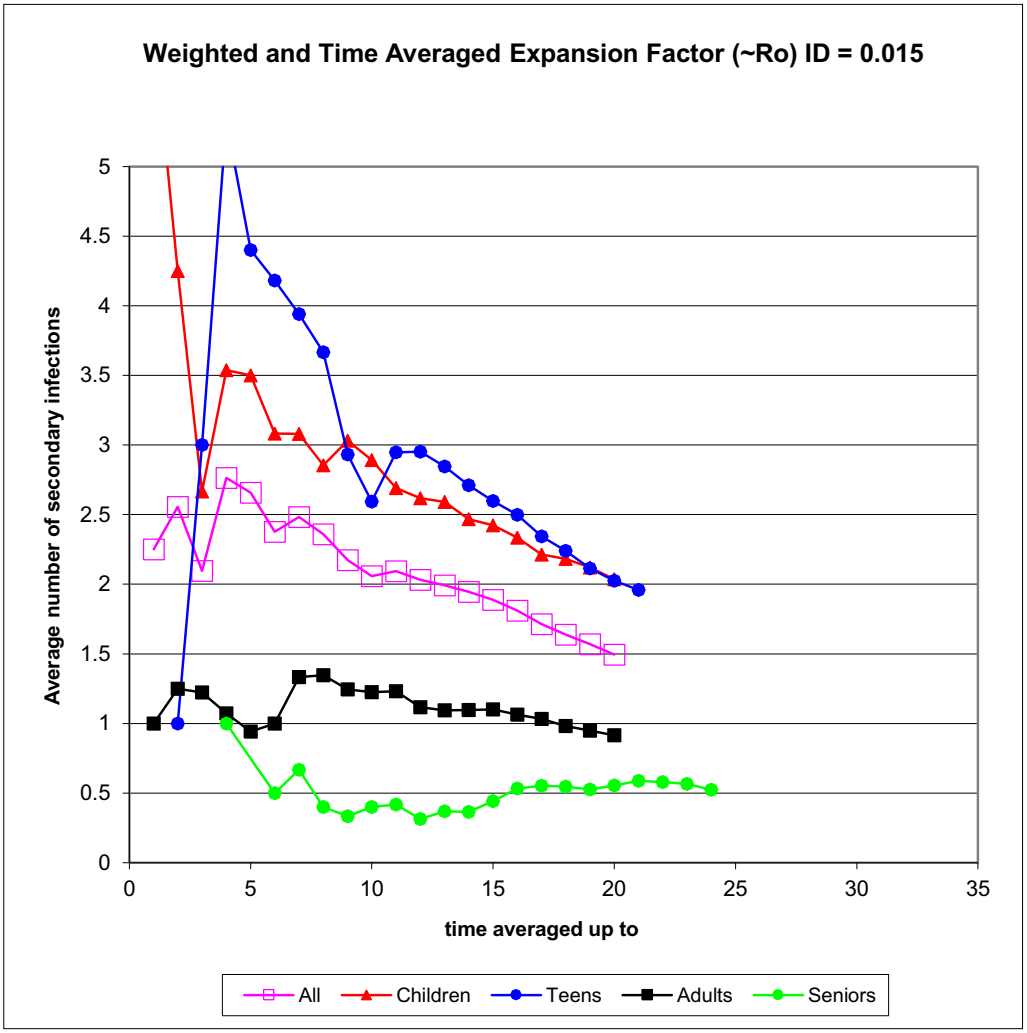
Weighted and Time Averaged Expansion Factor (~Ro) ID = 0.015
Average number of secondary infections
5
4.5
4
3.5
3
2.5
2
1.5
1
0.5
0
0
5
10
15
20
25
30
35
time averaged up to
All
Children
Teens
Adults
Seniors

Decade	ToType	verageTime	verageTime	verageTime	Of Avg Of	Of Avg Of	Of Avg Of	TimeLag S
2	1	0.845626	0.845626	0.845626	1.672192	1.672192	1.672192	1
4	1	2.391827	2.391827	2.391827	3.874133	3.874133	3.874133	1
6	1	3.543281	3.543281	3.543281	4.458321	4.458321	4.458321	1
7	1	2.253992	0.859392	3.648592	3.579584	1.427156	5.732011	2
8	1	1.638995	1.134158	2.143832	4.453431	3.67457	5.232293	2
9	1	1.962697	0.440436	2.749588	3.070794	0.440436	6.022357	3
10	1	2.684252	1.574254	3.741667	3.916435	3.691542	4.316095	3
11	1	2.12747	0.994975	3.259964	4.594131	3.252756	5.935505	2
12	1	1.542351	0.206605	2.671772	1.982093	0.427988	2.765404	5
33	1	2.325112	0.234963	12.7579	3.367608	0.234963	17.31385	46
34	1	2.279104	0.226495	7.100259	3.421894	0.31601	13.56041	44
35	1	2.114274	0.340197	8.555976	3.141268	0.471028	8.555976	42
36	1	1.782019	0.013897	5.116155	2.623389	0.013897	6.491896	31
37	1	1.843353	0.248951	5.477125	2.871281	0.248951	8.202273	33
38	1	2.193349	0.150667	8.107858	3.31164	0.150667	10.55083	32
39	1	2.23						
40	1	2.6						
41	1	3.13						
42	1	2.65						
43	1	1.91						
44	1	2.66						
45	1	2.49						
46	1	2.09						
47	1	2.92						
48	1	1.95						
49	1	2.66						
50	1	2.6						
51	1	3.00						
52	1	2.74						
53	1	2.62						
54	1	4.87						

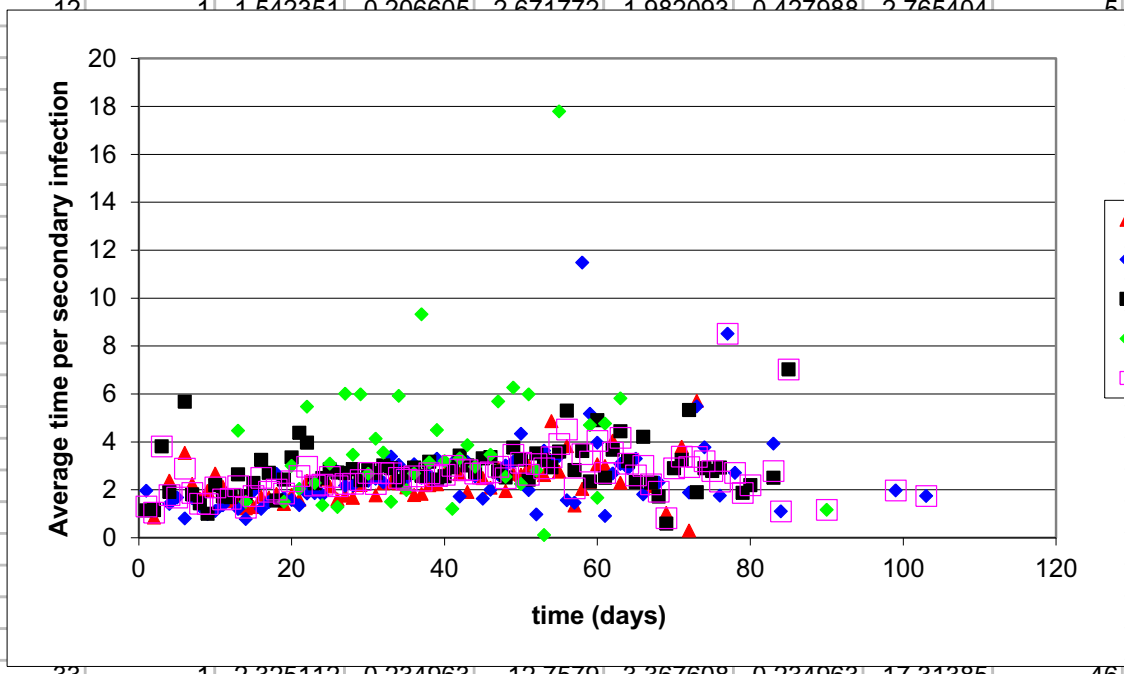

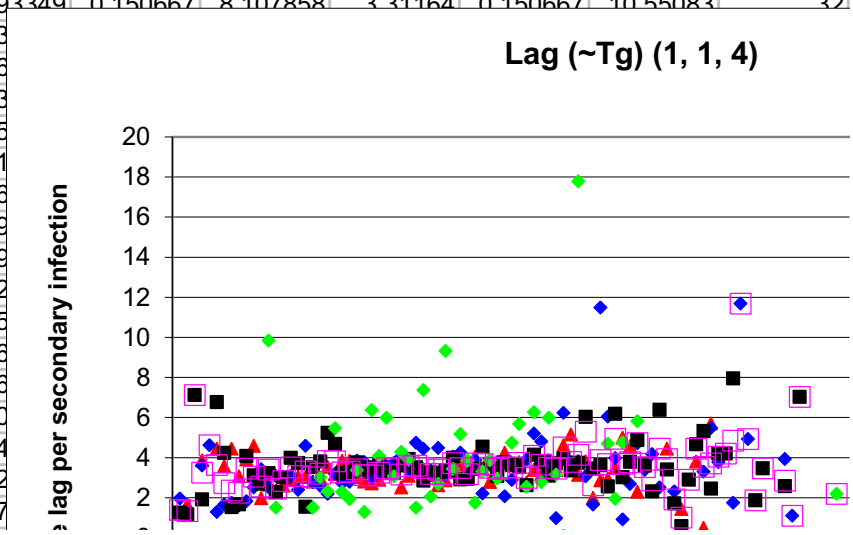

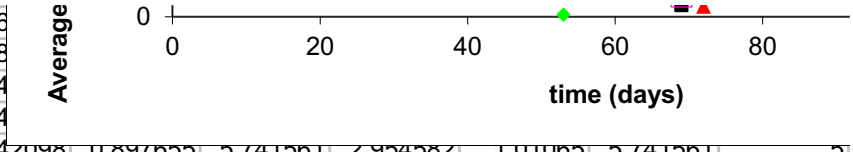

55	1	2.76						
56	1	3.8						
57	1	1.34						
58	1	2.04						
59	1	2.342098	0.897655	5.741561	2.954582	1.01065	5.741561	5
60	1	3.066399	1.308077	4.907534	3.490976	2.581809	4.907534	3
61	1	2.999533	0.498617	5.751027	5.005654	0.753475	11.10574	6
62	1	4.066091	1.109846	7.808718	4.573525	1.109846	7.808718	4
63	1	2.300602	2.300602	2.300602	2.300602	2.300602	2.300602	1
67	1	2.163191	2.163191	2.163191	4.449729	4.449729	4.449729	1
69	1	1.045601	1.045601	1.045601	1.450184	1.450184	1.450184	1
71	1	3.806967	3.806967	3.806967	3.806967	3.806967	3.806967	1
72	1	0.31267	0.31267	0.31267	0.505834	0.505834	0.505834	1
73	1	5.716206	5.716206	5.716206	5.716206	5.716206	5.716206	1
1	2	1.965885	1.965885	1.965885	1.965885	1.965885	1.965885	1
4	2	1.408275	1.255493	1.561057	3.612354	2.49899	4.725717	2
5	2	1.685298	1.30777	2.062827	4.618092	2.413998	6.822186	2
6	2	0.810388	0.17371	1.269295	1.296512	0.218282	2.40196	3
7	2	1.656819	0.340086	3.7578	1.656819	0.340086	3.7578	3
8	2	1.318848	0.503131	1.922777	1.75155	0.503131	2.748243	4
9	2	0.995838	0.995838	0.995838	1.616221	1.616221	1.616221	1
10	2	1.123979	0.603376	1.644582	1.827548	1.807687	1.847409	2
11	2	1.364977	0.426819	3.115922	2.52307	0.642168	4.558943	6
12	2	1.733908	1.129701	2.416266	3.422586	1.655757	4.448045	3
13	2	1.214977	1.214977	1.214977	2.516297	2.516297	2.516297	1
14	2	0.780658	0.512367	0.945438	3.092969	0.512367	4.757624	3
15	2	1.957264	1.118936	3.552433	3.063797	1.118936	6.872032	3
16	2	1.209431	0.90599	1.512873	3.085922	1.745311	4.426534	2
17	2	1.496738	0.783772	2.398252	2.391074	0.783772	3.790816	8
18	2	2.668198	1.646482	3.954698	4.591553	2.057127	9.801854	7
19	2	1.667288	0.726498	3.070257	2.778412	1.143583	6.61175	12
20	2	1.585862	0.850599	2.961402	2.602463	1.066857	5.721202	8
21	2	1.359637	0.404741	2.584471	2.190699	0.652821	4.995201	9
22	2	1.850816	0.295988	5.105079	3.195352	0.361836	13.27871	10
23	2	1.861398	1.038518	3.712173	2.734401	1.287216	4.981022	10
24	2	1.790338	0.469229	3.442278	2.800049	0.698038	6.193697	11
25	2	2.882967	0.44332	9.08923	3.849123	0.44332	9.08923	10
26	2	2.759448	0.670038	8.474501	3.786687	0.670038	8.474501	12
27	2	2.171369	0.316473	5.863701	2.988643	0.316473	8.361479	16
28	2	2.17938	0.715999	6.694017	3.236888	1.215676	8.391294	12
29	2	2.446815	0.625299	5.091785	3.60286	1.212671	6.68659	15
30	2	2.379995	0.3262	6.614127	3.7358	0.61845	7.351393	9
31	2	2.468747	0.577794	12.99146	4.052152	1.083995	13.10071	17
32	2	2.31887	0.424748	5.564211	3.387283	0.970975	8.703089	17
33	2	3.392636	0.954535	6.262509	4.7465	0.954535	10.77063	17
34	2	3.05255	0.785925	7.611273	4.443122	1.084822	11.36131	22
35	2	2.469673	0.567149	9.993541	3.364761	0.644456	9.993541	24
36	2	3.076571	0.522318	10.75101	4.485124	0.6189	11.00787	28
37	2	2.500838	0.231948	6.402044	3.141921	0.332933	13.49183	26
38	2	2.621223	0.604042	12.85129	4.052789	0.604042	24.32512	18
39	2	3.3092	0.479643	7.36936	4.248889	0.479643	7.833817	13
40	2	2.563151	0.369031	5.756842	3.133356	0.369031	8.905802	20

41	2	3.108875	0.629338	9.351832	3.882055	0.629338	9.351832	18
42	2	1.725381	0.289876	3.844196	2.207017	0.289876	3.864066	16
43	2	3.160691	0.379556	9.571568	3.823565	1.221162	9.611908	21
44	2	2.572965	0.388023	6.136472	3.780727	0.388023	9.532551	18
45	2	1.628248	0.157526	6.831551	2.076964	0.221041	6.831551	16
46	2	2.00097	0.871863	4.999082	2.888594	1.072018	6.077238	15
47	2	2.650955	1.088357	5.347731	3.614912	1.130374	7.469191	14
48	2	3.024365	0.48653	7.816918	3.906892	1.014221	8.596105	13
49	2	3.174197	2.335862	4.414133	5.203772	2.335862	8.637306	5
50	2	4.348728	0.741436	11.08424	4.801684	0.741436	11.08424	7
51	2	1.993929	0.658916	3.393617	3.879042	0.658916	12.82727	7
52	2	0.979779	0.979779	0.979779	0.979779	0.979779	0.979779	1
53	2	3.630835	1.618605	6.81671	6.24181	1.733641	14.79239	5
54	2	3.212854	0.395238	5.556312	3.778772	0.395238	7.521187	5
55	2	3.422204	1.102556	7.358642	3.827015	1.102556	7.358642	3
56	2	1.564452	0.284174	2.992785	3.076551	0.284174	6.611236	3
57	2	1.47182	0.615809	2.978709	1.666783	1.058835	2.978709	4
58	2	11.49131	11.49131	11.49131	11.49131	11.49131	11.49131	1
59	2	5.182469	5.072889	5.388077	6.059127	5.086442	7.702862	3
60	2	3.972477	3.972477	3.972477	3.972477	3.972477	3.972477	1
61	2	0.915546	0.915546	0.915546	0.915546	0.915546	0.915546	1
62	2	2.688791	0.764462	3.757276	2.688791	0.764462	3.757276	3
63	2	3.090995	1.593888	4.588103	4.709609	1.593888	7.82533	2
64	2	2.910781	2.910781	2.910781	3.398076	3.398076	3.398076	1
65	2	3.303313	1.652467	4.91416	4.182177	1.652467	6.067542	3
66	2	1.809635	1.809635	1.809635	2.513474	2.513474	2.513474	1
68	2	2.314007	2.314007	2.314007	2.314007	2.314007	2.314007	1
72	2	1.89573	0.659385	3.132075	3.305037	1.147055	5.463019	2
73	2	5.489833	5.489833	5.489833	5.489833	5.489833	5.489833	1
74	2	3.773246	3.773246	3.773246	3.773246	3.773246	3.773246	1
76	2	1.758371	1.758371	1.758371	1.758371	1.758371	1.758371	1
77	2	8.520713	8.520713	8.520713	11.69221	11.69221	11.69221	1
78	2	2.706345	2.706345	2.706345	4.933109	4.933109	4.933109	1
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84	2	1.111581	1.111581	1.111581	1.111581	1.111581	1.111581	1
99	2	1.984631	1.984631	1.984631	3.55229	3.55229	3.55229	1
103	2	1.748454	1.748454	1.748454	1.748454	1.748454	1.748454	1
1	3	1.145432	0.535331	2.371853	1.259534	0.674693	2.371853	4
2	3	1.161125	0.934275	1.387975	1.161125	0.934275	1.387975	2
3	3	3.817471	1.208067	6.08545	7.126845	1.208067	16.01357	3
4	3	1.919161	1.919161	1.919161	1.919161	1.919161	1.919161	1
6	3	5.674709	4.649274	6.700145	6.767896	4.649274	8.886519	2
7	3	1.809501	1.809501	1.809501	4.246086	4.246086	4.246086	1
8	3	1.44383	0.612996	2.274664	1.534329	0.793995	2.274664	2
9	3	1.005087	0.411456	1.99349	1.67673	0.610315	3.657524	3
10	3	2.20129	1.163715	2.741235	4.082265	2.653392	5.984994	3
11	3	1.722531	0.72178	2.276944	3.120383	1.164679	4.203999	3
12	3	1.700578	1.561639	1.873761	2.707477	2.374995	3.070611	3
13	3	2.649151	0.824533	4.554762	3.229989	0.824533	4.554762	5
14	3	1.733977	0.67475	2.572956	2.283557	0.67475	3.345569	3
15	3	2.286969	0.722281	5.196184	3.019755	1.558962	5.196184	5
16	3	3.245386	0.996933	10.84172	3.988175	1.709783	10.84172	12

17	3	2.710137	0.382847	7.405353	3.729544	0.973442	7.405353	9
18	3	1.555524	1.196542	1.914506	1.555524	1.196542	1.914506	2
19	3	2.429185	0.260931	6.304383	3.534074	0.260931	10.64956	14
20	3	3.360419	0.883672	7.139095	3.805816	0.883672	8.67911	14
21	3	4.38547	0.958768	12.17074	5.239367	0.958768	12.17074	17
22	3	3.977267	1.279762	9.623341	4.682514	1.279762	9.623341	13
23	3	2.270869	0.644799	6.550412	3.221667	0.644799	11.48387	16
24	3	2.491422	1.129485	6.780479	3.287773	1.129485	6.780479	11
25	3	2.84836	0.595626	8.488645	3.76801	0.677793	10.32651	25
26	3	2.731103	0.355818	13.24239	3.402207	0.355818	13.24239	21
27	3	2.697415	0.269193	10.96966	3.516176	0.269193	10.96966	23
28	3	2.863498	0.298044	14.34652	3.609287	0.298044	14.34652	33
29	3	2.407344	0.448131	9.82921	3.294932	0.448131	13.99692	26
30	3	2.827877	0.564257	6.451333	3.238237	0.564257	8.856186	34
31	3	2.701814	0.482853	14.24515	3.617213	0.482853	14.24515	29
32	3	3.022647	0.465357	10.2145	3.928126	0.465357	11.98199	39
33	3	2.911037	0.23209	8.785082	3.515657	0.23209	12.58273	38
34	3	2.368451	0.319141	6.602057	2.860681	0.319141	7.054897	35
35	3	2.711329	0.541535	10.90258	3.251927	0.541535	10.90258	49
36	3	2.930909	0.19034	10.03711	3.234146	0.19034	10.03711	29
37	3	2.579189	0.299462	7.569164	3.335411	0.299462	8.498998	44
38	3	3.178101	0.435336	7.438189	4.000254	0.435336	15.09473	33
39	3	2.428344	0.174933	8.367893	2.913745	0.174933	10.67165	39
40	3	2.569185	0.564039	7.307902	2.956388	0.564039	8.766818	42
41	3	2.945646	0.163248	15.33626	3.438119	0.163248	15.33626	36
42	3	3.425498	0.529856	9.45643	4.544196	0.529856	23.05266	35
43	3	3.015819	0.759695	9.802145	3.653059	0.759695	10.93453	35
44	3	2.755172	0.795743	6.839514	3.08964	0.951346	7.733944	27
45	3	3.318215	0.466924	18.6576	3.762832	0.466924	18.6576	33
46	3	3.367069	0.052527	8.612448	3.654201	0.052527	8.612448	30
47	3	2.763095	0.388594	9.367489	3.527676	0.388594	15.34716	27
48	3	2.513228	0.45317	7.375901	2.629288	0.54624	7.375901	21
49	3	3.759662	0.406277	16.72423	4.15362	0.406277	16.72423	31
50	3	3.265524	0.748202	13.21843	3.773049	1.316313	13.21843	23
51	3	2.430822	0.267345	5.891671	3.103388	0.267345	11.55873	20
52	3	3.525031	0.813119	11.14049	3.719379	0.813119	11.14049	16
53	3	3.245465	0.356745	9.728118	3.955696	0.356745	9.728118	10
54	3	2.938939	0.599094	8.751206	3.36083	0.599094	10.32354	12
55	3	3.597303	0.987632	15.5245	3.745533	1.40289	15.5245	17
56	3	5.310324	0.353725	19.12278	6.036123	0.353725	19.12278	13
57	3	2.827551	0.851857	5.738993	3.458695	0.851857	8.274121	9
58	3	3.630632	1.403377	9.663682	3.630632	1.403377	9.663682	6
59	3	2.354898	1.112498	3.530656	2.559931	1.932627	3.530656	4
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61	3	2.501417	0.126181	5.710072	3.031287	0.242506	9.004084	9
62	3	3.670609	1.299058	8.835061	3.789683	1.524496	8.835061	6
63	3	4.449888	0.6476	10.77467	4.883809	0.6476	10.77467	9
64	3	3.197487	0.461122	5.933853	3.604118	1.274383	5.933853	2
65	3	2.320224	0.53812	5.861252	2.320224	0.53812	5.861252	7
66	3	4.217734	4.217734	4.217734	6.39725	6.39725	6.39725	1
67	3	2.303833	2.303833	2.303833	3.403821	3.403821	3.403821	1
68	3	1.727006	1.202597	2.251414	1.727006	1.202597	2.251414	2

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70	3	2.909661	1.889164	4.141813	2.909661	1.889164	4.141813	3
71	3	3.257579	2.806034	3.932079	4.670131	2.806034	7.285992	3
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73	3	1.896905	0.545555	3.033184	2.462093	0.545555	3.807541	3
74	3	2.910657	1.279296	4.542018	4.203886	3.157489	5.250284	2
75	3	2.791718	1.669238	3.914199	4.203553	1.669238	6.737868	2
76	3	2.934808	2.934808	2.934808	7.950732	7.950732	7.950732	1
79	3	1.879237	1.879237	1.879237	1.879237	1.879237	1.879237	1
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83	3	2.504641	0.400236	7.124678	2.583886	0.400236	7.124678	4
85	3	7.028539	1.506885	14.6166	7.028539	1.506885	14.6166	3
13	4	4.477718	4.477718	4.477718	9.852555	9.852555	9.852555	1
14	4	1.505412	1.505412	1.505412	1.505412	1.505412	1.505412	1
19	4	1.508824	1.508824	1.508824	1.508824	1.508824	1.508824	1
20	4	3.009756	3.009756	3.009756	3.009756	3.009756	3.009756	1
21	4	2.041099	0.847839	3.234358	2.315135	1.395912	3.234358	2
22	4	5.474181	2.733578	8.603441	5.474181	2.733578	8.603441	3
23	4	2.289868	1.966125	2.613611	2.289868	1.966125	2.613611	2
24	4	1.358348	0.847225	1.86947	1.940591	0.847225	3.033957	2
25	4	3.095493	1.322333	4.237024	3.383396	2.186044	4.237024	3
26	4	1.287756	1.287756	1.287756	1.287756	1.287756	1.287756	1
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28	4	3.465561	0.429659	5.58859	4.083599	0.429659	6.310079	4
29	4	5.987324	2.277433	9.697215	5.987324	2.277433	9.697215	2
30	4	2.673257	0.321451	6.188792	3.075593	0.321451	7.028809	5
31	4	4.132513	0.485066	8.126504	4.283755	0.938793	8.126504	3
32	4	3.564636	0.580288	7.855507	3.90733	0.580288	7.855507	9
33	4	1.508268	1.286972	1.729564	1.508268	1.286972	1.729564	2
34	4	5.924637	5.924637	5.924637	7.37184	7.37184	7.37184	1
35	4	1.987714	0.282944	2.910526	2.054698	0.550882	2.910526	4
36	4	2.684631	2.684631	2.684631	2.684631	2.684631	2.684631	1
37	4	9.323476	9.323476	9.323476	9.323476	9.323476	9.323476	1
38	4	3.15143	0.734412	7.379193	3.436079	0.734412	7.379193	5
39	4	4.499584	0.721901	7.051518	5.181301	1.845039	7.051518	4
40	4	3.203965	0.676593	6.947662	3.854792	0.676593	6.947662	3
41	4	1.205254	1.153046	1.257462	1.749077	1.153046	2.345109	2
42	4	3.316633	1.487955	5.475826	3.316633	1.487955	5.475826	4
43	4	3.86774	1.561942	9.87588	3.86774	1.561942	9.87588	4
44	4	2.963343	2.963343	2.963343	2.963343	2.963343	2.963343	1
46	4	3.46707	2.59908	5.002871	4.739854	4.046127	5.170564	3
47	4	5.688007	2.638856	9.277639	5.688007	2.638856	9.277639	4
48	4	2.546216	1.526142	3.56629	2.546216	1.526142	3.56629	2
49	4	6.268302	4.314678	8.221926	6.268302	4.314678	8.221926	2
50	4	2.253904	0.449933	6.049745	2.784723	0.449933	6.049745	5
51	4	5.993747	5.993747	5.993747	5.993747	5.993747	5.993747	1
52	4	2.818514	1.350012	4.224558	3.16694	2.039988	4.579859	3
53	4	0.116556	0.116556	0.116556	0.116556	0.116556	0.116556	1
55	4	17.79396	17.79396	17.79396	17.79396	17.79396	17.79396	1
59	4	4.700703	4.700703	4.700703	4.700703	4.700703	4.700703	1
60	4	1.677337	0.861602	2.493073	1.951506	1.409939	2.493073	2
61	4	4.767863	4.767863	4.767863	4.767863	4.767863	4.767863	1

63	4	5.823256	5.823256	5.823256	5.823256	5.823256	5.823256	1
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time per		Lag
2.30774	children	3.326738
2.538235	teens	3.503494
2.873347	adults	3.595627
3.824227	seniors	4.193441

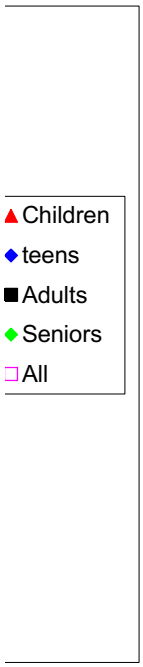

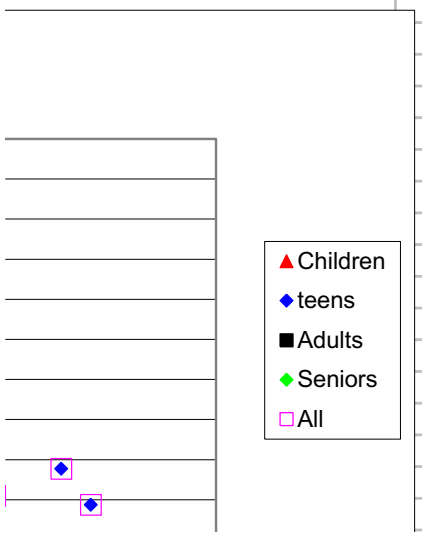

Decade	verageTime	verageTime	verageTime	Of Avg Of	Of Avg Of
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2	1.055959	0.845626	1.387975	1.331481	0.934275
3	3.817471	1.208067	6.08545	7.126845	1.208067
4	1.781885	1.255493	2.391827	3.2545	1.919161
5	1.685298	1.30777	2.062827	4.618092	2.413998
6	2.887311	0.17371	6.700145	3.647275	0.218282
7	1.881324	0.340086	3.7578	2.729285	0.340086
8	1.43013	0.503131	2.274664	2.372715	0.503131
9	1.41417	0.411456	2.749588	2.265542	0.440436
10	2.113073	0.603376	3.741667	3.456399	1.807687
11	1.601127	0.426819	3.259964	3.06253	0.642168
12	1.637747	0.206605	2.671772	2.572787	0.427988
13	2.160999	0.422444	4.554762	3.417327	0.824533
14	1.265828	0.512367	2.572956	2.456723	0.512367
15	1.752946	0.505516	5.196184	2.836477	1.118936
16	2.500956	0.406049	10.84172	3.515317	0.774823
17	1.93079	0.382847	7.405353	3.085356	0.763935
18	2.018945	0.256405	5.185641	3.311965	0.256405
19	1.857489	0.260931	6.304383	3.028288	0.260931
20	2.359537	0.146509	8.10645	3.211751	0.146509
21	2.577759	0.404741	12.17074	3.84751	0.502751
22	2.969914	0.295988	9.623341	3.82137	0.361836
23	2.190433	0.492613	6.550412	3.270098	0.492613
24	2.222178	0.432525	11.23309	3.313812	0.698038
25	2.545986	0.44332	9.08923	3.423488	0.44332
26	2.155197	0.301271	13.24239	3.140915	0.301271
27	2.243326	0.138061	10.96966	3.114278	0.185737
28	2.261614	0.208933	14.34652	3.260298	0.208933
29	2.418756	0.139519	11.61574	3.480455	0.139519
30	2.712283	0.321451	11.36059	3.42182	0.321451
31	2.244203	0.176986	14.24515	3.170219	0.176986
32	2.716444	0.124517	10.2145	3.575072	0.217876
33	2.701611	0.23209	12.7579	3.613708	0.23209
34	2.512324	0.226495	7.611273	3.488311	0.31601
35	2.427543	0.282944	10.90258	3.195384	0.471028
36	2.573793	0.013897	10.75101	3.408802	0.013897
37	2.390964	0.231948	9.323476	3.197344	0.248951
38	2.704587	0.150667	12.85129	3.728539	0.150667
39	2.578336	0.166605	11.27449	3.483904	0.174933
40	2.630603	0.051787	12.48857	3.174586	0.183374
41	3.010794	0.163248	15.33626	3.721975	0.163248
42	2.847236	0.289876	9.45643	3.680638	0.289876
43	2.833383	0.292933	9.87588	3.502654	0.292933
44	2.680753	0.388023	6.839514	3.438431	0.388023
45	2.683873	0.157526	18.6576	3.524278	0.221041
46	2.743421	0.052527	8.612448	3.518245	0.052527
47	2.969167	0.181386	9.367489	3.756504	0.181386
48	2.491847	0.45317	7.816918	2.997462	0.54624
49	3.475024	0.406277	16.72423	4.103915	0.406277
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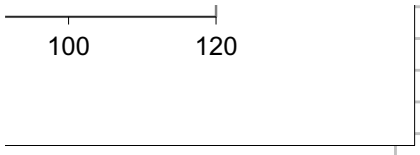

52	3.086412	0.412026	11.14049	3.452338	0.646242
53	2.906641	0.116556	9.728118	4.524389	0.116556
54	3.372905	0.395238	9.765071	3.802217	0.395238
55	3.919693	0.31654	17.79396	4.142782	0.31654
56	4.52189	0.284174	19.12278	5.298095	0.284174
57	2.074709	0.615809	5.738993	2.622406	0.770117
58	3.501535	0.680153	11.49131	3.88893	1.130865
59	3.182938	0.897655	5.741561	3.683901	1.01065
60	4.050077	0.308244	11.65111	4.939798	0.560875
61	2.717257	0.126181	5.751027	3.705818	0.242506
62	3.565723	0.764462	8.835061	3.776813	0.764462
63	4.181141	0.6476	10.77467	4.730566	0.6476
64	3.101918	0.461122	5.933853	3.535437	1.274383
65	2.615151	0.53812	5.861252	2.87881	0.53812
66	3.013685	1.809635	4.217734	4.455362	2.513474
67	2.233512	2.163191	2.303833	3.926775	3.403821
68	1.922673	1.202597	2.314007	1.922673	1.202597
69	0.818251	0.5909	1.045601	1.020542	0.5909
70	2.909661	1.889164	4.141813	2.909661	1.889164
71	3.394926	2.806034	3.932079	4.45434	2.806034
72	2.951882	0.31267	10.06143	3.554237	0.505834
73	3.379351	0.545555	5.716206	3.718464	0.545555
74	3.198187	1.279296	4.542018	4.06034	3.157489
75	2.791718	1.669238	3.914199	4.203553	1.669238
76	2.346589	1.758371	2.934808	4.854551	1.758371
77	8.520713	8.520713	8.520713	11.69221	11.69221
78	2.706345	2.706345	2.706345	4.933109	4.933109
79	1.879237	1.879237	1.879237	1.879237	1.879237
80	2.197084	1.650319	2.743849	3.474955	2.743849
83	2.789289	0.400236	7.124678	2.852685	0.400236
84	1.111581	1.111581	1.111581	1.111581	1.111581
85	7.028539	1.506885	14.6166	7.028539	1.506885
90	1.173599	1.173599	1.173599	2.19678	2.19678
99	1.984631	1.984631	1.984631	3.55229	3.55229
103	1.748454	1.748454	1.748454	1.748454	1.748454

k Of Avg Off	TimeLag	Summary
2.371853	5	
1.672192	3	
16.01357	3	
4.725717	4	
6.822186	2	
8.886519	6	
5.732011	6	
5.232293	8	
6.022357	7	
5.984994	8	3.220294
5.935505	11	
4.448045	11	
9.852555	13	
6.869385	12	
6.872032	15	
10.84172	22	
9.310624	31	
9.801854	29	
10.64956	39	
9.431997	38	3.135073
12.17074	47	
13.27871	42	
11.48387	42	
11.23309	40	
10.32651	70	
13.24239	68	
10.96966	76	
14.34652	89	
13.99692	77	
11.36059	86	
14.24515	97	
11.98199	94	
17.31385	103	
13.56041	102	
10.90258	119	
11.00787	89	
13.49183	104	
24.32512	88	
11.27449	89	
14.82637	101	
15.33626	90	
23.05266	77	
10.93453	79	
9.532551	73	
18.6576	70	
12.19209	63	
15.34716	63	
8.596105	50	
16.72423	54	
13.21843	49	
12.82727	42	

11.14049	32
15.43923	31
10.32354	21
17.79396	27
19.12278	18
8.274121	19
11.49131	13
7.702862	13
18.25983	15
11.10574	17
8.835061	13
10.77467	13
5.933853	3
6.067542	10
6.39725	2
4.449729	2
2.314007	3
1.450184	2
4.141813	3
7.285992	4
10.06143	5
5.716206	5
5.250284	3
6.737868	2
7.950732	2
11.69221	1
4.933109	1
1.879237	1
4.20606	2
7.124678	5
1.111581	1
14.6166	3
2.19678	1
3.55229	1
1.748454	1

219	1	5.58E-05	0.015	0.015	2.94522E-06
2283	2	4.28E-04	0.0125	0.0275	5.39957E-06
4061	3	4.37E-04	0.01	0.0375	7.36305E-06
6430	3	8.49E-04	0.01	0.0475	9.32653E-06
5924	3	0.001038	0.01	0.0575	1.129E-05
8746	3	0.001043	0.01	0.0675	1.32535E-05
1543	1	0.001226	0.015	0.0825	1.61987E-05
940	1	0.001335	0.015	0.0975	1.91439E-05
7895	3	0.001601	0.01	0.1075	2.11074E-05
3806	3	0.001632	0.01	0.1175	2.30709E-05
5517	3	0.001691	0.01	0.1275	2.50344E-05
4356	3	0.001739	0.01	0.1375	2.69978E-05
3471	3	0.001789	0.01	0.1475	2.89613E-05
5288	3	0.001795	0.01	0.1575	3.09248E-05
1427	1	0.001936	0.015	0.1725	3.387E-05
5160	3	0.002207	0.01	0.1825	3.58335E-05
1797	2	0.002632	0.0125	0.195	3.82878E-05
2570	2	0.003263	0.0125	0.2075	4.07422E-05
1158	1	0.003263	0.015	0.2225	4.36874E-05
1934	2	0.003311	0.0125	0.235	4.61418E-05
3538	3	0.003399	0.01	0.245	4.81052E-05
1855	2	0.003541	0.0125	0.2575	5.05596E-05
7317	3	0.00369	0.01	0.2675	5.25231E-05
1910	2	0.003881	0.0125	0.28	5.49774E-05
5772	3	0.00393	0.01	0.29	5.69409E-05
43	1	0.004126	0.015	0.305	5.98861E-05
1119	1	0.004232	0.015	0.32	6.28313E-05
1919	2	0.004388	0.0125	0.3325	6.52857E-05
8395	3	0.004932	0.01	0.3425	6.72492E-05
1588	1	0.005373	0.015	0.3575	7.01944E-05
2512	2	0.005591	0.0125	0.37	7.26487E-05
240	1	0.005875	0.015	0.385	7.5594E-05
627	1	0.006209	0.015	0.4	7.85392E-05
1860	2	0.006342	0.0125	0.4125	8.09935E-05
1630	1	0.006654	0.015	0.4275	8.39387E-05
8490	3	0.006872	0.01	0.4375	8.59022E-05
7520	3	0.007068	0.01	0.4475	8.78657E-05
8174	3	0.007624	0.01	0.4575	8.98292E-05
9314	4	0.007662	0.01	0.4675	9.17927E-05
3357	3	0.00792	0.01	0.4775	9.37561E-05
3620	3	0.007975	0.01	0.4875	9.57196E-05
2889	2	0.008317	0.0125	0.5	9.8174E-05
743	1	0.008421	0.015	0.515	0.000101119
1863	2	0.008531	0.0125	0.5275	0.000103574
4441	3	0.008537	0.01	0.5375	0.000105537
1277	1	0.008629	0.015	0.5525	0.000108482
7006	3	0.009124	0.01	0.5625	0.000110446
7201	3	0.009284	0.01	0.5725	0.000112409
1311	1	0.009519	0.015	0.5875	0.000115354
1807	2	0.009805	0.0125	0.6	0.000117809
425	1	0.009934	0.015	0.615	0.000120754
8289	3	0.009944	0.01	0.625	0.000122717

5093 number of nodes

0	0
1	0
1	0.01
2	0.01
2	0.005
6	0.005
6	0

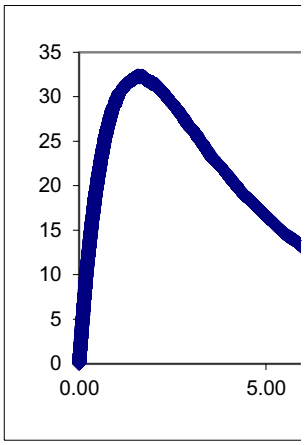

0	1	0.010054	0.015	0.64	0.000125663
8493	3	0.010063	0.01	0.65	0.000127626
439	1	0.010353	0.015	0.665	0.000130571
1690	1	0.010415	0.015	0.68	0.000133517
7480	3	0.010473	0.01	0.69	0.00013548
4249	3	0.01058	0.01	0.7	0.000137444
6175	3	0.010707	0.01	0.71	0.000139407
4597	3	0.010715	0.01	0.72	0.000141371
2714	2	0.010854	0.0125	0.7325	0.000143825
1968	2	0.011434	0.0125	0.745	0.000146279
3889	3	0.011458	0.01	0.755	0.000148243
7897	3	0.011745	0.01	0.765	0.000150206
2509	2	0.012533	0.0125	0.7775	0.000152661
4103	3	0.012538	0.01	0.7875	0.000154624
528	1	0.012672	0.015	0.8025	0.000157569
7728	3	0.012927	0.01	0.8125	0.000159533
5538	3	0.013172	0.01	0.8225	0.000161496
3046	3	0.01334	0.01	0.8325	0.00016346
3768	3	0.013625	0.01	0.8425	0.000165423
4321	3	0.013869	0.01	0.8525	0.000167387
2182	2	0.014302	0.0125	0.865	0.000169841
2829	2	0.014749	0.0125	0.8775	0.000172295
2435	2	0.014908	0.0125	0.89	0.00017475
1553	1	0.015037	0.015	0.905	0.000177695
1673	1	0.015336	0.015	0.92	0.00018064
8430	3	0.015365	0.01	0.93	0.000182604
7395	3	0.015487	0.01	0.94	0.000184567
3958	3	0.015907	0.01	0.95	0.000186531
6802	3	0.016013	0.01	0.96	0.000188494
6504	3	0.016135	0.01	0.97	0.000190457
1591	1	0.016413	0.015	0.985	0.000193403
7668	3	0.016427	0.01	0.995	0.000195366
519	1	0.016488	0.015	1.01	0.000198311
124	1	0.016536	0.015	1.025	0.000201257
9319	4	0.016718	0.01	1.035	0.00020322
8545	3	0.016804	0.01	1.045	0.000205184
2590	2	0.016814	0.0125	1.0575	0.000207638
1001	1	0.016878	0.015	1.0725	0.000210583
4897	3	0.017061	0.01	1.0825	0.000212547
3450	3	0.017071	0.01	1.0925	0.00021451
6728	3	0.017118	0.01	1.1025	0.000216474
1095	1	0.017295	0.015	1.1175	0.000219419
2830	2	0.017308	0.0125	1.13	0.000221873
8686	3	0.017996	0.01	1.14	0.000223837
9672	4	0.018007	0.01	1.15	0.0002258
7900	3	0.018113	0.01	1.16	0.000227764
4445	3	0.01816	0.01	1.17	0.000229727
1808	2	0.01858	0.0125	1.1825	0.000232181
5895	3	0.018647	0.01	1.1925	0.000234145
2636	2	0.018891	0.0125	1.205	0.000236599
6012	3	0.019641	0.01	1.215	0.000238563
7827	3	0.019656	0.01	1.225	0.000240526

2742	2	0.01967	0.0125	1.2375	0.000242981
4682	3	0.020086	0.01	1.2475	0.000244944
9976	4	0.020602	0.01	1.2575	0.000246908
2773	2	0.020697	0.0125	1.27	0.000249362
8104	3	0.020838	0.01	1.28	0.000251325
4599	3	0.022207	0.01	1.29	0.000253289
2868	2	0.022453	0.0125	1.3025	0.000255743
5702	3	0.022876	0.01	1.3125	0.000257707
3526	3	0.023082	0.01	1.3225	0.00025967
8772	4	0.023098	0.01	1.3325	0.000261634
394	1	0.023264	0.015	1.3475	0.000264579
2486	2	0.02377	0.0125	1.36	0.000267033
4766	3	0.024584	0.01	1.37	0.000268997
7441	3	0.024881	0.01	1.38	0.00027096
8614	3	0.025052	0.01	1.39	0.000272924
8589	3	0.02509	0.01	1.4	0.000274887
2734	2	0.025334	0.0125	1.4125	0.000277341
2560	2	0.025346	0.0125	1.425	0.000279796
4524	3	0.025392	0.01	1.435	0.000281759
810	1	0.025486	0.015	1.45	0.000284704
289	1	0.025781	0.015	1.465	0.00028765
2960	3	0.025797	0.01	1.475	0.000289613
1823	2	0.025884	0.0125	1.4875	0.000292068
1595	1	0.026446	0.015	1.5025	0.000295013
78	1	0.026497	0.015	1.5175	0.000297958
1880	2	0.026587	0.0125	1.53	0.000300412
514	1	0.026802	0.015	1.545	0.000303358
1576	1	0.026863	0.015	1.56	0.000306303
5883	3	0.026938	0.01	1.57	0.000308266
123	1	0.027266	0.015	1.585	0.000311211
1832	2	0.027328	0.0125	1.5975	0.000313666
3197	3	0.028068	0.01	1.6075	0.000315629
5784	3	0.028108	0.01	1.6175	0.000317593
269	1	0.028517	0.015	1.6325	0.000320538
264	1	0.028703	0.015	1.6475	0.000323483
5432	3	0.028737	0.01	1.6575	0.000325447
1031	1	0.028829	0.015	1.6725	0.000328392
1440	1	0.029292	0.015	1.6875	0.000331337
2149	2	0.030031	0.0125	1.7	0.000333791
767	1	0.030339	0.015	1.715	0.000336737
6008	3	0.030351	0.01	1.725	0.0003387
5400	3	0.030406	0.01	1.735	0.000340664
680	1	0.03045	0.015	1.75	0.000343609
8577	3	0.030544	0.01	1.76	0.000345572
3128	3	0.030645	0.01	1.77	0.000347536
6514	3	0.030755	0.01	1.78	0.000349499
4750	3	0.030857	0.01	1.79	0.000351463
4911	3	0.031523	0.01	1.8	0.000353426
2484	2	0.031922	0.0125	1.8125	0.000355881
221	1	0.032056	0.015	1.8275	0.000358826
5937	3	0.03216	0.01	1.8375	0.000360789
7128	3	0.032364	0.01	1.8475	0.000362753

2202	2	0.032478	0.0125	1.86	0.000365207
341	1	0.032499	0.015	1.875	0.000368152
7193	3	0.032541	0.01	1.885	0.000370116
1475	1	0.032941	0.015	1.9	0.000373061
8324	3	0.03304	0.01	1.91	0.000375025
9961	4	0.033245	0.01	1.92	0.000376988
2174	2	0.033333	0.0125	1.9325	0.000379442
2009	2	0.033774	0.0125	1.945	0.000381897
9576	4	0.034071	0.01	1.955	0.00038386
8044	3	0.034331	0.01	1.965	0.000385824
554	1	0.034996	0.015	1.98	0.000388769
1428	1	0.035599	0.015	1.995	0.000391714
2027	2	0.035626	0.0125	2.0075	0.000394168
8829	4	0.035819	0.01	2.0175	0.000396132
5853	3	0.03589	0.01	2.0275	0.000398095
6837	3	0.036055	0.01	2.0375	0.000400059
8586	3	0.036114	0.01	2.0475	0.000402022
4441	3	0.036215	-0.005	2.0425	0.000401041
9729	4	0.036258	0.01	2.0525	0.000403004
6880	3	0.036282	0.01	2.0625	0.000404968
6471	3	0.036466	0.01	2.0725	0.000406931
891	1	0.036535	0.015	2.0875	0.000409876
326	1	0.036602	0.015	2.1025	0.000412822
8027	3	0.037029	0.01	2.1125	0.000414785
8259	3	0.03738	0.01	2.1225	0.000416748
4694	3	0.037428	0.01	2.1325	0.000418712
1428	1	0.037727	-0.0075	2.125	0.000417239
5797	3	0.037951	0.01	2.135	0.000419203
9206	4	0.038019	0.01	2.145	0.000421166
6957	3	0.038315	0.01	2.155	0.00042313
6436	3	0.038343	0.01	2.165	0.000425093
8446	3	0.038429	0.01	2.175	0.000427057
4589	3	0.03867	0.01	2.185	0.00042902
5674	3	0.038804	0.01	2.195	0.000430984
192	1	0.03912	0.015	2.21	0.000433929
1156	1	0.039264	0.015	2.225	0.000436874
930	1	0.039605	0.015	2.24	0.000439819
4172	3	0.039763	0.01	2.25	0.000441783
170	1	0.039969	0.015	2.265	0.000444728
547	1	0.040057	0.015	2.28	0.000447673
6362	3	0.040199	0.01	2.29	0.000449637
41	1	0.040917	0.015	2.305	0.000452582
2458	2	0.040936	0.0125	2.3175	0.000455036
5962	3	0.04103	0.01	2.3275	0.000457
3372	3	0.041204	0.01	2.3375	0.000458963
3203	3	0.041645	0.01	2.3475	0.000460927
2283	2	0.041696	-0.00625	2.34125	0.0004597
4408	3	0.041749	0.01	2.35125	0.000461663
8206	3	0.04187	0.01	2.36125	0.000463627
1433	1	0.041907	0.015	2.37625	0.000466572
1167	1	0.041956	0.015	2.39125	0.000469517
272	1	0.042004	0.015	2.40625	0.000472462

8380	3	0.042221	0.01	2.41625	0.000474426
5793	3	0.042452	0.01	2.42625	0.000476389
5821	3	0.042541	0.01	2.43625	0.000478353
2916	3	0.042672	0.01	2.44625	0.000480316
6436	3	0.042948	-0.005	2.44125	0.000479334
1716	1	0.043036	0.015	2.45625	0.00048228
3622	3	0.04312	0.01	2.46625	0.000484243
8459	3	0.043335	0.01	2.47625	0.000486207
4833	3	0.04365	0.01	2.48625	0.00048817
2880	2	0.043901	0.0125	2.49875	0.000490624
319	1	0.04394	0.015	2.51375	0.00049357
4502	3	0.044323	0.01	2.52375	0.000495533
4622	3	0.044465	0.01	2.53375	0.000497497
577	1	0.044799	0.015	2.54875	0.000500442
5806	3	0.044954	0.01	2.55875	0.000502405
2165	2	0.045342	0.0125	2.57125	0.00050486
9361	4	0.045628	0.01	2.58125	0.000506823
9997	4	0.045764	0.01	2.59125	0.000508787
7768	3	0.046201	0.01	2.60125	0.00051075
83	1	0.046542	0.015	2.61625	0.000513695
9414	4	0.046578	0.01	2.62625	0.000515659
7002	3	0.046954	0.01	2.63625	0.000517622
6187	3	0.047057	0.01	2.64625	0.000519586
660	1	0.047146	0.015	2.66125	0.000522531
4524	3	0.047233	-0.005	2.65625	0.000521549
4667	3	0.047338	0.01	2.66625	0.000523513
1307	1	0.048002	0.015	2.68125	0.000526458
40	1	0.048113	0.015	2.69625	0.000529403
461	1	0.048567	0.015	2.71125	0.000532348
4591	3	0.048569	0.01	2.72125	0.000534312
8118	3	0.048617	0.01	2.73125	0.000536275
948	1	0.049075	0.015	2.74625	0.00053922
3280	3	0.049129	0.01	2.75625	0.000541184
2025	2	0.049567	0.0125	2.76875	0.000543638
7692	3	0.049809	0.01	2.77875	0.000545602
998	1	0.049902	0.015	2.79375	0.000548547
6758	3	0.050168	0.01	2.80375	0.000550511
485	1	0.050323	0.015	2.81875	0.000553456
6881	3	0.050831	0.01	2.82875	0.000555419
779	1	0.051951	0.015	2.84375	0.000558364
8121	3	0.051968	0.01	2.85375	0.000560328
1051	1	0.052183	0.015	2.86875	0.000563273
8653	3	0.052195	0.01	2.87875	0.000565237
2579	2	0.052325	0.0125	2.89125	0.000567691
2916	3	0.052333	-0.005	2.88625	0.000566709
1208	1	0.052391	0.015	2.90125	0.000569654
1627	1	0.053398	0.015	2.91625	0.0005726
3455	3	0.053416	0.01	2.92625	0.000574563
1389	1	0.053661	0.015	2.94125	0.000577508
4658	3	0.05385	0.01	2.95125	0.000579472
6420	3	0.05418	0.01	2.96125	0.000581435
2067	2	0.0542	0.0125	2.97375	0.00058389

1509	1	0.054576	0.015	2.98875	0.000586835
5787	3	0.054577	0.01	2.99875	0.000588798
303	1	0.054632	0.015	3.01375	0.000591744
1909	2	0.055008	0.0125	3.02625	0.000594198
6060	3	0.055256	0.01	3.03625	0.000596161
4280	3	0.055796	0.01	3.04625	0.000598125
7872	3	0.055849	0.01	3.05625	0.000600088
3882	3	0.055942	0.01	3.06625	0.000602052
8128	3	0.05604	0.01	3.07625	0.000604015
1370	1	0.056212	0.015	3.09125	0.000606961
7514	3	0.05638	0.01	3.10125	0.000608924
822	1	0.056412	0.015	3.11625	0.000611869
214	1	0.056705	0.015	3.13125	0.000614814
1297	1	0.056807	0.015	3.14625	0.00061776
4662	3	0.056993	0.01	3.15625	0.000619723
3320	3	0.057034	0.01	3.16625	0.000621687
982	1	0.057055	0.015	3.18125	0.000624632
874	1	0.057101	0.015	3.19625	0.000627577
4279	3	0.057242	0.01	3.20625	0.000629541
7117	3	0.057308	0.01	3.21625	0.000631504
8118	3	0.057805	-0.005	3.21125	0.000630522
7552	3	0.057988	0.01	3.22125	0.000632486
2516	2	0.058429	0.0125	3.23375	0.00063494
3068	3	0.058489	0.01	3.24375	0.000636904
4740	3	0.058604	0.01	3.25375	0.000638867
8010	3	0.058696	0.01	3.26375	0.000640831
1456	1	0.058699	0.015	3.27875	0.000643776
9655	4	0.058837	0.01	3.28875	0.000645739
854	1	0.058865	0.015	3.30375	0.000648684
4397	3	0.05897	0.01	3.31375	0.000650648
7728	3	0.059007	-0.005	3.30875	0.000649666
6580	3	0.059175	0.01	3.31875	0.00065163
2632	2	0.059181	0.0125	3.33125	0.000654084
229	1	0.059969	0.015	3.34625	0.000657029
5085	3	0.060058	0.01	3.35625	0.000658993
1452	1	0.060173	0.015	3.37125	0.000661938
1210	1	0.060384	0.015	3.38625	0.000664883
3976	3	0.060434	0.01	3.39625	0.000666847
2068	2	0.060538	0.0125	3.40875	0.000669301
2764	2	0.060615	0.0125	3.42125	0.000671755
3338	3	0.06067	0.01	3.43125	0.000673719
8042	3	0.061131	0.01	3.44125	0.000675682
4100	3	0.061179	0.01	3.45125	0.000677646
8501	3	0.061544	0.01	3.46125	0.000679609
411	1	0.061581	0.015	3.47625	0.000682554
3919	3	0.061696	0.01	3.48625	0.000684518
1165	1	0.061762	0.015	3.50125	0.000687463
3183	3	0.061777	0.01	3.51125	0.000689427
4968	3	0.062009	0.01	3.52125	0.00069139
9078	4	0.062331	0.01	3.53125	0.000693354
2627	2	0.062778	0.0125	3.54375	0.000695808
2957	3	0.063038	0.01	3.55375	0.000697771

158	1	0.06326	0.015	3.56875	0.000700717
540	1	0.063657	0.015	3.58375	0.000703662
2478	2	0.063912	0.0125	3.59625	0.000706116
518	1	0.064087	0.015	3.61125	0.000709061
6690	3	0.06409	0.01	3.62125	0.000711025
1070	1	0.064236	0.015	3.63625	0.00071397
1557	1	0.064279	0.015	3.65125	0.000716915
5817	3	0.064445	0.01	3.66125	0.000718879
6981	3	0.064594	0.01	3.67125	0.000720842
9114	4	0.06461	0.01	3.68125	0.000722806
2057	2	0.065037	0.0125	3.69375	0.00072526
1665	1	0.065064	0.015	3.70875	0.000728205
3667	3	0.065213	0.01	3.71875	0.000730169
1800	2	0.065316	0.0125	3.73125	0.000732623
9798	4	0.06573	0.01	3.74125	0.000734587
2074	2	0.065776	0.0125	3.75375	0.000737041
413	1	0.065828	0.015	3.76875	0.000739986
1562	1	0.065853	0.015	3.78375	0.000742931
1837	2	0.065958	0.0125	3.79625	0.000745386
8269	3	0.066019	0.01	3.80625	0.000747349
1990	2	0.066636	0.0125	3.81875	0.000749804
7376	3	0.066746	0.01	3.82875	0.000751767
5937	3	0.066755	-0.005	3.82375	0.000750785
2527	2	0.066786	0.0125	3.83625	0.00075324
6571	3	0.066822	0.01	3.84625	0.000755203
8544	3	0.066949	0.01	3.85625	0.000757167
4576	3	0.066959	0.01	3.86625	0.00075913
7514	3	0.067019	-0.005	3.86125	0.000758148
2780	2	0.06721	0.0125	3.87375	0.000760603
161	1	0.067242	0.015	3.88875	0.000763548
5337	3	0.067591	0.01	3.89875	0.000765511
485	1	0.067713	-0.0075	3.89125	0.000764039
7799	3	0.067892	0.01	3.90125	0.000766002
5342	3	0.068105	0.01	3.91125	0.000767966
7181	3	0.068214	0.01	3.92125	0.000769929
7836	3	0.06834	0.01	3.93125	0.000771893
1450	1	0.068876	0.015	3.94625	0.000774838
2477	2	0.069165	0.0125	3.95875	0.000777292
2461	2	0.069672	0.0125	3.97125	0.000779747
8741	3	0.069968	0.01	3.98125	0.00078171
7907	3	0.070074	0.01	3.99125	0.000783674
1046	1	0.070362	0.015	4.00625	0.000786619
7155	3	0.070889	0.01	4.01625	0.000788582
3049	3	0.071221	0.01	4.02625	0.000790546
5305	3	0.071322	0.01	4.03625	0.000792509
2398	2	0.071896	0.0125	4.04875	0.000794964
1339	1	0.072046	0.015	4.06375	0.000797909
637	1	0.072467	0.015	4.07875	0.000800854
474	1	0.07254	0.015	4.09375	0.000803799
2723	2	0.072934	0.0125	4.10625	0.000806254
2893	2	0.073009	0.0125	4.11875	0.000808708
8406	3	0.073311	0.01	4.12875	0.000810672

666	1	0.073518	0.015	4.14375	0.000813617
45	1	0.073839	0.015	4.15875	0.000816562
4903	3	0.073878	0.01	4.16875	0.000818525
7213	3	0.073938	0.01	4.17875	0.000820489
1303	1	0.073998	0.015	4.19375	0.000823434
640	1	0.074516	0.015	4.20875	0.000826379
4208	3	0.074591	0.01	4.21875	0.000828343
6666	3	0.0748	0.01	4.22875	0.000830306
589	1	0.07481	0.015	4.24375	0.000833252
6068	3	0.075245	0.01	4.25375	0.000835215
3714	3	0.075655	0.01	4.26375	0.000837178
508	1	0.07646	0.015	4.27875	0.000840124
2769	2	0.076726	0.0125	4.29125	0.000842578
813	1	0.077046	0.015	4.30625	0.000845523
982	1	0.077091	-0.0075	4.29875	0.000844051
2152	2	0.077181	0.0125	4.31125	0.000846505
2923	3	0.077234	0.01	4.32125	0.000848468
8553	3	0.077256	0.01	4.33125	0.000850432
5279	3	0.07748	0.01	4.34125	0.000852395
1923	2	0.077585	0.0125	4.35375	0.00085485
919	1	0.078064	0.015	4.36875	0.000857795
943	1	0.078249	0.015	4.38375	0.00086074
6719	3	0.078279	0.01	4.39375	0.000862704
7213	3	0.078579	-0.005	4.38875	0.000861722
1443	1	0.078692	0.015	4.40375	0.000864667
6455	3	0.07885	0.01	4.41375	0.000866631
247	1	0.078866	0.015	4.42875	0.000869576
5466	3	0.079057	0.01	4.43875	0.000871539
562	1	0.07914	0.015	4.45375	0.000874485
8039	3	0.079486	0.01	4.46375	0.000876448
3393	3	0.079528	0.01	4.47375	0.000878412
7326	3	0.07984	0.01	4.48375	0.000880375
4036	3	0.080139	0.01	4.49375	0.000882339
1973	2	0.080545	0.0125	4.50625	0.000884793
9075	4	0.080891	0.01	4.51625	0.000886756
4749	3	0.081409	0.01	4.52625	0.00088872
8867	4	0.08226	0.01	4.53625	0.000890683
6072	3	0.082645	0.01	4.54625	0.000892647
811	1	0.082791	0.015	4.56125	0.000895592
1867	2	0.083439	0.0125	4.57375	0.000898046
2322	2	0.0836	0.0125	4.58625	0.000900501
5103	3	0.084077	0.01	4.59625	0.000902464
957	1	0.084079	0.015	4.61125	0.000905409
8485	3	0.084187	0.01	4.62125	0.000907373
8652	3	0.084406	0.01	4.63125	0.000909336
6767	3	0.084502	0.01	4.64125	0.0009113
3266	3	0.084513	0.01	4.65125	0.000913263
1024	1	0.08457	0.015	4.66625	0.000916209
6980	3	0.084657	0.01	4.67625	0.000918172
2707	2	0.085061	0.0125	4.68875	0.000920626
4085	3	0.085345	0.01	4.69875	0.00092259
6890	3	0.085437	0.01	4.70875	0.000924553

262	1	0.085496	0.015	4.72375	0.000927499
1293	1	0.085724	0.015	4.73875	0.000930444
4242	3	0.08594	0.01	4.74875	0.000932407
172	1	0.08611	0.015	4.76375	0.000935352
4592	3	0.086204	0.01	4.77375	0.000937316
1655	1	0.086692	0.015	4.78875	0.000940261
7019	3	0.086915	0.01	4.79875	0.000942225
7846	3	0.086928	0.01	4.80875	0.000944188
1880	2	0.08711	-0.00625	4.8025	0.000942961
2389	2	0.087124	0.0125	4.815	0.000945415
3350	3	0.08798	0.01	4.825	0.000947379
4304	3	0.088191	0.01	4.835	0.000949342
4066	3	0.088342	0.01	4.845	0.000951306
3146	3	0.088509	0.01	4.855	0.000953269
326	1	0.088735	-0.0075	4.8475	0.000951797
708	1	0.088901	0.015	4.8625	0.000954742
1553	1	0.089096	-0.0075	4.855	0.000953269
2459	2	0.089267	0.0125	4.8675	0.000955724
2098	2	0.089833	0.0125	4.88	0.000958178
6763	3	0.090121	0.01	4.89	0.000960141
8435	3	0.09021	0.01	4.9	0.000962105
4600	3	0.090387	0.01	4.91	0.000964068
2349	2	0.090592	0.0125	4.9225	0.000966523
466	1	0.090623	0.015	4.9375	0.000969468
8142	3	0.090631	0.01	4.9475	0.000971431
5355	3	0.090717	0.01	4.9575	0.000973395
1310	1	0.090783	0.015	4.9725	0.00097634
9534	4	0.091144	0.01	4.9825	0.000978304
8997	4	0.091553	0.01	4.9925	0.000980267
2125	2	0.091604	0.0125	5.005	0.000982721
8163	3	0.091664	0.01	5.015	0.000984685
3161	3	0.091782	0.01	5.025	0.000986648
810	1	0.091802	-0.0075	5.0175	0.000985176
264	1	0.092119	-0.0075	5.01	0.000983703
5841	3	0.092316	0.01	5.02	0.000985667
1973	2	0.092323	-0.00625	5.01375	0.000984439
1906	2	0.093009	0.0125	5.02625	0.000986894
9018	4	0.093099	0.01	5.03625	0.000988857
5579	3	0.093106	0.01	5.04625	0.000990821
8415	3	0.093192	0.01	5.05625	0.000992784
5854	3	0.093254	0.01	5.06625	0.000994748
9971	4	0.093331	0.01	5.07625	0.000996711
7615	3	0.093556	0.01	5.08625	0.000998675
8082	3	0.093716	0.01	5.09625	0.001000638
3468	3	0.093775	0.01	5.10625	0.001002602
3851	3	0.093825	0.01	5.11625	0.001004565
4402	3	0.094033	0.01	5.12625	0.001006529
4084	3	0.094123	0.01	5.13625	0.001008492
6912	3	0.094171	0.01	5.14625	0.001010456
23	1	0.094264	0.015	5.16125	0.001013401
5720	3	0.094595	0.01	5.17125	0.001015364
1918	2	0.094737	0.0125	5.18375	0.001017819

1728	1	0.094908	0.015	5.19875	0.001020764
6420	3	0.095453	-0.005	5.19375	0.001019782
4600	3	0.09551	-0.005	5.18875	0.0010188
200	1	0.095517	0.015	5.20375	0.001021746
3826	3	0.095754	0.01	5.21375	0.001023709
6758	3	0.096127	-0.005	5.20875	0.001022727
1002	1	0.096264	0.015	5.22375	0.001025672
124	1	0.09637	-0.0075	5.21625	0.0010242
919	1	0.096589	-0.0075	5.20875	0.001022727
9851	4	0.096671	0.01	5.21875	0.001024691
7065	3	0.096896	0.01	5.22875	0.001026654
1357	1	0.097338	0.015	5.24375	0.001029599
582	1	0.097452	0.015	5.25875	0.001032545
510	1	0.097791	0.015	5.27375	0.00103549
5027	3	0.098072	0.01	5.28375	0.001037453
1746	1	0.098269	0.015	5.29875	0.001040399
7034	3	0.099195	0.01	5.30875	0.001042362
6451	3	0.09959	0.01	5.31875	0.001044326
1737	1	0.099633	0.015	5.33375	0.001047271
1732	1	0.099635	0.015	5.34875	0.001050216
2169	2	0.099685	0.0125	5.36125	0.00105267
1286	1	0.100078	0.015	5.37625	0.001055616
5688	3	0.100504	0.01	5.38625	0.001057579
8493	3	0.100576	-0.005	5.38125	0.001056597
6998	3	0.101032	0.01	5.39125	0.001058561
1346	1	0.10114	0.015	5.40625	0.001061506
554	1	0.101599	-0.0075	5.39875	0.001060033
960	1	0.101732	0.015	5.41375	0.001062979
2744	2	0.101893	0.0125	5.42625	0.001065433
7992	3	0.102033	0.01	5.43625	0.001067396
4331	3	0.102111	0.01	5.44625	0.00106936
8907	4	0.10239	0.01	5.45625	0.001071323
3400	3	0.102659	0.01	5.46625	0.001073287
1648	1	0.10279	0.015	5.48125	0.001076232
4334	3	0.102835	0.01	5.49125	0.001078196
9438	4	0.102948	0.01	5.50125	0.001080159
8096	3	0.103025	0.01	5.51125	0.001082123
294	1	0.103048	0.015	5.52625	0.001085068
946	1	0.103216	0.015	5.54125	0.001088013
6096	3	0.103507	0.01	5.55125	0.001089976
5087	3	0.103567	0.01	5.56125	0.00109194
1252	1	0.103848	0.015	5.57625	0.001094885
620	1	0.103977	0.015	5.59125	0.00109783
2522	2	0.103994	0.0125	5.60375	0.001100285
3106	3	0.104043	0.01	5.61375	0.001102248
3668	3	0.104172	0.01	5.62375	0.001104212
2677	2	0.104272	0.0125	5.63625	0.001106666
2175	2	0.104553	0.0125	5.64875	0.00110912
5456	3	0.104641	0.01	5.65875	0.001111084
4056	3	0.104757	0.01	5.66875	0.001113047
1001	1	0.104988	-0.0075	5.66125	0.001111575
7752	3	0.105002	0.01	5.67125	0.001113538

5253	3	0.105493	0.01	5.68125	0.001115502
7893	3	0.105514	0.01	5.69125	0.001117465
13	1	0.105678	0.015	5.70625	0.00112041
8146	3	0.105851	0.01	5.71625	0.001122374
2628	2	0.107241	0.0125	5.72875	0.001124828
2342	2	0.107247	0.0125	5.74125	0.001127283
7084	3	0.107354	0.01	5.75125	0.001129246
3443	3	0.107635	0.01	5.76125	0.00113121
4730	3	0.10764	0.01	5.77125	0.001133173
1465	1	0.107751	0.015	5.78625	0.001136118
3446	3	0.107793	0.01	5.79625	0.001138082
2589	2	0.107875	0.0125	5.80875	0.001140536
3422	3	0.107899	0.01	5.81875	0.0011425
3787	3	0.107979	0.01	5.82875	0.001144463
7312	3	0.10825	0.01	5.83875	0.001146426
7212	3	0.108305	0.01	5.84875	0.00114839
3343	3	0.108314	0.01	5.85875	0.001150353
2802	2	0.108538	0.0125	5.87125	0.001152808
3919	3	0.108586	-0.005	5.86625	0.001151826
599	1	0.108682	0.015	5.88125	0.001154771
481	1	0.108716	0.015	5.89625	0.001157716
5400	3	0.108788	-0.005	5.89125	0.001156735
7546	3	0.108941	0.01	5.90125	0.001158698
3630	3	0.109035	0.01	5.91125	0.001160662
9798	4	0.109042	-0.005	5.90625	0.00115968
1152	1	0.109308	0.015	5.92125	0.001162625
2581	2	0.109369	0.0125	5.93375	0.00116508
398	1	0.109449	0.015	5.94875	0.001168025
1458	1	0.10952	0.015	5.96375	0.00117097
3796	3	0.109535	0.01	5.97375	0.001172933
5540	3	0.10958	0.01	5.98375	0.001174897
3101	3	0.110119	0.01	5.99375	0.00117686
4754	3	0.110316	0.01	6.00375	0.001178824
1528	1	0.110481	0.015	6.01875	0.001181769
3368	3	0.110503	0.01	6.02875	0.001183733
7168	3	0.110551	0.01	6.03875	0.001185696
7002	3	0.111034	-0.005	6.03375	0.001184714
8112	3	0.111229	0.01	6.04375	0.001186678
3206	3	0.111509	0.01	6.05375	0.001188641
45	1	0.111636	-0.0075	6.04625	0.001187169
5841	3	0.111741	-0.005	6.04125	0.001186187
472	1	0.11179	0.015	6.05625	0.001189132
9589	4	0.112099	0.01	6.06625	0.001191096
6861	3	0.112169	0.01	6.07625	0.001193059
8726	3	0.11221	0.01	6.08625	0.001195023
1270	1	0.112221	0.015	6.10125	0.001197968
4036	3	0.112299	-0.005	6.09625	0.001196986
3228	3	0.112395	0.01	6.10625	0.00119895
1707	1	0.112404	0.015	6.12125	0.001201895
2605	2	0.112536	0.0125	6.13375	0.001204349
4083	3	0.112553	0.01	6.14375	0.001206313
1933	2	0.112784	0.0125	6.15625	0.001208767

9835	4	0.11285	0.01	6.16625	0.00121073
2723	2	0.113026	-0.00625	6.16	0.001209503
3861	3	0.113068	0.01	6.17	0.001211467
1316	1	0.113277	0.015	6.185	0.001214412
2544	2	0.113726	0.0125	6.1975	0.001216866
609	1	0.113952	0.015	6.2125	0.001219812
4348	3	0.114308	0.01	6.2225	0.001221775
1686	1	0.114365	0.015	6.2375	0.00122472
4558	3	0.114408	0.01	6.2475	0.001226684
887	1	0.115077	0.015	6.2625	0.001229629
6313	3	0.115196	0.01	6.2725	0.001231592
8589	3	0.115413	-0.005	6.2675	0.001230611
609	1	0.115448	-0.0075	6.26	0.001229138
873	1	0.115627	0.015	6.275	0.001232083
174	1	0.115631	0.015	6.29	0.001235028
928	1	0.115708	0.015	6.305	0.001237974
2486	2	0.115966	-0.00625	6.29875	0.001236747
5854	3	0.11612	-0.005	6.29375	0.001235765
2573	2	0.116136	0.0125	6.30625	0.001238219
6723	3	0.116574	0.01	6.31625	0.001240183
4911	3	0.116643	-0.005	6.31125	0.001239201
2611	2	0.116655	0.0125	6.32375	0.001241655
836	1	0.116815	0.015	6.33875	0.0012446
8648	3	0.116816	0.01	6.34875	0.001246564
1329	1	0.116883	0.015	6.36375	0.001249509
7759	3	0.117395	0.01	6.37375	0.001251473
692	1	0.117566	0.015	6.38875	0.001254418
975	1	0.118226	0.015	6.40375	0.001257363
700	1	0.118321	0.015	6.41875	0.001260308
7974	3	0.118601	0.01	6.42875	0.001262272
2116	2	0.118629	0.0125	6.44125	0.001264726
1050	1	0.118645	0.015	6.45625	0.001267671
6431	3	0.118967	0.01	6.46625	0.001269635
2620	2	0.119148	0.0125	6.47875	0.001272089
2763	2	0.119235	0.0125	6.49125	0.001274543
8080	3	0.119269	0.01	6.50125	0.001276507
3442	3	0.119285	0.01	6.51125	0.00127847
4974	3	0.119397	0.01	6.52125	0.001280434
1386	1	0.119674	0.015	6.53625	0.001283379
5233	3	0.119697	0.01	6.54625	0.001285343
9715	4	0.119905	0.01	6.55625	0.001287306
1738	1	0.119913	0.015	6.57125	0.001290251
1110	1	0.120001	0.015	6.58625	0.001293197
9127	4	0.12021	0.01	6.59625	0.00129516
4777	3	0.120548	0.01	6.60625	0.001297124
7301	3	0.120571	0.01	6.61625	0.001299087
3180	3	0.120627	0.01	6.62625	0.00130105
2552	2	0.120798	0.0125	6.63875	0.001303505
6199	3	0.120913	0.01	6.64875	0.001305468
7188	3	0.120978	0.01	6.65875	0.001307432
100	1	0.120986	0.015	6.67375	0.001310377
8438	3	0.121199	0.01	6.68375	0.00131234

7480	3	0.122021	-0.005	6.67875	0.001311359
6430	3	0.12242	-0.005	6.67375	0.001310377
6075	3	0.122739	0.01	6.68375	0.00131234
1954	2	0.123015	0.0125	6.69625	0.001314795
8769	4	0.123087	0.01	6.70625	0.001316758
8227	3	0.1232	0.01	6.71625	0.001318722
723	1	0.12328	0.015	6.73125	0.001321667
1763	1	0.123346	0.015	6.74625	0.001324612
8561	3	0.123881	0.01	6.75625	0.001326576
1480	1	0.123957	0.015	6.77125	0.001329521
7640	3	0.124203	0.01	6.78125	0.001331484
2377	2	0.124315	0.0125	6.79375	0.001333939
2396	2	0.124698	0.0125	6.80625	0.001336393
4924	3	0.125168	0.01	6.81625	0.001338357
7262	3	0.125619	0.01	6.82625	0.00134032
3826	3	0.125704	-0.005	6.82125	0.001339338
7153	3	0.125743	0.01	6.83125	0.001341302
2741	2	0.126018	0.0125	6.84375	0.001343756
7862	3	0.126036	0.01	6.85375	0.00134572
1909	2	0.126156	-0.00625	6.8475	0.001344492
908	1	0.126408	0.015	6.8625	0.001347438
3181	3	0.126623	0.01	6.8725	0.001349401
2503	2	0.12667	0.0125	6.885	0.001351855
7009	3	0.126692	0.01	6.895	0.001353819
8998	4	0.126728	0.01	6.905	0.001355782
4269	3	0.127394	0.01	6.915	0.001357746
1769	1	0.127444	0.015	6.93	0.001360691
4028	3	0.127596	0.01	6.94	0.001362655
5410	3	0.127603	0.01	6.95	0.001364618
9462	4	0.127624	0.01	6.96	0.001366582
6262	3	0.127665	0.01	6.97	0.001368545
9379	4	0.127858	0.01	6.98	0.001370509
9822	4	0.128008	0.01	6.99	0.001372472
3285	3	0.128389	0.01	7	0.001374435
8011	3	0.128548	0.01	7.01	0.001376399
7073	3	0.128557	0.01	7.02	0.001378362
1461	1	0.12886	0.015	7.035	0.001381308
9414	4	0.129242	-0.005	7.03	0.001380326
7360	3	0.129246	0.01	7.04	0.001382289
2750	2	0.129399	0.0125	7.0525	0.001384744
8442	3	0.129545	0.01	7.0625	0.001386707
174	1	0.129551	-0.0075	7.055	0.001385235
3349	3	0.129608	0.01	7.065	0.001387198
6130	3	0.129935	0.01	7.075	0.001389162
562	1	0.130034	-0.0075	7.0675	0.001387689
5636	3	0.130145	0.01	7.0775	0.001389652
6594	3	0.13036	0.01	7.0875	0.001391616
6846	3	0.130466	0.01	7.0975	0.001393579
842	1	0.131051	0.015	7.1125	0.001396525
455	1	0.13118	0.015	7.1275	0.00139947
6593	3	0.131239	0.01	7.1375	0.001401433
3854	3	0.131726	0.01	7.1475	0.001403397

4606	3	0.131778	0.01	7.1575	0.00140536
63	1	0.13178	0.015	7.1725	0.001408306
6567	3	0.131853	0.01	7.1825	0.001410269
5538	3	0.13191	-0.005	7.1775	0.001409287
5850	3	0.131977	0.01	7.1875	0.001411251
1973	2	0.132751	-0.00625	7.18125	0.001410024
4306	3	0.132763	0.01	7.19125	0.001411987
3041	3	0.132947	0.01	7.20125	0.001413951
5688	3	0.132951	-0.005	7.19625	0.001412969
9698	4	0.133215	0.01	7.20625	0.001414932
7213	3	0.13328	-0.005	7.20125	0.001413951
469	1	0.133361	0.015	7.21625	0.001416896
1555	1	0.133576	0.015	7.23125	0.001419841
1067	1	0.134136	0.015	7.24625	0.001422786
6008	3	0.134252	-0.005	7.24125	0.001421804
5838	3	0.134564	0.01	7.25125	0.001423768
7400	3	0.13537	0.01	7.26125	0.001425731
7841	3	0.135389	0.01	7.27125	0.001427695
2557	2	0.135411	0.0125	7.28375	0.001430149
41	1	0.135555	-0.0075	7.27625	0.001428677
2298	2	0.135733	0.0125	7.28875	0.001431131
1501	1	0.135967	0.015	7.30375	0.001434076
1739	1	0.136253	0.015	7.31875	0.001437021
4021	3	0.136483	0.01	7.32875	0.001438985
9012	4	0.13658	0.01	7.33875	0.001440948
1590	1	0.136629	0.015	7.35375	0.001443894
610	1	0.136655	0.015	7.36875	0.001446839
5162	3	0.137038	0.01	7.37875	0.001448802
7131	3	0.137133	0.01	7.38875	0.001450766
5427	3	0.137474	0.01	7.39875	0.001452729
5967	3	0.137549	0.01	7.40875	0.001454693
2408	2	0.137562	0.0125	7.42125	0.001457147
8315	3	0.137637	0.01	7.43125	0.001459111
7479	3	0.13795	0.01	7.44125	0.001461074
319	1	0.138189	-0.0075	7.43375	0.001459601
968	1	0.138326	0.015	7.44875	0.001462547
3508	3	0.138676	0.01	7.45875	0.00146451
5503	3	0.138741	0.01	7.46875	0.001466474
7849	3	0.138821	0.01	7.47875	0.001468437
5836	3	0.138908	0.01	7.48875	0.001470401
46	1	0.138918	0.015	7.50375	0.001473346
8410	3	0.139051	0.01	7.51375	0.001475309
5880	3	0.139089	0.01	7.52375	0.001477273
3667	3	0.139205	-0.005	7.51875	0.001476291
1016	1	0.139246	0.015	7.53375	0.001479236
6084	3	0.139325	0.01	7.54375	0.0014812
7600	3	0.139495	0.01	7.55375	0.001483163
627	1	0.139785	-0.0075	7.54625	0.001481691
2887	2	0.139931	0.0125	7.55875	0.001484145
4836	3	0.140003	0.01	7.56875	0.001486108
518	1	0.140012	-0.0075	7.56125	0.001484636
3191	3	0.140225	0.01	7.57125	0.001486599

660	1	0.140263	-0.0075	7.56375	0.001485127
8321	3	0.140673	0.01	7.57375	0.00148709
6104	3	0.140927	0.01	7.58375	0.001489054
6614	3	0.141107	0.01	7.59375	0.001491017
7552	3	0.141147	-0.005	7.58875	0.001490035
517	1	0.141179	0.015	7.60375	0.001492981
1167	1	0.141323	-0.0075	7.59625	0.001491508
775	1	0.141325	0.015	7.61125	0.001494453
749	1	0.141378	0.015	7.62625	0.001497398
3122	3	0.141684	0.01	7.63625	0.001499362
8212	3	0.141783	0.01	7.64625	0.001501325
6250	3	0.142208	0.01	7.65625	0.001503289
3189	3	0.142397	0.01	7.66625	0.001505252
7829	3	0.142559	0.01	7.67625	0.001507216
2154	2	0.143042	0.0125	7.68875	0.00150967
841	1	0.143722	0.015	7.70375	0.001512615
1015	1	0.143887	0.015	7.71875	0.001515561
278	1	0.144008	0.015	7.73375	0.001518506
3700	3	0.144041	0.01	7.74375	0.001520469
2677	2	0.144231	-0.00625	7.7375	0.001519242
1730	1	0.144554	0.015	7.7525	0.001522187
6180	3	0.144914	0.01	7.7625	0.001524151
8651	3	0.145137	0.01	7.7725	0.001526114
636	1	0.145232	0.015	7.7875	0.001529059
8046	3	0.145378	0.01	7.7975	0.001531023
6739	3	0.145608	0.01	7.8075	0.001532986
1035	1	0.145959	0.015	7.8225	0.001535932
463	1	0.146374	0.015	7.8375	0.001538877
53	1	0.146513	0.015	7.8525	0.001541822
2245	2	0.146573	0.0125	7.865	0.001544276
8654	3	0.146896	0.01	7.875	0.00154624
4380	3	0.146998	0.01	7.885	0.001548203
1088	1	0.147522	0.015	7.9	0.001551149
5649	3	0.148191	0.01	7.91	0.001553112
6795	3	0.148377	0.01	7.92	0.001555076
9787	4	0.14847	0.01	7.93	0.001557039
2236	2	0.148871	0.0125	7.9425	0.001559493
2513	2	0.149105	0.0125	7.955	0.001561948
9433	4	0.149439	0.01	7.965	0.001563911
2552	2	0.149636	-0.00625	7.95875	0.001562684
1371	1	0.149738	0.015	7.97375	0.001565629
7531	3	0.149743	0.01	7.98375	0.001567593
6259	3	0.14991	0.01	7.99375	0.001569556
2688	2	0.149961	0.0125	8.00625	0.001572011
7155	3	0.150177	-0.005	8.00125	0.001571029
1886	2	0.150192	0.0125	8.01375	0.001573483
493	1	0.150287	0.015	8.02875	0.001576428
4157	3	0.150404	0.01	8.03875	0.001578392
472	1	0.150621	-0.0075	8.03125	0.001576919
7944	3	0.150891	0.01	8.04125	0.001578883
9427	4	0.150916	0.01	8.05125	0.001580846
1082	1	0.151068	0.015	8.06625	0.001583791

4987	3	0.151225	0.01	8.07625	0.001585755
6065	3	0.151233	0.01	8.08625	0.001587718
1048	1	0.15183	0.015	8.10125	0.001590664
3717	3	0.151843	0.01	8.11125	0.001592627
4080	3	0.152374	0.01	8.12125	0.001594591
8183	3	0.152387	0.01	8.13125	0.001596554
957	1	0.153105	-0.0075	8.12375	0.001595081
9375	4	0.15337	0.01	8.13375	0.001597045
2934	3	0.153906	0.01	8.14375	0.001599008
2437	2	0.153993	0.0125	8.15625	0.001601463
573	1	0.154098	0.015	8.17125	0.001604408
2327	2	0.154728	0.0125	8.18375	0.001606862
6537	3	0.154917	0.01	8.19375	0.001608826
1550	1	0.155015	0.015	8.20875	0.001611771
89	1	0.155072	0.015	8.22375	0.001614716
7892	3	0.155182	0.01	8.23375	0.00161668
4635	3	0.155368	0.01	8.24375	0.001618643
7627	3	0.155407	0.01	8.25375	0.001620607
491	1	0.155413	0.015	8.26875	0.001623552
5608	3	0.155652	0.01	8.27875	0.001625515
5003	3	0.155778	0.01	8.28875	0.001627479
390	1	0.155885	0.015	8.30375	0.001630424
1651	1	0.155932	0.015	8.31875	0.001633369
2373	2	0.155974	0.0125	8.33125	0.001635824
299	1	0.15613	0.015	8.34625	0.001638769
7980	3	0.156447	0.01	8.35625	0.001640732
13	1	0.156868	-0.0075	8.34875	0.00163926
1039	1	0.157022	0.015	8.36375	0.001642205
2304	2	0.157178	0.0125	8.37625	0.001644659
1688	1	0.157198	0.015	8.39125	0.001647605
2884	2	0.157509	0.0125	8.40375	0.001650059
2334	2	0.157528	0.0125	8.41625	0.001652513
3786	3	0.157805	0.01	8.42625	0.001654477
6200	3	0.1584	0.01	8.43625	0.00165644
6980	3	0.1584	-0.005	8.43125	0.001655458
6062	3	0.158429	0.01	8.44125	0.001657422
1705	1	0.158626	0.015	8.45625	0.001660367
5475	3	0.158725	0.01	8.46625	0.001662331
3029	3	0.158914	0.01	8.47625	0.001664294
2237	2	0.15902	0.0125	8.48875	0.001666748
8937	4	0.159061	0.01	8.49875	0.001668712
1445	1	0.159124	0.015	8.51375	0.001671657
2627	2	0.159364	-0.00625	8.5075	0.00167043
1210	1	0.159456	-0.0075	8.5	0.001668957
1263	1	0.159515	0.015	8.515	0.001671903
985	1	0.159695	0.015	8.53	0.001674848
330	1	0.159731	0.015	8.545	0.001677793
8689	3	0.159943	0.01	8.555	0.001679757
5800	3	0.160053	0.01	8.565	0.00168172
5305	3	0.160151	-0.005	8.56	0.001680738
4574	3	0.160239	0.01	8.57	0.001682702
3145	3	0.160345	0.01	8.58	0.001684665

971	1	0.160418	0.015	8.595	0.00168761
9383	4	0.160694	0.01	8.605	0.001689574
5223	3	0.161173	0.01	8.615	0.001691537
5077	3	0.161175	0.01	8.625	0.001693501
8193	3	0.161358	0.01	8.635	0.001695464
2630	2	0.161403	0.0125	8.6475	0.001697919
1635	1	0.16145	0.015	8.6625	0.001700864
6857	3	0.161521	0.01	8.6725	0.001702827
2558	2	0.161582	0.0125	8.685	0.001705282
1533	1	0.162074	0.015	8.7	0.001708227
2821	2	0.162306	0.0125	8.7125	0.001710681
8387	3	0.162432	0.01	8.7225	0.001712645
2247	2	0.162811	0.0125	8.735	0.001715099
155	1	0.163107	0.015	8.75	0.001718044
764	1	0.163365	0.015	8.765	0.00172099
7405	3	0.164099	0.01	8.775	0.001722953
610	1	0.164139	-0.0075	8.7675	0.00172148
1882	2	0.164358	0.0125	8.78	0.001723935
182	1	0.164747	0.015	8.795	0.00172688
7950	3	0.164836	0.01	8.805	0.001728844
775	1	0.164861	-0.0075	8.7975	0.001727371
3500	3	0.164912	0.01	8.8075	0.001729334
3181	3	0.164945	-0.005	8.8025	0.001728353
1843	2	0.165011	0.0125	8.815	0.001730807
5337	3	0.165029	-0.005	8.81	0.001729825
2896	2	0.165091	0.0125	8.8225	0.00173228
7090	3	0.165241	0.01	8.8325	0.001734243
7781	3	0.165964	0.01	8.8425	0.001736207
2946	3	0.166728	0.01	8.8525	0.00173817
4655	3	0.166919	0.01	8.8625	0.001740134
2737	2	0.167046	0.0125	8.875	0.001742588
5295	3	0.167326	0.01	8.885	0.001744551
2540	2	0.167402	0.0125	8.8975	0.001747006
9669	4	0.167704	0.01	8.9075	0.001748969
7555	3	0.167725	0.01	8.9175	0.001750933
2454	2	0.167781	0.0125	8.93	0.001753387
6829	3	0.167828	0.01	8.94	0.00175535
9092	4	0.167914	0.01	8.95	0.001757314
1846	2	0.168034	0.0125	8.9625	0.001759768
7209	3	0.168403	0.01	8.9725	0.001761732
1311	1	0.168447	-0.0075	8.965	0.001760259
6056	3	0.168547	0.01	8.975	0.001762223
7584	3	0.168593	0.01	8.985	0.001764186
319	1	0.168658	-0.0075	8.9775	0.001762714
1662	1	0.168793	0.015	8.9925	0.001765659
2116	2	0.168891	-0.00625	8.98625	0.001764432
780	1	0.169084	0.015	9.00125	0.001767377
5096	3	0.169791	0.01	9.01125	0.00176934
6868	3	0.16983	0.01	9.02125	0.001771304
2447	2	0.170153	0.0125	9.03375	0.001773758
937	1	0.170187	0.015	9.04875	0.001776703
2082	2	0.170194	0.0125	9.06125	0.001779158

6314	3	0.170616	0.01	9.07125	0.001781121
6234	3	0.170954	0.01	9.08125	0.001783085
1139	1	0.171076	0.015	9.09625	0.00178603
666	1	0.171225	-0.0075	9.08875	0.001784557
8299	3	0.17144	0.01	9.09875	0.001786521
6992	3	0.171485	0.01	9.10875	0.001788484
5937	3	0.171795	-0.005	9.10375	0.001787502
4768	3	0.171869	0.01	9.11375	0.001789466
887	1	0.172021	-0.0075	9.10625	0.001787993
4395	3	0.172742	0.01	9.11625	0.001789957
2511	2	0.172751	0.0125	9.12875	0.001792411
1296	1	0.172758	0.015	9.14375	0.001795356
9722	4	0.172833	0.01	9.15375	0.00179732
1254	1	0.172889	0.015	9.16875	0.001800265
4157	3	0.173148	-0.005	9.16375	0.001799283
1335	1	0.173204	0.015	9.17875	0.001802229
3666	3	0.173271	0.01	9.18875	0.001804192
836	1	0.173278	-0.0075	9.18125	0.001802719
2506	2	0.1736	0.0125	9.19375	0.001805174
8353	3	0.173666	0.01	9.20375	0.001807137
183	1	0.173856	0.015	9.21875	0.001810082
1262	1	0.173896	0.015	9.23375	0.001813028
1183	1	0.173941	0.015	9.24875	0.001815973
4348	3	0.174058	-0.005	9.24375	0.001814991
4881	3	0.174066	0.01	9.25375	0.001816955
1803	2	0.174226	0.0125	9.26625	0.001819409
1655	1	0.174351	-0.0075	9.25875	0.001817936
1066	1	0.174377	0.015	9.27375	0.001820882
6443	3	0.174732	0.01	9.28375	0.001822845
5121	3	0.174776	0.01	9.29375	0.001824809
8494	3	0.174813	0.01	9.30375	0.001826772
5558	3	0.174852	0.01	9.31375	0.001828736
6893	3	0.175012	0.01	9.32375	0.001830699
7843	3	0.175279	0.01	9.33375	0.001832662
6528	3	0.175286	0.01	9.34375	0.001834626
7400	3	0.175296	-0.005	9.33875	0.001833644
1130	1	0.175638	0.015	9.35375	0.001836589
731	1	0.175656	0.015	9.36875	0.001839535
2174	2	0.175945	-0.00625	9.3625	0.001838307
3536	3	0.176089	0.01	9.3725	0.001840271
6980	3	0.176361	-0.005	9.3675	0.001839289
4279	3	0.176492	-0.005	9.3625	0.001838307
6686	3	0.176513	0.01	9.3725	0.001840271
2053	2	0.17662	0.0125	9.385	0.001842725
516	1	0.177453	0.015	9.4	0.001845671
1421	1	0.17749	0.015	9.415	0.001848616
1385	1	0.177751	0.015	9.43	0.001851561
8049	3	0.177771	0.01	9.44	0.001853524
3338	3	0.178019	-0.005	9.435	0.001852543
6613	3	0.178029	0.01	9.445	0.001854506
5299	3	0.178077	0.01	9.455	0.00185647
7638	3	0.178281	0.01	9.465	0.001858433

1107	1	0.17847	0.015	9.48	0.001861378
8059	3	0.178496	0.01	9.49	0.001863342
5584	3	0.17861	0.01	9.5	0.001865305
5306	3	0.178805	0.01	9.51	0.001867269
2822	2	0.178868	0.0125	9.5225	0.001869723
2850	2	0.178902	0.0125	9.535	0.001872177
8160	3	0.179137	0.01	9.545	0.001874141
92	1	0.179714	0.015	9.56	0.001877086
4438	3	0.179906	0.01	9.57	0.00187905
5780	3	0.179937	0.01	9.58	0.001881013
2824	2	0.179968	0.0125	9.5925	0.001883468
5306	3	0.18008	-0.005	9.5875	0.001882486
707	1	0.180377	0.015	9.6025	0.001885431
658	1	0.181083	0.015	9.6175	0.001888376
5488	3	0.181425	0.01	9.6275	0.00189034
2369	2	0.181504	0.0125	9.64	0.001892794
2041	2	0.181662	0.0125	9.6525	0.001895248
471	1	0.181737	0.015	9.6675	0.001898194
7074	3	0.181906	0.01	9.6775	0.001900157
2407	2	0.182175	0.0125	9.69	0.001902611
3566	3	0.182206	0.01	9.7	0.001904575
2352	2	0.182226	0.0125	9.7125	0.001907029
2606	2	0.182384	0.0125	9.725	0.001909484
3095	3	0.182437	0.01	9.735	0.001911447
4457	3	0.182456	0.01	9.745	0.001913411
3244	3	0.182492	0.01	9.755	0.001915374
1837	2	0.1827	-0.00625	9.74875	0.001914147
2865	2	0.182819	0.0125	9.76125	0.001916601
1803	2	0.182863	-0.00625	9.755	0.001915374
1273	1	0.182938	0.015	9.77	0.001918319
5667	3	0.183016	0.01	9.78	0.001920283
9342	4	0.183218	0.01	9.79	0.001922246
4453	3	0.183376	0.01	9.8	0.00192421
9369	4	0.18347	0.01	9.81	0.001926173
2681	2	0.183751	0.0125	9.8225	0.001928628
1142	1	0.184199	0.015	9.8375	0.001931573
3212	3	0.184349	0.01	9.8475	0.001933536
3537	3	0.184916	0.01	9.8575	0.0019355
350	1	0.185096	0.015	9.8725	0.001938445
7255	3	0.185557	0.01	9.8825	0.001940408
7895	3	0.18556	-0.005	9.8775	0.001939427
9319	4	0.185599	-0.005	9.8725	0.001938445
1841	2	0.185918	0.0125	9.885	0.001940899
3604	3	0.186024	0.01	9.895	0.001942863
2164	2	0.186202	0.0125	9.9075	0.001945317
974	1	0.186336	0.015	9.9225	0.001948262
4935	3	0.186865	0.01	9.9325	0.001950226
1882	2	0.186958	-0.00625	9.92625	0.001948999
2750	2	0.18696	-0.00625	9.92	0.001947771
1068	1	0.187042	0.015	9.935	0.001950717
5100	3	0.187259	0.01	9.945	0.00195268
5420	3	0.187343	0.01	9.955	0.001954644

5695	3	0.187465	0.01	9.965	0.001956607
9341	4	0.187736	0.01	9.975	0.001958571
8219	3	0.187778	0.01	9.985	0.001960534
8907	4	0.187874	-0.005	9.98	0.001959552
529	1	0.188551	0.015	9.995	0.001962498
6325	3	0.188675	0.01	10.005	0.001964461
2307	2	0.188951	0.0125	10.0175	0.001966915
7085	3	0.189164	0.01	10.0275	0.001968879
2769	2	0.189208	-0.00625	10.02125	0.001967652
782	1	0.189298	0.015	10.03625	0.001970597
336	1	0.189314	0.015	10.05125	0.001973542
6011	3	0.189831	0.01	10.06125	0.001975506
2699	2	0.189944	0.0125	10.07375	0.00197796
1949	2	0.189964	0.0125	10.08625	0.001980414
6431	3	0.189983	-0.005	10.08125	0.001979433
2765	2	0.190131	0.0125	10.09375	0.001981887
21	1	0.190363	0.015	10.10875	0.001984832
2510	2	0.19046	0.0125	10.12125	0.001987286
4005	3	0.19077	0.01	10.13125	0.00198925
908	1	0.190791	-0.0075	10.12375	0.001987777
1984	2	0.190799	0.0125	10.13625	0.001990232
6151	3	0.190929	0.01	10.14625	0.001992195
5142	3	0.191035	0.01	10.15625	0.001994159
5142	3	0.191458	-0.005	10.15125	0.001993177
2433	2	0.19148	0.0125	10.16375	0.001995631
1149	1	0.191542	0.015	10.17875	0.001998576
6620	3	0.191548	0.01	10.18875	0.00200054
1403	1	0.191554	0.015	10.20375	0.002003485
8158	3	0.191634	0.01	10.21375	0.002005449
9609	4	0.191797	0.01	10.22375	0.002007412
7202	3	0.192121	0.01	10.23375	0.002009376
8385	3	0.192155	0.01	10.24375	0.002011339
1404	1	0.192883	0.015	10.25875	0.002014284
1007	1	0.193015	0.015	10.27375	0.00201723
4802	3	0.193057	0.01	10.28375	0.002019193
1819	2	0.193072	0.0125	10.29625	0.002021647
3273	3	0.193454	0.01	10.30625	0.002023611
4642	3	0.193607	0.01	10.31625	0.002025574
4125	3	0.193954	0.01	10.32625	0.002027538
501	1	0.194228	0.015	10.34125	0.002030483
901	1	0.194281	0.015	10.35625	0.002033428
3239	3	0.194354	0.01	10.36625	0.002035392
5669	3	0.19475	0.01	10.37625	0.002037355
6468	3	0.194892	0.01	10.38625	0.002039319
9090	4	0.195003	0.01	10.39625	0.002041282
114	1	0.19516	0.015	10.41125	0.002044227
3047	3	0.19531	0.01	10.42125	0.002046191
5924	3	0.195487	-0.005	10.41625	0.002045209
207	1	0.195552	0.015	10.43125	0.002048154
7999	3	0.195555	0.01	10.44125	0.002050118
6332	3	0.1958	0.01	10.45125	0.002052081
845	1	0.196034	0.015	10.46625	0.002055027

7992	3	0.196524	-0.005	10.46125	0.002054045
5723	3	0.196616	0.01	10.47125	0.002056008
125	1	0.196652	0.015	10.48625	0.002058953
3393	3	0.196702	-0.005	10.48125	0.002057972
1579	1	0.196704	0.015	10.49625	0.002060917
343	1	0.197082	0.015	10.51125	0.002063862
313	1	0.19761	0.015	10.52625	0.002066807
8490	3	0.197701	-0.005	10.52125	0.002065826
2170	2	0.197868	0.0125	10.53375	0.00206828
998	1	0.197959	-0.0075	10.52625	0.002066807
5600	3	0.198169	0.01	10.53625	0.002068771
2096	2	0.19821	0.0125	10.54875	0.002071225
3368	3	0.198511	-0.005	10.54375	0.002070243
2394	2	0.198799	0.0125	10.55625	0.002072698
8690	3	0.198971	0.01	10.56625	0.002074661
9538	4	0.200247	0.01	10.57625	0.002076625
9314	4	0.200359	-0.005	10.57125	0.002075643
883	1	0.200366	0.015	10.58625	0.002078588
3244	3	0.20038	-0.005	10.58125	0.002077607
8080	3	0.200425	-0.005	10.57625	0.002076625
447	1	0.200904	0.015	10.59125	0.00207957
1413	1	0.20143	0.015	10.60625	0.002082515
5639	3	0.201461	0.01	10.61625	0.002084479
2394	2	0.201584	-0.00625	10.61	0.002083252
9158	4	0.201744	0.01	10.62	0.002085215
3068	3	0.201802	-0.005	10.615	0.002084233
4766	3	0.201845	-0.005	10.61	0.002083252
9044	4	0.201978	0.01	10.62	0.002085215
1305	1	0.202277	0.015	10.635	0.00208816
2082	2	0.202307	-0.00625	10.62875	0.002086933
2403	2	0.202686	0.0125	10.64125	0.002089387
1420	1	0.202794	0.015	10.65625	0.002092333
8913	4	0.203048	0.01	10.66625	0.002094296
6578	3	0.203207	0.01	10.67625	0.00209626
2513	2	0.203287	-0.00625	10.67	0.002095032
7320	3	0.203362	0.01	10.68	0.002096996
3894	3	0.203633	0.01	10.69	0.002098959
5038	3	0.203711	0.01	10.7	0.002100923
9092	4	0.204398	-0.005	10.695	0.002099941
2139	2	0.204409	0.0125	10.7075	0.002102395
7730	3	0.204715	0.01	10.7175	0.002104359
5280	3	0.205039	0.01	10.7275	0.002106322
3110	3	0.205218	0.01	10.7375	0.002108286
2406	2	0.205366	0.0125	10.75	0.00211074
2516	2	0.205885	-0.00625	10.74375	0.002109513
3182	3	0.205891	0.01	10.75375	0.002111477
7972	3	0.206112	0.01	10.76375	0.00211344
6075	3	0.206434	-0.005	10.75875	0.002112458
2660	2	0.206458	0.0125	10.77125	0.002114913
4306	3	0.207137	-0.005	10.76625	0.002113931
5784	3	0.207287	-0.005	10.76125	0.002112949
709	1	0.207335	0.015	10.77625	0.002115894

897	1	0.207433	0.015	10.79125	0.00211884
3161	3	0.207654	-0.005	10.78625	0.002117858
2088	2	0.207834	0.0125	10.79875	0.002120312
7861	3	0.207919	0.01	10.80875	0.002122276
4217	3	0.208867	0.01	10.81875	0.002124239
7278	3	0.209178	0.01	10.82875	0.002126203
2301	2	0.209425	0.0125	10.84125	0.002128657
7469	3	0.2098	0.01	10.85125	0.00213062
2414	2	0.209862	0.0125	10.86375	0.002133075
3628	3	0.210666	0.01	10.87375	0.002135038
432	1	0.211373	0.015	10.88875	0.002137984
4823	3	0.2117	0.01	10.89875	0.002139947
863	1	0.211887	0.015	10.91375	0.002142892
8122	3	0.211998	0.01	10.92375	0.002144856
9402	4	0.212106	0.01	10.93375	0.002146819
5868	3	0.213043	0.01	10.94375	0.002148783
4286	3	0.213199	0.01	10.95375	0.002150746
3864	3	0.21321	0.01	10.96375	0.00215271
2115	2	0.213905	0.0125	10.97625	0.002155164
8664	3	0.214284	0.01	10.98625	0.002157127
4050	3	0.214356	0.01	10.99625	0.002159091
4238	3	0.214701	0.01	11.00625	0.002161054
5962	3	0.214705	-0.005	11.00125	0.002160073
2574	2	0.215053	0.0125	11.01375	0.002162527
1014	1	0.21518	0.015	11.02875	0.002165472
1188	1	0.215299	0.015	11.04375	0.002168417
3707	3	0.215603	0.01	11.05375	0.002170381
1260	1	0.215817	0.015	11.06875	0.002173326
1520	1	0.215843	0.015	11.08375	0.002176271
871	1	0.216453	0.015	11.09875	0.002179217
937	1	0.216524	-0.0075	11.09125	0.002177744
2347	2	0.216645	0.0125	11.10375	0.002180198
1684	1	0.216718	0.015	11.11875	0.002183144
1185	1	0.216826	0.015	11.13375	0.002186089
6962	3	0.216875	0.01	11.14375	0.002188052
460	1	0.216987	0.015	11.15875	0.002190997
1841	2	0.216987	-0.00625	11.1525	0.00218977
7273	3	0.217153	0.01	11.1625	0.002191734
2390	2	0.217651	0.0125	11.175	0.002194188
7115	3	0.217818	0.01	11.185	0.002196152
7333	3	0.21798	0.01	11.195	0.002198115
7525	3	0.217981	0.01	11.205	0.002200079
1397	1	0.218012	0.015	11.22	0.002203024
1595	1	0.218017	-0.0075	11.2125	0.002201551
2024	2	0.218523	0.0125	11.225	0.002204005
748	1	0.218647	0.015	11.24	0.002206951
2473	2	0.218647	0.0125	11.2525	0.002209405
3677	3	0.219119	0.01	11.2625	0.002211369
9609	4	0.219163	-0.005	11.2575	0.002210387
7328	3	0.219448	0.01	11.2675	0.00221235
5577	3	0.219809	0.01	11.2775	0.002214314
5472	3	0.220057	0.01	11.2875	0.002216277

1812	2	0.220176	0.0125	11.3	0.002218732
6526	3	0.22022	0.01	11.31	0.002220695
3445	3	0.220472	0.01	11.32	0.002222659
128	1	0.22048	0.015	11.335	0.002225604
2888	2	0.221171	0.0125	11.3475	0.002228058
4576	3	0.221569	-0.005	11.3425	0.002227076
4019	3	0.221959	0.01	11.3525	0.00222904
6102	3	0.222428	0.01	11.3625	0.002231003
4103	3	0.2226	-0.005	11.3575	0.002230022
7250	3	0.222803	0.01	11.3675	0.002231985
6244	3	0.22306	0.01	11.3775	0.002233949
8174	3	0.223281	-0.005	11.3725	0.002232967
1750	1	0.223816	0.015	11.3875	0.002235912
4800	3	0.224152	0.01	11.3975	0.002237876
3936	3	0.224724	0.01	11.4075	0.002239839
1380	1	0.224923	0.015	11.4225	0.002242784
1568	1	0.224984	0.015	11.4375	0.002245729
6739	3	0.225203	-0.005	11.4325	0.002244748
7788	3	0.225919	0.01	11.4425	0.002246711
490	1	0.227019	0.015	11.4575	0.002249656
2000	2	0.227534	0.0125	11.47	0.002252111
8291	3	0.227795	0.01	11.48	0.002254074
8112	3	0.228135	-0.005	11.475	0.002253092
6145	3	0.228495	0.01	11.485	0.002255056
7041	3	0.228735	0.01	11.495	0.002257019
1483	1	0.228876	0.015	11.51	0.002259965
8097	3	0.228922	0.01	11.52	0.002261928
307	1	0.229053	0.015	11.535	0.002264873
8016	3	0.229342	0.01	11.545	0.002266837
5455	3	0.229362	0.01	11.555	0.0022688
5438	3	0.229387	0.01	11.565	0.002270764
4910	3	0.229644	0.01	11.575	0.002272727
8552	3	0.229758	0.01	11.585	0.002274691
2871	2	0.230051	0.0125	11.5975	0.002277145
6558	3	0.230139	0.01	11.6075	0.002279109
444	1	0.230205	0.015	11.6225	0.002282054
1338	1	0.230685	0.015	11.6375	0.002284999
4099	3	0.230977	0.01	11.6475	0.002286962
5018	3	0.231265	0.01	11.6575	0.002288926
2781	2	0.231426	0.0125	11.67	0.00229138
6559	3	0.23164	0.01	11.68	0.002293344
3245	3	0.231992	0.01	11.69	0.002295307
3315	3	0.23227	0.01	11.7	0.002297271
3571	3	0.232358	0.01	11.71	0.002299234
1454	1	0.232437	0.015	11.725	0.002302179
4304	3	0.232564	-0.005	11.72	0.002301198
4754	3	0.2326	-0.005	11.715	0.002300216
6262	3	0.232697	-0.005	11.71	0.002299234
4297	3	0.233018	0.01	11.72	0.002301198
2320	2	0.233294	0.0125	11.7325	0.002303652
528	1	0.23361	-0.0075	11.725	0.002302179
5023	3	0.233638	0.01	11.735	0.002304143

2234	2	0.233679	0.0125	11.7475	0.002306597
3272	3	0.233743	0.01	11.7575	0.002308561
5703	3	0.23393	0.01	11.7675	0.002310524
9519	4	0.233959	0.01	11.7775	0.002312488
6792	3	0.234153	0.01	11.7875	0.002314451
5295	3	0.234157	-0.005	11.7825	0.002313469
4045	3	0.234334	0.01	11.7925	0.002315433
727	1	0.234362	0.015	11.8075	0.002318378
5410	3	0.234449	-0.005	11.8025	0.002317396
370	1	0.234634	0.015	11.8175	0.002320342
144	1	0.234645	0.015	11.8325	0.002323287
1051	1	0.234764	-0.0075	11.825	0.002321814
3394	3	0.234942	0.01	11.835	0.002323778
6620	3	0.234997	-0.005	11.83	0.002322796
6334	3	0.235266	0.01	11.84	0.002324759
4081	3	0.235371	0.01	11.85	0.002326723
495	1	0.235644	0.015	11.865	0.002329668
4486	3	0.236077	0.01	11.875	0.002331632
1938	2	0.236193	0.0125	11.8875	0.002334086
3383	3	0.236355	0.01	11.8975	0.002336049
1308	1	0.236496	0.015	11.9125	0.002338995
6050	3	0.236971	0.01	11.9225	0.002340958
1326	1	0.237142	0.015	11.9375	0.002343903
2032	2	0.23733	0.0125	11.95	0.002346358
1104	1	0.237479	0.015	11.965	0.002349303
4777	3	0.237842	-0.005	11.96	0.002348321
9158	4	0.238065	-0.005	11.955	0.002347339
493	1	0.238143	-0.0075	11.9475	0.002345867
6296	3	0.238214	0.01	11.9575	0.00234783
6376	3	0.238299	0.01	11.9675	0.002349794
2347	2	0.238369	-0.00625	11.96125	0.002348567
1408	1	0.23846	0.015	11.97625	0.002351512
8082	3	0.238474	-0.005	11.97125	0.00235053
6384	3	0.239104	0.01	11.98125	0.002352494
4407	3	0.239873	0.01	11.99125	0.002354457
2655	2	0.240065	0.0125	12.00375	0.002356911
5055	3	0.240298	0.01	12.01375	0.002358875
7448	3	0.240369	0.01	12.02375	0.002360838
5727	3	0.240618	0.01	12.03375	0.002362802
7075	3	0.240734	0.01	12.04375	0.002364765
5236	3	0.240951	0.01	12.05375	0.002366729
2824	2	0.240998	-0.00625	12.0475	0.002365502
2345	2	0.241193	0.0125	12.06	0.002367956
417	1	0.241461	0.015	12.075	0.002370901
3133	3	0.241677	0.01	12.085	0.002372865
171	1	0.241713	0.015	12.1	0.00237581
9451	4	0.241718	0.01	12.11	0.002377773
7906	3	0.241795	0.01	12.12	0.002379737
7033	3	0.241819	0.01	12.13	0.0023817
3057	3	0.241902	0.01	12.14	0.002383664
631	1	0.242382	0.015	12.155	0.002386609
8395	3	0.242924	-0.005	12.15	0.002385627

3620	3	0.24305	-0.005	12.145	0.002384646
2239	2	0.243071	0.0125	12.1575	0.0023871
8150	3	0.243106	0.01	12.1675	0.002389063
3997	3	0.243147	0.01	12.1775	0.002391027
5963	3	0.243645	0.01	12.1875	0.00239299
6996	3	0.243764	0.01	12.1975	0.002394954
7339	3	0.243831	0.01	12.2075	0.002396917
7858	3	0.243842	0.01	12.2175	0.002398881
4529	3	0.243878	0.01	12.2275	0.002400844
6195	3	0.24477	0.01	12.2375	0.002402808
4982	3	0.245278	0.01	12.2475	0.002404771
2157	2	0.245512	0.0125	12.26	0.002407226
2777	2	0.24598	0.0125	12.2725	0.00240968
1753	1	0.246026	0.015	12.2875	0.002412625
1768	1	0.246195	0.015	12.3025	0.00241557
5932	3	0.246211	0.01	12.3125	0.002417534
7000	3	0.246837	0.01	12.3225	0.002419497
303	1	0.246967	-0.0075	12.315	0.002418025
4296	3	0.246974	0.01	12.325	0.002419988
9972	4	0.247545	0.01	12.335	0.002421952
3122	3	0.248194	-0.005	12.33	0.00242097
6045	3	0.248626	0.01	12.34	0.002422933
7125	3	0.248722	0.01	12.35	0.002424897
6982	3	0.248775	0.01	12.36	0.00242686
2926	3	0.249056	0.01	12.37	0.002428824
2542	2	0.249061	0.0125	12.3825	0.002431278
4281	3	0.24921	0.01	12.3925	0.002433242
2943	3	0.249423	0.01	12.4025	0.002435205
525	1	0.249437	0.015	12.4175	0.00243815
7587	3	0.250017	0.01	12.4275	0.002440114
1415	1	0.250055	0.015	12.4425	0.002443059
2395	2	0.250202	0.0125	12.455	0.002445513
9743	4	0.250231	0.01	12.465	0.002447477
1718	1	0.250675	0.015	12.48	0.002450422
4756	3	0.251161	0.01	12.49	0.002452386
1116	1	0.251382	0.015	12.505	0.002455331
3272	3	0.251446	-0.005	12.5	0.002454349
1296	1	0.251521	-0.0075	12.4925	0.002452876
5491	3	0.252351	0.01	12.5025	0.00245484
7320	3	0.252459	-0.005	12.4975	0.002453858
4072	3	0.252523	0.01	12.5075	0.002455822
7829	3	0.252539	-0.005	12.5025	0.00245484
6143	3	0.252555	0.01	12.5125	0.002456803
5575	3	0.25262	0.01	12.5225	0.002458767
3679	3	0.25274	0.01	12.5325	0.00246073
686	1	0.252765	0.015	12.5475	0.002463676
1355	1	0.252784	0.015	12.5625	0.002466621
1371	1	0.252933	-0.0075	12.555	0.002465148
891	1	0.253383	-0.0075	12.5475	0.002463676
1342	1	0.253723	0.015	12.5625	0.002466621
5924	3	0.253807	-0.005	12.5575	0.002465639
6723	3	0.253862	-0.005	12.5525	0.002464657

3585	3	0.253883	0.01	12.5625	0.002466621
2056	2	0.253967	0.0125	12.575	0.002469075
6284	3	0.253977	0.01	12.585	0.002471039
696	1	0.254305	0.015	12.6	0.002473984
6741	3	0.254364	0.01	12.61	0.002475947
6647	3	0.25451	0.01	12.62	0.002477911
1920	2	0.254551	0.0125	12.6325	0.002480365
2139	2	0.254951	-0.00625	12.62625	0.002479138
1441	1	0.255028	0.015	12.64125	0.002482083
1336	1	0.255085	0.015	12.65625	0.002485028
2516	2	0.255304	-0.00625	12.65	0.002483801
2835	2	0.255336	0.0125	12.6625	0.002486256
2610	2	0.255529	0.0125	12.675	0.00248871
2752	2	0.255711	0.0125	12.6875	0.002491164
1560	1	0.255718	0.015	12.7025	0.00249411
5164	3	0.255836	0.01	12.7125	0.002496073
1524	1	0.255934	0.015	12.7275	0.002499018
1946	2	0.255949	0.0125	12.74	0.002501473
4417	3	0.256556	0.01	12.75	0.002503436
7599	3	0.256658	0.01	12.76	0.0025054
4823	3	0.256806	-0.005	12.755	0.002504418
8326	3	0.256893	0.01	12.765	0.002506381
42	1	0.257693	0.015	12.78	0.002509327
3148	3	0.25791	0.01	12.79	0.00251129
5314	3	0.25806	0.01	12.8	0.002513253
5282	3	0.258086	0.01	12.81	0.002515217
1387	1	0.258104	0.015	12.825	0.002518162
5472	3	0.258326	-0.005	12.82	0.00251718
5238	3	0.25872	0.01	12.83	0.002519144
9505	4	0.259109	0.01	12.84	0.002521107
3386	3	0.259222	0.01	12.85	0.002523071
1732	1	0.26009	-0.0075	12.8425	0.002521598
7379	3	0.260254	0.01	12.8525	0.002523562
1869	2	0.260265	0.0125	12.865	0.002526016
1340	1	0.260382	0.015	12.88	0.002528961
5478	3	0.261153	0.01	12.89	0.002530925
2267	2	0.261496	0.0125	12.9025	0.002533379
7146	3	0.261838	0.01	12.9125	0.002535343
1358	1	0.262397	0.015	12.9275	0.002538288
1793	2	0.262561	0.0125	12.94	0.002540742
2845	2	0.263043	0.0125	12.9525	0.002543197
9148	4	0.263545	0.01	12.9625	0.00254516
8361	3	0.263648	0.01	12.9725	0.002547124
6740	3	0.264529	0.01	12.9825	0.002549087
2668	2	0.264544	0.0125	12.995	0.002551541
7889	3	0.264621	0.01	13.005	0.002553505
1397	1	0.264717	-0.0075	12.9975	0.002552032
7333	3	0.264854	-0.005	12.9925	0.00255105
553	1	0.264991	0.015	13.0075	0.002553996
7998	3	0.265154	0.01	13.0175	0.002555959
4500	3	0.265801	0.01	13.0275	0.002557923
3764	3	0.265825	0.01	13.0375	0.002559886

4783	3	0.266037	0.01	13.0475	0.00256185
4764	3	0.26612	0.01	13.0575	0.002563813
3629	3	0.266207	0.01	13.0675	0.002565777
8522	3	0.26621	0.01	13.0775	0.00256774
602	1	0.26737	0.015	13.0925	0.002570685
2239	2	0.267459	-0.00625	13.08625	0.002569458
885	1	0.268436	0.015	13.10125	0.002572403
8442	3	0.268582	-0.005	13.09625	0.002571422
3555	3	0.268591	0.01	13.10625	0.002573385
8494	3	0.268766	-0.005	13.10125	0.002572403
5257	3	0.268889	0.01	13.11125	0.002574367
1496	1	0.269066	0.015	13.12625	0.002577312
2436	2	0.269457	0.0125	13.13875	0.002579766
406	1	0.269605	0.015	13.15375	0.002582712
3117	3	0.269612	0.01	13.16375	0.002584675
6247	3	0.269734	0.01	13.17375	0.002586639
2606	2	0.269999	-0.00625	13.1675	0.002585411
2696	2	0.270667	0.0125	13.18	0.002587866
9	1	0.270785	0.015	13.195	0.002590811
6374	3	0.271112	0.01	13.205	0.002592774
258	1	0.271414	0.015	13.22	0.00259572
47	1	0.271415	0.015	13.235	0.002598665
6705	3	0.271495	0.01	13.245	0.002600628
5011	3	0.271551	0.01	13.255	0.002602592
1495	1	0.271642	0.015	13.27	0.002605537
984	1	0.27171	0.015	13.285	0.002608482
2523	2	0.271834	0.0125	13.2975	0.002610937
7580	3	0.27224	0.01	13.3075	0.0026129
5134	3	0.272416	0.01	13.3175	0.002614864
2063	2	0.273067	0.0125	13.33	0.002617318
994	1	0.273123	0.015	13.345	0.002620263
9182	4	0.273152	0.01	13.355	0.002622227
1526	1	0.273573	0.015	13.37	0.002625172
9935	4	0.273801	0.01	13.38	0.002627135
5093	3	0.27382	0.01	13.39	0.002629099
9095	4	0.273871	0.01	13.4	0.002631062
4084	3	0.27406	-0.005	13.395	0.002630081
5575	3	0.274202	-0.005	13.39	0.002629099
6092	3	0.274328	0.01	13.4	0.002631062
6893	3	0.274337	-0.005	13.395	0.002630081
3717	3	0.274484	-0.005	13.39	0.002629099
3636	3	0.274515	0.01	13.4	0.002631062
1713	1	0.274943	0.015	13.415	0.002634007
6829	3	0.275251	-0.005	13.41	0.002633026
532	1	0.275383	0.015	13.425	0.002635971
6600	3	0.275414	0.01	13.435	0.002637934
9635	4	0.275548	0.01	13.445	0.002639898
1058	1	0.27578	0.015	13.46	0.002642843
2781	2	0.275901	-0.00625	13.45375	0.002641616
6613	3	0.276089	-0.005	13.44875	0.002640634
389	1	0.276187	0.015	13.46375	0.002643579
394	1	0.27628	-0.0075	13.45625	0.002642107

8487	3	0.27734	0.01	13.46625	0.00264407
74	1	0.277452	0.015	13.48125	0.002647016
7768	3	0.277643	-0.005	13.47625	0.002646034
5465	3	0.277773	0.01	13.48625	0.002647997
7703	3	0.277971	0.01	13.49625	0.002649961
6000	3	0.278218	0.01	13.50625	0.002651924
94	1	0.278247	0.015	13.52125	0.002654869
4559	3	0.278378	0.01	13.53125	0.002656833
2741	2	0.278589	-0.00625	13.525	0.002655606
4865	3	0.278654	0.01	13.535	0.002657569
6822	3	0.278939	0.01	13.545	0.002659533
2303	2	0.278981	0.0125	13.5575	0.002661987
778	1	0.279103	0.015	13.5725	0.002664932
820	1	0.27926	0.015	13.5875	0.002667877
2917	3	0.279334	0.01	13.5975	0.002669841
7049	3	0.279401	0.01	13.6075	0.002671804
1468	1	0.279432	0.015	13.6225	0.00267475
286	1	0.279573	0.015	13.6375	0.002677695
1208	1	0.279627	-0.0075	13.63	0.002676222
2777	2	0.279732	-0.00625	13.62375	0.002674995
1994	2	0.279777	0.0125	13.63625	0.002677449
6560	3	0.280108	0.01	13.64625	0.002679413
9676	4	0.280546	0.01	13.65625	0.002681376
8652	3	0.280641	-0.005	13.65125	0.002680395
3099	3	0.280832	0.01	13.66125	0.002682358
6536	3	0.280901	0.01	13.67125	0.002684322
681	1	0.281064	0.015	13.68625	0.002687267
629	1	0.281598	0.015	13.70125	0.002690212
5719	3	0.281744	0.01	13.71125	0.002692176
1990	2	0.281819	-0.00625	13.705	0.002690948
4205	3	0.282052	0.01	13.715	0.002692912
9258	4	0.282311	0.01	13.725	0.002694875
679	1	0.282389	0.015	13.74	0.002697821
8542	3	0.28241	0.01	13.75	0.002699784
6548	3	0.282422	0.01	13.76	0.002701747
6957	3	0.282527	-0.005	13.755	0.002700766
3604	3	0.282606	-0.005	13.75	0.002699784
8700	3	0.283649	0.01	13.76	0.002701747
7182	3	0.283666	0.01	13.77	0.002703711
3452	3	0.283765	0.01	13.78	0.002705674
6420	3	0.283866	-0.005	13.775	0.002704693
7017	3	0.283922	0.01	13.785	0.002706656
2390	2	0.284508	-0.00625	13.77875	0.002705429
2492	2	0.284641	0.0125	13.79125	0.002707883
7451	3	0.284855	0.01	13.80125	0.002709847
289	1	0.284875	-0.0075	13.79375	0.002708374
152	1	0.285293	0.015	13.80875	0.002711319
6438	3	0.285384	0.01	13.81875	0.002713283
510	1	0.285384	-0.0075	13.81125	0.00271181
8677	3	0.285814	0.01	13.82125	0.002713774
5105	3	0.286153	0.01	13.83125	0.002715737
585	1	0.286456	0.015	13.84625	0.002718683

2223	2	0.28651	0.0125	13.85875	0.002721137
2113	2	0.286564	0.0125	13.87125	0.002723591
1222	1	0.286643	0.015	13.88625	0.002726536
2958	3	0.287113	0.01	13.89625	0.0027285
1957	2	0.287212	0.0125	13.90875	0.002730954
3891	3	0.287276	0.01	13.91875	0.002732918
4071	3	0.287493	0.01	13.92875	0.002734881
6247	3	0.287795	-0.005	13.92375	0.002733899
7043	3	0.287876	0.01	13.93375	0.002735863
5550	3	0.288045	0.01	13.94375	0.002737826
1829	2	0.288086	0.0125	13.95625	0.002740281
8439	3	0.28843	0.01	13.96625	0.002742244
895	1	0.288639	0.015	13.98125	0.002745189
3416	3	0.289016	0.01	13.99125	0.002747153
1983	2	0.289297	0.0125	14.00375	0.002749607
8359	3	0.289371	0.01	14.01375	0.002751571
8891	4	0.289459	0.01	14.02375	0.002753534
2973	3	0.289658	0.01	14.03375	0.002755498
7600	3	0.289745	-0.005	14.02875	0.002754516
6296	3	0.290088	-0.005	14.02375	0.002753534
1876	2	0.29022	0.0125	14.03625	0.002755989
3866	3	0.291049	0.01	14.04625	0.002757952
1326	1	0.291097	-0.0075	14.03875	0.002756479
3445	3	0.291247	-0.005	14.03375	0.002755498
1203	1	0.291734	0.015	14.04875	0.002758443
2245	2	0.292148	-0.00625	14.0425	0.002757216
2655	2	0.292286	-0.00625	14.03625	0.002755989
2311	2	0.292825	0.0125	14.04875	0.002758443
2263	2	0.29283	0.0125	14.06125	0.002760897
8078	3	0.292901	0.01	14.07125	0.002762861
1549	1	0.293046	0.015	14.08625	0.002765806
2333	2	0.293051	0.0125	14.09875	0.00276826
5287	3	0.293271	0.01	14.10875	0.002770224
795	1	0.293424	0.015	14.12375	0.002773169
4277	3	0.293505	0.01	14.13375	0.002775133
2677	2	0.29353	-0.00625	14.1275	0.002773905
2262	2	0.293874	0.0125	14.14	0.00277636
9402	4	0.294149	-0.005	14.135	0.002775378
1256	1	0.294238	0.015	14.15	0.002778323
8181	3	0.294646	0.01	14.16	0.002780287
5404	3	0.294982	0.01	14.17	0.00278225
2307	2	0.294985	-0.00625	14.16375	0.002781023
2900	3	0.295264	0.01	14.17375	0.002782986
5453	3	0.295274	0.01	14.18375	0.00278495
416	1	0.295605	0.015	14.19875	0.002787895
8941	4	0.29572	0.01	14.20875	0.002789859
8108	3	0.295738	0.01	14.21875	0.002791822
1432	1	0.295744	0.015	14.23375	0.002794767
672	1	0.29575	0.015	14.24875	0.002797713
2820	2	0.295985	0.0125	14.26125	0.002800167
4514	3	0.296036	0.01	14.27125	0.00280213
3666	3	0.296182	-0.005	14.26625	0.002801149

1051	1	0.296611	-0.0075	14.25875	0.002799676
274	1	0.296615	0.015	14.27375	0.002802621
7726	3	0.296678	0.01	14.28375	0.002804585
208	1	0.296743	0.015	14.29875	0.00280753
9438	4	0.296766	-0.005	14.29375	0.002806548
3054	3	0.296874	0.01	14.30375	0.002808512
5456	3	0.297597	-0.005	14.29875	0.00280753
652	1	0.297648	0.015	14.31375	0.002810475
8613	3	0.297801	0.01	14.32375	0.002812439
234	1	0.297935	0.015	14.33875	0.002815384
1848	2	0.298131	0.0125	14.35125	0.002817838
1567	1	0.298473	0.015	14.36625	0.002820783
4382	3	0.298491	0.01	14.37625	0.002822747
1963	2	0.298596	0.0125	14.38875	0.002825201
8423	3	0.298715	0.01	14.39875	0.002827165
5842	3	0.298736	0.01	14.40875	0.002829128
4414	3	0.299413	0.01	14.41875	0.002831092
781	1	0.299558	0.015	14.43375	0.002834037
1877	2	0.299652	0.0125	14.44625	0.002836491
5078	3	0.299827	0.01	14.45625	0.002838455
5137	3	0.300081	0.01	14.46625	0.002840418
8061	3	0.300093	0.01	14.47625	0.002842382
4502	3	0.300343	-0.005	14.47125	0.0028414
4529	3	0.300497	-0.005	14.46625	0.002840418
8836	4	0.300733	0.01	14.47625	0.002842382
1911	2	0.301054	0.0125	14.48875	0.002844836
2405	2	0.301177	0.0125	14.50125	0.00284729
3805	3	0.301497	0.01	14.51125	0.002849254
3119	3	0.301692	0.01	14.52125	0.002851217
8097	3	0.301711	-0.005	14.51625	0.002850236
3637	3	0.301838	0.01	14.52625	0.002852199
8621	3	0.301861	0.01	14.53625	0.002854163
1634	1	0.302032	0.015	14.55125	0.002857108
65	1	0.30221	0.015	14.56625	0.002860053
6318	3	0.30225	0.01	14.57625	0.002862016
7069	3	0.302371	0.01	14.58625	0.00286398
4844	3	0.302482	0.01	14.59625	0.002865943
2688	2	0.302536	-0.00625	14.59	0.002864716
8640	3	0.302868	0.01	14.6	0.00286668
2770	2	0.303367	0.0125	14.6125	0.002869134
6795	3	0.303396	-0.005	14.6075	0.002868152
5238	3	0.30352	-0.005	14.6025	0.002867171
4083	3	0.303925	-0.005	14.5975	0.002866189
1734	1	0.304324	0.015	14.6125	0.002869134
443	1	0.304349	0.015	14.6275	0.002872079
4470	3	0.304995	0.01	14.6375	0.002874043
196	1	0.305179	0.015	14.6525	0.002876988
6059	3	0.305282	0.01	14.6625	0.002878952
1843	2	0.305618	-0.00625	14.65625	0.002877724
2940	3	0.305659	0.01	14.66625	0.002879688
9184	4	0.305775	0.01	14.67625	0.002881651
7294	3	0.306053	0.01	14.68625	0.002883615

1408	1	0.306202	-0.0075	14.67875	0.002882142
6846	3	0.306432	-0.005	14.67375	0.00288116
301	1	0.306655	0.015	14.68875	0.002884106
2806	2	0.30683	0.0125	14.70125	0.00288656
5717	3	0.306859	0.01	14.71125	0.002888523
9512	4	0.307412	0.01	14.72125	0.002890487
5420	3	0.307517	-0.005	14.71625	0.002889505
4128	3	0.307566	0.01	14.72625	0.002891469
889	1	0.307812	0.015	14.74125	0.002894414
9451	4	0.307925	-0.005	14.73625	0.002893432
2907	3	0.307972	0.01	14.74625	0.002895396
9004	4	0.308605	0.01	14.75625	0.002897359
2500	2	0.308731	0.0125	14.76875	0.002899813
5899	3	0.309194	0.01	14.77875	0.002901777
6470	3	0.309947	0.01	14.78875	0.00290374
7984	3	0.310129	0.01	14.79875	0.002905704
7761	3	0.310444	0.01	14.80875	0.002907667
1728	1	0.310803	-0.0075	14.80125	0.002906195
3202	3	0.311148	0.01	14.81125	0.002908158
8953	4	0.31129	0.01	14.82125	0.002910122
7529	3	0.311407	0.01	14.83125	0.002912085
1961	2	0.311441	0.0125	14.84375	0.00291454
947	1	0.311485	0.015	14.85875	0.002917485
385	1	0.311851	0.015	14.87375	0.00292043
4479	3	0.312449	0.01	14.88375	0.002922393
2658	2	0.312497	0.0125	14.89625	0.002924848
7777	3	0.312595	0.01	14.90625	0.002926811
7695	3	0.312866	0.01	14.91625	0.002928775
1483	1	0.312959	-0.0075	14.90875	0.002927302
8990	4	0.312968	0.01	14.91875	0.002929266
522	1	0.313346	0.015	14.93375	0.002932211
1579	1	0.313498	-0.0075	14.92625	0.002930738
1902	2	0.313831	0.0125	14.93875	0.002933193
7984	3	0.313944	-0.005	14.93375	0.002932211
6751	3	0.314042	0.01	14.94375	0.002934174
5942	3	0.314069	0.01	14.95375	0.002936138
4406	3	0.314259	0.01	14.96375	0.002938101
3452	3	0.315094	-0.005	14.95875	0.00293712
2500	2	0.315167	-0.00625	14.9525	0.002935892
7791	3	0.31528	0.01	14.9625	0.002937856
7008	3	0.315374	0.01	14.9725	0.002939819
7068	3	0.315431	0.01	14.9825	0.002941783
165	1	0.315817	0.015	14.9975	0.002944728
210	1	0.31635	0.015	15.0125	0.002947673
973	1	0.316671	0.015	15.0275	0.002950618
3350	3	0.316728	-0.005	15.0225	0.002949637
187	1	0.316996	0.015	15.0375	0.002952582
7999	3	0.317111	-0.005	15.0325	0.0029516
3735	3	0.317377	0.01	15.0425	0.002953564
8700	3	0.317436	-0.005	15.0375	0.002952582
865	1	0.31745	0.015	15.0525	0.002955527
9427	4	0.31757	-0.005	15.0475	0.002954545

2491	2	0.317761	0.0125	15.06	0.002957
7085	3	0.318042	-0.005	15.055	0.002956018
7306	3	0.318194	0.01	15.065	0.002957982
181	1	0.318636	0.015	15.08	0.002960927
6109	3	0.318639	0.01	15.09	0.00296289
2431	2	0.31879	0.0125	15.1025	0.002965345
4225	3	0.318958	0.01	15.1125	0.002967308
3759	3	0.319687	0.01	15.1225	0.002969272
8573	3	0.319864	0.01	15.1325	0.002971235
3386	3	0.319972	-0.005	15.1275	0.002970253
2849	2	0.320286	0.0125	15.14	0.002972708
7506	3	0.320359	0.01	15.15	0.002974671
3995	3	0.320485	0.01	15.16	0.002976635
901	1	0.320534	-0.0075	15.1525	0.002975162
8461	3	0.320712	0.01	15.1625	0.002977125
5265	3	0.320922	0.01	15.1725	0.002979089
897	1	0.320945	-0.0075	15.165	0.002977616
8586	3	0.321037	-0.005	15.16	0.002976635
9018	4	0.321135	-0.005	15.155	0.002975653
4924	3	0.321183	-0.005	15.15	0.002974671
6156	3	0.321248	0.01	15.16	0.002976635
5877	3	0.321382	0.01	15.17	0.002978598
7168	3	0.321511	-0.005	15.165	0.002977616
9798	4	0.322025	-0.005	15.16	0.002976635
6871	3	0.32218	0.01	15.17	0.002978598
558	1	0.32233	0.015	15.185	0.002981543
2675	2	0.322503	0.0125	15.1975	0.002983998
3261	3	0.322658	0.01	15.2075	0.002985961
1513	1	0.322925	0.015	15.2225	0.002988906
6162	3	0.32296	0.01	15.2325	0.00299087
1060	1	0.322972	0.015	15.2475	0.002993815
317	1	0.323242	0.015	15.2625	0.00299676
4464	3	0.323462	0.01	15.2725	0.002998724
5023	3	0.323551	-0.005	15.2675	0.002997742
6335	3	0.323591	0.01	15.2775	0.002999705
2609	2	0.323614	0.0125	15.29	0.00300216
346	1	0.323635	0.015	15.305	0.003005105
4094	3	0.323712	0.01	15.315	0.003007069
2705	2	0.323816	0.0125	15.3275	0.003009523
9222	4	0.32382	0.01	15.3375	0.003011486
46	1	0.324068	-0.0075	15.33	0.003010014
1350	1	0.324168	0.015	15.345	0.003012959
1157	1	0.324204	0.015	15.36	0.003015904
6046	3	0.324383	0.01	15.37	0.003017868
6798	3	0.324503	0.01	15.38	0.003019831
4357	3	0.325363	0.01	15.39	0.003021795
507	1	0.325391	0.015	15.405	0.00302474
1493	1	0.32569	0.015	15.42	0.003027685
1434	1	0.326102	0.015	15.435	0.00303063
4937	3	0.326147	0.01	15.445	0.003032594
2043	2	0.326665	0.0125	15.4575	0.003035048
2805	2	0.326914	0.0125	15.47	0.003037502

54	1	0.326972	0.015	15.485	0.003040448
2809	2	0.327106	0.0125	15.4975	0.003042902
3439	3	0.327247	0.01	15.5075	0.003044866
5501	3	0.327257	0.01	15.5175	0.003046829
9790	4	0.327369	0.01	15.5275	0.003048792
7798	3	0.327466	0.01	15.5375	0.003050756
2806	2	0.327935	-0.00625	15.53125	0.003049529
432	1	0.328145	-0.0075	15.52375	0.003048056
7848	3	0.328212	0.01	15.53375	0.00305002
2315	2	0.328579	0.0125	15.54625	0.003052474
1666	1	0.32886	0.015	15.56125	0.003055419
1517	1	0.328933	0.015	15.57625	0.003058364
1365	1	0.329185	0.015	15.59125	0.00306131
293	1	0.329338	0.015	15.60625	0.003064255
4640	3	0.329726	0.01	15.61625	0.003066218
8548	3	0.329752	0.01	15.62625	0.003068182
1304	1	0.329907	0.015	15.64125	0.003071127
1014	1	0.330208	-0.0075	15.63375	0.003069654
5927	3	0.330542	0.01	15.64375	0.003071618
4468	3	0.330543	0.01	15.65375	0.003073581
7517	3	0.330874	0.01	15.66375	0.003075545
1452	1	0.330878	-0.0075	15.65625	0.003074072
3043	3	0.330914	0.01	15.66625	0.003076036
5236	3	0.330987	-0.005	15.66125	0.003075054
4218	3	0.331389	0.01	15.67125	0.003077017
8206	3	0.331396	-0.005	15.66625	0.003076036
2863	2	0.331761	0.0125	15.67875	0.00307849
207	1	0.332068	-0.0075	15.67125	0.003077017
970	1	0.332234	0.015	15.68625	0.003079963
7105	3	0.332906	0.01	15.69625	0.003081926
937	1	0.333034	-0.0075	15.68875	0.003080454
1050	1	0.3332	-0.0075	15.68125	0.003078981
2617	2	0.333331	0.0125	15.69375	0.003081435
881	1	0.333846	0.015	15.70875	0.003084381
7810	3	0.333968	0.01	15.71875	0.003086344
1465	1	0.334168	-0.0075	15.71125	0.003084871
8026	3	0.334332	0.01	15.72125	0.003086835
2289	2	0.334667	0.0125	15.73375	0.003089289
624	1	0.335009	0.015	15.74875	0.003092234
2852	2	0.335012	0.0125	15.76125	0.003094689
4832	3	0.33535	0.01	15.77125	0.003096652
8253	3	0.335456	0.01	15.78125	0.003098616
6507	3	0.335544	0.01	15.79125	0.003100579
2554	2	0.335549	0.0125	15.80375	0.003103034
6830	3	0.335617	0.01	15.81375	0.003104997
3188	3	0.336111	0.01	15.82375	0.003106961
6461	3	0.336399	0.01	15.83375	0.003108924
1938	2	0.336425	-0.00625	15.8275	0.003107697
1558	1	0.336459	0.015	15.8425	0.003110642
1109	1	0.336479	0.015	15.8575	0.003113587
6188	3	0.337001	0.01	15.8675	0.003115551
5770	3	0.337118	0.01	15.8775	0.003117514

1924	2	0.337129	0.0125	15.89	0.003119969
7065	3	0.337188	-0.005	15.885	0.003118987
1873	2	0.337234	0.0125	15.8975	0.003121441
548	1	0.337565	0.015	15.9125	0.003124386
2362	2	0.338258	0.0125	15.925	0.003126841
4122	3	0.338364	0.01	15.935	0.003128804
2353	2	0.338909	0.0125	15.9475	0.003131259
6600	3	0.339258	-0.005	15.9425	0.003130277
1585	1	0.339424	0.015	15.9575	0.003133222
4718	3	0.33973	0.01	15.9675	0.003135186
3459	3	0.339943	0.01	15.9775	0.003137149
1164	1	0.340151	0.015	15.9925	0.003140094
5676	3	0.340423	0.01	16.0025	0.003142058
339	1	0.340545	0.015	16.0175	0.003145003
5867	3	0.340688	0.01	16.0275	0.003146966
3132	3	0.34071	0.01	16.0375	0.00314893
6090	3	0.340794	0.01	16.0475	0.003150893
3047	3	0.341483	-0.005	16.0425	0.003149912
3275	3	0.341567	0.01	16.0525	0.003151875
8229	3	0.341675	0.01	16.0625	0.003153839
532	1	0.341811	-0.0075	16.055	0.003152366
5932	3	0.342357	-0.005	16.05	0.003151384
6856	3	0.342393	0.01	16.06	0.003153348
2403	2	0.342546	-0.00625	16.05375	0.003152121
7687	3	0.342654	0.01	16.06375	0.003154084
8583	3	0.342753	0.01	16.07375	0.003156048
2973	3	0.34311	-0.005	16.06875	0.003155066
9576	4	0.34323	-0.005	16.06375	0.003154084
5730	3	0.343563	0.01	16.07375	0.003156048
8463	3	0.343564	0.01	16.08375	0.003158011
9029	4	0.343819	0.01	16.09375	0.003159974
2658	2	0.344089	-0.00625	16.0875	0.003158747
9427	4	0.344236	-0.005	16.0825	0.003157766
5105	3	0.344516	-0.005	16.0775	0.003156784
1440	1	0.344631	-0.0075	16.07	0.003155311
3180	3	0.344931	-0.005	16.065	0.003154329
6491	3	0.344962	0.01	16.075	0.003156293
1458	1	0.345003	-0.0075	16.0675	0.00315482
6174	3	0.345025	0.01	16.0775	0.003156784
4445	3	0.345154	-0.005	16.0725	0.003155802
934	1	0.345243	0.015	16.0875	0.003158747
8086	3	0.345288	0.01	16.0975	0.003160711
1754	1	0.345317	0.015	16.1125	0.003163656
91	1	0.345815	0.015	16.1275	0.003166601
4286	3	0.345854	-0.005	16.1225	0.003165619
1179	1	0.345986	0.015	16.1375	0.003168565
74	1	0.346196	-0.0075	16.13	0.003167092
4273	3	0.347218	0.01	16.14	0.003169056
1545	1	0.347292	0.015	16.155	0.003172001
3023	3	0.347679	0.01	16.165	0.003173964
6768	3	0.347707	0.01	16.175	0.003175928
8420	3	0.347722	0.01	16.185	0.003177891

367	1	0.347738	0.015	16.2	0.003180836
5257	3	0.347926	-0.005	16.195	0.003179855
1127	1	0.348716	0.015	16.21	0.0031828
1304	1	0.349033	-0.0075	16.2025	0.003181327
270	1	0.349217	0.015	16.2175	0.003184273
4599	3	0.349489	-0.005	16.2125	0.003183291
5194	3	0.34953	0.01	16.2225	0.003185254
2752	2	0.349578	-0.00625	16.21625	0.003184027
6945	3	0.349679	0.01	16.22625	0.003185991
3372	3	0.349689	-0.005	16.22125	0.003185009
5828	3	0.350122	0.01	16.23125	0.003186972
2662	2	0.350358	0.0125	16.24375	0.003189427
8681	3	0.350389	0.01	16.25375	0.00319139
9538	4	0.350487	-0.005	16.24875	0.003190408
316	1	0.350724	0.015	16.26375	0.003193354
1735	1	0.350743	0.015	16.27875	0.003196299
3190	3	0.350908	0.01	16.28875	0.003198262
5595	3	0.351444	0.01	16.29875	0.003200226
1415	1	0.351834	-0.0075	16.29125	0.003198753
8680	3	0.352349	0.01	16.30125	0.003200717
7178	3	0.352647	0.01	16.31125	0.00320268
3746	3	0.352846	0.01	16.32125	0.003204644
3242	3	0.352871	0.01	16.33125	0.003206607
710	1	0.352906	0.015	16.34625	0.003209552
3338	3	0.353321	-0.005	16.34125	0.003208571
7073	3	0.353438	-0.005	16.33625	0.003207589
7277	3	0.354301	0.01	16.34625	0.003209552
4867	3	0.354832	0.01	16.35625	0.003211516
8618	3	0.354981	0.01	16.36625	0.003213479
6149	3	0.355377	0.01	16.37625	0.003215443
1857	2	0.355439	0.0125	16.38875	0.003217897
3998	3	0.355785	0.01	16.39875	0.003219861
920	1	0.356361	0.015	16.41375	0.003222806
3237	3	0.356635	0.01	16.42375	0.003224769
7120	3	0.356643	0.01	16.43375	0.003226733
9385	4	0.357089	0.01	16.44375	0.003228696
4877	3	0.357211	0.01	16.45375	0.00323066
2744	2	0.357493	-0.00625	16.4475	0.003229433
5306	3	0.357515	-0.005	16.4425	0.003228451
6325	3	0.357882	-0.005	16.4375	0.003227469
1148	1	0.358137	0.015	16.4525	0.003230414
542	1	0.358785	0.015	16.4675	0.00323336
8289	3	0.35955	-0.005	16.4625	0.003232378
1159	1	0.359735	0.015	16.4775	0.003235323
2186	2	0.35989	0.0125	16.49	0.003237777
5374	3	0.360644	0.01	16.5	0.003239741
2018	2	0.361215	0.0125	16.5125	0.003242195
4388	3	0.361286	0.01	16.5225	0.003244159
1236	1	0.361376	0.015	16.5375	0.003247104
173	1	0.361543	0.015	16.5525	0.003250049
7941	3	0.36167	0.01	16.5625	0.003252013
8222	3	0.361675	0.01	16.5725	0.003253976

1236	1	0.361759	-0.0075	16.565	0.003252503
4461	3	0.361885	0.01	16.575	0.003254467
1769	1	0.362192	-0.0075	16.5675	0.003252994
5828	3	0.362275	-0.005	16.5625	0.003252013
8684	3	0.362348	0.01	16.5725	0.003253976
1806	2	0.362443	0.0125	16.585	0.00325643
5996	3	0.36256	0.01	16.595	0.003258394
2778	2	0.362915	0.0125	16.6075	0.003260848
3075	3	0.363362	0.01	16.6175	0.003262812
6631	3	0.363422	0.01	16.6275	0.003264775
2631	2	0.363518	0.0125	16.64	0.00326723
3768	3	0.363645	-0.005	16.635	0.003266248
996	1	0.363949	0.015	16.65	0.003269193
3192	3	0.363963	0.01	16.66	0.003271156
5443	3	0.36411	0.01	16.67	0.00327312
750	1	0.364224	0.015	16.685	0.003276065
1647	1	0.364606	0.015	16.7	0.00327901
3394	3	0.364617	-0.005	16.695	0.003278029
6361	3	0.364665	0.01	16.705	0.003279992
7862	3	0.364686	-0.005	16.7	0.00327901
9901	4	0.364734	0.01	16.71	0.003280974
576	1	0.364781	0.015	16.725	0.003283919
4131	3	0.365202	0.01	16.735	0.003285883
2475	2	0.365294	0.0125	16.7475	0.003288337
3537	3	0.365934	-0.005	16.7425	0.003287355
9379	4	0.367081	-0.005	16.7375	0.003286373
1224	1	0.367102	0.015	16.7525	0.003289319
1451	1	0.367301	0.015	16.7675	0.003292264
7053	3	0.367574	0.01	16.7775	0.003294227
3085	3	0.36782	0.01	16.7875	0.003296191
9433	4	0.368504	-0.005	16.7825	0.003295209
7848	3	0.368537	-0.005	16.7775	0.003294227
3854	3	0.368801	-0.005	16.7725	0.003293246
4414	3	0.368806	-0.005	16.7675	0.003292264
4603	3	0.368897	0.01	16.7775	0.003294227
1955	2	0.369061	0.0125	16.79	0.003296682
2555	2	0.369469	0.0125	16.8025	0.003299136
8606	3	0.369708	0.01	16.8125	0.0033011
7715	3	0.370209	0.01	16.8225	0.003303063
1938	2	0.370482	-0.00625	16.81625	0.003301836
904	1	0.370665	0.015	16.83125	0.003304781
243	1	0.370717	0.015	16.84625	0.003307726
8689	3	0.370852	-0.005	16.84125	0.003306745
1265	1	0.370979	0.015	16.85625	0.00330969
5183	3	0.37121	0.01	16.86625	0.003311653
2553	2	0.372208	0.0125	16.87875	0.003314108
7306	3	0.372491	-0.005	16.87375	0.003313126
1281	1	0.37269	0.015	16.88875	0.003316071
6378	3	0.372913	0.01	16.89875	0.003318035
754	1	0.373427	0.015	16.91375	0.00332098
4007	3	0.373585	0.01	16.92375	0.003322943
6040	3	0.373761	0.01	16.93375	0.003324907

7427	3	0.373831	0.01	16.94375	0.00332687
139	1	0.373864	0.015	16.95875	0.003329815
362	1	0.374016	0.015	16.97375	0.003332761
5695	3	0.374223	-0.005	16.96875	0.003331779
2963	3	0.374443	0.01	16.97875	0.003333742
1774	2	0.374503	0.0125	16.99125	0.003336197
2790	2	0.374602	0.0125	17.00375	0.003338651
123	1	0.37466	-0.0075	16.99625	0.003337178
870	1	0.374813	0.015	17.01125	0.003340124
1787	2	0.374835	0.0125	17.02375	0.003342578
1903	2	0.375681	0.0125	17.03625	0.003345032
4714	3	0.375741	0.01	17.04625	0.003346996
8446	3	0.375796	-0.005	17.04125	0.003346014
2375	2	0.375796	0.0125	17.05375	0.003348468
1367	1	0.375863	0.015	17.06875	0.003351414
6517	3	0.375913	0.01	17.07875	0.003353377
2595	2	0.375922	0.0125	17.09125	0.003355832
1586	1	0.375967	0.015	17.10625	0.003358777
1878	2	0.375973	0.0125	17.11875	0.003361231
4128	3	0.376034	-0.005	17.11375	0.003360249
23	1	0.376365	-0.0075	17.10625	0.003358777
7984	3	0.376741	-0.005	17.10125	0.003357795
8404	3	0.376804	0.01	17.11125	0.003359758
606	1	0.376849	0.015	17.12625	0.003362704
7336	3	0.377012	0.01	17.13625	0.003364667
6387	3	0.377021	0.01	17.14625	0.003366631
7395	3	0.377251	-0.005	17.14125	0.003365649
2555	2	0.377373	-0.00625	17.135	0.003364422
7523	3	0.377797	0.01	17.145	0.003366385
4121	3	0.378152	0.01	17.155	0.003368349
3875	3	0.378614	0.01	17.165	0.003370312
7195	3	0.378877	0.01	17.175	0.003372276
2697	2	0.378909	0.0125	17.1875	0.00337473
4570	3	0.378989	0.01	17.1975	0.003376694
4503	3	0.37911	0.01	17.2075	0.003378657
2033	2	0.379203	0.0125	17.22	0.003381111
4277	3	0.379432	-0.005	17.215	0.00338013
650	1	0.37952	0.015	17.23	0.003383075
6096	3	0.379592	-0.005	17.225	0.003382093
4556	3	0.379739	0.01	17.235	0.003384057
82	1	0.379882	0.015	17.25	0.003387002
1755	1	0.379969	0.015	17.265	0.003389947
2002	2	0.379993	0.0125	17.2775	0.003392401
5600	3	0.380883	-0.005	17.2725	0.00339142
7626	3	0.380942	0.01	17.2825	0.003393383
3078	3	0.381112	0.01	17.2925	0.003395347
6314	3	0.381117	-0.005	17.2875	0.003394365
1140	1	0.381238	0.015	17.3025	0.00339731
2184	2	0.382209	0.0125	17.315	0.003399764
6559	3	0.382357	-0.005	17.31	0.003398783
8548	3	0.382381	-0.005	17.305	0.003397801
2336	2	0.382851	0.0125	17.3175	0.003400255

1104	1	0.382927	-0.0075	17.31	0.003398783
6128	3	0.383051	0.01	17.32	0.003400746
8202	3	0.383151	0.01	17.33	0.00340271
2376	2	0.383262	0.0125	17.3425	0.003405164
7537	3	0.383507	0.01	17.3525	0.003407127
3430	3	0.383668	0.01	17.3625	0.003409091
2588	2	0.383709	0.0125	17.375	0.003411545
1290	1	0.384035	0.015	17.39	0.00341449
4974	3	0.384062	-0.005	17.385	0.003413509
592	1	0.384245	0.015	17.4	0.003416454
8407	3	0.384384	0.01	17.41	0.003418417
712	1	0.384547	0.015	17.425	0.003421363
1289	1	0.385062	0.015	17.44	0.003424308
4995	3	0.385549	0.01	17.45	0.003426271
741	1	0.385562	0.015	17.465	0.003429217
5165	3	0.385607	0.01	17.475	0.00343118
1219	1	0.385643	0.015	17.49	0.003434125
400	1	0.385843	0.015	17.505	0.00343707
4888	3	0.386454	0.01	17.515	0.003439034
1156	1	0.386636	-0.0075	17.5075	0.003437561
9482	4	0.386731	0.01	17.5175	0.003439525
1072	1	0.38747	0.015	17.5325	0.00344247
3317	3	0.387739	0.01	17.5425	0.003444434
2202	2	0.387908	-0.00625	17.53625	0.003443206
977	1	0.387967	0.015	17.55125	0.003446152
7609	3	0.388236	0.01	17.56125	0.003448115
1858	2	0.388518	0.0125	17.57375	0.003450569
7529	3	0.38868	-0.005	17.56875	0.003449588
1808	2	0.388772	-0.00625	17.5625	0.00344836
4727	3	0.388942	0.01	17.5725	0.003450324
343	1	0.388993	-0.0075	17.565	0.003448851
3502	3	0.389596	0.01	17.575	0.003450815
2773	2	0.389991	-0.00625	17.56875	0.003449588
9085	4	0.390117	0.01	17.57875	0.003451551
7840	3	0.390298	0.01	17.58875	0.003453515
9095	4	0.390398	-0.005	17.58375	0.003452533
5280	3	0.390475	-0.005	17.57875	0.003451551
2614	2	0.39055	0.0125	17.59125	0.003454005
8280	3	0.390577	0.01	17.60125	0.003455969
2657	2	0.391267	0.0125	17.61375	0.003458423
520	1	0.391324	0.015	17.62875	0.003461369
340	1	0.391437	0.015	17.64375	0.003464314
6838	3	0.391444	0.01	17.65375	0.003466277
9314	4	0.391722	-0.005	17.64875	0.003465296
7573	3	0.3923	0.01	17.65875	0.003467259
796	1	0.392381	0.015	17.67375	0.003470204
406	1	0.392517	-0.0075	17.66625	0.003468732
1716	1	0.392692	-0.0075	17.65875	0.003467259
2444	2	0.392979	0.0125	17.67125	0.003469713
3357	3	0.393387	-0.005	17.66625	0.003468732
6588	3	0.394324	0.01	17.67625	0.003470695
2722	2	0.394342	0.0125	17.68875	0.003473149

9929	4	0.394661	0.01	17.69875	0.003475113
5075	3	0.394998	0.01	17.70875	0.003477076
1984	2	0.395016	-0.00625	17.7025	0.003475849
1422	1	0.395066	0.015	17.7175	0.003478794
1528	1	0.395594	-0.0075	17.71	0.003477322
77	1	0.395614	0.015	17.725	0.003480267
5780	3	0.395872	-0.005	17.72	0.003479285
4713	3	0.396114	0.01	17.73	0.003481249
2558	2	0.396208	-0.00625	17.72375	0.003480022
327	1	0.396299	0.015	17.73875	0.003482967
1068	1	0.396671	-0.0075	17.73125	0.003481494
1280	1	0.396676	0.015	17.74625	0.003484439
6530	3	0.396787	0.01	17.75625	0.003486403
2268	2	0.397611	0.0125	17.76875	0.003488857
5123	3	0.397964	0.01	17.77875	0.003490821
521	1	0.398014	0.015	17.79375	0.003493766
9809	4	0.39812	0.01	17.80375	0.003495729
9929	4	0.398157	-0.005	17.79875	0.003494748
1625	1	0.398335	0.015	17.81375	0.003497693
2045	2	0.398338	0.0125	17.82625	0.003500147
6152	3	0.398535	0.01	17.83625	0.003502111
1877	2	0.398675	-0.00625	17.83	0.003500884
7479	3	0.398903	-0.005	17.825	0.003499902
8285	3	0.39892	0.01	17.835	0.003501865
3006	3	0.398986	0.01	17.845	0.003503829
9599	4	0.39906	0.01	17.855	0.003505792
7681	3	0.399074	0.01	17.865	0.003507756
1258	1	0.399186	0.015	17.88	0.003510701
3995	3	0.399302	-0.005	17.875	0.003509719
553	1	0.399847	-0.0075	17.8675	0.003508247
6412	3	0.400008	0.01	17.8775	0.00351021
5648	3	0.400408	0.01	17.8875	0.003512174
550	1	0.400487	0.015	17.9025	0.003515119
2009	2	0.400581	-0.00625	17.89625	0.003513892
3910	3	0.400851	0.01	17.90625	0.003515855
49	1	0.40101	0.015	17.92125	0.0035188
842	1	0.401056	-0.0075	17.91375	0.003517328
5491	3	0.401085	-0.005	17.90875	0.003516346
7627	3	0.401217	-0.005	17.90375	0.003515364
9551	4	0.401403	0.01	17.91375	0.003517328
7426	3	0.401504	0.01	17.92375	0.003519291
1640	1	0.401867	0.015	17.93875	0.003522236
8752	4	0.402	0.01	17.94875	0.0035242
2200	2	0.402101	0.0125	17.96125	0.003526654
4100	3	0.402182	-0.005	17.95625	0.003525672
7908	3	0.402332	0.01	17.96625	0.003527636
6808	3	0.402745	0.01	17.97625	0.003529599
279	1	0.402826	0.015	17.99125	0.003532545
996	1	0.403515	-0.0075	17.98375	0.003531072
5605	3	0.403543	0.01	17.99375	0.003533036
2934	3	0.404363	-0.005	17.98875	0.003532054
8583	3	0.404555	-0.005	17.98375	0.003531072

5499	3	0.404589	0.01	17.99375	0.003533036
3063	3	0.404669	0.01	18.00375	0.003534999
3809	3	0.404707	0.01	18.01375	0.003536962
3221	3	0.404807	0.01	18.02375	0.003538926
299	1	0.405151	-0.0075	18.01625	0.003537453
2465	2	0.40544	0.0125	18.02875	0.003539908
5056	3	0.405678	0.01	18.03875	0.003541871
845	1	0.405717	-0.0075	18.03125	0.003540399
2423	2	0.405776	0.0125	18.04375	0.003542853
1193	1	0.40617	0.015	18.05875	0.003545798
281	1	0.406195	0.015	18.07375	0.003548743
163	1	0.406236	0.015	18.08875	0.003551689
2005	2	0.406418	0.0125	18.10125	0.003554143
2070	2	0.406997	0.0125	18.11375	0.003556597
8634	3	0.407095	0.01	18.12375	0.003558561
8920	4	0.407193	0.01	18.13375	0.003560524
5316	3	0.40736	0.01	18.14375	0.003562488
2237	2	0.407426	-0.00625	18.1375	0.003561261
8436	3	0.407883	0.01	18.1475	0.003563224
6642	3	0.408094	0.01	18.1575	0.003565188
6018	3	0.408375	0.01	18.1675	0.003567151
2025	2	0.408952	-0.00625	18.16125	0.003565924
2235	2	0.409019	0.0125	18.17375	0.003568378
1292	1	0.409336	0.015	18.18875	0.003571323
3624	3	0.409525	0.01	18.19875	0.003573287
1510	1	0.409928	0.015	18.21375	0.003576232
734	1	0.409996	0.015	18.22875	0.003579177
3920	3	0.410075	0.01	18.23875	0.003581141
7226	3	0.410396	0.01	18.24875	0.003583104
2377	2	0.410496	-0.00625	18.2425	0.003581877
6752	3	0.410902	0.01	18.2525	0.003583841
1771	2	0.411287	0.0125	18.265	0.003586295
767	1	0.411991	-0.0075	18.2575	0.003584822
1945	2	0.412095	0.0125	18.27	0.003587277
369	1	0.412112	0.015	18.285	0.003590222
1414	1	0.412174	0.015	18.3	0.003593167
7843	3	0.413072	-0.005	18.295	0.003592185
4313	3	0.413157	0.01	18.305	0.003594149
2066	2	0.413206	0.0125	18.3175	0.003596603
4090	3	0.413302	0.01	18.3275	0.003598567
3756	3	0.413575	0.01	18.3375	0.00360053
6669	3	0.413867	0.01	18.3475	0.003602494
1303	1	0.413884	-0.0075	18.34	0.003601021
7861	3	0.413953	-0.005	18.335	0.003600039
2753	2	0.414024	0.0125	18.3475	0.003602494
6018	3	0.414117	-0.005	18.3425	0.003601512
1073	1	0.41443	0.015	18.3575	0.003604457
8330	3	0.414547	0.01	18.3675	0.003606421
9218	4	0.414692	0.01	18.3775	0.003608384
3245	3	0.414822	-0.005	18.3725	0.003607402
3568	3	0.414975	0.01	18.3825	0.003609366
5893	3	0.415018	0.01	18.3925	0.003611329

2012	2	0.415084	0.0125	18.405	0.003613784
7451	3	0.415759	-0.005	18.4	0.003612802
2292	2	0.415806	0.0125	18.4125	0.003615256
2779	2	0.415895	0.0125	18.425	0.003617711
2598	2	0.415959	0.0125	18.4375	0.003620165
1278	1	0.415982	0.015	18.4525	0.00362311
7524	3	0.416289	0.01	18.4625	0.003625074
1867	2	0.416542	-0.00625	18.45625	0.003623846
382	1	0.416987	0.015	18.47125	0.003626792
2240	2	0.417042	0.0125	18.48375	0.003629246
28	1	0.417048	0.015	18.49875	0.003632191
7975	3	0.417098	0.01	18.50875	0.003634155
4390	3	0.41718	0.01	18.51875	0.003636118
841	1	0.417229	-0.0075	18.51125	0.003634646
2099	2	0.417232	0.0125	18.52375	0.0036371
1371	1	0.417505	-0.0075	18.51625	0.003635627
6185	3	0.417623	0.01	18.52625	0.003637591
5649	3	0.417648	-0.005	18.52125	0.003636609
1228	1	0.417689	0.015	18.53625	0.003639554
6684	3	0.417816	0.01	18.54625	0.003641518
9571	4	0.417841	0.01	18.55625	0.003643481
1192	1	0.418055	0.015	18.57125	0.003646426
8324	3	0.41807	-0.005	18.56625	0.003645445
1398	1	0.418302	0.015	18.58125	0.00364839
3553	3	0.418385	0.01	18.59125	0.003650353
435	1	0.418908	0.015	18.60625	0.003653299
2481	2	0.418994	0.0125	18.61875	0.003655753
6799	3	0.419011	0.01	18.62875	0.003657716
2327	2	0.419043	-0.00625	18.6225	0.003656489
2855	2	0.419169	0.0125	18.635	0.003658944
3918	3	0.41949	0.01	18.645	0.003660907
6594	3	0.41958	-0.005	18.64	0.003659925
8193	3	0.419855	-0.005	18.635	0.003658944
2087	2	0.420255	0.0125	18.6475	0.003661398
8252	3	0.420431	0.01	18.6575	0.003663361
8551	3	0.420545	0.01	18.6675	0.003665325
7448	3	0.420677	-0.005	18.6625	0.003664343
340	1	0.420687	-0.0075	18.655	0.003662871
139	1	0.420825	-0.0075	18.6475	0.003661398
3768	3	0.421189	-0.005	18.6425	0.003660416
4453	3	0.421327	-0.005	18.6375	0.003659435
6503	3	0.421606	0.01	18.6475	0.003661398
5713	3	0.421628	0.01	18.6575	0.003663361
1738	1	0.421631	-0.0075	18.65	0.003661889
4694	3	0.421795	-0.005	18.645	0.003660907
411	1	0.422261	-0.0075	18.6375	0.003659435
135	1	0.422408	0.015	18.6525	0.00366238
6029	3	0.422786	0.01	18.6625	0.003664343
8191	3	0.422811	0.01	18.6725	0.003666307
9082	4	0.422953	0.01	18.6825	0.00366827
2011	2	0.423098	0.0125	18.695	0.003670725
8057	3	0.42385	0.01	18.705	0.003672688

8690	3	0.423904	-0.005	18.7	0.003671706
4786	3	0.424288	0.01	18.71	0.00367367
1526	1	0.424332	-0.0075	18.7025	0.003672197
2053	2	0.42439	-0.00625	18.69625	0.00367097
9075	4	0.424905	-0.005	18.69125	0.003669988
6299	3	0.425049	0.01	18.70125	0.003671952
3551	3	0.425117	0.01	18.71125	0.003673915
1159	1	0.425316	-0.0075	18.70375	0.003672443
7784	3	0.425457	0.01	18.71375	0.003674406
6075	3	0.425474	-0.005	18.70875	0.003673424
4240	3	0.425483	0.01	18.71875	0.003675388
709	1	0.425488	-0.0075	18.71125	0.003673915
1018	1	0.42556	0.015	18.72625	0.00367686
646	1	0.426382	0.015	18.74125	0.003679806
469	1	0.426392	-0.0075	18.73375	0.003678333
5053	3	0.426776	0.01	18.74375	0.003680296
5809	3	0.42682	0.01	18.75375	0.00368226
1308	1	0.426823	-0.0075	18.74625	0.003680787
1052	1	0.427246	0.015	18.76125	0.003683733
7021	3	0.427284	0.01	18.77125	0.003685696
1366	1	0.427469	0.015	18.78625	0.003688641
1724	1	0.427623	0.015	18.80125	0.003691586
8621	3	0.427711	-0.005	18.79625	0.003690605
599	1	0.427868	-0.0075	18.78875	0.003689132
7584	3	0.427998	-0.005	18.78375	0.00368815
7774	3	0.42828	0.01	18.79375	0.003690114
6562	3	0.428822	0.01	18.80375	0.003692077
9356	4	0.428975	0.01	18.81375	0.003694041
487	1	0.429174	0.015	18.82875	0.003696986
6048	3	0.430113	0.01	18.83875	0.00369895
7573	3	0.431342	-0.005	18.83375	0.003697968
2637	2	0.431451	0.0125	18.84625	0.003700422
7944	3	0.431601	-0.005	18.84125	0.00369944
8190	3	0.431861	0.01	18.85125	0.003701404
3047	3	0.431977	-0.005	18.84625	0.003700422
153	1	0.432165	0.015	18.86125	0.003703367
724	1	0.432205	0.015	18.87625	0.003706313
6055	3	0.432521	0.01	18.88625	0.003708276
3980	3	0.43261	0.01	18.89625	0.00371024
8631	3	0.432882	0.01	18.90625	0.003712203
8449	3	0.433007	0.01	18.91625	0.003714167
572	1	0.433415	0.015	18.93125	0.003717112
1460	1	0.433493	0.015	18.94625	0.003720057
7506	3	0.433601	-0.005	18.94125	0.003719075
5171	3	0.433763	0.01	18.95125	0.003721039
3427	3	0.433801	0.01	18.96125	0.003723002
2294	2	0.434002	0.0125	18.97375	0.003725457
409	1	0.434236	0.015	18.98875	0.003728402
324	1	0.4343	0.015	19.00375	0.003731347
8160	3	0.434778	-0.005	18.99875	0.003730365
7564	3	0.434938	0.01	19.00875	0.003732329
2602	2	0.434978	0.0125	19.02125	0.003734783

4094	3	0.43504	-0.005	19.01625	0.003733801
3474	3	0.435319	0.01	19.02625	0.003735765
7555	3	0.435637	-0.005	19.02125	0.003734783
104	1	0.43623	0.015	19.03625	0.003737728
786	1	0.436415	0.015	19.05125	0.003740673
7296	3	0.43644	0.01	19.06125	0.003742637
1467	1	0.436465	0.015	19.07625	0.003745582
1548	1	0.436684	0.015	19.09125	0.003748527
8526	3	0.437041	0.01	19.10125	0.003750491
1768	1	0.437129	-0.0075	19.09375	0.003749018
4870	3	0.437171	0.01	19.10375	0.003750982
734	1	0.437185	-0.0075	19.09625	0.003749509
1308	1	0.437513	-0.0075	19.08875	0.003748037
247	1	0.43756	-0.0075	19.08125	0.003746564
3099	3	0.437695	-0.005	19.07625	0.003745582
5385	3	0.437874	0.01	19.08625	0.003747546
8989	4	0.437875	0.01	19.09625	0.003749509
5584	3	0.437944	-0.005	19.09125	0.003748527
7892	3	0.437963	-0.005	19.08625	0.003747546
25	1	0.438048	0.015	19.10125	0.003750491
2561	2	0.438178	0.0125	19.11375	0.003752945
1884	2	0.43818	0.0125	19.12625	0.0037554
8269	3	0.438276	-0.005	19.12125	0.003754418
2586	2	0.438304	0.0125	19.13375	0.003756872
5759	3	0.438497	0.01	19.14375	0.003758836
5147	3	0.438503	0.01	19.15375	0.003760799
3479	3	0.438538	0.01	19.16375	0.003762763
2295	2	0.438603	0.0125	19.17625	0.003765217
1420	1	0.439387	-0.0075	19.16875	0.003763744
77	1	0.439498	-0.0075	19.16125	0.003762272
2542	2	0.439621	-0.00625	19.155	0.003761045
7191	3	0.440337	0.01	19.165	0.003763008
7075	3	0.440416	-0.005	19.16	0.003762026
1510	1	0.440645	-0.0075	19.1525	0.003760554
6934	3	0.440961	0.01	19.1625	0.003762517
65	1	0.441151	-0.0075	19.155	0.003761045
1566	1	0.441317	0.015	19.17	0.00376399
7399	3	0.44139	0.01	19.18	0.003765953
1161	1	0.441425	0.015	19.195	0.003768898
1101	1	0.441539	0.015	19.21	0.003771844
482	1	0.441641	0.015	19.225	0.003774789
223	1	0.442132	0.015	19.24	0.003777734
6218	3	0.442146	0.01	19.25	0.003779698
2137	2	0.442207	0.0125	19.2625	0.003782152
5410	3	0.442446	-0.005	19.2575	0.00378117
8625	3	0.44271	0.01	19.2675	0.003783134
8180	3	0.442815	0.01	19.2775	0.003785097
4821	3	0.442937	0.01	19.2875	0.003787061
6620	3	0.443047	-0.005	19.2825	0.003786079
1533	1	0.443176	-0.0075	19.275	0.003784606
1905	2	0.443745	0.0125	19.2875	0.003787061
4061	3	0.443833	-0.005	19.2825	0.003786079

6567	3	0.444053	-0.005	19.2775	0.003785097
2315	2	0.444139	-0.00625	19.27125	0.00378387
4320	3	0.444146	0.01	19.28125	0.003785833
771	1	0.44447	0.015	19.29625	0.003788779
1281	1	0.444542	-0.0075	19.28875	0.003787306
7589	3	0.44468	0.01	19.29875	0.00378927
752	1	0.444739	0.015	19.31375	0.003792215
8473	3	0.444755	0.01	19.32375	0.003794178
1697	1	0.445137	0.015	19.33875	0.003797124
2546	2	0.445364	0.0125	19.35125	0.003799578
5648	3	0.445399	-0.005	19.34625	0.003798596
511	1	0.445687	0.015	19.36125	0.003801541
970	1	0.445818	-0.0075	19.35375	0.003800069
2588	2	0.446115	-0.00625	19.3475	0.003798842
2246	2	0.446121	0.0125	19.36	0.003801296
4242	3	0.446206	-0.005	19.355	0.003800314
4081	3	0.446278	-0.005	19.35	0.003799332
4279	3	0.446568	-0.005	19.345	0.003798351
2815	2	0.446658	0.0125	19.3575	0.003800805
721	1	0.447233	0.015	19.3725	0.00380375
8317	3	0.447394	0.01	19.3825	0.003805714
8461	3	0.447459	-0.005	19.3775	0.003804732
7673	3	0.447503	0.01	19.3875	0.003806695
582	1	0.447569	-0.0075	19.38	0.003805223
6167	3	0.44775	0.01	19.39	0.003807186
3295	3	0.447924	0.01	19.4	0.00380915
8221	3	0.447986	0.01	19.41	0.003811113
520	1	0.447991	-0.0075	19.4025	0.003809641
1569	1	0.448094	0.015	19.4175	0.003812586
262	1	0.448196	-0.0075	19.41	0.003811113
7799	3	0.448232	-0.005	19.405	0.003810132
6287	3	0.448971	0.01	19.415	0.003812095
4927	3	0.449127	0.01	19.425	0.003814059
1134	1	0.449269	0.015	19.44	0.003817004
8332	3	0.44984	0.01	19.45	0.003818967
7604	3	0.449896	0.01	19.46	0.003820931
8191	3	0.449995	-0.005	19.455	0.003819949
7549	3	0.450374	0.01	19.465	0.003821912
7094	3	0.450607	0.01	19.475	0.003823876
8883	4	0.450631	0.01	19.485	0.003825839
6593	3	0.451507	-0.005	19.48	0.003824858
612	1	0.451618	0.015	19.495	0.003827803
2299	2	0.451639	0.0125	19.5075	0.003830257
1157	1	0.451874	-0.0075	19.5	0.003828785
494	1	0.452387	0.015	19.515	0.00383173
324	1	0.452826	-0.0075	19.5075	0.003830257
1161	1	0.453376	-0.0075	19.5	0.003828785
948	1	0.453648	-0.0075	19.4925	0.003827312
1287	1	0.453717	0.015	19.5075	0.003830257
425	1	0.453731	-0.0075	19.5	0.003828785
1581	1	0.453954	0.015	19.515	0.00383173
795	1	0.453978	-0.0075	19.5075	0.003830257

2118	2	0.454279	0.0125	19.52	0.003832712
716	1	0.454633	0.015	19.535	0.003835657
6612	3	0.455203	0.01	19.545	0.00383762
4322	3	0.45596	0.01	19.555	0.003839584
1584	1	0.455991	0.015	19.57	0.003842529
2898	2	0.456104	0.0125	19.5825	0.003844983
3756	3	0.456207	-0.005	19.5775	0.003844002
4802	3	0.456585	-0.005	19.5725	0.00384302
3571	3	0.456681	-0.005	19.5675	0.003842038
3999	3	0.456892	0.01	19.5775	0.003844002
7742	3	0.457083	0.01	19.5875	0.003845965
3242	3	0.457507	-0.005	19.5825	0.003844983
7328	3	0.457926	-0.005	19.5775	0.003844002
4980	3	0.457943	0.01	19.5875	0.003845965
3640	3	0.458043	0.01	19.5975	0.003847929
1614	1	0.458381	0.015	19.6125	0.003850874
4874	3	0.458716	0.01	19.6225	0.003852837
4659	3	0.458793	0.01	19.6325	0.003854801
5684	3	0.458916	0.01	19.6425	0.003856764
1626	1	0.459167	0.015	19.6575	0.003859709
6705	3	0.459366	-0.005	19.6525	0.003858728
4488	3	0.459454	0.01	19.6625	0.003860691
8741	3	0.45999	-0.005	19.6575	0.003859709
1728	1	0.460066	-0.0075	19.65	0.003858237
8920	4	0.460167	-0.005	19.645	0.003857255
9081	4	0.460396	0.01	19.655	0.003859219
4249	3	0.460497	-0.005	19.65	0.003858237
2506	2	0.460578	-0.00625	19.64375	0.00385701
2406	2	0.460757	-0.00625	19.6375	0.003855782
5371	3	0.461163	0.01	19.6475	0.003857746
4503	3	0.461362	-0.005	19.6425	0.003856764
1904	2	0.462015	0.0125	19.655	0.003859219
4675	3	0.462053	0.01	19.665	0.003861182
1620	1	0.462117	0.015	19.68	0.003864127
606	1	0.462128	-0.0075	19.6725	0.003862655
30	1	0.462223	0.015	19.6875	0.0038656
877	1	0.462718	0.015	19.7025	0.003868545
5852	3	0.462746	0.01	19.7125	0.003870509
8320	3	0.462849	0.01	19.7225	0.003872472
7030	3	0.463026	0.01	19.7325	0.003874435
2115	2	0.463171	-0.00625	19.72625	0.003873208
9534	4	0.463466	-0.005	19.72125	0.003872227
426	1	0.463695	0.015	19.73625	0.003875172
2328	2	0.463935	0.0125	19.74875	0.003877626
1735	1	0.463993	-0.0075	19.74125	0.003876154
6012	3	0.464066	-0.005	19.73625	0.003875172
2737	2	0.464391	-0.00625	19.73	0.003873945
6536	3	0.464438	-0.005	19.725	0.003872963
9012	4	0.464522	-0.005	19.72	0.003871981
7985	3	0.46466	0.01	19.73	0.003873945
6151	3	0.464781	-0.005	19.725	0.003872963
5134	3	0.464785	-0.005	19.72	0.003871981

1851	2	0.464963	0.0125	19.7325	0.003874435
5795	3	0.464989	0.01	19.7425	0.003876399
5443	3	0.465013	-0.005	19.7375	0.003875417
6880	3	0.465263	-0.005	19.7325	0.003874435
2891	2	0.465269	0.0125	19.745	0.00387689
5610	3	0.465639	0.01	19.755	0.003878853
1217	1	0.465691	0.015	19.77	0.003881799
694	1	0.465821	0.015	19.785	0.003884744
8119	3	0.465891	0.01	19.795	0.003886707
7971	3	0.466061	0.01	19.805	0.003888671
3309	3	0.466257	0.01	19.815	0.003890634
4370	3	0.46675	0.01	19.825	0.003892598
4714	3	0.466752	-0.005	19.82	0.003891616
1851	2	0.466875	-0.00625	19.81375	0.003890389
4189	3	0.466921	0.01	19.82375	0.003892352
2628	2	0.466987	-0.00625	19.8175	0.003891125
1564	1	0.467039	0.015	19.8325	0.00389407
772	1	0.467105	0.015	19.8475	0.003897016
6751	3	0.467187	-0.005	19.8425	0.003896034
4066	3	0.467338	-0.005	19.8375	0.003895052
4570	3	0.467803	-0.005	19.8325	0.00389407
213	1	0.468174	0.015	19.8475	0.003897016
5097	3	0.468399	0.01	19.8575	0.003898979
5477	3	0.468754	0.01	19.8675	0.003900942
949	1	0.468786	0.015	19.8825	0.003903888
3776	3	0.468883	0.01	19.8925	0.003905851
2470	2	0.468916	0.0125	19.905	0.003908306
2617	2	0.469236	-0.00625	19.89875	0.003907078
4424	3	0.469276	0.01	19.90875	0.003909042
222	1	0.469452	0.015	19.92375	0.003911987
147	1	0.469673	0.015	19.93875	0.003914932
3530	3	0.469795	0.01	19.94875	0.003916896
1227	1	0.469914	0.015	19.96375	0.003919841
2617	2	0.470807	-0.00625	19.9575	0.003918614
1971	2	0.470969	0.0125	19.97	0.003921068
2043	2	0.471088	-0.00625	19.96375	0.003919841
2436	2	0.471302	-0.00625	19.9575	0.003918614
7569	3	0.471318	0.01	19.9675	0.003920577
1573	1	0.471442	0.015	19.9825	0.003923522
2099	2	0.471512	-0.00625	19.97625	0.003922295
3943	3	0.471576	0.01	19.98625	0.003924259
5488	3	0.471643	-0.005	19.98125	0.003923277
185	1	0.471753	0.015	19.99625	0.003926222
5997	3	0.472364	0.01	20.00625	0.003928186
5127	3	0.472481	0.01	20.01625	0.003930149
2213	2	0.472492	0.0125	20.02875	0.003932604
2477	2	0.472612	-0.00625	20.0225	0.003931376
3708	3	0.472978	0.01	20.0325	0.00393334
8427	3	0.473341	0.01	20.0425	0.003935303
9269	4	0.473397	0.01	20.0525	0.003937267
6207	3	0.473592	0.01	20.0625	0.00393923
1924	2	0.473828	-0.00625	20.05625	0.003938003

6711	3	0.473922	0.01	20.06625	0.003939967
2162	2	0.474099	0.0125	20.07875	0.003942421
192	1	0.47428	-0.0075	20.07125	0.003940948
5795	3	0.474592	-0.005	20.06625	0.003939967
6761	3	0.474747	0.01	20.07625	0.00394193
8063	3	0.474769	0.01	20.08625	0.003943894
560	1	0.475163	0.015	20.10125	0.003946839
5884	3	0.475291	0.01	20.11125	0.003948802
7906	3	0.476017	-0.005	20.10625	0.003947821
1439	1	0.476419	0.015	20.12125	0.003950766
7612	3	0.476874	0.01	20.13125	0.003952729
1373	1	0.476882	0.015	20.14625	0.003955674
967	1	0.477104	0.015	20.16125	0.00395862
279	1	0.477218	-0.0075	20.15375	0.003957147
5971	3	0.477586	0.01	20.16375	0.003959111
1548	1	0.47912	-0.0075	20.15625	0.003957638
1490	1	0.479278	0.015	20.17125	0.003960583
1902	2	0.479474	-0.00625	20.165	0.003959356
9834	4	0.479614	0.01	20.175	0.003961319
1883	2	0.479721	0.0125	20.1875	0.003963774
244	1	0.479884	0.015	20.2025	0.003966719
201	1	0.479909	0.015	20.2175	0.003969664
4648	3	0.480138	0.01	20.2275	0.003971628
1533	1	0.480185	-0.0075	20.22	0.003970155
1646	1	0.480196	0.015	20.235	0.0039731
8549	3	0.480252	0.01	20.245	0.003975064
392	1	0.480416	0.015	20.26	0.003978009
6534	3	0.480732	0.01	20.27	0.003979973
4308	3	0.4808	0.01	20.28	0.003981936
2399	2	0.481051	0.0125	20.2925	0.00398439
1436	1	0.481082	0.015	20.3075	0.003987336
8039	3	0.481124	-0.005	20.3025	0.003986354
4540	3	0.481346	0.01	20.3125	0.003988317
5607	3	0.481481	0.01	20.3225	0.003990281
6798	3	0.481549	-0.005	20.3175	0.003989299
339	1	0.481603	-0.0075	20.31	0.003987826
730	1	0.481761	0.015	20.325	0.003990772
2479	2	0.482072	0.0125	20.3375	0.003993226
4161	3	0.482149	0.01	20.3475	0.003995189
2190	2	0.482446	0.0125	20.36	0.003997644
7512	3	0.4825	0.01	20.37	0.003999607
8387	3	0.482592	-0.005	20.365	0.003998626
1915	2	0.48293	0.0125	20.3775	0.00400108
413	1	0.483767	-0.0075	20.37	0.003999607
7975	3	0.484077	-0.005	20.365	0.003998626
6213	3	0.484429	0.01	20.375	0.004000589
2331	2	0.484499	0.0125	20.3875	0.004003043
703	1	0.484543	0.015	20.4025	0.004005989
5161	3	0.484576	0.01	20.4125	0.004007952
859	1	0.48461	0.015	20.4275	0.004010897
1171	1	0.484866	0.015	20.4425	0.004013843
5346	3	0.48488	0.01	20.4525	0.004015806

7594	3	0.485066	0.01	20.4625	0.004017769
7668	3	0.485194	-0.005	20.4575	0.004016788
6090	3	0.485472	-0.005	20.4525	0.004015806
858	1	0.485692	0.015	20.4675	0.004018751
1621	1	0.486168	0.015	20.4825	0.004021696
5516	3	0.486385	0.01	20.4925	0.00402366
2586	2	0.486415	-0.00625	20.48625	0.004022433
4836	3	0.486456	-0.005	20.48125	0.004021451
1549	1	0.486589	-0.0075	20.47375	0.004019978
2264	2	0.486824	0.0125	20.48625	0.004022433
3933	3	0.48706	0.01	20.49625	0.004024396
83	1	0.487235	-0.0075	20.48875	0.004022924
1098	1	0.48759	0.015	20.50375	0.004025869
752	1	0.487876	-0.0075	20.49625	0.004024396
6685	3	0.487969	0.01	20.50625	0.00402636
5830	3	0.488161	0.01	20.51625	0.004028323
1529	1	0.488497	0.015	20.53125	0.004031268
2175	2	0.488535	-0.00625	20.525	0.004030041
3156	3	0.488848	0.01	20.535	0.004032005
8276	3	0.489304	0.01	20.545	0.004033968
8558	3	0.489513	0.01	20.555	0.004035932
1314	1	0.489912	0.015	20.57	0.004038877
1037	1	0.49002	0.015	20.585	0.004041822
7296	3	0.49017	-0.005	20.58	0.00404084
2840	2	0.490205	0.0125	20.5925	0.004043295
973	1	0.490222	-0.0075	20.585	0.004041822
6302	3	0.490259	0.01	20.595	0.004043786
240	1	0.490505	-0.0075	20.5875	0.004042313
4424	3	0.490617	-0.005	20.5825	0.004041331
185	1	0.490683	-0.0075	20.575	0.004039859
2458	2	0.490815	-0.00625	20.56875	0.004038631
1393	1	0.490816	0.015	20.58375	0.004041577
925	1	0.490903	0.015	20.59875	0.004044522
2064	2	0.490967	0.0125	20.61125	0.004046976
3902	3	0.491105	0.01	20.62125	0.00404894
8864	4	0.491166	0.01	20.63125	0.004050903
6318	3	0.491352	-0.005	20.62625	0.004049921
4486	3	0.491982	-0.005	20.62125	0.00404894
8415	3	0.491997	-0.005	20.61625	0.004047958
6448	3	0.49208	0.01	20.62625	0.004049921
4718	3	0.492131	-0.005	20.62125	0.00404894
5156	3	0.492156	0.01	20.63125	0.004050903
7424	3	0.492161	0.01	20.64125	0.004052867
2478	2	0.492316	-0.00625	20.635	0.00405164
2264	2	0.492404	-0.00625	20.62875	0.004050412
2279	2	0.492453	0.0125	20.64125	0.004052867
3667	3	0.493184	-0.005	20.63625	0.004051885
7985	3	0.493426	-0.005	20.63125	0.004050903
9669	4	0.493426	-0.005	20.62625	0.004049921
6802	3	0.493449	-0.005	20.62125	0.00404894
5048	3	0.493654	0.01	20.63125	0.004050903
1193	1	0.493752	-0.0075	20.62375	0.004049431

459	1	0.494274	0.015	20.63875	0.004052376
1021	1	0.494353	0.015	20.65375	0.004055321
4059	3	0.494445	0.01	20.66375	0.004057285
5381	3	0.494455	0.01	20.67375	0.004059248
5991	3	0.495346	0.01	20.68375	0.004061211
632	1	0.495358	0.015	20.69875	0.004064157
3367	3	0.495483	0.01	20.70875	0.00406612
5478	3	0.495485	-0.005	20.70375	0.004065138
4431	3	0.495673	0.01	20.71375	0.004067102
2076	2	0.495908	0.0125	20.72625	0.004069556
3144	3	0.496092	0.01	20.73625	0.00407152
1402	1	0.497045	0.015	20.75125	0.004074465
8465	3	0.497274	0.01	20.76125	0.004076428
910	1	0.49729	0.015	20.77625	0.004079374
6381	3	0.497426	0.01	20.78625	0.004081337
2435	2	0.497533	-0.00625	20.78	0.00408011
7165	3	0.497838	0.01	20.79	0.004082073
1111	1	0.498233	0.015	20.805	0.004085019
6025	3	0.498323	0.01	20.815	0.004086982
1789	2	0.498809	0.0125	20.8275	0.004089436
7205	3	0.499021	0.01	20.8375	0.0040914
8625	3	0.499324	-0.005	20.8325	0.004090418
183	1	0.499757	-0.0075	20.825	0.004088946
5318	3	0.499778	0.01	20.835	0.004090909
5438	3	0.499956	-0.005	20.83	0.004089927
5200	3	0.500097	0.01	20.84	0.004091891
2768	2	0.500133	0.0125	20.8525	0.004094345
1070	1	0.500244	-0.0075	20.845	0.004092873
3561	3	0.500354	0.01	20.855	0.004094836
1702	1	0.500882	0.015	20.87	0.004097781
79	1	0.500911	0.015	20.885	0.004100726
2188	2	0.500952	0.0125	20.8975	0.004103181
8681	3	0.501008	-0.005	20.8925	0.004102199
1587	1	0.501083	0.015	20.9075	0.004105144
122	1	0.501416	0.015	20.9225	0.00410809
5384	3	0.50153	0.01	20.9325	0.004110053
457	1	0.501587	0.015	20.9475	0.004112998
7694	3	0.502161	0.01	20.9575	0.004114962
2805	2	0.502342	-0.00625	20.95125	0.004113735
6376	3	0.502352	-0.005	20.94625	0.004112753
2437	2	0.502661	-0.00625	20.94	0.004111526
49	1	0.502681	-0.0075	20.9325	0.004110053
5717	3	0.502832	-0.005	20.9275	0.004109071
241	1	0.503434	0.015	20.9425	0.004112016
7281	3	0.503624	0.01	20.9525	0.00411398
117	1	0.503712	0.015	20.9675	0.004116925
9580	4	0.503964	0.01	20.9775	0.004118889
1819	2	0.504127	-0.00625	20.97125	0.004117661
520	1	0.504384	-0.0075	20.96375	0.004116189
885	1	0.504552	-0.0075	20.95625	0.004114716
8918	4	0.505032	0.01	20.96625	0.00411668
3474	3	0.505045	-0.005	20.96125	0.004115698

4527	3	0.505137	0.01	20.97125	0.004117661
7655	3	0.505439	0.01	20.98125	0.004119625
4646	3	0.505622	0.01	20.99125	0.004121588
5425	3	0.50603	0.01	21.00125	0.004123552
7399	3	0.506227	-0.005	20.99625	0.00412257
1176	1	0.506242	0.015	21.01125	0.004125515
2815	2	0.506411	-0.00625	21.005	0.004124288
7972	3	0.506564	-0.005	21	0.004123306
1140	1	0.50663	-0.0075	20.9925	0.004121834
6861	3	0.506832	-0.005	20.9875	0.004120852
2033	2	0.506839	-0.00625	20.98125	0.004119625
7606	3	0.507377	0.01	20.99125	0.004121588
541	1	0.507476	0.015	21.00625	0.004124534
7553	3	0.507727	0.01	21.01625	0.004126497
5593	3	0.507936	0.01	21.02625	0.004128461
2289	2	0.507956	-0.00625	21.02	0.004127233
6300	3	0.50812	0.01	21.03	0.004129197
9228	4	0.508289	0.01	21.04	0.00413116
906	1	0.508342	0.015	21.055	0.004134106
9470	4	0.508577	0.01	21.065	0.004136069
8684	3	0.5086	-0.005	21.06	0.004135087
5355	3	0.509087	-0.005	21.055	0.004134106
1963	2	0.509314	-0.00625	21.04875	0.004132878
8686	3	0.509542	-0.005	21.04375	0.004131897
7903	3	0.509752	0.01	21.05375	0.00413386
4639	3	0.509808	0.01	21.06375	0.004135824
5742	3	0.509936	0.01	21.07375	0.004137787
8721	3	0.510118	0.01	21.08375	0.004139751
3341	3	0.51046	0.01	21.09375	0.004141714
210	1	0.510501	-0.0075	21.08625	0.004140242
433	1	0.510603	0.015	21.10125	0.004143187
5963	3	0.51071	-0.005	21.09625	0.004142205
6125	3	0.511019	0.01	21.10625	0.004144168
1240	1	0.511229	0.015	21.12125	0.004147114
2658	2	0.511878	-0.00625	21.115	0.004145887
280	1	0.512083	0.015	21.13	0.004148832
2789	2	0.512308	0.0125	21.1425	0.004151286
1424	1	0.512739	0.015	21.1575	0.004154231
2353	2	0.51279	-0.00625	21.15125	0.004153004
1723	1	0.512828	0.015	21.16625	0.004155949
1410	1	0.512843	0.015	21.18125	0.004158895
5847	3	0.513113	0.01	21.19125	0.004160858
2299	2	0.514206	-0.00625	21.185	0.004159631
1675	1	0.514347	0.015	21.2	0.004162576
1892	2	0.514542	0.0125	21.2125	0.00416503
2030	2	0.515196	0.0125	21.225	0.004167485
5697	3	0.515893	0.01	21.235	0.004169448
1763	1	0.516799	-0.0075	21.2275	0.004167976
4970	3	0.516853	0.01	21.2375	0.004169939
2796	2	0.516975	0.0125	21.25	0.004172393
8587	3	0.517165	0.01	21.26	0.004174357
7564	3	0.517187	-0.005	21.255	0.004173375

6622	3	0.51723	0.01	21.265	0.004175339
3169	3	0.517239	0.01	21.275	0.004177302
1060	1	0.517242	-0.0075	21.2675	0.00417583
4251	3	0.517481	0.01	21.2775	0.004177793
8413	3	0.517807	0.01	21.2875	0.004179757
7556	3	0.518335	0.01	21.2975	0.00418172
7847	3	0.519154	0.01	21.3075	0.004183683
6059	3	0.519266	-0.005	21.3025	0.004182702
626	1	0.519292	0.015	21.3175	0.004185647
2322	2	0.519433	-0.00625	21.31125	0.00418442
3428	3	0.519756	0.01	21.32125	0.004186383
9263	4	0.519836	0.01	21.33125	0.004188347
3787	3	0.519886	-0.005	21.32625	0.004187365
190	1	0.519989	0.015	21.34125	0.00419031
3	1	0.519993	0.015	21.35625	0.004193255
7147	3	0.5201	0.01	21.36625	0.004195219
1385	1	0.520103	-0.0075	21.35875	0.004193746
8180	3	0.520568	-0.005	21.35375	0.004192765
2338	2	0.521407	0.0125	21.36625	0.004195219
5084	3	0.521492	0.01	21.37625	0.004197182
6491	3	0.521495	-0.005	21.37125	0.004196201
3917	3	0.521666	0.01	21.38125	0.004198164
7316	3	0.52215	0.01	21.39125	0.004200128
7427	3	0.522181	-0.005	21.38625	0.004199146
2732	2	0.522751	0.0125	21.39875	0.0042016
78	1	0.522911	-0.0075	21.39125	0.004200128
300	1	0.523234	0.015	21.40625	0.004203073
7653	3	0.523418	0.01	21.41625	0.004205036
6656	3	0.524026	0.01	21.42625	0.004207
9528	4	0.524071	0.01	21.43625	0.004208963
4521	3	0.524323	0.01	21.44625	0.004210927
5346	3	0.524343	-0.005	21.44125	0.004209945
7657	3	0.52491	0.01	21.45125	0.004211909
6170	3	0.524998	0.01	21.46125	0.004213872
7244	3	0.525009	0.01	21.47125	0.004215835
6422	3	0.525125	0.01	21.48125	0.004217799
1000	1	0.525325	0.015	21.49625	0.004220744
7479	3	0.525462	-0.005	21.49125	0.004219762
1920	2	0.525581	-0.00625	21.485	0.004218535
8894	4	0.525657	0.01	21.495	0.004220499
578	1	0.526118	0.015	21.51	0.004223444
1563	1	0.526471	0.015	21.525	0.004226389
5606	3	0.526842	0.01	21.535	0.004228353
4507	3	0.52692	0.01	21.545	0.004230316
1882	2	0.527032	-0.00625	21.53875	0.004229089
350	1	0.527878	-0.0075	21.53125	0.004227616
4860	3	0.528038	0.01	21.54125	0.00422958
5842	3	0.528109	-0.005	21.53625	0.004228598
6985	3	0.528206	0.01	21.54625	0.004230562
5880	3	0.528232	-0.005	21.54125	0.00422958
2391	2	0.528378	0.0125	21.55375	0.004232034
171	1	0.528996	-0.0075	21.54625	0.004230562

4692	3	0.529219	0.01	21.55625	0.004232525
491	1	0.529672	-0.0075	21.54875	0.004231052
984	1	0.530013	-0.0075	21.54125	0.00422958
3902	3	0.53007	-0.005	21.53625	0.004228598
2234	2	0.530147	-0.00625	21.53	0.004227371
2435	2	0.530198	-0.00625	21.52375	0.004226144
7857	3	0.530297	0.01	21.53375	0.004228107
3481	3	0.530353	0.01	21.54375	0.004230071
1691	1	0.53067	0.015	21.55875	0.004233016
820	1	0.531117	-0.0075	21.55125	0.004231543
3514	3	0.531203	0.01	21.56125	0.004233507
2712	2	0.531254	0.0125	21.57375	0.004235961
3726	3	0.531579	0.01	21.58375	0.004237925
2759	2	0.53177	0.0125	21.59625	0.004240379
5275	3	0.53177	0.01	21.60625	0.004242342
2621	2	0.531894	0.0125	21.61875	0.004244797
2519	2	0.532101	0.0125	21.63125	0.004247251
749	1	0.532616	-0.0075	21.62375	0.004245779
8465	3	0.532665	-0.005	21.61875	0.004244797
3457	3	0.532679	0.01	21.62875	0.00424676
2192	2	0.532939	0.0125	21.64125	0.004249215
3738	3	0.533617	0.01	21.65125	0.004251178
7861	3	0.534023	-0.005	21.64625	0.004250196
1637	1	0.534443	0.015	21.66125	0.004253142
6856	3	0.53449	-0.005	21.65625	0.00425216
2496	2	0.534513	0.0125	21.66875	0.004254614
714	1	0.534636	0.015	21.68375	0.004257559
1244	1	0.534793	0.015	21.69875	0.004260505
6960	3	0.535146	0.01	21.70875	0.004262468
6616	3	0.535304	0.01	21.71875	0.004264432
8423	3	0.53583	-0.005	21.71375	0.00426345
1293	1	0.535863	-0.0075	21.70625	0.004261977
2847	2	0.536388	0.0125	21.71875	0.004264432
7840	3	0.536973	-0.005	21.71375	0.00426345
6725	3	0.537055	0.01	21.72375	0.004265413
5531	3	0.537056	0.01	21.73375	0.004267377
9192	4	0.537062	0.01	21.74375	0.00426934
4350	3	0.537136	0.01	21.75375	0.004271304
778	1	0.537185	-0.0075	21.74625	0.004269831
3508	3	0.53725	-0.005	21.74125	0.004268849
2133	2	0.537548	0.0125	21.75375	0.004271304
1508	1	0.537959	0.015	21.76875	0.004274249
5967	3	0.538123	-0.005	21.76375	0.004273267
2375	2	0.538807	-0.00625	21.7575	0.00427204
159	1	0.538849	0.015	21.7725	0.004274985
8007	3	0.539474	0.01	21.7825	0.004276949
3880	3	0.539528	0.01	21.7925	0.004278912
6451	3	0.540268	-0.005	21.7875	0.00427793
828	1	0.540434	0.015	21.8025	0.004280876
1438	1	0.540469	0.015	21.8175	0.004283821
2078	2	0.540987	0.0125	21.83	0.004286275
3044	3	0.541183	0.01	21.84	0.004288239

1846	2	0.541238	-0.00625	21.83375	0.004287012
4753	3	0.541573	0.01	21.84375	0.004288975
7238	3	0.541612	0.01	21.85375	0.004290939
4407	3	0.541705	-0.005	21.84875	0.004289957
1805	2	0.541847	0.0125	21.86125	0.004292411
7460	3	0.541869	0.01	21.87125	0.004294375
425	1	0.541932	-0.0075	21.86375	0.004292902
1243	1	0.542336	0.015	21.87875	0.004295847
8651	3	0.542399	-0.005	21.87375	0.004294866
371	1	0.542624	0.015	21.88875	0.004297811
563	1	0.543022	0.015	21.90375	0.004300756
9667	4	0.543503	0.01	21.91375	0.004302719
4130	3	0.543548	0.01	21.92375	0.004304683
759	1	0.544085	0.015	21.93875	0.004307628
2351	2	0.544449	0.0125	21.95125	0.004310082
5234	3	0.545227	0.01	21.96125	0.004312046
2126	2	0.545908	0.0125	21.97375	0.0043145
9487	4	0.546186	0.01	21.98375	0.004316464
1064	1	0.546441	0.015	21.99875	0.004319409
1217	1	0.54649	-0.0075	21.99125	0.004317936
1383	1	0.547006	0.015	22.00625	0.004320882
4819	3	0.547464	0.01	22.01625	0.004322845
544	1	0.547543	0.015	22.03125	0.00432579
7847	3	0.547716	-0.005	22.02625	0.004324809
3285	3	0.547826	-0.005	22.02125	0.004323827
2464	2	0.547933	0.0125	22.03375	0.004326281
6207	3	0.548058	-0.005	22.02875	0.004325299
6413	3	0.548244	0.01	22.03875	0.004327263
1135	1	0.548312	0.015	22.05375	0.004330208
5652	3	0.548331	0.01	22.06375	0.004332172
944	1	0.548403	0.015	22.07875	0.004335117
759	1	0.548903	-0.0075	22.07125	0.004333644
2196	2	0.549837	0.0125	22.08375	0.004336099
5681	3	0.549994	0.01	22.09375	0.004338062
800	1	0.550276	0.015	22.10875	0.004341007
2068	2	0.55068	-0.00625	22.1025	0.00433978
1456	1	0.550694	-0.0075	22.095	0.004338307
7954	3	0.550725	0.01	22.105	0.004340271
177	1	0.551153	0.015	22.12	0.004343216
4297	3	0.551198	-0.005	22.115	0.004342234
7258	3	0.551501	0.01	22.125	0.004344198
2213	2	0.55203	-0.00625	22.11875	0.004342971
7556	3	0.55211	-0.005	22.11375	0.004341989
7027	3	0.552119	0.01	22.12375	0.004343952
655	1	0.552175	0.015	22.13875	0.004346898
5516	3	0.552418	-0.005	22.13375	0.004345916
2399	2	0.553277	-0.00625	22.1275	0.004344689
8696	3	0.553284	0.01	22.1375	0.004346652
138	1	0.55425	0.015	22.1525	0.004349597
1086	1	0.554306	0.015	22.1675	0.004352543
1460	1	0.554466	-0.0075	22.16	0.00435107
5625	3	0.554488	0.01	22.17	0.004353034

8228	3	0.554515	0.01	22.18	0.004354997
1284	1	0.554638	0.015	22.195	0.004357942
1441	1	0.554689	-0.0075	22.1875	0.00435647
2776	2	0.554786	0.0125	22.2	0.004358924
2251	2	0.555105	0.0125	22.2125	0.004361378
4927	3	0.555752	-0.005	22.2075	0.004360397
8315	3	0.55608	-0.005	22.2025	0.004359415
1794	2	0.556578	0.0125	22.215	0.004361869
6141	3	0.556688	0.01	22.225	0.004363833
2646	2	0.55686	0.0125	22.2375	0.004366287
3053	3	0.557035	0.01	22.2475	0.004368251
1928	2	0.557118	0.0125	22.26	0.004370705
871	1	0.557151	-0.0075	22.2525	0.004369232
3505	3	0.557174	0.01	22.2625	0.004371196
7301	3	0.55726	-0.005	22.2575	0.004370214
2401	2	0.558094	0.0125	22.27	0.004372668
1648	1	0.558198	-0.0075	22.2625	0.004371196
6326	3	0.558961	0.01	22.2725	0.004373159
7751	3	0.558975	0.01	22.2825	0.004375123
7199	3	0.559084	0.01	22.2925	0.004377086
4500	3	0.559208	-0.005	22.2875	0.004376104
200	1	0.559399	-0.0075	22.28	0.004374632
1335	1	0.559551	-0.0075	22.2725	0.004373159
8505	3	0.559692	0.01	22.2825	0.004375123
4099	3	0.559748	-0.005	22.2775	0.004374141
6710	3	0.559964	0.01	22.2875	0.004376104
2390	2	0.560035	-0.00625	22.28125	0.004374877
565	1	0.560316	0.015	22.29625	0.004377823
4289	3	0.560787	0.01	22.30625	0.004379786
6311	3	0.56107	0.01	22.31625	0.004381749
1747	1	0.561092	0.015	22.33125	0.004384695
9319	4	0.561247	-0.005	22.32625	0.004383713
4308	3	0.561288	-0.005	22.32125	0.004382731
2527	2	0.561486	-0.00625	22.315	0.004381504
3103	3	0.561687	0.01	22.325	0.004383468
3545	3	0.561728	0.01	22.335	0.004385431
2565	2	0.561978	0.0125	22.3475	0.004387885
7489	3	0.562399	0.01	22.3575	0.004389849
654	1	0.562679	0.015	22.3725	0.004392794
5497	3	0.563261	0.01	22.3825	0.004394758
7505	3	0.563369	0.01	22.3925	0.004396721
9519	4	0.563446	-0.005	22.3875	0.004395739
2128	2	0.563515	0.0125	22.4	0.004398194
5215	3	0.563637	0.01	22.41	0.004400157
459	1	0.564185	-0.0075	22.4025	0.004398684
2498	2	0.564417	0.0125	22.415	0.004401139
907	1	0.565135	0.015	22.43	0.004404084
9131	4	0.565234	0.01	22.44	0.004406048
4107	3	0.565314	0.01	22.45	0.004408011
8183	3	0.565315	-0.005	22.445	0.004407029
38	1	0.56551	0.015	22.46	0.004409974
2412	2	0.565641	0.0125	22.4725	0.004412429

960	1	0.565674	-0.0075	22.465	0.004410956
20	1	0.56569	0.015	22.48	0.004413901
1953	2	0.566741	0.0125	22.4925	0.004416356
1464	1	0.567324	0.015	22.5075	0.004419301
1366	1	0.567324	-0.0075	22.5	0.004417828
1149	1	0.567385	-0.0075	22.4925	0.004416356
8021	3	0.568216	0.01	22.5025	0.004418319
4652	3	0.568465	0.01	22.5125	0.004420283
4979	3	0.568535	0.01	22.5225	0.004422246
4775	3	0.568625	0.01	22.5325	0.00442421
2538	2	0.569184	0.0125	22.545	0.004426664
248	1	0.569185	0.015	22.56	0.004429609
743	1	0.569416	-0.0075	22.5525	0.004428137
7729	3	0.569535	0.01	22.5625	0.0044301
4346	3	0.569549	0.01	22.5725	0.004432064
5578	3	0.569877	0.01	22.5825	0.004434027
8929	4	0.570571	0.01	22.5925	0.004435991
21	1	0.570661	-0.0075	22.585	0.004434518
2503	2	0.570669	-0.00625	22.57875	0.004433291
8240	3	0.570752	0.01	22.58875	0.004435254
3119	3	0.570866	-0.005	22.58375	0.004434273
662	1	0.571378	0.015	22.59875	0.004437218
2539	2	0.571748	0.0125	22.61125	0.004439672
4107	3	0.571845	-0.005	22.60625	0.00443869
4243	3	0.572234	0.01	22.61625	0.004440654
1276	1	0.57229	0.015	22.63125	0.004443599
1966	2	0.5725	0.0125	22.64375	0.004446053
6830	3	0.572563	-0.005	22.63875	0.004445072
8026	3	0.572681	-0.005	22.63375	0.00444409
230	1	0.572824	0.015	22.64875	0.004447035
4869	3	0.573066	0.01	22.65875	0.004448999
4695	3	0.573147	0.01	22.66875	0.004450962
2654	2	0.573233	0.0125	22.68125	0.004453416
7326	3	0.573438	-0.005	22.67625	0.004452435
1480	1	0.573738	-0.0075	22.66875	0.004450962
3585	3	0.574011	-0.005	22.66375	0.00444998
2666	2	0.574126	0.0125	22.67625	0.004452435
1654	1	0.574412	0.015	22.69125	0.00445538
2519	2	0.57467	-0.00625	22.685	0.004454153
1678	1	0.574853	0.015	22.7	0.004457098
691	1	0.575109	0.015	22.715	0.004460043
5195	3	0.575267	0.01	22.725	0.004462007
1815	2	0.57537	0.0125	22.7375	0.004464461
807	1	0.575574	0.015	22.7525	0.004467406
5022	3	0.575993	0.01	22.7625	0.00446937
7927	3	0.576415	0.01	22.7725	0.004471333
9123	4	0.576723	0.01	22.7825	0.004473297
1933	2	0.576818	-0.00625	22.77625	0.00447207
355	1	0.577003	0.015	22.79125	0.004475015
2992	3	0.577162	0.01	22.80125	0.004476978
2813	2	0.577302	0.0125	22.81375	0.004479433
3582	3	0.577352	0.01	22.82375	0.004481396

8894	4	0.578006	-0.005	22.81875	0.004480414
1449	1	0.578247	0.015	22.83375	0.00448336
2313	2	0.579231	0.0125	22.84625	0.004485814
8208	3	0.579365	0.01	22.85625	0.004487777
1991	2	0.57948	0.0125	22.86875	0.004490232
4053	3	0.579526	0.01	22.87875	0.004492195
5475	3	0.579546	-0.005	22.87375	0.004491213
6274	3	0.57982	0.01	22.88375	0.004493177
1277	1	0.580353	-0.0075	22.87625	0.004491704
1596	1	0.580385	0.015	22.89125	0.00449465
7107	3	0.580729	0.01	22.90125	0.004496613
2011	2	0.580878	-0.00625	22.895	0.004495386
7147	3	0.581013	-0.005	22.89	0.004494404
1684	1	0.581834	-0.0075	22.8825	0.004492931
1745	1	0.582134	0.015	22.8975	0.004495877
7082	3	0.582205	0.01	22.9075	0.00449784
122	1	0.582445	-0.0075	22.9	0.004496368
1212	1	0.582478	0.015	22.915	0.004499313
9697	4	0.582688	0.01	22.925	0.004501276
1834	2	0.582969	0.0125	22.9375	0.004503731
6143	3	0.583143	-0.005	22.9325	0.004502749
8704	3	0.583145	0.01	22.9425	0.004504712
837	1	0.583469	0.015	22.9575	0.004507658
7391	3	0.583533	0.01	22.9675	0.004509621
7907	3	0.583667	-0.005	22.9625	0.004508639
7008	3	0.583735	-0.005	22.9575	0.004507658
4358	3	0.583812	0.01	22.9675	0.004509621
9925	4	0.584129	0.01	22.9775	0.004511585
2810	2	0.584476	0.0125	22.99	0.004514039
1351	1	0.584686	0.015	23.005	0.004516984
7250	3	0.584816	-0.005	23	0.004516002
558	1	0.584951	-0.0075	22.9925	0.00451453
3168	3	0.585175	0.01	23.0025	0.004516493
3598	3	0.585443	0.01	23.0125	0.004518457
695	1	0.585594	0.015	23.0275	0.004521402
2765	2	0.585811	-0.00625	23.02125	0.004520175
3301	3	0.586312	0.01	23.03125	0.004522138
2875	2	0.586957	0.0125	23.04375	0.004524593
801	1	0.58704	0.015	23.05875	0.004527538
6116	3	0.587257	0.01	23.06875	0.004529501
6837	3	0.587726	-0.005	23.06375	0.00452852
8688	3	0.587832	0.01	23.07375	0.004530483
1635	1	0.588308	-0.0075	23.06625	0.00452901
3736	3	0.588402	0.01	23.07625	0.004530974
8662	3	0.588641	0.01	23.08625	0.004532937
8918	4	0.588824	-0.005	23.08125	0.004531956
7492	3	0.58886	0.01	23.09125	0.004533919
145	1	0.589249	0.015	23.10625	0.004536864
2281	2	0.589468	0.0125	23.11875	0.004539319
9790	4	0.589487	-0.005	23.11375	0.004538337
9648	4	0.590048	0.01	23.12375	0.0045403
853	1	0.59026	0.015	23.13875	0.004543246

3399	3	0.590324	0.01	23.14875	0.004545209
270	1	0.590463	-0.0075	23.14125	0.004543737
1395	1	0.59064	0.015	23.15625	0.004546682
20	1	0.590788	-0.0075	23.14875	0.004545209
8037	3	0.590905	0.01	23.15875	0.004547173
7510	3	0.591377	0.01	23.16875	0.004549136
951	1	0.591702	0.015	23.18375	0.004552081
1948	2	0.591831	0.0125	23.19625	0.004554536
8909	4	0.592205	0.01	23.20625	0.004556499
1793	2	0.592257	-0.00625	23.2	0.004555272
8503	3	0.592612	0.01	23.21	0.004557235
498	1	0.592754	0.015	23.225	0.004560181
5389	3	0.592936	0.01	23.235	0.004562144
6556	3	0.593264	0.01	23.245	0.004564108
8157	3	0.593304	0.01	23.255	0.004566071
6194	3	0.593896	0.01	23.265	0.004568035
1368	1	0.593968	0.015	23.28	0.00457098
2497	2	0.59399	0.0125	23.2925	0.004573434
8522	3	0.594049	-0.005	23.2875	0.004572452
8086	3	0.594173	-0.005	23.2825	0.004571471
5041	3	0.594304	0.01	23.2925	0.004573434
922	1	0.59443	0.015	23.3075	0.004576379
421	1	0.595051	0.015	23.3225	0.004579325
2135	2	0.595236	0.0125	23.335	0.004581779
8592	3	0.595466	0.01	23.345	0.004583742
6998	3	0.595466	-0.005	23.34	0.004582761
3928	3	0.595598	0.01	23.35	0.004584724
2820	2	0.595719	-0.00625	23.34375	0.004583497
8304	3	0.595848	0.01	23.35375	0.00458546
2247	2	0.595998	-0.00625	23.3475	0.004584233
2213	2	0.596176	-0.00625	23.34125	0.004583006
2958	3	0.596329	-0.005	23.33625	0.004582024
5314	3	0.596703	-0.005	23.33125	0.004581043
3032	3	0.596962	0.01	23.34125	0.004583006
43	1	0.596973	-0.0075	23.33375	0.004581533
844	1	0.597022	0.015	23.34875	0.004584479
703	1	0.597082	-0.0075	23.34125	0.004583006
5384	3	0.597124	-0.005	23.33625	0.004582024
4695	3	0.597206	-0.005	23.33125	0.004581043
6803	3	0.597439	0.01	23.34125	0.004583006
6957	3	0.597501	-0.005	23.33625	0.004582024
5230	3	0.597634	0.01	23.34625	0.004583988
2263	2	0.597833	-0.00625	23.34	0.004582761
2917	3	0.598049	-0.005	23.335	0.004581779
1895	2	0.598252	0.0125	23.3475	0.004584233
2565	2	0.598277	-0.00625	23.34125	0.004583006
2279	2	0.598297	-0.00625	23.335	0.004581779
4946	3	0.599002	0.01	23.345	0.004583742
6668	3	0.599401	0.01	23.355	0.004585706
3428	3	0.599626	-0.005	23.35	0.004584724
1780	2	0.59973	0.0125	23.3625	0.004587178
871	1	0.599996	-0.0075	23.355	0.004585706

2495	2	0.600215	0.0125	23.3675	0.00458816
9482	4	0.600809	-0.005	23.3625	0.004587178
1688	1	0.601167	-0.0075	23.355	0.004585706
5853	3	0.601221	-0.005	23.35	0.004584724
6372	3	0.601287	0.01	23.36	0.004586688
208	1	0.601291	-0.0075	23.3525	0.004585215
7661	3	0.601397	0.01	23.3625	0.004587178
2003	2	0.602733	0.0125	23.375	0.004589633
232	1	0.602754	0.015	23.39	0.004592578
481	1	0.602967	-0.0075	23.3825	0.004591105
2148	2	0.603284	0.0125	23.395	0.00459356
1387	1	0.603284	-0.0075	23.3875	0.004592087
1687	1	0.603309	0.015	23.4025	0.004595032
7666	3	0.603376	0.01	23.4125	0.004596996
1110	1	0.603428	-0.0075	23.405	0.004595523
7099	3	0.603488	0.01	23.415	0.004597487
2911	3	0.604375	0.01	23.425	0.00459945
1567	1	0.604408	-0.0075	23.4175	0.004597978
7094	3	0.604675	-0.005	23.4125	0.004596996
6376	3	0.604893	-0.005	23.4075	0.004596014
5053	3	0.605074	-0.005	23.4025	0.004595032
2479	2	0.605249	-0.00625	23.39625	0.004593805
5940	3	0.605256	0.01	23.40625	0.004595769
8176	3	0.605744	0.01	23.41625	0.004597732
163	1	0.60613	-0.0075	23.40875	0.00459626
1087	1	0.606248	0.015	23.42375	0.004599205
1138	1	0.606328	0.015	23.43875	0.00460215
712	1	0.606354	-0.0075	23.43125	0.004600677
44	1	0.606399	0.015	23.44625	0.004603623
4800	3	0.60643	-0.005	23.44125	0.004602641
3193	3	0.606451	0.01	23.45125	0.004604604
1494	1	0.607019	0.015	23.46625	0.00460755
6050	3	0.607061	-0.005	23.46125	0.004606568
7779	3	0.607325	0.01	23.47125	0.004608531
1445	1	0.607381	-0.0075	23.46375	0.004607059
418	1	0.6076	0.015	23.47875	0.004610004
8002	3	0.607711	0.01	23.48875	0.004611967
8540	3	0.607836	0.01	23.49875	0.004613931
5534	3	0.608148	0.01	23.50875	0.004615894
2538	2	0.608151	-0.00625	23.5025	0.004614667
1858	2	0.608578	-0.00625	23.49625	0.00461344
5018	3	0.608722	-0.005	23.49125	0.004612458
3496	3	0.609024	0.01	23.50125	0.004614422
484	1	0.60904	0.015	23.51625	0.004617367
2605	2	0.609552	-0.00625	23.51	0.00461614
5259	3	0.609942	0.01	23.52	0.004618103
3016	3	0.610177	0.01	23.53	0.004620067
1583	1	0.610193	0.015	23.545	0.004623012
6010	3	0.610995	0.01	23.555	0.004624975
7146	3	0.611245	-0.005	23.55	0.004623994
2328	2	0.611793	-0.00625	23.54375	0.004622767
511	1	0.611941	-0.0075	23.53625	0.004621294

9193	4	0.611967	0.01	23.54625	0.004623257
1021	1	0.612037	-0.0075	23.53875	0.004621785
5199	3	0.612293	0.01	23.54875	0.004623748
1555	1	0.613015	-0.0075	23.54125	0.004622276
8551	3	0.613069	-0.005	23.53625	0.004621294
1474	1	0.613253	0.015	23.55125	0.004624239
4943	3	0.613634	0.01	23.56125	0.004626203
5328	3	0.613748	0.01	23.57125	0.004628166
6259	3	0.614239	-0.005	23.56625	0.004627184
846	1	0.614278	0.015	23.58125	0.00463013
2293	2	0.614534	0.0125	23.59375	0.004632584
8208	3	0.614577	-0.005	23.58875	0.004631602
5994	3	0.615008	0.01	23.59875	0.004633566
5079	3	0.61508	0.01	23.60875	0.004635529
1992	2	0.615185	0.0125	23.62125	0.004637984
3986	3	0.615443	0.01	23.63125	0.004639947
1177	1	0.616339	0.015	23.64625	0.004642892
5482	3	0.616426	0.01	23.65625	0.004644856
792	1	0.616583	0.015	23.67125	0.004647801
8089	3	0.61702	0.01	23.68125	0.004649764
1147	1	0.617118	0.015	23.69625	0.00465271
9822	4	0.617587	-0.005	23.69125	0.004651728
7255	3	0.617652	-0.005	23.68625	0.004650746
5227	3	0.61792	0.01	23.69625	0.00465271
4973	3	0.618448	0.01	23.70625	0.004654673
1881	2	0.618469	0.0125	23.71875	0.004657127
3422	3	0.618602	-0.005	23.71375	0.004656146
1580	1	0.618656	0.015	23.72875	0.004659091
2276	2	0.618679	0.0125	23.74125	0.004661545
2736	2	0.618795	0.0125	23.75375	0.004664
2957	3	0.618977	-0.005	23.74875	0.004663018
5315	3	0.619159	0.01	23.75875	0.004664981
1582	1	0.619325	0.015	23.77375	0.004667927
2480	2	0.619369	0.0125	23.78625	0.004670381
5042	3	0.619488	0.01	23.79625	0.004672344
3054	3	0.619508	-0.005	23.79125	0.004671363
7465	3	0.619793	0.01	23.80125	0.004673326
398	1	0.620271	-0.0075	23.79375	0.004671854
8677	3	0.620971	-0.005	23.78875	0.004670872
102	1	0.621108	0.015	23.80375	0.004673817
2712	2	0.621141	-0.00625	23.7975	0.00467259
595	1	0.621319	0.015	23.8125	0.004675535
106	1	0.62147	0.015	23.8275	0.00467848
466	1	0.621498	-0.0075	23.82	0.004677008
57	1	0.621504	0.015	23.835	0.004679953
4778	3	0.621515	0.01	23.845	0.004681916
5199	3	0.62154	-0.005	23.84	0.004680935
2140	2	0.622172	0.0125	23.8525	0.004683389
6762	3	0.622193	0.01	23.8625	0.004685352
4527	3	0.622332	-0.005	23.8575	0.004684371
682	1	0.622464	0.015	23.8725	0.004687316
5679	3	0.62271	0.01	23.8825	0.004689279

1083	1	0.622727	0.015	23.8975	0.004692225
8529	3	0.623015	0.01	23.9075	0.004694188
2229	2	0.623357	0.0125	23.92	0.004696642
1258	1	0.623495	-0.0075	23.9125	0.00469517
388	1	0.623921	0.015	23.9275	0.004698115
7986	3	0.624076	0.01	23.9375	0.004700079
3004	3	0.625035	0.01	23.9475	0.004702042
1053	1	0.625296	0.015	23.9625	0.004704987
6768	3	0.625692	-0.005	23.9575	0.004704005
8495	3	0.625847	0.01	23.9675	0.004705969
2095	2	0.626279	0.0125	23.98	0.004708423
3514	3	0.626641	-0.005	23.975	0.004707442
1794	2	0.627148	-0.00625	23.96875	0.004706214
859	1	0.627264	-0.0075	23.96125	0.004704742
8119	3	0.627427	-0.005	23.95625	0.00470376
320	1	0.6275	0.015	23.97125	0.004706705
2870	2	0.627595	0.0125	23.98375	0.00470916
1315	1	0.62763	0.015	23.99875	0.004712105
7640	3	0.627791	-0.005	23.99375	0.004711123
1578	1	0.62838	0.015	24.00875	0.004714068
6253	3	0.628408	0.01	24.01875	0.004716032
5578	3	0.628513	-0.005	24.01375	0.00471505
6799	3	0.628724	-0.005	24.00875	0.004714068
2362	2	0.628775	-0.00625	24.0025	0.004712841
8833	4	0.629567	0.01	24.0125	0.004714805
3630	3	0.629818	-0.005	24.0075	0.004713823
1108	1	0.630138	0.015	24.0225	0.004716768
1436	1	0.630212	-0.0075	24.015	0.004715296
4021	3	0.630256	-0.005	24.01	0.004714314
6055	3	0.630317	-0.005	24.005	0.004713332
714	1	0.630591	-0.0075	23.9975	0.004711859
457	1	0.63061	-0.0075	23.99	0.004710387
1132	1	0.630732	0.015	24.005	0.004713332
7300	3	0.63123	0.01	24.015	0.004715296
6124	3	0.631761	0.01	24.025	0.004717259
5012	3	0.632089	0.01	24.035	0.004719222
3665	3	0.632178	0.01	24.045	0.004721186
4058	3	0.632207	0.01	24.055	0.004723149
6877	3	0.632897	0.01	24.065	0.004725113
2924	3	0.632943	0.01	24.075	0.004727076
7606	3	0.633028	-0.005	24.07	0.004726095
2972	3	0.633529	0.01	24.08	0.004728058
4133	3	0.633722	0.01	24.09	0.004730022
2465	2	0.633763	-0.00625	24.08375	0.004728794
3804	3	0.633818	0.01	24.09375	0.004730758
4232	3	0.634091	0.01	24.10375	0.004732721
2531	2	0.634208	0.0125	24.11625	0.004735176
1240	1	0.634275	-0.0075	24.10875	0.004733703
5956	3	0.634298	0.01	24.11875	0.004735667
1388	1	0.634739	0.015	24.13375	0.004738612
1374	1	0.634809	0.015	24.14875	0.004741557
286	1	0.635103	-0.0075	24.14125	0.004740084

2105	2	0.635398	0.0125	24.15375	0.004742539
5414	3	0.635588	0.01	24.16375	0.004744502
4131	3	0.635688	-0.005	24.15875	0.004743521
4926	3	0.635808	0.01	24.16875	0.004745484
8141	3	0.635839	0.01	24.17875	0.004747447
8609	3	0.63612	0.01	24.18875	0.004749411
1215	1	0.636142	0.015	24.20375	0.004752356
4418	3	0.636198	0.01	24.21375	0.00475432
442	1	0.637204	0.015	24.22875	0.004757265
7391	3	0.637419	-0.005	24.22375	0.004756283
3018	3	0.637686	0.01	24.23375	0.004758247
3918	3	0.638171	-0.005	24.22875	0.004757265
1691	1	0.638261	-0.0075	24.22125	0.004755792
6952	3	0.638378	0.01	24.23125	0.004757756
5830	3	0.638637	-0.005	24.22625	0.004756774
7041	3	0.638851	-0.005	24.22125	0.004755792
1539	1	0.639129	0.015	24.23625	0.004758737
4227	3	0.639191	0.01	24.24625	0.004760701
1803	2	0.639305	-0.00625	24.24	0.004759474
1513	1	0.639389	-0.0075	24.2325	0.004758001
4277	3	0.639645	-0.005	24.2275	0.004757019
7308	3	0.63975	0.01	24.2375	0.004758983
4524	3	0.639764	-0.005	24.2325	0.004758001
2298	2	0.639799	-0.00625	24.22625	0.004756774
7488	3	0.63983	0.01	24.23625	0.004758737
9789	4	0.64007	0.01	24.24625	0.004760701
7644	3	0.640371	0.01	24.25625	0.004762664
3334	3	0.640421	0.01	24.26625	0.004764628
566	1	0.640616	0.015	24.28125	0.004767573
4157	3	0.640731	-0.005	24.27625	0.004766591
9743	4	0.640797	-0.005	24.27125	0.00476561
6010	3	0.640802	-0.005	24.26625	0.004764628
754	1	0.64134	-0.0075	24.25875	0.004763155
4980	3	0.64137	-0.005	24.25375	0.004762174
2996	3	0.641415	0.01	24.26375	0.004764137
4025	3	0.641529	0.01	24.27375	0.004766101
2555	2	0.641602	-0.00625	24.2675	0.004764873
89	1	0.641655	-0.0075	24.26	0.004763401
399	1	0.641992	0.015	24.275	0.004766346
7034	3	0.642485	-0.005	24.27	0.004765364
836	1	0.642664	-0.0075	24.2625	0.004763892
1109	1	0.643004	-0.0075	24.255	0.004762419
8956	4	0.643112	0.01	24.265	0.004764382
7867	3	0.643464	0.01	24.275	0.004766346
1431	1	0.643877	0.015	24.29	0.004769291
8553	3	0.64395	-0.005	24.285	0.004768309
2704	2	0.644008	0.0125	24.2975	0.004770764
2889	2	0.64401	-0.00625	24.29125	0.004769537
6213	3	0.64406	-0.005	24.28625	0.004768555
8606	3	0.644108	-0.005	24.28125	0.004767573
6526	3	0.644158	-0.005	24.27625	0.004766591
7264	3	0.644433	0.01	24.28625	0.004768555

917	1	0.644543	0.015	24.30125	0.0047715
3948	3	0.645315	0.01	24.31125	0.004773464
1240	1	0.645334	-0.0075	24.30375	0.004771991
8214	3	0.646121	0.01	24.31375	0.004773954
577	1	0.646964	-0.0075	24.30625	0.004772482
6203	3	0.647087	0.01	24.31625	0.004774445
872	1	0.647613	0.015	24.33125	0.004777391
2873	2	0.647921	0.0125	24.34375	0.004779845
2143	2	0.648202	0.0125	24.35625	0.004782299
31	1	0.648637	0.015	24.37125	0.004785244
2733	2	0.648738	0.0125	24.38375	0.004787699
25	1	0.648741	-0.0075	24.37625	0.004786226
4322	3	0.648838	-0.005	24.37125	0.004785244
4006	3	0.64896	0.01	24.38125	0.004787208
977	1	0.649167	-0.0075	24.37375	0.004785735
7822	3	0.649282	0.01	24.38375	0.004787699
5731	3	0.649531	0.01	24.39375	0.004789662
8448	3	0.64968	0.01	24.40375	0.004791626
1847	2	0.650407	0.0125	24.41625	0.00479408
2546	2	0.650461	-0.00625	24.41	0.004792853
1337	1	0.650562	0.015	24.425	0.004795798
1166	1	0.650603	0.015	24.44	0.004798743
4713	3	0.651252	-0.005	24.435	0.004797762
7576	3	0.651365	0.01	24.445	0.004799725
8552	3	0.651482	-0.005	24.44	0.004798743
7003	3	0.651909	0.01	24.45	0.004800707
643	1	0.653153	0.015	24.465	0.004803652
7695	3	0.653651	-0.005	24.46	0.00480267
80	1	0.653921	0.015	24.475	0.004805616
7191	3	0.654114	-0.005	24.47	0.004804634
7466	3	0.654265	0.01	24.48	0.004806597
4757	3	0.654374	0.01	24.49	0.004808561
4574	3	0.654685	-0.005	24.485	0.004807579
5396	3	0.654718	0.01	24.495	0.004809543
1637	1	0.654803	-0.0075	24.4875	0.00480807
3913	3	0.654825	0.01	24.4975	0.004810033
316	1	0.655022	-0.0075	24.49	0.004808561
3418	3	0.655224	0.01	24.5	0.004810524
7996	3	0.655297	0.01	24.51	0.004812488
1739	1	0.655325	-0.0075	24.5025	0.004811015
910	1	0.655482	-0.0075	24.495	0.004809543
1072	1	0.655861	-0.0075	24.4875	0.00480807
2483	2	0.656302	0.0125	24.5	0.004810524
6070	3	0.656312	0.01	24.51	0.004812488
782	1	0.656839	-0.0075	24.5025	0.004811015
8564	3	0.65686	0.01	24.5125	0.004812979
2229	2	0.657503	-0.00625	24.50625	0.004811751
2087	2	0.657692	-0.00625	24.5	0.004810524
1125	1	0.657751	0.015	24.515	0.004813469
6824	3	0.657767	0.01	24.525	0.004815433
2898	2	0.657848	-0.00625	24.51875	0.004814206
4194	3	0.658341	0.01	24.52875	0.004816169

669	1	0.658475	0.015	24.54375	0.004819114
4811	3	0.658599	0.01	24.55375	0.004821078
2135	2	0.658656	-0.00625	24.5475	0.004819851
585	1	0.658936	-0.0075	24.54	0.004818378
1005	1	0.659149	0.015	24.555	0.004821323
7704	3	0.659448	0.01	24.565	0.004823287
8275	3	0.659521	0.01	24.575	0.00482525
8729	3	0.659569	0.01	24.585	0.004827214
5936	3	0.65962	0.01	24.595	0.004829177
5231	3	0.659765	0.01	24.605	0.004831141
1879	2	0.660016	0.0125	24.6175	0.004833595
6249	3	0.660132	0.01	24.6275	0.004835559
5847	3	0.660431	-0.005	24.6225	0.004834577
8202	3	0.660787	-0.005	24.6175	0.004833595
692	1	0.661122	-0.0075	24.61	0.004832123
7546	3	0.661207	-0.005	24.605	0.004831141
218	1	0.661247	0.015	24.62	0.004834086
354	1	0.661438	0.015	24.635	0.004837031
3309	3	0.661518	-0.005	24.63	0.004836049
991	1	0.661939	0.015	24.645	0.004838995
5824	3	0.662122	0.01	24.655	0.004840958
6359	3	0.662399	0.01	24.665	0.004842922
4624	3	0.662861	0.01	24.675	0.004844885
1675	1	0.663117	-0.0075	24.6675	0.004843413
6029	3	0.663132	-0.005	24.6625	0.004842431
342	1	0.663152	0.015	24.6775	0.004845376
7655	3	0.663197	-0.005	24.6725	0.004844394
508	1	0.663388	-0.0075	24.665	0.004842922
8558	3	0.663404	-0.005	24.66	0.00484194
1600	1	0.663514	0.015	24.675	0.004844885
8847	4	0.663661	0.01	24.685	0.004846849
6167	3	0.663851	-0.005	24.68	0.004845867
6816	3	0.664136	0.01	24.69	0.00484783
5373	3	0.664269	0.01	24.7	0.004849794
1718	1	0.664309	-0.0075	24.6925	0.004848321
2678	2	0.664338	0.0125	24.705	0.004850776
6700	3	0.66457	0.01	24.715	0.004852739
1374	1	0.664599	-0.0075	24.7075	0.004851266
5382	3	0.664963	0.01	24.7175	0.00485323
583	1	0.665153	0.015	24.7325	0.004856175
5235	3	0.66539	0.01	24.7425	0.004858139
111	1	0.665974	0.015	24.7575	0.004861084
4120	3	0.66624	0.01	24.7675	0.004863047
1865	2	0.666343	0.0125	24.78	0.004865502
1220	1	0.666731	0.015	24.795	0.004868447
157	1	0.666738	0.015	24.81	0.004871392
4845	3	0.666775	0.01	24.82	0.004873356
6969	3	0.66685	0.01	24.83	0.004875319
618	1	0.667155	0.015	24.845	0.004878264
1887	2	0.667615	0.0125	24.8575	0.004880719
8721	3	0.667654	-0.005	24.8525	0.004879737
6961	3	0.667991	0.01	24.8625	0.0048817

6372	3	0.668028	-0.005	24.8575	0.004880719
1264	1	0.668041	0.015	24.8725	0.004883664
6821	3	0.668207	0.01	24.8825	0.004885627
1581	1	0.668273	-0.0075	24.875	0.004884155
1912	2	0.668623	0.0125	24.8875	0.004886609
2867	2	0.668841	0.0125	24.9	0.004889063
1401	1	0.668893	0.015	24.915	0.004892009
8013	3	0.668988	0.01	24.925	0.004893972
592	1	0.66932	-0.0075	24.9175	0.0048925
8303	3	0.669668	0.01	24.9275	0.004894463
3429	3	0.670335	0.01	24.9375	0.004896426
6471	3	0.670599	-0.005	24.9325	0.004895445
816	1	0.670699	0.015	24.9475	0.00489839
1086	1	0.670881	-0.0075	24.94	0.004896917
8702	3	0.671476	0.01	24.95	0.004898881
4591	3	0.67167	-0.005	24.945	0.004897899
6461	3	0.671702	-0.005	24.94	0.004896917
3694	3	0.671726	0.01	24.95	0.004898881
5077	3	0.672803	-0.005	24.945	0.004897899
5822	3	0.672835	0.01	24.955	0.004899863
8021	3	0.672933	-0.005	24.95	0.004898881
4085	3	0.673108	-0.005	24.945	0.004897899
538	1	0.673347	0.015	24.96	0.004900844
7706	3	0.673388	0.01	24.97	0.004902808
7317	3	0.674028	-0.005	24.965	0.004901826
7916	3	0.674052	0.01	24.975	0.00490379
1810	2	0.67442	0.0125	24.9875	0.004906244
7017	3	0.674741	-0.005	24.9825	0.004905262
1925	2	0.675244	0.0125	24.995	0.004907716
6409	3	0.675272	0.01	25.005	0.00490968
2282	2	0.675319	0.0125	25.0175	0.004912134
8000	3	0.675371	0.01	25.0275	0.004914098
2159	2	0.675612	0.0125	25.04	0.004916552
436	1	0.676161	0.015	25.055	0.004919497
1337	1	0.676297	-0.0075	25.0475	0.004918025
3064	3	0.676494	0.01	25.0575	0.004919988
4224	3	0.676846	0.01	25.0675	0.004921952
3148	3	0.676853	-0.005	25.0625	0.00492097
5524	3	0.6769	0.01	25.0725	0.004922933
971	1	0.677324	-0.0075	25.065	0.004921461
257	1	0.677673	0.015	25.08	0.004924406
956	1	0.677976	0.015	25.095	0.004927351
4281	3	0.678302	-0.005	25.09	0.00492637
8213	3	0.678328	0.01	25.1	0.004928333
2613	2	0.678388	0.0125	25.1125	0.004930787
1077	1	0.678391	0.015	25.1275	0.004933733
8866	4	0.678696	0.01	25.1375	0.004935696
1045	1	0.67877	0.015	25.1525	0.004938641
1470	1	0.67898	0.015	25.1675	0.004941586
8990	4	0.679053	-0.005	25.1625	0.004940605
227	1	0.679412	0.015	25.1775	0.00494355
5283	3	0.679543	0.01	25.1875	0.004945513

6175	3	0.679558	-0.005	25.1825	0.004944532
2320	2	0.679919	-0.00625	25.17625	0.004943305
3948	3	0.680518	-0.005	25.17125	0.004942323
6470	3	0.680713	-0.005	25.16625	0.004941341
650	1	0.680718	-0.0075	25.15875	0.004939868
7492	3	0.680839	-0.005	25.15375	0.004938887
6065	3	0.681112	-0.005	25.14875	0.004937905
3295	3	0.681125	-0.005	25.14375	0.004936923
740	1	0.681154	0.015	25.15875	0.004939868
3551	3	0.681317	-0.005	25.15375	0.004938887
2196	2	0.681327	-0.00625	25.1475	0.00493766
4706	3	0.681569	0.01	25.1575	0.004939623
1580	1	0.681803	-0.0075	25.15	0.00493815
3764	3	0.681836	-0.005	25.145	0.004937169
2101	2	0.681849	0.0125	25.1575	0.004939623
2702	2	0.681891	0.0125	25.17	0.004942077
1617	1	0.68219	0.015	25.185	0.004945023
7116	3	0.682283	0.01	25.195	0.004946986
2122	2	0.682367	0.0125	25.2075	0.00494944
2517	2	0.682477	0.0125	25.22	0.004951895
4001	3	0.682616	0.01	25.23	0.004953858
662	1	0.682919	-0.0075	25.2225	0.004952386
7900	3	0.682924	-0.005	25.2175	0.004951404
9498	4	0.683563	0.01	25.2275	0.004953367
4182	3	0.683635	0.01	25.2375	0.004955331
2760	2	0.683653	0.0125	25.25	0.004957785
766	1	0.683866	0.015	25.265	0.00496073
4790	3	0.683957	0.01	25.275	0.004962694
3418	3	0.683974	-0.005	25.27	0.004961712
2255	2	0.684195	0.0125	25.2825	0.004964167
1700	1	0.684958	0.015	25.2975	0.004967112
2199	2	0.685459	0.0125	25.31	0.004969566
9770	4	0.68547	0.01	25.32	0.00497153
2621	2	0.685975	-0.00625	25.31375	0.004970302
5288	3	0.685995	-0.005	25.30875	0.004969321
3258	3	0.686438	0.01	25.31875	0.004971284
3352	3	0.686776	0.01	25.32875	0.004973248
4251	3	0.686937	-0.005	25.32375	0.004972266
677	1	0.687032	0.015	25.33875	0.004975211
7352	3	0.687086	0.01	25.34875	0.004977175
2107	2	0.687142	0.0125	25.36125	0.004979629
1522	1	0.688171	0.015	25.37625	0.004982574
1813	2	0.688189	0.0125	25.38875	0.004985028
2198	2	0.688195	0.0125	25.40125	0.004987483
2200	2	0.688287	-0.00625	25.395	0.004986256
1352	1	0.688354	0.015	25.41	0.004989201
7784	3	0.688385	-0.005	25.405	0.004988219
2303	2	0.688566	-0.00625	25.39875	0.004986992
5035	3	0.68872	0.01	25.40875	0.004988955
786	1	0.688803	-0.0075	25.40125	0.004987483
1214	1	0.688834	0.015	25.41625	0.004990428
8505	3	0.688929	-0.005	25.41125	0.004989446

2851	2	0.688977	0.0125	25.42375	0.004991901
7889	3	0.689838	-0.005	25.41875	0.004990919
1324	1	0.689892	0.015	25.43375	0.004993864
690	1	0.689925	0.015	25.44875	0.004996809
5252	3	0.69016	0.01	25.45875	0.004998773
3078	3	0.690281	-0.005	25.45375	0.004997791
3897	3	0.690547	0.01	25.46375	0.004999755
7465	3	0.691066	-0.005	25.45875	0.004998773
2822	2	0.691148	-0.00625	25.4525	0.004997546
4667	3	0.691778	-0.005	25.4475	0.004996564
8604	3	0.692099	0.01	25.4575	0.004998527
2700	2	0.692526	0.0125	25.47	0.005000982
1622	1	0.693057	0.015	25.485	0.005003927
3485	3	0.693083	0.01	25.495	0.00500589
1747	1	0.69336	-0.0075	25.4875	0.005004418
8439	3	0.693522	-0.005	25.4825	0.005003436
5324	3	0.693751	0.01	25.4925	0.0050054
4457	3	0.693838	-0.005	25.4875	0.005004418
6162	3	0.694066	-0.005	25.4825	0.005003436
7671	3	0.694093	0.01	25.4925	0.0050054
5836	3	0.694147	-0.005	25.4875	0.005004418
2152	2	0.694163	-0.00625	25.48125	0.005003191
636	1	0.694185	-0.0075	25.47375	0.005001718
8729	3	0.694481	-0.005	25.46875	0.005000736
5236	3	0.694541	-0.005	25.46375	0.004999755
3874	3	0.694745	0.01	25.47375	0.005001718
5048	3	0.694979	-0.005	25.46875	0.005000736
430	1	0.694985	0.015	25.48375	0.005003682
3709	3	0.695412	0.01	25.49375	0.005005645
4084	3	0.695755	-0.005	25.48875	0.005004663
2930	3	0.6958	0.01	25.49875	0.005006627
3907	3	0.696124	0.01	25.50875	0.00500859
6899	3	0.696287	0.01	25.51875	0.005010554
7552	3	0.696392	-0.005	25.51375	0.005009572
557	1	0.696469	0.015	25.52875	0.005012517
344	1	0.696476	0.015	25.54375	0.005015462
8069	3	0.696548	0.01	25.55375	0.005017426
6761	3	0.697029	-0.005	25.54875	0.005016444
100	1	0.697054	-0.0075	25.54125	0.005014972
618	1	0.697109	-0.0075	25.53375	0.005013499
2249	2	0.697353	0.0125	25.54625	0.005015953
4891	3	0.698765	0.01	25.55625	0.005017917
682	1	0.698855	-0.0075	25.54875	0.005016444
8093	3	0.69909	0.01	25.55875	0.005018408
4995	3	0.699272	-0.005	25.55375	0.005017426
3418	3	0.699451	-0.005	25.54875	0.005016444
2483	2	0.699529	-0.00625	25.5425	0.005015217
1953	2	0.700309	-0.00625	25.53625	0.00501399
4050	3	0.70039	-0.005	25.53125	0.005013008
8614	3	0.701205	-0.005	25.52625	0.005012026
9343	4	0.701382	0.01	25.53625	0.00501399
2146	2	0.70143	0.0125	25.54875	0.005016444

2369	2	0.70182	-0.00625	25.5425	0.005015217
5194	3	0.701904	-0.005	25.5375	0.005014235
8278	3	0.702309	0.01	25.5475	0.005016199
2276	2	0.702549	-0.00625	25.54125	0.005014972
4321	3	0.70262	-0.005	25.53625	0.00501399
4581	3	0.702647	0.01	25.54625	0.005015953
7488	3	0.702858	-0.005	25.54125	0.005014972
2193	2	0.702898	0.0125	25.55375	0.005017426
96	1	0.702958	0.015	25.56875	0.005020371
3203	3	0.703417	-0.005	25.56375	0.005019389
1800	2	0.70348	-0.00625	25.5575	0.005018162
1859	2	0.703716	0.0125	25.57	0.005020617
7033	3	0.703772	-0.005	25.565	0.005019635
3122	3	0.703959	-0.005	25.56	0.005018653
964	1	0.703981	0.015	25.575	0.005021598
4208	3	0.704118	-0.005	25.57	0.005020617
728	1	0.704719	0.015	25.585	0.005023562
9007	4	0.704758	0.01	25.595	0.005025525
7142	3	0.704862	0.01	25.605	0.005027489
597	1	0.704871	0.015	25.62	0.005030434
8618	3	0.705177	-0.005	25.615	0.005029452
8688	3	0.705498	-0.005	25.61	0.00502847
9342	4	0.70559	-0.005	25.605	0.005027489
3218	3	0.705712	0.01	25.615	0.005029452
93	1	0.705992	0.015	25.63	0.005032397
306	1	0.705995	0.015	25.645	0.005035343
4056	3	0.706106	-0.005	25.64	0.005034361
8043	3	0.706204	0.01	25.65	0.005036324
8867	4	0.706353	-0.005	25.645	0.005035343
7954	3	0.706494	-0.005	25.64	0.005034361
8369	3	0.70687	0.01	25.65	0.005036324
1280	1	0.707449	-0.0075	25.6425	0.005034852
6475	3	0.707567	0.01	25.6525	0.005036815
1930	2	0.707788	0.0125	25.665	0.00503927
36	1	0.707875	0.015	25.68	0.005042215
2324	2	0.707924	0.0125	25.6925	0.005044669
8545	3	0.70802	-0.005	25.6875	0.005043687
1429	1	0.708086	0.015	25.7025	0.005046633
776	1	0.708144	0.015	25.7175	0.005049578
4662	3	0.708598	-0.005	25.7125	0.005048596
4619	3	0.709125	0.01	25.7225	0.00505056
858	1	0.709264	-0.0075	25.715	0.005049087
7658	3	0.709498	0.01	25.725	0.00505105
1464	1	0.70955	-0.0075	25.7175	0.005049578
6046	3	0.709629	-0.005	25.7125	0.005048596
2779	2	0.7101	-0.00625	25.70625	0.005047369
6534	3	0.710244	-0.005	25.70125	0.005046387
8115	3	0.710337	0.01	25.71125	0.005048351
4768	3	0.710976	-0.005	25.70625	0.005047369
7086	3	0.711392	0.01	25.71625	0.005049332
71	1	0.711622	0.015	25.73125	0.005052278
2538	2	0.711805	-0.00625	25.725	0.00505105

3898	3	0.711808	0.01	25.735	0.005053014
5853	3	0.711864	-0.005	25.73	0.005052032
2576	2	0.711884	0.0125	25.7425	0.005054487
8252	3	0.711949	-0.005	25.7375	0.005053505
863	1	0.712556	-0.0075	25.73	0.005052032
4275	3	0.71277	0.01	25.74	0.005053996
2243	2	0.713052	0.0125	25.7525	0.00505645
4790	3	0.713068	-0.005	25.7475	0.005055468
1614	1	0.713252	-0.0075	25.74	0.005053996
19	1	0.713945	0.015	25.755	0.005056941
165	1	0.714449	-0.0075	25.7475	0.005055468
7703	3	0.715249	-0.005	25.7425	0.005054487
8997	4	0.715302	-0.005	25.7375	0.005053505
1421	1	0.715737	-0.0075	25.73	0.005052032
8941	4	0.715803	-0.005	25.725	0.00505105
8560	3	0.71634	0.01	25.735	0.005053014
4265	3	0.716464	0.01	25.745	0.005054977
2374	2	0.716599	0.0125	25.7575	0.005057432
2613	2	0.7166	-0.00625	25.75125	0.005056205
3213	3	0.716793	0.01	25.76125	0.005058168
5376	3	0.716877	0.01	25.77125	0.005060132
2416	2	0.717087	0.0125	25.78375	0.005062586
1041	1	0.717702	0.015	25.79875	0.005065531
2510	2	0.717936	-0.00625	25.7925	0.005064304
1221	1	0.718011	0.015	25.8075	0.005067249
3500	3	0.718506	-0.005	25.8025	0.005066267
5538	3	0.718791	-0.005	25.7975	0.005065286
5425	3	0.719172	-0.005	25.7925	0.005064304
7564	3	0.719225	-0.005	25.7875	0.005063322
1298	1	0.719339	0.015	25.8025	0.005066267
4315	3	0.719421	0.01	25.8125	0.005068231
1706	1	0.719436	0.015	25.8275	0.005071176
2620	2	0.7195	-0.00625	25.82125	0.005069949
3075	3	0.719747	-0.005	25.81625	0.005068967
9322	4	0.720279	0.01	25.82625	0.005070931
2664	2	0.720656	0.0125	25.83875	0.005073385
4383	3	0.720679	0.01	25.84875	0.005075349
5367	3	0.720789	0.01	25.85875	0.005077312
3273	3	0.720912	-0.005	25.85375	0.00507633
3669	3	0.720961	0.01	25.86375	0.005078294
3071	3	0.721113	0.01	25.87375	0.005080257
6519	3	0.721375	0.01	25.88375	0.005082221
4802	3	0.721427	-0.005	25.87875	0.005081239
1995	2	0.721499	0.0125	25.89125	0.005083693
9628	4	0.721599	0.01	25.90125	0.005085657
168	1	0.722026	0.015	25.91625	0.005088602
1237	1	0.722144	0.015	25.93125	0.005091547
8010	3	0.722517	-0.005	25.92625	0.005090565
4428	3	0.722773	0.01	25.93625	0.005092529
8002	3	0.722795	-0.005	25.93125	0.005091547
9904	4	0.722927	0.01	25.94125	0.005093511
377	1	0.722927	0.015	25.95625	0.005096456

1139	1	0.723276	-0.0075	25.94875	0.005094983
6286	3	0.723345	0.01	25.95875	0.005096947
7011	3	0.725218	0.01	25.96875	0.00509891
400	1	0.725576	-0.0075	25.96125	0.005097438
1815	2	0.725617	-0.00625	25.955	0.00509621
6960	3	0.725652	-0.005	25.95	0.005095229
6795	3	0.726019	-0.005	25.945	0.005094247
2730	2	0.726228	0.0125	25.9575	0.005096701
3083	3	0.726233	0.01	25.9675	0.005098665
97	1	0.726649	0.015	25.9825	0.00510161
8481	3	0.727058	0.01	25.9925	0.005103574
2775	2	0.72733	0.0125	26.005	0.005106028
5530	3	0.727409	0.01	26.015	0.005107991
3471	3	0.727417	-0.005	26.01	0.00510701
8478	3	0.727533	0.01	26.02	0.005108973
6448	3	0.728053	-0.005	26.015	0.005107991
9790	4	0.728817	-0.005	26.01	0.00510701
4932	3	0.728866	0.01	26.02	0.005108973
4888	3	0.729253	-0.005	26.015	0.005107991
2376	2	0.729269	-0.00625	26.00875	0.005106764
7575	3	0.729498	0.01	26.01875	0.005108728
387	1	0.729552	0.015	26.03375	0.005111673
4523	3	0.729621	0.01	26.04375	0.005113636
7609	3	0.729696	-0.005	26.03875	0.005112655
3670	3	0.729708	0.01	26.04875	0.005114618
5873	3	0.72971	0.01	26.05875	0.005116582
8789	4	0.730373	0.01	26.06875	0.005118545
934	1	0.730458	-0.0075	26.06125	0.005117072
8121	3	0.730899	-0.005	26.05625	0.005116091
4406	3	0.731128	-0.005	26.05125	0.005115109
3798	3	0.731151	0.01	26.06125	0.005117072
1912	2	0.731159	-0.00625	26.055	0.005115845
8037	3	0.731334	-0.005	26.05	0.005114864
7104	3	0.731509	0.01	26.06	0.005116827
7936	3	0.731527	0.01	26.07	0.00511879
1580	1	0.731662	-0.0075	26.0625	0.005117318
911	1	0.731766	0.015	26.0775	0.005120263
713	1	0.732323	0.015	26.0925	0.005123208
2061	2	0.732702	0.0125	26.105	0.005125663
840	1	0.732755	0.015	26.12	0.005128608
942	1	0.733082	0.015	26.135	0.005131553
5109	3	0.733438	0.01	26.145	0.005133517
648	1	0.733705	0.015	26.16	0.005136462
7467	3	0.733717	0.01	26.17	0.005138425
116	1	0.733785	0.015	26.185	0.005141371
3804	3	0.733877	-0.005	26.18	0.005140389
1522	1	0.733887	-0.0075	26.1725	0.005138916
6584	3	0.733997	0.01	26.1825	0.00514088
7524	3	0.734079	-0.005	26.1775	0.005139898
3982	3	0.734136	0.01	26.1875	0.005141861
8998	4	0.734281	-0.005	26.1825	0.00514088
4609	3	0.734406	0.01	26.1925	0.005142843

3258	3	0.73481	-0.005	26.1875	0.005141861
6184	3	0.734978	0.01	26.1975	0.005143825
4857	3	0.734997	0.01	26.2075	0.005145788
4878	3	0.735299	0.01	26.2175	0.005147752
418	1	0.735667	-0.0075	26.21	0.005146279
2433	2	0.735727	-0.00625	26.20375	0.005145052
4470	3	0.736468	-0.005	26.19875	0.00514407
5883	3	0.736898	-0.005	26.19375	0.005143089
894	1	0.737358	0.015	26.20875	0.005146034
5583	3	0.73756	0.01	26.21875	0.005147997
663	1	0.737598	0.015	26.23375	0.005150942
6603	3	0.737779	0.01	26.24375	0.005152906
1231	1	0.737853	0.015	26.25875	0.005155851
7681	3	0.737889	-0.005	26.25375	0.005154869
5093	3	0.738579	-0.005	26.24875	0.005153888
3898	3	0.738682	-0.005	26.24375	0.005152906
4617	3	0.738698	0.01	26.25375	0.005154869
3166	3	0.738711	0.01	26.26375	0.005156833
8526	3	0.738733	-0.005	26.25875	0.005155851
366	1	0.738801	0.015	26.27375	0.005158796
3263	3	0.738988	0.01	26.28375	0.00516076
1887	2	0.739165	-0.00625	26.2775	0.005159533
6838	3	0.739341	-0.005	26.2725	0.005158551
3987	3	0.739501	0.01	26.2825	0.005160514
7752	3	0.739843	-0.005	26.2775	0.005159533
6603	3	0.740003	-0.005	26.2725	0.005158551
3307	3	0.740403	0.01	26.2825	0.005160514
8731	3	0.740644	0.01	26.2925	0.005162478
2286	2	0.740924	0.0125	26.305	0.005164932
7312	3	0.741098	-0.005	26.3	0.005163951
1764	1	0.741109	0.015	26.315	0.005166896
1903	2	0.74112	-0.00625	26.30875	0.005165669
3245	3	0.741352	-0.005	26.30375	0.005164687
9697	4	0.741626	-0.005	26.29875	0.005163705
8177	3	0.742148	0.01	26.30875	0.005165669
1703	1	0.742248	0.015	26.32375	0.005168614
1596	1	0.742926	-0.0075	26.31625	0.005167141
2520	2	0.743005	0.0125	26.32875	0.005169596
2118	2	0.743209	-0.00625	26.3225	0.005168368
8015	3	0.743722	0.01	26.3325	0.005170332
1711	1	0.743889	0.015	26.3475	0.005173277
1307	1	0.744058	-0.0075	26.34	0.005171804
2135	2	0.744587	-0.00625	26.33375	0.005170577
3370	3	0.744868	0.01	26.34375	0.005172541
7506	3	0.745173	-0.005	26.33875	0.005171559
5387	3	0.74518	0.01	26.34875	0.005173522
439	1	0.745411	-0.0075	26.34125	0.00517205
5671	3	0.745608	0.01	26.35125	0.005174013
921	1	0.745973	0.015	26.36625	0.005176959
8512	3	0.74652	0.01	26.37625	0.005178922
1433	1	0.746651	-0.0075	26.36875	0.005177449
2470	2	0.746821	-0.00625	26.3625	0.005176222

1221	1	0.746985	-0.0075	26.355	0.00517475
1946	2	0.74718	-0.00625	26.34875	0.005173522
7370	3	0.747457	0.01	26.35875	0.005175486
1470	1	0.747529	-0.0075	26.35125	0.005174013
7601	3	0.747817	0.01	26.36125	0.005175977
8420	3	0.747843	-0.005	26.35625	0.005174995
6694	3	0.748191	0.01	26.36625	0.005176959
2532	2	0.748329	0.0125	26.37875	0.005179413
1726	1	0.748692	0.015	26.39375	0.005182358
8681	3	0.749134	-0.005	26.38875	0.005181376
3341	3	0.749494	-0.005	26.38375	0.005180395
9246	4	0.749712	0.01	26.39375	0.005182358
1179	1	0.749915	-0.0075	26.38625	0.005180886
658	1	0.750042	-0.0075	26.37875	0.005179413
7436	3	0.750283	0.01	26.38875	0.005181376
1407	1	0.750298	0.015	26.40375	0.005184322
2287	2	0.750535	0.0125	26.41625	0.005186776
8631	3	0.750807	-0.005	26.41125	0.005185794
8609	3	0.750992	-0.005	26.40625	0.005184812
9277	4	0.751274	0.01	26.41625	0.005186776
5916	3	0.751471	0.01	26.42625	0.005188739
474	1	0.75155	-0.0075	26.41875	0.005187267
8891	4	0.751871	-0.005	26.41375	0.005186285
6921	3	0.752531	0.01	26.42375	0.005188249
4642	3	0.752709	-0.005	26.41875	0.005187267
1856	2	0.752899	0.0125	26.43125	0.005189721
9901	4	0.753486	-0.005	26.42625	0.005188739
9117	4	0.753645	0.01	26.43625	0.005190703
7362	3	0.753702	0.01	26.44625	0.005192666
539	1	0.753906	0.015	26.46125	0.005195612
8558	3	0.753961	-0.005	26.45625	0.00519463
5870	3	0.754309	0.01	26.46625	0.005196593
7165	3	0.754512	-0.005	26.46125	0.005195612
8752	4	0.754605	-0.005	26.45625	0.00519463
6899	3	0.754917	-0.005	26.45125	0.005193648
9672	4	0.755012	-0.005	26.44625	0.005192666
2700	2	0.755535	-0.00625	26.44	0.005191439
797	1	0.755833	0.015	26.455	0.005194384
2671	2	0.756428	0.0125	26.4675	0.005196839
5872	3	0.75663	0.01	26.4775	0.005198802
9383	4	0.756842	-0.005	26.4725	0.005197821
4044	3	0.757133	0.01	26.4825	0.005199784
4345	3	0.757219	0.01	26.4925	0.005201747
3102	3	0.757285	0.01	26.5025	0.005203711
5096	3	0.757354	-0.005	26.4975	0.005202729
5381	3	0.757363	-0.005	26.4925	0.005201747
1015	1	0.757608	-0.0075	26.485	0.005200275
234	1	0.758121	-0.0075	26.4775	0.005198802
8922	4	0.758605	0.01	26.4875	0.005200766
4376	3	0.758695	0.01	26.4975	0.005202729
2653	2	0.758796	0.0125	26.51	0.005205184
3358	3	0.758859	0.01	26.52	0.005207147

670	1	0.758883	0.015	26.535	0.005210092
2518	2	0.759026	0.0125	26.5475	0.005212547
8668	3	0.759912	0.01	26.5575	0.00521451
5087	3	0.760063	-0.005	26.5525	0.005213528
4646	3	0.760317	-0.005	26.5475	0.005212547
7793	3	0.760396	0.01	26.5575	0.00521451
6837	3	0.760747	-0.005	26.5525	0.005213528
1683	1	0.761101	0.015	26.5675	0.005216474
670	1	0.76157	-0.0075	26.56	0.005215001
3839	3	0.761598	0.01	26.57	0.005216964
8248	3	0.761803	0.01	26.58	0.005218928
3085	3	0.761869	-0.005	26.575	0.005217946
700	1	0.76198	-0.0075	26.5675	0.005216474
8412	3	0.762207	0.01	26.5775	0.005218437
568	1	0.76223	0.015	26.5925	0.005221382
30	1	0.762534	-0.0075	26.585	0.00521991
2057	2	0.762808	-0.00625	26.57875	0.005218683
1919	2	0.762918	-0.00625	26.5725	0.005217455
2349	2	0.762945	-0.00625	26.56625	0.005216228
1348	1	0.76306	0.015	26.58125	0.005219173
3479	3	0.763113	-0.005	26.57625	0.005218192
5720	3	0.763219	-0.005	26.57125	0.00521721
5587	3	0.763952	0.01	26.58125	0.005219173
1504	1	0.763954	0.015	26.59625	0.005222119
5385	3	0.763997	-0.005	26.59125	0.005221137
6057	3	0.76405	0.01	26.60125	0.0052231
2394	2	0.764056	-0.00625	26.595	0.005221873
2163	2	0.764255	0.0125	26.6075	0.005224328
1785	2	0.764258	0.0125	26.62	0.005226782
2199	2	0.764422	-0.00625	26.61375	0.005225555
2085	2	0.76504	0.0125	26.62625	0.005228009
246	1	0.765512	0.015	26.64125	0.005230954
2436	2	0.765597	-0.00625	26.635	0.005229727
1950	2	0.765725	0.0125	26.6475	0.005232181
5868	3	0.765781	-0.005	26.6425	0.0052312
4004	3	0.765806	0.01	26.6525	0.005233163
890	1	0.766053	0.015	26.6675	0.005236108
2722	2	0.766772	-0.00625	26.66125	0.005234881
751	1	0.76681	0.015	26.67625	0.005237826
1486	1	0.768144	0.015	26.69125	0.005240772
4114	3	0.768556	0.01	26.70125	0.005242735
5121	3	0.769087	-0.005	26.69625	0.005241753
556	1	0.769201	0.015	26.71125	0.005244699
966	1	0.769242	0.015	26.72625	0.005247644
591	1	0.769361	0.015	26.74125	0.005250589
9045	4	0.769503	0.01	26.75125	0.005252553
8864	4	0.770325	-0.005	26.74625	0.005251571
4418	3	0.770444	-0.005	26.74125	0.005250589
1082	1	0.770517	-0.0075	26.73375	0.005249116
4248	3	0.770552	0.01	26.74375	0.00525108
3494	3	0.770573	0.01	26.75375	0.005253043
127	1	0.770601	0.015	26.76875	0.005255989

1386	1	0.77075	-0.0075	26.76125	0.005254516
2472	2	0.770788	0.0125	26.77375	0.00525697
5702	3	0.770852	-0.005	26.76875	0.005255989
7210	3	0.770903	0.01	26.77875	0.005257952
5027	3	0.770906	-0.005	26.77375	0.00525697
664	1	0.771406	0.015	26.78875	0.005259916
2212	2	0.771659	0.0125	26.80125	0.00526237
2609	2	0.771964	-0.00625	26.795	0.005261143
2886	2	0.772044	0.0125	26.8075	0.005263597
7396	3	0.77214	0.01	26.8175	0.005265561
3956	3	0.772262	0.01	26.8275	0.005267524
828	1	0.772361	-0.0075	26.82	0.005266051
1216	1	0.772449	0.015	26.835	0.005268997
7082	3	0.772552	-0.005	26.83	0.005268015
7593	3	0.772754	0.01	26.84	0.005269978
3842	3	0.77315	0.01	26.85	0.005271942
2827	2	0.773505	0.0125	26.8625	0.005274396
1787	2	0.773631	-0.00625	26.85625	0.005273169
1821	2	0.773737	0.0125	26.86875	0.005275623
495	1	0.773828	-0.0075	26.86125	0.005274151
8648	3	0.774073	-0.005	26.85625	0.005273169
4639	3	0.77438	-0.005	26.85125	0.005272187
3928	3	0.774431	-0.005	26.84625	0.005271206
8668	3	0.77455	-0.005	26.84125	0.005270224
6284	3	0.774957	-0.005	26.83625	0.005269242
1132	1	0.775733	-0.0075	26.82875	0.005267769
1130	1	0.775891	-0.0075	26.82125	0.005266297
364	1	0.775892	0.015	26.83625	0.005269242
5525	3	0.776409	0.01	26.84625	0.005271206
2140	2	0.776858	-0.00625	26.84	0.005269978
7936	3	0.777001	-0.005	26.835	0.005268997
1295	1	0.777513	0.015	26.85	0.005271942
8418	3	0.777589	0.01	26.86	0.005273905
9442	4	0.778123	0.01	26.87	0.005275869
7347	3	0.778533	0.01	26.88	0.005277832
4113	3	0.778652	0.01	26.89	0.005279796
8190	3	0.77866	-0.005	26.885	0.005278814
2005	2	0.778954	-0.00625	26.87875	0.005277587
352	1	0.779168	0.015	26.89375	0.005280532
5956	3	0.77937	-0.005	26.88875	0.00527955
8260	3	0.779394	0.01	26.89875	0.005281514
9889	4	0.779537	0.01	26.90875	0.005283477
463	1	0.779735	-0.0075	26.90125	0.005282005
9005	4	0.780521	0.01	26.91125	0.005283968
7202	3	0.780576	-0.005	26.90625	0.005282986
906	1	0.780673	-0.0075	26.89875	0.005281514
1165	1	0.780797	-0.0075	26.89125	0.005280041
1859	2	0.780867	-0.00625	26.885	0.005278814
1344	1	0.780966	0.015	26.9	0.005281759
4756	3	0.781669	-0.005	26.895	0.005280778
9499	4	0.781776	0.01	26.905	0.005282741
7549	3	0.781921	-0.005	26.9	0.005281759

7763	3	0.782163	0.01	26.91	0.005283723
9807	4	0.782359	0.01	26.92	0.005285686
4445	3	0.782454	-0.005	26.915	0.005284704
5821	3	0.782651	-0.005	26.91	0.005283723
6412	3	0.782783	-0.005	26.905	0.005282741
4818	3	0.782808	0.01	26.915	0.005284704
1256	1	0.782931	-0.0075	26.9075	0.005283232
4877	3	0.783248	-0.005	26.9025	0.00528225
1468	1	0.783323	-0.0075	26.895	0.005280778
2243	2	0.783558	-0.00625	26.88875	0.00527955
2186	2	0.783688	-0.00625	26.8825	0.005278323
3913	3	0.784563	-0.005	26.8775	0.005277341
2866	2	0.784648	0.0125	26.89	0.005279796
4484	3	0.784875	0.01	26.9	0.005281759
5181	3	0.78514	0.01	26.91	0.005283723
2738	2	0.785345	0.0125	26.9225	0.005286177
2194	2	0.785346	0.0125	26.935	0.005288631
2707	2	0.785396	-0.00625	26.92875	0.005287404
1659	1	0.785895	0.015	26.94375	0.005290349
9412	4	0.78629	0.01	26.95375	0.005292313
6825	3	0.786471	0.01	26.96375	0.005294276
1766	1	0.786498	0.015	26.97875	0.005297222
6323	3	0.78748	0.01	26.98875	0.005299185
301	1	0.787711	-0.0075	26.98125	0.005297713
5427	3	0.788111	-0.005	26.97625	0.005296731
2689	2	0.788538	0.0125	26.98875	0.005299185
7046	3	0.788578	0.01	26.99875	0.005301149
8970	4	0.788609	0.01	27.00875	0.005303112
2232	2	0.788698	0.0125	27.02125	0.005305566
603	1	0.788982	0.015	27.03625	0.005308512
2583	2	0.789064	0.0125	27.04875	0.005310966
556	1	0.789574	-0.0075	27.04125	0.005309493
5389	3	0.789596	-0.005	27.03625	0.005308512
4052	3	0.789865	0.01	27.04625	0.005310475
5455	3	0.789891	-0.005	27.04125	0.005309493
4567	3	0.790346	0.01	27.05125	0.005311457
2597	2	0.790401	0.0125	27.06375	0.005313911
1451	1	0.790699	-0.0075	27.05625	0.005312439
2432	2	0.790986	0.0125	27.06875	0.005314893
7649	3	0.791157	0.01	27.07875	0.005316856
4757	3	0.79137	-0.005	27.07375	0.005315875
1250	1	0.791451	0.015	27.08875	0.00531882
2425	2	0.791566	0.0125	27.10125	0.005321274
1967	2	0.791906	0.0125	27.11375	0.005323729
1599	1	0.792001	0.015	27.12875	0.005326674
1726	1	0.792053	-0.0075	27.12125	0.005325201
2405	2	0.79226	-0.00625	27.115	0.005323974
2752	2	0.792268	-0.00625	27.10875	0.005322747
3092	3	0.792678	0.01	27.11875	0.00532471
8789	4	0.792761	-0.005	27.11375	0.005323729
2085	2	0.792852	-0.00625	27.1075	0.005322501
763	1	0.793046	0.015	27.1225	0.005325447

4350	3	0.793123	-0.005	27.1175	0.005324465
284	1	0.793237	0.015	27.1325	0.00532741
3044	3	0.793446	-0.005	27.1275	0.005326428
709	1	0.793475	-0.0075	27.12	0.005324956
9161	4	0.793534	0.01	27.13	0.005326919
2713	2	0.793542	0.0125	27.1425	0.005329374
2475	2	0.793849	-0.00625	27.13625	0.005328146
3280	3	0.794335	-0.005	27.13125	0.005327165
7307	3	0.794489	0.01	27.14125	0.005329128
23	1	0.794713	-0.0075	27.13375	0.005327656
2589	2	0.794738	-0.00625	27.1275	0.005326428
6384	3	0.795215	-0.005	27.1225	0.005325447
1375	1	0.795244	0.015	27.1375	0.005328392
6628	3	0.795387	0.01	27.1475	0.005330355
748	1	0.795419	-0.0075	27.14	0.005328883
7006	3	0.795461	-0.005	27.135	0.005327901
176	1	0.795967	0.015	27.15	0.005330846
7684	3	0.796288	0.01	27.16	0.00533281
4677	3	0.796383	0.01	27.17	0.005334773
8183	3	0.796531	-0.005	27.165	0.005333791
1945	2	0.797478	-0.00625	27.15875	0.005332564
6674	3	0.797563	0.01	27.16875	0.005334528
2789	2	0.797829	-0.00625	27.1625	0.005333301
7384	3	0.797931	0.01	27.1725	0.005335264
961	1	0.798475	0.015	27.1875	0.005338209
2293	2	0.798862	-0.00625	27.18125	0.005336982
2867	2	0.799252	-0.00625	27.175	0.005335755
5991	3	0.799752	-0.005	27.17	0.005334773
1566	1	0.79981	-0.0075	27.1625	0.005333301
5756	3	0.800166	0.01	27.1725	0.005335264
1944	2	0.800675	0.0125	27.185	0.005337718
5128	3	0.801036	0.01	27.195	0.005339682
3730	3	0.801392	0.01	27.205	0.005341645
7595	3	0.801438	0.01	27.215	0.005343609
3917	3	0.801455	-0.005	27.21	0.005342627
8478	3	0.801852	-0.005	27.205	0.005341645
808	1	0.801997	0.015	27.22	0.005344591
470	1	0.802037	0.015	27.235	0.005347536
111	1	0.80236	-0.0075	27.2275	0.005346063
4594	3	0.802363	0.01	27.2375	0.005348027
1922	2	0.802375	0.0125	27.25	0.005350481
3856	3	0.802669	0.01	27.26	0.005352445
2092	2	0.803116	0.0125	27.2725	0.005354899
4712	3	0.803146	0.01	27.2825	0.005356862
9991	4	0.803384	0.01	27.2925	0.005358826
2736	2	0.803489	-0.00625	27.28625	0.005357599
818	1	0.803632	0.015	27.30125	0.005360544
6499	3	0.803805	0.01	27.31125	0.005362507
2201	2	0.80383	0.0125	27.32375	0.005364962
2517	2	0.80393	-0.00625	27.3175	0.005363735
285	1	0.804087	0.015	27.3325	0.00536668
5468	3	0.804432	0.01	27.3425	0.005368643

2842	2	0.804475	0.0125	27.355	0.005371098
7968	3	0.804888	0.01	27.365	0.005373061
64	1	0.805125	0.015	27.38	0.005376006
7864	3	0.805458	0.01	27.39	0.00537797
6622	3	0.805547	-0.005	27.385	0.005376988
7695	3	0.805602	-0.005	27.38	0.005376006
2576	2	0.806618	-0.00625	27.37375	0.005374779
1955	2	0.806738	-0.00625	27.3675	0.005373552
991	1	0.806864	-0.0075	27.36	0.005372079
5731	3	0.806912	-0.005	27.355	0.005371098
9379	4	0.807263	-0.005	27.35	0.005370116
2852	2	0.807427	-0.00625	27.34375	0.005368889
6237	3	0.807591	0.01	27.35375	0.005370852
1041	1	0.807807	-0.0075	27.34625	0.00536938
1119	1	0.808131	-0.0075	27.33875	0.005367907
2620	2	0.808143	-0.00625	27.3325	0.00536668
1375	1	0.808504	-0.0075	27.325	0.005365207
1525	1	0.808968	0.015	27.34	0.005368152
446	1	0.808997	0.015	27.355	0.005371098
651	1	0.809088	0.015	27.37	0.005374043
389	1	0.809274	-0.0075	27.3625	0.00537257
5572	3	0.810151	0.01	27.3725	0.005374534
477	1	0.810276	0.015	27.3875	0.005377479
6711	3	0.810511	-0.005	27.3825	0.005376497
6725	3	0.811129	-0.005	27.3775	0.005375515
5042	3	0.811261	-0.005	27.3725	0.005374534
2062	2	0.811368	0.0125	27.385	0.005376988
7266	3	0.811623	0.01	27.395	0.005378952
7895	3	0.811758	-0.005	27.39	0.00537797
2676	2	0.81197	0.0125	27.4025	0.005380424
5991	3	0.812373	-0.005	27.3975	0.005379442
3184	3	0.812463	0.01	27.4075	0.005381406
4472	3	0.812867	0.01	27.4175	0.005383369
2129	2	0.812905	0.0125	27.43	0.005385824
1700	1	0.812969	-0.0075	27.4225	0.005384351
3894	3	0.81301	-0.005	27.4175	0.005383369
292	1	0.813504	0.015	27.4325	0.005386315
2639	2	0.813866	0.0125	27.445	0.005388769
5534	3	0.814356	-0.005	27.44	0.005387787
4000	3	0.814384	0.01	27.45	0.005389751
5402	3	0.814388	0.01	27.46	0.005391714
8833	4	0.814465	-0.005	27.455	0.005390732
5293	3	0.814649	0.01	27.465	0.005392696
671	1	0.814889	0.015	27.48	0.005395641
313	1	0.815099	-0.0075	27.4725	0.005394168
2572	2	0.815557	0.0125	27.485	0.005396623
106	1	0.816907	-0.0075	27.4775	0.00539515
878	1	0.81703	0.015	27.4925	0.005398095
5920	3	0.81717	0.01	27.5025	0.005400059
4444	3	0.81793	0.01	27.5125	0.005402022
7769	3	0.818039	0.01	27.5225	0.005403986
353	1	0.818074	0.015	27.5375	0.005406931

499	1	0.818147	0.015	27.5525	0.005409876
4678	3	0.818535	0.01	27.5625	0.00541184
8488	3	0.818858	0.01	27.5725	0.005413803
6020	3	0.819416	0.01	27.5825	0.005415767
7996	3	0.819628	-0.005	27.5775	0.005414785
7068	3	0.819972	-0.005	27.5725	0.005413803
3705	3	0.820237	0.01	27.5825	0.005415767
7345	3	0.820305	0.01	27.5925	0.00541773
1084	1	0.820358	0.015	27.6075	0.005420675
8177	3	0.820361	-0.005	27.6025	0.005419694
2037	2	0.820587	0.0125	27.615	0.005422148
7057	3	0.821075	0.01	27.625	0.005424112
2887	2	0.821689	-0.00625	27.61875	0.005422884
2313	2	0.821898	-0.00625	27.6125	0.005421657
4847	3	0.822079	0.01	27.6225	0.005423621
4557	3	0.822179	0.01	27.6325	0.005425584
806	1	0.82247	0.015	27.6475	0.005428529
5404	3	0.82344	-0.005	27.6425	0.005427548
1298	1	0.823553	-0.0075	27.635	0.005426075
2099	2	0.823715	-0.00625	27.62875	0.005424848
1991	2	0.823894	-0.00625	27.6225	0.005423621
544	1	0.823952	-0.0075	27.615	0.005422148
1192	1	0.824189	-0.0075	27.6075	0.005420675
1665	1	0.824572	-0.0075	27.6	0.005419203
6099	3	0.824683	0.01	27.61	0.005421166
1904	2	0.8247	-0.00625	27.60375	0.005419939
1044	1	0.824914	0.015	27.61875	0.005422884
2768	2	0.825006	-0.00625	27.6125	0.005421657
1185	1	0.825136	-0.0075	27.605	0.005420185
7697	3	0.825245	0.01	27.615	0.005422148
1043	1	0.825672	0.015	27.63	0.005425093
6835	3	0.825872	0.01	27.64	0.005427057
1729	1	0.826272	0.015	27.655	0.005430002
4217	3	0.826306	-0.005	27.65	0.00542902
4572	3	0.826324	0.01	27.66	0.005430984
4338	3	0.826607	0.01	27.67	0.005432947
583	1	0.827023	-0.0075	27.6625	0.005431475
1052	1	0.82719	-0.0075	27.655	0.005430002
2134	2	0.827211	0.0125	27.6675	0.005432456
2799	2	0.827604	0.0125	27.68	0.005434911
342	1	0.827695	-0.0075	27.6725	0.005433438
5852	3	0.827842	-0.005	27.6675	0.005432456
965	1	0.828388	0.015	27.6825	0.005435402
2212	2	0.828659	-0.00625	27.67625	0.005434174
3193	3	0.828662	-0.005	27.67125	0.005433193
989	1	0.829165	0.015	27.68625	0.005436138
9551	4	0.829295	-0.005	27.68125	0.005435156
3186	3	0.829356	0.01	27.69125	0.00543712
9761	4	0.829645	0.01	27.70125	0.005439083
6834	3	0.829667	0.01	27.71125	0.005441047
9632	4	0.830006	0.01	27.72125	0.00544301
5516	3	0.830247	-0.005	27.71625	0.005442028

2074	2	0.830736	-0.00625	27.71	0.005440801
3874	3	0.831244	-0.005	27.705	0.005439819
4648	3	0.831322	-0.005	27.7	0.005438838
8689	3	0.831439	-0.005	27.695	0.005437856
2147	2	0.831698	0.0125	27.7075	0.00544031
2112	2	0.831783	0.0125	27.72	0.005442765
6517	3	0.831988	-0.005	27.715	0.005441783
6475	3	0.832411	-0.005	27.71	0.005440801
780	1	0.832521	-0.0075	27.7025	0.005439328
3956	3	0.833039	-0.005	27.6975	0.005438347
5919	3	0.83354	0.01	27.7075	0.00544031
8683	3	0.834585	0.01	27.7175	0.005442274
3041	3	0.834863	-0.005	27.7125	0.005441292
3195	3	0.835082	0.01	27.7225	0.005443255
8372	3	0.835212	0.01	27.7325	0.005445219
8105	3	0.835481	0.01	27.7425	0.005447182
4926	3	0.835489	-0.005	27.7375	0.005446201
3367	3	0.835876	-0.005	27.7325	0.005445219
5551	3	0.836017	0.01	27.7425	0.005447182
4847	3	0.836228	-0.005	27.7375	0.005446201
9698	4	0.836337	-0.005	27.7325	0.005445219
3945	3	0.837038	0.01	27.7425	0.005447182
784	1	0.837105	0.015	27.7575	0.005450128
4742	3	0.83746	0.01	27.7675	0.005452091
687	1	0.837586	0.015	27.7825	0.005455036
6783	3	0.837792	0.01	27.7925	0.005457
2590	2	0.837811	-0.00625	27.78625	0.005455773
2278	2	0.837978	0.0125	27.79875	0.005458227
7781	3	0.838287	-0.005	27.79375	0.005457245
3680	3	0.838617	0.01	27.80375	0.005459209
2457	2	0.838716	0.0125	27.81625	0.005461663
6783	3	0.838773	-0.005	27.81125	0.005460681
4356	3	0.839002	-0.005	27.80625	0.0054597
8654	3	0.839123	-0.005	27.80125	0.005458718
7259	3	0.839154	0.01	27.81125	0.005460681
144	1	0.839681	-0.0075	27.80375	0.005459209
546	1	0.839694	0.015	27.81875	0.005462154
1394	1	0.839946	0.015	27.83375	0.005465099
7567	3	0.840141	0.01	27.84375	0.005467063
5617	3	0.840372	0.01	27.85375	0.005469026
140	1	0.8406	0.015	27.86875	0.005471971
9383	4	0.840744	-0.005	27.86375	0.00547099
7171	3	0.840807	0.01	27.87375	0.005472953
5347	3	0.840931	0.01	27.88375	0.005474917
2235	2	0.84102	-0.00625	27.8775	0.005473689
6720	3	0.841221	0.01	27.8875	0.005475653
5092	3	0.841325	0.01	27.8975	0.005477616
8769	4	0.841396	-0.005	27.8925	0.005476635
1944	2	0.841506	-0.00625	27.88625	0.005475407
3719	3	0.841657	0.01	27.89625	0.005477371
3530	3	0.84211	-0.005	27.89125	0.005476389
3138	3	0.842227	0.01	27.90125	0.005478353

870	1	0.842246	-0.0075	27.89375	0.00547688
4594	3	0.842359	-0.005	27.88875	0.005475898
5671	3	0.842502	-0.005	27.88375	0.005474917
576	1	0.842898	-0.0075	27.87625	0.005473444
5709	3	0.842937	0.01	27.88625	0.005475407
2597	2	0.84389	-0.00625	27.88	0.00547418
3798	3	0.844073	-0.005	27.875	0.005473199
1008	1	0.844153	0.015	27.89	0.005476144
9029	4	0.844196	-0.005	27.885	0.005475162
796	1	0.844411	-0.0075	27.8775	0.005473689
766	1	0.844638	-0.0075	27.87	0.005472217
2366	2	0.844893	0.0125	27.8825	0.005474671
265	1	0.84498	0.015	27.8975	0.005477616
7116	3	0.845279	-0.005	27.8925	0.005476635
8129	3	0.845712	0.01	27.9025	0.005478598
1188	1	0.845778	-0.0075	27.895	0.005477125
9723	4	0.846322	0.01	27.905	0.005479089
3680	3	0.846997	-0.005	27.9	0.005478107
203	1	0.84753	0.015	27.915	0.005481052
8263	3	0.847627	0.01	27.925	0.005483016
7729	3	0.847727	-0.005	27.92	0.005482034
9127	4	0.847804	-0.005	27.915	0.005481052
9523	4	0.847817	0.01	27.925	0.005483016
5571	3	0.848289	0.01	27.935	0.005484979
1180	1	0.848463	0.015	27.95	0.005487925
1115	1	0.848777	0.015	27.965	0.00549087
7102	3	0.849162	0.01	27.975	0.005492833
0	1	0.849863	-0.0075	27.9675	0.005491361
2904	3	0.850041	0.01	27.9775	0.005493324
7206	3	0.850078	0.01	27.9875	0.005495288
3144	3	0.850098	-0.005	27.9825	0.005494306
3958	3	0.85019	-0.005	27.9775	0.005493324
2659	2	0.85041	0.0125	27.99	0.005495779
2591	2	0.850483	0.0125	28.0025	0.005498233
8363	3	0.850495	0.01	28.0125	0.005500196
4240	3	0.850923	-0.005	28.0075	0.005499215
1346	1	0.850965	-0.0075	28	0.005497742
9497	4	0.851086	0.01	28.01	0.005499705
416	1	0.851218	-0.0075	28.0025	0.005498233
1881	2	0.851257	-0.00625	27.99625	0.005497006
216	1	0.851585	0.015	28.01125	0.005499951
9946	4	0.85174	0.01	28.02125	0.005501914
8970	4	0.851858	-0.005	28.01625	0.005500933
4948	3	0.852007	0.01	28.02625	0.005502896
526	1	0.85208	0.015	28.04125	0.005505841
3609	3	0.852628	0.01	28.05125	0.005507805
3587	3	0.852826	0.01	28.06125	0.005509768
2662	2	0.852827	-0.00625	28.055	0.005508541
7638	3	0.853305	-0.005	28.05	0.005507559
1537	1	0.853333	0.015	28.065	0.005510505
1546	1	0.853743	0.015	28.08	0.00551345
1642	1	0.854143	0.015	28.095	0.005516395

7658	3	0.85422	-0.005	28.09	0.005515413
6024	3	0.85443	0.01	28.1	0.005517377
4421	3	0.854504	0.01	28.11	0.00551934
4334	3	0.854878	-0.005	28.105	0.005518359
4118	3	0.855044	0.01	28.115	0.005520322
1270	1	0.855102	-0.0075	28.1075	0.005518849
1228	1	0.855117	-0.0075	28.1	0.005517377
6321	3	0.855174	0.01	28.11	0.00551934
1775	2	0.855374	0.0125	28.1225	0.005521795
6000	3	0.855545	-0.005	28.1175	0.005520813
86	1	0.855835	0.015	28.1325	0.005523758
3489	3	0.856077	0.01	28.1425	0.005525722
8573	3	0.856243	-0.005	28.1375	0.00552474
1944	2	0.857106	-0.00625	28.13125	0.005523513
330	1	0.857222	-0.0075	28.12375	0.00552204
65	1	0.857355	-0.0075	28.11625	0.005520567
2685	2	0.858141	0.0125	28.12875	0.005523022
4574	3	0.858248	-0.005	28.12375	0.00552204
2371	2	0.858273	0.0125	28.13625	0.005524494
6409	3	0.858289	-0.005	28.13125	0.005523513
6474	3	0.858601	0.01	28.14125	0.005525476
4519	3	0.85862	0.01	28.15125	0.00552744
3655	3	0.858624	0.01	28.16125	0.005529403
8497	3	0.858757	0.01	28.17125	0.005531367
7262	3	0.858786	-0.005	28.16625	0.005530385
5219	3	0.85919	0.01	28.17625	0.005532348
6366	3	0.859638	0.01	28.18625	0.005534312
9532	4	0.85964	0.01	28.19625	0.005536275
540	1	0.859784	-0.0075	28.18875	0.005534803
7639	3	0.859809	0.01	28.19875	0.005536766
162	1	0.859981	0.015	28.21375	0.005539711
4166	3	0.860211	0.01	28.22375	0.005541675
3856	3	0.860243	-0.005	28.21875	0.005540693
788	1	0.860397	0.015	28.23375	0.005543638
1683	1	0.860649	-0.0075	28.22625	0.005542166
9	1	0.860773	-0.0075	28.21875	0.005540693
8004	3	0.861355	0.01	28.22875	0.005542657
2554	2	0.861673	-0.00625	28.2225	0.005541429
594	1	0.861703	0.015	28.2375	0.005544375
4282	3	0.861727	0.01	28.2475	0.005546338
344	1	0.861843	-0.0075	28.24	0.005544866
6060	3	0.861992	-0.005	28.235	0.005543884
8275	3	0.862243	-0.005	28.23	0.005542902
5056	3	0.862247	-0.005	28.225	0.00554192
2893	2	0.862388	-0.00625	28.21875	0.005540693
7591	3	0.862614	0.01	28.22875	0.005542657
565	1	0.862676	-0.0075	28.22125	0.005541184
1469	1	0.862823	0.015	28.23625	0.005544129
6750	3	0.863247	0.01	28.24625	0.005546093
8650	3	0.863571	0.01	28.25625	0.005548056
364	1	0.863804	-0.0075	28.24875	0.005546584
538	1	0.863832	-0.0075	28.24125	0.005545111

6996	3	0.863982	-0.005	28.23625	0.005544129
9787	4	0.864118	-0.005	28.23125	0.005543147
8129	3	0.864448	-0.005	28.22625	0.005542166
1128	1	0.864946	0.015	28.24125	0.005545111
1050	1	0.865077	-0.0075	28.23375	0.005543638
3399	3	0.865085	-0.005	28.22875	0.005542657
470	1	0.865565	-0.0075	28.22125	0.005541184
3486	3	0.865586	0.01	28.23125	0.005543147
313	1	0.865598	-0.0075	28.22375	0.005541675
7525	3	0.866283	-0.005	28.21875	0.005540693
8248	3	0.866442	-0.005	28.21375	0.005539711
2533	2	0.86654	0.0125	28.22625	0.005542166
2804	2	0.866578	0.0125	28.23875	0.00554462
8404	3	0.866847	-0.005	28.23375	0.005543638
6569	3	0.866891	0.01	28.24375	0.005545602
5793	3	0.867169	-0.005	28.23875	0.00554462
5752	3	0.867215	0.01	28.24875	0.005546584
6925	3	0.86727	0.01	28.25875	0.005548547
6387	3	0.867332	-0.005	28.25375	0.005547565
4479	3	0.867375	-0.005	28.24875	0.005546584
2242	2	0.867505	0.0125	28.26125	0.005549038
2016	2	0.867664	0.0125	28.27375	0.005551492
2090	2	0.86778	0.0125	28.28625	0.005553947
9857	4	0.867856	0.01	28.29625	0.00555591
6313	3	0.868026	-0.005	28.29125	0.005554928
7373	3	0.868708	0.01	28.30125	0.005556892
3128	3	0.868999	-0.005	28.29625	0.00555591
161	1	0.869186	-0.0075	28.28875	0.005554437
3920	3	0.869265	-0.005	28.28375	0.005553456
170	1	0.869441	-0.0075	28.27625	0.005551983
8491	3	0.869501	0.01	28.28625	0.005553947
2681	2	0.869702	-0.00625	28.28	0.005552719
7810	3	0.869745	-0.005	28.275	0.005551738
6299	3	0.870515	-0.005	28.27	0.005550756
6401	3	0.870684	0.01	28.28	0.005552719
7190	3	0.870693	0.01	28.29	0.005554683
4986	3	0.871031	0.01	28.3	0.005556646
5043	3	0.87134	0.01	28.31	0.00555861
1078	1	0.871622	0.015	28.325	0.005561555
7034	3	0.871717	-0.005	28.32	0.005560573
663	1	0.871929	-0.0075	28.3125	0.005559101
1554	1	0.871946	0.015	28.3275	0.005562046
1935	2	0.872136	0.0125	28.34	0.0055645
864	1	0.872232	0.015	28.355	0.005567446
2502	2	0.872355	0.0125	28.3675	0.0055699
3997	3	0.872408	-0.005	28.3625	0.005568918
8722	3	0.872452	0.01	28.3725	0.005570882
7100	3	0.872999	0.01	28.3825	0.005572845
4881	3	0.873129	-0.005	28.3775	0.005571863
345	1	0.873272	0.015	28.3925	0.005574809
8845	4	0.873324	0.01	28.4025	0.005576772
7171	3	0.873418	-0.005	28.3975	0.00557579

5940	3	0.873485	-0.005	28.3925	0.005574809
9436	4	0.87362	0.01	28.4025	0.005576772
6553	3	0.874095	0.01	28.4125	0.005578736
6523	3	0.874589	0.01	28.4225	0.005580699
8049	3	0.875776	-0.005	28.4175	0.005579717
6913	3	0.875924	0.01	28.4275	0.005581681
6111	3	0.875991	0.01	28.4375	0.005583644
1949	2	0.876551	-0.00625	28.43125	0.005582417
6055	3	0.876954	-0.005	28.42625	0.005581435
9497	4	0.876972	-0.005	28.42125	0.005580454
4591	3	0.877289	-0.005	28.41625	0.005579472
8664	3	0.877363	-0.005	28.41125	0.00557849
8540	3	0.877794	-0.005	28.40625	0.005577508
2672	2	0.878193	0.0125	28.41875	0.005579963
1377	1	0.878499	0.015	28.43375	0.005582908
8626	3	0.878534	0.01	28.44375	0.005584871
429	1	0.878813	0.015	28.45875	0.005587817
6694	3	0.879106	-0.005	28.45375	0.005586835
4540	3	0.879131	-0.005	28.44875	0.005585853
4303	3	0.879204	0.01	28.45875	0.005587817
5652	3	0.879286	-0.005	28.45375	0.005586835
2157	2	0.880004	-0.00625	28.4475	0.005585608
2170	2	0.880211	-0.00625	28.44125	0.005584381
5246	3	0.880264	0.01	28.45125	0.005586344
7538	3	0.8809	0.01	28.46125	0.005588307
3158	3	0.880908	0.01	28.47125	0.005590271
3064	3	0.88109	-0.005	28.46625	0.005589289
7109	3	0.881804	0.01	28.47625	0.005591253
1473	1	0.882078	0.015	28.49125	0.005594198
5803	3	0.882432	0.01	28.50125	0.005596161
4860	3	0.882987	-0.005	28.49625	0.00559518
884	1	0.88321	0.015	28.51125	0.005598125
1780	2	0.883441	-0.00625	28.505	0.005596898
1652	1	0.883467	0.015	28.52	0.005599843
1972	2	0.883468	0.0125	28.5325	0.005602297
4877	3	0.883494	-0.005	28.5275	0.005601316
5857	3	0.884071	0.01	28.5375	0.005603279
78	1	0.884292	-0.0075	28.53	0.005601806
1449	1	0.884294	-0.0075	28.5225	0.005600334
2803	2	0.884814	0.0125	28.535	0.005602788
4313	3	0.885026	-0.005	28.53	0.005601806
8471	3	0.885272	0.01	28.54	0.00560377
1702	1	0.886664	-0.0075	28.5325	0.005602297
2382	2	0.886704	0.0125	28.545	0.005604752
1005	1	0.886813	-0.0075	28.5375	0.005603279
675	1	0.886889	0.015	28.5525	0.005606224
2195	2	0.887093	0.0125	28.565	0.005608679
8512	3	0.88725	-0.005	28.56	0.005607697
835	1	0.887392	0.015	28.575	0.005610642
1393	1	0.887644	-0.0075	28.5675	0.005609169
331	1	0.887693	0.015	28.5825	0.005612115
7209	3	0.88781	-0.005	28.5775	0.005611133

975	1	0.888173	-0.0075	28.57	0.00560966
4393	3	0.888528	0.01	28.58	0.005611624
7310	3	0.888795	0.01	28.59	0.005613587
1735	1	0.88882	-0.0075	28.5825	0.005612115
1517	1	0.8889	-0.0075	28.575	0.005610642
6092	3	0.888934	-0.005	28.57	0.00560966
8651	3	0.88902	-0.005	28.565	0.005608679
2570	2	0.889241	-0.00625	28.55875	0.005607451
5243	3	0.889271	0.01	28.56875	0.005609415
565	1	0.889354	-0.0075	28.56125	0.005607942
625	1	0.889595	0.015	28.57625	0.005610887
1447	1	0.889769	0.015	28.59125	0.005613833
6762	3	0.889794	-0.005	28.58625	0.005612851
1364	1	0.890021	0.015	28.60125	0.005615796
2338	2	0.890337	-0.00625	28.595	0.005614569
8621	3	0.890367	-0.005	28.59	0.005613587
6389	3	0.890418	0.01	28.6	0.005615551
323	1	0.890539	0.015	28.615	0.005618496
1546	1	0.890593	-0.0075	28.6075	0.005617023
2855	2	0.890931	-0.00625	28.60125	0.005615796
3975	3	0.891748	0.01	28.61125	0.00561776
4783	3	0.891904	-0.005	28.60625	0.005616778
4380	3	0.892596	-0.005	28.60125	0.005615796
2399	2	0.892707	-0.00625	28.595	0.005614569
1096	1	0.892889	0.015	28.61	0.005617514
8444	3	0.893254	0.01	28.62	0.005619478
6567	3	0.894007	-0.005	28.615	0.005618496
5574	3	0.894158	0.01	28.625	0.005620459
1462	1	0.894197	0.015	28.64	0.005623405
1147	1	0.894207	-0.0075	28.6325	0.005621932
7193	3	0.894379	-0.005	28.6275	0.00562095
6024	3	0.894837	-0.005	28.6225	0.005619969
2045	2	0.895866	-0.00625	28.61625	0.005618741
757	1	0.896072	0.015	28.63125	0.005621687
5695	3	0.896227	-0.005	28.62625	0.005620705
1381	1	0.89635	0.015	28.64125	0.00562365
2631	2	0.896506	-0.00625	28.635	0.005622423
4178	3	0.896716	0.01	28.645	0.005624386
3183	3	0.896747	-0.005	28.64	0.005623405
2652	2	0.896832	0.0125	28.6525	0.005625859
5636	3	0.89692	-0.005	28.6475	0.005624877
257	1	0.89721	-0.0075	28.64	0.005623405
5874	3	0.897669	0.01	28.65	0.005625368
342	1	0.898054	-0.0075	28.6425	0.005623896
3346	3	0.898314	0.01	28.6525	0.005625859
454	1	0.898418	0.015	28.6675	0.005628804
2343	2	0.898449	0.0125	28.68	0.005631259
7777	3	0.898473	-0.005	28.675	0.005630277
6948	3	0.898736	0.01	28.685	0.00563224
679	1	0.898737	-0.0075	28.6775	0.005630768
732	1	0.899315	0.015	28.6925	0.005633713
1035	1	0.89953	-0.0075	28.685	0.00563224

2098	2	0.899919	-0.00625	28.67875	0.005631013
1228	1	0.900087	-0.0075	28.67125	0.005629541
5259	3	0.900784	-0.005	28.66625	0.005628559
6095	3	0.901022	0.01	28.67625	0.005630522
661	1	0.90169	0.015	28.69125	0.005633468
5020	3	0.901726	0.01	28.70125	0.005635431
8146	3	0.901754	-0.005	28.69625	0.005634449
4568	3	0.9018	0.01	28.70625	0.005636413
1864	2	0.901852	0.0125	28.71875	0.005638867
5027	3	0.902368	-0.005	28.71375	0.005637885
915	1	0.90266	0.015	28.72875	0.005640831
6938	3	0.902924	0.01	28.73875	0.005642794
7553	3	0.902937	-0.005	28.73375	0.005641812
6250	3	0.903074	-0.005	28.72875	0.005640831
7858	3	0.903076	-0.005	28.72375	0.005639849
1797	2	0.903181	-0.00625	28.7175	0.005638622
4658	3	0.903196	-0.005	28.7125	0.00563764
757	1	0.903284	-0.0075	28.705	0.005636167
1948	2	0.90385	-0.00625	28.69875	0.00563494
8632	3	0.90451	0.01	28.70875	0.005636904
2953	3	0.904916	0.01	28.71875	0.005638867
730	1	0.905237	-0.0075	28.71125	0.005637394
2447	2	0.905577	-0.00625	28.705	0.005636167
2557	2	0.90572	-0.00625	28.69875	0.00563494
1129	1	0.905801	0.015	28.71375	0.005637885
178	1	0.905899	0.015	28.72875	0.005640831
1049	1	0.905941	0.015	28.74375	0.005643776
2320	2	0.906147	-0.00625	28.7375	0.005642549
8375	3	0.906218	0.01	28.7475	0.005644512
9716	4	0.906293	0.01	28.7575	0.005646476
2702	2	0.906398	-0.00625	28.75125	0.005645248
1326	1	0.90643	-0.0075	28.74375	0.005643776
1530	1	0.906638	0.015	28.75875	0.005646721
167	1	0.906927	0.015	28.77375	0.005649666
5463	3	0.907015	0.01	28.78375	0.00565163
2696	2	0.9073	-0.00625	28.7775	0.005650403
1712	1	0.907326	0.015	28.7925	0.005653348
3707	3	0.907366	-0.005	28.7875	0.005652366
2742	2	0.907441	-0.00625	28.78125	0.005651139
1237	1	0.907485	-0.0075	28.77375	0.005649666
2890	2	0.908194	0.0125	28.78625	0.005652121
474	1	0.90861	-0.0075	28.77875	0.005650648
2786	2	0.909135	0.0125	28.79125	0.005653102
4581	3	0.90927	-0.005	28.78625	0.005652121
1202	1	0.909547	0.015	28.80125	0.005655066
407	1	0.9103	0.015	28.81625	0.005658011
9715	4	0.910735	-0.005	28.81125	0.005657029
4663	3	0.911217	0.01	28.82125	0.005658993
7426	3	0.911556	-0.005	28.81625	0.005658011
7779	3	0.911674	-0.005	28.81125	0.005657029
4631	3	0.912437	0.01	28.82125	0.005658993
8742	3	0.912591	0.01	28.83125	0.005660956

5583	3	0.912873	-0.005	28.82625	0.005659974
1711	1	0.913525	-0.0075	28.81875	0.005658502
1935	2	0.913665	-0.00625	28.8125	0.005657275
3777	3	0.91368	0.01	28.8225	0.005659238
3751	3	0.913963	0.01	28.8325	0.005661202
224	1	0.914476	0.015	28.8475	0.005664147
7626	3	0.914971	-0.005	28.8425	0.005663165
5251	3	0.915326	0.01	28.8525	0.005665129
5862	3	0.915857	0.01	28.8625	0.005667092
2930	3	0.915935	-0.005	28.8575	0.00566611
3072	3	0.916091	0.01	28.8675	0.005668074
3095	3	0.91614	-0.005	28.8625	0.005667092
53	1	0.916564	-0.0075	28.855	0.005665619
2164	2	0.916579	-0.00625	28.84875	0.005664392
3640	3	0.916646	-0.005	28.84375	0.005663411
1025	1	0.917395	0.015	28.85875	0.005666356
9546	4	0.917417	0.01	28.86875	0.005668319
3655	3	0.917807	-0.005	28.86375	0.005667338
693	1	0.918354	0.015	28.87875	0.005670283
4543	3	0.9187	0.01	28.88875	0.005672246
8357	3	0.918723	0.01	28.89875	0.00567421
2062	2	0.918864	-0.00625	28.8925	0.005672983
9505	4	0.919259	-0.005	28.8875	0.005672001
3538	3	0.920121	-0.005	28.8825	0.005671019
745	1	0.920207	0.015	28.8975	0.005673964
8073	3	0.920634	0.01	28.9075	0.005675928
2003	2	0.920987	-0.00625	28.90125	0.005674701
2953	3	0.921285	-0.005	28.89625	0.005673719
8833	4	0.921344	-0.005	28.89125	0.005672737
3468	3	0.921974	-0.005	28.88625	0.005671755
1477	1	0.922297	0.015	28.90125	0.005674701
5163	3	0.922416	0.01	28.91125	0.005676664
1116	1	0.922522	-0.0075	28.90375	0.005675191
5905	3	0.922853	0.01	28.91375	0.005677155
8579	3	0.923479	0.01	28.92375	0.005679118
5039	3	0.9237	0.01	28.93375	0.005681082
2190	2	0.923824	-0.00625	28.9275	0.005679855
2790	2	0.924287	-0.00625	28.92125	0.005678628
1096	1	0.925153	-0.0075	28.91375	0.005677155
6752	3	0.925633	-0.005	28.90875	0.005676173
1000	1	0.925712	-0.0075	28.90125	0.005674701
1564	1	0.925927	-0.0075	28.89375	0.005673228
1127	1	0.926109	-0.0075	28.88625	0.005671755
98	1	0.926433	0.015	28.90125	0.005674701
3472	3	0.926489	0.01	28.91125	0.005676664
1869	2	0.926574	-0.00625	28.905	0.005675437
145	1	0.926628	-0.0075	28.8975	0.005673964
5590	3	0.92668	0.01	28.9075	0.005675928
8939	4	0.926731	0.01	28.9175	0.005677891
1102	1	0.927562	0.015	28.9325	0.005680836
9498	4	0.92761	-0.005	28.9275	0.005679855
3628	3	0.927666	-0.005	28.9225	0.005678873

2401	2	0.927942	-0.00625	28.91625	0.005677646
7212	3	0.928883	-0.005	28.91125	0.005676664
8157	3	0.930104	-0.005	28.90625	0.005675682
717	1	0.930803	0.015	28.92125	0.005678628
1256	1	0.931	-0.0075	28.91375	0.005677155
5001	3	0.931474	0.01	28.92375	0.005679118
5674	3	0.931575	-0.005	28.91875	0.005678137
4178	3	0.931614	-0.005	28.91375	0.005677155
9997	4	0.931912	-0.005	28.90875	0.005676173
7930	3	0.932018	0.01	28.91875	0.005678137
6201	3	0.932538	0.01	28.92875	0.0056801
7210	3	0.932723	-0.005	28.92375	0.005679118
1413	1	0.933073	-0.0075	28.91625	0.005677646
7362	3	0.933487	-0.005	28.91125	0.005676664
2899	2	0.933649	0.0125	28.92375	0.005679118
2459	2	0.933724	-0.00625	28.9175	0.005677891
261	1	0.934668	0.015	28.9325	0.005680836
4851	3	0.934839	0.01	28.9425	0.0056828
2416	2	0.93489	-0.00625	28.93625	0.005681573
3260	3	0.935495	0.01	28.94625	0.005683536
6846	3	0.936239	-0.005	28.94125	0.005682554
2696	2	0.936281	-0.00625	28.935	0.005681327
3196	3	0.936322	0.01	28.945	0.005683291
1108	1	0.93708	-0.0075	28.9375	0.005681818
6537	3	0.937644	-0.005	28.9325	0.005680836
2551	2	0.937903	0.0125	28.945	0.005683291
3670	3	0.937926	-0.005	28.94	0.005682309
5631	3	0.938145	0.01	28.95	0.005684273
9421	4	0.938177	0.01	28.96	0.005686236
2018	2	0.938185	-0.00625	28.95375	0.005685009
2573	2	0.938239	-0.00625	28.9475	0.005683782
3957	3	0.938339	0.01	28.9575	0.005685745
1058	1	0.938821	-0.0075	28.95	0.005684273
1789	2	0.939016	-0.00625	28.94375	0.005683045
6154	3	0.939103	0.01	28.95375	0.005685009
5779	3	0.939125	0.01	28.96375	0.005686972
4357	3	0.939548	-0.005	28.95875	0.005685991
7903	3	0.939733	-0.005	28.95375	0.005685009
4897	3	0.939752	-0.005	28.94875	0.005684027
2061	2	0.939786	-0.00625	28.9425	0.0056828
2772	2	0.939874	0.0125	28.955	0.005685254
7789	3	0.940643	0.01	28.965	0.005687218
2780	2	0.94083	-0.00625	28.95875	0.005685991
9925	4	0.94096	-0.005	28.95375	0.005685009
387	1	0.941153	-0.0075	28.94625	0.005683536
6429	3	0.941154	0.01	28.95625	0.0056855
8485	3	0.941642	-0.005	28.95125	0.005684518
5550	3	0.941679	-0.005	28.94625	0.005683536
3663	3	0.942365	0.01	28.95625	0.0056855
2823	2	0.942784	0.0125	28.96875	0.005687954
6274	3	0.942786	-0.005	28.96375	0.005686972
3077	3	0.94286	0.01	28.97375	0.005688936

5844	3	0.943728	0.01	28.98375	0.005690899
8632	3	0.944578	-0.005	28.97875	0.005689918
7906	3	0.945464	-0.005	28.97375	0.005688936
661	1	0.946133	-0.0075	28.96625	0.005687463
3261	3	0.946237	-0.005	28.96125	0.005686481
2820	2	0.946247	-0.00625	28.955	0.005685254
2798	2	0.946323	0.0125	28.9675	0.005687709
7045	3	0.94634	0.01	28.9775	0.005689672
295	1	0.946361	0.015	28.9925	0.005692617
691	1	0.94672	-0.0075	28.985	0.005691145
771	1	0.946736	-0.0075	28.9775	0.005689672
944	1	0.947056	-0.0075	28.97	0.005688199
1266	1	0.947099	0.015	28.985	0.005691145
894	1	0.947229	-0.0075	28.9775	0.005689672
630	1	0.947389	0.015	28.9925	0.005692617
2241	2	0.947542	0.0125	29.005	0.005695072
987	1	0.947671	0.015	29.02	0.005698017
9865	4	0.947908	0.01	29.03	0.00569998
12	1	0.948075	0.015	29.045	0.005702926
5530	3	0.948086	-0.005	29.04	0.005701944
4779	3	0.94854	0.01	29.05	0.005703907
7941	3	0.948637	-0.005	29.045	0.005702926
5874	3	0.948705	-0.005	29.04	0.005701944
5492	3	0.948813	0.01	29.05	0.005703907
2188	2	0.948999	-0.00625	29.04375	0.00570268
2754	2	0.949113	0.0125	29.05625	0.005705134
718	1	0.949309	0.015	29.07125	0.00570808
4388	3	0.949376	-0.005	29.06625	0.005707098
5160	3	0.94961	-0.005	29.06125	0.005706116
769	1	0.949613	0.015	29.07625	0.005709061
35	1	0.949752	0.015	29.09125	0.005712007
4786	3	0.949798	-0.005	29.08625	0.005711025
3196	3	0.949914	-0.005	29.08125	0.005710043
9837	4	0.950334	0.01	29.09125	0.005712007
5890	3	0.950591	0.01	29.10125	0.00571397
5478	3	0.951764	-0.005	29.09625	0.005712988
6205	3	0.951913	0.01	29.10625	0.005714952
9600	4	0.952411	0.01	29.11625	0.005716915
1979	2	0.952664	0.0125	29.12875	0.00571937
7305	3	0.952668	0.01	29.13875	0.005721333
216	1	0.952983	-0.0075	29.13125	0.005719861
1558	1	0.953742	-0.0075	29.12375	0.005718388
8280	3	0.953933	-0.005	29.11875	0.005717406
2067	2	0.954201	-0.00625	29.1125	0.005716179
590	1	0.954295	0.015	29.1275	0.005719124
2874	2	0.954488	0.0125	29.14	0.005721579
8836	4	0.954576	-0.005	29.135	0.005720597
3975	3	0.954665	-0.005	29.13	0.005719615
8240	3	0.954701	-0.005	29.125	0.005718633
1508	1	0.954958	-0.0075	29.1175	0.005717161
7812	3	0.955821	0.01	29.1275	0.005719124
2067	2	0.955943	-0.00625	29.12125	0.005717897

605	1	0.956029	0.015	29.13625	0.005720842
963	1	0.956236	0.015	29.15125	0.005723788
4663	3	0.956348	-0.005	29.14625	0.005722806
1471	1	0.956349	0.015	29.16125	0.005725751
594	1	0.956598	-0.0075	29.15375	0.005724278
6625	3	0.956611	0.01	29.16375	0.005726242
434	1	0.956915	0.015	29.17875	0.005729187
1231	1	0.956926	-0.0075	29.17125	0.005727715
1628	1	0.956963	0.015	29.18625	0.00573066
7663	3	0.957021	0.01	29.19625	0.005732623
6881	3	0.95716	-0.005	29.19125	0.005731641
888	1	0.957181	0.015	29.20625	0.005734587
3221	3	0.957243	-0.005	29.20125	0.005733605
907	1	0.957477	-0.0075	29.19375	0.005732132
586	1	0.957577	0.015	29.20875	0.005735078
461	1	0.957919	-0.0075	29.20125	0.005733605
4803	3	0.957995	0.01	29.21125	0.005735568
3818	3	0.958025	0.01	29.22125	0.005737532
5508	3	0.958744	0.01	29.23125	0.005739495
9512	4	0.958917	-0.005	29.22625	0.005738514
6124	3	0.959095	-0.005	29.22125	0.005737532
6149	3	0.959296	-0.005	29.21625	0.00573655
1499	1	0.959567	0.015	29.23125	0.005739495
1524	1	0.959834	-0.0075	29.22375	0.005738023
4818	3	0.960399	-0.005	29.21875	0.005737041
1338	1	0.960441	-0.0075	29.21125	0.005735568
6930	3	0.960519	0.01	29.22125	0.005737532
6619	3	0.960776	0.01	29.23125	0.005739495
67	1	0.960934	0.015	29.24625	0.005742441
1936	2	0.961261	0.0125	29.25875	0.005744895
8509	3	0.961438	0.01	29.26875	0.005746858
2509	2	0.961444	-0.00625	29.2625	0.005745631
8017	3	0.961898	0.01	29.2725	0.005747595
214	1	0.961915	-0.0075	29.265	0.005746122
307	1	0.962106	-0.0075	29.2575	0.00574465
5595	3	0.962138	-0.005	29.2525	0.005743668
323	1	0.962475	-0.0075	29.245	0.005742195
6335	3	0.962595	-0.005	29.24	0.005741213
6631	3	0.962807	-0.005	29.235	0.005740232
9600	4	0.963849	-0.005	29.23	0.00573925
573	1	0.964238	-0.0075	29.2225	0.005737777
9580	4	0.96475	-0.005	29.2175	0.005736796
4011	3	0.96488	0.01	29.2275	0.005738759
1306	1	0.964913	0.015	29.2425	0.005741704
1956	2	0.964978	0.0125	29.255	0.005744159
6200	3	0.964985	-0.005	29.25	0.005743177
4016	3	0.965055	0.01	29.26	0.00574514
2094	2	0.965217	0.0125	29.2725	0.005747595
3658	3	0.965982	0.01	29.2825	0.005749558
3348	3	0.966244	0.01	29.2925	0.005751522
2431	2	0.966427	-0.00625	29.28625	0.005750295
2451	2	0.966438	0.0125	29.29875	0.005752749

267	1	0.966462	0.015	29.31375	0.005755694
700	1	0.966463	-0.0075	29.30625	0.005754221
8613	3	0.966853	-0.005	29.30125	0.00575324
4833	3	0.966916	-0.005	29.29625	0.005752258
5477	3	0.967168	-0.005	29.29125	0.005751276
2559	2	0.967183	0.0125	29.30375	0.005753731
5526	3	0.967286	0.01	29.31375	0.005755694
4930	3	0.968169	0.01	29.32375	0.005757658
564	1	0.968244	0.015	29.33875	0.005760603
7969	3	0.968441	0.01	29.34875	0.005762566
6986	3	0.968787	0.01	29.35875	0.00576453
1761	1	0.968957	0.015	29.37375	0.005767475
6815	3	0.969362	0.01	29.38375	0.005769438
241	1	0.969431	-0.0075	29.37625	0.005767966
1463	1	0.969498	0.015	29.39125	0.005770911
6932	3	0.96985	0.01	29.40125	0.005772875
629	1	0.970487	-0.0075	29.39375	0.005771402
5574	3	0.970868	-0.005	29.38875	0.00577042
5058	3	0.970986	0.01	29.39875	0.005772384
8399	3	0.971043	0.01	29.40875	0.005774347
2165	2	0.971414	-0.00625	29.4025	0.00577312
2021	2	0.971712	0.0125	29.415	0.005775574
1960	2	0.971801	0.0125	29.4275	0.005778029
7166	3	0.971851	0.01	29.4375	0.005779992
1608	1	0.971894	0.015	29.4525	0.005782937
1420	1	0.971932	-0.0075	29.445	0.005781465
8247	3	0.97207	0.01	29.455	0.005783428
3575	3	0.972242	0.01	29.465	0.005785392
2983	3	0.972298	0.01	29.475	0.005787355
2596	2	0.972367	0.0125	29.4875	0.00578981
781	1	0.972843	-0.0075	29.48	0.005788337
4058	3	0.972933	-0.005	29.475	0.005787355
130	1	0.972946	0.015	29.49	0.0057903
2432	2	0.973143	-0.00625	29.48375	0.005789073
1080	1	0.973375	0.015	29.49875	0.005792018
6883	3	0.973467	0.01	29.50875	0.005793982
497	1	0.973558	0.015	29.52375	0.005796927
4484	3	0.973688	-0.005	29.51875	0.005795945
5499	3	0.973971	-0.005	29.51375	0.005794964
8896	4	0.974458	0.01	29.52375	0.005796927
718	1	0.974596	-0.0075	29.51625	0.005795455
4844	3	0.975028	-0.005	29.51125	0.005794473
4218	3	0.975157	-0.005	29.50625	0.005793491
289	1	0.975176	-0.0075	29.49875	0.005792018
1048	1	0.975255	-0.0075	29.49125	0.005790546
5645	3	0.975429	0.01	29.50125	0.005792509
958	1	0.975483	0.015	29.51625	0.005795455
2659	2	0.975484	-0.00625	29.51	0.005794227
6578	3	0.975525	-0.005	29.505	0.005793246
725	1	0.975549	0.015	29.52	0.005796191
1137	1	0.975578	0.015	29.535	0.005799136
2475	2	0.975923	-0.00625	29.52875	0.005797909

1571	1	0.976442	0.015	29.54375	0.005800854
3864	3	0.976547	-0.005	29.53875	0.005799872
261	1	0.977077	-0.0075	29.53125	0.0057984
7767	3	0.977201	0.01	29.54125	0.005800363
6455	3	0.97745	-0.005	29.53625	0.005799382
4872	3	0.977536	0.01	29.54625	0.005801345
906	1	0.977975	-0.0075	29.53875	0.005799872
3827	3	0.978048	0.01	29.54875	0.005801836
759	1	0.978219	-0.0075	29.54125	0.005800363
905	1	0.978305	0.015	29.55625	0.005803308
2798	2	0.978413	-0.00625	29.55	0.005802081
1720	1	0.978571	0.015	29.565	0.005805027
4537	3	0.978959	0.01	29.575	0.00580699
4857	3	0.979209	-0.005	29.57	0.005806008
4436	3	0.979862	0.01	29.58	0.005807972
4468	3	0.979877	-0.005	29.575	0.00580699
6710	3	0.979883	-0.005	29.57	0.005806008
1936	2	0.980782	-0.00625	29.56375	0.005804781
1539	1	0.980849	-0.0075	29.55625	0.005803308
623	1	0.981058	0.015	29.57125	0.005806254
390	1	0.981226	-0.0075	29.56375	0.005804781
9700	4	0.981492	0.01	29.57375	0.005806745
1641	1	0.981641	0.015	29.58875	0.00580969
9539	4	0.98165	0.01	29.59875	0.005811653
1294	1	0.981662	0.015	29.61375	0.005814598
8246	3	0.981748	0.01	29.62375	0.005816562
7218	3	0.981876	0.01	29.63375	0.005818525
637	1	0.981938	-0.0075	29.62625	0.005817053
4879	3	0.981951	0.01	29.63625	0.005819016
9	1	0.982627	-0.0075	29.62875	0.005817544
2697	2	0.98284	-0.00625	29.6225	0.005816317
2137	2	0.983335	-0.00625	29.61625	0.005815089
4981	3	0.98336	0.01	29.62625	0.005817053
8083	3	0.9835	0.01	29.63625	0.005819016
2259	2	0.983823	0.0125	29.64875	0.005821471
6642	3	0.984189	-0.005	29.64375	0.005820489
1563	1	0.984314	-0.0075	29.63625	0.005819016
2809	2	0.984443	-0.00625	29.63	0.005817789
7316	3	0.984606	-0.005	29.625	0.005816807
4422	3	0.984879	0.01	29.635	0.005818771
6175	3	0.985651	-0.005	29.63	0.005817789
2660	2	0.985963	-0.00625	29.62375	0.005816562
1315	1	0.985973	-0.0075	29.61625	0.005815089
6155	3	0.985985	0.01	29.62625	0.005817053
5517	3	0.985992	-0.005	29.62125	0.005816071
2383	2	0.986245	0.0125	29.63375	0.005818525
7075	3	0.986507	-0.005	29.62875	0.005817544
2652	2	0.986533	-0.00625	29.6225	0.005816317
5446	3	0.987475	0.01	29.6325	0.00581828
4557	3	0.987679	-0.005	29.6275	0.005817298
7360	3	0.987727	-0.005	29.6225	0.005816317
320	1	0.987757	-0.0075	29.615	0.005814844

877	1	0.988433	-0.0075	29.6075	0.005813371
8757	4	0.988472	0.01	29.6175	0.005815335
4424	3	0.988688	-0.005	29.6125	0.005814353
1114	1	0.988802	0.015	29.6275	0.005817298
7634	3	0.988944	0.01	29.6375	0.005819262
2361	2	0.988987	0.0125	29.65	0.005821716
9123	4	0.989188	-0.005	29.645	0.005820734
6287	3	0.989292	-0.005	29.64	0.005819753
883	1	0.989514	-0.0075	29.6325	0.00581828
1340	1	0.989807	-0.0075	29.625	0.005816807
6207	3	0.989943	-0.005	29.62	0.005815826
2142	2	0.990067	0.0125	29.6325	0.00581828
3103	3	0.990409	-0.005	29.6275	0.005817298
6118	3	0.990476	0.01	29.6375	0.005819262
9412	4	0.990899	-0.005	29.6325	0.00581828
2548	2	0.990956	0.0125	29.645	0.005820734
7023	3	0.990977	0.01	29.655	0.005822698
1362	1	0.991077	0.015	29.67	0.005825643
3594	3	0.991085	0.01	29.68	0.005827607
675	1	0.991629	-0.0075	29.6725	0.005826134
6218	3	0.991721	-0.005	29.6675	0.005825152
1198	1	0.991823	0.015	29.6825	0.005828097
1472	1	0.991872	0.015	29.6975	0.005831043
811	1	0.992107	-0.0075	29.69	0.00582957
853	1	0.992204	-0.0075	29.6825	0.005828097
225	1	0.992236	0.015	29.6975	0.005831043
1166	1	0.992428	-0.0075	29.69	0.00582957
7345	3	0.992497	-0.005	29.685	0.005828588
2381	2	0.992594	0.0125	29.6975	0.005831043
434	1	0.993617	-0.0075	29.69	0.00582957
1654	1	0.994099	-0.0075	29.6825	0.005828097
1472	1	0.994117	-0.0075	29.675	0.005826625
4572	3	0.994935	-0.005	29.67	0.005825643
1150	1	0.995165	0.015	29.685	0.005828588
1818	2	0.995323	0.0125	29.6975	0.005831043
358	1	0.995482	0.015	29.7125	0.005833988
8410	3	0.995675	-0.005	29.7075	0.005833006
3095	3	0.995729	-0.005	29.7025	0.005832024
7252	3	0.996073	0.01	29.7125	0.005833988
580	1	0.996445	0.015	29.7275	0.005836933
2743	2	0.996853	0.0125	29.74	0.005839387
5798	3	0.997101	0.01	29.75	0.005841351
197	1	0.997246	0.015	29.765	0.005844296
655	1	0.997288	-0.0075	29.7575	0.005842823
369	1	0.997482	-0.0075	29.75	0.005841351
7824	3	0.997557	0.01	29.76	0.005843314
6332	3	0.998198	-0.005	29.755	0.005842333
3019	3	0.998418	0.01	29.765	0.005844296
3372	3	0.998525	-0.005	29.76	0.005843314
1506	1	0.999028	0.015	29.775	0.00584626
6362	3	0.999072	-0.005	29.77	0.005845278
7697	3	0.999212	-0.005	29.765	0.005844296

355	1	0.999239	-0.0075	29.7575	0.005842823
1202	1	0.999307	-0.0075	29.75	0.005841351
2838	2	0.999587	0.0125	29.7625	0.005843805
4617	3	0.999966	-0.005	29.7575	0.005842823
4609	3	1.000433	-0.005	29.7525	0.005841842
5301	3	1.000677	0.01	29.7625	0.005843805
1516	1	1.000904	0.015	29.7775	0.00584675
8200	3	1.001285	0.01	29.7875	0.005848714
814	1	1.001517	0.015	29.8025	0.005851659
7640	3	1.001777	-0.005	29.7975	0.005850677
239	1	1.001851	0.015	29.8125	0.005853623
5388	3	1.001987	0.01	29.8225	0.005855586
9249	4	1.002363	0.01	29.8325	0.00585755
1252	1	1.002407	-0.0075	29.825	0.005856077
5234	3	1.002461	-0.005	29.82	0.005855095
9161	4	1.003082	-0.005	29.815	0.005854113
1379	1	1.003563	0.015	29.83	0.005857059
3344	3	1.004254	0.01	29.84	0.005859022
7294	3	1.00444	-0.005	29.835	0.00585804
9697	4	1.005219	-0.005	29.83	0.005857059
856	1	1.005368	0.015	29.845	0.005860004
2579	2	1.005535	-0.00625	29.83875	0.005858777
3242	3	1.005842	-0.005	29.83375	0.005857795
7697	3	1.006002	-0.005	29.82875	0.005856813
7769	3	1.006044	-0.005	29.82375	0.005855832
1225	1	1.006524	0.015	29.83875	0.005858777
5181	3	1.006632	-0.005	29.83375	0.005857795
6523	3	1.006656	-0.005	29.82875	0.005856813
6961	3	1.006922	-0.005	29.82375	0.005855832
851	1	1.006946	0.015	29.83875	0.005858777
5440	3	1.007108	0.01	29.84875	0.00586074
6201	3	1.00739	-0.005	29.84375	0.005859758
102	1	1.007604	-0.0075	29.83625	0.005858286
1557	1	1.007727	-0.0075	29.82875	0.005856813
6406	3	1.00832	0.01	29.83875	0.005858777
5012	3	1.008562	-0.005	29.83375	0.005857795
5992	3	1.008576	0.01	29.84375	0.005859758
9452	4	1.008583	0.01	29.85375	0.005861722
401	1	1.009104	0.015	29.86875	0.005864667
1224	1	1.009292	-0.0075	29.86125	0.005863195
1163	1	1.009677	0.015	29.87625	0.00586614
911	1	1.009836	-0.0075	29.86875	0.005864667
3248	3	1.009925	0.01	29.87875	0.005866631
3663	3	1.010425	-0.005	29.87375	0.005865649
8501	3	1.010722	-0.005	29.86875	0.005864667
5223	3	1.011021	-0.005	29.86375	0.005863685
4970	3	1.011735	-0.005	29.85875	0.005862704
5592	3	1.011784	0.01	29.86875	0.005864667
4325	3	1.012002	0.01	29.87875	0.005866631
8989	4	1.01249	-0.005	29.87375	0.005865649
1932	2	1.012565	0.0125	29.88625	0.005868103
1504	1	1.013263	-0.0075	29.87875	0.005866631

2037	2	1.014411	-0.00625	29.8725	0.005865403
8317	3	1.015126	-0.005	29.8675	0.005864422
6905	3	1.015287	0.01	29.8775	0.005866385
7263	3	1.015501	0.01	29.8875	0.005868349
2640	2	1.015508	0.0125	29.9	0.005870803
5147	3	1.016012	-0.005	29.895	0.005869821
1144	1	1.016126	0.015	29.91	0.005872767
1863	2	1.016302	-0.00625	29.90375	0.005871539
6934	3	1.01642	-0.005	29.89875	0.005870558
3184	3	1.016431	-0.005	29.89375	0.005869576
4960	3	1.01649	0.01	29.90375	0.005871539
9441	4	1.016719	0.01	29.91375	0.005873503
5056	3	1.017044	-0.005	29.90875	0.005872521
4900	3	1.017171	0.01	29.91875	0.005874485
5996	3	1.017549	-0.005	29.91375	0.005873503
494	1	1.017752	-0.0075	29.90625	0.00587203
7774	3	1.018216	-0.005	29.90125	0.005871048
9632	4	1.018367	-0.005	29.89625	0.005870067
2138	2	1.018674	0.0125	29.90875	0.005872521
5411	3	1.018977	0.01	29.91875	0.005874485
4567	3	1.019482	-0.005	29.91375	0.005873503
1281	1	1.019506	-0.0075	29.90625	0.00587203
7305	3	1.019517	-0.005	29.90125	0.005871048
5163	3	1.019648	-0.005	29.89625	0.005870067
8090	3	1.019908	0.01	29.90625	0.00587203
2042	2	1.020089	0.0125	29.91875	0.005874485
1774	2	1.020303	-0.00625	29.9125	0.005873257
2863	2	1.020963	-0.00625	29.90625	0.00587203
4042	3	1.021144	0.01	29.91625	0.005873994
4472	3	1.021147	-0.005	29.91125	0.005873012
2071	2	1.02167	0.0125	29.92375	0.005875466
3818	3	1.021899	-0.005	29.91875	0.005874485
7090	3	1.022117	-0.005	29.91375	0.005873503
4238	3	1.022153	-0.005	29.90875	0.005872521
6930	3	1.024641	-0.005	29.90375	0.005871539
336	1	1.024763	-0.0075	29.89625	0.005870067
5039	3	1.024802	-0.005	29.89125	0.005869085
3018	3	1.025096	-0.005	29.88625	0.005868103
7143	3	1.025571	0.01	29.89625	0.005870067
2075	2	1.025707	0.0125	29.90875	0.005872521
1244	1	1.025776	-0.0075	29.90125	0.005871048
8129	3	1.02587	-0.005	29.89625	0.005870067
1201	1	1.025986	0.015	29.91125	0.005873012
8284	3	1.026404	0.01	29.92125	0.005874975
2827	2	1.026636	-0.00625	29.915	0.005873748
1588	1	1.026645	-0.0075	29.9075	0.005872276
1190	1	1.026681	0.015	29.9225	0.005875221
257	1	1.026793	-0.0075	29.915	0.005873748
69	1	1.026812	0.015	29.93	0.005876694
9194	4	1.027094	0.01	29.94	0.005878657
6548	3	1.027172	-0.005	29.935	0.005877675
6689	3	1.027517	0.01	29.945	0.005879639

6044	3	1.027801	0.01	29.955	0.005881602
6802	3	1.027926	-0.005	29.95	0.00588062
157	1	1.028113	-0.0075	29.9425	0.005879148
713	1	1.02857	-0.0075	29.935	0.005877675
1515	1	1.028655	0.015	29.95	0.00588062
1226	1	1.029089	0.015	29.965	0.005883566
5852	3	1.029142	-0.005	29.96	0.005882584
5838	3	1.029344	-0.005	29.955	0.005881602
4136	3	1.029405	0.01	29.965	0.005883566
116	1	1.029504	-0.0075	29.9575	0.005882093
7153	3	1.029693	-0.005	29.9525	0.005881111
4105	3	1.029767	0.01	29.9625	0.005883075
2547	2	1.030119	0.0125	29.975	0.005885529
7374	3	1.030292	0.01	29.985	0.005887493
98	1	1.030439	-0.0075	29.9775	0.00588602
1337	1	1.030869	-0.0075	29.97	0.005884547
7381	3	1.031237	0.01	29.98	0.005886511
6204	3	1.03124	0.01	29.99	0.005888474
612	1	1.031258	-0.0075	29.9825	0.005887002
5311	3	1.031289	0.01	29.9925	0.005888965
584	1	1.031489	0.015	30.0075	0.00589191
711	1	1.031732	0.015	30.0225	0.005894856
5867	3	1.031975	-0.005	30.0175	0.005893874
5874	3	1.032121	-0.005	30.0125	0.005892892
1320	1	1.032264	0.015	30.0275	0.005895837
9499	4	1.032836	-0.005	30.0225	0.005894856
40	1	1.032982	-0.0075	30.015	0.005893383
42	1	1.033639	-0.0075	30.0075	0.00589191
2640	2	1.034513	-0.00625	30.00125	0.005890683
7869	3	1.034584	0.01	30.01125	0.005892647
4186	3	1.03475	0.01	30.02125	0.00589461
9934	4	1.035126	0.01	30.03125	0.005896574
4683	3	1.035167	0.01	30.04125	0.005898537
5730	3	1.035188	-0.005	30.03625	0.005897555
5361	3	1.035288	0.01	30.04625	0.005899519
899	1	1.035381	0.015	30.06125	0.005902464
356	1	1.035622	0.015	30.07625	0.005905409
1447	1	1.036094	-0.0075	30.06875	0.005903937
44	1	1.036267	-0.0075	30.06125	0.005902464
3538	3	1.036291	-0.005	30.05625	0.005901482
1313	1	1.036398	0.015	30.07125	0.005904428
1037	1	1.036626	-0.0075	30.06375	0.005902955
5371	3	1.036755	-0.005	30.05875	0.005901973
5048	3	1.036837	-0.005	30.05375	0.005900992
9589	4	1.037283	-0.005	30.04875	0.00590001
9210	4	1.03737	0.01	30.05875	0.005901973
690	1	1.037478	-0.0075	30.05125	0.005900501
259	1	1.037617	0.015	30.06625	0.005903446
370	1	1.037666	-0.0075	30.05875	0.005901973
2792	2	1.037681	0.0125	30.07125	0.005904428
4045	3	1.038183	-0.005	30.06625	0.005903446
954	1	1.038365	0.015	30.08125	0.005906391

7253	3	1.038382	0.01	30.09125	0.005908355
2360	2	1.0386	0.0125	30.10375	0.005910809
865	1	1.038835	-0.0075	30.09625	0.005909336
1301	1	1.039591	0.015	30.11125	0.005912282
6504	3	1.039948	-0.005	30.10625	0.0059113
3247	3	1.040472	0.01	30.11625	0.005913263
3461	3	1.040722	0.01	30.12625	0.005915227
1571	1	1.040987	-0.0075	30.11875	0.005913754
2890	2	1.041111	-0.00625	30.1125	0.005912527
2877	2	1.041355	0.0125	30.125	0.005914981
7378	3	1.042257	0.01	30.135	0.005916945
335	1	1.042274	0.015	30.15	0.00591989
6737	3	1.042593	0.01	30.16	0.005921854
7025	3	1.042621	0.01	30.17	0.005923817
5367	3	1.042705	-0.005	30.165	0.005922835
1164	1	1.042718	-0.0075	30.1575	0.005921363
525	1	1.043616	-0.0075	30.15	0.00591989
1543	1	1.043725	-0.0075	30.1425	0.005918417
1960	2	1.043738	-0.00625	30.13625	0.00591719
1300	1	1.043809	0.015	30.15125	0.005920135
1962	2	1.044091	0.0125	30.16375	0.00592259
3665	3	1.044428	-0.005	30.15875	0.005921608
6036	3	1.044796	0.01	30.16875	0.005923572
6483	3	1.044988	0.01	30.17875	0.005925535
8717	3	1.045135	0.01	30.18875	0.005927499
7467	3	1.045223	-0.005	30.18375	0.005926517
8680	3	1.045334	-0.005	30.17875	0.005925535
1477	1	1.045573	-0.0075	30.17125	0.005924062
2734	2	1.045641	-0.00625	30.165	0.005922835
6326	3	1.045724	-0.005	30.16	0.005921854
186	1	1.045981	0.015	30.175	0.005924799
2049	2	1.046312	0.0125	30.1875	0.005927253
452	1	1.046705	0.015	30.2025	0.005930198
3188	3	1.046846	-0.005	30.1975	0.005929217
2257	2	1.0469	0.0125	30.21	0.005931671
7022	3	1.047129	0.01	30.22	0.005933634
3156	3	1.047558	-0.005	30.215	0.005932653
6637	3	1.048217	0.01	30.225	0.005934616
238	1	1.048243	0.015	30.24	0.005937561
4742	3	1.048475	-0.005	30.235	0.00593658
8085	3	1.048775	0.01	30.245	0.005938543
1277	1	1.048992	-0.0075	30.2375	0.00593707
2087	2	1.049058	-0.00625	30.23125	0.005935843
80	1	1.049205	-0.0075	30.22375	0.005934371
5590	3	1.049311	-0.005	30.21875	0.005933389
5107	3	1.050296	0.01	30.22875	0.005935352
2233	2	1.05064	0.0125	30.24125	0.005937807
2994	3	1.050822	0.01	30.25125	0.00593977
2912	3	1.05164	0.01	30.26125	0.005941734
2814	2	1.051788	0.0125	30.27375	0.005944188
925	1	1.052057	-0.0075	30.26625	0.005942715
2866	2	1.052216	-0.00625	30.26	0.005941488

8403	3	1.052453	0.01	30.27	0.005943452
2263	2	1.052623	-0.00625	30.26375	0.005942225
680	1	1.052953	-0.0075	30.25625	0.005940752
3138	3	1.053131	-0.005	30.25125	0.00593977
764	1	1.053609	-0.0075	30.24375	0.005938298
1801	2	1.053614	0.0125	30.25625	0.005940752
8173	3	1.053693	0.01	30.26625	0.005942715
4498	3	1.053994	0.01	30.27625	0.005944679
1411	1	1.054232	0.015	30.29125	0.005947624
6752	3	1.054679	-0.005	30.28625	0.005946642
1604	1	1.054759	0.015	30.30125	0.005949588
5315	3	1.054974	-0.005	30.29625	0.005948606
9630	4	1.055473	0.01	30.30625	0.005950569
4736	3	1.055531	0.01	30.31625	0.005952533
3186	3	1.055579	-0.005	30.31125	0.005951551
7848	3	1.05564	-0.005	30.30625	0.005950569
278	1	1.056005	-0.0075	30.29875	0.005949097
6658	3	1.056061	0.01	30.30875	0.00595106
3048	3	1.056203	0.01	30.31875	0.005953024
3380	3	1.05631	0.01	30.32875	0.005954987
2605	2	1.056639	-0.00625	30.3225	0.00595376
1116	1	1.057262	-0.0075	30.315	0.005952287
2893	2	1.057283	-0.00625	30.30875	0.00595106
273	1	1.0576	0.015	30.32375	0.005954005
8214	3	1.057691	-0.005	30.31875	0.005953024
532	1	1.057967	-0.0075	30.31125	0.005951551
4777	3	1.05805	-0.005	30.30625	0.005950569
7011	3	1.058069	-0.005	30.30125	0.005949588
1783	2	1.058155	0.0125	30.31375	0.005952042
1107	1	1.058291	-0.0075	30.30625	0.005950569
1455	1	1.058874	0.015	30.32125	0.005953515
8269	3	1.059243	-0.005	30.31625	0.005952533
2665	2	1.059695	0.0125	30.32875	0.005954987
1378	1	1.060326	0.015	30.34375	0.005957932
8259	3	1.060391	-0.005	30.33875	0.005956951
1271	1	1.060595	0.015	30.35375	0.005959896
2090	2	1.060634	-0.00625	30.3475	0.005958669
4932	3	1.06064	-0.005	30.3425	0.005957687
6879	3	1.06154	0.01	30.3525	0.005959651
2136	2	1.061782	0.0125	30.365	0.005962105
6354	3	1.062164	0.01	30.375	0.005964068
4832	3	1.062326	-0.005	30.37	0.005963087
4889	3	1.062384	0.01	30.38	0.00596505
1750	1	1.062467	-0.0075	30.3725	0.005963577
2215	2	1.062711	0.0125	30.385	0.005966032
3753	3	1.0629	0.01	30.395	0.005967995
6824	3	1.06295	-0.005	30.39	0.005967014
615	1	1.06309	0.015	30.405	0.005969959
3701	3	1.063132	0.01	30.415	0.005971922
239	1	1.063642	-0.0075	30.4075	0.00597045
962	1	1.06393	0.015	30.4225	0.005973395
1287	1	1.063961	-0.0075	30.415	0.005971922

3746	3	1.063979	-0.005	30.41	0.005970941
3786	3	1.064187	-0.005	30.405	0.005969959
743	1	1.064383	-0.0075	30.3975	0.005968486
903	1	1.064427	0.015	30.4125	0.005971431
2731	2	1.064918	0.0125	30.425	0.005973886
3248	3	1.065062	-0.005	30.42	0.005972904
1698	1	1.065342	0.015	30.435	0.005975849
6938	3	1.065408	-0.005	30.43	0.005974867
597	1	1.065495	-0.0075	30.4225	0.005973395
8418	3	1.065506	-0.005	30.4175	0.005972413
2278	2	1.065736	-0.00625	30.41125	0.005971186
3701	3	1.065743	-0.005	30.40625	0.005970204
9794	4	1.065892	0.01	30.41625	0.005972168
4933	3	1.066191	0.01	30.42625	0.005974131
1828	2	1.06637	0.0125	30.43875	0.005976586
7791	3	1.066463	-0.005	30.43375	0.005975604
2194	2	1.066561	-0.00625	30.4275	0.005974377
1642	1	1.066608	-0.0075	30.42	0.005972904
2802	2	1.066629	-0.00625	30.41375	0.005971677
6588	3	1.066786	-0.005	30.40875	0.005970695
4968	3	1.068081	-0.005	30.40375	0.005969713
3206	3	1.068225	-0.005	30.39875	0.005968732
3570	3	1.068261	0.01	30.40875	0.005970695
4848	3	1.068685	0.01	30.41875	0.005972659
6348	3	1.06886	0.01	30.42875	0.005974622
8478	3	1.069794	-0.005	30.42375	0.00597364
987	1	1.070108	-0.0075	30.41625	0.005972168
7379	3	1.070147	-0.005	30.41125	0.005971186
4456	3	1.070268	0.01	30.42125	0.005973149
7011	3	1.070308	-0.005	30.41625	0.005972168
8055	3	1.070744	0.01	30.42625	0.005974131
7026	3	1.071523	0.01	30.43625	0.005976095
1381	1	1.072201	-0.0075	30.42875	0.005974622
4865	3	1.07244	-0.005	30.42375	0.00597364
1972	2	1.072473	-0.00625	30.4175	0.005972413
5997	3	1.072799	-0.005	30.4125	0.005971431
8588	3	1.07303	0.01	30.4225	0.005973395
3128	3	1.07308	-0.005	30.4175	0.005972413
2512	2	1.073192	-0.00625	30.41125	0.005971186
2185	2	1.073713	0.0125	30.42375	0.00597364
6962	3	1.074364	-0.005	30.41875	0.005972659
3961	3	1.074477	0.01	30.42875	0.005974622
9356	4	1.07448	-0.005	30.42375	0.00597364
82	1	1.074823	-0.0075	30.41625	0.005972168
2311	2	1.074863	-0.00625	30.41	0.005970941
423	1	1.07552	0.015	30.425	0.005973886
103	1	1.075651	0.015	30.44	0.005976831
4922	3	1.07573	0.01	30.45	0.005978794
8278	3	1.076239	-0.005	30.445	0.005977813
451	1	1.076277	0.015	30.46	0.005980758
9117	4	1.076289	-0.005	30.455	0.005979776
8549	3	1.076316	-0.005	30.45	0.005978794

2455	2	1.076461	0.0125	30.4625	0.005981249
6367	3	1.076673	0.01	30.4725	0.005983212
222	1	1.076741	-0.0075	30.465	0.00598174
3333	3	1.076935	0.01	30.475	0.005983703
2347	2	1.07694	-0.00625	30.46875	0.005982476
6580	3	1.077576	-0.005	30.46375	0.005981494
7436	3	1.07811	-0.005	30.45875	0.005980512
1829	2	1.078115	-0.00625	30.4525	0.005979285
4635	3	1.078699	-0.005	30.4475	0.005978304
3301	3	1.078855	-0.005	30.4425	0.005977322
787	1	1.079237	0.015	30.4575	0.005980267
547	1	1.079331	-0.0075	30.45	0.005978794
3117	3	1.079502	-0.005	30.445	0.005977813
1405	1	1.079542	0.015	30.46	0.005980758
4488	3	1.079837	-0.005	30.455	0.005979776
9116	4	1.079958	0.01	30.465	0.00598174
7224	3	1.080025	0.01	30.475	0.005983703
30	1	1.08024	-0.0075	30.4675	0.005982231
3073	3	1.080481	0.01	30.4775	0.005984194
5373	3	1.08059	-0.005	30.4725	0.005983212
3786	3	1.080655	-0.005	30.4675	0.005982231
4624	3	1.080809	-0.005	30.4625	0.005981249
1008	1	1.080817	-0.0075	30.455	0.005979776
8633	3	1.081913	0.01	30.465	0.00598174
914	1	1.082537	0.015	30.48	0.005984685
2593	2	1.083378	0.0125	30.4925	0.005987139
2106	2	1.083383	0.0125	30.505	0.005989594
687	1	1.083504	-0.0075	30.4975	0.005988121
3986	3	1.083707	-0.005	30.4925	0.005987139
6767	3	1.083807	-0.005	30.4875	0.005986157
3744	3	1.083945	0.01	30.4975	0.005988121
1634	1	1.084015	-0.0075	30.49	0.005986648
1219	1	1.08481	-0.0075	30.4825	0.005985176
6667	3	1.085812	0.01	30.4925	0.005987139
1762	1	1.086226	0.015	30.5075	0.005990084
542	1	1.086243	-0.0075	30.5	0.005988612
7676	3	1.086587	0.01	30.51	0.005990575
117	1	1.086677	-0.0075	30.5025	0.005989103
5165	3	1.087055	-0.005	30.4975	0.005988121
9723	4	1.087173	-0.005	30.4925	0.005987139
6301	3	1.087185	0.01	30.5025	0.005989103
4288	3	1.087318	0.01	30.5125	0.005991066
968	1	1.087834	-0.0075	30.505	0.005989594
8085	3	1.088013	-0.005	30.5	0.005988612
1227	1	1.088111	-0.0075	30.4925	0.005987139
2301	2	1.088483	-0.00625	30.48625	0.005985912
7653	3	1.088491	-0.005	30.48125	0.00598493
953	1	1.088738	0.015	30.49625	0.005987876
1578	1	1.089565	-0.0075	30.48875	0.005986403
2374	2	1.089663	-0.00625	30.4825	0.005985176
615	1	1.089808	-0.0075	30.475	0.005983703
749	1	1.090215	-0.0075	30.4675	0.005982231

1637	1	1.090313	-0.0075	30.46	0.005980758
4069	3	1.090368	0.01	30.47	0.005982721
5287	3	1.090771	-0.005	30.465	0.00598174
4779	3	1.090868	-0.005	30.46	0.005980758
2668	2	1.091516	-0.00625	30.45375	0.005979531
8407	3	1.091541	-0.005	30.44875	0.005978549
7085	3	1.092101	-0.005	30.44375	0.005977567
5947	3	1.092334	0.01	30.45375	0.005979531
3053	3	1.092581	-0.005	30.44875	0.005978549
172	1	1.092593	-0.0075	30.44125	0.005977076
2280	2	1.09287	0.0125	30.45375	0.005979531
6366	3	1.093001	-0.005	30.44875	0.005978549
4810	3	1.093229	0.01	30.45875	0.005980512
5382	3	1.093241	-0.005	30.45375	0.005979531
1209	1	1.093608	0.015	30.46875	0.005982476
2693	2	1.093635	0.0125	30.48125	0.00598493
6078	3	1.094216	0.01	30.49125	0.005986894
5844	3	1.094468	-0.005	30.48625	0.005985912
3607	3	1.094709	0.01	30.49625	0.005987876
8222	3	1.095106	-0.005	30.49125	0.005986894
5219	3	1.095228	-0.005	30.48625	0.005985912
7787	3	1.095246	0.01	30.49625	0.005987876
4288	3	1.095346	-0.005	30.49125	0.005986894
1660	1	1.095469	0.015	30.50625	0.005989839
499	1	1.096067	-0.0075	30.49875	0.005988366
1511	1	1.096839	0.015	30.51375	0.005991312
6128	3	1.09697	-0.005	30.50875	0.00599033
2362	2	1.096972	-0.00625	30.5025	0.005989103
2379	2	1.097354	0.0125	30.515	0.005991557
3940	3	1.097486	0.01	30.525	0.005993521
405	1	1.097794	0.015	30.54	0.005996466
8135	3	1.09795	0.01	30.55	0.005998429
9865	4	1.098118	-0.005	30.545	0.005997447
5800	3	1.098149	-0.005	30.54	0.005996466
4243	3	1.098204	-0.005	30.535	0.005995484
6584	3	1.098275	-0.005	30.53	0.005994502
5121	3	1.098556	-0.005	30.525	0.005993521
8606	3	1.098888	-0.005	30.52	0.005992539
6822	3	1.099124	-0.005	30.515	0.005991557
3729	3	1.099333	0.01	30.525	0.005993521
6158	3	1.099462	0.01	30.535	0.005995484
7278	3	1.099478	-0.005	30.53	0.005994502
3709	3	1.099837	-0.005	30.525	0.005993521
7576	3	1.100227	-0.005	30.52	0.005992539
8055	3	1.100768	-0.005	30.515	0.005991557
7946	3	1.100956	0.01	30.525	0.005993521
4696	3	1.101607	0.01	30.535	0.005995484
6016	3	1.101643	0.01	30.545	0.005997447
1605	1	1.101709	0.015	30.56	0.006000393
4625	3	1.101996	0.01	30.57	0.006002356
5357	3	1.102493	0.01	30.58	0.00600432
3609	3	1.103185	-0.005	30.575	0.006003338

393	1	1.103502	0.015	30.59	0.006006283
442	1	1.103726	-0.0075	30.5825	0.006004811
2850	2	1.104233	-0.00625	30.57625	0.006003583
7188	3	1.104275	-0.005	30.57125	0.006002602
3204	3	1.104487	0.01	30.58125	0.006004565
1178	1	1.104569	0.015	30.59625	0.00600751
9081	4	1.104716	-0.005	30.59125	0.006006529
2562	2	1.105314	0.0125	30.60375	0.006008983
4011	3	1.105654	-0.005	30.59875	0.006008001
133	1	1.105941	0.015	30.61375	0.006010946
1351	1	1.106716	-0.0075	30.60625	0.006009474
574	1	1.107074	0.015	30.62125	0.006012419
5558	3	1.107125	-0.005	30.61625	0.006011437
3416	3	1.107133	-0.005	30.61125	0.006010456
4345	3	1.107143	-0.005	30.60625	0.006009474
167	1	1.107226	-0.0075	30.59875	0.006008001
506	1	1.107332	0.015	30.61375	0.006010946
2585	2	1.107551	0.0125	30.62625	0.006013401
580	1	1.108555	-0.0075	30.61875	0.006011928
9274	4	1.108918	0.01	30.62875	0.006013892
2814	2	1.108987	-0.00625	30.6225	0.006012664
670	1	1.109021	-0.0075	30.615	0.006011192
2158	2	1.109174	0.0125	30.6275	0.006013646
2810	2	1.109241	-0.00625	30.62125	0.006012419
819	1	1.11047	0.015	30.63625	0.006015364
2540	2	1.110894	-0.00625	30.63	0.006014137
3080	3	1.111074	0.01	30.64	0.006016101
4659	3	1.111437	-0.005	30.635	0.006015119
2657	2	1.111855	-0.00625	30.62875	0.006013892
4873	3	1.112481	0.01	30.63875	0.006015855
369	1	1.112631	-0.0075	30.63125	0.006014382
2021	2	1.112737	-0.00625	30.625	0.006013155
1151	1	1.113164	0.015	30.64	0.006016101
595	1	1.113295	-0.0075	30.6325	0.006014628
1053	1	1.114248	-0.0075	30.625	0.006013155
2829	2	1.114678	-0.00625	30.61875	0.006011928
2509	2	1.114739	-0.00625	30.6125	0.006010701
710	1	1.114908	-0.0075	30.605	0.006009228
9630	4	1.115004	-0.005	30.6	0.006008247
4825	3	1.115158	0.01	30.61	0.00601021
3959	3	1.115729	0.01	30.62	0.006012174
255	1	1.115761	0.015	30.635	0.006015119
7726	3	1.115965	-0.005	30.63	0.006014137
2370	2	1.115989	0.0125	30.6425	0.006016591
9194	4	1.116086	-0.005	30.6375	0.00601561
4903	3	1.116123	-0.005	30.6325	0.006014628
8731	3	1.116735	-0.005	30.6275	0.006013646
5994	3	1.11694	-0.005	30.6225	0.006012664
2960	3	1.117013	-0.005	30.6175	0.006011683
8719	3	1.117015	0.01	30.6275	0.006013646
3071	3	1.117038	-0.005	30.6225	0.006012664
1477	1	1.117174	-0.0075	30.615	0.006011192

8448	3	1.117234	-0.005	30.61	0.00601021
6977	3	1.117259	0.01	30.62	0.006012174
6734	3	1.117941	0.01	30.63	0.006014137
1155	1	1.11803	0.015	30.645	0.006017082
2786	2	1.118366	-0.00625	30.63875	0.006015855
712	1	1.118821	-0.0075	30.63125	0.006014382
470	1	1.119193	-0.0075	30.62375	0.00601291
5084	3	1.119843	-0.005	30.61875	0.006011928
6539	3	1.121076	0.01	30.62875	0.006013892
505	1	1.121169	0.015	30.64375	0.006016837
2346	2	1.122842	0.0125	30.65625	0.006019291
2629	2	1.122939	0.0125	30.66875	0.006021746
7530	3	1.122951	0.01	30.67875	0.006023709
3982	3	1.123209	-0.005	30.67375	0.006022727
3302	3	1.123762	0.01	30.68375	0.006024691
5368	3	1.124038	0.01	30.69375	0.006026654
3116	3	1.124247	0.01	30.70375	0.006028618
1899	2	1.12462	0.0125	30.71625	0.006031072
5779	3	1.124863	-0.005	30.71125	0.00603009
255	1	1.12495	-0.0075	30.70375	0.006028618
9794	4	1.125035	-0.005	30.69875	0.006027636
860	1	1.125101	0.015	30.71375	0.006030581
2716	2	1.125162	0.0125	30.72625	0.006033036
2455	2	1.125264	-0.00625	30.72	0.006031808
3148	3	1.125322	-0.005	30.715	0.006030827
5954	3	1.125935	0.01	30.725	0.00603279
7712	3	1.125938	0.01	30.735	0.006034754
455	1	1.125992	-0.0075	30.7275	0.006033281
7373	3	1.126679	-0.005	30.7225	0.006032299
3568	3	1.127408	-0.005	30.7175	0.006031317
930	1	1.12759	-0.0075	30.71	0.006029845
3679	3	1.12773	-0.005	30.705	0.006028863
2450	2	1.12773	0.0125	30.7175	0.006031317
2716	2	1.127752	-0.00625	30.71125	0.00603009
572	1	1.128268	-0.0075	30.70375	0.006028618
220	1	1.128741	0.015	30.71875	0.006031563
6031	3	1.129146	0.01	30.72875	0.006033526
971	1	1.129173	-0.0075	30.72125	0.006032054
898	1	1.129342	0.015	30.73625	0.006034999
3594	3	1.129415	-0.005	30.73125	0.006034017
8104	3	1.12943	-0.005	30.72625	0.006033036
1899	2	1.129516	-0.00625	30.72	0.006031808
3876	3	1.129876	0.01	30.73	0.006033772
1922	2	1.130181	-0.00625	30.72375	0.006032545
8909	4	1.130426	-0.005	30.71875	0.006031563
5195	3	1.130438	-0.005	30.71375	0.006030581
2803	2	1.130696	-0.00625	30.7075	0.006029354
1013	1	1.131085	0.015	30.7225	0.006032299
1290	1	1.131716	-0.0075	30.715	0.006030827
6025	3	1.131753	-0.005	30.71	0.006029845
654	1	1.132116	-0.0075	30.7025	0.006028372
3897	3	1.132827	-0.005	30.6975	0.006027391

9361	4	1.132888	-0.005	30.6925	0.006026409
6934	3	1.133017	-0.005	30.6875	0.006025427
1686	1	1.133163	-0.0075	30.68	0.006023954
2296	2	1.133406	0.0125	30.6925	0.006026409
890	1	1.133663	-0.0075	30.685	0.006024936
1216	1	1.133906	-0.0075	30.6775	0.006023464
589	1	1.134026	-0.0075	30.67	0.006021991
581	1	1.134103	0.015	30.685	0.006024936
2787	2	1.134173	0.0125	30.6975	0.006027391
5916	3	1.134236	-0.005	30.6925	0.006026409
1682	1	1.134564	0.015	30.7075	0.006029354
62	1	1.134616	0.015	30.7225	0.006032299
2246	2	1.134673	-0.00625	30.71625	0.006031072
2092	2	1.13472	-0.00625	30.71	0.006029845
915	1	1.135045	-0.0075	30.7025	0.006028372
2103	2	1.135256	0.0125	30.715	0.006030827
7980	3	1.135359	-0.005	30.71	0.006029845
938	1	1.135575	0.015	30.725	0.00603279
6724	3	1.135662	0.01	30.735	0.006034754
3151	3	1.135796	0.01	30.745	0.006036717
8221	3	1.135797	-0.005	30.74	0.006035735
2657	2	1.135953	-0.00625	30.73375	0.006034508
7569	3	1.135989	-0.005	30.72875	0.006033526
2133	2	1.13618	-0.00625	30.7225	0.006032299
1354	1	1.136459	0.015	30.7375	0.006035244
978	1	1.137015	0.015	30.7525	0.00603819
2129	2	1.137207	-0.00625	30.74625	0.006036962
7976	3	1.137388	0.01	30.75625	0.006038926
4479	3	1.137744	-0.005	30.75125	0.006037944
9470	4	1.137949	-0.005	30.74625	0.006036962
1401	1	1.138573	-0.0075	30.73875	0.00603549
2796	2	1.138843	-0.00625	30.7325	0.006034263
47	1	1.138898	-0.0075	30.725	0.00603279
5202	3	1.139022	0.01	30.735	0.006034754
560	1	1.139109	-0.0075	30.7275	0.006033281
1239	1	1.13952	0.015	30.7425	0.006036226
4677	3	1.139612	-0.005	30.7375	0.006035244
1318	1	1.140459	0.015	30.7525	0.00603819
6156	3	1.140589	-0.005	30.7475	0.006037208
2852	2	1.140638	-0.00625	30.74125	0.006035981
2784	2	1.14077	0.0125	30.75375	0.006038435
9523	4	1.14081	-0.005	30.74875	0.006037453
7968	3	1.140881	-0.005	30.74375	0.006036472
3146	3	1.141119	-0.005	30.73875	0.00603549
233	1	1.141261	0.015	30.75375	0.006038435
6932	3	1.141366	-0.005	30.74875	0.006037453
2000	2	1.141495	-0.00625	30.7425	0.006036226
2703	2	1.141505	0.0125	30.755	0.006038681
5749	3	1.141833	0.01	30.765	0.006040644
1940	2	1.141978	0.0125	30.7775	0.006043098
9830	4	1.141978	0.01	30.7875	0.006045062
2019	2	1.141992	0.0125	30.8	0.006047516

4186	3	1.142092	-0.005	30.795	0.006046534
8427	3	1.142318	-0.005	30.79	0.006045553
1387	1	1.142387	-0.0075	30.7825	0.00604408
1462	1	1.142775	-0.0075	30.775	0.006042608
7724	3	1.143015	0.01	30.785	0.006044571
3945	3	1.143081	-0.005	30.78	0.006043589
295	1	1.143219	-0.0075	30.7725	0.006042117
4682	3	1.14331	-0.005	30.7675	0.006041135
7676	3	1.14343	-0.005	30.7625	0.006040153
283	1	1.143654	0.015	30.7775	0.006043098
7435	3	1.143668	0.01	30.7875	0.006045062
1389	1	1.143783	-0.0075	30.78	0.006043589
998	1	1.143912	-0.0075	30.7725	0.006042117
2156	2	1.144073	0.0125	30.785	0.006044571
5884	3	1.144111	-0.005	30.78	0.006043589
5482	3	1.144417	-0.005	30.775	0.006042608
4610	3	1.144571	0.01	30.785	0.006044571
6195	3	1.144601	-0.005	30.78	0.006043589
5840	3	1.144941	0.01	30.79	0.006045553
392	1	1.145138	-0.0075	30.7825	0.00604408
2518	2	1.145266	-0.00625	30.77625	0.006042853
2408	2	1.145272	-0.00625	30.77	0.006041626
7971	3	1.145594	-0.005	30.765	0.006040644
8120	3	1.146288	0.01	30.775	0.006042608
6997	3	1.146979	0.01	30.785	0.006044571
4839	3	1.147018	0.01	30.795	0.006046534
2350	2	1.147075	0.0125	30.8075	0.006048989
1341	1	1.147159	0.015	30.8225	0.006051934
327	1	1.147599	-0.0075	30.815	0.006050461
7074	3	1.147723	-0.005	30.81	0.00604948
5105	3	1.147928	-0.005	30.805	0.006048498
7721	3	1.1482	0.01	30.815	0.006050461
8719	3	1.148293	-0.005	30.81	0.00604948
2733	2	1.148316	-0.00625	30.80375	0.006048253
3339	3	1.148452	0.01	30.81375	0.006050216
1734	1	1.148466	-0.0075	30.80625	0.006048743
2169	2	1.148522	-0.00625	30.8	0.006047516
1917	2	1.148939	0.0125	30.8125	0.006049971
5466	3	1.148987	-0.005	30.8075	0.006048989
2777	2	1.14909	-0.00625	30.80125	0.006047762
917	1	1.149259	-0.0075	30.79375	0.006046289
750	1	1.149346	-0.0075	30.78625	0.006044816
5566	3	1.149498	0.01	30.79625	0.00604678
1788	2	1.149525	0.0125	30.80875	0.006049234
7759	3	1.149832	-0.005	30.80375	0.006048253
1263	1	1.149969	-0.0075	30.79625	0.00604678
7468	3	1.150062	0.01	30.80625	0.006048743
5708	3	1.150155	0.01	30.81625	0.006050707
8395	3	1.150366	-0.005	30.81125	0.006049725
8302	3	1.151027	0.01	30.82125	0.006051689
1239	1	1.151229	-0.0075	30.81375	0.006050216
7524	3	1.151578	-0.005	30.80875	0.006049234

2340	2	1.151667	0.0125	30.82125	0.006051689
8399	3	1.152541	-0.005	30.81625	0.006050707
1454	1	1.152996	-0.0075	30.80875	0.006049234
9761	4	1.153187	-0.005	30.80375	0.006048253
1552	1	1.153256	0.015	30.81875	0.006051198
6366	3	1.153349	-0.005	30.81375	0.006050216
6401	3	1.153545	-0.005	30.80875	0.006049234
6948	3	1.153934	-0.005	30.80375	0.006048253
8406	3	1.154141	-0.005	30.79875	0.006047271
69	1	1.154185	-0.0075	30.79125	0.006045798
7201	3	1.154259	-0.005	30.78625	0.006044816
7308	3	1.155307	-0.005	30.78125	0.006043835
2101	2	1.155378	-0.00625	30.775	0.006042608
3744	3	1.155413	-0.005	30.77	0.006041626
2531	2	1.155559	-0.00625	30.76375	0.006040399
168	1	1.155885	-0.0075	30.75625	0.006038926
2875	2	1.155954	-0.00625	30.75	0.006037699
5830	3	1.156119	-0.005	30.745	0.006036717
1594	1	1.157508	0.015	30.76	0.006039662
7104	3	1.157581	-0.005	30.755	0.006038681
4652	3	1.15825	-0.005	30.75	0.006037699
1871	2	1.158712	0.0125	30.7625	0.006040153
1217	1	1.158945	-0.0075	30.755	0.006038681
6192	3	1.159193	0.01	30.765	0.006040644
6883	3	1.159498	-0.005	30.76	0.006039662
760	1	1.159584	0.015	30.775	0.006042608
5470	3	1.159629	0.01	30.785	0.006044571
3459	3	1.159799	-0.005	30.78	0.006043589
5470	3	1.159841	-0.005	30.775	0.006042608
1674	1	1.160019	0.015	30.79	0.006045553
5251	3	1.160131	-0.005	30.785	0.006044571
1806	2	1.1607	-0.00625	30.77875	0.006043344
1299	1	1.161122	0.015	30.79375	0.006046289
3883	3	1.161405	0.01	30.80375	0.006048253
6724	3	1.161615	-0.005	30.79875	0.006047271
2845	2	1.161648	-0.00625	30.7925	0.006046044
5346	3	1.161723	-0.005	30.7875	0.006045062
6049	3	1.161741	0.01	30.7975	0.006047025
6642	3	1.161828	-0.005	30.7925	0.006046044
136	1	1.16234	0.015	30.8075	0.006048989
453	1	1.162667	0.015	30.8225	0.006051934
6180	3	1.162682	-0.005	30.8175	0.006050952
384	1	1.16278	0.015	30.8325	0.006053898
733	1	1.162807	0.015	30.8475	0.006056843
1495	1	1.163549	-0.0075	30.84	0.00605537
9211	4	1.163571	0.01	30.85	0.006057334
1813	2	1.164299	-0.00625	30.84375	0.006056106
1203	1	1.164354	-0.0075	30.83625	0.006054634
5022	3	1.164838	-0.005	30.83125	0.006053652
1647	1	1.16524	-0.0075	30.82375	0.006052179
2415	2	1.165554	0.0125	30.83625	0.006054634
3680	3	1.165882	-0.005	30.83125	0.006053652

4066	3	1.165952	-0.005	30.82625	0.00605267
8214	3	1.166265	-0.005	30.82125	0.006051689
2113	2	1.166509	-0.00625	30.815	0.006050461
7661	3	1.166537	-0.005	30.81	0.00604948
1927	2	1.166702	0.0125	30.8225	0.006051934
1868	2	1.166807	0.0125	30.835	0.006054388
5910	3	1.167245	0.01	30.845	0.006056352
850	1	1.167453	0.015	30.86	0.006059297
8046	3	1.168325	-0.005	30.855	0.006058315
187	1	1.16897	-0.0075	30.8475	0.006056843
8419	3	1.169164	0.01	30.8575	0.006058806
761	1	1.16951	0.015	30.8725	0.006061751
90	1	1.169923	0.015	30.8875	0.006064697
5037	3	1.171582	0.01	30.8975	0.00606666
4848	3	1.171721	-0.005	30.8925	0.006065678
1849	2	1.172247	0.0125	30.905	0.006068133
5846	3	1.172751	0.01	30.915	0.006070096
322	1	1.173137	0.015	30.93	0.006073041
2086	2	1.173519	0.0125	30.9425	0.006075496
8421	3	1.174329	0.01	30.9525	0.006077459
348	1	1.174353	0.015	30.9675	0.006080404
1600	1	1.174679	-0.0075	30.96	0.006078932
854	1	1.175106	-0.0075	30.9525	0.006077459
4136	3	1.175187	-0.005	30.9475	0.006076478
3805	3	1.175338	-0.005	30.9425	0.006075496
1807	2	1.175526	-0.00625	30.93625	0.006074269
4443	3	1.175742	0.01	30.94625	0.006076232
7671	3	1.176035	-0.005	30.94125	0.00607525
7277	3	1.176405	-0.005	30.93625	0.006074269
5545	3	1.177042	0.01	30.94625	0.006076232
3419	3	1.177078	0.01	30.95625	0.006078196
190	1	1.178436	-0.0075	30.94875	0.006076723
9095	4	1.178474	-0.005	30.94375	0.006075741
4448	3	1.178648	0.01	30.95375	0.006077705
3480	3	1.178979	0.01	30.96375	0.006079668
8700	3	1.17921	-0.005	30.95875	0.006078686
2829	2	1.179484	-0.00625	30.9525	0.006077459
3302	3	1.179492	-0.005	30.9475	0.006076478
5678	3	1.17951	0.01	30.9575	0.006078441
464	1	1.179513	0.015	30.9725	0.006081386
7333	3	1.179598	-0.005	30.9675	0.006080404
4672	3	1.17994	0.01	30.9775	0.006082368
1181	1	1.181172	0.015	30.9925	0.006085313
673	1	1.181359	0.015	31.0075	0.006088258
341	1	1.181489	-0.0075	31	0.006086786
8426	3	1.181767	0.01	31.01	0.006088749
3419	3	1.182395	-0.005	31.005	0.006087768
432	1	1.182679	-0.0075	30.9975	0.006086295
2632	2	1.183029	-0.00625	30.99125	0.006085068
2379	2	1.183252	-0.00625	30.985	0.006083841
8203	3	1.184103	0.01	30.995	0.006085804
3355	3	1.184112	0.01	31.005	0.006087768

3383	3	1.184833	-0.005	31	0.006086786
1125	1	1.184962	-0.0075	30.9925	0.006085313
8641	3	1.185757	0.01	31.0025	0.006087277
2514	2	1.18615	0.0125	31.015	0.006089731
1821	2	1.186513	-0.00625	31.00875	0.006088504
1598	1	1.186624	0.015	31.02375	0.006091449
5905	3	1.186775	-0.005	31.01875	0.006090467
492	1	1.18679	0.015	31.03375	0.006093413
26	1	1.187747	0.015	31.04875	0.006096358
2704	2	1.187914	-0.00625	31.0425	0.006095131
9442	4	1.188227	-0.005	31.0375	0.006094149
7127	3	1.188529	0.01	31.0475	0.006096112
2675	2	1.188607	-0.00625	31.04125	0.006094885
483	1	1.188785	0.015	31.05625	0.00609783
5530	3	1.188875	-0.005	31.05125	0.006096849
8910	4	1.188903	0.01	31.06125	0.006098812
3561	3	1.188994	-0.005	31.05625	0.00609783
7985	3	1.189121	-0.005	31.05125	0.006096849
1141	1	1.189449	0.015	31.06625	0.006099794
1704	1	1.189648	0.015	31.08125	0.006102739
22	1	1.189804	0.015	31.09625	0.006105684
886	1	1.190033	0.015	31.11125	0.006108629
1983	2	1.190065	-0.00625	31.105	0.006107402
8312	3	1.190225	0.01	31.115	0.006109366
5536	3	1.190331	0.01	31.125	0.006111329
4453	3	1.191617	-0.005	31.12	0.006110348
4892	3	1.192314	0.01	31.13	0.006112311
4764	3	1.192351	-0.005	31.125	0.006111329
5233	3	1.192772	-0.005	31.12	0.006110348
72	1	1.192782	0.015	31.135	0.006113293
3088	3	1.192857	0.01	31.145	0.006115256
3545	3	1.193039	-0.005	31.14	0.006114274
2670	2	1.193056	0.0125	31.1525	0.006116729
4402	3	1.193182	-0.005	31.1475	0.006115747
2547	2	1.193285	-0.00625	31.14125	0.00611452
2132	2	1.193993	0.0125	31.15375	0.006116974
3835	3	1.194544	0.01	31.16375	0.006118938
2280	2	1.194708	-0.00625	31.1575	0.006117711
4531	3	1.194938	0.01	31.1675	0.006119674
92	1	1.19526	-0.0075	31.16	0.006118201
2778	2	1.195624	-0.00625	31.15375	0.006116974
7459	3	1.195651	0.01	31.16375	0.006118938
203	1	1.196798	-0.0075	31.15625	0.006117465
9789	4	1.196826	-0.005	31.15125	0.006116483
4168	3	1.197147	0.01	31.16125	0.006118447
5776	3	1.19715	0.01	31.17125	0.00612041
3016	3	1.19725	-0.005	31.16625	0.006119429
668	1	1.197937	0.015	31.18125	0.006122374
763	1	1.19854	-0.0075	31.17375	0.006120901
3648	3	1.198547	0.01	31.18375	0.006122865
1274	1	1.199159	0.015	31.19875	0.00612581
1585	1	1.199494	-0.0075	31.19125	0.006124337

1568	1	1.199494	-0.0075	31.18375	0.006122865
8423	3	1.199928	-0.005	31.17875	0.006121883
5540	3	1.199984	-0.005	31.17375	0.006120901
4559	3	1.200024	-0.005	31.16875	0.006119919
2152	2	1.200229	-0.00625	31.1625	0.006118692
2972	3	1.200305	-0.005	31.1575	0.006117711
3158	3	1.20047	-0.005	31.1525	0.006116729
2383	2	1.200475	-0.00625	31.14625	0.006115502
4338	3	1.200478	-0.005	31.14125	0.00611452
851	1	1.200571	-0.0075	31.13375	0.006113047
4518	3	1.201179	0.01	31.14375	0.006115011
1698	1	1.201441	-0.0075	31.13625	0.006113538
5742	3	1.20197	-0.005	31.13125	0.006112556
6808	3	1.201984	-0.005	31.12625	0.006111575
1868	2	1.202117	-0.00625	31.12	0.006110348
2427	2	1.202607	0.0125	31.1325	0.006112802
9005	4	1.202746	-0.005	31.1275	0.00611182
9148	4	1.203209	-0.005	31.1225	0.006110838
7224	3	1.203261	-0.005	31.1175	0.006109857
6571	3	1.203277	-0.005	31.1125	0.006108875
9822	4	1.203624	-0.005	31.1075	0.006107893
3089	3	1.203932	0.01	31.1175	0.006109857
9246	4	1.204139	-0.005	31.1125	0.006108875
2340	2	1.204861	-0.00625	31.10625	0.006107648
9414	4	1.204958	-0.005	31.10125	0.006106666
51	1	1.205092	0.015	31.11625	0.006109611
2334	2	1.205185	-0.00625	31.11	0.006108384
1018	1	1.205305	-0.0075	31.1025	0.006106911
7644	3	1.205562	-0.005	31.0975	0.00610593
640	1	1.206076	-0.0075	31.09	0.006104457
521	1	1.206123	-0.0075	31.0825	0.006102984
1490	1	1.206144	-0.0075	31.075	0.006101512
2051	2	1.206475	0.0125	31.0875	0.006103966
1680	1	1.206799	0.015	31.1025	0.006106911
4275	3	1.207939	-0.005	31.0975	0.00610593
4973	3	1.208006	-0.005	31.0925	0.006104948
6552	3	1.208024	0.01	31.1025	0.006106911
6864	3	1.208143	0.01	31.1125	0.006108875
6095	3	1.208258	-0.005	31.1075	0.006107893
2158	2	1.208361	-0.00625	31.10125	0.006106666
8525	3	1.208461	0.01	31.11125	0.006108629
5776	3	1.208625	-0.005	31.10625	0.006107648
5824	3	1.208706	-0.005	31.10125	0.006106666
2247	2	1.208846	-0.00625	31.095	0.006105439
5507	3	1.208864	0.01	31.105	0.006107402
310	1	1.208901	0.015	31.12	0.006110348
9972	4	1.209053	-0.005	31.115	0.006109366
1258	1	1.209356	-0.0075	31.1075	0.006107893
2662	2	1.210419	-0.00625	31.10125	0.006106666
2395	2	1.210683	-0.00625	31.095	0.006105439
5003	3	1.210814	-0.005	31.09	0.006104457
6234	3	1.210883	-0.005	31.085	0.006103475

8295	3	1.21095	0.01	31.095	0.006105439
215	1	1.210983	0.015	31.11	0.006108384
460	1	1.211186	-0.0075	31.1025	0.006106911
135	1	1.211294	-0.0075	31.095	0.006105439
107	1	1.2113	0.015	31.11	0.006108384
837	1	1.211575	-0.0075	31.1025	0.006106911
8757	4	1.211712	-0.005	31.0975	0.00610593
1598	1	1.211713	-0.0075	31.09	0.006104457
5832	3	1.212315	0.01	31.1	0.006106421
449	1	1.212443	0.015	31.115	0.006109366
5697	3	1.212572	-0.005	31.11	0.006108384
1095	1	1.212722	-0.0075	31.1025	0.006106911
1012	1	1.21331	0.015	31.1175	0.006109857
6526	3	1.213457	-0.005	31.1125	0.006108875
79	1	1.213457	-0.0075	31.105	0.006107402
5463	3	1.213669	-0.005	31.1	0.006106421
6378	3	1.213785	-0.005	31.095	0.006105439
733	1	1.21397	-0.0075	31.0875	0.006103966
8463	3	1.214203	-0.005	31.0825	0.006102984
9341	4	1.214412	-0.005	31.0775	0.006102003
494	1	1.214997	-0.0075	31.07	0.00610053
3536	3	1.215414	-0.005	31.065	0.006099548
8455	3	1.215585	0.01	31.075	0.006101512
582	1	1.215616	-0.0075	31.0675	0.006100039
1630	1	1.215848	-0.0075	31.06	0.006098567
9939	4	1.215856	0.01	31.07	0.00610053
986	1	1.216504	0.015	31.085	0.006103475
3339	3	1.216595	-0.005	31.08	0.006102494
6894	3	1.216875	0.01	31.09	0.006104457
7094	3	1.216883	-0.005	31.085	0.006103475
7209	3	1.216925	-0.005	31.08	0.006102494
824	1	1.216953	0.015	31.095	0.006105439
7186	3	1.217379	0.01	31.105	0.006107402
9350	4	1.217562	0.01	31.115	0.006109366
1573	1	1.218251	-0.0075	31.1075	0.006107893
4052	3	1.218408	-0.005	31.1025	0.006106911
160	1	1.218596	0.015	31.1175	0.006109857
1925	2	1.219144	-0.00625	31.11125	0.006108629
5877	3	1.219146	-0.005	31.10625	0.006107648
8260	3	1.219469	-0.005	31.10125	0.006106666
6443	3	1.219562	-0.005	31.09625	0.006105684
8673	3	1.219575	0.01	31.10625	0.006107648
322	1	1.219586	-0.0075	31.09875	0.006106175
4762	3	1.219692	0.01	31.10875	0.006108139
1714	1	1.219726	0.015	31.12375	0.006111084
7976	3	1.219968	-0.005	31.11875	0.006110102
8488	3	1.220085	-0.005	31.11375	0.00610912
8100	3	1.221099	0.01	31.12375	0.006111084
9572	4	1.221266	0.01	31.13375	0.006113047
2106	2	1.221281	-0.00625	31.1275	0.00611182
2825	2	1.222208	0.0125	31.14	0.006114274
5316	3	1.222419	-0.005	31.135	0.006113293

8231	3	1.222421	0.01	31.145	0.006115256
6301	3	1.222477	-0.005	31.14	0.006114274
1298	1	1.222583	-0.0075	31.1325	0.006112802
2557	2	1.222818	-0.00625	31.12625	0.006111575
8299	3	1.22308	-0.005	31.12125	0.006110593
3359	3	1.223314	0.01	31.13125	0.006112556
484	1	1.223427	-0.0075	31.12375	0.006111084
5343	3	1.223439	0.01	31.13375	0.006113047
5625	3	1.223947	-0.005	31.12875	0.006112066
6711	3	1.224461	-0.005	31.12375	0.006111084
497	1	1.224583	-0.0075	31.11625	0.006109611
3481	3	1.225352	-0.005	31.11125	0.006108629
5920	3	1.225987	-0.005	31.10625	0.006107648
8431	3	1.226181	0.01	31.11625	0.006109611
2414	2	1.226201	-0.00625	31.11	0.006108384
3373	3	1.226684	0.01	31.12	0.006110348
1854	2	1.226748	0.0125	31.1325	0.006112802
2033	2	1.226766	-0.00625	31.12625	0.006111575
7086	3	1.227051	-0.005	31.12125	0.006110593
412	1	1.227134	0.015	31.13625	0.006113538
3904	3	1.227248	0.01	31.14625	0.006115502
3112	3	1.227368	0.01	31.15625	0.006117465
7827	3	1.228246	-0.005	31.15125	0.006116483
2419	2	1.228568	0.0125	31.16375	0.006118938
8355	3	1.228972	0.01	31.17375	0.006120901
2907	3	1.229613	-0.005	31.16875	0.006119919
2453	2	1.230047	0.0125	31.18125	0.006122374
617	1	1.230142	0.015	31.19625	0.006125319
938	1	1.230386	-0.0075	31.18875	0.006123846
8588	3	1.231223	-0.005	31.18375	0.006122865
5512	3	1.231246	0.01	31.19375	0.006124828
668	1	1.231272	-0.0075	31.18625	0.006123356
5424	3	1.231705	0.01	31.19625	0.006125319
1129	1	1.232282	-0.0075	31.18875	0.006123846
4561	3	1.232351	0.01	31.19875	0.00612581
3641	3	1.233138	0.01	31.20875	0.006127773
9194	4	1.233689	-0.005	31.20375	0.006126792
9401	4	1.233801	0.01	31.21375	0.006128755
523	1	1.234269	0.015	31.22875	0.0061317
7663	3	1.234392	-0.005	31.22375	0.006130719
8737	3	1.2345	0.01	31.23375	0.006132682
3021	3	1.234981	0.01	31.24375	0.006134646
5221	3	1.235434	0.01	31.25375	0.006136609
3061	3	1.235492	0.01	31.26375	0.006138573
2644	2	1.235593	0.0125	31.27625	0.006141027
3570	3	1.236081	-0.005	31.27125	0.006140045
9267	4	1.236468	0.01	31.28125	0.006142009
1777	2	1.236622	0.0125	31.29375	0.006144463
3212	3	1.23672	-0.005	31.28875	0.006143481
2204	2	1.236726	0.0125	31.30125	0.006145936
4456	3	1.236856	-0.005	31.29625	0.006144954
3904	3	1.237244	-0.005	31.29125	0.006143972

266	1	1.23728	0.015	31.30625	0.006146917
917	1	1.237518	-0.0075	31.29875	0.006145445
4778	3	1.237623	-0.005	31.29375	0.006144463
905	1	1.237659	-0.0075	31.28625	0.00614299
850	1	1.237769	-0.0075	31.27875	0.006141518
3081	3	1.237908	0.01	31.28875	0.006143481
1007	1	1.238221	-0.0075	31.28125	0.006142009
946	1	1.238366	-0.0075	31.27375	0.006140536
1044	1	1.23845	-0.0075	31.26625	0.006139063
7593	3	1.238499	-0.005	31.26125	0.006138082
4285	3	1.238682	0.01	31.27125	0.006140045
1650	1	1.238989	0.015	31.28625	0.00614299
7082	3	1.238991	-0.005	31.28125	0.006142009
7998	3	1.239027	-0.005	31.27625	0.006141027
8645	3	1.239347	0.01	31.28625	0.00614299
1363	1	1.23982	0.015	31.30125	0.006145936
7952	3	1.239927	0.01	31.31125	0.006147899
227	1	1.240664	-0.0075	31.30375	0.006146426
2663	2	1.240903	0.0125	31.31625	0.006148881
1232	1	1.241368	0.015	31.33125	0.006151826
1318	1	1.241793	-0.0075	31.32375	0.006150353
6103	3	1.241868	0.01	31.33375	0.006152317
8284	3	1.242185	-0.005	31.32875	0.006151335
94	1	1.242469	-0.0075	31.32125	0.006149863
1288	1	1.243102	0.015	31.33625	0.006152808
3998	3	1.244149	-0.005	31.33125	0.006151826
1719	1	1.244343	0.015	31.34625	0.006154771
8902	4	1.244562	0.01	31.35625	0.006156735
5223	3	1.245	-0.005	31.35125	0.006155753
5491	3	1.245173	-0.005	31.34625	0.006154771
1471	1	1.245333	-0.0075	31.33875	0.006153299
1928	2	1.245964	-0.00625	31.3325	0.006152071
6845	3	1.246035	0.01	31.3425	0.006154035
3315	3	1.246615	-0.005	31.3375	0.006153053
9528	4	1.246743	-0.005	31.3325	0.006152071
8497	3	1.246841	-0.005	31.3275	0.00615109
8455	3	1.24692	-0.005	31.3225	0.006150108
6981	3	1.247068	-0.005	31.3175	0.006149126
5382	3	1.247269	-0.005	31.3125	0.006148145
8171	3	1.247811	0.01	31.3225	0.006150108
7125	3	1.247975	-0.005	31.3175	0.006149126
9249	4	1.248262	-0.005	31.3125	0.006148145
2261	2	1.248469	0.0125	31.325	0.006150599
1201	1	1.249696	-0.0075	31.3175	0.006149126
2925	3	1.249872	0.01	31.3275	0.00615109
2003	2	1.250671	-0.00625	31.32125	0.006149863
638	1	1.25076	0.015	31.33625	0.006152808
1474	1	1.250892	-0.0075	31.32875	0.006151335
2872	2	1.251257	0.0125	31.34125	0.00615379
2735	2	1.251852	0.0125	31.35375	0.006156244
8123	3	1.25255	0.01	31.36375	0.006158207
2598	2	1.252781	-0.00625	31.3575	0.00615698

8901	4	1.253585	0.01	31.3675	0.006158944
3400	3	1.25364	-0.005	31.3625	0.006157962
3595	3	1.253696	0.01	31.3725	0.006159925
351	1	1.253732	0.015	31.3875	0.006162871
1065	1	1.254077	0.015	31.4025	0.006165816
2218	2	1.254367	0.0125	31.415	0.00616827
642	1	1.254415	0.015	31.43	0.006171215
5446	3	1.254441	-0.005	31.425	0.006170234
2669	2	1.255403	0.0125	31.4375	0.006172688
9032	4	1.255565	0.01	31.4475	0.006174651
1524	1	1.25628	-0.0075	31.44	0.006173179
2119	2	1.256865	0.0125	31.4525	0.006175633
1279	1	1.257139	0.015	31.4675	0.006178578
1627	1	1.257741	-0.0075	31.46	0.006177106
897	1	1.257818	-0.0075	31.4525	0.006175633
895	1	1.25782	-0.0075	31.445	0.006174161
903	1	1.257829	-0.0075	31.4375	0.006172688
6000	3	1.257837	-0.005	31.4325	0.006171706
1976	2	1.258042	0.0125	31.445	0.006174161
6065	3	1.25843	-0.005	31.44	0.006173179
9991	4	1.258463	-0.005	31.435	0.006172197
814	1	1.258999	-0.0075	31.4275	0.006170725
1679	1	1.259362	0.015	31.4425	0.00617367
9211	4	1.259416	-0.005	31.4375	0.006172688
9508	4	1.259592	0.01	31.4475	0.006174651
346	1	1.259833	-0.0075	31.44	0.006173179
1368	1	1.259985	-0.0075	31.4325	0.006171706
3043	3	1.260071	-0.005	31.4275	0.006170725
5608	3	1.260375	-0.005	31.4225	0.006169743
1820	2	1.260599	0.0125	31.435	0.006172197
7512	3	1.261236	-0.005	31.43	0.006171215
6985	3	1.261427	-0.005	31.425	0.006170234
4265	3	1.261613	-0.005	31.42	0.006169252
5617	3	1.261701	-0.005	31.415	0.00616827
3235	3	1.262072	0.01	31.425	0.006170234
587	1	1.262326	0.015	31.44	0.006173179
5106	3	1.262528	0.01	31.45	0.006175142
6035	3	1.262599	0.01	31.46	0.006177106
1459	1	1.262615	0.015	31.475	0.006180051
769	1	1.262628	-0.0075	31.4675	0.006178578
3119	3	1.263397	-0.005	31.4625	0.006177597
9475	4	1.263452	0.01	31.4725	0.00617956
5756	3	1.263591	-0.005	31.4675	0.006178578
2429	2	1.26372	0.0125	31.48	0.006181033
1509	1	1.263781	-0.0075	31.4725	0.00617956
3244	3	1.264982	-0.005	31.4675	0.006178578
3293	3	1.265299	0.01	31.4775	0.006180542
1429	1	1.265406	-0.0075	31.47	0.006179069
1506	1	1.26558	-0.0075	31.4625	0.006177597
1496	1	1.265775	-0.0075	31.455	0.006176124
152	1	1.265856	-0.0075	31.4475	0.006174651
7310	3	1.266892	-0.005	31.4425	0.00617367

2942	3	1.26705	0.01	31.4525	0.006175633
8849	4	1.267187	0.01	31.4625	0.006177597
326	1	1.267962	-0.0075	31.455	0.006176124
7930	3	1.268464	-0.005	31.45	0.006175142
507	1	1.268804	-0.0075	31.4425	0.00617367
9044	4	1.269248	-0.005	31.4375	0.006172688
6968	3	1.269977	0.01	31.4475	0.006174651
2913	3	1.270095	0.01	31.4575	0.006176615
7993	3	1.27051	0.01	31.4675	0.006178578
5862	3	1.270685	-0.005	31.4625	0.006177597
8224	3	1.27114	0.01	31.4725	0.00617956
2190	2	1.271868	-0.00625	31.46625	0.006178333
942	1	1.272277	-0.0075	31.45875	0.00617686
352	1	1.272531	-0.0075	31.45125	0.006175388
178	1	1.272627	-0.0075	31.44375	0.006173915
1540	1	1.272633	0.015	31.45875	0.00617686
8010	3	1.272645	-0.005	31.45375	0.006175879
6656	3	1.274102	-0.005	31.44875	0.006174897
3975	3	1.2742	-0.005	31.44375	0.006173915
4012	3	1.27442	0.01	31.45375	0.006175879
3345	3	1.274834	0.01	31.46375	0.006177842
4376	3	1.274944	-0.005	31.45875	0.00617686
3706	3	1.274949	0.01	31.46875	0.006178824
1479	1	1.27507	0.015	31.48375	0.006181769
9131	4	1.275079	-0.005	31.47875	0.006180787
3582	3	1.275179	-0.005	31.47375	0.006179806
5218	3	1.276369	0.01	31.48375	0.006181769
6616	3	1.276507	-0.005	31.47875	0.006180787
2212	2	1.27669	-0.00625	31.4725	0.00617956
5504	3	1.276712	0.01	31.4825	0.006181524
3976	3	1.276754	-0.005	31.4775	0.006180542
2179	2	1.276903	0.0125	31.49	0.006182996
5318	3	1.277187	-0.005	31.485	0.006182015
1573	1	1.277711	-0.0075	31.4775	0.006180542
2336	2	1.278321	-0.00625	31.47125	0.006179315
3132	3	1.278671	-0.005	31.46625	0.006178333
5079	3	1.279079	-0.005	31.46125	0.006177351
1832	2	1.279547	-0.00625	31.455	0.006176124
9269	4	1.279883	-0.005	31.45	0.006175142
2294	2	1.280582	-0.00625	31.44375	0.006173915
7595	3	1.281041	-0.005	31.43875	0.006172933
1695	1	1.281605	0.015	31.45375	0.006175879
9343	4	1.281621	-0.005	31.44875	0.006174897
9726	4	1.281693	0.01	31.45875	0.00617686
2441	2	1.281714	0.0125	31.47125	0.006179315
1225	1	1.283993	-0.0075	31.46375	0.006177842
2882	2	1.284443	0.0125	31.47625	0.006180296
9834	4	1.284706	-0.005	31.47125	0.006179315
3471	3	1.285506	-0.005	31.46625	0.006178333
6616	3	1.285697	-0.005	31.46125	0.006177351
1902	2	1.285881	-0.00625	31.455	0.006176124
2417	2	1.286839	0.0125	31.4675	0.006178578

7670	3	1.287038	0.01	31.4775	0.006180542
2216	2	1.287548	0.0125	31.49	0.006182996
409	1	1.287755	-0.0075	31.4825	0.006181524
6816	3	1.288101	-0.005	31.4775	0.006180542
2928	3	1.288348	0.01	31.4875	0.006182505
7556	3	1.288436	-0.005	31.4825	0.006181524
2528	2	1.288563	0.0125	31.495	0.006183978
1262	1	1.288665	-0.0075	31.4875	0.006182505
405	1	1.288765	-0.0075	31.48	0.006181033
186	1	1.289495	-0.0075	31.4725	0.00617956
1930	2	1.289502	-0.00625	31.46625	0.006178333
9809	4	1.290149	-0.005	31.46125	0.006177351
3520	3	1.290323	0.01	31.47125	0.006179315
3325	3	1.290559	0.01	31.48125	0.006181278
696	1	1.290717	-0.0075	31.47375	0.006179806
7199	3	1.290756	-0.005	31.46875	0.006178824
4053	3	1.290996	-0.005	31.46375	0.006177842
1493	1	1.292437	-0.0075	31.45625	0.00617637
1601	1	1.293048	0.015	31.47125	0.006179315
7026	3	1.293364	-0.005	31.46625	0.006178333
4706	3	1.293575	-0.005	31.46125	0.006177351
620	1	1.295693	-0.0075	31.45375	0.006175879
6530	3	1.29579	-0.005	31.44875	0.006174897
4428	3	1.296181	-0.005	31.44375	0.006173915
7086	3	1.29623	-0.005	31.43875	0.006172933
5607	3	1.296514	-0.005	31.43375	0.006171952
8784	4	1.296781	0.01	31.44375	0.006173915
9032	4	1.296963	-0.005	31.43875	0.006172933
1629	1	1.297081	0.015	31.45375	0.006175879
4942	3	1.297197	0.01	31.46375	0.006177842
3688	3	1.29783	0.01	31.47375	0.006179806
7761	3	1.297992	-0.005	31.46875	0.006178824
5811	3	1.298331	0.01	31.47875	0.006180787
1321	1	1.298452	0.015	31.49375	0.006183733
1830	2	1.298845	0.0125	31.50625	0.006186187
7352	3	1.29897	-0.005	31.50125	0.006185205
3352	3	1.299008	-0.005	31.49625	0.006184223
401	1	1.299917	-0.0075	31.48875	0.006182751
2143	2	1.300105	-0.00625	31.4825	0.006181524
1338	1	1.300305	-0.0075	31.475	0.006180051
6360	3	1.300782	0.01	31.485	0.006182015
9628	4	1.300903	-0.005	31.48	0.006181033
7864	3	1.30115	-0.005	31.475	0.006180051
9222	4	1.301807	-0.005	31.47	0.006179069
2849	2	1.301972	-0.00625	31.46375	0.006177842
7076	3	1.302058	0.01	31.47375	0.006179806
3728	3	1.302152	0.01	31.48375	0.006181769
8474	3	1.302755	0.01	31.49375	0.006183733
259	1	1.303421	-0.0075	31.48625	0.00618226
578	1	1.303561	-0.0075	31.47875	0.006180787
4818	3	1.303582	-0.005	31.47375	0.006179806
198	1	1.304416	0.015	31.48875	0.006182751

1626	1	1.304488	-0.0075	31.48125	0.006181278
4128	3	1.304509	-0.005	31.47625	0.006180296
9729	4	1.30474	-0.005	31.47125	0.006179315
5927	3	1.304969	-0.005	31.46625	0.006178333
9082	4	1.305363	-0.005	31.46125	0.006177351
8683	3	1.305464	-0.005	31.45625	0.00617637
7009	3	1.306163	-0.005	31.45125	0.006175388
549	1	1.306963	0.015	31.46625	0.006178333
345	1	1.307616	-0.0075	31.45875	0.00617686
715	1	1.307929	0.015	31.47375	0.006179806
419	1	1.308009	0.015	31.48875	0.006182751
5128	3	1.308087	-0.005	31.48375	0.006181769
7424	3	1.308353	-0.005	31.47875	0.006180787
4091	3	1.30855	0.01	31.48875	0.006182751
7460	3	1.308629	-0.005	31.48375	0.006181769
602	1	1.30875	-0.0075	31.47625	0.006180296
7604	3	1.309031	-0.005	31.47125	0.006179315
5292	3	1.309338	0.01	31.48125	0.006181278
5914	3	1.30994	0.01	31.49125	0.006183242
4987	3	1.309943	-0.005	31.48625	0.00618226
583	1	1.309973	-0.0075	31.47875	0.006180787
1624	1	1.310402	0.015	31.49375	0.006183733
2914	3	1.310566	0.01	31.50375	0.006185696
7053	3	1.310729	-0.005	31.49875	0.006184714
4706	3	1.310855	-0.005	31.49375	0.006183733
5347	3	1.311069	-0.005	31.48875	0.006182751
246	1	1.311421	-0.0075	31.48125	0.006181278
7282	3	1.311766	0.01	31.49125	0.006183242
1830	2	1.311863	-0.00625	31.485	0.006182015
7575	3	1.312499	-0.005	31.48	0.006181033
9010	4	1.312529	0.01	31.49	0.006182996
1516	1	1.312644	-0.0075	31.4825	0.006181524
2735	2	1.31294	-0.00625	31.47625	0.006180296
2463	2	1.313186	0.0125	31.48875	0.006182751
166	1	1.31329	0.015	31.50375	0.006185696
4984	3	1.313524	0.01	31.51375	0.00618766
5753	3	1.313896	0.01	31.52375	0.006189623
3380	3	1.314253	-0.005	31.51875	0.006188641
965	1	1.314719	-0.0075	31.51125	0.006187169
1184	1	1.314927	0.015	31.52625	0.006190114
6194	3	1.314994	-0.005	31.52125	0.006189132
668	1	1.315143	-0.0075	31.51375	0.00618766
5667	3	1.315184	-0.005	31.50875	0.006186678
1462	1	1.316458	-0.0075	31.50125	0.006185205
2084	2	1.316844	0.0125	31.51375	0.00618766
3936	3	1.317218	-0.005	31.50875	0.006186678
8073	3	1.317621	-0.005	31.50375	0.006185696
1873	2	1.318022	-0.00625	31.4975	0.006184469
4870	3	1.318253	-0.005	31.4925	0.006183487
5763	3	1.318271	0.01	31.5025	0.006185451
8722	3	1.318529	-0.005	31.4975	0.006184469
438	1	1.318535	0.015	31.5125	0.006187414

9045	4	1.319065	-0.005	31.5075	0.006186432
1439	1	1.319094	-0.0075	31.5	0.00618496
5545	3	1.319251	-0.005	31.495	0.006183978
1694	1	1.319405	0.015	31.51	0.006186923
3700	3	1.319405	-0.005	31.505	0.006185941
2454	2	1.319579	-0.00625	31.49875	0.006184714
8670	3	1.319759	0.01	31.50875	0.006186678
6687	3	1.320319	0.01	31.51875	0.006188641
1022	1	1.321276	0.015	31.53375	0.006191586
4535	3	1.321336	0.01	31.54375	0.00619355
2880	2	1.322186	-0.00625	31.5375	0.006192323
986	1	1.32235	-0.0075	31.53	0.00619085
438	1	1.322363	-0.0075	31.5225	0.006189378
9005	4	1.322885	-0.005	31.5175	0.006188396
1213	1	1.32311	0.015	31.5325	0.006191341
8639	3	1.323279	0.01	31.5425	0.006193305
5578	3	1.323499	-0.005	31.5375	0.006192323
6913	3	1.323992	-0.005	31.5325	0.006191341
8369	3	1.324677	-0.005	31.5275	0.006190359
2217	2	1.32471	0.0125	31.54	0.006192814
7023	3	1.324771	-0.005	31.535	0.006191832
2911	3	1.325416	-0.005	31.53	0.00619085
371	1	1.32554	-0.0075	31.5225	0.006189378
2966	3	1.326314	0.01	31.5325	0.006191341
9350	4	1.327566	-0.005	31.5275	0.006190359
4595	3	1.327652	0.01	31.5375	0.006192323
5126	3	1.328047	0.01	31.5475	0.006194286
983	1	1.329227	0.015	31.5625	0.006197231
2104	2	1.329228	0.0125	31.575	0.006199686
1719	1	1.329531	-0.0075	31.5675	0.006198213
2613	2	1.330652	-0.00625	31.56125	0.006196986
197	1	1.330839	-0.0075	31.55375	0.006195513
1560	1	1.33135	-0.0075	31.54625	0.006194041
3910	3	1.331394	-0.005	31.54125	0.006193059
5116	3	1.331426	0.01	31.55125	0.006195023
7375	3	1.331514	0.01	31.56125	0.006196986
3190	3	1.33166	-0.005	31.55625	0.006196004
2943	3	1.332248	-0.005	31.55125	0.006195023
2341	2	1.332325	0.0125	31.56375	0.006197477
942	1	1.332979	-0.0075	31.55625	0.006196004
8313	3	1.333026	0.01	31.56625	0.006197968
591	1	1.333079	-0.0075	31.55875	0.006196495
2691	2	1.333084	0.0125	31.57125	0.00619895
3607	3	1.333187	-0.005	31.56625	0.006197968
864	1	1.333391	-0.0075	31.55875	0.006196495
787	1	1.333587	-0.0075	31.55125	0.006195023
849	1	1.333686	0.015	31.56625	0.006197968
2035	2	1.333718	0.0125	31.57875	0.006200422
4265	3	1.333965	-0.005	31.57375	0.00619944
2579	2	1.334535	-0.00625	31.5675	0.006198213
120	1	1.334695	0.015	31.5825	0.006201158
8232	3	1.335465	0.01	31.5925	0.006203122

5576	3	1.33565	0.01	31.6025	0.006205085
904	1	1.335703	-0.0075	31.595	0.006203613
417	1	1.336599	-0.0075	31.5875	0.00620214
851	1	1.336644	-0.0075	31.58	0.006200668
9223	4	1.336843	0.01	31.59	0.006202631
1267	1	1.336864	0.015	31.605	0.006205576
2883	2	1.3372	0.0125	31.6175	0.006208031
5378	3	1.337415	0.01	31.6275	0.006209994
2210	2	1.337535	0.0125	31.64	0.006212448
2260	2	1.337907	0.0125	31.6525	0.006214903
6340	3	1.338186	0.01	31.6625	0.006216866
3622	3	1.33825	-0.005	31.6575	0.006215885
173	1	1.338938	-0.0075	31.65	0.006214412
1713	1	1.339628	-0.0075	31.6425	0.006212939
557	1	1.340095	-0.0075	31.635	0.006211467
3624	3	1.340307	-0.005	31.63	0.006210485
153	1	1.340597	-0.0075	31.6225	0.006209012
1799	2	1.340708	0.0125	31.635	0.006211467
1745	1	1.340851	-0.0075	31.6275	0.006209994
6983	3	1.341058	0.01	31.6375	0.006211958
1066	1	1.341063	-0.0075	31.63	0.006210485
5876	3	1.34143	0.01	31.64	0.006212448
1448	1	1.341742	0.015	31.655	0.006215394
855	1	1.34193	0.015	31.67	0.006218339
1215	1	1.342074	-0.0075	31.6625	0.006216866
3435	3	1.34227	0.01	31.6725	0.00621883
1279	1	1.342314	-0.0075	31.665	0.006217357
3191	3	1.342544	-0.005	31.66	0.006216375
561	1	1.342669	0.015	31.675	0.006219321
5768	3	1.342764	0.01	31.685	0.006221284
4298	3	1.342922	0.01	31.695	0.006223248
8069	3	1.342965	-0.005	31.69	0.006222266
5893	3	1.343012	-0.005	31.685	0.006221284
734	1	1.343122	-0.0075	31.6775	0.006219812
968	1	1.343245	-0.0075	31.67	0.006218339
7458	3	1.343301	0.01	31.68	0.006220302
8926	4	1.343326	0.01	31.69	0.006222266
1966	2	1.343705	-0.00625	31.68375	0.006221039
4558	3	1.344065	-0.005	31.67875	0.006220057
5631	3	1.344307	-0.005	31.67375	0.006219075
7226	3	1.344684	-0.005	31.66875	0.006218093
8685	3	1.345033	0.01	31.67875	0.006220057
5361	3	1.345086	-0.005	31.67375	0.006219075
940	1	1.345735	-0.0075	31.66625	0.006217603
5238	3	1.345757	-0.005	31.66125	0.006216621
7534	3	1.345932	0.01	31.67125	0.006218584
244	1	1.34632	-0.0075	31.66375	0.006217112
1520	1	1.346505	-0.0075	31.65625	0.006215639
2813	2	1.346541	-0.00625	31.65	0.006214412
2798	2	1.346698	-0.00625	31.64375	0.006213185
59	1	1.347192	0.015	31.65875	0.00621613
4938	3	1.34773	0.01	31.66875	0.006218093

6330	3	1.347969	0.01	31.67875	0.006220057
3390	3	1.348354	0.01	31.68875	0.00622202
2891	2	1.348454	-0.00625	31.6825	0.006220793
881	1	1.349002	-0.0075	31.675	0.006219321
2693	2	1.349265	-0.00625	31.66875	0.006218093
614	1	1.349307	0.015	31.68375	0.006221039
7812	3	1.350027	-0.005	31.67875	0.006220057
8956	4	1.350435	-0.005	31.67375	0.006219075
5684	3	1.351518	-0.005	31.66875	0.006218093
4537	3	1.351834	-0.005	31.66375	0.006217112
8792	4	1.351941	0.01	31.67375	0.006219075
3564	3	1.352123	0.01	31.68375	0.006221039
1137	1	1.352336	-0.0075	31.67625	0.006219566
4017	3	1.352609	0.01	31.68625	0.00622153
3417	3	1.352968	0.01	31.69625	0.006223493
103	1	1.353132	-0.0075	31.68875	0.00622202
3629	3	1.353207	-0.005	31.68375	0.006221039
6564	3	1.353681	0.01	31.69375	0.006223002
1853	2	1.353751	0.0125	31.70625	0.006225457
3382	3	1.354061	0.01	31.71625	0.00622742
3688	3	1.354388	-0.005	31.71125	0.006226438
2694	2	1.354583	0.0125	31.72375	0.006228893
7523	3	1.355503	-0.005	31.71875	0.006227911
5746	3	1.355596	0.01	31.72875	0.006229874
2459	2	1.356016	-0.00625	31.7225	0.006228647
1388	1	1.356103	-0.0075	31.715	0.006227175
1673	1	1.356506	-0.0075	31.7075	0.006225702
2329	2	1.356972	0.0125	31.72	0.006228156
1872	2	1.357025	0.0125	31.7325	0.006230611
2844	2	1.35718	0.0125	31.745	0.006233065
2204	2	1.35747	-0.00625	31.73875	0.006231838
672	1	1.35773	-0.0075	31.73125	0.006230365
1071	1	1.357913	0.015	31.74625	0.00623331
1105	1	1.358118	0.015	31.76125	0.006236256
1144	1	1.358141	-0.0075	31.75375	0.006234783
7667	3	1.358443	0.01	31.76375	0.006236747
5190	3	1.359471	0.01	31.77375	0.00623871
370	1	1.3599	-0.0075	31.76625	0.006237237
2725	2	1.359939	0.0125	31.77875	0.006239692
1209	1	1.359992	-0.0075	31.77125	0.006238219
7375	3	1.360041	-0.005	31.76625	0.006237237
6198	3	1.3602	0.01	31.77625	0.006239201
8312	3	1.360847	-0.005	31.77125	0.006238219
1584	1	1.360915	-0.0075	31.76375	0.006236747
6847	3	1.361017	0.01	31.77375	0.00623871
2334	2	1.361018	-0.00625	31.7675	0.006237483
5778	3	1.361092	0.01	31.7775	0.006239446
7308	3	1.361116	-0.005	31.7725	0.006238465
708	1	1.361266	-0.0075	31.765	0.006236992
1651	1	1.361597	-0.0075	31.7575	0.006235519
2274	2	1.361946	0.0125	31.77	0.006237974
8253	3	1.362322	-0.005	31.765	0.006236992

6418	3	1.362845	0.01	31.775	0.006238955
5402	3	1.362939	-0.005	31.77	0.006237974
2083	2	1.363726	0.0125	31.7825	0.006240428
1572	1	1.363749	0.015	31.7975	0.006243373
396	1	1.363784	0.015	31.8125	0.006246318
285	1	1.364473	-0.0075	31.805	0.006244846
2013	2	1.364674	0.0125	31.8175	0.0062473
5846	3	1.364703	-0.005	31.8125	0.006246318
1864	2	1.365276	-0.00625	31.80625	0.006245091
1145	1	1.365416	0.015	31.82125	0.006248037
1032	1	1.365553	0.015	31.83625	0.006250982
2641	2	1.365745	0.0125	31.84875	0.006253436
3714	3	1.365854	-0.005	31.84375	0.006252454
7182	3	1.365873	-0.005	31.83875	0.006251473
7589	3	1.366055	-0.005	31.83375	0.006250491
7553	3	1.3663	-0.005	31.82875	0.006249509
396	1	1.366611	-0.0075	31.82125	0.006248037
5572	3	1.366865	-0.005	31.81625	0.006247055
4348	3	1.366966	-0.005	31.81125	0.006246073
6512	3	1.36782	0.01	31.82125	0.006248037
230	1	1.368583	-0.0075	31.81375	0.006246564
12	1	1.368891	-0.0075	31.80625	0.006245091
5580	3	1.369509	0.01	31.81625	0.006247055
3851	3	1.369831	-0.005	31.81125	0.006246073
1245	1	1.369989	0.015	31.82625	0.006249018
4024	3	1.36999	0.01	31.83625	0.006250982
3228	3	1.370252	-0.005	31.83125	0.00625
6610	3	1.37035	0.01	31.84125	0.006251963
8525	3	1.370455	-0.005	31.83625	0.006250982
1305	1	1.370516	-0.0075	31.82875	0.006249509
4643	3	1.370767	0.01	31.83875	0.006251473
5795	3	1.370826	-0.005	31.83375	0.006250491
7872	3	1.370889	-0.005	31.82875	0.006249509
2131	2	1.371038	0.0125	31.84125	0.006251963
8263	3	1.3711	-0.005	31.83625	0.006250982
93	1	1.371719	-0.0075	31.82875	0.006249509
4561	3	1.372177	-0.005	31.82375	0.006248527
8248	3	1.3724	-0.005	31.81875	0.006247546
4608	3	1.372741	0.01	31.82875	0.006249509
8246	3	1.37308	-0.005	31.82375	0.006248527
1995	2	1.373082	-0.00625	31.8175	0.0062473
3263	3	1.373251	-0.005	31.8125	0.006246318
1184	1	1.373489	-0.0075	31.805	0.006244846
2385	2	1.373706	0.0125	31.8175	0.0062473
5230	3	1.374117	-0.005	31.8125	0.006246318
395	1	1.374284	0.015	31.8275	0.006249264
8120	3	1.374796	-0.005	31.8225	0.006248282
8316	3	1.37486	0.01	31.8325	0.006250245
992	1	1.375351	0.015	31.8475	0.006253191
5524	3	1.375704	-0.005	31.8425	0.006252209
5850	3	1.376014	-0.005	31.8375	0.006251227
723	1	1.376792	-0.0075	31.83	0.006249755

2128	2	1.377231	-0.00625	31.82375	0.006248527
2364	2	1.377507	0.0125	31.83625	0.006250982
2273	2	1.377594	0.0125	31.84875	0.006253436
4979	3	1.377638	-0.005	31.84375	0.006252454
7396	3	1.377671	-0.005	31.83875	0.006251473
651	1	1.378124	-0.0075	31.83125	0.00625
5534	3	1.378316	-0.005	31.82625	0.006249018
7348	3	1.378617	0.01	31.83625	0.006250982
2218	2	1.37897	-0.00625	31.83	0.006249755
6249	3	1.379173	-0.005	31.825	0.006248773
2630	2	1.379295	-0.00625	31.81875	0.006247546
4852	3	1.379339	0.01	31.82875	0.006249509
2528	2	1.37991	-0.00625	31.8225	0.006248282
5749	3	1.380339	-0.005	31.8175	0.0062473
1494	1	1.380805	-0.0075	31.81	0.006245828
5582	3	1.381425	0.01	31.82	0.006247791
6593	3	1.382008	-0.005	31.815	0.006246809
1083	1	1.382236	-0.0075	31.8075	0.006245337
5037	3	1.38234	-0.005	31.8025	0.006244355
2195	2	1.383088	-0.00625	31.79625	0.006243128
2312	2	1.383195	0.0125	31.80875	0.006245582
166	1	1.383874	-0.0075	31.80125	0.00624411
4175	3	1.383897	0.01	31.81125	0.006246073
1950	2	1.384242	-0.00625	31.805	0.006244846
9191	4	1.384301	0.01	31.815	0.006246809
2499	2	1.384562	0.0125	31.8275	0.006249264
9268	4	1.385782	0.01	31.8375	0.006251227
978	1	1.38595	-0.0075	31.83	0.006249755
5915	3	1.386632	0.01	31.84	0.006251718
2900	3	1.386752	-0.005	31.835	0.006250736
3213	3	1.386847	-0.005	31.83	0.006249755
1625	1	1.387464	-0.0075	31.8225	0.006248282
8316	3	1.387572	-0.005	31.8175	0.0062473
6245	3	1.38818	0.01	31.8275	0.006249264
2994	3	1.388234	-0.005	31.8225	0.006248282
1911	2	1.388592	-0.00625	31.81625	0.006247055
5092	3	1.388908	-0.005	31.81125	0.006246073
1696	1	1.389155	0.015	31.82625	0.006249018
1060	1	1.389377	-0.0075	31.81875	0.006247546
6084	3	1.389621	-0.005	31.81375	0.006246564
4484	3	1.389701	-0.005	31.80875	0.006245582
428	1	1.390383	0.015	31.82375	0.006248527
2593	2	1.390596	-0.00625	31.8175	0.0062473
1482	1	1.390869	0.015	31.8325	0.006250245
6992	3	1.390926	-0.005	31.8275	0.006249264
8901	4	1.391215	-0.005	31.8225	0.006248282
5540	3	1.391714	-0.005	31.8175	0.0062473
2833	2	1.391809	0.0125	31.83	0.006249755
5577	3	1.391892	-0.005	31.825	0.006248773
8224	3	1.392251	-0.005	31.82	0.006247791
1208	1	1.393299	-0.0075	31.8125	0.006246318
6902	3	1.393848	0.01	31.8225	0.006248282

4004	3	1.393895	-0.005	31.8175	0.0062473
1776	2	1.39403	0.0125	31.83	0.006249755
9523	4	1.394342	-0.005	31.825	0.006248773
5890	3	1.394973	-0.005	31.82	0.006247791
8670	3	1.395019	-0.005	31.815	0.006246809
5273	3	1.395794	0.01	31.825	0.006248773
2154	2	1.395969	-0.00625	31.81875	0.006247546
5296	3	1.396486	0.01	31.82875	0.006249509
771	1	1.396849	-0.0075	31.82125	0.006248037
1198	1	1.396906	-0.0075	31.81375	0.006246564
9277	4	1.39727	-0.005	31.80875	0.006245582
7916	3	1.397677	-0.005	31.80375	0.0062446
1214	1	1.398002	-0.0075	31.79625	0.006243128
853	1	1.398218	-0.0075	31.78875	0.006241655
8212	3	1.398275	-0.005	31.78375	0.006240673
9889	4	1.398654	-0.005	31.77875	0.006239692
258	1	1.398675	-0.0075	31.77125	0.006238219
7307	3	1.399102	-0.005	31.76625	0.006237237
5162	3	1.399192	-0.005	31.76125	0.006236256
5910	3	1.399478	-0.005	31.75625	0.006235274
2518	2	1.399564	-0.00625	31.75	0.006234047
7990	3	1.400032	0.01	31.76	0.00623601
5234	3	1.400427	-0.005	31.755	0.006235028
17	1	1.40064	0.015	31.77	0.006237974
521	1	1.400708	-0.0075	31.7625	0.006236501
2166	2	1.400852	0.0125	31.775	0.006238955
4383	3	1.401158	-0.005	31.77	0.006237974
8616	3	1.401646	0.01	31.78	0.006239937
534	1	1.402582	0.015	31.795	0.006242882
686	1	1.40284	-0.0075	31.7875	0.00624141
209	1	1.403316	0.015	31.8025	0.006244355
9335	4	1.403625	0.01	31.8125	0.006246318
1586	1	1.403742	-0.0075	31.805	0.006244846
7264	3	1.404466	-0.005	31.8	0.006243864
7941	3	1.404551	-0.005	31.795	0.006242882
490	1	1.404651	-0.0075	31.7875	0.00624141
3780	3	1.404843	0.01	31.7975	0.006243373
3820	3	1.404953	0.01	31.8075	0.006245337
5512	3	1.406264	-0.005	31.8025	0.006244355
8607	3	1.406297	0.01	31.8125	0.006246318
1674	1	1.406426	-0.0075	31.805	0.006244846
6737	3	1.407015	-0.005	31.8	0.006243864
6109	3	1.407065	-0.005	31.795	0.006242882
8000	3	1.407341	-0.005	31.79	0.006241901
2179	2	1.407369	-0.00625	31.78375	0.006240673
1083	1	1.407898	-0.0075	31.77625	0.006239201
8917	4	1.408178	0.01	31.78625	0.006241164
1268	1	1.408452	0.015	31.80125	0.00624411
794	1	1.408467	0.015	31.81625	0.006247055
568	1	1.408937	-0.0075	31.80875	0.006245582
5201	3	1.408944	0.01	31.81875	0.006247546
4145	3	1.409649	0.01	31.82875	0.006249509

6982	3	1.410082	-0.005	31.82375	0.006248527
6545	3	1.411094	0.01	31.83375	0.006250491
3446	3	1.411406	-0.005	31.82875	0.006249509
1047	1	1.411412	0.015	31.84375	0.006252454
1487	1	1.411764	0.015	31.85875	0.0062554
2821	2	1.412317	-0.00625	31.8525	0.006254172
2136	2	1.412932	-0.00625	31.84625	0.006252945
6492	3	1.414049	0.01	31.85625	0.006254909
3563	3	1.414653	0.01	31.86625	0.006256872
1603	1	1.41489	0.015	31.88125	0.006259817
1359	1	1.414963	0.015	31.89625	0.006262763
1442	1	1.415246	0.015	31.91125	0.006265708
1720	1	1.41529	-0.0075	31.90375	0.006264235
3644	3	1.415713	0.01	31.91375	0.006266199
2304	2	1.415921	-0.00625	31.9075	0.006264972
2705	2	1.416662	-0.00625	31.90125	0.006263744
1287	1	1.417424	-0.0075	31.89375	0.006262272
659	1	1.417443	0.015	31.90875	0.006265217
254	1	1.417598	0.015	31.92375	0.006268162
1431	1	1.418393	-0.0075	31.91625	0.00626669
1947	2	1.418666	0.0125	31.92875	0.006269144
957	1	1.419071	-0.0075	31.92125	0.006267671
882	1	1.419295	0.015	31.93625	0.006270617
3525	3	1.419396	0.01	31.94625	0.00627258
6983	3	1.419452	-0.005	31.94125	0.006271598
2708	2	1.419462	0.0125	31.95375	0.006274053
7897	3	1.41985	-0.005	31.94875	0.006273071
28	1	1.420396	-0.0075	31.94125	0.006271598
3307	3	1.420439	-0.005	31.93625	0.006270617
9546	4	1.420517	-0.005	31.93125	0.006269635
535	1	1.420589	0.015	31.94625	0.00627258
5840	3	1.420683	-0.005	31.94125	0.006271598
5727	3	1.421051	-0.005	31.93625	0.006270617
2995	3	1.421641	0.01	31.94625	0.00627258
1916	2	1.421645	0.0125	31.95875	0.006275034
2166	2	1.421678	-0.00625	31.9525	0.006273807
2672	2	1.423758	-0.00625	31.94625	0.00627258
7824	3	1.424039	-0.005	31.94125	0.006271598
5536	3	1.424439	-0.005	31.93625	0.006270617
2070	2	1.424523	-0.00625	31.93	0.006269389
1548	1	1.424536	-0.0075	31.9225	0.006267917
5992	3	1.424536	-0.005	31.9175	0.006266935
187	1	1.424629	-0.0075	31.91	0.006265462
256	1	1.424646	0.015	31.925	0.006268408
7952	3	1.425162	-0.005	31.92	0.006267426
9010	4	1.425253	-0.005	31.915	0.006266444
8156	3	1.425344	0.01	31.925	0.006268408
1959	2	1.425356	0.0125	31.9375	0.006270862
2322	2	1.426335	-0.00625	31.93125	0.006269635
1495	1	1.426369	-0.0075	31.92375	0.006268162
2484	2	1.426515	-0.00625	31.9175	0.006266935
6447	3	1.426833	0.01	31.9275	0.006268898

6178	3	1.426949	0.01	31.9375	0.006270862
6483	3	1.42742	-0.005	31.9325	0.00626988
5860	3	1.42786	0.01	31.9425	0.006271844
4736	3	1.428753	-0.005	31.9375	0.006270862
3177	3	1.428806	0.01	31.9475	0.006272825
2872	2	1.428826	-0.00625	31.94125	0.006271598
7522	3	1.42979	0.01	31.95125	0.006273562
3873	3	1.429905	0.01	31.96125	0.006275525
7248	3	1.430123	0.01	31.97125	0.006277489
777	1	1.430387	0.015	31.98625	0.006280434
3165	3	1.430427	0.01	31.99625	0.006282397
2883	2	1.430445	-0.00625	31.99	0.00628117
7919	3	1.430631	0.01	32	0.006283134
499	1	1.430796	-0.0075	31.9925	0.006281661
6841	3	1.430846	0.01	32.0025	0.006283625
3339	3	1.431517	-0.005	31.9975	0.006282643
751	1	1.431934	-0.0075	31.99	0.00628117
322	1	1.432806	-0.0075	31.9825	0.006279698
19	1	1.432807	-0.0075	31.975	0.006278225
9440	4	1.433331	0.01	31.985	0.006280188
7412	3	1.433347	0.01	31.995	0.006282152
2624	2	1.433359	0.0125	32.0075	0.006284606
1855	2	1.433378	-0.00625	32.00125	0.006283379
2628	2	1.433546	-0.00625	31.995	0.006282152
1407	1	1.433762	-0.0075	31.9875	0.006280679
1688	1	1.433825	-0.0075	31.98	0.006279207
6012	3	1.43441	-0.005	31.975	0.006278225
613	1	1.434632	0.015	31.99	0.00628117
7362	3	1.434666	-0.005	31.985	0.006280188
7549	3	1.434692	-0.005	31.98	0.006279207
8096	3	1.434724	-0.005	31.975	0.006278225
1496	1	1.435342	-0.0075	31.9675	0.006276752
8385	3	1.435498	-0.005	31.9625	0.006275771
9851	4	1.436003	-0.005	31.9575	0.006274789
1271	1	1.436092	-0.0075	31.95	0.006273316
2470	2	1.436265	-0.00625	31.94375	0.006272089
8027	3	1.436665	-0.005	31.93875	0.006271107
2274	2	1.43667	-0.00625	31.9325	0.00626988
5582	3	1.437836	-0.005	31.9275	0.006268898
8422	3	1.438378	0.01	31.9375	0.006270862
3865	3	1.438492	0.01	31.9475	0.006272825
522	1	1.43856	-0.0075	31.94	0.006271353
1671	1	1.438644	0.015	31.955	0.006274298
1157	1	1.438764	-0.0075	31.9475	0.006272825
4130	3	1.439401	-0.005	31.9425	0.006271844
6296	3	1.439424	-0.005	31.9375	0.006270862
7430	3	1.439592	0.01	31.9475	0.006272825
1126	1	1.439675	0.015	31.9625	0.006275771
1331	1	1.440184	0.015	31.9775	0.006278716
1327	1	1.440268	0.015	31.9925	0.006281661
413	1	1.440334	-0.0075	31.985	0.006280188
7453	3	1.440459	0.01	31.995	0.006282152

6036	3	1.440465	-0.005	31.99	0.00628117
5624	3	1.440996	0.01	32	0.006283134
1602	1	1.441578	0.015	32.015	0.006286079
7306	3	1.442223	-0.005	32.01	0.006285097
9953	4	1.442341	0.01	32.02	0.006287061
8061	3	1.442341	-0.005	32.015	0.006286079
472	1	1.442572	-0.0075	32.0075	0.006284606
1221	1	1.443184	-0.0075	32	0.006283134
2789	2	1.443253	-0.00625	31.99375	0.006281907
6709	3	1.443413	0.01	32.00375	0.00628387
4431	3	1.443493	-0.005	31.99875	0.006282888
1409	1	1.443547	0.015	32.01375	0.006285833
7627	3	1.443645	-0.005	32.00875	0.006284852
406	1	1.444092	-0.0075	32.00125	0.006283379
3993	3	1.444299	0.01	32.01125	0.006285343
2912	3	1.444842	-0.005	32.00625	0.006284361
9199	4	1.444941	0.01	32.01625	0.006286324
519	1	1.444982	-0.0075	32.00875	0.006284852
4436	3	1.445158	-0.005	32.00375	0.00628387
3928	3	1.445515	-0.005	31.99875	0.006282888
718	1	1.445708	-0.0075	31.99125	0.006281416
9519	4	1.446402	-0.005	31.98625	0.006280434
5624	3	1.446672	-0.005	31.98125	0.006279452
2783	2	1.447041	0.0125	31.99375	0.006281907
6568	3	1.447079	0.01	32.00375	0.00628387
1329	1	1.447091	-0.0075	31.99625	0.006282397
9418	4	1.447104	0.01	32.00625	0.006284361
1613	1	1.447277	0.015	32.02125	0.006287306
233	1	1.447807	-0.0075	32.01375	0.006285833
4608	3	1.448661	-0.005	32.00875	0.006284852
669	1	1.448671	-0.0075	32.00125	0.006283379
4019	3	1.449231	-0.005	31.99625	0.006282397
2029	2	1.449934	0.0125	32.00875	0.006284852
1352	1	1.449944	-0.0075	32.00125	0.006283379
4821	3	1.45041	-0.005	31.99625	0.006282397
1636	1	1.450713	0.015	32.01125	0.006285343
8856	4	1.451091	0.01	32.02125	0.006287306
1006	1	1.451133	0.015	32.03625	0.006290251
2521	2	1.451341	0.0125	32.04875	0.006292706
8910	4	1.451717	-0.005	32.04375	0.006291724
8496	3	1.452144	0.01	32.05375	0.006293687
221	1	1.452247	-0.0075	32.04625	0.006292215
1618	1	1.452257	0.015	32.06125	0.00629516
8481	3	1.452598	-0.005	32.05625	0.006294178
566	1	1.452655	-0.0075	32.04875	0.006292706
6926	3	1.453211	0.01	32.05875	0.006294669
120	1	1.453422	-0.0075	32.05125	0.006293197
2268	2	1.453684	-0.00625	32.045	0.006291969
9116	4	1.45383	-0.005	32.04	0.006290988
3907	3	1.454283	-0.005	32.035	0.006290006
1327	1	1.45522	-0.0075	32.0275	0.006288533
7653	3	1.455533	-0.005	32.0225	0.006287552

3054	3	1.456	-0.005	32.0175	0.00628657
725	1	1.457001	-0.0075	32.01	0.006285097
4915	3	1.457212	0.01	32.02	0.006287061
7495	3	1.458472	0.01	32.03	0.006289024
5822	3	1.458965	-0.005	32.025	0.006288042
3987	3	1.45934	-0.005	32.02	0.006287061
1601	1	1.45934	-0.0075	32.0125	0.006285588
8904	4	1.459462	0.01	32.0225	0.006287552
6359	3	1.460771	-0.005	32.0175	0.00628657
477	1	1.460787	-0.0075	32.01	0.006285097
6445	3	1.461023	0.01	32.02	0.006287061
8015	3	1.461715	-0.005	32.015	0.006286079
5736	3	1.462003	0.01	32.025	0.006288042
7489	3	1.46297	-0.005	32.02	0.006287061
3943	3	1.463002	-0.005	32.015	0.006286079
2653	2	1.46308	-0.00625	32.00875	0.006284852
2219	2	1.463249	0.0125	32.02125	0.006287306
1034	1	1.463382	0.015	32.03625	0.006290251
3751	3	1.463824	-0.005	32.03125	0.00628927
792	1	1.463871	-0.0075	32.02375	0.006287797
4044	3	1.463882	-0.005	32.01875	0.006286815
447	1	1.463978	-0.0075	32.01125	0.006285343
2327	2	1.464381	-0.00625	32.005	0.006284115
7946	3	1.464467	-0.005	32	0.006283134
7249	3	1.464796	0.01	32.01	0.006285097
614	1	1.464849	-0.0075	32.0025	0.006283625
8247	3	1.465144	-0.005	31.9975	0.006282643
4595	3	1.4657	-0.005	31.9925	0.006281661
5642	3	1.465905	0.01	32.0025	0.006283625
348	1	1.466561	-0.0075	31.995	0.006282152
5811	3	1.466772	-0.005	31.99	0.00628117
263	1	1.466829	0.015	32.005	0.006284115
4438	3	1.466854	-0.005	32	0.006283134
4213	3	1.467293	0.01	32.01	0.006285097
5246	3	1.467559	-0.005	32.005	0.006284115
114	1	1.467824	-0.0075	31.9975	0.006282643
4783	3	1.468332	-0.005	31.9925	0.006281661
4631	3	1.469114	-0.005	31.9875	0.006280679
4652	3	1.469207	-0.005	31.9825	0.006279698
3023	3	1.469247	-0.005	31.9775	0.006278716
482	1	1.469317	-0.0075	31.97	0.006277243
2500	2	1.469519	-0.00625	31.96375	0.006276016
5583	3	1.469623	-0.005	31.95875	0.006275034
2719	2	1.469722	0.0125	31.97125	0.006277489
5872	3	1.470377	-0.005	31.96625	0.006276507
5355	3	1.470572	-0.005	31.96125	0.006275525
1077	1	1.470578	-0.0075	31.95375	0.006274053
8291	3	1.470621	-0.005	31.94875	0.006273071
5160	3	1.470839	-0.005	31.94375	0.006272089
4904	3	1.470926	0.01	31.95375	0.006274053
8529	3	1.471161	-0.005	31.94875	0.006273071
4892	3	1.471711	-0.005	31.94375	0.006272089

4781	3	1.472387	0.01	31.95375	0.006274053
9193	4	1.472513	-0.005	31.94875	0.006273071
3690	3	1.472868	0.01	31.95875	0.006275034
2173	2	1.473046	0.0125	31.97125	0.006277489
2258	2	1.473903	0.0125	31.98375	0.006279943
2921	3	1.473918	0.01	31.99375	0.006281907
2582	2	1.473984	0.0125	32.00625	0.006284361
4435	3	1.47409	0.01	32.01625	0.006286324
6443	3	1.474177	-0.005	32.01125	0.006285343
2763	2	1.47438	-0.00625	32.005	0.006284115
824	1	1.474941	-0.0075	31.9975	0.006282643
4199	3	1.475497	0.01	32.0075	0.006284606
2434	2	1.476305	0.0125	32.02	0.006287061
1286	1	1.476355	-0.0075	32.0125	0.006285588
3898	3	1.476385	-0.005	32.0075	0.006284606
4696	3	1.476816	-0.005	32.0025	0.006283625
2825	2	1.476949	-0.00625	31.99625	0.006282397
2858	2	1.477009	0.0125	32.00875	0.006284852
9538	4	1.477129	-0.005	32.00375	0.00628387
7513	3	1.477626	0.01	32.01375	0.006285833
3757	3	1.477808	0.01	32.02375	0.006287797
9437	4	1.477941	0.01	32.03375	0.00628976
2000	2	1.478013	-0.00625	32.0275	0.006288533
8401	3	1.478151	0.01	32.0375	0.006290497
1754	1	1.478312	-0.0075	32.03	0.006289024
292	1	1.478322	-0.0075	32.0225	0.006287552
6253	3	1.478633	-0.005	32.0175	0.00628657
7648	3	1.478789	0.01	32.0275	0.006288533
9526	4	1.478914	0.01	32.0375	0.006290497
2646	2	1.479925	-0.00625	32.03125	0.00628927
1490	1	1.480509	-0.0075	32.02375	0.006287797
2438	2	1.48083	0.0125	32.03625	0.006290251
831	1	1.480852	0.015	32.05125	0.006293197
86	1	1.480988	-0.0075	32.04375	0.006291724
8060	3	1.481082	0.01	32.05375	0.006293687
5797	3	1.482315	-0.005	32.04875	0.006292706
945	1	1.482429	0.015	32.06375	0.006295651
2360	2	1.482451	-0.00625	32.0575	0.006294424
1620	1	1.482498	-0.0075	32.05	0.006292951
1670	1	1.482838	0.015	32.065	0.006295896
6564	3	1.482879	-0.005	32.06	0.006294915
9868	4	1.483394	0.01	32.07	0.006296878
2744	2	1.484247	-0.00625	32.06375	0.006295651
7811	3	1.484377	0.01	32.07375	0.006297614
492	1	1.484517	-0.0075	32.06625	0.006296142
3669	3	1.484521	-0.005	32.06125	0.00629516
860	1	1.484649	-0.0075	32.05375	0.006293687
5183	3	1.484991	-0.005	32.04875	0.006292706
6962	3	1.485049	-0.005	32.04375	0.006291724
2818	2	1.485306	0.0125	32.05625	0.006294178
4498	3	1.485509	-0.005	32.05125	0.006293197
6022	3	1.485546	0.01	32.06125	0.00629516

1569	1	1.485724	-0.0075	32.05375	0.006293687
6346	3	1.486124	0.01	32.06375	0.006295651
6102	3	1.486409	-0.005	32.05875	0.006294669
4133	3	1.486415	-0.005	32.05375	0.006293687
6423	3	1.486548	0.01	32.06375	0.006295651
2122	2	1.48726	-0.00625	32.0575	0.006294424
9369	4	1.487958	-0.005	32.0525	0.006293442
4805	3	1.48801	0.01	32.0625	0.006295405
6387	3	1.488056	-0.005	32.0575	0.006294424
3460	3	1.489034	0.01	32.0675	0.006296387
7136	3	1.489252	0.01	32.0775	0.006298351
3900	3	1.48929	0.01	32.0875	0.006300314
2581	2	1.489403	-0.00625	32.08125	0.006299087
704	1	1.489526	0.015	32.09625	0.006302032
1650	1	1.49004	-0.0075	32.08875	0.00630056
1351	1	1.490337	-0.0075	32.08125	0.006299087
2451	2	1.490387	-0.00625	32.075	0.00629786
2111	2	1.490473	0.0125	32.0875	0.006300314
761	1	1.490812	-0.0075	32.08	0.006298842
3239	3	1.491156	-0.005	32.075	0.00629786
317	1	1.491262	-0.0075	32.0675	0.006296387
3660	3	1.491605	0.01	32.0775	0.006298351
2566	2	1.491771	0.0125	32.09	0.006300805
1232	1	1.491818	-0.0075	32.0825	0.006299332
4692	3	1.491854	-0.005	32.0775	0.006298351
999	1	1.492273	0.015	32.0925	0.006301296
8676	3	1.492582	0.01	32.1025	0.006303259
7775	3	1.493031	0.01	32.1125	0.006305223
1947	2	1.493726	-0.00625	32.10625	0.006303996
5571	3	1.494002	-0.005	32.10125	0.006303014
5932	3	1.494181	-0.005	32.09625	0.006302032
3415	3	1.494428	0.01	32.10625	0.006303996
2730	2	1.494673	-0.00625	32.1	0.006302769
4331	3	1.495246	-0.005	32.095	0.006301787
5	1	1.495447	0.015	32.11	0.006304732
4150	3	1.495755	0.01	32.12	0.006306695
3258	3	1.495831	-0.005	32.115	0.006305714
1248	1	1.495882	0.015	32.13	0.006308659
60	1	1.496101	0.015	32.145	0.006311604
704	1	1.496109	-0.0075	32.1375	0.006310132
481	1	1.496204	-0.0075	32.13	0.006308659
9549	4	1.496473	0.01	32.14	0.006310622
2142	2	1.496998	-0.00625	32.13375	0.006309395
9019	4	1.497155	0.01	32.14375	0.006311359
5432	3	1.497957	-0.005	32.13875	0.006310377
2639	2	1.498121	-0.00625	32.1325	0.00630915
8083	3	1.498135	-0.005	32.1275	0.006308168
6049	3	1.498176	-0.005	32.1225	0.006307186
1257	1	1.498275	0.015	32.1375	0.006310132
8376	3	1.498786	0.01	32.1475	0.006312095
6521	3	1.499212	0.01	32.1575	0.006314059
9223	4	1.499256	-0.005	32.1525	0.006313077

6063	3	1.49935	0.01	32.1625	0.00631504
5275	3	1.499866	-0.005	32.1575	0.006314059
9114	4	1.500348	-0.005	32.1525	0.006313077
782	1	1.500844	-0.0075	32.145	0.006311604
2156	2	1.50128	-0.00625	32.13875	0.006310377
2703	2	1.501357	-0.00625	32.1325	0.00630915
8141	3	1.501373	-0.005	32.1275	0.006308168
2514	2	1.501582	-0.00625	32.12125	0.006306941
892	1	1.501998	0.015	32.13625	0.006309886
146	1	1.50209	0.015	32.15125	0.006312831
8845	4	1.502581	-0.005	32.14625	0.00631185
4397	3	1.50271	-0.005	32.14125	0.006310868
7974	3	1.502874	-0.005	32.13625	0.006309886
5299	3	1.503013	-0.005	32.13125	0.006308904
2775	2	1.503043	-0.00625	32.125	0.006307677
2097	2	1.503199	0.0125	32.1375	0.006310132
2319	2	1.503388	0.0125	32.15	0.006312586
1438	1	1.503402	-0.0075	32.1425	0.006311113
3525	3	1.50372	-0.005	32.1375	0.006310132
2933	3	1.5038	0.01	32.1475	0.006312095
4865	3	1.505009	-0.005	32.1425	0.006311113
2343	2	1.505114	-0.00625	32.13625	0.006309886
1861	2	1.505167	0.0125	32.14875	0.00631234
4005	3	1.505324	-0.005	32.14375	0.006311359
8133	3	1.505381	0.01	32.15375	0.006313322
8729	3	1.505565	-0.005	32.14875	0.00631234
2812	2	1.50583	0.0125	32.16125	0.006314795
2071	2	1.505847	-0.00625	32.155	0.006313568
9546	4	1.506449	-0.005	32.15	0.006312586
1726	1	1.506468	-0.0075	32.1425	0.006311113
4551	3	1.506503	0.01	32.1525	0.006313077
6413	3	1.506952	-0.005	32.1475	0.006312095
414	1	1.507177	0.015	32.1625	0.00631504
8180	3	1.507269	-0.005	32.1575	0.006314059
744	1	1.508378	0.015	32.1725	0.006317004
2580	2	1.508501	0.0125	32.185	0.006319458
6389	3	1.509381	-0.005	32.18	0.006318476
775	1	1.509672	-0.0075	32.1725	0.006317004
1397	1	1.509674	-0.0075	32.165	0.006315531
2972	3	1.509981	-0.005	32.16	0.006314549
6374	3	1.510737	-0.005	32.155	0.006313568
3940	3	1.510864	-0.005	32.15	0.006312586
6178	3	1.511457	-0.005	32.145	0.006311604
6445	3	1.511894	-0.005	32.14	0.006310622
1088	1	1.512193	-0.0075	32.1325	0.00630915
2681	2	1.51273	-0.00625	32.12625	0.006307923
3871	3	1.513342	0.01	32.13625	0.006309886
9344	4	1.513405	0.01	32.14625	0.00631185
1972	2	1.513568	-0.00625	32.14	0.006310622
8541	3	1.513621	0.01	32.15	0.006312586
468	1	1.514124	0.015	32.165	0.006315531
2583	2	1.514522	-0.00625	32.15875	0.006314304

1278	1	1.514532	-0.0075	32.15125	0.006312831
985	1	1.514736	-0.0075	32.14375	0.006311359
4017	3	1.515602	-0.005	32.13875	0.006310377
5604	3	1.51566	0.01	32.14875	0.00631234
6670	3	1.515709	0.01	32.15875	0.006314304
388	1	1.515766	-0.0075	32.15125	0.006312831
6592	3	1.51638	0.01	32.16125	0.006314795
7269	3	1.516825	0.01	32.17125	0.006316758
1073	1	1.516947	-0.0075	32.16375	0.006315286
8181	3	1.517667	-0.005	32.15875	0.006314304
5983	3	1.518184	0.01	32.16875	0.006316267
6697	3	1.518292	0.01	32.17875	0.006318231
5752	3	1.518328	-0.005	32.17375	0.006317249
2373	2	1.51853	-0.00625	32.1675	0.006316022
1275	1	1.518927	0.015	32.1825	0.006318967
7869	3	1.51911	-0.005	32.1775	0.006317985
6170	3	1.52017	-0.005	32.1725	0.006317004
6473	3	1.520368	0.01	32.1825	0.006318967
2633	2	1.520467	0.0125	32.195	0.006321422
1596	1	1.520504	-0.0075	32.1875	0.006319949
5561	3	1.520581	0.01	32.1975	0.006321912
8089	3	1.521786	-0.005	32.1925	0.006320931
806	1	1.521801	-0.0075	32.185	0.006319458
762	1	1.522215	0.015	32.2	0.006322403
5576	3	1.522219	-0.005	32.195	0.006321422
2848	2	1.522411	0.0125	32.2075	0.006323876
3004	3	1.522855	-0.005	32.2025	0.006322894
5972	3	1.523305	0.01	32.2125	0.006324858
984	1	1.52341	-0.0075	32.205	0.006323385
7826	3	1.523702	0.01	32.215	0.006325349
2298	2	1.52398	-0.00625	32.20875	0.006324121
6020	3	1.524131	-0.005	32.20375	0.00632314
9295	4	1.525324	0.01	32.21375	0.006325103
6758	3	1.525515	-0.005	32.20875	0.006324121
2577	2	1.525684	0.0125	32.22125	0.006326576
6945	3	1.526235	-0.005	32.21625	0.006325594
4314	3	1.526964	0.01	32.22625	0.006327557
4322	3	1.526967	-0.005	32.22125	0.006326576
7993	3	1.527151	-0.005	32.21625	0.006325594
821	1	1.527407	0.015	32.23125	0.006328539
1174	1	1.527598	0.015	32.24625	0.006331484
4446	3	1.527832	0.01	32.25625	0.006333448
3092	3	1.527939	-0.005	32.25125	0.006332466
6767	3	1.528682	-0.005	32.24625	0.006331484
1037	1	1.528879	-0.0075	32.23875	0.006330012
5676	3	1.52987	-0.005	32.23375	0.00632903
3060	3	1.531456	0.01	32.24375	0.006330994
430	1	1.53303	-0.0075	32.23625	0.006329521
1812	2	1.533468	-0.00625	32.23	0.006328294
2774	2	1.533912	0.0125	32.2425	0.006330748
855	1	1.534032	-0.0075	32.235	0.006329275
1406	1	1.534523	0.015	32.25	0.006332221

2638	2	1.535176	0.0125	32.2625	0.006334675
6035	3	1.535605	-0.005	32.2575	0.006333693
721	1	1.535637	-0.0075	32.25	0.006332221
4559	3	1.536233	-0.005	32.245	0.006331239
208	1	1.536584	-0.0075	32.2375	0.006329766
812	1	1.536797	0.015	32.2525	0.006332712
1785	2	1.536983	-0.00625	32.24625	0.006331484
6637	3	1.537127	-0.005	32.24125	0.006330503
290	1	1.537652	0.015	32.25625	0.006333448
873	1	1.537673	-0.0075	32.24875	0.006331975
8650	3	1.538063	-0.005	32.24375	0.006330994
7088	3	1.538078	0.01	32.25375	0.006332957
723	1	1.538325	-0.0075	32.24625	0.006331484
1858	2	1.5389	-0.00625	32.24	0.006330257
7573	3	1.539333	-0.005	32.235	0.006329275
597	1	1.539479	-0.0075	32.2275	0.006327803
7867	3	1.539949	-0.005	32.2225	0.006326821
9075	4	1.54013	-0.005	32.2175	0.006325839
2726	2	1.540149	0.0125	32.23	0.006328294
508	1	1.541256	-0.0075	32.2225	0.006326821
3153	3	1.541304	0.01	32.2325	0.006328785
8481	3	1.542867	-0.005	32.2275	0.006327803
2012	2	1.543021	-0.00625	32.22125	0.006326576
127	1	1.543175	-0.0075	32.21375	0.006325103
1438	1	1.54319	-0.0075	32.20625	0.00632363
9452	4	1.543224	-0.005	32.20125	0.006322649
609	1	1.54324	-0.0075	32.19375	0.006321176
1355	1	1.543242	-0.0075	32.18625	0.006319704
1452	1	1.54363	-0.0075	32.17875	0.006318231
3694	3	1.544032	-0.005	32.17375	0.006317249
1272	1	1.544435	0.015	32.18875	0.006320194
1542	1	1.544831	0.015	32.20375	0.00632314
180	1	1.545321	0.015	32.21875	0.006326085
1725	1	1.545992	0.015	32.23375	0.00632903
8063	3	1.546	-0.005	32.22875	0.006328048
2013	2	1.546461	-0.00625	32.2225	0.006326821
7602	3	1.546632	0.01	32.2325	0.006328785
3162	3	1.546906	0.01	32.2425	0.006330748
1736	1	1.546986	0.015	32.2575	0.006333693
7727	3	1.547132	0.01	32.2675	0.006335657
2753	2	1.549089	-0.00625	32.26125	0.00633443
2694	2	1.549112	-0.00625	32.255	0.006333202
2764	2	1.549247	-0.00625	32.24875	0.006331975
6492	3	1.549282	-0.005	32.24375	0.006330994
9385	4	1.549443	-0.005	32.23875	0.006330012
5243	3	1.550373	-0.005	32.23375	0.00632903
1836	2	1.550961	0.0125	32.24625	0.006331484
8191	3	1.551121	-0.005	32.24125	0.006330503
5854	3	1.552063	-0.005	32.23625	0.006329521
4623	3	1.5524	0.01	32.24625	0.006331484
2863	2	1.552488	-0.00625	32.24	0.006330257
2010	2	1.553057	0.0125	32.2525	0.006332712

5723	3	1.55326	-0.005	32.2475	0.00633173
9889	4	1.553457	-0.005	32.2425	0.006330748
328	1	1.553518	0.015	32.2575	0.006333693
7089	3	1.553535	0.01	32.2675	0.006335657
1582	1	1.553651	-0.0075	32.26	0.006334184
415	1	1.554177	0.015	32.275	0.006337129
2019	2	1.554306	-0.00625	32.26875	0.006335902
228	1	1.554443	0.015	32.28375	0.006338847
2928	3	1.554768	-0.005	32.27875	0.006337866
4384	3	1.554794	0.01	32.28875	0.006339829
209	1	1.555087	-0.0075	32.28125	0.006338357
889	1	1.555353	-0.0075	32.27375	0.006336884
1354	1	1.555686	-0.0075	32.26625	0.006335411
8500	3	1.556142	0.01	32.27625	0.006337375
8922	4	1.557415	-0.005	32.27125	0.006336393
7998	3	1.55841	-0.005	32.26625	0.006335411
7990	3	1.558499	-0.005	32.26125	0.00633443
8177	3	1.558913	-0.005	32.25625	0.006333448
3858	3	1.558919	0.01	32.26625	0.006335411
81	1	1.559268	0.015	32.28125	0.006338357
6794	3	1.559352	0.01	32.29125	0.00634032
5759	3	1.559659	-0.005	32.28625	0.006339338
2444	2	1.559834	-0.00625	32.28	0.006338111
8473	3	1.559897	-0.005	32.275	0.006337129
724	1	1.560476	-0.0075	32.2675	0.006335657
3006	3	1.560973	-0.005	32.2625	0.006334675
52	1	1.560997	0.015	32.2775	0.00633762
2019	2	1.561273	-0.00625	32.27125	0.006336393
5487	3	1.561587	0.01	32.28125	0.006338357
2261	2	1.561792	-0.00625	32.275	0.006337129
1892	2	1.562566	-0.00625	32.26875	0.006335902
918	1	1.563026	0.015	32.28375	0.006338847
632	1	1.56306	-0.0075	32.27625	0.006337375
153	1	1.563591	-0.0075	32.26875	0.006335902
4051	3	1.56377	0.01	32.27875	0.006337866
9146	4	1.564179	0.01	32.28875	0.006339829
1061	1	1.564503	0.015	32.30375	0.006342774
2913	3	1.564965	-0.005	32.29875	0.006341793
2833	2	1.565268	-0.00625	32.2925	0.006340565
3842	3	1.565793	-0.005	32.2875	0.006339584
3561	3	1.566605	-0.005	32.2825	0.006338602
141	1	1.566831	0.015	32.2975	0.006341547
3753	3	1.56709	-0.005	32.2925	0.006340565
2310	2	1.567267	0.0125	32.305	0.00634302
6053	3	1.567301	0.01	32.315	0.006344983
6969	3	1.567475	-0.005	32.31	0.006344002
909	1	1.567525	0.015	32.325	0.006346947
4791	3	1.568387	0.01	32.335	0.00634891
990	1	1.570104	0.015	32.35	0.006351855
2497	2	1.570427	-0.00625	32.34375	0.006350628
4875	3	1.57169	0.01	32.35375	0.006352592
5468	3	1.571734	-0.005	32.34875	0.00635161

1562	1	1.571835	-0.0075	32.34125	0.006350137
0	1	1.572779	-0.0075	32.33375	0.006348665
7602	3	1.573169	-0.005	32.32875	0.006347683
7635	3	1.573307	0.01	32.33875	0.006349647
3343	3	1.573517	-0.005	32.33375	0.006348665
8616	3	1.57436	-0.005	32.32875	0.006347683
4551	3	1.574744	-0.005	32.32375	0.006346701
6139	3	1.574816	0.01	32.33375	0.006348665
972	1	1.574829	0.015	32.34875	0.00635161
1971	2	1.57486	-0.00625	32.3425	0.006350383
1608	1	1.574928	-0.0075	32.335	0.00634891
9910	4	1.575243	0.01	32.345	0.006350874
741	1	1.575375	-0.0075	32.3375	0.006349401
2838	2	1.575515	-0.00625	32.33125	0.006348174
1690	1	1.575661	-0.0075	32.32375	0.006346701
4732	3	1.575844	0.01	32.33375	0.006348665
1181	1	1.575851	-0.0075	32.32625	0.006347192
2900	3	1.575944	-0.005	32.32125	0.00634621
1892	2	1.575961	-0.00625	32.315	0.006344983
7468	3	1.575995	-0.005	32.31	0.006344002
145	1	1.576186	-0.0075	32.3025	0.006342529
334	1	1.576254	0.015	32.3175	0.006345474
5075	3	1.576332	-0.005	32.3125	0.006344492
2983	3	1.57643	-0.005	32.3075	0.006343511
6056	3	1.576563	-0.005	32.3025	0.006342529
5009	3	1.577358	0.01	32.3125	0.006344492
6634	3	1.577486	0.01	32.3225	0.006346456
3123	3	1.578783	0.01	32.3325	0.006348419
983	1	1.578798	-0.0075	32.325	0.006346947
3103	3	1.578886	-0.005	32.32	0.006345965
4599	3	1.578911	-0.005	32.315	0.006344983
2056	2	1.580027	-0.00625	32.30875	0.006343756
6532	3	1.58111	0.01	32.31875	0.00634572
1352	1	1.581118	-0.0075	32.31125	0.006344247
4393	3	1.581279	-0.005	32.30625	0.006343265
9770	4	1.581602	-0.005	32.30125	0.006342284
8173	3	1.581732	-0.005	32.29625	0.006341302
694	1	1.581809	-0.0075	32.28875	0.006339829
3088	3	1.58197	-0.005	32.28375	0.006338847
7773	3	1.582512	0.01	32.29375	0.006340811
517	1	1.58288	-0.0075	32.28625	0.006339338
5551	3	1.582976	-0.005	32.28125	0.006338357
1965	2	1.583248	0.0125	32.29375	0.006340811
1295	1	1.58338	-0.0075	32.28625	0.006339338
2831	2	1.583486	0.0125	32.29875	0.006341793
6769	3	1.583583	0.01	32.30875	0.006343756
2350	2	1.583588	-0.00625	32.3025	0.006342529
3555	3	1.583845	-0.005	32.2975	0.006341547
5770	3	1.583945	-0.005	32.2925	0.006340565
2483	2	1.583995	-0.00625	32.28625	0.006339338
144	1	1.584311	-0.0075	32.27875	0.006337866
1764	1	1.584639	-0.0075	32.27125	0.006336393

4703	3	1.584876	0.01	32.28125	0.006338357
1309	1	1.585161	0.015	32.29625	0.006341302
3063	3	1.585347	-0.005	32.29125	0.00634032
1033	1	1.585534	0.015	32.30625	0.006343265
1486	1	1.585594	-0.0075	32.29875	0.006341793
6741	3	1.585776	-0.005	32.29375	0.006340811
4286	3	1.586661	-0.005	32.28875	0.006339829
113	1	1.58676	0.015	32.30375	0.006342774
1266	1	1.586844	-0.0075	32.29625	0.006341302
4121	3	1.587198	-0.005	32.29125	0.00634032
777	1	1.587389	-0.0075	32.28375	0.006338847
3776	3	1.587409	-0.005	32.27875	0.006337866
3033	3	1.587426	0.01	32.28875	0.006339829
6514	3	1.587694	-0.005	32.28375	0.006338847
5604	3	1.587705	-0.005	32.27875	0.006337866
5497	3	1.587943	-0.005	32.27375	0.006336884
8847	4	1.588288	-0.005	32.26875	0.006335902
8950	4	1.588381	0.01	32.27875	0.006337866
1733	1	1.588513	0.015	32.29375	0.006340811
4103	3	1.588725	-0.005	32.28875	0.006339829
1965	2	1.589095	-0.00625	32.2825	0.006338602
1787	2	1.589133	-0.00625	32.27625	0.006337375
3835	3	1.589193	-0.005	32.27125	0.006336393
3123	3	1.589224	-0.005	32.26625	0.006335411
2643	2	1.58984	0.0125	32.27875	0.006337866
6666	3	1.591329	-0.005	32.27375	0.006336884
1414	1	1.591357	-0.0075	32.26625	0.006335411
4696	3	1.591601	-0.005	32.26125	0.00633443
652	1	1.591904	-0.0075	32.25375	0.006332957
6364	3	1.593051	0.01	32.26375	0.00633492
7267	3	1.593683	0.01	32.27375	0.006336884
9815	4	1.59383	0.01	32.28375	0.006338847
4562	3	1.59389	0.01	32.29375	0.006340811
649	1	1.594038	0.015	32.30875	0.006343756
5915	3	1.594311	-0.005	32.30375	0.006342774
5439	3	1.594551	0.01	32.31375	0.006344738
2412	2	1.594976	-0.00625	32.3075	0.006343511
821	1	1.595464	-0.0075	32.3	0.006342038
3370	3	1.595591	-0.005	32.295	0.006341056
4810	3	1.595613	-0.005	32.29	0.006340075
7765	3	1.596537	0.01	32.3	0.006342038
1665	1	1.597054	-0.0075	32.2925	0.006340565
1679	1	1.597607	-0.0075	32.285	0.006339093
1664	1	1.599326	0.015	32.3	0.006342038
4388	3	1.599849	-0.005	32.295	0.006341056
5994	3	1.599913	-0.005	32.29	0.006340075
4518	3	1.599973	-0.005	32.285	0.006339093
7379	3	1.600057	-0.005	32.28	0.006338111
1958	2	1.600361	0.0125	32.2925	0.006340565
5469	3	1.600629	0.01	32.3025	0.006342529
3150	3	1.600639	0.01	32.3125	0.006344492
2580	2	1.600925	-0.00625	32.30625	0.006343265

6628	3	1.601054	-0.005	32.30125	0.006342284
2492	2	1.601498	-0.00625	32.295	0.006341056
36	1	1.601505	-0.0075	32.2875	0.006339584
335	1	1.601974	-0.0075	32.28	0.006338111
2342	2	1.602641	-0.00625	32.27375	0.006336884
1365	1	1.602665	-0.0075	32.26625	0.006335411
848	1	1.602789	0.015	32.28125	0.006338357
5831	3	1.603471	0.01	32.29125	0.00634032
872	1	1.60385	-0.0075	32.28375	0.006338847
9971	4	1.603863	-0.005	32.27875	0.006337866
9504	4	1.604	0.01	32.28875	0.006339829
3182	3	1.604298	-0.005	32.28375	0.006338847
7057	3	1.605386	-0.005	32.27875	0.006337866
795	1	1.605687	-0.0075	32.27125	0.006336393
1382	1	1.605798	0.015	32.28625	0.006339338
3759	3	1.606097	-0.005	32.28125	0.006338357
1080	1	1.607209	-0.0075	32.27375	0.006336884
9463	4	1.607868	0.01	32.28375	0.006338847
1045	1	1.608227	-0.0075	32.27625	0.006337375
6412	3	1.608672	-0.005	32.27125	0.006336393
8500	3	1.608741	-0.005	32.26625	0.006335411
7469	3	1.609092	-0.005	32.26125	0.00633443
7017	3	1.609845	-0.005	32.25625	0.006333448
4788	3	1.610147	0.01	32.26625	0.006335411
549	1	1.61073	-0.0075	32.25875	0.006333939
4522	3	1.611105	0.01	32.26875	0.006335902
1994	2	1.611131	-0.00625	32.2625	0.006334675
586	1	1.612169	-0.0075	32.255	0.006333202
6427	3	1.612423	0.01	32.265	0.006335166
581	1	1.612492	-0.0075	32.2575	0.006333693
3641	3	1.612671	-0.005	32.2525	0.006332712
9268	4	1.613657	-0.005	32.2475	0.00633173
7405	3	1.614016	-0.005	32.2425	0.006330748
9508	4	1.614194	-0.005	32.2375	0.006329766
4986	3	1.615144	-0.005	32.2325	0.006328785
7975	3	1.615679	-0.005	32.2275	0.006327803
7021	3	1.615744	-0.005	32.2225	0.006326821
3599	3	1.615856	0.01	32.2325	0.006328785
5876	3	1.615974	-0.005	32.2275	0.006327803
2858	2	1.617002	-0.00625	32.22125	0.006326576
548	1	1.617056	-0.0075	32.21375	0.006325103
1732	1	1.617303	-0.0075	32.20625	0.00632363
1717	1	1.617338	0.015	32.22125	0.006326576
8231	3	1.61799	-0.005	32.21625	0.006325594
5293	3	1.618236	-0.005	32.21125	0.006324612
2351	2	1.618996	-0.00625	32.205	0.006323385
3637	3	1.619408	-0.005	32.2	0.006322403
5832	3	1.619461	-0.005	32.195	0.006321422
3736	3	1.619727	-0.005	32.19	0.00632044
3885	3	1.619744	0.01	32.2	0.006322403
774	1	1.620154	0.015	32.215	0.006325349
5714	3	1.620485	0.01	32.225	0.006327312

2495	2	1.621184	-0.00625	32.21875	0.006326085
1034	1	1.621717	-0.0075	32.21125	0.006324612
2564	2	1.622233	0.0125	32.22375	0.006327067
6889	3	1.622796	0.01	32.23375	0.00632903
1299	1	1.623345	-0.0075	32.22625	0.006327557
3171	3	1.62352	0.01	32.23625	0.006329521
3430	3	1.62426	-0.005	32.23125	0.006328539
252	1	1.624606	0.015	32.24625	0.006331484
7670	3	1.625245	-0.005	32.24125	0.006330503
8228	3	1.625353	-0.005	32.23625	0.006329521
4546	3	1.626161	0.01	32.24625	0.006331484
2521	2	1.626386	-0.00625	32.24	0.006330257
1106	1	1.626473	0.015	32.255	0.006333202
4819	3	1.626483	-0.005	32.25	0.006332221
4775	3	1.626927	-0.005	32.245	0.006331239
7117	3	1.626951	-0.005	32.24	0.006330257
8772	4	1.627064	-0.005	32.235	0.006329275
5200	3	1.627616	-0.005	32.23	0.006328294
3029	3	1.627878	-0.005	32.225	0.006327312
5919	3	1.62797	-0.005	32.22	0.00632633
1767	1	1.628163	0.015	32.235	0.006329275
6255	3	1.628804	0.01	32.245	0.006331239
7571	3	1.628815	0.01	32.255	0.006333202
1419	1	1.628897	0.015	32.27	0.006336148
1242	1	1.628959	0.015	32.285	0.006339093
8326	3	1.629462	-0.005	32.28	0.006338111
266	1	1.62979	-0.0075	32.2725	0.006336639
8410	3	1.63034	-0.005	32.2675	0.006335657
4145	3	1.630944	-0.005	32.2625	0.006334675
1241	1	1.631028	0.015	32.2775	0.00633762
739	1	1.631042	0.015	32.2925	0.006340565
397	1	1.631603	0.015	32.3075	0.006343511
3101	3	1.631623	-0.005	32.3025	0.006342529
1276	1	1.631784	-0.0075	32.295	0.006341056
6184	3	1.632623	-0.005	32.29	0.006340075
4238	3	1.633204	-0.005	32.285	0.006339093
931	1	1.633386	0.015	32.3	0.006342038
1264	1	1.633416	-0.0075	32.2925	0.006340565
534	1	1.63412	-0.0075	32.285	0.006339093
96	1	1.634729	-0.0075	32.2775	0.00633762
5914	3	1.634735	-0.005	32.2725	0.006336639
1862	2	1.635093	0.0125	32.285	0.006339093
3772	3	1.635137	0.01	32.295	0.006341056
6766	3	1.635609	0.01	32.305	0.00634302
239	1	1.635827	-0.0075	32.2975	0.006341547
1670	1	1.636067	-0.0075	32.29	0.006340075
3726	3	1.636083	-0.005	32.285	0.006339093
6697	3	1.63639	-0.005	32.28	0.006338111
1487	1	1.637715	-0.0075	32.2725	0.006336639
2002	2	1.638299	-0.00625	32.26625	0.006335411
133	1	1.638574	-0.0075	32.25875	0.006333939
3553	3	1.638781	-0.005	32.25375	0.006332957

9421	4	1.638884	-0.005	32.24875	0.006331975
2366	2	1.639391	-0.00625	32.2425	0.006330748
3325	3	1.639661	-0.005	32.2375	0.006329766
1702	1	1.639752	-0.0075	32.23	0.006328294
835	1	1.640426	-0.0075	32.2225	0.006326821
5424	3	1.641002	-0.005	32.2175	0.006325839
3349	3	1.641543	-0.005	32.2125	0.006324858
3660	3	1.642276	-0.005	32.2075	0.006323876
9975	4	1.642285	0.01	32.2175	0.006325839
1341	1	1.642451	-0.0075	32.21	0.006324367
2407	2	1.642707	-0.00625	32.20375	0.00632314
7178	3	1.643168	-0.005	32.19875	0.006322158
527	1	1.643275	0.015	32.21375	0.006325103
2865	2	1.643303	-0.00625	32.2075	0.006323876
875	1	1.6435	0.015	32.2225	0.006326821
6302	3	1.643858	-0.005	32.2175	0.006325839
2354	2	1.644196	0.0125	32.23	0.006328294
8108	3	1.644309	-0.005	32.225	0.006327312
5798	3	1.644372	-0.005	32.22	0.00632633
223	1	1.645207	-0.0075	32.2125	0.006324858
4224	3	1.645254	-0.005	32.2075	0.006323876
1	1	1.6456	0.015	32.2225	0.006326821
6619	3	1.645712	-0.005	32.2175	0.006325839
315	1	1.645908	0.015	32.2325	0.006328785
4643	3	1.646228	-0.005	32.2275	0.006327803
385	1	1.646595	-0.0075	32.22	0.00632633
8665	3	1.646644	0.01	32.23	0.006328294
7811	3	1.647201	-0.005	32.225	0.006327312
2125	2	1.647292	-0.00625	32.21875	0.006326085
1964	2	1.647331	0.0125	32.23125	0.006328539
9846	4	1.647385	0.01	32.24125	0.006330503
6968	3	1.64743	-0.005	32.23625	0.006329521
849	1	1.647514	-0.0075	32.22875	0.006328048
7123	3	1.648116	0.01	32.23875	0.006330012
6570	3	1.648178	0.01	32.24875	0.006331975
6860	3	1.648525	0.01	32.25875	0.006333939
333	1	1.648716	0.015	32.27375	0.006336884
8969	4	1.648885	0.01	32.28375	0.006338847
1771	2	1.649127	-0.00625	32.2775	0.00633762
898	1	1.649445	-0.0075	32.27	0.006336148
2078	2	1.649521	-0.00625	32.26375	0.00633492
1045	1	1.649619	-0.0075	32.25625	0.006333448
224	1	1.649717	-0.0075	32.24875	0.006331975
1836	2	1.649916	-0.00625	32.2425	0.006330748
1084	1	1.650088	-0.0075	32.235	0.006329275
2956	3	1.650673	0.01	32.245	0.006331239
4934	3	1.650749	0.01	32.255	0.006333202
2813	2	1.650977	-0.00625	32.24875	0.006331975
195	1	1.651068	0.015	32.26375	0.00633492
7687	3	1.651146	-0.005	32.25875	0.006333939
8829	4	1.651345	-0.005	32.25375	0.006332957
2292	2	1.651829	-0.00625	32.2475	0.00633173

3496	3	1.65201	-0.005	32.2425	0.006330748
2653	2	1.653335	-0.00625	32.23625	0.006329521
4753	3	1.653651	-0.005	32.23125	0.006328539
6427	3	1.654843	-0.005	32.22625	0.006327557
2968	3	1.654984	0.01	32.23625	0.006329521
8484	3	1.655564	0.01	32.24625	0.006331484
6230	3	1.656599	0.01	32.25625	0.006333448
2361	2	1.656782	-0.00625	32.25	0.006332221
7667	3	1.656843	-0.005	32.245	0.006331239
8953	4	1.657121	-0.005	32.24	0.006330257
7064	3	1.657423	0.01	32.25	0.006332221
2952	3	1.657591	0.01	32.26	0.006334184
7908	3	1.657904	-0.005	32.255	0.006333202
8348	3	1.657906	0.01	32.265	0.006335166
227	1	1.658634	-0.0075	32.2575	0.006333693
2734	2	1.658784	-0.00625	32.25125	0.006332466
5764	3	1.659656	0.01	32.26125	0.00633443
4248	3	1.659841	-0.005	32.25625	0.006333448
2469	2	1.660187	0.0125	32.26875	0.006335902
48	1	1.660241	0.015	32.28375	0.006338847
9029	4	1.66045	-0.005	32.27875	0.006337866
2498	2	1.660644	-0.00625	32.2725	0.006336639
1134	1	1.660828	-0.0075	32.265	0.006335166
6576	3	1.661317	0.01	32.275	0.006337129
1111	1	1.661518	-0.0075	32.2675	0.006335657
3192	3	1.6618	-0.005	32.2625	0.006334675
493	1	1.662066	-0.0075	32.255	0.006333202
1233	1	1.662166	0.015	32.27	0.006336148
8518	3	1.663183	0.01	32.28	0.006338111
1695	1	1.663591	-0.0075	32.2725	0.006336639
7901	3	1.663689	0.01	32.2825	0.006338602
1046	1	1.663863	-0.0075	32.275	0.006337129
5166	3	1.665363	0.01	32.285	0.006339093
5035	3	1.665461	-0.005	32.28	0.006338111
869	1	1.666471	0.015	32.295	0.006341056
6637	3	1.666617	-0.005	32.29	0.006340075
1076	1	1.666645	0.015	32.305	0.00634302
1422	1	1.666789	-0.0075	32.2975	0.006341547
86	1	1.667133	-0.0075	32.29	0.006340075
7451	3	1.667269	-0.005	32.285	0.006339093
1525	1	1.667737	-0.0075	32.2775	0.00633762
4255	3	1.66811	0.01	32.2875	0.006339584
3564	3	1.668532	-0.005	32.2825	0.006338602
424	1	1.668771	0.015	32.2975	0.006341547
5954	3	1.668862	-0.005	32.2925	0.006340565
6278	3	1.669504	0.01	32.3025	0.006342529
7693	3	1.669685	0.01	32.3125	0.006344492
8254	3	1.669809	0.01	32.3225	0.006346456
7759	3	1.669841	-0.005	32.3175	0.006345474
4076	3	1.669916	0.01	32.3275	0.006347438
3747	3	1.669928	0.01	32.3375	0.006349401
7822	3	1.670024	-0.005	32.3325	0.006348419

725	1	1.67005	-0.0075	32.325	0.006346947
3999	3	1.670273	-0.005	32.32	0.006345965
8564	3	1.670379	-0.005	32.315	0.006344983
4150	3	1.670471	-0.005	32.31	0.006344002
8484	3	1.670555	-0.005	32.305	0.00634302
7071	3	1.670564	0.01	32.315	0.006344983
7459	3	1.67176	-0.005	32.31	0.006344002
6619	3	1.672075	-0.005	32.305	0.00634302
2496	2	1.672469	-0.00625	32.29875	0.006341793
6461	3	1.672598	-0.005	32.29375	0.006340811
3190	3	1.672814	-0.005	32.28875	0.006339829
3806	3	1.672995	-0.005	32.28375	0.006338847
2890	2	1.673161	-0.00625	32.2775	0.00633762
6300	3	1.673268	-0.005	32.2725	0.006336639
5109	3	1.674007	-0.005	32.2675	0.006335657
4187	3	1.674181	0.01	32.2775	0.00633762
1466	1	1.674282	0.015	32.2925	0.006340565
6541	3	1.674446	0.01	32.3025	0.006342529
1369	1	1.67538	0.015	32.3175	0.006345474
1470	1	1.675671	-0.0075	32.31	0.006344002
8550	3	1.675863	0.01	32.32	0.006345965
4927	3	1.676018	-0.005	32.315	0.006344983
6862	3	1.676837	0.01	32.325	0.006346947
1409	1	1.677132	-0.0075	32.3175	0.006345474
1761	1	1.677653	-0.0075	32.31	0.006344002
664	1	1.677957	-0.0075	32.3025	0.006342529
2952	3	1.678093	-0.005	32.2975	0.006341547
964	1	1.678612	-0.0075	32.29	0.006340075
7391	3	1.678787	-0.005	32.285	0.006339093
143	1	1.678911	0.015	32.3	0.006342038
148	1	1.679321	0.015	32.315	0.006344983
1164	1	1.679544	-0.0075	32.3075	0.006343511
4225	3	1.679807	-0.005	32.3025	0.006342529
1890	2	1.679926	0.0125	32.315	0.006344983
4623	3	1.680969	-0.005	32.31	0.006344002
9526	4	1.681011	-0.005	32.305	0.00634302
2670	2	1.681176	-0.00625	32.29875	0.006341793
291	1	1.681494	0.015	32.31375	0.006344738
4781	3	1.681586	-0.005	32.30875	0.006343756
350	1	1.681632	-0.0075	32.30125	0.006342284
2040	2	1.681783	0.0125	32.31375	0.006344738
4184	3	1.681806	0.01	32.32375	0.006346701
3496	3	1.681914	-0.005	32.31875	0.00634572
8412	3	1.6822	-0.005	32.31375	0.006344738
2142	2	1.682541	-0.00625	32.3075	0.006343511
5263	3	1.683188	0.01	32.3175	0.006345474
1473	1	1.683423	-0.0075	32.31	0.006344002
7248	3	1.683666	-0.005	32.305	0.00634302
3046	3	1.683679	-0.005	32.3	0.006342038
3961	3	1.683716	-0.005	32.295	0.006341056
1153	1	1.683869	0.015	32.31	0.006344002
3169	3	1.683968	-0.005	32.305	0.00634302

2157	2	1.684651	-0.00625	32.29875	0.006341793
552	1	1.684686	0.015	32.31375	0.006344738
4195	3	1.684988	0.01	32.32375	0.006346701
7157	3	1.685167	0.01	32.33375	0.006348665
2577	2	1.685283	-0.00625	32.3275	0.006347438
8552	3	1.685283	-0.005	32.3225	0.006346456
2633	2	1.685434	-0.00625	32.31625	0.006345229
2198	2	1.686542	-0.00625	32.31	0.006344002
1383	1	1.686953	-0.0075	32.3025	0.006342529
6742	3	1.687207	0.01	32.3125	0.006344492
107	1	1.687247	-0.0075	32.305	0.00634302
6192	3	1.687442	-0.005	32.3	0.006342038
8231	3	1.687531	-0.005	32.295	0.006341056
7203	3	1.687591	0.01	32.305	0.00634302
5275	3	1.687642	-0.005	32.3	0.006342038
7878	3	1.68771	0.01	32.31	0.006344002
1364	1	1.687949	-0.0075	32.3025	0.006342529
1707	1	1.687997	-0.0075	32.295	0.006341056
4677	3	1.68893	-0.005	32.29	0.006340075
9526	4	1.689062	-0.005	32.285	0.006339093
1405	1	1.689176	-0.0075	32.2775	0.00633762
9681	4	1.689243	0.01	32.2875	0.006339584
3425	3	1.689654	0.01	32.2975	0.006341547
8264	3	1.689844	0.01	32.3075	0.006343511
3133	3	1.690104	-0.005	32.3025	0.006342529
4346	3	1.690403	-0.005	32.2975	0.006341547
4383	3	1.690735	-0.005	32.2925	0.006340565
2091	2	1.690832	0.0125	32.305	0.00634302
1339	1	1.691672	-0.0075	32.2975	0.006341547
2346	2	1.693044	-0.00625	32.29125	0.00634032
6568	3	1.693253	-0.005	32.28625	0.006339338
2878	2	1.693308	0.0125	32.29875	0.006341793
9700	4	1.693444	-0.005	32.29375	0.006340811
6185	3	1.693672	-0.005	32.28875	0.006339829
9200	4	1.694018	0.01	32.29875	0.006341793
4703	3	1.694608	-0.005	32.29375	0.006340811
3317	3	1.694837	-0.005	32.28875	0.006339829
4007	3	1.694877	-0.005	32.28375	0.006338847
1350	1	1.695147	-0.0075	32.27625	0.006337375
7222	3	1.695356	0.01	32.28625	0.006339338
6631	3	1.695722	-0.005	32.28125	0.006338357
3876	3	1.695866	-0.005	32.27625	0.006337375
979	1	1.696175	0.015	32.29125	0.00634032
3894	3	1.696391	-0.005	32.28625	0.006339338
5554	3	1.69652	0.01	32.29625	0.006341302
2249	2	1.696733	-0.00625	32.29	0.006340075
7345	3	1.696819	-0.005	32.285	0.006339093
2220	2	1.69689	0.0125	32.2975	0.006341547
3587	3	1.697076	-0.005	32.2925	0.006340565
2146	2	1.697378	-0.00625	32.28625	0.006339338
2748	2	1.697419	0.0125	32.29875	0.006341793
9958	4	1.697917	0.01	32.30875	0.006343756

908	1	1.69804	-0.0075	32.30125	0.006342284
3668	3	1.698338	-0.005	32.29625	0.006341302
1324	1	1.698393	-0.0075	32.28875	0.006339829
8017	3	1.698429	-0.005	32.28375	0.006338847
6842	3	1.698566	0.01	32.29375	0.006340811
6027	3	1.698616	0.01	32.30375	0.006342774
1321	1	1.699267	-0.0075	32.29625	0.006341302
3153	3	1.69936	-0.005	32.29125	0.00634032
7128	3	1.699735	-0.005	32.28625	0.006339338
3151	3	1.700402	-0.005	32.28125	0.006338357
5947	3	1.700468	-0.005	32.27625	0.006337375
7674	3	1.700502	0.01	32.28625	0.006339338
1662	1	1.701476	-0.0075	32.27875	0.006337866
402	1	1.701933	0.015	32.29375	0.006340811
5432	3	1.702119	-0.005	32.28875	0.006339829
848	1	1.702731	-0.0075	32.28125	0.006338357
5508	3	1.70282	-0.005	32.27625	0.006337375
3610	3	1.703218	0.01	32.28625	0.006339338
9361	4	1.703633	-0.005	32.28125	0.006338357
874	1	1.70373	-0.0075	32.27375	0.006336884
1645	1	1.703802	0.015	32.28875	0.006339829
886	1	1.704878	-0.0075	32.28125	0.006338357
7269	3	1.70503	-0.005	32.27625	0.006337375
6677	3	1.705093	0.01	32.28625	0.006339338
8060	3	1.705215	-0.005	32.28125	0.006338357
1216	1	1.705357	-0.0075	32.27375	0.006336884
3021	3	1.705607	-0.005	32.26875	0.006335902
304	1	1.706277	0.015	32.28375	0.006338847
3428	3	1.707005	-0.005	32.27875	0.006337866
603	1	1.707169	-0.0075	32.27125	0.006336393
1862	2	1.707272	-0.00625	32.265	0.006335166
9004	4	1.707921	-0.005	32.26	0.006334184
2726	2	1.707981	-0.00625	32.25375	0.006332957
6047	3	1.708146	0.01	32.26375	0.00633492
4848	3	1.709246	-0.005	32.25875	0.006333939
2128	2	1.709354	-0.00625	32.2525	0.006332712
7300	3	1.709564	-0.005	32.2475	0.00633173
5058	3	1.709576	-0.005	32.2425	0.006330748
2192	2	1.710021	-0.00625	32.23625	0.006329521
4426	3	1.710175	0.01	32.24625	0.006331484
2163	2	1.710176	-0.00625	32.24	0.006330257
839	1	1.710806	0.015	32.255	0.006333202
574	1	1.711083	-0.0075	32.2475	0.00633173
5166	3	1.711276	-0.005	32.2425	0.006330748
7204	3	1.711443	0.01	32.2525	0.006332712
1056	1	1.711664	0.015	32.2675	0.006335657
9007	4	1.711877	-0.005	32.2625	0.006334675
7298	3	1.711911	0.01	32.2725	0.006336639
6592	3	1.712038	-0.005	32.2675	0.006335657
17	1	1.712222	-0.0075	32.26	0.006334184
3150	3	1.712627	-0.005	32.255	0.006333202
2596	2	1.713609	-0.00625	32.24875	0.006331975

3293	3	1.713704	-0.005	32.24375	0.006330994
3189	3	1.714382	-0.005	32.23875	0.006330012
7648	3	1.714462	-0.005	32.23375	0.00632903
3706	3	1.71493	-0.005	32.22875	0.006328048
808	1	1.716567	-0.0075	32.22125	0.006326576
7742	3	1.716751	-0.005	32.21625	0.006325594
6083	3	1.716889	0.01	32.22625	0.006327557
6361	3	1.716891	-0.005	32.22125	0.006326576
2627	2	1.717053	-0.00625	32.215	0.006325349
6072	3	1.717558	-0.005	32.21	0.006324367
3359	3	1.717621	-0.005	32.205	0.006323385
3171	3	1.718007	-0.005	32.2	0.006322403
1746	1	1.718266	-0.0075	32.1925	0.006320931
5536	3	1.718399	-0.005	32.1875	0.006319949
2290	2	1.719586	0.0125	32.2	0.006322403
1629	1	1.720919	-0.0075	32.1925	0.006320931
844	1	1.721074	-0.0075	32.185	0.006319458
2926	3	1.721093	-0.005	32.18	0.006318476
2731	2	1.721135	-0.00625	32.17375	0.006317249
498	1	1.721963	-0.0075	32.16625	0.006315777
2733	2	1.722445	-0.00625	32.16	0.006314549
1847	2	1.722697	-0.00625	32.15375	0.006313322
7384	3	1.722935	-0.005	32.14875	0.00631234
7826	3	1.723288	-0.005	32.14375	0.006311359
2572	2	1.723546	-0.00625	32.1375	0.006310132
2282	2	1.723706	-0.00625	32.13125	0.006308904
305	1	1.723805	0.015	32.14625	0.00631185
4370	3	1.724225	-0.005	32.14125	0.006310868
8379	3	1.724304	0.01	32.15125	0.006312831
4205	3	1.724805	-0.005	32.14625	0.00631185
1970	2	1.725439	0.0125	32.15875	0.006314304
6740	3	1.725456	-0.005	32.15375	0.006313322
9453	4	1.725749	0.01	32.16375	0.006315286
3563	3	1.725915	-0.005	32.15875	0.006314304
4727	3	1.726549	-0.005	32.15375	0.006313322
8500	3	1.727006	-0.005	32.14875	0.00631234
852	1	1.727653	0.015	32.16375	0.006315286
158	1	1.727717	-0.0075	32.15625	0.006313813
8290	3	1.728118	0.01	32.16625	0.006315777
1744	1	1.728371	0.015	32.18125	0.006318722
2242	2	1.728686	-0.00625	32.175	0.006317495
1712	1	1.728979	-0.0075	32.1675	0.006316022
304	1	1.729445	-0.0075	32.16	0.006314549
1040	1	1.729795	0.015	32.175	0.006317495
3399	3	1.729902	-0.005	32.17	0.006316513
373	1	1.730347	0.015	32.185	0.006319458
1492	1	1.730619	0.015	32.2	0.006322403
7610	3	1.731644	0.01	32.21	0.006324367
2575	2	1.731824	0.0125	32.2225	0.006326821
3435	3	1.731833	-0.005	32.2175	0.006325839
9857	4	1.731937	-0.005	32.2125	0.006324858
1448	1	1.731988	-0.0075	32.205	0.006323385

810	1	1.732289	-0.0075	32.1975	0.006321912
891	1	1.732418	-0.0075	32.19	0.00632044
2364	2	1.733072	-0.00625	32.18375	0.006319213
5354	3	1.733342	0.01	32.19375	0.006321176
3566	3	1.733491	-0.005	32.18875	0.006320194
186	1	1.733872	-0.0075	32.18125	0.006318722
5679	3	1.735175	-0.005	32.17625	0.00631774
7946	3	1.735263	-0.005	32.17125	0.006316758
1463	1	1.735303	-0.0075	32.16375	0.006315286
8939	4	1.735362	-0.005	32.15875	0.006314304
2495	2	1.735437	-0.00625	32.1525	0.006313077
175	1	1.735875	0.015	32.1675	0.006316022
267	1	1.735973	-0.0075	32.16	0.006314549
2210	2	1.73611	-0.00625	32.15375	0.006313322
4964	3	1.736475	0.01	32.16375	0.006315286
2426	2	1.736823	0.0125	32.17625	0.00631774
5219	3	1.738069	-0.005	32.17125	0.006316758
3364	3	1.739052	0.01	32.18125	0.006318722
2324	2	1.739139	-0.00625	32.175	0.006317495
2676	2	1.739601	-0.00625	32.16875	0.006316267
2357	2	1.739884	0.0125	32.18125	0.006318722
3390	3	1.740145	-0.005	32.17625	0.00631774
4867	3	1.740148	-0.005	32.17125	0.006316758
654	1	1.740589	-0.0075	32.16375	0.006315286
1566	1	1.740767	-0.0075	32.15625	0.006313813
6977	3	1.740953	-0.005	32.15125	0.006312831
2637	2	1.741171	-0.00625	32.145	0.006311604
7580	3	1.741551	-0.005	32.14	0.006310622
272	1	1.741954	-0.0075	32.1325	0.00630915
1190	1	1.742351	-0.0075	32.125	0.006307677
6374	3	1.743225	-0.005	32.12	0.006306695
1511	1	1.74347	-0.0075	32.1125	0.006305223
4480	3	1.743734	0.01	32.1225	0.006307186
2602	2	1.743848	-0.00625	32.11625	0.006305959
7916	3	1.744898	-0.005	32.11125	0.006304977
3760	3	1.744931	0.01	32.12125	0.006306941
646	1	1.745352	-0.0075	32.11375	0.006305468
8082	3	1.745617	-0.005	32.10875	0.006304487
7143	3	1.745776	-0.005	32.10375	0.006303505
6968	3	1.746582	-0.005	32.09875	0.006302523
2285	2	1.74663	0.0125	32.11125	0.006304977
1418	1	1.746829	0.015	32.12625	0.006307923
7606	3	1.748039	-0.005	32.12125	0.006306941
7088	3	1.748573	-0.005	32.11625	0.006305959
4934	3	1.748635	-0.005	32.11125	0.006304977
7296	3	1.74868	-0.005	32.10625	0.006303996
6665	3	1.748768	0.01	32.11625	0.006305959
2682	2	1.74946	0.0125	32.12875	0.006308414
8221	3	1.75021	-0.005	32.12375	0.006307432
1789	2	1.75026	-0.00625	32.1175	0.006306205
185	1	1.751852	-0.0075	32.11	0.006304732
995	1	1.75212	0.015	32.125	0.006307677

7045	3	1.752308	-0.005	32.12	0.006306695
2736	2	1.752535	-0.00625	32.11375	0.006305468
4189	3	1.753269	-0.005	32.10875	0.006304487
7692	3	1.753482	-0.005	32.10375	0.006303505
3073	3	1.753491	-0.005	32.09875	0.006302523
2481	2	1.753748	-0.00625	32.0925	0.006301296
447	1	1.754224	-0.0075	32.085	0.006299823
7715	3	1.75451	-0.005	32.08	0.006298842
727	1	1.754654	-0.0075	32.0725	0.006297369
7646	3	1.755507	0.01	32.0825	0.006299332
1628	1	1.756151	-0.0075	32.075	0.00629786
6697	3	1.756292	-0.005	32.07	0.006296878
1666	1	1.756358	-0.0075	32.0625	0.006295405
920	1	1.756384	-0.0075	32.055	0.006293933
2032	2	1.756817	-0.00625	32.04875	0.006292706
8078	3	1.756991	-0.005	32.04375	0.006291724
6386	3	1.757226	0.01	32.05375	0.006293687
1152	1	1.757709	-0.0075	32.04625	0.006292215
5561	3	1.757893	-0.005	32.04125	0.006291233
2220	2	1.758627	-0.00625	32.035	0.006290006
2840	2	1.758787	-0.00625	32.02875	0.006288779
8414	3	1.758931	0.01	32.03875	0.006290742
6195	3	1.758972	-0.005	32.03375	0.00628976
2353	2	1.760312	-0.00625	32.0275	0.006288533
4932	3	1.760532	-0.005	32.0225	0.006287552
1024	1	1.760872	-0.0075	32.015	0.006286079
4749	3	1.761885	-0.005	32.01	0.006285097
803	1	1.761887	0.015	32.025	0.006288042
8583	3	1.761981	-0.005	32.02	0.006287061
4603	3	1.762098	-0.005	32.015	0.006286079
6905	3	1.763181	-0.005	32.01	0.006285097
1786	2	1.763275	0.0125	32.0225	0.006287552
889	1	1.763357	-0.0075	32.015	0.006286079
3060	3	1.763495	-0.005	32.01	0.006285097
7901	3	1.763787	-0.005	32.005	0.006284115
3598	3	1.764588	-0.005	32	0.006283134
1367	1	1.766059	-0.0075	31.9925	0.006281661
798	1	1.766563	0.015	32.0075	0.006284606
892	1	1.767619	-0.0075	32	0.006283134
1492	1	1.768496	-0.0075	31.9925	0.006281661
1646	1	1.768776	-0.0075	31.985	0.006280188
5100	3	1.769303	-0.005	31.98	0.006279207
6187	3	1.769327	-0.005	31.975	0.006278225
417	1	1.769802	-0.0075	31.9675	0.006276752
3237	3	1.769992	-0.005	31.9625	0.006275771
5720	3	1.770241	-0.005	31.9575	0.006274789
5200	3	1.770416	-0.005	31.9525	0.006273807
2925	3	1.770552	-0.005	31.9475	0.006272825
6109	3	1.770864	-0.005	31.9425	0.006271844
1250	1	1.770998	-0.0075	31.935	0.006270371
2242	2	1.771765	-0.00625	31.92875	0.006269144
3780	3	1.772835	-0.005	31.92375	0.006268162

1590	1	1.773134	-0.0075	31.91625	0.00626669
363	1	1.773269	0.015	31.93125	0.006269635
8680	3	1.773324	-0.005	31.92625	0.006268653
3112	3	1.773349	-0.005	31.92125	0.006267671
3476	3	1.773825	0.01	31.93125	0.006269635
7263	3	1.77395	-0.005	31.92625	0.006268653
1076	1	1.774195	-0.0075	31.91875	0.00626718
840	1	1.77436	-0.0075	31.91125	0.006265708
3943	3	1.774569	-0.005	31.90625	0.006264726
9274	4	1.774601	-0.005	31.90125	0.006263744
415	1	1.77468	-0.0075	31.89375	0.006262272
8691	3	1.775018	0.01	31.90375	0.006264235
6475	3	1.775176	-0.005	31.89875	0.006263253
4005	3	1.775216	-0.005	31.89375	0.006262272
8007	3	1.775513	-0.005	31.88875	0.00626129
7046	3	1.775564	-0.005	31.88375	0.006260308
2048	2	1.775578	0.0125	31.89625	0.006262763
1145	1	1.775984	-0.0075	31.88875	0.00626129
9096	4	1.77616	0.01	31.89875	0.006263253
4691	3	1.776228	0.01	31.90875	0.006265217
4788	3	1.77643	-0.005	31.90375	0.006264235
2274	2	1.777312	-0.00625	31.8975	0.006263008
5746	3	1.778173	-0.005	31.8925	0.006262026
945	1	1.778335	-0.0075	31.885	0.006260554
6810	3	1.77876	0.01	31.895	0.006262517
5357	3	1.778808	-0.005	31.89	0.006261535
7484	3	1.779566	0.01	31.9	0.006263499
2699	2	1.77959	-0.00625	31.89375	0.006262272
2782	2	1.780234	0.0125	31.90625	0.006264726
3266	3	1.780452	-0.005	31.90125	0.006263744
6068	3	1.780567	-0.005	31.89625	0.006262763
6858	3	1.780905	0.01	31.90625	0.006264726
5418	3	1.781117	0.01	31.91625	0.00626669
2564	2	1.781314	-0.00625	31.91	0.006265462
3235	3	1.78284	-0.005	31.905	0.006264481
1583	1	1.782982	-0.0075	31.8975	0.006263008
360	1	1.78347	0.015	31.9125	0.006265953
7582	3	1.783723	0.01	31.9225	0.006267917
598	1	1.783756	0.015	31.9375	0.006270862
1956	2	1.784245	-0.00625	31.93125	0.006269635
4640	3	1.784278	-0.005	31.92625	0.006268653
6841	3	1.784351	-0.005	31.92125	0.006267671
7099	3	1.78452	-0.005	31.91625	0.00626669
396	1	1.784694	-0.0075	31.90875	0.006265217
7041	3	1.7847	-0.005	31.90375	0.006264235
4088	3	1.785446	0.01	31.91375	0.006266199
974	1	1.785909	-0.0075	31.90625	0.006264726
3331	3	1.785985	0.01	31.91625	0.00626669
6728	3	1.786328	-0.005	31.91125	0.006265708
815	1	1.786397	0.015	31.92625	0.006268653
1341	1	1.787142	-0.0075	31.91875	0.00626718
3940	3	1.787291	-0.005	31.91375	0.006266199

6789	3	1.788053	0.01	31.92375	0.006268162
281	1	1.788351	-0.0075	31.91625	0.00626669
7006	3	1.788372	-0.005	31.91125	0.006265708
1213	1	1.788614	-0.0075	31.90375	0.006264235
4390	3	1.788736	-0.005	31.89875	0.006263253
7084	3	1.78927	-0.005	31.89375	0.006262272
4678	3	1.789496	-0.005	31.88875	0.00626129
3415	3	1.789863	-0.005	31.88375	0.006260308
8380	3	1.790195	-0.005	31.87875	0.006259327
4872	3	1.790608	-0.005	31.87375	0.006258345
1222	1	1.790672	-0.0075	31.86625	0.006256872
4661	3	1.790755	0.01	31.87625	0.006258836
2382	2	1.790787	-0.00625	31.87	0.006257608
8158	3	1.791102	-0.005	31.865	0.006256627
3422	3	1.791788	-0.005	31.86	0.006255645
8228	3	1.791791	-0.005	31.855	0.006254663
5703	3	1.792337	-0.005	31.85	0.006253682
5659	3	1.792755	0.01	31.86	0.006255645
8111	3	1.793	0.01	31.87	0.006257608
4223	3	1.793122	0.01	31.88	0.006259572
9083	4	1.793195	0.01	31.89	0.006261535
1812	2	1.794035	-0.00625	31.88375	0.006260308
6925	3	1.794228	-0.005	31.87875	0.006259327
1475	1	1.794713	-0.0075	31.87125	0.006257854
5763	3	1.79472	-0.005	31.86625	0.006256872
476	1	1.794876	0.015	31.88125	0.006259817
2041	2	1.795267	-0.00625	31.875	0.00625859
3514	3	1.795398	-0.005	31.87	0.006257608
5855	3	1.796096	0.01	31.88	0.006259572
4306	3	1.796441	-0.005	31.875	0.00625859
2818	2	1.796624	-0.00625	31.86875	0.006257363
3880	3	1.796776	-0.005	31.86375	0.006256381
2746	2	1.796814	0.0125	31.87625	0.006258836
6845	3	1.797235	-0.005	31.87125	0.006257854
3241	3	1.797592	0.01	31.88125	0.006259817
6556	3	1.797818	-0.005	31.87625	0.006258836
504	1	1.798126	0.015	31.89125	0.006261781
6155	3	1.798624	-0.005	31.88625	0.006260799
1394	1	1.798773	-0.0075	31.87875	0.006259327
67	1	1.799529	-0.0075	31.87125	0.006257854
5574	3	1.799679	-0.005	31.86625	0.006256872
2364	2	1.799819	-0.00625	31.86	0.006255645
9635	4	1.800094	-0.005	31.855	0.006254663
7698	3	1.800457	0.01	31.865	0.006256627
3575	3	1.800647	-0.005	31.86	0.006255645
2307	2	1.800686	-0.00625	31.85375	0.006254418
3602	3	1.800688	0.01	31.86375	0.006256381
2048	2	1.801023	-0.00625	31.8575	0.006255154
7331	3	1.801025	0.01	31.8675	0.006257118
824	1	1.801909	-0.0075	31.86	0.006255645
3712	3	1.80196	0.01	31.87	0.006257608
6103	3	1.802319	-0.005	31.865	0.006256627

1701	1	1.802324	0.015	31.88	0.006259572
951	1	1.802411	-0.0075	31.8725	0.006258099
8703	3	1.802462	0.01	31.8825	0.006260063
4889	3	1.803063	-0.005	31.8775	0.006259081
3476	3	1.803102	-0.005	31.8725	0.006258099
4389	3	1.803852	0.01	31.8825	0.006260063
8913	4	1.80415	-0.005	31.8775	0.006259081
989	1	1.80489	-0.0075	31.87	0.006257608
2725	2	1.805411	-0.00625	31.86375	0.006256381
8332	3	1.805818	-0.005	31.85875	0.0062554
9807	4	1.80595	-0.005	31.85375	0.006254418
4025	3	1.806076	-0.005	31.84875	0.006253436
5463	3	1.8062	-0.005	31.84375	0.006252454
4105	3	1.80684	-0.005	31.83875	0.006251473
1952	2	1.807216	0.0125	31.85125	0.006253927
3764	3	1.807412	-0.005	31.84625	0.006252945
5124	3	1.808181	0.01	31.85625	0.006254909
5764	3	1.808184	-0.005	31.85125	0.006253927
332	1	1.808271	0.015	31.86625	0.006256872
8340	3	1.808637	0.01	31.87625	0.006258836
7430	3	1.808745	-0.005	31.87125	0.006257854
6495	3	1.808902	0.01	31.88125	0.006259817
4694	3	1.809056	-0.005	31.87625	0.006258836
8422	3	1.809131	-0.005	31.87125	0.006257854
2354	2	1.809192	-0.00625	31.865	0.006256627
1403	1	1.809391	-0.0075	31.8575	0.006255154
5387	3	1.809515	-0.005	31.8525	0.006254172
2312	2	1.810332	-0.00625	31.84625	0.006252945
2732	2	1.810397	-0.00625	31.84	0.006251718
2434	2	1.810445	-0.00625	31.83375	0.006250491
4175	3	1.81065	-0.005	31.82875	0.006249509
7614	3	1.810693	0.01	31.83875	0.006251473
2036	2	1.811007	0.0125	31.85125	0.006253927
3651	3	1.811644	0.01	31.86125	0.00625589
5892	3	1.811838	0.01	31.87125	0.006257854
3610	3	1.811908	-0.005	31.86625	0.006256872
8403	3	1.81192	-0.005	31.86125	0.00625589
8665	3	1.811952	-0.005	31.85625	0.006254909
5972	3	1.812331	-0.005	31.85125	0.006253927
987	1	1.812442	-0.0075	31.84375	0.006252454
3390	3	1.812641	-0.005	31.83875	0.006251473
617	1	1.812879	-0.0075	31.83125	0.00625
3203	3	1.813013	-0.005	31.82625	0.006249018
1860	2	1.813844	-0.00625	31.82	0.006247791
2035	2	1.813969	-0.00625	31.81375	0.006246564
1056	1	1.814578	-0.0075	31.80625	0.006245091
9944	4	1.815094	0.01	31.81625	0.006247055
8789	4	1.815378	-0.005	31.81125	0.006246073
8487	3	1.815845	-0.005	31.80625	0.006245091
7249	3	1.816261	-0.005	31.80125	0.00624411
1306	1	1.816262	-0.0075	31.79375	0.006242637
3334	3	1.816398	-0.005	31.78875	0.006241655

1891	2	1.816531	0.0125	31.80125	0.00624411
2290	2	1.816687	-0.00625	31.795	0.006242882
8027	3	1.817281	-0.005	31.79	0.006241901
8937	4	1.817887	-0.005	31.785	0.006240919
2558	2	1.817952	-0.00625	31.77875	0.006239692
7378	3	1.817968	-0.005	31.77375	0.00623871
8163	3	1.818001	-0.005	31.76875	0.006237728
9866	4	1.818325	0.01	31.77875	0.006239692
722	1	1.818649	0.015	31.79375	0.006242637
1111	1	1.819982	-0.0075	31.78625	0.006241164
2648	2	1.820102	0.0125	31.79875	0.006243619
3228	3	1.821046	-0.005	31.79375	0.006242637
3735	3	1.821731	-0.005	31.78875	0.006241655
2614	2	1.821742	-0.00625	31.7825	0.006240428
6553	3	1.82221	-0.005	31.7775	0.006239446
843	1	1.822291	0.015	31.7925	0.006242392
2022	2	1.822551	0.0125	31.805	0.006244846
783	1	1.822939	0.015	31.82	0.006247791
63	1	1.823017	-0.0075	31.8125	0.006246318
4835	3	1.823075	0.01	31.8225	0.006248282
877	1	1.823508	-0.0075	31.815	0.006246809
892	1	1.823934	-0.0075	31.8075	0.006245337
1816	2	1.824077	0.0125	31.82	0.006247791
2042	2	1.824263	-0.00625	31.81375	0.006246564
2100	2	1.824464	0.0125	31.82625	0.006249018
2438	2	1.826002	-0.00625	31.82	0.006247791
5216	3	1.826389	0.01	31.83	0.006249755
904	1	1.826391	-0.0075	31.8225	0.006248282
4213	3	1.826715	-0.005	31.8175	0.0062473
2903	3	1.827058	0.01	31.8275	0.006249264
4986	3	1.827239	-0.005	31.8225	0.006248282
992	1	1.827373	-0.0075	31.815	0.006246809
2103	2	1.828084	-0.00625	31.80875	0.006245582
5803	3	1.828146	-0.005	31.80375	0.0062446
5374	3	1.828189	-0.005	31.79875	0.006243619
5009	3	1.828332	-0.005	31.79375	0.006242637
8534	3	1.828717	0.01	31.80375	0.0062446
1169	1	1.82891	0.015	31.81875	0.006247546
994	1	1.829344	-0.0075	31.81125	0.006246073
1247	1	1.830088	0.015	31.82625	0.006249018
6222	3	1.830197	0.01	31.83625	0.006250982
3705	3	1.830484	-0.005	31.83125	0.00625
2571	2	1.830633	0.0125	31.84375	0.006252454
550	1	1.831883	-0.0075	31.83625	0.006250982
7712	3	1.831988	-0.005	31.83125	0.00625
1714	1	1.832069	-0.0075	31.82375	0.006248527
2812	2	1.83278	-0.00625	31.8175	0.0062473
4672	3	1.832955	-0.005	31.8125	0.006246318
7761	3	1.833566	-0.005	31.8075	0.006245337
776	1	1.833721	-0.0075	31.8	0.006243864
4015	3	1.834334	0.01	31.81	0.006245828
2776	2	1.834373	-0.00625	31.80375	0.0062446

5278	3	1.834389	0.01	31.81375	0.006246564
6842	3	1.834854	-0.005	31.80875	0.006245582
7836	3	1.835752	-0.005	31.80375	0.0062446
7701	3	1.83594	0.01	31.81375	0.006246564
2141	2	1.835967	0.0125	31.82625	0.006249018
3273	3	1.836271	-0.005	31.82125	0.006248037
7767	3	1.836807	-0.005	31.81625	0.006247055
4874	3	1.836979	-0.005	31.81125	0.006246073
8406	3	1.837437	-0.005	31.80625	0.006245091
8666	3	1.837936	0.01	31.81625	0.006247055
914	1	1.838108	-0.0075	31.80875	0.006245582
2027	2	1.838429	-0.00625	31.8025	0.006244355
5866	3	1.838562	0.01	31.8125	0.006246318
6538	3	1.838711	0.01	31.8225	0.006248282
5231	3	1.83881	-0.005	31.8175	0.0062473
4625	3	1.838899	-0.005	31.8125	0.006246318
2866	2	1.839554	-0.00625	31.80625	0.006245091
5396	3	1.840526	-0.005	31.80125	0.00624411
4456	3	1.84074	-0.005	31.79625	0.006243128
740	1	1.84221	-0.0075	31.78875	0.006241655
9199	4	1.842378	-0.005	31.78375	0.006240673
990	1	1.842685	-0.0075	31.77625	0.006239201
7238	3	1.843031	-0.005	31.77125	0.006238219
2742	2	1.843157	-0.00625	31.765	0.006236992
2374	2	1.843412	-0.00625	31.75875	0.006235765
427	1	1.84353	0.015	31.77375	0.00623871
8766	4	1.843635	0.01	31.78375	0.006240673
1962	2	1.843651	-0.00625	31.7775	0.006239446
4498	3	1.844225	-0.005	31.7725	0.006238465
5545	3	1.844369	-0.005	31.7675	0.006237483
220	1	1.844462	-0.0075	31.76	0.00623601
5779	3	1.84462	-0.005	31.755	0.006235028
4122	3	1.846401	-0.005	31.75	0.006234047
4839	3	1.846431	-0.005	31.745	0.006233065
8455	3	1.846646	-0.005	31.74	0.006232083
2574	2	1.847506	-0.00625	31.73375	0.006230856
8508	3	1.849041	0.01	31.74375	0.00623282
5841	3	1.850415	-0.005	31.73875	0.006231838
9946	4	1.850863	-0.005	31.73375	0.006230856
4914	3	1.851607	0.01	31.74375	0.00623282
7534	3	1.851996	-0.005	31.73875	0.006231838
1967	2	1.85201	-0.00625	31.7325	0.006230611
8313	3	1.85235	-0.005	31.7275	0.006229629
7348	3	1.852402	-0.005	31.7225	0.006228647
7394	3	1.852497	0.01	31.7325	0.006230611
962	1	1.852698	-0.0075	31.725	0.006229138
3100	3	1.853245	0.01	31.735	0.006231102
2231	2	1.853414	0.0125	31.7475	0.006233556
3350	3	1.853581	-0.005	31.7425	0.006232574
903	1	1.853661	-0.0075	31.735	0.006231102
1906	2	1.854456	-0.00625	31.72875	0.006229874
90	1	1.855043	-0.0075	31.72125	0.006228402

439	1	1.855245	-0.0075	31.71375	0.006226929
1032	1	1.855539	-0.0075	31.70625	0.006225457
9787	4	1.855588	-0.005	31.70125	0.006224475
2826	2	1.855703	0.0125	31.71375	0.006226929
5250	3	1.855905	0.01	31.72375	0.006228893
2650	2	1.856788	0.0125	31.73625	0.006231347
3590	3	1.856844	0.01	31.74625	0.00623331
2521	2	1.857627	-0.00625	31.74	0.006232083
2217	2	1.857795	-0.00625	31.73375	0.006230856
6544	3	1.857849	0.01	31.74375	0.00623282
6610	3	1.857919	-0.005	31.73875	0.006231838
8541	3	1.859519	-0.005	31.73375	0.006230856
1609	1	1.860086	0.015	31.74875	0.006233801
6888	3	1.860221	0.01	31.75875	0.006235765
7256	3	1.860466	0.01	31.76875	0.006237728
3568	3	1.860873	-0.005	31.76375	0.006236747
9504	4	1.861088	-0.005	31.75875	0.006235765
2339	2	1.861599	0.0125	31.77125	0.006238219
433	1	1.862148	-0.0075	31.76375	0.006236747
7071	3	1.862716	-0.005	31.75875	0.006235765
9081	4	1.863443	-0.005	31.75375	0.006234783
182	1	1.864028	-0.0075	31.74625	0.00623331
7977	3	1.864094	0.01	31.75625	0.006235274
9610	4	1.864141	0.01	31.76625	0.006237237
8097	3	1.864162	-0.005	31.76125	0.006236256
1297	1	1.864206	-0.0075	31.75375	0.006234783
4757	3	1.865319	-0.005	31.74875	0.006233801
8625	3	1.86655	-0.005	31.74375	0.00623282
798	1	1.867057	-0.0075	31.73625	0.006231347
2515	2	1.867524	0.0125	31.74875	0.006233801
6188	3	1.867555	-0.005	31.74375	0.00623282
1603	1	1.868219	-0.0075	31.73625	0.006231347
7395	3	1.868896	-0.005	31.73125	0.006230365
1951	2	1.869202	0.0125	31.74375	0.00623282
3302	3	1.869263	-0.005	31.73875	0.006231838
9024	4	1.869639	0.01	31.74875	0.006233801
5850	3	1.869747	-0.005	31.74375	0.00623282
5253	3	1.870873	-0.005	31.73875	0.006231838
473	1	1.871318	0.015	31.75375	0.006234783
5167	3	1.871528	0.01	31.76375	0.006236747
385	1	1.871781	-0.0075	31.75625	0.006235274
3427	3	1.871851	-0.005	31.75125	0.006234292
8156	3	1.872553	-0.005	31.74625	0.00623331
552	1	1.872746	-0.0075	31.73875	0.006231838
2770	2	1.873644	-0.00625	31.7325	0.006230611
1579	1	1.873786	-0.0075	31.725	0.006229138
1768	1	1.874294	-0.0075	31.7175	0.006227665
5554	3	1.874556	-0.005	31.7125	0.006226684
6894	3	1.874674	-0.005	31.7075	0.006225702
2888	2	1.874719	-0.00625	31.70125	0.006224475
3529	3	1.874807	0.01	31.71125	0.006226438
7492	3	1.874908	-0.005	31.70625	0.006225457

8052	3	1.875017	0.01	31.71625	0.00622742
1721	1	1.875895	0.015	31.73125	0.006230365
1373	1	1.8769	-0.0075	31.72375	0.006228893
1766	1	1.876922	-0.0075	31.71625	0.00622742
2629	2	1.877528	-0.00625	31.71	0.006226193
8784	4	1.878356	-0.005	31.705	0.006225211
6185	3	1.878368	-0.005	31.7	0.006224229
561	1	1.878867	-0.0075	31.6925	0.006222757
8950	4	1.879047	-0.005	31.6875	0.006221775
8829	4	1.87932	-0.005	31.6825	0.006220793
357	1	1.879347	0.015	31.6975	0.006223738
7195	3	1.879501	-0.005	31.6925	0.006222757
3637	3	1.879516	-0.005	31.6875	0.006221775
1125	1	1.879682	-0.0075	31.68	0.006220302
7076	3	1.880229	-0.005	31.675	0.006219321
8353	3	1.880489	-0.005	31.67	0.006218339
4421	3	1.880878	-0.005	31.665	0.006217357
6095	3	1.881147	-0.005	31.66	0.006216375
5411	3	1.881681	-0.005	31.655	0.006215394
7856	3	1.881915	0.01	31.665	0.006217357
6286	3	1.881934	-0.005	31.66	0.006216375
596	1	1.88247	0.015	31.675	0.006219321
2663	2	1.882476	-0.00625	31.66875	0.006218093
2138	2	1.882528	-0.00625	31.6625	0.006216866
51	1	1.882622	-0.0075	31.655	0.006215394
9599	4	1.882719	-0.005	31.65	0.006214412
7793	3	1.882914	-0.005	31.645	0.00621343
1299	1	1.883319	-0.0075	31.6375	0.006211958
5011	3	1.883374	-0.005	31.6325	0.006210976
4754	3	1.883788	-0.005	31.6275	0.006209994
643	1	1.883995	-0.0075	31.62	0.006208522
9168	4	1.884043	0.01	31.63	0.006210485
5137	3	1.884567	-0.005	31.625	0.006209503
9827	4	1.884841	0.01	31.635	0.006211467
638	1	1.885347	-0.0075	31.6275	0.006209994
8007	3	1.885702	-0.005	31.6225	0.006209012
5361	3	1.885969	-0.005	31.6175	0.006208031
8425	3	1.886108	0.01	31.6275	0.006209994
8772	4	1.887229	-0.005	31.6225	0.006209012
1879	2	1.887575	-0.00625	31.61625	0.006207785
8717	3	1.888116	-0.005	31.61125	0.006206803
1976	2	1.888228	-0.00625	31.605	0.006205576
2464	2	1.888782	-0.00625	31.59875	0.006204349
4660	3	1.888868	0.01	31.60875	0.006206313
2502	2	1.888945	-0.00625	31.6025	0.006205085
478	1	1.88962	0.015	31.6175	0.006208031
1097	1	1.889872	0.015	31.6325	0.006210976
1857	2	1.890109	-0.00625	31.62625	0.006209749
8110	3	1.89052	0.01	31.63625	0.006211712
1443	1	1.890634	-0.0075	31.62875	0.00621024
1883	2	1.891197	-0.00625	31.6225	0.006209012
1355	1	1.891544	-0.0075	31.615	0.00620754

3834	3	1.891864	0.01	31.625	0.006209503
8908	4	1.892408	0.01	31.635	0.006211467
6205	3	1.892443	-0.005	31.63	0.006210485
1955	2	1.892905	-0.00625	31.62375	0.006209258
2032	2	1.892911	-0.00625	31.6175	0.006208031
5474	3	1.893304	0.01	31.6275	0.006209994
8133	3	1.89357	-0.005	31.6225	0.006209012
2148	2	1.893834	-0.00625	31.61625	0.006207785
1917	2	1.894669	-0.00625	31.61	0.006206558
7711	3	1.894848	0.01	31.62	0.006208522
1395	1	1.894958	-0.0075	31.6125	0.006207049
1552	1	1.895784	-0.0075	31.605	0.006205576
3751	3	1.896006	-0.005	31.6	0.006204595
473	1	1.896155	-0.0075	31.5925	0.006203122
9577	4	1.896329	0.01	31.6025	0.006205085
7637	3	1.896468	0.01	31.6125	0.006207049
9868	4	1.896631	-0.005	31.6075	0.006206067
8063	3	1.897181	-0.005	31.6025	0.006205085
3828	3	1.897224	0.01	31.6125	0.006207049
367	1	1.897468	-0.0075	31.605	0.006205576
2843	2	1.8977	0.0125	31.6175	0.006208031
1820	2	1.897822	-0.00625	31.61125	0.006206803
8566	3	1.898844	0.01	31.62125	0.006208767
3618	3	1.899002	0.01	31.63125	0.00621073
3383	3	1.899464	-0.005	31.62625	0.006209749
4418	3	1.899742	-0.005	31.62125	0.006208767
4522	3	1.900167	-0.005	31.61625	0.006207785
8721	3	1.900276	-0.005	31.61125	0.006206803
3871	3	1.901121	-0.005	31.60625	0.006205822
6674	3	1.901645	-0.005	31.60125	0.00620484
2417	2	1.902255	-0.00625	31.595	0.006203613
2302	2	1.90246	0.0125	31.6075	0.006206067
1461	1	1.902587	-0.0075	31.6	0.006204595
6268	3	1.90265	0.01	31.61	0.006206558
4642	3	1.902938	-0.005	31.605	0.006205576
363	1	1.903006	-0.0075	31.5975	0.006204104
607	1	1.903019	0.015	31.6125	0.006207049
8577	3	1.903259	-0.005	31.6075	0.006206067
8070	3	1.903812	0.01	31.6175	0.006208031
2296	2	1.905009	-0.00625	31.61125	0.006206803
3450	3	1.905152	-0.005	31.60625	0.006205822
675	1	1.905944	-0.0075	31.59875	0.006204349
3357	3	1.906138	-0.005	31.59375	0.006203367
2249	2	1.906467	-0.00625	31.5875	0.00620214
1289	1	1.907046	-0.0075	31.58	0.006200668
365	1	1.907102	0.015	31.595	0.006203613
464	1	1.907139	-0.0075	31.5875	0.00620214
2130	2	1.907241	0.0125	31.6	0.006204595
6125	3	1.907507	-0.005	31.595	0.006203613
918	1	1.907545	-0.0075	31.5875	0.00620214
6864	3	1.908308	-0.005	31.5825	0.006201158
4584	3	1.909387	0.01	31.5925	0.006203122

104	1	1.909483	-0.0075	31.585	0.006201649
9846	4	1.909674	-0.005	31.58	0.006200668
9504	4	1.910439	-0.005	31.575	0.006199686
6612	3	1.91046	-0.005	31.57	0.006198704
8440	3	1.910605	0.01	31.58	0.006200668
3772	3	1.911118	-0.005	31.575	0.006199686
2194	2	1.911319	-0.00625	31.56875	0.006198459
2196	2	1.91177	-0.00625	31.5625	0.006197231
254	1	1.911786	-0.0075	31.555	0.006195759
2223	2	1.912768	-0.00625	31.54875	0.006194532
291	1	1.912819	-0.0075	31.54125	0.006193059
6553	3	1.912865	-0.005	31.53625	0.006192077
1777	2	1.913236	-0.00625	31.53	0.00619085
1725	1	1.913254	-0.0075	31.5225	0.006189378
3871	3	1.915117	-0.005	31.5175	0.006188396
6418	3	1.915412	-0.005	31.5125	0.006187414
1916	2	1.915847	-0.00625	31.50625	0.006186187
5998	3	1.917728	0.01	31.51625	0.00618815
3321	3	1.917869	0.01	31.52625	0.006190114
5908	3	1.917913	0.01	31.53625	0.006192077
8438	3	1.918176	-0.005	31.53125	0.006191096
325	1	1.918817	0.015	31.54625	0.006194041
6114	3	1.919107	0.01	31.55625	0.006196004
5459	3	1.919692	0.01	31.56625	0.006197968
1358	1	1.919869	-0.0075	31.55875	0.006196495
708	1	1.920109	-0.0075	31.55125	0.006195023
164	1	1.920151	0.015	31.56625	0.006197968
1717	1	1.920236	-0.0075	31.55875	0.006196495
382	1	1.920396	-0.0075	31.55125	0.006195023
215	1	1.920516	-0.0075	31.54375	0.00619355
7120	3	1.921997	-0.005	31.53875	0.006192568
3322	3	1.922434	0.01	31.54875	0.006194532
882	1	1.923332	-0.0075	31.54125	0.006193059
4422	3	1.923443	-0.005	31.53625	0.006192077
3078	3	1.923459	-0.005	31.53125	0.006191096
8445	3	1.924161	0.01	31.54125	0.006193059
6700	3	1.924338	-0.005	31.53625	0.006192077
4778	3	1.92464	-0.005	31.53125	0.006191096
1336	1	1.924753	-0.0075	31.52375	0.006189623
1780	2	1.924933	-0.00625	31.5175	0.006188396
1846	2	1.925891	-0.00625	31.51125	0.006187169
2794	2	1.926035	0.0125	31.52375	0.006189623
489	1	1.926147	0.015	31.53875	0.006192568
8676	3	1.926483	-0.005	31.53375	0.006191586
1890	2	1.926946	-0.00625	31.5275	0.006190359
7684	3	1.92706	-0.005	31.5225	0.006189378
2450	2	1.927131	-0.00625	31.51625	0.00618815
9233	4	1.927163	0.01	31.52625	0.006190114
3827	3	1.927489	-0.005	31.52125	0.006189132
931	1	1.927796	-0.0075	31.51375	0.00618766
6198	3	1.928827	-0.005	31.50875	0.006186678
6699	3	1.928927	0.01	31.51875	0.006188641

4110	3	1.929157	0.01	31.52875	0.006190605
5867	3	1.929212	-0.005	31.52375	0.006189623
8096	3	1.929239	-0.005	31.51875	0.006188641
673	1	1.929331	-0.0075	31.51125	0.006187169
1883	2	1.930046	-0.00625	31.505	0.006185941
5100	3	1.930727	-0.005	31.5	0.00618496
7115	3	1.930772	-0.005	31.495	0.006183978
554	1	1.931303	-0.0075	31.4875	0.006182505
5002	3	1.931336	0.01	31.4975	0.006184469
9500	4	1.931413	0.01	31.5075	0.006186432
1898	2	1.931771	0.0125	31.52	0.006188887
4937	3	1.932362	-0.005	31.515	0.006187905
7472	3	1.932485	0.01	31.525	0.006189868
7384	3	1.933057	-0.005	31.52	0.006188887
277	1	1.93321	0.015	31.535	0.006191832
1265	1	1.933707	-0.0075	31.5275	0.006190359
379	1	1.933719	0.015	31.5425	0.006193305
1145	1	1.933945	-0.0075	31.535	0.006191832
4183	3	1.934574	0.01	31.545	0.006193795
57	1	1.934724	-0.0075	31.5375	0.006192323
5993	3	1.934775	0.01	31.5475	0.006194286
8737	3	1.935218	-0.005	31.5425	0.006193305
8666	3	1.935318	-0.005	31.5375	0.006192323
5172	3	1.935514	0.01	31.5475	0.006194286
628	1	1.936238	0.015	31.5625	0.006197231
1451	1	1.93723	-0.0075	31.555	0.006195759
2114	2	1.937284	0.0125	31.5675	0.006198213
7186	3	1.937305	-0.005	31.5625	0.006197231
2159	2	1.938484	-0.00625	31.55625	0.006196004
1366	1	1.939084	-0.0075	31.54875	0.006194532
8641	3	1.939111	-0.005	31.54375	0.00619355
4255	3	1.941241	-0.005	31.53875	0.006192568
2326	2	1.941258	0.0125	31.55125	0.006195023
7336	3	1.941804	-0.005	31.54625	0.006194041
3784	3	1.942198	0.01	31.55625	0.006196004
3565	3	1.942288	0.01	31.56625	0.006197968
693	1	1.94282	-0.0075	31.55875	0.006196495
6045	3	1.943608	-0.005	31.55375	0.006195513
1561	1	1.944077	0.015	31.56875	0.006198459
7822	3	1.944444	-0.005	31.56375	0.006197477
1475	1	1.944869	-0.0075	31.55625	0.006196004
7436	3	1.945125	-0.005	31.55125	0.006195023
362	1	1.945152	-0.0075	31.54375	0.00619355
737	1	1.9455	0.015	31.55875	0.006196495
6192	3	1.945844	-0.005	31.55375	0.006195513
6476	3	1.947382	0.01	31.56375	0.006197477
3454	3	1.94756	0.01	31.57375	0.00619944
6742	3	1.947866	-0.005	31.56875	0.006198459
1786	2	1.948017	-0.00625	31.5625	0.006197231
579	1	1.948407	0.015	31.5775	0.006200177
9439	4	1.948419	0.01	31.5875	0.00620214
198	1	1.948604	-0.0075	31.58	0.006200668

6031	3	1.948636	-0.005	31.575	0.006199686
8493	3	1.948646	-0.005	31.57	0.006198704
9558	4	1.9495	0.01	31.58	0.006200668
6495	3	1.949861	-0.005	31.575	0.006199686
1961	2	1.950551	-0.00625	31.56875	0.006198459
6174	3	1.950655	-0.005	31.56375	0.006197477
3082	3	1.951649	0.01	31.57375	0.00619944
4960	3	1.95174	-0.005	31.56875	0.006198459
3323	3	1.951753	0.01	31.57875	0.006200422
2024	2	1.953041	-0.00625	31.5725	0.006199195
8459	3	1.954102	-0.005	31.5675	0.006198213
9031	4	1.954299	0.01	31.5775	0.006200177
8849	4	1.954361	-0.005	31.5725	0.006199195
8135	3	1.954423	-0.005	31.5675	0.006198213
6871	3	1.954444	-0.005	31.5625	0.006197231
6423	3	1.954996	-0.005	31.5575	0.00619625
3174	3	1.955087	0.01	31.5675	0.006198213
8348	3	1.955125	-0.005	31.5625	0.006197231
2278	2	1.955298	-0.00625	31.55625	0.006196004
2337	2	1.955426	0.0125	31.56875	0.006198459
7154	3	1.95547	0.01	31.57875	0.006200422
6286	3	1.955499	-0.005	31.57375	0.00619944
6304	3	1.956168	0.01	31.58375	0.006201404
64	1	1.956204	-0.0075	31.57625	0.006199931
3853	3	1.956379	0.01	31.58625	0.006201895
9085	4	1.956445	-0.005	31.58125	0.006200913
2535	2	1.95659	0.0125	31.59375	0.006203367
142	1	1.956818	0.015	31.60875	0.006206313
6330	3	1.956907	-0.005	31.60375	0.006205331
5531	3	1.957409	-0.005	31.59875	0.006204349
6160	3	1.957579	0.01	31.60875	0.006206313
4384	3	1.958078	-0.005	31.60375	0.006205331
7912	3	1.958231	0.01	31.61375	0.006207294
4636	3	1.958556	0.01	31.62375	0.006209258
399	1	1.959027	-0.0075	31.61625	0.006207785
3367	3	1.95918	-0.005	31.61125	0.006206803
6528	3	1.959678	-0.005	31.60625	0.006205822
1757	1	1.959683	0.015	31.62125	0.006208767
750	1	1.961143	-0.0075	31.61375	0.006207294
1927	2	1.961239	-0.00625	31.6075	0.006206067
3477	3	1.961272	0.01	31.6175	0.006208031
4115	3	1.961505	0.01	31.6275	0.006209994
5595	3	1.961572	-0.005	31.6225	0.006209012
5283	3	1.961668	-0.005	31.6175	0.006208031
2349	2	1.962221	-0.00625	31.61125	0.006206803
1036	1	1.96288	0.015	31.62625	0.006209749
812	1	1.963011	-0.0075	31.61875	0.006208276
1652	1	1.963092	-0.0075	31.61125	0.006206803
2545	2	1.963598	0.0125	31.62375	0.006209258
1284	1	1.964081	-0.0075	31.61625	0.006207785
2331	2	1.964363	-0.00625	31.61	0.006206558
3489	3	1.964529	-0.005	31.605	0.006205576

9192	4	1.964724	-0.005	31.6	0.006204595
333	1	1.964754	-0.0075	31.5925	0.006203122
6236	3	1.965033	0.01	31.6025	0.006205085
2670	2	1.966111	-0.00625	31.59625	0.006203858
1970	2	1.967129	-0.00625	31.59	0.006202631
2609	2	1.96744	-0.00625	31.58375	0.006201404
2738	2	1.968298	-0.00625	31.5775	0.006200177
228	1	1.968923	-0.0075	31.57	0.006198704
7472	3	1.969319	-0.005	31.565	0.006197722
3120	3	1.970008	0.01	31.575	0.006199686
3083	3	1.971261	-0.005	31.57	0.006198704
3900	3	1.971387	-0.005	31.565	0.006197722
1012	1	1.972136	-0.0075	31.5575	0.00619625
5047	3	1.972514	0.01	31.5675	0.006198213
6141	3	1.972665	-0.005	31.5625	0.006197231
9497	4	1.972911	-0.005	31.5575	0.00619625
6146	3	1.973261	0.01	31.5675	0.006198213
2352	2	1.973352	-0.00625	31.56125	0.006196986
2721	2	1.973606	0.0125	31.57375	0.00619944
9132	4	1.97396	0.01	31.58375	0.006201404
287	1	1.973968	0.015	31.59875	0.006204349
1065	1	1.97409	-0.0075	31.59125	0.006202876
1421	1	1.97423	-0.0075	31.58375	0.006201404
2787	2	1.9743	-0.00625	31.5775	0.006200177
1212	1	1.974744	-0.0075	31.57	0.006198704
1153	1	1.974854	-0.0075	31.5625	0.006197231
630	1	1.975172	-0.0075	31.555	0.006195759
136	1	1.97638	-0.0075	31.5475	0.006194286
1223	1	1.976436	0.015	31.5625	0.006197231
3777	3	1.976989	-0.005	31.5575	0.00619625
5592	3	1.977528	-0.005	31.5525	0.006195268
2217	2	1.977582	-0.00625	31.54625	0.006194041
8440	3	1.978577	-0.005	31.54125	0.006193059
3505	3	1.978838	-0.005	31.53625	0.006192077
1865	2	1.979505	-0.00625	31.53	0.00619085
8084	3	1.979537	0.01	31.54	0.006192814
8495	3	1.979804	-0.005	31.535	0.006191832
2554	2	1.979987	-0.00625	31.52875	0.006190605
6921	3	1.980347	-0.005	31.52375	0.006189623
9487	4	1.980607	-0.005	31.51875	0.006188641
6531	3	1.981008	0.01	31.52875	0.006190605
5791	3	1.981186	0.01	31.53875	0.006192568
6938	3	1.982275	-0.005	31.53375	0.006191586
2146	2	1.982278	-0.00625	31.5275	0.006190359
91	1	1.982554	-0.0075	31.52	0.006188887
2564	2	1.982787	-0.00625	31.51375	0.00618766
2361	2	1.982896	-0.00625	31.5075	0.006186432
7798	3	1.983501	-0.005	31.5025	0.006185451
9549	4	1.983511	-0.005	31.4975	0.006184469
7316	3	1.983737	-0.005	31.4925	0.006183487
1633	1	1.983827	0.015	31.5075	0.006186432
2306	2	1.984389	0.0125	31.52	0.006188887

4791	3	1.984566	-0.005	31.515	0.006187905
8704	3	1.984747	-0.005	31.51	0.006186923
3475	3	1.985822	0.01	31.52	0.006188887
2844	2	1.985979	-0.00625	31.51375	0.00618766
2803	2	1.986017	-0.00625	31.5075	0.006186432
1450	1	1.987041	-0.0075	31.5	0.00618496
1245	1	1.987397	-0.0075	31.4925	0.006183487
7252	3	1.988957	-0.005	31.4875	0.006182505
8501	3	1.989227	-0.005	31.4825	0.006181524
595	1	1.990087	-0.0075	31.475	0.006180051
5474	3	1.990786	-0.005	31.47	0.006179069
4786	3	1.990865	-0.005	31.465	0.006178088
2260	2	1.991004	-0.00625	31.45875	0.00617686
688	1	1.991156	0.015	31.47375	0.006179806
1136	1	1.99173	0.015	31.48875	0.006182751
4518	3	1.992726	-0.005	31.48375	0.006181769
5630	3	1.993635	0.01	31.49375	0.006183733
8541	3	1.995644	-0.005	31.48875	0.006182751
4076	3	1.995681	-0.005	31.48375	0.006181769
7732	3	1.995778	0.01	31.49375	0.006183733
8969	4	1.995975	-0.005	31.48875	0.006182751
8200	3	1.996161	-0.005	31.48375	0.006181769
2594	2	1.996412	0.0125	31.49625	0.006184223
7952	3	1.996448	-0.005	31.49125	0.006183242
5291	3	1.997173	0.01	31.50125	0.006185205
8332	3	1.997588	-0.005	31.49625	0.006184223
198	1	1.997948	-0.0075	31.48875	0.006182751
7798	3	1.997992	-0.005	31.48375	0.006181769
4832	3	1.998465	-0.005	31.47875	0.006180787
1382	1	1.998598	-0.0075	31.47125	0.006179315
7255	3	1.998733	-0.005	31.46625	0.006178333
9676	4	1.998808	-0.005	31.46125	0.006177351
7587	3	1.99891	-0.005	31.45625	0.00617637
999	1	1.998963	-0.0075	31.44875	0.006174897
1478	1	1.99928	0.015	31.46375	0.006177842
496	1	1.999322	0.015	31.47875	0.006180787
3755	3	1.999431	0.01	31.48875	0.006182751
5311	3	2.000089	-0.005	31.48375	0.006181769
9572	4	2.000672	-0.005	31.47875	0.006180787
6512	3	2.000895	-0.005	31.47375	0.006179806
6869	3	2.001088	0.01	31.48375	0.006181769
2439	2	2.001205	0.0125	31.49625	0.006184223
6741	3	2.001267	-0.005	31.49125	0.006183242
1177	1	2.001505	-0.0075	31.48375	0.006181769
2313	2	2.001667	-0.00625	31.4775	0.006180542
2716	2	2.001707	-0.00625	31.47125	0.006179315
2141	2	2.002096	-0.00625	31.465	0.006178088
266	1	2.002875	-0.0075	31.4575	0.006176615
483	1	2.003697	-0.0075	31.45	0.006175142
1850	2	2.004017	0.0125	31.4625	0.006177597
5469	3	2.004106	-0.005	31.4575	0.006176615
5342	3	2.004311	-0.005	31.4525	0.006175633

2332	2	2.004343	0.0125	31.465	0.006178088
2329	2	2.004556	-0.00625	31.45875	0.00617686
4120	3	2.006164	-0.005	31.45375	0.006175879
2807	2	2.006211	0.0125	31.46625	0.006178333
8686	3	2.006343	-0.005	31.46125	0.006177351
939	1	2.006361	0.015	31.47625	0.006180296
7537	3	2.006768	-0.005	31.47125	0.006179315
6149	3	2.007172	-0.005	31.46625	0.006178333
3280	3	2.00799	-0.005	31.46125	0.006177351
7706	3	2.008417	-0.005	31.45625	0.00617637
2306	2	2.008519	-0.00625	31.45	0.006175142
1320	1	2.008663	-0.0075	31.4425	0.00617367
4195	3	2.008973	-0.005	31.4375	0.006172688
2648	2	2.009056	-0.00625	31.43125	0.006171461
2766	2	2.009139	0.0125	31.44375	0.006173915
1525	1	2.009209	-0.0075	31.43625	0.006172443
1382	1	2.009238	-0.0075	31.42875	0.00617097
6130	3	2.009356	-0.005	31.42375	0.006169988
1682	1	2.010644	-0.0075	31.41625	0.006168516
5106	3	2.011334	-0.005	31.41125	0.006167534
9196	4	2.01221	0.01	31.42125	0.006169497
8496	3	2.012383	-0.005	31.41625	0.006168516
5153	3	2.012917	0.01	31.42625	0.006170479
1024	1	2.012922	-0.0075	31.41875	0.006169006
2721	2	2.0131	-0.00625	31.4125	0.006167779
8445	3	2.013339	-0.005	31.4075	0.006166798
9482	4	2.013399	-0.005	31.4025	0.006165816
8084	3	2.013846	-0.005	31.3975	0.006164834
2963	3	2.014289	-0.005	31.3925	0.006163852
772	1	2.01485	-0.0075	31.385	0.00616238
8688	3	2.014859	-0.005	31.38	0.006161398
7264	3	2.015092	-0.005	31.375	0.006160416
677	1	2.01514	-0.0075	31.3675	0.006158944
4071	3	2.015411	-0.005	31.3625	0.006157962
1092	1	2.015468	0.015	31.3775	0.006160907
7856	3	2.016251	-0.005	31.3725	0.006159925
4976	3	2.016872	0.01	31.3825	0.006161889
3332	3	2.016972	0.01	31.3925	0.006163852
7637	3	2.017154	-0.005	31.3875	0.006162871
3728	3	2.01722	-0.005	31.3825	0.006161889
7277	3	2.017373	-0.005	31.3775	0.006160907
1353	1	2.017585	0.015	31.3925	0.006163852
123	1	2.018437	-0.0075	31.385	0.00616238
1821	2	2.019298	-0.00625	31.37875	0.006161153
6094	3	2.019647	0.01	31.38875	0.006163116
5993	3	2.019752	-0.005	31.38375	0.006162134
1067	1	2.019963	-0.0075	31.37625	0.006160662
2496	2	2.020109	-0.00625	31.37	0.006159435
8302	3	2.021329	-0.005	31.365	0.006158453
4845	3	2.022461	-0.005	31.36	0.006157471
5525	3	2.022761	-0.005	31.355	0.006156489
736	1	2.022898	0.015	31.37	0.006159435

8285	3	2.023293	-0.005	31.365	0.006158453
1067	1	2.024145	-0.0075	31.3575	0.00615698
596	1	2.024761	-0.0075	31.35	0.006155508
8587	3	2.024959	-0.005	31.345	0.006154526
4382	3	2.025267	-0.005	31.34	0.006153544
1476	1	2.025614	0.015	31.355	0.006156489
2585	2	2.025888	-0.00625	31.34875	0.006155262
514	1	2.026049	-0.0075	31.34125	0.00615379
4187	3	2.026164	-0.005	31.33625	0.006152808
6723	3	2.026761	-0.005	31.33125	0.006151826
5787	3	2.027402	-0.005	31.32625	0.006150844
1385	1	2.02744	-0.0075	31.31875	0.006149372
7409	3	2.027604	0.01	31.32875	0.006151335
6796	3	2.027692	0.01	31.33875	0.006153299
4703	3	2.028044	-0.005	31.33375	0.006152317
1492	1	2.028071	-0.0075	31.32625	0.006150844
1617	1	2.02824	-0.0075	31.31875	0.006149372
97	1	2.028274	-0.0075	31.31125	0.006147899
2317	2	2.028497	0.0125	31.32375	0.006150353
4805	3	2.028508	-0.005	31.31875	0.006149372
564	1	2.028547	-0.0075	31.31125	0.006147899
3057	3	2.029393	-0.005	31.30625	0.006146917
3798	3	2.0296	-0.005	31.30125	0.006145936
7215	3	2.029606	0.01	31.31125	0.006147899
5444	3	2.029923	0.01	31.32125	0.006149863
3105	3	2.029954	0.01	31.33125	0.006151826
5978	3	2.030023	0.01	31.34125	0.00615379
1931	2	2.030031	0.0125	31.35375	0.006156244
2942	3	2.030167	-0.005	31.34875	0.006155262
773	1	2.030626	0.015	31.36375	0.006158207
2623	2	2.031083	0.0125	31.37625	0.006160662
5872	3	2.031639	-0.005	31.37125	0.00615968
1891	2	2.032313	-0.00625	31.365	0.006158453
2915	3	2.032759	0.01	31.375	0.006160416
6340	3	2.033038	-0.005	31.37	0.006159435
9700	4	2.033165	-0.005	31.365	0.006158453
2240	2	2.033431	-0.00625	31.35875	0.006157226
4031	3	2.033548	0.01	31.36875	0.006159189
533	1	2.034025	0.015	31.38375	0.006162134
878	1	2.034135	-0.0075	31.37625	0.006160662
7466	3	2.03466	-0.005	31.37125	0.00615968
779	1	2.034704	-0.0075	31.36375	0.006158207
4051	3	2.035073	-0.005	31.35875	0.006157226
19	1	2.03594	-0.0075	31.35125	0.006155753
3865	3	2.036007	-0.005	31.34625	0.006154771
3022	3	2.03649	0.01	31.35625	0.006156735
3494	3	2.036552	-0.005	31.35125	0.006155753
8849	4	2.036981	-0.005	31.34625	0.006154771
7327	3	2.037112	0.01	31.35625	0.006156735
8353	3	2.039788	-0.005	31.35125	0.006155753
7079	3	2.039791	0.01	31.36125	0.006157716
2323	2	2.041017	0.0125	31.37375	0.006160171

3595	3	2.04117	-0.005	31.36875	0.006159189
2015	2	2.041185	0.0125	31.38125	0.006161643
1207	1	2.04136	0.015	31.39625	0.006164589
9375	4	2.041783	-0.005	31.39125	0.006163607
4854	3	2.041867	0.01	31.40125	0.00616557
4059	3	2.04295	-0.005	31.39625	0.006164589
8545	3	2.043291	-0.005	31.39125	0.006163607
7089	3	2.043415	-0.005	31.38625	0.006162625
6677	3	2.043551	-0.005	31.38125	0.006161643
4223	3	2.04408	-0.005	31.37625	0.006160662
7693	3	2.044238	-0.005	31.37125	0.00615968
5183	3	2.044549	-0.005	31.36625	0.006158698
7154	3	2.0456	-0.005	31.36125	0.006157716
505	1	2.045632	-0.0075	31.35375	0.006156244
6687	3	2.045635	-0.005	31.34875	0.006155262
4540	3	2.045884	-0.005	31.34375	0.00615428
5020	3	2.04603	-0.005	31.33875	0.006153299
6751	3	2.046149	-0.005	31.33375	0.006152317
5366	3	2.046662	0.01	31.34375	0.00615428
7347	3	2.046892	-0.005	31.33875	0.006153299
6667	3	2.046924	-0.005	31.33375	0.006152317
603	1	2.047011	-0.0075	31.32625	0.006150844
676	1	2.047072	0.015	31.34125	0.00615379
9498	4	2.047207	-0.005	31.33625	0.006152808
3947	3	2.047637	0.01	31.34625	0.006154771
8104	3	2.048076	-0.005	31.34125	0.00615379
1923	2	2.048152	-0.00625	31.335	0.006152562
6253	3	2.048214	-0.005	31.33	0.006151581
1501	1	2.048259	-0.0075	31.3225	0.006150108
2250	2	2.048907	0.0125	31.335	0.006152562
995	1	2.04892	-0.0075	31.3275	0.00615109
1282	1	2.049685	0.015	31.3425	0.006154035
1731	1	2.050158	0.015	31.3575	0.00615698
1255	1	2.050212	0.015	31.3725	0.006159925
5408	3	2.050381	0.01	31.3825	0.006161889
1146	1	2.050398	0.015	31.3975	0.006164834
1016	1	2.050484	-0.0075	31.39	0.006163361
6558	3	2.050969	-0.005	31.385	0.00616238
6756	3	2.051198	0.01	31.395	0.006164343
7093	3	2.051821	0.01	31.405	0.006166307
4982	3	2.051974	-0.005	31.4	0.006165325
1824	2	2.052336	0.0125	31.4125	0.006167779
6539	3	2.052716	-0.005	31.4075	0.006166798
3467	3	2.052785	0.01	31.4175	0.006168761
2814	2	2.053066	-0.00625	31.41125	0.006167534
1659	1	2.053364	-0.0075	31.40375	0.006166061
642	1	2.053794	-0.0075	31.39625	0.006164589
983	1	2.053798	-0.0075	31.38875	0.006163116
2385	2	2.053801	-0.00625	31.3825	0.006161889
1499	1	2.053996	-0.0075	31.375	0.006160416
4183	3	2.054165	-0.005	31.37	0.006159435
2089	2	2.05433	0.0125	31.3825	0.006161889

6781	3	2.054413	0.01	31.3925	0.006163852
435	1	2.054679	-0.0075	31.385	0.00616238
5571	3	2.054706	-0.005	31.38	0.006161398
7123	3	2.054869	-0.005	31.375	0.006160416
6429	3	2.055358	-0.005	31.37	0.006159435
1358	1	2.055458	-0.0075	31.3625	0.006157962
6831	3	2.055591	0.01	31.3725	0.006159925
7593	3	2.056143	-0.005	31.3675	0.006158944
3415	3	2.056261	-0.005	31.3625	0.006157962
1198	1	2.056382	-0.0075	31.355	0.006156489
2562	2	2.056449	-0.00625	31.34875	0.006155262
9079	4	2.057343	0.01	31.35875	0.006157226
604	1	2.057871	0.015	31.37375	0.006160171
6474	3	2.058234	-0.005	31.36875	0.006159189
6560	3	2.058566	-0.005	31.36375	0.006158207
3920	3	2.058895	-0.005	31.35875	0.006157226
412	1	2.058916	-0.0075	31.35125	0.006155753
4375	3	2.059103	0.01	31.36125	0.006157716
2933	3	2.059539	-0.005	31.35625	0.006156735
8042	3	2.060403	-0.005	31.35125	0.006155753
3186	3	2.061215	-0.005	31.34625	0.006154771
1622	1	2.061487	-0.0075	31.33875	0.006153299
1368	1	2.062059	-0.0075	31.33125	0.006151826
8379	3	2.062118	-0.005	31.32625	0.006150844
1781	2	2.062439	0.0125	31.33875	0.006153299
1283	1	2.062689	0.015	31.35375	0.006156244
6495	3	2.0631	-0.005	31.34875	0.006155262
7256	3	2.063215	-0.005	31.34375	0.00615428
117	1	2.063349	-0.0075	31.33625	0.006152808
1781	2	2.064243	-0.00625	31.33	0.006151581
8407	3	2.06481	-0.005	31.325	0.006150599
8901	4	2.064909	-0.005	31.32	0.006149617
5041	3	2.065079	-0.005	31.315	0.006148635
2661	2	2.065581	0.0125	31.3275	0.00615109
3241	3	2.065913	-0.005	31.3225	0.006150108
2654	2	2.066112	-0.00625	31.31625	0.006148881
2018	2	2.066135	-0.00625	31.31	0.006147654
1380	1	2.066379	-0.0075	31.3025	0.006146181
3834	3	2.06656	-0.005	31.2975	0.006145199
8622	3	2.066739	0.01	31.3075	0.006147163
5590	3	2.067332	-0.005	31.3025	0.006146181
5605	3	2.067529	-0.005	31.2975	0.006145199
2580	2	2.067565	-0.00625	31.29125	0.006143972
292	1	2.067682	-0.0075	31.28375	0.0061425
704	1	2.067897	-0.0075	31.27625	0.006141027
7206	3	2.067948	-0.005	31.27125	0.006140045
60	1	2.068291	-0.0075	31.26375	0.006138573
6834	3	2.069338	-0.005	31.25875	0.006137591
2548	2	2.069725	-0.00625	31.2525	0.006136364
2415	2	2.069871	-0.00625	31.24625	0.006135136
3973	3	2.070014	0.01	31.25625	0.0061371
1605	1	2.070049	-0.0075	31.24875	0.006135627

3577	3	2.070085	0.01	31.25875	0.006137591
8864	4	2.070265	-0.005	31.25375	0.006136609
7102	3	2.070388	-0.005	31.24875	0.006135627
1856	2	2.070611	-0.00625	31.2425	0.0061344
4273	3	2.070695	-0.005	31.2375	0.006133418
5123	3	2.071817	-0.005	31.2325	0.006132437
1872	2	2.071994	-0.00625	31.22625	0.00613121
7520	3	2.07259	-0.005	31.22125	0.006130228
1613	1	2.072612	-0.0075	31.21375	0.006128755
932	1	2.072944	0.015	31.22875	0.0061317
1762	1	2.073248	-0.0075	31.22125	0.006130228
724	1	2.073441	-0.0075	31.21375	0.006128755
6130	3	2.073726	-0.005	31.20875	0.006127773
690	1	2.073972	-0.0075	31.20125	0.006126301
2792	2	2.074277	-0.00625	31.195	0.006125074
4289	3	2.074498	-0.005	31.19	0.006124092
6534	3	2.075537	-0.005	31.185	0.00612311
1448	1	2.077296	-0.0075	31.1775	0.006121638
3102	3	2.07834	-0.005	31.1725	0.006120656
1502	1	2.078726	0.015	31.1875	0.006123601
8431	3	2.079654	-0.005	31.1825	0.006122619
1247	1	2.080262	-0.0075	31.175	0.006121147
2292	2	2.081615	-0.00625	31.16875	0.006119919
3072	3	2.081796	-0.005	31.16375	0.006118938
4395	3	2.082191	-0.005	31.15875	0.006117956
2252	2	2.082343	0.0125	31.17125	0.00612041
8542	3	2.082684	-0.005	31.16625	0.006119429
5116	3	2.082724	-0.005	31.16125	0.006118447
5153	3	2.082806	-0.005	31.15625	0.006117465
164	1	2.082947	-0.0075	31.14875	0.006115993
5376	3	2.083462	-0.005	31.14375	0.006115011
7595	3	2.083501	-0.005	31.13875	0.006114029
7259	3	2.083567	-0.005	31.13375	0.006113047
1478	1	2.083636	-0.0075	31.12625	0.006111575
7773	3	2.083806	-0.005	31.12125	0.006110593
2779	2	2.083995	-0.00625	31.115	0.006109366
1590	1	2.084006	-0.0075	31.1075	0.006107893
2534	2	2.084594	0.0125	31.12	0.006110348
825	1	2.084792	0.015	31.135	0.006113293
1515	1	2.085517	-0.0075	31.1275	0.00611182
4495	3	2.086033	0.01	31.1375	0.006113784
5001	3	2.086722	-0.005	31.1325	0.006112802
360	1	2.086886	-0.0075	31.125	0.006111329
1788	2	2.087662	-0.00625	31.11875	0.006110102
1697	1	2.087933	-0.0075	31.11125	0.006108629
7615	3	2.088058	-0.005	31.10625	0.006107648
5385	3	2.088307	-0.005	31.10125	0.006106666
5324	3	2.08839	-0.005	31.09625	0.006105684
6278	3	2.088767	-0.005	31.09125	0.006104703
6145	3	2.089067	-0.005	31.08625	0.006103721
3529	3	2.089291	-0.005	31.08125	0.006102739
1283	1	2.089298	-0.0075	31.07375	0.006101266

5967	3	2.089641	-0.005	31.06875	0.006100285
4209	3	2.089679	0.01	31.07875	0.006102248
9577	4	2.089851	-0.005	31.07375	0.006101266
7893	3	2.090065	-0.005	31.06875	0.006100285
8158	3	2.090069	-0.005	31.06375	0.006099303
6063	3	2.090377	-0.005	31.05875	0.006098321
1545	1	2.090576	-0.0075	31.05125	0.006096849
7043	3	2.091255	-0.005	31.04625	0.006095867
947	1	2.09128	-0.0075	31.03875	0.006094394
5384	3	2.091476	-0.005	31.03375	0.006093413
584	1	2.092013	-0.0075	31.02625	0.00609194
7645	3	2.092321	0.01	31.03625	0.006093903
5685	3	2.093609	0.01	31.04625	0.006095867
8950	4	2.094149	-0.005	31.04125	0.006094885
4853	3	2.094338	0.01	31.05125	0.006096849
1694	1	2.094886	-0.0075	31.04375	0.006095376
5733	3	2.094921	0.01	31.05375	0.006097339
6063	3	2.095116	-0.005	31.04875	0.006096358
8175	3	2.095321	0.01	31.05875	0.006098321
7142	3	2.095976	-0.005	31.05375	0.006097339
2044	2	2.096157	0.0125	31.06625	0.006099794
1657	1	2.096362	0.015	31.08125	0.006102739
7263	3	2.096613	-0.005	31.07625	0.006101757
3947	3	2.097285	-0.005	31.07125	0.006100776
846	1	2.097452	-0.0075	31.06375	0.006099303
113	1	2.09815	-0.0075	31.05625	0.00609783
1878	2	2.098666	-0.00625	31.05	0.006096603
4398	3	2.099346	0.01	31.06	0.006098567
8128	3	2.099651	-0.005	31.055	0.006097585
8223	3	2.099744	0.01	31.065	0.006099548
9991	4	2.099801	-0.005	31.06	0.006098567
1207	1	2.100002	-0.0075	31.0525	0.006097094
7654	3	2.100047	0.01	31.0625	0.006099058
3358	3	2.100443	-0.005	31.0575	0.006098076
8357	3	2.100854	-0.005	31.0525	0.006097094
6902	3	2.102975	-0.005	31.0475	0.006096112
9481	4	2.103208	0.01	31.0575	0.006098076
4693	3	2.10345	0.01	31.0675	0.006100039
128	1	2.103769	-0.0075	31.06	0.006098567
6186	3	2.103908	0.01	31.07	0.00610053
688	1	2.10395	-0.0075	31.0625	0.006099058
138	1	2.10406	-0.0075	31.055	0.006097585
9401	4	2.104132	-0.005	31.05	0.006096603
2295	2	2.104776	-0.00625	31.04375	0.006095376
1106	1	2.105187	-0.0075	31.03625	0.006093903
4643	3	2.105463	-0.005	31.03125	0.006092922
5755	3	2.10555	0.01	31.04125	0.006094885
2186	2	2.105993	-0.00625	31.035	0.006093658
1838	2	2.106085	0.0125	31.0475	0.006096112
2513	2	2.106233	-0.00625	31.04125	0.006094885
2785	2	2.106797	0.0125	31.05375	0.006097339
6301	3	2.107157	-0.005	31.04875	0.006096358

1510	1	2.107323	-0.0075	31.04125	0.006094885
822	1	2.107773	-0.0075	31.03375	0.006093413
1272	1	2.10815	-0.0075	31.02625	0.00609194
944	1	2.10852	-0.0075	31.01875	0.006090467
201	1	2.108542	-0.0075	31.01125	0.006088995
8613	3	2.109033	-0.005	31.00625	0.006088013
707	1	2.109594	-0.0075	30.99875	0.00608654
54	1	2.10967	-0.0075	30.99125	0.006085068
669	1	2.109812	-0.0075	30.98375	0.006083595
358	1	2.109843	-0.0075	30.97625	0.006082123
5812	3	2.110029	0.01	30.98625	0.006084086
4692	3	2.110174	-0.005	30.98125	0.006083104
814	1	2.110949	-0.0075	30.97375	0.006081632
3747	3	2.111643	-0.005	30.96875	0.00608065
5996	3	2.111871	-0.005	30.96375	0.006079668
4056	3	2.112077	-0.005	30.95875	0.006078686
1178	1	2.112452	-0.0075	30.95125	0.006077214
2452	2	2.112508	0.0125	30.96375	0.006079668
1508	1	2.112749	-0.0075	30.95625	0.006078196
2357	2	2.114775	-0.00625	30.95	0.006076968
9079	4	2.11603	-0.005	30.945	0.006075987
2515	2	2.117466	-0.00625	30.93875	0.006074759
3643	3	2.117568	0.01	30.94875	0.006076723
4869	3	2.117852	-0.005	30.94375	0.006075741
5685	3	2.118113	-0.005	30.93875	0.006074759
2049	2	2.119074	-0.00625	30.9325	0.006073532
2845	2	2.119626	-0.00625	30.92625	0.006072305
4090	3	2.120008	-0.005	30.92125	0.006071323
625	1	2.12083	-0.0075	30.91375	0.006069851
1535	1	2.120876	0.015	30.92875	0.006072796
5566	3	2.120956	-0.005	30.92375	0.006071814
1605	1	2.121163	-0.0075	30.91625	0.006070342
6321	3	2.121632	-0.005	30.91125	0.00606936
5831	3	2.121704	-0.005	30.90625	0.006068378
2644	2	2.122035	-0.00625	30.9	0.006067151
3559	3	2.122086	0.01	30.91	0.006069114
622	1	2.122109	0.015	30.925	0.00607206
8645	3	2.122461	-0.005	30.92	0.006071078
429	1	2.122811	-0.0075	30.9125	0.006069605
1066	1	2.122925	-0.0075	30.905	0.006068133
502	1	2.123134	0.015	30.92	0.006071078
612	1	2.123206	-0.0075	30.9125	0.006069605
9904	4	2.123215	-0.005	30.9075	0.006068624
2571	2	2.123286	-0.00625	30.90125	0.006067396
1151	1	2.123367	-0.0075	30.89375	0.006065924
504	1	2.123491	-0.0075	30.88625	0.006064451
3756	3	2.124443	-0.005	30.88125	0.006063469
8896	4	2.124929	-0.005	30.87625	0.006062488
5439	3	2.125207	-0.005	30.87125	0.006061506
3373	3	2.125274	-0.005	30.86625	0.006060524
4916	3	2.125485	0.01	30.87625	0.006062488
4982	3	2.125582	-0.005	30.87125	0.006061506

2872	2	2.125777	-0.00625	30.865	0.006060279
8662	3	2.12587	-0.005	30.86	0.006059297
2556	2	2.12588	0.0125	30.8725	0.006061751
1017	1	2.126486	0.015	30.8875	0.006064697
3106	3	2.126504	-0.005	30.8825	0.006063715
4016	3	2.127553	-0.005	30.8775	0.006062733
8325	3	2.128028	0.01	30.8875	0.006064697
1346	1	2.128832	-0.0075	30.88	0.006063224
717	1	2.129184	-0.0075	30.8725	0.006061751
7849	3	2.129944	-0.005	30.8675	0.00606077
4922	3	2.130911	-0.005	30.8625	0.006059788
287	1	2.13241	-0.0075	30.855	0.006058315
8436	3	2.133873	-0.005	30.85	0.006057334
8057	3	2.133953	-0.005	30.845	0.006056352
954	1	2.134039	-0.0075	30.8375	0.006054879
1849	2	2.134271	-0.00625	30.83125	0.006053652
4295	3	2.134999	0.01	30.84125	0.006055616
1592	1	2.135497	0.015	30.85625	0.006058561
4653	3	2.135532	0.01	30.86625	0.006060524
8562	3	2.135642	0.01	30.87625	0.006062488
4196	3	2.136125	0.01	30.88625	0.006064451
2835	2	2.136492	-0.00625	30.88	0.006063224
2738	2	2.136747	-0.00625	30.87375	0.006061997
4443	3	2.137335	-0.005	30.86875	0.006061015
5093	3	2.138059	-0.005	30.86375	0.006060033
26	1	2.138117	-0.0075	30.85625	0.006058561
1841	2	2.138651	-0.00625	30.85	0.006057334
1528	1	2.138928	-0.0075	30.8425	0.006055861
8326	3	2.139031	-0.005	30.8375	0.006054879
7673	3	2.139167	-0.005	30.8325	0.006053898
4939	3	2.139878	0.01	30.8425	0.006055861
784	1	2.14007	-0.0075	30.835	0.006054388
2523	2	2.140291	-0.00625	30.82875	0.006053161
4025	3	2.140758	-0.005	30.82375	0.006052179
8004	3	2.141304	-0.005	30.81875	0.006051198
6658	3	2.141385	-0.005	30.81375	0.006050216
1703	1	2.141646	-0.0075	30.80625	0.006048743
8229	3	2.141658	-0.005	30.80125	0.006047762
693	1	2.141665	-0.0075	30.79375	0.006046289
1442	1	2.141759	-0.0075	30.78625	0.006044816
6112	3	2.142313	0.01	30.79625	0.00604678
280	1	2.142513	-0.0075	30.78875	0.006045307
9722	4	2.1429	-0.005	30.78375	0.006044326
1479	1	2.143052	-0.0075	30.77625	0.006042853
8633	3	2.144227	-0.005	30.77125	0.006041871
1965	2	2.144259	-0.00625	30.765	0.006040644
9233	4	2.145717	-0.005	30.76	0.006039662
869	1	2.147203	-0.0075	30.7525	0.00603819
8171	3	2.147447	-0.005	30.7475	0.006037208
3110	3	2.148037	-0.005	30.7425	0.006036226
967	1	2.148212	-0.0075	30.735	0.006034754
18	1	2.148994	0.015	30.75	0.006037699

4190	3	2.149318	0.01	30.76	0.006039662
1896	2	2.149576	0.0125	30.7725	0.006042117
1464	1	2.149615	-0.0075	30.765	0.006040644
5604	3	2.150009	-0.005	30.76	0.006039662
5645	3	2.15083	-0.005	30.755	0.006038681
6827	3	2.151181	0.01	30.765	0.006040644
1678	1	2.151772	-0.0075	30.7575	0.006039171
8522	3	2.151868	-0.005	30.7525	0.00603819
7381	3	2.153153	-0.005	30.7475	0.006037208
506	1	2.153208	-0.0075	30.74	0.006035735
561	1	2.153432	-0.0075	30.7325	0.006034263
1811	2	2.15359	0.0125	30.745	0.006036717
8	1	2.154092	0.015	30.76	0.006039662
1146	1	2.15486	-0.0075	30.7525	0.00603819
606	1	2.154942	-0.0075	30.745	0.006036717
175	1	2.154989	-0.0075	30.7375	0.006035244
2026	2	2.155397	0.0125	30.75	0.006037699
3555	3	2.155585	-0.005	30.745	0.006036717
6592	3	2.155915	-0.005	30.74	0.006035735
1393	1	2.155926	-0.0075	30.7325	0.006034263
1158	1	2.156473	-0.0075	30.725	0.00603279
1698	1	2.156827	-0.0075	30.7175	0.006031317
3740	3	2.156927	0.01	30.7275	0.006033281
5378	3	2.157313	-0.005	30.7225	0.006032299
1844	2	2.157493	0.0125	30.735	0.006034754
1182	1	2.158034	0.015	30.75	0.006037699
8448	3	2.158569	-0.005	30.745	0.006036717
345	1	2.160193	-0.0075	30.7375	0.006035244
51	1	2.160386	-0.0075	30.73	0.006033772
405	1	2.1605	-0.0075	30.7225	0.006032299
9418	4	2.161032	-0.005	30.7175	0.006031317
2924	3	2.161096	-0.005	30.7125	0.006030336
620	1	2.16134	-0.0075	30.705	0.006028863
3364	3	2.162048	-0.005	30.7	0.006027881
7555	3	2.162307	-0.005	30.695	0.0060269
1549	1	2.162463	-0.0075	30.6875	0.006025427
4527	3	2.163296	-0.005	30.6825	0.006024445
2332	2	2.164032	-0.00625	30.67625	0.006023218
1331	1	2.16426	-0.0075	30.66875	0.006021746
5328	3	2.164514	-0.005	30.66375	0.006020764
4606	3	2.164589	-0.005	30.65875	0.006019782
8998	4	2.165458	-0.005	30.65375	0.0060188
1241	1	2.165871	-0.0075	30.64625	0.006017328
2967	3	2.167093	0.01	30.65625	0.006019291
2323	2	2.16816	-0.00625	30.65	0.006018064
911	1	2.168564	-0.0075	30.6425	0.006016591
2673	2	2.168647	0.0125	30.655	0.006019046
302	1	2.16893	0.015	30.67	0.006021991
5477	3	2.170017	-0.005	30.665	0.006021009
2021	2	2.170274	-0.00625	30.65875	0.006019782
6088	3	2.17118	0.01	30.66875	0.006021746
1078	1	2.17129	-0.0075	30.66125	0.006020273

225	1	2.171524	-0.0075	30.65375	0.0060188
8509	3	2.172832	-0.005	30.64875	0.006017819
1977	2	2.173306	0.0125	30.66125	0.006020273
7222	3	2.173337	-0.005	30.65625	0.006019291
140	1	2.1735	-0.0075	30.64875	0.006017819
8282	3	2.173812	0.01	30.65875	0.006019782
197	1	2.174517	-0.0075	30.65125	0.006018309
1419	1	2.175734	-0.0075	30.64375	0.006016837
427	1	2.176472	-0.0075	30.63625	0.006015364
4904	3	2.176729	-0.005	30.63125	0.006014382
1046	1	2.176842	-0.0075	30.62375	0.00601291
112	1	2.177239	0.015	30.63875	0.006015855
62	1	2.177444	-0.0075	30.63125	0.006014382
1016	1	2.17777	-0.0075	30.62375	0.00601291
4001	3	2.177929	-0.005	30.61875	0.006011928
2172	2	2.177997	0.0125	30.63125	0.006014382
6334	3	2.178112	-0.005	30.62625	0.006013401
6483	3	2.178513	-0.005	30.62125	0.006012419
1205	1	2.179233	0.015	30.63625	0.006015364
7489	3	2.179294	-0.005	30.63125	0.006014382
73	1	2.179561	0.015	30.64625	0.006017328
1289	1	2.180374	-0.0075	30.63875	0.006015855
1592	1	2.181069	-0.0075	30.63125	0.006014382
5749	3	2.181092	-0.005	30.62625	0.006013401
1114	1	2.181599	-0.0075	30.61875	0.006011928
1937	2	2.182369	0.0125	30.63125	0.006014382
9024	4	2.183461	-0.005	30.62625	0.006013401
3265	3	2.18369	0.01	30.63625	0.006015364
7983	3	2.184437	0.01	30.64625	0.006017328
8476	3	2.18465	0.01	30.65625	0.006019291
6027	3	2.185084	-0.005	30.65125	0.006018309
4331	3	2.187088	-0.005	30.64625	0.006017328
6922	3	2.187093	0.01	30.65625	0.006019291
4181	3	2.187898	0.01	30.66625	0.006021255
2138	2	2.188063	-0.00625	30.66	0.006020027
2559	2	2.189442	-0.00625	30.65375	0.0060188
7658	3	2.18969	-0.005	30.64875	0.006017819
5202	3	2.189946	-0.005	30.64375	0.006016837
7003	3	2.190796	-0.005	30.63875	0.006015855
631	1	2.19095	-0.0075	30.63125	0.006014382
3708	3	2.191232	-0.005	30.62625	0.006013401
2119	2	2.191284	-0.00625	30.62	0.006012174
4758	3	2.191466	0.01	30.63	0.006014137
3107	3	2.191548	0.01	30.64	0.006016101
7328	3	2.191566	-0.005	30.635	0.006015119
236	1	2.191878	0.015	30.65	0.006018064
2346	2	2.192057	-0.00625	30.64375	0.006016837
802	1	2.19251	0.015	30.65875	0.006019782
3948	3	2.192701	-0.005	30.65375	0.0060188
1407	1	2.194191	-0.0075	30.64625	0.006017328
985	1	2.194435	-0.0075	30.63875	0.006015855
895	1	2.194668	-0.0075	30.63125	0.006014382

4590	3	2.194804	0.01	30.64125	0.006016346
596	1	2.194997	-0.0075	30.63375	0.006014873
6952	3	2.196051	-0.005	30.62875	0.006013892
1342	1	2.196069	-0.0075	30.62125	0.006012419
7115	3	2.196836	-0.005	30.61625	0.006011437
3145	3	2.197209	-0.005	30.61125	0.006010456
9263	4	2.19733	-0.005	30.60625	0.006009474
6858	3	2.19784	-0.005	30.60125	0.006008492
659	1	2.198524	-0.0075	30.59375	0.006007019
5748	3	2.198586	0.01	30.60375	0.006008983
4495	3	2.198641	-0.005	30.59875	0.006008001
7969	3	2.199238	-0.005	30.59375	0.006007019
8142	3	2.19936	-0.005	30.58875	0.006006038
7747	3	2.19949	0.01	30.59875	0.006008001
2456	2	2.199613	0.0125	30.61125	0.006010456
1255	1	2.199861	-0.0075	30.60375	0.006008983
38	1	2.199945	-0.0075	30.59625	0.00600751
6562	3	2.200321	-0.005	30.59125	0.006006529
1259	1	2.200774	0.015	30.60625	0.006009474
6139	3	2.201095	-0.005	30.60125	0.006008492
1737	1	2.201135	-0.0075	30.59375	0.006007019
9580	4	2.20159	-0.005	30.58875	0.006006038
8282	3	2.202065	-0.005	30.58375	0.006005056
4656	3	2.202692	0.01	30.59375	0.006007019
4190	3	2.203017	-0.005	30.58875	0.006006038
535	1	2.203537	-0.0075	30.58125	0.006004565
8317	3	2.203651	-0.005	30.57625	0.006003583
1010	1	2.20396	0.015	30.59125	0.006006529
6160	3	2.204087	-0.005	30.58625	0.006005547
5956	3	2.205088	-0.005	30.58125	0.006004565
270	1	2.20541	-0.0075	30.57375	0.006003092
2875	2	2.205951	-0.00625	30.5675	0.006001865
838	1	2.205961	0.015	30.5825	0.006004811
5037	3	2.206648	-0.005	30.5775	0.006003829
2709	2	2.207177	0.0125	30.59	0.006006283
5162	3	2.207547	-0.005	30.585	0.006005301
2534	2	2.207905	-0.00625	30.57875	0.006004074
9083	4	2.208653	-0.005	30.57375	0.006003092
3855	3	2.208761	0.01	30.58375	0.006005056
4346	3	2.209124	-0.005	30.57875	0.006004074
306	1	2.210161	-0.0075	30.57125	0.006002602
2425	2	2.210655	-0.00625	30.565	0.006001374
8090	3	2.211321	-0.005	30.56	0.006000393
9610	4	2.21151	-0.005	30.555	0.005999411
6822	3	2.211583	-0.005	30.55	0.005998429
4507	3	2.211725	-0.005	30.545	0.005997447
4426	3	2.211989	-0.005	30.54	0.005996466
31	1	2.212	-0.0075	30.5325	0.005994993
146	1	2.212191	-0.0075	30.525	0.005993521
8163	3	2.212337	-0.005	30.52	0.005992539
8276	3	2.212602	-0.005	30.515	0.005991557
502	1	2.212692	-0.0075	30.5075	0.005990084

7728	3	2.213429	-0.005	30.5025	0.005989103
3648	3	2.214346	-0.005	30.4975	0.005988121
2882	2	2.214463	-0.00625	30.49125	0.005986894
1853	2	2.215491	-0.00625	30.485	0.005985667
2137	2	2.216307	-0.00625	30.47875	0.005984439
751	1	2.216909	-0.0075	30.47125	0.005982967
2487	2	2.216966	0.0125	30.48375	0.005985421
1763	1	2.21725	-0.0075	30.47625	0.005983949
1124	1	2.217336	0.015	30.49125	0.005986894
3866	3	2.217374	-0.005	30.48625	0.005985912
2690	2	2.217749	0.0125	30.49875	0.005988366
4568	3	2.218013	-0.005	30.49375	0.005987385
5273	3	2.218161	-0.005	30.48875	0.005986403
271	1	2.218183	0.015	30.50375	0.005989348
884	1	2.218225	-0.0075	30.49625	0.005987876
3467	3	2.218226	-0.005	30.49125	0.005986894
1394	1	2.220959	-0.0075	30.48375	0.005985421
4693	3	2.221429	-0.005	30.47875	0.005984439
2729	2	2.221752	0.0125	30.49125	0.005986894
9529	4	2.222863	0.01	30.50125	0.005988857
4665	3	2.22371	0.01	30.51125	0.005990821
5085	3	2.223869	-0.005	30.50625	0.005989839
1325	1	2.224097	0.015	30.52125	0.005992784
839	1	2.225178	-0.0075	30.51375	0.005991312
6057	3	2.225517	-0.005	30.50875	0.00599033
3436	3	2.225736	0.01	30.51875	0.005992293
1022	1	2.225873	-0.0075	30.51125	0.005990821
1952	2	2.22644	-0.00625	30.505	0.005989594
437	1	2.226903	0.015	30.52	0.005992539
7531	3	2.22705	-0.005	30.515	0.005991557
2472	2	2.227306	-0.00625	30.50875	0.00599033
2182	2	2.227448	-0.00625	30.5025	0.005989103
7483	3	2.227923	0.01	30.5125	0.005991066
3958	3	2.229802	-0.005	30.5075	0.005990084
7614	3	2.229885	-0.005	30.5025	0.005989103
1811	2	2.230386	-0.00625	30.49625	0.005987876
3461	3	2.230426	-0.005	30.49125	0.005986894
1663	1	2.231142	0.015	30.50625	0.005989839
731	1	2.231218	-0.0075	30.49875	0.005988366
3636	3	2.231444	-0.005	30.49375	0.005987385
1249	1	2.23187	0.015	30.50875	0.00599033
480	1	2.232574	0.015	30.52375	0.005993275
5269	3	2.232591	0.01	30.53375	0.005995239
5606	3	2.232635	-0.005	30.52875	0.005994257
1631	1	2.233455	0.015	30.54375	0.005997202
8960	4	2.233631	0.01	30.55375	0.005999166
4675	3	2.234238	-0.005	30.54875	0.005998184
9953	4	2.234307	-0.005	30.54375	0.005997202
5656	3	2.23445	0.01	30.55375	0.005999166
4557	3	2.234793	-0.005	30.54875	0.005998184
4181	3	2.235455	-0.005	30.54375	0.005997202
5708	3	2.235653	-0.005	30.53875	0.00599622

2955	3	2.235711	0.01	30.54875	0.005998184
2785	2	2.235856	-0.00625	30.5425	0.005996957
1886	2	2.23709	-0.00625	30.53625	0.005995729
5301	3	2.237225	-0.005	30.53125	0.005994748
9856	4	2.237831	0.01	30.54125	0.005996711
1353	1	2.237848	-0.0075	30.53375	0.005995239
5504	3	2.238168	-0.005	30.52875	0.005994257
4285	3	2.239127	-0.005	30.52375	0.005993275
756	1	2.239205	0.015	30.53875	0.00599622
7930	3	2.239308	-0.005	30.53375	0.005995239
4867	3	2.239502	-0.005	30.52875	0.005994257
1148	1	2.239598	-0.0075	30.52125	0.005992784
1028	1	2.239612	0.015	30.53625	0.005995729
3885	3	2.239675	-0.005	30.53125	0.005994748
1349	1	2.239703	0.015	30.54625	0.005997693
697	1	2.24	0.015	30.56125	0.006000638
273	1	2.240643	-0.0075	30.55375	0.005999166
248	1	2.24073	-0.0075	30.54625	0.005997693
9193	4	2.240909	-0.005	30.54125	0.005996711
909	1	2.241116	-0.0075	30.53375	0.005995239
3475	3	2.241263	-0.005	30.52875	0.005994257
7571	3	2.241383	-0.005	30.52375	0.005993275
2903	3	2.242029	-0.005	30.51875	0.005992293
305	1	2.242322	-0.0075	30.51125	0.005990821
1543	1	2.242514	-0.0075	30.50375	0.005989348
1848	2	2.24265	-0.00625	30.4975	0.005988121
8856	4	2.242723	-0.005	30.4925	0.005987139
1695	1	2.243009	-0.0075	30.485	0.005985667
1530	1	2.243276	-0.0075	30.4775	0.005984194
2759	2	2.24411	-0.00625	30.47125	0.005982967
1622	1	2.244295	-0.0075	30.46375	0.005981494
1021	1	2.244562	-0.0075	30.45625	0.005980022
2287	2	2.245445	-0.00625	30.45	0.005978794
4010	3	2.246038	0.01	30.46	0.005980758
2877	2	2.246199	-0.00625	30.45375	0.005979531
1484	1	2.246214	0.015	30.46875	0.005982476
6579	3	2.246627	0.01	30.47875	0.005984439
4315	3	2.246662	-0.005	30.47375	0.005983458
1317	1	2.246733	0.015	30.48875	0.005986403
8668	3	2.247356	-0.005	30.48375	0.005985421
737	1	2.247637	-0.0075	30.47625	0.005983949
1731	1	2.248341	-0.0075	30.46875	0.005982476
7412	3	2.248441	-0.005	30.46375	0.005981494
7538	3	2.249101	-0.005	30.45875	0.005980512
2091	2	2.249126	-0.00625	30.4525	0.005979285
2569	2	2.249293	0.0125	30.465	0.00598174
2132	2	2.249761	-0.00625	30.45875	0.005980512
5199	3	2.249965	-0.005	30.45375	0.005979531
510	1	2.250022	-0.0075	30.44625	0.005978058
1098	1	2.251189	-0.0075	30.43875	0.005976586
4241	3	2.251508	0.01	30.44875	0.005978549
1379	1	2.251846	-0.0075	30.44125	0.005977076

6430	3	2.252018	-0.005	30.43625	0.005976095
1703	1	2.252072	-0.0075	30.42875	0.005974622
6186	3	2.252148	-0.005	30.42375	0.00597364
8202	3	2.25235	-0.005	30.41875	0.005972659
4622	3	2.252355	-0.005	30.41375	0.005971677
6690	3	2.252421	-0.005	30.40875	0.005970695
9748	4	2.25246	0.01	30.41875	0.005972659
4148	3	2.252593	0.01	30.42875	0.005974622
5465	3	2.254949	-0.005	30.42375	0.00597364
1019	1	2.255724	0.015	30.43875	0.005976586
833	1	2.25601	0.015	30.45375	0.005979531
3904	3	2.256805	-0.005	30.44875	0.005978549
9965	4	2.25739	0.01	30.45875	0.005980512
1278	1	2.257655	-0.0075	30.45125	0.00597904
8323	3	2.257723	0.01	30.46125	0.005981003
5798	3	2.258035	-0.005	30.45625	0.005980022
9342	4	2.258391	-0.005	30.45125	0.00597904
563	1	2.259702	-0.0075	30.44375	0.005977567
9114	4	2.259738	-0.005	30.43875	0.005976586
4395	3	2.259958	-0.005	30.43375	0.005975604
1604	1	2.260325	-0.0075	30.42625	0.005974131
2700	2	2.260572	-0.00625	30.42	0.005972904
1989	2	2.260604	0.0125	30.4325	0.005975358
3477	3	2.260675	-0.005	30.4275	0.005974377
9132	4	2.260719	-0.005	30.4225	0.005973395
1621	1	2.261921	-0.0075	30.415	0.005971922
2527	2	2.262281	-0.00625	30.40875	0.005970695
1065	1	2.262287	-0.0075	30.40125	0.005969222
6062	3	2.262408	-0.005	30.39625	0.005968241
1245	1	2.262483	-0.0075	30.38875	0.005966768
7215	3	2.262777	-0.005	30.38375	0.005965786
9267	4	2.263264	-0.005	30.37875	0.005964805
2169	2	2.263351	-0.00625	30.3725	0.005963577
5748	3	2.264042	-0.005	30.3675	0.005962596
2479	2	2.26491	-0.00625	30.36125	0.005961369
7694	3	2.265034	-0.005	30.35625	0.005960387
4756	3	2.265499	-0.005	30.35125	0.005959405
9726	4	2.265561	-0.005	30.34625	0.005958423
7986	3	2.2656	-0.005	30.34125	0.005957442
6796	3	2.265629	-0.005	30.33625	0.00595646
1826	2	2.265844	0.0125	30.34875	0.005958914
6640	3	2.266454	0.01	30.35875	0.005960878
6204	3	2.266649	-0.005	30.35375	0.005959896
7350	3	2.266781	0.01	30.36375	0.005961859
1005	1	2.267193	-0.0075	30.35625	0.005960387
3077	3	2.267227	-0.005	30.35125	0.005959405
6364	3	2.267425	-0.005	30.34625	0.005958423
4819	3	2.267451	-0.005	30.34125	0.005957442
1349	1	2.267551	-0.0075	30.33375	0.005955969
3404	3	2.268007	0.01	30.34375	0.005957932
2867	2	2.268095	-0.00625	30.3375	0.005956705
2582	2	2.269263	-0.00625	30.33125	0.005955478

4464	3	2.269518	-0.005	30.32625	0.005954496
745	1	2.269906	-0.0075	30.31875	0.005953024
1705	1	2.270265	-0.0075	30.31125	0.005951551
296	1	2.270547	0.015	30.32625	0.005954496
7069	3	2.270758	-0.005	30.32125	0.005953515
8726	3	2.27076	-0.005	30.31625	0.005952533
2201	2	2.271125	-0.00625	30.31	0.005951306
1834	2	2.27122	-0.00625	30.30375	0.005950079
4172	3	2.271766	-0.005	30.29875	0.005949097
6116	3	2.272075	-0.005	30.29375	0.005948115
9687	4	2.273014	0.01	30.30375	0.005950079
2864	2	2.273716	0.0125	30.31625	0.005952533
6614	3	2.273826	-0.005	30.31125	0.005951551
2956	3	2.274728	-0.005	30.30625	0.005950569
218	1	2.275041	-0.0075	30.29875	0.005949097
2273	2	2.27517	-0.00625	30.2925	0.00594787
6868	3	2.275206	-0.005	30.2875	0.005946888
4338	3	2.275565	-0.005	30.2825	0.005945906
44	1	2.275632	-0.0075	30.275	0.005944434
9718	4	2.275691	0.01	30.285	0.005946397
3032	3	2.275697	-0.005	30.28	0.005945415
6696	3	2.275853	0.01	30.29	0.005947379
7298	3	2.276254	-0.005	30.285	0.005946397
1428	1	2.278019	-0.0075	30.2775	0.005944924
3790	3	2.27834	0.01	30.2875	0.005946888
7505	3	2.279117	-0.005	30.2825	0.005945906
2456	2	2.279959	-0.00625	30.27625	0.005944679
1013	1	2.280479	-0.0075	30.26875	0.005943206
291	1	2.281097	-0.0075	30.26125	0.005941734
5702	3	2.282113	-0.005	30.25625	0.005940752
1319	1	2.282344	0.015	30.27125	0.005943697
2760	2	2.282413	-0.00625	30.265	0.00594247
2252	2	2.28332	-0.00625	30.25875	0.005941243
6112	3	2.284155	-0.005	30.25375	0.005940261
543	1	2.284314	0.015	30.26875	0.005943206
8677	3	2.284331	-0.005	30.26375	0.005942225
681	1	2.284333	-0.0075	30.25625	0.005940752
2089	2	2.28439	-0.00625	30.25	0.005939525
4015	3	2.285181	-0.005	30.245	0.005938543
8360	3	2.285485	0.01	30.255	0.005940507
5866	3	2.285682	-0.005	30.25	0.005939525
3109	3	2.28578	0.01	30.26	0.005941488
2215	2	2.285783	-0.00625	30.25375	0.005940261
1854	2	2.28603	-0.00625	30.2475	0.005939034
6806	3	2.286083	0.01	30.2575	0.005940997
5659	3	2.286189	-0.005	30.2525	0.005940016
2804	2	2.286332	-0.00625	30.24625	0.005938789
1047	1	2.286414	-0.0075	30.23875	0.005937316
1937	2	2.286691	-0.00625	30.2325	0.005936089
621	1	2.287442	0.015	30.2475	0.005939034
3785	3	2.2878	0.01	30.2575	0.005940997
5414	3	2.287823	-0.005	30.2525	0.005940016

9462	4	2.291349	-0.005	30.2475	0.005939034
4595	3	2.291658	-0.005	30.2425	0.005938052
1205	1	2.291784	-0.0075	30.235	0.00593658
4196	3	2.292089	-0.005	30.23	0.005935598
1250	1	2.292155	-0.0075	30.2225	0.005934125
4931	3	2.29235	0.01	30.2325	0.005936089
4976	3	2.29328	-0.005	30.2275	0.005935107
20	1	2.293943	-0.0075	30.22	0.005933634
5968	3	2.294094	0.01	30.23	0.005935598
2646	2	2.294331	-0.00625	30.22375	0.005934371
4858	3	2.294478	0.01	30.23375	0.005936334
8960	4	2.294525	-0.005	30.22875	0.005935352
676	1	2.294764	-0.0075	30.22125	0.00593388
3533	3	2.295044	0.01	30.23125	0.005935843
919	1	2.295467	-0.0075	30.22375	0.005934371
1300	1	2.295771	-0.0075	30.21625	0.005932898
5870	3	2.295893	-0.005	30.21125	0.005931916
8085	3	2.296869	-0.005	30.20625	0.005930935
2675	2	2.29782	-0.00625	30.2	0.005929707
605	1	2.298136	-0.0075	30.1925	0.005928235
1736	1	2.298983	-0.0075	30.185	0.005926762
4227	3	2.299804	-0.005	30.18	0.00592578
6684	3	2.30033	-0.005	30.175	0.005924799
7495	3	2.30036	-0.005	30.17	0.005923817
3323	3	2.300811	-0.005	30.165	0.005922835
8505	3	2.300947	-0.005	30.16	0.005921854
9090	4	2.301055	-0.005	30.155	0.005920872
1292	1	2.302576	-0.0075	30.1475	0.005919399
3785	3	2.302669	-0.005	30.1425	0.005918417
2114	2	2.302939	-0.00625	30.13625	0.00591719
3295	3	2.303014	-0.005	30.13125	0.005916209
6050	3	2.303203	-0.005	30.12625	0.005915227
116	1	2.303322	-0.0075	30.11875	0.005913754
3530	3	2.303374	-0.005	30.11375	0.005912772
1388	1	2.303731	-0.0075	30.10625	0.0059113
6570	3	2.303861	-0.005	30.10125	0.005910318
9726	4	2.304181	-0.005	30.09625	0.005909336
1118	1	2.30466	0.015	30.11125	0.005912282
1301	1	2.304975	-0.0075	30.10375	0.005910809
4340	3	2.306007	0.01	30.11375	0.005912772
366	1	2.306241	-0.0075	30.10625	0.0059113
5078	3	2.306264	-0.005	30.10125	0.005910318
174	1	2.306517	-0.0075	30.09375	0.005908845
1624	1	2.306777	-0.0075	30.08625	0.005907373
9010	4	2.306854	-0.005	30.08125	0.005906391
2303	2	2.3075	-0.00625	30.075	0.005905164
5152	3	2.309106	0.01	30.085	0.005907127
2671	2	2.309411	-0.00625	30.07875	0.0059059
5347	3	2.309444	-0.005	30.07375	0.005904919
928	1	2.31005	-0.0075	30.06625	0.005903446
7	1	2.310055	0.015	30.08125	0.005906391
1980	2	2.310459	0.0125	30.09375	0.005908845

626	1	2.31077	-0.0075	30.08625	0.005907373
5776	3	2.311157	-0.005	30.08125	0.005906391
6815	3	2.311565	-0.005	30.07625	0.005905409
3679	3	2.311601	-0.005	30.07125	0.005904428
5607	3	2.312553	-0.005	30.06625	0.005903446
1671	1	2.312938	-0.0075	30.05875	0.005901973
1597	1	2.314061	0.015	30.07375	0.005904919
7107	3	2.3149	-0.005	30.06875	0.005903937
2172	2	2.315798	-0.00625	30.0625	0.00590271
7300	3	2.316796	-0.005	30.0575	0.005901728
8575	3	2.316925	0.01	30.0675	0.005903691
4683	3	2.317009	-0.005	30.0625	0.00590271
4166	3	2.317064	-0.005	30.0575	0.005901728
351	1	2.317123	-0.0075	30.05	0.005900255
138	1	2.317127	-0.0075	30.0425	0.005898783
8587	3	2.317155	-0.005	30.0375	0.005897801
9584	4	2.317262	0.01	30.0475	0.005899764
6913	3	2.317487	-0.005	30.0425	0.005898783
1538	1	2.317561	0.015	30.0575	0.005901728
3417	3	2.31763	-0.005	30.0525	0.005900746
6670	3	2.318503	-0.005	30.0475	0.005899764
5857	3	2.319273	-0.005	30.0425	0.005898783
7993	3	2.320117	-0.005	30.0375	0.005897801
9218	4	2.32018	-0.005	30.0325	0.005896819
3082	3	2.321032	-0.005	30.0275	0.005895837
975	1	2.321357	-0.0075	30.02	0.005894365
2843	2	2.321412	-0.00625	30.01375	0.005893138
2332	2	2.322567	-0.00625	30.0075	0.00589191
2767	2	2.322757	0.0125	30.02	0.005894365
244	1	2.323037	-0.0075	30.0125	0.005892892
1645	1	2.323302	-0.0075	30.005	0.00589142
196	1	2.323538	-0.0075	29.9975	0.005889947
6304	3	2.324975	-0.005	29.9925	0.005888965
7037	3	2.325075	0.01	30.0025	0.005890929
501	1	2.32514	-0.0075	29.995	0.005889456
8623	3	2.325803	0.01	30.005	0.00589142
843	1	2.326208	-0.0075	29.9975	0.005889947
6753	3	2.32624	0.01	30.0075	0.00589191
1823	2	2.326577	-0.00625	30.00125	0.005890683
3533	3	2.326935	-0.005	29.99625	0.005889702
4129	3	2.327019	0.01	30.00625	0.005891665
1009	1	2.328145	0.015	30.02125	0.00589461
4943	3	2.328276	-0.005	30.01625	0.005893629
1714	1	2.328489	-0.0075	30.00875	0.005892156
655	1	2.328539	-0.0075	30.00125	0.005890683
2049	2	2.328812	-0.00625	29.995	0.005889456
9926	4	2.329106	0.01	30.005	0.00589142
6305	3	2.32952	0.01	30.015	0.005893383
2251	2	2.329759	-0.00625	30.00875	0.005892156
511	1	2.330884	-0.0075	30.00125	0.005890683
5580	3	2.330906	-0.005	29.99625	0.005889702
7181	3	2.332285	-0.005	29.99125	0.00588872

2995	3	2.332555	-0.005	29.98625	0.005887738
5492	3	2.332758	-0.005	29.98125	0.005886756
1583	1	2.332889	-0.0075	29.97375	0.005885284
6406	3	2.333761	-0.005	29.96875	0.005884302
2531	2	2.334305	-0.00625	29.9625	0.005883075
1274	1	2.334839	-0.0075	29.955	0.005881602
1155	1	2.334926	-0.0075	29.9475	0.00588013
2529	2	2.335071	0.0125	29.96	0.005882584
5860	3	2.3353	-0.005	29.955	0.005881602
1794	2	2.335382	-0.00625	29.94875	0.005880375
4749	3	2.335608	-0.005	29.94375	0.005879393
318	1	2.336592	0.015	29.95875	0.005882339
1172	1	2.336669	0.015	29.97375	0.005885284
2529	2	2.336848	-0.00625	29.9675	0.005884057
2269	2	2.338489	0.0125	29.98	0.005886511
1801	2	2.338931	-0.00625	29.97375	0.005885284
18	1	2.339178	-0.0075	29.96625	0.005883811
7378	3	2.339781	-0.005	29.96125	0.005882829
642	1	2.339849	-0.0075	29.95375	0.005881357
4562	3	2.340067	-0.005	29.94875	0.005880375
1199	1	2.34026	0.015	29.96375	0.00588332
6831	3	2.340304	-0.005	29.95875	0.005882339
6096	3	2.34063	-0.005	29.95375	0.005881357
1003	1	2.341349	0.015	29.96875	0.005884302
3621	3	2.341459	0.01	29.97875	0.005886265
9534	4	2.342173	-0.005	29.97375	0.005885284
779	1	2.342356	-0.0075	29.96625	0.005883811
338	1	2.342585	0.015	29.98125	0.005886756
5161	3	2.342612	-0.005	29.97625	0.005885775
5055	3	2.343144	-0.005	29.97125	0.005884793
3856	3	2.343909	-0.005	29.96625	0.005883811
6684	3	2.344339	-0.005	29.96125	0.005882829
4	1	2.344363	0.015	29.97625	0.005885775
4620	3	2.344399	0.01	29.98625	0.005887738
427	1	2.34484	-0.0075	29.97875	0.005886265
7724	3	2.346781	-0.005	29.97375	0.005885284
1233	1	2.346833	-0.0075	29.96625	0.005883811
2250	2	2.347817	-0.00625	29.96	0.005882584
3516	3	2.349075	0.01	29.97	0.005884547
6759	3	2.34912	0.01	29.98	0.005886511
7370	3	2.349706	-0.005	29.975	0.005885529
4248	3	2.349845	-0.005	29.97	0.005884547
2787	2	2.350236	-0.00625	29.96375	0.00588332
381	1	2.350904	0.015	29.97875	0.005886265
5278	3	2.352102	-0.005	29.97375	0.005885284
4811	3	2.35232	-0.005	29.96875	0.005884302
6047	3	2.352607	-0.005	29.96375	0.00588332
3109	3	2.352741	-0.005	29.95875	0.005882339
3348	3	2.353042	-0.005	29.95375	0.005881357
2366	2	2.353174	-0.00625	29.9475	0.00588013
1919	2	2.353195	-0.00625	29.94125	0.005878902
235	1	2.353203	0.015	29.95625	0.005881848

5630	3	2.35342	-0.005	29.95125	0.005880866
9096	4	2.353422	-0.005	29.94625	0.005879884
2125	2	2.353983	-0.00625	29.94	0.005878657
223	1	2.354625	-0.0075	29.9325	0.005877184
8792	4	2.354934	-0.005	29.9275	0.005876203
1599	1	2.355552	-0.0075	29.92	0.00587473
1054	1	2.355619	0.015	29.935	0.005877675
412	1	2.356463	-0.0075	29.9275	0.005876203
1627	1	2.356483	-0.0075	29.92	0.00587473
7191	3	2.35683	-0.005	29.915	0.005873748
6816	3	2.356944	-0.005	29.91	0.005872767
2826	2	2.357017	-0.00625	29.90375	0.005871539
7612	3	2.357031	-0.005	29.89875	0.005870558
5317	3	2.357133	0.01	29.90875	0.005872521
9602	4	2.358022	0.01	29.91875	0.005874485
1314	1	2.358128	-0.0075	29.91125	0.005873012
467	1	2.359021	0.015	29.92625	0.005875957
5593	3	2.359306	-0.005	29.92125	0.005874975
5993	3	2.359434	-0.005	29.91625	0.005873994
958	1	2.359895	-0.0075	29.90875	0.005872521
1210	1	2.360266	-0.0075	29.90125	0.005871048
7856	3	2.360408	-0.005	29.89625	0.005870067
943	1	2.360846	-0.0075	29.88875	0.005868594
8604	3	2.361011	-0.005	29.88375	0.005867612
4620	3	2.361343	-0.005	29.87875	0.005866631
7000	3	2.361552	-0.005	29.87375	0.005865649
5500	3	2.361869	0.01	29.88375	0.005867612
1848	2	2.362134	-0.00625	29.8775	0.005866385
8653	3	2.362434	-0.005	29.8725	0.005865403
2794	2	2.362527	-0.00625	29.86625	0.005864176
2101	2	2.362808	-0.00625	29.86	0.005862949
4853	3	2.36319	-0.005	29.855	0.005861967
5507	3	2.363718	-0.005	29.85	0.005860986
1467	1	2.364264	-0.0075	29.8425	0.005859513
2595	2	2.364449	-0.00625	29.83625	0.005858286
8766	4	2.364833	-0.005	29.83125	0.005857304
6372	3	2.365513	-0.005	29.82625	0.005856322
6532	3	2.365626	-0.005	29.82125	0.005855341
6868	3	2.365989	-0.005	29.81625	0.005854359
4931	3	2.366162	-0.005	29.81125	0.005853377
1992	2	2.366869	-0.00625	29.805	0.00585215
452	1	2.366916	-0.0075	29.7975	0.005850677
1414	1	2.367105	-0.0075	29.79	0.005849205
9748	4	2.367232	-0.005	29.785	0.005848223
8530	3	2.368706	0.01	29.795	0.005850187
4946	3	2.368922	-0.005	29.79	0.005849205
4519	3	2.369146	-0.005	29.785	0.005848223
6231	3	2.369208	0.01	29.795	0.005850187
5983	3	2.369975	-0.005	29.79	0.005849205
1307	1	2.370344	-0.0075	29.7825	0.005847732
7986	3	2.37066	-0.005	29.7775	0.00584675
9687	4	2.370964	-0.005	29.7725	0.005845769

2529	2	2.37115	-0.00625	29.76625	0.005844542
5461	3	2.371776	0.01	29.77625	0.005846505
1669	1	2.372414	0.015	29.79125	0.00584945
5190	3	2.372951	-0.005	29.78625	0.005848468
480	1	2.373901	-0.0075	29.77875	0.005846996
6111	3	2.374739	-0.005	29.77375	0.005846014
491	1	2.375379	-0.0075	29.76625	0.005844542
736	1	2.375452	-0.0075	29.75875	0.005843069
2044	2	2.375603	-0.00625	29.7525	0.005841842
7019	3	2.376087	-0.005	29.7475	0.00584086
5791	3	2.376109	-0.005	29.7425	0.005839878
5912	3	2.37642	0.01	29.7525	0.005841842
8340	3	2.376628	-0.005	29.7475	0.00584086
3757	3	2.376779	-0.005	29.7425	0.005839878
2599	2	2.377021	0.0125	29.755	0.005842333
7484	3	2.377129	-0.005	29.75	0.005841351
3875	3	2.377164	-0.005	29.745	0.005840369
3420	3	2.377213	0.01	29.755	0.005842333
2107	2	2.378261	-0.00625	29.74875	0.005841105
8640	3	2.37875	-0.005	29.74375	0.005840124
8361	3	2.378758	-0.005	29.73875	0.005839142
7964	3	2.378808	0.01	29.74875	0.005841105
6204	3	2.379036	-0.005	29.74375	0.005840124
4010	3	2.379761	-0.005	29.73875	0.005839142
4521	3	2.379778	-0.005	29.73375	0.00583816
4500	3	2.38011	-0.005	29.72875	0.005837178
3551	3	2.380174	-0.005	29.72375	0.005836197
2460	2	2.382162	0.0125	29.73625	0.005838651
5366	3	2.382207	-0.005	29.73125	0.005837669
8703	3	2.382345	-0.005	29.72625	0.005836688
7258	3	2.382464	-0.005	29.72125	0.005835706
443	1	2.38248	-0.0075	29.71375	0.005834233
7655	3	2.383296	-0.005	29.70875	0.005833252
8622	3	2.383749	-0.005	29.70375	0.00583227
1325	1	2.384063	-0.0075	29.69625	0.005830797
6663	3	2.384078	0.01	29.70625	0.005832761
7769	3	2.384545	-0.005	29.70125	0.005831779
1323	1	2.385004	0.015	29.71625	0.005834724
1664	1	2.385694	-0.0075	29.70875	0.005833252
7648	3	2.385866	-0.005	29.70375	0.00583227
420	1	2.386103	0.015	29.71875	0.005835215
2528	2	2.386267	-0.00625	29.7125	0.005833988
1752	1	2.386958	0.015	29.7275	0.005836933
7980	3	2.387248	-0.005	29.7225	0.005835951
181	1	2.387501	-0.0075	29.715	0.005834479
2258	2	2.387592	-0.00625	29.70875	0.005833252
1733	1	2.388254	-0.0075	29.70125	0.005831779
4115	3	2.388486	-0.005	29.69625	0.005830797
364	1	2.388786	-0.0075	29.68875	0.005829325
634	1	2.389261	0.015	29.70375	0.00583227
1284	1	2.38943	-0.0075	29.69625	0.005830797
4242	3	2.389546	-0.005	29.69125	0.005829815

177	1	2.389954	-0.0075	29.68375	0.005828343
1319	1	2.390033	-0.0075	29.67625	0.00582687
2126	2	2.390362	-0.00625	29.67	0.005825643
617	1	2.390771	-0.0075	29.6625	0.00582417
2897	2	2.391994	0.0125	29.675	0.005826625
801	1	2.392337	-0.0075	29.6675	0.005825152
5730	3	2.393322	-0.005	29.6625	0.00582417
1609	1	2.393366	-0.0075	29.655	0.005822698
5414	3	2.393445	-0.005	29.65	0.005821716
6699	3	2.393496	-0.005	29.645	0.005820734
5510	3	2.393641	0.01	29.655	0.005822698
6860	3	2.393648	-0.005	29.65	0.005821716
1040	1	2.394003	-0.0075	29.6425	0.005820243
772	1	2.394079	-0.0075	29.635	0.005818771
6259	3	2.394212	-0.005	29.63	0.005817789
2476	2	2.394501	0.0125	29.6425	0.005820243
622	1	2.394521	-0.0075	29.635	0.005818771
716	1	2.394559	-0.0075	29.6275	0.005817298
1019	1	2.39519	-0.0075	29.62	0.005815826
1389	1	2.395744	-0.0075	29.6125	0.005814353
4448	3	2.396032	-0.005	29.6075	0.005813371
6477	3	2.396212	0.01	29.6175	0.005815335
7724	3	2.396544	-0.005	29.6125	0.005814353
398	1	2.397907	-0.0075	29.605	0.00581288
8122	3	2.398429	-0.005	29.6	0.005811899
3404	3	2.398466	-0.005	29.595	0.005810917
5282	3	2.398623	-0.005	29.59	0.005809935
6088	3	2.398804	-0.005	29.585	0.005808953
1018	1	2.40001	-0.0075	29.5775	0.005807481
826	1	2.401675	0.015	29.5925	0.005810426
2751	2	2.401907	0.0125	29.605	0.00581288
2517	2	2.402139	-0.00625	29.59875	0.005811653
8561	3	2.402286	-0.005	29.59375	0.005810672
2686	2	2.402439	0.0125	29.60625	0.005813126
3846	3	2.402474	0.01	29.61625	0.005815089
84	1	2.402542	0.015	29.63125	0.005818035
7281	3	2.402978	-0.005	29.62625	0.005817053
4779	3	2.40304	-0.005	29.62125	0.005816071
2420	2	2.403596	0.0125	29.63375	0.005818525
2429	2	2.403869	-0.00625	29.6275	0.005817298
3704	3	2.403984	0.01	29.6375	0.005819262
6889	3	2.405894	-0.005	29.6325	0.00581828
3735	3	2.406221	-0.005	29.6275	0.005817298
6789	3	2.406855	-0.005	29.6225	0.005816317
1816	2	2.407753	-0.00625	29.61625	0.005815089
6274	3	2.408019	-0.005	29.61125	0.005814108
332	1	2.409245	-0.0075	29.60375	0.005812635
857	1	2.409505	0.015	29.61875	0.00581558
4358	3	2.409752	-0.005	29.61375	0.005814598
7064	3	2.409804	-0.005	29.60875	0.005813617
1594	1	2.409937	-0.0075	29.60125	0.005812144
4611	3	2.410261	0.01	29.61125	0.005814108

5812	3	2.410631	-0.005	29.60625	0.005813126
6845	3	2.41093	-0.005	29.60125	0.005812144
2686	2	2.411221	-0.00625	29.595	0.005810917
713	1	2.411692	-0.0075	29.5875	0.005809444
2499	2	2.411791	-0.00625	29.58125	0.005808217
2341	2	2.41185	-0.00625	29.575	0.00580699
3333	3	2.412294	-0.005	29.57	0.005806008
2553	2	2.413607	-0.00625	29.56375	0.005804781
1029	1	2.41433	0.015	29.57875	0.005807726
2104	2	2.415483	-0.00625	29.5725	0.005806499
4472	3	2.415734	-0.005	29.5675	0.005805517
1398	1	2.415988	-0.0075	29.56	0.005804045
4556	3	2.416547	-0.005	29.555	0.005803063
1095	1	2.417754	-0.0075	29.5475	0.00580159
2575	2	2.417923	-0.00625	29.54125	0.005800363
1931	2	2.418363	-0.00625	29.535	0.005799136
3565	3	2.418509	-0.005	29.53	0.005798154
63	1	2.419133	-0.0075	29.5225	0.005796682
6036	3	2.420108	-0.005	29.5175	0.0057957
3885	3	2.420792	-0.005	29.5125	0.005794718
8662	3	2.421066	-0.005	29.5075	0.005793737
838	1	2.422116	-0.0075	29.5	0.005792264
8953	4	2.422426	-0.005	29.495	0.005791282
2511	2	2.422483	-0.00625	29.48875	0.005790055
2354	2	2.423426	-0.00625	29.4825	0.005788828
2472	2	2.423834	-0.00625	29.47625	0.005787601
2097	2	2.424878	-0.00625	29.47	0.005786373
8487	3	2.425167	-0.005	29.465	0.005785392
2348	2	2.425521	0.0125	29.4775	0.005787846
1059	1	2.426123	0.015	29.4925	0.005790791
6468	3	2.426376	-0.005	29.4875	0.00578981
2267	2	2.427159	-0.00625	29.48125	0.005788582
4740	3	2.427379	-0.005	29.47625	0.005787601
7875	3	2.427496	0.01	29.48625	0.005789564
7145	3	2.427943	0.01	29.49625	0.005791528
927	1	2.428072	0.015	29.51125	0.005794473
1595	1	2.428145	-0.0075	29.50375	0.005793
5221	3	2.428698	-0.005	29.49875	0.005792018
7889	3	2.429459	-0.005	29.49375	0.005791037
3738	3	2.431952	-0.005	29.48875	0.005790055
3559	3	2.432042	-0.005	29.48375	0.005789073
4609	3	2.432293	-0.005	29.47875	0.005788091
4546	3	2.432646	-0.005	29.47375	0.00578711
4417	3	2.432982	-0.005	29.46875	0.005786128
9961	4	2.433081	-0.005	29.46375	0.005785146
148	1	2.433428	-0.0075	29.45625	0.005783674
3986	3	2.433692	-0.005	29.45125	0.005782692
7025	3	2.434985	-0.005	29.44625	0.00578171
3815	3	2.4353	0.01	29.45625	0.005783674
1721	1	2.435304	-0.0075	29.44875	0.005782201
2858	2	2.435618	-0.00625	29.4425	0.005780974
1469	1	2.435817	-0.0075	29.435	0.005779501

2066	2	2.436086	-0.00625	29.42875	0.005778274
3623	3	2.436125	0.01	29.43875	0.005780238
4298	3	2.437109	-0.005	29.43375	0.005779256
3352	3	2.437797	-0.005	29.42875	0.005778274
5046	3	2.438392	0.01	29.43875	0.005780238
9628	4	2.438401	-0.005	29.43375	0.005779256
1861	2	2.439084	-0.00625	29.4275	0.005778029
5126	3	2.439885	-0.005	29.4225	0.005777047
3345	3	2.440022	-0.005	29.4175	0.005776065
6538	3	2.440202	-0.005	29.4125	0.005775083
1641	1	2.440327	-0.0075	29.405	0.005773611
3628	3	2.440388	-0.005	29.4	0.005772629
6040	3	2.440425	-0.005	29.395	0.005771647
2973	3	2.440976	-0.005	29.39	0.005770666
355	1	2.441373	-0.0075	29.3825	0.005769193
450	1	2.441823	0.015	29.3975	0.005772138
5094	3	2.443085	0.01	29.4075	0.005774102
9258	4	2.444004	-0.005	29.4025	0.00577312
951	1	2.445668	-0.0075	29.395	0.005771647
1369	1	2.446502	-0.0075	29.3875	0.005770175
5314	3	2.446999	-0.005	29.3825	0.005769193
8795	4	2.447074	0.01	29.3925	0.005771156
7787	3	2.447091	-0.005	29.3875	0.005770175
9278	4	2.447512	0.01	29.3975	0.005772138
2164	2	2.447772	-0.00625	29.39125	0.005770911
1427	1	2.448307	-0.0075	29.38375	0.005769438
3747	3	2.448751	-0.005	29.37875	0.005768457
8544	3	2.448785	-0.005	29.37375	0.005767475
1242	1	2.449159	-0.0075	29.36625	0.005766002
125	1	2.449747	-0.0075	29.35875	0.00576453
4016	3	2.450179	-0.005	29.35375	0.005763548
5926	3	2.451963	0.01	29.36375	0.005765511
1502	1	2.452706	-0.0075	29.35625	0.005764039
7529	3	2.452977	-0.005	29.35125	0.005763057
2514	2	2.453213	-0.00625	29.345	0.00576183
9848	4	2.453652	0.01	29.355	0.005763793
6368	3	2.453716	0.01	29.365	0.005765757
7836	3	2.454514	-0.005	29.36	0.005764775
2306	2	2.45483	-0.00625	29.35375	0.005763548
8958	4	2.455272	0.01	29.36375	0.005765511
1672	1	2.455701	0.015	29.37875	0.005768457
6753	3	2.457534	-0.005	29.37375	0.005767475
7661	3	2.45762	-0.005	29.36875	0.005766493
6857	3	2.458403	-0.005	29.36375	0.005765511
1897	2	2.458482	0.0125	29.37625	0.005767966
1990	2	2.459142	-0.00625	29.37	0.005766739
1004	1	2.459544	0.015	29.385	0.005769684
9681	4	2.460171	-0.005	29.38	0.005768702
2453	2	2.460214	-0.00625	29.37375	0.005767475
6476	3	2.461092	-0.005	29.36875	0.005766493
4661	3	2.462037	-0.005	29.36375	0.005765511
6230	3	2.46248	-0.005	29.35875	0.00576453

414	1	2.463164	-0.0075	29.35125	0.005763057
1410	1	2.463325	-0.0075	29.34375	0.005761585
2748	2	2.464468	-0.00625	29.3375	0.005760357
1659	1	2.465457	-0.0075	29.33	0.005758885
6531	3	2.466031	-0.005	29.325	0.005757903
1432	1	2.466225	-0.0075	29.3175	0.00575643
2751	2	2.466228	-0.00625	29.31125	0.005755203
1618	1	2.466334	-0.0075	29.30375	0.005753731
956	1	2.466842	-0.0075	29.29625	0.005752258
730	1	2.467017	-0.0075	29.28875	0.005750785
1884	2	2.467078	-0.00625	29.2825	0.005749558
2197	2	2.467343	0.0125	29.295	0.005752013
2908	3	2.467573	0.01	29.305	0.005753976
3197	3	2.467644	-0.005	29.3	0.005752994
8223	3	2.468034	-0.005	29.295	0.005752013
4984	3	2.468594	-0.005	29.29	0.005751031
2233	2	2.468754	-0.00625	29.28375	0.005749804
647	1	2.469124	0.015	29.29875	0.005752749
7601	3	2.471205	-0.005	29.29375	0.005751767
7204	3	2.471378	-0.005	29.28875	0.005750785
334	1	2.471937	-0.0075	29.28125	0.005749313
2040	2	2.472306	-0.00625	29.275	0.005748086
35	1	2.472353	-0.0075	29.2675	0.005746613
2717	2	2.472782	0.0125	29.28	0.005749067
245	1	2.472827	0.015	29.295	0.005752013
1445	1	2.472938	-0.0075	29.2875	0.00575054
7409	3	2.473959	-0.005	29.2825	0.005749558
6726	3	2.47439	0.01	29.2925	0.005751522
4713	3	2.474507	-0.005	29.2875	0.00575054
9191	4	2.474658	-0.005	29.2825	0.005749558
6799	3	2.47497	-0.005	29.2775	0.005748576
9939	4	2.476623	-0.005	29.2725	0.005747595
685	1	2.47759	0.015	29.2875	0.00575054
75	1	2.478356	0.015	29.3025	0.005753485
141	1	2.478712	-0.0075	29.295	0.005752013
3602	3	2.479859	-0.005	29.29	0.005751031
318	1	2.480696	-0.0075	29.2825	0.005749558
2825	2	2.481097	-0.00625	29.27625	0.005748331
6756	3	2.481566	-0.005	29.27125	0.005747349
579	1	2.481804	-0.0075	29.26375	0.005745877
3445	3	2.481924	-0.005	29.25875	0.005744895
5610	3	2.482892	-0.005	29.25375	0.005743913
943	1	2.482963	-0.0075	29.24625	0.005742441
3508	3	2.482993	-0.005	29.24125	0.005741459
7638	3	2.484215	-0.005	29.23625	0.005740477
1410	1	2.484445	-0.0075	29.22875	0.005739005
8592	3	2.484866	-0.005	29.22375	0.005738023
7203	3	2.485747	-0.005	29.21875	0.005737041
1535	1	2.486294	-0.0075	29.21125	0.005735568
1183	1	2.486622	-0.0075	29.20375	0.005734096
1202	1	2.486995	-0.0075	29.19625	0.005732623
676	1	2.487829	-0.0075	29.18875	0.005731151

7253	3	2.488031	-0.005	29.18375	0.005730169
256	1	2.489471	-0.0075	29.17625	0.005728696
6222	3	2.489493	-0.005	29.17125	0.005727715
6473	3	2.489753	-0.005	29.16625	0.005726733
1059	1	2.489783	-0.0075	29.15875	0.00572526
1910	2	2.490464	-0.00625	29.1525	0.005724033
5324	3	2.492085	-0.005	29.1475	0.005723051
6647	3	2.492811	-0.005	29.1425	0.00572207
2008	2	2.49339	0.0125	29.155	0.005724524
5152	3	2.49406	-0.005	29.15	0.005723542
1957	2	2.494061	-0.00625	29.14375	0.005722315
6582	3	2.494114	0.01	29.15375	0.005724278
1004	1	2.49414	-0.0075	29.14625	0.005722806
2015	2	2.494199	-0.00625	29.14	0.005721579
7539	3	2.494231	0.01	29.15	0.005723542
2701	2	2.494561	0.0125	29.1625	0.005725996
8112	3	2.494782	-0.005	29.1575	0.005725015
8685	3	2.495063	-0.005	29.1525	0.005724033
3324	3	2.49517	0.01	29.1625	0.005725996
619	1	2.495205	0.015	29.1775	0.005728942
4878	3	2.495502	-0.005	29.1725	0.00572796
70	1	2.49578	0.015	29.1875	0.005730905
3177	3	2.495815	-0.005	29.1825	0.005729923
441	1	2.496722	0.015	29.1975	0.005732869
541	1	2.497114	-0.0075	29.19	0.005731396
8433	3	2.497758	0.01	29.2	0.00573336
2842	2	2.498254	-0.00625	29.19375	0.005732132
2008	2	2.498949	-0.00625	29.1875	0.005730905
538	1	2.499058	-0.0075	29.18	0.005729433
4650	3	2.49946	0.01	29.19	0.005731396
1401	1	2.499635	-0.0075	29.1825	0.005729923
8614	3	2.499879	-0.005	29.1775	0.005728942
8176	3	2.499983	-0.005	29.1725	0.00572796
7326	3	2.500133	-0.005	29.1675	0.005726978
4575	3	2.500524	0.01	29.1775	0.005728942
7174	3	2.501397	0.01	29.1875	0.005730905
5639	3	2.501841	-0.005	29.1825	0.005729923
9630	4	2.502356	-0.005	29.1775	0.005728942
4402	3	2.504734	-0.005	29.1725	0.00572796
4057	3	2.504777	0.01	29.1825	0.005729923
3618	3	2.505027	-0.005	29.1775	0.005728942
2879	2	2.505608	0.0125	29.19	0.005731396
8377	3	2.505716	0.01	29.2	0.00573336
7634	3	2.505944	-0.005	29.195	0.005732378
2400	2	2.50686	0.0125	29.2075	0.005734832
2908	3	2.506941	-0.005	29.2025	0.00573385
162	1	2.507799	-0.0075	29.195	0.005732378
994	1	2.507944	-0.0075	29.1875	0.005730905
674	1	2.50818	0.015	29.2025	0.00573385
1680	1	2.508273	-0.0075	29.195	0.005732378
1975	2	2.508422	0.0125	29.2075	0.005734832
3558	3	2.508668	0.01	29.2175	0.005736796

3265	3	2.50899	-0.005	29.2125	0.005735814
9004	4	2.509071	-0.005	29.2075	0.005734832
1136	1	2.509746	-0.0075	29.2	0.00573336
9648	4	2.510158	-0.005	29.195	0.005732378
9975	4	2.510804	-0.005	29.19	0.005731396
3520	3	2.511104	-0.005	29.185	0.005730414
2383	2	2.51173	-0.00625	29.17875	0.005729187
5269	3	2.511844	-0.005	29.17375	0.005728205
7267	3	2.512326	-0.005	29.16875	0.005727224
2594	2	2.512742	-0.00625	29.1625	0.005725996
3400	3	2.513084	-0.005	29.1575	0.005725015
1672	1	2.514335	-0.0075	29.15	0.005723542
3265	3	2.514978	-0.005	29.145	0.00572256
7110	3	2.515223	0.01	29.155	0.005724524
269	1	2.515417	-0.0075	29.1475	0.005723051
5526	3	2.517267	-0.005	29.1425	0.00572207
8438	3	2.51861	-0.005	29.1375	0.005721088
2009	2	2.518645	-0.00625	29.13125	0.005719861
1934	2	2.519264	-0.00625	29.125	0.005718633
2185	2	2.519966	-0.00625	29.11875	0.005717406
6831	3	2.520584	-0.005	29.11375	0.005716425
7266	3	2.520639	-0.005	29.10875	0.005715443
756	1	2.521001	-0.0075	29.10125	0.00571397
1131	1	2.521616	0.015	29.11625	0.005716915
516	1	2.522585	-0.0075	29.10875	0.005715443
7143	3	2.523156	-0.005	29.10375	0.005714461
6403	3	2.52329	0.01	29.11375	0.005716425
1838	2	2.52488	-0.00625	29.1075	0.005715197
7105	3	2.525082	-0.005	29.1025	0.005714216
1406	1	2.525437	-0.0075	29.095	0.005712743
2090	2	2.526355	-0.00625	29.08875	0.005711516
3356	3	2.526664	0.01	29.09875	0.005713479
7649	3	2.52752	-0.005	29.09375	0.005712498
8251	3	2.528635	0.01	29.10375	0.005714461
852	1	2.528897	-0.0075	29.09625	0.005712988
4446	3	2.529477	-0.005	29.09125	0.005712007
6769	3	2.529625	-0.005	29.08625	0.005711025
972	1	2.530056	-0.0075	29.07875	0.005709552
1905	2	2.530196	-0.00625	29.0725	0.005708325
2978	3	2.531449	0.01	29.0825	0.005710289
8676	3	2.531579	-0.005	29.0775	0.005709307
899	1	2.53174	-0.0075	29.07	0.005707834
541	1	2.532804	-0.0075	29.0625	0.005706362
7205	3	2.533025	-0.005	29.0575	0.00570538
3590	3	2.533076	-0.005	29.0525	0.005704398
6825	3	2.533258	-0.005	29.0475	0.005703416
5046	3	2.533512	-0.005	29.0425	0.005702435
1176	1	2.534674	-0.0075	29.035	0.005700962
5899	3	2.534778	-0.005	29.03	0.00569998
4893	3	2.534848	0.01	29.04	0.005701944
4655	3	2.534972	-0.005	29.035	0.005700962
8264	3	2.535046	-0.005	29.03	0.00569998

219	1	2.535187	-0.0075	29.0225	0.005698508
9278	4	2.535441	-0.005	29.0175	0.005697526
4408	3	2.535724	-0.005	29.0125	0.005696544
6669	3	2.536477	-0.005	29.0075	0.005695563
5461	3	2.537222	-0.005	29.0025	0.005694581
7676	3	2.537808	-0.005	28.9975	0.005693599
5784	3	2.53788	-0.005	28.9925	0.005692617
5978	3	2.537905	-0.005	28.9875	0.005691636
2611	2	2.53842	-0.00625	28.98125	0.005690408
1229	1	2.538593	0.015	28.99625	0.005693354
660	1	2.538851	-0.0075	28.98875	0.005691881
9184	4	2.539247	-0.005	28.98375	0.005690899
2533	2	2.540015	-0.00625	28.9775	0.005689672
4314	3	2.540285	-0.005	28.9725	0.00568869
271	1	2.540559	-0.0075	28.965	0.005687218
634	1	2.541056	-0.0075	28.9575	0.005685745
2095	2	2.542056	-0.00625	28.95125	0.005684518
184	1	2.5421	0.015	28.96625	0.005687463
1002	1	2.542674	-0.0075	28.95875	0.005685991
7559	3	2.543067	0.01	28.96875	0.005687954
9385	4	2.543482	-0.005	28.96375	0.005686972
22	1	2.543735	-0.0075	28.95625	0.0056855
200	1	2.543963	-0.0075	28.94875	0.005684027
2404	2	2.544099	0.0125	28.96125	0.005686481
8175	3	2.544134	-0.005	28.95625	0.0056855
8093	3	2.544799	-0.005	28.95125	0.005684518
7222	3	2.545222	-0.005	28.94625	0.005683536
3264	3	2.545962	0.01	28.95625	0.0056855
2691	2	2.546785	-0.00625	28.95	0.005684273
1913	2	2.5469	0.0125	28.9625	0.005686727
7917	3	2.547135	0.01	28.9725	0.00568869
9830	4	2.547813	-0.005	28.9675	0.005687709
5454	3	2.548022	0.01	28.9775	0.005689672
3081	3	2.548051	-0.005	28.9725	0.00568869
6781	3	2.548239	-0.005	28.9675	0.005687709
2375	2	2.548377	-0.00625	28.96125	0.005686481
5408	3	2.54854	-0.005	28.95625	0.0056855
830	1	2.548749	0.015	28.97125	0.005688445
7730	3	2.549212	-0.005	28.96625	0.005687463
640	1	2.549411	-0.0075	28.95875	0.005685991
2027	2	2.549527	-0.00625	28.9525	0.005684763
2460	2	2.551474	-0.00625	28.94625	0.005683536
6689	3	2.551848	-0.005	28.94125	0.005682554
6726	3	2.552507	-0.005	28.93625	0.005681573
4503	3	2.553625	-0.005	28.93125	0.005680591
5747	3	2.55372	0.01	28.94125	0.005682554
2114	2	2.553773	-0.00625	28.935	0.005681327
6199	3	2.553909	-0.005	28.93	0.005680346
2423	2	2.554719	-0.00625	28.92375	0.005679118
8251	3	2.555007	-0.005	28.91875	0.005678137
7171	3	2.555071	-0.005	28.91375	0.005677155
2094	2	2.555487	-0.00625	28.9075	0.005675928

5163	3	2.555648	-0.005	28.9025	0.005674946
619	1	2.555854	-0.0075	28.895	0.005673473
6367	3	2.556407	-0.005	28.89	0.005672492
2784	2	2.557325	-0.00625	28.88375	0.005671264
2776	2	2.559074	-0.00625	28.8775	0.005670037
1171	1	2.559559	-0.0075	28.87	0.005668565
5586	3	2.559779	0.01	28.88	0.005670528
2978	3	2.559873	-0.005	28.875	0.005669546
2842	2	2.559944	-0.00625	28.86875	0.005668319
5943	3	2.561015	0.01	28.87875	0.005670283
4933	3	2.563391	-0.005	28.87375	0.005669301
2056	2	2.563503	-0.00625	28.8675	0.005668074
613	1	2.563573	-0.0075	28.86	0.005666601
171	1	2.563628	-0.0075	28.8525	0.005665129
898	1	2.563752	-0.0075	28.845	0.005663656
5459	3	2.565097	-0.005	28.84	0.005662674
1098	1	2.56597	-0.0075	28.8325	0.005661202
4543	3	2.566821	-0.005	28.8275	0.00566022
8210	3	2.567019	0.01	28.8375	0.005662183
2788	2	2.567236	0.0125	28.85	0.005664638
2641	2	2.568296	-0.00625	28.84375	0.005663411
8717	3	2.569228	-0.005	28.83875	0.005662429
4836	3	2.569898	-0.005	28.83375	0.005661447
8435	3	2.570449	-0.005	28.82875	0.005660465
3476	3	2.570728	-0.005	28.82375	0.005659484
4590	3	2.572783	-0.005	28.81875	0.005658502
6847	3	2.573416	-0.005	28.81375	0.00565752
2685	2	2.573731	-0.00625	28.8075	0.005656293
3135	3	2.574551	0.01	28.8175	0.005658256
3720	3	2.575485	0.01	28.8275	0.00566022
2076	2	2.576003	-0.00625	28.82125	0.005658993
6838	3	2.576063	-0.005	28.81625	0.005658011
7920	3	2.576513	0.01	28.82625	0.005659974
107	1	2.576748	-0.0075	28.81875	0.005658502
8641	3	2.576932	-0.005	28.81375	0.00565752
6750	3	2.578424	-0.005	28.80875	0.005656538
2551	2	2.579744	-0.00625	28.8025	0.005655311
813	1	2.580009	-0.0075	28.795	0.005653839
1824	2	2.580011	-0.00625	28.78875	0.005652611
7131	3	2.580128	-0.005	28.78375	0.00565163
8989	4	2.580212	-0.005	28.77875	0.005650648
389	1	2.580501	-0.0075	28.77125	0.005649175
271	1	2.580626	-0.0075	28.76375	0.005647703
489	1	2.580643	-0.0075	28.75625	0.00564623
5823	3	2.580885	0.01	28.76625	0.005648194
613	1	2.581295	-0.0075	28.75875	0.005646721
5535	3	2.581721	0.01	28.76875	0.005648684
4893	3	2.581845	-0.005	28.76375	0.005647703
9423	4	2.582307	0.01	28.77375	0.005649666
7376	3	2.582795	-0.005	28.76875	0.005648684
2503	2	2.583691	-0.00625	28.7625	0.005647457
2823	2	2.584059	-0.00625	28.75625	0.00564623

1850	2	2.584467	-0.00625	28.75	0.005645003
5625	3	2.584623	-0.005	28.745	0.005644021
526	1	2.58502	-0.0075	28.7375	0.005642549
4727	3	2.585196	-0.005	28.7325	0.005641567
3173	3	2.585367	0.01	28.7425	0.00564353
5202	3	2.58609	-0.005	28.7375	0.005642549
9684	4	2.586125	0.01	28.7475	0.005644512
2976	3	2.587065	0.01	28.7575	0.005646476
8562	3	2.587518	-0.005	28.7525	0.005645494
5428	3	2.587529	0.01	28.7625	0.005647457
2864	2	2.587677	-0.00625	28.75625	0.00564623
8894	4	2.587707	-0.005	28.75125	0.005645248
2300	2	2.587744	0.0125	28.76375	0.005647703
2766	2	2.588287	-0.00625	28.7575	0.005646476
774	1	2.590535	-0.0075	28.75	0.005645003
748	1	2.590543	-0.0075	28.7425	0.00564353
8071	3	2.590625	0.01	28.7525	0.005645494
1810	2	2.590715	-0.00625	28.74625	0.005644267
8304	3	2.590871	-0.005	28.74125	0.005643285
7654	3	2.592758	-0.005	28.73625	0.005642303
2409	2	2.593058	0.0125	28.74875	0.005644758
1063	1	2.593108	0.015	28.76375	0.005647703
1934	2	2.594337	-0.00625	28.7575	0.005646476
7495	3	2.594944	-0.005	28.7525	0.005645494
4968	3	2.59515	-0.005	28.7475	0.005644512
2381	2	2.596361	-0.00625	28.74125	0.005643285
3784	3	2.597287	-0.005	28.73625	0.005642303
4640	3	2.597812	-0.005	28.73125	0.005641321
436	1	2.597825	-0.0075	28.72375	0.005639849
6571	3	2.597905	-0.005	28.71875	0.005638867
310	1	2.597932	-0.0075	28.71125	0.005637394
8415	3	2.598311	-0.005	28.70625	0.005636413
7427	3	2.598478	-0.005	28.70125	0.005635431
4841	3	2.598922	0.01	28.71125	0.005637394
3945	3	2.600923	-0.005	28.70625	0.005636413
3022	3	2.602039	-0.005	28.70125	0.005635431
5755	3	2.603125	-0.005	28.69625	0.005634449
4480	3	2.603498	-0.005	28.69125	0.005633468
2089	2	2.603923	-0.00625	28.685	0.00563224
7808	3	2.603963	0.01	28.695	0.005634204
1730	1	2.604275	-0.0075	28.6875	0.005632731
4979	3	2.605236	-0.005	28.6825	0.005631749
5096	3	2.605479	-0.005	28.6775	0.005630768
460	1	2.605496	-0.0075	28.67	0.005629295
3080	3	2.606401	-0.005	28.665	0.005628313
7927	3	2.606485	-0.005	28.66	0.005627332
2358	2	2.607615	0.0125	28.6725	0.005629786
3167	3	2.607902	0.01	28.6825	0.005631749
7540	3	2.608453	0.01	28.6925	0.005633713
6391	3	2.609366	0.01	28.7025	0.005635676
1041	1	2.610022	-0.0075	28.695	0.005634204
6114	3	2.6102	-0.005	28.69	0.005633222

7901	3	2.610233	-0.005	28.685	0.00563224
3331	3	2.610573	-0.005	28.68	0.005631259
3755	3	2.610618	-0.005	28.675	0.005630277
773	1	2.610841	-0.0075	28.6675	0.005628804
8508	3	2.612191	-0.005	28.6625	0.005627823
5454	3	2.612242	-0.005	28.6575	0.005626841
1029	1	2.612721	-0.0075	28.65	0.005625368
7441	3	2.613239	-0.005	28.645	0.005624386
2746	2	2.613842	-0.00625	28.63875	0.005623159
9344	4	2.614467	-0.005	28.63375	0.005622177
1514	1	2.615286	0.015	28.64875	0.005625123
2339	2	2.615884	-0.00625	28.6425	0.005623896
1515	1	2.616471	-0.0075	28.635	0.005622423
7600	3	2.616809	-0.005	28.63	0.005621441
3644	3	2.617772	-0.005	28.625	0.005620459
6484	3	2.61835	0.01	28.635	0.005622423
2853	2	2.618911	0.0125	28.6475	0.005624877
2878	2	2.619039	-0.00625	28.64125	0.00562365
4765	3	2.619092	0.01	28.65125	0.005625614
7093	3	2.619302	-0.005	28.64625	0.005624632
8902	4	2.620582	-0.005	28.64125	0.00562365
6602	3	2.621607	0.01	28.65125	0.005625614
7977	3	2.622669	-0.005	28.64625	0.005624632
1447	1	2.622784	-0.0075	28.63875	0.005623159
6406	3	2.623096	-0.005	28.63375	0.005622177
2879	2	2.62396	-0.00625	28.6275	0.00562095
5584	3	2.626021	-0.005	28.6225	0.005619969
4636	3	2.626277	-0.005	28.6175	0.005618987
7252	3	2.626429	-0.005	28.6125	0.005618005
1350	1	2.62665	-0.0075	28.605	0.005616532
8306	3	2.626748	0.01	28.615	0.005618496
356	1	2.626844	-0.0075	28.6075	0.005617023
4181	3	2.627477	-0.005	28.6025	0.005616042
159	1	2.627712	-0.0075	28.595	0.005614569
8694	3	2.627786	0.01	28.605	0.005616532
9655	4	2.628201	-0.005	28.6	0.005615551
7929	3	2.628406	0.01	28.61	0.005617514
1087	1	2.628658	-0.0075	28.6025	0.005616042
5291	3	2.628851	-0.005	28.5975	0.00561506
2830	2	2.628883	-0.00625	28.59125	0.005613833
2737	2	2.62914	-0.00625	28.585	0.005612606
3853	3	2.629238	-0.005	28.58	0.005611624
36	1	2.629299	-0.0075	28.5725	0.005610151
1641	1	2.629341	-0.0075	28.565	0.005608679
3724	3	2.629602	0.01	28.575	0.005610642
1450	1	2.630033	-0.0075	28.5675	0.005609169
6646	3	2.630702	0.01	28.5775	0.005611133
9439	4	2.631069	-0.005	28.5725	0.005610151
3356	3	2.631104	-0.005	28.5675	0.005609169
8419	3	2.632086	-0.005	28.5625	0.005608188
9529	4	2.63229	-0.005	28.5575	0.005607206
7282	3	2.632817	-0.005	28.5525	0.005606224

2061	2	2.634142	-0.00625	28.54625	0.005604997
8119	3	2.634625	-0.005	28.54125	0.005604015
8401	3	2.63521	-0.005	28.53625	0.005603034
8471	3	2.6359	-0.005	28.53125	0.005602052
297	1	2.636183	0.015	28.54625	0.005604997
139	1	2.636259	-0.0075	28.53875	0.005603524
3048	3	2.636471	-0.005	28.53375	0.005602543
922	1	2.637055	-0.0075	28.52625	0.00560107
5109	3	2.637061	-0.005	28.52125	0.005600088
4874	3	2.637188	-0.005	28.51625	0.005599107
8696	3	2.637457	-0.005	28.51125	0.005598125
3107	3	2.638179	-0.005	28.50625	0.005597143
4546	3	2.638225	-0.005	28.50125	0.005596161
7136	3	2.638932	-0.005	28.49625	0.00559518
1544	1	2.63913	0.015	28.51125	0.005598125
2345	2	2.640189	-0.00625	28.505	0.005596898
5503	3	2.642575	-0.005	28.5	0.005595916
2117	2	2.64293	0.0125	28.5125	0.00559837
974	1	2.643282	-0.0075	28.505	0.005596898
874	1	2.643366	-0.0075	28.4975	0.005595425
5659	3	2.643547	-0.005	28.4925	0.005594443
5106	3	2.644032	-0.005	28.4875	0.005593462
395	1	2.644542	-0.0075	28.48	0.005591989
4390	3	2.644979	-0.005	28.475	0.005591007
8474	3	2.6461	-0.005	28.47	0.005590026
9148	4	2.646174	-0.005	28.465	0.005589044
9196	4	2.646224	-0.005	28.46	0.005588062
458	1	2.646438	0.015	28.475	0.005591007
1766	1	2.646721	-0.0075	28.4675	0.005589535
2130	2	2.647058	-0.00625	28.46125	0.005588307
5671	3	2.647771	-0.005	28.45625	0.005587326
1980	2	2.648398	-0.00625	28.45	0.005586099
2916	3	2.648831	-0.005	28.445	0.005585117
1006	1	2.649124	-0.0075	28.4375	0.005583644
4118	3	2.649408	-0.005	28.4325	0.005582662
6154	3	2.649669	-0.005	28.4275	0.005581681
3831	3	2.649966	0.01	28.4375	0.005583644
8062	3	2.650262	0.01	28.4475	0.005585608
2233	2	2.650803	-0.00625	28.44125	0.005584381
467	1	2.651112	-0.0075	28.43375	0.005582908
1669	1	2.651838	-0.0075	28.42625	0.005581435
3707	3	2.652951	-0.005	28.42125	0.005580454
3961	3	2.653733	-0.005	28.41625	0.005579472
9848	4	2.654398	-0.005	28.41125	0.00557849
7872	3	2.65458	-0.005	28.40625	0.005577508
2955	3	2.65462	-0.005	28.40125	0.005576527
1606	1	2.655426	0.015	28.41625	0.005579472
1159	1	2.655432	-0.0075	28.40875	0.005577999
621	1	2.655518	-0.0075	28.40125	0.005576527
6499	3	2.65561	-0.005	28.39625	0.005575545
6877	3	2.655788	-0.005	28.39125	0.005574563
857	1	2.656556	-0.0075	28.38375	0.005573091

7559	3	2.656573	-0.005	28.37875	0.005572109
3132	3	2.65751	-0.005	28.37375	0.005571127
4012	3	2.657889	-0.005	28.36875	0.005570145
3373	3	2.658162	-0.005	28.36375	0.005569164
8355	3	2.658673	-0.005	28.35875	0.005568182
1033	1	2.659591	-0.0075	28.35125	0.005566709
5472	3	2.659952	-0.005	28.34625	0.005565727
6423	3	2.660188	-0.005	28.34125	0.005564746
551	1	2.660361	0.015	28.35625	0.005567691
9743	4	2.661086	-0.005	28.35125	0.005566709
4269	3	2.661335	-0.005	28.34625	0.005565727
2532	2	2.662411	-0.00625	28.34	0.0055645
1869	2	2.662555	-0.00625	28.33375	0.005563273
8123	3	2.662649	-0.005	28.32875	0.005562291
551	1	2.662764	-0.0075	28.32125	0.005560819
3358	3	2.662838	-0.005	28.31625	0.005559837
1405	1	2.663694	-0.0075	28.30875	0.005558364
232	1	2.664243	-0.0075	28.30125	0.005556892
4205	3	2.664322	-0.005	28.29625	0.00555591
3173	3	2.664615	-0.005	28.29125	0.005554928
1009	1	2.665197	-0.0075	28.28375	0.005553456
6477	3	2.665611	-0.005	28.27875	0.005552474
4668	3	2.665875	0.01	28.28875	0.005554437
2051	2	2.66615	-0.00625	28.2825	0.00555321
1402	1	2.66659	-0.0075	28.275	0.005551738
1998	2	2.667072	0.0125	28.2875	0.005554192
2147	2	2.667284	-0.00625	28.28125	0.005552965
4340	3	2.668358	-0.005	28.27625	0.005551983
1621	1	2.668494	-0.0075	28.26875	0.005550511
5062	3	2.669033	0.01	28.27875	0.005552474
1917	2	2.669261	-0.00625	28.2725	0.005551247
1404	1	2.669944	-0.0075	28.265	0.005549774
2980	3	2.669952	0.01	28.275	0.005551738
4042	3	2.670152	-0.005	28.27	0.005550756
2780	2	2.670709	-0.00625	28.26375	0.005549529
3598	3	2.670855	-0.005	28.25875	0.005548547
2259	2	2.671355	-0.00625	28.2525	0.00554732
5232	3	2.671415	0.01	28.2625	0.005549283
7601	3	2.671814	-0.005	28.2575	0.005548302
6040	3	2.672125	-0.005	28.2525	0.00554732
739	1	2.672227	-0.0075	28.245	0.005545847
7751	3	2.672629	-0.005	28.24	0.005544866
989	1	2.673113	-0.0075	28.2325	0.005543393
353	1	2.673458	-0.0075	28.225	0.00554192
1454	1	2.673616	-0.0075	28.2175	0.005540448
6421	3	2.674822	0.01	28.2275	0.005542411
1834	2	2.676308	-0.00625	28.22125	0.005541184
9935	4	2.677244	-0.005	28.21625	0.005540202
3651	3	2.677915	-0.005	28.21125	0.00553922
6569	3	2.678453	-0.005	28.20625	0.005538239
2824	2	2.679095	-0.00625	28.2	0.005537012
4357	3	2.679866	-0.005	28.195	0.00553603

1293	1	2.680237	-0.0075	28.1875	0.005534557
8092	3	2.680551	0.01	28.1975	0.005536521
1757	1	2.681147	-0.0075	28.19	0.005535048
6806	3	2.68181	-0.005	28.185	0.005534066
9856	4	2.684605	-0.005	28.18	0.005533085
5167	3	2.685465	-0.005	28.175	0.005532103
3660	3	2.685643	-0.005	28.17	0.005531121
3162	3	2.685698	-0.005	28.165	0.005530139
3609	3	2.686499	-0.005	28.16	0.005529158
8917	4	2.68706	-0.005	28.155	0.005528176
5503	3	2.687925	-0.005	28.15	0.005527194
3480	3	2.688196	-0.005	28.145	0.005526212
1980	2	2.688485	-0.00625	28.13875	0.005524985
2629	2	2.688849	-0.00625	28.1325	0.005523758
3167	3	2.689183	-0.005	28.1275	0.005522776
2270	2	2.689279	0.0125	28.14	0.005525231
2148	2	2.689493	-0.00625	28.13375	0.005524004
1868	2	2.689811	-0.00625	28.1275	0.005522776
1316	1	2.689886	-0.0075	28.12	0.005521304
1229	1	2.691443	-0.0075	28.1125	0.005519831
2269	2	2.692226	-0.00625	28.10625	0.005518604
5304	3	2.693693	0.01	28.11625	0.005520567
5759	3	2.693875	-0.005	28.11125	0.005519586
715	1	2.694153	-0.0075	28.10375	0.005518113
4413	3	2.694326	0.01	28.11375	0.005520077
329	1	2.694425	0.015	28.12875	0.005523022
6916	3	2.695238	0.01	28.13875	0.005524985
9453	4	2.696649	-0.005	28.13375	0.005524004
2400	2	2.697057	-0.00625	28.1275	0.005522776
5124	3	2.697208	-0.005	28.1225	0.005521795
5170	3	2.69782	0.01	28.1325	0.005523758
6493	3	2.69832	0.01	28.1425	0.005525722
8111	3	2.698506	-0.005	28.1375	0.00552474
4110	3	2.698651	-0.005	28.1325	0.005523758
6255	3	2.698862	-0.005	28.1275	0.005522776
6862	3	2.699069	-0.005	28.1225	0.005521795
1348	1	2.699234	-0.0075	28.115	0.005520322
2096	2	2.699742	-0.00625	28.10875	0.005519095
1363	1	2.699977	-0.0075	28.10125	0.005517622
7799	3	2.700176	-0.005	28.09625	0.00551664
4914	3	2.70091	-0.005	28.09125	0.005515659
1121	1	2.701615	0.015	28.10625	0.005518604
328	1	2.702687	-0.0075	28.09875	0.005517131
2156	2	2.703563	-0.00625	28.0925	0.005515904
5753	3	2.703702	-0.005	28.0875	0.005514922
4178	3	2.70397	-0.005	28.0825	0.005513941
7905	3	2.704106	0.01	28.0925	0.005515904
1887	2	2.70424	-0.00625	28.08625	0.005514677
9715	4	2.704257	-0.005	28.08125	0.005513695
2192	2	2.704339	-0.00625	28.075	0.005512468
6305	3	2.704368	-0.005	28.07	0.005511486
8110	3	2.704576	-0.005	28.065	0.005510505

4915	3	2.70641	-0.005	28.06	0.005509523
1536	1	2.706537	0.015	28.075	0.005512468
496	1	2.706697	-0.0075	28.0675	0.005510995
3019	3	2.707126	-0.005	28.0625	0.005510014
3864	3	2.707203	-0.005	28.0575	0.005509032
4209	3	2.707229	-0.005	28.0525	0.00550805
1722	1	2.70756	0.015	28.0675	0.005510995
8442	3	2.707644	-0.005	28.0625	0.005510014
8227	3	2.707728	-0.005	28.0575	0.005509032
4314	3	2.707829	-0.005	28.0525	0.00550805
1102	1	2.708106	-0.0075	28.045	0.005506578
5562	3	2.708287	0.01	28.055	0.005508541
38	1	2.708633	-0.0075	28.0475	0.005507069
6029	3	2.70892	-0.005	28.0425	0.005506087
8634	3	2.709315	-0.005	28.0375	0.005505105
7539	3	2.709683	-0.005	28.0325	0.005504123
6118	3	2.710108	-0.005	28.0275	0.005503142
9971	4	2.710118	-0.005	28.0225	0.00550216
4208	3	2.710729	-0.005	28.0175	0.005501178
6325	3	2.710805	-0.005	28.0125	0.005500196
1304	1	2.7113	-0.0075	28.005	0.005498724
1249	1	2.711824	-0.0075	27.9975	0.005497251
2250	2	2.71209	-0.00625	27.99125	0.005496024
7195	3	2.712777	-0.005	27.98625	0.005495042
403	1	2.712999	0.015	28.00125	0.005497987
2645	2	2.715321	0.0125	28.01375	0.005500442
1075	1	2.716053	0.015	28.02875	0.005503387
3602	3	2.716131	-0.005	28.02375	0.005502405
7435	3	2.71641	-0.005	28.01875	0.005501424
3917	3	2.716552	-0.005	28.01375	0.005500442
5032	3	2.716618	0.01	28.02375	0.005502405
6203	3	2.716644	-0.005	28.01875	0.005501424
732	1	2.717316	-0.0075	28.01125	0.005499951
1921	2	2.717375	0.0125	28.02375	0.005502405
3004	3	2.717704	-0.005	28.01875	0.005501424
2092	2	2.717716	-0.00625	28.0125	0.005500196
9387	4	2.71811	0.01	28.0225	0.00550216
2550	2	2.71819	0.0125	28.035	0.005504614
1638	1	2.718239	0.015	28.05	0.005507559
8633	3	2.718277	-0.005	28.045	0.005506578
7266	3	2.719482	-0.005	28.04	0.005505596
1048	1	2.719696	-0.0075	28.0325	0.005504123
7244	3	2.72002	-0.005	28.0275	0.005503142
4765	3	2.720056	-0.005	28.0225	0.00550216
1723	1	2.72008	-0.0075	28.015	0.005500687
3724	3	2.720249	-0.005	28.01	0.005499705
3742	3	2.720632	0.01	28.02	0.005501669
5723	3	2.720806	-0.005	28.015	0.005500687
860	1	2.721073	-0.0075	28.0075	0.005499215
2566	2	2.72125	-0.00625	28.00125	0.005497987
4114	3	2.72126	-0.005	27.99625	0.005497006
2248	2	2.72177	0.0125	28.00875	0.00549946

3636	3	2.722081	-0.005	28.00375	0.005498478
5124	3	2.722248	-0.005	27.99875	0.005497497
122	1	2.722318	-0.0075	27.99125	0.005496024
2952	3	2.722458	-0.005	27.98625	0.005495042
3439	3	2.723528	-0.005	27.98125	0.00549406
1084	1	2.723573	-0.0075	27.97375	0.005492588
3677	3	2.724254	-0.005	27.96875	0.005491606
1376	1	2.724302	0.015	27.98375	0.005494551
1724	1	2.724566	-0.0075	27.97625	0.005493079
8540	3	2.724757	-0.005	27.97125	0.005492097
1667	1	2.724829	0.015	27.98625	0.005495042
5736	3	2.725121	-0.005	27.98125	0.00549406
2873	2	2.725429	-0.00625	27.975	0.005492833
1795	2	2.727247	0.0125	27.9875	0.005495288
5370	3	2.727646	0.01	27.9975	0.005497251
196	1	2.729046	-0.0075	27.99	0.005495779
6422	3	2.730033	-0.005	27.985	0.005494797
6235	3	2.73051	0.01	27.995	0.00549676
8503	3	2.730583	-0.005	27.99	0.005495779
1572	1	2.73181	-0.0075	27.9825	0.005494306
2946	3	2.732016	-0.005	27.9775	0.005493324
7244	3	2.734228	-0.005	27.9725	0.005492342
218	1	2.73461	-0.0075	27.965	0.00549087
8303	3	2.734797	-0.005	27.96	0.005489888
590	1	2.736012	-0.0075	27.9525	0.005488415
1947	2	2.736293	-0.00625	27.94625	0.005487188
5291	3	2.73686	-0.005	27.94125	0.005486207
1142	1	2.736961	-0.0075	27.93375	0.005484734
59	1	2.737526	-0.0075	27.92625	0.005483261
2689	2	2.738834	-0.00625	27.92	0.005482034
3553	3	2.740299	-0.005	27.915	0.005481052
283	1	2.740452	-0.0075	27.9075	0.00547958
5038	3	2.740481	-0.005	27.9025	0.005478598
8512	3	2.740817	-0.005	27.8975	0.005477616
3239	3	2.740839	-0.005	27.8925	0.005476635
4758	3	2.741623	-0.005	27.8875	0.005475653
1638	1	2.741724	-0.0075	27.88	0.00547418
4753	3	2.742065	-0.005	27.875	0.005473199
323	1	2.742833	-0.0075	27.8675	0.005471726
3559	3	2.744012	-0.005	27.8625	0.005470744
3815	3	2.744234	-0.005	27.8575	0.005469762
6685	3	2.74448	-0.005	27.8525	0.005468781
7267	3	2.744602	-0.005	27.8475	0.005467799
1231	1	2.74584	-0.0075	27.84	0.005466326
6388	3	2.74671	0.01	27.85	0.00546829
1295	1	2.747167	-0.0075	27.8425	0.005466817
1294	1	2.74741	-0.0075	27.835	0.005465345
4514	3	2.747794	-0.005	27.83	0.005464363
1612	1	2.749066	0.015	27.845	0.005467308
905	1	2.749678	-0.0075	27.8375	0.005465835
9366	4	2.750461	0.01	27.8475	0.005467799
4218	3	2.750604	-0.005	27.8425	0.005466817

4393	3	2.750737	-0.005	27.8375	0.005465835
1656	1	2.750872	0.015	27.8525	0.005468781
2631	2	2.751985	-0.00625	27.84625	0.005467554
1043	1	2.752026	-0.0075	27.83875	0.005466081
87	1	2.75262	0.015	27.85375	0.005469026
9604	4	2.752845	0.01	27.86375	0.00547099
9366	4	2.753105	-0.005	27.85875	0.005470008
423	1	2.75417	-0.0075	27.85125	0.005468535
527	1	2.754291	-0.0075	27.84375	0.005467063
5772	3	2.754903	-0.005	27.83875	0.005466081
5489	3	2.755496	0.01	27.84875	0.005468044
4428	3	2.755728	-0.005	27.84375	0.005467063
2358	2	2.756175	-0.00625	27.8375	0.005465835
235	1	2.756586	-0.0075	27.83	0.005464363
8359	3	2.756603	-0.005	27.825	0.005463381
4305	3	2.757516	0.01	27.835	0.005465345
1951	2	2.757757	-0.00625	27.82875	0.005464117
1259	1	2.757807	-0.0075	27.82125	0.005462645
4653	3	2.758679	-0.005	27.81625	0.005461663
6759	3	2.758949	-0.005	27.81125	0.005460681
7137	3	2.759236	0.01	27.82125	0.005462645
1537	1	2.759776	-0.0075	27.81375	0.005461172
277	1	2.76036	-0.0075	27.80625	0.0054597
353	1	2.760741	-0.0075	27.79875	0.005458227
5420	3	2.760769	-0.005	27.79375	0.005457245
8496	3	2.760991	-0.005	27.78875	0.005456263
5806	3	2.761608	-0.005	27.78375	0.005455282
6997	3	2.76192	-0.005	27.77875	0.0054543
5780	3	2.762607	-0.005	27.77375	0.005453318
2944	3	2.763181	0.01	27.78375	0.005455282
6314	3	2.763546	-0.005	27.77875	0.0054543
8746	3	2.763638	-0.005	27.77375	0.005453318
2321	2	2.764134	0.0125	27.78625	0.005455773
149	1	2.764377	0.015	27.80125	0.005458718
6421	3	2.765335	-0.005	27.79625	0.005457736
381	1	2.765674	-0.0075	27.78875	0.005456263
1899	2	2.765905	-0.00625	27.7825	0.005455036
2162	2	2.766269	-0.00625	27.77625	0.005453809
732	1	2.767977	-0.0075	27.76875	0.005452337
2636	2	2.768809	-0.00625	27.7625	0.005451109
1884	2	2.770386	-0.00625	27.75625	0.005449882
3516	3	2.770492	-0.005	27.75125	0.0054489
2427	2	2.771066	-0.00625	27.745	0.005447673
533	1	2.771758	-0.0075	27.7375	0.005446201
7466	3	2.771777	-0.005	27.7325	0.005445219
1678	1	2.771988	-0.0075	27.725	0.005443746
378	1	2.77264	0.015	27.74	0.005446692
1469	1	2.772937	-0.0075	27.7325	0.005445219
1434	1	2.77357	-0.0075	27.725	0.005443746
2865	2	2.774062	-0.00625	27.71875	0.005442519
316	1	2.774705	-0.0075	27.71125	0.005441047
1511	1	2.774926	-0.0075	27.70375	0.005439574

3089	3	2.774956	-0.005	27.69875	0.005438592
9714	4	2.77517	0.01	27.70875	0.005440556
3075	3	2.775588	-0.005	27.70375	0.005439574
6381	3	2.776064	-0.005	27.69875	0.005438592
2641	2	2.776302	-0.00625	27.6925	0.005437365
1138	1	2.777582	-0.0075	27.685	0.005435892
2043	2	2.777691	-0.00625	27.67875	0.005434665
7615	3	2.77828	-0.005	27.67375	0.005433683
8557	3	2.778402	0.01	27.68375	0.005435647
581	1	2.778774	-0.0075	27.67625	0.005434174
9437	4	2.779422	-0.005	27.67125	0.005433193
3436	3	2.78015	-0.005	27.66625	0.005432211
2958	3	2.780187	-0.005	27.66125	0.005431229
7765	3	2.780197	-0.005	27.65625	0.005430247
8476	3	2.780447	-0.005	27.65125	0.005429266
1908	2	2.78057	0.0125	27.66375	0.00543172
8190	3	2.782891	-0.005	27.65875	0.005430738
5806	3	2.783449	-0.005	27.65375	0.005429757
6388	3	2.784142	-0.005	27.64875	0.005428775
2584	2	2.785789	0.0125	27.66125	0.005431229
471	1	2.786492	-0.0075	27.65375	0.005429757
92	1	2.786688	-0.0075	27.64625	0.005428284
1897	2	2.786892	-0.00625	27.64	0.005427057
8011	3	2.787097	-0.005	27.635	0.005426075
1730	1	2.787388	-0.0075	27.6275	0.005424602
1312	1	2.787463	0.015	27.6425	0.005427548
8426	3	2.787534	-0.005	27.6375	0.005426566
9210	4	2.787819	-0.005	27.6325	0.005425584
8071	3	2.788719	-0.005	27.6275	0.005424602
2669	2	2.788748	-0.00625	27.62125	0.005423375
1153	1	2.789438	-0.0075	27.61375	0.005421903
626	1	2.789601	-0.0075	27.60625	0.00542043
112	1	2.790636	-0.0075	27.59875	0.005418957
1948	2	2.790684	-0.00625	27.5925	0.00541773
764	1	2.792706	-0.0075	27.585	0.005416258
559	1	2.793268	0.015	27.6	0.005419203
1824	2	2.794691	-0.00625	27.59375	0.005417976
2282	2	2.794776	-0.00625	27.5875	0.005416748
5305	3	2.795847	-0.005	27.5825	0.005415767
6617	3	2.796147	0.01	27.5925	0.00541773
727	1	2.796296	-0.0075	27.585	0.005416258
2561	2	2.796668	-0.00625	27.57875	0.00541503
180	1	2.79796	-0.0075	27.57125	0.005413558
352	1	2.798052	-0.0075	27.56375	0.005412085
4762	3	2.798519	-0.005	27.55875	0.005411103
2574	2	2.798798	-0.00625	27.5525	0.005409876
923	1	2.79886	0.015	27.5675	0.005412822
6396	3	2.799746	0.01	27.5775	0.005414785
1979	2	2.800865	-0.00625	27.57125	0.005413558
4129	3	2.801016	-0.005	27.56625	0.005412576
673	1	2.801914	-0.0075	27.55875	0.005411103
3320	3	2.801995	-0.005	27.55375	0.005410122

9610	4	2.802428	-0.005	27.54875	0.00540914
2065	2	2.803161	0.0125	27.56125	0.005411594
2308	2	2.803161	0.0125	27.57375	0.005414049
4768	3	2.803557	-0.005	27.56875	0.005413067
7069	3	2.804605	-0.005	27.56375	0.005412085
1377	1	2.804824	-0.0075	27.55625	0.005410613
5455	3	2.805463	-0.005	27.55125	0.005409631
6474	3	2.806681	-0.005	27.54625	0.005408649
6111	3	2.806794	-0.005	27.54125	0.005407667
1017	1	2.807503	-0.0075	27.53375	0.005406195
1225	1	2.807599	-0.0075	27.52625	0.005404722
3105	3	2.807697	-0.005	27.52125	0.00540374
7767	3	2.808034	-0.005	27.51625	0.005402759
1054	1	2.808346	-0.0075	27.50875	0.005401286
2241	2	2.808806	-0.00625	27.5025	0.005400059
5971	3	2.808817	-0.005	27.4975	0.005399077
3740	3	2.809394	-0.005	27.4925	0.005398095
461	1	2.809514	-0.0075	27.485	0.005396623
5869	3	2.809702	0.01	27.495	0.005398586
4981	3	2.809863	-0.005	27.49	0.005397605
6726	3	2.810617	-0.005	27.485	0.005396623
377	1	2.811538	-0.0075	27.4775	0.00539515
3419	3	2.811708	-0.005	27.4725	0.005394168
1096	1	2.811968	-0.0075	27.465	0.005392696
5912	3	2.812264	-0.005	27.46	0.005391714
1063	1	2.812435	-0.0075	27.4525	0.005390242
8092	3	2.812959	-0.005	27.4475	0.00538926
6104	3	2.813342	-0.005	27.4425	0.005388278
2286	2	2.81499	-0.00625	27.43625	0.005387051
3359	3	2.815054	-0.005	27.43125	0.005386069
4523	3	2.815438	-0.005	27.42625	0.005385087
1875	2	2.81553	0.0125	27.43875	0.005387542
9539	4	2.815582	-0.005	27.43375	0.00538656
4444	3	2.815927	-0.005	27.42875	0.005385578
1664	1	2.816668	-0.0075	27.42125	0.005384106
9356	4	2.816785	-0.005	27.41625	0.005383124
4282	3	2.817633	-0.005	27.41125	0.005382142
464	1	2.817659	-0.0075	27.40375	0.00538067
5427	3	2.818556	-0.005	27.39875	0.005379688
821	1	2.819349	-0.0075	27.39125	0.005378215
8361	3	2.819904	-0.005	27.38625	0.005377233
7298	3	2.821209	-0.005	27.38125	0.005376252
1704	1	2.821672	-0.0075	27.37375	0.005374779
2730	2	2.822775	-0.00625	27.3675	0.005373552
3883	3	2.82309	-0.005	27.3625	0.00537257
819	1	2.824346	-0.0075	27.355	0.005371098
4543	3	2.824744	-0.005	27.35	0.005370116
307	1	2.824823	-0.0075	27.3425	0.005368643
1108	1	2.824965	-0.0075	27.335	0.005367171
1761	1	2.825489	-0.0075	27.3275	0.005365698
5103	3	2.826075	-0.005	27.3225	0.005364716
1570	1	2.826122	0.015	27.3375	0.005367661

2550	2	2.826132	-0.00625	27.33125	0.005366434
2673	2	2.826533	-0.00625	27.325	0.005365207
8480	3	2.826549	0.01	27.335	0.005367171
1687	1	2.827372	-0.0075	27.3275	0.005365698
35	1	2.828611	-0.0075	27.32	0.005364225
7840	3	2.828869	-0.005	27.315	0.005363244
1359	1	2.829176	-0.0075	27.3075	0.005361771
5393	3	2.830022	0.01	27.3175	0.005363735
2400	2	2.830198	-0.00625	27.31125	0.005362507
4974	3	2.830219	-0.005	27.30625	0.005361526
5575	3	2.830893	-0.005	27.30125	0.005360544
3828	3	2.831174	-0.005	27.29625	0.005359562
6237	3	2.831198	-0.005	27.29125	0.00535858
3275	3	2.831372	-0.005	27.28625	0.005357599
441	1	2.831707	-0.0075	27.27875	0.005356126
6656	3	2.831709	-0.005	27.27375	0.005355144
8421	3	2.832488	-0.005	27.26875	0.005354163
2772	2	2.833424	-0.00625	27.2625	0.005352935
614	1	2.833492	-0.0075	27.255	0.005351463
3806	3	2.833709	-0.005	27.25	0.005350481
1327	1	2.834511	-0.0075	27.2425	0.005349008
5233	3	2.83565	-0.005	27.2375	0.005348027
4110	3	2.836246	-0.005	27.2325	0.005347045
8348	3	2.836491	-0.005	27.2275	0.005346063
130	1	2.836843	-0.0075	27.22	0.005344591
4517	3	2.837049	0.01	27.23	0.005346554
5444	3	2.837256	-0.005	27.225	0.005345572
6265	3	2.83763	0.01	27.235	0.005347536
6158	3	2.837828	-0.005	27.23	0.005346554
4788	3	2.838438	-0.005	27.225	0.005345572
6936	3	2.838484	0.01	27.235	0.005347536
315	1	2.838886	-0.0075	27.2275	0.005346063
1915	2	2.838929	-0.00625	27.22125	0.005344836
8495	3	2.838987	-0.005	27.21625	0.005343854
1403	1	2.840156	-0.0075	27.20875	0.005342382
9421	4	2.840523	-0.005	27.20375	0.0053414
8404	3	2.842502	-0.005	27.19875	0.005340418
4755	3	2.842807	0.01	27.20875	0.005342382
487	1	2.842882	-0.0075	27.20125	0.005340909
988	1	2.844766	0.015	27.21625	0.005343854
2915	3	2.844816	-0.005	27.21125	0.005342873
363	1	2.845131	-0.0075	27.20375	0.0053414
9062	4	2.846537	0.01	27.21375	0.005343363
420	1	2.847083	-0.0075	27.20625	0.005341891
6083	3	2.847609	-0.005	27.20125	0.005340909
3558	3	2.848137	-0.005	27.19625	0.005339927
7773	3	2.848313	-0.005	27.19125	0.005338946
3533	3	2.849012	-0.005	27.18625	0.005337964
9866	4	2.849702	-0.005	27.18125	0.005336982
325	1	2.849821	-0.0075	27.17375	0.00533551
2378	2	2.850006	0.0125	27.18625	0.005337964
1222	1	2.850454	-0.0075	27.17875	0.005336491

1606	1	2.850638	-0.0075	27.17125	0.005335019
5860	3	2.850724	-0.005	27.16625	0.005334037
8579	3	2.85239	-0.005	27.16125	0.005333055
1693	1	2.853773	0.015	27.17625	0.005336
1738	1	2.854169	-0.0075	27.16875	0.005334528
351	1	2.854313	-0.0075	27.16125	0.005333055
8290	3	2.854364	-0.005	27.15625	0.005332073
9602	4	2.855005	-0.005	27.15125	0.005331092
11	1	2.855014	0.015	27.16625	0.005334037
817	1	2.855209	0.015	27.18125	0.005336982
907	1	2.855974	-0.0075	27.17375	0.00533551
5084	3	2.856323	-0.005	27.16875	0.005334528
4297	3	2.856827	-0.005	27.16375	0.005333546
2907	3	2.856991	-0.005	27.15875	0.005332564
4964	3	2.857334	-0.005	27.15375	0.005331583
3126	3	2.85755	0.01	27.16375	0.005333546
6236	3	2.85756	-0.005	27.15875	0.005332564
269	1	2.858778	-0.0075	27.15125	0.005331092
4083	3	2.859229	-0.005	27.14625	0.00533011
6888	3	2.859664	-0.005	27.14125	0.005329128
7008	3	2.860205	-0.005	27.13625	0.005328146
5684	3	2.86106	-0.005	27.13125	0.005327165
1959	2	2.861426	-0.00625	27.125	0.005325938
6932	3	2.86164	-0.005	27.12	0.005324956
6287	3	2.862091	-0.005	27.115	0.005323974
4624	3	2.863077	-0.005	27.11	0.005322992
4900	3	2.86488	-0.005	27.105	0.005322011
160	1	2.86571	-0.0075	27.0975	0.005320538
939	1	2.865995	-0.0075	27.09	0.005319065
9698	4	2.866389	-0.005	27.085	0.005318084
5886	3	2.867109	0.01	27.095	0.005320047
3061	3	2.867171	-0.005	27.09	0.005319065
2197	2	2.868006	-0.00625	27.08375	0.005317838
2211	2	2.868138	0.0125	27.09625	0.005320293
8044	3	2.868493	-0.005	27.09125	0.005319311
1118	1	2.868572	-0.0075	27.08375	0.005317838
9910	4	2.869428	-0.005	27.07875	0.005316856
2624	2	2.869577	-0.00625	27.0725	0.005315629
5215	3	2.869919	-0.005	27.0675	0.005314648
2764	2	2.870166	-0.00625	27.06125	0.00531342
466	1	2.870362	-0.0075	27.05375	0.005311948
9947	4	2.870476	0.01	27.06375	0.005313911
2064	2	2.87141	-0.00625	27.0575	0.005312684
4789	3	2.871444	0.01	27.0675	0.005314648
1310	1	2.872341	-0.0075	27.06	0.005313175
85	1	2.873113	0.015	27.075	0.00531612
7269	3	2.873868	-0.005	27.07	0.005315138
195	1	2.874152	-0.0075	27.0625	0.005313666
8219	3	2.874706	-0.005	27.0575	0.005312684
497	1	2.875476	-0.0075	27.05	0.005311211
1294	1	2.875777	-0.0075	27.0425	0.005309739
2424	2	2.87578	0.0125	27.055	0.005312193

3346	3	2.875788	-0.005	27.05	0.005311211
3957	3	2.8769	-0.005	27.045	0.00531023
3505	3	2.877165	-0.005	27.04	0.005309248
4851	3	2.878738	-0.005	27.035	0.005308266
5942	3	2.879081	-0.005	27.03	0.005307285
4389	3	2.879233	-0.005	27.025	0.005306303
5453	3	2.879241	-0.005	27.02	0.005305321
649	1	2.879974	-0.0075	27.0125	0.005303848
1610	1	2.880158	0.015	27.0275	0.005306794
2204	2	2.881067	-0.00625	27.02125	0.005305566
2584	2	2.881603	-0.00625	27.015	0.005304339
7093	3	2.881676	-0.005	27.01	0.005303358
4938	3	2.884342	-0.005	27.005	0.005302376
8352	3	2.884843	0.01	27.015	0.005304339
9681	4	2.885019	-0.005	27.01	0.005303358
3071	3	2.885095	-0.005	27.005	0.005302376
1691	1	2.885383	-0.0075	26.9975	0.005300903
2960	3	2.885456	-0.005	26.9925	0.005299921
7701	3	2.885665	-0.005	26.9875	0.00529894
3719	3	2.888496	-0.005	26.9825	0.005297958
3460	3	2.888693	-0.005	26.9775	0.005296976
9387	4	2.88942	-0.005	26.9725	0.005295995
7	1	2.889506	-0.0075	26.965	0.005294522
6346	3	2.890204	-0.005	26.96	0.00529354
6493	3	2.890328	-0.005	26.955	0.005292558
8560	3	2.890745	-0.005	26.95	0.005291577
387	1	2.890953	-0.0075	26.9425	0.005290104
3165	3	2.891132	-0.005	26.9375	0.005289122
1713	1	2.892515	-0.0075	26.93	0.00528765
1797	2	2.892699	-0.00625	26.92375	0.005286423
1796	2	2.893005	0.0125	26.93625	0.005288877
2084	2	2.893424	-0.00625	26.93	0.00528765
7674	3	2.893608	-0.005	26.925	0.005286668
8252	3	2.893739	-0.005	26.92	0.005285686
2666	2	2.893953	-0.00625	26.91375	0.005284459
3866	3	2.894175	-0.005	26.90875	0.005283477
8619	3	2.894813	0.01	26.91875	0.005285441
6990	3	2.89558	0.01	26.92875	0.005287404
252	1	2.895684	-0.0075	26.92125	0.005285932
1190	1	2.895749	-0.0075	26.91375	0.005284459
9146	4	2.895786	-0.005	26.90875	0.005283477
8575	3	2.89585	-0.005	26.90375	0.005282496
6174	3	2.896525	-0.005	26.89875	0.005281514
5681	3	2.89788	-0.005	26.89375	0.005280532
5418	3	2.897987	-0.005	26.88875	0.00527955
1871	2	2.898324	-0.00625	26.8825	0.005278323
468	1	2.898347	-0.0075	26.875	0.005276851
3386	3	2.899204	-0.005	26.87	0.005275869
2248	2	2.899286	-0.00625	26.86375	0.005274642
5945	3	2.899818	0.01	26.87375	0.005276605
4160	3	2.900699	0.01	26.88375	0.005278569
7294	3	2.901038	-0.005	26.87875	0.005277587

1386	1	2.901387	-0.0075	26.87125	0.005276114
1044	1	2.901771	-0.0075	26.86375	0.005274642
1476	1	2.902128	-0.0075	26.85625	0.005273169
393	1	2.903411	-0.0075	26.84875	0.005271696
4136	3	2.903621	-0.005	26.84375	0.005270715
1192	1	2.905729	-0.0075	26.83625	0.005269242
519	1	2.905885	-0.0075	26.82875	0.005267769
2255	2	2.906403	-0.00625	26.8225	0.005266542
4006	3	2.906559	-0.005	26.8175	0.005265561
1913	2	2.906972	-0.00625	26.81125	0.005264333
331	1	2.907297	-0.0075	26.80375	0.005262861
1912	2	2.907387	-0.00625	26.7975	0.005261634
4358	3	2.907714	-0.005	26.7925	0.005260652
1268	1	2.908038	-0.0075	26.785	0.005259179
2389	2	2.908652	-0.00625	26.77875	0.005257952
4873	3	2.908957	-0.005	26.77375	0.00525697
923	1	2.909171	-0.0075	26.76625	0.005255498
1650	1	2.909265	-0.0075	26.75875	0.005254025
2774	2	2.909276	-0.00625	26.7525	0.005252798
2968	3	2.910106	-0.005	26.7475	0.005251816
9131	4	2.910767	-0.005	26.7425	0.005250834
1115	1	2.911812	-0.0075	26.735	0.005249362
6194	3	2.911981	-0.005	26.73	0.00524838
5	1	2.913298	-0.0075	26.7225	0.005246908
1088	1	2.914775	-0.0075	26.715	0.005245435
7440	3	2.914818	0.01	26.725	0.005247398
9684	4	2.915512	-0.005	26.72	0.005246417
4057	3	2.917995	-0.005	26.715	0.005245435
2883	2	2.920925	-0.00625	26.70875	0.005244208
9228	4	2.921486	-0.005	26.70375	0.005243226
1842	2	2.922964	0.0125	26.71625	0.00524568
529	1	2.923388	-0.0075	26.70875	0.005244208
8200	3	2.923401	-0.005	26.70375	0.005243226
407	1	2.923914	-0.0075	26.69625	0.005241753
7788	3	2.924296	-0.005	26.69125	0.005240772
5265	3	2.925764	-0.005	26.68625	0.00523979
2254	2	2.92782	0.0125	26.69875	0.005242244
7841	3	2.92858	-0.005	26.69375	0.005241263
2330	2	2.929258	0.0125	26.70625	0.005243717
1908	2	2.929964	-0.00625	26.7	0.00524249
8896	4	2.930067	-0.005	26.695	0.005241508
8607	3	2.930081	-0.005	26.69	0.005240526
1297	1	2.930086	-0.0075	26.6825	0.005239054
1280	1	2.931038	-0.0075	26.675	0.005237581
7796	3	2.93228	0.01	26.685	0.005239544
85	1	2.932511	-0.0075	26.6775	0.005238072
62	1	2.933282	-0.0075	26.67	0.005236599
8449	3	2.933285	-0.005	26.665	0.005235618
2963	3	2.933722	-0.005	26.66	0.005234636
2761	2	2.934074	0.0125	26.6725	0.00523709
2426	2	2.934918	-0.00625	26.66625	0.005235863
4105	3	2.934947	-0.005	26.66125	0.005234881

2886	2	2.936745	-0.00625	26.655	0.005233654
4879	3	2.937212	-0.005	26.65	0.005232672
5719	3	2.940095	-0.005	26.645	0.005231691
69	1	2.941611	-0.0075	26.6375	0.005230218
6218	3	2.941818	-0.005	26.6325	0.005229236
143	1	2.944274	-0.0075	26.625	0.005227764
5971	3	2.944682	-0.005	26.62	0.005226782
7858	3	2.946725	-0.005	26.615	0.0052258
3933	3	2.948273	-0.005	26.61	0.005224818
2016	2	2.948446	-0.00625	26.60375	0.005223591
4619	3	2.9486	-0.005	26.59875	0.005222609
4733	3	2.949721	0.01	26.60875	0.005224573
1316	1	2.949736	-0.0075	26.60125	0.0052231
2105	2	2.950198	-0.00625	26.595	0.005221873
6646	3	2.950626	-0.005	26.59	0.005220891
2680	2	2.951075	0.0125	26.6025	0.005223346
1584	1	2.95167	-0.0075	26.595	0.005221873
4860	3	2.952187	-0.005	26.59	0.005220891
6202	3	2.952431	0.01	26.6	0.005222855
2717	2	2.953143	-0.00625	26.59375	0.005221628
2714	2	2.953301	-0.00625	26.5875	0.005220401
2082	2	2.954128	-0.00625	26.58125	0.005219173
5201	3	2.954424	-0.005	26.57625	0.005218192
3033	3	2.954465	-0.005	26.57125	0.00521721
52	1	2.95456	-0.0075	26.56375	0.005215737
6008	3	2.954838	-0.005	26.55875	0.005214756
3260	3	2.955273	-0.005	26.55375	0.005213774
8052	3	2.955315	-0.005	26.54875	0.005212792
9436	4	2.95617	-0.005	26.54375	0.00521181
9031	4	2.95684	-0.005	26.53875	0.005210829
2107	2	2.958945	-0.00625	26.5325	0.005209601
6044	3	2.959566	-0.005	26.5275	0.00520862
7727	3	2.959981	-0.005	26.5225	0.005207638
2068	2	2.960484	-0.00625	26.51625	0.005206411
3677	3	2.960836	-0.005	26.51125	0.005205429
930	1	2.961037	-0.0075	26.50375	0.005203956
332	1	2.963203	-0.0075	26.49625	0.005202484
361	1	2.963234	0.015	26.51125	0.005205429
7352	3	2.963365	-0.005	26.50625	0.005204447
298	1	2.963915	0.015	26.52125	0.005207392
2154	2	2.964041	-0.00625	26.515	0.005206165
285	1	2.964172	-0.0075	26.5075	0.005204693
2168	2	2.964309	0.0125	26.52	0.005207147
3651	3	2.964434	-0.005	26.515	0.005206165
9958	4	2.965058	-0.005	26.51	0.005205184
1753	1	2.965378	-0.0075	26.5025	0.005203711
230	1	2.967395	-0.0075	26.495	0.005202238
1092	1	2.967443	-0.0075	26.4875	0.005200766
2333	2	2.967701	-0.00625	26.48125	0.005199539
6348	3	2.968296	-0.005	26.47625	0.005198557
6834	3	2.969361	-0.005	26.47125	0.005197575
2145	2	2.969837	0.0125	26.48375	0.005200029

1025	1	2.969969	-0.0075	26.47625	0.005198557
594	1	2.970489	-0.0075	26.46875	0.005197084
7073	3	2.971151	-0.005	26.46375	0.005196102
8352	3	2.971445	-0.005	26.45875	0.005195121
4733	3	2.971964	-0.005	26.45375	0.005194139
5747	3	2.972002	-0.005	26.44875	0.005193157
359	1	2.972812	0.015	26.46375	0.005196102
7518	3	2.973393	0.01	26.47375	0.005198066
8296	3	2.973477	0.01	26.48375	0.005200029
1392	1	2.973834	0.015	26.49875	0.005202975
4887	3	2.973881	0.01	26.50875	0.005204938
1081	1	2.9742	0.015	26.52375	0.005207883
71	1	2.974583	-0.0075	26.51625	0.005206411
9929	4	2.974985	-0.005	26.51125	0.005205429
5731	3	2.975138	-0.005	26.50625	0.005204447
81	1	2.97601	-0.0075	26.49875	0.005202975
7131	3	2.976038	-0.005	26.49375	0.005201993
4413	3	2.977073	-0.005	26.48875	0.005201011
945	1	2.977124	-0.0075	26.48125	0.005199539
6827	3	2.977316	-0.005	26.47625	0.005198557
2848	2	2.978139	-0.00625	26.47	0.00519733
7582	3	2.979625	-0.005	26.465	0.005196348
7701	3	2.979763	-0.005	26.46	0.005195366
3120	3	2.980239	-0.005	26.455	0.005194384
8430	3	2.981744	-0.005	26.45	0.005193403
6231	3	2.983342	-0.005	26.445	0.005192421
8302	3	2.983638	-0.005	26.44	0.005191439
6323	3	2.983944	-0.005	26.435	0.005190457
6810	3	2.985408	-0.005	26.43	0.005189476
39	1	2.985469	0.015	26.445	0.005192421
803	1	2.98579	-0.0075	26.4375	0.005190948
3494	3	2.986005	-0.005	26.4325	0.005189967
2402	2	2.986527	0.0125	26.445	0.005192421
1816	2	2.987461	-0.00625	26.43875	0.005191194
6986	3	2.987532	-0.005	26.43375	0.005190212
2239	2	2.987916	-0.00625	26.4275	0.005188985
2794	2	2.988193	-0.00625	26.42125	0.005187758
2599	2	2.988257	-0.00625	26.415	0.005186531
3195	3	2.988258	-0.005	26.41	0.005185549
830	1	2.988545	-0.0075	26.4025	0.005184076
4597	3	2.989518	-0.005	26.3975	0.005183094
3126	3	2.990093	-0.005	26.3925	0.005182113
6617	3	2.990519	-0.005	26.3875	0.005181131
5201	3	2.990522	-0.005	26.3825	0.005180149
4094	3	2.990662	-0.005	26.3775	0.005179167
31	1	2.990691	-0.0075	26.37	0.005177695
1117	1	2.991153	0.015	26.385	0.00518064
1064	1	2.994958	-0.0075	26.3775	0.005179167
2724	2	2.995021	0.0125	26.39	0.005181622
966	1	2.995556	-0.0075	26.3825	0.005180149
6728	3	2.997093	-0.005	26.3775	0.005179167
1563	1	2.997286	-0.0075	26.37	0.005177695

314	1	2.997481	0.015	26.385	0.00518064
6841	3	2.99751	-0.005	26.38	0.005179658
831	1	2.998085	-0.0075	26.3725	0.005178186
2117	2	2.998673	-0.00625	26.36625	0.005176959
6519	3	2.998912	-0.005	26.36125	0.005175977
1196	1	2.999543	0.015	26.37625	0.005178922
7465	3	2.999662	-0.005	26.37125	0.00517794
1411	1	2.999745	-0.0075	26.36375	0.005176468
4705	3	3.000103	0.01	26.37375	0.005178431
3417	3	3.000241	-0.005	26.36875	0.005177449
2287	2	3.000665	-0.00625	26.3625	0.005176222
1268	1	3.000874	-0.0075	26.355	0.00517475
2094	2	3.002231	-0.00625	26.34875	0.005173522
1507	1	3.002591	0.015	26.36375	0.005176468
2293	2	3.002998	-0.00625	26.3575	0.005175241
2129	2	3.003965	-0.00625	26.35125	0.005174013
2510	2	3.004269	-0.00625	26.345	0.005172786
5981	3	3.005019	0.01	26.355	0.00517475
4649	3	3.007271	0.01	26.365	0.005176713
1360	1	3.008631	0.015	26.38	0.005179658
4189	3	3.009596	-0.005	26.375	0.005178677
5587	3	3.010016	-0.005	26.37	0.005177695
2391	2	3.010185	-0.00625	26.36375	0.005176468
757	1	3.010962	-0.0075	26.35625	0.005174995
2688	2	3.011308	-0.00625	26.35	0.005173768
8436	3	3.012012	-0.005	26.345	0.005172786
797	1	3.013129	-0.0075	26.3375	0.005171314
664	1	3.013865	-0.0075	26.33	0.005169841
4091	3	3.014164	-0.005	26.325	0.005168859
1791	2	3.014232	0.0125	26.3375	0.005171314
1126	1	3.015084	-0.0075	26.33	0.005169841
2850	2	3.015609	-0.00625	26.32375	0.005168614
437	1	3.017371	-0.0075	26.31625	0.005167141
8938	4	3.017419	0.01	26.32625	0.005169105
2439	2	3.017476	-0.00625	26.32	0.005167877
6551	3	3.017761	0.01	26.33	0.005169841
7339	3	3.018622	-0.005	26.325	0.005168859
5489	3	3.018842	-0.005	26.32	0.005167877
3590	3	3.020402	-0.005	26.315	0.005166896
2796	2	3.021302	-0.00625	26.30875	0.005165669
2793	2	3.022203	0.0125	26.32125	0.005168123
6216	3	3.023316	0.01	26.33125	0.005170086
2100	2	3.023412	-0.00625	26.325	0.005168859
6959	3	3.023563	0.01	26.335	0.005170823
6492	3	3.024308	-0.005	26.33	0.005169841
7079	3	3.026155	-0.005	26.325	0.005168859
8152	3	3.026322	0.01	26.335	0.005170823
5215	3	3.026812	-0.005	26.33	0.005169841
1517	1	3.026987	-0.0075	26.3225	0.005168368
2539	2	3.027387	-0.00625	26.31625	0.005167141
8444	3	3.027417	-0.005	26.31125	0.005166159
1591	1	3.027613	-0.0075	26.30375	0.005164687

2433	2	3.028039	-0.00625	26.2975	0.00516346
3041	3	3.028491	-0.005	26.2925	0.005162478
4889	3	3.031105	-0.005	26.2875	0.005161496
5188	3	3.031205	0.01	26.2975	0.00516346
2411	2	3.03134	0.0125	26.31	0.005165914
552	1	3.032209	-0.0075	26.3025	0.005164441
3658	3	3.032519	-0.005	26.2975	0.00516346
8025	3	3.033045	0.01	26.3075	0.005165423
67	1	3.033748	-0.0075	26.3	0.005163951
4839	3	3.033971	-0.005	26.295	0.005162969
300	1	3.034117	-0.0075	26.2875	0.005161496
8697	3	3.034743	0.01	26.2975	0.00516346
6668	3	3.035488	-0.005	26.2925	0.005162478
480	1	3.03595	-0.0075	26.285	0.005161005
6665	3	3.036308	-0.005	26.28	0.005160024
8310	3	3.037758	0.01	26.29	0.005161987
5273	3	3.038975	-0.005	26.285	0.005161005
587	1	3.040338	-0.0075	26.2775	0.005159533
5009	3	3.040759	-0.005	26.2725	0.005158551
166	1	3.041019	-0.0075	26.265	0.005157078
1561	1	3.041473	-0.0075	26.2575	0.005155606
1819	2	3.041666	-0.00625	26.25125	0.005154379
6541	3	3.041863	-0.005	26.24625	0.005153397
2661	2	3.043124	-0.00625	26.24	0.00515217
6354	3	3.043307	-0.005	26.235	0.005151188
2793	2	3.044039	-0.00625	26.22875	0.005149961
4665	3	3.045017	-0.005	26.22375	0.005148979
1411	1	3.048118	-0.0075	26.21625	0.005147506
9571	4	3.048245	-0.005	26.21125	0.005146525
2149	2	3.049283	-0.00625	26.205	0.005145297
3600	3	3.050809	0.01	26.215	0.005147261
2934	3	3.051428	-0.005	26.21	0.005146279
8904	4	3.051934	-0.005	26.205	0.005145297
1282	1	3.052047	-0.0075	26.1975	0.005143825
367	1	3.052224	-0.0075	26.19	0.005142352
8694	3	3.052896	-0.005	26.185	0.005141371
1995	2	3.052937	-0.00625	26.17875	0.005140143
1455	1	3.053887	-0.0075	26.17125	0.005138671
505	1	3.054465	-0.0075	26.16375	0.005137198
1687	1	3.05464	-0.0075	26.15625	0.005135726
1135	1	3.05475	-0.0075	26.14875	0.005134253
5161	3	3.055159	-0.005	26.14375	0.005133271
4435	3	3.05536	-0.005	26.13875	0.005132289
5279	3	3.056824	-0.005	26.13375	0.005131308
6603	3	3.057071	-0.005	26.12875	0.005130326
478	1	3.057208	-0.0075	26.12125	0.005128853
549	1	3.058185	-0.0075	26.11375	0.005127381
4113	3	3.058809	-0.005	26.10875	0.005126399
6470	3	3.058857	-0.005	26.10375	0.005125417
84	1	3.060231	-0.0075	26.09625	0.005123945
629	1	3.060233	-0.0075	26.08875	0.005122472
8347	3	3.060442	0.01	26.09875	0.005124435

686	1	3.060802	-0.0075	26.09125	0.005122963
2535	2	3.060831	-0.00625	26.085	0.005121736
4821	3	3.060854	-0.005	26.08	0.005120754
2976	3	3.06188	-0.005	26.075	0.005119772
9769	4	3.061939	0.01	26.085	0.005121736
2246	2	3.063829	-0.00625	26.07875	0.005120509
9084	4	3.063966	0.01	26.08875	0.005122472
7350	3	3.064746	-0.005	26.08375	0.00512149
3322	3	3.065173	-0.005	26.07875	0.005120509
4623	3	3.065297	-0.005	26.07375	0.005119527
1435	1	3.065473	0.015	26.08875	0.005122472
132	1	3.065639	0.015	26.10375	0.005125417
8795	4	3.066004	-0.005	26.09875	0.005124435
6926	3	3.066079	-0.005	26.09375	0.005123454
513	1	3.066231	0.015	26.10875	0.005126399
2348	2	3.066972	-0.00625	26.1025	0.005125172
8323	3	3.067281	-0.005	26.0975	0.00512419
27	1	3.067601	0.015	26.1125	0.005127135
7950	3	3.06778	-0.005	26.1075	0.005126154
1086	1	3.069504	-0.0075	26.1	0.005124681
1379	1	3.070038	-0.0075	26.0925	0.005123208
2482	2	3.070721	0.0125	26.105	0.005125663
314	1	3.07083	-0.0075	26.0975	0.00512419
8372	3	3.071054	-0.005	26.0925	0.005123208
5767	3	3.071975	0.01	26.1025	0.005125172
3755	3	3.07227	-0.005	26.0975	0.00512419
2728	2	3.072501	0.0125	26.11	0.005126644
1273	1	3.07313	-0.0075	26.1025	0.005125172
2219	2	3.073315	-0.00625	26.09625	0.005123945
6102	3	3.07334	-0.005	26.09125	0.005122963
769	1	3.073964	-0.0075	26.08375	0.00512149
5408	3	3.074117	-0.005	26.07875	0.005120509
8798	4	3.074272	0.01	26.08875	0.005122472
671	1	3.076274	-0.0075	26.08125	0.005120999
228	1	3.07678	-0.0075	26.07375	0.005119527
568	1	3.076799	-0.0075	26.06625	0.005118054
587	1	3.077113	-0.0075	26.05875	0.005116582
1507	1	3.077616	-0.0075	26.05125	0.005115109
2546	2	3.078448	-0.00625	26.045	0.005113882
2846	2	3.080221	0.0125	26.0575	0.005116336
5752	3	3.080404	-0.005	26.0525	0.005115354
5605	3	3.080496	-0.005	26.0475	0.005114373
1120	1	3.081459	0.015	26.0625	0.005117318
2395	2	3.082802	-0.00625	26.05625	0.005116091
5097	3	3.083475	-0.005	26.05125	0.005115109
965	1	3.083703	-0.0075	26.04375	0.005113636
4592	3	3.083992	-0.005	26.03875	0.005112655
3738	3	3.085003	-0.005	26.03375	0.005111673
6318	3	3.085717	-0.005	26.02875	0.005110691
6027	3	3.085854	-0.005	26.02375	0.005109709
9423	4	3.086056	-0.005	26.01875	0.005108728
1078	1	3.08695	-0.0075	26.01125	0.005107255

2694	2	3.087051	-0.00625	26.005	0.005106028
1312	1	3.0871	-0.0075	25.9975	0.005104555
3790	3	3.087852	-0.005	25.9925	0.005103574
5630	3	3.088583	-0.005	25.9875	0.005102592
8384	3	3.088659	0.01	25.9975	0.005104555
1000	1	3.089013	-0.0075	25.99	0.005103083
9146	4	3.08914	-0.005	25.985	0.005102101
1416	1	3.089833	0.015	26	0.005105046
149	1	3.090422	-0.0075	25.9925	0.005103574
6926	3	3.09087	-0.005	25.9875	0.005102592
3317	3	3.091133	-0.005	25.9825	0.00510161
3430	3	3.09136	-0.005	25.9775	0.005100628
5507	3	3.091367	-0.005	25.9725	0.005099647
5958	3	3.095244	0.01	25.9825	0.00510161
6016	3	3.095562	-0.005	25.9775	0.005100628
6124	3	3.095833	-0.005	25.9725	0.005099647
6428	3	3.096238	0.01	25.9825	0.00510161
238	1	3.096406	-0.0075	25.975	0.005100137
2545	2	3.098313	-0.00625	25.96875	0.00509891
1675	1	3.098907	-0.0075	25.96125	0.005097438
3443	3	3.099434	-0.005	25.95625	0.005096456
9835	4	3.099608	-0.005	25.95125	0.005095474
7537	3	3.100027	-0.005	25.94625	0.005094492
2899	2	3.10062	-0.00625	25.94	0.005093265
7721	3	3.100881	-0.005	25.935	0.005092284
8609	3	3.102591	-0.005	25.93	0.005091302
4397	3	3.102906	-0.005	25.925	0.00509032
5257	3	3.10504	-0.005	25.92	0.005089338
2664	2	3.106904	-0.00625	25.91375	0.005088111
1968	2	3.106988	-0.00625	25.9075	0.005086884
2632	2	3.107307	-0.00625	25.90125	0.005085657
9200	4	3.107656	-0.005	25.89625	0.005084675
6512	3	3.109588	-0.005	25.89125	0.005083693
3621	3	3.110328	-0.005	25.88625	0.005082712
6545	3	3.111355	-0.005	25.88125	0.00508173
2048	2	3.111515	-0.00625	25.875	0.005080503
7768	3	3.111525	-0.005	25.87	0.005079521
4024	3	3.11265	-0.005	25.865	0.005078539
8411	3	3.114628	0.01	25.875	0.005080503
73	1	3.116518	-0.0075	25.8675	0.00507903
3600	3	3.117129	-0.005	25.8625	0.005078048
8055	3	3.117224	-0.005	25.8575	0.005077067
329	1	3.118029	-0.0075	25.85	0.005075594
6668	3	3.119142	-0.005	25.845	0.005074612
5304	3	3.120471	-0.005	25.84	0.00507363
4187	3	3.120946	-0.005	25.835	0.005072649
4148	3	3.121514	-0.005	25.83	0.005071667
638	1	3.123156	-0.0075	25.8225	0.005070194
7262	3	3.124035	-0.005	25.8175	0.005069213
2365	2	3.125526	0.0125	25.83	0.005071667
5981	3	3.12577	-0.005	25.825	0.005070685
9539	4	3.126657	-0.005	25.82	0.005069704

8769	4	3.126773	-0.005	25.815	0.005068722
5393	3	3.127066	-0.005	25.81	0.00506774
1213	1	3.127298	-0.0075	25.8025	0.005066267
438	1	3.128618	-0.0075	25.795	0.005064795
6401	3	3.12976	-0.005	25.79	0.005063813
7919	3	3.130907	-0.005	25.785	0.005062831
8092	3	3.131141	-0.005	25.78	0.00506185
2216	2	3.132501	-0.00625	25.77375	0.005060622
615	1	3.132719	-0.0075	25.76625	0.00505915
1977	2	3.132746	-0.00625	25.76	0.005057923
8212	3	3.133149	-0.005	25.755	0.005056941
7248	3	3.133721	-0.005	25.75	0.005055959
7673	3	3.1339	-0.005	25.745	0.005054977
8181	3	3.134612	-0.005	25.74	0.005053996
8377	3	3.134776	-0.005	25.735	0.005053014
2877	2	3.134791	-0.00625	25.72875	0.005051787
3999	3	3.134988	-0.005	25.72375	0.005050805
8414	3	3.135401	-0.005	25.71875	0.005049823
1152	1	3.135983	-0.0075	25.71125	0.005048351
383	1	3.136168	0.015	25.72625	0.005051296
3858	3	3.136471	-0.005	25.72125	0.005050314
2847	2	3.13724	-0.00625	25.715	0.005049087
2713	2	3.137302	-0.00625	25.70875	0.00504786
8562	3	3.13737	-0.005	25.70375	0.005046878
2088	2	3.137459	-0.00625	25.6975	0.005045651
6120	3	3.137786	0.01	25.7075	0.005047614
4375	3	3.137919	-0.005	25.7025	0.005046633
6582	3	3.13821	-0.005	25.6975	0.005045651
8403	3	3.139095	-0.005	25.6925	0.005044669
457	1	3.139857	-0.0075	25.685	0.005043197
6792	3	3.140151	-0.005	25.68	0.005042215
1419	1	3.141214	-0.0075	25.6725	0.005040742
8445	3	3.14168	-0.005	25.6675	0.00503976
9958	4	3.141944	-0.005	25.6625	0.005038779
1839	2	3.14214	0.0125	25.675	0.005041233
3485	3	3.142424	-0.005	25.67	0.005040251
7666	3	3.142487	-0.005	25.665	0.00503927
5062	3	3.142508	-0.005	25.66	0.005038288
3461	3	3.142892	-0.005	25.655	0.005037306
4935	3	3.143182	-0.005	25.65	0.005036324
3457	3	3.143225	-0.005	25.645	0.005035343
4053	3	3.145028	-0.005	25.64	0.005034361
8016	3	3.145177	-0.005	25.635	0.005033379
3936	3	3.146169	-0.005	25.63	0.005032397
5085	3	3.146306	-0.005	25.625	0.005031416
952	1	3.146436	0.015	25.64	0.005034361
2234	2	3.147061	-0.00625	25.63375	0.005033134
1672	1	3.148474	-0.0075	25.62625	0.005031661
7654	3	3.148663	-0.005	25.62125	0.005030679
8229	3	3.149312	-0.005	25.61625	0.005029698
6471	3	3.149403	-0.005	25.61125	0.005028716
8230	3	3.149902	0.01	25.62125	0.005030679

6640	3	3.150185	-0.005	25.61625	0.005029698
7645	3	3.15057	-0.005	25.61125	0.005028716
1744	1	3.150706	-0.0075	25.60375	0.005027243
3704	3	3.151908	-0.005	25.59875	0.005026262
1522	1	3.152179	-0.0075	25.59125	0.005024789
402	1	3.152344	-0.0075	25.58375	0.005023316
967	1	3.152374	-0.0075	25.57625	0.005021844
2261	2	3.15334	-0.00625	25.57	0.005020617
6665	3	3.153363	-0.005	25.565	0.005019635
4407	3	3.153684	-0.005	25.56	0.005018653
1273	1	3.155071	-0.0075	25.5525	0.00501718
24	1	3.155194	0.015	25.5675	0.005020126
8363	3	3.156651	-0.005	25.5625	0.005019144
1741	1	3.156792	0.015	25.5775	0.005022089
2775	2	3.157848	-0.00625	25.57125	0.005020862
7732	3	3.158028	-0.005	25.56625	0.00501988
4273	3	3.158452	-0.005	25.56125	0.005018898
856	1	3.158768	-0.0075	25.55375	0.005017426
1260	1	3.160185	-0.0075	25.54625	0.005015953
4835	3	3.160231	-0.005	25.54125	0.005014972
469	1	3.160275	-0.0075	25.53375	0.005013499
7065	3	3.160318	-0.005	25.52875	0.005012517
46	1	3.160747	-0.0075	25.52125	0.005011045
870	1	3.161995	-0.0075	25.51375	0.005009572
9078	4	3.162415	-0.005	25.50875	0.00500859
7102	3	3.162553	-0.005	25.50375	0.005007608
1461	1	3.163275	-0.0075	25.49625	0.005006136
9947	4	3.164007	-0.005	25.49125	0.005005154
2455	2	3.164117	-0.00625	25.485	0.005003927
1320	1	3.165245	-0.0075	25.4775	0.005002454
3420	3	3.165383	-0.005	25.4725	0.005001473
3604	3	3.16868	-0.005	25.4675	0.005000491
476	1	3.169035	-0.0075	25.46	0.004999018
1553	1	3.169053	-0.0075	25.4525	0.004997546
5251	3	3.170296	-0.005	25.4475	0.004996564
5886	3	3.171852	-0.005	25.4425	0.004995582
5296	3	3.172475	-0.005	25.4375	0.0049946
5474	3	3.172792	-0.005	25.4325	0.004993619
7154	3	3.173036	-0.005	25.4275	0.004992637
1551	1	3.173315	0.015	25.4425	0.004995582
4655	3	3.17381	-0.005	25.4375	0.0049946
3600	3	3.174077	-0.005	25.4325	0.004993619
5812	3	3.174732	-0.005	25.4275	0.004992637
4059	3	3.175043	-0.005	25.4225	0.004991655
3846	3	3.176266	-0.005	25.4175	0.004990673
4803	3	3.17654	-0.005	25.4125	0.004989692
954	1	3.177142	-0.0075	25.405	0.004988219
1117	1	3.177541	-0.0075	25.3975	0.004986747
7021	3	3.178234	-0.005	25.3925	0.004985765
7599	3	3.178372	-0.005	25.3875	0.004984783
310	1	3.178397	-0.0075	25.38	0.00498331
579	1	3.178556	-0.0075	25.3725	0.004981838

5308	3	3.180206	0.01	25.3825	0.004983801
1247	1	3.181095	-0.0075	25.375	0.004982329
2378	2	3.181387	-0.00625	25.36875	0.004981102
8970	4	3.183458	-0.005	25.36375	0.00498012
2799	2	3.183617	-0.00625	25.3575	0.004978893
424	1	3.184101	-0.0075	25.35	0.00497742
952	1	3.185743	-0.0075	25.3425	0.004975947
2437	2	3.186845	-0.00625	25.33625	0.00497472
399	1	3.186979	-0.0075	25.32875	0.004973248
7881	3	3.187439	0.01	25.33875	0.004975211
2921	3	3.18767	-0.005	25.33375	0.004974229
1957	2	3.188465	-0.00625	25.3275	0.004973002
2197	2	3.188687	-0.00625	25.32125	0.004971775
2086	2	3.189215	-0.00625	25.315	0.004970548
4199	3	3.190448	-0.005	25.31	0.004969566
1808	2	3.19064	-0.00625	25.30375	0.004968339
2967	3	3.190975	-0.005	25.29875	0.004967357
3599	3	3.191048	-0.005	25.29375	0.004966375
279	1	3.1914	-0.0075	25.28625	0.004964903
2083	2	3.191781	-0.00625	25.28	0.004963676
4296	3	3.192129	-0.005	25.275	0.004962694
11	1	3.192698	-0.0075	25.2675	0.004961221
7027	3	3.193491	-0.005	25.2625	0.00496024
184	1	3.193583	-0.0075	25.255	0.004958767
5546	3	3.193874	0.01	25.265	0.00496073
87	1	3.193924	-0.0075	25.2575	0.004959258
1081	1	3.193978	-0.0075	25.25	0.004957785
9868	4	3.194397	-0.005	25.245	0.004956803
9600	4	3.195625	-0.005	25.24	0.004955822
4080	3	3.196295	-0.005	25.235	0.00495484
4313	3	3.197178	-0.005	25.23	0.004953858
4285	3	3.197515	-0.005	25.225	0.004952876
5778	3	3.197626	-0.005	25.22	0.004951895
2270	2	3.19777	-0.00625	25.21375	0.004950668
3959	3	3.20092	-0.005	25.20875	0.004949686
5428	3	3.201733	-0.005	25.20375	0.004948704
7538	3	3.202471	-0.005	25.19875	0.004947722
7609	3	3.203083	-0.005	25.19375	0.004946741
2491	2	3.204795	-0.00625	25.1875	0.004945513
2254	2	3.205064	-0.00625	25.18125	0.004944286
893	1	3.205123	0.015	25.19625	0.004947231
6107	3	3.205988	0.01	25.20625	0.004949195
3181	3	3.206238	-0.005	25.20125	0.004948213
1402	1	3.207568	-0.0075	25.19375	0.004946741
5828	3	3.207656	-0.005	25.18875	0.004945759
1617	1	3.207691	-0.0075	25.18125	0.004944286
7253	3	3.207896	-0.005	25.17625	0.004943305
7090	3	3.20826	-0.005	25.17125	0.004942323
391	1	3.208686	0.015	25.18625	0.004945268
1918	2	3.208771	-0.00625	25.18	0.004944041
2761	2	3.209867	-0.00625	25.17375	0.004942814
8491	3	3.210192	-0.005	25.16875	0.004941832

8626	3	3.210901	-0.005	25.16375	0.00494085
1141	1	3.211289	-0.0075	25.15625	0.004939378
6622	3	3.212155	-0.005	25.15125	0.004938396
3177	3	3.212274	-0.005	25.14625	0.004937414
7920	3	3.212506	-0.005	25.14125	0.004936432
3809	3	3.212964	-0.005	25.13625	0.004935451
2965	3	3.213782	0.01	25.14625	0.004937414
7582	3	3.214865	-0.005	25.14125	0.004936432
7193	3	3.214951	-0.005	25.13625	0.004935451
5012	3	3.2158	-0.005	25.13125	0.004934469
1925	2	3.216142	-0.00625	25.125	0.004933242
5364	3	3.216376	0.01	25.135	0.004935205
1377	1	3.217819	-0.0075	25.1275	0.004933733
2312	2	3.218864	-0.00625	25.12125	0.004932505
5926	3	3.219312	-0.005	25.11625	0.004931524
3124	3	3.219469	0.01	25.12625	0.004933487
2884	2	3.22046	-0.00625	25.12	0.00493226
1885	2	3.221505	0.0125	25.1325	0.004934714
502	1	3.221573	-0.0075	25.125	0.004933242
1555	1	3.222671	-0.0075	25.1175	0.004931769
755	1	3.22378	0.015	25.1325	0.004934714
1449	1	3.224241	-0.0075	25.125	0.004933242
5097	3	3.22439	-0.005	25.12	0.00493226
2268	2	3.225543	-0.00625	25.11375	0.004931033
338	1	3.226349	-0.0075	25.10625	0.00492956
3	1	3.22674	-0.0075	25.09875	0.004928088
9584	4	3.226932	-0.005	25.09375	0.004927106
2462	2	3.227275	0.0125	25.10625	0.00492956
4295	3	3.228076	-0.005	25.10125	0.004928578
1429	1	3.228228	-0.0075	25.09375	0.004927106
1591	1	3.228639	-0.0075	25.08625	0.004925633
1169	1	3.229068	-0.0075	25.07875	0.004924161
5388	3	3.229156	-0.005	25.07375	0.004923179
4825	3	3.230763	-0.005	25.06875	0.004922197
250	1	3.23154	0.015	25.08375	0.004925142
6798	3	3.231901	-0.005	25.07875	0.004924161
2424	2	3.231948	-0.00625	25.0725	0.004922933
4721	3	3.232172	0.01	25.0825	0.004924897
3998	3	3.232343	-0.005	25.0775	0.004923915
2445	2	3.232839	0.0125	25.09	0.00492637
7523	3	3.233918	-0.005	25.085	0.004925388
2571	2	3.23396	-0.00625	25.07875	0.004924161
7037	3	3.234099	-0.005	25.07375	0.004923179
6473	3	3.234153	-0.005	25.06875	0.004922197
7418	3	3.23429	0.01	25.07875	0.004924161
294	1	3.234914	-0.0075	25.07125	0.004922688
2262	2	3.235219	-0.00625	25.065	0.004921461
1746	1	3.237465	-0.0075	25.0575	0.004919988
8392	3	3.238389	0.01	25.0675	0.004921952
1655	1	3.238791	-0.0075	25.06	0.004920479
1891	2	3.239697	-0.00625	25.05375	0.004919252
1301	1	3.24055	-0.0075	25.04625	0.004917779

5058	3	3.241675	-0.005	25.04125	0.004916798
236	1	3.241785	-0.0075	25.03375	0.004915325
5700	3	3.242195	0.01	25.04375	0.004917288
1466	1	3.242727	-0.0075	25.03625	0.004915816
7599	3	3.242843	-0.005	25.03125	0.004914834
3577	3	3.244011	-0.005	25.02625	0.004913852
1799	2	3.244352	-0.00625	25.02	0.004912625
1150	1	3.245194	-0.0075	25.0125	0.004911153
2678	2	3.245555	-0.00625	25.00625	0.004909925
397	1	3.245774	-0.0075	24.99875	0.004908453
6912	3	3.246118	-0.005	24.99375	0.004907471
49	1	3.246932	-0.0075	24.98625	0.004905998
536	1	3.247198	0.015	25.00125	0.004908944
2743	2	3.248375	-0.00625	24.995	0.004907716
5309	3	3.248799	0.01	25.005	0.00490968
9904	4	3.249719	-0.005	25	0.004908698
1324	1	3.250173	-0.0075	24.9925	0.004907226
6544	3	3.250316	-0.005	24.9875	0.004906244
6720	3	3.251169	-0.005	24.9825	0.004905262
9926	4	3.25232	-0.005	24.9775	0.00490428
6031	3	3.252907	-0.005	24.9725	0.004903299
8	1	3.253164	-0.0075	24.965	0.004901826
1455	1	3.25445	-0.0075	24.9575	0.004900353
7481	3	3.254936	0.01	24.9675	0.004902317
7030	3	3.255638	-0.005	24.9625	0.004901335
731	1	3.256328	-0.0075	24.955	0.004899863
8016	3	3.256683	-0.005	24.95	0.004898881
7857	3	3.257804	-0.005	24.945	0.004897899
220	1	3.258884	-0.0075	24.9375	0.004896426
7480	3	3.259651	-0.005	24.9325	0.004895445
7272	3	3.259939	0.01	24.9425	0.004897408
2499	2	3.260084	-0.00625	24.93625	0.004896181
2452	2	3.260219	-0.00625	24.93	0.004894954
969	1	3.26055	0.015	24.945	0.004897899
2065	2	3.260794	-0.00625	24.93875	0.004896672
1283	1	3.260945	-0.0075	24.93125	0.004895199
4569	3	3.262074	0.01	24.94125	0.004897163
6503	3	3.26372	-0.005	24.93625	0.004896181
8280	3	3.263806	-0.005	24.93125	0.004895199
3934	3	3.264195	0.01	24.94125	0.004897163
1205	1	3.264617	-0.0075	24.93375	0.00489569
4851	3	3.264665	-0.005	24.92875	0.004894708
1933	2	3.265305	-0.00625	24.9225	0.004893481
6517	3	3.265386	-0.005	24.9175	0.0048925
6094	3	3.265842	-0.005	24.9125	0.004891518
8908	4	3.266662	-0.005	24.9075	0.004890536
5811	3	3.266778	-0.005	24.9025	0.004889554
55	1	3.267037	0.015	24.9175	0.0048925
4948	3	3.267165	-0.005	24.9125	0.004891518
674	1	3.267882	-0.0075	24.905	0.004890045
9584	4	3.269139	-0.005	24.9	0.004889063
5188	3	3.270888	-0.005	24.895	0.004888082

9521	4	3.27205	0.01	24.905	0.004890045
953	1	3.272704	-0.0075	24.8975	0.004888573
8910	4	3.275869	-0.005	24.8925	0.004887591
1314	1	3.277029	-0.0075	24.885	0.004886118
4531	3	3.277334	-0.005	24.88	0.004885136
1531	1	3.277455	0.015	24.895	0.004888082
2430	2	3.277669	0.0125	24.9075	0.004890536
245	1	3.278158	-0.0075	24.9	0.004889063
4494	3	3.279433	0.01	24.91	0.004891027
3500	3	3.279652	-0.005	24.905	0.004890045
1409	1	3.280105	-0.0075	24.8975	0.004888573
1156	1	3.280496	-0.0075	24.89	0.0048871
2807	2	3.280613	-0.00625	24.88375	0.004885873
3796	3	3.281463	-0.005	24.87875	0.004884891
5232	3	3.281629	-0.005	24.87375	0.004883909
3264	3	3.281788	-0.005	24.86875	0.004882928
5123	3	3.283361	-0.005	24.86375	0.004881946
3760	3	3.28338	-0.005	24.85875	0.004880964
2995	3	3.283914	-0.005	24.85375	0.004879982
8414	3	3.284326	-0.005	24.84875	0.004879001
6686	3	3.285146	-0.005	24.84375	0.004878019
5563	3	3.285462	0.01	24.85375	0.004879982
5535	3	3.285688	-0.005	24.84875	0.004879001
2122	2	3.287231	-0.00625	24.8425	0.004877773
2112	2	3.288084	-0.00625	24.83625	0.004876546
5404	3	3.288529	-0.005	24.83125	0.004875565
1315	1	3.289863	-0.0075	24.82375	0.004874092
915	1	3.290574	-0.0075	24.81625	0.004872619
3742	3	3.290734	-0.005	24.81125	0.004871638
3382	3	3.291244	-0.005	24.80625	0.004870656
5855	3	3.291632	-0.005	24.80125	0.004869674
9210	4	3.29212	-0.005	24.79625	0.004868692
1126	1	3.292567	-0.0075	24.78875	0.00486722
2029	2	3.292644	-0.00625	24.7825	0.004865993
868	1	3.29315	0.015	24.7975	0.004868938
167	1	3.29333	-0.0075	24.79	0.004867465
446	1	3.293438	-0.0075	24.7825	0.004865993
7440	3	3.293689	-0.005	24.7775	0.004865011
9934	4	3.29374	-0.005	24.7725	0.004864029
5678	3	3.293953	-0.005	24.7675	0.004863047
5645	3	3.294577	-0.005	24.7625	0.004862066
8355	3	3.295789	-0.005	24.7575	0.004861084
7927	3	3.295893	-0.005	24.7525	0.004860102
652	1	3.296419	-0.0075	24.745	0.004858629
7190	3	3.296853	-0.005	24.74	0.004857648
888	1	3.297381	-0.0075	24.7325	0.004856175
162	1	3.297417	-0.0075	24.725	0.004854703
3021	3	3.298254	-0.005	24.72	0.004853721
3135	3	3.298661	-0.005	24.715	0.004852739
2897	2	3.299837	-0.00625	24.70875	0.004851512
780	1	3.299877	-0.0075	24.70125	0.004850039
8518	3	3.300291	-0.005	24.69625	0.004849058

354	1	3.301083	-0.0075	24.68875	0.004847585
3218	3	3.302242	-0.005	24.68375	0.004846603
7817	3	3.302991	0.01	24.69375	0.004848567
1011	1	3.303613	0.015	24.70875	0.004851512
7747	3	3.304442	-0.005	24.70375	0.00485053
3370	3	3.305061	-0.005	24.69875	0.004849548
274	1	3.305122	-0.0075	24.69125	0.004848076
434	1	3.305181	-0.0075	24.68375	0.004846603
5364	3	3.306102	-0.005	24.67875	0.004845621
3198	3	3.307467	0.01	24.68875	0.004847585
2568	2	3.307476	0.0125	24.70125	0.004850039
4769	3	3.307876	0.01	24.71125	0.004852003
6186	3	3.307986	-0.005	24.70625	0.004851021
4223	3	3.308781	-0.005	24.70125	0.004850039
4280	3	3.309295	-0.005	24.69625	0.004849058
4769	3	3.309495	-0.005	24.69125	0.004848076
4340	3	3.310373	-0.005	24.68625	0.004847094
1844	2	3.310695	-0.00625	24.68	0.004845867
451	1	3.310836	-0.0075	24.6725	0.004844394
7881	3	3.310979	-0.005	24.6675	0.004843413
2871	2	3.312551	-0.00625	24.66125	0.004842185
6794	3	3.312658	-0.005	24.65625	0.004841204
3133	3	3.313637	-0.005	24.65125	0.004840222
6696	3	3.316284	-0.005	24.64625	0.00483924
1459	1	3.316566	-0.0075	24.63875	0.004837768
1896	2	3.316699	-0.00625	24.6325	0.00483654
707	1	3.316966	-0.0075	24.625	0.004835068
1550	1	3.31697	-0.0075	24.6175	0.004833595
8203	3	3.317257	-0.005	24.6125	0.004832613
2984	3	3.317447	0.01	24.6225	0.004834577
160	1	3.317867	-0.0075	24.615	0.004833104
7265	3	3.318081	0.01	24.625	0.004835068
8387	3	3.318384	-0.005	24.62	0.004834086
2828	2	3.320176	0.0125	24.6325	0.00483654
1538	1	3.320336	-0.0075	24.625	0.004835068
3307	3	3.320525	-0.005	24.62	0.004834086
1342	1	3.320532	-0.0075	24.6125	0.004832613
9716	4	3.32073	-0.005	24.6075	0.004831632
4356	3	3.32082	-0.005	24.6025	0.00483065
1040	1	3.321323	-0.0075	24.595	0.004829177
6354	3	3.321727	-0.005	24.59	0.004828196
3666	3	3.323544	-0.005	24.585	0.004827214
2896	2	3.325053	-0.00625	24.57875	0.004825987
414	1	3.325064	-0.0075	24.57125	0.004824514
1031	1	3.326682	-0.0075	24.56375	0.004823041
9278	4	3.327044	-0.005	24.55875	0.00482206
2965	3	3.327318	-0.005	24.55375	0.004821078
1975	2	3.327359	-0.00625	24.5475	0.004819851
4194	3	3.327481	-0.005	24.5425	0.004818869
6532	3	3.328077	-0.005	24.5375	0.004817887
2544	2	3.328957	-0.00625	24.53125	0.00481666
5231	3	3.329259	-0.005	24.52625	0.004815678

5171	3	3.33018	-0.005	24.52125	0.004814697
2828	2	3.330461	-0.00625	24.515	0.004813469
2236	2	3.33084	-0.00625	24.50875	0.004812242
2095	2	3.33146	-0.00625	24.5025	0.004811015
4000	3	3.331866	-0.005	24.4975	0.004810033
3116	3	3.332106	-0.005	24.4925	0.004809052
5736	3	3.333948	-0.005	24.4875	0.00480807
4915	3	3.334165	-0.005	24.4825	0.004807088
290	1	3.334314	-0.0075	24.475	0.004805616
6990	3	3.334612	-0.005	24.47	0.004804634
7327	3	3.335258	-0.005	24.465	0.004803652
7645	3	3.336276	-0.005	24.46	0.00480267
4325	3	3.336308	-0.005	24.455	0.004801689
4841	3	3.336443	-0.005	24.45	0.004800707
857	1	3.33648	-0.0075	24.4425	0.004799234
1701	1	3.338238	-0.0075	24.435	0.004797762
4045	3	3.338778	-0.005	24.43	0.00479678
3124	3	3.340739	-0.005	24.425	0.004795798
7104	3	3.345214	-0.005	24.42	0.004794816
2445	2	3.345694	-0.00625	24.41375	0.004793589
4873	3	3.346726	-0.005	24.40875	0.004792608
6056	3	3.347148	-0.005	24.40375	0.004791626
2487	2	3.349629	-0.00625	24.3975	0.004790399
5717	3	3.349646	-0.005	24.3925	0.004789417
5803	3	3.353215	-0.005	24.3875	0.004788435
5424	3	3.353353	-0.005	24.3825	0.004787453
5230	3	3.354095	-0.005	24.3775	0.004786472
5308	3	3.354221	-0.005	24.3725	0.00478549
2640	2	3.354416	-0.00625	24.36625	0.004784263
691	1	3.354522	-0.0075	24.35875	0.00478279
9558	4	3.355144	-0.005	24.35375	0.004781808
2836	2	3.355518	0.0125	24.36625	0.004784263
70	1	3.355793	-0.0075	24.35875	0.00478279
4436	3	3.35633	-0.005	24.35375	0.004781808
6551	3	3.358461	-0.005	24.34875	0.004780827
2682	2	3.358647	-0.00625	24.3425	0.004779599
2782	2	3.358871	-0.00625	24.33625	0.004778372
5586	3	3.360161	-0.005	24.33125	0.004777391
6046	3	3.360592	-0.005	24.32625	0.004776409
264	1	3.360724	-0.0075	24.31875	0.004774936
4019	3	3.361217	-0.005	24.31375	0.004773954
7687	3	3.364574	-0.005	24.30875	0.004772973
3995	3	3.364684	-0.005	24.30375	0.004771991
2940	3	3.365332	-0.005	24.29875	0.004771009
2984	3	3.368297	-0.005	24.29375	0.004770027
1013	1	3.368474	-0.0075	24.28625	0.004768555
4742	3	3.369151	-0.005	24.28125	0.004767573
5107	3	3.369615	-0.005	24.27625	0.004766591
2430	2	3.3703	-0.00625	24.27	0.004765364
7307	3	3.370612	-0.005	24.265	0.004764382
1657	1	3.370643	-0.0075	24.2575	0.00476291
8607	3	3.371559	-0.005	24.2525	0.004761928

1056	1	3.372499	-0.0075	24.245	0.004760456
2674	2	3.372792	0.0125	24.2575	0.00476291
6881	3	3.373	-0.005	24.2525	0.004761928
4790	3	3.373112	-0.005	24.2475	0.004760946
2672	2	3.374099	-0.00625	24.24125	0.004759719
8497	3	3.375325	-0.005	24.23625	0.004758737
7053	3	3.375916	-0.005	24.23125	0.004757756
1828	2	3.377269	-0.00625	24.225	0.004756529
302	1	3.37777	-0.0075	24.2175	0.004755056
2331	2	3.378054	-0.00625	24.21125	0.004753829
8043	3	3.378349	-0.005	24.20625	0.004752847
8384	3	3.378395	-0.005	24.20125	0.004751865
6922	3	3.378774	-0.005	24.19625	0.004750884
2645	2	3.378965	-0.00625	24.19	0.004749656
817	1	3.379464	-0.0075	24.1825	0.004748184
7259	3	3.38023	-0.005	24.1775	0.004747202
592	1	3.381416	-0.0075	24.17	0.004745729
488	1	3.38169	0.015	24.185	0.004748675
2006	2	3.381978	0.0125	24.1975	0.004751129
979	1	3.382248	-0.0075	24.19	0.004749656
1093	1	3.383298	0.015	24.205	0.004752602
7190	3	3.38381	-0.005	24.2	0.00475162
426	1	3.384317	-0.0075	24.1925	0.004750147
4953	3	3.384509	0.01	24.2025	0.004752111
8306	3	3.384733	-0.005	24.1975	0.004751129
1300	1	3.384899	-0.0075	24.19	0.004749656
553	1	3.384929	-0.0075	24.1825	0.004748184
8070	3	3.384983	-0.005	24.1775	0.004747202
9362	4	3.385282	0.01	24.1875	0.004749166
2200	2	3.385404	-0.00625	24.18125	0.004747938
6552	3	3.385961	-0.005	24.17625	0.004746957
8929	4	3.386636	-0.005	24.17125	0.004745975
5460	3	3.387135	0.01	24.18125	0.004747938
2229	2	3.387283	-0.00625	24.175	0.004746711
901	1	3.387454	-0.0075	24.1675	0.004745239
6024	3	3.387784	-0.005	24.1625	0.004744257
788	1	3.388039	-0.0075	24.155	0.004742784
8480	3	3.389908	-0.005	24.15	0.004741802
1722	1	3.390683	-0.0075	24.1425	0.00474033
7897	3	3.392118	-0.005	24.1375	0.004739348
2596	2	3.392386	-0.00625	24.13125	0.004738121
781	1	3.392666	-0.0075	24.12375	0.004736648
5563	3	3.393047	-0.005	24.11875	0.004735667
940	1	3.393072	-0.0075	24.11125	0.004734194
1093	1	3.393563	-0.0075	24.10375	0.004732721
2569	2	3.394649	-0.00625	24.0975	0.004731494
2569	2	3.395196	-0.00625	24.09125	0.004730267
9441	4	3.395583	-0.005	24.08625	0.004729285
1667	1	3.395643	-0.0075	24.07875	0.004727813
4887	3	3.395933	-0.005	24.07375	0.004726831
5292	3	3.397375	-0.005	24.06875	0.004725849
1047	1	3.397759	-0.0075	24.06125	0.004724377

8247	3	3.398169	-0.005	24.05625	0.004723395
8025	3	3.398336	-0.005	24.05125	0.004722413
2447	2	3.400223	-0.00625	24.045	0.004721186
852	1	3.401055	-0.0075	24.0375	0.004719713
1373	1	3.401251	-0.0075	24.03	0.004718241
4960	3	3.401733	-0.005	24.025	0.004717259
7025	3	3.401783	-0.005	24.02	0.004716277
3066	3	3.402709	0.01	24.03	0.004718241
996	1	3.40271	-0.0075	24.0225	0.004716768
39	1	3.403042	-0.0075	24.015	0.004715296
7331	3	3.40396	-0.005	24.01	0.004714314
1567	1	3.404382	-0.0075	24.0025	0.004712841
5482	3	3.404629	-0.005	23.9975	0.004711859
1029	1	3.405221	-0.0075	23.99	0.004710387
6864	3	3.406593	-0.005	23.985	0.004709405
5297	3	3.4072	0.01	23.995	0.004711369
6311	3	3.407677	-0.005	23.99	0.004710387
2545	2	3.409035	-0.00625	23.98375	0.00470916
179	1	3.40975	0.015	23.99875	0.004712105
6908	3	3.410482	0.01	24.00875	0.004714068
1818	2	3.410905	-0.00625	24.0025	0.004712841
2368	2	3.412084	0.0125	24.015	0.004715296
1774	2	3.412804	-0.00625	24.00875	0.004714068
5838	3	3.416364	-0.005	24.00375	0.004713087
9062	4	3.417364	-0.005	23.99875	0.004712105
9725	4	3.41832	0.01	24.00875	0.004714068
5846	3	3.418675	-0.005	24.00375	0.004713087
6460	3	3.418817	0.01	24.01375	0.00471505
833	1	3.419515	-0.0075	24.00625	0.004713577
3694	3	3.420421	-0.005	24.00125	0.004712596
2831	2	3.420768	-0.00625	23.995	0.004711369
5460	3	3.421163	-0.005	23.99	0.004710387
4750	3	3.422464	-0.005	23.985	0.004709405
7976	3	3.423422	-0.005	23.98	0.004708423
252	1	3.423766	-0.0075	23.9725	0.004706951
7128	3	3.423874	-0.005	23.9675	0.004705969
8013	3	3.424499	-0.005	23.9625	0.004704987
6198	3	3.424648	-0.005	23.9575	0.004704005
6368	3	3.425272	-0.005	23.9525	0.004703024
715	1	3.425781	-0.0075	23.945	0.004701551
7692	3	3.42615	-0.005	23.94	0.004700569
3641	3	3.427226	-0.005	23.935	0.004699588
201	1	3.428238	-0.0075	23.9275	0.004698115
854	1	3.428586	-0.0075	23.92	0.004696642
7374	3	3.429386	-0.005	23.915	0.004695661
8747	3	3.429635	0.01	23.925	0.004697624
1416	1	3.429654	-0.0075	23.9175	0.004696152
747	1	3.429817	0.015	23.9325	0.004699097
5428	3	3.429925	-0.005	23.9275	0.004698115
1612	1	3.432392	-0.0075	23.92	0.004696642
2647	2	3.43266	0.0125	23.9325	0.004699097
760	1	3.432748	-0.0075	23.925	0.004697624

24	1	3.433266	-0.0075	23.9175	0.004696152
4414	3	3.433437	-0.005	23.9125	0.00469517
5515	3	3.434703	0.01	23.9225	0.004697133
2454	2	3.435306	-0.00625	23.91625	0.004695906
8425	3	3.435391	-0.005	23.91125	0.004694924
5579	3	3.435686	-0.005	23.90625	0.004693943
8640	3	3.437168	-0.005	23.90125	0.004692961
1265	1	3.437699	-0.0075	23.89375	0.004691488
4069	3	3.438307	-0.005	23.88875	0.004690507
1741	1	3.438448	-0.0075	23.88125	0.004689034
9436	4	3.438965	-0.005	23.87625	0.004688052
800	1	3.439273	-0.0075	23.86875	0.00468658
318	1	3.439477	-0.0075	23.86125	0.004685107
5210	3	3.439579	0.01	23.87125	0.00468707
8042	3	3.439692	-0.005	23.86625	0.004686089
540	1	3.44004	-0.0075	23.85875	0.004684616
8529	3	3.440945	-0.005	23.85375	0.004683634
6305	3	3.441008	-0.005	23.84875	0.004682653
695	1	3.441769	-0.0075	23.84125	0.00468118
1257	1	3.442477	-0.0075	23.83375	0.004679707
2289	2	3.442736	-0.00625	23.8275	0.00467848
3565	3	3.443549	-0.005	23.8225	0.004677499
1220	1	3.443812	-0.0075	23.815	0.004676026
3101	3	3.444244	-0.005	23.81	0.004675044
4611	3	3.444981	-0.005	23.805	0.004674062
1531	1	3.445685	-0.0075	23.7975	0.00467259
2732	2	3.445845	-0.00625	23.79125	0.004671363
8958	4	3.445923	-0.005	23.78625	0.004670381
373	1	3.446574	-0.0075	23.77875	0.004668908
8219	3	3.447959	-0.005	23.77375	0.004667927
7239	3	3.448045	0.01	23.78375	0.00466989
2411	2	3.448954	-0.00625	23.7775	0.004668663
1810	2	3.449077	-0.00625	23.77125	0.004667436
6484	3	3.449157	-0.005	23.76625	0.004666454
2754	2	3.449562	-0.00625	23.76	0.004665227
1536	1	3.450636	-0.0075	23.7525	0.004663754
1513	1	3.450733	-0.0075	23.745	0.004662282
2103	2	3.451759	-0.00625	23.73875	0.004661054
2778	2	3.453398	-0.00625	23.7325	0.004659827
2761	2	3.454632	-0.00625	23.72625	0.0046586
632	1	3.455621	-0.0075	23.71875	0.004657127
523	1	3.457215	-0.0075	23.71125	0.004655655
3706	3	3.457644	-0.005	23.70625	0.004654673
4620	3	3.458729	-0.005	23.70125	0.004653691
7977	3	3.459165	-0.005	23.69625	0.00465271
2040	2	3.459673	-0.00625	23.69	0.004651482
776	1	3.460115	-0.0075	23.6825	0.00465001
2487	2	3.46166	-0.00625	23.67625	0.004648783
7137	3	3.463081	-0.005	23.67125	0.004647801
2489	2	3.464599	0.0125	23.68375	0.004650255
7022	3	3.465163	-0.005	23.67875	0.004649274
8645	3	3.468418	-0.005	23.67375	0.004648292

5440	3	3.470011	-0.005	23.66875	0.00464731
2030	2	3.472264	-0.00625	23.6625	0.004646083
4939	3	3.473013	-0.005	23.6575	0.004645101
3529	3	3.473851	-0.005	23.6525	0.004644119
262	1	3.473862	-0.0075	23.645	0.004642647
8713	3	3.474043	0.01	23.655	0.00464461
3161	3	3.475409	-0.005	23.65	0.004643629
4910	3	3.475697	-0.005	23.645	0.004642647
6438	3	3.475923	-0.005	23.64	0.004641665
8120	3	3.476161	-0.005	23.635	0.004640683
4649	3	3.477198	-0.005	23.63	0.004639702
444	1	3.4778	-0.0075	23.6225	0.004638229
7881	3	3.478353	-0.005	23.6175	0.004637247
4843	3	3.478722	0.01	23.6275	0.004639211
543	1	3.478775	-0.0075	23.62	0.004637738
2542	2	3.478902	-0.00625	23.61375	0.004636511
1155	1	3.478955	-0.0075	23.60625	0.004635038
1267	1	3.481397	-0.0075	23.59875	0.004633566
6821	3	3.481722	-0.005	23.59375	0.004632584
5293	3	3.482035	-0.005	23.58875	0.004631602
1544	1	3.482925	-0.0075	23.58125	0.00463013
5002	3	3.483468	-0.005	23.57625	0.004629148
3180	3	3.484005	-0.005	23.57125	0.004628166
1720	1	3.484203	-0.0075	23.56375	0.004626694
1801	2	3.484459	-0.00625	23.5575	0.004625466
1924	2	3.484832	-0.00625	23.55125	0.004624239
320	1	3.48486	-0.0075	23.54375	0.004622767
7693	3	3.485113	-0.005	23.53875	0.004621785
8904	4	3.485203	-0.005	23.53375	0.004620803
2849	2	3.485448	-0.00625	23.5275	0.004619576
2077	2	3.485677	0.0125	23.54	0.00462203
4	1	3.486175	-0.0075	23.5325	0.004620558
4622	3	3.486747	-0.005	23.5275	0.004619576
428	1	3.488306	-0.0075	23.52	0.004618103
7074	3	3.488378	-0.005	23.515	0.004617122
2323	2	3.488725	-0.00625	23.50875	0.004615894
2409	2	3.488936	-0.00625	23.5025	0.004614667
6685	3	3.491417	-0.005	23.4975	0.004613685
2075	2	3.492119	-0.00625	23.49125	0.004612458
5508	3	3.492722	-0.005	23.48625	0.004611477
5947	3	3.493595	-0.005	23.48125	0.004610495
4789	3	3.493823	-0.005	23.47625	0.004609513
1603	1	3.494904	-0.0075	23.46875	0.00460804
3726	3	3.495536	-0.005	23.46375	0.004607059
1663	1	3.495557	-0.0075	23.45625	0.004605586
4675	3	3.497458	-0.005	23.45125	0.004604604
4240	3	3.498042	-0.005	23.44625	0.004603623
2031	2	3.498073	0.0125	23.45875	0.004606077
2783	2	3.498131	-0.00625	23.4525	0.00460485
1224	1	3.498982	-0.0075	23.445	0.004603377
7972	3	3.50082	-0.005	23.44	0.004602395
578	1	3.502937	-0.0075	23.4325	0.004600923

2337	2	3.503651	-0.00625	23.42625	0.004599696
5753	3	3.504007	-0.005	23.42125	0.004598714
7127	3	3.504299	-0.005	23.41625	0.004597732
3285	3	3.504636	-0.005	23.41125	0.00459675
3526	3	3.505754	-0.005	23.40625	0.004595769
3241	3	3.506134	-0.005	23.40125	0.004594787
1507	1	3.506448	-0.0075	23.39375	0.004593314
1121	1	3.506561	-0.0075	23.38625	0.004591842
4517	3	3.506953	-0.005	23.38125	0.00459086
1885	2	3.507497	-0.00625	23.375	0.004589633
1180	1	3.507545	-0.0075	23.3675	0.00458816
2560	2	3.508078	-0.00625	23.36125	0.004586933
1998	2	3.508672	-0.00625	23.355	0.004585706
3831	3	3.510093	-0.005	23.35	0.004584724
5227	3	3.51048	-0.005	23.345	0.004583742
1271	1	3.510724	-0.0075	23.3375	0.00458227
9532	4	3.513212	-0.005	23.3325	0.004581288
5501	3	3.513852	-0.005	23.3275	0.004580306
2650	2	3.513965	-0.00625	23.32125	0.004579079
317	1	3.514002	-0.0075	23.31375	0.004577607
8619	3	3.514353	-0.005	23.30875	0.004576625
6686	3	3.514738	-0.005	23.30375	0.004575643
2856	2	3.515486	0.0125	23.31625	0.004578097
8325	3	3.51624	-0.005	23.31125	0.004577116
7827	3	3.517819	-0.005	23.30625	0.004576134
6396	3	3.517901	-0.005	23.30125	0.004575152
3081	3	3.518527	-0.005	23.29625	0.00457417
7145	3	3.519009	-0.005	23.29125	0.004573189
103	1	3.519664	-0.0075	23.28375	0.004571716
8251	3	3.520038	-0.005	23.27875	0.004570734
2222	2	3.520403	0.0125	23.29125	0.004573189
1932	2	3.521251	-0.00625	23.285	0.004571962
1435	1	3.521342	-0.0075	23.2775	0.004570489
7142	3	3.521694	-0.005	23.2725	0.004569507
3506	3	3.52201	0.01	23.2825	0.004571471
1631	1	3.522798	-0.0075	23.275	0.004569998
7964	3	3.524865	-0.005	23.27	0.004569016
2279	2	3.525178	-0.00625	23.26375	0.004567789
4069	3	3.525467	-0.005	23.25875	0.004566807
7634	3	3.525642	-0.005	23.25375	0.004565826
3322	3	3.525907	-0.005	23.24875	0.004564844
473	1	3.52597	-0.0075	23.24125	0.004563371
1614	1	3.526335	-0.0075	23.23375	0.004561899
147	1	3.527754	-0.0075	23.22625	0.004560426
9723	4	3.527874	-0.005	23.22125	0.004559444
9402	4	3.529161	-0.005	23.21625	0.004558463
5117	3	3.529232	0.01	23.22625	0.004560426
6278	3	3.530417	-0.005	23.22125	0.004559444
9807	4	3.531288	-0.005	23.21625	0.004558463
357	1	3.532204	-0.0075	23.20875	0.00455699
735	1	3.53276	0.015	23.22375	0.004559935
2416	2	3.53387	-0.00625	23.2175	0.004558708

4705	3	3.534701	-0.005	23.2125	0.004557726
6674	3	3.535446	-0.005	23.2075	0.004556745
2269	2	3.535498	-0.00625	23.20125	0.004555517
2876	2	3.536472	0.0125	23.21375	0.004557972
6018	3	3.537324	-0.005	23.20875	0.00455699
5748	3	3.537346	-0.005	23.20375	0.004556008
4917	3	3.539413	0.01	23.21375	0.004557972
2371	2	3.539559	-0.00625	23.2075	0.004556745
697	1	3.539985	-0.0075	23.2	0.004555272
3165	3	3.541895	-0.005	23.195	0.00455429
4942	3	3.542042	-0.005	23.19	0.004553308
9815	4	3.542822	-0.005	23.185	0.004552327
5368	3	3.543502	-0.005	23.18	0.004551345
773	1	3.544636	-0.0075	23.1725	0.004549872
5343	3	3.544794	-0.005	23.1675	0.004548891
94	1	3.546165	-0.0075	23.16	0.004547418
2360	2	3.546305	-0.00625	23.15375	0.004546191
2992	3	3.546983	-0.005	23.14875	0.004545209
471	1	3.547426	-0.0075	23.14125	0.004543737
2643	2	3.547588	-0.00625	23.135	0.004542509
8564	3	3.549199	-0.005	23.13	0.004541528
6070	3	3.550161	-0.005	23.125	0.004540546
7218	3	3.550328	-0.005	23.12	0.004539564
6710	3	3.551015	-0.005	23.115	0.004538582
8575	3	3.551329	-0.005	23.11	0.004537601
2563	2	3.551548	0.0125	23.1225	0.004540055
8747	3	3.551933	-0.005	23.1175	0.004539073
4705	3	3.551984	-0.005	23.1125	0.004538091
4575	3	3.552159	-0.005	23.1075	0.00453711
7796	3	3.554981	-0.005	23.1025	0.004536128
176	1	3.55529	-0.0075	23.095	0.004534655
3427	3	3.556147	-0.005	23.09	0.004533674
1958	2	3.556649	-0.00625	23.08375	0.004532446
2492	2	3.556844	-0.00625	23.0775	0.004531219
735	1	3.55871	-0.0075	23.07	0.004529747
3973	3	3.559057	-0.005	23.065	0.004528765
1542	1	3.55996	-0.0075	23.0575	0.004527292
6298	3	3.560285	0.01	23.0675	0.004529256
2132	2	3.560669	-0.00625	23.06125	0.004528029
953	1	3.560846	-0.0075	23.05375	0.004526556
3731	3	3.56162	0.01	23.06375	0.00452852
4721	3	3.56181	-0.005	23.05875	0.004527538
349	1	3.563619	0.015	23.07375	0.004530483
1839	2	3.565132	-0.00625	23.0675	0.004529256
6699	3	3.565332	-0.005	23.0625	0.004528274
2393	2	3.566539	0.0125	23.075	0.004530728
2784	2	3.567012	-0.00625	23.06875	0.004529501
788	1	3.567503	-0.0075	23.06125	0.004528029
6556	3	3.568051	-0.005	23.05625	0.004527047
1154	1	3.568698	0.015	23.07125	0.004529992
1839	2	3.568971	-0.00625	23.065	0.004528765
2913	3	3.569387	-0.005	23.06	0.004527783

2942	3	3.571204	-0.005	23.055	0.004526801
570	1	3.571703	0.015	23.07	0.004529747
1183	1	3.572641	-0.0075	23.0625	0.004528274
6545	3	3.572837	-0.005	23.0575	0.004527292
1105	1	3.573389	-0.0075	23.05	0.00452582
3321	3	3.573462	-0.005	23.045	0.004524838
6268	3	3.577327	-0.005	23.04	0.004523856
2740	2	3.577759	0.0125	23.0525	0.004526311
9527	4	3.578372	0.01	23.0625	0.004528274
4976	3	3.580098	-0.005	23.0575	0.004527292
8310	3	3.580725	-0.005	23.0525	0.004526311
981	1	3.581236	0.015	23.0675	0.004529256
2690	2	3.582532	-0.00625	23.06125	0.004528029
2141	2	3.58508	-0.00625	23.055	0.004526801
2145	2	3.585283	-0.00625	23.04875	0.004525574
8986	4	3.586027	0.01	23.05875	0.004527538
8330	3	3.587475	-0.005	23.05375	0.004526556
6146	3	3.588126	-0.005	23.04875	0.004525574
7435	3	3.588822	-0.005	23.04375	0.004524593
5778	3	3.589574	-0.005	23.03875	0.004523611
6860	3	3.589722	-0.005	23.03375	0.004522629
976	1	3.590796	0.015	23.04875	0.004525574
9463	4	3.590974	-0.005	23.04375	0.004524593
8491	3	3.59177	-0.005	23.03875	0.004523611
2966	3	3.592742	-0.005	23.03375	0.004522629
1423	1	3.592919	0.015	23.04875	0.004525574
8579	3	3.593627	-0.005	23.04375	0.004524593
1597	1	3.59383	-0.0075	23.03625	0.00452312
4917	3	3.5943	-0.005	23.03125	0.004522138
7763	3	3.594526	-0.005	23.02625	0.004521156
7614	3	3.594527	-0.005	23.02125	0.004520175
3875	3	3.594705	-0.005	23.01625	0.004519193
6912	3	3.594761	-0.005	23.01125	0.004518211
2315	2	3.596573	-0.00625	23.005	0.004516984
1062	1	3.597096	0.015	23.02	0.004519929
1003	1	3.598357	-0.0075	23.0125	0.004518457
1885	2	3.599097	-0.00625	23.00625	0.00451723
3506	3	3.599522	-0.005	23.00125	0.004516248
9976	4	3.59975	-0.005	22.99625	0.004515266
8413	3	3.600516	-0.005	22.99125	0.004514284
6889	3	3.601269	-0.005	22.98625	0.004513303
4072	3	3.60133	-0.005	22.98125	0.004512321
2406	2	3.601505	-0.00625	22.975	0.004511094
1926	2	3.602015	0.0125	22.9875	0.004513548
5892	3	3.603009	-0.005	22.9825	0.004512566
5791	3	3.603089	-0.005	22.9775	0.004511585
4228	3	3.603518	0.01	22.9875	0.004513548
3232	3	3.603592	0.01	22.9975	0.004515511
359	1	3.603786	-0.0075	22.99	0.004514039
3425	3	3.60434	-0.005	22.985	0.004513057
2728	2	3.604932	-0.00625	22.97875	0.00451183
8691	3	3.60495	-0.005	22.97375	0.004510848

2486	2	3.606761	-0.00625	22.9675	0.004509621
2134	2	3.606885	-0.00625	22.96125	0.004508394
7517	3	3.607679	-0.005	22.95625	0.004507412
598	1	3.608192	-0.0075	22.94875	0.00450594
4691	3	3.608509	-0.005	22.94375	0.004504958
1921	2	3.612002	-0.00625	22.9375	0.004503731
8175	3	3.612394	-0.005	22.9325	0.004502749
5250	3	3.613591	-0.005	22.9275	0.004501767
2844	2	3.61378	-0.00625	22.92125	0.00450054
1102	1	3.613866	-0.0075	22.91375	0.004499067
3729	3	3.615282	-0.005	22.90875	0.004498086
516	1	3.615288	-0.0075	22.90125	0.004496613
428	1	3.615706	-0.0075	22.89375	0.00449514
5487	3	3.618122	-0.005	22.88875	0.004494159
5164	3	3.618311	-0.005	22.88375	0.004493177
1489	1	3.618912	0.015	22.89875	0.004496122
1847	2	3.61959	-0.00625	22.8925	0.004494895
1232	1	3.619825	-0.0075	22.885	0.004493422
1104	1	3.620636	-0.0075	22.8775	0.00449195
4820	3	3.621023	0.01	22.8875	0.004493913
5958	3	3.621032	-0.005	22.8825	0.004492931
1439	1	3.621497	-0.0075	22.875	0.004491459
1612	1	3.621924	-0.0075	22.8675	0.004489986
9512	4	3.622126	-0.005	22.8625	0.004489005
27	1	3.623222	-0.0075	22.855	0.004487532
2874	2	3.626797	-0.00625	22.84875	0.004486305
7589	3	3.628511	-0.005	22.84375	0.004485323
8691	3	3.629507	-0.005	22.83875	0.004484341
5531	3	3.62965	-0.005	22.83375	0.00448336
1796	2	3.630257	-0.00625	22.8275	0.004482132
9440	4	3.630788	-0.005	22.8225	0.004481151
2467	2	3.631648	0.0125	22.835	0.004483605
8483	3	3.631903	0.01	22.845	0.004485568
3567	3	3.632703	0.01	22.855	0.004487532
695	1	3.63339	-0.0075	22.8475	0.004486059
5914	3	3.633441	-0.005	22.8425	0.004485078
8375	3	3.633925	-0.005	22.8375	0.004484096
1871	2	3.635184	-0.00625	22.83125	0.004482869
9714	4	3.636868	-0.005	22.82625	0.004481887
7513	3	3.63706	-0.005	22.82125	0.004480905
826	1	3.637869	-0.0075	22.81375	0.004479433
2608	2	3.637965	0.0125	22.82625	0.004481887
9277	4	3.638153	-0.005	22.82125	0.004480905
2923	3	3.638228	-0.005	22.81625	0.004479923
1964	2	3.638322	-0.00625	22.81	0.004478696
5003	3	3.639137	-0.005	22.805	0.004477715
394	1	3.640199	-0.0075	22.7975	0.004476242
429	1	3.641779	-0.0075	22.79	0.004474769
3719	3	3.641793	-0.005	22.785	0.004473788
1694	1	3.641832	-0.0075	22.7775	0.004472315
918	1	3.641986	-0.0075	22.77	0.004470842
111	1	3.642384	-0.0075	22.7625	0.00446937

6815	3	3.642947	-0.005	22.7575	0.004468388
7559	3	3.643387	-0.005	22.7525	0.004467406
4521	3	3.643434	-0.005	22.7475	0.004466425
7789	3	3.645365	-0.005	22.7425	0.004465443
1345	1	3.646827	0.015	22.7575	0.004468388
6298	3	3.647581	-0.005	22.7525	0.004467406
1127	1	3.647976	-0.0075	22.745	0.004465934
4398	3	3.648409	-0.005	22.74	0.004464952
8474	3	3.648721	-0.005	22.735	0.00446397
2836	2	3.650641	-0.00625	22.72875	0.004462743
9944	4	3.651663	-0.005	22.72375	0.004461761
6022	3	3.65175	-0.005	22.71875	0.00446078
2933	3	3.652172	-0.005	22.71375	0.004459798
3247	3	3.652405	-0.005	22.70875	0.004458816
8719	3	3.652437	-0.005	22.70375	0.004457834
9433	4	3.654433	-0.005	22.69875	0.004456853
4732	3	3.654589	-0.005	22.69375	0.004455871
5263	3	3.658721	-0.005	22.68875	0.004454889
8303	3	3.659216	-0.005	22.68375	0.004453907
8017	3	3.659692	-0.005	22.67875	0.004452926
9965	4	3.660975	-0.005	22.67375	0.004451944
4618	3	3.662375	0.01	22.68375	0.004453907
2944	3	3.662419	-0.005	22.67875	0.004452926
2285	2	3.664405	-0.00625	22.6725	0.004451698
2358	2	3.666279	-0.00625	22.66625	0.004450471
1022	1	3.666975	-0.0075	22.65875	0.004448999
9789	4	3.668073	-0.005	22.65375	0.004448017
1542	1	3.6685	-0.0075	22.64625	0.004446544
5669	3	3.668542	-0.005	22.64125	0.004445563
9432	4	3.668825	0.01	22.65125	0.004447526
3355	3	3.668865	-0.005	22.64625	0.004446544
2480	2	3.670927	-0.00625	22.64	0.004445317
475	1	3.670954	0.015	22.655	0.004448262
4930	3	3.67138	-0.005	22.65	0.004447281
5873	3	3.671544	-0.005	22.645	0.004446299
4051	3	3.673253	-0.005	22.64	0.004445317
1472	1	3.673519	-0.0075	22.6325	0.004443844
2428	2	3.673548	0.0125	22.645	0.004446299
2031	2	3.674113	-0.00625	22.63875	0.004445072
2469	2	3.674301	-0.00625	22.6325	0.004443844
119	1	3.674883	0.015	22.6475	0.00444679
6162	3	3.675547	-0.005	22.6425	0.004445808
141	1	3.675603	-0.0075	22.635	0.004444335
362	1	3.67573	-0.0075	22.6275	0.004442863
365	1	3.677514	-0.0075	22.62	0.00444139
4031	3	3.677869	-0.005	22.615	0.004440408
4303	3	3.678275	-0.005	22.61	0.004439427
293	1	3.678936	-0.0075	22.6025	0.004437954
6719	3	3.678948	-0.005	22.5975	0.004436972
685	1	3.679686	-0.0075	22.59	0.0044355
7817	3	3.6798	-0.005	22.585	0.004434518
653	1	3.680463	0.015	22.6	0.004437463

1736	1	3.680541	-0.0075	22.5925	0.004435991
4184	3	3.68118	-0.005	22.5875	0.004435009
7349	3	3.682311	0.01	22.5975	0.004436972
328	1	3.68315	-0.0075	22.59	0.0044355
1363	1	3.684072	-0.0075	22.5825	0.004434027
3923	3	3.685196	0.01	22.5925	0.004435991
7639	3	3.686109	-0.005	22.5875	0.004435009
2638	2	3.686536	-0.00625	22.58125	0.004433782
3202	3	3.686771	-0.005	22.57625	0.0044328
9117	4	3.687967	-0.005	22.57125	0.004431818
5297	3	3.688443	-0.005	22.56625	0.004430836
2330	2	3.689101	-0.00625	22.56	0.004429609
2451	2	3.690082	-0.00625	22.55375	0.004428382
2257	2	3.690109	-0.00625	22.5475	0.004427155
361	1	3.690841	-0.0075	22.54	0.004425682
2419	2	3.692189	-0.00625	22.53375	0.004424455
1036	1	3.692636	-0.0075	22.52625	0.004422983
3835	3	3.693884	-0.005	22.52125	0.004422001
7027	3	3.693901	-0.005	22.51625	0.004421019
6042	3	3.694112	0.01	22.52625	0.004422983
3736	3	3.694456	-0.005	22.52125	0.004422001
6705	3	3.696265	-0.005	22.51625	0.004421019
2415	2	3.696331	-0.00625	22.51	0.004419792
4569	3	3.696744	-0.005	22.505	0.00441881
6552	3	3.696759	-0.005	22.5	0.004417828
1826	2	3.698722	-0.00625	22.49375	0.004416601
2006	2	3.698787	-0.00625	22.4875	0.004415374
4464	3	3.700506	-0.005	22.4825	0.004414392
7240	3	3.702221	0.01	22.4925	0.004416356
628	1	3.703989	-0.0075	22.485	0.004414883
972	1	3.707039	-0.0075	22.4775	0.004413411
8208	3	3.709615	-0.005	22.4725	0.004412429
2728	2	3.709959	-0.00625	22.46625	0.004411202
3426	3	3.710175	0.01	22.47625	0.004413165
5500	3	3.71118	-0.005	22.47125	0.004412183
7775	3	3.71269	-0.005	22.46625	0.004411202
3495	3	3.714113	0.01	22.47625	0.004413165
6445	3	3.714457	-0.005	22.47125	0.004412183
6867	3	3.715459	0.01	22.48125	0.004414147
8648	3	3.718694	-0.005	22.47625	0.004413165
855	1	3.71933	-0.0075	22.46875	0.004411693
1570	1	3.720834	-0.0075	22.46125	0.00441022
9604	4	3.720862	-0.005	22.45625	0.004409238
7181	3	3.721271	-0.005	22.45125	0.004408256
3	1	3.721276	-0.0075	22.44375	0.004406784
5876	3	3.721641	-0.005	22.43875	0.004405802
433	1	3.725582	-0.0075	22.43125	0.004404329
6916	3	3.725903	-0.005	22.42625	0.004403348
2231	2	3.726631	-0.00625	22.42	0.004402121
6188	3	3.728678	-0.005	22.415	0.004401139
2411	2	3.729943	-0.00625	22.40875	0.004399912
2345	2	3.730179	-0.00625	22.4025	0.004398684

1786	2	3.730216	-0.00625	22.39625	0.004397457
8470	3	3.730399	0.01	22.40625	0.004399421
2053	2	3.731385	-0.00625	22.4	0.004398194
4334	3	3.731521	-0.005	22.395	0.004397212
7964	3	3.731756	-0.005	22.39	0.00439623
3848	3	3.731794	0.01	22.4	0.004398194
8557	3	3.733004	-0.005	22.395	0.004397212
9926	4	3.733416	-0.005	22.39	0.00439623
7752	3	3.733478	-0.005	22.385	0.004395248
1880	2	3.738414	-0.00625	22.37875	0.004394021
2556	2	3.738711	-0.00625	22.3725	0.004392794
4930	3	3.739513	-0.005	22.3675	0.004391812
1001	1	3.742346	-0.0075	22.36	0.00439034
823	1	3.743329	0.015	22.375	0.004393285
2788	2	3.744378	-0.00625	22.36875	0.004392058
6184	3	3.744541	-0.005	22.36375	0.004391076
4668	3	3.744829	-0.005	22.35875	0.004390094
1400	1	3.745513	0.015	22.37375	0.004393039
4376	3	3.747704	-0.005	22.36875	0.004392058
9418	4	3.747807	-0.005	22.36375	0.004391076
2231	2	3.747933	-0.00625	22.3575	0.004389849
8135	3	3.748594	-0.005	22.3525	0.004388867
250	1	3.74875	-0.0075	22.345	0.004387394
1521	1	3.750635	0.015	22.36	0.00439034
7164	3	3.751131	0.01	22.37	0.004392303
9062	4	3.752993	-0.005	22.365	0.004391321
7534	3	3.753047	-0.005	22.36	0.00439034
3191	3	3.753123	-0.005	22.355	0.004389358
1712	1	3.75323	-0.0075	22.3475	0.004387885
4857	3	3.753606	-0.005	22.3425	0.004386904
1654	1	3.7557	-0.0075	22.335	0.004385431
7919	3	3.755795	-0.005	22.33	0.004384449
3066	3	3.756672	-0.005	22.325	0.004383468
1062	1	3.758465	-0.0075	22.3175	0.004381995
1039	1	3.758586	-0.0075	22.31	0.004380522
2147	2	3.758818	-0.00625	22.30375	0.004379295
5679	3	3.759062	-0.005	22.29875	0.004378313
8330	3	3.759914	-0.005	22.29375	0.004377332
1741	1	3.76006	-0.0075	22.28625	0.004375859
8123	3	3.761694	-0.005	22.28125	0.004374877
8470	3	3.762133	-0.005	22.27625	0.004373896
7704	3	3.763886	-0.005	22.27125	0.004372914
8920	4	3.764663	-0.005	22.26625	0.004371932
2831	2	3.76604	-0.00625	22.26	0.004370705
383	1	3.767734	-0.0075	22.2525	0.004369232
8969	4	3.768549	-0.005	22.2475	0.004368251
1182	1	3.770306	-0.0075	22.24	0.004366778
5271	3	3.77035	0.01	22.25	0.004368741
388	1	3.770428	-0.0075	22.2425	0.004367269
2904	3	3.773628	-0.005	22.2375	0.004366287
411	1	3.773751	-0.0075	22.23	0.004364814
2676	2	3.774758	-0.00625	22.22375	0.004363587

8059	3	3.775074	-0.005	22.21875	0.004362606
9369	4	3.775295	-0.005	22.21375	0.004361624
3425	3	3.775392	-0.005	22.20875	0.004360642
2022	2	3.775523	-0.00625	22.2025	0.004359415
981	1	3.775669	-0.0075	22.195	0.004357942
1767	1	3.776247	-0.0075	22.1875	0.00435647
672	1	3.776605	-0.0075	22.18	0.004354997
6362	3	3.777165	-0.005	22.175	0.004354015
6625	3	3.777936	-0.005	22.17	0.004353034
4085	3	3.778239	-0.005	22.165	0.004352052
1478	1	3.77926	-0.0075	22.1575	0.004350579
6981	3	3.779624	-0.005	22.1525	0.004349597
1673	1	3.781882	-0.0075	22.145	0.004348125
5709	3	3.785157	-0.005	22.14	0.004347143
5563	3	3.78631	-0.005	22.135	0.004346161
9096	4	3.787316	-0.005	22.13	0.00434518
1212	1	3.788662	-0.0075	22.1225	0.004343707
8095	3	3.788857	0.01	22.1325	0.004345671
59	1	3.789264	-0.0075	22.125	0.004344198
8768	4	3.789746	0.01	22.135	0.004346161
802	1	3.790204	-0.0075	22.1275	0.004344689
3759	3	3.792443	-0.005	22.1225	0.004343707
1769	1	3.794084	-0.0075	22.115	0.004342234
2184	2	3.794322	-0.00625	22.10875	0.004341007
6602	3	3.795053	-0.005	22.10375	0.004340026
2735	2	3.795391	-0.00625	22.0975	0.004338798
4610	3	3.796311	-0.005	22.0925	0.004337817
6959	3	3.796512	-0.005	22.0875	0.004336835
4470	3	3.796719	-0.005	22.0825	0.004335853
1483	1	3.796889	-0.0075	22.075	0.004334381
6879	3	3.797608	-0.005	22.07	0.004333399
5367	3	3.797861	-0.005	22.065	0.004332417
333	1	3.79919	-0.0075	22.0575	0.004330944
2255	2	3.799277	-0.00625	22.05125	0.004329717
4502	3	3.79939	-0.005	22.04625	0.004328736
8768	4	3.799753	-0.005	22.04125	0.004327754
478	1	3.801664	-0.0075	22.03375	0.004326281
1171	1	3.802189	-0.0075	22.02625	0.004324809
5809	3	3.802665	-0.005	22.02125	0.004323827
3022	3	3.802818	-0.005	22.01625	0.004322845
6431	3	3.80374	-0.005	22.01125	0.004321863
653	1	3.803958	-0.0075	22.00375	0.004320391
1753	1	3.805563	-0.0075	21.99625	0.004318918
263	1	3.805745	-0.0075	21.98875	0.004317446
3218	3	3.80651	-0.005	21.98375	0.004316464
7878	3	3.808438	-0.005	21.97875	0.004315482
7409	3	3.809029	-0.005	21.97375	0.0043145
3851	3	3.811403	-0.005	21.96875	0.004313519
3435	3	3.811697	-0.005	21.96375	0.004312537
4712	3	3.812001	-0.005	21.95875	0.004311555
4494	3	3.813223	-0.005	21.95375	0.004310573
2674	2	3.814171	-0.00625	21.9475	0.004309346

8653	3	3.8147	-0.005	21.9425	0.004308364
2790	2	3.815117	-0.00625	21.93625	0.004307137
1556	1	3.815214	0.015	21.95125	0.004310082
864	1	3.815924	-0.0075	21.94375	0.00430861
9168	4	3.816125	-0.005	21.93875	0.004307628
3474	3	3.817494	-0.005	21.93375	0.004306646
1631	1	3.818982	-0.0075	21.92625	0.004305174
1805	2	3.819307	-0.00625	21.92	0.004303947
3828	3	3.819996	-0.005	21.915	0.004302965
8798	4	3.821094	-0.005	21.91	0.004301983
3486	3	3.821456	-0.005	21.905	0.004301001
440	1	3.822433	0.015	21.92	0.004303947
2568	2	3.82283	-0.00625	21.91375	0.004302719
2342	2	3.823992	-0.00625	21.9075	0.004301492
6507	3	3.824258	-0.005	21.9025	0.004300511
5576	3	3.828407	-0.005	21.8975	0.004299529
7206	3	3.828748	-0.005	21.8925	0.004298547
7646	3	3.829217	-0.005	21.8875	0.004297565
2467	2	3.830048	-0.00625	21.88125	0.004296338
1214	1	3.830431	-0.0075	21.87375	0.004294866
7610	3	3.831755	-0.005	21.86875	0.004293884
7043	3	3.834451	-0.005	21.86375	0.004292902
8071	3	3.835526	-0.005	21.85875	0.00429192
450	1	3.836552	-0.0075	21.85125	0.004290448
7965	3	3.83755	0.01	21.86125	0.004292411
8013	3	3.838338	-0.005	21.85625	0.004291429
9085	4	3.838881	-0.005	21.85125	0.004290448
1864	2	3.839198	-0.00625	21.845	0.00428922
5453	3	3.839742	-0.005	21.84	0.004288239
61	1	3.841201	0.015	21.855	0.004291184
7076	3	3.843292	-0.005	21.85	0.004290202
2530	2	3.84364	0.0125	21.8625	0.004292657
6022	3	3.844278	-0.005	21.8575	0.004291675
3204	3	3.844393	-0.005	21.8525	0.004290693
1479	1	3.84454	-0.0075	21.845	0.00428922
2290	2	3.844919	-0.00625	21.83875	0.004287993
1930	2	3.845051	-0.00625	21.8325	0.004286766
9362	4	3.845375	-0.005	21.8275	0.004285784
2473	2	3.845865	-0.00625	21.82125	0.004284557
648	1	3.84695	-0.0075	21.81375	0.004283085
5342	3	3.848235	-0.005	21.80875	0.004282103
3413	3	3.848391	0.01	21.81875	0.004284066
4730	3	3.848433	-0.005	21.81375	0.004283085
758	1	3.848705	0.015	21.82875	0.00428603
6112	3	3.849477	-0.005	21.82375	0.004285048
1968	2	3.851374	-0.00625	21.8175	0.004283821
6422	3	3.85265	-0.005	21.8125	0.004282839
7580	3	3.852971	-0.005	21.8075	0.004281857
828	1	3.853197	-0.0075	21.8	0.004280385
1288	1	3.853685	-0.0075	21.7925	0.004278912
5103	3	3.854839	-0.005	21.7875	0.00427793
6042	3	3.854992	-0.005	21.7825	0.004276949

6451	3	3.855053	-0.005	21.7775	0.004275967
2338	2	3.855229	-0.00625	21.77125	0.00427474
9200	4	3.855579	-0.005	21.76625	0.004273758
1036	1	3.855886	-0.0075	21.75875	0.004272285
1007	1	3.856308	-0.0075	21.75125	0.004270813
2876	2	3.859166	-0.00625	21.745	0.004269586
8534	3	3.859485	-0.005	21.74	0.004268604
4916	3	3.860034	-0.005	21.735	0.004267622
8913	4	3.860383	-0.005	21.73	0.00426664
2828	2	3.860743	-0.00625	21.72375	0.004265413
5483	3	3.86282	0.01	21.73375	0.004267377
8742	3	3.863281	-0.005	21.72875	0.004266395
229	1	3.870357	-0.0075	21.72125	0.004264922
1059	1	3.87129	-0.0075	21.71375	0.00426345
5606	3	3.872408	-0.005	21.70875	0.004262468
2581	2	3.872724	-0.00625	21.7025	0.004261241
4465	3	3.87291	0.01	21.7125	0.004263204
4610	3	3.873028	-0.005	21.7075	0.004262223
4755	3	3.875594	-0.005	21.7025	0.004261241
9267	4	3.875981	-0.005	21.6975	0.004260259
2645	2	3.876714	-0.00625	21.69125	0.004259032
6861	3	3.876933	-0.005	21.68625	0.00425805
6947	3	3.877192	0.01	21.69625	0.004260014
9939	4	3.877963	-0.005	21.69125	0.004259032
1130	1	3.878536	-0.0075	21.68375	0.004257559
48	1	3.880427	-0.0075	21.67625	0.004256087
6670	3	3.880621	-0.005	21.67125	0.004255105
1674	1	3.8808	-0.0075	21.66375	0.004253632
1360	1	3.880887	-0.0075	21.65625	0.00425216
6265	3	3.882205	-0.005	21.65125	0.004251178
132	1	3.88302	-0.0075	21.64375	0.004249705
1962	2	3.883149	-0.00625	21.6375	0.004248478
7821	3	3.884398	0.01	21.6475	0.004250442
2856	2	3.885187	-0.00625	21.64125	0.004249215
256	1	3.88528	-0.0075	21.63375	0.004247742
8150	3	3.885728	-0.005	21.62875	0.00424676
4737	3	3.886833	0.01	21.63875	0.004248724
893	1	3.888638	-0.0075	21.63125	0.004247251
66	1	3.889639	0.015	21.64625	0.004250196
1778	2	3.889855	0.0125	21.65875	0.004252651
5890	3	3.890935	-0.005	21.65375	0.004251669
3714	3	3.891263	-0.005	21.64875	0.004250687
3502	3	3.892196	-0.005	21.64375	0.004249705
261	1	3.892622	-0.0075	21.63625	0.004248233
7531	3	3.893006	-0.005	21.63125	0.004247251
1539	1	3.894515	-0.0075	21.62375	0.004245779
2036	2	3.894627	-0.00625	21.6175	0.004244551
6099	3	3.896587	-0.005	21.6125	0.00424357
976	1	3.897261	-0.0075	21.605	0.004242097
2417	2	3.898946	-0.00625	21.59875	0.00424087
5868	3	3.899119	-0.005	21.59375	0.004239888
3563	3	3.899928	-0.005	21.58875	0.004238906

2506	2	3.901096	-0.00625	21.5825	0.004237679
2115	2	3.902783	-0.00625	21.57625	0.004236452
8592	3	3.903036	-0.005	21.57125	0.00423547
7781	3	3.903307	-0.005	21.56625	0.004234489
636	1	3.90434	-0.0075	21.55875	0.004233016
1836	2	3.908447	-0.00625	21.5525	0.004231789
949	1	3.909179	-0.0075	21.545	0.004230316
5733	3	3.910296	-0.005	21.54	0.004229334
4457	3	3.910421	-0.005	21.535	0.004228353
7000	3	3.910494	-0.005	21.53	0.004227371
9223	4	3.910977	-0.005	21.525	0.004226389
7165	3	3.912943	-0.005	21.52	0.004225407
6237	3	3.914049	-0.005	21.515	0.004224426
7164	3	3.914205	-0.005	21.51	0.004223444
4320	3	3.915304	-0.005	21.505	0.004222462
1474	1	3.916852	-0.0075	21.4975	0.00422099
6409	3	3.9185	-0.005	21.4925	0.004220008
7272	3	3.91873	-0.005	21.4875	0.004219026
8994	4	3.919298	0.01	21.4975	0.00422099
1896	2	3.920383	-0.00625	21.49125	0.004219762
7983	3	3.920993	-0.005	21.48625	0.004218781
2133	2	3.921592	-0.00625	21.48	0.004217554
2476	2	3.922163	-0.00625	21.47375	0.004216326
1234	1	3.922415	0.015	21.48875	0.004219272
8263	3	3.9226	-0.005	21.48375	0.00421829
6244	3	3.922712	-0.005	21.47875	0.004217308
6694	3	3.924643	-0.005	21.47375	0.004216326
584	1	3.924894	-0.0075	21.46625	0.004214854
5526	3	3.925191	-0.005	21.46125	0.004213872
7821	3	3.925822	-0.005	21.45625	0.00421289
2300	2	3.926043	-0.00625	21.45	0.004211663
4854	3	3.927336	-0.005	21.445	0.004210681
2065	2	3.928628	-0.00625	21.43875	0.004209454
104	1	3.929469	-0.0075	21.43125	0.004207982
195	1	3.92966	-0.0075	21.42375	0.004206509
5343	3	3.931364	-0.005	21.41875	0.004205527
5020	3	3.93331	-0.005	21.41375	0.004204545
7912	3	3.933355	-0.005	21.40875	0.004203564
6114	3	3.933361	-0.005	21.40375	0.004202582
2173	2	3.934306	-0.00625	21.3975	0.004201355
794	1	3.93522	-0.0075	21.39	0.004199882
1174	1	3.93527	-0.0075	21.3825	0.00419841
4243	3	3.935764	-0.005	21.3775	0.004197428
9412	4	3.936847	-0.005	21.3725	0.004196446
5127	3	3.936858	-0.005	21.3675	0.004195464
6821	3	3.937501	-0.005	21.3625	0.004194483
2729	2	3.938169	-0.00625	21.35625	0.004193255
8866	4	3.938548	-0.005	21.35125	0.004192274
2482	2	3.941373	-0.00625	21.345	0.004191047
61	1	3.943336	-0.0075	21.3375	0.004189574
1473	1	3.9439	-0.0075	21.33	0.004188101
3865	3	3.944501	-0.005	21.325	0.00418712

2429	2	3.946041	-0.00625	21.31875	0.004185892
7711	3	3.94654	-0.005	21.31375	0.004184911
687	1	3.946638	-0.0075	21.30625	0.004183438
2412	2	3.94754	-0.00625	21.3	0.004182211
1898	2	3.951182	-0.00625	21.29375	0.004180984
7481	3	3.95135	-0.005	21.28875	0.004180002
3166	3	3.951787	-0.005	21.28375	0.00417902
4107	3	3.952134	-0.005	21.27875	0.004178038
8938	4	3.952556	-0.005	21.27375	0.004177057
6948	3	3.954962	-0.005	21.26875	0.004176075
243	1	3.955524	-0.0075	21.26125	0.004174602
8008	3	3.955674	0.01	21.27125	0.004176566
1989	2	3.959236	-0.00625	21.265	0.004175339
1367	1	3.960749	-0.0075	21.2575	0.004173866
3416	3	3.962183	-0.005	21.2525	0.004172884
1625	1	3.962251	-0.0075	21.245	0.004171412
7079	3	3.964322	-0.005	21.24	0.00417043
7166	3	3.964924	-0.005	21.235	0.004169448
544	1	3.965747	-0.0075	21.2275	0.004167976
5978	3	3.965883	-0.005	21.2225	0.004166994
53	1	3.966694	-0.0075	21.215	0.004165521
3670	3	3.968298	-0.005	21.21	0.00416454
826	1	3.97071	-0.0075	21.2025	0.004163067
9521	4	3.971522	-0.005	21.1975	0.004162085
1936	2	3.971677	-0.00625	21.19125	0.004160858
9589	4	3.971855	-0.005	21.18625	0.004159876
2335	2	3.972134	0.0125	21.19875	0.004162331
573	1	3.97298	-0.0075	21.19125	0.004160858
6460	3	3.973677	-0.005	21.18625	0.004159876
1781	2	3.975232	-0.00625	21.18	0.004158649
7791	3	3.976346	-0.005	21.175	0.004157667
2731	2	3.97647	-0.00625	21.16875	0.00415644
1767	1	3.976682	-0.0075	21.16125	0.004154968
530	1	3.977428	0.015	21.17625	0.004157913
9199	4	3.977711	-0.005	21.17125	0.004156931
6360	3	3.977976	-0.005	21.16625	0.004155949
3126	3	3.978927	-0.005	21.16125	0.004154968
7278	3	3.980491	-0.005	21.15625	0.004153986
3455	3	3.981016	-0.005	21.15125	0.004153004
1771	2	3.981026	-0.00625	21.145	0.004151777
7932	3	3.981472	0.01	21.155	0.00415374
2747	2	3.981871	0.0125	21.1675	0.004156195
2873	2	3.983186	-0.00625	21.16125	0.004154968
6588	3	3.985204	-0.005	21.15625	0.004153986
1983	2	3.986756	-0.00625	21.15	0.004152759
55	1	3.990289	-0.0075	21.1425	0.004151286
9249	4	3.990751	-0.005	21.1375	0.004150304
2163	2	3.991207	-0.00625	21.13125	0.004149077
1248	1	3.992045	-0.0075	21.12375	0.004147605
4980	3	3.993215	-0.005	21.11875	0.004146623
5216	3	3.995412	-0.005	21.11375	0.004145641
6428	3	3.995653	-0.005	21.10875	0.004144659

4296	3	3.996591	-0.005	21.10375	0.004143678
6709	3	3.996949	-0.005	21.09875	0.004142696
7049	3	3.998897	-0.005	21.09375	0.004141714
7657	3	4.000129	-0.005	21.08875	0.004140732
7381	3	4.00025	-0.005	21.08375	0.004139751
9718	4	4.003929	-0.005	21.07875	0.004138769
856	1	4.004306	-0.0075	21.07125	0.004137296
2382	2	4.004463	-0.00625	21.065	0.004136069
2308	2	4.005641	-0.00625	21.05875	0.004134842
2610	2	4.006521	-0.00625	21.0525	0.004133615
1940	2	4.006586	-0.00625	21.04625	0.004132388
6916	3	4.006604	-0.005	21.04125	0.004131406
175	1	4.007157	-0.0075	21.03375	0.004129933
248	1	4.00763	-0.0075	21.02625	0.004128461
4232	3	4.008996	-0.005	21.02125	0.004127479
8566	3	4.0095	-0.005	21.01625	0.004126497
1599	1	4.010352	-0.0075	21.00875	0.004125025
5283	3	4.010409	-0.005	21.00375	0.004124043
4535	3	4.010666	-0.005	20.99875	0.004123061
142	1	4.011315	-0.0075	20.99125	0.004121588
3594	3	4.011828	-0.005	20.98625	0.004120607
3135	3	4.01207	-0.005	20.98125	0.004119625
7215	3	4.012223	-0.005	20.97625	0.004118643
4321	3	4.014256	-0.005	20.97125	0.004117661
3332	3	4.014604	-0.005	20.96625	0.00411668
2946	3	4.014964	-0.005	20.96125	0.004115698
2396	2	4.015852	-0.00625	20.955	0.004114471
7721	3	4.016024	-0.005	20.95	0.004113489
8768	4	4.01661	-0.005	20.945	0.004112507
1131	1	4.018253	-0.0075	20.9375	0.004111035
8321	3	4.018579	-0.005	20.9325	0.004110053
1795	2	4.019335	-0.00625	20.92625	0.004108826
3712	3	4.022842	-0.005	20.92125	0.004107844
7905	3	4.023896	-0.005	20.91625	0.004106862
8480	3	4.024013	-0.005	20.91125	0.004105881
6447	3	4.024738	-0.005	20.90625	0.004104899
4611	3	4.025922	-0.005	20.90125	0.004103917
4738	3	4.026464	0.01	20.91125	0.004105881
6824	3	4.027322	-0.005	20.90625	0.004104899
9211	4	4.027882	-0.005	20.90125	0.004103917
4618	3	4.028803	-0.005	20.89625	0.004102935
1323	1	4.028945	-0.0075	20.88875	0.004101463
8360	3	4.029852	-0.005	20.88375	0.004100481
807	1	4.031039	-0.0075	20.87625	0.004099008
8673	3	4.03108	-0.005	20.87125	0.004098027
2630	2	4.031323	-0.00625	20.865	0.0040968
1610	1	4.032414	-0.0075	20.8575	0.004095327
3623	3	4.033181	-0.005	20.8525	0.004094345
6120	3	4.034186	-0.005	20.8475	0.004093363
2671	2	4.034202	-0.00625	20.84125	0.004092136
1667	1	4.034267	-0.0075	20.83375	0.004090664
2130	2	4.035759	-0.00625	20.8275	0.004089436

7155	3	4.036219	-0.005	20.8225	0.004088455
850	1	4.036558	-0.0075	20.815	0.004086982
2198	2	4.037375	-0.00625	20.80875	0.004085755
3827	3	4.038103	-0.005	20.80375	0.004084773
2577	2	4.038349	-0.00625	20.7975	0.004083546
5134	3	4.038967	-0.005	20.7925	0.004082564
4693	3	4.039606	-0.005	20.7875	0.004081583
6062	3	4.040526	-0.005	20.7825	0.004080601
4847	3	4.041682	-0.005	20.7775	0.004079619
4043	3	4.041682	0.01	20.7875	0.004081583
6206	3	4.042193	0.01	20.7975	0.004083546
2326	2	4.042277	-0.00625	20.79125	0.004082319
3319	3	4.042681	0.01	20.80125	0.004084282
6750	3	4.044523	-0.005	20.79625	0.004083301
1734	1	4.044559	-0.0075	20.78875	0.004081828
1894	2	4.044823	0.0125	20.80125	0.004084282
1752	1	4.045371	-0.0075	20.79375	0.00408281
4531	3	4.045582	-0.005	20.78875	0.004081828
2368	2	4.046059	-0.00625	20.7825	0.004080601
9935	4	4.046278	-0.005	20.7775	0.004079619
155	1	4.048001	-0.0075	20.77	0.004078146
8983	4	4.048805	0.01	20.78	0.00408011
2296	2	4.052481	-0.00625	20.77375	0.004078883
4389	3	4.055641	-0.005	20.76875	0.004077901
1489	1	4.055649	-0.0075	20.76125	0.004076428
4803	3	4.05597	-0.005	20.75625	0.004075447
6902	3	4.056411	-0.005	20.75125	0.004074465
2063	2	4.056471	-0.00625	20.745	0.004073238
379	1	4.058672	-0.0075	20.7375	0.004071765
9672	4	4.059887	-0.005	20.7325	0.004070783
3187	3	4.06058	0.01	20.7425	0.004072747
1344	1	4.061	-0.0075	20.735	0.004071274
2709	2	4.063272	-0.00625	20.72875	0.004070047
4764	3	4.063569	-0.005	20.72375	0.004069065
8652	3	4.063871	-0.005	20.71875	0.004068084
1560	1	4.065565	-0.0075	20.71125	0.004066611
6421	3	4.067728	-0.005	20.70625	0.004065629
7162	3	4.068498	0.01	20.71625	0.004067593
3083	3	4.07039	-0.005	20.71125	0.004066611
1275	1	4.070564	-0.0075	20.70375	0.004065138
2441	2	4.070722	-0.00625	20.6975	0.004063911
9019	4	4.072104	-0.005	20.6925	0.00406293
1242	1	4.072939	-0.0075	20.685	0.004061457
5458	3	4.074095	0.01	20.695	0.00406342
1413	1	4.074407	-0.0075	20.6875	0.004061948
2188	2	4.075013	-0.00625	20.68125	0.004060721
8697	3	4.075927	-0.005	20.67625	0.004059739
7666	3	4.076324	-0.005	20.67125	0.004058757
4114	3	4.076909	-0.005	20.66625	0.004057775
2070	2	4.07779	-0.00625	20.66	0.004056548
1489	1	4.078825	-0.0075	20.6525	0.004055076
381	1	4.07897	-0.0075	20.645	0.004053603

2462	2	4.08011	-0.00625	20.63875	0.004052376
927	1	4.080979	-0.0075	20.63125	0.004050903
8685	3	4.081019	-0.005	20.62625	0.004049921
5945	3	4.081149	-0.005	20.62125	0.00404894
8604	3	4.081237	-0.005	20.61625	0.004047958
6202	3	4.082334	-0.005	20.61125	0.004046976
4345	3	4.083193	-0.005	20.60625	0.004045995
6262	3	4.084466	-0.005	20.60125	0.004045013
8295	3	4.08455	-0.005	20.59625	0.004044031
2476	2	4.084982	-0.00625	20.59	0.004042804
5580	3	4.085853	-0.005	20.585	0.004041822
7205	3	4.087092	-0.005	20.58	0.00404084
1545	1	4.088359	-0.0075	20.5725	0.004039368
3454	3	4.088598	-0.005	20.5675	0.004038386
3169	3	4.088864	-0.005	20.5625	0.004037404
4268	3	4.088878	0.01	20.5725	0.004039368
5117	3	4.089522	-0.005	20.5675	0.004038386
7875	3	4.089798	-0.005	20.5625	0.004037404
1551	1	4.091064	-0.0075	20.555	0.004035932
839	1	4.091696	-0.0075	20.5475	0.004034459
3987	3	4.091703	-0.005	20.5425	0.004033477
6734	3	4.093596	-0.005	20.5375	0.004032496
379	1	4.093918	-0.0075	20.53	0.004031023
343	1	4.094921	-0.0075	20.5225	0.00402955
1833	2	4.0954	0.0125	20.535	0.004032005
5213	3	4.095697	0.01	20.545	0.004033968
2280	2	4.095914	-0.00625	20.53875	0.004032741
3057	3	4.096167	-0.005	20.53375	0.004031759
435	1	4.096606	-0.0075	20.52625	0.004030287
4519	3	4.098891	-0.005	20.52125	0.004029305
4081	3	4.099066	-0.005	20.51625	0.004028323
6428	3	4.099931	-0.005	20.51125	0.004027341
278	1	4.100521	-0.0075	20.50375	0.004025869
728	1	4.101179	-0.0075	20.49625	0.004024396
9529	4	4.10209	-0.005	20.49125	0.004023414
6047	3	4.102156	-0.005	20.48625	0.004022433
5279	3	4.104072	-0.005	20.48125	0.004021451
1129	1	4.10441	-0.0075	20.47375	0.004019978
2765	2	4.10584	-0.00625	20.4675	0.004018751
6152	3	4.105943	-0.005	20.4625	0.004017769
9362	4	4.106473	-0.005	20.4575	0.004016788
8741	3	4.106486	-0.005	20.4525	0.004015806
4465	3	4.106923	-0.005	20.4475	0.004014824
5046	3	4.1074	-0.005	20.4425	0.004013843
422	1	4.108051	0.015	20.4575	0.004016788
2823	2	4.108268	-0.00625	20.45125	0.004015561
3197	3	4.108812	-0.005	20.44625	0.004014579
2431	2	4.109549	-0.00625	20.44	0.004013352
3643	3	4.109809	-0.005	20.435	0.00401237
3187	3	4.109923	-0.005	20.43	0.004011388
5510	3	4.111839	-0.005	20.425	0.004010406
1750	1	4.112122	-0.0075	20.4175	0.004008934

1362	1	4.112647	-0.0075	20.41	0.004007461
265	1	4.11396	-0.0075	20.4025	0.004005989
8340	3	4.114817	-0.005	20.3975	0.004005007
1471	1	4.11529	-0.0075	20.39	0.004003534
1521	1	4.116204	-0.0075	20.3825	0.004002062
6716	3	4.116343	0.01	20.3925	0.004004025
7012	3	4.11716	0.01	20.4025	0.004005989
2520	2	4.122654	-0.00625	20.39625	0.004004761
8459	3	4.124327	-0.005	20.39125	0.00400378
8634	3	4.126271	-0.005	20.38625	0.004002798
5685	3	4.128326	-0.005	20.38125	0.004001816
9888	4	4.128366	0.01	20.39125	0.00400378
1651	1	4.129081	-0.0075	20.38375	0.004002307
1118	1	4.129694	-0.0075	20.37625	0.004000834
454	1	4.130132	-0.0075	20.36875	0.003999362
5727	3	4.130151	-0.005	20.36375	0.00399838
5156	3	4.131442	-0.005	20.35875	0.003997398
8544	3	4.131735	-0.005	20.35375	0.003996417
6936	3	4.133033	-0.005	20.34875	0.003995435
7046	3	4.133155	-0.005	20.34375	0.003994453
8369	3	4.133568	-0.005	20.33875	0.003993471
6351	3	4.134988	0.01	20.34875	0.003995435
6763	3	4.13589	-0.005	20.34375	0.003994453
2281	2	4.136475	-0.00625	20.3375	0.003993226
829	1	4.1384	0.015	20.3525	0.003996171
1520	1	4.141726	-0.0075	20.345	0.003994699
5280	3	4.144641	-0.005	20.34	0.003993717
1115	1	4.144642	-0.0075	20.3325	0.003992244
2026	2	4.145159	-0.00625	20.32625	0.003991017
5	1	4.14569	-0.0075	20.31875	0.003989544
6894	3	4.145787	-0.005	20.31375	0.003988563
8193	3	4.146496	-0.005	20.30875	0.003987581
7530	3	4.149349	-0.005	20.30375	0.003986599
6447	3	4.150835	-0.005	20.29875	0.003985618
812	1	4.151396	-0.0075	20.29125	0.003984145
42	1	4.151739	-0.0075	20.28375	0.003982672
9961	4	4.151755	-0.005	20.27875	0.003981691
7684	3	4.152204	-0.005	20.27375	0.003980709
1576	1	4.15235	-0.0075	20.26625	0.003979236
5317	3	4.154874	-0.005	20.26125	0.003978254
1652	1	4.154874	-0.0075	20.25375	0.003976782
384	1	4.157162	-0.0075	20.24625	0.003975309
1191	1	4.157879	0.015	20.26125	0.003978254
5587	3	4.158283	-0.005	20.25625	0.003977273
8161	3	4.158719	0.01	20.26625	0.003979236
3506	3	4.161145	-0.005	20.26125	0.003978254
6386	3	4.162183	-0.005	20.25625	0.003977273
647	1	4.16239	-0.0075	20.24875	0.0039758
530	1	4.162689	-0.0075	20.24125	0.003974328
391	1	4.162708	-0.0075	20.23375	0.003972855
6418	3	4.163129	-0.005	20.22875	0.003971873
2463	2	4.164737	-0.00625	20.2225	0.003970646

365	1	4.166231	-0.0075	20.215	0.003969173
1636	1	4.16921	-0.0075	20.2075	0.003967701
740	1	4.169505	-0.0075	20.2	0.003966228
3325	3	4.17231	-0.005	20.195	0.003965246
3607	3	4.173315	-0.005	20.19	0.003964265
1747	1	4.173643	-0.0075	20.1825	0.003962792
5767	3	4.175168	-0.005	20.1775	0.00396181
1844	2	4.175393	-0.00625	20.17125	0.003960583
9475	4	4.178016	-0.005	20.16625	0.003959601
7240	3	4.178243	-0.005	20.16125	0.00395862
1061	1	4.179638	-0.0075	20.15375	0.003957147
8253	3	4.179764	-0.005	20.14875	0.003956165
2673	2	4.179897	-0.00625	20.1425	0.003954938
604	1	4.180415	-0.0075	20.135	0.003953466
5821	3	4.183151	-0.005	20.13	0.003952484
2478	2	4.186214	-0.00625	20.12375	0.003951257
4738	3	4.18785	-0.005	20.11875	0.003950275
2610	2	4.188734	-0.00625	20.1125	0.003949048
948	1	4.190232	-0.0075	20.105	0.003947575
7105	3	4.191964	-0.005	20.1	0.003946593
2660	2	4.192239	-0.00625	20.09375	0.003945366
6523	3	4.192942	-0.005	20.08875	0.003944384
2497	2	4.194614	-0.00625	20.0825	0.003943157
296	1	4.195277	-0.0075	20.075	0.003941685
1809	2	4.195864	0.0125	20.0875	0.003944139
2585	2	4.197583	-0.00625	20.08125	0.003942912
5899	3	4.197621	-0.005	20.07625	0.00394193
8937	4	4.198003	-0.005	20.07125	0.003940948
8425	3	4.199139	-0.005	20.06625	0.003939967
8080	3	4.200837	-0.005	20.06125	0.003938985
421	1	4.201898	-0.0075	20.05375	0.003937512
6053	3	4.204644	-0.005	20.04875	0.003936531
3204	3	4.205717	-0.005	20.04375	0.003935549
4843	3	4.20642	-0.005	20.03875	0.003934567
3910	3	4.208349	-0.005	20.03375	0.003933585
982	1	4.209089	-0.0075	20.02625	0.003932113
2091	2	4.210716	-0.00625	20.02	0.003930886
2980	3	4.210812	-0.005	20.015	0.003929904
1398	1	4.211221	-0.0075	20.0075	0.003928431
9441	4	4.211586	-0.005	20.0025	0.003927449
8146	3	4.212946	-0.005	19.9975	0.003926468
8380	3	4.213028	-0.005	19.9925	0.003925486
2100	2	4.213304	-0.00625	19.98625	0.003924259
2222	2	4.214144	-0.00625	19.98	0.003923032
4843	3	4.214419	-0.005	19.975	0.00392205
783	1	4.216072	-0.0075	19.9675	0.003920577
4228	3	4.216349	-0.005	19.9625	0.003919596
2965	3	4.216734	-0.005	19.9575	0.003918614
7012	3	4.217361	-0.005	19.9525	0.003917632
4875	3	4.217395	-0.005	19.9475	0.00391665
7347	3	4.21952	-0.005	19.9425	0.003915669
3690	3	4.221311	-0.005	19.9375	0.003914687

8008	3	4.221452	-0.005	19.9325	0.003913705
7674	3	4.221453	-0.005	19.9275	0.003912723
5444	3	4.221788	-0.005	19.9225	0.003911742
489	1	4.221801	-0.0075	19.915	0.003910269
1309	1	4.221853	-0.0075	19.9075	0.003908796
8100	3	4.223016	-0.005	19.9025	0.003907815
8291	3	4.223496	-0.005	19.8975	0.003906833
5370	3	4.226139	-0.005	19.8925	0.003905851
1762	1	4.226731	-0.0075	19.885	0.003904379
2426	2	4.227158	-0.00625	19.87875	0.003903151
9848	4	4.22806	-0.005	19.87375	0.00390217
6789	3	4.228202	-0.005	19.86875	0.003901188
2491	2	4.22827	-0.00625	19.8625	0.003899961
4584	3	4.228949	-0.005	19.8575	0.003898979
4721	3	4.230392	-0.005	19.8525	0.003897997
84	1	4.231237	-0.0075	19.845	0.003896525
83	1	4.232163	-0.0075	19.8375	0.003895052
3232	3	4.232522	-0.005	19.8325	0.00389407
2131	2	4.232531	-0.00625	19.82625	0.003892843
6883	3	4.233129	-0.005	19.82125	0.003891861
8548	3	4.233259	-0.005	19.81625	0.00389088
4947	3	4.233399	0.01	19.82625	0.003892843
3479	3	4.233782	-0.005	19.82125	0.003891861
7453	3	4.23481	-0.005	19.81625	0.00389088
5315	3	4.234867	-0.005	19.81125	0.003889898
5309	3	4.235203	-0.005	19.80625	0.003888916
6245	3	4.235856	-0.005	19.80125	0.003887934
8626	3	4.23632	-0.005	19.79625	0.003886953
1647	1	4.237142	-0.0075	19.78875	0.00388548
8703	3	4.237942	-0.005	19.78375	0.003884498
8557	3	4.238232	-0.005	19.77875	0.003883517
831	1	4.238728	-0.0075	19.77125	0.003882044
1223	1	4.238812	-0.0075	19.76375	0.003880571
7327	3	4.239795	-0.005	19.75875	0.00387959
3098	3	4.241951	0.01	19.76875	0.003881553
6625	3	4.242532	-0.005	19.76375	0.003880571
8347	3	4.243174	-0.005	19.75875	0.00387959
988	1	4.247517	-0.0075	19.75125	0.003878117
607	1	4.247839	-0.0075	19.74375	0.003876644
5218	3	4.24901	-0.005	19.73875	0.003875663
6977	3	4.249534	-0.005	19.73375	0.003874681
4350	3	4.249816	-0.005	19.72875	0.003873699
324	1	4.250577	-0.0075	19.72125	0.003872227
1011	1	4.250686	-0.0075	19.71375	0.003870754
8171	3	4.251583	-0.005	19.70875	0.003869772
4190	3	4.251911	-0.005	19.70375	0.00386879
7646	3	4.251916	-0.005	19.69875	0.003867809
2260	2	4.252128	-0.00625	19.6925	0.003866582
5038	3	4.252595	-0.005	19.6875	0.0038656
6427	3	4.252842	-0.005	19.6825	0.003864618
2420	2	4.255637	-0.00625	19.67625	0.003863391
5562	3	4.2566	-0.005	19.67125	0.003862409

2319	2	4.257423	-0.00625	19.665	0.003861182
7892	3	4.258117	-0.005	19.66	0.0038602
1251	1	4.258484	0.015	19.675	0.003863145
3889	3	4.259026	-0.005	19.67	0.003862164
646	1	4.259064	-0.0075	19.6625	0.003860691
5636	3	4.26015	-0.005	19.6575	0.003859709
8986	4	4.26032	-0.005	19.6525	0.003858728
559	1	4.260706	-0.0075	19.645	0.003857255
1776	2	4.264436	-0.00625	19.63875	0.003856028
534	1	4.266141	-0.0075	19.63125	0.003854555
4608	3	4.267447	-0.005	19.62625	0.003853574
1249	1	4.267763	-0.0075	19.61875	0.003852101
8357	3	4.267775	-0.005	19.61375	0.003851119
475	1	4.268886	-0.0075	19.60625	0.003849647
6099	3	4.270178	-0.005	19.60125	0.003848665
4660	3	4.27075	-0.005	19.59625	0.003847683
6104	3	4.272522	-0.005	19.59125	0.003846701
5126	3	4.272534	-0.005	19.58625	0.00384572
3033	3	4.273351	-0.005	19.58125	0.003844738
6734	3	4.27571	-0.005	19.57625	0.003843756
5983	3	4.277474	-0.005	19.57125	0.003842774
861	1	4.277663	0.015	19.58625	0.00384572
9322	4	4.279178	-0.005	19.58125	0.003844738
9527	4	4.279954	-0.005	19.57625	0.003843756
574	1	4.280595	-0.0075	19.56875	0.003842284
9335	4	4.28252	-0.005	19.56375	0.003841302
5817	3	4.283911	-0.005	19.55875	0.00384032
2026	2	4.284015	-0.00625	19.5525	0.003839093
7779	3	4.28541	-0.005	19.5475	0.003838111
1581	1	4.287572	-0.0075	19.54	0.003836639
52	1	4.289227	-0.0075	19.5325	0.003835166
6810	3	4.291763	-0.005	19.5275	0.003834184
3356	3	4.293126	-0.005	19.5225	0.003833202
7903	3	4.294358	-0.005	19.5175	0.003832221
5492	3	4.295501	-0.005	19.5125	0.003831239
3364	3	4.297251	-0.005	19.5075	0.003830257
2767	2	4.297556	-0.00625	19.50125	0.00382903
5886	3	4.298869	-0.005	19.49625	0.003828048
3393	3	4.299157	-0.005	19.49125	0.003827067
551	1	4.300463	-0.0075	19.48375	0.003825594
6983	3	4.300535	-0.005	19.47875	0.003824612
925	1	4.301477	-0.0075	19.47125	0.00382314
1875	2	4.303261	-0.00625	19.465	0.003821912
9353	4	4.303392	0.01	19.475	0.003823876
1009	1	4.305617	-0.0075	19.4675	0.003822403
4150	3	4.308964	-0.005	19.4625	0.003821422
9246	4	4.310712	-0.005	19.4575	0.00382044
1716	1	4.310898	-0.0075	19.45	0.003818967
992	1	4.311182	-0.0075	19.4425	0.003817495
8313	3	4.312454	-0.005	19.4375	0.003816513
5822	3	4.312744	-0.005	19.4325	0.003815531
1717	1	4.313197	-0.0075	19.425	0.003814059

6151	3	4.316269	-0.005	19.42	0.003813077
1927	2	4.318229	-0.00625	19.41375	0.00381185
990	1	4.318834	-0.0075	19.40625	0.003810377
4000	3	4.322592	-0.005	19.40125	0.003809395
4581	3	4.326006	-0.005	19.39625	0.003808414
4268	3	4.326532	-0.005	19.39125	0.003807432
1872	2	4.327661	-0.00625	19.385	0.003806205
7145	3	4.327891	-0.005	19.38	0.003805223
818	1	4.327912	-0.0075	19.3725	0.00380375
1666	1	4.328692	-0.0075	19.365	0.003802278
3455	3	4.329065	-0.005	19.36	0.003801296
1255	1	4.32929	-0.0075	19.3525	0.003799823
4649	3	4.329684	-0.005	19.3475	0.003798842
1140	1	4.330173	-0.0075	19.34	0.003797369
1898	2	4.330879	-0.00625	19.33375	0.003796142
1068	1	4.332041	-0.0075	19.32625	0.003794669
9837	4	4.334457	-0.005	19.32125	0.003793687
6321	3	4.335205	-0.005	19.31625	0.003792706
961	1	4.335563	-0.0075	19.30875	0.003791233
1101	1	4.338793	-0.0075	19.30125	0.00378976
4933	3	4.339315	-0.005	19.29625	0.003788779
5768	3	4.340373	-0.005	19.29125	0.003787797
2326	2	4.341816	-0.00625	19.285	0.00378657
476	1	4.342036	-0.0075	19.2775	0.003785097
1876	2	4.344636	-0.00625	19.27125	0.00378387
8990	4	4.3451	-0.005	19.26625	0.003782888
7932	3	4.345898	-0.005	19.26125	0.003781907
6959	3	4.346175	-0.005	19.25625	0.003780925
571	1	4.34841	0.015	19.27125	0.00378387
2187	2	4.348663	0.0125	19.28375	0.003786324
1075	1	4.348664	-0.0075	19.27625	0.003784852
7847	3	4.349691	-0.005	19.27125	0.00378387
755	1	4.350291	-0.0075	19.26375	0.003782397
2807	2	4.352762	-0.00625	19.2575	0.00378117
737	1	4.354442	-0.0075	19.25	0.003779698
3344	3	4.355252	-0.005	19.245	0.003778716
245	1	4.355754	-0.0075	19.2375	0.003777243
3731	3	4.355944	-0.005	19.2325	0.003776262
2310	2	4.360959	-0.00625	19.22625	0.003775034
2428	2	4.361614	-0.00625	19.22	0.003773807
1945	2	4.362232	-0.00625	19.21375	0.00377258
947	1	4.363272	-0.0075	19.20625	0.003771107
9031	4	4.365986	-0.005	19.20125	0.003770126
5926	3	4.37054	-0.005	19.19625	0.003769144
4953	3	4.370892	-0.005	19.19125	0.003768162
1049	1	4.370962	-0.0075	19.18375	0.00376669
2747	2	4.373034	-0.00625	19.1775	0.003765462
1807	2	4.37367	-0.00625	19.17125	0.003764235
9577	4	4.373986	-0.005	19.16625	0.003763253
9084	4	4.375921	-0.005	19.16125	0.003762272
296	1	4.375971	-0.0075	19.15375	0.003760799
1154	1	4.377013	-0.0075	19.14625	0.003759327

8152	3	4.377102	-0.005	19.14125	0.003758345
6830	3	4.37729	-0.005	19.13625	0.003757363
2559	2	4.377591	-0.00625	19.13	0.003756136
7841	3	4.378923	-0.005	19.125	0.003755154
4325	3	4.379759	-0.005	19.12	0.003754172
2743	2	4.380007	-0.00625	19.11375	0.003752945
287	1	4.382256	-0.0075	19.10625	0.003751473
7821	3	4.382629	-0.005	19.10125	0.003750491
8320	3	4.385136	-0.005	19.09625	0.003749509
1693	1	4.386052	-0.0075	19.08875	0.003748037
7256	3	4.38735	-0.005	19.08375	0.003747055
3368	3	4.388838	-0.005	19.07875	0.003746073
6613	3	4.389205	-0.005	19.07375	0.003745091
7109	3	4.389548	-0.005	19.06875	0.00374411
1516	1	4.389709	-0.0075	19.06125	0.003742637
4129	3	4.389956	-0.005	19.05625	0.003741655
5844	3	4.390343	-0.005	19.05125	0.003740673
1418	1	4.390601	-0.0075	19.04375	0.003739201
1070	1	4.391388	-0.0075	19.03625	0.003737728
3066	3	4.392384	-0.005	19.03125	0.003736747
5501	3	4.392953	-0.005	19.02625	0.003735765
75	1	4.393461	-0.0075	19.01875	0.003734292
6558	3	4.394402	-0.005	19.01375	0.00373331
1571	1	4.394856	-0.0075	19.00625	0.003731838
4845	3	4.395064	-0.005	19.00125	0.003730856
861	1	4.395303	-0.0075	18.99375	0.003729383
2611	2	4.397165	-0.00625	18.9875	0.003728156
4195	3	4.39966	-0.005	18.9825	0.003727175
5271	3	4.402301	-0.005	18.9775	0.003726193
6908	3	4.403857	-0.005	18.9725	0.003725211
1745	1	4.405219	-0.0075	18.965	0.003723738
3343	3	4.406036	-0.005	18.96	0.003722757
5572	3	4.407739	-0.005	18.955	0.003721775
4900	3	4.408405	-0.005	18.95	0.003720793
2665	2	4.408492	-0.00625	18.94375	0.003719566
2654	2	4.40955	-0.00625	18.9375	0.003718339
1071	1	4.412079	-0.0075	18.93	0.003716866
3213	3	4.412423	-0.005	18.925	0.003715885
4984	3	4.414435	-0.005	18.92	0.003714903
6969	3	4.417179	-0.005	18.915	0.003713921
360	1	4.41794	-0.0075	18.9075	0.003712448
3772	3	4.418895	-0.005	18.9025	0.003711467
7458	3	4.419366	-0.005	18.8975	0.003710485
274	1	4.419681	-0.0075	18.89	0.003709012
498	1	4.421261	-0.0075	18.8825	0.00370754
9827	4	4.422343	-0.005	18.8775	0.003706558
1630	1	4.425313	-0.0075	18.87	0.003705085
7698	3	4.42916	-0.005	18.865	0.003704104
8210	3	4.431748	-0.005	18.86	0.003703122
762	1	4.436156	-0.0075	18.8525	0.003701649
3144	3	4.436196	-0.005	18.8475	0.003700668
3861	3	4.436564	-0.005	18.8425	0.003699686

7491	3	4.437474	0.01	18.8525	0.003701649
2608	2	4.437802	-0.00625	18.84625	0.003700422
7846	3	4.439147	-0.005	18.84125	0.00369944
2008	2	4.441405	-0.00625	18.835	0.003698213
7698	3	4.445086	-0.005	18.83	0.003697231
9725	4	4.445437	-0.005	18.825	0.00369625
8670	3	4.445572	-0.005	18.82	0.003695268
5787	3	4.44574	-0.005	18.815	0.003694286
3683	3	4.446755	0.01	18.825	0.00369625
7417	3	4.447089	0.01	18.835	0.003698213
973	1	4.447831	-0.0075	18.8275	0.003696741
3429	3	4.448138	-0.005	18.8225	0.003695759
1423	1	4.448205	-0.0075	18.815	0.003694286
4947	3	4.448862	-0.005	18.81	0.003693305
9750	4	4.451772	0.01	18.82	0.003695268
2330	2	4.454099	-0.00625	18.81375	0.003694041
1345	1	4.454909	-0.0075	18.80625	0.003692568
2335	2	4.461613	-0.00625	18.8	0.003691341
79	1	4.462536	-0.0075	18.7925	0.003689868
4160	3	4.464377	-0.005	18.7875	0.003688887
4897	3	4.464627	-0.005	18.7825	0.003687905
9602	4	4.465835	-0.005	18.7775	0.003686923
1976	2	4.466183	-0.00625	18.77125	0.003685696
4241	3	4.467004	-0.005	18.76625	0.003684714
7303	3	4.468024	0.01	18.77625	0.003686678
4820	3	4.468942	-0.005	18.77125	0.003685696
3099	3	4.469186	-0.005	18.76625	0.003684714
685	1	4.470453	-0.0075	18.75875	0.003683242
9714	4	4.473654	-0.005	18.75375	0.00368226
8296	3	4.473672	-0.005	18.74875	0.003681278
2925	3	4.474188	-0.005	18.74375	0.003680296
7867	3	4.474939	-0.005	18.73875	0.003679315
9438	4	4.475697	-0.005	18.73375	0.003678333
4537	3	4.475867	-0.005	18.72875	0.003677351
2940	3	4.477176	-0.005	18.72375	0.00367637
2165	2	4.479681	-0.00625	18.7175	0.003675142
6964	3	4.480091	0.01	18.7275	0.003677106
9196	4	4.482238	-0.005	18.7225	0.003676124
1378	1	4.483103	-0.0075	18.715	0.003674651
3309	3	4.483885	-0.005	18.71	0.00367367
6716	3	4.483981	-0.005	18.705	0.003672688
2393	2	4.484827	-0.00625	18.69875	0.003671461
938	1	4.486304	-0.0075	18.69125	0.003669988
1467	1	4.487272	-0.0075	18.68375	0.003668516
899	1	4.488136	-0.0075	18.67625	0.003667043
1725	1	4.490812	-0.0075	18.66875	0.00366557
7965	3	4.490965	-0.005	18.66375	0.003664589
1531	1	4.491565	-0.0075	18.65625	0.003663116
1234	1	4.491781	-0.0075	18.64875	0.003661643
8508	3	4.4942	-0.005	18.64375	0.003660662
5171	3	4.496115	-0.005	18.63875	0.00365968
1144	1	4.497846	-0.0075	18.63125	0.003658207

8203	3	4.498173	-0.005	18.62625	0.003657226
1809	2	4.498313	-0.00625	18.62	0.003655998
6947	3	4.498484	-0.005	18.615	0.003655017
2591	2	4.499397	-0.00625	18.60875	0.00365379
5043	3	4.501209	-0.005	18.60375	0.003652808
1829	2	4.501247	-0.00625	18.5975	0.003651581
337	1	4.50342	0.015	18.6125	0.003654526
872	1	4.504333	-0.0075	18.605	0.003653053
8490	3	4.504378	-0.005	18.6	0.003652071
1529	1	4.506017	-0.0075	18.5925	0.003650599
8983	4	4.508221	-0.005	18.5875	0.003649617
1023	1	4.508649	0.015	18.6025	0.003652562
2862	2	4.511037	0.0125	18.615	0.003655017
7914	3	4.512132	0.01	18.625	0.00365698
4858	3	4.512203	-0.005	18.62	0.003655998
1538	1	4.512337	-0.0075	18.6125	0.003654526
1851	2	4.512391	-0.00625	18.60625	0.003653299
1857	2	4.51337	-0.00625	18.6	0.003652071
4241	3	4.513698	-0.005	18.595	0.00365109
7518	3	4.514048	-0.005	18.59	0.003650108
4131	3	4.516005	-0.005	18.585	0.003649126
7774	3	4.516331	-0.005	18.58	0.003648145
6716	3	4.517656	-0.005	18.575	0.003647163
753	1	4.521678	0.015	18.59	0.003650108
2393	2	4.521766	-0.00625	18.58375	0.003648881
5295	3	4.522537	-0.005	18.57875	0.003647899
8315	3	4.524174	-0.005	18.57375	0.003646917
2878	2	4.526767	-0.00625	18.5675	0.00364569
747	1	4.527646	-0.0075	18.56	0.003644218
816	1	4.527766	-0.0075	18.5525	0.003642745
9432	4	4.528373	-0.005	18.5475	0.003641763
503	1	4.529472	0.015	18.5625	0.003644708
1783	2	4.531664	-0.00625	18.55625	0.003643481
2477	2	4.53247	-0.00625	18.55	0.003642254
2840	2	4.532641	-0.00625	18.54375	0.003641027
1918	2	4.534044	-0.00625	18.5375	0.0036398
1137	1	4.534894	-0.0075	18.53	0.003638327
543	1	4.539321	-0.0075	18.5225	0.003636855
3882	3	4.539753	-0.005	18.5175	0.003635873
5458	3	4.540252	-0.005	18.5125	0.003634891
1484	1	4.540254	-0.0075	18.505	0.003633418
2195	2	4.541557	-0.00625	18.49875	0.003632191
2809	2	4.542791	-0.00625	18.4925	0.003630964
7418	3	4.542982	-0.005	18.4875	0.003629982
9925	4	4.543531	-0.005	18.4825	0.003629001
5558	3	4.544316	-0.005	18.4775	0.003628019
7747	3	4.545613	-0.005	18.4725	0.003627037
3495	3	4.547846	-0.005	18.4675	0.003626055
4888	3	4.548798	-0.005	18.4625	0.003625074
6313	3	4.549249	-0.005	18.4575	0.003624092
843	1	4.550545	-0.0075	18.45	0.003622619
5001	3	4.552157	-0.005	18.445	0.003621638

8525	3	4.553789	-0.005	18.44	0.003620656
5546	3	4.556322	-0.005	18.435	0.003619674
3724	3	4.556801	-0.005	18.43	0.003618692
458	1	4.557438	-0.0075	18.4225	0.00361722
2879	2	4.560825	-0.00625	18.41625	0.003615993
1833	2	4.561145	-0.00625	18.41	0.003614765
4282	3	4.561458	-0.005	18.405	0.003613784
5043	3	4.561462	-0.005	18.4	0.003612802
5919	3	4.563241	-0.005	18.395	0.00361182
179	1	4.564607	-0.0075	18.3875	0.003610348
910	1	4.564618	-0.0075	18.38	0.003608875
9222	4	4.565849	-0.005	18.375	0.003607893
137	1	4.566894	0.015	18.39	0.003610838
2659	2	4.567226	-0.00625	18.38375	0.003609611
2337	2	4.56843	-0.00625	18.3775	0.003608384
3891	3	4.569037	-0.005	18.3725	0.003607402
2232	2	4.569784	-0.00625	18.36625	0.003606175
5968	3	4.570461	-0.005	18.36125	0.003605193
3688	3	4.571285	-0.005	18.35625	0.003604212
4619	3	4.571557	-0.005	18.35125	0.00360323
536	1	4.572102	-0.0075	18.34375	0.003601757
8087	3	4.579127	0.01	18.35375	0.003603721
5140	3	4.579288	0.01	18.36375	0.003605684
5376	3	4.579754	-0.005	18.35875	0.003604703
2701	2	4.579795	-0.00625	18.3525	0.003603475
7973	3	4.580888	0.01	18.3625	0.003605439
7239	3	4.584376	-0.005	18.3575	0.003604457
4656	3	4.585088	-0.005	18.3525	0.003603475
8550	3	4.585945	-0.005	18.3475	0.003602494
9322	4	4.58654	-0.005	18.3425	0.003601512
1854	2	4.586573	-0.00625	18.33625	0.003600285
7110	3	4.588656	-0.005	18.33125	0.003599303
744	1	4.588835	-0.0075	18.32375	0.00359783
1097	1	4.588969	-0.0075	18.31625	0.003596358
8213	3	4.589511	-0.005	18.31125	0.003595376
1487	1	4.589583	-0.0075	18.30375	0.003593903
1778	2	4.591169	-0.00625	18.2975	0.003592676
2324	2	4.591362	-0.00625	18.29125	0.003591449
2619	2	4.593982	0.0125	18.30375	0.003593903
758	1	4.594848	-0.0075	18.29625	0.003592431
1815	2	4.595431	-0.00625	18.29	0.003591204
6059	3	4.59557	-0.005	18.285	0.003590222
2661	2	4.596092	-0.00625	18.27875	0.003588995
9499	4	4.596145	-0.005	18.27375	0.003588013
6581	3	4.596861	0.01	18.28375	0.003589976
1459	1	4.596936	-0.0075	18.27625	0.003588504
2430	2	4.599207	-0.00625	18.27	0.003587277
3080	3	4.601195	-0.005	18.265	0.003586295
1124	1	4.601343	-0.0075	18.2575	0.003584822
6245	3	4.601517	-0.005	18.2525	0.003583841
1805	2	4.602298	-0.00625	18.24625	0.003582613
3460	3	4.602348	-0.005	18.24125	0.003581632

5287	3	4.603978	-0.005	18.23625	0.00358065
3188	3	4.604324	-0.005	18.23125	0.003579668
2104	2	4.604559	-0.00625	18.225	0.003578441
3260	3	4.604797	-0.005	18.22	0.003577459
2760	2	4.604847	-0.00625	18.21375	0.003576232
2370	2	4.605666	-0.00625	18.2075	0.003575005
8105	3	4.608361	-0.005	18.2025	0.003574023
1138	1	4.609183	-0.0075	18.195	0.003572551
1586	1	4.61013	-0.0075	18.1875	0.003571078
8230	3	4.612232	-0.005	18.1825	0.003570096
9599	4	4.612234	-0.005	18.1775	0.003569114
4650	3	4.618425	-0.005	18.1725	0.003568133
2396	2	4.61916	-0.00625	18.16625	0.003566906
2077	2	4.619992	-0.00625	18.16	0.003565678
711	1	4.620366	-0.0075	18.1525	0.003564206
6663	3	4.621227	-0.005	18.1475	0.003563224
7303	3	4.621725	-0.005	18.1425	0.003562242
6768	3	4.62238	-0.005	18.1375	0.003561261
932	1	4.624427	-0.0075	18.13	0.003559788
920	1	4.624616	-0.0075	18.1225	0.003558315
2096	2	4.625878	-0.00625	18.11625	0.003557088
3049	3	4.626547	-0.005	18.11125	0.003556106
4535	3	4.62809	-0.005	18.10625	0.003555125
3720	3	4.629781	-0.005	18.10125	0.003554143
5440	3	4.629889	-0.005	18.09625	0.003553161
8052	3	4.63024	-0.005	18.09125	0.003552179
4572	3	4.632629	-0.005	18.08625	0.003551198
8883	4	4.635321	-0.005	18.08125	0.003550216
29	1	4.635476	0.015	18.09625	0.003553161
5265	3	4.636792	-0.005	18.09125	0.003552179
1400	1	4.63694	-0.0075	18.08375	0.003550707
2302	2	4.638861	-0.00625	18.0775	0.00354948
1656	1	4.639072	-0.0075	18.07	0.003548007
7374	3	4.639707	-0.005	18.065	0.003547025
1690	1	4.640541	-0.0075	18.0575	0.003545553
2419	2	4.64091	-0.00625	18.05125	0.003544326
5649	3	4.64207	-0.005	18.04625	0.003543344
1077	1	4.642425	-0.0075	18.03875	0.003541871
4635	3	4.642866	-0.005	18.03375	0.003540889
7704	3	4.642896	-0.005	18.02875	0.003539908
2042	2	4.644561	-0.00625	18.0225	0.003538681
29	1	4.64468	-0.0075	18.015	0.003537208
733	1	4.648949	-0.0075	18.0075	0.003535735
1833	2	4.650204	-0.00625	18.00125	0.003534508
2914	3	4.650232	-0.005	17.99625	0.003533526
1200	1	4.651412	0.015	18.01125	0.003536472
5895	3	4.652464	-0.005	18.00625	0.00353549
4465	3	4.653349	-0.005	18.00125	0.003534508
2126	2	4.655208	-0.00625	17.995	0.003533281
3472	3	4.655994	-0.005	17.99	0.003532299
2540	2	4.657185	-0.00625	17.98375	0.003531072
2846	2	4.657224	-0.00625	17.9775	0.003529845

4750	3	4.657809	-0.005	17.9725	0.003528863
1785	2	4.6583	-0.00625	17.96625	0.003527636
1179	1	4.658529	-0.0075	17.95875	0.003526163
215	1	4.659901	-0.0075	17.95125	0.003524691
9487	4	4.660294	-0.005	17.94625	0.003523709
3324	3	4.660757	-0.005	17.94125	0.003522727
6391	3	4.661629	-0.005	17.93625	0.003521746
2904	3	4.663347	-0.005	17.93125	0.003520764
8347	3	4.665229	-0.005	17.92625	0.003519782
4028	3	4.666967	-0.005	17.92125	0.0035188
8002	3	4.668533	-0.005	17.91625	0.003517819
1392	1	4.670107	-0.0075	17.90875	0.003516346
6230	3	4.671105	-0.005	17.90375	0.003515364
7570	3	4.673751	0.01	17.91375	0.003517328
2589	2	4.673831	-0.00625	17.9075	0.003516101
475	1	4.675194	-0.0075	17.9	0.003514628
4668	3	4.675952	-0.005	17.895	0.003513646
8295	3	4.676827	-0.005	17.89	0.003512664
2016	2	4.67703	-0.00625	17.88375	0.003511437
9228	4	4.677143	-0.005	17.87875	0.003510456
5140	3	4.677538	-0.005	17.87375	0.003509474
4562	3	4.678369	-0.005	17.86875	0.003508492
273	1	4.683274	-0.0075	17.86125	0.003507019
1357	1	4.683644	-0.0075	17.85375	0.003505547
1276	1	4.684554	-0.0075	17.84625	0.003504074
706	1	4.684735	0.015	17.86125	0.003507019
5297	3	4.685287	-0.005	17.85625	0.003506038
923	1	4.688331	-0.0075	17.84875	0.003504565
7907	3	4.689727	-0.005	17.84375	0.003503583
6203	3	4.694362	-0.005	17.83875	0.003502602
4589	3	4.697837	-0.005	17.83375	0.00350162
8325	3	4.699395	-0.005	17.82875	0.003500638
6514	3	4.699535	-0.005	17.82375	0.003499656
3127	3	4.70065	0.01	17.83375	0.00350162
5252	3	4.701701	-0.005	17.82875	0.003500638
12	1	4.70653	-0.0075	17.82125	0.003499166
8560	3	4.707062	-0.005	17.81625	0.003498184
8015	3	4.707253	-0.005	17.81125	0.003497202
4125	3	4.708814	-0.005	17.80625	0.00349622
4648	3	4.709014	-0.005	17.80125	0.003495239
72	1	4.709824	-0.0075	17.79375	0.003493766
485	1	4.712149	-0.0075	17.78625	0.003492293
598	1	4.712204	-0.0075	17.77875	0.003490821
8690	3	4.714319	-0.005	17.77375	0.003489839
3098	3	4.717716	-0.005	17.76875	0.003488857
1946	2	4.720286	-0.00625	17.7625	0.00348763
5857	3	4.720594	-0.005	17.7575	0.003486648
8046	3	4.722564	-0.005	17.7525	0.003485667
2715	2	4.723705	0.0125	17.765	0.003488121
6394	3	4.723727	0.01	17.775	0.003490084
2469	2	4.724356	-0.00625	17.76875	0.003488857
2173	2	4.724749	-0.00625	17.7625	0.00348763

5700	3	4.726159	-0.005	17.7575	0.003486648
3918	3	4.726324	-0.005	17.7525	0.003485667
4695	3	4.726856	-0.005	17.7475	0.003484685
7491	3	4.730157	-0.005	17.7425	0.003483703
2968	3	4.732389	-0.005	17.7375	0.003482721
1141	1	4.732711	-0.0075	17.73	0.003481249
2281	2	4.732986	-0.00625	17.72375	0.003480022
881	1	4.733046	-0.0075	17.71625	0.003478549
6669	3	4.733054	-0.005	17.71125	0.003477567
5998	3	4.734811	-0.005	17.70625	0.003476586
1535	1	4.737181	-0.0075	17.69875	0.003475113
8470	3	4.738268	-0.005	17.69375	0.003474131
3158	3	4.738536	-0.005	17.68875	0.003473149
3577	3	4.739094	-0.005	17.68375	0.003472168
6167	3	4.740765	-0.005	17.67875	0.003471186
1594	1	4.742791	-0.0075	17.67125	0.003469713
7136	3	4.743787	-0.005	17.66625	0.003468732
2376	2	4.744733	-0.00625	17.66	0.003467504
6628	3	4.747834	-0.005	17.655	0.003466523
4043	3	4.747877	-0.005	17.65	0.003465541
7667	3	4.747879	-0.005	17.645	0.003464559
2853	2	4.749716	-0.00625	17.63875	0.003463332
1146	1	4.75006	-0.0075	17.63125	0.003461859
40	1	4.750101	-0.0075	17.62375	0.003460387
5172	3	4.751354	-0.005	17.61875	0.003459405
172	1	4.751376	-0.0075	17.61125	0.003457932
4160	3	4.752362	-0.005	17.60625	0.003456951
7968	3	4.752852	-0.005	17.60125	0.003455969
2821	2	4.753054	-0.00625	17.595	0.003454742
1199	1	4.754322	-0.0075	17.5875	0.003453269
7482	3	4.755834	0.01	17.5975	0.003455233
467	1	4.759834	-0.0075	17.59	0.00345376
1400	1	4.759855	-0.0075	17.5825	0.003452287
1370	1	4.760034	-0.0075	17.575	0.003450815
7610	3	4.761375	-0.005	17.57	0.003449833
1097	1	4.763283	-0.0075	17.5625	0.00344836
5610	3	4.764793	-0.005	17.5575	0.003447379
3151	3	4.765271	-0.005	17.5525	0.003446397
8939	4	4.765915	-0.005	17.5475	0.003445415
6160	3	4.767005	-0.005	17.5425	0.003444434
2512	2	4.768599	-0.00625	17.53625	0.003443206
6730	3	4.770806	0.01	17.54625	0.00344517
1010	1	4.771572	-0.0075	17.53875	0.003443697
5681	3	4.77291	-0.005	17.53375	0.003442715
878	1	4.775175	-0.0075	17.52625	0.003441243
2582	2	4.775221	-0.00625	17.52	0.003440016
8285	3	4.77533	-0.005	17.515	0.003439034
506	1	4.77582	-0.0075	17.5075	0.003437561
883	1	4.776995	-0.0075	17.5	0.003436089
6045	3	4.778037	-0.005	17.495	0.003435107
3889	3	4.783483	-0.005	17.49	0.003434125
1305	1	4.786947	-0.0075	17.4825	0.003432653

539	1	4.787324	-0.0075	17.475	0.00343118
1640	1	4.791314	-0.0075	17.4675	0.003429707
7914	3	4.791701	-0.005	17.4625	0.003428726
6531	3	4.791712	-0.005	17.4575	0.003427744
3319	3	4.792513	-0.005	17.4525	0.003426762
7199	3	4.794077	-0.005	17.4475	0.00342578
5713	3	4.794434	-0.005	17.4425	0.003424799
3742	3	4.795611	-0.005	17.4375	0.003423817
5400	3	4.798132	-0.005	17.4325	0.003422835
1333	1	4.803066	0.015	17.4475	0.00342578
9750	4	4.804116	-0.005	17.4425	0.003424799
5586	3	4.805277	-0.005	17.4375	0.003423817
5617	3	4.805294	-0.005	17.4325	0.003422835
4943	3	4.807997	-0.005	17.4275	0.003421854
2717	2	4.808304	-0.00625	17.42125	0.003420626
6235	3	4.809509	-0.005	17.41625	0.003419645
100	1	4.809768	-0.0075	17.40875	0.003418172
1014	1	4.81051	-0.0075	17.40125	0.003416699
378	1	4.810903	-0.0075	17.39375	0.003415227
1176	1	4.811752	-0.0075	17.38625	0.003413754
1940	2	4.814452	-0.00625	17.38	0.003412527
97	1	4.814554	-0.0075	17.3725	0.003411054
815	1	4.815188	-0.0075	17.365	0.003409582
7348	3	4.815475	-0.005	17.36	0.0034086
4893	3	4.816073	-0.005	17.355	0.003407618
4172	3	4.816363	-0.005	17.35	0.003406637
1043	1	4.816999	-0.0075	17.3425	0.003405164
1706	1	4.817194	-0.0075	17.335	0.003403691
978	1	4.817536	-0.0075	17.3275	0.003402219
3923	3	4.818941	-0.005	17.3225	0.003401237
3109	3	4.819378	-0.005	17.3175	0.003400255
2534	2	4.81951	-0.00625	17.31125	0.003399028
2077	2	4.820565	-0.00625	17.305	0.003397801
3413	3	4.822534	-0.005	17.3	0.003396819
963	1	4.824136	-0.0075	17.2925	0.003395347
5475	3	4.825715	-0.005	17.2875	0.003394365
8639	3	4.82707	-0.005	17.2825	0.003393383
1207	1	4.827544	-0.0075	17.275	0.00339191
130	1	4.828588	-0.0075	17.2675	0.003390438
6634	3	4.828622	-0.005	17.2625	0.003389456
8926	4	4.831712	-0.005	17.2575	0.003388474
648	1	4.833521	-0.0075	17.25	0.003387002
1633	1	4.834254	-0.0075	17.2425	0.003385529
706	1	4.834404	-0.0075	17.235	0.003384057
3993	3	4.837047	-0.005	17.23	0.003383075
4911	3	4.837259	-0.005	17.225	0.003382093
946	1	4.838351	-0.0075	17.2175	0.00338062
8639	3	4.841097	-0.005	17.2125	0.003379639
2870	2	4.841517	-0.00625	17.20625	0.003378412
1530	1	4.841929	-0.0075	17.19875	0.003376939
8182	3	4.842454	0.01	17.20875	0.003378902
7817	3	4.842727	-0.005	17.20375	0.003377921

6377	3	4.843418	0.01	17.21375	0.003379884
969	1	4.844184	-0.0075	17.20625	0.003378412
7100	3	4.844213	-0.005	17.20125	0.00337743
3459	3	4.845501	-0.005	17.19625	0.003376448
1482	1	4.846126	-0.0075	17.18875	0.003374975
2915	3	4.84619	-0.005	17.18375	0.003373994
3947	3	4.848042	-0.005	17.17875	0.003373012
2712	2	4.850352	-0.00625	17.1725	0.003371785
3957	3	4.851361	-0.005	17.1675	0.003370803
2719	2	4.855005	-0.00625	17.16125	0.003369576
7784	3	4.855008	-0.005	17.15625	0.003368594
4603	3	4.856042	-0.005	17.15125	0.003367612
6992	3	4.856454	-0.005	17.14625	0.003366631
5863	3	4.857467	0.01	17.15625	0.003368594
3048	3	4.857623	-0.005	17.15125	0.003367612
2461	2	4.858602	-0.00625	17.145	0.003366385
1792	2	4.859618	0.0125	17.1575	0.00336884
2740	2	4.860364	-0.00625	17.15125	0.003367612
3525	3	4.860691	-0.005	17.14625	0.003366631
3029	3	4.860789	-0.005	17.14125	0.003365649
4121	3	4.864387	-0.005	17.13625	0.003364667
6579	3	4.864567	-0.005	17.13125	0.003363685
894	1	4.864946	-0.0075	17.12375	0.003362213
8210	3	4.866131	-0.005	17.11875	0.003361231
29	1	4.866515	-0.0075	17.11125	0.003359758
8421	3	4.868837	-0.005	17.10625	0.003358777
9888	4	4.875791	-0.005	17.10125	0.003357795
8305	3	4.877144	0.01	17.11125	0.003359758
3247	3	4.878377	-0.005	17.10625	0.003358777
7023	3	4.879226	-0.005	17.10125	0.003357795
45	1	4.879536	-0.0075	17.09375	0.003356322
4288	3	4.879721	-0.005	17.08875	0.003355341
6530	3	4.88024	-0.005	17.08375	0.003354359
8161	3	4.881285	-0.005	17.07875	0.003353377
1552	1	4.882767	-0.0075	17.07125	0.003351905
1744	1	4.886123	-0.0075	17.06375	0.003350432
442	1	4.890856	-0.0075	17.05625	0.003348959
513	1	4.894247	-0.0075	17.04875	0.003347487
2966	3	4.894467	-0.005	17.04375	0.003346505
1243	1	4.895542	-0.0075	17.03625	0.003345032
2368	2	4.895735	-0.00625	17.03	0.003343805
8254	3	4.895767	-0.005	17.025	0.003342823
2699	2	4.896701	-0.00625	17.01875	0.003341596
1923	2	4.901278	-0.00625	17.0125	0.003340369
4304	3	4.90202	-0.005	17.0075	0.003339387
7	1	4.903094	-0.0075	17	0.003337915
846	1	4.905652	-0.0075	16.9925	0.003336442
523	1	4.906349	-0.0075	16.985	0.00333497
1613	1	4.906714	-0.0075	16.9775	0.003333497
1442	1	4.906765	-0.0075	16.97	0.003332024
1196	1	4.907179	-0.0075	16.9625	0.003330552
1061	1	4.907429	-0.0075	16.955	0.003329079

7517	3	4.907708	-0.005	16.95	0.003328097
7051	3	4.910277	0.01	16.96	0.003330061
7639	3	4.911626	-0.005	16.955	0.003329079
5943	3	4.911895	-0.005	16.95	0.003328097
1163	1	4.913178	-0.0075	16.9425	0.003326625
2351	2	4.913539	-0.00625	16.93625	0.003325398
1540	1	4.914321	-0.0075	16.92875	0.003323925
5378	3	4.915682	-0.005	16.92375	0.003322943
2113	2	4.918567	-0.00625	16.9175	0.003321716
4406	3	4.919093	-0.005	16.9125	0.003320734
8411	3	4.925205	-0.005	16.9075	0.003319753
3916	3	4.926651	0.01	16.9175	0.003321716
548	1	4.930252	-0.0075	16.91	0.003320243
7765	3	4.931186	-0.005	16.905	0.003319262
790	1	4.931843	0.015	16.92	0.003322207
7349	3	4.932887	-0.005	16.915	0.003321225
142	1	4.933212	-0.0075	16.9075	0.003319753
9500	4	4.934396	-0.005	16.9025	0.003318771
1312	1	4.93628	-0.0075	16.895	0.003317298
5008	3	4.937037	0.01	16.905	0.003319262
2584	2	4.93756	-0.00625	16.89875	0.003318035
1894	2	4.937867	-0.00625	16.8925	0.003316807
621	1	4.938092	-0.0075	16.885	0.003315335
336	1	4.938652	-0.0075	16.8775	0.003313862
6737	3	4.940757	-0.005	16.8725	0.00331288
158	1	4.941116	-0.0075	16.865	0.003311408
790	1	4.942676	-0.0075	16.8575	0.003309935
6847	3	4.944006	-0.005	16.8525	0.003308953
3777	3	4.944608	-0.005	16.8475	0.003307972
3956	3	4.944669	-0.005	16.8425	0.00330699
136	1	4.947571	-0.0075	16.835	0.003305517
6521	3	4.948667	-0.005	16.83	0.003304536
1775	2	4.948803	-0.00625	16.82375	0.003303308
1719	1	4.949083	-0.0075	16.81625	0.003301836
8128	3	4.950465	-0.005	16.81125	0.003300854
2030	2	4.953529	-0.00625	16.805	0.003299627
4938	3	4.953903	-0.005	16.8	0.003298645
5863	3	4.954352	-0.005	16.795	0.003297663
7929	3	4.956186	-0.005	16.79	0.003296682
2381	2	4.957424	-0.00625	16.78375	0.003295455
224	1	4.957799	-0.0075	16.77625	0.003293982
2434	2	4.958348	-0.00625	16.77	0.003292755
2218	2	4.959482	-0.00625	16.76375	0.003291528
7567	3	4.959685	-0.005	16.75875	0.003290546
8206	3	4.960756	-0.005	16.75375	0.003289564
5483	3	4.961434	-0.005	16.74875	0.003288582
1147	1	4.962051	-0.0075	16.74125	0.00328711
1019	1	4.962679	-0.0075	16.73375	0.003285637
7204	3	4.966629	-0.005	16.72875	0.003284655
2409	2	4.967506	-0.00625	16.7225	0.003283428
6298	3	4.969243	-0.005	16.7175	0.003282446
3587	3	4.970629	-0.005	16.7125	0.003281465

5972	3	4.970868	-0.005	16.7075	0.003280483
9182	4	4.971879	-0.005	16.7025	0.003279501
1842	2	4.972846	-0.00625	16.69625	0.003278274
1904	2	4.972965	-0.00625	16.69	0.003277047
6541	3	4.974981	-0.005	16.685	0.003276065
4413	3	4.976276	-0.005	16.68	0.003275083
8323	3	4.976511	-0.005	16.675	0.003274102
893	1	4.982437	-0.0075	16.6675	0.003272629
2489	2	4.982935	-0.00625	16.66125	0.003271402
4878	3	4.982977	-0.005	16.65625	0.00327042
8908	4	4.983587	-0.005	16.65125	0.003269438
3129	3	4.9838	0.01	16.66125	0.003271402
1296	1	4.984338	-0.0075	16.65375	0.003269929
4251	3	4.984579	-0.005	16.64875	0.003268948
1556	1	4.985062	-0.0075	16.64125	0.003267475
2458	2	4.988863	-0.00625	16.635	0.003266248
5674	3	4.990399	-0.005	16.63	0.003265266
7510	3	4.990541	-0.005	16.625	0.003264284
3189	3	4.990728	-0.005	16.62	0.003263303
2553	2	4.991648	-0.00625	16.61375	0.003262075
6139	3	4.992144	-0.005	16.60875	0.003261094
146	1	4.992397	-0.0075	16.60125	0.003259621
7808	3	4.993914	-0.005	16.59625	0.003258639
570	1	4.994124	-0.0075	16.58875	0.003257167
4281	3	4.995237	-0.005	16.58375	0.003256185
1458	1	4.996402	-0.0075	16.57625	0.003254712
157	1	4.996626	-0.0075	16.56875	0.00325324
527	1	4.998978	-0.0075	16.56125	0.003251767
1875	2	4.999267	-0.00625	16.555	0.00325054
7635	3	4.999871	-0.005	16.55	0.003249558
1348	1	5.00275	-0.0075	16.5425	0.003248086
6880	3	5.003341	-0.005	16.5375	0.003247104
5252	3	5.004553	-0.005	16.5325	0.003246122
5836	3	5.007461	-0.005	16.5275	0.00324514
2365	2	5.009608	-0.00625	16.52125	0.003243913
5381	3	5.009973	-0.005	16.51625	0.003242931
1392	1	5.010109	-0.0075	16.50875	0.003241459
3923	3	5.011747	-0.005	16.50375	0.003240477
1514	1	5.013162	-0.0075	16.49625	0.003239005
932	1	5.014707	-0.0075	16.48875	0.003237532
9168	4	5.015378	-0.005	16.48375	0.00323655
2022	2	5.016872	-0.00625	16.4775	0.003235323
503	1	5.019779	-0.0075	16.47	0.00323385
1793	2	5.020334	-0.00625	16.46375	0.003232623
5631	3	5.022524	-0.005	16.45875	0.003231641
6576	3	5.023048	-0.005	16.45375	0.00323066
2083	2	5.024054	-0.00625	16.4475	0.003229433
1015	1	5.028527	-0.0075	16.44	0.00322796
7120	3	5.034935	-0.005	16.435	0.003226978
637	1	5.035011	-0.0075	16.4275	0.003225506
2984	3	5.035711	-0.005	16.4225	0.003224524
6388	3	5.038669	-0.005	16.4175	0.003223542

3980	3	5.03891	-0.005	16.4125	0.00322256
7303	3	5.039185	-0.005	16.4075	0.003221579
1172	1	5.03989	-0.0075	16.4	0.003220106
4852	3	5.040983	-0.005	16.395	0.003219124
4320	3	5.041236	-0.005	16.39	0.003218143
8994	4	5.043133	-0.005	16.385	0.003217161
5094	3	5.044089	-0.005	16.38	0.003216179
2723	2	5.04467	-0.00625	16.37375	0.003214952
4825	3	5.048624	-0.005	16.36875	0.00321397
300	1	5.049247	-0.0075	16.36125	0.003212498
1755	1	5.050856	-0.0075	16.35375	0.003211025
6377	3	5.051286	-0.005	16.34875	0.003210043
436	1	5.052183	-0.0075	16.34125	0.003208571
1926	2	5.053492	-0.00625	16.335	0.003207343
6499	3	5.054035	-0.005	16.33	0.003206362
3495	3	5.054507	-0.005	16.325	0.00320538
2598	2	5.062276	-0.00625	16.31875	0.003204153
2786	2	5.06341	-0.00625	16.3125	0.003202926
2868	2	5.064608	-0.00625	16.30625	0.003201698
8673	3	5.065526	-0.005	16.30125	0.003200717
7064	3	5.068776	-0.005	16.29625	0.003199735
2078	2	5.069628	-0.00625	16.29	0.003198508
6107	3	5.072529	-0.005	16.285	0.003197526
247	1	5.074724	-0.0075	16.2775	0.003196053
9975	4	5.07548	-0.005	16.2725	0.003195072
1556	1	5.078663	-0.0075	16.265	0.003193599
5669	3	5.084996	-0.005	16.26	0.003192617
4561	3	5.086554	-0.005	16.255	0.003191636
3315	3	5.087911	-0.005	16.25	0.003190654
2551	2	5.088745	-0.00625	16.24375	0.003189427
5039	3	5.089026	-0.005	16.23875	0.003188445
8915	4	5.089536	0.01	16.24875	0.003190408
3472	3	5.090919	-0.005	16.24375	0.003189427
3683	3	5.091248	-0.005	16.23875	0.003188445
717	1	5.092457	-0.0075	16.23125	0.003186972
5388	3	5.096223	-0.005	16.22625	0.003185991
2530	2	5.097566	-0.00625	16.22	0.003184763
6893	3	5.100161	-0.005	16.215	0.003183782
8360	3	5.10107	-0.005	16.21	0.0031828
4970	3	5.104592	-0.005	16.205	0.003181818
5525	3	5.105177	-0.005	16.2	0.003180836
5370	3	5.107483	-0.005	16.195	0.003179855
8994	4	5.113156	-0.005	16.19	0.003178873
7570	3	5.113192	-0.005	16.185	0.003177891
792	1	5.113252	-0.0075	16.1775	0.003176419
6763	3	5.116302	-0.005	16.1725	0.003175437
173	1	5.116831	-0.0075	16.165	0.003173964
6340	3	5.117328	-0.005	16.16	0.003172983
43	1	5.12156	-0.0075	16.1525	0.00317151
6335	3	5.122285	-0.005	16.1475	0.003170528
1696	1	5.123148	-0.0075	16.14	0.003169056
2724	2	5.124413	-0.00625	16.13375	0.003167828

2310	2	5.124779	-0.00625	16.1275	0.003166601
5656	3	5.125886	-0.005	16.1225	0.003165619
48	1	5.126095	-0.0075	16.115	0.003164147
2924	3	5.127477	-0.005	16.11	0.003163165
9830	4	5.129142	-0.005	16.105	0.003162183
1128	1	5.130981	-0.0075	16.0975	0.003160711
1755	1	5.13251	-0.0075	16.09	0.003159238
3993	3	5.132739	-0.005	16.085	0.003158256
7468	3	5.132813	-0.005	16.08	0.003157275
2439	2	5.133951	-0.00625	16.07375	0.003156048
7522	3	5.134329	-0.005	16.06875	0.003155066
9846	4	5.135436	-0.005	16.06375	0.003154084
1181	1	5.13578	-0.0075	16.05625	0.003152611
9561	4	5.136346	0.01	16.06625	0.003154575
2480	2	5.136394	-0.00625	16.06	0.003153348
2119	2	5.136826	-0.00625	16.05375	0.003152121
7878	3	5.137158	-0.005	16.04875	0.003151139
557	1	5.137238	-0.0075	16.04125	0.003149666
7829	3	5.138147	-0.005	16.03625	0.003148684
1536	1	5.141354	-0.0075	16.02875	0.003147212
9191	4	5.14542	-0.005	16.02375	0.00314623
825	1	5.146699	-0.0075	16.01625	0.003144758
1236	1	5.146892	-0.0075	16.00875	0.003143285
9481	4	5.146987	-0.005	16.00375	0.003142303
213	1	5.146992	-0.0075	15.99625	0.003140831
1020	1	5.147214	0.015	16.01125	0.003143776
2573	2	5.147369	-0.00625	16.005	0.003142549
4737	3	5.15178	-0.005	16	0.003141567
7729	3	5.152467	-0.005	15.995	0.003140585
1435	1	5.152504	-0.0075	15.9875	0.003139113
1209	1	5.153887	-0.0075	15.98	0.00313764
2015	2	5.154693	-0.00625	15.97375	0.003136413
7826	3	5.157029	-0.005	15.96875	0.003135431
796	1	5.162107	-0.0075	15.96125	0.003133958
7923	3	5.163834	0.01	15.97125	0.003135922
302	1	5.164097	-0.0075	15.96375	0.003134449
1928	2	5.164126	-0.00625	15.9575	0.003133222
2930	3	5.164243	-0.005	15.9525	0.00313224
3536	3	5.165811	-0.005	15.9475	0.003131259
8059	3	5.168234	-0.005	15.9425	0.003130277
722	1	5.168686	-0.0075	15.935	0.003128804
3420	3	5.169772	-0.005	15.93	0.003127823
5454	3	5.169871	-0.005	15.925	0.003126841
4303	3	5.17024	-0.005	15.92	0.003125859
2211	2	5.172222	-0.00625	15.91375	0.003124632
5920	3	5.172647	-0.005	15.90875	0.00312365
966	1	5.172753	-0.0075	15.90125	0.003122177
3023	3	5.175697	-0.005	15.89625	0.003121196
885	1	5.180944	-0.0075	15.88875	0.003119723
589	1	5.183003	-0.0075	15.88125	0.003118251
1564	1	5.186851	-0.0075	15.87375	0.003116778
8553	3	5.186949	-0.005	15.86875	0.003115796

2111	2	5.18812	-0.00625	15.8625	0.003114569
1075	1	5.190175	-0.0075	15.855	0.003113096
2215	2	5.191108	-0.00625	15.84875	0.003111869
5642	3	5.192991	-0.005	15.84375	0.003110887
5194	3	5.193575	-0.005	15.83875	0.003109906
1971	2	5.193834	-0.00625	15.8325	0.003108679
6143	3	5.1963	-0.005	15.8275	0.003107697
4182	3	5.197753	-0.005	15.8225	0.003106715
4592	3	5.200037	-0.005	15.8175	0.003105733
747	1	5.200964	-0.0075	15.81	0.003104261
2343	2	5.201356	-0.00625	15.80375	0.003103034
694	1	5.204862	-0.0075	15.79625	0.003101561
6468	3	5.207472	-0.005	15.79125	0.003100579
1624	1	5.211653	-0.0075	15.78375	0.003099107
1792	2	5.216434	-0.00625	15.7775	0.003097879
517	1	5.217125	-0.0075	15.77	0.003096407
418	1	5.217458	-0.0075	15.7625	0.003094934
7250	3	5.218251	-0.005	15.7575	0.003093952
2317	2	5.218803	-0.00625	15.75125	0.003092725
8401	3	5.219247	-0.005	15.74625	0.003091744
848	1	5.219532	-0.0075	15.73875	0.003090271
8461	3	5.220582	-0.005	15.73375	0.003089289
2606	2	5.222422	-0.00625	15.7275	0.003088062
3454	3	5.222752	-0.005	15.7225	0.00308708
2876	2	5.223986	-0.00625	15.71625	0.003085853
3610	3	5.225798	-0.005	15.71125	0.003084871
71	1	5.226986	-0.0075	15.70375	0.003083399
6403	3	5.227104	-0.005	15.69875	0.003082417
6477	3	5.229027	-0.005	15.69375	0.003081435
1374	1	5.22967	-0.0075	15.68625	0.003079963
4209	3	5.230195	-0.005	15.68125	0.003078981
1693	1	5.231764	-0.0075	15.67375	0.003077508
8883	4	5.233468	-0.005	15.66875	0.003076527
9561	4	5.234178	-0.005	15.66375	0.003075545
1333	1	5.236627	-0.0075	15.65625	0.003074072
8509	3	5.23803	-0.005	15.65125	0.003073091
159	1	5.238299	-0.0075	15.64375	0.003071618
4718	3	5.238881	-0.005	15.63875	0.003070636
681	1	5.239457	-0.0075	15.63125	0.003069164
514	1	5.242045	-0.0075	15.62375	0.003067691
8087	3	5.2434	-0.005	15.61875	0.003066709
2011	2	5.244161	-0.00625	15.6125	0.003065482
2663	2	5.244595	-0.00625	15.60625	0.003064255
1254	1	5.244672	-0.0075	15.59875	0.003062782
1618	1	5.244827	-0.0075	15.59125	0.00306131
5908	3	5.245898	-0.005	15.58625	0.003060328
3162	3	5.245928	-0.005	15.58125	0.003059346
8086	3	5.246643	-0.005	15.57625	0.003058364
440	1	5.250102	-0.0075	15.56875	0.003056892
3168	3	5.250532	-0.005	15.56375	0.00305591
752	1	5.251308	-0.0075	15.55625	0.003054437
1432	1	5.252447	-0.0075	15.54875	0.003052965

7051	3	5.253086	-0.005	15.54375	0.003051983
1537	1	5.254485	-0.0075	15.53625	0.003050511
8463	3	5.257068	-0.005	15.53125	0.003049529
7049	3	5.258533	-0.005	15.52625	0.003048547
1191	1	5.259432	-0.0075	15.51875	0.003047074
6528	3	5.262037	-0.005	15.51375	0.003046093
3874	3	5.262726	-0.005	15.50875	0.003045111
1092	1	5.263708	-0.0075	15.50125	0.003043638
6078	3	5.264729	-0.005	15.49625	0.003042657
7811	3	5.265027	-0.005	15.49125	0.003041675
2714	2	5.267844	-0.00625	15.485	0.003040448
3198	3	5.272279	-0.005	15.48	0.003039466
6869	3	5.272658	-0.005	15.475	0.003038484
6206	3	5.274661	-0.005	15.47	0.003037502
3785	3	5.275127	-0.005	15.465	0.003036521
970	1	5.275365	-0.0075	15.4575	0.003035048
453	1	5.278992	-0.0075	15.45	0.003033575
272	1	5.284201	-0.0075	15.4425	0.003032103
2037	2	5.284594	-0.00625	15.43625	0.003030876
422	1	5.285387	-0.0075	15.42875	0.003029403
2889	2	5.285437	-0.00625	15.4225	0.003028176
8665	3	5.286527	-0.005	15.4175	0.003027194
1120	1	5.288081	-0.0075	15.41	0.003025722
8941	4	5.288951	-0.005	15.405	0.00302474
6762	3	5.289311	-0.005	15.4	0.003023758
3413	3	5.289576	-0.005	15.395	0.003022776
4891	3	5.290102	-0.005	15.39	0.003021795
625	1	5.291322	-0.0075	15.3825	0.003020322
334	1	5.296337	-0.0075	15.375	0.003018849
1423	1	5.297818	-0.0075	15.3675	0.003017377
8224	3	5.298289	-0.005	15.3625	0.003016395
4973	3	5.298933	-0.005	15.3575	0.003015413
2843	2	5.299871	-0.00625	15.35125	0.003014186
7265	3	5.301775	-0.005	15.34625	0.003013204
7602	3	5.302509	-0.005	15.34125	0.003012223
4507	3	5.302712	-0.005	15.33625	0.003011241
873	1	5.307058	-0.0075	15.32875	0.003009768
384	1	5.309398	-0.0075	15.32125	0.003008296
4386	3	5.310927	0.01	15.33125	0.003010259
8375	3	5.315122	-0.005	15.32625	0.003009277
8160	3	5.315243	-0.005	15.32125	0.003008296
4213	3	5.315309	-0.005	15.31625	0.003007314
403	1	5.317568	-0.0075	15.30875	0.003005841
393	1	5.319997	-0.0075	15.30125	0.003004369
4280	3	5.321068	-0.005	15.29625	0.003003387
1251	1	5.322246	-0.0075	15.28875	0.003001914
3174	3	5.324696	-0.005	15.28375	0.003000933
5282	3	5.325707	-0.005	15.27875	0.002999951
9341	4	5.327318	-0.005	15.27375	0.002998969
816	1	5.328367	-0.0075	15.26625	0.002997497
6025	3	5.332188	-0.005	15.26125	0.002996515
1353	1	5.333414	-0.0075	15.25375	0.002995042

8440	3	5.335065	-0.005	15.24875	0.00299406
9571	4	5.335699	-0.005	15.24375	0.002993079
2240	2	5.335962	-0.00625	15.2375	0.002991852
1865	2	5.339419	-0.00625	15.23125	0.002990624
2131	2	5.339925	-0.00625	15.225	0.002989397
3105	3	5.339992	-0.005	15.22	0.002988415
1921	2	5.341358	-0.00625	15.21375	0.002987188
8222	3	5.342107	-0.005	15.20875	0.002986207
5714	3	5.3457	-0.005	15.20375	0.002985225
7686	3	5.346414	0.01	15.21375	0.002987188
8573	3	5.346803	-0.005	15.20875	0.002986207
1754	1	5.347306	-0.0075	15.20125	0.002984734
354	1	5.349737	-0.0075	15.19375	0.002983261
4947	3	5.350049	-0.005	15.18875	0.00298228
1357	1	5.350779	-0.0075	15.18125	0.002980807
5992	3	5.351724	-0.005	15.17625	0.002979825
2482	2	5.353919	-0.00625	15.17	0.002978598
3683	3	5.354167	-0.005	15.165	0.002977616
5869	3	5.355203	-0.005	15.16	0.002976635
1989	2	5.355868	-0.00625	15.15375	0.002975407
563	1	5.356771	-0.0075	15.14625	0.002973935
4667	3	5.35783	-0.005	15.14125	0.002972953
2168	2	5.359357	-0.00625	15.135	0.002971726
4184	3	5.361553	-0.005	15.13	0.002970744
7491	3	5.36209	-0.005	15.125	0.002969762
2184	2	5.362811	-0.00625	15.11875	0.002968535
206	1	5.362828	0.015	15.13375	0.00297148
2621	2	5.363764	-0.00625	15.1275	0.002970253
8359	3	5.364514	-0.005	15.1225	0.002969272
6011	3	5.364554	-0.005	15.1175	0.00296829
9184	4	5.365578	-0.005	15.1125	0.002967308
5577	3	5.365893	-0.005	15.1075	0.002966326
798	1	5.367135	-0.0075	15.1	0.002964854
72	1	5.367574	-0.0075	15.0925	0.002963381
2075	2	5.368313	-0.00625	15.08625	0.002962154
8376	3	5.369253	-0.005	15.08125	0.002961172
571	1	5.369931	-0.0075	15.07375	0.0029597
90	1	5.37027	-0.0075	15.06625	0.002958227
98	1	5.372186	-0.0075	15.05875	0.002956754
3919	3	5.372353	-0.005	15.05375	0.002955773
6311	3	5.380339	-0.005	15.04875	0.002954791
2862	2	5.380519	-0.00625	15.0425	0.002953564
1226	1	5.384081	-0.0075	15.035	0.002952091
2086	2	5.384435	-0.00625	15.02875	0.002950864
4731	3	5.38549	0.01	15.03875	0.002952827
7089	3	5.386323	-0.005	15.03375	0.002951846
4838	3	5.386628	0.01	15.04375	0.002953809
2996	3	5.388109	-0.005	15.03875	0.002952827
6049	3	5.391665	-0.005	15.03375	0.002951846
1476	1	5.391852	-0.0075	15.02625	0.002950373
888	1	5.39498	-0.0075	15.01875	0.0029489
6491	3	5.397429	-0.005	15.01375	0.002947919

1178	1	5.399979	-0.0075	15.00625	0.002946446
451	1	5.400112	-0.0075	14.99875	0.002944973
1521	1	5.402703	-0.0075	14.99125	0.002943501
8433	3	5.40313	-0.005	14.98625	0.002942519
8542	3	5.403281	-0.005	14.98125	0.002941537
7637	3	5.406532	-0.005	14.97625	0.002940556
4625	3	5.406732	-0.005	14.97125	0.002939574
4315	3	5.407422	-0.005	14.96625	0.002938592
3442	3	5.407901	-0.005	14.96125	0.00293761
3127	3	5.407967	-0.005	14.95625	0.002936629
3863	3	5.411392	0.01	14.96625	0.002938592
488	1	5.411465	-0.0075	14.95875	0.00293712
3820	3	5.413306	-0.005	14.95375	0.002936138
359	1	5.415782	-0.0075	14.94625	0.002934665
8182	3	5.416793	-0.005	14.94125	0.002933683
2211	2	5.420833	-0.00625	14.935	0.002932456
6053	3	5.421356	-0.005	14.93	0.002931475
2134	2	5.422434	-0.00625	14.92375	0.002930247
61	1	5.424039	-0.0075	14.91625	0.002928775
3100	3	5.424602	-0.005	14.91125	0.002927793
546	1	5.425101	-0.0075	14.90375	0.00292632
4125	3	5.425533	-0.005	14.89875	0.002925339
659	1	5.425603	-0.0075	14.89125	0.002923866
802	1	5.42561	-0.0075	14.88375	0.002922393
8115	3	5.427898	-0.005	14.87875	0.002921412
5927	3	5.428055	-0.005	14.87375	0.00292043
283	1	5.428437	-0.0075	14.86625	0.002918957
8485	3	5.428957	-0.005	14.86125	0.002917976
6068	3	5.43116	-0.005	14.85625	0.002916994
3848	3	5.43151	-0.005	14.85125	0.002916012
1569	1	5.432479	-0.0075	14.84375	0.00291454
6998	3	5.432648	-0.005	14.83875	0.002913558
5847	3	5.432945	-0.005	14.83375	0.002912576
829	1	5.433034	-0.0075	14.82625	0.002911103
5840	3	5.435106	-0.005	14.82125	0.002910122
2884	2	5.435504	-0.00625	14.815	0.002908895
2064	2	5.435642	-0.00625	14.80875	0.002907667
547	1	5.438669	-0.0075	14.80125	0.002906195
7226	3	5.438737	-0.005	14.79625	0.002905213
564	1	5.439197	-0.0075	14.78875	0.00290374
818	1	5.445199	-0.0075	14.78125	0.002902268
2013	2	5.445207	-0.00625	14.775	0.002901041
4305	3	5.445519	-0.005	14.77	0.002900059
4057	3	5.44666	-0.005	14.765	0.002899077
6792	3	5.44677	-0.005	14.76	0.002898095
6231	3	5.449354	-0.005	14.755	0.002897114
5181	3	5.449793	-0.005	14.75	0.002896132
7030	3	5.450682	-0.005	14.745	0.00289515
1863	2	5.452235	-0.00625	14.73875	0.002893923
2473	2	5.457707	-0.00625	14.7325	0.002892696
7002	3	5.459932	-0.005	14.7275	0.002891714
2029	2	5.459971	-0.00625	14.72125	0.002890487

7394	3	5.462792	-0.005	14.71625	0.002889505
2193	2	5.464537	-0.00625	14.71	0.002888278
6999	3	5.466477	0.01	14.72	0.002890242
2299	2	5.46819	-0.00625	14.71375	0.002889014
1626	1	5.469089	-0.0075	14.70625	0.002887542
5877	3	5.47097	-0.005	14.70125	0.00288656
8289	3	5.471239	-0.005	14.69625	0.002885578
7518	3	5.474449	-0.005	14.69125	0.002884597
7788	3	5.478566	-0.005	14.68625	0.002883615
2702	2	5.479003	-0.00625	14.68	0.002882388
3043	3	5.48313	-0.005	14.675	0.002881406
9335	4	5.483949	-0.005	14.67	0.002880424
8632	3	5.485193	-0.005	14.665	0.002879442
8623	3	5.486834	-0.005	14.66	0.002878461
5883	3	5.488373	-0.005	14.655	0.002877479
221	1	5.488616	-0.0075	14.6475	0.002876006
2745	2	5.488682	0.0125	14.66	0.002878461
2595	2	5.490021	-0.00625	14.65375	0.002877233
5018	3	5.491155	-0.005	14.64875	0.002876252
6436	3	5.491192	-0.005	14.64375	0.00287527
8623	3	5.491918	-0.005	14.63875	0.002874288
423	1	5.492523	-0.0075	14.63125	0.002872816
7846	3	5.493323	-0.005	14.62625	0.002871834
6265	3	5.495875	-0.005	14.62125	0.002870852
6216	3	5.497661	-0.005	14.61625	0.00286987
3585	3	5.497663	-0.005	14.61125	0.002868889
6394	3	5.498129	-0.005	14.60625	0.002867907
4255	3	5.498269	-0.005	14.60125	0.002866925
6559	3	5.501681	-0.005	14.59625	0.002865943
1182	1	5.502494	-0.0075	14.58875	0.002864471
2207	2	5.503777	0.0125	14.60125	0.002866925
5320	3	5.50488	0.01	14.61125	0.002868889
2647	2	5.505659	-0.00625	14.605	0.002867661
5624	3	5.506279	-0.005	14.6	0.00286668
845	1	5.5086	-0.0075	14.5925	0.002865207
1601	1	5.51107	-0.0075	14.585	0.002863735
3032	3	5.511363	-0.005	14.58	0.002862753
643	1	5.51194	-0.0075	14.5725	0.00286128
4495	3	5.516709	-0.005	14.5675	0.002860298
5756	3	5.517467	-0.005	14.5625	0.002859317
2805	2	5.517614	-0.00625	14.55625	0.00285809
6083	3	5.518563	-0.005	14.55125	0.002857108
1453	1	5.521461	0.015	14.56625	0.002860053
7458	3	5.522398	-0.005	14.56125	0.002859071
349	1	5.523892	-0.0075	14.55375	0.002857599
605	1	5.523936	-0.0075	14.54625	0.002856126
3630	3	5.527184	-0.005	14.54125	0.002855144
2350	2	5.528342	-0.00625	14.535	0.002853917
2637	2	5.53054	-0.00625	14.52875	0.00285269
7003	3	5.531551	-0.005	14.52375	0.002851708
3855	3	5.532955	-0.005	14.51875	0.002850726
2300	2	5.533305	-0.00625	14.5125	0.002849499

3854	3	5.533818	-0.005	14.5075	0.002848518
303	1	5.533919	-0.0075	14.5	0.002847045
3820	3	5.537045	-0.005	14.495	0.002846063
2457	2	5.53854	-0.00625	14.48875	0.002844836
1201	1	5.541778	-0.0075	14.48125	0.002843363
458	1	5.544134	-0.0075	14.47375	0.002841891
6116	3	5.544345	-0.005	14.46875	0.002840909
1223	1	5.545393	-0.0075	14.46125	0.002839436
1979	2	5.546673	-0.00625	14.455	0.002838209
5910	3	5.54868	-0.005	14.45	0.002837228
3916	3	5.548832	-0.005	14.445	0.002836246
1072	1	5.550516	-0.0075	14.4375	0.002834773
6700	3	5.551481	-0.005	14.4325	0.002833791
440	1	5.552858	-0.0075	14.425	0.002832319
1915	2	5.553493	-0.00625	14.41875	0.002831092
4858	3	5.557057	-0.005	14.41375	0.00283011
2464	2	5.55748	-0.00625	14.4075	0.002828883
6368	3	5.557485	-0.005	14.4025	0.002827901
8083	3	5.558033	-0.005	14.3975	0.002826919
8084	3	5.558239	-0.005	14.3925	0.002825938
5800	3	5.559155	-0.005	14.3875	0.002824956
1270	1	5.562111	-0.0075	14.38	0.002823483
3349	3	5.564179	-0.005	14.375	0.002822501
102	1	5.564709	-0.0075	14.3675	0.002821029
644	1	5.565718	0.015	14.3825	0.002823974
2749	2	5.56944	0.0125	14.395	0.002826428
6835	3	5.569613	-0.005	14.39	0.002825447
8696	3	5.570149	-0.005	14.385	0.002824465
822	1	5.570896	-0.0075	14.3775	0.002822992
73	1	5.572818	-0.0075	14.37	0.00282152
2608	2	5.57409	-0.00625	14.36375	0.002820293
1329	1	5.575377	-0.0075	14.35625	0.00281882
1850	2	5.575393	-0.00625	14.35	0.002817593
2159	2	5.576271	-0.00625	14.34375	0.002816366
3206	3	5.576517	-0.005	14.33875	0.002815384
238	1	5.584524	-0.0075	14.33125	0.002813911
454	1	5.58511	-0.0075	14.32375	0.002812439
5354	3	5.588106	-0.005	14.31875	0.002811457
1134	1	5.598478	-0.0075	14.31125	0.002809984
1729	1	5.600704	-0.0075	14.30375	0.002808512
6922	3	5.601274	-0.005	14.29875	0.00280753
8742	3	5.605757	-0.005	14.29375	0.002806548
7164	3	5.606644	-0.005	14.28875	0.002805566
8296	3	5.610324	-0.005	14.28375	0.002804585
8713	3	5.613668	-0.005	14.27875	0.002803603
7540	3	5.61467	-0.005	14.27375	0.002802621
6377	3	5.615577	-0.005	14.26875	0.00280164
335	1	5.617078	-0.0075	14.26125	0.002800167
5470	3	5.617717	-0.005	14.25625	0.002799185
533	1	5.617725	-0.0075	14.24875	0.002797713
4948	3	5.618251	-0.005	14.24375	0.002796731
2748	2	5.618319	-0.00625	14.2375	0.002795504

4468	3	5.618543	-0.005	14.2325	0.002794522
6715	3	5.619959	0.01	14.2425	0.002796485
2202	2	5.620701	-0.00625	14.23625	0.002795258
3212	3	5.625741	-0.005	14.23125	0.002794276
7188	3	5.62752	-0.005	14.22625	0.002793295
7109	3	5.627807	-0.005	14.22125	0.002792313
4006	3	5.632659	-0.005	14.21625	0.002791331
7349	3	5.63504	-0.005	14.21125	0.002790349
815	1	5.635603	-0.0075	14.20375	0.002788877
267	1	5.637042	-0.0075	14.19625	0.002787404
2874	2	5.638033	-0.00625	14.19	0.002786177
7127	3	5.641018	-0.005	14.185	0.002785195
9716	4	5.642112	-0.005	14.18	0.002784214
5308	3	5.643641	-0.005	14.175	0.002783232
875	1	5.646205	-0.0075	14.1675	0.002781759
3320	3	5.649298	-0.005	14.1625	0.002780778
7727	3	5.649539	-0.005	14.1575	0.002779796
7157	3	5.652011	-0.005	14.1525	0.002778814
7447	3	5.653191	0.01	14.1625	0.002780778
9295	4	5.654847	-0.005	14.1575	0.002779796
5373	3	5.656331	-0.005	14.1525	0.002778814
4885	3	5.660365	0.01	14.1625	0.002780778
1701	1	5.66161	-0.0075	14.155	0.002779305
1453	1	5.662555	-0.0075	14.1475	0.002777832
801	1	5.664354	-0.0075	14.14	0.00277636
5278	3	5.665933	-0.005	14.135	0.002775378
5389	3	5.667097	-0.005	14.13	0.002774396
528	1	5.668254	-0.0075	14.1225	0.002772924
8004	3	5.672391	-0.005	14.1175	0.002771942
3730	3	5.672644	-0.005	14.1125	0.00277096
2170	2	5.673988	-0.00625	14.10625	0.002769733
2713	2	5.674418	-0.00625	14.1	0.002768506
909	1	5.676326	-0.0075	14.0925	0.002767033
4939	3	5.67812	-0.005	14.0875	0.002766051
1200	1	5.678545	-0.0075	14.08	0.002764579
7174	3	5.680621	-0.005	14.075	0.002763597
995	1	5.68143	-0.0075	14.0675	0.002762124
837	1	5.683963	-0.0075	14.06	0.002760652
3815	3	5.688691	-0.005	14.055	0.00275967
9632	4	5.689622	-0.005	14.05	0.002758688
8254	3	5.692577	-0.005	14.045	0.002757707
4731	3	5.693332	-0.005	14.04	0.002756725
9353	4	5.693806	-0.005	14.035	0.002755743
143	1	5.694325	-0.0075	14.0275	0.002754271
2321	2	5.695055	-0.00625	14.02125	0.002753043
3705	3	5.696282	-0.005	14.01625	0.002752062
1910	2	5.697153	-0.00625	14.01	0.002750834
6504	3	5.702318	-0.005	14.005	0.002749853
5302	3	5.703186	0.01	14.015	0.002751816
6141	3	5.712253	-0.005	14.01	0.002750834
2704	2	5.712877	-0.00625	14.00375	0.002749607
6759	3	5.714294	-0.005	13.99875	0.002748626

2680	2	5.715619	-0.00625	13.9925	0.002747398
6206	3	5.721848	-0.005	13.9875	0.002746417
766	1	5.722146	-0.0075	13.98	0.002744944
6999	3	5.722589	-0.005	13.975	0.002743962
7201	3	5.729214	-0.005	13.97	0.002742981
297	1	5.730327	-0.0075	13.9625	0.002741508
6753	3	5.730875	-0.005	13.9575	0.002740526
8232	3	5.732129	-0.005	13.9525	0.002739544
623	1	5.736358	-0.0075	13.945	0.002738072
7088	3	5.739137	-0.005	13.94	0.00273709
7012	3	5.74008	-0.005	13.935	0.002736108
2262	2	5.741365	-0.00625	13.92875	0.002734881
4100	3	5.74297	-0.005	13.92375	0.002733899
2088	2	5.744948	-0.00625	13.9175	0.002732672
6570	3	5.749782	-0.005	13.9125	0.002731691
206	1	5.751601	-0.0075	13.905	0.002730218
7162	3	5.756563	-0.005	13.9	0.002729236
7513	3	5.757219	-0.005	13.895	0.002728254
653	1	5.758518	-0.0075	13.8875	0.002726782
9132	4	5.762016	-0.005	13.8825	0.0027258
7045	3	5.762321	-0.005	13.8775	0.002724818
7923	3	5.765438	-0.005	13.8725	0.002723837
4494	3	5.765729	-0.005	13.8675	0.002722855
7273	3	5.767564	-0.005	13.8625	0.002721873
5213	3	5.769419	-0.005	13.8575	0.002720891
2623	2	5.769514	-0.00625	13.85125	0.002719664
1764	1	5.771047	-0.0075	13.84375	0.002718192
2851	2	5.772022	-0.00625	13.8375	0.002716964
2511	2	5.773691	-0.00625	13.83125	0.002715737
6581	3	5.775012	-0.005	13.82625	0.002714756
8915	4	5.777406	-0.005	13.82125	0.002713774
3599	3	5.779493	-0.005	13.81625	0.002712792
2636	2	5.782495	-0.00625	13.81	0.002711565
3704	3	5.782716	-0.005	13.805	0.002710583
3717	3	5.785355	-0.005	13.8	0.002709601
2588	2	5.790069	-0.00625	13.79375	0.002708374
1081	1	5.790408	-0.0075	13.78625	0.002706902
6090	3	5.794051	-0.005	13.78125	0.00270592
6869	3	5.797742	-0.005	13.77625	0.002704938
7996	3	5.798059	-0.005	13.77125	0.002703956
6888	3	5.799959	-0.005	13.76625	0.002702975
8392	3	5.799991	-0.005	13.76125	0.002701993
5869	3	5.801107	-0.005	13.75625	0.002701011
2168	2	5.801291	-0.00625	13.75	0.002699784
6460	3	5.802061	-0.005	13.745	0.002698802
662	1	5.804155	-0.0075	13.7375	0.00269733
4052	3	5.804889	-0.005	13.7325	0.002696348
2908	3	5.807927	-0.005	13.7275	0.002695366
2348	2	5.808913	-0.00625	13.72125	0.002694139
823	1	5.812768	-0.0075	13.71375	0.002692666
2590	2	5.81331	-0.00625	13.7075	0.002691439
5772	3	5.813388	-0.005	13.7025	0.002690457

298	1	5.81432	-0.0075	13.695	0.002688985
961	1	5.815526	-0.0075	13.6875	0.002687512
1199	1	5.818741	-0.0075	13.68	0.00268604
9835	4	5.820784	-0.005	13.675	0.002685058
1799	2	5.827693	-0.00625	13.66875	0.002683831
2644	2	5.83245	-0.00625	13.6625	0.002682604
1662	1	5.832453	-0.0075	13.655	0.002681131
1006	1	5.834764	-0.0075	13.6475	0.002679658
2136	2	5.835469	-0.00625	13.64125	0.002678431
2457	2	5.835583	-0.00625	13.635	0.002677204
4486	3	5.837711	-0.005	13.63	0.002676222
1317	1	5.840733	-0.0075	13.6225	0.00267475
3655	3	5.84131	-0.005	13.6175	0.002673768
2222	2	5.843873	-0.00625	13.61125	0.002672541
3333	3	5.844059	-0.005	13.60625	0.002671559
3168	3	5.846856	-0.005	13.60125	0.002670577
6539	3	5.847255	-0.005	13.59625	0.002669596
7971	3	5.847297	-0.005	13.59125	0.002668614
3934	3	5.848493	-0.005	13.58625	0.002667632
1587	1	5.849285	-0.0075	13.57875	0.002666159
6715	3	5.85164	-0.005	13.57375	0.002665178
9350	4	5.852626	-0.005	13.56875	0.002664196
7681	3	5.852726	-0.005	13.56375	0.002663214
377	1	5.853054	-0.0075	13.55625	0.002661742
488	1	5.853469	-0.0075	13.54875	0.002660269
2871	2	5.855855	-0.00625	13.5425	0.002659042
87	1	5.860292	-0.0075	13.535	0.002657569
2111	2	5.860726	-0.00625	13.52875	0.002656342
3127	3	5.862082	-0.005	13.52375	0.00265536
9387	4	5.863482	-0.005	13.51875	0.002654379
284	1	5.865284	-0.0075	13.51125	0.002652906
340	1	5.86746	-0.0075	13.50375	0.002651433
2886	2	5.867551	-0.00625	13.4975	0.002650206
5639	3	5.867668	-0.005	13.4925	0.002649224
2669	2	5.87157	-0.00625	13.48625	0.002647997
4380	3	5.873255	-0.005	13.48125	0.002647016
1707	1	5.873505	-0.0075	13.47375	0.002645543
1984	2	5.874222	-0.00625	13.4675	0.002644316
3348	3	5.875422	-0.005	13.4625	0.002643334
2750	2	5.876592	-0.00625	13.45625	0.002642107
7146	3	5.87799	-0.005	13.45125	0.002641125
1493	1	5.878048	-0.0075	13.44375	0.002639652
4785	3	5.881201	0.01	13.45375	0.002641616
4071	3	5.881962	-0.005	13.44875	0.002640634
3913	3	5.886301	-0.005	13.44375	0.002639652
9558	4	5.888253	-0.005	13.43875	0.002638671
6519	3	5.888395	-0.005	13.43375	0.002637689
3839	3	5.891136	-0.005	13.42875	0.002636707
3567	3	5.892422	-0.005	13.42375	0.002635726
2402	2	5.8929	-0.00625	13.4175	0.002634498
9576	4	5.896067	-0.005	13.4125	0.002633517
3564	3	5.898424	-0.005	13.4075	0.002632535

1683	1	5.89971	-0.0075	13.4	0.002631062
1881	2	5.899815	-0.00625	13.39375	0.002629835
2258	2	5.901264	-0.00625	13.3875	0.002628608
3622	3	5.902365	-0.005	13.3825	0.002627626
1196	1	5.903277	-0.0075	13.375	0.002626154
6827	3	5.904288	-0.005	13.37	0.002625172
3182	3	5.904911	-0.005	13.365	0.00262419
5489	3	5.905341	-0.005	13.36	0.002623208
7706	3	5.90615	-0.005	13.355	0.002622227
4569	3	5.906894	-0.005	13.35	0.002621245
397	1	5.90864	-0.0075	13.3425	0.002619772
8619	3	5.908666	-0.005	13.3375	0.00261879
2619	2	5.911846	-0.00625	13.33125	0.002617563
2882	2	5.917725	-0.00625	13.325	0.002616336
7099	3	5.919027	-0.005	13.32	0.002615354
2726	2	5.922332	-0.00625	13.31375	0.002614127
8465	3	5.92307	-0.005	13.30875	0.002613145
5055	3	5.923276	-0.005	13.30375	0.002612164
2162	2	5.923681	-0.00625	13.2975	0.002610937
1267	1	5.924253	-0.0075	13.29	0.002609464
6236	3	5.926709	-0.005	13.285	0.002608482
1002	1	5.928189	-0.0075	13.2775	0.00260701
7125	3	5.928687	-0.005	13.2725	0.002606028
2404	2	5.934591	-0.00625	13.26625	0.002604801
1313	1	5.93829	-0.0075	13.25875	0.002603328
357	1	5.939755	-0.0075	13.25125	0.002601855
6740	3	5.940543	-0.005	13.24625	0.002600874
4885	3	5.940852	-0.005	13.24125	0.002599892
1895	2	5.941808	-0.00625	13.235	0.002598665
8118	3	5.942633	-0.005	13.23	0.002597683
722	1	5.943155	-0.0075	13.2225	0.00259621
1237	1	5.944743	-0.0075	13.215	0.002594738
4269	3	5.945494	-0.005	13.21	0.002593756
1049	1	5.946683	-0.0075	13.2025	0.002592284
3848	3	5.948838	-0.005	13.1975	0.002591302
3668	3	5.949046	-0.005	13.1925	0.00259032
8713	3	5.949203	-0.005	13.1875	0.002589338
6199	3	5.949227	-0.005	13.1825	0.002588357
5142	3	5.952646	-0.005	13.1775	0.002587375
5041	3	5.953541	-0.005	13.1725	0.002586393
1931	2	5.955916	-0.00625	13.16625	0.002585166
767	1	5.957458	-0.0075	13.15875	0.002583693
9044	4	5.958759	-0.005	13.15375	0.002582712
2944	3	5.958794	-0.005	13.14875	0.00258173
6364	3	5.958878	-0.005	13.14375	0.002580748
921	1	5.961352	-0.0075	13.13625	0.002579275
7488	3	5.96177	-0.005	13.13125	0.002578294
9572	4	5.962579	-0.005	13.12625	0.002577312
2943	3	5.96268	-0.005	13.12125	0.00257633
5515	3	5.96393	-0.005	13.11625	0.002575349
3046	3	5.969895	-0.005	13.11125	0.002574367
6544	3	5.971813	-0.005	13.10625	0.002573385

803	1	5.974681	-0.0075	13.09875	0.002571912
1587	1	5.974904	-0.0075	13.09125	0.00257044
7843	3	5.976467	-0.005	13.08625	0.002569458
6858	3	5.985266	-0.005	13.08125	0.002568476
2294	2	5.989624	-0.00625	13.075	0.002567249
7107	3	5.98993	-0.005	13.07	0.002566267
8666	3	5.991935	-0.005	13.065	0.002565286
849	1	5.992608	-0.0075	13.0575	0.002563813
5908	3	5.995162	-0.005	13.0525	0.002562831
9770	4	5.995498	-0.005	13.0475	0.00256185
395	1	5.995533	-0.0075	13.04	0.002560377
213	1	6.000114	-0.0075	13.0325	0.002558904
21	1	6.000749	-0.0075	13.025	0.002557432
5465	3	6.001458	-0.005	13.02	0.00255645
1628	1	6.002033	-0.0075	13.0125	0.002554977
4946	3	6.002081	-0.005	13.0075	0.002553996
275	1	6.005481	0.015	13.0225	0.002556941
7864	3	6.007121	-0.005	13.0175	0.002555959
4785	3	6.008384	-0.005	13.0125	0.002554977
2781	2	6.009241	-0.00625	13.00625	0.00255375
9375	4	6.011754	-0.005	13.00125	0.002552769
7202	3	6.020305	-0.005	12.99625	0.002551787
5892	3	6.020552	-0.005	12.99125	0.002550805
6118	3	6.022463	-0.005	12.98625	0.002549823
5499	3	6.022787	-0.005	12.98125	0.002548842
4617	3	6.026117	-0.005	12.97625	0.00254786
3166	3	6.033026	-0.005	12.97125	0.002546878
5708	3	6.0384	-0.005	12.96625	0.002545896
1383	1	6.038795	-0.0075	12.95875	0.002544424
4386	3	6.039953	-0.005	12.95375	0.002543442
1364	1	6.042078	-0.0075	12.94625	0.002541969
7317	3	6.042222	-0.005	12.94125	0.002540988
3959	3	6.044283	-0.005	12.93625	0.002540006
2709	2	6.044875	-0.00625	12.93	0.002538779
7071	3	6.048923	-0.005	12.925	0.002537797
2112	2	6.050628	-0.00625	12.91875	0.00253657
2652	2	6.05065	-0.00625	12.9125	0.002535343
452	1	6.051789	-0.0075	12.905	0.00253387
6268	3	6.054095	-0.005	12.9	0.002532888
5561	3	6.054441	-0.005	12.895	0.002531907
5374	3	6.056299	-0.005	12.89	0.002530925
6829	3	6.056528	-0.005	12.885	0.002529943
235	1	6.058495	-0.0075	12.8775	0.00252847
6594	3	6.059806	-0.005	12.8725	0.002527489
9161	4	6.061791	-0.005	12.8675	0.002526507
5458	3	6.06626	-0.005	12.8625	0.002525525
1634	1	6.06886	-0.0075	12.855	0.002524053
4712	3	6.07031	-0.005	12.85	0.002523071
2328	2	6.071476	-0.00625	12.84375	0.002521844
2467	2	6.07185	-0.00625	12.8375	0.002520617
85	1	6.072514	-0.0075	12.83	0.002519144
5271	3	6.07847	-0.005	12.825	0.002518162

8419	3	6.0806	-0.005	12.82	0.00251718
6154	3	6.081081	-0.005	12.815	0.002516199
2145	2	6.081454	-0.00625	12.80875	0.002514972
728	1	6.082304	-0.0075	12.80125	0.002513499
2405	2	6.082451	-0.00625	12.795	0.002512272
4875	3	6.082653	-0.005	12.79	0.00251129
1602	1	6.08469	-0.0075	12.7825	0.002509817
4446	3	6.085054	-0.005	12.7775	0.002508836
1546	1	6.08544	-0.0075	12.77	0.002507363
7983	3	6.090319	-0.005	12.765	0.002506381
168	1	6.090693	-0.0075	12.7575	0.002504909
5147	3	6.091541	-0.005	12.7525	0.002503927
6381	3	6.091958	-0.005	12.7475	0.002502945
106	1	6.092988	-0.0075	12.74	0.002501473
2888	2	6.093509	-0.00625	12.73375	0.002500245
113	1	6.094748	-0.0075	12.72625	0.002498773
2301	2	6.09732	-0.00625	12.72	0.002497546
6178	3	6.097636	-0.005	12.715	0.002496564
3558	3	6.098277	-0.005	12.71	0.002495582
5170	3	6.098443	-0.005	12.705	0.0024946
6060	3	6.098555	-0.005	12.7	0.002493619
9857	4	6.101203	-0.005	12.695	0.002492637
663	1	6.101411	-0.0075	12.6875	0.002491164
9463	4	6.105514	-0.005	12.6825	0.002490183
1648	1	6.105784	-0.0075	12.675	0.00248871
1873	2	6.113465	-0.00625	12.66875	0.002487483
2818	2	6.114637	-0.00625	12.6625	0.002486256
5642	3	6.11655	-0.005	12.6575	0.002485274
817	1	6.117168	-0.0075	12.65	0.002483801
1288	1	6.117595	-0.0075	12.6425	0.002482329
5981	3	6.119612	-0.005	12.6375	0.002481347
3193	3	6.120505	-0.005	12.6325	0.002480365
1529	1	6.122914	-0.0075	12.625	0.002478893
400	1	6.123684	-0.0075	12.6175	0.00247742
8446	3	6.124472	-0.005	12.6125	0.002476438
2921	3	6.125251	-0.005	12.6075	0.002475457
7447	3	6.125962	-0.005	12.6025	0.002474475
6730	3	6.128936	-0.005	12.5975	0.002473493
1	1	6.1293	-0.0075	12.59	0.00247202
7715	3	6.130429	-0.005	12.585	0.002471039
4714	3	6.131697	-0.005	12.58	0.002470057
5153	3	6.132369	-0.005	12.575	0.002469075
6580	3	6.132936	-0.005	12.57	0.002468093
5418	3	6.135482	-0.005	12.565	0.002467112
5359	3	6.137552	0.01	12.575	0.002469075
6569	3	6.150436	-0.005	12.57	0.002468093
8062	3	6.153664	-0.005	12.565	0.002467112
240	1	6.155051	-0.0075	12.5575	0.002465639
7168	3	6.155357	-0.005	12.5525	0.002464657
8078	3	6.165474	-0.005	12.5475	0.002463676
4838	3	6.166049	-0.005	12.5425	0.002462694
3708	3	6.166897	-0.005	12.5375	0.002461712

6964	3	6.167284	-0.005	12.5325	0.00246073
2254	2	6.168194	-0.00625	12.52625	0.002459503
1916	2	6.168757	-0.00625	12.52	0.002458276
1466	1	6.168815	-0.0075	12.5125	0.002456803
9953	4	6.16892	-0.005	12.5075	0.002455822
6964	3	6.169068	-0.005	12.5025	0.00245484
1849	2	6.17102	-0.00625	12.49625	0.002453613
8561	3	6.171392	-0.005	12.49125	0.002452631
5652	3	6.174297	-0.005	12.48625	0.002451649
66	1	6.17596	-0.0075	12.47875	0.002450177
3746	3	6.181586	-0.005	12.47375	0.002449195
9019	4	6.185855	-0.005	12.46875	0.002448213
8792	4	6.186239	-0.005	12.46375	0.002447231
4853	3	6.192698	-0.005	12.45875	0.00244625
477	1	6.194463	-0.0075	12.45125	0.002444777
5456	3	6.196292	-0.005	12.44625	0.002443795
391	1	6.197911	-0.0075	12.43875	0.002442323
2570	2	6.200636	-0.00625	12.4325	0.002441096
2237	2	6.201646	-0.00625	12.42625	0.002439868
1071	1	6.206692	-0.0075	12.41875	0.002438396
1837	2	6.209207	-0.00625	12.4125	0.002437169
3063	3	6.217562	-0.005	12.4075	0.002436187
7405	3	6.217872	-0.005	12.4025	0.002435205
2724	2	6.217988	-0.00625	12.39625	0.002433978
2118	2	6.218217	-0.00625	12.39	0.002432751
1731	1	6.221566	-0.0075	12.3825	0.002431278
8275	3	6.222471	-0.005	12.3775	0.002430296
3301	3	6.22364	-0.005	12.3725	0.002429315
1960	2	6.225127	-0.00625	12.36625	0.002428088
1722	1	6.225201	-0.0075	12.35875	0.002426615
6484	3	6.226657	-0.005	12.35375	0.002425633
7793	3	6.230016	-0.005	12.34875	0.002424651
8095	3	6.232854	-0.005	12.34375	0.00242367
1028	1	6.233315	-0.0075	12.33625	0.002422197
4903	3	6.237571	-0.005	12.33125	0.002421215
5459	3	6.238419	-0.005	12.32625	0.002420234
2539	2	6.240688	-0.00625	12.32	0.002419006
9082	4	6.248853	-0.005	12.315	0.002418025
3100	3	6.249198	-0.005	12.31	0.002417043
2804	2	6.249705	-0.00625	12.30375	0.002415816
1034	1	6.251604	-0.0075	12.29625	0.002414343
7862	3	6.252382	-0.005	12.29125	0.002413361
3658	3	6.252606	-0.005	12.28625	0.00241238
811	1	6.258171	-0.0075	12.27875	0.002410907
6367	3	6.258352	-0.005	12.27375	0.002409925
3450	3	6.260551	-0.005	12.26875	0.002408944
2753	2	6.268032	-0.00625	12.2625	0.002407716
1035	1	6.268486	-0.0075	12.255	0.002406244
3690	3	6.269471	-0.005	12.25	0.002405262
6663	3	6.269675	-0.005	12.245	0.00240428
5823	3	6.271271	-0.005	12.24	0.002403299
5023	3	6.272214	-0.005	12.235	0.002402317

774	1	6.274093	-0.0075	12.2275	0.002400844
182	1	6.274365	-0.0075	12.22	0.002399372
8683	3	6.275999	-0.005	12.215	0.00239839
7320	3	6.276473	-0.005	12.21	0.002397408
1551	1	6.279895	-0.0075	12.2025	0.002395936
6170	3	6.28469	-0.005	12.1975	0.002394954
7763	3	6.284731	-0.005	12.1925	0.002393972
1610	1	6.285214	-0.0075	12.185	0.0023925
1151	1	6.285468	-0.0075	12.1775	0.002391027
3334	3	6.286444	-0.005	12.1725	0.002390045
13	1	6.289114	-0.0075	12.165	0.002388573
9344	4	6.290218	-0.005	12.16	0.002387591
3098	3	6.294264	-0.005	12.155	0.002386609
8174	3	6.296635	-0.005	12.15	0.002385627
7467	3	6.298477	-0.005	12.145	0.002384646
9090	4	6.300052	-0.005	12.14	0.002383664
1669	1	6.303712	-0.0075	12.1325	0.002382191
7370	3	6.305116	-0.005	12.1275	0.00238121
4382	3	6.305138	-0.005	12.1225	0.002380228
1838	2	6.307935	-0.00625	12.11625	0.002379001
4044	3	6.308646	-0.005	12.11125	0.002378019
5320	3	6.309857	-0.005	12.10625	0.002377037
4130	3	6.309911	-0.005	12.10125	0.002376055
6299	3	6.312071	-0.005	12.09625	0.002375074
7954	3	6.313858	-0.005	12.09125	0.002374092
5579	3	6.314197	-0.005	12.08625	0.00237311
2175	2	6.318234	-0.00625	12.08	0.002371883
7483	3	6.319582	-0.005	12.075	0.002370901
6092	3	6.322667	-0.005	12.07	0.002369919
6396	3	6.328474	-0.005	12.065	0.002368938
6048	3	6.329469	-0.005	12.06	0.002367956
2010	2	6.330045	-0.00625	12.05375	0.002366729
5524	3	6.330849	-0.005	12.04875	0.002365747
177	1	6.332755	-0.0075	12.04125	0.002364274
9865	4	6.334263	-0.005	12.03625	0.002363293
1706	1	6.334541	-0.0075	12.02875	0.00236182
6982	3	6.33517	-0.005	12.02375	0.002360838
1792	2	6.33636	-0.00625	12.0175	0.002359611
4217	3	6.341452	-0.005	12.0125	0.002358629
542	1	6.343246	-0.0075	12.005	0.002357157
3192	3	6.345556	-0.005	12	0.002356175
6244	3	6.34864	-0.005	11.995	0.002355193
9353	4	6.348902	-0.005	11.99	0.002354212
6302	3	6.349272	-0.005	11.985	0.00235323
2782	2	6.349559	-0.00625	11.97875	0.002352003
8305	3	6.350411	-0.005	11.97375	0.002351021
416	1	6.351054	-0.0075	11.96625	0.002349548
3916	3	6.351964	-0.005	11.96125	0.002348567
8856	4	6.351987	-0.005	11.95625	0.002347585
2210	2	6.353727	-0.00625	11.95	0.002346358
2701	2	6.357606	-0.00625	11.94375	0.002345131
3129	3	6.358766	-0.005	11.93875	0.002344149

8070	3	6.362419	-0.005	11.93375	0.002343167
1894	2	6.364283	-0.00625	11.9275	0.00234194
330	1	6.365058	-0.0075	11.92	0.002340467
674	1	6.367515	-0.0075	11.9125	0.002338995
1806	2	6.369657	-0.00625	11.90625	0.002337768
8090	3	6.370994	-0.005	11.90125	0.002336786
6158	3	6.372662	-0.005	11.89625	0.002335804
3863	3	6.37451	-0.005	11.89125	0.002334822
3202	3	6.375815	-0.005	11.88625	0.002333841
8986	4	6.378712	-0.005	11.88125	0.002332859
753	1	6.380489	-0.0075	11.87375	0.002331386
7594	3	6.383739	-0.005	11.86875	0.002330404
5678	3	6.385117	-0.005	11.86375	0.002329423
2232	2	6.388921	-0.00625	11.8575	0.002328196
3394	3	6.389726	-0.005	11.8525	0.002327214
976	1	6.391057	-0.0075	11.845	0.002325741
604	1	6.392785	-0.0075	11.8375	0.002324269
7100	3	6.392827	-0.005	11.8325	0.002323287
1376	1	6.394284	-0.0075	11.825	0.002321814
243	1	6.396111	-0.0075	11.8175	0.002320342
7969	3	6.396509	-0.005	11.8125	0.00231936
3248	3	6.399321	-0.005	11.8075	0.002318378
181	1	6.403112	-0.0075	11.8	0.002316906
2668	2	6.407076	-0.00625	11.79375	0.002315678
2143	2	6.410201	-0.00625	11.7875	0.002314451
4732	3	6.412913	-0.005	11.7825	0.002313469
8907	4	6.413284	-0.005	11.7775	0.002312488
869	1	6.413425	-0.0075	11.77	0.002311015
1191	1	6.414311	-0.0075	11.7625	0.002309543
426	1	6.414725	-0.0075	11.755	0.00230807
222	1	6.41475	-0.0075	11.7475	0.002306597
3787	3	6.416618	-0.005	11.7425	0.002305616
2319	2	6.417537	-0.00625	11.73625	0.002304388
4766	3	6.418311	-0.005	11.73125	0.002303407
6600	3	6.418537	-0.005	11.72625	0.002302425
8449	3	6.420065	-0.005	11.72125	0.002301443
4590	3	6.420708	-0.005	11.71625	0.002300461
868	1	6.427432	-0.0075	11.70875	0.002298989
2450	2	6.42778	-0.00625	11.7025	0.002297762
1272	1	6.428144	-0.0075	11.695	0.002296289
1642	1	6.432092	-0.0075	11.6875	0.002294816
2251	2	6.436	-0.00625	11.68125	0.002293589
1920	2	6.437049	-0.00625	11.675	0.002292362
4175	3	6.43873	-0.005	11.67	0.00229138
8376	3	6.440425	-0.005	11.665	0.002290399
1062	1	6.441481	-0.0075	11.6575	0.002288926
1879	2	6.441562	-0.00625	11.65125	0.002287699
1739	1	6.444357	-0.0075	11.64375	0.002286226
858	1	6.444934	-0.0075	11.63625	0.002284754
298	1	6.446639	-0.0075	11.62875	0.002283281
125	1	6.447978	-0.0075	11.62125	0.002281808
2793	2	6.449299	-0.00625	11.615	0.002280581

1004	1	6.450815	-0.0075	11.6075	0.002279109
5359	3	6.453525	-0.005	11.6025	0.002278127
580	1	6.454139	-0.0075	11.595	0.002276654
4934	3	6.454534	-0.005	11.59	0.002275672
697	1	6.454759	-0.0075	11.5825	0.0022742
8530	3	6.45492	-0.005	11.5775	0.002273218
716	1	6.455837	-0.0075	11.57	0.002271746
2071	2	6.456529	-0.00625	11.56375	0.002270518
338	1	6.457051	-0.0075	11.55625	0.002269046
1609	1	6.457353	-0.0075	11.54875	0.002267573
7950	3	6.46018	-0.005	11.54375	0.002266591
8845	4	6.465556	-0.005	11.53875	0.00226561
3116	3	6.46713	-0.005	11.53375	0.002264628
7671	3	6.471995	-0.005	11.52875	0.002263646
753	1	6.477686	-0.0075	11.52125	0.002262174
2522	2	6.480909	-0.00625	11.515	0.002260946
7726	3	6.481061	-0.005	11.51	0.002259965
9343	4	6.481669	-0.005	11.505	0.002258983
1303	1	6.482657	-0.0075	11.4975	0.00225751
1148	1	6.482691	-0.0075	11.49	0.002256038
591	1	6.482815	-0.0075	11.4825	0.002254565
3088	3	6.484258	-0.005	11.4775	0.002253583
2976	3	6.48534	-0.005	11.4725	0.002252602
1408	1	6.486792	-0.0075	11.465	0.002251129
1453	1	6.487205	-0.0075	11.4575	0.002249656
7009	3	6.490272	-0.005	11.4525	0.002248675
2530	2	6.494238	-0.00625	11.44625	0.002247447
2896	2	6.495358	-0.00625	11.44	0.00224622
57	1	6.49837	-0.0075	11.4325	0.002244748
2643	2	6.500169	-0.00625	11.42625	0.002243521
6361	3	6.500427	-0.005	11.42125	0.002242539
6602	3	6.501452	-0.005	11.41625	0.002241557
6103	3	6.502043	-0.005	11.41125	0.002240575
6455	3	6.507852	-0.005	11.40625	0.002239594
8316	3	6.509792	-0.005	11.40125	0.002238612
1333	1	6.513539	-0.0075	11.39375	0.002237139
203	1	6.514359	-0.0075	11.38625	0.002235667
2252	2	6.516628	-0.00625	11.38	0.002234439
4370	3	6.52149	-0.005	11.375	0.002233458
2079	2	6.522629	0.0125	11.3875	0.002235912
2079	2	6.524046	-0.00625	11.38125	0.002234685
5259	3	6.532297	-0.005	11.37625	0.002233703
9470	4	6.535194	-0.005	11.37125	0.002232721
6042	3	6.537867	-0.005	11.36625	0.00223174
4225	3	6.538936	-0.005	11.36125	0.002230758
928	1	6.540452	-0.0075	11.35375	0.002229285
590	1	6.541151	-0.0075	11.34625	0.002227813
2594	2	6.543361	-0.00625	11.34	0.002226586
1087	1	6.552864	-0.0075	11.3325	0.002225113
7789	3	6.553714	-0.005	11.3275	0.002224131
2079	2	6.554773	-0.00625	11.32125	0.002222904
5250	3	6.555492	-0.005	11.31625	0.002221922

6867	3	6.555847	-0.005	11.31125	0.002220941
1994	2	6.556572	-0.00625	11.305	0.002219713
6351	3	6.557598	-0.005	11.3	0.002218732
206	1	6.557617	-0.0075	11.2925	0.002217259
5648	3	6.557632	-0.005	11.2875	0.002216277
539	1	6.557922	-0.0075	11.28	0.002214805
5688	3	6.559487	-0.005	11.275	0.002213823
2398	2	6.560782	-0.00625	11.26875	0.002212596
4953	3	6.563403	-0.005	11.26375	0.002211614
3106	3	6.564727	-0.005	11.25875	0.002210632
449	1	6.566928	-0.0075	11.25125	0.00220916
3834	3	6.567128	-0.005	11.24625	0.002208178
7965	3	6.567558	-0.005	11.24125	0.002207196
6925	3	6.568828	-0.005	11.23625	0.002206214
5299	3	6.569665	-0.005	11.23125	0.002205233
1809	2	6.570547	-0.00625	11.225	0.002204005
2591	2	6.571441	-0.00625	11.21875	0.002202778
1136	1	6.57364	-0.0075	11.21125	0.002201306
964	1	6.575031	-0.0075	11.20375	0.002199833
7777	3	6.57823	-0.005	11.19875	0.002198851
7441	3	6.579175	-0.005	11.19375	0.00219787
9532	4	6.588557	-0.005	11.18875	0.002196888
2729	2	6.593837	-0.00625	11.1825	0.002195661
6429	3	6.594292	-0.005	11.1775	0.002194679
4384	3	6.594815	-0.005	11.1725	0.002193697
2707	2	6.599413	-0.00625	11.16625	0.00219247
1244	1	6.600798	-0.0075	11.15875	0.002190997
8290	3	6.601801	-0.005	11.15375	0.002190016
5190	3	6.602955	-0.005	11.14875	0.002189034
2767	2	6.603612	-0.00625	11.1425	0.002187807
8259	3	6.60465	-0.005	11.1375	0.002186825
11	1	6.609552	-0.0075	11.13	0.002185352
4194	3	6.610753	-0.005	11.125	0.002184371
1656	1	6.611065	-0.0075	11.1175	0.002182898
8654	3	6.615498	-0.005	11.1125	0.002181916
1093	1	6.615561	-0.0075	11.105	0.002180444
5510	3	6.618269	-0.005	11.1	0.002179462
3891	3	6.622857	-0.005	11.095	0.00217848
9192	4	6.623883	-0.005	11.09	0.002177499
4558	3	6.62799	-0.005	11.085	0.002176517
2074	2	6.629393	-0.00625	11.07875	0.00217529
5863	3	6.630549	-0.005	11.07375	0.002174308
2838	2	6.633269	-0.00625	11.0675	0.002173081
8399	3	6.634851	-0.005	11.0625	0.002172099
8550	3	6.635365	-0.005	11.0575	0.002171117
1219	1	6.636015	-0.0075	11.05	0.002169645
3346	3	6.639238	-0.005	11.045	0.002168663
119	1	6.639355	-0.0075	11.0375	0.00216719
5483	3	6.643641	-0.005	11.0325	0.002166209
5317	3	6.646139	-0.005	11.0275	0.002165227
6016	3	6.648967	-0.005	11.0225	0.002164245
4682	3	6.652153	-0.005	11.0175	0.002163263

1671	1	6.653351	-0.0075	11.01	0.002161791
9158	4	6.654457	-0.005	11.005	0.002160809
2465	2	6.654573	-0.00625	10.99875	0.002159582
4691	3	6.654809	-0.005	10.99375	0.0021586
7068	3	6.654908	-0.005	10.98875	0.002157618
8747	3	6.655394	-0.005	10.98375	0.002156637
2783	2	6.65673	-0.00625	10.9775	0.002155409
7396	3	6.658271	-0.005	10.9725	0.002154428
1369	1	6.659361	-0.0075	10.965	0.002152955
82	1	6.659839	-0.0075	10.9575	0.002151482
5554	3	6.660287	-0.005	10.9525	0.002150501
6742	3	6.665508	-0.005	10.9475	0.002149519
884	1	6.671771	-0.0075	10.94	0.002148046
8152	3	6.673078	-0.005	10.935	0.002147065
7644	3	6.677856	-0.005	10.93	0.002146083
1796	2	6.679821	-0.00625	10.92375	0.002144856
2749	2	6.682926	-0.00625	10.9175	0.002143629
2286	2	6.684231	-0.00625	10.91125	0.002142401
7663	3	6.686029	-0.005	10.90625	0.00214142
5912	3	6.688184	-0.005	10.90125	0.002140438
5094	3	6.688579	-0.005	10.89625	0.002139456
8588	3	6.688918	-0.005	10.89125	0.002138474
3486	3	6.693069	-0.005	10.88625	0.002137493
5235	3	6.699363	-0.005	10.88125	0.002136511
4660	3	6.70049	-0.005	10.87625	0.002135529
9500	4	6.701342	-0.005	10.87125	0.002134547
1484	1	6.702695	-0.0075	10.86375	0.002133075
5943	3	6.712073	-0.005	10.85875	0.002132093
1499	1	6.713185	-0.0075	10.85125	0.00213062
820	1	6.719813	-0.0075	10.84375	0.002129148
7116	3	6.720258	-0.005	10.83875	0.002128166
4161	3	6.723334	-0.005	10.83375	0.002127184
6862	3	6.727791	-0.005	10.82875	0.002126203
1963	2	6.729209	-0.00625	10.8225	0.002124975
2519	2	6.731346	-0.00625	10.81625	0.002123748
3846	3	6.731347	-0.005	10.81125	0.002122767
163	1	6.731457	-0.0075	10.80375	0.002121294
1592	1	6.731546	-0.0075	10.79625	0.002119821
7301	3	6.731688	-0.005	10.79125	0.00211884
402	1	6.732301	-0.0075	10.78375	0.002117367
1557	1	6.733247	-0.0075	10.77625	0.002115894
7440	3	6.737313	-0.005	10.77125	0.002114913
3623	3	6.738161	-0.005	10.76625	0.002113931
3311	3	6.740595	0.01	10.77625	0.002115894
6646	3	6.741906	-0.005	10.77125	0.002114913
306	1	6.750962	-0.0075	10.76375	0.00211344
8157	3	6.75706	-0.005	10.75875	0.002112458
1023	1	6.757879	-0.0075	10.75125	0.002110986
344	1	6.7647	-0.0075	10.74375	0.002109513
8115	3	6.772807	-0.005	10.73875	0.002108531
4010	3	6.779873	-0.005	10.73375	0.00210755
7893	3	6.781763	-0.005	10.72875	0.002106568

736	1	6.785167	-0.0075	10.72125	0.002105095
2057	2	6.785342	-0.00625	10.715	0.002103868
47	1	6.785475	-0.0075	10.7075	0.002102395
4435	3	6.786547	-0.005	10.7025	0.002101414
1290	1	6.789949	-0.0075	10.695	0.002099941
5371	3	6.79005	-0.005	10.69	0.002098959
3861	3	6.793014	-0.005	10.685	0.002097978
2105	2	6.796462	-0.00625	10.67875	0.00209675
8664	3	6.804488	-0.005	10.67375	0.002095769
794	1	6.821474	-0.0075	10.66625	0.002094296
4224	3	6.823849	-0.005	10.66125	0.002093314
207	1	6.829268	-0.0075	10.65375	0.002091842
9263	4	6.830629	-0.005	10.64875	0.00209086
4461	3	6.83253	-0.005	10.64375	0.002089878
2822	2	6.836115	-0.00625	10.6375	0.002088651
721	1	6.837971	-0.0075	10.63	0.002087178
4785	3	6.838481	-0.005	10.625	0.002086197
5703	3	6.840377	-0.005	10.62	0.002085215
6879	3	6.842885	-0.005	10.615	0.002084233
5164	3	6.85032	-0.005	10.61	0.002083252
7305	3	6.855396	-0.005	10.605	0.00208227
576	1	6.86123	-0.0075	10.5975	0.002080797
2444	2	6.861851	-0.00625	10.59125	0.00207957
304	1	6.863079	-0.0075	10.58375	0.002078097
7472	3	6.864922	-0.005	10.57875	0.002077116
8518	3	6.867781	-0.005	10.57375	0.002076134
2166	2	6.870794	-0.00625	10.5675	0.002074907
2432	2	6.871112	-0.00625	10.56125	0.00207368
7084	3	6.872411	-0.005	10.55625	0.002072698
921	1	6.873937	-0.0075	10.54875	0.002071225
4872	3	6.875291	-0.005	10.54375	0.002070243
6803	3	6.875836	-0.005	10.53875	0.002069262
2378	2	6.876216	-0.00625	10.5325	0.002068035
7742	3	6.877287	-0.005	10.5275	0.002067053
3855	3	6.879146	-0.005	10.5225	0.002066071
4885	3	6.879807	-0.005	10.5175	0.002065089
1777	2	6.88043	-0.00625	10.51125	0.002063862
3085	3	6.882123	-0.005	10.50625	0.00206288
286	1	6.883392	-0.0075	10.49875	0.002061408
7258	3	6.884318	-0.005	10.49375	0.002060426
329	1	6.884922	-0.0075	10.48625	0.002058953
1158	1	6.89123	-0.0075	10.47875	0.002057481
147	1	6.897991	-0.0075	10.47125	0.002056008
9769	4	6.898476	-0.005	10.46625	0.002055027
3323	3	6.90036	-0.005	10.46125	0.002054045
2097	2	6.904281	-0.00625	10.455	0.002052818
5210	3	6.910027	-0.005	10.45	0.002051836
813	1	6.912862	-0.0075	10.4425	0.002050363
2420	2	6.918821	-0.00625	10.43625	0.002049136
5368	3	6.919903	-0.005	10.43125	0.002048154
419	1	6.921827	-0.0075	10.42375	0.002046682
6011	3	6.923148	-0.005	10.41875	0.0020457

9687	4	6.924102	-0.005	10.41375	0.002044718
2563	2	6.924301	-0.00625	10.4075	0.002043491
7869	3	6.926417	-0.005	10.4025	0.002042509
3567	3	6.9278	-0.005	10.3975	0.002041528
8093	3	6.929024	-0.005	10.3925	0.002040546
4567	3	6.930185	-0.005	10.3875	0.002039564
9750	4	6.935045	-0.005	10.3825	0.002038582
572	1	6.937027	-0.0075	10.375	0.00203711
680	1	6.937386	-0.0075	10.3675	0.002035637
8379	3	6.939972	-0.005	10.3625	0.002034655
2445	2	6.942022	-0.00625	10.35625	0.002033428
4838	3	6.942088	-0.005	10.35125	0.002032446
703	1	6.943195	-0.0075	10.34375	0.002030974
2912	3	6.94858	-0.005	10.33875	0.002029992
6640	3	6.949041	-0.005	10.33375	0.00202901
74	1	6.958747	-0.0075	10.32625	0.002027538
2236	2	6.960438	-0.00625	10.32	0.002026311
7376	3	6.961396	-0.005	10.315	0.002025329
1550	1	6.962446	-0.0075	10.3075	0.002023856
192	1	6.965315	-0.0075	10.3	0.002022384
1791	2	6.967017	-0.00625	10.29375	0.002021156
463	1	6.967343	-0.0075	10.28625	0.002019684
1229	1	6.967857	-0.0075	10.27875	0.002018211
2311	2	6.968132	-0.00625	10.2725	0.002016984
3345	3	6.969685	-0.005	10.2675	0.002016002
490	1	6.969994	-0.0075	10.26	0.00201453
1020	1	6.973582	-0.0075	10.2525	0.002013057
9437	4	6.973984	-0.005	10.2475	0.002012075
9944	4	6.975565	-0.005	10.2425	0.002011094
741	1	6.977721	-0.0075	10.235	0.002009621
1867	2	6.977752	-0.00625	10.22875	0.002008394
9718	4	6.978471	-0.005	10.22375	0.002007412
7022	3	6.979444	-0.005	10.21875	0.00200643
2639	2	6.980701	-0.00625	10.2125	0.002005203
2172	2	6.982784	-0.00625	10.20625	0.002003976
4017	3	6.983347	-0.005	10.20125	0.002002994
5884	3	6.985108	-0.005	10.19625	0.002002013
7905	3	6.985756	-0.005	10.19125	0.002001031
1604	1	6.991219	-0.0075	10.18375	0.001999558
8488	3	6.992566	-0.005	10.17875	0.001998576
8276	3	6.993624	-0.005	10.17375	0.001997595
808	1	6.997002	-0.0075	10.16625	0.001996122
3426	3	7.000135	-0.005	10.16125	0.00199514
2548	2	7.002946	-0.00625	10.155	0.001993913
8230	3	7.005728	-0.005	10.15	0.001992931
7796	3	7.011139	-0.005	10.145	0.00199195
9481	4	7.011244	-0.005	10.14	0.001990968
2719	2	7.015563	-0.00625	10.13375	0.001989741
8122	3	7.016252	-0.005	10.12875	0.001988759
7051	3	7.01926	-0.005	10.12375	0.001987777
5936	3	7.021054	-0.005	10.11875	0.001986796
4805	3	7.02109	-0.005	10.11375	0.001985814

2357	2	7.024649	-0.00625	10.1075	0.001984587
9997	4	7.025052	-0.005	10.1025	0.001983605
5895	3	7.029764	-0.005	10.0975	0.001982623
7123	3	7.031938	-0.005	10.0925	0.001981641
8766	4	7.03358	-0.005	10.0875	0.00198066
9729	4	7.043255	-0.005	10.0825	0.001979678
3237	3	7.044201	-0.005	10.0775	0.001978696
2648	2	7.044519	-0.00625	10.07125	0.001977469
4091	3	7.048262	-0.005	10.06625	0.001976487
1629	1	7.049231	-0.0075	10.05875	0.001975015
1877	2	7.049616	-0.00625	10.0525	0.001973788
1842	2	7.049697	-0.00625	10.04625	0.00197256
4597	3	7.056124	-0.005	10.04125	0.001971579
6921	3	7.059573	-0.005	10.03625	0.001970597
2708	2	7.060262	-0.00625	10.03	0.00196937
2715	2	7.062835	-0.00625	10.02375	0.001968143
1023	1	7.067858	-0.0075	10.01625	0.00196667
6568	3	7.069275	-0.005	10.01125	0.001965688
5078	3	7.070401	-0.005	10.00625	0.001964706
756	1	7.073137	-0.0075	9.99875	0.001963234
8284	3	7.074523	-0.005	9.99375	0.001962252
7917	3	7.077512	-0.005	9.98875	0.00196127
8431	3	7.080965	-0.005	9.98375	0.001960289
327	1	7.080995	-0.0075	9.97625	0.001958816
2682	2	7.081578	-0.00625	9.97	0.001957589
644	1	7.082264	-0.0075	9.9625	0.001956116
6890	3	7.085352	-0.005	9.9575	0.001955134
2911	3	7.094625	-0.005	9.9525	0.001954153
9475	4	7.09798	-0.005	9.9475	0.001953171
6250	3	7.099763	-0.005	9.9425	0.001952189
170	1	7.099855	-0.0075	9.935	0.001950717
3826	3	7.099946	-0.005	9.93	0.001949735
4922	3	7.104429	-0.005	9.925	0.001948753
255	1	7.107383	-0.0075	9.9175	0.001947281
5235	3	7.108652	-0.005	9.9125	0.001946299
5364	3	7.108838	-0.005	9.9075	0.001945317
446	1	7.108884	-0.0075	9.9	0.001943844
155	1	7.115861	-0.0075	9.8925	0.001942372
2862	2	7.121287	-0.00625	9.88625	0.001941145
5166	3	7.121334	-0.005	9.88125	0.001940163
2407	2	7.125264	-0.00625	9.875	0.001938936
8752	4	7.128824	-0.005	9.87	0.001937954
5210	3	7.13268	-0.005	9.865	0.001936972
6389	3	7.139616	-0.005	9.86	0.001935991
1926	2	7.141217	-0.00625	9.85375	0.001934763
4061	3	7.146893	-0.005	9.84875	0.001933782
2321	2	7.148971	-0.00625	9.8425	0.001932554
7635	3	7.153123	-0.005	9.8375	0.001931573
8702	3	7.159621	-0.005	9.8325	0.001930591
7849	3	7.160898	-0.005	9.8275	0.001929609
76	1	7.162531	0.015	9.8425	0.001932554
5764	3	7.164286	-0.005	9.8375	0.001931573

4769	3	7.165312	-0.005	9.8325	0.001930591
2830	2	7.167644	-0.00625	9.82625	0.001929364
2012	2	7.170744	-0.00625	9.82	0.001928137
4887	3	7.172355	-0.005	9.815	0.001927155
7273	3	7.176682	-0.005	9.81	0.001926173
3809	3	7.177738	-0.005	9.805	0.001925191
3124	3	7.179097	-0.005	9.8	0.00192421
6564	3	7.182659	-0.005	9.795	0.001923228
6945	3	7.184639	-0.005	9.79	0.001922246
7336	3	7.185553	-0.005	9.785	0.001921264
8694	3	7.186562	-0.005	9.78	0.001920283
7973	3	7.191113	-0.005	9.775	0.001919301
8108	3	7.192087	-0.005	9.77	0.001918319
4916	3	7.195344	-0.005	9.765	0.001917338
2276	2	7.195501	-0.00625	9.75875	0.00191611
8321	3	7.196119	-0.005	9.75375	0.001915129
5709	3	7.197513	-0.005	9.74875	0.001914147
4268	3	7.197823	-0.005	9.74375	0.001913165
1184	1	7.199905	-0.0075	9.73625	0.001911693
8960	4	7.201015	-0.005	9.73125	0.001910711
6536	3	7.205058	-0.005	9.72625	0.001909729
1606	1	7.206186	-0.0075	9.71875	0.001908256
337	1	7.206903	-0.0075	9.71125	0.001906784
4584	3	7.208869	-0.005	9.70625	0.001905802
1856	2	7.213514	-0.00625	9.7	0.001904575
4811	3	7.213552	-0.005	9.695	0.001903593
3744	3	7.219666	-0.005	9.69	0.001902611
8757	4	7.223559	-0.005	9.685	0.00190163
135	1	7.228684	-0.0075	9.6775	0.001900157
9551	4	7.228856	-0.005	9.6725	0.001899175
2650	2	7.229887	-0.00625	9.66625	0.001897948
1131	1	7.235211	-0.0075	9.65875	0.001896476
958	1	7.236081	-0.0075	9.65125	0.001895003
1292	1	7.236316	-0.0075	9.64375	0.00189353
3331	3	7.2376	-0.005	9.63875	0.001892549
6871	3	7.2401	-0.005	9.63375	0.001891567
8026	3	7.241195	-0.005	9.62875	0.001890585
7657	3	7.241981	-0.005	9.62375	0.001889603
8062	3	7.242521	-0.005	9.61875	0.001888622
254	1	7.244324	-0.0075	9.61125	0.001887149
3516	3	7.24926	-0.005	9.60625	0.001886167
787	1	7.253215	-0.0075	9.59875	0.001884695
2855	2	7.255399	-0.00625	9.5925	0.001883468
2031	2	7.25708	-0.00625	9.58625	0.00188224
5253	3	7.259953	-0.005	9.58125	0.001881259
8043	3	7.260215	-0.005	9.57625	0.001880277
2414	2	7.262658	-0.00625	9.57	0.00187905
6503	3	7.266155	-0.005	9.565	0.001878068
8566	3	7.269676	-0.005	9.56	0.001877086
1082	1	7.271261	-0.0075	9.5525	0.001875614
5396	3	7.271829	-0.005	9.5475	0.001874632
2561	2	7.27247	-0.00625	9.54125	0.001873405

2769	2	7.272738	-0.00625	9.535	0.001872177
3566	3	7.273261	-0.005	9.53	0.001871196
6084	3	7.273996	-0.005	9.525	0.001870214
1752	1	7.276351	-0.0075	9.5175	0.001868741
4631	3	7.281294	-0.005	9.5125	0.00186776
3669	3	7.283301	-0.005	9.5075	0.001866778
7539	3	7.286593	-0.005	9.5025	0.001865796
8089	3	7.286947	-0.005	9.4975	0.001864814
9045	4	7.28753	-0.005	9.4925	0.001863833
7482	3	7.287687	-0.005	9.4875	0.001862851
6145	3	7.292242	-0.005	9.4825	0.001861869
4021	3	7.292601	-0.005	9.4775	0.001860887
8182	3	7.292671	-0.005	9.4725	0.001859906
2452	2	7.296635	-0.00625	9.46625	0.001858679
7812	3	7.298721	-0.005	9.46125	0.001857697
2763	2	7.299348	-0.00625	9.455	0.00185647
483	1	7.300024	-0.0075	9.4475	0.001854997
630	1	7.300404	-0.0075	9.44	0.001853524
7137	3	7.302493	-0.005	9.435	0.001852543
8722	3	7.304391	-0.005	9.43	0.001851561
315	1	7.307014	-0.0075	9.4225	0.001850088
2597	2	7.310843	-0.00625	9.41625	0.001848861
2365	2	7.313781	-0.00625	9.41	0.001847634
496	1	7.318736	-0.0075	9.4025	0.001846161
1110	1	7.31993	-0.0075	9.395	0.001844689
366	1	7.323179	-0.0075	9.3875	0.001843216
5763	3	7.323348	-0.005	9.3825	0.001842234
1795	2	7.326529	-0.00625	9.37625	0.001841007
3526	3	7.329124	-0.005	9.37125	0.001840026
5714	3	7.329228	-0.005	9.36625	0.001839044
518	1	7.33147	-0.0075	9.35875	0.001837571
3831	3	7.336552	-0.005	9.35375	0.001836589
241	1	7.337241	-0.0075	9.34625	0.001835117
1682	1	7.3377	-0.0075	9.33875	0.001833644
2257	2	7.344051	-0.00625	9.3325	0.001832417
6612	3	7.347996	-0.005	9.3275	0.001831435
4738	3	7.349457	-0.005	9.3225	0.001830454
602	1	7.349732	-0.0075	9.315	0.001828981
5866	3	7.35544	-0.005	9.31	0.001827999
8726	3	7.356618	-0.005	9.305	0.001827017
1913	2	7.35702	-0.00625	9.29875	0.00182579
3355	3	7.357249	-0.005	9.29375	0.001824809
5302	3	7.360108	-0.005	9.28875	0.001823827
9206	4	7.361148	-0.005	9.28375	0.001822845
284	1	7.366349	-0.0075	9.27625	0.001821372
1922	2	7.366594	-0.00625	9.27	0.001820145
76	1	7.368639	-0.0075	9.2625	0.001818673
8087	3	7.372243	-0.005	9.2575	0.001817691
492	1	7.379555	-0.0075	9.25	0.001816218
1395	1	7.385091	-0.0075	9.2425	0.001814746
2336	2	7.38635	-0.00625	9.23625	0.001813519
1325	1	7.394542	-0.0075	9.22875	0.001812046

7936	3	7.394636	-0.005	9.22375	0.001811064
7218	3	7.396739	-0.005	9.21875	0.001810082
6521	3	7.400292	-0.005	9.21375	0.001809101
1365	1	7.402277	-0.0075	9.20625	0.001807628
4523	3	7.403129	-0.005	9.20125	0.001806646
1554	1	7.405346	-0.0075	9.19375	0.001805174
6200	3	7.405761	-0.005	9.18875	0.001804192
4995	3	7.406922	-0.005	9.18375	0.00180321
522	1	7.408571	-0.0075	9.17625	0.001801738
124	1	7.409283	-0.0075	9.16875	0.001800265
4289	3	7.409566	-0.005	9.16375	0.001799283
503	1	7.414259	-0.0075	9.15625	0.001797811
6739	3	7.414272	-0.005	9.15125	0.001796829
1646	1	7.417481	-0.0075	9.14375	0.001795356
1422	1	7.418648	-0.0075	9.13625	0.001793884
7570	3	7.418717	-0.005	9.13125	0.001792902
2370	2	7.418754	-0.00625	9.125	0.001791675
4050	3	7.419431	-0.005	9.12	0.001790693
3452	3	7.422078	-0.005	9.115	0.001789711
8867	4	7.42793	-0.005	9.11	0.00178873
1950	2	7.431692	-0.00625	9.10375	0.001787502
5893	3	7.433502	-0.005	9.09875	0.001786521
2106	2	7.441822	-0.00625	9.0925	0.001785294
4431	3	7.444335	-0.005	9.0875	0.001784312
4762	3	7.447566	-0.005	9.0825	0.00178333
6035	3	7.451954	-0.005	9.0775	0.001782348
778	1	7.452234	-0.0075	9.07	0.001780876
6634	3	7.452744	-0.005	9.065	0.001779894
4183	3	7.453672	-0.005	9.06	0.001778912
2955	3	7.454803	-0.005	9.055	0.00177793
4168	3	7.455619	-0.005	9.05	0.001776949
2914	3	7.458387	-0.005	9.045	0.001775967
3082	3	7.458418	-0.005	9.04	0.001774985
5832	3	7.462491	-0.005	9.035	0.001774004
2774	2	7.463344	-0.00625	9.02875	0.001772776
2583	2	7.467974	-0.00625	9.0225	0.001771549
6696	3	7.470112	-0.005	9.0175	0.001770567
8000	3	7.471257	-0.005	9.0125	0.001769586
4841	3	7.473011	-0.005	9.0075	0.001768604
4417	3	7.476491	-0.005	9.0025	0.001767622
3575	3	7.478237	-0.005	8.9975	0.00176664
536	1	7.478734	-0.0075	8.99	0.001765168
7569	3	7.481162	-0.005	8.985	0.001764186
1509	1	7.482219	-0.0075	8.9775	0.001762714
165	1	7.487275	-0.0075	8.97	0.001761241
75	1	7.490121	-0.0075	8.9625	0.001759768
8304	3	7.493339	-0.005	8.9575	0.001758787
2664	2	7.499382	-0.00625	8.95125	0.001757559
2856	2	7.499796	-0.00625	8.945	0.001756332
939	1	7.500546	-0.0075	8.9375	0.00175486
7567	3	7.501784	-0.005	8.9325	0.001753878
8073	3	7.503382	-0.005	8.9275	0.001752896

1932	2	7.505586	-0.00625	8.92125	0.001751669
2833	2	7.508626	-0.00625	8.915	0.001750442
7394	3	7.508794	-0.005	8.91	0.00174946
8213	3	7.512468	-0.005	8.905	0.001748478
6761	3	7.513455	-0.005	8.9	0.001747497
3112	3	7.516035	-0.005	8.895	0.001746515
7147	3	7.519399	-0.005	8.89	0.001745533
6890	3	7.520732	-0.005	8.885	0.001744551
3174	3	7.522834	-0.005	8.88	0.00174357
886	1	7.522911	-0.0075	8.8725	0.001742097
3709	3	7.52378	-0.005	8.8675	0.001741115
4024	3	7.528399	-0.005	8.8625	0.001740134
8320	3	7.539869	-0.005	8.8575	0.001739152
8483	3	7.540246	-0.005	8.8525	0.00173817
577	1	7.541937	-0.0075	8.845	0.001736697
2552	2	7.543742	-0.00625	8.83875	0.00173547
8299	3	7.54702	-0.005	8.83375	0.001734489
8902	4	7.547354	-0.005	8.82875	0.001733507
137	1	7.548952	-0.0075	8.82125	0.001732034
9032	4	7.549093	-0.005	8.81625	0.001731052
437	1	7.555477	-0.0075	8.80875	0.00172958
5077	3	7.559102	-0.005	8.80375	0.001728598
3235	3	7.561864	-0.005	8.79875	0.001727616
1274	1	7.563435	-0.0075	8.79125	0.001726144
93	1	7.568549	-0.0075	8.78375	0.001724671
760	1	7.57034	-0.0075	8.77625	0.001723199
5954	3	7.572129	-0.005	8.77125	0.001722217
5873	3	7.573935	-0.005	8.76625	0.001721235
9549	4	7.574704	-0.005	8.76125	0.001720253
1705	1	7.574757	-0.0075	8.75375	0.001718781
5697	3	7.585679	-0.005	8.74875	0.001717799
9856	4	7.588753	-0.005	8.74375	0.001716817
8784	4	7.58923	-0.005	8.73875	0.001715835
8384	3	7.589296	-0.005	8.73375	0.001714854
1602	1	7.594321	-0.0075	8.72625	0.001713381
2708	2	7.596558	-0.00625	8.72	0.001712154
5288	3	7.598513	-0.005	8.715	0.001711172
293	1	7.598803	-0.0075	8.7075	0.0017097
3006	3	7.59978	-0.005	8.7025	0.001708718
6908	3	7.604208	-0.005	8.6975	0.001707736
5243	3	7.606336	-0.005	8.6925	0.001706754
3878	3	7.607061	0.01	8.7025	0.001708718
9946	4	7.607369	-0.005	8.6975	0.001707736
4672	3	7.621118	-0.005	8.6925	0.001706754
8530	3	7.622223	-0.005	8.6875	0.001705773
3818	3	7.624086	-0.005	8.6825	0.001704791
6990	3	7.627591	-0.005	8.6775	0.001703809
9268	4	7.627986	-0.005	8.6725	0.001702827
7182	3	7.630055	-0.005	8.6675	0.001701846
7453	3	7.630845	-0.005	8.6625	0.001700864
8392	3	7.632668	-0.005	8.6575	0.001699882
66	1	7.634573	-0.0075	8.65	0.00169841

9018	4	7.635058	-0.005	8.645	0.001697428
3092	3	7.6355	-0.005	8.64	0.001696446
190	1	7.636542	-0.0075	8.6325	0.001694973
3805	3	7.637541	-0.005	8.6275	0.001693992
3145	3	7.647317	-0.005	8.6225	0.00169301
2686	2	7.651124	-0.00625	8.61625	0.001691783
8866	4	7.652332	-0.005	8.61125	0.001690801
1636	1	7.653847	-0.0075	8.60375	0.001689328
8426	3	7.657072	-0.005	8.59875	0.001688347
8795	4	7.659736	-0.005	8.59375	0.001687365
4658	3	7.66167	-0.005	8.58875	0.001686383
7210	3	7.663939	-0.005	8.58375	0.001685402
1073	1	7.664684	-0.0075	8.57625	0.001683929
5011	3	7.666484	-0.005	8.57125	0.001682947
6146	3	7.668644	-0.005	8.56625	0.001681965
1788	2	7.669188	-0.00625	8.56	0.001680738
2810	2	7.675096	-0.00625	8.55375	0.001679511
9769	4	7.67604	-0.005	8.54875	0.001678529
4656	3	7.681493	-0.005	8.54375	0.001677548
382	1	7.683987	-0.0075	8.53625	0.001676075
2685	2	7.68434	-0.00625	8.53	0.001674848
9401	4	7.685112	-0.005	8.525	0.001673866
3878	3	7.686476	-0.005	8.52	0.001672884
9794	4	7.689599	-0.005	8.515	0.001671903
2745	2	7.689987	-0.00625	8.50875	0.001670675
2207	2	7.690147	-0.00625	8.5025	0.001669448
3640	3	7.695578	-0.005	8.4975	0.001668467
8586	3	7.696521	-0.005	8.4925	0.001667485
1052	1	7.699453	-0.0075	8.485	0.001666012
8110	3	7.700733	-0.005	8.48	0.00166503
3110	3	7.70372	-0.005	8.475	0.001664049
952	1	7.704741	-0.0075	8.4675	0.001662576
64	1	7.704997	-0.0075	8.46	0.001661103
2391	2	7.706454	-0.00625	8.45375	0.001659876
1954	2	7.710074	-0.00625	8.4475	0.001658649
2983	3	7.714867	-0.005	8.4425	0.001657667
1718	1	7.716704	-0.0075	8.435	0.001656195
9972	4	7.717716	-0.005	8.43	0.001655213
9655	4	7.718324	-0.005	8.425	0.001654231
4001	3	7.719536	-0.005	8.42	0.00165325
5512	3	7.720316	-0.005	8.415	0.001652268
8150	3	7.72298	-0.005	8.41	0.001651286
1859	2	7.724105	-0.00625	8.40375	0.001650059
840	1	7.724211	-0.0075	8.39625	0.001648586
6709	3	7.726567	-0.005	8.39125	0.001647605
1791	2	7.728367	-0.00625	8.385	0.001646377
1645	1	7.73049	-0.0075	8.3775	0.001644905
4441	3	7.734768	-0.005	8.3725	0.001643923
7540	3	7.737566	-0.005	8.3675	0.001642941
4869	3	7.738089	-0.005	8.3625	0.00164196
7584	3	7.740983	-0.005	8.3575	0.001640978
294	1	7.741685	-0.0075	8.35	0.001639505

3019	3	7.744879	-0.005	8.345	0.001638523
4844	3	7.745095	-0.005	8.34	0.001637542
8246	3	7.74629	-0.005	8.335	0.00163656
963	1	7.751354	-0.0075	8.3275	0.001635087
2369	2	7.75586	-0.00625	8.32125	0.00163386
859	1	7.756538	-0.0075	8.31375	0.001632388
2655	2	7.756936	-0.00625	8.3075	0.00163116
3311	3	7.763111	-0.005	8.3025	0.001630179
513	1	7.763819	-0.0075	8.295	0.001628706
1588	1	7.764573	-0.0075	8.2875	0.001627233
8631	3	7.76558	-0.005	8.2825	0.001626252
5402	3	7.769875	-0.005	8.2775	0.00162527
7373	3	7.769977	-0.005	8.2725	0.001624288
3842	3	7.772587	-0.005	8.2675	0.001623306
875	1	7.777611	-0.0075	8.26	0.001621834
1697	1	7.779348	-0.0075	8.2525	0.001620361
562	1	7.781793	-0.0075	8.245	0.001618889
2063	2	7.792465	-0.00625	8.23875	0.001617661
8483	3	7.797306	-0.005	8.23375	0.00161668
7033	3	7.799122	-0.005	8.22875	0.001615698
4088	3	7.801527	-0.005	8.22375	0.001614716
3853	3	7.807266	-0.005	8.21875	0.001613735
7448	3	7.80867	-0.005	8.21375	0.001612753
4935	3	7.809657	-0.005	8.20875	0.001611771
4461	3	7.813686	-0.005	8.20375	0.001610789
4113	3	7.826121	-0.005	8.19875	0.001609808
2812	2	7.826182	-0.00625	8.1925	0.00160858
5137	3	7.826496	-0.005	8.1875	0.001607599
5831	3	7.826605	-0.005	8.1825	0.001606617
5461	3	7.829384	-0.005	8.1775	0.001605635
25	1	7.833797	-0.0075	8.17	0.001604163
2566	2	7.83413	-0.00625	8.16375	0.001602935
7057	3	7.837463	-0.005	8.15875	0.001601954
3183	3	7.841914	-0.005	8.15375	0.001600972
5936	3	7.843841	-0.005	8.14875	0.00159999
5213	3	7.850635	-0.005	8.14375	0.001599008
4589	3	7.854932	-0.005	8.13875	0.001598027
8891	4	7.858969	-0.005	8.13375	0.001597045
661	1	7.859589	-0.0075	8.12625	0.001595572
421	1	7.862905	-0.0075	8.11875	0.0015941
6581	3	7.865975	-0.005	8.11375	0.001593118
2428	2	7.867904	-0.00625	8.1075	0.001591891
6724	3	7.876437	-0.005	8.1025	0.001590909
2329	2	7.877029	-0.00625	8.09625	0.001589682
6658	3	7.880726	-0.005	8.09125	0.0015887
3016	3	7.884192	-0.005	8.08625	0.001587718
9127	4	7.884392	-0.005	8.08125	0.001586737
6689	3	7.88482	-0.005	8.07625	0.001585755
5079	3	7.887065	-0.005	8.07125	0.001584773
7265	3	7.887401	-0.005	8.06625	0.001583791
1180	1	7.889261	-0.0075	8.05875	0.001582319
887	1	7.890838	-0.0075	8.05125	0.001580846

4736	3	7.891521	-0.005	8.04625	0.001579865
7037	3	7.895711	-0.005	8.04125	0.001578883
7686	3	7.896145	-0.005	8.03625	0.001577901
962	1	7.900479	-0.0075	8.02875	0.001576428
842	1	7.903981	-0.0075	8.02125	0.001574956
2721	2	7.905405	-0.00625	8.015	0.001573729
6730	3	7.907062	-0.005	8.01	0.001572747
1843	2	7.911102	-0.00625	8.00375	0.00157152
7282	3	7.912941	-0.005	7.99875	0.001570538
807	1	7.917629	-0.0075	7.99125	0.001569065
3150	3	7.91916	-0.005	7.98625	0.001568084
1381	1	7.920854	-0.0075	7.97875	0.001566611
1279	1	7.923015	-0.0075	7.97125	0.001565138
7375	3	7.924421	-0.005	7.96625	0.001564157
6666	3	7.932747	-0.005	7.96125	0.001563175
3753	3	7.936012	-0.005	7.95625	0.001562193
9901	4	7.939209	-0.005	7.95125	0.001561211
1119	1	7.939565	-0.0075	7.94375	0.001559739
60	1	7.942683	-0.0075	7.93625	0.001558266
277	1	7.943511	-0.0075	7.92875	0.001556794
259	1	7.94402	-0.0075	7.92125	0.001555321
2389	2	7.947895	-0.00625	7.915	0.001554094
337	1	7.950158	-0.0075	7.9075	0.001552621
9233	4	7.950506	-0.005	7.9025	0.00155164
4043	3	7.953927	-0.005	7.8975	0.001550658
644	1	7.955156	-0.0075	7.89	0.001549185
8133	3	7.955476	-0.005	7.885	0.001548203
214	1	7.955609	-0.0075	7.8775	0.001546731
2576	2	7.956526	-0.00625	7.87125	0.001545504
6234	3	7.958043	-0.005	7.86625	0.001544522
1572	1	7.958552	-0.0075	7.85875	0.001543049
6803	3	7.960533	-0.005	7.85375	0.001542068
2953	3	7.968226	-0.005	7.84875	0.001541086
2697	2	7.969178	-0.00625	7.8425	0.001539859
1670	1	7.974416	-0.0075	7.835	0.001538386
6808	3	7.974634	-0.005	7.83	0.001537404
3436	3	7.975017	-0.005	7.825	0.001536423
6947	3	7.978341	-0.005	7.82	0.001535441
2725	2	7.979736	-0.00625	7.81375	0.001534214
5216	3	7.980955	-0.005	7.80875	0.001533232
1935	2	7.981238	-0.00625	7.8025	0.001532005
2523	2	7.981544	-0.00625	7.79625	0.001530778
180	1	7.992361	-0.0075	7.78875	0.001529305
763	1	7.99625	-0.0075	7.78125	0.001527832
5460	3	8.001542	-0.005	7.77625	0.001526851
7808	3	8.003249	-0.005	7.77125	0.001525869
7730	3	8.003293	-0.005	7.76625	0.001524887
6576	3	8.003575	-0.005	7.76125	0.001523905
6323	3	8.004007	-0.005	7.75625	0.001522924
5566	3	8.004405	-0.005	7.75125	0.001521942
8917	4	8.009404	-0.005	7.74625	0.00152096
1331	1	8.018289	-0.0075	7.73875	0.001519488

3293	3	8.023899	-0.005	7.73375	0.001518506
6783	3	8.02603	-0.005	7.72875	0.001517524
1424	1	8.031237	-0.0075	7.72125	0.001516051
112	1	8.03241	-0.0075	7.71375	0.001514579
3624	3	8.034895	-0.005	7.70875	0.001513597
6985	3	8.039047	-0.005	7.70375	0.001512615
7447	3	8.040098	-0.005	7.69875	0.001511634
5008	3	8.040837	-0.005	7.69375	0.001510652
7312	3	8.047099	-0.005	7.68875	0.00150967
6614	3	8.049416	-0.005	7.68375	0.001508688
535	1	8.051019	-0.0075	7.67625	0.001507216
8418	3	8.054961	-0.005	7.67125	0.001506234
4730	3	8.06016	-0.005	7.66625	0.001505252
2051	2	8.060623	-0.00625	7.66	0.001504025
7469	3	8.069862	-0.005	7.655	0.001503043
5905	3	8.072606	-0.005	7.65	0.001502062
8060	3	8.083386	-0.005	7.645	0.00150108
3429	3	8.084105	-0.005	7.64	0.001500098
1241	1	8.084877	-0.0075	7.6325	0.001498626
4514	3	8.096219	-0.005	7.6275	0.001497644
3839	3	8.09848	-0.005	7.6225	0.001496662
1878	2	8.100295	-0.00625	7.61625	0.001495435
5195	3	8.110257	-0.005	7.61125	0.001494453
777	1	8.110538	-0.0075	7.60375	0.001492981
6835	3	8.111964	-0.005	7.59875	0.001491999
80	1	8.114959	-0.0075	7.59125	0.001490526
5915	3	8.118441	-0.005	7.58625	0.001489544
5823	3	8.122555	-0.005	7.58125	0.001488563
677	1	8.122706	-0.0075	7.57375	0.00148709
4663	3	8.126922	-0.005	7.56875	0.001486108
275	1	8.127798	-0.0075	7.56125	0.001484636
5958	3	8.138448	-0.005	7.55625	0.001483654
2267	2	8.139206	-0.00625	7.55	0.001482427
9084	4	8.14201	-0.005	7.545	0.001481445
8352	3	8.144577	-0.005	7.54	0.001480463
650	1	8.145635	-0.0075	7.5325	0.001478991
1313	1	8.14785	-0.0075	7.525	0.001477518
2335	2	8.150956	-0.00625	7.51875	0.001476291
4576	3	8.159053	-0.005	7.51375	0.001475309
745	1	8.160829	-0.0075	7.50625	0.001473837
1992	2	8.164647	-0.00625	7.5	0.001472609
9462	4	8.16831	-0.005	7.495	0.001471628
4422	3	8.169773	-0.005	7.49	0.001470646
882	1	8.177433	-0.0075	7.4825	0.001469173
1494	1	8.177836	-0.0075	7.475	0.001467701
22	1	8.179181	-0.0075	7.4675	0.001466228
4448	3	8.182513	-0.005	7.4625	0.001465246
5916	3	8.184695	-0.005	7.4575	0.001464265
4090	3	8.185167	-0.005	7.4525	0.001463283
6213	3	8.186448	-0.005	7.4475	0.001462301
2847	2	8.19309	-0.00625	7.44125	0.001461074
2745	2	8.193338	-0.00625	7.435	0.001459847

7923	3	8.195667	-0.005	7.43	0.001458865
2535	2	8.198559	-0.00625	7.42375	0.001457638
5600	3	8.199513	-0.005	7.41875	0.001456656
18	1	8.200292	-0.0075	7.41125	0.001455184
1200	1	8.201065	-0.0075	7.40375	0.001453711
7426	3	8.207628	-0.005	7.39875	0.001452729
1660	1	8.209918	-0.0075	7.39125	0.001451257
6766	3	8.210963	-0.005	7.38625	0.001450275
7417	3	8.220897	-0.005	7.38125	0.001449293
7212	3	8.22222	-0.005	7.37625	0.001448311
225	1	8.224316	-0.0075	7.36875	0.001446839
1105	1	8.226729	-0.0075	7.36125	0.001445366
3120	3	8.235574	-0.005	7.35625	0.001444384
341	1	8.236084	-0.0075	7.34875	0.001442912
3442	3	8.238518	-0.005	7.34375	0.00144193
2463	2	8.238678	-0.00625	7.3375	0.001440703
1032	1	8.239553	-0.0075	7.33	0.00143923
2926	3	8.242259	-0.005	7.325	0.001438249
133	1	8.243078	-0.0075	7.3175	0.001436776
2185	2	8.24734	-0.00625	7.31125	0.001435549
7912	3	8.249295	-0.005	7.30625	0.001434567
931	1	8.25228	-0.0075	7.29875	0.001433094
128	1	8.258003	-0.0075	7.29125	0.001431622
3876	3	8.258204	-0.005	7.28625	0.00143064
3976	3	8.260762	-0.005	7.28125	0.001429658
7591	3	8.261627	-0.005	7.27625	0.001428677
2076	2	8.262387	-0.00625	7.27	0.001427449
1025	1	8.264186	-0.0075	7.2625	0.001425977
9667	4	8.264531	-0.005	7.2575	0.001424995
3790	3	8.275147	-0.005	7.2525	0.001424013
26	1	8.284405	-0.0075	7.245	0.001422541
5320	3	8.285389	-0.005	7.24	0.001421559
81	1	8.289886	-0.0075	7.2325	0.001420086
8227	3	8.289959	-0.005	7.2275	0.001419105
2085	2	8.29256	-0.00625	7.22125	0.001417877
1185	1	8.293482	-0.0075	7.21375	0.001416405
1370	1	8.293707	-0.0075	7.20625	0.001414932
833	1	8.29778	-0.0075	7.19875	0.00141346
2193	2	8.302619	-0.00625	7.1925	0.001412232
5156	3	8.303716	-0.005	7.1875	0.001411251
2751	2	8.304547	-0.00625	7.18125	0.001410024
6538	3	8.304919	-0.005	7.17625	0.001409042
1937	2	8.309708	-0.00625	7.17	0.001407815
8095	3	8.32011	-0.005	7.165	0.001406833
184	1	8.327592	-0.0075	7.1575	0.00140536
4879	3	8.329477	-0.005	7.1525	0.001404379
6284	3	8.333448	-0.005	7.1475	0.001403397
482	1	8.338518	-0.0075	7.14	0.001401924
5676	3	8.338858	-0.005	7.135	0.001400942
3883	3	8.346382	-0.005	7.13	0.001399961
1319	1	8.346705	-0.0075	7.1225	0.001398488
7412	3	8.348674	-0.005	7.1175	0.001397506

6551	3	8.353669	-0.005	7.1125	0.001396525
9669	4	8.359725	-0.005	7.1075	0.001395543
3167	3	8.361388	-0.005	7.1025	0.001394561
5075	3	8.366196	-0.005	7.0975	0.001393579
585	1	8.366832	-0.0075	7.09	0.001392107
2836	2	8.367885	-0.00625	7.08375	0.00139088
8260	3	8.375282	-0.005	7.07875	0.001389898
3582	3	8.375455	-0.005	7.07375	0.001388916
1008	1	8.379991	-0.0075	7.06625	0.001387444
6825	3	8.380228	-0.005	7.06125	0.001386462
2139	2	8.384541	-0.00625	7.055	0.001385235
2402	2	8.385205	-0.00625	7.04875	0.001384007
1339	1	8.386459	-0.0075	7.04125	0.001382535
1257	1	8.386913	-0.0075	7.03375	0.001381062
8956	4	8.391443	-0.005	7.02875	0.001380081
3138	3	8.39446	-0.005	7.02375	0.001379099
6507	3	8.394779	-0.005	7.01875	0.001378117
5487	3	8.402731	-0.005	7.01375	0.001377135
618	1	8.405695	-0.0075	7.00625	0.001375663
4118	3	8.40737	-0.005	7.00125	0.001374681
504	1	8.409649	-0.0075	6.99375	0.001373208
3073	3	8.410771	-0.005	6.98875	0.001372227
4480	3	8.412299	-0.005	6.98375	0.001371245
6667	3	8.415956	-0.005	6.97875	0.001370263
178	1	8.416997	-0.0075	6.97125	0.00136879
4910	3	8.418348	-0.005	6.96625	0.001367809
1149	1	8.423341	-0.0075	6.95875	0.001366336
7249	3	8.424963	-0.005	6.95375	0.001365354
1359	1	8.429584	-0.0075	6.94625	0.001363882
5393	3	8.432504	-0.005	6.94125	0.0013629
96	1	8.436416	-0.0075	6.93375	0.001361427
8938	4	8.4386	-0.005	6.92875	0.001360446
7751	3	8.444148	-0.005	6.92375	0.001359464
9527	4	8.445687	-0.005	6.91875	0.001358482
3776	3	8.453437	-0.005	6.91375	0.0013575
7711	3	8.455427	-0.005	6.90875	0.001356519
2259	2	8.456028	-0.00625	6.9025	0.001355292
1135	1	8.456632	-0.0075	6.895	0.001353819
1433	1	8.46458	-0.0075	6.8875	0.001352346
6562	3	8.468371	-0.005	6.8825	0.001351365
4522	3	8.468883	-0.005	6.8775	0.001350383
1174	1	8.47072	-0.0075	6.87	0.00134891
6088	3	8.470929	-0.005	6.865	0.001347929
3858	3	8.479078	-0.005	6.86	0.001346947
3729	3	8.479583	-0.005	6.855	0.001345965
1711	1	8.479903	-0.0075	6.8475	0.001344492
2158	2	8.481265	-0.00625	6.84125	0.001343265
1275	1	8.493024	-0.0075	6.83375	0.001341793
2586	2	8.501728	-0.00625	6.8275	0.001340565
2283	2	8.508302	-0.00625	6.82125	0.001339338
8306	3	8.520042	-0.005	6.81625	0.001338357
8111	3	8.522488	-0.005	6.81125	0.001337375

9451	4	8.5257	-0.005	6.80625	0.001336393
8618	3	8.540329	-0.005	6.80125	0.001335411
2768	2	8.54147	-0.00625	6.795	0.001334184
5035	3	8.549039	-0.005	6.79	0.001333202
735	1	8.551275	-0.0075	6.7825	0.00133173
5942	3	8.552421	-0.005	6.7775	0.001330748
4678	3	8.552868	-0.005	6.7725	0.001329766
1721	1	8.55417	-0.0075	6.765	0.001328294
3757	3	8.554193	-0.005	6.76	0.001327312
299	1	8.561238	-0.0075	6.7525	0.001325839
956	1	8.562736	-0.0075	6.745	0.001324367
8983	4	8.564867	-0.005	6.74	0.001323385
3061	3	8.565355	-0.005	6.735	0.001322403
2848	2	8.569165	-0.00625	6.72875	0.001321176
4870	3	8.569428	-0.005	6.72375	0.001320194
2532	2	8.570976	-0.00625	6.7175	0.001318967
6010	3	8.576901	-0.005	6.7125	0.001317985
4646	3	8.579514	-0.005	6.7075	0.001317004
1813	2	8.580784	-0.00625	6.70125	0.001315777
2565	2	8.58336	-0.00625	6.695	0.001314549
1897	2	8.586195	-0.00625	6.68875	0.001313322
9947	4	8.588197	-0.005	6.68375	0.00131234
7481	3	8.592156	-0.005	6.67875	0.001311359
2520	2	8.599509	-0.00625	6.6725	0.001310132
2045	2	8.604927	-0.00625	6.66625	0.001308904
7575	3	8.607847	-0.005	6.66125	0.001307923
6999	3	8.611554	-0.005	6.65625	0.001306941
1345	1	8.614197	-0.0075	6.64875	0.001305468
4028	3	8.614233	-0.005	6.64375	0.001304487
558	1	8.615737	-0.0075	6.63625	0.001303014
624	1	8.617146	-0.0075	6.62875	0.001301541
1336	1	8.625131	-0.0075	6.62125	0.001300069
1248	1	8.626135	-0.0075	6.61375	0.001298596
1597	1	8.627897	-0.0075	6.60625	0.001297124
5742	3	8.630472	-0.005	6.60125	0.001296142
378	1	8.646119	-0.0075	6.59375	0.001294669
27	1	8.65224	-0.0075	6.58625	0.001293197
4618	3	8.653387	-0.005	6.58125	0.001292215
2624	2	8.653863	-0.00625	6.575	0.001290988
1578	1	8.655109	-0.0075	6.5675	0.001289515
5945	3	8.657609	-0.005	6.5625	0.001288533
4755	3	8.659599	-0.005	6.5575	0.001287552
6346	3	8.659736	-0.005	6.5525	0.00128657
2371	2	8.662537	-0.00625	6.54625	0.001285343
3321	3	8.680157	-0.005	6.54125	0.001284361
1203	1	8.681591	-0.0075	6.53375	0.001282888
7974	3	8.683943	-0.005	6.52875	0.001281907
6766	3	8.687484	-0.005	6.52375	0.001280925
5172	3	8.688112	-0.005	6.51875	0.001279943
3934	3	8.688945	-0.005	6.51375	0.001278961
4731	3	8.690086	-0.005	6.50875	0.00127798
658	1	8.690838	-0.0075	6.50125	0.001276507

5354	3	8.691777	-0.005	6.49625	0.001275525
4145	3	8.693795	-0.005	6.49125	0.001274543
2062	2	8.69773	-0.00625	6.485	0.001273316
1480	1	8.706258	-0.0075	6.4775	0.001271844
2352	2	8.707926	-0.00625	6.47125	0.001270617
7530	3	8.712121	-0.005	6.46625	0.001269635
8494	3	8.718997	-0.005	6.46125	0.001268653
6796	3	8.719612	-0.005	6.45625	0.001267671
8922	4	8.723745	-0.005	6.45125	0.00126669
3644	3	8.724564	-0.005	6.44625	0.001265708
2317	2	8.72686	-0.00625	6.44	0.001264481
7875	3	8.727507	-0.005	6.435	0.001263499
179	1	8.728092	-0.0075	6.4275	0.001262026
8	1	8.729256	-0.0075	6.42	0.001260554
1600	1	8.735037	-0.0075	6.4125	0.001259081
988	1	8.74444	-0.0075	6.405	0.001257608
1684	1	8.748813	-0.0075	6.3975	0.001256136
5768	3	8.757724	-0.005	6.3925	0.001255154
1161	1	8.757759	-0.0075	6.385	0.001253682
2994	3	8.762199	-0.005	6.38	0.0012527
2207	2	8.762927	-0.00625	6.37375	0.001251473
7459	3	8.771633	-0.005	6.36875	0.001250491
281	1	8.777242	-0.0075	6.36125	0.001249018
216	1	8.785667	-0.0075	6.35375	0.001247546
1132	1	8.787557	-0.0075	6.34625	0.001246073
4298	3	8.787977	-0.005	6.34125	0.001245091
2339	2	8.799039	-0.00625	6.335	0.001243864
3973	3	8.7991	-0.005	6.33	0.001242882
1404	1	8.80449	-0.0075	6.3225	0.00124141
5770	3	8.809759	-0.005	6.3175	0.001240428
3261	3	8.811749	-0.005	6.3125	0.001239446
5963	3	8.819187	-0.005	6.3075	0.001238465
5047	3	8.81969	-0.005	6.3025	0.001237483
1010	1	8.831212	-0.0075	6.295	0.00123601
6094	3	8.831529	-0.005	6.29	0.001235028
1177	1	8.842373	-0.0075	6.2825	0.001233556
1909	2	8.844936	-0.00625	6.27625	0.001232329
6578	3	8.848999	-0.005	6.27125	0.001231347
2674	2	8.854219	-0.00625	6.265	0.00123012
6438	3	8.855441	-0.005	6.26	0.001229138
692	1	8.860182	-0.0075	6.2525	0.001227665
3272	3	8.866272	-0.005	6.2475	0.001226684
2515	2	8.879066	-0.00625	6.24125	0.001225457
8037	3	8.882737	-0.005	6.23625	0.001224475
1416	1	8.884887	-0.0075	6.22875	0.001223002
2201	2	8.888029	-0.00625	6.2225	0.001221775
265	1	8.891906	-0.0075	6.215	0.001220302
5032	3	8.892637	-0.005	6.21	0.001219321
7339	3	8.897852	-0.005	6.205	0.001218339
1193	1	8.912989	-0.0075	6.1975	0.001216866
358	1	8.918181	-0.0075	6.19	0.001215394
1031	1	8.920608	-0.0075	6.1825	0.001213921

3665	3	8.921641	-0.005	6.1775	0.001212939
7424	3	8.922035	-0.005	6.1725	0.001211958
1456	1	8.924833	-0.0075	6.165	0.001210485
6930	3	8.928139	-0.005	6.16	0.001209503
586	1	8.92868	-0.0075	6.1525	0.001208031
2602	2	8.934157	-0.00625	6.14625	0.001206803
401	1	8.938877	-0.0075	6.13875	0.001205331
2002	2	8.942969	-0.00625	6.1325	0.001204104
3878	3	8.950605	-0.005	6.1275	0.001203122
2556	2	8.953086	-0.00625	6.12125	0.001201895
4004	3	8.954095	-0.005	6.11625	0.001200913
4650	3	8.955886	-0.005	6.11125	0.001199931
819	1	8.95746	-0.0075	6.10375	0.001198459
2243	2	8.972271	-0.00625	6.0975	0.001197231
1811	2	8.980049	-0.00625	6.09125	0.001196004
2928	3	8.981045	-0.005	6.08625	0.001195023
696	1	8.982953	-0.0075	6.07875	0.00119355
3701	3	8.985324	-0.005	6.07375	0.001192568
2340	2	8.985509	-0.00625	6.0675	0.001191341
114	1	8.989366	-0.0075	6.06	0.001189868
3404	3	8.996714	-0.005	6.055	0.001188887
4227	3	8.99882	-0.005	6.05	0.001187905
2219	2	9.001792	-0.00625	6.04375	0.001186678
9432	4	9.001852	-0.005	6.03875	0.001185696
444	1	9.002765	-0.0075	6.03125	0.001184223
3264	3	9.003556	-0.005	6.02625	0.001183242
1911	2	9.003749	-0.00625	6.02	0.001182015
2766	2	9.004119	-0.00625	6.01375	0.001180787
7019	3	9.005068	-0.005	6.00875	0.001179806
7430	3	9.008121	-0.005	6.00375	0.001178824
5425	3	9.008503	-0.005	5.99875	0.001177842
2826	2	9.010488	-0.00625	5.9925	0.001176615
6413	3	9.01318	-0.005	5.9875	0.001175633
4398	3	9.019052	-0.005	5.9825	0.001174651
8385	3	9.028365	-0.005	5.9775	0.00117367
2773	2	9.030363	-0.00625	5.97125	0.001172443
4981	3	9.030492	-0.005	5.96625	0.001171461
2835	2	9.030685	-0.00625	5.96	0.001170234
348	1	9.039821	-0.0075	5.9525	0.001168761
450	1	9.040201	-0.0075	5.945	0.001167288
6351	3	9.04137	-0.005	5.94	0.001166307
1266	1	9.044789	-0.0075	5.9325	0.001164834
6769	3	9.046317	-0.005	5.9275	0.001163852
2792	2	9.050916	-0.00625	5.92125	0.001162625
2427	2	9.054038	-0.00625	5.915	0.001161398
1775	2	9.061773	-0.00625	5.90875	0.001160171
7649	3	9.062554	-0.005	5.90375	0.001159189
7917	3	9.064541	-0.005	5.89875	0.001158207
4570	3	9.066968	-0.005	5.89375	0.001157226
8310	3	9.070822	-0.005	5.88875	0.001156244
1239	1	9.076136	-0.0075	5.88125	0.001154771
346	1	9.076457	-0.0075	5.87375	0.001153299

2706	2	9.084237	0.0125	5.88625	0.001155753
7026	3	9.090252	-0.005	5.88125	0.001154771
7973	3	9.094597	-0.005	5.87625	0.00115379
7512	3	9.101313	-0.005	5.87125	0.001152808
5167	3	9.10657	-0.005	5.86625	0.001151826
5746	3	9.113105	-0.005	5.86125	0.001150844
5817	3	9.11573	-0.005	5.85625	0.001149863
4852	3	9.12007	-0.005	5.85125	0.001148881
624	1	9.120357	-0.0075	5.84375	0.001147408
4080	3	9.124478	-0.005	5.83875	0.001146426
4438	3	9.126029	-0.005	5.83375	0.001145445
2864	2	9.129584	-0.00625	5.8275	0.001144218
3537	3	9.12959	-0.005	5.8225	0.001143236
39	1	9.132831	-0.0075	5.815	0.001141763
1660	1	9.138446	-0.0075	5.8075	0.001140291
6249	3	9.140416	-0.005	5.8025	0.001139309
2484	2	9.144157	-0.00625	5.79625	0.001138082
2489	2	9.161305	-0.00625	5.79	0.001136855
3720	3	9.168541	-0.005	5.785	0.001135873
3760	3	9.172186	-0.005	5.78	0.001134891
9725	4	9.173005	-0.005	5.775	0.001133909
3730	3	9.174295	-0.005	5.77	0.001132928
2024	2	9.178086	-0.00625	5.76375	0.0011317
1252	1	9.184859	-0.0075	5.75625	0.001130228
1504	1	9.19057	-0.0075	5.74875	0.001128755
2978	3	9.198203	-0.005	5.74375	0.001127773
1828	2	9.199465	-0.00625	5.7375	0.001126546
5107	3	9.200177	-0.005	5.7325	0.001125565
2462	2	9.201298	-0.00625	5.72625	0.001124337
2647	2	9.202442	-0.00625	5.72	0.00112311
1166	1	9.205509	-0.0075	5.7125	0.001121638
1991	2	9.213198	-0.00625	5.70625	0.00112041
1139	1	9.213618	-0.0075	5.69875	0.001118938
4904	3	9.219639	-0.005	5.69375	0.001117956
9888	4	9.220376	-0.005	5.68875	0.001116974
8049	3	9.225834	-0.005	5.68375	0.001115993
9604	4	9.22692	-0.005	5.67875	0.001115011
8589	3	9.227099	-0.005	5.67375	0.001114029
8526	3	9.227841	-0.005	5.66875	0.001113047
4115	3	9.227853	-0.005	5.66375	0.001112066
6584	3	9.230457	-0.005	5.65875	0.001111084
3663	3	9.231128	-0.005	5.65375	0.001110102
3380	3	9.238541	-0.005	5.64875	0.00110912
783	1	9.241322	-0.0075	5.64125	0.001107648
8737	3	9.24191	-0.005	5.63625	0.001106666
1309	1	9.244976	-0.0075	5.62875	0.001105193
599	1	9.250264	-0.0075	5.62125	0.001103721
6156	3	9.250458	-0.005	5.61625	0.001102739
9012	4	9.264321	-0.005	5.61125	0.001101757
314	1	9.264556	-0.0075	5.60375	0.001100285
1562	1	9.267206	-0.0075	5.59625	0.001098812
2453	2	9.269865	-0.00625	5.59	0.001097585

3629	3	9.275708	-0.005	5.585	0.001096603
250	1	9.277462	-0.0075	5.5775	0.001095131
4076	3	9.280126	-0.005	5.5725	0.001094149
7546	3	9.280591	-0.005	5.5675	0.001093167
4166	3	9.280893	-0.005	5.5625	0.001092185
356	1	9.284209	-0.0075	5.555	0.001090713
5087	3	9.285313	-0.005	5.55	0.001089731
1080	1	9.28921	-0.0075	5.5425	0.001088258
4800	3	9.28979	-0.005	5.5375	0.001087277
331	1	9.292792	-0.0075	5.53	0.001085804
3129	3	9.296382	-0.005	5.525	0.001084822
5755	3	9.301916	-0.005	5.52	0.001083841
2754	2	9.303292	-0.00625	5.51375	0.001082613
3873	3	9.314217	-0.005	5.50875	0.001081632
1954	2	9.317664	-0.00625	5.5025	0.001080404
7992	3	9.319356	-0.005	5.4975	0.001079423
754	1	9.33491	-0.0075	5.49	0.00107795
1226	1	9.341291	-0.0075	5.4825	0.001076478
4186	3	9.342971	-0.005	5.4775	0.001075496
164	1	9.345546	-0.0075	5.47	0.001074023
2377	2	9.346104	-0.00625	5.46375	0.001072796
210	1	9.351386	-0.0075	5.45625	0.001071323
8100	3	9.353549	-0.005	5.45125	0.001070342
934	1	9.354711	-0.0075	5.44375	0.001068869
8577	3	9.361528	-0.005	5.43875	0.001067887
7174	3	9.365721	-0.005	5.43375	0.001066906
7360	3	9.366777	-0.005	5.42875	0.001065924
9910	4	9.368474	-0.005	5.42375	0.001064942
6078	3	9.373388	-0.005	5.41875	0.00106396
5128	3	9.37355	-0.005	5.41375	0.001062979
7990	3	9.381636	-0.005	5.40875	0.001061997
1704	1	9.381805	-0.0075	5.40125	0.001060524
5022	3	9.385213	-0.005	5.39625	0.001059543
9667	4	9.38752	-0.005	5.39125	0.001058561
7510	3	9.392919	-0.005	5.38625	0.001057579
5301	3	9.393316	-0.005	5.38125	0.001056597
1154	1	9.396811	-0.0075	5.37375	0.001055125
420	1	9.400211	-0.0075	5.36625	0.001053652
1128	1	9.404633	-0.0075	5.35875	0.001052179
2665	2	9.40529	-0.00625	5.3525	0.001050952
3489	3	9.405379	-0.005	5.3475	0.001049971
2220	2	9.408806	-0.00625	5.34125	0.001048743
6330	3	9.41412	-0.005	5.33625	0.001047762
2404	2	9.418602	-0.00625	5.33	0.001046534
8161	3	9.419742	-0.005	5.325	0.001045553
5500	3	9.430489	-0.005	5.32	0.001044571
2897	2	9.43385	-0.00625	5.31375	0.001043344
2285	2	9.436188	-0.00625	5.3075	0.001042117
3263	3	9.437345	-0.005	5.3025	0.001041135
1502	1	9.441891	-0.0075	5.295	0.001039662
3382	3	9.443151	-0.005	5.29	0.001038681
9648	4	9.447984	-0.005	5.285	0.001037699

6120	3	9.454489	-0.005	5.28	0.001036717
647	1	9.459678	-0.0075	5.2725	0.001035244
8798	4	9.461916	-0.005	5.2675	0.001034263
7186	3	9.46473	-0.005	5.2625	0.001033281
8121	3	9.465158	-0.005	5.2575	0.001032299
2887	2	9.469217	-0.00625	5.25125	0.001031072
5227	3	9.476432	-0.005	5.24625	0.00103009
5767	3	9.476465	-0.005	5.24125	0.001029109
4823	3	9.479252	-0.005	5.23625	0.001028127
2187	2	9.480221	-0.00625	5.23	0.0010269
8039	3	9.482531	-0.005	5.225	0.001025918
7399	3	9.492676	-0.005	5.22	0.001024936
1424	1	9.507193	-0.0075	5.2125	0.001023464
7612	3	9.509566	-0.005	5.2075	0.001022482
3344	3	9.51469	-0.005	5.2025	0.0010215
5546	3	9.515285	-0.005	5.1975	0.001020518
7587	3	9.517023	-0.005	5.1925	0.001019537
2304	2	9.534175	-0.00625	5.18625	0.001018309
610	1	9.539918	-0.0075	5.17875	0.001016837
2956	3	9.540328	-0.005	5.17375	0.001015855
546	1	9.542949	-0.0075	5.16625	0.001014382
3117	3	9.543082	-0.005	5.16125	0.001013401
8534	3	9.546232	-0.005	5.15625	0.001012419
9024	4	9.550349	-0.005	5.15125	0.001011437
806	1	9.556355	-0.0075	5.14375	0.001009965
1608	1	9.560514	-0.0075	5.13625	0.001008492
4444	3	9.570258	-0.005	5.13125	0.00100751
1033	1	9.5752	-0.0075	5.12375	0.001006038
8278	3	9.576799	-0.005	5.11875	0.001005056
9851	4	9.586207	-0.005	5.11375	0.001004074
3780	3	9.591071	-0.005	5.10875	0.001003092
2401	2	9.593648	-0.00625	5.1025	0.001001865
4835	3	9.596745	-0.005	5.0975	0.001000884
1243	1	9.597331	-0.0075	5.09	0.000999411
4606	3	9.602971	-0.005	5.085	0.000998429
148	1	9.607402	-0.0075	5.0775	0.000996957
1952	2	9.607537	-0.00625	5.07125	0.000995729
4924	3	9.613155	-0.005	5.06625	0.000994748
2035	2	9.622349	-0.00625	5.06	0.000993521
2788	2	9.630021	-0.00625	5.05375	0.000992293
3077	3	9.630992	-0.005	5.04875	0.000991312
2235	2	9.631053	-0.00625	5.0425	0.000990084
2917	3	9.632888	-0.005	5.0375	0.000989103
5053	3	9.634188	-0.005	5.0325	0.000988121
6403	3	9.637042	-0.005	5.0275	0.000987139
666	1	9.641938	-0.0075	5.02	0.000985667
4408	3	9.646158	-0.005	5.015	0.000984685
7117	3	9.646572	-0.005	5.01	0.000983703
1998	2	9.647114	-0.00625	5.00375	0.000982476
7482	3	9.653811	-0.005	4.99875	0.000981494
89	1	9.65413	-0.0075	4.99125	0.000980022
6756	3	9.662257	-0.005	4.98625	0.00097904

5359	3	9.665949	-0.005	4.98125	0.000978058
6493	3	9.667003	-0.005	4.97625	0.000977076
371	1	9.677042	-0.0075	4.96875	0.000975604
373	1	9.677121	-0.0075	4.96125	0.000974131
9676	4	9.68843	-0.005	4.95625	0.000973149
530	1	9.690946	-0.0075	4.94875	0.000971677
8746	3	9.691621	-0.005	4.94375	0.000970695
927	1	9.693587	-0.0075	4.93625	0.000969222
1101	1	9.69704	-0.0075	4.92875	0.00096775
1890	2	9.698097	-0.00625	4.9225	0.000966523
5165	3	9.710104	-0.005	4.9175	0.000965541
7310	3	9.714824	-0.005	4.9125	0.000964559
3480	3	9.715581	-0.005	4.9075	0.000963577
3196	3	9.7163	-0.005	4.9025	0.000962596
868	1	9.716895	-0.0075	4.895	0.000961123
8473	3	9.718366	-0.005	4.89	0.000960141
2502	2	9.719416	-0.00625	4.88375	0.000958914
501	1	9.734243	-0.0075	4.87625	0.000957442
1117	1	9.735548	-0.0075	4.86875	0.000955969
570	1	9.73659	-0.0075	4.86125	0.000954496
1107	1	9.7376	-0.0075	4.85375	0.000953024
5713	3	9.74058	-0.005	4.84875	0.000952042
1321	1	9.743511	-0.0075	4.84125	0.000950569
1886	2	9.74377	-0.00625	4.835	0.000949342
1167	1	9.749334	-0.0075	4.8275	0.00094787
2264	2	9.750081	-0.00625	4.82125	0.000946642
1778	2	9.751801	-0.00625	4.815	0.000945415
2273	2	9.754688	-0.00625	4.80875	0.000944188
1264	1	9.755039	-0.0075	4.80125	0.000942715
3643	3	9.75595	-0.005	4.79625	0.000941734
2116	2	9.774525	-0.00625	4.79	0.000940507
441	1	9.774711	-0.0075	4.7825	0.000939034
5337	3	9.776024	-0.005	4.7775	0.000938052
2424	2	9.784467	-0.00625	4.77125	0.000936825
2638	2	9.795358	-0.00625	4.765	0.000935598
1598	1	9.795541	-0.0075	4.7575	0.000934125
2593	2	9.797325	-0.00625	4.75125	0.000932898
4765	3	9.797907	-0.005	4.74625	0.000931916
2010	2	9.802828	-0.00625	4.74	0.000930689
4758	3	9.811536	-0.005	4.735	0.000929707
2547	2	9.814013	-0.00625	4.72875	0.00092848
8476	3	9.814019	-0.005	4.72375	0.000927499
1227	1	9.817239	-0.0075	4.71625	0.000926026
5562	3	9.817565	-0.005	4.71125	0.000925044
453	1	9.826083	-0.0075	4.70375	0.000923572
2140	2	9.826123	-0.00625	4.6975	0.000922344
6617	3	9.829311	-0.005	4.6925	0.000921363
55	1	9.83274	-0.0075	4.685	0.00091989
1375	1	9.833937	-0.0075	4.6775	0.000918417
3232	3	9.836326	-0.005	4.6725	0.000917436
5593	3	9.836346	-0.005	4.6675	0.000916454
2705	2	9.853892	-0.00625	4.66125	0.000915227

430	1	9.860371	-0.0075	4.65375	0.000913754
1323	1	9.870106	-0.0075	4.64625	0.000912282
5998	3	9.872645	-0.005	4.64125	0.0009113
4386	3	9.873514	-0.005	4.63625	0.000910318
1017	1	9.881766	-0.0075	4.62875	0.000908845
969	1	9.88208	-0.0075	4.62125	0.000907373
7694	3	9.88593	-0.005	4.61625	0.000906391
3049	3	9.886175	-0.005	4.61125	0.000905409
9528	4	9.887075	-0.005	4.60625	0.000904428
6677	3	9.896654	-0.005	4.60125	0.000903446
622	1	9.896903	-0.0075	4.59375	0.000901973
7520	3	9.899968	-0.005	4.58875	0.000900992
5387	3	9.901527	-0.005	4.58375	0.00090001
2870	2	9.90441	-0.00625	4.5775	0.000898783
5246	3	9.9134	-0.005	4.5725	0.000897801
6997	3	9.921083	-0.005	4.5675	0.000896819
9182	4	9.931431	-0.005	4.5625	0.000895837
1063	1	9.933097	-0.0075	4.555	0.000894365
2036	2	9.947275	-0.00625	4.54875	0.000893138
9837	4	9.961407	-0.005	4.54375	0.000892156
7857	3	9.961725	-0.005	4.53875	0.000891174
863	1	9.962615	-0.0075	4.53125	0.000889702
5656	3	9.964697	-0.005	4.52625	0.00088872
8731	3	9.97186	-0.005	4.52125	0.000887738
7157	3	9.972849	-0.005	4.51625	0.000886756
3882	3	9.975631	-0.005	4.51125	0.000885775
1124	1	9.981623	-0.0075	4.50375	0.000884302
3897	3	9.982974	-0.005	4.49875	0.00088332
8430	3	9.990437	-0.005	4.49375	0.000882339
6072	3	9.994414	-0.005	4.48875	0.000881357
1861	2	9.998764	-0.00625	4.4825	0.00088013
949	1	10.00054	-0.0075	4.475	0.000878657
383	1	10.00471	-0.0075	4.4675	0.000877184
7810	3	10.00481	-0.005	4.4625	0.000876203
7417	3	10.01042	-0.005	4.4575	0.000875221
7900	3	10.01195	-0.005	4.4525	0.000874239
1378	1	10.02662	-0.0075	4.445	0.000872767
6180	3	10.02803	-0.005	4.44	0.000871785
9722	4	10.03196	-0.005	4.435	0.000870803
127	1	10.04242	-0.0075	4.4275	0.00086933
1344	1	10.04653	-0.0075	4.42	0.000867858
4375	3	10.04937	-0.005	4.415	0.000866876
9116	4	10.05517	-0.005	4.41	0.000865894
6715	3	10.06109	-0.005	4.405	0.000864913
9366	4	10.06808	-0.005	4.4	0.000863931
7522	3	10.07362	-0.005	4.395	0.000862949
679	1	10.07404	-0.0075	4.3875	0.000861477
2746	2	10.09264	-0.00625	4.38125	0.000860249
823	1	10.09655	-0.0075	4.37375	0.000858777
4088	3	10.09705	-0.005	4.36875	0.000857795
6326	3	10.09789	-0.005	4.36375	0.000856813
4653	3	10.09967	-0.005	4.35875	0.000855832

1460	1	10.11168	-0.0075	4.35125	0.000854359
2041	2	10.12539	-0.00625	4.345	0.000853132
7240	3	10.12855	-0.005	4.34	0.00085215
1903	2	10.13209	-0.00625	4.33375	0.000850923
4575	3	10.13452	-0.005	4.32875	0.000849941
5002	3	10.13827	-0.005	4.32375	0.000848959
6359	3	10.14196	-0.005	4.31875	0.000847978
2747	2	10.14326	-0.00625	4.3125	0.00084675
8702	3	10.15124	-0.005	4.3075	0.000845769
1234	1	10.16728	-0.0075	4.3	0.000844296
3570	3	10.16755	-0.005	4.295	0.000843314
4133	3	10.17297	-0.005	4.29	0.000842333
3468	3	10.17717	-0.005	4.285	0.000841351
838	1	10.19051	-0.0075	4.2775	0.000839878
800	1	10.19741	-0.0075	4.27	0.000838406
3018	3	10.20511	-0.005	4.265	0.000837424
2425	2	10.21231	-0.00625	4.25875	0.000836197
2691	2	10.21932	-0.00625	4.2525	0.00083497
8264	3	10.22178	-0.005	4.2475	0.000833988
2179	2	10.2246	-0.00625	4.24125	0.000832761
295	1	10.22604	-0.0075	4.23375	0.000831288
1724	1	10.23781	-0.0075	4.22625	0.000829815
236	1	10.24662	-0.0075	4.21875	0.000828343
6348	3	10.24676	-0.005	4.21375	0.000827361
2174	2	10.24974	-0.00625	4.2075	0.000826134
1440	1	10.2525	-0.0075	4.2	0.000824661
7272	3	10.26056	-0.005	4.195	0.00082368
3156	3	10.27044	-0.005	4.19	0.000822698
8444	3	10.29426	-0.005	4.185	0.000821716
2633	2	10.30253	-0.00625	4.17875	0.000820489
4775	3	10.3043	-0.005	4.17375	0.000819507
1362	1	10.30482	-0.0075	4.16625	0.000818035
246	1	10.30488	-0.0075	4.15875	0.000816562
487	1	10.31817	-0.0075	4.15125	0.000815089
6235	3	10.31876	-0.005	4.14625	0.000814108
2533	2	10.33089	-0.00625	4.14	0.00081288
6877	3	10.33171	-0.005	4.135	0.000811899
5366	3	10.33282	-0.005	4.13	0.000810917
6332	3	10.34563	-0.005	4.125	0.000809935
830	1	10.37098	-0.0075	4.1175	0.000808463
999	1	10.37357	-0.0075	4.11	0.00080699
1106	1	10.37449	-0.0075	4.1025	0.000805517
835	1	10.37739	-0.0075	4.095	0.000804045
4665	3	10.38081	-0.005	4.09	0.000803063
6391	3	10.38134	-0.005	4.085	0.000802081
6048	3	10.39184	-0.005	4.08	0.0008011
2066	2	10.3927	-0.00625	4.07375	0.000799872
1380	1	10.39423	-0.0075	4.06625	0.0007984
4917	3	10.39958	-0.005	4.06125	0.000797418
619	1	10.3999	-0.0075	4.05375	0.000795945
415	1	10.40285	-0.0075	4.04625	0.000794473
1975	2	10.40311	-0.00625	4.04	0.000793246

5008	3	10.40407	-0.005	4.035	0.000792264
8697	3	10.41374	-0.005	4.03	0.000791282
3933	3	10.42131	-0.005	4.025	0.0007903
2741	2	10.433	-0.00625	4.01875	0.000789073
5842	3	10.44975	-0.005	4.01375	0.000788091
9827	4	10.45111	-0.005	4.00875	0.00078711
459	1	10.4602	-0.0075	4.00125	0.000785637
6842	3	10.46777	-0.005	3.99625	0.000784655
7153	3	10.47138	-0.005	3.99125	0.000783674
6794	3	10.47617	-0.005	3.98625	0.000782692
6125	3	10.47865	-0.005	3.98125	0.00078171
1114	1	10.49366	-0.0075	3.97375	0.000780238
1853	2	10.4955	-0.00625	3.9675	0.00077901
4914	3	10.49968	-0.005	3.9625	0.000778029
6548	3	10.51128	-0.005	3.9575	0.000777047
2398	2	10.51287	-0.00625	3.95125	0.00077582
9439	4	10.52479	-0.005	3.94625	0.000774838
6690	3	10.54543	-0.005	3.94125	0.000773856
8363	3	10.54569	-0.005	3.93625	0.000772875
2544	2	10.54863	-0.00625	3.93	0.000771647
2006	2	10.55708	-0.00625	3.92375	0.00077042
1318	1	10.56191	-0.0075	3.91625	0.000768948
786	1	10.56941	-0.0075	3.90875	0.000767475
7594	3	10.56975	-0.005	3.90375	0.000766493
5170	3	10.57901	-0.005	3.89875	0.000765511
4308	3	10.58422	-0.005	3.89375	0.00076453
9761	4	10.59068	-0.005	3.88875	0.000763548
4	1	10.59119	-0.0075	3.88125	0.000762075
5880	3	10.59601	-0.005	3.87625	0.000761094
2891	2	10.59639	-0.00625	3.87	0.000759866
3475	3	10.59976	-0.005	3.865	0.000758885
7331	3	10.61234	-0.005	3.86	0.000757903
3520	3	10.61369	-0.005	3.855	0.000756921
1259	1	10.6149	-0.0075	3.8475	0.000755449
3107	3	10.61572	-0.005	3.8425	0.000754467
1317	1	10.61783	-0.0075	3.835	0.000752994
7514	3	10.6355	-0.005	3.83	0.000752013
1306	1	10.63573	-0.0075	3.8225	0.00075054
2438	2	10.63836	-0.00625	3.81625	0.000749313
671	1	10.64038	-0.0075	3.80875	0.00074784
7712	3	10.64401	-0.005	3.80375	0.000746858
2187	2	10.65197	-0.00625	3.7975	0.000745631
5140	3	10.65489	-0.005	3.7925	0.00074465
1415	1	10.6584	-0.0075	3.785	0.000743177
1431	1	10.65916	-0.0075	3.7775	0.000741704
1254	1	10.66474	-0.0075	3.77	0.000740232
4228	3	10.665	-0.005	3.765	0.00073925
2996	3	10.68009	-0.005	3.76	0.000738268
5357	3	10.69093	-0.005	3.755	0.000737286
7591	3	10.7158	-0.005	3.75	0.000736305
1568	1	10.71611	-0.0075	3.7425	0.000734832
3618	3	10.71778	-0.005	3.7375	0.00073385

5504	3	10.71898	-0.005	3.7325	0.000732869
7178	3	10.71972	-0.005	3.7275	0.000731887
419	1	10.73793	-0.0075	3.72	0.000730414
1554	1	10.73965	-0.0075	3.7125	0.000728942
1876	2	10.75081	-0.00625	3.70625	0.000727715
1262	1	10.75799	-0.0075	3.69875	0.000726242
5062	3	10.76252	-0.005	3.69375	0.00072526
5592	3	10.76524	-0.005	3.68875	0.000724278
2025	2	10.76685	-0.00625	3.6825	0.000723051
7908	3	10.76932	-0.005	3.6775	0.00072207
5328	3	10.78309	-0.005	3.6725	0.000721088
6152	3	10.78753	-0.005	3.6675	0.000720106
5797	3	10.78803	-0.005	3.6625	0.000719124
219	1	10.78819	-0.0075	3.655	0.000717652
784	1	10.78925	-0.0075	3.6475	0.000716179
8282	3	10.79063	-0.005	3.6425	0.000715197
8011	3	10.79359	-0.005	3.6375	0.000714216
77	1	10.79539	-0.0075	3.63	0.000712743
390	1	10.79702	-0.0075	3.6225	0.00071127
7203	3	10.80166	-0.005	3.6175	0.000710289
5469	3	10.81026	-0.005	3.6125	0.000709307
4568	3	10.81791	-0.005	3.6075	0.000708325
4594	3	10.82788	-0.005	3.6025	0.000707343
2703	2	10.82801	-0.00625	3.59625	0.000706116
4443	3	10.84227	-0.005	3.59125	0.000705134
8142	3	10.84538	-0.005	3.58625	0.000704153
6725	3	10.86516	-0.005	3.58125	0.000703171
6222	3	10.87128	-0.005	3.57625	0.000702189
7484	3	10.87148	-0.005	3.57125	0.000701208
6952	3	10.87653	-0.005	3.56625	0.000700226
4099	3	10.87868	-0.005	3.56125	0.000699244
8141	3	10.88362	-0.005	3.55625	0.000698262
28	1	10.88734	-0.0075	3.54875	0.00069679
4168	3	10.90499	-0.005	3.54375	0.000695808
422	1	10.9119	-0.0075	3.53625	0.000694335
5962	3	10.91676	-0.005	3.53125	0.000693354
2270	2	10.91735	-0.00625	3.525	0.000692126
6537	3	10.94731	-0.005	3.52	0.000691145
5466	3	10.96002	-0.005	3.515	0.000690163
6255	3	10.97389	-0.005	3.51	0.000689181
3728	3	10.97512	-0.005	3.505	0.000688199
2899	2	10.97879	-0.00625	3.49875	0.000686972
7224	3	10.97949	-0.005	3.49375	0.000685991
9505	4	10.98796	-0.005	3.48875	0.000685009
1757	1	11.01432	-0.0075	3.48125	0.000683536
2666	2	11.02132	-0.00625	3.475	0.000682309
8918	4	11.02243	-0.005	3.47	0.000681327
5318	3	11.03104	-0.005	3.465	0.000680346
5232	3	11.03218	-0.005	3.46	0.000679364
1443	1	11.05856	-0.0075	3.4525	0.000677891
8704	3	11.06739	-0.005	3.4475	0.000676909
6936	3	11.07236	-0.005	3.4425	0.000675928

7239	3	11.07273	-0.005	3.4375	0.000674946
1172	1	11.07514	-0.0075	3.43	0.000673473
5269	3	11.08043	-0.005	3.425	0.000672492
2992	3	11.08049	-0.005	3.42	0.00067151
3426	3	11.09202	-0.005	3.415	0.000670528
6720	3	11.09307	-0.005	3.41	0.000669546
6867	3	11.09402	-0.005	3.405	0.000668565
4737	3	11.09741	-0.005	3.4	0.000667583
4148	3	11.09945	-0.005	3.395	0.000666601
2149	2	11.11024	-0.00625	3.38875	0.000665374
2245	2	11.1108	-0.00625	3.3825	0.000664147
7920	3	11.12119	-0.005	3.3775	0.000663165
5439	3	11.12509	-0.005	3.3725	0.000662183
392	1	11.12944	-0.0075	3.365	0.000660711
361	1	11.14311	-0.0075	3.3575	0.000659238
1561	1	11.14655	-0.0075	3.35	0.000657766
8412	3	11.15401	-0.005	3.345	0.000656784
8420	3	11.15716	-0.005	3.34	0.000655802
1233	1	11.16738	-0.0075	3.3325	0.000654329
4661	3	11.17063	-0.005	3.3275	0.000653348
1951	2	11.18929	-0.00625	3.32125	0.000652121
1585	1	11.19156	-0.0075	3.31375	0.000650648
1482	1	11.19258	-0.0075	3.30625	0.000649175
3700	3	11.19686	-0.005	3.30125	0.000648194
7668	3	11.20712	-0.005	3.29625	0.000647212
6579	3	11.21522	-0.005	3.29125	0.00064623
9452	4	11.2164	-0.005	3.28625	0.000645248
1463	1	11.21779	-0.0075	3.27875	0.000643776
526	1	11.22682	-0.0075	3.27125	0.000642303
6187	3	11.23589	-0.005	3.26625	0.000641321
4161	3	11.24235	-0.005	3.26125	0.00064034
301	1	11.25733	-0.0075	3.25375	0.000638867
4551	3	11.2578	-0.005	3.24875	0.000637885
8377	3	11.27867	-0.005	3.24375	0.000636904
560	1	11.28147	-0.0075	3.23625	0.000635431
407	1	11.30466	-0.0075	3.22875	0.000633958
349	1	11.31055	-0.0075	3.22125	0.000632486
571	1	11.32272	-0.0075	3.21375	0.000631013
3275	3	11.32312	-0.005	3.20875	0.000630031
1966	2	11.3282	-0.00625	3.2025	0.000628804
8232	3	11.3432	-0.005	3.1975	0.000627823
1436	1	11.35929	-0.0075	3.19	0.00062635
631	1	11.37464	-0.0075	3.1825	0.000624877
2005	2	11.38388	-0.00625	3.17625	0.00062365
3146	3	11.38812	-0.005	3.17125	0.000622668
1638	1	11.39799	-0.0075	3.16375	0.000621196
4881	3	11.41218	-0.005	3.15875	0.000620214
550	1	11.41447	-0.0075	3.15125	0.000618741
5263	3	11.42116	-0.005	3.14625	0.00061776
8622	3	11.43845	-0.005	3.14125	0.000616778
4733	3	11.45099	-0.005	3.13625	0.000615796
258	1	11.47971	-0.0075	3.12875	0.000614324

4740	3	11.48315	-0.005	3.12375	0.000613342
9423	4	11.48347	-0.005	3.11875	0.00061236
6300	3	11.48374	-0.005	3.11375	0.000611378
3481	3	11.48473	-0.005	3.10875	0.000610397
9442	4	11.48709	-0.005	3.10375	0.000609415
1895	2	11.48735	-0.00625	3.0975	0.000608188
2373	2	11.49254	-0.00625	3.09125	0.000606961
149	1	11.49382	-0.0075	3.08375	0.000605488
2802	2	11.50357	-0.00625	3.0775	0.000604261
468	1	11.50568	-0.0075	3.07	0.000602788
1783	2	11.50671	-0.00625	3.06375	0.000601561
140	1	11.52	-0.0075	3.05625	0.000600088
7166	3	11.52531	-0.005	3.05125	0.000599107
1376	1	11.5292	-0.0075	3.04375	0.000597634
3443	3	11.53909	-0.005	3.03875	0.000596652
2957	3	11.54536	-0.005	3.03375	0.000595671
1020	1	11.55808	-0.0075	3.02625	0.000594198
2199	2	11.56626	-0.00625	3.02	0.000592971
2379	2	11.57019	-0.00625	3.01375	0.000591744
3184	3	11.57258	-0.005	3.00875	0.000590762
979	1	11.57913	-0.0075	3.00125	0.000589289
1120	1	11.58207	-0.0075	2.99375	0.000587817
4659	3	11.60148	-0.005	2.98875	0.000586835
9453	4	11.60488	-0.005	2.98375	0.000585853
6044	3	11.60646	-0.005	2.97875	0.000584871
209	1	11.60712	-0.0075	2.97125	0.000583399
2572	2	11.61481	-0.00625	2.965	0.000582172
1640	1	11.6189	-0.0075	2.9575	0.000580699
2568	2	11.61999	-0.00625	2.95125	0.000579472
2880	2	11.6251	-0.00625	2.945	0.000578245
9561	4	11.64827	-0.005	2.94	0.000577263
3446	3	11.65584	-0.005	2.935	0.000576281
4891	3	11.65867	-0.005	2.93	0.000575299
4820	3	11.67549	-0.005	2.925	0.000574318
5608	3	11.67739	-0.005	2.92	0.000573336
3319	3	11.6898	-0.005	2.915	0.000572354
9079	4	11.70102	-0.005	2.91	0.000571372
9934	4	11.70563	-0.005	2.905	0.000570391
2403	2	11.73433	-0.00625	2.89875	0.000569164
8616	3	11.73994	-0.005	2.89375	0.000568182
3648	3	11.75365	-0.005	2.88875	0.0005672
1310	1	11.76611	-0.0075	2.88125	0.000565727
2460	2	11.78033	-0.00625	2.875	0.0005645
275	1	11.79914	-0.0075	2.8675	0.000563028
3123	3	11.80501	-0.005	2.8625	0.000562046
5497	3	11.81007	-0.005	2.8575	0.000561064
2903	3	11.82094	-0.005	2.8525	0.000560082
3064	3	11.8267	-0.005	2.8475	0.000559101
1949	2	11.84717	-0.00625	2.84125	0.000557874
2614	2	11.85369	-0.00625	2.835	0.000556646
3053	3	11.85912	-0.005	2.83	0.000555665
424	1	11.86412	-0.0075	2.8225	0.000554192

1349	1	11.86585	-0.0075	2.815	0.000552719
2223	2	11.87507	-0.00625	2.80875	0.000551492
2967	3	11.87549	-0.005	2.80375	0.000550511
3173	3	11.89973	-0.005	2.79875	0.000549529
2619	2	11.9109	-0.00625	2.7925	0.000548302
1028	1	11.92714	-0.0075	2.785	0.000546829
1582	1	11.92715	-0.0075	2.7775	0.000545356
8324	3	11.9382	-0.005	2.7725	0.000544375
1679	1	11.94023	-0.0075	2.765	0.000542902
1260	1	11.94332	-0.0075	2.7575	0.000541429
6070	3	11.94686	-0.005	2.7525	0.000540448
710	1	11.9481	-0.0075	2.745	0.000538975
5047	3	11.9531	-0.005	2.74	0.000537993
1620	1	11.97285	-0.0075	2.7325	0.000536521
2706	2	11.98313	-0.00625	2.72625	0.000535294
2098	2	11.98957	-0.00625	2.72	0.000534066
2806	2	12.00805	-0.00625	2.71375	0.000532839
5515	3	12.03035	-0.005	2.70875	0.000531857
8433	3	12.03436	-0.005	2.70375	0.000530876
8926	4	12.04358	-0.005	2.69875	0.000529894
507	1	12.06176	-0.0075	2.69125	0.000528421
6476	3	12.07362	-0.005	2.68625	0.00052744
1064	1	12.07763	-0.0075	2.67875	0.000525967
4854	3	12.09402	-0.005	2.67375	0.000524985
1286	1	12.10789	-0.0075	2.66625	0.000523513
2898	2	12.10827	-0.00625	2.66	0.000522285
3187	3	12.11508	-0.005	2.655	0.000521304
2333	2	12.12204	-0.00625	2.64875	0.000520077
1053	1	12.12492	-0.0075	2.64125	0.000518604
7571	3	12.12761	-0.005	2.63625	0.000517622
4789	3	12.1289	-0.005	2.63125	0.00051664
4305	3	12.13459	-0.005	2.62625	0.000515659
5551	3	12.15925	-0.005	2.62125	0.000514677
7505	3	12.17233	-0.005	2.61625	0.000513695
8684	3	12.1891	-0.005	2.61125	0.000512714
9976	4	12.19044	-0.005	2.60625	0.000511732
8008	3	12.19116	-0.005	2.60125	0.00051075
1282	1	12.19642	-0.0075	2.59375	0.000509277
7932	3	12.21179	-0.005	2.58875	0.000508296
8435	3	12.21538	-0.005	2.58375	0.000507314
305	1	12.22348	-0.0075	2.57625	0.000505841
3221	3	12.22445	-0.005	2.57125	0.00050486
8413	3	12.22965	-0.005	2.56625	0.000503878
2461	2	12.23338	-0.00625	2.56	0.000502651
3089	3	12.23968	-0.005	2.555	0.000501669
6216	3	12.26398	-0.005	2.55	0.000500687
5535	3	12.27824	-0.005	2.545	0.000499705
5127	3	12.30231	-0.005	2.54	0.000498724
6647	3	12.31106	-0.005	2.535	0.000497742
2084	2	12.3361	-0.00625	2.52875	0.000496515
9508	4	12.33689	-0.005	2.52375	0.000495533
2117	2	12.33867	-0.00625	2.5175	0.000494306

8312	3	12.34958	-0.005	2.5125	0.000493324
4942	3	12.35204	-0.005	2.5075	0.000492342
4072	3	12.3526	-0.005	2.5025	0.000491361
5443	3	12.35589	-0.005	2.4975	0.000490379
6057	3	12.36033	-0.005	2.4925	0.000489397
3068	3	12.37899	-0.005	2.4875	0.000488415
4488	3	12.40034	-0.005	2.4825	0.000487434
8847	4	12.40111	-0.005	2.4775	0.000486452
1544	1	12.40297	-0.0075	2.47	0.000484979
5824	3	12.41491	-0.005	2.465	0.000483998
7281	3	12.41784	-0.005	2.46	0.000483016
1686	1	12.42711	-0.0075	2.4525	0.000481543
5862	3	12.43057	-0.005	2.4475	0.000480562
6205	3	12.44908	-0.005	2.4425	0.00047958
914	1	12.47416	-0.0075	2.435	0.000478107
739	1	12.48188	-0.0075	2.4275	0.000476635
6128	3	12.50263	-0.005	2.4225	0.000475653
7670	3	12.50683	-0.005	2.4175	0.000474671
6202	3	12.51734	-0.005	2.4125	0.000473689
861	1	12.51896	-0.0075	2.405	0.000472217
4556	3	12.52472	-0.005	2.4	0.000471235
8439	3	12.5469	-0.005	2.395	0.000470253
297	1	12.58047	-0.0075	2.3875	0.000468781
1855	2	12.58823	-0.00625	2.38125	0.000467554
6996	3	12.58851	-0.005	2.37625	0.000466572
6386	3	12.58964	-0.005	2.37125	0.00046559
2216	2	12.59745	-0.00625	2.365	0.000464363
1012	1	12.59796	-0.0075	2.3575	0.00046289
4987	3	12.60244	-0.005	2.3525	0.000461909
3784	3	12.61411	-0.005	2.3475	0.000460927
1058	1	12.61505	-0.0075	2.34	0.000459454
4791	3	12.62817	-0.005	2.335	0.000458472
981	1	12.6343	-0.0075	2.3275	0.000457
2689	2	12.64278	-0.00625	2.32125	0.000455773
3907	3	12.65246	-0.005	2.31625	0.000454791
3044	3	12.65329	-0.005	2.31125	0.000453809
755	1	12.66441	-0.0075	2.30375	0.000452337
3485	3	12.67493	-0.005	2.29875	0.000451355
8069	3	12.68052	-0.005	2.29375	0.000450373
6856	3	12.69025	-0.005	2.28875	0.000449391
7238	3	12.69608	-0.005	2.28375	0.00044841
1635	1	12.70885	-0.0075	2.27625	0.000446937
7914	3	12.7162	-0.005	2.27125	0.000445955
2441	2	12.72331	-0.00625	2.265	0.000444728
4639	3	12.74508	-0.005	2.26	0.000443746
5940	3	12.74917	-0.005	2.255	0.000442765
3571	3	12.76503	-0.005	2.25	0.000441783
3477	3	12.76584	-0.005	2.245	0.000440801
1823	2	12.77043	-0.00625	2.23875	0.000439574
7944	3	12.77734	-0.005	2.23375	0.000438592
6394	3	12.82179	-0.005	2.22875	0.00043761
6448	3	12.82583	-0.005	2.22375	0.000436629

4182	3	12.83547	-0.005	2.21875	0.000435647
744	1	12.83771	-0.0075	2.21125	0.000434174
1	1	12.83996	-0.0075	2.20375	0.000432702
9866	4	12.85771	-0.005	2.19875	0.00043172
1506	1	12.86824	-0.0075	2.19125	0.000430247
3712	3	12.89053	-0.005	2.18625	0.000429266
1215	1	12.90337	-0.0075	2.17875	0.000427793
3980	3	12.9215	-0.005	2.17375	0.000426811
2980	3	12.92216	-0.005	2.16875	0.00042583
9274	4	12.92523	-0.005	2.16375	0.000424848
1862	2	12.93064	-0.00625	2.1575	0.000423621
4662	3	12.95971	-0.005	2.1525	0.000422639
9521	4	12.9691	-0.005	2.1475	0.000421657
2868	2	12.98019	-0.00625	2.14125	0.00042043
8411	3	12.99149	-0.005	2.13625	0.000419448
566	1	13.00705	-0.0075	2.12875	0.000417976
5042	3	13.01318	-0.005	2.12375	0.000416994
2248	2	13.01923	-0.00625	2.1175	0.000415767
4529	3	13.10989	-0.005	2.1125	0.000414785
7732	3	13.11298	-0.005	2.1075	0.000413803
1908	2	13.12687	-0.00625	2.10125	0.000412576
5304	3	13.14061	-0.005	2.09625	0.000411594
4031	3	13.15785	-0.005	2.09125	0.000410613
2706	2	13.15966	-0.00625	2.085	0.000409385
8057	3	13.16221	-0.005	2.08	0.000408404
8915	4	13.17593	-0.005	2.075	0.000407422
1427	1	13.19024	-0.0075	2.0675	0.000405949
8650	3	13.21161	-0.005	2.0625	0.000404968
1633	1	13.22786	-0.0075	2.055	0.000403495
1150	1	13.26347	-0.0075	2.0475	0.000402022
7775	3	13.26865	-0.005	2.0425	0.000401041
120	1	13.29082	-0.0075	2.035	0.000399568
443	1	13.3453	-0.0075	2.0275	0.000398095
529	1	13.34793	-0.0075	2.02	0.000396623
1832	2	13.3931	-0.00625	2.01375	0.000395396
4196	3	13.39663	-0.005	2.00875	0.000394414
1011	1	13.42009	-0.0075	2.00125	0.000392941
3195	3	13.43284	-0.005	1.99625	0.00039196
6582	3	13.43382	-0.005	1.99125	0.000390978
4926	3	13.44203	-0.005	1.98625	0.000389996
1700	1	13.45353	-0.0075	1.97875	0.000388523
6560	3	13.45937	-0.005	1.97375	0.000387542
8044	3	13.4671	-0.005	1.96875	0.00038656
3502	3	13.46795	-0.005	1.96375	0.000385578
761	1	13.47395	-0.0075	1.95625	0.000384106
2690	2	13.48175	-0.00625	1.95	0.000382878
8021	3	13.50975	-0.005	1.945	0.000381897
5311	3	13.55346	-0.005	1.94	0.000380915
6719	3	13.59227	-0.005	1.935	0.000379933
1729	1	13.59734	-0.0075	1.9275	0.000378461
9440	4	13.60292	-0.005	1.9225	0.000377479
556	1	13.61052	-0.0075	1.915	0.000376006

1905	2	13.61929	-0.00625	1.90875	0.000374779
5218	3	13.63062	-0.005	1.90375	0.000373797
4275	3	13.64547	-0.005	1.89875	0.000372816
8061	3	13.64831	-0.005	1.89375	0.000371834
1169	1	13.65055	-0.0075	1.88625	0.000370361
1820	2	13.66526	-0.00625	1.88	0.000369134
991	1	13.66576	-0.0075	1.8725	0.000367661
7350	3	13.67962	-0.005	1.8675	0.00036668
2550	2	13.68089	-0.00625	1.86125	0.000365453
1501	1	13.70168	-0.0075	1.85375	0.00036398
5446	3	13.70822	-0.005	1.84875	0.000362998
651	1	13.72303	-0.0075	1.84125	0.000361526
7604	3	13.73309	-0.005	1.83625	0.000360544
161	1	13.74331	-0.0075	1.82875	0.000359071
8471	3	13.74534	-0.005	1.82375	0.00035809
9218	4	13.75483	-0.005	1.81875	0.000357108
4683	3	13.7824	-0.005	1.81375	0.000356126
1970	2	13.80277	-0.00625	1.8075	0.000354899
232	1	13.82036	-0.0075	1.8	0.000353426
1906	2	13.83344	-0.00625	1.79375	0.000352199
711	1	13.85342	-0.0075	1.78625	0.000350726
1977	2	13.85691	-0.00625	1.78	0.000349499
1142	1	13.86284	-0.0075	1.7725	0.000348027
6806	3	13.86375	-0.005	1.7675	0.000347045
3620	3	13.89075	-0.005	1.7625	0.000346063
9007	4	13.91478	-0.005	1.7575	0.000345081
6610	3	13.91913	-0.005	1.7525	0.0003441
1540	1	13.92149	-0.0075	1.745	0.000342627
2799	2	13.92331	-0.00625	1.73875	0.0003414
41	1	13.94637	-0.0075	1.73125	0.000339927
9258	4	13.95176	-0.005	1.72625	0.000338946
1406	1	13.95456	-0.0075	1.71875	0.000337473
5292	3	13.98005	-0.005	1.71375	0.000336491
7483	3	13.98923	-0.005	1.70875	0.00033551
1465	1	13.99019	-0.0075	1.70125	0.000334037
409	1	13.99894	-0.0075	1.69375	0.000332564
4636	3	14.0173	-0.005	1.68875	0.000331583
2481	2	14.02394	-0.00625	1.6825	0.000330355
5302	3	14.03048	-0.005	1.6775	0.000329374
5116	3	14.03482	-0.005	1.6725	0.000328392
5468	3	14.03659	-0.005	1.6675	0.00032741
9748	4	14.04596	-0.005	1.6625	0.000326428
8105	3	14.04881	-0.005	1.6575	0.000325447
8484	3	14.0492	-0.005	1.6525	0.000324465
607	1	14.07857	-0.0075	1.645	0.000322992
3880	3	14.09426	-0.005	1.64	0.000322011
4015	3	14.10202	-0.005	1.635	0.000321029
4426	3	14.10933	-0.005	1.63	0.000320047
3467	3	14.12923	-0.005	1.625	0.000319065
5667	3	14.13428	-0.005	1.62	0.000318084
5092	3	14.158	-0.005	1.615	0.000317102
986	1	14.2025	-0.0075	1.6075	0.000315629

8240	3	14.20323	-0.005	1.6025	0.000314648
3457	3	14.20566	-0.005	1.5975	0.000313666
6687	3	14.21608	-0.005	1.5925	0.000312684
455	1	14.21972	-0.0075	1.585	0.000311211
1830	2	14.22232	-0.00625	1.57875	0.000309984
5550	3	14.23494	-0.005	1.57375	0.000309003
623	1	14.29929	-0.0075	1.56625	0.00030753
688	1	14.29987	-0.0075	1.55875	0.000306057
2498	2	14.31725	-0.00625	1.5525	0.00030483
2623	2	14.31786	-0.00625	1.54625	0.000303603
2295	2	14.34224	-0.00625	1.54	0.000302376
1039	1	14.34502	-0.0075	1.5325	0.000300903
3060	3	14.35389	-0.005	1.5275	0.000299921
70	1	14.39027	-0.0075	1.52	0.000298449
5870	3	14.40427	-0.005	1.515	0.000297467
7400	3	14.41193	-0.005	1.51	0.000296485
91	1	14.41887	-0.0075	1.5025	0.000295013
3545	3	14.41972	-0.005	1.4975	0.000294031
829	1	14.43221	-0.0075	1.49	0.000292558
2722	2	14.44084	-0.00625	1.48375	0.000291331
484	1	14.44471	-0.0075	1.47625	0.000289859
2827	2	14.44584	-0.00625	1.47	0.000288631
5296	3	14.45058	-0.005	1.465	0.00028765
5438	3	14.47083	-0.005	1.46	0.000286668
8156	3	14.47892	-0.005	1.455	0.000285686
6961	3	14.52447	-0.005	1.45	0.000284704
4931	3	14.57474	-0.005	1.445	0.000283723
890	1	14.58234	-0.0075	1.4375	0.00028225
9123	4	14.58717	-0.005	1.4325	0.000281268
6360	3	14.59464	-0.005	1.4275	0.000280287
5221	3	14.59913	-0.005	1.4225	0.000279305
2562	2	14.60711	-0.00625	1.41625	0.000278078
6107	3	14.61691	-0.005	1.41125	0.000277096
54	1	14.63857	-0.0075	1.40375	0.000275623
2385	2	14.6451	-0.00625	1.3975	0.000274396
17	1	14.65438	-0.0075	1.39	0.000272924
5747	3	14.66237	-0.005	1.385	0.000271942
8422	3	14.69614	-0.005	1.38	0.00027096
119	1	14.6977	-0.0075	1.3725	0.000269488
1076	1	14.71414	-0.0075	1.365	0.000268015
1486	1	14.73199	-0.0075	1.3575	0.000266542
3997	3	14.75666	-0.005	1.3525	0.000265561
7686	3	14.77063	-0.005	1.3475	0.000264579
339	1	14.77135	-0.0075	1.34	0.000263106
3863	3	14.80767	-0.005	1.335	0.000262124
627	1	14.81697	-0.0075	1.3275	0.000260652
8305	3	14.84174	-0.005	1.3225	0.00025967
762	1	14.8659	-0.0075	1.315	0.000258198
5997	3	14.90316	-0.005	1.31	0.000257216
1733	1	14.92245	-0.0075	1.3025	0.000255743
1468	1	14.92271	-0.0075	1.295	0.000254271
4295	3	14.95928	-0.005	1.29	0.000253289

2693	2	14.96561	-0.00625	1.28375	0.000252062
3072	3	14.97136	-0.005	1.27875	0.00025108
1558	1	14.97268	-0.0075	1.27125	0.000249607
6857	3	14.98379	-0.005	1.26625	0.000248626
2678	2	15.01187	-0.00625	1.26	0.000247398
8909	4	15.01571	-0.005	1.255	0.000246417
1163	1	15.01648	-0.0075	1.2475	0.000244944
6378	3	15.02355	-0.005	1.2425	0.000243962
5411	3	15.02549	-0.005	1.2375	0.000242981
1418	1	15.03596	-0.0075	1.23	0.000241508
4012	3	15.07376	-0.005	1.225	0.000240526
152	1	15.08619	-0.0075	1.2175	0.000239054
3324	3	15.10532	-0.005	1.2125	0.000238072
3198	3	15.11297	-0.005	1.2075	0.00023709
9809	4	15.11373	-0.005	1.2025	0.000236108
9206	4	15.14452	-0.005	1.1975	0.000235127
6155	3	15.15305	-0.005	1.1925	0.000234145
1311	1	15.19518	-0.0075	1.185	0.000232672
4421	3	15.1981	-0.005	1.18	0.000231691
4781	3	15.21814	-0.005	1.175	0.000230709
1680	1	15.22424	-0.0075	1.1675	0.000229236
3266	3	15.23523	-0.005	1.1625	0.000228254
758	1	15.26762	-0.0075	1.155	0.000226782
2759	2	15.27816	-0.00625	1.14875	0.000225555
6986	3	15.36812	-0.005	1.14375	0.000224573
7525	3	15.36909	-0.005	1.13875	0.000223591
234	1	15.38636	-0.0075	1.13125	0.000222119
24	1	15.3927	-0.0075	1.12375	0.000220646
1220	1	15.41668	-0.0075	1.11625	0.000219173
1526	1	15.41693	-0.0075	1.10875	0.000217701
2770	2	15.42105	-0.00625	1.1025	0.000216474
841	1	15.42433	-0.0075	1.095	0.000215001
797	1	15.43008	-0.0075	1.0875	0.000213528
9815	4	15.43142	-0.005	1.0825	0.000212547
8836	4	15.49913	-0.005	1.0775	0.000211565
1434	1	15.51489	-0.0075	1.07	0.000210092
6334	3	15.53294	-0.005	1.065	0.000209111
7824	3	15.54435	-0.005	1.06	0.000208129
7929	3	15.59612	-0.005	1.055	0.000207147
5700	3	15.65267	-0.005	1.05	0.000206165
137	1	15.66776	-0.0075	1.0425	0.000204693
3102	3	15.68241	-0.005	1.0375	0.000203711
2522	2	15.69907	-0.00625	1.03125	0.000202484
9078	4	15.70815	-0.005	1.02625	0.000201502
525	1	15.73648	-0.0075	1.01875	0.000200029
1723	1	15.76464	-0.0075	1.01125	0.000198557
5719	3	15.79713	-0.005	1.00625	0.000197575
3621	3	15.80548	-0.005	1.00125	0.000196593
2044	2	15.81526	-0.00625	0.995	0.000195366
1576	1	15.81996	-0.0075	0.9875	0.000193894
1657	1	15.84613	-0.0075	0.98	0.000192421
6960	3	15.85016	-0.005	0.975	0.000191439

1514	1	15.92965	-0.0075	0.9675	0.000189967
5316	3	15.95591	-0.005	0.9625	0.000188985
8549	3	15.97783	-0.005	0.9575	0.000188003
2815	2	15.99295	-0.00625	0.95125	0.000186776
2772	2	15.99325	-0.00625	0.945	0.000185549
4007	3	16.06693	-0.005	0.94	0.000184567
6781	3	16.08714	-0.005	0.935	0.000183585
2599	2	16.09207	-0.00625	0.92875	0.000182358
706	1	16.11727	-0.0075	0.92125	0.000180886
1776	2	16.12424	-0.00625	0.915	0.000179658
4042	3	16.12913	-0.005	0.91	0.000178677
7460	3	16.14141	-0.005	0.905	0.000177695
1003	1	16.14657	-0.0075	0.8975	0.000176222
290	1	16.21529	-0.0075	0.89	0.00017475
4036	3	16.33961	-0.005	0.885	0.000173768
4517	3	16.35054	-0.005	0.88	0.000172786
977	1	16.39065	-0.0075	0.8725	0.000171314
2182	2	16.40143	-0.00625	0.86625	0.000170086
8372	3	16.41404	-0.005	0.86125	0.000169105
8929	4	16.43422	-0.005	0.85625	0.000168123
403	1	16.45385	-0.0075	0.84875	0.00016665
825	1	16.45486	-0.0075	0.84125	0.000165178
6201	3	16.45539	-0.005	0.83625	0.000164196
1953	2	16.46163	-0.00625	0.83	0.000162969
5188	3	16.46281	-0.005	0.825	0.000161987
6020	3	16.50436	-0.005	0.82	0.000161005
1964	2	16.57099	-0.00625	0.81375	0.000159778
1121	1	16.59584	-0.0075	0.80625	0.000158306
714	1	16.62946	-0.0075	0.79875	0.000156833
7418	3	16.63795	-0.005	0.79375	0.000155851
495	1	16.64007	-0.0075	0.78625	0.000154379
3900	3	16.65844	-0.005	0.78125	0.000153397
2423	2	16.66668	-0.00625	0.775	0.00015217
3731	3	16.7466	-0.005	0.77	0.000151188
280	1	16.76233	-0.0075	0.7625	0.000149715
1109	1	16.7799	-0.0075	0.755	0.000148243
1570	1	16.79336	-0.0075	0.7475	0.00014677
634	1	16.81132	-0.0075	0.74	0.000145297
682	1	16.85401	-0.0075	0.7325	0.000143825
5309	3	16.90594	-0.005	0.7275	0.000142843
9684	4	16.9501	-0.005	0.7225	0.000141861
1360	1	16.9802	-0.0075	0.715	0.000140389
1165	1	16.99958	-0.0075	0.7075	0.000138916
5733	3	17.01259	-0.005	0.7025	0.000137934
9965	4	17.02308	-0.005	0.6975	0.000136953
9609	4	17.08553	-0.005	0.6925	0.000135971
2563	2	17.09406	-0.00625	0.68625	0.000134744
1663	1	17.12258	-0.0075	0.67875	0.000133271
2846	2	17.15917	-0.00625	0.6725	0.000132044
3153	3	17.18619	-0.005	0.6675	0.000131062
1826	2	17.30109	-0.00625	0.66125	0.000129835
8997	4	17.31583	-0.005	0.65625	0.000128853

1961	2	17.47238	-0.00625	0.65	0.000127626
8173	3	17.48111	-0.005	0.645	0.000126644
5488	3	17.53485	-0.005	0.64	0.000125663
2341	2	17.53677	-0.00625	0.63375	0.000124435
76	1	17.54568	-0.0075	0.62625	0.000122963
3796	3	17.58796	-0.005	0.62125	0.000121981
6899	3	17.65628	-0.005	0.61625	0.000120999
4833	3	17.70713	-0.005	0.61125	0.000120018
2456	2	17.76436	-0.00625	0.605	0.00011879
1958	2	17.81451	-0.00625	0.59875	0.000117563
4937	3	17.90905	-0.005	0.59375	0.000116582
8551	3	17.92522	-0.005	0.58875	0.0001156
1441	1	17.9329	-0.0075	0.58125	0.000114127
2241	2	17.94427	-0.00625	0.575	0.0001129
1354	1	17.99458	-0.0075	0.5675	0.000111427
3804	3	17.99524	-0.005	0.5625	0.000110446
628	1	17.99632	-0.0075	0.555	0.000108973
649	1	18.10667	-0.0075	0.5475	0.0001075
1959	2	18.1446	-0.00625	0.54125	0.000106273
5152	3	18.17986	-0.005	0.53625	0.000105292
4011	3	18.2668	-0.005	0.53125	0.00010431
1696	1	18.29476	-0.0075	0.52375	0.000102837
9083	4	18.30456	-0.005	0.51875	0.000101855
8025	3	18.38476	-0.005	0.51375	0.000100874
7162	3	18.38845	-0.005	0.50875	9.9892E-05
263	1	18.39595	-0.0075	0.50125	9.84194E-05
5793	3	18.458	-0.005	0.49625	9.74377E-05
3902	3	18.48847	-0.005	0.49125	9.64559E-05
176	1	18.54279	-0.0075	0.48375	9.49833E-05
3341	3	18.55767	-0.005	0.47875	9.40016E-05
3311	3	18.58107	-0.005	0.47375	9.30198E-05
2408	2	18.63779	-0.00625	0.4675	9.17927E-05
1054	1	18.68766	-0.0075	0.46	9.032E-05
5517	3	18.82999	-0.005	0.455	8.93383E-05
3873	3	18.85455	-0.005	0.45	8.83566E-05
960	1	18.93149	-0.0075	0.4425	8.6884E-05
8223	3	19.00422	-0.005	0.4375	8.59022E-05
9269	4	19.03748	-0.005	0.4325	8.49205E-05
2740	2	19.03929	-0.00625	0.42625	8.36933E-05
4600	3	19.12382	-0.005	0.42125	8.27116E-05
5855	3	19.33639	-0.005	0.41625	8.17298E-05
2302	2	19.39266	-0.00625	0.41	8.05027E-05
2575	2	19.41745	-0.00625	0.40375	7.92755E-05
1251	1	19.41891	-0.0075	0.39625	7.78029E-05
2923	3	19.44636	-0.005	0.39125	7.68211E-05
8958	4	19.45637	-0.005	0.38625	7.58394E-05
4122	3	19.49336	-0.005	0.38125	7.48576E-05
2680	2	19.57679	-0.00625	0.375	7.36305E-05
5117	3	19.64219	-0.005	0.37	7.26487E-05
5582	3	19.69284	-0.005	0.365	7.1667E-05
7703	3	19.74231	-0.005	0.36	7.06853E-05
7999	3	19.74646	-0.005	0.355	6.97035E-05

844	1	19.77047	-0.0075	0.3475	6.82309E-05
2785	2	19.85366	-0.00625	0.34125	6.70037E-05
922	1	19.96103	-0.0075	0.33375	6.55311E-05
4964	3	20.09615	-0.005	0.32875	6.45494E-05
9635	4	20.10864	-0.005	0.32375	6.35676E-05
2308	2	20.24804	-0.00625	0.3175	6.23405E-05
1956	2	20.30495	-0.00625	0.31125	6.11133E-05
4810	3	20.36168	-0.005	0.30625	6.01316E-05
559	1	20.44941	-0.0075	0.29875	5.86589E-05
9834	4	20.48783	-0.005	0.29375	5.76772E-05
2851	2	20.63084	-0.00625	0.2875	5.645E-05
229	1	20.7117	-0.0075	0.28	5.49774E-05
9092	4	20.85014	-0.005	0.275	5.39957E-05
132	1	20.91738	-0.0075	0.2675	5.25231E-05
3171	3	20.9793	-0.005	0.2625	5.15413E-05
5032	3	20.99587	-0.005	0.2575	5.05596E-05
8176	3	21.20481	-0.005	0.2525	4.95779E-05
3595	3	21.22278	-0.005	0.2475	4.85961E-05
183	1	21.30857	-0.0075	0.24	4.71235E-05
4232	3	21.40367	-0.005	0.235	4.61418E-05
3332	3	21.75919	-0.005	0.23	4.516E-05
6304	3	21.79471	-0.005	0.225	4.41783E-05
3982	3	21.8394	-0.005	0.22	4.31965E-05
1263	1	21.91538	-0.0075	0.2125	4.17239E-05
1818	2	22.08586	-0.00625	0.20625	4.04968E-05
6247	3	22.12113	-0.005	0.20125	3.9515E-05
4892	3	22.13589	-0.005	0.19625	3.85333E-05
1737	1	22.38997	-0.0075	0.18875	3.70607E-05
9295	4	22.41298	-0.005	0.18375	3.60789E-05
2560	2	22.4709	-0.00625	0.1775	3.48518E-05
8427	3	22.64964	-0.005	0.1725	3.387E-05
4249	3	22.7042	-0.005	0.1675	3.28883E-05
2853	2	22.76918	-0.00625	0.16125	3.16611E-05
449	1	22.87632	-0.0075	0.15375	3.01885E-05
1860	2	23.06783	-0.00625	0.1475	2.89613E-05
233	1	23.308	-0.0075	0.14	2.74887E-05
325	1	23.35923	-0.0075	0.1325	2.60161E-05
4120	3	23.5151	-0.005	0.1275	2.50344E-05
1340	1	23.59223	-0.0075	0.12	2.35618E-05
3439	3	24.15173	-0.005	0.115	2.258E-05
7626	3	24.27021	-0.005	0.11	2.15983E-05
7576	3	24.54742	-0.005	0.105	2.06165E-05
4058	3	25.45023	-0.005	0.1	1.96348E-05
865	1	25.65276	-0.0075	0.0925	1.81622E-05
3740	3	25.6687	-0.005	0.0875	1.71804E-05
790	1	25.71759	-0.0075	0.08	1.57078E-05
6384	3	25.71791	-0.005	0.075	1.47261E-05
1335	1	25.79579	-0.0075	0.0675	1.32535E-05
4199	3	25.83791	-0.005	0.0625	1.22717E-05
1800	2	26.68382	-0.00625	0.05625	1.10446E-05
5809	3	26.81195	-0.005	0.05125	1.00628E-05
2715	2	28.45475	-0.00625	0.045	8.83566E-06

5968	3	28.63158	-0.005	0.04	7.85392E-06
7787	3	28.83151	-0.005	0.035	6.87218E-06
2749	2	29.10637	-0.00625	0.02875	5.645E-06
7110	3	29.37463	-0.005	0.02375	4.66326E-06
8503	3	29.73232	-0.005	0.01875	3.68152E-06
1188	1	31.25833	-0.0075	0.01125	2.20891E-06
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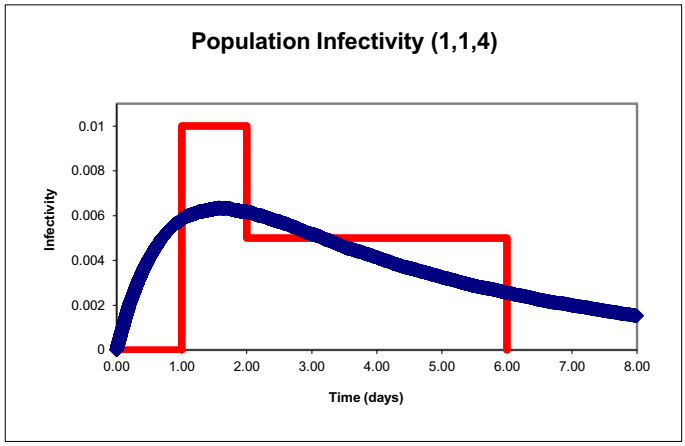
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0.004
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0.00
1.00
2.00
3.00
4.00
5.00
6.00
7.00
8.00
Time (days)

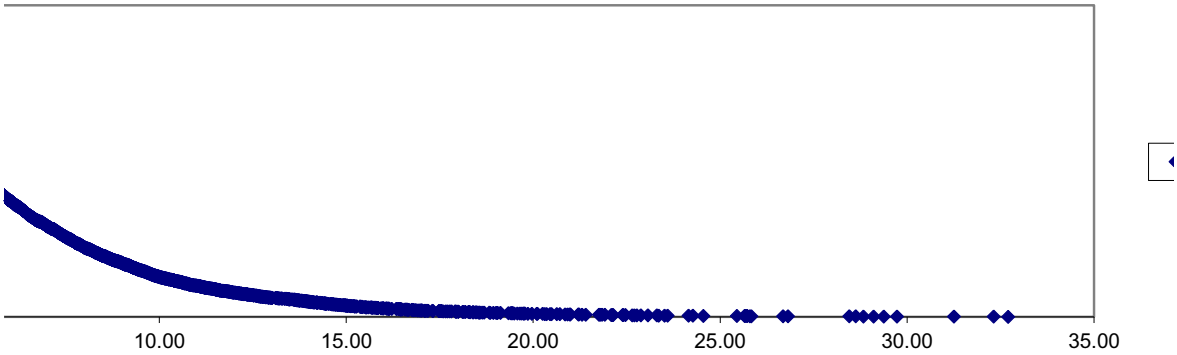
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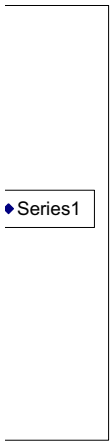
Series1

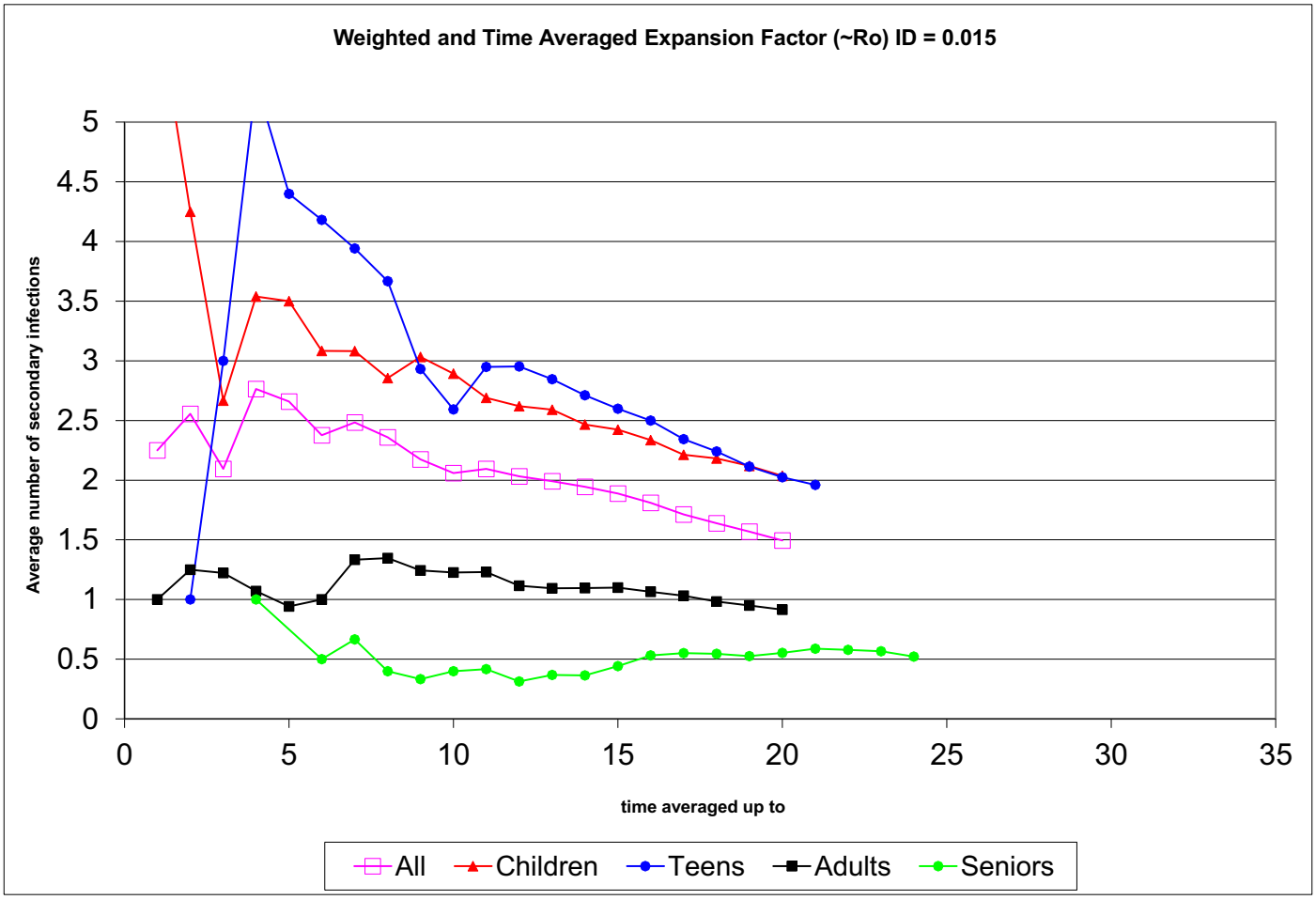
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3.5
3
2.5
2
1.5
1
0.5
0
0
5
10
15
20
25
30
35
time averaged up to
All
Children
Teens
Adults
Seniors

Decade	ToType	f Number In	f Number In	Nobs
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8	1	3	6	3
9	1	2	4	3
10	1	2	3	3
11	1	2	4	3
12	1	2	3	5
13	1	1.75	4	8
14	1	2	5	7
15	1	2	3	9
16	1	2.090909	7	11
17	1	2.111111	5	18
18	1	2.285714	5	21
19	1	2.066667	6	15
20	1	1.576923	7	26
21	1	2.857143	7	21
22	1	1.45	4	20
23	1	2	7	18
24	1	1.615385	8	26
25	1	1.777778	8	36
26	1	1.909091	5	44
27	1	1.9	8	40
28	1	1.792453	6	53
29	1	1.906977	5	43
30	1	1.298246	6	57
31	1	1.785714	6	56
32	1	1.488372	8	43
33	1	1.516667	6	60
34	1	1.872727	6	55
35	1	1.40625	5	64
36	1	1.534884	6	43
37	1	1.428571	5	56
38	1	1.674419	6	43
39	1	1.686275	6	51
40	1	1.166667	5	54
41	1	1.34	5	50
42	1	1.393939	6	33
43	1	1.03125	4	32
44	1	1.457143	6	35
45	1	1.25641	5	39
46	1	1.241379	4	29
47	1	1.033333	4	30
48	1	1.26087	4	23
49	1	0.966667	4	30
50	1	0.777778	3	27
51	1	1.210526	5	19
52	1	0.772727	2	22
53	1	1.434783	5	23
54	1	0.384615	2	13

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6	3	2	
13	6	2.166667	
22	9	2.444444	
28	12	2.333333	
34	15	2.266667	
40	18	2.222222	
50	23	2.173913	
64	31	2.064516	
78	38	2.052632	
96	47	2.042553	
119	58	2.051724	
157	76	2.065789	
205	97	2.113402	
236	112	2.107143	
277	138	2.007246	
337	159	2.119497	
366	179	2.044693	
402	197	2.040609	

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59	1	1.285714	3	7
60	1	0.833333	3	6
61	1	1.333333	3	9
62	1	1.25	2	4
63	1	0.5	1	2
65	1	0	0	1
66	1	0	0	1
67	1	1	3	3
69	1	2	2	1
70	1	0	0	1
71	1	0.5	1	2
72	1	0.666667	2	3
73	1	0.333333	1	3
75	1	0	0	1
77	1	0	0	1
78	1	0	0	3
79	1	0	0	1
82	1	0	0	1
105	1	0	0	1
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14	2	3.5	8	4
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17	2	2.5	5	8
18	2	2.5	7	8
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20	2	1.8	4	10
21	2	1.538462	5	13
22	2	1.388889	5	18
23	2	1.583333	4	12
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28	2	2	11	15
29	2	1.7	6	20
30	2	1.5	3	12

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39	2	0.807692	3	26
40	2	1.071429	3	28
41	2	1.407407	4	27
42	2	1.875	5	16
43	2	0.945946	4	37
44	2	1.064516	3	31
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46	2	1.25	4	24
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64	2	1	3	3
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69	2	0	0	1
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73	2	0.333333	1	3
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75	2	0	0	1
76	2	0.5	1	2
77	2	2	2	1
78	2	2	2	1
79	2	0	0	1
81	2	0	0	1
83	2	0.5	1	2
84	2	0.5	1	2
87	2	0	0	1
99	2	2	2	1
103	2	0.5	1	2

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13	3	0.875	2	8
14	3	0.6	3	10
15	3	0.692308	3	13
16	3	1.5	3	14
17	3	1.538462	4	13
18	3	0.222222	1	9
19	3	1	4	24
20	3	0.8	3	25
21	3	0.857143	2	28
22	3	0.73913	3	23
23	3	1.037037	3	27
24	3	1.166667	4	18
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26	3	1	3	39
27	3	0.8	4	45
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181	192	0.942708	

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67	3	1	2	2
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69	3	0.333333	1	3
70	3	0.333333	1	9
71	3	0.714286	2	7
72	3	0.25	1	8
73	3	0.666667	2	6
74	3	1.666667	3	3
75	3	1	2	3
76	3	1	3	3
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79	3	1	1	1
80	3	2	3	2
83	3	0.714286	2	7
84	3	0	0	1
85	3	0.5	1	6
87	3	0	0	1
90	3	0	0	1
92	3	0	0	1
94	3	0	0	1
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24	4	0.6	2	5
25	4	0.666667	2	6
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5	14	0.357143	
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Decade	f Number In	f Number In	Nobs
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7	1.3	5	10
8	1.461538	6	13
9	1.181818	4	11
10	1.666667	4	12
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12	1.333333	4	18
13	1.227273	4	22
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15	1.192308	3	26
16	1.851852	7	27
17	2	5	39
18	1.75	7	40
19	1.464286	6	56
20	1.269841	7	63
21	1.671875	7	64
22	1.138462	5	65
23	1.393443	7	61
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25	1.404255		
26	1.40566		
27	1.363636		
28	1.335714		
29	1.347107		
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31	1.282895		
32	1.106918		
33	1.060241		
34	1.273885		
35	1.096939		
36	1.045455		
37	0.994975		
38	0.935294		
39	0.944444		
40	0.887006		
41	0.8		
42	0.9375		
43	0.77707		
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64	40	1.6		
83	53	1.566038		
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116	76	1.526316		
148	91	1.626374		
172	109	1.577982		
199	131	1.519084		
234	154	1.519481		
265	180	1.472222		
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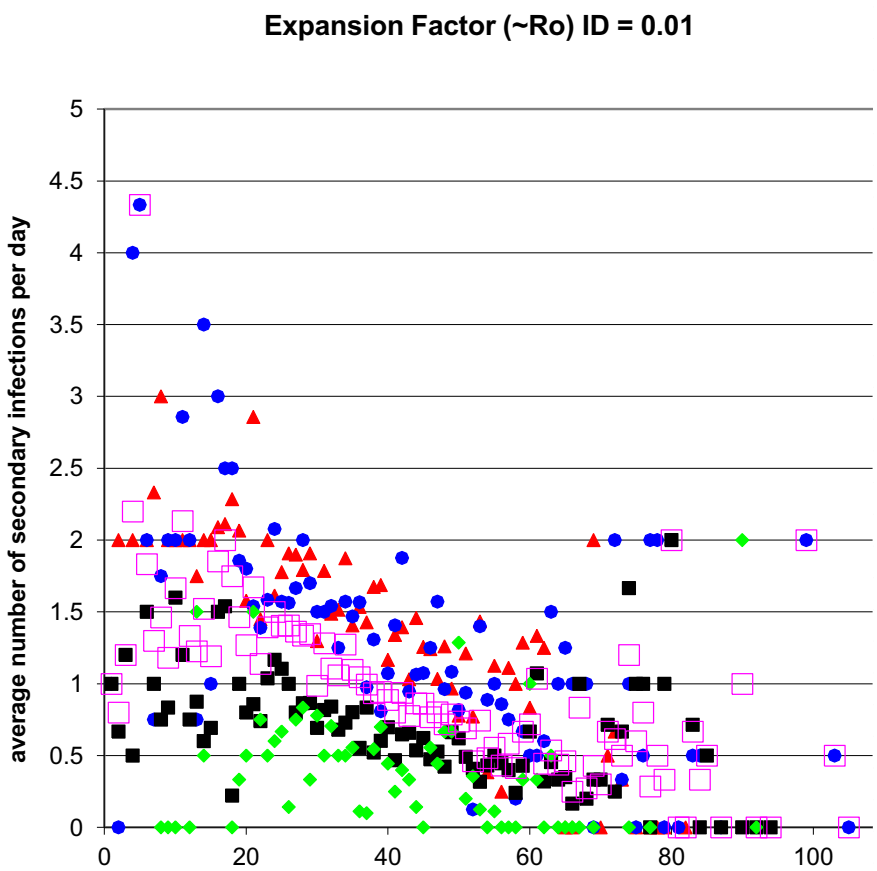

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66	0.25		
67	0.833333		
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69	0.428571		
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71	0.666667		
72	0.615385		
73	0.5		
74	1.2		
75	0.6		
76	0.8		
77	0.285714		
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81	0		
82	0		
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85	0.5		
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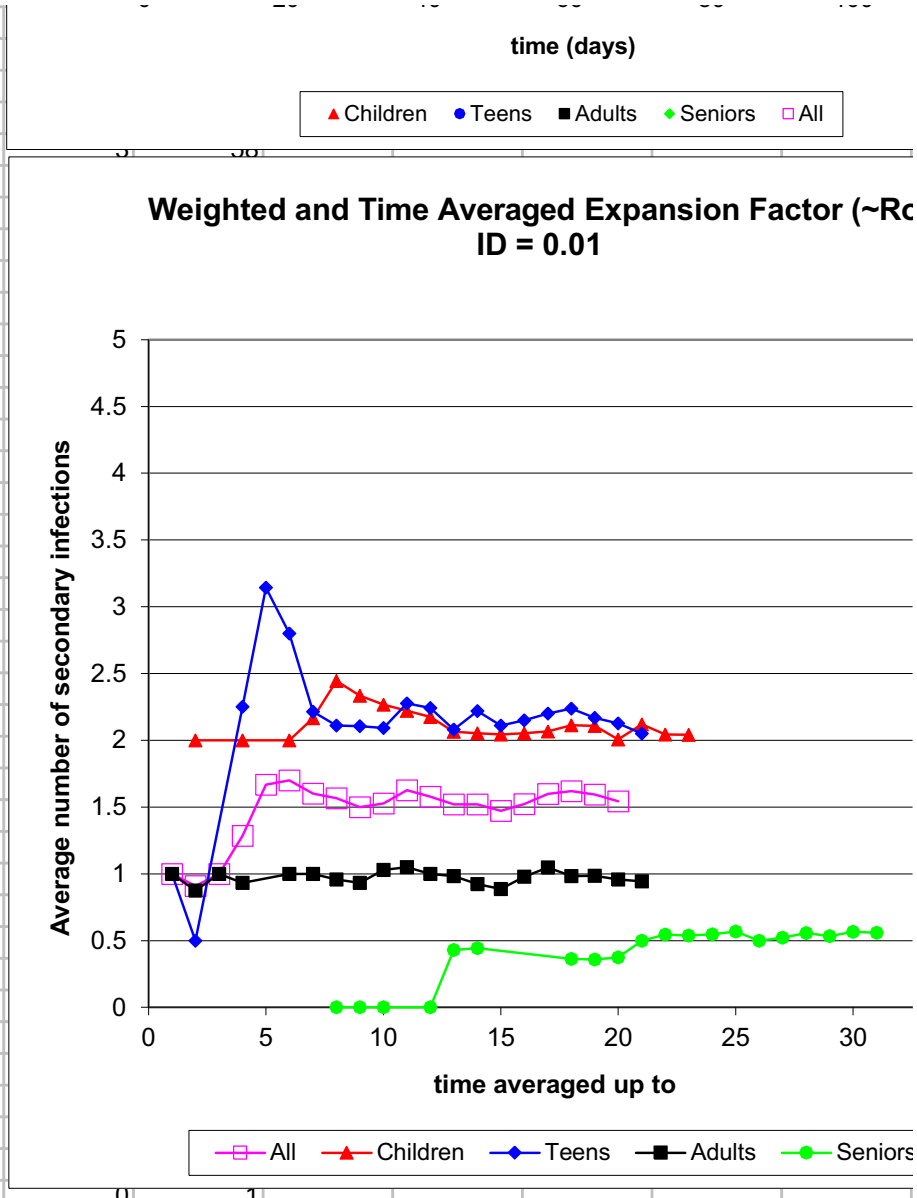

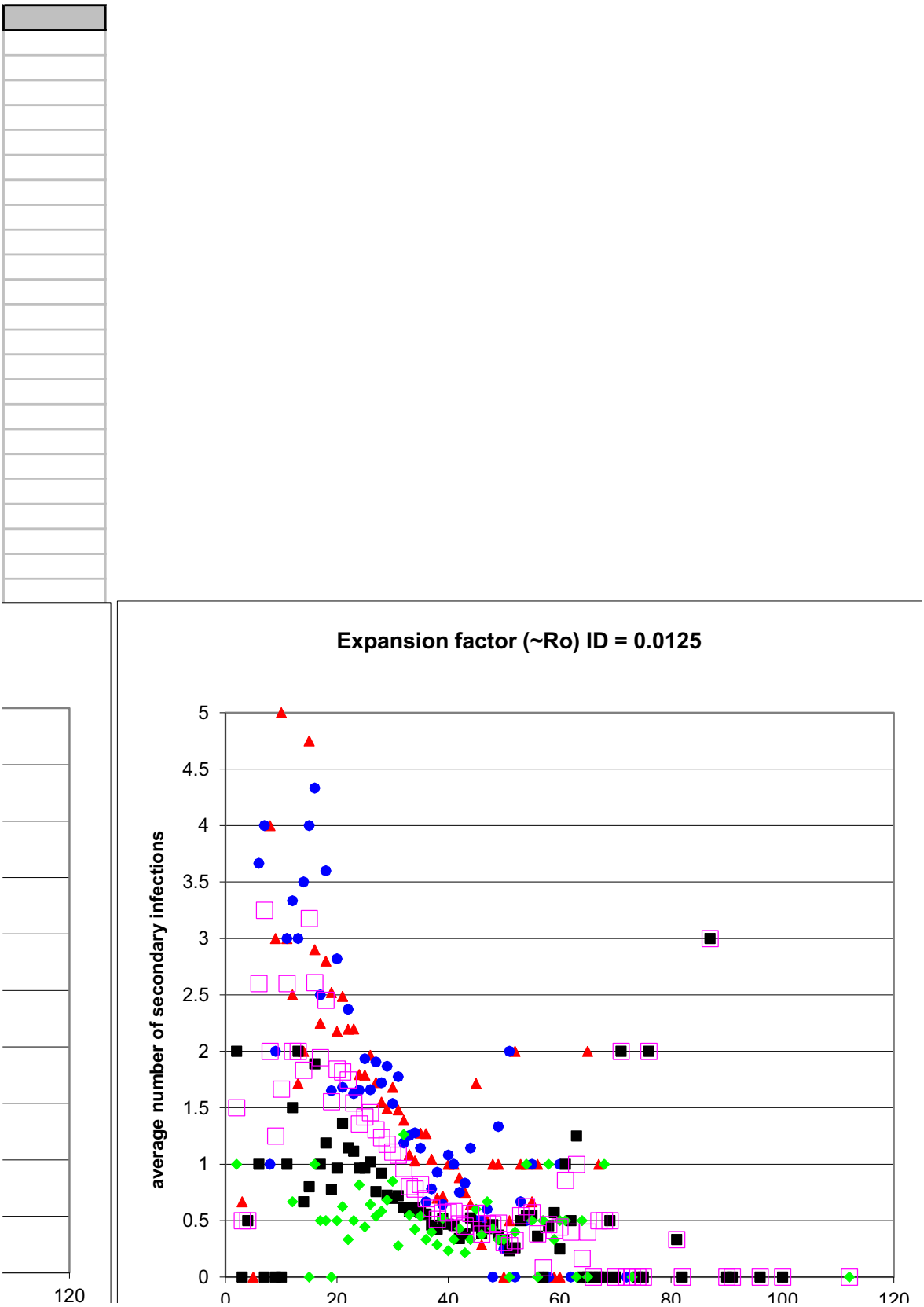
Expansion factor (~Ro) ID = 0.0125
average number of secondary infections
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4.5
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3.5
3
2.5
2
1.5
1
0.5
0
0
20
40
60
80
100
120
120

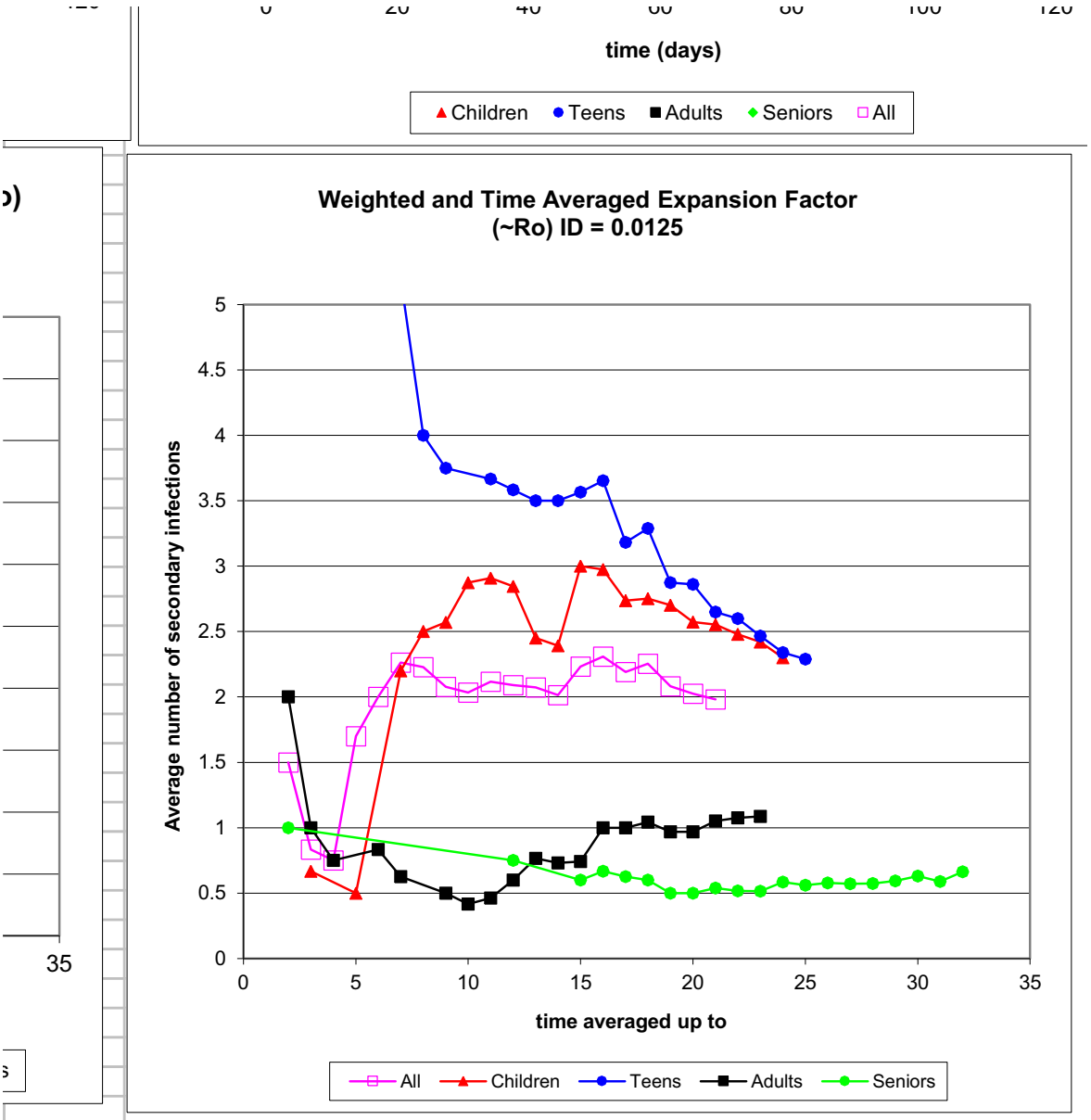
time (days)
Children
Teens
Adults
Seniors
All
Weighted and Time Averaged Expansion Factor
(~Ro) ID = 0.0125
Average number of secondary infections
time averaged up to
All
Children
Teens
Adults
Seniors

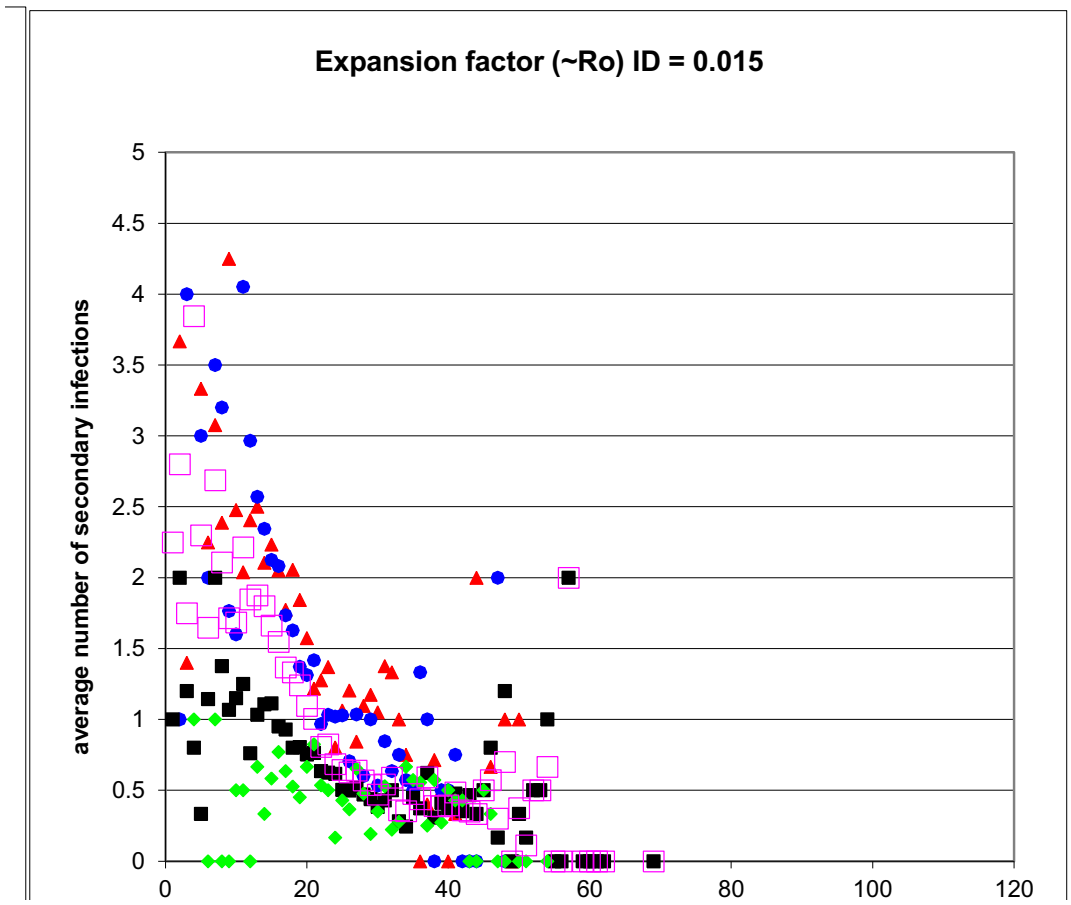
Expansion factor (~Ro) ID = 0.015
average number of secondary infections
5
4.5
4
3.5
3
2.5
2
1.5
1
0.5
0
0
20
40
60
80
100
120

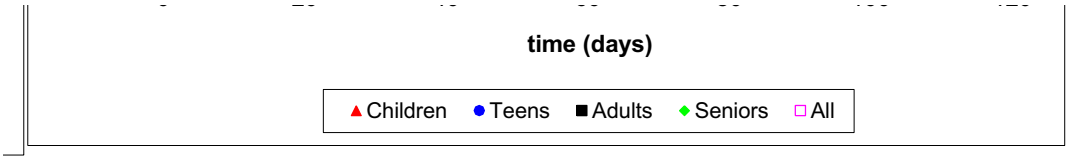
time (days)
Children
Teens
Adults
Seniors
All

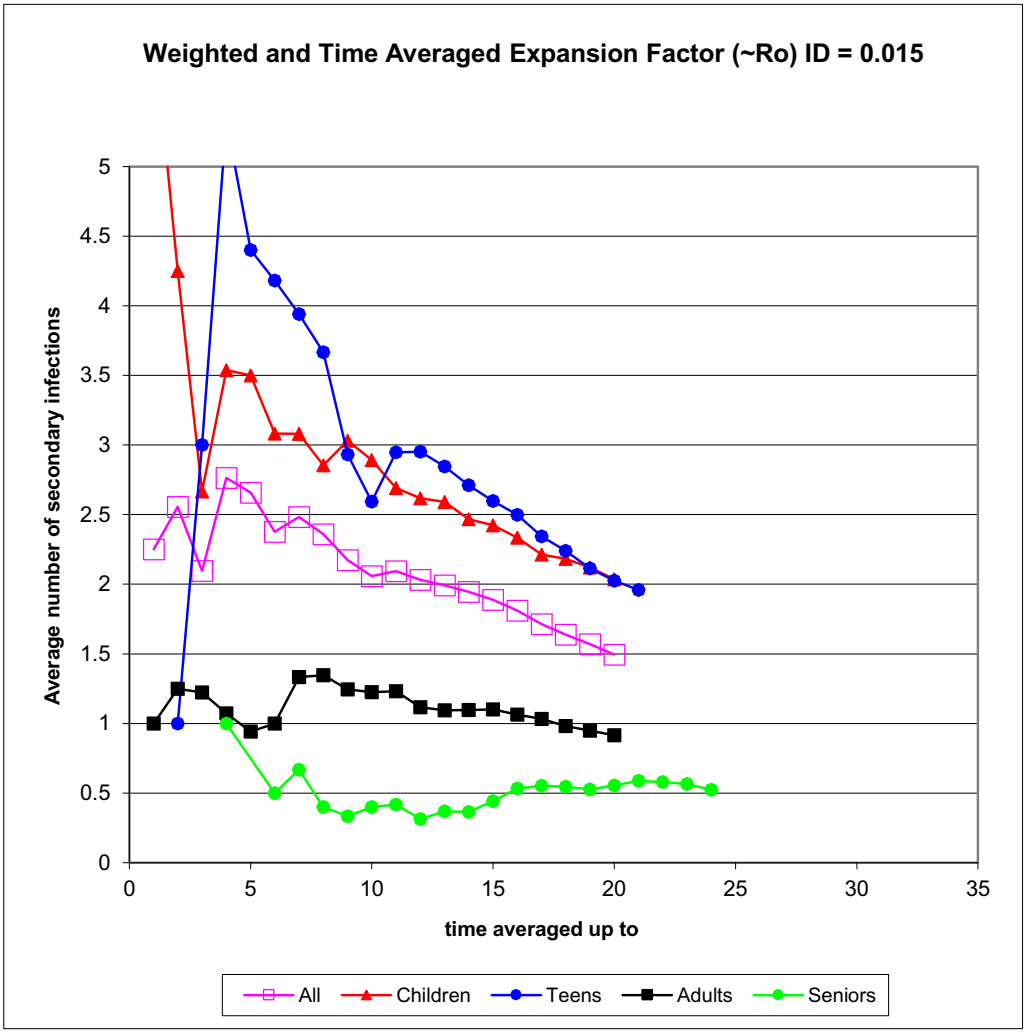
Weighted and Time Averaged Expansion Factor (~Ro) ID = 0.015
Average number of secondary infections
5
4.5
4
3.5
3
2.5
2
1.5
1
0.5
0
0
5
10
15
20
25
30
35
time averaged up to
All
Children
Teens
Adults
Seniors

Decade	ToType	verageTime	verageTime	verageTime	Of Avg Of	Of Avg Of	Of Avg Of	TimeLag S
2	1	0.845626	0.845626	0.845626	1.672192	1.672192	1.672192	1
4	1	2.391827	2.391827	2.391827	3.874133	3.874133	3.874133	1
6	1	3.543281	3.543281	3.543281	4.458321	4.458321	4.458321	1
7	1	2.253992	0.859392	3.648592	3.579584	1.427156	5.732011	2
8	1	1.638995	1.134158	2.143832	4.453431	3.67457	5.232293	2
9	1	1.962697	0.440436	2.749588	3.070794	0.440436	6.022357	3
10	1	2.684252	1.574254	3.741667	3.916435	3.691542	4.316095	3
11	1	2.12747	0.994975	3.259964	4.594131	3.252756	5.935505	2
12	1	1.542351	0.206605	2.671772	1.982093	0.427988	2.765404	5

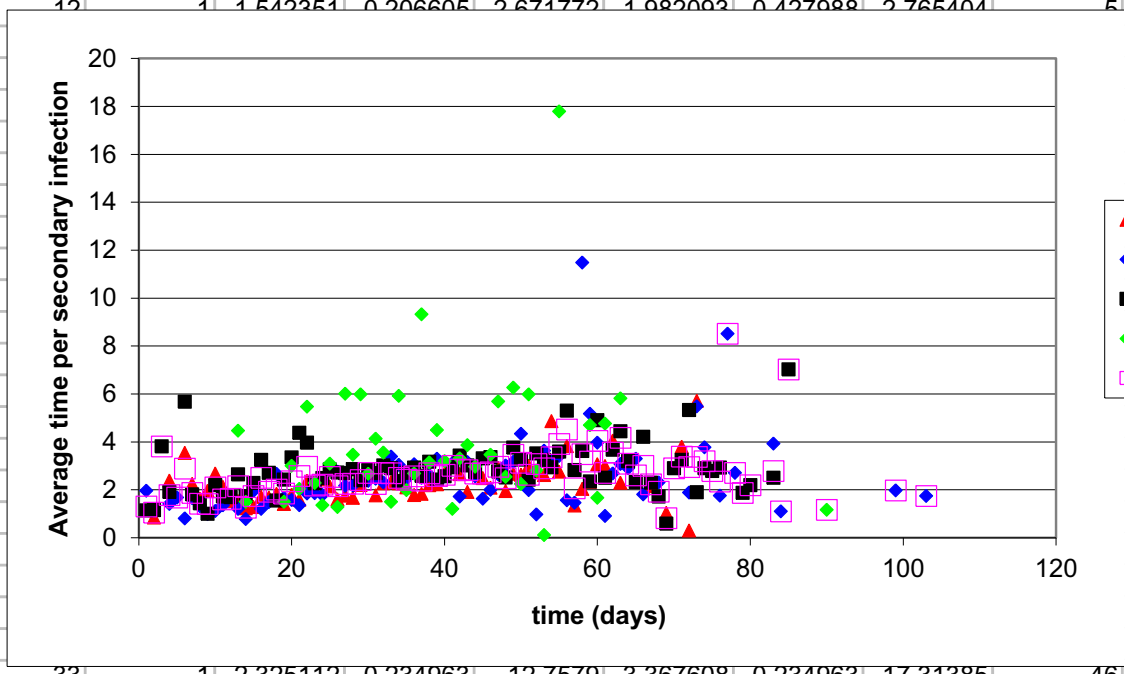

33	1	2.325112	0.234963	12.7579	3.367608	0.234963	17.31385	46
34	1	2.279104	0.226495	7.100259	3.421894	0.31601	13.56041	44
35	1	2.114274	0.340197	8.555976	3.141268	0.471028	8.555976	42
36	1	1.782019	0.013897	5.116155	2.623389	0.013897	6.491896	31
37	1	1.843353	0.248951	5.477125	2.871281	0.248951	8.202273	33
38	1	2.193349	0.150667	8.107858	3.31164	0.150667	10.55083	32
39	1	2.23						
40	1	2.6						
41	1	3.13						
42	1	2.65						
43	1	1.91						
44	1	2.66						
45	1	2.49						
46	1	2.09						
47	1	2.92						
48	1	1.95						
49	1	2.66						
50	1	2.6						
51	1	3.00						
52	1	2.74						
53	1	2.62						
54	1	4.87						

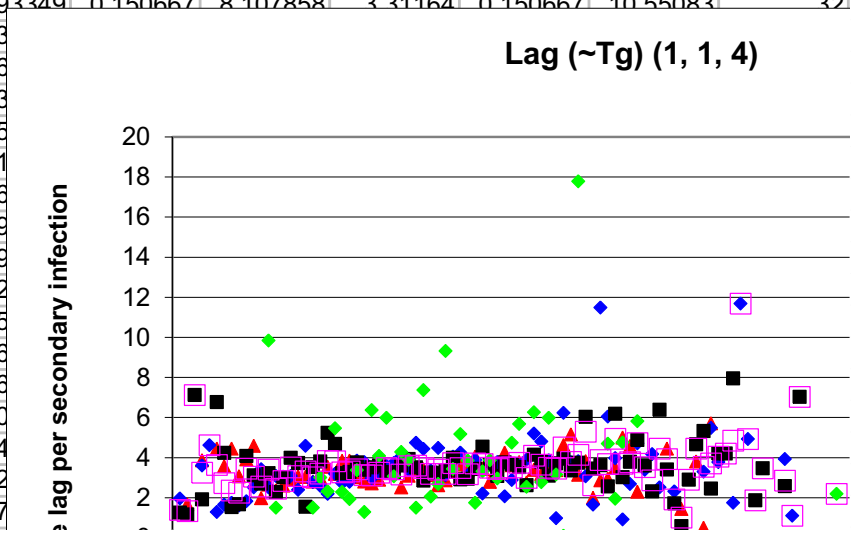

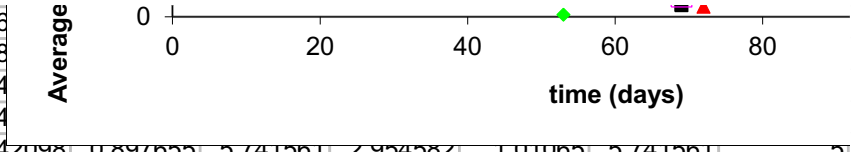

55	1	2.76						
56	1	3.8						
57	1	1.34						
58	1	2.04						
59	1	2.342098	0.897655	5.741561	2.954582	1.01065	5.741561	5
60	1	3.066399	1.308077	4.907534	3.490976	2.581809	4.907534	3
61	1	2.999533	0.498617	5.751027	5.005654	0.753475	11.10574	6
62	1	4.066091	1.109846	7.808718	4.573525	1.109846	7.808718	4
63	1	2.300602	2.300602	2.300602	2.300602	2.300602	2.300602	1
67	1	2.163191	2.163191	2.163191	4.449729	4.449729	4.449729	1
69	1	1.045601	1.045601	1.045601	1.450184	1.450184	1.450184	1
71	1	3.806967	3.806967	3.806967	3.806967	3.806967	3.806967	1
72	1	0.31267	0.31267	0.31267	0.505834	0.505834	0.505834	1
73	1	5.716206	5.716206	5.716206	5.716206	5.716206	5.716206	1
1	2	1.965885	1.965885	1.965885	1.965885	1.965885	1.965885	1
4	2	1.408275	1.255493	1.561057	3.612354	2.49899	4.725717	2
5	2	1.685298	1.30777	2.062827	4.618092	2.413998	6.822186	2
6	2	0.810388	0.17371	1.269295	1.296512	0.218282	2.40196	3
7	2	1.656819	0.340086	3.7578	1.656819	0.340086	3.7578	3
8	2	1.318848	0.503131	1.922777	1.75155	0.503131	2.748243	4
9	2	0.995838	0.995838	0.995838	1.616221	1.616221	1.616221	1
10	2	1.123979	0.603376	1.644582	1.827548	1.807687	1.847409	2
11	2	1.364977	0.426819	3.115922	2.52307	0.642168	4.558943	6
12	2	1.733908	1.129701	2.416266	3.422586	1.655757	4.448045	3
13	2	1.214977	1.214977	1.214977	2.516297	2.516297	2.516297	1
14	2	0.780658	0.512367	0.945438	3.092969	0.512367	4.757624	3
15	2	1.957264	1.118936	3.552433	3.063797	1.118936	6.872032	3
16	2	1.209431	0.90599	1.512873	3.085922	1.745311	4.426534	2
17	2	1.496738	0.783772	2.398252	2.391074	0.783772	3.790816	8
18	2	2.668198	1.646482	3.954698	4.591553	2.057127	9.801854	7
19	2	1.667288	0.726498	3.070257	2.778412	1.143583	6.61175	12
20	2	1.585862	0.850599	2.961402	2.602463	1.066857	5.721202	8
21	2	1.359637	0.404741	2.584471	2.190699	0.652821	4.995201	9
22	2	1.850816	0.295988	5.105079	3.195352	0.361836	13.27871	10
23	2	1.861398	1.038518	3.712173	2.734401	1.287216	4.981022	10
24	2	1.790338	0.469229	3.442278	2.800049	0.698038	6.193697	11
25	2	2.882967	0.44332	9.08923	3.849123	0.44332	9.08923	10
26	2	2.759448	0.670038	8.474501	3.786687	0.670038	8.474501	12
27	2	2.171369	0.316473	5.863701	2.988643	0.316473	8.361479	16
28	2	2.17938	0.715999	6.694017	3.236888	1.215676	8.391294	12
29	2	2.446815	0.625299	5.091785	3.60286	1.212671	6.68659	15
30	2	2.379995	0.3262	6.614127	3.7358	0.61845	7.351393	9
31	2	2.468747	0.577794	12.99146	4.052152	1.083995	13.10071	17
32	2	2.31887	0.424748	5.564211	3.387283	0.970975	8.703089	17
33	2	3.392636	0.954535	6.262509	4.7465	0.954535	10.77063	17
34	2	3.05255	0.785925	7.611273	4.443122	1.084822	11.36131	22
35	2	2.469673	0.567149	9.993541	3.364761	0.644456	9.993541	24
36	2	3.076571	0.522318	10.75101	4.485124	0.6189	11.00787	28
37	2	2.500838	0.231948	6.402044	3.141921	0.332933	13.49183	26
38	2	2.621223	0.604042	12.85129	4.052789	0.604042	24.32512	18
39	2	3.3092	0.479643	7.36936	4.248889	0.479643	7.833817	13
40	2	2.563151	0.369031	5.756842	3.133356	0.369031	8.905802	20

41	2	3.108875	0.629338	9.351832	3.882055	0.629338	9.351832	18
42	2	1.725381	0.289876	3.844196	2.207017	0.289876	3.864066	16
43	2	3.160691	0.379556	9.571568	3.823565	1.221162	9.611908	21
44	2	2.572965	0.388023	6.136472	3.780727	0.388023	9.532551	18
45	2	1.628248	0.157526	6.831551	2.076964	0.221041	6.831551	16
46	2	2.00097	0.871863	4.999082	2.888594	1.072018	6.077238	15
47	2	2.650955	1.088357	5.347731	3.614912	1.130374	7.469191	14
48	2	3.024365	0.48653	7.816918	3.906892	1.014221	8.596105	13
49	2	3.174197	2.335862	4.414133	5.203772	2.335862	8.637306	5
50	2	4.348728	0.741436	11.08424	4.801684	0.741436	11.08424	7
51	2	1.993929	0.658916	3.393617	3.879042	0.658916	12.82727	7
52	2	0.979779	0.979779	0.979779	0.979779	0.979779	0.979779	1
53	2	3.630835	1.618605	6.81671	6.24181	1.733641	14.79239	5
54	2	3.212854	0.395238	5.556312	3.778772	0.395238	7.521187	5
55	2	3.422204	1.102556	7.358642	3.827015	1.102556	7.358642	3
56	2	1.564452	0.284174	2.992785	3.076551	0.284174	6.611236	3
57	2	1.47182	0.615809	2.978709	1.666783	1.058835	2.978709	4
58	2	11.49131	11.49131	11.49131	11.49131	11.49131	11.49131	1
59	2	5.182469	5.072889	5.388077	6.059127	5.086442	7.702862	3
60	2	3.972477	3.972477	3.972477	3.972477	3.972477	3.972477	1
61	2	0.915546	0.915546	0.915546	0.915546	0.915546	0.915546	1
62	2	2.688791	0.764462	3.757276	2.688791	0.764462	3.757276	3
63	2	3.090995	1.593888	4.588103	4.709609	1.593888	7.82533	2
64	2	2.910781	2.910781	2.910781	3.398076	3.398076	3.398076	1
65	2	3.303313	1.652467	4.91416	4.182177	1.652467	6.067542	3
66	2	1.809635	1.809635	1.809635	2.513474	2.513474	2.513474	1
68	2	2.314007	2.314007	2.314007	2.314007	2.314007	2.314007	1
72	2	1.89573	0.659385	3.132075	3.305037	1.147055	5.463019	2
73	2	5.489833	5.489833	5.489833	5.489833	5.489833	5.489833	1
74	2	3.773246	3.773246	3.773246	3.773246	3.773246	3.773246	1
76	2	1.758371	1.758371	1.758371	1.758371	1.758371	1.758371	1
77	2	8.520713	8.520713	8.520713	11.69221	11.69221	11.69221	1
78	2	2.706345	2.706345	2.706345	4.933109	4.933109	4.933109	1
83	2	3.927879	3.927879	3.927879	3.927879	3.927879	3.927879	1
84	2	1.111581	1.111581	1.111581	1.111581	1.111581	1.111581	1
99	2	1.984631	1.984631	1.984631	3.55229	3.55229	3.55229	1
103	2	1.748454	1.748454	1.748454	1.748454	1.748454	1.748454	1
1	3	1.145432	0.535331	2.371853	1.259534	0.674693	2.371853	4
2	3	1.161125	0.934275	1.387975	1.161125	0.934275	1.387975	2
3	3	3.817471	1.208067	6.08545	7.126845	1.208067	16.01357	3
4	3	1.919161	1.919161	1.919161	1.919161	1.919161	1.919161	1
6	3	5.674709	4.649274	6.700145	6.767896	4.649274	8.886519	2
7	3	1.809501	1.809501	1.809501	4.246086	4.246086	4.246086	1
8	3	1.44383	0.612996	2.274664	1.534329	0.793995	2.274664	2
9	3	1.005087	0.411456	1.99349	1.67673	0.610315	3.657524	3
10	3	2.20129	1.163715	2.741235	4.082265	2.653392	5.984994	3
11	3	1.722531	0.72178	2.276944	3.120383	1.164679	4.203999	3
12	3	1.700578	1.561639	1.873761	2.707477	2.374995	3.070611	3
13	3	2.649151	0.824533	4.554762	3.229989	0.824533	4.554762	5
14	3	1.733977	0.67475	2.572956	2.283557	0.67475	3.345569	3
15	3	2.286969	0.722281	5.196184	3.019755	1.558962	5.196184	5
16	3	3.245386	0.996933	10.84172	3.988175	1.709783	10.84172	12

17	3	2.710137	0.382847	7.405353	3.729544	0.973442	7.405353	9
18	3	1.555524	1.196542	1.914506	1.555524	1.196542	1.914506	2
19	3	2.429185	0.260931	6.304383	3.534074	0.260931	10.64956	14
20	3	3.360419	0.883672	7.139095	3.805816	0.883672	8.67911	14
21	3	4.38547	0.958768	12.17074	5.239367	0.958768	12.17074	17
22	3	3.977267	1.279762	9.623341	4.682514	1.279762	9.623341	13
23	3	2.270869	0.644799	6.550412	3.221667	0.644799	11.48387	16
24	3	2.491422	1.129485	6.780479	3.287773	1.129485	6.780479	11
25	3	2.84836	0.595626	8.488645	3.76801	0.677793	10.32651	25
26	3	2.731103	0.355818	13.24239	3.402207	0.355818	13.24239	21
27	3	2.697415	0.269193	10.96966	3.516176	0.269193	10.96966	23
28	3	2.863498	0.298044	14.34652	3.609287	0.298044	14.34652	33
29	3	2.407344	0.448131	9.82921	3.294932	0.448131	13.99692	26
30	3	2.827877	0.564257	6.451333	3.238237	0.564257	8.856186	34
31	3	2.701814	0.482853	14.24515	3.617213	0.482853	14.24515	29
32	3	3.022647	0.465357	10.2145	3.928126	0.465357	11.98199	39
33	3	2.911037	0.23209	8.785082	3.515657	0.23209	12.58273	38
34	3	2.368451	0.319141	6.602057	2.860681	0.319141	7.054897	35
35	3	2.711329	0.541535	10.90258	3.251927	0.541535	10.90258	49
36	3	2.930909	0.19034	10.03711	3.234146	0.19034	10.03711	29
37	3	2.579189	0.299462	7.569164	3.335411	0.299462	8.498998	44
38	3	3.178101	0.435336	7.438189	4.000254	0.435336	15.09473	33
39	3	2.428344	0.174933	8.367893	2.913745	0.174933	10.67165	39
40	3	2.569185	0.564039	7.307902	2.956388	0.564039	8.766818	42
41	3	2.945646	0.163248	15.33626	3.438119	0.163248	15.33626	36
42	3	3.425498	0.529856	9.45643	4.544196	0.529856	23.05266	35
43	3	3.015819	0.759695	9.802145	3.653059	0.759695	10.93453	35
44	3	2.755172	0.795743	6.839514	3.08964	0.951346	7.733944	27
45	3	3.318215	0.466924	18.6576	3.762832	0.466924	18.6576	33
46	3	3.367069	0.052527	8.612448	3.654201	0.052527	8.612448	30
47	3	2.763095	0.388594	9.367489	3.527676	0.388594	15.34716	27
48	3	2.513228	0.45317	7.375901	2.629288	0.54624	7.375901	21
49	3	3.759662	0.406277	16.72423	4.15362	0.406277	16.72423	31
50	3	3.265524	0.748202	13.21843	3.773049	1.316313	13.21843	23
51	3	2.430822	0.267345	5.891671	3.103388	0.267345	11.55873	20
52	3	3.525031	0.813119	11.14049	3.719379	0.813119	11.14049	16
53	3	3.245465	0.356745	9.728118	3.955696	0.356745	9.728118	10
54	3	2.938939	0.599094	8.751206	3.36083	0.599094	10.32354	12
55	3	3.597303	0.987632	15.5245	3.745533	1.40289	15.5245	17
56	3	5.310324	0.353725	19.12278	6.036123	0.353725	19.12278	13
57	3	2.827551	0.851857	5.738993	3.458695	0.851857	8.274121	9
58	3	3.630632	1.403377	9.663682	3.630632	1.403377	9.663682	6
59	3	2.354898	1.112498	3.530656	2.559931	1.932627	3.530656	4
60	3	4.913867	0.308244	11.65111	6.194283	0.560875	18.25983	9
61	3	2.501417	0.126181	5.710072	3.031287	0.242506	9.004084	9
62	3	3.670609	1.299058	8.835061	3.789683	1.524496	8.835061	6
63	3	4.449888	0.6476	10.77467	4.883809	0.6476	10.77467	9
64	3	3.197487	0.461122	5.933853	3.604118	1.274383	5.933853	2
65	3	2.320224	0.53812	5.861252	2.320224	0.53812	5.861252	7
66	3	4.217734	4.217734	4.217734	6.39725	6.39725	6.39725	1
67	3	2.303833	2.303833	2.303833	3.403821	3.403821	3.403821	1
68	3	1.727006	1.202597	2.251414	1.727006	1.202597	2.251414	2

69	3	0.5909	0.5909	0.5909	0.5909	0.5909	0.5909	1
70	3	2.909661	1.889164	4.141813	2.909661	1.889164	4.141813	3
71	3	3.257579	2.806034	3.932079	4.670131	2.806034	7.285992	3
72	3	5.327639	0.593844	10.06143	5.327639	0.593844	10.06143	2
73	3	1.896905	0.545555	3.033184	2.462093	0.545555	3.807541	3
74	3	2.910657	1.279296	4.542018	4.203886	3.157489	5.250284	2
75	3	2.791718	1.669238	3.914199	4.203553	1.669238	6.737868	2
76	3	2.934808	2.934808	2.934808	7.950732	7.950732	7.950732	1
79	3	1.879237	1.879237	1.879237	1.879237	1.879237	1.879237	1
80	3	2.197084	1.650319	2.743849	3.474955	2.743849	4.20606	2
83	3	2.504641	0.400236	7.124678	2.583886	0.400236	7.124678	4
85	3	7.028539	1.506885	14.6166	7.028539	1.506885	14.6166	3
13	4	4.477718	4.477718	4.477718	9.852555	9.852555	9.852555	1
14	4	1.505412	1.505412	1.505412	1.505412	1.505412	1.505412	1
19	4	1.508824	1.508824	1.508824	1.508824	1.508824	1.508824	1
20	4	3.009756	3.009756	3.009756	3.009756	3.009756	3.009756	1
21	4	2.041099	0.847839	3.234358	2.315135	1.395912	3.234358	2
22	4	5.474181	2.733578	8.603441	5.474181	2.733578	8.603441	3
23	4	2.289868	1.966125	2.613611	2.289868	1.966125	2.613611	2
24	4	1.358348	0.847225	1.86947	1.940591	0.847225	3.033957	2
25	4	3.095493	1.322333	4.237024	3.383396	2.186044	4.237024	3
26	4	1.287756	1.287756	1.287756	1.287756	1.287756	1.287756	1
27	4	6.020064	4.861081	7.179046	6.369148	4.861081	7.877214	2
28	4	3.465561	0.429659	5.58859	4.083599	0.429659	6.310079	4
29	4	5.987324	2.277433	9.697215	5.987324	2.277433	9.697215	2
30	4	2.673257	0.321451	6.188792	3.075593	0.321451	7.028809	5
31	4	4.132513	0.485066	8.126504	4.283755	0.938793	8.126504	3
32	4	3.564636	0.580288	7.855507	3.90733	0.580288	7.855507	9
33	4	1.508268	1.286972	1.729564	1.508268	1.286972	1.729564	2
34	4	5.924637	5.924637	5.924637	7.37184	7.37184	7.37184	1
35	4	1.987714	0.282944	2.910526	2.054698	0.550882	2.910526	4
36	4	2.684631	2.684631	2.684631	2.684631	2.684631	2.684631	1
37	4	9.323476	9.323476	9.323476	9.323476	9.323476	9.323476	1
38	4	3.15143	0.734412	7.379193	3.436079	0.734412	7.379193	5
39	4	4.499584	0.721901	7.051518	5.181301	1.845039	7.051518	4
40	4	3.203965	0.676593	6.947662	3.854792	0.676593	6.947662	3
41	4	1.205254	1.153046	1.257462	1.749077	1.153046	2.345109	2
42	4	3.316633	1.487955	5.475826	3.316633	1.487955	5.475826	4
43	4	3.86774	1.561942	9.87588	3.86774	1.561942	9.87588	4
44	4	2.963343	2.963343	2.963343	2.963343	2.963343	2.963343	1
46	4	3.46707	2.59908	5.002871	4.739854	4.046127	5.170564	3
47	4	5.688007	2.638856	9.277639	5.688007	2.638856	9.277639	4
48	4	2.546216	1.526142	3.56629	2.546216	1.526142	3.56629	2
49	4	6.268302	4.314678	8.221926	6.268302	4.314678	8.221926	2
50	4	2.253904	0.449933	6.049745	2.784723	0.449933	6.049745	5
51	4	5.993747	5.993747	5.993747	5.993747	5.993747	5.993747	1
52	4	2.818514	1.350012	4.224558	3.16694	2.039988	4.579859	3
53	4	0.116556	0.116556	0.116556	0.116556	0.116556	0.116556	1
55	4	17.79396	17.79396	17.79396	17.79396	17.79396	17.79396	1
59	4	4.700703	4.700703	4.700703	4.700703	4.700703	4.700703	1
60	4	1.677337	0.861602	2.493073	1.951506	1.409939	2.493073	2
61	4	4.767863	4.767863	4.767863	4.767863	4.767863	4.767863	1

63	4	5.823256	5.823256	5.823256	5.823256	5.823256	5.823256	1
90	4	1.173599	1.173599	1.173599	2.19678	2.19678	2.19678	1

time per		Lag
2.30774	children	3.326738
2.538235	teens	3.503494
2.873347	adults	3.595627
3.824227	seniors	4.193441

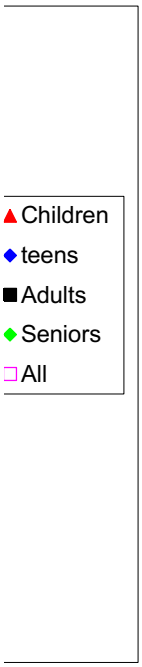

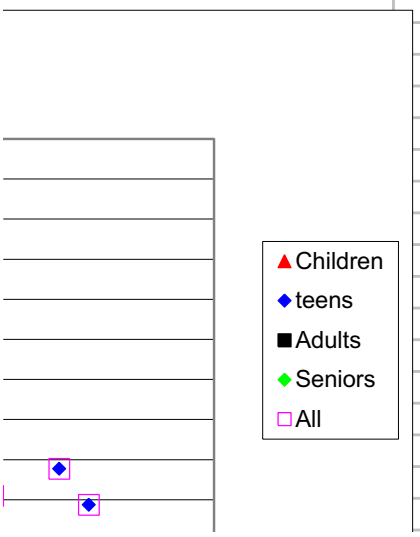

Decade	verageTime	verageTime	verageTime	Of Avg Of	Of Avg Of
1	1.309522	0.535331	2.371853	1.400804	0.674693
2	1.055959	0.845626	1.387975	1.331481	0.934275
3	3.817471	1.208067	6.08545	7.126845	1.208067
4	1.781885	1.255493	2.391827	3.2545	1.919161
5	1.685298	1.30777	2.062827	4.618092	2.413998
6	2.887311	0.17371	6.700145	3.647275	0.218282
7	1.881324	0.340086	3.7578	2.729285	0.340086
8	1.43013	0.503131	2.274664	2.372715	0.503131
9	1.41417	0.411456	2.749588	2.265542	0.440436
10	2.113073	0.603376	3.741667	3.456399	1.807687
11	1.601127	0.426819	3.259964	3.06253	0.642168
12	1.637747	0.206605	2.671772	2.572787	0.427988
13	2.160999	0.422444	4.554762	3.417327	0.824533
14	1.265828	0.512367	2.572956	2.456723	0.512367
15	1.752946	0.505516	5.196184	2.836477	1.118936
16	2.500956	0.406049	10.84172	3.515317	0.774823
17	1.93079	0.382847	7.405353	3.085356	0.763935
18	2.018945	0.256405	5.185641	3.311965	0.256405
19	1.857489	0.260931	6.304383	3.028288	0.260931
20	2.359537	0.146509	8.10645	3.211751	0.146509
21	2.577759	0.404741	12.17074	3.84751	0.502751
22	2.969914	0.295988	9.623341	3.82137	0.361836
23	2.190433	0.492613	6.550412	3.270098	0.492613
24	2.222178	0.432525	11.23309	3.313812	0.698038
25	2.545986	0.44332	9.08923	3.423488	0.44332
26	2.155197	0.301271	13.24239	3.140915	0.301271
27	2.243326	0.138061	10.96966	3.114278	0.185737
28	2.261614	0.208933	14.34652	3.260298	0.208933
29	2.418756	0.139519	11.61574	3.480455	0.139519
30	2.712283	0.321451	11.36059	3.42182	0.321451
31	2.244203	0.176986	14.24515	3.170219	0.176986
32	2.716444	0.124517	10.2145	3.575072	0.217876
33	2.701611	0.23209	12.7579	3.613708	0.23209
34	2.512324	0.226495	7.611273	3.488311	0.31601
35	2.427543	0.282944	10.90258	3.195384	0.471028
36	2.573793	0.013897	10.75101	3.408802	0.013897
37	2.390964	0.231948	9.323476	3.197344	0.248951
38	2.704587	0.150667	12.85129	3.728539	0.150667
39	2.578336	0.166605	11.27449	3.483904	0.174933
40	2.630603	0.051787	12.48857	3.174586	0.183374
41	3.010794	0.163248	15.33626	3.721975	0.163248
42	2.847236	0.289876	9.45643	3.680638	0.289876
43	2.833383	0.292933	9.87588	3.502654	0.292933
44	2.680753	0.388023	6.839514	3.438431	0.388023
45	2.683873	0.157526	18.6576	3.524278	0.221041
46	2.743421	0.052527	8.612448	3.518245	0.052527
47	2.969167	0.181386	9.367489	3.756504	0.181386
48	2.491847	0.45317	7.816918	2.997462	0.54624
49	3.475024	0.406277	16.72423	4.103915	0.406277
50	3.13688	0.449933	13.21843	3.651837	0.449933
51	2.635469	0.267345	7.189788	3.50777	0.267345

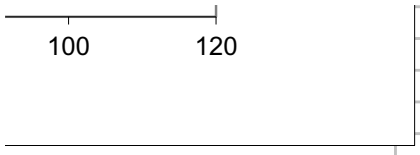

52	3.086412	0.412026	11.14049	3.452338	0.646242
53	2.906641	0.116556	9.728118	4.524389	0.116556
54	3.372905	0.395238	9.765071	3.802217	0.395238
55	3.919693	0.31654	17.79396	4.142782	0.31654
56	4.52189	0.284174	19.12278	5.298095	0.284174
57	2.074709	0.615809	5.738993	2.622406	0.770117
58	3.501535	0.680153	11.49131	3.88893	1.130865
59	3.182938	0.897655	5.741561	3.683901	1.01065
60	4.050077	0.308244	11.65111	4.939798	0.560875
61	2.717257	0.126181	5.751027	3.705818	0.242506
62	3.565723	0.764462	8.835061	3.776813	0.764462
63	4.181141	0.6476	10.77467	4.730566	0.6476
64	3.101918	0.461122	5.933853	3.535437	1.274383
65	2.615151	0.53812	5.861252	2.87881	0.53812
66	3.013685	1.809635	4.217734	4.455362	2.513474
67	2.233512	2.163191	2.303833	3.926775	3.403821
68	1.922673	1.202597	2.314007	1.922673	1.202597
69	0.818251	0.5909	1.045601	1.020542	0.5909
70	2.909661	1.889164	4.141813	2.909661	1.889164
71	3.394926	2.806034	3.932079	4.45434	2.806034
72	2.951882	0.31267	10.06143	3.554237	0.505834
73	3.379351	0.545555	5.716206	3.718464	0.545555
74	3.198187	1.279296	4.542018	4.06034	3.157489
75	2.791718	1.669238	3.914199	4.203553	1.669238
76	2.346589	1.758371	2.934808	4.854551	1.758371
77	8.520713	8.520713	8.520713	11.69221	11.69221
78	2.706345	2.706345	2.706345	4.933109	4.933109
79	1.879237	1.879237	1.879237	1.879237	1.879237
80	2.197084	1.650319	2.743849	3.474955	2.743849
83	2.789289	0.400236	7.124678	2.852685	0.400236
84	1.111581	1.111581	1.111581	1.111581	1.111581
85	7.028539	1.506885	14.6166	7.028539	1.506885
90	1.173599	1.173599	1.173599	2.19678	2.19678
99	1.984631	1.984631	1.984631	3.55229	3.55229
103	1.748454	1.748454	1.748454	1.748454	1.748454

k Of Avg Off	TimeLag	Summary
2.371853	5	
1.672192	3	
16.01357	3	
4.725717	4	
6.822186	2	
8.886519	6	
5.732011	6	
5.232293	8	
6.022357	7	
5.984994	8	3.220294
5.935505	11	
4.448045	11	
9.852555	13	
6.869385	12	
6.872032	15	
10.84172	22	
9.310624	31	
9.801854	29	
10.64956	39	
9.431997	38	3.135073
12.17074	47	
13.27871	42	
11.48387	42	
11.23309	40	
10.32651	70	
13.24239	68	
10.96966	76	
14.34652	89	
13.99692	77	
11.36059	86	
14.24515	97	
11.98199	94	
17.31385	103	
13.56041	102	
10.90258	119	
11.00787	89	
13.49183	104	
24.32512	88	
11.27449	89	
14.82637	101	
15.33626	90	
23.05266	77	
10.93453	79	
9.532551	73	
18.6576	70	
12.19209	63	
15.34716	63	
8.596105	50	
16.72423	54	
13.21843	49	
12.82727	42	

11.14049	32
15.43923	31
10.32354	21
17.79396	27
19.12278	18
8.274121	19
11.49131	13
7.702862	13
18.25983	15
11.10574	17
8.835061	13
10.77467	13
5.933853	3
6.067542	10
6.39725	2
4.449729	2
2.314007	3
1.450184	2
4.141813	3
7.285992	4
10.06143	5
5.716206	5
5.250284	3
6.737868	2
7.950732	2
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4.933109	1
1.879237	1
4.20606	2
7.124678	5
1.111581	1
14.6166	3
2.19678	1
3.55229	1
1.748454	1

219	1	5.58E-05	0.015	0.015	2.94522E-06
2283	2	4.28E-04	0.0125	0.0275	5.39957E-06
4061	3	4.37E-04	0.01	0.0375	7.36305E-06
6430	3	8.49E-04	0.01	0.0475	9.32653E-06
5924	3	0.001038	0.01	0.0575	1.129E-05
8746	3	0.001043	0.01	0.0675	1.32535E-05
1543	1	0.001226	0.015	0.0825	1.61987E-05
940	1	0.001335	0.015	0.0975	1.91439E-05
7895	3	0.001601	0.01	0.1075	2.11074E-05
3806	3	0.001632	0.01	0.1175	2.30709E-05
5517	3	0.001691	0.01	0.1275	2.50344E-05
4356	3	0.001739	0.01	0.1375	2.69978E-05
3471	3	0.001789	0.01	0.1475	2.89613E-05
5288	3	0.001795	0.01	0.1575	3.09248E-05
1427	1	0.001936	0.015	0.1725	3.387E-05
5160	3	0.002207	0.01	0.1825	3.58335E-05
1797	2	0.002632	0.0125	0.195	3.82878E-05
2570	2	0.003263	0.0125	0.2075	4.07422E-05
1158	1	0.003263	0.015	0.2225	4.36874E-05
1934	2	0.003311	0.0125	0.235	4.61418E-05
3538	3	0.003399	0.01	0.245	4.81052E-05
1855	2	0.003541	0.0125	0.2575	5.05596E-05
7317	3	0.00369	0.01	0.2675	5.25231E-05
1910	2	0.003881	0.0125	0.28	5.49774E-05
5772	3	0.00393	0.01	0.29	5.69409E-05
43	1	0.004126	0.015	0.305	5.98861E-05
1119	1	0.004232	0.015	0.32	6.28313E-05
1919	2	0.004388	0.0125	0.3325	6.52857E-05
8395	3	0.004932	0.01	0.3425	6.72492E-05
1588	1	0.005373	0.015	0.3575	7.01944E-05
2512	2	0.005591	0.0125	0.37	7.26487E-05
240	1	0.005875	0.015	0.385	7.5594E-05
627	1	0.006209	0.015	0.4	7.85392E-05
1860	2	0.006342	0.0125	0.4125	8.09935E-05
1630	1	0.006654	0.015	0.4275	8.39387E-05
8490	3	0.006872	0.01	0.4375	8.59022E-05
7520	3	0.007068	0.01	0.4475	8.78657E-05
8174	3	0.007624	0.01	0.4575	8.98292E-05
9314	4	0.007662	0.01	0.4675	9.17927E-05
3357	3	0.00792	0.01	0.4775	9.37561E-05
3620	3	0.007975	0.01	0.4875	9.57196E-05
2889	2	0.008317	0.0125	0.5	9.8174E-05
743	1	0.008421	0.015	0.515	0.000101119
1863	2	0.008531	0.0125	0.5275	0.000103574
4441	3	0.008537	0.01	0.5375	0.000105537
1277	1	0.008629	0.015	0.5525	0.000108482
7006	3	0.009124	0.01	0.5625	0.000110446
7201	3	0.009284	0.01	0.5725	0.000112409
1311	1	0.009519	0.015	0.5875	0.000115354
1807	2	0.009805	0.0125	0.6	0.000117809
425	1	0.009934	0.015	0.615	0.000120754
8289	3	0.009944	0.01	0.625	0.000122717

5093 number of nodes

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1	0
1	0.01
2	0.01
2	0.005
6	0.005
6	0

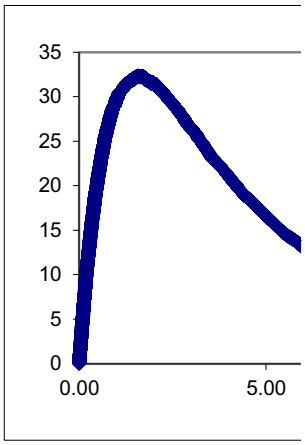

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8493	3	0.010063	0.01	0.65	0.000127626
439	1	0.010353	0.015	0.665	0.000130571
1690	1	0.010415	0.015	0.68	0.000133517
7480	3	0.010473	0.01	0.69	0.00013548
4249	3	0.01058	0.01	0.7	0.000137444
6175	3	0.010707	0.01	0.71	0.000139407
4597	3	0.010715	0.01	0.72	0.000141371
2714	2	0.010854	0.0125	0.7325	0.000143825
1968	2	0.011434	0.0125	0.745	0.000146279
3889	3	0.011458	0.01	0.755	0.000148243
7897	3	0.011745	0.01	0.765	0.000150206
2509	2	0.012533	0.0125	0.7775	0.000152661
4103	3	0.012538	0.01	0.7875	0.000154624
528	1	0.012672	0.015	0.8025	0.000157569
7728	3	0.012927	0.01	0.8125	0.000159533
5538	3	0.013172	0.01	0.8225	0.000161496
3046	3	0.01334	0.01	0.8325	0.00016346
3768	3	0.013625	0.01	0.8425	0.000165423
4321	3	0.013869	0.01	0.8525	0.000167387
2182	2	0.014302	0.0125	0.865	0.000169841
2829	2	0.014749	0.0125	0.8775	0.000172295
2435	2	0.014908	0.0125	0.89	0.00017475
1553	1	0.015037	0.015	0.905	0.000177695
1673	1	0.015336	0.015	0.92	0.00018064
8430	3	0.015365	0.01	0.93	0.000182604
7395	3	0.015487	0.01	0.94	0.000184567
3958	3	0.015907	0.01	0.95	0.000186531
6802	3	0.016013	0.01	0.96	0.000188494
6504	3	0.016135	0.01	0.97	0.000190457
1591	1	0.016413	0.015	0.985	0.000193403
7668	3	0.016427	0.01	0.995	0.000195366
519	1	0.016488	0.015	1.01	0.000198311
124	1	0.016536	0.015	1.025	0.000201257
9319	4	0.016718	0.01	1.035	0.00020322
8545	3	0.016804	0.01	1.045	0.000205184
2590	2	0.016814	0.0125	1.0575	0.000207638
1001	1	0.016878	0.015	1.0725	0.000210583
4897	3	0.017061	0.01	1.0825	0.000212547
3450	3	0.017071	0.01	1.0925	0.00021451
6728	3	0.017118	0.01	1.1025	0.000216474
1095	1	0.017295	0.015	1.1175	0.000219419
2830	2	0.017308	0.0125	1.13	0.000221873
8686	3	0.017996	0.01	1.14	0.000223837
9672	4	0.018007	0.01	1.15	0.0002258
7900	3	0.018113	0.01	1.16	0.000227764
4445	3	0.01816	0.01	1.17	0.000229727
1808	2	0.01858	0.0125	1.1825	0.000232181
5895	3	0.018647	0.01	1.1925	0.000234145
2636	2	0.018891	0.0125	1.205	0.000236599
6012	3	0.019641	0.01	1.215	0.000238563
7827	3	0.019656	0.01	1.225	0.000240526

2742	2	0.01967	0.0125	1.2375	0.000242981
4682	3	0.020086	0.01	1.2475	0.000244944
9976	4	0.020602	0.01	1.2575	0.000246908
2773	2	0.020697	0.0125	1.27	0.000249362
8104	3	0.020838	0.01	1.28	0.000251325
4599	3	0.022207	0.01	1.29	0.000253289
2868	2	0.022453	0.0125	1.3025	0.000255743
5702	3	0.022876	0.01	1.3125	0.000257707
3526	3	0.023082	0.01	1.3225	0.00025967
8772	4	0.023098	0.01	1.3325	0.000261634
394	1	0.023264	0.015	1.3475	0.000264579
2486	2	0.02377	0.0125	1.36	0.000267033
4766	3	0.024584	0.01	1.37	0.000268997
7441	3	0.024881	0.01	1.38	0.00027096
8614	3	0.025052	0.01	1.39	0.000272924
8589	3	0.02509	0.01	1.4	0.000274887
2734	2	0.025334	0.0125	1.4125	0.000277341
2560	2	0.025346	0.0125	1.425	0.000279796
4524	3	0.025392	0.01	1.435	0.000281759
810	1	0.025486	0.015	1.45	0.000284704
289	1	0.025781	0.015	1.465	0.00028765
2960	3	0.025797	0.01	1.475	0.000289613
1823	2	0.025884	0.0125	1.4875	0.000292068
1595	1	0.026446	0.015	1.5025	0.000295013
78	1	0.026497	0.015	1.5175	0.000297958
1880	2	0.026587	0.0125	1.53	0.000300412
514	1	0.026802	0.015	1.545	0.000303358
1576	1	0.026863	0.015	1.56	0.000306303
5883	3	0.026938	0.01	1.57	0.000308266
123	1	0.027266	0.015	1.585	0.000311211
1832	2	0.027328	0.0125	1.5975	0.000313666
3197	3	0.028068	0.01	1.6075	0.000315629
5784	3	0.028108	0.01	1.6175	0.000317593
269	1	0.028517	0.015	1.6325	0.000320538
264	1	0.028703	0.015	1.6475	0.000323483
5432	3	0.028737	0.01	1.6575	0.000325447
1031	1	0.028829	0.015	1.6725	0.000328392
1440	1	0.029292	0.015	1.6875	0.000331337
2149	2	0.030031	0.0125	1.7	0.000333791
767	1	0.030339	0.015	1.715	0.000336737
6008	3	0.030351	0.01	1.725	0.0003387
5400	3	0.030406	0.01	1.735	0.000340664
680	1	0.03045	0.015	1.75	0.000343609
8577	3	0.030544	0.01	1.76	0.000345572
3128	3	0.030645	0.01	1.77	0.000347536
6514	3	0.030755	0.01	1.78	0.000349499
4750	3	0.030857	0.01	1.79	0.000351463
4911	3	0.031523	0.01	1.8	0.000353426
2484	2	0.031922	0.0125	1.8125	0.000355881
221	1	0.032056	0.015	1.8275	0.000358826
5937	3	0.03216	0.01	1.8375	0.000360789
7128	3	0.032364	0.01	1.8475	0.000362753

2202	2	0.032478	0.0125	1.86	0.000365207
341	1	0.032499	0.015	1.875	0.000368152
7193	3	0.032541	0.01	1.885	0.000370116
1475	1	0.032941	0.015	1.9	0.000373061
8324	3	0.03304	0.01	1.91	0.000375025
9961	4	0.033245	0.01	1.92	0.000376988
2174	2	0.033333	0.0125	1.9325	0.000379442
2009	2	0.033774	0.0125	1.945	0.000381897
9576	4	0.034071	0.01	1.955	0.00038386
8044	3	0.034331	0.01	1.965	0.000385824
554	1	0.034996	0.015	1.98	0.000388769
1428	1	0.035599	0.015	1.995	0.000391714
2027	2	0.035626	0.0125	2.0075	0.000394168
8829	4	0.035819	0.01	2.0175	0.000396132
5853	3	0.03589	0.01	2.0275	0.000398095
6837	3	0.036055	0.01	2.0375	0.000400059
8586	3	0.036114	0.01	2.0475	0.000402022
4441	3	0.036215	-0.005	2.0425	0.000401041
9729	4	0.036258	0.01	2.0525	0.000403004
6880	3	0.036282	0.01	2.0625	0.000404968
6471	3	0.036466	0.01	2.0725	0.000406931
891	1	0.036535	0.015	2.0875	0.000409876
326	1	0.036602	0.015	2.1025	0.000412822
8027	3	0.037029	0.01	2.1125	0.000414785
8259	3	0.03738	0.01	2.1225	0.000416748
4694	3	0.037428	0.01	2.1325	0.000418712
1428	1	0.037727	-0.0075	2.125	0.000417239
5797	3	0.037951	0.01	2.135	0.000419203
9206	4	0.038019	0.01	2.145	0.000421166
6957	3	0.038315	0.01	2.155	0.00042313
6436	3	0.038343	0.01	2.165	0.000425093
8446	3	0.038429	0.01	2.175	0.000427057
4589	3	0.03867	0.01	2.185	0.00042902
5674	3	0.038804	0.01	2.195	0.000430984
192	1	0.03912	0.015	2.21	0.000433929
1156	1	0.039264	0.015	2.225	0.000436874
930	1	0.039605	0.015	2.24	0.000439819
4172	3	0.039763	0.01	2.25	0.000441783
170	1	0.039969	0.015	2.265	0.000444728
547	1	0.040057	0.015	2.28	0.000447673
6362	3	0.040199	0.01	2.29	0.000449637
41	1	0.040917	0.015	2.305	0.000452582
2458	2	0.040936	0.0125	2.3175	0.000455036
5962	3	0.04103	0.01	2.3275	0.000457
3372	3	0.041204	0.01	2.3375	0.000458963
3203	3	0.041645	0.01	2.3475	0.000460927
2283	2	0.041696	-0.00625	2.34125	0.0004597
4408	3	0.041749	0.01	2.35125	0.000461663
8206	3	0.04187	0.01	2.36125	0.000463627
1433	1	0.041907	0.015	2.37625	0.000466572
1167	1	0.041956	0.015	2.39125	0.000469517
272	1	0.042004	0.015	2.40625	0.000472462

8380	3	0.042221	0.01	2.41625	0.000474426
5793	3	0.042452	0.01	2.42625	0.000476389
5821	3	0.042541	0.01	2.43625	0.000478353
2916	3	0.042672	0.01	2.44625	0.000480316
6436	3	0.042948	-0.005	2.44125	0.000479334
1716	1	0.043036	0.015	2.45625	0.00048228
3622	3	0.04312	0.01	2.46625	0.000484243
8459	3	0.043335	0.01	2.47625	0.000486207
4833	3	0.04365	0.01	2.48625	0.00048817
2880	2	0.043901	0.0125	2.49875	0.000490624
319	1	0.04394	0.015	2.51375	0.00049357
4502	3	0.044323	0.01	2.52375	0.000495533
4622	3	0.044465	0.01	2.53375	0.000497497
577	1	0.044799	0.015	2.54875	0.000500442
5806	3	0.044954	0.01	2.55875	0.000502405
2165	2	0.045342	0.0125	2.57125	0.00050486
9361	4	0.045628	0.01	2.58125	0.000506823
9997	4	0.045764	0.01	2.59125	0.000508787
7768	3	0.046201	0.01	2.60125	0.00051075
83	1	0.046542	0.015	2.61625	0.000513695
9414	4	0.046578	0.01	2.62625	0.000515659
7002	3	0.046954	0.01	2.63625	0.000517622
6187	3	0.047057	0.01	2.64625	0.000519586
660	1	0.047146	0.015	2.66125	0.000522531
4524	3	0.047233	-0.005	2.65625	0.000521549
4667	3	0.047338	0.01	2.66625	0.000523513
1307	1	0.048002	0.015	2.68125	0.000526458
40	1	0.048113	0.015	2.69625	0.000529403
461	1	0.048567	0.015	2.71125	0.000532348
4591	3	0.048569	0.01	2.72125	0.000534312
8118	3	0.048617	0.01	2.73125	0.000536275
948	1	0.049075	0.015	2.74625	0.00053922
3280	3	0.049129	0.01	2.75625	0.000541184
2025	2	0.049567	0.0125	2.76875	0.000543638
7692	3	0.049809	0.01	2.77875	0.000545602
998	1	0.049902	0.015	2.79375	0.000548547
6758	3	0.050168	0.01	2.80375	0.000550511
485	1	0.050323	0.015	2.81875	0.000553456
6881	3	0.050831	0.01	2.82875	0.000555419
779	1	0.051951	0.015	2.84375	0.000558364
8121	3	0.051968	0.01	2.85375	0.000560328
1051	1	0.052183	0.015	2.86875	0.000563273
8653	3	0.052195	0.01	2.87875	0.000565237
2579	2	0.052325	0.0125	2.89125	0.000567691
2916	3	0.052333	-0.005	2.88625	0.000566709
1208	1	0.052391	0.015	2.90125	0.000569654
1627	1	0.053398	0.015	2.91625	0.0005726
3455	3	0.053416	0.01	2.92625	0.000574563
1389	1	0.053661	0.015	2.94125	0.000577508
4658	3	0.05385	0.01	2.95125	0.000579472
6420	3	0.05418	0.01	2.96125	0.000581435
2067	2	0.0542	0.0125	2.97375	0.00058389

1509	1	0.054576	0.015	2.98875	0.000586835
5787	3	0.054577	0.01	2.99875	0.000588798
303	1	0.054632	0.015	3.01375	0.000591744
1909	2	0.055008	0.0125	3.02625	0.000594198
6060	3	0.055256	0.01	3.03625	0.000596161
4280	3	0.055796	0.01	3.04625	0.000598125
7872	3	0.055849	0.01	3.05625	0.000600088
3882	3	0.055942	0.01	3.06625	0.000602052
8128	3	0.05604	0.01	3.07625	0.000604015
1370	1	0.056212	0.015	3.09125	0.000606961
7514	3	0.05638	0.01	3.10125	0.000608924
822	1	0.056412	0.015	3.11625	0.000611869
214	1	0.056705	0.015	3.13125	0.000614814
1297	1	0.056807	0.015	3.14625	0.00061776
4662	3	0.056993	0.01	3.15625	0.000619723
3320	3	0.057034	0.01	3.16625	0.000621687
982	1	0.057055	0.015	3.18125	0.000624632
874	1	0.057101	0.015	3.19625	0.000627577
4279	3	0.057242	0.01	3.20625	0.000629541
7117	3	0.057308	0.01	3.21625	0.000631504
8118	3	0.057805	-0.005	3.21125	0.000630522
7552	3	0.057988	0.01	3.22125	0.000632486
2516	2	0.058429	0.0125	3.23375	0.00063494
3068	3	0.058489	0.01	3.24375	0.000636904
4740	3	0.058604	0.01	3.25375	0.000638867
8010	3	0.058696	0.01	3.26375	0.000640831
1456	1	0.058699	0.015	3.27875	0.000643776
9655	4	0.058837	0.01	3.28875	0.000645739
854	1	0.058865	0.015	3.30375	0.000648684
4397	3	0.05897	0.01	3.31375	0.000650648
7728	3	0.059007	-0.005	3.30875	0.000649666
6580	3	0.059175	0.01	3.31875	0.00065163
2632	2	0.059181	0.0125	3.33125	0.000654084
229	1	0.059969	0.015	3.34625	0.000657029
5085	3	0.060058	0.01	3.35625	0.000658993
1452	1	0.060173	0.015	3.37125	0.000661938
1210	1	0.060384	0.015	3.38625	0.000664883
3976	3	0.060434	0.01	3.39625	0.000666847
2068	2	0.060538	0.0125	3.40875	0.000669301
2764	2	0.060615	0.0125	3.42125	0.000671755
3338	3	0.06067	0.01	3.43125	0.000673719
8042	3	0.061131	0.01	3.44125	0.000675682
4100	3	0.061179	0.01	3.45125	0.000677646
8501	3	0.061544	0.01	3.46125	0.000679609
411	1	0.061581	0.015	3.47625	0.000682554
3919	3	0.061696	0.01	3.48625	0.000684518
1165	1	0.061762	0.015	3.50125	0.000687463
3183	3	0.061777	0.01	3.51125	0.000689427
4968	3	0.062009	0.01	3.52125	0.00069139
9078	4	0.062331	0.01	3.53125	0.000693354
2627	2	0.062778	0.0125	3.54375	0.000695808
2957	3	0.063038	0.01	3.55375	0.000697771

158	1	0.06326	0.015	3.56875	0.000700717
540	1	0.063657	0.015	3.58375	0.000703662
2478	2	0.063912	0.0125	3.59625	0.000706116
518	1	0.064087	0.015	3.61125	0.000709061
6690	3	0.06409	0.01	3.62125	0.000711025
1070	1	0.064236	0.015	3.63625	0.00071397
1557	1	0.064279	0.015	3.65125	0.000716915
5817	3	0.064445	0.01	3.66125	0.000718879
6981	3	0.064594	0.01	3.67125	0.000720842
9114	4	0.06461	0.01	3.68125	0.000722806
2057	2	0.065037	0.0125	3.69375	0.00072526
1665	1	0.065064	0.015	3.70875	0.000728205
3667	3	0.065213	0.01	3.71875	0.000730169
1800	2	0.065316	0.0125	3.73125	0.000732623
9798	4	0.06573	0.01	3.74125	0.000734587
2074	2	0.065776	0.0125	3.75375	0.000737041
413	1	0.065828	0.015	3.76875	0.000739986
1562	1	0.065853	0.015	3.78375	0.000742931
1837	2	0.065958	0.0125	3.79625	0.000745386
8269	3	0.066019	0.01	3.80625	0.000747349
1990	2	0.066636	0.0125	3.81875	0.000749804
7376	3	0.066746	0.01	3.82875	0.000751767
5937	3	0.066755	-0.005	3.82375	0.000750785
2527	2	0.066786	0.0125	3.83625	0.00075324
6571	3	0.066822	0.01	3.84625	0.000755203
8544	3	0.066949	0.01	3.85625	0.000757167
4576	3	0.066959	0.01	3.86625	0.00075913
7514	3	0.067019	-0.005	3.86125	0.000758148
2780	2	0.06721	0.0125	3.87375	0.000760603
161	1	0.067242	0.015	3.88875	0.000763548
5337	3	0.067591	0.01	3.89875	0.000765511
485	1	0.067713	-0.0075	3.89125	0.000764039
7799	3	0.067892	0.01	3.90125	0.000766002
5342	3	0.068105	0.01	3.91125	0.000767966
7181	3	0.068214	0.01	3.92125	0.000769929
7836	3	0.06834	0.01	3.93125	0.000771893
1450	1	0.068876	0.015	3.94625	0.000774838
2477	2	0.069165	0.0125	3.95875	0.000777292
2461	2	0.069672	0.0125	3.97125	0.000779747
8741	3	0.069968	0.01	3.98125	0.00078171
7907	3	0.070074	0.01	3.99125	0.000783674
1046	1	0.070362	0.015	4.00625	0.000786619
7155	3	0.070889	0.01	4.01625	0.000788582
3049	3	0.071221	0.01	4.02625	0.000790546
5305	3	0.071322	0.01	4.03625	0.000792509
2398	2	0.071896	0.0125	4.04875	0.000794964
1339	1	0.072046	0.015	4.06375	0.000797909
637	1	0.072467	0.015	4.07875	0.000800854
474	1	0.07254	0.015	4.09375	0.000803799
2723	2	0.072934	0.0125	4.10625	0.000806254
2893	2	0.073009	0.0125	4.11875	0.000808708
8406	3	0.073311	0.01	4.12875	0.000810672

666	1	0.073518	0.015	4.14375	0.000813617
45	1	0.073839	0.015	4.15875	0.000816562
4903	3	0.073878	0.01	4.16875	0.000818525
7213	3	0.073938	0.01	4.17875	0.000820489
1303	1	0.073998	0.015	4.19375	0.000823434
640	1	0.074516	0.015	4.20875	0.000826379
4208	3	0.074591	0.01	4.21875	0.000828343
6666	3	0.0748	0.01	4.22875	0.000830306
589	1	0.07481	0.015	4.24375	0.000833252
6068	3	0.075245	0.01	4.25375	0.000835215
3714	3	0.075655	0.01	4.26375	0.000837178
508	1	0.07646	0.015	4.27875	0.000840124
2769	2	0.076726	0.0125	4.29125	0.000842578
813	1	0.077046	0.015	4.30625	0.000845523
982	1	0.077091	-0.0075	4.29875	0.000844051
2152	2	0.077181	0.0125	4.31125	0.000846505
2923	3	0.077234	0.01	4.32125	0.000848468
8553	3	0.077256	0.01	4.33125	0.000850432
5279	3	0.07748	0.01	4.34125	0.000852395
1923	2	0.077585	0.0125	4.35375	0.00085485
919	1	0.078064	0.015	4.36875	0.000857795
943	1	0.078249	0.015	4.38375	0.00086074
6719	3	0.078279	0.01	4.39375	0.000862704
7213	3	0.078579	-0.005	4.38875	0.000861722
1443	1	0.078692	0.015	4.40375	0.000864667
6455	3	0.07885	0.01	4.41375	0.000866631
247	1	0.078866	0.015	4.42875	0.000869576
5466	3	0.079057	0.01	4.43875	0.000871539
562	1	0.07914	0.015	4.45375	0.000874485
8039	3	0.079486	0.01	4.46375	0.000876448
3393	3	0.079528	0.01	4.47375	0.000878412
7326	3	0.07984	0.01	4.48375	0.000880375
4036	3	0.080139	0.01	4.49375	0.000882339
1973	2	0.080545	0.0125	4.50625	0.000884793
9075	4	0.080891	0.01	4.51625	0.000886756
4749	3	0.081409	0.01	4.52625	0.00088872
8867	4	0.08226	0.01	4.53625	0.000890683
6072	3	0.082645	0.01	4.54625	0.000892647
811	1	0.082791	0.015	4.56125	0.000895592
1867	2	0.083439	0.0125	4.57375	0.000898046
2322	2	0.0836	0.0125	4.58625	0.000900501
5103	3	0.084077	0.01	4.59625	0.000902464
957	1	0.084079	0.015	4.61125	0.000905409
8485	3	0.084187	0.01	4.62125	0.000907373
8652	3	0.084406	0.01	4.63125	0.000909336
6767	3	0.084502	0.01	4.64125	0.0009113
3266	3	0.084513	0.01	4.65125	0.000913263
1024	1	0.08457	0.015	4.66625	0.000916209
6980	3	0.084657	0.01	4.67625	0.000918172
2707	2	0.085061	0.0125	4.68875	0.000920626
4085	3	0.085345	0.01	4.69875	0.00092259
6890	3	0.085437	0.01	4.70875	0.000924553

262	1	0.085496	0.015	4.72375	0.000927499
1293	1	0.085724	0.015	4.73875	0.000930444
4242	3	0.08594	0.01	4.74875	0.000932407
172	1	0.08611	0.015	4.76375	0.000935352
4592	3	0.086204	0.01	4.77375	0.000937316
1655	1	0.086692	0.015	4.78875	0.000940261
7019	3	0.086915	0.01	4.79875	0.000942225
7846	3	0.086928	0.01	4.80875	0.000944188
1880	2	0.08711	-0.00625	4.8025	0.000942961
2389	2	0.087124	0.0125	4.815	0.000945415
3350	3	0.08798	0.01	4.825	0.000947379
4304	3	0.088191	0.01	4.835	0.000949342
4066	3	0.088342	0.01	4.845	0.000951306
3146	3	0.088509	0.01	4.855	0.000953269
326	1	0.088735	-0.0075	4.8475	0.000951797
708	1	0.088901	0.015	4.8625	0.000954742
1553	1	0.089096	-0.0075	4.855	0.000953269
2459	2	0.089267	0.0125	4.8675	0.000955724
2098	2	0.089833	0.0125	4.88	0.000958178
6763	3	0.090121	0.01	4.89	0.000960141
8435	3	0.09021	0.01	4.9	0.000962105
4600	3	0.090387	0.01	4.91	0.000964068
2349	2	0.090592	0.0125	4.9225	0.000966523
466	1	0.090623	0.015	4.9375	0.000969468
8142	3	0.090631	0.01	4.9475	0.000971431
5355	3	0.090717	0.01	4.9575	0.000973395
1310	1	0.090783	0.015	4.9725	0.00097634
9534	4	0.091144	0.01	4.9825	0.000978304
8997	4	0.091553	0.01	4.9925	0.000980267
2125	2	0.091604	0.0125	5.005	0.000982721
8163	3	0.091664	0.01	5.015	0.000984685
3161	3	0.091782	0.01	5.025	0.000986648
810	1	0.091802	-0.0075	5.0175	0.000985176
264	1	0.092119	-0.0075	5.01	0.000983703
5841	3	0.092316	0.01	5.02	0.000985667
1973	2	0.092323	-0.00625	5.01375	0.000984439
1906	2	0.093009	0.0125	5.02625	0.000986894
9018	4	0.093099	0.01	5.03625	0.000988857
5579	3	0.093106	0.01	5.04625	0.000990821
8415	3	0.093192	0.01	5.05625	0.000992784
5854	3	0.093254	0.01	5.06625	0.000994748
9971	4	0.093331	0.01	5.07625	0.000996711
7615	3	0.093556	0.01	5.08625	0.000998675
8082	3	0.093716	0.01	5.09625	0.001000638
3468	3	0.093775	0.01	5.10625	0.001002602
3851	3	0.093825	0.01	5.11625	0.001004565
4402	3	0.094033	0.01	5.12625	0.001006529
4084	3	0.094123	0.01	5.13625	0.001008492
6912	3	0.094171	0.01	5.14625	0.001010456
23	1	0.094264	0.015	5.16125	0.001013401
5720	3	0.094595	0.01	5.17125	0.001015364
1918	2	0.094737	0.0125	5.18375	0.001017819

1728	1	0.094908	0.015	5.19875	0.001020764
6420	3	0.095453	-0.005	5.19375	0.001019782
4600	3	0.09551	-0.005	5.18875	0.0010188
200	1	0.095517	0.015	5.20375	0.001021746
3826	3	0.095754	0.01	5.21375	0.001023709
6758	3	0.096127	-0.005	5.20875	0.001022727
1002	1	0.096264	0.015	5.22375	0.001025672
124	1	0.09637	-0.0075	5.21625	0.0010242
919	1	0.096589	-0.0075	5.20875	0.001022727
9851	4	0.096671	0.01	5.21875	0.001024691
7065	3	0.096896	0.01	5.22875	0.001026654
1357	1	0.097338	0.015	5.24375	0.001029599
582	1	0.097452	0.015	5.25875	0.001032545
510	1	0.097791	0.015	5.27375	0.00103549
5027	3	0.098072	0.01	5.28375	0.001037453
1746	1	0.098269	0.015	5.29875	0.001040399
7034	3	0.099195	0.01	5.30875	0.001042362
6451	3	0.09959	0.01	5.31875	0.001044326
1737	1	0.099633	0.015	5.33375	0.001047271
1732	1	0.099635	0.015	5.34875	0.001050216
2169	2	0.099685	0.0125	5.36125	0.00105267
1286	1	0.100078	0.015	5.37625	0.001055616
5688	3	0.100504	0.01	5.38625	0.001057579
8493	3	0.100576	-0.005	5.38125	0.001056597
6998	3	0.101032	0.01	5.39125	0.001058561
1346	1	0.10114	0.015	5.40625	0.001061506
554	1	0.101599	-0.0075	5.39875	0.001060033
960	1	0.101732	0.015	5.41375	0.001062979
2744	2	0.101893	0.0125	5.42625	0.001065433
7992	3	0.102033	0.01	5.43625	0.001067396
4331	3	0.102111	0.01	5.44625	0.00106936
8907	4	0.10239	0.01	5.45625	0.001071323
3400	3	0.102659	0.01	5.46625	0.001073287
1648	1	0.10279	0.015	5.48125	0.001076232
4334	3	0.102835	0.01	5.49125	0.001078196
9438	4	0.102948	0.01	5.50125	0.001080159
8096	3	0.103025	0.01	5.51125	0.001082123
294	1	0.103048	0.015	5.52625	0.001085068
946	1	0.103216	0.015	5.54125	0.001088013
6096	3	0.103507	0.01	5.55125	0.001089976
5087	3	0.103567	0.01	5.56125	0.00109194
1252	1	0.103848	0.015	5.57625	0.001094885
620	1	0.103977	0.015	5.59125	0.00109783
2522	2	0.103994	0.0125	5.60375	0.001100285
3106	3	0.104043	0.01	5.61375	0.001102248
3668	3	0.104172	0.01	5.62375	0.001104212
2677	2	0.104272	0.0125	5.63625	0.001106666
2175	2	0.104553	0.0125	5.64875	0.00110912
5456	3	0.104641	0.01	5.65875	0.001111084
4056	3	0.104757	0.01	5.66875	0.001113047
1001	1	0.104988	-0.0075	5.66125	0.001111575
7752	3	0.105002	0.01	5.67125	0.001113538

5253	3	0.105493	0.01	5.68125	0.001115502
7893	3	0.105514	0.01	5.69125	0.001117465
13	1	0.105678	0.015	5.70625	0.00112041
8146	3	0.105851	0.01	5.71625	0.001122374
2628	2	0.107241	0.0125	5.72875	0.001124828
2342	2	0.107247	0.0125	5.74125	0.001127283
7084	3	0.107354	0.01	5.75125	0.001129246
3443	3	0.107635	0.01	5.76125	0.00113121
4730	3	0.10764	0.01	5.77125	0.001133173
1465	1	0.107751	0.015	5.78625	0.001136118
3446	3	0.107793	0.01	5.79625	0.001138082
2589	2	0.107875	0.0125	5.80875	0.001140536
3422	3	0.107899	0.01	5.81875	0.0011425
3787	3	0.107979	0.01	5.82875	0.001144463
7312	3	0.10825	0.01	5.83875	0.001146426
7212	3	0.108305	0.01	5.84875	0.00114839
3343	3	0.108314	0.01	5.85875	0.001150353
2802	2	0.108538	0.0125	5.87125	0.001152808
3919	3	0.108586	-0.005	5.86625	0.001151826
599	1	0.108682	0.015	5.88125	0.001154771
481	1	0.108716	0.015	5.89625	0.001157716
5400	3	0.108788	-0.005	5.89125	0.001156735
7546	3	0.108941	0.01	5.90125	0.001158698
3630	3	0.109035	0.01	5.91125	0.001160662
9798	4	0.109042	-0.005	5.90625	0.00115968
1152	1	0.109308	0.015	5.92125	0.001162625
2581	2	0.109369	0.0125	5.93375	0.00116508
398	1	0.109449	0.015	5.94875	0.001168025
1458	1	0.10952	0.015	5.96375	0.00117097
3796	3	0.109535	0.01	5.97375	0.001172933
5540	3	0.10958	0.01	5.98375	0.001174897
3101	3	0.110119	0.01	5.99375	0.00117686
4754	3	0.110316	0.01	6.00375	0.001178824
1528	1	0.110481	0.015	6.01875	0.001181769
3368	3	0.110503	0.01	6.02875	0.001183733
7168	3	0.110551	0.01	6.03875	0.001185696
7002	3	0.111034	-0.005	6.03375	0.001184714
8112	3	0.111229	0.01	6.04375	0.001186678
3206	3	0.111509	0.01	6.05375	0.001188641
45	1	0.111636	-0.0075	6.04625	0.001187169
5841	3	0.111741	-0.005	6.04125	0.001186187
472	1	0.11179	0.015	6.05625	0.001189132
9589	4	0.112099	0.01	6.06625	0.001191096
6861	3	0.112169	0.01	6.07625	0.001193059
8726	3	0.11221	0.01	6.08625	0.001195023
1270	1	0.112221	0.015	6.10125	0.001197968
4036	3	0.112299	-0.005	6.09625	0.001196986
3228	3	0.112395	0.01	6.10625	0.00119895
1707	1	0.112404	0.015	6.12125	0.001201895
2605	2	0.112536	0.0125	6.13375	0.001204349
4083	3	0.112553	0.01	6.14375	0.001206313
1933	2	0.112784	0.0125	6.15625	0.001208767

9835	4	0.11285	0.01	6.16625	0.00121073
2723	2	0.113026	-0.00625	6.16	0.001209503
3861	3	0.113068	0.01	6.17	0.001211467
1316	1	0.113277	0.015	6.185	0.001214412
2544	2	0.113726	0.0125	6.1975	0.001216866
609	1	0.113952	0.015	6.2125	0.001219812
4348	3	0.114308	0.01	6.2225	0.001221775
1686	1	0.114365	0.015	6.2375	0.00122472
4558	3	0.114408	0.01	6.2475	0.001226684
887	1	0.115077	0.015	6.2625	0.001229629
6313	3	0.115196	0.01	6.2725	0.001231592
8589	3	0.115413	-0.005	6.2675	0.001230611
609	1	0.115448	-0.0075	6.26	0.001229138
873	1	0.115627	0.015	6.275	0.001232083
174	1	0.115631	0.015	6.29	0.001235028
928	1	0.115708	0.015	6.305	0.001237974
2486	2	0.115966	-0.00625	6.29875	0.001236747
5854	3	0.11612	-0.005	6.29375	0.001235765
2573	2	0.116136	0.0125	6.30625	0.001238219
6723	3	0.116574	0.01	6.31625	0.001240183
4911	3	0.116643	-0.005	6.31125	0.001239201
2611	2	0.116655	0.0125	6.32375	0.001241655
836	1	0.116815	0.015	6.33875	0.0012446
8648	3	0.116816	0.01	6.34875	0.001246564
1329	1	0.116883	0.015	6.36375	0.001249509
7759	3	0.117395	0.01	6.37375	0.001251473
692	1	0.117566	0.015	6.38875	0.001254418
975	1	0.118226	0.015	6.40375	0.001257363
700	1	0.118321	0.015	6.41875	0.001260308
7974	3	0.118601	0.01	6.42875	0.001262272
2116	2	0.118629	0.0125	6.44125	0.001264726
1050	1	0.118645	0.015	6.45625	0.001267671
6431	3	0.118967	0.01	6.46625	0.001269635
2620	2	0.119148	0.0125	6.47875	0.001272089
2763	2	0.119235	0.0125	6.49125	0.001274543
8080	3	0.119269	0.01	6.50125	0.001276507
3442	3	0.119285	0.01	6.51125	0.00127847
4974	3	0.119397	0.01	6.52125	0.001280434
1386	1	0.119674	0.015	6.53625	0.001283379
5233	3	0.119697	0.01	6.54625	0.001285343
9715	4	0.119905	0.01	6.55625	0.001287306
1738	1	0.119913	0.015	6.57125	0.001290251
1110	1	0.120001	0.015	6.58625	0.001293197
9127	4	0.12021	0.01	6.59625	0.00129516
4777	3	0.120548	0.01	6.60625	0.001297124
7301	3	0.120571	0.01	6.61625	0.001299087
3180	3	0.120627	0.01	6.62625	0.00130105
2552	2	0.120798	0.0125	6.63875	0.001303505
6199	3	0.120913	0.01	6.64875	0.001305468
7188	3	0.120978	0.01	6.65875	0.001307432
100	1	0.120986	0.015	6.67375	0.001310377
8438	3	0.121199	0.01	6.68375	0.00131234

7480	3	0.122021	-0.005	6.67875	0.001311359
6430	3	0.12242	-0.005	6.67375	0.001310377
6075	3	0.122739	0.01	6.68375	0.00131234
1954	2	0.123015	0.0125	6.69625	0.001314795
8769	4	0.123087	0.01	6.70625	0.001316758
8227	3	0.1232	0.01	6.71625	0.001318722
723	1	0.12328	0.015	6.73125	0.001321667
1763	1	0.123346	0.015	6.74625	0.001324612
8561	3	0.123881	0.01	6.75625	0.001326576
1480	1	0.123957	0.015	6.77125	0.001329521
7640	3	0.124203	0.01	6.78125	0.001331484
2377	2	0.124315	0.0125	6.79375	0.001333939
2396	2	0.124698	0.0125	6.80625	0.001336393
4924	3	0.125168	0.01	6.81625	0.001338357
7262	3	0.125619	0.01	6.82625	0.00134032
3826	3	0.125704	-0.005	6.82125	0.001339338
7153	3	0.125743	0.01	6.83125	0.001341302
2741	2	0.126018	0.0125	6.84375	0.001343756
7862	3	0.126036	0.01	6.85375	0.00134572
1909	2	0.126156	-0.00625	6.8475	0.001344492
908	1	0.126408	0.015	6.8625	0.001347438
3181	3	0.126623	0.01	6.8725	0.001349401
2503	2	0.12667	0.0125	6.885	0.001351855
7009	3	0.126692	0.01	6.895	0.001353819
8998	4	0.126728	0.01	6.905	0.001355782
4269	3	0.127394	0.01	6.915	0.001357746
1769	1	0.127444	0.015	6.93	0.001360691
4028	3	0.127596	0.01	6.94	0.001362655
5410	3	0.127603	0.01	6.95	0.001364618
9462	4	0.127624	0.01	6.96	0.001366582
6262	3	0.127665	0.01	6.97	0.001368545
9379	4	0.127858	0.01	6.98	0.001370509
9822	4	0.128008	0.01	6.99	0.001372472
3285	3	0.128389	0.01	7	0.001374435
8011	3	0.128548	0.01	7.01	0.001376399
7073	3	0.128557	0.01	7.02	0.001378362
1461	1	0.12886	0.015	7.035	0.001381308
9414	4	0.129242	-0.005	7.03	0.001380326
7360	3	0.129246	0.01	7.04	0.001382289
2750	2	0.129399	0.0125	7.0525	0.001384744
8442	3	0.129545	0.01	7.0625	0.001386707
174	1	0.129551	-0.0075	7.055	0.001385235
3349	3	0.129608	0.01	7.065	0.001387198
6130	3	0.129935	0.01	7.075	0.001389162
562	1	0.130034	-0.0075	7.0675	0.001387689
5636	3	0.130145	0.01	7.0775	0.001389652
6594	3	0.13036	0.01	7.0875	0.001391616
6846	3	0.130466	0.01	7.0975	0.001393579
842	1	0.131051	0.015	7.1125	0.001396525
455	1	0.13118	0.015	7.1275	0.00139947
6593	3	0.131239	0.01	7.1375	0.001401433
3854	3	0.131726	0.01	7.1475	0.001403397

4606	3	0.131778	0.01	7.1575	0.00140536
63	1	0.13178	0.015	7.1725	0.001408306
6567	3	0.131853	0.01	7.1825	0.001410269
5538	3	0.13191	-0.005	7.1775	0.001409287
5850	3	0.131977	0.01	7.1875	0.001411251
1973	2	0.132751	-0.00625	7.18125	0.001410024
4306	3	0.132763	0.01	7.19125	0.001411987
3041	3	0.132947	0.01	7.20125	0.001413951
5688	3	0.132951	-0.005	7.19625	0.001412969
9698	4	0.133215	0.01	7.20625	0.001414932
7213	3	0.13328	-0.005	7.20125	0.001413951
469	1	0.133361	0.015	7.21625	0.001416896
1555	1	0.133576	0.015	7.23125	0.001419841
1067	1	0.134136	0.015	7.24625	0.001422786
6008	3	0.134252	-0.005	7.24125	0.001421804
5838	3	0.134564	0.01	7.25125	0.001423768
7400	3	0.13537	0.01	7.26125	0.001425731
7841	3	0.135389	0.01	7.27125	0.001427695
2557	2	0.135411	0.0125	7.28375	0.001430149
41	1	0.135555	-0.0075	7.27625	0.001428677
2298	2	0.135733	0.0125	7.28875	0.001431131
1501	1	0.135967	0.015	7.30375	0.001434076
1739	1	0.136253	0.015	7.31875	0.001437021
4021	3	0.136483	0.01	7.32875	0.001438985
9012	4	0.13658	0.01	7.33875	0.001440948
1590	1	0.136629	0.015	7.35375	0.001443894
610	1	0.136655	0.015	7.36875	0.001446839
5162	3	0.137038	0.01	7.37875	0.001448802
7131	3	0.137133	0.01	7.38875	0.001450766
5427	3	0.137474	0.01	7.39875	0.001452729
5967	3	0.137549	0.01	7.40875	0.001454693
2408	2	0.137562	0.0125	7.42125	0.001457147
8315	3	0.137637	0.01	7.43125	0.001459111
7479	3	0.13795	0.01	7.44125	0.001461074
319	1	0.138189	-0.0075	7.43375	0.001459601
968	1	0.138326	0.015	7.44875	0.001462547
3508	3	0.138676	0.01	7.45875	0.00146451
5503	3	0.138741	0.01	7.46875	0.001466474
7849	3	0.138821	0.01	7.47875	0.001468437
5836	3	0.138908	0.01	7.48875	0.001470401
46	1	0.138918	0.015	7.50375	0.001473346
8410	3	0.139051	0.01	7.51375	0.001475309
5880	3	0.139089	0.01	7.52375	0.001477273
3667	3	0.139205	-0.005	7.51875	0.001476291
1016	1	0.139246	0.015	7.53375	0.001479236
6084	3	0.139325	0.01	7.54375	0.0014812
7600	3	0.139495	0.01	7.55375	0.001483163
627	1	0.139785	-0.0075	7.54625	0.001481691
2887	2	0.139931	0.0125	7.55875	0.001484145
4836	3	0.140003	0.01	7.56875	0.001486108
518	1	0.140012	-0.0075	7.56125	0.001484636
3191	3	0.140225	0.01	7.57125	0.001486599

660	1	0.140263	-0.0075	7.56375	0.001485127
8321	3	0.140673	0.01	7.57375	0.00148709
6104	3	0.140927	0.01	7.58375	0.001489054
6614	3	0.141107	0.01	7.59375	0.001491017
7552	3	0.141147	-0.005	7.58875	0.001490035
517	1	0.141179	0.015	7.60375	0.001492981
1167	1	0.141323	-0.0075	7.59625	0.001491508
775	1	0.141325	0.015	7.61125	0.001494453
749	1	0.141378	0.015	7.62625	0.001497398
3122	3	0.141684	0.01	7.63625	0.001499362
8212	3	0.141783	0.01	7.64625	0.001501325
6250	3	0.142208	0.01	7.65625	0.001503289
3189	3	0.142397	0.01	7.66625	0.001505252
7829	3	0.142559	0.01	7.67625	0.001507216
2154	2	0.143042	0.0125	7.68875	0.00150967
841	1	0.143722	0.015	7.70375	0.001512615
1015	1	0.143887	0.015	7.71875	0.001515561
278	1	0.144008	0.015	7.73375	0.001518506
3700	3	0.144041	0.01	7.74375	0.001520469
2677	2	0.144231	-0.00625	7.7375	0.001519242
1730	1	0.144554	0.015	7.7525	0.001522187
6180	3	0.144914	0.01	7.7625	0.001524151
8651	3	0.145137	0.01	7.7725	0.001526114
636	1	0.145232	0.015	7.7875	0.001529059
8046	3	0.145378	0.01	7.7975	0.001531023
6739	3	0.145608	0.01	7.8075	0.001532986
1035	1	0.145959	0.015	7.8225	0.001535932
463	1	0.146374	0.015	7.8375	0.001538877
53	1	0.146513	0.015	7.8525	0.001541822
2245	2	0.146573	0.0125	7.865	0.001544276
8654	3	0.146896	0.01	7.875	0.00154624
4380	3	0.146998	0.01	7.885	0.001548203
1088	1	0.147522	0.015	7.9	0.001551149
5649	3	0.148191	0.01	7.91	0.001553112
6795	3	0.148377	0.01	7.92	0.001555076
9787	4	0.14847	0.01	7.93	0.001557039
2236	2	0.148871	0.0125	7.9425	0.001559493
2513	2	0.149105	0.0125	7.955	0.001561948
9433	4	0.149439	0.01	7.965	0.001563911
2552	2	0.149636	-0.00625	7.95875	0.001562684
1371	1	0.149738	0.015	7.97375	0.001565629
7531	3	0.149743	0.01	7.98375	0.001567593
6259	3	0.14991	0.01	7.99375	0.001569556
2688	2	0.149961	0.0125	8.00625	0.001572011
7155	3	0.150177	-0.005	8.00125	0.001571029
1886	2	0.150192	0.0125	8.01375	0.001573483
493	1	0.150287	0.015	8.02875	0.001576428
4157	3	0.150404	0.01	8.03875	0.001578392
472	1	0.150621	-0.0075	8.03125	0.001576919
7944	3	0.150891	0.01	8.04125	0.001578883
9427	4	0.150916	0.01	8.05125	0.001580846
1082	1	0.151068	0.015	8.06625	0.001583791

4987	3	0.151225	0.01	8.07625	0.001585755
6065	3	0.151233	0.01	8.08625	0.001587718
1048	1	0.15183	0.015	8.10125	0.001590664
3717	3	0.151843	0.01	8.11125	0.001592627
4080	3	0.152374	0.01	8.12125	0.001594591
8183	3	0.152387	0.01	8.13125	0.001596554
957	1	0.153105	-0.0075	8.12375	0.001595081
9375	4	0.15337	0.01	8.13375	0.001597045
2934	3	0.153906	0.01	8.14375	0.001599008
2437	2	0.153993	0.0125	8.15625	0.001601463
573	1	0.154098	0.015	8.17125	0.001604408
2327	2	0.154728	0.0125	8.18375	0.001606862
6537	3	0.154917	0.01	8.19375	0.001608826
1550	1	0.155015	0.015	8.20875	0.001611771
89	1	0.155072	0.015	8.22375	0.001614716
7892	3	0.155182	0.01	8.23375	0.00161668
4635	3	0.155368	0.01	8.24375	0.001618643
7627	3	0.155407	0.01	8.25375	0.001620607
491	1	0.155413	0.015	8.26875	0.001623552
5608	3	0.155652	0.01	8.27875	0.001625515
5003	3	0.155778	0.01	8.28875	0.001627479
390	1	0.155885	0.015	8.30375	0.001630424
1651	1	0.155932	0.015	8.31875	0.001633369
2373	2	0.155974	0.0125	8.33125	0.001635824
299	1	0.15613	0.015	8.34625	0.001638769
7980	3	0.156447	0.01	8.35625	0.001640732
13	1	0.156868	-0.0075	8.34875	0.00163926
1039	1	0.157022	0.015	8.36375	0.001642205
2304	2	0.157178	0.0125	8.37625	0.001644659
1688	1	0.157198	0.015	8.39125	0.001647605
2884	2	0.157509	0.0125	8.40375	0.001650059
2334	2	0.157528	0.0125	8.41625	0.001652513
3786	3	0.157805	0.01	8.42625	0.001654477
6200	3	0.1584	0.01	8.43625	0.00165644
6980	3	0.1584	-0.005	8.43125	0.001655458
6062	3	0.158429	0.01	8.44125	0.001657422
1705	1	0.158626	0.015	8.45625	0.001660367
5475	3	0.158725	0.01	8.46625	0.001662331
3029	3	0.158914	0.01	8.47625	0.001664294
2237	2	0.15902	0.0125	8.48875	0.001666748
8937	4	0.159061	0.01	8.49875	0.001668712
1445	1	0.159124	0.015	8.51375	0.001671657
2627	2	0.159364	-0.00625	8.5075	0.00167043
1210	1	0.159456	-0.0075	8.5	0.001668957
1263	1	0.159515	0.015	8.515	0.001671903
985	1	0.159695	0.015	8.53	0.001674848
330	1	0.159731	0.015	8.545	0.001677793
8689	3	0.159943	0.01	8.555	0.001679757
5800	3	0.160053	0.01	8.565	0.00168172
5305	3	0.160151	-0.005	8.56	0.001680738
4574	3	0.160239	0.01	8.57	0.001682702
3145	3	0.160345	0.01	8.58	0.001684665

971	1	0.160418	0.015	8.595	0.00168761
9383	4	0.160694	0.01	8.605	0.001689574
5223	3	0.161173	0.01	8.615	0.001691537
5077	3	0.161175	0.01	8.625	0.001693501
8193	3	0.161358	0.01	8.635	0.001695464
2630	2	0.161403	0.0125	8.6475	0.001697919
1635	1	0.16145	0.015	8.6625	0.001700864
6857	3	0.161521	0.01	8.6725	0.001702827
2558	2	0.161582	0.0125	8.685	0.001705282
1533	1	0.162074	0.015	8.7	0.001708227
2821	2	0.162306	0.0125	8.7125	0.001710681
8387	3	0.162432	0.01	8.7225	0.001712645
2247	2	0.162811	0.0125	8.735	0.001715099
155	1	0.163107	0.015	8.75	0.001718044
764	1	0.163365	0.015	8.765	0.00172099
7405	3	0.164099	0.01	8.775	0.001722953
610	1	0.164139	-0.0075	8.7675	0.00172148
1882	2	0.164358	0.0125	8.78	0.001723935
182	1	0.164747	0.015	8.795	0.00172688
7950	3	0.164836	0.01	8.805	0.001728844
775	1	0.164861	-0.0075	8.7975	0.001727371
3500	3	0.164912	0.01	8.8075	0.001729334
3181	3	0.164945	-0.005	8.8025	0.001728353
1843	2	0.165011	0.0125	8.815	0.001730807
5337	3	0.165029	-0.005	8.81	0.001729825
2896	2	0.165091	0.0125	8.8225	0.00173228
7090	3	0.165241	0.01	8.8325	0.001734243
7781	3	0.165964	0.01	8.8425	0.001736207
2946	3	0.166728	0.01	8.8525	0.00173817
4655	3	0.166919	0.01	8.8625	0.001740134
2737	2	0.167046	0.0125	8.875	0.001742588
5295	3	0.167326	0.01	8.885	0.001744551
2540	2	0.167402	0.0125	8.8975	0.001747006
9669	4	0.167704	0.01	8.9075	0.001748969
7555	3	0.167725	0.01	8.9175	0.001750933
2454	2	0.167781	0.0125	8.93	0.001753387
6829	3	0.167828	0.01	8.94	0.00175535
9092	4	0.167914	0.01	8.95	0.001757314
1846	2	0.168034	0.0125	8.9625	0.001759768
7209	3	0.168403	0.01	8.9725	0.001761732
1311	1	0.168447	-0.0075	8.965	0.001760259
6056	3	0.168547	0.01	8.975	0.001762223
7584	3	0.168593	0.01	8.985	0.001764186
319	1	0.168658	-0.0075	8.9775	0.001762714
1662	1	0.168793	0.015	8.9925	0.001765659
2116	2	0.168891	-0.00625	8.98625	0.001764432
780	1	0.169084	0.015	9.00125	0.001767377
5096	3	0.169791	0.01	9.01125	0.00176934
6868	3	0.16983	0.01	9.02125	0.001771304
2447	2	0.170153	0.0125	9.03375	0.001773758
937	1	0.170187	0.015	9.04875	0.001776703
2082	2	0.170194	0.0125	9.06125	0.001779158

6314	3	0.170616	0.01	9.07125	0.001781121
6234	3	0.170954	0.01	9.08125	0.001783085
1139	1	0.171076	0.015	9.09625	0.00178603
666	1	0.171225	-0.0075	9.08875	0.001784557
8299	3	0.17144	0.01	9.09875	0.001786521
6992	3	0.171485	0.01	9.10875	0.001788484
5937	3	0.171795	-0.005	9.10375	0.001787502
4768	3	0.171869	0.01	9.11375	0.001789466
887	1	0.172021	-0.0075	9.10625	0.001787993
4395	3	0.172742	0.01	9.11625	0.001789957
2511	2	0.172751	0.0125	9.12875	0.001792411
1296	1	0.172758	0.015	9.14375	0.001795356
9722	4	0.172833	0.01	9.15375	0.00179732
1254	1	0.172889	0.015	9.16875	0.001800265
4157	3	0.173148	-0.005	9.16375	0.001799283
1335	1	0.173204	0.015	9.17875	0.001802229
3666	3	0.173271	0.01	9.18875	0.001804192
836	1	0.173278	-0.0075	9.18125	0.001802719
2506	2	0.1736	0.0125	9.19375	0.001805174
8353	3	0.173666	0.01	9.20375	0.001807137
183	1	0.173856	0.015	9.21875	0.001810082
1262	1	0.173896	0.015	9.23375	0.001813028
1183	1	0.173941	0.015	9.24875	0.001815973
4348	3	0.174058	-0.005	9.24375	0.001814991
4881	3	0.174066	0.01	9.25375	0.001816955
1803	2	0.174226	0.0125	9.26625	0.001819409
1655	1	0.174351	-0.0075	9.25875	0.001817936
1066	1	0.174377	0.015	9.27375	0.001820882
6443	3	0.174732	0.01	9.28375	0.001822845
5121	3	0.174776	0.01	9.29375	0.001824809
8494	3	0.174813	0.01	9.30375	0.001826772
5558	3	0.174852	0.01	9.31375	0.001828736
6893	3	0.175012	0.01	9.32375	0.001830699
7843	3	0.175279	0.01	9.33375	0.001832662
6528	3	0.175286	0.01	9.34375	0.001834626
7400	3	0.175296	-0.005	9.33875	0.001833644
1130	1	0.175638	0.015	9.35375	0.001836589
731	1	0.175656	0.015	9.36875	0.001839535
2174	2	0.175945	-0.00625	9.3625	0.001838307
3536	3	0.176089	0.01	9.3725	0.001840271
6980	3	0.176361	-0.005	9.3675	0.001839289
4279	3	0.176492	-0.005	9.3625	0.001838307
6686	3	0.176513	0.01	9.3725	0.001840271
2053	2	0.17662	0.0125	9.385	0.001842725
516	1	0.177453	0.015	9.4	0.001845671
1421	1	0.17749	0.015	9.415	0.001848616
1385	1	0.177751	0.015	9.43	0.001851561
8049	3	0.177771	0.01	9.44	0.001853524
3338	3	0.178019	-0.005	9.435	0.001852543
6613	3	0.178029	0.01	9.445	0.001854506
5299	3	0.178077	0.01	9.455	0.00185647
7638	3	0.178281	0.01	9.465	0.001858433

1107	1	0.17847	0.015	9.48	0.001861378
8059	3	0.178496	0.01	9.49	0.001863342
5584	3	0.17861	0.01	9.5	0.001865305
5306	3	0.178805	0.01	9.51	0.001867269
2822	2	0.178868	0.0125	9.5225	0.001869723
2850	2	0.178902	0.0125	9.535	0.001872177
8160	3	0.179137	0.01	9.545	0.001874141
92	1	0.179714	0.015	9.56	0.001877086
4438	3	0.179906	0.01	9.57	0.00187905
5780	3	0.179937	0.01	9.58	0.001881013
2824	2	0.179968	0.0125	9.5925	0.001883468
5306	3	0.18008	-0.005	9.5875	0.001882486
707	1	0.180377	0.015	9.6025	0.001885431
658	1	0.181083	0.015	9.6175	0.001888376
5488	3	0.181425	0.01	9.6275	0.00189034
2369	2	0.181504	0.0125	9.64	0.001892794
2041	2	0.181662	0.0125	9.6525	0.001895248
471	1	0.181737	0.015	9.6675	0.001898194
7074	3	0.181906	0.01	9.6775	0.001900157
2407	2	0.182175	0.0125	9.69	0.001902611
3566	3	0.182206	0.01	9.7	0.001904575
2352	2	0.182226	0.0125	9.7125	0.001907029
2606	2	0.182384	0.0125	9.725	0.001909484
3095	3	0.182437	0.01	9.735	0.001911447
4457	3	0.182456	0.01	9.745	0.001913411
3244	3	0.182492	0.01	9.755	0.001915374
1837	2	0.1827	-0.00625	9.74875	0.001914147
2865	2	0.182819	0.0125	9.76125	0.001916601
1803	2	0.182863	-0.00625	9.755	0.001915374
1273	1	0.182938	0.015	9.77	0.001918319
5667	3	0.183016	0.01	9.78	0.001920283
9342	4	0.183218	0.01	9.79	0.001922246
4453	3	0.183376	0.01	9.8	0.00192421
9369	4	0.18347	0.01	9.81	0.001926173
2681	2	0.183751	0.0125	9.8225	0.001928628
1142	1	0.184199	0.015	9.8375	0.001931573
3212	3	0.184349	0.01	9.8475	0.001933536
3537	3	0.184916	0.01	9.8575	0.0019355
350	1	0.185096	0.015	9.8725	0.001938445
7255	3	0.185557	0.01	9.8825	0.001940408
7895	3	0.18556	-0.005	9.8775	0.001939427
9319	4	0.185599	-0.005	9.8725	0.001938445
1841	2	0.185918	0.0125	9.885	0.001940899
3604	3	0.186024	0.01	9.895	0.001942863
2164	2	0.186202	0.0125	9.9075	0.001945317
974	1	0.186336	0.015	9.9225	0.001948262
4935	3	0.186865	0.01	9.9325	0.001950226
1882	2	0.186958	-0.00625	9.92625	0.001948999
2750	2	0.18696	-0.00625	9.92	0.001947771
1068	1	0.187042	0.015	9.935	0.001950717
5100	3	0.187259	0.01	9.945	0.00195268
5420	3	0.187343	0.01	9.955	0.001954644

5695	3	0.187465	0.01	9.965	0.001956607
9341	4	0.187736	0.01	9.975	0.001958571
8219	3	0.187778	0.01	9.985	0.001960534
8907	4	0.187874	-0.005	9.98	0.001959552
529	1	0.188551	0.015	9.995	0.001962498
6325	3	0.188675	0.01	10.005	0.001964461
2307	2	0.188951	0.0125	10.0175	0.001966915
7085	3	0.189164	0.01	10.0275	0.001968879
2769	2	0.189208	-0.00625	10.02125	0.001967652
782	1	0.189298	0.015	10.03625	0.001970597
336	1	0.189314	0.015	10.05125	0.001973542
6011	3	0.189831	0.01	10.06125	0.001975506
2699	2	0.189944	0.0125	10.07375	0.00197796
1949	2	0.189964	0.0125	10.08625	0.001980414
6431	3	0.189983	-0.005	10.08125	0.001979433
2765	2	0.190131	0.0125	10.09375	0.001981887
21	1	0.190363	0.015	10.10875	0.001984832
2510	2	0.19046	0.0125	10.12125	0.001987286
4005	3	0.19077	0.01	10.13125	0.00198925
908	1	0.190791	-0.0075	10.12375	0.001987777
1984	2	0.190799	0.0125	10.13625	0.001990232
6151	3	0.190929	0.01	10.14625	0.001992195
5142	3	0.191035	0.01	10.15625	0.001994159
5142	3	0.191458	-0.005	10.15125	0.001993177
2433	2	0.19148	0.0125	10.16375	0.001995631
1149	1	0.191542	0.015	10.17875	0.001998576
6620	3	0.191548	0.01	10.18875	0.00200054
1403	1	0.191554	0.015	10.20375	0.002003485
8158	3	0.191634	0.01	10.21375	0.002005449
9609	4	0.191797	0.01	10.22375	0.002007412
7202	3	0.192121	0.01	10.23375	0.002009376
8385	3	0.192155	0.01	10.24375	0.002011339
1404	1	0.192883	0.015	10.25875	0.002014284
1007	1	0.193015	0.015	10.27375	0.00201723
4802	3	0.193057	0.01	10.28375	0.002019193
1819	2	0.193072	0.0125	10.29625	0.002021647
3273	3	0.193454	0.01	10.30625	0.002023611
4642	3	0.193607	0.01	10.31625	0.002025574
4125	3	0.193954	0.01	10.32625	0.002027538
501	1	0.194228	0.015	10.34125	0.002030483
901	1	0.194281	0.015	10.35625	0.002033428
3239	3	0.194354	0.01	10.36625	0.002035392
5669	3	0.19475	0.01	10.37625	0.002037355
6468	3	0.194892	0.01	10.38625	0.002039319
9090	4	0.195003	0.01	10.39625	0.002041282
114	1	0.19516	0.015	10.41125	0.002044227
3047	3	0.19531	0.01	10.42125	0.002046191
5924	3	0.195487	-0.005	10.41625	0.002045209
207	1	0.195552	0.015	10.43125	0.002048154
7999	3	0.195555	0.01	10.44125	0.002050118
6332	3	0.1958	0.01	10.45125	0.002052081
845	1	0.196034	0.015	10.46625	0.002055027

7992	3	0.196524	-0.005	10.46125	0.002054045
5723	3	0.196616	0.01	10.47125	0.002056008
125	1	0.196652	0.015	10.48625	0.002058953
3393	3	0.196702	-0.005	10.48125	0.002057972
1579	1	0.196704	0.015	10.49625	0.002060917
343	1	0.197082	0.015	10.51125	0.002063862
313	1	0.19761	0.015	10.52625	0.002066807
8490	3	0.197701	-0.005	10.52125	0.002065826
2170	2	0.197868	0.0125	10.53375	0.00206828
998	1	0.197959	-0.0075	10.52625	0.002066807
5600	3	0.198169	0.01	10.53625	0.002068771
2096	2	0.19821	0.0125	10.54875	0.002071225
3368	3	0.198511	-0.005	10.54375	0.002070243
2394	2	0.198799	0.0125	10.55625	0.002072698
8690	3	0.198971	0.01	10.56625	0.002074661
9538	4	0.200247	0.01	10.57625	0.002076625
9314	4	0.200359	-0.005	10.57125	0.002075643
883	1	0.200366	0.015	10.58625	0.002078588
3244	3	0.20038	-0.005	10.58125	0.002077607
8080	3	0.200425	-0.005	10.57625	0.002076625
447	1	0.200904	0.015	10.59125	0.00207957
1413	1	0.20143	0.015	10.60625	0.002082515
5639	3	0.201461	0.01	10.61625	0.002084479
2394	2	0.201584	-0.00625	10.61	0.002083252
9158	4	0.201744	0.01	10.62	0.002085215
3068	3	0.201802	-0.005	10.615	0.002084233
4766	3	0.201845	-0.005	10.61	0.002083252
9044	4	0.201978	0.01	10.62	0.002085215
1305	1	0.202277	0.015	10.635	0.00208816
2082	2	0.202307	-0.00625	10.62875	0.002086933
2403	2	0.202686	0.0125	10.64125	0.002089387
1420	1	0.202794	0.015	10.65625	0.002092333
8913	4	0.203048	0.01	10.66625	0.002094296
6578	3	0.203207	0.01	10.67625	0.00209626
2513	2	0.203287	-0.00625	10.67	0.002095032
7320	3	0.203362	0.01	10.68	0.002096996
3894	3	0.203633	0.01	10.69	0.002098959
5038	3	0.203711	0.01	10.7	0.002100923
9092	4	0.204398	-0.005	10.695	0.002099941
2139	2	0.204409	0.0125	10.7075	0.002102395
7730	3	0.204715	0.01	10.7175	0.002104359
5280	3	0.205039	0.01	10.7275	0.002106322
3110	3	0.205218	0.01	10.7375	0.002108286
2406	2	0.205366	0.0125	10.75	0.00211074
2516	2	0.205885	-0.00625	10.74375	0.002109513
3182	3	0.205891	0.01	10.75375	0.002111477
7972	3	0.206112	0.01	10.76375	0.00211344
6075	3	0.206434	-0.005	10.75875	0.002112458
2660	2	0.206458	0.0125	10.77125	0.002114913
4306	3	0.207137	-0.005	10.76625	0.002113931
5784	3	0.207287	-0.005	10.76125	0.002112949
709	1	0.207335	0.015	10.77625	0.002115894

897	1	0.207433	0.015	10.79125	0.00211884
3161	3	0.207654	-0.005	10.78625	0.002117858
2088	2	0.207834	0.0125	10.79875	0.002120312
7861	3	0.207919	0.01	10.80875	0.002122276
4217	3	0.208867	0.01	10.81875	0.002124239
7278	3	0.209178	0.01	10.82875	0.002126203
2301	2	0.209425	0.0125	10.84125	0.002128657
7469	3	0.2098	0.01	10.85125	0.00213062
2414	2	0.209862	0.0125	10.86375	0.002133075
3628	3	0.210666	0.01	10.87375	0.002135038
432	1	0.211373	0.015	10.88875	0.002137984
4823	3	0.2117	0.01	10.89875	0.002139947
863	1	0.211887	0.015	10.91375	0.002142892
8122	3	0.211998	0.01	10.92375	0.002144856
9402	4	0.212106	0.01	10.93375	0.002146819
5868	3	0.213043	0.01	10.94375	0.002148783
4286	3	0.213199	0.01	10.95375	0.002150746
3864	3	0.21321	0.01	10.96375	0.00215271
2115	2	0.213905	0.0125	10.97625	0.002155164
8664	3	0.214284	0.01	10.98625	0.002157127
4050	3	0.214356	0.01	10.99625	0.002159091
4238	3	0.214701	0.01	11.00625	0.002161054
5962	3	0.214705	-0.005	11.00125	0.002160073
2574	2	0.215053	0.0125	11.01375	0.002162527
1014	1	0.21518	0.015	11.02875	0.002165472
1188	1	0.215299	0.015	11.04375	0.002168417
3707	3	0.215603	0.01	11.05375	0.002170381
1260	1	0.215817	0.015	11.06875	0.002173326
1520	1	0.215843	0.015	11.08375	0.002176271
871	1	0.216453	0.015	11.09875	0.002179217
937	1	0.216524	-0.0075	11.09125	0.002177744
2347	2	0.216645	0.0125	11.10375	0.002180198
1684	1	0.216718	0.015	11.11875	0.002183144
1185	1	0.216826	0.015	11.13375	0.002186089
6962	3	0.216875	0.01	11.14375	0.002188052
460	1	0.216987	0.015	11.15875	0.002190997
1841	2	0.216987	-0.00625	11.1525	0.00218977
7273	3	0.217153	0.01	11.1625	0.002191734
2390	2	0.217651	0.0125	11.175	0.002194188
7115	3	0.217818	0.01	11.185	0.002196152
7333	3	0.21798	0.01	11.195	0.002198115
7525	3	0.217981	0.01	11.205	0.002200079
1397	1	0.218012	0.015	11.22	0.002203024
1595	1	0.218017	-0.0075	11.2125	0.002201551
2024	2	0.218523	0.0125	11.225	0.002204005
748	1	0.218647	0.015	11.24	0.002206951
2473	2	0.218647	0.0125	11.2525	0.002209405
3677	3	0.219119	0.01	11.2625	0.002211369
9609	4	0.219163	-0.005	11.2575	0.002210387
7328	3	0.219448	0.01	11.2675	0.00221235
5577	3	0.219809	0.01	11.2775	0.002214314
5472	3	0.220057	0.01	11.2875	0.002216277

1812	2	0.220176	0.0125	11.3	0.002218732
6526	3	0.22022	0.01	11.31	0.002220695
3445	3	0.220472	0.01	11.32	0.002222659
128	1	0.22048	0.015	11.335	0.002225604
2888	2	0.221171	0.0125	11.3475	0.002228058
4576	3	0.221569	-0.005	11.3425	0.002227076
4019	3	0.221959	0.01	11.3525	0.00222904
6102	3	0.222428	0.01	11.3625	0.002231003
4103	3	0.2226	-0.005	11.3575	0.002230022
7250	3	0.222803	0.01	11.3675	0.002231985
6244	3	0.22306	0.01	11.3775	0.002233949
8174	3	0.223281	-0.005	11.3725	0.002232967
1750	1	0.223816	0.015	11.3875	0.002235912
4800	3	0.224152	0.01	11.3975	0.002237876
3936	3	0.224724	0.01	11.4075	0.002239839
1380	1	0.224923	0.015	11.4225	0.002242784
1568	1	0.224984	0.015	11.4375	0.002245729
6739	3	0.225203	-0.005	11.4325	0.002244748
7788	3	0.225919	0.01	11.4425	0.002246711
490	1	0.227019	0.015	11.4575	0.002249656
2000	2	0.227534	0.0125	11.47	0.002252111
8291	3	0.227795	0.01	11.48	0.002254074
8112	3	0.228135	-0.005	11.475	0.002253092
6145	3	0.228495	0.01	11.485	0.002255056
7041	3	0.228735	0.01	11.495	0.002257019
1483	1	0.228876	0.015	11.51	0.002259965
8097	3	0.228922	0.01	11.52	0.002261928
307	1	0.229053	0.015	11.535	0.002264873
8016	3	0.229342	0.01	11.545	0.002266837
5455	3	0.229362	0.01	11.555	0.0022688
5438	3	0.229387	0.01	11.565	0.002270764
4910	3	0.229644	0.01	11.575	0.002272727
8552	3	0.229758	0.01	11.585	0.002274691
2871	2	0.230051	0.0125	11.5975	0.002277145
6558	3	0.230139	0.01	11.6075	0.002279109
444	1	0.230205	0.015	11.6225	0.002282054
1338	1	0.230685	0.015	11.6375	0.002284999
4099	3	0.230977	0.01	11.6475	0.002286962
5018	3	0.231265	0.01	11.6575	0.002288926
2781	2	0.231426	0.0125	11.67	0.00229138
6559	3	0.23164	0.01	11.68	0.002293344
3245	3	0.231992	0.01	11.69	0.002295307
3315	3	0.23227	0.01	11.7	0.002297271
3571	3	0.232358	0.01	11.71	0.002299234
1454	1	0.232437	0.015	11.725	0.002302179
4304	3	0.232564	-0.005	11.72	0.002301198
4754	3	0.2326	-0.005	11.715	0.002300216
6262	3	0.232697	-0.005	11.71	0.002299234
4297	3	0.233018	0.01	11.72	0.002301198
2320	2	0.233294	0.0125	11.7325	0.002303652
528	1	0.23361	-0.0075	11.725	0.002302179
5023	3	0.233638	0.01	11.735	0.002304143

2234	2	0.233679	0.0125	11.7475	0.002306597
3272	3	0.233743	0.01	11.7575	0.002308561
5703	3	0.23393	0.01	11.7675	0.002310524
9519	4	0.233959	0.01	11.7775	0.002312488
6792	3	0.234153	0.01	11.7875	0.002314451
5295	3	0.234157	-0.005	11.7825	0.002313469
4045	3	0.234334	0.01	11.7925	0.002315433
727	1	0.234362	0.015	11.8075	0.002318378
5410	3	0.234449	-0.005	11.8025	0.002317396
370	1	0.234634	0.015	11.8175	0.002320342
144	1	0.234645	0.015	11.8325	0.002323287
1051	1	0.234764	-0.0075	11.825	0.002321814
3394	3	0.234942	0.01	11.835	0.002323778
6620	3	0.234997	-0.005	11.83	0.002322796
6334	3	0.235266	0.01	11.84	0.002324759
4081	3	0.235371	0.01	11.85	0.002326723
495	1	0.235644	0.015	11.865	0.002329668
4486	3	0.236077	0.01	11.875	0.002331632
1938	2	0.236193	0.0125	11.8875	0.002334086
3383	3	0.236355	0.01	11.8975	0.002336049
1308	1	0.236496	0.015	11.9125	0.002338995
6050	3	0.236971	0.01	11.9225	0.002340958
1326	1	0.237142	0.015	11.9375	0.002343903
2032	2	0.23733	0.0125	11.95	0.002346358
1104	1	0.237479	0.015	11.965	0.002349303
4777	3	0.237842	-0.005	11.96	0.002348321
9158	4	0.238065	-0.005	11.955	0.002347339
493	1	0.238143	-0.0075	11.9475	0.002345867
6296	3	0.238214	0.01	11.9575	0.00234783
6376	3	0.238299	0.01	11.9675	0.002349794
2347	2	0.238369	-0.00625	11.96125	0.002348567
1408	1	0.23846	0.015	11.97625	0.002351512
8082	3	0.238474	-0.005	11.97125	0.00235053
6384	3	0.239104	0.01	11.98125	0.002352494
4407	3	0.239873	0.01	11.99125	0.002354457
2655	2	0.240065	0.0125	12.00375	0.002356911
5055	3	0.240298	0.01	12.01375	0.002358875
7448	3	0.240369	0.01	12.02375	0.002360838
5727	3	0.240618	0.01	12.03375	0.002362802
7075	3	0.240734	0.01	12.04375	0.002364765
5236	3	0.240951	0.01	12.05375	0.002366729
2824	2	0.240998	-0.00625	12.0475	0.002365502
2345	2	0.241193	0.0125	12.06	0.002367956
417	1	0.241461	0.015	12.075	0.002370901
3133	3	0.241677	0.01	12.085	0.002372865
171	1	0.241713	0.015	12.1	0.00237581
9451	4	0.241718	0.01	12.11	0.002377773
7906	3	0.241795	0.01	12.12	0.002379737
7033	3	0.241819	0.01	12.13	0.0023817
3057	3	0.241902	0.01	12.14	0.002383664
631	1	0.242382	0.015	12.155	0.002386609
8395	3	0.242924	-0.005	12.15	0.002385627

3620	3	0.24305	-0.005	12.145	0.002384646
2239	2	0.243071	0.0125	12.1575	0.0023871
8150	3	0.243106	0.01	12.1675	0.002389063
3997	3	0.243147	0.01	12.1775	0.002391027
5963	3	0.243645	0.01	12.1875	0.00239299
6996	3	0.243764	0.01	12.1975	0.002394954
7339	3	0.243831	0.01	12.2075	0.002396917
7858	3	0.243842	0.01	12.2175	0.002398881
4529	3	0.243878	0.01	12.2275	0.002400844
6195	3	0.24477	0.01	12.2375	0.002402808
4982	3	0.245278	0.01	12.2475	0.002404771
2157	2	0.245512	0.0125	12.26	0.002407226
2777	2	0.24598	0.0125	12.2725	0.00240968
1753	1	0.246026	0.015	12.2875	0.002412625
1768	1	0.246195	0.015	12.3025	0.00241557
5932	3	0.246211	0.01	12.3125	0.002417534
7000	3	0.246837	0.01	12.3225	0.002419497
303	1	0.246967	-0.0075	12.315	0.002418025
4296	3	0.246974	0.01	12.325	0.002419988
9972	4	0.247545	0.01	12.335	0.002421952
3122	3	0.248194	-0.005	12.33	0.00242097
6045	3	0.248626	0.01	12.34	0.002422933
7125	3	0.248722	0.01	12.35	0.002424897
6982	3	0.248775	0.01	12.36	0.00242686
2926	3	0.249056	0.01	12.37	0.002428824
2542	2	0.249061	0.0125	12.3825	0.002431278
4281	3	0.24921	0.01	12.3925	0.002433242
2943	3	0.249423	0.01	12.4025	0.002435205
525	1	0.249437	0.015	12.4175	0.00243815
7587	3	0.250017	0.01	12.4275	0.002440114
1415	1	0.250055	0.015	12.4425	0.002443059
2395	2	0.250202	0.0125	12.455	0.002445513
9743	4	0.250231	0.01	12.465	0.002447477
1718	1	0.250675	0.015	12.48	0.002450422
4756	3	0.251161	0.01	12.49	0.002452386
1116	1	0.251382	0.015	12.505	0.002455331
3272	3	0.251446	-0.005	12.5	0.002454349
1296	1	0.251521	-0.0075	12.4925	0.002452876
5491	3	0.252351	0.01	12.5025	0.00245484
7320	3	0.252459	-0.005	12.4975	0.002453858
4072	3	0.252523	0.01	12.5075	0.002455822
7829	3	0.252539	-0.005	12.5025	0.00245484
6143	3	0.252555	0.01	12.5125	0.002456803
5575	3	0.25262	0.01	12.5225	0.002458767
3679	3	0.25274	0.01	12.5325	0.00246073
686	1	0.252765	0.015	12.5475	0.002463676
1355	1	0.252784	0.015	12.5625	0.002466621
1371	1	0.252933	-0.0075	12.555	0.002465148
891	1	0.253383	-0.0075	12.5475	0.002463676
1342	1	0.253723	0.015	12.5625	0.002466621
5924	3	0.253807	-0.005	12.5575	0.002465639
6723	3	0.253862	-0.005	12.5525	0.002464657

3585	3	0.253883	0.01	12.5625	0.002466621
2056	2	0.253967	0.0125	12.575	0.002469075
6284	3	0.253977	0.01	12.585	0.002471039
696	1	0.254305	0.015	12.6	0.002473984
6741	3	0.254364	0.01	12.61	0.002475947
6647	3	0.25451	0.01	12.62	0.002477911
1920	2	0.254551	0.0125	12.6325	0.002480365
2139	2	0.254951	-0.00625	12.62625	0.002479138
1441	1	0.255028	0.015	12.64125	0.002482083
1336	1	0.255085	0.015	12.65625	0.002485028
2516	2	0.255304	-0.00625	12.65	0.002483801
2835	2	0.255336	0.0125	12.6625	0.002486256
2610	2	0.255529	0.0125	12.675	0.00248871
2752	2	0.255711	0.0125	12.6875	0.002491164
1560	1	0.255718	0.015	12.7025	0.00249411
5164	3	0.255836	0.01	12.7125	0.002496073
1524	1	0.255934	0.015	12.7275	0.002499018
1946	2	0.255949	0.0125	12.74	0.002501473
4417	3	0.256556	0.01	12.75	0.002503436
7599	3	0.256658	0.01	12.76	0.0025054
4823	3	0.256806	-0.005	12.755	0.002504418
8326	3	0.256893	0.01	12.765	0.002506381
42	1	0.257693	0.015	12.78	0.002509327
3148	3	0.25791	0.01	12.79	0.00251129
5314	3	0.25806	0.01	12.8	0.002513253
5282	3	0.258086	0.01	12.81	0.002515217
1387	1	0.258104	0.015	12.825	0.002518162
5472	3	0.258326	-0.005	12.82	0.00251718
5238	3	0.25872	0.01	12.83	0.002519144
9505	4	0.259109	0.01	12.84	0.002521107
3386	3	0.259222	0.01	12.85	0.002523071
1732	1	0.26009	-0.0075	12.8425	0.002521598
7379	3	0.260254	0.01	12.8525	0.002523562
1869	2	0.260265	0.0125	12.865	0.002526016
1340	1	0.260382	0.015	12.88	0.002528961
5478	3	0.261153	0.01	12.89	0.002530925
2267	2	0.261496	0.0125	12.9025	0.002533379
7146	3	0.261838	0.01	12.9125	0.002535343
1358	1	0.262397	0.015	12.9275	0.002538288
1793	2	0.262561	0.0125	12.94	0.002540742
2845	2	0.263043	0.0125	12.9525	0.002543197
9148	4	0.263545	0.01	12.9625	0.00254516
8361	3	0.263648	0.01	12.9725	0.002547124
6740	3	0.264529	0.01	12.9825	0.002549087
2668	2	0.264544	0.0125	12.995	0.002551541
7889	3	0.264621	0.01	13.005	0.002553505
1397	1	0.264717	-0.0075	12.9975	0.002552032
7333	3	0.264854	-0.005	12.9925	0.00255105
553	1	0.264991	0.015	13.0075	0.002553996
7998	3	0.265154	0.01	13.0175	0.002555959
4500	3	0.265801	0.01	13.0275	0.002557923
3764	3	0.265825	0.01	13.0375	0.002559886

4783	3	0.266037	0.01	13.0475	0.00256185
4764	3	0.26612	0.01	13.0575	0.002563813
3629	3	0.266207	0.01	13.0675	0.002565777
8522	3	0.26621	0.01	13.0775	0.00256774
602	1	0.26737	0.015	13.0925	0.002570685
2239	2	0.267459	-0.00625	13.08625	0.002569458
885	1	0.268436	0.015	13.10125	0.002572403
8442	3	0.268582	-0.005	13.09625	0.002571422
3555	3	0.268591	0.01	13.10625	0.002573385
8494	3	0.268766	-0.005	13.10125	0.002572403
5257	3	0.268889	0.01	13.11125	0.002574367
1496	1	0.269066	0.015	13.12625	0.002577312
2436	2	0.269457	0.0125	13.13875	0.002579766
406	1	0.269605	0.015	13.15375	0.002582712
3117	3	0.269612	0.01	13.16375	0.002584675
6247	3	0.269734	0.01	13.17375	0.002586639
2606	2	0.269999	-0.00625	13.1675	0.002585411
2696	2	0.270667	0.0125	13.18	0.002587866
9	1	0.270785	0.015	13.195	0.002590811
6374	3	0.271112	0.01	13.205	0.002592774
258	1	0.271414	0.015	13.22	0.00259572
47	1	0.271415	0.015	13.235	0.002598665
6705	3	0.271495	0.01	13.245	0.002600628
5011	3	0.271551	0.01	13.255	0.002602592
1495	1	0.271642	0.015	13.27	0.002605537
984	1	0.27171	0.015	13.285	0.002608482
2523	2	0.271834	0.0125	13.2975	0.002610937
7580	3	0.27224	0.01	13.3075	0.0026129
5134	3	0.272416	0.01	13.3175	0.002614864
2063	2	0.273067	0.0125	13.33	0.002617318
994	1	0.273123	0.015	13.345	0.002620263
9182	4	0.273152	0.01	13.355	0.002622227
1526	1	0.273573	0.015	13.37	0.002625172
9935	4	0.273801	0.01	13.38	0.002627135
5093	3	0.27382	0.01	13.39	0.002629099
9095	4	0.273871	0.01	13.4	0.002631062
4084	3	0.27406	-0.005	13.395	0.002630081
5575	3	0.274202	-0.005	13.39	0.002629099
6092	3	0.274328	0.01	13.4	0.002631062
6893	3	0.274337	-0.005	13.395	0.002630081
3717	3	0.274484	-0.005	13.39	0.002629099
3636	3	0.274515	0.01	13.4	0.002631062
1713	1	0.274943	0.015	13.415	0.002634007
6829	3	0.275251	-0.005	13.41	0.002633026
532	1	0.275383	0.015	13.425	0.002635971
6600	3	0.275414	0.01	13.435	0.002637934
9635	4	0.275548	0.01	13.445	0.002639898
1058	1	0.27578	0.015	13.46	0.002642843
2781	2	0.275901	-0.00625	13.45375	0.002641616
6613	3	0.276089	-0.005	13.44875	0.002640634
389	1	0.276187	0.015	13.46375	0.002643579
394	1	0.27628	-0.0075	13.45625	0.002642107

8487	3	0.27734	0.01	13.46625	0.00264407
74	1	0.277452	0.015	13.48125	0.002647016
7768	3	0.277643	-0.005	13.47625	0.002646034
5465	3	0.277773	0.01	13.48625	0.002647997
7703	3	0.277971	0.01	13.49625	0.002649961
6000	3	0.278218	0.01	13.50625	0.002651924
94	1	0.278247	0.015	13.52125	0.002654869
4559	3	0.278378	0.01	13.53125	0.002656833
2741	2	0.278589	-0.00625	13.525	0.002655606
4865	3	0.278654	0.01	13.535	0.002657569
6822	3	0.278939	0.01	13.545	0.002659533
2303	2	0.278981	0.0125	13.5575	0.002661987
778	1	0.279103	0.015	13.5725	0.002664932
820	1	0.27926	0.015	13.5875	0.002667877
2917	3	0.279334	0.01	13.5975	0.002669841
7049	3	0.279401	0.01	13.6075	0.002671804
1468	1	0.279432	0.015	13.6225	0.00267475
286	1	0.279573	0.015	13.6375	0.002677695
1208	1	0.279627	-0.0075	13.63	0.002676222
2777	2	0.279732	-0.00625	13.62375	0.002674995
1994	2	0.279777	0.0125	13.63625	0.002677449
6560	3	0.280108	0.01	13.64625	0.002679413
9676	4	0.280546	0.01	13.65625	0.002681376
8652	3	0.280641	-0.005	13.65125	0.002680395
3099	3	0.280832	0.01	13.66125	0.002682358
6536	3	0.280901	0.01	13.67125	0.002684322
681	1	0.281064	0.015	13.68625	0.002687267
629	1	0.281598	0.015	13.70125	0.002690212
5719	3	0.281744	0.01	13.71125	0.002692176
1990	2	0.281819	-0.00625	13.705	0.002690948
4205	3	0.282052	0.01	13.715	0.002692912
9258	4	0.282311	0.01	13.725	0.002694875
679	1	0.282389	0.015	13.74	0.002697821
8542	3	0.28241	0.01	13.75	0.002699784
6548	3	0.282422	0.01	13.76	0.002701747
6957	3	0.282527	-0.005	13.755	0.002700766
3604	3	0.282606	-0.005	13.75	0.002699784
8700	3	0.283649	0.01	13.76	0.002701747
7182	3	0.283666	0.01	13.77	0.002703711
3452	3	0.283765	0.01	13.78	0.002705674
6420	3	0.283866	-0.005	13.775	0.002704693
7017	3	0.283922	0.01	13.785	0.002706656
2390	2	0.284508	-0.00625	13.77875	0.002705429
2492	2	0.284641	0.0125	13.79125	0.002707883
7451	3	0.284855	0.01	13.80125	0.002709847
289	1	0.284875	-0.0075	13.79375	0.002708374
152	1	0.285293	0.015	13.80875	0.002711319
6438	3	0.285384	0.01	13.81875	0.002713283
510	1	0.285384	-0.0075	13.81125	0.00271181
8677	3	0.285814	0.01	13.82125	0.002713774
5105	3	0.286153	0.01	13.83125	0.002715737
585	1	0.286456	0.015	13.84625	0.002718683

2223	2	0.28651	0.0125	13.85875	0.002721137
2113	2	0.286564	0.0125	13.87125	0.002723591
1222	1	0.286643	0.015	13.88625	0.002726536
2958	3	0.287113	0.01	13.89625	0.0027285
1957	2	0.287212	0.0125	13.90875	0.002730954
3891	3	0.287276	0.01	13.91875	0.002732918
4071	3	0.287493	0.01	13.92875	0.002734881
6247	3	0.287795	-0.005	13.92375	0.002733899
7043	3	0.287876	0.01	13.93375	0.002735863
5550	3	0.288045	0.01	13.94375	0.002737826
1829	2	0.288086	0.0125	13.95625	0.002740281
8439	3	0.28843	0.01	13.96625	0.002742244
895	1	0.288639	0.015	13.98125	0.002745189
3416	3	0.289016	0.01	13.99125	0.002747153
1983	2	0.289297	0.0125	14.00375	0.002749607
8359	3	0.289371	0.01	14.01375	0.002751571
8891	4	0.289459	0.01	14.02375	0.002753534
2973	3	0.289658	0.01	14.03375	0.002755498
7600	3	0.289745	-0.005	14.02875	0.002754516
6296	3	0.290088	-0.005	14.02375	0.002753534
1876	2	0.29022	0.0125	14.03625	0.002755989
3866	3	0.291049	0.01	14.04625	0.002757952
1326	1	0.291097	-0.0075	14.03875	0.002756479
3445	3	0.291247	-0.005	14.03375	0.002755498
1203	1	0.291734	0.015	14.04875	0.002758443
2245	2	0.292148	-0.00625	14.0425	0.002757216
2655	2	0.292286	-0.00625	14.03625	0.002755989
2311	2	0.292825	0.0125	14.04875	0.002758443
2263	2	0.29283	0.0125	14.06125	0.002760897
8078	3	0.292901	0.01	14.07125	0.002762861
1549	1	0.293046	0.015	14.08625	0.002765806
2333	2	0.293051	0.0125	14.09875	0.00276826
5287	3	0.293271	0.01	14.10875	0.002770224
795	1	0.293424	0.015	14.12375	0.002773169
4277	3	0.293505	0.01	14.13375	0.002775133
2677	2	0.29353	-0.00625	14.1275	0.002773905
2262	2	0.293874	0.0125	14.14	0.00277636
9402	4	0.294149	-0.005	14.135	0.002775378
1256	1	0.294238	0.015	14.15	0.002778323
8181	3	0.294646	0.01	14.16	0.002780287
5404	3	0.294982	0.01	14.17	0.00278225
2307	2	0.294985	-0.00625	14.16375	0.002781023
2900	3	0.295264	0.01	14.17375	0.002782986
5453	3	0.295274	0.01	14.18375	0.00278495
416	1	0.295605	0.015	14.19875	0.002787895
8941	4	0.29572	0.01	14.20875	0.002789859
8108	3	0.295738	0.01	14.21875	0.002791822
1432	1	0.295744	0.015	14.23375	0.002794767
672	1	0.29575	0.015	14.24875	0.002797713
2820	2	0.295985	0.0125	14.26125	0.002800167
4514	3	0.296036	0.01	14.27125	0.00280213
3666	3	0.296182	-0.005	14.26625	0.002801149

1051	1	0.296611	-0.0075	14.25875	0.002799676
274	1	0.296615	0.015	14.27375	0.002802621
7726	3	0.296678	0.01	14.28375	0.002804585
208	1	0.296743	0.015	14.29875	0.00280753
9438	4	0.296766	-0.005	14.29375	0.002806548
3054	3	0.296874	0.01	14.30375	0.002808512
5456	3	0.297597	-0.005	14.29875	0.00280753
652	1	0.297648	0.015	14.31375	0.002810475
8613	3	0.297801	0.01	14.32375	0.002812439
234	1	0.297935	0.015	14.33875	0.002815384
1848	2	0.298131	0.0125	14.35125	0.002817838
1567	1	0.298473	0.015	14.36625	0.002820783
4382	3	0.298491	0.01	14.37625	0.002822747
1963	2	0.298596	0.0125	14.38875	0.002825201
8423	3	0.298715	0.01	14.39875	0.002827165
5842	3	0.298736	0.01	14.40875	0.002829128
4414	3	0.299413	0.01	14.41875	0.002831092
781	1	0.299558	0.015	14.43375	0.002834037
1877	2	0.299652	0.0125	14.44625	0.002836491
5078	3	0.299827	0.01	14.45625	0.002838455
5137	3	0.300081	0.01	14.46625	0.002840418
8061	3	0.300093	0.01	14.47625	0.002842382
4502	3	0.300343	-0.005	14.47125	0.0028414
4529	3	0.300497	-0.005	14.46625	0.002840418
8836	4	0.300733	0.01	14.47625	0.002842382
1911	2	0.301054	0.0125	14.48875	0.002844836
2405	2	0.301177	0.0125	14.50125	0.00284729
3805	3	0.301497	0.01	14.51125	0.002849254
3119	3	0.301692	0.01	14.52125	0.002851217
8097	3	0.301711	-0.005	14.51625	0.002850236
3637	3	0.301838	0.01	14.52625	0.002852199
8621	3	0.301861	0.01	14.53625	0.002854163
1634	1	0.302032	0.015	14.55125	0.002857108
65	1	0.30221	0.015	14.56625	0.002860053
6318	3	0.30225	0.01	14.57625	0.002862016
7069	3	0.302371	0.01	14.58625	0.00286398
4844	3	0.302482	0.01	14.59625	0.002865943
2688	2	0.302536	-0.00625	14.59	0.002864716
8640	3	0.302868	0.01	14.6	0.00286668
2770	2	0.303367	0.0125	14.6125	0.002869134
6795	3	0.303396	-0.005	14.6075	0.002868152
5238	3	0.30352	-0.005	14.6025	0.002867171
4083	3	0.303925	-0.005	14.5975	0.002866189
1734	1	0.304324	0.015	14.6125	0.002869134
443	1	0.304349	0.015	14.6275	0.002872079
4470	3	0.304995	0.01	14.6375	0.002874043
196	1	0.305179	0.015	14.6525	0.002876988
6059	3	0.305282	0.01	14.6625	0.002878952
1843	2	0.305618	-0.00625	14.65625	0.002877724
2940	3	0.305659	0.01	14.66625	0.002879688
9184	4	0.305775	0.01	14.67625	0.002881651
7294	3	0.306053	0.01	14.68625	0.002883615

1408	1	0.306202	-0.0075	14.67875	0.002882142
6846	3	0.306432	-0.005	14.67375	0.00288116
301	1	0.306655	0.015	14.68875	0.002884106
2806	2	0.30683	0.0125	14.70125	0.00288656
5717	3	0.306859	0.01	14.71125	0.002888523
9512	4	0.307412	0.01	14.72125	0.002890487
5420	3	0.307517	-0.005	14.71625	0.002889505
4128	3	0.307566	0.01	14.72625	0.002891469
889	1	0.307812	0.015	14.74125	0.002894414
9451	4	0.307925	-0.005	14.73625	0.002893432
2907	3	0.307972	0.01	14.74625	0.002895396
9004	4	0.308605	0.01	14.75625	0.002897359
2500	2	0.308731	0.0125	14.76875	0.002899813
5899	3	0.309194	0.01	14.77875	0.002901777
6470	3	0.309947	0.01	14.78875	0.00290374
7984	3	0.310129	0.01	14.79875	0.002905704
7761	3	0.310444	0.01	14.80875	0.002907667
1728	1	0.310803	-0.0075	14.80125	0.002906195
3202	3	0.311148	0.01	14.81125	0.002908158
8953	4	0.31129	0.01	14.82125	0.002910122
7529	3	0.311407	0.01	14.83125	0.002912085
1961	2	0.311441	0.0125	14.84375	0.00291454
947	1	0.311485	0.015	14.85875	0.002917485
385	1	0.311851	0.015	14.87375	0.00292043
4479	3	0.312449	0.01	14.88375	0.002922393
2658	2	0.312497	0.0125	14.89625	0.002924848
7777	3	0.312595	0.01	14.90625	0.002926811
7695	3	0.312866	0.01	14.91625	0.002928775
1483	1	0.312959	-0.0075	14.90875	0.002927302
8990	4	0.312968	0.01	14.91875	0.002929266
522	1	0.313346	0.015	14.93375	0.002932211
1579	1	0.313498	-0.0075	14.92625	0.002930738
1902	2	0.313831	0.0125	14.93875	0.002933193
7984	3	0.313944	-0.005	14.93375	0.002932211
6751	3	0.314042	0.01	14.94375	0.002934174
5942	3	0.314069	0.01	14.95375	0.002936138
4406	3	0.314259	0.01	14.96375	0.002938101
3452	3	0.315094	-0.005	14.95875	0.00293712
2500	2	0.315167	-0.00625	14.9525	0.002935892
7791	3	0.31528	0.01	14.9625	0.002937856
7008	3	0.315374	0.01	14.9725	0.002939819
7068	3	0.315431	0.01	14.9825	0.002941783
165	1	0.315817	0.015	14.9975	0.002944728
210	1	0.31635	0.015	15.0125	0.002947673
973	1	0.316671	0.015	15.0275	0.002950618
3350	3	0.316728	-0.005	15.0225	0.002949637
187	1	0.316996	0.015	15.0375	0.002952582
7999	3	0.317111	-0.005	15.0325	0.0029516
3735	3	0.317377	0.01	15.0425	0.002953564
8700	3	0.317436	-0.005	15.0375	0.002952582
865	1	0.31745	0.015	15.0525	0.002955527
9427	4	0.31757	-0.005	15.0475	0.002954545

2491	2	0.317761	0.0125	15.06	0.002957
7085	3	0.318042	-0.005	15.055	0.002956018
7306	3	0.318194	0.01	15.065	0.002957982
181	1	0.318636	0.015	15.08	0.002960927
6109	3	0.318639	0.01	15.09	0.00296289
2431	2	0.31879	0.0125	15.1025	0.002965345
4225	3	0.318958	0.01	15.1125	0.002967308
3759	3	0.319687	0.01	15.1225	0.002969272
8573	3	0.319864	0.01	15.1325	0.002971235
3386	3	0.319972	-0.005	15.1275	0.002970253
2849	2	0.320286	0.0125	15.14	0.002972708
7506	3	0.320359	0.01	15.15	0.002974671
3995	3	0.320485	0.01	15.16	0.002976635
901	1	0.320534	-0.0075	15.1525	0.002975162
8461	3	0.320712	0.01	15.1625	0.002977125
5265	3	0.320922	0.01	15.1725	0.002979089
897	1	0.320945	-0.0075	15.165	0.002977616
8586	3	0.321037	-0.005	15.16	0.002976635
9018	4	0.321135	-0.005	15.155	0.002975653
4924	3	0.321183	-0.005	15.15	0.002974671
6156	3	0.321248	0.01	15.16	0.002976635
5877	3	0.321382	0.01	15.17	0.002978598
7168	3	0.321511	-0.005	15.165	0.002977616
9798	4	0.322025	-0.005	15.16	0.002976635
6871	3	0.32218	0.01	15.17	0.002978598
558	1	0.32233	0.015	15.185	0.002981543
2675	2	0.322503	0.0125	15.1975	0.002983998
3261	3	0.322658	0.01	15.2075	0.002985961
1513	1	0.322925	0.015	15.2225	0.002988906
6162	3	0.32296	0.01	15.2325	0.00299087
1060	1	0.322972	0.015	15.2475	0.002993815
317	1	0.323242	0.015	15.2625	0.00299676
4464	3	0.323462	0.01	15.2725	0.002998724
5023	3	0.323551	-0.005	15.2675	0.002997742
6335	3	0.323591	0.01	15.2775	0.002999705
2609	2	0.323614	0.0125	15.29	0.00300216
346	1	0.323635	0.015	15.305	0.003005105
4094	3	0.323712	0.01	15.315	0.003007069
2705	2	0.323816	0.0125	15.3275	0.003009523
9222	4	0.32382	0.01	15.3375	0.003011486
46	1	0.324068	-0.0075	15.33	0.003010014
1350	1	0.324168	0.015	15.345	0.003012959
1157	1	0.324204	0.015	15.36	0.003015904
6046	3	0.324383	0.01	15.37	0.003017868
6798	3	0.324503	0.01	15.38	0.003019831
4357	3	0.325363	0.01	15.39	0.003021795
507	1	0.325391	0.015	15.405	0.00302474
1493	1	0.32569	0.015	15.42	0.003027685
1434	1	0.326102	0.015	15.435	0.00303063
4937	3	0.326147	0.01	15.445	0.003032594
2043	2	0.326665	0.0125	15.4575	0.003035048
2805	2	0.326914	0.0125	15.47	0.003037502

54	1	0.326972	0.015	15.485	0.003040448
2809	2	0.327106	0.0125	15.4975	0.003042902
3439	3	0.327247	0.01	15.5075	0.003044866
5501	3	0.327257	0.01	15.5175	0.003046829
9790	4	0.327369	0.01	15.5275	0.003048792
7798	3	0.327466	0.01	15.5375	0.003050756
2806	2	0.327935	-0.00625	15.53125	0.003049529
432	1	0.328145	-0.0075	15.52375	0.003048056
7848	3	0.328212	0.01	15.53375	0.00305002
2315	2	0.328579	0.0125	15.54625	0.003052474
1666	1	0.32886	0.015	15.56125	0.003055419
1517	1	0.328933	0.015	15.57625	0.003058364
1365	1	0.329185	0.015	15.59125	0.00306131
293	1	0.329338	0.015	15.60625	0.003064255
4640	3	0.329726	0.01	15.61625	0.003066218
8548	3	0.329752	0.01	15.62625	0.003068182
1304	1	0.329907	0.015	15.64125	0.003071127
1014	1	0.330208	-0.0075	15.63375	0.003069654
5927	3	0.330542	0.01	15.64375	0.003071618
4468	3	0.330543	0.01	15.65375	0.003073581
7517	3	0.330874	0.01	15.66375	0.003075545
1452	1	0.330878	-0.0075	15.65625	0.003074072
3043	3	0.330914	0.01	15.66625	0.003076036
5236	3	0.330987	-0.005	15.66125	0.003075054
4218	3	0.331389	0.01	15.67125	0.003077017
8206	3	0.331396	-0.005	15.66625	0.003076036
2863	2	0.331761	0.0125	15.67875	0.00307849
207	1	0.332068	-0.0075	15.67125	0.003077017
970	1	0.332234	0.015	15.68625	0.003079963
7105	3	0.332906	0.01	15.69625	0.003081926
937	1	0.333034	-0.0075	15.68875	0.003080454
1050	1	0.3332	-0.0075	15.68125	0.003078981
2617	2	0.333331	0.0125	15.69375	0.003081435
881	1	0.333846	0.015	15.70875	0.003084381
7810	3	0.333968	0.01	15.71875	0.003086344
1465	1	0.334168	-0.0075	15.71125	0.003084871
8026	3	0.334332	0.01	15.72125	0.003086835
2289	2	0.334667	0.0125	15.73375	0.003089289
624	1	0.335009	0.015	15.74875	0.003092234
2852	2	0.335012	0.0125	15.76125	0.003094689
4832	3	0.33535	0.01	15.77125	0.003096652
8253	3	0.335456	0.01	15.78125	0.003098616
6507	3	0.335544	0.01	15.79125	0.003100579
2554	2	0.335549	0.0125	15.80375	0.003103034
6830	3	0.335617	0.01	15.81375	0.003104997
3188	3	0.336111	0.01	15.82375	0.003106961
6461	3	0.336399	0.01	15.83375	0.003108924
1938	2	0.336425	-0.00625	15.8275	0.003107697
1558	1	0.336459	0.015	15.8425	0.003110642
1109	1	0.336479	0.015	15.8575	0.003113587
6188	3	0.337001	0.01	15.8675	0.003115551
5770	3	0.337118	0.01	15.8775	0.003117514

1924	2	0.337129	0.0125	15.89	0.003119969
7065	3	0.337188	-0.005	15.885	0.003118987
1873	2	0.337234	0.0125	15.8975	0.003121441
548	1	0.337565	0.015	15.9125	0.003124386
2362	2	0.338258	0.0125	15.925	0.003126841
4122	3	0.338364	0.01	15.935	0.003128804
2353	2	0.338909	0.0125	15.9475	0.003131259
6600	3	0.339258	-0.005	15.9425	0.003130277
1585	1	0.339424	0.015	15.9575	0.003133222
4718	3	0.33973	0.01	15.9675	0.003135186
3459	3	0.339943	0.01	15.9775	0.003137149
1164	1	0.340151	0.015	15.9925	0.003140094
5676	3	0.340423	0.01	16.0025	0.003142058
339	1	0.340545	0.015	16.0175	0.003145003
5867	3	0.340688	0.01	16.0275	0.003146966
3132	3	0.34071	0.01	16.0375	0.00314893
6090	3	0.340794	0.01	16.0475	0.003150893
3047	3	0.341483	-0.005	16.0425	0.003149912
3275	3	0.341567	0.01	16.0525	0.003151875
8229	3	0.341675	0.01	16.0625	0.003153839
532	1	0.341811	-0.0075	16.055	0.003152366
5932	3	0.342357	-0.005	16.05	0.003151384
6856	3	0.342393	0.01	16.06	0.003153348
2403	2	0.342546	-0.00625	16.05375	0.003152121
7687	3	0.342654	0.01	16.06375	0.003154084
8583	3	0.342753	0.01	16.07375	0.003156048
2973	3	0.34311	-0.005	16.06875	0.003155066
9576	4	0.34323	-0.005	16.06375	0.003154084
5730	3	0.343563	0.01	16.07375	0.003156048
8463	3	0.343564	0.01	16.08375	0.003158011
9029	4	0.343819	0.01	16.09375	0.003159974
2658	2	0.344089	-0.00625	16.0875	0.003158747
9427	4	0.344236	-0.005	16.0825	0.003157766
5105	3	0.344516	-0.005	16.0775	0.003156784
1440	1	0.344631	-0.0075	16.07	0.003155311
3180	3	0.344931	-0.005	16.065	0.003154329
6491	3	0.344962	0.01	16.075	0.003156293
1458	1	0.345003	-0.0075	16.0675	0.00315482
6174	3	0.345025	0.01	16.0775	0.003156784
4445	3	0.345154	-0.005	16.0725	0.003155802
934	1	0.345243	0.015	16.0875	0.003158747
8086	3	0.345288	0.01	16.0975	0.003160711
1754	1	0.345317	0.015	16.1125	0.003163656
91	1	0.345815	0.015	16.1275	0.003166601
4286	3	0.345854	-0.005	16.1225	0.003165619
1179	1	0.345986	0.015	16.1375	0.003168565
74	1	0.346196	-0.0075	16.13	0.003167092
4273	3	0.347218	0.01	16.14	0.003169056
1545	1	0.347292	0.015	16.155	0.003172001
3023	3	0.347679	0.01	16.165	0.003173964
6768	3	0.347707	0.01	16.175	0.003175928
8420	3	0.347722	0.01	16.185	0.003177891

367	1	0.347738	0.015	16.2	0.003180836
5257	3	0.347926	-0.005	16.195	0.003179855
1127	1	0.348716	0.015	16.21	0.0031828
1304	1	0.349033	-0.0075	16.2025	0.003181327
270	1	0.349217	0.015	16.2175	0.003184273
4599	3	0.349489	-0.005	16.2125	0.003183291
5194	3	0.34953	0.01	16.2225	0.003185254
2752	2	0.349578	-0.00625	16.21625	0.003184027
6945	3	0.349679	0.01	16.22625	0.003185991
3372	3	0.349689	-0.005	16.22125	0.003185009
5828	3	0.350122	0.01	16.23125	0.003186972
2662	2	0.350358	0.0125	16.24375	0.003189427
8681	3	0.350389	0.01	16.25375	0.00319139
9538	4	0.350487	-0.005	16.24875	0.003190408
316	1	0.350724	0.015	16.26375	0.003193354
1735	1	0.350743	0.015	16.27875	0.003196299
3190	3	0.350908	0.01	16.28875	0.003198262
5595	3	0.351444	0.01	16.29875	0.003200226
1415	1	0.351834	-0.0075	16.29125	0.003198753
8680	3	0.352349	0.01	16.30125	0.003200717
7178	3	0.352647	0.01	16.31125	0.00320268
3746	3	0.352846	0.01	16.32125	0.003204644
3242	3	0.352871	0.01	16.33125	0.003206607
710	1	0.352906	0.015	16.34625	0.003209552
3338	3	0.353321	-0.005	16.34125	0.003208571
7073	3	0.353438	-0.005	16.33625	0.003207589
7277	3	0.354301	0.01	16.34625	0.003209552
4867	3	0.354832	0.01	16.35625	0.003211516
8618	3	0.354981	0.01	16.36625	0.003213479
6149	3	0.355377	0.01	16.37625	0.003215443
1857	2	0.355439	0.0125	16.38875	0.003217897
3998	3	0.355785	0.01	16.39875	0.003219861
920	1	0.356361	0.015	16.41375	0.003222806
3237	3	0.356635	0.01	16.42375	0.003224769
7120	3	0.356643	0.01	16.43375	0.003226733
9385	4	0.357089	0.01	16.44375	0.003228696
4877	3	0.357211	0.01	16.45375	0.00323066
2744	2	0.357493	-0.00625	16.4475	0.003229433
5306	3	0.357515	-0.005	16.4425	0.003228451
6325	3	0.357882	-0.005	16.4375	0.003227469
1148	1	0.358137	0.015	16.4525	0.003230414
542	1	0.358785	0.015	16.4675	0.00323336
8289	3	0.35955	-0.005	16.4625	0.003232378
1159	1	0.359735	0.015	16.4775	0.003235323
2186	2	0.35989	0.0125	16.49	0.003237777
5374	3	0.360644	0.01	16.5	0.003239741
2018	2	0.361215	0.0125	16.5125	0.003242195
4388	3	0.361286	0.01	16.5225	0.003244159
1236	1	0.361376	0.015	16.5375	0.003247104
173	1	0.361543	0.015	16.5525	0.003250049
7941	3	0.36167	0.01	16.5625	0.003252013
8222	3	0.361675	0.01	16.5725	0.003253976

1236	1	0.361759	-0.0075	16.565	0.003252503
4461	3	0.361885	0.01	16.575	0.003254467
1769	1	0.362192	-0.0075	16.5675	0.003252994
5828	3	0.362275	-0.005	16.5625	0.003252013
8684	3	0.362348	0.01	16.5725	0.003253976
1806	2	0.362443	0.0125	16.585	0.00325643
5996	3	0.36256	0.01	16.595	0.003258394
2778	2	0.362915	0.0125	16.6075	0.003260848
3075	3	0.363362	0.01	16.6175	0.003262812
6631	3	0.363422	0.01	16.6275	0.003264775
2631	2	0.363518	0.0125	16.64	0.00326723
3768	3	0.363645	-0.005	16.635	0.003266248
996	1	0.363949	0.015	16.65	0.003269193
3192	3	0.363963	0.01	16.66	0.003271156
5443	3	0.36411	0.01	16.67	0.00327312
750	1	0.364224	0.015	16.685	0.003276065
1647	1	0.364606	0.015	16.7	0.00327901
3394	3	0.364617	-0.005	16.695	0.003278029
6361	3	0.364665	0.01	16.705	0.003279992
7862	3	0.364686	-0.005	16.7	0.00327901
9901	4	0.364734	0.01	16.71	0.003280974
576	1	0.364781	0.015	16.725	0.003283919
4131	3	0.365202	0.01	16.735	0.003285883
2475	2	0.365294	0.0125	16.7475	0.003288337
3537	3	0.365934	-0.005	16.7425	0.003287355
9379	4	0.367081	-0.005	16.7375	0.003286373
1224	1	0.367102	0.015	16.7525	0.003289319
1451	1	0.367301	0.015	16.7675	0.003292264
7053	3	0.367574	0.01	16.7775	0.003294227
3085	3	0.36782	0.01	16.7875	0.003296191
9433	4	0.368504	-0.005	16.7825	0.003295209
7848	3	0.368537	-0.005	16.7775	0.003294227
3854	3	0.368801	-0.005	16.7725	0.003293246
4414	3	0.368806	-0.005	16.7675	0.003292264
4603	3	0.368897	0.01	16.7775	0.003294227
1955	2	0.369061	0.0125	16.79	0.003296682
2555	2	0.369469	0.0125	16.8025	0.003299136
8606	3	0.369708	0.01	16.8125	0.0033011
7715	3	0.370209	0.01	16.8225	0.003303063
1938	2	0.370482	-0.00625	16.81625	0.003301836
904	1	0.370665	0.015	16.83125	0.003304781
243	1	0.370717	0.015	16.84625	0.003307726
8689	3	0.370852	-0.005	16.84125	0.003306745
1265	1	0.370979	0.015	16.85625	0.00330969
5183	3	0.37121	0.01	16.86625	0.003311653
2553	2	0.372208	0.0125	16.87875	0.003314108
7306	3	0.372491	-0.005	16.87375	0.003313126
1281	1	0.37269	0.015	16.88875	0.003316071
6378	3	0.372913	0.01	16.89875	0.003318035
754	1	0.373427	0.015	16.91375	0.00332098
4007	3	0.373585	0.01	16.92375	0.003322943
6040	3	0.373761	0.01	16.93375	0.003324907

7427	3	0.373831	0.01	16.94375	0.00332687
139	1	0.373864	0.015	16.95875	0.003329815
362	1	0.374016	0.015	16.97375	0.003332761
5695	3	0.374223	-0.005	16.96875	0.003331779
2963	3	0.374443	0.01	16.97875	0.003333742
1774	2	0.374503	0.0125	16.99125	0.003336197
2790	2	0.374602	0.0125	17.00375	0.003338651
123	1	0.37466	-0.0075	16.99625	0.003337178
870	1	0.374813	0.015	17.01125	0.003340124
1787	2	0.374835	0.0125	17.02375	0.003342578
1903	2	0.375681	0.0125	17.03625	0.003345032
4714	3	0.375741	0.01	17.04625	0.003346996
8446	3	0.375796	-0.005	17.04125	0.003346014
2375	2	0.375796	0.0125	17.05375	0.003348468
1367	1	0.375863	0.015	17.06875	0.003351414
6517	3	0.375913	0.01	17.07875	0.003353377
2595	2	0.375922	0.0125	17.09125	0.003355832
1586	1	0.375967	0.015	17.10625	0.003358777
1878	2	0.375973	0.0125	17.11875	0.003361231
4128	3	0.376034	-0.005	17.11375	0.003360249
23	1	0.376365	-0.0075	17.10625	0.003358777
7984	3	0.376741	-0.005	17.10125	0.003357795
8404	3	0.376804	0.01	17.11125	0.003359758
606	1	0.376849	0.015	17.12625	0.003362704
7336	3	0.377012	0.01	17.13625	0.003364667
6387	3	0.377021	0.01	17.14625	0.003366631
7395	3	0.377251	-0.005	17.14125	0.003365649
2555	2	0.377373	-0.00625	17.135	0.003364422
7523	3	0.377797	0.01	17.145	0.003366385
4121	3	0.378152	0.01	17.155	0.003368349
3875	3	0.378614	0.01	17.165	0.003370312
7195	3	0.378877	0.01	17.175	0.003372276
2697	2	0.378909	0.0125	17.1875	0.00337473
4570	3	0.378989	0.01	17.1975	0.003376694
4503	3	0.37911	0.01	17.2075	0.003378657
2033	2	0.379203	0.0125	17.22	0.003381111
4277	3	0.379432	-0.005	17.215	0.00338013
650	1	0.37952	0.015	17.23	0.003383075
6096	3	0.379592	-0.005	17.225	0.003382093
4556	3	0.379739	0.01	17.235	0.003384057
82	1	0.379882	0.015	17.25	0.003387002
1755	1	0.379969	0.015	17.265	0.003389947
2002	2	0.379993	0.0125	17.2775	0.003392401
5600	3	0.380883	-0.005	17.2725	0.00339142
7626	3	0.380942	0.01	17.2825	0.003393383
3078	3	0.381112	0.01	17.2925	0.003395347
6314	3	0.381117	-0.005	17.2875	0.003394365
1140	1	0.381238	0.015	17.3025	0.00339731
2184	2	0.382209	0.0125	17.315	0.003399764
6559	3	0.382357	-0.005	17.31	0.003398783
8548	3	0.382381	-0.005	17.305	0.003397801
2336	2	0.382851	0.0125	17.3175	0.003400255

1104	1	0.382927	-0.0075	17.31	0.003398783
6128	3	0.383051	0.01	17.32	0.003400746
8202	3	0.383151	0.01	17.33	0.00340271
2376	2	0.383262	0.0125	17.3425	0.003405164
7537	3	0.383507	0.01	17.3525	0.003407127
3430	3	0.383668	0.01	17.3625	0.003409091
2588	2	0.383709	0.0125	17.375	0.003411545
1290	1	0.384035	0.015	17.39	0.00341449
4974	3	0.384062	-0.005	17.385	0.003413509
592	1	0.384245	0.015	17.4	0.003416454
8407	3	0.384384	0.01	17.41	0.003418417
712	1	0.384547	0.015	17.425	0.003421363
1289	1	0.385062	0.015	17.44	0.003424308
4995	3	0.385549	0.01	17.45	0.003426271
741	1	0.385562	0.015	17.465	0.003429217
5165	3	0.385607	0.01	17.475	0.00343118
1219	1	0.385643	0.015	17.49	0.003434125
400	1	0.385843	0.015	17.505	0.00343707
4888	3	0.386454	0.01	17.515	0.003439034
1156	1	0.386636	-0.0075	17.5075	0.003437561
9482	4	0.386731	0.01	17.5175	0.003439525
1072	1	0.38747	0.015	17.5325	0.00344247
3317	3	0.387739	0.01	17.5425	0.003444434
2202	2	0.387908	-0.00625	17.53625	0.003443206
977	1	0.387967	0.015	17.55125	0.003446152
7609	3	0.388236	0.01	17.56125	0.003448115
1858	2	0.388518	0.0125	17.57375	0.003450569
7529	3	0.38868	-0.005	17.56875	0.003449588
1808	2	0.388772	-0.00625	17.5625	0.00344836
4727	3	0.388942	0.01	17.5725	0.003450324
343	1	0.388993	-0.0075	17.565	0.003448851
3502	3	0.389596	0.01	17.575	0.003450815
2773	2	0.389991	-0.00625	17.56875	0.003449588
9085	4	0.390117	0.01	17.57875	0.003451551
7840	3	0.390298	0.01	17.58875	0.003453515
9095	4	0.390398	-0.005	17.58375	0.003452533
5280	3	0.390475	-0.005	17.57875	0.003451551
2614	2	0.39055	0.0125	17.59125	0.003454005
8280	3	0.390577	0.01	17.60125	0.003455969
2657	2	0.391267	0.0125	17.61375	0.003458423
520	1	0.391324	0.015	17.62875	0.003461369
340	1	0.391437	0.015	17.64375	0.003464314
6838	3	0.391444	0.01	17.65375	0.003466277
9314	4	0.391722	-0.005	17.64875	0.003465296
7573	3	0.3923	0.01	17.65875	0.003467259
796	1	0.392381	0.015	17.67375	0.003470204
406	1	0.392517	-0.0075	17.66625	0.003468732
1716	1	0.392692	-0.0075	17.65875	0.003467259
2444	2	0.392979	0.0125	17.67125	0.003469713
3357	3	0.393387	-0.005	17.66625	0.003468732
6588	3	0.394324	0.01	17.67625	0.003470695
2722	2	0.394342	0.0125	17.68875	0.003473149

9929	4	0.394661	0.01	17.69875	0.003475113
5075	3	0.394998	0.01	17.70875	0.003477076
1984	2	0.395016	-0.00625	17.7025	0.003475849
1422	1	0.395066	0.015	17.7175	0.003478794
1528	1	0.395594	-0.0075	17.71	0.003477322
77	1	0.395614	0.015	17.725	0.003480267
5780	3	0.395872	-0.005	17.72	0.003479285
4713	3	0.396114	0.01	17.73	0.003481249
2558	2	0.396208	-0.00625	17.72375	0.003480022
327	1	0.396299	0.015	17.73875	0.003482967
1068	1	0.396671	-0.0075	17.73125	0.003481494
1280	1	0.396676	0.015	17.74625	0.003484439
6530	3	0.396787	0.01	17.75625	0.003486403
2268	2	0.397611	0.0125	17.76875	0.003488857
5123	3	0.397964	0.01	17.77875	0.003490821
521	1	0.398014	0.015	17.79375	0.003493766
9809	4	0.39812	0.01	17.80375	0.003495729
9929	4	0.398157	-0.005	17.79875	0.003494748
1625	1	0.398335	0.015	17.81375	0.003497693
2045	2	0.398338	0.0125	17.82625	0.003500147
6152	3	0.398535	0.01	17.83625	0.003502111
1877	2	0.398675	-0.00625	17.83	0.003500884
7479	3	0.398903	-0.005	17.825	0.003499902
8285	3	0.39892	0.01	17.835	0.003501865
3006	3	0.398986	0.01	17.845	0.003503829
9599	4	0.39906	0.01	17.855	0.003505792
7681	3	0.399074	0.01	17.865	0.003507756
1258	1	0.399186	0.015	17.88	0.003510701
3995	3	0.399302	-0.005	17.875	0.003509719
553	1	0.399847	-0.0075	17.8675	0.003508247
6412	3	0.400008	0.01	17.8775	0.00351021
5648	3	0.400408	0.01	17.8875	0.003512174
550	1	0.400487	0.015	17.9025	0.003515119
2009	2	0.400581	-0.00625	17.89625	0.003513892
3910	3	0.400851	0.01	17.90625	0.003515855
49	1	0.40101	0.015	17.92125	0.0035188
842	1	0.401056	-0.0075	17.91375	0.003517328
5491	3	0.401085	-0.005	17.90875	0.003516346
7627	3	0.401217	-0.005	17.90375	0.003515364
9551	4	0.401403	0.01	17.91375	0.003517328
7426	3	0.401504	0.01	17.92375	0.003519291
1640	1	0.401867	0.015	17.93875	0.003522236
8752	4	0.402	0.01	17.94875	0.0035242
2200	2	0.402101	0.0125	17.96125	0.003526654
4100	3	0.402182	-0.005	17.95625	0.003525672
7908	3	0.402332	0.01	17.96625	0.003527636
6808	3	0.402745	0.01	17.97625	0.003529599
279	1	0.402826	0.015	17.99125	0.003532545
996	1	0.403515	-0.0075	17.98375	0.003531072
5605	3	0.403543	0.01	17.99375	0.003533036
2934	3	0.404363	-0.005	17.98875	0.003532054
8583	3	0.404555	-0.005	17.98375	0.003531072

5499	3	0.404589	0.01	17.99375	0.003533036
3063	3	0.404669	0.01	18.00375	0.003534999
3809	3	0.404707	0.01	18.01375	0.003536962
3221	3	0.404807	0.01	18.02375	0.003538926
299	1	0.405151	-0.0075	18.01625	0.003537453
2465	2	0.40544	0.0125	18.02875	0.003539908
5056	3	0.405678	0.01	18.03875	0.003541871
845	1	0.405717	-0.0075	18.03125	0.003540399
2423	2	0.405776	0.0125	18.04375	0.003542853
1193	1	0.40617	0.015	18.05875	0.003545798
281	1	0.406195	0.015	18.07375	0.003548743
163	1	0.406236	0.015	18.08875	0.003551689
2005	2	0.406418	0.0125	18.10125	0.003554143
2070	2	0.406997	0.0125	18.11375	0.003556597
8634	3	0.407095	0.01	18.12375	0.003558561
8920	4	0.407193	0.01	18.13375	0.003560524
5316	3	0.40736	0.01	18.14375	0.003562488
2237	2	0.407426	-0.00625	18.1375	0.003561261
8436	3	0.407883	0.01	18.1475	0.003563224
6642	3	0.408094	0.01	18.1575	0.003565188
6018	3	0.408375	0.01	18.1675	0.003567151
2025	2	0.408952	-0.00625	18.16125	0.003565924
2235	2	0.409019	0.0125	18.17375	0.003568378
1292	1	0.409336	0.015	18.18875	0.003571323
3624	3	0.409525	0.01	18.19875	0.003573287
1510	1	0.409928	0.015	18.21375	0.003576232
734	1	0.409996	0.015	18.22875	0.003579177
3920	3	0.410075	0.01	18.23875	0.003581141
7226	3	0.410396	0.01	18.24875	0.003583104
2377	2	0.410496	-0.00625	18.2425	0.003581877
6752	3	0.410902	0.01	18.2525	0.003583841
1771	2	0.411287	0.0125	18.265	0.003586295
767	1	0.411991	-0.0075	18.2575	0.003584822
1945	2	0.412095	0.0125	18.27	0.003587277
369	1	0.412112	0.015	18.285	0.003590222
1414	1	0.412174	0.015	18.3	0.003593167
7843	3	0.413072	-0.005	18.295	0.003592185
4313	3	0.413157	0.01	18.305	0.003594149
2066	2	0.413206	0.0125	18.3175	0.003596603
4090	3	0.413302	0.01	18.3275	0.003598567
3756	3	0.413575	0.01	18.3375	0.00360053
6669	3	0.413867	0.01	18.3475	0.003602494
1303	1	0.413884	-0.0075	18.34	0.003601021
7861	3	0.413953	-0.005	18.335	0.003600039
2753	2	0.414024	0.0125	18.3475	0.003602494
6018	3	0.414117	-0.005	18.3425	0.003601512
1073	1	0.41443	0.015	18.3575	0.003604457
8330	3	0.414547	0.01	18.3675	0.003606421
9218	4	0.414692	0.01	18.3775	0.003608384
3245	3	0.414822	-0.005	18.3725	0.003607402
3568	3	0.414975	0.01	18.3825	0.003609366
5893	3	0.415018	0.01	18.3925	0.003611329

2012	2	0.415084	0.0125	18.405	0.003613784
7451	3	0.415759	-0.005	18.4	0.003612802
2292	2	0.415806	0.0125	18.4125	0.003615256
2779	2	0.415895	0.0125	18.425	0.003617711
2598	2	0.415959	0.0125	18.4375	0.003620165
1278	1	0.415982	0.015	18.4525	0.00362311
7524	3	0.416289	0.01	18.4625	0.003625074
1867	2	0.416542	-0.00625	18.45625	0.003623846
382	1	0.416987	0.015	18.47125	0.003626792
2240	2	0.417042	0.0125	18.48375	0.003629246
28	1	0.417048	0.015	18.49875	0.003632191
7975	3	0.417098	0.01	18.50875	0.003634155
4390	3	0.41718	0.01	18.51875	0.003636118
841	1	0.417229	-0.0075	18.51125	0.003634646
2099	2	0.417232	0.0125	18.52375	0.0036371
1371	1	0.417505	-0.0075	18.51625	0.003635627
6185	3	0.417623	0.01	18.52625	0.003637591
5649	3	0.417648	-0.005	18.52125	0.003636609
1228	1	0.417689	0.015	18.53625	0.003639554
6684	3	0.417816	0.01	18.54625	0.003641518
9571	4	0.417841	0.01	18.55625	0.003643481
1192	1	0.418055	0.015	18.57125	0.003646426
8324	3	0.41807	-0.005	18.56625	0.003645445
1398	1	0.418302	0.015	18.58125	0.00364839
3553	3	0.418385	0.01	18.59125	0.003650353
435	1	0.418908	0.015	18.60625	0.003653299
2481	2	0.418994	0.0125	18.61875	0.003655753
6799	3	0.419011	0.01	18.62875	0.003657716
2327	2	0.419043	-0.00625	18.6225	0.003656489
2855	2	0.419169	0.0125	18.635	0.003658944
3918	3	0.41949	0.01	18.645	0.003660907
6594	3	0.41958	-0.005	18.64	0.003659925
8193	3	0.419855	-0.005	18.635	0.003658944
2087	2	0.420255	0.0125	18.6475	0.003661398
8252	3	0.420431	0.01	18.6575	0.003663361
8551	3	0.420545	0.01	18.6675	0.003665325
7448	3	0.420677	-0.005	18.6625	0.003664343
340	1	0.420687	-0.0075	18.655	0.003662871
139	1	0.420825	-0.0075	18.6475	0.003661398
3768	3	0.421189	-0.005	18.6425	0.003660416
4453	3	0.421327	-0.005	18.6375	0.003659435
6503	3	0.421606	0.01	18.6475	0.003661398
5713	3	0.421628	0.01	18.6575	0.003663361
1738	1	0.421631	-0.0075	18.65	0.003661889
4694	3	0.421795	-0.005	18.645	0.003660907
411	1	0.422261	-0.0075	18.6375	0.003659435
135	1	0.422408	0.015	18.6525	0.00366238
6029	3	0.422786	0.01	18.6625	0.003664343
8191	3	0.422811	0.01	18.6725	0.003666307
9082	4	0.422953	0.01	18.6825	0.00366827
2011	2	0.423098	0.0125	18.695	0.003670725
8057	3	0.42385	0.01	18.705	0.003672688

8690	3	0.423904	-0.005	18.7	0.003671706
4786	3	0.424288	0.01	18.71	0.00367367
1526	1	0.424332	-0.0075	18.7025	0.003672197
2053	2	0.42439	-0.00625	18.69625	0.00367097
9075	4	0.424905	-0.005	18.69125	0.003669988
6299	3	0.425049	0.01	18.70125	0.003671952
3551	3	0.425117	0.01	18.71125	0.003673915
1159	1	0.425316	-0.0075	18.70375	0.003672443
7784	3	0.425457	0.01	18.71375	0.003674406
6075	3	0.425474	-0.005	18.70875	0.003673424
4240	3	0.425483	0.01	18.71875	0.003675388
709	1	0.425488	-0.0075	18.71125	0.003673915
1018	1	0.42556	0.015	18.72625	0.00367686
646	1	0.426382	0.015	18.74125	0.003679806
469	1	0.426392	-0.0075	18.73375	0.003678333
5053	3	0.426776	0.01	18.74375	0.003680296
5809	3	0.42682	0.01	18.75375	0.00368226
1308	1	0.426823	-0.0075	18.74625	0.003680787
1052	1	0.427246	0.015	18.76125	0.003683733
7021	3	0.427284	0.01	18.77125	0.003685696
1366	1	0.427469	0.015	18.78625	0.003688641
1724	1	0.427623	0.015	18.80125	0.003691586
8621	3	0.427711	-0.005	18.79625	0.003690605
599	1	0.427868	-0.0075	18.78875	0.003689132
7584	3	0.427998	-0.005	18.78375	0.00368815
7774	3	0.42828	0.01	18.79375	0.003690114
6562	3	0.428822	0.01	18.80375	0.003692077
9356	4	0.428975	0.01	18.81375	0.003694041
487	1	0.429174	0.015	18.82875	0.003696986
6048	3	0.430113	0.01	18.83875	0.00369895
7573	3	0.431342	-0.005	18.83375	0.003697968
2637	2	0.431451	0.0125	18.84625	0.003700422
7944	3	0.431601	-0.005	18.84125	0.00369944
8190	3	0.431861	0.01	18.85125	0.003701404
3047	3	0.431977	-0.005	18.84625	0.003700422
153	1	0.432165	0.015	18.86125	0.003703367
724	1	0.432205	0.015	18.87625	0.003706313
6055	3	0.432521	0.01	18.88625	0.003708276
3980	3	0.43261	0.01	18.89625	0.00371024
8631	3	0.432882	0.01	18.90625	0.003712203
8449	3	0.433007	0.01	18.91625	0.003714167
572	1	0.433415	0.015	18.93125	0.003717112
1460	1	0.433493	0.015	18.94625	0.003720057
7506	3	0.433601	-0.005	18.94125	0.003719075
5171	3	0.433763	0.01	18.95125	0.003721039
3427	3	0.433801	0.01	18.96125	0.003723002
2294	2	0.434002	0.0125	18.97375	0.003725457
409	1	0.434236	0.015	18.98875	0.003728402
324	1	0.4343	0.015	19.00375	0.003731347
8160	3	0.434778	-0.005	18.99875	0.003730365
7564	3	0.434938	0.01	19.00875	0.003732329
2602	2	0.434978	0.0125	19.02125	0.003734783

4094	3	0.43504	-0.005	19.01625	0.003733801
3474	3	0.435319	0.01	19.02625	0.003735765
7555	3	0.435637	-0.005	19.02125	0.003734783
104	1	0.43623	0.015	19.03625	0.003737728
786	1	0.436415	0.015	19.05125	0.003740673
7296	3	0.43644	0.01	19.06125	0.003742637
1467	1	0.436465	0.015	19.07625	0.003745582
1548	1	0.436684	0.015	19.09125	0.003748527
8526	3	0.437041	0.01	19.10125	0.003750491
1768	1	0.437129	-0.0075	19.09375	0.003749018
4870	3	0.437171	0.01	19.10375	0.003750982
734	1	0.437185	-0.0075	19.09625	0.003749509
1308	1	0.437513	-0.0075	19.08875	0.003748037
247	1	0.43756	-0.0075	19.08125	0.003746564
3099	3	0.437695	-0.005	19.07625	0.003745582
5385	3	0.437874	0.01	19.08625	0.003747546
8989	4	0.437875	0.01	19.09625	0.003749509
5584	3	0.437944	-0.005	19.09125	0.003748527
7892	3	0.437963	-0.005	19.08625	0.003747546
25	1	0.438048	0.015	19.10125	0.003750491
2561	2	0.438178	0.0125	19.11375	0.003752945
1884	2	0.43818	0.0125	19.12625	0.0037554
8269	3	0.438276	-0.005	19.12125	0.003754418
2586	2	0.438304	0.0125	19.13375	0.003756872
5759	3	0.438497	0.01	19.14375	0.003758836
5147	3	0.438503	0.01	19.15375	0.003760799
3479	3	0.438538	0.01	19.16375	0.003762763
2295	2	0.438603	0.0125	19.17625	0.003765217
1420	1	0.439387	-0.0075	19.16875	0.003763744
77	1	0.439498	-0.0075	19.16125	0.003762272
2542	2	0.439621	-0.00625	19.155	0.003761045
7191	3	0.440337	0.01	19.165	0.003763008
7075	3	0.440416	-0.005	19.16	0.003762026
1510	1	0.440645	-0.0075	19.1525	0.003760554
6934	3	0.440961	0.01	19.1625	0.003762517
65	1	0.441151	-0.0075	19.155	0.003761045
1566	1	0.441317	0.015	19.17	0.00376399
7399	3	0.44139	0.01	19.18	0.003765953
1161	1	0.441425	0.015	19.195	0.003768898
1101	1	0.441539	0.015	19.21	0.003771844
482	1	0.441641	0.015	19.225	0.003774789
223	1	0.442132	0.015	19.24	0.003777734
6218	3	0.442146	0.01	19.25	0.003779698
2137	2	0.442207	0.0125	19.2625	0.003782152
5410	3	0.442446	-0.005	19.2575	0.00378117
8625	3	0.44271	0.01	19.2675	0.003783134
8180	3	0.442815	0.01	19.2775	0.003785097
4821	3	0.442937	0.01	19.2875	0.003787061
6620	3	0.443047	-0.005	19.2825	0.003786079
1533	1	0.443176	-0.0075	19.275	0.003784606
1905	2	0.443745	0.0125	19.2875	0.003787061
4061	3	0.443833	-0.005	19.2825	0.003786079

6567	3	0.444053	-0.005	19.2775	0.003785097
2315	2	0.444139	-0.00625	19.27125	0.00378387
4320	3	0.444146	0.01	19.28125	0.003785833
771	1	0.44447	0.015	19.29625	0.003788779
1281	1	0.444542	-0.0075	19.28875	0.003787306
7589	3	0.44468	0.01	19.29875	0.00378927
752	1	0.444739	0.015	19.31375	0.003792215
8473	3	0.444755	0.01	19.32375	0.003794178
1697	1	0.445137	0.015	19.33875	0.003797124
2546	2	0.445364	0.0125	19.35125	0.003799578
5648	3	0.445399	-0.005	19.34625	0.003798596
511	1	0.445687	0.015	19.36125	0.003801541
970	1	0.445818	-0.0075	19.35375	0.003800069
2588	2	0.446115	-0.00625	19.3475	0.003798842
2246	2	0.446121	0.0125	19.36	0.003801296
4242	3	0.446206	-0.005	19.355	0.003800314
4081	3	0.446278	-0.005	19.35	0.003799332
4279	3	0.446568	-0.005	19.345	0.003798351
2815	2	0.446658	0.0125	19.3575	0.003800805
721	1	0.447233	0.015	19.3725	0.00380375
8317	3	0.447394	0.01	19.3825	0.003805714
8461	3	0.447459	-0.005	19.3775	0.003804732
7673	3	0.447503	0.01	19.3875	0.003806695
582	1	0.447569	-0.0075	19.38	0.003805223
6167	3	0.44775	0.01	19.39	0.003807186
3295	3	0.447924	0.01	19.4	0.00380915
8221	3	0.447986	0.01	19.41	0.003811113
520	1	0.447991	-0.0075	19.4025	0.003809641
1569	1	0.448094	0.015	19.4175	0.003812586
262	1	0.448196	-0.0075	19.41	0.003811113
7799	3	0.448232	-0.005	19.405	0.003810132
6287	3	0.448971	0.01	19.415	0.003812095
4927	3	0.449127	0.01	19.425	0.003814059
1134	1	0.449269	0.015	19.44	0.003817004
8332	3	0.44984	0.01	19.45	0.003818967
7604	3	0.449896	0.01	19.46	0.003820931
8191	3	0.449995	-0.005	19.455	0.003819949
7549	3	0.450374	0.01	19.465	0.003821912
7094	3	0.450607	0.01	19.475	0.003823876
8883	4	0.450631	0.01	19.485	0.003825839
6593	3	0.451507	-0.005	19.48	0.003824858
612	1	0.451618	0.015	19.495	0.003827803
2299	2	0.451639	0.0125	19.5075	0.003830257
1157	1	0.451874	-0.0075	19.5	0.003828785
494	1	0.452387	0.015	19.515	0.00383173
324	1	0.452826	-0.0075	19.5075	0.003830257
1161	1	0.453376	-0.0075	19.5	0.003828785
948	1	0.453648	-0.0075	19.4925	0.003827312
1287	1	0.453717	0.015	19.5075	0.003830257
425	1	0.453731	-0.0075	19.5	0.003828785
1581	1	0.453954	0.015	19.515	0.00383173
795	1	0.453978	-0.0075	19.5075	0.003830257

2118	2	0.454279	0.0125	19.52	0.003832712
716	1	0.454633	0.015	19.535	0.003835657
6612	3	0.455203	0.01	19.545	0.00383762
4322	3	0.45596	0.01	19.555	0.003839584
1584	1	0.455991	0.015	19.57	0.003842529
2898	2	0.456104	0.0125	19.5825	0.003844983
3756	3	0.456207	-0.005	19.5775	0.003844002
4802	3	0.456585	-0.005	19.5725	0.00384302
3571	3	0.456681	-0.005	19.5675	0.003842038
3999	3	0.456892	0.01	19.5775	0.003844002
7742	3	0.457083	0.01	19.5875	0.003845965
3242	3	0.457507	-0.005	19.5825	0.003844983
7328	3	0.457926	-0.005	19.5775	0.003844002
4980	3	0.457943	0.01	19.5875	0.003845965
3640	3	0.458043	0.01	19.5975	0.003847929
1614	1	0.458381	0.015	19.6125	0.003850874
4874	3	0.458716	0.01	19.6225	0.003852837
4659	3	0.458793	0.01	19.6325	0.003854801
5684	3	0.458916	0.01	19.6425	0.003856764
1626	1	0.459167	0.015	19.6575	0.003859709
6705	3	0.459366	-0.005	19.6525	0.003858728
4488	3	0.459454	0.01	19.6625	0.003860691
8741	3	0.45999	-0.005	19.6575	0.003859709
1728	1	0.460066	-0.0075	19.65	0.003858237
8920	4	0.460167	-0.005	19.645	0.003857255
9081	4	0.460396	0.01	19.655	0.003859219
4249	3	0.460497	-0.005	19.65	0.003858237
2506	2	0.460578	-0.00625	19.64375	0.00385701
2406	2	0.460757	-0.00625	19.6375	0.003855782
5371	3	0.461163	0.01	19.6475	0.003857746
4503	3	0.461362	-0.005	19.6425	0.003856764
1904	2	0.462015	0.0125	19.655	0.003859219
4675	3	0.462053	0.01	19.665	0.003861182
1620	1	0.462117	0.015	19.68	0.003864127
606	1	0.462128	-0.0075	19.6725	0.003862655
30	1	0.462223	0.015	19.6875	0.0038656
877	1	0.462718	0.015	19.7025	0.003868545
5852	3	0.462746	0.01	19.7125	0.003870509
8320	3	0.462849	0.01	19.7225	0.003872472
7030	3	0.463026	0.01	19.7325	0.003874435
2115	2	0.463171	-0.00625	19.72625	0.003873208
9534	4	0.463466	-0.005	19.72125	0.003872227
426	1	0.463695	0.015	19.73625	0.003875172
2328	2	0.463935	0.0125	19.74875	0.003877626
1735	1	0.463993	-0.0075	19.74125	0.003876154
6012	3	0.464066	-0.005	19.73625	0.003875172
2737	2	0.464391	-0.00625	19.73	0.003873945
6536	3	0.464438	-0.005	19.725	0.003872963
9012	4	0.464522	-0.005	19.72	0.003871981
7985	3	0.46466	0.01	19.73	0.003873945
6151	3	0.464781	-0.005	19.725	0.003872963
5134	3	0.464785	-0.005	19.72	0.003871981

1851	2	0.464963	0.0125	19.7325	0.003874435
5795	3	0.464989	0.01	19.7425	0.003876399
5443	3	0.465013	-0.005	19.7375	0.003875417
6880	3	0.465263	-0.005	19.7325	0.003874435
2891	2	0.465269	0.0125	19.745	0.00387689
5610	3	0.465639	0.01	19.755	0.003878853
1217	1	0.465691	0.015	19.77	0.003881799
694	1	0.465821	0.015	19.785	0.003884744
8119	3	0.465891	0.01	19.795	0.003886707
7971	3	0.466061	0.01	19.805	0.003888671
3309	3	0.466257	0.01	19.815	0.003890634
4370	3	0.46675	0.01	19.825	0.003892598
4714	3	0.466752	-0.005	19.82	0.003891616
1851	2	0.466875	-0.00625	19.81375	0.003890389
4189	3	0.466921	0.01	19.82375	0.003892352
2628	2	0.466987	-0.00625	19.8175	0.003891125
1564	1	0.467039	0.015	19.8325	0.00389407
772	1	0.467105	0.015	19.8475	0.003897016
6751	3	0.467187	-0.005	19.8425	0.003896034
4066	3	0.467338	-0.005	19.8375	0.003895052
4570	3	0.467803	-0.005	19.8325	0.00389407
213	1	0.468174	0.015	19.8475	0.003897016
5097	3	0.468399	0.01	19.8575	0.003898979
5477	3	0.468754	0.01	19.8675	0.003900942
949	1	0.468786	0.015	19.8825	0.003903888
3776	3	0.468883	0.01	19.8925	0.003905851
2470	2	0.468916	0.0125	19.905	0.003908306
2617	2	0.469236	-0.00625	19.89875	0.003907078
4424	3	0.469276	0.01	19.90875	0.003909042
222	1	0.469452	0.015	19.92375	0.003911987
147	1	0.469673	0.015	19.93875	0.003914932
3530	3	0.469795	0.01	19.94875	0.003916896
1227	1	0.469914	0.015	19.96375	0.003919841
2617	2	0.470807	-0.00625	19.9575	0.003918614
1971	2	0.470969	0.0125	19.97	0.003921068
2043	2	0.471088	-0.00625	19.96375	0.003919841
2436	2	0.471302	-0.00625	19.9575	0.003918614
7569	3	0.471318	0.01	19.9675	0.003920577
1573	1	0.471442	0.015	19.9825	0.003923522
2099	2	0.471512	-0.00625	19.97625	0.003922295
3943	3	0.471576	0.01	19.98625	0.003924259
5488	3	0.471643	-0.005	19.98125	0.003923277
185	1	0.471753	0.015	19.99625	0.003926222
5997	3	0.472364	0.01	20.00625	0.003928186
5127	3	0.472481	0.01	20.01625	0.003930149
2213	2	0.472492	0.0125	20.02875	0.003932604
2477	2	0.472612	-0.00625	20.0225	0.003931376
3708	3	0.472978	0.01	20.0325	0.00393334
8427	3	0.473341	0.01	20.0425	0.003935303
9269	4	0.473397	0.01	20.0525	0.003937267
6207	3	0.473592	0.01	20.0625	0.00393923
1924	2	0.473828	-0.00625	20.05625	0.003938003

6711	3	0.473922	0.01	20.06625	0.003939967
2162	2	0.474099	0.0125	20.07875	0.003942421
192	1	0.47428	-0.0075	20.07125	0.003940948
5795	3	0.474592	-0.005	20.06625	0.003939967
6761	3	0.474747	0.01	20.07625	0.00394193
8063	3	0.474769	0.01	20.08625	0.003943894
560	1	0.475163	0.015	20.10125	0.003946839
5884	3	0.475291	0.01	20.11125	0.003948802
7906	3	0.476017	-0.005	20.10625	0.003947821
1439	1	0.476419	0.015	20.12125	0.003950766
7612	3	0.476874	0.01	20.13125	0.003952729
1373	1	0.476882	0.015	20.14625	0.003955674
967	1	0.477104	0.015	20.16125	0.00395862
279	1	0.477218	-0.0075	20.15375	0.003957147
5971	3	0.477586	0.01	20.16375	0.003959111
1548	1	0.47912	-0.0075	20.15625	0.003957638
1490	1	0.479278	0.015	20.17125	0.003960583
1902	2	0.479474	-0.00625	20.165	0.003959356
9834	4	0.479614	0.01	20.175	0.003961319
1883	2	0.479721	0.0125	20.1875	0.003963774
244	1	0.479884	0.015	20.2025	0.003966719
201	1	0.479909	0.015	20.2175	0.003969664
4648	3	0.480138	0.01	20.2275	0.003971628
1533	1	0.480185	-0.0075	20.22	0.003970155
1646	1	0.480196	0.015	20.235	0.0039731
8549	3	0.480252	0.01	20.245	0.003975064
392	1	0.480416	0.015	20.26	0.003978009
6534	3	0.480732	0.01	20.27	0.003979973
4308	3	0.4808	0.01	20.28	0.003981936
2399	2	0.481051	0.0125	20.2925	0.00398439
1436	1	0.481082	0.015	20.3075	0.003987336
8039	3	0.481124	-0.005	20.3025	0.003986354
4540	3	0.481346	0.01	20.3125	0.003988317
5607	3	0.481481	0.01	20.3225	0.003990281
6798	3	0.481549	-0.005	20.3175	0.003989299
339	1	0.481603	-0.0075	20.31	0.003987826
730	1	0.481761	0.015	20.325	0.003990772
2479	2	0.482072	0.0125	20.3375	0.003993226
4161	3	0.482149	0.01	20.3475	0.003995189
2190	2	0.482446	0.0125	20.36	0.003997644
7512	3	0.4825	0.01	20.37	0.003999607
8387	3	0.482592	-0.005	20.365	0.003998626
1915	2	0.48293	0.0125	20.3775	0.00400108
413	1	0.483767	-0.0075	20.37	0.003999607
7975	3	0.484077	-0.005	20.365	0.003998626
6213	3	0.484429	0.01	20.375	0.004000589
2331	2	0.484499	0.0125	20.3875	0.004003043
703	1	0.484543	0.015	20.4025	0.004005989
5161	3	0.484576	0.01	20.4125	0.004007952
859	1	0.48461	0.015	20.4275	0.004010897
1171	1	0.484866	0.015	20.4425	0.004013843
5346	3	0.48488	0.01	20.4525	0.004015806

7594	3	0.485066	0.01	20.4625	0.004017769
7668	3	0.485194	-0.005	20.4575	0.004016788
6090	3	0.485472	-0.005	20.4525	0.004015806
858	1	0.485692	0.015	20.4675	0.004018751
1621	1	0.486168	0.015	20.4825	0.004021696
5516	3	0.486385	0.01	20.4925	0.00402366
2586	2	0.486415	-0.00625	20.48625	0.004022433
4836	3	0.486456	-0.005	20.48125	0.004021451
1549	1	0.486589	-0.0075	20.47375	0.004019978
2264	2	0.486824	0.0125	20.48625	0.004022433
3933	3	0.48706	0.01	20.49625	0.004024396
83	1	0.487235	-0.0075	20.48875	0.004022924
1098	1	0.48759	0.015	20.50375	0.004025869
752	1	0.487876	-0.0075	20.49625	0.004024396
6685	3	0.487969	0.01	20.50625	0.00402636
5830	3	0.488161	0.01	20.51625	0.004028323
1529	1	0.488497	0.015	20.53125	0.004031268
2175	2	0.488535	-0.00625	20.525	0.004030041
3156	3	0.488848	0.01	20.535	0.004032005
8276	3	0.489304	0.01	20.545	0.004033968
8558	3	0.489513	0.01	20.555	0.004035932
1314	1	0.489912	0.015	20.57	0.004038877
1037	1	0.49002	0.015	20.585	0.004041822
7296	3	0.49017	-0.005	20.58	0.00404084
2840	2	0.490205	0.0125	20.5925	0.004043295
973	1	0.490222	-0.0075	20.585	0.004041822
6302	3	0.490259	0.01	20.595	0.004043786
240	1	0.490505	-0.0075	20.5875	0.004042313
4424	3	0.490617	-0.005	20.5825	0.004041331
185	1	0.490683	-0.0075	20.575	0.004039859
2458	2	0.490815	-0.00625	20.56875	0.004038631
1393	1	0.490816	0.015	20.58375	0.004041577
925	1	0.490903	0.015	20.59875	0.004044522
2064	2	0.490967	0.0125	20.61125	0.004046976
3902	3	0.491105	0.01	20.62125	0.00404894
8864	4	0.491166	0.01	20.63125	0.004050903
6318	3	0.491352	-0.005	20.62625	0.004049921
4486	3	0.491982	-0.005	20.62125	0.00404894
8415	3	0.491997	-0.005	20.61625	0.004047958
6448	3	0.49208	0.01	20.62625	0.004049921
4718	3	0.492131	-0.005	20.62125	0.00404894
5156	3	0.492156	0.01	20.63125	0.004050903
7424	3	0.492161	0.01	20.64125	0.004052867
2478	2	0.492316	-0.00625	20.635	0.00405164
2264	2	0.492404	-0.00625	20.62875	0.004050412
2279	2	0.492453	0.0125	20.64125	0.004052867
3667	3	0.493184	-0.005	20.63625	0.004051885
7985	3	0.493426	-0.005	20.63125	0.004050903
9669	4	0.493426	-0.005	20.62625	0.004049921
6802	3	0.493449	-0.005	20.62125	0.00404894
5048	3	0.493654	0.01	20.63125	0.004050903
1193	1	0.493752	-0.0075	20.62375	0.004049431

459	1	0.494274	0.015	20.63875	0.004052376
1021	1	0.494353	0.015	20.65375	0.004055321
4059	3	0.494445	0.01	20.66375	0.004057285
5381	3	0.494455	0.01	20.67375	0.004059248
5991	3	0.495346	0.01	20.68375	0.004061211
632	1	0.495358	0.015	20.69875	0.004064157
3367	3	0.495483	0.01	20.70875	0.00406612
5478	3	0.495485	-0.005	20.70375	0.004065138
4431	3	0.495673	0.01	20.71375	0.004067102
2076	2	0.495908	0.0125	20.72625	0.004069556
3144	3	0.496092	0.01	20.73625	0.00407152
1402	1	0.497045	0.015	20.75125	0.004074465
8465	3	0.497274	0.01	20.76125	0.004076428
910	1	0.49729	0.015	20.77625	0.004079374
6381	3	0.497426	0.01	20.78625	0.004081337
2435	2	0.497533	-0.00625	20.78	0.00408011
7165	3	0.497838	0.01	20.79	0.004082073
1111	1	0.498233	0.015	20.805	0.004085019
6025	3	0.498323	0.01	20.815	0.004086982
1789	2	0.498809	0.0125	20.8275	0.004089436
7205	3	0.499021	0.01	20.8375	0.0040914
8625	3	0.499324	-0.005	20.8325	0.004090418
183	1	0.499757	-0.0075	20.825	0.004088946
5318	3	0.499778	0.01	20.835	0.004090909
5438	3	0.499956	-0.005	20.83	0.004089927
5200	3	0.500097	0.01	20.84	0.004091891
2768	2	0.500133	0.0125	20.8525	0.004094345
1070	1	0.500244	-0.0075	20.845	0.004092873
3561	3	0.500354	0.01	20.855	0.004094836
1702	1	0.500882	0.015	20.87	0.004097781
79	1	0.500911	0.015	20.885	0.004100726
2188	2	0.500952	0.0125	20.8975	0.004103181
8681	3	0.501008	-0.005	20.8925	0.004102199
1587	1	0.501083	0.015	20.9075	0.004105144
122	1	0.501416	0.015	20.9225	0.00410809
5384	3	0.50153	0.01	20.9325	0.004110053
457	1	0.501587	0.015	20.9475	0.004112998
7694	3	0.502161	0.01	20.9575	0.004114962
2805	2	0.502342	-0.00625	20.95125	0.004113735
6376	3	0.502352	-0.005	20.94625	0.004112753
2437	2	0.502661	-0.00625	20.94	0.004111526
49	1	0.502681	-0.0075	20.9325	0.004110053
5717	3	0.502832	-0.005	20.9275	0.004109071
241	1	0.503434	0.015	20.9425	0.004112016
7281	3	0.503624	0.01	20.9525	0.00411398
117	1	0.503712	0.015	20.9675	0.004116925
9580	4	0.503964	0.01	20.9775	0.004118889
1819	2	0.504127	-0.00625	20.97125	0.004117661
520	1	0.504384	-0.0075	20.96375	0.004116189
885	1	0.504552	-0.0075	20.95625	0.004114716
8918	4	0.505032	0.01	20.96625	0.00411668
3474	3	0.505045	-0.005	20.96125	0.004115698

4527	3	0.505137	0.01	20.97125	0.004117661
7655	3	0.505439	0.01	20.98125	0.004119625
4646	3	0.505622	0.01	20.99125	0.004121588
5425	3	0.50603	0.01	21.00125	0.004123552
7399	3	0.506227	-0.005	20.99625	0.00412257
1176	1	0.506242	0.015	21.01125	0.004125515
2815	2	0.506411	-0.00625	21.005	0.004124288
7972	3	0.506564	-0.005	21	0.004123306
1140	1	0.50663	-0.0075	20.9925	0.004121834
6861	3	0.506832	-0.005	20.9875	0.004120852
2033	2	0.506839	-0.00625	20.98125	0.004119625
7606	3	0.507377	0.01	20.99125	0.004121588
541	1	0.507476	0.015	21.00625	0.004124534
7553	3	0.507727	0.01	21.01625	0.004126497
5593	3	0.507936	0.01	21.02625	0.004128461
2289	2	0.507956	-0.00625	21.02	0.004127233
6300	3	0.50812	0.01	21.03	0.004129197
9228	4	0.508289	0.01	21.04	0.00413116
906	1	0.508342	0.015	21.055	0.004134106
9470	4	0.508577	0.01	21.065	0.004136069
8684	3	0.5086	-0.005	21.06	0.004135087
5355	3	0.509087	-0.005	21.055	0.004134106
1963	2	0.509314	-0.00625	21.04875	0.004132878
8686	3	0.509542	-0.005	21.04375	0.004131897
7903	3	0.509752	0.01	21.05375	0.00413386
4639	3	0.509808	0.01	21.06375	0.004135824
5742	3	0.509936	0.01	21.07375	0.004137787
8721	3	0.510118	0.01	21.08375	0.004139751
3341	3	0.51046	0.01	21.09375	0.004141714
210	1	0.510501	-0.0075	21.08625	0.004140242
433	1	0.510603	0.015	21.10125	0.004143187
5963	3	0.51071	-0.005	21.09625	0.004142205
6125	3	0.511019	0.01	21.10625	0.004144168
1240	1	0.511229	0.015	21.12125	0.004147114
2658	2	0.511878	-0.00625	21.115	0.004145887
280	1	0.512083	0.015	21.13	0.004148832
2789	2	0.512308	0.0125	21.1425	0.004151286
1424	1	0.512739	0.015	21.1575	0.004154231
2353	2	0.51279	-0.00625	21.15125	0.004153004
1723	1	0.512828	0.015	21.16625	0.004155949
1410	1	0.512843	0.015	21.18125	0.004158895
5847	3	0.513113	0.01	21.19125	0.004160858
2299	2	0.514206	-0.00625	21.185	0.004159631
1675	1	0.514347	0.015	21.2	0.004162576
1892	2	0.514542	0.0125	21.2125	0.00416503
2030	2	0.515196	0.0125	21.225	0.004167485
5697	3	0.515893	0.01	21.235	0.004169448
1763	1	0.516799	-0.0075	21.2275	0.004167976
4970	3	0.516853	0.01	21.2375	0.004169939
2796	2	0.516975	0.0125	21.25	0.004172393
8587	3	0.517165	0.01	21.26	0.004174357
7564	3	0.517187	-0.005	21.255	0.004173375

6622	3	0.51723	0.01	21.265	0.004175339
3169	3	0.517239	0.01	21.275	0.004177302
1060	1	0.517242	-0.0075	21.2675	0.00417583
4251	3	0.517481	0.01	21.2775	0.004177793
8413	3	0.517807	0.01	21.2875	0.004179757
7556	3	0.518335	0.01	21.2975	0.00418172
7847	3	0.519154	0.01	21.3075	0.004183683
6059	3	0.519266	-0.005	21.3025	0.004182702
626	1	0.519292	0.015	21.3175	0.004185647
2322	2	0.519433	-0.00625	21.31125	0.00418442
3428	3	0.519756	0.01	21.32125	0.004186383
9263	4	0.519836	0.01	21.33125	0.004188347
3787	3	0.519886	-0.005	21.32625	0.004187365
190	1	0.519989	0.015	21.34125	0.00419031
3	1	0.519993	0.015	21.35625	0.004193255
7147	3	0.5201	0.01	21.36625	0.004195219
1385	1	0.520103	-0.0075	21.35875	0.004193746
8180	3	0.520568	-0.005	21.35375	0.004192765
2338	2	0.521407	0.0125	21.36625	0.004195219
5084	3	0.521492	0.01	21.37625	0.004197182
6491	3	0.521495	-0.005	21.37125	0.004196201
3917	3	0.521666	0.01	21.38125	0.004198164
7316	3	0.52215	0.01	21.39125	0.004200128
7427	3	0.522181	-0.005	21.38625	0.004199146
2732	2	0.522751	0.0125	21.39875	0.0042016
78	1	0.522911	-0.0075	21.39125	0.004200128
300	1	0.523234	0.015	21.40625	0.004203073
7653	3	0.523418	0.01	21.41625	0.004205036
6656	3	0.524026	0.01	21.42625	0.004207
9528	4	0.524071	0.01	21.43625	0.004208963
4521	3	0.524323	0.01	21.44625	0.004210927
5346	3	0.524343	-0.005	21.44125	0.004209945
7657	3	0.52491	0.01	21.45125	0.004211909
6170	3	0.524998	0.01	21.46125	0.004213872
7244	3	0.525009	0.01	21.47125	0.004215835
6422	3	0.525125	0.01	21.48125	0.004217799
1000	1	0.525325	0.015	21.49625	0.004220744
7479	3	0.525462	-0.005	21.49125	0.004219762
1920	2	0.525581	-0.00625	21.485	0.004218535
8894	4	0.525657	0.01	21.495	0.004220499
578	1	0.526118	0.015	21.51	0.004223444
1563	1	0.526471	0.015	21.525	0.004226389
5606	3	0.526842	0.01	21.535	0.004228353
4507	3	0.52692	0.01	21.545	0.004230316
1882	2	0.527032	-0.00625	21.53875	0.004229089
350	1	0.527878	-0.0075	21.53125	0.004227616
4860	3	0.528038	0.01	21.54125	0.00422958
5842	3	0.528109	-0.005	21.53625	0.004228598
6985	3	0.528206	0.01	21.54625	0.004230562
5880	3	0.528232	-0.005	21.54125	0.00422958
2391	2	0.528378	0.0125	21.55375	0.004232034
171	1	0.528996	-0.0075	21.54625	0.004230562

4692	3	0.529219	0.01	21.55625	0.004232525
491	1	0.529672	-0.0075	21.54875	0.004231052
984	1	0.530013	-0.0075	21.54125	0.00422958
3902	3	0.53007	-0.005	21.53625	0.004228598
2234	2	0.530147	-0.00625	21.53	0.004227371
2435	2	0.530198	-0.00625	21.52375	0.004226144
7857	3	0.530297	0.01	21.53375	0.004228107
3481	3	0.530353	0.01	21.54375	0.004230071
1691	1	0.53067	0.015	21.55875	0.004233016
820	1	0.531117	-0.0075	21.55125	0.004231543
3514	3	0.531203	0.01	21.56125	0.004233507
2712	2	0.531254	0.0125	21.57375	0.004235961
3726	3	0.531579	0.01	21.58375	0.004237925
2759	2	0.53177	0.0125	21.59625	0.004240379
5275	3	0.53177	0.01	21.60625	0.004242342
2621	2	0.531894	0.0125	21.61875	0.004244797
2519	2	0.532101	0.0125	21.63125	0.004247251
749	1	0.532616	-0.0075	21.62375	0.004245779
8465	3	0.532665	-0.005	21.61875	0.004244797
3457	3	0.532679	0.01	21.62875	0.00424676
2192	2	0.532939	0.0125	21.64125	0.004249215
3738	3	0.533617	0.01	21.65125	0.004251178
7861	3	0.534023	-0.005	21.64625	0.004250196
1637	1	0.534443	0.015	21.66125	0.004253142
6856	3	0.53449	-0.005	21.65625	0.00425216
2496	2	0.534513	0.0125	21.66875	0.004254614
714	1	0.534636	0.015	21.68375	0.004257559
1244	1	0.534793	0.015	21.69875	0.004260505
6960	3	0.535146	0.01	21.70875	0.004262468
6616	3	0.535304	0.01	21.71875	0.004264432
8423	3	0.53583	-0.005	21.71375	0.00426345
1293	1	0.535863	-0.0075	21.70625	0.004261977
2847	2	0.536388	0.0125	21.71875	0.004264432
7840	3	0.536973	-0.005	21.71375	0.00426345
6725	3	0.537055	0.01	21.72375	0.004265413
5531	3	0.537056	0.01	21.73375	0.004267377
9192	4	0.537062	0.01	21.74375	0.00426934
4350	3	0.537136	0.01	21.75375	0.004271304
778	1	0.537185	-0.0075	21.74625	0.004269831
3508	3	0.53725	-0.005	21.74125	0.004268849
2133	2	0.537548	0.0125	21.75375	0.004271304
1508	1	0.537959	0.015	21.76875	0.004274249
5967	3	0.538123	-0.005	21.76375	0.004273267
2375	2	0.538807	-0.00625	21.7575	0.00427204
159	1	0.538849	0.015	21.7725	0.004274985
8007	3	0.539474	0.01	21.7825	0.004276949
3880	3	0.539528	0.01	21.7925	0.004278912
6451	3	0.540268	-0.005	21.7875	0.00427793
828	1	0.540434	0.015	21.8025	0.004280876
1438	1	0.540469	0.015	21.8175	0.004283821
2078	2	0.540987	0.0125	21.83	0.004286275
3044	3	0.541183	0.01	21.84	0.004288239

1846	2	0.541238	-0.00625	21.83375	0.004287012
4753	3	0.541573	0.01	21.84375	0.004288975
7238	3	0.541612	0.01	21.85375	0.004290939
4407	3	0.541705	-0.005	21.84875	0.004289957
1805	2	0.541847	0.0125	21.86125	0.004292411
7460	3	0.541869	0.01	21.87125	0.004294375
425	1	0.541932	-0.0075	21.86375	0.004292902
1243	1	0.542336	0.015	21.87875	0.004295847
8651	3	0.542399	-0.005	21.87375	0.004294866
371	1	0.542624	0.015	21.88875	0.004297811
563	1	0.543022	0.015	21.90375	0.004300756
9667	4	0.543503	0.01	21.91375	0.004302719
4130	3	0.543548	0.01	21.92375	0.004304683
759	1	0.544085	0.015	21.93875	0.004307628
2351	2	0.544449	0.0125	21.95125	0.004310082
5234	3	0.545227	0.01	21.96125	0.004312046
2126	2	0.545908	0.0125	21.97375	0.0043145
9487	4	0.546186	0.01	21.98375	0.004316464
1064	1	0.546441	0.015	21.99875	0.004319409
1217	1	0.54649	-0.0075	21.99125	0.004317936
1383	1	0.547006	0.015	22.00625	0.004320882
4819	3	0.547464	0.01	22.01625	0.004322845
544	1	0.547543	0.015	22.03125	0.00432579
7847	3	0.547716	-0.005	22.02625	0.004324809
3285	3	0.547826	-0.005	22.02125	0.004323827
2464	2	0.547933	0.0125	22.03375	0.004326281
6207	3	0.548058	-0.005	22.02875	0.004325299
6413	3	0.548244	0.01	22.03875	0.004327263
1135	1	0.548312	0.015	22.05375	0.004330208
5652	3	0.548331	0.01	22.06375	0.004332172
944	1	0.548403	0.015	22.07875	0.004335117
759	1	0.548903	-0.0075	22.07125	0.004333644
2196	2	0.549837	0.0125	22.08375	0.004336099
5681	3	0.549994	0.01	22.09375	0.004338062
800	1	0.550276	0.015	22.10875	0.004341007
2068	2	0.55068	-0.00625	22.1025	0.00433978
1456	1	0.550694	-0.0075	22.095	0.004338307
7954	3	0.550725	0.01	22.105	0.004340271
177	1	0.551153	0.015	22.12	0.004343216
4297	3	0.551198	-0.005	22.115	0.004342234
7258	3	0.551501	0.01	22.125	0.004344198
2213	2	0.55203	-0.00625	22.11875	0.004342971
7556	3	0.55211	-0.005	22.11375	0.004341989
7027	3	0.552119	0.01	22.12375	0.004343952
655	1	0.552175	0.015	22.13875	0.004346898
5516	3	0.552418	-0.005	22.13375	0.004345916
2399	2	0.553277	-0.00625	22.1275	0.004344689
8696	3	0.553284	0.01	22.1375	0.004346652
138	1	0.55425	0.015	22.1525	0.004349597
1086	1	0.554306	0.015	22.1675	0.004352543
1460	1	0.554466	-0.0075	22.16	0.00435107
5625	3	0.554488	0.01	22.17	0.004353034

8228	3	0.554515	0.01	22.18	0.004354997
1284	1	0.554638	0.015	22.195	0.004357942
1441	1	0.554689	-0.0075	22.1875	0.00435647
2776	2	0.554786	0.0125	22.2	0.004358924
2251	2	0.555105	0.0125	22.2125	0.004361378
4927	3	0.555752	-0.005	22.2075	0.004360397
8315	3	0.55608	-0.005	22.2025	0.004359415
1794	2	0.556578	0.0125	22.215	0.004361869
6141	3	0.556688	0.01	22.225	0.004363833
2646	2	0.55686	0.0125	22.2375	0.004366287
3053	3	0.557035	0.01	22.2475	0.004368251
1928	2	0.557118	0.0125	22.26	0.004370705
871	1	0.557151	-0.0075	22.2525	0.004369232
3505	3	0.557174	0.01	22.2625	0.004371196
7301	3	0.55726	-0.005	22.2575	0.004370214
2401	2	0.558094	0.0125	22.27	0.004372668
1648	1	0.558198	-0.0075	22.2625	0.004371196
6326	3	0.558961	0.01	22.2725	0.004373159
7751	3	0.558975	0.01	22.2825	0.004375123
7199	3	0.559084	0.01	22.2925	0.004377086
4500	3	0.559208	-0.005	22.2875	0.004376104
200	1	0.559399	-0.0075	22.28	0.004374632
1335	1	0.559551	-0.0075	22.2725	0.004373159
8505	3	0.559692	0.01	22.2825	0.004375123
4099	3	0.559748	-0.005	22.2775	0.004374141
6710	3	0.559964	0.01	22.2875	0.004376104
2390	2	0.560035	-0.00625	22.28125	0.004374877
565	1	0.560316	0.015	22.29625	0.004377823
4289	3	0.560787	0.01	22.30625	0.004379786
6311	3	0.56107	0.01	22.31625	0.004381749
1747	1	0.561092	0.015	22.33125	0.004384695
9319	4	0.561247	-0.005	22.32625	0.004383713
4308	3	0.561288	-0.005	22.32125	0.004382731
2527	2	0.561486	-0.00625	22.315	0.004381504
3103	3	0.561687	0.01	22.325	0.004383468
3545	3	0.561728	0.01	22.335	0.004385431
2565	2	0.561978	0.0125	22.3475	0.004387885
7489	3	0.562399	0.01	22.3575	0.004389849
654	1	0.562679	0.015	22.3725	0.004392794
5497	3	0.563261	0.01	22.3825	0.004394758
7505	3	0.563369	0.01	22.3925	0.004396721
9519	4	0.563446	-0.005	22.3875	0.004395739
2128	2	0.563515	0.0125	22.4	0.004398194
5215	3	0.563637	0.01	22.41	0.004400157
459	1	0.564185	-0.0075	22.4025	0.004398684
2498	2	0.564417	0.0125	22.415	0.004401139
907	1	0.565135	0.015	22.43	0.004404084
9131	4	0.565234	0.01	22.44	0.004406048
4107	3	0.565314	0.01	22.45	0.004408011
8183	3	0.565315	-0.005	22.445	0.004407029
38	1	0.56551	0.015	22.46	0.004409974
2412	2	0.565641	0.0125	22.4725	0.004412429

960	1	0.565674	-0.0075	22.465	0.004410956
20	1	0.56569	0.015	22.48	0.004413901
1953	2	0.566741	0.0125	22.4925	0.004416356
1464	1	0.567324	0.015	22.5075	0.004419301
1366	1	0.567324	-0.0075	22.5	0.004417828
1149	1	0.567385	-0.0075	22.4925	0.004416356
8021	3	0.568216	0.01	22.5025	0.004418319
4652	3	0.568465	0.01	22.5125	0.004420283
4979	3	0.568535	0.01	22.5225	0.004422246
4775	3	0.568625	0.01	22.5325	0.00442421
2538	2	0.569184	0.0125	22.545	0.004426664
248	1	0.569185	0.015	22.56	0.004429609
743	1	0.569416	-0.0075	22.5525	0.004428137
7729	3	0.569535	0.01	22.5625	0.0044301
4346	3	0.569549	0.01	22.5725	0.004432064
5578	3	0.569877	0.01	22.5825	0.004434027
8929	4	0.570571	0.01	22.5925	0.004435991
21	1	0.570661	-0.0075	22.585	0.004434518
2503	2	0.570669	-0.00625	22.57875	0.004433291
8240	3	0.570752	0.01	22.58875	0.004435254
3119	3	0.570866	-0.005	22.58375	0.004434273
662	1	0.571378	0.015	22.59875	0.004437218
2539	2	0.571748	0.0125	22.61125	0.004439672
4107	3	0.571845	-0.005	22.60625	0.00443869
4243	3	0.572234	0.01	22.61625	0.004440654
1276	1	0.57229	0.015	22.63125	0.004443599
1966	2	0.5725	0.0125	22.64375	0.004446053
6830	3	0.572563	-0.005	22.63875	0.004445072
8026	3	0.572681	-0.005	22.63375	0.00444409
230	1	0.572824	0.015	22.64875	0.004447035
4869	3	0.573066	0.01	22.65875	0.004448999
4695	3	0.573147	0.01	22.66875	0.004450962
2654	2	0.573233	0.0125	22.68125	0.004453416
7326	3	0.573438	-0.005	22.67625	0.004452435
1480	1	0.573738	-0.0075	22.66875	0.004450962
3585	3	0.574011	-0.005	22.66375	0.00444998
2666	2	0.574126	0.0125	22.67625	0.004452435
1654	1	0.574412	0.015	22.69125	0.00445538
2519	2	0.57467	-0.00625	22.685	0.004454153
1678	1	0.574853	0.015	22.7	0.004457098
691	1	0.575109	0.015	22.715	0.004460043
5195	3	0.575267	0.01	22.725	0.004462007
1815	2	0.57537	0.0125	22.7375	0.004464461
807	1	0.575574	0.015	22.7525	0.004467406
5022	3	0.575993	0.01	22.7625	0.00446937
7927	3	0.576415	0.01	22.7725	0.004471333
9123	4	0.576723	0.01	22.7825	0.004473297
1933	2	0.576818	-0.00625	22.77625	0.00447207
355	1	0.577003	0.015	22.79125	0.004475015
2992	3	0.577162	0.01	22.80125	0.004476978
2813	2	0.577302	0.0125	22.81375	0.004479433
3582	3	0.577352	0.01	22.82375	0.004481396

8894	4	0.578006	-0.005	22.81875	0.004480414
1449	1	0.578247	0.015	22.83375	0.00448336
2313	2	0.579231	0.0125	22.84625	0.004485814
8208	3	0.579365	0.01	22.85625	0.004487777
1991	2	0.57948	0.0125	22.86875	0.004490232
4053	3	0.579526	0.01	22.87875	0.004492195
5475	3	0.579546	-0.005	22.87375	0.004491213
6274	3	0.57982	0.01	22.88375	0.004493177
1277	1	0.580353	-0.0075	22.87625	0.004491704
1596	1	0.580385	0.015	22.89125	0.00449465
7107	3	0.580729	0.01	22.90125	0.004496613
2011	2	0.580878	-0.00625	22.895	0.004495386
7147	3	0.581013	-0.005	22.89	0.004494404
1684	1	0.581834	-0.0075	22.8825	0.004492931
1745	1	0.582134	0.015	22.8975	0.004495877
7082	3	0.582205	0.01	22.9075	0.00449784
122	1	0.582445	-0.0075	22.9	0.004496368
1212	1	0.582478	0.015	22.915	0.004499313
9697	4	0.582688	0.01	22.925	0.004501276
1834	2	0.582969	0.0125	22.9375	0.004503731
6143	3	0.583143	-0.005	22.9325	0.004502749
8704	3	0.583145	0.01	22.9425	0.004504712
837	1	0.583469	0.015	22.9575	0.004507658
7391	3	0.583533	0.01	22.9675	0.004509621
7907	3	0.583667	-0.005	22.9625	0.004508639
7008	3	0.583735	-0.005	22.9575	0.004507658
4358	3	0.583812	0.01	22.9675	0.004509621
9925	4	0.584129	0.01	22.9775	0.004511585
2810	2	0.584476	0.0125	22.99	0.004514039
1351	1	0.584686	0.015	23.005	0.004516984
7250	3	0.584816	-0.005	23	0.004516002
558	1	0.584951	-0.0075	22.9925	0.00451453
3168	3	0.585175	0.01	23.0025	0.004516493
3598	3	0.585443	0.01	23.0125	0.004518457
695	1	0.585594	0.015	23.0275	0.004521402
2765	2	0.585811	-0.00625	23.02125	0.004520175
3301	3	0.586312	0.01	23.03125	0.004522138
2875	2	0.586957	0.0125	23.04375	0.004524593
801	1	0.58704	0.015	23.05875	0.004527538
6116	3	0.587257	0.01	23.06875	0.004529501
6837	3	0.587726	-0.005	23.06375	0.00452852
8688	3	0.587832	0.01	23.07375	0.004530483
1635	1	0.588308	-0.0075	23.06625	0.00452901
3736	3	0.588402	0.01	23.07625	0.004530974
8662	3	0.588641	0.01	23.08625	0.004532937
8918	4	0.588824	-0.005	23.08125	0.004531956
7492	3	0.58886	0.01	23.09125	0.004533919
145	1	0.589249	0.015	23.10625	0.004536864
2281	2	0.589468	0.0125	23.11875	0.004539319
9790	4	0.589487	-0.005	23.11375	0.004538337
9648	4	0.590048	0.01	23.12375	0.0045403
853	1	0.59026	0.015	23.13875	0.004543246

3399	3	0.590324	0.01	23.14875	0.004545209
270	1	0.590463	-0.0075	23.14125	0.004543737
1395	1	0.59064	0.015	23.15625	0.004546682
20	1	0.590788	-0.0075	23.14875	0.004545209
8037	3	0.590905	0.01	23.15875	0.004547173
7510	3	0.591377	0.01	23.16875	0.004549136
951	1	0.591702	0.015	23.18375	0.004552081
1948	2	0.591831	0.0125	23.19625	0.004554536
8909	4	0.592205	0.01	23.20625	0.004556499
1793	2	0.592257	-0.00625	23.2	0.004555272
8503	3	0.592612	0.01	23.21	0.004557235
498	1	0.592754	0.015	23.225	0.004560181
5389	3	0.592936	0.01	23.235	0.004562144
6556	3	0.593264	0.01	23.245	0.004564108
8157	3	0.593304	0.01	23.255	0.004566071
6194	3	0.593896	0.01	23.265	0.004568035
1368	1	0.593968	0.015	23.28	0.00457098
2497	2	0.59399	0.0125	23.2925	0.004573434
8522	3	0.594049	-0.005	23.2875	0.004572452
8086	3	0.594173	-0.005	23.2825	0.004571471
5041	3	0.594304	0.01	23.2925	0.004573434
922	1	0.59443	0.015	23.3075	0.004576379
421	1	0.595051	0.015	23.3225	0.004579325
2135	2	0.595236	0.0125	23.335	0.004581779
8592	3	0.595466	0.01	23.345	0.004583742
6998	3	0.595466	-0.005	23.34	0.004582761
3928	3	0.595598	0.01	23.35	0.004584724
2820	2	0.595719	-0.00625	23.34375	0.004583497
8304	3	0.595848	0.01	23.35375	0.00458546
2247	2	0.595998	-0.00625	23.3475	0.004584233
2213	2	0.596176	-0.00625	23.34125	0.004583006
2958	3	0.596329	-0.005	23.33625	0.004582024
5314	3	0.596703	-0.005	23.33125	0.004581043
3032	3	0.596962	0.01	23.34125	0.004583006
43	1	0.596973	-0.0075	23.33375	0.004581533
844	1	0.597022	0.015	23.34875	0.004584479
703	1	0.597082	-0.0075	23.34125	0.004583006
5384	3	0.597124	-0.005	23.33625	0.004582024
4695	3	0.597206	-0.005	23.33125	0.004581043
6803	3	0.597439	0.01	23.34125	0.004583006
6957	3	0.597501	-0.005	23.33625	0.004582024
5230	3	0.597634	0.01	23.34625	0.004583988
2263	2	0.597833	-0.00625	23.34	0.004582761
2917	3	0.598049	-0.005	23.335	0.004581779
1895	2	0.598252	0.0125	23.3475	0.004584233
2565	2	0.598277	-0.00625	23.34125	0.004583006
2279	2	0.598297	-0.00625	23.335	0.004581779
4946	3	0.599002	0.01	23.345	0.004583742
6668	3	0.599401	0.01	23.355	0.004585706
3428	3	0.599626	-0.005	23.35	0.004584724
1780	2	0.59973	0.0125	23.3625	0.004587178
871	1	0.599996	-0.0075	23.355	0.004585706

2495	2	0.600215	0.0125	23.3675	0.00458816
9482	4	0.600809	-0.005	23.3625	0.004587178
1688	1	0.601167	-0.0075	23.355	0.004585706
5853	3	0.601221	-0.005	23.35	0.004584724
6372	3	0.601287	0.01	23.36	0.004586688
208	1	0.601291	-0.0075	23.3525	0.004585215
7661	3	0.601397	0.01	23.3625	0.004587178
2003	2	0.602733	0.0125	23.375	0.004589633
232	1	0.602754	0.015	23.39	0.004592578
481	1	0.602967	-0.0075	23.3825	0.004591105
2148	2	0.603284	0.0125	23.395	0.00459356
1387	1	0.603284	-0.0075	23.3875	0.004592087
1687	1	0.603309	0.015	23.4025	0.004595032
7666	3	0.603376	0.01	23.4125	0.004596996
1110	1	0.603428	-0.0075	23.405	0.004595523
7099	3	0.603488	0.01	23.415	0.004597487
2911	3	0.604375	0.01	23.425	0.00459945
1567	1	0.604408	-0.0075	23.4175	0.004597978
7094	3	0.604675	-0.005	23.4125	0.004596996
6376	3	0.604893	-0.005	23.4075	0.004596014
5053	3	0.605074	-0.005	23.4025	0.004595032
2479	2	0.605249	-0.00625	23.39625	0.004593805
5940	3	0.605256	0.01	23.40625	0.004595769
8176	3	0.605744	0.01	23.41625	0.004597732
163	1	0.60613	-0.0075	23.40875	0.00459626
1087	1	0.606248	0.015	23.42375	0.004599205
1138	1	0.606328	0.015	23.43875	0.00460215
712	1	0.606354	-0.0075	23.43125	0.004600677
44	1	0.606399	0.015	23.44625	0.004603623
4800	3	0.60643	-0.005	23.44125	0.004602641
3193	3	0.606451	0.01	23.45125	0.004604604
1494	1	0.607019	0.015	23.46625	0.00460755
6050	3	0.607061	-0.005	23.46125	0.004606568
7779	3	0.607325	0.01	23.47125	0.004608531
1445	1	0.607381	-0.0075	23.46375	0.004607059
418	1	0.6076	0.015	23.47875	0.004610004
8002	3	0.607711	0.01	23.48875	0.004611967
8540	3	0.607836	0.01	23.49875	0.004613931
5534	3	0.608148	0.01	23.50875	0.004615894
2538	2	0.608151	-0.00625	23.5025	0.004614667
1858	2	0.608578	-0.00625	23.49625	0.00461344
5018	3	0.608722	-0.005	23.49125	0.004612458
3496	3	0.609024	0.01	23.50125	0.004614422
484	1	0.60904	0.015	23.51625	0.004617367
2605	2	0.609552	-0.00625	23.51	0.00461614
5259	3	0.609942	0.01	23.52	0.004618103
3016	3	0.610177	0.01	23.53	0.004620067
1583	1	0.610193	0.015	23.545	0.004623012
6010	3	0.610995	0.01	23.555	0.004624975
7146	3	0.611245	-0.005	23.55	0.004623994
2328	2	0.611793	-0.00625	23.54375	0.004622767
511	1	0.611941	-0.0075	23.53625	0.004621294

9193	4	0.611967	0.01	23.54625	0.004623257
1021	1	0.612037	-0.0075	23.53875	0.004621785
5199	3	0.612293	0.01	23.54875	0.004623748
1555	1	0.613015	-0.0075	23.54125	0.004622276
8551	3	0.613069	-0.005	23.53625	0.004621294
1474	1	0.613253	0.015	23.55125	0.004624239
4943	3	0.613634	0.01	23.56125	0.004626203
5328	3	0.613748	0.01	23.57125	0.004628166
6259	3	0.614239	-0.005	23.56625	0.004627184
846	1	0.614278	0.015	23.58125	0.00463013
2293	2	0.614534	0.0125	23.59375	0.004632584
8208	3	0.614577	-0.005	23.58875	0.004631602
5994	3	0.615008	0.01	23.59875	0.004633566
5079	3	0.61508	0.01	23.60875	0.004635529
1992	2	0.615185	0.0125	23.62125	0.004637984
3986	3	0.615443	0.01	23.63125	0.004639947
1177	1	0.616339	0.015	23.64625	0.004642892
5482	3	0.616426	0.01	23.65625	0.004644856
792	1	0.616583	0.015	23.67125	0.004647801
8089	3	0.61702	0.01	23.68125	0.004649764
1147	1	0.617118	0.015	23.69625	0.00465271
9822	4	0.617587	-0.005	23.69125	0.004651728
7255	3	0.617652	-0.005	23.68625	0.004650746
5227	3	0.61792	0.01	23.69625	0.00465271
4973	3	0.618448	0.01	23.70625	0.004654673
1881	2	0.618469	0.0125	23.71875	0.004657127
3422	3	0.618602	-0.005	23.71375	0.004656146
1580	1	0.618656	0.015	23.72875	0.004659091
2276	2	0.618679	0.0125	23.74125	0.004661545
2736	2	0.618795	0.0125	23.75375	0.004664
2957	3	0.618977	-0.005	23.74875	0.004663018
5315	3	0.619159	0.01	23.75875	0.004664981
1582	1	0.619325	0.015	23.77375	0.004667927
2480	2	0.619369	0.0125	23.78625	0.004670381
5042	3	0.619488	0.01	23.79625	0.004672344
3054	3	0.619508	-0.005	23.79125	0.004671363
7465	3	0.619793	0.01	23.80125	0.004673326
398	1	0.620271	-0.0075	23.79375	0.004671854
8677	3	0.620971	-0.005	23.78875	0.004670872
102	1	0.621108	0.015	23.80375	0.004673817
2712	2	0.621141	-0.00625	23.7975	0.00467259
595	1	0.621319	0.015	23.8125	0.004675535
106	1	0.62147	0.015	23.8275	0.00467848
466	1	0.621498	-0.0075	23.82	0.004677008
57	1	0.621504	0.015	23.835	0.004679953
4778	3	0.621515	0.01	23.845	0.004681916
5199	3	0.62154	-0.005	23.84	0.004680935
2140	2	0.622172	0.0125	23.8525	0.004683389
6762	3	0.622193	0.01	23.8625	0.004685352
4527	3	0.622332	-0.005	23.8575	0.004684371
682	1	0.622464	0.015	23.8725	0.004687316
5679	3	0.62271	0.01	23.8825	0.004689279

1083	1	0.622727	0.015	23.8975	0.004692225
8529	3	0.623015	0.01	23.9075	0.004694188
2229	2	0.623357	0.0125	23.92	0.004696642
1258	1	0.623495	-0.0075	23.9125	0.00469517
388	1	0.623921	0.015	23.9275	0.004698115
7986	3	0.624076	0.01	23.9375	0.004700079
3004	3	0.625035	0.01	23.9475	0.004702042
1053	1	0.625296	0.015	23.9625	0.004704987
6768	3	0.625692	-0.005	23.9575	0.004704005
8495	3	0.625847	0.01	23.9675	0.004705969
2095	2	0.626279	0.0125	23.98	0.004708423
3514	3	0.626641	-0.005	23.975	0.004707442
1794	2	0.627148	-0.00625	23.96875	0.004706214
859	1	0.627264	-0.0075	23.96125	0.004704742
8119	3	0.627427	-0.005	23.95625	0.00470376
320	1	0.6275	0.015	23.97125	0.004706705
2870	2	0.627595	0.0125	23.98375	0.00470916
1315	1	0.62763	0.015	23.99875	0.004712105
7640	3	0.627791	-0.005	23.99375	0.004711123
1578	1	0.62838	0.015	24.00875	0.004714068
6253	3	0.628408	0.01	24.01875	0.004716032
5578	3	0.628513	-0.005	24.01375	0.00471505
6799	3	0.628724	-0.005	24.00875	0.004714068
2362	2	0.628775	-0.00625	24.0025	0.004712841
8833	4	0.629567	0.01	24.0125	0.004714805
3630	3	0.629818	-0.005	24.0075	0.004713823
1108	1	0.630138	0.015	24.0225	0.004716768
1436	1	0.630212	-0.0075	24.015	0.004715296
4021	3	0.630256	-0.005	24.01	0.004714314
6055	3	0.630317	-0.005	24.005	0.004713332
714	1	0.630591	-0.0075	23.9975	0.004711859
457	1	0.63061	-0.0075	23.99	0.004710387
1132	1	0.630732	0.015	24.005	0.004713332
7300	3	0.63123	0.01	24.015	0.004715296
6124	3	0.631761	0.01	24.025	0.004717259
5012	3	0.632089	0.01	24.035	0.004719222
3665	3	0.632178	0.01	24.045	0.004721186
4058	3	0.632207	0.01	24.055	0.004723149
6877	3	0.632897	0.01	24.065	0.004725113
2924	3	0.632943	0.01	24.075	0.004727076
7606	3	0.633028	-0.005	24.07	0.004726095
2972	3	0.633529	0.01	24.08	0.004728058
4133	3	0.633722	0.01	24.09	0.004730022
2465	2	0.633763	-0.00625	24.08375	0.004728794
3804	3	0.633818	0.01	24.09375	0.004730758
4232	3	0.634091	0.01	24.10375	0.004732721
2531	2	0.634208	0.0125	24.11625	0.004735176
1240	1	0.634275	-0.0075	24.10875	0.004733703
5956	3	0.634298	0.01	24.11875	0.004735667
1388	1	0.634739	0.015	24.13375	0.004738612
1374	1	0.634809	0.015	24.14875	0.004741557
286	1	0.635103	-0.0075	24.14125	0.004740084

2105	2	0.635398	0.0125	24.15375	0.004742539
5414	3	0.635588	0.01	24.16375	0.004744502
4131	3	0.635688	-0.005	24.15875	0.004743521
4926	3	0.635808	0.01	24.16875	0.004745484
8141	3	0.635839	0.01	24.17875	0.004747447
8609	3	0.63612	0.01	24.18875	0.004749411
1215	1	0.636142	0.015	24.20375	0.004752356
4418	3	0.636198	0.01	24.21375	0.00475432
442	1	0.637204	0.015	24.22875	0.004757265
7391	3	0.637419	-0.005	24.22375	0.004756283
3018	3	0.637686	0.01	24.23375	0.004758247
3918	3	0.638171	-0.005	24.22875	0.004757265
1691	1	0.638261	-0.0075	24.22125	0.004755792
6952	3	0.638378	0.01	24.23125	0.004757756
5830	3	0.638637	-0.005	24.22625	0.004756774
7041	3	0.638851	-0.005	24.22125	0.004755792
1539	1	0.639129	0.015	24.23625	0.004758737
4227	3	0.639191	0.01	24.24625	0.004760701
1803	2	0.639305	-0.00625	24.24	0.004759474
1513	1	0.639389	-0.0075	24.2325	0.004758001
4277	3	0.639645	-0.005	24.2275	0.004757019
7308	3	0.63975	0.01	24.2375	0.004758983
4524	3	0.639764	-0.005	24.2325	0.004758001
2298	2	0.639799	-0.00625	24.22625	0.004756774
7488	3	0.63983	0.01	24.23625	0.004758737
9789	4	0.64007	0.01	24.24625	0.004760701
7644	3	0.640371	0.01	24.25625	0.004762664
3334	3	0.640421	0.01	24.26625	0.004764628
566	1	0.640616	0.015	24.28125	0.004767573
4157	3	0.640731	-0.005	24.27625	0.004766591
9743	4	0.640797	-0.005	24.27125	0.00476561
6010	3	0.640802	-0.005	24.26625	0.004764628
754	1	0.64134	-0.0075	24.25875	0.004763155
4980	3	0.64137	-0.005	24.25375	0.004762174
2996	3	0.641415	0.01	24.26375	0.004764137
4025	3	0.641529	0.01	24.27375	0.004766101
2555	2	0.641602	-0.00625	24.2675	0.004764873
89	1	0.641655	-0.0075	24.26	0.004763401
399	1	0.641992	0.015	24.275	0.004766346
7034	3	0.642485	-0.005	24.27	0.004765364
836	1	0.642664	-0.0075	24.2625	0.004763892
1109	1	0.643004	-0.0075	24.255	0.004762419
8956	4	0.643112	0.01	24.265	0.004764382
7867	3	0.643464	0.01	24.275	0.004766346
1431	1	0.643877	0.015	24.29	0.004769291
8553	3	0.64395	-0.005	24.285	0.004768309
2704	2	0.644008	0.0125	24.2975	0.004770764
2889	2	0.64401	-0.00625	24.29125	0.004769537
6213	3	0.64406	-0.005	24.28625	0.004768555
8606	3	0.644108	-0.005	24.28125	0.004767573
6526	3	0.644158	-0.005	24.27625	0.004766591
7264	3	0.644433	0.01	24.28625	0.004768555

917	1	0.644543	0.015	24.30125	0.0047715
3948	3	0.645315	0.01	24.31125	0.004773464
1240	1	0.645334	-0.0075	24.30375	0.004771991
8214	3	0.646121	0.01	24.31375	0.004773954
577	1	0.646964	-0.0075	24.30625	0.004772482
6203	3	0.647087	0.01	24.31625	0.004774445
872	1	0.647613	0.015	24.33125	0.004777391
2873	2	0.647921	0.0125	24.34375	0.004779845
2143	2	0.648202	0.0125	24.35625	0.004782299
31	1	0.648637	0.015	24.37125	0.004785244
2733	2	0.648738	0.0125	24.38375	0.004787699
25	1	0.648741	-0.0075	24.37625	0.004786226
4322	3	0.648838	-0.005	24.37125	0.004785244
4006	3	0.64896	0.01	24.38125	0.004787208
977	1	0.649167	-0.0075	24.37375	0.004785735
7822	3	0.649282	0.01	24.38375	0.004787699
5731	3	0.649531	0.01	24.39375	0.004789662
8448	3	0.64968	0.01	24.40375	0.004791626
1847	2	0.650407	0.0125	24.41625	0.00479408
2546	2	0.650461	-0.00625	24.41	0.004792853
1337	1	0.650562	0.015	24.425	0.004795798
1166	1	0.650603	0.015	24.44	0.004798743
4713	3	0.651252	-0.005	24.435	0.004797762
7576	3	0.651365	0.01	24.445	0.004799725
8552	3	0.651482	-0.005	24.44	0.004798743
7003	3	0.651909	0.01	24.45	0.004800707
643	1	0.653153	0.015	24.465	0.004803652
7695	3	0.653651	-0.005	24.46	0.00480267
80	1	0.653921	0.015	24.475	0.004805616
7191	3	0.654114	-0.005	24.47	0.004804634
7466	3	0.654265	0.01	24.48	0.004806597
4757	3	0.654374	0.01	24.49	0.004808561
4574	3	0.654685	-0.005	24.485	0.004807579
5396	3	0.654718	0.01	24.495	0.004809543
1637	1	0.654803	-0.0075	24.4875	0.00480807
3913	3	0.654825	0.01	24.4975	0.004810033
316	1	0.655022	-0.0075	24.49	0.004808561
3418	3	0.655224	0.01	24.5	0.004810524
7996	3	0.655297	0.01	24.51	0.004812488
1739	1	0.655325	-0.0075	24.5025	0.004811015
910	1	0.655482	-0.0075	24.495	0.004809543
1072	1	0.655861	-0.0075	24.4875	0.00480807
2483	2	0.656302	0.0125	24.5	0.004810524
6070	3	0.656312	0.01	24.51	0.004812488
782	1	0.656839	-0.0075	24.5025	0.004811015
8564	3	0.65686	0.01	24.5125	0.004812979
2229	2	0.657503	-0.00625	24.50625	0.004811751
2087	2	0.657692	-0.00625	24.5	0.004810524
1125	1	0.657751	0.015	24.515	0.004813469
6824	3	0.657767	0.01	24.525	0.004815433
2898	2	0.657848	-0.00625	24.51875	0.004814206
4194	3	0.658341	0.01	24.52875	0.004816169

669	1	0.658475	0.015	24.54375	0.004819114
4811	3	0.658599	0.01	24.55375	0.004821078
2135	2	0.658656	-0.00625	24.5475	0.004819851
585	1	0.658936	-0.0075	24.54	0.004818378
1005	1	0.659149	0.015	24.555	0.004821323
7704	3	0.659448	0.01	24.565	0.004823287
8275	3	0.659521	0.01	24.575	0.00482525
8729	3	0.659569	0.01	24.585	0.004827214
5936	3	0.65962	0.01	24.595	0.004829177
5231	3	0.659765	0.01	24.605	0.004831141
1879	2	0.660016	0.0125	24.6175	0.004833595
6249	3	0.660132	0.01	24.6275	0.004835559
5847	3	0.660431	-0.005	24.6225	0.004834577
8202	3	0.660787	-0.005	24.6175	0.004833595
692	1	0.661122	-0.0075	24.61	0.004832123
7546	3	0.661207	-0.005	24.605	0.004831141
218	1	0.661247	0.015	24.62	0.004834086
354	1	0.661438	0.015	24.635	0.004837031
3309	3	0.661518	-0.005	24.63	0.004836049
991	1	0.661939	0.015	24.645	0.004838995
5824	3	0.662122	0.01	24.655	0.004840958
6359	3	0.662399	0.01	24.665	0.004842922
4624	3	0.662861	0.01	24.675	0.004844885
1675	1	0.663117	-0.0075	24.6675	0.004843413
6029	3	0.663132	-0.005	24.6625	0.004842431
342	1	0.663152	0.015	24.6775	0.004845376
7655	3	0.663197	-0.005	24.6725	0.004844394
508	1	0.663388	-0.0075	24.665	0.004842922
8558	3	0.663404	-0.005	24.66	0.00484194
1600	1	0.663514	0.015	24.675	0.004844885
8847	4	0.663661	0.01	24.685	0.004846849
6167	3	0.663851	-0.005	24.68	0.004845867
6816	3	0.664136	0.01	24.69	0.00484783
5373	3	0.664269	0.01	24.7	0.004849794
1718	1	0.664309	-0.0075	24.6925	0.004848321
2678	2	0.664338	0.0125	24.705	0.004850776
6700	3	0.66457	0.01	24.715	0.004852739
1374	1	0.664599	-0.0075	24.7075	0.004851266
5382	3	0.664963	0.01	24.7175	0.00485323
583	1	0.665153	0.015	24.7325	0.004856175
5235	3	0.66539	0.01	24.7425	0.004858139
111	1	0.665974	0.015	24.7575	0.004861084
4120	3	0.66624	0.01	24.7675	0.004863047
1865	2	0.666343	0.0125	24.78	0.004865502
1220	1	0.666731	0.015	24.795	0.004868447
157	1	0.666738	0.015	24.81	0.004871392
4845	3	0.666775	0.01	24.82	0.004873356
6969	3	0.66685	0.01	24.83	0.004875319
618	1	0.667155	0.015	24.845	0.004878264
1887	2	0.667615	0.0125	24.8575	0.004880719
8721	3	0.667654	-0.005	24.8525	0.004879737
6961	3	0.667991	0.01	24.8625	0.0048817

6372	3	0.668028	-0.005	24.8575	0.004880719
1264	1	0.668041	0.015	24.8725	0.004883664
6821	3	0.668207	0.01	24.8825	0.004885627
1581	1	0.668273	-0.0075	24.875	0.004884155
1912	2	0.668623	0.0125	24.8875	0.004886609
2867	2	0.668841	0.0125	24.9	0.004889063
1401	1	0.668893	0.015	24.915	0.004892009
8013	3	0.668988	0.01	24.925	0.004893972
592	1	0.66932	-0.0075	24.9175	0.0048925
8303	3	0.669668	0.01	24.9275	0.004894463
3429	3	0.670335	0.01	24.9375	0.004896426
6471	3	0.670599	-0.005	24.9325	0.004895445
816	1	0.670699	0.015	24.9475	0.00489839
1086	1	0.670881	-0.0075	24.94	0.004896917
8702	3	0.671476	0.01	24.95	0.004898881
4591	3	0.67167	-0.005	24.945	0.004897899
6461	3	0.671702	-0.005	24.94	0.004896917
3694	3	0.671726	0.01	24.95	0.004898881
5077	3	0.672803	-0.005	24.945	0.004897899
5822	3	0.672835	0.01	24.955	0.004899863
8021	3	0.672933	-0.005	24.95	0.004898881
4085	3	0.673108	-0.005	24.945	0.004897899
538	1	0.673347	0.015	24.96	0.004900844
7706	3	0.673388	0.01	24.97	0.004902808
7317	3	0.674028	-0.005	24.965	0.004901826
7916	3	0.674052	0.01	24.975	0.00490379
1810	2	0.67442	0.0125	24.9875	0.004906244
7017	3	0.674741	-0.005	24.9825	0.004905262
1925	2	0.675244	0.0125	24.995	0.004907716
6409	3	0.675272	0.01	25.005	0.00490968
2282	2	0.675319	0.0125	25.0175	0.004912134
8000	3	0.675371	0.01	25.0275	0.004914098
2159	2	0.675612	0.0125	25.04	0.004916552
436	1	0.676161	0.015	25.055	0.004919497
1337	1	0.676297	-0.0075	25.0475	0.004918025
3064	3	0.676494	0.01	25.0575	0.004919988
4224	3	0.676846	0.01	25.0675	0.004921952
3148	3	0.676853	-0.005	25.0625	0.00492097
5524	3	0.6769	0.01	25.0725	0.004922933
971	1	0.677324	-0.0075	25.065	0.004921461
257	1	0.677673	0.015	25.08	0.004924406
956	1	0.677976	0.015	25.095	0.004927351
4281	3	0.678302	-0.005	25.09	0.00492637
8213	3	0.678328	0.01	25.1	0.004928333
2613	2	0.678388	0.0125	25.1125	0.004930787
1077	1	0.678391	0.015	25.1275	0.004933733
8866	4	0.678696	0.01	25.1375	0.004935696
1045	1	0.67877	0.015	25.1525	0.004938641
1470	1	0.67898	0.015	25.1675	0.004941586
8990	4	0.679053	-0.005	25.1625	0.004940605
227	1	0.679412	0.015	25.1775	0.00494355
5283	3	0.679543	0.01	25.1875	0.004945513

6175	3	0.679558	-0.005	25.1825	0.004944532
2320	2	0.679919	-0.00625	25.17625	0.004943305
3948	3	0.680518	-0.005	25.17125	0.004942323
6470	3	0.680713	-0.005	25.16625	0.004941341
650	1	0.680718	-0.0075	25.15875	0.004939868
7492	3	0.680839	-0.005	25.15375	0.004938887
6065	3	0.681112	-0.005	25.14875	0.004937905
3295	3	0.681125	-0.005	25.14375	0.004936923
740	1	0.681154	0.015	25.15875	0.004939868
3551	3	0.681317	-0.005	25.15375	0.004938887
2196	2	0.681327	-0.00625	25.1475	0.00493766
4706	3	0.681569	0.01	25.1575	0.004939623
1580	1	0.681803	-0.0075	25.15	0.00493815
3764	3	0.681836	-0.005	25.145	0.004937169
2101	2	0.681849	0.0125	25.1575	0.004939623
2702	2	0.681891	0.0125	25.17	0.004942077
1617	1	0.68219	0.015	25.185	0.004945023
7116	3	0.682283	0.01	25.195	0.004946986
2122	2	0.682367	0.0125	25.2075	0.00494944
2517	2	0.682477	0.0125	25.22	0.004951895
4001	3	0.682616	0.01	25.23	0.004953858
662	1	0.682919	-0.0075	25.2225	0.004952386
7900	3	0.682924	-0.005	25.2175	0.004951404
9498	4	0.683563	0.01	25.2275	0.004953367
4182	3	0.683635	0.01	25.2375	0.004955331
2760	2	0.683653	0.0125	25.25	0.004957785
766	1	0.683866	0.015	25.265	0.00496073
4790	3	0.683957	0.01	25.275	0.004962694
3418	3	0.683974	-0.005	25.27	0.004961712
2255	2	0.684195	0.0125	25.2825	0.004964167
1700	1	0.684958	0.015	25.2975	0.004967112
2199	2	0.685459	0.0125	25.31	0.004969566
9770	4	0.68547	0.01	25.32	0.00497153
2621	2	0.685975	-0.00625	25.31375	0.004970302
5288	3	0.685995	-0.005	25.30875	0.004969321
3258	3	0.686438	0.01	25.31875	0.004971284
3352	3	0.686776	0.01	25.32875	0.004973248
4251	3	0.686937	-0.005	25.32375	0.004972266
677	1	0.687032	0.015	25.33875	0.004975211
7352	3	0.687086	0.01	25.34875	0.004977175
2107	2	0.687142	0.0125	25.36125	0.004979629
1522	1	0.688171	0.015	25.37625	0.004982574
1813	2	0.688189	0.0125	25.38875	0.004985028
2198	2	0.688195	0.0125	25.40125	0.004987483
2200	2	0.688287	-0.00625	25.395	0.004986256
1352	1	0.688354	0.015	25.41	0.004989201
7784	3	0.688385	-0.005	25.405	0.004988219
2303	2	0.688566	-0.00625	25.39875	0.004986992
5035	3	0.68872	0.01	25.40875	0.004988955
786	1	0.688803	-0.0075	25.40125	0.004987483
1214	1	0.688834	0.015	25.41625	0.004990428
8505	3	0.688929	-0.005	25.41125	0.004989446

2851	2	0.688977	0.0125	25.42375	0.004991901
7889	3	0.689838	-0.005	25.41875	0.004990919
1324	1	0.689892	0.015	25.43375	0.004993864
690	1	0.689925	0.015	25.44875	0.004996809
5252	3	0.69016	0.01	25.45875	0.004998773
3078	3	0.690281	-0.005	25.45375	0.004997791
3897	3	0.690547	0.01	25.46375	0.004999755
7465	3	0.691066	-0.005	25.45875	0.004998773
2822	2	0.691148	-0.00625	25.4525	0.004997546
4667	3	0.691778	-0.005	25.4475	0.004996564
8604	3	0.692099	0.01	25.4575	0.004998527
2700	2	0.692526	0.0125	25.47	0.005000982
1622	1	0.693057	0.015	25.485	0.005003927
3485	3	0.693083	0.01	25.495	0.00500589
1747	1	0.69336	-0.0075	25.4875	0.005004418
8439	3	0.693522	-0.005	25.4825	0.005003436
5324	3	0.693751	0.01	25.4925	0.0050054
4457	3	0.693838	-0.005	25.4875	0.005004418
6162	3	0.694066	-0.005	25.4825	0.005003436
7671	3	0.694093	0.01	25.4925	0.0050054
5836	3	0.694147	-0.005	25.4875	0.005004418
2152	2	0.694163	-0.00625	25.48125	0.005003191
636	1	0.694185	-0.0075	25.47375	0.005001718
8729	3	0.694481	-0.005	25.46875	0.005000736
5236	3	0.694541	-0.005	25.46375	0.004999755
3874	3	0.694745	0.01	25.47375	0.005001718
5048	3	0.694979	-0.005	25.46875	0.005000736
430	1	0.694985	0.015	25.48375	0.005003682
3709	3	0.695412	0.01	25.49375	0.005005645
4084	3	0.695755	-0.005	25.48875	0.005004663
2930	3	0.6958	0.01	25.49875	0.005006627
3907	3	0.696124	0.01	25.50875	0.00500859
6899	3	0.696287	0.01	25.51875	0.005010554
7552	3	0.696392	-0.005	25.51375	0.005009572
557	1	0.696469	0.015	25.52875	0.005012517
344	1	0.696476	0.015	25.54375	0.005015462
8069	3	0.696548	0.01	25.55375	0.005017426
6761	3	0.697029	-0.005	25.54875	0.005016444
100	1	0.697054	-0.0075	25.54125	0.005014972
618	1	0.697109	-0.0075	25.53375	0.005013499
2249	2	0.697353	0.0125	25.54625	0.005015953
4891	3	0.698765	0.01	25.55625	0.005017917
682	1	0.698855	-0.0075	25.54875	0.005016444
8093	3	0.69909	0.01	25.55875	0.005018408
4995	3	0.699272	-0.005	25.55375	0.005017426
3418	3	0.699451	-0.005	25.54875	0.005016444
2483	2	0.699529	-0.00625	25.5425	0.005015217
1953	2	0.700309	-0.00625	25.53625	0.00501399
4050	3	0.70039	-0.005	25.53125	0.005013008
8614	3	0.701205	-0.005	25.52625	0.005012026
9343	4	0.701382	0.01	25.53625	0.00501399
2146	2	0.70143	0.0125	25.54875	0.005016444

2369	2	0.70182	-0.00625	25.5425	0.005015217
5194	3	0.701904	-0.005	25.5375	0.005014235
8278	3	0.702309	0.01	25.5475	0.005016199
2276	2	0.702549	-0.00625	25.54125	0.005014972
4321	3	0.70262	-0.005	25.53625	0.00501399
4581	3	0.702647	0.01	25.54625	0.005015953
7488	3	0.702858	-0.005	25.54125	0.005014972
2193	2	0.702898	0.0125	25.55375	0.005017426
96	1	0.702958	0.015	25.56875	0.005020371
3203	3	0.703417	-0.005	25.56375	0.005019389
1800	2	0.70348	-0.00625	25.5575	0.005018162
1859	2	0.703716	0.0125	25.57	0.005020617
7033	3	0.703772	-0.005	25.565	0.005019635
3122	3	0.703959	-0.005	25.56	0.005018653
964	1	0.703981	0.015	25.575	0.005021598
4208	3	0.704118	-0.005	25.57	0.005020617
728	1	0.704719	0.015	25.585	0.005023562
9007	4	0.704758	0.01	25.595	0.005025525
7142	3	0.704862	0.01	25.605	0.005027489
597	1	0.704871	0.015	25.62	0.005030434
8618	3	0.705177	-0.005	25.615	0.005029452
8688	3	0.705498	-0.005	25.61	0.00502847
9342	4	0.70559	-0.005	25.605	0.005027489
3218	3	0.705712	0.01	25.615	0.005029452
93	1	0.705992	0.015	25.63	0.005032397
306	1	0.705995	0.015	25.645	0.005035343
4056	3	0.706106	-0.005	25.64	0.005034361
8043	3	0.706204	0.01	25.65	0.005036324
8867	4	0.706353	-0.005	25.645	0.005035343
7954	3	0.706494	-0.005	25.64	0.005034361
8369	3	0.70687	0.01	25.65	0.005036324
1280	1	0.707449	-0.0075	25.6425	0.005034852
6475	3	0.707567	0.01	25.6525	0.005036815
1930	2	0.707788	0.0125	25.665	0.00503927
36	1	0.707875	0.015	25.68	0.005042215
2324	2	0.707924	0.0125	25.6925	0.005044669
8545	3	0.70802	-0.005	25.6875	0.005043687
1429	1	0.708086	0.015	25.7025	0.005046633
776	1	0.708144	0.015	25.7175	0.005049578
4662	3	0.708598	-0.005	25.7125	0.005048596
4619	3	0.709125	0.01	25.7225	0.00505056
858	1	0.709264	-0.0075	25.715	0.005049087
7658	3	0.709498	0.01	25.725	0.00505105
1464	1	0.70955	-0.0075	25.7175	0.005049578
6046	3	0.709629	-0.005	25.7125	0.005048596
2779	2	0.7101	-0.00625	25.70625	0.005047369
6534	3	0.710244	-0.005	25.70125	0.005046387
8115	3	0.710337	0.01	25.71125	0.005048351
4768	3	0.710976	-0.005	25.70625	0.005047369
7086	3	0.711392	0.01	25.71625	0.005049332
71	1	0.711622	0.015	25.73125	0.005052278
2538	2	0.711805	-0.00625	25.725	0.00505105

3898	3	0.711808	0.01	25.735	0.005053014
5853	3	0.711864	-0.005	25.73	0.005052032
2576	2	0.711884	0.0125	25.7425	0.005054487
8252	3	0.711949	-0.005	25.7375	0.005053505
863	1	0.712556	-0.0075	25.73	0.005052032
4275	3	0.71277	0.01	25.74	0.005053996
2243	2	0.713052	0.0125	25.7525	0.00505645
4790	3	0.713068	-0.005	25.7475	0.005055468
1614	1	0.713252	-0.0075	25.74	0.005053996
19	1	0.713945	0.015	25.755	0.005056941
165	1	0.714449	-0.0075	25.7475	0.005055468
7703	3	0.715249	-0.005	25.7425	0.005054487
8997	4	0.715302	-0.005	25.7375	0.005053505
1421	1	0.715737	-0.0075	25.73	0.005052032
8941	4	0.715803	-0.005	25.725	0.00505105
8560	3	0.71634	0.01	25.735	0.005053014
4265	3	0.716464	0.01	25.745	0.005054977
2374	2	0.716599	0.0125	25.7575	0.005057432
2613	2	0.7166	-0.00625	25.75125	0.005056205
3213	3	0.716793	0.01	25.76125	0.005058168
5376	3	0.716877	0.01	25.77125	0.005060132
2416	2	0.717087	0.0125	25.78375	0.005062586
1041	1	0.717702	0.015	25.79875	0.005065531
2510	2	0.717936	-0.00625	25.7925	0.005064304
1221	1	0.718011	0.015	25.8075	0.005067249
3500	3	0.718506	-0.005	25.8025	0.005066267
5538	3	0.718791	-0.005	25.7975	0.005065286
5425	3	0.719172	-0.005	25.7925	0.005064304
7564	3	0.719225	-0.005	25.7875	0.005063322
1298	1	0.719339	0.015	25.8025	0.005066267
4315	3	0.719421	0.01	25.8125	0.005068231
1706	1	0.719436	0.015	25.8275	0.005071176
2620	2	0.7195	-0.00625	25.82125	0.005069949
3075	3	0.719747	-0.005	25.81625	0.005068967
9322	4	0.720279	0.01	25.82625	0.005070931
2664	2	0.720656	0.0125	25.83875	0.005073385
4383	3	0.720679	0.01	25.84875	0.005075349
5367	3	0.720789	0.01	25.85875	0.005077312
3273	3	0.720912	-0.005	25.85375	0.00507633
3669	3	0.720961	0.01	25.86375	0.005078294
3071	3	0.721113	0.01	25.87375	0.005080257
6519	3	0.721375	0.01	25.88375	0.005082221
4802	3	0.721427	-0.005	25.87875	0.005081239
1995	2	0.721499	0.0125	25.89125	0.005083693
9628	4	0.721599	0.01	25.90125	0.005085657
168	1	0.722026	0.015	25.91625	0.005088602
1237	1	0.722144	0.015	25.93125	0.005091547
8010	3	0.722517	-0.005	25.92625	0.005090565
4428	3	0.722773	0.01	25.93625	0.005092529
8002	3	0.722795	-0.005	25.93125	0.005091547
9904	4	0.722927	0.01	25.94125	0.005093511
377	1	0.722927	0.015	25.95625	0.005096456

1139	1	0.723276	-0.0075	25.94875	0.005094983
6286	3	0.723345	0.01	25.95875	0.005096947
7011	3	0.725218	0.01	25.96875	0.00509891
400	1	0.725576	-0.0075	25.96125	0.005097438
1815	2	0.725617	-0.00625	25.955	0.00509621
6960	3	0.725652	-0.005	25.95	0.005095229
6795	3	0.726019	-0.005	25.945	0.005094247
2730	2	0.726228	0.0125	25.9575	0.005096701
3083	3	0.726233	0.01	25.9675	0.005098665
97	1	0.726649	0.015	25.9825	0.00510161
8481	3	0.727058	0.01	25.9925	0.005103574
2775	2	0.72733	0.0125	26.005	0.005106028
5530	3	0.727409	0.01	26.015	0.005107991
3471	3	0.727417	-0.005	26.01	0.00510701
8478	3	0.727533	0.01	26.02	0.005108973
6448	3	0.728053	-0.005	26.015	0.005107991
9790	4	0.728817	-0.005	26.01	0.00510701
4932	3	0.728866	0.01	26.02	0.005108973
4888	3	0.729253	-0.005	26.015	0.005107991
2376	2	0.729269	-0.00625	26.00875	0.005106764
7575	3	0.729498	0.01	26.01875	0.005108728
387	1	0.729552	0.015	26.03375	0.005111673
4523	3	0.729621	0.01	26.04375	0.005113636
7609	3	0.729696	-0.005	26.03875	0.005112655
3670	3	0.729708	0.01	26.04875	0.005114618
5873	3	0.72971	0.01	26.05875	0.005116582
8789	4	0.730373	0.01	26.06875	0.005118545
934	1	0.730458	-0.0075	26.06125	0.005117072
8121	3	0.730899	-0.005	26.05625	0.005116091
4406	3	0.731128	-0.005	26.05125	0.005115109
3798	3	0.731151	0.01	26.06125	0.005117072
1912	2	0.731159	-0.00625	26.055	0.005115845
8037	3	0.731334	-0.005	26.05	0.005114864
7104	3	0.731509	0.01	26.06	0.005116827
7936	3	0.731527	0.01	26.07	0.00511879
1580	1	0.731662	-0.0075	26.0625	0.005117318
911	1	0.731766	0.015	26.0775	0.005120263
713	1	0.732323	0.015	26.0925	0.005123208
2061	2	0.732702	0.0125	26.105	0.005125663
840	1	0.732755	0.015	26.12	0.005128608
942	1	0.733082	0.015	26.135	0.005131553
5109	3	0.733438	0.01	26.145	0.005133517
648	1	0.733705	0.015	26.16	0.005136462
7467	3	0.733717	0.01	26.17	0.005138425
116	1	0.733785	0.015	26.185	0.005141371
3804	3	0.733877	-0.005	26.18	0.005140389
1522	1	0.733887	-0.0075	26.1725	0.005138916
6584	3	0.733997	0.01	26.1825	0.00514088
7524	3	0.734079	-0.005	26.1775	0.005139898
3982	3	0.734136	0.01	26.1875	0.005141861
8998	4	0.734281	-0.005	26.1825	0.00514088
4609	3	0.734406	0.01	26.1925	0.005142843

3258	3	0.73481	-0.005	26.1875	0.005141861
6184	3	0.734978	0.01	26.1975	0.005143825
4857	3	0.734997	0.01	26.2075	0.005145788
4878	3	0.735299	0.01	26.2175	0.005147752
418	1	0.735667	-0.0075	26.21	0.005146279
2433	2	0.735727	-0.00625	26.20375	0.005145052
4470	3	0.736468	-0.005	26.19875	0.00514407
5883	3	0.736898	-0.005	26.19375	0.005143089
894	1	0.737358	0.015	26.20875	0.005146034
5583	3	0.73756	0.01	26.21875	0.005147997
663	1	0.737598	0.015	26.23375	0.005150942
6603	3	0.737779	0.01	26.24375	0.005152906
1231	1	0.737853	0.015	26.25875	0.005155851
7681	3	0.737889	-0.005	26.25375	0.005154869
5093	3	0.738579	-0.005	26.24875	0.005153888
3898	3	0.738682	-0.005	26.24375	0.005152906
4617	3	0.738698	0.01	26.25375	0.005154869
3166	3	0.738711	0.01	26.26375	0.005156833
8526	3	0.738733	-0.005	26.25875	0.005155851
366	1	0.738801	0.015	26.27375	0.005158796
3263	3	0.738988	0.01	26.28375	0.00516076
1887	2	0.739165	-0.00625	26.2775	0.005159533
6838	3	0.739341	-0.005	26.2725	0.005158551
3987	3	0.739501	0.01	26.2825	0.005160514
7752	3	0.739843	-0.005	26.2775	0.005159533
6603	3	0.740003	-0.005	26.2725	0.005158551
3307	3	0.740403	0.01	26.2825	0.005160514
8731	3	0.740644	0.01	26.2925	0.005162478
2286	2	0.740924	0.0125	26.305	0.005164932
7312	3	0.741098	-0.005	26.3	0.005163951
1764	1	0.741109	0.015	26.315	0.005166896
1903	2	0.74112	-0.00625	26.30875	0.005165669
3245	3	0.741352	-0.005	26.30375	0.005164687
9697	4	0.741626	-0.005	26.29875	0.005163705
8177	3	0.742148	0.01	26.30875	0.005165669
1703	1	0.742248	0.015	26.32375	0.005168614
1596	1	0.742926	-0.0075	26.31625	0.005167141
2520	2	0.743005	0.0125	26.32875	0.005169596
2118	2	0.743209	-0.00625	26.3225	0.005168368
8015	3	0.743722	0.01	26.3325	0.005170332
1711	1	0.743889	0.015	26.3475	0.005173277
1307	1	0.744058	-0.0075	26.34	0.005171804
2135	2	0.744587	-0.00625	26.33375	0.005170577
3370	3	0.744868	0.01	26.34375	0.005172541
7506	3	0.745173	-0.005	26.33875	0.005171559
5387	3	0.74518	0.01	26.34875	0.005173522
439	1	0.745411	-0.0075	26.34125	0.00517205
5671	3	0.745608	0.01	26.35125	0.005174013
921	1	0.745973	0.015	26.36625	0.005176959
8512	3	0.74652	0.01	26.37625	0.005178922
1433	1	0.746651	-0.0075	26.36875	0.005177449
2470	2	0.746821	-0.00625	26.3625	0.005176222

1221	1	0.746985	-0.0075	26.355	0.00517475
1946	2	0.74718	-0.00625	26.34875	0.005173522
7370	3	0.747457	0.01	26.35875	0.005175486
1470	1	0.747529	-0.0075	26.35125	0.005174013
7601	3	0.747817	0.01	26.36125	0.005175977
8420	3	0.747843	-0.005	26.35625	0.005174995
6694	3	0.748191	0.01	26.36625	0.005176959
2532	2	0.748329	0.0125	26.37875	0.005179413
1726	1	0.748692	0.015	26.39375	0.005182358
8681	3	0.749134	-0.005	26.38875	0.005181376
3341	3	0.749494	-0.005	26.38375	0.005180395
9246	4	0.749712	0.01	26.39375	0.005182358
1179	1	0.749915	-0.0075	26.38625	0.005180886
658	1	0.750042	-0.0075	26.37875	0.005179413
7436	3	0.750283	0.01	26.38875	0.005181376
1407	1	0.750298	0.015	26.40375	0.005184322
2287	2	0.750535	0.0125	26.41625	0.005186776
8631	3	0.750807	-0.005	26.41125	0.005185794
8609	3	0.750992	-0.005	26.40625	0.005184812
9277	4	0.751274	0.01	26.41625	0.005186776
5916	3	0.751471	0.01	26.42625	0.005188739
474	1	0.75155	-0.0075	26.41875	0.005187267
8891	4	0.751871	-0.005	26.41375	0.005186285
6921	3	0.752531	0.01	26.42375	0.005188249
4642	3	0.752709	-0.005	26.41875	0.005187267
1856	2	0.752899	0.0125	26.43125	0.005189721
9901	4	0.753486	-0.005	26.42625	0.005188739
9117	4	0.753645	0.01	26.43625	0.005190703
7362	3	0.753702	0.01	26.44625	0.005192666
539	1	0.753906	0.015	26.46125	0.005195612
8558	3	0.753961	-0.005	26.45625	0.00519463
5870	3	0.754309	0.01	26.46625	0.005196593
7165	3	0.754512	-0.005	26.46125	0.005195612
8752	4	0.754605	-0.005	26.45625	0.00519463
6899	3	0.754917	-0.005	26.45125	0.005193648
9672	4	0.755012	-0.005	26.44625	0.005192666
2700	2	0.755535	-0.00625	26.44	0.005191439
797	1	0.755833	0.015	26.455	0.005194384
2671	2	0.756428	0.0125	26.4675	0.005196839
5872	3	0.75663	0.01	26.4775	0.005198802
9383	4	0.756842	-0.005	26.4725	0.005197821
4044	3	0.757133	0.01	26.4825	0.005199784
4345	3	0.757219	0.01	26.4925	0.005201747
3102	3	0.757285	0.01	26.5025	0.005203711
5096	3	0.757354	-0.005	26.4975	0.005202729
5381	3	0.757363	-0.005	26.4925	0.005201747
1015	1	0.757608	-0.0075	26.485	0.005200275
234	1	0.758121	-0.0075	26.4775	0.005198802
8922	4	0.758605	0.01	26.4875	0.005200766
4376	3	0.758695	0.01	26.4975	0.005202729
2653	2	0.758796	0.0125	26.51	0.005205184
3358	3	0.758859	0.01	26.52	0.005207147

670	1	0.758883	0.015	26.535	0.005210092
2518	2	0.759026	0.0125	26.5475	0.005212547
8668	3	0.759912	0.01	26.5575	0.00521451
5087	3	0.760063	-0.005	26.5525	0.005213528
4646	3	0.760317	-0.005	26.5475	0.005212547
7793	3	0.760396	0.01	26.5575	0.00521451
6837	3	0.760747	-0.005	26.5525	0.005213528
1683	1	0.761101	0.015	26.5675	0.005216474
670	1	0.76157	-0.0075	26.56	0.005215001
3839	3	0.761598	0.01	26.57	0.005216964
8248	3	0.761803	0.01	26.58	0.005218928
3085	3	0.761869	-0.005	26.575	0.005217946
700	1	0.76198	-0.0075	26.5675	0.005216474
8412	3	0.762207	0.01	26.5775	0.005218437
568	1	0.76223	0.015	26.5925	0.005221382
30	1	0.762534	-0.0075	26.585	0.00521991
2057	2	0.762808	-0.00625	26.57875	0.005218683
1919	2	0.762918	-0.00625	26.5725	0.005217455
2349	2	0.762945	-0.00625	26.56625	0.005216228
1348	1	0.76306	0.015	26.58125	0.005219173
3479	3	0.763113	-0.005	26.57625	0.005218192
5720	3	0.763219	-0.005	26.57125	0.00521721
5587	3	0.763952	0.01	26.58125	0.005219173
1504	1	0.763954	0.015	26.59625	0.005222119
5385	3	0.763997	-0.005	26.59125	0.005221137
6057	3	0.76405	0.01	26.60125	0.0052231
2394	2	0.764056	-0.00625	26.595	0.005221873
2163	2	0.764255	0.0125	26.6075	0.005224328
1785	2	0.764258	0.0125	26.62	0.005226782
2199	2	0.764422	-0.00625	26.61375	0.005225555
2085	2	0.76504	0.0125	26.62625	0.005228009
246	1	0.765512	0.015	26.64125	0.005230954
2436	2	0.765597	-0.00625	26.635	0.005229727
1950	2	0.765725	0.0125	26.6475	0.005232181
5868	3	0.765781	-0.005	26.6425	0.0052312
4004	3	0.765806	0.01	26.6525	0.005233163
890	1	0.766053	0.015	26.6675	0.005236108
2722	2	0.766772	-0.00625	26.66125	0.005234881
751	1	0.76681	0.015	26.67625	0.005237826
1486	1	0.768144	0.015	26.69125	0.005240772
4114	3	0.768556	0.01	26.70125	0.005242735
5121	3	0.769087	-0.005	26.69625	0.005241753
556	1	0.769201	0.015	26.71125	0.005244699
966	1	0.769242	0.015	26.72625	0.005247644
591	1	0.769361	0.015	26.74125	0.005250589
9045	4	0.769503	0.01	26.75125	0.005252553
8864	4	0.770325	-0.005	26.74625	0.005251571
4418	3	0.770444	-0.005	26.74125	0.005250589
1082	1	0.770517	-0.0075	26.73375	0.005249116
4248	3	0.770552	0.01	26.74375	0.00525108
3494	3	0.770573	0.01	26.75375	0.005253043
127	1	0.770601	0.015	26.76875	0.005255989

1386	1	0.77075	-0.0075	26.76125	0.005254516
2472	2	0.770788	0.0125	26.77375	0.00525697
5702	3	0.770852	-0.005	26.76875	0.005255989
7210	3	0.770903	0.01	26.77875	0.005257952
5027	3	0.770906	-0.005	26.77375	0.00525697
664	1	0.771406	0.015	26.78875	0.005259916
2212	2	0.771659	0.0125	26.80125	0.00526237
2609	2	0.771964	-0.00625	26.795	0.005261143
2886	2	0.772044	0.0125	26.8075	0.005263597
7396	3	0.77214	0.01	26.8175	0.005265561
3956	3	0.772262	0.01	26.8275	0.005267524
828	1	0.772361	-0.0075	26.82	0.005266051
1216	1	0.772449	0.015	26.835	0.005268997
7082	3	0.772552	-0.005	26.83	0.005268015
7593	3	0.772754	0.01	26.84	0.005269978
3842	3	0.77315	0.01	26.85	0.005271942
2827	2	0.773505	0.0125	26.8625	0.005274396
1787	2	0.773631	-0.00625	26.85625	0.005273169
1821	2	0.773737	0.0125	26.86875	0.005275623
495	1	0.773828	-0.0075	26.86125	0.005274151
8648	3	0.774073	-0.005	26.85625	0.005273169
4639	3	0.77438	-0.005	26.85125	0.005272187
3928	3	0.774431	-0.005	26.84625	0.005271206
8668	3	0.77455	-0.005	26.84125	0.005270224
6284	3	0.774957	-0.005	26.83625	0.005269242
1132	1	0.775733	-0.0075	26.82875	0.005267769
1130	1	0.775891	-0.0075	26.82125	0.005266297
364	1	0.775892	0.015	26.83625	0.005269242
5525	3	0.776409	0.01	26.84625	0.005271206
2140	2	0.776858	-0.00625	26.84	0.005269978
7936	3	0.777001	-0.005	26.835	0.005268997
1295	1	0.777513	0.015	26.85	0.005271942
8418	3	0.777589	0.01	26.86	0.005273905
9442	4	0.778123	0.01	26.87	0.005275869
7347	3	0.778533	0.01	26.88	0.005277832
4113	3	0.778652	0.01	26.89	0.005279796
8190	3	0.77866	-0.005	26.885	0.005278814
2005	2	0.778954	-0.00625	26.87875	0.005277587
352	1	0.779168	0.015	26.89375	0.005280532
5956	3	0.77937	-0.005	26.88875	0.00527955
8260	3	0.779394	0.01	26.89875	0.005281514
9889	4	0.779537	0.01	26.90875	0.005283477
463	1	0.779735	-0.0075	26.90125	0.005282005
9005	4	0.780521	0.01	26.91125	0.005283968
7202	3	0.780576	-0.005	26.90625	0.005282986
906	1	0.780673	-0.0075	26.89875	0.005281514
1165	1	0.780797	-0.0075	26.89125	0.005280041
1859	2	0.780867	-0.00625	26.885	0.005278814
1344	1	0.780966	0.015	26.9	0.005281759
4756	3	0.781669	-0.005	26.895	0.005280778
9499	4	0.781776	0.01	26.905	0.005282741
7549	3	0.781921	-0.005	26.9	0.005281759

7763	3	0.782163	0.01	26.91	0.005283723
9807	4	0.782359	0.01	26.92	0.005285686
4445	3	0.782454	-0.005	26.915	0.005284704
5821	3	0.782651	-0.005	26.91	0.005283723
6412	3	0.782783	-0.005	26.905	0.005282741
4818	3	0.782808	0.01	26.915	0.005284704
1256	1	0.782931	-0.0075	26.9075	0.005283232
4877	3	0.783248	-0.005	26.9025	0.00528225
1468	1	0.783323	-0.0075	26.895	0.005280778
2243	2	0.783558	-0.00625	26.88875	0.00527955
2186	2	0.783688	-0.00625	26.8825	0.005278323
3913	3	0.784563	-0.005	26.8775	0.005277341
2866	2	0.784648	0.0125	26.89	0.005279796
4484	3	0.784875	0.01	26.9	0.005281759
5181	3	0.78514	0.01	26.91	0.005283723
2738	2	0.785345	0.0125	26.9225	0.005286177
2194	2	0.785346	0.0125	26.935	0.005288631
2707	2	0.785396	-0.00625	26.92875	0.005287404
1659	1	0.785895	0.015	26.94375	0.005290349
9412	4	0.78629	0.01	26.95375	0.005292313
6825	3	0.786471	0.01	26.96375	0.005294276
1766	1	0.786498	0.015	26.97875	0.005297222
6323	3	0.78748	0.01	26.98875	0.005299185
301	1	0.787711	-0.0075	26.98125	0.005297713
5427	3	0.788111	-0.005	26.97625	0.005296731
2689	2	0.788538	0.0125	26.98875	0.005299185
7046	3	0.788578	0.01	26.99875	0.005301149
8970	4	0.788609	0.01	27.00875	0.005303112
2232	2	0.788698	0.0125	27.02125	0.005305566
603	1	0.788982	0.015	27.03625	0.005308512
2583	2	0.789064	0.0125	27.04875	0.005310966
556	1	0.789574	-0.0075	27.04125	0.005309493
5389	3	0.789596	-0.005	27.03625	0.005308512
4052	3	0.789865	0.01	27.04625	0.005310475
5455	3	0.789891	-0.005	27.04125	0.005309493
4567	3	0.790346	0.01	27.05125	0.005311457
2597	2	0.790401	0.0125	27.06375	0.005313911
1451	1	0.790699	-0.0075	27.05625	0.005312439
2432	2	0.790986	0.0125	27.06875	0.005314893
7649	3	0.791157	0.01	27.07875	0.005316856
4757	3	0.79137	-0.005	27.07375	0.005315875
1250	1	0.791451	0.015	27.08875	0.00531882
2425	2	0.791566	0.0125	27.10125	0.005321274
1967	2	0.791906	0.0125	27.11375	0.005323729
1599	1	0.792001	0.015	27.12875	0.005326674
1726	1	0.792053	-0.0075	27.12125	0.005325201
2405	2	0.79226	-0.00625	27.115	0.005323974
2752	2	0.792268	-0.00625	27.10875	0.005322747
3092	3	0.792678	0.01	27.11875	0.00532471
8789	4	0.792761	-0.005	27.11375	0.005323729
2085	2	0.792852	-0.00625	27.1075	0.005322501
763	1	0.793046	0.015	27.1225	0.005325447

4350	3	0.793123	-0.005	27.1175	0.005324465
284	1	0.793237	0.015	27.1325	0.00532741
3044	3	0.793446	-0.005	27.1275	0.005326428
709	1	0.793475	-0.0075	27.12	0.005324956
9161	4	0.793534	0.01	27.13	0.005326919
2713	2	0.793542	0.0125	27.1425	0.005329374
2475	2	0.793849	-0.00625	27.13625	0.005328146
3280	3	0.794335	-0.005	27.13125	0.005327165
7307	3	0.794489	0.01	27.14125	0.005329128
23	1	0.794713	-0.0075	27.13375	0.005327656
2589	2	0.794738	-0.00625	27.1275	0.005326428
6384	3	0.795215	-0.005	27.1225	0.005325447
1375	1	0.795244	0.015	27.1375	0.005328392
6628	3	0.795387	0.01	27.1475	0.005330355
748	1	0.795419	-0.0075	27.14	0.005328883
7006	3	0.795461	-0.005	27.135	0.005327901
176	1	0.795967	0.015	27.15	0.005330846
7684	3	0.796288	0.01	27.16	0.00533281
4677	3	0.796383	0.01	27.17	0.005334773
8183	3	0.796531	-0.005	27.165	0.005333791
1945	2	0.797478	-0.00625	27.15875	0.005332564
6674	3	0.797563	0.01	27.16875	0.005334528
2789	2	0.797829	-0.00625	27.1625	0.005333301
7384	3	0.797931	0.01	27.1725	0.005335264
961	1	0.798475	0.015	27.1875	0.005338209
2293	2	0.798862	-0.00625	27.18125	0.005336982
2867	2	0.799252	-0.00625	27.175	0.005335755
5991	3	0.799752	-0.005	27.17	0.005334773
1566	1	0.79981	-0.0075	27.1625	0.005333301
5756	3	0.800166	0.01	27.1725	0.005335264
1944	2	0.800675	0.0125	27.185	0.005337718
5128	3	0.801036	0.01	27.195	0.005339682
3730	3	0.801392	0.01	27.205	0.005341645
7595	3	0.801438	0.01	27.215	0.005343609
3917	3	0.801455	-0.005	27.21	0.005342627
8478	3	0.801852	-0.005	27.205	0.005341645
808	1	0.801997	0.015	27.22	0.005344591
470	1	0.802037	0.015	27.235	0.005347536
111	1	0.80236	-0.0075	27.2275	0.005346063
4594	3	0.802363	0.01	27.2375	0.005348027
1922	2	0.802375	0.0125	27.25	0.005350481
3856	3	0.802669	0.01	27.26	0.005352445
2092	2	0.803116	0.0125	27.2725	0.005354899
4712	3	0.803146	0.01	27.2825	0.005356862
9991	4	0.803384	0.01	27.2925	0.005358826
2736	2	0.803489	-0.00625	27.28625	0.005357599
818	1	0.803632	0.015	27.30125	0.005360544
6499	3	0.803805	0.01	27.31125	0.005362507
2201	2	0.80383	0.0125	27.32375	0.005364962
2517	2	0.80393	-0.00625	27.3175	0.005363735
285	1	0.804087	0.015	27.3325	0.00536668
5468	3	0.804432	0.01	27.3425	0.005368643

2842	2	0.804475	0.0125	27.355	0.005371098
7968	3	0.804888	0.01	27.365	0.005373061
64	1	0.805125	0.015	27.38	0.005376006
7864	3	0.805458	0.01	27.39	0.00537797
6622	3	0.805547	-0.005	27.385	0.005376988
7695	3	0.805602	-0.005	27.38	0.005376006
2576	2	0.806618	-0.00625	27.37375	0.005374779
1955	2	0.806738	-0.00625	27.3675	0.005373552
991	1	0.806864	-0.0075	27.36	0.005372079
5731	3	0.806912	-0.005	27.355	0.005371098
9379	4	0.807263	-0.005	27.35	0.005370116
2852	2	0.807427	-0.00625	27.34375	0.005368889
6237	3	0.807591	0.01	27.35375	0.005370852
1041	1	0.807807	-0.0075	27.34625	0.00536938
1119	1	0.808131	-0.0075	27.33875	0.005367907
2620	2	0.808143	-0.00625	27.3325	0.00536668
1375	1	0.808504	-0.0075	27.325	0.005365207
1525	1	0.808968	0.015	27.34	0.005368152
446	1	0.808997	0.015	27.355	0.005371098
651	1	0.809088	0.015	27.37	0.005374043
389	1	0.809274	-0.0075	27.3625	0.00537257
5572	3	0.810151	0.01	27.3725	0.005374534
477	1	0.810276	0.015	27.3875	0.005377479
6711	3	0.810511	-0.005	27.3825	0.005376497
6725	3	0.811129	-0.005	27.3775	0.005375515
5042	3	0.811261	-0.005	27.3725	0.005374534
2062	2	0.811368	0.0125	27.385	0.005376988
7266	3	0.811623	0.01	27.395	0.005378952
7895	3	0.811758	-0.005	27.39	0.00537797
2676	2	0.81197	0.0125	27.4025	0.005380424
5991	3	0.812373	-0.005	27.3975	0.005379442
3184	3	0.812463	0.01	27.4075	0.005381406
4472	3	0.812867	0.01	27.4175	0.005383369
2129	2	0.812905	0.0125	27.43	0.005385824
1700	1	0.812969	-0.0075	27.4225	0.005384351
3894	3	0.81301	-0.005	27.4175	0.005383369
292	1	0.813504	0.015	27.4325	0.005386315
2639	2	0.813866	0.0125	27.445	0.005388769
5534	3	0.814356	-0.005	27.44	0.005387787
4000	3	0.814384	0.01	27.45	0.005389751
5402	3	0.814388	0.01	27.46	0.005391714
8833	4	0.814465	-0.005	27.455	0.005390732
5293	3	0.814649	0.01	27.465	0.005392696
671	1	0.814889	0.015	27.48	0.005395641
313	1	0.815099	-0.0075	27.4725	0.005394168
2572	2	0.815557	0.0125	27.485	0.005396623
106	1	0.816907	-0.0075	27.4775	0.00539515
878	1	0.81703	0.015	27.4925	0.005398095
5920	3	0.81717	0.01	27.5025	0.005400059
4444	3	0.81793	0.01	27.5125	0.005402022
7769	3	0.818039	0.01	27.5225	0.005403986
353	1	0.818074	0.015	27.5375	0.005406931

499	1	0.818147	0.015	27.5525	0.005409876
4678	3	0.818535	0.01	27.5625	0.00541184
8488	3	0.818858	0.01	27.5725	0.005413803
6020	3	0.819416	0.01	27.5825	0.005415767
7996	3	0.819628	-0.005	27.5775	0.005414785
7068	3	0.819972	-0.005	27.5725	0.005413803
3705	3	0.820237	0.01	27.5825	0.005415767
7345	3	0.820305	0.01	27.5925	0.00541773
1084	1	0.820358	0.015	27.6075	0.005420675
8177	3	0.820361	-0.005	27.6025	0.005419694
2037	2	0.820587	0.0125	27.615	0.005422148
7057	3	0.821075	0.01	27.625	0.005424112
2887	2	0.821689	-0.00625	27.61875	0.005422884
2313	2	0.821898	-0.00625	27.6125	0.005421657
4847	3	0.822079	0.01	27.6225	0.005423621
4557	3	0.822179	0.01	27.6325	0.005425584
806	1	0.82247	0.015	27.6475	0.005428529
5404	3	0.82344	-0.005	27.6425	0.005427548
1298	1	0.823553	-0.0075	27.635	0.005426075
2099	2	0.823715	-0.00625	27.62875	0.005424848
1991	2	0.823894	-0.00625	27.6225	0.005423621
544	1	0.823952	-0.0075	27.615	0.005422148
1192	1	0.824189	-0.0075	27.6075	0.005420675
1665	1	0.824572	-0.0075	27.6	0.005419203
6099	3	0.824683	0.01	27.61	0.005421166
1904	2	0.8247	-0.00625	27.60375	0.005419939
1044	1	0.824914	0.015	27.61875	0.005422884
2768	2	0.825006	-0.00625	27.6125	0.005421657
1185	1	0.825136	-0.0075	27.605	0.005420185
7697	3	0.825245	0.01	27.615	0.005422148
1043	1	0.825672	0.015	27.63	0.005425093
6835	3	0.825872	0.01	27.64	0.005427057
1729	1	0.826272	0.015	27.655	0.005430002
4217	3	0.826306	-0.005	27.65	0.00542902
4572	3	0.826324	0.01	27.66	0.005430984
4338	3	0.826607	0.01	27.67	0.005432947
583	1	0.827023	-0.0075	27.6625	0.005431475
1052	1	0.82719	-0.0075	27.655	0.005430002
2134	2	0.827211	0.0125	27.6675	0.005432456
2799	2	0.827604	0.0125	27.68	0.005434911
342	1	0.827695	-0.0075	27.6725	0.005433438
5852	3	0.827842	-0.005	27.6675	0.005432456
965	1	0.828388	0.015	27.6825	0.005435402
2212	2	0.828659	-0.00625	27.67625	0.005434174
3193	3	0.828662	-0.005	27.67125	0.005433193
989	1	0.829165	0.015	27.68625	0.005436138
9551	4	0.829295	-0.005	27.68125	0.005435156
3186	3	0.829356	0.01	27.69125	0.00543712
9761	4	0.829645	0.01	27.70125	0.005439083
6834	3	0.829667	0.01	27.71125	0.005441047
9632	4	0.830006	0.01	27.72125	0.00544301
5516	3	0.830247	-0.005	27.71625	0.005442028

2074	2	0.830736	-0.00625	27.71	0.005440801
3874	3	0.831244	-0.005	27.705	0.005439819
4648	3	0.831322	-0.005	27.7	0.005438838
8689	3	0.831439	-0.005	27.695	0.005437856
2147	2	0.831698	0.0125	27.7075	0.00544031
2112	2	0.831783	0.0125	27.72	0.005442765
6517	3	0.831988	-0.005	27.715	0.005441783
6475	3	0.832411	-0.005	27.71	0.005440801
780	1	0.832521	-0.0075	27.7025	0.005439328
3956	3	0.833039	-0.005	27.6975	0.005438347
5919	3	0.83354	0.01	27.7075	0.00544031
8683	3	0.834585	0.01	27.7175	0.005442274
3041	3	0.834863	-0.005	27.7125	0.005441292
3195	3	0.835082	0.01	27.7225	0.005443255
8372	3	0.835212	0.01	27.7325	0.005445219
8105	3	0.835481	0.01	27.7425	0.005447182
4926	3	0.835489	-0.005	27.7375	0.005446201
3367	3	0.835876	-0.005	27.7325	0.005445219
5551	3	0.836017	0.01	27.7425	0.005447182
4847	3	0.836228	-0.005	27.7375	0.005446201
9698	4	0.836337	-0.005	27.7325	0.005445219
3945	3	0.837038	0.01	27.7425	0.005447182
784	1	0.837105	0.015	27.7575	0.005450128
4742	3	0.83746	0.01	27.7675	0.005452091
687	1	0.837586	0.015	27.7825	0.005455036
6783	3	0.837792	0.01	27.7925	0.005457
2590	2	0.837811	-0.00625	27.78625	0.005455773
2278	2	0.837978	0.0125	27.79875	0.005458227
7781	3	0.838287	-0.005	27.79375	0.005457245
3680	3	0.838617	0.01	27.80375	0.005459209
2457	2	0.838716	0.0125	27.81625	0.005461663
6783	3	0.838773	-0.005	27.81125	0.005460681
4356	3	0.839002	-0.005	27.80625	0.0054597
8654	3	0.839123	-0.005	27.80125	0.005458718
7259	3	0.839154	0.01	27.81125	0.005460681
144	1	0.839681	-0.0075	27.80375	0.005459209
546	1	0.839694	0.015	27.81875	0.005462154
1394	1	0.839946	0.015	27.83375	0.005465099
7567	3	0.840141	0.01	27.84375	0.005467063
5617	3	0.840372	0.01	27.85375	0.005469026
140	1	0.8406	0.015	27.86875	0.005471971
9383	4	0.840744	-0.005	27.86375	0.00547099
7171	3	0.840807	0.01	27.87375	0.005472953
5347	3	0.840931	0.01	27.88375	0.005474917
2235	2	0.84102	-0.00625	27.8775	0.005473689
6720	3	0.841221	0.01	27.8875	0.005475653
5092	3	0.841325	0.01	27.8975	0.005477616
8769	4	0.841396	-0.005	27.8925	0.005476635
1944	2	0.841506	-0.00625	27.88625	0.005475407
3719	3	0.841657	0.01	27.89625	0.005477371
3530	3	0.84211	-0.005	27.89125	0.005476389
3138	3	0.842227	0.01	27.90125	0.005478353

870	1	0.842246	-0.0075	27.89375	0.00547688
4594	3	0.842359	-0.005	27.88875	0.005475898
5671	3	0.842502	-0.005	27.88375	0.005474917
576	1	0.842898	-0.0075	27.87625	0.005473444
5709	3	0.842937	0.01	27.88625	0.005475407
2597	2	0.84389	-0.00625	27.88	0.00547418
3798	3	0.844073	-0.005	27.875	0.005473199
1008	1	0.844153	0.015	27.89	0.005476144
9029	4	0.844196	-0.005	27.885	0.005475162
796	1	0.844411	-0.0075	27.8775	0.005473689
766	1	0.844638	-0.0075	27.87	0.005472217
2366	2	0.844893	0.0125	27.8825	0.005474671
265	1	0.84498	0.015	27.8975	0.005477616
7116	3	0.845279	-0.005	27.8925	0.005476635
8129	3	0.845712	0.01	27.9025	0.005478598
1188	1	0.845778	-0.0075	27.895	0.005477125
9723	4	0.846322	0.01	27.905	0.005479089
3680	3	0.846997	-0.005	27.9	0.005478107
203	1	0.84753	0.015	27.915	0.005481052
8263	3	0.847627	0.01	27.925	0.005483016
7729	3	0.847727	-0.005	27.92	0.005482034
9127	4	0.847804	-0.005	27.915	0.005481052
9523	4	0.847817	0.01	27.925	0.005483016
5571	3	0.848289	0.01	27.935	0.005484979
1180	1	0.848463	0.015	27.95	0.005487925
1115	1	0.848777	0.015	27.965	0.00549087
7102	3	0.849162	0.01	27.975	0.005492833
0	1	0.849863	-0.0075	27.9675	0.005491361
2904	3	0.850041	0.01	27.9775	0.005493324
7206	3	0.850078	0.01	27.9875	0.005495288
3144	3	0.850098	-0.005	27.9825	0.005494306
3958	3	0.85019	-0.005	27.9775	0.005493324
2659	2	0.85041	0.0125	27.99	0.005495779
2591	2	0.850483	0.0125	28.0025	0.005498233
8363	3	0.850495	0.01	28.0125	0.005500196
4240	3	0.850923	-0.005	28.0075	0.005499215
1346	1	0.850965	-0.0075	28	0.005497742
9497	4	0.851086	0.01	28.01	0.005499705
416	1	0.851218	-0.0075	28.0025	0.005498233
1881	2	0.851257	-0.00625	27.99625	0.005497006
216	1	0.851585	0.015	28.01125	0.005499951
9946	4	0.85174	0.01	28.02125	0.005501914
8970	4	0.851858	-0.005	28.01625	0.005500933
4948	3	0.852007	0.01	28.02625	0.005502896
526	1	0.85208	0.015	28.04125	0.005505841
3609	3	0.852628	0.01	28.05125	0.005507805
3587	3	0.852826	0.01	28.06125	0.005509768
2662	2	0.852827	-0.00625	28.055	0.005508541
7638	3	0.853305	-0.005	28.05	0.005507559
1537	1	0.853333	0.015	28.065	0.005510505
1546	1	0.853743	0.015	28.08	0.00551345
1642	1	0.854143	0.015	28.095	0.005516395

7658	3	0.85422	-0.005	28.09	0.005515413
6024	3	0.85443	0.01	28.1	0.005517377
4421	3	0.854504	0.01	28.11	0.00551934
4334	3	0.854878	-0.005	28.105	0.005518359
4118	3	0.855044	0.01	28.115	0.005520322
1270	1	0.855102	-0.0075	28.1075	0.005518849
1228	1	0.855117	-0.0075	28.1	0.005517377
6321	3	0.855174	0.01	28.11	0.00551934
1775	2	0.855374	0.0125	28.1225	0.005521795
6000	3	0.855545	-0.005	28.1175	0.005520813
86	1	0.855835	0.015	28.1325	0.005523758
3489	3	0.856077	0.01	28.1425	0.005525722
8573	3	0.856243	-0.005	28.1375	0.00552474
1944	2	0.857106	-0.00625	28.13125	0.005523513
330	1	0.857222	-0.0075	28.12375	0.00552204
65	1	0.857355	-0.0075	28.11625	0.005520567
2685	2	0.858141	0.0125	28.12875	0.005523022
4574	3	0.858248	-0.005	28.12375	0.00552204
2371	2	0.858273	0.0125	28.13625	0.005524494
6409	3	0.858289	-0.005	28.13125	0.005523513
6474	3	0.858601	0.01	28.14125	0.005525476
4519	3	0.85862	0.01	28.15125	0.00552744
3655	3	0.858624	0.01	28.16125	0.005529403
8497	3	0.858757	0.01	28.17125	0.005531367
7262	3	0.858786	-0.005	28.16625	0.005530385
5219	3	0.85919	0.01	28.17625	0.005532348
6366	3	0.859638	0.01	28.18625	0.005534312
9532	4	0.85964	0.01	28.19625	0.005536275
540	1	0.859784	-0.0075	28.18875	0.005534803
7639	3	0.859809	0.01	28.19875	0.005536766
162	1	0.859981	0.015	28.21375	0.005539711
4166	3	0.860211	0.01	28.22375	0.005541675
3856	3	0.860243	-0.005	28.21875	0.005540693
788	1	0.860397	0.015	28.23375	0.005543638
1683	1	0.860649	-0.0075	28.22625	0.005542166
9	1	0.860773	-0.0075	28.21875	0.005540693
8004	3	0.861355	0.01	28.22875	0.005542657
2554	2	0.861673	-0.00625	28.2225	0.005541429
594	1	0.861703	0.015	28.2375	0.005544375
4282	3	0.861727	0.01	28.2475	0.005546338
344	1	0.861843	-0.0075	28.24	0.005544866
6060	3	0.861992	-0.005	28.235	0.005543884
8275	3	0.862243	-0.005	28.23	0.005542902
5056	3	0.862247	-0.005	28.225	0.00554192
2893	2	0.862388	-0.00625	28.21875	0.005540693
7591	3	0.862614	0.01	28.22875	0.005542657
565	1	0.862676	-0.0075	28.22125	0.005541184
1469	1	0.862823	0.015	28.23625	0.005544129
6750	3	0.863247	0.01	28.24625	0.005546093
8650	3	0.863571	0.01	28.25625	0.005548056
364	1	0.863804	-0.0075	28.24875	0.005546584
538	1	0.863832	-0.0075	28.24125	0.005545111

6996	3	0.863982	-0.005	28.23625	0.005544129
9787	4	0.864118	-0.005	28.23125	0.005543147
8129	3	0.864448	-0.005	28.22625	0.005542166
1128	1	0.864946	0.015	28.24125	0.005545111
1050	1	0.865077	-0.0075	28.23375	0.005543638
3399	3	0.865085	-0.005	28.22875	0.005542657
470	1	0.865565	-0.0075	28.22125	0.005541184
3486	3	0.865586	0.01	28.23125	0.005543147
313	1	0.865598	-0.0075	28.22375	0.005541675
7525	3	0.866283	-0.005	28.21875	0.005540693
8248	3	0.866442	-0.005	28.21375	0.005539711
2533	2	0.86654	0.0125	28.22625	0.005542166
2804	2	0.866578	0.0125	28.23875	0.00554462
8404	3	0.866847	-0.005	28.23375	0.005543638
6569	3	0.866891	0.01	28.24375	0.005545602
5793	3	0.867169	-0.005	28.23875	0.00554462
5752	3	0.867215	0.01	28.24875	0.005546584
6925	3	0.86727	0.01	28.25875	0.005548547
6387	3	0.867332	-0.005	28.25375	0.005547565
4479	3	0.867375	-0.005	28.24875	0.005546584
2242	2	0.867505	0.0125	28.26125	0.005549038
2016	2	0.867664	0.0125	28.27375	0.005551492
2090	2	0.86778	0.0125	28.28625	0.005553947
9857	4	0.867856	0.01	28.29625	0.00555591
6313	3	0.868026	-0.005	28.29125	0.005554928
7373	3	0.868708	0.01	28.30125	0.005556892
3128	3	0.868999	-0.005	28.29625	0.00555591
161	1	0.869186	-0.0075	28.28875	0.005554437
3920	3	0.869265	-0.005	28.28375	0.005553456
170	1	0.869441	-0.0075	28.27625	0.005551983
8491	3	0.869501	0.01	28.28625	0.005553947
2681	2	0.869702	-0.00625	28.28	0.005552719
7810	3	0.869745	-0.005	28.275	0.005551738
6299	3	0.870515	-0.005	28.27	0.005550756
6401	3	0.870684	0.01	28.28	0.005552719
7190	3	0.870693	0.01	28.29	0.005554683
4986	3	0.871031	0.01	28.3	0.005556646
5043	3	0.87134	0.01	28.31	0.00555861
1078	1	0.871622	0.015	28.325	0.005561555
7034	3	0.871717	-0.005	28.32	0.005560573
663	1	0.871929	-0.0075	28.3125	0.005559101
1554	1	0.871946	0.015	28.3275	0.005562046
1935	2	0.872136	0.0125	28.34	0.0055645
864	1	0.872232	0.015	28.355	0.005567446
2502	2	0.872355	0.0125	28.3675	0.0055699
3997	3	0.872408	-0.005	28.3625	0.005568918
8722	3	0.872452	0.01	28.3725	0.005570882
7100	3	0.872999	0.01	28.3825	0.005572845
4881	3	0.873129	-0.005	28.3775	0.005571863
345	1	0.873272	0.015	28.3925	0.005574809
8845	4	0.873324	0.01	28.4025	0.005576772
7171	3	0.873418	-0.005	28.3975	0.00557579

5940	3	0.873485	-0.005	28.3925	0.005574809
9436	4	0.87362	0.01	28.4025	0.005576772
6553	3	0.874095	0.01	28.4125	0.005578736
6523	3	0.874589	0.01	28.4225	0.005580699
8049	3	0.875776	-0.005	28.4175	0.005579717
6913	3	0.875924	0.01	28.4275	0.005581681
6111	3	0.875991	0.01	28.4375	0.005583644
1949	2	0.876551	-0.00625	28.43125	0.005582417
6055	3	0.876954	-0.005	28.42625	0.005581435
9497	4	0.876972	-0.005	28.42125	0.005580454
4591	3	0.877289	-0.005	28.41625	0.005579472
8664	3	0.877363	-0.005	28.41125	0.00557849
8540	3	0.877794	-0.005	28.40625	0.005577508
2672	2	0.878193	0.0125	28.41875	0.005579963
1377	1	0.878499	0.015	28.43375	0.005582908
8626	3	0.878534	0.01	28.44375	0.005584871
429	1	0.878813	0.015	28.45875	0.005587817
6694	3	0.879106	-0.005	28.45375	0.005586835
4540	3	0.879131	-0.005	28.44875	0.005585853
4303	3	0.879204	0.01	28.45875	0.005587817
5652	3	0.879286	-0.005	28.45375	0.005586835
2157	2	0.880004	-0.00625	28.4475	0.005585608
2170	2	0.880211	-0.00625	28.44125	0.005584381
5246	3	0.880264	0.01	28.45125	0.005586344
7538	3	0.8809	0.01	28.46125	0.005588307
3158	3	0.880908	0.01	28.47125	0.005590271
3064	3	0.88109	-0.005	28.46625	0.005589289
7109	3	0.881804	0.01	28.47625	0.005591253
1473	1	0.882078	0.015	28.49125	0.005594198
5803	3	0.882432	0.01	28.50125	0.005596161
4860	3	0.882987	-0.005	28.49625	0.00559518
884	1	0.88321	0.015	28.51125	0.005598125
1780	2	0.883441	-0.00625	28.505	0.005596898
1652	1	0.883467	0.015	28.52	0.005599843
1972	2	0.883468	0.0125	28.5325	0.005602297
4877	3	0.883494	-0.005	28.5275	0.005601316
5857	3	0.884071	0.01	28.5375	0.005603279
78	1	0.884292	-0.0075	28.53	0.005601806
1449	1	0.884294	-0.0075	28.5225	0.005600334
2803	2	0.884814	0.0125	28.535	0.005602788
4313	3	0.885026	-0.005	28.53	0.005601806
8471	3	0.885272	0.01	28.54	0.00560377
1702	1	0.886664	-0.0075	28.5325	0.005602297
2382	2	0.886704	0.0125	28.545	0.005604752
1005	1	0.886813	-0.0075	28.5375	0.005603279
675	1	0.886889	0.015	28.5525	0.005606224
2195	2	0.887093	0.0125	28.565	0.005608679
8512	3	0.88725	-0.005	28.56	0.005607697
835	1	0.887392	0.015	28.575	0.005610642
1393	1	0.887644	-0.0075	28.5675	0.005609169
331	1	0.887693	0.015	28.5825	0.005612115
7209	3	0.88781	-0.005	28.5775	0.005611133

975	1	0.888173	-0.0075	28.57	0.00560966
4393	3	0.888528	0.01	28.58	0.005611624
7310	3	0.888795	0.01	28.59	0.005613587
1735	1	0.88882	-0.0075	28.5825	0.005612115
1517	1	0.8889	-0.0075	28.575	0.005610642
6092	3	0.888934	-0.005	28.57	0.00560966
8651	3	0.88902	-0.005	28.565	0.005608679
2570	2	0.889241	-0.00625	28.55875	0.005607451
5243	3	0.889271	0.01	28.56875	0.005609415
565	1	0.889354	-0.0075	28.56125	0.005607942
625	1	0.889595	0.015	28.57625	0.005610887
1447	1	0.889769	0.015	28.59125	0.005613833
6762	3	0.889794	-0.005	28.58625	0.005612851
1364	1	0.890021	0.015	28.60125	0.005615796
2338	2	0.890337	-0.00625	28.595	0.005614569
8621	3	0.890367	-0.005	28.59	0.005613587
6389	3	0.890418	0.01	28.6	0.005615551
323	1	0.890539	0.015	28.615	0.005618496
1546	1	0.890593	-0.0075	28.6075	0.005617023
2855	2	0.890931	-0.00625	28.60125	0.005615796
3975	3	0.891748	0.01	28.61125	0.00561776
4783	3	0.891904	-0.005	28.60625	0.005616778
4380	3	0.892596	-0.005	28.60125	0.005615796
2399	2	0.892707	-0.00625	28.595	0.005614569
1096	1	0.892889	0.015	28.61	0.005617514
8444	3	0.893254	0.01	28.62	0.005619478
6567	3	0.894007	-0.005	28.615	0.005618496
5574	3	0.894158	0.01	28.625	0.005620459
1462	1	0.894197	0.015	28.64	0.005623405
1147	1	0.894207	-0.0075	28.6325	0.005621932
7193	3	0.894379	-0.005	28.6275	0.00562095
6024	3	0.894837	-0.005	28.6225	0.005619969
2045	2	0.895866	-0.00625	28.61625	0.005618741
757	1	0.896072	0.015	28.63125	0.005621687
5695	3	0.896227	-0.005	28.62625	0.005620705
1381	1	0.89635	0.015	28.64125	0.00562365
2631	2	0.896506	-0.00625	28.635	0.005622423
4178	3	0.896716	0.01	28.645	0.005624386
3183	3	0.896747	-0.005	28.64	0.005623405
2652	2	0.896832	0.0125	28.6525	0.005625859
5636	3	0.89692	-0.005	28.6475	0.005624877
257	1	0.89721	-0.0075	28.64	0.005623405
5874	3	0.897669	0.01	28.65	0.005625368
342	1	0.898054	-0.0075	28.6425	0.005623896
3346	3	0.898314	0.01	28.6525	0.005625859
454	1	0.898418	0.015	28.6675	0.005628804
2343	2	0.898449	0.0125	28.68	0.005631259
7777	3	0.898473	-0.005	28.675	0.005630277
6948	3	0.898736	0.01	28.685	0.00563224
679	1	0.898737	-0.0075	28.6775	0.005630768
732	1	0.899315	0.015	28.6925	0.005633713
1035	1	0.89953	-0.0075	28.685	0.00563224

2098	2	0.899919	-0.00625	28.67875	0.005631013
1228	1	0.900087	-0.0075	28.67125	0.005629541
5259	3	0.900784	-0.005	28.66625	0.005628559
6095	3	0.901022	0.01	28.67625	0.005630522
661	1	0.90169	0.015	28.69125	0.005633468
5020	3	0.901726	0.01	28.70125	0.005635431
8146	3	0.901754	-0.005	28.69625	0.005634449
4568	3	0.9018	0.01	28.70625	0.005636413
1864	2	0.901852	0.0125	28.71875	0.005638867
5027	3	0.902368	-0.005	28.71375	0.005637885
915	1	0.90266	0.015	28.72875	0.005640831
6938	3	0.902924	0.01	28.73875	0.005642794
7553	3	0.902937	-0.005	28.73375	0.005641812
6250	3	0.903074	-0.005	28.72875	0.005640831
7858	3	0.903076	-0.005	28.72375	0.005639849
1797	2	0.903181	-0.00625	28.7175	0.005638622
4658	3	0.903196	-0.005	28.7125	0.00563764
757	1	0.903284	-0.0075	28.705	0.005636167
1948	2	0.90385	-0.00625	28.69875	0.00563494
8632	3	0.90451	0.01	28.70875	0.005636904
2953	3	0.904916	0.01	28.71875	0.005638867
730	1	0.905237	-0.0075	28.71125	0.005637394
2447	2	0.905577	-0.00625	28.705	0.005636167
2557	2	0.90572	-0.00625	28.69875	0.00563494
1129	1	0.905801	0.015	28.71375	0.005637885
178	1	0.905899	0.015	28.72875	0.005640831
1049	1	0.905941	0.015	28.74375	0.005643776
2320	2	0.906147	-0.00625	28.7375	0.005642549
8375	3	0.906218	0.01	28.7475	0.005644512
9716	4	0.906293	0.01	28.7575	0.005646476
2702	2	0.906398	-0.00625	28.75125	0.005645248
1326	1	0.90643	-0.0075	28.74375	0.005643776
1530	1	0.906638	0.015	28.75875	0.005646721
167	1	0.906927	0.015	28.77375	0.005649666
5463	3	0.907015	0.01	28.78375	0.00565163
2696	2	0.9073	-0.00625	28.7775	0.005650403
1712	1	0.907326	0.015	28.7925	0.005653348
3707	3	0.907366	-0.005	28.7875	0.005652366
2742	2	0.907441	-0.00625	28.78125	0.005651139
1237	1	0.907485	-0.0075	28.77375	0.005649666
2890	2	0.908194	0.0125	28.78625	0.005652121
474	1	0.90861	-0.0075	28.77875	0.005650648
2786	2	0.909135	0.0125	28.79125	0.005653102
4581	3	0.90927	-0.005	28.78625	0.005652121
1202	1	0.909547	0.015	28.80125	0.005655066
407	1	0.9103	0.015	28.81625	0.005658011
9715	4	0.910735	-0.005	28.81125	0.005657029
4663	3	0.911217	0.01	28.82125	0.005658993
7426	3	0.911556	-0.005	28.81625	0.005658011
7779	3	0.911674	-0.005	28.81125	0.005657029
4631	3	0.912437	0.01	28.82125	0.005658993
8742	3	0.912591	0.01	28.83125	0.005660956

5583	3	0.912873	-0.005	28.82625	0.005659974
1711	1	0.913525	-0.0075	28.81875	0.005658502
1935	2	0.913665	-0.00625	28.8125	0.005657275
3777	3	0.91368	0.01	28.8225	0.005659238
3751	3	0.913963	0.01	28.8325	0.005661202
224	1	0.914476	0.015	28.8475	0.005664147
7626	3	0.914971	-0.005	28.8425	0.005663165
5251	3	0.915326	0.01	28.8525	0.005665129
5862	3	0.915857	0.01	28.8625	0.005667092
2930	3	0.915935	-0.005	28.8575	0.00566611
3072	3	0.916091	0.01	28.8675	0.005668074
3095	3	0.91614	-0.005	28.8625	0.005667092
53	1	0.916564	-0.0075	28.855	0.005665619
2164	2	0.916579	-0.00625	28.84875	0.005664392
3640	3	0.916646	-0.005	28.84375	0.005663411
1025	1	0.917395	0.015	28.85875	0.005666356
9546	4	0.917417	0.01	28.86875	0.005668319
3655	3	0.917807	-0.005	28.86375	0.005667338
693	1	0.918354	0.015	28.87875	0.005670283
4543	3	0.9187	0.01	28.88875	0.005672246
8357	3	0.918723	0.01	28.89875	0.00567421
2062	2	0.918864	-0.00625	28.8925	0.005672983
9505	4	0.919259	-0.005	28.8875	0.005672001
3538	3	0.920121	-0.005	28.8825	0.005671019
745	1	0.920207	0.015	28.8975	0.005673964
8073	3	0.920634	0.01	28.9075	0.005675928
2003	2	0.920987	-0.00625	28.90125	0.005674701
2953	3	0.921285	-0.005	28.89625	0.005673719
8833	4	0.921344	-0.005	28.89125	0.005672737
3468	3	0.921974	-0.005	28.88625	0.005671755
1477	1	0.922297	0.015	28.90125	0.005674701
5163	3	0.922416	0.01	28.91125	0.005676664
1116	1	0.922522	-0.0075	28.90375	0.005675191
5905	3	0.922853	0.01	28.91375	0.005677155
8579	3	0.923479	0.01	28.92375	0.005679118
5039	3	0.9237	0.01	28.93375	0.005681082
2190	2	0.923824	-0.00625	28.9275	0.005679855
2790	2	0.924287	-0.00625	28.92125	0.005678628
1096	1	0.925153	-0.0075	28.91375	0.005677155
6752	3	0.925633	-0.005	28.90875	0.005676173
1000	1	0.925712	-0.0075	28.90125	0.005674701
1564	1	0.925927	-0.0075	28.89375	0.005673228
1127	1	0.926109	-0.0075	28.88625	0.005671755
98	1	0.926433	0.015	28.90125	0.005674701
3472	3	0.926489	0.01	28.91125	0.005676664
1869	2	0.926574	-0.00625	28.905	0.005675437
145	1	0.926628	-0.0075	28.8975	0.005673964
5590	3	0.92668	0.01	28.9075	0.005675928
8939	4	0.926731	0.01	28.9175	0.005677891
1102	1	0.927562	0.015	28.9325	0.005680836
9498	4	0.92761	-0.005	28.9275	0.005679855
3628	3	0.927666	-0.005	28.9225	0.005678873

2401	2	0.927942	-0.00625	28.91625	0.005677646
7212	3	0.928883	-0.005	28.91125	0.005676664
8157	3	0.930104	-0.005	28.90625	0.005675682
717	1	0.930803	0.015	28.92125	0.005678628
1256	1	0.931	-0.0075	28.91375	0.005677155
5001	3	0.931474	0.01	28.92375	0.005679118
5674	3	0.931575	-0.005	28.91875	0.005678137
4178	3	0.931614	-0.005	28.91375	0.005677155
9997	4	0.931912	-0.005	28.90875	0.005676173
7930	3	0.932018	0.01	28.91875	0.005678137
6201	3	0.932538	0.01	28.92875	0.0056801
7210	3	0.932723	-0.005	28.92375	0.005679118
1413	1	0.933073	-0.0075	28.91625	0.005677646
7362	3	0.933487	-0.005	28.91125	0.005676664
2899	2	0.933649	0.0125	28.92375	0.005679118
2459	2	0.933724	-0.00625	28.9175	0.005677891
261	1	0.934668	0.015	28.9325	0.005680836
4851	3	0.934839	0.01	28.9425	0.0056828
2416	2	0.93489	-0.00625	28.93625	0.005681573
3260	3	0.935495	0.01	28.94625	0.005683536
6846	3	0.936239	-0.005	28.94125	0.005682554
2696	2	0.936281	-0.00625	28.935	0.005681327
3196	3	0.936322	0.01	28.945	0.005683291
1108	1	0.93708	-0.0075	28.9375	0.005681818
6537	3	0.937644	-0.005	28.9325	0.005680836
2551	2	0.937903	0.0125	28.945	0.005683291
3670	3	0.937926	-0.005	28.94	0.005682309
5631	3	0.938145	0.01	28.95	0.005684273
9421	4	0.938177	0.01	28.96	0.005686236
2018	2	0.938185	-0.00625	28.95375	0.005685009
2573	2	0.938239	-0.00625	28.9475	0.005683782
3957	3	0.938339	0.01	28.9575	0.005685745
1058	1	0.938821	-0.0075	28.95	0.005684273
1789	2	0.939016	-0.00625	28.94375	0.005683045
6154	3	0.939103	0.01	28.95375	0.005685009
5779	3	0.939125	0.01	28.96375	0.005686972
4357	3	0.939548	-0.005	28.95875	0.005685991
7903	3	0.939733	-0.005	28.95375	0.005685009
4897	3	0.939752	-0.005	28.94875	0.005684027
2061	2	0.939786	-0.00625	28.9425	0.0056828
2772	2	0.939874	0.0125	28.955	0.005685254
7789	3	0.940643	0.01	28.965	0.005687218
2780	2	0.94083	-0.00625	28.95875	0.005685991
9925	4	0.94096	-0.005	28.95375	0.005685009
387	1	0.941153	-0.0075	28.94625	0.005683536
6429	3	0.941154	0.01	28.95625	0.0056855
8485	3	0.941642	-0.005	28.95125	0.005684518
5550	3	0.941679	-0.005	28.94625	0.005683536
3663	3	0.942365	0.01	28.95625	0.0056855
2823	2	0.942784	0.0125	28.96875	0.005687954
6274	3	0.942786	-0.005	28.96375	0.005686972
3077	3	0.94286	0.01	28.97375	0.005688936

5844	3	0.943728	0.01	28.98375	0.005690899
8632	3	0.944578	-0.005	28.97875	0.005689918
7906	3	0.945464	-0.005	28.97375	0.005688936
661	1	0.946133	-0.0075	28.96625	0.005687463
3261	3	0.946237	-0.005	28.96125	0.005686481
2820	2	0.946247	-0.00625	28.955	0.005685254
2798	2	0.946323	0.0125	28.9675	0.005687709
7045	3	0.94634	0.01	28.9775	0.005689672
295	1	0.946361	0.015	28.9925	0.005692617
691	1	0.94672	-0.0075	28.985	0.005691145
771	1	0.946736	-0.0075	28.9775	0.005689672
944	1	0.947056	-0.0075	28.97	0.005688199
1266	1	0.947099	0.015	28.985	0.005691145
894	1	0.947229	-0.0075	28.9775	0.005689672
630	1	0.947389	0.015	28.9925	0.005692617
2241	2	0.947542	0.0125	29.005	0.005695072
987	1	0.947671	0.015	29.02	0.005698017
9865	4	0.947908	0.01	29.03	0.00569998
12	1	0.948075	0.015	29.045	0.005702926
5530	3	0.948086	-0.005	29.04	0.005701944
4779	3	0.94854	0.01	29.05	0.005703907
7941	3	0.948637	-0.005	29.045	0.005702926
5874	3	0.948705	-0.005	29.04	0.005701944
5492	3	0.948813	0.01	29.05	0.005703907
2188	2	0.948999	-0.00625	29.04375	0.00570268
2754	2	0.949113	0.0125	29.05625	0.005705134
718	1	0.949309	0.015	29.07125	0.00570808
4388	3	0.949376	-0.005	29.06625	0.005707098
5160	3	0.94961	-0.005	29.06125	0.005706116
769	1	0.949613	0.015	29.07625	0.005709061
35	1	0.949752	0.015	29.09125	0.005712007
4786	3	0.949798	-0.005	29.08625	0.005711025
3196	3	0.949914	-0.005	29.08125	0.005710043
9837	4	0.950334	0.01	29.09125	0.005712007
5890	3	0.950591	0.01	29.10125	0.00571397
5478	3	0.951764	-0.005	29.09625	0.005712988
6205	3	0.951913	0.01	29.10625	0.005714952
9600	4	0.952411	0.01	29.11625	0.005716915
1979	2	0.952664	0.0125	29.12875	0.00571937
7305	3	0.952668	0.01	29.13875	0.005721333
216	1	0.952983	-0.0075	29.13125	0.005719861
1558	1	0.953742	-0.0075	29.12375	0.005718388
8280	3	0.953933	-0.005	29.11875	0.005717406
2067	2	0.954201	-0.00625	29.1125	0.005716179
590	1	0.954295	0.015	29.1275	0.005719124
2874	2	0.954488	0.0125	29.14	0.005721579
8836	4	0.954576	-0.005	29.135	0.005720597
3975	3	0.954665	-0.005	29.13	0.005719615
8240	3	0.954701	-0.005	29.125	0.005718633
1508	1	0.954958	-0.0075	29.1175	0.005717161
7812	3	0.955821	0.01	29.1275	0.005719124
2067	2	0.955943	-0.00625	29.12125	0.005717897

605	1	0.956029	0.015	29.13625	0.005720842
963	1	0.956236	0.015	29.15125	0.005723788
4663	3	0.956348	-0.005	29.14625	0.005722806
1471	1	0.956349	0.015	29.16125	0.005725751
594	1	0.956598	-0.0075	29.15375	0.005724278
6625	3	0.956611	0.01	29.16375	0.005726242
434	1	0.956915	0.015	29.17875	0.005729187
1231	1	0.956926	-0.0075	29.17125	0.005727715
1628	1	0.956963	0.015	29.18625	0.00573066
7663	3	0.957021	0.01	29.19625	0.005732623
6881	3	0.95716	-0.005	29.19125	0.005731641
888	1	0.957181	0.015	29.20625	0.005734587
3221	3	0.957243	-0.005	29.20125	0.005733605
907	1	0.957477	-0.0075	29.19375	0.005732132
586	1	0.957577	0.015	29.20875	0.005735078
461	1	0.957919	-0.0075	29.20125	0.005733605
4803	3	0.957995	0.01	29.21125	0.005735568
3818	3	0.958025	0.01	29.22125	0.005737532
5508	3	0.958744	0.01	29.23125	0.005739495
9512	4	0.958917	-0.005	29.22625	0.005738514
6124	3	0.959095	-0.005	29.22125	0.005737532
6149	3	0.959296	-0.005	29.21625	0.00573655
1499	1	0.959567	0.015	29.23125	0.005739495
1524	1	0.959834	-0.0075	29.22375	0.005738023
4818	3	0.960399	-0.005	29.21875	0.005737041
1338	1	0.960441	-0.0075	29.21125	0.005735568
6930	3	0.960519	0.01	29.22125	0.005737532
6619	3	0.960776	0.01	29.23125	0.005739495
67	1	0.960934	0.015	29.24625	0.005742441
1936	2	0.961261	0.0125	29.25875	0.005744895
8509	3	0.961438	0.01	29.26875	0.005746858
2509	2	0.961444	-0.00625	29.2625	0.005745631
8017	3	0.961898	0.01	29.2725	0.005747595
214	1	0.961915	-0.0075	29.265	0.005746122
307	1	0.962106	-0.0075	29.2575	0.00574465
5595	3	0.962138	-0.005	29.2525	0.005743668
323	1	0.962475	-0.0075	29.245	0.005742195
6335	3	0.962595	-0.005	29.24	0.005741213
6631	3	0.962807	-0.005	29.235	0.005740232
9600	4	0.963849	-0.005	29.23	0.00573925
573	1	0.964238	-0.0075	29.2225	0.005737777
9580	4	0.96475	-0.005	29.2175	0.005736796
4011	3	0.96488	0.01	29.2275	0.005738759
1306	1	0.964913	0.015	29.2425	0.005741704
1956	2	0.964978	0.0125	29.255	0.005744159
6200	3	0.964985	-0.005	29.25	0.005743177
4016	3	0.965055	0.01	29.26	0.00574514
2094	2	0.965217	0.0125	29.2725	0.005747595
3658	3	0.965982	0.01	29.2825	0.005749558
3348	3	0.966244	0.01	29.2925	0.005751522
2431	2	0.966427	-0.00625	29.28625	0.005750295
2451	2	0.966438	0.0125	29.29875	0.005752749

267	1	0.966462	0.015	29.31375	0.005755694
700	1	0.966463	-0.0075	29.30625	0.005754221
8613	3	0.966853	-0.005	29.30125	0.00575324
4833	3	0.966916	-0.005	29.29625	0.005752258
5477	3	0.967168	-0.005	29.29125	0.005751276
2559	2	0.967183	0.0125	29.30375	0.005753731
5526	3	0.967286	0.01	29.31375	0.005755694
4930	3	0.968169	0.01	29.32375	0.005757658
564	1	0.968244	0.015	29.33875	0.005760603
7969	3	0.968441	0.01	29.34875	0.005762566
6986	3	0.968787	0.01	29.35875	0.00576453
1761	1	0.968957	0.015	29.37375	0.005767475
6815	3	0.969362	0.01	29.38375	0.005769438
241	1	0.969431	-0.0075	29.37625	0.005767966
1463	1	0.969498	0.015	29.39125	0.005770911
6932	3	0.96985	0.01	29.40125	0.005772875
629	1	0.970487	-0.0075	29.39375	0.005771402
5574	3	0.970868	-0.005	29.38875	0.00577042
5058	3	0.970986	0.01	29.39875	0.005772384
8399	3	0.971043	0.01	29.40875	0.005774347
2165	2	0.971414	-0.00625	29.4025	0.00577312
2021	2	0.971712	0.0125	29.415	0.005775574
1960	2	0.971801	0.0125	29.4275	0.005778029
7166	3	0.971851	0.01	29.4375	0.005779992
1608	1	0.971894	0.015	29.4525	0.005782937
1420	1	0.971932	-0.0075	29.445	0.005781465
8247	3	0.97207	0.01	29.455	0.005783428
3575	3	0.972242	0.01	29.465	0.005785392
2983	3	0.972298	0.01	29.475	0.005787355
2596	2	0.972367	0.0125	29.4875	0.00578981
781	1	0.972843	-0.0075	29.48	0.005788337
4058	3	0.972933	-0.005	29.475	0.005787355
130	1	0.972946	0.015	29.49	0.0057903
2432	2	0.973143	-0.00625	29.48375	0.005789073
1080	1	0.973375	0.015	29.49875	0.005792018
6883	3	0.973467	0.01	29.50875	0.005793982
497	1	0.973558	0.015	29.52375	0.005796927
4484	3	0.973688	-0.005	29.51875	0.005795945
5499	3	0.973971	-0.005	29.51375	0.005794964
8896	4	0.974458	0.01	29.52375	0.005796927
718	1	0.974596	-0.0075	29.51625	0.005795455
4844	3	0.975028	-0.005	29.51125	0.005794473
4218	3	0.975157	-0.005	29.50625	0.005793491
289	1	0.975176	-0.0075	29.49875	0.005792018
1048	1	0.975255	-0.0075	29.49125	0.005790546
5645	3	0.975429	0.01	29.50125	0.005792509
958	1	0.975483	0.015	29.51625	0.005795455
2659	2	0.975484	-0.00625	29.51	0.005794227
6578	3	0.975525	-0.005	29.505	0.005793246
725	1	0.975549	0.015	29.52	0.005796191
1137	1	0.975578	0.015	29.535	0.005799136
2475	2	0.975923	-0.00625	29.52875	0.005797909

1571	1	0.976442	0.015	29.54375	0.005800854
3864	3	0.976547	-0.005	29.53875	0.005799872
261	1	0.977077	-0.0075	29.53125	0.0057984
7767	3	0.977201	0.01	29.54125	0.005800363
6455	3	0.97745	-0.005	29.53625	0.005799382
4872	3	0.977536	0.01	29.54625	0.005801345
906	1	0.977975	-0.0075	29.53875	0.005799872
3827	3	0.978048	0.01	29.54875	0.005801836
759	1	0.978219	-0.0075	29.54125	0.005800363
905	1	0.978305	0.015	29.55625	0.005803308
2798	2	0.978413	-0.00625	29.55	0.005802081
1720	1	0.978571	0.015	29.565	0.005805027
4537	3	0.978959	0.01	29.575	0.00580699
4857	3	0.979209	-0.005	29.57	0.005806008
4436	3	0.979862	0.01	29.58	0.005807972
4468	3	0.979877	-0.005	29.575	0.00580699
6710	3	0.979883	-0.005	29.57	0.005806008
1936	2	0.980782	-0.00625	29.56375	0.005804781
1539	1	0.980849	-0.0075	29.55625	0.005803308
623	1	0.981058	0.015	29.57125	0.005806254
390	1	0.981226	-0.0075	29.56375	0.005804781
9700	4	0.981492	0.01	29.57375	0.005806745
1641	1	0.981641	0.015	29.58875	0.00580969
9539	4	0.98165	0.01	29.59875	0.005811653
1294	1	0.981662	0.015	29.61375	0.005814598
8246	3	0.981748	0.01	29.62375	0.005816562
7218	3	0.981876	0.01	29.63375	0.005818525
637	1	0.981938	-0.0075	29.62625	0.005817053
4879	3	0.981951	0.01	29.63625	0.005819016
9	1	0.982627	-0.0075	29.62875	0.005817544
2697	2	0.98284	-0.00625	29.6225	0.005816317
2137	2	0.983335	-0.00625	29.61625	0.005815089
4981	3	0.98336	0.01	29.62625	0.005817053
8083	3	0.9835	0.01	29.63625	0.005819016
2259	2	0.983823	0.0125	29.64875	0.005821471
6642	3	0.984189	-0.005	29.64375	0.005820489
1563	1	0.984314	-0.0075	29.63625	0.005819016
2809	2	0.984443	-0.00625	29.63	0.005817789
7316	3	0.984606	-0.005	29.625	0.005816807
4422	3	0.984879	0.01	29.635	0.005818771
6175	3	0.985651	-0.005	29.63	0.005817789
2660	2	0.985963	-0.00625	29.62375	0.005816562
1315	1	0.985973	-0.0075	29.61625	0.005815089
6155	3	0.985985	0.01	29.62625	0.005817053
5517	3	0.985992	-0.005	29.62125	0.005816071
2383	2	0.986245	0.0125	29.63375	0.005818525
7075	3	0.986507	-0.005	29.62875	0.005817544
2652	2	0.986533	-0.00625	29.6225	0.005816317
5446	3	0.987475	0.01	29.6325	0.00581828
4557	3	0.987679	-0.005	29.6275	0.005817298
7360	3	0.987727	-0.005	29.6225	0.005816317
320	1	0.987757	-0.0075	29.615	0.005814844

877	1	0.988433	-0.0075	29.6075	0.005813371
8757	4	0.988472	0.01	29.6175	0.005815335
4424	3	0.988688	-0.005	29.6125	0.005814353
1114	1	0.988802	0.015	29.6275	0.005817298
7634	3	0.988944	0.01	29.6375	0.005819262
2361	2	0.988987	0.0125	29.65	0.005821716
9123	4	0.989188	-0.005	29.645	0.005820734
6287	3	0.989292	-0.005	29.64	0.005819753
883	1	0.989514	-0.0075	29.6325	0.00581828
1340	1	0.989807	-0.0075	29.625	0.005816807
6207	3	0.989943	-0.005	29.62	0.005815826
2142	2	0.990067	0.0125	29.6325	0.00581828
3103	3	0.990409	-0.005	29.6275	0.005817298
6118	3	0.990476	0.01	29.6375	0.005819262
9412	4	0.990899	-0.005	29.6325	0.00581828
2548	2	0.990956	0.0125	29.645	0.005820734
7023	3	0.990977	0.01	29.655	0.005822698
1362	1	0.991077	0.015	29.67	0.005825643
3594	3	0.991085	0.01	29.68	0.005827607
675	1	0.991629	-0.0075	29.6725	0.005826134
6218	3	0.991721	-0.005	29.6675	0.005825152
1198	1	0.991823	0.015	29.6825	0.005828097
1472	1	0.991872	0.015	29.6975	0.005831043
811	1	0.992107	-0.0075	29.69	0.00582957
853	1	0.992204	-0.0075	29.6825	0.005828097
225	1	0.992236	0.015	29.6975	0.005831043
1166	1	0.992428	-0.0075	29.69	0.00582957
7345	3	0.992497	-0.005	29.685	0.005828588
2381	2	0.992594	0.0125	29.6975	0.005831043
434	1	0.993617	-0.0075	29.69	0.00582957
1654	1	0.994099	-0.0075	29.6825	0.005828097
1472	1	0.994117	-0.0075	29.675	0.005826625
4572	3	0.994935	-0.005	29.67	0.005825643
1150	1	0.995165	0.015	29.685	0.005828588
1818	2	0.995323	0.0125	29.6975	0.005831043
358	1	0.995482	0.015	29.7125	0.005833988
8410	3	0.995675	-0.005	29.7075	0.005833006
3095	3	0.995729	-0.005	29.7025	0.005832024
7252	3	0.996073	0.01	29.7125	0.005833988
580	1	0.996445	0.015	29.7275	0.005836933
2743	2	0.996853	0.0125	29.74	0.005839387
5798	3	0.997101	0.01	29.75	0.005841351
197	1	0.997246	0.015	29.765	0.005844296
655	1	0.997288	-0.0075	29.7575	0.005842823
369	1	0.997482	-0.0075	29.75	0.005841351
7824	3	0.997557	0.01	29.76	0.005843314
6332	3	0.998198	-0.005	29.755	0.005842333
3019	3	0.998418	0.01	29.765	0.005844296
3372	3	0.998525	-0.005	29.76	0.005843314
1506	1	0.999028	0.015	29.775	0.00584626
6362	3	0.999072	-0.005	29.77	0.005845278
7697	3	0.999212	-0.005	29.765	0.005844296

355	1	0.999239	-0.0075	29.7575	0.005842823
1202	1	0.999307	-0.0075	29.75	0.005841351
2838	2	0.999587	0.0125	29.7625	0.005843805
4617	3	0.999966	-0.005	29.7575	0.005842823
4609	3	1.000433	-0.005	29.7525	0.005841842
5301	3	1.000677	0.01	29.7625	0.005843805
1516	1	1.000904	0.015	29.7775	0.00584675
8200	3	1.001285	0.01	29.7875	0.005848714
814	1	1.001517	0.015	29.8025	0.005851659
7640	3	1.001777	-0.005	29.7975	0.005850677
239	1	1.001851	0.015	29.8125	0.005853623
5388	3	1.001987	0.01	29.8225	0.005855586
9249	4	1.002363	0.01	29.8325	0.00585755
1252	1	1.002407	-0.0075	29.825	0.005856077
5234	3	1.002461	-0.005	29.82	0.005855095
9161	4	1.003082	-0.005	29.815	0.005854113
1379	1	1.003563	0.015	29.83	0.005857059
3344	3	1.004254	0.01	29.84	0.005859022
7294	3	1.00444	-0.005	29.835	0.00585804
9697	4	1.005219	-0.005	29.83	0.005857059
856	1	1.005368	0.015	29.845	0.005860004
2579	2	1.005535	-0.00625	29.83875	0.005858777
3242	3	1.005842	-0.005	29.83375	0.005857795
7697	3	1.006002	-0.005	29.82875	0.005856813
7769	3	1.006044	-0.005	29.82375	0.005855832
1225	1	1.006524	0.015	29.83875	0.005858777
5181	3	1.006632	-0.005	29.83375	0.005857795
6523	3	1.006656	-0.005	29.82875	0.005856813
6961	3	1.006922	-0.005	29.82375	0.005855832
851	1	1.006946	0.015	29.83875	0.005858777
5440	3	1.007108	0.01	29.84875	0.00586074
6201	3	1.00739	-0.005	29.84375	0.005859758
102	1	1.007604	-0.0075	29.83625	0.005858286
1557	1	1.007727	-0.0075	29.82875	0.005856813
6406	3	1.00832	0.01	29.83875	0.005858777
5012	3	1.008562	-0.005	29.83375	0.005857795
5992	3	1.008576	0.01	29.84375	0.005859758
9452	4	1.008583	0.01	29.85375	0.005861722
401	1	1.009104	0.015	29.86875	0.005864667
1224	1	1.009292	-0.0075	29.86125	0.005863195
1163	1	1.009677	0.015	29.87625	0.00586614
911	1	1.009836	-0.0075	29.86875	0.005864667
3248	3	1.009925	0.01	29.87875	0.005866631
3663	3	1.010425	-0.005	29.87375	0.005865649
8501	3	1.010722	-0.005	29.86875	0.005864667
5223	3	1.011021	-0.005	29.86375	0.005863685
4970	3	1.011735	-0.005	29.85875	0.005862704
5592	3	1.011784	0.01	29.86875	0.005864667
4325	3	1.012002	0.01	29.87875	0.005866631
8989	4	1.01249	-0.005	29.87375	0.005865649
1932	2	1.012565	0.0125	29.88625	0.005868103
1504	1	1.013263	-0.0075	29.87875	0.005866631

2037	2	1.014411	-0.00625	29.8725	0.005865403
8317	3	1.015126	-0.005	29.8675	0.005864422
6905	3	1.015287	0.01	29.8775	0.005866385
7263	3	1.015501	0.01	29.8875	0.005868349
2640	2	1.015508	0.0125	29.9	0.005870803
5147	3	1.016012	-0.005	29.895	0.005869821
1144	1	1.016126	0.015	29.91	0.005872767
1863	2	1.016302	-0.00625	29.90375	0.005871539
6934	3	1.01642	-0.005	29.89875	0.005870558
3184	3	1.016431	-0.005	29.89375	0.005869576
4960	3	1.01649	0.01	29.90375	0.005871539
9441	4	1.016719	0.01	29.91375	0.005873503
5056	3	1.017044	-0.005	29.90875	0.005872521
4900	3	1.017171	0.01	29.91875	0.005874485
5996	3	1.017549	-0.005	29.91375	0.005873503
494	1	1.017752	-0.0075	29.90625	0.00587203
7774	3	1.018216	-0.005	29.90125	0.005871048
9632	4	1.018367	-0.005	29.89625	0.005870067
2138	2	1.018674	0.0125	29.90875	0.005872521
5411	3	1.018977	0.01	29.91875	0.005874485
4567	3	1.019482	-0.005	29.91375	0.005873503
1281	1	1.019506	-0.0075	29.90625	0.00587203
7305	3	1.019517	-0.005	29.90125	0.005871048
5163	3	1.019648	-0.005	29.89625	0.005870067
8090	3	1.019908	0.01	29.90625	0.00587203
2042	2	1.020089	0.0125	29.91875	0.005874485
1774	2	1.020303	-0.00625	29.9125	0.005873257
2863	2	1.020963	-0.00625	29.90625	0.00587203
4042	3	1.021144	0.01	29.91625	0.005873994
4472	3	1.021147	-0.005	29.91125	0.005873012
2071	2	1.02167	0.0125	29.92375	0.005875466
3818	3	1.021899	-0.005	29.91875	0.005874485
7090	3	1.022117	-0.005	29.91375	0.005873503
4238	3	1.022153	-0.005	29.90875	0.005872521
6930	3	1.024641	-0.005	29.90375	0.005871539
336	1	1.024763	-0.0075	29.89625	0.005870067
5039	3	1.024802	-0.005	29.89125	0.005869085
3018	3	1.025096	-0.005	29.88625	0.005868103
7143	3	1.025571	0.01	29.89625	0.005870067
2075	2	1.025707	0.0125	29.90875	0.005872521
1244	1	1.025776	-0.0075	29.90125	0.005871048
8129	3	1.02587	-0.005	29.89625	0.005870067
1201	1	1.025986	0.015	29.91125	0.005873012
8284	3	1.026404	0.01	29.92125	0.005874975
2827	2	1.026636	-0.00625	29.915	0.005873748
1588	1	1.026645	-0.0075	29.9075	0.005872276
1190	1	1.026681	0.015	29.9225	0.005875221
257	1	1.026793	-0.0075	29.915	0.005873748
69	1	1.026812	0.015	29.93	0.005876694
9194	4	1.027094	0.01	29.94	0.005878657
6548	3	1.027172	-0.005	29.935	0.005877675
6689	3	1.027517	0.01	29.945	0.005879639

6044	3	1.027801	0.01	29.955	0.005881602
6802	3	1.027926	-0.005	29.95	0.00588062
157	1	1.028113	-0.0075	29.9425	0.005879148
713	1	1.02857	-0.0075	29.935	0.005877675
1515	1	1.028655	0.015	29.95	0.00588062
1226	1	1.029089	0.015	29.965	0.005883566
5852	3	1.029142	-0.005	29.96	0.005882584
5838	3	1.029344	-0.005	29.955	0.005881602
4136	3	1.029405	0.01	29.965	0.005883566
116	1	1.029504	-0.0075	29.9575	0.005882093
7153	3	1.029693	-0.005	29.9525	0.005881111
4105	3	1.029767	0.01	29.9625	0.005883075
2547	2	1.030119	0.0125	29.975	0.005885529
7374	3	1.030292	0.01	29.985	0.005887493
98	1	1.030439	-0.0075	29.9775	0.00588602
1337	1	1.030869	-0.0075	29.97	0.005884547
7381	3	1.031237	0.01	29.98	0.005886511
6204	3	1.03124	0.01	29.99	0.005888474
612	1	1.031258	-0.0075	29.9825	0.005887002
5311	3	1.031289	0.01	29.9925	0.005888965
584	1	1.031489	0.015	30.0075	0.00589191
711	1	1.031732	0.015	30.0225	0.005894856
5867	3	1.031975	-0.005	30.0175	0.005893874
5874	3	1.032121	-0.005	30.0125	0.005892892
1320	1	1.032264	0.015	30.0275	0.005895837
9499	4	1.032836	-0.005	30.0225	0.005894856
40	1	1.032982	-0.0075	30.015	0.005893383
42	1	1.033639	-0.0075	30.0075	0.00589191
2640	2	1.034513	-0.00625	30.00125	0.005890683
7869	3	1.034584	0.01	30.01125	0.005892647
4186	3	1.03475	0.01	30.02125	0.00589461
9934	4	1.035126	0.01	30.03125	0.005896574
4683	3	1.035167	0.01	30.04125	0.005898537
5730	3	1.035188	-0.005	30.03625	0.005897555
5361	3	1.035288	0.01	30.04625	0.005899519
899	1	1.035381	0.015	30.06125	0.005902464
356	1	1.035622	0.015	30.07625	0.005905409
1447	1	1.036094	-0.0075	30.06875	0.005903937
44	1	1.036267	-0.0075	30.06125	0.005902464
3538	3	1.036291	-0.005	30.05625	0.005901482
1313	1	1.036398	0.015	30.07125	0.005904428
1037	1	1.036626	-0.0075	30.06375	0.005902955
5371	3	1.036755	-0.005	30.05875	0.005901973
5048	3	1.036837	-0.005	30.05375	0.005900992
9589	4	1.037283	-0.005	30.04875	0.00590001
9210	4	1.03737	0.01	30.05875	0.005901973
690	1	1.037478	-0.0075	30.05125	0.005900501
259	1	1.037617	0.015	30.06625	0.005903446
370	1	1.037666	-0.0075	30.05875	0.005901973
2792	2	1.037681	0.0125	30.07125	0.005904428
4045	3	1.038183	-0.005	30.06625	0.005903446
954	1	1.038365	0.015	30.08125	0.005906391

7253	3	1.038382	0.01	30.09125	0.005908355
2360	2	1.0386	0.0125	30.10375	0.005910809
865	1	1.038835	-0.0075	30.09625	0.005909336
1301	1	1.039591	0.015	30.11125	0.005912282
6504	3	1.039948	-0.005	30.10625	0.0059113
3247	3	1.040472	0.01	30.11625	0.005913263
3461	3	1.040722	0.01	30.12625	0.005915227
1571	1	1.040987	-0.0075	30.11875	0.005913754
2890	2	1.041111	-0.00625	30.1125	0.005912527
2877	2	1.041355	0.0125	30.125	0.005914981
7378	3	1.042257	0.01	30.135	0.005916945
335	1	1.042274	0.015	30.15	0.00591989
6737	3	1.042593	0.01	30.16	0.005921854
7025	3	1.042621	0.01	30.17	0.005923817
5367	3	1.042705	-0.005	30.165	0.005922835
1164	1	1.042718	-0.0075	30.1575	0.005921363
525	1	1.043616	-0.0075	30.15	0.00591989
1543	1	1.043725	-0.0075	30.1425	0.005918417
1960	2	1.043738	-0.00625	30.13625	0.00591719
1300	1	1.043809	0.015	30.15125	0.005920135
1962	2	1.044091	0.0125	30.16375	0.00592259
3665	3	1.044428	-0.005	30.15875	0.005921608
6036	3	1.044796	0.01	30.16875	0.005923572
6483	3	1.044988	0.01	30.17875	0.005925535
8717	3	1.045135	0.01	30.18875	0.005927499
7467	3	1.045223	-0.005	30.18375	0.005926517
8680	3	1.045334	-0.005	30.17875	0.005925535
1477	1	1.045573	-0.0075	30.17125	0.005924062
2734	2	1.045641	-0.00625	30.165	0.005922835
6326	3	1.045724	-0.005	30.16	0.005921854
186	1	1.045981	0.015	30.175	0.005924799
2049	2	1.046312	0.0125	30.1875	0.005927253
452	1	1.046705	0.015	30.2025	0.005930198
3188	3	1.046846	-0.005	30.1975	0.005929217
2257	2	1.0469	0.0125	30.21	0.005931671
7022	3	1.047129	0.01	30.22	0.005933634
3156	3	1.047558	-0.005	30.215	0.005932653
6637	3	1.048217	0.01	30.225	0.005934616
238	1	1.048243	0.015	30.24	0.005937561
4742	3	1.048475	-0.005	30.235	0.00593658
8085	3	1.048775	0.01	30.245	0.005938543
1277	1	1.048992	-0.0075	30.2375	0.00593707
2087	2	1.049058	-0.00625	30.23125	0.005935843
80	1	1.049205	-0.0075	30.22375	0.005934371
5590	3	1.049311	-0.005	30.21875	0.005933389
5107	3	1.050296	0.01	30.22875	0.005935352
2233	2	1.05064	0.0125	30.24125	0.005937807
2994	3	1.050822	0.01	30.25125	0.00593977
2912	3	1.05164	0.01	30.26125	0.005941734
2814	2	1.051788	0.0125	30.27375	0.005944188
925	1	1.052057	-0.0075	30.26625	0.005942715
2866	2	1.052216	-0.00625	30.26	0.005941488

8403	3	1.052453	0.01	30.27	0.005943452
2263	2	1.052623	-0.00625	30.26375	0.005942225
680	1	1.052953	-0.0075	30.25625	0.005940752
3138	3	1.053131	-0.005	30.25125	0.00593977
764	1	1.053609	-0.0075	30.24375	0.005938298
1801	2	1.053614	0.0125	30.25625	0.005940752
8173	3	1.053693	0.01	30.26625	0.005942715
4498	3	1.053994	0.01	30.27625	0.005944679
1411	1	1.054232	0.015	30.29125	0.005947624
6752	3	1.054679	-0.005	30.28625	0.005946642
1604	1	1.054759	0.015	30.30125	0.005949588
5315	3	1.054974	-0.005	30.29625	0.005948606
9630	4	1.055473	0.01	30.30625	0.005950569
4736	3	1.055531	0.01	30.31625	0.005952533
3186	3	1.055579	-0.005	30.31125	0.005951551
7848	3	1.05564	-0.005	30.30625	0.005950569
278	1	1.056005	-0.0075	30.29875	0.005949097
6658	3	1.056061	0.01	30.30875	0.00595106
3048	3	1.056203	0.01	30.31875	0.005953024
3380	3	1.05631	0.01	30.32875	0.005954987
2605	2	1.056639	-0.00625	30.3225	0.00595376
1116	1	1.057262	-0.0075	30.315	0.005952287
2893	2	1.057283	-0.00625	30.30875	0.00595106
273	1	1.0576	0.015	30.32375	0.005954005
8214	3	1.057691	-0.005	30.31875	0.005953024
532	1	1.057967	-0.0075	30.31125	0.005951551
4777	3	1.05805	-0.005	30.30625	0.005950569
7011	3	1.058069	-0.005	30.30125	0.005949588
1783	2	1.058155	0.0125	30.31375	0.005952042
1107	1	1.058291	-0.0075	30.30625	0.005950569
1455	1	1.058874	0.015	30.32125	0.005953515
8269	3	1.059243	-0.005	30.31625	0.005952533
2665	2	1.059695	0.0125	30.32875	0.005954987
1378	1	1.060326	0.015	30.34375	0.005957932
8259	3	1.060391	-0.005	30.33875	0.005956951
1271	1	1.060595	0.015	30.35375	0.005959896
2090	2	1.060634	-0.00625	30.3475	0.005958669
4932	3	1.06064	-0.005	30.3425	0.005957687
6879	3	1.06154	0.01	30.3525	0.005959651
2136	2	1.061782	0.0125	30.365	0.005962105
6354	3	1.062164	0.01	30.375	0.005964068
4832	3	1.062326	-0.005	30.37	0.005963087
4889	3	1.062384	0.01	30.38	0.00596505
1750	1	1.062467	-0.0075	30.3725	0.005963577
2215	2	1.062711	0.0125	30.385	0.005966032
3753	3	1.0629	0.01	30.395	0.005967995
6824	3	1.06295	-0.005	30.39	0.005967014
615	1	1.06309	0.015	30.405	0.005969959
3701	3	1.063132	0.01	30.415	0.005971922
239	1	1.063642	-0.0075	30.4075	0.00597045
962	1	1.06393	0.015	30.4225	0.005973395
1287	1	1.063961	-0.0075	30.415	0.005971922

3746	3	1.063979	-0.005	30.41	0.005970941
3786	3	1.064187	-0.005	30.405	0.005969959
743	1	1.064383	-0.0075	30.3975	0.005968486
903	1	1.064427	0.015	30.4125	0.005971431
2731	2	1.064918	0.0125	30.425	0.005973886
3248	3	1.065062	-0.005	30.42	0.005972904
1698	1	1.065342	0.015	30.435	0.005975849
6938	3	1.065408	-0.005	30.43	0.005974867
597	1	1.065495	-0.0075	30.4225	0.005973395
8418	3	1.065506	-0.005	30.4175	0.005972413
2278	2	1.065736	-0.00625	30.41125	0.005971186
3701	3	1.065743	-0.005	30.40625	0.005970204
9794	4	1.065892	0.01	30.41625	0.005972168
4933	3	1.066191	0.01	30.42625	0.005974131
1828	2	1.06637	0.0125	30.43875	0.005976586
7791	3	1.066463	-0.005	30.43375	0.005975604
2194	2	1.066561	-0.00625	30.4275	0.005974377
1642	1	1.066608	-0.0075	30.42	0.005972904
2802	2	1.066629	-0.00625	30.41375	0.005971677
6588	3	1.066786	-0.005	30.40875	0.005970695
4968	3	1.068081	-0.005	30.40375	0.005969713
3206	3	1.068225	-0.005	30.39875	0.005968732
3570	3	1.068261	0.01	30.40875	0.005970695
4848	3	1.068685	0.01	30.41875	0.005972659
6348	3	1.06886	0.01	30.42875	0.005974622
8478	3	1.069794	-0.005	30.42375	0.00597364
987	1	1.070108	-0.0075	30.41625	0.005972168
7379	3	1.070147	-0.005	30.41125	0.005971186
4456	3	1.070268	0.01	30.42125	0.005973149
7011	3	1.070308	-0.005	30.41625	0.005972168
8055	3	1.070744	0.01	30.42625	0.005974131
7026	3	1.071523	0.01	30.43625	0.005976095
1381	1	1.072201	-0.0075	30.42875	0.005974622
4865	3	1.07244	-0.005	30.42375	0.00597364
1972	2	1.072473	-0.00625	30.4175	0.005972413
5997	3	1.072799	-0.005	30.4125	0.005971431
8588	3	1.07303	0.01	30.4225	0.005973395
3128	3	1.07308	-0.005	30.4175	0.005972413
2512	2	1.073192	-0.00625	30.41125	0.005971186
2185	2	1.073713	0.0125	30.42375	0.00597364
6962	3	1.074364	-0.005	30.41875	0.005972659
3961	3	1.074477	0.01	30.42875	0.005974622
9356	4	1.07448	-0.005	30.42375	0.00597364
82	1	1.074823	-0.0075	30.41625	0.005972168
2311	2	1.074863	-0.00625	30.41	0.005970941
423	1	1.07552	0.015	30.425	0.005973886
103	1	1.075651	0.015	30.44	0.005976831
4922	3	1.07573	0.01	30.45	0.005978794
8278	3	1.076239	-0.005	30.445	0.005977813
451	1	1.076277	0.015	30.46	0.005980758
9117	4	1.076289	-0.005	30.455	0.005979776
8549	3	1.076316	-0.005	30.45	0.005978794

2455	2	1.076461	0.0125	30.4625	0.005981249
6367	3	1.076673	0.01	30.4725	0.005983212
222	1	1.076741	-0.0075	30.465	0.00598174
3333	3	1.076935	0.01	30.475	0.005983703
2347	2	1.07694	-0.00625	30.46875	0.005982476
6580	3	1.077576	-0.005	30.46375	0.005981494
7436	3	1.07811	-0.005	30.45875	0.005980512
1829	2	1.078115	-0.00625	30.4525	0.005979285
4635	3	1.078699	-0.005	30.4475	0.005978304
3301	3	1.078855	-0.005	30.4425	0.005977322
787	1	1.079237	0.015	30.4575	0.005980267
547	1	1.079331	-0.0075	30.45	0.005978794
3117	3	1.079502	-0.005	30.445	0.005977813
1405	1	1.079542	0.015	30.46	0.005980758
4488	3	1.079837	-0.005	30.455	0.005979776
9116	4	1.079958	0.01	30.465	0.00598174
7224	3	1.080025	0.01	30.475	0.005983703
30	1	1.08024	-0.0075	30.4675	0.005982231
3073	3	1.080481	0.01	30.4775	0.005984194
5373	3	1.08059	-0.005	30.4725	0.005983212
3786	3	1.080655	-0.005	30.4675	0.005982231
4624	3	1.080809	-0.005	30.4625	0.005981249
1008	1	1.080817	-0.0075	30.455	0.005979776
8633	3	1.081913	0.01	30.465	0.00598174
914	1	1.082537	0.015	30.48	0.005984685
2593	2	1.083378	0.0125	30.4925	0.005987139
2106	2	1.083383	0.0125	30.505	0.005989594
687	1	1.083504	-0.0075	30.4975	0.005988121
3986	3	1.083707	-0.005	30.4925	0.005987139
6767	3	1.083807	-0.005	30.4875	0.005986157
3744	3	1.083945	0.01	30.4975	0.005988121
1634	1	1.084015	-0.0075	30.49	0.005986648
1219	1	1.08481	-0.0075	30.4825	0.005985176
6667	3	1.085812	0.01	30.4925	0.005987139
1762	1	1.086226	0.015	30.5075	0.005990084
542	1	1.086243	-0.0075	30.5	0.005988612
7676	3	1.086587	0.01	30.51	0.005990575
117	1	1.086677	-0.0075	30.5025	0.005989103
5165	3	1.087055	-0.005	30.4975	0.005988121
9723	4	1.087173	-0.005	30.4925	0.005987139
6301	3	1.087185	0.01	30.5025	0.005989103
4288	3	1.087318	0.01	30.5125	0.005991066
968	1	1.087834	-0.0075	30.505	0.005989594
8085	3	1.088013	-0.005	30.5	0.005988612
1227	1	1.088111	-0.0075	30.4925	0.005987139
2301	2	1.088483	-0.00625	30.48625	0.005985912
7653	3	1.088491	-0.005	30.48125	0.00598493
953	1	1.088738	0.015	30.49625	0.005987876
1578	1	1.089565	-0.0075	30.48875	0.005986403
2374	2	1.089663	-0.00625	30.4825	0.005985176
615	1	1.089808	-0.0075	30.475	0.005983703
749	1	1.090215	-0.0075	30.4675	0.005982231

1637	1	1.090313	-0.0075	30.46	0.005980758
4069	3	1.090368	0.01	30.47	0.005982721
5287	3	1.090771	-0.005	30.465	0.00598174
4779	3	1.090868	-0.005	30.46	0.005980758
2668	2	1.091516	-0.00625	30.45375	0.005979531
8407	3	1.091541	-0.005	30.44875	0.005978549
7085	3	1.092101	-0.005	30.44375	0.005977567
5947	3	1.092334	0.01	30.45375	0.005979531
3053	3	1.092581	-0.005	30.44875	0.005978549
172	1	1.092593	-0.0075	30.44125	0.005977076
2280	2	1.09287	0.0125	30.45375	0.005979531
6366	3	1.093001	-0.005	30.44875	0.005978549
4810	3	1.093229	0.01	30.45875	0.005980512
5382	3	1.093241	-0.005	30.45375	0.005979531
1209	1	1.093608	0.015	30.46875	0.005982476
2693	2	1.093635	0.0125	30.48125	0.00598493
6078	3	1.094216	0.01	30.49125	0.005986894
5844	3	1.094468	-0.005	30.48625	0.005985912
3607	3	1.094709	0.01	30.49625	0.005987876
8222	3	1.095106	-0.005	30.49125	0.005986894
5219	3	1.095228	-0.005	30.48625	0.005985912
7787	3	1.095246	0.01	30.49625	0.005987876
4288	3	1.095346	-0.005	30.49125	0.005986894
1660	1	1.095469	0.015	30.50625	0.005989839
499	1	1.096067	-0.0075	30.49875	0.005988366
1511	1	1.096839	0.015	30.51375	0.005991312
6128	3	1.09697	-0.005	30.50875	0.00599033
2362	2	1.096972	-0.00625	30.5025	0.005989103
2379	2	1.097354	0.0125	30.515	0.005991557
3940	3	1.097486	0.01	30.525	0.005993521
405	1	1.097794	0.015	30.54	0.005996466
8135	3	1.09795	0.01	30.55	0.005998429
9865	4	1.098118	-0.005	30.545	0.005997447
5800	3	1.098149	-0.005	30.54	0.005996466
4243	3	1.098204	-0.005	30.535	0.005995484
6584	3	1.098275	-0.005	30.53	0.005994502
5121	3	1.098556	-0.005	30.525	0.005993521
8606	3	1.098888	-0.005	30.52	0.005992539
6822	3	1.099124	-0.005	30.515	0.005991557
3729	3	1.099333	0.01	30.525	0.005993521
6158	3	1.099462	0.01	30.535	0.005995484
7278	3	1.099478	-0.005	30.53	0.005994502
3709	3	1.099837	-0.005	30.525	0.005993521
7576	3	1.100227	-0.005	30.52	0.005992539
8055	3	1.100768	-0.005	30.515	0.005991557
7946	3	1.100956	0.01	30.525	0.005993521
4696	3	1.101607	0.01	30.535	0.005995484
6016	3	1.101643	0.01	30.545	0.005997447
1605	1	1.101709	0.015	30.56	0.006000393
4625	3	1.101996	0.01	30.57	0.006002356
5357	3	1.102493	0.01	30.58	0.00600432
3609	3	1.103185	-0.005	30.575	0.006003338

393	1	1.103502	0.015	30.59	0.006006283
442	1	1.103726	-0.0075	30.5825	0.006004811
2850	2	1.104233	-0.00625	30.57625	0.006003583
7188	3	1.104275	-0.005	30.57125	0.006002602
3204	3	1.104487	0.01	30.58125	0.006004565
1178	1	1.104569	0.015	30.59625	0.00600751
9081	4	1.104716	-0.005	30.59125	0.006006529
2562	2	1.105314	0.0125	30.60375	0.006008983
4011	3	1.105654	-0.005	30.59875	0.006008001
133	1	1.105941	0.015	30.61375	0.006010946
1351	1	1.106716	-0.0075	30.60625	0.006009474
574	1	1.107074	0.015	30.62125	0.006012419
5558	3	1.107125	-0.005	30.61625	0.006011437
3416	3	1.107133	-0.005	30.61125	0.006010456
4345	3	1.107143	-0.005	30.60625	0.006009474
167	1	1.107226	-0.0075	30.59875	0.006008001
506	1	1.107332	0.015	30.61375	0.006010946
2585	2	1.107551	0.0125	30.62625	0.006013401
580	1	1.108555	-0.0075	30.61875	0.006011928
9274	4	1.108918	0.01	30.62875	0.006013892
2814	2	1.108987	-0.00625	30.6225	0.006012664
670	1	1.109021	-0.0075	30.615	0.006011192
2158	2	1.109174	0.0125	30.6275	0.006013646
2810	2	1.109241	-0.00625	30.62125	0.006012419
819	1	1.11047	0.015	30.63625	0.006015364
2540	2	1.110894	-0.00625	30.63	0.006014137
3080	3	1.111074	0.01	30.64	0.006016101
4659	3	1.111437	-0.005	30.635	0.006015119
2657	2	1.111855	-0.00625	30.62875	0.006013892
4873	3	1.112481	0.01	30.63875	0.006015855
369	1	1.112631	-0.0075	30.63125	0.006014382
2021	2	1.112737	-0.00625	30.625	0.006013155
1151	1	1.113164	0.015	30.64	0.006016101
595	1	1.113295	-0.0075	30.6325	0.006014628
1053	1	1.114248	-0.0075	30.625	0.006013155
2829	2	1.114678	-0.00625	30.61875	0.006011928
2509	2	1.114739	-0.00625	30.6125	0.006010701
710	1	1.114908	-0.0075	30.605	0.006009228
9630	4	1.115004	-0.005	30.6	0.006008247
4825	3	1.115158	0.01	30.61	0.00601021
3959	3	1.115729	0.01	30.62	0.006012174
255	1	1.115761	0.015	30.635	0.006015119
7726	3	1.115965	-0.005	30.63	0.006014137
2370	2	1.115989	0.0125	30.6425	0.006016591
9194	4	1.116086	-0.005	30.6375	0.00601561
4903	3	1.116123	-0.005	30.6325	0.006014628
8731	3	1.116735	-0.005	30.6275	0.006013646
5994	3	1.11694	-0.005	30.6225	0.006012664
2960	3	1.117013	-0.005	30.6175	0.006011683
8719	3	1.117015	0.01	30.6275	0.006013646
3071	3	1.117038	-0.005	30.6225	0.006012664
1477	1	1.117174	-0.0075	30.615	0.006011192

8448	3	1.117234	-0.005	30.61	0.00601021
6977	3	1.117259	0.01	30.62	0.006012174
6734	3	1.117941	0.01	30.63	0.006014137
1155	1	1.11803	0.015	30.645	0.006017082
2786	2	1.118366	-0.00625	30.63875	0.006015855
712	1	1.118821	-0.0075	30.63125	0.006014382
470	1	1.119193	-0.0075	30.62375	0.00601291
5084	3	1.119843	-0.005	30.61875	0.006011928
6539	3	1.121076	0.01	30.62875	0.006013892
505	1	1.121169	0.015	30.64375	0.006016837
2346	2	1.122842	0.0125	30.65625	0.006019291
2629	2	1.122939	0.0125	30.66875	0.006021746
7530	3	1.122951	0.01	30.67875	0.006023709
3982	3	1.123209	-0.005	30.67375	0.006022727
3302	3	1.123762	0.01	30.68375	0.006024691
5368	3	1.124038	0.01	30.69375	0.006026654
3116	3	1.124247	0.01	30.70375	0.006028618
1899	2	1.12462	0.0125	30.71625	0.006031072
5779	3	1.124863	-0.005	30.71125	0.00603009
255	1	1.12495	-0.0075	30.70375	0.006028618
9794	4	1.125035	-0.005	30.69875	0.006027636
860	1	1.125101	0.015	30.71375	0.006030581
2716	2	1.125162	0.0125	30.72625	0.006033036
2455	2	1.125264	-0.00625	30.72	0.006031808
3148	3	1.125322	-0.005	30.715	0.006030827
5954	3	1.125935	0.01	30.725	0.00603279
7712	3	1.125938	0.01	30.735	0.006034754
455	1	1.125992	-0.0075	30.7275	0.006033281
7373	3	1.126679	-0.005	30.7225	0.006032299
3568	3	1.127408	-0.005	30.7175	0.006031317
930	1	1.12759	-0.0075	30.71	0.006029845
3679	3	1.12773	-0.005	30.705	0.006028863
2450	2	1.12773	0.0125	30.7175	0.006031317
2716	2	1.127752	-0.00625	30.71125	0.00603009
572	1	1.128268	-0.0075	30.70375	0.006028618
220	1	1.128741	0.015	30.71875	0.006031563
6031	3	1.129146	0.01	30.72875	0.006033526
971	1	1.129173	-0.0075	30.72125	0.006032054
898	1	1.129342	0.015	30.73625	0.006034999
3594	3	1.129415	-0.005	30.73125	0.006034017
8104	3	1.12943	-0.005	30.72625	0.006033036
1899	2	1.129516	-0.00625	30.72	0.006031808
3876	3	1.129876	0.01	30.73	0.006033772
1922	2	1.130181	-0.00625	30.72375	0.006032545
8909	4	1.130426	-0.005	30.71875	0.006031563
5195	3	1.130438	-0.005	30.71375	0.006030581
2803	2	1.130696	-0.00625	30.7075	0.006029354
1013	1	1.131085	0.015	30.7225	0.006032299
1290	1	1.131716	-0.0075	30.715	0.006030827
6025	3	1.131753	-0.005	30.71	0.006029845
654	1	1.132116	-0.0075	30.7025	0.006028372
3897	3	1.132827	-0.005	30.6975	0.006027391

9361	4	1.132888	-0.005	30.6925	0.006026409
6934	3	1.133017	-0.005	30.6875	0.006025427
1686	1	1.133163	-0.0075	30.68	0.006023954
2296	2	1.133406	0.0125	30.6925	0.006026409
890	1	1.133663	-0.0075	30.685	0.006024936
1216	1	1.133906	-0.0075	30.6775	0.006023464
589	1	1.134026	-0.0075	30.67	0.006021991
581	1	1.134103	0.015	30.685	0.006024936
2787	2	1.134173	0.0125	30.6975	0.006027391
5916	3	1.134236	-0.005	30.6925	0.006026409
1682	1	1.134564	0.015	30.7075	0.006029354
62	1	1.134616	0.015	30.7225	0.006032299
2246	2	1.134673	-0.00625	30.71625	0.006031072
2092	2	1.13472	-0.00625	30.71	0.006029845
915	1	1.135045	-0.0075	30.7025	0.006028372
2103	2	1.135256	0.0125	30.715	0.006030827
7980	3	1.135359	-0.005	30.71	0.006029845
938	1	1.135575	0.015	30.725	0.00603279
6724	3	1.135662	0.01	30.735	0.006034754
3151	3	1.135796	0.01	30.745	0.006036717
8221	3	1.135797	-0.005	30.74	0.006035735
2657	2	1.135953	-0.00625	30.73375	0.006034508
7569	3	1.135989	-0.005	30.72875	0.006033526
2133	2	1.13618	-0.00625	30.7225	0.006032299
1354	1	1.136459	0.015	30.7375	0.006035244
978	1	1.137015	0.015	30.7525	0.00603819
2129	2	1.137207	-0.00625	30.74625	0.006036962
7976	3	1.137388	0.01	30.75625	0.006038926
4479	3	1.137744	-0.005	30.75125	0.006037944
9470	4	1.137949	-0.005	30.74625	0.006036962
1401	1	1.138573	-0.0075	30.73875	0.00603549
2796	2	1.138843	-0.00625	30.7325	0.006034263
47	1	1.138898	-0.0075	30.725	0.00603279
5202	3	1.139022	0.01	30.735	0.006034754
560	1	1.139109	-0.0075	30.7275	0.006033281
1239	1	1.13952	0.015	30.7425	0.006036226
4677	3	1.139612	-0.005	30.7375	0.006035244
1318	1	1.140459	0.015	30.7525	0.00603819
6156	3	1.140589	-0.005	30.7475	0.006037208
2852	2	1.140638	-0.00625	30.74125	0.006035981
2784	2	1.14077	0.0125	30.75375	0.006038435
9523	4	1.14081	-0.005	30.74875	0.006037453
7968	3	1.140881	-0.005	30.74375	0.006036472
3146	3	1.141119	-0.005	30.73875	0.00603549
233	1	1.141261	0.015	30.75375	0.006038435
6932	3	1.141366	-0.005	30.74875	0.006037453
2000	2	1.141495	-0.00625	30.7425	0.006036226
2703	2	1.141505	0.0125	30.755	0.006038681
5749	3	1.141833	0.01	30.765	0.006040644
1940	2	1.141978	0.0125	30.7775	0.006043098
9830	4	1.141978	0.01	30.7875	0.006045062
2019	2	1.141992	0.0125	30.8	0.006047516

4186	3	1.142092	-0.005	30.795	0.006046534
8427	3	1.142318	-0.005	30.79	0.006045553
1387	1	1.142387	-0.0075	30.7825	0.00604408
1462	1	1.142775	-0.0075	30.775	0.006042608
7724	3	1.143015	0.01	30.785	0.006044571
3945	3	1.143081	-0.005	30.78	0.006043589
295	1	1.143219	-0.0075	30.7725	0.006042117
4682	3	1.14331	-0.005	30.7675	0.006041135
7676	3	1.14343	-0.005	30.7625	0.006040153
283	1	1.143654	0.015	30.7775	0.006043098
7435	3	1.143668	0.01	30.7875	0.006045062
1389	1	1.143783	-0.0075	30.78	0.006043589
998	1	1.143912	-0.0075	30.7725	0.006042117
2156	2	1.144073	0.0125	30.785	0.006044571
5884	3	1.144111	-0.005	30.78	0.006043589
5482	3	1.144417	-0.005	30.775	0.006042608
4610	3	1.144571	0.01	30.785	0.006044571
6195	3	1.144601	-0.005	30.78	0.006043589
5840	3	1.144941	0.01	30.79	0.006045553
392	1	1.145138	-0.0075	30.7825	0.00604408
2518	2	1.145266	-0.00625	30.77625	0.006042853
2408	2	1.145272	-0.00625	30.77	0.006041626
7971	3	1.145594	-0.005	30.765	0.006040644
8120	3	1.146288	0.01	30.775	0.006042608
6997	3	1.146979	0.01	30.785	0.006044571
4839	3	1.147018	0.01	30.795	0.006046534
2350	2	1.147075	0.0125	30.8075	0.006048989
1341	1	1.147159	0.015	30.8225	0.006051934
327	1	1.147599	-0.0075	30.815	0.006050461
7074	3	1.147723	-0.005	30.81	0.00604948
5105	3	1.147928	-0.005	30.805	0.006048498
7721	3	1.1482	0.01	30.815	0.006050461
8719	3	1.148293	-0.005	30.81	0.00604948
2733	2	1.148316	-0.00625	30.80375	0.006048253
3339	3	1.148452	0.01	30.81375	0.006050216
1734	1	1.148466	-0.0075	30.80625	0.006048743
2169	2	1.148522	-0.00625	30.8	0.006047516
1917	2	1.148939	0.0125	30.8125	0.006049971
5466	3	1.148987	-0.005	30.8075	0.006048989
2777	2	1.14909	-0.00625	30.80125	0.006047762
917	1	1.149259	-0.0075	30.79375	0.006046289
750	1	1.149346	-0.0075	30.78625	0.006044816
5566	3	1.149498	0.01	30.79625	0.00604678
1788	2	1.149525	0.0125	30.80875	0.006049234
7759	3	1.149832	-0.005	30.80375	0.006048253
1263	1	1.149969	-0.0075	30.79625	0.00604678
7468	3	1.150062	0.01	30.80625	0.006048743
5708	3	1.150155	0.01	30.81625	0.006050707
8395	3	1.150366	-0.005	30.81125	0.006049725
8302	3	1.151027	0.01	30.82125	0.006051689
1239	1	1.151229	-0.0075	30.81375	0.006050216
7524	3	1.151578	-0.005	30.80875	0.006049234

2340	2	1.151667	0.0125	30.82125	0.006051689
8399	3	1.152541	-0.005	30.81625	0.006050707
1454	1	1.152996	-0.0075	30.80875	0.006049234
9761	4	1.153187	-0.005	30.80375	0.006048253
1552	1	1.153256	0.015	30.81875	0.006051198
6366	3	1.153349	-0.005	30.81375	0.006050216
6401	3	1.153545	-0.005	30.80875	0.006049234
6948	3	1.153934	-0.005	30.80375	0.006048253
8406	3	1.154141	-0.005	30.79875	0.006047271
69	1	1.154185	-0.0075	30.79125	0.006045798
7201	3	1.154259	-0.005	30.78625	0.006044816
7308	3	1.155307	-0.005	30.78125	0.006043835
2101	2	1.155378	-0.00625	30.775	0.006042608
3744	3	1.155413	-0.005	30.77	0.006041626
2531	2	1.155559	-0.00625	30.76375	0.006040399
168	1	1.155885	-0.0075	30.75625	0.006038926
2875	2	1.155954	-0.00625	30.75	0.006037699
5830	3	1.156119	-0.005	30.745	0.006036717
1594	1	1.157508	0.015	30.76	0.006039662
7104	3	1.157581	-0.005	30.755	0.006038681
4652	3	1.15825	-0.005	30.75	0.006037699
1871	2	1.158712	0.0125	30.7625	0.006040153
1217	1	1.158945	-0.0075	30.755	0.006038681
6192	3	1.159193	0.01	30.765	0.006040644
6883	3	1.159498	-0.005	30.76	0.006039662
760	1	1.159584	0.015	30.775	0.006042608
5470	3	1.159629	0.01	30.785	0.006044571
3459	3	1.159799	-0.005	30.78	0.006043589
5470	3	1.159841	-0.005	30.775	0.006042608
1674	1	1.160019	0.015	30.79	0.006045553
5251	3	1.160131	-0.005	30.785	0.006044571
1806	2	1.1607	-0.00625	30.77875	0.006043344
1299	1	1.161122	0.015	30.79375	0.006046289
3883	3	1.161405	0.01	30.80375	0.006048253
6724	3	1.161615	-0.005	30.79875	0.006047271
2845	2	1.161648	-0.00625	30.7925	0.006046044
5346	3	1.161723	-0.005	30.7875	0.006045062
6049	3	1.161741	0.01	30.7975	0.006047025
6642	3	1.161828	-0.005	30.7925	0.006046044
136	1	1.16234	0.015	30.8075	0.006048989
453	1	1.162667	0.015	30.8225	0.006051934
6180	3	1.162682	-0.005	30.8175	0.006050952
384	1	1.16278	0.015	30.8325	0.006053898
733	1	1.162807	0.015	30.8475	0.006056843
1495	1	1.163549	-0.0075	30.84	0.00605537
9211	4	1.163571	0.01	30.85	0.006057334
1813	2	1.164299	-0.00625	30.84375	0.006056106
1203	1	1.164354	-0.0075	30.83625	0.006054634
5022	3	1.164838	-0.005	30.83125	0.006053652
1647	1	1.16524	-0.0075	30.82375	0.006052179
2415	2	1.165554	0.0125	30.83625	0.006054634
3680	3	1.165882	-0.005	30.83125	0.006053652

4066	3	1.165952	-0.005	30.82625	0.00605267
8214	3	1.166265	-0.005	30.82125	0.006051689
2113	2	1.166509	-0.00625	30.815	0.006050461
7661	3	1.166537	-0.005	30.81	0.00604948
1927	2	1.166702	0.0125	30.8225	0.006051934
1868	2	1.166807	0.0125	30.835	0.006054388
5910	3	1.167245	0.01	30.845	0.006056352
850	1	1.167453	0.015	30.86	0.006059297
8046	3	1.168325	-0.005	30.855	0.006058315
187	1	1.16897	-0.0075	30.8475	0.006056843
8419	3	1.169164	0.01	30.8575	0.006058806
761	1	1.16951	0.015	30.8725	0.006061751
90	1	1.169923	0.015	30.8875	0.006064697
5037	3	1.171582	0.01	30.8975	0.00606666
4848	3	1.171721	-0.005	30.8925	0.006065678
1849	2	1.172247	0.0125	30.905	0.006068133
5846	3	1.172751	0.01	30.915	0.006070096
322	1	1.173137	0.015	30.93	0.006073041
2086	2	1.173519	0.0125	30.9425	0.006075496
8421	3	1.174329	0.01	30.9525	0.006077459
348	1	1.174353	0.015	30.9675	0.006080404
1600	1	1.174679	-0.0075	30.96	0.006078932
854	1	1.175106	-0.0075	30.9525	0.006077459
4136	3	1.175187	-0.005	30.9475	0.006076478
3805	3	1.175338	-0.005	30.9425	0.006075496
1807	2	1.175526	-0.00625	30.93625	0.006074269
4443	3	1.175742	0.01	30.94625	0.006076232
7671	3	1.176035	-0.005	30.94125	0.00607525
7277	3	1.176405	-0.005	30.93625	0.006074269
5545	3	1.177042	0.01	30.94625	0.006076232
3419	3	1.177078	0.01	30.95625	0.006078196
190	1	1.178436	-0.0075	30.94875	0.006076723
9095	4	1.178474	-0.005	30.94375	0.006075741
4448	3	1.178648	0.01	30.95375	0.006077705
3480	3	1.178979	0.01	30.96375	0.006079668
8700	3	1.17921	-0.005	30.95875	0.006078686
2829	2	1.179484	-0.00625	30.9525	0.006077459
3302	3	1.179492	-0.005	30.9475	0.006076478
5678	3	1.17951	0.01	30.9575	0.006078441
464	1	1.179513	0.015	30.9725	0.006081386
7333	3	1.179598	-0.005	30.9675	0.006080404
4672	3	1.17994	0.01	30.9775	0.006082368
1181	1	1.181172	0.015	30.9925	0.006085313
673	1	1.181359	0.015	31.0075	0.006088258
341	1	1.181489	-0.0075	31	0.006086786
8426	3	1.181767	0.01	31.01	0.006088749
3419	3	1.182395	-0.005	31.005	0.006087768
432	1	1.182679	-0.0075	30.9975	0.006086295
2632	2	1.183029	-0.00625	30.99125	0.006085068
2379	2	1.183252	-0.00625	30.985	0.006083841
8203	3	1.184103	0.01	30.995	0.006085804
3355	3	1.184112	0.01	31.005	0.006087768

3383	3	1.184833	-0.005	31	0.006086786
1125	1	1.184962	-0.0075	30.9925	0.006085313
8641	3	1.185757	0.01	31.0025	0.006087277
2514	2	1.18615	0.0125	31.015	0.006089731
1821	2	1.186513	-0.00625	31.00875	0.006088504
1598	1	1.186624	0.015	31.02375	0.006091449
5905	3	1.186775	-0.005	31.01875	0.006090467
492	1	1.18679	0.015	31.03375	0.006093413
26	1	1.187747	0.015	31.04875	0.006096358
2704	2	1.187914	-0.00625	31.0425	0.006095131
9442	4	1.188227	-0.005	31.0375	0.006094149
7127	3	1.188529	0.01	31.0475	0.006096112
2675	2	1.188607	-0.00625	31.04125	0.006094885
483	1	1.188785	0.015	31.05625	0.00609783
5530	3	1.188875	-0.005	31.05125	0.006096849
8910	4	1.188903	0.01	31.06125	0.006098812
3561	3	1.188994	-0.005	31.05625	0.00609783
7985	3	1.189121	-0.005	31.05125	0.006096849
1141	1	1.189449	0.015	31.06625	0.006099794
1704	1	1.189648	0.015	31.08125	0.006102739
22	1	1.189804	0.015	31.09625	0.006105684
886	1	1.190033	0.015	31.11125	0.006108629
1983	2	1.190065	-0.00625	31.105	0.006107402
8312	3	1.190225	0.01	31.115	0.006109366
5536	3	1.190331	0.01	31.125	0.006111329
4453	3	1.191617	-0.005	31.12	0.006110348
4892	3	1.192314	0.01	31.13	0.006112311
4764	3	1.192351	-0.005	31.125	0.006111329
5233	3	1.192772	-0.005	31.12	0.006110348
72	1	1.192782	0.015	31.135	0.006113293
3088	3	1.192857	0.01	31.145	0.006115256
3545	3	1.193039	-0.005	31.14	0.006114274
2670	2	1.193056	0.0125	31.1525	0.006116729
4402	3	1.193182	-0.005	31.1475	0.006115747
2547	2	1.193285	-0.00625	31.14125	0.00611452
2132	2	1.193993	0.0125	31.15375	0.006116974
3835	3	1.194544	0.01	31.16375	0.006118938
2280	2	1.194708	-0.00625	31.1575	0.006117711
4531	3	1.194938	0.01	31.1675	0.006119674
92	1	1.19526	-0.0075	31.16	0.006118201
2778	2	1.195624	-0.00625	31.15375	0.006116974
7459	3	1.195651	0.01	31.16375	0.006118938
203	1	1.196798	-0.0075	31.15625	0.006117465
9789	4	1.196826	-0.005	31.15125	0.006116483
4168	3	1.197147	0.01	31.16125	0.006118447
5776	3	1.19715	0.01	31.17125	0.00612041
3016	3	1.19725	-0.005	31.16625	0.006119429
668	1	1.197937	0.015	31.18125	0.006122374
763	1	1.19854	-0.0075	31.17375	0.006120901
3648	3	1.198547	0.01	31.18375	0.006122865
1274	1	1.199159	0.015	31.19875	0.00612581
1585	1	1.199494	-0.0075	31.19125	0.006124337

1568	1	1.199494	-0.0075	31.18375	0.006122865
8423	3	1.199928	-0.005	31.17875	0.006121883
5540	3	1.199984	-0.005	31.17375	0.006120901
4559	3	1.200024	-0.005	31.16875	0.006119919
2152	2	1.200229	-0.00625	31.1625	0.006118692
2972	3	1.200305	-0.005	31.1575	0.006117711
3158	3	1.20047	-0.005	31.1525	0.006116729
2383	2	1.200475	-0.00625	31.14625	0.006115502
4338	3	1.200478	-0.005	31.14125	0.00611452
851	1	1.200571	-0.0075	31.13375	0.006113047
4518	3	1.201179	0.01	31.14375	0.006115011
1698	1	1.201441	-0.0075	31.13625	0.006113538
5742	3	1.20197	-0.005	31.13125	0.006112556
6808	3	1.201984	-0.005	31.12625	0.006111575
1868	2	1.202117	-0.00625	31.12	0.006110348
2427	2	1.202607	0.0125	31.1325	0.006112802
9005	4	1.202746	-0.005	31.1275	0.00611182
9148	4	1.203209	-0.005	31.1225	0.006110838
7224	3	1.203261	-0.005	31.1175	0.006109857
6571	3	1.203277	-0.005	31.1125	0.006108875
9822	4	1.203624	-0.005	31.1075	0.006107893
3089	3	1.203932	0.01	31.1175	0.006109857
9246	4	1.204139	-0.005	31.1125	0.006108875
2340	2	1.204861	-0.00625	31.10625	0.006107648
9414	4	1.204958	-0.005	31.10125	0.006106666
51	1	1.205092	0.015	31.11625	0.006109611
2334	2	1.205185	-0.00625	31.11	0.006108384
1018	1	1.205305	-0.0075	31.1025	0.006106911
7644	3	1.205562	-0.005	31.0975	0.00610593
640	1	1.206076	-0.0075	31.09	0.006104457
521	1	1.206123	-0.0075	31.0825	0.006102984
1490	1	1.206144	-0.0075	31.075	0.006101512
2051	2	1.206475	0.0125	31.0875	0.006103966
1680	1	1.206799	0.015	31.1025	0.006106911
4275	3	1.207939	-0.005	31.0975	0.00610593
4973	3	1.208006	-0.005	31.0925	0.006104948
6552	3	1.208024	0.01	31.1025	0.006106911
6864	3	1.208143	0.01	31.1125	0.006108875
6095	3	1.208258	-0.005	31.1075	0.006107893
2158	2	1.208361	-0.00625	31.10125	0.006106666
8525	3	1.208461	0.01	31.11125	0.006108629
5776	3	1.208625	-0.005	31.10625	0.006107648
5824	3	1.208706	-0.005	31.10125	0.006106666
2247	2	1.208846	-0.00625	31.095	0.006105439
5507	3	1.208864	0.01	31.105	0.006107402
310	1	1.208901	0.015	31.12	0.006110348
9972	4	1.209053	-0.005	31.115	0.006109366
1258	1	1.209356	-0.0075	31.1075	0.006107893
2662	2	1.210419	-0.00625	31.10125	0.006106666
2395	2	1.210683	-0.00625	31.095	0.006105439
5003	3	1.210814	-0.005	31.09	0.006104457
6234	3	1.210883	-0.005	31.085	0.006103475

8295	3	1.21095	0.01	31.095	0.006105439
215	1	1.210983	0.015	31.11	0.006108384
460	1	1.211186	-0.0075	31.1025	0.006106911
135	1	1.211294	-0.0075	31.095	0.006105439
107	1	1.2113	0.015	31.11	0.006108384
837	1	1.211575	-0.0075	31.1025	0.006106911
8757	4	1.211712	-0.005	31.0975	0.00610593
1598	1	1.211713	-0.0075	31.09	0.006104457
5832	3	1.212315	0.01	31.1	0.006106421
449	1	1.212443	0.015	31.115	0.006109366
5697	3	1.212572	-0.005	31.11	0.006108384
1095	1	1.212722	-0.0075	31.1025	0.006106911
1012	1	1.21331	0.015	31.1175	0.006109857
6526	3	1.213457	-0.005	31.1125	0.006108875
79	1	1.213457	-0.0075	31.105	0.006107402
5463	3	1.213669	-0.005	31.1	0.006106421
6378	3	1.213785	-0.005	31.095	0.006105439
733	1	1.21397	-0.0075	31.0875	0.006103966
8463	3	1.214203	-0.005	31.0825	0.006102984
9341	4	1.214412	-0.005	31.0775	0.006102003
494	1	1.214997	-0.0075	31.07	0.00610053
3536	3	1.215414	-0.005	31.065	0.006099548
8455	3	1.215585	0.01	31.075	0.006101512
582	1	1.215616	-0.0075	31.0675	0.006100039
1630	1	1.215848	-0.0075	31.06	0.006098567
9939	4	1.215856	0.01	31.07	0.00610053
986	1	1.216504	0.015	31.085	0.006103475
3339	3	1.216595	-0.005	31.08	0.006102494
6894	3	1.216875	0.01	31.09	0.006104457
7094	3	1.216883	-0.005	31.085	0.006103475
7209	3	1.216925	-0.005	31.08	0.006102494
824	1	1.216953	0.015	31.095	0.006105439
7186	3	1.217379	0.01	31.105	0.006107402
9350	4	1.217562	0.01	31.115	0.006109366
1573	1	1.218251	-0.0075	31.1075	0.006107893
4052	3	1.218408	-0.005	31.1025	0.006106911
160	1	1.218596	0.015	31.1175	0.006109857
1925	2	1.219144	-0.00625	31.11125	0.006108629
5877	3	1.219146	-0.005	31.10625	0.006107648
8260	3	1.219469	-0.005	31.10125	0.006106666
6443	3	1.219562	-0.005	31.09625	0.006105684
8673	3	1.219575	0.01	31.10625	0.006107648
322	1	1.219586	-0.0075	31.09875	0.006106175
4762	3	1.219692	0.01	31.10875	0.006108139
1714	1	1.219726	0.015	31.12375	0.006111084
7976	3	1.219968	-0.005	31.11875	0.006110102
8488	3	1.220085	-0.005	31.11375	0.00610912
8100	3	1.221099	0.01	31.12375	0.006111084
9572	4	1.221266	0.01	31.13375	0.006113047
2106	2	1.221281	-0.00625	31.1275	0.00611182
2825	2	1.222208	0.0125	31.14	0.006114274
5316	3	1.222419	-0.005	31.135	0.006113293

8231	3	1.222421	0.01	31.145	0.006115256
6301	3	1.222477	-0.005	31.14	0.006114274
1298	1	1.222583	-0.0075	31.1325	0.006112802
2557	2	1.222818	-0.00625	31.12625	0.006111575
8299	3	1.22308	-0.005	31.12125	0.006110593
3359	3	1.223314	0.01	31.13125	0.006112556
484	1	1.223427	-0.0075	31.12375	0.006111084
5343	3	1.223439	0.01	31.13375	0.006113047
5625	3	1.223947	-0.005	31.12875	0.006112066
6711	3	1.224461	-0.005	31.12375	0.006111084
497	1	1.224583	-0.0075	31.11625	0.006109611
3481	3	1.225352	-0.005	31.11125	0.006108629
5920	3	1.225987	-0.005	31.10625	0.006107648
8431	3	1.226181	0.01	31.11625	0.006109611
2414	2	1.226201	-0.00625	31.11	0.006108384
3373	3	1.226684	0.01	31.12	0.006110348
1854	2	1.226748	0.0125	31.1325	0.006112802
2033	2	1.226766	-0.00625	31.12625	0.006111575
7086	3	1.227051	-0.005	31.12125	0.006110593
412	1	1.227134	0.015	31.13625	0.006113538
3904	3	1.227248	0.01	31.14625	0.006115502
3112	3	1.227368	0.01	31.15625	0.006117465
7827	3	1.228246	-0.005	31.15125	0.006116483
2419	2	1.228568	0.0125	31.16375	0.006118938
8355	3	1.228972	0.01	31.17375	0.006120901
2907	3	1.229613	-0.005	31.16875	0.006119919
2453	2	1.230047	0.0125	31.18125	0.006122374
617	1	1.230142	0.015	31.19625	0.006125319
938	1	1.230386	-0.0075	31.18875	0.006123846
8588	3	1.231223	-0.005	31.18375	0.006122865
5512	3	1.231246	0.01	31.19375	0.006124828
668	1	1.231272	-0.0075	31.18625	0.006123356
5424	3	1.231705	0.01	31.19625	0.006125319
1129	1	1.232282	-0.0075	31.18875	0.006123846
4561	3	1.232351	0.01	31.19875	0.00612581
3641	3	1.233138	0.01	31.20875	0.006127773
9194	4	1.233689	-0.005	31.20375	0.006126792
9401	4	1.233801	0.01	31.21375	0.006128755
523	1	1.234269	0.015	31.22875	0.0061317
7663	3	1.234392	-0.005	31.22375	0.006130719
8737	3	1.2345	0.01	31.23375	0.006132682
3021	3	1.234981	0.01	31.24375	0.006134646
5221	3	1.235434	0.01	31.25375	0.006136609
3061	3	1.235492	0.01	31.26375	0.006138573
2644	2	1.235593	0.0125	31.27625	0.006141027
3570	3	1.236081	-0.005	31.27125	0.006140045
9267	4	1.236468	0.01	31.28125	0.006142009
1777	2	1.236622	0.0125	31.29375	0.006144463
3212	3	1.23672	-0.005	31.28875	0.006143481
2204	2	1.236726	0.0125	31.30125	0.006145936
4456	3	1.236856	-0.005	31.29625	0.006144954
3904	3	1.237244	-0.005	31.29125	0.006143972

266	1	1.23728	0.015	31.30625	0.006146917
917	1	1.237518	-0.0075	31.29875	0.006145445
4778	3	1.237623	-0.005	31.29375	0.006144463
905	1	1.237659	-0.0075	31.28625	0.00614299
850	1	1.237769	-0.0075	31.27875	0.006141518
3081	3	1.237908	0.01	31.28875	0.006143481
1007	1	1.238221	-0.0075	31.28125	0.006142009
946	1	1.238366	-0.0075	31.27375	0.006140536
1044	1	1.23845	-0.0075	31.26625	0.006139063
7593	3	1.238499	-0.005	31.26125	0.006138082
4285	3	1.238682	0.01	31.27125	0.006140045
1650	1	1.238989	0.015	31.28625	0.00614299
7082	3	1.238991	-0.005	31.28125	0.006142009
7998	3	1.239027	-0.005	31.27625	0.006141027
8645	3	1.239347	0.01	31.28625	0.00614299
1363	1	1.23982	0.015	31.30125	0.006145936
7952	3	1.239927	0.01	31.31125	0.006147899
227	1	1.240664	-0.0075	31.30375	0.006146426
2663	2	1.240903	0.0125	31.31625	0.006148881
1232	1	1.241368	0.015	31.33125	0.006151826
1318	1	1.241793	-0.0075	31.32375	0.006150353
6103	3	1.241868	0.01	31.33375	0.006152317
8284	3	1.242185	-0.005	31.32875	0.006151335
94	1	1.242469	-0.0075	31.32125	0.006149863
1288	1	1.243102	0.015	31.33625	0.006152808
3998	3	1.244149	-0.005	31.33125	0.006151826
1719	1	1.244343	0.015	31.34625	0.006154771
8902	4	1.244562	0.01	31.35625	0.006156735
5223	3	1.245	-0.005	31.35125	0.006155753
5491	3	1.245173	-0.005	31.34625	0.006154771
1471	1	1.245333	-0.0075	31.33875	0.006153299
1928	2	1.245964	-0.00625	31.3325	0.006152071
6845	3	1.246035	0.01	31.3425	0.006154035
3315	3	1.246615	-0.005	31.3375	0.006153053
9528	4	1.246743	-0.005	31.3325	0.006152071
8497	3	1.246841	-0.005	31.3275	0.00615109
8455	3	1.24692	-0.005	31.3225	0.006150108
6981	3	1.247068	-0.005	31.3175	0.006149126
5382	3	1.247269	-0.005	31.3125	0.006148145
8171	3	1.247811	0.01	31.3225	0.006150108
7125	3	1.247975	-0.005	31.3175	0.006149126
9249	4	1.248262	-0.005	31.3125	0.006148145
2261	2	1.248469	0.0125	31.325	0.006150599
1201	1	1.249696	-0.0075	31.3175	0.006149126
2925	3	1.249872	0.01	31.3275	0.00615109
2003	2	1.250671	-0.00625	31.32125	0.006149863
638	1	1.25076	0.015	31.33625	0.006152808
1474	1	1.250892	-0.0075	31.32875	0.006151335
2872	2	1.251257	0.0125	31.34125	0.00615379
2735	2	1.251852	0.0125	31.35375	0.006156244
8123	3	1.25255	0.01	31.36375	0.006158207
2598	2	1.252781	-0.00625	31.3575	0.00615698

8901	4	1.253585	0.01	31.3675	0.006158944
3400	3	1.25364	-0.005	31.3625	0.006157962
3595	3	1.253696	0.01	31.3725	0.006159925
351	1	1.253732	0.015	31.3875	0.006162871
1065	1	1.254077	0.015	31.4025	0.006165816
2218	2	1.254367	0.0125	31.415	0.00616827
642	1	1.254415	0.015	31.43	0.006171215
5446	3	1.254441	-0.005	31.425	0.006170234
2669	2	1.255403	0.0125	31.4375	0.006172688
9032	4	1.255565	0.01	31.4475	0.006174651
1524	1	1.25628	-0.0075	31.44	0.006173179
2119	2	1.256865	0.0125	31.4525	0.006175633
1279	1	1.257139	0.015	31.4675	0.006178578
1627	1	1.257741	-0.0075	31.46	0.006177106
897	1	1.257818	-0.0075	31.4525	0.006175633
895	1	1.25782	-0.0075	31.445	0.006174161
903	1	1.257829	-0.0075	31.4375	0.006172688
6000	3	1.257837	-0.005	31.4325	0.006171706
1976	2	1.258042	0.0125	31.445	0.006174161
6065	3	1.25843	-0.005	31.44	0.006173179
9991	4	1.258463	-0.005	31.435	0.006172197
814	1	1.258999	-0.0075	31.4275	0.006170725
1679	1	1.259362	0.015	31.4425	0.00617367
9211	4	1.259416	-0.005	31.4375	0.006172688
9508	4	1.259592	0.01	31.4475	0.006174651
346	1	1.259833	-0.0075	31.44	0.006173179
1368	1	1.259985	-0.0075	31.4325	0.006171706
3043	3	1.260071	-0.005	31.4275	0.006170725
5608	3	1.260375	-0.005	31.4225	0.006169743
1820	2	1.260599	0.0125	31.435	0.006172197
7512	3	1.261236	-0.005	31.43	0.006171215
6985	3	1.261427	-0.005	31.425	0.006170234
4265	3	1.261613	-0.005	31.42	0.006169252
5617	3	1.261701	-0.005	31.415	0.00616827
3235	3	1.262072	0.01	31.425	0.006170234
587	1	1.262326	0.015	31.44	0.006173179
5106	3	1.262528	0.01	31.45	0.006175142
6035	3	1.262599	0.01	31.46	0.006177106
1459	1	1.262615	0.015	31.475	0.006180051
769	1	1.262628	-0.0075	31.4675	0.006178578
3119	3	1.263397	-0.005	31.4625	0.006177597
9475	4	1.263452	0.01	31.4725	0.00617956
5756	3	1.263591	-0.005	31.4675	0.006178578
2429	2	1.26372	0.0125	31.48	0.006181033
1509	1	1.263781	-0.0075	31.4725	0.00617956
3244	3	1.264982	-0.005	31.4675	0.006178578
3293	3	1.265299	0.01	31.4775	0.006180542
1429	1	1.265406	-0.0075	31.47	0.006179069
1506	1	1.26558	-0.0075	31.4625	0.006177597
1496	1	1.265775	-0.0075	31.455	0.006176124
152	1	1.265856	-0.0075	31.4475	0.006174651
7310	3	1.266892	-0.005	31.4425	0.00617367

2942	3	1.26705	0.01	31.4525	0.006175633
8849	4	1.267187	0.01	31.4625	0.006177597
326	1	1.267962	-0.0075	31.455	0.006176124
7930	3	1.268464	-0.005	31.45	0.006175142
507	1	1.268804	-0.0075	31.4425	0.00617367
9044	4	1.269248	-0.005	31.4375	0.006172688
6968	3	1.269977	0.01	31.4475	0.006174651
2913	3	1.270095	0.01	31.4575	0.006176615
7993	3	1.27051	0.01	31.4675	0.006178578
5862	3	1.270685	-0.005	31.4625	0.006177597
8224	3	1.27114	0.01	31.4725	0.00617956
2190	2	1.271868	-0.00625	31.46625	0.006178333
942	1	1.272277	-0.0075	31.45875	0.00617686
352	1	1.272531	-0.0075	31.45125	0.006175388
178	1	1.272627	-0.0075	31.44375	0.006173915
1540	1	1.272633	0.015	31.45875	0.00617686
8010	3	1.272645	-0.005	31.45375	0.006175879
6656	3	1.274102	-0.005	31.44875	0.006174897
3975	3	1.2742	-0.005	31.44375	0.006173915
4012	3	1.27442	0.01	31.45375	0.006175879
3345	3	1.274834	0.01	31.46375	0.006177842
4376	3	1.274944	-0.005	31.45875	0.00617686
3706	3	1.274949	0.01	31.46875	0.006178824
1479	1	1.27507	0.015	31.48375	0.006181769
9131	4	1.275079	-0.005	31.47875	0.006180787
3582	3	1.275179	-0.005	31.47375	0.006179806
5218	3	1.276369	0.01	31.48375	0.006181769
6616	3	1.276507	-0.005	31.47875	0.006180787
2212	2	1.27669	-0.00625	31.4725	0.00617956
5504	3	1.276712	0.01	31.4825	0.006181524
3976	3	1.276754	-0.005	31.4775	0.006180542
2179	2	1.276903	0.0125	31.49	0.006182996
5318	3	1.277187	-0.005	31.485	0.006182015
1573	1	1.277711	-0.0075	31.4775	0.006180542
2336	2	1.278321	-0.00625	31.47125	0.006179315
3132	3	1.278671	-0.005	31.46625	0.006178333
5079	3	1.279079	-0.005	31.46125	0.006177351
1832	2	1.279547	-0.00625	31.455	0.006176124
9269	4	1.279883	-0.005	31.45	0.006175142
2294	2	1.280582	-0.00625	31.44375	0.006173915
7595	3	1.281041	-0.005	31.43875	0.006172933
1695	1	1.281605	0.015	31.45375	0.006175879
9343	4	1.281621	-0.005	31.44875	0.006174897
9726	4	1.281693	0.01	31.45875	0.00617686
2441	2	1.281714	0.0125	31.47125	0.006179315
1225	1	1.283993	-0.0075	31.46375	0.006177842
2882	2	1.284443	0.0125	31.47625	0.006180296
9834	4	1.284706	-0.005	31.47125	0.006179315
3471	3	1.285506	-0.005	31.46625	0.006178333
6616	3	1.285697	-0.005	31.46125	0.006177351
1902	2	1.285881	-0.00625	31.455	0.006176124
2417	2	1.286839	0.0125	31.4675	0.006178578

7670	3	1.287038	0.01	31.4775	0.006180542
2216	2	1.287548	0.0125	31.49	0.006182996
409	1	1.287755	-0.0075	31.4825	0.006181524
6816	3	1.288101	-0.005	31.4775	0.006180542
2928	3	1.288348	0.01	31.4875	0.006182505
7556	3	1.288436	-0.005	31.4825	0.006181524
2528	2	1.288563	0.0125	31.495	0.006183978
1262	1	1.288665	-0.0075	31.4875	0.006182505
405	1	1.288765	-0.0075	31.48	0.006181033
186	1	1.289495	-0.0075	31.4725	0.00617956
1930	2	1.289502	-0.00625	31.46625	0.006178333
9809	4	1.290149	-0.005	31.46125	0.006177351
3520	3	1.290323	0.01	31.47125	0.006179315
3325	3	1.290559	0.01	31.48125	0.006181278
696	1	1.290717	-0.0075	31.47375	0.006179806
7199	3	1.290756	-0.005	31.46875	0.006178824
4053	3	1.290996	-0.005	31.46375	0.006177842
1493	1	1.292437	-0.0075	31.45625	0.00617637
1601	1	1.293048	0.015	31.47125	0.006179315
7026	3	1.293364	-0.005	31.46625	0.006178333
4706	3	1.293575	-0.005	31.46125	0.006177351
620	1	1.295693	-0.0075	31.45375	0.006175879
6530	3	1.29579	-0.005	31.44875	0.006174897
4428	3	1.296181	-0.005	31.44375	0.006173915
7086	3	1.29623	-0.005	31.43875	0.006172933
5607	3	1.296514	-0.005	31.43375	0.006171952
8784	4	1.296781	0.01	31.44375	0.006173915
9032	4	1.296963	-0.005	31.43875	0.006172933
1629	1	1.297081	0.015	31.45375	0.006175879
4942	3	1.297197	0.01	31.46375	0.006177842
3688	3	1.29783	0.01	31.47375	0.006179806
7761	3	1.297992	-0.005	31.46875	0.006178824
5811	3	1.298331	0.01	31.47875	0.006180787
1321	1	1.298452	0.015	31.49375	0.006183733
1830	2	1.298845	0.0125	31.50625	0.006186187
7352	3	1.29897	-0.005	31.50125	0.006185205
3352	3	1.299008	-0.005	31.49625	0.006184223
401	1	1.299917	-0.0075	31.48875	0.006182751
2143	2	1.300105	-0.00625	31.4825	0.006181524
1338	1	1.300305	-0.0075	31.475	0.006180051
6360	3	1.300782	0.01	31.485	0.006182015
9628	4	1.300903	-0.005	31.48	0.006181033
7864	3	1.30115	-0.005	31.475	0.006180051
9222	4	1.301807	-0.005	31.47	0.006179069
2849	2	1.301972	-0.00625	31.46375	0.006177842
7076	3	1.302058	0.01	31.47375	0.006179806
3728	3	1.302152	0.01	31.48375	0.006181769
8474	3	1.302755	0.01	31.49375	0.006183733
259	1	1.303421	-0.0075	31.48625	0.00618226
578	1	1.303561	-0.0075	31.47875	0.006180787
4818	3	1.303582	-0.005	31.47375	0.006179806
198	1	1.304416	0.015	31.48875	0.006182751

1626	1	1.304488	-0.0075	31.48125	0.006181278
4128	3	1.304509	-0.005	31.47625	0.006180296
9729	4	1.30474	-0.005	31.47125	0.006179315
5927	3	1.304969	-0.005	31.46625	0.006178333
9082	4	1.305363	-0.005	31.46125	0.006177351
8683	3	1.305464	-0.005	31.45625	0.00617637
7009	3	1.306163	-0.005	31.45125	0.006175388
549	1	1.306963	0.015	31.46625	0.006178333
345	1	1.307616	-0.0075	31.45875	0.00617686
715	1	1.307929	0.015	31.47375	0.006179806
419	1	1.308009	0.015	31.48875	0.006182751
5128	3	1.308087	-0.005	31.48375	0.006181769
7424	3	1.308353	-0.005	31.47875	0.006180787
4091	3	1.30855	0.01	31.48875	0.006182751
7460	3	1.308629	-0.005	31.48375	0.006181769
602	1	1.30875	-0.0075	31.47625	0.006180296
7604	3	1.309031	-0.005	31.47125	0.006179315
5292	3	1.309338	0.01	31.48125	0.006181278
5914	3	1.30994	0.01	31.49125	0.006183242
4987	3	1.309943	-0.005	31.48625	0.00618226
583	1	1.309973	-0.0075	31.47875	0.006180787
1624	1	1.310402	0.015	31.49375	0.006183733
2914	3	1.310566	0.01	31.50375	0.006185696
7053	3	1.310729	-0.005	31.49875	0.006184714
4706	3	1.310855	-0.005	31.49375	0.006183733
5347	3	1.311069	-0.005	31.48875	0.006182751
246	1	1.311421	-0.0075	31.48125	0.006181278
7282	3	1.311766	0.01	31.49125	0.006183242
1830	2	1.311863	-0.00625	31.485	0.006182015
7575	3	1.312499	-0.005	31.48	0.006181033
9010	4	1.312529	0.01	31.49	0.006182996
1516	1	1.312644	-0.0075	31.4825	0.006181524
2735	2	1.31294	-0.00625	31.47625	0.006180296
2463	2	1.313186	0.0125	31.48875	0.006182751
166	1	1.31329	0.015	31.50375	0.006185696
4984	3	1.313524	0.01	31.51375	0.00618766
5753	3	1.313896	0.01	31.52375	0.006189623
3380	3	1.314253	-0.005	31.51875	0.006188641
965	1	1.314719	-0.0075	31.51125	0.006187169
1184	1	1.314927	0.015	31.52625	0.006190114
6194	3	1.314994	-0.005	31.52125	0.006189132
668	1	1.315143	-0.0075	31.51375	0.00618766
5667	3	1.315184	-0.005	31.50875	0.006186678
1462	1	1.316458	-0.0075	31.50125	0.006185205
2084	2	1.316844	0.0125	31.51375	0.00618766
3936	3	1.317218	-0.005	31.50875	0.006186678
8073	3	1.317621	-0.005	31.50375	0.006185696
1873	2	1.318022	-0.00625	31.4975	0.006184469
4870	3	1.318253	-0.005	31.4925	0.006183487
5763	3	1.318271	0.01	31.5025	0.006185451
8722	3	1.318529	-0.005	31.4975	0.006184469
438	1	1.318535	0.015	31.5125	0.006187414

9045	4	1.319065	-0.005	31.5075	0.006186432
1439	1	1.319094	-0.0075	31.5	0.00618496
5545	3	1.319251	-0.005	31.495	0.006183978
1694	1	1.319405	0.015	31.51	0.006186923
3700	3	1.319405	-0.005	31.505	0.006185941
2454	2	1.319579	-0.00625	31.49875	0.006184714
8670	3	1.319759	0.01	31.50875	0.006186678
6687	3	1.320319	0.01	31.51875	0.006188641
1022	1	1.321276	0.015	31.53375	0.006191586
4535	3	1.321336	0.01	31.54375	0.00619355
2880	2	1.322186	-0.00625	31.5375	0.006192323
986	1	1.32235	-0.0075	31.53	0.00619085
438	1	1.322363	-0.0075	31.5225	0.006189378
9005	4	1.322885	-0.005	31.5175	0.006188396
1213	1	1.32311	0.015	31.5325	0.006191341
8639	3	1.323279	0.01	31.5425	0.006193305
5578	3	1.323499	-0.005	31.5375	0.006192323
6913	3	1.323992	-0.005	31.5325	0.006191341
8369	3	1.324677	-0.005	31.5275	0.006190359
2217	2	1.32471	0.0125	31.54	0.006192814
7023	3	1.324771	-0.005	31.535	0.006191832
2911	3	1.325416	-0.005	31.53	0.00619085
371	1	1.32554	-0.0075	31.5225	0.006189378
2966	3	1.326314	0.01	31.5325	0.006191341
9350	4	1.327566	-0.005	31.5275	0.006190359
4595	3	1.327652	0.01	31.5375	0.006192323
5126	3	1.328047	0.01	31.5475	0.006194286
983	1	1.329227	0.015	31.5625	0.006197231
2104	2	1.329228	0.0125	31.575	0.006199686
1719	1	1.329531	-0.0075	31.5675	0.006198213
2613	2	1.330652	-0.00625	31.56125	0.006196986
197	1	1.330839	-0.0075	31.55375	0.006195513
1560	1	1.33135	-0.0075	31.54625	0.006194041
3910	3	1.331394	-0.005	31.54125	0.006193059
5116	3	1.331426	0.01	31.55125	0.006195023
7375	3	1.331514	0.01	31.56125	0.006196986
3190	3	1.33166	-0.005	31.55625	0.006196004
2943	3	1.332248	-0.005	31.55125	0.006195023
2341	2	1.332325	0.0125	31.56375	0.006197477
942	1	1.332979	-0.0075	31.55625	0.006196004
8313	3	1.333026	0.01	31.56625	0.006197968
591	1	1.333079	-0.0075	31.55875	0.006196495
2691	2	1.333084	0.0125	31.57125	0.00619895
3607	3	1.333187	-0.005	31.56625	0.006197968
864	1	1.333391	-0.0075	31.55875	0.006196495
787	1	1.333587	-0.0075	31.55125	0.006195023
849	1	1.333686	0.015	31.56625	0.006197968
2035	2	1.333718	0.0125	31.57875	0.006200422
4265	3	1.333965	-0.005	31.57375	0.00619944
2579	2	1.334535	-0.00625	31.5675	0.006198213
120	1	1.334695	0.015	31.5825	0.006201158
8232	3	1.335465	0.01	31.5925	0.006203122

5576	3	1.33565	0.01	31.6025	0.006205085
904	1	1.335703	-0.0075	31.595	0.006203613
417	1	1.336599	-0.0075	31.5875	0.00620214
851	1	1.336644	-0.0075	31.58	0.006200668
9223	4	1.336843	0.01	31.59	0.006202631
1267	1	1.336864	0.015	31.605	0.006205576
2883	2	1.3372	0.0125	31.6175	0.006208031
5378	3	1.337415	0.01	31.6275	0.006209994
2210	2	1.337535	0.0125	31.64	0.006212448
2260	2	1.337907	0.0125	31.6525	0.006214903
6340	3	1.338186	0.01	31.6625	0.006216866
3622	3	1.33825	-0.005	31.6575	0.006215885
173	1	1.338938	-0.0075	31.65	0.006214412
1713	1	1.339628	-0.0075	31.6425	0.006212939
557	1	1.340095	-0.0075	31.635	0.006211467
3624	3	1.340307	-0.005	31.63	0.006210485
153	1	1.340597	-0.0075	31.6225	0.006209012
1799	2	1.340708	0.0125	31.635	0.006211467
1745	1	1.340851	-0.0075	31.6275	0.006209994
6983	3	1.341058	0.01	31.6375	0.006211958
1066	1	1.341063	-0.0075	31.63	0.006210485
5876	3	1.34143	0.01	31.64	0.006212448
1448	1	1.341742	0.015	31.655	0.006215394
855	1	1.34193	0.015	31.67	0.006218339
1215	1	1.342074	-0.0075	31.6625	0.006216866
3435	3	1.34227	0.01	31.6725	0.00621883
1279	1	1.342314	-0.0075	31.665	0.006217357
3191	3	1.342544	-0.005	31.66	0.006216375
561	1	1.342669	0.015	31.675	0.006219321
5768	3	1.342764	0.01	31.685	0.006221284
4298	3	1.342922	0.01	31.695	0.006223248
8069	3	1.342965	-0.005	31.69	0.006222266
5893	3	1.343012	-0.005	31.685	0.006221284
734	1	1.343122	-0.0075	31.6775	0.006219812
968	1	1.343245	-0.0075	31.67	0.006218339
7458	3	1.343301	0.01	31.68	0.006220302
8926	4	1.343326	0.01	31.69	0.006222266
1966	2	1.343705	-0.00625	31.68375	0.006221039
4558	3	1.344065	-0.005	31.67875	0.006220057
5631	3	1.344307	-0.005	31.67375	0.006219075
7226	3	1.344684	-0.005	31.66875	0.006218093
8685	3	1.345033	0.01	31.67875	0.006220057
5361	3	1.345086	-0.005	31.67375	0.006219075
940	1	1.345735	-0.0075	31.66625	0.006217603
5238	3	1.345757	-0.005	31.66125	0.006216621
7534	3	1.345932	0.01	31.67125	0.006218584
244	1	1.34632	-0.0075	31.66375	0.006217112
1520	1	1.346505	-0.0075	31.65625	0.006215639
2813	2	1.346541	-0.00625	31.65	0.006214412
2798	2	1.346698	-0.00625	31.64375	0.006213185
59	1	1.347192	0.015	31.65875	0.00621613
4938	3	1.34773	0.01	31.66875	0.006218093

6330	3	1.347969	0.01	31.67875	0.006220057
3390	3	1.348354	0.01	31.68875	0.00622202
2891	2	1.348454	-0.00625	31.6825	0.006220793
881	1	1.349002	-0.0075	31.675	0.006219321
2693	2	1.349265	-0.00625	31.66875	0.006218093
614	1	1.349307	0.015	31.68375	0.006221039
7812	3	1.350027	-0.005	31.67875	0.006220057
8956	4	1.350435	-0.005	31.67375	0.006219075
5684	3	1.351518	-0.005	31.66875	0.006218093
4537	3	1.351834	-0.005	31.66375	0.006217112
8792	4	1.351941	0.01	31.67375	0.006219075
3564	3	1.352123	0.01	31.68375	0.006221039
1137	1	1.352336	-0.0075	31.67625	0.006219566
4017	3	1.352609	0.01	31.68625	0.00622153
3417	3	1.352968	0.01	31.69625	0.006223493
103	1	1.353132	-0.0075	31.68875	0.00622202
3629	3	1.353207	-0.005	31.68375	0.006221039
6564	3	1.353681	0.01	31.69375	0.006223002
1853	2	1.353751	0.0125	31.70625	0.006225457
3382	3	1.354061	0.01	31.71625	0.00622742
3688	3	1.354388	-0.005	31.71125	0.006226438
2694	2	1.354583	0.0125	31.72375	0.006228893
7523	3	1.355503	-0.005	31.71875	0.006227911
5746	3	1.355596	0.01	31.72875	0.006229874
2459	2	1.356016	-0.00625	31.7225	0.006228647
1388	1	1.356103	-0.0075	31.715	0.006227175
1673	1	1.356506	-0.0075	31.7075	0.006225702
2329	2	1.356972	0.0125	31.72	0.006228156
1872	2	1.357025	0.0125	31.7325	0.006230611
2844	2	1.35718	0.0125	31.745	0.006233065
2204	2	1.35747	-0.00625	31.73875	0.006231838
672	1	1.35773	-0.0075	31.73125	0.006230365
1071	1	1.357913	0.015	31.74625	0.00623331
1105	1	1.358118	0.015	31.76125	0.006236256
1144	1	1.358141	-0.0075	31.75375	0.006234783
7667	3	1.358443	0.01	31.76375	0.006236747
5190	3	1.359471	0.01	31.77375	0.00623871
370	1	1.3599	-0.0075	31.76625	0.006237237
2725	2	1.359939	0.0125	31.77875	0.006239692
1209	1	1.359992	-0.0075	31.77125	0.006238219
7375	3	1.360041	-0.005	31.76625	0.006237237
6198	3	1.3602	0.01	31.77625	0.006239201
8312	3	1.360847	-0.005	31.77125	0.006238219
1584	1	1.360915	-0.0075	31.76375	0.006236747
6847	3	1.361017	0.01	31.77375	0.00623871
2334	2	1.361018	-0.00625	31.7675	0.006237483
5778	3	1.361092	0.01	31.7775	0.006239446
7308	3	1.361116	-0.005	31.7725	0.006238465
708	1	1.361266	-0.0075	31.765	0.006236992
1651	1	1.361597	-0.0075	31.7575	0.006235519
2274	2	1.361946	0.0125	31.77	0.006237974
8253	3	1.362322	-0.005	31.765	0.006236992

6418	3	1.362845	0.01	31.775	0.006238955
5402	3	1.362939	-0.005	31.77	0.006237974
2083	2	1.363726	0.0125	31.7825	0.006240428
1572	1	1.363749	0.015	31.7975	0.006243373
396	1	1.363784	0.015	31.8125	0.006246318
285	1	1.364473	-0.0075	31.805	0.006244846
2013	2	1.364674	0.0125	31.8175	0.0062473
5846	3	1.364703	-0.005	31.8125	0.006246318
1864	2	1.365276	-0.00625	31.80625	0.006245091
1145	1	1.365416	0.015	31.82125	0.006248037
1032	1	1.365553	0.015	31.83625	0.006250982
2641	2	1.365745	0.0125	31.84875	0.006253436
3714	3	1.365854	-0.005	31.84375	0.006252454
7182	3	1.365873	-0.005	31.83875	0.006251473
7589	3	1.366055	-0.005	31.83375	0.006250491
7553	3	1.3663	-0.005	31.82875	0.006249509
396	1	1.366611	-0.0075	31.82125	0.006248037
5572	3	1.366865	-0.005	31.81625	0.006247055
4348	3	1.366966	-0.005	31.81125	0.006246073
6512	3	1.36782	0.01	31.82125	0.006248037
230	1	1.368583	-0.0075	31.81375	0.006246564
12	1	1.368891	-0.0075	31.80625	0.006245091
5580	3	1.369509	0.01	31.81625	0.006247055
3851	3	1.369831	-0.005	31.81125	0.006246073
1245	1	1.369989	0.015	31.82625	0.006249018
4024	3	1.36999	0.01	31.83625	0.006250982
3228	3	1.370252	-0.005	31.83125	0.00625
6610	3	1.37035	0.01	31.84125	0.006251963
8525	3	1.370455	-0.005	31.83625	0.006250982
1305	1	1.370516	-0.0075	31.82875	0.006249509
4643	3	1.370767	0.01	31.83875	0.006251473
5795	3	1.370826	-0.005	31.83375	0.006250491
7872	3	1.370889	-0.005	31.82875	0.006249509
2131	2	1.371038	0.0125	31.84125	0.006251963
8263	3	1.3711	-0.005	31.83625	0.006250982
93	1	1.371719	-0.0075	31.82875	0.006249509
4561	3	1.372177	-0.005	31.82375	0.006248527
8248	3	1.3724	-0.005	31.81875	0.006247546
4608	3	1.372741	0.01	31.82875	0.006249509
8246	3	1.37308	-0.005	31.82375	0.006248527
1995	2	1.373082	-0.00625	31.8175	0.0062473
3263	3	1.373251	-0.005	31.8125	0.006246318
1184	1	1.373489	-0.0075	31.805	0.006244846
2385	2	1.373706	0.0125	31.8175	0.0062473
5230	3	1.374117	-0.005	31.8125	0.006246318
395	1	1.374284	0.015	31.8275	0.006249264
8120	3	1.374796	-0.005	31.8225	0.006248282
8316	3	1.37486	0.01	31.8325	0.006250245
992	1	1.375351	0.015	31.8475	0.006253191
5524	3	1.375704	-0.005	31.8425	0.006252209
5850	3	1.376014	-0.005	31.8375	0.006251227
723	1	1.376792	-0.0075	31.83	0.006249755

2128	2	1.377231	-0.00625	31.82375	0.006248527
2364	2	1.377507	0.0125	31.83625	0.006250982
2273	2	1.377594	0.0125	31.84875	0.006253436
4979	3	1.377638	-0.005	31.84375	0.006252454
7396	3	1.377671	-0.005	31.83875	0.006251473
651	1	1.378124	-0.0075	31.83125	0.00625
5534	3	1.378316	-0.005	31.82625	0.006249018
7348	3	1.378617	0.01	31.83625	0.006250982
2218	2	1.37897	-0.00625	31.83	0.006249755
6249	3	1.379173	-0.005	31.825	0.006248773
2630	2	1.379295	-0.00625	31.81875	0.006247546
4852	3	1.379339	0.01	31.82875	0.006249509
2528	2	1.37991	-0.00625	31.8225	0.006248282
5749	3	1.380339	-0.005	31.8175	0.0062473
1494	1	1.380805	-0.0075	31.81	0.006245828
5582	3	1.381425	0.01	31.82	0.006247791
6593	3	1.382008	-0.005	31.815	0.006246809
1083	1	1.382236	-0.0075	31.8075	0.006245337
5037	3	1.38234	-0.005	31.8025	0.006244355
2195	2	1.383088	-0.00625	31.79625	0.006243128
2312	2	1.383195	0.0125	31.80875	0.006245582
166	1	1.383874	-0.0075	31.80125	0.00624411
4175	3	1.383897	0.01	31.81125	0.006246073
1950	2	1.384242	-0.00625	31.805	0.006244846
9191	4	1.384301	0.01	31.815	0.006246809
2499	2	1.384562	0.0125	31.8275	0.006249264
9268	4	1.385782	0.01	31.8375	0.006251227
978	1	1.38595	-0.0075	31.83	0.006249755
5915	3	1.386632	0.01	31.84	0.006251718
2900	3	1.386752	-0.005	31.835	0.006250736
3213	3	1.386847	-0.005	31.83	0.006249755
1625	1	1.387464	-0.0075	31.8225	0.006248282
8316	3	1.387572	-0.005	31.8175	0.0062473
6245	3	1.38818	0.01	31.8275	0.006249264
2994	3	1.388234	-0.005	31.8225	0.006248282
1911	2	1.388592	-0.00625	31.81625	0.006247055
5092	3	1.388908	-0.005	31.81125	0.006246073
1696	1	1.389155	0.015	31.82625	0.006249018
1060	1	1.389377	-0.0075	31.81875	0.006247546
6084	3	1.389621	-0.005	31.81375	0.006246564
4484	3	1.389701	-0.005	31.80875	0.006245582
428	1	1.390383	0.015	31.82375	0.006248527
2593	2	1.390596	-0.00625	31.8175	0.0062473
1482	1	1.390869	0.015	31.8325	0.006250245
6992	3	1.390926	-0.005	31.8275	0.006249264
8901	4	1.391215	-0.005	31.8225	0.006248282
5540	3	1.391714	-0.005	31.8175	0.0062473
2833	2	1.391809	0.0125	31.83	0.006249755
5577	3	1.391892	-0.005	31.825	0.006248773
8224	3	1.392251	-0.005	31.82	0.006247791
1208	1	1.393299	-0.0075	31.8125	0.006246318
6902	3	1.393848	0.01	31.8225	0.006248282

4004	3	1.393895	-0.005	31.8175	0.0062473
1776	2	1.39403	0.0125	31.83	0.006249755
9523	4	1.394342	-0.005	31.825	0.006248773
5890	3	1.394973	-0.005	31.82	0.006247791
8670	3	1.395019	-0.005	31.815	0.006246809
5273	3	1.395794	0.01	31.825	0.006248773
2154	2	1.395969	-0.00625	31.81875	0.006247546
5296	3	1.396486	0.01	31.82875	0.006249509
771	1	1.396849	-0.0075	31.82125	0.006248037
1198	1	1.396906	-0.0075	31.81375	0.006246564
9277	4	1.39727	-0.005	31.80875	0.006245582
7916	3	1.397677	-0.005	31.80375	0.0062446
1214	1	1.398002	-0.0075	31.79625	0.006243128
853	1	1.398218	-0.0075	31.78875	0.006241655
8212	3	1.398275	-0.005	31.78375	0.006240673
9889	4	1.398654	-0.005	31.77875	0.006239692
258	1	1.398675	-0.0075	31.77125	0.006238219
7307	3	1.399102	-0.005	31.76625	0.006237237
5162	3	1.399192	-0.005	31.76125	0.006236256
5910	3	1.399478	-0.005	31.75625	0.006235274
2518	2	1.399564	-0.00625	31.75	0.006234047
7990	3	1.400032	0.01	31.76	0.00623601
5234	3	1.400427	-0.005	31.755	0.006235028
17	1	1.40064	0.015	31.77	0.006237974
521	1	1.400708	-0.0075	31.7625	0.006236501
2166	2	1.400852	0.0125	31.775	0.006238955
4383	3	1.401158	-0.005	31.77	0.006237974
8616	3	1.401646	0.01	31.78	0.006239937
534	1	1.402582	0.015	31.795	0.006242882
686	1	1.40284	-0.0075	31.7875	0.00624141
209	1	1.403316	0.015	31.8025	0.006244355
9335	4	1.403625	0.01	31.8125	0.006246318
1586	1	1.403742	-0.0075	31.805	0.006244846
7264	3	1.404466	-0.005	31.8	0.006243864
7941	3	1.404551	-0.005	31.795	0.006242882
490	1	1.404651	-0.0075	31.7875	0.00624141
3780	3	1.404843	0.01	31.7975	0.006243373
3820	3	1.404953	0.01	31.8075	0.006245337
5512	3	1.406264	-0.005	31.8025	0.006244355
8607	3	1.406297	0.01	31.8125	0.006246318
1674	1	1.406426	-0.0075	31.805	0.006244846
6737	3	1.407015	-0.005	31.8	0.006243864
6109	3	1.407065	-0.005	31.795	0.006242882
8000	3	1.407341	-0.005	31.79	0.006241901
2179	2	1.407369	-0.00625	31.78375	0.006240673
1083	1	1.407898	-0.0075	31.77625	0.006239201
8917	4	1.408178	0.01	31.78625	0.006241164
1268	1	1.408452	0.015	31.80125	0.00624411
794	1	1.408467	0.015	31.81625	0.006247055
568	1	1.408937	-0.0075	31.80875	0.006245582
5201	3	1.408944	0.01	31.81875	0.006247546
4145	3	1.409649	0.01	31.82875	0.006249509

6982	3	1.410082	-0.005	31.82375	0.006248527
6545	3	1.411094	0.01	31.83375	0.006250491
3446	3	1.411406	-0.005	31.82875	0.006249509
1047	1	1.411412	0.015	31.84375	0.006252454
1487	1	1.411764	0.015	31.85875	0.0062554
2821	2	1.412317	-0.00625	31.8525	0.006254172
2136	2	1.412932	-0.00625	31.84625	0.006252945
6492	3	1.414049	0.01	31.85625	0.006254909
3563	3	1.414653	0.01	31.86625	0.006256872
1603	1	1.41489	0.015	31.88125	0.006259817
1359	1	1.414963	0.015	31.89625	0.006262763
1442	1	1.415246	0.015	31.91125	0.006265708
1720	1	1.41529	-0.0075	31.90375	0.006264235
3644	3	1.415713	0.01	31.91375	0.006266199
2304	2	1.415921	-0.00625	31.9075	0.006264972
2705	2	1.416662	-0.00625	31.90125	0.006263744
1287	1	1.417424	-0.0075	31.89375	0.006262272
659	1	1.417443	0.015	31.90875	0.006265217
254	1	1.417598	0.015	31.92375	0.006268162
1431	1	1.418393	-0.0075	31.91625	0.00626669
1947	2	1.418666	0.0125	31.92875	0.006269144
957	1	1.419071	-0.0075	31.92125	0.006267671
882	1	1.419295	0.015	31.93625	0.006270617
3525	3	1.419396	0.01	31.94625	0.00627258
6983	3	1.419452	-0.005	31.94125	0.006271598
2708	2	1.419462	0.0125	31.95375	0.006274053
7897	3	1.41985	-0.005	31.94875	0.006273071
28	1	1.420396	-0.0075	31.94125	0.006271598
3307	3	1.420439	-0.005	31.93625	0.006270617
9546	4	1.420517	-0.005	31.93125	0.006269635
535	1	1.420589	0.015	31.94625	0.00627258
5840	3	1.420683	-0.005	31.94125	0.006271598
5727	3	1.421051	-0.005	31.93625	0.006270617
2995	3	1.421641	0.01	31.94625	0.00627258
1916	2	1.421645	0.0125	31.95875	0.006275034
2166	2	1.421678	-0.00625	31.9525	0.006273807
2672	2	1.423758	-0.00625	31.94625	0.00627258
7824	3	1.424039	-0.005	31.94125	0.006271598
5536	3	1.424439	-0.005	31.93625	0.006270617
2070	2	1.424523	-0.00625	31.93	0.006269389
1548	1	1.424536	-0.0075	31.9225	0.006267917
5992	3	1.424536	-0.005	31.9175	0.006266935
187	1	1.424629	-0.0075	31.91	0.006265462
256	1	1.424646	0.015	31.925	0.006268408
7952	3	1.425162	-0.005	31.92	0.006267426
9010	4	1.425253	-0.005	31.915	0.006266444
8156	3	1.425344	0.01	31.925	0.006268408
1959	2	1.425356	0.0125	31.9375	0.006270862
2322	2	1.426335	-0.00625	31.93125	0.006269635
1495	1	1.426369	-0.0075	31.92375	0.006268162
2484	2	1.426515	-0.00625	31.9175	0.006266935
6447	3	1.426833	0.01	31.9275	0.006268898

6178	3	1.426949	0.01	31.9375	0.006270862
6483	3	1.42742	-0.005	31.9325	0.00626988
5860	3	1.42786	0.01	31.9425	0.006271844
4736	3	1.428753	-0.005	31.9375	0.006270862
3177	3	1.428806	0.01	31.9475	0.006272825
2872	2	1.428826	-0.00625	31.94125	0.006271598
7522	3	1.42979	0.01	31.95125	0.006273562
3873	3	1.429905	0.01	31.96125	0.006275525
7248	3	1.430123	0.01	31.97125	0.006277489
777	1	1.430387	0.015	31.98625	0.006280434
3165	3	1.430427	0.01	31.99625	0.006282397
2883	2	1.430445	-0.00625	31.99	0.00628117
7919	3	1.430631	0.01	32	0.006283134
499	1	1.430796	-0.0075	31.9925	0.006281661
6841	3	1.430846	0.01	32.0025	0.006283625
3339	3	1.431517	-0.005	31.9975	0.006282643
751	1	1.431934	-0.0075	31.99	0.00628117
322	1	1.432806	-0.0075	31.9825	0.006279698
19	1	1.432807	-0.0075	31.975	0.006278225
9440	4	1.433331	0.01	31.985	0.006280188
7412	3	1.433347	0.01	31.995	0.006282152
2624	2	1.433359	0.0125	32.0075	0.006284606
1855	2	1.433378	-0.00625	32.00125	0.006283379
2628	2	1.433546	-0.00625	31.995	0.006282152
1407	1	1.433762	-0.0075	31.9875	0.006280679
1688	1	1.433825	-0.0075	31.98	0.006279207
6012	3	1.43441	-0.005	31.975	0.006278225
613	1	1.434632	0.015	31.99	0.00628117
7362	3	1.434666	-0.005	31.985	0.006280188
7549	3	1.434692	-0.005	31.98	0.006279207
8096	3	1.434724	-0.005	31.975	0.006278225
1496	1	1.435342	-0.0075	31.9675	0.006276752
8385	3	1.435498	-0.005	31.9625	0.006275771
9851	4	1.436003	-0.005	31.9575	0.006274789
1271	1	1.436092	-0.0075	31.95	0.006273316
2470	2	1.436265	-0.00625	31.94375	0.006272089
8027	3	1.436665	-0.005	31.93875	0.006271107
2274	2	1.43667	-0.00625	31.9325	0.00626988
5582	3	1.437836	-0.005	31.9275	0.006268898
8422	3	1.438378	0.01	31.9375	0.006270862
3865	3	1.438492	0.01	31.9475	0.006272825
522	1	1.43856	-0.0075	31.94	0.006271353
1671	1	1.438644	0.015	31.955	0.006274298
1157	1	1.438764	-0.0075	31.9475	0.006272825
4130	3	1.439401	-0.005	31.9425	0.006271844
6296	3	1.439424	-0.005	31.9375	0.006270862
7430	3	1.439592	0.01	31.9475	0.006272825
1126	1	1.439675	0.015	31.9625	0.006275771
1331	1	1.440184	0.015	31.9775	0.006278716
1327	1	1.440268	0.015	31.9925	0.006281661
413	1	1.440334	-0.0075	31.985	0.006280188
7453	3	1.440459	0.01	31.995	0.006282152

6036	3	1.440465	-0.005	31.99	0.00628117
5624	3	1.440996	0.01	32	0.006283134
1602	1	1.441578	0.015	32.015	0.006286079
7306	3	1.442223	-0.005	32.01	0.006285097
9953	4	1.442341	0.01	32.02	0.006287061
8061	3	1.442341	-0.005	32.015	0.006286079
472	1	1.442572	-0.0075	32.0075	0.006284606
1221	1	1.443184	-0.0075	32	0.006283134
2789	2	1.443253	-0.00625	31.99375	0.006281907
6709	3	1.443413	0.01	32.00375	0.00628387
4431	3	1.443493	-0.005	31.99875	0.006282888
1409	1	1.443547	0.015	32.01375	0.006285833
7627	3	1.443645	-0.005	32.00875	0.006284852
406	1	1.444092	-0.0075	32.00125	0.006283379
3993	3	1.444299	0.01	32.01125	0.006285343
2912	3	1.444842	-0.005	32.00625	0.006284361
9199	4	1.444941	0.01	32.01625	0.006286324
519	1	1.444982	-0.0075	32.00875	0.006284852
4436	3	1.445158	-0.005	32.00375	0.00628387
3928	3	1.445515	-0.005	31.99875	0.006282888
718	1	1.445708	-0.0075	31.99125	0.006281416
9519	4	1.446402	-0.005	31.98625	0.006280434
5624	3	1.446672	-0.005	31.98125	0.006279452
2783	2	1.447041	0.0125	31.99375	0.006281907
6568	3	1.447079	0.01	32.00375	0.00628387
1329	1	1.447091	-0.0075	31.99625	0.006282397
9418	4	1.447104	0.01	32.00625	0.006284361
1613	1	1.447277	0.015	32.02125	0.006287306
233	1	1.447807	-0.0075	32.01375	0.006285833
4608	3	1.448661	-0.005	32.00875	0.006284852
669	1	1.448671	-0.0075	32.00125	0.006283379
4019	3	1.449231	-0.005	31.99625	0.006282397
2029	2	1.449934	0.0125	32.00875	0.006284852
1352	1	1.449944	-0.0075	32.00125	0.006283379
4821	3	1.45041	-0.005	31.99625	0.006282397
1636	1	1.450713	0.015	32.01125	0.006285343
8856	4	1.451091	0.01	32.02125	0.006287306
1006	1	1.451133	0.015	32.03625	0.006290251
2521	2	1.451341	0.0125	32.04875	0.006292706
8910	4	1.451717	-0.005	32.04375	0.006291724
8496	3	1.452144	0.01	32.05375	0.006293687
221	1	1.452247	-0.0075	32.04625	0.006292215
1618	1	1.452257	0.015	32.06125	0.00629516
8481	3	1.452598	-0.005	32.05625	0.006294178
566	1	1.452655	-0.0075	32.04875	0.006292706
6926	3	1.453211	0.01	32.05875	0.006294669
120	1	1.453422	-0.0075	32.05125	0.006293197
2268	2	1.453684	-0.00625	32.045	0.006291969
9116	4	1.45383	-0.005	32.04	0.006290988
3907	3	1.454283	-0.005	32.035	0.006290006
1327	1	1.45522	-0.0075	32.0275	0.006288533
7653	3	1.455533	-0.005	32.0225	0.006287552

3054	3	1.456	-0.005	32.0175	0.00628657
725	1	1.457001	-0.0075	32.01	0.006285097
4915	3	1.457212	0.01	32.02	0.006287061
7495	3	1.458472	0.01	32.03	0.006289024
5822	3	1.458965	-0.005	32.025	0.006288042
3987	3	1.45934	-0.005	32.02	0.006287061
1601	1	1.45934	-0.0075	32.0125	0.006285588
8904	4	1.459462	0.01	32.0225	0.006287552
6359	3	1.460771	-0.005	32.0175	0.00628657
477	1	1.460787	-0.0075	32.01	0.006285097
6445	3	1.461023	0.01	32.02	0.006287061
8015	3	1.461715	-0.005	32.015	0.006286079
5736	3	1.462003	0.01	32.025	0.006288042
7489	3	1.46297	-0.005	32.02	0.006287061
3943	3	1.463002	-0.005	32.015	0.006286079
2653	2	1.46308	-0.00625	32.00875	0.006284852
2219	2	1.463249	0.0125	32.02125	0.006287306
1034	1	1.463382	0.015	32.03625	0.006290251
3751	3	1.463824	-0.005	32.03125	0.00628927
792	1	1.463871	-0.0075	32.02375	0.006287797
4044	3	1.463882	-0.005	32.01875	0.006286815
447	1	1.463978	-0.0075	32.01125	0.006285343
2327	2	1.464381	-0.00625	32.005	0.006284115
7946	3	1.464467	-0.005	32	0.006283134
7249	3	1.464796	0.01	32.01	0.006285097
614	1	1.464849	-0.0075	32.0025	0.006283625
8247	3	1.465144	-0.005	31.9975	0.006282643
4595	3	1.4657	-0.005	31.9925	0.006281661
5642	3	1.465905	0.01	32.0025	0.006283625
348	1	1.466561	-0.0075	31.995	0.006282152
5811	3	1.466772	-0.005	31.99	0.00628117
263	1	1.466829	0.015	32.005	0.006284115
4438	3	1.466854	-0.005	32	0.006283134
4213	3	1.467293	0.01	32.01	0.006285097
5246	3	1.467559	-0.005	32.005	0.006284115
114	1	1.467824	-0.0075	31.9975	0.006282643
4783	3	1.468332	-0.005	31.9925	0.006281661
4631	3	1.469114	-0.005	31.9875	0.006280679
4652	3	1.469207	-0.005	31.9825	0.006279698
3023	3	1.469247	-0.005	31.9775	0.006278716
482	1	1.469317	-0.0075	31.97	0.006277243
2500	2	1.469519	-0.00625	31.96375	0.006276016
5583	3	1.469623	-0.005	31.95875	0.006275034
2719	2	1.469722	0.0125	31.97125	0.006277489
5872	3	1.470377	-0.005	31.96625	0.006276507
5355	3	1.470572	-0.005	31.96125	0.006275525
1077	1	1.470578	-0.0075	31.95375	0.006274053
8291	3	1.470621	-0.005	31.94875	0.006273071
5160	3	1.470839	-0.005	31.94375	0.006272089
4904	3	1.470926	0.01	31.95375	0.006274053
8529	3	1.471161	-0.005	31.94875	0.006273071
4892	3	1.471711	-0.005	31.94375	0.006272089

4781	3	1.472387	0.01	31.95375	0.006274053
9193	4	1.472513	-0.005	31.94875	0.006273071
3690	3	1.472868	0.01	31.95875	0.006275034
2173	2	1.473046	0.0125	31.97125	0.006277489
2258	2	1.473903	0.0125	31.98375	0.006279943
2921	3	1.473918	0.01	31.99375	0.006281907
2582	2	1.473984	0.0125	32.00625	0.006284361
4435	3	1.47409	0.01	32.01625	0.006286324
6443	3	1.474177	-0.005	32.01125	0.006285343
2763	2	1.47438	-0.00625	32.005	0.006284115
824	1	1.474941	-0.0075	31.9975	0.006282643
4199	3	1.475497	0.01	32.0075	0.006284606
2434	2	1.476305	0.0125	32.02	0.006287061
1286	1	1.476355	-0.0075	32.0125	0.006285588
3898	3	1.476385	-0.005	32.0075	0.006284606
4696	3	1.476816	-0.005	32.0025	0.006283625
2825	2	1.476949	-0.00625	31.99625	0.006282397
2858	2	1.477009	0.0125	32.00875	0.006284852
9538	4	1.477129	-0.005	32.00375	0.00628387
7513	3	1.477626	0.01	32.01375	0.006285833
3757	3	1.477808	0.01	32.02375	0.006287797
9437	4	1.477941	0.01	32.03375	0.00628976
2000	2	1.478013	-0.00625	32.0275	0.006288533
8401	3	1.478151	0.01	32.0375	0.006290497
1754	1	1.478312	-0.0075	32.03	0.006289024
292	1	1.478322	-0.0075	32.0225	0.006287552
6253	3	1.478633	-0.005	32.0175	0.00628657
7648	3	1.478789	0.01	32.0275	0.006288533
9526	4	1.478914	0.01	32.0375	0.006290497
2646	2	1.479925	-0.00625	32.03125	0.00628927
1490	1	1.480509	-0.0075	32.02375	0.006287797
2438	2	1.48083	0.0125	32.03625	0.006290251
831	1	1.480852	0.015	32.05125	0.006293197
86	1	1.480988	-0.0075	32.04375	0.006291724
8060	3	1.481082	0.01	32.05375	0.006293687
5797	3	1.482315	-0.005	32.04875	0.006292706
945	1	1.482429	0.015	32.06375	0.006295651
2360	2	1.482451	-0.00625	32.0575	0.006294424
1620	1	1.482498	-0.0075	32.05	0.006292951
1670	1	1.482838	0.015	32.065	0.006295896
6564	3	1.482879	-0.005	32.06	0.006294915
9868	4	1.483394	0.01	32.07	0.006296878
2744	2	1.484247	-0.00625	32.06375	0.006295651
7811	3	1.484377	0.01	32.07375	0.006297614
492	1	1.484517	-0.0075	32.06625	0.006296142
3669	3	1.484521	-0.005	32.06125	0.00629516
860	1	1.484649	-0.0075	32.05375	0.006293687
5183	3	1.484991	-0.005	32.04875	0.006292706
6962	3	1.485049	-0.005	32.04375	0.006291724
2818	2	1.485306	0.0125	32.05625	0.006294178
4498	3	1.485509	-0.005	32.05125	0.006293197
6022	3	1.485546	0.01	32.06125	0.00629516

1569	1	1.485724	-0.0075	32.05375	0.006293687
6346	3	1.486124	0.01	32.06375	0.006295651
6102	3	1.486409	-0.005	32.05875	0.006294669
4133	3	1.486415	-0.005	32.05375	0.006293687
6423	3	1.486548	0.01	32.06375	0.006295651
2122	2	1.48726	-0.00625	32.0575	0.006294424
9369	4	1.487958	-0.005	32.0525	0.006293442
4805	3	1.48801	0.01	32.0625	0.006295405
6387	3	1.488056	-0.005	32.0575	0.006294424
3460	3	1.489034	0.01	32.0675	0.006296387
7136	3	1.489252	0.01	32.0775	0.006298351
3900	3	1.48929	0.01	32.0875	0.006300314
2581	2	1.489403	-0.00625	32.08125	0.006299087
704	1	1.489526	0.015	32.09625	0.006302032
1650	1	1.49004	-0.0075	32.08875	0.00630056
1351	1	1.490337	-0.0075	32.08125	0.006299087
2451	2	1.490387	-0.00625	32.075	0.00629786
2111	2	1.490473	0.0125	32.0875	0.006300314
761	1	1.490812	-0.0075	32.08	0.006298842
3239	3	1.491156	-0.005	32.075	0.00629786
317	1	1.491262	-0.0075	32.0675	0.006296387
3660	3	1.491605	0.01	32.0775	0.006298351
2566	2	1.491771	0.0125	32.09	0.006300805
1232	1	1.491818	-0.0075	32.0825	0.006299332
4692	3	1.491854	-0.005	32.0775	0.006298351
999	1	1.492273	0.015	32.0925	0.006301296
8676	3	1.492582	0.01	32.1025	0.006303259
7775	3	1.493031	0.01	32.1125	0.006305223
1947	2	1.493726	-0.00625	32.10625	0.006303996
5571	3	1.494002	-0.005	32.10125	0.006303014
5932	3	1.494181	-0.005	32.09625	0.006302032
3415	3	1.494428	0.01	32.10625	0.006303996
2730	2	1.494673	-0.00625	32.1	0.006302769
4331	3	1.495246	-0.005	32.095	0.006301787
5	1	1.495447	0.015	32.11	0.006304732
4150	3	1.495755	0.01	32.12	0.006306695
3258	3	1.495831	-0.005	32.115	0.006305714
1248	1	1.495882	0.015	32.13	0.006308659
60	1	1.496101	0.015	32.145	0.006311604
704	1	1.496109	-0.0075	32.1375	0.006310132
481	1	1.496204	-0.0075	32.13	0.006308659
9549	4	1.496473	0.01	32.14	0.006310622
2142	2	1.496998	-0.00625	32.13375	0.006309395
9019	4	1.497155	0.01	32.14375	0.006311359
5432	3	1.497957	-0.005	32.13875	0.006310377
2639	2	1.498121	-0.00625	32.1325	0.00630915
8083	3	1.498135	-0.005	32.1275	0.006308168
6049	3	1.498176	-0.005	32.1225	0.006307186
1257	1	1.498275	0.015	32.1375	0.006310132
8376	3	1.498786	0.01	32.1475	0.006312095
6521	3	1.499212	0.01	32.1575	0.006314059
9223	4	1.499256	-0.005	32.1525	0.006313077

6063	3	1.49935	0.01	32.1625	0.00631504
5275	3	1.499866	-0.005	32.1575	0.006314059
9114	4	1.500348	-0.005	32.1525	0.006313077
782	1	1.500844	-0.0075	32.145	0.006311604
2156	2	1.50128	-0.00625	32.13875	0.006310377
2703	2	1.501357	-0.00625	32.1325	0.00630915
8141	3	1.501373	-0.005	32.1275	0.006308168
2514	2	1.501582	-0.00625	32.12125	0.006306941
892	1	1.501998	0.015	32.13625	0.006309886
146	1	1.50209	0.015	32.15125	0.006312831
8845	4	1.502581	-0.005	32.14625	0.00631185
4397	3	1.50271	-0.005	32.14125	0.006310868
7974	3	1.502874	-0.005	32.13625	0.006309886
5299	3	1.503013	-0.005	32.13125	0.006308904
2775	2	1.503043	-0.00625	32.125	0.006307677
2097	2	1.503199	0.0125	32.1375	0.006310132
2319	2	1.503388	0.0125	32.15	0.006312586
1438	1	1.503402	-0.0075	32.1425	0.006311113
3525	3	1.50372	-0.005	32.1375	0.006310132
2933	3	1.5038	0.01	32.1475	0.006312095
4865	3	1.505009	-0.005	32.1425	0.006311113
2343	2	1.505114	-0.00625	32.13625	0.006309886
1861	2	1.505167	0.0125	32.14875	0.00631234
4005	3	1.505324	-0.005	32.14375	0.006311359
8133	3	1.505381	0.01	32.15375	0.006313322
8729	3	1.505565	-0.005	32.14875	0.00631234
2812	2	1.50583	0.0125	32.16125	0.006314795
2071	2	1.505847	-0.00625	32.155	0.006313568
9546	4	1.506449	-0.005	32.15	0.006312586
1726	1	1.506468	-0.0075	32.1425	0.006311113
4551	3	1.506503	0.01	32.1525	0.006313077
6413	3	1.506952	-0.005	32.1475	0.006312095
414	1	1.507177	0.015	32.1625	0.00631504
8180	3	1.507269	-0.005	32.1575	0.006314059
744	1	1.508378	0.015	32.1725	0.006317004
2580	2	1.508501	0.0125	32.185	0.006319458
6389	3	1.509381	-0.005	32.18	0.006318476
775	1	1.509672	-0.0075	32.1725	0.006317004
1397	1	1.509674	-0.0075	32.165	0.006315531
2972	3	1.509981	-0.005	32.16	0.006314549
6374	3	1.510737	-0.005	32.155	0.006313568
3940	3	1.510864	-0.005	32.15	0.006312586
6178	3	1.511457	-0.005	32.145	0.006311604
6445	3	1.511894	-0.005	32.14	0.006310622
1088	1	1.512193	-0.0075	32.1325	0.00630915
2681	2	1.51273	-0.00625	32.12625	0.006307923
3871	3	1.513342	0.01	32.13625	0.006309886
9344	4	1.513405	0.01	32.14625	0.00631185
1972	2	1.513568	-0.00625	32.14	0.006310622
8541	3	1.513621	0.01	32.15	0.006312586
468	1	1.514124	0.015	32.165	0.006315531
2583	2	1.514522	-0.00625	32.15875	0.006314304

1278	1	1.514532	-0.0075	32.15125	0.006312831
985	1	1.514736	-0.0075	32.14375	0.006311359
4017	3	1.515602	-0.005	32.13875	0.006310377
5604	3	1.51566	0.01	32.14875	0.00631234
6670	3	1.515709	0.01	32.15875	0.006314304
388	1	1.515766	-0.0075	32.15125	0.006312831
6592	3	1.51638	0.01	32.16125	0.006314795
7269	3	1.516825	0.01	32.17125	0.006316758
1073	1	1.516947	-0.0075	32.16375	0.006315286
8181	3	1.517667	-0.005	32.15875	0.006314304
5983	3	1.518184	0.01	32.16875	0.006316267
6697	3	1.518292	0.01	32.17875	0.006318231
5752	3	1.518328	-0.005	32.17375	0.006317249
2373	2	1.51853	-0.00625	32.1675	0.006316022
1275	1	1.518927	0.015	32.1825	0.006318967
7869	3	1.51911	-0.005	32.1775	0.006317985
6170	3	1.52017	-0.005	32.1725	0.006317004
6473	3	1.520368	0.01	32.1825	0.006318967
2633	2	1.520467	0.0125	32.195	0.006321422
1596	1	1.520504	-0.0075	32.1875	0.006319949
5561	3	1.520581	0.01	32.1975	0.006321912
8089	3	1.521786	-0.005	32.1925	0.006320931
806	1	1.521801	-0.0075	32.185	0.006319458
762	1	1.522215	0.015	32.2	0.006322403
5576	3	1.522219	-0.005	32.195	0.006321422
2848	2	1.522411	0.0125	32.2075	0.006323876
3004	3	1.522855	-0.005	32.2025	0.006322894
5972	3	1.523305	0.01	32.2125	0.006324858
984	1	1.52341	-0.0075	32.205	0.006323385
7826	3	1.523702	0.01	32.215	0.006325349
2298	2	1.52398	-0.00625	32.20875	0.006324121
6020	3	1.524131	-0.005	32.20375	0.00632314
9295	4	1.525324	0.01	32.21375	0.006325103
6758	3	1.525515	-0.005	32.20875	0.006324121
2577	2	1.525684	0.0125	32.22125	0.006326576
6945	3	1.526235	-0.005	32.21625	0.006325594
4314	3	1.526964	0.01	32.22625	0.006327557
4322	3	1.526967	-0.005	32.22125	0.006326576
7993	3	1.527151	-0.005	32.21625	0.006325594
821	1	1.527407	0.015	32.23125	0.006328539
1174	1	1.527598	0.015	32.24625	0.006331484
4446	3	1.527832	0.01	32.25625	0.006333448
3092	3	1.527939	-0.005	32.25125	0.006332466
6767	3	1.528682	-0.005	32.24625	0.006331484
1037	1	1.528879	-0.0075	32.23875	0.006330012
5676	3	1.52987	-0.005	32.23375	0.00632903
3060	3	1.531456	0.01	32.24375	0.006330994
430	1	1.53303	-0.0075	32.23625	0.006329521
1812	2	1.533468	-0.00625	32.23	0.006328294
2774	2	1.533912	0.0125	32.2425	0.006330748
855	1	1.534032	-0.0075	32.235	0.006329275
1406	1	1.534523	0.015	32.25	0.006332221

2638	2	1.535176	0.0125	32.2625	0.006334675
6035	3	1.535605	-0.005	32.2575	0.006333693
721	1	1.535637	-0.0075	32.25	0.006332221
4559	3	1.536233	-0.005	32.245	0.006331239
208	1	1.536584	-0.0075	32.2375	0.006329766
812	1	1.536797	0.015	32.2525	0.006332712
1785	2	1.536983	-0.00625	32.24625	0.006331484
6637	3	1.537127	-0.005	32.24125	0.006330503
290	1	1.537652	0.015	32.25625	0.006333448
873	1	1.537673	-0.0075	32.24875	0.006331975
8650	3	1.538063	-0.005	32.24375	0.006330994
7088	3	1.538078	0.01	32.25375	0.006332957
723	1	1.538325	-0.0075	32.24625	0.006331484
1858	2	1.5389	-0.00625	32.24	0.006330257
7573	3	1.539333	-0.005	32.235	0.006329275
597	1	1.539479	-0.0075	32.2275	0.006327803
7867	3	1.539949	-0.005	32.2225	0.006326821
9075	4	1.54013	-0.005	32.2175	0.006325839
2726	2	1.540149	0.0125	32.23	0.006328294
508	1	1.541256	-0.0075	32.2225	0.006326821
3153	3	1.541304	0.01	32.2325	0.006328785
8481	3	1.542867	-0.005	32.2275	0.006327803
2012	2	1.543021	-0.00625	32.22125	0.006326576
127	1	1.543175	-0.0075	32.21375	0.006325103
1438	1	1.54319	-0.0075	32.20625	0.00632363
9452	4	1.543224	-0.005	32.20125	0.006322649
609	1	1.54324	-0.0075	32.19375	0.006321176
1355	1	1.543242	-0.0075	32.18625	0.006319704
1452	1	1.54363	-0.0075	32.17875	0.006318231
3694	3	1.544032	-0.005	32.17375	0.006317249
1272	1	1.544435	0.015	32.18875	0.006320194
1542	1	1.544831	0.015	32.20375	0.00632314
180	1	1.545321	0.015	32.21875	0.006326085
1725	1	1.545992	0.015	32.23375	0.00632903
8063	3	1.546	-0.005	32.22875	0.006328048
2013	2	1.546461	-0.00625	32.2225	0.006326821
7602	3	1.546632	0.01	32.2325	0.006328785
3162	3	1.546906	0.01	32.2425	0.006330748
1736	1	1.546986	0.015	32.2575	0.006333693
7727	3	1.547132	0.01	32.2675	0.006335657
2753	2	1.549089	-0.00625	32.26125	0.00633443
2694	2	1.549112	-0.00625	32.255	0.006333202
2764	2	1.549247	-0.00625	32.24875	0.006331975
6492	3	1.549282	-0.005	32.24375	0.006330994
9385	4	1.549443	-0.005	32.23875	0.006330012
5243	3	1.550373	-0.005	32.23375	0.00632903
1836	2	1.550961	0.0125	32.24625	0.006331484
8191	3	1.551121	-0.005	32.24125	0.006330503
5854	3	1.552063	-0.005	32.23625	0.006329521
4623	3	1.5524	0.01	32.24625	0.006331484
2863	2	1.552488	-0.00625	32.24	0.006330257
2010	2	1.553057	0.0125	32.2525	0.006332712

5723	3	1.55326	-0.005	32.2475	0.00633173
9889	4	1.553457	-0.005	32.2425	0.006330748
328	1	1.553518	0.015	32.2575	0.006333693
7089	3	1.553535	0.01	32.2675	0.006335657
1582	1	1.553651	-0.0075	32.26	0.006334184
415	1	1.554177	0.015	32.275	0.006337129
2019	2	1.554306	-0.00625	32.26875	0.006335902
228	1	1.554443	0.015	32.28375	0.006338847
2928	3	1.554768	-0.005	32.27875	0.006337866
4384	3	1.554794	0.01	32.28875	0.006339829
209	1	1.555087	-0.0075	32.28125	0.006338357
889	1	1.555353	-0.0075	32.27375	0.006336884
1354	1	1.555686	-0.0075	32.26625	0.006335411
8500	3	1.556142	0.01	32.27625	0.006337375
8922	4	1.557415	-0.005	32.27125	0.006336393
7998	3	1.55841	-0.005	32.26625	0.006335411
7990	3	1.558499	-0.005	32.26125	0.00633443
8177	3	1.558913	-0.005	32.25625	0.006333448
3858	3	1.558919	0.01	32.26625	0.006335411
81	1	1.559268	0.015	32.28125	0.006338357
6794	3	1.559352	0.01	32.29125	0.00634032
5759	3	1.559659	-0.005	32.28625	0.006339338
2444	2	1.559834	-0.00625	32.28	0.006338111
8473	3	1.559897	-0.005	32.275	0.006337129
724	1	1.560476	-0.0075	32.2675	0.006335657
3006	3	1.560973	-0.005	32.2625	0.006334675
52	1	1.560997	0.015	32.2775	0.00633762
2019	2	1.561273	-0.00625	32.27125	0.006336393
5487	3	1.561587	0.01	32.28125	0.006338357
2261	2	1.561792	-0.00625	32.275	0.006337129
1892	2	1.562566	-0.00625	32.26875	0.006335902
918	1	1.563026	0.015	32.28375	0.006338847
632	1	1.56306	-0.0075	32.27625	0.006337375
153	1	1.563591	-0.0075	32.26875	0.006335902
4051	3	1.56377	0.01	32.27875	0.006337866
9146	4	1.564179	0.01	32.28875	0.006339829
1061	1	1.564503	0.015	32.30375	0.006342774
2913	3	1.564965	-0.005	32.29875	0.006341793
2833	2	1.565268	-0.00625	32.2925	0.006340565
3842	3	1.565793	-0.005	32.2875	0.006339584
3561	3	1.566605	-0.005	32.2825	0.006338602
141	1	1.566831	0.015	32.2975	0.006341547
3753	3	1.56709	-0.005	32.2925	0.006340565
2310	2	1.567267	0.0125	32.305	0.00634302
6053	3	1.567301	0.01	32.315	0.006344983
6969	3	1.567475	-0.005	32.31	0.006344002
909	1	1.567525	0.015	32.325	0.006346947
4791	3	1.568387	0.01	32.335	0.00634891
990	1	1.570104	0.015	32.35	0.006351855
2497	2	1.570427	-0.00625	32.34375	0.006350628
4875	3	1.57169	0.01	32.35375	0.006352592
5468	3	1.571734	-0.005	32.34875	0.00635161

1562	1	1.571835	-0.0075	32.34125	0.006350137
0	1	1.572779	-0.0075	32.33375	0.006348665
7602	3	1.573169	-0.005	32.32875	0.006347683
7635	3	1.573307	0.01	32.33875	0.006349647
3343	3	1.573517	-0.005	32.33375	0.006348665
8616	3	1.57436	-0.005	32.32875	0.006347683
4551	3	1.574744	-0.005	32.32375	0.006346701
6139	3	1.574816	0.01	32.33375	0.006348665
972	1	1.574829	0.015	32.34875	0.00635161
1971	2	1.57486	-0.00625	32.3425	0.006350383
1608	1	1.574928	-0.0075	32.335	0.00634891
9910	4	1.575243	0.01	32.345	0.006350874
741	1	1.575375	-0.0075	32.3375	0.006349401
2838	2	1.575515	-0.00625	32.33125	0.006348174
1690	1	1.575661	-0.0075	32.32375	0.006346701
4732	3	1.575844	0.01	32.33375	0.006348665
1181	1	1.575851	-0.0075	32.32625	0.006347192
2900	3	1.575944	-0.005	32.32125	0.00634621
1892	2	1.575961	-0.00625	32.315	0.006344983
7468	3	1.575995	-0.005	32.31	0.006344002
145	1	1.576186	-0.0075	32.3025	0.006342529
334	1	1.576254	0.015	32.3175	0.006345474
5075	3	1.576332	-0.005	32.3125	0.006344492
2983	3	1.57643	-0.005	32.3075	0.006343511
6056	3	1.576563	-0.005	32.3025	0.006342529
5009	3	1.577358	0.01	32.3125	0.006344492
6634	3	1.577486	0.01	32.3225	0.006346456
3123	3	1.578783	0.01	32.3325	0.006348419
983	1	1.578798	-0.0075	32.325	0.006346947
3103	3	1.578886	-0.005	32.32	0.006345965
4599	3	1.578911	-0.005	32.315	0.006344983
2056	2	1.580027	-0.00625	32.30875	0.006343756
6532	3	1.58111	0.01	32.31875	0.00634572
1352	1	1.581118	-0.0075	32.31125	0.006344247
4393	3	1.581279	-0.005	32.30625	0.006343265
9770	4	1.581602	-0.005	32.30125	0.006342284
8173	3	1.581732	-0.005	32.29625	0.006341302
694	1	1.581809	-0.0075	32.28875	0.006339829
3088	3	1.58197	-0.005	32.28375	0.006338847
7773	3	1.582512	0.01	32.29375	0.006340811
517	1	1.58288	-0.0075	32.28625	0.006339338
5551	3	1.582976	-0.005	32.28125	0.006338357
1965	2	1.583248	0.0125	32.29375	0.006340811
1295	1	1.58338	-0.0075	32.28625	0.006339338
2831	2	1.583486	0.0125	32.29875	0.006341793
6769	3	1.583583	0.01	32.30875	0.006343756
2350	2	1.583588	-0.00625	32.3025	0.006342529
3555	3	1.583845	-0.005	32.2975	0.006341547
5770	3	1.583945	-0.005	32.2925	0.006340565
2483	2	1.583995	-0.00625	32.28625	0.006339338
144	1	1.584311	-0.0075	32.27875	0.006337866
1764	1	1.584639	-0.0075	32.27125	0.006336393

4703	3	1.584876	0.01	32.28125	0.006338357
1309	1	1.585161	0.015	32.29625	0.006341302
3063	3	1.585347	-0.005	32.29125	0.00634032
1033	1	1.585534	0.015	32.30625	0.006343265
1486	1	1.585594	-0.0075	32.29875	0.006341793
6741	3	1.585776	-0.005	32.29375	0.006340811
4286	3	1.586661	-0.005	32.28875	0.006339829
113	1	1.58676	0.015	32.30375	0.006342774
1266	1	1.586844	-0.0075	32.29625	0.006341302
4121	3	1.587198	-0.005	32.29125	0.00634032
777	1	1.587389	-0.0075	32.28375	0.006338847
3776	3	1.587409	-0.005	32.27875	0.006337866
3033	3	1.587426	0.01	32.28875	0.006339829
6514	3	1.587694	-0.005	32.28375	0.006338847
5604	3	1.587705	-0.005	32.27875	0.006337866
5497	3	1.587943	-0.005	32.27375	0.006336884
8847	4	1.588288	-0.005	32.26875	0.006335902
8950	4	1.588381	0.01	32.27875	0.006337866
1733	1	1.588513	0.015	32.29375	0.006340811
4103	3	1.588725	-0.005	32.28875	0.006339829
1965	2	1.589095	-0.00625	32.2825	0.006338602
1787	2	1.589133	-0.00625	32.27625	0.006337375
3835	3	1.589193	-0.005	32.27125	0.006336393
3123	3	1.589224	-0.005	32.26625	0.006335411
2643	2	1.58984	0.0125	32.27875	0.006337866
6666	3	1.591329	-0.005	32.27375	0.006336884
1414	1	1.591357	-0.0075	32.26625	0.006335411
4696	3	1.591601	-0.005	32.26125	0.00633443
652	1	1.591904	-0.0075	32.25375	0.006332957
6364	3	1.593051	0.01	32.26375	0.00633492
7267	3	1.593683	0.01	32.27375	0.006336884
9815	4	1.59383	0.01	32.28375	0.006338847
4562	3	1.59389	0.01	32.29375	0.006340811
649	1	1.594038	0.015	32.30875	0.006343756
5915	3	1.594311	-0.005	32.30375	0.006342774
5439	3	1.594551	0.01	32.31375	0.006344738
2412	2	1.594976	-0.00625	32.3075	0.006343511
821	1	1.595464	-0.0075	32.3	0.006342038
3370	3	1.595591	-0.005	32.295	0.006341056
4810	3	1.595613	-0.005	32.29	0.006340075
7765	3	1.596537	0.01	32.3	0.006342038
1665	1	1.597054	-0.0075	32.2925	0.006340565
1679	1	1.597607	-0.0075	32.285	0.006339093
1664	1	1.599326	0.015	32.3	0.006342038
4388	3	1.599849	-0.005	32.295	0.006341056
5994	3	1.599913	-0.005	32.29	0.006340075
4518	3	1.599973	-0.005	32.285	0.006339093
7379	3	1.600057	-0.005	32.28	0.006338111
1958	2	1.600361	0.0125	32.2925	0.006340565
5469	3	1.600629	0.01	32.3025	0.006342529
3150	3	1.600639	0.01	32.3125	0.006344492
2580	2	1.600925	-0.00625	32.30625	0.006343265

6628	3	1.601054	-0.005	32.30125	0.006342284
2492	2	1.601498	-0.00625	32.295	0.006341056
36	1	1.601505	-0.0075	32.2875	0.006339584
335	1	1.601974	-0.0075	32.28	0.006338111
2342	2	1.602641	-0.00625	32.27375	0.006336884
1365	1	1.602665	-0.0075	32.26625	0.006335411
848	1	1.602789	0.015	32.28125	0.006338357
5831	3	1.603471	0.01	32.29125	0.00634032
872	1	1.60385	-0.0075	32.28375	0.006338847
9971	4	1.603863	-0.005	32.27875	0.006337866
9504	4	1.604	0.01	32.28875	0.006339829
3182	3	1.604298	-0.005	32.28375	0.006338847
7057	3	1.605386	-0.005	32.27875	0.006337866
795	1	1.605687	-0.0075	32.27125	0.006336393
1382	1	1.605798	0.015	32.28625	0.006339338
3759	3	1.606097	-0.005	32.28125	0.006338357
1080	1	1.607209	-0.0075	32.27375	0.006336884
9463	4	1.607868	0.01	32.28375	0.006338847
1045	1	1.608227	-0.0075	32.27625	0.006337375
6412	3	1.608672	-0.005	32.27125	0.006336393
8500	3	1.608741	-0.005	32.26625	0.006335411
7469	3	1.609092	-0.005	32.26125	0.00633443
7017	3	1.609845	-0.005	32.25625	0.006333448
4788	3	1.610147	0.01	32.26625	0.006335411
549	1	1.61073	-0.0075	32.25875	0.006333939
4522	3	1.611105	0.01	32.26875	0.006335902
1994	2	1.611131	-0.00625	32.2625	0.006334675
586	1	1.612169	-0.0075	32.255	0.006333202
6427	3	1.612423	0.01	32.265	0.006335166
581	1	1.612492	-0.0075	32.2575	0.006333693
3641	3	1.612671	-0.005	32.2525	0.006332712
9268	4	1.613657	-0.005	32.2475	0.00633173
7405	3	1.614016	-0.005	32.2425	0.006330748
9508	4	1.614194	-0.005	32.2375	0.006329766
4986	3	1.615144	-0.005	32.2325	0.006328785
7975	3	1.615679	-0.005	32.2275	0.006327803
7021	3	1.615744	-0.005	32.2225	0.006326821
3599	3	1.615856	0.01	32.2325	0.006328785
5876	3	1.615974	-0.005	32.2275	0.006327803
2858	2	1.617002	-0.00625	32.22125	0.006326576
548	1	1.617056	-0.0075	32.21375	0.006325103
1732	1	1.617303	-0.0075	32.20625	0.00632363
1717	1	1.617338	0.015	32.22125	0.006326576
8231	3	1.61799	-0.005	32.21625	0.006325594
5293	3	1.618236	-0.005	32.21125	0.006324612
2351	2	1.618996	-0.00625	32.205	0.006323385
3637	3	1.619408	-0.005	32.2	0.006322403
5832	3	1.619461	-0.005	32.195	0.006321422
3736	3	1.619727	-0.005	32.19	0.00632044
3885	3	1.619744	0.01	32.2	0.006322403
774	1	1.620154	0.015	32.215	0.006325349
5714	3	1.620485	0.01	32.225	0.006327312

2495	2	1.621184	-0.00625	32.21875	0.006326085
1034	1	1.621717	-0.0075	32.21125	0.006324612
2564	2	1.622233	0.0125	32.22375	0.006327067
6889	3	1.622796	0.01	32.23375	0.00632903
1299	1	1.623345	-0.0075	32.22625	0.006327557
3171	3	1.62352	0.01	32.23625	0.006329521
3430	3	1.62426	-0.005	32.23125	0.006328539
252	1	1.624606	0.015	32.24625	0.006331484
7670	3	1.625245	-0.005	32.24125	0.006330503
8228	3	1.625353	-0.005	32.23625	0.006329521
4546	3	1.626161	0.01	32.24625	0.006331484
2521	2	1.626386	-0.00625	32.24	0.006330257
1106	1	1.626473	0.015	32.255	0.006333202
4819	3	1.626483	-0.005	32.25	0.006332221
4775	3	1.626927	-0.005	32.245	0.006331239
7117	3	1.626951	-0.005	32.24	0.006330257
8772	4	1.627064	-0.005	32.235	0.006329275
5200	3	1.627616	-0.005	32.23	0.006328294
3029	3	1.627878	-0.005	32.225	0.006327312
5919	3	1.62797	-0.005	32.22	0.00632633
1767	1	1.628163	0.015	32.235	0.006329275
6255	3	1.628804	0.01	32.245	0.006331239
7571	3	1.628815	0.01	32.255	0.006333202
1419	1	1.628897	0.015	32.27	0.006336148
1242	1	1.628959	0.015	32.285	0.006339093
8326	3	1.629462	-0.005	32.28	0.006338111
266	1	1.62979	-0.0075	32.2725	0.006336639
8410	3	1.63034	-0.005	32.2675	0.006335657
4145	3	1.630944	-0.005	32.2625	0.006334675
1241	1	1.631028	0.015	32.2775	0.00633762
739	1	1.631042	0.015	32.2925	0.006340565
397	1	1.631603	0.015	32.3075	0.006343511
3101	3	1.631623	-0.005	32.3025	0.006342529
1276	1	1.631784	-0.0075	32.295	0.006341056
6184	3	1.632623	-0.005	32.29	0.006340075
4238	3	1.633204	-0.005	32.285	0.006339093
931	1	1.633386	0.015	32.3	0.006342038
1264	1	1.633416	-0.0075	32.2925	0.006340565
534	1	1.63412	-0.0075	32.285	0.006339093
96	1	1.634729	-0.0075	32.2775	0.00633762
5914	3	1.634735	-0.005	32.2725	0.006336639
1862	2	1.635093	0.0125	32.285	0.006339093
3772	3	1.635137	0.01	32.295	0.006341056
6766	3	1.635609	0.01	32.305	0.00634302
239	1	1.635827	-0.0075	32.2975	0.006341547
1670	1	1.636067	-0.0075	32.29	0.006340075
3726	3	1.636083	-0.005	32.285	0.006339093
6697	3	1.63639	-0.005	32.28	0.006338111
1487	1	1.637715	-0.0075	32.2725	0.006336639
2002	2	1.638299	-0.00625	32.26625	0.006335411
133	1	1.638574	-0.0075	32.25875	0.006333939
3553	3	1.638781	-0.005	32.25375	0.006332957

9421	4	1.638884	-0.005	32.24875	0.006331975
2366	2	1.639391	-0.00625	32.2425	0.006330748
3325	3	1.639661	-0.005	32.2375	0.006329766
1702	1	1.639752	-0.0075	32.23	0.006328294
835	1	1.640426	-0.0075	32.2225	0.006326821
5424	3	1.641002	-0.005	32.2175	0.006325839
3349	3	1.641543	-0.005	32.2125	0.006324858
3660	3	1.642276	-0.005	32.2075	0.006323876
9975	4	1.642285	0.01	32.2175	0.006325839
1341	1	1.642451	-0.0075	32.21	0.006324367
2407	2	1.642707	-0.00625	32.20375	0.00632314
7178	3	1.643168	-0.005	32.19875	0.006322158
527	1	1.643275	0.015	32.21375	0.006325103
2865	2	1.643303	-0.00625	32.2075	0.006323876
875	1	1.6435	0.015	32.2225	0.006326821
6302	3	1.643858	-0.005	32.2175	0.006325839
2354	2	1.644196	0.0125	32.23	0.006328294
8108	3	1.644309	-0.005	32.225	0.006327312
5798	3	1.644372	-0.005	32.22	0.00632633
223	1	1.645207	-0.0075	32.2125	0.006324858
4224	3	1.645254	-0.005	32.2075	0.006323876
1	1	1.6456	0.015	32.2225	0.006326821
6619	3	1.645712	-0.005	32.2175	0.006325839
315	1	1.645908	0.015	32.2325	0.006328785
4643	3	1.646228	-0.005	32.2275	0.006327803
385	1	1.646595	-0.0075	32.22	0.00632633
8665	3	1.646644	0.01	32.23	0.006328294
7811	3	1.647201	-0.005	32.225	0.006327312
2125	2	1.647292	-0.00625	32.21875	0.006326085
1964	2	1.647331	0.0125	32.23125	0.006328539
9846	4	1.647385	0.01	32.24125	0.006330503
6968	3	1.64743	-0.005	32.23625	0.006329521
849	1	1.647514	-0.0075	32.22875	0.006328048
7123	3	1.648116	0.01	32.23875	0.006330012
6570	3	1.648178	0.01	32.24875	0.006331975
6860	3	1.648525	0.01	32.25875	0.006333939
333	1	1.648716	0.015	32.27375	0.006336884
8969	4	1.648885	0.01	32.28375	0.006338847
1771	2	1.649127	-0.00625	32.2775	0.00633762
898	1	1.649445	-0.0075	32.27	0.006336148
2078	2	1.649521	-0.00625	32.26375	0.00633492
1045	1	1.649619	-0.0075	32.25625	0.006333448
224	1	1.649717	-0.0075	32.24875	0.006331975
1836	2	1.649916	-0.00625	32.2425	0.006330748
1084	1	1.650088	-0.0075	32.235	0.006329275
2956	3	1.650673	0.01	32.245	0.006331239
4934	3	1.650749	0.01	32.255	0.006333202
2813	2	1.650977	-0.00625	32.24875	0.006331975
195	1	1.651068	0.015	32.26375	0.00633492
7687	3	1.651146	-0.005	32.25875	0.006333939
8829	4	1.651345	-0.005	32.25375	0.006332957
2292	2	1.651829	-0.00625	32.2475	0.00633173

3496	3	1.65201	-0.005	32.2425	0.006330748
2653	2	1.653335	-0.00625	32.23625	0.006329521
4753	3	1.653651	-0.005	32.23125	0.006328539
6427	3	1.654843	-0.005	32.22625	0.006327557
2968	3	1.654984	0.01	32.23625	0.006329521
8484	3	1.655564	0.01	32.24625	0.006331484
6230	3	1.656599	0.01	32.25625	0.006333448
2361	2	1.656782	-0.00625	32.25	0.006332221
7667	3	1.656843	-0.005	32.245	0.006331239
8953	4	1.657121	-0.005	32.24	0.006330257
7064	3	1.657423	0.01	32.25	0.006332221
2952	3	1.657591	0.01	32.26	0.006334184
7908	3	1.657904	-0.005	32.255	0.006333202
8348	3	1.657906	0.01	32.265	0.006335166
227	1	1.658634	-0.0075	32.2575	0.006333693
2734	2	1.658784	-0.00625	32.25125	0.006332466
5764	3	1.659656	0.01	32.26125	0.00633443
4248	3	1.659841	-0.005	32.25625	0.006333448
2469	2	1.660187	0.0125	32.26875	0.006335902
48	1	1.660241	0.015	32.28375	0.006338847
9029	4	1.66045	-0.005	32.27875	0.006337866
2498	2	1.660644	-0.00625	32.2725	0.006336639
1134	1	1.660828	-0.0075	32.265	0.006335166
6576	3	1.661317	0.01	32.275	0.006337129
1111	1	1.661518	-0.0075	32.2675	0.006335657
3192	3	1.6618	-0.005	32.2625	0.006334675
493	1	1.662066	-0.0075	32.255	0.006333202
1233	1	1.662166	0.015	32.27	0.006336148
8518	3	1.663183	0.01	32.28	0.006338111
1695	1	1.663591	-0.0075	32.2725	0.006336639
7901	3	1.663689	0.01	32.2825	0.006338602
1046	1	1.663863	-0.0075	32.275	0.006337129
5166	3	1.665363	0.01	32.285	0.006339093
5035	3	1.665461	-0.005	32.28	0.006338111
869	1	1.666471	0.015	32.295	0.006341056
6637	3	1.666617	-0.005	32.29	0.006340075
1076	1	1.666645	0.015	32.305	0.00634302
1422	1	1.666789	-0.0075	32.2975	0.006341547
86	1	1.667133	-0.0075	32.29	0.006340075
7451	3	1.667269	-0.005	32.285	0.006339093
1525	1	1.667737	-0.0075	32.2775	0.00633762
4255	3	1.66811	0.01	32.2875	0.006339584
3564	3	1.668532	-0.005	32.2825	0.006338602
424	1	1.668771	0.015	32.2975	0.006341547
5954	3	1.668862	-0.005	32.2925	0.006340565
6278	3	1.669504	0.01	32.3025	0.006342529
7693	3	1.669685	0.01	32.3125	0.006344492
8254	3	1.669809	0.01	32.3225	0.006346456
7759	3	1.669841	-0.005	32.3175	0.006345474
4076	3	1.669916	0.01	32.3275	0.006347438
3747	3	1.669928	0.01	32.3375	0.006349401
7822	3	1.670024	-0.005	32.3325	0.006348419

725	1	1.67005	-0.0075	32.325	0.006346947
3999	3	1.670273	-0.005	32.32	0.006345965
8564	3	1.670379	-0.005	32.315	0.006344983
4150	3	1.670471	-0.005	32.31	0.006344002
8484	3	1.670555	-0.005	32.305	0.00634302
7071	3	1.670564	0.01	32.315	0.006344983
7459	3	1.67176	-0.005	32.31	0.006344002
6619	3	1.672075	-0.005	32.305	0.00634302
2496	2	1.672469	-0.00625	32.29875	0.006341793
6461	3	1.672598	-0.005	32.29375	0.006340811
3190	3	1.672814	-0.005	32.28875	0.006339829
3806	3	1.672995	-0.005	32.28375	0.006338847
2890	2	1.673161	-0.00625	32.2775	0.00633762
6300	3	1.673268	-0.005	32.2725	0.006336639
5109	3	1.674007	-0.005	32.2675	0.006335657
4187	3	1.674181	0.01	32.2775	0.00633762
1466	1	1.674282	0.015	32.2925	0.006340565
6541	3	1.674446	0.01	32.3025	0.006342529
1369	1	1.67538	0.015	32.3175	0.006345474
1470	1	1.675671	-0.0075	32.31	0.006344002
8550	3	1.675863	0.01	32.32	0.006345965
4927	3	1.676018	-0.005	32.315	0.006344983
6862	3	1.676837	0.01	32.325	0.006346947
1409	1	1.677132	-0.0075	32.3175	0.006345474
1761	1	1.677653	-0.0075	32.31	0.006344002
664	1	1.677957	-0.0075	32.3025	0.006342529
2952	3	1.678093	-0.005	32.2975	0.006341547
964	1	1.678612	-0.0075	32.29	0.006340075
7391	3	1.678787	-0.005	32.285	0.006339093
143	1	1.678911	0.015	32.3	0.006342038
148	1	1.679321	0.015	32.315	0.006344983
1164	1	1.679544	-0.0075	32.3075	0.006343511
4225	3	1.679807	-0.005	32.3025	0.006342529
1890	2	1.679926	0.0125	32.315	0.006344983
4623	3	1.680969	-0.005	32.31	0.006344002
9526	4	1.681011	-0.005	32.305	0.00634302
2670	2	1.681176	-0.00625	32.29875	0.006341793
291	1	1.681494	0.015	32.31375	0.006344738
4781	3	1.681586	-0.005	32.30875	0.006343756
350	1	1.681632	-0.0075	32.30125	0.006342284
2040	2	1.681783	0.0125	32.31375	0.006344738
4184	3	1.681806	0.01	32.32375	0.006346701
3496	3	1.681914	-0.005	32.31875	0.00634572
8412	3	1.6822	-0.005	32.31375	0.006344738
2142	2	1.682541	-0.00625	32.3075	0.006343511
5263	3	1.683188	0.01	32.3175	0.006345474
1473	1	1.683423	-0.0075	32.31	0.006344002
7248	3	1.683666	-0.005	32.305	0.00634302
3046	3	1.683679	-0.005	32.3	0.006342038
3961	3	1.683716	-0.005	32.295	0.006341056
1153	1	1.683869	0.015	32.31	0.006344002
3169	3	1.683968	-0.005	32.305	0.00634302

2157	2	1.684651	-0.00625	32.29875	0.006341793
552	1	1.684686	0.015	32.31375	0.006344738
4195	3	1.684988	0.01	32.32375	0.006346701
7157	3	1.685167	0.01	32.33375	0.006348665
2577	2	1.685283	-0.00625	32.3275	0.006347438
8552	3	1.685283	-0.005	32.3225	0.006346456
2633	2	1.685434	-0.00625	32.31625	0.006345229
2198	2	1.686542	-0.00625	32.31	0.006344002
1383	1	1.686953	-0.0075	32.3025	0.006342529
6742	3	1.687207	0.01	32.3125	0.006344492
107	1	1.687247	-0.0075	32.305	0.00634302
6192	3	1.687442	-0.005	32.3	0.006342038
8231	3	1.687531	-0.005	32.295	0.006341056
7203	3	1.687591	0.01	32.305	0.00634302
5275	3	1.687642	-0.005	32.3	0.006342038
7878	3	1.68771	0.01	32.31	0.006344002
1364	1	1.687949	-0.0075	32.3025	0.006342529
1707	1	1.687997	-0.0075	32.295	0.006341056
4677	3	1.68893	-0.005	32.29	0.006340075
9526	4	1.689062	-0.005	32.285	0.006339093
1405	1	1.689176	-0.0075	32.2775	0.00633762
9681	4	1.689243	0.01	32.2875	0.006339584
3425	3	1.689654	0.01	32.2975	0.006341547
8264	3	1.689844	0.01	32.3075	0.006343511
3133	3	1.690104	-0.005	32.3025	0.006342529
4346	3	1.690403	-0.005	32.2975	0.006341547
4383	3	1.690735	-0.005	32.2925	0.006340565
2091	2	1.690832	0.0125	32.305	0.00634302
1339	1	1.691672	-0.0075	32.2975	0.006341547
2346	2	1.693044	-0.00625	32.29125	0.00634032
6568	3	1.693253	-0.005	32.28625	0.006339338
2878	2	1.693308	0.0125	32.29875	0.006341793
9700	4	1.693444	-0.005	32.29375	0.006340811
6185	3	1.693672	-0.005	32.28875	0.006339829
9200	4	1.694018	0.01	32.29875	0.006341793
4703	3	1.694608	-0.005	32.29375	0.006340811
3317	3	1.694837	-0.005	32.28875	0.006339829
4007	3	1.694877	-0.005	32.28375	0.006338847
1350	1	1.695147	-0.0075	32.27625	0.006337375
7222	3	1.695356	0.01	32.28625	0.006339338
6631	3	1.695722	-0.005	32.28125	0.006338357
3876	3	1.695866	-0.005	32.27625	0.006337375
979	1	1.696175	0.015	32.29125	0.00634032
3894	3	1.696391	-0.005	32.28625	0.006339338
5554	3	1.69652	0.01	32.29625	0.006341302
2249	2	1.696733	-0.00625	32.29	0.006340075
7345	3	1.696819	-0.005	32.285	0.006339093
2220	2	1.69689	0.0125	32.2975	0.006341547
3587	3	1.697076	-0.005	32.2925	0.006340565
2146	2	1.697378	-0.00625	32.28625	0.006339338
2748	2	1.697419	0.0125	32.29875	0.006341793
9958	4	1.697917	0.01	32.30875	0.006343756

908	1	1.69804	-0.0075	32.30125	0.006342284
3668	3	1.698338	-0.005	32.29625	0.006341302
1324	1	1.698393	-0.0075	32.28875	0.006339829
8017	3	1.698429	-0.005	32.28375	0.006338847
6842	3	1.698566	0.01	32.29375	0.006340811
6027	3	1.698616	0.01	32.30375	0.006342774
1321	1	1.699267	-0.0075	32.29625	0.006341302
3153	3	1.69936	-0.005	32.29125	0.00634032
7128	3	1.699735	-0.005	32.28625	0.006339338
3151	3	1.700402	-0.005	32.28125	0.006338357
5947	3	1.700468	-0.005	32.27625	0.006337375
7674	3	1.700502	0.01	32.28625	0.006339338
1662	1	1.701476	-0.0075	32.27875	0.006337866
402	1	1.701933	0.015	32.29375	0.006340811
5432	3	1.702119	-0.005	32.28875	0.006339829
848	1	1.702731	-0.0075	32.28125	0.006338357
5508	3	1.70282	-0.005	32.27625	0.006337375
3610	3	1.703218	0.01	32.28625	0.006339338
9361	4	1.703633	-0.005	32.28125	0.006338357
874	1	1.70373	-0.0075	32.27375	0.006336884
1645	1	1.703802	0.015	32.28875	0.006339829
886	1	1.704878	-0.0075	32.28125	0.006338357
7269	3	1.70503	-0.005	32.27625	0.006337375
6677	3	1.705093	0.01	32.28625	0.006339338
8060	3	1.705215	-0.005	32.28125	0.006338357
1216	1	1.705357	-0.0075	32.27375	0.006336884
3021	3	1.705607	-0.005	32.26875	0.006335902
304	1	1.706277	0.015	32.28375	0.006338847
3428	3	1.707005	-0.005	32.27875	0.006337866
603	1	1.707169	-0.0075	32.27125	0.006336393
1862	2	1.707272	-0.00625	32.265	0.006335166
9004	4	1.707921	-0.005	32.26	0.006334184
2726	2	1.707981	-0.00625	32.25375	0.006332957
6047	3	1.708146	0.01	32.26375	0.00633492
4848	3	1.709246	-0.005	32.25875	0.006333939
2128	2	1.709354	-0.00625	32.2525	0.006332712
7300	3	1.709564	-0.005	32.2475	0.00633173
5058	3	1.709576	-0.005	32.2425	0.006330748
2192	2	1.710021	-0.00625	32.23625	0.006329521
4426	3	1.710175	0.01	32.24625	0.006331484
2163	2	1.710176	-0.00625	32.24	0.006330257
839	1	1.710806	0.015	32.255	0.006333202
574	1	1.711083	-0.0075	32.2475	0.00633173
5166	3	1.711276	-0.005	32.2425	0.006330748
7204	3	1.711443	0.01	32.2525	0.006332712
1056	1	1.711664	0.015	32.2675	0.006335657
9007	4	1.711877	-0.005	32.2625	0.006334675
7298	3	1.711911	0.01	32.2725	0.006336639
6592	3	1.712038	-0.005	32.2675	0.006335657
17	1	1.712222	-0.0075	32.26	0.006334184
3150	3	1.712627	-0.005	32.255	0.006333202
2596	2	1.713609	-0.00625	32.24875	0.006331975

3293	3	1.713704	-0.005	32.24375	0.006330994
3189	3	1.714382	-0.005	32.23875	0.006330012
7648	3	1.714462	-0.005	32.23375	0.00632903
3706	3	1.71493	-0.005	32.22875	0.006328048
808	1	1.716567	-0.0075	32.22125	0.006326576
7742	3	1.716751	-0.005	32.21625	0.006325594
6083	3	1.716889	0.01	32.22625	0.006327557
6361	3	1.716891	-0.005	32.22125	0.006326576
2627	2	1.717053	-0.00625	32.215	0.006325349
6072	3	1.717558	-0.005	32.21	0.006324367
3359	3	1.717621	-0.005	32.205	0.006323385
3171	3	1.718007	-0.005	32.2	0.006322403
1746	1	1.718266	-0.0075	32.1925	0.006320931
5536	3	1.718399	-0.005	32.1875	0.006319949
2290	2	1.719586	0.0125	32.2	0.006322403
1629	1	1.720919	-0.0075	32.1925	0.006320931
844	1	1.721074	-0.0075	32.185	0.006319458
2926	3	1.721093	-0.005	32.18	0.006318476
2731	2	1.721135	-0.00625	32.17375	0.006317249
498	1	1.721963	-0.0075	32.16625	0.006315777
2733	2	1.722445	-0.00625	32.16	0.006314549
1847	2	1.722697	-0.00625	32.15375	0.006313322
7384	3	1.722935	-0.005	32.14875	0.00631234
7826	3	1.723288	-0.005	32.14375	0.006311359
2572	2	1.723546	-0.00625	32.1375	0.006310132
2282	2	1.723706	-0.00625	32.13125	0.006308904
305	1	1.723805	0.015	32.14625	0.00631185
4370	3	1.724225	-0.005	32.14125	0.006310868
8379	3	1.724304	0.01	32.15125	0.006312831
4205	3	1.724805	-0.005	32.14625	0.00631185
1970	2	1.725439	0.0125	32.15875	0.006314304
6740	3	1.725456	-0.005	32.15375	0.006313322
9453	4	1.725749	0.01	32.16375	0.006315286
3563	3	1.725915	-0.005	32.15875	0.006314304
4727	3	1.726549	-0.005	32.15375	0.006313322
8500	3	1.727006	-0.005	32.14875	0.00631234
852	1	1.727653	0.015	32.16375	0.006315286
158	1	1.727717	-0.0075	32.15625	0.006313813
8290	3	1.728118	0.01	32.16625	0.006315777
1744	1	1.728371	0.015	32.18125	0.006318722
2242	2	1.728686	-0.00625	32.175	0.006317495
1712	1	1.728979	-0.0075	32.1675	0.006316022
304	1	1.729445	-0.0075	32.16	0.006314549
1040	1	1.729795	0.015	32.175	0.006317495
3399	3	1.729902	-0.005	32.17	0.006316513
373	1	1.730347	0.015	32.185	0.006319458
1492	1	1.730619	0.015	32.2	0.006322403
7610	3	1.731644	0.01	32.21	0.006324367
2575	2	1.731824	0.0125	32.2225	0.006326821
3435	3	1.731833	-0.005	32.2175	0.006325839
9857	4	1.731937	-0.005	32.2125	0.006324858
1448	1	1.731988	-0.0075	32.205	0.006323385

810	1	1.732289	-0.0075	32.1975	0.006321912
891	1	1.732418	-0.0075	32.19	0.00632044
2364	2	1.733072	-0.00625	32.18375	0.006319213
5354	3	1.733342	0.01	32.19375	0.006321176
3566	3	1.733491	-0.005	32.18875	0.006320194
186	1	1.733872	-0.0075	32.18125	0.006318722
5679	3	1.735175	-0.005	32.17625	0.00631774
7946	3	1.735263	-0.005	32.17125	0.006316758
1463	1	1.735303	-0.0075	32.16375	0.006315286
8939	4	1.735362	-0.005	32.15875	0.006314304
2495	2	1.735437	-0.00625	32.1525	0.006313077
175	1	1.735875	0.015	32.1675	0.006316022
267	1	1.735973	-0.0075	32.16	0.006314549
2210	2	1.73611	-0.00625	32.15375	0.006313322
4964	3	1.736475	0.01	32.16375	0.006315286
2426	2	1.736823	0.0125	32.17625	0.00631774
5219	3	1.738069	-0.005	32.17125	0.006316758
3364	3	1.739052	0.01	32.18125	0.006318722
2324	2	1.739139	-0.00625	32.175	0.006317495
2676	2	1.739601	-0.00625	32.16875	0.006316267
2357	2	1.739884	0.0125	32.18125	0.006318722
3390	3	1.740145	-0.005	32.17625	0.00631774
4867	3	1.740148	-0.005	32.17125	0.006316758
654	1	1.740589	-0.0075	32.16375	0.006315286
1566	1	1.740767	-0.0075	32.15625	0.006313813
6977	3	1.740953	-0.005	32.15125	0.006312831
2637	2	1.741171	-0.00625	32.145	0.006311604
7580	3	1.741551	-0.005	32.14	0.006310622
272	1	1.741954	-0.0075	32.1325	0.00630915
1190	1	1.742351	-0.0075	32.125	0.006307677
6374	3	1.743225	-0.005	32.12	0.006306695
1511	1	1.74347	-0.0075	32.1125	0.006305223
4480	3	1.743734	0.01	32.1225	0.006307186
2602	2	1.743848	-0.00625	32.11625	0.006305959
7916	3	1.744898	-0.005	32.11125	0.006304977
3760	3	1.744931	0.01	32.12125	0.006306941
646	1	1.745352	-0.0075	32.11375	0.006305468
8082	3	1.745617	-0.005	32.10875	0.006304487
7143	3	1.745776	-0.005	32.10375	0.006303505
6968	3	1.746582	-0.005	32.09875	0.006302523
2285	2	1.74663	0.0125	32.11125	0.006304977
1418	1	1.746829	0.015	32.12625	0.006307923
7606	3	1.748039	-0.005	32.12125	0.006306941
7088	3	1.748573	-0.005	32.11625	0.006305959
4934	3	1.748635	-0.005	32.11125	0.006304977
7296	3	1.74868	-0.005	32.10625	0.006303996
6665	3	1.748768	0.01	32.11625	0.006305959
2682	2	1.74946	0.0125	32.12875	0.006308414
8221	3	1.75021	-0.005	32.12375	0.006307432
1789	2	1.75026	-0.00625	32.1175	0.006306205
185	1	1.751852	-0.0075	32.11	0.006304732
995	1	1.75212	0.015	32.125	0.006307677

7045	3	1.752308	-0.005	32.12	0.006306695
2736	2	1.752535	-0.00625	32.11375	0.006305468
4189	3	1.753269	-0.005	32.10875	0.006304487
7692	3	1.753482	-0.005	32.10375	0.006303505
3073	3	1.753491	-0.005	32.09875	0.006302523
2481	2	1.753748	-0.00625	32.0925	0.006301296
447	1	1.754224	-0.0075	32.085	0.006299823
7715	3	1.75451	-0.005	32.08	0.006298842
727	1	1.754654	-0.0075	32.0725	0.006297369
7646	3	1.755507	0.01	32.0825	0.006299332
1628	1	1.756151	-0.0075	32.075	0.00629786
6697	3	1.756292	-0.005	32.07	0.006296878
1666	1	1.756358	-0.0075	32.0625	0.006295405
920	1	1.756384	-0.0075	32.055	0.006293933
2032	2	1.756817	-0.00625	32.04875	0.006292706
8078	3	1.756991	-0.005	32.04375	0.006291724
6386	3	1.757226	0.01	32.05375	0.006293687
1152	1	1.757709	-0.0075	32.04625	0.006292215
5561	3	1.757893	-0.005	32.04125	0.006291233
2220	2	1.758627	-0.00625	32.035	0.006290006
2840	2	1.758787	-0.00625	32.02875	0.006288779
8414	3	1.758931	0.01	32.03875	0.006290742
6195	3	1.758972	-0.005	32.03375	0.00628976
2353	2	1.760312	-0.00625	32.0275	0.006288533
4932	3	1.760532	-0.005	32.0225	0.006287552
1024	1	1.760872	-0.0075	32.015	0.006286079
4749	3	1.761885	-0.005	32.01	0.006285097
803	1	1.761887	0.015	32.025	0.006288042
8583	3	1.761981	-0.005	32.02	0.006287061
4603	3	1.762098	-0.005	32.015	0.006286079
6905	3	1.763181	-0.005	32.01	0.006285097
1786	2	1.763275	0.0125	32.0225	0.006287552
889	1	1.763357	-0.0075	32.015	0.006286079
3060	3	1.763495	-0.005	32.01	0.006285097
7901	3	1.763787	-0.005	32.005	0.006284115
3598	3	1.764588	-0.005	32	0.006283134
1367	1	1.766059	-0.0075	31.9925	0.006281661
798	1	1.766563	0.015	32.0075	0.006284606
892	1	1.767619	-0.0075	32	0.006283134
1492	1	1.768496	-0.0075	31.9925	0.006281661
1646	1	1.768776	-0.0075	31.985	0.006280188
5100	3	1.769303	-0.005	31.98	0.006279207
6187	3	1.769327	-0.005	31.975	0.006278225
417	1	1.769802	-0.0075	31.9675	0.006276752
3237	3	1.769992	-0.005	31.9625	0.006275771
5720	3	1.770241	-0.005	31.9575	0.006274789
5200	3	1.770416	-0.005	31.9525	0.006273807
2925	3	1.770552	-0.005	31.9475	0.006272825
6109	3	1.770864	-0.005	31.9425	0.006271844
1250	1	1.770998	-0.0075	31.935	0.006270371
2242	2	1.771765	-0.00625	31.92875	0.006269144
3780	3	1.772835	-0.005	31.92375	0.006268162

1590	1	1.773134	-0.0075	31.91625	0.00626669
363	1	1.773269	0.015	31.93125	0.006269635
8680	3	1.773324	-0.005	31.92625	0.006268653
3112	3	1.773349	-0.005	31.92125	0.006267671
3476	3	1.773825	0.01	31.93125	0.006269635
7263	3	1.77395	-0.005	31.92625	0.006268653
1076	1	1.774195	-0.0075	31.91875	0.00626718
840	1	1.77436	-0.0075	31.91125	0.006265708
3943	3	1.774569	-0.005	31.90625	0.006264726
9274	4	1.774601	-0.005	31.90125	0.006263744
415	1	1.77468	-0.0075	31.89375	0.006262272
8691	3	1.775018	0.01	31.90375	0.006264235
6475	3	1.775176	-0.005	31.89875	0.006263253
4005	3	1.775216	-0.005	31.89375	0.006262272
8007	3	1.775513	-0.005	31.88875	0.00626129
7046	3	1.775564	-0.005	31.88375	0.006260308
2048	2	1.775578	0.0125	31.89625	0.006262763
1145	1	1.775984	-0.0075	31.88875	0.00626129
9096	4	1.77616	0.01	31.89875	0.006263253
4691	3	1.776228	0.01	31.90875	0.006265217
4788	3	1.77643	-0.005	31.90375	0.006264235
2274	2	1.777312	-0.00625	31.8975	0.006263008
5746	3	1.778173	-0.005	31.8925	0.006262026
945	1	1.778335	-0.0075	31.885	0.006260554
6810	3	1.77876	0.01	31.895	0.006262517
5357	3	1.778808	-0.005	31.89	0.006261535
7484	3	1.779566	0.01	31.9	0.006263499
2699	2	1.77959	-0.00625	31.89375	0.006262272
2782	2	1.780234	0.0125	31.90625	0.006264726
3266	3	1.780452	-0.005	31.90125	0.006263744
6068	3	1.780567	-0.005	31.89625	0.006262763
6858	3	1.780905	0.01	31.90625	0.006264726
5418	3	1.781117	0.01	31.91625	0.00626669
2564	2	1.781314	-0.00625	31.91	0.006265462
3235	3	1.78284	-0.005	31.905	0.006264481
1583	1	1.782982	-0.0075	31.8975	0.006263008
360	1	1.78347	0.015	31.9125	0.006265953
7582	3	1.783723	0.01	31.9225	0.006267917
598	1	1.783756	0.015	31.9375	0.006270862
1956	2	1.784245	-0.00625	31.93125	0.006269635
4640	3	1.784278	-0.005	31.92625	0.006268653
6841	3	1.784351	-0.005	31.92125	0.006267671
7099	3	1.78452	-0.005	31.91625	0.00626669
396	1	1.784694	-0.0075	31.90875	0.006265217
7041	3	1.7847	-0.005	31.90375	0.006264235
4088	3	1.785446	0.01	31.91375	0.006266199
974	1	1.785909	-0.0075	31.90625	0.006264726
3331	3	1.785985	0.01	31.91625	0.00626669
6728	3	1.786328	-0.005	31.91125	0.006265708
815	1	1.786397	0.015	31.92625	0.006268653
1341	1	1.787142	-0.0075	31.91875	0.00626718
3940	3	1.787291	-0.005	31.91375	0.006266199

6789	3	1.788053	0.01	31.92375	0.006268162
281	1	1.788351	-0.0075	31.91625	0.00626669
7006	3	1.788372	-0.005	31.91125	0.006265708
1213	1	1.788614	-0.0075	31.90375	0.006264235
4390	3	1.788736	-0.005	31.89875	0.006263253
7084	3	1.78927	-0.005	31.89375	0.006262272
4678	3	1.789496	-0.005	31.88875	0.00626129
3415	3	1.789863	-0.005	31.88375	0.006260308
8380	3	1.790195	-0.005	31.87875	0.006259327
4872	3	1.790608	-0.005	31.87375	0.006258345
1222	1	1.790672	-0.0075	31.86625	0.006256872
4661	3	1.790755	0.01	31.87625	0.006258836
2382	2	1.790787	-0.00625	31.87	0.006257608
8158	3	1.791102	-0.005	31.865	0.006256627
3422	3	1.791788	-0.005	31.86	0.006255645
8228	3	1.791791	-0.005	31.855	0.006254663
5703	3	1.792337	-0.005	31.85	0.006253682
5659	3	1.792755	0.01	31.86	0.006255645
8111	3	1.793	0.01	31.87	0.006257608
4223	3	1.793122	0.01	31.88	0.006259572
9083	4	1.793195	0.01	31.89	0.006261535
1812	2	1.794035	-0.00625	31.88375	0.006260308
6925	3	1.794228	-0.005	31.87875	0.006259327
1475	1	1.794713	-0.0075	31.87125	0.006257854
5763	3	1.79472	-0.005	31.86625	0.006256872
476	1	1.794876	0.015	31.88125	0.006259817
2041	2	1.795267	-0.00625	31.875	0.00625859
3514	3	1.795398	-0.005	31.87	0.006257608
5855	3	1.796096	0.01	31.88	0.006259572
4306	3	1.796441	-0.005	31.875	0.00625859
2818	2	1.796624	-0.00625	31.86875	0.006257363
3880	3	1.796776	-0.005	31.86375	0.006256381
2746	2	1.796814	0.0125	31.87625	0.006258836
6845	3	1.797235	-0.005	31.87125	0.006257854
3241	3	1.797592	0.01	31.88125	0.006259817
6556	3	1.797818	-0.005	31.87625	0.006258836
504	1	1.798126	0.015	31.89125	0.006261781
6155	3	1.798624	-0.005	31.88625	0.006260799
1394	1	1.798773	-0.0075	31.87875	0.006259327
67	1	1.799529	-0.0075	31.87125	0.006257854
5574	3	1.799679	-0.005	31.86625	0.006256872
2364	2	1.799819	-0.00625	31.86	0.006255645
9635	4	1.800094	-0.005	31.855	0.006254663
7698	3	1.800457	0.01	31.865	0.006256627
3575	3	1.800647	-0.005	31.86	0.006255645
2307	2	1.800686	-0.00625	31.85375	0.006254418
3602	3	1.800688	0.01	31.86375	0.006256381
2048	2	1.801023	-0.00625	31.8575	0.006255154
7331	3	1.801025	0.01	31.8675	0.006257118
824	1	1.801909	-0.0075	31.86	0.006255645
3712	3	1.80196	0.01	31.87	0.006257608
6103	3	1.802319	-0.005	31.865	0.006256627

1701	1	1.802324	0.015	31.88	0.006259572
951	1	1.802411	-0.0075	31.8725	0.006258099
8703	3	1.802462	0.01	31.8825	0.006260063
4889	3	1.803063	-0.005	31.8775	0.006259081
3476	3	1.803102	-0.005	31.8725	0.006258099
4389	3	1.803852	0.01	31.8825	0.006260063
8913	4	1.80415	-0.005	31.8775	0.006259081
989	1	1.80489	-0.0075	31.87	0.006257608
2725	2	1.805411	-0.00625	31.86375	0.006256381
8332	3	1.805818	-0.005	31.85875	0.0062554
9807	4	1.80595	-0.005	31.85375	0.006254418
4025	3	1.806076	-0.005	31.84875	0.006253436
5463	3	1.8062	-0.005	31.84375	0.006252454
4105	3	1.80684	-0.005	31.83875	0.006251473
1952	2	1.807216	0.0125	31.85125	0.006253927
3764	3	1.807412	-0.005	31.84625	0.006252945
5124	3	1.808181	0.01	31.85625	0.006254909
5764	3	1.808184	-0.005	31.85125	0.006253927
332	1	1.808271	0.015	31.86625	0.006256872
8340	3	1.808637	0.01	31.87625	0.006258836
7430	3	1.808745	-0.005	31.87125	0.006257854
6495	3	1.808902	0.01	31.88125	0.006259817
4694	3	1.809056	-0.005	31.87625	0.006258836
8422	3	1.809131	-0.005	31.87125	0.006257854
2354	2	1.809192	-0.00625	31.865	0.006256627
1403	1	1.809391	-0.0075	31.8575	0.006255154
5387	3	1.809515	-0.005	31.8525	0.006254172
2312	2	1.810332	-0.00625	31.84625	0.006252945
2732	2	1.810397	-0.00625	31.84	0.006251718
2434	2	1.810445	-0.00625	31.83375	0.006250491
4175	3	1.81065	-0.005	31.82875	0.006249509
7614	3	1.810693	0.01	31.83875	0.006251473
2036	2	1.811007	0.0125	31.85125	0.006253927
3651	3	1.811644	0.01	31.86125	0.00625589
5892	3	1.811838	0.01	31.87125	0.006257854
3610	3	1.811908	-0.005	31.86625	0.006256872
8403	3	1.81192	-0.005	31.86125	0.00625589
8665	3	1.811952	-0.005	31.85625	0.006254909
5972	3	1.812331	-0.005	31.85125	0.006253927
987	1	1.812442	-0.0075	31.84375	0.006252454
3390	3	1.812641	-0.005	31.83875	0.006251473
617	1	1.812879	-0.0075	31.83125	0.00625
3203	3	1.813013	-0.005	31.82625	0.006249018
1860	2	1.813844	-0.00625	31.82	0.006247791
2035	2	1.813969	-0.00625	31.81375	0.006246564
1056	1	1.814578	-0.0075	31.80625	0.006245091
9944	4	1.815094	0.01	31.81625	0.006247055
8789	4	1.815378	-0.005	31.81125	0.006246073
8487	3	1.815845	-0.005	31.80625	0.006245091
7249	3	1.816261	-0.005	31.80125	0.00624411
1306	1	1.816262	-0.0075	31.79375	0.006242637
3334	3	1.816398	-0.005	31.78875	0.006241655

1891	2	1.816531	0.0125	31.80125	0.00624411
2290	2	1.816687	-0.00625	31.795	0.006242882
8027	3	1.817281	-0.005	31.79	0.006241901
8937	4	1.817887	-0.005	31.785	0.006240919
2558	2	1.817952	-0.00625	31.77875	0.006239692
7378	3	1.817968	-0.005	31.77375	0.00623871
8163	3	1.818001	-0.005	31.76875	0.006237728
9866	4	1.818325	0.01	31.77875	0.006239692
722	1	1.818649	0.015	31.79375	0.006242637
1111	1	1.819982	-0.0075	31.78625	0.006241164
2648	2	1.820102	0.0125	31.79875	0.006243619
3228	3	1.821046	-0.005	31.79375	0.006242637
3735	3	1.821731	-0.005	31.78875	0.006241655
2614	2	1.821742	-0.00625	31.7825	0.006240428
6553	3	1.82221	-0.005	31.7775	0.006239446
843	1	1.822291	0.015	31.7925	0.006242392
2022	2	1.822551	0.0125	31.805	0.006244846
783	1	1.822939	0.015	31.82	0.006247791
63	1	1.823017	-0.0075	31.8125	0.006246318
4835	3	1.823075	0.01	31.8225	0.006248282
877	1	1.823508	-0.0075	31.815	0.006246809
892	1	1.823934	-0.0075	31.8075	0.006245337
1816	2	1.824077	0.0125	31.82	0.006247791
2042	2	1.824263	-0.00625	31.81375	0.006246564
2100	2	1.824464	0.0125	31.82625	0.006249018
2438	2	1.826002	-0.00625	31.82	0.006247791
5216	3	1.826389	0.01	31.83	0.006249755
904	1	1.826391	-0.0075	31.8225	0.006248282
4213	3	1.826715	-0.005	31.8175	0.0062473
2903	3	1.827058	0.01	31.8275	0.006249264
4986	3	1.827239	-0.005	31.8225	0.006248282
992	1	1.827373	-0.0075	31.815	0.006246809
2103	2	1.828084	-0.00625	31.80875	0.006245582
5803	3	1.828146	-0.005	31.80375	0.0062446
5374	3	1.828189	-0.005	31.79875	0.006243619
5009	3	1.828332	-0.005	31.79375	0.006242637
8534	3	1.828717	0.01	31.80375	0.0062446
1169	1	1.82891	0.015	31.81875	0.006247546
994	1	1.829344	-0.0075	31.81125	0.006246073
1247	1	1.830088	0.015	31.82625	0.006249018
6222	3	1.830197	0.01	31.83625	0.006250982
3705	3	1.830484	-0.005	31.83125	0.00625
2571	2	1.830633	0.0125	31.84375	0.006252454
550	1	1.831883	-0.0075	31.83625	0.006250982
7712	3	1.831988	-0.005	31.83125	0.00625
1714	1	1.832069	-0.0075	31.82375	0.006248527
2812	2	1.83278	-0.00625	31.8175	0.0062473
4672	3	1.832955	-0.005	31.8125	0.006246318
7761	3	1.833566	-0.005	31.8075	0.006245337
776	1	1.833721	-0.0075	31.8	0.006243864
4015	3	1.834334	0.01	31.81	0.006245828
2776	2	1.834373	-0.00625	31.80375	0.0062446

5278	3	1.834389	0.01	31.81375	0.006246564
6842	3	1.834854	-0.005	31.80875	0.006245582
7836	3	1.835752	-0.005	31.80375	0.0062446
7701	3	1.83594	0.01	31.81375	0.006246564
2141	2	1.835967	0.0125	31.82625	0.006249018
3273	3	1.836271	-0.005	31.82125	0.006248037
7767	3	1.836807	-0.005	31.81625	0.006247055
4874	3	1.836979	-0.005	31.81125	0.006246073
8406	3	1.837437	-0.005	31.80625	0.006245091
8666	3	1.837936	0.01	31.81625	0.006247055
914	1	1.838108	-0.0075	31.80875	0.006245582
2027	2	1.838429	-0.00625	31.8025	0.006244355
5866	3	1.838562	0.01	31.8125	0.006246318
6538	3	1.838711	0.01	31.8225	0.006248282
5231	3	1.83881	-0.005	31.8175	0.0062473
4625	3	1.838899	-0.005	31.8125	0.006246318
2866	2	1.839554	-0.00625	31.80625	0.006245091
5396	3	1.840526	-0.005	31.80125	0.00624411
4456	3	1.84074	-0.005	31.79625	0.006243128
740	1	1.84221	-0.0075	31.78875	0.006241655
9199	4	1.842378	-0.005	31.78375	0.006240673
990	1	1.842685	-0.0075	31.77625	0.006239201
7238	3	1.843031	-0.005	31.77125	0.006238219
2742	2	1.843157	-0.00625	31.765	0.006236992
2374	2	1.843412	-0.00625	31.75875	0.006235765
427	1	1.84353	0.015	31.77375	0.00623871
8766	4	1.843635	0.01	31.78375	0.006240673
1962	2	1.843651	-0.00625	31.7775	0.006239446
4498	3	1.844225	-0.005	31.7725	0.006238465
5545	3	1.844369	-0.005	31.7675	0.006237483
220	1	1.844462	-0.0075	31.76	0.00623601
5779	3	1.84462	-0.005	31.755	0.006235028
4122	3	1.846401	-0.005	31.75	0.006234047
4839	3	1.846431	-0.005	31.745	0.006233065
8455	3	1.846646	-0.005	31.74	0.006232083
2574	2	1.847506	-0.00625	31.73375	0.006230856
8508	3	1.849041	0.01	31.74375	0.00623282
5841	3	1.850415	-0.005	31.73875	0.006231838
9946	4	1.850863	-0.005	31.73375	0.006230856
4914	3	1.851607	0.01	31.74375	0.00623282
7534	3	1.851996	-0.005	31.73875	0.006231838
1967	2	1.85201	-0.00625	31.7325	0.006230611
8313	3	1.85235	-0.005	31.7275	0.006229629
7348	3	1.852402	-0.005	31.7225	0.006228647
7394	3	1.852497	0.01	31.7325	0.006230611
962	1	1.852698	-0.0075	31.725	0.006229138
3100	3	1.853245	0.01	31.735	0.006231102
2231	2	1.853414	0.0125	31.7475	0.006233556
3350	3	1.853581	-0.005	31.7425	0.006232574
903	1	1.853661	-0.0075	31.735	0.006231102
1906	2	1.854456	-0.00625	31.72875	0.006229874
90	1	1.855043	-0.0075	31.72125	0.006228402

439	1	1.855245	-0.0075	31.71375	0.006226929
1032	1	1.855539	-0.0075	31.70625	0.006225457
9787	4	1.855588	-0.005	31.70125	0.006224475
2826	2	1.855703	0.0125	31.71375	0.006226929
5250	3	1.855905	0.01	31.72375	0.006228893
2650	2	1.856788	0.0125	31.73625	0.006231347
3590	3	1.856844	0.01	31.74625	0.00623331
2521	2	1.857627	-0.00625	31.74	0.006232083
2217	2	1.857795	-0.00625	31.73375	0.006230856
6544	3	1.857849	0.01	31.74375	0.00623282
6610	3	1.857919	-0.005	31.73875	0.006231838
8541	3	1.859519	-0.005	31.73375	0.006230856
1609	1	1.860086	0.015	31.74875	0.006233801
6888	3	1.860221	0.01	31.75875	0.006235765
7256	3	1.860466	0.01	31.76875	0.006237728
3568	3	1.860873	-0.005	31.76375	0.006236747
9504	4	1.861088	-0.005	31.75875	0.006235765
2339	2	1.861599	0.0125	31.77125	0.006238219
433	1	1.862148	-0.0075	31.76375	0.006236747
7071	3	1.862716	-0.005	31.75875	0.006235765
9081	4	1.863443	-0.005	31.75375	0.006234783
182	1	1.864028	-0.0075	31.74625	0.00623331
7977	3	1.864094	0.01	31.75625	0.006235274
9610	4	1.864141	0.01	31.76625	0.006237237
8097	3	1.864162	-0.005	31.76125	0.006236256
1297	1	1.864206	-0.0075	31.75375	0.006234783
4757	3	1.865319	-0.005	31.74875	0.006233801
8625	3	1.86655	-0.005	31.74375	0.00623282
798	1	1.867057	-0.0075	31.73625	0.006231347
2515	2	1.867524	0.0125	31.74875	0.006233801
6188	3	1.867555	-0.005	31.74375	0.00623282
1603	1	1.868219	-0.0075	31.73625	0.006231347
7395	3	1.868896	-0.005	31.73125	0.006230365
1951	2	1.869202	0.0125	31.74375	0.00623282
3302	3	1.869263	-0.005	31.73875	0.006231838
9024	4	1.869639	0.01	31.74875	0.006233801
5850	3	1.869747	-0.005	31.74375	0.00623282
5253	3	1.870873	-0.005	31.73875	0.006231838
473	1	1.871318	0.015	31.75375	0.006234783
5167	3	1.871528	0.01	31.76375	0.006236747
385	1	1.871781	-0.0075	31.75625	0.006235274
3427	3	1.871851	-0.005	31.75125	0.006234292
8156	3	1.872553	-0.005	31.74625	0.00623331
552	1	1.872746	-0.0075	31.73875	0.006231838
2770	2	1.873644	-0.00625	31.7325	0.006230611
1579	1	1.873786	-0.0075	31.725	0.006229138
1768	1	1.874294	-0.0075	31.7175	0.006227665
5554	3	1.874556	-0.005	31.7125	0.006226684
6894	3	1.874674	-0.005	31.7075	0.006225702
2888	2	1.874719	-0.00625	31.70125	0.006224475
3529	3	1.874807	0.01	31.71125	0.006226438
7492	3	1.874908	-0.005	31.70625	0.006225457

8052	3	1.875017	0.01	31.71625	0.00622742
1721	1	1.875895	0.015	31.73125	0.006230365
1373	1	1.8769	-0.0075	31.72375	0.006228893
1766	1	1.876922	-0.0075	31.71625	0.00622742
2629	2	1.877528	-0.00625	31.71	0.006226193
8784	4	1.878356	-0.005	31.705	0.006225211
6185	3	1.878368	-0.005	31.7	0.006224229
561	1	1.878867	-0.0075	31.6925	0.006222757
8950	4	1.879047	-0.005	31.6875	0.006221775
8829	4	1.87932	-0.005	31.6825	0.006220793
357	1	1.879347	0.015	31.6975	0.006223738
7195	3	1.879501	-0.005	31.6925	0.006222757
3637	3	1.879516	-0.005	31.6875	0.006221775
1125	1	1.879682	-0.0075	31.68	0.006220302
7076	3	1.880229	-0.005	31.675	0.006219321
8353	3	1.880489	-0.005	31.67	0.006218339
4421	3	1.880878	-0.005	31.665	0.006217357
6095	3	1.881147	-0.005	31.66	0.006216375
5411	3	1.881681	-0.005	31.655	0.006215394
7856	3	1.881915	0.01	31.665	0.006217357
6286	3	1.881934	-0.005	31.66	0.006216375
596	1	1.88247	0.015	31.675	0.006219321
2663	2	1.882476	-0.00625	31.66875	0.006218093
2138	2	1.882528	-0.00625	31.6625	0.006216866
51	1	1.882622	-0.0075	31.655	0.006215394
9599	4	1.882719	-0.005	31.65	0.006214412
7793	3	1.882914	-0.005	31.645	0.00621343
1299	1	1.883319	-0.0075	31.6375	0.006211958
5011	3	1.883374	-0.005	31.6325	0.006210976
4754	3	1.883788	-0.005	31.6275	0.006209994
643	1	1.883995	-0.0075	31.62	0.006208522
9168	4	1.884043	0.01	31.63	0.006210485
5137	3	1.884567	-0.005	31.625	0.006209503
9827	4	1.884841	0.01	31.635	0.006211467
638	1	1.885347	-0.0075	31.6275	0.006209994
8007	3	1.885702	-0.005	31.6225	0.006209012
5361	3	1.885969	-0.005	31.6175	0.006208031
8425	3	1.886108	0.01	31.6275	0.006209994
8772	4	1.887229	-0.005	31.6225	0.006209012
1879	2	1.887575	-0.00625	31.61625	0.006207785
8717	3	1.888116	-0.005	31.61125	0.006206803
1976	2	1.888228	-0.00625	31.605	0.006205576
2464	2	1.888782	-0.00625	31.59875	0.006204349
4660	3	1.888868	0.01	31.60875	0.006206313
2502	2	1.888945	-0.00625	31.6025	0.006205085
478	1	1.88962	0.015	31.6175	0.006208031
1097	1	1.889872	0.015	31.6325	0.006210976
1857	2	1.890109	-0.00625	31.62625	0.006209749
8110	3	1.89052	0.01	31.63625	0.006211712
1443	1	1.890634	-0.0075	31.62875	0.00621024
1883	2	1.891197	-0.00625	31.6225	0.006209012
1355	1	1.891544	-0.0075	31.615	0.00620754

3834	3	1.891864	0.01	31.625	0.006209503
8908	4	1.892408	0.01	31.635	0.006211467
6205	3	1.892443	-0.005	31.63	0.006210485
1955	2	1.892905	-0.00625	31.62375	0.006209258
2032	2	1.892911	-0.00625	31.6175	0.006208031
5474	3	1.893304	0.01	31.6275	0.006209994
8133	3	1.89357	-0.005	31.6225	0.006209012
2148	2	1.893834	-0.00625	31.61625	0.006207785
1917	2	1.894669	-0.00625	31.61	0.006206558
7711	3	1.894848	0.01	31.62	0.006208522
1395	1	1.894958	-0.0075	31.6125	0.006207049
1552	1	1.895784	-0.0075	31.605	0.006205576
3751	3	1.896006	-0.005	31.6	0.006204595
473	1	1.896155	-0.0075	31.5925	0.006203122
9577	4	1.896329	0.01	31.6025	0.006205085
7637	3	1.896468	0.01	31.6125	0.006207049
9868	4	1.896631	-0.005	31.6075	0.006206067
8063	3	1.897181	-0.005	31.6025	0.006205085
3828	3	1.897224	0.01	31.6125	0.006207049
367	1	1.897468	-0.0075	31.605	0.006205576
2843	2	1.8977	0.0125	31.6175	0.006208031
1820	2	1.897822	-0.00625	31.61125	0.006206803
8566	3	1.898844	0.01	31.62125	0.006208767
3618	3	1.899002	0.01	31.63125	0.00621073
3383	3	1.899464	-0.005	31.62625	0.006209749
4418	3	1.899742	-0.005	31.62125	0.006208767
4522	3	1.900167	-0.005	31.61625	0.006207785
8721	3	1.900276	-0.005	31.61125	0.006206803
3871	3	1.901121	-0.005	31.60625	0.006205822
6674	3	1.901645	-0.005	31.60125	0.00620484
2417	2	1.902255	-0.00625	31.595	0.006203613
2302	2	1.90246	0.0125	31.6075	0.006206067
1461	1	1.902587	-0.0075	31.6	0.006204595
6268	3	1.90265	0.01	31.61	0.006206558
4642	3	1.902938	-0.005	31.605	0.006205576
363	1	1.903006	-0.0075	31.5975	0.006204104
607	1	1.903019	0.015	31.6125	0.006207049
8577	3	1.903259	-0.005	31.6075	0.006206067
8070	3	1.903812	0.01	31.6175	0.006208031
2296	2	1.905009	-0.00625	31.61125	0.006206803
3450	3	1.905152	-0.005	31.60625	0.006205822
675	1	1.905944	-0.0075	31.59875	0.006204349
3357	3	1.906138	-0.005	31.59375	0.006203367
2249	2	1.906467	-0.00625	31.5875	0.00620214
1289	1	1.907046	-0.0075	31.58	0.006200668
365	1	1.907102	0.015	31.595	0.006203613
464	1	1.907139	-0.0075	31.5875	0.00620214
2130	2	1.907241	0.0125	31.6	0.006204595
6125	3	1.907507	-0.005	31.595	0.006203613
918	1	1.907545	-0.0075	31.5875	0.00620214
6864	3	1.908308	-0.005	31.5825	0.006201158
4584	3	1.909387	0.01	31.5925	0.006203122

104	1	1.909483	-0.0075	31.585	0.006201649
9846	4	1.909674	-0.005	31.58	0.006200668
9504	4	1.910439	-0.005	31.575	0.006199686
6612	3	1.91046	-0.005	31.57	0.006198704
8440	3	1.910605	0.01	31.58	0.006200668
3772	3	1.911118	-0.005	31.575	0.006199686
2194	2	1.911319	-0.00625	31.56875	0.006198459
2196	2	1.91177	-0.00625	31.5625	0.006197231
254	1	1.911786	-0.0075	31.555	0.006195759
2223	2	1.912768	-0.00625	31.54875	0.006194532
291	1	1.912819	-0.0075	31.54125	0.006193059
6553	3	1.912865	-0.005	31.53625	0.006192077
1777	2	1.913236	-0.00625	31.53	0.00619085
1725	1	1.913254	-0.0075	31.5225	0.006189378
3871	3	1.915117	-0.005	31.5175	0.006188396
6418	3	1.915412	-0.005	31.5125	0.006187414
1916	2	1.915847	-0.00625	31.50625	0.006186187
5998	3	1.917728	0.01	31.51625	0.00618815
3321	3	1.917869	0.01	31.52625	0.006190114
5908	3	1.917913	0.01	31.53625	0.006192077
8438	3	1.918176	-0.005	31.53125	0.006191096
325	1	1.918817	0.015	31.54625	0.006194041
6114	3	1.919107	0.01	31.55625	0.006196004
5459	3	1.919692	0.01	31.56625	0.006197968
1358	1	1.919869	-0.0075	31.55875	0.006196495
708	1	1.920109	-0.0075	31.55125	0.006195023
164	1	1.920151	0.015	31.56625	0.006197968
1717	1	1.920236	-0.0075	31.55875	0.006196495
382	1	1.920396	-0.0075	31.55125	0.006195023
215	1	1.920516	-0.0075	31.54375	0.00619355
7120	3	1.921997	-0.005	31.53875	0.006192568
3322	3	1.922434	0.01	31.54875	0.006194532
882	1	1.923332	-0.0075	31.54125	0.006193059
4422	3	1.923443	-0.005	31.53625	0.006192077
3078	3	1.923459	-0.005	31.53125	0.006191096
8445	3	1.924161	0.01	31.54125	0.006193059
6700	3	1.924338	-0.005	31.53625	0.006192077
4778	3	1.92464	-0.005	31.53125	0.006191096
1336	1	1.924753	-0.0075	31.52375	0.006189623
1780	2	1.924933	-0.00625	31.5175	0.006188396
1846	2	1.925891	-0.00625	31.51125	0.006187169
2794	2	1.926035	0.0125	31.52375	0.006189623
489	1	1.926147	0.015	31.53875	0.006192568
8676	3	1.926483	-0.005	31.53375	0.006191586
1890	2	1.926946	-0.00625	31.5275	0.006190359
7684	3	1.92706	-0.005	31.5225	0.006189378
2450	2	1.927131	-0.00625	31.51625	0.00618815
9233	4	1.927163	0.01	31.52625	0.006190114
3827	3	1.927489	-0.005	31.52125	0.006189132
931	1	1.927796	-0.0075	31.51375	0.00618766
6198	3	1.928827	-0.005	31.50875	0.006186678
6699	3	1.928927	0.01	31.51875	0.006188641

4110	3	1.929157	0.01	31.52875	0.006190605
5867	3	1.929212	-0.005	31.52375	0.006189623
8096	3	1.929239	-0.005	31.51875	0.006188641
673	1	1.929331	-0.0075	31.51125	0.006187169
1883	2	1.930046	-0.00625	31.505	0.006185941
5100	3	1.930727	-0.005	31.5	0.00618496
7115	3	1.930772	-0.005	31.495	0.006183978
554	1	1.931303	-0.0075	31.4875	0.006182505
5002	3	1.931336	0.01	31.4975	0.006184469
9500	4	1.931413	0.01	31.5075	0.006186432
1898	2	1.931771	0.0125	31.52	0.006188887
4937	3	1.932362	-0.005	31.515	0.006187905
7472	3	1.932485	0.01	31.525	0.006189868
7384	3	1.933057	-0.005	31.52	0.006188887
277	1	1.93321	0.015	31.535	0.006191832
1265	1	1.933707	-0.0075	31.5275	0.006190359
379	1	1.933719	0.015	31.5425	0.006193305
1145	1	1.933945	-0.0075	31.535	0.006191832
4183	3	1.934574	0.01	31.545	0.006193795
57	1	1.934724	-0.0075	31.5375	0.006192323
5993	3	1.934775	0.01	31.5475	0.006194286
8737	3	1.935218	-0.005	31.5425	0.006193305
8666	3	1.935318	-0.005	31.5375	0.006192323
5172	3	1.935514	0.01	31.5475	0.006194286
628	1	1.936238	0.015	31.5625	0.006197231
1451	1	1.93723	-0.0075	31.555	0.006195759
2114	2	1.937284	0.0125	31.5675	0.006198213
7186	3	1.937305	-0.005	31.5625	0.006197231
2159	2	1.938484	-0.00625	31.55625	0.006196004
1366	1	1.939084	-0.0075	31.54875	0.006194532
8641	3	1.939111	-0.005	31.54375	0.00619355
4255	3	1.941241	-0.005	31.53875	0.006192568
2326	2	1.941258	0.0125	31.55125	0.006195023
7336	3	1.941804	-0.005	31.54625	0.006194041
3784	3	1.942198	0.01	31.55625	0.006196004
3565	3	1.942288	0.01	31.56625	0.006197968
693	1	1.94282	-0.0075	31.55875	0.006196495
6045	3	1.943608	-0.005	31.55375	0.006195513
1561	1	1.944077	0.015	31.56875	0.006198459
7822	3	1.944444	-0.005	31.56375	0.006197477
1475	1	1.944869	-0.0075	31.55625	0.006196004
7436	3	1.945125	-0.005	31.55125	0.006195023
362	1	1.945152	-0.0075	31.54375	0.00619355
737	1	1.9455	0.015	31.55875	0.006196495
6192	3	1.945844	-0.005	31.55375	0.006195513
6476	3	1.947382	0.01	31.56375	0.006197477
3454	3	1.94756	0.01	31.57375	0.00619944
6742	3	1.947866	-0.005	31.56875	0.006198459
1786	2	1.948017	-0.00625	31.5625	0.006197231
579	1	1.948407	0.015	31.5775	0.006200177
9439	4	1.948419	0.01	31.5875	0.00620214
198	1	1.948604	-0.0075	31.58	0.006200668

6031	3	1.948636	-0.005	31.575	0.006199686
8493	3	1.948646	-0.005	31.57	0.006198704
9558	4	1.9495	0.01	31.58	0.006200668
6495	3	1.949861	-0.005	31.575	0.006199686
1961	2	1.950551	-0.00625	31.56875	0.006198459
6174	3	1.950655	-0.005	31.56375	0.006197477
3082	3	1.951649	0.01	31.57375	0.00619944
4960	3	1.95174	-0.005	31.56875	0.006198459
3323	3	1.951753	0.01	31.57875	0.006200422
2024	2	1.953041	-0.00625	31.5725	0.006199195
8459	3	1.954102	-0.005	31.5675	0.006198213
9031	4	1.954299	0.01	31.5775	0.006200177
8849	4	1.954361	-0.005	31.5725	0.006199195
8135	3	1.954423	-0.005	31.5675	0.006198213
6871	3	1.954444	-0.005	31.5625	0.006197231
6423	3	1.954996	-0.005	31.5575	0.00619625
3174	3	1.955087	0.01	31.5675	0.006198213
8348	3	1.955125	-0.005	31.5625	0.006197231
2278	2	1.955298	-0.00625	31.55625	0.006196004
2337	2	1.955426	0.0125	31.56875	0.006198459
7154	3	1.95547	0.01	31.57875	0.006200422
6286	3	1.955499	-0.005	31.57375	0.00619944
6304	3	1.956168	0.01	31.58375	0.006201404
64	1	1.956204	-0.0075	31.57625	0.006199931
3853	3	1.956379	0.01	31.58625	0.006201895
9085	4	1.956445	-0.005	31.58125	0.006200913
2535	2	1.95659	0.0125	31.59375	0.006203367
142	1	1.956818	0.015	31.60875	0.006206313
6330	3	1.956907	-0.005	31.60375	0.006205331
5531	3	1.957409	-0.005	31.59875	0.006204349
6160	3	1.957579	0.01	31.60875	0.006206313
4384	3	1.958078	-0.005	31.60375	0.006205331
7912	3	1.958231	0.01	31.61375	0.006207294
4636	3	1.958556	0.01	31.62375	0.006209258
399	1	1.959027	-0.0075	31.61625	0.006207785
3367	3	1.95918	-0.005	31.61125	0.006206803
6528	3	1.959678	-0.005	31.60625	0.006205822
1757	1	1.959683	0.015	31.62125	0.006208767
750	1	1.961143	-0.0075	31.61375	0.006207294
1927	2	1.961239	-0.00625	31.6075	0.006206067
3477	3	1.961272	0.01	31.6175	0.006208031
4115	3	1.961505	0.01	31.6275	0.006209994
5595	3	1.961572	-0.005	31.6225	0.006209012
5283	3	1.961668	-0.005	31.6175	0.006208031
2349	2	1.962221	-0.00625	31.61125	0.006206803
1036	1	1.96288	0.015	31.62625	0.006209749
812	1	1.963011	-0.0075	31.61875	0.006208276
1652	1	1.963092	-0.0075	31.61125	0.006206803
2545	2	1.963598	0.0125	31.62375	0.006209258
1284	1	1.964081	-0.0075	31.61625	0.006207785
2331	2	1.964363	-0.00625	31.61	0.006206558
3489	3	1.964529	-0.005	31.605	0.006205576

9192	4	1.964724	-0.005	31.6	0.006204595
333	1	1.964754	-0.0075	31.5925	0.006203122
6236	3	1.965033	0.01	31.6025	0.006205085
2670	2	1.966111	-0.00625	31.59625	0.006203858
1970	2	1.967129	-0.00625	31.59	0.006202631
2609	2	1.96744	-0.00625	31.58375	0.006201404
2738	2	1.968298	-0.00625	31.5775	0.006200177
228	1	1.968923	-0.0075	31.57	0.006198704
7472	3	1.969319	-0.005	31.565	0.006197722
3120	3	1.970008	0.01	31.575	0.006199686
3083	3	1.971261	-0.005	31.57	0.006198704
3900	3	1.971387	-0.005	31.565	0.006197722
1012	1	1.972136	-0.0075	31.5575	0.00619625
5047	3	1.972514	0.01	31.5675	0.006198213
6141	3	1.972665	-0.005	31.5625	0.006197231
9497	4	1.972911	-0.005	31.5575	0.00619625
6146	3	1.973261	0.01	31.5675	0.006198213
2352	2	1.973352	-0.00625	31.56125	0.006196986
2721	2	1.973606	0.0125	31.57375	0.00619944
9132	4	1.97396	0.01	31.58375	0.006201404
287	1	1.973968	0.015	31.59875	0.006204349
1065	1	1.97409	-0.0075	31.59125	0.006202876
1421	1	1.97423	-0.0075	31.58375	0.006201404
2787	2	1.9743	-0.00625	31.5775	0.006200177
1212	1	1.974744	-0.0075	31.57	0.006198704
1153	1	1.974854	-0.0075	31.5625	0.006197231
630	1	1.975172	-0.0075	31.555	0.006195759
136	1	1.97638	-0.0075	31.5475	0.006194286
1223	1	1.976436	0.015	31.5625	0.006197231
3777	3	1.976989	-0.005	31.5575	0.00619625
5592	3	1.977528	-0.005	31.5525	0.006195268
2217	2	1.977582	-0.00625	31.54625	0.006194041
8440	3	1.978577	-0.005	31.54125	0.006193059
3505	3	1.978838	-0.005	31.53625	0.006192077
1865	2	1.979505	-0.00625	31.53	0.00619085
8084	3	1.979537	0.01	31.54	0.006192814
8495	3	1.979804	-0.005	31.535	0.006191832
2554	2	1.979987	-0.00625	31.52875	0.006190605
6921	3	1.980347	-0.005	31.52375	0.006189623
9487	4	1.980607	-0.005	31.51875	0.006188641
6531	3	1.981008	0.01	31.52875	0.006190605
5791	3	1.981186	0.01	31.53875	0.006192568
6938	3	1.982275	-0.005	31.53375	0.006191586
2146	2	1.982278	-0.00625	31.5275	0.006190359
91	1	1.982554	-0.0075	31.52	0.006188887
2564	2	1.982787	-0.00625	31.51375	0.00618766
2361	2	1.982896	-0.00625	31.5075	0.006186432
7798	3	1.983501	-0.005	31.5025	0.006185451
9549	4	1.983511	-0.005	31.4975	0.006184469
7316	3	1.983737	-0.005	31.4925	0.006183487
1633	1	1.983827	0.015	31.5075	0.006186432
2306	2	1.984389	0.0125	31.52	0.006188887

4791	3	1.984566	-0.005	31.515	0.006187905
8704	3	1.984747	-0.005	31.51	0.006186923
3475	3	1.985822	0.01	31.52	0.006188887
2844	2	1.985979	-0.00625	31.51375	0.00618766
2803	2	1.986017	-0.00625	31.5075	0.006186432
1450	1	1.987041	-0.0075	31.5	0.00618496
1245	1	1.987397	-0.0075	31.4925	0.006183487
7252	3	1.988957	-0.005	31.4875	0.006182505
8501	3	1.989227	-0.005	31.4825	0.006181524
595	1	1.990087	-0.0075	31.475	0.006180051
5474	3	1.990786	-0.005	31.47	0.006179069
4786	3	1.990865	-0.005	31.465	0.006178088
2260	2	1.991004	-0.00625	31.45875	0.00617686
688	1	1.991156	0.015	31.47375	0.006179806
1136	1	1.99173	0.015	31.48875	0.006182751
4518	3	1.992726	-0.005	31.48375	0.006181769
5630	3	1.993635	0.01	31.49375	0.006183733
8541	3	1.995644	-0.005	31.48875	0.006182751
4076	3	1.995681	-0.005	31.48375	0.006181769
7732	3	1.995778	0.01	31.49375	0.006183733
8969	4	1.995975	-0.005	31.48875	0.006182751
8200	3	1.996161	-0.005	31.48375	0.006181769
2594	2	1.996412	0.0125	31.49625	0.006184223
7952	3	1.996448	-0.005	31.49125	0.006183242
5291	3	1.997173	0.01	31.50125	0.006185205
8332	3	1.997588	-0.005	31.49625	0.006184223
198	1	1.997948	-0.0075	31.48875	0.006182751
7798	3	1.997992	-0.005	31.48375	0.006181769
4832	3	1.998465	-0.005	31.47875	0.006180787
1382	1	1.998598	-0.0075	31.47125	0.006179315
7255	3	1.998733	-0.005	31.46625	0.006178333
9676	4	1.998808	-0.005	31.46125	0.006177351
7587	3	1.99891	-0.005	31.45625	0.00617637
999	1	1.998963	-0.0075	31.44875	0.006174897
1478	1	1.99928	0.015	31.46375	0.006177842
496	1	1.999322	0.015	31.47875	0.006180787
3755	3	1.999431	0.01	31.48875	0.006182751
5311	3	2.000089	-0.005	31.48375	0.006181769
9572	4	2.000672	-0.005	31.47875	0.006180787
6512	3	2.000895	-0.005	31.47375	0.006179806
6869	3	2.001088	0.01	31.48375	0.006181769
2439	2	2.001205	0.0125	31.49625	0.006184223
6741	3	2.001267	-0.005	31.49125	0.006183242
1177	1	2.001505	-0.0075	31.48375	0.006181769
2313	2	2.001667	-0.00625	31.4775	0.006180542
2716	2	2.001707	-0.00625	31.47125	0.006179315
2141	2	2.002096	-0.00625	31.465	0.006178088
266	1	2.002875	-0.0075	31.4575	0.006176615
483	1	2.003697	-0.0075	31.45	0.006175142
1850	2	2.004017	0.0125	31.4625	0.006177597
5469	3	2.004106	-0.005	31.4575	0.006176615
5342	3	2.004311	-0.005	31.4525	0.006175633

2332	2	2.004343	0.0125	31.465	0.006178088
2329	2	2.004556	-0.00625	31.45875	0.00617686
4120	3	2.006164	-0.005	31.45375	0.006175879
2807	2	2.006211	0.0125	31.46625	0.006178333
8686	3	2.006343	-0.005	31.46125	0.006177351
939	1	2.006361	0.015	31.47625	0.006180296
7537	3	2.006768	-0.005	31.47125	0.006179315
6149	3	2.007172	-0.005	31.46625	0.006178333
3280	3	2.00799	-0.005	31.46125	0.006177351
7706	3	2.008417	-0.005	31.45625	0.00617637
2306	2	2.008519	-0.00625	31.45	0.006175142
1320	1	2.008663	-0.0075	31.4425	0.00617367
4195	3	2.008973	-0.005	31.4375	0.006172688
2648	2	2.009056	-0.00625	31.43125	0.006171461
2766	2	2.009139	0.0125	31.44375	0.006173915
1525	1	2.009209	-0.0075	31.43625	0.006172443
1382	1	2.009238	-0.0075	31.42875	0.00617097
6130	3	2.009356	-0.005	31.42375	0.006169988
1682	1	2.010644	-0.0075	31.41625	0.006168516
5106	3	2.011334	-0.005	31.41125	0.006167534
9196	4	2.01221	0.01	31.42125	0.006169497
8496	3	2.012383	-0.005	31.41625	0.006168516
5153	3	2.012917	0.01	31.42625	0.006170479
1024	1	2.012922	-0.0075	31.41875	0.006169006
2721	2	2.0131	-0.00625	31.4125	0.006167779
8445	3	2.013339	-0.005	31.4075	0.006166798
9482	4	2.013399	-0.005	31.4025	0.006165816
8084	3	2.013846	-0.005	31.3975	0.006164834
2963	3	2.014289	-0.005	31.3925	0.006163852
772	1	2.01485	-0.0075	31.385	0.00616238
8688	3	2.014859	-0.005	31.38	0.006161398
7264	3	2.015092	-0.005	31.375	0.006160416
677	1	2.01514	-0.0075	31.3675	0.006158944
4071	3	2.015411	-0.005	31.3625	0.006157962
1092	1	2.015468	0.015	31.3775	0.006160907
7856	3	2.016251	-0.005	31.3725	0.006159925
4976	3	2.016872	0.01	31.3825	0.006161889
3332	3	2.016972	0.01	31.3925	0.006163852
7637	3	2.017154	-0.005	31.3875	0.006162871
3728	3	2.01722	-0.005	31.3825	0.006161889
7277	3	2.017373	-0.005	31.3775	0.006160907
1353	1	2.017585	0.015	31.3925	0.006163852
123	1	2.018437	-0.0075	31.385	0.00616238
1821	2	2.019298	-0.00625	31.37875	0.006161153
6094	3	2.019647	0.01	31.38875	0.006163116
5993	3	2.019752	-0.005	31.38375	0.006162134
1067	1	2.019963	-0.0075	31.37625	0.006160662
2496	2	2.020109	-0.00625	31.37	0.006159435
8302	3	2.021329	-0.005	31.365	0.006158453
4845	3	2.022461	-0.005	31.36	0.006157471
5525	3	2.022761	-0.005	31.355	0.006156489
736	1	2.022898	0.015	31.37	0.006159435

8285	3	2.023293	-0.005	31.365	0.006158453
1067	1	2.024145	-0.0075	31.3575	0.00615698
596	1	2.024761	-0.0075	31.35	0.006155508
8587	3	2.024959	-0.005	31.345	0.006154526
4382	3	2.025267	-0.005	31.34	0.006153544
1476	1	2.025614	0.015	31.355	0.006156489
2585	2	2.025888	-0.00625	31.34875	0.006155262
514	1	2.026049	-0.0075	31.34125	0.00615379
4187	3	2.026164	-0.005	31.33625	0.006152808
6723	3	2.026761	-0.005	31.33125	0.006151826
5787	3	2.027402	-0.005	31.32625	0.006150844
1385	1	2.02744	-0.0075	31.31875	0.006149372
7409	3	2.027604	0.01	31.32875	0.006151335
6796	3	2.027692	0.01	31.33875	0.006153299
4703	3	2.028044	-0.005	31.33375	0.006152317
1492	1	2.028071	-0.0075	31.32625	0.006150844
1617	1	2.02824	-0.0075	31.31875	0.006149372
97	1	2.028274	-0.0075	31.31125	0.006147899
2317	2	2.028497	0.0125	31.32375	0.006150353
4805	3	2.028508	-0.005	31.31875	0.006149372
564	1	2.028547	-0.0075	31.31125	0.006147899
3057	3	2.029393	-0.005	31.30625	0.006146917
3798	3	2.0296	-0.005	31.30125	0.006145936
7215	3	2.029606	0.01	31.31125	0.006147899
5444	3	2.029923	0.01	31.32125	0.006149863
3105	3	2.029954	0.01	31.33125	0.006151826
5978	3	2.030023	0.01	31.34125	0.00615379
1931	2	2.030031	0.0125	31.35375	0.006156244
2942	3	2.030167	-0.005	31.34875	0.006155262
773	1	2.030626	0.015	31.36375	0.006158207
2623	2	2.031083	0.0125	31.37625	0.006160662
5872	3	2.031639	-0.005	31.37125	0.00615968
1891	2	2.032313	-0.00625	31.365	0.006158453
2915	3	2.032759	0.01	31.375	0.006160416
6340	3	2.033038	-0.005	31.37	0.006159435
9700	4	2.033165	-0.005	31.365	0.006158453
2240	2	2.033431	-0.00625	31.35875	0.006157226
4031	3	2.033548	0.01	31.36875	0.006159189
533	1	2.034025	0.015	31.38375	0.006162134
878	1	2.034135	-0.0075	31.37625	0.006160662
7466	3	2.03466	-0.005	31.37125	0.00615968
779	1	2.034704	-0.0075	31.36375	0.006158207
4051	3	2.035073	-0.005	31.35875	0.006157226
19	1	2.03594	-0.0075	31.35125	0.006155753
3865	3	2.036007	-0.005	31.34625	0.006154771
3022	3	2.03649	0.01	31.35625	0.006156735
3494	3	2.036552	-0.005	31.35125	0.006155753
8849	4	2.036981	-0.005	31.34625	0.006154771
7327	3	2.037112	0.01	31.35625	0.006156735
8353	3	2.039788	-0.005	31.35125	0.006155753
7079	3	2.039791	0.01	31.36125	0.006157716
2323	2	2.041017	0.0125	31.37375	0.006160171

3595	3	2.04117	-0.005	31.36875	0.006159189
2015	2	2.041185	0.0125	31.38125	0.006161643
1207	1	2.04136	0.015	31.39625	0.006164589
9375	4	2.041783	-0.005	31.39125	0.006163607
4854	3	2.041867	0.01	31.40125	0.00616557
4059	3	2.04295	-0.005	31.39625	0.006164589
8545	3	2.043291	-0.005	31.39125	0.006163607
7089	3	2.043415	-0.005	31.38625	0.006162625
6677	3	2.043551	-0.005	31.38125	0.006161643
4223	3	2.04408	-0.005	31.37625	0.006160662
7693	3	2.044238	-0.005	31.37125	0.00615968
5183	3	2.044549	-0.005	31.36625	0.006158698
7154	3	2.0456	-0.005	31.36125	0.006157716
505	1	2.045632	-0.0075	31.35375	0.006156244
6687	3	2.045635	-0.005	31.34875	0.006155262
4540	3	2.045884	-0.005	31.34375	0.00615428
5020	3	2.04603	-0.005	31.33875	0.006153299
6751	3	2.046149	-0.005	31.33375	0.006152317
5366	3	2.046662	0.01	31.34375	0.00615428
7347	3	2.046892	-0.005	31.33875	0.006153299
6667	3	2.046924	-0.005	31.33375	0.006152317
603	1	2.047011	-0.0075	31.32625	0.006150844
676	1	2.047072	0.015	31.34125	0.00615379
9498	4	2.047207	-0.005	31.33625	0.006152808
3947	3	2.047637	0.01	31.34625	0.006154771
8104	3	2.048076	-0.005	31.34125	0.00615379
1923	2	2.048152	-0.00625	31.335	0.006152562
6253	3	2.048214	-0.005	31.33	0.006151581
1501	1	2.048259	-0.0075	31.3225	0.006150108
2250	2	2.048907	0.0125	31.335	0.006152562
995	1	2.04892	-0.0075	31.3275	0.00615109
1282	1	2.049685	0.015	31.3425	0.006154035
1731	1	2.050158	0.015	31.3575	0.00615698
1255	1	2.050212	0.015	31.3725	0.006159925
5408	3	2.050381	0.01	31.3825	0.006161889
1146	1	2.050398	0.015	31.3975	0.006164834
1016	1	2.050484	-0.0075	31.39	0.006163361
6558	3	2.050969	-0.005	31.385	0.00616238
6756	3	2.051198	0.01	31.395	0.006164343
7093	3	2.051821	0.01	31.405	0.006166307
4982	3	2.051974	-0.005	31.4	0.006165325
1824	2	2.052336	0.0125	31.4125	0.006167779
6539	3	2.052716	-0.005	31.4075	0.006166798
3467	3	2.052785	0.01	31.4175	0.006168761
2814	2	2.053066	-0.00625	31.41125	0.006167534
1659	1	2.053364	-0.0075	31.40375	0.006166061
642	1	2.053794	-0.0075	31.39625	0.006164589
983	1	2.053798	-0.0075	31.38875	0.006163116
2385	2	2.053801	-0.00625	31.3825	0.006161889
1499	1	2.053996	-0.0075	31.375	0.006160416
4183	3	2.054165	-0.005	31.37	0.006159435
2089	2	2.05433	0.0125	31.3825	0.006161889

6781	3	2.054413	0.01	31.3925	0.006163852
435	1	2.054679	-0.0075	31.385	0.00616238
5571	3	2.054706	-0.005	31.38	0.006161398
7123	3	2.054869	-0.005	31.375	0.006160416
6429	3	2.055358	-0.005	31.37	0.006159435
1358	1	2.055458	-0.0075	31.3625	0.006157962
6831	3	2.055591	0.01	31.3725	0.006159925
7593	3	2.056143	-0.005	31.3675	0.006158944
3415	3	2.056261	-0.005	31.3625	0.006157962
1198	1	2.056382	-0.0075	31.355	0.006156489
2562	2	2.056449	-0.00625	31.34875	0.006155262
9079	4	2.057343	0.01	31.35875	0.006157226
604	1	2.057871	0.015	31.37375	0.006160171
6474	3	2.058234	-0.005	31.36875	0.006159189
6560	3	2.058566	-0.005	31.36375	0.006158207
3920	3	2.058895	-0.005	31.35875	0.006157226
412	1	2.058916	-0.0075	31.35125	0.006155753
4375	3	2.059103	0.01	31.36125	0.006157716
2933	3	2.059539	-0.005	31.35625	0.006156735
8042	3	2.060403	-0.005	31.35125	0.006155753
3186	3	2.061215	-0.005	31.34625	0.006154771
1622	1	2.061487	-0.0075	31.33875	0.006153299
1368	1	2.062059	-0.0075	31.33125	0.006151826
8379	3	2.062118	-0.005	31.32625	0.006150844
1781	2	2.062439	0.0125	31.33875	0.006153299
1283	1	2.062689	0.015	31.35375	0.006156244
6495	3	2.0631	-0.005	31.34875	0.006155262
7256	3	2.063215	-0.005	31.34375	0.00615428
117	1	2.063349	-0.0075	31.33625	0.006152808
1781	2	2.064243	-0.00625	31.33	0.006151581
8407	3	2.06481	-0.005	31.325	0.006150599
8901	4	2.064909	-0.005	31.32	0.006149617
5041	3	2.065079	-0.005	31.315	0.006148635
2661	2	2.065581	0.0125	31.3275	0.00615109
3241	3	2.065913	-0.005	31.3225	0.006150108
2654	2	2.066112	-0.00625	31.31625	0.006148881
2018	2	2.066135	-0.00625	31.31	0.006147654
1380	1	2.066379	-0.0075	31.3025	0.006146181
3834	3	2.06656	-0.005	31.2975	0.006145199
8622	3	2.066739	0.01	31.3075	0.006147163
5590	3	2.067332	-0.005	31.3025	0.006146181
5605	3	2.067529	-0.005	31.2975	0.006145199
2580	2	2.067565	-0.00625	31.29125	0.006143972
292	1	2.067682	-0.0075	31.28375	0.0061425
704	1	2.067897	-0.0075	31.27625	0.006141027
7206	3	2.067948	-0.005	31.27125	0.006140045
60	1	2.068291	-0.0075	31.26375	0.006138573
6834	3	2.069338	-0.005	31.25875	0.006137591
2548	2	2.069725	-0.00625	31.2525	0.006136364
2415	2	2.069871	-0.00625	31.24625	0.006135136
3973	3	2.070014	0.01	31.25625	0.0061371
1605	1	2.070049	-0.0075	31.24875	0.006135627

3577	3	2.070085	0.01	31.25875	0.006137591
8864	4	2.070265	-0.005	31.25375	0.006136609
7102	3	2.070388	-0.005	31.24875	0.006135627
1856	2	2.070611	-0.00625	31.2425	0.0061344
4273	3	2.070695	-0.005	31.2375	0.006133418
5123	3	2.071817	-0.005	31.2325	0.006132437
1872	2	2.071994	-0.00625	31.22625	0.00613121
7520	3	2.07259	-0.005	31.22125	0.006130228
1613	1	2.072612	-0.0075	31.21375	0.006128755
932	1	2.072944	0.015	31.22875	0.0061317
1762	1	2.073248	-0.0075	31.22125	0.006130228
724	1	2.073441	-0.0075	31.21375	0.006128755
6130	3	2.073726	-0.005	31.20875	0.006127773
690	1	2.073972	-0.0075	31.20125	0.006126301
2792	2	2.074277	-0.00625	31.195	0.006125074
4289	3	2.074498	-0.005	31.19	0.006124092
6534	3	2.075537	-0.005	31.185	0.00612311
1448	1	2.077296	-0.0075	31.1775	0.006121638
3102	3	2.07834	-0.005	31.1725	0.006120656
1502	1	2.078726	0.015	31.1875	0.006123601
8431	3	2.079654	-0.005	31.1825	0.006122619
1247	1	2.080262	-0.0075	31.175	0.006121147
2292	2	2.081615	-0.00625	31.16875	0.006119919
3072	3	2.081796	-0.005	31.16375	0.006118938
4395	3	2.082191	-0.005	31.15875	0.006117956
2252	2	2.082343	0.0125	31.17125	0.00612041
8542	3	2.082684	-0.005	31.16625	0.006119429
5116	3	2.082724	-0.005	31.16125	0.006118447
5153	3	2.082806	-0.005	31.15625	0.006117465
164	1	2.082947	-0.0075	31.14875	0.006115993
5376	3	2.083462	-0.005	31.14375	0.006115011
7595	3	2.083501	-0.005	31.13875	0.006114029
7259	3	2.083567	-0.005	31.13375	0.006113047
1478	1	2.083636	-0.0075	31.12625	0.006111575
7773	3	2.083806	-0.005	31.12125	0.006110593
2779	2	2.083995	-0.00625	31.115	0.006109366
1590	1	2.084006	-0.0075	31.1075	0.006107893
2534	2	2.084594	0.0125	31.12	0.006110348
825	1	2.084792	0.015	31.135	0.006113293
1515	1	2.085517	-0.0075	31.1275	0.00611182
4495	3	2.086033	0.01	31.1375	0.006113784
5001	3	2.086722	-0.005	31.1325	0.006112802
360	1	2.086886	-0.0075	31.125	0.006111329
1788	2	2.087662	-0.00625	31.11875	0.006110102
1697	1	2.087933	-0.0075	31.11125	0.006108629
7615	3	2.088058	-0.005	31.10625	0.006107648
5385	3	2.088307	-0.005	31.10125	0.006106666
5324	3	2.08839	-0.005	31.09625	0.006105684
6278	3	2.088767	-0.005	31.09125	0.006104703
6145	3	2.089067	-0.005	31.08625	0.006103721
3529	3	2.089291	-0.005	31.08125	0.006102739
1283	1	2.089298	-0.0075	31.07375	0.006101266

5967	3	2.089641	-0.005	31.06875	0.006100285
4209	3	2.089679	0.01	31.07875	0.006102248
9577	4	2.089851	-0.005	31.07375	0.006101266
7893	3	2.090065	-0.005	31.06875	0.006100285
8158	3	2.090069	-0.005	31.06375	0.006099303
6063	3	2.090377	-0.005	31.05875	0.006098321
1545	1	2.090576	-0.0075	31.05125	0.006096849
7043	3	2.091255	-0.005	31.04625	0.006095867
947	1	2.09128	-0.0075	31.03875	0.006094394
5384	3	2.091476	-0.005	31.03375	0.006093413
584	1	2.092013	-0.0075	31.02625	0.00609194
7645	3	2.092321	0.01	31.03625	0.006093903
5685	3	2.093609	0.01	31.04625	0.006095867
8950	4	2.094149	-0.005	31.04125	0.006094885
4853	3	2.094338	0.01	31.05125	0.006096849
1694	1	2.094886	-0.0075	31.04375	0.006095376
5733	3	2.094921	0.01	31.05375	0.006097339
6063	3	2.095116	-0.005	31.04875	0.006096358
8175	3	2.095321	0.01	31.05875	0.006098321
7142	3	2.095976	-0.005	31.05375	0.006097339
2044	2	2.096157	0.0125	31.06625	0.006099794
1657	1	2.096362	0.015	31.08125	0.006102739
7263	3	2.096613	-0.005	31.07625	0.006101757
3947	3	2.097285	-0.005	31.07125	0.006100776
846	1	2.097452	-0.0075	31.06375	0.006099303
113	1	2.09815	-0.0075	31.05625	0.00609783
1878	2	2.098666	-0.00625	31.05	0.006096603
4398	3	2.099346	0.01	31.06	0.006098567
8128	3	2.099651	-0.005	31.055	0.006097585
8223	3	2.099744	0.01	31.065	0.006099548
9991	4	2.099801	-0.005	31.06	0.006098567
1207	1	2.100002	-0.0075	31.0525	0.006097094
7654	3	2.100047	0.01	31.0625	0.006099058
3358	3	2.100443	-0.005	31.0575	0.006098076
8357	3	2.100854	-0.005	31.0525	0.006097094
6902	3	2.102975	-0.005	31.0475	0.006096112
9481	4	2.103208	0.01	31.0575	0.006098076
4693	3	2.10345	0.01	31.0675	0.006100039
128	1	2.103769	-0.0075	31.06	0.006098567
6186	3	2.103908	0.01	31.07	0.00610053
688	1	2.10395	-0.0075	31.0625	0.006099058
138	1	2.10406	-0.0075	31.055	0.006097585
9401	4	2.104132	-0.005	31.05	0.006096603
2295	2	2.104776	-0.00625	31.04375	0.006095376
1106	1	2.105187	-0.0075	31.03625	0.006093903
4643	3	2.105463	-0.005	31.03125	0.006092922
5755	3	2.10555	0.01	31.04125	0.006094885
2186	2	2.105993	-0.00625	31.035	0.006093658
1838	2	2.106085	0.0125	31.0475	0.006096112
2513	2	2.106233	-0.00625	31.04125	0.006094885
2785	2	2.106797	0.0125	31.05375	0.006097339
6301	3	2.107157	-0.005	31.04875	0.006096358

1510	1	2.107323	-0.0075	31.04125	0.006094885
822	1	2.107773	-0.0075	31.03375	0.006093413
1272	1	2.10815	-0.0075	31.02625	0.00609194
944	1	2.10852	-0.0075	31.01875	0.006090467
201	1	2.108542	-0.0075	31.01125	0.006088995
8613	3	2.109033	-0.005	31.00625	0.006088013
707	1	2.109594	-0.0075	30.99875	0.00608654
54	1	2.10967	-0.0075	30.99125	0.006085068
669	1	2.109812	-0.0075	30.98375	0.006083595
358	1	2.109843	-0.0075	30.97625	0.006082123
5812	3	2.110029	0.01	30.98625	0.006084086
4692	3	2.110174	-0.005	30.98125	0.006083104
814	1	2.110949	-0.0075	30.97375	0.006081632
3747	3	2.111643	-0.005	30.96875	0.00608065
5996	3	2.111871	-0.005	30.96375	0.006079668
4056	3	2.112077	-0.005	30.95875	0.006078686
1178	1	2.112452	-0.0075	30.95125	0.006077214
2452	2	2.112508	0.0125	30.96375	0.006079668
1508	1	2.112749	-0.0075	30.95625	0.006078196
2357	2	2.114775	-0.00625	30.95	0.006076968
9079	4	2.11603	-0.005	30.945	0.006075987
2515	2	2.117466	-0.00625	30.93875	0.006074759
3643	3	2.117568	0.01	30.94875	0.006076723
4869	3	2.117852	-0.005	30.94375	0.006075741
5685	3	2.118113	-0.005	30.93875	0.006074759
2049	2	2.119074	-0.00625	30.9325	0.006073532
2845	2	2.119626	-0.00625	30.92625	0.006072305
4090	3	2.120008	-0.005	30.92125	0.006071323
625	1	2.12083	-0.0075	30.91375	0.006069851
1535	1	2.120876	0.015	30.92875	0.006072796
5566	3	2.120956	-0.005	30.92375	0.006071814
1605	1	2.121163	-0.0075	30.91625	0.006070342
6321	3	2.121632	-0.005	30.91125	0.00606936
5831	3	2.121704	-0.005	30.90625	0.006068378
2644	2	2.122035	-0.00625	30.9	0.006067151
3559	3	2.122086	0.01	30.91	0.006069114
622	1	2.122109	0.015	30.925	0.00607206
8645	3	2.122461	-0.005	30.92	0.006071078
429	1	2.122811	-0.0075	30.9125	0.006069605
1066	1	2.122925	-0.0075	30.905	0.006068133
502	1	2.123134	0.015	30.92	0.006071078
612	1	2.123206	-0.0075	30.9125	0.006069605
9904	4	2.123215	-0.005	30.9075	0.006068624
2571	2	2.123286	-0.00625	30.90125	0.006067396
1151	1	2.123367	-0.0075	30.89375	0.006065924
504	1	2.123491	-0.0075	30.88625	0.006064451
3756	3	2.124443	-0.005	30.88125	0.006063469
8896	4	2.124929	-0.005	30.87625	0.006062488
5439	3	2.125207	-0.005	30.87125	0.006061506
3373	3	2.125274	-0.005	30.86625	0.006060524
4916	3	2.125485	0.01	30.87625	0.006062488
4982	3	2.125582	-0.005	30.87125	0.006061506

2872	2	2.125777	-0.00625	30.865	0.006060279
8662	3	2.12587	-0.005	30.86	0.006059297
2556	2	2.12588	0.0125	30.8725	0.006061751
1017	1	2.126486	0.015	30.8875	0.006064697
3106	3	2.126504	-0.005	30.8825	0.006063715
4016	3	2.127553	-0.005	30.8775	0.006062733
8325	3	2.128028	0.01	30.8875	0.006064697
1346	1	2.128832	-0.0075	30.88	0.006063224
717	1	2.129184	-0.0075	30.8725	0.006061751
7849	3	2.129944	-0.005	30.8675	0.00606077
4922	3	2.130911	-0.005	30.8625	0.006059788
287	1	2.13241	-0.0075	30.855	0.006058315
8436	3	2.133873	-0.005	30.85	0.006057334
8057	3	2.133953	-0.005	30.845	0.006056352
954	1	2.134039	-0.0075	30.8375	0.006054879
1849	2	2.134271	-0.00625	30.83125	0.006053652
4295	3	2.134999	0.01	30.84125	0.006055616
1592	1	2.135497	0.015	30.85625	0.006058561
4653	3	2.135532	0.01	30.86625	0.006060524
8562	3	2.135642	0.01	30.87625	0.006062488
4196	3	2.136125	0.01	30.88625	0.006064451
2835	2	2.136492	-0.00625	30.88	0.006063224
2738	2	2.136747	-0.00625	30.87375	0.006061997
4443	3	2.137335	-0.005	30.86875	0.006061015
5093	3	2.138059	-0.005	30.86375	0.006060033
26	1	2.138117	-0.0075	30.85625	0.006058561
1841	2	2.138651	-0.00625	30.85	0.006057334
1528	1	2.138928	-0.0075	30.8425	0.006055861
8326	3	2.139031	-0.005	30.8375	0.006054879
7673	3	2.139167	-0.005	30.8325	0.006053898
4939	3	2.139878	0.01	30.8425	0.006055861
784	1	2.14007	-0.0075	30.835	0.006054388
2523	2	2.140291	-0.00625	30.82875	0.006053161
4025	3	2.140758	-0.005	30.82375	0.006052179
8004	3	2.141304	-0.005	30.81875	0.006051198
6658	3	2.141385	-0.005	30.81375	0.006050216
1703	1	2.141646	-0.0075	30.80625	0.006048743
8229	3	2.141658	-0.005	30.80125	0.006047762
693	1	2.141665	-0.0075	30.79375	0.006046289
1442	1	2.141759	-0.0075	30.78625	0.006044816
6112	3	2.142313	0.01	30.79625	0.00604678
280	1	2.142513	-0.0075	30.78875	0.006045307
9722	4	2.1429	-0.005	30.78375	0.006044326
1479	1	2.143052	-0.0075	30.77625	0.006042853
8633	3	2.144227	-0.005	30.77125	0.006041871
1965	2	2.144259	-0.00625	30.765	0.006040644
9233	4	2.145717	-0.005	30.76	0.006039662
869	1	2.147203	-0.0075	30.7525	0.00603819
8171	3	2.147447	-0.005	30.7475	0.006037208
3110	3	2.148037	-0.005	30.7425	0.006036226
967	1	2.148212	-0.0075	30.735	0.006034754
18	1	2.148994	0.015	30.75	0.006037699

4190	3	2.149318	0.01	30.76	0.006039662
1896	2	2.149576	0.0125	30.7725	0.006042117
1464	1	2.149615	-0.0075	30.765	0.006040644
5604	3	2.150009	-0.005	30.76	0.006039662
5645	3	2.15083	-0.005	30.755	0.006038681
6827	3	2.151181	0.01	30.765	0.006040644
1678	1	2.151772	-0.0075	30.7575	0.006039171
8522	3	2.151868	-0.005	30.7525	0.00603819
7381	3	2.153153	-0.005	30.7475	0.006037208
506	1	2.153208	-0.0075	30.74	0.006035735
561	1	2.153432	-0.0075	30.7325	0.006034263
1811	2	2.15359	0.0125	30.745	0.006036717
8	1	2.154092	0.015	30.76	0.006039662
1146	1	2.15486	-0.0075	30.7525	0.00603819
606	1	2.154942	-0.0075	30.745	0.006036717
175	1	2.154989	-0.0075	30.7375	0.006035244
2026	2	2.155397	0.0125	30.75	0.006037699
3555	3	2.155585	-0.005	30.745	0.006036717
6592	3	2.155915	-0.005	30.74	0.006035735
1393	1	2.155926	-0.0075	30.7325	0.006034263
1158	1	2.156473	-0.0075	30.725	0.00603279
1698	1	2.156827	-0.0075	30.7175	0.006031317
3740	3	2.156927	0.01	30.7275	0.006033281
5378	3	2.157313	-0.005	30.7225	0.006032299
1844	2	2.157493	0.0125	30.735	0.006034754
1182	1	2.158034	0.015	30.75	0.006037699
8448	3	2.158569	-0.005	30.745	0.006036717
345	1	2.160193	-0.0075	30.7375	0.006035244
51	1	2.160386	-0.0075	30.73	0.006033772
405	1	2.1605	-0.0075	30.7225	0.006032299
9418	4	2.161032	-0.005	30.7175	0.006031317
2924	3	2.161096	-0.005	30.7125	0.006030336
620	1	2.16134	-0.0075	30.705	0.006028863
3364	3	2.162048	-0.005	30.7	0.006027881
7555	3	2.162307	-0.005	30.695	0.0060269
1549	1	2.162463	-0.0075	30.6875	0.006025427
4527	3	2.163296	-0.005	30.6825	0.006024445
2332	2	2.164032	-0.00625	30.67625	0.006023218
1331	1	2.16426	-0.0075	30.66875	0.006021746
5328	3	2.164514	-0.005	30.66375	0.006020764
4606	3	2.164589	-0.005	30.65875	0.006019782
8998	4	2.165458	-0.005	30.65375	0.0060188
1241	1	2.165871	-0.0075	30.64625	0.006017328
2967	3	2.167093	0.01	30.65625	0.006019291
2323	2	2.16816	-0.00625	30.65	0.006018064
911	1	2.168564	-0.0075	30.6425	0.006016591
2673	2	2.168647	0.0125	30.655	0.006019046
302	1	2.16893	0.015	30.67	0.006021991
5477	3	2.170017	-0.005	30.665	0.006021009
2021	2	2.170274	-0.00625	30.65875	0.006019782
6088	3	2.17118	0.01	30.66875	0.006021746
1078	1	2.17129	-0.0075	30.66125	0.006020273

225	1	2.171524	-0.0075	30.65375	0.0060188
8509	3	2.172832	-0.005	30.64875	0.006017819
1977	2	2.173306	0.0125	30.66125	0.006020273
7222	3	2.173337	-0.005	30.65625	0.006019291
140	1	2.1735	-0.0075	30.64875	0.006017819
8282	3	2.173812	0.01	30.65875	0.006019782
197	1	2.174517	-0.0075	30.65125	0.006018309
1419	1	2.175734	-0.0075	30.64375	0.006016837
427	1	2.176472	-0.0075	30.63625	0.006015364
4904	3	2.176729	-0.005	30.63125	0.006014382
1046	1	2.176842	-0.0075	30.62375	0.00601291
112	1	2.177239	0.015	30.63875	0.006015855
62	1	2.177444	-0.0075	30.63125	0.006014382
1016	1	2.17777	-0.0075	30.62375	0.00601291
4001	3	2.177929	-0.005	30.61875	0.006011928
2172	2	2.177997	0.0125	30.63125	0.006014382
6334	3	2.178112	-0.005	30.62625	0.006013401
6483	3	2.178513	-0.005	30.62125	0.006012419
1205	1	2.179233	0.015	30.63625	0.006015364
7489	3	2.179294	-0.005	30.63125	0.006014382
73	1	2.179561	0.015	30.64625	0.006017328
1289	1	2.180374	-0.0075	30.63875	0.006015855
1592	1	2.181069	-0.0075	30.63125	0.006014382
5749	3	2.181092	-0.005	30.62625	0.006013401
1114	1	2.181599	-0.0075	30.61875	0.006011928
1937	2	2.182369	0.0125	30.63125	0.006014382
9024	4	2.183461	-0.005	30.62625	0.006013401
3265	3	2.18369	0.01	30.63625	0.006015364
7983	3	2.184437	0.01	30.64625	0.006017328
8476	3	2.18465	0.01	30.65625	0.006019291
6027	3	2.185084	-0.005	30.65125	0.006018309
4331	3	2.187088	-0.005	30.64625	0.006017328
6922	3	2.187093	0.01	30.65625	0.006019291
4181	3	2.187898	0.01	30.66625	0.006021255
2138	2	2.188063	-0.00625	30.66	0.006020027
2559	2	2.189442	-0.00625	30.65375	0.0060188
7658	3	2.18969	-0.005	30.64875	0.006017819
5202	3	2.189946	-0.005	30.64375	0.006016837
7003	3	2.190796	-0.005	30.63875	0.006015855
631	1	2.19095	-0.0075	30.63125	0.006014382
3708	3	2.191232	-0.005	30.62625	0.006013401
2119	2	2.191284	-0.00625	30.62	0.006012174
4758	3	2.191466	0.01	30.63	0.006014137
3107	3	2.191548	0.01	30.64	0.006016101
7328	3	2.191566	-0.005	30.635	0.006015119
236	1	2.191878	0.015	30.65	0.006018064
2346	2	2.192057	-0.00625	30.64375	0.006016837
802	1	2.19251	0.015	30.65875	0.006019782
3948	3	2.192701	-0.005	30.65375	0.0060188
1407	1	2.194191	-0.0075	30.64625	0.006017328
985	1	2.194435	-0.0075	30.63875	0.006015855
895	1	2.194668	-0.0075	30.63125	0.006014382

4590	3	2.194804	0.01	30.64125	0.006016346
596	1	2.194997	-0.0075	30.63375	0.006014873
6952	3	2.196051	-0.005	30.62875	0.006013892
1342	1	2.196069	-0.0075	30.62125	0.006012419
7115	3	2.196836	-0.005	30.61625	0.006011437
3145	3	2.197209	-0.005	30.61125	0.006010456
9263	4	2.19733	-0.005	30.60625	0.006009474
6858	3	2.19784	-0.005	30.60125	0.006008492
659	1	2.198524	-0.0075	30.59375	0.006007019
5748	3	2.198586	0.01	30.60375	0.006008983
4495	3	2.198641	-0.005	30.59875	0.006008001
7969	3	2.199238	-0.005	30.59375	0.006007019
8142	3	2.19936	-0.005	30.58875	0.006006038
7747	3	2.19949	0.01	30.59875	0.006008001
2456	2	2.199613	0.0125	30.61125	0.006010456
1255	1	2.199861	-0.0075	30.60375	0.006008983
38	1	2.199945	-0.0075	30.59625	0.00600751
6562	3	2.200321	-0.005	30.59125	0.006006529
1259	1	2.200774	0.015	30.60625	0.006009474
6139	3	2.201095	-0.005	30.60125	0.006008492
1737	1	2.201135	-0.0075	30.59375	0.006007019
9580	4	2.20159	-0.005	30.58875	0.006006038
8282	3	2.202065	-0.005	30.58375	0.006005056
4656	3	2.202692	0.01	30.59375	0.006007019
4190	3	2.203017	-0.005	30.58875	0.006006038
535	1	2.203537	-0.0075	30.58125	0.006004565
8317	3	2.203651	-0.005	30.57625	0.006003583
1010	1	2.20396	0.015	30.59125	0.006006529
6160	3	2.204087	-0.005	30.58625	0.006005547
5956	3	2.205088	-0.005	30.58125	0.006004565
270	1	2.20541	-0.0075	30.57375	0.006003092
2875	2	2.205951	-0.00625	30.5675	0.006001865
838	1	2.205961	0.015	30.5825	0.006004811
5037	3	2.206648	-0.005	30.5775	0.006003829
2709	2	2.207177	0.0125	30.59	0.006006283
5162	3	2.207547	-0.005	30.585	0.006005301
2534	2	2.207905	-0.00625	30.57875	0.006004074
9083	4	2.208653	-0.005	30.57375	0.006003092
3855	3	2.208761	0.01	30.58375	0.006005056
4346	3	2.209124	-0.005	30.57875	0.006004074
306	1	2.210161	-0.0075	30.57125	0.006002602
2425	2	2.210655	-0.00625	30.565	0.006001374
8090	3	2.211321	-0.005	30.56	0.006000393
9610	4	2.21151	-0.005	30.555	0.005999411
6822	3	2.211583	-0.005	30.55	0.005998429
4507	3	2.211725	-0.005	30.545	0.005997447
4426	3	2.211989	-0.005	30.54	0.005996466
31	1	2.212	-0.0075	30.5325	0.005994993
146	1	2.212191	-0.0075	30.525	0.005993521
8163	3	2.212337	-0.005	30.52	0.005992539
8276	3	2.212602	-0.005	30.515	0.005991557
502	1	2.212692	-0.0075	30.5075	0.005990084

7728	3	2.213429	-0.005	30.5025	0.005989103
3648	3	2.214346	-0.005	30.4975	0.005988121
2882	2	2.214463	-0.00625	30.49125	0.005986894
1853	2	2.215491	-0.00625	30.485	0.005985667
2137	2	2.216307	-0.00625	30.47875	0.005984439
751	1	2.216909	-0.0075	30.47125	0.005982967
2487	2	2.216966	0.0125	30.48375	0.005985421
1763	1	2.21725	-0.0075	30.47625	0.005983949
1124	1	2.217336	0.015	30.49125	0.005986894
3866	3	2.217374	-0.005	30.48625	0.005985912
2690	2	2.217749	0.0125	30.49875	0.005988366
4568	3	2.218013	-0.005	30.49375	0.005987385
5273	3	2.218161	-0.005	30.48875	0.005986403
271	1	2.218183	0.015	30.50375	0.005989348
884	1	2.218225	-0.0075	30.49625	0.005987876
3467	3	2.218226	-0.005	30.49125	0.005986894
1394	1	2.220959	-0.0075	30.48375	0.005985421
4693	3	2.221429	-0.005	30.47875	0.005984439
2729	2	2.221752	0.0125	30.49125	0.005986894
9529	4	2.222863	0.01	30.50125	0.005988857
4665	3	2.22371	0.01	30.51125	0.005990821
5085	3	2.223869	-0.005	30.50625	0.005989839
1325	1	2.224097	0.015	30.52125	0.005992784
839	1	2.225178	-0.0075	30.51375	0.005991312
6057	3	2.225517	-0.005	30.50875	0.00599033
3436	3	2.225736	0.01	30.51875	0.005992293
1022	1	2.225873	-0.0075	30.51125	0.005990821
1952	2	2.22644	-0.00625	30.505	0.005989594
437	1	2.226903	0.015	30.52	0.005992539
7531	3	2.22705	-0.005	30.515	0.005991557
2472	2	2.227306	-0.00625	30.50875	0.00599033
2182	2	2.227448	-0.00625	30.5025	0.005989103
7483	3	2.227923	0.01	30.5125	0.005991066
3958	3	2.229802	-0.005	30.5075	0.005990084
7614	3	2.229885	-0.005	30.5025	0.005989103
1811	2	2.230386	-0.00625	30.49625	0.005987876
3461	3	2.230426	-0.005	30.49125	0.005986894
1663	1	2.231142	0.015	30.50625	0.005989839
731	1	2.231218	-0.0075	30.49875	0.005988366
3636	3	2.231444	-0.005	30.49375	0.005987385
1249	1	2.23187	0.015	30.50875	0.00599033
480	1	2.232574	0.015	30.52375	0.005993275
5269	3	2.232591	0.01	30.53375	0.005995239
5606	3	2.232635	-0.005	30.52875	0.005994257
1631	1	2.233455	0.015	30.54375	0.005997202
8960	4	2.233631	0.01	30.55375	0.005999166
4675	3	2.234238	-0.005	30.54875	0.005998184
9953	4	2.234307	-0.005	30.54375	0.005997202
5656	3	2.23445	0.01	30.55375	0.005999166
4557	3	2.234793	-0.005	30.54875	0.005998184
4181	3	2.235455	-0.005	30.54375	0.005997202
5708	3	2.235653	-0.005	30.53875	0.00599622

2955	3	2.235711	0.01	30.54875	0.005998184
2785	2	2.235856	-0.00625	30.5425	0.005996957
1886	2	2.23709	-0.00625	30.53625	0.005995729
5301	3	2.237225	-0.005	30.53125	0.005994748
9856	4	2.237831	0.01	30.54125	0.005996711
1353	1	2.237848	-0.0075	30.53375	0.005995239
5504	3	2.238168	-0.005	30.52875	0.005994257
4285	3	2.239127	-0.005	30.52375	0.005993275
756	1	2.239205	0.015	30.53875	0.00599622
7930	3	2.239308	-0.005	30.53375	0.005995239
4867	3	2.239502	-0.005	30.52875	0.005994257
1148	1	2.239598	-0.0075	30.52125	0.005992784
1028	1	2.239612	0.015	30.53625	0.005995729
3885	3	2.239675	-0.005	30.53125	0.005994748
1349	1	2.239703	0.015	30.54625	0.005997693
697	1	2.24	0.015	30.56125	0.006000638
273	1	2.240643	-0.0075	30.55375	0.005999166
248	1	2.24073	-0.0075	30.54625	0.005997693
9193	4	2.240909	-0.005	30.54125	0.005996711
909	1	2.241116	-0.0075	30.53375	0.005995239
3475	3	2.241263	-0.005	30.52875	0.005994257
7571	3	2.241383	-0.005	30.52375	0.005993275
2903	3	2.242029	-0.005	30.51875	0.005992293
305	1	2.242322	-0.0075	30.51125	0.005990821
1543	1	2.242514	-0.0075	30.50375	0.005989348
1848	2	2.24265	-0.00625	30.4975	0.005988121
8856	4	2.242723	-0.005	30.4925	0.005987139
1695	1	2.243009	-0.0075	30.485	0.005985667
1530	1	2.243276	-0.0075	30.4775	0.005984194
2759	2	2.24411	-0.00625	30.47125	0.005982967
1622	1	2.244295	-0.0075	30.46375	0.005981494
1021	1	2.244562	-0.0075	30.45625	0.005980022
2287	2	2.245445	-0.00625	30.45	0.005978794
4010	3	2.246038	0.01	30.46	0.005980758
2877	2	2.246199	-0.00625	30.45375	0.005979531
1484	1	2.246214	0.015	30.46875	0.005982476
6579	3	2.246627	0.01	30.47875	0.005984439
4315	3	2.246662	-0.005	30.47375	0.005983458
1317	1	2.246733	0.015	30.48875	0.005986403
8668	3	2.247356	-0.005	30.48375	0.005985421
737	1	2.247637	-0.0075	30.47625	0.005983949
1731	1	2.248341	-0.0075	30.46875	0.005982476
7412	3	2.248441	-0.005	30.46375	0.005981494
7538	3	2.249101	-0.005	30.45875	0.005980512
2091	2	2.249126	-0.00625	30.4525	0.005979285
2569	2	2.249293	0.0125	30.465	0.00598174
2132	2	2.249761	-0.00625	30.45875	0.005980512
5199	3	2.249965	-0.005	30.45375	0.005979531
510	1	2.250022	-0.0075	30.44625	0.005978058
1098	1	2.251189	-0.0075	30.43875	0.005976586
4241	3	2.251508	0.01	30.44875	0.005978549
1379	1	2.251846	-0.0075	30.44125	0.005977076

6430	3	2.252018	-0.005	30.43625	0.005976095
1703	1	2.252072	-0.0075	30.42875	0.005974622
6186	3	2.252148	-0.005	30.42375	0.00597364
8202	3	2.25235	-0.005	30.41875	0.005972659
4622	3	2.252355	-0.005	30.41375	0.005971677
6690	3	2.252421	-0.005	30.40875	0.005970695
9748	4	2.25246	0.01	30.41875	0.005972659
4148	3	2.252593	0.01	30.42875	0.005974622
5465	3	2.254949	-0.005	30.42375	0.00597364
1019	1	2.255724	0.015	30.43875	0.005976586
833	1	2.25601	0.015	30.45375	0.005979531
3904	3	2.256805	-0.005	30.44875	0.005978549
9965	4	2.25739	0.01	30.45875	0.005980512
1278	1	2.257655	-0.0075	30.45125	0.00597904
8323	3	2.257723	0.01	30.46125	0.005981003
5798	3	2.258035	-0.005	30.45625	0.005980022
9342	4	2.258391	-0.005	30.45125	0.00597904
563	1	2.259702	-0.0075	30.44375	0.005977567
9114	4	2.259738	-0.005	30.43875	0.005976586
4395	3	2.259958	-0.005	30.43375	0.005975604
1604	1	2.260325	-0.0075	30.42625	0.005974131
2700	2	2.260572	-0.00625	30.42	0.005972904
1989	2	2.260604	0.0125	30.4325	0.005975358
3477	3	2.260675	-0.005	30.4275	0.005974377
9132	4	2.260719	-0.005	30.4225	0.005973395
1621	1	2.261921	-0.0075	30.415	0.005971922
2527	2	2.262281	-0.00625	30.40875	0.005970695
1065	1	2.262287	-0.0075	30.40125	0.005969222
6062	3	2.262408	-0.005	30.39625	0.005968241
1245	1	2.262483	-0.0075	30.38875	0.005966768
7215	3	2.262777	-0.005	30.38375	0.005965786
9267	4	2.263264	-0.005	30.37875	0.005964805
2169	2	2.263351	-0.00625	30.3725	0.005963577
5748	3	2.264042	-0.005	30.3675	0.005962596
2479	2	2.26491	-0.00625	30.36125	0.005961369
7694	3	2.265034	-0.005	30.35625	0.005960387
4756	3	2.265499	-0.005	30.35125	0.005959405
9726	4	2.265561	-0.005	30.34625	0.005958423
7986	3	2.2656	-0.005	30.34125	0.005957442
6796	3	2.265629	-0.005	30.33625	0.00595646
1826	2	2.265844	0.0125	30.34875	0.005958914
6640	3	2.266454	0.01	30.35875	0.005960878
6204	3	2.266649	-0.005	30.35375	0.005959896
7350	3	2.266781	0.01	30.36375	0.005961859
1005	1	2.267193	-0.0075	30.35625	0.005960387
3077	3	2.267227	-0.005	30.35125	0.005959405
6364	3	2.267425	-0.005	30.34625	0.005958423
4819	3	2.267451	-0.005	30.34125	0.005957442
1349	1	2.267551	-0.0075	30.33375	0.005955969
3404	3	2.268007	0.01	30.34375	0.005957932
2867	2	2.268095	-0.00625	30.3375	0.005956705
2582	2	2.269263	-0.00625	30.33125	0.005955478

4464	3	2.269518	-0.005	30.32625	0.005954496
745	1	2.269906	-0.0075	30.31875	0.005953024
1705	1	2.270265	-0.0075	30.31125	0.005951551
296	1	2.270547	0.015	30.32625	0.005954496
7069	3	2.270758	-0.005	30.32125	0.005953515
8726	3	2.27076	-0.005	30.31625	0.005952533
2201	2	2.271125	-0.00625	30.31	0.005951306
1834	2	2.27122	-0.00625	30.30375	0.005950079
4172	3	2.271766	-0.005	30.29875	0.005949097
6116	3	2.272075	-0.005	30.29375	0.005948115
9687	4	2.273014	0.01	30.30375	0.005950079
2864	2	2.273716	0.0125	30.31625	0.005952533
6614	3	2.273826	-0.005	30.31125	0.005951551
2956	3	2.274728	-0.005	30.30625	0.005950569
218	1	2.275041	-0.0075	30.29875	0.005949097
2273	2	2.27517	-0.00625	30.2925	0.00594787
6868	3	2.275206	-0.005	30.2875	0.005946888
4338	3	2.275565	-0.005	30.2825	0.005945906
44	1	2.275632	-0.0075	30.275	0.005944434
9718	4	2.275691	0.01	30.285	0.005946397
3032	3	2.275697	-0.005	30.28	0.005945415
6696	3	2.275853	0.01	30.29	0.005947379
7298	3	2.276254	-0.005	30.285	0.005946397
1428	1	2.278019	-0.0075	30.2775	0.005944924
3790	3	2.27834	0.01	30.2875	0.005946888
7505	3	2.279117	-0.005	30.2825	0.005945906
2456	2	2.279959	-0.00625	30.27625	0.005944679
1013	1	2.280479	-0.0075	30.26875	0.005943206
291	1	2.281097	-0.0075	30.26125	0.005941734
5702	3	2.282113	-0.005	30.25625	0.005940752
1319	1	2.282344	0.015	30.27125	0.005943697
2760	2	2.282413	-0.00625	30.265	0.00594247
2252	2	2.28332	-0.00625	30.25875	0.005941243
6112	3	2.284155	-0.005	30.25375	0.005940261
543	1	2.284314	0.015	30.26875	0.005943206
8677	3	2.284331	-0.005	30.26375	0.005942225
681	1	2.284333	-0.0075	30.25625	0.005940752
2089	2	2.28439	-0.00625	30.25	0.005939525
4015	3	2.285181	-0.005	30.245	0.005938543
8360	3	2.285485	0.01	30.255	0.005940507
5866	3	2.285682	-0.005	30.25	0.005939525
3109	3	2.28578	0.01	30.26	0.005941488
2215	2	2.285783	-0.00625	30.25375	0.005940261
1854	2	2.28603	-0.00625	30.2475	0.005939034
6806	3	2.286083	0.01	30.2575	0.005940997
5659	3	2.286189	-0.005	30.2525	0.005940016
2804	2	2.286332	-0.00625	30.24625	0.005938789
1047	1	2.286414	-0.0075	30.23875	0.005937316
1937	2	2.286691	-0.00625	30.2325	0.005936089
621	1	2.287442	0.015	30.2475	0.005939034
3785	3	2.2878	0.01	30.2575	0.005940997
5414	3	2.287823	-0.005	30.2525	0.005940016

9462	4	2.291349	-0.005	30.2475	0.005939034
4595	3	2.291658	-0.005	30.2425	0.005938052
1205	1	2.291784	-0.0075	30.235	0.00593658
4196	3	2.292089	-0.005	30.23	0.005935598
1250	1	2.292155	-0.0075	30.2225	0.005934125
4931	3	2.29235	0.01	30.2325	0.005936089
4976	3	2.29328	-0.005	30.2275	0.005935107
20	1	2.293943	-0.0075	30.22	0.005933634
5968	3	2.294094	0.01	30.23	0.005935598
2646	2	2.294331	-0.00625	30.22375	0.005934371
4858	3	2.294478	0.01	30.23375	0.005936334
8960	4	2.294525	-0.005	30.22875	0.005935352
676	1	2.294764	-0.0075	30.22125	0.00593388
3533	3	2.295044	0.01	30.23125	0.005935843
919	1	2.295467	-0.0075	30.22375	0.005934371
1300	1	2.295771	-0.0075	30.21625	0.005932898
5870	3	2.295893	-0.005	30.21125	0.005931916
8085	3	2.296869	-0.005	30.20625	0.005930935
2675	2	2.29782	-0.00625	30.2	0.005929707
605	1	2.298136	-0.0075	30.1925	0.005928235
1736	1	2.298983	-0.0075	30.185	0.005926762
4227	3	2.299804	-0.005	30.18	0.00592578
6684	3	2.30033	-0.005	30.175	0.005924799
7495	3	2.30036	-0.005	30.17	0.005923817
3323	3	2.300811	-0.005	30.165	0.005922835
8505	3	2.300947	-0.005	30.16	0.005921854
9090	4	2.301055	-0.005	30.155	0.005920872
1292	1	2.302576	-0.0075	30.1475	0.005919399
3785	3	2.302669	-0.005	30.1425	0.005918417
2114	2	2.302939	-0.00625	30.13625	0.00591719
3295	3	2.303014	-0.005	30.13125	0.005916209
6050	3	2.303203	-0.005	30.12625	0.005915227
116	1	2.303322	-0.0075	30.11875	0.005913754
3530	3	2.303374	-0.005	30.11375	0.005912772
1388	1	2.303731	-0.0075	30.10625	0.0059113
6570	3	2.303861	-0.005	30.10125	0.005910318
9726	4	2.304181	-0.005	30.09625	0.005909336
1118	1	2.30466	0.015	30.11125	0.005912282
1301	1	2.304975	-0.0075	30.10375	0.005910809
4340	3	2.306007	0.01	30.11375	0.005912772
366	1	2.306241	-0.0075	30.10625	0.0059113
5078	3	2.306264	-0.005	30.10125	0.005910318
174	1	2.306517	-0.0075	30.09375	0.005908845
1624	1	2.306777	-0.0075	30.08625	0.005907373
9010	4	2.306854	-0.005	30.08125	0.005906391
2303	2	2.3075	-0.00625	30.075	0.005905164
5152	3	2.309106	0.01	30.085	0.005907127
2671	2	2.309411	-0.00625	30.07875	0.0059059
5347	3	2.309444	-0.005	30.07375	0.005904919
928	1	2.31005	-0.0075	30.06625	0.005903446
7	1	2.310055	0.015	30.08125	0.005906391
1980	2	2.310459	0.0125	30.09375	0.005908845

626	1	2.31077	-0.0075	30.08625	0.005907373
5776	3	2.311157	-0.005	30.08125	0.005906391
6815	3	2.311565	-0.005	30.07625	0.005905409
3679	3	2.311601	-0.005	30.07125	0.005904428
5607	3	2.312553	-0.005	30.06625	0.005903446
1671	1	2.312938	-0.0075	30.05875	0.005901973
1597	1	2.314061	0.015	30.07375	0.005904919
7107	3	2.3149	-0.005	30.06875	0.005903937
2172	2	2.315798	-0.00625	30.0625	0.00590271
7300	3	2.316796	-0.005	30.0575	0.005901728
8575	3	2.316925	0.01	30.0675	0.005903691
4683	3	2.317009	-0.005	30.0625	0.00590271
4166	3	2.317064	-0.005	30.0575	0.005901728
351	1	2.317123	-0.0075	30.05	0.005900255
138	1	2.317127	-0.0075	30.0425	0.005898783
8587	3	2.317155	-0.005	30.0375	0.005897801
9584	4	2.317262	0.01	30.0475	0.005899764
6913	3	2.317487	-0.005	30.0425	0.005898783
1538	1	2.317561	0.015	30.0575	0.005901728
3417	3	2.31763	-0.005	30.0525	0.005900746
6670	3	2.318503	-0.005	30.0475	0.005899764
5857	3	2.319273	-0.005	30.0425	0.005898783
7993	3	2.320117	-0.005	30.0375	0.005897801
9218	4	2.32018	-0.005	30.0325	0.005896819
3082	3	2.321032	-0.005	30.0275	0.005895837
975	1	2.321357	-0.0075	30.02	0.005894365
2843	2	2.321412	-0.00625	30.01375	0.005893138
2332	2	2.322567	-0.00625	30.0075	0.00589191
2767	2	2.322757	0.0125	30.02	0.005894365
244	1	2.323037	-0.0075	30.0125	0.005892892
1645	1	2.323302	-0.0075	30.005	0.00589142
196	1	2.323538	-0.0075	29.9975	0.005889947
6304	3	2.324975	-0.005	29.9925	0.005888965
7037	3	2.325075	0.01	30.0025	0.005890929
501	1	2.32514	-0.0075	29.995	0.005889456
8623	3	2.325803	0.01	30.005	0.00589142
843	1	2.326208	-0.0075	29.9975	0.005889947
6753	3	2.32624	0.01	30.0075	0.00589191
1823	2	2.326577	-0.00625	30.00125	0.005890683
3533	3	2.326935	-0.005	29.99625	0.005889702
4129	3	2.327019	0.01	30.00625	0.005891665
1009	1	2.328145	0.015	30.02125	0.00589461
4943	3	2.328276	-0.005	30.01625	0.005893629
1714	1	2.328489	-0.0075	30.00875	0.005892156
655	1	2.328539	-0.0075	30.00125	0.005890683
2049	2	2.328812	-0.00625	29.995	0.005889456
9926	4	2.329106	0.01	30.005	0.00589142
6305	3	2.32952	0.01	30.015	0.005893383
2251	2	2.329759	-0.00625	30.00875	0.005892156
511	1	2.330884	-0.0075	30.00125	0.005890683
5580	3	2.330906	-0.005	29.99625	0.005889702
7181	3	2.332285	-0.005	29.99125	0.00588872

2995	3	2.332555	-0.005	29.98625	0.005887738
5492	3	2.332758	-0.005	29.98125	0.005886756
1583	1	2.332889	-0.0075	29.97375	0.005885284
6406	3	2.333761	-0.005	29.96875	0.005884302
2531	2	2.334305	-0.00625	29.9625	0.005883075
1274	1	2.334839	-0.0075	29.955	0.005881602
1155	1	2.334926	-0.0075	29.9475	0.00588013
2529	2	2.335071	0.0125	29.96	0.005882584
5860	3	2.3353	-0.005	29.955	0.005881602
1794	2	2.335382	-0.00625	29.94875	0.005880375
4749	3	2.335608	-0.005	29.94375	0.005879393
318	1	2.336592	0.015	29.95875	0.005882339
1172	1	2.336669	0.015	29.97375	0.005885284
2529	2	2.336848	-0.00625	29.9675	0.005884057
2269	2	2.338489	0.0125	29.98	0.005886511
1801	2	2.338931	-0.00625	29.97375	0.005885284
18	1	2.339178	-0.0075	29.96625	0.005883811
7378	3	2.339781	-0.005	29.96125	0.005882829
642	1	2.339849	-0.0075	29.95375	0.005881357
4562	3	2.340067	-0.005	29.94875	0.005880375
1199	1	2.34026	0.015	29.96375	0.00588332
6831	3	2.340304	-0.005	29.95875	0.005882339
6096	3	2.34063	-0.005	29.95375	0.005881357
1003	1	2.341349	0.015	29.96875	0.005884302
3621	3	2.341459	0.01	29.97875	0.005886265
9534	4	2.342173	-0.005	29.97375	0.005885284
779	1	2.342356	-0.0075	29.96625	0.005883811
338	1	2.342585	0.015	29.98125	0.005886756
5161	3	2.342612	-0.005	29.97625	0.005885775
5055	3	2.343144	-0.005	29.97125	0.005884793
3856	3	2.343909	-0.005	29.96625	0.005883811
6684	3	2.344339	-0.005	29.96125	0.005882829
4	1	2.344363	0.015	29.97625	0.005885775
4620	3	2.344399	0.01	29.98625	0.005887738
427	1	2.34484	-0.0075	29.97875	0.005886265
7724	3	2.346781	-0.005	29.97375	0.005885284
1233	1	2.346833	-0.0075	29.96625	0.005883811
2250	2	2.347817	-0.00625	29.96	0.005882584
3516	3	2.349075	0.01	29.97	0.005884547
6759	3	2.34912	0.01	29.98	0.005886511
7370	3	2.349706	-0.005	29.975	0.005885529
4248	3	2.349845	-0.005	29.97	0.005884547
2787	2	2.350236	-0.00625	29.96375	0.00588332
381	1	2.350904	0.015	29.97875	0.005886265
5278	3	2.352102	-0.005	29.97375	0.005885284
4811	3	2.35232	-0.005	29.96875	0.005884302
6047	3	2.352607	-0.005	29.96375	0.00588332
3109	3	2.352741	-0.005	29.95875	0.005882339
3348	3	2.353042	-0.005	29.95375	0.005881357
2366	2	2.353174	-0.00625	29.9475	0.00588013
1919	2	2.353195	-0.00625	29.94125	0.005878902
235	1	2.353203	0.015	29.95625	0.005881848

5630	3	2.35342	-0.005	29.95125	0.005880866
9096	4	2.353422	-0.005	29.94625	0.005879884
2125	2	2.353983	-0.00625	29.94	0.005878657
223	1	2.354625	-0.0075	29.9325	0.005877184
8792	4	2.354934	-0.005	29.9275	0.005876203
1599	1	2.355552	-0.0075	29.92	0.00587473
1054	1	2.355619	0.015	29.935	0.005877675
412	1	2.356463	-0.0075	29.9275	0.005876203
1627	1	2.356483	-0.0075	29.92	0.00587473
7191	3	2.35683	-0.005	29.915	0.005873748
6816	3	2.356944	-0.005	29.91	0.005872767
2826	2	2.357017	-0.00625	29.90375	0.005871539
7612	3	2.357031	-0.005	29.89875	0.005870558
5317	3	2.357133	0.01	29.90875	0.005872521
9602	4	2.358022	0.01	29.91875	0.005874485
1314	1	2.358128	-0.0075	29.91125	0.005873012
467	1	2.359021	0.015	29.92625	0.005875957
5593	3	2.359306	-0.005	29.92125	0.005874975
5993	3	2.359434	-0.005	29.91625	0.005873994
958	1	2.359895	-0.0075	29.90875	0.005872521
1210	1	2.360266	-0.0075	29.90125	0.005871048
7856	3	2.360408	-0.005	29.89625	0.005870067
943	1	2.360846	-0.0075	29.88875	0.005868594
8604	3	2.361011	-0.005	29.88375	0.005867612
4620	3	2.361343	-0.005	29.87875	0.005866631
7000	3	2.361552	-0.005	29.87375	0.005865649
5500	3	2.361869	0.01	29.88375	0.005867612
1848	2	2.362134	-0.00625	29.8775	0.005866385
8653	3	2.362434	-0.005	29.8725	0.005865403
2794	2	2.362527	-0.00625	29.86625	0.005864176
2101	2	2.362808	-0.00625	29.86	0.005862949
4853	3	2.36319	-0.005	29.855	0.005861967
5507	3	2.363718	-0.005	29.85	0.005860986
1467	1	2.364264	-0.0075	29.8425	0.005859513
2595	2	2.364449	-0.00625	29.83625	0.005858286
8766	4	2.364833	-0.005	29.83125	0.005857304
6372	3	2.365513	-0.005	29.82625	0.005856322
6532	3	2.365626	-0.005	29.82125	0.005855341
6868	3	2.365989	-0.005	29.81625	0.005854359
4931	3	2.366162	-0.005	29.81125	0.005853377
1992	2	2.366869	-0.00625	29.805	0.00585215
452	1	2.366916	-0.0075	29.7975	0.005850677
1414	1	2.367105	-0.0075	29.79	0.005849205
9748	4	2.367232	-0.005	29.785	0.005848223
8530	3	2.368706	0.01	29.795	0.005850187
4946	3	2.368922	-0.005	29.79	0.005849205
4519	3	2.369146	-0.005	29.785	0.005848223
6231	3	2.369208	0.01	29.795	0.005850187
5983	3	2.369975	-0.005	29.79	0.005849205
1307	1	2.370344	-0.0075	29.7825	0.005847732
7986	3	2.37066	-0.005	29.7775	0.00584675
9687	4	2.370964	-0.005	29.7725	0.005845769

2529	2	2.37115	-0.00625	29.76625	0.005844542
5461	3	2.371776	0.01	29.77625	0.005846505
1669	1	2.372414	0.015	29.79125	0.00584945
5190	3	2.372951	-0.005	29.78625	0.005848468
480	1	2.373901	-0.0075	29.77875	0.005846996
6111	3	2.374739	-0.005	29.77375	0.005846014
491	1	2.375379	-0.0075	29.76625	0.005844542
736	1	2.375452	-0.0075	29.75875	0.005843069
2044	2	2.375603	-0.00625	29.7525	0.005841842
7019	3	2.376087	-0.005	29.7475	0.00584086
5791	3	2.376109	-0.005	29.7425	0.005839878
5912	3	2.37642	0.01	29.7525	0.005841842
8340	3	2.376628	-0.005	29.7475	0.00584086
3757	3	2.376779	-0.005	29.7425	0.005839878
2599	2	2.377021	0.0125	29.755	0.005842333
7484	3	2.377129	-0.005	29.75	0.005841351
3875	3	2.377164	-0.005	29.745	0.005840369
3420	3	2.377213	0.01	29.755	0.005842333
2107	2	2.378261	-0.00625	29.74875	0.005841105
8640	3	2.37875	-0.005	29.74375	0.005840124
8361	3	2.378758	-0.005	29.73875	0.005839142
7964	3	2.378808	0.01	29.74875	0.005841105
6204	3	2.379036	-0.005	29.74375	0.005840124
4010	3	2.379761	-0.005	29.73875	0.005839142
4521	3	2.379778	-0.005	29.73375	0.00583816
4500	3	2.38011	-0.005	29.72875	0.005837178
3551	3	2.380174	-0.005	29.72375	0.005836197
2460	2	2.382162	0.0125	29.73625	0.005838651
5366	3	2.382207	-0.005	29.73125	0.005837669
8703	3	2.382345	-0.005	29.72625	0.005836688
7258	3	2.382464	-0.005	29.72125	0.005835706
443	1	2.38248	-0.0075	29.71375	0.005834233
7655	3	2.383296	-0.005	29.70875	0.005833252
8622	3	2.383749	-0.005	29.70375	0.00583227
1325	1	2.384063	-0.0075	29.69625	0.005830797
6663	3	2.384078	0.01	29.70625	0.005832761
7769	3	2.384545	-0.005	29.70125	0.005831779
1323	1	2.385004	0.015	29.71625	0.005834724
1664	1	2.385694	-0.0075	29.70875	0.005833252
7648	3	2.385866	-0.005	29.70375	0.00583227
420	1	2.386103	0.015	29.71875	0.005835215
2528	2	2.386267	-0.00625	29.7125	0.005833988
1752	1	2.386958	0.015	29.7275	0.005836933
7980	3	2.387248	-0.005	29.7225	0.005835951
181	1	2.387501	-0.0075	29.715	0.005834479
2258	2	2.387592	-0.00625	29.70875	0.005833252
1733	1	2.388254	-0.0075	29.70125	0.005831779
4115	3	2.388486	-0.005	29.69625	0.005830797
364	1	2.388786	-0.0075	29.68875	0.005829325
634	1	2.389261	0.015	29.70375	0.00583227
1284	1	2.38943	-0.0075	29.69625	0.005830797
4242	3	2.389546	-0.005	29.69125	0.005829815

177	1	2.389954	-0.0075	29.68375	0.005828343
1319	1	2.390033	-0.0075	29.67625	0.00582687
2126	2	2.390362	-0.00625	29.67	0.005825643
617	1	2.390771	-0.0075	29.6625	0.00582417
2897	2	2.391994	0.0125	29.675	0.005826625
801	1	2.392337	-0.0075	29.6675	0.005825152
5730	3	2.393322	-0.005	29.6625	0.00582417
1609	1	2.393366	-0.0075	29.655	0.005822698
5414	3	2.393445	-0.005	29.65	0.005821716
6699	3	2.393496	-0.005	29.645	0.005820734
5510	3	2.393641	0.01	29.655	0.005822698
6860	3	2.393648	-0.005	29.65	0.005821716
1040	1	2.394003	-0.0075	29.6425	0.005820243
772	1	2.394079	-0.0075	29.635	0.005818771
6259	3	2.394212	-0.005	29.63	0.005817789
2476	2	2.394501	0.0125	29.6425	0.005820243
622	1	2.394521	-0.0075	29.635	0.005818771
716	1	2.394559	-0.0075	29.6275	0.005817298
1019	1	2.39519	-0.0075	29.62	0.005815826
1389	1	2.395744	-0.0075	29.6125	0.005814353
4448	3	2.396032	-0.005	29.6075	0.005813371
6477	3	2.396212	0.01	29.6175	0.005815335
7724	3	2.396544	-0.005	29.6125	0.005814353
398	1	2.397907	-0.0075	29.605	0.00581288
8122	3	2.398429	-0.005	29.6	0.005811899
3404	3	2.398466	-0.005	29.595	0.005810917
5282	3	2.398623	-0.005	29.59	0.005809935
6088	3	2.398804	-0.005	29.585	0.005808953
1018	1	2.40001	-0.0075	29.5775	0.005807481
826	1	2.401675	0.015	29.5925	0.005810426
2751	2	2.401907	0.0125	29.605	0.00581288
2517	2	2.402139	-0.00625	29.59875	0.005811653
8561	3	2.402286	-0.005	29.59375	0.005810672
2686	2	2.402439	0.0125	29.60625	0.005813126
3846	3	2.402474	0.01	29.61625	0.005815089
84	1	2.402542	0.015	29.63125	0.005818035
7281	3	2.402978	-0.005	29.62625	0.005817053
4779	3	2.40304	-0.005	29.62125	0.005816071
2420	2	2.403596	0.0125	29.63375	0.005818525
2429	2	2.403869	-0.00625	29.6275	0.005817298
3704	3	2.403984	0.01	29.6375	0.005819262
6889	3	2.405894	-0.005	29.6325	0.00581828
3735	3	2.406221	-0.005	29.6275	0.005817298
6789	3	2.406855	-0.005	29.6225	0.005816317
1816	2	2.407753	-0.00625	29.61625	0.005815089
6274	3	2.408019	-0.005	29.61125	0.005814108
332	1	2.409245	-0.0075	29.60375	0.005812635
857	1	2.409505	0.015	29.61875	0.00581558
4358	3	2.409752	-0.005	29.61375	0.005814598
7064	3	2.409804	-0.005	29.60875	0.005813617
1594	1	2.409937	-0.0075	29.60125	0.005812144
4611	3	2.410261	0.01	29.61125	0.005814108

5812	3	2.410631	-0.005	29.60625	0.005813126
6845	3	2.41093	-0.005	29.60125	0.005812144
2686	2	2.411221	-0.00625	29.595	0.005810917
713	1	2.411692	-0.0075	29.5875	0.005809444
2499	2	2.411791	-0.00625	29.58125	0.005808217
2341	2	2.41185	-0.00625	29.575	0.00580699
3333	3	2.412294	-0.005	29.57	0.005806008
2553	2	2.413607	-0.00625	29.56375	0.005804781
1029	1	2.41433	0.015	29.57875	0.005807726
2104	2	2.415483	-0.00625	29.5725	0.005806499
4472	3	2.415734	-0.005	29.5675	0.005805517
1398	1	2.415988	-0.0075	29.56	0.005804045
4556	3	2.416547	-0.005	29.555	0.005803063
1095	1	2.417754	-0.0075	29.5475	0.00580159
2575	2	2.417923	-0.00625	29.54125	0.005800363
1931	2	2.418363	-0.00625	29.535	0.005799136
3565	3	2.418509	-0.005	29.53	0.005798154
63	1	2.419133	-0.0075	29.5225	0.005796682
6036	3	2.420108	-0.005	29.5175	0.0057957
3885	3	2.420792	-0.005	29.5125	0.005794718
8662	3	2.421066	-0.005	29.5075	0.005793737
838	1	2.422116	-0.0075	29.5	0.005792264
8953	4	2.422426	-0.005	29.495	0.005791282
2511	2	2.422483	-0.00625	29.48875	0.005790055
2354	2	2.423426	-0.00625	29.4825	0.005788828
2472	2	2.423834	-0.00625	29.47625	0.005787601
2097	2	2.424878	-0.00625	29.47	0.005786373
8487	3	2.425167	-0.005	29.465	0.005785392
2348	2	2.425521	0.0125	29.4775	0.005787846
1059	1	2.426123	0.015	29.4925	0.005790791
6468	3	2.426376	-0.005	29.4875	0.00578981
2267	2	2.427159	-0.00625	29.48125	0.005788582
4740	3	2.427379	-0.005	29.47625	0.005787601
7875	3	2.427496	0.01	29.48625	0.005789564
7145	3	2.427943	0.01	29.49625	0.005791528
927	1	2.428072	0.015	29.51125	0.005794473
1595	1	2.428145	-0.0075	29.50375	0.005793
5221	3	2.428698	-0.005	29.49875	0.005792018
7889	3	2.429459	-0.005	29.49375	0.005791037
3738	3	2.431952	-0.005	29.48875	0.005790055
3559	3	2.432042	-0.005	29.48375	0.005789073
4609	3	2.432293	-0.005	29.47875	0.005788091
4546	3	2.432646	-0.005	29.47375	0.00578711
4417	3	2.432982	-0.005	29.46875	0.005786128
9961	4	2.433081	-0.005	29.46375	0.005785146
148	1	2.433428	-0.0075	29.45625	0.005783674
3986	3	2.433692	-0.005	29.45125	0.005782692
7025	3	2.434985	-0.005	29.44625	0.00578171
3815	3	2.4353	0.01	29.45625	0.005783674
1721	1	2.435304	-0.0075	29.44875	0.005782201
2858	2	2.435618	-0.00625	29.4425	0.005780974
1469	1	2.435817	-0.0075	29.435	0.005779501

2066	2	2.436086	-0.00625	29.42875	0.005778274
3623	3	2.436125	0.01	29.43875	0.005780238
4298	3	2.437109	-0.005	29.43375	0.005779256
3352	3	2.437797	-0.005	29.42875	0.005778274
5046	3	2.438392	0.01	29.43875	0.005780238
9628	4	2.438401	-0.005	29.43375	0.005779256
1861	2	2.439084	-0.00625	29.4275	0.005778029
5126	3	2.439885	-0.005	29.4225	0.005777047
3345	3	2.440022	-0.005	29.4175	0.005776065
6538	3	2.440202	-0.005	29.4125	0.005775083
1641	1	2.440327	-0.0075	29.405	0.005773611
3628	3	2.440388	-0.005	29.4	0.005772629
6040	3	2.440425	-0.005	29.395	0.005771647
2973	3	2.440976	-0.005	29.39	0.005770666
355	1	2.441373	-0.0075	29.3825	0.005769193
450	1	2.441823	0.015	29.3975	0.005772138
5094	3	2.443085	0.01	29.4075	0.005774102
9258	4	2.444004	-0.005	29.4025	0.00577312
951	1	2.445668	-0.0075	29.395	0.005771647
1369	1	2.446502	-0.0075	29.3875	0.005770175
5314	3	2.446999	-0.005	29.3825	0.005769193
8795	4	2.447074	0.01	29.3925	0.005771156
7787	3	2.447091	-0.005	29.3875	0.005770175
9278	4	2.447512	0.01	29.3975	0.005772138
2164	2	2.447772	-0.00625	29.39125	0.005770911
1427	1	2.448307	-0.0075	29.38375	0.005769438
3747	3	2.448751	-0.005	29.37875	0.005768457
8544	3	2.448785	-0.005	29.37375	0.005767475
1242	1	2.449159	-0.0075	29.36625	0.005766002
125	1	2.449747	-0.0075	29.35875	0.00576453
4016	3	2.450179	-0.005	29.35375	0.005763548
5926	3	2.451963	0.01	29.36375	0.005765511
1502	1	2.452706	-0.0075	29.35625	0.005764039
7529	3	2.452977	-0.005	29.35125	0.005763057
2514	2	2.453213	-0.00625	29.345	0.00576183
9848	4	2.453652	0.01	29.355	0.005763793
6368	3	2.453716	0.01	29.365	0.005765757
7836	3	2.454514	-0.005	29.36	0.005764775
2306	2	2.45483	-0.00625	29.35375	0.005763548
8958	4	2.455272	0.01	29.36375	0.005765511
1672	1	2.455701	0.015	29.37875	0.005768457
6753	3	2.457534	-0.005	29.37375	0.005767475
7661	3	2.45762	-0.005	29.36875	0.005766493
6857	3	2.458403	-0.005	29.36375	0.005765511
1897	2	2.458482	0.0125	29.37625	0.005767966
1990	2	2.459142	-0.00625	29.37	0.005766739
1004	1	2.459544	0.015	29.385	0.005769684
9681	4	2.460171	-0.005	29.38	0.005768702
2453	2	2.460214	-0.00625	29.37375	0.005767475
6476	3	2.461092	-0.005	29.36875	0.005766493
4661	3	2.462037	-0.005	29.36375	0.005765511
6230	3	2.46248	-0.005	29.35875	0.00576453

414	1	2.463164	-0.0075	29.35125	0.005763057
1410	1	2.463325	-0.0075	29.34375	0.005761585
2748	2	2.464468	-0.00625	29.3375	0.005760357
1659	1	2.465457	-0.0075	29.33	0.005758885
6531	3	2.466031	-0.005	29.325	0.005757903
1432	1	2.466225	-0.0075	29.3175	0.00575643
2751	2	2.466228	-0.00625	29.31125	0.005755203
1618	1	2.466334	-0.0075	29.30375	0.005753731
956	1	2.466842	-0.0075	29.29625	0.005752258
730	1	2.467017	-0.0075	29.28875	0.005750785
1884	2	2.467078	-0.00625	29.2825	0.005749558
2197	2	2.467343	0.0125	29.295	0.005752013
2908	3	2.467573	0.01	29.305	0.005753976
3197	3	2.467644	-0.005	29.3	0.005752994
8223	3	2.468034	-0.005	29.295	0.005752013
4984	3	2.468594	-0.005	29.29	0.005751031
2233	2	2.468754	-0.00625	29.28375	0.005749804
647	1	2.469124	0.015	29.29875	0.005752749
7601	3	2.471205	-0.005	29.29375	0.005751767
7204	3	2.471378	-0.005	29.28875	0.005750785
334	1	2.471937	-0.0075	29.28125	0.005749313
2040	2	2.472306	-0.00625	29.275	0.005748086
35	1	2.472353	-0.0075	29.2675	0.005746613
2717	2	2.472782	0.0125	29.28	0.005749067
245	1	2.472827	0.015	29.295	0.005752013
1445	1	2.472938	-0.0075	29.2875	0.00575054
7409	3	2.473959	-0.005	29.2825	0.005749558
6726	3	2.47439	0.01	29.2925	0.005751522
4713	3	2.474507	-0.005	29.2875	0.00575054
9191	4	2.474658	-0.005	29.2825	0.005749558
6799	3	2.47497	-0.005	29.2775	0.005748576
9939	4	2.476623	-0.005	29.2725	0.005747595
685	1	2.47759	0.015	29.2875	0.00575054
75	1	2.478356	0.015	29.3025	0.005753485
141	1	2.478712	-0.0075	29.295	0.005752013
3602	3	2.479859	-0.005	29.29	0.005751031
318	1	2.480696	-0.0075	29.2825	0.005749558
2825	2	2.481097	-0.00625	29.27625	0.005748331
6756	3	2.481566	-0.005	29.27125	0.005747349
579	1	2.481804	-0.0075	29.26375	0.005745877
3445	3	2.481924	-0.005	29.25875	0.005744895
5610	3	2.482892	-0.005	29.25375	0.005743913
943	1	2.482963	-0.0075	29.24625	0.005742441
3508	3	2.482993	-0.005	29.24125	0.005741459
7638	3	2.484215	-0.005	29.23625	0.005740477
1410	1	2.484445	-0.0075	29.22875	0.005739005
8592	3	2.484866	-0.005	29.22375	0.005738023
7203	3	2.485747	-0.005	29.21875	0.005737041
1535	1	2.486294	-0.0075	29.21125	0.005735568
1183	1	2.486622	-0.0075	29.20375	0.005734096
1202	1	2.486995	-0.0075	29.19625	0.005732623
676	1	2.487829	-0.0075	29.18875	0.005731151

7253	3	2.488031	-0.005	29.18375	0.005730169
256	1	2.489471	-0.0075	29.17625	0.005728696
6222	3	2.489493	-0.005	29.17125	0.005727715
6473	3	2.489753	-0.005	29.16625	0.005726733
1059	1	2.489783	-0.0075	29.15875	0.00572526
1910	2	2.490464	-0.00625	29.1525	0.005724033
5324	3	2.492085	-0.005	29.1475	0.005723051
6647	3	2.492811	-0.005	29.1425	0.00572207
2008	2	2.49339	0.0125	29.155	0.005724524
5152	3	2.49406	-0.005	29.15	0.005723542
1957	2	2.494061	-0.00625	29.14375	0.005722315
6582	3	2.494114	0.01	29.15375	0.005724278
1004	1	2.49414	-0.0075	29.14625	0.005722806
2015	2	2.494199	-0.00625	29.14	0.005721579
7539	3	2.494231	0.01	29.15	0.005723542
2701	2	2.494561	0.0125	29.1625	0.005725996
8112	3	2.494782	-0.005	29.1575	0.005725015
8685	3	2.495063	-0.005	29.1525	0.005724033
3324	3	2.49517	0.01	29.1625	0.005725996
619	1	2.495205	0.015	29.1775	0.005728942
4878	3	2.495502	-0.005	29.1725	0.00572796
70	1	2.49578	0.015	29.1875	0.005730905
3177	3	2.495815	-0.005	29.1825	0.005729923
441	1	2.496722	0.015	29.1975	0.005732869
541	1	2.497114	-0.0075	29.19	0.005731396
8433	3	2.497758	0.01	29.2	0.00573336
2842	2	2.498254	-0.00625	29.19375	0.005732132
2008	2	2.498949	-0.00625	29.1875	0.005730905
538	1	2.499058	-0.0075	29.18	0.005729433
4650	3	2.49946	0.01	29.19	0.005731396
1401	1	2.499635	-0.0075	29.1825	0.005729923
8614	3	2.499879	-0.005	29.1775	0.005728942
8176	3	2.499983	-0.005	29.1725	0.00572796
7326	3	2.500133	-0.005	29.1675	0.005726978
4575	3	2.500524	0.01	29.1775	0.005728942
7174	3	2.501397	0.01	29.1875	0.005730905
5639	3	2.501841	-0.005	29.1825	0.005729923
9630	4	2.502356	-0.005	29.1775	0.005728942
4402	3	2.504734	-0.005	29.1725	0.00572796
4057	3	2.504777	0.01	29.1825	0.005729923
3618	3	2.505027	-0.005	29.1775	0.005728942
2879	2	2.505608	0.0125	29.19	0.005731396
8377	3	2.505716	0.01	29.2	0.00573336
7634	3	2.505944	-0.005	29.195	0.005732378
2400	2	2.50686	0.0125	29.2075	0.005734832
2908	3	2.506941	-0.005	29.2025	0.00573385
162	1	2.507799	-0.0075	29.195	0.005732378
994	1	2.507944	-0.0075	29.1875	0.005730905
674	1	2.50818	0.015	29.2025	0.00573385
1680	1	2.508273	-0.0075	29.195	0.005732378
1975	2	2.508422	0.0125	29.2075	0.005734832
3558	3	2.508668	0.01	29.2175	0.005736796

3265	3	2.50899	-0.005	29.2125	0.005735814
9004	4	2.509071	-0.005	29.2075	0.005734832
1136	1	2.509746	-0.0075	29.2	0.00573336
9648	4	2.510158	-0.005	29.195	0.005732378
9975	4	2.510804	-0.005	29.19	0.005731396
3520	3	2.511104	-0.005	29.185	0.005730414
2383	2	2.51173	-0.00625	29.17875	0.005729187
5269	3	2.511844	-0.005	29.17375	0.005728205
7267	3	2.512326	-0.005	29.16875	0.005727224
2594	2	2.512742	-0.00625	29.1625	0.005725996
3400	3	2.513084	-0.005	29.1575	0.005725015
1672	1	2.514335	-0.0075	29.15	0.005723542
3265	3	2.514978	-0.005	29.145	0.00572256
7110	3	2.515223	0.01	29.155	0.005724524
269	1	2.515417	-0.0075	29.1475	0.005723051
5526	3	2.517267	-0.005	29.1425	0.00572207
8438	3	2.51861	-0.005	29.1375	0.005721088
2009	2	2.518645	-0.00625	29.13125	0.005719861
1934	2	2.519264	-0.00625	29.125	0.005718633
2185	2	2.519966	-0.00625	29.11875	0.005717406
6831	3	2.520584	-0.005	29.11375	0.005716425
7266	3	2.520639	-0.005	29.10875	0.005715443
756	1	2.521001	-0.0075	29.10125	0.00571397
1131	1	2.521616	0.015	29.11625	0.005716915
516	1	2.522585	-0.0075	29.10875	0.005715443
7143	3	2.523156	-0.005	29.10375	0.005714461
6403	3	2.52329	0.01	29.11375	0.005716425
1838	2	2.52488	-0.00625	29.1075	0.005715197
7105	3	2.525082	-0.005	29.1025	0.005714216
1406	1	2.525437	-0.0075	29.095	0.005712743
2090	2	2.526355	-0.00625	29.08875	0.005711516
3356	3	2.526664	0.01	29.09875	0.005713479
7649	3	2.52752	-0.005	29.09375	0.005712498
8251	3	2.528635	0.01	29.10375	0.005714461
852	1	2.528897	-0.0075	29.09625	0.005712988
4446	3	2.529477	-0.005	29.09125	0.005712007
6769	3	2.529625	-0.005	29.08625	0.005711025
972	1	2.530056	-0.0075	29.07875	0.005709552
1905	2	2.530196	-0.00625	29.0725	0.005708325
2978	3	2.531449	0.01	29.0825	0.005710289
8676	3	2.531579	-0.005	29.0775	0.005709307
899	1	2.53174	-0.0075	29.07	0.005707834
541	1	2.532804	-0.0075	29.0625	0.005706362
7205	3	2.533025	-0.005	29.0575	0.00570538
3590	3	2.533076	-0.005	29.0525	0.005704398
6825	3	2.533258	-0.005	29.0475	0.005703416
5046	3	2.533512	-0.005	29.0425	0.005702435
1176	1	2.534674	-0.0075	29.035	0.005700962
5899	3	2.534778	-0.005	29.03	0.00569998
4893	3	2.534848	0.01	29.04	0.005701944
4655	3	2.534972	-0.005	29.035	0.005700962
8264	3	2.535046	-0.005	29.03	0.00569998

219	1	2.535187	-0.0075	29.0225	0.005698508
9278	4	2.535441	-0.005	29.0175	0.005697526
4408	3	2.535724	-0.005	29.0125	0.005696544
6669	3	2.536477	-0.005	29.0075	0.005695563
5461	3	2.537222	-0.005	29.0025	0.005694581
7676	3	2.537808	-0.005	28.9975	0.005693599
5784	3	2.53788	-0.005	28.9925	0.005692617
5978	3	2.537905	-0.005	28.9875	0.005691636
2611	2	2.53842	-0.00625	28.98125	0.005690408
1229	1	2.538593	0.015	28.99625	0.005693354
660	1	2.538851	-0.0075	28.98875	0.005691881
9184	4	2.539247	-0.005	28.98375	0.005690899
2533	2	2.540015	-0.00625	28.9775	0.005689672
4314	3	2.540285	-0.005	28.9725	0.00568869
271	1	2.540559	-0.0075	28.965	0.005687218
634	1	2.541056	-0.0075	28.9575	0.005685745
2095	2	2.542056	-0.00625	28.95125	0.005684518
184	1	2.5421	0.015	28.96625	0.005687463
1002	1	2.542674	-0.0075	28.95875	0.005685991
7559	3	2.543067	0.01	28.96875	0.005687954
9385	4	2.543482	-0.005	28.96375	0.005686972
22	1	2.543735	-0.0075	28.95625	0.0056855
200	1	2.543963	-0.0075	28.94875	0.005684027
2404	2	2.544099	0.0125	28.96125	0.005686481
8175	3	2.544134	-0.005	28.95625	0.0056855
8093	3	2.544799	-0.005	28.95125	0.005684518
7222	3	2.545222	-0.005	28.94625	0.005683536
3264	3	2.545962	0.01	28.95625	0.0056855
2691	2	2.546785	-0.00625	28.95	0.005684273
1913	2	2.5469	0.0125	28.9625	0.005686727
7917	3	2.547135	0.01	28.9725	0.00568869
9830	4	2.547813	-0.005	28.9675	0.005687709
5454	3	2.548022	0.01	28.9775	0.005689672
3081	3	2.548051	-0.005	28.9725	0.00568869
6781	3	2.548239	-0.005	28.9675	0.005687709
2375	2	2.548377	-0.00625	28.96125	0.005686481
5408	3	2.54854	-0.005	28.95625	0.0056855
830	1	2.548749	0.015	28.97125	0.005688445
7730	3	2.549212	-0.005	28.96625	0.005687463
640	1	2.549411	-0.0075	28.95875	0.005685991
2027	2	2.549527	-0.00625	28.9525	0.005684763
2460	2	2.551474	-0.00625	28.94625	0.005683536
6689	3	2.551848	-0.005	28.94125	0.005682554
6726	3	2.552507	-0.005	28.93625	0.005681573
4503	3	2.553625	-0.005	28.93125	0.005680591
5747	3	2.55372	0.01	28.94125	0.005682554
2114	2	2.553773	-0.00625	28.935	0.005681327
6199	3	2.553909	-0.005	28.93	0.005680346
2423	2	2.554719	-0.00625	28.92375	0.005679118
8251	3	2.555007	-0.005	28.91875	0.005678137
7171	3	2.555071	-0.005	28.91375	0.005677155
2094	2	2.555487	-0.00625	28.9075	0.005675928

5163	3	2.555648	-0.005	28.9025	0.005674946
619	1	2.555854	-0.0075	28.895	0.005673473
6367	3	2.556407	-0.005	28.89	0.005672492
2784	2	2.557325	-0.00625	28.88375	0.005671264
2776	2	2.559074	-0.00625	28.8775	0.005670037
1171	1	2.559559	-0.0075	28.87	0.005668565
5586	3	2.559779	0.01	28.88	0.005670528
2978	3	2.559873	-0.005	28.875	0.005669546
2842	2	2.559944	-0.00625	28.86875	0.005668319
5943	3	2.561015	0.01	28.87875	0.005670283
4933	3	2.563391	-0.005	28.87375	0.005669301
2056	2	2.563503	-0.00625	28.8675	0.005668074
613	1	2.563573	-0.0075	28.86	0.005666601
171	1	2.563628	-0.0075	28.8525	0.005665129
898	1	2.563752	-0.0075	28.845	0.005663656
5459	3	2.565097	-0.005	28.84	0.005662674
1098	1	2.56597	-0.0075	28.8325	0.005661202
4543	3	2.566821	-0.005	28.8275	0.00566022
8210	3	2.567019	0.01	28.8375	0.005662183
2788	2	2.567236	0.0125	28.85	0.005664638
2641	2	2.568296	-0.00625	28.84375	0.005663411
8717	3	2.569228	-0.005	28.83875	0.005662429
4836	3	2.569898	-0.005	28.83375	0.005661447
8435	3	2.570449	-0.005	28.82875	0.005660465
3476	3	2.570728	-0.005	28.82375	0.005659484
4590	3	2.572783	-0.005	28.81875	0.005658502
6847	3	2.573416	-0.005	28.81375	0.00565752
2685	2	2.573731	-0.00625	28.8075	0.005656293
3135	3	2.574551	0.01	28.8175	0.005658256
3720	3	2.575485	0.01	28.8275	0.00566022
2076	2	2.576003	-0.00625	28.82125	0.005658993
6838	3	2.576063	-0.005	28.81625	0.005658011
7920	3	2.576513	0.01	28.82625	0.005659974
107	1	2.576748	-0.0075	28.81875	0.005658502
8641	3	2.576932	-0.005	28.81375	0.00565752
6750	3	2.578424	-0.005	28.80875	0.005656538
2551	2	2.579744	-0.00625	28.8025	0.005655311
813	1	2.580009	-0.0075	28.795	0.005653839
1824	2	2.580011	-0.00625	28.78875	0.005652611
7131	3	2.580128	-0.005	28.78375	0.00565163
8989	4	2.580212	-0.005	28.77875	0.005650648
389	1	2.580501	-0.0075	28.77125	0.005649175
271	1	2.580626	-0.0075	28.76375	0.005647703
489	1	2.580643	-0.0075	28.75625	0.00564623
5823	3	2.580885	0.01	28.76625	0.005648194
613	1	2.581295	-0.0075	28.75875	0.005646721
5535	3	2.581721	0.01	28.76875	0.005648684
4893	3	2.581845	-0.005	28.76375	0.005647703
9423	4	2.582307	0.01	28.77375	0.005649666
7376	3	2.582795	-0.005	28.76875	0.005648684
2503	2	2.583691	-0.00625	28.7625	0.005647457
2823	2	2.584059	-0.00625	28.75625	0.00564623

1850	2	2.584467	-0.00625	28.75	0.005645003
5625	3	2.584623	-0.005	28.745	0.005644021
526	1	2.58502	-0.0075	28.7375	0.005642549
4727	3	2.585196	-0.005	28.7325	0.005641567
3173	3	2.585367	0.01	28.7425	0.00564353
5202	3	2.58609	-0.005	28.7375	0.005642549
9684	4	2.586125	0.01	28.7475	0.005644512
2976	3	2.587065	0.01	28.7575	0.005646476
8562	3	2.587518	-0.005	28.7525	0.005645494
5428	3	2.587529	0.01	28.7625	0.005647457
2864	2	2.587677	-0.00625	28.75625	0.00564623
8894	4	2.587707	-0.005	28.75125	0.005645248
2300	2	2.587744	0.0125	28.76375	0.005647703
2766	2	2.588287	-0.00625	28.7575	0.005646476
774	1	2.590535	-0.0075	28.75	0.005645003
748	1	2.590543	-0.0075	28.7425	0.00564353
8071	3	2.590625	0.01	28.7525	0.005645494
1810	2	2.590715	-0.00625	28.74625	0.005644267
8304	3	2.590871	-0.005	28.74125	0.005643285
7654	3	2.592758	-0.005	28.73625	0.005642303
2409	2	2.593058	0.0125	28.74875	0.005644758
1063	1	2.593108	0.015	28.76375	0.005647703
1934	2	2.594337	-0.00625	28.7575	0.005646476
7495	3	2.594944	-0.005	28.7525	0.005645494
4968	3	2.59515	-0.005	28.7475	0.005644512
2381	2	2.596361	-0.00625	28.74125	0.005643285
3784	3	2.597287	-0.005	28.73625	0.005642303
4640	3	2.597812	-0.005	28.73125	0.005641321
436	1	2.597825	-0.0075	28.72375	0.005639849
6571	3	2.597905	-0.005	28.71875	0.005638867
310	1	2.597932	-0.0075	28.71125	0.005637394
8415	3	2.598311	-0.005	28.70625	0.005636413
7427	3	2.598478	-0.005	28.70125	0.005635431
4841	3	2.598922	0.01	28.71125	0.005637394
3945	3	2.600923	-0.005	28.70625	0.005636413
3022	3	2.602039	-0.005	28.70125	0.005635431
5755	3	2.603125	-0.005	28.69625	0.005634449
4480	3	2.603498	-0.005	28.69125	0.005633468
2089	2	2.603923	-0.00625	28.685	0.00563224
7808	3	2.603963	0.01	28.695	0.005634204
1730	1	2.604275	-0.0075	28.6875	0.005632731
4979	3	2.605236	-0.005	28.6825	0.005631749
5096	3	2.605479	-0.005	28.6775	0.005630768
460	1	2.605496	-0.0075	28.67	0.005629295
3080	3	2.606401	-0.005	28.665	0.005628313
7927	3	2.606485	-0.005	28.66	0.005627332
2358	2	2.607615	0.0125	28.6725	0.005629786
3167	3	2.607902	0.01	28.6825	0.005631749
7540	3	2.608453	0.01	28.6925	0.005633713
6391	3	2.609366	0.01	28.7025	0.005635676
1041	1	2.610022	-0.0075	28.695	0.005634204
6114	3	2.6102	-0.005	28.69	0.005633222

7901	3	2.610233	-0.005	28.685	0.00563224
3331	3	2.610573	-0.005	28.68	0.005631259
3755	3	2.610618	-0.005	28.675	0.005630277
773	1	2.610841	-0.0075	28.6675	0.005628804
8508	3	2.612191	-0.005	28.6625	0.005627823
5454	3	2.612242	-0.005	28.6575	0.005626841
1029	1	2.612721	-0.0075	28.65	0.005625368
7441	3	2.613239	-0.005	28.645	0.005624386
2746	2	2.613842	-0.00625	28.63875	0.005623159
9344	4	2.614467	-0.005	28.63375	0.005622177
1514	1	2.615286	0.015	28.64875	0.005625123
2339	2	2.615884	-0.00625	28.6425	0.005623896
1515	1	2.616471	-0.0075	28.635	0.005622423
7600	3	2.616809	-0.005	28.63	0.005621441
3644	3	2.617772	-0.005	28.625	0.005620459
6484	3	2.61835	0.01	28.635	0.005622423
2853	2	2.618911	0.0125	28.6475	0.005624877
2878	2	2.619039	-0.00625	28.64125	0.00562365
4765	3	2.619092	0.01	28.65125	0.005625614
7093	3	2.619302	-0.005	28.64625	0.005624632
8902	4	2.620582	-0.005	28.64125	0.00562365
6602	3	2.621607	0.01	28.65125	0.005625614
7977	3	2.622669	-0.005	28.64625	0.005624632
1447	1	2.622784	-0.0075	28.63875	0.005623159
6406	3	2.623096	-0.005	28.63375	0.005622177
2879	2	2.62396	-0.00625	28.6275	0.00562095
5584	3	2.626021	-0.005	28.6225	0.005619969
4636	3	2.626277	-0.005	28.6175	0.005618987
7252	3	2.626429	-0.005	28.6125	0.005618005
1350	1	2.62665	-0.0075	28.605	0.005616532
8306	3	2.626748	0.01	28.615	0.005618496
356	1	2.626844	-0.0075	28.6075	0.005617023
4181	3	2.627477	-0.005	28.6025	0.005616042
159	1	2.627712	-0.0075	28.595	0.005614569
8694	3	2.627786	0.01	28.605	0.005616532
9655	4	2.628201	-0.005	28.6	0.005615551
7929	3	2.628406	0.01	28.61	0.005617514
1087	1	2.628658	-0.0075	28.6025	0.005616042
5291	3	2.628851	-0.005	28.5975	0.00561506
2830	2	2.628883	-0.00625	28.59125	0.005613833
2737	2	2.62914	-0.00625	28.585	0.005612606
3853	3	2.629238	-0.005	28.58	0.005611624
36	1	2.629299	-0.0075	28.5725	0.005610151
1641	1	2.629341	-0.0075	28.565	0.005608679
3724	3	2.629602	0.01	28.575	0.005610642
1450	1	2.630033	-0.0075	28.5675	0.005609169
6646	3	2.630702	0.01	28.5775	0.005611133
9439	4	2.631069	-0.005	28.5725	0.005610151
3356	3	2.631104	-0.005	28.5675	0.005609169
8419	3	2.632086	-0.005	28.5625	0.005608188
9529	4	2.63229	-0.005	28.5575	0.005607206
7282	3	2.632817	-0.005	28.5525	0.005606224

2061	2	2.634142	-0.00625	28.54625	0.005604997
8119	3	2.634625	-0.005	28.54125	0.005604015
8401	3	2.63521	-0.005	28.53625	0.005603034
8471	3	2.6359	-0.005	28.53125	0.005602052
297	1	2.636183	0.015	28.54625	0.005604997
139	1	2.636259	-0.0075	28.53875	0.005603524
3048	3	2.636471	-0.005	28.53375	0.005602543
922	1	2.637055	-0.0075	28.52625	0.00560107
5109	3	2.637061	-0.005	28.52125	0.005600088
4874	3	2.637188	-0.005	28.51625	0.005599107
8696	3	2.637457	-0.005	28.51125	0.005598125
3107	3	2.638179	-0.005	28.50625	0.005597143
4546	3	2.638225	-0.005	28.50125	0.005596161
7136	3	2.638932	-0.005	28.49625	0.00559518
1544	1	2.63913	0.015	28.51125	0.005598125
2345	2	2.640189	-0.00625	28.505	0.005596898
5503	3	2.642575	-0.005	28.5	0.005595916
2117	2	2.64293	0.0125	28.5125	0.00559837
974	1	2.643282	-0.0075	28.505	0.005596898
874	1	2.643366	-0.0075	28.4975	0.005595425
5659	3	2.643547	-0.005	28.4925	0.005594443
5106	3	2.644032	-0.005	28.4875	0.005593462
395	1	2.644542	-0.0075	28.48	0.005591989
4390	3	2.644979	-0.005	28.475	0.005591007
8474	3	2.6461	-0.005	28.47	0.005590026
9148	4	2.646174	-0.005	28.465	0.005589044
9196	4	2.646224	-0.005	28.46	0.005588062
458	1	2.646438	0.015	28.475	0.005591007
1766	1	2.646721	-0.0075	28.4675	0.005589535
2130	2	2.647058	-0.00625	28.46125	0.005588307
5671	3	2.647771	-0.005	28.45625	0.005587326
1980	2	2.648398	-0.00625	28.45	0.005586099
2916	3	2.648831	-0.005	28.445	0.005585117
1006	1	2.649124	-0.0075	28.4375	0.005583644
4118	3	2.649408	-0.005	28.4325	0.005582662
6154	3	2.649669	-0.005	28.4275	0.005581681
3831	3	2.649966	0.01	28.4375	0.005583644
8062	3	2.650262	0.01	28.4475	0.005585608
2233	2	2.650803	-0.00625	28.44125	0.005584381
467	1	2.651112	-0.0075	28.43375	0.005582908
1669	1	2.651838	-0.0075	28.42625	0.005581435
3707	3	2.652951	-0.005	28.42125	0.005580454
3961	3	2.653733	-0.005	28.41625	0.005579472
9848	4	2.654398	-0.005	28.41125	0.00557849
7872	3	2.65458	-0.005	28.40625	0.005577508
2955	3	2.65462	-0.005	28.40125	0.005576527
1606	1	2.655426	0.015	28.41625	0.005579472
1159	1	2.655432	-0.0075	28.40875	0.005577999
621	1	2.655518	-0.0075	28.40125	0.005576527
6499	3	2.65561	-0.005	28.39625	0.005575545
6877	3	2.655788	-0.005	28.39125	0.005574563
857	1	2.656556	-0.0075	28.38375	0.005573091

7559	3	2.656573	-0.005	28.37875	0.005572109
3132	3	2.65751	-0.005	28.37375	0.005571127
4012	3	2.657889	-0.005	28.36875	0.005570145
3373	3	2.658162	-0.005	28.36375	0.005569164
8355	3	2.658673	-0.005	28.35875	0.005568182
1033	1	2.659591	-0.0075	28.35125	0.005566709
5472	3	2.659952	-0.005	28.34625	0.005565727
6423	3	2.660188	-0.005	28.34125	0.005564746
551	1	2.660361	0.015	28.35625	0.005567691
9743	4	2.661086	-0.005	28.35125	0.005566709
4269	3	2.661335	-0.005	28.34625	0.005565727
2532	2	2.662411	-0.00625	28.34	0.0055645
1869	2	2.662555	-0.00625	28.33375	0.005563273
8123	3	2.662649	-0.005	28.32875	0.005562291
551	1	2.662764	-0.0075	28.32125	0.005560819
3358	3	2.662838	-0.005	28.31625	0.005559837
1405	1	2.663694	-0.0075	28.30875	0.005558364
232	1	2.664243	-0.0075	28.30125	0.005556892
4205	3	2.664322	-0.005	28.29625	0.00555591
3173	3	2.664615	-0.005	28.29125	0.005554928
1009	1	2.665197	-0.0075	28.28375	0.005553456
6477	3	2.665611	-0.005	28.27875	0.005552474
4668	3	2.665875	0.01	28.28875	0.005554437
2051	2	2.66615	-0.00625	28.2825	0.00555321
1402	1	2.66659	-0.0075	28.275	0.005551738
1998	2	2.667072	0.0125	28.2875	0.005554192
2147	2	2.667284	-0.00625	28.28125	0.005552965
4340	3	2.668358	-0.005	28.27625	0.005551983
1621	1	2.668494	-0.0075	28.26875	0.005550511
5062	3	2.669033	0.01	28.27875	0.005552474
1917	2	2.669261	-0.00625	28.2725	0.005551247
1404	1	2.669944	-0.0075	28.265	0.005549774
2980	3	2.669952	0.01	28.275	0.005551738
4042	3	2.670152	-0.005	28.27	0.005550756
2780	2	2.670709	-0.00625	28.26375	0.005549529
3598	3	2.670855	-0.005	28.25875	0.005548547
2259	2	2.671355	-0.00625	28.2525	0.00554732
5232	3	2.671415	0.01	28.2625	0.005549283
7601	3	2.671814	-0.005	28.2575	0.005548302
6040	3	2.672125	-0.005	28.2525	0.00554732
739	1	2.672227	-0.0075	28.245	0.005545847
7751	3	2.672629	-0.005	28.24	0.005544866
989	1	2.673113	-0.0075	28.2325	0.005543393
353	1	2.673458	-0.0075	28.225	0.00554192
1454	1	2.673616	-0.0075	28.2175	0.005540448
6421	3	2.674822	0.01	28.2275	0.005542411
1834	2	2.676308	-0.00625	28.22125	0.005541184
9935	4	2.677244	-0.005	28.21625	0.005540202
3651	3	2.677915	-0.005	28.21125	0.00553922
6569	3	2.678453	-0.005	28.20625	0.005538239
2824	2	2.679095	-0.00625	28.2	0.005537012
4357	3	2.679866	-0.005	28.195	0.00553603

1293	1	2.680237	-0.0075	28.1875	0.005534557
8092	3	2.680551	0.01	28.1975	0.005536521
1757	1	2.681147	-0.0075	28.19	0.005535048
6806	3	2.68181	-0.005	28.185	0.005534066
9856	4	2.684605	-0.005	28.18	0.005533085
5167	3	2.685465	-0.005	28.175	0.005532103
3660	3	2.685643	-0.005	28.17	0.005531121
3162	3	2.685698	-0.005	28.165	0.005530139
3609	3	2.686499	-0.005	28.16	0.005529158
8917	4	2.68706	-0.005	28.155	0.005528176
5503	3	2.687925	-0.005	28.15	0.005527194
3480	3	2.688196	-0.005	28.145	0.005526212
1980	2	2.688485	-0.00625	28.13875	0.005524985
2629	2	2.688849	-0.00625	28.1325	0.005523758
3167	3	2.689183	-0.005	28.1275	0.005522776
2270	2	2.689279	0.0125	28.14	0.005525231
2148	2	2.689493	-0.00625	28.13375	0.005524004
1868	2	2.689811	-0.00625	28.1275	0.005522776
1316	1	2.689886	-0.0075	28.12	0.005521304
1229	1	2.691443	-0.0075	28.1125	0.005519831
2269	2	2.692226	-0.00625	28.10625	0.005518604
5304	3	2.693693	0.01	28.11625	0.005520567
5759	3	2.693875	-0.005	28.11125	0.005519586
715	1	2.694153	-0.0075	28.10375	0.005518113
4413	3	2.694326	0.01	28.11375	0.005520077
329	1	2.694425	0.015	28.12875	0.005523022
6916	3	2.695238	0.01	28.13875	0.005524985
9453	4	2.696649	-0.005	28.13375	0.005524004
2400	2	2.697057	-0.00625	28.1275	0.005522776
5124	3	2.697208	-0.005	28.1225	0.005521795
5170	3	2.69782	0.01	28.1325	0.005523758
6493	3	2.69832	0.01	28.1425	0.005525722
8111	3	2.698506	-0.005	28.1375	0.00552474
4110	3	2.698651	-0.005	28.1325	0.005523758
6255	3	2.698862	-0.005	28.1275	0.005522776
6862	3	2.699069	-0.005	28.1225	0.005521795
1348	1	2.699234	-0.0075	28.115	0.005520322
2096	2	2.699742	-0.00625	28.10875	0.005519095
1363	1	2.699977	-0.0075	28.10125	0.005517622
7799	3	2.700176	-0.005	28.09625	0.00551664
4914	3	2.70091	-0.005	28.09125	0.005515659
1121	1	2.701615	0.015	28.10625	0.005518604
328	1	2.702687	-0.0075	28.09875	0.005517131
2156	2	2.703563	-0.00625	28.0925	0.005515904
5753	3	2.703702	-0.005	28.0875	0.005514922
4178	3	2.70397	-0.005	28.0825	0.005513941
7905	3	2.704106	0.01	28.0925	0.005515904
1887	2	2.70424	-0.00625	28.08625	0.005514677
9715	4	2.704257	-0.005	28.08125	0.005513695
2192	2	2.704339	-0.00625	28.075	0.005512468
6305	3	2.704368	-0.005	28.07	0.005511486
8110	3	2.704576	-0.005	28.065	0.005510505

4915	3	2.70641	-0.005	28.06	0.005509523
1536	1	2.706537	0.015	28.075	0.005512468
496	1	2.706697	-0.0075	28.0675	0.005510995
3019	3	2.707126	-0.005	28.0625	0.005510014
3864	3	2.707203	-0.005	28.0575	0.005509032
4209	3	2.707229	-0.005	28.0525	0.00550805
1722	1	2.70756	0.015	28.0675	0.005510995
8442	3	2.707644	-0.005	28.0625	0.005510014
8227	3	2.707728	-0.005	28.0575	0.005509032
4314	3	2.707829	-0.005	28.0525	0.00550805
1102	1	2.708106	-0.0075	28.045	0.005506578
5562	3	2.708287	0.01	28.055	0.005508541
38	1	2.708633	-0.0075	28.0475	0.005507069
6029	3	2.70892	-0.005	28.0425	0.005506087
8634	3	2.709315	-0.005	28.0375	0.005505105
7539	3	2.709683	-0.005	28.0325	0.005504123
6118	3	2.710108	-0.005	28.0275	0.005503142
9971	4	2.710118	-0.005	28.0225	0.00550216
4208	3	2.710729	-0.005	28.0175	0.005501178
6325	3	2.710805	-0.005	28.0125	0.005500196
1304	1	2.7113	-0.0075	28.005	0.005498724
1249	1	2.711824	-0.0075	27.9975	0.005497251
2250	2	2.71209	-0.00625	27.99125	0.005496024
7195	3	2.712777	-0.005	27.98625	0.005495042
403	1	2.712999	0.015	28.00125	0.005497987
2645	2	2.715321	0.0125	28.01375	0.005500442
1075	1	2.716053	0.015	28.02875	0.005503387
3602	3	2.716131	-0.005	28.02375	0.005502405
7435	3	2.71641	-0.005	28.01875	0.005501424
3917	3	2.716552	-0.005	28.01375	0.005500442
5032	3	2.716618	0.01	28.02375	0.005502405
6203	3	2.716644	-0.005	28.01875	0.005501424
732	1	2.717316	-0.0075	28.01125	0.005499951
1921	2	2.717375	0.0125	28.02375	0.005502405
3004	3	2.717704	-0.005	28.01875	0.005501424
2092	2	2.717716	-0.00625	28.0125	0.005500196
9387	4	2.71811	0.01	28.0225	0.00550216
2550	2	2.71819	0.0125	28.035	0.005504614
1638	1	2.718239	0.015	28.05	0.005507559
8633	3	2.718277	-0.005	28.045	0.005506578
7266	3	2.719482	-0.005	28.04	0.005505596
1048	1	2.719696	-0.0075	28.0325	0.005504123
7244	3	2.72002	-0.005	28.0275	0.005503142
4765	3	2.720056	-0.005	28.0225	0.00550216
1723	1	2.72008	-0.0075	28.015	0.005500687
3724	3	2.720249	-0.005	28.01	0.005499705
3742	3	2.720632	0.01	28.02	0.005501669
5723	3	2.720806	-0.005	28.015	0.005500687
860	1	2.721073	-0.0075	28.0075	0.005499215
2566	2	2.72125	-0.00625	28.00125	0.005497987
4114	3	2.72126	-0.005	27.99625	0.005497006
2248	2	2.72177	0.0125	28.00875	0.00549946

3636	3	2.722081	-0.005	28.00375	0.005498478
5124	3	2.722248	-0.005	27.99875	0.005497497
122	1	2.722318	-0.0075	27.99125	0.005496024
2952	3	2.722458	-0.005	27.98625	0.005495042
3439	3	2.723528	-0.005	27.98125	0.00549406
1084	1	2.723573	-0.0075	27.97375	0.005492588
3677	3	2.724254	-0.005	27.96875	0.005491606
1376	1	2.724302	0.015	27.98375	0.005494551
1724	1	2.724566	-0.0075	27.97625	0.005493079
8540	3	2.724757	-0.005	27.97125	0.005492097
1667	1	2.724829	0.015	27.98625	0.005495042
5736	3	2.725121	-0.005	27.98125	0.00549406
2873	2	2.725429	-0.00625	27.975	0.005492833
1795	2	2.727247	0.0125	27.9875	0.005495288
5370	3	2.727646	0.01	27.9975	0.005497251
196	1	2.729046	-0.0075	27.99	0.005495779
6422	3	2.730033	-0.005	27.985	0.005494797
6235	3	2.73051	0.01	27.995	0.00549676
8503	3	2.730583	-0.005	27.99	0.005495779
1572	1	2.73181	-0.0075	27.9825	0.005494306
2946	3	2.732016	-0.005	27.9775	0.005493324
7244	3	2.734228	-0.005	27.9725	0.005492342
218	1	2.73461	-0.0075	27.965	0.00549087
8303	3	2.734797	-0.005	27.96	0.005489888
590	1	2.736012	-0.0075	27.9525	0.005488415
1947	2	2.736293	-0.00625	27.94625	0.005487188
5291	3	2.73686	-0.005	27.94125	0.005486207
1142	1	2.736961	-0.0075	27.93375	0.005484734
59	1	2.737526	-0.0075	27.92625	0.005483261
2689	2	2.738834	-0.00625	27.92	0.005482034
3553	3	2.740299	-0.005	27.915	0.005481052
283	1	2.740452	-0.0075	27.9075	0.00547958
5038	3	2.740481	-0.005	27.9025	0.005478598
8512	3	2.740817	-0.005	27.8975	0.005477616
3239	3	2.740839	-0.005	27.8925	0.005476635
4758	3	2.741623	-0.005	27.8875	0.005475653
1638	1	2.741724	-0.0075	27.88	0.00547418
4753	3	2.742065	-0.005	27.875	0.005473199
323	1	2.742833	-0.0075	27.8675	0.005471726
3559	3	2.744012	-0.005	27.8625	0.005470744
3815	3	2.744234	-0.005	27.8575	0.005469762
6685	3	2.74448	-0.005	27.8525	0.005468781
7267	3	2.744602	-0.005	27.8475	0.005467799
1231	1	2.74584	-0.0075	27.84	0.005466326
6388	3	2.74671	0.01	27.85	0.00546829
1295	1	2.747167	-0.0075	27.8425	0.005466817
1294	1	2.74741	-0.0075	27.835	0.005465345
4514	3	2.747794	-0.005	27.83	0.005464363
1612	1	2.749066	0.015	27.845	0.005467308
905	1	2.749678	-0.0075	27.8375	0.005465835
9366	4	2.750461	0.01	27.8475	0.005467799
4218	3	2.750604	-0.005	27.8425	0.005466817

4393	3	2.750737	-0.005	27.8375	0.005465835
1656	1	2.750872	0.015	27.8525	0.005468781
2631	2	2.751985	-0.00625	27.84625	0.005467554
1043	1	2.752026	-0.0075	27.83875	0.005466081
87	1	2.75262	0.015	27.85375	0.005469026
9604	4	2.752845	0.01	27.86375	0.00547099
9366	4	2.753105	-0.005	27.85875	0.005470008
423	1	2.75417	-0.0075	27.85125	0.005468535
527	1	2.754291	-0.0075	27.84375	0.005467063
5772	3	2.754903	-0.005	27.83875	0.005466081
5489	3	2.755496	0.01	27.84875	0.005468044
4428	3	2.755728	-0.005	27.84375	0.005467063
2358	2	2.756175	-0.00625	27.8375	0.005465835
235	1	2.756586	-0.0075	27.83	0.005464363
8359	3	2.756603	-0.005	27.825	0.005463381
4305	3	2.757516	0.01	27.835	0.005465345
1951	2	2.757757	-0.00625	27.82875	0.005464117
1259	1	2.757807	-0.0075	27.82125	0.005462645
4653	3	2.758679	-0.005	27.81625	0.005461663
6759	3	2.758949	-0.005	27.81125	0.005460681
7137	3	2.759236	0.01	27.82125	0.005462645
1537	1	2.759776	-0.0075	27.81375	0.005461172
277	1	2.76036	-0.0075	27.80625	0.0054597
353	1	2.760741	-0.0075	27.79875	0.005458227
5420	3	2.760769	-0.005	27.79375	0.005457245
8496	3	2.760991	-0.005	27.78875	0.005456263
5806	3	2.761608	-0.005	27.78375	0.005455282
6997	3	2.76192	-0.005	27.77875	0.0054543
5780	3	2.762607	-0.005	27.77375	0.005453318
2944	3	2.763181	0.01	27.78375	0.005455282
6314	3	2.763546	-0.005	27.77875	0.0054543
8746	3	2.763638	-0.005	27.77375	0.005453318
2321	2	2.764134	0.0125	27.78625	0.005455773
149	1	2.764377	0.015	27.80125	0.005458718
6421	3	2.765335	-0.005	27.79625	0.005457736
381	1	2.765674	-0.0075	27.78875	0.005456263
1899	2	2.765905	-0.00625	27.7825	0.005455036
2162	2	2.766269	-0.00625	27.77625	0.005453809
732	1	2.767977	-0.0075	27.76875	0.005452337
2636	2	2.768809	-0.00625	27.7625	0.005451109
1884	2	2.770386	-0.00625	27.75625	0.005449882
3516	3	2.770492	-0.005	27.75125	0.0054489
2427	2	2.771066	-0.00625	27.745	0.005447673
533	1	2.771758	-0.0075	27.7375	0.005446201
7466	3	2.771777	-0.005	27.7325	0.005445219
1678	1	2.771988	-0.0075	27.725	0.005443746
378	1	2.77264	0.015	27.74	0.005446692
1469	1	2.772937	-0.0075	27.7325	0.005445219
1434	1	2.77357	-0.0075	27.725	0.005443746
2865	2	2.774062	-0.00625	27.71875	0.005442519
316	1	2.774705	-0.0075	27.71125	0.005441047
1511	1	2.774926	-0.0075	27.70375	0.005439574

3089	3	2.774956	-0.005	27.69875	0.005438592
9714	4	2.77517	0.01	27.70875	0.005440556
3075	3	2.775588	-0.005	27.70375	0.005439574
6381	3	2.776064	-0.005	27.69875	0.005438592
2641	2	2.776302	-0.00625	27.6925	0.005437365
1138	1	2.777582	-0.0075	27.685	0.005435892
2043	2	2.777691	-0.00625	27.67875	0.005434665
7615	3	2.77828	-0.005	27.67375	0.005433683
8557	3	2.778402	0.01	27.68375	0.005435647
581	1	2.778774	-0.0075	27.67625	0.005434174
9437	4	2.779422	-0.005	27.67125	0.005433193
3436	3	2.78015	-0.005	27.66625	0.005432211
2958	3	2.780187	-0.005	27.66125	0.005431229
7765	3	2.780197	-0.005	27.65625	0.005430247
8476	3	2.780447	-0.005	27.65125	0.005429266
1908	2	2.78057	0.0125	27.66375	0.00543172
8190	3	2.782891	-0.005	27.65875	0.005430738
5806	3	2.783449	-0.005	27.65375	0.005429757
6388	3	2.784142	-0.005	27.64875	0.005428775
2584	2	2.785789	0.0125	27.66125	0.005431229
471	1	2.786492	-0.0075	27.65375	0.005429757
92	1	2.786688	-0.0075	27.64625	0.005428284
1897	2	2.786892	-0.00625	27.64	0.005427057
8011	3	2.787097	-0.005	27.635	0.005426075
1730	1	2.787388	-0.0075	27.6275	0.005424602
1312	1	2.787463	0.015	27.6425	0.005427548
8426	3	2.787534	-0.005	27.6375	0.005426566
9210	4	2.787819	-0.005	27.6325	0.005425584
8071	3	2.788719	-0.005	27.6275	0.005424602
2669	2	2.788748	-0.00625	27.62125	0.005423375
1153	1	2.789438	-0.0075	27.61375	0.005421903
626	1	2.789601	-0.0075	27.60625	0.00542043
112	1	2.790636	-0.0075	27.59875	0.005418957
1948	2	2.790684	-0.00625	27.5925	0.00541773
764	1	2.792706	-0.0075	27.585	0.005416258
559	1	2.793268	0.015	27.6	0.005419203
1824	2	2.794691	-0.00625	27.59375	0.005417976
2282	2	2.794776	-0.00625	27.5875	0.005416748
5305	3	2.795847	-0.005	27.5825	0.005415767
6617	3	2.796147	0.01	27.5925	0.00541773
727	1	2.796296	-0.0075	27.585	0.005416258
2561	2	2.796668	-0.00625	27.57875	0.00541503
180	1	2.79796	-0.0075	27.57125	0.005413558
352	1	2.798052	-0.0075	27.56375	0.005412085
4762	3	2.798519	-0.005	27.55875	0.005411103
2574	2	2.798798	-0.00625	27.5525	0.005409876
923	1	2.79886	0.015	27.5675	0.005412822
6396	3	2.799746	0.01	27.5775	0.005414785
1979	2	2.800865	-0.00625	27.57125	0.005413558
4129	3	2.801016	-0.005	27.56625	0.005412576
673	1	2.801914	-0.0075	27.55875	0.005411103
3320	3	2.801995	-0.005	27.55375	0.005410122

9610	4	2.802428	-0.005	27.54875	0.00540914
2065	2	2.803161	0.0125	27.56125	0.005411594
2308	2	2.803161	0.0125	27.57375	0.005414049
4768	3	2.803557	-0.005	27.56875	0.005413067
7069	3	2.804605	-0.005	27.56375	0.005412085
1377	1	2.804824	-0.0075	27.55625	0.005410613
5455	3	2.805463	-0.005	27.55125	0.005409631
6474	3	2.806681	-0.005	27.54625	0.005408649
6111	3	2.806794	-0.005	27.54125	0.005407667
1017	1	2.807503	-0.0075	27.53375	0.005406195
1225	1	2.807599	-0.0075	27.52625	0.005404722
3105	3	2.807697	-0.005	27.52125	0.00540374
7767	3	2.808034	-0.005	27.51625	0.005402759
1054	1	2.808346	-0.0075	27.50875	0.005401286
2241	2	2.808806	-0.00625	27.5025	0.005400059
5971	3	2.808817	-0.005	27.4975	0.005399077
3740	3	2.809394	-0.005	27.4925	0.005398095
461	1	2.809514	-0.0075	27.485	0.005396623
5869	3	2.809702	0.01	27.495	0.005398586
4981	3	2.809863	-0.005	27.49	0.005397605
6726	3	2.810617	-0.005	27.485	0.005396623
377	1	2.811538	-0.0075	27.4775	0.00539515
3419	3	2.811708	-0.005	27.4725	0.005394168
1096	1	2.811968	-0.0075	27.465	0.005392696
5912	3	2.812264	-0.005	27.46	0.005391714
1063	1	2.812435	-0.0075	27.4525	0.005390242
8092	3	2.812959	-0.005	27.4475	0.00538926
6104	3	2.813342	-0.005	27.4425	0.005388278
2286	2	2.81499	-0.00625	27.43625	0.005387051
3359	3	2.815054	-0.005	27.43125	0.005386069
4523	3	2.815438	-0.005	27.42625	0.005385087
1875	2	2.81553	0.0125	27.43875	0.005387542
9539	4	2.815582	-0.005	27.43375	0.00538656
4444	3	2.815927	-0.005	27.42875	0.005385578
1664	1	2.816668	-0.0075	27.42125	0.005384106
9356	4	2.816785	-0.005	27.41625	0.005383124
4282	3	2.817633	-0.005	27.41125	0.005382142
464	1	2.817659	-0.0075	27.40375	0.00538067
5427	3	2.818556	-0.005	27.39875	0.005379688
821	1	2.819349	-0.0075	27.39125	0.005378215
8361	3	2.819904	-0.005	27.38625	0.005377233
7298	3	2.821209	-0.005	27.38125	0.005376252
1704	1	2.821672	-0.0075	27.37375	0.005374779
2730	2	2.822775	-0.00625	27.3675	0.005373552
3883	3	2.82309	-0.005	27.3625	0.00537257
819	1	2.824346	-0.0075	27.355	0.005371098
4543	3	2.824744	-0.005	27.35	0.005370116
307	1	2.824823	-0.0075	27.3425	0.005368643
1108	1	2.824965	-0.0075	27.335	0.005367171
1761	1	2.825489	-0.0075	27.3275	0.005365698
5103	3	2.826075	-0.005	27.3225	0.005364716
1570	1	2.826122	0.015	27.3375	0.005367661

2550	2	2.826132	-0.00625	27.33125	0.005366434
2673	2	2.826533	-0.00625	27.325	0.005365207
8480	3	2.826549	0.01	27.335	0.005367171
1687	1	2.827372	-0.0075	27.3275	0.005365698
35	1	2.828611	-0.0075	27.32	0.005364225
7840	3	2.828869	-0.005	27.315	0.005363244
1359	1	2.829176	-0.0075	27.3075	0.005361771
5393	3	2.830022	0.01	27.3175	0.005363735
2400	2	2.830198	-0.00625	27.31125	0.005362507
4974	3	2.830219	-0.005	27.30625	0.005361526
5575	3	2.830893	-0.005	27.30125	0.005360544
3828	3	2.831174	-0.005	27.29625	0.005359562
6237	3	2.831198	-0.005	27.29125	0.00535858
3275	3	2.831372	-0.005	27.28625	0.005357599
441	1	2.831707	-0.0075	27.27875	0.005356126
6656	3	2.831709	-0.005	27.27375	0.005355144
8421	3	2.832488	-0.005	27.26875	0.005354163
2772	2	2.833424	-0.00625	27.2625	0.005352935
614	1	2.833492	-0.0075	27.255	0.005351463
3806	3	2.833709	-0.005	27.25	0.005350481
1327	1	2.834511	-0.0075	27.2425	0.005349008
5233	3	2.83565	-0.005	27.2375	0.005348027
4110	3	2.836246	-0.005	27.2325	0.005347045
8348	3	2.836491	-0.005	27.2275	0.005346063
130	1	2.836843	-0.0075	27.22	0.005344591
4517	3	2.837049	0.01	27.23	0.005346554
5444	3	2.837256	-0.005	27.225	0.005345572
6265	3	2.83763	0.01	27.235	0.005347536
6158	3	2.837828	-0.005	27.23	0.005346554
4788	3	2.838438	-0.005	27.225	0.005345572
6936	3	2.838484	0.01	27.235	0.005347536
315	1	2.838886	-0.0075	27.2275	0.005346063
1915	2	2.838929	-0.00625	27.22125	0.005344836
8495	3	2.838987	-0.005	27.21625	0.005343854
1403	1	2.840156	-0.0075	27.20875	0.005342382
9421	4	2.840523	-0.005	27.20375	0.0053414
8404	3	2.842502	-0.005	27.19875	0.005340418
4755	3	2.842807	0.01	27.20875	0.005342382
487	1	2.842882	-0.0075	27.20125	0.005340909
988	1	2.844766	0.015	27.21625	0.005343854
2915	3	2.844816	-0.005	27.21125	0.005342873
363	1	2.845131	-0.0075	27.20375	0.0053414
9062	4	2.846537	0.01	27.21375	0.005343363
420	1	2.847083	-0.0075	27.20625	0.005341891
6083	3	2.847609	-0.005	27.20125	0.005340909
3558	3	2.848137	-0.005	27.19625	0.005339927
7773	3	2.848313	-0.005	27.19125	0.005338946
3533	3	2.849012	-0.005	27.18625	0.005337964
9866	4	2.849702	-0.005	27.18125	0.005336982
325	1	2.849821	-0.0075	27.17375	0.00533551
2378	2	2.850006	0.0125	27.18625	0.005337964
1222	1	2.850454	-0.0075	27.17875	0.005336491

1606	1	2.850638	-0.0075	27.17125	0.005335019
5860	3	2.850724	-0.005	27.16625	0.005334037
8579	3	2.85239	-0.005	27.16125	0.005333055
1693	1	2.853773	0.015	27.17625	0.005336
1738	1	2.854169	-0.0075	27.16875	0.005334528
351	1	2.854313	-0.0075	27.16125	0.005333055
8290	3	2.854364	-0.005	27.15625	0.005332073
9602	4	2.855005	-0.005	27.15125	0.005331092
11	1	2.855014	0.015	27.16625	0.005334037
817	1	2.855209	0.015	27.18125	0.005336982
907	1	2.855974	-0.0075	27.17375	0.00533551
5084	3	2.856323	-0.005	27.16875	0.005334528
4297	3	2.856827	-0.005	27.16375	0.005333546
2907	3	2.856991	-0.005	27.15875	0.005332564
4964	3	2.857334	-0.005	27.15375	0.005331583
3126	3	2.85755	0.01	27.16375	0.005333546
6236	3	2.85756	-0.005	27.15875	0.005332564
269	1	2.858778	-0.0075	27.15125	0.005331092
4083	3	2.859229	-0.005	27.14625	0.00533011
6888	3	2.859664	-0.005	27.14125	0.005329128
7008	3	2.860205	-0.005	27.13625	0.005328146
5684	3	2.86106	-0.005	27.13125	0.005327165
1959	2	2.861426	-0.00625	27.125	0.005325938
6932	3	2.86164	-0.005	27.12	0.005324956
6287	3	2.862091	-0.005	27.115	0.005323974
4624	3	2.863077	-0.005	27.11	0.005322992
4900	3	2.86488	-0.005	27.105	0.005322011
160	1	2.86571	-0.0075	27.0975	0.005320538
939	1	2.865995	-0.0075	27.09	0.005319065
9698	4	2.866389	-0.005	27.085	0.005318084
5886	3	2.867109	0.01	27.095	0.005320047
3061	3	2.867171	-0.005	27.09	0.005319065
2197	2	2.868006	-0.00625	27.08375	0.005317838
2211	2	2.868138	0.0125	27.09625	0.005320293
8044	3	2.868493	-0.005	27.09125	0.005319311
1118	1	2.868572	-0.0075	27.08375	0.005317838
9910	4	2.869428	-0.005	27.07875	0.005316856
2624	2	2.869577	-0.00625	27.0725	0.005315629
5215	3	2.869919	-0.005	27.0675	0.005314648
2764	2	2.870166	-0.00625	27.06125	0.00531342
466	1	2.870362	-0.0075	27.05375	0.005311948
9947	4	2.870476	0.01	27.06375	0.005313911
2064	2	2.87141	-0.00625	27.0575	0.005312684
4789	3	2.871444	0.01	27.0675	0.005314648
1310	1	2.872341	-0.0075	27.06	0.005313175
85	1	2.873113	0.015	27.075	0.00531612
7269	3	2.873868	-0.005	27.07	0.005315138
195	1	2.874152	-0.0075	27.0625	0.005313666
8219	3	2.874706	-0.005	27.0575	0.005312684
497	1	2.875476	-0.0075	27.05	0.005311211
1294	1	2.875777	-0.0075	27.0425	0.005309739
2424	2	2.87578	0.0125	27.055	0.005312193

3346	3	2.875788	-0.005	27.05	0.005311211
3957	3	2.8769	-0.005	27.045	0.00531023
3505	3	2.877165	-0.005	27.04	0.005309248
4851	3	2.878738	-0.005	27.035	0.005308266
5942	3	2.879081	-0.005	27.03	0.005307285
4389	3	2.879233	-0.005	27.025	0.005306303
5453	3	2.879241	-0.005	27.02	0.005305321
649	1	2.879974	-0.0075	27.0125	0.005303848
1610	1	2.880158	0.015	27.0275	0.005306794
2204	2	2.881067	-0.00625	27.02125	0.005305566
2584	2	2.881603	-0.00625	27.015	0.005304339
7093	3	2.881676	-0.005	27.01	0.005303358
4938	3	2.884342	-0.005	27.005	0.005302376
8352	3	2.884843	0.01	27.015	0.005304339
9681	4	2.885019	-0.005	27.01	0.005303358
3071	3	2.885095	-0.005	27.005	0.005302376
1691	1	2.885383	-0.0075	26.9975	0.005300903
2960	3	2.885456	-0.005	26.9925	0.005299921
7701	3	2.885665	-0.005	26.9875	0.00529894
3719	3	2.888496	-0.005	26.9825	0.005297958
3460	3	2.888693	-0.005	26.9775	0.005296976
9387	4	2.88942	-0.005	26.9725	0.005295995
7	1	2.889506	-0.0075	26.965	0.005294522
6346	3	2.890204	-0.005	26.96	0.00529354
6493	3	2.890328	-0.005	26.955	0.005292558
8560	3	2.890745	-0.005	26.95	0.005291577
387	1	2.890953	-0.0075	26.9425	0.005290104
3165	3	2.891132	-0.005	26.9375	0.005289122
1713	1	2.892515	-0.0075	26.93	0.00528765
1797	2	2.892699	-0.00625	26.92375	0.005286423
1796	2	2.893005	0.0125	26.93625	0.005288877
2084	2	2.893424	-0.00625	26.93	0.00528765
7674	3	2.893608	-0.005	26.925	0.005286668
8252	3	2.893739	-0.005	26.92	0.005285686
2666	2	2.893953	-0.00625	26.91375	0.005284459
3866	3	2.894175	-0.005	26.90875	0.005283477
8619	3	2.894813	0.01	26.91875	0.005285441
6990	3	2.89558	0.01	26.92875	0.005287404
252	1	2.895684	-0.0075	26.92125	0.005285932
1190	1	2.895749	-0.0075	26.91375	0.005284459
9146	4	2.895786	-0.005	26.90875	0.005283477
8575	3	2.89585	-0.005	26.90375	0.005282496
6174	3	2.896525	-0.005	26.89875	0.005281514
5681	3	2.89788	-0.005	26.89375	0.005280532
5418	3	2.897987	-0.005	26.88875	0.00527955
1871	2	2.898324	-0.00625	26.8825	0.005278323
468	1	2.898347	-0.0075	26.875	0.005276851
3386	3	2.899204	-0.005	26.87	0.005275869
2248	2	2.899286	-0.00625	26.86375	0.005274642
5945	3	2.899818	0.01	26.87375	0.005276605
4160	3	2.900699	0.01	26.88375	0.005278569
7294	3	2.901038	-0.005	26.87875	0.005277587

1386	1	2.901387	-0.0075	26.87125	0.005276114
1044	1	2.901771	-0.0075	26.86375	0.005274642
1476	1	2.902128	-0.0075	26.85625	0.005273169
393	1	2.903411	-0.0075	26.84875	0.005271696
4136	3	2.903621	-0.005	26.84375	0.005270715
1192	1	2.905729	-0.0075	26.83625	0.005269242
519	1	2.905885	-0.0075	26.82875	0.005267769
2255	2	2.906403	-0.00625	26.8225	0.005266542
4006	3	2.906559	-0.005	26.8175	0.005265561
1913	2	2.906972	-0.00625	26.81125	0.005264333
331	1	2.907297	-0.0075	26.80375	0.005262861
1912	2	2.907387	-0.00625	26.7975	0.005261634
4358	3	2.907714	-0.005	26.7925	0.005260652
1268	1	2.908038	-0.0075	26.785	0.005259179
2389	2	2.908652	-0.00625	26.77875	0.005257952
4873	3	2.908957	-0.005	26.77375	0.00525697
923	1	2.909171	-0.0075	26.76625	0.005255498
1650	1	2.909265	-0.0075	26.75875	0.005254025
2774	2	2.909276	-0.00625	26.7525	0.005252798
2968	3	2.910106	-0.005	26.7475	0.005251816
9131	4	2.910767	-0.005	26.7425	0.005250834
1115	1	2.911812	-0.0075	26.735	0.005249362
6194	3	2.911981	-0.005	26.73	0.00524838
5	1	2.913298	-0.0075	26.7225	0.005246908
1088	1	2.914775	-0.0075	26.715	0.005245435
7440	3	2.914818	0.01	26.725	0.005247398
9684	4	2.915512	-0.005	26.72	0.005246417
4057	3	2.917995	-0.005	26.715	0.005245435
2883	2	2.920925	-0.00625	26.70875	0.005244208
9228	4	2.921486	-0.005	26.70375	0.005243226
1842	2	2.922964	0.0125	26.71625	0.00524568
529	1	2.923388	-0.0075	26.70875	0.005244208
8200	3	2.923401	-0.005	26.70375	0.005243226
407	1	2.923914	-0.0075	26.69625	0.005241753
7788	3	2.924296	-0.005	26.69125	0.005240772
5265	3	2.925764	-0.005	26.68625	0.00523979
2254	2	2.92782	0.0125	26.69875	0.005242244
7841	3	2.92858	-0.005	26.69375	0.005241263
2330	2	2.929258	0.0125	26.70625	0.005243717
1908	2	2.929964	-0.00625	26.7	0.00524249
8896	4	2.930067	-0.005	26.695	0.005241508
8607	3	2.930081	-0.005	26.69	0.005240526
1297	1	2.930086	-0.0075	26.6825	0.005239054
1280	1	2.931038	-0.0075	26.675	0.005237581
7796	3	2.93228	0.01	26.685	0.005239544
85	1	2.932511	-0.0075	26.6775	0.005238072
62	1	2.933282	-0.0075	26.67	0.005236599
8449	3	2.933285	-0.005	26.665	0.005235618
2963	3	2.933722	-0.005	26.66	0.005234636
2761	2	2.934074	0.0125	26.6725	0.00523709
2426	2	2.934918	-0.00625	26.66625	0.005235863
4105	3	2.934947	-0.005	26.66125	0.005234881

2886	2	2.936745	-0.00625	26.655	0.005233654
4879	3	2.937212	-0.005	26.65	0.005232672
5719	3	2.940095	-0.005	26.645	0.005231691
69	1	2.941611	-0.0075	26.6375	0.005230218
6218	3	2.941818	-0.005	26.6325	0.005229236
143	1	2.944274	-0.0075	26.625	0.005227764
5971	3	2.944682	-0.005	26.62	0.005226782
7858	3	2.946725	-0.005	26.615	0.0052258
3933	3	2.948273	-0.005	26.61	0.005224818
2016	2	2.948446	-0.00625	26.60375	0.005223591
4619	3	2.9486	-0.005	26.59875	0.005222609
4733	3	2.949721	0.01	26.60875	0.005224573
1316	1	2.949736	-0.0075	26.60125	0.0052231
2105	2	2.950198	-0.00625	26.595	0.005221873
6646	3	2.950626	-0.005	26.59	0.005220891
2680	2	2.951075	0.0125	26.6025	0.005223346
1584	1	2.95167	-0.0075	26.595	0.005221873
4860	3	2.952187	-0.005	26.59	0.005220891
6202	3	2.952431	0.01	26.6	0.005222855
2717	2	2.953143	-0.00625	26.59375	0.005221628
2714	2	2.953301	-0.00625	26.5875	0.005220401
2082	2	2.954128	-0.00625	26.58125	0.005219173
5201	3	2.954424	-0.005	26.57625	0.005218192
3033	3	2.954465	-0.005	26.57125	0.00521721
52	1	2.95456	-0.0075	26.56375	0.005215737
6008	3	2.954838	-0.005	26.55875	0.005214756
3260	3	2.955273	-0.005	26.55375	0.005213774
8052	3	2.955315	-0.005	26.54875	0.005212792
9436	4	2.95617	-0.005	26.54375	0.00521181
9031	4	2.95684	-0.005	26.53875	0.005210829
2107	2	2.958945	-0.00625	26.5325	0.005209601
6044	3	2.959566	-0.005	26.5275	0.00520862
7727	3	2.959981	-0.005	26.5225	0.005207638
2068	2	2.960484	-0.00625	26.51625	0.005206411
3677	3	2.960836	-0.005	26.51125	0.005205429
930	1	2.961037	-0.0075	26.50375	0.005203956
332	1	2.963203	-0.0075	26.49625	0.005202484
361	1	2.963234	0.015	26.51125	0.005205429
7352	3	2.963365	-0.005	26.50625	0.005204447
298	1	2.963915	0.015	26.52125	0.005207392
2154	2	2.964041	-0.00625	26.515	0.005206165
285	1	2.964172	-0.0075	26.5075	0.005204693
2168	2	2.964309	0.0125	26.52	0.005207147
3651	3	2.964434	-0.005	26.515	0.005206165
9958	4	2.965058	-0.005	26.51	0.005205184
1753	1	2.965378	-0.0075	26.5025	0.005203711
230	1	2.967395	-0.0075	26.495	0.005202238
1092	1	2.967443	-0.0075	26.4875	0.005200766
2333	2	2.967701	-0.00625	26.48125	0.005199539
6348	3	2.968296	-0.005	26.47625	0.005198557
6834	3	2.969361	-0.005	26.47125	0.005197575
2145	2	2.969837	0.0125	26.48375	0.005200029

1025	1	2.969969	-0.0075	26.47625	0.005198557
594	1	2.970489	-0.0075	26.46875	0.005197084
7073	3	2.971151	-0.005	26.46375	0.005196102
8352	3	2.971445	-0.005	26.45875	0.005195121
4733	3	2.971964	-0.005	26.45375	0.005194139
5747	3	2.972002	-0.005	26.44875	0.005193157
359	1	2.972812	0.015	26.46375	0.005196102
7518	3	2.973393	0.01	26.47375	0.005198066
8296	3	2.973477	0.01	26.48375	0.005200029
1392	1	2.973834	0.015	26.49875	0.005202975
4887	3	2.973881	0.01	26.50875	0.005204938
1081	1	2.9742	0.015	26.52375	0.005207883
71	1	2.974583	-0.0075	26.51625	0.005206411
9929	4	2.974985	-0.005	26.51125	0.005205429
5731	3	2.975138	-0.005	26.50625	0.005204447
81	1	2.97601	-0.0075	26.49875	0.005202975
7131	3	2.976038	-0.005	26.49375	0.005201993
4413	3	2.977073	-0.005	26.48875	0.005201011
945	1	2.977124	-0.0075	26.48125	0.005199539
6827	3	2.977316	-0.005	26.47625	0.005198557
2848	2	2.978139	-0.00625	26.47	0.00519733
7582	3	2.979625	-0.005	26.465	0.005196348
7701	3	2.979763	-0.005	26.46	0.005195366
3120	3	2.980239	-0.005	26.455	0.005194384
8430	3	2.981744	-0.005	26.45	0.005193403
6231	3	2.983342	-0.005	26.445	0.005192421
8302	3	2.983638	-0.005	26.44	0.005191439
6323	3	2.983944	-0.005	26.435	0.005190457
6810	3	2.985408	-0.005	26.43	0.005189476
39	1	2.985469	0.015	26.445	0.005192421
803	1	2.98579	-0.0075	26.4375	0.005190948
3494	3	2.986005	-0.005	26.4325	0.005189967
2402	2	2.986527	0.0125	26.445	0.005192421
1816	2	2.987461	-0.00625	26.43875	0.005191194
6986	3	2.987532	-0.005	26.43375	0.005190212
2239	2	2.987916	-0.00625	26.4275	0.005188985
2794	2	2.988193	-0.00625	26.42125	0.005187758
2599	2	2.988257	-0.00625	26.415	0.005186531
3195	3	2.988258	-0.005	26.41	0.005185549
830	1	2.988545	-0.0075	26.4025	0.005184076
4597	3	2.989518	-0.005	26.3975	0.005183094
3126	3	2.990093	-0.005	26.3925	0.005182113
6617	3	2.990519	-0.005	26.3875	0.005181131
5201	3	2.990522	-0.005	26.3825	0.005180149
4094	3	2.990662	-0.005	26.3775	0.005179167
31	1	2.990691	-0.0075	26.37	0.005177695
1117	1	2.991153	0.015	26.385	0.00518064
1064	1	2.994958	-0.0075	26.3775	0.005179167
2724	2	2.995021	0.0125	26.39	0.005181622
966	1	2.995556	-0.0075	26.3825	0.005180149
6728	3	2.997093	-0.005	26.3775	0.005179167
1563	1	2.997286	-0.0075	26.37	0.005177695

314	1	2.997481	0.015	26.385	0.00518064
6841	3	2.99751	-0.005	26.38	0.005179658
831	1	2.998085	-0.0075	26.3725	0.005178186
2117	2	2.998673	-0.00625	26.36625	0.005176959
6519	3	2.998912	-0.005	26.36125	0.005175977
1196	1	2.999543	0.015	26.37625	0.005178922
7465	3	2.999662	-0.005	26.37125	0.00517794
1411	1	2.999745	-0.0075	26.36375	0.005176468
4705	3	3.000103	0.01	26.37375	0.005178431
3417	3	3.000241	-0.005	26.36875	0.005177449
2287	2	3.000665	-0.00625	26.3625	0.005176222
1268	1	3.000874	-0.0075	26.355	0.00517475
2094	2	3.002231	-0.00625	26.34875	0.005173522
1507	1	3.002591	0.015	26.36375	0.005176468
2293	2	3.002998	-0.00625	26.3575	0.005175241
2129	2	3.003965	-0.00625	26.35125	0.005174013
2510	2	3.004269	-0.00625	26.345	0.005172786
5981	3	3.005019	0.01	26.355	0.00517475
4649	3	3.007271	0.01	26.365	0.005176713
1360	1	3.008631	0.015	26.38	0.005179658
4189	3	3.009596	-0.005	26.375	0.005178677
5587	3	3.010016	-0.005	26.37	0.005177695
2391	2	3.010185	-0.00625	26.36375	0.005176468
757	1	3.010962	-0.0075	26.35625	0.005174995
2688	2	3.011308	-0.00625	26.35	0.005173768
8436	3	3.012012	-0.005	26.345	0.005172786
797	1	3.013129	-0.0075	26.3375	0.005171314
664	1	3.013865	-0.0075	26.33	0.005169841
4091	3	3.014164	-0.005	26.325	0.005168859
1791	2	3.014232	0.0125	26.3375	0.005171314
1126	1	3.015084	-0.0075	26.33	0.005169841
2850	2	3.015609	-0.00625	26.32375	0.005168614
437	1	3.017371	-0.0075	26.31625	0.005167141
8938	4	3.017419	0.01	26.32625	0.005169105
2439	2	3.017476	-0.00625	26.32	0.005167877
6551	3	3.017761	0.01	26.33	0.005169841
7339	3	3.018622	-0.005	26.325	0.005168859
5489	3	3.018842	-0.005	26.32	0.005167877
3590	3	3.020402	-0.005	26.315	0.005166896
2796	2	3.021302	-0.00625	26.30875	0.005165669
2793	2	3.022203	0.0125	26.32125	0.005168123
6216	3	3.023316	0.01	26.33125	0.005170086
2100	2	3.023412	-0.00625	26.325	0.005168859
6959	3	3.023563	0.01	26.335	0.005170823
6492	3	3.024308	-0.005	26.33	0.005169841
7079	3	3.026155	-0.005	26.325	0.005168859
8152	3	3.026322	0.01	26.335	0.005170823
5215	3	3.026812	-0.005	26.33	0.005169841
1517	1	3.026987	-0.0075	26.3225	0.005168368
2539	2	3.027387	-0.00625	26.31625	0.005167141
8444	3	3.027417	-0.005	26.31125	0.005166159
1591	1	3.027613	-0.0075	26.30375	0.005164687

2433	2	3.028039	-0.00625	26.2975	0.00516346
3041	3	3.028491	-0.005	26.2925	0.005162478
4889	3	3.031105	-0.005	26.2875	0.005161496
5188	3	3.031205	0.01	26.2975	0.00516346
2411	2	3.03134	0.0125	26.31	0.005165914
552	1	3.032209	-0.0075	26.3025	0.005164441
3658	3	3.032519	-0.005	26.2975	0.00516346
8025	3	3.033045	0.01	26.3075	0.005165423
67	1	3.033748	-0.0075	26.3	0.005163951
4839	3	3.033971	-0.005	26.295	0.005162969
300	1	3.034117	-0.0075	26.2875	0.005161496
8697	3	3.034743	0.01	26.2975	0.00516346
6668	3	3.035488	-0.005	26.2925	0.005162478
480	1	3.03595	-0.0075	26.285	0.005161005
6665	3	3.036308	-0.005	26.28	0.005160024
8310	3	3.037758	0.01	26.29	0.005161987
5273	3	3.038975	-0.005	26.285	0.005161005
587	1	3.040338	-0.0075	26.2775	0.005159533
5009	3	3.040759	-0.005	26.2725	0.005158551
166	1	3.041019	-0.0075	26.265	0.005157078
1561	1	3.041473	-0.0075	26.2575	0.005155606
1819	2	3.041666	-0.00625	26.25125	0.005154379
6541	3	3.041863	-0.005	26.24625	0.005153397
2661	2	3.043124	-0.00625	26.24	0.00515217
6354	3	3.043307	-0.005	26.235	0.005151188
2793	2	3.044039	-0.00625	26.22875	0.005149961
4665	3	3.045017	-0.005	26.22375	0.005148979
1411	1	3.048118	-0.0075	26.21625	0.005147506
9571	4	3.048245	-0.005	26.21125	0.005146525
2149	2	3.049283	-0.00625	26.205	0.005145297
3600	3	3.050809	0.01	26.215	0.005147261
2934	3	3.051428	-0.005	26.21	0.005146279
8904	4	3.051934	-0.005	26.205	0.005145297
1282	1	3.052047	-0.0075	26.1975	0.005143825
367	1	3.052224	-0.0075	26.19	0.005142352
8694	3	3.052896	-0.005	26.185	0.005141371
1995	2	3.052937	-0.00625	26.17875	0.005140143
1455	1	3.053887	-0.0075	26.17125	0.005138671
505	1	3.054465	-0.0075	26.16375	0.005137198
1687	1	3.05464	-0.0075	26.15625	0.005135726
1135	1	3.05475	-0.0075	26.14875	0.005134253
5161	3	3.055159	-0.005	26.14375	0.005133271
4435	3	3.05536	-0.005	26.13875	0.005132289
5279	3	3.056824	-0.005	26.13375	0.005131308
6603	3	3.057071	-0.005	26.12875	0.005130326
478	1	3.057208	-0.0075	26.12125	0.005128853
549	1	3.058185	-0.0075	26.11375	0.005127381
4113	3	3.058809	-0.005	26.10875	0.005126399
6470	3	3.058857	-0.005	26.10375	0.005125417
84	1	3.060231	-0.0075	26.09625	0.005123945
629	1	3.060233	-0.0075	26.08875	0.005122472
8347	3	3.060442	0.01	26.09875	0.005124435

686	1	3.060802	-0.0075	26.09125	0.005122963
2535	2	3.060831	-0.00625	26.085	0.005121736
4821	3	3.060854	-0.005	26.08	0.005120754
2976	3	3.06188	-0.005	26.075	0.005119772
9769	4	3.061939	0.01	26.085	0.005121736
2246	2	3.063829	-0.00625	26.07875	0.005120509
9084	4	3.063966	0.01	26.08875	0.005122472
7350	3	3.064746	-0.005	26.08375	0.00512149
3322	3	3.065173	-0.005	26.07875	0.005120509
4623	3	3.065297	-0.005	26.07375	0.005119527
1435	1	3.065473	0.015	26.08875	0.005122472
132	1	3.065639	0.015	26.10375	0.005125417
8795	4	3.066004	-0.005	26.09875	0.005124435
6926	3	3.066079	-0.005	26.09375	0.005123454
513	1	3.066231	0.015	26.10875	0.005126399
2348	2	3.066972	-0.00625	26.1025	0.005125172
8323	3	3.067281	-0.005	26.0975	0.00512419
27	1	3.067601	0.015	26.1125	0.005127135
7950	3	3.06778	-0.005	26.1075	0.005126154
1086	1	3.069504	-0.0075	26.1	0.005124681
1379	1	3.070038	-0.0075	26.0925	0.005123208
2482	2	3.070721	0.0125	26.105	0.005125663
314	1	3.07083	-0.0075	26.0975	0.00512419
8372	3	3.071054	-0.005	26.0925	0.005123208
5767	3	3.071975	0.01	26.1025	0.005125172
3755	3	3.07227	-0.005	26.0975	0.00512419
2728	2	3.072501	0.0125	26.11	0.005126644
1273	1	3.07313	-0.0075	26.1025	0.005125172
2219	2	3.073315	-0.00625	26.09625	0.005123945
6102	3	3.07334	-0.005	26.09125	0.005122963
769	1	3.073964	-0.0075	26.08375	0.00512149
5408	3	3.074117	-0.005	26.07875	0.005120509
8798	4	3.074272	0.01	26.08875	0.005122472
671	1	3.076274	-0.0075	26.08125	0.005120999
228	1	3.07678	-0.0075	26.07375	0.005119527
568	1	3.076799	-0.0075	26.06625	0.005118054
587	1	3.077113	-0.0075	26.05875	0.005116582
1507	1	3.077616	-0.0075	26.05125	0.005115109
2546	2	3.078448	-0.00625	26.045	0.005113882
2846	2	3.080221	0.0125	26.0575	0.005116336
5752	3	3.080404	-0.005	26.0525	0.005115354
5605	3	3.080496	-0.005	26.0475	0.005114373
1120	1	3.081459	0.015	26.0625	0.005117318
2395	2	3.082802	-0.00625	26.05625	0.005116091
5097	3	3.083475	-0.005	26.05125	0.005115109
965	1	3.083703	-0.0075	26.04375	0.005113636
4592	3	3.083992	-0.005	26.03875	0.005112655
3738	3	3.085003	-0.005	26.03375	0.005111673
6318	3	3.085717	-0.005	26.02875	0.005110691
6027	3	3.085854	-0.005	26.02375	0.005109709
9423	4	3.086056	-0.005	26.01875	0.005108728
1078	1	3.08695	-0.0075	26.01125	0.005107255

2694	2	3.087051	-0.00625	26.005	0.005106028
1312	1	3.0871	-0.0075	25.9975	0.005104555
3790	3	3.087852	-0.005	25.9925	0.005103574
5630	3	3.088583	-0.005	25.9875	0.005102592
8384	3	3.088659	0.01	25.9975	0.005104555
1000	1	3.089013	-0.0075	25.99	0.005103083
9146	4	3.08914	-0.005	25.985	0.005102101
1416	1	3.089833	0.015	26	0.005105046
149	1	3.090422	-0.0075	25.9925	0.005103574
6926	3	3.09087	-0.005	25.9875	0.005102592
3317	3	3.091133	-0.005	25.9825	0.00510161
3430	3	3.09136	-0.005	25.9775	0.005100628
5507	3	3.091367	-0.005	25.9725	0.005099647
5958	3	3.095244	0.01	25.9825	0.00510161
6016	3	3.095562	-0.005	25.9775	0.005100628
6124	3	3.095833	-0.005	25.9725	0.005099647
6428	3	3.096238	0.01	25.9825	0.00510161
238	1	3.096406	-0.0075	25.975	0.005100137
2545	2	3.098313	-0.00625	25.96875	0.00509891
1675	1	3.098907	-0.0075	25.96125	0.005097438
3443	3	3.099434	-0.005	25.95625	0.005096456
9835	4	3.099608	-0.005	25.95125	0.005095474
7537	3	3.100027	-0.005	25.94625	0.005094492
2899	2	3.10062	-0.00625	25.94	0.005093265
7721	3	3.100881	-0.005	25.935	0.005092284
8609	3	3.102591	-0.005	25.93	0.005091302
4397	3	3.102906	-0.005	25.925	0.00509032
5257	3	3.10504	-0.005	25.92	0.005089338
2664	2	3.106904	-0.00625	25.91375	0.005088111
1968	2	3.106988	-0.00625	25.9075	0.005086884
2632	2	3.107307	-0.00625	25.90125	0.005085657
9200	4	3.107656	-0.005	25.89625	0.005084675
6512	3	3.109588	-0.005	25.89125	0.005083693
3621	3	3.110328	-0.005	25.88625	0.005082712
6545	3	3.111355	-0.005	25.88125	0.00508173
2048	2	3.111515	-0.00625	25.875	0.005080503
7768	3	3.111525	-0.005	25.87	0.005079521
4024	3	3.11265	-0.005	25.865	0.005078539
8411	3	3.114628	0.01	25.875	0.005080503
73	1	3.116518	-0.0075	25.8675	0.00507903
3600	3	3.117129	-0.005	25.8625	0.005078048
8055	3	3.117224	-0.005	25.8575	0.005077067
329	1	3.118029	-0.0075	25.85	0.005075594
6668	3	3.119142	-0.005	25.845	0.005074612
5304	3	3.120471	-0.005	25.84	0.00507363
4187	3	3.120946	-0.005	25.835	0.005072649
4148	3	3.121514	-0.005	25.83	0.005071667
638	1	3.123156	-0.0075	25.8225	0.005070194
7262	3	3.124035	-0.005	25.8175	0.005069213
2365	2	3.125526	0.0125	25.83	0.005071667
5981	3	3.12577	-0.005	25.825	0.005070685
9539	4	3.126657	-0.005	25.82	0.005069704

8769	4	3.126773	-0.005	25.815	0.005068722
5393	3	3.127066	-0.005	25.81	0.00506774
1213	1	3.127298	-0.0075	25.8025	0.005066267
438	1	3.128618	-0.0075	25.795	0.005064795
6401	3	3.12976	-0.005	25.79	0.005063813
7919	3	3.130907	-0.005	25.785	0.005062831
8092	3	3.131141	-0.005	25.78	0.00506185
2216	2	3.132501	-0.00625	25.77375	0.005060622
615	1	3.132719	-0.0075	25.76625	0.00505915
1977	2	3.132746	-0.00625	25.76	0.005057923
8212	3	3.133149	-0.005	25.755	0.005056941
7248	3	3.133721	-0.005	25.75	0.005055959
7673	3	3.1339	-0.005	25.745	0.005054977
8181	3	3.134612	-0.005	25.74	0.005053996
8377	3	3.134776	-0.005	25.735	0.005053014
2877	2	3.134791	-0.00625	25.72875	0.005051787
3999	3	3.134988	-0.005	25.72375	0.005050805
8414	3	3.135401	-0.005	25.71875	0.005049823
1152	1	3.135983	-0.0075	25.71125	0.005048351
383	1	3.136168	0.015	25.72625	0.005051296
3858	3	3.136471	-0.005	25.72125	0.005050314
2847	2	3.13724	-0.00625	25.715	0.005049087
2713	2	3.137302	-0.00625	25.70875	0.00504786
8562	3	3.13737	-0.005	25.70375	0.005046878
2088	2	3.137459	-0.00625	25.6975	0.005045651
6120	3	3.137786	0.01	25.7075	0.005047614
4375	3	3.137919	-0.005	25.7025	0.005046633
6582	3	3.13821	-0.005	25.6975	0.005045651
8403	3	3.139095	-0.005	25.6925	0.005044669
457	1	3.139857	-0.0075	25.685	0.005043197
6792	3	3.140151	-0.005	25.68	0.005042215
1419	1	3.141214	-0.0075	25.6725	0.005040742
8445	3	3.14168	-0.005	25.6675	0.00503976
9958	4	3.141944	-0.005	25.6625	0.005038779
1839	2	3.14214	0.0125	25.675	0.005041233
3485	3	3.142424	-0.005	25.67	0.005040251
7666	3	3.142487	-0.005	25.665	0.00503927
5062	3	3.142508	-0.005	25.66	0.005038288
3461	3	3.142892	-0.005	25.655	0.005037306
4935	3	3.143182	-0.005	25.65	0.005036324
3457	3	3.143225	-0.005	25.645	0.005035343
4053	3	3.145028	-0.005	25.64	0.005034361
8016	3	3.145177	-0.005	25.635	0.005033379
3936	3	3.146169	-0.005	25.63	0.005032397
5085	3	3.146306	-0.005	25.625	0.005031416
952	1	3.146436	0.015	25.64	0.005034361
2234	2	3.147061	-0.00625	25.63375	0.005033134
1672	1	3.148474	-0.0075	25.62625	0.005031661
7654	3	3.148663	-0.005	25.62125	0.005030679
8229	3	3.149312	-0.005	25.61625	0.005029698
6471	3	3.149403	-0.005	25.61125	0.005028716
8230	3	3.149902	0.01	25.62125	0.005030679

6640	3	3.150185	-0.005	25.61625	0.005029698
7645	3	3.15057	-0.005	25.61125	0.005028716
1744	1	3.150706	-0.0075	25.60375	0.005027243
3704	3	3.151908	-0.005	25.59875	0.005026262
1522	1	3.152179	-0.0075	25.59125	0.005024789
402	1	3.152344	-0.0075	25.58375	0.005023316
967	1	3.152374	-0.0075	25.57625	0.005021844
2261	2	3.15334	-0.00625	25.57	0.005020617
6665	3	3.153363	-0.005	25.565	0.005019635
4407	3	3.153684	-0.005	25.56	0.005018653
1273	1	3.155071	-0.0075	25.5525	0.00501718
24	1	3.155194	0.015	25.5675	0.005020126
8363	3	3.156651	-0.005	25.5625	0.005019144
1741	1	3.156792	0.015	25.5775	0.005022089
2775	2	3.157848	-0.00625	25.57125	0.005020862
7732	3	3.158028	-0.005	25.56625	0.00501988
4273	3	3.158452	-0.005	25.56125	0.005018898
856	1	3.158768	-0.0075	25.55375	0.005017426
1260	1	3.160185	-0.0075	25.54625	0.005015953
4835	3	3.160231	-0.005	25.54125	0.005014972
469	1	3.160275	-0.0075	25.53375	0.005013499
7065	3	3.160318	-0.005	25.52875	0.005012517
46	1	3.160747	-0.0075	25.52125	0.005011045
870	1	3.161995	-0.0075	25.51375	0.005009572
9078	4	3.162415	-0.005	25.50875	0.00500859
7102	3	3.162553	-0.005	25.50375	0.005007608
1461	1	3.163275	-0.0075	25.49625	0.005006136
9947	4	3.164007	-0.005	25.49125	0.005005154
2455	2	3.164117	-0.00625	25.485	0.005003927
1320	1	3.165245	-0.0075	25.4775	0.005002454
3420	3	3.165383	-0.005	25.4725	0.005001473
3604	3	3.16868	-0.005	25.4675	0.005000491
476	1	3.169035	-0.0075	25.46	0.004999018
1553	1	3.169053	-0.0075	25.4525	0.004997546
5251	3	3.170296	-0.005	25.4475	0.004996564
5886	3	3.171852	-0.005	25.4425	0.004995582
5296	3	3.172475	-0.005	25.4375	0.0049946
5474	3	3.172792	-0.005	25.4325	0.004993619
7154	3	3.173036	-0.005	25.4275	0.004992637
1551	1	3.173315	0.015	25.4425	0.004995582
4655	3	3.17381	-0.005	25.4375	0.0049946
3600	3	3.174077	-0.005	25.4325	0.004993619
5812	3	3.174732	-0.005	25.4275	0.004992637
4059	3	3.175043	-0.005	25.4225	0.004991655
3846	3	3.176266	-0.005	25.4175	0.004990673
4803	3	3.17654	-0.005	25.4125	0.004989692
954	1	3.177142	-0.0075	25.405	0.004988219
1117	1	3.177541	-0.0075	25.3975	0.004986747
7021	3	3.178234	-0.005	25.3925	0.004985765
7599	3	3.178372	-0.005	25.3875	0.004984783
310	1	3.178397	-0.0075	25.38	0.00498331
579	1	3.178556	-0.0075	25.3725	0.004981838

5308	3	3.180206	0.01	25.3825	0.004983801
1247	1	3.181095	-0.0075	25.375	0.004982329
2378	2	3.181387	-0.00625	25.36875	0.004981102
8970	4	3.183458	-0.005	25.36375	0.00498012
2799	2	3.183617	-0.00625	25.3575	0.004978893
424	1	3.184101	-0.0075	25.35	0.00497742
952	1	3.185743	-0.0075	25.3425	0.004975947
2437	2	3.186845	-0.00625	25.33625	0.00497472
399	1	3.186979	-0.0075	25.32875	0.004973248
7881	3	3.187439	0.01	25.33875	0.004975211
2921	3	3.18767	-0.005	25.33375	0.004974229
1957	2	3.188465	-0.00625	25.3275	0.004973002
2197	2	3.188687	-0.00625	25.32125	0.004971775
2086	2	3.189215	-0.00625	25.315	0.004970548
4199	3	3.190448	-0.005	25.31	0.004969566
1808	2	3.19064	-0.00625	25.30375	0.004968339
2967	3	3.190975	-0.005	25.29875	0.004967357
3599	3	3.191048	-0.005	25.29375	0.004966375
279	1	3.1914	-0.0075	25.28625	0.004964903
2083	2	3.191781	-0.00625	25.28	0.004963676
4296	3	3.192129	-0.005	25.275	0.004962694
11	1	3.192698	-0.0075	25.2675	0.004961221
7027	3	3.193491	-0.005	25.2625	0.00496024
184	1	3.193583	-0.0075	25.255	0.004958767
5546	3	3.193874	0.01	25.265	0.00496073
87	1	3.193924	-0.0075	25.2575	0.004959258
1081	1	3.193978	-0.0075	25.25	0.004957785
9868	4	3.194397	-0.005	25.245	0.004956803
9600	4	3.195625	-0.005	25.24	0.004955822
4080	3	3.196295	-0.005	25.235	0.00495484
4313	3	3.197178	-0.005	25.23	0.004953858
4285	3	3.197515	-0.005	25.225	0.004952876
5778	3	3.197626	-0.005	25.22	0.004951895
2270	2	3.19777	-0.00625	25.21375	0.004950668
3959	3	3.20092	-0.005	25.20875	0.004949686
5428	3	3.201733	-0.005	25.20375	0.004948704
7538	3	3.202471	-0.005	25.19875	0.004947722
7609	3	3.203083	-0.005	25.19375	0.004946741
2491	2	3.204795	-0.00625	25.1875	0.004945513
2254	2	3.205064	-0.00625	25.18125	0.004944286
893	1	3.205123	0.015	25.19625	0.004947231
6107	3	3.205988	0.01	25.20625	0.004949195
3181	3	3.206238	-0.005	25.20125	0.004948213
1402	1	3.207568	-0.0075	25.19375	0.004946741
5828	3	3.207656	-0.005	25.18875	0.004945759
1617	1	3.207691	-0.0075	25.18125	0.004944286
7253	3	3.207896	-0.005	25.17625	0.004943305
7090	3	3.20826	-0.005	25.17125	0.004942323
391	1	3.208686	0.015	25.18625	0.004945268
1918	2	3.208771	-0.00625	25.18	0.004944041
2761	2	3.209867	-0.00625	25.17375	0.004942814
8491	3	3.210192	-0.005	25.16875	0.004941832

8626	3	3.210901	-0.005	25.16375	0.00494085
1141	1	3.211289	-0.0075	25.15625	0.004939378
6622	3	3.212155	-0.005	25.15125	0.004938396
3177	3	3.212274	-0.005	25.14625	0.004937414
7920	3	3.212506	-0.005	25.14125	0.004936432
3809	3	3.212964	-0.005	25.13625	0.004935451
2965	3	3.213782	0.01	25.14625	0.004937414
7582	3	3.214865	-0.005	25.14125	0.004936432
7193	3	3.214951	-0.005	25.13625	0.004935451
5012	3	3.2158	-0.005	25.13125	0.004934469
1925	2	3.216142	-0.00625	25.125	0.004933242
5364	3	3.216376	0.01	25.135	0.004935205
1377	1	3.217819	-0.0075	25.1275	0.004933733
2312	2	3.218864	-0.00625	25.12125	0.004932505
5926	3	3.219312	-0.005	25.11625	0.004931524
3124	3	3.219469	0.01	25.12625	0.004933487
2884	2	3.22046	-0.00625	25.12	0.00493226
1885	2	3.221505	0.0125	25.1325	0.004934714
502	1	3.221573	-0.0075	25.125	0.004933242
1555	1	3.222671	-0.0075	25.1175	0.004931769
755	1	3.22378	0.015	25.1325	0.004934714
1449	1	3.224241	-0.0075	25.125	0.004933242
5097	3	3.22439	-0.005	25.12	0.00493226
2268	2	3.225543	-0.00625	25.11375	0.004931033
338	1	3.226349	-0.0075	25.10625	0.00492956
3	1	3.22674	-0.0075	25.09875	0.004928088
9584	4	3.226932	-0.005	25.09375	0.004927106
2462	2	3.227275	0.0125	25.10625	0.00492956
4295	3	3.228076	-0.005	25.10125	0.004928578
1429	1	3.228228	-0.0075	25.09375	0.004927106
1591	1	3.228639	-0.0075	25.08625	0.004925633
1169	1	3.229068	-0.0075	25.07875	0.004924161
5388	3	3.229156	-0.005	25.07375	0.004923179
4825	3	3.230763	-0.005	25.06875	0.004922197
250	1	3.23154	0.015	25.08375	0.004925142
6798	3	3.231901	-0.005	25.07875	0.004924161
2424	2	3.231948	-0.00625	25.0725	0.004922933
4721	3	3.232172	0.01	25.0825	0.004924897
3998	3	3.232343	-0.005	25.0775	0.004923915
2445	2	3.232839	0.0125	25.09	0.00492637
7523	3	3.233918	-0.005	25.085	0.004925388
2571	2	3.23396	-0.00625	25.07875	0.004924161
7037	3	3.234099	-0.005	25.07375	0.004923179
6473	3	3.234153	-0.005	25.06875	0.004922197
7418	3	3.23429	0.01	25.07875	0.004924161
294	1	3.234914	-0.0075	25.07125	0.004922688
2262	2	3.235219	-0.00625	25.065	0.004921461
1746	1	3.237465	-0.0075	25.0575	0.004919988
8392	3	3.238389	0.01	25.0675	0.004921952
1655	1	3.238791	-0.0075	25.06	0.004920479
1891	2	3.239697	-0.00625	25.05375	0.004919252
1301	1	3.24055	-0.0075	25.04625	0.004917779

5058	3	3.241675	-0.005	25.04125	0.004916798
236	1	3.241785	-0.0075	25.03375	0.004915325
5700	3	3.242195	0.01	25.04375	0.004917288
1466	1	3.242727	-0.0075	25.03625	0.004915816
7599	3	3.242843	-0.005	25.03125	0.004914834
3577	3	3.244011	-0.005	25.02625	0.004913852
1799	2	3.244352	-0.00625	25.02	0.004912625
1150	1	3.245194	-0.0075	25.0125	0.004911153
2678	2	3.245555	-0.00625	25.00625	0.004909925
397	1	3.245774	-0.0075	24.99875	0.004908453
6912	3	3.246118	-0.005	24.99375	0.004907471
49	1	3.246932	-0.0075	24.98625	0.004905998
536	1	3.247198	0.015	25.00125	0.004908944
2743	2	3.248375	-0.00625	24.995	0.004907716
5309	3	3.248799	0.01	25.005	0.00490968
9904	4	3.249719	-0.005	25	0.004908698
1324	1	3.250173	-0.0075	24.9925	0.004907226
6544	3	3.250316	-0.005	24.9875	0.004906244
6720	3	3.251169	-0.005	24.9825	0.004905262
9926	4	3.25232	-0.005	24.9775	0.00490428
6031	3	3.252907	-0.005	24.9725	0.004903299
8	1	3.253164	-0.0075	24.965	0.004901826
1455	1	3.25445	-0.0075	24.9575	0.004900353
7481	3	3.254936	0.01	24.9675	0.004902317
7030	3	3.255638	-0.005	24.9625	0.004901335
731	1	3.256328	-0.0075	24.955	0.004899863
8016	3	3.256683	-0.005	24.95	0.004898881
7857	3	3.257804	-0.005	24.945	0.004897899
220	1	3.258884	-0.0075	24.9375	0.004896426
7480	3	3.259651	-0.005	24.9325	0.004895445
7272	3	3.259939	0.01	24.9425	0.004897408
2499	2	3.260084	-0.00625	24.93625	0.004896181
2452	2	3.260219	-0.00625	24.93	0.004894954
969	1	3.26055	0.015	24.945	0.004897899
2065	2	3.260794	-0.00625	24.93875	0.004896672
1283	1	3.260945	-0.0075	24.93125	0.004895199
4569	3	3.262074	0.01	24.94125	0.004897163
6503	3	3.26372	-0.005	24.93625	0.004896181
8280	3	3.263806	-0.005	24.93125	0.004895199
3934	3	3.264195	0.01	24.94125	0.004897163
1205	1	3.264617	-0.0075	24.93375	0.00489569
4851	3	3.264665	-0.005	24.92875	0.004894708
1933	2	3.265305	-0.00625	24.9225	0.004893481
6517	3	3.265386	-0.005	24.9175	0.0048925
6094	3	3.265842	-0.005	24.9125	0.004891518
8908	4	3.266662	-0.005	24.9075	0.004890536
5811	3	3.266778	-0.005	24.9025	0.004889554
55	1	3.267037	0.015	24.9175	0.0048925
4948	3	3.267165	-0.005	24.9125	0.004891518
674	1	3.267882	-0.0075	24.905	0.004890045
9584	4	3.269139	-0.005	24.9	0.004889063
5188	3	3.270888	-0.005	24.895	0.004888082

9521	4	3.27205	0.01	24.905	0.004890045
953	1	3.272704	-0.0075	24.8975	0.004888573
8910	4	3.275869	-0.005	24.8925	0.004887591
1314	1	3.277029	-0.0075	24.885	0.004886118
4531	3	3.277334	-0.005	24.88	0.004885136
1531	1	3.277455	0.015	24.895	0.004888082
2430	2	3.277669	0.0125	24.9075	0.004890536
245	1	3.278158	-0.0075	24.9	0.004889063
4494	3	3.279433	0.01	24.91	0.004891027
3500	3	3.279652	-0.005	24.905	0.004890045
1409	1	3.280105	-0.0075	24.8975	0.004888573
1156	1	3.280496	-0.0075	24.89	0.0048871
2807	2	3.280613	-0.00625	24.88375	0.004885873
3796	3	3.281463	-0.005	24.87875	0.004884891
5232	3	3.281629	-0.005	24.87375	0.004883909
3264	3	3.281788	-0.005	24.86875	0.004882928
5123	3	3.283361	-0.005	24.86375	0.004881946
3760	3	3.28338	-0.005	24.85875	0.004880964
2995	3	3.283914	-0.005	24.85375	0.004879982
8414	3	3.284326	-0.005	24.84875	0.004879001
6686	3	3.285146	-0.005	24.84375	0.004878019
5563	3	3.285462	0.01	24.85375	0.004879982
5535	3	3.285688	-0.005	24.84875	0.004879001
2122	2	3.287231	-0.00625	24.8425	0.004877773
2112	2	3.288084	-0.00625	24.83625	0.004876546
5404	3	3.288529	-0.005	24.83125	0.004875565
1315	1	3.289863	-0.0075	24.82375	0.004874092
915	1	3.290574	-0.0075	24.81625	0.004872619
3742	3	3.290734	-0.005	24.81125	0.004871638
3382	3	3.291244	-0.005	24.80625	0.004870656
5855	3	3.291632	-0.005	24.80125	0.004869674
9210	4	3.29212	-0.005	24.79625	0.004868692
1126	1	3.292567	-0.0075	24.78875	0.00486722
2029	2	3.292644	-0.00625	24.7825	0.004865993
868	1	3.29315	0.015	24.7975	0.004868938
167	1	3.29333	-0.0075	24.79	0.004867465
446	1	3.293438	-0.0075	24.7825	0.004865993
7440	3	3.293689	-0.005	24.7775	0.004865011
9934	4	3.29374	-0.005	24.7725	0.004864029
5678	3	3.293953	-0.005	24.7675	0.004863047
5645	3	3.294577	-0.005	24.7625	0.004862066
8355	3	3.295789	-0.005	24.7575	0.004861084
7927	3	3.295893	-0.005	24.7525	0.004860102
652	1	3.296419	-0.0075	24.745	0.004858629
7190	3	3.296853	-0.005	24.74	0.004857648
888	1	3.297381	-0.0075	24.7325	0.004856175
162	1	3.297417	-0.0075	24.725	0.004854703
3021	3	3.298254	-0.005	24.72	0.004853721
3135	3	3.298661	-0.005	24.715	0.004852739
2897	2	3.299837	-0.00625	24.70875	0.004851512
780	1	3.299877	-0.0075	24.70125	0.004850039
8518	3	3.300291	-0.005	24.69625	0.004849058

354	1	3.301083	-0.0075	24.68875	0.004847585
3218	3	3.302242	-0.005	24.68375	0.004846603
7817	3	3.302991	0.01	24.69375	0.004848567
1011	1	3.303613	0.015	24.70875	0.004851512
7747	3	3.304442	-0.005	24.70375	0.00485053
3370	3	3.305061	-0.005	24.69875	0.004849548
274	1	3.305122	-0.0075	24.69125	0.004848076
434	1	3.305181	-0.0075	24.68375	0.004846603
5364	3	3.306102	-0.005	24.67875	0.004845621
3198	3	3.307467	0.01	24.68875	0.004847585
2568	2	3.307476	0.0125	24.70125	0.004850039
4769	3	3.307876	0.01	24.71125	0.004852003
6186	3	3.307986	-0.005	24.70625	0.004851021
4223	3	3.308781	-0.005	24.70125	0.004850039
4280	3	3.309295	-0.005	24.69625	0.004849058
4769	3	3.309495	-0.005	24.69125	0.004848076
4340	3	3.310373	-0.005	24.68625	0.004847094
1844	2	3.310695	-0.00625	24.68	0.004845867
451	1	3.310836	-0.0075	24.6725	0.004844394
7881	3	3.310979	-0.005	24.6675	0.004843413
2871	2	3.312551	-0.00625	24.66125	0.004842185
6794	3	3.312658	-0.005	24.65625	0.004841204
3133	3	3.313637	-0.005	24.65125	0.004840222
6696	3	3.316284	-0.005	24.64625	0.00483924
1459	1	3.316566	-0.0075	24.63875	0.004837768
1896	2	3.316699	-0.00625	24.6325	0.00483654
707	1	3.316966	-0.0075	24.625	0.004835068
1550	1	3.31697	-0.0075	24.6175	0.004833595
8203	3	3.317257	-0.005	24.6125	0.004832613
2984	3	3.317447	0.01	24.6225	0.004834577
160	1	3.317867	-0.0075	24.615	0.004833104
7265	3	3.318081	0.01	24.625	0.004835068
8387	3	3.318384	-0.005	24.62	0.004834086
2828	2	3.320176	0.0125	24.6325	0.00483654
1538	1	3.320336	-0.0075	24.625	0.004835068
3307	3	3.320525	-0.005	24.62	0.004834086
1342	1	3.320532	-0.0075	24.6125	0.004832613
9716	4	3.32073	-0.005	24.6075	0.004831632
4356	3	3.32082	-0.005	24.6025	0.00483065
1040	1	3.321323	-0.0075	24.595	0.004829177
6354	3	3.321727	-0.005	24.59	0.004828196
3666	3	3.323544	-0.005	24.585	0.004827214
2896	2	3.325053	-0.00625	24.57875	0.004825987
414	1	3.325064	-0.0075	24.57125	0.004824514
1031	1	3.326682	-0.0075	24.56375	0.004823041
9278	4	3.327044	-0.005	24.55875	0.00482206
2965	3	3.327318	-0.005	24.55375	0.004821078
1975	2	3.327359	-0.00625	24.5475	0.004819851
4194	3	3.327481	-0.005	24.5425	0.004818869
6532	3	3.328077	-0.005	24.5375	0.004817887
2544	2	3.328957	-0.00625	24.53125	0.00481666
5231	3	3.329259	-0.005	24.52625	0.004815678

5171	3	3.33018	-0.005	24.52125	0.004814697
2828	2	3.330461	-0.00625	24.515	0.004813469
2236	2	3.33084	-0.00625	24.50875	0.004812242
2095	2	3.33146	-0.00625	24.5025	0.004811015
4000	3	3.331866	-0.005	24.4975	0.004810033
3116	3	3.332106	-0.005	24.4925	0.004809052
5736	3	3.333948	-0.005	24.4875	0.00480807
4915	3	3.334165	-0.005	24.4825	0.004807088
290	1	3.334314	-0.0075	24.475	0.004805616
6990	3	3.334612	-0.005	24.47	0.004804634
7327	3	3.335258	-0.005	24.465	0.004803652
7645	3	3.336276	-0.005	24.46	0.00480267
4325	3	3.336308	-0.005	24.455	0.004801689
4841	3	3.336443	-0.005	24.45	0.004800707
857	1	3.33648	-0.0075	24.4425	0.004799234
1701	1	3.338238	-0.0075	24.435	0.004797762
4045	3	3.338778	-0.005	24.43	0.00479678
3124	3	3.340739	-0.005	24.425	0.004795798
7104	3	3.345214	-0.005	24.42	0.004794816
2445	2	3.345694	-0.00625	24.41375	0.004793589
4873	3	3.346726	-0.005	24.40875	0.004792608
6056	3	3.347148	-0.005	24.40375	0.004791626
2487	2	3.349629	-0.00625	24.3975	0.004790399
5717	3	3.349646	-0.005	24.3925	0.004789417
5803	3	3.353215	-0.005	24.3875	0.004788435
5424	3	3.353353	-0.005	24.3825	0.004787453
5230	3	3.354095	-0.005	24.3775	0.004786472
5308	3	3.354221	-0.005	24.3725	0.00478549
2640	2	3.354416	-0.00625	24.36625	0.004784263
691	1	3.354522	-0.0075	24.35875	0.00478279
9558	4	3.355144	-0.005	24.35375	0.004781808
2836	2	3.355518	0.0125	24.36625	0.004784263
70	1	3.355793	-0.0075	24.35875	0.00478279
4436	3	3.35633	-0.005	24.35375	0.004781808
6551	3	3.358461	-0.005	24.34875	0.004780827
2682	2	3.358647	-0.00625	24.3425	0.004779599
2782	2	3.358871	-0.00625	24.33625	0.004778372
5586	3	3.360161	-0.005	24.33125	0.004777391
6046	3	3.360592	-0.005	24.32625	0.004776409
264	1	3.360724	-0.0075	24.31875	0.004774936
4019	3	3.361217	-0.005	24.31375	0.004773954
7687	3	3.364574	-0.005	24.30875	0.004772973
3995	3	3.364684	-0.005	24.30375	0.004771991
2940	3	3.365332	-0.005	24.29875	0.004771009
2984	3	3.368297	-0.005	24.29375	0.004770027
1013	1	3.368474	-0.0075	24.28625	0.004768555
4742	3	3.369151	-0.005	24.28125	0.004767573
5107	3	3.369615	-0.005	24.27625	0.004766591
2430	2	3.3703	-0.00625	24.27	0.004765364
7307	3	3.370612	-0.005	24.265	0.004764382
1657	1	3.370643	-0.0075	24.2575	0.00476291
8607	3	3.371559	-0.005	24.2525	0.004761928

1056	1	3.372499	-0.0075	24.245	0.004760456
2674	2	3.372792	0.0125	24.2575	0.00476291
6881	3	3.373	-0.005	24.2525	0.004761928
4790	3	3.373112	-0.005	24.2475	0.004760946
2672	2	3.374099	-0.00625	24.24125	0.004759719
8497	3	3.375325	-0.005	24.23625	0.004758737
7053	3	3.375916	-0.005	24.23125	0.004757756
1828	2	3.377269	-0.00625	24.225	0.004756529
302	1	3.37777	-0.0075	24.2175	0.004755056
2331	2	3.378054	-0.00625	24.21125	0.004753829
8043	3	3.378349	-0.005	24.20625	0.004752847
8384	3	3.378395	-0.005	24.20125	0.004751865
6922	3	3.378774	-0.005	24.19625	0.004750884
2645	2	3.378965	-0.00625	24.19	0.004749656
817	1	3.379464	-0.0075	24.1825	0.004748184
7259	3	3.38023	-0.005	24.1775	0.004747202
592	1	3.381416	-0.0075	24.17	0.004745729
488	1	3.38169	0.015	24.185	0.004748675
2006	2	3.381978	0.0125	24.1975	0.004751129
979	1	3.382248	-0.0075	24.19	0.004749656
1093	1	3.383298	0.015	24.205	0.004752602
7190	3	3.38381	-0.005	24.2	0.00475162
426	1	3.384317	-0.0075	24.1925	0.004750147
4953	3	3.384509	0.01	24.2025	0.004752111
8306	3	3.384733	-0.005	24.1975	0.004751129
1300	1	3.384899	-0.0075	24.19	0.004749656
553	1	3.384929	-0.0075	24.1825	0.004748184
8070	3	3.384983	-0.005	24.1775	0.004747202
9362	4	3.385282	0.01	24.1875	0.004749166
2200	2	3.385404	-0.00625	24.18125	0.004747938
6552	3	3.385961	-0.005	24.17625	0.004746957
8929	4	3.386636	-0.005	24.17125	0.004745975
5460	3	3.387135	0.01	24.18125	0.004747938
2229	2	3.387283	-0.00625	24.175	0.004746711
901	1	3.387454	-0.0075	24.1675	0.004745239
6024	3	3.387784	-0.005	24.1625	0.004744257
788	1	3.388039	-0.0075	24.155	0.004742784
8480	3	3.389908	-0.005	24.15	0.004741802
1722	1	3.390683	-0.0075	24.1425	0.00474033
7897	3	3.392118	-0.005	24.1375	0.004739348
2596	2	3.392386	-0.00625	24.13125	0.004738121
781	1	3.392666	-0.0075	24.12375	0.004736648
5563	3	3.393047	-0.005	24.11875	0.004735667
940	1	3.393072	-0.0075	24.11125	0.004734194
1093	1	3.393563	-0.0075	24.10375	0.004732721
2569	2	3.394649	-0.00625	24.0975	0.004731494
2569	2	3.395196	-0.00625	24.09125	0.004730267
9441	4	3.395583	-0.005	24.08625	0.004729285
1667	1	3.395643	-0.0075	24.07875	0.004727813
4887	3	3.395933	-0.005	24.07375	0.004726831
5292	3	3.397375	-0.005	24.06875	0.004725849
1047	1	3.397759	-0.0075	24.06125	0.004724377

8247	3	3.398169	-0.005	24.05625	0.004723395
8025	3	3.398336	-0.005	24.05125	0.004722413
2447	2	3.400223	-0.00625	24.045	0.004721186
852	1	3.401055	-0.0075	24.0375	0.004719713
1373	1	3.401251	-0.0075	24.03	0.004718241
4960	3	3.401733	-0.005	24.025	0.004717259
7025	3	3.401783	-0.005	24.02	0.004716277
3066	3	3.402709	0.01	24.03	0.004718241
996	1	3.40271	-0.0075	24.0225	0.004716768
39	1	3.403042	-0.0075	24.015	0.004715296
7331	3	3.40396	-0.005	24.01	0.004714314
1567	1	3.404382	-0.0075	24.0025	0.004712841
5482	3	3.404629	-0.005	23.9975	0.004711859
1029	1	3.405221	-0.0075	23.99	0.004710387
6864	3	3.406593	-0.005	23.985	0.004709405
5297	3	3.4072	0.01	23.995	0.004711369
6311	3	3.407677	-0.005	23.99	0.004710387
2545	2	3.409035	-0.00625	23.98375	0.00470916
179	1	3.40975	0.015	23.99875	0.004712105
6908	3	3.410482	0.01	24.00875	0.004714068
1818	2	3.410905	-0.00625	24.0025	0.004712841
2368	2	3.412084	0.0125	24.015	0.004715296
1774	2	3.412804	-0.00625	24.00875	0.004714068
5838	3	3.416364	-0.005	24.00375	0.004713087
9062	4	3.417364	-0.005	23.99875	0.004712105
9725	4	3.41832	0.01	24.00875	0.004714068
5846	3	3.418675	-0.005	24.00375	0.004713087
6460	3	3.418817	0.01	24.01375	0.00471505
833	1	3.419515	-0.0075	24.00625	0.004713577
3694	3	3.420421	-0.005	24.00125	0.004712596
2831	2	3.420768	-0.00625	23.995	0.004711369
5460	3	3.421163	-0.005	23.99	0.004710387
4750	3	3.422464	-0.005	23.985	0.004709405
7976	3	3.423422	-0.005	23.98	0.004708423
252	1	3.423766	-0.0075	23.9725	0.004706951
7128	3	3.423874	-0.005	23.9675	0.004705969
8013	3	3.424499	-0.005	23.9625	0.004704987
6198	3	3.424648	-0.005	23.9575	0.004704005
6368	3	3.425272	-0.005	23.9525	0.004703024
715	1	3.425781	-0.0075	23.945	0.004701551
7692	3	3.42615	-0.005	23.94	0.004700569
3641	3	3.427226	-0.005	23.935	0.004699588
201	1	3.428238	-0.0075	23.9275	0.004698115
854	1	3.428586	-0.0075	23.92	0.004696642
7374	3	3.429386	-0.005	23.915	0.004695661
8747	3	3.429635	0.01	23.925	0.004697624
1416	1	3.429654	-0.0075	23.9175	0.004696152
747	1	3.429817	0.015	23.9325	0.004699097
5428	3	3.429925	-0.005	23.9275	0.004698115
1612	1	3.432392	-0.0075	23.92	0.004696642
2647	2	3.43266	0.0125	23.9325	0.004699097
760	1	3.432748	-0.0075	23.925	0.004697624

24	1	3.433266	-0.0075	23.9175	0.004696152
4414	3	3.433437	-0.005	23.9125	0.00469517
5515	3	3.434703	0.01	23.9225	0.004697133
2454	2	3.435306	-0.00625	23.91625	0.004695906
8425	3	3.435391	-0.005	23.91125	0.004694924
5579	3	3.435686	-0.005	23.90625	0.004693943
8640	3	3.437168	-0.005	23.90125	0.004692961
1265	1	3.437699	-0.0075	23.89375	0.004691488
4069	3	3.438307	-0.005	23.88875	0.004690507
1741	1	3.438448	-0.0075	23.88125	0.004689034
9436	4	3.438965	-0.005	23.87625	0.004688052
800	1	3.439273	-0.0075	23.86875	0.00468658
318	1	3.439477	-0.0075	23.86125	0.004685107
5210	3	3.439579	0.01	23.87125	0.00468707
8042	3	3.439692	-0.005	23.86625	0.004686089
540	1	3.44004	-0.0075	23.85875	0.004684616
8529	3	3.440945	-0.005	23.85375	0.004683634
6305	3	3.441008	-0.005	23.84875	0.004682653
695	1	3.441769	-0.0075	23.84125	0.00468118
1257	1	3.442477	-0.0075	23.83375	0.004679707
2289	2	3.442736	-0.00625	23.8275	0.00467848
3565	3	3.443549	-0.005	23.8225	0.004677499
1220	1	3.443812	-0.0075	23.815	0.004676026
3101	3	3.444244	-0.005	23.81	0.004675044
4611	3	3.444981	-0.005	23.805	0.004674062
1531	1	3.445685	-0.0075	23.7975	0.00467259
2732	2	3.445845	-0.00625	23.79125	0.004671363
8958	4	3.445923	-0.005	23.78625	0.004670381
373	1	3.446574	-0.0075	23.77875	0.004668908
8219	3	3.447959	-0.005	23.77375	0.004667927
7239	3	3.448045	0.01	23.78375	0.00466989
2411	2	3.448954	-0.00625	23.7775	0.004668663
1810	2	3.449077	-0.00625	23.77125	0.004667436
6484	3	3.449157	-0.005	23.76625	0.004666454
2754	2	3.449562	-0.00625	23.76	0.004665227
1536	1	3.450636	-0.0075	23.7525	0.004663754
1513	1	3.450733	-0.0075	23.745	0.004662282
2103	2	3.451759	-0.00625	23.73875	0.004661054
2778	2	3.453398	-0.00625	23.7325	0.004659827
2761	2	3.454632	-0.00625	23.72625	0.0046586
632	1	3.455621	-0.0075	23.71875	0.004657127
523	1	3.457215	-0.0075	23.71125	0.004655655
3706	3	3.457644	-0.005	23.70625	0.004654673
4620	3	3.458729	-0.005	23.70125	0.004653691
7977	3	3.459165	-0.005	23.69625	0.00465271
2040	2	3.459673	-0.00625	23.69	0.004651482
776	1	3.460115	-0.0075	23.6825	0.00465001
2487	2	3.46166	-0.00625	23.67625	0.004648783
7137	3	3.463081	-0.005	23.67125	0.004647801
2489	2	3.464599	0.0125	23.68375	0.004650255
7022	3	3.465163	-0.005	23.67875	0.004649274
8645	3	3.468418	-0.005	23.67375	0.004648292

5440	3	3.470011	-0.005	23.66875	0.00464731
2030	2	3.472264	-0.00625	23.6625	0.004646083
4939	3	3.473013	-0.005	23.6575	0.004645101
3529	3	3.473851	-0.005	23.6525	0.004644119
262	1	3.473862	-0.0075	23.645	0.004642647
8713	3	3.474043	0.01	23.655	0.00464461
3161	3	3.475409	-0.005	23.65	0.004643629
4910	3	3.475697	-0.005	23.645	0.004642647
6438	3	3.475923	-0.005	23.64	0.004641665
8120	3	3.476161	-0.005	23.635	0.004640683
4649	3	3.477198	-0.005	23.63	0.004639702
444	1	3.4778	-0.0075	23.6225	0.004638229
7881	3	3.478353	-0.005	23.6175	0.004637247
4843	3	3.478722	0.01	23.6275	0.004639211
543	1	3.478775	-0.0075	23.62	0.004637738
2542	2	3.478902	-0.00625	23.61375	0.004636511
1155	1	3.478955	-0.0075	23.60625	0.004635038
1267	1	3.481397	-0.0075	23.59875	0.004633566
6821	3	3.481722	-0.005	23.59375	0.004632584
5293	3	3.482035	-0.005	23.58875	0.004631602
1544	1	3.482925	-0.0075	23.58125	0.00463013
5002	3	3.483468	-0.005	23.57625	0.004629148
3180	3	3.484005	-0.005	23.57125	0.004628166
1720	1	3.484203	-0.0075	23.56375	0.004626694
1801	2	3.484459	-0.00625	23.5575	0.004625466
1924	2	3.484832	-0.00625	23.55125	0.004624239
320	1	3.48486	-0.0075	23.54375	0.004622767
7693	3	3.485113	-0.005	23.53875	0.004621785
8904	4	3.485203	-0.005	23.53375	0.004620803
2849	2	3.485448	-0.00625	23.5275	0.004619576
2077	2	3.485677	0.0125	23.54	0.00462203
4	1	3.486175	-0.0075	23.5325	0.004620558
4622	3	3.486747	-0.005	23.5275	0.004619576
428	1	3.488306	-0.0075	23.52	0.004618103
7074	3	3.488378	-0.005	23.515	0.004617122
2323	2	3.488725	-0.00625	23.50875	0.004615894
2409	2	3.488936	-0.00625	23.5025	0.004614667
6685	3	3.491417	-0.005	23.4975	0.004613685
2075	2	3.492119	-0.00625	23.49125	0.004612458
5508	3	3.492722	-0.005	23.48625	0.004611477
5947	3	3.493595	-0.005	23.48125	0.004610495
4789	3	3.493823	-0.005	23.47625	0.004609513
1603	1	3.494904	-0.0075	23.46875	0.00460804
3726	3	3.495536	-0.005	23.46375	0.004607059
1663	1	3.495557	-0.0075	23.45625	0.004605586
4675	3	3.497458	-0.005	23.45125	0.004604604
4240	3	3.498042	-0.005	23.44625	0.004603623
2031	2	3.498073	0.0125	23.45875	0.004606077
2783	2	3.498131	-0.00625	23.4525	0.00460485
1224	1	3.498982	-0.0075	23.445	0.004603377
7972	3	3.50082	-0.005	23.44	0.004602395
578	1	3.502937	-0.0075	23.4325	0.004600923

2337	2	3.503651	-0.00625	23.42625	0.004599696
5753	3	3.504007	-0.005	23.42125	0.004598714
7127	3	3.504299	-0.005	23.41625	0.004597732
3285	3	3.504636	-0.005	23.41125	0.00459675
3526	3	3.505754	-0.005	23.40625	0.004595769
3241	3	3.506134	-0.005	23.40125	0.004594787
1507	1	3.506448	-0.0075	23.39375	0.004593314
1121	1	3.506561	-0.0075	23.38625	0.004591842
4517	3	3.506953	-0.005	23.38125	0.00459086
1885	2	3.507497	-0.00625	23.375	0.004589633
1180	1	3.507545	-0.0075	23.3675	0.00458816
2560	2	3.508078	-0.00625	23.36125	0.004586933
1998	2	3.508672	-0.00625	23.355	0.004585706
3831	3	3.510093	-0.005	23.35	0.004584724
5227	3	3.51048	-0.005	23.345	0.004583742
1271	1	3.510724	-0.0075	23.3375	0.00458227
9532	4	3.513212	-0.005	23.3325	0.004581288
5501	3	3.513852	-0.005	23.3275	0.004580306
2650	2	3.513965	-0.00625	23.32125	0.004579079
317	1	3.514002	-0.0075	23.31375	0.004577607
8619	3	3.514353	-0.005	23.30875	0.004576625
6686	3	3.514738	-0.005	23.30375	0.004575643
2856	2	3.515486	0.0125	23.31625	0.004578097
8325	3	3.51624	-0.005	23.31125	0.004577116
7827	3	3.517819	-0.005	23.30625	0.004576134
6396	3	3.517901	-0.005	23.30125	0.004575152
3081	3	3.518527	-0.005	23.29625	0.00457417
7145	3	3.519009	-0.005	23.29125	0.004573189
103	1	3.519664	-0.0075	23.28375	0.004571716
8251	3	3.520038	-0.005	23.27875	0.004570734
2222	2	3.520403	0.0125	23.29125	0.004573189
1932	2	3.521251	-0.00625	23.285	0.004571962
1435	1	3.521342	-0.0075	23.2775	0.004570489
7142	3	3.521694	-0.005	23.2725	0.004569507
3506	3	3.52201	0.01	23.2825	0.004571471
1631	1	3.522798	-0.0075	23.275	0.004569998
7964	3	3.524865	-0.005	23.27	0.004569016
2279	2	3.525178	-0.00625	23.26375	0.004567789
4069	3	3.525467	-0.005	23.25875	0.004566807
7634	3	3.525642	-0.005	23.25375	0.004565826
3322	3	3.525907	-0.005	23.24875	0.004564844
473	1	3.52597	-0.0075	23.24125	0.004563371
1614	1	3.526335	-0.0075	23.23375	0.004561899
147	1	3.527754	-0.0075	23.22625	0.004560426
9723	4	3.527874	-0.005	23.22125	0.004559444
9402	4	3.529161	-0.005	23.21625	0.004558463
5117	3	3.529232	0.01	23.22625	0.004560426
6278	3	3.530417	-0.005	23.22125	0.004559444
9807	4	3.531288	-0.005	23.21625	0.004558463
357	1	3.532204	-0.0075	23.20875	0.00455699
735	1	3.53276	0.015	23.22375	0.004559935
2416	2	3.53387	-0.00625	23.2175	0.004558708

4705	3	3.534701	-0.005	23.2125	0.004557726
6674	3	3.535446	-0.005	23.2075	0.004556745
2269	2	3.535498	-0.00625	23.20125	0.004555517
2876	2	3.536472	0.0125	23.21375	0.004557972
6018	3	3.537324	-0.005	23.20875	0.00455699
5748	3	3.537346	-0.005	23.20375	0.004556008
4917	3	3.539413	0.01	23.21375	0.004557972
2371	2	3.539559	-0.00625	23.2075	0.004556745
697	1	3.539985	-0.0075	23.2	0.004555272
3165	3	3.541895	-0.005	23.195	0.00455429
4942	3	3.542042	-0.005	23.19	0.004553308
9815	4	3.542822	-0.005	23.185	0.004552327
5368	3	3.543502	-0.005	23.18	0.004551345
773	1	3.544636	-0.0075	23.1725	0.004549872
5343	3	3.544794	-0.005	23.1675	0.004548891
94	1	3.546165	-0.0075	23.16	0.004547418
2360	2	3.546305	-0.00625	23.15375	0.004546191
2992	3	3.546983	-0.005	23.14875	0.004545209
471	1	3.547426	-0.0075	23.14125	0.004543737
2643	2	3.547588	-0.00625	23.135	0.004542509
8564	3	3.549199	-0.005	23.13	0.004541528
6070	3	3.550161	-0.005	23.125	0.004540546
7218	3	3.550328	-0.005	23.12	0.004539564
6710	3	3.551015	-0.005	23.115	0.004538582
8575	3	3.551329	-0.005	23.11	0.004537601
2563	2	3.551548	0.0125	23.1225	0.004540055
8747	3	3.551933	-0.005	23.1175	0.004539073
4705	3	3.551984	-0.005	23.1125	0.004538091
4575	3	3.552159	-0.005	23.1075	0.00453711
7796	3	3.554981	-0.005	23.1025	0.004536128
176	1	3.55529	-0.0075	23.095	0.004534655
3427	3	3.556147	-0.005	23.09	0.004533674
1958	2	3.556649	-0.00625	23.08375	0.004532446
2492	2	3.556844	-0.00625	23.0775	0.004531219
735	1	3.55871	-0.0075	23.07	0.004529747
3973	3	3.559057	-0.005	23.065	0.004528765
1542	1	3.55996	-0.0075	23.0575	0.004527292
6298	3	3.560285	0.01	23.0675	0.004529256
2132	2	3.560669	-0.00625	23.06125	0.004528029
953	1	3.560846	-0.0075	23.05375	0.004526556
3731	3	3.56162	0.01	23.06375	0.00452852
4721	3	3.56181	-0.005	23.05875	0.004527538
349	1	3.563619	0.015	23.07375	0.004530483
1839	2	3.565132	-0.00625	23.0675	0.004529256
6699	3	3.565332	-0.005	23.0625	0.004528274
2393	2	3.566539	0.0125	23.075	0.004530728
2784	2	3.567012	-0.00625	23.06875	0.004529501
788	1	3.567503	-0.0075	23.06125	0.004528029
6556	3	3.568051	-0.005	23.05625	0.004527047
1154	1	3.568698	0.015	23.07125	0.004529992
1839	2	3.568971	-0.00625	23.065	0.004528765
2913	3	3.569387	-0.005	23.06	0.004527783

2942	3	3.571204	-0.005	23.055	0.004526801
570	1	3.571703	0.015	23.07	0.004529747
1183	1	3.572641	-0.0075	23.0625	0.004528274
6545	3	3.572837	-0.005	23.0575	0.004527292
1105	1	3.573389	-0.0075	23.05	0.00452582
3321	3	3.573462	-0.005	23.045	0.004524838
6268	3	3.577327	-0.005	23.04	0.004523856
2740	2	3.577759	0.0125	23.0525	0.004526311
9527	4	3.578372	0.01	23.0625	0.004528274
4976	3	3.580098	-0.005	23.0575	0.004527292
8310	3	3.580725	-0.005	23.0525	0.004526311
981	1	3.581236	0.015	23.0675	0.004529256
2690	2	3.582532	-0.00625	23.06125	0.004528029
2141	2	3.58508	-0.00625	23.055	0.004526801
2145	2	3.585283	-0.00625	23.04875	0.004525574
8986	4	3.586027	0.01	23.05875	0.004527538
8330	3	3.587475	-0.005	23.05375	0.004526556
6146	3	3.588126	-0.005	23.04875	0.004525574
7435	3	3.588822	-0.005	23.04375	0.004524593
5778	3	3.589574	-0.005	23.03875	0.004523611
6860	3	3.589722	-0.005	23.03375	0.004522629
976	1	3.590796	0.015	23.04875	0.004525574
9463	4	3.590974	-0.005	23.04375	0.004524593
8491	3	3.59177	-0.005	23.03875	0.004523611
2966	3	3.592742	-0.005	23.03375	0.004522629
1423	1	3.592919	0.015	23.04875	0.004525574
8579	3	3.593627	-0.005	23.04375	0.004524593
1597	1	3.59383	-0.0075	23.03625	0.00452312
4917	3	3.5943	-0.005	23.03125	0.004522138
7763	3	3.594526	-0.005	23.02625	0.004521156
7614	3	3.594527	-0.005	23.02125	0.004520175
3875	3	3.594705	-0.005	23.01625	0.004519193
6912	3	3.594761	-0.005	23.01125	0.004518211
2315	2	3.596573	-0.00625	23.005	0.004516984
1062	1	3.597096	0.015	23.02	0.004519929
1003	1	3.598357	-0.0075	23.0125	0.004518457
1885	2	3.599097	-0.00625	23.00625	0.00451723
3506	3	3.599522	-0.005	23.00125	0.004516248
9976	4	3.59975	-0.005	22.99625	0.004515266
8413	3	3.600516	-0.005	22.99125	0.004514284
6889	3	3.601269	-0.005	22.98625	0.004513303
4072	3	3.60133	-0.005	22.98125	0.004512321
2406	2	3.601505	-0.00625	22.975	0.004511094
1926	2	3.602015	0.0125	22.9875	0.004513548
5892	3	3.603009	-0.005	22.9825	0.004512566
5791	3	3.603089	-0.005	22.9775	0.004511585
4228	3	3.603518	0.01	22.9875	0.004513548
3232	3	3.603592	0.01	22.9975	0.004515511
359	1	3.603786	-0.0075	22.99	0.004514039
3425	3	3.60434	-0.005	22.985	0.004513057
2728	2	3.604932	-0.00625	22.97875	0.00451183
8691	3	3.60495	-0.005	22.97375	0.004510848

2486	2	3.606761	-0.00625	22.9675	0.004509621
2134	2	3.606885	-0.00625	22.96125	0.004508394
7517	3	3.607679	-0.005	22.95625	0.004507412
598	1	3.608192	-0.0075	22.94875	0.00450594
4691	3	3.608509	-0.005	22.94375	0.004504958
1921	2	3.612002	-0.00625	22.9375	0.004503731
8175	3	3.612394	-0.005	22.9325	0.004502749
5250	3	3.613591	-0.005	22.9275	0.004501767
2844	2	3.61378	-0.00625	22.92125	0.00450054
1102	1	3.613866	-0.0075	22.91375	0.004499067
3729	3	3.615282	-0.005	22.90875	0.004498086
516	1	3.615288	-0.0075	22.90125	0.004496613
428	1	3.615706	-0.0075	22.89375	0.00449514
5487	3	3.618122	-0.005	22.88875	0.004494159
5164	3	3.618311	-0.005	22.88375	0.004493177
1489	1	3.618912	0.015	22.89875	0.004496122
1847	2	3.61959	-0.00625	22.8925	0.004494895
1232	1	3.619825	-0.0075	22.885	0.004493422
1104	1	3.620636	-0.0075	22.8775	0.00449195
4820	3	3.621023	0.01	22.8875	0.004493913
5958	3	3.621032	-0.005	22.8825	0.004492931
1439	1	3.621497	-0.0075	22.875	0.004491459
1612	1	3.621924	-0.0075	22.8675	0.004489986
9512	4	3.622126	-0.005	22.8625	0.004489005
27	1	3.623222	-0.0075	22.855	0.004487532
2874	2	3.626797	-0.00625	22.84875	0.004486305
7589	3	3.628511	-0.005	22.84375	0.004485323
8691	3	3.629507	-0.005	22.83875	0.004484341
5531	3	3.62965	-0.005	22.83375	0.00448336
1796	2	3.630257	-0.00625	22.8275	0.004482132
9440	4	3.630788	-0.005	22.8225	0.004481151
2467	2	3.631648	0.0125	22.835	0.004483605
8483	3	3.631903	0.01	22.845	0.004485568
3567	3	3.632703	0.01	22.855	0.004487532
695	1	3.63339	-0.0075	22.8475	0.004486059
5914	3	3.633441	-0.005	22.8425	0.004485078
8375	3	3.633925	-0.005	22.8375	0.004484096
1871	2	3.635184	-0.00625	22.83125	0.004482869
9714	4	3.636868	-0.005	22.82625	0.004481887
7513	3	3.63706	-0.005	22.82125	0.004480905
826	1	3.637869	-0.0075	22.81375	0.004479433
2608	2	3.637965	0.0125	22.82625	0.004481887
9277	4	3.638153	-0.005	22.82125	0.004480905
2923	3	3.638228	-0.005	22.81625	0.004479923
1964	2	3.638322	-0.00625	22.81	0.004478696
5003	3	3.639137	-0.005	22.805	0.004477715
394	1	3.640199	-0.0075	22.7975	0.004476242
429	1	3.641779	-0.0075	22.79	0.004474769
3719	3	3.641793	-0.005	22.785	0.004473788
1694	1	3.641832	-0.0075	22.7775	0.004472315
918	1	3.641986	-0.0075	22.77	0.004470842
111	1	3.642384	-0.0075	22.7625	0.00446937

6815	3	3.642947	-0.005	22.7575	0.004468388
7559	3	3.643387	-0.005	22.7525	0.004467406
4521	3	3.643434	-0.005	22.7475	0.004466425
7789	3	3.645365	-0.005	22.7425	0.004465443
1345	1	3.646827	0.015	22.7575	0.004468388
6298	3	3.647581	-0.005	22.7525	0.004467406
1127	1	3.647976	-0.0075	22.745	0.004465934
4398	3	3.648409	-0.005	22.74	0.004464952
8474	3	3.648721	-0.005	22.735	0.00446397
2836	2	3.650641	-0.00625	22.72875	0.004462743
9944	4	3.651663	-0.005	22.72375	0.004461761
6022	3	3.65175	-0.005	22.71875	0.00446078
2933	3	3.652172	-0.005	22.71375	0.004459798
3247	3	3.652405	-0.005	22.70875	0.004458816
8719	3	3.652437	-0.005	22.70375	0.004457834
9433	4	3.654433	-0.005	22.69875	0.004456853
4732	3	3.654589	-0.005	22.69375	0.004455871
5263	3	3.658721	-0.005	22.68875	0.004454889
8303	3	3.659216	-0.005	22.68375	0.004453907
8017	3	3.659692	-0.005	22.67875	0.004452926
9965	4	3.660975	-0.005	22.67375	0.004451944
4618	3	3.662375	0.01	22.68375	0.004453907
2944	3	3.662419	-0.005	22.67875	0.004452926
2285	2	3.664405	-0.00625	22.6725	0.004451698
2358	2	3.666279	-0.00625	22.66625	0.004450471
1022	1	3.666975	-0.0075	22.65875	0.004448999
9789	4	3.668073	-0.005	22.65375	0.004448017
1542	1	3.6685	-0.0075	22.64625	0.004446544
5669	3	3.668542	-0.005	22.64125	0.004445563
9432	4	3.668825	0.01	22.65125	0.004447526
3355	3	3.668865	-0.005	22.64625	0.004446544
2480	2	3.670927	-0.00625	22.64	0.004445317
475	1	3.670954	0.015	22.655	0.004448262
4930	3	3.67138	-0.005	22.65	0.004447281
5873	3	3.671544	-0.005	22.645	0.004446299
4051	3	3.673253	-0.005	22.64	0.004445317
1472	1	3.673519	-0.0075	22.6325	0.004443844
2428	2	3.673548	0.0125	22.645	0.004446299
2031	2	3.674113	-0.00625	22.63875	0.004445072
2469	2	3.674301	-0.00625	22.6325	0.004443844
119	1	3.674883	0.015	22.6475	0.00444679
6162	3	3.675547	-0.005	22.6425	0.004445808
141	1	3.675603	-0.0075	22.635	0.004444335
362	1	3.67573	-0.0075	22.6275	0.004442863
365	1	3.677514	-0.0075	22.62	0.00444139
4031	3	3.677869	-0.005	22.615	0.004440408
4303	3	3.678275	-0.005	22.61	0.004439427
293	1	3.678936	-0.0075	22.6025	0.004437954
6719	3	3.678948	-0.005	22.5975	0.004436972
685	1	3.679686	-0.0075	22.59	0.0044355
7817	3	3.6798	-0.005	22.585	0.004434518
653	1	3.680463	0.015	22.6	0.004437463

1736	1	3.680541	-0.0075	22.5925	0.004435991
4184	3	3.68118	-0.005	22.5875	0.004435009
7349	3	3.682311	0.01	22.5975	0.004436972
328	1	3.68315	-0.0075	22.59	0.0044355
1363	1	3.684072	-0.0075	22.5825	0.004434027
3923	3	3.685196	0.01	22.5925	0.004435991
7639	3	3.686109	-0.005	22.5875	0.004435009
2638	2	3.686536	-0.00625	22.58125	0.004433782
3202	3	3.686771	-0.005	22.57625	0.0044328
9117	4	3.687967	-0.005	22.57125	0.004431818
5297	3	3.688443	-0.005	22.56625	0.004430836
2330	2	3.689101	-0.00625	22.56	0.004429609
2451	2	3.690082	-0.00625	22.55375	0.004428382
2257	2	3.690109	-0.00625	22.5475	0.004427155
361	1	3.690841	-0.0075	22.54	0.004425682
2419	2	3.692189	-0.00625	22.53375	0.004424455
1036	1	3.692636	-0.0075	22.52625	0.004422983
3835	3	3.693884	-0.005	22.52125	0.004422001
7027	3	3.693901	-0.005	22.51625	0.004421019
6042	3	3.694112	0.01	22.52625	0.004422983
3736	3	3.694456	-0.005	22.52125	0.004422001
6705	3	3.696265	-0.005	22.51625	0.004421019
2415	2	3.696331	-0.00625	22.51	0.004419792
4569	3	3.696744	-0.005	22.505	0.00441881
6552	3	3.696759	-0.005	22.5	0.004417828
1826	2	3.698722	-0.00625	22.49375	0.004416601
2006	2	3.698787	-0.00625	22.4875	0.004415374
4464	3	3.700506	-0.005	22.4825	0.004414392
7240	3	3.702221	0.01	22.4925	0.004416356
628	1	3.703989	-0.0075	22.485	0.004414883
972	1	3.707039	-0.0075	22.4775	0.004413411
8208	3	3.709615	-0.005	22.4725	0.004412429
2728	2	3.709959	-0.00625	22.46625	0.004411202
3426	3	3.710175	0.01	22.47625	0.004413165
5500	3	3.71118	-0.005	22.47125	0.004412183
7775	3	3.71269	-0.005	22.46625	0.004411202
3495	3	3.714113	0.01	22.47625	0.004413165
6445	3	3.714457	-0.005	22.47125	0.004412183
6867	3	3.715459	0.01	22.48125	0.004414147
8648	3	3.718694	-0.005	22.47625	0.004413165
855	1	3.71933	-0.0075	22.46875	0.004411693
1570	1	3.720834	-0.0075	22.46125	0.00441022
9604	4	3.720862	-0.005	22.45625	0.004409238
7181	3	3.721271	-0.005	22.45125	0.004408256
3	1	3.721276	-0.0075	22.44375	0.004406784
5876	3	3.721641	-0.005	22.43875	0.004405802
433	1	3.725582	-0.0075	22.43125	0.004404329
6916	3	3.725903	-0.005	22.42625	0.004403348
2231	2	3.726631	-0.00625	22.42	0.004402121
6188	3	3.728678	-0.005	22.415	0.004401139
2411	2	3.729943	-0.00625	22.40875	0.004399912
2345	2	3.730179	-0.00625	22.4025	0.004398684

1786	2	3.730216	-0.00625	22.39625	0.004397457
8470	3	3.730399	0.01	22.40625	0.004399421
2053	2	3.731385	-0.00625	22.4	0.004398194
4334	3	3.731521	-0.005	22.395	0.004397212
7964	3	3.731756	-0.005	22.39	0.00439623
3848	3	3.731794	0.01	22.4	0.004398194
8557	3	3.733004	-0.005	22.395	0.004397212
9926	4	3.733416	-0.005	22.39	0.00439623
7752	3	3.733478	-0.005	22.385	0.004395248
1880	2	3.738414	-0.00625	22.37875	0.004394021
2556	2	3.738711	-0.00625	22.3725	0.004392794
4930	3	3.739513	-0.005	22.3675	0.004391812
1001	1	3.742346	-0.0075	22.36	0.00439034
823	1	3.743329	0.015	22.375	0.004393285
2788	2	3.744378	-0.00625	22.36875	0.004392058
6184	3	3.744541	-0.005	22.36375	0.004391076
4668	3	3.744829	-0.005	22.35875	0.004390094
1400	1	3.745513	0.015	22.37375	0.004393039
4376	3	3.747704	-0.005	22.36875	0.004392058
9418	4	3.747807	-0.005	22.36375	0.004391076
2231	2	3.747933	-0.00625	22.3575	0.004389849
8135	3	3.748594	-0.005	22.3525	0.004388867
250	1	3.74875	-0.0075	22.345	0.004387394
1521	1	3.750635	0.015	22.36	0.00439034
7164	3	3.751131	0.01	22.37	0.004392303
9062	4	3.752993	-0.005	22.365	0.004391321
7534	3	3.753047	-0.005	22.36	0.00439034
3191	3	3.753123	-0.005	22.355	0.004389358
1712	1	3.75323	-0.0075	22.3475	0.004387885
4857	3	3.753606	-0.005	22.3425	0.004386904
1654	1	3.7557	-0.0075	22.335	0.004385431
7919	3	3.755795	-0.005	22.33	0.004384449
3066	3	3.756672	-0.005	22.325	0.004383468
1062	1	3.758465	-0.0075	22.3175	0.004381995
1039	1	3.758586	-0.0075	22.31	0.004380522
2147	2	3.758818	-0.00625	22.30375	0.004379295
5679	3	3.759062	-0.005	22.29875	0.004378313
8330	3	3.759914	-0.005	22.29375	0.004377332
1741	1	3.76006	-0.0075	22.28625	0.004375859
8123	3	3.761694	-0.005	22.28125	0.004374877
8470	3	3.762133	-0.005	22.27625	0.004373896
7704	3	3.763886	-0.005	22.27125	0.004372914
8920	4	3.764663	-0.005	22.26625	0.004371932
2831	2	3.76604	-0.00625	22.26	0.004370705
383	1	3.767734	-0.0075	22.2525	0.004369232
8969	4	3.768549	-0.005	22.2475	0.004368251
1182	1	3.770306	-0.0075	22.24	0.004366778
5271	3	3.77035	0.01	22.25	0.004368741
388	1	3.770428	-0.0075	22.2425	0.004367269
2904	3	3.773628	-0.005	22.2375	0.004366287
411	1	3.773751	-0.0075	22.23	0.004364814
2676	2	3.774758	-0.00625	22.22375	0.004363587

8059	3	3.775074	-0.005	22.21875	0.004362606
9369	4	3.775295	-0.005	22.21375	0.004361624
3425	3	3.775392	-0.005	22.20875	0.004360642
2022	2	3.775523	-0.00625	22.2025	0.004359415
981	1	3.775669	-0.0075	22.195	0.004357942
1767	1	3.776247	-0.0075	22.1875	0.00435647
672	1	3.776605	-0.0075	22.18	0.004354997
6362	3	3.777165	-0.005	22.175	0.004354015
6625	3	3.777936	-0.005	22.17	0.004353034
4085	3	3.778239	-0.005	22.165	0.004352052
1478	1	3.77926	-0.0075	22.1575	0.004350579
6981	3	3.779624	-0.005	22.1525	0.004349597
1673	1	3.781882	-0.0075	22.145	0.004348125
5709	3	3.785157	-0.005	22.14	0.004347143
5563	3	3.78631	-0.005	22.135	0.004346161
9096	4	3.787316	-0.005	22.13	0.00434518
1212	1	3.788662	-0.0075	22.1225	0.004343707
8095	3	3.788857	0.01	22.1325	0.004345671
59	1	3.789264	-0.0075	22.125	0.004344198
8768	4	3.789746	0.01	22.135	0.004346161
802	1	3.790204	-0.0075	22.1275	0.004344689
3759	3	3.792443	-0.005	22.1225	0.004343707
1769	1	3.794084	-0.0075	22.115	0.004342234
2184	2	3.794322	-0.00625	22.10875	0.004341007
6602	3	3.795053	-0.005	22.10375	0.004340026
2735	2	3.795391	-0.00625	22.0975	0.004338798
4610	3	3.796311	-0.005	22.0925	0.004337817
6959	3	3.796512	-0.005	22.0875	0.004336835
4470	3	3.796719	-0.005	22.0825	0.004335853
1483	1	3.796889	-0.0075	22.075	0.004334381
6879	3	3.797608	-0.005	22.07	0.004333399
5367	3	3.797861	-0.005	22.065	0.004332417
333	1	3.79919	-0.0075	22.0575	0.004330944
2255	2	3.799277	-0.00625	22.05125	0.004329717
4502	3	3.79939	-0.005	22.04625	0.004328736
8768	4	3.799753	-0.005	22.04125	0.004327754
478	1	3.801664	-0.0075	22.03375	0.004326281
1171	1	3.802189	-0.0075	22.02625	0.004324809
5809	3	3.802665	-0.005	22.02125	0.004323827
3022	3	3.802818	-0.005	22.01625	0.004322845
6431	3	3.80374	-0.005	22.01125	0.004321863
653	1	3.803958	-0.0075	22.00375	0.004320391
1753	1	3.805563	-0.0075	21.99625	0.004318918
263	1	3.805745	-0.0075	21.98875	0.004317446
3218	3	3.80651	-0.005	21.98375	0.004316464
7878	3	3.808438	-0.005	21.97875	0.004315482
7409	3	3.809029	-0.005	21.97375	0.0043145
3851	3	3.811403	-0.005	21.96875	0.004313519
3435	3	3.811697	-0.005	21.96375	0.004312537
4712	3	3.812001	-0.005	21.95875	0.004311555
4494	3	3.813223	-0.005	21.95375	0.004310573
2674	2	3.814171	-0.00625	21.9475	0.004309346

8653	3	3.8147	-0.005	21.9425	0.004308364
2790	2	3.815117	-0.00625	21.93625	0.004307137
1556	1	3.815214	0.015	21.95125	0.004310082
864	1	3.815924	-0.0075	21.94375	0.00430861
9168	4	3.816125	-0.005	21.93875	0.004307628
3474	3	3.817494	-0.005	21.93375	0.004306646
1631	1	3.818982	-0.0075	21.92625	0.004305174
1805	2	3.819307	-0.00625	21.92	0.004303947
3828	3	3.819996	-0.005	21.915	0.004302965
8798	4	3.821094	-0.005	21.91	0.004301983
3486	3	3.821456	-0.005	21.905	0.004301001
440	1	3.822433	0.015	21.92	0.004303947
2568	2	3.82283	-0.00625	21.91375	0.004302719
2342	2	3.823992	-0.00625	21.9075	0.004301492
6507	3	3.824258	-0.005	21.9025	0.004300511
5576	3	3.828407	-0.005	21.8975	0.004299529
7206	3	3.828748	-0.005	21.8925	0.004298547
7646	3	3.829217	-0.005	21.8875	0.004297565
2467	2	3.830048	-0.00625	21.88125	0.004296338
1214	1	3.830431	-0.0075	21.87375	0.004294866
7610	3	3.831755	-0.005	21.86875	0.004293884
7043	3	3.834451	-0.005	21.86375	0.004292902
8071	3	3.835526	-0.005	21.85875	0.00429192
450	1	3.836552	-0.0075	21.85125	0.004290448
7965	3	3.83755	0.01	21.86125	0.004292411
8013	3	3.838338	-0.005	21.85625	0.004291429
9085	4	3.838881	-0.005	21.85125	0.004290448
1864	2	3.839198	-0.00625	21.845	0.00428922
5453	3	3.839742	-0.005	21.84	0.004288239
61	1	3.841201	0.015	21.855	0.004291184
7076	3	3.843292	-0.005	21.85	0.004290202
2530	2	3.84364	0.0125	21.8625	0.004292657
6022	3	3.844278	-0.005	21.8575	0.004291675
3204	3	3.844393	-0.005	21.8525	0.004290693
1479	1	3.84454	-0.0075	21.845	0.00428922
2290	2	3.844919	-0.00625	21.83875	0.004287993
1930	2	3.845051	-0.00625	21.8325	0.004286766
9362	4	3.845375	-0.005	21.8275	0.004285784
2473	2	3.845865	-0.00625	21.82125	0.004284557
648	1	3.84695	-0.0075	21.81375	0.004283085
5342	3	3.848235	-0.005	21.80875	0.004282103
3413	3	3.848391	0.01	21.81875	0.004284066
4730	3	3.848433	-0.005	21.81375	0.004283085
758	1	3.848705	0.015	21.82875	0.00428603
6112	3	3.849477	-0.005	21.82375	0.004285048
1968	2	3.851374	-0.00625	21.8175	0.004283821
6422	3	3.85265	-0.005	21.8125	0.004282839
7580	3	3.852971	-0.005	21.8075	0.004281857
828	1	3.853197	-0.0075	21.8	0.004280385
1288	1	3.853685	-0.0075	21.7925	0.004278912
5103	3	3.854839	-0.005	21.7875	0.00427793
6042	3	3.854992	-0.005	21.7825	0.004276949

6451	3	3.855053	-0.005	21.7775	0.004275967
2338	2	3.855229	-0.00625	21.77125	0.00427474
9200	4	3.855579	-0.005	21.76625	0.004273758
1036	1	3.855886	-0.0075	21.75875	0.004272285
1007	1	3.856308	-0.0075	21.75125	0.004270813
2876	2	3.859166	-0.00625	21.745	0.004269586
8534	3	3.859485	-0.005	21.74	0.004268604
4916	3	3.860034	-0.005	21.735	0.004267622
8913	4	3.860383	-0.005	21.73	0.00426664
2828	2	3.860743	-0.00625	21.72375	0.004265413
5483	3	3.86282	0.01	21.73375	0.004267377
8742	3	3.863281	-0.005	21.72875	0.004266395
229	1	3.870357	-0.0075	21.72125	0.004264922
1059	1	3.87129	-0.0075	21.71375	0.00426345
5606	3	3.872408	-0.005	21.70875	0.004262468
2581	2	3.872724	-0.00625	21.7025	0.004261241
4465	3	3.87291	0.01	21.7125	0.004263204
4610	3	3.873028	-0.005	21.7075	0.004262223
4755	3	3.875594	-0.005	21.7025	0.004261241
9267	4	3.875981	-0.005	21.6975	0.004260259
2645	2	3.876714	-0.00625	21.69125	0.004259032
6861	3	3.876933	-0.005	21.68625	0.00425805
6947	3	3.877192	0.01	21.69625	0.004260014
9939	4	3.877963	-0.005	21.69125	0.004259032
1130	1	3.878536	-0.0075	21.68375	0.004257559
48	1	3.880427	-0.0075	21.67625	0.004256087
6670	3	3.880621	-0.005	21.67125	0.004255105
1674	1	3.8808	-0.0075	21.66375	0.004253632
1360	1	3.880887	-0.0075	21.65625	0.00425216
6265	3	3.882205	-0.005	21.65125	0.004251178
132	1	3.88302	-0.0075	21.64375	0.004249705
1962	2	3.883149	-0.00625	21.6375	0.004248478
7821	3	3.884398	0.01	21.6475	0.004250442
2856	2	3.885187	-0.00625	21.64125	0.004249215
256	1	3.88528	-0.0075	21.63375	0.004247742
8150	3	3.885728	-0.005	21.62875	0.00424676
4737	3	3.886833	0.01	21.63875	0.004248724
893	1	3.888638	-0.0075	21.63125	0.004247251
66	1	3.889639	0.015	21.64625	0.004250196
1778	2	3.889855	0.0125	21.65875	0.004252651
5890	3	3.890935	-0.005	21.65375	0.004251669
3714	3	3.891263	-0.005	21.64875	0.004250687
3502	3	3.892196	-0.005	21.64375	0.004249705
261	1	3.892622	-0.0075	21.63625	0.004248233
7531	3	3.893006	-0.005	21.63125	0.004247251
1539	1	3.894515	-0.0075	21.62375	0.004245779
2036	2	3.894627	-0.00625	21.6175	0.004244551
6099	3	3.896587	-0.005	21.6125	0.00424357
976	1	3.897261	-0.0075	21.605	0.004242097
2417	2	3.898946	-0.00625	21.59875	0.00424087
5868	3	3.899119	-0.005	21.59375	0.004239888
3563	3	3.899928	-0.005	21.58875	0.004238906

2506	2	3.901096	-0.00625	21.5825	0.004237679
2115	2	3.902783	-0.00625	21.57625	0.004236452
8592	3	3.903036	-0.005	21.57125	0.00423547
7781	3	3.903307	-0.005	21.56625	0.004234489
636	1	3.90434	-0.0075	21.55875	0.004233016
1836	2	3.908447	-0.00625	21.5525	0.004231789
949	1	3.909179	-0.0075	21.545	0.004230316
5733	3	3.910296	-0.005	21.54	0.004229334
4457	3	3.910421	-0.005	21.535	0.004228353
7000	3	3.910494	-0.005	21.53	0.004227371
9223	4	3.910977	-0.005	21.525	0.004226389
7165	3	3.912943	-0.005	21.52	0.004225407
6237	3	3.914049	-0.005	21.515	0.004224426
7164	3	3.914205	-0.005	21.51	0.004223444
4320	3	3.915304	-0.005	21.505	0.004222462
1474	1	3.916852	-0.0075	21.4975	0.00422099
6409	3	3.9185	-0.005	21.4925	0.004220008
7272	3	3.91873	-0.005	21.4875	0.004219026
8994	4	3.919298	0.01	21.4975	0.00422099
1896	2	3.920383	-0.00625	21.49125	0.004219762
7983	3	3.920993	-0.005	21.48625	0.004218781
2133	2	3.921592	-0.00625	21.48	0.004217554
2476	2	3.922163	-0.00625	21.47375	0.004216326
1234	1	3.922415	0.015	21.48875	0.004219272
8263	3	3.9226	-0.005	21.48375	0.00421829
6244	3	3.922712	-0.005	21.47875	0.004217308
6694	3	3.924643	-0.005	21.47375	0.004216326
584	1	3.924894	-0.0075	21.46625	0.004214854
5526	3	3.925191	-0.005	21.46125	0.004213872
7821	3	3.925822	-0.005	21.45625	0.00421289
2300	2	3.926043	-0.00625	21.45	0.004211663
4854	3	3.927336	-0.005	21.445	0.004210681
2065	2	3.928628	-0.00625	21.43875	0.004209454
104	1	3.929469	-0.0075	21.43125	0.004207982
195	1	3.92966	-0.0075	21.42375	0.004206509
5343	3	3.931364	-0.005	21.41875	0.004205527
5020	3	3.93331	-0.005	21.41375	0.004204545
7912	3	3.933355	-0.005	21.40875	0.004203564
6114	3	3.933361	-0.005	21.40375	0.004202582
2173	2	3.934306	-0.00625	21.3975	0.004201355
794	1	3.93522	-0.0075	21.39	0.004199882
1174	1	3.93527	-0.0075	21.3825	0.00419841
4243	3	3.935764	-0.005	21.3775	0.004197428
9412	4	3.936847	-0.005	21.3725	0.004196446
5127	3	3.936858	-0.005	21.3675	0.004195464
6821	3	3.937501	-0.005	21.3625	0.004194483
2729	2	3.938169	-0.00625	21.35625	0.004193255
8866	4	3.938548	-0.005	21.35125	0.004192274
2482	2	3.941373	-0.00625	21.345	0.004191047
61	1	3.943336	-0.0075	21.3375	0.004189574
1473	1	3.9439	-0.0075	21.33	0.004188101
3865	3	3.944501	-0.005	21.325	0.00418712

2429	2	3.946041	-0.00625	21.31875	0.004185892
7711	3	3.94654	-0.005	21.31375	0.004184911
687	1	3.946638	-0.0075	21.30625	0.004183438
2412	2	3.94754	-0.00625	21.3	0.004182211
1898	2	3.951182	-0.00625	21.29375	0.004180984
7481	3	3.95135	-0.005	21.28875	0.004180002
3166	3	3.951787	-0.005	21.28375	0.00417902
4107	3	3.952134	-0.005	21.27875	0.004178038
8938	4	3.952556	-0.005	21.27375	0.004177057
6948	3	3.954962	-0.005	21.26875	0.004176075
243	1	3.955524	-0.0075	21.26125	0.004174602
8008	3	3.955674	0.01	21.27125	0.004176566
1989	2	3.959236	-0.00625	21.265	0.004175339
1367	1	3.960749	-0.0075	21.2575	0.004173866
3416	3	3.962183	-0.005	21.2525	0.004172884
1625	1	3.962251	-0.0075	21.245	0.004171412
7079	3	3.964322	-0.005	21.24	0.00417043
7166	3	3.964924	-0.005	21.235	0.004169448
544	1	3.965747	-0.0075	21.2275	0.004167976
5978	3	3.965883	-0.005	21.2225	0.004166994
53	1	3.966694	-0.0075	21.215	0.004165521
3670	3	3.968298	-0.005	21.21	0.00416454
826	1	3.97071	-0.0075	21.2025	0.004163067
9521	4	3.971522	-0.005	21.1975	0.004162085
1936	2	3.971677	-0.00625	21.19125	0.004160858
9589	4	3.971855	-0.005	21.18625	0.004159876
2335	2	3.972134	0.0125	21.19875	0.004162331
573	1	3.97298	-0.0075	21.19125	0.004160858
6460	3	3.973677	-0.005	21.18625	0.004159876
1781	2	3.975232	-0.00625	21.18	0.004158649
7791	3	3.976346	-0.005	21.175	0.004157667
2731	2	3.97647	-0.00625	21.16875	0.00415644
1767	1	3.976682	-0.0075	21.16125	0.004154968
530	1	3.977428	0.015	21.17625	0.004157913
9199	4	3.977711	-0.005	21.17125	0.004156931
6360	3	3.977976	-0.005	21.16625	0.004155949
3126	3	3.978927	-0.005	21.16125	0.004154968
7278	3	3.980491	-0.005	21.15625	0.004153986
3455	3	3.981016	-0.005	21.15125	0.004153004
1771	2	3.981026	-0.00625	21.145	0.004151777
7932	3	3.981472	0.01	21.155	0.00415374
2747	2	3.981871	0.0125	21.1675	0.004156195
2873	2	3.983186	-0.00625	21.16125	0.004154968
6588	3	3.985204	-0.005	21.15625	0.004153986
1983	2	3.986756	-0.00625	21.15	0.004152759
55	1	3.990289	-0.0075	21.1425	0.004151286
9249	4	3.990751	-0.005	21.1375	0.004150304
2163	2	3.991207	-0.00625	21.13125	0.004149077
1248	1	3.992045	-0.0075	21.12375	0.004147605
4980	3	3.993215	-0.005	21.11875	0.004146623
5216	3	3.995412	-0.005	21.11375	0.004145641
6428	3	3.995653	-0.005	21.10875	0.004144659

4296	3	3.996591	-0.005	21.10375	0.004143678
6709	3	3.996949	-0.005	21.09875	0.004142696
7049	3	3.998897	-0.005	21.09375	0.004141714
7657	3	4.000129	-0.005	21.08875	0.004140732
7381	3	4.00025	-0.005	21.08375	0.004139751
9718	4	4.003929	-0.005	21.07875	0.004138769
856	1	4.004306	-0.0075	21.07125	0.004137296
2382	2	4.004463	-0.00625	21.065	0.004136069
2308	2	4.005641	-0.00625	21.05875	0.004134842
2610	2	4.006521	-0.00625	21.0525	0.004133615
1940	2	4.006586	-0.00625	21.04625	0.004132388
6916	3	4.006604	-0.005	21.04125	0.004131406
175	1	4.007157	-0.0075	21.03375	0.004129933
248	1	4.00763	-0.0075	21.02625	0.004128461
4232	3	4.008996	-0.005	21.02125	0.004127479
8566	3	4.0095	-0.005	21.01625	0.004126497
1599	1	4.010352	-0.0075	21.00875	0.004125025
5283	3	4.010409	-0.005	21.00375	0.004124043
4535	3	4.010666	-0.005	20.99875	0.004123061
142	1	4.011315	-0.0075	20.99125	0.004121588
3594	3	4.011828	-0.005	20.98625	0.004120607
3135	3	4.01207	-0.005	20.98125	0.004119625
7215	3	4.012223	-0.005	20.97625	0.004118643
4321	3	4.014256	-0.005	20.97125	0.004117661
3332	3	4.014604	-0.005	20.96625	0.00411668
2946	3	4.014964	-0.005	20.96125	0.004115698
2396	2	4.015852	-0.00625	20.955	0.004114471
7721	3	4.016024	-0.005	20.95	0.004113489
8768	4	4.01661	-0.005	20.945	0.004112507
1131	1	4.018253	-0.0075	20.9375	0.004111035
8321	3	4.018579	-0.005	20.9325	0.004110053
1795	2	4.019335	-0.00625	20.92625	0.004108826
3712	3	4.022842	-0.005	20.92125	0.004107844
7905	3	4.023896	-0.005	20.91625	0.004106862
8480	3	4.024013	-0.005	20.91125	0.004105881
6447	3	4.024738	-0.005	20.90625	0.004104899
4611	3	4.025922	-0.005	20.90125	0.004103917
4738	3	4.026464	0.01	20.91125	0.004105881
6824	3	4.027322	-0.005	20.90625	0.004104899
9211	4	4.027882	-0.005	20.90125	0.004103917
4618	3	4.028803	-0.005	20.89625	0.004102935
1323	1	4.028945	-0.0075	20.88875	0.004101463
8360	3	4.029852	-0.005	20.88375	0.004100481
807	1	4.031039	-0.0075	20.87625	0.004099008
8673	3	4.03108	-0.005	20.87125	0.004098027
2630	2	4.031323	-0.00625	20.865	0.0040968
1610	1	4.032414	-0.0075	20.8575	0.004095327
3623	3	4.033181	-0.005	20.8525	0.004094345
6120	3	4.034186	-0.005	20.8475	0.004093363
2671	2	4.034202	-0.00625	20.84125	0.004092136
1667	1	4.034267	-0.0075	20.83375	0.004090664
2130	2	4.035759	-0.00625	20.8275	0.004089436

7155	3	4.036219	-0.005	20.8225	0.004088455
850	1	4.036558	-0.0075	20.815	0.004086982
2198	2	4.037375	-0.00625	20.80875	0.004085755
3827	3	4.038103	-0.005	20.80375	0.004084773
2577	2	4.038349	-0.00625	20.7975	0.004083546
5134	3	4.038967	-0.005	20.7925	0.004082564
4693	3	4.039606	-0.005	20.7875	0.004081583
6062	3	4.040526	-0.005	20.7825	0.004080601
4847	3	4.041682	-0.005	20.7775	0.004079619
4043	3	4.041682	0.01	20.7875	0.004081583
6206	3	4.042193	0.01	20.7975	0.004083546
2326	2	4.042277	-0.00625	20.79125	0.004082319
3319	3	4.042681	0.01	20.80125	0.004084282
6750	3	4.044523	-0.005	20.79625	0.004083301
1734	1	4.044559	-0.0075	20.78875	0.004081828
1894	2	4.044823	0.0125	20.80125	0.004084282
1752	1	4.045371	-0.0075	20.79375	0.00408281
4531	3	4.045582	-0.005	20.78875	0.004081828
2368	2	4.046059	-0.00625	20.7825	0.004080601
9935	4	4.046278	-0.005	20.7775	0.004079619
155	1	4.048001	-0.0075	20.77	0.004078146
8983	4	4.048805	0.01	20.78	0.00408011
2296	2	4.052481	-0.00625	20.77375	0.004078883
4389	3	4.055641	-0.005	20.76875	0.004077901
1489	1	4.055649	-0.0075	20.76125	0.004076428
4803	3	4.05597	-0.005	20.75625	0.004075447
6902	3	4.056411	-0.005	20.75125	0.004074465
2063	2	4.056471	-0.00625	20.745	0.004073238
379	1	4.058672	-0.0075	20.7375	0.004071765
9672	4	4.059887	-0.005	20.7325	0.004070783
3187	3	4.06058	0.01	20.7425	0.004072747
1344	1	4.061	-0.0075	20.735	0.004071274
2709	2	4.063272	-0.00625	20.72875	0.004070047
4764	3	4.063569	-0.005	20.72375	0.004069065
8652	3	4.063871	-0.005	20.71875	0.004068084
1560	1	4.065565	-0.0075	20.71125	0.004066611
6421	3	4.067728	-0.005	20.70625	0.004065629
7162	3	4.068498	0.01	20.71625	0.004067593
3083	3	4.07039	-0.005	20.71125	0.004066611
1275	1	4.070564	-0.0075	20.70375	0.004065138
2441	2	4.070722	-0.00625	20.6975	0.004063911
9019	4	4.072104	-0.005	20.6925	0.00406293
1242	1	4.072939	-0.0075	20.685	0.004061457
5458	3	4.074095	0.01	20.695	0.00406342
1413	1	4.074407	-0.0075	20.6875	0.004061948
2188	2	4.075013	-0.00625	20.68125	0.004060721
8697	3	4.075927	-0.005	20.67625	0.004059739
7666	3	4.076324	-0.005	20.67125	0.004058757
4114	3	4.076909	-0.005	20.66625	0.004057775
2070	2	4.07779	-0.00625	20.66	0.004056548
1489	1	4.078825	-0.0075	20.6525	0.004055076
381	1	4.07897	-0.0075	20.645	0.004053603

2462	2	4.08011	-0.00625	20.63875	0.004052376
927	1	4.080979	-0.0075	20.63125	0.004050903
8685	3	4.081019	-0.005	20.62625	0.004049921
5945	3	4.081149	-0.005	20.62125	0.00404894
8604	3	4.081237	-0.005	20.61625	0.004047958
6202	3	4.082334	-0.005	20.61125	0.004046976
4345	3	4.083193	-0.005	20.60625	0.004045995
6262	3	4.084466	-0.005	20.60125	0.004045013
8295	3	4.08455	-0.005	20.59625	0.004044031
2476	2	4.084982	-0.00625	20.59	0.004042804
5580	3	4.085853	-0.005	20.585	0.004041822
7205	3	4.087092	-0.005	20.58	0.00404084
1545	1	4.088359	-0.0075	20.5725	0.004039368
3454	3	4.088598	-0.005	20.5675	0.004038386
3169	3	4.088864	-0.005	20.5625	0.004037404
4268	3	4.088878	0.01	20.5725	0.004039368
5117	3	4.089522	-0.005	20.5675	0.004038386
7875	3	4.089798	-0.005	20.5625	0.004037404
1551	1	4.091064	-0.0075	20.555	0.004035932
839	1	4.091696	-0.0075	20.5475	0.004034459
3987	3	4.091703	-0.005	20.5425	0.004033477
6734	3	4.093596	-0.005	20.5375	0.004032496
379	1	4.093918	-0.0075	20.53	0.004031023
343	1	4.094921	-0.0075	20.5225	0.00402955
1833	2	4.0954	0.0125	20.535	0.004032005
5213	3	4.095697	0.01	20.545	0.004033968
2280	2	4.095914	-0.00625	20.53875	0.004032741
3057	3	4.096167	-0.005	20.53375	0.004031759
435	1	4.096606	-0.0075	20.52625	0.004030287
4519	3	4.098891	-0.005	20.52125	0.004029305
4081	3	4.099066	-0.005	20.51625	0.004028323
6428	3	4.099931	-0.005	20.51125	0.004027341
278	1	4.100521	-0.0075	20.50375	0.004025869
728	1	4.101179	-0.0075	20.49625	0.004024396
9529	4	4.10209	-0.005	20.49125	0.004023414
6047	3	4.102156	-0.005	20.48625	0.004022433
5279	3	4.104072	-0.005	20.48125	0.004021451
1129	1	4.10441	-0.0075	20.47375	0.004019978
2765	2	4.10584	-0.00625	20.4675	0.004018751
6152	3	4.105943	-0.005	20.4625	0.004017769
9362	4	4.106473	-0.005	20.4575	0.004016788
8741	3	4.106486	-0.005	20.4525	0.004015806
4465	3	4.106923	-0.005	20.4475	0.004014824
5046	3	4.1074	-0.005	20.4425	0.004013843
422	1	4.108051	0.015	20.4575	0.004016788
2823	2	4.108268	-0.00625	20.45125	0.004015561
3197	3	4.108812	-0.005	20.44625	0.004014579
2431	2	4.109549	-0.00625	20.44	0.004013352
3643	3	4.109809	-0.005	20.435	0.00401237
3187	3	4.109923	-0.005	20.43	0.004011388
5510	3	4.111839	-0.005	20.425	0.004010406
1750	1	4.112122	-0.0075	20.4175	0.004008934

1362	1	4.112647	-0.0075	20.41	0.004007461
265	1	4.11396	-0.0075	20.4025	0.004005989
8340	3	4.114817	-0.005	20.3975	0.004005007
1471	1	4.11529	-0.0075	20.39	0.004003534
1521	1	4.116204	-0.0075	20.3825	0.004002062
6716	3	4.116343	0.01	20.3925	0.004004025
7012	3	4.11716	0.01	20.4025	0.004005989
2520	2	4.122654	-0.00625	20.39625	0.004004761
8459	3	4.124327	-0.005	20.39125	0.00400378
8634	3	4.126271	-0.005	20.38625	0.004002798
5685	3	4.128326	-0.005	20.38125	0.004001816
9888	4	4.128366	0.01	20.39125	0.00400378
1651	1	4.129081	-0.0075	20.38375	0.004002307
1118	1	4.129694	-0.0075	20.37625	0.004000834
454	1	4.130132	-0.0075	20.36875	0.003999362
5727	3	4.130151	-0.005	20.36375	0.00399838
5156	3	4.131442	-0.005	20.35875	0.003997398
8544	3	4.131735	-0.005	20.35375	0.003996417
6936	3	4.133033	-0.005	20.34875	0.003995435
7046	3	4.133155	-0.005	20.34375	0.003994453
8369	3	4.133568	-0.005	20.33875	0.003993471
6351	3	4.134988	0.01	20.34875	0.003995435
6763	3	4.13589	-0.005	20.34375	0.003994453
2281	2	4.136475	-0.00625	20.3375	0.003993226
829	1	4.1384	0.015	20.3525	0.003996171
1520	1	4.141726	-0.0075	20.345	0.003994699
5280	3	4.144641	-0.005	20.34	0.003993717
1115	1	4.144642	-0.0075	20.3325	0.003992244
2026	2	4.145159	-0.00625	20.32625	0.003991017
5	1	4.14569	-0.0075	20.31875	0.003989544
6894	3	4.145787	-0.005	20.31375	0.003988563
8193	3	4.146496	-0.005	20.30875	0.003987581
7530	3	4.149349	-0.005	20.30375	0.003986599
6447	3	4.150835	-0.005	20.29875	0.003985618
812	1	4.151396	-0.0075	20.29125	0.003984145
42	1	4.151739	-0.0075	20.28375	0.003982672
9961	4	4.151755	-0.005	20.27875	0.003981691
7684	3	4.152204	-0.005	20.27375	0.003980709
1576	1	4.15235	-0.0075	20.26625	0.003979236
5317	3	4.154874	-0.005	20.26125	0.003978254
1652	1	4.154874	-0.0075	20.25375	0.003976782
384	1	4.157162	-0.0075	20.24625	0.003975309
1191	1	4.157879	0.015	20.26125	0.003978254
5587	3	4.158283	-0.005	20.25625	0.003977273
8161	3	4.158719	0.01	20.26625	0.003979236
3506	3	4.161145	-0.005	20.26125	0.003978254
6386	3	4.162183	-0.005	20.25625	0.003977273
647	1	4.16239	-0.0075	20.24875	0.0039758
530	1	4.162689	-0.0075	20.24125	0.003974328
391	1	4.162708	-0.0075	20.23375	0.003972855
6418	3	4.163129	-0.005	20.22875	0.003971873
2463	2	4.164737	-0.00625	20.2225	0.003970646

365	1	4.166231	-0.0075	20.215	0.003969173
1636	1	4.16921	-0.0075	20.2075	0.003967701
740	1	4.169505	-0.0075	20.2	0.003966228
3325	3	4.17231	-0.005	20.195	0.003965246
3607	3	4.173315	-0.005	20.19	0.003964265
1747	1	4.173643	-0.0075	20.1825	0.003962792
5767	3	4.175168	-0.005	20.1775	0.00396181
1844	2	4.175393	-0.00625	20.17125	0.003960583
9475	4	4.178016	-0.005	20.16625	0.003959601
7240	3	4.178243	-0.005	20.16125	0.00395862
1061	1	4.179638	-0.0075	20.15375	0.003957147
8253	3	4.179764	-0.005	20.14875	0.003956165
2673	2	4.179897	-0.00625	20.1425	0.003954938
604	1	4.180415	-0.0075	20.135	0.003953466
5821	3	4.183151	-0.005	20.13	0.003952484
2478	2	4.186214	-0.00625	20.12375	0.003951257
4738	3	4.18785	-0.005	20.11875	0.003950275
2610	2	4.188734	-0.00625	20.1125	0.003949048
948	1	4.190232	-0.0075	20.105	0.003947575
7105	3	4.191964	-0.005	20.1	0.003946593
2660	2	4.192239	-0.00625	20.09375	0.003945366
6523	3	4.192942	-0.005	20.08875	0.003944384
2497	2	4.194614	-0.00625	20.0825	0.003943157
296	1	4.195277	-0.0075	20.075	0.003941685
1809	2	4.195864	0.0125	20.0875	0.003944139
2585	2	4.197583	-0.00625	20.08125	0.003942912
5899	3	4.197621	-0.005	20.07625	0.00394193
8937	4	4.198003	-0.005	20.07125	0.003940948
8425	3	4.199139	-0.005	20.06625	0.003939967
8080	3	4.200837	-0.005	20.06125	0.003938985
421	1	4.201898	-0.0075	20.05375	0.003937512
6053	3	4.204644	-0.005	20.04875	0.003936531
3204	3	4.205717	-0.005	20.04375	0.003935549
4843	3	4.20642	-0.005	20.03875	0.003934567
3910	3	4.208349	-0.005	20.03375	0.003933585
982	1	4.209089	-0.0075	20.02625	0.003932113
2091	2	4.210716	-0.00625	20.02	0.003930886
2980	3	4.210812	-0.005	20.015	0.003929904
1398	1	4.211221	-0.0075	20.0075	0.003928431
9441	4	4.211586	-0.005	20.0025	0.003927449
8146	3	4.212946	-0.005	19.9975	0.003926468
8380	3	4.213028	-0.005	19.9925	0.003925486
2100	2	4.213304	-0.00625	19.98625	0.003924259
2222	2	4.214144	-0.00625	19.98	0.003923032
4843	3	4.214419	-0.005	19.975	0.00392205
783	1	4.216072	-0.0075	19.9675	0.003920577
4228	3	4.216349	-0.005	19.9625	0.003919596
2965	3	4.216734	-0.005	19.9575	0.003918614
7012	3	4.217361	-0.005	19.9525	0.003917632
4875	3	4.217395	-0.005	19.9475	0.00391665
7347	3	4.21952	-0.005	19.9425	0.003915669
3690	3	4.221311	-0.005	19.9375	0.003914687

8008	3	4.221452	-0.005	19.9325	0.003913705
7674	3	4.221453	-0.005	19.9275	0.003912723
5444	3	4.221788	-0.005	19.9225	0.003911742
489	1	4.221801	-0.0075	19.915	0.003910269
1309	1	4.221853	-0.0075	19.9075	0.003908796
8100	3	4.223016	-0.005	19.9025	0.003907815
8291	3	4.223496	-0.005	19.8975	0.003906833
5370	3	4.226139	-0.005	19.8925	0.003905851
1762	1	4.226731	-0.0075	19.885	0.003904379
2426	2	4.227158	-0.00625	19.87875	0.003903151
9848	4	4.22806	-0.005	19.87375	0.00390217
6789	3	4.228202	-0.005	19.86875	0.003901188
2491	2	4.22827	-0.00625	19.8625	0.003899961
4584	3	4.228949	-0.005	19.8575	0.003898979
4721	3	4.230392	-0.005	19.8525	0.003897997
84	1	4.231237	-0.0075	19.845	0.003896525
83	1	4.232163	-0.0075	19.8375	0.003895052
3232	3	4.232522	-0.005	19.8325	0.00389407
2131	2	4.232531	-0.00625	19.82625	0.003892843
6883	3	4.233129	-0.005	19.82125	0.003891861
8548	3	4.233259	-0.005	19.81625	0.00389088
4947	3	4.233399	0.01	19.82625	0.003892843
3479	3	4.233782	-0.005	19.82125	0.003891861
7453	3	4.23481	-0.005	19.81625	0.00389088
5315	3	4.234867	-0.005	19.81125	0.003889898
5309	3	4.235203	-0.005	19.80625	0.003888916
6245	3	4.235856	-0.005	19.80125	0.003887934
8626	3	4.23632	-0.005	19.79625	0.003886953
1647	1	4.237142	-0.0075	19.78875	0.00388548
8703	3	4.237942	-0.005	19.78375	0.003884498
8557	3	4.238232	-0.005	19.77875	0.003883517
831	1	4.238728	-0.0075	19.77125	0.003882044
1223	1	4.238812	-0.0075	19.76375	0.003880571
7327	3	4.239795	-0.005	19.75875	0.00387959
3098	3	4.241951	0.01	19.76875	0.003881553
6625	3	4.242532	-0.005	19.76375	0.003880571
8347	3	4.243174	-0.005	19.75875	0.00387959
988	1	4.247517	-0.0075	19.75125	0.003878117
607	1	4.247839	-0.0075	19.74375	0.003876644
5218	3	4.24901	-0.005	19.73875	0.003875663
6977	3	4.249534	-0.005	19.73375	0.003874681
4350	3	4.249816	-0.005	19.72875	0.003873699
324	1	4.250577	-0.0075	19.72125	0.003872227
1011	1	4.250686	-0.0075	19.71375	0.003870754
8171	3	4.251583	-0.005	19.70875	0.003869772
4190	3	4.251911	-0.005	19.70375	0.00386879
7646	3	4.251916	-0.005	19.69875	0.003867809
2260	2	4.252128	-0.00625	19.6925	0.003866582
5038	3	4.252595	-0.005	19.6875	0.0038656
6427	3	4.252842	-0.005	19.6825	0.003864618
2420	2	4.255637	-0.00625	19.67625	0.003863391
5562	3	4.2566	-0.005	19.67125	0.003862409

2319	2	4.257423	-0.00625	19.665	0.003861182
7892	3	4.258117	-0.005	19.66	0.0038602
1251	1	4.258484	0.015	19.675	0.003863145
3889	3	4.259026	-0.005	19.67	0.003862164
646	1	4.259064	-0.0075	19.6625	0.003860691
5636	3	4.26015	-0.005	19.6575	0.003859709
8986	4	4.26032	-0.005	19.6525	0.003858728
559	1	4.260706	-0.0075	19.645	0.003857255
1776	2	4.264436	-0.00625	19.63875	0.003856028
534	1	4.266141	-0.0075	19.63125	0.003854555
4608	3	4.267447	-0.005	19.62625	0.003853574
1249	1	4.267763	-0.0075	19.61875	0.003852101
8357	3	4.267775	-0.005	19.61375	0.003851119
475	1	4.268886	-0.0075	19.60625	0.003849647
6099	3	4.270178	-0.005	19.60125	0.003848665
4660	3	4.27075	-0.005	19.59625	0.003847683
6104	3	4.272522	-0.005	19.59125	0.003846701
5126	3	4.272534	-0.005	19.58625	0.00384572
3033	3	4.273351	-0.005	19.58125	0.003844738
6734	3	4.27571	-0.005	19.57625	0.003843756
5983	3	4.277474	-0.005	19.57125	0.003842774
861	1	4.277663	0.015	19.58625	0.00384572
9322	4	4.279178	-0.005	19.58125	0.003844738
9527	4	4.279954	-0.005	19.57625	0.003843756
574	1	4.280595	-0.0075	19.56875	0.003842284
9335	4	4.28252	-0.005	19.56375	0.003841302
5817	3	4.283911	-0.005	19.55875	0.00384032
2026	2	4.284015	-0.00625	19.5525	0.003839093
7779	3	4.28541	-0.005	19.5475	0.003838111
1581	1	4.287572	-0.0075	19.54	0.003836639
52	1	4.289227	-0.0075	19.5325	0.003835166
6810	3	4.291763	-0.005	19.5275	0.003834184
3356	3	4.293126	-0.005	19.5225	0.003833202
7903	3	4.294358	-0.005	19.5175	0.003832221
5492	3	4.295501	-0.005	19.5125	0.003831239
3364	3	4.297251	-0.005	19.5075	0.003830257
2767	2	4.297556	-0.00625	19.50125	0.00382903
5886	3	4.298869	-0.005	19.49625	0.003828048
3393	3	4.299157	-0.005	19.49125	0.003827067
551	1	4.300463	-0.0075	19.48375	0.003825594
6983	3	4.300535	-0.005	19.47875	0.003824612
925	1	4.301477	-0.0075	19.47125	0.00382314
1875	2	4.303261	-0.00625	19.465	0.003821912
9353	4	4.303392	0.01	19.475	0.003823876
1009	1	4.305617	-0.0075	19.4675	0.003822403
4150	3	4.308964	-0.005	19.4625	0.003821422
9246	4	4.310712	-0.005	19.4575	0.00382044
1716	1	4.310898	-0.0075	19.45	0.003818967
992	1	4.311182	-0.0075	19.4425	0.003817495
8313	3	4.312454	-0.005	19.4375	0.003816513
5822	3	4.312744	-0.005	19.4325	0.003815531
1717	1	4.313197	-0.0075	19.425	0.003814059

6151	3	4.316269	-0.005	19.42	0.003813077
1927	2	4.318229	-0.00625	19.41375	0.00381185
990	1	4.318834	-0.0075	19.40625	0.003810377
4000	3	4.322592	-0.005	19.40125	0.003809395
4581	3	4.326006	-0.005	19.39625	0.003808414
4268	3	4.326532	-0.005	19.39125	0.003807432
1872	2	4.327661	-0.00625	19.385	0.003806205
7145	3	4.327891	-0.005	19.38	0.003805223
818	1	4.327912	-0.0075	19.3725	0.00380375
1666	1	4.328692	-0.0075	19.365	0.003802278
3455	3	4.329065	-0.005	19.36	0.003801296
1255	1	4.32929	-0.0075	19.3525	0.003799823
4649	3	4.329684	-0.005	19.3475	0.003798842
1140	1	4.330173	-0.0075	19.34	0.003797369
1898	2	4.330879	-0.00625	19.33375	0.003796142
1068	1	4.332041	-0.0075	19.32625	0.003794669
9837	4	4.334457	-0.005	19.32125	0.003793687
6321	3	4.335205	-0.005	19.31625	0.003792706
961	1	4.335563	-0.0075	19.30875	0.003791233
1101	1	4.338793	-0.0075	19.30125	0.00378976
4933	3	4.339315	-0.005	19.29625	0.003788779
5768	3	4.340373	-0.005	19.29125	0.003787797
2326	2	4.341816	-0.00625	19.285	0.00378657
476	1	4.342036	-0.0075	19.2775	0.003785097
1876	2	4.344636	-0.00625	19.27125	0.00378387
8990	4	4.3451	-0.005	19.26625	0.003782888
7932	3	4.345898	-0.005	19.26125	0.003781907
6959	3	4.346175	-0.005	19.25625	0.003780925
571	1	4.34841	0.015	19.27125	0.00378387
2187	2	4.348663	0.0125	19.28375	0.003786324
1075	1	4.348664	-0.0075	19.27625	0.003784852
7847	3	4.349691	-0.005	19.27125	0.00378387
755	1	4.350291	-0.0075	19.26375	0.003782397
2807	2	4.352762	-0.00625	19.2575	0.00378117
737	1	4.354442	-0.0075	19.25	0.003779698
3344	3	4.355252	-0.005	19.245	0.003778716
245	1	4.355754	-0.0075	19.2375	0.003777243
3731	3	4.355944	-0.005	19.2325	0.003776262
2310	2	4.360959	-0.00625	19.22625	0.003775034
2428	2	4.361614	-0.00625	19.22	0.003773807
1945	2	4.362232	-0.00625	19.21375	0.00377258
947	1	4.363272	-0.0075	19.20625	0.003771107
9031	4	4.365986	-0.005	19.20125	0.003770126
5926	3	4.37054	-0.005	19.19625	0.003769144
4953	3	4.370892	-0.005	19.19125	0.003768162
1049	1	4.370962	-0.0075	19.18375	0.00376669
2747	2	4.373034	-0.00625	19.1775	0.003765462
1807	2	4.37367	-0.00625	19.17125	0.003764235
9577	4	4.373986	-0.005	19.16625	0.003763253
9084	4	4.375921	-0.005	19.16125	0.003762272
296	1	4.375971	-0.0075	19.15375	0.003760799
1154	1	4.377013	-0.0075	19.14625	0.003759327

8152	3	4.377102	-0.005	19.14125	0.003758345
6830	3	4.37729	-0.005	19.13625	0.003757363
2559	2	4.377591	-0.00625	19.13	0.003756136
7841	3	4.378923	-0.005	19.125	0.003755154
4325	3	4.379759	-0.005	19.12	0.003754172
2743	2	4.380007	-0.00625	19.11375	0.003752945
287	1	4.382256	-0.0075	19.10625	0.003751473
7821	3	4.382629	-0.005	19.10125	0.003750491
8320	3	4.385136	-0.005	19.09625	0.003749509
1693	1	4.386052	-0.0075	19.08875	0.003748037
7256	3	4.38735	-0.005	19.08375	0.003747055
3368	3	4.388838	-0.005	19.07875	0.003746073
6613	3	4.389205	-0.005	19.07375	0.003745091
7109	3	4.389548	-0.005	19.06875	0.00374411
1516	1	4.389709	-0.0075	19.06125	0.003742637
4129	3	4.389956	-0.005	19.05625	0.003741655
5844	3	4.390343	-0.005	19.05125	0.003740673
1418	1	4.390601	-0.0075	19.04375	0.003739201
1070	1	4.391388	-0.0075	19.03625	0.003737728
3066	3	4.392384	-0.005	19.03125	0.003736747
5501	3	4.392953	-0.005	19.02625	0.003735765
75	1	4.393461	-0.0075	19.01875	0.003734292
6558	3	4.394402	-0.005	19.01375	0.00373331
1571	1	4.394856	-0.0075	19.00625	0.003731838
4845	3	4.395064	-0.005	19.00125	0.003730856
861	1	4.395303	-0.0075	18.99375	0.003729383
2611	2	4.397165	-0.00625	18.9875	0.003728156
4195	3	4.39966	-0.005	18.9825	0.003727175
5271	3	4.402301	-0.005	18.9775	0.003726193
6908	3	4.403857	-0.005	18.9725	0.003725211
1745	1	4.405219	-0.0075	18.965	0.003723738
3343	3	4.406036	-0.005	18.96	0.003722757
5572	3	4.407739	-0.005	18.955	0.003721775
4900	3	4.408405	-0.005	18.95	0.003720793
2665	2	4.408492	-0.00625	18.94375	0.003719566
2654	2	4.40955	-0.00625	18.9375	0.003718339
1071	1	4.412079	-0.0075	18.93	0.003716866
3213	3	4.412423	-0.005	18.925	0.003715885
4984	3	4.414435	-0.005	18.92	0.003714903
6969	3	4.417179	-0.005	18.915	0.003713921
360	1	4.41794	-0.0075	18.9075	0.003712448
3772	3	4.418895	-0.005	18.9025	0.003711467
7458	3	4.419366	-0.005	18.8975	0.003710485
274	1	4.419681	-0.0075	18.89	0.003709012
498	1	4.421261	-0.0075	18.8825	0.00370754
9827	4	4.422343	-0.005	18.8775	0.003706558
1630	1	4.425313	-0.0075	18.87	0.003705085
7698	3	4.42916	-0.005	18.865	0.003704104
8210	3	4.431748	-0.005	18.86	0.003703122
762	1	4.436156	-0.0075	18.8525	0.003701649
3144	3	4.436196	-0.005	18.8475	0.003700668
3861	3	4.436564	-0.005	18.8425	0.003699686

7491	3	4.437474	0.01	18.8525	0.003701649
2608	2	4.437802	-0.00625	18.84625	0.003700422
7846	3	4.439147	-0.005	18.84125	0.00369944
2008	2	4.441405	-0.00625	18.835	0.003698213
7698	3	4.445086	-0.005	18.83	0.003697231
9725	4	4.445437	-0.005	18.825	0.00369625
8670	3	4.445572	-0.005	18.82	0.003695268
5787	3	4.44574	-0.005	18.815	0.003694286
3683	3	4.446755	0.01	18.825	0.00369625
7417	3	4.447089	0.01	18.835	0.003698213
973	1	4.447831	-0.0075	18.8275	0.003696741
3429	3	4.448138	-0.005	18.8225	0.003695759
1423	1	4.448205	-0.0075	18.815	0.003694286
4947	3	4.448862	-0.005	18.81	0.003693305
9750	4	4.451772	0.01	18.82	0.003695268
2330	2	4.454099	-0.00625	18.81375	0.003694041
1345	1	4.454909	-0.0075	18.80625	0.003692568
2335	2	4.461613	-0.00625	18.8	0.003691341
79	1	4.462536	-0.0075	18.7925	0.003689868
4160	3	4.464377	-0.005	18.7875	0.003688887
4897	3	4.464627	-0.005	18.7825	0.003687905
9602	4	4.465835	-0.005	18.7775	0.003686923
1976	2	4.466183	-0.00625	18.77125	0.003685696
4241	3	4.467004	-0.005	18.76625	0.003684714
7303	3	4.468024	0.01	18.77625	0.003686678
4820	3	4.468942	-0.005	18.77125	0.003685696
3099	3	4.469186	-0.005	18.76625	0.003684714
685	1	4.470453	-0.0075	18.75875	0.003683242
9714	4	4.473654	-0.005	18.75375	0.00368226
8296	3	4.473672	-0.005	18.74875	0.003681278
2925	3	4.474188	-0.005	18.74375	0.003680296
7867	3	4.474939	-0.005	18.73875	0.003679315
9438	4	4.475697	-0.005	18.73375	0.003678333
4537	3	4.475867	-0.005	18.72875	0.003677351
2940	3	4.477176	-0.005	18.72375	0.00367637
2165	2	4.479681	-0.00625	18.7175	0.003675142
6964	3	4.480091	0.01	18.7275	0.003677106
9196	4	4.482238	-0.005	18.7225	0.003676124
1378	1	4.483103	-0.0075	18.715	0.003674651
3309	3	4.483885	-0.005	18.71	0.00367367
6716	3	4.483981	-0.005	18.705	0.003672688
2393	2	4.484827	-0.00625	18.69875	0.003671461
938	1	4.486304	-0.0075	18.69125	0.003669988
1467	1	4.487272	-0.0075	18.68375	0.003668516
899	1	4.488136	-0.0075	18.67625	0.003667043
1725	1	4.490812	-0.0075	18.66875	0.00366557
7965	3	4.490965	-0.005	18.66375	0.003664589
1531	1	4.491565	-0.0075	18.65625	0.003663116
1234	1	4.491781	-0.0075	18.64875	0.003661643
8508	3	4.4942	-0.005	18.64375	0.003660662
5171	3	4.496115	-0.005	18.63875	0.00365968
1144	1	4.497846	-0.0075	18.63125	0.003658207

8203	3	4.498173	-0.005	18.62625	0.003657226
1809	2	4.498313	-0.00625	18.62	0.003655998
6947	3	4.498484	-0.005	18.615	0.003655017
2591	2	4.499397	-0.00625	18.60875	0.00365379
5043	3	4.501209	-0.005	18.60375	0.003652808
1829	2	4.501247	-0.00625	18.5975	0.003651581
337	1	4.50342	0.015	18.6125	0.003654526
872	1	4.504333	-0.0075	18.605	0.003653053
8490	3	4.504378	-0.005	18.6	0.003652071
1529	1	4.506017	-0.0075	18.5925	0.003650599
8983	4	4.508221	-0.005	18.5875	0.003649617
1023	1	4.508649	0.015	18.6025	0.003652562
2862	2	4.511037	0.0125	18.615	0.003655017
7914	3	4.512132	0.01	18.625	0.00365698
4858	3	4.512203	-0.005	18.62	0.003655998
1538	1	4.512337	-0.0075	18.6125	0.003654526
1851	2	4.512391	-0.00625	18.60625	0.003653299
1857	2	4.51337	-0.00625	18.6	0.003652071
4241	3	4.513698	-0.005	18.595	0.00365109
7518	3	4.514048	-0.005	18.59	0.003650108
4131	3	4.516005	-0.005	18.585	0.003649126
7774	3	4.516331	-0.005	18.58	0.003648145
6716	3	4.517656	-0.005	18.575	0.003647163
753	1	4.521678	0.015	18.59	0.003650108
2393	2	4.521766	-0.00625	18.58375	0.003648881
5295	3	4.522537	-0.005	18.57875	0.003647899
8315	3	4.524174	-0.005	18.57375	0.003646917
2878	2	4.526767	-0.00625	18.5675	0.00364569
747	1	4.527646	-0.0075	18.56	0.003644218
816	1	4.527766	-0.0075	18.5525	0.003642745
9432	4	4.528373	-0.005	18.5475	0.003641763
503	1	4.529472	0.015	18.5625	0.003644708
1783	2	4.531664	-0.00625	18.55625	0.003643481
2477	2	4.53247	-0.00625	18.55	0.003642254
2840	2	4.532641	-0.00625	18.54375	0.003641027
1918	2	4.534044	-0.00625	18.5375	0.0036398
1137	1	4.534894	-0.0075	18.53	0.003638327
543	1	4.539321	-0.0075	18.5225	0.003636855
3882	3	4.539753	-0.005	18.5175	0.003635873
5458	3	4.540252	-0.005	18.5125	0.003634891
1484	1	4.540254	-0.0075	18.505	0.003633418
2195	2	4.541557	-0.00625	18.49875	0.003632191
2809	2	4.542791	-0.00625	18.4925	0.003630964
7418	3	4.542982	-0.005	18.4875	0.003629982
9925	4	4.543531	-0.005	18.4825	0.003629001
5558	3	4.544316	-0.005	18.4775	0.003628019
7747	3	4.545613	-0.005	18.4725	0.003627037
3495	3	4.547846	-0.005	18.4675	0.003626055
4888	3	4.548798	-0.005	18.4625	0.003625074
6313	3	4.549249	-0.005	18.4575	0.003624092
843	1	4.550545	-0.0075	18.45	0.003622619
5001	3	4.552157	-0.005	18.445	0.003621638

8525	3	4.553789	-0.005	18.44	0.003620656
5546	3	4.556322	-0.005	18.435	0.003619674
3724	3	4.556801	-0.005	18.43	0.003618692
458	1	4.557438	-0.0075	18.4225	0.00361722
2879	2	4.560825	-0.00625	18.41625	0.003615993
1833	2	4.561145	-0.00625	18.41	0.003614765
4282	3	4.561458	-0.005	18.405	0.003613784
5043	3	4.561462	-0.005	18.4	0.003612802
5919	3	4.563241	-0.005	18.395	0.00361182
179	1	4.564607	-0.0075	18.3875	0.003610348
910	1	4.564618	-0.0075	18.38	0.003608875
9222	4	4.565849	-0.005	18.375	0.003607893
137	1	4.566894	0.015	18.39	0.003610838
2659	2	4.567226	-0.00625	18.38375	0.003609611
2337	2	4.56843	-0.00625	18.3775	0.003608384
3891	3	4.569037	-0.005	18.3725	0.003607402
2232	2	4.569784	-0.00625	18.36625	0.003606175
5968	3	4.570461	-0.005	18.36125	0.003605193
3688	3	4.571285	-0.005	18.35625	0.003604212
4619	3	4.571557	-0.005	18.35125	0.00360323
536	1	4.572102	-0.0075	18.34375	0.003601757
8087	3	4.579127	0.01	18.35375	0.003603721
5140	3	4.579288	0.01	18.36375	0.003605684
5376	3	4.579754	-0.005	18.35875	0.003604703
2701	2	4.579795	-0.00625	18.3525	0.003603475
7973	3	4.580888	0.01	18.3625	0.003605439
7239	3	4.584376	-0.005	18.3575	0.003604457
4656	3	4.585088	-0.005	18.3525	0.003603475
8550	3	4.585945	-0.005	18.3475	0.003602494
9322	4	4.58654	-0.005	18.3425	0.003601512
1854	2	4.586573	-0.00625	18.33625	0.003600285
7110	3	4.588656	-0.005	18.33125	0.003599303
744	1	4.588835	-0.0075	18.32375	0.00359783
1097	1	4.588969	-0.0075	18.31625	0.003596358
8213	3	4.589511	-0.005	18.31125	0.003595376
1487	1	4.589583	-0.0075	18.30375	0.003593903
1778	2	4.591169	-0.00625	18.2975	0.003592676
2324	2	4.591362	-0.00625	18.29125	0.003591449
2619	2	4.593982	0.0125	18.30375	0.003593903
758	1	4.594848	-0.0075	18.29625	0.003592431
1815	2	4.595431	-0.00625	18.29	0.003591204
6059	3	4.59557	-0.005	18.285	0.003590222
2661	2	4.596092	-0.00625	18.27875	0.003588995
9499	4	4.596145	-0.005	18.27375	0.003588013
6581	3	4.596861	0.01	18.28375	0.003589976
1459	1	4.596936	-0.0075	18.27625	0.003588504
2430	2	4.599207	-0.00625	18.27	0.003587277
3080	3	4.601195	-0.005	18.265	0.003586295
1124	1	4.601343	-0.0075	18.2575	0.003584822
6245	3	4.601517	-0.005	18.2525	0.003583841
1805	2	4.602298	-0.00625	18.24625	0.003582613
3460	3	4.602348	-0.005	18.24125	0.003581632

5287	3	4.603978	-0.005	18.23625	0.00358065
3188	3	4.604324	-0.005	18.23125	0.003579668
2104	2	4.604559	-0.00625	18.225	0.003578441
3260	3	4.604797	-0.005	18.22	0.003577459
2760	2	4.604847	-0.00625	18.21375	0.003576232
2370	2	4.605666	-0.00625	18.2075	0.003575005
8105	3	4.608361	-0.005	18.2025	0.003574023
1138	1	4.609183	-0.0075	18.195	0.003572551
1586	1	4.61013	-0.0075	18.1875	0.003571078
8230	3	4.612232	-0.005	18.1825	0.003570096
9599	4	4.612234	-0.005	18.1775	0.003569114
4650	3	4.618425	-0.005	18.1725	0.003568133
2396	2	4.61916	-0.00625	18.16625	0.003566906
2077	2	4.619992	-0.00625	18.16	0.003565678
711	1	4.620366	-0.0075	18.1525	0.003564206
6663	3	4.621227	-0.005	18.1475	0.003563224
7303	3	4.621725	-0.005	18.1425	0.003562242
6768	3	4.62238	-0.005	18.1375	0.003561261
932	1	4.624427	-0.0075	18.13	0.003559788
920	1	4.624616	-0.0075	18.1225	0.003558315
2096	2	4.625878	-0.00625	18.11625	0.003557088
3049	3	4.626547	-0.005	18.11125	0.003556106
4535	3	4.62809	-0.005	18.10625	0.003555125
3720	3	4.629781	-0.005	18.10125	0.003554143
5440	3	4.629889	-0.005	18.09625	0.003553161
8052	3	4.63024	-0.005	18.09125	0.003552179
4572	3	4.632629	-0.005	18.08625	0.003551198
8883	4	4.635321	-0.005	18.08125	0.003550216
29	1	4.635476	0.015	18.09625	0.003553161
5265	3	4.636792	-0.005	18.09125	0.003552179
1400	1	4.63694	-0.0075	18.08375	0.003550707
2302	2	4.638861	-0.00625	18.0775	0.00354948
1656	1	4.639072	-0.0075	18.07	0.003548007
7374	3	4.639707	-0.005	18.065	0.003547025
1690	1	4.640541	-0.0075	18.0575	0.003545553
2419	2	4.64091	-0.00625	18.05125	0.003544326
5649	3	4.64207	-0.005	18.04625	0.003543344
1077	1	4.642425	-0.0075	18.03875	0.003541871
4635	3	4.642866	-0.005	18.03375	0.003540889
7704	3	4.642896	-0.005	18.02875	0.003539908
2042	2	4.644561	-0.00625	18.0225	0.003538681
29	1	4.64468	-0.0075	18.015	0.003537208
733	1	4.648949	-0.0075	18.0075	0.003535735
1833	2	4.650204	-0.00625	18.00125	0.003534508
2914	3	4.650232	-0.005	17.99625	0.003533526
1200	1	4.651412	0.015	18.01125	0.003536472
5895	3	4.652464	-0.005	18.00625	0.00353549
4465	3	4.653349	-0.005	18.00125	0.003534508
2126	2	4.655208	-0.00625	17.995	0.003533281
3472	3	4.655994	-0.005	17.99	0.003532299
2540	2	4.657185	-0.00625	17.98375	0.003531072
2846	2	4.657224	-0.00625	17.9775	0.003529845

4750	3	4.657809	-0.005	17.9725	0.003528863
1785	2	4.6583	-0.00625	17.96625	0.003527636
1179	1	4.658529	-0.0075	17.95875	0.003526163
215	1	4.659901	-0.0075	17.95125	0.003524691
9487	4	4.660294	-0.005	17.94625	0.003523709
3324	3	4.660757	-0.005	17.94125	0.003522727
6391	3	4.661629	-0.005	17.93625	0.003521746
2904	3	4.663347	-0.005	17.93125	0.003520764
8347	3	4.665229	-0.005	17.92625	0.003519782
4028	3	4.666967	-0.005	17.92125	0.0035188
8002	3	4.668533	-0.005	17.91625	0.003517819
1392	1	4.670107	-0.0075	17.90875	0.003516346
6230	3	4.671105	-0.005	17.90375	0.003515364
7570	3	4.673751	0.01	17.91375	0.003517328
2589	2	4.673831	-0.00625	17.9075	0.003516101
475	1	4.675194	-0.0075	17.9	0.003514628
4668	3	4.675952	-0.005	17.895	0.003513646
8295	3	4.676827	-0.005	17.89	0.003512664
2016	2	4.67703	-0.00625	17.88375	0.003511437
9228	4	4.677143	-0.005	17.87875	0.003510456
5140	3	4.677538	-0.005	17.87375	0.003509474
4562	3	4.678369	-0.005	17.86875	0.003508492
273	1	4.683274	-0.0075	17.86125	0.003507019
1357	1	4.683644	-0.0075	17.85375	0.003505547
1276	1	4.684554	-0.0075	17.84625	0.003504074
706	1	4.684735	0.015	17.86125	0.003507019
5297	3	4.685287	-0.005	17.85625	0.003506038
923	1	4.688331	-0.0075	17.84875	0.003504565
7907	3	4.689727	-0.005	17.84375	0.003503583
6203	3	4.694362	-0.005	17.83875	0.003502602
4589	3	4.697837	-0.005	17.83375	0.00350162
8325	3	4.699395	-0.005	17.82875	0.003500638
6514	3	4.699535	-0.005	17.82375	0.003499656
3127	3	4.70065	0.01	17.83375	0.00350162
5252	3	4.701701	-0.005	17.82875	0.003500638
12	1	4.70653	-0.0075	17.82125	0.003499166
8560	3	4.707062	-0.005	17.81625	0.003498184
8015	3	4.707253	-0.005	17.81125	0.003497202
4125	3	4.708814	-0.005	17.80625	0.00349622
4648	3	4.709014	-0.005	17.80125	0.003495239
72	1	4.709824	-0.0075	17.79375	0.003493766
485	1	4.712149	-0.0075	17.78625	0.003492293
598	1	4.712204	-0.0075	17.77875	0.003490821
8690	3	4.714319	-0.005	17.77375	0.003489839
3098	3	4.717716	-0.005	17.76875	0.003488857
1946	2	4.720286	-0.00625	17.7625	0.00348763
5857	3	4.720594	-0.005	17.7575	0.003486648
8046	3	4.722564	-0.005	17.7525	0.003485667
2715	2	4.723705	0.0125	17.765	0.003488121
6394	3	4.723727	0.01	17.775	0.003490084
2469	2	4.724356	-0.00625	17.76875	0.003488857
2173	2	4.724749	-0.00625	17.7625	0.00348763

5700	3	4.726159	-0.005	17.7575	0.003486648
3918	3	4.726324	-0.005	17.7525	0.003485667
4695	3	4.726856	-0.005	17.7475	0.003484685
7491	3	4.730157	-0.005	17.7425	0.003483703
2968	3	4.732389	-0.005	17.7375	0.003482721
1141	1	4.732711	-0.0075	17.73	0.003481249
2281	2	4.732986	-0.00625	17.72375	0.003480022
881	1	4.733046	-0.0075	17.71625	0.003478549
6669	3	4.733054	-0.005	17.71125	0.003477567
5998	3	4.734811	-0.005	17.70625	0.003476586
1535	1	4.737181	-0.0075	17.69875	0.003475113
8470	3	4.738268	-0.005	17.69375	0.003474131
3158	3	4.738536	-0.005	17.68875	0.003473149
3577	3	4.739094	-0.005	17.68375	0.003472168
6167	3	4.740765	-0.005	17.67875	0.003471186
1594	1	4.742791	-0.0075	17.67125	0.003469713
7136	3	4.743787	-0.005	17.66625	0.003468732
2376	2	4.744733	-0.00625	17.66	0.003467504
6628	3	4.747834	-0.005	17.655	0.003466523
4043	3	4.747877	-0.005	17.65	0.003465541
7667	3	4.747879	-0.005	17.645	0.003464559
2853	2	4.749716	-0.00625	17.63875	0.003463332
1146	1	4.75006	-0.0075	17.63125	0.003461859
40	1	4.750101	-0.0075	17.62375	0.003460387
5172	3	4.751354	-0.005	17.61875	0.003459405
172	1	4.751376	-0.0075	17.61125	0.003457932
4160	3	4.752362	-0.005	17.60625	0.003456951
7968	3	4.752852	-0.005	17.60125	0.003455969
2821	2	4.753054	-0.00625	17.595	0.003454742
1199	1	4.754322	-0.0075	17.5875	0.003453269
7482	3	4.755834	0.01	17.5975	0.003455233
467	1	4.759834	-0.0075	17.59	0.00345376
1400	1	4.759855	-0.0075	17.5825	0.003452287
1370	1	4.760034	-0.0075	17.575	0.003450815
7610	3	4.761375	-0.005	17.57	0.003449833
1097	1	4.763283	-0.0075	17.5625	0.00344836
5610	3	4.764793	-0.005	17.5575	0.003447379
3151	3	4.765271	-0.005	17.5525	0.003446397
8939	4	4.765915	-0.005	17.5475	0.003445415
6160	3	4.767005	-0.005	17.5425	0.003444434
2512	2	4.768599	-0.00625	17.53625	0.003443206
6730	3	4.770806	0.01	17.54625	0.00344517
1010	1	4.771572	-0.0075	17.53875	0.003443697
5681	3	4.77291	-0.005	17.53375	0.003442715
878	1	4.775175	-0.0075	17.52625	0.003441243
2582	2	4.775221	-0.00625	17.52	0.003440016
8285	3	4.77533	-0.005	17.515	0.003439034
506	1	4.77582	-0.0075	17.5075	0.003437561
883	1	4.776995	-0.0075	17.5	0.003436089
6045	3	4.778037	-0.005	17.495	0.003435107
3889	3	4.783483	-0.005	17.49	0.003434125
1305	1	4.786947	-0.0075	17.4825	0.003432653

539	1	4.787324	-0.0075	17.475	0.00343118
1640	1	4.791314	-0.0075	17.4675	0.003429707
7914	3	4.791701	-0.005	17.4625	0.003428726
6531	3	4.791712	-0.005	17.4575	0.003427744
3319	3	4.792513	-0.005	17.4525	0.003426762
7199	3	4.794077	-0.005	17.4475	0.00342578
5713	3	4.794434	-0.005	17.4425	0.003424799
3742	3	4.795611	-0.005	17.4375	0.003423817
5400	3	4.798132	-0.005	17.4325	0.003422835
1333	1	4.803066	0.015	17.4475	0.00342578
9750	4	4.804116	-0.005	17.4425	0.003424799
5586	3	4.805277	-0.005	17.4375	0.003423817
5617	3	4.805294	-0.005	17.4325	0.003422835
4943	3	4.807997	-0.005	17.4275	0.003421854
2717	2	4.808304	-0.00625	17.42125	0.003420626
6235	3	4.809509	-0.005	17.41625	0.003419645
100	1	4.809768	-0.0075	17.40875	0.003418172
1014	1	4.81051	-0.0075	17.40125	0.003416699
378	1	4.810903	-0.0075	17.39375	0.003415227
1176	1	4.811752	-0.0075	17.38625	0.003413754
1940	2	4.814452	-0.00625	17.38	0.003412527
97	1	4.814554	-0.0075	17.3725	0.003411054
815	1	4.815188	-0.0075	17.365	0.003409582
7348	3	4.815475	-0.005	17.36	0.0034086
4893	3	4.816073	-0.005	17.355	0.003407618
4172	3	4.816363	-0.005	17.35	0.003406637
1043	1	4.816999	-0.0075	17.3425	0.003405164
1706	1	4.817194	-0.0075	17.335	0.003403691
978	1	4.817536	-0.0075	17.3275	0.003402219
3923	3	4.818941	-0.005	17.3225	0.003401237
3109	3	4.819378	-0.005	17.3175	0.003400255
2534	2	4.81951	-0.00625	17.31125	0.003399028
2077	2	4.820565	-0.00625	17.305	0.003397801
3413	3	4.822534	-0.005	17.3	0.003396819
963	1	4.824136	-0.0075	17.2925	0.003395347
5475	3	4.825715	-0.005	17.2875	0.003394365
8639	3	4.82707	-0.005	17.2825	0.003393383
1207	1	4.827544	-0.0075	17.275	0.00339191
130	1	4.828588	-0.0075	17.2675	0.003390438
6634	3	4.828622	-0.005	17.2625	0.003389456
8926	4	4.831712	-0.005	17.2575	0.003388474
648	1	4.833521	-0.0075	17.25	0.003387002
1633	1	4.834254	-0.0075	17.2425	0.003385529
706	1	4.834404	-0.0075	17.235	0.003384057
3993	3	4.837047	-0.005	17.23	0.003383075
4911	3	4.837259	-0.005	17.225	0.003382093
946	1	4.838351	-0.0075	17.2175	0.00338062
8639	3	4.841097	-0.005	17.2125	0.003379639
2870	2	4.841517	-0.00625	17.20625	0.003378412
1530	1	4.841929	-0.0075	17.19875	0.003376939
8182	3	4.842454	0.01	17.20875	0.003378902
7817	3	4.842727	-0.005	17.20375	0.003377921

6377	3	4.843418	0.01	17.21375	0.003379884
969	1	4.844184	-0.0075	17.20625	0.003378412
7100	3	4.844213	-0.005	17.20125	0.00337743
3459	3	4.845501	-0.005	17.19625	0.003376448
1482	1	4.846126	-0.0075	17.18875	0.003374975
2915	3	4.84619	-0.005	17.18375	0.003373994
3947	3	4.848042	-0.005	17.17875	0.003373012
2712	2	4.850352	-0.00625	17.1725	0.003371785
3957	3	4.851361	-0.005	17.1675	0.003370803
2719	2	4.855005	-0.00625	17.16125	0.003369576
7784	3	4.855008	-0.005	17.15625	0.003368594
4603	3	4.856042	-0.005	17.15125	0.003367612
6992	3	4.856454	-0.005	17.14625	0.003366631
5863	3	4.857467	0.01	17.15625	0.003368594
3048	3	4.857623	-0.005	17.15125	0.003367612
2461	2	4.858602	-0.00625	17.145	0.003366385
1792	2	4.859618	0.0125	17.1575	0.00336884
2740	2	4.860364	-0.00625	17.15125	0.003367612
3525	3	4.860691	-0.005	17.14625	0.003366631
3029	3	4.860789	-0.005	17.14125	0.003365649
4121	3	4.864387	-0.005	17.13625	0.003364667
6579	3	4.864567	-0.005	17.13125	0.003363685
894	1	4.864946	-0.0075	17.12375	0.003362213
8210	3	4.866131	-0.005	17.11875	0.003361231
29	1	4.866515	-0.0075	17.11125	0.003359758
8421	3	4.868837	-0.005	17.10625	0.003358777
9888	4	4.875791	-0.005	17.10125	0.003357795
8305	3	4.877144	0.01	17.11125	0.003359758
3247	3	4.878377	-0.005	17.10625	0.003358777
7023	3	4.879226	-0.005	17.10125	0.003357795
45	1	4.879536	-0.0075	17.09375	0.003356322
4288	3	4.879721	-0.005	17.08875	0.003355341
6530	3	4.88024	-0.005	17.08375	0.003354359
8161	3	4.881285	-0.005	17.07875	0.003353377
1552	1	4.882767	-0.0075	17.07125	0.003351905
1744	1	4.886123	-0.0075	17.06375	0.003350432
442	1	4.890856	-0.0075	17.05625	0.003348959
513	1	4.894247	-0.0075	17.04875	0.003347487
2966	3	4.894467	-0.005	17.04375	0.003346505
1243	1	4.895542	-0.0075	17.03625	0.003345032
2368	2	4.895735	-0.00625	17.03	0.003343805
8254	3	4.895767	-0.005	17.025	0.003342823
2699	2	4.896701	-0.00625	17.01875	0.003341596
1923	2	4.901278	-0.00625	17.0125	0.003340369
4304	3	4.90202	-0.005	17.0075	0.003339387
7	1	4.903094	-0.0075	17	0.003337915
846	1	4.905652	-0.0075	16.9925	0.003336442
523	1	4.906349	-0.0075	16.985	0.00333497
1613	1	4.906714	-0.0075	16.9775	0.003333497
1442	1	4.906765	-0.0075	16.97	0.003332024
1196	1	4.907179	-0.0075	16.9625	0.003330552
1061	1	4.907429	-0.0075	16.955	0.003329079

7517	3	4.907708	-0.005	16.95	0.003328097
7051	3	4.910277	0.01	16.96	0.003330061
7639	3	4.911626	-0.005	16.955	0.003329079
5943	3	4.911895	-0.005	16.95	0.003328097
1163	1	4.913178	-0.0075	16.9425	0.003326625
2351	2	4.913539	-0.00625	16.93625	0.003325398
1540	1	4.914321	-0.0075	16.92875	0.003323925
5378	3	4.915682	-0.005	16.92375	0.003322943
2113	2	4.918567	-0.00625	16.9175	0.003321716
4406	3	4.919093	-0.005	16.9125	0.003320734
8411	3	4.925205	-0.005	16.9075	0.003319753
3916	3	4.926651	0.01	16.9175	0.003321716
548	1	4.930252	-0.0075	16.91	0.003320243
7765	3	4.931186	-0.005	16.905	0.003319262
790	1	4.931843	0.015	16.92	0.003322207
7349	3	4.932887	-0.005	16.915	0.003321225
142	1	4.933212	-0.0075	16.9075	0.003319753
9500	4	4.934396	-0.005	16.9025	0.003318771
1312	1	4.93628	-0.0075	16.895	0.003317298
5008	3	4.937037	0.01	16.905	0.003319262
2584	2	4.93756	-0.00625	16.89875	0.003318035
1894	2	4.937867	-0.00625	16.8925	0.003316807
621	1	4.938092	-0.0075	16.885	0.003315335
336	1	4.938652	-0.0075	16.8775	0.003313862
6737	3	4.940757	-0.005	16.8725	0.00331288
158	1	4.941116	-0.0075	16.865	0.003311408
790	1	4.942676	-0.0075	16.8575	0.003309935
6847	3	4.944006	-0.005	16.8525	0.003308953
3777	3	4.944608	-0.005	16.8475	0.003307972
3956	3	4.944669	-0.005	16.8425	0.00330699
136	1	4.947571	-0.0075	16.835	0.003305517
6521	3	4.948667	-0.005	16.83	0.003304536
1775	2	4.948803	-0.00625	16.82375	0.003303308
1719	1	4.949083	-0.0075	16.81625	0.003301836
8128	3	4.950465	-0.005	16.81125	0.003300854
2030	2	4.953529	-0.00625	16.805	0.003299627
4938	3	4.953903	-0.005	16.8	0.003298645
5863	3	4.954352	-0.005	16.795	0.003297663
7929	3	4.956186	-0.005	16.79	0.003296682
2381	2	4.957424	-0.00625	16.78375	0.003295455
224	1	4.957799	-0.0075	16.77625	0.003293982
2434	2	4.958348	-0.00625	16.77	0.003292755
2218	2	4.959482	-0.00625	16.76375	0.003291528
7567	3	4.959685	-0.005	16.75875	0.003290546
8206	3	4.960756	-0.005	16.75375	0.003289564
5483	3	4.961434	-0.005	16.74875	0.003288582
1147	1	4.962051	-0.0075	16.74125	0.00328711
1019	1	4.962679	-0.0075	16.73375	0.003285637
7204	3	4.966629	-0.005	16.72875	0.003284655
2409	2	4.967506	-0.00625	16.7225	0.003283428
6298	3	4.969243	-0.005	16.7175	0.003282446
3587	3	4.970629	-0.005	16.7125	0.003281465

5972	3	4.970868	-0.005	16.7075	0.003280483
9182	4	4.971879	-0.005	16.7025	0.003279501
1842	2	4.972846	-0.00625	16.69625	0.003278274
1904	2	4.972965	-0.00625	16.69	0.003277047
6541	3	4.974981	-0.005	16.685	0.003276065
4413	3	4.976276	-0.005	16.68	0.003275083
8323	3	4.976511	-0.005	16.675	0.003274102
893	1	4.982437	-0.0075	16.6675	0.003272629
2489	2	4.982935	-0.00625	16.66125	0.003271402
4878	3	4.982977	-0.005	16.65625	0.00327042
8908	4	4.983587	-0.005	16.65125	0.003269438
3129	3	4.9838	0.01	16.66125	0.003271402
1296	1	4.984338	-0.0075	16.65375	0.003269929
4251	3	4.984579	-0.005	16.64875	0.003268948
1556	1	4.985062	-0.0075	16.64125	0.003267475
2458	2	4.988863	-0.00625	16.635	0.003266248
5674	3	4.990399	-0.005	16.63	0.003265266
7510	3	4.990541	-0.005	16.625	0.003264284
3189	3	4.990728	-0.005	16.62	0.003263303
2553	2	4.991648	-0.00625	16.61375	0.003262075
6139	3	4.992144	-0.005	16.60875	0.003261094
146	1	4.992397	-0.0075	16.60125	0.003259621
7808	3	4.993914	-0.005	16.59625	0.003258639
570	1	4.994124	-0.0075	16.58875	0.003257167
4281	3	4.995237	-0.005	16.58375	0.003256185
1458	1	4.996402	-0.0075	16.57625	0.003254712
157	1	4.996626	-0.0075	16.56875	0.00325324
527	1	4.998978	-0.0075	16.56125	0.003251767
1875	2	4.999267	-0.00625	16.555	0.00325054
7635	3	4.999871	-0.005	16.55	0.003249558
1348	1	5.00275	-0.0075	16.5425	0.003248086
6880	3	5.003341	-0.005	16.5375	0.003247104
5252	3	5.004553	-0.005	16.5325	0.003246122
5836	3	5.007461	-0.005	16.5275	0.00324514
2365	2	5.009608	-0.00625	16.52125	0.003243913
5381	3	5.009973	-0.005	16.51625	0.003242931
1392	1	5.010109	-0.0075	16.50875	0.003241459
3923	3	5.011747	-0.005	16.50375	0.003240477
1514	1	5.013162	-0.0075	16.49625	0.003239005
932	1	5.014707	-0.0075	16.48875	0.003237532
9168	4	5.015378	-0.005	16.48375	0.00323655
2022	2	5.016872	-0.00625	16.4775	0.003235323
503	1	5.019779	-0.0075	16.47	0.00323385
1793	2	5.020334	-0.00625	16.46375	0.003232623
5631	3	5.022524	-0.005	16.45875	0.003231641
6576	3	5.023048	-0.005	16.45375	0.00323066
2083	2	5.024054	-0.00625	16.4475	0.003229433
1015	1	5.028527	-0.0075	16.44	0.00322796
7120	3	5.034935	-0.005	16.435	0.003226978
637	1	5.035011	-0.0075	16.4275	0.003225506
2984	3	5.035711	-0.005	16.4225	0.003224524
6388	3	5.038669	-0.005	16.4175	0.003223542

3980	3	5.03891	-0.005	16.4125	0.00322256
7303	3	5.039185	-0.005	16.4075	0.003221579
1172	1	5.03989	-0.0075	16.4	0.003220106
4852	3	5.040983	-0.005	16.395	0.003219124
4320	3	5.041236	-0.005	16.39	0.003218143
8994	4	5.043133	-0.005	16.385	0.003217161
5094	3	5.044089	-0.005	16.38	0.003216179
2723	2	5.04467	-0.00625	16.37375	0.003214952
4825	3	5.048624	-0.005	16.36875	0.00321397
300	1	5.049247	-0.0075	16.36125	0.003212498
1755	1	5.050856	-0.0075	16.35375	0.003211025
6377	3	5.051286	-0.005	16.34875	0.003210043
436	1	5.052183	-0.0075	16.34125	0.003208571
1926	2	5.053492	-0.00625	16.335	0.003207343
6499	3	5.054035	-0.005	16.33	0.003206362
3495	3	5.054507	-0.005	16.325	0.00320538
2598	2	5.062276	-0.00625	16.31875	0.003204153
2786	2	5.06341	-0.00625	16.3125	0.003202926
2868	2	5.064608	-0.00625	16.30625	0.003201698
8673	3	5.065526	-0.005	16.30125	0.003200717
7064	3	5.068776	-0.005	16.29625	0.003199735
2078	2	5.069628	-0.00625	16.29	0.003198508
6107	3	5.072529	-0.005	16.285	0.003197526
247	1	5.074724	-0.0075	16.2775	0.003196053
9975	4	5.07548	-0.005	16.2725	0.003195072
1556	1	5.078663	-0.0075	16.265	0.003193599
5669	3	5.084996	-0.005	16.26	0.003192617
4561	3	5.086554	-0.005	16.255	0.003191636
3315	3	5.087911	-0.005	16.25	0.003190654
2551	2	5.088745	-0.00625	16.24375	0.003189427
5039	3	5.089026	-0.005	16.23875	0.003188445
8915	4	5.089536	0.01	16.24875	0.003190408
3472	3	5.090919	-0.005	16.24375	0.003189427
3683	3	5.091248	-0.005	16.23875	0.003188445
717	1	5.092457	-0.0075	16.23125	0.003186972
5388	3	5.096223	-0.005	16.22625	0.003185991
2530	2	5.097566	-0.00625	16.22	0.003184763
6893	3	5.100161	-0.005	16.215	0.003183782
8360	3	5.10107	-0.005	16.21	0.0031828
4970	3	5.104592	-0.005	16.205	0.003181818
5525	3	5.105177	-0.005	16.2	0.003180836
5370	3	5.107483	-0.005	16.195	0.003179855
8994	4	5.113156	-0.005	16.19	0.003178873
7570	3	5.113192	-0.005	16.185	0.003177891
792	1	5.113252	-0.0075	16.1775	0.003176419
6763	3	5.116302	-0.005	16.1725	0.003175437
173	1	5.116831	-0.0075	16.165	0.003173964
6340	3	5.117328	-0.005	16.16	0.003172983
43	1	5.12156	-0.0075	16.1525	0.00317151
6335	3	5.122285	-0.005	16.1475	0.003170528
1696	1	5.123148	-0.0075	16.14	0.003169056
2724	2	5.124413	-0.00625	16.13375	0.003167828

2310	2	5.124779	-0.00625	16.1275	0.003166601
5656	3	5.125886	-0.005	16.1225	0.003165619
48	1	5.126095	-0.0075	16.115	0.003164147
2924	3	5.127477	-0.005	16.11	0.003163165
9830	4	5.129142	-0.005	16.105	0.003162183
1128	1	5.130981	-0.0075	16.0975	0.003160711
1755	1	5.13251	-0.0075	16.09	0.003159238
3993	3	5.132739	-0.005	16.085	0.003158256
7468	3	5.132813	-0.005	16.08	0.003157275
2439	2	5.133951	-0.00625	16.07375	0.003156048
7522	3	5.134329	-0.005	16.06875	0.003155066
9846	4	5.135436	-0.005	16.06375	0.003154084
1181	1	5.13578	-0.0075	16.05625	0.003152611
9561	4	5.136346	0.01	16.06625	0.003154575
2480	2	5.136394	-0.00625	16.06	0.003153348
2119	2	5.136826	-0.00625	16.05375	0.003152121
7878	3	5.137158	-0.005	16.04875	0.003151139
557	1	5.137238	-0.0075	16.04125	0.003149666
7829	3	5.138147	-0.005	16.03625	0.003148684
1536	1	5.141354	-0.0075	16.02875	0.003147212
9191	4	5.14542	-0.005	16.02375	0.00314623
825	1	5.146699	-0.0075	16.01625	0.003144758
1236	1	5.146892	-0.0075	16.00875	0.003143285
9481	4	5.146987	-0.005	16.00375	0.003142303
213	1	5.146992	-0.0075	15.99625	0.003140831
1020	1	5.147214	0.015	16.01125	0.003143776
2573	2	5.147369	-0.00625	16.005	0.003142549
4737	3	5.15178	-0.005	16	0.003141567
7729	3	5.152467	-0.005	15.995	0.003140585
1435	1	5.152504	-0.0075	15.9875	0.003139113
1209	1	5.153887	-0.0075	15.98	0.00313764
2015	2	5.154693	-0.00625	15.97375	0.003136413
7826	3	5.157029	-0.005	15.96875	0.003135431
796	1	5.162107	-0.0075	15.96125	0.003133958
7923	3	5.163834	0.01	15.97125	0.003135922
302	1	5.164097	-0.0075	15.96375	0.003134449
1928	2	5.164126	-0.00625	15.9575	0.003133222
2930	3	5.164243	-0.005	15.9525	0.00313224
3536	3	5.165811	-0.005	15.9475	0.003131259
8059	3	5.168234	-0.005	15.9425	0.003130277
722	1	5.168686	-0.0075	15.935	0.003128804
3420	3	5.169772	-0.005	15.93	0.003127823
5454	3	5.169871	-0.005	15.925	0.003126841
4303	3	5.17024	-0.005	15.92	0.003125859
2211	2	5.172222	-0.00625	15.91375	0.003124632
5920	3	5.172647	-0.005	15.90875	0.00312365
966	1	5.172753	-0.0075	15.90125	0.003122177
3023	3	5.175697	-0.005	15.89625	0.003121196
885	1	5.180944	-0.0075	15.88875	0.003119723
589	1	5.183003	-0.0075	15.88125	0.003118251
1564	1	5.186851	-0.0075	15.87375	0.003116778
8553	3	5.186949	-0.005	15.86875	0.003115796

2111	2	5.18812	-0.00625	15.8625	0.003114569
1075	1	5.190175	-0.0075	15.855	0.003113096
2215	2	5.191108	-0.00625	15.84875	0.003111869
5642	3	5.192991	-0.005	15.84375	0.003110887
5194	3	5.193575	-0.005	15.83875	0.003109906
1971	2	5.193834	-0.00625	15.8325	0.003108679
6143	3	5.1963	-0.005	15.8275	0.003107697
4182	3	5.197753	-0.005	15.8225	0.003106715
4592	3	5.200037	-0.005	15.8175	0.003105733
747	1	5.200964	-0.0075	15.81	0.003104261
2343	2	5.201356	-0.00625	15.80375	0.003103034
694	1	5.204862	-0.0075	15.79625	0.003101561
6468	3	5.207472	-0.005	15.79125	0.003100579
1624	1	5.211653	-0.0075	15.78375	0.003099107
1792	2	5.216434	-0.00625	15.7775	0.003097879
517	1	5.217125	-0.0075	15.77	0.003096407
418	1	5.217458	-0.0075	15.7625	0.003094934
7250	3	5.218251	-0.005	15.7575	0.003093952
2317	2	5.218803	-0.00625	15.75125	0.003092725
8401	3	5.219247	-0.005	15.74625	0.003091744
848	1	5.219532	-0.0075	15.73875	0.003090271
8461	3	5.220582	-0.005	15.73375	0.003089289
2606	2	5.222422	-0.00625	15.7275	0.003088062
3454	3	5.222752	-0.005	15.7225	0.00308708
2876	2	5.223986	-0.00625	15.71625	0.003085853
3610	3	5.225798	-0.005	15.71125	0.003084871
71	1	5.226986	-0.0075	15.70375	0.003083399
6403	3	5.227104	-0.005	15.69875	0.003082417
6477	3	5.229027	-0.005	15.69375	0.003081435
1374	1	5.22967	-0.0075	15.68625	0.003079963
4209	3	5.230195	-0.005	15.68125	0.003078981
1693	1	5.231764	-0.0075	15.67375	0.003077508
8883	4	5.233468	-0.005	15.66875	0.003076527
9561	4	5.234178	-0.005	15.66375	0.003075545
1333	1	5.236627	-0.0075	15.65625	0.003074072
8509	3	5.23803	-0.005	15.65125	0.003073091
159	1	5.238299	-0.0075	15.64375	0.003071618
4718	3	5.238881	-0.005	15.63875	0.003070636
681	1	5.239457	-0.0075	15.63125	0.003069164
514	1	5.242045	-0.0075	15.62375	0.003067691
8087	3	5.2434	-0.005	15.61875	0.003066709
2011	2	5.244161	-0.00625	15.6125	0.003065482
2663	2	5.244595	-0.00625	15.60625	0.003064255
1254	1	5.244672	-0.0075	15.59875	0.003062782
1618	1	5.244827	-0.0075	15.59125	0.00306131
5908	3	5.245898	-0.005	15.58625	0.003060328
3162	3	5.245928	-0.005	15.58125	0.003059346
8086	3	5.246643	-0.005	15.57625	0.003058364
440	1	5.250102	-0.0075	15.56875	0.003056892
3168	3	5.250532	-0.005	15.56375	0.00305591
752	1	5.251308	-0.0075	15.55625	0.003054437
1432	1	5.252447	-0.0075	15.54875	0.003052965

7051	3	5.253086	-0.005	15.54375	0.003051983
1537	1	5.254485	-0.0075	15.53625	0.003050511
8463	3	5.257068	-0.005	15.53125	0.003049529
7049	3	5.258533	-0.005	15.52625	0.003048547
1191	1	5.259432	-0.0075	15.51875	0.003047074
6528	3	5.262037	-0.005	15.51375	0.003046093
3874	3	5.262726	-0.005	15.50875	0.003045111
1092	1	5.263708	-0.0075	15.50125	0.003043638
6078	3	5.264729	-0.005	15.49625	0.003042657
7811	3	5.265027	-0.005	15.49125	0.003041675
2714	2	5.267844	-0.00625	15.485	0.003040448
3198	3	5.272279	-0.005	15.48	0.003039466
6869	3	5.272658	-0.005	15.475	0.003038484
6206	3	5.274661	-0.005	15.47	0.003037502
3785	3	5.275127	-0.005	15.465	0.003036521
970	1	5.275365	-0.0075	15.4575	0.003035048
453	1	5.278992	-0.0075	15.45	0.003033575
272	1	5.284201	-0.0075	15.4425	0.003032103
2037	2	5.284594	-0.00625	15.43625	0.003030876
422	1	5.285387	-0.0075	15.42875	0.003029403
2889	2	5.285437	-0.00625	15.4225	0.003028176
8665	3	5.286527	-0.005	15.4175	0.003027194
1120	1	5.288081	-0.0075	15.41	0.003025722
8941	4	5.288951	-0.005	15.405	0.00302474
6762	3	5.289311	-0.005	15.4	0.003023758
3413	3	5.289576	-0.005	15.395	0.003022776
4891	3	5.290102	-0.005	15.39	0.003021795
625	1	5.291322	-0.0075	15.3825	0.003020322
334	1	5.296337	-0.0075	15.375	0.003018849
1423	1	5.297818	-0.0075	15.3675	0.003017377
8224	3	5.298289	-0.005	15.3625	0.003016395
4973	3	5.298933	-0.005	15.3575	0.003015413
2843	2	5.299871	-0.00625	15.35125	0.003014186
7265	3	5.301775	-0.005	15.34625	0.003013204
7602	3	5.302509	-0.005	15.34125	0.003012223
4507	3	5.302712	-0.005	15.33625	0.003011241
873	1	5.307058	-0.0075	15.32875	0.003009768
384	1	5.309398	-0.0075	15.32125	0.003008296
4386	3	5.310927	0.01	15.33125	0.003010259
8375	3	5.315122	-0.005	15.32625	0.003009277
8160	3	5.315243	-0.005	15.32125	0.003008296
4213	3	5.315309	-0.005	15.31625	0.003007314
403	1	5.317568	-0.0075	15.30875	0.003005841
393	1	5.319997	-0.0075	15.30125	0.003004369
4280	3	5.321068	-0.005	15.29625	0.003003387
1251	1	5.322246	-0.0075	15.28875	0.003001914
3174	3	5.324696	-0.005	15.28375	0.003000933
5282	3	5.325707	-0.005	15.27875	0.002999951
9341	4	5.327318	-0.005	15.27375	0.002998969
816	1	5.328367	-0.0075	15.26625	0.002997497
6025	3	5.332188	-0.005	15.26125	0.002996515
1353	1	5.333414	-0.0075	15.25375	0.002995042

8440	3	5.335065	-0.005	15.24875	0.00299406
9571	4	5.335699	-0.005	15.24375	0.002993079
2240	2	5.335962	-0.00625	15.2375	0.002991852
1865	2	5.339419	-0.00625	15.23125	0.002990624
2131	2	5.339925	-0.00625	15.225	0.002989397
3105	3	5.339992	-0.005	15.22	0.002988415
1921	2	5.341358	-0.00625	15.21375	0.002987188
8222	3	5.342107	-0.005	15.20875	0.002986207
5714	3	5.3457	-0.005	15.20375	0.002985225
7686	3	5.346414	0.01	15.21375	0.002987188
8573	3	5.346803	-0.005	15.20875	0.002986207
1754	1	5.347306	-0.0075	15.20125	0.002984734
354	1	5.349737	-0.0075	15.19375	0.002983261
4947	3	5.350049	-0.005	15.18875	0.00298228
1357	1	5.350779	-0.0075	15.18125	0.002980807
5992	3	5.351724	-0.005	15.17625	0.002979825
2482	2	5.353919	-0.00625	15.17	0.002978598
3683	3	5.354167	-0.005	15.165	0.002977616
5869	3	5.355203	-0.005	15.16	0.002976635
1989	2	5.355868	-0.00625	15.15375	0.002975407
563	1	5.356771	-0.0075	15.14625	0.002973935
4667	3	5.35783	-0.005	15.14125	0.002972953
2168	2	5.359357	-0.00625	15.135	0.002971726
4184	3	5.361553	-0.005	15.13	0.002970744
7491	3	5.36209	-0.005	15.125	0.002969762
2184	2	5.362811	-0.00625	15.11875	0.002968535
206	1	5.362828	0.015	15.13375	0.00297148
2621	2	5.363764	-0.00625	15.1275	0.002970253
8359	3	5.364514	-0.005	15.1225	0.002969272
6011	3	5.364554	-0.005	15.1175	0.00296829
9184	4	5.365578	-0.005	15.1125	0.002967308
5577	3	5.365893	-0.005	15.1075	0.002966326
798	1	5.367135	-0.0075	15.1	0.002964854
72	1	5.367574	-0.0075	15.0925	0.002963381
2075	2	5.368313	-0.00625	15.08625	0.002962154
8376	3	5.369253	-0.005	15.08125	0.002961172
571	1	5.369931	-0.0075	15.07375	0.0029597
90	1	5.37027	-0.0075	15.06625	0.002958227
98	1	5.372186	-0.0075	15.05875	0.002956754
3919	3	5.372353	-0.005	15.05375	0.002955773
6311	3	5.380339	-0.005	15.04875	0.002954791
2862	2	5.380519	-0.00625	15.0425	0.002953564
1226	1	5.384081	-0.0075	15.035	0.002952091
2086	2	5.384435	-0.00625	15.02875	0.002950864
4731	3	5.38549	0.01	15.03875	0.002952827
7089	3	5.386323	-0.005	15.03375	0.002951846
4838	3	5.386628	0.01	15.04375	0.002953809
2996	3	5.388109	-0.005	15.03875	0.002952827
6049	3	5.391665	-0.005	15.03375	0.002951846
1476	1	5.391852	-0.0075	15.02625	0.002950373
888	1	5.39498	-0.0075	15.01875	0.0029489
6491	3	5.397429	-0.005	15.01375	0.002947919

1178	1	5.399979	-0.0075	15.00625	0.002946446
451	1	5.400112	-0.0075	14.99875	0.002944973
1521	1	5.402703	-0.0075	14.99125	0.002943501
8433	3	5.40313	-0.005	14.98625	0.002942519
8542	3	5.403281	-0.005	14.98125	0.002941537
7637	3	5.406532	-0.005	14.97625	0.002940556
4625	3	5.406732	-0.005	14.97125	0.002939574
4315	3	5.407422	-0.005	14.96625	0.002938592
3442	3	5.407901	-0.005	14.96125	0.00293761
3127	3	5.407967	-0.005	14.95625	0.002936629
3863	3	5.411392	0.01	14.96625	0.002938592
488	1	5.411465	-0.0075	14.95875	0.00293712
3820	3	5.413306	-0.005	14.95375	0.002936138
359	1	5.415782	-0.0075	14.94625	0.002934665
8182	3	5.416793	-0.005	14.94125	0.002933683
2211	2	5.420833	-0.00625	14.935	0.002932456
6053	3	5.421356	-0.005	14.93	0.002931475
2134	2	5.422434	-0.00625	14.92375	0.002930247
61	1	5.424039	-0.0075	14.91625	0.002928775
3100	3	5.424602	-0.005	14.91125	0.002927793
546	1	5.425101	-0.0075	14.90375	0.00292632
4125	3	5.425533	-0.005	14.89875	0.002925339
659	1	5.425603	-0.0075	14.89125	0.002923866
802	1	5.42561	-0.0075	14.88375	0.002922393
8115	3	5.427898	-0.005	14.87875	0.002921412
5927	3	5.428055	-0.005	14.87375	0.00292043
283	1	5.428437	-0.0075	14.86625	0.002918957
8485	3	5.428957	-0.005	14.86125	0.002917976
6068	3	5.43116	-0.005	14.85625	0.002916994
3848	3	5.43151	-0.005	14.85125	0.002916012
1569	1	5.432479	-0.0075	14.84375	0.00291454
6998	3	5.432648	-0.005	14.83875	0.002913558
5847	3	5.432945	-0.005	14.83375	0.002912576
829	1	5.433034	-0.0075	14.82625	0.002911103
5840	3	5.435106	-0.005	14.82125	0.002910122
2884	2	5.435504	-0.00625	14.815	0.002908895
2064	2	5.435642	-0.00625	14.80875	0.002907667
547	1	5.438669	-0.0075	14.80125	0.002906195
7226	3	5.438737	-0.005	14.79625	0.002905213
564	1	5.439197	-0.0075	14.78875	0.00290374
818	1	5.445199	-0.0075	14.78125	0.002902268
2013	2	5.445207	-0.00625	14.775	0.002901041
4305	3	5.445519	-0.005	14.77	0.002900059
4057	3	5.44666	-0.005	14.765	0.002899077
6792	3	5.44677	-0.005	14.76	0.002898095
6231	3	5.449354	-0.005	14.755	0.002897114
5181	3	5.449793	-0.005	14.75	0.002896132
7030	3	5.450682	-0.005	14.745	0.00289515
1863	2	5.452235	-0.00625	14.73875	0.002893923
2473	2	5.457707	-0.00625	14.7325	0.002892696
7002	3	5.459932	-0.005	14.7275	0.002891714
2029	2	5.459971	-0.00625	14.72125	0.002890487

7394	3	5.462792	-0.005	14.71625	0.002889505
2193	2	5.464537	-0.00625	14.71	0.002888278
6999	3	5.466477	0.01	14.72	0.002890242
2299	2	5.46819	-0.00625	14.71375	0.002889014
1626	1	5.469089	-0.0075	14.70625	0.002887542
5877	3	5.47097	-0.005	14.70125	0.00288656
8289	3	5.471239	-0.005	14.69625	0.002885578
7518	3	5.474449	-0.005	14.69125	0.002884597
7788	3	5.478566	-0.005	14.68625	0.002883615
2702	2	5.479003	-0.00625	14.68	0.002882388
3043	3	5.48313	-0.005	14.675	0.002881406
9335	4	5.483949	-0.005	14.67	0.002880424
8632	3	5.485193	-0.005	14.665	0.002879442
8623	3	5.486834	-0.005	14.66	0.002878461
5883	3	5.488373	-0.005	14.655	0.002877479
221	1	5.488616	-0.0075	14.6475	0.002876006
2745	2	5.488682	0.0125	14.66	0.002878461
2595	2	5.490021	-0.00625	14.65375	0.002877233
5018	3	5.491155	-0.005	14.64875	0.002876252
6436	3	5.491192	-0.005	14.64375	0.00287527
8623	3	5.491918	-0.005	14.63875	0.002874288
423	1	5.492523	-0.0075	14.63125	0.002872816
7846	3	5.493323	-0.005	14.62625	0.002871834
6265	3	5.495875	-0.005	14.62125	0.002870852
6216	3	5.497661	-0.005	14.61625	0.00286987
3585	3	5.497663	-0.005	14.61125	0.002868889
6394	3	5.498129	-0.005	14.60625	0.002867907
4255	3	5.498269	-0.005	14.60125	0.002866925
6559	3	5.501681	-0.005	14.59625	0.002865943
1182	1	5.502494	-0.0075	14.58875	0.002864471
2207	2	5.503777	0.0125	14.60125	0.002866925
5320	3	5.50488	0.01	14.61125	0.002868889
2647	2	5.505659	-0.00625	14.605	0.002867661
5624	3	5.506279	-0.005	14.6	0.00286668
845	1	5.5086	-0.0075	14.5925	0.002865207
1601	1	5.51107	-0.0075	14.585	0.002863735
3032	3	5.511363	-0.005	14.58	0.002862753
643	1	5.51194	-0.0075	14.5725	0.00286128
4495	3	5.516709	-0.005	14.5675	0.002860298
5756	3	5.517467	-0.005	14.5625	0.002859317
2805	2	5.517614	-0.00625	14.55625	0.00285809
6083	3	5.518563	-0.005	14.55125	0.002857108
1453	1	5.521461	0.015	14.56625	0.002860053
7458	3	5.522398	-0.005	14.56125	0.002859071
349	1	5.523892	-0.0075	14.55375	0.002857599
605	1	5.523936	-0.0075	14.54625	0.002856126
3630	3	5.527184	-0.005	14.54125	0.002855144
2350	2	5.528342	-0.00625	14.535	0.002853917
2637	2	5.53054	-0.00625	14.52875	0.00285269
7003	3	5.531551	-0.005	14.52375	0.002851708
3855	3	5.532955	-0.005	14.51875	0.002850726
2300	2	5.533305	-0.00625	14.5125	0.002849499

3854	3	5.533818	-0.005	14.5075	0.002848518
303	1	5.533919	-0.0075	14.5	0.002847045
3820	3	5.537045	-0.005	14.495	0.002846063
2457	2	5.53854	-0.00625	14.48875	0.002844836
1201	1	5.541778	-0.0075	14.48125	0.002843363
458	1	5.544134	-0.0075	14.47375	0.002841891
6116	3	5.544345	-0.005	14.46875	0.002840909
1223	1	5.545393	-0.0075	14.46125	0.002839436
1979	2	5.546673	-0.00625	14.455	0.002838209
5910	3	5.54868	-0.005	14.45	0.002837228
3916	3	5.548832	-0.005	14.445	0.002836246
1072	1	5.550516	-0.0075	14.4375	0.002834773
6700	3	5.551481	-0.005	14.4325	0.002833791
440	1	5.552858	-0.0075	14.425	0.002832319
1915	2	5.553493	-0.00625	14.41875	0.002831092
4858	3	5.557057	-0.005	14.41375	0.00283011
2464	2	5.55748	-0.00625	14.4075	0.002828883
6368	3	5.557485	-0.005	14.4025	0.002827901
8083	3	5.558033	-0.005	14.3975	0.002826919
8084	3	5.558239	-0.005	14.3925	0.002825938
5800	3	5.559155	-0.005	14.3875	0.002824956
1270	1	5.562111	-0.0075	14.38	0.002823483
3349	3	5.564179	-0.005	14.375	0.002822501
102	1	5.564709	-0.0075	14.3675	0.002821029
644	1	5.565718	0.015	14.3825	0.002823974
2749	2	5.56944	0.0125	14.395	0.002826428
6835	3	5.569613	-0.005	14.39	0.002825447
8696	3	5.570149	-0.005	14.385	0.002824465
822	1	5.570896	-0.0075	14.3775	0.002822992
73	1	5.572818	-0.0075	14.37	0.00282152
2608	2	5.57409	-0.00625	14.36375	0.002820293
1329	1	5.575377	-0.0075	14.35625	0.00281882
1850	2	5.575393	-0.00625	14.35	0.002817593
2159	2	5.576271	-0.00625	14.34375	0.002816366
3206	3	5.576517	-0.005	14.33875	0.002815384
238	1	5.584524	-0.0075	14.33125	0.002813911
454	1	5.58511	-0.0075	14.32375	0.002812439
5354	3	5.588106	-0.005	14.31875	0.002811457
1134	1	5.598478	-0.0075	14.31125	0.002809984
1729	1	5.600704	-0.0075	14.30375	0.002808512
6922	3	5.601274	-0.005	14.29875	0.00280753
8742	3	5.605757	-0.005	14.29375	0.002806548
7164	3	5.606644	-0.005	14.28875	0.002805566
8296	3	5.610324	-0.005	14.28375	0.002804585
8713	3	5.613668	-0.005	14.27875	0.002803603
7540	3	5.61467	-0.005	14.27375	0.002802621
6377	3	5.615577	-0.005	14.26875	0.00280164
335	1	5.617078	-0.0075	14.26125	0.002800167
5470	3	5.617717	-0.005	14.25625	0.002799185
533	1	5.617725	-0.0075	14.24875	0.002797713
4948	3	5.618251	-0.005	14.24375	0.002796731
2748	2	5.618319	-0.00625	14.2375	0.002795504

4468	3	5.618543	-0.005	14.2325	0.002794522
6715	3	5.619959	0.01	14.2425	0.002796485
2202	2	5.620701	-0.00625	14.23625	0.002795258
3212	3	5.625741	-0.005	14.23125	0.002794276
7188	3	5.62752	-0.005	14.22625	0.002793295
7109	3	5.627807	-0.005	14.22125	0.002792313
4006	3	5.632659	-0.005	14.21625	0.002791331
7349	3	5.63504	-0.005	14.21125	0.002790349
815	1	5.635603	-0.0075	14.20375	0.002788877
267	1	5.637042	-0.0075	14.19625	0.002787404
2874	2	5.638033	-0.00625	14.19	0.002786177
7127	3	5.641018	-0.005	14.185	0.002785195
9716	4	5.642112	-0.005	14.18	0.002784214
5308	3	5.643641	-0.005	14.175	0.002783232
875	1	5.646205	-0.0075	14.1675	0.002781759
3320	3	5.649298	-0.005	14.1625	0.002780778
7727	3	5.649539	-0.005	14.1575	0.002779796
7157	3	5.652011	-0.005	14.1525	0.002778814
7447	3	5.653191	0.01	14.1625	0.002780778
9295	4	5.654847	-0.005	14.1575	0.002779796
5373	3	5.656331	-0.005	14.1525	0.002778814
4885	3	5.660365	0.01	14.1625	0.002780778
1701	1	5.66161	-0.0075	14.155	0.002779305
1453	1	5.662555	-0.0075	14.1475	0.002777832
801	1	5.664354	-0.0075	14.14	0.00277636
5278	3	5.665933	-0.005	14.135	0.002775378
5389	3	5.667097	-0.005	14.13	0.002774396
528	1	5.668254	-0.0075	14.1225	0.002772924
8004	3	5.672391	-0.005	14.1175	0.002771942
3730	3	5.672644	-0.005	14.1125	0.00277096
2170	2	5.673988	-0.00625	14.10625	0.002769733
2713	2	5.674418	-0.00625	14.1	0.002768506
909	1	5.676326	-0.0075	14.0925	0.002767033
4939	3	5.67812	-0.005	14.0875	0.002766051
1200	1	5.678545	-0.0075	14.08	0.002764579
7174	3	5.680621	-0.005	14.075	0.002763597
995	1	5.68143	-0.0075	14.0675	0.002762124
837	1	5.683963	-0.0075	14.06	0.002760652
3815	3	5.688691	-0.005	14.055	0.00275967
9632	4	5.689622	-0.005	14.05	0.002758688
8254	3	5.692577	-0.005	14.045	0.002757707
4731	3	5.693332	-0.005	14.04	0.002756725
9353	4	5.693806	-0.005	14.035	0.002755743
143	1	5.694325	-0.0075	14.0275	0.002754271
2321	2	5.695055	-0.00625	14.02125	0.002753043
3705	3	5.696282	-0.005	14.01625	0.002752062
1910	2	5.697153	-0.00625	14.01	0.002750834
6504	3	5.702318	-0.005	14.005	0.002749853
5302	3	5.703186	0.01	14.015	0.002751816
6141	3	5.712253	-0.005	14.01	0.002750834
2704	2	5.712877	-0.00625	14.00375	0.002749607
6759	3	5.714294	-0.005	13.99875	0.002748626

2680	2	5.715619	-0.00625	13.9925	0.002747398
6206	3	5.721848	-0.005	13.9875	0.002746417
766	1	5.722146	-0.0075	13.98	0.002744944
6999	3	5.722589	-0.005	13.975	0.002743962
7201	3	5.729214	-0.005	13.97	0.002742981
297	1	5.730327	-0.0075	13.9625	0.002741508
6753	3	5.730875	-0.005	13.9575	0.002740526
8232	3	5.732129	-0.005	13.9525	0.002739544
623	1	5.736358	-0.0075	13.945	0.002738072
7088	3	5.739137	-0.005	13.94	0.00273709
7012	3	5.74008	-0.005	13.935	0.002736108
2262	2	5.741365	-0.00625	13.92875	0.002734881
4100	3	5.74297	-0.005	13.92375	0.002733899
2088	2	5.744948	-0.00625	13.9175	0.002732672
6570	3	5.749782	-0.005	13.9125	0.002731691
206	1	5.751601	-0.0075	13.905	0.002730218
7162	3	5.756563	-0.005	13.9	0.002729236
7513	3	5.757219	-0.005	13.895	0.002728254
653	1	5.758518	-0.0075	13.8875	0.002726782
9132	4	5.762016	-0.005	13.8825	0.0027258
7045	3	5.762321	-0.005	13.8775	0.002724818
7923	3	5.765438	-0.005	13.8725	0.002723837
4494	3	5.765729	-0.005	13.8675	0.002722855
7273	3	5.767564	-0.005	13.8625	0.002721873
5213	3	5.769419	-0.005	13.8575	0.002720891
2623	2	5.769514	-0.00625	13.85125	0.002719664
1764	1	5.771047	-0.0075	13.84375	0.002718192
2851	2	5.772022	-0.00625	13.8375	0.002716964
2511	2	5.773691	-0.00625	13.83125	0.002715737
6581	3	5.775012	-0.005	13.82625	0.002714756
8915	4	5.777406	-0.005	13.82125	0.002713774
3599	3	5.779493	-0.005	13.81625	0.002712792
2636	2	5.782495	-0.00625	13.81	0.002711565
3704	3	5.782716	-0.005	13.805	0.002710583
3717	3	5.785355	-0.005	13.8	0.002709601
2588	2	5.790069	-0.00625	13.79375	0.002708374
1081	1	5.790408	-0.0075	13.78625	0.002706902
6090	3	5.794051	-0.005	13.78125	0.00270592
6869	3	5.797742	-0.005	13.77625	0.002704938
7996	3	5.798059	-0.005	13.77125	0.002703956
6888	3	5.799959	-0.005	13.76625	0.002702975
8392	3	5.799991	-0.005	13.76125	0.002701993
5869	3	5.801107	-0.005	13.75625	0.002701011
2168	2	5.801291	-0.00625	13.75	0.002699784
6460	3	5.802061	-0.005	13.745	0.002698802
662	1	5.804155	-0.0075	13.7375	0.00269733
4052	3	5.804889	-0.005	13.7325	0.002696348
2908	3	5.807927	-0.005	13.7275	0.002695366
2348	2	5.808913	-0.00625	13.72125	0.002694139
823	1	5.812768	-0.0075	13.71375	0.002692666
2590	2	5.81331	-0.00625	13.7075	0.002691439
5772	3	5.813388	-0.005	13.7025	0.002690457

298	1	5.81432	-0.0075	13.695	0.002688985
961	1	5.815526	-0.0075	13.6875	0.002687512
1199	1	5.818741	-0.0075	13.68	0.00268604
9835	4	5.820784	-0.005	13.675	0.002685058
1799	2	5.827693	-0.00625	13.66875	0.002683831
2644	2	5.83245	-0.00625	13.6625	0.002682604
1662	1	5.832453	-0.0075	13.655	0.002681131
1006	1	5.834764	-0.0075	13.6475	0.002679658
2136	2	5.835469	-0.00625	13.64125	0.002678431
2457	2	5.835583	-0.00625	13.635	0.002677204
4486	3	5.837711	-0.005	13.63	0.002676222
1317	1	5.840733	-0.0075	13.6225	0.00267475
3655	3	5.84131	-0.005	13.6175	0.002673768
2222	2	5.843873	-0.00625	13.61125	0.002672541
3333	3	5.844059	-0.005	13.60625	0.002671559
3168	3	5.846856	-0.005	13.60125	0.002670577
6539	3	5.847255	-0.005	13.59625	0.002669596
7971	3	5.847297	-0.005	13.59125	0.002668614
3934	3	5.848493	-0.005	13.58625	0.002667632
1587	1	5.849285	-0.0075	13.57875	0.002666159
6715	3	5.85164	-0.005	13.57375	0.002665178
9350	4	5.852626	-0.005	13.56875	0.002664196
7681	3	5.852726	-0.005	13.56375	0.002663214
377	1	5.853054	-0.0075	13.55625	0.002661742
488	1	5.853469	-0.0075	13.54875	0.002660269
2871	2	5.855855	-0.00625	13.5425	0.002659042
87	1	5.860292	-0.0075	13.535	0.002657569
2111	2	5.860726	-0.00625	13.52875	0.002656342
3127	3	5.862082	-0.005	13.52375	0.00265536
9387	4	5.863482	-0.005	13.51875	0.002654379
284	1	5.865284	-0.0075	13.51125	0.002652906
340	1	5.86746	-0.0075	13.50375	0.002651433
2886	2	5.867551	-0.00625	13.4975	0.002650206
5639	3	5.867668	-0.005	13.4925	0.002649224
2669	2	5.87157	-0.00625	13.48625	0.002647997
4380	3	5.873255	-0.005	13.48125	0.002647016
1707	1	5.873505	-0.0075	13.47375	0.002645543
1984	2	5.874222	-0.00625	13.4675	0.002644316
3348	3	5.875422	-0.005	13.4625	0.002643334
2750	2	5.876592	-0.00625	13.45625	0.002642107
7146	3	5.87799	-0.005	13.45125	0.002641125
1493	1	5.878048	-0.0075	13.44375	0.002639652
4785	3	5.881201	0.01	13.45375	0.002641616
4071	3	5.881962	-0.005	13.44875	0.002640634
3913	3	5.886301	-0.005	13.44375	0.002639652
9558	4	5.888253	-0.005	13.43875	0.002638671
6519	3	5.888395	-0.005	13.43375	0.002637689
3839	3	5.891136	-0.005	13.42875	0.002636707
3567	3	5.892422	-0.005	13.42375	0.002635726
2402	2	5.8929	-0.00625	13.4175	0.002634498
9576	4	5.896067	-0.005	13.4125	0.002633517
3564	3	5.898424	-0.005	13.4075	0.002632535

1683	1	5.89971	-0.0075	13.4	0.002631062
1881	2	5.899815	-0.00625	13.39375	0.002629835
2258	2	5.901264	-0.00625	13.3875	0.002628608
3622	3	5.902365	-0.005	13.3825	0.002627626
1196	1	5.903277	-0.0075	13.375	0.002626154
6827	3	5.904288	-0.005	13.37	0.002625172
3182	3	5.904911	-0.005	13.365	0.00262419
5489	3	5.905341	-0.005	13.36	0.002623208
7706	3	5.90615	-0.005	13.355	0.002622227
4569	3	5.906894	-0.005	13.35	0.002621245
397	1	5.90864	-0.0075	13.3425	0.002619772
8619	3	5.908666	-0.005	13.3375	0.00261879
2619	2	5.911846	-0.00625	13.33125	0.002617563
2882	2	5.917725	-0.00625	13.325	0.002616336
7099	3	5.919027	-0.005	13.32	0.002615354
2726	2	5.922332	-0.00625	13.31375	0.002614127
8465	3	5.92307	-0.005	13.30875	0.002613145
5055	3	5.923276	-0.005	13.30375	0.002612164
2162	2	5.923681	-0.00625	13.2975	0.002610937
1267	1	5.924253	-0.0075	13.29	0.002609464
6236	3	5.926709	-0.005	13.285	0.002608482
1002	1	5.928189	-0.0075	13.2775	0.00260701
7125	3	5.928687	-0.005	13.2725	0.002606028
2404	2	5.934591	-0.00625	13.26625	0.002604801
1313	1	5.93829	-0.0075	13.25875	0.002603328
357	1	5.939755	-0.0075	13.25125	0.002601855
6740	3	5.940543	-0.005	13.24625	0.002600874
4885	3	5.940852	-0.005	13.24125	0.002599892
1895	2	5.941808	-0.00625	13.235	0.002598665
8118	3	5.942633	-0.005	13.23	0.002597683
722	1	5.943155	-0.0075	13.2225	0.00259621
1237	1	5.944743	-0.0075	13.215	0.002594738
4269	3	5.945494	-0.005	13.21	0.002593756
1049	1	5.946683	-0.0075	13.2025	0.002592284
3848	3	5.948838	-0.005	13.1975	0.002591302
3668	3	5.949046	-0.005	13.1925	0.00259032
8713	3	5.949203	-0.005	13.1875	0.002589338
6199	3	5.949227	-0.005	13.1825	0.002588357
5142	3	5.952646	-0.005	13.1775	0.002587375
5041	3	5.953541	-0.005	13.1725	0.002586393
1931	2	5.955916	-0.00625	13.16625	0.002585166
767	1	5.957458	-0.0075	13.15875	0.002583693
9044	4	5.958759	-0.005	13.15375	0.002582712
2944	3	5.958794	-0.005	13.14875	0.00258173
6364	3	5.958878	-0.005	13.14375	0.002580748
921	1	5.961352	-0.0075	13.13625	0.002579275
7488	3	5.96177	-0.005	13.13125	0.002578294
9572	4	5.962579	-0.005	13.12625	0.002577312
2943	3	5.96268	-0.005	13.12125	0.00257633
5515	3	5.96393	-0.005	13.11625	0.002575349
3046	3	5.969895	-0.005	13.11125	0.002574367
6544	3	5.971813	-0.005	13.10625	0.002573385

803	1	5.974681	-0.0075	13.09875	0.002571912
1587	1	5.974904	-0.0075	13.09125	0.00257044
7843	3	5.976467	-0.005	13.08625	0.002569458
6858	3	5.985266	-0.005	13.08125	0.002568476
2294	2	5.989624	-0.00625	13.075	0.002567249
7107	3	5.98993	-0.005	13.07	0.002566267
8666	3	5.991935	-0.005	13.065	0.002565286
849	1	5.992608	-0.0075	13.0575	0.002563813
5908	3	5.995162	-0.005	13.0525	0.002562831
9770	4	5.995498	-0.005	13.0475	0.00256185
395	1	5.995533	-0.0075	13.04	0.002560377
213	1	6.000114	-0.0075	13.0325	0.002558904
21	1	6.000749	-0.0075	13.025	0.002557432
5465	3	6.001458	-0.005	13.02	0.00255645
1628	1	6.002033	-0.0075	13.0125	0.002554977
4946	3	6.002081	-0.005	13.0075	0.002553996
275	1	6.005481	0.015	13.0225	0.002556941
7864	3	6.007121	-0.005	13.0175	0.002555959
4785	3	6.008384	-0.005	13.0125	0.002554977
2781	2	6.009241	-0.00625	13.00625	0.00255375
9375	4	6.011754	-0.005	13.00125	0.002552769
7202	3	6.020305	-0.005	12.99625	0.002551787
5892	3	6.020552	-0.005	12.99125	0.002550805
6118	3	6.022463	-0.005	12.98625	0.002549823
5499	3	6.022787	-0.005	12.98125	0.002548842
4617	3	6.026117	-0.005	12.97625	0.00254786
3166	3	6.033026	-0.005	12.97125	0.002546878
5708	3	6.0384	-0.005	12.96625	0.002545896
1383	1	6.038795	-0.0075	12.95875	0.002544424
4386	3	6.039953	-0.005	12.95375	0.002543442
1364	1	6.042078	-0.0075	12.94625	0.002541969
7317	3	6.042222	-0.005	12.94125	0.002540988
3959	3	6.044283	-0.005	12.93625	0.002540006
2709	2	6.044875	-0.00625	12.93	0.002538779
7071	3	6.048923	-0.005	12.925	0.002537797
2112	2	6.050628	-0.00625	12.91875	0.00253657
2652	2	6.05065	-0.00625	12.9125	0.002535343
452	1	6.051789	-0.0075	12.905	0.00253387
6268	3	6.054095	-0.005	12.9	0.002532888
5561	3	6.054441	-0.005	12.895	0.002531907
5374	3	6.056299	-0.005	12.89	0.002530925
6829	3	6.056528	-0.005	12.885	0.002529943
235	1	6.058495	-0.0075	12.8775	0.00252847
6594	3	6.059806	-0.005	12.8725	0.002527489
9161	4	6.061791	-0.005	12.8675	0.002526507
5458	3	6.06626	-0.005	12.8625	0.002525525
1634	1	6.06886	-0.0075	12.855	0.002524053
4712	3	6.07031	-0.005	12.85	0.002523071
2328	2	6.071476	-0.00625	12.84375	0.002521844
2467	2	6.07185	-0.00625	12.8375	0.002520617
85	1	6.072514	-0.0075	12.83	0.002519144
5271	3	6.07847	-0.005	12.825	0.002518162

8419	3	6.0806	-0.005	12.82	0.00251718
6154	3	6.081081	-0.005	12.815	0.002516199
2145	2	6.081454	-0.00625	12.80875	0.002514972
728	1	6.082304	-0.0075	12.80125	0.002513499
2405	2	6.082451	-0.00625	12.795	0.002512272
4875	3	6.082653	-0.005	12.79	0.00251129
1602	1	6.08469	-0.0075	12.7825	0.002509817
4446	3	6.085054	-0.005	12.7775	0.002508836
1546	1	6.08544	-0.0075	12.77	0.002507363
7983	3	6.090319	-0.005	12.765	0.002506381
168	1	6.090693	-0.0075	12.7575	0.002504909
5147	3	6.091541	-0.005	12.7525	0.002503927
6381	3	6.091958	-0.005	12.7475	0.002502945
106	1	6.092988	-0.0075	12.74	0.002501473
2888	2	6.093509	-0.00625	12.73375	0.002500245
113	1	6.094748	-0.0075	12.72625	0.002498773
2301	2	6.09732	-0.00625	12.72	0.002497546
6178	3	6.097636	-0.005	12.715	0.002496564
3558	3	6.098277	-0.005	12.71	0.002495582
5170	3	6.098443	-0.005	12.705	0.0024946
6060	3	6.098555	-0.005	12.7	0.002493619
9857	4	6.101203	-0.005	12.695	0.002492637
663	1	6.101411	-0.0075	12.6875	0.002491164
9463	4	6.105514	-0.005	12.6825	0.002490183
1648	1	6.105784	-0.0075	12.675	0.00248871
1873	2	6.113465	-0.00625	12.66875	0.002487483
2818	2	6.114637	-0.00625	12.6625	0.002486256
5642	3	6.11655	-0.005	12.6575	0.002485274
817	1	6.117168	-0.0075	12.65	0.002483801
1288	1	6.117595	-0.0075	12.6425	0.002482329
5981	3	6.119612	-0.005	12.6375	0.002481347
3193	3	6.120505	-0.005	12.6325	0.002480365
1529	1	6.122914	-0.0075	12.625	0.002478893
400	1	6.123684	-0.0075	12.6175	0.00247742
8446	3	6.124472	-0.005	12.6125	0.002476438
2921	3	6.125251	-0.005	12.6075	0.002475457
7447	3	6.125962	-0.005	12.6025	0.002474475
6730	3	6.128936	-0.005	12.5975	0.002473493
1	1	6.1293	-0.0075	12.59	0.00247202
7715	3	6.130429	-0.005	12.585	0.002471039
4714	3	6.131697	-0.005	12.58	0.002470057
5153	3	6.132369	-0.005	12.575	0.002469075
6580	3	6.132936	-0.005	12.57	0.002468093
5418	3	6.135482	-0.005	12.565	0.002467112
5359	3	6.137552	0.01	12.575	0.002469075
6569	3	6.150436	-0.005	12.57	0.002468093
8062	3	6.153664	-0.005	12.565	0.002467112
240	1	6.155051	-0.0075	12.5575	0.002465639
7168	3	6.155357	-0.005	12.5525	0.002464657
8078	3	6.165474	-0.005	12.5475	0.002463676
4838	3	6.166049	-0.005	12.5425	0.002462694
3708	3	6.166897	-0.005	12.5375	0.002461712

6964	3	6.167284	-0.005	12.5325	0.00246073
2254	2	6.168194	-0.00625	12.52625	0.002459503
1916	2	6.168757	-0.00625	12.52	0.002458276
1466	1	6.168815	-0.0075	12.5125	0.002456803
9953	4	6.16892	-0.005	12.5075	0.002455822
6964	3	6.169068	-0.005	12.5025	0.00245484
1849	2	6.17102	-0.00625	12.49625	0.002453613
8561	3	6.171392	-0.005	12.49125	0.002452631
5652	3	6.174297	-0.005	12.48625	0.002451649
66	1	6.17596	-0.0075	12.47875	0.002450177
3746	3	6.181586	-0.005	12.47375	0.002449195
9019	4	6.185855	-0.005	12.46875	0.002448213
8792	4	6.186239	-0.005	12.46375	0.002447231
4853	3	6.192698	-0.005	12.45875	0.00244625
477	1	6.194463	-0.0075	12.45125	0.002444777
5456	3	6.196292	-0.005	12.44625	0.002443795
391	1	6.197911	-0.0075	12.43875	0.002442323
2570	2	6.200636	-0.00625	12.4325	0.002441096
2237	2	6.201646	-0.00625	12.42625	0.002439868
1071	1	6.206692	-0.0075	12.41875	0.002438396
1837	2	6.209207	-0.00625	12.4125	0.002437169
3063	3	6.217562	-0.005	12.4075	0.002436187
7405	3	6.217872	-0.005	12.4025	0.002435205
2724	2	6.217988	-0.00625	12.39625	0.002433978
2118	2	6.218217	-0.00625	12.39	0.002432751
1731	1	6.221566	-0.0075	12.3825	0.002431278
8275	3	6.222471	-0.005	12.3775	0.002430296
3301	3	6.22364	-0.005	12.3725	0.002429315
1960	2	6.225127	-0.00625	12.36625	0.002428088
1722	1	6.225201	-0.0075	12.35875	0.002426615
6484	3	6.226657	-0.005	12.35375	0.002425633
7793	3	6.230016	-0.005	12.34875	0.002424651
8095	3	6.232854	-0.005	12.34375	0.00242367
1028	1	6.233315	-0.0075	12.33625	0.002422197
4903	3	6.237571	-0.005	12.33125	0.002421215
5459	3	6.238419	-0.005	12.32625	0.002420234
2539	2	6.240688	-0.00625	12.32	0.002419006
9082	4	6.248853	-0.005	12.315	0.002418025
3100	3	6.249198	-0.005	12.31	0.002417043
2804	2	6.249705	-0.00625	12.30375	0.002415816
1034	1	6.251604	-0.0075	12.29625	0.002414343
7862	3	6.252382	-0.005	12.29125	0.002413361
3658	3	6.252606	-0.005	12.28625	0.00241238
811	1	6.258171	-0.0075	12.27875	0.002410907
6367	3	6.258352	-0.005	12.27375	0.002409925
3450	3	6.260551	-0.005	12.26875	0.002408944
2753	2	6.268032	-0.00625	12.2625	0.002407716
1035	1	6.268486	-0.0075	12.255	0.002406244
3690	3	6.269471	-0.005	12.25	0.002405262
6663	3	6.269675	-0.005	12.245	0.00240428
5823	3	6.271271	-0.005	12.24	0.002403299
5023	3	6.272214	-0.005	12.235	0.002402317

774	1	6.274093	-0.0075	12.2275	0.002400844
182	1	6.274365	-0.0075	12.22	0.002399372
8683	3	6.275999	-0.005	12.215	0.00239839
7320	3	6.276473	-0.005	12.21	0.002397408
1551	1	6.279895	-0.0075	12.2025	0.002395936
6170	3	6.28469	-0.005	12.1975	0.002394954
7763	3	6.284731	-0.005	12.1925	0.002393972
1610	1	6.285214	-0.0075	12.185	0.0023925
1151	1	6.285468	-0.0075	12.1775	0.002391027
3334	3	6.286444	-0.005	12.1725	0.002390045
13	1	6.289114	-0.0075	12.165	0.002388573
9344	4	6.290218	-0.005	12.16	0.002387591
3098	3	6.294264	-0.005	12.155	0.002386609
8174	3	6.296635	-0.005	12.15	0.002385627
7467	3	6.298477	-0.005	12.145	0.002384646
9090	4	6.300052	-0.005	12.14	0.002383664
1669	1	6.303712	-0.0075	12.1325	0.002382191
7370	3	6.305116	-0.005	12.1275	0.00238121
4382	3	6.305138	-0.005	12.1225	0.002380228
1838	2	6.307935	-0.00625	12.11625	0.002379001
4044	3	6.308646	-0.005	12.11125	0.002378019
5320	3	6.309857	-0.005	12.10625	0.002377037
4130	3	6.309911	-0.005	12.10125	0.002376055
6299	3	6.312071	-0.005	12.09625	0.002375074
7954	3	6.313858	-0.005	12.09125	0.002374092
5579	3	6.314197	-0.005	12.08625	0.00237311
2175	2	6.318234	-0.00625	12.08	0.002371883
7483	3	6.319582	-0.005	12.075	0.002370901
6092	3	6.322667	-0.005	12.07	0.002369919
6396	3	6.328474	-0.005	12.065	0.002368938
6048	3	6.329469	-0.005	12.06	0.002367956
2010	2	6.330045	-0.00625	12.05375	0.002366729
5524	3	6.330849	-0.005	12.04875	0.002365747
177	1	6.332755	-0.0075	12.04125	0.002364274
9865	4	6.334263	-0.005	12.03625	0.002363293
1706	1	6.334541	-0.0075	12.02875	0.00236182
6982	3	6.33517	-0.005	12.02375	0.002360838
1792	2	6.33636	-0.00625	12.0175	0.002359611
4217	3	6.341452	-0.005	12.0125	0.002358629
542	1	6.343246	-0.0075	12.005	0.002357157
3192	3	6.345556	-0.005	12	0.002356175
6244	3	6.34864	-0.005	11.995	0.002355193
9353	4	6.348902	-0.005	11.99	0.002354212
6302	3	6.349272	-0.005	11.985	0.00235323
2782	2	6.349559	-0.00625	11.97875	0.002352003
8305	3	6.350411	-0.005	11.97375	0.002351021
416	1	6.351054	-0.0075	11.96625	0.002349548
3916	3	6.351964	-0.005	11.96125	0.002348567
8856	4	6.351987	-0.005	11.95625	0.002347585
2210	2	6.353727	-0.00625	11.95	0.002346358
2701	2	6.357606	-0.00625	11.94375	0.002345131
3129	3	6.358766	-0.005	11.93875	0.002344149

8070	3	6.362419	-0.005	11.93375	0.002343167
1894	2	6.364283	-0.00625	11.9275	0.00234194
330	1	6.365058	-0.0075	11.92	0.002340467
674	1	6.367515	-0.0075	11.9125	0.002338995
1806	2	6.369657	-0.00625	11.90625	0.002337768
8090	3	6.370994	-0.005	11.90125	0.002336786
6158	3	6.372662	-0.005	11.89625	0.002335804
3863	3	6.37451	-0.005	11.89125	0.002334822
3202	3	6.375815	-0.005	11.88625	0.002333841
8986	4	6.378712	-0.005	11.88125	0.002332859
753	1	6.380489	-0.0075	11.87375	0.002331386
7594	3	6.383739	-0.005	11.86875	0.002330404
5678	3	6.385117	-0.005	11.86375	0.002329423
2232	2	6.388921	-0.00625	11.8575	0.002328196
3394	3	6.389726	-0.005	11.8525	0.002327214
976	1	6.391057	-0.0075	11.845	0.002325741
604	1	6.392785	-0.0075	11.8375	0.002324269
7100	3	6.392827	-0.005	11.8325	0.002323287
1376	1	6.394284	-0.0075	11.825	0.002321814
243	1	6.396111	-0.0075	11.8175	0.002320342
7969	3	6.396509	-0.005	11.8125	0.00231936
3248	3	6.399321	-0.005	11.8075	0.002318378
181	1	6.403112	-0.0075	11.8	0.002316906
2668	2	6.407076	-0.00625	11.79375	0.002315678
2143	2	6.410201	-0.00625	11.7875	0.002314451
4732	3	6.412913	-0.005	11.7825	0.002313469
8907	4	6.413284	-0.005	11.7775	0.002312488
869	1	6.413425	-0.0075	11.77	0.002311015
1191	1	6.414311	-0.0075	11.7625	0.002309543
426	1	6.414725	-0.0075	11.755	0.00230807
222	1	6.41475	-0.0075	11.7475	0.002306597
3787	3	6.416618	-0.005	11.7425	0.002305616
2319	2	6.417537	-0.00625	11.73625	0.002304388
4766	3	6.418311	-0.005	11.73125	0.002303407
6600	3	6.418537	-0.005	11.72625	0.002302425
8449	3	6.420065	-0.005	11.72125	0.002301443
4590	3	6.420708	-0.005	11.71625	0.002300461
868	1	6.427432	-0.0075	11.70875	0.002298989
2450	2	6.42778	-0.00625	11.7025	0.002297762
1272	1	6.428144	-0.0075	11.695	0.002296289
1642	1	6.432092	-0.0075	11.6875	0.002294816
2251	2	6.436	-0.00625	11.68125	0.002293589
1920	2	6.437049	-0.00625	11.675	0.002292362
4175	3	6.43873	-0.005	11.67	0.00229138
8376	3	6.440425	-0.005	11.665	0.002290399
1062	1	6.441481	-0.0075	11.6575	0.002288926
1879	2	6.441562	-0.00625	11.65125	0.002287699
1739	1	6.444357	-0.0075	11.64375	0.002286226
858	1	6.444934	-0.0075	11.63625	0.002284754
298	1	6.446639	-0.0075	11.62875	0.002283281
125	1	6.447978	-0.0075	11.62125	0.002281808
2793	2	6.449299	-0.00625	11.615	0.002280581

1004	1	6.450815	-0.0075	11.6075	0.002279109
5359	3	6.453525	-0.005	11.6025	0.002278127
580	1	6.454139	-0.0075	11.595	0.002276654
4934	3	6.454534	-0.005	11.59	0.002275672
697	1	6.454759	-0.0075	11.5825	0.0022742
8530	3	6.45492	-0.005	11.5775	0.002273218
716	1	6.455837	-0.0075	11.57	0.002271746
2071	2	6.456529	-0.00625	11.56375	0.002270518
338	1	6.457051	-0.0075	11.55625	0.002269046
1609	1	6.457353	-0.0075	11.54875	0.002267573
7950	3	6.46018	-0.005	11.54375	0.002266591
8845	4	6.465556	-0.005	11.53875	0.00226561
3116	3	6.46713	-0.005	11.53375	0.002264628
7671	3	6.471995	-0.005	11.52875	0.002263646
753	1	6.477686	-0.0075	11.52125	0.002262174
2522	2	6.480909	-0.00625	11.515	0.002260946
7726	3	6.481061	-0.005	11.51	0.002259965
9343	4	6.481669	-0.005	11.505	0.002258983
1303	1	6.482657	-0.0075	11.4975	0.00225751
1148	1	6.482691	-0.0075	11.49	0.002256038
591	1	6.482815	-0.0075	11.4825	0.002254565
3088	3	6.484258	-0.005	11.4775	0.002253583
2976	3	6.48534	-0.005	11.4725	0.002252602
1408	1	6.486792	-0.0075	11.465	0.002251129
1453	1	6.487205	-0.0075	11.4575	0.002249656
7009	3	6.490272	-0.005	11.4525	0.002248675
2530	2	6.494238	-0.00625	11.44625	0.002247447
2896	2	6.495358	-0.00625	11.44	0.00224622
57	1	6.49837	-0.0075	11.4325	0.002244748
2643	2	6.500169	-0.00625	11.42625	0.002243521
6361	3	6.500427	-0.005	11.42125	0.002242539
6602	3	6.501452	-0.005	11.41625	0.002241557
6103	3	6.502043	-0.005	11.41125	0.002240575
6455	3	6.507852	-0.005	11.40625	0.002239594
8316	3	6.509792	-0.005	11.40125	0.002238612
1333	1	6.513539	-0.0075	11.39375	0.002237139
203	1	6.514359	-0.0075	11.38625	0.002235667
2252	2	6.516628	-0.00625	11.38	0.002234439
4370	3	6.52149	-0.005	11.375	0.002233458
2079	2	6.522629	0.0125	11.3875	0.002235912
2079	2	6.524046	-0.00625	11.38125	0.002234685
5259	3	6.532297	-0.005	11.37625	0.002233703
9470	4	6.535194	-0.005	11.37125	0.002232721
6042	3	6.537867	-0.005	11.36625	0.00223174
4225	3	6.538936	-0.005	11.36125	0.002230758
928	1	6.540452	-0.0075	11.35375	0.002229285
590	1	6.541151	-0.0075	11.34625	0.002227813
2594	2	6.543361	-0.00625	11.34	0.002226586
1087	1	6.552864	-0.0075	11.3325	0.002225113
7789	3	6.553714	-0.005	11.3275	0.002224131
2079	2	6.554773	-0.00625	11.32125	0.002222904
5250	3	6.555492	-0.005	11.31625	0.002221922

6867	3	6.555847	-0.005	11.31125	0.002220941
1994	2	6.556572	-0.00625	11.305	0.002219713
6351	3	6.557598	-0.005	11.3	0.002218732
206	1	6.557617	-0.0075	11.2925	0.002217259
5648	3	6.557632	-0.005	11.2875	0.002216277
539	1	6.557922	-0.0075	11.28	0.002214805
5688	3	6.559487	-0.005	11.275	0.002213823
2398	2	6.560782	-0.00625	11.26875	0.002212596
4953	3	6.563403	-0.005	11.26375	0.002211614
3106	3	6.564727	-0.005	11.25875	0.002210632
449	1	6.566928	-0.0075	11.25125	0.00220916
3834	3	6.567128	-0.005	11.24625	0.002208178
7965	3	6.567558	-0.005	11.24125	0.002207196
6925	3	6.568828	-0.005	11.23625	0.002206214
5299	3	6.569665	-0.005	11.23125	0.002205233
1809	2	6.570547	-0.00625	11.225	0.002204005
2591	2	6.571441	-0.00625	11.21875	0.002202778
1136	1	6.57364	-0.0075	11.21125	0.002201306
964	1	6.575031	-0.0075	11.20375	0.002199833
7777	3	6.57823	-0.005	11.19875	0.002198851
7441	3	6.579175	-0.005	11.19375	0.00219787
9532	4	6.588557	-0.005	11.18875	0.002196888
2729	2	6.593837	-0.00625	11.1825	0.002195661
6429	3	6.594292	-0.005	11.1775	0.002194679
4384	3	6.594815	-0.005	11.1725	0.002193697
2707	2	6.599413	-0.00625	11.16625	0.00219247
1244	1	6.600798	-0.0075	11.15875	0.002190997
8290	3	6.601801	-0.005	11.15375	0.002190016
5190	3	6.602955	-0.005	11.14875	0.002189034
2767	2	6.603612	-0.00625	11.1425	0.002187807
8259	3	6.60465	-0.005	11.1375	0.002186825
11	1	6.609552	-0.0075	11.13	0.002185352
4194	3	6.610753	-0.005	11.125	0.002184371
1656	1	6.611065	-0.0075	11.1175	0.002182898
8654	3	6.615498	-0.005	11.1125	0.002181916
1093	1	6.615561	-0.0075	11.105	0.002180444
5510	3	6.618269	-0.005	11.1	0.002179462
3891	3	6.622857	-0.005	11.095	0.00217848
9192	4	6.623883	-0.005	11.09	0.002177499
4558	3	6.62799	-0.005	11.085	0.002176517
2074	2	6.629393	-0.00625	11.07875	0.00217529
5863	3	6.630549	-0.005	11.07375	0.002174308
2838	2	6.633269	-0.00625	11.0675	0.002173081
8399	3	6.634851	-0.005	11.0625	0.002172099
8550	3	6.635365	-0.005	11.0575	0.002171117
1219	1	6.636015	-0.0075	11.05	0.002169645
3346	3	6.639238	-0.005	11.045	0.002168663
119	1	6.639355	-0.0075	11.0375	0.00216719
5483	3	6.643641	-0.005	11.0325	0.002166209
5317	3	6.646139	-0.005	11.0275	0.002165227
6016	3	6.648967	-0.005	11.0225	0.002164245
4682	3	6.652153	-0.005	11.0175	0.002163263

1671	1	6.653351	-0.0075	11.01	0.002161791
9158	4	6.654457	-0.005	11.005	0.002160809
2465	2	6.654573	-0.00625	10.99875	0.002159582
4691	3	6.654809	-0.005	10.99375	0.0021586
7068	3	6.654908	-0.005	10.98875	0.002157618
8747	3	6.655394	-0.005	10.98375	0.002156637
2783	2	6.65673	-0.00625	10.9775	0.002155409
7396	3	6.658271	-0.005	10.9725	0.002154428
1369	1	6.659361	-0.0075	10.965	0.002152955
82	1	6.659839	-0.0075	10.9575	0.002151482
5554	3	6.660287	-0.005	10.9525	0.002150501
6742	3	6.665508	-0.005	10.9475	0.002149519
884	1	6.671771	-0.0075	10.94	0.002148046
8152	3	6.673078	-0.005	10.935	0.002147065
7644	3	6.677856	-0.005	10.93	0.002146083
1796	2	6.679821	-0.00625	10.92375	0.002144856
2749	2	6.682926	-0.00625	10.9175	0.002143629
2286	2	6.684231	-0.00625	10.91125	0.002142401
7663	3	6.686029	-0.005	10.90625	0.00214142
5912	3	6.688184	-0.005	10.90125	0.002140438
5094	3	6.688579	-0.005	10.89625	0.002139456
8588	3	6.688918	-0.005	10.89125	0.002138474
3486	3	6.693069	-0.005	10.88625	0.002137493
5235	3	6.699363	-0.005	10.88125	0.002136511
4660	3	6.70049	-0.005	10.87625	0.002135529
9500	4	6.701342	-0.005	10.87125	0.002134547
1484	1	6.702695	-0.0075	10.86375	0.002133075
5943	3	6.712073	-0.005	10.85875	0.002132093
1499	1	6.713185	-0.0075	10.85125	0.00213062
820	1	6.719813	-0.0075	10.84375	0.002129148
7116	3	6.720258	-0.005	10.83875	0.002128166
4161	3	6.723334	-0.005	10.83375	0.002127184
6862	3	6.727791	-0.005	10.82875	0.002126203
1963	2	6.729209	-0.00625	10.8225	0.002124975
2519	2	6.731346	-0.00625	10.81625	0.002123748
3846	3	6.731347	-0.005	10.81125	0.002122767
163	1	6.731457	-0.0075	10.80375	0.002121294
1592	1	6.731546	-0.0075	10.79625	0.002119821
7301	3	6.731688	-0.005	10.79125	0.00211884
402	1	6.732301	-0.0075	10.78375	0.002117367
1557	1	6.733247	-0.0075	10.77625	0.002115894
7440	3	6.737313	-0.005	10.77125	0.002114913
3623	3	6.738161	-0.005	10.76625	0.002113931
3311	3	6.740595	0.01	10.77625	0.002115894
6646	3	6.741906	-0.005	10.77125	0.002114913
306	1	6.750962	-0.0075	10.76375	0.00211344
8157	3	6.75706	-0.005	10.75875	0.002112458
1023	1	6.757879	-0.0075	10.75125	0.002110986
344	1	6.7647	-0.0075	10.74375	0.002109513
8115	3	6.772807	-0.005	10.73875	0.002108531
4010	3	6.779873	-0.005	10.73375	0.00210755
7893	3	6.781763	-0.005	10.72875	0.002106568

736	1	6.785167	-0.0075	10.72125	0.002105095
2057	2	6.785342	-0.00625	10.715	0.002103868
47	1	6.785475	-0.0075	10.7075	0.002102395
4435	3	6.786547	-0.005	10.7025	0.002101414
1290	1	6.789949	-0.0075	10.695	0.002099941
5371	3	6.79005	-0.005	10.69	0.002098959
3861	3	6.793014	-0.005	10.685	0.002097978
2105	2	6.796462	-0.00625	10.67875	0.00209675
8664	3	6.804488	-0.005	10.67375	0.002095769
794	1	6.821474	-0.0075	10.66625	0.002094296
4224	3	6.823849	-0.005	10.66125	0.002093314
207	1	6.829268	-0.0075	10.65375	0.002091842
9263	4	6.830629	-0.005	10.64875	0.00209086
4461	3	6.83253	-0.005	10.64375	0.002089878
2822	2	6.836115	-0.00625	10.6375	0.002088651
721	1	6.837971	-0.0075	10.63	0.002087178
4785	3	6.838481	-0.005	10.625	0.002086197
5703	3	6.840377	-0.005	10.62	0.002085215
6879	3	6.842885	-0.005	10.615	0.002084233
5164	3	6.85032	-0.005	10.61	0.002083252
7305	3	6.855396	-0.005	10.605	0.00208227
576	1	6.86123	-0.0075	10.5975	0.002080797
2444	2	6.861851	-0.00625	10.59125	0.00207957
304	1	6.863079	-0.0075	10.58375	0.002078097
7472	3	6.864922	-0.005	10.57875	0.002077116
8518	3	6.867781	-0.005	10.57375	0.002076134
2166	2	6.870794	-0.00625	10.5675	0.002074907
2432	2	6.871112	-0.00625	10.56125	0.00207368
7084	3	6.872411	-0.005	10.55625	0.002072698
921	1	6.873937	-0.0075	10.54875	0.002071225
4872	3	6.875291	-0.005	10.54375	0.002070243
6803	3	6.875836	-0.005	10.53875	0.002069262
2378	2	6.876216	-0.00625	10.5325	0.002068035
7742	3	6.877287	-0.005	10.5275	0.002067053
3855	3	6.879146	-0.005	10.5225	0.002066071
4885	3	6.879807	-0.005	10.5175	0.002065089
1777	2	6.88043	-0.00625	10.51125	0.002063862
3085	3	6.882123	-0.005	10.50625	0.00206288
286	1	6.883392	-0.0075	10.49875	0.002061408
7258	3	6.884318	-0.005	10.49375	0.002060426
329	1	6.884922	-0.0075	10.48625	0.002058953
1158	1	6.89123	-0.0075	10.47875	0.002057481
147	1	6.897991	-0.0075	10.47125	0.002056008
9769	4	6.898476	-0.005	10.46625	0.002055027
3323	3	6.90036	-0.005	10.46125	0.002054045
2097	2	6.904281	-0.00625	10.455	0.002052818
5210	3	6.910027	-0.005	10.45	0.002051836
813	1	6.912862	-0.0075	10.4425	0.002050363
2420	2	6.918821	-0.00625	10.43625	0.002049136
5368	3	6.919903	-0.005	10.43125	0.002048154
419	1	6.921827	-0.0075	10.42375	0.002046682
6011	3	6.923148	-0.005	10.41875	0.0020457

9687	4	6.924102	-0.005	10.41375	0.002044718
2563	2	6.924301	-0.00625	10.4075	0.002043491
7869	3	6.926417	-0.005	10.4025	0.002042509
3567	3	6.9278	-0.005	10.3975	0.002041528
8093	3	6.929024	-0.005	10.3925	0.002040546
4567	3	6.930185	-0.005	10.3875	0.002039564
9750	4	6.935045	-0.005	10.3825	0.002038582
572	1	6.937027	-0.0075	10.375	0.00203711
680	1	6.937386	-0.0075	10.3675	0.002035637
8379	3	6.939972	-0.005	10.3625	0.002034655
2445	2	6.942022	-0.00625	10.35625	0.002033428
4838	3	6.942088	-0.005	10.35125	0.002032446
703	1	6.943195	-0.0075	10.34375	0.002030974
2912	3	6.94858	-0.005	10.33875	0.002029992
6640	3	6.949041	-0.005	10.33375	0.00202901
74	1	6.958747	-0.0075	10.32625	0.002027538
2236	2	6.960438	-0.00625	10.32	0.002026311
7376	3	6.961396	-0.005	10.315	0.002025329
1550	1	6.962446	-0.0075	10.3075	0.002023856
192	1	6.965315	-0.0075	10.3	0.002022384
1791	2	6.967017	-0.00625	10.29375	0.002021156
463	1	6.967343	-0.0075	10.28625	0.002019684
1229	1	6.967857	-0.0075	10.27875	0.002018211
2311	2	6.968132	-0.00625	10.2725	0.002016984
3345	3	6.969685	-0.005	10.2675	0.002016002
490	1	6.969994	-0.0075	10.26	0.00201453
1020	1	6.973582	-0.0075	10.2525	0.002013057
9437	4	6.973984	-0.005	10.2475	0.002012075
9944	4	6.975565	-0.005	10.2425	0.002011094
741	1	6.977721	-0.0075	10.235	0.002009621
1867	2	6.977752	-0.00625	10.22875	0.002008394
9718	4	6.978471	-0.005	10.22375	0.002007412
7022	3	6.979444	-0.005	10.21875	0.00200643
2639	2	6.980701	-0.00625	10.2125	0.002005203
2172	2	6.982784	-0.00625	10.20625	0.002003976
4017	3	6.983347	-0.005	10.20125	0.002002994
5884	3	6.985108	-0.005	10.19625	0.002002013
7905	3	6.985756	-0.005	10.19125	0.002001031
1604	1	6.991219	-0.0075	10.18375	0.001999558
8488	3	6.992566	-0.005	10.17875	0.001998576
8276	3	6.993624	-0.005	10.17375	0.001997595
808	1	6.997002	-0.0075	10.16625	0.001996122
3426	3	7.000135	-0.005	10.16125	0.00199514
2548	2	7.002946	-0.00625	10.155	0.001993913
8230	3	7.005728	-0.005	10.15	0.001992931
7796	3	7.011139	-0.005	10.145	0.00199195
9481	4	7.011244	-0.005	10.14	0.001990968
2719	2	7.015563	-0.00625	10.13375	0.001989741
8122	3	7.016252	-0.005	10.12875	0.001988759
7051	3	7.01926	-0.005	10.12375	0.001987777
5936	3	7.021054	-0.005	10.11875	0.001986796
4805	3	7.02109	-0.005	10.11375	0.001985814

2357	2	7.024649	-0.00625	10.1075	0.001984587
9997	4	7.025052	-0.005	10.1025	0.001983605
5895	3	7.029764	-0.005	10.0975	0.001982623
7123	3	7.031938	-0.005	10.0925	0.001981641
8766	4	7.03358	-0.005	10.0875	0.00198066
9729	4	7.043255	-0.005	10.0825	0.001979678
3237	3	7.044201	-0.005	10.0775	0.001978696
2648	2	7.044519	-0.00625	10.07125	0.001977469
4091	3	7.048262	-0.005	10.06625	0.001976487
1629	1	7.049231	-0.0075	10.05875	0.001975015
1877	2	7.049616	-0.00625	10.0525	0.001973788
1842	2	7.049697	-0.00625	10.04625	0.00197256
4597	3	7.056124	-0.005	10.04125	0.001971579
6921	3	7.059573	-0.005	10.03625	0.001970597
2708	2	7.060262	-0.00625	10.03	0.00196937
2715	2	7.062835	-0.00625	10.02375	0.001968143
1023	1	7.067858	-0.0075	10.01625	0.00196667
6568	3	7.069275	-0.005	10.01125	0.001965688
5078	3	7.070401	-0.005	10.00625	0.001964706
756	1	7.073137	-0.0075	9.99875	0.001963234
8284	3	7.074523	-0.005	9.99375	0.001962252
7917	3	7.077512	-0.005	9.98875	0.00196127
8431	3	7.080965	-0.005	9.98375	0.001960289
327	1	7.080995	-0.0075	9.97625	0.001958816
2682	2	7.081578	-0.00625	9.97	0.001957589
644	1	7.082264	-0.0075	9.9625	0.001956116
6890	3	7.085352	-0.005	9.9575	0.001955134
2911	3	7.094625	-0.005	9.9525	0.001954153
9475	4	7.09798	-0.005	9.9475	0.001953171
6250	3	7.099763	-0.005	9.9425	0.001952189
170	1	7.099855	-0.0075	9.935	0.001950717
3826	3	7.099946	-0.005	9.93	0.001949735
4922	3	7.104429	-0.005	9.925	0.001948753
255	1	7.107383	-0.0075	9.9175	0.001947281
5235	3	7.108652	-0.005	9.9125	0.001946299
5364	3	7.108838	-0.005	9.9075	0.001945317
446	1	7.108884	-0.0075	9.9	0.001943844
155	1	7.115861	-0.0075	9.8925	0.001942372
2862	2	7.121287	-0.00625	9.88625	0.001941145
5166	3	7.121334	-0.005	9.88125	0.001940163
2407	2	7.125264	-0.00625	9.875	0.001938936
8752	4	7.128824	-0.005	9.87	0.001937954
5210	3	7.13268	-0.005	9.865	0.001936972
6389	3	7.139616	-0.005	9.86	0.001935991
1926	2	7.141217	-0.00625	9.85375	0.001934763
4061	3	7.146893	-0.005	9.84875	0.001933782
2321	2	7.148971	-0.00625	9.8425	0.001932554
7635	3	7.153123	-0.005	9.8375	0.001931573
8702	3	7.159621	-0.005	9.8325	0.001930591
7849	3	7.160898	-0.005	9.8275	0.001929609
76	1	7.162531	0.015	9.8425	0.001932554
5764	3	7.164286	-0.005	9.8375	0.001931573

4769	3	7.165312	-0.005	9.8325	0.001930591
2830	2	7.167644	-0.00625	9.82625	0.001929364
2012	2	7.170744	-0.00625	9.82	0.001928137
4887	3	7.172355	-0.005	9.815	0.001927155
7273	3	7.176682	-0.005	9.81	0.001926173
3809	3	7.177738	-0.005	9.805	0.001925191
3124	3	7.179097	-0.005	9.8	0.00192421
6564	3	7.182659	-0.005	9.795	0.001923228
6945	3	7.184639	-0.005	9.79	0.001922246
7336	3	7.185553	-0.005	9.785	0.001921264
8694	3	7.186562	-0.005	9.78	0.001920283
7973	3	7.191113	-0.005	9.775	0.001919301
8108	3	7.192087	-0.005	9.77	0.001918319
4916	3	7.195344	-0.005	9.765	0.001917338
2276	2	7.195501	-0.00625	9.75875	0.00191611
8321	3	7.196119	-0.005	9.75375	0.001915129
5709	3	7.197513	-0.005	9.74875	0.001914147
4268	3	7.197823	-0.005	9.74375	0.001913165
1184	1	7.199905	-0.0075	9.73625	0.001911693
8960	4	7.201015	-0.005	9.73125	0.001910711
6536	3	7.205058	-0.005	9.72625	0.001909729
1606	1	7.206186	-0.0075	9.71875	0.001908256
337	1	7.206903	-0.0075	9.71125	0.001906784
4584	3	7.208869	-0.005	9.70625	0.001905802
1856	2	7.213514	-0.00625	9.7	0.001904575
4811	3	7.213552	-0.005	9.695	0.001903593
3744	3	7.219666	-0.005	9.69	0.001902611
8757	4	7.223559	-0.005	9.685	0.00190163
135	1	7.228684	-0.0075	9.6775	0.001900157
9551	4	7.228856	-0.005	9.6725	0.001899175
2650	2	7.229887	-0.00625	9.66625	0.001897948
1131	1	7.235211	-0.0075	9.65875	0.001896476
958	1	7.236081	-0.0075	9.65125	0.001895003
1292	1	7.236316	-0.0075	9.64375	0.00189353
3331	3	7.2376	-0.005	9.63875	0.001892549
6871	3	7.2401	-0.005	9.63375	0.001891567
8026	3	7.241195	-0.005	9.62875	0.001890585
7657	3	7.241981	-0.005	9.62375	0.001889603
8062	3	7.242521	-0.005	9.61875	0.001888622
254	1	7.244324	-0.0075	9.61125	0.001887149
3516	3	7.24926	-0.005	9.60625	0.001886167
787	1	7.253215	-0.0075	9.59875	0.001884695
2855	2	7.255399	-0.00625	9.5925	0.001883468
2031	2	7.25708	-0.00625	9.58625	0.00188224
5253	3	7.259953	-0.005	9.58125	0.001881259
8043	3	7.260215	-0.005	9.57625	0.001880277
2414	2	7.262658	-0.00625	9.57	0.00187905
6503	3	7.266155	-0.005	9.565	0.001878068
8566	3	7.269676	-0.005	9.56	0.001877086
1082	1	7.271261	-0.0075	9.5525	0.001875614
5396	3	7.271829	-0.005	9.5475	0.001874632
2561	2	7.27247	-0.00625	9.54125	0.001873405

2769	2	7.272738	-0.00625	9.535	0.001872177
3566	3	7.273261	-0.005	9.53	0.001871196
6084	3	7.273996	-0.005	9.525	0.001870214
1752	1	7.276351	-0.0075	9.5175	0.001868741
4631	3	7.281294	-0.005	9.5125	0.00186776
3669	3	7.283301	-0.005	9.5075	0.001866778
7539	3	7.286593	-0.005	9.5025	0.001865796
8089	3	7.286947	-0.005	9.4975	0.001864814
9045	4	7.28753	-0.005	9.4925	0.001863833
7482	3	7.287687	-0.005	9.4875	0.001862851
6145	3	7.292242	-0.005	9.4825	0.001861869
4021	3	7.292601	-0.005	9.4775	0.001860887
8182	3	7.292671	-0.005	9.4725	0.001859906
2452	2	7.296635	-0.00625	9.46625	0.001858679
7812	3	7.298721	-0.005	9.46125	0.001857697
2763	2	7.299348	-0.00625	9.455	0.00185647
483	1	7.300024	-0.0075	9.4475	0.001854997
630	1	7.300404	-0.0075	9.44	0.001853524
7137	3	7.302493	-0.005	9.435	0.001852543
8722	3	7.304391	-0.005	9.43	0.001851561
315	1	7.307014	-0.0075	9.4225	0.001850088
2597	2	7.310843	-0.00625	9.41625	0.001848861
2365	2	7.313781	-0.00625	9.41	0.001847634
496	1	7.318736	-0.0075	9.4025	0.001846161
1110	1	7.31993	-0.0075	9.395	0.001844689
366	1	7.323179	-0.0075	9.3875	0.001843216
5763	3	7.323348	-0.005	9.3825	0.001842234
1795	2	7.326529	-0.00625	9.37625	0.001841007
3526	3	7.329124	-0.005	9.37125	0.001840026
5714	3	7.329228	-0.005	9.36625	0.001839044
518	1	7.33147	-0.0075	9.35875	0.001837571
3831	3	7.336552	-0.005	9.35375	0.001836589
241	1	7.337241	-0.0075	9.34625	0.001835117
1682	1	7.3377	-0.0075	9.33875	0.001833644
2257	2	7.344051	-0.00625	9.3325	0.001832417
6612	3	7.347996	-0.005	9.3275	0.001831435
4738	3	7.349457	-0.005	9.3225	0.001830454
602	1	7.349732	-0.0075	9.315	0.001828981
5866	3	7.35544	-0.005	9.31	0.001827999
8726	3	7.356618	-0.005	9.305	0.001827017
1913	2	7.35702	-0.00625	9.29875	0.00182579
3355	3	7.357249	-0.005	9.29375	0.001824809
5302	3	7.360108	-0.005	9.28875	0.001823827
9206	4	7.361148	-0.005	9.28375	0.001822845
284	1	7.366349	-0.0075	9.27625	0.001821372
1922	2	7.366594	-0.00625	9.27	0.001820145
76	1	7.368639	-0.0075	9.2625	0.001818673
8087	3	7.372243	-0.005	9.2575	0.001817691
492	1	7.379555	-0.0075	9.25	0.001816218
1395	1	7.385091	-0.0075	9.2425	0.001814746
2336	2	7.38635	-0.00625	9.23625	0.001813519
1325	1	7.394542	-0.0075	9.22875	0.001812046

7936	3	7.394636	-0.005	9.22375	0.001811064
7218	3	7.396739	-0.005	9.21875	0.001810082
6521	3	7.400292	-0.005	9.21375	0.001809101
1365	1	7.402277	-0.0075	9.20625	0.001807628
4523	3	7.403129	-0.005	9.20125	0.001806646
1554	1	7.405346	-0.0075	9.19375	0.001805174
6200	3	7.405761	-0.005	9.18875	0.001804192
4995	3	7.406922	-0.005	9.18375	0.00180321
522	1	7.408571	-0.0075	9.17625	0.001801738
124	1	7.409283	-0.0075	9.16875	0.001800265
4289	3	7.409566	-0.005	9.16375	0.001799283
503	1	7.414259	-0.0075	9.15625	0.001797811
6739	3	7.414272	-0.005	9.15125	0.001796829
1646	1	7.417481	-0.0075	9.14375	0.001795356
1422	1	7.418648	-0.0075	9.13625	0.001793884
7570	3	7.418717	-0.005	9.13125	0.001792902
2370	2	7.418754	-0.00625	9.125	0.001791675
4050	3	7.419431	-0.005	9.12	0.001790693
3452	3	7.422078	-0.005	9.115	0.001789711
8867	4	7.42793	-0.005	9.11	0.00178873
1950	2	7.431692	-0.00625	9.10375	0.001787502
5893	3	7.433502	-0.005	9.09875	0.001786521
2106	2	7.441822	-0.00625	9.0925	0.001785294
4431	3	7.444335	-0.005	9.0875	0.001784312
4762	3	7.447566	-0.005	9.0825	0.00178333
6035	3	7.451954	-0.005	9.0775	0.001782348
778	1	7.452234	-0.0075	9.07	0.001780876
6634	3	7.452744	-0.005	9.065	0.001779894
4183	3	7.453672	-0.005	9.06	0.001778912
2955	3	7.454803	-0.005	9.055	0.00177793
4168	3	7.455619	-0.005	9.05	0.001776949
2914	3	7.458387	-0.005	9.045	0.001775967
3082	3	7.458418	-0.005	9.04	0.001774985
5832	3	7.462491	-0.005	9.035	0.001774004
2774	2	7.463344	-0.00625	9.02875	0.001772776
2583	2	7.467974	-0.00625	9.0225	0.001771549
6696	3	7.470112	-0.005	9.0175	0.001770567
8000	3	7.471257	-0.005	9.0125	0.001769586
4841	3	7.473011	-0.005	9.0075	0.001768604
4417	3	7.476491	-0.005	9.0025	0.001767622
3575	3	7.478237	-0.005	8.9975	0.00176664
536	1	7.478734	-0.0075	8.99	0.001765168
7569	3	7.481162	-0.005	8.985	0.001764186
1509	1	7.482219	-0.0075	8.9775	0.001762714
165	1	7.487275	-0.0075	8.97	0.001761241
75	1	7.490121	-0.0075	8.9625	0.001759768
8304	3	7.493339	-0.005	8.9575	0.001758787
2664	2	7.499382	-0.00625	8.95125	0.001757559
2856	2	7.499796	-0.00625	8.945	0.001756332
939	1	7.500546	-0.0075	8.9375	0.00175486
7567	3	7.501784	-0.005	8.9325	0.001753878
8073	3	7.503382	-0.005	8.9275	0.001752896

1932	2	7.505586	-0.00625	8.92125	0.001751669
2833	2	7.508626	-0.00625	8.915	0.001750442
7394	3	7.508794	-0.005	8.91	0.00174946
8213	3	7.512468	-0.005	8.905	0.001748478
6761	3	7.513455	-0.005	8.9	0.001747497
3112	3	7.516035	-0.005	8.895	0.001746515
7147	3	7.519399	-0.005	8.89	0.001745533
6890	3	7.520732	-0.005	8.885	0.001744551
3174	3	7.522834	-0.005	8.88	0.00174357
886	1	7.522911	-0.0075	8.8725	0.001742097
3709	3	7.52378	-0.005	8.8675	0.001741115
4024	3	7.528399	-0.005	8.8625	0.001740134
8320	3	7.539869	-0.005	8.8575	0.001739152
8483	3	7.540246	-0.005	8.8525	0.00173817
577	1	7.541937	-0.0075	8.845	0.001736697
2552	2	7.543742	-0.00625	8.83875	0.00173547
8299	3	7.54702	-0.005	8.83375	0.001734489
8902	4	7.547354	-0.005	8.82875	0.001733507
137	1	7.548952	-0.0075	8.82125	0.001732034
9032	4	7.549093	-0.005	8.81625	0.001731052
437	1	7.555477	-0.0075	8.80875	0.00172958
5077	3	7.559102	-0.005	8.80375	0.001728598
3235	3	7.561864	-0.005	8.79875	0.001727616
1274	1	7.563435	-0.0075	8.79125	0.001726144
93	1	7.568549	-0.0075	8.78375	0.001724671
760	1	7.57034	-0.0075	8.77625	0.001723199
5954	3	7.572129	-0.005	8.77125	0.001722217
5873	3	7.573935	-0.005	8.76625	0.001721235
9549	4	7.574704	-0.005	8.76125	0.001720253
1705	1	7.574757	-0.0075	8.75375	0.001718781
5697	3	7.585679	-0.005	8.74875	0.001717799
9856	4	7.588753	-0.005	8.74375	0.001716817
8784	4	7.58923	-0.005	8.73875	0.001715835
8384	3	7.589296	-0.005	8.73375	0.001714854
1602	1	7.594321	-0.0075	8.72625	0.001713381
2708	2	7.596558	-0.00625	8.72	0.001712154
5288	3	7.598513	-0.005	8.715	0.001711172
293	1	7.598803	-0.0075	8.7075	0.0017097
3006	3	7.59978	-0.005	8.7025	0.001708718
6908	3	7.604208	-0.005	8.6975	0.001707736
5243	3	7.606336	-0.005	8.6925	0.001706754
3878	3	7.607061	0.01	8.7025	0.001708718
9946	4	7.607369	-0.005	8.6975	0.001707736
4672	3	7.621118	-0.005	8.6925	0.001706754
8530	3	7.622223	-0.005	8.6875	0.001705773
3818	3	7.624086	-0.005	8.6825	0.001704791
6990	3	7.627591	-0.005	8.6775	0.001703809
9268	4	7.627986	-0.005	8.6725	0.001702827
7182	3	7.630055	-0.005	8.6675	0.001701846
7453	3	7.630845	-0.005	8.6625	0.001700864
8392	3	7.632668	-0.005	8.6575	0.001699882
66	1	7.634573	-0.0075	8.65	0.00169841

9018	4	7.635058	-0.005	8.645	0.001697428
3092	3	7.6355	-0.005	8.64	0.001696446
190	1	7.636542	-0.0075	8.6325	0.001694973
3805	3	7.637541	-0.005	8.6275	0.001693992
3145	3	7.647317	-0.005	8.6225	0.00169301
2686	2	7.651124	-0.00625	8.61625	0.001691783
8866	4	7.652332	-0.005	8.61125	0.001690801
1636	1	7.653847	-0.0075	8.60375	0.001689328
8426	3	7.657072	-0.005	8.59875	0.001688347
8795	4	7.659736	-0.005	8.59375	0.001687365
4658	3	7.66167	-0.005	8.58875	0.001686383
7210	3	7.663939	-0.005	8.58375	0.001685402
1073	1	7.664684	-0.0075	8.57625	0.001683929
5011	3	7.666484	-0.005	8.57125	0.001682947
6146	3	7.668644	-0.005	8.56625	0.001681965
1788	2	7.669188	-0.00625	8.56	0.001680738
2810	2	7.675096	-0.00625	8.55375	0.001679511
9769	4	7.67604	-0.005	8.54875	0.001678529
4656	3	7.681493	-0.005	8.54375	0.001677548
382	1	7.683987	-0.0075	8.53625	0.001676075
2685	2	7.68434	-0.00625	8.53	0.001674848
9401	4	7.685112	-0.005	8.525	0.001673866
3878	3	7.686476	-0.005	8.52	0.001672884
9794	4	7.689599	-0.005	8.515	0.001671903
2745	2	7.689987	-0.00625	8.50875	0.001670675
2207	2	7.690147	-0.00625	8.5025	0.001669448
3640	3	7.695578	-0.005	8.4975	0.001668467
8586	3	7.696521	-0.005	8.4925	0.001667485
1052	1	7.699453	-0.0075	8.485	0.001666012
8110	3	7.700733	-0.005	8.48	0.00166503
3110	3	7.70372	-0.005	8.475	0.001664049
952	1	7.704741	-0.0075	8.4675	0.001662576
64	1	7.704997	-0.0075	8.46	0.001661103
2391	2	7.706454	-0.00625	8.45375	0.001659876
1954	2	7.710074	-0.00625	8.4475	0.001658649
2983	3	7.714867	-0.005	8.4425	0.001657667
1718	1	7.716704	-0.0075	8.435	0.001656195
9972	4	7.717716	-0.005	8.43	0.001655213
9655	4	7.718324	-0.005	8.425	0.001654231
4001	3	7.719536	-0.005	8.42	0.00165325
5512	3	7.720316	-0.005	8.415	0.001652268
8150	3	7.72298	-0.005	8.41	0.001651286
1859	2	7.724105	-0.00625	8.40375	0.001650059
840	1	7.724211	-0.0075	8.39625	0.001648586
6709	3	7.726567	-0.005	8.39125	0.001647605
1791	2	7.728367	-0.00625	8.385	0.001646377
1645	1	7.73049	-0.0075	8.3775	0.001644905
4441	3	7.734768	-0.005	8.3725	0.001643923
7540	3	7.737566	-0.005	8.3675	0.001642941
4869	3	7.738089	-0.005	8.3625	0.00164196
7584	3	7.740983	-0.005	8.3575	0.001640978
294	1	7.741685	-0.0075	8.35	0.001639505

3019	3	7.744879	-0.005	8.345	0.001638523
4844	3	7.745095	-0.005	8.34	0.001637542
8246	3	7.74629	-0.005	8.335	0.00163656
963	1	7.751354	-0.0075	8.3275	0.001635087
2369	2	7.75586	-0.00625	8.32125	0.00163386
859	1	7.756538	-0.0075	8.31375	0.001632388
2655	2	7.756936	-0.00625	8.3075	0.00163116
3311	3	7.763111	-0.005	8.3025	0.001630179
513	1	7.763819	-0.0075	8.295	0.001628706
1588	1	7.764573	-0.0075	8.2875	0.001627233
8631	3	7.76558	-0.005	8.2825	0.001626252
5402	3	7.769875	-0.005	8.2775	0.00162527
7373	3	7.769977	-0.005	8.2725	0.001624288
3842	3	7.772587	-0.005	8.2675	0.001623306
875	1	7.777611	-0.0075	8.26	0.001621834
1697	1	7.779348	-0.0075	8.2525	0.001620361
562	1	7.781793	-0.0075	8.245	0.001618889
2063	2	7.792465	-0.00625	8.23875	0.001617661
8483	3	7.797306	-0.005	8.23375	0.00161668
7033	3	7.799122	-0.005	8.22875	0.001615698
4088	3	7.801527	-0.005	8.22375	0.001614716
3853	3	7.807266	-0.005	8.21875	0.001613735
7448	3	7.80867	-0.005	8.21375	0.001612753
4935	3	7.809657	-0.005	8.20875	0.001611771
4461	3	7.813686	-0.005	8.20375	0.001610789
4113	3	7.826121	-0.005	8.19875	0.001609808
2812	2	7.826182	-0.00625	8.1925	0.00160858
5137	3	7.826496	-0.005	8.1875	0.001607599
5831	3	7.826605	-0.005	8.1825	0.001606617
5461	3	7.829384	-0.005	8.1775	0.001605635
25	1	7.833797	-0.0075	8.17	0.001604163
2566	2	7.83413	-0.00625	8.16375	0.001602935
7057	3	7.837463	-0.005	8.15875	0.001601954
3183	3	7.841914	-0.005	8.15375	0.001600972
5936	3	7.843841	-0.005	8.14875	0.00159999
5213	3	7.850635	-0.005	8.14375	0.001599008
4589	3	7.854932	-0.005	8.13875	0.001598027
8891	4	7.858969	-0.005	8.13375	0.001597045
661	1	7.859589	-0.0075	8.12625	0.001595572
421	1	7.862905	-0.0075	8.11875	0.0015941
6581	3	7.865975	-0.005	8.11375	0.001593118
2428	2	7.867904	-0.00625	8.1075	0.001591891
6724	3	7.876437	-0.005	8.1025	0.001590909
2329	2	7.877029	-0.00625	8.09625	0.001589682
6658	3	7.880726	-0.005	8.09125	0.0015887
3016	3	7.884192	-0.005	8.08625	0.001587718
9127	4	7.884392	-0.005	8.08125	0.001586737
6689	3	7.88482	-0.005	8.07625	0.001585755
5079	3	7.887065	-0.005	8.07125	0.001584773
7265	3	7.887401	-0.005	8.06625	0.001583791
1180	1	7.889261	-0.0075	8.05875	0.001582319
887	1	7.890838	-0.0075	8.05125	0.001580846

4736	3	7.891521	-0.005	8.04625	0.001579865
7037	3	7.895711	-0.005	8.04125	0.001578883
7686	3	7.896145	-0.005	8.03625	0.001577901
962	1	7.900479	-0.0075	8.02875	0.001576428
842	1	7.903981	-0.0075	8.02125	0.001574956
2721	2	7.905405	-0.00625	8.015	0.001573729
6730	3	7.907062	-0.005	8.01	0.001572747
1843	2	7.911102	-0.00625	8.00375	0.00157152
7282	3	7.912941	-0.005	7.99875	0.001570538
807	1	7.917629	-0.0075	7.99125	0.001569065
3150	3	7.91916	-0.005	7.98625	0.001568084
1381	1	7.920854	-0.0075	7.97875	0.001566611
1279	1	7.923015	-0.0075	7.97125	0.001565138
7375	3	7.924421	-0.005	7.96625	0.001564157
6666	3	7.932747	-0.005	7.96125	0.001563175
3753	3	7.936012	-0.005	7.95625	0.001562193
9901	4	7.939209	-0.005	7.95125	0.001561211
1119	1	7.939565	-0.0075	7.94375	0.001559739
60	1	7.942683	-0.0075	7.93625	0.001558266
277	1	7.943511	-0.0075	7.92875	0.001556794
259	1	7.94402	-0.0075	7.92125	0.001555321
2389	2	7.947895	-0.00625	7.915	0.001554094
337	1	7.950158	-0.0075	7.9075	0.001552621
9233	4	7.950506	-0.005	7.9025	0.00155164
4043	3	7.953927	-0.005	7.8975	0.001550658
644	1	7.955156	-0.0075	7.89	0.001549185
8133	3	7.955476	-0.005	7.885	0.001548203
214	1	7.955609	-0.0075	7.8775	0.001546731
2576	2	7.956526	-0.00625	7.87125	0.001545504
6234	3	7.958043	-0.005	7.86625	0.001544522
1572	1	7.958552	-0.0075	7.85875	0.001543049
6803	3	7.960533	-0.005	7.85375	0.001542068
2953	3	7.968226	-0.005	7.84875	0.001541086
2697	2	7.969178	-0.00625	7.8425	0.001539859
1670	1	7.974416	-0.0075	7.835	0.001538386
6808	3	7.974634	-0.005	7.83	0.001537404
3436	3	7.975017	-0.005	7.825	0.001536423
6947	3	7.978341	-0.005	7.82	0.001535441
2725	2	7.979736	-0.00625	7.81375	0.001534214
5216	3	7.980955	-0.005	7.80875	0.001533232
1935	2	7.981238	-0.00625	7.8025	0.001532005
2523	2	7.981544	-0.00625	7.79625	0.001530778
180	1	7.992361	-0.0075	7.78875	0.001529305
763	1	7.99625	-0.0075	7.78125	0.001527832
5460	3	8.001542	-0.005	7.77625	0.001526851
7808	3	8.003249	-0.005	7.77125	0.001525869
7730	3	8.003293	-0.005	7.76625	0.001524887
6576	3	8.003575	-0.005	7.76125	0.001523905
6323	3	8.004007	-0.005	7.75625	0.001522924
5566	3	8.004405	-0.005	7.75125	0.001521942
8917	4	8.009404	-0.005	7.74625	0.00152096
1331	1	8.018289	-0.0075	7.73875	0.001519488

3293	3	8.023899	-0.005	7.73375	0.001518506
6783	3	8.02603	-0.005	7.72875	0.001517524
1424	1	8.031237	-0.0075	7.72125	0.001516051
112	1	8.03241	-0.0075	7.71375	0.001514579
3624	3	8.034895	-0.005	7.70875	0.001513597
6985	3	8.039047	-0.005	7.70375	0.001512615
7447	3	8.040098	-0.005	7.69875	0.001511634
5008	3	8.040837	-0.005	7.69375	0.001510652
7312	3	8.047099	-0.005	7.68875	0.00150967
6614	3	8.049416	-0.005	7.68375	0.001508688
535	1	8.051019	-0.0075	7.67625	0.001507216
8418	3	8.054961	-0.005	7.67125	0.001506234
4730	3	8.06016	-0.005	7.66625	0.001505252
2051	2	8.060623	-0.00625	7.66	0.001504025
7469	3	8.069862	-0.005	7.655	0.001503043
5905	3	8.072606	-0.005	7.65	0.001502062
8060	3	8.083386	-0.005	7.645	0.00150108
3429	3	8.084105	-0.005	7.64	0.001500098
1241	1	8.084877	-0.0075	7.6325	0.001498626
4514	3	8.096219	-0.005	7.6275	0.001497644
3839	3	8.09848	-0.005	7.6225	0.001496662
1878	2	8.100295	-0.00625	7.61625	0.001495435
5195	3	8.110257	-0.005	7.61125	0.001494453
777	1	8.110538	-0.0075	7.60375	0.001492981
6835	3	8.111964	-0.005	7.59875	0.001491999
80	1	8.114959	-0.0075	7.59125	0.001490526
5915	3	8.118441	-0.005	7.58625	0.001489544
5823	3	8.122555	-0.005	7.58125	0.001488563
677	1	8.122706	-0.0075	7.57375	0.00148709
4663	3	8.126922	-0.005	7.56875	0.001486108
275	1	8.127798	-0.0075	7.56125	0.001484636
5958	3	8.138448	-0.005	7.55625	0.001483654
2267	2	8.139206	-0.00625	7.55	0.001482427
9084	4	8.14201	-0.005	7.545	0.001481445
8352	3	8.144577	-0.005	7.54	0.001480463
650	1	8.145635	-0.0075	7.5325	0.001478991
1313	1	8.14785	-0.0075	7.525	0.001477518
2335	2	8.150956	-0.00625	7.51875	0.001476291
4576	3	8.159053	-0.005	7.51375	0.001475309
745	1	8.160829	-0.0075	7.50625	0.001473837
1992	2	8.164647	-0.00625	7.5	0.001472609
9462	4	8.16831	-0.005	7.495	0.001471628
4422	3	8.169773	-0.005	7.49	0.001470646
882	1	8.177433	-0.0075	7.4825	0.001469173
1494	1	8.177836	-0.0075	7.475	0.001467701
22	1	8.179181	-0.0075	7.4675	0.001466228
4448	3	8.182513	-0.005	7.4625	0.001465246
5916	3	8.184695	-0.005	7.4575	0.001464265
4090	3	8.185167	-0.005	7.4525	0.001463283
6213	3	8.186448	-0.005	7.4475	0.001462301
2847	2	8.19309	-0.00625	7.44125	0.001461074
2745	2	8.193338	-0.00625	7.435	0.001459847

7923	3	8.195667	-0.005	7.43	0.001458865
2535	2	8.198559	-0.00625	7.42375	0.001457638
5600	3	8.199513	-0.005	7.41875	0.001456656
18	1	8.200292	-0.0075	7.41125	0.001455184
1200	1	8.201065	-0.0075	7.40375	0.001453711
7426	3	8.207628	-0.005	7.39875	0.001452729
1660	1	8.209918	-0.0075	7.39125	0.001451257
6766	3	8.210963	-0.005	7.38625	0.001450275
7417	3	8.220897	-0.005	7.38125	0.001449293
7212	3	8.22222	-0.005	7.37625	0.001448311
225	1	8.224316	-0.0075	7.36875	0.001446839
1105	1	8.226729	-0.0075	7.36125	0.001445366
3120	3	8.235574	-0.005	7.35625	0.001444384
341	1	8.236084	-0.0075	7.34875	0.001442912
3442	3	8.238518	-0.005	7.34375	0.00144193
2463	2	8.238678	-0.00625	7.3375	0.001440703
1032	1	8.239553	-0.0075	7.33	0.00143923
2926	3	8.242259	-0.005	7.325	0.001438249
133	1	8.243078	-0.0075	7.3175	0.001436776
2185	2	8.24734	-0.00625	7.31125	0.001435549
7912	3	8.249295	-0.005	7.30625	0.001434567
931	1	8.25228	-0.0075	7.29875	0.001433094
128	1	8.258003	-0.0075	7.29125	0.001431622
3876	3	8.258204	-0.005	7.28625	0.00143064
3976	3	8.260762	-0.005	7.28125	0.001429658
7591	3	8.261627	-0.005	7.27625	0.001428677
2076	2	8.262387	-0.00625	7.27	0.001427449
1025	1	8.264186	-0.0075	7.2625	0.001425977
9667	4	8.264531	-0.005	7.2575	0.001424995
3790	3	8.275147	-0.005	7.2525	0.001424013
26	1	8.284405	-0.0075	7.245	0.001422541
5320	3	8.285389	-0.005	7.24	0.001421559
81	1	8.289886	-0.0075	7.2325	0.001420086
8227	3	8.289959	-0.005	7.2275	0.001419105
2085	2	8.29256	-0.00625	7.22125	0.001417877
1185	1	8.293482	-0.0075	7.21375	0.001416405
1370	1	8.293707	-0.0075	7.20625	0.001414932
833	1	8.29778	-0.0075	7.19875	0.00141346
2193	2	8.302619	-0.00625	7.1925	0.001412232
5156	3	8.303716	-0.005	7.1875	0.001411251
2751	2	8.304547	-0.00625	7.18125	0.001410024
6538	3	8.304919	-0.005	7.17625	0.001409042
1937	2	8.309708	-0.00625	7.17	0.001407815
8095	3	8.32011	-0.005	7.165	0.001406833
184	1	8.327592	-0.0075	7.1575	0.00140536
4879	3	8.329477	-0.005	7.1525	0.001404379
6284	3	8.333448	-0.005	7.1475	0.001403397
482	1	8.338518	-0.0075	7.14	0.001401924
5676	3	8.338858	-0.005	7.135	0.001400942
3883	3	8.346382	-0.005	7.13	0.001399961
1319	1	8.346705	-0.0075	7.1225	0.001398488
7412	3	8.348674	-0.005	7.1175	0.001397506

6551	3	8.353669	-0.005	7.1125	0.001396525
9669	4	8.359725	-0.005	7.1075	0.001395543
3167	3	8.361388	-0.005	7.1025	0.001394561
5075	3	8.366196	-0.005	7.0975	0.001393579
585	1	8.366832	-0.0075	7.09	0.001392107
2836	2	8.367885	-0.00625	7.08375	0.00139088
8260	3	8.375282	-0.005	7.07875	0.001389898
3582	3	8.375455	-0.005	7.07375	0.001388916
1008	1	8.379991	-0.0075	7.06625	0.001387444
6825	3	8.380228	-0.005	7.06125	0.001386462
2139	2	8.384541	-0.00625	7.055	0.001385235
2402	2	8.385205	-0.00625	7.04875	0.001384007
1339	1	8.386459	-0.0075	7.04125	0.001382535
1257	1	8.386913	-0.0075	7.03375	0.001381062
8956	4	8.391443	-0.005	7.02875	0.001380081
3138	3	8.39446	-0.005	7.02375	0.001379099
6507	3	8.394779	-0.005	7.01875	0.001378117
5487	3	8.402731	-0.005	7.01375	0.001377135
618	1	8.405695	-0.0075	7.00625	0.001375663
4118	3	8.40737	-0.005	7.00125	0.001374681
504	1	8.409649	-0.0075	6.99375	0.001373208
3073	3	8.410771	-0.005	6.98875	0.001372227
4480	3	8.412299	-0.005	6.98375	0.001371245
6667	3	8.415956	-0.005	6.97875	0.001370263
178	1	8.416997	-0.0075	6.97125	0.00136879
4910	3	8.418348	-0.005	6.96625	0.001367809
1149	1	8.423341	-0.0075	6.95875	0.001366336
7249	3	8.424963	-0.005	6.95375	0.001365354
1359	1	8.429584	-0.0075	6.94625	0.001363882
5393	3	8.432504	-0.005	6.94125	0.0013629
96	1	8.436416	-0.0075	6.93375	0.001361427
8938	4	8.4386	-0.005	6.92875	0.001360446
7751	3	8.444148	-0.005	6.92375	0.001359464
9527	4	8.445687	-0.005	6.91875	0.001358482
3776	3	8.453437	-0.005	6.91375	0.0013575
7711	3	8.455427	-0.005	6.90875	0.001356519
2259	2	8.456028	-0.00625	6.9025	0.001355292
1135	1	8.456632	-0.0075	6.895	0.001353819
1433	1	8.46458	-0.0075	6.8875	0.001352346
6562	3	8.468371	-0.005	6.8825	0.001351365
4522	3	8.468883	-0.005	6.8775	0.001350383
1174	1	8.47072	-0.0075	6.87	0.00134891
6088	3	8.470929	-0.005	6.865	0.001347929
3858	3	8.479078	-0.005	6.86	0.001346947
3729	3	8.479583	-0.005	6.855	0.001345965
1711	1	8.479903	-0.0075	6.8475	0.001344492
2158	2	8.481265	-0.00625	6.84125	0.001343265
1275	1	8.493024	-0.0075	6.83375	0.001341793
2586	2	8.501728	-0.00625	6.8275	0.001340565
2283	2	8.508302	-0.00625	6.82125	0.001339338
8306	3	8.520042	-0.005	6.81625	0.001338357
8111	3	8.522488	-0.005	6.81125	0.001337375

9451	4	8.5257	-0.005	6.80625	0.001336393
8618	3	8.540329	-0.005	6.80125	0.001335411
2768	2	8.54147	-0.00625	6.795	0.001334184
5035	3	8.549039	-0.005	6.79	0.001333202
735	1	8.551275	-0.0075	6.7825	0.00133173
5942	3	8.552421	-0.005	6.7775	0.001330748
4678	3	8.552868	-0.005	6.7725	0.001329766
1721	1	8.55417	-0.0075	6.765	0.001328294
3757	3	8.554193	-0.005	6.76	0.001327312
299	1	8.561238	-0.0075	6.7525	0.001325839
956	1	8.562736	-0.0075	6.745	0.001324367
8983	4	8.564867	-0.005	6.74	0.001323385
3061	3	8.565355	-0.005	6.735	0.001322403
2848	2	8.569165	-0.00625	6.72875	0.001321176
4870	3	8.569428	-0.005	6.72375	0.001320194
2532	2	8.570976	-0.00625	6.7175	0.001318967
6010	3	8.576901	-0.005	6.7125	0.001317985
4646	3	8.579514	-0.005	6.7075	0.001317004
1813	2	8.580784	-0.00625	6.70125	0.001315777
2565	2	8.58336	-0.00625	6.695	0.001314549
1897	2	8.586195	-0.00625	6.68875	0.001313322
9947	4	8.588197	-0.005	6.68375	0.00131234
7481	3	8.592156	-0.005	6.67875	0.001311359
2520	2	8.599509	-0.00625	6.6725	0.001310132
2045	2	8.604927	-0.00625	6.66625	0.001308904
7575	3	8.607847	-0.005	6.66125	0.001307923
6999	3	8.611554	-0.005	6.65625	0.001306941
1345	1	8.614197	-0.0075	6.64875	0.001305468
4028	3	8.614233	-0.005	6.64375	0.001304487
558	1	8.615737	-0.0075	6.63625	0.001303014
624	1	8.617146	-0.0075	6.62875	0.001301541
1336	1	8.625131	-0.0075	6.62125	0.001300069
1248	1	8.626135	-0.0075	6.61375	0.001298596
1597	1	8.627897	-0.0075	6.60625	0.001297124
5742	3	8.630472	-0.005	6.60125	0.001296142
378	1	8.646119	-0.0075	6.59375	0.001294669
27	1	8.65224	-0.0075	6.58625	0.001293197
4618	3	8.653387	-0.005	6.58125	0.001292215
2624	2	8.653863	-0.00625	6.575	0.001290988
1578	1	8.655109	-0.0075	6.5675	0.001289515
5945	3	8.657609	-0.005	6.5625	0.001288533
4755	3	8.659599	-0.005	6.5575	0.001287552
6346	3	8.659736	-0.005	6.5525	0.00128657
2371	2	8.662537	-0.00625	6.54625	0.001285343
3321	3	8.680157	-0.005	6.54125	0.001284361
1203	1	8.681591	-0.0075	6.53375	0.001282888
7974	3	8.683943	-0.005	6.52875	0.001281907
6766	3	8.687484	-0.005	6.52375	0.001280925
5172	3	8.688112	-0.005	6.51875	0.001279943
3934	3	8.688945	-0.005	6.51375	0.001278961
4731	3	8.690086	-0.005	6.50875	0.00127798
658	1	8.690838	-0.0075	6.50125	0.001276507

5354	3	8.691777	-0.005	6.49625	0.001275525
4145	3	8.693795	-0.005	6.49125	0.001274543
2062	2	8.69773	-0.00625	6.485	0.001273316
1480	1	8.706258	-0.0075	6.4775	0.001271844
2352	2	8.707926	-0.00625	6.47125	0.001270617
7530	3	8.712121	-0.005	6.46625	0.001269635
8494	3	8.718997	-0.005	6.46125	0.001268653
6796	3	8.719612	-0.005	6.45625	0.001267671
8922	4	8.723745	-0.005	6.45125	0.00126669
3644	3	8.724564	-0.005	6.44625	0.001265708
2317	2	8.72686	-0.00625	6.44	0.001264481
7875	3	8.727507	-0.005	6.435	0.001263499
179	1	8.728092	-0.0075	6.4275	0.001262026
8	1	8.729256	-0.0075	6.42	0.001260554
1600	1	8.735037	-0.0075	6.4125	0.001259081
988	1	8.74444	-0.0075	6.405	0.001257608
1684	1	8.748813	-0.0075	6.3975	0.001256136
5768	3	8.757724	-0.005	6.3925	0.001255154
1161	1	8.757759	-0.0075	6.385	0.001253682
2994	3	8.762199	-0.005	6.38	0.0012527
2207	2	8.762927	-0.00625	6.37375	0.001251473
7459	3	8.771633	-0.005	6.36875	0.001250491
281	1	8.777242	-0.0075	6.36125	0.001249018
216	1	8.785667	-0.0075	6.35375	0.001247546
1132	1	8.787557	-0.0075	6.34625	0.001246073
4298	3	8.787977	-0.005	6.34125	0.001245091
2339	2	8.799039	-0.00625	6.335	0.001243864
3973	3	8.7991	-0.005	6.33	0.001242882
1404	1	8.80449	-0.0075	6.3225	0.00124141
5770	3	8.809759	-0.005	6.3175	0.001240428
3261	3	8.811749	-0.005	6.3125	0.001239446
5963	3	8.819187	-0.005	6.3075	0.001238465
5047	3	8.81969	-0.005	6.3025	0.001237483
1010	1	8.831212	-0.0075	6.295	0.00123601
6094	3	8.831529	-0.005	6.29	0.001235028
1177	1	8.842373	-0.0075	6.2825	0.001233556
1909	2	8.844936	-0.00625	6.27625	0.001232329
6578	3	8.848999	-0.005	6.27125	0.001231347
2674	2	8.854219	-0.00625	6.265	0.00123012
6438	3	8.855441	-0.005	6.26	0.001229138
692	1	8.860182	-0.0075	6.2525	0.001227665
3272	3	8.866272	-0.005	6.2475	0.001226684
2515	2	8.879066	-0.00625	6.24125	0.001225457
8037	3	8.882737	-0.005	6.23625	0.001224475
1416	1	8.884887	-0.0075	6.22875	0.001223002
2201	2	8.888029	-0.00625	6.2225	0.001221775
265	1	8.891906	-0.0075	6.215	0.001220302
5032	3	8.892637	-0.005	6.21	0.001219321
7339	3	8.897852	-0.005	6.205	0.001218339
1193	1	8.912989	-0.0075	6.1975	0.001216866
358	1	8.918181	-0.0075	6.19	0.001215394
1031	1	8.920608	-0.0075	6.1825	0.001213921

3665	3	8.921641	-0.005	6.1775	0.001212939
7424	3	8.922035	-0.005	6.1725	0.001211958
1456	1	8.924833	-0.0075	6.165	0.001210485
6930	3	8.928139	-0.005	6.16	0.001209503
586	1	8.92868	-0.0075	6.1525	0.001208031
2602	2	8.934157	-0.00625	6.14625	0.001206803
401	1	8.938877	-0.0075	6.13875	0.001205331
2002	2	8.942969	-0.00625	6.1325	0.001204104
3878	3	8.950605	-0.005	6.1275	0.001203122
2556	2	8.953086	-0.00625	6.12125	0.001201895
4004	3	8.954095	-0.005	6.11625	0.001200913
4650	3	8.955886	-0.005	6.11125	0.001199931
819	1	8.95746	-0.0075	6.10375	0.001198459
2243	2	8.972271	-0.00625	6.0975	0.001197231
1811	2	8.980049	-0.00625	6.09125	0.001196004
2928	3	8.981045	-0.005	6.08625	0.001195023
696	1	8.982953	-0.0075	6.07875	0.00119355
3701	3	8.985324	-0.005	6.07375	0.001192568
2340	2	8.985509	-0.00625	6.0675	0.001191341
114	1	8.989366	-0.0075	6.06	0.001189868
3404	3	8.996714	-0.005	6.055	0.001188887
4227	3	8.99882	-0.005	6.05	0.001187905
2219	2	9.001792	-0.00625	6.04375	0.001186678
9432	4	9.001852	-0.005	6.03875	0.001185696
444	1	9.002765	-0.0075	6.03125	0.001184223
3264	3	9.003556	-0.005	6.02625	0.001183242
1911	2	9.003749	-0.00625	6.02	0.001182015
2766	2	9.004119	-0.00625	6.01375	0.001180787
7019	3	9.005068	-0.005	6.00875	0.001179806
7430	3	9.008121	-0.005	6.00375	0.001178824
5425	3	9.008503	-0.005	5.99875	0.001177842
2826	2	9.010488	-0.00625	5.9925	0.001176615
6413	3	9.01318	-0.005	5.9875	0.001175633
4398	3	9.019052	-0.005	5.9825	0.001174651
8385	3	9.028365	-0.005	5.9775	0.00117367
2773	2	9.030363	-0.00625	5.97125	0.001172443
4981	3	9.030492	-0.005	5.96625	0.001171461
2835	2	9.030685	-0.00625	5.96	0.001170234
348	1	9.039821	-0.0075	5.9525	0.001168761
450	1	9.040201	-0.0075	5.945	0.001167288
6351	3	9.04137	-0.005	5.94	0.001166307
1266	1	9.044789	-0.0075	5.9325	0.001164834
6769	3	9.046317	-0.005	5.9275	0.001163852
2792	2	9.050916	-0.00625	5.92125	0.001162625
2427	2	9.054038	-0.00625	5.915	0.001161398
1775	2	9.061773	-0.00625	5.90875	0.001160171
7649	3	9.062554	-0.005	5.90375	0.001159189
7917	3	9.064541	-0.005	5.89875	0.001158207
4570	3	9.066968	-0.005	5.89375	0.001157226
8310	3	9.070822	-0.005	5.88875	0.001156244
1239	1	9.076136	-0.0075	5.88125	0.001154771
346	1	9.076457	-0.0075	5.87375	0.001153299

2706	2	9.084237	0.0125	5.88625	0.001155753
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7973	3	9.094597	-0.005	5.87625	0.00115379
7512	3	9.101313	-0.005	5.87125	0.001152808
5167	3	9.10657	-0.005	5.86625	0.001151826
5746	3	9.113105	-0.005	5.86125	0.001150844
5817	3	9.11573	-0.005	5.85625	0.001149863
4852	3	9.12007	-0.005	5.85125	0.001148881
624	1	9.120357	-0.0075	5.84375	0.001147408
4080	3	9.124478	-0.005	5.83875	0.001146426
4438	3	9.126029	-0.005	5.83375	0.001145445
2864	2	9.129584	-0.00625	5.8275	0.001144218
3537	3	9.12959	-0.005	5.8225	0.001143236
39	1	9.132831	-0.0075	5.815	0.001141763
1660	1	9.138446	-0.0075	5.8075	0.001140291
6249	3	9.140416	-0.005	5.8025	0.001139309
2484	2	9.144157	-0.00625	5.79625	0.001138082
2489	2	9.161305	-0.00625	5.79	0.001136855
3720	3	9.168541	-0.005	5.785	0.001135873
3760	3	9.172186	-0.005	5.78	0.001134891
9725	4	9.173005	-0.005	5.775	0.001133909
3730	3	9.174295	-0.005	5.77	0.001132928
2024	2	9.178086	-0.00625	5.76375	0.0011317
1252	1	9.184859	-0.0075	5.75625	0.001130228
1504	1	9.19057	-0.0075	5.74875	0.001128755
2978	3	9.198203	-0.005	5.74375	0.001127773
1828	2	9.199465	-0.00625	5.7375	0.001126546
5107	3	9.200177	-0.005	5.7325	0.001125565
2462	2	9.201298	-0.00625	5.72625	0.001124337
2647	2	9.202442	-0.00625	5.72	0.00112311
1166	1	9.205509	-0.0075	5.7125	0.001121638
1991	2	9.213198	-0.00625	5.70625	0.00112041
1139	1	9.213618	-0.0075	5.69875	0.001118938
4904	3	9.219639	-0.005	5.69375	0.001117956
9888	4	9.220376	-0.005	5.68875	0.001116974
8049	3	9.225834	-0.005	5.68375	0.001115993
9604	4	9.22692	-0.005	5.67875	0.001115011
8589	3	9.227099	-0.005	5.67375	0.001114029
8526	3	9.227841	-0.005	5.66875	0.001113047
4115	3	9.227853	-0.005	5.66375	0.001112066
6584	3	9.230457	-0.005	5.65875	0.001111084
3663	3	9.231128	-0.005	5.65375	0.001110102
3380	3	9.238541	-0.005	5.64875	0.00110912
783	1	9.241322	-0.0075	5.64125	0.001107648
8737	3	9.24191	-0.005	5.63625	0.001106666
1309	1	9.244976	-0.0075	5.62875	0.001105193
599	1	9.250264	-0.0075	5.62125	0.001103721
6156	3	9.250458	-0.005	5.61625	0.001102739
9012	4	9.264321	-0.005	5.61125	0.001101757
314	1	9.264556	-0.0075	5.60375	0.001100285
1562	1	9.267206	-0.0075	5.59625	0.001098812
2453	2	9.269865	-0.00625	5.59	0.001097585

3629	3	9.275708	-0.005	5.585	0.001096603
250	1	9.277462	-0.0075	5.5775	0.001095131
4076	3	9.280126	-0.005	5.5725	0.001094149
7546	3	9.280591	-0.005	5.5675	0.001093167
4166	3	9.280893	-0.005	5.5625	0.001092185
356	1	9.284209	-0.0075	5.555	0.001090713
5087	3	9.285313	-0.005	5.55	0.001089731
1080	1	9.28921	-0.0075	5.5425	0.001088258
4800	3	9.28979	-0.005	5.5375	0.001087277
331	1	9.292792	-0.0075	5.53	0.001085804
3129	3	9.296382	-0.005	5.525	0.001084822
5755	3	9.301916	-0.005	5.52	0.001083841
2754	2	9.303292	-0.00625	5.51375	0.001082613
3873	3	9.314217	-0.005	5.50875	0.001081632
1954	2	9.317664	-0.00625	5.5025	0.001080404
7992	3	9.319356	-0.005	5.4975	0.001079423
754	1	9.33491	-0.0075	5.49	0.00107795
1226	1	9.341291	-0.0075	5.4825	0.001076478
4186	3	9.342971	-0.005	5.4775	0.001075496
164	1	9.345546	-0.0075	5.47	0.001074023
2377	2	9.346104	-0.00625	5.46375	0.001072796
210	1	9.351386	-0.0075	5.45625	0.001071323
8100	3	9.353549	-0.005	5.45125	0.001070342
934	1	9.354711	-0.0075	5.44375	0.001068869
8577	3	9.361528	-0.005	5.43875	0.001067887
7174	3	9.365721	-0.005	5.43375	0.001066906
7360	3	9.366777	-0.005	5.42875	0.001065924
9910	4	9.368474	-0.005	5.42375	0.001064942
6078	3	9.373388	-0.005	5.41875	0.00106396
5128	3	9.37355	-0.005	5.41375	0.001062979
7990	3	9.381636	-0.005	5.40875	0.001061997
1704	1	9.381805	-0.0075	5.40125	0.001060524
5022	3	9.385213	-0.005	5.39625	0.001059543
9667	4	9.38752	-0.005	5.39125	0.001058561
7510	3	9.392919	-0.005	5.38625	0.001057579
5301	3	9.393316	-0.005	5.38125	0.001056597
1154	1	9.396811	-0.0075	5.37375	0.001055125
420	1	9.400211	-0.0075	5.36625	0.001053652
1128	1	9.404633	-0.0075	5.35875	0.001052179
2665	2	9.40529	-0.00625	5.3525	0.001050952
3489	3	9.405379	-0.005	5.3475	0.001049971
2220	2	9.408806	-0.00625	5.34125	0.001048743
6330	3	9.41412	-0.005	5.33625	0.001047762
2404	2	9.418602	-0.00625	5.33	0.001046534
8161	3	9.419742	-0.005	5.325	0.001045553
5500	3	9.430489	-0.005	5.32	0.001044571
2897	2	9.43385	-0.00625	5.31375	0.001043344
2285	2	9.436188	-0.00625	5.3075	0.001042117
3263	3	9.437345	-0.005	5.3025	0.001041135
1502	1	9.441891	-0.0075	5.295	0.001039662
3382	3	9.443151	-0.005	5.29	0.001038681
9648	4	9.447984	-0.005	5.285	0.001037699

6120	3	9.454489	-0.005	5.28	0.001036717
647	1	9.459678	-0.0075	5.2725	0.001035244
8798	4	9.461916	-0.005	5.2675	0.001034263
7186	3	9.46473	-0.005	5.2625	0.001033281
8121	3	9.465158	-0.005	5.2575	0.001032299
2887	2	9.469217	-0.00625	5.25125	0.001031072
5227	3	9.476432	-0.005	5.24625	0.00103009
5767	3	9.476465	-0.005	5.24125	0.001029109
4823	3	9.479252	-0.005	5.23625	0.001028127
2187	2	9.480221	-0.00625	5.23	0.0010269
8039	3	9.482531	-0.005	5.225	0.001025918
7399	3	9.492676	-0.005	5.22	0.001024936
1424	1	9.507193	-0.0075	5.2125	0.001023464
7612	3	9.509566	-0.005	5.2075	0.001022482
3344	3	9.51469	-0.005	5.2025	0.0010215
5546	3	9.515285	-0.005	5.1975	0.001020518
7587	3	9.517023	-0.005	5.1925	0.001019537
2304	2	9.534175	-0.00625	5.18625	0.001018309
610	1	9.539918	-0.0075	5.17875	0.001016837
2956	3	9.540328	-0.005	5.17375	0.001015855
546	1	9.542949	-0.0075	5.16625	0.001014382
3117	3	9.543082	-0.005	5.16125	0.001013401
8534	3	9.546232	-0.005	5.15625	0.001012419
9024	4	9.550349	-0.005	5.15125	0.001011437
806	1	9.556355	-0.0075	5.14375	0.001009965
1608	1	9.560514	-0.0075	5.13625	0.001008492
4444	3	9.570258	-0.005	5.13125	0.00100751
1033	1	9.5752	-0.0075	5.12375	0.001006038
8278	3	9.576799	-0.005	5.11875	0.001005056
9851	4	9.586207	-0.005	5.11375	0.001004074
3780	3	9.591071	-0.005	5.10875	0.001003092
2401	2	9.593648	-0.00625	5.1025	0.001001865
4835	3	9.596745	-0.005	5.0975	0.001000884
1243	1	9.597331	-0.0075	5.09	0.000999411
4606	3	9.602971	-0.005	5.085	0.000998429
148	1	9.607402	-0.0075	5.0775	0.000996957
1952	2	9.607537	-0.00625	5.07125	0.000995729
4924	3	9.613155	-0.005	5.06625	0.000994748
2035	2	9.622349	-0.00625	5.06	0.000993521
2788	2	9.630021	-0.00625	5.05375	0.000992293
3077	3	9.630992	-0.005	5.04875	0.000991312
2235	2	9.631053	-0.00625	5.0425	0.000990084
2917	3	9.632888	-0.005	5.0375	0.000989103
5053	3	9.634188	-0.005	5.0325	0.000988121
6403	3	9.637042	-0.005	5.0275	0.000987139
666	1	9.641938	-0.0075	5.02	0.000985667
4408	3	9.646158	-0.005	5.015	0.000984685
7117	3	9.646572	-0.005	5.01	0.000983703
1998	2	9.647114	-0.00625	5.00375	0.000982476
7482	3	9.653811	-0.005	4.99875	0.000981494
89	1	9.65413	-0.0075	4.99125	0.000980022
6756	3	9.662257	-0.005	4.98625	0.00097904

5359	3	9.665949	-0.005	4.98125	0.000978058
6493	3	9.667003	-0.005	4.97625	0.000977076
371	1	9.677042	-0.0075	4.96875	0.000975604
373	1	9.677121	-0.0075	4.96125	0.000974131
9676	4	9.68843	-0.005	4.95625	0.000973149
530	1	9.690946	-0.0075	4.94875	0.000971677
8746	3	9.691621	-0.005	4.94375	0.000970695
927	1	9.693587	-0.0075	4.93625	0.000969222
1101	1	9.69704	-0.0075	4.92875	0.00096775
1890	2	9.698097	-0.00625	4.9225	0.000966523
5165	3	9.710104	-0.005	4.9175	0.000965541
7310	3	9.714824	-0.005	4.9125	0.000964559
3480	3	9.715581	-0.005	4.9075	0.000963577
3196	3	9.7163	-0.005	4.9025	0.000962596
868	1	9.716895	-0.0075	4.895	0.000961123
8473	3	9.718366	-0.005	4.89	0.000960141
2502	2	9.719416	-0.00625	4.88375	0.000958914
501	1	9.734243	-0.0075	4.87625	0.000957442
1117	1	9.735548	-0.0075	4.86875	0.000955969
570	1	9.73659	-0.0075	4.86125	0.000954496
1107	1	9.7376	-0.0075	4.85375	0.000953024
5713	3	9.74058	-0.005	4.84875	0.000952042
1321	1	9.743511	-0.0075	4.84125	0.000950569
1886	2	9.74377	-0.00625	4.835	0.000949342
1167	1	9.749334	-0.0075	4.8275	0.00094787
2264	2	9.750081	-0.00625	4.82125	0.000946642
1778	2	9.751801	-0.00625	4.815	0.000945415
2273	2	9.754688	-0.00625	4.80875	0.000944188
1264	1	9.755039	-0.0075	4.80125	0.000942715
3643	3	9.75595	-0.005	4.79625	0.000941734
2116	2	9.774525	-0.00625	4.79	0.000940507
441	1	9.774711	-0.0075	4.7825	0.000939034
5337	3	9.776024	-0.005	4.7775	0.000938052
2424	2	9.784467	-0.00625	4.77125	0.000936825
2638	2	9.795358	-0.00625	4.765	0.000935598
1598	1	9.795541	-0.0075	4.7575	0.000934125
2593	2	9.797325	-0.00625	4.75125	0.000932898
4765	3	9.797907	-0.005	4.74625	0.000931916
2010	2	9.802828	-0.00625	4.74	0.000930689
4758	3	9.811536	-0.005	4.735	0.000929707
2547	2	9.814013	-0.00625	4.72875	0.00092848
8476	3	9.814019	-0.005	4.72375	0.000927499
1227	1	9.817239	-0.0075	4.71625	0.000926026
5562	3	9.817565	-0.005	4.71125	0.000925044
453	1	9.826083	-0.0075	4.70375	0.000923572
2140	2	9.826123	-0.00625	4.6975	0.000922344
6617	3	9.829311	-0.005	4.6925	0.000921363
55	1	9.83274	-0.0075	4.685	0.00091989
1375	1	9.833937	-0.0075	4.6775	0.000918417
3232	3	9.836326	-0.005	4.6725	0.000917436
5593	3	9.836346	-0.005	4.6675	0.000916454
2705	2	9.853892	-0.00625	4.66125	0.000915227

430	1	9.860371	-0.0075	4.65375	0.000913754
1323	1	9.870106	-0.0075	4.64625	0.000912282
5998	3	9.872645	-0.005	4.64125	0.0009113
4386	3	9.873514	-0.005	4.63625	0.000910318
1017	1	9.881766	-0.0075	4.62875	0.000908845
969	1	9.88208	-0.0075	4.62125	0.000907373
7694	3	9.88593	-0.005	4.61625	0.000906391
3049	3	9.886175	-0.005	4.61125	0.000905409
9528	4	9.887075	-0.005	4.60625	0.000904428
6677	3	9.896654	-0.005	4.60125	0.000903446
622	1	9.896903	-0.0075	4.59375	0.000901973
7520	3	9.899968	-0.005	4.58875	0.000900992
5387	3	9.901527	-0.005	4.58375	0.00090001
2870	2	9.90441	-0.00625	4.5775	0.000898783
5246	3	9.9134	-0.005	4.5725	0.000897801
6997	3	9.921083	-0.005	4.5675	0.000896819
9182	4	9.931431	-0.005	4.5625	0.000895837
1063	1	9.933097	-0.0075	4.555	0.000894365
2036	2	9.947275	-0.00625	4.54875	0.000893138
9837	4	9.961407	-0.005	4.54375	0.000892156
7857	3	9.961725	-0.005	4.53875	0.000891174
863	1	9.962615	-0.0075	4.53125	0.000889702
5656	3	9.964697	-0.005	4.52625	0.00088872
8731	3	9.97186	-0.005	4.52125	0.000887738
7157	3	9.972849	-0.005	4.51625	0.000886756
3882	3	9.975631	-0.005	4.51125	0.000885775
1124	1	9.981623	-0.0075	4.50375	0.000884302
3897	3	9.982974	-0.005	4.49875	0.00088332
8430	3	9.990437	-0.005	4.49375	0.000882339
6072	3	9.994414	-0.005	4.48875	0.000881357
1861	2	9.998764	-0.00625	4.4825	0.00088013
949	1	10.00054	-0.0075	4.475	0.000878657
383	1	10.00471	-0.0075	4.4675	0.000877184
7810	3	10.00481	-0.005	4.4625	0.000876203
7417	3	10.01042	-0.005	4.4575	0.000875221
7900	3	10.01195	-0.005	4.4525	0.000874239
1378	1	10.02662	-0.0075	4.445	0.000872767
6180	3	10.02803	-0.005	4.44	0.000871785
9722	4	10.03196	-0.005	4.435	0.000870803
127	1	10.04242	-0.0075	4.4275	0.00086933
1344	1	10.04653	-0.0075	4.42	0.000867858
4375	3	10.04937	-0.005	4.415	0.000866876
9116	4	10.05517	-0.005	4.41	0.000865894
6715	3	10.06109	-0.005	4.405	0.000864913
9366	4	10.06808	-0.005	4.4	0.000863931
7522	3	10.07362	-0.005	4.395	0.000862949
679	1	10.07404	-0.0075	4.3875	0.000861477
2746	2	10.09264	-0.00625	4.38125	0.000860249
823	1	10.09655	-0.0075	4.37375	0.000858777
4088	3	10.09705	-0.005	4.36875	0.000857795
6326	3	10.09789	-0.005	4.36375	0.000856813
4653	3	10.09967	-0.005	4.35875	0.000855832

1460	1	10.11168	-0.0075	4.35125	0.000854359
2041	2	10.12539	-0.00625	4.345	0.000853132
7240	3	10.12855	-0.005	4.34	0.00085215
1903	2	10.13209	-0.00625	4.33375	0.000850923
4575	3	10.13452	-0.005	4.32875	0.000849941
5002	3	10.13827	-0.005	4.32375	0.000848959
6359	3	10.14196	-0.005	4.31875	0.000847978
2747	2	10.14326	-0.00625	4.3125	0.00084675
8702	3	10.15124	-0.005	4.3075	0.000845769
1234	1	10.16728	-0.0075	4.3	0.000844296
3570	3	10.16755	-0.005	4.295	0.000843314
4133	3	10.17297	-0.005	4.29	0.000842333
3468	3	10.17717	-0.005	4.285	0.000841351
838	1	10.19051	-0.0075	4.2775	0.000839878
800	1	10.19741	-0.0075	4.27	0.000838406
3018	3	10.20511	-0.005	4.265	0.000837424
2425	2	10.21231	-0.00625	4.25875	0.000836197
2691	2	10.21932	-0.00625	4.2525	0.00083497
8264	3	10.22178	-0.005	4.2475	0.000833988
2179	2	10.2246	-0.00625	4.24125	0.000832761
295	1	10.22604	-0.0075	4.23375	0.000831288
1724	1	10.23781	-0.0075	4.22625	0.000829815
236	1	10.24662	-0.0075	4.21875	0.000828343
6348	3	10.24676	-0.005	4.21375	0.000827361
2174	2	10.24974	-0.00625	4.2075	0.000826134
1440	1	10.2525	-0.0075	4.2	0.000824661
7272	3	10.26056	-0.005	4.195	0.00082368
3156	3	10.27044	-0.005	4.19	0.000822698
8444	3	10.29426	-0.005	4.185	0.000821716
2633	2	10.30253	-0.00625	4.17875	0.000820489
4775	3	10.3043	-0.005	4.17375	0.000819507
1362	1	10.30482	-0.0075	4.16625	0.000818035
246	1	10.30488	-0.0075	4.15875	0.000816562
487	1	10.31817	-0.0075	4.15125	0.000815089
6235	3	10.31876	-0.005	4.14625	0.000814108
2533	2	10.33089	-0.00625	4.14	0.00081288
6877	3	10.33171	-0.005	4.135	0.000811899
5366	3	10.33282	-0.005	4.13	0.000810917
6332	3	10.34563	-0.005	4.125	0.000809935
830	1	10.37098	-0.0075	4.1175	0.000808463
999	1	10.37357	-0.0075	4.11	0.00080699
1106	1	10.37449	-0.0075	4.1025	0.000805517
835	1	10.37739	-0.0075	4.095	0.000804045
4665	3	10.38081	-0.005	4.09	0.000803063
6391	3	10.38134	-0.005	4.085	0.000802081
6048	3	10.39184	-0.005	4.08	0.0008011
2066	2	10.3927	-0.00625	4.07375	0.000799872
1380	1	10.39423	-0.0075	4.06625	0.0007984
4917	3	10.39958	-0.005	4.06125	0.000797418
619	1	10.3999	-0.0075	4.05375	0.000795945
415	1	10.40285	-0.0075	4.04625	0.000794473
1975	2	10.40311	-0.00625	4.04	0.000793246

5008	3	10.40407	-0.005	4.035	0.000792264
8697	3	10.41374	-0.005	4.03	0.000791282
3933	3	10.42131	-0.005	4.025	0.0007903
2741	2	10.433	-0.00625	4.01875	0.000789073
5842	3	10.44975	-0.005	4.01375	0.000788091
9827	4	10.45111	-0.005	4.00875	0.00078711
459	1	10.4602	-0.0075	4.00125	0.000785637
6842	3	10.46777	-0.005	3.99625	0.000784655
7153	3	10.47138	-0.005	3.99125	0.000783674
6794	3	10.47617	-0.005	3.98625	0.000782692
6125	3	10.47865	-0.005	3.98125	0.00078171
1114	1	10.49366	-0.0075	3.97375	0.000780238
1853	2	10.4955	-0.00625	3.9675	0.00077901
4914	3	10.49968	-0.005	3.9625	0.000778029
6548	3	10.51128	-0.005	3.9575	0.000777047
2398	2	10.51287	-0.00625	3.95125	0.00077582
9439	4	10.52479	-0.005	3.94625	0.000774838
6690	3	10.54543	-0.005	3.94125	0.000773856
8363	3	10.54569	-0.005	3.93625	0.000772875
2544	2	10.54863	-0.00625	3.93	0.000771647
2006	2	10.55708	-0.00625	3.92375	0.00077042
1318	1	10.56191	-0.0075	3.91625	0.000768948
786	1	10.56941	-0.0075	3.90875	0.000767475
7594	3	10.56975	-0.005	3.90375	0.000766493
5170	3	10.57901	-0.005	3.89875	0.000765511
4308	3	10.58422	-0.005	3.89375	0.00076453
9761	4	10.59068	-0.005	3.88875	0.000763548
4	1	10.59119	-0.0075	3.88125	0.000762075
5880	3	10.59601	-0.005	3.87625	0.000761094
2891	2	10.59639	-0.00625	3.87	0.000759866
3475	3	10.59976	-0.005	3.865	0.000758885
7331	3	10.61234	-0.005	3.86	0.000757903
3520	3	10.61369	-0.005	3.855	0.000756921
1259	1	10.6149	-0.0075	3.8475	0.000755449
3107	3	10.61572	-0.005	3.8425	0.000754467
1317	1	10.61783	-0.0075	3.835	0.000752994
7514	3	10.6355	-0.005	3.83	0.000752013
1306	1	10.63573	-0.0075	3.8225	0.00075054
2438	2	10.63836	-0.00625	3.81625	0.000749313
671	1	10.64038	-0.0075	3.80875	0.00074784
7712	3	10.64401	-0.005	3.80375	0.000746858
2187	2	10.65197	-0.00625	3.7975	0.000745631
5140	3	10.65489	-0.005	3.7925	0.00074465
1415	1	10.6584	-0.0075	3.785	0.000743177
1431	1	10.65916	-0.0075	3.7775	0.000741704
1254	1	10.66474	-0.0075	3.77	0.000740232
4228	3	10.665	-0.005	3.765	0.00073925
2996	3	10.68009	-0.005	3.76	0.000738268
5357	3	10.69093	-0.005	3.755	0.000737286
7591	3	10.7158	-0.005	3.75	0.000736305
1568	1	10.71611	-0.0075	3.7425	0.000734832
3618	3	10.71778	-0.005	3.7375	0.00073385

5504	3	10.71898	-0.005	3.7325	0.000732869
7178	3	10.71972	-0.005	3.7275	0.000731887
419	1	10.73793	-0.0075	3.72	0.000730414
1554	1	10.73965	-0.0075	3.7125	0.000728942
1876	2	10.75081	-0.00625	3.70625	0.000727715
1262	1	10.75799	-0.0075	3.69875	0.000726242
5062	3	10.76252	-0.005	3.69375	0.00072526
5592	3	10.76524	-0.005	3.68875	0.000724278
2025	2	10.76685	-0.00625	3.6825	0.000723051
7908	3	10.76932	-0.005	3.6775	0.00072207
5328	3	10.78309	-0.005	3.6725	0.000721088
6152	3	10.78753	-0.005	3.6675	0.000720106
5797	3	10.78803	-0.005	3.6625	0.000719124
219	1	10.78819	-0.0075	3.655	0.000717652
784	1	10.78925	-0.0075	3.6475	0.000716179
8282	3	10.79063	-0.005	3.6425	0.000715197
8011	3	10.79359	-0.005	3.6375	0.000714216
77	1	10.79539	-0.0075	3.63	0.000712743
390	1	10.79702	-0.0075	3.6225	0.00071127
7203	3	10.80166	-0.005	3.6175	0.000710289
5469	3	10.81026	-0.005	3.6125	0.000709307
4568	3	10.81791	-0.005	3.6075	0.000708325
4594	3	10.82788	-0.005	3.6025	0.000707343
2703	2	10.82801	-0.00625	3.59625	0.000706116
4443	3	10.84227	-0.005	3.59125	0.000705134
8142	3	10.84538	-0.005	3.58625	0.000704153
6725	3	10.86516	-0.005	3.58125	0.000703171
6222	3	10.87128	-0.005	3.57625	0.000702189
7484	3	10.87148	-0.005	3.57125	0.000701208
6952	3	10.87653	-0.005	3.56625	0.000700226
4099	3	10.87868	-0.005	3.56125	0.000699244
8141	3	10.88362	-0.005	3.55625	0.000698262
28	1	10.88734	-0.0075	3.54875	0.00069679
4168	3	10.90499	-0.005	3.54375	0.000695808
422	1	10.9119	-0.0075	3.53625	0.000694335
5962	3	10.91676	-0.005	3.53125	0.000693354
2270	2	10.91735	-0.00625	3.525	0.000692126
6537	3	10.94731	-0.005	3.52	0.000691145
5466	3	10.96002	-0.005	3.515	0.000690163
6255	3	10.97389	-0.005	3.51	0.000689181
3728	3	10.97512	-0.005	3.505	0.000688199
2899	2	10.97879	-0.00625	3.49875	0.000686972
7224	3	10.97949	-0.005	3.49375	0.000685991
9505	4	10.98796	-0.005	3.48875	0.000685009
1757	1	11.01432	-0.0075	3.48125	0.000683536
2666	2	11.02132	-0.00625	3.475	0.000682309
8918	4	11.02243	-0.005	3.47	0.000681327
5318	3	11.03104	-0.005	3.465	0.000680346
5232	3	11.03218	-0.005	3.46	0.000679364
1443	1	11.05856	-0.0075	3.4525	0.000677891
8704	3	11.06739	-0.005	3.4475	0.000676909
6936	3	11.07236	-0.005	3.4425	0.000675928

7239	3	11.07273	-0.005	3.4375	0.000674946
1172	1	11.07514	-0.0075	3.43	0.000673473
5269	3	11.08043	-0.005	3.425	0.000672492
2992	3	11.08049	-0.005	3.42	0.00067151
3426	3	11.09202	-0.005	3.415	0.000670528
6720	3	11.09307	-0.005	3.41	0.000669546
6867	3	11.09402	-0.005	3.405	0.000668565
4737	3	11.09741	-0.005	3.4	0.000667583
4148	3	11.09945	-0.005	3.395	0.000666601
2149	2	11.11024	-0.00625	3.38875	0.000665374
2245	2	11.1108	-0.00625	3.3825	0.000664147
7920	3	11.12119	-0.005	3.3775	0.000663165
5439	3	11.12509	-0.005	3.3725	0.000662183
392	1	11.12944	-0.0075	3.365	0.000660711
361	1	11.14311	-0.0075	3.3575	0.000659238
1561	1	11.14655	-0.0075	3.35	0.000657766
8412	3	11.15401	-0.005	3.345	0.000656784
8420	3	11.15716	-0.005	3.34	0.000655802
1233	1	11.16738	-0.0075	3.3325	0.000654329
4661	3	11.17063	-0.005	3.3275	0.000653348
1951	2	11.18929	-0.00625	3.32125	0.000652121
1585	1	11.19156	-0.0075	3.31375	0.000650648
1482	1	11.19258	-0.0075	3.30625	0.000649175
3700	3	11.19686	-0.005	3.30125	0.000648194
7668	3	11.20712	-0.005	3.29625	0.000647212
6579	3	11.21522	-0.005	3.29125	0.00064623
9452	4	11.2164	-0.005	3.28625	0.000645248
1463	1	11.21779	-0.0075	3.27875	0.000643776
526	1	11.22682	-0.0075	3.27125	0.000642303
6187	3	11.23589	-0.005	3.26625	0.000641321
4161	3	11.24235	-0.005	3.26125	0.00064034
301	1	11.25733	-0.0075	3.25375	0.000638867
4551	3	11.2578	-0.005	3.24875	0.000637885
8377	3	11.27867	-0.005	3.24375	0.000636904
560	1	11.28147	-0.0075	3.23625	0.000635431
407	1	11.30466	-0.0075	3.22875	0.000633958
349	1	11.31055	-0.0075	3.22125	0.000632486
571	1	11.32272	-0.0075	3.21375	0.000631013
3275	3	11.32312	-0.005	3.20875	0.000630031
1966	2	11.3282	-0.00625	3.2025	0.000628804
8232	3	11.3432	-0.005	3.1975	0.000627823
1436	1	11.35929	-0.0075	3.19	0.00062635
631	1	11.37464	-0.0075	3.1825	0.000624877
2005	2	11.38388	-0.00625	3.17625	0.00062365
3146	3	11.38812	-0.005	3.17125	0.000622668
1638	1	11.39799	-0.0075	3.16375	0.000621196
4881	3	11.41218	-0.005	3.15875	0.000620214
550	1	11.41447	-0.0075	3.15125	0.000618741
5263	3	11.42116	-0.005	3.14625	0.00061776
8622	3	11.43845	-0.005	3.14125	0.000616778
4733	3	11.45099	-0.005	3.13625	0.000615796
258	1	11.47971	-0.0075	3.12875	0.000614324

4740	3	11.48315	-0.005	3.12375	0.000613342
9423	4	11.48347	-0.005	3.11875	0.00061236
6300	3	11.48374	-0.005	3.11375	0.000611378
3481	3	11.48473	-0.005	3.10875	0.000610397
9442	4	11.48709	-0.005	3.10375	0.000609415
1895	2	11.48735	-0.00625	3.0975	0.000608188
2373	2	11.49254	-0.00625	3.09125	0.000606961
149	1	11.49382	-0.0075	3.08375	0.000605488
2802	2	11.50357	-0.00625	3.0775	0.000604261
468	1	11.50568	-0.0075	3.07	0.000602788
1783	2	11.50671	-0.00625	3.06375	0.000601561
140	1	11.52	-0.0075	3.05625	0.000600088
7166	3	11.52531	-0.005	3.05125	0.000599107
1376	1	11.5292	-0.0075	3.04375	0.000597634
3443	3	11.53909	-0.005	3.03875	0.000596652
2957	3	11.54536	-0.005	3.03375	0.000595671
1020	1	11.55808	-0.0075	3.02625	0.000594198
2199	2	11.56626	-0.00625	3.02	0.000592971
2379	2	11.57019	-0.00625	3.01375	0.000591744
3184	3	11.57258	-0.005	3.00875	0.000590762
979	1	11.57913	-0.0075	3.00125	0.000589289
1120	1	11.58207	-0.0075	2.99375	0.000587817
4659	3	11.60148	-0.005	2.98875	0.000586835
9453	4	11.60488	-0.005	2.98375	0.000585853
6044	3	11.60646	-0.005	2.97875	0.000584871
209	1	11.60712	-0.0075	2.97125	0.000583399
2572	2	11.61481	-0.00625	2.965	0.000582172
1640	1	11.6189	-0.0075	2.9575	0.000580699
2568	2	11.61999	-0.00625	2.95125	0.000579472
2880	2	11.6251	-0.00625	2.945	0.000578245
9561	4	11.64827	-0.005	2.94	0.000577263
3446	3	11.65584	-0.005	2.935	0.000576281
4891	3	11.65867	-0.005	2.93	0.000575299
4820	3	11.67549	-0.005	2.925	0.000574318
5608	3	11.67739	-0.005	2.92	0.000573336
3319	3	11.6898	-0.005	2.915	0.000572354
9079	4	11.70102	-0.005	2.91	0.000571372
9934	4	11.70563	-0.005	2.905	0.000570391
2403	2	11.73433	-0.00625	2.89875	0.000569164
8616	3	11.73994	-0.005	2.89375	0.000568182
3648	3	11.75365	-0.005	2.88875	0.0005672
1310	1	11.76611	-0.0075	2.88125	0.000565727
2460	2	11.78033	-0.00625	2.875	0.0005645
275	1	11.79914	-0.0075	2.8675	0.000563028
3123	3	11.80501	-0.005	2.8625	0.000562046
5497	3	11.81007	-0.005	2.8575	0.000561064
2903	3	11.82094	-0.005	2.8525	0.000560082
3064	3	11.8267	-0.005	2.8475	0.000559101
1949	2	11.84717	-0.00625	2.84125	0.000557874
2614	2	11.85369	-0.00625	2.835	0.000556646
3053	3	11.85912	-0.005	2.83	0.000555665
424	1	11.86412	-0.0075	2.8225	0.000554192

1349	1	11.86585	-0.0075	2.815	0.000552719
2223	2	11.87507	-0.00625	2.80875	0.000551492
2967	3	11.87549	-0.005	2.80375	0.000550511
3173	3	11.89973	-0.005	2.79875	0.000549529
2619	2	11.9109	-0.00625	2.7925	0.000548302
1028	1	11.92714	-0.0075	2.785	0.000546829
1582	1	11.92715	-0.0075	2.7775	0.000545356
8324	3	11.9382	-0.005	2.7725	0.000544375
1679	1	11.94023	-0.0075	2.765	0.000542902
1260	1	11.94332	-0.0075	2.7575	0.000541429
6070	3	11.94686	-0.005	2.7525	0.000540448
710	1	11.9481	-0.0075	2.745	0.000538975
5047	3	11.9531	-0.005	2.74	0.000537993
1620	1	11.97285	-0.0075	2.7325	0.000536521
2706	2	11.98313	-0.00625	2.72625	0.000535294
2098	2	11.98957	-0.00625	2.72	0.000534066
2806	2	12.00805	-0.00625	2.71375	0.000532839
5515	3	12.03035	-0.005	2.70875	0.000531857
8433	3	12.03436	-0.005	2.70375	0.000530876
8926	4	12.04358	-0.005	2.69875	0.000529894
507	1	12.06176	-0.0075	2.69125	0.000528421
6476	3	12.07362	-0.005	2.68625	0.00052744
1064	1	12.07763	-0.0075	2.67875	0.000525967
4854	3	12.09402	-0.005	2.67375	0.000524985
1286	1	12.10789	-0.0075	2.66625	0.000523513
2898	2	12.10827	-0.00625	2.66	0.000522285
3187	3	12.11508	-0.005	2.655	0.000521304
2333	2	12.12204	-0.00625	2.64875	0.000520077
1053	1	12.12492	-0.0075	2.64125	0.000518604
7571	3	12.12761	-0.005	2.63625	0.000517622
4789	3	12.1289	-0.005	2.63125	0.00051664
4305	3	12.13459	-0.005	2.62625	0.000515659
5551	3	12.15925	-0.005	2.62125	0.000514677
7505	3	12.17233	-0.005	2.61625	0.000513695
8684	3	12.1891	-0.005	2.61125	0.000512714
9976	4	12.19044	-0.005	2.60625	0.000511732
8008	3	12.19116	-0.005	2.60125	0.00051075
1282	1	12.19642	-0.0075	2.59375	0.000509277
7932	3	12.21179	-0.005	2.58875	0.000508296
8435	3	12.21538	-0.005	2.58375	0.000507314
305	1	12.22348	-0.0075	2.57625	0.000505841
3221	3	12.22445	-0.005	2.57125	0.00050486
8413	3	12.22965	-0.005	2.56625	0.000503878
2461	2	12.23338	-0.00625	2.56	0.000502651
3089	3	12.23968	-0.005	2.555	0.000501669
6216	3	12.26398	-0.005	2.55	0.000500687
5535	3	12.27824	-0.005	2.545	0.000499705
5127	3	12.30231	-0.005	2.54	0.000498724
6647	3	12.31106	-0.005	2.535	0.000497742
2084	2	12.3361	-0.00625	2.52875	0.000496515
9508	4	12.33689	-0.005	2.52375	0.000495533
2117	2	12.33867	-0.00625	2.5175	0.000494306

8312	3	12.34958	-0.005	2.5125	0.000493324
4942	3	12.35204	-0.005	2.5075	0.000492342
4072	3	12.3526	-0.005	2.5025	0.000491361
5443	3	12.35589	-0.005	2.4975	0.000490379
6057	3	12.36033	-0.005	2.4925	0.000489397
3068	3	12.37899	-0.005	2.4875	0.000488415
4488	3	12.40034	-0.005	2.4825	0.000487434
8847	4	12.40111	-0.005	2.4775	0.000486452
1544	1	12.40297	-0.0075	2.47	0.000484979
5824	3	12.41491	-0.005	2.465	0.000483998
7281	3	12.41784	-0.005	2.46	0.000483016
1686	1	12.42711	-0.0075	2.4525	0.000481543
5862	3	12.43057	-0.005	2.4475	0.000480562
6205	3	12.44908	-0.005	2.4425	0.00047958
914	1	12.47416	-0.0075	2.435	0.000478107
739	1	12.48188	-0.0075	2.4275	0.000476635
6128	3	12.50263	-0.005	2.4225	0.000475653
7670	3	12.50683	-0.005	2.4175	0.000474671
6202	3	12.51734	-0.005	2.4125	0.000473689
861	1	12.51896	-0.0075	2.405	0.000472217
4556	3	12.52472	-0.005	2.4	0.000471235
8439	3	12.5469	-0.005	2.395	0.000470253
297	1	12.58047	-0.0075	2.3875	0.000468781
1855	2	12.58823	-0.00625	2.38125	0.000467554
6996	3	12.58851	-0.005	2.37625	0.000466572
6386	3	12.58964	-0.005	2.37125	0.00046559
2216	2	12.59745	-0.00625	2.365	0.000464363
1012	1	12.59796	-0.0075	2.3575	0.00046289
4987	3	12.60244	-0.005	2.3525	0.000461909
3784	3	12.61411	-0.005	2.3475	0.000460927
1058	1	12.61505	-0.0075	2.34	0.000459454
4791	3	12.62817	-0.005	2.335	0.000458472
981	1	12.6343	-0.0075	2.3275	0.000457
2689	2	12.64278	-0.00625	2.32125	0.000455773
3907	3	12.65246	-0.005	2.31625	0.000454791
3044	3	12.65329	-0.005	2.31125	0.000453809
755	1	12.66441	-0.0075	2.30375	0.000452337
3485	3	12.67493	-0.005	2.29875	0.000451355
8069	3	12.68052	-0.005	2.29375	0.000450373
6856	3	12.69025	-0.005	2.28875	0.000449391
7238	3	12.69608	-0.005	2.28375	0.00044841
1635	1	12.70885	-0.0075	2.27625	0.000446937
7914	3	12.7162	-0.005	2.27125	0.000445955
2441	2	12.72331	-0.00625	2.265	0.000444728
4639	3	12.74508	-0.005	2.26	0.000443746
5940	3	12.74917	-0.005	2.255	0.000442765
3571	3	12.76503	-0.005	2.25	0.000441783
3477	3	12.76584	-0.005	2.245	0.000440801
1823	2	12.77043	-0.00625	2.23875	0.000439574
7944	3	12.77734	-0.005	2.23375	0.000438592
6394	3	12.82179	-0.005	2.22875	0.00043761
6448	3	12.82583	-0.005	2.22375	0.000436629

4182	3	12.83547	-0.005	2.21875	0.000435647
744	1	12.83771	-0.0075	2.21125	0.000434174
1	1	12.83996	-0.0075	2.20375	0.000432702
9866	4	12.85771	-0.005	2.19875	0.00043172
1506	1	12.86824	-0.0075	2.19125	0.000430247
3712	3	12.89053	-0.005	2.18625	0.000429266
1215	1	12.90337	-0.0075	2.17875	0.000427793
3980	3	12.9215	-0.005	2.17375	0.000426811
2980	3	12.92216	-0.005	2.16875	0.00042583
9274	4	12.92523	-0.005	2.16375	0.000424848
1862	2	12.93064	-0.00625	2.1575	0.000423621
4662	3	12.95971	-0.005	2.1525	0.000422639
9521	4	12.9691	-0.005	2.1475	0.000421657
2868	2	12.98019	-0.00625	2.14125	0.00042043
8411	3	12.99149	-0.005	2.13625	0.000419448
566	1	13.00705	-0.0075	2.12875	0.000417976
5042	3	13.01318	-0.005	2.12375	0.000416994
2248	2	13.01923	-0.00625	2.1175	0.000415767
4529	3	13.10989	-0.005	2.1125	0.000414785
7732	3	13.11298	-0.005	2.1075	0.000413803
1908	2	13.12687	-0.00625	2.10125	0.000412576
5304	3	13.14061	-0.005	2.09625	0.000411594
4031	3	13.15785	-0.005	2.09125	0.000410613
2706	2	13.15966	-0.00625	2.085	0.000409385
8057	3	13.16221	-0.005	2.08	0.000408404
8915	4	13.17593	-0.005	2.075	0.000407422
1427	1	13.19024	-0.0075	2.0675	0.000405949
8650	3	13.21161	-0.005	2.0625	0.000404968
1633	1	13.22786	-0.0075	2.055	0.000403495
1150	1	13.26347	-0.0075	2.0475	0.000402022
7775	3	13.26865	-0.005	2.0425	0.000401041
120	1	13.29082	-0.0075	2.035	0.000399568
443	1	13.3453	-0.0075	2.0275	0.000398095
529	1	13.34793	-0.0075	2.02	0.000396623
1832	2	13.3931	-0.00625	2.01375	0.000395396
4196	3	13.39663	-0.005	2.00875	0.000394414
1011	1	13.42009	-0.0075	2.00125	0.000392941
3195	3	13.43284	-0.005	1.99625	0.00039196
6582	3	13.43382	-0.005	1.99125	0.000390978
4926	3	13.44203	-0.005	1.98625	0.000389996
1700	1	13.45353	-0.0075	1.97875	0.000388523
6560	3	13.45937	-0.005	1.97375	0.000387542
8044	3	13.4671	-0.005	1.96875	0.00038656
3502	3	13.46795	-0.005	1.96375	0.000385578
761	1	13.47395	-0.0075	1.95625	0.000384106
2690	2	13.48175	-0.00625	1.95	0.000382878
8021	3	13.50975	-0.005	1.945	0.000381897
5311	3	13.55346	-0.005	1.94	0.000380915
6719	3	13.59227	-0.005	1.935	0.000379933
1729	1	13.59734	-0.0075	1.9275	0.000378461
9440	4	13.60292	-0.005	1.9225	0.000377479
556	1	13.61052	-0.0075	1.915	0.000376006

1905	2	13.61929	-0.00625	1.90875	0.000374779
5218	3	13.63062	-0.005	1.90375	0.000373797
4275	3	13.64547	-0.005	1.89875	0.000372816
8061	3	13.64831	-0.005	1.89375	0.000371834
1169	1	13.65055	-0.0075	1.88625	0.000370361
1820	2	13.66526	-0.00625	1.88	0.000369134
991	1	13.66576	-0.0075	1.8725	0.000367661
7350	3	13.67962	-0.005	1.8675	0.00036668
2550	2	13.68089	-0.00625	1.86125	0.000365453
1501	1	13.70168	-0.0075	1.85375	0.00036398
5446	3	13.70822	-0.005	1.84875	0.000362998
651	1	13.72303	-0.0075	1.84125	0.000361526
7604	3	13.73309	-0.005	1.83625	0.000360544
161	1	13.74331	-0.0075	1.82875	0.000359071
8471	3	13.74534	-0.005	1.82375	0.00035809
9218	4	13.75483	-0.005	1.81875	0.000357108
4683	3	13.7824	-0.005	1.81375	0.000356126
1970	2	13.80277	-0.00625	1.8075	0.000354899
232	1	13.82036	-0.0075	1.8	0.000353426
1906	2	13.83344	-0.00625	1.79375	0.000352199
711	1	13.85342	-0.0075	1.78625	0.000350726
1977	2	13.85691	-0.00625	1.78	0.000349499
1142	1	13.86284	-0.0075	1.7725	0.000348027
6806	3	13.86375	-0.005	1.7675	0.000347045
3620	3	13.89075	-0.005	1.7625	0.000346063
9007	4	13.91478	-0.005	1.7575	0.000345081
6610	3	13.91913	-0.005	1.7525	0.0003441
1540	1	13.92149	-0.0075	1.745	0.000342627
2799	2	13.92331	-0.00625	1.73875	0.0003414
41	1	13.94637	-0.0075	1.73125	0.000339927
9258	4	13.95176	-0.005	1.72625	0.000338946
1406	1	13.95456	-0.0075	1.71875	0.000337473
5292	3	13.98005	-0.005	1.71375	0.000336491
7483	3	13.98923	-0.005	1.70875	0.00033551
1465	1	13.99019	-0.0075	1.70125	0.000334037
409	1	13.99894	-0.0075	1.69375	0.000332564
4636	3	14.0173	-0.005	1.68875	0.000331583
2481	2	14.02394	-0.00625	1.6825	0.000330355
5302	3	14.03048	-0.005	1.6775	0.000329374
5116	3	14.03482	-0.005	1.6725	0.000328392
5468	3	14.03659	-0.005	1.6675	0.00032741
9748	4	14.04596	-0.005	1.6625	0.000326428
8105	3	14.04881	-0.005	1.6575	0.000325447
8484	3	14.0492	-0.005	1.6525	0.000324465
607	1	14.07857	-0.0075	1.645	0.000322992
3880	3	14.09426	-0.005	1.64	0.000322011
4015	3	14.10202	-0.005	1.635	0.000321029
4426	3	14.10933	-0.005	1.63	0.000320047
3467	3	14.12923	-0.005	1.625	0.000319065
5667	3	14.13428	-0.005	1.62	0.000318084
5092	3	14.158	-0.005	1.615	0.000317102
986	1	14.2025	-0.0075	1.6075	0.000315629

8240	3	14.20323	-0.005	1.6025	0.000314648
3457	3	14.20566	-0.005	1.5975	0.000313666
6687	3	14.21608	-0.005	1.5925	0.000312684
455	1	14.21972	-0.0075	1.585	0.000311211
1830	2	14.22232	-0.00625	1.57875	0.000309984
5550	3	14.23494	-0.005	1.57375	0.000309003
623	1	14.29929	-0.0075	1.56625	0.00030753
688	1	14.29987	-0.0075	1.55875	0.000306057
2498	2	14.31725	-0.00625	1.5525	0.00030483
2623	2	14.31786	-0.00625	1.54625	0.000303603
2295	2	14.34224	-0.00625	1.54	0.000302376
1039	1	14.34502	-0.0075	1.5325	0.000300903
3060	3	14.35389	-0.005	1.5275	0.000299921
70	1	14.39027	-0.0075	1.52	0.000298449
5870	3	14.40427	-0.005	1.515	0.000297467
7400	3	14.41193	-0.005	1.51	0.000296485
91	1	14.41887	-0.0075	1.5025	0.000295013
3545	3	14.41972	-0.005	1.4975	0.000294031
829	1	14.43221	-0.0075	1.49	0.000292558
2722	2	14.44084	-0.00625	1.48375	0.000291331
484	1	14.44471	-0.0075	1.47625	0.000289859
2827	2	14.44584	-0.00625	1.47	0.000288631
5296	3	14.45058	-0.005	1.465	0.00028765
5438	3	14.47083	-0.005	1.46	0.000286668
8156	3	14.47892	-0.005	1.455	0.000285686
6961	3	14.52447	-0.005	1.45	0.000284704
4931	3	14.57474	-0.005	1.445	0.000283723
890	1	14.58234	-0.0075	1.4375	0.00028225
9123	4	14.58717	-0.005	1.4325	0.000281268
6360	3	14.59464	-0.005	1.4275	0.000280287
5221	3	14.59913	-0.005	1.4225	0.000279305
2562	2	14.60711	-0.00625	1.41625	0.000278078
6107	3	14.61691	-0.005	1.41125	0.000277096
54	1	14.63857	-0.0075	1.40375	0.000275623
2385	2	14.6451	-0.00625	1.3975	0.000274396
17	1	14.65438	-0.0075	1.39	0.000272924
5747	3	14.66237	-0.005	1.385	0.000271942
8422	3	14.69614	-0.005	1.38	0.00027096
119	1	14.6977	-0.0075	1.3725	0.000269488
1076	1	14.71414	-0.0075	1.365	0.000268015
1486	1	14.73199	-0.0075	1.3575	0.000266542
3997	3	14.75666	-0.005	1.3525	0.000265561
7686	3	14.77063	-0.005	1.3475	0.000264579
339	1	14.77135	-0.0075	1.34	0.000263106
3863	3	14.80767	-0.005	1.335	0.000262124
627	1	14.81697	-0.0075	1.3275	0.000260652
8305	3	14.84174	-0.005	1.3225	0.00025967
762	1	14.8659	-0.0075	1.315	0.000258198
5997	3	14.90316	-0.005	1.31	0.000257216
1733	1	14.92245	-0.0075	1.3025	0.000255743
1468	1	14.92271	-0.0075	1.295	0.000254271
4295	3	14.95928	-0.005	1.29	0.000253289

2693	2	14.96561	-0.00625	1.28375	0.000252062
3072	3	14.97136	-0.005	1.27875	0.00025108
1558	1	14.97268	-0.0075	1.27125	0.000249607
6857	3	14.98379	-0.005	1.26625	0.000248626
2678	2	15.01187	-0.00625	1.26	0.000247398
8909	4	15.01571	-0.005	1.255	0.000246417
1163	1	15.01648	-0.0075	1.2475	0.000244944
6378	3	15.02355	-0.005	1.2425	0.000243962
5411	3	15.02549	-0.005	1.2375	0.000242981
1418	1	15.03596	-0.0075	1.23	0.000241508
4012	3	15.07376	-0.005	1.225	0.000240526
152	1	15.08619	-0.0075	1.2175	0.000239054
3324	3	15.10532	-0.005	1.2125	0.000238072
3198	3	15.11297	-0.005	1.2075	0.00023709
9809	4	15.11373	-0.005	1.2025	0.000236108
9206	4	15.14452	-0.005	1.1975	0.000235127
6155	3	15.15305	-0.005	1.1925	0.000234145
1311	1	15.19518	-0.0075	1.185	0.000232672
4421	3	15.1981	-0.005	1.18	0.000231691
4781	3	15.21814	-0.005	1.175	0.000230709
1680	1	15.22424	-0.0075	1.1675	0.000229236
3266	3	15.23523	-0.005	1.1625	0.000228254
758	1	15.26762	-0.0075	1.155	0.000226782
2759	2	15.27816	-0.00625	1.14875	0.000225555
6986	3	15.36812	-0.005	1.14375	0.000224573
7525	3	15.36909	-0.005	1.13875	0.000223591
234	1	15.38636	-0.0075	1.13125	0.000222119
24	1	15.3927	-0.0075	1.12375	0.000220646
1220	1	15.41668	-0.0075	1.11625	0.000219173
1526	1	15.41693	-0.0075	1.10875	0.000217701
2770	2	15.42105	-0.00625	1.1025	0.000216474
841	1	15.42433	-0.0075	1.095	0.000215001
797	1	15.43008	-0.0075	1.0875	0.000213528
9815	4	15.43142	-0.005	1.0825	0.000212547
8836	4	15.49913	-0.005	1.0775	0.000211565
1434	1	15.51489	-0.0075	1.07	0.000210092
6334	3	15.53294	-0.005	1.065	0.000209111
7824	3	15.54435	-0.005	1.06	0.000208129
7929	3	15.59612	-0.005	1.055	0.000207147
5700	3	15.65267	-0.005	1.05	0.000206165
137	1	15.66776	-0.0075	1.0425	0.000204693
3102	3	15.68241	-0.005	1.0375	0.000203711
2522	2	15.69907	-0.00625	1.03125	0.000202484
9078	4	15.70815	-0.005	1.02625	0.000201502
525	1	15.73648	-0.0075	1.01875	0.000200029
1723	1	15.76464	-0.0075	1.01125	0.000198557
5719	3	15.79713	-0.005	1.00625	0.000197575
3621	3	15.80548	-0.005	1.00125	0.000196593
2044	2	15.81526	-0.00625	0.995	0.000195366
1576	1	15.81996	-0.0075	0.9875	0.000193894
1657	1	15.84613	-0.0075	0.98	0.000192421
6960	3	15.85016	-0.005	0.975	0.000191439

1514	1	15.92965	-0.0075	0.9675	0.000189967
5316	3	15.95591	-0.005	0.9625	0.000188985
8549	3	15.97783	-0.005	0.9575	0.000188003
2815	2	15.99295	-0.00625	0.95125	0.000186776
2772	2	15.99325	-0.00625	0.945	0.000185549
4007	3	16.06693	-0.005	0.94	0.000184567
6781	3	16.08714	-0.005	0.935	0.000183585
2599	2	16.09207	-0.00625	0.92875	0.000182358
706	1	16.11727	-0.0075	0.92125	0.000180886
1776	2	16.12424	-0.00625	0.915	0.000179658
4042	3	16.12913	-0.005	0.91	0.000178677
7460	3	16.14141	-0.005	0.905	0.000177695
1003	1	16.14657	-0.0075	0.8975	0.000176222
290	1	16.21529	-0.0075	0.89	0.00017475
4036	3	16.33961	-0.005	0.885	0.000173768
4517	3	16.35054	-0.005	0.88	0.000172786
977	1	16.39065	-0.0075	0.8725	0.000171314
2182	2	16.40143	-0.00625	0.86625	0.000170086
8372	3	16.41404	-0.005	0.86125	0.000169105
8929	4	16.43422	-0.005	0.85625	0.000168123
403	1	16.45385	-0.0075	0.84875	0.00016665
825	1	16.45486	-0.0075	0.84125	0.000165178
6201	3	16.45539	-0.005	0.83625	0.000164196
1953	2	16.46163	-0.00625	0.83	0.000162969
5188	3	16.46281	-0.005	0.825	0.000161987
6020	3	16.50436	-0.005	0.82	0.000161005
1964	2	16.57099	-0.00625	0.81375	0.000159778
1121	1	16.59584	-0.0075	0.80625	0.000158306
714	1	16.62946	-0.0075	0.79875	0.000156833
7418	3	16.63795	-0.005	0.79375	0.000155851
495	1	16.64007	-0.0075	0.78625	0.000154379
3900	3	16.65844	-0.005	0.78125	0.000153397
2423	2	16.66668	-0.00625	0.775	0.00015217
3731	3	16.7466	-0.005	0.77	0.000151188
280	1	16.76233	-0.0075	0.7625	0.000149715
1109	1	16.7799	-0.0075	0.755	0.000148243
1570	1	16.79336	-0.0075	0.7475	0.00014677
634	1	16.81132	-0.0075	0.74	0.000145297
682	1	16.85401	-0.0075	0.7325	0.000143825
5309	3	16.90594	-0.005	0.7275	0.000142843
9684	4	16.9501	-0.005	0.7225	0.000141861
1360	1	16.9802	-0.0075	0.715	0.000140389
1165	1	16.99958	-0.0075	0.7075	0.000138916
5733	3	17.01259	-0.005	0.7025	0.000137934
9965	4	17.02308	-0.005	0.6975	0.000136953
9609	4	17.08553	-0.005	0.6925	0.000135971
2563	2	17.09406	-0.00625	0.68625	0.000134744
1663	1	17.12258	-0.0075	0.67875	0.000133271
2846	2	17.15917	-0.00625	0.6725	0.000132044
3153	3	17.18619	-0.005	0.6675	0.000131062
1826	2	17.30109	-0.00625	0.66125	0.000129835
8997	4	17.31583	-0.005	0.65625	0.000128853

1961	2	17.47238	-0.00625	0.65	0.000127626
8173	3	17.48111	-0.005	0.645	0.000126644
5488	3	17.53485	-0.005	0.64	0.000125663
2341	2	17.53677	-0.00625	0.63375	0.000124435
76	1	17.54568	-0.0075	0.62625	0.000122963
3796	3	17.58796	-0.005	0.62125	0.000121981
6899	3	17.65628	-0.005	0.61625	0.000120999
4833	3	17.70713	-0.005	0.61125	0.000120018
2456	2	17.76436	-0.00625	0.605	0.00011879
1958	2	17.81451	-0.00625	0.59875	0.000117563
4937	3	17.90905	-0.005	0.59375	0.000116582
8551	3	17.92522	-0.005	0.58875	0.0001156
1441	1	17.9329	-0.0075	0.58125	0.000114127
2241	2	17.94427	-0.00625	0.575	0.0001129
1354	1	17.99458	-0.0075	0.5675	0.000111427
3804	3	17.99524	-0.005	0.5625	0.000110446
628	1	17.99632	-0.0075	0.555	0.000108973
649	1	18.10667	-0.0075	0.5475	0.0001075
1959	2	18.1446	-0.00625	0.54125	0.000106273
5152	3	18.17986	-0.005	0.53625	0.000105292
4011	3	18.2668	-0.005	0.53125	0.00010431
1696	1	18.29476	-0.0075	0.52375	0.000102837
9083	4	18.30456	-0.005	0.51875	0.000101855
8025	3	18.38476	-0.005	0.51375	0.000100874
7162	3	18.38845	-0.005	0.50875	9.9892E-05
263	1	18.39595	-0.0075	0.50125	9.84194E-05
5793	3	18.458	-0.005	0.49625	9.74377E-05
3902	3	18.48847	-0.005	0.49125	9.64559E-05
176	1	18.54279	-0.0075	0.48375	9.49833E-05
3341	3	18.55767	-0.005	0.47875	9.40016E-05
3311	3	18.58107	-0.005	0.47375	9.30198E-05
2408	2	18.63779	-0.00625	0.4675	9.17927E-05
1054	1	18.68766	-0.0075	0.46	9.032E-05
5517	3	18.82999	-0.005	0.455	8.93383E-05
3873	3	18.85455	-0.005	0.45	8.83566E-05
960	1	18.93149	-0.0075	0.4425	8.6884E-05
8223	3	19.00422	-0.005	0.4375	8.59022E-05
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4600	3	19.12382	-0.005	0.42125	8.27116E-05
5855	3	19.33639	-0.005	0.41625	8.17298E-05
2302	2	19.39266	-0.00625	0.41	8.05027E-05
2575	2	19.41745	-0.00625	0.40375	7.92755E-05
1251	1	19.41891	-0.0075	0.39625	7.78029E-05
2923	3	19.44636	-0.005	0.39125	7.68211E-05
8958	4	19.45637	-0.005	0.38625	7.58394E-05
4122	3	19.49336	-0.005	0.38125	7.48576E-05
2680	2	19.57679	-0.00625	0.375	7.36305E-05
5117	3	19.64219	-0.005	0.37	7.26487E-05
5582	3	19.69284	-0.005	0.365	7.1667E-05
7703	3	19.74231	-0.005	0.36	7.06853E-05
7999	3	19.74646	-0.005	0.355	6.97035E-05

844	1	19.77047	-0.0075	0.3475	6.82309E-05
2785	2	19.85366	-0.00625	0.34125	6.70037E-05
922	1	19.96103	-0.0075	0.33375	6.55311E-05
4964	3	20.09615	-0.005	0.32875	6.45494E-05
9635	4	20.10864	-0.005	0.32375	6.35676E-05
2308	2	20.24804	-0.00625	0.3175	6.23405E-05
1956	2	20.30495	-0.00625	0.31125	6.11133E-05
4810	3	20.36168	-0.005	0.30625	6.01316E-05
559	1	20.44941	-0.0075	0.29875	5.86589E-05
9834	4	20.48783	-0.005	0.29375	5.76772E-05
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229	1	20.7117	-0.0075	0.28	5.49774E-05
9092	4	20.85014	-0.005	0.275	5.39957E-05
132	1	20.91738	-0.0075	0.2675	5.25231E-05
3171	3	20.9793	-0.005	0.2625	5.15413E-05
5032	3	20.99587	-0.005	0.2575	5.05596E-05
8176	3	21.20481	-0.005	0.2525	4.95779E-05
3595	3	21.22278	-0.005	0.2475	4.85961E-05
183	1	21.30857	-0.0075	0.24	4.71235E-05
4232	3	21.40367	-0.005	0.235	4.61418E-05
3332	3	21.75919	-0.005	0.23	4.516E-05
6304	3	21.79471	-0.005	0.225	4.41783E-05
3982	3	21.8394	-0.005	0.22	4.31965E-05
1263	1	21.91538	-0.0075	0.2125	4.17239E-05
1818	2	22.08586	-0.00625	0.20625	4.04968E-05
6247	3	22.12113	-0.005	0.20125	3.9515E-05
4892	3	22.13589	-0.005	0.19625	3.85333E-05
1737	1	22.38997	-0.0075	0.18875	3.70607E-05
9295	4	22.41298	-0.005	0.18375	3.60789E-05
2560	2	22.4709	-0.00625	0.1775	3.48518E-05
8427	3	22.64964	-0.005	0.1725	3.387E-05
4249	3	22.7042	-0.005	0.1675	3.28883E-05
2853	2	22.76918	-0.00625	0.16125	3.16611E-05
449	1	22.87632	-0.0075	0.15375	3.01885E-05
1860	2	23.06783	-0.00625	0.1475	2.89613E-05
233	1	23.308	-0.0075	0.14	2.74887E-05
325	1	23.35923	-0.0075	0.1325	2.60161E-05
4120	3	23.5151	-0.005	0.1275	2.50344E-05
1340	1	23.59223	-0.0075	0.12	2.35618E-05
3439	3	24.15173	-0.005	0.115	2.258E-05
7626	3	24.27021	-0.005	0.11	2.15983E-05
7576	3	24.54742	-0.005	0.105	2.06165E-05
4058	3	25.45023	-0.005	0.1	1.96348E-05
865	1	25.65276	-0.0075	0.0925	1.81622E-05
3740	3	25.6687	-0.005	0.0875	1.71804E-05
790	1	25.71759	-0.0075	0.08	1.57078E-05
6384	3	25.71791	-0.005	0.075	1.47261E-05
1335	1	25.79579	-0.0075	0.0675	1.32535E-05
4199	3	25.83791	-0.005	0.0625	1.22717E-05
1800	2	26.68382	-0.00625	0.05625	1.10446E-05
5809	3	26.81195	-0.005	0.05125	1.00628E-05
2715	2	28.45475	-0.00625	0.045	8.83566E-06

5968	3	28.63158	-0.005	0.04	7.85392E-06
7787	3	28.83151	-0.005	0.035	6.87218E-06
2749	2	29.10637	-0.00625	0.02875	5.645E-06
7110	3	29.37463	-0.005	0.02375	4.66326E-06
8503	3	29.73232	-0.005	0.01875	3.68152E-06
1188	1	31.25833	-0.0075	0.01125	2.20891E-06
1967	2	32.3164	-0.00625	0.005	9.8174E-07
6905	3	32.7029	-0.005	2.39282E-12	4.69825E-16

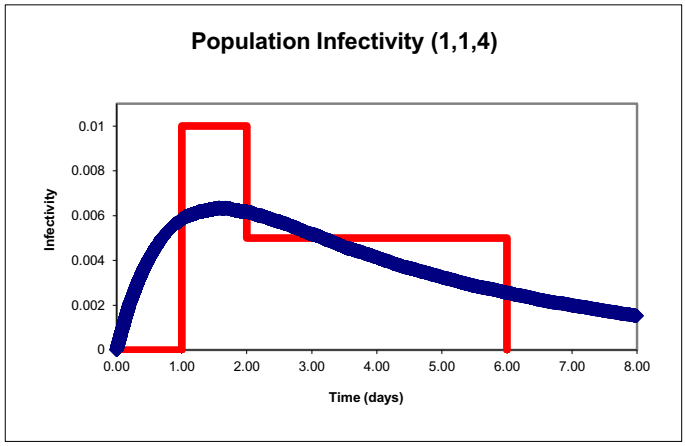
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Infectivity
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0.006
0.004
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1.00
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4.00
5.00
6.00
7.00
8.00
Time (days)

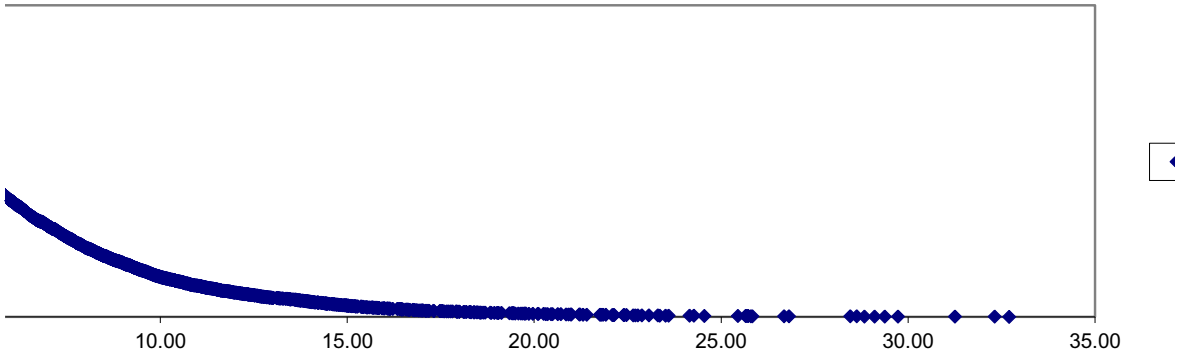
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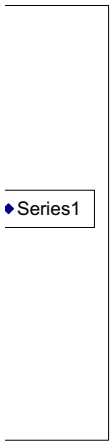
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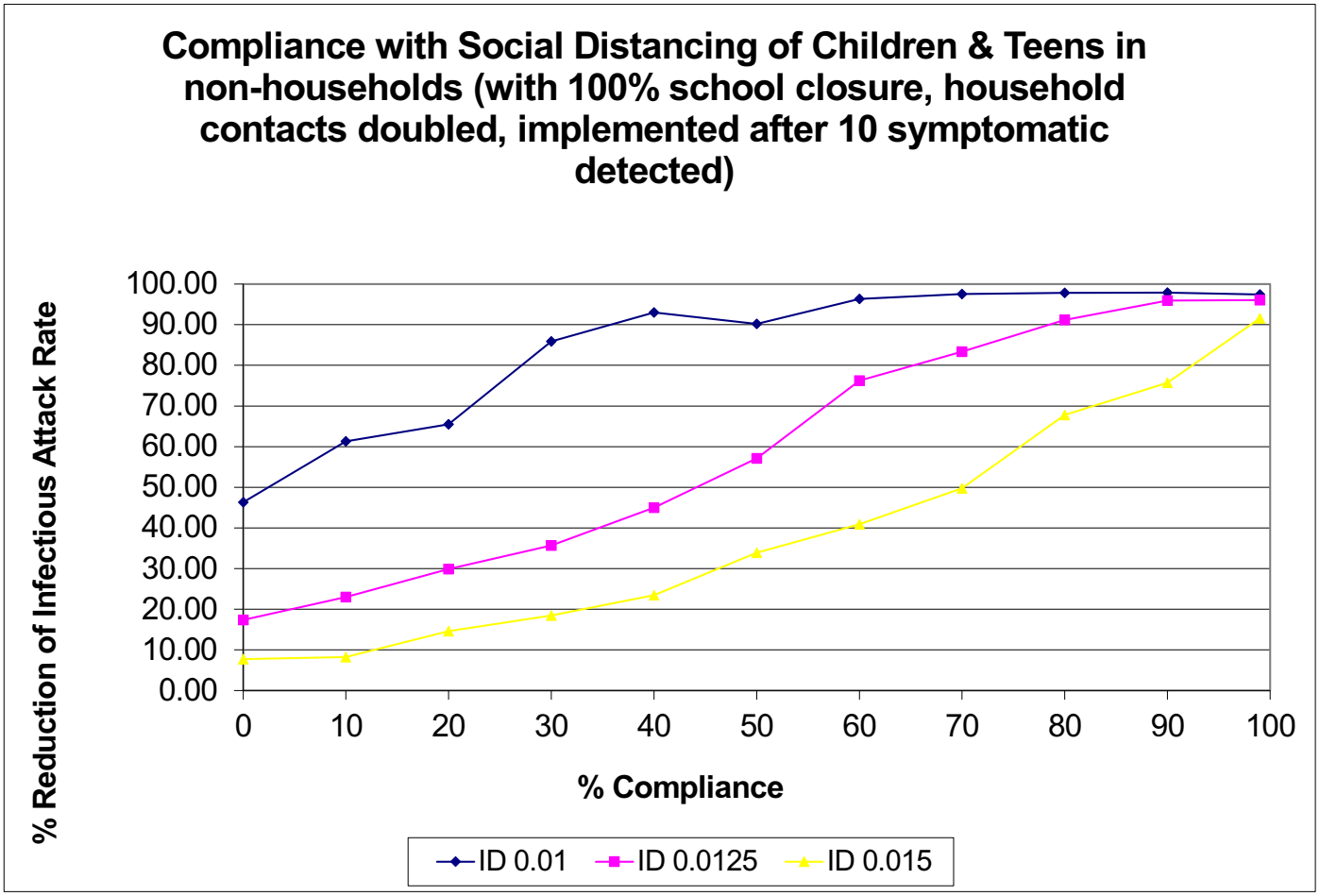
Compliance with Social Distancing of Children & Teens in non-households (with 100% school closure, household contacts doubled, implemented after 10 symptomatic detected)
% Reduction of Infectious Attack Rate
100.00
90.00
80.00
70.00
60.00
50.00
40.00
30.00
20.00
10.00
0.00
0
10
20
30
40
50
60
70
80
90
100
% Compliance
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Modeling Parameters

Interventions/Parameters	Compliance/Efficacy
% infected individuals developing clinical symptoms	50%, 67%
Diagnosis	60%, 80% of symptomatic
Diagnosis on clinical grounds	All ILI treated as influenza
Treatment	All patients with diagnosis receive oseltamivir BID x 5 days (= 1 treatment course)
Isolation in home	All diagnosed patients (reduces all other contacts by compliance rate) (60%, 90% compliance)
Prophylaxis	Household +/- workplace contacts of diagnosed patients receive oseltamivir QD x 10 days (= 1 treatment course)
Quarantine	Household contacts of patients quarantined x 10 days (doubles household contact rate, reduces all other contacts by compliance rate) (30%, 60%, 90% compliance)
School Closure	Reactive school closure after 10 cases diagnosed in individual school or After 10th, 100th, or 1000th case diagnosed in community [or at 0.01%, 0.1%, 1% community prevalence]
Keeping children home	All children up to age 18 stay home after school closure (doubles household contact rate, reduces all other contacts by compliance rate) (30%, 60%, 90% compliance)
Social distancing	
Generic social distancing	Decrease household cluster/neighborhood/community contacts by 50%
Workplace social distancing	Decrease workplace contacts by 50%
Enhanced social distancing	Generic social distancing for all plus reduction of non-household contacts by additional 50% or 95% for compliant population (30%, 60% compliance)
Liberal leave policies	Symptomatic individuals retire from workplace 1 day after becoming ill

Outcomes of Interest

Parameter	Expressed as
Clinical attack rate (% symptomatic)	Percent of population
Age-specific attack rates	Clinical attack rate per age group and as percent of total infected
Peak daily attack rate	Percent of population
Duration of epidemic	Days
Time to peak	Days
Antiviral stockpile required	Number of treatment courses expressed as percent of total population
Antiviral usage	Daily requirement and cumulative requirement
Compartment within which transmission occurs	Percent of total transmission per simulation occurring in each compartment
Response-related absenteeism	Symptomatic infected adults + Quarantined adults + 1 adult member of all households with children < age 11 at home (by class and in aggregate, by day)
Cumulative attack rate prior to vaccine	Clinical attack rate at 120 and 180 days after epidemic begins (or as continuous output)
Variables that change through time	1) Effective reproductive number, overall and by age class 2) Age-specific attack rates 3) Compartments within which transmission occurs (by week or as continuous output)

Prioritized List of Simulations

All simulation outcomes should report averages of 10 iterations for Chicago simulations or 5 iterations for national simulations (including ranges and standard deviations) as well as percent of iterations producing outbreak exceeding 1% of population. Please perform runs with infectivity adjusted to produce Ro = 1.9, 2.4, 3.0 in base case. If Ro = 3.0 well controlled, please perform runs at Ro = 4.0, 5.0, etc., till control fails.

1.	Chicago Base Case	Unattenuated epidemic	
2.	"30/60% Chicago"	60% of symptomatic cases diagnosed	
		Treatment of symptomatic cases	
		Home isolation of cases	60% compliance
		Prophylaxis of household contacts	
		Quarantine of households	30% compliance
		School closure after 1000th case	
		Keeping children home	30% compliance
		Generic social distancing	
		Workplace social distancing	
		Liberal leave	
3.	"60/60% Chicago"	60% of symptomatic cases diagnosed	
		Treatment of symptomatic cases	
		Home isolation of cases	60% compliance
		Prophylaxis of household contacts	
		Quarantine of households	60% compliance
		School closure after 100th case	
		Keeping children home	60% compliance
		Generic social distancing	
		Workplace social distancing	
		Liberal leave	
4.	"60/80% Chicago"	80% of symptomatic cases diagnosed	
		Treatment of symptomatic cases	
		Home isolation of cases	60% compliance
		Prophylaxis of household contacts	
		Quarantine of households	60% compliance
		School closure after 10th case	
		Keeping children home	60% compliance
		Generic social distancing	
		Workplace social distancing	
		Liberal leave	
5.	"90/60% Chicago"	60% of symptomatic cases diagnosed	
		Treatment of symptomatic cases	
		Home isolation of cases	90% compliance
		Prophylaxis of household contacts	
		Quarantine of households	90% compliance
		School closure after 100th case	
		Keeping children home	90% compliance
		Generic social distancing	

		Workplace social distancing	
		Liberal leave	
6.	"90/80% Chicago"	80% of symptomatic cases diagnosed	
		Treatment of symptomatic cases	
		Home isolation of cases	90% compliance
		Prophylaxis of household contacts	
		Quarantine of households	90% compliance
		School closure after 10th case	
		Keeping children home	90% compliance
		Generic social distancing	
		Workplace social distancing	
		Liberal leave	

National Simulations with travel restrictions

7.	Base case U.S.	Unattentuated epidemic	
8.	"60/60% U.S."	60% of symptomatic cases diagnosed	
		Treatment of symptomatic cases	
		Home isolation of cases	60% compliance
		Prophylaxis of household contacts	
		Quarantine of households	60% compliance
		School closure after 100th case	
		Keeping children home	60% compliance
		Generic social distancing	
		Workplace distancing	
		Liberal leave	
9.	"60/60/50% U.S."	60% of symptomatic cases diagnosed	
		Treatment of symptomatic cases	
		Home isolation of cases	60% compliance
		Prophylaxis of household contacts	
		Quarantine of households	60% compliance
		School closure after 100th case	
		Keeping children home	60% compliance
		Generic social distancing	
		Workplace distancing	
		Liberal leave	
		50% Reduction in long-distance travel beginning d30	
10.	"60/60/90% U.S."	60% of symptomatic cases diagnosed	
		Treatment of symptomatic cases	
		Home isolation of cases	60% compliance
		Prophylaxis of household contacts	
		Quarantine of households	60% compliance
		School closure after 100th case	
		Keeping children home	60% compliance
		Generic social distancing	
		Workplace distancing	

		Liberal leave	
		90% Reduction in long-distance travel beginning d30	
11.	"90/60% U.S."	60% of symptomatic cases diagnosed	
		Treatment of symptomatic cases	
		Home isolation of cases	90% compliance
		Prophylaxis of household contacts	
		Quarantine of households	90% compliance
		School closure after 100th case	
		Keeping children home	90% compliance
		Generic social distancing	
		Workplace distancing	
		Liberal leave	
12.	"90/60/50% U.S."	60% of symptomatic cases diagnosed	
		Treatment of symptomatic cases	
		Home isolation of cases	90% compliance
		Prophylaxis of household contacts	
		Quarantine of households	90% compliance
		School closure after 100th case	
		Keeping children home	90% compliance
		Generic social distancing	
		Workplace distancing	
		Liberal leave	
		50% Reduction in long-distance travel beginning d30	
13.	"90/60/90% U.S."	60% of symptomatic cases diagnosed	
		Treatment of symptomatic cases	
		Home isolation of cases	90% compliance
		Prophylaxis of household contacts	
		Quarantine of households	90% compliance
		School closure after 100th case	
		Keeping children home	90% compliance
		Generic social distancing	
		Workplace distancing	
		Liberal leave	
		90% Reduction in long-distance travel beginning d30	

National Simulations with travel restrictions, "conventional response" at Ro = 1.9, 2.4

14.	"60/60/50% U.S."	60% of symptomatic cases diagnosed	
		Treatment of symptomatic cases	
		Home isolation of cases	60% compliance
		School closure after 10% absenteeism	
		Generic social distancing	
		Workplace distancing	
		50% Reduction in long-distance travel beginning d30	
15.	"60/60/90% U.S."	60% of symptomatic cases diagnosed	
		Treatment of symptomatic cases	

Home isolation of cases 60% compliance
School closure after 10% absenteeism
Generic social distancing
Workplace distancing
90% Reduction in long-distance travel beginning d30

+ Vaccine

Repeat runs #2 - #6 and #8 above, with addition of vaccine with 50% efficacy and supply sufficient to immunize 7% of TOTAL population, administered ONLY to working adults or ONLY to older adults / seniors.

+ Social prophylaxis (full TAP)

Repeat runs #2 - #6 and #8 above, with addition of workplace prophylaxis.

+ Diagnosis on clinical grounds

Repeat runs #2 - #6 and #8 above, with all ILI treated as influenza.

Substitute reactive school closure

Repeat runs #2 - #6 above, with keeping children home strategy implemented after 100th or 1000th case (or 0.1% or 1% prevalence) as indicated in specific scenario, but keeping schools open until 10th diagnosed case (students + teachers) in individual school. Please report how long schools stay open in this scenario. Schools close if teacher absenteeism exceeds 10%, even if 10th diagnosed case not yet identified. ("Targeted social distancing" focusing on removing children from community circulation but maintaining normal school schedule as long as possible.)

+ Enhanced social distancing

Repeat runs #3 and #6 above, with generic social distancing by all and enhanced social distancing employed by 30% and 60% of the population, in simulations for each scenario where such enhanced social distancing produces an additional gain in terms of reduction of non-household contacts over generic social distancing of 50% and 95%.

All-
I wanted to get this out to all of you quickly as possible per today's meeting discussion. Richard Hatchett would like you to provide any comments to him within the next few days. Please use 'reply all' so that everyone gets to see the comments that are sent out.

Best,
Jenny

Jenny Randall
Economist
Private Sector Office
O: 202.282.9801
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Miller, Charles S

From: Miller, Charles S
Sent: Tuesday, March 14, 2006 12:28 PM
To: Agarwal, Asheesh (CIV); Ames, Andrew; Baxter, Felix (CIV); Branda, Joyce (CIV); Brody, Stephen (CIV); Bucholtz, Jeffrey (CIV); Bukvics, Jennifer (CIV); Claterbos, Barbara (CIV); Cohen, David M. (CIV); Cohn, Jonathan (CIV); Davidson, Jeanne (CIV); Fargo, John (CIV); Fielding, Gabrielle (CIV); Figley, Paul (CIV); Flentje, August (CIV); Frost, Peter (CIV); Garren, Timothy (CIV); Glynn, J.Patrick (CIV); Gorsuch, Neil M; Hertz, Michael (CIV); Hollis, Robert (CIV); Hunt, Jody (CIV); Hussey, Thom (CIV); Jeweler, James (CIV); Katsas, Gregory (CIV); Keisler, Peter D (CIV); Kohn, Chris (CIV); Kopp, Robert (CIV); Letter, Douglas (CIV); Levine, Larry (EOIR); Lindemann, Michael (CIV); Magnuson, Cynthia; McCallum, Robert (SMO); Miller, Charles S; Nichols, Carl (CIV); Nowacki, John; Pyles, Phyllis (CIV); Reyes, Luis (SMO); Riley, Sharon (CIV); Rivera, Jennifer (CIV); Roehrkasse, Brian; Schiffer, Stuart (CIV); Scolinos, Tasia; Seidel, Rebecca; Senger, Jeffrey M; Spellberg, Dianne (CIV); Swenson, Lily F; Thirolf, Eugene; Wilson, Karen L; Zwick, Ken (CIV)
Subject: 3/14/06 Civil Division News

Google, Justice Department face off on search/privacy issue

AP files lawsuit seeking documents of all Guantanamo detainees

German CIA Detainee Testifies Before EU Committee; Khaled el Masri is suing the CIA over his kidnapping and imprisonment

Alleged CIA detainee claims German visited his cell

Appeals court overturns ruling blocking asylum for Ethiopian man

DOE told to pay TVA $34.9M in damages

USA Today
3/14/06

Google, Justice Department face off on search/privacy issue

By Jon Swartz
USA TODAY

SAN FRANCISCO — Google and the Justice Department will square off in federal court today in a seminal Internet privacy case that could touch millions of Americans.

The Bush administration is demanding the results of millions of searches on Google during a random week to buttress an online child-protection law blocked by the U.S. Supreme Court. Its reasoning: Internet filters don't properly shield kids from viewing pornography.

Google has resisted, citing competitive and privacy concerns, in a dispute that has escalated in a series

of legal maneuvers since January. The American Civil Liberties Union says it will urge the court to reject the government's bid at a hearing in San Jose, Calif. A ruling could come today .

Privacy advocates are worried Internet search engines could become tools for government snooping and spawn a wave of subpoenas by individuals against search engine companies.

More significantly, the case undercuts the basic Internet tenet of anonymity, says Evan Hendricks, editor of newsletter *Privacy Times*. If the government has its way, he says, the Internet could be used as a digital microscope to seek out people. A Justice Department spokesman had no comment.

In an 18-page court filing Feb. 24, Justice lawyers argued privacy rights would not be trampled because the information requested would not identify individuals or be traceable.

The brief includes a declaration by Philip Stark, a researcher and statistics professor at the University of California at Berkeley, who says the government specifically asked that Google remove any identifying information from the search requests.

AOL, Yahoo and Microsoft MSN are cooperating with the government. They say that their assistance is limited and that the privacy of their users has not been violated.

But as the largest and most influential search engine, Google has significantly more at stake. “This case will make it clear how much information is collected and stored on Google searches,” says Paul Schiff Berman, an expert in cyberlaw at the University of Connecticut School of Law.

Berman and other legal experts say the consequences could be far-reaching for U.S. residents on several levels. The government might delve into the vast stores of Web-browsing data to look for individuals who are national security risks or engaged in criminal activity. Divorce lawyers also could subpoena search-engine providers for e-mail and browsing records to investigate the fidelity of a spouse.

“It creates a logistical problem for Google by putting it in the position of being an extension of law enforcement,” Berman says. “Of course, because Google is mining data for commercial purposes, it could put an end to its troubles if it stopped collecting data.”

END

AP

March 14, 2006

AP files lawsuit seeking documents of all Guantanamo detainees

By LARRY NEUMEISTER

Associated Press Writer

NEW YORK_The Associated Press sued\l "l" the Defense Department on Monday for the release of records identifying all past and current detainees at a U.S\l "l". military base in Guantanamo Bay, Cuba.

"Given the significant public interest in understanding the actions taken by the U.S. government with respect to the individuals held at Guantanamo Bay," the information is urgently needed, said the AP, the nation's largest news gathering organization.

The lawsuit was filed in U.S. District Court in Manhattan, where a judge last month ordered the Pentagon to release to the AP the identities of several hundred detainees who had participated in hearings.

The AP, which serves more than 15,000 news outlets, filed the new lawsuit after the Pentagon failed to respond to a Freedom of Information Act request for documents that would help identify the more than 750 past and current detainees.

The request, submitted Jan. 18, was necessary to obtain information critical to the AP's ability to interpret transcripts of proceedings involving some detainees that were provided by the Defense Department, the lawsuit said.

The public has "an intense and legitimate interest" in learning the detainees' identities, but the Defense Department has been unable or unwilling to state when or if it will provide the requested identifying information, the AP said.

Heather Tasker, a spokeswoman for the Manhattan U.S. attorney's office, which must respond to the lawsuit, declined comment Monday.

In February, U.S. District Judge Jed S. Rakoff ordered the military to turn over uncensored copies of transcripts and other documents from 317 military hearings for detainees at the prison camp. The Defense Department said no transcripts exist of the hearings for another 241 detainees who refused to participate in the Combatant Status Review Tribunals.

U.S. authorities hold about 490 prisoners at Guantanamo on suspicion of links to al-Qaida or the Taliban. Most have been held without charges since the detention center opened four years ago, prompting human rights groups to complain.

The Defense Department earlier released transcripts to the AP in response to a similar lawsuit, but the names and other details of detainees were blacked out, prompting the judge to order the names released.

The judge has not ruled whether the government must release uncensored transcripts from a second round of hearings to decide whether detainees remain threats to the United States.

END

Deutsche Welle

3/13/06

German CIA Detainee Testifies Before EU Committee; Khaled el Masri is suing the CIA over his kidnapping and imprisonment

Khaled el Masri, a German citizen who was kidnapped by the CIA, told the special committee of the EU Parliament that he identified the German man who allegedly interrogated him during his imprisonment in Afghanistan.

After two hours of grilling by the special committee of the European Parliament on Monday, Khaled el Masri seemed quite exhausted. He spoke with a soft voice and gave only a few details of his ordeal. The bulk of the information came from his lawyer who took over when el Masri mixed up the facts and did not understand the questions.

El Masri, who was abducted in Macedonia in late 2003, said that a man called "Sam" questioned him three or four times during his imprisonment in Afghanistan. He said he recognized this man on a photograph and during a line-up and identity check in a police station in Germany recently.

"'Sam' is German, I am sure," el Masri said. "I saw a picture of Gerhard Lehman, I am absolutely convinced that he was 'Sam'."

A man called Gerhard Lehman does indeed exist. He works for the German Federal Criminal Police, but the German police authorities said that Lehman had nothing to do with el Masri's kidnapping.

Truth or dare

The parliamentarians wanted to know why el Masri was so sure that he was actually held in Afghanistan by the CIA. They also asked him why he had traveled to Macedonia when the rendition started. The answers el Masri gave were not very convincing for everybody.

"I've never been to a hearing in which the words 'I don't know,' 'I assume,' and 'maybe' were used so frequently," said Elmar Brok, a German EU parliamentarian and member of the European People's Party. "No clear evidence was produced."

Brok added he is convinced that the German authorities are telling the truth.

"Obviously, the Americans conducted the abduction," he said. "Nobody is contesting that, but there is no evidence that the authorities of a member state of the European parliament participated or covered it up."

Lack of empathy

Germany's EU parliamentarian Cem Özdemir of the Green party said he had no doubt that el Masri was abducted and illegally held.

"We don't have to believe literally everything he says," Özdemir said. "But a parliamentarian should empathize with the fact that he was kidnapped and taken to Afghanistan, that he was obviously robbed of his freedom. Some Christian Democrat colleagues from Germany behaved here in a way which was unworthy of a parliament."

Now the authorities in Germany and Macedonia will have to answer tough questions and would have to prove that they did not cover up the kidnapping.

"I think Macedonia owes us an explanation, whether and when it informed Germany," Özdemir said. "Clearly, this did not happen, and that's not right."

The German parliament will start its own investigation into the matter shortly. Khaled el Masri filed a suit against the CIA in Virginia. The state prosecutor in Munich is also investigating the case after el Masri brought charges against the German authorities.

END

AP

March 13, 2006, 8:52PM

Alleged CIA detainee claims German visited his cell

Associated Press

STRASBOURG, FRANCE - A German national who claims CIA agents kidnapped him and held him for months at a secret prison in Afghanistan told a European Parliament committee on Monday that a German "with no foreign accent at all" visited him several times at the prison.

Khalid al-Masri, who is suing the CIA for alleged wrongful imprisonment and torture, spoke before a committee investigating whether the United States shipped prisoners through European airports to secret detention centers.

German officials have insisted the government learned of al-Masri's case only after his release, and that they quickly informed police and prosecutors.

Al-Masri has said in the past that the German identified himself only as "Sam." Earlier this year, he picked the man from a lineup staged by German officials, but he did not identify him by name then.

On Monday, however, he told the committee that the German was named Gerhard Lehmann and that he was a senior official of Germany's Federal Criminal Office.

Al-Masri, who was born in Kuwait, grew up in Lebanon and moved to Germany, said he learned the name of the official from a journalist on what he described as an "electronic newspaper," who has since vanished.

Al-Masri claims that U.S. agents captured him on Dec. 31, 2003, while he was on a trip to Macedonia.

END

AP

March 14, 2006

Appeals court overturns ruling blocking asylum for Ethiopian man

RICHMOND, Virginia_A federal appeals court said an immigration\l "l" judge\l "l" and appeals board erred in denying asylum to a former Ethiopian security official who fled his country rather than face persecution for not arresting anti-government protesters.

An immigration\l "l" judge\l "l" had denied Simmon Menghesha's request for asylum in 2001 based on the belief that he faced rightful prosecution for obstruction of justice in Ethiopia. The Board of Immigration Appeals upheld the decision in 2004.

On Monday, the three-judge panel of the 4th U.S. Circuit Court of Appeals vacated the board's decision, ordering that Menghesha's appeal be reviewed.

Judges Roger Gregory and Robert King said the board and immigration\l "l" judge\l "l" failed to consider the Ethiopian government's political motives for seeking Menghesha's return and held him to an unusually stringent standard of proving the government's intentions.

In a dissenting opinion, Judge Karen Williams argued that the previous judge had properly applied the laws and that Menghesha failed to prove he would likely be persecuted on the basis of his political beliefs _ one of numerous requirements when seeking political asylum.

Menghesha, 29, fled Ethiopia in July 2001 after failing to obey orders to arrest a group of anti-government student protesters he had been ordered to spy on in his job with a government security detail.

The Department of Justice still is determining whether to pursue the case further.

END

Knoxville News-Sentinel, The (TN) (KRT)

March 11, 2006

DOE told to pay TVA $34.9M in damages

Rebecca Ferrar

The Knoxville News-Sentinel, Tenn.

Mar. 11--A federal judge has ordered the U.S. Department of Energy to pay TVA $34.9 million in damages for failing to meet a 1998 deadline to store nuclear waste from two of TVA's nuclear power plants.

It's the first ruling in which the department was ordered to pay damages to a utility for the failure to house the highly radioactive spent nuclear fuel generated on site at the nuclear plants.

That fuel is intended to be stored at the Yucca Mountain Repository in Nevada, but controversy over the location of the facility has delayed its opening even though it has been approved by Congress and signed into law by President Bush.

DOE was supposed to store spent nuclear fuel from TVA's Browns Ferry plant in northern Alabama and the Sequoyah plant near Chattanooga.

The ruling in favor of TVA was handed down by Judge Charles Lettow in the U.S. Court\l "l" of\l "l" Federal\l "l" Claims\l "l" on Jan. 31.

In the Nuclear Waste Policy Act of 1983, Congress authorized DOE to enter into contracts with nuclear plants generating high-level radioactive waste. Congress mandated that the nation's nuclear plants enter into contracts with DOE for fuel storage as a prerequisite to maintaining their operating licenses.

One of the goals of the act was to reduce the backlog of spent nuclear fuel accumulating at nuclear facilities around the nation, the court ruling says. The government announced in 1994 that construction delays at Yucca Mountain would postpone collection of waste until 2010.

Utilities that run the nation's 103 nuclear plants have filed 61 lawsuits seeking similar damages to that received by TVA.

David Lochbaum, nuclear safety engineer at the Union of Concerned Scientists, said there's a potential for billions of dollars in damages to be awarded because of similar lawsuits.

The fuel has been stored in wet storage pools at the nuclear plants. Once those pools were full, plants including Browns Ferry and Sequoyah began storing waste in dry steel and concrete casks that are approximately 10 feet in diameter and 20 feet in height and may weigh 270 tons each when filled with spent nuclear fuel assemblies.

The government's waste disposal program included a goal of avoiding utilities' need to provide storage of spent fuel outside the pools.

TVA, recognizing that DOE would not be able to accept its waste, began planning the alternative of building dry storage casks in 1998.

TVA was awarded $34,893,207 for labor costs, contract services, engineering work, overhead and travel associated with constructing and operating the dry storage casks.

The ruling concluded that TVA would not have been required to build dry storage facilities if DOE had lived up to its contract to begin accepting waste.

The damages TVA was awarded cover the cost of storing fuel at Browns Ferry and Sequoyah through Sept. 30, 2004. The ruling said TVA retains the right to bring subsequent actions on damages incurred after that date.

END

[redacted]@judiciary-rep.senate.gov

From: [redacted]@judiciary-rep.senate.gov
Sent: Wednesday, March 15, 2006 6:30 PM
To: Gorsuch, Neil M
Subject: FW: Ginsburg speech on foreign law citation
Attachments: tmp.htm

Neil: fyi, in the speech attached below, Justice Ginsburg comments briefly on the Hamdan case and the DTA. (Sixth paragraph from the end.)

From: [redacted](RPC)
Sent: Wednesday, March 15, 2006 5:07 PM
Subject: Ginsburg speech on foreign law citation

March 15, 2006

To: Judiciary Analysts/Counsels

Fr: [redacted]udiciary Policy Analyst/Counsel

RE: Ginsburg speech on foreign law

Copied below is the text of a speech that Justice Ruth Bader Ginsburg gave in South Africa last month. In it, she defends the Supreme Court's citation to foreign law for the interpretation of the U.S. Constitution and suggests, unsubtly, that those who oppose the Supreme Court's reliance on foreign authority should be thought of in the same breath as former Chief Justice Roger Taney (author of the Dred Scott decision) and that their political opposition to citing foreign authority "fuel[s] the irrational fringe" that has apparently threatened her life, and the life of former Justice O'Connor. She predicts that the Supreme Court will continue to rely on foreign law in making constitutional judgments.

(It is worth recalling that both Chief Justice Roberts and Justice Alito said during their confirmation hearings that foreign law should have no role in U.S. constitutional analysis and interpretation.)

[redacted]

http://www.supremecourtus.gov/publicinfo/speeches/sp_02-07b-06.html
<http://www.supremecourtus.gov/publicinfo/speeches/sp_02-07b-06.html>

"A decent Respect to the Opinions of [Human]kind": The Value of a Comparative Perspective in

Constitutional Adjudication Constitutional Court of South Africa February 7, 2006 Ruth Bader Ginsburg Associate Justice to the Supreme Court of the United States

South Africa's 1996 Constitution famously provides in Section 39: "When interpreting the Bill of Rights, a court . . . must consider international law; and may consider foreign law." Other modern Constitutions have similar provisions, India's and Spain's, for example.
In the United States the question whether and when courts may seek enlightenment from the laws and decisions of other nations has provoked heated debate. I will speak of that controversy in these remarks. At the outset, I should disclose the view I have long held: If U.S. experience and decisions can be instructive to systems that have more recently instituted or invigorated judicial review for constitutionality, so we can learn from others including Canada, South Africa, and most recently the U. K. - now engaged in measuring ordinary laws and executive actions against charters securing basic rights.

Exposing laws to judicial review for constitutionality was once uncommon outside the United States. In the United Kingdom, not distant from France, Spain, Germany, and other civil law countries in this regard, court review of legislation for compatibility with a fundamental charter was considered off limits, undemocratic, irreconcilable with the doctrine of parliamentary supremacy. That was once true of South Africa, is that not so? But particularly in the years following World War II, many nations installed constitutional review by courts as one safeguard against oppressive government and stirred-up majorities. National, multinational, and international human rights charters and courts today play a prominent part in our world. The U.S. judicial system will be the poorer, I have urged, if we do not both share our experience with, and learn from, legal systems with values and a commitment to democracy similar to our own.

In the value I place on comparative dialogue - on sharing with and learning from others - I draw on counsel from the founders of the United States. The drafters and signers of the Declaration of Independence cared about the opinions of other peoples; they placed before the world the reasons why the States, joining together to become the United States of America, were impelled to separate from Great Britain. The Declarants stated their reasons out of "a decent Respect to the Opinions of Mankind." They set out in the Declaration a long list of grievances, in order to submit the "Facts" - the "long Train of [the British Crown's] Abuses" - to the scrutiny of "a candid World."

The U.S. Supreme Court, early on, expressed a complementary view: The judicial power of the United States, the Court said in 1816, includes cases "in the correct adjudication of which foreign nations are deeply interested . . . [and] in which the principles of the law and comity of nations often form an essential inquiry." "Far from [exhibiting hostility] to foreign countries' views and laws," Professor Vicki Jackson of the Georgetown University law faculty recently reminded us:
"[T]he founding generation showed concern for how adjudication in our courts would affect other countries' regard for the United States." A similar concern is evident today in the jurisprudence of the Constitutional Court of the Republic of South Africa. As Justice O'Regan put it, writing separately in Kaunda v. President of the Republic of South Africa: "[O]ur Constitution recognizes and asserts that, after decades of isolation, South Africa is now a member of the community of nations, and a bearer of obligations and responsibilities in terms of international law." [2004 (10) BCLR 1009 (CC) at 222.] Even more so than when the United States was a new nation, the USA today, no less than South Africa, is subject to the scrutiny of "a candid World."

John Jay, one of the authors of The Federalist Papers promoting ratification of the U.S. Constitution, and George Washington's appointee as first Chief Justice of the United States, wrote of the new nation in 1793 much as Justice O'Regan did in 2004 of the new Republic. The United States, Jay observed, "by taking a place among the nations of the earth, bec[a]me amenable to the laws of nations," the core of

what we today call international law. Eleven years later, the great Chief Justice John Marshall cautioned: "[A]n act of Congress ought never to be construed to violate the law of nations if any other possible construction remains." South Africa installed just such a guide in its 1996 Constitution. Section 233 instructs: "When interpreting . . . legislation, every court must prefer any reasonable interpretation . . . consistent with international law over any alternative interpretation . . . inconsistent with international law."

True, there are generations-old and still persistent discordant views on recourse to the "Opinions of Mankind." A mid-19th century U.S. Chief Justice expressed opposition to such recourse in an extreme statement.
He wrote:

No one, we presume, supposes that any change in public opinion or feeling . . . in the civilized nations of Europe or in this country, should induce the [U.S. Supreme Court] to give to the words of the Constitution a more liberal construction . . . than they were intended to bear when the instrument was framed and adopted.

Those words were penned in 1857. They appear in Chief Justice Roger Taney's opinion for a divided Court in Dred Scott v. Sandford, an infamous opinion that invoked the majestic Due Process Clause to uphold one human's right to hold another in bondage. The Dred Scott decision declared that no "descendants of Africans [imported into the United States], and sold as slaves" could ever become citizens of the United States.

While the Civil War and the Thirteenth, Fourteenth, and Fifteenth Amendments to the U.S. Constitution reversed the Dred Scott judgment, U.S. jurists and political actors today divide sharply on the propriety of looking beyond our nation's borders, particularly on matters touching fundamental human rights. Some have expressed spirited opposition.
Justice Scalia counsels: The Court "should cease putting forth foreigners' views as part of the reasoned basis of its decisions. To invoke alien law when it agrees with one's own thinking, and ignore it otherwise, is not reasoned decisionmaking, but sophistry."

Another trenchant critic, Seventh Circuit U.S. Court of Appeals Judge Richard Posner, commented not long ago: "To cite foreign law as authority is to flirt with the discredited . . . idea of a universal natural law; or to suppose fantastically that the world's judges constitute a single, elite community of wisdom and conscience." Judge Posner's view rests, in part, on the concern that U.S. judges do not comprehend the social, historical, political, and institutional background from which foreign opinions emerge. Nor do we even understand the language in which laws and judgments, outside the common law realm, are written.

Judge Posner is right, of course, to this extent: Foreign opinions are not authoritative; they set no binding precedent for the U.S. judge. But they can add to the store of knowledge relevant to the solution of trying questions. Yes, we should approach foreign legal materials with sensitivity to our differences, deficiencies, and imperfect understanding, but imperfection, I believe, should not lead us to abandon the effort to learn what we can from the experience and good thinking foreign sources may convey.

Representative of the perspective I share with four of my current colleagues, Patricia M. Wald, once Chief Judge of the U.S. Court of Appeals for the District of Columbia Circuit and former Judge on the International Criminal Tribunal for the former Yugoslavia, last year said with characteristic wisdom: "It's hard for me to see that the use of foreign decisional law is an up-or-down proposition. I

see it rather as a pool of potential and useful information and thought that must be mined with caution and restraint."

Many current members of the U.S. Congress would terminate all debate over whether federal courts should refer to foreign or international legal materials. For the most part, they would respond to the question with a resounding "No." Two identical Resolutions reintroduced last year, one in the House of Representatives and the other in the Senate, declare that "judicial interpretations regarding the meaning of the Constitution of the United States should not be based on judgments, laws, or pronouncements of foreign institutions unless such [materials] inform an understanding of the original meaning of the Constitution." As of December 2005, the House Resolution had attracted support from 83 cosponsors. Two 2005-proposed Acts would do more than "resolve." They would positively prohibit federal courts, when interpreting the U.S.
Constitution, from referring to "any constitution, law, administrative rule, Executive order, directive, policy, judicial decision, or any other action of any foreign state or international organization or agency, other than English constitutional and common law up to the time of the adoption of the [U.S.] Constitution." [Even reference to a Scottish verdict, i.e., a verdict of not proved, it seems, would be out of order.]

These measures recycle similar resolutions and bills proposed before the 2004 elections in the United States, but never put to a vote. Although I doubt the current measures will garner sufficient votes to pass, it is disquieting that they have attracted sizable support. And one not-so-small concern - they fuel the irrational fringe. A personal example. The U.S. Supreme Court's Marshal alerted Justice O'Connor and me to a February 28, 2005, web posting on a "chat" site. It opened:

Okay commandoes, here is your first patriotic assignment . . . an easy one. Supreme Court Justices Ginsburg and O'Connor have publicly stated that they use [foreign] laws and rulings to decide how to rule on American cases.

This is a huge threat to our Republic and Constitutional freedom. . . .
If you are what you say you are, and NOT armchair patriots, then those two justices will not live another week.

Nearly a year has passed since that posting. Justice O'Connor, though to my great sorrow retired just last week from the Court's bench, remains alive and well. As for me, you can judge for yourself.

To a large extent, I believe, the critics in Congress and in the media misperceive how and why U.S. courts refer to foreign and international court decisions. We refer to decisions rendered abroad, it bears repetition, not as controlling authorities, but for their indication, in Judge Wald's words, of "common denominators of basic fairness governing relationships between the governors and the governed."

In a November 2005 Harvard Law Review comment, Georgetown's Professor Jackson usefully identified three responses to transnational sources:
resistance, convergence, and engagement. South Africa's apartheid regime fit the "Resistance Model," an approach that "relishes resistance . . .
to outside influence." Professor Jackson suggested that South Africa's 1996 Constitution fits the "Convergence Model," in that it "explicitly incorporate[s] international law as a controlling legal norm." But perhaps the Constitutional Court's emerging jurisprudence comes closer to the third approach, the "Engagement Model." That Model comprehends transnational sources "as interlocutors," a means to test "understanding of one's own traditions and possibilities by examining them in the [reflected light cast by other legal systems]."

The jurisprudence of South Africa's Constitutional Court offers many examples, among them, Justice Kriegler's cautionary note in Sanderson v.
Attorney-General, Eastern Cape. The question in that case: Did a two-year delay in bringing a prosecution for alleged sexual offenses violate the defendant's constitutional right to a speedy trial. In determining that the defendant's rights were not violated, Justice Kriegler canvassed foreign precedents, especially U.S. and Canadian decisions; he prefaced his examination, however, by warning that "the use of foreign precedent requires circumspection." [1997 (12) BCLR 1675 (CC) at 26.] In State v. Makwanyane, then Chief Justice Chaskalson earlier cautioned, in presenting his comparative survey decisions on capital punishment: "We can derive assistance from . . . foreign case law, but we are in no way bound to follow it." [1995 (6) BCLR 665 (CC) at 39.] I agree. Some U.S. practices, I fully appreciate, are not suitably exported: the use of juries in civil cases is one example.

In testimony prepared for a congressional hearing, Professor Jackson made a point critics of comparative sideglances perhaps overlook: the "negative authority" foreign experience sometimes may have. She referred in this regard to the "Steel Seizure Case" decided by the U.S. Supreme Court in 1952. There, Justice Jackson, in his separate opinion, pointed to features of the Weimar Constitution in Germany that allowed Adolf Hitler to assume dictatorial powers. He contrasted Germany's situation with that of Great Britain, a country in which legislative authorization was required for the exercise of emergency powers. Justice Jackson drew from that comparison support for the conclusion that, without more specific congressional authorization, the U.S. President could not seize private property (in that case, the steel mills) even in aid of a war effort. The U.S. President's wartime authority, you no doubt know, is today a hotly debated issue in U.S. political and legal circles.

At the time Justice Jackson cast a comparative sideglance at Weimar Germany, the United States itself was a source of "negative authority." The Attorney General pressed that point in an amicus brief for the United States in Brown v. Board of Education. Urging the Court to put an end to the "separate but equal doctrine," the Attorney General wrote:

The existence of discrimination against minority groups in the United States has an adverse effect upon our relations with other countries.
Racial discrimination . . . raises doubts even among friendly nations as to the intensity of our devotion to the democratic faith.

The U.S. Constitution, Justice Scalia has remarked, contains no instruction resembling South Africa's Section 39 prescription. So U.S.
courts, he thinks, have no warrant from our fundamental instrument of government to consider foreign law. I would demur to that observation.
Judges in the United States are free to consult all manner of commentary - Restatements, Treatises, what law professors or even law students write copiously in law reviews, for example. If we can consult those writings, why not the analysis of a question similar to the one we confront contained in an opinion of the Supreme Court of Canada, the Constitutional Court of South Africa, the German Constitutional Court, or the European Court of Human Rights?

A case in point. On December 16, 2004, in a controversy precipitated by the fight against terrorism, the Lords of Appeal (the U.K. counterpart to the U.S. Supreme Court) issued a waypaving decision, one that looks beyond the United Kingdom's borders. The case was brought by aliens held in custody in Belmarsh Prison. A nine-member panel ruled, 8-to-1, that the British government's indefinite detention of foreigners suspected of terrorism, without charging or trying them, is incompatible with the European Convention on Human Rights, incorporated into domestic law by the U. K. Human Rights Act.

Lord Bingham's lead opinion draws not only on domestic decisions and decisions of the European Court of Human Rights. It also refers to opinions of the Supreme Court of Canada and U.S. Court of Appeals opinions (although not U.S. Supreme Court opinions). Finding the differential treatment of nationals and non-nationals impermissible under the Human Rights Act, Lord Bingham also referred to several U. N. instruments, commencing with the 1948 Universal Declaration of Human Rights and including the 1965 International Convention on the Elimination of All Forms of Racial Discrimination.

Lord Bingham did make the observation, gently, that contemporary "U.S. authority does not provide evidence of general international practice." That comment may have figured in the New York Times' characterization of the Lords' ruling as "a strong example of the increasing interdependence of domestic and international law, at least outside of the United States." Parliament reacted swiftly to the Lord's decision. In March 2005, it enacted a measure allowing placement of terrorist suspects under a highly restrictive form of house arrest, in lieu of imprisonment, again without charging or trying them.

One year later, in December 2005, the Law Lords resolved another headline case involving the Belmarsh detainees. A seven-member panel ruled unanimously that evidence obtained through torture was inadmissible in British courts to establish criminal liability or eligibility for deportation "irrespective of where, or by whom, or on whose authority the torture was inflicted." Lord Bingham's lead opinion again surveyed U.N. instruments, including the Convention against Torture, as well as judicial decisions from other nations, including the United States, Germany, and Israel. These sources afforded confirmation for his ringing declaration: "The English common law has regarded torture and its fruits with abhorrence for over 500 years, and that abhorrence is now shared by over 140 countries which have acceded to the Torture Convention." Some of the Lords' speeches cast a critical eye across the sea. Lord Hoffman ventured that "many people in the United States, heirs to the common law tradition, have felt their country dishonoured by the use of torture outside the jurisdiction."

Later in December, recognizing the nation's obligations under the Convention against Torture, the U.S. Congress banned cruel, inhuman, and degrading treatment of detainees in U.S. custody. The legislation, however, stops short of explicitly banning evidence elicited by torture from consideration by a military tribunal charged with determining whether a detainee is an enemy combatant.

The notion that it is improper to look beyond the borders of the United States in grappling with hard questions, as my quotation from Chief Justice Taney suggested, is in line with the view of the U.S. Constitution as a document essentially frozen in time as of the date of its ratification. I am not a partisan of that view. U.S. jurists honor the Framers' intent "to create a more perfect Union," I believe, if they read the Constitution as belonging to a global 21st century, not as fixed forever by 18th-century understandings.

A key 1958 plurality opinion, Trop v. Dulles, makes just that point. At issue in that case, whether stripping a wartime deserter of citizenship violated the Eighth Amendment's ban on "cruel and unusual punishments." "The basic concept underlying the . . . Amendment," the opinion observed, "is nothing less than the dignity of man." Therefore the Constitution's text "must draw its meaning from the evolving standards of decency that mark the progress of a maturing society." In that regard, the plurality reported: "The civilized nations of the world are in virtual unanimity that statelessness is not to be imposed as punishment for crime." (The primacy of human dignity notably is not left to inference in South Africa's Constitution, for Section 10 prescribes:
"Everyone has inherent dignity and the right to have their dignity respected and protected.")

Turning from frozen-in-time interpretation, I will take up another shortfall or insularity in current U.S.

jurisprudence, at least as I see it. The Bill of Rights, few would disagree, is the hallmark and pride of the United States. One might therefore assume that it guides and controls U.S. officialdom wherever in the world they carry the flag of the United States or their credentials. But that is not the currently prevailing view. For example, absent an express ban by treaty, a U.S.
officer may abduct a foreigner and forcibly transport him to the United States to stand trial. The U.S. Supreme Court so held, 6-to-3, in 1992.
Just a year earlier, South Africa's Supreme Court of Appeal had ruled the other way. It determined that under South Africa's common law, a trial court has no jurisdiction to hear a case against a defendant when the State had acted lawlessly in apprehending him by participating in an abduction across international borders.

Another case in point, one in which I was a participant, involving civil litigation: Interpreting U.S. Supreme Court precedent, a divided U.S.
Court of Appeals for the District of Columbia Circuit held in 1989, during my tenure on that court, that foreign plaintiffs acting abroad - plaintiffs were Indian family planning organizations - had no First Amendment rights, and therefore no standing to assert a violation of such rights by U.S. officials. In particular, the Indian organizations complained of a condition on U.S. grant money: the recipients could not engage in any abortion counseling, even in a separate entity funded by non-U.S. sources. In dissent, I resisted the notion that in an encounter between the United States and the people of another land, "the amendment we prize as 'first' has no force in court." I expressed the expectation that the position taken in the Restatement (Third) of Foreign Relations would one day accurately describe our law. "[W]herever the United States acts," the Restatement projects, "'it can only act in accordance with the limitations imposed by the Constitution.'"

Returning to my main theme, I will recount briefly and chronologically the Supreme Court's most recent decisions involving foreign or international legal sources as an aid to the resolution of constitutional questions. In a headline 2002 decision, Atkins v.
Virginia, a six-member majority (all save the Chief Justice and Justices Scalia and Thomas) held unconstitutional the execution of a mentally retarded offender. The Court noted that "within the world community, the imposition of the death penalty for crimes committed by mentally retarded offenders is overwhelmingly disapproved." (South Africa, of course, figures prominently in the worldwide disapproval, the Constitutional Court having held a decade ago that capital punishment in any case is unconstitutional.)

New York Times reporter Linda Greenhouse wrote of the following, 2002-2003, Term: The Court has "displayed a [steadily growing] attentiveness to legal developments in the rest of the world and to the [C]ourt's role in keeping the United States in step with them." Among examples from that Term, I would include the Michigan University affirmative action cases decided June 23, 2003. Although the Court splintered, it upheld the Michigan Law School program. In separate opinions, I looked to two United Nations Conventions: the 1965 Convention on the Elimination of all Forms of Racial Discrimination, which the United States has ratified; and the 1979 Convention on the Elimination of All Forms of Discrimination Against Women, which, sadly, the United States has not yet ratified. Both Conventions distinguish between impermissible policies of oppression or exclusion, and permissible policies of inclusion, "temporary special measures aimed at accelerating de facto equality." The U.S. Supreme Court's decision in the Michigan Law School case, I observed, "accords with the international understanding of the [purpose and propriety] of affirmative action." (South Africa's Constitution is clear on that matter; Section 9(2) provides: "To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.")

A better indicator from the U.S. Supreme Court's 2002-2003 Term, because it attracted a majority, is

A better indicator from the U.S. Supreme Court's 2002-2003 Term, because it attracted a majority, is Justice Kennedy's opinion for the Court in Lawrence v. Texas, announced June 26, 2003. Overruling a 1986 decision, Lawrence declared unconstitutional a Texas statute prohibiting two adult persons of the same sex from engaging, voluntarily, in intimate sexual conduct. (I think it highly unlikely, however, that we will soon see a U.S. Supreme Court decision resembling the very recent decision of the Constitutional Court of South Africa in Minister of Home Affairs v.
Fourie.) On the question of dynamic versus static, frozen-in-time constitutional interpretation, the Court's Lawrence v. Texas opinion instructs:

Had those who drew and ratified the Due Process Clauses of the Fifth Amendment or the Fourteenth Amendment known the components of liberty in its manifold possibilities, they might have been more specific. They did not presume to have this insight. They knew times can blind us to certain truths and later generations can see that laws once thought necessary and proper in fact serve only to oppress. As the Constitution endures, persons in every generation can invoke its principles in their own search for greater freedom.

On respect for "the Opinions of [Human]kind," the Lawrence Court emphasized: "The right the petitioners seek in this case has been accepted as an integral part of human freedom in many other countries." In support, the Court cited the leading 1981 European Court of Human Rights decision, Dudgeon v. United Kingdom, and subsequent European Human Rights Court decisions affirming the protected right of homosexual adults to engage in intimate, consensual conduct.

In the 2003-2004 Term, foreign and international legal sources again figured in several decisions. These included, most notably, two June 2004 decisions in cases arising out of the war on terror. One, Hamdi v.
Rumsfeld, concerned a U.S. citizen, held incommunicado in a Navy brig in South Carolina pursuant to an executive decree declaring him an "enemy combatant." Ruling some six months before the Law Lords' decision in the 2004 Belmarsh case, the Court held, 8-to-1, that the petitioner was entitled to a "meaningful opportunity" to contest the factual basis for his detention before an impartial adjudicator. Even in "our most challenging and uncertain moments" when "our Nation's commitment to due process is most severely tested," Justice O'Connor wrote for a four-Justice plurality, "we must preserve our commitment at home to the principles for which we fight abroad." "[H]istory and common sense," she reminded, "teach us that an unchecked system of detention carries the potential to become a means for oppression and abuse." On that theme, the U.K.'s Lord Hoffman wrote in his separate opinion in the 2004 Belmarsh case:

The real threat to the life of the nation, in the sense of a people living in accordance with its traditional laws and political values, comes not from terrorism but from laws [or executive measures, such as the one at issue in Belmarsh, authorizing indefinite imprisonment without charge or trial]. That is the true measure of what terrorism may achieve.

He hoped, after the Lords of Appeal ruling, that Parliament would not "give the terrorists such a victory." (I should add that two University of Chicago Law School professors (Eric A. Posner and Adrian Vermeule) recently inveighed against Justice O'Connor's and Lord Hoffman's statements as "absurdities." People do not prefer liberty to death, they urged. A government that does not contract civil liberties in face of terrorist threats, they said, "is pathologically rigid, not enlightened." They queried whether the Lords would have come out the same way had the terrorist carnage in London's underground preceded the Belmarsh decision. The Law Lords, I note, have not relented. Their December 2005 decision excluding evidence obtained through torture post-dates the London underground bombing.)

The other "enemy combatant" case decided by the U.S. Supreme Court in June 2004, Rasul v. Bush, held that U.S. courts have jurisdiction to consider challenges to the legality of the detention of foreign nationals captured in hostilities abroad, then transported to the U.S.
naval base in Guantanamo Bay, Cuba. The Court wrote narrowly; it said nothing about what claims, if any, would succeed once the detainees get to a federal court. [Britian's Lord Steyn, before this decision, called Guantanamo a "legal black hole."] The Supreme Court has so far written only chapter one on the Guantanamo Bay incarcerations. Federal district court judges have split on chapter two. One judge held that foreigners detained at Guantanamo Bay, though they had access to court, could gain no judicial relief. Another ruled that the detainees were entitled to a fair hearing on the question whether their incarceration meets due process demands. Both cases are currently on appeal.

Just a few months ago, the Supreme Court agreed to hear a case, titled Hamdan v. Rumsfeld, posing these questions: (1) Does the President have authority to establish a military commission to try Guantanamo Bay detainees for alleged war crimes; and (2) Is the writ of habeas corpus in federal court an available means to determine Guantanamo Bay detainees' alleged rights under the 1949 Geneva Convention? The end of December legislation I earlier mentioned severely narrows Guantanamo Bay detainees' access to courts. The impact of that legislation on Hamdan's petition, and on scores of filings in the federal district court in the District of Columbia, remains uncertain.

To conclude my account of recent decisions in which the U.S. Supreme Court cast comparative sideglances, the March 2005 decision in Roper v.
Simmons presents perhaps the fullest expressions to date on the propriety and utility of looking to "the opinions of [human]kind." Holding unconstitutional the execution of persons under the age of 18 when they committed capital crimes, the Court declared it fitting to acknowledge "the overwhelming weight of international opinion against the juvenile death penalty." Justice Kennedy wrote for the Court that the opinion of the world community provides "respected and significant confirmation of our own conclusions." "It does not lessen our fidelity to the Constitution," he explained, to recognize "the express affirmation of certain fundamental rights by other nations and peoples." (Among the dozens of amici curiae submissions in Roper, an impressive brief bears the names of several Nobel Peace Prize winners, including former U.S. President Jimmy Carter, South Africa's former President Willem de Klerk, and Archbishop Desmond Tutu. The Nobel laureates urged the Court to "consider the opinion of the international community, which has rejected the death penalty for child offenders worldwide.")

[Justice O'Connor, although she dissented from the Court's categorical ruling in Roper, agreed with the Court on the relevance of "foreign and international law to [an] assessment of evolving standards of decency." The other dissenters, for whom Justice Scalia spoke, vigorously contended that foreign and international law have no place in determining what punishments are "cruel and unusual" within the meaning of the U.S. Constitution's Eighth Amendment.]

Recognizing that forecasts are risky, I nonetheless believe the U.S.
Supreme Court will continue to accord "a decent Respect to the Opinions of [Human]kind" as a matter of comity and in a spirit of humility.
Comity, because projects vital to our well being - combating international terrorism is a prime example - require trust and cooperation of nations the world over. And humility because, in Justice O'Connor's words: "Other legal systems continue to innovate, to experiment, and to find new solutions to the new legal problems that arise each day, from which we can learn and benefit."

In this regard, I was impressed by an observation made in September 2003 by Israel's Chief Justice Aharon Barak. September 11, he noted, confronts the United States with the dilemma of conducting a war on terrorism without sacrificing the nation's most cherished values, including our respect for human dignity. "We in Israel," Barak said, "have our September 11, and September 12 and so on." He

human dignity. "We in Israel," Barak said, "have our September 11, and September 12 and so on." He spoke of his own Court's efforts to balance the government's no doubt compelling need to secure the safety of the State and of its citizens on the one hand, and the nation's high regard for "human dignity and freedom on the other hand." He referred, particularly, to a question presented to his Court: "Is it lawful to use violence (less euphemistically, torture) in interrogat[ing] [a] terrorist in a 'ticking bomb' situation." His Court's answer: No, "[n]ever use violence." He elaborated:

[It] is the fate of a democracy [that] not all means are acceptable to it, . . . not all methods employed by its enemies are open to it.
Sometimes, a democracy must fight with one hand tied behind its back.
Nonetheless, it has the upper hand. Preserving the rule of law and recognition of individual liberties constitute an important component of [a democracy's] understanding of security. At the end of the day, [those values buoy up] its spirit and strength [and its capacity to] overcome [the] difficulties.

In that opinion, I concur without reservation.

Judiciary Policy Analyst/Counsel

Senate Republican Policy Committee

Neil: fyi, in the speech attached below, Justice Ginsburg comments briefly on the *Hamdan* case and the DTA. (Sixth paragraph from the end.)

From: [redacted] (RPC)
Sent: Wednesday, March 15, 2006 5:07 PM
Subject: Ginsburg speech on foreign law citation

March 15, 2006

To: Judiciary Analysts/Counsels

Fr: [redacted] Judiciary Policy Analyst/Counsel

RE: Ginsburg speech on foreign law

Copied below is the text of a speech that Justice Ruth Bader Ginsburg gave in South Africa last month. In it, she defends the Supreme Court's citation to foreign law for the interpretation of the U.S. Constitution and suggests, unsubtly, that those who oppose the Supreme Court's reliance on foreign authority should be thought of in the same breath as former Chief Justice Roger Taney (author of the Dred Scott decision) and that their political opposition to citing foreign authority "fuel[s] the irrational fringe" that has apparently threatened her life, and the life of former Justice O'Connor. She predicts that the Supreme Court will continue to rely on foreign law in making constitutional judgments.

(It is worth recalling that both Chief Justice Roberts and Justice Alito said during their confirmation hearings that foreign law should have no role in U.S. constitutional analysis and interpretation.)

[redacted]

http://www.supremecourtus.gov/publicinfo/speeches/sp_02-07b-06.html

"A decent Respect to the Opinions of [Human]kind": The Value of a Comparative Perspective in Constitutional Adjudication
Constitutional Court of South Africa
February 7, 2006
Ruth Bader Ginsburg
Associate Justice to the Supreme Court of the United States

South Africa's 1996 Constitution famously provides in Section 39: "When interpreting the Bill of Rights, a court . . . must consider international law; and may consider foreign law." Other modern Constitutions have similar provisions, India's and Spain's, for example. In the United States the question whether and when courts may seek enlightenment from the laws and decisions of other nations has provoked heated debate. I will speak of that controversy in these remarks. At the outset, I should disclose the view I have long held: If U.S. experience and decisions can be instructive to systems that have more recently instituted or invigorated judicial review for constitutionality, so we can learn from others including Canada, South Africa, and most recently the U. K. - now engaged in measuring ordinary laws and executive actions against charters securing basic rights.

Exposing laws to judicial review for constitutionality was once uncommon outside the United States. In the United Kingdom, not distant from France, Spain, Germany, and other civil law countries in this regard, court review of legislation for compatibility with a fundamental charter was considered off limits, undemocratic,

irreconcilable with the doctrine of parliamentary supremacy. That was once true of South Africa, is that not so? But particularly in the years following World War II, many nations installed constitutional review by courts as one safeguard against oppressive government and stirred-up majorities. National, multinational, and international human rights charters and courts today play a prominent part in our world. The U.S. judicial system will be the poorer, I have urged, if we do not both share our experience with, and learn from, legal systems with values and a commitment to democracy similar to our own.

In the value I place on comparative dialogue - on sharing with and learning from others - I draw on counsel from the founders of the United States. The drafters and signers of the Declaration of Independence cared about the opinions of other peoples; they placed before the world the reasons why the States, joining together to become the United States of America, were impelled to separate from Great Britain. The Declarants stated their reasons out of "a decent Respect to the Opinions of Mankind." They set out in the Declaration a long list of grievances, in order to submit the "Facts" - the "long Train of [the British Crown's] Abuses" - to the scrutiny of "a candid World."

The U.S. Supreme Court, early on, expressed a complementary view: The judicial power of the United States, the Court said in 1816, includes cases "in the correct adjudication of which foreign nations are deeply interested . . . [and] in which the principles of the law and comity of nations often form an essential inquiry." "Far from [exhibiting hostility] to foreign countries' views and laws," Professor Vicki Jackson of the Georgetown University law faculty recently reminded us: "[T]he founding generation showed concern for how adjudication in our courts would affect other countries' regard for the United States." A similar concern is evident today in the jurisprudence of the Constitutional Court of the Republic of South Africa. As Justice O'Regan put it, writing separately in Kaunda v. President of the Republic of South Africa: "[O]ur Constitution recognizes and asserts that, after decades of isolation, South Africa is now a member of the community of nations, and a bearer of obligations and responsibilities in terms of international law." [2004 (10) BCLR 1009 (CC) at 222.] Even more so than when the United States was a new nation, the USA today, no less than South Africa, is subject to the scrutiny of "a candid World."

John Jay, one of the authors of The Federalist Papers promoting ratification of the U.S. Constitution, and George Washington's appointee as first Chief Justice of the United States, wrote of the new nation in 1793 much as Justice O'Regan did in 2004 of the new Republic. The United States, Jay observed, "by taking a place among the nations of the earth, bec[a]me amenable to the laws of nations," the core of what we today call international law. Eleven years later, the great Chief Justice John Marshall cautioned: "[A]n act of Congress ought never to be construed to violate the law of nations if any other possible construction remains." South Africa installed just such a guide in its 1996 Constitution. Section 233 instructs: "When interpreting . . . legislation, every court must prefer any reasonable interpretation . . . consistent with international law over any alternative interpretation . . . inconsistent with international law."

True, there are generations-old and still persistent discordant views on recourse to the "Opinions of Mankind." A mid-19th century U.S. Chief Justice expressed opposition to such recourse in an extreme statement. He wrote:

> No one, we presume, supposes that any change in public opinion or feeling . . . in the civilized nations of Europe or in this country, should induce the [U.S. Supreme Court] to give to the words of the Constitution a more liberal construction . . . than they were intended to bear when the instrument was framed and adopted.

Those words were penned in 1857. They appear in Chief Justice Roger Taney's opinion for a divided Court in Dred Scott v. Sandford, an infamous opinion that invoked the majestic Due Process Clause to uphold one human's right to hold another in bondage. The Dred Scott decision declared that no "descendants of Africans

[imported into the United States], and sold as slaves" could ever become citizens of the United States.

While the Civil War and the Thirteenth, Fourteenth, and Fifteenth Amendments to the U.S. Constitution reversed the Dred Scott judgment, U.S. jurists and political actors today divide sharply on the propriety of looking beyond our nation's borders, particularly on matters touching fundamental human rights. Some have expressed spirited opposition. Justice Scalia counsels: The Court "should cease putting forth foreigners' views as part of the reasoned basis of its decisions. To invoke alien law when it agrees with one's own thinking, and ignore it otherwise, is not reasoned decisionmaking, but sophistry."

Another trenchant critic, Seventh Circuit U.S. Court of Appeals Judge Richard Posner, commented not long ago: "To cite foreign law as authority is to flirt with the discredited . . . idea of a universal natural law; or to suppose fantastically that the world's judges constitute a single, elite community of wisdom and conscience." Judge Posner's view rests, in part, on the concern that U.S. judges do not comprehend the social, historical, political, and institutional background from which foreign opinions emerge. Nor do we even understand the language in which laws and judgments, outside the common law realm, are written.

Judge Posner is right, of course, to this extent: Foreign opinions are not authoritative; they set no binding precedent for the U.S. judge. But they can add to the store of knowledge relevant to the solution of trying questions. Yes, we should approach foreign legal materials with sensitivity to our differences, deficiencies, and imperfect understanding, but imperfection, I believe, should not lead us to abandon the effort to learn what we can from the experience and good thinking foreign sources may convey.

Representative of the perspective I share with four of my current colleagues, Patricia M. Wald, once Chief Judge of the U.S. Court of Appeals for the District of Columbia Circuit and former Judge on the International Criminal Tribunal for the former Yugoslavia, last year said with characteristic wisdom: "It's hard for me to see that the use of foreign decisional law is an up-or-down proposition. I see it rather as a pool of potential and useful information and thought that must be mined with caution and restraint."

Many current members of the U.S. Congress would terminate all debate over whether federal courts should refer to foreign or international legal materials. For the most part, they would respond to the question with a resounding "No." Two identical Resolutions reintroduced last year, one in the House of Representatives and the other in the Senate, declare that "judicial interpretations regarding the meaning of the Constitution of the United States should not be based on judgments, laws, or pronouncements of foreign institutions unless such [materials] inform an understanding of the original meaning of the Constitution." As of December 2005, the House Resolution had attracted support from 83 cosponsors. Two 2005-proposed Acts would do more than "resolve." They would positively prohibit federal courts, when interpreting the U.S. Constitution, from referring to "any constitution, law, administrative rule, Executive order, directive, policy, judicial decision, or any other action of any foreign state or international organization or agency, other than English constitutional and common law up to the time of the adoption of the [U.S.] Constitution." [Even reference to a Scottish verdict, i.e., a verdict of not proved, it seems, would be out of order.]

These measures recycle similar resolutions and bills proposed before the 2004 elections in the United States, but never put to a vote. Although I doubt the current measures will garner sufficient votes to pass, it is disquieting that they have attracted sizable support. And one not-so-small concern - they fuel the irrational fringe. A personal example. The U.S. Supreme Court's Marshal alerted Justice O'Connor and me to a February 28, 2005, web posting on a "chat" site. It opened:

> Okay commandoes, here is your first patriotic assignment . . . an easy one. Supreme Court Justices Ginsburg and O'Connor have publicly stated that they use [foreign] laws and rulings to decide how to rule on American cases.

> This is a huge threat to our Republic and Constitutional freedom. . . . If you are what you say you are, and NOT armchair patriots, then those two justices will not live another week.

Nearly a year has passed since that posting. Justice O'Connor, though to my great sorrow retired just last week from the Court's bench, remains alive and well. As for me, you can judge for yourself.

To a large extent, I believe, the critics in Congress and in the media misperceive how and why U.S. courts refer to foreign and international court decisions. We refer to decisions rendered abroad, it bears repetition, not as controlling authorities, but for their indication, in Judge Wald's words, of "common denominators of basic fairness governing relationships between the governors and the governed."

In a November 2005 Harvard Law Review comment, Georgetown's Professor Jackson usefully identified three responses to transnational sources: resistance, convergence, and engagement. South Africa's apartheid regime fit the "Resistance Model," an approach that "relishes resistance . . . to outside influence." Professor Jackson suggested that South Africa's 1996 Constitution fits the "Convergence Model," in that it "explicitly incorporate[s] international law as a controlling legal norm." But perhaps the Constitutional Court's emerging jurisprudence comes closer to the third approach, the "Engagement Model." That Model comprehends transnational sources "as interlocutors," a means to test "understanding of one's own traditions and possibilities by examining them in the [reflected light cast by other legal systems]."

The jurisprudence of South Africa's Constitutional Court offers many examples, among them, Justice Kriegler's cautionary note in Sanderson v. Attorney-General, Eastern Cape. The question in that case: Did a two-year delay in bringing a prosecution for alleged sexual offenses violate the defendant's constitutional right to a speedy trial. In determining that the defendant's rights were not violated, Justice Kriegler canvassed foreign precedents, especially U.S. and Canadian decisions; he prefaced his examination, however, by warning that "the use of foreign precedent requires circumspection." [1997 (12) BCLR 1675 (CC) at 26.] In State v. Makwanyane, then Chief Justice Chaskalson earlier cautioned, in presenting his comparative survey decisions on capital punishment: "We can derive assistance from . . . foreign case law, but we are in no way bound to follow it." [1995 (6) BCLR 665 (CC) at 39.] I agree. Some U.S. practices, I fully appreciate, are not suitably exported: the use of juries in civil cases is one example.

In testimony prepared for a congressional hearing, Professor Jackson made a point critics of comparative sideglances perhaps overlook: the "negative authority" foreign experience sometimes may have. She referred in this regard to the "Steel Seizure Case" decided by the U.S. Supreme Court in 1952. There, Justice Jackson, in his separate opinion, pointed to features of the Weimar Constitution in Germany that allowed Adolf Hitler to assume dictatorial powers. He contrasted Germany's situation with that of Great Britain, a country in which legislative authorization was required for the exercise of emergency powers. Justice Jackson drew from that comparison support for the conclusion that, without more specific congressional authorization, the U.S. President could not seize private property (in that case, the steel mills) even in aid of a war effort. The U.S. President's wartime authority, you no doubt know, is today a hotly debated issue in U.S. political and legal circles.

At the time Justice Jackson cast a comparative sideglance at Weimar Germany, the United States itself was a source of "negative authority." The Attorney General pressed that point in an amicus brief for the United States in Brown v. Board of Education. Urging the Court to put an end to the "separate but equal doctrine," the Attorney General wrote:

> The existence of discrimination against minority groups in the United States has an adverse effect upon our relations with other countries. Racial discrimination . . . raises doubts even among friendly nations as to the intensity of our devotion to the democratic faith.

The U.S. Constitution, Justice Scalia has remarked, contains no instruction resembling South Africa's Section 39 prescription. So U.S. courts, he thinks, have no warrant from our fundamental instrument of government to consider foreign law. I would demur to that observation. Judges in the United States are free to consult all manner of commentary - Restatements, Treatises, what law professors or even law students write copiously in law reviews, for example. If we can consult those writings, why not the analysis of a question similar to the one we confront contained in an opinion of the Supreme Court of Canada, the Constitutional Court of South Africa, the German Constitutional Court, or the European Court of Human Rights?

A case in point. On December 16, 2004, in a controversy precipitated by the fight against terrorism, the Lords of Appeal (the U.K. counterpart to the U.S. Supreme Court) issued a waypaving decision, one that looks beyond the United Kingdom's borders. The case was brought by aliens held in custody in Belmarsh Prison. A nine-member panel ruled, 8-to-1, that the British government's indefinite detention of foreigners suspected of terrorism, without charging or trying them, is incompatible with the European Convention on Human Rights, incorporated into domestic law by the U. K. Human Rights Act. Lord Bingham's lead opinion draws not only on domestic decisions and decisions of the European Court of Human Rights. It also refers to opinions of the Supreme Court of Canada and U.S. Court of Appeals opinions (although not U.S. Supreme Court opinions). Finding the differential treatment of nationals and non-nationals impermissible under the Human Rights Act, Lord Bingham also referred to several U. N. instruments, commencing with the 1948 Universal Declaration of Human Rights and including the 1965 International Convention on the Elimination of All Forms of Racial Discrimination.

Lord Bingham did make the observation, gently, that contemporary "U.S. authority does not provide evidence of general international practice." That comment may have figured in the New York Times' characterization of the Lords' ruling as "a strong example of the increasing interdependence of domestic and international law, at least outside of the United States." Parliament reacted swiftly to the Lord's decision. In March 2005, it enacted a measure allowing placement of terrorist suspects under a highly restrictive form of house arrest, in lieu of imprisonment, again without charging or trying them.

One year later, in December 2005, the Law Lords resolved another headline case involving the Belmarsh detainees. A seven-member panel ruled unanimously that evidence obtained through torture was inadmissible in British courts to establish criminal liability or eligibility for deportation "irrespective of where, or by whom, or on whose authority the torture was inflicted." Lord Bingham's lead opinion again surveyed U.N. instruments, including the Convention against Torture, as well as judicial decisions from other nations, including the United States, Germany, and Israel. These sources afforded confirmation for his ringing declaration: "The English common law has regarded torture and its fruits with abhorrence for over 500 years, and that abhorrence is now shared by over 140 countries which have acceded to the Torture Convention." Some of the Lords' speeches cast a critical eye across the sea. Lord Hoffman ventured that "many people in the United States, heirs to the common law tradition, have felt their country dishonoured by the use of torture outside the jurisdiction."

Later in December, recognizing the nation's obligations under the Convention against Torture, the U.S. Congress banned cruel, inhuman, and degrading treatment of detainees in U.S. custody. The legislation, however, stops short of explicitly banning evidence elicited by torture from consideration by a military tribunal charged with determining whether a detainee is an enemy combatant.

The notion that it is improper to look beyond the borders of the United States in grappling with hard questions, as my quotation from Chief Justice Taney suggested, is in line with the view of the U.S. Constitution as a document essentially frozen in time as of the date of its ratification. I am not a partisan of that view. U.S. jurists honor the Framers' intent "to create a more perfect Union," I believe, if they read the Constitution as belonging to a global 21st century, not as fixed forever by 18th-century understandings.

A key 1958 plurality opinion, Trop v. Dulles, makes just that point. At issue in that case, whether stripping a

wartime deserter of citizenship violated the Eighth Amendment's ban on "cruel and unusual punishments." "The basic concept underlying the . . . Amendment," the opinion observed, "is nothing less than the dignity of man." Therefore the Constitution's text "must draw its meaning from the evolving standards of decency that mark the progress of a maturing society." In that regard, the plurality reported: "The civilized nations of the world are in virtual unanimity that statelessness is not to be imposed as punishment for crime." (The primacy of human dignity notably is not left to inference in South Africa's Constitution, for Section 10 prescribes: "Everyone has inherent dignity and the right to have their dignity respected and protected.")

Turning from frozen-in-time interpretation, I will take up another shortfall or insularity in current U.S. jurisprudence, at least as I see it. The Bill of Rights, few would disagree, is the hallmark and pride of the United States. One might therefore assume that it guides and controls U.S. officialdom wherever in the world they carry the flag of the United States or their credentials. But that is not the currently prevailing view. For example, absent an express ban by treaty, a U.S. officer may abduct a foreigner and forcibly transport him to the United States to stand trial. The U.S. Supreme Court so held, 6-to-3, in 1992. Just a year earlier, South Africa's Supreme Court of Appeal had ruled the other way. It determined that under South Africa's common law, a trial court has no jurisdiction to hear a case against a defendant when the State had acted lawlessly in apprehending him by participating in an abduction across international borders.

Another case in point, one in which I was a participant, involving civil litigation: Interpreting U.S. Supreme Court precedent, a divided U.S. Court of Appeals for the District of Columbia Circuit held in 1989, during my tenure on that court, that foreign plaintiffs acting abroad - plaintiffs were Indian family planning organizations - had no First Amendment rights, and therefore no standing to assert a violation of such rights by U.S. officials. In particular, the Indian organizations complained of a condition on U.S. grant money: the recipients could not engage in any abortion counseling, even in a separate entity funded by non-U.S. sources. In dissent, I resisted the notion that in an encounter between the United States and the people of another land, "the amendment we prize as 'first' has no force in court." I expressed the expectation that the position taken in the Restatement (Third) of Foreign Relations would one day accurately describe our law. "[W]herever the United States acts," the Restatement projects, "'it can only act in accordance with the limitations imposed by the Constitution.'"

Returning to my main theme, I will recount briefly and chronologically the Supreme Court's most recent decisions involving foreign or international legal sources as an aid to the resolution of constitutional questions. In a headline 2002 decision, Atkins v. Virginia, a six-member majority (all save the Chief Justice and Justices Scalia and Thomas) held unconstitutional the execution of a mentally retarded offender. The Court noted that "within the world community, the imposition of the death penalty for crimes committed by mentally retarded offenders is overwhelmingly disapproved." (South Africa, of course, figures prominently in the worldwide disapproval, the Constitutional Court having held a decade ago that capital punishment in any case is unconstitutional.)

New York Times reporter Linda Greenhouse wrote of the following, 2002-2003, Term: The Court has "displayed a [steadily growing] attentiveness to legal developments in the rest of the world and to the [C]ourt's role in keeping the United States in step with them." Among examples from that Term, I would include the Michigan University affirmative action cases decided June 23, 2003. Although the Court splintered, it upheld the Michigan Law School program. In separate opinions, I looked to two United Nations Conventions: the 1965 Convention on the Elimination of all Forms of Racial Discrimination, which the United States has ratified; and the 1979 Convention on the Elimination of All Forms of Discrimination Against Women, which, sadly, the United States has not yet ratified. Both Conventions distinguish between impermissible policies of oppression or exclusion, and permissible policies of inclusion, "temporary special measures aimed at accelerating de facto equality." The U.S. Supreme Court's decision in the Michigan Law School case, I observed, "accords with the international understanding of the [purpose and propriety] of affirmative action." (South Africa's Constitution is clear on that matter; Section 9(2) provides: "To promote the achievement of equality, legislative and other

measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.")

A better indicator from the U.S. Supreme Court's 2002-2003 Term, because it attracted a majority, is Justice Kennedy's opinion for the Court in Lawrence v. Texas, announced June 26, 2003. Overruling a 1986 decision, Lawrence declared unconstitutional a Texas statute prohibiting two adult persons of the same sex from engaging, voluntarily, in intimate sexual conduct. (I think it highly unlikely, however, that we will soon see a U.S. Supreme Court decision resembling the very recent decision of the Constitutional Court of South Africa in Minister of Home Affairs v. Fourie.) On the question of dynamic versus static, frozen-in-time constitutional interpretation, the Court's Lawrence v. Texas opinion instructs:

> Had those who drew and ratified the Due Process Clauses of the Fifth Amendment or the Fourteenth Amendment known the components of liberty in its manifold possibilities, they might have been more specific. They did not presume to have this insight. They knew times can blind us to certain truths and later generations can see that laws once thought necessary and proper in fact serve only to oppress. As the Constitution endures, persons in every generation can invoke its principles in their own search for greater freedom.

On respect for "the Opinions of [Human]kind," the Lawrence Court emphasized: "The right the petitioners seek in this case has been accepted as an integral part of human freedom in many other countries." In support, the Court cited the leading 1981 European Court of Human Rights decision, Dudgeon v. United Kingdom, and subsequent European Human Rights Court decisions affirming the protected right of homosexual adults to engage in intimate, consensual conduct.

In the 2003-2004 Term, foreign and international legal sources again figured in several decisions. These included, most notably, two June 2004 decisions in cases arising out of the war on terror. One, Hamdi v. Rumsfeld, concerned a U.S. citizen, held incommunicado in a Navy brig in South Carolina pursuant to an executive decree declaring him an "enemy combatant." Ruling some six months before the Law Lords' decision in the 2004 Belmarsh case, the Court held, 8-to-1, that the petitioner was entitled to a "meaningful opportunity" to contest the factual basis for his detention before an impartial adjudicator. Even in "our most challenging and uncertain moments" when "our Nation's commitment to due process is most severely tested," Justice O'Connor wrote for a four-Justice plurality, "we must preserve our commitment at home to the principles for which we fight abroad." "[H]istory and common sense," she reminded, "teach us that an unchecked system of detention carries the potential to become a means for oppression and abuse." On that theme, the U.K.'s Lord Hoffman wrote in his separate opinion in the 2004 Belmarsh case:

The real threat to the life of the nation, in the sense of a people living in accordance with its traditional laws and political values, comes not from terrorism but from laws [or executive measures, such as the one at issue in Belmarsh, authorizing indefinite imprisonment without charge or trial]. That is the true measure of what terrorism may achieve.

He hoped, after the Lords of Appeal ruling, that Parliament would not "give the terrorists such a victory." (I should add that two University of Chicago Law School professors (Eric A. Posner and Adrian Vermeule) recently inveighed against Justice O'Connor's and Lord Hoffman's statements as "absurdities." People do not prefer liberty to death, they urged. A government that does not contract civil liberties in face of terrorist threats, they said, "is pathologically rigid, not enlightened." They queried whether the Lords would have come out the same way had the terrorist carnage in London's underground preceded the Belmarsh decision. The Law Lords, I note, have not relented. Their December 2005 decision excluding evidence obtained through torture post-dates the London underground bombing.)

The other "enemy combatant" case decided by the U.S. Supreme Court in June 2004, Rasul v. Bush, held that

U.S. courts have jurisdiction to consider challenges to the legality of the detention of foreign nationals captured in hostilities abroad, then transported to the U.S. naval base in Guantanamo Bay, Cuba. The Court wrote narrowly; it said nothing about what claims, if any, would succeed once the detainees get to a federal court. [Britian's Lord Steyn, before this decision, called Guantanamo a "legal black hole."] The Supreme Court has so far written only chapter one on the Guantanamo Bay incarcerations. Federal district court judges have split on chapter two. One judge held that foreigners detained at Guantanamo Bay, though they had access to court, could gain no judicial relief. Another ruled that the detainees were entitled to a fair hearing on the question whether their incarceration meets due process demands. Both cases are currently on appeal.

Just a few months ago, the Supreme Court agreed to hear a case, titled Hamdan v. Rumsfeld, posing these questions: (1) Does the President have authority to establish a military commission to try Guantanamo Bay detainees for alleged war crimes; and (2) Is the writ of habeas corpus in federal court an available means to determine Guantanamo Bay detainees' alleged rights under the 1949 Geneva Convention? The end of December legislation I earlier mentioned severely narrows Guantanamo Bay detainees' access to courts. The impact of that legislation on Hamdan's petition, and on scores of filings in the federal district court in the District of Columbia, remains uncertain.

To conclude my account of recent decisions in which the U.S. Supreme Court cast comparative sideglances, the March 2005 decision in Roper v. Simmons presents perhaps the fullest expressions to date on the propriety and utility of looking to "the opinions of [human]kind." Holding unconstitutional the execution of persons under the age of 18 when they committed capital crimes, the Court declared it fitting to acknowledge "the overwhelming weight of international opinion against the juvenile death penalty." Justice Kennedy wrote for the Court that the opinion of the world community provides "respected and significant confirmation of our own conclusions." "It does not lessen our fidelity to the Constitution," he explained, to recognize "the express affirmation of certain fundamental rights by other nations and peoples." (Among the dozens of amici curiae submissions in Roper, an impressive brief bears the names of several Nobel Peace Prize winners, including former U.S. President Jimmy Carter, South Africa's former President Willem de Klerk, and Archbishop Desmond Tutu. The Nobel laureates urged the Court to "consider the opinion of the international community, which has rejected the death penalty for child offenders worldwide.")

[Justice O'Connor, although she dissented from the Court's categorical ruling in Roper, agreed with the Court on the relevance of "foreign and international law to [an] assessment of evolving standards of decency." The other dissenters, for whom Justice Scalia spoke, vigorously contended that foreign and international law have no place in determining what punishments are "cruel and unusual" within the meaning of the U.S. Constitution's Eighth Amendment.]

Recognizing that forecasts are risky, I nonetheless believe the U.S. Supreme Court will continue to accord "a decent Respect to the Opinions of [Human]kind" as a matter of comity and in a spirit of humility. Comity, because projects vital to our well being - combating international terrorism is a prime example - require trust and cooperation of nations the world over. And humility because, in Justice O'Connor's words: "Other legal systems continue to innovate, to experiment, and to find new solutions to the new legal problems that arise each day, from which we can learn and benefit."

In this regard, I was impressed by an observation made in September 2003 by Israel's Chief Justice Aharon Barak. September 11, he noted, confronts the United States with the dilemma of conducting a war on terrorism without sacrificing the nation's most cherished values, including our respect for human dignity. "We in Israel," Barak said, "have our September 11, and September 12 and so on." He spoke of his own Court's efforts to balance the government's no doubt compelling need to secure the safety of the State and of its citizens on the one hand, and the nation's high regard for "human dignity and freedom on the other hand." He referred, particularly, to a question presented to his Court: "Is it lawful to use violence (less euphemistically, torture) in interrogat[ing] [a] terrorist in a 'ticking bomb' situation." His Court's answer: No. "[n]ever use violence." He

interrogat[ing] [a] terrorist in a 'ticking bomb' situation." His Court's answer: No, "[n]ever use violence." He elaborated:

> [It] is the fate of a democracy [that] not all means are acceptable to it, . . . not all methods employed by its enemies are open to it. Sometimes, a democracy must fight with one hand tied behind its back. Nonetheless, it has the upper hand. Preserving the rule of law and recognition of individual liberties constitute an important component of [a democracy's] understanding of security. At the end of the day, [those values buoy up] its spirit and strength [and its capacity to] overcome [the] difficulties.

In that opinion, I concur without reservation.

[redacted]

Judiciary Policy Analyst/Counsel

Senate Republican Policy Committee

[redacted]

Williams, Jan

From: Williams, Jan

Sent: Wednesday, March 15, 2006 7:28 PM

To: Williams, Jan; Horvath, Jane; Garrett, Paul; Cushmac, Anne Marie; Davis, Michael; Fuentes, Maria; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); '/o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy'; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); 'Bianco, Joseph F.'; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); 'Burch, Victoria'; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; 'David, Matt'; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; 'Gambatesa, Donald (USMS)'; Garre, Gregory G; Glut, Martha (USANE); Gober, Chris; 'Golden, Lois'; Goodling, Monica; Gorsuch, Neil M; 'Greg Harris'; Hagle, Timothy; 'Harris, Gregory'; Henke, Tracy (SMO); Hertling, Richard; 'Hofer, Patrick F. (TAX)'; Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; Korn, Jennifer; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; 'Neumayr, Mary (ENRD)'; Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; Roper, Matt M; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Woodruff, William; Lewis, Matthew; Nelson, Ryan (ENRD); Becker, Grace (CRT); Masugi, Ken (OPA); Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford

Subject: FW: Easter Egg Roll
Attachments: tmp.htm; Volunteer Spreadsheet.xls
Importance: High

Preparations for the 128th White House Easter Egg Roll are under way.
Impressive performers, special guests, and visitors from all over the country will come to the South Lawn for this historic event. And more than 500 volunteers will help support this event which will be held on Monday, April 17th.

In the past, Presidential Appointees have played a vital role in the success of the event by donating their time and energy. Volunteers assist in a number of areas including: greeters, volunteer check-in, assisting children's activities, Egg Roll assistants, lost and found, crowd supervision and more.

If you are interested in volunteering, please complete the attached for
and email it back to Tracy Washington and me by Friday, March 17 at noon.

If you are invited to volunteer, the White House will contact you directly with details.

WHLs:

Preparations for the 128th White House Easter Egg Roll are under way. Impressive performers, special guests, and visitors from all over the country will come to the South Lawn for this historic event. And more than 500 volunteers will help support this event which will be held on Monday, April 17th.

In the past, Presidential Appointees have played a vital role in the success of the event by donating their time and energy. Volunteers assist in a number of areas including: greeters, volunteer check-in, assisting children's activities, Egg Roll assistants, lost and found, crowd supervision and more.

Please pass this information along to the Presidential Appointees within your agency and complete the attached spreadsheet with the names of those Appointees who are interested in volunteering at the event. The completed spreadsheet should be e-mailed back to me at jwebster@who.eop.gov by **Friday, March 31, 2006**. Please do not forward this e-mail to anyone other than Appointees. Volunteers will be selected on a first-come, first-served basis so please encourage people to RSVP as soon as possible. Due to the volume of interest in volunteering, we are unable to include friends or family of Appointees. There are 2 different volunteer shifts, but volunteers should plan to be available between the hours of 6 a.m. and 4 p.m. Selected volunteers will receive information about their assigned shift times and other details via email prior to the event.

We appreciate your support of this annual White House tradition.

Jocelyn Webster, White House Office of Political Affairs

Suffix	Last Name	First Name	DOB	SSN	Home Address	City	State	Zip	Email

Phone (preferably cell)	Organization

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, March 16, 2006 8:38 AM
To: [redacted]@judiciary-rep.senate.gov'
Subject: RE: Ginsburg speech on foreign law citation

Thanks for passing this along

-----Original Message-----
From: [redacted]@judiciary-rep.senate.gov [mailto: [redacted]@judiciary-rep.senate.gov]
Sent: Wednesday, March 15, 2006 5:30 PM
To: Gorsuch, Neil M
Subject: FW: Ginsburg speech on foreign law citation

Neil: fyi, in the speech attached below, Justice Ginsburg comments briefly on the Hamdan case and the DTA. (Sixth paragraph from the end.)

From: [redacted] (RPC)
Sent: Wednesday, March 15, 2006 5:07 PM
Subject: Ginsburg speech on foreign law citation

March 15, 2006

To: Judiciary Analysts/Counsels

Fr: [redacted] Judiciary Policy Analyst/Counsel

RE: Ginsburg speech on foreign law

Copied below is the text of a speech that Justice Ruth Bader Ginsburg gave in South Africa last month. In it, she defends the Supreme Court's citation to foreign law for the interpretation of the U.S. Constitution and suggests, unsubtly, that those who oppose the Supreme Court's reliance on foreign authority should be thought of in the same breath as former Chief Justice Roger Taney (author of the Dred Scott decision) and that their political opposition to citing foreign authority "fuel[s] the irrational fringe" that has apparently threatened her life, and the life of former Justice O'Connor. She predicts that the Supreme Court will continue to rely on foreign law in making constitutional judgments.

(It is worth recalling that both Chief Justice Roberts and Justice Alito said during their confirmation hearings that foreign law should have no role in U.S. constitutional analysis and interpretation.)

http://www.supremecourtus.gov/publicinfo/speeches/sp_02-07b-06.html
<http://www.supremecourtus.gov/publicinfo/speeches/sp_02-07b-06.html>

"A decent Respect to the Opinions of [Human]kind": The Value of a Comparative Perspective in Constitutional Adjudication Constitutional Court of South Africa February 7, 2006 Ruth Bader Ginsburg Associate Justice to the Supreme Court of the United States

South Africa's 1996 Constitution famously provides in Section 39: "When interpreting the Bill of Rights, a court . . . must consider international law; and may consider foreign law." Other modern Constitutions have similar provisions, India's and Spain's, for example.
In the United States the question whether and when courts may seek enlightenment from the laws and decisions of other nations has provoked heated debate. I will speak of that controversy in these remarks. At the outset, I should disclose the view I have long held: If U.S. experience and decisions can be instructive to systems that have more recently instituted or invigorated judicial review for constitutionality, so we can learn from others including Canada, South Africa, and most recently the U. K. - now engaged in measuring ordinary laws and executive actions against charters securing basic rights.

Exposing laws to judicial review for constitutionality was once uncommon outside the United States. In the United Kingdom, not distant from France, Spain, Germany, and other civil law countries in this regard, court review of legislation for compatibility with a fundamental charter was considered off limits, undemocratic, irreconcilable with the doctrine of parliamentary supremacy. That was once true of South Africa, is that not so? But particularly in the years following World War II, many nations installed constitutional review by courts as one safeguard against oppressive government and stirred-up majorities. National, multinational, and international human rights charters and courts today play a prominent part in our world. The U.S. judicial system will be the poorer, I have urged, if we do not both share our experience with, and learn from, legal systems with values and a commitment to democracy similar to our own.

In the value I place on comparative dialogue - on sharing with and learning from others - I draw on counsel from the founders of the United States. The drafters and signers of the Declaration of Independence cared about the opinions of other peoples; they placed before the world the reasons why the States, joining together to become the United States of America, were impelled to separate from Great Britain. The Declarants stated their reasons out of "a decent Respect to the Opinions of Mankind." They set out in the Declaration a long list of grievances, in order to submit the "Facts" - the "long Train of [the British Crown's] Abuses" - to the scrutiny of "a candid World."

The U.S. Supreme Court, early on, expressed a complementary view: The judicial power of the United States, the Court said in 1816, includes cases "in the correct adjudication of which foreign nations are deeply interested . . . [and] in which the principles of the law and comity of nations often form an essential inquiry." "Far from [exhibiting hostility] to foreign countries' views and laws," Professor Vicki Jackson of the Georgetown University law faculty recently reminded us:
"[T]he founding generation showed concern for how adjudication in our courts would affect other countries' regard for the United States." A similar concern is evident today in the jurisprudence of the Constitutional Court of the Republic of South Africa. As Justice O'Regan put it, writing separately in Kaunda v. President of the Republic of South Africa: "[O]ur Constitution recognizes and asserts that, after decades of isolation, South Africa is now a member of the community of nations, and a bearer of obligations and responsibilities in terms of international law." [2004 (10) BCLR 1009 (CC) at 222.] Even

more so than when the United States was a new nation, the USA today, no less than South Africa, is subject to the scrutiny of "a candid World."

John Jay, one of the authors of The Federalist Papers promoting ratification of the U.S. Constitution, and George Washington's appointee as first Chief Justice of the United States, wrote of the new nation in 1793 much as Justice O'Regan did in 2004 of the new Republic. The United States, Jay observed, "by taking a place among the nations of the earth, bec[a]me amenable to the laws of nations," the core of what we today call international law. Eleven years later, the great Chief Justice John Marshall cautioned: "[A]n act of Congress ought never to be construed to violate the law of nations if any other possible construction remains." South Africa installed just such a guide in its 1996 Constitution. Section 233 instructs: "When interpreting . . . legislation, every court must prefer any reasonable interpretation . . . consistent with international law over any alternative interpretation . . . inconsistent with international law."

True, there are generations-old and still persistent discordant views on recourse to the "Opinions of Mankind." A mid-19th century U.S. Chief Justice expressed opposition to such recourse in an extreme statement.
He wrote:

No one, we presume, supposes that any change in public opinion or feeling . . . in the civilized nations of Europe or in this country, should induce the [U.S. Supreme Court] to give to the words of the Constitution a more liberal construction . . . than they were intended to bear when the instrument was framed and adopted.

Those words were penned in 1857. They appear in Chief Justice Roger Taney's opinion for a divided Court in Dred Scott v. Sandford, an infamous opinion that invoked the majestic Due Process Clause to uphold one human's right to hold another in bondage. The Dred Scott decision declared that no "descendants of Africans [imported into the United States], and sold as slaves" could ever become citizens of the United States.

While the Civil War and the Thirteenth, Fourteenth, and Fifteenth Amendments to the U.S. Constitution reversed the Dred Scott judgment, U.S. jurists and political actors today divide sharply on the propriety of looking beyond our nation's borders, particularly on matters touching fundamental human rights. Some have expressed spirited opposition.
Justice Scalia counsels: The Court "should cease putting forth foreigners' views as part of the reasoned basis of its decisions. To invoke alien law when it agrees with one's own thinking, and ignore it otherwise, is not reasoned decisionmaking, but sophistry."

Another trenchant critic, Seventh Circuit U.S. Court of Appeals Judge Richard Posner, commented not long ago: "To cite foreign law as authority is to flirt with the discredited . . . idea of a universal natural law; or to suppose fantastically that the world's judges constitute a single, elite community of wisdom and conscience." Judge Posner's view rests, in part, on the concern that U.S. judges do not comprehend the social, historical, political, and institutional background from which foreign opinions emerge. Nor do we even understand the language in which laws and judgments, outside the common law realm, are written.

Judge Posner is right, of course, to this extent: Foreign opinions are not authoritative; they set no binding precedent for the U.S. judge. But they can add to the store of knowledge relevant to the solution of trying questions. Yes, we should approach foreign legal materials with sensitivity to our differences, deficiencies, and imperfect understanding, but imperfection, I believe, should not lead us to abandon the effort to learn what we can from the experience and good thinking foreign sources may

to abandon the effort to learn what we can from the experience and good thinking foreign sources may convey.

Representative of the perspective I share with four of my current colleagues, Patricia M. Wald, once Chief Judge of the U.S. Court of Appeals for the District of Columbia Circuit and former Judge on the International Criminal Tribunal for the former Yugoslavia, last year said with characteristic wisdom: "It's hard for me to see that the use of foreign decisional law is an up-or-down proposition. I see it rather as a pool of potential and useful information and thought that must be mined with caution and restraint."

Many current members of the U.S. Congress would terminate all debate over whether federal courts should refer to foreign or international legal materials. For the most part, they would respond to the question with a resounding "No." Two identical Resolutions reintroduced last year, one in the House of Representatives and the other in the Senate, declare that "judicial interpretations regarding the meaning of the Constitution of the United States should not be based on judgments, laws, or pronouncements of foreign institutions unless such [materials] inform an understanding of the original meaning of the Constitution." As of December 2005, the House Resolution had attracted support from 83 cosponsors. Two 2005-proposed Acts would do more than "resolve." They would positively prohibit federal courts, when interpreting the U.S.
Constitution, from referring to "any constitution, law, administrative rule, Executive order, directive, policy, judicial decision, or any other action of any foreign state or international organization or agency, other than English constitutional and common law up to the time of the adoption of the [U.S.] Constitution." [Even reference to a Scottish verdict, i.e., a verdict of not proved, it seems, would be out of order.]

These measures recycle similar resolutions and bills proposed before the 2004 elections in the United States, but never put to a vote. Although I doubt the current measures will garner sufficient votes to pass, it is disquieting that they have attracted sizable support. And one not-so-small concern - they fuel the irrational fringe. A personal example. The U.S. Supreme Court's Marshal alerted Justice O'Connor and me to a February 28, 2005, web posting on a "chat" site. It opened:

Okay commandoes, here is your first patriotic assignment . . . an easy one. Supreme Court Justices Ginsburg and O'Connor have publicly stated that they use [foreign] laws and rulings to decide how to rule on American cases.

This is a huge threat to our Republic and Constitutional freedom. . . .
If you are what you say you are, and NOT armchair patriots, then those two justices will not live another week.

Nearly a year has passed since that posting. Justice O'Connor, though to my great sorrow retired just last week from the Court's bench, remains alive and well. As for me, you can judge for yourself.

To a large extent, I believe, the critics in Congress and in the media misperceive how and why U.S. courts refer to foreign and international court decisions. We refer to decisions rendered abroad, it bears repetition, not as controlling authorities, but for their indication, in Judge Wald's words, of "common denominators of basic fairness governing relationships between the governors and the governed."

In a November 2005 Harvard Law Review comment, Georgetown's Professor Jackson usefully identified three responses to transnational sources:
resistance, convergence, and engagement. South Africa's apartheid regime fit the "Resistance Model,"

an approach that "relishes resistance . . .
to outside influence." Professor Jackson suggested that South Africa's 1996 Constitution fits the "Convergence Model," in that it "explicitly incorporate[s] international law as a controlling legal norm." But perhaps the Constitutional Court's emerging jurisprudence comes closer to the third approach, the "Engagement Model." That Model comprehends transnational sources "as interlocutors," a means to test "understanding of one's own traditions and possibilities by examining them in the [reflected light cast by other legal systems]."

The jurisprudence of South Africa's Constitutional Court offers many examples, among them, Justice Kriegler's cautionary note in Sanderson v.
Attorney-General, Eastern Cape. The question in that case: Did a two-year delay in bringing a prosecution for alleged sexual offenses violate the defendant's constitutional right to a speedy trial. In determining that the defendant's rights were not violated, Justice Kriegler canvassed foreign precedents, especially U.S. and Canadian decisions; he prefaced his examination, however, by warning that "the use of foreign precedent requires circumspection." [1997 (12) BCLR 1675 (CC) at 26.] In State v. Makwanyane, then Chief Justice Chaskalson earlier cautioned, in presenting his comparative survey decisions on capital punishment: "We can derive assistance from . . . foreign case law, but we are in no way bound to follow it." [1995 (6) BCLR 665 (CC) at 39.] I agree. Some U.S. practices, I fully appreciate, are not suitably exported: the use of juries in civil cases is one example.

In testimony prepared for a congressional hearing, Professor Jackson made a point critics of comparative sideglances perhaps overlook: the "negative authority" foreign experience sometimes may have. She referred in this regard to the "Steel Seizure Case" decided by the U.S. Supreme Court in 1952. There, Justice Jackson, in his separate opinion, pointed to features of the Weimar Constitution in Germany that allowed Adolf Hitler to assume dictatorial powers. He contrasted Germany's situation with that of Great Britain, a country in which legislative authorization was required for the exercise of emergency powers. Justice Jackson drew from that comparison support for the conclusion that, without more specific congressional authorization, the U.S. President could not seize private property (in that case, the steel mills) even in aid of a war effort. The U.S. President's wartime authority, you no doubt know, is today a hotly debated issue in U.S. political and legal circles.

At the time Justice Jackson cast a comparative sideglance at Weimar Germany, the United States itself was a source of "negative authority." The Attorney General pressed that point in an amicus brief for the United States in Brown v. Board of Education. Urging the Court to put an end to the "separate but equal doctrine," the Attorney General wrote:

The existence of discrimination against minority groups in the United States has an adverse effect upon our relations with other countries.
Racial discrimination . . . raises doubts even among friendly nations as to the intensity of our devotion to the democratic faith.

The U.S. Constitution, Justice Scalia has remarked, contains no instruction resembling South Africa's Section 39 prescription. So U.S.
courts, he thinks, have no warrant from our fundamental instrument of government to consider foreign law. I would demur to that observation.
Judges in the United States are free to consult all manner of commentary - Restatements, Treatises, what law professors or even law students write copiously in law reviews, for example. If we can consult those writings, why not the analysis of a question similar to the one we confront contained in an opinion of the Supreme Court of Canada, the Constitutional Court of South Africa, the German Constitutional Court, or the European Court of Human Rights?

A case in point. On December 16, 2004, in a controversy precipitated by the fight against terrorism, the Lords of Appeal (the U.K. counterpart to the U.S. Supreme Court) issued a waypaving decision, one that looks beyond the United Kingdom's borders. The case was brought by aliens held in custody in Belmarsh Prison. A nine-member panel ruled, 8-to-1, that the British government's indefinite detention of foreigners suspected of terrorism, without charging or trying them, is incompatible with the European Convention on Human Rights, incorporated into domestic law by the U. K. Human Rights Act. Lord Bingham's lead opinion draws not only on domestic decisions and decisions of the European Court of Human Rights. It also refers to opinions of the Supreme Court of Canada and U.S. Court of Appeals opinions (although not U.S. Supreme Court opinions). Finding the differential treatment of nationals and non-nationals impermissible under the Human Rights Act, Lord Bingham also referred to several U. N. instruments, commencing with the 1948 Universal Declaration of Human Rights and including the 1965 International Convention on the Elimination of All Forms of Racial Discrimination.

Lord Bingham did make the observation, gently, that contemporary "U.S. authority does not provide evidence of general international practice." That comment may have figured in the New York Times' characterization of the Lords' ruling as "a strong example of the increasing interdependence of domestic and international law, at least outside of the United States." Parliament reacted swiftly to the Lord's decision. In March 2005, it enacted a measure allowing placement of terrorist suspects under a highly restrictive form of house arrest, in lieu of imprisonment, again without charging or trying them.

One year later, in December 2005, the Law Lords resolved another headline case involving the Belmarsh detainees. A seven-member panel ruled unanimously that evidence obtained through torture was inadmissible in British courts to establish criminal liability or eligibility for deportation "irrespective of where, or by whom, or on whose authority the torture was inflicted." Lord Bingham's lead opinion again surveyed U.N. instruments, including the Convention against Torture, as well as judicial decisions from other nations, including the United States, Germany, and Israel. These sources afforded confirmation for his ringing declaration: "The English common law has regarded torture and its fruits with abhorrence for over 500 years, and that abhorrence is now shared by over 140 countries which have acceded to the Torture Convention." Some of the Lords' speeches cast a critical eye across the sea. Lord Hoffman ventured that "many people in the United States, heirs to the common law tradition, have felt their country dishonoured by the use of torture outside the jurisdiction."

Later in December, recognizing the nation's obligations under the Convention against Torture, the U.S. Congress banned cruel, inhuman, and degrading treatment of detainees in U.S. custody. The legislation, however, stops short of explicitly banning evidence elicited by torture from consideration by a military tribunal charged with determining whether a detainee is an enemy combatant.

The notion that it is improper to look beyond the borders of the United States in grappling with hard questions, as my quotation from Chief Justice Taney suggested, is in line with the view of the U.S. Constitution as a document essentially frozen in time as of the date of its ratification. I am not a partisan of that view. U.S. jurists honor the Framers' intent "to create a more perfect Union," I believe, if they read the Constitution as belonging to a global 21st century, not as fixed forever by 18th-century understandings.

A key 1958 plurality opinion, Trop v. Dulles, makes just that point. At issue in that case, whether stripping a wartime deserter of citizenship violated the Eighth Amendment's ban on "cruel and unusual punishments." "The basic concept underlying the . . . Amendment," the opinion observed, "is nothing less than the dignity of man." Therefore the Constitution's text "must draw its meaning from the

evolving standards of decency that mark the progress of a maturing society." In that regard, the plurality reported: "The civilized nations of the world are in virtual unanimity that statelessness is not to be imposed as punishment for crime." (The primacy of human dignity notably is not left to inference in South Africa's Constitution, for Section 10 prescribes:
"Everyone has inherent dignity and the right to have their dignity respected and protected.")

Turning from frozen-in-time interpretation, I will take up another shortfall or insularity in current U.S. jurisprudence, at least as I see it. The Bill of Rights, few would disagree, is the hallmark and pride of the United States. One might therefore assume that it guides and controls U.S. officialdom wherever in the world they carry the flag of the United States or their credentials. But that is not the currently prevailing view. For example, absent an express ban by treaty, a U.S.
officer may abduct a foreigner and forcibly transport him to the United States to stand trial. The U.S. Supreme Court so held, 6-to-3, in 1992.
Just a year earlier, South Africa's Supreme Court of Appeal had ruled the other way. It determined that under South Africa's common law, a trial court has no jurisdiction to hear a case against a defendant when the State had acted lawlessly in apprehending him by participating in an abduction across international borders.

Another case in point, one in which I was a participant, involving civil litigation: Interpreting U.S. Supreme Court precedent, a divided U.S.
Court of Appeals for the District of Columbia Circuit held in 1989, during my tenure on that court, that foreign plaintiffs acting abroad - plaintiffs were Indian family planning organizations - had no First Amendment rights, and therefore no standing to assert a violation of such rights by U.S. officials. In particular, the Indian organizations complained of a condition on U.S. grant money: the recipients could not engage in any abortion counseling, even in a separate entity funded by non-U.S. sources. In dissent, I resisted the notion that in an encounter between the United States and the people of another land, "the amendment we prize as 'first' has no force in court." I expressed the expectation that the position taken in the Restatement (Third) of Foreign Relations would one day accurately describe our law. "[W]herever the United States acts," the Restatement projects, "'it can only act in accordance with the limitations imposed by the Constitution.'"

Returning to my main theme, I will recount briefly and chronologically the Supreme Court's most recent decisions involving foreign or international legal sources as an aid to the resolution of constitutional questions. In a headline 2002 decision, Atkins v.
Virginia, a six-member majority (all save the Chief Justice and Justices Scalia and Thomas) held unconstitutional the execution of a mentally retarded offender. The Court noted that "within the world community, the imposition of the death penalty for crimes committed by mentally retarded offenders is overwhelmingly disapproved." (South Africa, of course, figures prominently in the worldwide disapproval, the Constitutional Court having held a decade ago that capital punishment in any case is unconstitutional.)

New York Times reporter Linda Greenhouse wrote of the following, 2002-2003, Term: The Court has "displayed a [steadily growing] attentiveness to legal developments in the rest of the world and to the [C]ourt's role in keeping the United States in step with them." Among examples from that Term, I would include the Michigan University affirmative action cases decided June 23, 2003. Although the Court splintered, it upheld the Michigan Law School program. In separate opinions, I looked to two United Nations Conventions: the 1965 Convention on the Elimination of all Forms of Racial Discrimination, which the United States has ratified; and the 1979 Convention on the Elimination of All Forms of Discrimination Against Women, which, sadly, the United States has not yet ratified. Both Conventions distinguish between impermissible policies of oppression or exclusion, and permissible policies of inclusion, "temporary special measures aimed at accelerating de facto equality." The U.S.

policies of inclusion," "temporary special measures aimed at accelerating de facto equality." The U.S. Supreme Court's decision in the Michigan Law School case, I observed, "accords with the international understanding of the [purpose and propriety] of affirmative action." (South Africa's Constitution is clear on that matter; Section 9(2) provides: "To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.")

A better indicator from the U.S. Supreme Court's 2002-2003 Term, because it attracted a majority, is Justice Kennedy's opinion for the Court in Lawrence v. Texas, announced June 26, 2003. Overruling a 1986 decision, Lawrence declared unconstitutional a Texas statute prohibiting two adult persons of the same sex from engaging, voluntarily, in intimate sexual conduct. (I think it highly unlikely, however, that we will soon see a U.S. Supreme Court decision resembling the very recent decision of the Constitutional Court of South Africa in Minister of Home Affairs v.
Fourie.) On the question of dynamic versus static, frozen-in-time constitutional interpretation, the Court's Lawrence v. Texas opinion instructs:

Had those who drew and ratified the Due Process Clauses of the Fifth Amendment or the Fourteenth Amendment known the components of liberty in its manifold possibilities, they might have been more specific. They did not presume to have this insight. They knew times can blind us to certain truths and later generations can see that laws once thought necessary and proper in fact serve only to oppress. As the Constitution endures, persons in every generation can invoke its principles in their own search for greater freedom.

On respect for "the Opinions of [Human]kind," the Lawrence Court emphasized: "The right the petitioners seek in this case has been accepted as an integral part of human freedom in many other countries." In support, the Court cited the leading 1981 European Court of Human Rights decision, Dudgeon v. United Kingdom, and subsequent European Human Rights Court decisions affirming the protected right of homosexual adults to engage in intimate, consensual conduct.

In the 2003-2004 Term, foreign and international legal sources again figured in several decisions. These included, most notably, two June 2004 decisions in cases arising out of the war on terror. One, Hamdi v.
Rumsfeld, concerned a U.S. citizen, held incommunicado in a Navy brig in South Carolina pursuant to an executive decree declaring him an "enemy combatant." Ruling some six months before the Law Lords' decision in the 2004 Belmarsh case, the Court held, 8-to-1, that the petitioner was entitled to a "meaningful opportunity" to contest the factual basis for his detention before an impartial adjudicator. Even in "our most challenging and uncertain moments" when "our Nation's commitment to due process is most severely tested," Justice O'Connor wrote for a four-Justice plurality, "we must preserve our commitment at home to the principles for which we fight abroad." "[H]istory and common sense," she reminded, "teach us that an unchecked system of detention carries the potential to become a means for oppression and abuse." On that theme, the U.K.'s Lord Hoffman wrote in his separate opinion in the 2004 Belmarsh case:

The real threat to the life of the nation, in the sense of a people living in accordance with its traditional laws and political values, comes not from terrorism but from laws [or executive measures, such as the one at issue in Belmarsh, authorizing indefinite imprisonment without charge or trial]. That is the true measure of what terrorism may achieve.

He hoped, after the Lords of Appeal ruling, that Parliament would not "give the terrorists such a victory." (I should add that two University of Chicago Law School professors (Eric A. Posner and Adrian Vermeule) recently inveighed against Justice O'Connor's and Lord Hoffman's statements

as "absurdities." People do not prefer liberty to death, they urged. A government that does not contract civil liberties in face of terrorist threats, they said, "is pathologically rigid, not enlightened." They queried whether the Lords would have come out the same way had the terrorist carnage in London's underground preceded the Belmarsh decision. The Law Lords, I note, have not relented. Their December 2005 decision excluding evidence obtained through torture post-dates the London underground bombing.)

The other "enemy combatant" case decided by the U.S. Supreme Court in June 2004, Rasul v. Bush, held that U.S. courts have jurisdiction to consider challenges to the legality of the detention of foreign nationals captured in hostilities abroad, then transported to the U.S.
naval base in Guantanamo Bay, Cuba. The Court wrote narrowly; it said nothing about what claims, if any, would succeed once the detainees get to a federal court. [Britian's Lord Steyn, before this decision, called Guantanamo a "legal black hole."] The Supreme Court has so far written only chapter one on the Guantanamo Bay incarcerations. Federal district court judges have split on chapter two. One judge held that foreigners detained at Guantanamo Bay, though they had access to court, could gain no judicial relief. Another ruled that the detainees were entitled to a fair hearing on the question whether their incarceration meets due process demands. Both cases are currently on appeal.

Just a few months ago, the Supreme Court agreed to hear a case, titled Hamdan v. Rumsfeld, posing these questions: (1) Does the President have authority to establish a military commission to try Guantanamo Bay detainees for alleged war crimes; and (2) Is the writ of habeas corpus in federal court an available means to determine Guantanamo Bay detainees' alleged rights under the 1949 Geneva Convention? The end of December legislation I earlier mentioned severely narrows Guantanamo Bay detainees' access to courts. The impact of that legislation on Hamdan's petition, and on scores of filings in the federal district court in the District of Columbia, remains uncertain.

To conclude my account of recent decisions in which the U.S. Supreme Court cast comparative sideglances, the March 2005 decision in Roper v.
Simmons presents perhaps the fullest expressions to date on the propriety and utility of looking to "the opinions of [human]kind." Holding unconstitutional the execution of persons under the age of 18 when they committed capital crimes, the Court declared it fitting to acknowledge "the overwhelming weight of international opinion against the juvenile death penalty." Justice Kennedy wrote for the Court that the opinion of the world community provides "respected and significant confirmation of our own conclusions." "It does not lessen our fidelity to the Constitution," he explained, to recognize "the express affirmation of certain fundamental rights by other nations and peoples." (Among the dozens of amici curiae submissions in Roper, an impressive brief bears the names of several Nobel Peace Prize winners, including former U.S. President Jimmy Carter, South Africa's former President Willem de Klerk, and Archbishop Desmond Tutu. The Nobel laureates urged the Court to "consider the opinion of the international community, which has rejected the death penalty for child offenders worldwide.")

[Justice O'Connor, although she dissented from the Court's categorical ruling in Roper, agreed with the Court on the relevance of "foreign and international law to [an] assessment of evolving standards of decency." The other dissenters, for whom Justice Scalia spoke, vigorously contended that foreign and international law have no place in determining what punishments are "cruel and unusual" within the meaning of the U.S. Constitution's Eighth Amendment.]

Recognizing that forecasts are risky, I nonetheless believe the U.S.
Supreme Court will continue to accord "a decent Respect to the Opinions of [Human]kind" as a matter of comity and in a spirit of humility.
Comity, because projects vital to our well being - combating international terrorism is a prime example - require trust and cooperation of nations the world over. And humility because, in Justice

example "require trust and cooperation of nations the world over. And humility because, in Justice O'Connor's words: "Other legal systems continue to innovate, to experiment, and to find new solutions to the new legal problems that arise each day, from which we can learn and benefit."

In this regard, I was impressed by an observation made in September 2003 by Israel's Chief Justice Aharon Barak. September 11, he noted, confronts the United States with the dilemma of conducting a war on terrorism without sacrificing the nation's most cherished values, including our respect for human dignity. "We in Israel," Barak said, "have our September 11, and September 12 and so on." He spoke of his own Court's efforts to balance the government's no doubt compelling need to secure the safety of the State and of its citizens on the one hand, and the nation's high regard for "human dignity and freedom on the other hand." He referred, particularly, to a question presented to his Court: "Is it lawful to use violence (less euphemistically, torture) in interrogat[ing] [a] terrorist in a 'ticking bomb' situation." His Court's answer: No, "[n]ever use violence." He elaborated:

[It] is the fate of a democracy [that] not all means are acceptable to it, . . . not all methods employed by its enemies are open to it.
Sometimes, a democracy must fight with one hand tied behind its back.
Nonetheless, it has the upper hand. Preserving the rule of law and recognition of individual liberties constitute an important component of [a democracy's] understanding of security. At the end of the day, [those values buoy up] its spirit and strength [and its capacity to] overcome [the] difficulties.

In that opinion, I concur without reservation.

[redacted]

Judiciary Policy Analyst/Counsel

Senate Republican Policy Committee

[redacted]

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, March 16, 2006 8:54 AM
To: Elwood, Courtney
Bcc: McCallum, Robert (SMO)
Subject: A few matters

Courtney - Do you have maybe 15 mins after the morning mtg or sometime else today to catch up on a few matters percolating around here? I know you were out yesterday and I just want to make sure you're caught up on the latest developments in Everglades, MTBE, Darby, Paul Weiss, Turmen, et al. Thanks! NMG

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Thursday, March 16, 2006 8:58 AM
To: Elwood, Courtney
Subject: RE: A few matters

Perfect

-----Original Message-----
From: Elwood, Courtney
Sent: Thursday, March 16, 2006 7:57 AM
To: Gorsuch, Neil M
Subject: Re: A few matters

Yes, let's try to get together today. I have a couple things I'd like to discuss with you. How about 10:30?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Gorsuch, Neil M <Neil.Gorsuch@SMOJMD.USDOJ.gov>
To: Elwood, Courtney <Courtney.Elwood@SMOJMD.USDOJ.gov>
Sent: Thu Mar 16 07:53:52 2006
Subject: A few matters

Courtney - Do you have maybe 15 mins after the morning mtg or sometime else today to catch up on a few matters percolating around here? I know you were out yesterday and I just want to make sure you're caught up on the latest developments in Everglades, MTBE, Darby, Paul Weiss, Turmen, et al. Thanks! NMG

Michael_Allen@nsc.eop.gov

From:	Michael_Allen@nsc.eop.gov
Sent:	Sunday, March 19, 2006 4:43 PM
To:	Gorsuch, Neil M
Subject:	Supreme Court
Attachments:	tmp.htm

Neil: Good to see you the other week at the CFR event. Any advice on how I might get a seat for the Hamdan oral arguments? Does anyone at DoJ know how to arrange this?

Thanks,
Michael

Neil: Good to see you the other week at the CFR event. Any advice on how I might get a seat for the Hamdan oral arguments? Does anyone at DoJ know how to arrange this?

Thanks,
Michael

Gorsuch, Neil M

From: Gorsuch, Neil M
Sent: Monday, March 20, 2006 12:03 AM
To: [redacted]@nsc.eop.gov'; Garre, Gregory G
Subject: Re: Supreme Court

[redacted] - My recollection is that if you're a member of the sct bar you can pretty easily get a seat in the section reserved for bar members just so long as you arrive early. If you're not a member of the bar you can still get a seat but need to arrive earlier still. Am adding Greg Garre, Principal Depty SG, for any further/better info bc he's the real expert here. Greg - [redacted] is head of leg for the NSC and he led the charge on the DTA through many long days and nights.

-----Original Message-----
From [redacted]@nsc.eop.gov
To: Gorsuch, Neil M
Sent: Sun Mar 19 15:43:23 2006
Subject: Supreme Court

Neil: Good to see you the other week at the CFR event. Any advice on how I might get a seat for the Hamdan oral arguments? Does anyone at DoJ know how to arrange this?

Thanks,
[redacted]

USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Monday, March 20, 2006 9:09 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing for Monday, March 20, 2006
Attachments:	agnb060320.pdf; agnb060320.doc

THE ATTORNEY GENERAL'S NEWS BRIEFING

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: MONDAY, MARCH 20, 2006 7:45 AM EST

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DOJ_NMG_0018376

TERRORISM NEWS:

Administration Lawyers Suggested Warrantless FBI Searches. U.S. News and World Report (3/27, Ragavan) reports that following the 9/11 attacks, Bush Administration lawyers discussed with senior FBI officials the possibility of using the same legal authority used to conduct the warrantless eavesdropping approved by President Bush to "conduct physical searches of homes and businesses of terrorism suspects -- also without court approval." US News adds that "in a little-noticed white paper submitted by Attorney General Alberto Gonzales to Congress on January 19 justifying the legality of the NSA eavesdropping, Justice Department lawyers made a tacit case that President Bush also has the inherent authority to order such physical searches. In order to fulfill his duties as commander in chief, the 42-page white paper says, 'a consistent understanding has developed that the president has inherent constitutional authority to conduct warrantless searches and surveillance within the United States for foreign intelligence purposes.'"

Mueller "Troubled By Domestic Spying Program. U.S. News and World Report (3/27, Ragavan) reports that government officials say FBI Director Robert Mueller and then Deputy Attorney General James Comey, "who also questioned the NSA spying program, both believed that while it was a close call legally, the president did have authority to conduct electronic surveillance of terrorism suspects in the United States without court approval; both men, however, raised grave concerns about the possible use of any information obtained from any warrantless surveillance in a court of law." US News adds, "White House lawyers, in particular, Vice President Cheney's counsel David Addington (who is now Cheney's chief of staff), pressed Mueller to use information from the NSA program in court cases, without disclosing the origin of the information, and told Mueller to be prepared to drop prosecutions if judges demanded to know the sourcing, according to several government officials. Mueller, backed by Comey, resisted the administration's efforts." US News also reports, "Sources say Mueller and his general counsel, Valerie Caproni, continue to remain troubled by the domestic spying program."

Cheney Says NSA Domestic Surveillance Program Has Been "Major Success." On CBS' Face the Nation (3/19, Schieffer), Vice President Cheney said the Administration is "working with" Congress "to give them broad oversight with respect to" the National Security Agency's domestic surveillance program. Cheney added, "It's a very important program. It is totally in compliance with the laws and Constitution of the United States. It's been a major success in preventing attacks against the United States. And it needs to be preserved and protected."

Durbin Won't Rule Out Bush Impeachment. On Fox News Sunday (3/19), host Chris Wallace asked Sen. Richard Durbin if he ruled out "impeachment of the president if the Democrats regain control of Congress." Durbin said, "I don't believe that that is even a valuable discussion at this point. But I do believe it's valuable that Sen. Feingold is moving us forward to finally be a catalyst to have the kind of hearings and the kind of deliberations as to what lies behind this warrantless wiretap situation, how this President can avoid the law, which is very clear on the subject." Asked if he was not ruling out impeachment, Durbin said, "I can't rule anything out until the investigation is complete. I don't want to prejudge it. But if this President or any president violates the law, he has to be held accountable, and that accountability, of course, is in the hands of the United States House of Representative and the Senate." USA Today (3/20, 2.31M) runs a brief report on Durbin's comments, including his remark "I don't want to prejudge it," referring to Bush's possible impeachment. The AP (3/20) notes Durbin "said he so far has not heard a valid legal justification for the spy program that was put in place after the Sept. 11, 2001, terror attacks."

On Fox News Sunday's roundtable discussion (3/19), Brit Hume said Durbin's remarks "illustrates as clearly as anything yet has, the fact that if the Democrats get control of one House or the other -- they're more likely to get the House, I assume, and that's, of course, where impeachments occur -- that the impeachment will be on the agenda. The Republicans are claiming this. Senator Durbin, while not ruling it out, as other Democrats have -- and he is, after all, the assistant leader, has come pretty close to confirming that, indeed, it is there." NPR's Mara Liasson said, "Most of the Democrats I talked to this week felt that Feingold's effort was terribly unhelpful, to put it mildly, that he changed the subject from Republicans being on the defensive to Democrats' effort

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to get the President. And I was actually surprised, too, that Durbin left the door open as much as he did." The Washington Times (3/20, Bellantoni, 90K) makes a similar point, reporting "congressional Democrats say…Feingold's move… is a distraction from their quest to take back Congress in the fall." Rep. James P. Moran, Virginia Democrat, told The Washington Times, "Every time we get in a great strategic position, we manage to energize the Republican base. … Everything is going well for the Democrats and President Bush is tanking in the polls, and then Russ Feingold comes up with the idea of censure, which is going to go nowhere and is not just quixotic but is somewhat self-serving."

Likewise, Morton Kondracke writes in Roll Call (3/20), "The best thing that can be said about the call by…Feingold (D-Wis.) to censure President Bush is that practically none of his colleagues is backing him up." They "don't want to distract attention from the main Democratic assaults on Bush and the GOP -- that he's 'incompetent' and that Republicans are in 'disarray.'" Feingold's move "reinforces the party's image as 'McGovernite' -- weak on national security -- at a time when Bush's inept Hurricane Katrina response and the Dubai ports disaster has given Democrats an opening to knock Bush on homeland security."

Also on Fox News Sunday's roundtable discussion (3/19), the Weekly Standard's Bill Kristol said, "I think Feingold is smarter than the Democratic leadership in the House and the Senate, and I think he deserves some credit for taking a principled stand. And I honestly believe that, in fact, he's winning this debate right now."

Murtha Declines To Endorse Feingold Resolution. On NBC's Meet the Press (3/19, Russert), Democratic Rep. John Murtha declined to offer support for Sen. Russ Feingold's resolution to censure Bush for the National Security Agency domestic intelligence program, saying, "I had a briefing the other day, I'm satisfied the safeguards that are in place are significant, but we have to look at whether it's illegal or not. I'm hesitant to say the President ought to be censured before a committee looks at it and really investigates it and comes up with some real conclusions."

Administration Document Outlines Agency Roles In War On Terror. U.S. News and World Report (3/27, Robinson), "The Bush administration released a key document last week, following on the signing of a classified directive that gives new orders to government agencies about their roles in the war on terrorism. … The National Security Presidential Directive gives new marching orders to each agency for its role in the war on terrorism. … A major goal of the new NSPD is to resolve discrepancies among previous presidential directives and chronic conflicts among agencies with overlapping responsibilities."

9th Circuit Orders Sri Lankan Freed From Border Jail. The AP (3/20, Prengaman) reports, "After more than four years in a U.S. detention center, Ahilan Nadarajah will soon gain the freedom he sought when he fled Sri Lanka and the government forces there that he says repeatedly jailed and tortured him." The AP continues, 'He had reached the United States in October 2001 only to be detained on the same accusations that almost got him killed in his home country: He was suspected of being a member of the Liberation Tigers of Tamil Eelam, a separatist group listed as a terrorist organization by the U.S. State Department." The AP adds, "Nadarajah denies the claims, and immigration judges have twice granted him asylum. But the federal government refused to release him. … The latest order came Friday from the 9th U.S. Circuit Court of Appeals, telling the U.S. government it was violating federal law by continuing to hold him even though he wasn't criminally charged and couldn't be deported in the foreseeable future. His lawyers said they now expect him to be freed in a few days."

High Court To Hear Arguments On Military Tribunals. U.S. News and World Report (3/27, Halloran) reports that the Supreme Court is set to hear arguments next week over the legality of US military tribunals for foreigners designated as enemy combatants. The High Court "will finally have to weigh in on some of the most contentious and polarizing issues in the post-9/11 world: How should the United States treat non-American prisoners whose allegiances lie not with a country but an ideology? Does the president have the power to unilaterally decide not only which prisoners qualify as enemy combatants but what rights they have and under what justice system they should be tried? And, at the heart of it all, should past rules of war apply, or does the war on terrorism…require its own special standards?"

NYTimes Urges High Court To Rule In Favor Of Guantanamo Detainee. The New York Times (3/20, 1.19M) editorializes, "Since the Republican majority has decided to allow President Bush to usurp Congress's role in matters of

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national security, the battle to save the constitutional balance of powers moves to the judiciary. A critical test of judicial independence will come this month, when the Supreme Court hears arguments in a case that has become a focus of Mr. Bush's imperial vision of the presidency." Salim Ahmed Hamdan, "accused of having been a bodyguard and driver for Osama bin Laden in Afghanistan," has been "detained since 2002 in Guantánamo Bay. He filed suit to challenge the legitimacy of the military commission that upheld his designation as an 'unlawful enemy combatant.'" Hamdan "argued, rightly, that the commissions are not legitimate because prisoners are routinely barred from seeing evidence, much less confronting their accusers or having access to real legal representation. But his case has now become a much larger battle over the principle of habeas corpus, which is embedded in the Constitution and says that a prisoner cannot be denied the right to challenge his detention."

Army IG Exonerates Gitmo Commandant. Time (3/27, Zagorin, Donnelly) reports, "Did Major General Geoffrey Miller -- commandant at Guantanamo Bay and a top adviser on interrogations at Abu Ghraib -- do wrong? No, says a new report by Lieut. General Stanley Green, the Army Inspector General (IG), that TIME obtained last week." According to Time, "A Pentagon panel recommended last summer that Miller be reprimanded for poor oversight of a high-value prisoner at Gitmo." Time adds, "Miller's exoneration may only inflame his critics. At a Senate Armed Services Committee hearing last week, chairman John Warner pointedly suggested to one of Miller's superiors that he 'go back over this entire matter,' warning that Miller will be recalled before the panel to explain himself. Sources close to the powerful committee say that anger at Miller has escalated sharply since he invoked his right to avoid self-incrimination and refused to testify in the detainee-abuse trial of an Abu Ghraib dog handler."

Martin Was Never Meant To Be Player In Moussaoui Case. Time (3/27, Waller) reports on Carla Martin, the "government lawyer with a small role in the sentencing trial of confessed 9/11 conspirator Zacarias Moussaoui," who has been placed on paid administrative leave by the TSA for coaching witnesses in the sentencing phase of Moussaoui's trial. Time adds that Martin "was never meant to be a player. In court documents filed after the blowup, prosecutors painted her as a misguided 'miscreant' with only a bit part in the government's case preparation -- arranging witness interviews and retrieving aviation documents for prosecutors."

WPost Says Moussaoui Case Part Of Pattern Of Government Misconduct. Under the headline "Another Blown Case?," the Washington Post (3/20, A14, 744K) editorializes, "The death penalty case against accused Sept. 11 conspirator Zacharias Moussaoui has barely survived the government's latest bout of incompetence." This case "joins a line of big terrorism prosecutions marred by government misconduct, overzealousness, hyping of charges or just plain ineffectiveness. … Prosecuting terrorists isn't easy…but much of this is the Bush administration's fault. The administration failed to work with Congress to create viable legal structures to handle these cases, proceeding in whatever way seemed most convenient in any given situation. The results are abysmal. And, ironically, they undermine the case for the more secretive military trial procedures the government is trying to create."

Credibility Of FBI Witness Called Into Question. Newsweek (3/27) reports in its "Periscope" column that in addition to the case against accused 9/11 conspirator Zacarias Moussaoui, which "is in trouble," the Justice Department also has "a problem in another case. The credibility of the FBI's star witness against a Pakistani-American accused of Qaeda ties is under fire after he testified he saw Ayman al-Zawahiri at a mosque attended by the defendant in Lodi, Calif., in 1999." The testimony "startled counterterrorism experts: Zawahiri, Osama bin Laden's chief deputy, was in Afghanistan at the time, under indictment for the bombings of two U.S. embassies in Africa." A Justice official "said prosecutors are still confident about the case against Hamid Hayat, 23, accused of attending a Qaeda camp in Pakistan, and his father, Umer Hayat, 48, who allegedly lied to the FBI about his son's travels."

HOMELAND RESPONSE:

DPW Plans To Sell US Holdings Could Face Hurdles. The Wall Street Journal (3/20, Machalaba, 2.11M) reports, "SSA Marine Inc.'s decision to explore a sale of the company could complicate Dubai Ports World's plans to sell its U.S. holdings to an American buyer." SSA Marine, "the largest US container terminal operator, has been considered one of the possible bidders for DP World's

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terminal operations in the US. With SSA Marine disclosing that it is a potential acquisition target itself, the number of viable US purchasers for DP World's U.S. holdings could be reduced."

Hunter Criticizes Original DPW Deal. GOP Rep. Duncan Hunter, chairman of the House Armed Services Committee, writes in USA Today (3/20, 2.31M), "In the post-9/11 world, America's No. 1 priority must be national security. But the process that OK'd government-owned Dubai Ports World's takeover of terminal operations at major US ports was geared less toward national security and more toward economic opportunity. … Today, we can take nothing for granted. We must continue to enhance our security instead of creating even greater vulnerabilities. To those who say this smacks of protectionism, I say this: America is worth protecting." In an editorial, USA Today (3/20, 2.31M) disagrees, and says that Hunter "would like to set a series of draconian standards for any company wishing to buy a part of the nation's "critical infrastructure." Its chairman and CEO would have to be American, as would at least half of its board. The secretary of Defense would have to approve half of the board members and the company would have to keep tabs on the citizenship of its shareholders to make sure that no more than half were non-U.S. citizens. The idea that the government would be allowed to choose who controls private companies is bizarre by itself. More so coming from a Republican."

Negroponte Probing Pentagon Trend Toward Outsourcing Intelligence Work. The Washington Post (3/20, A3, Pincus, 744K) reports on "a growing trend at the Pentagon to contract out intelligence jobs that were formerly done primarily by service personnel and civil service employees." By "using contract employees," government agencies "lose control over those doing this sensitive work and an element of profit is inserted into what is being done. Also, as investigations have revealed, politics and corruption may be introduced into the process." The office of Director of National Intelligence John D. Negroponte "has quietly begun to study the contracting issue because 'it already is a problem,' a senior intelligence official said in a recent interview." The Post adds, "A related concern for intelligence agencies inside and outside the Pentagon is that the government is training people and getting them security clearances, but they then leave for better pay offered by contractors, sometimes to do the same work."

WTC Talks To Restart Next Week. The Wall Street Journal (3/18, Frangos, 2.11M) reports, "Talks to resolve how to rebuild the World Trade Center will restart next week after private developer Larry Silverstein offered a revised proposal Friday for his role in the long-troubled project." The Port Authority of New York and New Jersey, "which owns the site, said it would respond to Mr. Silverstein's proposal."

Contractor Profits Found To Be Major Factor In Post-Katrina Waste. A study by the GAO has found that millions of dollars have been wasted in post-Katrina government contracts. The Washington Post (3/20, A1, Warrick, 744K) reports in a front page article that cleanup in the Gulf region often involves "at least four" contractors: "a contractor, his subcontractor, the subcontractor's subcontractor, and finally, the local man" to do the work. "For the thousands of contractors in the Katrina recovery business, this is the way the system works -- a system that federal officials say is the same after every major disaster but that local government officials, watchdog groups and the contractors themselves say is one reason that costs for the hurricane cleanup continue to swell." Meanwhile, "each week, many more millions are paid to contractors who get a cut of the profits from a job performed by someone else. In instances reviewed by The Washington Post, the difference between the job's actual price and the fee charged to taxpayers ranged from 40 percent to as high as 1,700 percent."

Powell Credited With Securing $4.2 Billion Plan For Louisiana Homeowners. Under the headline "Behind Louisiana Aid Package, A Change Of Heart By One Man," the New York Times (3/20, Dewan, 1.19M) reports that though President Bush's Gulf Coast rebuilding coordinator, Donald E. Powell, and the administration had originally "rejected Louisiana's housing recovery plan," prompting a call for Powell's dismissal from the Baton Rouge Advocate, he "did an about-face that turned many of his critics into fans, showing that not only had he listened to the locals, but also that his conclusions had carried weight with Mr. Bush." Powell's work in securing the plan to "seek $4.2 billion more for Louisiana to compensate homeowners — even those in the flood plain — " has "made many Louisianians think that in appointing him, the administration had finally done something right."

FEMA Asking Some Hurricane Victims To Return Erroneous Payments. NBC Nightly News (3/19, story 10,

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0:30, Kotb, 9.87M) reported, "There could be some bad news this week for the people of the Gulf Coast depending on FEMA to help them rebuild. Thousands who received money from the Federal Government after Hurricanes Katrina, Rita, and Wilma will be asked to send it back. Last week, FEMA started mailing letters asking people to return money the government says they received in error." The AP (3/19) reported, "Some 1.7 million households received FEMA assistance after Hurricanes Rita, Katrina or Wilma. About 2 to 3 percent or 34,000 to 51,000 families will reimburse the agency, Donna Dannels, acting deputy director of FEMA's recovery division."

"Bring New Orleans Back" Commission To Issue Final Report. The Los Angeles Times (3/20, Quinones, 958K) reports the Bring New Orleans Back Commission, which has been "a magnet for criticism as well as a channel for emerging citizen activism," will formally issue "its final report to Mayor C. Ray Nagin tonight, though the reports of its seven committees have been public for several weeks." The Times adds, "As a post-hurricane entity, the commission went far beyond just storm and flood protection. The committees also have recommended ways to overhaul land-use planning, rebuild neighborhoods, consolidate duplicative elected offices, revive the city's cultural life, reorder its health and public education systems, and modernize the criminal justice system."

Gulf Coast Churches Struggling To Recover From Hurricane Katrina. NBC Nightly News (3/19, story 9, 2:25, Kotb, 9.87M) reported Hurricane Katrina "destroyed houses of worship too, and like the people of the region, the churches are struggling to get by." NBC (Ellis) added, "They have marched into St. Augustine's for 165 years, but now this New Orleans church, one of the oldest African-American Catholic churches in the country, is fighting just to stay open. With $400,000 in damages in a city with a decimated population and archdiocese hurting for cash, St. Augustine has been forced to merge with another parish, its schedule cut to just Sunday masses, its longtime priest reassigned. Many parishioners are worried St. Augustine's rich traditions could be next to disappear." All along "the Gulf Coast, churches are being redefined. And with so many parishioners scattered by the storm, many churches are having a tough time coming back to what they were or even where they were."

WAR NEWS:

Bush Administration Defends Iraq Policy On Third Anniversary Of War. President Bush yesterday delivered a "stay the course" message on Iraq yesterday on the third anniversary of the US military action in Iraq as he returned from Camp David. Administration officials, including Vice President Cheney, sought to reinforce that message on the weekend talk shows. The President is expected to return to that message again this week during a speech in Cleveland. The Akron Beacon Journal (3/19, Abraham, 148K) reported that President Bush will be in Cleveland, O.H. on Monday, where he's "expected to discuss the global war on terror in a speech…at the City Club." Bush "is expected to arrive in Cleveland shortly before noon, and will present the President's Volunteer Service Award to Lois Hagood of Garfield Heights, who volunteers as a reading tutor for first-graders in Cleveland." The Cleveland Plain Dealer (3/20, Eaton) says Bush "will discuss how the United States is 'working with all aspects of Iraqi society' to defeat terrorists, restore order and rebuild Iraq, White House spokesman Scott McClellan said. It is part of a monthlong effort by Bush to update Americans on the war's progress and 'how we're fixing what was not working."

The AP (3/20, Pickler) reports Bush that in his comments yesterday, the President avoided "any mention of the daily violence that rages three years after he ordered an invasion. The president didn't utter the word 'war.'" Other Administration "officials repeated the mantra that progress continues toward building a unified Iraqi government and nation." USA Today (3/20, Diamond, 2.31M) also notes Bush avoided "the word 'war.'"

Meanwhile, touching on a theme present in many newspaper accounts, the Los Angeles Times (3/20, Brownstein, 958K) says the Administration's "upbeat assessments faced sharp skepticism from US legislators from both parties and from a senior Iraqi political leader, former interim Prime Minister Iyad Allawi, who has been a staunch American ally." They "contended that Iraq was now in the midst of a civil war between Shiite and Sunni Muslims." The New York Times (3/20, Sanger, Shanker, 1.19M) also says the officials displayed "a carefully calibrated mix of optimism about eventual victory and caution about how long American troops would be involved." The picture "painted by the administration clashed with that of the former interim

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prime minister." The Washington Post (3/20, A1, Fletcher, 744K) headlines its story "Bush Still Upbeat On Outcome In Iraq," and reports the Administration "tried to dispel a growing perception that a continuing wave of sectarian violence has pushed Iraq into a full-fledged civil war."

ABC and NBC both noted Bush's remarks early in their newscasts last night. ABC World News Tonight (3/19, lead story, 2:55, Harris, 8.78M) reports, "As the war in Iraq enters its fourth year, tonight, we heard two, very different views of its successes, its failures and its future. President Bush said the sacrifices that have been made and the ones to come will pay off for Iraq, and the US." t Bush: "We are implementing a strategy that will lead to victory in Iraq. And a victory in Iraq will make this country more secure. And will help lay the foundation of peace for generations to come." ABC World News Tonight (3/19, lead story, 2:55, Yang, 8.78M) reports, "Administration officials were relent relentlessly on-message today, as they marked the war's anniversary. And the tone was set by the President himself." Bush: "The Iraqi leaders are working together to enact a government that reflects the will of the people. And so, I'm encouraged by the progress." Vice President Cheney (from CBS's Face the Nation): "And it continues to improve day-by-day. Those are the facts on the ground. That's the reality." Yang: But "even some Republicans say optimistic words are not enough." Sen. Chuck Hagel: "We're beyond the American people buying into public relations offensives. This is about policy now. This is about hard, cold facts and realities on the ground." NBC Nightly News (3/19, story 3, 2:35, Jordan, 9.87M) also said the President and "his top military advisors launched a full-blown media blitz to convince Americans to stay the course."

On CBS' Face the Nation (3/19, Schieffer), Vice President Cheney said, "There's a constant sort of perception, if you will, that's created because what's newsworthy is the car bomb in Baghdad. It's not all the work that went on that day in 15 other provinces in terms of making progress towards rebuilding Iraq." Asked to respond to Sen. Edward Kennedy's characterization of the Administration's Iraq policy as "dangerously incompetent," Cheney said, "Well, I would not look to Ted Kennedy for guidance and leadership on how we ought to manage national security. I think what Senator Kennedy reflects is sort of the pre-9/11 mentality about how we ought to deal with the world and that part of the world." Cheney said the Administration's "aggressive, forward-leaning strategy is one of the main reasons we haven't been struck again since 9/11 because we've taken the fight to them. Senator Kennedy's approach would be pack your bags and go home, retreat behind your oceans and assume you can be safe."

On NBC's Meet the Press (3/19, Russert), Gen. George Casey said there has been progress in both the political and security fronts in Iraq, saying that at each election in the last year, "the levels of participation increased, the levels of violence decreased, and each time the terrorists and the foreign fighters -- the same groups that are trying to foment sectarian strife right now -- failed to stop the election, the referendum and the, and the election in December." Casey added that now, there are "two Iraqi divisions, 13 Iraqi brigades and almost 60 Iraqi army and special police battalions that are in charge, in the lead, occupying in battle space and conducting counterinsurgency operations across Iraq. And I will tell you that their performance in this period after the, the bombing of the Samarra Mosque in, on the 22nd, has been generally very good."

On Fox News Sunday (3/19, Wallace), Gen. Casey also emphasized the progress in Iraq, saying, "The new political leaders of Iraq are meeting almost around the clock, discussing how to form a representative government of national unity that will ensure that the rights and the interests of all Iraqis, regardless of ethnic and sectarian group, are met. That's huge progress."

On NBC's Meet the Press (3/19, Russert), Democratic Rep. John Murtha disputed the Administration's claim that progress is being made in Iraq, adding, "I don't see the progress that they're portraying and I don't understand how they can continue to say that and the American public understands that and we understand it."

The Christian Science Monitor (3/20, Peterson, 61K) headlines its report "In Iraq, US Influence Wanes As Full-scale Civil War Looms," and says, "Every day, more violence. And more uncertainty for Iraqis than they have ever known, as they mark three years since American troops invaded." The "wave of optimism that once buoyed Iraqis after the fall of Saddam Hussein" is now being "marked as yet another casualty of the bombs and murders that are part of daily life here."

The Washington Times (3/20, 90K) says "protesters around the world also observed the anniversary of Operation Iraqi Freedom… with anti-American rallies that drew smaller crowds than similar demonstrations in the past." The Financial Times (3/20, Swann) reports "the US capital's

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historic protest venues were surprisingly serene on Sunday. Outside the White House tourists had their pictures taken next to a cardboard cut-out of the president, families enjoyed the sun on the Mall and several bored-looking policemen stood guard outside the vice-president's DC home. Not a placard in sight or a chant to be heard." Americans "may have turned decisively against the war in Iraq in recent months, but their change of heart has been largely expressed quietly to pollsters rather than in loud public protests." USA Today (3/20, Diamond, 2.31M) says "police in London estimated 15,000 people marched from Parliament to Trafalgar Square; last year's protest drew 45,000. About 800 people rallied in Tokyo compared with about 2,000 last year." In the United States," the biggest rally was in Chicago, where about 7,000 people marched. Smaller protests were held in other cities, including Boston, San Francisco, Pittsburgh and New York."

Casey Says US Has Begun Reduction Of Troop Level. On Fox News Sunday (3/19, Wallace), Gen. George Casey said the US troop reductions have "already begun. And I think you'll recall that just prior to Christmas, I told the Secretary of Defense and the President that I did not need two of the brigades that were intended to come over here to Iraq, so we actually already have already begun the reductions of our combat forces. … I do believe that over 2006, we will continue to see a gradual reduction in coalition forces."

Rumsfeld's Nazi Analogy Under Fire. On NBC's Meet the Press (3/19, Russert), Democratic Rep. John Murtha said in response to Defense Secretary Donald Rumsfeld claim that leaving Iraq now would be like returning post WWII Germany to the Nazis that the country is in "a civil war. Twenty-five thousand insurgents are fighting with each other inside the country for supremacy. That's the definition of a civil war. There's less than a thousand al Qaida. And when he says turning it over to al-Qaida -- and that's what he means, he, he's inferring it'll be turned over to al-Qaida -- I don't believe that for a minute. The Iraqis will get rid of al-Qaida the minute that we get out of there."

On ABC News' This Week (3/19, Stephanopoulos), Sen. Chuck Hagel disagreed with Secretary Rumsfeld's post-war Germany analogy, saying, "I understand that the secretary has a difficult assignment to try to assign some credibility to the current policy and I don't think the current policy is working. We need some new thinking here. And I think we should not be afraid to think through, which we have never done, we didn't think through this at all before we went into Iraq, but think through consequences, all right, what if we leave at some point? What if all the worst-case scenarios happen?"

On Fox News Sunday's roundtable discussion (3/19), the Weekly Standard's Bill Kristol said, "I think reading Don Rumsfeld's op-ed today in the Washington Post makes me even more amazed that Bush has not removed him as Secretary of Defense. I mean, Rumsfeld has an op-ed in which he talks about the situation in post-war Iraq. But we're at war, and he has for three years tried to jump to the post-war Iraq without winning the war in Iraq."

However, on CNN's Late Edition (3/19, Blitzer), Sen. Richard Lugar said Rumsfeld "clearly is correct, and I would say that that is the issue. I think Republicans and Democrats, at least in Congress, a large majority, believe that it would be unthinkable for Iraq to be turned back to the Saddamists and to chaos, and an incubator for terrorism."

Durbin Says Congress Needs To Hold Bush Accountable On Iraq. On Fox News Sunday (3/19), host Chris Wallace asked Sen. Richard Durbin to explain the Democratic plan for Iraq. Durbin said, "What we propose and what Senator John Warner accepted as a bipartisan approach in the Senate includes the following. This year, 2006, a year of transition, where the Iraqis take control of their own security and defense. Secondly, the Iraqis are put on notice they have to form a government that embraces all of the factions within Iraq so that we can see finally a government of unity leading to some sort of progress for the people of Iraq. And finally, we have to have from this president accountability, clear accountability, where he says every three months what progress is being made. His first report, incidentally, was not an encouraging one. It's an indication that despite all the rhetoric, we have not made progress this year."

Reed Says US Needs To Use Troops As Leverage. On ABC News' This Week (3/19, Stephanopoulos), Sen. Jack Reed said, "The only leverage we have is our troop presence, and I think we have to make it clear to the Iraqi political leaders that if they're not able or willing to come together with a political solution that recognizes the differences and pulls together the different factions, that our presence can't be indefinite there."

Iraqis See Mixed Progress On Three Year Anniversary. ABC World News Tonight (3/19, story 5, 2:50, Harris, 8.78M) ran a retrospective report on the developments in Iraq on the three year anniversary, reporting, "Patience is difficult when daily life is a struggle. Since the war, many

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parents are afraid to let their children out to play. Nearly 13 million fewer Iraqis have drinkable water. In Baghdad, there's electricity for less than four hours a day. And in a country with so much oil, people wait in gas lines up to 12 hours. On the flip side, Saddam's absence means Iraqis can protest, get satellite TV and use cell phones. What's more, the US and its partners have fixed up 825 schools, 13 hospitals and 302 police stations." ABC also interviewed three US officers, who affirmed their continued belief in their mission.

Iraqis Reportedly Still Hopeful, But More Pessimistic. ABC World News Tonight (3/19, story 8, 2:00, Harris, 8.78M) also profiled an ABC News translator, who was at first optimistic after the fall of Saddam, but his "optimism has largely evaporated." ABC translator: "I was very happy. But now, I feel a bit pessimistic. From day-to-day, it is worse and worse. There's no government. There's no stability. There's no security at all." Harris: "He still says he does have hope that someday, maybe years into the future, Iraq will be the place he once thought it would be. He says he simply cannot survive in Iraq, without hope."

Allawi Says Iraq Already In Civil War. Former Iraqi Prime Minister Ayad Allawi yesterday said he thought his country was in a civil war in interviews with a variety of media outlets. ABC World News Tonight (3/19, lead story, 2:55, Harris, 8.78M) reports, "In an interview with British television, the former prime minister of Iraq, Ayad Allawi, said this country is already in civil war." Former Prime Minister Allawi: "If this is not civil war, then God knows what civil war is." NBC Nightly News (3/19, lead story, 2:40, Engel, 9.87M) showed Allawi saying, "There are no institutions that could protect people. There are definitely ethnic cleansing happening and taking place here and there in the country. So, this is in fact, has a level of a civil war. We should not deny this. We should be brave enough to talk about it." Engel: But Gen. George Casey, "the top US commander in Iraq, General George Casey, disagrees." The Wall Street Journal/AP (3/20) reports Allawi "said playing down the current problems in Iraq would be a mistake, telling the BBC he had warned against a power vacuum and the prevalence of militias." Allawi "said the formation of a national unity government was what Iraq needed to achieve peace."

On CBS' Face the Nation (3/19, Schieffer), Cheney disagreed with Allawi's characterization of Iraq as being in a civil war, saying, "I think the assessment that we get from General George Casey, who's our man commanding in Iraq, from Zal Khalilzad, the ambassador, from John Abizaid, who is the general in charge of Central Command, doesn't square with that. Clearly there is an attempt under way by the terrorists, by Zarqawi and others, to foment civil war. That's been their strategy all along, but my view would be they've reached a stage of desperation from their standpoint."

Meanwhile, on ABC News' This Week (3/19, Stephanopoulos), Sen. Chuck Hagel said Allawi "is correct. I think we have had a low-grade civil war going on in Iraq, certainly the last six months, maybe the last year. Our own generals have told me that privately. So that's a fact."

US Military Deaths Down As Iraqi Deaths Increase. USA Today (3/20, Frank, 2.31M) reports, "US military deaths during the past month have dropped to an average of about one a day, approaching the lowest level since the insurgency began two years ago, according to a USA TODAY analysis of U.S. military data." The decline in US deaths "comes as Iraqi casualties are the highest since the U.S. military began tracking them in 2004. In the past month, nearly five times as many Iraqi forces and civilians were killed as troops in the U.S.-led coalition in Iraq, US military data show."

The Washington Post (3/20, A10, Knickmeyer, 744K) reports "tens of thousands of Iraqi civilians have died in the war, from US and Iraqi military actions, insurgent attacks and, increasingly, raids attributed to government-allied Shiite Muslim squads that allegedly operate both inside and outside Iraq's new, Shiite-dominated security forces."

US Death Toll Tops 2,300. ABC World News Tonight (3/19, story 2, 0:20, Harris, 8.78M) reports, "President Bush said today he was reflecting on US servicemen and women. More than 2,300 US troops have been killed in the war. And more than 17,000 injured. The estimate of Iraqis killed varies widely. But it's believed to be well over 33,000."

Creation Of Iraqi Policy Council Called Step Forward. The New York Times (3/20, Wong, 1.19M) reports, "Iraqi officials announced Sunday that they had agreed to form a council of the country's top politicians to make policy on security and economic issues in the new government. The council, which will include the prime minister and president, is an attempt to include all the country's major factions in decision making at a time of rising sectarian tensions." The Times calls the arrangement "a step forward in the snail-paced negotiations over the

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formation of a full, four-year government. … The political leaders must now tackle other deeply contentious issues in the talks to form a government." PM Ibrahim Al-Jafaari was not present for the discussions. The Los Angeles Times (3/20, Boudreaux, 958K) also reports the story.

Jafari Says Sadr Needs To Be Included In Political Process. Iraqi Prime Minister Ibrahim al-Jafari writes in the Washington Post (3/20, A15, 744K), "As the wheels of democracy have begun to turn in Iraq, the people's wishes are becoming clearer and their representatives identified. To this end I am humbled and honored to be chosen by my coalition to lead Iraq's first democratically elected full-term government." He adds, "My government's first challenge will be to stifle the terrorism that has plagued our country and defiled the name of Islam. While we are making good progress in expanding and developing Iraq's security services, the war against the terrorists cannot be won by military means alone. It is paramount that all Iraqis work together to build a democratic, free Iraq." He also writes, "Sidelining Moqtada al-Sadr's group from the Governing Council was a mistake. Had it been integrated into the political process" from the beginning, "events would have turned out differently in the south. I corrected this policy and brought Sadr's group into the democratic process. This inclusive approach resulted in the huge nationwide turnout for the December elections and a parliament that truly reflects Iraq."

If Convicted, Saddam Could Be Executed Quickly. Newsweek (3/27, Nordland) reports on the continuing trial of Saddam Hussein noting that, if he is convicted, "Saddam could well be executed soon after the Dujail case ends, without waiting for other cases against him to proceed." Once "a verdict is rendered by the five-judge panel, 'if any defendant were sentenced to any penalty, no matter whether it were the death penalty or imprisonment, that penalty should be executed within 30 days of the court's verdict,' chief prosecutor Jafar al Musawi told NEWSWEEK. Although there would be an automatic appeal of a death sentence to the court of cassation, that court has no backlog of cases, Musawi says, and an appeal 'would only take days.'"

Military Investigating Deaths Of 15 Iraqi Civilians As Possible Crime. ABC World News Tonight (3/19, story 3, 2:20, Harris, 8.78M) reported that the deaths of 15 Iraqi civilians in November is "now being investigated as a possible crime." ABC (Karl) added, "Military officials now acknowledge the Iraqis were not killed by" a roadside bomb but "by crossfire, as US Marines stormed the surrounding homes. The military did not launch an investigation, until two months after the incident, when Time magazine showed officials this video and eyewitness testimony."

NBC Nightly News (3/19, story 2, 1:10, Engel, 9.87M) reported the Marine unit "was attacked by a roadside bomb. One Marine was killed, the other Marines then stormed several nearby houses, and according to the military officials, the Marines believed they were about to be ambushed and killed 23 people, including 15 non-combatants. Witnesses accused the Marines of killing those civilians out of revenge."

New Analyses Of Vietnam War Shaping US Military Approach In Iraq. The Wall Street Journal (3/20, A1, Jaffe, 2.11M) reports on its front-page on "Vietnam histories -- most of them highly critical of the US military in Vietnam -- that are changing the military's views on how to fight guerrilla wars. … The embrace of these Vietnam histories reflects an emerging consensus in the Army that in order to move forward in Iraq, it must better understand the mistakes of Vietnam." The Journal adds, "In the past, it was commonly held in military circles that the Army failed in Vietnam because civilian leaders forced it to fight a limited war instead of the all-out assault it longed to wage. … The newer analyses of Vietnam are now supplanting that theory -- and changing the way the Army fights. The argument that the military must exercise restraint is a central point of the Army's new counterinsurgency doctrine. The doctrine, which runs about 120 pages and is still in draft form, is a handbook on how to wage guerrilla wars."

Both Iran, US Said To Have Much At Stake In Iraq Talks. The Christian Science Monitor (3/20, LaFranchi, 61K) reports, "A mutual interest in a stable Iraq is driving Washington and Tehran -- two otherwise increasingly antagonistic capitals -- to sit down and talk. Even as the Bush administration says America 'may face no greater challenge from a single country than from Iran,'" and as "US-backed efforts proceed in the United Nations Security Council to address Iran's nuclear ambitions," the two governments "have agreed to meet in Baghdad." The talks are "an acknowledgment of Iran's pivotal role in Iraqi affairs -- political, social, and religious -- at a particularly difficult

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moment for the US engagement there." Meanwhile, the Washington Post (3/20, A9, Vick, 744K) reports that Iran's "acceptance of direct talks with the United States over Iraq is being regarded among Iranians as a major foreign policy development, a historic if still tentative departure from 27 years of official enmity that held the government of the 'Great Satan' as one to be spoken against, but never with." In 2002, "a poll found that three-quarters of Iranians surveyed favored talks with the United States. The pollster was thrown in jail, but the reality drove a quiet competition between Iran's two rival political forces."

US General Says Iran Talks Will Not Advance Mideast Peace. The AP (3/20) reports General George Casey, the US commander in Iraq, "expressed doubt today that negotiations between the United States and Iran over Iraq would help bring peace and stability in the Middle East. 'I don't have a lot of confidence that these will turn out to be productive, but I could be wrong. They're playing, I think, a very delicate balancing act. ... On the one hand, they want a stable neighbor. On the other hand, I don't believe they want to see us succeed here.'"

Security Council Permanent Members Will Try To Break Iran Stalemate. The Washington Post (3/20, A9, Lynch, 744K) reports Under Secretary Nick Burns and other top foreign affairs officials from "the Security Council's five permanent members and Germany will hold a high-level meeting Monday in New York to try to break an impasse over the international response to the Iranian nuclear crisis." US and European officials say they will try to assuage Russian and Chinese fears that the adoption of the statement will inevitably lead to harsh punitive measures. 'We're not hellbent on going to war; we're not hellbent on imposing sanctions,' said a senior State Department official… 'We're hellbent on having the Iranians return to the negotiations, like the Russians and the Chinese want.'"

Tehran Aims For Arab Support. As top diplomats prepare meet in New York, the Washington Post (3/20, A9, Williams, 744K) reports, "Iran has embarked on a charm offensive in the Arab world aimed at expanding economic and political ties and circumventing efforts by the United States and its allies to isolate Iran over its nuclear program. President Mahmoud Ahmadinejad traveled this month to Kuwait, the first visit there by a high-ranking Iranian official in more than 25 years. Other Iranian officials toured Persian Gulf states trying to persuade them to endorse Iran's desire to develop nuclear technology, which US officials have called a cover for building weapons." According to the Post, "Arab observers say Iran's diplomatic offensive represents a newly vigorous approach to improving relations with its neighbors. 'Iran is trying to become a player in the region. At least toward the Arabs, Iran is trying to moderate its tone,' said Maha Altorki, an Iran analyst in the Asia section of the Arab League, based in Cairo."

Iranians Prepare For New Year Celebration. The New York Times (3/20, Slackman, 1.19M) reports that Iranians are preparing for the celebration of the Iranian New Year, called Nowruz." According to the Times, "After the Islamic Revolution in 1979, the ruling ayatollahs sought to stamp out many traditions, like Nowruz, a celebration with some Zoroastrian links that stretches back thousands of years to the pre-Islamic era, to mark the arrival of spring. The celebration is considered by many here the most Iranian of holidays. The ayatollahs tried, and failed. Now, nearly three decades later, some people say the increasingly enthusiastic embrace of Nowruz and other ancient traditions represents a resistance against the country's more conservative religious rulers."

Violence Hinders Iraqi TV Station's Efforts To Entertain. ABC News correspondent Jake Tapper writes in the New York Times (3/20, 1.19M) about "the discordant images on Iraqi television: Between the grisly shots of war dead, pools of blood and burnt-out shells of cars came bits of wacky slapstick. … With the newfound freedom of speech here, more than 100 television and radio stations have been licensed. … This has resulted not only in more news and public affairs programming, but many new entertainment shows." Yet "tragedy still has a way of rearing its head." During Tapper's visit to an Iraqi TV station, gunmen assassinated the station's entertainment-division chief, outside his Baghdad home just minutes earlier. Tapper concludes, "It is American journalists' duty to try to look at the broader picture in Iraq — telling the stories about those brave souls who seek to restore normalcy and laughter into the daily routine here. But there is no denying that the horrific violence will often make that task impossible."

Small College Radio News Program Reports On Iraq War. ABC World News Tonight (3/19, story 6, 2:45, Harris, 8.78M) reports a group of Swarthmore College students "say the American media is not getting the whole story. So, they are, quite literally, taking matters into their own

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hands by picking up the telephone." ABC (Berman) added, "Just over a year ago, students founded War News Radio, hardly your average college show. The goal: To big deeper into the lingering war." Through the "Internet, hard work and a little luck, the students track down Iraqi experts, officials and regular people."

Afghan Christian Could Be Put To Death For Renouncing Islam. The AP (3/20) reports, "An Afghan man who allegedly converted from Islam to Christianity is being prosecuted in a Kabul court and could be sentenced to death, a judge said Sunday." The defendant, Abdul Rahman, "was arrested last month after his family went to the police and accused him of becoming a Christian, Judge Ansarullah Mawlavezada told Associated Press in an interview. Such a conversion would violate the country's Islamic laws." Rahman "was charged with rejecting Islam when his trial started last week, the judge said." During the hearing, the defendant "allegedly confessed that he converted from Islam to Christianity 16 years ago when he was 25 and working as a medical aid worker for Afghan refugees in neighboring Pakistan, Mawlavezada said." Afghanistan's constitution "is based on Shariah law, which states that any Muslim who rejects their religion should be sentenced to death."

WSJournal Praises National Security Strategy. The Wall Street Journal (3/20, 2.11M) editorializes, "The publication last week of the Bush Administration's National Security Strategy has been greeted with a combination of media indifference and contempt. 'Bush clings to pre-emptive force,' was one news agency's sum-up of the 49-page document. Readers of these columns might prefer to draw their own conclusions by actually reading it: www.whitehouse.gov/nsc/nss/20061. What they'll find is a strategy that's admirably specific and, in the issues that matter most, broadly right." The Bush Doctrine "remains alive and well, despite persistent reports that it had been quietly shelved in favor of...well, no one has yet made clear what."

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Veteran Federal Prosecutor Joins Arent Fox. The Washington Post (3/20, Liebert) reports, "Baruch Weiss, a veteran federal prosecutor who most recently was associate general counsel at the Department of Homeland Security, has joined the District office of Arent Fox in the litigation and white-collar defense groups." The Post continues, "From 1984 through 2002, Weiss was senior trial counsel for the U.S. attorney's office in Manhattan, where he handled cases including a fraud investigation of a major securities firm, appeals involving the first World Trade Center bombing in 1993 and the unsuccessful prosecution of boxing promoter Don King for insurance fraud."

CORPORATE SCANDALS:

Former Enron Treasurer To Testify In Lay, Skilling Trial. The New York Times (3/20, Barrionuevo) reports the government "heads this week into the home stretch of its case against two former Enron chief executives. Prosecutors will be looking to end on a flourish with the testimony of Ben F. Glisan Jr., the only former top executive who has already been sentenced in the Enron debacle." Glisan, Enron's former treasurer, is "the last major witness for the government before the case shifts to the defense and to what promises to be memorable testimony by the defendants, Jeffrey K. Skilling and Kenneth L. Lay." Glisan worked "closely with Andrew S. Fastow, the former chief financial officer, on developing special-purpose entities, like the Raptors group, that both men have said in plea deals were used to inflate earnings and hide debt. The government is also expected to use Mr. Glisan to try to connect the dots for jurors hearing a complex case."

Study Finds Executive Pay Growth Has Slowed. The Financial Times (3/20, Roberts) reports growth in US executive pay "has slowed sharply in spite of record profit growth, according to preliminary findings from an independent corporate governance watchdog," the Corporate Library. The group, which "usually estimates greater pay inflation than most industry studies, calculates that US chief executives took home 11 per cent more money in 2005, compared with a 30 per cent rise the year previously. Among the 500 largest companies, median total compensation reported to date rose by just 3.7 per cent in 2005 to $5.2m."

Survey Shows Large Firms Improving Corporate Governance. USA Today (3/20, Iwata) reports a Business Roundtable survey shows "large U.S. companies are making strides in corporate-governance practices, from creating stronger independent boards to linking more executives' pay packages to their companies' performance." The survey "of

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100 CEOs…suggests that leading corporations are taking their watchdog roles more seriously in the wake of Enron and other corporate scandals." Some "57% of companies have increased pay-for-performance elements in their executives' compensation packages. That's up from 40% in 2004." In addition, "at least 91% of the companies have an independent chairman or lead director — up from 71% two years ago."

CRIMINAL LAW:

Libby's Lawyers Expected To Focus On WMD Debate. The AP (3/20, Yost) reports that Vice President Dick Cheney's former chief of staff I. Lewis "Scooter" Libby "seems intent on zeroing in on three little letters: WMD." In their latest court filing, Libby's legal team said the leak of CIA operative Valerie Plame's identity is "at most a peripheral issue" to "the media conflagration" over the failure to find WMD in Iraq. The papers suggest that this "media conflagration" and "the resulting finger-pointing among the White House, the CIA and the State Department over who was to blame, that Libby's lawyers want to focus on in a bid to get him off." The papers "underscore the possibility that a criminal trial of Libby could highlight the ongoing debate over whether the White House manipulated intelligence to justify the invasion of Iraq."

DC Cop's Case Could Make Prosecutions Harder In Abramoff Scandal. Jeffrey Birnbaum writes in his "K Street Confidential" column in the Washington Post (3/20, D1, 744K) that a appeals court decision involving a D.C. police officer could make it harder for prosecutors to make a case against lawmakers implicated in the Jack Abramoff lobbying scandal. Detective Nelson Valdes "ran license plates through a law enforcement database and provided the vehicle-owner information he collected to a person who paid him cash. He was convicted in 2002 of taking illegal gratuities. But a three-judge appeals court panel recently reversed that decision. It said, in an opinion dated Feb. 24, that his actions weren't a formal part of his duties and therefore weren't covered by the statute. Scholars say that as a result of the Valdes case, the process of charging lawmakers and their aides with wrongdoing in the Abramoff scandal (and others like it) will be more difficult."

"Mafia Cops" Prosecution Witness Seen As "Complex Character." The New York Times (3/18, Feuer, 1.19M) profiles the Burton Kaplan, the top prosecution witness in the trial of alleged "Mafia Cops" Louis Eppolito and Stephen Caracappa. "He is a complex character, who, for decades, led a double life. On one hand, he was that stock-in-trade cliché, 'the legitimate businessman,' who owned a discount clothing store in Bensonhurst and a factory for Chinese garment makers in Antigua. On the other hand, he is — or was — an inexhaustible fountainhead of crime. Both sides of Mr. Kaplan's personality were on display this week" at trial, as he "linked the lawmen to at least a dozen killings and kept the courtroom spellbound with his clipped accounts of how the two defendants had once gunned down a gangster on the grass berm of the Belt Parkway and, earlier, had delivered a kidnapped mobster to his rival."

California Businessman Pleads Guilty In Pellicano Investigation. The Los Angeles Times (3/18, Krikorian, Blankstein, 958K) reports Valencia businessman George Kalta "admitted Friday to conspiring with Anthony Pellicano to illegally dig up information about a teenager who had accused him of sexual assault, becoming the latest witness cooperating in the federal probe of the indicted private eye. … The plea makes Kalta the fourth person to acknowledge that they hired — or helped — Pellicano to illegally investigate others using wiretaps, confidential police record searches or other methods." Calling Kalta "a minnow" in the FBI investigation, his defense attorney, Leslie Abramson, "said outside court on Friday that Pellicano bragged to her client about listening in on other people's conversations and about having connections within law enforcement."

"Innocence Lost" Uncovered Toledo Teen Prostitution Ring In Pennsylvania. The Toledo Blade (3/19, Erb, de Boer) reports, "In a 102-page indictment unsealed in December, the feds paint a violent picture of pimps and their most trusted prostitutes…who routinely brutalized newer recruits," largely from the Toledo area. The ring operated was centered in Harrisburg, Penn., which much of the activity occurring at a truck stop, which "became one focus of 'Innocence Lost,' a major federal inquiry into underage prostitution." The Blade adds, "'These girls are getting violently abused,' said David Johnson, chief of the FBI's Crimes Against Children unit. Beyond that, maintaining

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control is a matter of psychological conditioning, especially for girls already fleeing homes of incest, battering, or even simple neglect, said Chip Burrus, the FBI's acting assistant director of the criminal investigative division. … 'For them their normal day is servicing johns, and after a while, this just becomes [her] life, and [she] kind of accepts it … That's what happened to a lot of these girls.' … If they don't adjust or try to escape, Mr. Burrus said, 'the pimps say, "Okay you want to break away? I'll kill your mom," or "I know you have a sister who's 8, and I'll go to her school, and I'll rip her head off."'"

The AP (3/20) reports on The Blade story, noting "The FBI assigned 16 new agents to the investigation, and the agency is hiring six more this year. The FBI says the interstate ring is organized crime, equating it to drug trafficking. Many of the girls came from backgrounds of abuse or incest, and the pimps conditioned them through abuse and threats against family members to accept their fate, said Chip Burrus."

Corruption Probe Shuts Down Texas Town's Police Force. The Los Angeles Times (3/20, Hart) reports, "It happened without warning. The FBI swooped in, shut down Troup (TX)'s five-man police force and jailed the chief and a sergeant — the 2005 Chamber of Commerce officer of the year, no less — on charges of corruption. " The Times continues, "Startled residents watched in silence as authorities secured the tiny station with yellow crime-scene tape and swarmed the building for evidence. … Sgt. Mark Turner, 47, was charged with delivering marijuana and tampering with or fabricating evidence. According to a search warrant, Turner gave marijuana to an undercover agent, assuring him later that there was more where that came from: the police evidence box. " The Times adds, "Police Chief Chester Kennedy, who led the force for 14 years, also was charged with evidence tampering. He admitted to investigators that he gave Turner 24 cans of light beer from a 30-pack seized in a bootlegging case, but said he planned to buy more if the case went to court. 'Beer is beer,' he said, according to a Sheriff's Department affidavit. … Events unfolded so quickly here that, weeks after the March 3 raid, stunned residents are still talking about it when they meet on the street. Some, however, are less surprised; rumors of police misconduct had circulated for years. … Here in rural East Texas, methamphetamine labs can operate unnoticed. Misdemeanor drug charges in Smith County, about 100 miles southeast of Dallas, are as common as drunk driving arrests, Dist. Atty. Matt Bingham said. But in the last six years, the Troup police force sent just 11 drug cases to the district attorney's office. … Maj. Mike Lusk, head of criminal investigations for the Smith County Sheriff's Department, said Troup police had sent a total of two drug evidence samples to the Texas Department of Public Safety crime lab since 2000."

Child Services Workers Facing More Danger. The New York Times/AP (3/20) reports that "threats are a daily part of the job for caseworkers who investigate accusations of child abuse and neglect and often remove children from their homes. But the killing of a social worker in South Texas last week has prompted" some caseworkers "to re-evaluate the steps they take to keep safe and has raised questions about what the state can do to better protect them." The family of the social worker "who was killed last week, Sally Blackwell," said she "had received threats in her position as program director, overseeing several offices of caseworkers. The authorities have ruled the case a homicide but have not said whether her death was related to her job."

Friends, Family Of Slain Man Question Sheriff's Account Of Shooting. The Washington Post (3/20, B1, Davenport) reports the "22-year-old Oxon Hill man fatally shot by a Charles County sheriff's deputy Saturday morning had drawn a handgun and fired it while three deputies were trying to arrest him on a drunken driving charge, the sheriff's office said yesterday." But the "friends and relatives of the suspect, Jonathon Lyles, offered a starkly different view. They questioned whether Lyles had a gun and said officers targeted him because he was a young African American man who had had previous run-ins with police."

Victim Of Priest Abuse Returns To Face Past. The Washington Post (3/20, B1, Murphy) profiles Michael Donovan, a "63-year-old Vietnam veteran and retired businessman from California" who visited Washington "on a mission into his past, a mission to banish his own anger and regain control." Almost "50 years ago, during Donovan's eighth-grade spring break, he was sexually abused" at Holy Name School "by Thomas S. Schaefer, then a 30-year-old, newly minted Roman Catholic priest. Schaefer went on to molest at least 20 more boys in the Washington Archdiocese, according to church officials, before pleading guilty in 1995 in five of those cases." In 2003, "determined to be counted in a

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national survey of the church's abuse problem, he informed the archdiocese of Schaefer's 1956 misconduct. He learned then that he was Schaefer's earliest known victim."

Supreme Court To Hear Cases Crucial To Domestic Violence Prosecutions. In a New York Times op-ed (3/20), attorneys Michael Rips and Amy Lester say the Supreme Court is hearing two cases, Davis v. Washington and Hammon v. Indiana, "that may make domestic violence cases all but impossible to prosecute." The question is "whether statements made to 911 operators can be admitted in prosecutions if those who made the calls refuse to appear in court. Such evidence has become crucial in bringing domestic abusers to justice." In the 1980's and 1990's, "the refusal of victims to cooperate in the prosecution of their batterers may have resulted in the dismissal of as many as 70 percent of all domestic violence cases." Now, authorities "have developed techniques, together known as 'evidence-based prosecution,' that focus on the use of reliable evidence, like 911 tapes, to build cases that do not depend on the cooperation of the victim." But a "significant number of courts have interpreted" another case, Crawford vs. Washington, "to bar the use of 911 tapes and answers to questions posed by police officers unless the witness is available for cross-examination. In so doing, they've overturned convictions in cases of domestic battery."

CIVIL LAW:

Google Gets Win On Government's Subpoena For Web Search Data. The Wall Street Journal (3/20) reports Federal judge James Ware "ruled Google Inc. doesn't have to turn over data about consumer Web-search queries to the Justice Department." Judge Ware "on Friday ordered Google to work with the government to provide 50,000 randomly selected addresses for Web sites from its databases. He denied a request by government lawyers for a sampling of 5,000 search queries entered by Google users, concluding that they essentially duplicated information the government could glean from the Web addresses." In a statement, Google said, "This is a clear victory for our users."

Chicago Alderman Seeks To Close Smoking Ban Loophole. The Washington Post (3/20, A3, Lydersen) reports Marshall McGearty Tobacco Artisans is "a 'tobacco lounge' that has opened in Chicago's trendy Wicker Park neighborhood. It appears every bit the bar or coffeehouse. But appearances can be deceiving: Marshall McGearty is technically a tobacco retail shop with at least 65 percent of its sales in tobacco. And that means it is exempt from Chicago's new ban on smoking in bars, restaurants and other public places." Critics "say the parent company of the lounge, R.J. Reynolds Tobacco Co., is taking advantage of a loophole in the city's anti-smoking ordinance." Last month, "city Alderman Edward M. Burke introduced an ordinance to close the loophole in the smoking ban, stating that venues that serve food and drink cannot be classified as tobacco retail stores."

CIVIL RIGHTS:

Oakland Nearly Finished Paying Out Over War Protestors' Injuries. The New York Times (3/20, Marshall) reports, "A clash between the police and antiwar protesters (in Oakland, CA) nearly three years ago will cost the City of Oakland more than $2 million, including dozens of payouts to people injured when officers fired wooden dowels, bean bags and rubber pellets." The Times continues, "The Oakland City Council is scheduled Tuesday to approve the final payments related to the incident, which was the most violent of many protests nationwide in the early weeks of the Iraq war. At least 58 people were injured, including nine longshoremen who were caught in the crossfire on their way to work." The Times adds, "The Oakland Police Department said officers had fired the 'less than lethal' rounds to disperse several hundred demonstrators, some of whom the police said had thrown rocks at them. … The protesters said they had been behaving peacefully and accused the police of using excessive force. A lawsuit against the city, the Police Department and several officers, which led to the settlement payments, accused the authorities of civil rights violations. … Many here say the officers were on edge during the protest because state officials had warned that terrorists or self-described anarchists might try to disrupt the event, which was held at the Port of Oakland on April 7, 2003."

Studies Warn Of Difficult Plight For Black Men In US. Several new studies from Columbia, Harvard, Princeton and other institutions warn that black men in the US face a more difficult situation than is portrayed by employment

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and education statistics. The New York Times (3/20, Eckholm, 1.19M) reports, "Focusing more closely than ever on the life patterns of young black men, the new studies…show that the huge pool of poorly educated black men are becoming ever more disconnected from the mainstream society, and to a far greater degree than comparable white or Hispanic men. … Although the problems afflicting poor black men have been known for decades, the new data paint a more extensive and sobering picture of the challenges they face."

Schools Called Front Line In Culture War Over Homosexuality. Charles C. Haynes, a senior scholar at the First Amendment Center in Arlington, Va., writes in USA Today (3/20, 2.31M) that schools "have become front lines in the culture war over homosexuality -- and the biggest losers are the kids caught in the crossfire of incendiary rhetoric and bitter lawsuits." Conflicts involving sexual orientation "are undermining the educational mission of our schools." Haynes adds, "When they begin to listen to one another, most educators, parents and students discover that they want the same thing: public schools that are safe and free for all students. … Once these shared goals are identified, people are ready to tackle other contentious issues such as gay student clubs and the treatment of sexual orientation in the curriculum." If "people on all sides uphold the rights and responsibilities of the First Amendment, they can agree on policies and practices that serve the common good."

ANTITRUST:

Zurich American To Pay $171.7 Million In Bid Rigging Case. The Wall Street Journal (3/20, Pleven) reports Zurich American Insurance Co. "agreed to pay $171.7 million in a settlement with nine states that have been investigating allegations of bid rigging in the commercial-insurance business." The firm, "a unit of Zurich Financial Services of Switzerland, will pay more than $150 million to reimburse policyholders and another $20 million will go to the states to cover investigative and other costs and as payments in lieu of penalties, according to the states."

UK Insurer Prudential PLC Rejects Aviva Takeover Proposal. The Wall Street Journal (3/20, A3, Fleming, Wang) reports, "In what is likely to prove the first round in a long-running takeover battle that could affect insurance markets world-wide, United Kingdom life insurer Prudential PLC Saturday rejected an unsolicited £17 billion ($29.87 billion) takeover proposal from larger rival Aviva PLC. Prudential, which isn't related to Newark, N.J., insurer Prudential Financial Inc. but is active in the U.S. through its subsidiary Jackson National Life Insurance Co. of Lansing, Mich., said Saturday it had received a proposal from Aviva about a possible combination of the two London companies. In a statement, Prudential said it had rejected the proposal as not in the best interests of its shareholders." The Journal notes, "People with knowledge of Aviva's overture said the initial proposal was an all-share offer that valued Prudential at about £17 billion, a 6.25% premium to the group's market value. … Although Aviva might improve the proposed terms," Richard Harvey, the company's chief executive, "is seen as unlikely to launch an overtly hostile bid."

Study Of Corporate Takeovers Finds Widespread UK Market Improprieties. The Wall Street Journal (3/20, C4, Patrick) reports, "The U.K. market regulator said it has found widespread signs of improper share-price moves before corporate takeovers are announced. In an effort to assess the deterrent effects of its regulations, the Financial Services Authority studied 1,500 market announcements on takeover bids and company results in various time periods over the past eight years. The researchers found that price movements from nonpublic information may have taken place before 29% of the takeover announcements and before 22% of the trading updates." The Times adds, "The implementation of the Financial Services & Markets Act in 2001, which toughened sanctions for individuals caught insider trading as well as the disclosure requirements for companies, had no apparent change in market cleanliness. … 'The analysis shows that there was no improvement in market cleanliness in the period after the introduction of the FSA's new powers, and before any high-profile enforcement cases were concluded,' said Hector Sants, the FSA's managing director. 'This suggests that visible enforcement action may be the key tool in our work to reduce market abuse,' he said."

Roche, Amgen Engaged In Fierce Lobbying Battle Over Patents. The Roll Call (3/20, Ackley) reports a "furious lobbying effort between F. Hoffmann-La Roche and Amgen Inc. has fueled big spending on K Street and led to both drugmakers hiring heavy-hitting firms and

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high-profile former government officials." Roche is "pushing for a patent-law change that lobbyists close to the debate say could make it possible for the Swiss-based company to get approval and eventually market in the United States a competing product to Amgen's renal disease treatment, Epogen." Lobbyists "familiar with both sides' strategies now agree that the battle will have much wider implications on patent policy." Sources say Roche has "tapped a bipartisan team that includes Mickey Kantor, the former U.S. trade representative and Commerce secretary under former President Bill Clinton, and Ted Olson, the former U.S. solicitor general in the current Bush administration." Amgen "upped its lobbying spending during the last six months of 2005, after the biotech firm became aware of Roche's quiet lobbying push. Between the first and second halves of 2005, Amgen spending rose by $1 million, from $2.4 million to $3.3 million, according to public filings."

Supreme Court Patent Case Could Have Far-Reaching Implications. The New York Times (3/20, Pollack) reports for the "first time in a quarter-century, the Supreme Court will hear on Tuesday a case involving the basic question of what type of discoveries and inventions can be patented." Both sides "say the case, which involves a blood test for a vitamin deficiency, could have a wide-ranging impact on the development of diagnostics, perhaps threatening many of the underlying patents for genetic and other medical tests." But the "array of companies filing supporting briefs — including American Express, Bear Stearns and I.B.M. — indicates that intellectual property in other fields might also be affected." Some patent specialists "say they think the Supreme Court agreed to hear the case, against the advice of the United States solicitor general, to rein in patenting."

ENVIRONMENT/INDIAN AFFAIRS:

Kempthorne Known To Work With Those Who Disagree With Him. The Christian Science Monitor (3/20, Knickerbocker, 61K) profiles Interior Secretary nominee Dirk Kempthorne, saying he "has both the experience and the record of collaboration that could help smooth the way in the often-contentious position." Kempthorne "is known to work in concert with those who don't agree with him. He believes that the level of government closest to a problem is the best place to find a solution. And though his environmental record - according to those who score such things - is a pale shade of green, he is not a fire-breathing ideologue likely to dismiss endangered species in the name of corporate ranching or a new highway." The Monitor adds that "the Bush administration and Kempthorne face battles over many issues: development in roadless forest areas; salvage logging of burned timber; the proposed sale of some federal land to lessen the federal budget deficit; changes to the Endangered Species Act; a huge backlog in national parks maintenance; oil drilling in the Arctic National Wildlife Refuge and the Outer Continental Shelf; and protections for grizzly bears, wolves, and other recovering species."

Firm Offers DOE Space To Store Spent Fuel. The New York Times (3/20, Wald, 1.19M) reports that Private Fuel Storage "is planning to build a private nuclear waste dump on an Indian reservation in Utah has offered to sell space there to the federal government. The move could help the government avoid billions of dollars in potential legal damages over its failure to build its own repository." The Times adds that while PFS recently "won a license from the Nuclear Regulatory Commission to open a repository at Skull Valley," the consortium does "not have the permits it needs to transport waste to the site, however, and the State of Utah is trying to block those."

Offshore Drilling Advocates Push Revenue Sharing Plan. USA Today (3/20, Dorell, 2.31M) reports that creators of a new campaign to push drilling for oil along the US coasts "say the time is right to get it done. And they say they've come up with a way of doing it that has statehouses, U.S. industry and even some notable environmental groups on board. … The proposal is simple: States that open their territory to drilling will get a cut of the royalties that currently go 100% to the federal government. A specified chunk of royalties must be spent restoring coastlines." Former Louisiana senator John Breaux, a lobbyist for Patton Boggs, "is hoping to build interest." Breaux "is working on a volunteer basis for the state of Louisiana to give it a share of the royalties from oil and gas off its shores. He's working with a coalition of manufacturers, municipalities and energy companies to bring attention to the plan."

Court Rules Older Sites Must Meet Same Emission Requirements As New Facilities. A US appeals court ruling that aging power plants and industrial

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sites must meet the same federal pollution standards as new plants may force the EPA to insist that industrial sites upgrade the facilities. The Christian Science Monitor (3/20, Clayton, 61K) calls the ruling "a repudiation of EPA policy under the Bush administration, which sought to exempt plants that predated the 1970 Clean Air Act from compliance with the tougher air-emission standards. It was cheered by environmentalists - especially those who live and work near such power plants. … The ruling could prompt some big utility companies to upgrade pollution controls at the oldest, most polluting power plants, or shut them down." The EPA "could appeal the decision to the US Supreme Court."

Interior Department Urged To Endorse Settlement On North Carolina Road Project. An editorial in the New York Times (3/20, 1.19M) urges the Interior Department to "resist Representative Charles Taylor of North Carolina" who is proposing $600 million on a road "that few people want and nobody needs." Taylor "runs the subcommittee that controls the Interior Department's budget. For that reason, neither the park service nor Interior's outgoing secretary, Gale Norton, has publicly criticized the idea. But there is more at stake here than pleasing one's paymaster. The road would not only blow a hole in the department's budget; it would also leave a scar on one of the most popular national parks." The road "was promised to the residents of Swain County in 1943 when the Tennessee Valley Authority built a major hydroelectric dam, creating the lake and flooding out an existing road. … A cash settlement of $52 million has been proposed." The Journal says the settlement is "fair, and it won't do lasting damage. Interior should endorse the settlement."

Law Firms Rolling Dice On Indian Law. The New Jersey Law Journal (3/20, Toutant) reports, "Native American law, long a well-established practice area west of the Mississippi, is gaining ground at eastern law firms as tribes displaced in the 19th century seek to reclaim ancestral lands -- and make them instantly profitable." The Journal continues, "After the successful land-claim settlement by the Mashantucket Pequot Tribe in Connecticut, which led to the opening of Foxwoods Resort Casino in 1992, and the Mohegan Tribe's acquisition of land in nearby Uncasville, Conn., for the Mohegan Sun Casino, other tribes have started bringing land-claim suits, and law firms are lining up to help them." The Journal adds, "While tribes' finances are short and the odds of prevailing long, there are still legal fees to be generated. That's because there are casino developers willing to underwrite the tribes' legal costs on the chance that they'll obtain a new site for gaming, say Indian law experts. … 'Part of what's going on these days in Indian country is there are certain forces that are trying to unearth potential claims that might be made to re-establish a tribal homeland and ultimately establish a casino,' says Robert Odawi Porter, director of the Syracuse University Center for Indigenous Law, Governance and Citizenship. … In cases where land-claim suits are funded by outsiders, the tribe is usually a passive participant in the litigation, says Porter. Such arrangements are permitted under the Indian Gaming Regulatory Act of 1988, which gives states authority to negotiate revenue-sharing agreements with tribal casinos. … But the process is arduous. Last June, the Shinnecock Indian Nation of Long Island filed a claim for 3,600 acres in the exclusive Hamptons resort area that it says belonged to its ancestors. The casino plan is opposed by New York's governor and senators, as well as by residents of the Hamptons. The tribe's costs are being underwritten by Michigan casino developers Marian Ilitch and Michael Malik. Ilitch, founder of the Little Caesars pizza chain, owns the Motor City casino in Detroit. She and Malik are also building an Indian casino in Barstow, Calif."

FBI/DEA/ATF/USMS:

Funding Constraints Leave New York FBI Agents Without Email, BlackBerrys. The New York Daily News (3/20, Connor, 729K) reports that "many of New York's FBI agents are fighting crime and terrorists without an Internet-ready phone or even an e-mail account, the New York Daily News has learned," and only about 100 have BlackBerrys under a pilot program, the funding for which also is threatened. Assistant Director Mark Mershon "blamed the technology gap on Washington budget constraints. … 'And as ridiculous as this might sound, we have real money issues right now, and the government is reluctant to give all agents and analysts dot-gov accounts,' he said when asked about the gap at a News editorial board meeting. … FBI officials in Washington…insisted that agents are not at a disadvantage because of cost-cutting. Spokeswoman Cathy Milhoan said about half the FBI employees don't have official accounts because e-mail addresses are still being assigned," but "by the end of the year, the entire bureau should have dot-

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gov mailboxes, she said." The AP (3/20) reports on the Daily News story.

NYDaily News Criticizes Lack Of Email Addresses, Blackberrys. Under the headline "FBI Terror Fighters Need Modern Tools," The New York Daily News (3/20, 729K) editorializes, "To say there's not enough money in a $2.5 trillion federal budget to give FBI agents e-mail addresses is patently absurd. Which is why headquarters now says everyone will have official e-mail by the end of the year. That must happen." The Daily News adds, "Every business executive in the country has a BlackBerry. Every assistant to every business executive and every law enforcement agency with which the FBI communicates has BlackBerrys. People who want to blow up the Brooklyn Bridge probably have BlackBerrys. Think this is outrageous? E-mail your congressional representative. Which you can, because Congress has e-mail. And BlackBerrys."

12 Face Charges In California For Making Marijuana-Laced Candy, Soda. The Los Angeles Times (3/18, Romney) reports, "A dozen Bay Area residents appeared in federal court Friday on marijuana cultivation and distribution charges in connection with a large-scale operation to make pot-laced candy bars and sodas. … Though the packaging evokes the irreverent Wacky Pack stickers of years past by mocking trademarked products, federal officials say the psychoactive goods are no joke. 'The packaging is so similar to that of the name brand, it has the potential to fall in the hands of children, with potentially tragic consequences,' DEA spokeswoman Casey McEnry said."

The San Francisco Chronicle (3/18, Lee) reports the sweets "had colorful labels and names such as Trippy, Stoney Rancher, Toka-Cola, Pot Tart and Budtella. To federal drug agents, they were dangerous marijuana-laced concoctions that could fall into the hands of children. But to sick patients who rely on cannabis to ease their symptoms, they were just tasty ways to get their medicine -- and legal under California law."

The Contra Costa Times (3/18, Simerman) writes, "A day after federal agents seized thousands of marijuana plants and a booty of pot-laced candy and soda pop in raids on warehouses in Emeryville and Oakland, local medical cannabis advocates reacted coolly -- bitter at another federal plunder on a substance the state deems legal for the sick, but leery of an operation that packaged its products to mimic popular brands of sweets."

Eight New Jersey Residents Accused Of Running "Major" Heroin Ring. The Hoboken (NJ) Reporter (3/19) writes, "Hudson County Prosecutor Edward DeFazio and the Hoboken Police Department have arrested eight Hudson County residents for running a major heroin ring. According to Prosecutor Edward DeFazio, the arrests were the result of a six-month investigation by the Hudson County Prosecutor's Office Municipal Task Force, Hoboken Police Department, and the Drug Enforcement Administration. … The searches resulted in the recovery of 22,000 bags of heroin from 'a sophisticated hidden compartment' in a Ford Explorer."

Attorney Accuses DEA Of "Lukewarm" Response To Death Threat. The New York Times (3/20, Mead) reports in its "New York/Region" section that attorney Thomas Liotti "has been branded a big mouth for his self-promotion and propensity to tongue-lash prosecutors, police officers and even judges. … In a press release on Wednesday…he also criticized the federal Drug Enforcement Agency for what he called its lukewarm response to a death threat against lawyers who defend Colombian drug traffickers. 'I want the U.S. government to realize that they have a responsibility to protect everyone, even criminal defense lawyers,' he said."

Detroit Drug Dealers Said To Be Infiltrating West Virginia Town. The Pittsburgh Post-Gazette (3/19, Simonich) writes, "Connections between Detroit and rural America remain strong, but nobody romanticizes about them anymore. Detroit doesn't export cars the way it used to. Instead, say police across the region, it turns out drug dealers who travel hundreds of miles to enrich themselves in smaller towns." The Post-Gazette says in Huntington, West Virginia, detectives have a list with more than 250 names of crack dealers.

Washington Post Profiles "Prince Of Pot". The Washington Post (3/18, C1, Struck) profiles March Emery known as the "Prince of Pot," who the Post says Canadians find harmless, but the DEA does not. According to the Post, Emery said, "'I sold millions of [marijuana] seeds proudly to people all over the world," and perhaps 70 percent of them were mailed to the United States, he concedes. "Everything the DEA said is correct -- except I don't buy the charge that I'm poisoning children of America.'"

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Poppy Crops Said To Threaten Afghan Democracy. The St. Louis Post-Dispatch (3/18, Dine) reports that "poppies are invaluable cash crops to farmers seeking to sustain their families, but dangerous to a young Afghan democracy. An unholy alliance is emerging among farmers, drug lords, Taliban remnants and al-Qaida fighters," and "drugs are already the nation's sole export of any magnitude." They "threaten to turn it into a 'narco-state,'" and "Afghan sources say" al-Qaida "has acknowledged in private sessions its satisfaction that expanding heroin use is poisoning 'infidels' in other countries."

Taliban Rebels Said To Be Teaming Up With Drug Lords. The Washington Times (3/18, Duparcq) has included an AFP story on its "World" section that is similar to a story included in a previous briefing. The AFP writes, "Taliban rebels determined to keep southern Afghanistan in chaos have teamed up with drug barons against the government and its opium eradication campaign."

CONGRESS-ADMINISTRATION:

Cheney Downplays Calls For Staff Changes At White House. Asked on CBS' Face the Nation (3/19) by anchor Bob Schieffer about commentators who have said "you need a staff shake-up over at the White House," Vice President Cheney said, "Bob, you know what this reminds me of? It reminds me of 30 years ago when I was Gerry Ford's chief of staff and you were the CBS correspondent covering the White House. … We had the same kind of stories then, the same kinds of controversy. Administrations go through peaks and valleys. It's a tough business that we're involved in, and when you're down in the polls you're going to take shots that you don't deserve, and when you're up in the polls you're probably going to get praise you don't deserve. So I don't think we can pay any attention to that kind of thing. … [President Bush has] got great people around him, and I simply don't give credence to those kinds of comments." Cheney added the "notion that somehow the staff is exhausted -- these are tough jobs, no question about it. But we've got some very good, very able, very talented folks, who are devoted to the president, devoted to trying to do what's right for the country."

In what the AP (3/19, ,Daniel) calls a "rare Sunday morning television interview," Cheney also said again that he will not seek the presidency in 2008 and he "chuckled when asked if he himself had ever considered resigning amid low poll numbers and suggestions by commentators that he was a liability for the administration."

Cheney Has No Plans To Resign. Asked on CBS' Face the Nation (3/19, Schieffer) if he has considered resigning to shield the Administration from unpopular polices or events, Vice President Cheney said, "Well, I made sure both in 2000 and 2004 that the President had other options. I mean, I didn't ask for this job. I didn't campaign for it. I got drafted. And delighted to serve. And it's been the highlight of my career, to be part of this Administration. I've now been elected to a second term; I'll serve out my term."

Murtha Says Rumsfeld, Cheney Should Resign. On NBC's Meet the Press (3/19, Russert), Democratic Rep. John Murtha said President Bush should fire some of the aides responsible for the Administration's mistakes in Iraq, saying Defense Secretary Rumsfeld "should offer his resignation" and "I would accept it." Asked if Vice President Cheney should resign, Murtha said, "Yeah. Well, certainly the Vice President has been the primary force in running, running this war, and many of the mischaracterizations have come about."

Cheney Says He Can Give Bush "Untainted" Advice. The Washington Times (3/20, Hudson, 90K) reports that Cheney's "lack of political ambition to succeed his boss gives him unusual freedom to be a lightning rod for contentious issues and serve as an 'untainted' adviser to the president," he said yesterday. Speaking on CBS' Face the Nation, Cheney said, "This has been a different kind of arrangement than most administrations have between the president and the vice president, primarily because I'm here to serve him; I'm not here to run for higher office," adding, "My advice to him is untainted by any concern I might have about how the folks in Iowa look at me with connection with the 2008 Iowa caucuses."

Barnes Suggests Personnel Changes For Bush Administration. Fred Barnes writes in the Wall Street Journal (3/20, 2.11M) that President Bush "can start the equivalent of his third term now, by filling his presidential staff and cabinet with new faces -- or old faces in new positions -- and by concentrating on new or forgotten initiatives. The goal: rejuvenation of his presidency by shocking the media and political community with a sweeping overhaul of his administration." Barnes adds that Vice President Dick Cheney should resign so Bush can appoint Secretary of State Condoleezza Rice as his "presidential successor." Rice,

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writes Barnes, should be replaced as Secretary of state by Sen. Joe Lieberman of Connecticut. Barnes also writes that Cheney should "move to the Pentagon to replace Donald Rumsfeld as defense secretary." In addition, Barnes recommends Glen Hubbard to replace Treasury Secretary John Snow. Barnes adds that white House Deputy chief of staff Karl Rove should be sent "to the Republican National Committee as chairman," and current chairman Ken Mehlman should be brought "back to the president's staff as communications chief."

Bush Has Been Taking More Questions From Audiences. The New York Times (3/20, Bumiller, 1.19M) reports in its "White House Letter" column that at the "Riderwood Village retirement community last week in the Washington suburb of Silver Spring, Md.," President Bush "got hit with hardballs by the crowd of 80-somethings. Not only did the retirees, many of them Democrats and former government officials, ask sharp questions about the day's topic, the Medicare prescription drug program, they took on Mr. Bush on global warming and nuclear war." The Times notes that "in the last three months, Mr. Bush has started taking questions, some of them tough, from audiences not stacked with supporters."

Cheney Discusses Hunting Accident. On CBS' Face the Nation (3/19, Schieffer), Vice President Cheney discussed the hunting accident where he shot prominent Texas Republican lawyer Harry Whittington. Cheney said, "Well, I think it's one of those situation or circumstances that is obviously difficult and generates controversy. It's probably the first time the Secret Service ever had to worry about a protectee shooting somebody else instead of being shot at. As the President said the other night, he's at 38 percent in the polls and as a result of this incident I shot the only trial lawyer in Texas who supported him. So people can laugh about it now, but at the time it was deadly serious."

House Expected To Be In Session Only 97 Days This Year. USA Today (3/20, Kiely, 2.31M) reports the House "is on track this year to be in session for fewer days than the Congress Harry Truman labeled as 'do-nothing' during his 1948 re-election campaign." Congress is "taking an entire week off for St. Patrick's Day. It's the latest scheduling innovation to give members more time to meet with constituents." The House "was in session for 19 days, compared with 33 for the Senate. If they stick to their current schedule — including two weeks off in April, a week in May and July, plus all of August — House members will spend 97 days in Washington this year." The House "was in session 108 days in 1948, according to the chamber's archives, compared with 141 days last year."

Republicans Unable To Craft Unified Political, Policy Agenda. The Washington Post (3/20, A1, Balz, Weisman, 744K) reports in a front page story, "Republican efforts to craft a policy and political agenda to carry the party into the midterm elections have stumbled repeatedly as GOP leaders face widespread disaffection and disagreement within the ranks." Lawmakers "involved in the effort" said "anxiety over President Bush's Iraq policy, internal clashes over such divisive issues as immigration, and rising complaints that the party has abandoned conservative principles on spending restraint have all hobbled" the project. While it is "a Republican refrain that Democrats criticize Bush but have no positive vision, for now the governing party also has no national platform around which lawmakers are prepared to rally. Every effort so far to produce such a platform has stumbled." The struggles "reflect philosophical differences among competing factions within the party, but they also underscore the political consequences of holding power. Republicans insist they remain united around core principles of smaller government, lower taxes and a strong national defense, but can no longer agree on how to implement that philosophy and are squabbling over their delivery on those commitments."

Novak Says GOP Lawmakers Attempting "Trial Separation" From Bush. Syndicated columnist Robert Novak (3/20) writes, "'Presidents come and go,' Rep. Jerry Lewis told the House Rules Committee last Wednesday. That was a reason Lewis gave, as chairman of the Appropriations Committee, for opposing President Bush's proposed line-item veto." Lewis' opposition, along with "similar acts of opposition to" Bush "by Republicans in Congress," is not a "rebellion and is not even a divorce. Rather, it is a trial separation of congressional Republicans from their president." Novak adds, "One of the president's top political operatives is telling the party's members of Congress that they should support Bush, not out of loyalty but for self-preservation. In 1952, Democrats in Congress, accustomed to more than 20 years in power, thought they could survive by separating themselves from" President Harry Truman, whose approval rating was suffering in large part to the "military

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stalemate in Korea." But "Republicans swept the November elections, which might be an object lesson about abandonment of their president."

Senate Voted Against Social Security Accounts Last Week. Roll Call (3/20, Pierce) reports that in a "little-noticed vote last Thursday, the Senate went on record, apparently for the first time, against President Bush's proposal to set up personal investment accounts under Social Security, with some unexpected Republicans helping a unified Democratic Caucus defeat the nonbinding proposal." Eight Republicans "joined all 45 Democrats in opposing" an amendment by Sen. Jim DeMint, "which would have directed the creation of a reserve fund for Social Security, but only after the Senate produced legislation allowing younger workers to divert a portion of their Social Security taxes into personal investment accounts or permitting some other type of 'legally binding ownership' of a worker's Social Security money." The Republican centrist votes "in opposition — including Sens. Lincoln Chafee (R.I.), Susan Collins (Maine), Gordon Smith (Ore.) and Olympia Snowe (Maine) — were hardly a surprise. But the amendment also forced the hands of some less likely Republican opponents, including Sens. Conrad Burns (Mont.), Pete Domenici (N.M.), Dick Lugar (Ind.) and Jim Talent (Mo.) — who have typically been more loyal to the GOP leadership."

The Washington Times (3/20, Fagan, 90K) reports Republicans "raised the issue of Social Security reform, and Democrats -- surprised that the issue won't go away -- pledged to make it a major campaign issue this year." Sen. Charles Schumer said, "It's going to be one of the big issues in 2006. They just gave us more fuel." The Times adds Schumer "pledged to tell voters that electing a Democratic Senate is the only way to 'make sure Social Security isn't privatized.'" But Democrats "aren't the only ones who see a campaign issue." Sen. DeMint said, "Those who voted against this amendment voted to raid Social Security. Now, every senator will be on record whether they oppose or support the raid."

MZM Founder Used Several Tools To Win Lucrative Federal Contracts. The Washington Post (3/20, D1, Babcock, Merle, 744K) reports the "recent corruption conviction of former congressman Randy 'Duke' Cunningham – and" MZM company owner Mitchell Wade's "recent guilty plea for bribing him -- focused attention on Congress's practice of 'earmarking,' or setting aside, federal money for favored interests." But a "review of the rise and fall of Wade and his company, based on interviews and MZM and government documents, shows that bribing Cunningham was only one part of Wade's formula for success. His firm, which had no prime federal contracts in fiscal 2002, collected more than $170 million over the next three years, thanks not just to Cunningham, but also to Wade's ability to take practices common among government contractors and push them to the limit." In a "tight labor market, he paid well above the going rate for workers with security clearances -- wages that left others in the government contracting industry puzzled." He "freely distributed title and rank," and he "aggressively used the 'revolving door' between the government's defense and intelligence bureaucracy and the private industry, attracting top talent and often sending' new hires back to work on contracts at their former agencies and to try to cultivate new business."

E-Mail Uses TSP's Name In Credit Card Scam. The Washington Post (3/20, D4, Barr, 744K) reports in its "Federal Diary" column, "Last week's scare at the Thrift Savings Plan is an opportunity to offer this reminder: Do not click on Web links in unsolicited e-mails. Someone, or some group, operating from somewhere, took advantage of the TSP's trusted name in a scam to rip off credit card and bank accounts. The scheme was built around a fictional TSP e-mail and a bogus TSP Web site. … TSP officials have no tally of how many people got the phony e-mail or how many responded and turned over personal financial information. Although it appears that many of the e-mails went to government employees and retirees, TSP officials said they have been contacted by persons who are not TSP enrollees. Some people did fall for the scheme, the officials said."

Krugman Dismisses Notion That Bush Is Big Spender. Paul Krugman writes in the New York Times (3/20, 1.19M) that "most of the conservatives now rushing to distance themselves from Mr. Bush still can't bring themselves to criticize his actual policies. Instead, they accuse him of policy sins — in particular, of being a big spender on domestic programs — that he has not, in fact, committed. … So where does the notion of Bush the big spender come from? In a direct sense it comes largely from Brian Riedl of the Heritage Foundation, who issued a report

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last fall alleging that government spending was out of control." Conservatives "fall for the Heritage spin" because it "suits their purposes. They need to repudiate George W. Bush, but they can't admit that when Mr. Bush made his key mistakes — starting an unnecessary war, and using dishonest numbers to justify tax cuts — they were cheering him on."

Hebert Criticizes Proposed Cuts In Cancer Detection Program. Bob Herbert writes in the New York Times (3/20, 1.19M), "The federal government has a national breast and cervical cancer early detection program, run by the Centers for Disease Control and Prevention. It provides screening and other important services to low-income women who do not have health insurance, or are underinsured. … At the moment there is only enough funding to screen one in five eligible women. A sensible policy position for the Bush administration would be to expand funding for the program so that it reached everyone who was eligible. It terms of overall federal spending, the result would be a net decrease. … So what did this president do? He proposed a cut in the program of $1.4 million (a minuscule amount when you're talking about the national budget), which would mean that 4,000 fewer women would have access to early detection. This makes no sense. In human terms, it is cruel. From a budget standpoint, it's self-defeating."

WPost Criticizes FCC Ruling On Scorsese Documentary. An editorial in the Washington Post (3/20, A14, 744K) criticizes the FCC's decision that the Martin Scorsese-produced documentary, "The Blues: Godfathers and Sons," which includes scenes in which "musicians and a producer used numerous profanities," did not satisfy the standard that it set in its decision on that "profanity in 'Saving Private Ryan,' that "'in rare contexts, language that is presumptively profane' will still be allowed 'where it is demonstrably essential to the nature of an artistic or educational work or essential to informing viewers on a matter of public importance.'" The Post continues, "How do they know better than, say, Mr. Scorsese? … This is a dangerous kind of line-drawing -- one better left to filmmakers, or even television executives, than government bureaucrats."

GOP Unity Said To Have "Fallen Apart." Newsweek (3/27, Wolffe, Bailey) reports that the Republican Party's unity has "fallen apart." Lawmakers "have lost faith in the president's political touch." GOP candidates "are uncertain how to pull themselves together in the eight months left before the elections. The toughest question: whether to run, as they have in the past, as W Republicans, or to airbrush the president out of their campaigns." Newsweek adds, "Bush's aides say that it would be suicidal for members to run away from the president. In strategy memos circulated on the Hill, Republican National Committee pollsters argue that disunity will only discourage the base from turning out to vote. But even the party's analysts concede that standing shoulder to shoulder with Bush may not always be the best way to win."

Newsweek Poll Finds Bush Approval Rating At 36%. Newsweek (3/27, Wolffe, Bailey) reports that President Bush "recorded his lowest approval rating in the NEWSWEEK Poll, with 36 percent; congressional Republicans trailed Democrats by 11 points (39 to 50 percent)."

OTHER NEWS:

Snow Says Americans Broadly Sharing In Economic Expansion. In an interview last week, Treasury Secretary John Snow told the Wall Street Journal (3/20, Ip, 2.11M) that "the widening gap between high-paid and low-paid Americans reflects a labor market efficiently rewarding more-productive people. But he insisted Americans are still broadly sharing in the economic expansion." Snow "said the administration intends to publicly challenge perceptions that typical workers and families haven't benefited much from the economic expansion. The extent to which the expansion has been broadly shared is 'the new sort of battle line in the political arena,' he said." The Journal adds, "Mr. Snow distributed a fact sheet that showed after-tax income per person, adjusted for inflation, rose 8.2% from January 2001, when George W. Bush took office as president, through January 2006. The sheet also showed that per-person net worth -- total assets minus debt -- rose 24%, unadjusted for inflation, from early 2001 to the end of 2005."

Slowing Housing Market Could Ripple Through Economy. USA Today (3/20, Hagenbaugh, Knox, 2.31M) reports that during the boom years, thousands of Americans sought work in the real estate industry. Now, as the housing market slows, "there will likely be a lot of stories of people who are bailing out of their real estate jobs and other professions related to housing -- appraisers, mortgage brokers and home construction workers -- and many not by choice. This could send shock waves through the job market and the economy." USA notes, "Almost four out of every 10 jobs created in the

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past four years were in housing-related fields. At the end of last year, a record 9.8% of U.S. workers were employed in the real estate industry, up from 8.2% a decade ago, according to Moody's Economy.com. Only the health care industry added more jobs. … Existing home sales fell in January for the fifth month in a row, and home builders Toll Bros. and KB Home say more buyers are canceling their orders. In all, home sales are expected to fall 8% from last year's record, according to a group of economists surveyed by USA TODAY in January."

Medicare Drug Plan Is Growing Issue In Congressional Races. Roll Call (3/20) reports that over the St. Patrick's Day recess, Republicans "are aggressively touting" the Medicare prescription drug program "while responding to criticism from Democrats — and, apparently, from many senior citizens — that the plan is too complex and offers too few benefits." And "building on Democratic efforts to stoke the issue back home, the Democratic Congressional Campaign Committee has unveiled an effort to boost challengers in key 2006 House contests by focusing on the drug benefit. The targeted districts so far include seats held by Republican Reps. Deborah Pryce (Ohio), Nancy Johnson (Conn.), Heather Wilson (N.M.), Steve Chabot (Ohio) and Rob Simmons (Conn.)." Democrats are "optimistic that they have a winning issue." Roll Call notes the Medicare program has become an issue in the FL22 race between Rep. Clay Shaw and Democrat Ron Klein, and the Pennsylvania and Rhode Island Senate races. In addition, "seven of the 10 Congressional districts with the highest percentage of Social Security beneficiaries are held by Republicans, as are two-thirds of the top 25 districts. Of those top seven, five are in Florida, making the Sunshine State ground zero in the fight over Social Security and the Medicare drug benefit." But "so far, Susan MacManus, a political scientist at the University of South Florida, hasn't yet seen frustration with the drug benefit translate directly into anger at Members of Congress."

McClellan's Role As Medicare Administrator Examined. In its "Power Player of the Week" segment, Fox News Sunday (3/19, Wallace) profiled Dr. Mark McClellan, Administrator for the Centers for Medicare and Medicaid Services and brother of the White House press secretary, Scott McClellan. As the Federal Government "prepares for the explosion of baby boomer retirees, McClellan is trying to get ahead of the explosion in costs." McClellan: "We're turning Medicare from a program that people have counted on to pay the bills when they get sick to a program that puts just as much emphasis on helping them stay well." Wallace: "Criticism has been intense that the drug benefit is too complicated, that there are gaps in coverage." McClellan: "Well, I'm very pleased that we're filling millions of prescriptions every day for people who, in many cases, had no coverage before or were paying a lot more for their drugs." Asked he feels "when you see your brother being savaged by the White House press corps," McClellan said, "When you're growing up in a family with politics in the blood, you know you can't take any of this personally."

Boehlert To Retire. Roll Call (3/20, Kurtz, Pershing) reports Republican Rep. Sherwood Boehlert, "the senior Republican in New York's Congressional delegation and a leading House moderate, announced Friday that he would not seek a 13th term." Boehlert's retirement in New York's 24th CD "creates the 18th Republican House vacancy heading into November; his district isn't in the top tier of competitive open GOP seats, but it isn't far down the list."

Sabo To Retires From Safe Democratic Seat In Minnesota. Roll Call (3/20, Duran) reports Democratic Rep. Martin Sabo "announced Saturday that he will retire at the end the 109th Congress instead of seeking a 15th term, as he previously said he would." Sabo's "announcement quickly set off a barrage of interest among potential candidates to succeed him in his heavily Democratic seat and on the Appropriations Committee." But "many Minnesota political observers believe that Sabo's chief of staff, Mike Erlandson, who surrendered the chairmanship of the state Democratic-Farmer-Labor Party last year, is the early frontrunner." Other "potential contenders, according to Minnesota Democratic sources, include: Peter McLauglin, who recently lost the Minneapolis mayoral contest; Sharon Sayles Belton, a former two-term Minneapolis mayor who lost to Mayor P.T. Rybak; state Sens. Scott Dibble and Satveer Chaudhury; state Rep. Keith Ellison; Minnesota House Minority Leader Margaret Anderson Kelliher; Julie Sabo, the Congressman's daughter and a former state Senator; Minneapolis City Council Majority Leader Scott Benson; and City Councilmembers Lisa Goodman and Gary Schiff." Republicans "are not expected to seriously contest the 5th district, which gave Sen. John Kerry (D-Mass.) 71 percent of the vote in the 2004 presidential election."

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Rice Wins Luntz's California Presidential Straw Poll. U.S. News and World Report (3/27, Bedard) reports in its "Washington Whispers" column that Secretary of State Condoleezza Rice won a 2008 presidential straw poll conducted by pollster Frank Luntz at the recent California GOP convention. Rice received 29%, "followed by Virginia Sen. George Allen at 26 percent and former New York Mayor Rudolph Giuliani at 16 percent. What's it mean? With Rice on the 2008 ticket, even as veep, California could go Republican."

Giuliani Said To Be Ready For Presidential Bid. U.S. News and World Report (3/27, Bedard) reports in its "Washington Whispers" column that while former New York City Mayor Rudy Giuliani has not talked about running for president in 2008, "there are hints he's ready. A key Republican senator tells us that Rudy's peeps are already at work in Florida. And we hear that he's making a trip to Iowa…to help raise money for Republican gubernatorial candidate Rep. Jim Nussle."

New York Races Seen As Indicators Of Potential Democratic Wave. In his Roll Call column (3/20), political analyst Stuart Rothenberg says New York could be "a sign of whether a big Democratic wave is developing." Democrats are "making a major effort to flip a handful of Congressional districts in the state, and they hope that strong Democratic showings at the top of the ticket, combined with a favorable national environment, could net them a seat or two in Congress." Sen. Hillary Rodham Clinton (D) "will coast to an easy re-election victory, and state Attorney General Eliot Spitzer is expected to win the Democratic nomination for governor and crush his eventual GOP opponent in November. Democrats also hope to make gains in the state Senate." New York political observers say Republicans "have a chance to swipe only a single statewide office — attorney general — and even there, Westchester County District Attorney Jeanine Pirro, once thought of as a rising star, is off to another unimpressive start." Rothenberg says the Democrats "best opportunity" is Rep. John Sweeney's 20th CD, where he faces Democratic attorney Kirsten Gillibrand. Democrats "should have their best shot at GOP Rep. Jim Walsh" in the 25th CD. Rep. Sherwood Boehlert's "retirement creates an open seat in the 24th district (Utica/Rome), while first-term Rep. Randy Kuhl drew an unimpressive 51 percent in the 29th district against a weak opponent last time, making him an obvious target this time." Democrats "think they have a shot against GOP Reps. Sue Kelly in the 19th district, Tom Reynolds in the 26th district and Vito Fossella in the 13th district." Yet while "this crop of Democratic opportunities is better than in the past, Democrats remain distinct underdogs in all of these seats."

WSJournal Says Republicans Behaving "Like Democrats." An editorial in the Wall Street Journal (3/20, 2.11M) says that "last week, while voting to raise the federal-debt ceiling to $8.96 trillion, Senators had a chance to terminate" the "annual Congressional pending raid." The Journal notes, "Every Democrat in the Senate joined with eight Republicans to kill an amendment by GOP Senators Jim DeMint and Mike Crapo that would have stopped the Bonnie and Clyde budgeting. The vote was 53-46, and on the list of those voting to continue the Social Security raid is every potential 2008 Democratic Presidential aspirant in the Senate, including Hillary Clinton, John Kerry and Joe Biden. Worse, the list also includes Republicans Conrad Burns (Montana), Jim Talent (Missouri) and Gordon Smith (Oregon), who are running for re-election this year. Apparently, these Senators want the money stored in a lock box, but only on the condition that they know how to pick the lock." Republicans "aren't learning from their low approval ratings. They think the way out of trouble is simply to spend more money -- that is, to behave like Democrats."

Former GOP White House Aide Raises Funds For Clinton. The Washington Post (3/20, A13, Kamen, 744K) reports in its "In the Loop" column on Jeffrey Volk, who once worked in the Nixon White House for speechwriter Patrick J. Buchanan and who helped draft Ronald Reagan 's economic platform in 1980. Volk was in New Orleans with his wife and daughter, a freshman at Tulane University, when Hurricane Katrina struck. Volk "called the White House for help," and he says, "there was no one to talk to." Volk then called the office of his US senator, Hillary Clinton, whose case worker could not send a plane to rescue any New Yorkers in the state, but did call "two or three times a day to make sure we were okay." Volk held a December fundraiser for Clinton and raised nearly $100,000 for her Senate campaign.

Massachusetts' Share Of Faith Based Grants Has Fallen. The Boston Globe (3/20, Helman)

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reports that Massachusetts' share of faith based grant funding from Washington has fallen by more than a third over the past three years, according to federal figures. Religious groups in the state "took in $19.6 million in federal grants under the program last year, down from $29.9 million in 2003, according to figures released this month by the White House Office of Faith-Based and Community Initiatives. … The 34 percent reduction for Massachusetts from 2003 to 2005, which came as funding to faith-based groups nationwide increased, occurred largely during the tenure of Governor Mitt Romney, a Republican who has touted his ties in Washington, D.C., as a boon for Massachusetts." The Globe adds, "The decline in funding to Massachusetts has come as federal funding nationally to domestic faith-based programs has risen from $1.2 billion in 2003 to $1.6 billion in 2005, according to the Office of Faith-Based and Community Initiatives."

Construction Set To Begin On Islamic School Near Annapolis. Near Annapolis, construction has begun on a campus that project directors say will house and Islamic high school, television station, athletic facilities and a college. The Washington Post (3/20, B2, De Vise, 744K) reports, "Mohammad Arafa, executive director of the Islamic Society of Annapolis, said the Mekkah Learning Center will be the first Islamic high school in the region. Work will progress on the $8 million project only as fast as donations permit; religious law forbids the society to take out a loan with interest."

Hamas Holds Key Ministries In Proposed Cabinet. The AP (3/20, Barzak) reports, "Hamas presented a proposed government Sunday, giving itself key ministries after failing to persuade more moderate parties to join in a coalition that could have softened its hard-line image and prevented likely economic sanctions." PM Ismail Haniyeh's list includes one woman and one Christian. Hamas leader Mahmoud Zahar would be the new foreign minister. USA Today (3/20, Gutman, 2.31M) says the new cabinet "is dominated by veteran members of the militant Islamic group." The Financial Times (3/20, Morris) runs a similar report under the headline "Hamas Likely To Take Key Cabinet Posts," while the Christian Science Monitor (3/20, Prusher, 61K) titled its story "Key Hamas Cabinet Posts Go To Hard-liners." The New York Times (3/20, Myre, 1.19M), Washington Times (3/20, Mitnick, 90K) and Washington Post (3/20, A8, Wilson, 744K) run similar reports.

In a related analysis piece, the New York Times (3/20, Erlanger, 1.19M) reports, "As Hamas completes its cabinet, there is a sense that the landscape has changed for some time to come. The Hamas victory is not just a little local difficulty. Hamas is the Palestinian part of the Muslim Brotherhood and the first to win an election; its victory has enormous resonance for radical Islam. It is a defeat for secular nationalism, Nasserite corporatism and for Fatah, the chosen partner of Washington and Israel."

US Helps Cement Gaza-Crossing Compromise. The AP (3/20, Barzak) reports, "With Palestinians facing severe shortages of bread, milk and other foods in Gaza, US officials called an emergency meeting Sunday and brokered a compromise with Israeli and Palestinian negotiators in a two-month-old border standoff. Ambassador Richard Jones said cargo traffic might start flowing as soon as Monday at the [Karni] crossing, and a Palestinian official said a second crossing would be discussed at meetings Monday." After meeting with negotiators from both sides on Sunday, Jones "said later there was an agreement to open another crossing, Kerem Shalom at the convergence of Gaza, Israel and Egypt."

UAE Gave Money To Families Of Palestinian Militants. The New York Times (3/20, Preston, 1.19M) reports, "In the last four years the United Arab Emirates has provided substantial financial support, through its Red Crescent Society, to families of Palestinians, militants as well as civilians, who have been wounded or killed by Israeli forces, according to Red Crescent documents." In 2002 and 2003, the United Arab Emirates Red Crescent Society, "a quasi-governmental organization, made donations to Palestinian charities that included social groups associated with Hamas, the radical Islamic organization that won Palestinian parliamentary elections and has long been designated a terrorist organization by the United States." The secretary general of the Emirates Red Crescent, Sanaa Darwish al-Kitbe, "said the goal of its Palestinian programs was to 'influence the negative atmosphere' to build peace."

Egyptian Pop Culture Increasingly Anti-American. The Washington Post (3/20, C1, Williams, 744K) reports from Cairo, "When Secretary of State Condoleezza Rice visited this city last month, Egyptians had an unusual choice: watch her on TV as she expounded on

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issues of war and peace in the Middle East, or go to a neighborhood movie theater and see her portrayed by a look-alike actress belly-dancing and placed in 'adult' situations." The film "is 'The Night Baghdad Fell,' which depicts Egyptian obsessions with war, sex and the United States. Wildly anti-American, it has done a brisk business for two months, a long screen life for Egyptian-made films. In 'Night,' Egyptians fret about an American invasion of Egypt and the potential destruction of their capital. Americans are bullies, rapists and mindless killers. By the way, 'The Night Baghdad Fell' is a comedy." The film, adds the Post, "is only the latest bit of Egyptian pop culture to display deep unease about Americans."

Senators Urge Mexico To Crack Down On Border Tunnels. The Washington Times (3/20, Seper, 90K) reports, "A bipartisan group of US senators" has sent "letters to Mexican President Vicente Fox and members of the Mexican Congress" urging the enactment of "legislation to crack down" on those that finance or construct US-Mexico border tunnels. The letter was signed by Dianne Feinstein, "Republican Sens. Pete V. Domenici of New Mexico, Conrad Burns of Montana, Norm Coleman of Minnesota and Jim Talent of Missouri, and Democratic Sens. Barbara Boxer of California and Maria Cantwell of Washington. The Department of Homeland Security has said tunnels typically have been built to smuggle drugs, but have quickly transitioned into passages for smuggling illegal aliens. The senators said they were concerned they could also be used to smuggle weapons and terrorists into the United States."

Opposition Charges Belarus Election Was Fraudulent. The Financial Times (3/20, Wagstyl, Buckley) reports, "Up to 5,000 opposition supporters braved blizzards and threats of violence from the Belarus authorities to protest on Sunday in central Minsk against what they called a fraudulent election victory by President Alexander Lukashenko." Initial returns "showed Mr Lukashenko, denounced by the US as Europe's last dictator, winning more than 90 per cent of the vote." The Los Angeles Times (3/20, Murphy, 958K), Washington Post (3/20, A8, Finn, 744K), Wall Street Journal/AP (3/20) and New York Times (3/20, Myers, Chivers, 1.19M) also report the story. A second New York Times story (3/20, Myers), titled "Incumbent Remains Popular In Heartland's Rural Villages," in which it says "villages…offer a window into Mr. Lukashenko's popular support."

Matthew Kaminski, editorial page editor of The Wall Street Journal Europe, writes in Wall Street Journal (3/20, 2.11M), "In the club of democracy's enemies, Mr. Lukashenko is an elder statesman, a Hugo Chavez of the steppes. He is a clever populist who cultivates other pariahs and holds an old Bolshevik's contempt for opposition and political compromise." He "is widely known, thanks to Condi Rice, as 'Europe's last dictator,' though that nickname sells Vladimir Putin and other recent arrivals short." Lukashenko, "like a Milosevic or Saddam, wants nothing more than for the world to resign itself to a few more decades of him. A tyrant's best ally is fatalism."

Serbs Searching For War Criminals Mladic, Karadzic. NBC Nightly News (3/19, story 5, 2:25, Maceda, 9.87M) reported, "The death of Slobodan Milosevic, the so-called 'Butcher of the Balkans,' has only increased pressure on Serbia to hand over his two most infamous protégés." UN Chief Prosecutor Carla Del Ponte: "Now, more than ever, I expect Serbia to finally arrest and transfer Radko Mladic and Radovan Karadzic to The Hague as soon as possible." Maceda: "But where are Karadzic, the former Bosnian Serb leader, and his military commander, Mladic, who orchestrated the siege of Sarajevo in which 12,000 civilians died, and later, the massacre of some 8,000 men and boys in Srebrenica, both indicted on war crimes, including genocide, and both with $5 million bounties on their heads? Karadzic is thought to be hiding in the mountains of Montenegro, but Mladic has been seen in or near Belgrade, protected by just a handful of loyal bodyguards." The Serbian government "says it's hunting for Mladic and will arrest him, if only to keep talks alive that could lead to Serbia's joining Europe, a key goal."

Calm Returns To Paris After Massive Labor Riot. NBC Nightly News (3/19, story 4, 0:30, Kotb, 9.87M) reported, "In Paris now today, relative calm after a night of chaos: Police arrested more than 160 people Saturday as demonstrators clashed with police to protest a law that would make it easier for employers to fire younger workers without cause. Today, the nation's powerful labor unions threatened to stage a potentially crippling general strike if the government doesn't withdraw the legislation by tomorrow evening." USA Today (3/20, Sanchez, Stinson, 2.31M) says "crowds estimated by the French Interior Ministry at more than 500,000 turned out in about 150 cities Saturday in the largest of six weeks of anti-government protests." The New York

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Times (3/20, Kanter, 1.19M) and the Wall Street Journal (3/20, Higgins, 2.11M), among other sources, also report on the unrest. USA Today (3/20, Stinson, 2.31M) also runs an analysis piece titled "Jobs Law Means Little In Riot-torn Suburb."

Energy To Top Agenda As Putin Visits China. Energy will be high on the agenda as Russian President Vladimir Putin visits Beijing tomorrow. The Wall Street Journal (3/20, White, Oster, 2.11M) reports that Putin's hosts "are likely to convey growing frustration that Russia hasn't provided as much energy assistance as China has wanted. Beijing is expected to push the Russian leader to commit to specific plans for building oil and gas pipelines to China." The Journal adds, "This week's discussions are expected to center on reviving talks to build a spur that would carry oil directly to China from a $7 billion pipeline Russia plans to build across east Siberia to the Pacific, as well as a stalled gas pipeline."

Beijing Won't Intervene In Talks Over Iron Ore. China's top economic planner said the government won't intervene in continuing negotiations between Chinese steelmakers and foreign mining companies that supply them with iron ore. The Wall Street Journal (3/20, Blumenstein, 2.11M) reports that Ma Kai, head of the National Development and Reform Commission, told a group of US newspaper editors, "The government will not interfere," adding, "This price will be decided on the basis of market and enterprise negotiations."

Latin American, Caribbean Economies Expected To Grow In 2006. The economies of Latin America and the Caribbean are likely to expand 4.3% in 2006, according to the head of a UN regional research group. The Wall Street Journal (3/20, 2.11M) reports that Jose Luis Machinea, head of the Economic Commission for Latin America and the Caribbean "said the forecast is based on expectations that Brazil and Mexico, the region's two largest economies, may expand slightly faster than expected. Furthermore, Chile also may perform better than the 5.5% forecast of Eclac, Mr. Machinea said. For now, however, the group isn't changing its estimate."

Consumers In EU, Japan Showing Willingness To Spend Again. The Wall Street Journal (3/20, Whitehouse, Sapsford, 2.11M) reports that "companies and consumers in the euro zone and Japan, the world's second- and third-largest economies after the U.S., have started spending again -- or appear poised to do so -- for the first time in years. The new climate has prompted moves by central bankers in both places to push up interest rates to curb inflation, a policy that could weigh on stock and bond prices everywhere by slowing the flow of cash around the globe." The shift means "the world might be less dependent on the American consumer, whose willingness to borrow and spend has been a primary driver of world growth for the past five years. If U.S. economic growth starts to taper off later this year, as some economists predict, Japanese and Europeans might help pick up the slack, a global rebalancing act that many had hoped for but few had thought probable."

EU Criticizes Pace Of Turkish Reforms. The European Union is criticizing the Turkish government over the pace of its reforms. The Washington Times (3/20, Borowiec, 90K) reports, "Signals from Ankara indicate the problem is likely to surface again as the EU presses Turkey for changes in the treatment of the Kurdish minority and the role of the military." The Times adds, "Tension remained high yesterday in southeastern Turkey, where security forces were reinforced as Kurds prepared to celebrate the Newroz spring holiday tomorrow. Authorities in Diyarbakir, one of the centers of Kurdish unrest, banned civil servants from taking part in the festivities, warning violators of disciplinary action. Newroz is not an official holiday in Turkey. … The EU wants Turkey, a membership candidate, to eliminate all such restrictions."

East African Drought Forces Changes In Cultural Traditions. East Africa's drought is pushing more and more Africans into cities, according to a front page story in the Washington Post (3/20, A1, Wax, 744K). The movement is "putting pressure on already strained resources and changing cultural practices from diet to marriage traditions. The Post adds, "The men of marrying age in East Africa are calling the current dry season 'the drought that killed the dowry.'"

Private Water Management Efforts Losing Support. The New York Times (3/20, Malkin, 1.19M) reports that support is eroding for private water management to bring water to the world's poor. Instead, many "want to return to relying on the local public utilities that still supply 90 percent of the water to those households that have it. There is a 'big-time shift' in tone, said David Boys, a water policy

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expert with the Public Services International labor federation. Mr. Boys is a member of an advisory panel appointed by United Nations secretary general, Kofi Annan, that presented its recommendations at the forum, beginning with a call to strengthen local public utilities."

Annan Makes Case For New UN Human Rights Council. In the Wall Street Journal (3/20, 2.11M), UN Secretary General Kofi Annan argues in favor of the new UN Human Rights Council which will be elected on May 9. Annan writes that there is "every reason to hope that the new Council will combine the best features of the old system with some much-needed changes. All those who want it to fulfill this promise now have seven weeks to make it happen. Let no one who cares about human rights remain on the sidelines of this struggle."

Liberian President Says She Can Offer Bush A Success Story. Fred Hiatt writes in the Washington Post (3/20, A15, 744K) that when Liberia's new President Ellen Johnson-Sirleaf was asked during "how she will plead her case for aid to Bush, given draining U.S. commitments to Iraq and Afghanistan, she replies, 'For the reason you said -- he needs a success. Billions are being spent on Iraq, billions are being spent on Afghanistan -- and it will take a fraction of those billions to make Liberia a success story. I think he needs one, and we're going to give him an opportunity to have one.'" Hiatt adds, "When her hour at The Post is over, she waves off the usual pleasantries and asks: What will emerge from this interview? What will Liberia get out of it? … Well, Madam President, I'm afraid this column is the best I can do. I hope you get more out of President Bush tomorrow."

NYTimes Urges US To Aid UN Efforts In Darfur. An editorial in the New York Times (3/20, 1.19M) says that "the Arab militias financed by the government of Sudan to 'cleanse' Darfur of blacks are moving across the border into neighboring Chad." The UN "has described the carnage in Darfur as the world's biggest humanitarian crisis but continues to prove itself completely useless at doing anything to stop it. … That leaves the United States, where the Bush administration has made a few strides. Deputy Secretary of State Robert Zoellick appears to be close to getting the United Nations to supplement, if not replace, the woefully ineffective African Union peacekeeping force in the region with United Nations peacekeepers. The United States should also commit to providing specialized reconnaissance and air support for the United Nations force."

WSJournal Criticizes Chinese Officials' Anti-Democracy Tirade. An editorial in the Wall Street Journal (3/20, 2.11M) says, "At the Asia Society's annual corporate conference in Mumbai yesterday, we asked [China's Commerce Secretary Bo Xilai] what the Middle Kingdom might learn from India's experience, particularly as the Chinese economy becomes more integrated with the rest of the world. To our surprise, and to the shock of the audience -- save the mainland rent-a-clap crowd who were along to lend a literal hand -- Mr. Bo embarked on a tirade against democratic freedoms." The Journal adds that "despite prolonged contact with open societies, Mr. Bo still doesn't seem to understand the secret of their success. Near the end of his huff, Mr. Bo backtracked and claimed that Beijing is 'listening' to the voices of its people, and that its citizens are gradually gaining more democratic freedoms. If only it were so."

Abdullah Praised As "Distinguished Statesman." S. Rob Sobhani, president of Caspian Energy Consulting, writes in the Washington Times (3/20, 90K) that Saudi Arabia remained "surprisingly silent" as the rest of the Muslim world erupted in violence over the publication of cartoons of the prophet Mohammad. Saudi Arabia's King Abdullah "is a pious and popular leader of the most significant Muslim country in the world, and he has reset the tone and tenure of political life in Saudi Arabia by emphasizing restraint and tolerance." Sobhani adds, "Under the leadership of King Abdullah, Saudi Arabia is undergoing a political and social reformation. It is incumbent upon the United States to work with this distinguished statesman to ensure that his vision becomes a permanent feature of this strategic, yet combustible, region."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"Iraq's Factions Agree To Form Security Council."
"Justices May Further Restrict Domestic Violence testimony."
"Playing Out Of Pocket."
"Chicago Schools Offer L.A.A Cautionary Tale."

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"Separation Of Mosque, State Wanes In Indonesia."
"Why May The Chickens Hit The Road?"

USA Today:
"Deaths Fall For U.S., Rise For Iraqis."
"To Head Off Allergies, Expose Your Kids To Pets And Dirt Early. Really."
"Lawmakers Get Out Of The House."

New York Times:
"On Anniversary, Bush And Cheney See Iraq Success."
"Plight Deepens For Black Men, Studies Warn."
"Rumor, Fear And Fatigue Hinder Final Push To End Polio."
"Behind Louisiana Aid Package, A Change Of Heart By One Man."
"Ayatollahs Aside, Iranians Jump For Joy At Spring."
"Cinderella Now Lingers Longer At The N.C.A.A.'s March Dance."

Washington Post:
"Bush Still Upbeat On Outcome Of Iraq."
"George Mason Knocks Out The Champion."
"Dowries Running Dry In Drought-Stricken East Africa."
"GOP Struggles To Define Its Message For 2006 Elections."
"Multiple Layers Of Contractors Drive Up Cost Of Katrina Cleanup."
"Vision For Transit-Friendly Tysons May Slam The Door On Dealer Row."

Washington Times:
"Bush Vows Strategy Will Win In Iraq."
"George Mason Looks Sweet."
"New Orleans Slowly Back To Business."
"Virginia Mulls Bad-Driver Fees To Save Budget."
"Afghan Man Faces Death For Christian Conversion."
"Hamas Party Dominates Palestinian Cabinet Picks."

Detroit Free Press:
"Granholm Agrees To Abortion Regulation."
"Big Features, Small Cars."
"2 Empty Sites Bedevil County."

Atlanta Journal-Constitution:
"America's Disease Sentinels Overtaxed."
"7 Days, But It's Weeks Of Work."
"Your Space On MySpace Isn't So Private."
"Bright Idea Can Be Bad Sign, 2 Cities Say."

Dallas Morning News:
"Too Much, Too Fast."
"Across Texas, Neighborhoods Feeling Torn Up Over Teardowns."

Houston Chronicle:
"Yates Case Rekindles Emotions."
"Deadly Way Stations."
"Bush, Cheney Cite Gains, Deny Claims Of Civil War."
"Investigation Has DeLay Stuck in Legal Limbo."
"Injured Firefighter Recalls Raging Blaze, A Promise Kept."

Story Lineup From Last Night's Network News:
ABC: Bush-Iraq Progress; Iraq War Casualties; Marines-Civilian Deaths; Shiite Pilgrimage; Iraq Anniversary; College War Reporters; IL6 Race-Iraq Veteran; ABC Iraqi Reporter.
CBS: Preempted By College Basketball.
NBC: Iraq-Allawi Interview; Marines-Civilian Deaths; Bush-Iraq Progress; France-Employment Law Protests; Serbian War Criminals; Australia-Cyclone; Colleges-529 Plans; Texas-Flooding; Gulf Coast Churches; FEMA-Payment Errors; Cuba-World Baseball Classic; Pet Hospital.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Iraq War Anniversary; Midwest Snowstorm.
CBS: Iraq War Anniversary; Australia-Cyclone; Midwest Snow Storm; Miami-Pirate Radio Station; Yates-New Trial; NCAA Tournament;
NPR: Allawi-Iraq Civil War; Iraq War Anniversary; Belarus-Election; France-Employment Reform Protests; Texas-Floods; Midwest Snowstorm.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Meets with NATO Secretary General Jaap De Hoop Scheffer, Oval Office, the White House; makes remarks on the Global War on Terror, Renaissance Cleveland Hotel, Cleveland, Ohio.

VICE PRESIDENT CHENEY —Delivers remarks at a luncheon for congressional Candidate Chuck Blasdel, Spread Eagle Tavern & Inn, 10150 Historic Plymouth St., Hanoverton, Ohio; delivers remarks at a reception for senatorial candidate Tom Kean. The Washington Square Conference Center, 520 Broad St., Newark, N.J.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

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Other: CITY SCHOOLS _ The Council of the Great City Schools holds its Annual Legislative and Policy Conference. Highlights: 8:30 a.m. Secretary of Education Margaret Spellings discusses how urban schools are making progress under No Child Left Behind and she believes that progress to the next level by advancing the American Competitiveness Initiative. Location: Washington Marriott, 1221 22nd St. NW.

FIREFIGHTERS CONFERENCE _ The International Association of Firefighters holds a legislative conference. Topics to include homeland security, first responder issues, mid-tern elections and challenges facing firefighters. Highlights: 8:45 a.m. Remarks by Harold Schaitberger, general president, IAFF. 9:15 a.m. Remarks by Senator Joe Biden, D-Del. 10 a.m. Remarks by Senator Chuck Hagel, R-NE. 10:45 a.m. Remarks by Ken Mehlman, chairman, Republican National Committee. 11:20 a.m. Remarks by Homeland Security Secretary Michael Chertoff. 2:35 p.m. Remarks by Howard Dean, chairman, Democratic National Committee. 3:45 p.m. Remarks by Andrew Card, Chief of Staff to President Bush. Location: Hyatt Regency-Washington on Capitol Hill, 400 New Jersey Ave. NW.

SECURITY ISSUES _ American University's Washington College of Law hosts EMININT 2006 (Emerging Issues in National and International Security) to discuss emerging issues in national and international security. Highlights: 9:15 a.m. Session on ``Petro-Security in the Post-9/11 World," with former CIA Director James Woolsey, others. Location: Room 603, American University's Washington College of Law, 4801 Massachusetts Ave. NW.

IRAQ WAR-MARCH _ The National Campaign for Nonviolent Resistance and Military Families Speak Out holds a march from near the Vietnam War Memorial to the Pentagon to mark the three year anniversary of the war in Iraq and call for an end to the war. Highlights: 9 a.m. Rally. Location: Daniel French Drive, near the Lincoln Memorial. Followed by a march across the Arlington Memorial Bridge to the Pentagon. With Stephen Cleghorn, member of Military Families Speak Out from Reynoldsville, PA, whose stepson received a Bronze Star; and Laura Costas of Silver Spring, MD, whose brother served 14 months in the Army Reserves in Iraq in 2003 - 2004 under stop-loss orders. At the Pentagon, organizers plan a ceremony to honor the fallen, and a ``die-in." A delegation will attempt to deliver a coffin, representing the dead killed in Iraq, to Secretary of War Donald Rumsfeld. Pentagon, Arlington, VA.

HAWLEY-AIRPORTS _ 9 a.m. Transportation Security Administration Assistant Secretary Kip Hawley delivers remarks at the Airport Legislative Alliance Spring Washington Conference. Location: L'Enfant Plaza Hotel, 480 L'Enfant Plaza SW.

MOUSSAOUI TRIAL _ 9:30 a.m. Trial of al-Qaida conspirator Zacarias Moussaoui is scheduled to resume at the federal courthouse in Alexandria, Virginia. Location: U.S. Courthouse, 401 Courthouse Square, Alexandria, VA.

IMMIGRANTS-POPULATION _ 10 a.m. The Immigration group FAIR holds a news conference to release a new study, ``U.S. Population Projections to 2050," on the impact of current and proposed immigration policies on U.S. population growth. FAIR says that without significant reductions in overall levels of immigration, U.S. population will climb to more than 450 million by mid-century, while increases in immigration currently under consideration in the Senate will add 200 million people to the U.S. population by 2050. Location: FAIR's national headquarters, 1666 Connecticut Avenue, N.W., Suite 400.

DEMOCRATS-IRAQ WAR _ 11 a.m. Sen. Joe Biden, D-Del., joins John Podesta, president and CEO of the Center for American Progress, to mark the third anniversary of the War in Iraq. The Center for American Progress will release a report on ``Progress in Iraq: 2006 1st Quarter Report Card" detailing what it describdes as ``the dangerously incompetent Administration policies that are failing to make 2006 the year of transition to Iraqi sovereignty that Congress called for last year." Location: Room S-211, Capitol.

CHERTOFF-MARITIME SECURITY _ 11:45 p.m. Homeland Security Secretary Michael Chertoff Michael Chertoff speaks on ``Charting a Path Forward" following a Heritage Foundation media roundtable, ``Maritime Security: Real Issues, Real Answers." Location: Heritage Foundation, 214 Massachusetts Ave. NE.

BIRD FLU-CABINET _ 1 p.m. Agriculture Secretary Mike Johanns, Secretary of Health & Human Services, Mike Leavitt, and Secretary of the Interior, Gale Norton, hold a news conference to discuss preparations for avian influenza in the U.S. Location: Jefferson Auditorium, South Building, Wing 5 Entrance, U.S. Department of Agriculture, 1400 Independence Ave., SW.

GUANTANAMO DETAINEES _ 1:30 p.m. - 5:30 p.m. George Washington University Law Center and the Center for Consitutional Rights host a legal forum featuring testimony from former Guantanamo detainees about their detention and

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treatment. The forum will also include remarks from attorneys who represented detainees, military personnel, and policymakers. Location: GWU Law School, Jacob Burns Moot Court Room, 2000 G St. NW.

LIBERIA _ 2:15 p.m. - 3:45 p.m. The President of the Republic of Liberia, Ellen Johnson-Sirleaf, will discuss ``Liberia's Progress, Potential, and Challenges for the Future'' in a conversation moderated by Center for Global Development senior fellow Steve Radelet. Location: Peter G. Peterson Conference Center, Institute of International Economics, 1750 Massachusetts Ave. NW.

SCIENCE-ECONOMY _ 2:30 p.m. - 4:30 p.m. The American Enterprise Institute sponsors a discussion, ``Scientific Talent and U.S. Economic Leadership.'' Participants are Richard B. Freeman, Harvard University; Steven J. Davis, AEI; David E. Weinstein, Columbia University; and Kevin A. Hassett, AEI. Location: Wohlstetter Conference Center, 12th floor, AEI, 1150 17th St. NW.

NATO-RIGA SUMMIT _ 3 p.m. NATO Secretary General Jaap De Hoop Scheffer addresses a National Press Club afternoon newsmaker. Topic: ``NATO's Operations, Transformation and the Riga Summit.'' Location: National Press Club.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: MONDAY, MARCH 20, 2006 7:45 AM EST

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TERRORISM NEWS:

Administration Lawyers Suggested Warrantless FBI Searches. U.S. News and World Report (3/27, Ragavan) reports that following the 9/11 attacks, Bush Administration lawyers discussed with senior FBI officials the possibility of using the same legal authority used to conduct the warrantless eavesdropping approved by President Bush to "conduct physical searches of homes and businesses of terrorism suspects -- also without court approval." US News adds that "in a little-noticed white paper submitted by Attorney General Alberto Gonzales to Congress on January 19 justifying the legality of the NSA eavesdropping, Justice Department lawyers made a tacit case that President Bush also has the inherent authority to order such physical searches. In order to fulfill his duties as commander in chief, the 42-page white paper says, 'a consistent understanding has developed that the president has inherent constitutional authority to conduct warrantless searches and surveillance within the United States for foreign intelligence purposes.'"

Mueller "Troubled By Domestic Spying Program. U.S. News and World Report (3/27, Ragavan) reports that government officials say FBI Director Robert Mueller and then Deputy Attorney General James Comey, "who also questioned the NSA spying program, both believed that while it was a close call legally, the president did have authority to conduct electronic surveillance of terrorism suspects in the United States without court approval; both men, however, raised grave concerns about the possible use of any information obtained from any warrantless surveillance in a court of law." US News adds, "White House lawyers, in particular, Vice President Cheney's counsel David Addington (who is now Cheney's chief of staff), pressed Mueller to use information from the NSA program in court cases, without disclosing the origin of the information, and told Mueller to be prepared to drop prosecutions if judges demanded to know the sourcing, according to several government officials. Mueller, backed by Comey, resisted the administration's efforts." US News also reports, "Sources say Mueller and his general counsel, Valerie Caproni, continue to remain troubled by the domestic spying program."

Cheney Says NSA Domestic Surveillance Program Has Been "Major Success." On CBS' Face the Nation (3/19, Schieffer), Vice President Cheney said the Administration is "working with" Congress "to give them broad oversight with respect to" the National Security Agency's domestic surveillance program. Cheney added, "It's a very important program. It is totally in compliance with the laws and Constitution of the United States. It's been a major success in preventing attacks against the United States. And it needs to be preserved and protected."

Durbin Won't Rule Out Bush Impeachment. On Fox News Sunday (3/19), host Chris Wallace asked Sen. Richard Durbin if he ruled out "impeachment of the president if the Democrats regain control of Congress." Durbin said, "I don't believe that that is even a valuable discussion at this point. But I do believe it's valuable that Sen. Feingold is moving us forward to finally be a catalyst to have the kind of hearings and the kind of deliberations as to what lies behind this warrantless wiretap situation, how this President can avoid the law, which is very clear on the subject." Asked if he was not ruling out impeachment, Durbin said, "I can't rule anything out until the investigation is complete. I don't want to prejudge it. But if this President or any president violates the law, he has to be held accountable, and that accountability, of course, is in the hands of the United States House of Representative and the Senate." USA Today (3/20, 2.31M) runs a brief report on Durbin's comments, including his remark "I don't want to prejudge it," referring to Bush's possible impeachment. The AP (3/20) notes Durbin "said he so far has not heard a valid legal justification for the spy program that was put in place after the Sept. 11, 2001, terror attacks."

On Fox News Sunday's roundtable discussion (3/19), Brit Hume said Durbin's remarks "illustrates as clearly as anything yet has, the fact that if the Democrats get control of one House or the other -- they're more likely to get the House, I assume, and that's, of course, where impeachments occur -- that the impeachment will be on the agenda. The Republicans are claiming this. Senator Durbin, while not ruling it out, as other Democrats have -- and he is, after all, the assistant leader, has come pretty close to confirming that, indeed, it is there." NPR's Mara Liasson said, "Most of the Democrats I talked to this week felt that Feingold's effort was terribly unhelpful, to put it mildly, that he changed the subject from Republicans being on the defensive to Democrats' effort to get the President. And I was actually surprised, too, that Durbin left the door open as much as he did." The Washington Times (3/20, Bellantoni, 90K) makes a similar point, reporting "congressional Democrats say…Feingold's move… is a distraction from their quest to take back Congress in the fall." Rep. James P. Moran, Virginia Democrat, told The Washington Times, "Every time we get in a great strategic position, we manage to energize the Republican base. … Everything is going well for the Democrats and President Bush is tanking in the polls, and then Russ Feingold comes up with the idea of censure, which

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is going to go nowhere and is not just quixotic but is somewhat self-serving."

Likewise, Morton Kondracke writes in Roll Call (3/20), "The best thing that can be said about the call by…Feingold (D-Wis.) to censure President Bush is that practically none of his colleagues is backing him up." They "don't want to distract attention from the main Democratic assaults on Bush and the GOP -- that he's 'incompetent' and that Republicans are in 'disarray.'" Feingold's move "reinforces the party's image as 'McGovernite' -- weak on national security -- at a time when Bush's inept Hurricane Katrina response and the Dubai ports disaster has given Democrats an opening to knock Bush on homeland security."

Also on Fox News Sunday's roundtable discussion (3/19), the Weekly Standard's Bill Kristol said, "I think Feingold is smarter than the Democratic leadership in the House and the Senate, and I think he deserves some credit for taking a principled stand. And I honestly believe that, in fact, he's winning this debate right now."

Murtha Declines To Endorse Feingold Resolution. On NBC's Meet the Press (3/19, Russert), Democratic Rep. John Murtha declined to offer support for Sen. Russ Feingold's resolution to censure Bush for the National Security Agency domestic intelligence program, saying, "I had a briefing the other day, I'm satisfied the safeguards that are in place are significant, but we have to look at whether it's illegal or not. I'm hesitant to say the President ought to be censured before a committee looks at it and really investigates it and comes up with some real conclusions."

Administration Document Outlines Agency Roles In War On Terror. U.S. News and World Report (3/27, Robinson), "The Bush administration released a key document last week, following on the signing of a classified directive that gives new orders to government agencies about their roles in the war on terrorism. … The National Security Presidential Directive gives new marching orders to each agency for its role in the war on terrorism. … A major goal of the new NSPD is to resolve discrepancies among previous presidential directives and chronic conflicts among agencies with overlapping responsibilities."

9th Circuit Orders Sri Lankan Freed From Border Jail. The AP (3/20, Prengaman) reports, "After more than four years in a U.S. detention center, Ahilan Nadarajah will soon gain the freedom he sought when he fled Sri Lanka and the government forces there that he says repeatedly jailed and tortured him." The AP continues, 'He had reached the United States in October 2001 only to be detained on the same accusations that almost got him killed in his home country: He was suspected of being a member of the Liberation Tigers of Tamil Eelam, a separatist group listed as a terrorist organization by the U.S. State Department." The AP adds, "Nadarajah denies the claims, and immigration judges have twice granted him asylum. But the federal government refused to release him. … The latest order came Friday from the 9th U.S. Circuit Court of Appeals, telling the U.S. government it was violating federal law by continuing to hold him even though he wasn't criminally charged and couldn't be deported in the foreseeable future. His lawyers said they now expect him to be freed in a few days."

High Court To Hear Arguments On Military Tribunals. U.S. News and World Report (3/27, Halloran) reports that the Supreme Court is set to hear arguments next week over the legality of US military tribunals for foreigners designated as enemy combatants. The High Court "will finally have to weigh in on some of the most contentious and polarizing issues in the post-9/11 world: How should the United States treat non-American prisoners whose allegiances lie not with a country but an ideology? Does the president have the power to unilaterally decide not only which prisoners qualify as enemy combatants but what rights they have and under what justice system they should be tried? And, at the heart of it all, should past rules of war apply, or does the war on terrorism…require its own special standards?"

NYTimes Urges High Court To Rule In Favor Of Guantanamo Detainee. The New York Times (3/20, 1.19M) editorializes, "Since the Republican majority has decided to allow President Bush to usurp Congress's role in matters of national security, the battle to save the constitutional balance of powers moves to the judiciary. A critical test of judicial independence will come this month, when the Supreme Court hears arguments in a case that has become a focus of Mr. Bush's imperial vision of the presidency." Salim Ahmed Hamdan, "accused of having been a bodyguard and driver for Osama bin Laden in Afghanistan," has been "detained since 2002 in Guantánamo Bay. He filed suit to challenge the legitimacy of the military commission that upheld his designation as an 'unlawful enemy combatant.'" Hamdan "argued, rightly, that the commissions are not legitimate because prisoners are routinely barred from seeing evidence, much less confronting their accusers or having access to real legal representation. But his case has now become a much larger battle over the principle of habeas corpus, which is embedded in the Constitution and says that a prisoner cannot be denied the right to challenge his detention."

Army IG Exonerates Gitmo Commandant. Time (3/27, Zagorin, Donnelly) reports, "Did Major General Geoffrey Miller -- commandant at Guantanamo Bay and a top adviser on interrogations at Abu Ghraib -- do wrong? No, says a new report by Lieut. General Stanley Green, the Army Inspector General (IG), that TIME obtained last week."

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According to Time, "A Pentagon panel recommended last summer that Miller be reprimanded for poor oversight of a high-value prisoner at Gitmo." Time adds, "Miller's exoneration may only inflame his critics. At a Senate Armed Services Committee hearing last week, chairman John Warner pointedly suggested to one of Miller's superiors that he 'go back over this entire matter,' warning that Miller will be recalled before the panel to explain himself. Sources close to the powerful committee say that anger at Miller has escalated sharply since he invoked his right to avoid self-incrimination and refused to testify in the detainee-abuse trial of an Abu Ghraib dog handler."

Martin Was Never Meant To Be Player In Moussaoui Case. Time (3/27, Waller) reports on Carla Martin, the "government lawyer with a small role in the sentencing trial of confessed 9/11 conspirator Zacarias Moussaoui," who has been placed on paid administrative leave by the TSA for coaching witnesses in the sentencing phase of Moussaoui's trial. Time adds that Martin "was never meant to be a player. In court documents filed after the blowup, prosecutors painted her as a misguided 'miscreant' with only a bit part in the government's case preparation -- arranging witness interviews and retrieving aviation documents for prosecutors."

WPost Says Moussaoui Case Part Of Pattern Of Government Misconduct. Under the headline "Another Blown Case?," the Washington Post (3/20, A14, 744K) editorializes, "The death penalty case against accused Sept. 11 conspirator Zacharias Moussaoui has barely survived the government's latest bout of incompetence." This case "joins a line of big terrorism prosecutions marred by government misconduct, overzealousness, hyping of charges or just plain ineffectiveness. … Prosecuting terrorists isn't easy…but much of this is the Bush administration's fault. The administration failed to work with Congress to create viable legal structures to handle these cases, proceeding in whatever way seemed most convenient in any given situation. The results are abysmal. And, ironically, they undermine the case for the more secretive military trial procedures the government is trying to create."

Credibility Of FBI Witness Called Into Question. Newsweek (3/27) reports in its "Periscope" column that in addition to the case against accused 9/11 conspirator Zacarias Moussaoui, which "is in trouble," the Justice Department also has "a problem in another case. The credibility of the FBI's star witness against a Pakistani-American accused of Qaeda ties is under fire after he testified he saw Ayman al-Zawahiri at a mosque attended by the defendant in Lodi, Calif., in 1999." The testimony "startled counterterrorism experts: Zawahiri, Osama bin Laden's chief deputy, was in Afghanistan at the time, under indictment for the bombings of two U.S. embassies in Africa." A Justice official "said prosecutors are still confident about the case against Hamid Hayat, 23, accused of attending a Qaeda camp in Pakistan, and his father, Umer Hayat, 48, who allegedly lied to the FBI about his son's travels."

HOMELAND RESPONSE:

DPW Plans To Sell US Holdings Could Face Hurdles. The Wall Street Journal (3/20, Machalaba, 2.11M) reports, "SSA Marine Inc.'s decision to explore a sale of the company could complicate Dubai Ports World's plans to sell its U.S. holdings to an American buyer." SSA Marine, "the largest US container terminal operator, has been considered one of the possible bidders for DP World's terminal operations in the US. With SSA Marine disclosing that it is a potential acquisition target itself, the number of viable US purchasers for DP World's U.S. holdings could be reduced."

Hunter Criticizes Original DPW Deal. GOP Rep. Duncan Hunter, chairman of the House Armed Services Committee, writes in USA Today (3/20, 2.31M), "In the post-9/11 world, America's No. 1 priority must be national security. But the process that OK'd government-owned Dubai Ports World's takeover of terminal operations at major US ports was geared less toward national security and more toward economic opportunity. … Today, we can take nothing for granted. We must continue to enhance our security instead of creating even greater vulnerabilities. To those who say this smacks of protectionism, I say this: America is worth protecting." In an editorial, USA Today (3/20, 2.31M) disagrees, and says that Hunter "would like to set a series of draconian standards for any company wishing to buy a part of the nation's "critical infrastructure." Its chairman and CEO would have to be American, as would at least half of its board. The secretary of Defense would have to approve half of the board members and the company would have to keep tabs on the citizenship of its shareholders to make sure that no more than half were non-U.S. citizens. The idea that the government would be allowed to choose who controls private companies is bizarre by itself. More so coming from a Republican."

Negroponte Probing Pentagon Trend Toward Outsourcing Intelligence Work. The Washington Post (3/20, A3, Pincus, 744K) reports on "a growing trend at the Pentagon to contract out intelligence jobs that were formerly done primarily by service personnel and civil service employees." By "using contract employees," government agencies "lose control over those doing this sensitive work and an element of profit is inserted into what is being done. Also, as investigations have revealed, politics and corruption

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may be introduced into the process." The office of Director of National Intelligence John D. Negroponte "has quietly begun to study the contracting issue because 'it already is a problem,' a senior intelligence official said in a recent interview." The Post adds, "A related concern for intelligence agencies inside and outside the Pentagon is that the government is training people and getting them security clearances, but they then leave for better pay offered by contractors, sometimes to do the same work."

WTC Talks To Restart Next Week. The Wall Street Journal (3/18, Frangos, 2.11M) reports, "Talks to resolve how to rebuild the World Trade Center will restart next week after private developer Larry Silverstein offered a revised proposal Friday for his role in the long-troubled project." The Port Authority of New York and New Jersey, "which owns the site, said it would respond to Mr. Silverstein's proposal."

Contractor Profits Found To Be Major Factor In Post-Katrina Waste. A study by the GAO has found that millions of dollars have been wasted in post-Katrina government contracts. The Washington Post (3/20, A1, Warrick, 744K) reports in a front page article that cleanup in the Gulf region often involves "at least four" contractors: "a contractor, his subcontractor, the subcontractor's subcontractor, and finally, the local man" to do the work. "For the thousands of contractors in the Katrina recovery business, this is the way the system works -- a system that federal officials say is the same after every major disaster but that local government officials, watchdog groups and the contractors themselves say is one reason that costs for the hurricane cleanup continue to swell." Meanwhile, "each week, many more millions are paid to contractors who get a cut of the profits from a job performed by someone else. In instances reviewed by The Washington Post, the difference between the job's actual price and the fee charged to taxpayers ranged from 40 percent to as high as 1,700 percent."

Powell Credited With Securing $4.2 Billion Plan For Louisiana Homeowners. Under the headline "Behind Louisiana Aid Package, A Change Of Heart By One Man," the New York Times (3/20, Dewan, 1.19M) reports that though President Bush's Gulf Coast rebuilding coordinator, Donald E. Powell, and the administration had originally "rejected Louisiana's housing recovery plan," prompting a call for Powell's dismissal from the Baton Rouge Advocate, he "did an about-face that turned many of his critics into fans, showing that not only had he listened to the locals, but also that his conclusions had carried weight with Mr. Bush." Powell's work in securing the plan to "seek $4.2 billion more for Louisiana to compensate homeowners — even those in the flood plain — " has "made many Louisianians think that in appointing him, the administration had finally done something right."

FEMA Asking Some Hurricane Victims To Return Erroneous Payments. NBC Nightly News (3/19, story 10, 0:30, Kotb, 9.87M) reported, "There could be some bad news this week for the people of the Gulf Coast depending on FEMA to help them rebuild. Thousands who received money from the Federal Government after Hurricanes Katrina, Rita, and Wilma will be asked to send it back. Last week, FEMA started mailing letters asking people to return money the government says they received in error." The AP (3/19) reported, "Some 1.7 million households received FEMA assistance after Hurricanes Rita, Katrina or Wilma. About 2 to 3 percent or 34,000 to 51,000 families will reimburse the agency, Donna Dannels, acting deputy director of FEMA's recovery division."

"Bring New Orleans Back" Commission To Issue Final Report. The Los Angeles Times (3/20, Quinones, 958K) reports the Bring New Orleans Back Commission, which has been "a magnet for criticism as well as a channel for emerging citizen activism," will formally issue "its final report to Mayor C. Ray Nagin tonight, though the reports of its seven committees have been public for several weeks." The Times adds, "As a post-hurricane entity, the commission went far beyond just storm and flood protection. The committees also have recommended ways to overhaul land-use planning, rebuild neighborhoods, consolidate duplicative elected offices, revive the city's cultural life, reorder its health and public education systems, and modernize the criminal justice system."

Gulf Coast Churches Struggling To Recover From Hurricane Katrina. NBC Nightly News (3/19, story 9, 2:25, Kotb, 9.87M) reported Hurricane Katrina "destroyed houses of worship too, and like the people of the region, the churches are struggling to get by." NBC (Ellis) added, "They have marched into St. Augustine's for 165 years, but now this New Orleans church, one of the oldest African-American Catholic churches in the country, is fighting just to stay open. With $400,000 in damages in a city with a decimated population and archdiocese hurting for cash, St. Augustine has been forced to merge with another parish, its schedule cut to just Sunday masses, its longtime priest reassigned. Many parishioners are worried St. Augustine's rich traditions could be next to disappear." All along "the Gulf Coast, churches are being redefined. And with so many parishioners scattered by the storm, many churches are having a tough time coming back to what they were or even where they were."

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WAR NEWS:

Bush Administration Defends Iraq Policy On Third Anniversary Of War. President Bush yesterday delivered a "stay the course" message on Iraq yesterday on the third anniversary of the US military action in Iraq as he returned from Camp David. Administration officials, including Vice President Cheney, sought to reinforce that message on the weekend talk shows. The President is expected to return to that message again this week during a speech in Cleveland. The Akron Beacon Journal (3/19, Abraham, 148K) reported that President Bush will be in Cleveland, O.H. on Monday, where he's "expected to discuss the global war on terror in a speech…at the City Club." Bush "is expected to arrive in Cleveland shortly before noon, and will present the President's Volunteer Service Award to Lois Hagood of Garfield Heights, who volunteers as a reading tutor for first-graders in Cleveland." The Cleveland Plain Dealer (3/20, Eaton) says Bush "will discuss how the United States is 'working with all aspects of Iraqi society' to defeat terrorists, restore order and rebuild Iraq, White House spokesman Scott McClellan said. It is part of a monthlong effort by Bush to update Americans on the war's progress and 'how we're fixing what was not working."

The AP (3/20, Pickler) reports Bush that in his comments yesterday, the President avoided "any mention of the daily violence that rages three years after he ordered an invasion. The president didn't utter the word 'war.'" Other Administration "officials repeated the mantra that progress continues toward building a unified Iraqi government and nation." USA Today (3/20, Diamond, 2.31M) also notes Bush avoided "the word 'war.'"

Meanwhile, touching on a theme present in many newspaper accounts, the Los Angeles Times (3/20, Brownstein, 958K) says the Administration's "upbeat assessments faced sharp skepticism from US legislators from both parties and from a senior Iraqi political leader, former interim Prime Minister Iyad Allawi, who has been a staunch American ally." They "contended that Iraq was now in the midst of a civil war between Shiite and Sunni Muslims." The New York Times (3/20, Sanger, Shanker, 1.19M) also says the officials displayed "a carefully calibrated mix of optimism about eventual victory and caution about how long American troops would be involved." The picture "painted by the administration clashed with that of the former interim prime minister." The Washington Post (3/20, A1, Fletcher, 744K) headlines its story "Bush Still Upbeat On Outcome In Iraq," and reports the Administration "tried to dispel a growing perception that a continuing wave of sectarian violence has pushed Iraq into a full-fledged civil war."

ABC and NBC both noted Bush's remarks early in their newscasts last night. ABC World News Tonight (3/19, lead story, 2:55, Harris, 8.78M) reports, "As the war in Iraq enters its fourth year, tonight, we heard two, very different views of its successes, its failures and its future. President Bush said the sacrifices that have been made and the ones to come will pay off for Iraq, and the US." t Bush: "We are implementing a strategy that will lead to victory in Iraq. And a victory in Iraq will make this country more secure. And will help lay the foundation of peace for generations to come." ABC World News Tonight (3/19, lead story, 2:55, Yang, 8.78M) reports, "Administration officials were relent relentlessly on-message today, as they marked the war's anniversary. And the tone was set by the President himself." Bush: "The Iraqi leaders are working together to enact a government that reflects the will of the people. And so, I'm encouraged by the progress." Vice President Cheney (from CBS's Face the Nation): "And it continues to improve day-by-day. Those are the facts on the ground. That's the reality." Yang: But "even some Republicans say optimistic words are not enough." Sen. Chuck Hagel: "We're beyond the American people buying into public relations offensives. This is about policy now. This is about hard, cold facts and realities on the ground." NBC Nightly News (3/19, story 3, 2:35, Jordan, 9.87M) also said the President and "his top military advisors launched a full-blown media blitz to convince Americans to stay the course."

On CBS' Face the Nation (3/19, Schieffer), Vice President Cheney said, "There's a constant sort of perception, if you will, that's created because what's newsworthy is the car bomb in Baghdad. It's not all the work that went on that day in 15 other provinces in terms of making progress towards rebuilding Iraq." Asked to respond to Sen. Edward Kennedy's characterization of the Administration's Iraq policy as "dangerously incompetent," Cheney said, "Well, I would not look to Ted Kennedy for guidance and leadership on how we ought to manage national security. I think what Senator Kennedy reflects is sort of the pre-9/11 mentality about how we ought to deal with the world and that part of the world." Cheney said the Administration's "aggressive, forward-leaning strategy is one of the main reasons we haven't been struck again since 9/11 because we've taken the fight to them. Senator Kennedy's approach would be pack your bags and go home, retreat behind your oceans and assume you can be safe."

On NBC's Meet the Press (3/19, Russert), Gen. George Casey said there has been progress in both the political and security fronts in Iraq, saying that at each election in the last year, "the levels of participation increased, the levels of violence decreased, and each time the terrorists and the foreign fighters -- the same groups that are trying to foment sectarian strife right now -- failed to stop the election, the referendum and the, and the election in December." Casey

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added that now, there are "two Iraqi divisions, 13 Iraqi brigades and almost 60 Iraqi army and special police battalions that are in charge, in the lead, occupying in battle space and conducting counterinsurgency operations across Iraq. And I will tell you that their performance in this period after the, the bombing of the Samarra Mosque in, on the 22nd, has been generally very good."

On Fox News Sunday (3/19, Wallace), Gen. Casey also emphasized the progress in Iraq, saying, "The new political leaders of Iraq are meeting almost around the clock, discussing how to form a representative government of national unity that will ensure that the rights and the interests of all Iraqis, regardless of ethnic and sectarian group, are met. That's huge progress."

On NBC's Meet the Press (3/19, Russert), Democratic Rep. John Murtha disputed the Administration's claim that progress is being made in Iraq, adding, "I don't see the progress that they're portraying and I don't understand how they can continue to say that and the American public understands that and we understand it."

The Christian Science Monitor (3/20, Peterson, 61K) headlines its report "In Iraq, US Influence Wanes As Full-scale Civil War Looms," and says, "Every day, more violence. And more uncertainty for Iraqis than they have ever known, as they mark three years since American troops invaded." The "wave of optimism that once buoyed Iraqis after the fall of Saddam Hussein" is now being "marked as yet another casualty of the bombs and murders that are part of daily life here."

The Washington Times (3/20, 90K) says "protesters around the world also observed the anniversary of Operation Iraqi Freedom… with anti-American rallies that drew smaller crowds than similar demonstrations in the past." The Financial Times (3/20, Swann) reports "the US capital's historic protest venues were surprisingly serene on Sunday. Outside the White House tourists had their pictures taken next to a cardboard cut-out of the president, families enjoyed the sun on the Mall and several bored-looking policemen stood guard outside the vice-president's DC home. Not a placard in sight or a chant to be heard." Americans "may have turned decisively against the war in Iraq in recent months, but their change of heart has been largely expressed quietly to pollsters rather than in loud public protests." USA Today (3/20, Diamond, 2.31M) says "police in London estimated 15,000 people marched from Parliament to Trafalgar Square; last year's protest drew 45,000. About 800 people rallied in Tokyo compared with about 2,000 last year." In the United States," the biggest rally was in Chicago, where about 7,000 people marched. Smaller protests were held in other cities, including Boston, San Francisco, Pittsburgh and New York."

Casey Says US Has Begun Reduction Of Troop Level. On Fox News Sunday (3/19, Wallace), Gen. George Casey said the US troop reductions have "already begun. And I think you'll recall that just prior to Christmas, I told the Secretary of Defense and the President that I did not need two of the brigades that were intended to come over here to Iraq, so we actually already have already begun the reductions of our combat forces. … I do believe that over 2006, we will continue to see a gradual reduction in coalition forces."

Rumsfeld's Nazi Analogy Under Fire. On NBC's Meet the Press (3/19, Russert), Democratic Rep. John Murtha said in response to Defense Secretary Donald Rumsfeld claim that leaving Iraq now would be like returning post WWII Germany to the Nazis that the country is in "a civil war. Twenty-five thousand insurgents are fighting with each other inside the country for supremacy. That's the definition of a civil war. There's less than a thousand al Qaida. And when he says turning it over to al-Qaida -- and that's what he means, he, he's inferring it'll be turned over to al-Qaida -- I don't believe that for a minute. The Iraqis will get rid of al-Qaida the minute that we get out of there."

On ABC News' This Week (3/19, Stephanopoulos), Sen. Chuck Hagel disagreed with Secretary Rumsfeld's post-war Germany analogy, saying, "I understand that the secretary has a difficult assignment to try to assign some credibility to the current policy and I don't think the current policy is working. We need some new thinking here. And I think we should not be afraid to think through, which we have never done, we didn't think through this at all before we went into Iraq, but think through consequences, all right, what if we leave at some point? What if all the worst-case scenarios happen?"

On Fox News Sunday's roundtable discussion (3/19), the Weekly Standard's Bill Kristol said, "I think reading Don Rumsfeld's op-ed today in the Washington Post makes me even more amazed that Bush has not removed him as Secretary of Defense. I mean, Rumsfeld has an op-ed in which he talks about the situation in post-war Iraq. But we're at war, and he has for three years tried to jump to the post-war Iraq without winning the war in Iraq."

However, on CNN's Late Edition (3/19, Blitzer), Sen. Richard Lugar said Rumsfeld "clearly is correct, and I would say that that is the issue. I think Republicans and Democrats, at least in Congress, a large majority, believe that it would be unthinkable for Iraq to be turned back to the Saddamists and to chaos, and an incubator for terrorism."

Durbin Says Congress Needs To Hold Bush Accountable On Iraq. On Fox News Sunday (3/19), host Chris Wallace asked Sen. Richard Durbin to explain the Democratic plan for Iraq. Durbin said, "What we propose and what Senator John Warner accepted as a bipartisan approach in the Senate includes the following. This year, 2006, a year of transition, where the Iraqis take control of their own security and defense. Secondly, the Iraqis are put

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on notice they have to form a government that embraces all of the factions within Iraq so that we can see finally a government of unity leading to some sort of progress for the people of Iraq. And finally, we have to have from this president accountability, clear accountability, where he says every three months what progress is being made. His first report, incidentally, was not an encouraging one. It's an indication that despite all the rhetoric, we have not made progress this year."

Reed Says US Needs To Use Troops As Leverage. On ABC News' This Week (3/19, Stephanopoulos), Sen. Jack Reed said, "The only leverage we have is our troop presence, and I think we have to make it clear to the Iraqi political leaders that if they're not able or willing to come together with a political solution that recognizes the differences and pulls together the different factions, that our presence can't be indefinite there."

Iraqis See Mixed Progress On Three Year Anniversary. ABC World News Tonight (3/19, story 5, 2:50, Harris, 8.78M) ran a retrospective report on the developments in Iraq on the three year anniversary, reporting, "Patience is difficult when daily life is a struggle. Since the war, many parents are afraid to let their children out to play. Nearly 13 million fewer Iraqis have drinkable water. In Baghdad, there's electricity for less than four hours a day. And in a country with so much oil, people wait in gas lines up to 12 hours. On the flip side, Saddam's absence means Iraqis can protest, get satellite TV and use cell phones. What's more, the US and its partners have fixed up 825 schools, 13 hospitals and 302 police stations." ABC also interviewed three US officers, who affirmed their continued belief in their mission.

Iraqis Reportedly Still Hopeful, But More Pessimistic. ABC World News Tonight (3/19, story 8, 2:00, Harris, 8.78M) also profiled an ABC News translator, who was at first optimistic after the fall of Saddam, but his "optimism has largely evaporated." ABC translator: "I was very happy. But now, I feel a bit pessimistic. From day-to-day, it is worse and worse. There's no government. There's no stability. There's no security at all." Harris: "He still says he does have hope that someday, maybe years into the future, Iraq will be the place he once thought it would be. He says he simply cannot survive in Iraq, without hope."

Allawi Says Iraq Already In Civil War. Former Iraqi Prime Minister Ayad Allawi yesterday said he thought his country was in a civil war in interviews with a variety of media outlets. ABC World News Tonight (3/19, lead story, 2:55, Harris, 8.78M) reports, "In an interview with British television, the former prime minister of Iraq, Ayad Allawi, said this country is already in civil war." Former Prime Minister Allawi: "If this is not civil war, then God knows what civil war is." NBC Nightly News (3/19, lead story, 2:40, Engel, 9.87M) showed Allawi saying, "There are no institutions that could protect people. There are definitely ethnic cleansing happening and taking place here and there in the country. So, this is in fact, has a level of a civil war. We should not deny this. We should be brave enough to talk about it." Engel: But Gen. George Casey, "the top US commander in Iraq, General George Casey, disagrees." The Wall Street Journal/AP (3/20) reports Allawi "said playing down the current problems in Iraq would be a mistake, telling the BBC he had warned against a power vacuum and the prevalence of militias." Allawi "said the formation of a national unity government was what Iraq needed to achieve peace."

On CBS' Face the Nation (3/19, Schieffer), Cheney disagreed with Allawi's characterization of Iraq as being in a civil war, saying, "I think the assessment that we get from General George Casey, who's our man commanding in Iraq, from Zal Khalilzad, the ambassador, from John Abizaid, who is the general in charge of Central Command, doesn't square with that. Clearly there is an attempt under way by the terrorists, by Zarqawi and others, to foment civil war. That's been their strategy all along, but my view would be they've reached a stage of desperation from their standpoint."

Meanwhile, on ABC News' This Week (3/19, Stephanopoulos), Sen. Chuck Hagel said Allawi "is correct. I think we have had a low-grade civil war going on in Iraq, certainly the last six months, maybe the last year. Our own generals have told me that privately. So that's a fact."

US Military Deaths Down As Iraqi Deaths Increase. USA Today (3/20, Frank, 2.31M) reports, "US military deaths during the past month have dropped to an average of about one a day, approaching the lowest level since the insurgency began two years ago, according to a USA TODAY analysis of U.S. military data." The decline in US deaths "comes as Iraqi casualties are the highest since the U.S. military began tracking them in 2004. In the past month, nearly five times as many Iraqi forces and civilians were killed as troops in the U.S.-led coalition in Iraq, US military data show."

The Washington Post (3/20, A10, Knickmeyer, 744K) reports "tens of thousands of Iraqi civilians have died in the war, from US and Iraqi military actions, insurgent attacks and, increasingly, raids attributed to government-allied Shiite Muslim squads that allegedly operate both inside and outside Iraq's new, Shiite-dominated security forces."

US Death Toll Tops 2,300. ABC World News Tonight (3/19, story 2, 0:20, Harris, 8.78M) reports, "President Bush said today he was reflecting on US servicemen and women. More than 2,300 US troops have been killed in the war. And more than 17,000 injured. The estimate of Iraqis killed varies widely. But it's believed to be well over 33,000."

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Creation Of Iraqi Policy Council Called Step Forward. The New York Times (3/20, Wong, 1.19M) reports, "Iraqi officials announced Sunday that they had agreed to form a council of the country's top politicians to make policy on security and economic issues in the new government. The council, which will include the prime minister and president, is an attempt to include all the country's major factions in decision making at a time of rising sectarian tensions." The Times calls the arrangement "a step forward in the snail-paced negotiations over the formation of a full, four-year government. … The political leaders must now tackle other deeply contentious issues in the talks to form a government." PM Ibrahim Al-Jafaari was not present for the discussions. The Los Angeles Times (3/20, Boudreaux, 958K) also reports the story.

Jafari Says Sadr Needs To Be Included In Political Process. Iraqi Prime Minister Ibrahim al-Jafari writes in the Washington Post (3/20, A15, 744K), "As the wheels of democracy have begun to turn in Iraq, the people's wishes are becoming clearer and their representatives identified. To this end I am humbled and honored to be chosen by my coalition to lead Iraq's first democratically elected full-term government." He adds, "My government's first challenge will be to stifle the terrorism that has plagued our country and defiled the name of Islam. While we are making good progress in expanding and developing Iraq's security services, the war against the terrorists cannot be won by military means alone. It is paramount that all Iraqis work together to build a democratic, free Iraq." He also writes, "Sidelining Moqtada al-Sadr's group from the Governing Council was a mistake. Had it been integrated into the political process" from the beginning, "events would have turned out differently in the south. I corrected this policy and brought Sadr's group into the democratic process. This inclusive approach resulted in the huge nationwide turnout for the December elections and a parliament that truly reflects Iraq."

If Convicted, Saddam Could Be Executed Quickly. Newsweek (3/27, Nordland) reports on the continuing trial of Saddam Hussein noting that, if he is convicted, "Saddam could well be executed soon after the Dujail case ends, without waiting for other cases against him to proceed." Once "a verdict is rendered by the five-judge panel, 'if any defendant were sentenced to any penalty, no matter whether it were the death penalty or imprisonment, that penalty should be executed within 30 days of the court's verdict,' chief prosecutor Jafar al Musawi told NEWSWEEK. Although there would be an automatic appeal of a death sentence to the court of cassation, that court has no backlog of cases, Musawi says, and an appeal 'would only take days.'"

Military Investigating Deaths Of 15 Iraqi Civilians As Possible Crime. ABC World News Tonight (3/19, story 3, 2:20, Harris, 8.78M) reported that the deaths of 15 Iraqi civilians in November is "now being investigated as a possible crime." ABC (Karl) added, "Military officials now acknowledge the Iraqis were not killed by" a roadside bomb but "by crossfire, as US Marines stormed the surrounding homes. The military did not launch an investigation, until two months after the incident, when Time magazine showed officials this video and eyewitness testimony."

NBC Nightly News (3/19, story 2, 1:10, Engel, 9.87M) reported the Marine unit "was attacked by a roadside bomb. One Marine was killed, the other Marines then stormed several nearby houses, and according to the military officials, the Marines believed they were about to be ambushed and killed 23 people, including 15 non-combatants. Witnesses accused the Marines of killing those civilians out of revenge."

New Analyses Of Vietnam War Shaping US Military Approach In Iraq. The Wall Street Journal (3/20, A1, Jaffe, 2.11M) reports on its front-page on "Vietnam histories -- most of them highly critical of the US military in Vietnam -- that are changing the military's views on how to fight guerrilla wars. … The embrace of these Vietnam histories reflects an emerging consensus in the Army that in order to move forward in Iraq, it must better understand the mistakes of Vietnam." The Journal adds, "In the past, it was commonly held in military circles that the Army failed in Vietnam because civilian leaders forced it to fight a limited war instead of the all-out assault it longed to wage. … The newer analyses of Vietnam are now supplanting that theory -- and changing the way the Army fights. The argument that the military must exercise restraint is a central point of the Army's new counterinsurgency doctrine. The doctrine, which runs about 120 pages and is still in draft form, is a handbook on how to wage guerrilla wars."

Both Iran, US Said To Have Much At Stake In Iraq Talks. The Christian Science Monitor (3/20, LaFranchi, 61K) reports, "A mutual interest in a stable Iraq is driving Washington and Tehran -- two otherwise increasingly antagonistic capitals -- to sit down and talk. Even as the Bush administration says America 'may face no greater challenge from a single country than from Iran,'" and as "US-backed efforts proceed in the United Nations Security Council to address Iran's nuclear ambitions," the two governments "have agreed to meet in Baghdad." The talks are "an acknowledgment of Iran's pivotal role in Iraqi affairs -- political, social, and religious -- at a particularly difficult moment for the US engagement there." Meanwhile, the Washington Post (3/20, A9, Vick, 744K) reports that Iran's

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"acceptance of direct talks with the United States over Iraq is being regarded among Iranians as a major foreign policy development, a historic if still tentative departure from 27 years of official enmity that held the government of the 'Great Satan' as one to be spoken against, but never with." In 2002, "a poll found that three-quarters of Iranians surveyed favored talks with the United States. The pollster was thrown in jail, but the reality drove a quiet competition between Iran's two rival political forces."

US General Says Iran Talks Will Not Advance Mideast Peace. The AP (3/20) reports General George Casey, the US commander in Iraq, "expressed doubt today that negotiations between the United States and Iran over Iraq would help bring peace and stability in the Middle East. 'I don't have a lot of confidence that these will turn out to be productive, but I could be wrong. They're playing, I think, a very delicate balancing act. ... On the one hand, they want a stable neighbor. On the other hand, I don't believe they want to see us succeed here.'"

Security Council Permanent Members Will Try To Break Iran Stalemate. The Washington Post (3/20, A9, Lynch, 744K) reports Under Secretary Nick Burns and other top foreign affairs officials from "the Security Council's five permanent members and Germany will hold a high-level meeting Monday in New York to try to break an impasse over the international response to the Iranian nuclear crisis." US and European officials say they will try to assuage Russian and Chinese fears that the adoption of the statement will inevitably lead to harsh punitive measures. 'We're not hellbent on going to war; we're not hellbent on imposing sanctions,' said a senior State Department official… 'We're hellbent on having the Iranians return to the negotiations, like the Russians and the Chinese want.'"

Tehran Aims For Arab Support. As top diplomats prepare meet in New York, the Washington Post (3/20, A9, Williams, 744K) reports, "Iran has embarked on a charm offensive in the Arab world aimed at expanding economic and political ties and circumventing efforts by the United States and its allies to isolate Iran over its nuclear program. President Mahmoud Ahmadinejad traveled this month to Kuwait, the first visit there by a high-ranking Iranian official in more than 25 years. Other Iranian officials toured Persian Gulf states trying to persuade them to endorse Iran's desire to develop nuclear technology, which US officials have called a cover for building weapons." According to the Post, "Arab observers say Iran's diplomatic offensive represents a newly vigorous approach to improving relations with its neighbors. 'Iran is trying to become a player in the region. At least toward the Arabs, Iran is trying to moderate its tone,' said Maha Altorki, an Iran analyst in the Asia section of the Arab League, based in Cairo."

Iranians Prepare For New Year Celebration. The New York Times (3/20, Slackman, 1.19M) reports that Iranians are preparing for the celebration of the Iranian New Year, called Nowruz." According to the Times, "After the Islamic Revolution in 1979, the ruling ayatollahs sought to stamp out many traditions, like Nowruz, a celebration with some Zoroastrian links that stretches back thousands of years to the pre-Islamic era, to mark the arrival of spring. The celebration is considered by many here the most Iranian of holidays. The ayatollahs tried, and failed. Now, nearly three decades later, some people say the increasingly enthusiastic embrace of Nowruz and other ancient traditions represents a resistance against the country's more conservative religious rulers."

Violence Hinders Iraqi TV Station's Efforts To Entertain. ABC News correspondent Jake Tapper writes in the New York Times (3/20, 1.19M) about "the discordant images on Iraqi television: Between the grisly shots of war dead, pools of blood and burnt-out shells of cars came bits of wacky slapstick. … With the newfound freedom of speech here, more than 100 television and radio stations have been licensed. … This has resulted not only in more news and public affairs programming, but many new entertainment shows." Yet "tragedy still has a way of rearing its head." During Tapper's visit to an Iraqi TV station, gunmen assassinated the station's entertainment-division chief, outside his Baghdad home just minutes earlier. Tapper concludes, "It is American journalists' duty to try to look at the broader picture in Iraq — telling the stories about those brave souls who seek to restore normalcy and laughter into the daily routine here. But there is no denying that the horrific violence will often make that task impossible."

Small College Radio News Program Reports On Iraq War. ABC World News Tonight (3/19, story 6, 2:45, Harris, 8.78M) reports a group of Swarthmore College students "say the American media is not getting the whole story. So, they are, quite literally, taking matters into their own hands by picking up the telephone." ABC (Berman) added, "Just over a year ago, students founded War News Radio, hardly your average college show. The goal: To big deeper into the lingering war." Through the "Internet, hard work and a little luck, the students track down Iraqi experts, officials and regular people."

Afghan Christian Could Be Put To Death For Renouncing Islam. The AP (3/20) reports, "An Afghan man who allegedly converted from Islam to Christianity is being prosecuted in a Kabul court and could be sentenced to death, a judge said Sunday." The defendant, Abdul Rahman, "was arrested last month after his family went to the police and accused him of becoming a Christian, Judge Ansarullah Mawlavezada told Associated Press in an interview. Such a

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conversion would violate the country's Islamic laws." Rahman "was charged with rejecting Islam when his trial started last week, the judge said." During the hearing, the defendant "allegedly confessed that he converted from Islam to Christianity 16 years ago when he was 25 and working as a medical aid worker for Afghan refugees in neighboring Pakistan, Mawlavezada said." Afghanistan's constitution "is based on Shariah law, which states that any Muslim who rejects their religion should be sentenced to death."

WSJournal Praises National Security Strategy. The Wall Street Journal (3/20, 2.11M) editorializes, "The publication last week of the Bush Administration's National Security Strategy has been greeted with a combination of media indifference and contempt. 'Bush clings to pre-emptive force,' was one news agency's sum-up of the 49-page document. Readers of these columns might prefer to draw their own conclusions by actually reading it: www.whitehouse.gov/nsc/nss/20061. What they'll find is a strategy that's admirably specific and, in the issues that matter most, broadly right." The Bush Doctrine "remains alive and well, despite persistent reports that it had been quietly shelved in favor of...well, no one has yet made clear what."

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Veteran Federal Prosecutor Joins Arent Fox. The Washington Post (3/20, Liebert) reports, "Baruch Weiss, a veteran federal prosecutor who most recently was associate general counsel at the Department of Homeland Security, has joined the District office of Arent Fox in the litigation and white-collar defense groups." The Post continues, "From 1984 through 2002, Weiss was senior trial counsel for the U.S. attorney's office in Manhattan, where he handled cases including a fraud investigation of a major securities firm, appeals involving the first World Trade Center bombing in 1993 and the unsuccessful prosecution of boxing promoter Don King for insurance fraud."

CORPORATE SCANDALS:

Former Enron Treasurer To Testify In Lay, Skilling Trial. The New York Times (3/20, Barrionuevo) reports the government "heads this week into the home stretch of its case against two former Enron chief executives. Prosecutors will be looking to end on a flourish with the testimony of Ben F. Glisan Jr., the only former top executive who has already been sentenced in the Enron debacle." Glisan, Enron's former treasurer, is "the last major witness for the government before the case shifts to the defense and to what promises to be memorable testimony by the defendants, Jeffrey K. Skilling and Kenneth L. Lay." Glisan worked "closely with Andrew S. Fastow, the former chief financial officer, on developing special-purpose entities, like the Raptors group, that both men have said in plea deals were used to inflate earnings and hide debt. The government is also expected to use Mr. Glisan to try to connect the dots for jurors hearing a complex case."

Study Finds Executive Pay Growth Has Slowed. The Financial Times (3/20, Roberts) reports growth in US executive pay "has slowed sharply in spite of record profit growth, according to preliminary findings from an independent corporate governance watchdog," the Corporate Library. The group, which "usually estimates greater pay inflation than most industry studies, calculates that US chief executives took home 11 per cent more money in 2005, compared with a 30 per cent rise the year previously. Among the 500 largest companies, median total compensation reported to date rose by just 3.7 per cent in 2005 to $5.2m."

Survey Shows Large Firms Improving Corporate Governance. USA Today (3/20, Iwata) reports a Business Roundtable survey shows "large U.S. companies are making strides in corporate-governance practices, from creating stronger independent boards to linking more executives' pay packages to their companies' performance." The survey "of 100 CEOs…suggests that leading corporations are taking their watchdog roles more seriously in the wake of Enron and other corporate scandals." Some "57% of companies have increased pay-for-performance elements in their executives' compensation packages. That's up from 40% in 2004." In addition, "at least 91% of the companies have an independent chairman or lead director — up from 71% two years ago."

CRIMINAL LAW:

Libby's Lawyers Expected To Focus On WMD Debate. The AP (3/20, Yost) reports that Vice President Dick Cheney's former chief of staff I. Lewis "Scooter" Libby "seems intent on zeroing in on three little letters: WMD." In their latest court filing, Libby's legal team said the leak of CIA operative Valerie Plame's identity is "at most a peripheral issue" to "the media conflagration" over the failure to find WMD in Iraq. The papers suggest that this "media conflagration" and "the resulting finger-pointing among the White House, the CIA and the State Department over who was to blame, that Libby's lawyers want to focus on in a bid to get him off." The papers "underscore the possibility that a criminal trial of Libby could highlight the ongoing debate over whether the White House manipulated intelligence to justify the invasion of Iraq."

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DC Cop's Case Could Make Prosecutions Harder In Abramoff Scandal. Jeffrey Birnbaum writes in his "K Street Confidential" column in the Washington Post (3/20, D1, 744K) that a appeals court decision involving a D.C. police officer could make it harder for prosecutors to make a case against lawmakers implicated in the Jack Abramoff lobbying scandal. Detective Nelson Valdes "ran license plates through a law enforcement database and provided the vehicle-owner information he collected to a person who paid him cash. He was convicted in 2002 of taking illegal gratuities. But a three-judge appeals court panel recently reversed that decision. It said, in an opinion dated Feb. 24, that his actions weren't a formal part of his duties and therefore weren't covered by the statute. Scholars say that as a result of the Valdes case, the process of charging lawmakers and their aides with wrongdoing in the Abramoff scandal (and others like it) will be more difficult."

"Mafia Cops" Prosecution Witness Seen As "Complex Character." The New York Times (3/18, Feuer, 1.19M) profiles the Burton Kaplan, the top prosecution witness in the trial of alleged "Mafia Cops" Louis Eppolito and Stephen Caracappa. "He is a complex character, who, for decades, led a double life. On one hand, he was that stock-in-trade cliché, 'the legitimate businessman,' who owned a discount clothing store in Bensonhurst and a factory for Chinese garment makers in Antigua. On the other hand, he is — or was — an inexhaustible fountainhead of crime. Both sides of Mr. Kaplan's personality were on display this week" at trial, as he "linked the lawmen to at least a dozen killings and kept the courtroom spellbound with his clipped accounts of how the two defendants had once gunned down a gangster on the grass berm of the Belt Parkway and, earlier, had delivered a kidnapped mobster to his rival."

California Businessman Pleads Guilty In Pellicano Investigation. The Los Angeles Times (3/18, Krikorian, Blankstein, 958K) reports Valencia businessman George Kalta "admitted Friday to conspiring with Anthony Pellicano to illegally dig up information about a teenager who had accused him of sexual assault, becoming the latest witness cooperating in the federal probe of the indicted private eye. … The plea makes Kalta the fourth person to acknowledge that they hired — or helped — Pellicano to illegally investigate others using wiretaps, confidential police record searches or other methods." Calling Kalta "a minnow" in the FBI investigation, his defense attorney, Leslie Abramson, "said outside court on Friday that Pellicano bragged to her client about listening in on other people's conversations and about having connections within law enforcement."

"Innocence Lost" Uncovered Toledo Teen Prostitution Ring In Pennsylvania. The Toledo Blade (3/19, Erb, de Boer) reports, "In a 102-page indictment unsealed in December, the feds paint a violent picture of pimps and their most trusted prostitutes…who routinely brutalized newer recruits," largely from the Toledo area. The ring operated was centered in Harrisburg, Penn., which much of the activity occurring at a truck stop, which "became one focus of 'Innocence Lost,' a major federal inquiry into underage prostitution." The Blade adds, "'These girls are getting violently abused,' said David Johnson, chief of the FBI's Crimes Against Children unit. Beyond that, maintaining control is a matter of psychological conditioning, especially for girls already fleeing homes of incest, battering, or even simple neglect, said Chip Burrus, the FBI's acting assistant director of the criminal investigative division. … 'For them their normal day is servicing johns, and after a while, this just becomes [her] life, and [she] kind of accepts it … That's what happened to a lot of these girls.' … If they don't adjust or try to escape, Mr. Burrus said, 'the pimps say, "Okay you want to break away? I'll kill your mom," or "I know you have a sister who's 8, and I'll go to her school, and I'll rip her head off."'"

The AP (3/20) reports on The Blade story, noting "The FBI assigned 16 new agents to the investigation, and the agency is hiring six more this year. The FBI says the interstate ring is organized crime, equating it to drug trafficking. Many of the girls came from backgrounds of abuse or incest, and the pimps conditioned them through abuse and threats against family members to accept their fate, said Chip Burrus."

Corruption Probe Shuts Down Texas Town's Police Force. The Los Angeles Times (3/20, Hart) reports, "It happened without warning. The FBI swooped in, shut down Troup (TX)'s five-man police force and jailed the chief and a sergeant — the 2005 Chamber of Commerce officer of the year, no less — on charges of corruption. " The Times continues, "Startled residents watched in silence as authorities secured the tiny station with yellow crime-scene tape and swarmed the building for evidence. … Sgt. Mark Turner, 47, was charged with delivering marijuana and tampering with or fabricating evidence. According to a search warrant, Turner gave marijuana to an undercover agent, assuring him later that there was more where that came from: the police evidence box. " The Times adds, "Police Chief Chester Kennedy, who led the force for 14 years, also was charged with evidence tampering. He admitted to investigators that he gave Turner 24 cans of light beer from a 30-pack seized in a bootlegging case, but said he planned to buy more if the case went to court. 'Beer is beer,' he said, according to a Sheriff's Department affidavit. … Events unfolded so quickly here that, weeks after the March 3 raid,

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stunned residents are still talking about it when they meet on the street. Some, however, are less surprised; rumors of police misconduct had circulated for years. … Here in rural East Texas, methamphetamine labs can operate unnoticed. Misdemeanor drug charges in Smith County, about 100 miles southeast of Dallas, are as common as drunk driving arrests, Dist. Atty. Matt Bingham said. But in the last six years, the Troup police force sent just 11 drug cases to the district attorney's office. … Maj. Mike Lusk, head of criminal investigations for the Smith County Sheriff's Department, said Troup police had sent a total of two drug evidence samples to the Texas Department of Public Safety crime lab since 2000."

Child Services Workers Facing More Danger. The New York Times/AP (3/20) reports that "threats are a daily part of the job for caseworkers who investigate accusations of child abuse and neglect and often remove children from their homes. But the killing of a social worker in South Texas last week has prompted" some caseworkers "to re-evaluate the steps they take to keep safe and has raised questions about what the state can do to better protect them." The family of the social worker "who was killed last week, Sally Blackwell," said she "had received threats in her position as program director, overseeing several offices of caseworkers. The authorities have ruled the case a homicide but have not said whether her death was related to her job."

Friends, Family Of Slain Man Question Sheriff's Account Of Shooting. The Washington Post (3/20, B1, Davenport) reports the "22-year-old Oxon Hill man fatally shot by a Charles County sheriff's deputy Saturday morning had drawn a handgun and fired it while three deputies were trying to arrest him on a drunken driving charge, the sheriff's office said yesterday." But the "friends and relatives of the suspect, Jonathon Lyles, offered a starkly different view. They questioned whether Lyles had a gun and said officers targeted him because he was a young African American man who had had previous run-ins with police."

Victim Of Priest Abuse Returns To Face Past. The Washington Post (3/20, B1, Murphy) profiles Michael Donovan, a "63-year-old Vietnam veteran and retired businessman from California" who visited Washington "on a mission into his past, a mission to banish his own anger and regain control." Almost "50 years ago, during Donovan's eighth-grade spring break, he was sexually abused" at Holy Name School "by Thomas S. Schaefer, then a 30-year-old, newly minted Roman Catholic priest. Schaefer went on to molest at least 20 more boys in the Washington Archdiocese, according to church officials, before pleading guilty in 1995 in five of those cases." In 2003, "determined to be counted in a national survey of the church's abuse problem, he informed the archdiocese of Schaefer's 1956 misconduct. He learned then that he was Schaefer's earliest known victim."

Supreme Court To Hear Cases Crucial To Domestic Violence Prosecutions. In a New York Times op-ed (3/20), attorneys Michael Rips and Amy Lester say the Supreme Court is hearing two cases, Davis v. Washington and Hammon v. Indiana, "that may make domestic violence cases all but impossible to prosecute." The question is "whether statements made to 911 operators can be admitted in prosecutions if those who made the calls refuse to appear in court. Such evidence has become crucial in bringing domestic abusers to justice." In the 1980's and 1990's, "the refusal of victims to cooperate in the prosecution of their batterers may have resulted in the dismissal of as many as 70 percent of all domestic violence cases." Now, authorities "have developed techniques, together known as 'evidence-based prosecution,' that focus on the use of reliable evidence, like 911 tapes, to build cases that do not depend on the cooperation of the victim." But a "significant number of courts have interpreted" another case, Crawford vs. Washington, "to bar the use of 911 tapes and answers to questions posed by police officers unless the witness is available for cross-examination. In so doing, they've overturned convictions in cases of domestic battery."

CIVIL LAW:

Google Gets Win On Government's Subpoena For Web Search Data. The Wall Street Journal (3/20) reports Federal judge James Ware "ruled Google Inc. doesn't have to turn over data about consumer Web-search queries to the Justice Department." Judge Ware "on Friday ordered Google to work with the government to provide 50,000 randomly selected addresses for Web sites from its databases. He denied a request by government lawyers for a sampling of 5,000 search queries entered by Google users, concluding that they essentially duplicated information the government could glean from the Web addresses." In a statement, Google said, "This is a clear victory for our users."

Chicago Alderman Seeks To Close Smoking Ban Loophole. The Washington Post (3/20, A3, Lydersen) reports Marshall McGearty Tobacco Artisans is "a 'tobacco lounge' that has opened in Chicago's trendy Wicker Park neighborhood. It appears every bit the bar or coffeehouse. But appearances can be deceiving: Marshall McGearty is technically a tobacco retail shop with at least 65 percent of its sales in tobacco. And that means it is exempt from Chicago's new ban on smoking in bars, restaurants and other public places." Critics "say the parent company of the

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lounge, R.J. Reynolds Tobacco Co., is taking advantage of a loophole in the city's anti-smoking ordinance." Last month, "city Alderman Edward M. Burke introduced an ordinance to close the loophole in the smoking ban, stating that venues that serve food and drink cannot be classified as tobacco retail stores."

CIVIL RIGHTS:

Oakland Nearly Finished Paying Out Over War Protestors' Injuries. The New York Times (3/20, Marshall) reports, "A clash between the police and antiwar protesters (in Oakland, CA) nearly three years ago will cost the City of Oakland more than $2 million, including dozens of payouts to people injured when officers fired wooden dowels, bean bags and rubber pellets." The Times continues, "The Oakland City Council is scheduled Tuesday to approve the final payments related to the incident, which was the most violent of many protests nationwide in the early weeks of the Iraq war. At least 58 people were injured, including nine longshoremen who were caught in the crossfire on their way to work." The Times adds, "The Oakland Police Department said officers had fired the 'less than lethal' rounds to disperse several hundred demonstrators, some of whom the police said had thrown rocks at them. … The protesters said they had been behaving peacefully and accused the police of using excessive force. A lawsuit against the city, the Police Department and several officers, which led to the settlement payments, accused the authorities of civil rights violations. … Many here say the officers were on edge during the protest because state officials had warned that terrorists or self-described anarchists might try to disrupt the event, which was held at the Port of Oakland on April 7, 2003."

Studies Warn Of Difficult Plight For Black Men In US. Several new studies from Columbia, Harvard, Princeton and other institutions warn that black men in the US face a more difficult situation than is portrayed by employment and education statistics. The New York Times (3/20, Eckholm, 1.19M) reports, "Focusing more closely than ever on the life patterns of young black men, the new studies…show that the huge pool of poorly educated black men are becoming ever more disconnected from the mainstream society, and to a far greater degree than comparable white or Hispanic men. … Although the problems afflicting poor black men have been known for decades, the new data paint a more extensive and sobering picture of the challenges they face."

Schools Called Front Line In Culture War Over Homosexuality. Charles C. Haynes, a senior scholar at the First Amendment Center in Arlington, Va., writes in USA Today (3/20, 2.31M) that schools "have become front lines in the culture war over homosexuality -- and the biggest losers are the kids caught in the crossfire of incendiary rhetoric and bitter lawsuits." Conflicts involving sexual orientation "are undermining the educational mission of our schools." Haynes adds, "When they begin to listen to one another, most educators, parents and students discover that they want the same thing: public schools that are safe and free for all students. … Once these shared goals are identified, people are ready to tackle other contentious issues such as gay student clubs and the treatment of sexual orientation in the curriculum." If "people on all sides uphold the rights and responsibilities of the First Amendment, they can agree on policies and practices that serve the common good."

ANTITRUST:

Zurich American To Pay $171.7 Million In Bid Rigging Case. The Wall Street Journal (3/20, Pleven) reports Zurich American Insurance Co. "agreed to pay $171.7 million in a settlement with nine states that have been investigating allegations of bid rigging in the commercial-insurance business." The firm, "a unit of Zurich Financial Services of Switzerland, will pay more than $150 million to reimburse policyholders and another $20 million will go to the states to cover investigative and other costs and as payments in lieu of penalties, according to the states."

UK Insurer Prudential PLC Rejects Aviva Takeover Proposal. The Wall Street Journal (3/20, A3, Fleming, Wang) reports, "In what is likely to prove the first round in a long-running takeover battle that could affect insurance markets world-wide, United Kingdom life insurer Prudential PLC Saturday rejected an unsolicited £17 billion ($29.87 billion) takeover proposal from larger rival Aviva PLC. Prudential, which isn't related to Newark, N.J., insurer Prudential Financial Inc. but is active in the U.S. through its subsidiary Jackson National Life Insurance Co. of Lansing, Mich., said Saturday it had received a proposal from Aviva about a possible combination of the two London companies. In a statement, Prudential said it had rejected the proposal as not in the best interests of its shareholders." The Journal notes, "People with knowledge of Aviva's overture said the initial proposal was an all-share offer that valued Prudential at about £17 billion, a 6.25% premium to the group's market value. … Although Aviva might improve the proposed terms," Richard Harvey, the company's chief executive, "is seen as unlikely to launch an overtly hostile bid."

Study Of Corporate Takeovers Finds Widespread UK Market Improprieties. The Wall Street Journal (3/20, C4, Patrick) reports, "The U.K. market regulator said it has

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found widespread signs of improper share-price moves before corporate takeovers are announced. In an effort to assess the deterrent effects of its regulations, the Financial Services Authority studied 1,500 market announcements on takeover bids and company results in various time periods over the past eight years. The researchers found that price movements from nonpublic information may have taken place before 29% of the takeover announcements and before 22% of the trading updates." The Times adds, "The implementation of the Financial Services & Markets Act in 2001, which toughened sanctions for individuals caught insider trading as well as the disclosure requirements for companies, had no apparent change in market cleanliness. … 'The analysis shows that there was no improvement in market cleanliness in the period after the introduction of the FSA's new powers, and before any high-profile enforcement cases were concluded,' said Hector Sants, the FSA's managing director. 'This suggests that visible enforcement action may be the key tool in our work to reduce market abuse,' he said."

Roche, Amgen Engaged In Fierce Lobbying Battle Over Patents. The Roll Call (3/20, Ackley) reports a "furious lobbying effort between F. Hoffmann-La Roche and Amgen Inc. has fueled big spending on K Street and led to both drugmakers hiring heavy-hitting firms and high-profile former government officials." Roche is "pushing for a patent-law change that lobbyists close to the debate say could make it possible for the Swiss-based company to get approval and eventually market in the United States a competing product to Amgen's renal disease treatment, Epogen." Lobbyists "familiar with both sides' strategies now agree that the battle will have much wider implications on patent policy." Sources say Roche has "tapped a bipartisan team that includes Mickey Kantor, the former U.S. trade representative and Commerce secretary under former President Bill Clinton, and Ted Olson, the former U.S. solicitor general in the current Bush administration." Amgen "upped its lobbying spending during the last six months of 2005, after the biotech firm became aware of Roche's quiet lobbying push. Between the first and second halves of 2005, Amgen spending rose by $1 million, from $2.4 million to $3.3 million, according to public filings."

Supreme Court Patent Case Could Have Far-Reaching Implications. The New York Times (3/20, Pollack) reports for the "first time in a quarter-century, the Supreme Court will hear on Tuesday a case involving the basic question of what type of discoveries and inventions can be patented." Both sides "say the case, which involves a blood test for a vitamin deficiency, could have a wide-ranging impact on the development of diagnostics, perhaps threatening many of the underlying patents for genetic and other medical tests." But the "array of companies filing supporting briefs — including American Express, Bear Stearns and I.B.M. — indicates that intellectual property in other fields might also be affected." Some patent specialists "say they think the Supreme Court agreed to hear the case, against the advice of the United States solicitor general, to rein in patenting."

ENVIRONMENT/INDIAN AFFAIRS:

Kempthorne Known To Work With Those Who Disagree With Him. The Christian Science Monitor (3/20, Knickerbocker, 61K) profiles Interior Secretary nominee Dirk Kempthorne, saying he "has both the experience and the record of collaboration that could help smooth the way in the often-contentious position." Kempthorne "is known to work in concert with those who don't agree with him. He believes that the level of government closest to a problem is the best place to find a solution. And though his environmental record - according to those who score such things - is a pale shade of green, he is not a fire-breathing ideologue likely to dismiss endangered species in the name of corporate ranching or a new highway." The Monitor adds that "the Bush administration and Kempthorne face battles over many issues: development in roadless forest areas; salvage logging of burned timber; the proposed sale of some federal land to lessen the federal budget deficit; changes to the Endangered Species Act; a huge backlog in national parks maintenance; oil drilling in the Arctic National Wildlife Refuge and the Outer Continental Shelf; and protections for grizzly bears, wolves, and other recovering species."

Firm Offers DOE Space To Store Spent Fuel. The New York Times (3/20, Wald, 1.19M) reports that Private Fuel Storage "is planning to build a private nuclear waste dump on an Indian reservation in Utah has offered to sell space there to the federal government. The move could help the government avoid billions of dollars in potential legal damages over its failure to build its own repository." The Times adds that while PFS recently "won a license from the Nuclear Regulatory Commission to open a repository at Skull Valley," the consortium does "not have the permits it needs to transport waste to the site, however, and the State of Utah is trying to block those."

Offshore Drilling Advocates Push Revenue Sharing Plan. USA Today (3/20, Dorell, 2.31M) reports that creators of a new campaign to push drilling for oil along the US coasts "say the time is right to get it done. And they say they've come up with a way of doing it that has

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statehouses, U.S. industry and even some notable environmental groups on board. … The proposal is simple: States that open their territory to drilling will get a cut of the royalties that currently go 100% to the federal government. A specified chunk of royalties must be spent restoring coastlines." Former Louisiana senator John Breaux, a lobbyist for Patton Boggs, "is hoping to build interest." Breaux "is working on a volunteer basis for the state of Louisiana to give it a share of the royalties from oil and gas off its shores. He's working with a coalition of manufacturers, municipalities and energy companies to bring attention to the plan."

Court Rules Older Sites Must Meet Same Emission Requirements As New Facilities. A US appeals court ruling that aging power plants and industrial sites must meet the same federal pollution standards as new plants may force the EPA to insist that industrial sites upgrade the facilities. The Christian Science Monitor (3/20, Clayton, 61K) calls the ruling "a repudiation of EPA policy under the Bush administration, which sought to exempt plants that predated the 1970 Clean Air Act from compliance with the tougher air-emission standards. It was cheered by environmentalists - especially those who live and work near such power plants. … The ruling could prompt some big utility companies to upgrade pollution controls at the oldest, most polluting power plants, or shut them down." The EPA "could appeal the decision to the US Supreme Court."

Interior Department Urged To Endorse Settlement On North Carolina Road Project. An editorial in the New York Times (3/20, 1.19M) urges the Interior Department to "resist Representative Charles Taylor of North Carolina" who is proposing $600 million on a road "that few people want and nobody needs." Taylor "runs the subcommittee that controls the Interior Department's budget. For that reason, neither the park service nor Interior's outgoing secretary, Gale Norton, has publicly criticized the idea. But there is more at stake here than pleasing one's paymaster. The road would not only blow a hole in the department's budget; it would also leave a scar on one of the most popular national parks." The road "was promised to the residents of Swain County in 1943 when the Tennessee Valley Authority built a major hydroelectric dam, creating the lake and flooding out an existing road. … A cash settlement of $52 million has been proposed." The Journal says the settlement is "fair, and it won't do lasting damage. Interior should endorse the settlement."

Law Firms Rolling Dice On Indian Law. The New Jersey Law Journal (3/20, Toutant) reports, "Native American law, long a well-established practice area west of the Mississippi, is gaining ground at eastern law firms as tribes displaced in the 19th century seek to reclaim ancestral lands -- and make them instantly profitable." The Journal continues, "After the successful land-claim settlement by the Mashantucket Pequot Tribe in Connecticut, which led to the opening of Foxwoods Resort Casino in 1992, and the Mohegan Tribe's acquisition of land in nearby Uncasville, Conn., for the Mohegan Sun Casino, other tribes have started bringing land-claim suits, and law firms are lining up to help them." The Journal adds, "While tribes' finances are short and the odds of prevailing long, there are still legal fees to be generated. That's because there are casino developers willing to underwrite the tribes' legal costs on the chance that they'll obtain a new site for gaming, say Indian law experts. … 'Part of what's going on these days in Indian country is there are certain forces that are trying to unearth potential claims that might be made to re-establish a tribal homeland and ultimately establish a casino,' says Robert Odawi Porter, director of the Syracuse University Center for Indigenous Law, Governance and Citizenship. … In cases where land-claim suits are funded by outsiders, the tribe is usually a passive participant in the litigation, says Porter. Such arrangements are permitted under the Indian Gaming Regulatory Act of 1988, which gives states authority to negotiate revenue-sharing agreements with tribal casinos. … But the process is arduous. Last June, the Shinnecock Indian Nation of Long Island filed a claim for 3,600 acres in the exclusive Hamptons resort area that it says belonged to its ancestors. The casino plan is opposed by New York's governor and senators, as well as by residents of the Hamptons. The tribe's costs are being underwritten by Michigan casino developers Marian Ilitch and Michael Malik. Ilitch, founder of the Little Caesars pizza chain, owns the Motor City casino in Detroit. She and Malik are also building an Indian casino in Barstow, Calif."

FBI/DEA/ATF/USMS:

Funding Constraints Leave New York FBI Agents Without Email, BlackBerrys. The New York Daily News (3/20, Connor, 729K) reports that "many of New York's FBI agents are fighting crime and terrorists without an Internet-ready phone or even an e-mail account, the New York Daily News has learned," and only about 100 have BlackBerrys under a pilot program, the funding for which also is threatened. Assistant Director Mark Mershon "blamed the technology gap on Washington budget constraints. … 'And as ridiculous as this might sound, we have real money issues right now, and the government is reluctant to give all agents and analysts dot-gov accounts,' he said when asked about the gap at a News editorial board meeting. … FBI officials in Washington…insisted that agents are not at a disadvantage because of cost-cutting. Spokeswoman Cathy

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Milhoan said about half the FBI employees don't have official accounts because e-mail addresses are still being assigned," but "by the end of the year, the entire bureau should have dot-gov mailboxes, she said." The AP (3/20) reports on the Daily News story.

NYDaily News Criticizes Lack Of Email Addresses, Blackberrys. Under the headline "FBI Terror Fighters Need Modern Tools," The New York Daily News (3/20, 729K) editorializes, "To say there's not enough money in a $2.5 trillion federal budget to give FBI agents e-mail addresses is patently absurd. Which is why headquarters now says everyone will have official e-mail by the end of the year. That must happen." The Daily News adds, "Every business executive in the country has a BlackBerry. Every assistant to every business executive and every law enforcement agency with which the FBI communicates has BlackBerrys. People who want to blow up the Brooklyn Bridge probably have BlackBerrys. Think this is outrageous? E-mail your congressional representative. Which you can, because Congress has e-mail. And BlackBerrys."

12 Face Charges In California For Making Marijuana-Laced Candy, Soda. The Los Angeles Times (3/18, Romney) reports, "A dozen Bay Area residents appeared in federal court Friday on marijuana cultivation and distribution charges in connection with a large-scale operation to make pot-laced candy bars and sodas. … Though the packaging evokes the irreverent Wacky Pack stickers of years past by mocking trademarked products, federal officials say the psychoactive goods are no joke. 'The packaging is so similar to that of the name brand, it has the potential to fall in the hands of children, with potentially tragic consequences,' DEA spokeswoman Casey McEnry said."

The San Francisco Chronicle (3/18, Lee) reports the sweets "had colorful labels and names such as Trippy, Stoney Rancher, Toka-Cola, Pot Tart and Budtella. To federal drug agents, they were dangerous marijuana-laced concoctions that could fall into the hands of children. But to sick patients who rely on cannabis to ease their symptoms, they were just tasty ways to get their medicine -- and legal under California law."

The Contra Costa Times (3/18, Simerman) writes, "A day after federal agents seized thousands of marijuana plants and a booty of pot-laced candy and soda pop in raids on warehouses in Emeryville and Oakland, local medical cannabis advocates reacted coolly -- bitter at another federal plunder on a substance the state deems legal for the sick, but leery of an operation that packaged its products to mimic popular brands of sweets."

Eight New Jersey Residents Accused Of Running "Major" Heroin Ring. The Hoboken (NJ) Reporter (3/19) writes, "Hudson County Prosecutor Edward DeFazio and the Hoboken Police Department have arrested eight Hudson County residents for running a major heroin ring. According to Prosecutor Edward DeFazio, the arrests were the result of a six-month investigation by the Hudson County Prosecutor's Office Municipal Task Force, Hoboken Police Department, and the Drug Enforcement Administration. … The searches resulted in the recovery of 22,000 bags of heroin from 'a sophisticated hidden compartment' in a Ford Explorer."

Attorney Accuses DEA Of "Lukewarm" Response To Death Threat. The New York Times (3/20, Mead) reports in its "New York/Region" section that attorney Thomas Liotti "has been branded a big mouth for his self-promotion and propensity to tongue-lash prosecutors, police officers and even judges. … In a press release on Wednesday…he also criticized the federal Drug Enforcement Agency for what he called its lukewarm response to a death threat against lawyers who defend Colombian drug traffickers. 'I want the U.S. government to realize that they have a responsibility to protect everyone, even criminal defense lawyers,' he said."

Detroit Drug Dealers Said To Be Infiltrating West Virginia Town. The Pittsburgh Post-Gazette (3/19, Simonich) writes, "Connections between Detroit and rural America remain strong, but nobody romanticizes about them anymore. Detroit doesn't export cars the way it used to. Instead, say police across the region, it turns out drug dealers who travel hundreds of miles to enrich themselves in smaller towns." The Post-Gazette says in Huntington, West Virginia, detectives have a list with more than 250 names of crack dealers.

Washington Post Profiles "Prince Of Pot". The Washington Post (3/18, C1, Struck) profiles March Emery known as the "Prince of Pot," who the Post says Canadians find harmless, but the DEA does not. According to the Post, Emery said, "'I sold millions of [marijuana] seeds proudly to people all over the world," and perhaps 70 percent of them were mailed to the United States, he concedes. "Everything the DEA said is correct -- except I don't buy the charge that I'm poisoning children of America.'"

Poppy Crops Said To Threaten Afghan Democracy. The St. Louis Post-Dispatch (3/18, Dine) reports that "poppies are invaluable cash crops to farmers seeking to sustain their families, but dangerous to a young Afghan democracy. An unholy alliance is emerging among farmers, drug lords, Taliban remnants and al-Qaida fighters," and "drugs are already the nation's sole export of any magnitude." They "threaten to turn it into a 'narco-state,'" and

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"Afghan sources say" al-Qaida "has acknowledged in private sessions its satisfaction that expanding heroin use is poisoning 'infidels' in other countries."

Taliban Rebels Said To Be Teaming Up With Drug Lords. The Washington Times (3/18, Duparcq) has included an AFP story on its "World" section that is similar to a story included in a previous briefing. The AFP writes, "Taliban rebels determined to keep southern Afghanistan in chaos have teamed up with drug barons against the government and its opium eradication campaign."

CONGRESS-ADMINISTRATION:

Cheney Downplays Calls For Staff Changes At White House. Asked on CBS' Face the Nation (3/19) by anchor Bob Schieffer about commentators who have said "you need a staff shake-up over at the White House," Vice President Cheney said, "Bob, you know what this reminds me of? It reminds me of 30 years ago when I was Gerry Ford's chief of staff and you were the CBS correspondent covering the White House. … We had the same kind of stories then, the same kinds of controversy. Administrations go through peaks and valleys. It's a tough business that we're involved in, and when you're down in the polls you're going to take shots that you don't deserve, and when you're up in the polls you're probably going to get praise you don't deserve. So I don't think we can pay any attention to that kind of thing. … [President Bush has] got great people around him, and I simply don't give credence to those kinds of comments." Cheney added the "notion that somehow the staff is exhausted -- these are tough jobs, no question about it. But we've got some very good, very able, very talented folks, who are devoted to the president, devoted to trying to do what's right for the country."

In what the AP (3/19, ,Daniel) calls a "rare Sunday morning television interview," Cheney also said again that he will not seek the presidency in 2008 and he "chuckled when asked if he himself had ever considered resigning amid low poll numbers and suggestions by commentators that he was a liability for the administration."

Cheney Has No Plans To Resign. Asked on CBS' Face the Nation (3/19, Schieffer) if he has considered resigning to shield the Administration from unpopular polices or events, Vice President Cheney said, "Well, I made sure both in 2000 and 2004 that the President had other options. I mean, I didn't ask for this job. I didn't campaign for it. I got drafted. And delighted to serve. And it's been the highlight of my career, to be part of this Administration. I've now been elected to a second term; I'll serve out my term."

Murtha Says Rumsfeld, Cheney Should Resign. On NBC's Meet the Press (3/19, Russert), Democratic Rep. John Murtha said President Bush should fire some of the aides responsible for the Administration's mistakes in Iraq, saying Defense Secretary Rumsfeld "should offer his resignation" and "I would accept it." Asked if Vice President Cheney should resign, Murtha said, "Yeah. Well, certainly the Vice President has been the primary force in running, running this war, and many of the mischaracterizations have come about."

Cheney Says He Can Give Bush "Untainted" Advice. The Washington Times (3/20, Hudson, 90K) reports that Cheney's "lack of political ambition to succeed his boss gives him unusual freedom to be a lightning rod for contentious issues and serve as an 'untainted' adviser to the president," he said yesterday. Speaking on CBS' Face the Nation, Cheney said, "This has been a different kind of arrangement than most administrations have between the president and the vice president, primarily because I'm here to serve him; I'm not here to run for higher office," adding, "My advice to him is untainted by any concern I might have about how the folks in Iowa look at me with connection with the 2008 Iowa caucuses."

Barnes Suggests Personnel Changes For Bush Administration. Fred Barnes writes in the Wall Street Journal (3/20, 2.11M) that President Bush "can start the equivalent of his third term now, by filling his presidential staff and cabinet with new faces -- or old faces in new positions -- and by concentrating on new or forgotten initiatives. The goal: rejuvenation of his presidency by shocking the media and political community with a sweeping overhaul of his administration." Barnes adds that Vice President Dick Cheney should resign so Bush can appoint Secretary of State Condoleezza Rice as his "presidential successor." Rice, writes Barnes, should be replaced as Secretary of state by Sen. Joe Lieberman of Connecticut. Barnes also writes that Cheney should "move to the Pentagon to replace Donald Rumsfeld as defense secretary." In addition, Barnes recommends Glen Hubbard to replace Treasury Secretary John Snow. Barnes adds that white House Deputy chief of staff Karl Rove should be sent "to the Republican National Committee as chairman," and current chairman Ken Mehlman should be brought "back to the president's staff as communications chief."

Bush Has Been Taking More Questions From Audiences. The New York Times (3/20, Bumiller, 1.19M) reports in its "White House Letter" column that at the "Riderwood Village retirement community last week in the Washington suburb of Silver Spring, Md.," President Bush "got hit with hardballs by the crowd of 80-somethings. Not only did the retirees, many of them Democrats and former government officials, ask sharp questions about the day's topic, the Medicare prescription drug program, they took on Mr. Bush on global warming and nuclear war." The Times notes that "in the last three months, Mr. Bush has started

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taking questions, some of them tough, from audiences not stacked with supporters."

Cheney Discusses Hunting Accident. On CBS' Face the Nation (3/19, Schieffer), Vice President Cheney discussed the hunting accident where he shot prominent Texas Republican lawyer Harry Whittington. Cheney said, "Well, I think it's one of those situation or circumstances that is obviously difficult and generates controversy. It's probably the first time the Secret Service ever had to worry about a protectee shooting somebody else instead of being shot at. As the President said the other night, he's at 38 percent in the polls and as a result of this incident I shot the only trial lawyer in Texas who supported him. So people can laugh about it now, but at the time it was deadly serious."

House Expected To Be In Session Only 97 Days This Year. USA Today (3/20, Kiely, 2.31M) reports the House "is on track this year to be in session for fewer days than the Congress Harry Truman labeled as 'do-nothing' during his 1948 re-election campaign." Congress is "taking an entire week off for St. Patrick's Day. It's the latest scheduling innovation to give members more time to meet with constituents." The House "was in session for 19 days, compared with 33 for the Senate. If they stick to their current schedule — including two weeks off in April, a week in May and July, plus all of August — House members will spend 97 days in Washington this year." The House "was in session 108 days in 1948, according to the chamber's archives, compared with 141 days last year."

Republicans Unable To Craft Unified Political, Policy Agenda. The Washington Post (3/20, A1, Balz, Weisman, 744K) reports in a front page story, "Republican efforts to craft a policy and political agenda to carry the party into the midterm elections have stumbled repeatedly as GOP leaders face widespread disaffection and disagreement within the ranks." Lawmakers "involved in the effort" said "anxiety over President Bush's Iraq policy, internal clashes over such divisive issues as immigration, and rising complaints that the party has abandoned conservative principles on spending restraint have all hobbled" the project. While it is "a Republican refrain that Democrats criticize Bush but have no positive vision, for now the governing party also has no national platform around which lawmakers are prepared to rally. Every effort so far to produce such a platform has stumbled." The struggles "reflect philosophical differences among competing factions within the party, but they also underscore the political consequences of holding power. Republicans insist they remain united around core principles of smaller government, lower taxes and a strong national defense, but can no longer agree on how to implement that philosophy and are squabbling over their delivery on those commitments."

Novak Says GOP Lawmakers Attempting "Trial Separation" From Bush. Syndicated columnist Robert Novak (3/20) writes, "'Presidents come and go,' Rep. Jerry Lewis told the House Rules Committee last Wednesday. That was a reason Lewis gave, as chairman of the Appropriations Committee, for opposing President Bush's proposed line-item veto." Lewis' opposition, along with "similar acts of opposition to" Bush "by Republicans in Congress," is not a "rebellion and is not even a divorce. Rather, it is a trial separation of congressional Republicans from their president." Novak adds, "One of the president's top political operatives is telling the party's members of Congress that they should support Bush, not out of loyalty but for self-preservation. In 1952, Democrats in Congress, accustomed to more than 20 years in power, thought they could survive by separating themselves from" President Harry Truman, whose approval rating was suffering in large part to the "military stalemate in Korea." But "Republicans swept the November elections, which might be an object lesson about abandonment of their president."

Senate Voted Against Social Security Accounts Last Week. Roll Call (3/20, Pierce) reports that in a "little-noticed vote last Thursday, the Senate went on record, apparently for the first time, against President Bush's proposal to set up personal investment accounts under Social Security, with some unexpected Republicans helping a unified Democratic Caucus defeat the nonbinding proposal." Eight Republicans "joined all 45 Democrats in opposing" an amendment by Sen. Jim DeMint, "which would have directed the creation of a reserve fund for Social Security, but only after the Senate produced legislation allowing younger workers to divert a portion of their Social Security taxes into personal investment accounts or permitting some other type of 'legally binding ownership' of a worker's Social Security money." The Republican centrist votes "in opposition — including Sens. Lincoln Chafee (R.I.), Susan Collins (Maine), Gordon Smith (Ore.) and Olympia Snowe (Maine) — were hardly a surprise. But the amendment also forced the hands of some less likely Republican opponents, including Sens. Conrad Burns (Mont.), Pete Domenici (N.M.), Dick Lugar (Ind.) and Jim Talent (Mo.) — who have typically been more loyal to the GOP leadership."

The Washington Times (3/20, Fagan, 90K) reports Republicans "raised the issue of Social Security reform, and Democrats -- surprised that the issue won't go away -- pledged to make it a major campaign issue this year." Sen. Charles Schumer said, "It's going to be one of the big issues in 2006. They just gave us more fuel." The Times adds Schumer "pledged to tell voters that electing a Democratic

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Senate is the only way to 'make sure Social Security isn't privatized.'" But Democrats "aren't the only ones who see a campaign issue." Sen. DeMint said, "Those who voted against this amendment voted to raid Social Security. Now, every senator will be on record whether they oppose or support the raid."

MZM Founder Used Several Tools To Win Lucrative Federal Contracts. The Washington Post (3/20, D1, Babcock, Merle, 744K) reports the "recent corruption conviction of former congressman Randy 'Duke' Cunningham – and" MZM company owner Mitchell Wade's "recent guilty plea for bribing him -- focused attention on Congress's practice of 'earmarking,' or setting aside, federal money for favored interests." But a "review of the rise and fall of Wade and his company, based on interviews and MZM and government documents, shows that bribing Cunningham was only one part of Wade's formula for success. His firm, which had no prime federal contracts in fiscal 2002, collected more than $170 million over the next three years, thanks not just to Cunningham, but also to Wade's ability to take practices common among government contractors and push them to the limit." In a "tight labor market, he paid well above the going rate for workers with security clearances -- wages that left others in the government contracting industry puzzled." He "freely distributed title and rank," and he "aggressively used the 'revolving door' between the government's defense and intelligence bureaucracy and the private industry, attracting top talent and often sending' new hires back to work on contracts at their former agencies and to try to cultivate new business."

E-Mail Uses TSP's Name In Credit Card Scam. The Washington Post (3/20, D4, Barr, 744K) reports in its "Federal Diary" column, "Last week's scare at the Thrift Savings Plan is an opportunity to offer this reminder: Do not click on Web links in unsolicited e-mails. Someone, or some group, operating from somewhere, took advantage of the TSP's trusted name in a scam to rip off credit card and bank accounts. The scheme was built around a fictional TSP e-mail and a bogus TSP Web site. … TSP officials have no tally of how many people got the phony e-mail or how many responded and turned over personal financial information. Although it appears that many of the e-mails went to government employees and retirees, TSP officials said they have been contacted by persons who are not TSP enrollees. Some people did fall for the scheme, the officials said."

Krugman Dismisses Notion That Bush Is Big Spender. Paul Krugman writes in the New York Times (3/20, 1.19M) that "most of the conservatives now rushing to distance themselves from Mr. Bush still can't bring themselves to criticize his actual policies. Instead, they accuse him of policy sins — in particular, of being a big spender on domestic programs — that he has not, in fact, committed. … So where does the notion of Bush the big spender come from? In a direct sense it comes largely from Brian Riedl of the Heritage Foundation, who issued a report last fall alleging that government spending was out of control." Conservatives "fall for the Heritage spin" because it "suits their purposes. They need to repudiate George W. Bush, but they can't admit that when Mr. Bush made his key mistakes — starting an unnecessary war, and using dishonest numbers to justify tax cuts — they were cheering him on."

Hebert Criticizes Proposed Cuts In Cancer Detection Program. Bob Herbert writes in the New York Times (3/20, 1.19M), "The federal government has a national breast and cervical cancer early detection program, run by the Centers for Disease Control and Prevention. It provides screening and other important services to low-income women who do not have health insurance, or are underinsured. … At the moment there is only enough funding to screen one in five eligible women. A sensible policy position for the Bush administration would be to expand funding for the program so that it reached everyone who was eligible. It terms of overall federal spending, the result would be a net decrease. … So what did this president do? He proposed a cut in the program of $1.4 million (a minuscule amount when you're talking about the national budget), which would mean that 4,000 fewer women would have access to early detection. This makes no sense. In human terms, it is cruel. From a budget standpoint, it's self-defeating."

WPost Criticizes FCC Ruling On Scorsese Documentary. An editorial in the Washington Post (3/20, A14, 744K) criticizes the FCC's decision that the Martin Scorsese-produced documentary, "The Blues: Godfathers and Sons," which includes scenes in which "musicians and a producer used numerous profanities," did not satisfy the standard that it set in its decision on that "profanity in 'Saving Private Ryan,' that "'in rare contexts, language that is presumptively profane' will still be allowed 'where it is demonstrably essential to the nature of an artistic or educational work or essential to informing viewers on a matter of public importance.'" The Post continues, "How do they know better than, say, Mr. Scorsese? … This is a dangerous kind of line-drawing -- one better left to filmmakers, or even television executives, than government bureaucrats."

GOP Unity Said To Have "Fallen Apart." Newsweek (3/27, Wolffe, Bailey) reports that the Republican Party's unity has "fallen apart." Lawmakers "have lost faith in the president's political touch." GOP candidates "are

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uncertain how to pull themselves together in the eight months left before the elections. The toughest question: whether to run, as they have in the past, as W Republicans, or to airbrush the president out of their campaigns." Newsweek adds, "Bush's aides say that it would be suicidal for members to run away from the president. In strategy memos circulated on the Hill, Republican National Committee pollsters argue that disunity will only discourage the base from turning out to vote. But even the party's analysts concede that standing shoulder to shoulder with Bush may not always be the best way to win."

Newsweek Poll Finds Bush Approval Rating At 36%. Newsweek (3/27, Wolffe, Bailey) reports that President Bush "recorded his lowest approval rating in the NEWSWEEK Poll, with 36 percent; congressional Republicans trailed Democrats by 11 points (39 to 50 percent)."

OTHER NEWS:

Snow Says Americans Broadly Sharing In Economic Expansion. In an interview last week, Treasury Secretary John Snow told the Wall Street Journal (3/20, Ip, 2.11M) that "the widening gap between high-paid and low-paid Americans reflects a labor market efficiently rewarding more-productive people. But he insisted Americans are still broadly sharing in the economic expansion." Snow "said the administration intends to publicly challenge perceptions that typical workers and families haven't benefited much from the economic expansion. The extent to which the expansion has been broadly shared is 'the new sort of battle line in the political arena,' he said." The Journal adds, "Mr. Snow distributed a fact sheet that showed after-tax income per person, adjusted for inflation, rose 8.2% from January 2001, when George W. Bush took office as president, through January 2006. The sheet also showed that per-person net worth -- total assets minus debt -- rose 24%, unadjusted for inflation, from early 2001 to the end of 2005."

Slowing Housing Market Could Ripple Through Economy. USA Today (3/20, Hagenbaugh, Knox, 2.31M) reports that during the boom years, thousands of Americans sought work in the real estate industry. Now, as the housing market slows, "there will likely be a lot of stories of people who are bailing out of their real estate jobs and other professions related to housing -- appraisers, mortgage brokers and home construction workers -- and many not by choice. This could send shock waves through the job market and the economy." USA notes, "Almost four out of every 10 jobs created in the past four years were in housing-related fields. At the end of last year, a record 9.8% of U.S. workers were employed in the real estate industry, up from 8.2% a decade ago, according to Moody's Economy.com. Only the health care industry added more jobs. … Existing home sales fell in January for the fifth month in a row, and home builders Toll Bros. and KB Home say more buyers are canceling their orders. In all, home sales are expected to fall 8% from last year's record, according to a group of economists surveyed by USA TODAY in January."

Medicare Drug Plan Is Growing Issue In Congressional Races. Roll Call (3/20) reports that over the St. Patrick's Day recess, Republicans "are aggressively touting" the Medicare prescription drug program "while responding to criticism from Democrats — and, apparently, from many senior citizens — that the plan is too complex and offers too few benefits." And "building on Democratic efforts to stoke the issue back home, the Democratic Congressional Campaign Committee has unveiled an effort to boost challengers in key 2006 House contests by focusing on the drug benefit. The targeted districts so far include seats held by Republican Reps. Deborah Pryce (Ohio), Nancy Johnson (Conn.), Heather Wilson (N.M.), Steve Chabot (Ohio) and Rob Simmons (Conn.)." Democrats are "optimistic that they have a winning issue." Roll Call notes the Medicare program has become an issue in the FL22 race between Rep. Clay Shaw and Democrat Ron Klein, and the Pennsylvania and Rhode Island Senate races. In addition, "seven of the 10 Congressional districts with the highest percentage of Social Security beneficiaries are held by Republicans, as are two-thirds of the top 25 districts. Of those top seven, five are in Florida, making the Sunshine State ground zero in the fight over Social Security and the Medicare drug benefit." But "so far, Susan MacManus, a political scientist at the University of South Florida, hasn't yet seen frustration with the drug benefit translate directly into anger at Members of Congress."

McClellan's Role As Medicare Administrator Examined. In its "Power Player of the Week" segment, Fox News Sunday (3/19, Wallace) profiled Dr. Mark McClellan, Administrator for the Centers for Medicare and Medicaid Services and brother of the White House press secretary, Scott McClellan. As the Federal Government "prepares for the explosion of baby boomer retirees, McClellan is trying to get ahead of the explosion in costs." McClellan: "We're turning Medicare from a program that people have counted on to pay the bills when they get sick to a program that puts just as much emphasis on helping them stay well." Wallace: "Criticism has been intense that the drug benefit is too complicated, that there are gaps in coverage." McClellan: "Well, I'm very pleased that we're filling millions of prescriptions every day for people who, in many cases, had no coverage before or were paying a lot more for their drugs." Asked he feels "when you see your brother being savaged by the White House press corps," McClellan said, "When you're

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growing up in a family with politics in the blood, you know you can't take any of this personally."

Boehlert To Retire. Roll Call (3/20, Kurtz, Pershing) reports Republican Rep. Sherwood Boehlert, "the senior Republican in New York's Congressional delegation and a leading House moderate, announced Friday that he would not seek a 13th term." Boehlert's retirement in New York's 24th CD "creates the 18th Republican House vacancy heading into November; his district isn't in the top tier of competitive open GOP seats, but it isn't far down the list."

Sabo To Retires From Safe Democratic Seat In Minnesota. Roll Call (3/20, Duran) reports Democratic Rep. Martin Sabo "announced Saturday that he will retire at the end the 109th Congress instead of seeking a 15th term, as he previously said he would." Sabo's "announcement quickly set off a barrage of interest among potential candidates to succeed him in his heavily Democratic seat and on the Appropriations Committee." But "many Minnesota political observers believe that Sabo's chief of staff, Mike Erlandson, who surrendered the chairmanship of the state Democratic-Farmer-Labor Party last year, is the early frontrunner." Other "potential contenders, according to Minnesota Democratic sources, include: Peter McLauglin, who recently lost the Minneapolis mayoral contest; Sharon Sayles Belton, a former two-term Minneapolis mayor who lost to Mayor P.T. Rybak; state Sens. Scott Dibble and Satveer Chaudhury; state Rep. Keith Ellison; Minnesota House Minority Leader Margaret Anderson Kelliher; Julie Sabo, the Congressman's daughter and a former state Senator; Minneapolis City Council Majority Leader Scott Benson; and City Councilmembers Lisa Goodman and Gary Schiff." Republicans "are not expected to seriously contest the 5th district, which gave Sen. John Kerry (D-Mass.) 71 percent of the vote in the 2004 presidential election."

Rice Wins Luntz's California Presidential Straw Poll. U.S. News and World Report (3/27, Bedard) reports in its "Washington Whispers" column that Secretary of State Condoleezza Rice won a 2008 presidential straw poll conducted by pollster Frank Luntz at the recent California GOP convention. Rice received 29%, "followed by Virginia Sen. George Allen at 26 percent and former New York Mayor Rudolph Giuliani at 16 percent. What's it mean? With Rice on the 2008 ticket, even as veep, California could go Republican."

Giuliani Said To Be Ready For Presidential Bid. U.S. News and World Report (3/27, Bedard) reports in its "Washington Whispers" column that while former New York City Mayor Rudy Giuliani has not talked about running for president in 2008, "there are hints he's ready. A key Republican senator tells us that Rudy's peeps are already at work in Florida. And we hear that he's making a trip to Iowa…to help raise money for Republican gubernatorial candidate Rep. Jim Nussle."

New York Races Seen As Indicators Of Potential Democratic Wave. In his Roll Call column (3/20), political analyst Stuart Rothenberg says New York could be "a sign of whether a big Democratic wave is developing." Democrats are "making a major effort to flip a handful of Congressional districts in the state, and they hope that strong Democratic showings at the top of the ticket, combined with a favorable national environment, could net them a seat or two in Congress." Sen. Hillary Rodham Clinton (D) "will coast to an easy re-election victory, and state Attorney General Eliot Spitzer is expected to win the Democratic nomination for governor and crush his eventual GOP opponent in November. Democrats also hope to make gains in the state Senate." New York political observers say Republicans "have a chance to swipe only a single statewide office — attorney general — and even there, Westchester County District Attorney Jeanine Pirro, once thought of as a rising star, is off to another unimpressive start." Rothenberg says the Democrats "best opportunity" is Rep. John Sweeney's 20th CD, where he faces Democratic attorney Kirsten Gillibrand. Democrats "should have their best shot at GOP Rep. Jim Walsh" in the 25th CD. Rep. Sherwood Boehlert's "retirement creates an open seat in the 24th district (Utica/Rome), while first-term Rep. Randy Kuhl drew an unimpressive 51 percent in the 29th district against a weak opponent last time, making him an obvious target this time." Democrats "think they have a shot against GOP Reps. Sue Kelly in the 19th district, Tom Reynolds in the 26th district and Vito Fossella in the 13th district." Yet while "this crop of Democratic opportunities is better than in the past, Democrats remain distinct underdogs in all of these seats."

WSJournal Says Republicans Behaving "Like Democrats." An editorial in the Wall Street Journal (3/20, 2.11M) says that "last week, while voting to raise the federal-debt ceiling to $8.96 trillion, Senators had a chance to terminate" the "annual Congressional pending raid." The Journal notes, "Every Democrat in the Senate joined with eight Republicans to kill an amendment by GOP Senators Jim DeMint and Mike Crapo that would have stopped the Bonnie and Clyde budgeting. The vote was 53-46, and on the list of those voting to continue the Social Security raid is every potential 2008 Democratic Presidential aspirant in the Senate, including Hillary Clinton, John Kerry and Joe Biden. Worse, the list also includes Republicans Conrad Burns (Montana), Jim Talent (Missouri) and Gordon Smith (Oregon), who are running for re-election this year. Apparently, these

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Senators want the money stored in a lock box, but only on the condition that they know how to pick the lock." Republicans "aren't learning from their low approval ratings. They think the way out of trouble is simply to spend more money -- that is, to behave like Democrats."

Former GOP White House Aide Raises Funds For Clinton. The Washington Post (3/20, A13, Kamen, 744K) reports in its "In the Loop" column on Jeffrey Volk, who once worked in the Nixon White House for speechwriter Patrick J. Buchanan and who helped draft Ronald Reagan 's economic platform in 1980. Volk was in New Orleans with his wife and daughter, a freshman at Tulane University, when Hurricane Katrina struck. Volk "called the White House for help," and he says, "there was no one to talk to." Volk then called the office of his US senator, Hillary Clinton, whose case worker could not send a plane to rescue any New Yorkers in the state, but did call "two or three times a day to make sure we were okay." Volk held a December fundraiser for Clinton and raised nearly $100,000 for her Senate campaign.

Massachusetts' Share Of Faith Based Grants Has Fallen. The Boston Globe (3/20, Helman) reports that Massachusetts' share of faith based grant funding from Washington has fallen by more than a third over the past three years, according to federal figures. Religious groups in the state "took in $19.6 million in federal grants under the program last year, down from $29.9 million in 2003, according to figures released this month by the White House Office of Faith-Based and Community Initiatives. … The 34 percent reduction for Massachusetts from 2003 to 2005, which came as funding to faith-based groups nationwide increased, occurred largely during the tenure of Governor Mitt Romney, a Republican who has touted his ties in Washington, D.C., as a boon for Massachusetts." The Globe adds, "The decline in funding to Massachusetts has come as federal funding nationally to domestic faith-based programs has risen from $1.2 billion in 2003 to $1.6 billion in 2005, according to the Office of Faith-Based and Community Initiatives."

Construction Set To Begin On Islamic School Near Annapolis. Near Annapolis, construction has begun on a campus that project directors say will house and Islamic high school, television station, athletic facilities and a college. The Washington Post (3/20, B2, De Vise, 744K) reports, "Mohammad Arafa, executive director of the Islamic Society of Annapolis, said the Mekkah Learning Center will be the first Islamic high school in the region. Work will progress on the $8 million project only as fast as donations permit; religious law forbids the society to take out a loan with interest."

Hamas Holds Key Ministries In Proposed Cabinet. The AP (3/20, Barzak) reports, "Hamas presented a proposed government Sunday, giving itself key ministries after failing to persuade more moderate parties to join in a coalition that could have softened its hard-line image and prevented likely economic sanctions." PM Ismail Haniyeh's list includes one woman and one Christian. Hamas leader Mahmoud Zahar would be the new foreign minister. USA Today (3/20, Gutman, 2.31M) says the new cabinet "is dominated by veteran members of the militant Islamic group." The Financial Times (3/20, Morris) runs a similar report under the headline "Hamas Likely To Take Key Cabinet Posts," while the Christian Science Monitor (3/20, Prusher, 61K) titled its story "Key Hamas Cabinet Posts Go To Hard-liners." The New York Times (3/20, Myre, 1.19M), Washington Times (3/20, Mitnick, 90K) and Washington Post (3/20, A8, Wilson, 744K) run similar reports.

In a related analysis piece, the New York Times (3/20, Erlanger, 1.19M) reports, "As Hamas completes its cabinet, there is a sense that the landscape has changed for some time to come. The Hamas victory is not just a little local difficulty. Hamas is the Palestinian part of the Muslim Brotherhood and the first to win an election; its victory has enormous resonance for radical Islam. It is a defeat for secular nationalism, Nasserite corporatism and for Fatah, the chosen partner of Washington and Israel."

US Helps Cement Gaza-Crossing Compromise. The AP (3/20, Barzak) reports, "With Palestinians facing severe shortages of bread, milk and other foods in Gaza, US officials called an emergency meeting Sunday and brokered a compromise with Israeli and Palestinian negotiators in a two-month-old border standoff. Ambassador Richard Jones said cargo traffic might start flowing as soon as Monday at the [Karni] crossing, and a Palestinian official said a second crossing would be discussed at meetings Monday." After meeting with negotiators from both sides on Sunday, Jones "said later there was an agreement to open another crossing, Kerem Shalom at the convergence of Gaza, Israel and Egypt."

UAE Gave Money To Families Of Palestinian Militants. The New York Times (3/20, Preston, 1.19M) reports, "In the last four years the United Arab Emirates has provided substantial financial support, through its Red Crescent Society, to families of Palestinians, militants as well as civilians, who have been wounded or killed by Israeli forces, according to Red Crescent documents." In 2002 and 2003, the United Arab Emirates Red Crescent Society, "a quasi-governmental organization, made donations to Palestinian charities that included social groups associated with Hamas, the radical Islamic organization that won Palestinian parliamentary elections and has long been

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designated a terrorist organization by the United States." The secretary general of the Emirates Red Crescent, Sanaa Darwish al-Kitbe, "said the goal of its Palestinian programs was to 'influence the negative atmosphere' to build peace."

Egyptian Pop Culture Increasingly Anti-American. The Washington Post (3/20, C1, Williams, 744K) reports from Cairo, "When Secretary of State Condoleezza Rice visited this city last month, Egyptians had an unusual choice: watch her on TV as she expounded on issues of war and peace in the Middle East, or go to a neighborhood movie theater and see her portrayed by a look-alike actress belly-dancing and placed in 'adult' situations." The film "is 'The Night Baghdad Fell,' which depicts Egyptian obsessions with war, sex and the United States. Wildly anti-American, it has done a brisk business for two months, a long screen life for Egyptian-made films. In 'Night,' Egyptians fret about an American invasion of Egypt and the potential destruction of their capital. Americans are bullies, rapists and mindless killers. By the way, 'The Night Baghdad Fell' is a comedy." The film, adds the Post, "is only the latest bit of Egyptian pop culture to display deep unease about Americans."

Senators Urge Mexico To Crack Down On Border Tunnels. The Washington Times (3/20, Seper, 90K) reports, "A bipartisan group of US senators" has sent "letters to Mexican President Vicente Fox and members of the Mexican Congress" urging the enactment of "legislation to crack down" on those that finance or construct US-Mexico border tunnels. The letter was signed by Dianne Feinstein, "Republican Sens. Pete V. Domenici of New Mexico, Conrad Burns of Montana, Norm Coleman of Minnesota and Jim Talent of Missouri, and Democratic Sens. Barbara Boxer of California and Maria Cantwell of Washington. The Department of Homeland Security has said tunnels typically have been built to smuggle drugs, but have quickly transitioned into passages for smuggling illegal aliens. The senators said they were concerned they could also be used to smuggle weapons and terrorists into the United States."

Opposition Charges Belarus Election Was Fraudulent. The Financial Times (3/20, Wagstyl, Buckley) reports, "Up to 5,000 opposition supporters braved blizzards and threats of violence from the Belarus authorities to protest on Sunday in central Minsk against what they called a fraudulent election victory by President Alexander Lukashenko." Initial returns "showed Mr Lukashenko, denounced by the US as Europe's last dictator, winning more than 90 per cent of the vote." The Los Angeles Times (3/20, Murphy, 958K), Washington Post (3/20, A8, Finn, 744K), Wall Street Journal/AP (3/20) and New York Times (3/20, Myers, Chivers, 1.19M) also report the story. A second New York Times story (3/20, Myers), titled "Incumbent Remains Popular In Heartland's Rural Villages," in which it says "villages…offer a window into Mr. Lukashenko's popular support."

Matthew Kaminski, editorial page editor of The Wall Street Journal Europe, writes in Wall Street Journal (3/20, 2.11M), "In the club of democracy's enemies, Mr. Lukashenko is an elder statesman, a Hugo Chavez of the steppes. He is a clever populist who cultivates other pariahs and holds an old Bolshevik's contempt for opposition and political compromise." He "is widely known, thanks to Condi Rice, as 'Europe's last dictator,' though that nickname sells Vladimir Putin and other recent arrivals short." Lukashenko, "like a Milosevic or Saddam, wants nothing more than for the world to resign itself to a few more decades of him. A tyrant's best ally is fatalism."

Serbs Searching For War Criminals Mladic, Karadzic. NBC Nightly News (3/19, story 5, 2:25, Maceda, 9.87M) reported, "The death of Slobodan Milosevic, the so-called 'Butcher of the Balkans,' has only increased pressure on Serbia to hand over his two most infamous protégés." UN Chief Prosecutor Carla Del Ponte: "Now, more than ever, I expect Serbia to finally arrest and transfer Radko Mladic and Radovan Karadzic to The Hague as soon as possible." Maceda: "But where are Karadzic, the former Bosnian Serb leader, and his military commander, Mladic, who orchestrated the siege of Sarajevo in which 12,000 civilians died, and later, the massacre of some 8,000 men and boys in Srebrenica, both indicted on war crimes, including genocide, and both with $5 million bounties on their heads? Karadzic is thought to be hiding in the mountains of Montenegro, but Mladic has been seen in or near Belgrade, protected by just a handful of loyal bodyguards." The Serbian government "says it's hunting for Mladic and will arrest him, if only to keep talks alive that could lead to Serbia's joining Europe, a key goal."

Calm Returns To Paris After Massive Labor Riot. NBC Nightly News (3/19, story 4, 0:30, Kotb, 9.87M) reported, "In Paris now today, relative calm after a night of chaos: Police arrested more than 160 people Saturday as demonstrators clashed with police to protest a law that would make it easier for employers to fire younger workers without cause. Today, the nation's powerful labor unions threatened to stage a potentially crippling general strike if the government doesn't withdraw the legislation by tomorrow evening." USA Today (3/20, Sanchez, Stinson, 2.31M) says "crowds estimated by the French Interior Ministry at more than 500,000 turned out in about 150 cities Saturday in the largest of six weeks of anti-government protests." The New York Times (3/20, Kanter, 1.19M) and the Wall Street Journal (3/20, Higgins, 2.11M), among other sources, also report on

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the unrest. USA Today (3/20, Stinson, 2.31M) also runs an analysis piece titled "Jobs Law Means Little In Riot-torn Suburb."

Energy To Top Agenda As Putin Visits China. Energy will be high on the agenda as Russian President Vladimir Putin visits Beijing tomorrow. The Wall Street Journal (3/20, White, Oster, 2.11M) reports that Putin's hosts "are likely to convey growing frustration that Russia hasn't provided as much energy assistance as China has wanted. Beijing is expected to push the Russian leader to commit to specific plans for building oil and gas pipelines to China." The Journal adds, "This week's discussions are expected to center on reviving talks to build a spur that would carry oil directly to China from a $7 billion pipeline Russia plans to build across east Siberia to the Pacific, as well as a stalled gas pipeline."

Beijing Won't Intervene In Talks Over Iron Ore. China's top economic planner said the government won't intervene in continuing negotiations between Chinese steelmakers and foreign mining companies that supply them with iron ore. The Wall Street Journal (3/20, Blumenstein, 2.11M) reports that Ma Kai, head of the National Development and Reform Commission, told a group of US newspaper editors, "The government will not interfere," adding, "This price will be decided on the basis of market and enterprise negotiations."

Latin American, Caribbean Economies Expected To Grow In 2006. The economies of Latin America and the Caribbean are likely to expand 4.3% in 2006, according to the head of a UN regional research group. The Wall Street Journal (3/20, 2.11M) reports that Jose Luis Machinea, head of the Economic Commission for Latin America and the Caribbean "said the forecast is based on expectations that Brazil and Mexico, the region's two largest economies, may expand slightly faster than expected. Furthermore, Chile also may perform better than the 5.5% forecast of Eclac, Mr. Machinea said. For now, however, the group isn't changing its estimate."

Consumers In EU, Japan Showing Willingness To Spend Again. The Wall Street Journal (3/20, Whitehouse, Sapsford, 2.11M) reports that "companies and consumers in the euro zone and Japan, the world's second- and third-largest economies after the U.S., have started spending again -- or appear poised to do so -- for the first time in years. The new climate has prompted moves by central bankers in both places to push up interest rates to curb inflation, a policy that could weigh on stock and bond prices everywhere by slowing the flow of cash around the globe." The shift means "the world might be less dependent on the American consumer, whose willingness to borrow and spend has been a primary driver of world growth for the past five years. If U.S. economic growth starts to taper off later this year, as some economists predict, Japanese and Europeans might help pick up the slack, a global rebalancing act that many had hoped for but few had thought probable."

EU Criticizes Pace Of Turkish Reforms. The European Union is criticizing the Turkish government over the pace of its reforms. The Washington Times (3/20, Borowiec, 90K) reports, "Signals from Ankara indicate the problem is likely to surface again as the EU presses Turkey for changes in the treatment of the Kurdish minority and the role of the military." The Times adds, "Tension remained high yesterday in southeastern Turkey, where security forces were reinforced as Kurds prepared to celebrate the Newroz spring holiday tomorrow. Authorities in Diyarbakir, one of the centers of Kurdish unrest, banned civil servants from taking part in the festivities, warning violators of disciplinary action. Newroz is not an official holiday in Turkey. … The EU wants Turkey, a membership candidate, to eliminate all such restrictions."

East African Drought Forces Changes In Cultural Traditions. East Africa's drought is pushing more and more Africans into cities, according to a front page story in the Washington Post (3/20, A1, Wax, 744K). The movement is "putting pressure on already strained resources and changing cultural practices from diet to marriage traditions. The Post adds, "The men of marrying age in East Africa are calling the current dry season 'the drought that killed the dowry.'"

Private Water Management Efforts Losing Support. The New York Times (3/20, Malkin, 1.19M) reports that support is eroding for private water management to bring water to the world's poor. Instead, many "want to return to relying on the local public utilities that still supply 90 percent of the water to those households that have it. There is a 'big-time shift' in tone, said David Boys, a water policy expert with the Public Services International labor federation. Mr. Boys is a member of an advisory panel appointed by United Nations secretary general, Kofi Annan, that presented its recommendations at the forum, beginning with a call to strengthen local public utilities."

Annan Makes Case For New UN Human Rights Council. In the Wall Street Journal (3/20, 2.11M), UN Secretary General Kofi Annan argues in favor of the new UN Human Rights Council which will be elected on May 9. Annan writes that there is "every reason to hope that the new Council will combine the best features of the old system with some much-needed changes. All those who want it to fulfill this promise now have seven weeks to make it happen. Let

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no one who cares about human rights remain on the sidelines of this struggle."

Liberian President Says She Can Offer Bush A Success Story. Fred Hiatt writes in the Washington Post (3/20, A15, 744K) that when Liberia's new President Ellen Johnson-Sirleaf was asked during "how she will plead her case for aid to Bush, given draining U.S. commitments to Iraq and Afghanistan, she replies, 'For the reason you said -- he needs a success. Billions are being spent on Iraq, billions are being spent on Afghanistan -- and it will take a fraction of those billions to make Liberia a success story. I think he needs one, and we're going to give him an opportunity to have one.'" Hiatt adds, "When her hour at The Post is over, she waves off the usual pleasantries and asks: What will emerge from this interview? What will Liberia get out of it? … Well, Madam President, I'm afraid this column is the best I can do. I hope you get more out of President Bush tomorrow."

NYTimes Urges US To Aid UN Efforts In Darfur. An editorial in the New York Times (3/20, 1.19M) says that "the Arab militias financed by the government of Sudan to 'cleanse' Darfur of blacks are moving across the border into neighboring Chad." The UN "has described the carnage in Darfur as the world's biggest humanitarian crisis but continues to prove itself completely useless at doing anything to stop it. … That leaves the United States, where the Bush administration has made a few strides. Deputy Secretary of State Robert Zoellick appears to be close to getting the United Nations to supplement, if not replace, the woefully ineffective African Union peacekeeping force in the region with United Nations peacekeepers. The United States should also commit to providing specialized reconnaissance and air support for the United Nations force."

WSJournal Criticizes Chinese Officials' Anti-Democracy Tirade. An editorial in the Wall Street Journal (3/20, 2.11M) says, "At the Asia Society's annual corporate conference in Mumbai yesterday, we asked [China's Commerce Secretary Bo Xilai] what the Middle Kingdom might learn from India's experience, particularly as the Chinese economy becomes more integrated with the rest of the world. To our surprise, and to the shock of the audience -- save the mainland rent-a-clap crowd who were along to lend a literal hand -- Mr. Bo embarked on a tirade against democratic freedoms." The Journal adds that "despite prolonged contact with open societies, Mr. Bo still doesn't seem to understand the secret of their success. Near the end of his huff, Mr. Bo backtracked and claimed that Beijing is 'listening' to the voices of its people, and that its citizens are gradually gaining more democratic freedoms. If only it were so."

Abdullah Praised As "Distinguished Statesman." S. Rob Sobhani, president of Caspian Energy Consulting, writes in the Washington Times (3/20, 90K) that Saudi Arabia remained "surprisingly silent" as the rest of the Muslim world erupted in violence over the publication of cartoons of the prophet Mohammad. Saudi Arabia's King Abdullah "is a pious and popular leader of the most significant Muslim country in the world, and he has reset the tone and tenure of political life in Saudi Arabia by emphasizing restraint and tolerance." Sobhani adds, "Under the leadership of King Abdullah, Saudi Arabia is undergoing a political and social reformation. It is incumbent upon the United States to work with this distinguished statesman to ensure that his vision becomes a permanent feature of this strategic, yet combustible, region."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Iraq's Factions Agree To Form Security Council."
"Justices May Further Restrict Domestic Violence testimony."
"Playing Out Of Pocket."
"Chicago Schools Offer L.A.A Cautionary Tale."
"Separation Of Mosque, State Wanes In Indonesia."
"Why May The Chickens Hit The Road?"

USA Today:
"Deaths Fall For U.S., Rise For Iraqis."
"To Head Off Allergies, Expose Your Kids To Pets And Dirt Early. Really."
"Lawmakers Get Out Of The House."

New York Times:
"On Anniversary, Bush And Cheney See Iraq Success."
"Plight Deepens For Black Men, Studies Warn."
"Rumor, Fear And Fatigue Hinder Final Push To End Polio."
"Behind Louisiana Aid Package, A Change Of Heart By One Man."
"Ayatollahs Aside, Iranians Jump For Joy At Spring."
"Cinderella Now Lingers Longer At The N.C.A.A.'s March Dance."

Washington Post:
"Bush Still Upbeat On Outcome Of Iraq."
"George Mason Knocks Out The Champion."
"Dowries Running Dry In Drought-Stricken East Africa."
"GOP Struggles To Define Its Message For 2006 Elections."
"Multiple Layers Of Contractors Drive Up Cost Of Katrina Cleanup."
"Vision For Transit-Friendly Tysons May Slam The Door On Dealer Row."

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Washington Times:
"Bush Vows Strategy Will Win In Iraq."
"George Mason Looks Sweet."
"New Orleans Slowly Back To Business."
"Virginia Mulls Bad-Driver Fees To Save Budget."
"Afghan Man Faces Death For Christian Conversion."
"Hamas Party Dominates Palestinian Cabinet Picks."

Detroit Free Press:
"Granholm Agrees To Abortion Regulation."
"Big Features, Small Cars."
"2 Empty Sites Bedevil County."

Atlanta Journal-Constitution:
"America's Disease Sentinels Overtaxed."
"7 Days, But It's Weeks Of Work."
"Your Space On MySpace Isn't So Private."
"Bright Idea Can Be Bad Sign, 2 Cities Say."

Dallas Morning News:
"Too Much, Too Fast."
"Across Texas, Neighborhoods Feeling Torn Up Over Teardowns."

Houston Chronicle:
"Yates Case Rekindles Emotions."
"Deadly Way Stations."
"Bush, Cheney Cite Gains, Deny Claims Of Civil War."
"Investigation Has DeLay Stuck in Legal Limbo."
"Injured Firefighter Recalls Raging Blaze, A Promise Kept."

Story Lineup From Last Night's Network News:
ABC: Bush-Iraq Progress; Iraq War Casualties; Marines-Civilian Deaths; Shiite Pilgrimage; Iraq Anniversary; College War Reporters; IL6 Race-Iraq Veteran; ABC Iraqi Reporter.
CBS: Preempted By College Basketball.
NBC: Iraq-Allawi Interview; Marines-Civilian Deaths; Bush-Iraq Progress; France-Employment Law Protests; Serbian War Criminals; Australia-Cyclone; Colleges-529 Plans; Texas-Flooding; Gulf Coast Churches; FEMA-Payment Errors; Cuba-World Baseball Classic; Pet Hospital.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Iraq War Anniversary; Midwest Snowstorm.
CBS: Iraq War Anniversary; Australia-Cyclone; Midwest Snow Storm; Miami-Pirate Radio Station; Yates-New Trial; NCAA Tournament;
NPR: Allawi-Iraq Civil War; Iraq War Anniversary; Belarus-Election; France-Employment Reform Protests; Texas-Floods; Midwest Snowstorm.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH — Meets with NATO Secretary General Jaap De Hoop Scheffer, Oval Office, the White House; makes remarks on the Global War on Terror, Renaissance Cleveland Hotel, Cleveland, Ohio.

VICE PRESIDENT CHENEY —Delivers remarks at a luncheon for congressional Candidate Chuck Blasdel, Spread Eagle Tavern & Inn, 10150 Historic Plymouth St., Hanoverton, Ohio; delivers remarks at a reception for senatorial candidate Tom Kean. The Washington Square Conference Center, 520 Broad St., Newark, N.J.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: CITY SCHOOLS _ The Council of the Great City Schools holds its Annual Legislative and Policy Conference. Highlights: 8:30 a.m. Secretary of Education Margaret Spellings discusses how urban schools are making progress under No Child Left Behind and she believes that progress to the next level by advancing the American Competitiveness Initiative. Location: Washington Marriott, 1221 22nd St. NW.

FIREFIGHTERS CONFERENCE _ The International Association of Firefighters holds a legislative conference. Topics to include homeland security, first responder issues, mid-tern elections and challenges facing firefighters. Highlights: 8:45 a.m. Remarks by Harold Schaitberger, general president, IAFF. 9:15 a.m. Remarks by Senator Joe Biden, D-Del. 10 a.m. Remarks by Senator Chuck Hagel, R-NE. 10:45 a.m. Remarks by Ken Mehlman, chairman, Republican National Committee. 11:20 a.m. Remarks by Homeland Security Secretary Michael Chertoff. 2:35 p.m. Remarks by Howard Dean, chairman, Democratic National Committee. 3:45 p.m. Remarks by Andrew Card, Chief of Staff to President Bush. Location: Hyatt Regency-Washington on Capitol Hill, 400 New Jersey Ave. NW.

SECURITY ISSUES _ American University's Washington College of Law hosts EMININT 2006 (Emerging Issues in National and International Security) to discuss emerging issues in national and international security. Highlights: 9:15 a.m. Session on ``Petro-Security in the Post-9/11 World," with former CIA Director James Woolsey, others. Location: Room 603, American University's Washington College of Law, 4801 Massachusetts Ave. NW.

IRAQ WAR-MARCH _ The National Campaign for Nonviolent Resistance and Military Families Speak Out holds a march from near the Vietnam War Memorial to the Pentagon to mark the three year anniversary of the war in Iraq and call for an end to the war. Highlights: 9 a.m. Rally. Location: Daniel French Drive, near the Lincoln Memorial. Followed by a march across the Arlington Memorial Bridge to the Pentagon. With Stephen Cleghorn, member of Military Families Speak Out from Reynoldsville, PA, whose stepson received a Bronze Star; and Laura Costas of Silver Spring, MD, whose brother served 14 months in the Army Reserves

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in Iraq in 2003 - 2004 under stop-loss orders. At the Pentagon, organizers plan a ceremony to honor the fallen, and a ``die-in.'' A delegation will attempt to deliver a coffin, representing the dead killed in Iraq, to Secretary of War Donald Rumsfeld. Pentagon, Arlington, VA.

HAWLEY-AIRPORTS _ 9 a.m. Transportation Security Administration Assistant Secretary Kip Hawley delivers remarks at the Airport Legislative Alliance Spring Washington Conference. Location: L'Enfant Plaza Hotel, 480 L'Enfant Plaza SW.

MOUSSAOUI TRIAL _ 9:30 a.m. Trial of al-Qaida conspirator Zacarias Moussaoui is scheduled to resume at the federal courthouse in Alexandria, Virginia. Location: U.S. Courthouse, 401 Courthouse Square, Alexandria, VA.

IMMIGRANTS-POPULATION _ 10 a.m. The Immigration group FAIR holds a news conference to release a new study, ``U.S. Population Projections to 2050,'' on the impact of current and proposed immigration policies on U.S. population growth. FAIR says that without significant reductions in overall levels of immigration, U.S. population will climb to more than 450 million by mid-century, while increases in immigration currently under consideration in the Senate will add 200 million people to the U.S. population by 2050. Location: FAIR's national headquarters, 1666 Connecticut Avenue, N.W., Suite 400.

DEMOCRATS-IRAQ WAR _ 11 a.m. Sen. Joe Biden, D-Del., joins John Podesta, president and CEO of the Center for American Progress, to mark the third anniversary of the War in Iraq. The Center for American Progress will release a report on ``Progress in Iraq: 2006 1st Quarter Report Card'' detailing what it describdes as ``the dangerously incompetent Administration policies that are failing to make 2006 the year of transition to Iraqi sovereignty that Congress called for last year.'' Location: Room S-211, Capitol.

CHERTOFF-MARITIME SECURITY _ 11:45 p.m. Homeland Security Secretary Michael Chertoff Michael Chertoff speaks on ``Charting a Path Forward'' following a Heritage Foundation media roundtable, ``Maritime Security: Real Issues, Real Answers.'' Location: Heritage Foundation, 214 Massachusetts Ave. NE.

BIRD FLU-CABINET _ 1 p.m. Agriculture Secretary Mike Johanns, Secretary of Health & Human Services, Mike Leavitt, and Secretary of the Interior, Gale Norton, hold a news conference to discuss preparations for avian influenza in the U.S. Location: Jefferson Auditorium, South Building, Wing 5 Entrance, U.S. Department of Agriculture, 1400 Independence Ave., SW.

GUANTANAMO DETAINEES _ 1:30 p.m. - 5:30 p.m. George Washington University Law Center and the Center for Consitutional Rights host a legal forum featuring testimony from former Guantanamo detainees about their detention and treatment. The forum will also include remarks from attorneys who represented detainees, military personnel, and policymakers. Location: GWU Law School, Jacob Burns Moot Court Room, 2000 G St. NW.

LIBERIA _ 2:15 p.m. - 3:45 p.m. The President of the Republic of Liberia, Ellen Johnson-Sirleaf, will discuss ``Liberia's Progress, Potential, and Challenges for the Future'' in a conversation moderated by Center for Global Development senior fellow Steve Radelet. Location: Peter G. Peterson Conference Center, Institute of International Economics, 1750 Massachusetts Ave. NW.

SCIENCE-ECONOMY _ 2:30 p.m. - 4:30 p.m. The American Enterprise Institute sponsors a discussion, ``Scientific Talent and U.S. Economic Leadership.'' Participants are Richard B. Freeman, Harvard University; Steven J. Davis, AEI; David E. Weinstein, Columbia University; and Kevin A. Hassett, AEI. Location: Wohlstetter Conference Center, 12th floor, AEI, 1150 17th St. NW.

NATO-RIGA SUMMIT _ 3 p.m. NATO Secretary General Jaap De Hoop Scheffer addresses a National Press Club afternoon newsmaker. Topic: ``NATO's Operations, Transformation and the Riga Summit.'' Location: National Press Club.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: MONDAY, MARCH 20, 2006 7:45 AM EST

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TERRORISM NEWS:

The Letter Of The Law (USNEWS)

By Chitra Ragavan

U.S. News and World Report, March 20, 2006

In the dark days after the Sept. 11, 2001, terrorist attacks, a small group of lawyers from the White House and the Justice Department began meeting to debate a number of novel legal strategies to help prevent another attack. Soon after, President Bush authorized the National Security Agency to begin conducting electronic eavesdropping on terrorism suspects in the United States, including American citizens, without court approval. Meeting in the FBI's state-of-the-art command center in the J. Edgar Hoover Building, the lawyers talked with senior FBI officials about using the same legal authority to conduct physical searches of homes and businesses of terrorism suspects--also without court approval, one current and one former government official tell U.S. News. "There was a fair amount of discussion at Justice on the warrantless physical search issue," says a former senior FBI official. "Discussions about--if [the searches] happened--where would the information go, and would it taint cases."

FBI Director Robert Mueller was alarmed by the proposal, the two officials said, and pushed back hard against it. "Mueller was personally very concerned," one official says, "not only because of the blowback issue but also because of the legal and constitutional questions raised by warrantless physical searches." FBI spokesman John Miller said none of the FBI's senior staff are aware of any such discussions and added that the bureau has not conducted "physical searches of any location without consent or a judicial order."

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In December, the New York Times disclosed the NSA's warrantless electronic surveillance program, resulting in an angry reaction from President Bush. It has not previously been disclosed, however, that administration lawyers had cited the same legal authority to justify warrantless physical searches. But in a little-noticed white paper submitted by Attorney General Alberto Gonzales to Congress on January 19 justifying the legality of the NSA eavesdropping, Justice Department lawyers made a tacit case that President Bush also has the inherent authority to order such physical searches. In order to fulfill his duties as commander in chief, the 42-page white paper says, "a consistent understanding has developed that the president has inherent constitutional authority to conduct warrantless searches and surveillance within the United States for foreign intelligence purposes." The memo cites congressional testimony of Jamie Gorelick, a former deputy attorney general in the Clinton administration, in 1994 stating that the Justice Department "believes, and the case law supports, that the president has inherent authority to conduct warrantless physical searches for foreign intelligence purposes."

"Black-bag jobs." Justice Department spokesman Brian Roehrkasse says the white paper cited the Gorelick testimony simply to bolster its legal defense of the NSA's electronic surveillance program. Roehrkasse points out that Justice Department lawyers have told Congress that the NSA program "described by the president does not involve physical searches." But John Martin, a former Justice Department attorney who prosecuted the two most important cases involving warrantless searches and surveillance, says the department is sending an unambiguous message to Congress. "They couldn't make it clearer," says Martin, "that they are also making the case for inherent presidential power to conduct warrantless physical searches."

It could not be learned whether the Bush administration has cited the legal authority to carry out such searches. A former marine, Mueller has waged a quiet, behind-the-scenes battle since 9/11 to protect his special agents from legal jeopardy as a result of aggressive new investigative tactics backed by the White House and the Justice Department, government officials say. During Senate testimony about the NSA surveillance program, however, Gonzales was at pains to avoid answering questions about any warrantless physical surveillance activity that may have been authorized by the Justice Department. On February 6, Patrick Leahy, the ranking Democrat on the Judiciary Committee, asked Gonzales whether the NSA spying program includes authority to tap E-mail or postal mail without warrants. "Can you do black-bag jobs?" Leahy asked. Gonzales replied that he was trying to outline for the committee "what the president has authorized, and that is all that he has authorized"--electronic surveillance. Three weeks later, Gonzales amended his answer to Leahy's question, stating that he was addressing only the legal underpinnings for the NSA surveillance program but adding: "I did not and could not address operational aspects of the program, or any other classified intelligence activities." In the past, when Congress has taken up explosive issues that affect the bureau, Mueller has made it a point, officials have said, to leave Washington--and sometimes the country--so as not to get pulled into the political crossfire. When Gonzales testified February 6, Mueller was on his way to Morocco.

Government officials told the magazine that Mueller and then Deputy Attorney General James Comey, who also questioned the NSA spying program, both believed that while it was a close call legally, the president did have authority to conduct electronic surveillance of terrorism suspects in the United States without court approval; both men, however, raised grave concerns about the possible use of any information obtained from any warrantless surveillance in a court of law.

At least one defense attorney representing a subject of a terrorism investigation believes he was the target of warrantless clandestine searches. On Sept. 23, 2005--nearly three months before the Times broke the NSA story--Thomas Nelson wrote to U.S. Attorney Karin Immergut in Oregon that in the previous nine months, "I and others have seen strong indications that my office and my home have been the target of clandestine searches." In an interview, Nelson said he believes that the searches resulted from the fact that FBI agents accidentally gave his client classified documents and were trying to retrieve them. Nelson's client is Soliman al-Buthe, codirector of a now defunct charity named al-Haramain, who was indicted in 2004 for illegally taking charitable donations out of the country. The feds also froze the charity's assets, alleging ties to Osama bin Laden. The documents that were given to him, Nelson says, may prove that al-Buthe was the target of the NSA surveillance program.

The searches, if they occurred, were anything but deft. Late at night on two occasions, Nelson's colleague Jonathan Norling noticed a heavyset, middle-aged, non-Hispanic white man claiming to be a member of an otherwise all-Hispanic cleaning crew, wearing an apron and a badge and toting a vacuum. But, says Norling, "it was clear the vacuum was not moving." Three months later, the same man, waving a brillo pad, spent some time trying to open Nelson's locked office door, Norling says.

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Nelson's wife and son, meanwhile, repeatedly called their home security company asking why their alarm system seemed to keep malfunctioning. The company could find no fault with the system.

In October, Immergut wrote to Nelson reassuring him that the FBI would not target terrorism suspects' lawyers without warrants and, even then, only "under the most exceptional circumstances," because the government takes attorney-client relationships "extremely seriously." Nelson nevertheless filed requests, under the Freedom of Information Act, with the NSA. The agency's director of policy, Louis Giles, wrote back, saying, "The fact of the existence or nonexistence of responsive records is a currently and properly classified matter."

"Maximum speed." For the FBI, the very mention of the term "black-bag jobs" prompts a bad case of the heebie-jeebies. In 1975 and 1976, an investigative committee led by then Sen. Frank Church documented how the FBI engaged in broad surveillance of private citizens and members of antiwar and civil rights groups, as well as Martin Luther King Jr. The committee's hearings and the executive-branch abuses that were documented in the Watergate investigation led to numerous reforms, including passage of the Foreign Intelligence Surveillance Act in 1978. The law created a special secret court tasked with approving electronic wiretaps in espionage and other national security investigations. After the Aldrich Ames spy case, Congress amended FISA to include approval of physical searches. After 9/11, the law was further amended to allow investigators to place wiretaps or conduct physical searches without notifying the court for 72 hours and to obtain "roving" wiretaps to allow investigators to tap multiple cellphones.

In justifying the NSA's warrantless surveillance program, Gonzales has argued that the review process required for a FISA warrant is too cumbersome for a program that is of "a military nature" and that requires "maximum speed and agility to achieve early warning."

White House lawyers, in particular, Vice President Cheney's counsel David Addington (who is now Cheney's chief of staff), pressed Mueller to use information from the NSA program in court cases, without disclosing the origin of the information, and told Mueller to be prepared to drop prosecutions if judges demanded to know the sourcing, according to several government officials. Mueller, backed by Comey, resisted the administration's efforts. "The White House was putting pressure on Mueller to broadly make cases with the intelligence," says one official. "But he did not want to use it as a basis for any affidavit in any court." Comey declined numerous requests for comment. Sources say Mueller and his general counsel, Valerie Caproni, continue to remain troubled by the domestic spying program. Martin, who has handled more intelligence-oriented criminal cases than anyone else at the Justice Department, puts the issue in stark terms: "The failure to allow it [information obtained from warrantless surveillance] to be used in court is a concession that it is an illegal surveillance."

Mueller has been criticized by some agents for being too close to the White House. His predecessor, Louis Freeh, made his break publicly from President Clinton, even returning his White House security access badge. Until recently, Mueller reported to the White House daily to brief Bush and Cheney. But Mueller has not shied away from making tough decisions. He refused to allow FBI agents to participate in CIA and Defense Department interviews of high-value prisoners because of the administration's use of aggressive interrogation techniques. In Iraq and at the Pentagon-run camp for terrorism suspects at Guantanamo Bay, Cuba, it has been FBI agents who have called attention to what they viewed as abuse of detainees.

It is unclear how much resistance from the FBI the White House and the Justice Department will be willing to brook. What is clear, however, is the extraordinary extent to which officials in both places inject themselves in the bureau's operations. In late 2004, President Bush asked then FBI Deputy Director Bruce Gebhardt, filling in for Mueller during the daily White House briefings, minute details about a suspected terrorism threat in Kansas. "Don't worry, Mr. President," responded Gebhardt, straight-faced. "We have Kansas surrounded."

Democrat: Punish Bush If Law Broken (USAT)

USA Today, March 20, 2006

A top Senate Democrat said Sunday that President Bush should be held responsible if he violated the law in authorizing a domestic spying program. But Sen. Dick Durbin of Illinois said it is too early to tell whether censure or impeachment of Bush would be appropriate. “I don't want to prejudge it,” Durbin, the Senate's No. 2 Democrat, said on Fox News Sunday. “But if this president or any president violates the law, he has to be held accountable.” Sen. Russ Feingold, D-Wis., introduced censure

legislation last week, saying Bush violated the law in not informing Congress or getting approval from a secretive court to conduct the eavesdropping program.

Accidents involving commercial airlines and private aircraft rose last year, but fatalities declined, the National Transportation Safety Board says. NTSB Chairman Mark Rosenker called the increase in accidents to 1,779 last year from 1,717 in 2004 "disappointing," but said the decrease in fatalities is a "hopeful sign." Fatalities fell to 600 last year — most involving small plane crashes — from 636 in 2004. Twenty-two deaths occurred in three commercial incidents. In December, a Southwest jet skidded off a snowy runway at Chicago's Midway Airport and hit a car, killing a boy in the vehicle. Also in December, a Chalk Ocean Airways plane broke up shortly after takeoff from Miami, killing 20 people. Last June at Washington's Reagan National Airport, a ground worker operating a mobile baggage loader was killed after striking a plane.

Vice President Cheney dismissed suggestions that the White House needs a shake-up in the wake of President Bush's record-low job-approval ratings. "I don't think we can pay any attention to that kind of thing," Cheney said on CBS' Face the Nation. "The president … ignores the background noise." Bush's approval sank to 36% in a USA TODAY/CNN/Gallup Poll taken March 10-12. Cheney said he heard grumbling 30 years ago as chief of staff for President Ford. "Administrations go through peaks and valleys," he said. "When you're down in the polls you're going to take shots that you don't deserve, and when you're up in the polls you're probably going to get praise you don't deserve."

President Bush's Cabinet simulated a smallpox attack Saturday as the government tested plans to counter the potential use of bioweapons. White House spokeswoman Dana Perino said there is no indication that a smallpox attack is imminent. The government has stockpiled vaccine for everyone in the USA, she said. Centers for Disease Control and Prevention Director Julie Gerberding joined the secretaries of Homeland Security, Health and Human Services, Agriculture, Transportation and Veterans Affairs in the four-hour exercise to identify gaps in local, state and federal preparedness plans.

Durbin: It's Too Early To Censure Bush (AP-Y2)

AP2, March 19, 2006

A top Senate Democrat said Sunday that President Bush should be held responsible if he violated the law in authorizing the domestic spy program.

But Sen. Dick Durbin of Illinois said it is too early to tell if either censure or impeachment of Bush would be appropriate.

"I can't rule anything out until the investigation is complete. I don't want to prejudge it," said Durbin, the Senate's No. 2 Democrat. "But if this president or any president violates the law, he has to be held accountable."

Durbin's colleague, Sen. Russell Feingold, D-Wis., last week introduced censure legislation, saying Bush violated the law in not fully informing Congress or getting approval from a secretive court to conduct the eavesdropping program. A censure resolution, if adopted, would amount to Congress scolding the president.

Since then, few Democrats have embraced the proposal, while some Republicans have sought to the cast the move as a shameless political ploy over a vital national security issue. Feingold is considered a presidential contender for 2008.

Appearing on "Fox News Sunday," Durbin said he so far has not heard a valid legal justification for the spy program that was put in place after the Sept. 11, 2001, terror attacks. But he said considering the stronger sanction of impeachment was not a "valuable discussion at this point."

"It's valuable that Senator Feingold is moving us forward to finally be a catalyst to have the kind of hearings and the kind of deliberations as to what lies behind this warrantless wiretap situation," said Durbin, calling the overall inquiries so far by the Republican-controlled Senate inadequate.

"We have a responsibility to ask the hard questions, to find out what the nature of the program is and whether the president violated the law," Durbin said.

Feingold's Censure Call A Distraction For His Party (WT)

By Christina Bellantoni

The Washington Times, March 20, 2006

Congressional Democrats say Sen. Russell D. Feingold's move to censure President Bush for authorizing warrantless surveillance is a distraction from their quest to take back Congress in the fall.

"Every time we get in a great strategic position, we manage to energize the Republican base," Rep. James P. Moran, Virginia Democrat, told The Washington Times.

"Everything is going well for the Democrats and President Bush is tanking in the polls, and then Russ Feingold comes up with the idea of censure, which is going to go nowhere and is not just quixotic but is somewhat self-serving," he said.

Mr. Moran's comments echoed a theme used by House Minority Leader Nancy Pelosi last week during a briefing with reporters.

The California Democrat said that Republicans want censure to become an election issue to make the minority party look bad and that she would not support censuring the president.

"I have no idea why anybody would censure someone before they have an investigation," she said. "Why doesn't everybody just channel their energy into winning the election?"

The Senate's No. 2 Democrat, Richard J. Durbin of Illinois, said it is too soon to make a decision about censuring Mr. Bush for his approval of domestic warrantless surveillance to investigate terror suspects.

"It's valuable that Senator Feingold is moving us forward to finally be a catalyst to have the kind of hearings and the kind of deliberations as to what lies behind this warrantless wiretap situation," said Mr. Durbin on "Fox News Sunday." "We have a responsibility to ask the hard questions, to find out what the nature of the program is and whether the president violated the law."

Already, the Republican National Committee seized on the censure effort put forth by Mr. Feingold, Wisconsin Democrat, last week.

"Sen. Feingold has become a hero again amongst the out-of-the mainstream liberal Democrat base," reads a release on GOP.com.

Mr. Feingold defended his efforts and accused his party members of "cowering," saying Mr. Bush has broken the law and has lied to Congress for ordering the eavesdropping within the United States.

"All Americans want to fight terrorism and protect our country from those who wish to do us harm, but they don't want to sacrifice the rights and principles our country was founded upon," Mr. Feingold said. "One of those fundamental American principles is that the president doesn't get to pick and choose which laws he follows."

Senate Majority Leader Bill Frist, Tennessee Republican, defended the wiretapping as a vital national security tactic.

Other Republicans dismissed Mr. Feingold's censure resolution as a "political stunt." Mr. Frist tried to force a floor vote on the measure, bypassing the Senate Judiciary Committee, but, Senate Democrats have refused to allow that.

Senate Minority Leader Harry Reid, Nevada Democrat, said the censure effort should go through the proper committee channels before it comes to the Senate floor. He praised Mr. Feingold as a "man of principle."

"The Judiciary Committee should hold hearings on this, so that the American people and Congress can find out what's going on with the program," he told reporters last week. "I'm going to wait until the committee does its work."

"People should cool their jets and let the process take its course."

Mr. Moran said the censure measure put forth by Mr. Feingold has no chance of being considered by the Republican-controlled House or Senate, "So why do it?"

"You can find lots of reasons to censure President Bush, but we have no power to do so," Mr. Moran said. However, two Democratic senators -- Barbara Boxer of California and Tom Harkin of Iowa -- added their names to Mr. Feingold's censure resolution.

"We have an out-of-control president whose arrogant and, now, illegal behavior is running our country into the ditch," Mr. Harkin says on his Web site. "It's time to rein him in."

Democrats Should Declare Censure Move 'Irresponsible' (RC)

By Morton M. Kondracke

Roll Call, March 20, 2006

The best thing that can be said about the call by Sen. Russ Feingold (D-Wis.) to censure President Bush is that practically none of his colleagues is backing him up.

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Democrats are not, as he charges, "cowering" in the face of possible Republican allegations that they are pro-terrorist. Rather, they don't want to distract attention from the main Democratic assaults on Bush and the GOP — that he's "incompetent" and that Republicans are in "disarray."

Moreover, as The New York Times reported Thursday, Feingold's move is being used by Republicans, right-wing talk show hosts and conservatives in general to motivate the base.

It's suddenly occurring to Republicans that if Democrats capture control of either chamber of Congress, they'll use their subpoena power to make life pure hell for Bush and the GOP over the next two years.

And, if it's the House that Democrats carry, it's not out of the question that impeachment proceedings could be launched against him in a Judiciary Committee chaired by firebrand lefty Rep. John Conyers (Mich.).

However demoralized Republicans are about Bush and the state of the country, the prospect of seeing him pilloried should help bring out GOP voters.

Moreover, the idea that Democrats might impeach Bush could turn off ordinary voters, much as the impeachment of President Bill Clinton did in 1998. That cost Republicans four House seats, a loss that led to the ousting of then-Speaker Newt Gingrich (R-Ga.).

Feingold himself has said he thinks Bush has committed an impeachable offense by ordering "secret" and "illegal" National Security Agency wiretaps of "domestic" terrorist targets. He claims he's being "moderate" by moving to only censure Bush.

In fact, the whole enterprise is irresponsible — and I'd like to believe that's another reason why Democrats are ducking endorsement of Feingold's action, even though no party leader has actually used that word in public.

While Democratic leaders don't want to endorse Feingold's move, they also are evidently cowering at the prospect of being further savaged by left-wing Web loggers who already are denouncing them for being "soft" on Bush.

Feingold himself admits that he favors wiretapping terrorists and would not stop the program Bush has undertaken, which he says "can easily be done" under existing law.

If that's the case, then the responsible thing for a Senator to do — especially someone who wants to be president — would be to find a way to adjust the law to enable the government to find out what terrorists are up to, rather than punishing a president who believed he had to skirt the law to do it.

In any event, Bush did report what he was doing to Congressional leaders, including Democrats, so it was not entirely "secret." It's not clear — because details of the program are secret — why Bush believed he could not comply with the Foreign Intelligence Surveillance Act and obtain warrants for the taps. If FISA procedures are too onerous, the responsible thing would be to make them less so.

Moreover, there's no evidence whatsoever that any innocent Americans have been harmed as a result of the NSA wiretaps or that Bush has ordered them for some nefarious or political purpose.

Feingold wants to censure Bush — and personally believes it's impeachable — for, at worst, an excess of diligence in protecting the country from terrorists who have vowed to kill millions of us if they can. This is scarcely a "high crime" or even a "crime."

Feingold has the reputation of being a sincere and principled civil libertarian, liberal and foreign policy dove. So, it seems he's being honest in his irresponsibility.

On the other hand, what he's doing is also politically advantageous, short-term, for his presidential prospects, even as it's politically disastrous for the Democratic Party as a whole. I'd say it's also politically polarizing and dangerous for the country.

Feingold hopes to distinguish himself among all the other male candidates chasing front-running Sen. Hillary Rodham Clinton (D-N.Y.) — and steal some of the ardent lefties who might otherwise support her and who now see him as more courageous than she.

Feingold wants to become the leading 2008 candidate of the anti-war left of the Democratic Party — the wing that nominated another sincere, principled anti-war liberal, Sen. George McGovern (D-S.D.), in 1972. He lost 49 states to President Richard Nixon that fall.

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Feingold's move reinforces the party's image as "McGovernite" — weak on national security — at a time when Bush's inept Hurricane Katrina response and the Dubai ports disaster has given Democrats an opening to knock Bush on homeland security.

Democrats seem to understand the danger of repeating the McGovern mistake. That's why they rejected now-Democratic National Committee Chairman Howard Dean as their 2004 nominee and picked Vietnam War veteran Sen. John Kerry (D-Mass.) as an "electable" alternative. Right now, most Democrats are similarly shying away from Feingold's censure initiative, deeming it too far out.

On the other hand, Bush-hatred and partisanship is so intense among Democrats that their leaders often go far out themselves, as when House Minority Leader Nancy Pelosi (Calif.) embraced the proposal for a rapid withdrawal from Iraq by Rep. John Murtha (Pa.), and when Senate Minority Leader Harry Reid (Nev.) labeled various GOP Senators as corrupt and had to apologize.

Such conduct is a gift to Republicans. As Sen. Lamar Alexander (R-Tenn.) told me, "every time us Republicans get into trouble, along come the Democrats to help us out."

Still, if Feingold's move is another gift to the GOP, it's not a gift to the country. The more left-wing activists pressure Democrats and right-wing activists pressure Republicans, the less chance there is that the two parties can come together to win the country's wars and solve its problems.

The latest bipartisan George Washington University Battleground survey shows that the public hates this back-and-forth. Asked whether they preferred that Members of Congress possess "strength of values and convictions" or "willingness to find practical, workable solutions," respondents favored "workable solutions" by 58 percent to 38 percent.

This suggests that the country hungers for a real "uniter" not "divider" as president in 2008. And that would not be Russ Feingold.

Revising The Old Plan (USNEWS)

By Linda Robinson

U.S. News and World Report, March 20, 2006

The Bush administration released a key document last week, following on the signing of a classified directive that gives new orders to government agencies about their roles in the war on terrorism. As a result, the National Counterterrorism Center must now produce a National Implementation Plan in the next 90 days. The NCTC, created by Congress after the 9/11 attacks, has already compiled a database of some 200,000 suspected terrorists or terrorist facilitators. Last week, the deputy director of the center, Kevin Brock, said that law enforcement in the United States is turning up about 60 "hits" a day from that list.

The new version of the administration's national security strategy was unveiled by senior White House adviser Stephen Hadley. In a change from the September 2002 version, which said that neither religion nor ideology was the enemy, the new document describes the terrorist threat as a "murderous ideology" that will require both military forces and a "battle of ideas" to defeat. New emphasis is also placed on relying on other countries to help fight the war on terrorism and spread democracy. Iran, believed to be developing a nuclear weapons capability, came in for a veiled warning. Diplomacy to dissuade the regime in Tehran "must succeed," the 49-page document states, "if confrontation is to be avoided." The White House wants to keep Tehran guessing about President Bush's intentions, but there was little confusion about his policy of pre-emption--striking at America's adversaries before they strike first. Bush is still all for it.

Interagency conflicts. The National Security Presidential Directive gives new marching orders to each agency for its role in the war on terrorism. That classified document is colabeled National Security Presidential Directive 46 and Homeland Security Presidential Directive 15, since it also directs domestic agencies on their responsibilities. A major goal of the new NSPD is to resolve discrepancies among previous presidential directives and chronic conflicts among agencies with overlapping responsibilities: The State and Defense departments have wrangled over jurisdiction for the war on terrorism in countries where the United States is not at war, and the FBI and the Department of Homeland Security have had similar turf disputes at home. The Central Intelligence Agency and the Pentagon have both claimed roles in intelligence collection abroad.

Now it falls to the National Counterterrorism Center to make sure each entity does what it has been ordered to do. Congress created the NCTC and gave it two mandates: to fuse the intelligence from all the disparate U.S. intelligence and law

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enforcement entities and conduct "strategic operational planning" across all those agencies to ensure there is a common plan implemented at home and abroad.

Among other things, the NCTC maintains a database of "people we want to know about because we believe they are linked to terrorism," Brock, the NCTC's deputy director, explained. The database has 325,000 names on it, including aliases; Brock estimates the names represent as many as 200,000 individuals. The database is being provided to local police, and Brock says they are responding: "We are getting about 120 hits a day, and about half of them are real."

Sri Lankan Ordered Freed From Border Jail (AP)

By Peter Prengaman

AP, March 20, 2006

SAN DIEGO - After more than four years in a U.S. detention center, Ahilan Nadarajah will soon gain the freedom he sought when he fled Sri Lanka and the government forces there that he says repeatedly jailed and tortured him.

He had reached the United States in October 2001 only to be detained on the same accusations that almost got him killed in his home country: He was suspected of being a member of the Liberation Tigers of Tamil Eelam, a separatist group listed as a terrorist organization by the U.S. State Department.

Nadarajah denies the claims, and immigration judges have twice granted him asylum. But the federal government refused to release him.

The latest order came Friday from the 9th U.S. Circuit Court of Appeals, telling the U.S. government it was violating federal law by continuing to hold him even though he wasn't criminally charged and couldn't be deported in the foreseeable future. His lawyers said they now expect him to be freed in a few days.

"I lost my time and my life, and I almost lost my mind, too," Nadarajah said in a phone interview from the Otay Mesa detention center, at the U.S.-Mexico border south of San Diego. "It's not fair. They put me in jail without reason."

Justice Department spokeswoman Cynthia Magnuson said the decision was being reviewed but would not elaborate. It wasn't immediately clear if the government would appeal the court's decision.

Nadarajah, an ethnic Tamil who turns 26 on Wednesday, came from a family of farmers in northern Sri Lanka, the island nation of 20 million off the coast of India.

In 1995, the Sri Lankan army bombed the area, killing Nadarajah's older brother and forcing the family to relocate. When they later returned, Nadarajah was accused of being a member of the Tamil Tigers, a group that was fighting for an independent state for the ethnic minority on Sri Lanka.

Nadarajah says he was repeatedly jailed and tortured by government forces there that pistol-whipped him, forced his head into a plastic bag with gasoline and left him hanging upside down for hours. Finally, he got a passport and exit visa from a smuggler and traveled through Thailand, South Africa, Brazil and Mexico before he was arrested at the U.S. border on Oct. 27, 2001.

He applied for asylum, arguing that if he were sent back to Sri Lanka he would be tortured and possibly killed.

The U.S. government opposed his application, saying he was affiliated with the Tamil Tigers.

In the 9th Circuit's ruling Friday, Judge Sidney R. Thomas said Nadarajah's detention was "unreasonable, unjustified and in violation of federal law," and called a government argument "patently absurd." The ruling followed a 2001 Supreme Court ruling that immigrants must be freed if their deportation is "no longer reasonably foreseeable," a period interpreted by many legal experts as being about six months.

Nadarajah's attorney described the case as one of the Bush administration's repeated violations of immigration law in the name of national security.

"The government got it completely wrong about whether he was a terrorist, and overreached for detention powers Congress never granted," said Ahilan Arulanantham of the American Civil Liberties Union.

Nadarajah is anxious to be free. He wants to improve his English - which he learned in jail after arriving without speaking a word of the language - go to college and get some "good food."

"I'm tired of this place," said Nadarajah. "I want to be outside, you know? But this was worth it because it saved my life."

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ON THE NET

9th Circuit: http://www.ca9.uscourts.gov/

Rules For An Unruly New War (USNEWS)

By Liz Halloran

U.S. News and World Report, March 20, 2006

It was November 2001, barely two months after the 9/11 terrorist attacks, when Osama bin Laden's personal driver was captured in Afghanistan and later shipped to the U.S. military prison in Guantanamo Bay, Cuba. Half a world away, President Bush was ordering up a new military tribunal system to try foreigners designated as enemy combatants and accused of war crimes in the ongoing "war on terror."

Next week those events will collide at the U.S. Supreme Court. In what is destined to be a landmark case, justices are scheduled to hear an appeal by that driver, Yemen native Salim Ahmed Hamdan, challenging the legality of Bush's tribunals--the first since World War II. The high court will finally have to weigh in on some of the most contentious and polarizing issues in the post-9/11 world: How should the United States treat non-American prisoners whose allegiances lie not with a country but an ideology? Does the president have the power to unilaterally decide not only which prisoners qualify as enemy combatants but what rights they have and under what justice system they should be tried? And, at the heart of it all, should past rules of war apply, or does the war on terrorism--so different from previous wars--require its own special standards?

Recruits. Hamdan, now in his mid-30s, was a poor, part-time taxi driver in Yemen just 10 years ago when he was recruited to fight with Islamic insurgents in Tajikistan, according to journalist Jonathan Mahler, who is working on a book about Hamdan. But when those recruits were rebuffed at the Tajik border, they decided to look for bin Laden, who had recently moved his militant organization to Afghanistan.

Hamdan's lawyers acknowledge that their client went to work for bin Laden, but they argue that he was just a functionary, serving as the al Qaeda leader's driver--not involved in plotting or training for attacks on America. But the U.S. government alleges that Hamdan was much more. After his capture, he was designated an "enemy combatant," charged with conspiracy to commit terrorism and murder, and tapped as one of the first Guantanamo detainees to be tried under the new military tribunal system.

His challenge to that system will test the administration's ongoing effort to broadly expand presidential wartime authority--from conducting warrantless domestic surveillance to establishing the military tribunals, which allow unsworn statements in lieu of testimony and can impose the death penalty. And unlike a traditional court-martial, the tribunal system does not allow a review outside the military. The last line of appeal under the tribunals, except in limited circumstances, is Secretary of Defense Donald Rumsfeld. The eight justices who will hear the Hamdan case (Chief Justice John G. Roberts has recused himself because he participated in an appeals court ruling on the case) will also examine whether legal protections afforded prisoners of war under the international Geneva Conventions should extend to detainees like Hamdan, who do not operate under the flag of a country.

Dismissed? But there is a wild card: Government lawyers want the high court to simply dismiss Hamdan's appeal. They argue that a law enacted by Congress last December blocking detainee access to U.S. courts also applies to cases pending at the time. The high court is expected to consider this issue first, and if justices agree with the government, Hamdan's appeal will be moot--as will cases filed by hundreds of Guantanamo's 500 detainees--and his case will revert to the military tribunal.

The administration argues that the president has inherent constitutional power during wartime to establish the tribunals and also draws authority from legislation authorizing the use of military force that Congress passed in the wake of the 2001 attacks. There is historical precedent for the controversial tribunals, and lawyers like Richard Samp of the conservative Washington Legal Foundation argue that if detainees had access to open civilian courts, it would flood the courts and officials could be forced to reveal sensitive U.S. intelligence information.

Whatever the outcome, the justices will be drawn into a profound and emotional debate over the treatment and rights of the Guantanamo detainees--a debate that civil libertarians say has damaged America's reputation. "Military [tribunals] have been used throughout our history--there seems to me plenty of legal authority for that," says Richard D.Rosen, who spent 26 years as an Army judge advocate and now directs Texas Tech University's Center for Military Law and Policy. "But I think the courts should be allowed to get to the merits of this case. The military [tribunal] is not a court, and it's not equipped to decide these constitutional

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issues." The place for that, argues Rosen, is the Supreme Court. And in taking the case, the justices seem to agree that at the very least they need to establish some rules in a war that often seems not to have any.

The President And The Courts (NYT)

The New York Times, March 20, 2006

Since the Republican majority has decided to allow President Bush to usurp Congress's role in matters of national security, the battle to save the constitutional balance of powers moves to the judiciary. A critical test of judicial independence will come this month, when the Supreme Court hears arguments in a case that has become a focus of Mr. Bush's imperial vision of the presidency.

Salim Ahmed Hamdan, a Yemeni national accused of having been a bodyguard and driver for Osama bin Laden in Afghanistan, has been detained since 2002 in Guantánamo Bay. He filed suit to challenge the legitimacy of the military commission that upheld his designation as an "unlawful enemy combatant" — a term Mr. Bush invented after 9/11 to deny the protections of the Geneva Conventions, international statutes or United States law to certain prisoners.

Mr. Hamdan argued, rightly, that the commissions are not legitimate because prisoners are routinely barred from seeing evidence, much less confronting their accusers or having access to real legal representation. But his case has now become a much larger battle over the principle of habeas corpus, which is embedded in the Constitution and says that a prisoner cannot be denied the right to challenge his detention. Mr. Bush's decision after 9/11 that he had the power to put prisoners beyond the reach of the law at his choosing was the first attempt to suspend habeas corpus on American territory since the Civil War.

The Supreme Court two years ago emphatically rejected the president's claim that its jurisdiction did not extend to Guantánamo. Seeking to reverse that ruling, the White House in December helped push through a special amendment as part of the deal that also saw Mr. Bush sign a watered-down ban on torture of military detainees. The amendment, sponsored by Senator Lindsey Graham, a Republican, and Senator Carl Levin, a Democrat, stripped Guantánamo detainees of the normal rights of judicial review. It also designated a single appellate court to conduct a limited review of decisions by the military commissions, and left "enemy combatants" held without a trial in a seemingly inescapable legal black hole.

As soon as Mr. Bush signed this law, he declared that the administration was going to apply it to all pending cases, about 160 or so, and the solicitor general told the Supreme Court it no longer had a right to hear Hamdan v. Rumsfeld. This is court-stripping — the attempt by another branch of government to prevent the court from deciding a particular issue. The White House tried to justify this outrageous tampering with the judiciary by ignoring the new law's actual language and legislative history to argue that the new legislation took away the power of the courts to hear not just future cases but also cases already filed and accepted for review. The Supreme Court responded by adding the jurisdictional objection to the list of issues it will consider when the case is heard on March 28.

At a minimum, we hope the court will rule that Congress and the president may not deny the justices the power to review pending cases. But it should also reject the defective military commissions, as well as the idea of denying access to the courts for future valid claims brought by Guantánamo detainees, including claims of torture.

If Congress wants to take the extreme step of suspending the Supreme Court's jurisdiction over habeas corpus, especially pending appeals, it must say so in unmistakable terms, which it has not done. Both the text and the legislative history of the Graham-Levin amendment demonstrate an intention to avoid touching pending cases. Moreover, the Constitution itself requires an "invasion" or a "rebellion" as a prerequisite for suspension of habeas corpus. It's hardly likely that the founding fathers intended to give Congress the right to eliminate judicial review during an ongoing international struggle against terrorism that may well go on for generations.

The retired Justice Sandra Day O'Connor observed in a recent speech that the framers created three separate and equal branches of government because they knew that preserving liberty requires that no single branch or person can amass unchecked power. According to NPR's Nina Totenberg, who heard the speech, Justice O'Connor cited Republican court-stripping efforts as an example of dangerous overreaching. "It takes a lot of degeneration before a country falls into dictatorship," Justice O'Connor said, "but we should avoid these ends by avoiding these beginnings."

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The president seems to forget that and Congress clearly will not remind him. The nation cannot afford for the Supreme Court to forget as well.

Gitmo Goat Or Hero? (TIME)

By Adam Zagorin And Sally B. Donnelly

Time, March 19, 2006

Did Major General Geoffrey Miller--commandant at GuantÃ¡namo Bay and a top adviser on interrogations at Abu Ghraib--do wrong? No, says a new report by Lieut. General Stanley Green, the Army Inspector General (IG), that TIME obtained last week. A Pentagon panel recommended last summer that Miller be reprimanded for poor oversight of a high-value prisoner at Gitmo. But Green told TIME that the evidence is not there to back charges against Miller of dereliction and lying to Congress about his role in the scandal. The report concludes that at Gitmo Miller was unaware a canine had been used to intimidate alleged "20th hijacker" Mohammed al-Qahtani, or that al-Qahtani was forced to don women's underwear and perform dog tricks--even though Miller was intimately involved in planning al-Qahtani's interrogation. The report even lavishes praise on Miller, noting the "strength, energy and effectiveness of [his] leadership." Miller's military lawyer told TIME: "The IG is entirely correct in fact and law."

Miller's exoneration may only inflame his critics. At a Senate Armed Services Committee hearing last week, chairman John Warner pointedly suggested to one of Miller's superiors that he "go back over this entire matter," warning that Miller will be recalled before the panel to explain himself. Sources close to the powerful committee say that anger at Miller has escalated sharply since he invoked his right to avoid self-incrimination and refused to testify in the detainee-abuse trial of an Abu Ghraib dog handler. In that case, defense lawyers argued that their client was following guidelines from Abu Ghraib military-intelligence chief Colonel Thomas Pappas, who in turn has said under oath that Miller advocated using dogs to "get information" from prisoners.

Green, the Army IG, says that people need in the abuse-scandal investigations to find a "donkey to pin the tail on." But he insists "Miller is not the one." Which leaves the question: Who is?

A Legal Loose Cannon (TIME)

By Douglas Waller

Time, March 19, 2006

The roots of the bungle seem to come down to this: Carla Martin, a government lawyer with a small role in the sentencing trial of confessed 9/11 conspirator Zacarias Moussaoui, thought the chief of the prosecution team was overplaying his hand. In his opening statement, Assistant U.S. Attorney Robert Spencer argued that if Moussaoui had told the FBI what he knew about the 9/11 plot in advance, authorities "would have prevented" the hijackings and thousands of lives could have been saved. Martin, 51, a veteran in the aviation field, thought defense attorneys could "drive a truck" through that assertion, as she later e-mailed a scheduled witness in the case. Thus she took it upon herself to coach that witness and six other current or former government aviation experts scheduled to testify in ways to fend off the opposing lawyers.

While experienced litigators know how to prep witnesses without crafting their testimony, Martin crossed a line, informing her experts what she would tell the jury and feeding them transcripts from the trial in violation of an explicit order from U.S. District Judge Leonie Brinkema. It was no small mistake. When Brinkema found out, she angrily barred all aviation-security witnesses from testifying--experts prosecutors were counting on to make their case that had Moussaoui shared what he knew, officials could have prevented 9/11, and since he didn't, he should be executed.

How could such a high-profile case have been handled so sloppily? Certainly Martin, a lawyer for the Transportation Security Administration (TSA), was never meant to be a player. In court documents filed after the blowup, prosecutors painted her as a misguided "miscreant" with only a bit part in the government's case preparation--arranging witness interviews and retrieving aviation documents for prosecutors. A former flight attendant who followed her father into law, Martin developed a reputation for tenaciousness both at the TSA and, before that, at the Federal Aviation Administration, where she started working even before she graduated from law school. But she did hardly any litigating in court. Her work was focused more on administrative matters. For instance, when sensitive aviation-security issues came up in the civil suit brought against Pan Am by families of those who

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died in the Flight 103 bombing, she advised the presiding judge on whether to clear the courtroom. When she started delving into criminal trial tactics, say colleagues, she was simply out of her element.

Martin's coaching of the Moussaoui witnesses was discovered when one of them became so put off by her persistent e-mails that she showed them to prosecutors, who then informed the judge of Martin's misconduct. "In all my years on the bench, I've never seen a more egregious violation of the rule about witnesses," Brinkema said. She warned Martin that she may face criminal charges. Martin, who has been placed on paid administrative leave by the TSA, wouldn't comment. Her mother, Jean Martin Lay, told TIME that her daughter is "really devastated" by the accusations. Martin's lawyer, Roscoe Howard, claims that prosecutors have unfairly "vilified" her and that her side of the story, which he says she is preparing, "will show a very different, full picture of her intentions."

Moussaoui, 37, a French Moroccan who was detained about a month before the 9/11 attacks, has pleaded guilty to conspiring with al-Qaeda to hijack planes, but denies direct involvement in the 9/11 plot, claiming that he was preparing for a future attack instead. If he is not executed, he faces life imprisonment. Prosecutors were counting on the witnesses barred by Brinkema to explain to jurors how airport security could have been increased had Moussaoui come clean with FBI agents who interrogated him before 9/11.

In the end, prosecutors managed to persuade the judge to let them present to the jury a new set of aviation experts who have had no contact with Martin. But the case for executing Moussaoui remains tenuous. Legal experts, and even Brinkema, have questioned whether prosecutors are overreaching in arguing that he should be put to death for what he did not do. Martin, in one of her e-mails, said she doubted that airport screeners could have detected all the short-blade knives the hijackers took aboard, even if Moussaoui had told agents before 9/11 what he knew. Of course, that is an opinion that prosecutors wish she had kept to herself.

Another Blown Case? (WP)

The Washington Post, March 20, 2006

THE DEATH penalty case against accused Sept. 11 conspirator Zacharias Moussaoui has barely survived the government's latest bout of incompetence. In a blatant violation of a court order, a Federal Aviation Administration lawyer working on the case sent key aviation witnesses a transcript of the government's opening statement, along with her comments on it. This led U.S. District Judge Leonie M. Brinkema to exclude those witnesses -- potentially crippling the prosecutors' case for execution of the only person to face trial for the attacks on the Pentagon and the World Trade Center. On Friday, Judge Brinkema revised her order, allowing the testimony of aviation witnesses untainted by the misconduct. So the case will now limp forward.

Americans opposed to capital punishment, as we are, have little reason to regret this development. Mr. Moussaoui already has pleaded guilty and faces life in prison, which is the sentence he should get. While he is by his own admission an al-Qaeda operative sent here to do America harm, his links to the attacks -- which took place after he was in custody -- are weak.

This case nevertheless joins a line of big terrorism prosecutions marred by government misconduct, overzealousness, hyping of charges or just plain ineffectiveness. A conviction in Detroit had to be set aside because of prosecutorial misconduct. The government brought spectacular charges against accused Islamic Jihad activist Sami al-Arian, only to see a jury reject many of them -- and convict on none -- after a lengthy trial. Then-Attorney General John D. Ashcroft announced the arrest of Jose Padilla with great fanfare as the foiling of a plot to detonate a radiological "dirty" bomb; after holding him for years as an enemy combatant, the government indicted him for far lesser matters. Mohamed Qahtani, the Guantanamo Bay inmate the government has labeled the 20th hijacker -- when it wasn't busy making the same claim about Mr. Moussaoui -- was subjected to such abusive interrogation that he probably cannot face trial at all.

More generally, the military still hasn't managed to try a single person at Guantanamo before its much-vaunted commissions, whose main selling point was their efficiency. More than four years after the Sept. 11 attacks, the United States lacks a stable, predictable system for trying accused terrorists.

Prosecuting terrorists isn't easy, as Mr. Moussaoui's trial has repeatedly illustrated, but much of this is the Bush administration's fault. The administration failed to work with Congress to create viable legal structures to handle these cases, proceeding in whatever way seemed most convenient in any given situation. The results are abysmal. And, ironically, they

undermine the case for the more secretive military trial procedures the government is trying to create. If authorities fail so often to play by the rules in the relatively open federal court system, it's hard to believe their behavior will be better when the spotlight is turned off.

Terror Case: 'Bizarre' Testimony (NSWK)

By Michael Isikoff and Karen Breslau

Newsweek, March 20, 2006

The justice department's case against accused 9/11 conspirator Zacarias Moussaoui is in trouble. The Feds also have a problem in another case. The credibility of the FBI's star witness against a Pakistani-American accused of Qaeda ties is under fire after he testified he saw Ayman al-Zawahiri at a mosque attended by the de-fendant in Lodi, Calif., in 1999. The testimony by informant Naseem Khan, who has been paid $250,000 by the bureau, startled counterterrorism experts: Zawahiri, Osama bin Laden's chief deputy, was in Afghanistan at the time, under indictment for the bombings of two U.S. embassies in Africa. Jack Cloonan, a former FBI agent who had tracked Zawahiri for years, told news-week the testimony was "bizarre" and "seriously wrong." While conceding "there may have been some puffery" by the informant, a Justice official who asked not to be ID'd because of legal sensitivities said prosecutors are still confident about the case against Hamid Hayat, 23, accused of attending a Qaeda camp in Pakistan, and his father, Umer Hayat, 48, who allegedly lied to the FBI about his son's travels. Defense lawyers say the testimony raises new questions about Khan, a fast-food worker with a burglary conviction who was recruited by the FBI after 9/11 and paid up to $4,500 a month to ID terror suspects. An internal FBI doc obtained by NEWSWEEK shows Khan claimed to have seen Zawahiri—and two other most-wanted terrorists—at the Lodi mosque in late 1999, describing them as Pashto-speaking Pakistanis. (They are Arabs.) The FBI first used Khan to target two radical imams in Lodi. They were deported. Meanwhile, Khan befriended the younger Hayat, a fruit packer, and secretly taped conversations while encouraging Hayat to visit a Pakistani camp in 2003. Hayat later confessed going to the camp; there is no evidence he plotted any terror acts.

HOMELAND RESPONSE:

SSA Raises Hurdle In Proposal For DP World To Sell U.S. Holdings (WSJ)

By Daniel Machalaba

The Wall Street Journal, March 20, 2006

SSA Marine Inc.'s decision to explore a sale of the company could complicate Dubai Ports World's plans to sell its U.S. holdings to an American buyer.

SSA Marine, the largest U.S. container terminal operator, has been considered one of the possible bidders for DP World's terminal operations in the U.S. With SSA Marine disclosing that it is a potential acquisition target itself, the number of viable U.S. purchasers for DP World's U.S. holdings could be reduced.

In a statement Friday, closely held SSA said it has received inquiries from "many companies looking to partner with, or invest in SSA Marine" and is exploring its strategic alternatives. The Seattle company noted "opportunities to acquire additional operations," suggesting it still could be a bidder for DP World's U.S. holdings. SSA said it is working with its financial advisor, Citigroup Inc., to evaluate its options.

DP World declined to comment on the SSA Marine announcement.

The SSA statement adds to the frenzy of interest in marine container terminals, which have seen their value soar amid rising trade, limited expansion room in some ports and global consolidation of a handful of large non-U.S. container terminal operators. SSA has operations in 150 ports throughout the world, including 11 marine container terminals on the U.S. West Coast and in Latin America. Some maritime executives have said SSA could be valued at as much as $2 billion.

At the same time, the political firestorm in the U.S. over DP World has put some U.S. terminal operations back on the market. DP World's purchase of Peninsular & Oriental Steam Navigation Co. of London for $6.8 billion included container terminal operations in five U.S. ports. Many in Congress objected to the deal, citing national security concerns because DP World

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is controlled by the Dubai government. DP World agreed to defuse the controversy by committing to sell the U.S. terminal operations to a U.S. buyer.

The Dubai deal could make it more difficult for some companies to bid for SSA. SSA Marine spokesman Bob Watters said in a statement that "none of the alternatives we are exploring would involve selling control of our U.S. operations to a company owned by a foreign government."

That would appear to bar Singapore's PSA International Pte. Ltd. and some Chinese operators from bidding for SSA. It would leave the door open to A.P. Moller-Maersk of Denmark and Hutchison Whampoa Ltd., the world's largest terminal operator, which is based in Hong Kong.

Nation's Security Is At Stake (USAT)

By Duncan Hunter

USA Today, March 20, 2006

In the post-9/11 world, America's No. 1 priority must be national security. But the process that OK'd government-owned Dubai Ports World's takeover of terminal operations at major U.S. ports was geared less toward national security and more toward economic opportunity. Otherwise, how did it overlook red flags like these: (Related: Opposing view)

As recently as 2003, customs officials in the United Arab Emirates (UAE), of which the government of Dubai is a member, allowed 66 high-speed electrical switches, which can be used for detonating nuclear weapons, to go to a Pakistani businessman with ties to that country's military — despite U.S. protests. Further evidence shows Dubai spurned U.S. requests to inspect containers holding the switches. Among other troubling examples, Pakistani physicist and nuclear proliferator A.Q. Khan shipped black-market materials through Dubai, prompting one Middle East expert to call it an "atomic bazaar."

The UAE has been our ally. But we cannot disregard its role as a point of transshipment for dangerous materials — either with governmental acquiescence or great governmental negligence. Right now, we're optimistic that DP World will keep its commitment to sell its interests in U.S. port operations.

But the need to secure critical domestic infrastructure extends beyond our maritime interests and the DP World deal.

That is why I introduced legislation that not only reforms the foreign-investment review process but goes even further to protect all of America's critical infrastructure — stipulating that any asset or system so vital that its incapacity or destruction would debilitate national security, economic security or public health and safety must remain in the hands of reliable, American-owned companies. It also mandates that appropriate authorities inspect all in-bound cargo.

Much of this isn't novel. In fact, the legislation's so-called protectionist elements are already required from Department of Defense contractors. In a post-9/11 world, we must ensure that our critical infrastructure is every bit as secure as critical parts of our defense industrial base.

Today, we can take nothing for granted. We must continue to enhance our security instead of creating even greater vulnerabilities.

To those who say this smacks of protectionism, I say this: America is worth protecting.

Rep. Duncan Hunter, R-Calif., is chairman of the House Armed Services Committee.

Scuffle Over Ports Deal Stirs Up Protectionist Fears (USAT)

USA Today, March 20, 2006

Each day, some $3 billion of foreign money pours into the United States, buying stocks, bonds, whole companies, real estate, home mortgages and more. Without that money, interest rates would skyrocket for lack of investors to finance the government's staggering debt. Job growth also would wilt as foreign investment declined. (Related: Opposing view)

You'd think those facts — and they are not in dispute — might prompt lawmakers to tour the globe drumming up more investment, or at least to recognize that we now live in a world economy. Instead, some seem intent on doing just the opposite.

Eager to tap the deep vein of anti-foreign sentiment exposed by the Dubai ports deal, they are pushing a ban on foreign purchases of any assets considered part of the nation's "critical infrastructure."

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The plan may never get off the ground. It certainly won't if even a sliver of reason enters the debate. But at a time when the nation is concerned about immigration, foreign outsourcing of jobs and terrorism, it is a useful measure of just how foolish protectionism can be.

The proposal comes from Rep. Duncan Hunter, a California Republican and chairman of the House Armed Services Committee. He would like to set a series of draconian standards for any company wishing to buy a part of the nation's "critical infrastructure." Its chairman and CEO would have to be American, as would at least half of its board. The secretary of Defense would have to approve half of the board members and the company would have to keep tabs on the citizenship of its shareholders to make sure that no more than half were non-U.S. citizens.

The idea that the government would be allowed to choose who controls private companies is bizarre by itself. More so coming from a Republican. But that's only the beginning of the problems the bill would create.

• Much of the economy could be shut off to foreign investment since the concept of critical infrastructure is inherently vague. This would dramatically slow economic growth and eliminate jobs. Hunter defines critical assets not just as those affecting national security, but those critical to economic security and public health as well. Virtually any large company could be considered economically vital.

• If "critical" industries were shut off to foreign buyers, then virtually any domestic company would claim its goods and services were critical to avoid having to compete with foreign companies. Competition would decline, driving prices up.

• Other countries would surely retaliate against U.S. firms. The protectionist tit-for-tat would quickly escalate, derailing economic growth that has been critical to raising living standards here and abroad since World War II. Similar events preceded the Great Depression.

There are, to be sure, many security issues surrounding critical infrastructure sites. The Department of Homeland Security's efforts to beef up port security have a long way to go. And the chemical industry has beaten back legislation mandating new safety measures at plants near major cities.

But these have nothing to do with corporate ownership. Shutting off foreign investment amounts to using 9/11 as a pretext for economic nationalism and protectionism. That's bad policy. And, given the USA's need for foreign capital, a bad case of biting the hand that feeds us.

Increase In Contracting Intelligence Jobs Raises Concerns (WP)

By Walter Pincus

The Washington Post, March 20, 2006

AllWorld Language Consultants Inc., a Rockville firm, is seeking experienced military interrogators to work in Iraq for $153,500 a year plus bonuses, with proficiency in Arabic "preferred but not required," according to Yahoo's Hot Jobs listings.

The U.S. Army element of the Multi-National Force-Iraq is looking for a private contractor to provide airborne surveillance over that country that will "provide situational awareness of the entire area of operations," according to another Web announcement.

Lockheed Martin Corp. is seeking a counterintelligence analyst to work for the Pentagon's newest intelligence agency, the Counterintelligence Field Activity (CIFA), in its Colorado Springs facility to "create and deliver briefings, write reports, and represent Counterintelligence Field Activity," according to a Web classified ad.

These positions and thousands like them are part of a growing trend at the Pentagon to contract out intelligence jobs that were formerly done primarily by service personnel and civil service employees.

But, by using contract employees, government agencies lose control over those doing this sensitive work and an element of profit is inserted into what is being done. Also, as investigations have revealed, politics and corruption may be introduced into the process.

The office of Director of National Intelligence John D. Negroponte has quietly begun to study the contracting issue because "it already is a problem," a senior intelligence official said in a recent interview.

A related concern for intelligence agencies inside and outside the Pentagon is that the government is training people and getting them security clearances, but they then leave for better pay offered by contractors, sometimes to do the same work.

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"Once cleared, they can get a higher salary outside and they are gone," the official said. "We're leasing back our former employees."

The phenomenon is partly the result of Congress's approving large funding increases for intelligence activities but not increasing the limit on the number of full-time persons that agencies can hire. "We don't have the billets," the official said, so the surge is taken care of by contracting out the jobs.

Retired Maj. Gen. Paul D. Eaton, who ran Iraqi military training from 2003 to 2004, describes the hiring of civilians to do jobs previously done by the military as a "shell game" created by Defense Secretary Donald H. Rumsfeld to keep the "force strength static on paper." In an op-ed piece in yesterday's New York Times, Eaton wrote, "This tactic may help for a bit, but it will likely fall apart in the next budget cycle with those positions swiftly eliminated."

"The Pentagon ramped up so fast, it had to turn to contract personnel to have continuity," said another former senior intelligence official who now does contract work. He pointed out that some jobs are so complex, military personnel on three-year rotations are facing reassignment just as they master their jobs.

The trend toward contracting for intelligence analysts will hurt the ability of the CIA and the Defense Intelligence Agency to retain and keep high-quality people, said a former senior intelligence official who helped supervise the rebuilding of the CIA's case officer and analyst corps. "It takes time to get the young up to snuff, and you need 10 to 20 years to get the value for that investment," this former official said, asking for anonymity because of his past role in government.

John O. Brennan, the longtime CIA official who started up and headed the National Counterterrorism Center before his retirement, said contract personnel "bring on recognized expertise that exists outside government" and "often are needed as new [intelligence] systems are being built."

Now a contractor himself, Brennan said it should come as no surprise that many younger military and government-trained intelligence personnel, who have top security clearances, are resigning to take jobs in the private sector.

The CIA's contracting has generally been limited to technical support, but almost two years ago a "spy drain" was described in a column by intelligence expert James Bamford, who warned, "Private contractors are taking over jobs once reserved for highly trained agency employees." Because of the rush to expand activities, Bamford said some newly hired former CIA officers said that "their talents are being wasted on unsophisticated tasks."

Attention has also been focused on the rapid growth of Pentagon intelligence contracting because of recent guilty pleas by former representative Randy "Duke" Cunningham (R-Calif.) and contractor Mitchell J. Wade, who used contributions and job offers to get his former company, MZM Inc., more than $100 million in mostly intelligence contracts between 2002 and 2004. In one case, according to court papers, Wade drafted and gave Cunningham an outline of the work that CIFA then contracted with MZM to perform.

Federal investigators are reviewing CIFA's contracts, according to a government prosecutor involved in the inquiry. CIFA Director David A. Burtt II said in a recent interview that 70 percent of his agency's work is handled by contractors.

Brennan said that contract employees frequently cost less for government agencies when they are needed for short durations while new agencies get fully staffed. Thereafter, higher pay given to contract employees over government employees can be justified only in part because contractors offer less job security than the government does.

Brennan said he introduced a rule at the National Counterterrorism Center that personnel cannot resign and return to do the same job with a contractor until a certain amount of time had elapsed.

The contracting for intelligence personnel is "neither black nor white," according to Brennan, but it "needs to be watched."

The Arabic-speaking interrogators that AllWorld Languages is seeking must be U.S. citizens, have security clearances, and be willing to start immediately and deploy to any city in Iraq. AllWorld is a subcontractor of L-3 Communications Holdings Inc., a multibillion-dollar defense contractor that recently got a six-month, $420 million extension to its no-bid Army contract for translators. About 80 percent of the 5,000 translators L-3 employs for the Army are working in Iraq.

William Golden, who runs IntelligenceCareers Inc., maintains a Web site listing thousands of jobs, including senior posts within the intelligence community. In a slide presentation on his site, Golden points out that as the number of contract positions in the intelligence field increases, the number of candidates for such jobs decreases -- in part because the number of people

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leaving military and government service in the intelligence field is less than the number of jobs being opened up to contract employees.

In a recent presentation, Golden said 65 to 70 percent of new contract employees who took contract jobs after they left government with security clearances came from the military. Less than 15 percent earned their clearances while working for contractors. One reason for the difference is that it takes a year or more to get a top-secret clearance; meanwhile, an employee is waiting to be hired or is hired and doing a non-cleared job. Those who had clearances just need to have them updated, which takes far less time.

As a result, someone with a top secret and special compartmented information clearance, meaning access to electronic intercepted data, can get as much as 35 percent more pay than others with lesser clearances or no clearances, according to Golden. Brennan, who now runs his own intelligence consulting concern, the Analysis Corp., agreed that "a security clearance in the Washington area means money."

WTC Talks To Resume Next Week (WSJ)

By Alex Frangos

The Wall Street Journal, March 18, 2006

NEW YORK -- Talks to resolve how to rebuild the World Trade Center will restart next week after private developer Larry Silverstein offered a revised proposal Friday for his role in the long-troubled project.

The Port Authority of New York and New Jersey, which owns the site, said it would respond to Mr. Silverstein's proposal.

While calling aspects of Mr. Silverstein's latest proposal "unacceptable," Port Authority spokesman Steve Coleman said the agency "will develop a counter-proposal that we believe will work for both parties to get this deal done."

Negotiations between Mr. Silverstein and the Port Authority broke down Wednesday after failing to meet a deadline imposed by New York Gov. George E. Pataki. The Port Authority walked out on the talks saying the 74-year-old real estate tycoon was bargaining in "bad faith," a charge he denied.

Mr. Silverstein's revised proposal closes the gap between the two sides and contains some new ideas, according to a person close to the talks. In a statement, Mr. Silverstein said "the sooner we get this done the better."

Before talks failed, the two sides had the broad outlines of a deal in place that would have Mr. Silverstein give up the rights to build two of the five planned towers, including the signature Freedom Tower. The sticking points revolved around how much each side would bear of the $7 billion cost.

Little has been rebuilt 4 1/2 years after the attacks that destroyed the Twin Towers. Gov. Pataki, the Port Authority, which Gov. Pataki controls with New Jersey's governor, and Mr. Silverstein have come under heavy criticism for the lack of progress.

Multiple Layers Of Contractors Drive Up Cost Of Katrina Cleanup (WP)

By Joby Warrick

The Washington Post, March 20, 2006

NEW ORLEANS -- How many contractors does it take to haul a pile of tree branches? If it's government work, at least four: a contractor, his subcontractor, the subcontractor's subcontractor, and finally, the local man with a truck and chainsaw.

If the job is patching a leaking roof, the answer may be five contractors, or even six. At the bottom tier is a Spanish-speaking crew earning less than 10 cents for every square foot of blue tarp installed. At the top, the prime contractor bills the government 15 times as much for the same job.

For the thousands of contractors in the Katrina recovery business, this is the way the system works -- a system that federal officials say is the same after every major disaster but that local government officials, watchdog groups and the contractors themselves say is one reason that costs for the hurricane cleanup continue to swell.

"If this is 'normal,' we have a serious problem in this country," said Benny Rousselle, president of Plaquemines Parish, a hurricane-ravaged district downriver from New Orleans. "The federal government ought to be embarrassed about what is happening. If local governments tried to run things this way, we'd be run out of town."

Federal agencies in charge of Katrina cleanup have been repeatedly criticized for lapses in managing the legions of contractors who perform tasks ranging from delivering ice to rebuilding schools. Last Thursday, Congress's independent auditor,

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the Government Accountability Office, said inadequate oversight had cost taxpayers tens of millions of dollars, by allowing contractors to build shelters in the wrong places or to purchase supplies that were not needed.

But each week, many more millions are paid to contractors who get a cut of the profits from a job performed by someone else. In instances reviewed by The Washington Post, the difference between the job's actual price and the fee charged to taxpayers ranged from 40 percent to as high as 1,700 percent.

Consider the task of cleaning up storm debris. Just after the hurricane, the Army Corps of Engineers awarded contracts for removing 62 million cubic yards of debris to four companies: Ashbritt Inc., Ceres Environmental Services Inc., Environmental Chemical Corp. and Phillips and Jordan Inc.

Each of the four contracts was authorized for a maximum of $500 million. Corps officials have declined to reveal specific payment rates, citing a court decision barring such disclosures. But local officials and businesspeople knowledgeable about the contracts say the companies are paid $28 to $30 a cubic yard.

Below the first tier, the arrangements vary. But in a typical case in Louisiana's Jefferson Parish, top contractor Ceres occupied the first rung, followed by three layers of smaller companies: Loupe Construction Co., then a company based in Reserve, La., which hired another subcontractor called McGee, which hired Troy Hebert, a hauler from New Iberia, La. Hebert, who is also a member of the state legislature, says his pay ranged from $10 to $6 for each cubic yard of debris.

"Every time it passes through another layer, $4 or $5 is taken off the top," Hebert said. "These others are taking out money, and some of them aren't doing anything."

Defenders of the multi-tiered system say it is a normal and even necessary part of doing business in the aftermath of a major disaster. The prime contracts are usually awarded by FEMA or other government agencies well in advance, so relief services can be brought in quickly after the crisis eases. These companies often must expand rapidly to meet the need, and they do so by subcontracting work to other firms.

The two federal agencies that administer most disaster-related contracts, FEMA and the Army Corps of Engineers, say the system benefits small and local companies that do not have the resources to bid for large federal contracts. At the top end, prime contractors must be large enough to carry the heavy insurance burdens and administrative requirements of overseeing thousands of workers dispersed across a wide area, agency officials say. They also note that contractors have a legal right to hire subcontractors as they need them.

"Our purview of a contract goes to the prime contractor only," said Jean Todd, a Corps contracting officer.

But watchdog groups that monitor federal contracting say Katrina has taken the contract tiering system to a new extreme, wasting tax dollars while often cheating companies at the low end of the contracting ladder. In some cases, the groups say, companies in the top and middle rungs contribute little more than shuffling paperwork from one tier to the next.

"It's trickle-down contracting: You're paying a cut at every level, and it makes the final cost exponentially more expensive than it needs to be," said Keith Ashdown of the watchdog group Taxpayers for Common Sense. "And in almost every case, the local people who really need to be making the money are at the bottom of these upside-down pyramid schemes."

The gap is particularly large for roof repairs. Four large companies won Army Corps contracts to cover damaged roofs with blue plastic tarp, under a program known as "Operation Blue Roof." The rate paid to the prime contractors ranged from $1.50 to $1.75 per square foot of tarp installed, documents show.

The prime contractors' rate is nearly as much as local roofers charge to install a roof of asphalt shingles, according to two roofing executives who requested anonymity because they feared losing their contracts. Meanwhile, at the bottom of the contractor heap, four to five rungs lower, some crews are being paid less than 10 cents per square foot, the officials said.

At least the prime contractors for roofing and debris removal owned equipment that could be immediately applied to the job at hand. In the world of Katrina contracting, this has not always been the case.

For example, one company hired as an ice vendor owns no ice-making equipment. Landstar Systems Inc., a $2 billion Florida company placed in charge of the bus evacuation of New Orleans, is a transportation broker that specializes in trucking and has no buses of its own. In 2002, the company was awarded a $100 million contract to provide emergency transportation services for the federal government during major disasters. The contract, which is administered by the Federal Aviation Administration, was expanded in the fall to a maximum $400 million. Landstar declined a request for an interview.

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Thousands of New Orleanians had been stranded in the Superdome for more than 48 hours by the time FEMA issued the first order for a bus evacuation early on the morning of Aug. 31. The order was passed to Landstar, which then turned to other companies to locate buses, according to an official chronology prepared by the Department of Transportation. Landstar hired Carey International Inc., of Washington, which then hired the BusBank, of Chicago, and Transportation Management Systems of Columbia, Md. Bus Bank and TMS called private charter-bus companies -- some from as far away as California and Washington state -- asking them to send buses and drivers to New Orleans.

More than 1,100 buses eventually responded, some arriving four days later, after traveling hundreds of miles. Daily earnings averaged about $700 per bus, according to bus company owners. Landstar's daily earnings were nearly $1,200 per bus, government records show.

"A lot of that money is going to brokers who didn't have to do anything," said Jeff Polzien, owner of Red Carpet Charters, an Oklahoma bus company that sent coaches to New Orleans as a fourth-tier subcontractor.

Lower pay is hardly the worst problem subcontractors face. With many tiers to navigate, money trickles down slowly, delaying payment by weeks and months, and frequently imposing hardships on the smallest firms.

Several bus company owners said they were still owed tens of thousands of dollars for work they did in the fall. For some, the delays have been ruinous.

Thomas Paige, owner of Coast to Coast Bus Line of Dillon, S.C., laid off staff, and two of his four buses were repossessed by creditors after payment for his New Orleans work fell behind by three months.

"I went to New Orleans to help people -- and hopefully to help myself -- but now I feel like I've dug a ditch and fallen into it," Paige said. "If I would have known what I know now, I never would have gotten involved. It's just not worth it."

Behind Louisiana Aid Package, A Change Of Heart By One Man (NYT)

By Shaila Dewan

The New York Times, March 20, 2006

Louisiana was in a foul mood on the February day that President Bush's Gulf Coast rebuilding coordinator, Donald E. Powell, stood before an audience of fellow bankers in Baton Rouge.

Two weeks before, the administration had rejected Louisiana's housing recovery plan. Mr. Powell's own idea of housing aid excluded thousands of homeowners, many of them poor, who lived in the flood plain but did not have flood insurance when Hurricane Katrina hit.

Asked about those who had counted on federally built levees to protect them, Mr. Powell, a wealthy man from the dry Texas Panhandle, noted that he had been responsible enough to buy flood insurance for his home in Amarillo.

The members of the Louisiana Bankers Association were not won over. Nor was The Advocate, Baton Rouge's newspaper, which demanded Mr. Powell's dismissal, calling him a "flint-souled" bean counter whose only concern was "guarding the money."

Those with a more charitable view, Senator Mary L. Landrieu, Democrat of Louisiana, among them, complained that he lacked the authority to be effective, and some critics wondered if he was simply another presidential crony.

But barely a week would pass before Mr. Powell did an about-face that turned many of his critics into fans, showing that not only had he listened to the locals, but also that his conclusions had carried weight with Mr. Bush.

With Gov. Kathleen Babineaux Blanco and Mayor C. Ray Nagin at his side, Mr. Powell announced that the president would seek $4.2 billion more for Louisiana to compensate homeowners — even those in the flood plain.

Mr. Powell's epiphany came after hours of listening to Louisianians: the decision makers; the woman who cleaned his room at the Sheraton; Victoria Reggie Kennedy, the wife of Senator Edward M. Kennedy (whom he called after hearing she was a Louisiana native); the inspectors examining high-water marks in homes. As he drove through New Orleans with Mr. Bush on March 8, he pointed to a small restaurant in the Ninth Ward and rattled off the owner's real estate woes.

"He had a learning experience," said Walter Isaacson, vice chairman of the Louisiana Recovery Authority. "It's the most amazing thing for somebody of his stature. It's because by himself, he walked around. He walked around and talked to people."

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Mr. Powell says walking about in the region incognito, in blue jeans and boots, is becoming a bit harder now that people are starting to recognize him. "I went with no preconceived thoughts," he said. "And I realized that while Mississippi was an act of God, Louisiana was an act of God and man. There were some flaws. The levees breached."

Last week, Mr. Powell spent much of his time lobbying House members, successfully, to preserve the appropriation. For several days, other states mounted an effort to siphon off some of the money, and conservatives said the entire amount was too large, but on Thursday the House overwhelmingly approved it.

Mr. Powell's work on the housing plan made many Louisianians think that in appointing him, the administration had finally done something right. Garland Robinette, a talk-radio host in New Orleans who has interviewed Mr. Powell several times, recalled telling him, "I was totally prepared to not like you at all, and it aggravates me that you're doing something to make me think you might be a good guy after all."

For Mr. Powell, former chief executive of the First National Bank of Amarillo, the listening tour was part of any banker's due diligence. Texas bankers are a particular breed — conservative, unpretentious and keenly competitive. One newspaper columnist recalled that years ago, after being offered a job in Amarillo, he received a solicitation call two hours later from Mr. Powell's bank. Asked about the incident, Mr. Powell said, "I probably was mad at our people because it was two hours."

Given his prominence in the Texas Panhandle, Mr. Powell's political connections go almost without saying. To the first President Bush, he is an old friend; to the second, he was a top fund-raiser. He had been to Washington only three times, he said, before he was appointed chairman of the Federal Deposit Insurance Corporation in 2001, a position he left several months early to take his current post in November.

Mr. Powell, 64, is from a working-class family in Amarillo, where he helped his father peddle tobacco and snacks to shopkeepers. A football scholarship made him the first in his family to go to college. He began his career by walking into a bank and asking for a job. During the Texas banking crisis of the 1980's, Mr. Powell hauled the Amarillo bank from the brink of failure.

The $4.2 billion was not his first accomplishment as recovery czar. Until he intervened, state officials had spent hours trying to ensure that the federal government would continue to pick up all recovery expenses, a routine matter that, nevertheless, was authorized for a month at a time.

He also persuaded the president to ask Congress for an additional $1.5 billion for the state's levee system, doubling the previous request. And he became a go-to guy for local officials who hit snags in issues like debris removal and trailer placement.

But his rejection of the housing buyout plan, called the Baker bill after Representative Richard H. Baker, the Louisiana Republican who created it, infuriated many state officials. State leaders had taken great pains to build support for the plan, which called for the creation of a federal agency to buy and sell damaged property. Mr. Powell caused further outrage by skewering the Baker bill — gratuitously, many thought — in an opinion article in The Washington Post.

But he continued to push for an alternative. The first step was to agree on how many houses were damaged, and how badly. Mr. Powell forced Louisiana to justify its figures house by house, using aerial photographs and numbers collected from the Federal Emergency Management Agency, the Red Cross and insurance companies.

He was involved in details including how to reward those who had carried insurance and how to provide incentives for people to rebuild more safely. But he made no promises.

"He's a good poker player," said Andy Kopplin, a former chief of staff for Governor Blanco who is now the executive director of the Louisiana Recovery Authority. "I'd been getting calls and making calls to those guys at 10 o'clock on a Saturday night and sending data sets up. There was an extraordinary effort going on that gave us hope; at the same time, it was never clear to us that we were going to get a breakthrough."

Some Louisiana Democrats suggested the $4.2 billion was nothing more than damage control by the administration, noting that the president had been hammered for his lack of attention to Hurricane Katrina in his State of the Union address and quickly responded by announcing $18 billion in new money for the Gulf Coast. Further reviled after rejecting the Baker bill, they say, Mr. Bush opted to devote the $4.2 billion to Louisiana, which had been shortchanged in an earlier appropriation.

But Mr. Powell said that the entire effort was influenced not by politics, but by hard data. "I'm on a mission, and I can't — while I'm sensitive to it — that can't guide me," he said of public opinion. "I can't be either pushed or held back. I know if we're attempting to do the right thing. I have a conscience. If you're moving, someone's going to be critical."

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In the meantime, the flint-souled banker seems to be winning the battle for hearts and minds. Louisianians who might have been his adversaries have taken to inviting him over for brunch with the family and praising his frugality.

But Mr. Robinette, the talk-show host, reserves the right to change his mind if Mr. Powell starts to deliver bad news despite Mr. Bush's promises to the region.

"It could still be good cop, bad cop," Mr. Robinette said, "and we just haven't seen the bad cop yet."

FEMA Asking Some To Return Money Received For Hurricane Relief (AP)

The AP, March 19, 2006

BEAUMONT — Thousands of people who received money from the federal government after Hurricanes Katrina, Rita and Wilma might be asked to give it back.

The Federal Emergency Management Agency started sending letters last week asking people to return money they received in error.

Some 1.7 million households received FEMA assistance after Hurricanes Rita, Katrina or Wilma. About 2 to 3 percent or 34,000 to 51,000 families will reimburse the agency, Donna Dannels, acting deputy director of FEMA's recovery division.

"The truth is after Rita, FEMA was stretched awfully thin. Information they were giving out to people was extremely inconsistent," said U.S. Rep. Kevin Brady, R-The Woodlands. "Someone could have easily received it in error."

Similar to an audit, the agency goes through a process after disasters to determine if payments were properly made, Dannels said.

"It goes back to if we have made the appropriate award to the appropriate person for the damages that they incurred," she said.

Those who receive a letter requesting repayment can appeal if they believe they were entitled to the funds.

But FEMA officials encourage them to make payments while the matter is resolved or to at least set up a payment plan. If the amount isn't paid in full within 30 days, a 2 percent interest will be added.

Citizens Panel To Share Its Post-Katrina Vision (LAT)

By Sam Quinones

The Los Angeles Times, March 20, 2006

NEW ORLEANS — A commission that has been a magnet for criticism as well as a channel for emerging citizen activism will wind up its work today, bringing to a close the first planning stage for a post-Katrina New Orleans.

The Bring New Orleans Back Commission formally issues its final report to Mayor C. Ray Nagin tonight, though the reports of its seven committees have been public for several weeks.

Nagin formed the commission in the fall to recommend how the city might respond to the destruction of Hurricane Katrina. Since then, it has become a symbol of a new volunteerism and activism among Orleanians. It was also lambasted by many residents for one committee's proposal that large swaths of the city be returned to wetlands and open space.

As a post-hurricane entity, the commission went far beyond just storm and flood protection.

The committees also have recommended ways to overhaul land-use planning, rebuild neighborhoods, consolidate duplicative elected offices, revive the city's cultural life, reorder its health and public education systems, and modernize the criminal justice system.

Michael Cowan, a theology professor at Loyola University who worked on the commission's education and government effectiveness committees, said such a broad approach was necessary because so many problems needed addressing. "A lot of the status quo was a disaster," Cowan said.

Before the Aug. 29 storm, the city's schools were failing, poverty and crime were high, and opportunities for economic advancement and homeownership were low. City government was widely viewed as inefficient, inept and corrupt. The population was declining as young and talented people moved elsewhere.

Meanwhile, Cowan said, "the power structure was so locked in that reform efforts just bounced off it. Good people … gave up."

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But Katrina's destruction, as well as the news coverage that followed the flood, embarrassed and reenergized people. Amid the destruction, many New Orleanians saw a chance to organize the city differently.

"It shook a lot of us up," said Gary Solomon, a banker and chairman of the commission's government effectiveness committee. "There's a lot of good people down here who want to see change."

The Bring New Orleans Back Commission itself was a sign of how different things were after Katrina. Before the storm, residents acknowledged an apathetic civic culture. The panel, however, was made up of dozens of volunteers from many professions and classes, some of whom put in weeks of work.

"This was a citizen-led process," Cowan said. "Our public officials did not lead this process and get this work done."

In January, many residents were alarmed when they learned that the urban planning committee recommended a moratorium on building permits in the hardest-hit neighborhoods, and a return of many of the neighborhoods to wetlands and open space.

The committee has also proposed forming a Crescent City Recovery Assn. to direct neighborhood rebuilding, with the power to issue bonds and buy and sell property for redevelopment, including through eminent domain.

But the commission's proposals are merely advice, and whether any of them will be followed is an open question. Moreover, it's unclear where the funding for the proposals would come from, though one place Louisianians are looking to is just off their coast.

Louisiana's offshore wells have provided oil and natural gas for the nation since the 1940s. Though other states receive half the money generated off their shores, Louisiana receives very little. Most of it goes to the federal government.

Rep. Bobby Jindal (R-La.) has introduced a bill that would increase the state's share of the royalties from offshore oil and gas drilling for use in hurricane preparedness and economic development.

"This is going to be a land of opportunity. [But] we can't build it from scratch," said Bruce Thompson, owner of a measurement-equipment company and a member of the committee studying levees and flood protection. "There needs to be a state revenue source. We've got to be treated fairly."

Few commission members believe anything will happen before April 22, when New Orleanians elect a mayor and City Council.

Still, some hope their ideas will become part of the campaign debate.

Preparing for that, Cowan has formed Common Good — an umbrella organization of homeowner associations, nonprofits, universities and religious groups.

Common Good will bring the candidates together in public forums and ask them to commit to changes they will support, he said. After the election, the group will hold bimonthly meetings with the elected officials to see what progress has been made.

"Sometimes people in elected office need to have a broad, diverse group of citizens helping them do the right thing, because they're just subject to a lot of different pressures," Cowan said.

Among many recommendations, the commission report will propose:

• The consolidation of the sheriffs' offices. New Orleans has a criminal sheriff and a civil sheriff, performing the duties that a single sheriff handles in most U.S. counties.

• Establishing regional forensic and DNA labs, as well as one regional police academy and training facility.

• Preventing the City Council from overriding the Planning Commission's land-use decisions.

• Forming an ethics review board for city government.

WAR NEWS:

President Bush To Stop In Cleveland On Monday (ABJ)

By Lisa A. Abraham

Akron Beacon Journal, March 19, 2006

Just days after reaffirming his national security policy of pre-emptive military strikes, President Bush will be in Cleveland to sell his agenda.

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Bush is expected to discuss the global war on terror in a speech Monday at the City Club of Cleveland. More than 1,000 are expected to attend.

On Thursday, the Bush administration issued its updated national security strategy -- a key component of which includes the first-strike military action that led to the U.S. invasion of Iraq three years ago.

As polls show support for the war is waning, the president is making speeches to bolster his strategy.

Ohio Democrats are balking at the president's initiative.

U.S. Rep. Sherrod Brown of Avon has scheduled a telephone conference for the media Monday to talk about how Bush's policies have alienated ``everyday Ohioans."

U.S. Rep. Dennis Kucinich of Cleveland sent Bush a letter encouraging him to spend some time in the city to get to know Cleveland residents who are dealing with a different sort of terrorism.

``With all due respect, Mr. President, the people of Cleveland are familiar with the `war on terror.' They are familiar with the terror of joblessness, the terror of cutbacks in pensions and health care, the terror of foreclosure, the terror of trade policies that have gutted our manufacturing base and the terror of economic policies that have left many of them behind," his letter states.

Bush is expected to arrive in Cleveland shortly before noon, and will present the President's Volunteer Service Award to Lois Hagood of Garfield Heights, who volunteers as a reading tutor for first-graders in Cleveland.

Bush's speech is expected to begin about 12:30 p.m. and last about an hour, said Karen Reaves of the office of presidential advance.

City Club spokeswoman Missy Toms said sticking to the club's traditional format, the president will be expected to spend about a half-hour answering unrehearsed questions from the audience after his address.

The club moved the Bush speech from its Euclid Avenue headquarters to the ballroom of the Renaissance Hotel on Public Square to increase seating capacity to about 1,000, she said.

Ordinarily, tickets to a City Club event would be open to the public, but for Bush all of the seats were taken by club members and their guests, Toms said.

The speech is Bush's 41st visit to Ohio since taking office, and his third visit this year. In February, he was in suburban Columbus for a speech on health care and he also attended a fundraiser for Republican U.S. Sen. Mike DeWine in suburban Cincinnati.

The speech will be broadcast live on the Internet with the help of the University of Akron.

The webcast can be viewed by going to the City Club's site at www.cityclub.org and clicking on ``view the webcast." Audio and video from WVIZ Adelphia Cable will be routed to a server at UA for a live webcast.

``To see a president in person is a unique opportunity, but unfortunately, the capacity of the auditorium is limited. With this live webcast, anyone across the country and around the world can join the City Club for the president's address," City Club Executive Director James Foster said.

Bush's appearance marks only the third time a sitting president has spoken to the City Club, a nonpartisan free-speech forum. President Clinton spoke in 1994 and Ronald Reagan in 1988.

Bush Trying To Rally War Support (CLPD)

By Sabrina Eaton

The Cleveland Plain Dealer, March 20, 2006

Three years after U.S. troops thundered into Iraq with promises of swift victory, President Bush is visiting Cleveland to shore up enthusiasm for both the lingering war and his leadership.

His luncheon speech before the City Club at the Renaissance Cleveland Hotel today comes as the president's approval ratings hit record lows and polls show increased displeasure with a war that has claimed the lives of more than 2,300 U.S. troops.

Bush will discuss how the United States is "working with all aspects of Iraqi society" to defeat terrorists, restore order and rebuild Iraq, White House spokesman Scott McClellan said. It is part of a monthlong effort by Bush to update Americans on the war's progress and "how we're fixing what was not working."

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"Oftentimes, the progress that is being made doesn't get as much attention as the dramatic and horrific images of violence that people see on their TV screens," McClellan said Friday. "It's important to continue to put things in the broader context."

Republican supporters of Bush's strategy, like Ohio Sens. George Voinovich and Mike DeWine, say Cleveland is a good place for him to explain his policies. Democratic critics, like Reps. Sherrod Brown and Dennis Kucinich, insist he has handled the war ineptly.

John Alterman of Washington's bipartisan Center for Strategic and International Studies credited Bush with disrupting terrorist networks enough to prevent another attack on U.S. soil, but said U.S. allies believe Bush has "destabilized" the world.

"The question is how to keep control of post-conflict environments when you don't have a clear enemy and a clear physical objective," Alterman said. "That is not going to be solved with a presidential speech."

Bush Marks Anniversary, Never Says 'War' (AP)

By Nedra Pickler

The Associated Press, March 19, 2006

President Bush marked the anniversary of the Iraq war Sunday by touting the efforts to build democracy there and avoiding any mention of the daily violence that rages three years after he ordered an invasion.

The president didn't utter the word "war."

"We are implementing a strategy that will lead to victory in Iraq," the president assured a public that is increasingly skeptical that he has a plan to end the fighting after the deaths of more than 2,300 U.S. troops.

Administration officials repeated the mantra that progress continues toward building a unified Iraqi government and nation.

"Now is the time for resolve, not retreat," Defense Secretary Donald H. Rumsfeld wrote in a column for The Washington Post. "Turning our backs on postwar Iraq today would be the modern equivalent of handing postwar Germany back to the Nazis."

Yet there were acknowledgments from the top commander of U.S. forces in Iraq that the situation is fragile and that he did not predict the strength of the insurgency.

"I did not think it would be as robust as it has been," Gen. George W. Casey said on NBC's "Meet the Press." "And it's something that, obviously, with my time here on the ground, my thinking on that has gained much greater clarity and insight."

Bush did not mention the insurgent attacks, the car bombs or the mounting Iraqi deaths in a two-minute statement to reporters outside the White House after returning from a weekend at Camp David. Avoiding the word "war," he called the day "the third anniversary of the beginning of the liberation of Iraq."

The president only indirectly referred to the violence when he said he spent the morning reflecting on the sacrifices made by U.S. troops. Bush said he spoke by phone earlier in the day with the U.S. ambassador to Iraq, Zalmay Khalilzad, and had received a positive report.

The White House is trying to remind the disapproving public of Bush's vision for Iraq with a public relations blitz. The president plans to give a series of speeches on Iraq, beginning Monday in Cleveland.

More than three-fourths of the public thinks it's likely that Iraq is headed toward civil war, according to an AP-Ipsos poll taken in early March.

And two-thirds of Americans say the U.S. is losing ground in preventing civil war in Iraq, according to a Pew Research Center poll taken in the same period. That's up from 48 percent in January.

On Sunday, Vice President Dick Cheney did not express any regret for predicting in the days before the invasion that U.S. troops would be greeted as liberators or his assessment 10 months ago that the insurgency was in its "last throes." On the contrary, he said the optimistic statements "were basically accurate, reflect reality."

Like Bush, Cheney touted the political progress in Iraq, pointing out that the Iraqis have met the political deadlines set for them and predicting they will form a unified government "shortly."

In an interview on CBS' "Face the Nation," Cheney flatly rejected a statement made earlier Sunday by Iraq's former interim prime minister that the increasing attacks killing dozens each day across his country can only be described as a civil war. "If this is not civil war, then God knows what civil war is," Ayad Allawi told the British Broadcasting Corp.

Instead, Cheney described the violence as the actions of terrorists who have "reached a stage of desperation."

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"What we've seen is a serious effort by them to foment a civil war," Cheney said. "But I don't think they've been successful."

Cheney blamed the negative perception on news coverage of the daily violence instead of the progress being made toward democracy.

"There is a constant sort of perception, if you will, that's created because what's newsworthy is the car bomb in Baghdad," the vice president said. "It's not all the work that went on that day in 15 other provinces."

White House critics bemoaned the fact that the third anniversary of fighting ever came to pass and accused the Bush administration of incompetence.

"By any measure, in my view, we're worse off in Iraq today than we were a year ago," Sen. Joe Biden, D-Del., said on CNN's "Late Edition." He cited increased deaths and violence, incomplete government services and a long path to building a consensus government.

Rumsfeld urged Americans to continue supporting the fight and said he believes history will show that the terrorists were defeated. Meanwhile, his detractors issued another round of criticism and calls for his resignation.

In a New York Times column, retired Gen. Paul D. Eaton, who was in charge of training the Iraqi military from 2003-2004, called the defense secretary "incompetent strategically, operationally and tactically, and is far more responsible for what has happened to our important mission in Iraq. Mr. Rumsfeld must step down."

Nearly three years ago Bush announced the end to major combat in Iraq.

Last week, U.S. forces launched Operation Swarmer, described by the Pentagon as the biggest air assault since April 2003. However, Casey said Sunday that he wouldn't categorize Swarmer as a major combat operation, noting that other operations had used far more troops.

"It was an operation to go out into an almost uninhabited area," Casey said. "I think, frankly, it got a little bit more hype than it really deserved because of the use of the helicopters to get the Iraqi and the coalition forces there."

Assessments At Odds On War's Anniversary (USAT)

By John Diamond

USA Today, March 20, 2006

WASHINGTON — On the third anniversary of the start of the U.S.-led war in Iraq, the Bush administration insisted the effort is making progress and said Iraq is doing more to fight insurgents.

Critics in Washington and protesters around the world called for a new approach.

President Bush called Sunday a "time to reflect" about the sacrifices of U.S. troops in Iraq over the past three years. He said he was pleased by Iraqi efforts toward democracy. The top U.S. general in Iraq, meanwhile, predicted "a couple of more years" of violent insurgency, but with U.S. troop presence going down.

However, Iraq's former prime minister, Ayad Allawi, said the country is in a state of civil war. Sen. Chuck Hagel, R-Neb., a critic of the administration's handling of the war, said it was time for "new thinking." And Anthony Cordesman, a leading Iraq expert and war supporter, said, "We may well fail in all our efforts because they came far too slowly."

Protests around the world focused criticism on the Bush administration. Police in London estimated 15,000 people marched from Parliament to Trafalgar Square; last year's protest drew 45,000. About 800 people rallied in Tokyo compared with about 2,000 last year. In the United States, the biggest rally was in Chicago, where about 7,000 people marched. Smaller protests were held in other cities, including Boston, San Francisco, Pittsburgh and New York.

Avoiding the word "war," Bush said Sunday marked "the third anniversary of the beginning of the liberation of Iraq." Speaking to reporters upon his return from Camp David, Bush said he talked by phone Sunday morning with the U.S. ambassador to Iraq, Zalmay Khalilzad, and came away "encouraged by the progress" the Iraqi government is making to establish a balance across Sunni Arab, Shiite Muslim and Kurdish factions.

Top Bush administration officials sought Sunday to convey a message combining a realistic assessment of continuing violence in Iraq with optimism about the future.

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Defense Secretary Donald Rumsfeld issued a message to the 132,000 U.S. troops in Iraq acknowledging their sacrifice. "The progress on all fronts has been murderously contested at every turn by terrorists aligned with al-Qaeda. But they are not succeeding," he said in the statement posted on the Pentagon's website.

Vice President Cheney, appearing on CBS' Face the Nation, rejected Allawi's assessment and said insurgents have "reached a stage of desperation." Cheney also said he did not regret previous statements — that U.S. forces would be greeted as liberators and that the insurgency was in its last throes — and said they "were basically accurate, reflect reality."

Cheney blamed the media for focusing on violence instead of Iraq's progress toward rebuilding. Violence is intensifying, he said, because the enemy knows that if democracy succeeds in Iraq, its extremist agenda throughout the Middle East will be imperiled.

"There's a lot more at stake here," Cheney said.

Appearing on three networks, Army Gen. George Casey, commander of coalition forces in Iraq, described the violence there as centered in and around Baghdad.

Fifteen of 18 provinces have six incidents of violence or fewer per day, Casey said. In 12 Iraqi provinces, he said, the number of violent incidents is two or fewer per day. He predicted that current troop levels would continue over the next few months but that U.S. forces could be reduced later in 2006 and next year.

Cordesman, of the Center for Strategic and International Studies, predicted Iraq will not stabilize until 2007-08. He said there is "a real risk that Iraq will degenerate into full-scale civil war or a level of divisiveness that will paralyze or limit" the country. As to the idea that Iraq is a model for spreading democracy across the region, Cordesman was dismissive: "Iraq is not a model of anything."

Hagel, a possible Republican presidential contender in 2008, said on ABC's This Week that the war is "helping bankrupt this country" and that U.S. policy options must include withdrawal. The United States so far has spent about $400 billion on the Iraq war.

Among Democrats, Rep. John Murtha of Pennsylvania, said on NBC's Meet the Press, that "Republicans in Congress will get a rude awakening" on Iraq in the November elections if the administration does not change course.

Some Say Civil War Already Started (LAT)

By Ronald Brownstein

The Los Angeles Times, March 20, 2006

WASHINGTON — President Bush and his senior advisors Sunday sought to mark the third anniversary of the Iraq war with declarations of progress, but found themselves embroiled in renewed debate about whether the nation had fallen into civil war.

In statements to reporters, appearances on Sunday morning TV news shows and an op-ed article, Bush, Vice President Dick Cheney, Defense Secretary Donald H. Rumsfeld and Army Gen. George W. Casey, the senior U.S. military commander in Iraq, declared that the United States was making progress toward stabilizing Iraq and defusing sectarian tensions.

But those upbeat assessments faced sharp skepticism from U.S. legislators from both parties and from a senior Iraqi political leader, former interim Prime Minister Iyad Allawi, who has been a staunch American ally. They contended that Iraq was now in the midst of a civil war between Shiite and Sunni Muslims.

The issue of whether Iraq's sectarian fighting constitutes a civil war has taken on political significance. Polls have shown American support for the Iraq war dropping since the bombing last month of a Shiite shrine in Samarra led to widespread communal violence. Strategists in both parties have said that Bush will have a more difficult time sustaining support for the U.S. military presence in Iraq if the public believes that troops are caught in the middle of a civil war.

On a day of sweeping arguments from both sides, the most dramatic comments came from Allawi.

"It is unfortunate that we are in civil war," the former prime minister told the British Broadcasting Corp. "We are losing each day, as an average, 50 to 60 people throughout the country, if not more. If this is not civil war, then God knows what civil war is."

Allawi added: "Maybe we have not reached the point of no return yet. But we are moving toward this point. We are in a terrible civil conflict now."

In separate television interviews, both Cheney and Casey rejected Allawi's characterization.

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The vice president, speaking on CBS' "Face the Nation," said that "terrorists" in Iraq wanted to provoke civil war, but added, "I don't think they've been successful."

"That's been their strategy all along," Cheney said, "but my view would be they've reached a stage of desperation from their standpoint."

Appearing on CNN's "Late Edition," Casey contended that Iraq was still "a long way from civil war."

But he portrayed overall conditions much more cautiously than the vice president had, saying on NBC's "Meet the Press" that the situation in Iraq was "fragile."

"Is the situation here fragile because of the increased … sectarian tensions and increased levels of violence?" Casey said. "That's absolutely right, and I don't want … to sugarcoat it. The situation here is fragile, and I suspect it will remain fragile until we get a new government, a government of national unity formed."

In Baghdad, political leaders made their first measurable progress toward forming such a government, agreeing to create a council that would give each of the country's major political factions a voice in making security and economic policies.

Bush, speaking briefly to reporters after returning from a weekend at Camp David, said he had spoken Sunday morning with U.S. Ambassador Zalmay Khalilzad in Iraq about the government negotiations.

"I'm encouraged by the progress," Bush said. "The ambassador was encouraged by it."

But Sen. Jack Reed (D-R.I.), a member of the Senate Armed Services Committee, said the United States needed to move more aggressively to resolve the long-running negotiations over a new government, perhaps by threatening to begin removing U.S. forces if the Iraqis could not agree on a consensus government.

"The only leverage we have is our troop presence," Reed said on ABC's "This Week."

"And I think we have to make it clear to the Iraqi political leaders that if they're not able or willing to come together … that our presence can't be indefinite there."

The political effect of the continued fighting in Iraq can be seen clearly in recent polls. Since the Feb. 22 bombing of the Golden Mosque in Samarra, support among Americans for both the war and Bush's performance as president have fallen to some of the lowest levels of his tenure.

In a CNN/USA Today/Gallup national survey released last week, for instance, 55% of Americans said that chaos and civil war were the most likely outcomes in Iraq; 40% said they expected that a stable government would be formed.

Only 37% of those polled said they believed the war in Iraq had been worth the cost, down from 46% in January. Fully 60% of those surveyed said the war had not been worth the cost; that equaled the highest percentage Gallup has recorded on that question.

As administration officials sought to rebut the idea of a civil war, lawmakers, also speaking on the Sunday interview programs, supported Allawi's conclusion.

"I think … the former prime minister is correct," Sen. Chuck Hagel (R-Neb.), a member of the Senate Foreign Relations Committee, said on "This Week."

"I think we have had a low-grade civil war going on in Iraq, certainly the last six months, maybe the last year. Our own generals have told me that privately."

Rep. John P. Murtha, a traditionally hawkish Democrat from Pennsylvania who has urged Bush to remove American forces from Iraq, echoed Hagel. "Our troops are caught in a civil war," Murtha said on "Meet the Press."

Hagel, who has become a frequent critic of the war, said that the invasion had weakened America's security position. "Are we better off than we were three years ago?" he asked. "Is the Middle East more stable than it was three years ago? Absolutely not. It's more unstable."

Sen. Richard G. Lugar (R-Ind.), chairman of the Senate Foreign Relations Committee, also expressed concern about the direction of events in Iraq.

"Materially things have worsened … for ordinary Iraqis," he told "Late Edition." "Certainly more Iraqi civilians are being killed, substantially more, and the government is not yet in operation."

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Both Bush and Cheney, in their comments, said trends in Iraq were much more positive than such assessments suggested. Cheney rejected charges that he had been too optimistic in earlier assessments of the war, such as his assertion in May 2005 that the insurgency was in its "last throes."

Cheney said good news from Iraq had not been reported. Public disillusionment "has less to do with the statements we've made, which I think were basically accurate and reflect reality, than it does with the fact that there's a constant sort of perception, if you will, that's created because what's newsworthy is the car bomb in Baghdad," Cheney said. "It's not all the work that went on that day in 15 other provinces in terms of making progress toward rebuilding Iraq."

In an op-ed article in the Washington Post, Rumsfeld declared that the "terrorists seem to recognize that they are losing in Iraq" and that the U.S. must remain in the country long enough to ensure stability.

"Turning our backs on postwar Iraq today would be the modern equivalent of handing postwar Germany back to the Nazis," Rumsfeld wrote.

On Anniversary, Bush And Cheney See Iraq Success (NYT)

By David E. Sanger And Thom Shanker

The New York Times, March 20, 2006

WASHINGTON, March 19 — On the third anniversary of a war that they once expected to be over by now, President Bush and senior officials argued Sunday that their strategy was working despite escalating violence in Iraq, even as a former Iraqi prime minister once favored by the White House declared that a civil war had already started.

Displaying a carefully calibrated mix of optimism about eventual victory and caution about how long American troops would be involved, the officials who marked the day — including Mr. Bush, Vice President Dick Cheney and Secretary of Defense Donald H. Rumsfeld — sounded much as they had on the first anniversary of the invasion. At that time, the rebuilding effort had just begun, the insurgency was far less fierce, and the American occupation had suppressed, temporarily, the sectarian violence scarring Iraq today.

The picture painted by the administration clashed with that of the former interim prime minister, Ayad Allawi, once hailed by Mr. Bush as the kind of fair-minded leader Iraq needed. He declared in an interview with the BBC that the country was nearing a "point of no return."

"It is unfortunate that we are in civil war," said Mr. Allawi, who served as prime minister after the American invasion and now leads a 25-seat secular alliance of representatives in Iraq's 275-seat National Assembly. "We are losing each day, as an average, 50 to 60 people through the country, if not more."

"If this is not civil war," he said, "then God knows what civil war is."

Mr. Allawi's assessment was contradicted by Gen. George W. Casey Jr., the senior American commander in Iraq, who said on CNN's "Late Edition" that "We're a long way from civil war."

As politicians in Baghdad moved incrementally forward on Sunday on forming a unified government, at least 15 more bodies were discovered around the capital, bringing to more than 200 the number of people believed killed in sectarian violence in the past few weeks. [Page A10.]

On CBS News' "Face the Nation," Mr. Cheney sought to place the war in a broader context. "It's not just about Iraq, it's not about just today's situation in Iraq," he said. "It's about where we're going to be 10 years from now in the Middle East and whether or not there's going to be hope and the development of the governments that are responsive to the will of the people, that are not a threat to anyone, that are not safe havens for terror or manufacturers of weapons of mass destruction."

The war has taken more than 2,300 American lives, and those of 33,000 to 37,000 Iraqis, according to the estimates of the Iraq Body Count Project, an independent group that monitors the news media.

Mr. Rumsfeld dismissed calls for withdrawal by comparing the current battle to the two great struggles of his generation: World War II and the cold war. "Turning our backs on postwar Iraq today would be the modern equivalent of handing postwar Germany back to the Nazis," he wrote in an op-ed article published in The Washington Post. "It would be as great a disgrace as if we had asked the liberated nations of Eastern Europe to return to Soviet domination."

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Mr. Bush is entering the fourth year of the war able to declare success in the dismantling of Saddam Hussein's tyrannical government and in providing a framework for democratic elections, though the country has so far failed to put together the institutions to make a democracy work. Mr. Bush's approval rating, which soared in the early days of the invasion as Americans rushed to Baghdad, has sunk to the low-to-mid 30 percent range as the chaos and number of Iraqis meeting violent deaths has escalated.

Mr. Cheney was challenged on "Face the Nation" about his statement three years ago that "we will be greeted as liberators" and his assertion 10 months ago that the insurgency was in its "last throes."

He insisted that in both cases his facts were right, but that the news media had created a different perception with vivid imagery of killing.

"I think it has less to do with the statements we've made, which I think were basically accurate and reflect reality, than it does with the fact that there's a constant sort of perception, if you will, that's created because what's newsworthy is the car bomb in Baghdad," he said.

The administration could take heart this weekend from the relatively small antiwar protests around the country, compared with protests held on the previous anniversaries of the invasion. An estimated 7,000 people demonstrated in Chicago on Saturday and smaller protests were held over the weekend in Boston, San Francisco and other cities. In Times Square, the figure was about 1,000.

Television was the forum where the administration's representatives and opponents marshaled the statistics that they believe made their cases. Mr. Bush argued last week that by year's end, Iraqi forces would control more than half the country; Representative John P. Murtha, the hawkish Pennsylvania Democrat who late last year called for American withdrawal, said Sunday on NBC News' "Meet the Press" that the statistic was meaningless.

"I flew for an hour and 15 minutes over desert," he said of a recent trip. "Wasn't a soul. And that's the territory I guess they're talking about." Meanwhile, he noted, unemployment has soared in areas hardest hit by sectarian violence. Oil production, which the administration once said would pay for Iraq's rebuilding, was markedly below last year's levels.

As midterm elections approach, the White House is concerned that support for the war is ebbing fastest among Republicans who supported the war, including some influential conservatives who argue that the job of liberation is done, and American troops should not be left in the crossfire of civil strife.

Mr. Bush talked about the war in a two-minute statement to reporters on Sunday when he returned to the White House from Camp David, urging Iraq to form a unity government, and saying, "I'm encouraged by the progress." Then he entered the White House with his wife, Laura.

He offered no answers to questions about the gap between his expectations three years ago and the realities of Iraq today, seemingly underscoring the problem the White House has faced in explaining the war. Suspicions that Mr. Hussein had unconventional weapons, an original justification for the invasion, have proved unfounded.

Mr. Bush halted eroding support for his Iraq strategy last December, explaining his military, political and economic strategy and admitting some early errors. But that was before images of Shiites fighting Sunnis began a new erosion of support.

On the critical political question — how long American forces will stay — General Casey has said a significant presence will be required for "a couple more years," and "over 2006, we will continue to see a gradual reduction in coalition forces."

When the war was launched, the Pentagon expected a short conflict. Its classified plans called for the withdrawal of the majority of American troops by the fall of 2003. Today there are roughly 133,000 still there.

As of Friday, 2,313 American military personnel and Defense Department civilians had died during the Iraq effort; of those, 1,811 were killed in action and 502 in non-hostile events, like accidents, a Pentagon spokesman said Sunday. The spokesman also cited statistics that 7,912 American military personnel had been wounded so severely in action they could not return to duty, and 9,212 had been wounded in action but could return to duty.

Mr. Rumsfeld, whose refusal to send larger numbers of troops into Iraq after the invasion has made him a lightning rod for critics, said in his published remarks on Sunday that terrorists, not the American-led coalition, are losing in Iraq, a message repeated by Mr. Cheney.

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And like Mr. Cheney, Mr. Rumsfeld insisted the problem was the imagery from a 24-hour news cycle. "Fortunately, history is not made up of daily headlines, blogs on Web sites or the latest sensational attack," Mr. Rumsfeld wrote. "History is a bigger picture, and it takes some time and perspective to measure accurately."

Bush Still Upbeat On Outcome In Iraq (WP)

By Michael A. Fletcher

The Washington Post, March 20, 2006

President Bush and Vice President Cheney hailed the progress being made by Iraqi leaders to form a unity government yesterday, as the administration tried to dispel a growing perception that a continuing wave of sectarian violence has pushed Iraq into a full-fledged civil war.

Bush, speaking on the third anniversary of the U.S.-led invasion that toppled Iraqi President Saddam Hussein, assured Americans that his administration is pursuing a strategy "that will lead to victory in Iraq," an outcome about which polls show the public is increasingly skeptical.

Cheney, meanwhile, dismissed assertions made by former Iraqi prime minister Ayad Allawi that the nation is in the throes of civil war. He said Iraq is holding together as a new constitutional democracy even as terrorists are desperately trying to cause its dissolution.

"What we've seen is a serious effort by them to foment civil war, but I don't think they've been successful," Cheney said on CBS's "Face the Nation."

The upbeat appraisals by Bush and Cheney came as other voices struck a more ominous note. Allawi contradicted Bush's progress report, saying the country is edging toward "the point of no return."

"We are losing a day as an average 50 to 60 people throughout the country, if not more," Allawi said on BBC's "Sunday AM" program. "If this is not civil war, then God knows what civil war is."

Three years after U.S.-led forces quickly swept through Iraq, the country remains in the grips of a bloody insurgency. The war and its aftermath have left more than 2,300 U.S. troops and at least 30,000 Iraqis dead. Negotiations to form a unity government to lead Iraq have been deadlocked since parliamentary elections in December.

The anniversary was marked by protests around the country and around the world, as thousands of antiwar demonstrators gathered in cities from London to Tokyo. In New York, a crowd of about 200 people marched down Fifth Avenue to protest the war. Demonstrators also marched through storm-ravaged New Orleans, saying the slow pace of recovery there illustrates the cost of the war in Iraq.

Meanwhile, a growing majority of Americans believe the effort is not worth the cost both financially and in lives lost. A Washington Post-ABC News poll earlier this month found that two-thirds of Americans questioned whether the United States has a clear plan for handling the situation in Iraq.

As the administration offered optimistic appraisals of the war's progress, Sen. Chuck Hagel (R-Neb.), a frequent administration critic who is weighing a run for president in 2008, echoed Allawi's assessment, saying that Iraq is already in the midst of a "low-grade civil war."

"I think it's important that we stop this talk about we're not going to leave until we achieve victory," Hagel said on ABC's "This Week." "Well, what is victory? We achieved victory, Saddam's gone, the Iraqis have a constitution, they had an election, it's now up to them."

Hagel said a precipitous U.S. withdrawal from Iraq would be a mistake, but he added that the Bush administration should work harder to achieve a political settlement in Iraq by engaging other Middle Eastern countries in a negotiated solution.

Despite Americans' growing pessimism, the Bush administration is continuing to press ahead with its strategy, saying that it is steadily moving toward success. Bush is scheduled to deliver a speech in Cleveland today, which is part of a continuing administration effort to rebuild the eroding public support for the war by having the president speak regularly to specific elements of the war strategy.

Bush, who spoke on the White House South Lawn after returning from a weekend at Camp David, said that he is encouraged by Iraq's continuing steps toward democracy, and that he is urging Iraqi leaders "to work hard to get this government

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up and running." Bush said he spoke by phone yesterday to U.S. ambassador to Iraq Zalmay Khalilzad, who he said remains encouraged by the political progress being made in Iraq.

Sectarian violence intensified after last month's bombing of the Golden Mosque, a revered Shiite religious site in Samarra. Hundreds of Iraqis have been killed in brutal attacks, counterattacks and kidnappings since the mosque bombing.

Although a growing majority of Americans have come to believe that the U.S. invasion was an error and that the nation is headed toward civil war, Gen. George W. Casey Jr., the U.S. military commander in Iraq, brushed aside the idea on "Fox News Sunday." "I personally don't believe one, that we're there now; two, that civil war is imminent; and three, that it is inevitable and it will happen," he said.

Meanwhile, Cheney said that Iraq is progressing toward establishing a functioning democracy. He pointed out that Iraq has gone from the brutal rule of Hussein to negotiations to form a government in three years. In addition, he said, the United States is making substantial progress in training Iraqi security forces, who he said are leading about half the missions in Iraq.

Cheney also dismissed a statement by Sen. Edward M. Kennedy (D-Mass.), who said the war in Iraq should never have been fought: "I would not look to Ted Kennedy for guidance and leadership on how we ought to manage national security. . . . I think what Senator Kennedy reflects is sort of the pre-9/11 mentality about how we ought to deal with the world and that part of the world."

But CBS anchor Bob Schieffer bluntly challenged Cheney on his own string of prognostications, such as his pre-invasion assertion that U.S. troops would be welcomed in Iraq as liberators and, 10 months ago, that the insurgency was in its "last throes."

Cheney replied that those statements were "basically accurate and reflect reality," but that public perceptions of Iraq's progress are being skewed "because what's newsworthy is the car bomb in Baghdad."

Again linking the war in Iraq to the Sept. 11, 2001, terrorist attacks, Cheney called the conflict part of "an aggressive, forward-leaning" strategy that has prevented terrorist incidents in the United States since then.

Kennedy, meanwhile, put out his own statement chastising Cheney: "He was wrong about the link between al Qaeda and Saddam Hussein. He was wrong about Saddam Hussein's weapons of mass destruction. He was wrong about America being greeted as liberators. He was wrong about the insurgency being in the last throes. Now he rejects the idea of civil war."

In Iraq, US Influence Wanes As Full-scale Civil War Looms (CSM)

By Scott Peterson

The Christian Science Monitor, March 20, 2006

BAGHDAD - Every day, more violence. And more uncertainty for Iraqis than they have ever known, as they mark three years since American troops invaded.

The wave of optimism that once buoyed Iraqis after the fall of Saddam Hussein is now being marked as yet another casualty of the bombs and murders that are part of daily life here.

But even as Iraq slides toward full-scale civil war, Iraqi analysts are trying to envision a way out of a vicious insurgency, political deadlock, and sectarian bloodshed.

One factor they are considering is the changing American role. Despite the continued presence of 130,000 American troops, and arm-twisting efforts by US diplomats to forge a unity government, Iraq's democratic political process is, by definition, giving the US even less leverage to shape this broken nation's future.

"The majority of Iraqis are now against this occupation, whether they are Sunni, Shiite or Kurd," says Wamidh Omar Nadhmi, a political scientist who heads a Sunni-led group called the Foundation Conference. "But those in government positions are trying to unleash a campaign of suppression, to take advantage [of the violence], to dominate.

"Now we are told: '[The Americans] are not going to take sides,' " says Mr. Nadhmi, referring to remarks by US officials last week that Iraqi forces must handle sectarian strife on their own. "But if it comes to civil war, and the US does not try to keep order, as the controlling power, then why do they stay in Iraq?"

Tens of thousands of Iraqis have died in a maelstrom of insurgent violence. Many hundreds more are dying in sectarian killings that flared a month ago, after the destruction of the gold-domed Shiite shrine at Samarra.

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The grim reality today - and the perception among so many Iraqis that the US is responsible - could not be in sharper contrast from the faith Iraqis once held, that the all-powerful Americans would solve their problems.

"It is unfortunate that we are in civil war," Iyad Allawi, Iraq's former prime minister, told BBC news Sunday. "We are losing each day an average of 50 to 60 people throughout the country, if not more. If this is not civil war, then God knows what civil war is."

That view is hotly disputed by US officials and commanders, but is on the lips of many Iraqis here. "Maybe we have not reached a point of no return yet, but we are moving towards this point," said Mr. Allawi.

But escaping that vortex will not be easy, analysts say.

"The new government is incapable of ruling the street without the American presence," says Ahmad al-Rikabi, head of the popular Radio Dijla in Baghdad. "If [US forces] left Iraq, the future of the country would be in the hands of the militias. This is the case already, but we still have some hope [the US] will keep some balance."

The stakes could not be higher, for Iraq or for the region, President Bush said last week. "The battle lines in Iraq are clearly drawn for the world to see, and there is no middle ground," he said. "The enemy will emerge from Iraq one of two ways: Emboldened or defeated."

US Ambassador Zalmay Khalilzad has been pushing Iraqi leaders to form a unity government, that would mend rifts inside the main Shiite bloc, and ensure a significant role for the minority Sunni Arabs. At the formal opening of parliament last Thursday, he had a place in the handshaking line alongside Iraqi political leaders.

But diplomats close to the talks say not all Iraqi leaders welcome the forceful US intervention. Both Washington and Tehran have signaled that they could commence talks to solve the crisis, in what would be the first publicly acknowledged contact since Iran's 1979 Islamic revolution.

"Saddam Hussein is still ruling Iraq - he may be behind bars, but he created the mentality we have today," says Mr. Rikabi. "Saddam has to be executed. It's not revenge, and won't be satisfying for his victims. But it will be good for Shiite and Kurds, and even Sunnis, to help them focus on their leaders."

"The symbols of the past are still in front of our eyes; we're still living in the past, and must get rid of the past," says Rikabi. Sectarian violence grows

But getting rid of the past means getting rid of business as usual, and that means coming to terms with the increasingly pervasive Shiite militia influence in Iraq's security forces, which are accused of abuse, torture, and operating death squads that target Sunni Arabs. They also reportedly let other Shiite militias, like the Mahdi Army of anti-US cleric Moqtada al-Sadr, operate with impunity.

"The first thing is to change the minister," says a Shiite police colonel who asked not to be named, referring to Bayan Jabr, the minister of interior and a former Badr militia leader. "We need an independent one."

Ambassador Khalilzad has pushed for such a change. Shiites are targeted almost exclusively by the Sunni Arab extremist insurgents. But Sunni Arabs say they see little change on the ground.

"Nobody obliged the minister of interior to resign - he should be arrested," says Mr. Wamidh. "There have been no actual steps in favor of the Sunnis, but accumulated attacks against them."

The daily toll was again evident Sunday, as hundreds of thousands of Shiite pilgrims made their way by foot to the sacred city of Karbala, south of Baghdad, to mark Monday the death of Hussein, the grandson of the prophet Muhammad.

Pilgrims have been subject to drive-by shootings and bombings by Sunni Arab extremists that have killed four. A mortar landed near the shrine of Imam Hussein but caused no harm. An extra 700 American troops were deployed from Kuwait, to boost security during the religious event.

In Baghdad four bodies killed execution-style were found Sunday; 22 were found, by one count, the day before.

Whatever the result of the political wrangling, many Iraqis say it will not be enough to correct three years of US mistakes - from disbanding Saddam Hussein's 400,000-strong army with the stroke of a pen, to a vigorous de-Baathification plan that swept capable bureaucrats from government - that helped fuel insurgency. Out of touch politicians

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But there is a further problem, analysts say, that no amount of US influence can help: The fact that insecurity is so pervasive, that Iraqi leaders and the government meet inside the bubble of the Green Zone, among a labyrinth of 12-foot-high concrete blast walls woven together with coils of concertina wire that keep them safe, as well as isolated.

"The politicians are out of touch with the street, so it is like a group of blind people negotiating," says Rikabi. "They have nothing to do with the Republic of Iraq ... they do not feel a power cut for a second, while outside, [electricity] is off for 22 hours a day. You can't make the right decision, when the prime minister still has his family in London."

Relying on such politicians also risks the endgame for the US, which wants a unity government to take control - and control Iraqi security forces - so American forces can begin withdrawing.

"I can see their dilemma," says Nadhmi. "[President George] Bush is triumphant about democracy in Iraq, but if he tries to intervene and put in a prime minister of his own, it would be a contradiction." Seventy-five daily insurgent attacks

Still, options are limited for the US - both military and political - which last week accused Iran of "meddling" in Iraqi affairs, and claimed that Iran had helped insurgents improve their explosive techniques.

The US military's "kinetic or muscular approach has failed to produce sustained success," says a report last month from the International Institute of Strategic Studies (IISS), noting that insurgent attacks at a tempo of 75 per day against coalition forces show "no signs of diminishing."

It notes that several key non-Al Qaeda insurgent groups secretly agreed to a 21-point "principles for dialogue" with US forces last December. Such talks have not taken place in part, the IISS says, because "the very logic of elections, bringing to power an indigenous government with a mandate, has directly reduced US influence over Iraqi politics."

This has been clear for months to many in Iraq, who look back with nostalgia on Saddam Hussein, in the way that older Russians often crave the order once instilled upon the Soviet Union by Josef Stalin.

"People were executed in Saddam's days, but it is the same today," says Rikabi, of Radio Dijla. "Then it was behind high walls, now it is by this or that militia.

"Before, people respected the traffic police, there was an organization, a state; today we have the smell, the shadow of a government," says Rikabi. "Before, people would go to restaurants until 2 a.m.; today their lives are full of fear.

"Then, we had one Saddam Hussein," concludes Rikabi. "Today, we have many Saddam Husseins."

Bush Vows Strategy Will Win In Iraq (WT)

By From combined dispatches

The Washington Times, March 20, 2006

President Bush yesterday marked the third anniversary of the beginning of the Iraq war, saying the U.S. strategy will "lead to victory."

"A victory in Iraq will make this country more secure and will help lay the foundation of peace for generations to come," Mr. Bush said in a brief statement on the South Lawn of the White House after returning from Camp David.

Other administration officials echoed the president's call for resolve in the face of enemy attacks that have killed more than 2,300 U.S. troops in Iraq.

"Now is the time for resolve, not retreat," Defense Secretary Donald H. Rumsfeld wrote in a column for The Washington Post. "Turning our backs on postwar Iraq today would be the modern equivalent of handing postwar Germany back to the Nazis."

While protesters around the world also observed the anniversary of Operation Iraqi Freedom -- with anti-American rallies that drew smaller crowds than similar demonstrations in the past -- the president paid tribute to the nation's armed forces.

"Today ... marks the third anniversary of the beginning of the liberation of Iraq, and it's a time to reflect," Mr. Bush told reporters. "And this morning, our reflections were upon the sacrifices of the men and women who wear our uniform.

"Ours is an amazing nation where thousands have volunteered to serve our country. ... Many volunteered after 9/11, knowing full well that their time in the military could put them in harm's way. So, on this third anniversary [of] the beginning of the liberation of Iraq, I think all Americans should offer thanks to the men and women who wear the uniform, and their families who support them," he said.

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The top U.S. commander in Iraq, Gen. George Casey, said Iraq has made "huge progress" toward democracy, holding three nationwide elections and adopting a constitution.

"If you think about it, three years ago Saddam Hussein was still in charge of the country. Now he's on trial, and will be held accountable by the Iraqi people," Gen. Casey said on "Fox News Sunday."

The Army general said progress has also "been made with the Iraqi security forces, barely from almost nothing to the point now where two of the Iraqi divisions, 13 of the Iraq brigades and almost 60 of the Iraqi military and special police battalions are actually in the lead conducting counterinsurgency operations across Iraq."

Gen. Casey acknowledged the continuing efforts of foreign terrorists to foment civil war in Iraq.

"So, is there violence in Iraq? Sure. Is there terrorism in Iraq? Sure," he said. "And the terrorists and insurgents are doing everything in their power to convince both the Iraqis and our public that this endeavor can't succeed. But I think the Iraqis are right now ... on the threshold of a very significant step toward their future."

Turnout for anti-war rallies was lower than on the first and second anniversaries of the war. Only about 200 demonstrators showed up yesterday for a march down New York's Fifth Avenue, with signs including, "We the People Need to do More to End the War."

Attendance was also down at anti-war events in other countries, including Japan, where about 800 showed up in Tokyo for a march to the U.S. Embassy.

"The Iraq war was President Bush's big mistake and the whole world is against him," Tokyo organizer Ayako Nishimura told the crowd.

Similar sentiments were expressed yesterday by Democrats.

"The American people can see the truth for themselves every day," said Democratic National Committee communications director Karen Finney. "We don't need more of the same permanent commitment to a failed strategy from this administration. The American people know that we need to change course in Iraq, so 2006 can be a year of transition in which the Iraqis truly take control of their country."

On NBC's "Meet the Press," Rep. John P. Murtha, Pennsylvania Democrat and war critic, dismissed the administration's reports of progress in Iraq and compared the situation to the war in Vietnam 40 years ago.

"When the whole world is against you, when our international reputation has been diminished so substantially, when all the countries in the region say, 'We'd be better off without us being in Iraq,' when the people themselves in Iraq say -- and American people say it, I mean who is right?" Mr. Murtha said.

Quiet Disapproval In US Marks War's Anniversary (FT)

By Christopher Swann

Financial Times, March 20, 2006

On the third anniversary of the US-led invasion of Iraq, the US capital's historic protest venues were surprisingly serene on Sunday. Outside the White House tourists had their pictures taken next to a cardboard cut-out of the president, families enjoyed the sun on the Mall and several bored-looking policemen stood guard outside the vice-president's DC home. Not a placard in sight or a chant to be heard.

Americans may have turned decisively against the war in Iraq in recent months, but their change of heart has been largely expressed quietly to pollsters rather than in loud public protests. The micro-protests that have taken place around the third anniversary – including a few hundred who gathered to hear anti-war speeches in the affluent DC neighbourhood of Dupont Circle – pale by comparison with the monster demonstrations against the Vietnam war.

A clue to this curiously low-key response may be found in the bustling shopping centres. Despite the mounting cost of the war in Iraq, the economic consequences have remained relatively contained. There have been no signs of a decline in consumer confidence and no uptick in inflation.

Americans have not even been asked to stump up the cash for the war effort – at least not yet – with the administration and Congress opting for higher borrowing rather than higher taxes.

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As of Friday military casualties had mounted to 2,313 killed and 17,000 wounded. This is enough to make many Americans question the conflict, but the toll still falls far short of the 58,000 Americans who died in Vietnam.

But the simmering concerns over the conflict have been taking a heavy toll on support for George W. Bush, dragging the president's approval ratings close to the levels of support for President Richard Nixon in the wake of Watergate.

A poll for Newsweek magazine at the end of last week showed that just 29 per cent of Americans approve of the president's handling of the war, down from 69 per cent in the months after the conflict began in March 2003. Almost 60 per cent of Americans now feel less confident that the war will come to a successful conclusion, with fears mounting that the country will slide into civil war.

The administration has launched a new campaign to rebuild support for the war. In a television interview on Sunday, Dick Cheney, the vice-president, said there was "overwhelming evidence" that the US was making progress in Iraq. Set-piece speeches are planned this week by both the president and vice-president.

Yet despite the reassurances, recent pronouncements of the president have had an uncharacteristically dour tone. In a speech over the weekend, Mr Bush acknowledged that there had been "horrific images from Iraq" and that a "tense situation" prevailed in parts of the country. He urged Americans to brace for "more fighting and sacrifice." That is not what was being predicted three years ago.

Allawi Says Iraq Is In Civil War; U.S. Forces Clash With Gunmen (WSJ/AP)

By Associated Press

The Wall Street Journal, March 20, 2006

Iraq is in the middle of a civil war, Iraq's former prime minister, Ayad Allawi, said in an interview with the British Broadcasting Corp. aired on Sunday.

Mr. Allawi, who heads the Iraqi National List, a secular alliance of Shiite and Sunni politicians, said there was no other way to describe the increasing violence across the country.

"It is unfortunate that we are in civil war. We are losing each day as an average 50 to 60 people throughout the country, if not more," Mr. Allawi told the BBC. "If this is not civil war, then God knows what civil war is."

Mr. Allawi said playing down the current problems in Iraq would be a mistake, telling the BBC he had warned against a power vacuum and the prevalence of militias. Mr. Allawi said the formation of a national unity government was what Iraq needed to achieve peace.

Iraq's newly elected parliament was seated Thursday, and representatives of its Shiite Arab, Sunni Arab and Kurdish blocs have been meeting in an effort to overcome deep divisions and agree on the makeup of a new government. The minority factions want to block broad Shiite control of powerful ministries.

British Defense Secretary John Reid, who is visiting Iraq, expressed concern about "a greater degree of sectarian violence," but said he didn't believe civil war was imminent. "The most urgent need at the moment is the speedy formation of a government of national unity," he said.

Meanwhile, on the eve of the third anniversary of the U.S.-led invasion, American troops clashed with gunmen north and west of Baghdad Sunday and insurgents lobbed a mortar round into Karbala, the holy city south of Baghdad where a million Shiite pilgrims assembled for a major religious commemoration.

U.S. Troops to Remain in Iraq for Years

Separately, the top commander of U.S. forces in Iraq said Sunday that U.S. troops likely will remain there for the next few years though the numbers will be scaled back as Iraqi forces gain strength. "I see a couple of more years of this with a gradually reducing coalition presence here in Iraq .. as the Iraqi security forces step forward," Gen. George W. Casey said.

Mr. Casey said he did not think at the time the war began that the insurgency in Iraq would have been as robust as it has been. Appearing on NBC's "Meet the Press," he said didn't believe Iraq was in danger of falling into civil war, although he said it remained a possibility because of increased sectarian tensions and violence. "The situation here is fragile," he said. "I suspect it will remain fragile here until we get a new government, a government of national unity, formed."

Continuing Violence

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Iraqi police said eight civilians, including a child, were killed in clashes between U.S. troops and gunmen in Duluiyah, 45 miles (75 kilometers) north of Baghdad. The town is located in Iraq's Sunni heartland where the Iraqi army and U.S. forces opened an airborne campaign last week to hunt down insurgents.

The Americans said it was the largest "air assault" operation since the 2003 invasion.

During operations in Duluiyah, police said, U.S. troops arrested Col. Farouq Khalil, an Iraqi interior ministry official, after raiding his house. The American military didn't immediately respond to a request for comment. Earlier it said scores of suspected insurgents had been detained.

Elsewhere, two civilians were killed and 10 wounded when gunmen attacked U.S. troops stationed at the governor's office in Ramadi, 70 miles west of Baghdad.

In the capital, police found the bullet-riddled bodies of three men bound hand and foot and dumped in a sewage treatment plant in the southeast neighborhood of Rustamiyah. The victims appeared to be the latest in the wave of revenge killings after the bombing Feb. 22 of a Shiite shrine in Samarra.

The mortar round fired at the holy city of Karbala landed in a parking lot a half mile from the shrine that is the destination of the pilgrims marking the 40th and final day of mourning for Imam Hussein, the Prophet Muhammad's grandson. No one was hurt.

In violence against police, gunmen killed four guards at archaeological sites in the northern city of Mosul. A fifth policeman and a bystander were wounded. A roadside bomb exploded on a police patrol in Baqouba, 35 miles northeast of Baghdad, killing one officer and injuring 10 others, the Iraqi military said.

A Baghdad policeman driving on a rural road in Latifiyah, about 20 miles south of the Iraqi capital, was also killed by gunmen, police said. Four men riding in the car were wounded in the attack.

Near the southern city of Basra, two officials of the Iraqi Islamic Party were gunned down by four assassins. On Saturday, a dozen bodies were found in Baghdad in the shadowy war of Shiite-Sunni reprisals.

In a U.S. radio address, President Bush said the violence in Iraq "has created a new sense of urgency" among Iraqi leaders to form such a government.

Those leaders -- representatives of the squabbling Shiite, Sunni and Kurdish blocs in Iraq's new parliament -- were taking a break from negotiations to observe Monday's Shiite holiday and Tuesday's Kurdish New Year. They are deadlocked over how to apportion the most powerful jobs in the new government, as minority factions seek to limit domination by Iraq's Shiite majority.

The U.S. military reported that two 101st Airborne soldiers were killed Thursday by indirect fire, usually meaning mortars, at the Speicher operating base, north of where the joint Iraqi-U.S. operation was in progress.

At least 2,314 American military personnel have died since the Iraq war began in the early hours of March 20, 2003.

Deaths Fall For U.S., Rise For Iraqis (USAT)

By Thomas Frank

USA Today, March 20, 2006

BAGHDAD — U.S. military deaths during the past month have dropped to an average of about one a day, approaching the lowest level since the insurgency began two years ago, according to a USA TODAY analysis of U.S. military data.

The decline in U.S. deaths comes as Iraqi casualties are the highest since the U.S. military began tracking them in 2004.

In the past month, nearly five times as many Iraqi forces and civilians were killed as troops in the U.S.-led coalition in Iraq, U.S. military data show.

The shift from spring 2004, when U.S. and Iraqi casualty rates were comparable, reflects an insurgency that increasingly targets Iraqis and the growing presence of Iraqi forces on the front lines.

“The Iraqi army is far bigger in number, far higher in training capability and far more willing to go where the fight is and take casualties,” British Defense Secretary John Reid said in an interview.

On the third anniversary of the U.S.-led invasion, however, a wave of violence against Iraqis is prompting talk of civil war. In an interview Sunday with the British Broadcasting Corp., former interim prime minister Ayad Allawi said, “We are losing each day as an average 50 to 60 people throughout the country, if not more. If this is not civil war, then God knows what civil war is.”

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Vice President Cheney disagreed. Speaking on CBS' Face the Nation, Cheney said, "What we've seen is a serious effort by (insurgents) to foment a civil war. But I don't think they've been successful."

According to U.S. military data, about 15 Americans and 73 Iraqis are killed or injured each day. A USA TODAY analysis of U.S. military data shows the number of U.S. forces killed during the war has declined steadily since November.

RAND Corp. military analyst Nora Bensahel says the increasing level of Iraqi casualties "means Iraqi security forces are in positions of responsibility." The United States, which has 132,000 troops in Iraq, is "doing fewer patrols on its own and more in support of Iraqi operations," reducing U.S. casualties.

The U.S. military also has cut the number of American deaths by thwarting the homemade bombs that are the insurgency's prime weapon. Soldiers and Marines now find and neutralize more than 40% of the bombs, Maj. Gen. Rick Lynch said in an interview. That compares with 30% in September. Lynch said that 41 insurgent bombmakers have been killed or captured. Insurgents "are losing skilled bombmakers," he said.

Meanwhile, Iraq's 240,600 security forces increasingly are fighting insurgents directly, the Pentagon says. Sixty-three Iraqi units are operating independently or in a lead role with coalition support, up from 37 in September. Iraqi Defense Ministry spokesman Mohammed al-Askari says military recruiting remains strong, despite the rising casualties.

Clashes, Accusations Mark Anniversary Of Iraq Conflict (WP)

By Ellen Knickmeyer

The Washington Post, March 20, 2006

BAGHDAD, March 19 -- Clashes between U.S. forces and suspected insurgents, and allegations of American troops killing noncombatants, marked the third anniversary Sunday of the start of the American-led invasion of Iraq.

In Duluiyah, a stretch of farms along the Tigris River about 45 miles north of Baghdad, soldiers of the 4th Infantry Division's 3rd Heavy Brigade Combat Team battled insurgents, the U.S. military said in a statement.

The statement said American troops were responding to insurgents who opened fire with small arms and rocket-propelled grenades in the area, predominated by Sunnis. Seven of the attackers were killed, and two U.S. soldiers were wounded.

A top police official, as well as a resident who claimed he saw the fighting, said U.S. troops also shot and killed a family of three during house-to-house searches after the firefight.

"I saw corpses on the ground that I believe were of armed men who had clashed with the American forces" and with the Iraqi army, said Ahmad Hashem, the resident. "Then the American soldiers appeared and started searching homes. They raided a house which was close to my home and killed a man named Ahmad Khalaf Hussein, his wife and his 10-year-old son."

Western news agencies also reported civilian deaths in the fighting. The U.S. military, in the statement from spokesmen in Baghdad, said it knew of no civilian deaths in the engagement.

U.S. military officials said the fight was not connected to another ongoing offensive, Operation Swarmer, in which U.S. and Iraqi forces have been searching for Sunni insurgents and weapons caches in arid countryside between the Tigris River and Samarra, about 65 miles north of Baghdad.

American officials announced last week that they had ordered a further investigation into a deadly incident four months ago in the town of Haditha in far western Iraq.

At least 15 civilians were killed in the incident on Nov. 19. The military's original statement on Nov. 20 said that the civilians and a U.S. Marine were killed by a roadside bomb. Time magazine reported Sunday that U.S. officials are now investigating whether Marines killed the 15 civilians, including seven women and three children, after the insurgent bombing that killed their fellow Marine.

The newsweekly said it had given military officials accounts from a doctor and survivors that said the 15 unarmed townspeople were killed as they hid in their houses, or tried to run to safety, as Marines searched the area after the bombing. Time said it had also given the military a videotape showing some of the bodies. It quoted unidentified military officials as saying that Marines had believed U.S. troops were coming under fire from the houses, and that the initial investigation indicated that Marines, rather than a bomb, had killed the 15.

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"We take these allegations very seriously, and I believe the fact that two additional investigations are ongoing concerning this incident clearly demonstrate that," a U.S. military spokeswoman in Baghdad, Lt. Col. Michelle Martin-Hing, said in an e-mail on Sunday. Martin-Hing said the shootings were "the first in a series of engagements that day that began when the Marine patrol was ambushed in a residential neighborhood with an IED followed immediately by small arms fire from multiple directions. Over the course of five hours, the Marines actively tracked insurgents moving through the town among civilian homes, other structures and palm groves, on foot and by vehicle. The investigation will examine whether any rules of engagement were violated."

A roadside bomb exploded near a police patrol Sunday morning in Baqubah, killing a policeman and injuring 10 other people, according to Lt. Col. Fakhri Tamimi Hassman, an official with the Diyala provincial police. Baqubah is about 35 miles northeast of Baghdad.

In Baghdad, the bodies of three men who had been bound hand and foot and shot were found dumped in the west of the city, and another man was shot dead Sunday as he left a Shiite mosque, news agencies reported. The number of execution-style killings in Baghdad -- with the victims shot, often after being tortured or bound -- has climbed to an average of about 30 a day since mid-2005, according to Baghdad morgue figures. Many of the killings have allegedly been carried out by militias or police forces allied with Iraq's governing Shiite parties.

Iraq's former prime minister, Ayad Allawi, told the BBC that the increasing attacks across his country can only be described as a civil war.

Sunni, Shiite, Kurdish and secular political leaders said Sunday that they had agreed on the creation of a National Security Council that would represent all of Iraq's major political factions. The move appeared designed to counter Shiite dominance of Interior and Defense ministry forces.

"The agreements that we have declared today prove that civil war is not a possibility, and the Iraqi people could not allow for a civil war to take place," President Jalal Talabani told reporters.

The war in Iraq began on March 19, 2003, Washington time -- early morning March 20 in Baghdad -- when President Bush authorized an early strike by U.S. fighter-bombers and offshore Tomahawk cruise missiles on a Baghdad bunker where Saddam Hussein was reported to be sleeping. The Defense Department confirmed 2,313 U.S. military deaths as of Friday, with unofficial totals indicating 207 other coalition military deaths.

Tens of thousands of Iraqi civilians have died in the war, from U.S. and Iraqi military actions, insurgent attacks and, increasingly, raids attributed to government-allied Shiite Muslim squads that allegedly operate both inside and outside Iraq's new, Shiite-dominated security forces.

Top Iraqi Leaders Agree To Form A Policy Council (NYT)

By Edward Wong

The New York Times, March 20, 2006

BAGHDAD, Iraq, March 19 — Iraqi officials announced Sunday that they had agreed to form a council of the country's top politicians to make policy on security and economic issues in the new government. The council, which will include the prime minister and president, is an attempt to include all the country's major factions in decision making at a time of rising sectarian tensions.

The Iraqi Constitution approved by voters last fall does not have language supporting the creation of such a council. The 19-member body will essentially concentrate power in the hands of the country's political party leaders, and supersede the cabinet and Parliament in making broad decisions.

The move is a step forward in the snail-paced negotiations over the formation of a full, four-year government. Debate over creating the so-called national security council, and what powers it would wield, had contributed to the deadlock in the talks.

The main Shiite political bloc, which is expected to hold the most executive power in the new government, had opposed formation of the council, while the Kurds, Sunni Arabs, secular politicians and the Americans had pushed for it.

Many Shiite leaders viewed the idea of the council, first proposed by Massoud Barzani, the president of Iraqi Kurdistan, as an attempt to hamstring the prime minister, expected to be a Shiite, and check the power of the main Shiite bloc, known as the United Iraqi Alliance.

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But on Sunday, after five hours of negotiations at President Jalal Talabani's guest villa here, the Shiites agreed to the council's formation. Because of the way the council will be set up, the Shiites, who constitute the largest political bloc in Parliament, will have an effective veto over council decisions.

Furthermore, the prime minister or president will be able to override any decisions they disagree with if the decisions conflict with the executives' constitutional authority, Iraqi officials said.

Otherwise, the council's actions will be considered binding.

"It's a good thing," said Adnan Pachachi, the temporary speaker of Parliament and a secular politician. "It's a safety valve in a way. Decisions will be taken in which all major political parties will be part of. No one will accuse the prime minister of making decisions on his own."

The council is expected to make policy on security issues, like how to build up and deploy the Iraqi Army and the police, how to disarm the country's many militias and what to do about insurgent territories like Anbar Province in western Iraq, Iraqi officials said. The council will also address economic matters, including oil revenue and the budget.

Any decisions that require legislation will be put before Parliament, Mr. Pachachi said. But the Parliament will probably support any decisions made by the council because all the leaders of the major parliamentary blocs will sit on the council, he added.

The council's decisions require a two-thirds vote of its 19 members. The president, prime minister, speaker of Parliament and the leader of any autonomous region (only Iraqi Kurdistan, for now) get seats on the council. The rest will be given to other party leaders. Over all, the seats will be distributed in proportion to the percentage of Parliament controlled by each major bloc.

According to that system, the main Shiite religious bloc will get nine seats, the Kurds four, the main Sunni Arab religious bloc three, the secular bloc two and a smaller Sunni Arab bloc one, Mr. Pachachi said. The two-thirds vote requirement effectively gives the Shiite members final say over any decision, as long as they remain united.

The council will operate parallel to the cabinet but will have greater responsibility for broad policy decisions. The cabinet will run the day-to-day affairs of the government ministries. Part of the motivation for creating the council is a desire to check the power of the ministers, especially those in charge of security.

Control of the Interior and Defense Ministries has been one of the most hotly debated issues in the talks to form a government. Each political bloc suspects the others of sectarian motives in trying to control the armed forces. With heightened sectarian tensions and talk of impending civil war on the rise, whoever controls the army and the police would have a guaranteed arms supply. Besides the prime minister and president, who have yet to be chosen, the politicians expected to sit on the national security council include Abdul Aziz al-Hakim, leader of the Shiite bloc; Tarik al-Hashimi, leader of the main Sunni Arab bloc; Saleh al-Mutlak, leader of the smaller Sunni Arab bloc; Ayad Allawi, the former prime minister and a secularist; and Mr. Barzani, the president of Iraqi Kurdistan.

"It's true that there's no explicit mention of it in the Constitution," Mr. Hashimi said at a news conference at Mr. Talabani's villa. "We think that the salvation of Iraq for the time being lies in showing a lot of flexibility in establishing new political bodies that include all the components of the Iraqi people."

The political leaders must now tackle other deeply contentious issues in the talks to form a government. At the top of the list is the Shiite nomination of Ibrahim al-Jaafari, the current prime minister, to retain that post. The other blocs oppose Mr. Jaafari's nomination, and have demanded that the Shiites present a new candidate. Mr. Jaafari has come under sharp criticism for failing to quell the violence and for the huge shortcomings in postwar reconstruction.

The political jockeying took place as Mr. Allawi, the former prime minister, told the BBC News on Sunday that the country was already mired in civil war. "It is unfortunate that we are in civil war," he said. "We are losing each day, as an average, 50 to 60 people throughout the country, if not more. If this is not civil war, then God knows what civil war is."

At least 15 bodies, all of them shot, were found across Baghdad on Sunday, police and hospital officials said. More than 200 bodies have been discovered in nearly two weeks, virtually all believed to be victims of sectarian violence.

A homemade bomb killed a police commando in Baghdad on Sunday. In Kirkuk, a cluster bomb left from the American invasion of 2003 exploded, killing a shepherd and a 6-year-old boy, said Lt. Col. Yadgar Abdullah of the Kirkuk police department.

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The police found two Iraqi soldiers shot dead in Hawija, west of Kirkuk. Officials in Basra said two employees of the South Oil Company were shot to death on Saturday night. Both were members of the Iraqi Islamic Party, a conservative Sunni Arab group, and had been handcuffed.

Iraq's Factions Agree To Form Security Council (LAT)

By Richard Boudreaux

The Los Angeles Times, March 20, 2006

BAGHDAD — Iraqi officials agreed Sunday to set up a council that would give each of the country's main political factions a voice in making security and economic policies for a new government.

The accord, announced after nearly a week of negotiations, was aimed at deflating rising sectarian tensions and represented the first breakthrough in the U.S.-guided effort to form a unity government after parliamentary elections Dec. 15.

President Bush applauded the deal, which came as the third anniversary of the U.S.-led invasion focused public attention on the troubled effort to stabilize Iraq and start bringing home 133,000 troops after toppling President Saddam Hussein.

"I encourage the Iraqi leaders to continue to work hard to get this government up and running," Bush told reporters in Washington.

The 19-member national security council would include the Iraqi president and prime minister and hold more power than the Cabinet, which is yet to be formed. It is expected to set policies governing the army and police, the counter-insurgency campaign in Sunni Muslim Arab areas and the disarmament of Shiite Muslim militias accused of sectarian killings.

The council also will oversee economic matters such as the budget and the allocation of oil revenues.

As outlined by participants in the talks, the council would represent political parties in rough proportion to their electoral strength — with nine members from the Shiite alliance that fell just short of a majority in the 275-member parliament, four each from the Kurdish and Sunni blocs, and two from secular parties.

Leaders of those factions took the unusual step of agreeing to form the council before what was expected to be a more contentious discussion of who would hold the positions of president and prime minister and head the Cabinet ministries controlling the army and police.

A council with powers beyond those of the Cabinet is not mentioned in the constitution ratified by voters in October. It was proposed in January by Kurdish leaders to check the power of the Shiite alliance, which is entitled to nominate the prime minister and is expected to dominate the Cabinet.

Shiite negotiators had resisted the idea of a broad policymaking council as unconstitutional. But other political blocs contended that it would help stem Iraq's sectarian bloodshed and avert all-out civil war; they won quiet backing for the proposal from U.S. Ambassador Zalmay Khalilzad, who has been deeply involved in the talks from the start.

"We think that the salvation of Iraq at this time lies in showing a lot of flexibility in establishing new political bodies that include all the components of the Iraqi people," Tariq Hashemi, leader of the main Sunni party, said Sunday at a news conference.

At least 34 Iraqis were killed or found dead Sunday in the continuing violence, which has soared since the Feb. 22 bombing of a Shiite shrine in the predominantly Sunni city of Samarra. Worried that the power vacuum was fostering the violence, interim President Jalal Talabani, a Kurd, summoned political leaders last week to try to speed up efforts to form a government. Iraq has been run for nearly 11 months by an interim leadership formed from the transitional assembly elected in January 2005.

After the December election left no party with a parliamentary majority, all factions agreed, under U.S. pressure, to work toward a broadly representative government — one that might undermine the insurgency by including Sunnis in the Cabinet.

But the effort got bogged down a month ago after the Shiite bloc nominated interim Prime Minister Ibrahim Jafari, a religious conservative with close ties to Iran's theocratic leadership, to continue in his post for a full four-year term.

The other political groups, supported by the more secular Talabani, pledged to block Jafari's ratification, which requires a two-thirds vote in the parliament. The rival blocs have demanded that the Shiites offer a less divisive candidate, but the Shiites have balked.

In an effort to break the deadlock, Talabani last week shifted the focus of the talks to the proposed council.

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Shiite negotiators succeeded in limiting some of the council's proposed authority. Its policies will require approval by 13 members, allowing the nine Shiite members a chance to thwart any decision if they stick together.

Hussein Shahristani, a Shiite negotiator, said leaders agreed that the council's decisions on the Cabinet would be binding "as long as they do not contradict the constitutional prerogatives of the president or prime minister." That formula, other politicians countered, might lead to conflicts.

"In reality, the authority of the council is uncertain," said Dhafir Ani, a spokesman for the main Sunni bloc. "It hasn't been settled."

Iraqi politicians said the formation of the council in effect added ground rules to replace the ad hoc manner in which decisions had been made in the last year, when party leaders brokered deals behind closed doors and presented them to the parliament. This time, Sunni parties would be better represented.

As political leaders wrangled in Baghdad's fortified Green Zone, violence continued outside. Iraqi sources and Western news agencies reported the discovery Sunday of 17 bodies of men tortured or shot to death in Baghdad alone, 11 of them flushed by city sewers into the tanks of water-purification plants.

Police said three civilians were killed in crossfire when insurgents attacked U.S. and Iraqi forces guarding the provincial governor's office in Ramadi, a Sunni city 60 miles west of Baghdad.

Other deaths included civilians and Iraqi policemen killed in Mosul, Baqubah, Basra and Baghdad.

In Duluiya, a Sunni town about 55 miles north of the capital, Iraqi officials said American troops killed a teacher, his wife, their 13-year-old son and four other people during clashes set off before dawn by a rocket-propelled grenade ambush on their armored patrol.

Maj. Tim Keefe, a U.S. military spokesman, contested the account from police officials and the deputy governor, saying the 3rd Heavy Brigade Combat Team of the 4th Infantry Division had killed seven "attacking terrorists."

Keefe said two U.S. soldiers were wounded in the clash, which occurred south of Samarra. More than 1,500 airborne U.S. and Iraqi troops staged a fourth day of raids in suspected insurgent bases north of Samarra, but the patrol in Duluiya was not part of that operation, Keefe said.

Police officials said the teacher and his family were shot when American soldiers raided their home after the ambush. An 18-year-old boy from another family was killed after he left home "to see what was going on," according to a Reuters reporter in the town.

Deputy Gov. Abdullah Hussein said in a telephone interview from Tikrit that two of the seven killed were insurgents.

After the clash, Reuters reported, American troops handed out leaflets saying they did not regard Sunnis as their enemy and wanted to withdraw from Iraq as soon as the country's newly formed government and army were able to stand on their own.

My Vision For Iraq (WP)

By Ibrahim Al-jafari

The Washington Post, March 20, 2006

BAGHDAD -- The elections last December in Iraq were a monumental stage in my country's history and a testament to the courage of its people, who refuse to bow to any dictator or terrorist. As the wheels of democracy have begun to turn in Iraq, the people's wishes are becoming clearer and their representatives identified. To this end I am humbled and honored to be chosen by my coalition to lead Iraq's first democratically elected full-term government.

My government's first challenge will be to stifle the terrorism that has plagued our country and defiled the name of Islam. While we are making good progress in expanding and developing Iraq's security services, the war against the terrorists cannot be won by military means alone. It is paramount that all Iraqis work together to build a democratic, free Iraq.

Since I took office, I have sought to bring every community into the political process. I refused to marginalize the Sunni Arabs after the January 2005 election boycott, ensuring they made up over a fifth of the cabinet.

Sidelining Moqtada al-Sadr's group from the Governing Council was a mistake. Had it been integrated into the political process back then, long before the formation of the Mahdi Army, events would have turned out differently in the south. I corrected

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this policy and brought Sadr's group into the democratic process. This inclusive approach resulted in the huge nationwide turnout for the December elections and a parliament that truly reflects Iraq.

During my term as elected prime minister, Sadr's group has not attacked any coalition troops. Furthermore, Sadr and several Sunni leaders are now catalysts for maintaining the peace in Iraq, calling on their followers not to retaliate against terrorist provocations, which aim to ignite civil war.

Unfortunately, we have suffered setbacks during the past year. The most troubling was the discovery of prisoner torture in an Interior Ministry jail in November. As soon as I learned of these despicable acts I formed an investigative committee made up solely of Sunni leaders, and I await its findings.

The long-term solution to this problem will be multifaceted. We must ensure that all security forces receive proper training and that there is a chain of command that holds commanders and officers responsible for such abuses. In addition, the various militias that fought Saddam Hussein's regime honorably must be fully integrated into Iraq's security forces without concentrating any particular group into any one division. Finally, we need to strengthen the country's nascent judiciary, which suffered years of coercion and corruption under the former regime, to guarantee its independence and impartiality.

The other major challenge my government will face is reviving Iraq's economy. Iraq has been drowned by decades of Baathist socialist policies that have made millions reliant on government handouts. We must encourage entrepreneurship and enterprise, while establishing adequate safety nets for the less privileged.

Economic rehabilitation also requires some tough and unpopular changes, such as the reduction in government subsidies for gasoline that my administration began a few months ago. Such steps can be made only by a popular government that has the trust of the people. My administration has the political capital to be able to bring about these necessary changes.

Ultimately, I will work to secure the reality of a democratic, liberal, peaceful Iraq -- a beacon for freedom in the Middle East. This is not merely a wish but an article of faith. Having lived in London for the majority of my years in exile, I appreciate the importance of liberty for both guaranteeing democracy and ensuring human development.

I am hopeful that with Iraqi determination, and the support of the multinational force, we can defeat the terrorists and make Iraq the first democratic Arab country. I believe in working toward a peaceful, stable and nuclear-free Middle East, where Iraq is not the rogue state that it was under the previous regime.

The road ahead will be tough, but the Iraqi people have demonstrated their bravery, determination and resolve. The world should not falter at such a crucial stage in history.

The writer is prime minister of Iraq.

Justice: Talking Trash (NSWK)

By Rod Nordland

Newsweek, March 20, 2006

Saddam Hussein had a point when he described his trial as a "farce." In five months of proceedings, the Iraqi High Tribunal has managed only 17 actual court days amid tight security, hunger strikes and boycotts by lawyers. Assassins have killed a judge, a court employee and two defense attorneys. At one point Saddam's codefendant, Barzan al-Tikriti, the once feared head of the Mukhabarat intelligence service, came to court in his underwear. The ex-dictator himself complained of having guards watch him take his pants down to use the toilet during recesses. Saddam's appearance last week brought a new low, with the prosecutor and defense lawyers screaming at one another, and the chief judge repeatedly hitting a red button that cut off the mike as Saddam declared himself not only president, but "commander in chief of the mujahed [holy warrior] armed forces." Finally the judge closed the hearing, threw out the press and shut down TV transmissions—all as Saddam ranted on.

Saddam's diatribes were better informed than they had been in previous court appearances. Held in solitary confinement since his capture in December 2003, Saddam has had little contact with the world beyond his cell. His American jailers strictly purged his reading material of any news about events in Iraq. But since the trial began, Saddam has been allowed to see attorneys, and on Wednesday he made the most of the information he was getting, praising the resistance while calling on Iraqis to avoid civil war. "Let the people unite and resist the invaders and their backers," he said at one point. "Don't fight among

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yourselves." The chief judge hit the red button and silenced the audio feed, but Saddam's speech was still audible in the courtroom. "The invaders and their supporters know they're on their certain way to being swept out, like the trash they are."

Lost in the chaos was the case itself. Saddam and his seven codefendants are on trial for the executions of 148 Shiites in the village of Dujail, in reprisal for a failed 1982 assassination attempt on Saddam as his motorcade passed by the village. Of all the accusations against Saddam, it's a relatively small one—but one where the alleged chain of responsibility is well documented. By his own statements, Saddam has tied himself to the reprisals, saying in court on March 1 that he had personally ordered the Dujail villagers tried—and their orchards razed—for an ambush that involved only 20 attackers. "Where is the crime?" Saddam declared. "[Since when] is trying a suspect accused of shooting at a head of state a crime?"

The Saddam-era trial, before the Revolutionary Court in 1984, is the heart of the prosecution's case, which maintains it was a sham. Forty-six of the defendants were "liquidated under torture" —before they were recorded as appearing at the trial. Eleven of the accused were minors, one as young as 12. A few years after the trial, Saddam's officials discovered that the kids had never been executed because of their ages. "We recommend executing them in a secret manner," reads one document. There's an arrow from that sentence to the margin, where Saddam allegedly wrote "Yes. It is preferable that they are buried by the Mukhabarat."

Saddam could well be executed soon after the Dujail case ends, without waiting for other cases against him to proceed. The defense still has a chance to make its arguments, which could extend well into the summer. But once a verdict is rendered by the five-judge panel, "if any defendant were sentenced to any penalty, no matter whether it were the death penalty or imprisonment, that penalty should be executed within 30 days of the court's verdict," chief prosecutor Jafar al Musawi told NEWSWEEK. Although there would be an automatic appeal of a death sentence to the court of cassation, that court has no backlog of cases, Musawi says, and an appeal "would only take days."

Many more cases involving Saddam could follow—if he's still alive. Already, charges are being prepared in the poison-gas attacks against Kurds in Halabja, the wider Anfal massacres and the slaughter of Shiites after an abortive uprising in 1991. But if Saddam doesn't hang for Dujail, the other 12 cases being prepared against him could, at the present rate, take more than a decade to try. Even many Iraqis unhappy with the American occupation wouldn't like that. "I think most Iraqis share the opinion that I have," said Ahmed Taha, 42, a Sunni primary-school teacher from Babylon. "Let's get done with it and execute him."

At one point in last week's trial, after Saddam quieted down and apparently agreed to address the Dujail charges, the judge pressed the green button to switch on his audio. But the defendant soon rounded on him: "If it were not for the Americans, neither you nor your fathers would have been able to bring me here." It was then that the judge declared the trial closed to the public. Shia politician Ali al Dabbagh was in the visitors' gallery. "Saddam was trying to pass messages to the insurgents and encourage them to attack," he said. "The judge had to stop this." With months more to go, Saddam's only defense is to make a mockery of the entire proceeding. So far, he's succeeding.

Next Chapter As Iraq War Rages, Army Re-Examines Lessons Of Vietnam (WSJ)

By Greg Jaffe

The Wall Street Journal, March 20, 2006

The last time Defense Secretary Donald Rumsfeld visited Baghdad, back in December, the top U.S. military commander there gave him an unusual gift.

Gen. George Casey passed him a copy of "Learning to Eat Soup with a Knife: Counterinsurgency Lessons from Malaya and Vietnam," written by Lt. Col. John Nagl. Initially published in 2002, the book is brutal in its criticism of the Vietnam-era Army as an organization that failed to learn from its mistakes and tried vainly to fight guerrilla insurgents the same way it fought World War II.

In the book, Col. Nagl, who served a year in Iraq, contrasts the U.S. Army's failure with the British experience in Malaya in the 1950s. The difference: The British, who eventually prevailed, quickly saw the folly of using massive force to annihilate a shadowy communist enemy.

"The British Army was a learning institution, and the U.S. Army was not," Col. Nagl writes.

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Col. Nagl's book is one of a half dozen Vietnam histories -- most of them highly critical of the U.S. military in Vietnam -- that are changing the military's views on how to fight guerrilla wars. Two other books that have also become must-reading among senior Army officers are retired Col. Lewis Sorley's "A Better War," which chronicles the last years of the Vietnam War, and Col. H.R. McMaster's "Dereliction of Duty," which focuses on the early years.

The embrace of these Vietnam histories reflects an emerging consensus in the Army that in order to move forward in Iraq, it must better understand the mistakes of Vietnam.

In the past, it was commonly held in military circles that the Army failed in Vietnam because civilian leaders forced it to fight a limited war instead of the all-out assault it longed to wage. That belief helped shape the doctrine espoused in the 1980s by Defense Secretary Caspar Weinberger and Joint Chiefs of Staff Chairman Gen. Colin Powell. They argued that the military should fight only wars in which it could apply quick, overwhelming force to destroy the enemy.

The newer analyses of Vietnam are now supplanting that theory -- and changing the way the Army fights. The argument that the military must exercise restraint is a central point of the Army's new counterinsurgency doctrine. The doctrine, which runs about 120 pages and is still in draft form, is a handbook on how to wage guerrilla wars.

It offers Army and Marine Corps officers advice on everything from strategy development to intelligence gathering. Col. Nagl is among the four primary authors of the doctrine. Conrad Crane, a historian at the U.S. Army War College, is overseeing the effort.

One of the doctrine's primary goals is to shatter the conventional wisdom that defined the post-Vietnam Army. "We are at a turning point in the Army's institutional history," Col. Nagl and his co-authors write in a forthcoming essay in "Military Review," an Army journal.

The doctrine's biggest emphasis is on the need to curb the military's use of firepower, which created thousands of refugees and horrific collateral damage in Vietnam. "The more force you use when battling insurgents, the less effective you are," the draft states.

The Army is also using its Vietnam experience to highlight the importance and difficulty of building local security forces that can carry on independently after U.S. forces go home. For most of the Vietnam War, the U.S. gave spotty attention to South Vietnamese forces. Without U.S. air support and artillery they quickly crumbled.

Drawing on its frustrating struggle to prop up a corrupt government in Saigon, the Army in its new blueprint counsels soldiers that anti-guerrilla operations must be focused on building a government that is seen as legitimate in the eyes of the locals. "Military actions conducted without analysis of their political effectiveness will be at best ineffective and at worst help the enemy," the draft doctrine states.

Within the Bush administration, there's broad support for the Army's new direction. It matches President Bush's own shift away from a pre-9/11 aversion to nation-building and guerrilla wars. The current national-security strategy seeks to spread freedom and democracy -- even if it means committing troops to guerrilla fights in places like Iraq and Afghanistan.

For most of the 1980s and 1990s the Army's understanding of what went wrong in Vietnam was dominated by retired Col. Harry Summers's history "On Strategy: A Critical Analysis of the Vietnam War." That account argued Viet Cong guerrillas were used by the communist regime to distract the U.S. from the real threat -- the conventional North Vietnamese Army. The U.S. didn't lose because it fought a guerrilla war badly, Col. Summers asserted, but rather because it was prohibited by the civilian leadership from launching a conventional attack on North Vietnam.

His book, commissioned by the Army and published in 1981, gave Army officers reason to ignore guerrilla warfare for the two decades that followed. It quickly became part of the curriculum at the Army's war colleges and remained on reading lists until a few years ago. "The timing was perfect," says George Herring, a Vietnam scholar at the University of Kentucky who also taught at the United States Military Academy at West Point. "Summers was selling a message a lot of top people in the army wanted to hear."

Army histories that challenged Col. Summers's narrative were rebuked. In 1986, Andrew Krepinevich, then an Army major, published "The Army and Vietnam," an alternative account of the Army's failings in the war. Instead of fighting a classic guerrilla war, the Army fought a large-scale conventional war and alienated potential allies in Vietnam, Mr. Krepinevich wrote. One four-star general blasted the book in a review as "a long rambling, one-sided discourse." It wasn't widely read.

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By the 1990s Army officers interested in successful careers didn't study counterinsurgency. A few, however, were drawn to it. One of those officers was Col. Nagl, who graduated from West Point and went on to study international relations at Oxford University as a Rhodes Scholar. After the first Gulf War, where he served as a platoon leader, Col. Nagl went back to Oxford to get his doctorate.

The first Gulf War seemed to vindicate the Army's big-war approach. The Army had finally been allowed to fight the conventional, firepower-intensive war it wanted to mount in Vietnam. It prevailed quickly and with few casualties. "By God, we've kicked the Vietnam syndrome once and for all," the President George H.W. Bush gushed in 1991.

To Col. Nagl, the Army's quick, low-casualty win wasn't necessarily a good news story. "The lesson of the Gulf War was: Don't fight the U.S. conventionally," Col. Nagl says. "The way to defeat the U.S. Army is to use guerrilla warfare and exhaust the will of the U.S. At least you have a chance to win."

Col. Nagl reread Mr. Krepinevich's account of the Army in Vietnam, which he says had a big influence on his doctoral thesis. "I stole from it shamelessly," he says today, although he fully credited the work in his own. He also immersed himself in the papers of Sir Gerald Templer, who led British counterinsurgency efforts in Malaya in the 1950s. "I wanted to figure out why the British Army was able to learn how to defeat an insurgency after starting out badly and why the American Army was not able to learn as well in Vietnam," Col. Nagl says.

He concluded that the Army did learn in Vietnam, but far too slowly. By 1969 the military had shifted away from large-scale search-and-destroy missions and was putting a far greater emphasis on building indigenous security forces, safeguarding villagers and developing the local economy. However, "at that point the American people had already lost their faith," he says.

Col. Nagl's book was released in October of 2002 by Praeger Publishers, on the eve of the Iraq invasion. (It was later published in paperback by the University of Chicago Press.) He took the "Learning to Eat Soup with a Knife" title from a famous aphorism of T.E. Lawrence, also known as Lawrence of Arabia: "To make war upon rebellion is messy and slow, like eating soup with a knife."

A few months later, Col. Nagl was dispatched to Iraq to serve as the third-highest-ranking officer in a 700-soldier battalion based outside Fallujah. "I thought I knew something about counterinsurgency until I tried to do it," he says today. He quickly discovered the challenge to be even more difficult than he'd expected. His unit took heavy casualties and his battalion's efforts to build an Iraqi police and Army force sputtered in the face of insurgent attacks, poor equipment and a lack of funds.

While Col. Nagl was in Iraq, Gen. Peter Schoomaker, the Army's top officer, picked up his book and was taken by its argument that the Army's big-war culture in Vietnam often overpowered innovative ideas from inside the service and out.

The general ordered his fellow four-star generals to read it. Before he went to Iraq to take over as the top commander, Gen. Casey read Col. Nagl's book as well. "The thesis that the U.S. military was too prone to [big offensive strikes] to be good at counterinsurgency was something I noted to watch for when I got here," says Gen. Casey in an email from Baghdad.

The tome has already had an influence on the ground in Iraq. Last winter, Gen. Casey opened a school for U.S. commanders in Iraq to help officers adjust to the demands of a guerrilla-style conflict in which the enemy hides among the people and tries to provoke an overreaction. The idea for the training center, says Gen. Casey, came in part from Col. Nagl's book, which chronicles how the British in Malaya used a similar school to educate British officers coming into the country.

"Pretty much everyone on Gen. Casey's staff had read Nagl's book," says Lt. Col. Nathan Freier, who spent a year in Iraq as a strategist. A British brigadier general says that "Gen. Casey carried the book with him everywhere." Both Col. Nagl's and Mr. Krepinevich's books are included on a recommended counterinsurgency reading list included in the draft doctrine.

Other Vietnam histories have also drawn the interest of senior Army officers. Lt. Gen. John Vines, who was until recently the No. 2 commander in Iraq, recommended his staff read Col. McMaster's "Dereliction of Duty." The book portrays the military's senior Vietnam-era generals as a feckless lot, unwilling to confront President Lyndon Johnson over what they believed to be a bankrupt strategy. Its message: Military commanders must always speak the truth to their civilian bosses.

Similarly, Mr. Sorley's "A Better War" in recent months has become popular among senior Iraq and Afghanistan strategists. Mr. Sorley's book argues that the military, in the latter years of the war under the leadership of Gen. Creighton Abrams, radically shifted its approach. Instead of just hunting North Vietnamese soldiers and Viet Cong guerrillas in the jungle, commanders in 1969 began focusing far more on providing security to Vietnamese villagers, a strategy dubbed "clear and hold."

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Mr. Sorley posits that in the early 1970s, Gen. Abrams's "clear and hold" approach was winning the war. Congress's precipitous withdrawal of support for the South Vietnam government and a fickle American public turned that victory into defeat, he writes. Most historians consider Mr. Sorley's account to be far too sanguine on the war's latter years. (Of late, the Bush administration has adopted Gen. Abrams's language. Secretary of State Condoleezza Rice has described the American strategy in Iraq as "clear, hold and build.")

Going forward, the big question is whether the Army's newly popular Vietnam views survive after the war in Iraq. If things go badly, there is likely to be intense pressure from within the Army to blame the political leadership for not sending enough troops, the news media for negative coverage, or the American public for its unwillingness to stick it out. None of those analyses, however, recognize the Army's own failings -- particularly in the first years of the war, say experts.

"The problem with blaming a fickle American public or the political leadership is that it gives you no tools to do better the next time," says Sarah Sewall, a former Clinton administration defense official who now oversees Harvard's Carr Center for Human Rights. "That is what happened after Vietnam."

Realism Pushes US And Iran A Bit Closer (CSM)

By Howard LaFranchi

The Christian Science Monitor, March 20, 2006

WASHINGTON - A mutual interest in a stable Iraq is driving Washington and Tehran - two otherwise increasingly antagonistic capitals - to sit down and talk.

Even as the Bush administration says America "may face no greater challenge from a single country than from Iran," and as US-backed efforts proceed in the United Nations Security Council to address Iran's nuclear ambitions, the two governments have agreed to meet in Baghdad.

The way forward for this conversation traverses a minefield of potential explosions, but the fact it is happening at all reflects a shift to pragmatic foreign-policy outlooks in both Washington and Tehran.

"No one knows how far this will go before it all blows up, or forces on one side or the other sabotage it, but it's another mark of the reemergence of realists in the Bush administration that we can even consider talking to the Iranians," says Daniel Brumberg, a professor of comparative government at Georgetown University in Washington.

In Iran, "efforts to talk to the US may well be the work of foreign ministry pragmatists [in Tehran] reasserting their influence" over the extremist stance of President Mahmoud Ahmadinejad, adds Mr. Brumberg. For these pragmatists, landing in the Security Council is the direct result of Mr. Ahmadinejad's confrontational antics, and they may see in Iraq a way to start undoing the damage.

The White House says the talks - the first acknowledged direct contacts between the two countries since discussions in 2003 on Afghanistan - will be limited in focus to Iraq. The US accuses Iran of providing support and materials to groups that have targeted American forces and interests in Iraq.

But the talks are also an acknowledgment of Iran's pivotal role in Iraqi affairs - political, social, and religious - at a particularly difficult moment for the US engagement there.

The US sought help from Iran after the US-led toppling of the Taliban government in Afghanistan. That experience ended up souring, but not before the Iranians took some constructive steps that aided the US goal of establishing a stable government, observers say.

One aim of Zalmay Khalilzad, the US ambassador in Iraq and the man authorized by President Bush to meet with the Iranians, will be to confront his interlocutors on the supplying of Shiite militias, a relationship the US says is exacerbating sectarian violence.

But Mr. Khalilzad - who was previously the US ambassador to Afghanistan - may venture into more political discussions, analysts say, encouraging the Iranians to use their extensive influence with some political leaders of Iraq's ruling Shiites to help in ending the damaging deadlock over forming a new government.

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"The US says these talks will 'just be about Iraq,' but what does that mean?" asks Ray Takeyh, an expert in US-Iran relations at the Council on Foreign Relations in Washington. "Is it just rebuking them for their actions there, or is it, 'We don't want a civil war, and you don't, so how can we both work to avoid it?' "

The problem he sees is that the Bush administration rhetoric seems diametrically opposed to such an approach. "It might seem to make sense to talk to the Iranians about the mutual interests in a stable Iraq," he says. "But it would be inconsistent with everything else that the administration has been saying about the Iranians over the past two weeks: that they are our biggest single threat, and so on."

Mr. Takeyh says the Iranian regime is also motivated by a desire to undermine the deliberations about its nuclear program in the Security Council. "They may be betting they can lessen some of the pressure to act against them if they are seen to be engaging in something helpful like talks in Iraq," he says.

Some Iranian policymakers may be moved to demonstrate a willingness to cooperate with the Americans - who, after all, rid them of two of their archenemy neighbors, the Taliban and Saddam Hussein - both by the worrisome violence next-door and by a domestic population that wants desperately to avoid international isolation.

Iranian interests may not be identical to America's in Iraq, but growing prospects of a slide to full-blown civil war have rattled the Iranians, experts say. "The Iranians know that if the civil war accelerates they may be drawn into the swamp, and they don't want that," says Georgetown's Brumberg.

Still, actors on both sides could intervene to nip the talks before they even bud. "Will Ahmadinejad try to blow them up?" wonders Brumberg, who cites efforts already made to purge the foreign ministry.

And in the US, skeptics of such talks are surely watching for any missteps, he adds. "The Afghanistan experience" of talking with Iran "is actually a cautionary tale," Brumberg says. "It left a bitter taste, and some people are going to remember that."

Iranians See Talks With U.S. As Historic (WP)

By Karl Vick

The Washington Post, March 20, 2006

TEHRAN, March 19 -- Iran's acceptance of direct talks with the United States over Iraq is being regarded among Iranians as a major foreign policy development, a historic if still tentative departure from 27 years of official enmity that held the government of the "Great Satan" as one to be spoken against, but never with.

"America's objective in inviting Iran for talks is to send a message to Islamic movements throughout the world that Iran gave in to Washington after 27 years of resistance," Kayhan, a hard-line daily newspaper, warned Saturday in an editorial that analysts said underscored the significance of Iran's shift.

"Announce as soon as possible that you won't have any dialogue with the U.S. and avoid entering a destructive trap that has been prepared for Islamic Iran," the editorial continued.

Vehement opposition to the United States has been a pillar of Iran's theocratic system since 1979, the year an angry population overthrew the monarch Washington had helped install 26 years earlier in a coup engineered with the help of the CIA. From the U.S. side, a similar enmity was embedded in policy when student militants overran the red-brick U.S. Embassy in Tehran, taking 52 Americans hostage and holding them for more than a year.

The United States severed diplomatic relations with Iran, and over the next quarter-century both countries consistently found a reliable villain in the other.

Inside Iran, however, an appetite for rapprochement grew along with a population whose youthful majority had no memory of the revolution.

In 2002, a poll found that three-quarters of Iranians surveyed favored talks with the United States. The pollster was thrown in jail, but the reality drove a quiet competition between Iran's two rival political forces.

"Whoever could take the prize" of U.S. rapprochement would, it was widely believed, dominate Iranian politics for the foreseeable future, said Mehdi Karrubi, a moderate cleric who was speaker of the last parliament dominated by reformers.

The competition, however, had paralyzed the effort: Neither side would allow the other to reach out to the United States without risking accusations of betraying the Islamic revolution.

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That changed last year, when conservative clerics edged reformists out of government, unifying Iran's elaborate ruling structure for the first time in nearly a decade. It also cleared the way for the opening to Washington, and even reformists urged the conservatives to act.

"This might be a historic irony, but it's true the state is in 'harmony,' " said Mostafa Tajzadeh, a prominent reformist theoretician, speaking before the announcement of the direct talks. "No time has been more convenient for talks between the two countries. We are less sensitive than at any time since the revolution."

A few conservatives quietly urged the same. Behind the scenes of Iran's conservative establishment, insiders whispered about the prospect of negotiations.

When the announcement came Thursday, it was pointedly public. Ali Larijani, who heads the Supreme National Security Council, announced the decision to parliament, then summoned American correspondents to interviews. With a level gaze, he said Iran would accept the invitation of the U.S. ambassador in Baghdad, Zalmay Khalilzad, to talk about Iraq.

Analysts and politicians said the decision showed every sign of carrying the weight of Iran's ultimate authority, Ayatollah Ali Khamenei. And some conservatives fell in line.

"It is obvious that when the Iranian officials present an idea, it is a calculated act," said Habibollah Asgaroladi, a leader of the Islamic Coalition Society, according to the ISNA news agency. "Considering the problems in the region, there is this necessity to solve problems through negotiations."

No dates have been set for the talks, and Iran has yet to name its delegation, which Larijani said would be of a rank "appropriate" to the task. Both Iran and the United States publicly emphasize that the subject will be limited to the teetering situation in Iraq, where both have deep interests and influence.

U.S. officials underscore this adamantly, openly arguing that Iran is opening a channel to the United States in hopes of siphoning off pressure it faces from the U.N. Security Council about the intentions of its nuclear program.

Some Iranian politicians acknowledge as much. "Although the talks will be over Iraq, these talks would have certain impacts on other regional developments and also on nuclear diplomacy," said Reza Talainik, head of parliament's national security and foreign affairs committee, ISNA reported.

Others describe the opening as a first step toward reducing Iran's estrangement from the West. The United States long has labeled Iran the world's largest state sponsor of terrorism. But Tajzadeh said he feared the escalating rhetoric over Iran's nuclear program, which many suspect is a front for acquiring atomic weapons, was building toward military action.

"The public image the U.S. has made of Iran is a monster. They have to do something, at least break a horn," he said. "There is only a small chance. This is negotiation.

"Of course, in the short term," he said, "it would not be in my party's favor. But in the long term, it would be in the favor of the Iranian nation and our party."

Naser Hadian-Jazy, a political scientist at Tehran University, said Iranian commentators of all stripes see the new opening as the most significant public approach to Washington since 1979, despite mid-level diplomatic contacts through third parties in advance of the invasions of Afghanistan and Iraq.

"Both the supporters and those who are critical have made this point clear," he said.

The public also appeared to welcome news of talks. "I think both sides should take advantage of this opportunity. They should be friends," said Kobra Mehdipour, 68, clutching her chador against the March wind.

Asked who in Iran might feel otherwise, she said, "There might be some illiterate people in the provinces who want to be friends with other countries but might be under the influence of some kind of propaganda."

Karrubi, the moderate cleric, moved from supporting the 1979 embassy takeover to urging rapprochement with Washington. He said that was the challenge for the governments as well.

"Both sides should forget the rhetoric used in the media and politics. They should put it aside," he said. "They should create something new."

U.S. General Doubts Talks With Iran Will Promote Mideast Peace (AP)

The Associated Press, March 19, 2006

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WASHINGTON — The top commander of U.S. forces in Iraq expressed doubt today that negotiations between the United States and Iran over Iraq would help bring peace and stability in the Middle East.

"I don't have a lot of confidence that these will turn out to be productive, but I could be wrong," said Gen. George W. Casey, the top commander in Iraq.

"They're playing, I think, a very delicate balancing act," he said of Iran. "On the one hand, they want a stable neighbor. On the other hand, I don't believe they want to see us succeed here."

The Bush administration agreed last week to talk to Iranian officials about Iraq after a nearly three-decade break in diplomatic ties between the two countries. U.S. intelligence strongly suspects Iran has been arming Iraqi Shiite militia and some insurgent groups.

Casey said he didn't have much faith in the talks but that it was a "political call." Any negotiations should involve the Iraqis' use against coalition forces of "improvised explosive device technology" that he says are coming from Iran.

"That needs to stop," Casey said on "Fox News Sunday."

For the talks, U.S. officials have ruled out discussion of any attempt by Iran to gain a political foothold in Iraq, as well as international concern that Iran is seeking to build a nuclear bomb, an allegation that Tehran denies.

Last week, Bush's top foreign policy adviser, Stephen Hadley, expressed concern that Iran's willingness to talk might be a ploy designed to divert attention from the nuclear dispute. The U.N. Security Council is expected to discuss the nuclear issue this month, with Washington pressing for penalties.

Still, lawmakers from both parties said today they welcomed the discussions, saying it was critical for the Bush administration to engage the Middle East region — even countries it might disagree with — as the U.S. contemplates an exit strategy in Iraq.

"I think we have to understand that we are talking frequently to people with whom we have severe disagreement, whom we dislike, whom we may feel really are terrorists, but those are the folks that are in the world that we're going to have to influence," said Sen. Richard Lugar, R-Ind.

"Now, that doesn't mean that we're necessarily going to be successful in any of these respects, but clearly we're not only sharing the burden, but probably bringing some sense of urgency to the world in a way in which we are not perceived as doing in Iraq," Lugar said.

Sen. Joe Biden, D-Del., agreed, saying that Iran and the U.S. have a mutual interest in not seeing a civil war break out in Iraq. The U.S. can refuse to negotiate on other issues, such as terrorism or a suspected nuclear arms program, he said.

"Seventy-five percent of the Iranians or more hate their leadership, and the last thing they need is 50 million Shia on the other side learning from their Shia brethren how to wage a war," said Biden, who appeared with Lugar on CNN's "Late Edition."

Sen. Chuck Hagel, R-Neb., said that talking with Iran would give the U.S. more options in eventually pulling out of Iraq. He called that a better approach than to engage in a "mindless kind of banter" about "well, if we leave, the whole place falls apart."

"We've got to think in a big-picture way here that we haven't thought before. I think we need to talk to the Iranians," he said on ABC's "This Week." "There will be no peace in Iraq or in the Middle East without the Iranians being part of that."

Top U.N. Members To Try To Break Stalemate On Iran (WP)

By Colum Lynch

The Washington Post, March 20, 2006

UNITED NATIONS, March 19 -- The Security Council's five permanent members and Germany will hold a high-level meeting Monday in New York to try to break an impasse over the international response to the Iranian nuclear crisis.

The meeting comes as U.S. and European diplomats have failed during two weeks of negotiations to overcome Chinese and Russian objections to a Security Council statement demanding that Iran stop its nuclear-enrichment activities and cooperate with the International Atomic Energy Agency. R. Nicholas Burns, the undersecretary of state for political affairs, and top foreign affairs officials from the five other governments are expected to attend.

U.S. and European officials say they will try to assuage Russian and Chinese fears that the adoption of the statement will inevitably lead to harsh punitive measures against Iran. "We're not hellbent on going to war; we're not hellbent on imposing

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sanctions," said a senior State Department official familiar with the discussions, who spoke on the condition of anonymity because the talks are supposed to be confidential. "We're hellbent on having the Iranians return to the negotiations, like the Russians and the Chinese want."

Moscow's opposition to a Security Council declaration has hardened in recent weeks as senior U.S. officials, including Burns, have publicly threatened to press for targeted sanctions against Iran's rulers if they ignore the 15-nation council's call for a freeze on Iran's uranium-enrichment activities.

Russian diplomats say they are concerned that a U.S.-backed European draft, which sets a two-week deadline for Tehran to stop enrichment activities and agree to more intrusive U.N. inspections, provides too little time to test Iran's cooperation. Russia's U.N. ambassador, Andrei Denisov, mockingly told the Associated Press on Friday: "Let's just imagine that we adopt it and today we issued that statement -- then what happens after two weeks? In such a pace, we'll start bombing in June."

Monday's meeting, which will be held at the British mission, was scheduled in response to a request by Russian Foreign Minister Sergei Lavrov to hold talks outside the Security Council to map out the United Nations' long-term strategy for persuading Iran to scale back its nuclear activities.

An evening meeting, which will include the U.N. ambassadors for the six governments, will focus on reaching a deal on the presidential statement.

A second senior Bush administration official, who also spoke on the condition of anonymity, denied an AP report Saturday suggesting that Britain was considering proposing Monday to resolve the standoff through talks among the council's five veto-wielding members, Germany and Iran. "The report is absolutely false," the U.S. official said. "We checked with the Brits, and they were stupefied by that report, and they never heard of it. No one has made that proposal, and we wouldn't accept it."

The standoff hinges on whether the Iran crisis should be handled by the Vienna-based International Atomic Energy Agency or the Security Council, which can impose sanctions or use force. Russia and China have insisted that the IAEA take the lead, while the United States, France and Britain say that Iran will stop its activities only if faced with the threat of sanctions.

Some council members say the European proposal for a two-week deadline for IAEA Director General Mohamed ElBaradei to report to the council on Iran's cooperation is too short. China prefers four to six weeks. Russia opposes any report until the IAEA meets in June.

China said Friday that it would accept a continuing role for the U.N. council in managing the nuclear crisis. U.N. Ambassador Wang Guangya said he had offered a compromise to bridge the gap between Russia and the council's three major Western powers. Under the plan, ElBaradei would report on Iran to the 35-member IAEA board and the Security Council.

U.S., French and British diplomats say they have rallied a majority of the council's 15 members in support of a draft statement that would call on Iran to stop uranium-enrichment activities and cooperate with the IAEA. They will resume talks on Tuesday.

Tehran Courts Support Of Arabs (WP)

By Daniel Williams

The Washington Post, March 20, 2006

CAIRO -- Iran has embarked on a charm offensive in the Arab world aimed at expanding economic and political ties and circumventing efforts by the United States and its allies to isolate Iran over its nuclear program.

President Mahmoud Ahmadinejad traveled this month to Kuwait, the first visit there by a high-ranking Iranian official in more than 25 years. Other Iranian officials toured Persian Gulf states trying to persuade them to endorse Iran's desire to develop nuclear technology, which U.S. officials have called a cover for building weapons. In mid-February, Iran's deputy foreign minister for Arab and African affairs, Mohammad-Reza Baqeri, met in Mecca with Saudi Foreign Minister Saud al-Faisal in a bid to persuade the Saudis to coordinate stands on regional issues, according to reports from Tehran.

Iran also moved to shore up its longtime alliance with Syria, itself a target of U.S.-led isolation efforts. Iran and Syria signed preferential trade agreements and announced plans to lay an oil pipeline between the two countries, although a key section would have to pass through Iraq. During a recent meeting with Iranian officials in Damascus, Syrian Prime Minister Naji al-Otri publicly endorsed Iran's assertion of the right to develop nuclear technology, albeit for "peaceful purposes."

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Across the Mediterranean, in Tunisia, officials pledged to increase trade, flights and tourism ties with Tehran.

The activity coincides with Iran's stated support for Hamas, formally known as the Islamic Resistance Movement, which won a majority of seats in the Palestinian parliament in January. Ahmadinejad has offered to fill gaps in the Palestinian Authority budget created by a withdrawal of international aid as Hamas takes over. The United States and many European governments consider Hamas a terrorist organization and have said it ought to be isolated until it recognizes Israel and forswears violence.

Arab observers say Iran's diplomatic offensive represents a newly vigorous approach to improving relations with its neighbors. "Iran is trying to become a player in the region. At least toward the Arabs, Iran is trying to moderate its tone," said Maha Altorki, an Iran analyst in the Asia section of the Arab League, based in Cairo, the Egyptian capital.

Altorki said Iran faces numerous obstacles in its campaign. Persian Gulf states closely allied with the United States are leery. Iran has laid claims to islands and undersea territory in the oil-rich gulf. During a meeting of Persian Gulf foreign ministers this month, Abdullah bin Zayed al-Nahyan, foreign minister of the United Arab Emirates, pointed out that Iran continues to occupy islands claimed by the UAE and called for their peaceful return.

Iran also faces suspicions about its long-term intentions. It is a majority Shiite Muslim country ruled under Islamic law as Iranian clerics define it, and that makes leaders of the predominantly Sunni Muslim Arab world wary that the Iranians will try to subvert their rule. Last year, Jordan's King Abdullah warned of an emerging "Shiite crescent" stretching from Iran through Iraq and Syria into Lebanon, where Iran has long been a patron of the Hezbollah movement that fought the Israeli army.

Abdullah and Middle East observers have noted that the Bush administration boosted Iran's regional profile by toppling Saddam Hussein and effectively shifting power to Iraqi Shiite parties and militias that Tehran had hosted while they were in exile.

"I have a real problem with certain Iranian factions' political influence inside Iraq," Abdullah said in a published interview last year. "My concern is political, not religious -- revolving around Iran, Iran's political involvement inside Iraq, its relation with Syria and Hezbollah and the strengthening of this political-strategic alliance. This would create a scenario where you have these four -- Iran, Iran-influenced Iraq, Syria and Hezbollah -- [with] a strategic objective that could create a major conflict."

Not all Arab countries share such alarm, cautioned Wael al-Assad, director of the Arab League's Department of Multilateral Relations. "There is no single position in the Arab world toward Iran. In general, the closer a country is to Iran, the more worried it is," he said. "Of course, the collapse of Iraq and the rise of the Shiites make the situation more frightening to some."

The Arabs' position on Iran's nuclear program is complicated by their demand that the region should be free of nuclear weapons -- including Israel, which has long possessed a nuclear arsenal but never acknowledged it.

"We don't want Iran to have nuclear weapons. The difference with the U.S. approach is that we see it as a regional issue," Assad said. "We want a nuclear-free zone. We declare it is wrong for any country in the area to possess nuclear weapons. Otherwise there will be an arms race. The Americans handle it on a state-by-state basis."

Ayatollahs Aside, Iranians Jump For Joy At Spring (NYT)

By Michael Slackman

The New York Times, March 20, 2006

ISFAHAN, Iran, March 19 — All day and all night, the main street of this city was packed over the weekend with shoppers jockeying to buy last-minute gifts and sweets as they hurried to get ready for the celebration of the Iranian New Year, called Nowruz. Behind his cluttered desk inside an antique shop, Sayed Ali Zargabashi watched with great satisfaction as the crowds spilled off the sidewalks.

"People are not listening to the regime," said Mr. Zargabashi, 63. "They are emphasizing and embracing the traditional celebrations. People want the best they can get. Their eyes are open now."

After the Islamic Revolution in 1979, the ruling ayatollahs sought to stamp out many traditions, like Nowruz, a celebration with some Zoroastrian links that stretches back thousands of years to the pre-Islamic era, to mark the arrival of spring. The celebration is considered by many here the most Iranian of holidays.

The ayatollahs tried, and failed.

Now, nearly three decades later, some people say the increasingly enthusiastic embrace of Nowruz and other ancient traditions represents a resistance against the country's more conservative religious rulers.

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A few days before Nowruz, for example, Iranians poured out of their homes to celebrate Chahar Shanbeh Suri, igniting fireworks and jumping over small fires set in the streets, a traditional practice intended to bring good health in the new year. Several years ago, the government decided it could not stop the practice, and set up special parks where the fires could be set.

This year's celebration — a time for family gatherings — has proved especially vexing for the religious leadership as it occurs on Monday, the same day the faithful are expected to mourn the death of Imam Hussein, a figure whose defeat in battle centuries ago became a defining moment in Shiism, the dominant Islamic sect in Iran.

Some clerics said in interviews that it was acceptable to observe the new year, but because the celebration was occurring on the 40th day after the anniversary of Imam Hussein's death, people should not show joy — which in itself prompted giggles from some as they hurried to get ready.

"I think these days, there is a silent resistance in Iran, especially among the middle class," said Hamidreza Jalaipour, a sociologist. "They are resisting not politically, but socially and culturally."

Like most conflicts in a society as complex and layered as this one, the contemporary story of Nowruz is not one-sided or exclusively about resistance. It is also about accommodation. While Iran's religious leaders have followed a policy of confrontation with the West over their nation's nuclear program, they have, however grudgingly, ceded to the public's insistence on retaining, even bolstering, traditions not founded in Shiism.

While it was the reformist government of former President Mohammad Khatami that decided to establish parks to hold the fire-jumping festivities, for example, the practice was continued this year after the election of the ideologically conservative President Mahmoud Ahmadinejad.

That Iran's religious leaders have accepted Nowruz, and other prerevolution traditions like Chahar Shanbeh Suri, also demonstrates a growing degree of stability, as the country's leadership has tried to reconcile the bookends of Iranian national identity — faith and culture, experts here said.

At last week's Friday Prayer service, held in the sprawling open-air arena at Tehran University and broadcast nationwide, Ayatollah Ahmad Jannati, among Iran's chief enforcers of strict Islamic doctrine as head of the Guardian Council, did not mention Chahar Shanbeh Suri. He also did not mention Nowruz, though he acknowledged that recreation was good, as long as people continued to observe the laws of the Islamic republic.

"In this new year," Ayatollah Jannati said from a podium high above the crowd, "God's kindness and affection should be on you. We should always observe piety and all laws decided by God. You can neither commit sin in happiness or sadness."

There still exists a battlefield between those on the extremes of the debate, the ultrareligious who would like to erase elements of Iranian identity not explicitly Islamic, and others, including many in the expatriate community, who try to undermine the credibility of the Islamic government by appealing to Iranian nationalism through such traditions as Char Shanbeh Suri.

"What is interesting is that it is not clear why the opposition is trying to benefit from setting fire to little thorn bushes and firecrackers, which has mistakenly turned into a tradition, and interpret it as opposition to the Islamic republic," Hussein Shariatmadari, editor in chief of the conservative daily newspaper Kayhan, wrote on Thursday.

The exact beginning of Nowruz — the name means "New Day" — is unclear, although its origin has been traced back thousands of years. In Iran, it is closely associated with the Zoroastrian faith, a monotheistic religion in which worshipers perform prayers and rituals in the presence of fire — a symbol of order, truth and righteousness. Zoroastrians are said to have made the Nowruz tradition formal.

Tooran Shahriari, a senior member of the Zoroastrian community in Tehran, said that the ancient calendar was divided in 12 months of 30 days each. At the end of the year, she said, the five days left over became "special days" and the basis for the celebration.

In practical terms, the holiday signifies the end of winter and the start of the new growing season, and resembles a blend of New Year's Eve and Thanksgiving. In advance of the holiday, Iranians conduct an intense spring cleaning.

The holiday begins at the exact moment of spring, and so on Monday Iranian families will gather in their homes at about 10 p.m. around tables set with seven symbolic dishes, each beginning with the letter S in Persian, including items like vinegar, dried fruit, garlic and sprouting seeds, which represent renewal. The holiday ends on the 13th day with an event called Sizdah Bedar, when everyone is supposed to go out into nature, hold picnics and enjoy the early spring.

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In Isfahan, there was a rush to get ready for the holiday. One tradition is to buy new clothing, and tailors were busy trying to meet holiday orders. In one shop, a tailor named Akbar said that nearly half his annual business was conducted in the month before the holiday. He said he was certain Nowruz was so popular because people were rebelling against the government and its strict social codes of behavior.

"They really tried to take away Nowruz from people," Akbar said as he fitted a customer with a new suit. "People are turning away from religion altogether. They are not listening to what the government is saying." He is not being completely identified to protect him from possible reprisal over his comments about religion, which is often considered a red line in this country.

Not everyone shared the tailor's view. Instead, some people who identified themselves as religious said they saw no conflict with Iran's culture.

"Iranians have both tradition and religion, and they both get respected in return," said Jaafar Hemmassian, 40, a baker in the center of the city as he sold piles of cream puffs and cases of confections. "All of the traditions of Nowruz are accepted by Islam."

A few days earlier, as people gathered in a small park in Tehran to set fires and celebrate Chahar Shanbeh Suri, held on the last Wednesday of the year, many people said they were pleased that the government had finally relented — and even helped to organize the occasion.

"This is an important night for us, especially because this regime has finally realized that it should respect peoples' demand and let them celebrate it," said Manijeh Emadi, 54, a high-school teacher. "They wanted to take away Nowruz and its traditions for 27 years. Finally they learned that this tradition has survived for hundreds of years, and it will survive them as well."

Where Comedy Isn't King (NYT)

By Jake Tapper

The New York Times, March 20, 2006

Washington — I was only a few hours into my recent two-week stay in Baghdad when I first noticed the discordant images on Iraqi television: Between the grisly shots of war dead, pools of blood and burnt-out shells of cars came bits of wacky slapstick.

Grown men and women joked around in silly makeup and goofy costumes, emoting exaggeratedly, acting like buffoons. It was difficult to compute at first: amid the horror, some Iraqis were actually trying to make the country laugh.

With the newfound freedom of speech here, more than 100 television and radio stations have been licensed; the American ambassador, Zalmay Khalilzad, marveled at the transformation a few days ago, noting that until the invasion Uday Hussein's "pen ruled supreme." This has resulted not only in more news and public affairs programming, but many new entertainment shows.

Every Tuesday night, for instance, the Kurdish TV station KurdSat runs "Program," which offers music and skits about corruption and society. Every Friday afternoon "Caricatures," on the satellite station Al Sharqiya, lampoons sectarian strife and the annoyances of day-to-day life like cellphones. The American Idol-esque "Iraq Star," which recently completed a season's run on Al Sumariya, came with its own version of Simon Cowell named Mo Hadi.

On radio, every day the Rashid station offers a four-hour show called "DJ Rashid," which brings listeners music, comedy and various contests. Callers share jokes and poems on the Mahaba radio station's "Mahtata" show every evening.

Struck by this phenomenon, my producers and I called Iraqi TV and spoke to Amjad Hamid, the manager of the entertainment division. He seemed very proud of a new sitcom set to debut next month. In 15 half-hour episodes, "Me and Layla" — starring Odei Abdel-Sattar, an Iraqi Danny DeVito — will show the misadventures of a hapless Romeo. Mr. Hamid invited us to visit the set to interview the producer, director and actors. He was convinced that what they were trying to do was important.

When we went a few days later to where they were filming in north Baghdad, we could have been on a back lot in Burbank. A one-camera crew shot a scene where the diminutive Mr. Abdel-Sattar and another actor — the straight man, it seemed — had an animated discussion. The director, Jamal Abed-Jasim — bald, wearing a red shirt and tan vest — barked out his vision; a woman in a business suit clutching a clipboard never left his side. The smooth-as-silk producer, Mazin Mohammed Mustafa, paced and smoked. Mr. Abdel-Sattar hammed it up off camera. Gaffers and grips tended to their tasks; extras milled around, waiting to shine.

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For us, it was a chance to cover something besides car bombs, carnage and body counts. That perhaps understandable focus — and concerns for our own security — have clearly hindered the ability of journalists to tell stories about Iraqi society, about the less obvious ways that Iraqis are trying to rebuild their country.

"Iraqis have a real need to smile now to make them forget all the destruction and terrorism surrounding them," Mr. Abdel-Sattar told us, sunglasses perched atop his head. "God willing, things will get better."

Mr. Mustafa, the producer, told us more comedies were in production at Iraqi television stations now than at any time during Saddam Hussein's reign. And many of them were political — something unheard of. He echoed the sentiment of so many Hollywood producers: "Tragedy is easy; comedy is where the challenge is."

"Every director in Iraq wants to make the Iraqi people smile," he told us. "To ease what they are going through, to make the average Iraqi forget about the misery of his daily life."

Yet tragedy still has a way of rearing its head.

We had been on the set for less than an hour when Mr. Mustafa got a phone call that clearly upset him. Grabbing Mr. Abed-Jasim by the arm, Mr. Mustafa took him aside and told him that gunmen had assassinated Mr. Hamid, the entertainment-division chief, outside his Baghdad home just minutes earlier.

The director told the cast and crew. Shock and grief turned to terror. Everyone on the set immediately became restless, anxious. Eyes moist with tears began darting about the street. Iraqi TV is widely perceived as being pro-Shiite and pro-government; the Sunni-leaning Baghdad TV had just had one of its anchors shot and killed a few days before. Not that any of the violence in today's Iraq needs a reason.

Mr. Mustafa told the crew to break down; within minutes everyone had jumped into cars and minivans and fled. My crew and I weren't far behind. Iraqi TV put a black band of mourning on the top left corner of its screen and spent much of the rest of the day covering Mr. Hamid's funeral.

It is American journalists' duty to try to look at the broader picture in Iraq — telling the stories about those brave souls who seek to restore normalcy and laughter into the daily routine here. But there is no denying that the horrific violence will often make that task impossible.

Jake Tapper is a correspondent for ABC News.

Afghan Man Prosecuted For Converting (USAT/AP)

By The Associated Press

USA Today, March 20, 2006

KABUL, Afghanistan (AP) — An Afghan man who allegedly converted from Islam to Christianity is being prosecuted in a Kabul court and could be sentenced to death, a judge said Sunday.

The defendant, Abdul Rahman, was arrested last month after his family went to the police and accused him of becoming a Christian, Judge Ansarullah Mawlavezada told Associated Press in an interview. Such a conversion would violate the country's Islamic laws.

Rahman, who is believed to be 41, was charged with rejecting Islam when his trial started last week, the judge said.

During the hearing, the defendant allegedly confessed that he converted from Islam to Christianity 16 years ago when he was 25 and working as a medical aid worker for Afghan refugees in neighboring Pakistan, Mawlavezada said.

Afghanistan's constitution is based on Shariah law, which states that any Muslim who rejects their religion should be sentenced to death.

"We are not against any particular religion in the world. But in Afghanistan, this sort of thing is against the law," the judge said. "It is an attack on Islam. ... The prosecutor is asking for the death penalty."

The prosecutor, Abdul Wasi, said the case was the first of its kind in Afghanistan.

He said that he had offered to drop the charges if Rahman changed his religion back to Islam, but the defendant refused.

Mawlavezada said he would rule on the case within two months.

Afghanistan is a deeply conservative society, and 99% of its 28 million people are Muslim. The rest are mainly Hindus.

Democracy And Security (WSJ)

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The Wall Street Journal, March 20, 2006

The publication last week of the Bush Administration's National Security Strategy has been greeted with a combination of media indifference and contempt. "Bush clings to pre-emptive force," was one news agency's sum-up of the 49-page document. Readers of these columns might prefer to draw their own conclusions by actually reading it: www.whitehouse.gov/nsc/nss/20061. What they'll find is a strategy that's admirably specific and, in the issues that matter most, broadly right.

This is especially important at a time when countries such as Iran, Syria and Egypt are betting that the Administration's domestic political weakness and its troubles in Iraq will see them safely through the 2008 election and what they hope will be a more pliant U.S. foreign policy. The document may now give those regimes second thoughts. Crucially, it reaffirms the Administration's first-term support of pre-emption: "When the consequences of an attack with [weapons of mass destruction] are potentially so devastating, we cannot afford to stand idly by as grave dangers materialize."

We'll take that to mean that the Bush Doctrine remains alive and well, despite persistent reports that it had been quietly shelved in favor of . . . well, no one has yet made clear what. Critics of the doctrine have argued that America's intelligence failure and difficulties in Iraq demonstrate the perils of pre-emption. Yet it is precisely because U.S. policy makers will never have perfect information about the capabilities and intentions of our enemies that pre-emption is sometimes needed, particularly when the threats are potentially catastrophic.

What distinguishes this document, however, is the emphasis it places on "effective democracy": that is, nations in which the institutions of democracy -- regular and honest elections; representative and accountable government -- serve as the armature of basic political, religious and economic freedoms.

Critics have questioned whether promoting democracy really advances U.S. security interests, pointing to the recent victory of Hamas in Palestinian elections. But leaving aside that the former government of Yasser Arafat was no less bloody minded, the objections fail to appreciate the ways in which effective democracies tend to counteract the very factors that gave rise to Hamas in the first place: Political participation takes the place of exclusion; the free flow of information and a marketplace of ideas replace "sub-cultures of conspiracy and misinformation," and so on.

None of this guarantees that elections will inevitably lead to liberal outcomes. And, yes, there are times and places (Pakistan now) where the diplomatic prod to democracy has to be measured against the help a government is providing against a more urgent enemy (al Qaeda). But the evidence of the past century is that elections usually produce more long-run stability, and they merit a try in the Middle East.

Equally useful is the strategy's clear-eyed account of the connection between the nature of a regime and its behavior. "Governments that honor their citizens' dignity and desire for freedom tend to uphold responsible conduct toward other nations," the document notes, "while governments that brutalize their people also threaten the peace and stability of other nations."

This is directly relevant to Iran, whose nuclear ambitions are mainly a function of the ideological obsessions of its rulers -- and not, as is sometimes argued, of Iran's objective national interests. This means the threat Iran poses is unlikely to change as long as the regime remains the same: The "ultimate goal" of U.S. policy, therefore, is rightly an Iran which "[opens] up its political system and [affords] freedom to its people.

How this is done is another matter, and nobody is now arguing for changing the regime in Tehran the way it was changed in Baghdad. But we are heartened that the strategy begins with the declaration that "It is the policy of the United States to seek and support democratic movements and institutions in every nation and culture" (our emphasis). This puts us in mind of U.S. support for Russian refuseniks in the 1970s, Poland's Solidarity movement in the 1980s and Kurdish autonomy in northern Iraq in the 1990s -- all of which have analogs in modern-day Iran.

There is a great deal more in this document that deserves attention, notably the effort to retool the State Department into an engine of "transformational diplomacy," and not, as it usually is, the defender of every given status quo. It is also good to see the Administration belatedly recognize that Russian democracy is increasingly threatened by its own government.

Best of all is the line that "Though tyranny has few advocates, it needs more adversaries." One critique of the President's push for democracy is the idea that the U.S. should not too visibly support the world's democratic dissidents and movements, lest they be tainted by American associations. But we suspect that champions of liberty in places such as Egypt, Iran and China take

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greater courage from an America that states its purposes boldly than one that fears its own shadow. Since when did the love of liberty become the love that dare not speak its name?

DOJ:

Federal Prosecutor Joins Arent Fox's D.C. Office (WP)

The Washington Post, March 20, 2006

Baruch Weiss, a veteran federal prosecutor who most recently was associate general counsel at the Department of Homeland Security, has joined the District office of Arent Fox in the litigation and white-collar defense groups.

From 1984 through 2002, Weiss was senior trial counsel for the U.S. attorney's office in Manhattan, where he handled cases including a fraud investigation of a major securities firm, appeals involving the first World Trade Center bombing in 1993 and the unsuccessful prosecution of boxing promoter Don King for insurance fraud.

Meanwhile, Jim Schumann, who was previously in the DHS office of legislative affairs, has joined the government affairs group at Akerman Senterfitt. He will serve on the firm's disaster recovery task force.

In other moves in the Washington offices of major law firms:

· Four lawyers who were with Heller Ehrman LLP -- Colin G. Sandercock, John P. Isacson, Paul M. Booth and David W. Laub -- have joined the life sciences and intellectual property practices of Proskauer Rose LLP as partners.

· Roger Nober, outgoing chairman of the federal Surface Transportation Board, has joined Steptoe & Johnson LLP as a partner.

-- Larry Liebert

CORPORATE SCANDALS:

Enron Prosecutors Have Another Key Witness, From Jail (NYT)

By Alexei Barrionuevo

The New York Times, March 20, 2006

The government heads this week into the home stretch of its case against two former Enron chief executives. Prosecutors will be looking to end on a flourish with the testimony of Ben F. Glisan Jr., the only former top executive who has already been sentenced in the Enron debacle.

Mr. Glisan, the former treasurer, is the last major witness for the government before the case shifts to the defense and to what promises to be memorable testimony by the defendants, Jeffrey K. Skilling and Kenneth L. Lay.

Mr. Glisan worked closely with Andrew S. Fastow, the former chief financial officer, on developing special-purpose entities, like the Raptors group, that both men have said in plea deals were used to inflate earnings and hide debt. The government is also expected to use Mr. Glisan to try to connect the dots for jurors hearing a complex case.

For seven weeks and through 14 witnesses, jurors have listened to prosecutors build a case on largely disparate pieces of indirect circumstantial evidence that Mr. Lay and Mr. Skilling, the top executives of what was once the seventh-largest company in the world by revenue, conspired to mislead and defraud investors.

Legal experts have generally praised the government's case, which has shied away from complex explanations of accounting and focused on the actions and words of Mr. Skilling and Mr. Lay in the three years before Enron collapsed in December 2001.

But legal experts continue to debate two crucial issues: whether the government has presented enough evidence that Mr. Lay knowingly lied about the true state of Enron's businesses and, more broadly, whether there was an extensive conspiracy within Enron to defraud and mislead employees and investors, as the government contends.

Those issues underscore the importance of decisions that the judge, Simeon T. Lake III of Federal District Court, will make in the coming weeks about how to structure the jury instruction. If the judge grants a "deliberate ignorance" instruction, as

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expected by many legal specialists because of case precedent, it could ease the way for jurors to find Mr. Lay guilty — even if the government cannot prove he knew that fraud was occurring on his watch.

"These instructions are making it very difficult if not impossible for defendants to prevail in these types of cases," said Joel Androphy, a lawyer in Houston specializing in white-collar crime.

Mr. Lay's lead lawyer, Michael Ramsey, agreed that prosecutors were more likely than not to seek the "deliberate ignorance" instruction for his client. "There is nothing direct to say about Ken Lay," Mr. Ramsey said. "It has all got to be by insinuation and innuendo."

But legal experts said the cumulative impact of such testimony could be taking a toll on Mr. Lay. Last week provided some of the most emotional testimony against Mr. Lay to date. Johnnie Nelson, a 46-year-old pipeline operator in New Mexico, blamed Mr. Lay for steep losses in his retirement savings account, saying a man he formerly admired had let him down.

At week's end, Sherron S. Watkins, a former Enron vice president and now an author and lecturer, said she had become concerned about potential accounting problems and had taken the concerns directly to Mr. Lay after Mr. Skilling abruptly resigned.

Ms. Watkins criticized Mr. Lay's handling of an inquiry into her accusations and raised the specter that Mr. Lay might have authorized lawyers to look into firing her, which did not happen in the end.

Jurors seemed riveted by her testimony, which was peppered with her negative opinions of Mr. Lay and Mr. Skilling. Judge Lake helped prosecutors by not reining in her answers.

Prosecutors have also presented evidence that Mr. Skilling participated in fraudulent acts. David W. Delainey, the former chief executive of the Enron Energy Services retail division, testified about one meeting in March 2001 in which Mr. Skilling assented to a plan to shift some $250 million in troubled retail contracts to the wholesale energy division.

Mr. Delainey contended that the meeting participants knew the move was being done to deceive investors about the retail unit, which he called a "basket case."

Mr. Fastow, while admitting his own criminality, testified that Mr. Skilling approved "bear hug" side deals guaranteeing that one partnership, LJM, would not suffer losses for doing deals with Enron that could help it manipulate its earnings. And Mr. Fastow, in somewhat shaky testimony, nevertheless said the side deals had been memorialized in a document called the Global Galactic agreement, aspects of which, he said, Richard A. Causey, the chief accounting officer, had discussed with Mr. Skilling.

Kevin P. Hannon, the former chief operating officer of Enron's troubled broadband unit, offered surprising testimony that Mr. Skilling uttered "They're on to us" in a May 2001 meeting at which senior executives discussed a research report suggesting Enron's stock was overvalued.

Despite the evidence presented so far, some legal experts said they believed the case could crumble once Mr. Skilling and Mr. Lay took the stand.

"There is still no explosive evidence," said Robert Mintz, a former federal prosecutor who is now a defense lawyer at McCarter & English in Newark. "Jurors will be expecting prosecutors to dissect their testimony with a scalpel."

Before the defense takes over, Mr. Glisan's appearance for the prosecution offers one more chance for high drama. Mr. Glisan, 40, has already served more than half of a five-year sentence for conspiring to falsify financial results and make Enron appear more successful than it actually was. He was the chief architect of the Raptor vehicles, whose insolvency in the fall of 2001, prosecutors contend, played a role in the ultimate collapse of Enron.

Mr. Glisan is serving time at a low-security prison in Beaumont, Tex., about 100 miles east of Houston, according to Bureau of Prison records. He is sure to draw stares if he enters the courtroom in prison garb, as he did two years ago when he testified in another Enron case involving the sham sale of interests in Nigerian barges.

Affable and sharp, Mr. Glisan was credited with being a crucial government witness in the barge case, which resulted in five defendants being found guilty. Unlike other government witnesses, Mr. Glisan has less to gain from shading his testimony to fit the government's theory of the case because he is already serving his sentence, legal experts say.

Away from the courtroom, lawyers for both sides began hashing out the all-important jury instruction they will eventually submit to the court.

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"I am not terribly optimistic after yesterday that we can get a charge together by agreement," he said Saturday. "The judge will have to get into it and make some rulings."

The "deliberate ignorance," or "conscious avoidance," charge made it fairly easy for jurors to find Bernard J. Ebbers, the former chief executive of WorldCom, guilty last year of conspiracy and fraud charges.

In a motion seeking a new trial, lawyers for Mr. Ebbers, who was sentenced to 25 years in prison, argue that jurors were told they could find him guilty based on "conscious avoidance" even without evidence that Mr. Ebbers "deliberately avoided learning any fact at issue."

The judge in that case justified the charge on the grounds that the circumstances were "overwhelmingly suspicious" and that Mr. Ebbers had failed to question those suspicious circumstances.

Mr. Ebbers also struggled to win a "missing witness" charge, which defense lawyers in the Enron case are likely to seek as well. In the Ebbers case the judge denied defense motions to grant immunity to some witnesses or to allow use of previous statements to impeach the government's cooperating witnesses.

Absent that, Mr. Ebbers's lawyers sought to instruct jurors that certain witnesses were "missing" because they were under government control, had indicated they would exercise their Fifth Amendment right against self-incrimination and were not given immunity by the court to testify for the defense.

Lawyers for Mr. Skilling and Mr. Lay are facing the same challenges in responding to testimony by government cooperators testifying under plea agreements. Most of the government cooperators, including Michael J. Kopper, a close confidant of Mr. Fastow; and David B. Duncan, the former Andersen partner who had approved much of Enron's questionable accounting, have told defense lawyers they would invoke Fifth Amendment rights.

Others important Enron figures who have not been charged, like the former Enron president Greg Whalley, also have indicated they would invoke the Fifth if called.

That would make it tough for the defense to disprove Mr. Delainey's accusations about what was said at the March 2001 meeting in Mr. Skilling's office. All but one participant in the meeting — a former Enron accountant, Wesley H. Colwell — is likely to be unavailable for the defense.

Mr. Colwell testified earlier in the trial for the government but was not asked about his role in the effort to shift losses out of the retail unit.

Another participant in the meeting that day, Mr. Causey, is not likely to be called by the government except as a rebuttal witness, if at all, prosecutors have said.

Executive Pay Rises Show Big Slowdown In US (FT)

By Dan Roberts

Financial Times, March 20, 2006

Growth in US executive pay has slowed sharply in spite of record profit growth, according to preliminary findings from an independent corporate governance watchdog.

The Corporate Library, which usually estimates greater pay inflation than most industry studies, calculates that US chief executives took home 11 per cent more money in 2005, compared with a 30 per cent rise the year previously. Among the 500 largest companies, median total compensation reported to date rose by just 3.7 per cent in 2005 to $5.2m.

“It is early days yet, but it may be possible to find some small encouragement in the fact that, at least for a group of companies, compensation increases for CEOs, while far exceeding those for other employees, have dropped from the heady levels found in last year’s survey,” said Paul Hodgson, senior research associate.

The slowdown coincides with a change in tactics among pay campaigners, who believe they may be reaching the limit of their efforts to shame companies into pay restraint.

More transparent disclosure rules that were recently proposed by the Securities and Exchange Commission should soon make it much harder for companies to disguise the total pay packages that are received by their executives.

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Activists, such as those running union pension funds, are shifting their attention, proposing resolutions that will make it easier for investors to nominate directors to compensation committees or vote on approving remuneration, as is common in the UK and Australia.

"We are at a critical point as boardroom vested interests fight tooth and nail against further reform and there is a danger that the focus on disclosure becomes a distraction from the real question, which is board accountability," said Brandon Rees, a researcher with the AFL-CIO's office of investment.

Some experts are sceptical that giving investors the information and the tools to tackle boardroom excesses will necessarily make much difference to overall levels of pay.

"We may discover that investors are not really that bothered," said Mr Hodgson.

"There will be even fewer excuses with the proposed disclosure regulations coming in, so what will happen then is the blame will shift from compensation committees to shareholders."

Pat McGurn, special counsel at Institutional Shareholder Services, said this coming year would prove the acid test for those who argue that improved corporate governance automatically leads to lower executive pay. "The SEC can bring you to the water, but it is up to investors to fix things," he said.

While the Corporate Library's latest figures show pay inflation slowing, many high-profile cases appear the result of voluntary restraint. For example, General Electric announced its chief executive had chosen to waive the cash portion of his bonus due to poor stock price performance.

CEOs Report Stricter Rules (USAT)

By Edward Iwata

USA Today, March 20, 2006

Large U.S. companies are making strides in corporate-governance practices, from creating stronger independent boards to linking more executives' pay packages to their companies' performance, according to a survey out today.

The survey of 100 CEOs by the Business Roundtable, a group of CEOs whose companies boast $4 trillion in revenue, suggests that leading corporations are taking their watchdog roles more seriously in the wake of Enron and other corporate scandals.

"This shows dramatic change, and it's all motivated by the desire for good corporate governance," said Steve Odland, CEO of Office Depot and corporate-governance chair of the Business Roundtable.

Among the survey's findings:

•Pay practices. Some 57% of companies have increased pay-for-performance elements in their executives' compensation packages. That's up from 40% in 2004. Also, nearly all companies have stock-ownership requirements or guidelines for executives and directors.

In general, pay and governance experts believe that corporate officials do a better job if their pay is tied to companies' earnings and stock-price performances.

•Board independence and oversight. At least 91% of the companies have an independent chairman or lead director — up from 71% two years ago.

Barely 11%, though, have split the chairman and CEO positions. Shareholder activists and some regulators think boards should be run not by CEOs, but by chairs with no ties to management.

•Compliance costs. Half the CEOs expect their costs to comply with the Sarbanes-Oxley anti-fraud laws to drop this year. Only 6% predict their costs will rise. Larger companies spend several million dollars a year in compliance costs.

Charles Elson, director of the University of Delaware's Weinberg Center for Corporate Governance, said the survey shows that companies "have made progress, but we still have a long way to go."

For instance, he said, all executives already should have pay-for-performance packages. The bigger issue: How is their pay structured? If pay increases are pegged to a 5% short-term investment return, that's far less demanding than higher goals over five or 10 years.

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Elson said companies are improving their governance because of pressure from pension funds, labor unions and regulators, plus court rulings that make directors liable for not policing their firms.

Executive pay has soared since the 1980s, provoking criticism from leading investors. "Too often executive compensation in the U.S. is ridiculously out of line with performance," Berkshire Hathaway CEO Warren Buffett said in a letter to his shareholders last month.

CRIMINAL LAW:

Defendant In Plame Case Switches Focus To WMD (USAT/AP)

By Pete Yost, The Associated Press

USA Today, March 20, 2006

WASHINGTON — Ten months ahead of his scheduled trial in the Valerie Plame affair, I. Lewis "Scooter" Libby seems intent on zeroing in on three little letters: WMD.

In their latest court filing, Libby's legal team described Plame's CIA identity as "at most a peripheral issue" to "the media conflagration" over the failure to find weapons of mass destruction in Iraq.

It's the media conflagration, and the resulting fingerpointing among the White House, the CIA and the State Department over who was to blame, that Libby's lawyers want to focus on in a bid to get him off, their court papers suggest.

Libby's lawyers also suggested in a court filing late Friday that it's the State Department — not Libby — who's to blame for leaking Plame's CIA identity to the media.

The court papers underscore the possibility that a criminal trial of Libby could highlight the ongoing debate over whether the White House manipulated intelligence to justify the invasion of Iraq.

If the jury learns the background information about "fingerpointing," and also understands Libby's additional focus on urgent national security matters, the jury will more easily appreciate how Libby may have forgotten or misremembered "snippets of conversation" about Plame's CIA status, the defense lawyers stated.

Vice President Cheney's former chief of staff was indicted Oct. 28 on five counts of perjury, obstruction and lying to the FBI about how he learned of Plame's CIA employment and what he told reporters about her.

Libby's lawyers are asking U.S. District Judge Reggie Walton for access to government documents about a 2002 trip that Plame's husband, former Ambassador Joseph Wilson, made to the African nation of Niger at the CIA's behest and about "his wife's involvement" with that mission.

The documents relate to what prospective witnesses — including then-deputy secretary of State Richard Armitage and deputy White House chief of staff Karl Rove — might say at Libby's trial.

Noting news reports last week, the court papers say there has been speculation that Armitage told The Washington Post's Bob Woodward that Wilson's wife worked at the CIA, and speculation that Woodward's source and the primary source for conservative columnist Robert Novak are the same person.

Novak disclosed Plame's identity on July 14, 2003, eight days after Wilson contended in a New York Times op-ed column that the administration twisted prewar intelligence to exaggerate the Iraqi threat from a nuclear weapons program.

"If the facts ultimately show that Mr. Armitage or someone else from the State Department was also Mr. Novak's primary source, then the State Department and certainly not Mr. Libby bears responsibility for the 'leak,' " Libby's lawyers said.

The court filing also focused on Marc Grossman, a former undersecretary of state for political affairs who allegedly told Libby a month before Plame's identity was disclosed that Wilson's wife worked at the CIA.

"If Mr. Armitage or another State Department official was in fact the primary source for Mr. Novak's article, Mr. Grossman's testimony may be colored by either his personal relationship with Mr. Armitage or his concern for the institutional concerns of the state Department," the lawyers wrote.

Rove — a source for Novak and Time magazine reporter Matt Cooper — is under investigation by special counsel Patrick Fitzgerald.

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Libby's lawyers say that "either the government or the defense may call Mr. Rove as a witness at trial" and note that "the grand jury's investigation may be continuing with respect to Mr. Rove or other witnesses."

The defense says the documents it seeks will help demonstrate that the White House did not launch a concerted effort to punish Wilson by leaking his wife's identity.

Libby also is asking for notes from a September 2003 meeting in the White House Situation Room where Colin Powell, who was secretary of State, is reported to have said that everyone knows Wilson's wife worked at the CIA and that it was Wilson's wife who suggested the CIA sent her husband to Niger.

"The media conflagration ignited by the failure to find WMD in Iraq and in part by Mr. Wilson's criticism of the administration, led officials within the White House, the State Department and the CIA to blame each other, publicly and in private, for faulty prewar intelligence about Iraq's WMD capabilities," the court papers state.

"The government's version of events blows out of proportion the minor role Ms. Wilson actually played and in doing so creates an impression that is highly prejudicial to Mr. Libby," they say.

Wilson's accusations stemmed from President Bush's assertion in his 2003 State of the Union address that Iraqi leader Saddam Hussein had recently sought significant quantities of uranium from Africa.

Based on his 2002 trip, Wilson said he had found it doubtful that Niger had agreed to sell uranium yellowcake to Iraq, as alleged in intelligence provided to the CIA.

Why Clearing A Cop's Name Matters In Abramoff Scandal (WP)

By Jeffrey H. Birnbaum

The Washington Post, March 20, 2006

A former D.C. cop could alter national politics this year.

Here's why: An appeals court decision that involves the police officer could well make it harder for prosecutors to make a case against lawmakers implicated in the Jack Abramoff lobbying scandal.

Pundits have long predicted that testimony by Abramoff would produce a string of indictments of federal officials this year and that those, in turn, would so tarnish the reputation of his fellow Republicans that the party could lose control of the House, the Senate or both in the November elections.

But that was before the surprising court decision that helped a former Metropolitan Police Department detective named Nelson Valdes.

According to the court's record, Valdes ran license plates through a law enforcement database and provided the vehicle-owner information he collected to a person who paid him cash. He was convicted in 2002 of taking illegal gratuities.

But a three-judge appeals court panel recently reversed that decision. It said, in an opinion dated Feb. 24, that his actions weren't a formal part of his duties and therefore weren't covered by the statute.

Scholars say that as a result of the Valdes case, the process of charging lawmakers and their aides with wrongdoing in the Abramoff scandal (and others like it) will be more difficult.

"Now, virtually every time the government tries to bring an official-acts prosecution, the defense will cite the Valdes case," said George D. Brown, professor at Boston College Law School. "The decision raises a substantial element of doubt,"

Kathleen Clark, a law professor at Washington University in St. Louis, agreed. "I'd be very troubled if I were in the Justice Department pursuing these things," she said.

The federal appeals court here in the District decided that officials such as Valdes should not be convicted for taking payoffs unless their behavior involved a "decision or action" that affected a "formal government decision made in fulfillment of government's public responsibilities."

"Casual and informal use of government resources," which in this case included Valdes's database queries, the decision added, would not qualify as the kind of official act that could be prosecuted under the law.

His conviction on three counts of receiving an illegal gratuity was overturned, and other bribery-like cases could be turned upside down, as well.

In short, Clark said, the Valdes case "narrows the scope of what is an official act."

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"It certainly hamstrings the use of the gratuities statute as the basis for a public corruption indictment," Brown agreed.

Not every expert agrees, of course. And lawyers are still poring over the details of the ruling. But many of those who have studied the decision closely believe that it leaves the definition of "official act" vague enough to cast doubt on all sorts of corruption cases.

Put simply: How can prosecutors know for sure what are formal and what are informal duties involved in an official act?

Some instances are clear-cut. If a lawmaker accepts money to vote in favor of a briber's interest, that is obviously a crime.

But if the lawmaker uses his powerful position to pressure a business executive to help a friend who gives him money, is that a formal official act? Maybe not.

Or what about the instance in which a lawmaker calls an executive branch official to praise a business that wants a government contract? Even though the bureaucrat understands the conversation to be a pointed request on the business's behalf, would the communication be a formal official act or an informal one?

Who knows? But that distinction could make all the difference.

All we know is that the Valdes case has raised the bar on proof for the prosecution.

"It opens the door for good defense lawyers to make arguments," Clark said. "This could open the way to a lot of tough motions to dismiss" bribery and gratuity cases.

Here are the facts of the case:

On Feb. 17, 2001, Valdes met William Blake, an FBI informant posing as a judge. They exchanged pleasantries at a popular nightclub called MCCXXIII near DuPont Circle and went on to see each other on several other occasions.

Blake said he might need Valdes to do him a favor. That favor turned out to be obtaining data such as automobile registration information about various people through a police computer system. In implicit exchange for the assistance, Blake gave Valdes money.

Valdes was indicted on three counts of bribery and was convicted on three counts of receipt of an illegal gratuity, a lesser charge. But he appealed and won reversal last month.

The majority ruled that the government "failed to show that the acts for which Valdes received compensation were official acts" within the meaning of the bribery statute. What the government needed, the decision stated, was to show "at least a rudimentary degree of formality" in what that official act was.

In dissent, Judge Karen LeCraft Henderson accused the majority of, in effect, making payoffs legal.

"In Mexico, they call it 'la mordida' (literally, 'the bite'); in Iran, 'bakhshish'; and in France, 'pot-de-vin.' Here in America, we call it a 'payoff' and, today, the majority calls it lawful," Henderson wrote.

She also said that Valdes was clearly acting officially when he used the police's special databases.

But at least for cases that come before the federal court in Washington, the majority will rule. Any future bribery charges against lawmakers or their aides will probably be harder to prove thanks to this obscure onetime detective.

An Unassuming Witness, Steeped In The Underworld (NYT)

By Alan Feuer

The New York Times, March 18, 2006

To look at him, one might never guess that Burton Kaplan devoted 40 years to a protean life of crime.

Short, bald, meek, myopic, Mr. Kaplan is an unassuming presence, an aging man from Brooklyn with more than a vague resemblance to the low-rent hucksters who gather every week for pastrami sandwiches in Woody Allen's "Broadway Danny Rose."

He is a complex character, who, for decades, led a double life. On one hand, he was that stock-in-trade cliché, "the legitimate businessman," who owned a discount clothing store in Bensonhurst and a factory for Chinese garment makers in Antigua. On the other hand, he is — or was — an inexhaustible fountainhead of crime.

Both sides of Mr. Kaplan's personality were on display this week in Federal District Court in Brooklyn, where he spent three vivid days as the star government witness at the trial of Louis J. Eppolito and Stephen Caracappa, retired New York detectives, who stand accused of taking part in at least eight murders for the mob.

He linked the lawmen to at least a dozen killings and kept the courtroom spellbound with his clipped accounts of how the two defendants had once gunned down a gangster on the grass berm of the Belt Parkway and, earlier, had delivered a kidnapped mobster to his rival, who accepted the bounty in the parking lot of a Flatbush Toys "R" Us.

In 14 hours on the stand, Mr. Kaplan, 72, speaking softly and lubricating his accounts with constant gulps of water, proved himself a linchpin of the prosecution's case and then survived the opening round of cross-examination. By Thursday evening, when court let out, it was clear he had an encyclopedic understanding of the underworld — the Balzac, if you will, of Brooklyn crime.

It was an unlikely expertise for a young man raised in Depression-era Bedford-Stuyvesant to a working-class family that owned an appliance store on Vanderbilt Avenue. A feckless student, Mr. Kaplan attended the prestigious Brooklyn Technical High School, but dropped out after a year and a half. "I wish I'd stood there," he testified this week.

On St. Patrick's Day 1952, he said, he enlisted in the Navy and was sent to Japan, where he spent the early cold war deciphering and analyzing Russian military codes. Discharged four years later, he returned to Brooklyn and the family business, installing washers, dryers and air-conditioners, as his father had done.

But even then, he told the court, he had a secret. He was "a degenerate gambler," betting on the horses and playing in "neighborhood poker games" from the age of 13. "I enjoyed it, I became sick with it," he said.

Gambling led to debts, which led to loan sharks, which led to the Mafia, he said. By the 1960's, Mr. Kaplan said, he was in the orbit of Christopher Furnari, a rising star in the Luchese family, to whom he offered fealty through what he called "small pays."

Mr. Kaplan was never an imposing man (he said he once paid someone $1,000 while in prison to assault another inmate on his behalf), although he did have a taste for "rough-and-tumble characters," as Mr. Eppolito's lawyer, Bruce Cutler, said. The roughest among them was no doubt the Luchese underboss, Anthony Casso, who once shot a dog outside a gangster bar for barking too loudly.

In 1985, when Mr. Furnari went to prison, Mr. Kaplan — and his "pays"— were handed over, gangland-style, to Mr. Casso, and the two men started dining together at least twice a week. By then, Mr. Kaplan's business ventures had encompassed everything from counterfeit watches to homemade quaaludes. He was also smuggling marijuana, though at first, he said, "I didn't even know what it was."

The next year, mob assassins tried to murder Mr. Casso, and he turned to Mr. Kaplan for assistance with revenge. Mr. Kaplan testified that the gangster knew he had connections to a pair of Brooklyn lawmen who would kill for cash, and he said Mr. Casso hired them to wreak his vengeance on seven rivals, who all eventually turned up dead.

Mr. Kaplan said it was the start of a blood-tie that bound the mobster to the two detectives from 1986 to 1993, when Mr. Casso was arrested. In 1994, he agreed to cooperate with the authorities, and Mr. Kaplan, despite a wife in Brooklyn and a daughter in Manhattan, went, as he put it, "on the lam."

He was already in his 60's, but with help from friends, he said, he got a library card and memberships at AAA and Costco, all in the name of Barry Mayers, and used these fake documents to obtain a state ID. He skulked about from San Diego to Mexico to Oregon and finally to Las Vegas. There, in a triumph of fugitive entrepreneurship, he opened a storefront warehouse selling suits to "female casino executives."

"A good suit for a good value," he said.

Then, without a word to anyone, he returned to New York City in the spring of 1996 and was arrested that September on a federal narcotics charge in which he was accused of selling up to 13,000 pounds of marijuana a year.

After spending nine years in prison, he decided he would testify at trial. His agreement with the government is classic Burton Kaplan.

In exchange for his cooperation, he faces a prison term with an abundance of wiggle room: "zero to life," he said.

Pellicano Wiretap Witness Admits Scheme (LAT)

By Greg Krikorian And Andrew Blankstein, Times Staff Writers

The Los Angeles Times, March 20, 2006

A Valencia businessman who said he hired the investigator to get illegal information decides to cooperate with the federal investigation.

A Valencia businessman admitted Friday to conspiring with Anthony Pellicano to illegally dig up information about a teenager who had accused him of sexual assault, becoming the latest witness cooperating in the federal probe of the indicted private eye.

"I hired Mr. Pellicano because he told me he could listen in" to the young woman's phone calls, a shaken George Kalta, 37, told U.S. District Judge Dale S. Fischer, as he entered his guilty plea. "That was the only reason I hired Mr. Pellicano."

The plea makes Kalta the fourth person to acknowledge that they hired — or helped — Pellicano to illegally investigate others using wiretaps, confidential police record searches or other methods.

Once one of Los Angeles' best-known private investigators, Pellicano is at the center of a wide-ranging FBI investigation that has shaken Hollywood and its legal community. To date, 13 people have been charged, including an entertainment attorney, a record company executive, two former police officers accused of selling him confidential data and several telephone company employees.

Without exception, the many attorneys and celebrities who hired Pellicano over the years have said since his indictment that they were unaware that his alleged hardball tactics may have crossed the line into lawlessness.

But criminal defense attorney Leslie Abramson, representing Kalta, said outside court on Friday that Pellicano bragged to her client about listening in on other people's conversations and about having connections within law enforcement. The connections included "a contact" in the Los Angeles County district attorney's office and a police officer who he said could get him a district attorney's memo for $5,000.

"He bragged about how he did this [wiretapping] for other clients," Abramson said. "He said that is why people pay him so much."

Abramson said Pellicano also boasted of his celebrity clients, including Tom Cruise, Michael Jackson and O.J. Simpson.

Kalta, owner of a lighting manufacturing company, was charged by the district attorney's office in early 2002 with sexual battery by restraint and false imprisonment.

County prosecutors said his victim was an 18-year-old woman who was assaulted in October 2001, when she was making a delivery to Kalta's Canoga Park store.

Kalta eventually pleaded guilty to felony assault without a deadly weapon and was granted probation. The charge was later reduced to a misdemeanor and dismissed, Abramson said.

During Friday's federal court hearing, Assistant U.S. Atty. Kevin Lally said authorities could prove that Kalta hired Pellicano on Oct. 17, 2001, to investigate his accuser and to listen to the woman's telephone conversations. Kalta paid Pellicano $50,000 for the information.

Outside court, Abramson said her client went to Pellicano after searching the Internet for a private investigator who could help prove his innocence.

She said Kalta later began to suspect that Pellicano was bugging his telephone because on four separate occasions between March and May of 2002, the investigator called Kalta right after Kalta spoke with Abramson. "Every single time we had a conversation about Pellicano, as soon as we hung up, he would call George and badmouth me," she said.

The events outlined by Abramson parallel those of another criminal defendant who also hired Pellicano and was represented by attorney Danny Davis. Davis represented Kalta before Abramson.

Last year, Abramson said, federal prosecutors played her and her client a recorded conversation in which Pellicano urged Kalta not to fire another attorney in order to hire Abramson. "He said I was not a lawyer he could trust," Abramson said.

Kalta, however, hired Abramson, who brought in another private investigator.

After that, Abramson said, Kalta found the locks in his office glued shut. One of the doors had a knife jammed into a keyhole.

Assistant U.S. Atty. Dan Saunders said he could not discuss evidence in the case that had not yet been made public. Pellicano's attorney, Steven Gruel, could not be reached for comment.

A spokeswoman for the district attorney said she was unaware of claims that Pellicano had a contact within the office and urged anyone with information to come forward.

Davis' attorney, Harland Braun, disputed the notion that Pellicano had any special relationship with Davis. He said Davis became involved in the two cases after Pellicano had been hired.

Without disputing that her client broke the law, Abramson said Kalta was hardly the most important figure in the Pellicano investigation.

"There are much bigger fish to fry," she said. "As far as I'm concerned, George is a minnow."

Men Accused In Child Prostitution Ring Describe Teens As Partners (ABJ)

Akron Beacon Journal, March 20, 2006

TOLEDO, Ohio - Troopers and a judge in Pennsylvania found themselves repeatedly processing the same young prostitutes, who paid fines with already-prepared money orders and went back to the truck stops where they worked.

Slowly, through talks with the girls, authorities built up evidence that led to federal charges against men accused forcing teenage girls from northwest Ohio to work in a prostitution ring, a newspaper reported.

The work was painstaking. And the jailed men accused of being pimps are unrepentant, The Blade reported in Sunday's editions.

"Pimps do things like ... lock the girls up in closets. I'm 'finesseful,' you know what I'm saying?" Derek Maes told the newspaper in a telephone interview from a Pennsylvania jail.

He and 12 other men were named in a 102-page federal indictment in December that accused them of taking teenagers, including at least nine from the Toledo area, across state lines for prostitution. The indictment said the girls were beaten if they failed to follow orders or make enough money.

Maes, 41, and another man charged, Robert Scott, 44, deny they are pimps, arguing that they didn't force the girls - including a 12-year-old - to do anything. They say if the girls were selling themselves against their will, they would have asked law enforcement for help when arrested.

Scott said the prostitutes were more like business partners, free to work with different employers.

"She's choosing the best investment for her money," he said. "The prosecutors are trying to make it like a bunch of us running around with candy in our pocket, going to parks and picking up little kids. It wasn't like that at all - period."

The federal case centered on truck stops outside Harrisburg, Pa., where state police had started cracking down on the problem through undercover arrests.

Fines collected for offenses such as prostitution and vandalism in a township with one of the truck stops increased tenfold to $32,400 in 2004 from about $3,300 a year earlier.

"You could sit and watch girls run down the rows, run under the trucks, in all directions. There were some nights out there it looked ridiculous," said trooper David Olweiler, a state police intelligence officer.

As arrests piled up, Olweiler started keeping the girls' booking photos in a three-ring binder, trying to show a pattern of repeat arrests. He also had long conversations, trying to understand them.

"A lot of these girls, you wouldn't know they're victims," he said. "They love to brag. You wouldn't know they were in it against their will."

The prostitutes came to court with money orders already made out for the exact fine and costs of $418.50, West Hanover Township Magistrate Roy Bridges said.

"You should have seen how some of them were dressed," Bridges told the newspaper. "Sometimes troopers would wrap them up in one of those yellow blankets used to cover dead bodies."

Eventually, state police called for federal help.

The FBI assigned 16 new agents to the investigation, and the agency is hiring six more this year. The FBI says the interstate ring is organized crime, equating it to drug trafficking.

Many of the girls came from backgrounds of abuse or incest, and the pimps conditioned them through abuse and threats against family members to accept their fate, said Chip Burrus, the FBI's acting assistant director for criminal investigations.

"They just become accustomed to that lifestyle," Burrus said. "You can't consent to be a prostitute at age 14. That's just an impossibility."

After the indictments, the truck stops near Harrisburg cleared out.

"For a long time, we didn't see anybody," Olweiler said. "But one of our patrols came back the other day and said they're back out there."

Corruption Case Swallows The Police Force Of A Texas Town (LAT)

By Lianne Hart, Times Staff Writer

The Los Angeles Times, March 20, 2006

Many Troup residents are shocked by the shutdown amid charges of evidence tampering. But rumors of lapses have circulated for years.

TROUP, Texas — It happened without warning. The FBI swooped in, shut down Troup's five-man police force and jailed the chief and a sergeant — the 2005 Chamber of Commerce officer of the year, no less — on charges of corruption.

Startled residents watched in silence as authorities secured the tiny station with yellow crime-scene tape and swarmed the building for evidence.

Sgt. Mark Turner, 47, was charged with delivering marijuana and tampering with or fabricating evidence. According to a search warrant, Turner gave marijuana to an undercover agent, assuring him later that there was more where that came from: the police evidence box.

Police Chief Chester Kennedy, who led the force for 14 years, also was charged with evidence tampering. He admitted to investigators that he gave Turner 24 cans of light beer from a 30-pack seized in a bootlegging case, but said he planned to buy more if the case went to court. "Beer is beer," he said, according to a Sheriff's Department affidavit.

Events unfolded so quickly here that, weeks after the March 3 raid, stunned residents are still talking about it when they meet on the street. Some, however, are less surprised; rumors of police misconduct had circulated for years.

"Mind you, they're innocent until proven guilty, but I think there was too much temptation," said Addie Herring, 85, who has lived in Troup for half a century. "This used to be such a good place to live, but now we've got all this dope."

Here in rural East Texas, methamphetamine labs can operate unnoticed. Misdemeanor drug charges in Smith County, about 100 miles southeast of Dallas, are as common as drunk driving arrests, Dist. Atty. Matt Bingham said. But in the last six years, the Troup police force sent just 11 drug cases to the district attorney's office.

Maj. Mike Lusk, head of criminal investigations for the Smith County Sheriff's Department, said Troup police had sent a total of two drug evidence samples to the Texas Department of Public Safety crime lab since 2000. "We do that much in an hour," he said.

Bingham said: "It appears from the current investigation that the problem is not with the Troup Police Department prosecuting innocent people, it is that they were not prosecuting guilty people."

Lawyers for Kennedy and Turner could not be reached for comment.

Since the police force was shut down, a notice has been taped to the front door of the darkened station: Dial 911 or call the sheriff in an emergency.

Turner, unable to make $500,000 bond, remains in jail. At an emergency City Council meeting held days after his arrest, he was fired.

Kennedy, 59, posted $400,000 bond and often can be seen at his regular table at the Farmer's Cafe in Troup. The waitresses welcome him with smiles, but fellow diners shoot sidelong glances as he keeps his eyes on his meal. At a special City Council session March 10, Kennedy too was fired.

At that meeting, resident Vicki Risvold stood and said what had festered inside for too long. For years, she said, drugs were sold openly from the house across the street. Risvold said packets of white powder were traded so casually that her young daughter recognized a sale in progress. Twice Risvold reported the drug dealing to police, who promised to look into it but never did, she said.

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"We moved from Austin for a small-town life, but my children weren't exposed to the drug culture until we came here," said Risvold, 43. The city officials sat in a semi-circle in front of her. Risvold looked hard at one who, when she had told him about the drug dealing, had merely asked if she was sure.

"I hope you can sleep at night," Risvold said, her voice quaking with anger.

Mayor John Whitsell, 30, has brushed off suggestions that Troup had turned a blind eye. If there was talk of wrongdoing, it was rumor, and "in any small town, you're going to have rumors," he said.

Whitsell said he had no idea there might be a problem with the police until he got a call from authorities about the arrests. "I was shocked," he said.

It took one of the department's own to call attention to the alleged corruption. In January, patrolman Justin Johnson told a Smith County sheriff's investigator that Kennedy and Turner were accepting money or drugs in exchange for covering up crimes. Before long, Johnson was wearing a recorder and talking to Turner about taking drugs from an evidence box for personal use.

Authorities searching the station after it closed found a department in disarray, Lusk said. Drugs were lying in open bags or had not been tagged; some evidence bags were empty; rape kits were stored in a refrigerator next to rancid, moldy food. As the investigation continues, more charges and arrests will come, Bingham said.

Since the FBI raid, Bingham said, the district attorney's office has fielded dozens of calls from citizens complaining of crimes they said were poorly, or never, investigated by Troup police. "People feel like they can come out and tell us things now," Bingham said.

Troup bills itself as the "good neighbor town." It has 1,949 residents, one medical doctor and 12 churches. Its main street is a study in shuttered stores, but the businesses that seem to sustain small Texas towns hang on: a beauty parlor, a video store, a tanning salon. Outside of town are oil pumps operated by heavy-booted riggers, who stomp into eateries and leave behind trails of red dirt.

Robin Bradford works on the production line at a plastics factory, cleaning just-made buckets as they roll down a conveyor belt. In December, she said, someone stole her furniture and a lifetime of possessions from a rented storage room. The thief took an urn that held her father's ashes but left a large painting of Jesus.

"It seemed that all Mark and Chester did was take fingerprints. The more I thought about it, the more upset I got," Bradford said, stabbing a piece of fried catfish with her fork.

But some in the diner where Bradford was eating defended the officers as caring professionals who often performed acts of kindness.

Kennedy had the city turn on Rodney Colbert's water when he was new to town and waiting for his first paycheck, Colbert said.

Anita Watson said Kennedy sometimes picked up children at school in his patrol car when parents couldn't get off work.

"The children trust him," Watson said. "That says a lot about what kind of person he is. I'm worried about how the children will feel."

Bradford looked up from her plate. "I'm worried about the children too, what kind of example he's setting for them," she said.

If Kennedy is found guilty, waitress Lisa Duley said, she won't hold a grudge. "Even if he did it, he's still Chester. Everybody makes mistakes. You deal with them and move on," she said.

Town leaders are focusing on cleaning up the mess and restoring Troup's reputation. The three remaining police officers have been transferred to the public works department. County constables and sheriff's deputies are temporarily filling the void, patrolling the town with vigilance.

"This is the most Sheriff Department cars I've ever seen, and I've been living in the same spot for 45 years," one woman said.

Though relieved that change is coming, Risvold hates that Troup's problems have been so publicly exposed. She's protective of the place where she raised four children, where her friends and memories reside.

"You want people to see the good in it, not the bad," she said. This is my home…. But I think it'll take a long time to trust the police again."

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Killing In Texas Spotlights Attacks On Social Workers (NYT/AP)

By The Associated Press

The New York Times, March 20, 2006

AUSTIN, Tex., March 19 (AP) — In six years as a social worker with the state's Child Protective Services, Holly Jones has been cursed, chased by dogs and run out of houses by angry parents.

Threats are a daily part of the job for caseworkers who investigate accusations of child abuse and neglect and often remove children from their homes. But the killing of a social worker in South Texas last week has prompted Ms. Jones and her colleagues to re-evaluate the steps they take to keep safe and has raised questions about what the state can do to better protect them.

"We don't have weapons, we don't have training in self-defense, we didn't go through a police academy and we're dealing with the same people they are," Ms. Jones said.

The social worker who was killed last week, Sally Blackwell, 53, was found in a field in Victoria on Wednesday. Her family said she had received threats in her position as program director, overseeing several offices of caseworkers. The authorities have ruled the case a homicide but have not said whether her death was related to her job.

The killing comes a year after a woman fired a shotgun at two caseworkers who had come to her home near Alice, about 45 miles west of Corpus Christi, to investigate a child abuse complaint. The caseworkers fled. The woman was convicted in December of aggravated assault with a deadly weapon.

Ms. Jones, 28, who recently became a supervisor for a Child Protective Services unit in suburban Austin, said caseworkers needed to know how to protect themselves.

A study released last week by the National Association of Social Workers found that 55 percent of 5,000 licensed social workers surveyed said they faced safety issues on the job. Sixty-eight percent of them said their employers had not adequately addressed their concerns. A survey in 2002 of 800 workers found 19 percent had been victims of violence and 63 percent had been threatened.

As the investigation into Ms. Blackwell's death continues, state protective services officials are thinking about ways to make the job safer, the Family and Protective Services commissioner, Carey Cockerell, said in an e-mail message to employees on Thursday.

Currently, social workers in Texas receive a half day of safety training, and the issue frequently comes up in a 12-week course, said a spokesman, Chris Van Deusen.

The child services department has no way of tracking how many threats its roughly 3,000 caseworkers receive, said Patrick Crimmins, spokesman for the Department of Family and Protective Services. But even people who have spent their entire careers with the agency can remember only a few instances in which threats escalated to violence, Mr. Crimmins said.

In 2001, Michigan lawmakers toughened the penalties for people who threaten or attack social workers after a child welfare caseworker was beaten, bound, gagged and suffocated while checking on a family. The law also required safety training for workers who make home visits.

The death of a Kansas mental health social worker prompted Representative Dennis Moore, Democrat of Kansas, to introduce a resolution last fall that would encourage state and local agencies to improve the safety of social workers. The resolution is pending.

Victim's Kin Denounce Shooting By Md. Deputy (WP)

By Christian Davenport

The Washington Post, March 20, 2006

A 22-year-old Oxon Hill man fatally shot by a Charles County sheriff's deputy Saturday morning had drawn a handgun and fired it while three deputies were trying to arrest him on a drunken driving charge, the sheriff's office said yesterday.

Friends and relatives of the suspect, Jonathon Lyles, offered a starkly different view. They questioned whether Lyles had a gun and said officers targeted him because he was a young African American man who had had previous run-ins with police.

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Sharonda Lyles, 28, of La Plata said her brother would not pull a gun on an officer. "I don't know why the police sought out to kill my brother," she said.

The sheriff's office said Lyles was shot about 7:30 a.m. after Officer James Thompson spotted his car, which had backed over a curb and nearly hit an apartment building in the 600 block of Zekiah Run Road in La Plata.

Authorities said Lyles was slumped over the steering wheel of the vehicle, which was still running, and Thompson called for backup. When two other officers arrived, they interviewed Lyles and gave him field sobriety tests, which Lyles failed, officials said.

As the deputies tried to arrest him and place him in handcuffs, Lyles fought back, drew a semiautomatic handgun and fired a shot that missed the officers, officials said.

They said Officer Clint Walter, a four-year member of the sheriff's office, fired back, hitting Lyles in the chest with a single shot. Lyles was taken to Prince George's Hospital Center, where he was pronounced dead.

Sheriff's officials said they recovered the handgun Lyles had fired, and they denied that race played a part in the shooting.

"The man had a gun. He fired on a police officer, and the police officer returned fire," Capt. Joe Montminy said. Race "has nothing to do with it. . . . [The officers] were struggling for their lives."

The officer who initially spotted Lyles's car, Thompson, is African American, said Kristen Timko, a spokeswoman for the sheriff's office. Walter and Officer Jonathan Rager, who responded to assist in the arrest, are white, she said.

All three have been placed on routine administrative leave pending an investigation.

John Bowlin, 22, of Largo, who is Lyles's half-brother, said the authorities' version of events does not make sense. He wondered why the deputies did not immediately check whether Lyles had a gun, before the sobriety tests.

Timko said suspects may or may not be patted down for weapons, depending on the circumstances.

Lyles's friends and family members gathered yesterday at the scene of the shooting, where a shrine of candles and flowers had been created.

Sharonda Lyles said her brother had served time in prison for drug offenses and violating parole and had been pursuing a career in music since his release in November.

"He was trying to get his life together, and they kill him," said friend Michael Jones, 24, of La Plata.

Lyles worked at a mall music store selling CDs and T-shirts and was working on a rap album, his sister said. She said he was tall and plain-spoken. "He would do anything for you," she said. "He was all that. He was my little brother."

She and several of Lyles's friends, who had gone to the scene Saturday morning after word of the shooting spread, said Lyles was left lying on his back for about an hour without medical care before an ambulance came.

Timko disputed that, saying the officers immediately called for an ambulance, which arrived 3 1/2 minutes later. Once the paramedics assessed the situation, they called for a helicopter, which arrived at a nearby fire station at 7:59 a.m., about 30 minutes after the shooting, Timko said.

Quest To Heal Leads Abuse Victim To Face Old Demons (WP)

By Caryle Murphy

The Washington Post, March 20, 2006

On a balmy, hint-of-spring day last week, Michael Donovan drove his rented car slowly past Holy Name School in Northeast Washington, where a billboard read, "He who angers you, controls you."

The 63-year-old Vietnam veteran and retired businessman from California was on a mission into his past, a mission to banish his own anger and regain control. A mission of healing.

Almost 50 years ago, during Donovan's eighth-grade spring break, he was sexually abused at Holy Name by Thomas S. Schaefer, then a 30-year-old, newly minted Roman Catholic priest.

Schaefer went on to molest at least 20 more boys in the Washington Archdiocese, according to church officials, before pleading guilty in 1995 in five of those cases. Only one other priest in the archdiocese, Robert J. Petrella, had more known victims, officials said. About 25 people have reported being molested by Petrella. The two priests were responsible for more than a third of the 123 reports of sexual abuse by clergy in the archdiocese's 59-year history.

For decades, Donovan kept quiet about his traumatic experience, confiding only in his current wife. But in 2003, determined to be counted in a national survey of the church's abuse problem, he informed the archdiocese of Schaefer's 1956 misconduct. He learned then that he was Schaefer's earliest known victim.

"It took me 47 years to raise my hand," Donovan said. "These are things that get buried in people's lives. But they don't forget it."

Donovan, who served with the 101st Airborne in Vietnam, recalled that the priests who took his initial calls apologized immediately, which "was really heartfelt by me. Nobody had ever apologized to me for what happened."

He decided that he needed to do two things to "face the dragon I need to face." One was to meet Schaefer. The other was to visit the room at his old school where the abuse occurred.

Psychologists and victims' advocates say it is common for survivors of child sexual abuse to want to meet their abusers, partly because the once-powerless child becomes the empowered adult controlling the encounter.

Gary Schoener, a Minneapolis psychologist whose clinic has treated more than 4,000 people abused by professionals, including teachers, doctors, psychiatrists and clergy, said that "at least half of child abuse victims want to physically see or visit with the offender. . . . They feel that any kind of clarity about why those things happened can help healing."

Donovan asked the archdiocese to pay for him and his wife to travel to see Schaefer. In June 2004, the archdiocese sent him a check for $3,000. It has also paid for his psychological counseling, Donovan said.

Donovan has retained a lawyer who is negotiating with the archdiocese for a financial settlement.

After his 1995 conviction, Schaefer was sentenced to 16 years in prison by Prince George's County Circuit Court Judge William B. Spellbring Jr. But after Schaefer had served less than five months, the judge suspended the rest of the sentence and released him to a facility for priests with psychological problems.

Now 80, Schaefer lives in Vianney Renewal Center in Dittmer, Mo., about 30 miles from St. Louis. Run by the Servants of the Paraclete, a religious order of men, the center is a community for priests who cannot engage in active ministry "for personal, health-related, psychological, social or canonical reasons," according to its Web site.

He is not allowed to leave the community unsupervised, Washington Archdiocese spokeswoman Susan Gibbs said, adding that "the archdiocese pays to keep him in that facility.

"He's asked several times to return to Washington. . . . He'd like to die here," Gibbs said. "And we have declined because we want to ensure that he never returns to this community where he harmed children." Schaefer is not receiving a church pension, she said.

Schaefer did not respond to a message left with a Vianney official seeking comment.

Donovan and his wife, Sharon, met Schaefer in St. Louis. A psychologist treating Schaefer was also present, Donovan said.

Schaefer, who is tall, thin and balding, was aloof, the couple said in separate interviews. "We were expecting to find a feeble, old man in poor health," said Sharon Donovan. "He seemed to be a vigorous . . . quite a dapper man. Well-dressed, well-groomed, urbane, quite distant, quite cavalier about the whole thing."

Schaefer did not admit doing anything wrong with Donovan, both said. But Sharon Donovan said he told her husband, "I'm sorry for anything I might have done to hurt you."

Donovan recalled that Schaefer "said that he had found his peace with God and that God had forgiven him."

Their meeting also included this: "He had no recollection of me," Donovan said. "Zero."

Initially, Donovan said he felt "elation" that he had "conducted myself as a gentleman. . . . I came away feeling empowered. But a few weeks later, it hit me like a ton of bricks," and he sought professional help for an emotional breakdown.

What Schaefer could not recall, Donovan could not forget.

The pale, redheaded priest at Holy Name favored him, Donovan said, often taking him out of class to spend time together because, as Schaefer told the nuns, he thought Donovan might have a vocation to be a priest.

Schaefer also knew Donovan's love of wrestling, and during spring break in 1956, when no one else was in the school, he suggested that they wrestle. But the priest showed up saying that he had forgotten his wrestling gear and asked whether they could wrestle "Greco-Roman style," or nude, Donovan said. "I gave no thought to the impropriety of it," he said.

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As they wrestled for the next three-quarters of an hour, Schaefer got increasingly excited and aggressive, finally attempting to sodomize him, Donovan recalled. "At the very end, I was fighting someone who was trying to rape me," he said.

He said he struck the priest with an open-handed slap across the face. "I expected a lightning bolt from God because I'd hit a priest, but he immediately stopped and whimpered," Donovan said.

The building where he attended eighth grade is now a day care and parish activity center. On his visit, he quickly found the musty auditorium where he played a munchkin in the "Wizard of Oz" and the old basketball court "where I proved what a terrible basketball player I was."

But the low-ceilinged room, with its dusty wrestling mats, that he had come to see was not there. A layer of concrete covers the brick wall where, as Donovan recalls, there used to be a door to the room where he was molested.

He said he was not disappointed.

"I feel very good about being here. . . . It completes what I had to do. I've got what I needed out of it," he said. "There were many good days here. There was only one bad."

When Words Bear Witness (NYT)

By Michael Rips And Amy Lester

The New York Times, March 20, 2006

THE Supreme Court is scheduled to hear oral arguments today in two cases that may make domestic violence cases all but impossible to prosecute. The cases, Davis v. Washington and Hammon v. Indiana, raise the question of whether statements made to 911 operators can be admitted in prosecutions if those who made the calls refuse to appear in court. Such evidence has become crucial in bringing domestic abusers to justice.

Domestic violence accounts for up to 34 percent of all reported violent crimes, but it is notoriously difficult to prosecute, because victims frequently drop charges or refuse to testify when their abusers threaten them with further violence. In the 1980's and 1990's, the refusal of victims to cooperate in the prosecution of their batterers may have resulted in the dismissal of as many as 70 percent of all domestic violence cases.

In recent years, however, prosecutors, police officers and advocates for domestic violence victims have developed techniques, together known as "evidence-based prosecution," that focus on the use of reliable evidence, like 911 tapes, to build cases that do not depend on the cooperation of the victim. In San Diego, the City Attorney's domestic violence unit uses evidence-based prosecution, and it obtains convictions in about 88 percent of its cases. In a typical six month period in the old days, the unit's conviction rate was just 12 percent.

But evidence-based prosecution suffered a major setback in 2004. That year, in Crawford v. Washington, the Supreme Court held that if witness statements were "testimonial" in nature, they could not be introduced unless the witness was available for cross-examination by the defendant. The court deferred the question of exactly what types of statements should be considered "testimonial." That is the matter at the heart of the two cases now before the court.

A significant number of courts have interpreted Crawford to bar the use of 911 tapes and answers to questions posed by police officers unless the witness is available for cross-examination. In so doing, they've overturned convictions in cases of domestic battery. In a survey of more than 60 prosecutors in California, Oregon and Washington, 63 percent said that Crawford hampered the prosecution of domestic violence; 76 percent reported that they'd grown more likely to drop domestic violence charges when they encountered uncooperative witnesses; and 65 percent said that Crawford had made domestic violence victims less safe than they were before. Reports from other jurisdictions echo these findings.

If the Supreme Court, in deciding Davis and Hammon, adopts a definition of "testimonial" that includes statements made by victims to 911 operators or to officers arriving at the scene of the abuse, prosecutors will face some undesirable options in domestic violence cases. They can refuse to bring cases in which the victim won't testify; or they can try to force the victim to testify. The latter is no solution because it would entail subjecting abuse victims to state-imposed sanctions, including jail time.

This is why, in answering the question left open by Crawford, the court should not define "testimonial" in a way that restricts the use of out-of-court statements made by victims to 911 operators or police officers at the scene of the crime. Without access to

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such evidence, the criminal justice system may be rendered virtually incapable of protecting victims of domestic violence and of holding their batterers accountable.

CIVIL LAW:

Judge Grants Google A Reprieve (WSJ)

By A Wall Street Journal Staff Reporter

The Wall Street Journal, March 20, 2006

A federal judge ruled Google Inc. doesn't have to turn over data about consumer Web-search queries to the Justice Department.

U.S. District Judge James Ware on Friday ordered Google to work with the government to provide 50,000 randomly selected addresses for Web sites from its databases. He denied a request by government lawyers for a sampling of 5,000 search queries entered by Google users, concluding that they essentially duplicated information the government could glean from the Web addresses.

Judge Ware also said that turning over the queries potentially could cost Google the trust of some users, and he expressed concern about whether releasing "search queries themselves may constitute potentially sensitive information."

The Justice Department requested the information from Google last year to defend the Child Online Protection Act, a federal law intended to shield minors from sexually explicit materials on the Internet. Enforcement of the law has been blocked in the courts.

"This is a clear victory for our users," Google said in a statement Friday. A Justice Department spokesman couldn't be reached.

Some legal experts said future government requests could meet with more success.

"The next time the government comes calling, it will pile so much more on its side of the scale -- a better explanation of its need and a more compelling set of facts -- that the court will have no choice but to compel Google to turn over search queries," said Paul Ohm, a former Justice Department lawyer and associate professor at the University of Colorado School of Law.

Tobacco Lounge Blows Smoke In The Face Of Chicago's New Ban (WP)

By Kari Lydersen

The Washington Post, March 20, 2006

CHICAGO -- Glasses clink, friends chat in plush chairs and a fire crackles in a stone hearth at Marshall McGearty Tobacco Artisans, a "tobacco lounge" that has opened in Chicago's trendy Wicker Park neighborhood.

It appears every bit the bar or coffeehouse. But appearances can be deceiving: Marshall McGearty is technically a tobacco retail shop with at least 65 percent of its sales in tobacco.

And that means it is exempt from Chicago's new ban on smoking in bars, restaurants and other public places.

Many patrons on a recent evening were enjoying the lush atmosphere and freedom, they said, from dirty looks from nonsmokers.

But critics say the parent company of the lounge, R.J. Reynolds Tobacco Co., is taking advantage of a loophole in the city's anti-smoking ordinance.

"It's just another example of tobacco companies skirting the law," said Kevin Tynan, marketing director for the American Lung Association of Metropolitan Chicago.

Last month, city Alderman Edward M. Burke introduced an ordinance to close the loophole in the smoking ban, stating that venues that serve food and drink cannot be classified as tobacco retail stores.

Burke's ordinance charges that "tobacco lounges have attempted to circumvent the power and purpose" of the smoking ban, which currently affects restaurants, music venues and other public places; bars and taverns have until 2008 to comply.

Though Marshall McGearty opened the same week in January that the Chicago City Council passed the anti-smoking ordinance, R.J. Reynolds said the timing is pure coincidence.

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"This has nothing to do with the smoking ban," said RJR Senior Marketing Director Brian Stebbins, noting that the company opposes the smoking ban.

He said the lounge is solely intended to promote the company's new high-market Marshall McGearty brand of hand-rolled, small batch cigarettes with tobacco from Zimbabwe, Brazil and North Carolina. Stebbins noted that upscale cigar stores frequently have a few chairs and a television, and offer beverages such as Scotch or coffee.

The cigarettes at Marshall McGearty, with names such as Aegeans, Muse and the Earl, are displayed in ornate boxes with descriptions that sound more like fine wines. Oriental Rose promises "smoke that is creamy, sweet and delicate, highlighted by floral notes."

Stebbins said the lounge is a first for R.J. Reynolds and the first of its kind in the country. A spokesperson for Philip Morris USA said the company has no such outlets. Both declined to say whether they anticipate more tobacco lounges in the future. But judging from the number of smoking bans around the country, it is possible companies will see the lounges as a way to promote their brands while providing a hangout for smokers otherwise denied by bans.

"We certainly expect them to try to put these in other cities with bans," said Annie Tegen, program manager for the group Americans for Nonsmokers' Rights. "This is just another slimy trick by Big Tobacco to circumvent the system. An $8 pack of cigarettes still exudes the same toxins as a $4 pack. For the people of Chicago, this is an equal opportunity killer."

Sitting in the lounge, Clay Beardshear and Clay Achee said they had traveled along the West Coast for several months recently and had a hard time finding a place to have a cigarette with their beer or coffee, because most of the cities they visited had smoking bans.

When they arrived in Chicago and heard about Marshall McGearty, they made a beeline for it.

"This place will be booming," once the Chicago ordinance goes into full effect, predicted Achee as they played Scrabble and smoked.

A group of young women who meet at the lounge every Tuesday evening said they are tired of getting heat from nonsmokers and are happy to have a place to relax among their own.

"Just last night someone was saying I was blowing smoke in their face all night, though I wasn't aware of it," said Justine Hanchar, 28, a medical receptionist. "Anywhere you go, you get those vibes."

Sarah Nawrocki, 28, predicted the group will be there "every night" once the smoking ban goes into full effect.

Shannon Moore, a 24-year-old musician who said she enjoys the ambience created by smoke in the piano bars where she plays, said smoking has become "like an underground thing" because of bans and anti-smoking sentiment. "This is like a haven for us," she said.

There are about 6,000 municipalities nationwide with some type of smoke-free ordinance, and smoking is banned in all bars in the states of California, Connecticut, Washington, Delaware, Maine, Massachusetts, New York, Rhode Island and Vermont.

Tegen and other anti-smoking advocates said they think tobacco lounges ultimately will be unsuccessful in the face of growing opposition to smoking.

"I'd expect this business model to flop," Tegen said. "People in Chicago are excited about the smoke-free law. And many smokers I know in Chicago don't mind stepping outside for five minutes to smoke. I don't see them as a trend that will continue."

CIVIL RIGHTS:

Oakland Nears Final Payouts For Protesters Hurt By Police (NYT)

By Carolyn Marshall

The New York Times, March 20, 2006

OAKLAND, Calif., March 19 — A clash between the police and antiwar protesters here nearly three years ago will cost the City of Oakland more than $2 million, including dozens of payouts to people injured when officers fired wooden dowels, bean bags and rubber pellets.

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The Oakland City Council is scheduled Tuesday to approve the final payments related to the incident, which was the most violent of many protests nationwide in the early weeks of the Iraq war. At least 58 people were injured, including nine longshoremen who were caught in the crossfire on their way to work.

The Oakland Police Department said officers had fired the "less than lethal" rounds to disperse several hundred demonstrators, some of whom the police said had thrown rocks at them.

The protesters said they had been behaving peacefully and accused the police of using excessive force. A lawsuit against the city, the Police Department and several officers, which led to the settlement payments, accused the authorities of civil rights violations.

Many here say the officers were on edge during the protest because state officials had warned that terrorists or self-described anarchists might try to disrupt the event, which was held at the Port of Oakland on April 7, 2003.

The demonstration had been organized to draw attention to two shipping companies that were assisting the government's military efforts. American President Lines was under contract to ship weapons to the military in Iraq, and Stevedoring Services of America held the government contract in 2003 to operate the port at Umm Qasr, Iraq.

In settling the lawsuit, the city did not admit fault, and there is still disagreement about whether the police were provoked by the protesters. Even so, the department did agree to change its crowd-control policy to prohibit the "indiscriminate use" of rubber and wooden bullets and similar ammunition and to require a fair warning to protesters to disperse.

"The settlements are a vindication," said Jim Chanin, one of the lawyers representing the protesters and dock workers. "The punishment did not fit the crime. It was not appropriate use of force."

Erica Harrold, a spokeswoman for the Oakland city attorney, John Russo, said the revision of the crowd-control policy was overdue, as were the clearer guidelines on the use of force.

"The most useful outcome of the case has been the revamping of the crowd-control and use-of-force policy," Ms. Harrold said, adding that the changes did not indicate an admission of wrongdoing.

The city has already paid more than $1 million to settle most of the claims. The payouts, from $5,000 to $500,000, cover medical costs associated with the injuries, which included broken bones and grapefruit-size welts and in some cases required operations and skin grafts.

Mr. Chanin estimated that the settlement would ultimately cost the city over $2 million, including $1.5 million in payments to the plaintiffs, plus legal fees and costs associated with the new crowd-control policy. That tally does not include the cost of hiring an outside lawyer to help with the case, which the city said would add well over $500,000.

Thirteen of the 52 plaintiffs had been holding out for a trial, in hopes of drawing attention to their complaints of free speech and civil rights violations, but in the end agreed to the settlement, Mr. Chanin said.

"We got the comprehensive crowd-control policy and every single person got money, with serious compensation for the most serious injured," Mr. Chanin said. "There was no need to put on a show trial for no reason."

The longshoremen's union, a plaintiff in the lawsuit, held a protest in Oakland this month and invoked the memory of the violence in 2003 to raise concerns about the Iraq war, terrorism, port security and the domestic spying program.

"Real port security means inspecting all containers offloaded," one of the injured longshoremen, Jack Heyman, wrote in an opinion article for The San Francisco Chronicle to coincide with the protest, "not stifling the free-speech rights of those who work in the ports."

Plight Deepens For Black Men, Studies Warn (NYT)

By Erik Eckholm

The New York Times, March 20, 2006

BALTIMORE — Black men in the United States face a far more dire situation than is portrayed by common employment and education statistics, a flurry of new scholarly studies warn, and it has worsened in recent years even as an economic boom and a welfare overhaul have brought gains to black women and other groups.

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Focusing more closely than ever on the life patterns of young black men, the new studies, by experts at Columbia, Princeton, Harvard and other institutions, show that the huge pool of poorly educated black men are becoming ever more disconnected from the mainstream society, and to a far greater degree than comparable white or Hispanic men.

Especially in the country's inner cities, the studies show, finishing high school is the exception, legal work is scarcer than ever and prison is almost routine, with incarceration rates climbing for blacks even as urban crime rates have declined.

Although the problems afflicting poor black men have been known for decades, the new data paint a more extensive and sobering picture of the challenges they face.

"There's something very different happening with young black men, and it's something we can no longer ignore," said Ronald B. Mincy, professor of social work at Columbia University and editor of "Black Males Left Behind" (Urban Institute Press, 2006).

"Over the last two decades, the economy did great," Mr. Mincy said, "and low-skilled women, helped by public policy, latched onto it. But young black men were falling farther back."

Many of the new studies go beyond the traditional approaches to looking at the plight of black men, especially when it comes to determining the scope of joblessness. For example, official unemployment rates can be misleading because they do not include those not seeking work or incarcerated.

"If you look at the numbers, the 1990's was a bad decade for young black men, even though it had the best labor market in 30 years," said Harry J. Holzer, an economist at Georgetown University and co-author, with Peter Edelman and Paul Offner, of "Reconnecting Disadvantaged Young Men" (Urban Institute Press, 2006).

In response to the worsening situation for young black men, a growing number of programs are placing as much importance on teaching life skills — like parenting, conflict resolution and character building — as they are on teaching job skills.

These were among the recent findings:

¶The share of young black men without jobs has climbed relentlessly, with only a slight pause during the economic peak of the late 1990's. In 2000, 65 percent of black male high school dropouts in their 20's were jobless — that is, unable to find work, not seeking it or incarcerated. By 2004, the share had grown to 72 percent, compared with 34 percent of white and 19 percent of Hispanic dropouts. Even when high school graduates were included, half of black men in their 20's were jobless in 2004, up from 46 percent in 2000.

¶Incarceration rates climbed in the 1990's and reached historic highs in the past few years. In 1995, 16 percent of black men in their 20's who did not attend college were in jail or prison; by 2004, 21 percent were incarcerated. By their mid-30's, 6 in 10 black men who had dropped out of school had spent time in prison.

¶In the inner cities, more than half of all black men do not finish high school.

None of the litany of problems that young black men face was news to a group of men from the airless neighborhoods of Baltimore who recently described their experiences.

One of them, Curtis E. Brannon, told a story so commonplace it hardly bears notice here. He quit school in 10th grade to sell drugs, fathered four children with three mothers, and spent several stretches in jail for drug possession, parole violations and other crimes.

"I was with the street life, but now I feel like I've got to get myself together," Mr. Brannon said recently in the row-house flat he shares with his girlfriend and four children. "You get tired of incarceration."

Mr. Brannon, 28, said he planned to look for work, perhaps as a mover, and he noted optimistically that he had not been locked up in six months.

A group of men, including Mr. Brannon, gathered at the Center for Fathers, Families and Workforce Development, one of several private agencies trying to help men build character along with workplace skills.

The clients readily admit to their own bad choices but say they also fight a pervasive sense of hopelessness.

"It hurts to get that boot in the face all the time," said Steve Diggs, 34. "I've had a lot of charges but only a few convictions," he said of his criminal record.

Mr. Diggs is now trying to strike out on his own, developing a party space for rentals, but he needs help with business skills.

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"I don't understand," said William Baker, 47. "If a man wants to change, why won't society give him a chance to prove he's a changed person?" Mr. Baker has a lot of record to overcome, he admits, not least his recent 15-year stay in the state penitentiary for armed robbery.

Mr. Baker led a visitor down the Pennsylvania Avenue strip he wants to escape — past idlers, addicts and hustlers, storefront churches and fortresslike liquor stores — and described a life that seemed inevitable.

He sold marijuana for his parents, he said, left school in the sixth grade and later dealt heroin and cocaine. He was for decades addicted to heroin, he said, easily keeping the habit during three terms in prison. But during his last long stay, he also studied hard to get a G.E.D. and an associate's degree.

Now out for 18 months, Mr. Baker is living in a home for recovering drug addicts. He is working a $10-an-hour warehouse job while he ponders how to make a living from his real passion, drawing and graphic arts.

"I don't want to be a criminal at 50," Mr. Baker said.

According to census data, there are about five million black men ages 20 to 39 in the United States.

Terrible schools, absent parents, racism, the decline in blue collar jobs and a subculture that glorifies swagger over work have all been cited as causes of the deepening ruin of black youths. Scholars — and the young men themselves — agree that all of these issues must be addressed.

Joseph T. Jones, director of the fatherhood and work skills center here, puts the breakdown of families at the core.

"Many of these men grew up fatherless, and they never had good role models," said Mr. Jones, who overcame addiction and prison time. "No one around them knows how to navigate the mainstream society."

All the negative trends are associated with poor schooling, studies have shown, and progress has been slight in recent years. Federal data tend to understate dropout rates among the poor, in part because imprisoned youths are not counted.

Closer studies reveal that in inner cities across the country, more than half of all black men still do not finish high school, said Gary Orfield, an education expert at Harvard and editor of "Dropouts in America" (Harvard Education Press, 2004).

"We're pumping out boys with no honest alternative," Mr. Orfield said in an interview, "and of course their neighborhoods offer many other alternatives."

Dropout rates for Hispanic youths are as bad or worse but are not associated with nearly as much unemployment or crime, the data show.

With the shift from factory jobs, unskilled workers of all races have lost ground, but none more so than blacks. By 2004, 50 percent of black men in their 20's who lacked a college education were jobless, as were 72 percent of high school dropouts, according to data compiled by Bruce Western, a sociologist at Princeton and author of the forthcoming book "Punishment and Inequality in America" (Russell Sage Press). These are more than double the rates for white and Hispanic men.

Mr. Holzer of Georgetown and his co-authors cite two factors that have curbed black employment in particular.

First, the high rate of incarceration and attendant flood of former offenders into neighborhoods have become major impediments. Men with criminal records tend to be shunned by employers, and young blacks with clean records suffer by association, studies have found.

Arrests of black men climbed steeply during the crack epidemic of the 1980's, but since then the political shift toward harsher punishments, more than any trends in crime, has accounted for the continued growth in the prison population, Mr. Western said.

By their mid-30's, 30 percent of black men with no more than a high school education have served time in prison, and 60 percent of dropouts have, Mr. Western said.

Among black dropouts in their late 20's, more are in prison on a given day — 34 percent — than are working — 30 percent — according to an analysis of 2000 census data by Steven Raphael of the University of California, Berkeley.

The second special factor is related to an otherwise successful policy: the stricter enforcement of child support. Improved collection of money from absent fathers has been a pillar of welfare overhaul. But the system can leave young men feeling overwhelmed with debt and deter them from seeking legal work, since a large share of any earnings could be seized.

About half of all black men in their late 20's and early 30's who did not go to college are noncustodial fathers, according to Mr. Holzer. From the fathers' viewpoint, support obligations "amount to a tax on earnings," he said.

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Some fathers give up, while others find casual work. "The work is sporadic, not the kind that leads to advancement or provides unemployment insurance," Mr. Holzer said. "It's nothing like having a real job."

The recent studies identified a range of government programs and experiments, especially education and training efforts like the Job Corps, that had shown success and could be scaled up.

Scholars call for intensive new efforts to give children a better start, including support for parents and extra schooling for children.

They call for teaching skills to prisoners and helping them re-enter society more productively, and for less automatic incarceration of minor offenders.

In a society where higher education is vital to economic success, Mr. Mincy of Columbia said, programs to help more men enter and succeed in college may hold promise. But he lamented the dearth of policies and resources to aid single men.

"We spent $50 billion in efforts that produced the turnaround for poor women," Mr. Mincy said. "We are not even beginning to think about the men's problem on similar orders of magnitude."

A Moral Battleground, A Civil Discourse (USAT)

By Charles C. Haynes

USA Today, March 20, 2006

Tragically, public schools have become front lines in the culture war over homosexuality — and the biggest losers are the kids caught in the crossfire of incendiary rhetoric and bitter lawsuits.

In school districts across the nation, escalating conflicts involving sexual orientation in the curriculum, student clubs, speech codes and other areas of school life are undermining the educational mission of our schools. Media stories in the past two months alone have spotlighted bitter fights over these issues in Utah, Pennsylvania, Kansas, California, Idaho and Florida. Any notion of the public interest is often lost in the clash of world views across seemingly unbridgeable distances.

When people are this far apart, every act by one side is seen as a hostile move by the other. A "Day of Silence" to protest treatment of gays and lesbians is now followed by a "Day of Truth" to promote conservative religious views of homosexuality. A T-shirt proclaiming "Straight Pride" is worn to counter one professing "Gay Pride." These differences are deep and difficult to negotiate.

Can we do better? If we care about education — and the future of the nation — we must. That's why the First Amendment Center asked Wayne Jacobsen of BridgeBuilders, an organization that helps communities find common ground on religious issues, to help me create a road map for winning the peace in the fight over sexual orientation in schools. The drafting committee also included representatives from the Christian Educators Association International and the Gay, Lesbian and Straight Education Network, two groups with widely divergent views on homosexuality, but with a shared commitment to civil discourse.

It took eight months to hammer out a statement of principles we could all support. But finally, on March 9, we released "Public Schools and Sexual Orientation: A First Amendment framework for finding common ground." Two major educational organizations, the American Association of School Administrators and the Association for Supervision and Curriculum Development, have endorsed the document. The guide does not prescribe a particular outcome, but rather proposes a process for reaching an agreement that all sides can support. All of the sponsoring groups have agreed to disseminate the guidelines widely and encourage schools to address these issues proactively.

Fairness is a two-way street

For the process to work, school officials must be fair, honest brokers of a dialogue that involves all stakeholders. That means, first and foremost, that school leaders must refrain from choosing sides in the culture-war debate over homosexuality. If schools are going to find agreement on policies and practices that bring the community together, it won't be by taking a side and coercing others to accept it.

Consider the case a few years ago of Thomas McLaughlin, a junior high school student in Pulaski County, Ark. Thomas complained that because he refused to keep quiet about being gay, school officials harassed and punished him — forcing him at

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one point to read aloud Bible verses and prayers. After a lawsuit was filed, the school district settled by paying damages and apologizing to the student.

On the other side of the spectrum, Betsy Hansen, a high school student in Ann Arbor, Mich., challenged her district in 2002 for censoring her religious views in opposition to homosexuality. During a "diversity week" program, school officials prevented Betsy from delivering a speech she was asked to give because they claimed her Roman Catholic views on homosexuality were "negative." Betsy also sued — and she won when a judge ruled that her free speech rights had been violated.

As the outcome of these cases makes clear, school officials can't impose one religious view of homosexuality, but neither can they censor the religious convictions of students.

First Amendment ground rules

To avoid divisive fights and lawsuits, educators and parents must agree on civic ground rules to ensure fairness for all sides. After all, public schools belong to everyone. However deeply we disagree about homosexuality, the vast majority of us want schools to uphold the rights of all students in a safe learning environment. It isn't possible for us to reach ideological or religious consensus, but it is possible — and necessary — to reach civic consensus on civil dialogue.

School districts divided about how to handle issues concerning sexual orientation should take a step back from the debate and find agreement on First Amendment principles. Most Americans can agree that freedom of religion and speech are inherent rights for all. Starting with an acknowledgement of inalienable rights immediately levels the playing field, helping to ensure that everyone has a right to speak — and everyone's claim of conscience is taken seriously.

More challenging, but still attainable, is an agreement that we all have a civic responsibility to guard the rights of others, including those with whom we disagree. And, finally, people must agree to debate one another without resorting to personal attacks, ridicule, false characterizations of opposing positions and similar tactics.

In the guide, we call this commitment to the principles of rights, responsibilities and respect "First Amendment ground rules." Using this framework, people with deep differences are able to come to the table ready to engage in constructive dialogue.

Finding common ground

With civic ground rules in place, school districts should consider creating a permanent "common ground task force" that fully represents the range of perspectives in the community. Given time and opportunity, people with opposing views learn to trust and respect one another. And that trust and respect can then translate into shared recommendations on safe schools, balanced curricula, appropriate student expression and other issues.

When they begin to listen to one another, most educators, parents and students discover that they want the same thing: public schools that are safe and free for all students. As we say in the guide: "A safe school is free of bullying and harassment. And a free school is safe for student speech even about issues that divide us." Once these shared goals are identified, people are ready to tackle other contentious issues such as gay student clubs and the treatment of sexual orientation in the curriculum.

Winning the peace isn't easy — it takes commitment and courage. But if people on all sides uphold the rights and responsibilities of the First Amendment, they can agree on policies and practices that serve the common good.

Charles C. Haynes is the co-author of Finding Common Ground: A Guide to Religious Liberty in Public Schoolsand senior scholar at the First Amendment Center in Arlington, Va.

ANTITRUST:

Zurich Financial Unit To Settle Bid-Rigging Case With 9 States (WSJ)

By Liam Pleven

The Wall Street Journal, March 20, 2006

Zurich American Insurance Co. agreed to pay $171.7 million in a settlement with nine states that have been investigating allegations of bid rigging in the commercial-insurance business.

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The company, a unit of Zurich Financial Services of Switzerland, will pay more than $150 million to reimburse policyholders and another $20 million will go to the states to cover investigative and other costs and as payments in lieu of penalties, according to the states.

"We can confirm that Zurich is finalizing agreements with certain state legal and regulatory authorities to resolve inquiries related to insurance business practices," Zurich said. The company said it will release "further details as soon as possible."

The agreement announced by several of the nine states is the latest development in the probes that authorities around the country have been conducting in recent years into insurance-industry practices.

In 2004, New York Attorney General Eliot Spitzer charged Marsh & McLennan Cos., a major insurance broker, with cheating corporate clients by rigging bids and collecting fees from insurance companies for directing business to them. Last year, without admitting wrongdoing, Marsh signed an $850 million settlement agreement with Mr. Spitzer's office.

Zurich admitted no wrongdoing as part of the settlement, said Mark Tobey, head of the antitrust and civil Medicaid-fraud division in the Texas attorney general's office.

"Going forward, companies like Zurich will be disclosing a lot more information," Mr. Tobey said. He described the company as "very cooperative."

Mr. Tobey said the policyholders involved included major companies, universities and local governments. The settlement is subject to court approval, and the court will determine which policyholders are reimbursed and how much.

Besides Texas, the states involved are California, Florida, Hawaii, Maryland, Massachusetts, Oregon, Pennsylvania and West Virginia.

Florida last week filed a civil lawsuit against Marsh making charges similar to those made by Mr. Spitzer's office. An attorney for Marsh has questioned that lawsuit's validity and said Florida's Department of Financial Services had signed a general release absolving the New York company.

Prudential PLC Rejects Aviva Bid As Big Insurance Battles Mount (WSJ)

By Charles Fleming And Michael Wang

The Wall Street Journal, March 20, 2006

LONDON -- In what is likely to prove the first round in a long-running takeover battle that could affect insurance markets world-wide, United Kingdom life insurer Prudential PLC Saturday rejected an unsolicited £17 billion ($29.87 billion) takeover proposal from larger rival Aviva PLC.

Prudential, which isn't related to Newark, N.J., insurer Prudential Financial Inc. but is active in the U.S. through its subsidiary Jackson National Life Insurance Co. of Lansing, Mich., said Saturday it had received a proposal from Aviva about a possible combination of the two London companies. In a statement, Prudential said it had rejected the proposal as not in the best interests of its shareholders. "The board confirms that it is not in discussions with any party and reaffirms its confidence in Prudential's future as an independent company."

An Aviva spokeswoman declined to comment on the proposal or on Aviva's next possible move. Statements by Aviva's chief executive, Richard Harvey, about his desire to find acquisitions that would allow the company to expand suggest Aviva won't throw in the towel easily.

People with knowledge of Aviva's overture said the initial proposal was an all-share offer that valued Prudential at about £17 billion, a 6.25% premium to the group's market value. They said Aviva's top managers were meeting to discuss how to proceed. Although Aviva might improve the proposed terms, Mr. Harvey is seen as unlikely to launch an overtly hostile bid. He has said a hostile bid is a "low probability" because unsolicited takeovers are seldom successful in the life-insurance industry.

The global insurance industry is expected to continue to see consolidation -- although how quickly remains unclear. The Wall Street Journal, citing people familiar with the matter, reported Friday that St. Paul Travelers Cos., of St. Paul, Minn., is in the preliminary stages of discussing a possible merger with Zurich Financial Services AG of Switzerland, although no deal may ultimately emerge. Yesterday, St. Paul Travelers said "recent media reports of its being in discussions regarding the possibility of a merger with Zurich Financial Services Group are not true." A spokesman for St. Paul declined to elaborate beyond the statement. A spokesman for Zurich Financial declined to comment.

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A combination of the two U.K. insurance heavyweights companies has been rumored for months. Prudential has consistently poured cold water on market speculation, and the group's chief executive, Mark Tucker, who took over in May last year, has stressed that he thinks Prudential should continue as an independent company under his management. A merger would allow the combined group to leapfrog, by market value, the continental European insurance competitors, such as AXA SA, of France, and Allianz AG Holding, of Germany.

Aviva's interest in Prudential primarily concerns the neat fit between the two group's overseas operations. While Aviva has concentrated on building its European business, Prudential has a strong U.S. presence through Jackson National Life, which sells life-insurance and savings products. Prudential has a strong presence in Asia, where it has been active since the 1920s and where it ranks as the largest European life insurer, with 8,700 workers in 12 countries, including China, India, Japan and South Korea.

Aviva, which sells life- and general-insurance policies, has a market capitalization of £20.2 billion. Prudential, which sells life-insurance and savings products, has a market capitalization of £16 billion. Prudential shares rose 7.1% to close Friday at 672 pence in London, while Aviva was up 2.8% to close at 850.50 pence.

This month, Aviva announced a 29% rise in 2005 operating profit at £2.9 billion. Prudential last week said its 2005 operating profit was up 33% to £1.7 billion.

U.K. Tallies Market Abuse (WSJ)

By Margot Patrick

The Wall Street Journal, March 20, 2006

LONDON -- The U.K. market regulator said it has found widespread signs of improper share-price moves before corporate takeovers are announced.

In an effort to assess the deterrent effects of its regulations, the Financial Services Authority studied 1,500 market announcements on takeover bids and company results in various time periods over the past eight years. The researchers found that price movements from nonpublic information may have taken place before 29% of the takeover announcements and before 22% of the trading updates.

The implementation of the Financial Services & Markets Act in 2001, which toughened sanctions for individuals caught insider trading as well as the disclosure requirements for companies, had no apparent change in market cleanliness.

The regulator said there was a small but statistically significant increase in informed price movements immediately following the conclusion of the first enforcement cases under the new rules, in 2004.

"The analysis shows that there was no improvement in market cleanliness in the period after the introduction of the FSA's new powers, and before any high-profile enforcement cases were concluded," said Hector Sants, the FSA's managing director.

"This suggests that visible enforcement action may be the key tool in our work to reduce market abuse," he said.

The FSA said that by developing its methods to assess the cleanliness of U.K. financial markets, it should over time be able to measure whether its regulatory efforts are working.

In its 2006 Financial Risk Outlook, the FSA said some firms are failing to comply with the European Union-wide market-abuse directive, which prohibits the use of nonpublic, price-sensitive information.

"Firms must ensure that they have procedures in place to identify transactions which they reasonably suspect to be abuse, and make suspicious-transaction reports to us as appropriate," the regulator said.

It said it was reviewing trading and market behavior at institutions including investment banks and hedge funds to find potential cases of market abuse.

Roche, Amgen Engaged In 'Arms Race' On Patent Law (RC)

By Kate Ackley

Roll Call, March 20, 2006

A furious lobbying effort between F. Hoffmann-La Roche and Amgen Inc. has fueled big spending on K Street and led to both drugmakers hiring heavy-hitting firms and high-profile former government officials.

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Roche is pushing for a patent-law change that lobbyists close to the debate say could make it possible for the Swiss-based company to get approval and eventually market in the United States a competing product to Amgen's renal disease treatment, Epogen.

Initially, Roche pursued a more secretive strategy, as Roll Call first reported in November. At that time, Roche quietly sought a rider on an appropriations bill that would have changed five words and two commas — the seemingly innocuous "for purposes of this title" — in U.S. patent laws.

Since then the level of rancor has only grown between the two companies. And lobbyists familiar with both sides' strategies now agree that the battle will have much wider implications on patent policy.

According to numerous sources, Roche has tapped a bipartisan team that includes Mickey Kantor, the former U.S. trade representative and Commerce secretary under former President Bill Clinton, and Ted Olson, the former U.S. solicitor general in the current Bush administration. Olson, a partner with Gibson Dunn & Crutcher did not return a call seeking comment. Kantor, who is with the firm Mayer Brown Rowe & Maw, confirmed that he and Olson were handling patent matters for Roche. Roche also has retained the Federalist Group, long a Republican powerhouse that recently went bipartisan.

For its part, Amgen upped its lobbying spending during the last six months of 2005, after the biotech firm became aware of Roche's quiet lobbying push. Between the first and second halves of 2005, Amgen spending rose by $1 million, from $2.4 million to $3.3 million, according to public filings.

And recently, Amgen has signed two patent experts from the firm Drinker Biddle & Reath: Michael Remington, an intellectual property specialist, and Chris Katopis, former director of Congressional affairs for the U.S. Patent and Trademark Office and a one-time aide to House Judiciary Chairman Jim Sensenbrenner (R-Wis.).

"I've never seen an arms race like this in terms of the hiring of consultants," said one lobbyist familiar with the issue.

Amgen's side, lobbyists say, wants to maintain current precedent set by the International Trade Commission. The ITC can stop products that infringe on U.S. patent holders from coming into the country. And the lobbyists on Amgen's side say Roche's proposed change could end up undermining the ITC's ability to do that.

"If you cannot infringe a U.S. process patent in Indiana, you should not be able to move manufacturing to India and then bring the infringing product back into the U.S.," said one lobbyist familiar with Amgen's side.

A statement from Daniel Whelan, an Amgen spokesman, said, "We believe that a strong patent system is essential to protect American jobs. We are on record as strongly opposing measures that would jeopardize the interests of patients, threaten innovation, or hurt American jobs."

Roche's side, however, argues that the change would help the ITC interpret the original intent of the patent law at issue and would simply harmonize how federal courts and the ITC treat process patents.

(Amgen is currently suing Roche for patent infringement in U.S. District Court in Boston.)

Shelley Rosenstock, a spokeswoman for Roche, said her company is restricted about what it can say on the issue because of the pending lawsuit.

In an e-mailed comment, she said: "As I understand it, the issues before Congress at this time are broad policy issues that pertain to legal forum shopping, statutory interpretation and patent law standards. Roche believes consumers would benefit if Congress would eliminate forum shopping and duplicative litigation from the patent code."

Lobbyists familiar with Amgen said they expect Roche to try to get the policy change through regular order such as hearings, markups and perhaps as a free-standing bill, or as a part of broader patent reform.

And although no lobbyists involved in the debate said Roche is still looking for an appropriations vehicle to the make the change, Sensenbrenner and Rep. John Conyers (D-Mich.) sent a recent letter to House Appropriations Chairman Jerry Lewis (R-Calif.) warning him that such an effort could be afoot.

The letter said, "We respectfully ask that you decline any request to include changes" to the patent laws Roche is seeking "in any appropriations bill." The letter did not mention the company by name.

The letter adds that, "A proposal has been circulated that would limit the authority of the International Trade Commission (ITC) to enforce the rights of U.S. process patent holders against infringing foreign products made abroad."

Lobbyists familiar with both sides said the letter tracked Amgen's point of view almost perfectly.

Jeff Lungren, spokesman for the House Judiciary Committee, said Sensenbrenner routinely sends such letters to colleagues.

"This is more of a jurisdiction process letter, letting the Appropriations Committee know that we'd be opposed to that," Lungren said. "We had heard rumblings about maybe some type of effort to put patent provisions in an appropriations bill, and they just wanted to make sure that didn't happen."

Justices Reach Out To Consider Patent Case (NYT)

By Andrew Pollack

The New York Times, March 20, 2006

For the first time in a quarter-century, the Supreme Court will hear on Tuesday a case involving the basic question of what type of discoveries and inventions can be patented.

Both sides say the case, which involves a blood test for a vitamin deficiency, could have a wide-ranging impact on the development of diagnostics, perhaps threatening many of the underlying patents for genetic and other medical tests.

But the array of companies filing supporting briefs — including American Express, Bear Stearns and I.B.M. — indicates that intellectual property in other fields might also be affected.

Some patent specialists say they think the Supreme Court agreed to hear the case, against the advice of the United States solicitor general, to rein in patenting.

"The Supreme Court reached out and grabbed this case," said Edward R. Reines, a patent attorney at Weil, Gotshal & Manges who is not involved in the case. "These circumstances suggest that some members of the court believe there are too many patents in areas where there should be none."

At issue is whether relationships between a substance in the human body and a disease — for example, the familiar association between high cholesterol and a higher risk of heart attacks — can be the basis of a patent, or whether such relationships are unpatentable natural phenomena.

This case, LabCorp v. Metabolite Laboratories, stems from a 1990 patent awarded to scientists at the University of Colorado and Columbia University. They found that a high level in the blood of homocysteine, an amino acid, indicated a deficiency of either vitamin B12 or another B vitamin called folic acid.

Much of the patent describes a specific way to measure homocysteine, and those claims are not at issue. But the 13th claim of the patent is more general: it covers a way of determining vitamin deficiency by first testing blood or urine for homocysteine by any means and then correlating elevated levels with a vitamin deficiency.

The patent is owned by Competitive Technologies, a publicly traded patent management firm in Fairfield, Conn., and licensed to Metabolite Laboratories, a tiny company based at the University of Colorado. LabCorp, one of the biggest clinical testing companies in the nation, with 2005 revenues of $3.3 billion, sublicensed the test from Metabolite.

At first, LabCorp, whose full name is Laboratory Corporation of America Holdings, tested for homocysteine using the specific method described in the patent and paid royalties to Metabolite and Competitive Technologies. But in 1998 it switched to a newer and faster test developed by Abbott Laboratories.

Metabolite and Competitive sued, charging LabCorp with violating Claim 13 of the patent. In 2001 a federal jury in Denver ruled against LabCorp, and the company was eventually ordered to pay $7.8 million in damages and attorneys' fees. The appeals court that handles patent cases affirmed the lower court decision in 2004.

In asking the Supreme Court to overturn the lower court decisions, LabCorp is arguing that Claim 13, because it does not specify how testing is to be done, patents nothing more than the natural relationship between homocysteine and vitamin B deficiencies, blocking other inventors from developing better tests.

"The present-day implications of such a holding are limitless — and dangerous," LabCorp wrote in its brief. "Anyone who discovers a new medical correlation could stifle medical treatment through a 'test plus correlate' claim."

But Metabolite and its allies argue that such correlations are the basis of diagnostics and that not allowing patents would stifle development of new tests. There are tests, for instance, that look at mutations in particular genes to predict a high risk of breast cancer or to predict which AIDS drugs will not work.

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"Hundreds, if not thousands, of patents would at once be called into question" if the ruling goes against Metabolite, said a brief jointly submitted by Perlegen Sciences, a company developing genetic tests, and Mohr Davidow Ventures, a venture capital firm that backs diagnostics companies.

Another question in the case is whether doctors could infringe the patent merely by looking at a test result for homocysteine and then thinking about vitamin deficiency. Indeed, the lower courts said LabCorp had not directly infringed but rather had induced doctors to infringe by performing the correlation.

Partly with that in mind, the American Medical Association, the American Heart Association and AARP have submitted briefs in support of LabCorp, arguing, in the words of the heart association, that the patent could have "devastating effects on patient health care."

Millions of homocysteine tests are done each year because high levels of the amino acid are associated with an increased risk of heart attack, stroke, birth defects and other diseases; people often take B vitamins to lower homocysteine and reduce the risk. (Clinical trial results announced last week, however, suggested that taking B vitamins did not prevent heart attacks.)

Court precedents have held that laws of nature, natural phenomena and abstract ideas cannot be patented. "Einstein could not patent his celebrated law that E = mc2; nor could Newton have patented the law of gravity," the Supreme Court wrote in a 1980 decision. '

But in a 1981 decision in Diamond v. Diehr — the last time the Supreme Court considered the issue — the court upheld a patent on a method of curing rubber that made use of a well-known equation governing chemical reactions. The court said that the equation was only part of a broader invention.

Glenn K. Beaton, an attorney for Metabolite, said that as in that 1981 case, "it's not the correlation itself that is patented here," but rather "the use of that correlation to determine B12 and folate deficiencies."

In recent years, controversial patents have been granted on software and on business methods, such as ways of managing investment portfolios or of allowing people to order merchandise on Amazon.com with one click of a mouse.

Bear Stearns, Lehman Brothers and the Computer and Communications Industry Association filed briefs urging the court to use the LabCorp case to restrict such business method patents, or at least not expand them. Other companies, including American Express and I.B.M., say the LabCorp case is not relevant to business method patents.

The solicitor general, in urging the court not to hear the case, said there was not enough of a record from the lower courts on the question of patenting natural phenomena. That is because LabCorp did not raise that argument in the lower courts, instead trying to get the claim invalidated on other grounds. If LabCorp wins the case in a way that weakens patents on diagnostic tests, it could be one of the bigger losers. The company, based in Burlington, N.C., is counting on high-priced, patented genetic tests to fuel its growth.

Bradford T. Smith, executive vice president for corporate affairs at LabCorp, disputed that. "We think this case can be decided very narrowly," without undermining other patents, many of which rely on more than just correlations, he said.

ENVIRONMENT/INDIAN AFFAIRS:

For Interior, A Collaborative Conservative (CSM)

By Brad Knickerbocker

The Christian Science Monitor, March 20, 2006

ASHLAND, ORE. - Dirk Kempthorne, President Bush's nominee to the head the Interior Department, has both the experience and the record of collaboration that could help smooth the way in the often-contentious position.

As governor of Idaho, a former US senator, and mayor of Boise before that, Mr. Kempthorne is known to work in concert with those who don't agree with him. He believes that the level of government closest to a problem is the best place to find a solution. And though his environmental record - according to those who score such things - is a pale shade of green, he is not a fire-breathing ideologue likely to dismiss endangered species in the name of corporate ranching or a new highway.

"I've been dealing with this guy for years," says Rick Johnson, executive director of the Idaho Conservation League. "He's not overtly anti-environment. He is overtly states' rights."

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The West, for all its wide-open spaces where most of Interior's 500 million acres of responsibility lie, in fact is becoming the most urban region of the country. Cities like Boise, growing rapidly, are more conservation-minded than in the past, says Mr. Johnson. As a result, many newcomers to the West value environmental quality - something reflected in some of Kempthorne's policies.

Most national environmental groups blast the nominee as "an unabashed champion of the resource-extraction and development interests that profit most from public lands," as Philip Clapp, president of the National Environmental Trust, put it. But Kempthorne has already won praise from some prominent Democrats. Arizona Gov. Janet Napolitano (D), who chairs the Western Governors' Association, warmly congratulated him. Sen. Maria Cantwell (D) of Washington noted that Kempthorne had "stood up to the administration" over nuclear-waste cleanup at a federal facility in Idaho. He has many friends in the United States Senate, which is expected to confirm his nomination.

Still, the Bush administration and Kempthorne face battles over many issues: development in roadless forest areas; salvage logging of burned timber; the proposed sale of some federal land to lessen the federal budget deficit; changes to the Endangered Species Act; a huge backlog in national parks maintenance; oil drilling in the Arctic National Wildlife Refuge and the Outer Continental Shelf; and protections for grizzly bears, wolves, and other recovering species.

As the likely new "landlord" over national parks and wilderness areas, water reclamation projects, and vast rangelands where cattle graze and new gas and oil wells have sprouted under Mr. Bush, Kempthorne will be in the thick of the fray.

National parks could be an especially difficult issue. The mammoth National Park Service, part of Interior, oversees 388 parks, monuments, battlefields, historic sites, lakeshores, scenic rivers, and trails. The number of park units has nearly doubled since 1970, and annual visits now total almost 300 million.

"One thing he did in Idaho was try to get more resources for parks," says Craig Obey, vice president of the National Parks Conservation Association. "Hopefully, he will try to carry that ahead nationally."

It's a big load to carry. The parks' maintenance backlog is between $4.5 billion and $9.7 billion, estimates the Congressional Research Service.

Meanwhile, the administration is trying to open some parks to more commercial activities, such as snowmobiling in Yellowstone. Its parks management plan, critics say, deemphasizes natural-resource protection in favor of commerce and recreation - which could increase traffic, air pollution, and other adverse impacts.

"That could be potentially devastating to the parks, depending on how it turns out," says Mr. Obey. The 500-member Coalition of National Park Service Retirees, too, has expressed concern. Last month, the watchdog group Public Employees for Environmental Responsibility sued the department for refusing to give details of industry lobbying efforts regarding national parks policies.

Utilities Offer Energy Dept. Site For Waste (New York Times)

By Matthew L. Wald

New York Times, March 20, 2006

WASHINGTON, March 19 — A group of nuclear utilities that is planning to build a private nuclear waste dump on an Indian reservation in Utah has offered to sell space there to the federal government. The move could help the government avoid billions of dollars in potential legal damages over its failure to build its own repository.

This month the utilities, eight companies from around the country, won a license from the Nuclear Regulatory Commission to open a repository at Skull Valley, on land leased on a Goshute Indian reservation, about 60 miles west of Salt Lake City.

The utility consortium, called Private Fuel Storage, does not have the permits it needs to transport waste to the site, however, and the State of Utah is trying to block those.

The Energy Department signed contracts in the 1980's with each of the nuclear operators, promising to accept their spent fuel beginning in January 1998, in exchange for a payment of a tenth of a cent for each kilowatt-hour they generated.

The project now appears to be at least 20 years behind schedule, and the department faces approximately $50 billion in damage claims from the utilities, many of which have resorted to building giant casks adjacent to their reactors to store the old fuel.

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In a letter to the chairmen and the ranking minority members of the House and Senate Energy Committees, Private Fuel Storage said it could begin taking fuel within three years, at a cost of about $61 million a year. In the letter, which was sent in December but released last week, the company estimated the Energy Department's costs to maintain the fuel at the reactor sites at about $500 million a year.

The fuel is currently kept at 72 sites whose storage costs vary widely. At some sites, the reactors have been retired and torn down, and maintenance and security personnel remain in place simply for the fuel. At others, while construction of the casks was expensive, the cost to maintain them is small.

Of the eight utility partners, three have announced that they have no immediate need for off-site waste storage.

The consortium proposed either that the Energy Department take title to the fuel and pay for storage, or let the utilities continue to own the fuel but reimburse them for the storage costs. It suggested legislation to reassure Utah that even if the government's proposed repository, at Yucca Mountain in Nevada, never opened, the Goshute site would not become permanent.

Representative David L. Hobson, the Ohio Republican who is chairman of the energy and water subcommittee of the Appropriations Committee, has been pushing for dry-cask storage, possibly as a prelude to chemical processing of the wastes to extract useful material before burial. And last month, the Bush administration endorsed such chemical processing, through a partnership. But the cask idea has not gone far with the Energy Committees.

"The view right now on Capitol Hill is that this is a free-market project, and let's see if the market sends business their way," said Marnie Funk, a spokeswoman for the Senate Energy Committee.

State-U.S. Revenue Sharing At Core Of Offshore Plans (USAT)

By Oren Dorell

USA Today, March 20, 2006

Oil companies and U.S. industries have been aching for years to get at the billions of barrels of oil and trillions of cubic feet of natural gas sitting off the shores of the USA.

There have always been reasons to look elsewhere: cheaper energy overseas, governors demanding royalty payments, beachgoers opposed to the sight of derricks in the distance, environmental groups predicting ecological disaster.

However, the creators of a new campaign to drill up and down the coasts say the time is right to get it done. And they say they've come up with a way of doing it that has statehouses, U.S. industry and even some notable environmental groups on board.

“Never before has there been such a flurry of legislative activity on the issue,” says Adam Sharp, spokesman for Sen. Mary Landrieu of the Gulf Coast state of Louisiana.

The proposal is simple:

•States that open their territory to drilling will get a cut of the royalties that currently go 100% to the federal government.

•A specified chunk of royalties must be spent restoring coastlines.

Simple, and hard to resist.

Consumers are paying relatively high prices for energy. Polls show concern among the public about U.S. alliances with even friendly Arab countries, which control much of the world's oil. The White House is calling for new energy solutions. A top item on the agenda of environmental groups — restoring coastlines ravaged by human activity — will take big money.

“We hope this will be a front-burner story for the next couple of months,” says Kevin McCoy, vice president for energy resources policy at the National Association of Manufacturers.

Former Louisiana senator John Breaux is hoping to build interest.

Breaux is a lobbyist for the Washington firm Patton Boggs and is working on a volunteer basis for the state of Louisiana to give it a share of the royalties from oil and gas off its shores. He's working with a coalition of manufacturers, municipalities and energy companies to bring attention to the plan.

“We need that oil,” said Breaux, who is working with Shell Oil, among others. “In Louisiana, it would fund coastal restoration.”

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The Interior Department estimates there are 86 billion barrels of oil and 420 trillion cubic feet of gas yet to be discovered off U.S. shores. That's 11 times as much oil as the USA used in 2005 and 19 times as much gas, the U.S. Energy Information Agency says.

Major drilling off the outer continental shelf, which extends 3 miles to 200 miles from shore, is banned in all but a portion of the Gulf of Mexico.

Utilities say they have always coveted the deposits but found the political opposition too daunting. Bills filed in Congress during the 1990s went nowhere, largely because of budgetary issues.

Utilities are more optimistic this year given the drive to give states a cut of the action.

Revenue sharing "would provide, hopefully, economic incentives to the states to support … development of their offshore resources," says Richard Shelby, executive vice president for public affairs at the American Gas Association.

Congressional leaders also see a more hopeful scenario among a handful of competing bills.

"Things are different now," says Rep. Richard Pombo, R-Calif., chairman of the House Resources Committee, who is looking at several new bills on revenue sharing.

"We're paying an all-time high for natural gas, an all-time high for oil," says Pombo, who expects a vote on the issue this spring. "States are beginning to look at this in terms of revenue and their own energy security. Those are things we have to balance. It's completely different than a few years ago. The stakes have changed."

Some coastal states are now on record as supportive of the idea.

Georgia's Department of Natural Resources supports a plan to lease the outer continental shelf for oil and gas. Connecticut's Department of Environmental Protection says it would like a share of any drilling in its region. The Virginia Legislature voted to urge its congressional representatives to support the idea.

Louisiana Gov. Kathleen Blanco says she wants an end to a double standard for gas and oil drilled on land, the royalties from which are shared with the affected state. Thirty-five states received $1.7 billion in such royalties in 2005. Wyoming received the most: $878 million.

Much more money is at stake in offshore drilling.

Oil and gas leases in the portion of the Gulf where drilling is allowed brought in $5.7 billion for the federal government in 2005. Blanco wants states to get half of the royalties and says Louisiana should get 54% of that cut in the Gulf. Under that formula, Louisiana could receive as much as $1.5 billion a year for a state with an $18.5 billion annual budget.

Members of Congress from some states are not supportive of new drilling, however, and some have filed bills to ban it. Pombo expects differences to be worked out. "I have to compromise between states that want to produce and states that don't want any production near their shores," Pombo said.

Supporters think the stance of some environmental groups could help their cause.

For decades, such groups have lamented the degradation of the Louisiana coastline. Much of the damage was caused by channels cut through marshes for pipelines and for ships that ferry supplies to the derricks offshore.

To restore the coastline, miles of long-gone banks must be rebuilt with massive amounts of soil, then planted with cypress and marsh grass. That would take billions of dollars, and letting offshore drilling continue in order to get it is a choice some groups are willing to make.

"We think it's reasonable," says Susan Kaderka, director of the National Wildlife Federation's Gulf States Natural Resources Center.

The deal has caused a rift among the groups. Kaderka says her group only supports revenue sharing for a significant portion of the Gulf Coast. Other groups warn that it sets a bad precedent to ever support drilling and it could lead to much more of it.

"Once this happens, it's hard not to make other states expect to get a chunk of the change," says Lisa Speer, director of water and ocean policy at the Natural Resources Defense Council.

Marvin Odum, a Shell Oil executive vice president in charge of exploration in the Americas, is among those hoping other states do decide to join in. As for support from any environmental groups, Odum says, "That would be more voices on the idea that are favorable."

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Court Deals Blow To EPA's Relaxed Rule On Air Emissions (CSM)

By Mark Clayton

The Christian Science Monitor, March 20, 2006

The US Environmental Protection Agency will probably have to go back to the drawing board now that a US appeals court has said aging power plants and other industrial sites must meet the same federal pollution standards as new plants.

Friday's decision represents a repudiation of EPA policy under the Bush administration, which sought to exempt plants that predated the 1970 Clean Air Act from compliance with the tougher air-emission standards. It was cheered by environmentalists - especially those who live and work near such power plants.

One, Lisa Graves Marcucci, a mother and clean-air activist who lives near Pittsburgh, says the ruling gives her hope that EPA investigations of nearby aging power plants, which the agency halted a few years ago, will resume.

"It's a huge victory for people like us because, when we see a ruling like this, it gives us hope that facts and figures and law will dictate a fair outcome rather than pressure from lobbyists," she says.

The ruling, however, is a setback for industries, which may now be required to install expensive new emissions-cutting equipment. It could also initiate endless reviews of their plants, they say.

"Today's decision ... is disappointing," said Scott Segal, director of the Electric Reliability Coordinating Council, in a statement. "What benefit comes from today's decision? Certainly none for the environment."

The ruling could prompt some big utility companies to upgrade pollution controls at the oldest, most polluting power plants, or shut them down.

"The language of the court's decision is very, very strong," says Eric Schaeffer of the Environmental Integrity Project, a New York environmental group. "The EPA's excuses, always pretty thin, have gone away. We now know this rule is going to go forward, and that these guys will have to get permits, and clean up their emissions."

Many older power plants had their sulfur-dioxide and nitrous oxide emission levels "grandfathered," or accommodated, under the Clean Air Act of 1970.

Under the EPA's "new source review" (NSR) rules, these plants weren't required to bolt on costly new air-pollution equipment in the 1970s. But NSR, as interpreted until about five years ago, subjected older plants to the more stringent contemporary pollution standards if their facilities were upgraded at any point and emissions increased.

The utility industry and the EPA under the Bush administration have argued that many plant modifications, including those that previously would have trigged NSR, did not bring about a review - even when higher emission levels were the result.

The US Fourth Circuit Court of Appeals, in Washington, D.C., disagreed with the EPA. "The EPA's interpretation would produce a 'strange' ... result," the judges wrote. "A law intended to limit increases in air pollution would allow sources ... to increase significantly the pollution they emit without government review."

The EPA could appeal the decision to the US Supreme Court.

Since President Bush took office, the EPA has held a looser interpretation of NSR. In 2003 the agency withdrew from scores of NSR investigations and a number of court cases, and refused to press 20 such cases that had been recommended to the Justice Department for prosecution, Mr. Schaeffer says.

The Road To Nowhere (NYT)

The New York Times, March 20, 2006

It seems insane that the National Park Service would even think of spending $600 million on a road that few people want and nobody needs — especially when the service has barely enough money to keep up appearances. But that could happen unless the Interior Department musters the courage to resist Representative Charles Taylor of North Carolina.

Mr. Taylor, who says a new road would stimulate the local economy, runs the subcommittee that controls the Interior Department's budget. For that reason, neither the park service nor Interior's outgoing secretary, Gale Norton, has publicly criticized the idea. But there is more at stake here than pleasing one's paymaster. The road would not only blow a hole in the department's budget; it would also leave a scar on one of the most popular national parks.

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At issue is a 30-mile road proposed for the north side of Fontana Lake on the eastern edge of the Great Smoky Mountains National Park in North Carolina. The road was promised to the residents of Swain County in 1943 when the Tennessee Valley Authority built a major hydroelectric dam, creating the lake and flooding out an existing road. After a fitful start in the 1960's, the road was abandoned for environmental and budgetary reasons.

Those reasons still apply. The road, including three big bridges, each the length of the Brooklyn Bridge, would breach an unbroken tract of national forest, destroy wildlife habitat and poison hundreds of miles of streams. Its estimated cost of $604 million — up 40 percent from only a year ago — is three times the annual roads budget for the entire national park system, which is already suffering from a big repair backlog.

There is no pressing need for the project. Swain County has other roads. The road's opponents include Bill Frist, the Senate majority leader, and Swain County's own commissioners. There is broad agreement that restitution of some sort is due the residents of the region, and that the spirit if not the letter of the original agreement should be honored. A cash settlement of $52 million has been proposed.

As Mr. Taylor has noted, this will not generate the jobs and income that the road project would. But it's fair, and it won't do lasting damage. Interior should endorse the settlement. The department's neutrality serves only to keep alive an idea that makes even less sense now than it did in 1943.

Eastern Law Firms Roll The Dice On Indian Law (LAW)

By Charles Toutant, New Jersey Law Journal

New Jersey Law Journal, March 20, 2006

Native American law, long a well-established practice area west of the Mississippi, is gaining ground at eastern law firms as tribes displaced in the 19th century seek to reclaim ancestral lands -- and make them instantly profitable.

After the successful land-claim settlement by the Mashantucket Pequot Tribe in Connecticut, which led to the opening of Foxwoods Resort Casino in 1992, and the Mohegan Tribe's acquisition of land in nearby Uncasville, Conn., for the Mohegan Sun Casino, other tribes have started bringing land-claim suits, and law firms are lining up to help them.

While tribes' finances are short and the odds of prevailing long, there are still legal fees to be generated. That's because there are casino developers willing to underwrite the tribes' legal costs on the chance that they'll obtain a new site for gaming, say Indian law experts.

"Part of what's going on these days in Indian country is there are certain forces that are trying to unearth potential claims that might be made to re-establish a tribal homeland and ultimately establish a casino," says Robert Odawi Porter, director of the Syracuse University Center for Indigenous Law, Governance and Citizenship.

In cases where land-claim suits are funded by outsiders, the tribe is usually a passive participant in the litigation, says Porter. Such arrangements are permitted under the Indian Gaming Regulatory Act of 1988, which gives states authority to negotiate revenue-sharing agreements with tribal casinos.

"Everything is dictated by the developer -- I call it the 'sit back and take a check approach,'" Porter says.

But the process is arduous. Last June, the Shinnecock Indian Nation of Long Island filed a claim for 3,600 acres in the exclusive Hamptons resort area that it says belonged to its ancestors. The casino plan is opposed by New York's governor and senators, as well as by residents of the Hamptons. The tribe's costs are being underwritten by Michigan casino developers Marian Ilitch and Michael Malik. Ilitch, founder of the Little Caesars pizza chain, owns the Motor City casino in Detroit. She and Malik are also building an Indian casino in Barstow, Calif.

The Shinnecocks' lawyers are from Roseland's Lowenstein Sandler: Kurt Lenz and Nicomedes Herrera, both real estate practitioners, and Richard Ricci, an environmental lawyer. Lenz says he and his colleagues have been instructed not to answer press inquiries. He referred questions to the tribe's public relations consultant, who did not return a call.

NATIONAL FIRMS ON BOARD

Native American law is a well-established practice niche in the West, touching on subjects ranging from mineral and timber rights agreements to treaty enforcement, federal regulation and jurisdictional disputes between tribal security forces and non-Indian police.

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In the East, fewer lawyers have formed Indian-affairs practices because forced emigration of the 1800s has left few tribal groups.

But in 1987, the U.S. Supreme Court ruled, in California v. Cabazon Band of Mission Indians, 480 U.S. 202, that if a state allows any type of gambling for any purpose for any type of organization, a tribe can engage in that type of gambling on its reservations. Since then, with Foxwoods and Mohegan Sun as shining beacons, tribes have come to view casinos as a route to self-sufficiency -- and land claims have proliferated.

That helps explain why national firms such as Dorsey & Whitney of Minneapolis, and Hughes, Hubbard & Reed and Holland & Knight, both of New York, have been building up their Native American practice groups.

Holland & Knight's 23-lawyer group, which includes former U.S. Sen. Ben Nighthorse Campbell of Colorado, is headed by Jerome Levine, who joined the firm in 2000 after running an Indian law boutique in Los Angeles for 20 years. Levine says he moved his practice because his tribal clients required a Washington, D.C., presence and access to real estate and corporate finance experts that his small firm lacked.

Lawyers focused on Indian law are rare in New Jersey, where casino gambling is constitutionally limited to Atlantic City. But an exception is Michael & Carroll, for whom Native American clients constitute 50 percent of its work, says partner Guy Michael. The Atlantic City firm is counsel to the Chitimacha Tribe, which operates a successful casino in Louisiana, and Michael is general counsel to the tribe's gaming commission that his partner, Robert Carroll, chairs. Both Michael and Carroll worked in casino regulation as New Jersey deputy attorneys general and then helped develop Foxwoods in Connecticut.

Michael sees no end to the growth of Indian gaming places. "Everybody says we're going to reach the saturation point," he says, "and then more [Indian casinos] come on line and everybody goes to them."

HIGH HURDLES

Major impediments make it no easy task to win a land claim. Tribes must first have recognition from the federal Bureau of Indian Affairs as a sovereign nation. About 500 groups have earned such recognition, of which about 200 operate casinos, bingo halls or other gambling facilities, according to the National Indian Gaming Association.

But many more tribes lack official recognition, and the path toward such status can require expert analysis of a group's linguistics, culture and religion, says Hershel Kozlov of Wolf Block in Cherry Hill, N.J., who represents some Native American clients in his gaming practice.

Such proceedings are primarily administrative but can be contentious. Porter says that in the East primarily, intermarriage and assimilation make it more difficult to prove tribal integrity.

For example, the Ramapough Mountain People of New York and New Jersey were on the verge of BIA recognition when the Cabazon Band case came down and Foxwoods and Mohegan Sun went up. Atlantic City casino owners, Donald Trump among them, opposed recognition, aware that the Ramapough land was within an hour's drive from New York City. In 1994, the BIA denied recognition, saying the Ramapoughs' uncertain origins negated identity as a distinct community descended from an historic tribe.

Even tribes that have official recognition still have to prove they are the appropriate heirs of those who occupied the seized property. Land-claim cases usually cite violations of the Non-Intercourse Act of 1790, which required that sales of land by Indians to local or state governments had to be ratified by Congress. Many local officials continued to buy land from Indians in violation of that law, Kozlov says.

One such claim of an unauthorized transaction was filed in federal court in Camden in December. The Unalachtigo Band of the Nanticoke Lenni-Lenape Nation says its 3,000-acre homestead in Shamong Township was improperly purchased by Burlington County in 1801.

But the 108-member tribe has yet to find a lawyer. On Jan. 11, it filed a brief with U.S. Magistrate Judge Ann Marie Donio claiming indigence and seeking assigned counsel. In fact, it goes so far as to request Hughes Hubbard, which has brought such cases before.

The tribe has offered to settle its case in exchange for two 1,500-acre parcels of land -- one in Rancocas State Park in Burlington County and the other the Alpine Boy Scout Camp in Bergen County -- on which to build casinos, though the tribe has not held negotiations with casino developers, says tribal chairman James Thomas.

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Burlington County Solicitor Evan Crook said the county would fight the suit and had appointed Anthony Drollas Jr. of Trenton's Capehart & Scatchard as its outside counsel.

An earlier attempt by a tribe to establish an Indian casino in New Jersey fell flat in 1998. The Delaware Tribe of Western Oklahoma, which claims the New Jersey shore as its ancestral home, sought to buy a two-acre parking lot from Wildwood City for a casino. But the tribe pulled out of the project after Attorney General Peter Verniero filed suit to stop the transaction.

HOLDOUTS

Not all Indians embrace the development of casinos. Donald Daines, a land-use lawyer at Hill Wallack in Princeton, represents tribal dissidents pro bono in civil rights disputes.

In 2004, Daines represented an Oneida woman, Danielle Patterson, who was arrested and had her mobile home seized and demolished by tribal police because she refused to let it be inspected, in violation of a reservation ordinance.

At the 2nd U.S. Circuit Court of Appeals, Daines argued that Patterson was persecuted because she opposed a pro-casino tribal administration, but the Northern District of New York dismissed the claim brought under the Indian Civil Rights Act, 25 U.S.C. 1301. The 2nd Circuit affirmed in Shenandoah v. Halbritter, 366 F.3d 89 (2004), and the Supreme Court denied certification.

"There are a lot of casino nations who are disenfranchising and removing those who oppose the casino," Daines says. "What you are seeing when you talk about the area of law related to casinos is the tip of the iceberg in Indian law."

FBI/DEA/ATF/USMS:

Many N.Y. FBI Agents Have Neither E-mail, Internet-ready Phones (NYDN)

New York Daily News, March 20, 2006

NEW YORK _ It seems as if every Manhattan prep schooler has one, but many of New York's FBI agents are fighting crime and terrorists without an Internet-ready phone or even an e-mail account, the New York Daily News has learned.

Mark Mershon, the assistant director in charge of the FBI's 2,000-employee city office, blamed the technology gap on Washington budget constraints.

He said there's a cost attached to assigning an agent or analyst an e-mail address with the official domain name _ ic.fbi.gov.

"And as ridiculous as this might sound, we have real money issues right now, and the government is reluctant to give all agents and analysts dot-gov accounts," he said when asked about the gap at a News editorial board meeting.

"We just don't have the money, and that is an endless stream of complaints that come from the field."

Mershon also revealed that only about 100 agents in New York have BlackBerry devices, which allow users to send and receive e-mail and access the Internet from their phone.

And just a few weeks ago, the New York office was notified that funding for its BlackBerry pilot program _ designed to help the FBI better communicate with city, state and federal law enforcement _ was being cut.

"I, with the help of others, raised a stink," Mershon said, adding that BlackBerry funding has been restored.

Sen. Charles Schumer, D-N.Y., decried the penny-pinching.

"The FBI should have the tools it needs to fight terrorism and crime in the 21st century, most of all in New York City, and one of the most effective means of communications is e-mail and the Internet," he said. "FBI agents not having e-mail or Internet access is much too much a pre-9/11 mentality."

FBI officials in Washington, however, insisted that agents are not at a disadvantage because of cost-cutting.

Spokeswoman Cathy Milhoan said about half the FBI employees don't have official accounts because e-mail addresses are still being assigned.

By the end of the year, the entire bureau should have dot-gov mailboxes, she said.

As for the BlackBerry devices, she conceded funding for the pilot program was put in jeopardy because a lawsuit over the technology had threatened to make the machines obsolete.

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Now that the issue has been resolved, the FBI intends to keep the 100 wireless gadgets in the budget, though there are no plans to issue them to more agents.

Those who don't have them can use their regular cell phones, pagers and secure radios to communicate internally and with other agencies.

"BlackBerrys do cost money," she said. "It's the newest high-tech gadget, but it's not the only way to communicate."

Official: Some New York FBI Agents Don't Have E-mail Accounts (NSDY/AP)

Long Island Newsday, March 20, 2006

NEW YORK (AP) _ Budget constraints are forcing some local FBI agents to operate without e-mail accounts, according to the agency's top official in New York.

"As ridiculous as this might sound, we have real money issues right now, and the government is reluctant to give all agents and analysts dot-gov accounts," Mark Mershon said when asked about the gap at a Daily News editorial board meeting.

"We just don't have the money, and that is an endless stream of complaints that come from the field," he said.

FBI officials in Washington denied that cost-cutting was putting agents at a disadvantage.

Spokeswoman Cathy Milhoan said e-mail addresses are still being assigned, adding that the city bureau's 2,000 employees would all have accounts by the end of the year.

Mershon, the assistant director in charge of the agency's New York City office, also said that 100 city agents have been given Internet-ready phones such as BlackBerry devices.

Sen. Charles Schumer called for better access to technology for agents.

"The FBI should have the tools it needs to fight terrorism and crime in the 21st century, most of all in New York City, and one of the most effective means of communications is e-mail and the Internet," he said. "FBI agents not having e-mail or Internet access is much too much a pre-9/11 mentality."

Internet Untouchable For FBI Agents In City (NYDN)

New York Daily News, March 20, 2006

FBI terror fighters need modern tools

Anyone who watches the TV show "24" might well believe that America's counterterrorism agents are so technologically advanced they can communicate instantly and tap into computers across the world. Well, we're here to tell you that Jack Bauer could never survive in the FBI.

Forget about having the capability to download secret documents and other such fanciful feats; superagent Bauer wouldn't even have a government e-mail account were he assigned to the bureau's New York office, headquarters of the nation's premier anti-terror unit.

You read right. Somewhere up the bean-counting chain of command, someone decided the FBI couldn't afford to give every agent and analyst in the bureau's largest office outside D.C. a <USnew_edit>basic 20th century communication tool like an FBI.gov e-mail address. As for giving them 21st century technology, such as BlackBerrys, fuhgeddaboudit.

This bit of backwardness and misplaced priorities came to light as we chatted with Mark Mershon, the assistant FBI director who runs the New York office, about the bureau's progress in creating information systems after trying and failing twice. Working our way down a technologies checklist, we arrived at what we though was the mundane item of e-mail, only to be stunned.

Establishing state-of-the-art electronic case files will take money and more expertise than we can muster, but you don't have to be a geek to know something is very wrong - and solvable - when field agents are denied modern basics.

To say there's not enough money in a $2.5 trillion federal budget to give FBI agents e-mail addresses is patently absurd. Which is why headquarters now says everyone will have official e-mail by the end of the year. That must happen. Every major employer provides workers with job-related e-mail because it enhances productivity. Agents should be able to distribute business cards that say JohnJones@fbi.gov. Now, they rely on personal accounts, on which no FBI business should take place.

As for BlackBerrys - devices that are both phones and e-mail terminals - only 100 managers and counterterrorism agents have them in the FBI's 2,000-person New York office. And those are part of a field-testing program. Testing? What's to test? Every

business executive in the country has a BlackBerry. Every assistant to every business executive and every law enforcement agency with which the FBI communicates has BlackBerrys. People who want to blow up the Brooklyn Bridge probably have BlackBerrys.

Think this is outrageous? E-mail your congressional representative. Which you can, because Congress has e-mail. And BlackBerrys.

<USnew_edit>Avoid the refund ripoff

As the April 15 tax deadline approaches, financial offices have opened in New York City's poorest neighborhoods, the better to fleece the unwary with overpriced tax-preparation services and high-interest loans that promise "instant money," all quite legally.

There's no reason to swim with the loan sharks. You can avoid predators by calling 311 and asking for the name of a nearby tax preparer who won't charge a penny for the service and who should also explain why instant-money loans are an extremely bad deal.

The lure of that type of loan is that a taxpayer gets refund money right away and repays the debt when the IRS check arrives. Two facts are left out of the picture: first, the loans carry annual interest rates as high as 700%, and, second, you don't have to wait very long for the government check to come.

According to a report by the Neighborhood Economic Development Advocacy Project, a consumer rights organization, more than 300,000 city taxpayers coughed up a total of more than $92 million in tax preparation and loan fees in 2004, paying an average of $276 per filer. More than three-quarters were families earning less than $34,678 a year.

What's worse, most of the people who took out instant-money loans were waiting for payments of the Earned Income Tax Credit, the federal program that gives cash to the working poor. As a result, companies that offer instant-refund loans wound up with millions that were intended for the needy.

Instant refunds are all but unnecessary. Thanks to improved processing, taxpayers whose filings get sent in electronically can expect a refund check in 15 days or less. And more than three dozen banks, credit unions, community organizations and government offices offer free tax preparation. Working families ought to take advantage of this painless way to avoid the annual refund ripoff.

12 Accused Of Making Marijuana-Laced Candy, Soda (LAT)

By Lee Romney, Times Staff Writer

The Los Angeles Times, March 18, 2006

They face cultivation and distribution charges over 'Pot Tarts,' 'Toka-Cola' and others.

SAN FRANCISCO — A dozen Bay Area residents appeared in federal court Friday on marijuana cultivation and distribution charges in connection with a large-scale operation to make pot-laced candy bars and sodas.

The products, bearing such slightly off-brand names as Keef Kat, Toka-Cola, Stoney Ranchers, Trippy peanut butter and Pot Tarts, are packaged to look like the legitimate brands they mimic.

According to an affidavit filed in U.S. District Court here, some of the products — sold under the company name Beyond Bomb — were seized this month at the Compassionate Caregivers medicinal marijuana dispensary in Los Angeles.

They also were being sold at other dispensaries throughout the state, including the Green Grocery Co-Op in Van Nuys, the warrant said.

Though the packaging evokes the irreverent Wacky Pack stickers of years past by mocking trademarked products, federal officials say the psychoactive goods are no joke.

"The packaging is so similar to that of the name brand, it has the potential to fall in the hands of children, with potentially tragic consequences," DEA spokeswoman Casey McEnry said.

Medicinal marijuana use, purchase and cultivation are permitted with limitations under state — but not federal — law.

Federal drug agents identified Kenneth Affolter, 39, of the upscale East Bay community of Lafayette as head of the manufacturing outfit.

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Search warrants served on three East Bay warehouses and Affolter's home turned up hundreds of the candy bars and sodas, as well as $100,000 in cash and more than 4,000 marijuana plants, McEnry said.

Affolter and 11 others identified by officials as Beyond Bomb employees are being held without bail.

Their attorneys could not be located Friday. Bruce Margolin, director of Los Angeles NORML — National Organization for the Reform of Marijuana Laws — called the arrests aggressive and "uncalled for."

"There are a lot of people depending on [marijuana products] for their health and safety and welfare," he said. "What do they want, for them to be buying off the street?"

Despite the large number of plants seized, Margolin said the suspects could have a defense if they operated as a caregivers' cooperative.

Bitter Fight Over Sweet Pot Treats Drug Agents Fear Candies Appeal To Kids -- Medical Marijuana Users Insist They're Legal (SFC)

By Henry K. Lee, Chronicle Staff Writer

San Francisco Chronicle, March 18, 2006

They had colorful labels and names such as Trippy, Stoney Rancher, Toka-Cola, Pot Tart and Budtella.

To federal drug agents, they were dangerous marijuana-laced concoctions that could fall into the hands of children. But to sick patients who rely on cannabis to ease their symptoms, they were just tasty ways to get their medicine -- and legal under California law.

Federal agents who converged on several of what they called "marijuana candy factories" in the East Bay on Thursday seized hundreds of sodas and candies laced with marijuana in what they said was the largest bust of its kind on the West Coast.

Authorities say the drug is illegal no matter what form it takes, especially marijuana candy products that mimic mainstream candies and are attractive to youths.

But angry medical-marijuana patients said Friday that investigators are blowing smoke and that the raids in Oakland and Emeryville on Thursday are just the latest proof that federal investigators are running roughshod over local and state laws that allow for medicinal cannabis use.

In 1996, California voters approved Proposition 215, which allows the use of marijuana for medical purposes with a doctor's recommendation. Despite the law, authorities -- from the California Highway Patrol to the Drug Enforcement Administration -- have pounced on local marijuana-growing operations in the Bay Area, including locations in San Francisco and Sonoma County in December.

The candy-factory raids are the latest crackdown.

"I think the government is once again trying to create terror through our community," said Angel Raich, 40, of Oakland, who uses the drug to treat pain, nausea and seizures associated with a brain tumor and a wasting syndrome. "I do know for a fact that medical-cannabis candy and those kinds of products are in the dispensaries, and patients do use them."

Rick Steeb, 55, of San Jose, who uses marijuana to treat the pain from glaucoma, said he's "never seen (the candy) outside the dispensaries. It's not like they were being sold in convenience stores."

But Special Agent Casey McEnry, spokeswoman for the DEA, the agency that conducted this week's raids, said Friday that marijuana "is a violation of federal law in this form and in the smoked form. Even though there may be claims that these weren't meant for kids, the packaging may suggest otherwise."

The alleged ringleader, Kenneth Affolter, 39, of Lafayette, six other men and five women appeared Friday before U.S. Magistrate Bernard Zimmerman in San Francisco and were ordered held without bail pending a hearing next week.

Affolter, whose nickname is "Kena," operated Beyond Bomb, a manufacturer of the marijuana treats, from adjoining warehouses at 1055 and 1071 Yerba Buena Ave. and 3960 Adeline St. in Emeryville, DEA Special Agent William Armstrong wrote in an affidavit unsealed Friday.

Investigators learned that a $3,913 PG&E balance for a month's period covered all three locations and was billed to Affolter, Armstrong wrote.

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Affolter is listed as president of Clear Soap, which is under suspension for failing to pay state taxes, DEA Special Agent Jason Chin wrote in an affidavit. Affolter told Oakland police officers who responded to a silent alarm at one of the Yerba Buena warehouses last month that "he made soaps and candles," agents wrote.

Marijuana candies have been around for at least five years, cannabis users say. But raids of these products only began recently.

In May, police seized Beyond Bomb products from Compassionate Caregivers, a medical-marijuana dispensary in Los Angeles. In July, DEA agents seized Beyond Bomb candies from a San Lorenzo home.

Oakland's Compassionate Caregivers Club at 1740 Telegraph Ave., which Affolter used as a marijuana-cultivation site, was also searched as part of this week's raids, which netted up to 5,000 marijuana plants and $150,000 in cash, authorities said.

At the Telegraph Avenue site, agents found more than 100 marijuana plants, authorities said. Growers there wore identical gray, short-sleeve collared shirts and white lab coats, Armstrong wrote.

Employees also meticulously tracked their work hours on time cards, affidavits said.

Affolter's attorney, Robert Byers of Oakland, said Friday that it was unfair for authorities to claim that children could end up eating Beyond Bomb's creations.

"They know it's not marketed for kids," Byers said. "They're only seen in the context of people who use medical marijuana. A sweet, nice-tasting product is certainly going to benefit them."

Raided Pot 'Edibles' Trouble Advocates (CCT)

By John Simerman

The Contra Costa Times, March 18, 2006

A day after federal agents seized thousands of marijuana plants and a booty of pot-laced candy and soda pop in raids on warehouses in Emeryville and Oakland, local medical cannabis advocates reacted coolly -- bitter at another federal plunder on a substance the state deems legal for the sick, but leery of an operation that packaged its products to mimic popular brands of sweets.

The raids on a business called Beyond Bomb netted some 10,000 rooted plants, thousands of tiny plant "clones," as well as boxes of candy and soda with take-off names such as "Pot Tarts," "Toka-Cola," "Stoney Rancher" and "Munchy Way," with labels to match.

Agents also raided the Lafayette home of Kenneth Dean Affolter, 39, who they say ran the business. He and 11 others were taken into custody and charged with of distributing marijuana.

Authorities say they believe the snacks and soda were headed to pot dispensaries and cooperatives across the Bay Area and California, said Special Agent Casey McEnry, a spokeswoman for the federal Drug Enforcement Administration.

"We don't have any information that these products did ultimately end up in the hands of minors, but that doesn't mean it didn't happen," she said. "They look so similar to the real products, it would almost suggest ... that's the way it looks."

Medicinal marijuana advocates pointed to state law and said it was doubtful the THC-laden snacks and soda were aimed at children.

"There's actually a lot of product like that, and dispensaries are the places they can be had. They're the only places that marijuana is retailed in California," said Dale Gieringer, California coordinator for the National Organization for the Reform of Marijuana Laws, or NORML.

"They're usually five bucks, three bucks, about like a joint. They're good. A lot of them are very professionally made."

For patients who have trouble smoking, or for whom doctors are concerned about them smoking, "edibles" are the age-old alternative. Droplets and sprays are other options, advocates say.

Gary Ainsworth, who suffers chronic pain, said he likes the taste and medicinal quality of the company's sodas, with names such as "Puffsi" and "Joint," after Pepsi and Jolt. He bought some at an Oakland dispensary but said he doesn't drink it much because of the cost and the long drive from his home in Clovis.

"It works real well for the medication part. But I think it was like $12 for an 8-ounce bottle," he said.

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Still, "I'm not hip with the idea of using Jolly Ranchers and (candy) names like that," said Ainsworth. "I think it should be packaged as medicine. If a patient were to have that laying out, somebody might think it's something else -- like, 'have a lollipop.' "

Jeff Jones, executive director of the Oakland Cannabis Buyers' Cooperative, said he has the same concerns over confusion, and another one: that one of the raided warehouses was in an area near homes and schools. Jones favors regulating the suppliers like other businesses.

"If there were permits, they would not have been allowed to be in the neighborhood," said Jones. "That's what this calls for, in my mind. Businesses this big need regulations."

The four warehouses -- three in Emeryville, one in Oakland -- each had sophisticated growing equipment and "looked like they had been in operation for quite some time," said McEnry. The workers all wore gray collared work shorts, and white lab coats were found there, according to agents and the criminal complaint released Friday.

Authorities also found more than $150,000 in cash.

It was the second federal raid in a week on a California medical marijuana supplier, after a raid Tuesday of a Desert Hot Springs farmer who supplied a dispensary in Palm Desert. Federal authorities have been emboldened by a U.S. Supreme Court ruling last summer, in a case against an Oakland woman, that they can prosecute patients who keep and grow marijuana in states that allow it for medical use.

The conflict between state and federal law "means that if you are growing large quantities of marijuana for medical use, you're always going to be a target for the federal government, and the piece of the puzzle that's taking the most risk," said Camilla Norman Field, deputy director of the Drug Policy Alliance in San Francisco.

Under pressure from the federal clash, state lawmakers have tried to clarify the guidelines for medical marijuana and Proposition 215, the medical marijuana law passed in 1996 by 56 percent of California voters.

A 2004 law established a voluntary ID system, recognized the right for patient and caregiver collectives to cultivate pot, and set out restrictions for how much pot patients could keep: up to six mature or 12 immature plants and up to a half-pound of dried, processed marijuana.

The law, however, did not authorize "any individual or group to cultivate or distribute marijuana for profit." The extent to which Affolter may have profited from Beyond Bomb was unclear Friday. Luke Macaulay, a spokesman for the U.S. Attorney's Office, declined to comment.

One medical marijuana advocate said it appeared the operation was professional, concerned with the quality and cleanliness of the product, and "most likely doing this with the best intentions of it being medical."

Still, Caren Woodson, campaign director of Americans for Safe Access, acknowledged that the packaging is somewhat hard to defend.

"But that is part of waging the debate around medical cannabis, trying to figure out what works with the public and what doesn't work," she said.

"Unfortunately, yes, the names are kid-friendly. But who's to say medical cannabis patients can't have fun, too? It's not just kids who eat Milky Ways."

27,800 Bags Of Heroin; Eight Arrests (HRE)

By Tom Jennemann

Hoboken (NJ) Reporter, March 19, 2006

Hudson County Prosecutor Edward DeFazio and the Hoboken Police Department have arrested eight Hudson County residents for running a major heroin ring.

According to Prosecutor Edward DeFazio, the arrests were the result of a six-month investigation by the Hudson County Prosecutor's Office Municipal Task Force, Hoboken Police Department, and the Drug Enforcement Administration.

The individuals arrested were allegedly part of a major organization that supplied heroin throughout the Hudson County area. Detectives also seized a number of high-end customized luxury vehicles with secret compartments allegedly used by members of this organization to hide and transport the heroin.

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According to DeFazio, detectives executed search warrants at various locations in Hudson County, including 406 3rd St., Union City, and 4525 Kennedy Blvd., North Bergen. Detectives also searched several vehicles.

The searches resulted in the recovery of 22,000 bags of heroin from "a sophisticated hidden compartment" in a Ford Explorer.

DeFazio added that police also recovered four loaded semi-automatic handguns and 5,000 bags of heroin from a hidden compartment in a Lincoln Navigator. The guns recovered were two Highpoint .9mm handguns, one .45 caliber Ruger, and one .40 caliber Glock, which was reported stolen.

Also, 811 bags of heroin were recovered from the Lumina. A bulletproof vest was found in the Range Rover. DeFazio said police seized a total of more than 27,800 bags of heroin with a street value of over $250,000. Detectives believe the organization was trafficking 15,000 to 20,000 bags of heroin per week.

DeFazio said that those arrested "represented high- and mid-level distributors, suppliers and supervisory level participants. As such, they face potential state prison sentences ranging from a minimum of five years to a maximum of life imprisonment in the case of those charged with leader crimes."

DeFazio said that the U.S. Attorney's office of New York will prosecute the case because they believe it might lead to a large source of heroin in New York City. He also said that he expects more arrests in this case and that several of those arrests will be local.

Arrested individuals

The following is a list of individuals who were arrested and their respective charges and bails:

* Jose "Nutty" Gonzalez, 24, of Union City. He was charged as leader of Narcotics Trafficking Network; Possession with Intent to Distribute Heroin (2 counts); Possession with Intent to Distribute Heroin while within 1,000 feet of school property (two counts); Conspiracy to Distribute Heroin in an aggregate quantity of five ounces or more; Unlawful Possession of a Handgun; Certain Person not to have a Weapon; and Possession of a Firearm during a CDS Offense. His bail was set at $1 million.

* Rory Praylow, 27, of Hoboken. He was charged as leader of a of Narcotics Trafficking Network; Possession with Intent to Distribute Heroin; Possession with Intent to Distribute Heroin while within 1,000 feet of school property; Unlawful Possession of a Handgun; and Possession of a Firearm during a CDS Offense. His bail was set at $1 million.

* Manuel "Murder" Suarez, 30, of Jersey City. He was charged as a "Leader of Narcotics Trafficking Network"; Possession with Intent to Distribute Heroin (two counts); Possession with Intent to Distribute Heroin while within 1,000 feet of school property (two counts); Conspiracy to Distribute Heroin in an aggregate quantity of five ounces or more; Unlawful Possession of a Handgun; Certain Person not to have a Weapon; and Possession of a Firearm during a CDS Offense. His bail was set at $1 million.

* Philip Anthony "Spud" Pasquale, 21, of Hoboken. He was charged with Possession with Intent to Distribute Heroin; Possession with Intent to Distribute Heroin while within 1,000 feet of school property; Possession with Intent to Distribute Heroin while within 500 feet of a public park; and Conspiracy to Distribute Heroin in an aggregate quantity of five ounces or more. His bail was set at $500,000.

* Jason "Jay" Santos, 24, of Jersey City. He was charged with Possession with Intent to Distribute Heroin; Possession with Intent to Distribute Heroin while within 1,000 feet of school property; Conspiracy to Distribute Heroin in an aggregate quantity of five ounces or more; Unlawful Possession of a Handgun; and Possession of a Firearm during a CDS Offense. His bail was set at $1 million.

* Alexander Gonzalez, 20, of Jersey City, He was charged with Possession with Intent to Distribute Heroin; Possession with Intent to Distribute Heroin while within 1,000 feet of school property; Conspiracy to Distribute Heroin in an aggregate quantity of five ounces or more; Unlawful Possession of a Handgun; and Possession of a Firearm during a CDS Offense. His bail was set at $100,000. * Mary J. Gama, 26, of Union City was charged with Conspiracy to Distribute Heroin in an aggregate quantity of five ounces or more. Her bail was set at $100,000.

* Darryl L. Oliver, 34, of Hoboken was charged with Possession of Marijuana. His bail was set at $5,000.

Lawyer Criticizes D.E.A. On Death Threat Response (NYT)

By Julia C. Mead

DOJ_NMG_0018535

The New York Times, March 20, 2006

Thomas Liotti has been branded a big mouth for his self-promotion and propensity to tongue-lash prosecutors, police officers and even judges. He shrugs off the criticism, calling it a byproduct of being a lawyer who defends some of the most dangerous criminals to pass through any of New York's downstate courtrooms.

Mr. Liotti has defended clients on death row, others who murdered their previous lawyers and major drug traffickers with connections to Colombian drug lords.

"It's all part of a day's work," Mr. Liotti, of Garden City, N.Y., said in his characteristic boom.

But even a self-described tough guy like Mr. Liotti gets scared.

In a press release on Wednesday in which he bragged about the toughness of his clients — one, he said, was involved in a courthouse shootout; another waved a gun at him and boasted he was a contract killer — he also criticized the federal Drug Enforcement Agency for what he called its lukewarm response to a death threat against lawyers who defend Colombian drug traffickers.

"I want the U.S. government to realize that they have a responsibility to protect everyone, even criminal defense lawyers," he said. "There's not much I can do. I can't hide. I'm a person with a family."

Asked whether he took the threat — certainly not his first — seriously enough to be frightened, he said, "Yeah, absolutely."

Robert Nardoza, a spokesman for the United States attorney's office, said, "We do take these cases very seriously."

He added, however, that as a matter of policy he could not confirm that any investigation was under way.

The threat was contained in an anonymous letter that came to light in Colombia in November, naming 22 lawyers, 7 in New York and 15 in Colombia. Among other things, it said any American lawyer found in Colombia would be "captured and executed." Soon after, a memo thought to have come from inside a prison in Cómbita, Colombia, began circulating among lawyers. It rated the performance of about 30 in New York, New Jersey and Miami who had represented accused drug dealers.

"I think I won the prize for the most derogatory evaluation," said Mr. Liotti, a former president of the New York State Association of Criminal Defense Lawyers. Next to his name, it said, "Incompetente, Desleal, Mentiroso, Traidor, Sin Excrupulos" — incompetent, disloyal, liar, traitor, without scruples.

Tipped off to the threat by a colleague, Mr. Liotti wrote to the enforcement agency in early February to demand an investigation. The Feb. 28 response from Jodi L. Avergun, the agency's chief of staff, said the agency had taken the threat seriously and immediately referred the matter to the United States attorney's office in Brooklyn for investigation.

Lawrence M. Herrmann, a lawyer in Jackson Heights, Queens, who was named in the death threat, said he had clients awaiting extradition from the Cómbita prison but was afraid to visit them. "I spoke with three D.E.A. agents I know in Bogotá; two said it was nothing, the third told me to be careful," he said.

Like others on the list, Mr. Liotti said he had represented some clients who became informers rather than face a long prison term and others who refused to testify for the prosecution.

"Who knows why this threat was made?" Mr. Liotti said. "There are just rumors out there, and you never know what the plots and subplots are. It's like fighting ghosts."

Detroit Dealers Invade West Virginia Town (PPG)

By Milan Simonich, Pittsburgh Post-gazette

Pittsburgh Post-Gazette, March 19, 2006

The 'Hillbilly Highway' from Motor City now carries crack and crime, not jobs

HUNTINGTON, W.Va. -- They still talk about "the Hillbilly Highway," a route that led from poverty in Appalachia to jobs in the auto plants of Detroit.

Connections between Detroit and rural America remain strong, but nobody romanticizes about them anymore. Detroit doesn't export cars the way it used to. Instead, say police across the region, it turns out drug dealers who travel hundreds of miles to enrich themselves in smaller towns.

In Huntington, detectives keep a running list of the Detroit crack dealers they have arrested. It contains more than 250 names but accounts for only a portion of those who have infiltrated the city of 50,000 in the past three years.

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"Those are just the adults that we've caught. There are more. Lots more," said narcotics Detective Paul Hunter.

Law officers in Pennsylvania, Ohio, Kentucky and West Virginia all have stories about the Detroit drug pipeline, but no town has been hit harder than Huntington.

It was here that gunmen killed four teenagers one day last year, leaving their bodies scattered on a sidewalk, a driveway and the front yard of a house. Huntington police have not arrested anybody in the case, but they have a theory.

"We believe, obviously, that there's a Detroit connection. We haven't seen anything to change our minds," Capt. Steve Hall said last week.

These days, just about every drug arrest in Huntington produces suspects from Detroit. The quadruple homicide is a variation of that pattern, Capt. Hall says.

Detectives believe the shooters targeted Donte Ward, 19, because he supposedly stole from a woman connected to Detroit drug dealers. The triggermen, determined not to leave any witnesses, also killed the three people who happened to be with Mr. Ward.

Two of them, Michael Dillon, 17, and Megan Poston, 16, had gone together to their high school prom that night.

"I can still see the corsage falling off Megan's wrist," Capt. Hall said. "That will stick with me forever."

Ten months have passed since the shootings, which also took the life of 18-year-old Eddrick Clark. Capt. Hall said three detectives continue to work the investigation in between other cases.

Huntington Mayor David Felinton said the crime changed Huntington.

"The killings were our 9/11," he said. "We're no longer the same place as a result of what happened. We're not as safe."

The mayor meets occasionally with the victims' families, sharing information about the investigation's two fronts, one at home, the other in Detroit.

But the scourge of crack cocaine makes it impossible to update everyone. Police had Mr. Ward's mother, Tina, in jail last week on drug-possession charges.

The invasion of Detroit drug dealers coincided with the layoff of police in Huntington to balance the budget. Sixteen of 91 officers were let go in 2002.

Given its size, Huntington should have 120 to 130 police officers, Mr. Felinton said. Today, the police force has been built back up to 88, though not everybody is working. Some officers are on military leave.

Narcotics officers say Detroit dealers control most of the 30 or so crack houses in Huntington. But Detective Hunter said they are shrewd enough to keep their names off deeds and leases.

With less competition in smaller cities than in Detroit, the dealers can sell crack at inflated prices. They call Huntington "Moneyton." Nearby Ashland, Ky., is "Cashland."

To fight the drug incursion, Mr. Felinton said, he hopes to add 10 police officers and two code enforcement officers to the city payroll this year.

The code enforcement officers would help police close down crack houses after raids. Sgt. J.T. Combs, who heads the narcotics unit, says he has been frustrated by the city's lack of diligence in boarding up drug dens.

Mr. Felinton says the problem is money. Huntington has only one code officer on staff. He says police will get more help if he is able to add the extra positions in the next budget.

Beefing up the police department has become a more popular idea since the quadruple homicide and a separate drive-by shooting in an affluent neighborhood.

Mr. Felinton said he thinks the quadruple murder will be solved. Capt. Hall is less confident.

"I'm not real hopeful," he said. "But we're not giving up."

For police in smaller towns, fighting the Detroit connection can be daunting, even on seemingly routine cases.

Capt. Hall said his officers have arrested Detroit residents on felony drug warrants, only to have police or prosecutors in Michigan decline to extradite them, possibly for financial reasons. Huntington is 340 miles from Detroit, so a trip to pick up a prisoner may mean lodging and food expenses, plus two days' wages.

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Thomas Sansone, police chief of New Castle, Lawrence County, had the same problem with Detroit drug dealers caught in his town. He said Detroit authorities declined to extradite certain prisoners that New Castle officers arrested on felony drug warrants. Chief Sansone then had no choice but to release them.

This emboldened the suspects, he said. Instead of hiding from New Castle police, the accused drug peddlers suddenly felt comfortable.

Police in Steubenville, Ohio, have a different frustration in dealing with Detroit suspects. They say that because of the large number of cases in overburdened Detroit and Wayne County, Mich., courts, some criminals can avoid serious punishment, then move to smaller towns.

They point to the case of Ramone Barnett. He served six months in jail for a 2003 shooting in Detroit, said Steubenville narcotics Detective Jon Sowers. After Mr. Barnett, 34, went free, he headed for Steubenville and restarted a crack-dealing business, Detective Sowers said.

Steubenville police arrested him last month, alleging that he had a dozen individually wrapped packages of crack cocaine, each weighing 3 grams.

Because of his criminal record, Mr. Barnett also was charged with illegally possessing a firearm. Police say they found him carrying a 9 mm handgun, which had been reported stolen in a Weirton, W.Va., break-in.

Steubenville, an easy drive from parts of Pennsylvania and West Virginia, is the type of smaller border town that Detroit dealers often target.

Two Detroit gangs that took over crack-dealing operations in New Castle eventually expanded to Beaver Falls and Farrell in Mercer County, said Pennsylvania Attorney General Tom Corbett. Local and state law officers eventually pooled their resources to raid the gangs' crack houses and issue arrest warrants for 28 of their members, including both leaders.

In Huntington, police say, there are no Detroit gangs but there are countless Detroit drug dealers.

"You put one in jail and there are two to take their place," Capt. Hall said.

He has about four years until retirement and one last hope -- seeing the quadruple murder case solved.

Mr. Felinton said hiring more officers and stepping up day-to-day drug enforcement may give police the lead they need.

People in the drug world know who committed the killings, the mayor said, but they are not inclined to talk, unless they are arrested and facing charges themselves.

High Crimes, Or A Tokin' Figure? (WP)

By Doug Struck

The Washington Post, March 18, 2006

Canadians Find the 'Prince of Pot' Harmless. The DEA Begs to Differ.

VANCOUVER

Sweet marijuana smoke tumbles down the steps from "the Vapor Lounge," a corner of Marc Emery's bookstore where customers toke up at will.

"We get high with everybody," Emery says, shrugging. "This is a pilgrimage spot, and people come here from all over the world. We get high."

Illegal? Yes.

So were the seeds he used to keep in a case in the store, with exotic names like Afghan Dream and Chemo Grizzly. So was the booming business he ran, complete with glossy seed catalogues describing the subtle and sublime nuances of his varieties. ("Nebula: Fruity flavor and scent. Transcendental buzz. Harvest outdoor.") So, for that matter, are the other marijuana businesses that have sprouted up in the block around his Vancouver bookstore. The street is nicknamed "Vansterdam," with pot-hazy cafes, headshops filled with pipes and bongs, and neon signs advertising illegal seed sales.

Until recently, nobody much cared, it seemed. The police hadn't bothered to come around for eight years. Before that, they busted Emery for seed sales and raided him four times. But he just got fined -- once with "a nice speech from the judge saying what a nice person I was and how marijuana probably shouldn't be illegal," Emery says -- and the police stopped trying.

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In truth, Emery hated being ignored. He tried to stir up notoriety. Every year, he filled out his income taxes listing his occupation as "Marijuana Seed Vendor," paying heftily and honestly, he says, on his multimillion-dollar business. The Canadian Revenue Service never questioned him.

He told the Canada post office he was getting and sending his seeds through the mail. They never stopped delivery. He started the B.C. Marijuana Party, fielded 79 candidates in 2001, and ran repeatedly for local and federal offices. He never won.

He broadcast "Pot-TV" on the Internet, entertained politicians, and openly funded marches, lawsuits and marijuana-legalization drives from Arizona to Israel to Washington, D.C.

When it was too quiet at home, he would go somewhere to rattle up a pro-pot demonstration. He would light up a fat joint in front of a police station, daring the cops to arrest him.

Twenty-one times they did. Usually he got off, or was released after a night in jail, or fined. His longest stretch was 61 days in jail in 2004, ordered by a Saskatoon judge clearly irked at Emery's in-your-face apologia. No big deal, Emery says. He read the Bible behind bars.

Then came the DEA.

Emery figured something was up when a strange young woman pestered him to buy 10 pounds of pot. He refused. She bought some seeds at his store, asked for tips about how to hide them to go to the States, and left.

Eight days later, U.S. Drug Enforcement Administration agents and Vancouver police tromped into his store, ordered the customers out, taped paper over the windows and began hauling out computers and files. Emery, on the other side of Canada to speak near Halifax at the Atlantic Hemp Festival, was grabbed by six plainclothes policemen as he left a restaurant.

Emery is "one of the attorney general's most wanted international drug trafficking targets," the DEA in Washington crowed on July 29, 2005, announcing an extradition request for Emery and two employees. Emery's bust, the DEA said, was "a significant blow not only to the marijuana trafficking trade but also to the marijuana legalization movement."

And he thought trying to change the law was legal, Emery muses.

So did lots of other Canadians, it turned out. Emery's arrest for extradition on U.S. "drug kingpin" charges, carrying a minimum sentence of 10 years to life in prison, outraged many in Canada. They resented the long reach of America's law and what they saw as the United States' fevered preoccupation with pot.

"They need to leave our country alone," complained a letter to the editor in the London (Ontario) Free Press. "If we wanted to prosecute Emery we would, but it is not worth our time and money."

"Marc's business was known to police and every level of government," intoned a columnist in the Vancouver Province. To arrest him now "is petty and dishonest."

Todd Greenberg, the assistant U.S. attorney handling the case in Seattle, says Canada's apparent tolerance of Emery's seed business does not make the U.S. bid to prosecute him unfair.

"What Canada does or does not do is not particularly relevant to us," he says. "We are prosecuting him for what he did in our country -- distributing millions and millions of marijuana seeds in the United States. When someone does that, the United States has the obligation to enforce our laws whether that person is physically located here or overseas."

Greenberg says the charges brought by a federal grand jury followed an 18-month investigation in which DEA agents repeatedly found Marc Emery's seeds at the root of illegal marijuana "grow ops." He insists Emery's legalization campaigns did not affect the charges.

That sounds hollow to Bruce Mirken, a spokesman for the Washington-based Marijuana Policy Project that Emery says he helped finance (contributors are confidential, the organization says). The DEA's public boast to have dealt a blow to "the legalization movement" showed its hand, Mirken says.

"This is a democracy. We are supposed to be able to talk about whether our laws make any sense.

"Year after year they roll out ad campaigns that attempt to demonize marijuana," Mirken notes. "They consider it the number one drug threat in America. That always struck us as bizarre."

If the DEA tries to demonize marijuana, Emery runs a multimedia juggernaut to sanctify it. In addition to his irreverent Internet site, his Cannabis Culture magazine comes out every other month, a slick magazine chockablock with advertisements by

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seed vendors and hydroponics suppliers, articles on growing lush and potent plants, and even a "pot puzzler" crossword. He says he distributes 75,000 copies.

Emery's bookstore is a cheerful dispensary for books and magazines on marijuana, bongs and pipes of every conceivable design, T-shirts, pot cookbooks, grinders, vaporizers, mushroom spores, and hemp clothing.

And then there is Emery himself. At 48, he looks more like a Young Republican than a stoner who calls himself the Prince of Pot. As often as not, he is in a coat and tie, with neatly combed hair, an earnest expression, with a good sound bite for the TV. He has been a soccer coach and a foster parent. Married, divorced and soon to remarry -- to Jodie Giesz-Ramsay, 21, who transcribed his jailhouse musings and now helps edit his magazine.

He talks with a machine-gun style unmellowed by his admitted custom of a daily joint or two. He compares himself to Martin Luther King and Mahatma Gandhi. He had to apologize last year for calling a federal minister a "Nazi," and he won no PR points when he spat on a policeman during a 2000 arrest of one of his employees.

Emery's life is the limelight. For 17 years, he ran a used-book store in Ontario, and publicly challenged a business fee, his town's bid for the 1991 Pan American Games, its Sunday shopping laws and pornography laws. In 1990 he flouted the prohibition against selling High Times magazine, then banned as "illicit drug literature." He helped win that battle, getting the law overturned, and found his calling in the marijuana movement.

He wound up in British Columbia, a tolerant corner of a tolerant country. The official statistics agency of Canada says 45 percent of Canadians over age 15 have used marijuana. Possession and use is legal for medical purposes, and the former Liberal government tried to make possession of pot a matter of a small fine.

The legislation did not pass, but the laws on marijuana and sales of seeds are often overlooked. Until his arrest in July, Emery says only two people had ever been prosecuted for selling seeds, and both had simply been fined.

So Emery sold and sold. He accepted seed orders of the 534 varieties listed in his catalogue or on the Internet only with money orders that could not be easily traced. He got and sent seeds through the Canadian Postal Service, and then destroyed the records, he says.

"I sold millions of seeds proudly to people all over the world," and perhaps 70 percent of them were mailed to the United States, he concedes. "Everything the DEA said is correct -- except I don't buy the charge that I'm poisoning children of America."

Emery says he did it all for the movement, not for profit. He claims to have funneled more than $3 million to marches, candidates, lawsuits and ballot drives over a decade. He says he paid taxes and kept very little. He lives modestly in his fiancee's apartment. He doesn't own a car or a house, investments or fancy jewelry, he says.

Emery will get a judicial hearing in Canada later this year. The Canadian justice minister in the new conservative government could block the extradition, but he is a tough-talking former prosecutor and Emery acknowledges his chances are "slim odds indeed."

"In the U.S, I have every confidence I would get a minimum of 30 years," Emery says in an interview in the basement of his bookstore. "I'll get a longer sentence than I'd get in Canada for multiple murder, for something no one in Canada has ever gone to jail for."

Here is the twist: Emery welcomes it. Almost.

"I'm interested in whatever would legalize pot fastest," he says. "Part of me believes that going to jail will accelerate that process. And part of me believes that if I die in jail it will accelerate it even faster."

That is as much for Emery's devotion to the spotlight as devotion to the cause, he concedes.

"I'm very interested to see what happens to me, because I think I am a person of destiny," he says, with no trace of modesty. "I haven't been fearful since the moment I was arrested. I just felt my time has finally come. . . .

"I've already got this grand-scale epic going in my head. I am out to destroy the DEA and defeat them. And they are out to destroy me."

(SLPD)

By Philip Dine

St. Louis Post-Dispatch, March 18, 2006

DOJ_NMG_0018540

For now, the cabbage-green rows of small poppies in the furrowed squares of land resemble any variety of legitimate crops. In a few months, these plants will stand out as a tall sea of crimson.

Viewed from the window of a low-flying helicopter, new poppy fields come into view every few seconds, spread around a desolate landscape virtually unchanged for centuries in this remote part of Afghanistan. The houses are small, isolated and fashioned from mud, some with mud walls around them. There is no sign of mosques or schools, hospitals or stores.

This is the epicenter of poppy cultivation in Afghanistan. The nation's crop provides 87 percent of the world's opium, from which heroin is produced, according to the United Nations. Early indications are that Helmand, a province deep in southern Afghanistan bordering Pakistan, will produce half the world's supply of opium this year.

The poppies are invaluable cash crops to farmers seeking to sustain their families, but dangerous to a young Afghan democracy. An unholy alliance is emerging among farmers, drug lords, Taliban remnants and al-Qaida fighters. Intelligence sources and Afghan officials cite mounting evidence that insurgents are using drugs to wreak havoc on Afghan society - including the corrupting of public officials - while also extracting funds from drug profits for their anti-government violence.

The resulting tension was in evidence on a recent tour of the area by two U.S. gunships. The helicopters landed in a poppy field to give State Department officials and a reporter a chance to look around - for two minutes - encircled by guards with automatic weapons. The guards worry about violence, either from farmers who think their crop is threatened, or from insurgents protecting the poppy fields.

"You can get on the ground, but that's when you're the most vulnerable," warned Ed Morris, lead pilot in the U.S. military detachment providing protective cover for joint Afghanistan-American drug-eradication efforts in this area.

Drugs are already the nation's sole export of any magnitude, and threaten to turn it into a "narco-state," a country whose policies and politics are dominated by drug lords.

"The concern is that this government will fail and fall and the country will be a breeding ground for terrorists again," says Doug Wankel, director of the Counter Narcotics Task Force at the U.S. Embassy in Afghanistan. Former chief of operations for the Drug Enforcement Administration, he is a native of Bowling Green, Mo.

Poisoning "infidels"

There is also a little-noted bonus for al-Qaida in the burgeoning heroin production. Afghan sources say the terrorist group has acknowledged in private sessions its satisfaction that expanding heroin use is poisoning "infidels" in other countries. One example is a skyrocketing rate of AIDS, sparked by dirty needles, in Russia and former Soviet republics.

Kahir Ismailee of Kabul has worked for years with international groups on health, education and human rights issues in rural areas where anti-Western sentiment is strong.

He says that in the terrorists' "jihad against all Westerners, one of their tactics to ruin a society was to make them addicts, so they export heroin to the Western countries."

Ismailee says an influential Taliban cleric told him: "Drugs are illegal in Islam, but we want infidels to die."

Mohammad Nabi Hussaini directs the poppy eradication program in the Afghan Ministry of Counter Narcotics. It's dangerous work; when traveling around the country, he wears a turban to disguise himself.

"They say this, if you go to their gatherings, their religious gatherings: 'Western countries, they are sending us alcohol, they are sending us rockets - this is our rocket, poppy. This is how we can fight them,' " Hussaini says. "But they are also fighting their own people, because it brings the moral degradation of our society. It is against Islam."

And, he noted, more Afghans are becoming addicted to heroin or opium.

"It's not true that it's not our problem. It's becoming our problem," he says. "The rate of addiction will increase, I think, very badly. I believe it is something that is destroying our nation. My village has 120 families. When I was a kid, there was only one person who was taking raw opium, who was an addict. Right now in my village there are more than 12 very hard addicts."

Afghan President Hamid Karzai has put it bluntly: "If we don't destroy the poppy, it will destroy us."

The last two years have been the biggest in history for opium production in Afghanistan, each topping 4,000 tons of opium, and this year looms as a third banner year. Hoping to avert another flooding of the heroin market, Afghan forces and their allies, particularly the United States, are responding strongly - if belatedly - to the threat.

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Eradication is one element in a multipronged response to the mounting drug problem, an effort that also includes a range of educational, economic and legal approaches. The point man for the U.S. State Department is St. Louis native Tom Schweich, a top official for international narcotics and law enforcement who seeks to coordinate actions among Americans, Afghans and their international partners.

"The reason we went into Afghanistan was to eliminate the people who were responsible for 9/11," Schweich says. "There's now a nascent democracy here. The threats that are posed to this democracy are narcotics and terrorism. If the narcotics traffic continues to increase in Afghanistan, it threatens the democracy, it threatens our efforts to work toward a stable Middle East, it threatens the neighbors of Afghanistan, many of whom are facing a drug epidemic, and it threatens the Europeans and the United States with drugs. It really does have implications across the entire world."

The Taliban and the poppy

In some ways, the proliferation of poppy is an unintended consequence of the U.S. overthrow of the Taliban in 2001.

In earlier years, the Taliban had been content to allow the production of opium, even urging farmers to continue in defiance of the desire of the West that poppy cultivation cease - and often profiting from drug trafficking.

"The Taliban told people this was a fight against Muslims, that you should grow poppy. Even if you have no land, you should use your roof," says Asadullah Khalid, governor of Kandahar province.

But the Taliban abruptly switched gears at the start of this decade, as it faced growing international pressure to moderate its rule. Hoping to win diplomatic recognition from the West, the Taliban knew it had to make some concessions, and yielding on narcotics was the most palatable choice, Ismailee says.

In its last years in power, the Taliban clamped down on the drug trade in an effective but brutal way.

"There were executions without any transparent trials, hands were cut off, legs were severed," Ismailee says. By 2001, the extremist government had reduced the opium production to virtually nothing.

The U.S.-led removal of the Taliban removed the fear ordinary Afghans felt, spurring many to get back into poppy farming.

In addition, American and Afghan policies initially contributed to the growth of the narcotics problem. U.S. forces enlisted the support of warlords in the fight against the Taliban, turning a blind eye to their drug trafficking. After he assumed office, Karzai - hoping to solidify his hold on the country - brought some compromised provincial figures into his government.

Now, insurgents trying to weaken the U.S.-backed government find it advantageous to forge alliances with drug traffickers and encourage farmers to grow poppy - telling them "whenever the government tries to eradicate, the Taliban will be there to protect you," Ismailee says.

Insurgents also have issued warnings that those who stop growing poppy will be seen as "siding" with the government. It is no coincidence, officials say, that the areas where anti-government rebels are strongest are the same places where poppy production is at its highest.

Corruption, poverty, porous borders

Other factors have helped worsen the drug problem in Afghanistan.

Corruption, bribery and the quick release from jail of suspected drug traffickers.

Widespread poverty, which forces farmers to seek any possible means to support their families. Other crops pay a fraction of what poppies yield. And many traditional Afghanistan crops, such as fruits and nuts, were uprooted when Soviet troops destroyed trees to prevent guerrillas from hiding.

The return of Afghan refugees who had fled to Pakistan to escape Taliban rule. Some went into poppy farming on their own; others were compelled by landowners who made it a condition of their getting a parcel of land as tenant farmers.

Abysmal roads. Farmers often can't get legitimate crops to market, whereas poppy is so valuable that traffickers will come to the farmers.

The trend toward the processing of opium into heroin in Afghanistan, turning Afghans from opium exporters into heroin producers. Afghans have seen the profits to be made and, in recent years, provided necessary precursor chemicals by foreigners, began setting up their own labs to make the end product.

Porous borders that let drugs move freely into Iran, Pakistan or former Soviet republics to the north, often eventually going to Europe - which gets 90 percent of its heroin from Afghanistan.

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The hardiness of the crop. Poppies require little care and little water, critical in a country suffering from massive environmental degradation and long arid periods and whose mountainside irrigation systems were largely destroyed over decades of armed conflict.

"The narcotics problem in our province is very, very complicated," said Engineer Daud, governor of Helmand, as he stood at an airfield flanked by Afghan and U.S. troops.

"Our land is productive land for narcotics, and we have more than 100 miles of border with Pakistan, with deserts and mountains," he says. "Because of the low capacity of our national police, it is difficult to control that part of the problem . Drug dealers and terrorists are carrying drugs across the border, and terrorists are getting money from narcotics."

"Both forces are mobilizing"

In the northern part of his province, people are so desperate for water that farmers trying to make a legitimate living on their tiny plots, with virtually no money for their own families, are forced to buy water to keep their chickens alive.

Daud understands why they "have the reason to cultivate cash crop like poppy," and he prefers to go after the larger and wealthy drug dealers rather than the simple growers, but the traffickers are more evasive, more powerful - and more threatening.

In many ways, Afghan officials and their international allies, preoccupied with overthrowing the Taliban and then keeping it and al-Qaida at bay, were caught off guard by the insidious drug trade and didn't get serious until relatively recently.

"The problem was . . . unique, because of its scope and because there are so many moving parts," said Craig Chretien, formerly a senior official at the Drug Enforcement Administration, where he spent 26 years in several South American countries. He is now deputy director of the counternarcotics task force at the American Embassy in Afghanistan, which is helping the Afghans tackle the problem.

"It's challenging, but is it impossible? No," Chretien says.

After a rather tepid Afghan response last year, and some faltering steps by the United States, both countries are launching a broader, better coordinated and more aggressive campaign.

The next few months will begin to signal how successful the effort is likely to be.

"We've got an increased ability to fight the drugs, and they've got an increased ability to grow the drug," Schweich says. "So both forces are mobilizing."

Taliban Rebels Team Up With Drug Barons (WT)

By Emmanuel Duparcq, Agence France-presse

The Washington Times, March 18, 2006

LASHKARGAH, Afghanistan -- Taliban rebels determined to keep southern Afghanistan in chaos have teamed up with drug barons against the government and its opium eradication campaign, officials say.

The campaign to destroy opium poppy fields was begun March 8 in southern Helmand, the producer of most of Afghanistan's opium crop -- which makes up nearly 90 percent of the world total -- and also one of the provinces worst-hit by a Taliban-led insurgency.

"Terrorists and narcotics are very close; they're supporting each other," said Helmand province Gov. Muhammad Daud. "When narcotics production is up, terrorism automatically goes up."

Lt. Col. Henry Worsley of the 3,500 British forces deployed in the province agreed. "Taliban and drugs feed each other. You cannot separate them here."

In their final two years in power, before they were toppled in a U.S.-led invasion in late 2001, the Taliban banned opium and succeeded in drastically slashing its production to 185 tons from 3,300 tons.

Some observers say their motivation was to win international favor. Others say they wanted to push up the price of the raw ingredient of heroin.

Four years later, the Taliban rebels are willing to protect opium crops and farmers against the new administration in Kabul. The United States and other Western countries, which see opium as a source of terrorist funding, are pressuring the government led by President Hamid Karzai to eradicate the crop.

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Several anonymous letters attributed to the Taliban have been distributed in the past few months in Helmand and other insurgency-infested provinces that threaten farmers with reprisals if they do not plant opium, residents said.

Some letters also offer protection against government eradication attempts.

"Taliban will try to disrupt the eradication campaign," said the Helmand governor who has vowed to remove all the opium from his province in two months.

"Eradication will cause fighting," said Mohammed Sardar, an official from the nongovernmental group Mercy Corps that is trying to persuade opium farmers to switch to other crops.

"Poor farmers won't fight, but Taliban and smugglers will," he said.

CONGRESS-ADMINISTRATION:

Cheney Dismisses Suggestions Of Shake-Up (AP-Y2)

By Douglass K. Daniel

AP2, March 19, 2006

Vice President Dick Cheney on Sunday dismissed suggestions that the Bush White House, hampered by a weak response to Hurricane Katrina and stumbles on policy questions, needs a shake-up.

"I don't think we can pay any attention to that kind of thing," Cheney said on CBS "Face the Nation." "The president has got a job to do. ... He ignores the background noise that's out there in the polls that are taken on a daily basis."

Bush's job approval in March was at 37 percent, which tied for his lowest rating in the AP-Ipsos poll. Senior Republicans and others have said the Bush team may need an infusion of fresh blood and ideas.

Cheney, in a rare Sunday morning television interview, told CBS that he heard similar grumbling 30 years ago when he was chief of staff for President Ford.

"Administrations go through peaks and valleys," he said. "When you're down in the polls you're going to take shots that you don't deserve, and when you're up in the polls you're probably going to get praise you don't deserve."

Asked if he and Bush had a "good cop, bad cop" partnership in which Cheney took the heat for controversial policies, the vice president said: "It may look that way. It's not conscious."

Added Cheney, who has said he will not seek the presidency: "My job is to do what I can to support him and to support the administration. My advice to him is untainted by any concern I might have on how the folks in Iowa look at me in connection with the 2008 Iowa caucuses."

Cheney chuckled when asked if he himself had ever considered resigning amid low poll numbers and suggestions by commentators that he was a liability for the administration.

"It's been a highlight of my career to be a part of this administration," he said. "I've now been elected to a second term, and I'll serve out my term."

To political strategists who say that he should step aside with a year or so remaining in his term to give someone a jump on gaining the Republican nomination for president, Cheney said such a move wouldn't make sense to him. "Nobody has suggested it to me," he said.

Cheney and the White House were criticized for not immediately notifying the national press corps after he accidentally shot a companion while hunting in Texas last month. On Sunday, the vice president said he still thought the situation had been handled appropriately.

Calling the circumstances unusual, the vice president quipped, "It's probably the first time the Secret Service ever had to worry about a protectee shooting somebody else instead of being shot at."

Cheney Comfortable In His Role (WT)

By Audrey Hudson

The Washington Times, March 20, 2006

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Dick Cheney's lack of political ambition to succeed his boss gives him unusual freedom to be a lightning rod for contentious issues and serve as an "untainted" adviser to the president, the vice president said yesterday.

"Frankly, I don't spend a lot of time worrying about the polls," said Mr. Cheney, who as vice president is spearheading some tough battles on Capitol Hill involving the treatment of terrorist detainees and the administration's terrorist surveillance program.

Historically, vice presidents have used their second term to plan their own presidential campaigns and, accordingly, walked on eggshells to appease voters.

"This has been a different kind of arrangement than most administrations have between the president and the vice president, primarily because I'm here to serve him; I'm not here to run for higher office," Mr. Cheney told CBS' Bob Schieffer on "Face the Nation."

"My advice to him is untainted by any concern I might have about how the folks in Iowa look at me with connection with the 2008 Iowa caucuses," Mr. Cheney said.

"And when I speak out on an issue, it's because somebody needs to speak out on the issue. And I can do it without fear [because] I'm not here to try to burnish my image or improve my standing in the polls. I'm here to do a job that needs to be done for the president of the United States," he said.

Mr. Cheney dismissed reports suggesting that he will be asked to step down and allow a presidential contender to take his seat.

Tongue-in-cheek, Mr. Cheney did confirm some Republican criticism that he has changed since becoming vice president: "I'm a lot older. I've got less hair," he said.

He added seriously: "The job I have now as vice president is to be an adviser to the president, primarily. I don't run anything. I'm not in charge of the White House."

"I don't talk about the conversations I have with him. I think presidents need to have somebody around them who is totally reliable and trustworthy and is going to protect those communications they have with the president."

When asked whether he and President Bush play "good cop, bad cop," with Mr. Cheney taking the political lumps on hot-button issues, the vice president said: "It may look that way. It's not conscious."

As for his accidental shooting of lawyer Harry Whittington on a recent hunting trip, Mr. Cheney said that even in hindsight and amid abundant late-night jokes, the White House press corps was adequately notified.

"I must admit the first thing I thought when I saw what had happened and rushed over to help Harry, I did not think, 'Gee, I better call the press corps and tell them what's going on here,' " said Mr. Cheney, who does not travel with the White House press corps on vacations.

"It struck me as a bit of a tempest in a teapot over the question of how it was announced. It was announced by us, I believe, in a timely fashion as soon as we knew what Harry's status was," Mr. Cheney said.

"I think it's one of those situations or circumstances that is obviously difficult and generates controversy. It's probably the first time the Secret Service ever had to worry about a protectee shooting somebody else instead of being shot at," he said.

The vice president declined to speculate about a major staff shake-up at the Bush White House. "The president hasn't indicated he plans to make any changes. If he does and when he does, I'm sure he'll announce it," Mr. Cheney said.

A 'Third Term' For Bush (WSJ)

By Fred Barnes

The Wall Street Journal, March 20, 2006

It's time for President Bush to think about a third term. No, he doesn't need to overturn the Constitution. He can start the equivalent of his third term now, by filling his presidential staff and cabinet with new faces -- or old faces in new positions -- and by concentrating on new or forgotten initiatives. The goal: rejuvenation of his presidency by shocking the media and political community with a sweeping overhaul of his administration. The impact would be enormous because it's exactly what his foes have been demanding and exactly what he is not expected to do. And it would give him a chance to escape the political doldrums that may otherwise doom his presidency through its final 34 months.

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Only a few months ago, it appeared the Bush administration didn't need emergency resuscitation. True, Mr. Bush had suffered a year of serious troubles -- failure of Social Security reform, Katrina, Harriet Miers, Iraq -- following his second inauguration. Yet he emerged bruised but politically alive. He'd even won the confirmation of two conservative Supreme Court justices.

Then he was belted with a new round of reversals. His State of the Union address was uninspiring, the Dubai ports deal had to be nixed, and his proposed spending cuts were going nowhere. This time the fallout was worse for Mr. Bush. Republican unity, so important to his past success, dissolved as congressional Republicans began criticizing the White House. And Iraq was again a political problem. Even several top Bush aides now suspect an infusion of fresh talent could liven up the administration.

A broad transformation, playing on the media's overreaction whenever surprised, would do more. Reporters would be forced to write stories about new officials, cover confirmation hearings, show up at press conferences they might have ignored, assess new policies, and -- this is most important -- take a fresh look at the president. It would be like the beginning of a new presidential term. Sure, the press and politicians would be cynical about Mr. Bush's bold moves, especially since he wouldn't be uprooting any policy or hiring Bush critics. In truth, there would be a large element of smoke and mirrors in his actions. The trade-off is that Mr. Bush might revitalize his presidency.

A sweeping overhaul on a smaller scale has worked before. In one swoop in 1975, President Ford replaced Defense Secretary James Schlesinger with Donald Rumsfeld, made Dick Cheney chief of staff, appointed George H.W. Bush as CIA director in place of William Colby, and stripped Secretary of State Henry Kissinger of his second post as national security adviser, installing Brent Scowcroft. These surprising and dramatic steps strengthened a weak Ford presidency. President Carter tried something similar in 1979 when his presidency was at a low point. But the overhaul was handled clumsily. Mr. Carter appeared to act arbitrarily and his presidency never recovered.

Mr. Bush's first task must be to jettison his admirable but unrealistic sense of loyalty. Unlike other presidents, he reciprocates the loyalty of his aides. But for the good of his presidency, he must let some of them go, regardless of whether they deserve firing.

The president's most spectacular move would be to anoint a presidential successor. This would require Vice President Cheney to resign. His replacement? Condoleezza Rice, whom Mr. Bush regards highly. Her replacement? Democratic Sen. Joe Lieberman of Connecticut, whose Bush-like views on Iraq and the war on terror have made him a pariah in the Democratic caucus.

Mr. Cheney would probably be happy to step down and return to Wyoming. But it would make more sense for him to move to the Pentagon to replace Donald Rumsfeld as defense secretary, a job Mr. Cheney held during the elder Bush's administration. The Senate confirmation hearing for Mr. Cheney alone would produce political fireworks and attract incredible attention. At Treasury, Mr. Bush has a perfect replacement for John Snow, someone he already knows. That's Glenn Hubbard, former chairman of Mr. Bush's council of economic advisers and currently dean of Columbia's business school. He is in sync with Mr. Bush ideologically and has the added value of being respected on Wall Street.

With these changes, Mr. Bush would have brought in new Cabinet chiefs at three of the big four agencies. Only Justice would be untouched, but it might be too much for the president to force his friend Alberto Gonzales out as attorney general.

At the White House, highly visible changes would be required, starting with the most visible post of all besides the presidency -- press secretary. Dan Senor, a Republican and former spokesman for Paul Bremer in Iraq, would be a perfect successor to Scott McClellan. He would be an articulate and forceful defender of Mr. Bush on Iraq. And if not Mr. Senor, then presidential counselor Dan Bartlett, who always does well in TV interviews.

As a new chief of staff, Mr. Bush's pal from his Harvard Business School days, Al Hubbard, could replace Andy Card. Mr. Hubbard is miscast as top White House economic adviser. To replace him, Kevin Hassett of the American Enterprise Institute would fit. He has close ties to the Bush White House. There's also a natural choice for national security adviser to replace Stephen Hadley. It's Zalmay Khalilzad, the tough-minded ambassador to Iraq. Once a permanent government is installed there, he could be summoned home.

The trickiest issue is how to handle Karl Rove, the deputy White House chief of staff and political adviser. He is the closest thing to indispensable -- on policy as well as politics -- at the White House. But any overhaul that didn't involve him would run the

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risk of not being taken seriously. The solution is to send Mr. Rove to the Republican National Committee as chairman and bring the current chairman, Ken Mehlman, back to the president's staff as communications chief. The president lauded Mr. Rove as "the architect" of his re-election in 2004. Now he could be the architect of a Republican comeback in 2006. Mr. Mehlman would sharpen the president's communication operation. He and Mr. Rove would work together, as they do now.

New faces and personnel shifts are necessary but not sufficient to produce the aura of a new presidential term. Major policy initiatives are required, too. And there are plenty to choose from. For one, Mr. Bush could mount a fresh crusade for confirmation of federal appeals court judges: 11 of them are waiting in the wings. And there's always taxes, a hardy GOP perennial. Mr. Bush's tax reform commission was a bust, but that shouldn't stop him from proposing significant tax reforms and cuts. He doesn't have to win congressional approval. To revive his presidency, at this point he only need focus on them.

In foreign policy, there's a broad new alliance waiting to be packaged, now that NATO has lost its rationale. Suggested by Tom Donnelly of the American Enterprise Institute, it would bring together four antiterrorist, free-market democracies, all concerned about the growing power of China. They are the U.K., India, Japan and the U.S.

The new but still conservative look of the Bush administration and its new policy emphasis would thrill the base and perhaps independents as well. Should that lead to an unanticipated Republican victory in the midterm election in November, Mr. Bush would be empowered to return to old initiatives such as Social Security reform and his faith-based initiative.

Of course, there are risks and problems in trying to revitalize a flagging administration. The most worrisome risk is that Mr. Bush would look weak and desperate. Mr. Carter did in 1979 and became a laughingstock. That could happen to Mr. Bush. Also, it may be difficult to persuade outsiders to join what looks to them as a hopelessly lame-duck administration.

The president could lose a lot more than face. But the potential upside of a stunning facelift of his administration is great. It could make his presidency productive and enjoyable again rather than stymied and disheartened. Achieving the aura and feel of a new presidential term is not farfetched. Mr. Bush fooled everyone by becoming the president of big ideas and bold plans. He could fool them again.

Mr. Barnes, executive editor of the Weekly Standard, is author of "Rebel in Chief," published last month by Crown Forum.

Hardballs Replace Softballs, And Bush Takes A Few Swings (NYT)

By Elisabeth Bumiller

The New York Times, March 20, 2006

WASHINGTON

At first it looked as if it was going to be another warm bath of a White House question-and-answer session with President Bush. There was a happy group of retirees arranged on a stage, a poster in red, white and blue that proclaimed "Strengthening Medicare" and a peppy president with microphone in hand.

But at the Riderwood Village retirement community last week in the Washington suburb of Silver Spring, Md., something different happened: the president got hit with hardballs by the crowd of 80-somethings. Not only did the retirees, many of them Democrats and former government officials, ask sharp questions about the day's topic, the Medicare prescription drug program, they took on Mr. Bush on global warming and nuclear war.

"I guess I'm one of the three left standing Americans who did the negotiation of the nonproliferation treaty," one of the retirees, Lawrence Weiler, a former official of the Arms Control and Disarmament Agency, told Mr. Bush. But the treaty can't hold, Mr. Weiler said, if the position of the United States is that it will initiate a nuclear war "if it is necessary." Would the president consider a "no-first-use" policy instead?

Mr. Bush, startled, said he would think about it, thanked Mr. Weiler for his contribution, then concluded the session with a "God bless you all." Afterward, White House officials insisted that they were pleased. "The president is at his best when he's answering real and difficult questions from a cross-section of Americans," said Nicolle Wallace, the White House communications director.

Whether that is the view of the people at the sessions is another question, but the fact remains that in the last three months, Mr. Bush has started taking questions, some of them tough, from audiences not stacked with supporters. Mr. Bush typically

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sidesteps the hardest questions, but his answers often produce news. It is a big change from last year and, particularly, from the 2004 campaign, when the president appeared before rapt crowds who had gotten in with tickets from local Republican parties.

The result was Bush love-ins across red-state America, derision from Democrats and critical news coverage about canned events. White House officials say they took the heat because the events produced good sound bites for the local news and pumped up political troops. In 2005, they used a similar, equally criticized model — citizens screened by the White House sitting with Mr. Bush on panels and making points that underscored administration policy — in the president's failed campaign to overhaul Social Security.

The new approach began in Philadelphia in mid-December when Mr. Bush made a speech about Iraq to the World Affairs Council, a foreign policy group. With the campaign and Social Security out of the way and elections in Iraq pending, White House officials, along with Mr. Bush, reasoned that there was little to lose and much to gain by opening up. More to the point, the president had been criticized the week before for refusing to honor the tradition of taking questions after a speech at the Council of Foreign Relations in Washington.

"We like to mix things up so you'll pay more attention," said Andrew H. Card Jr., the White House chief of staff, in explaining the new approach.

People did pay attention that day in Philadelphia, when Mr. Bush said in response to the first question that about 30,000 Iraqis had been killed in the Iraq war since the beginning of the American-led invasion in 2003. It was the first time that Mr. Bush had publicly given an estimate of Iraqi deaths, and White House officials scrambled to explain where it had come from — a Web site on Iraqi body counts, it turned out, and not an internal government accounting.

In February, White House officials scrambled again after Mr. Bush surprised them, and everyone else, by answering a question at a session in Tampa, Fla., with the news that he would support an expanded role by NATO and a doubling of United Nations peacekeepers in the Darfur crisis in western Sudan. Mr. Bush's comments were especially startling because the question had been about Uganda, not Sudan, although Mr. Bush segued by saying, "I presume if you're worried about northern Uganda, you're also worried about western Sudan, as am I."

Mr. Bush's answer reflected planning already under way at the United Nations and the State Department, but his public comments signaled a new American commitment to the crisis. The subject seemed to be on Mr. Bush's mind after a meeting earlier in the week with Kofi Annan, the United Nations secretary general. But his apparent off-the-cuff response underscored how a president could create policy with a few sentences on a Friday afternoon on the west coast of Florida.

"He doesn't have to check with the press office to see what we've said before," Ms. Wallace said. "He's the president; it's his prerogative."

In Silver Spring, Mr. Bush made news when he told a questioner who was struggling to help her 75-year-old mother decipher the complicated drug program that he was opposed to extending the May 15 deadline for enrollment.

"And the reason why is there's got to be a fixed time for people to sign up," Mr. Bush said flatly.

The president was less direct when another questioner asked if Medicare's chief actuary had really been threatened with dismissal if he told Congress the truth about the projected cost of the drug program, which was about $600 billion, not $400 billion, as the administration was saying publicly in 2003.

"There's been a lot of estimates of the cost of the program," Mr. Bush responded, neglecting to say that a 2004 investigation by the Department of Health and Human Services confirmed the man's question. The president did say, however, that "this is a good deal for you."

Lawmakers Get Out Of The House (USAT)

By Kathy Kiely

USA Today, March 20, 2006

WASHINGTON — The House of Representatives is on track this year to be in session for fewer days than the Congress Harry Truman labeled as "do-nothing" during his 1948 re-election campaign.

Members of Congress are taking an entire week off for St. Patrick's Day. It's the latest scheduling innovation to give members more time to meet with constituents.

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Through Friday, the House was in session for 19 days, compared with 33 for the Senate. If they stick to their current schedule — including two weeks off in April, a week in May and July, plus all of August — House members will spend 97 days in Washington this year.

The House was in session 108 days in 1948, according to the chamber's archives, compared with 141 days last year.

"This is an election year and people want to see more of their constituents," says House Majority Leader John Boehner, R-Ohio.

During the first two months of the year, House members logged a total of 47 hours in the Capitol. They took off almost the entire month of January, while the Senate confirmed Samuel Alito to the Supreme Court.

For both chambers, workweeks have become short in recent years. Roll call votes are seldom scheduled for Mondays or Fridays. In the House, they are often postponed until late Tuesday.

As a result, it's difficult to schedule committee meetings. Some panels meet when Congress is not in session, but not often.

When in Washington, lawmakers do a lot of multitasking. Last week, Senate Judiciary Committee Chairman Arlen Specter, R-Pa., struggled to ready an immigration bill for the full Senate, as panel members drifted in and out of the room. They were juggling a floor debate on the budget and other meetings.

Critics contend Congress needs time to discuss important issues. "The Tuesday-to-Thursday work schedule is a detriment," says Rep. Dan Lungren, R-Calif., who served five terms in the House during the 1980s and returned last year.

Some experts think an absentee Congress is not bad. "I don't think there's anything wrong with them being out of Washington," says John Samples of the Cato Institute, a think tank that favors limited government. "They might be better representatives."

Lawmakers will make $165,200 this year. Leaders get more.

GOP Struggles To Define Its Message For 2006 Elections (WP)

By Dan Balz And Jonathan Weisman

The Washington Post, March 20, 2006

Republican efforts to craft a policy and political agenda to carry the party into the midterm elections have stumbled repeatedly as GOP leaders face widespread disaffection and disagreement within the ranks.

Anxiety over President Bush's Iraq policy, internal clashes over such divisive issues as immigration, and rising complaints that the party has abandoned conservative principles on spending restraint have all hobbled the effort to devise an election-year message, said several lawmakers involved in the effort.

While it is a Republican refrain that Democrats criticize Bush but have no positive vision, for now the governing party also has no national platform around which lawmakers are prepared to rally.

Every effort so far to produce such a platform has stumbled.

In January, Bush laid out a modest menu of ideas on health care and energy independence, but Congress has made little movement on them. Senior White House officials consulted with lawmakers earlier this year about jointly crafting an agenda that would allow Bush and Republicans in Congress -- both suffering from depressed public approval ratings -- to get off the defensive. A Republican familiar with the process said these discussions did not result in a consensus.

New House Majority Leader John A. Boehner (R-Ohio) has been wrestling with the same problem, so far without success.

The struggles reflect philosophical differences among competing factions within the party, but they also underscore the political consequences of holding power. Republicans insist they remain united around core principles of smaller government, lower taxes and a strong national defense, but can no longer agree on how to implement that philosophy and are squabbling over their delivery on those commitments.

Texas Gov. Rick Perry (R) said the root of the problem is a failure of Washington Republicans to stick to principles, saying that his party risks losing power because it has done "a pretty poor job" of executing its small-government philosophy. "Republicans just need to take stock, go back and realize that the American people elected them because of their principles, and when you do not adhere to those principles, the American people are just as likely to turn you out and choose someone else."

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Lately, the drift Perry described has been on glaring display almost daily. A week ago, Republican speakers at a GOP gathering in Memphis complained about the breakdown in fiscal discipline. A few days later, lawmakers in Washington raised the federal debt ceiling by an additional $781 billion and voted to authorize more than $100 billion in new spending.

Republicans are engaged in a face-off in Congress over two sharply different views of how to deal with illegal immigration -- with no compromise in sight. The split between the White House and congressional Republicans over the Dubai port deal underscores cracks in the party's national security consensus and has given Democrats an opening to challenge the GOP on what has long been a core strength. Republicans do remain united behind Bush's Iraq policy, albeit nervously, with widespread concern that a violent and open-ended commitment in that nation will be a liability in November.

The president once clearly set the Republican agenda, and when his approval ratings were higher, congressional Republicans followed his lead. House Majority Whip Roy Blunt (R-Mo.) said that model hit a wall last year when the president's centerpiece proposal to restructure Social Security "turned out to be not doable."

This year, Bush came back to Congress with a scaled-back agenda -- including tax incentives to expand health coverage and some money to study using wood chips and switch grass as alternative energy sources -- that Blunt said "is not as easily defined." And in Bush's weakened state, his proposals command less allegiance. "It's always the challenge of a second-term administration to keep the agenda fresh, to keep moving with the same intensity they had in the first term," Blunt said. "Combine that with less popularity, and people are much slower to salute the flag."

When asked last week whether Republicans had any broad visions to pursue this year, Boehner said, "Before the week is out, you will have a pretty good idea of what they are." But on Thursday night, after House members approved a $92 billion measure to fund the wars in Iraq and Afghanistan and ongoing hurricane relief, lawmakers left town for a week-long break with no agenda ready.

Rep. Jack Kingston (R-Ga.), the vice chairman of the House Republican Conference, said Boehner has been preparing an agenda based on four "silos": national security, retirement security, economic security and energy. But Republicans will have a difficult time turning those broad themes into legislative accomplishments.

The central plank of the national security agenda is border security and a crackdown on illegal immigration. But Republicans are deeply divided between those who favor increased enforcement at borders vs. those, including the president, who want to couple those measures with a guest worker program that would offer avenues for lawful employment for those already here illegally.

Under the retirement security rubric, House leaders would like to see a restructuring of the private pension system and permanent repeal of the estate tax. The former is within reach, although its political appeal may be limited. The latter almost certainly would die in a Senate filibuster. Likewise, the centerpiece of economic security -- an extension of Bush's first-term tax cuts -- faces long odds in the Senate.

Because of these realities, Republicans have adopted a midterm strategy designed to avoid making the election a national referendum on their performance or one that focuses on their policy divisions. Their goal is to concentrate less on the kind of positive message they have challenged the Democrats to produce and more on framing a choice that says, however unhappy voters may be right now with the Republicans' leadership, things would be worse if Democrats were in charge.

"If you are someone who favors small government," Republican National Committee Chairman Ken Mehlman said, "you're going to have a clear choice between someone who has cut taxes every year in office, who believes you ought to own your own health care . . . and who plans to cut the deficit over five years versus people who have consistently supported more spending, have opposed tax cuts and who oppose patients owning their own health care. The question is, who's on your side for reducing the size of government?"

Rep. Thomas M. Reynolds (R-N.Y.), chairman of the National Republican Congressional Committee, chided the Democrats last Thursday for not producing an agenda. But he insisted at the same time that such "inside-the-Beltway" debates will be of little consequence in November, when local issues will decide the closest congressional contests. "We have repeatedly guided our candidates: All politics are local," he said.

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In the absence of a positive national message, Republicans also hope to use long-standing "wedge issues" to galvanize their own base and try to put Democrats on record with unpopular votes. Congressional leaders, for instance, plan to push a constitutional amendment banning same-sex marriage.

Democratic pollster Geoffrey Garin said that even some once-powerful weapons in the Republican political arsenal have less appeal today than in the past. "Whether it's taxes or moral conservatism or national security, there's nothing the Republicans have said or done in their experimenting with message that outweighs this overwhelming sense Americans have that President Bush has misled the country onto a negative path," he said.

Republican pollster David Winston said his party can find broad consensus on jobs and competitiveness, fighting terrorism and securing U.S. borders. "Those are the three big items," he said. "There is unanimity on those three. Once you get beyond those three, there may be different senses of direction."

Blunt said it is more important for Democrats to produce a governing agenda because Republicans have a record to run on. But he also said action this year is essential. "We are, after all, legislators," he said. "We need to be making something better, eliminating something or moving in a new direction."

Republicans have a list of prospective priorities. Whether many will become law is problematic, although that does not seem to worry GOP leaders such as Blunt. "We'd like to see them become law, but a vote lets the people know where we stand," he said.

One Republican strategist, who asked not to be identified so he could speak openly about the party's problems, said divisions between moderates and conservatives have left the House and Senate Republican conferences in disarray. "Getting consensus on policy matters . . . is very difficult," he said. "That has caused stagnation and led to perceptions that Republican governance is going nowhere."

Bush Ignores GOP Rebuffs In Congress (CHIST)

By Robert Novak

Chicago Sun-Times, March 20, 2006

"Presidents come and go," Rep. Jerry Lewis told the House Rules Committee last Wednesday. That was a reason Lewis gave, as chairman of the Appropriations Committee, for opposing President Bush's proposed line-item veto. But the broader meaning of what he said suggested the congressional Republican majority's mind-set: Bush's presence is evanescent and not to be equated with the permanence of legislators.

Lewis is a 71-year-old 14-termer who has been in public office continuously for 38 years and is known as a dependable Republican regular. It is not in character for Lewis to so casually dismiss the new fiscal initiative by a president under fire for lack of an agenda. The former insurance salesman from Redlands, Calif., is not known for swimming upstream against the Republican tide, and he was not doing so last week.

Lewis' opposition to the Bush proposal did not make headlines, and neither did similar acts of opposition to the Republican president by Republicans in Congress. As if responding to a silent signal, similar acts of defiance were simultaneously erupting all over Capitol Hill. This constitutes no rebellion and is not even a divorce. Rather, it is a trial separation of congressional Republicans from their president.

More than half a century has passed since an unpopular president has been subjected to such treatment from a Congress controlled by his own party. Harry Truman's Gallup approval rating reached its low of 23 percent in January 1952 as he began his last year as president. Burdened by the military stalemate in Korea, President Truman appeared uninterested in the wrecking of his program by the congressional Democratic majority. Bush, with his latest Gallup rating at 36 percent as he copes with another unpopular war, seemed similarly detached from the rebuffs handed him last week.

The White House did not react when Lewis called the president's line-item veto "a very serious error" because it would "change the relationship between the president and the legislative branch." Lewis told me he has not been contacted by the president or his agents. Nor was there a presidential reaction to these further indignities:

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*At a town hall meeting Wednesday in Silver Spring, Md., Bush rejected a delay in the May 15 deadline to apply for Medicare prescription drug subsidies because "there's got to be a fixed time for people to sign up." Two hours later, the Senate voted 76-22 for a delay.

*On that same Wednesday, the House International Relations Committee overrode Bush's opposition and voted 37-3 to force the president into imposing sanctions on Iran. Even Chairman Henry Hyde, a Bush supporter, changed his mind and ended up voting for this bill.

*To complete the week Thursday, the Senate piled an additional $16 billion on the budget resolution. At the same time, Bush's efforts to slow the growth of mandatory government spending were defeated.

Although there was no sign of the president lobbying to deflect this carnage, he was at the packed ballroom of the Washington Hilton on Thursday night for the House Republican fund-raiser ($2,000 a plate or $5,000 for the reception and a photo with Bush). GOP lawmakers may disdain Bush's policies, but they respect his ability to raise money for their campaigns.

Even when he was getting battered by Congress, Truman liked to call up his former Senate colleagues for a poker-playing cruise on the presidential yacht. Bush does not care to spend his spare time with members of Congress, and it was extraordinary that Bush traveled to the Capitol on Wednesday for National Hungary Day. Typically, the White House legislative affairs office was not consulted, and the president mistakenly talked about the March 15 event commemorating the 1956 anti-communist uprising rather than the 1848 revolution.

One of the president's top political operatives is telling the party's members of Congress that they should support Bush, not out of loyalty, but for self-preservation. In 1952, Democrats in Congress, accustomed to more than 20 years in power, thought they could survive by separating themselves from Truman. Instead, Republicans swept the November elections, which might be an object lesson about abandonment of their president.

Private Account Language Fails (RC)

By Emily Pierce

Roll Call, March 20, 2006

In a little-noticed vote last Thursday, the Senate went on record, apparently for the first time, against President Bush's proposal to set up personal investment accounts under Social Security, with some unexpected Republicans helping a unified Democratic Caucus defeat the nonbinding proposal.

"This is now the starting point," said Wesley Denton, spokesman for Sen. Jim DeMint (R-S.C.), who offered the Social Security amendment to the fiscal 2007 budget resolution. "We now know where everybody stands. We know who the obstacles to reform are, and we can take the debate and go from there."

Eight Republicans joined all 45 Democrats in opposing the DeMint amendment, which would have directed the creation of a reserve fund for Social Security, but only after the Senate produced legislation allowing younger workers to divert a portion of their Social Security taxes into personal investment accounts or permitting some other type of "legally binding ownership" of a worker's Social Security money.

The 46-53 vote was sandwiched in with 20 consecutive votes on amendments to the budget resolution.

The Republican centrist votes in opposition — including Sens. Lincoln Chafee (R.I.), Susan Collins (Maine), Gordon Smith (Ore.) and Olympia Snowe (Maine) — were hardly a surprise. But the amendment also forced the hands of some less likely Republican opponents, including Sens. Conrad Burns (Mont.), Pete Domenici (N.M.), Dick Lugar (Ind.) and Jim Talent (Mo.) — who have typically been more loyal to the GOP leadership.

Chafee, Burns, and Talent all have tough re-election races this year. Snowe and Lugar also will be on the ballot in November, though their seats are considered safe.

While the vote received little press attention at the time, Democrats — who have tried to turn all talk of personal accounts under Social Security into a campaign issue (See related story, p. 11.) — made note of the vulnerable Republican Senators who voted for it.

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In a news release, the Democratic Senatorial Campaign Committee blasted three GOP Senators up for re-election next year — Rick Santorum (Pa.), Mike DeWine (Ohio) and Jon Kyl (Ariz.) — for voting "to raid the Social Security trust fund in an effort to advance the President's unpopular plan to privatize Social Security."

For his part, DeMint accused the 53 Senators who voted against his measure of raiding Social Security as well.

In his own release, DeMint excoriated his detractors: "Now, every senator will be on record whether they oppose or support the raid. This said absolutely nothing about personal accounts, it was about whether you believe Social Security should be saved or allowed to wither on the vine."

Though the Senate voted on several Social Security-related amendments during last year's budget debate, this is the first time Senators have actually voted on anything resembling Bush's personal account proposal.

Denton said the vote marks "the first substantive vote in years" on Social Security. He added that DeMint was pleased with the number of Senators who voted with him, given the Democrats' nearly uniform opposition to personal accounts.

"I think a lot of people expected us to get a lot less votes than we did," Denton said.

President Bush began the debate to overhaul the government's guaranteed retirement safety net when he proposed personal accounts during his 2005 State of the Union address as a part of his "ownership society" agenda. Though it was much discussed in Congress last year, GOP leaders concluded that they did not have the votes to pass Bush's Social Security plan and that they might suffer at the ballot box in November if they were to pass such legislation.

While DeMint insisted the language of his amendment would not necessarily require the creation of private accounts, Baucus took exception to that argument.

"My colleagues are not being fooled," said Senate Finance ranking member Max Baucus (D-Mont.) in a floor speech. "This is privatization, pure and simple."

The exact language of DeMint's amendment would have allowed the Senate Budget Committee to set up a reserve fund for the Social Security surplus, but only if the Senate Finance Committee approves legislation that, among other things, provides younger workers the "voluntary option ... to obtain legally binding ownership of a portion of their [Social Security] benefits."

Baucus wasn't the only one to say that DeMint's amendment appeared to be trying to lay the groundwork for personal accounts under Social Security.

"This clearly was a way to try to advance private accounts under Social Security, and Sen. Snowe has been clear that she's not against private accounts, per se, but she does have concerns about diverting money away from the traditional Social Security program in order to create private accounts," said Snowe spokeswoman Antonia Ferrier.

Denton said the amendment would obviously permit a bill with personal accounts, "but it would also allow Democrats or anyone else to come up with another plan that meets" the "ownership" criteria.

Sen. Mike Crapo (R-Idaho), a DeMint supporter, said he supported the amendment because it offered a way to ensure that Congress does not continue to dip into the Social Security trust fund coffers to pay for other programs — not because it had anything to do with personal accounts.

"I'm saddened this amendment was characterized inaccurately as a privatization move," said Crapo in a statement. "It is unfortunate that we continue to have partisan rhetoric cloud the issue."

Social Security Reform Rejected (WT)

By Amy Fagan

The Washington Times, March 20, 2006

Last week, during the Senate budget debate, Republicans raised the issue of Social Security reform, and Democrats -- surprised that the issue won't go away -- pledged to make it a major campaign issue this year.

"The issue that won't die," said Sen. Charles E. Schumer after the Senate narrowly defeated a Social Security amendment to the budget bill.

"It's going to be one of the big issues in 2006," pledged the New York Democrat, who is chairman of the Democratic Senatorial Campaign Committee. "They just gave us more fuel."

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Sen. Jim DeMint, South Carolina Republican, offered the proposal, which would have let Congress create a reserve fund protected under budget rules to save the Social Security surplus to pay for future benefits instead of other federal programs, as happens now.

"There is simply no way to save Social Security if we don't have the courage to stop using the surplus as a secret slush fund," Mr. DeMint said. "We will not be deterred by cynics who offer no solutions."

The Senate defeated the proposal 53-46, with eight Republicans voting no, but Democrats still called it a step towards creating the Social Security private accounts that President Bush wants.

Mr. Schumer pledged to tell voters that electing a Democratic Senate is the only way to "make sure Social Security isn't privatized."

"Any time there's an opportunity to privatize Social Security, they'll take it," said Sen. Max Baucus, Montana Democrat. He said the DeMint proposal was "evidence today that they're going to stick with it."

Mr. Bush's proposal to let individuals divert a part of the Social Security's payroll tax into personal retirement accounts was "soundly rejected by the American people," yet Republicans still pursue it, Mr. Baucus said.

But supporters of the proposal said Democrats just want the status quo, under which Social Security will crumble. Mr. DeMint said his proposal stated "absolutely nothing about personal accounts," but was "about whether you believe Social Security should be saved or allowed to wither on the vine."

"I'm saddened this amendment was characterized inaccurately as a privatization move," said Sen. Michael D. Crapo, Idaho Republican. "The American public and future generations of taxpayers will suffer if we cannot address the issues regarding Social Security and fiscal discipline."

Democrats aren't the only ones who see a campaign issue. "Those who voted against this amendment voted to raid Social Security," Mr. DeMint said. "Now, every senator will be on record whether they oppose or support the raid."

Including interest, Congress has raided $1.7 trillion from Social Security since 1985, according to Mr. DeMint's office. Mr. Bush's Social Security proposal never gained enough momentum in Congress, but administration officials, some Republicans and even Mr. Bush himself continue to raise the issue from time to time. In his State of the Union speech, Mr. Bush called for a commission to investigate options for saving the system, and just days later he mentioned his personal-accounts proposal in his long-term budget outline.

A Contractor's Purchase On Power (WP)

By Charles R. Babcock And Renae Merle

The Washington Post, March 20, 2006

The consulting work that MZM Inc. received from a Pentagon agency in 2003 was for only $40,000, but to company owner Mitchell J. Wade, the face value was just the beginning.

Over the following year, the work grew to $4 million as MZM added employees that the government had not asked for; pressed successfully for the agreement to be on a "time and materials" basis so it could bill for hours worked; and left the impression that Wade could pull strings, if necessary, to get his way.

According to excerpts of e-mails collected by a Pentagon employee and provided to The Washington Post, one contract official inaccurately thought Wade was a former undersecretary of defense. Another wrote that "Mitch Wade is a force to be reckonned (sic) with . . . he has a lot of perceived power that can slow us down . . . maybe even grind us to a halt."

The recent corruption conviction of former congressman Randy "Duke" Cunningham -- and Wade's recent guilty plea for bribing him -- focused attention on Congress's practice of "earmarking," or setting aside, federal money for favored interests.

A review of the rise and fall of Wade and his company, based on interviews and MZM and government documents, shows that bribing Cunningham was only one part of Wade's formula for success. His firm, which had no prime federal contracts in fiscal 2002, collected more than $170 million over the next three years, thanks not just to Cunningham, but also to Wade's ability to take practices common among government contractors and push them to the limit.

In a tight labor market, he paid well above the going rate for workers with security clearances -- wages that left others in the government contracting industry puzzled. He freely distributed title and rank, appointing more than 100 vice presidents, executive

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vice presidents and "senior executive vice presidents" in a company of about 400 people. He aggressively used the "revolving door" between the government's defense and intelligence bureaucracy and the private industry, attracting top talent and often sending new hires back to work on contracts at their former agencies and to try to cultivate new business.

MZM was able as the sole bidder to win a "blanket purchase agreement" for up to $225 million over five years in Pentagon technology work, though procurement regulations require at least three competitive bids.

Kenneth L. Wainstein, U.S. attorney for the District, said after Wade's guilty plea that the agreement amounted to "a $225 million blank check drawn on taxpayer funds."

Cunningham admitted accepting at least $2.4 million from Wade and three other men over the past several years in return for official favors, including steering money for contracts their way. The California Republican was sentenced to eight years and four months in prison earlier this month. That was a week after Wade pleaded guilty to four felony counts for his role in the case. MZM was sold last summer to a New York investment firm, which changed its name but kept many of its contracts and people.

Wade, who declined an interview request through his lawyer, had learned the intricacies of the procurement system from the inside. He was a civilian worker at the Pentagon, working at times on classified programs, from the mid-1980s to the early 1990s. He then became a consultant to Brent Wilkes, a San Diego defense contractor who was so close to Cunningham that competitors complained the congressman was giving Wilkes's company favored treatment. In the following years, Wade supplanted Wilkes as Cunningham's favorite, and Wilkes -- who has been implicated but not charged in the scandal -- ended up as an MZM subcontractor.

Wade first bribed Cunningham on Nov. 16, 2001, according to prosecutors' court papers. That Friday, barely two months after the terrorist attacks on New York and Washington, the contractor bought the congressman $12,000 worth of antiques, and Cunningham told Wade that he would make him "somebody." At the time, the government filings said, MZM had contracts of less than $1 million a year.

Their partnership became apparent early the next year as Wade requested a $15 million earmark for a counterintelligence program. He was also working at the time to get on the General Services Administration's schedule of companies authorized to seek federal business, a prelude to the broader intelligence-related "blanket purchase agreement" he pursued that summer and fall.

Cunningham requested that $7.5 million be set aside for MZM's program and made it his first priority, according to his office's internal chart, which prosecutors filed as an exhibit. The House approved the earmark in June, and it passed Congress as part of the defense appropriations bill in October, though at a slightly reduced level.

The GSA officials who approved MZM's application to join its schedule were supposed to ensure that the hourly labor rates Wade charged were "fair and reasonable." They were, however, higher than some other contractors from the region offering the same types of services, according to labor rates published by the GSA.

According to several sources inside and outside the company, including some former employees, Wade attracted staff by offering tens of thousands of dollars more than the going salary. The sources agreed to speak only on condition of anonymity because of the sensitivity of the subject. As his company grew, he hired people like retired Army Lt. Gen. James King, who held several high positions at Pentagon intelligence agencies and now runs Athena Innovative Solutions Inc., MZM's successor company. Wade also hired David Holmes, a former CIA lawyer; John Quattrocki, a high-ranking FBI officer; and Kay Coles James, the former head of the Bush administration's Office of Personnel Management.

The blanket purchase agreement, signed with a Defense Department contracting office in September of 2002, was written so broadly that any agency inside or outside the Pentagon could order a wide variety of help. It seemed crafted for the Bush administration's post-Sept. 11 push for more defense and intelligence spending. It referred to homeland security, law enforcement planning, geospatial integration, document exploitation and what is called MASINT, for measurement and signature intelligence.

The Defense Information Systems Agency refused to answer questions about how it selected MZM. But it announced last summer, after Wade's relationship with Cunningham was exposed, that it was cutting off further work. It said it realized Wade's company was the only one that responded to its initial request, when federal regulations required three bidders.

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To ensure that MZM "could milk that account without interruption or interference" from the Defense Department officials who oversaw the contract, Wade enticed them with personal favors, the government said in court documents filed along with Wade's guilty plea. He hired the son of one Defense Department official at the Army's National Ground Intelligence Center in Charlottesville in early 2002, when MZM was still a subcontractor. In return, the official gave MZM inside information and favorable performance reviews ensuring further work, prosecutors alleged.

The matter is still under investigation.

The first order under the blanket agreement was in October 2002, a $193,281 order to do a "concept report" of a computer system in Charlottesville. Wade apparently felt so confident of his company's future with the ground intelligence center that he opened an office nearby.

The next order, in late January 2003, was much larger, though the client for the $6.1 million contract isn't clear from sketchy descriptions released under the Freedom of Information Act. A few weeks later, MZM got an order for $12.7 million.

Two days after the war in Iraq started, MZM won a $1.2 million contract to provide interpreters for "post conflict" work. And in March, Wade's company got a $6.2 million contract, this one with the Pentagon's new Counter Intelligence Field Activity. In fiscal 2003, MZM got a total of $38.6 million in orders through the blanket purchase agreement.

That climbed to $65 million, then $60 million in the following two years, as Cunningham continued to add earmarks to make more money available for programs Wade worked on, and the contractor continued his bribes for the congressman. Those included the use of a 42-foot yacht renamed the Duke-Stir, a used Rolls Royce, more antiques and the purchase of his home in San Diego for $700,000 more than it was worth -- even a check for $115,100 to pay the capital gains on Cunningham's inflated profit on the home sale.

As MZM's revenue soared, so did Wade's personal spending. He and his second wife owned a $3 million house in Kalorama. He took his staff on outings to the Greenbrier resort and Bermuda. He started the Sure Foundation, named after a Christian verse, to help children around the world who were victims of war and unrest.

The global war on terror was good for business. There was lots of work at the National Ground Intelligence Center and the Counterintelligence Field Activity. The Pentagon called on MZM to help seek counters to roadside bombs in Iraq. The Special Operations Command in Tampa needed help too. And thanks to an earmark from Rep. Virgil H. Goode Jr. (R-Va.), MZM was picked to run a Foreign Supplier Assessment Center in Martinsville, Va., to check out foreign-based contractors.

Last July, a month after the San Diego Union-Tribune triggered the investigation by disclosing the home sale, the Pentagon was still telling Cunningham's office that money was in the pipeline for his latest MZM earmarks.

'Phishing' Scheme Targets Thrift Savings Plan Holders (WP)

By Stephen Barr

The Washington Post, March 20, 2006

Last week's scare at the Thrift Savings Plan is an opportunity to offer this reminder: Do not click on Web links in unsolicited e-mails.

Someone, or some group, operating from somewhere, took advantage of the TSP's trusted name in a scam to rip off credit card and bank accounts. The scheme was built around a fictional TSP e-mail and a bogus TSP Web site.

After calls started pouring in from plan participants about the suspicious e-mail, the TSP staff played it safe and shut down part of the agency's Internet operation, stopping account transactions. They also called in the FBI.

"It was the first time we have had a phishing situation where they are sending people to something that looks like our Web site," a TSP official said.

The TSP, a 401(k)-type retirement savings program, has more than 3.5 million participants and assets of more than $178 billion. The plan uses the Internet to provide account information to participants and to process withdrawals, interfund transfers and other transactions.

TSP officials have no tally of how many people got the phony e-mail or how many responded and turned over personal financial information. Although it appears that many of the e-mails went to government employees and retirees, TSP officials said they have been contacted by persons who are not TSP enrollees. Some people did fall for the scheme, the officials said.

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The officials pointed out that TSP does not maintain e-mail addresses for participants and never asks participants to provide credit card or banking information, such as pass codes for automated teller machines.

The phony e-mail informed recipients that a new e-mail address had been added for their TSP accounts and directed them to click on a link to www.tsp.gov "if you did not authorize this change."

The link, however, did not take the recipient to tsp.gov but to a mock site, where people were directed to type in their Social Security number and TSP personal identification number, or PIN.

Once completed, the e-mail recipient was sent an "unblock form" that should have sent up red flags to readers because of poor grammar and misspellings.

"If you see this message means that your account is bloked and u got a notification email, enter the information below and click on the Unblock my Account button," the Web page began. It directed readers to type in a credit card number and their "Atm PIN Number."

The TSP is not the only federal agency exploited for online identity-theft schemes known as "phishing." E-mails claiming to be from the Internal Revenue Service have been on the increase, even though the IRS does not communicate with taxpayers electronically.

The TSP learned about 2 p.m. Thursday that it was being impersonated and stopped transactions on its Web site at about 6 p.m. On Thursday night, TSP posted a notice warning participants about the scam.

After the scammers turned off their bogus Web site on Friday, officials restored full service on the TSP site.

TSP officials suspect that the scammers were after credit card information and doubt they could meet criteria for taking money out of a TSP account. But they said reviews are underway to detect any suspicious activity in TSP accounts.

The scam, however, has disrupted processing of loans and withdrawals, which may be delayed for two days, in part because of the TSP internal review.

If you received one of the phony e-mails, TSP urges you to read a special notice posted on tsp.gov under the heading "E-Mail Scam" and use a toll-free phone number to contact a customer service representative.On the Move

Mark A. Robbins , who worked on E Street NW as general counsel at the Office of Personnel Management, is now working on F Street, as the executive director of the president's Privacy and Civil Liberties Oversight Board.

The board was created by Congress to ensure that privacy and civil liberties issues are given appropriate consideration in the development of counterterrorism policy. Carol E. Dinkins serves as chairman and Alan Charles Raul as vice chairman.

Bogus Bush Bashing (NYT)

By Paul Krugman

The New York Times, March 20, 2006

"The single word most frequently associated with George W. Bush today is 'incompetent,' and close behind are two other increasingly mentioned descriptors: 'idiot' and 'liar.' " So says the Pew Research Center for the People and the Press, whose most recent poll found that only 33 percent of the public approves of the job President Bush is doing.

Mr. Bush, of course, bears primary responsibility for the state of his presidency. But there's more going on here than his personal inadequacy; we're looking at the failure of a movement as well as a man. As evidence, consider the fact that most of the conservatives now rushing to distance themselves from Mr. Bush still can't bring themselves to criticize his actual policies. Instead, they accuse him of policy sins — in particular, of being a big spender on domestic programs — that he has not, in fact, committed.

Before I get to the bogus issue of domestic spending, let's look at the policies the new wave of conservative Bush bashers refuses to criticize.

Mr. Bush's new conservative critics don't say much about the issue that most disturbs the public, the quagmire in Iraq. That's not surprising. Commentators who acted as cheerleaders in the run-up to war, and in many cases questioned the patriotism of those of us who were skeptical, can't criticize the decision to start this war without facing up to their own complicity in that decision.

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Nor, after years of insisting that things were going well in Iraq and denouncing anyone who said otherwise, is it easy for them to criticize Mr. Bush's almost surreal bungling of the war. (William Kristol of The Weekly Standard is the exception; he says that we never made a "serious effort" in Iraq, which will come as news to the soldiers.)

Meanwhile, the continuing allegiance of conservatives to tax cuts as the universal policy elixir prevents them from saying anything about the real sources of the federal budget deficit, in particular Mr. Bush's unprecedented decision to cut taxes in the middle of a war. (My colleague Bob Herbert points out that the Iraq hawks chose to fight a war with other people's children. They chose to fight it with other people's money, too.)

They can't even criticize Mr. Bush for the systematic dishonesty of his budgets. For one thing, that dishonesty has been apparent for five years. More than that, some prominent conservative commentators actually celebrated the administration's dishonesty. In 2001 Time.com blogger Andrew Sullivan, writing in The New Republic, conceded that Mr. Bush wasn't truthful about his economic policies. But Mr. Sullivan approved of the deception: "Bush has to obfuscate his real goals of reducing spending with the smokescreen of 'compassionate conservatism.' " As Berkeley's Brad DeLong puts it on his blog, conservatives knew that Mr. Bush was lying about the budget, but they thought they were in on the con.

So what's left? Well, it's safe for conservatives to criticize Mr. Bush for presiding over runaway growth in domestic spending, because that implies that he betrayed his conservative supporters. There's only one problem with this criticism: it's not true.

It's true that federal spending as a percentage of G.D.P. rose between 2001 and 2005. But the great bulk of this increase was accounted for by increased spending on defense and homeland security, including the costs of the Iraq war, and by rising health care costs.

Conservatives aren't criticizing Mr. Bush for his defense spending. Since the Medicare drug program didn't start until 2006, the Bush administration can't be blamed for the rise in health care costs before then. Whatever other fiscal excesses took place weren't large enough to play more than a marginal role in spending growth.

So where does the notion of Bush the big spender come from? In a direct sense it comes largely from Brian Riedl of the Heritage Foundation, who issued a report last fall alleging that government spending was out of control. Mr. Riedl is very good at his job; his report shifts artfully back and forth among various measures of spending (nominal, real, total, domestic, discretionary, domestic discretionary), managing to convey the false impression that soaring spending on domestic social programs is a major cause of the federal budget deficit without literally lying.

But the reason conservatives fall for the Heritage spin is that it suits their purposes. They need to repudiate George W. Bush, but they can't admit that when Mr. Bush made his key mistakes — starting an unnecessary war, and using dishonest numbers to justify tax cuts — they were cheering him on.

Illogical Cutbacks On Cancer (NYT)

By Bob Herbert

The New York Times, March 20, 2006

When I was a kid I had the wildest crush on my Uncle Breeze's wife, Betty. She was beautiful and with all my heart I wanted to grow up and marry someone just like her.

I remember acutely the sadness I felt some years later when my mother told me that Aunt Betty was ill. She died not long after that. Cervical cancer.

This old memory was brought back to me by, of all things, a small but telling item in President Bush's mammoth budget proposal.

The federal government has a national breast and cervical cancer early detection program, run by the Centers for Disease Control and Prevention. It provides screening and other important services to low-income women who do not have health insurance, or are underinsured.

There is agreement across the board that the program is a success. It saves lives and it saves money. Its biggest problem is that it doesn't reach enough women. At the moment there is only enough funding to screen one in five eligible women.

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A sensible policy position for the Bush administration would be to expand funding for the program so that it reached everyone who was eligible. It terms of overall federal spending, the result would be a net decrease. Preventing cancer, or treating it early, is a lot less expensive than treating advanced cancer.

So what did this president do? He proposed a cut in the program of $1.4 million (a minuscule amount when you're talking about the national budget), which would mean that 4,000 fewer women would have access to early detection.

This makes no sense. In human terms, it is cruel. From a budget standpoint, it's self-defeating.

"The program is really designed to help working women," said Dan Smith, a senior vice president at the American Cancer Society. "They may be working at a job that doesn't provide health insurance, but they're not the poorest of the poor who would qualify for Medicaid."

In many cases, these are women who do not have family doctors who might encourage them to be screened. The program offers free mammograms, Pap tests and other early detection services. "If they're diagnosed," said Mr. Smith, "there's a complementary program that allows them to be immediately insured so they can actually have the coverage for their treatment. That's a great program, as well."

"The early detection program is a good program because it has saved lives," said Dr. Harold Freeman, a senior adviser to the Cancer Society. "The women who are served come from a population that has a proven higher death rate from cervical and breast cancer."

He added: "It's hard to get into the health care system when you are asymptomatic. It's much easier to get into the system if you're obviously sick, if you're bleeding or in pain. But the problem with cancer is, if you're going to be cured, you have to get in before those kinds of symptoms occur. So these women need to be screened."

Dr. Freeman, a New York physician who has long specialized in the prevention and treatment of cancer, made it clear that his first concern was the health and quality of life of his patients. But then he addressed what he characterized as the "shortsighted" economic rationale for the budget cut.

"It won't save money," he said. "You don't save money by not diagnosing cancer early. You end up spending more money because anyone who develops cancer will get into the health care system and they will be treated. And the cost at that point will be a lot more. The logic here is very simple: the later you diagnose cancer of the breast or cervix, the more expensive it is to the country."

This is just one program in a range of cancer services that rely on support from the federal government. As if immune to the extent of human suffering involved, President Bush has proposed a barrage of cuts for these programs.

"What's really amazing," said Mr. Smith, "is that the president cut every cancer program. He cut the colorectal cancer program. He cut research at the National Cancer Institute. He cut literally every one of our cancer-specific programs. It's incomprehensible."

A bipartisan movement is under way in the Senate to block the president's proposed cuts. How that ultimately will fare is unclear.

What is clear is that cancer is a disease that horrifies most Americans, and with good reason. One out of every two men will contract the disease in his lifetime, and one out of every three women.

This is an area in which we need to be doing more, not less.

Fining The Blues (WP)

The Washington Post, March 20, 2006

THE FEDERAL Communications Commission is in a tough spot when it comes to enforcing the law against broadcast indecency. Determining what crosses the line from acceptable to indecent and therefore can't be broadcast before 10 p.m. isn't easy in an increasingly coarse culture. As network programming has become racier and more graphic, the FCC has been deluged with complaints in recent years, understandably so. Parental controls such as the V-chip can help shield children from inappropriate programs, but they aren't always effective; sports and awards shows, for example, aren't rated in advance.

At the same time, the theory that allows broadcasters to be fined for such speech consistent with the First Amendment -- that "uniquely pervasive presence" of broadcast media "in the lives of all Americans" -- seems increasingly obsolete in an age

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when the overwhelming majority of American households (more than 85 percent) get their television programming via cable or satellite -- receiving numerous channels that aren't subject to indecency rules. As a result, a single profanity uttered on one (broadcast) channel can result in a multimillion-dollar fine, while worse language spoken at the very same time on another (cable) channel is exempt from regulation.

Last week the FCC once again ventured into this politically, legally and emotionally charged territory, ruling on complaints involving nearly 50 programs broadcast between February 2002 and March 2005 and signaling a renewed zeal for indecency enforcement under its new Republican chairman, Kevin J. Martin. The commission upheld a $550,000 fine against CBS for Janet Jackson's infamous "wardrobe malfunction" in which her breast was exposed during the 2004 Super Bowl halftime show, and it levied a record $3.6 million fine against the same network for an episode of the drama "Without a Trace" that featured what the commission called a "teen sex orgy."

One particularly disturbing aspect of the ruling involved a Martin Scorsese-produced documentary, "The Blues: Godfathers and Sons," broadcast by a community college public television station in San Mateo, Calif. The documentary included scenes in which musicians and a producer used numerous profanities. The FCC, citing a previous decision that profanity in "Saving Private Ryan" would not subject broadcasters to indecency fines, noted that "in rare contexts, language that is presumptively profane" will still be allowed "where it is demonstrably essential to the nature of an artistic or educational work or essential to informing viewers on a matter of public importance."

But the commissioners didn't find that standard was satisfied in the case of the documentary, whose educational purpose, it said, "could have been fulfilled and all viewpoints expressed without the repeated broadcast of expletives." Really? How do they know better than, say, Mr. Scorsese? As commissioner Jonathan S. Adelstein, a Democrat, wrote in dissenting, "It is certain to strike fear into the hearts of news and documentary makers, and broadcasters that air them, which could chill the future expression of constitutionally protected speech." This is a dangerous kind of line-drawing -- one better left to filmmakers, or even television executives, than government bureaucrats.

Is Anyone Listening? (NSWK)

By Richard Wolffe And Holly Bailey

Newsweek, March 20, 2006

The banner hanging over President George W. Bush read united to victory. But as Republicans listened to Bush slog through his familiar pep talk at a $2,500-a-head fund-raiser last Thursday night, the party faithful knew they were anything but united. Over the last year, they ejected a majority leader, squabbled over ethics and spending, and openly criticized the president on Iraq, port security and a Supreme Court pick. If the Republican guests were hoping for a spiritual revival, they left disappointed. Bush's speech met with tepid applause, and GOP officials shuffled to the cash bar feeling deflated. "It just wasn't as celebratory as it has been," said one House aide who declined to be named when talking about a private event.

For five years nobody needed to blare the word "united" at Republicans; it was their biggest strength. The president handed his agenda to Congress and the party leaders delivered the votes. They twisted the arms of small-government conservatives to pass education reforms and Medicare drug benefits. They held their ranks together even as the Iraq occupation spiraled downward in 2004. And they picked up seats in two election cycles. But now that strategy has fallen apart. Members of Congress, tired of being taken for granted by an overbearing White House, have lost faith in the president's political touch. Social Security, Katrina, Harriet Miers, ports and, of course, Iraq have destroyed the aura of invincibility that once gave Team Bush its swagger.

The stress is starting to show. Republicans are beginning to look and sound like their own caricature of the Democrats: disorganized, off message and unsure of their identity. Fearful of defeat in November, GOP candidates are uncertain how to pull themselves together in the eight months left before the elections. The toughest question: whether to run, as they have in the past, as W Republicans, or to airbrush the president out of their campaigns. "What I've tried to tell people is that a political tsunami is gathering, and if we don't do something to stop it, we'll be in the minority a year from now," says Rep. Ray LaHood from Illinois. "But some people still don't get it."

The president won't have an easy time persuading wobbly Republicans to stick with him. Bush recorded his lowest approval rating in the NEWSWEEK Poll, with 36 percent; congressional Republicans trailed Democrats by 11 points (39 to 50

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percent). Second-term presidents often suffer a six-year slump, losing seats for their party at this point in their tenure. But Reagan, Johnson and Eisenhower—who all watched their parties crater in their sixth year—enjoyed approval ratings in the high 50s or low 60s, according to Gallup. Bush has actually been lucky in one respect. He held his party together longer than most two-term presidents. Johnson kept control for just eight months until he suffered defeat on the parochial issue of home rule for the District of Columbia in 1965, when Democrats took him on—and won. "They saw they could vote against the president and wake up alive the next day," says presidential historian Michael Beschloss.

Republicans in Congress had the same revelation when they slapped Bush down on the Dubai ports deal. Even so, the White House and its party operatives still believe they can muscle Capitol Hill back in line. Bush's aides say that it would be suicidal for members to run away from the president. In strategy memos circulated on the Hill, Republican National Committee pollsters argue that disunity will only discourage the base from turning out to vote. But even the party's analysts concede that standing shoulder to shoulder with Bush may not always be the best way to win. In one RNC memo, pollster Dave Sackett argues that incumbents need to demonstrate their "independence" and disagreements with party leaders, but still present "an overall unified front." (The easiest way to project unity: defend Bush against attacks from the other side. That's why the GOP seized on Democratic Sen. Russ Feingold's futile attempt to censure the president over the National Security Agency eavesdropping program.)

In one way, Bush has succeeded in uniting his own party: almost everyone is together in sniping at him. Some are pressing for staff changes at the White House. Sen. Norm Coleman told the Associated Press last week that he wanted to see a new White House team with "fresh political antenna." Others are telling Bush's aides to keep the current team away from the cameras. "You are losing the message," LaHood told one White House session on Iraq last week. "We don't need Don Rumsfeld or the generals or anybody in the military out trying to explain this to the American people." The White House responded tartly that there is no staff shake-up in the works.

Some candidates are happy to stand beside Bush, as long as nobody actually sees them together. Locked in a tight race for re-election, Sen. Mike DeWine chose not to accompany Bush on one trip to his home state of Ohio last month. A week later he attended a private fund-raiser with the president in Cincinnati—out of sight of photographers and reporters.

Even Hill leaders are substituting their own agendas for the president's. In the Senate, Bill Frist announced his own immigration bill last week that focuses on border security, not the temporary-worker program favored by the president. In the House, new Majority Leader John Boehner is also striking out independently. Boehner has drawn up an eight-week strategy, without White House input, that includes a Higher Education week and Protecting the Homeland week. "This is our plan and our message," says one GOP leadership aide, who spoke anonymously about strategy. "It is our a— on the line."

Republicans once happily attacked Democrats for second-guessing the commander in chief on Iraq and the war on terror. Now they are daring to do the same. Last week House and Senate leaders backed a new bipartisan panel to study Iraq policy and draw up alternatives to Bush's current war plan. A year ago GOP members would have saluted Bush and accused his critics of "undermining the troops." But now they are ready to march in a different direction. The only question is where they'll end up.

OTHER NEWS:

Snow Defends President's Handling Of Economy (WSJ)

By Greg Ip

The Wall Street Journal, March 20, 2006

WASHINGTON -- Confronting criticism of the Bush administration's economic record, Treasury Secretary John Snow said the widening gap between high-paid and low-paid Americans reflects a labor market efficiently rewarding more-productive people. But he insisted Americans are still broadly sharing in the economic expansion.

"What's been happening in the United States for about 20 years is [a] long-term trend to differentiate compensation," Mr. Snow said in an interview with The Wall Street Journal last week. "Look at the Harvard economics faculty, look at doctors over here at George Washington University...look at baseball players, look at football players. We've moved into a star system for some reason which is not fully understood. Across virtually all professions, there have been growing gaps."

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Mr. Snow said the same phenomenon explains why compensation for corporate chief executive officers has climbed so sharply. "In an aggregate sense, it reflects the marginal productivity of CEOs. Do I trust the market for CEOs to work efficiently? Yes. Until we can find a better way to compensate CEOs, I'm going to trust the marketplace."

Since the 1970s, CEO compensation has gone from 40 times to more than 300 times the average worker's salary, according to a study by Carola Frydman of Harvard University and Raven Saks of the Federal Reserve.

Mr. Snow, a former CEO of CSX Corp. who holds a doctorate in economics, said the administration intends to publicly challenge perceptions that typical workers and families haven't benefited much from the economic expansion. The extent to which the expansion has been broadly shared is "the new sort of battle line in the political arena," he said.

Economic output has increased at an annualized pace of almost 4% since mid-2003, and the unemployment rate has fallen to 4.8% from 6.3%. Despite that, polls show more Americans think the economy is worsening than think it is improving.

Mr. Snow distributed a fact sheet that showed after-tax income per person, adjusted for inflation, rose 8.2% from January 2001, when George W. Bush took office as president, through January 2006. The sheet also showed that per-person net worth -- total assets minus debt -- rose 24%, unadjusted for inflation, from early 2001 to the end of 2005. "People have more money in their pocket" and in their bank accounts, he said.

Mr. Snow's case relies on averages, which can be skewed by big gains among the wealthiest. Other data suggest the typical family has seen little advance in income or net worth since Mr. Bush took office. Census Bureau data show median family income -- half of families have income greater than the median, half have less -- fell 3.6% from 2000 through 2004. Incomes for the poorest families fell even further. The only group to gain was the family at the 95th percentile -- that is, richer than 95% of all families. Data for 2005 are unavailable.

Alan Krueger, a labor economist at Princeton University who served in the Clinton administration, cited Labor Department data that showed the real median wage rose 3% from 2000 to 2005. Gains were smallest for the lowest-paid workers and largest for the best-paid. "From the standpoint of the work force, it's been a very weak recovery," he said. Wage data don't incorporate the effects of taxes, investment income or government payments.

As for net worth, a triennial Federal Reserve survey found that the net worth of the median family rose 1.5%, after inflation, from 2001 through 2004. That is far less than the 17% increase from 1995 to 1998 and the 10% increase from 1998 to 2001. The survey wasn't conducted in 2000 or 2005.

Robert Gordon, an economist at Northwestern University, says the past few years represent the continuation of a 35-year trend in which a growing share of all labor income goes to a small group of "superstars: professional athletes, CEOs and top corporate officers." On top of this trend, income on capital -- such as interest, dividends, rent and capital gains -- has taken a growing share of national income from labor, and it "goes mainly to a small slice of the population at the very top."

Mr. Snow said inequality at "one philosophical level...is troubling. It's really a serious, far-reaching question about how to organize the economic affairs of a great country. We as a society have made two determinations. We're going to let more productive people have higher incomes and we're going to tax them more" through a progressive-tax system.

Mr. Snow argued the administration's tax cuts have made the tax code more progressive, because the rich now pay a larger share of total individual taxes. Some scholars counter that the tax cuts still widened the gap between the after-tax incomes of rich and poor Americans. The Tax Policy Center, a joint venture of the Brookings Institution and Urban Institute think tanks, estimates that after-tax incomes of the richest 1% of taxpayers were 4.6% higher in 2005 than they would have been without the tax cuts. Incomes of the middle 20% were 2.6% higher, and incomes of the bottom 20% were 0.3% higher.

Slowing Home Market To Ripple Through Many Layers Of Jobs (USAT)

By Barbara Hagenbaugh And Noelle Knox

USA Today, March 20, 2006

With the allure of easy money, thousands of Americans flocked to jobs in the real estate industry during the boom years.

“You saw it — there were dollar signs in their eyes,” recalls Nick Vayonis, a former real estate agent in Los Angeles, where median home prices rose 145% in four years.

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He left the business a year ago, just in time, he says. Home sales have declined nationwide for the past five months, and sales in Southern California fell to their lowest level in five years in February, DataQuick reported Tuesday.

"I could see the ebb and flow. It wasn't going to be like that forever," says Vayonis, 40, who just opened a coffee shop in Canton, Ga., near Atlanta with his wife Anne-Marie, also a former agent.

As the housing market slows, there will likely be a lot of stories of people who are bailing out of their real estate jobs and other professions related to housing — appraisers, mortgage brokers and home construction workers — and many not by choice. This could send shock waves through the job market and the economy.

That's because housing helped drive the economy out of the last recession. Almost four out of every 10 jobs created in the past four years were in housing-related fields. At the end of last year, a record 9.8% of U.S. workers were employed in the real estate industry, up from 8.2% a decade ago, according to Moody's Economy.com. Only the health care industry added more jobs.

"Job growth is the main engine for consumer spending," says Scott Anderson, senior economist at Wells Fargo in Minneapolis.

"If we don't get the job creation that we need to sustain spending, the economy could be in trouble as we get into '07," he says. "If we don't get any help from these other (non-housing) sectors, longer-term the implications are slower job growth, which means slower consumer spending, which would eventually discourage businesses from spending. You'd have this downward spiral in growth."

While it's too early to tell how deeply the housing industry will contract, many companies are already seeing some business evaporate.

Last month, Washington Mutual said it would close 10 mortgage processing centers and fire 2,500 employees. In November, mortgage company Ameriquest handed out 1,500 pink slips. The housing industry is braced for more belt-tightening.

"At best, people should prepare for no pay increase and no bonus, something they have been getting a lot of. At worst, they should be thinking they may need to change occupations," says Mark Zandi, chief economist at Moody's Economy.com in West Chester, Pa.

While it's painful for those involved, Zandi calls the slowing in housing "a necessary adjustment." The economy had gotten so dependent on housing that it needed to come down a bit to make the economy more evenly balanced.

"Housing has been flying high, and it's now coming back down to earth," he says.

Existing home sales fell in January for the fifth month in a row, and home builders Toll Bros. and KB Home say more buyers are canceling their orders. In all, home sales are expected to fall 8% from last year's record, according to a group of economists surveyed by USA TODAY in January.

That's going to make it harder, for example, for the nation's 2.6 million real estate agents to make a living. In a "normal" real estate market, the median income for an agent in business for two years or less is $12,852, according to the National Association of Realtors. (However, it picks up rapidly after that, with agents making about $47,187, after three to five years.)

Your income "is very unpredictable," says Janice Hofferber, who left her job as a Wall Street stock analyst in 2003 and tried her hand as an agent in Bay Head, N.J. She quit last September and became an investment adviser for Smith Barney. "You're not really building a business, you're building a reputation," explains Hofferber, 41. "There's no recurring revenue. Every year, you start at zero again. That wasn't really attractive."

It was no easier in the mortgage loan business, says Toney Goucher, who closed his restaurant in Arkansas and became a mortgage broker in 2002. When he joined Leader One Financial in Kansas, home sales were hot, interest rates were low, and anyone who wasn't buying was refinancing. Last summer, the market started drying up.

"It seemed like every month, we had another interest rate hike, and it got harder and harder to find clients," recalls Goucher, 55. "I joined organizations and networking groups to find more business. I called on Realtors every day — cold calling — I just didn't enjoy what I was doing anymore."

Goucher threw in the towel and put on an apron. After traveling to St. Louis for a conference, he opened Fat Toney's barbecue restaurant there in January.

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So far, the economic impact of the downturn in housing has been soft. Other sectors of the economy are adding jobs. In February, employers added workers in a broad number of industries, such as retail, health care, restaurants and bars and state and local government. If that continues, those jobs will help take up some slack if people in housing-related fields find themselves out of work.

Plus, many economists expect housing to slow, but not to slide dramatically.

"We don't expect housing to completely collapse," says Anthony Chan, chief economist at JPMorgan Private Client Services, adding that the housing market might regain some momentum in 2007.

There are also a few trends that could reduce the blow to the economy:

•Construction. Although residential construction is weakening, commercial building is picking up, thanks to demand for new roads, government office buildings and retail shops. More than 768,000 people had jobs in the non-residential construction industry in February, the most in more than three years.

"The commercial market now seems to be on a pretty good upswing, and if housing loses ground, which I think is very likely, we will see some of those workers move into the non-residential side," says Dave Seiders, chief economist for the National Association of Home Builders.

Many of the skills used in home construction are transferable to commercial building.

"A carpenter can just as easily work in a non-residential building as … a residential building," says Michael Montgomery, an economist at Global Insight in Lexington, Mass.

•Hurricanes. Hurricanes last year damaged or destroyed 700,000 homes on the Gulf Coast, according to the Federal Emergency Management Agency, based on the number of families receiving federal housing aid.

Although it's unclear how many of those homes will be rebuilt, the process of rebuilding homes, businesses, roads and other infrastructure will likely create jobs for years to come.

•Refinancing. About 25% of outstanding mortgages in the fourth quarter were adjustable-rate mortgages, according to the Mortgage Bankers Association.

For those who got into the mortgage brokerage business, that's good news. Many homeowners will likely want to refinance their mortgages in the months and years ahead to lock in a fixed rate as interest rates are expected to rise, but not by a lot.

"That will kind of prop things (up) for awhile in terms of activity," Montgomery says

And plenty of people who got into the real estate market are determined to ride out any downturn.

One of them is Steve Wydler, 37, who left his job as a lawyer at AOL's headquarters in Virginia in December 2002 to join his brother, Hans, an entrepreneur with a Harvard MBA who is a real estate agent.

The two are getting their brokers' licenses in Virginia and Maryland so they can operate throughout the Washington, D.C., area. They now employ three people and work with four other agents as a team. He makes more money now than he did at AOL.

"Personally, I'm not scared," he says. "We're not in it for the next sale. We're in it for the long haul."

But back in St. Louis, at Fat Toney's, Goucher says he has already gotten a couple of calls from mortgage brokers he knew in Kansas asking about possible franchise opportunities for his barbecue restaurant.

"They say, 'You're lucky you got out.' "

Parties Test Messages On Social Security And Medicare Drug Plan (RC)

By Louis Jacobson

Roll Call, March 20, 2006

With Congress gone for the St. Patrick's Day recess, there's a flurry of activity on both sides of the aisle over the Medicare prescription drug plan.

Republicans are aggressively touting the program, which debuted in January, while responding to criticism from Democrats — and, apparently, from many senior citizens — that the plan is too complex and offers too few benefits.

Building on Democratic efforts to stoke the issue back home, the Democratic Congressional Campaign Committee has unveiled an effort to boost challengers in key 2006 House contests by focusing on the drug benefit. The targeted districts so far

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include seats held by Republican Reps. Deborah Pryce (Ohio), Nancy Johnson (Conn.), Heather Wilson (N.M.), Steve Chabot (Ohio) and Rob Simmons (Conn.).

In this latest installment of our "Hot Topics" format, in which we gauge which competitive House and Senate races could be shaped by key issues this fall, we'll look at the impact of the Medicare drug plan and President Bush's efforts in 2005 to create personal accounts for Social Security.

Democrats are optimistic that they have a winning issue.

"Right now, seniors are squeezed on health care costs, energy prices and prescription medications, and I think that anxiety over retirement security has the potential to be a very important issue in the next election," said Brad Woodhouse, a spokesman for Americans United, the successor group to the now-defunct Americans United to Protect Social Security, a pro-Democratic group credited with helping kill Bush's Social Security overhaul.

Americans United last week announced a campaign attacking the drug plan, estimated to cost $3 million to $5 million, that will include advertisements and grass-roots organizing.

Because it's so new, the reaction to the Medicare drug plan is still evolving. But on another issue of special interest to seniors — Social Security — there's a long track record of politicians grappling with the fallout when they support major program changes. And, despite a reputation as the "third rail" of American politics, not all of that fallout has been decisively negative.

In an analysis published immediately after the 2002 election, Michael Tanner, director of the Cato Institute's Project on Social Security Choice, noted

that Republicans Elizabeth Dole (N.C.) and Lindsey Graham (S.C.) breezed to victory in Senate races despite their open support for individual accounts. Dole taunted her Democratic opponent, Erskine Bowles, by brandishing a blank sheet of paper and labeling it the "Bowles Social Security Plan."

Other Republican supporters of a Social Security overhaul who won Senate races that year despite taking fire from Democrats on the issue included John Cornyn (Texas), Saxby Chambliss (Ga.), Jim Talent (Mo.) and John Sununu (N.H.), according to Tanner. On the House side, GOP Reps. Shelley Moore Capito (W.Va.), Chris Chocola (Ind.) and John Kline (Minn.) also won tight races in which Democrats aggressively hit them on Social Security.

One obvious contest in which these issues will play a major role is the battle between Rep. Clay Shaw (R-Fla.) and Democratic state Sen. Ron Klein. Shaw represents a

Democratic-leaning district that has one of the largest populations of senior citizens in the country. The 13-term Republican has weathered tough challengers before, but Klein is expected to be the toughest yet.

As a senior Ways and Means Committee member, Shaw plays a key role in shaping Social Security policy. While he came out in support of an approach that was different from the president's, Democrats see enough similarities between the two that they can make an issue out of it.

"We haven't gone too far at this early stage of the campaign, but Bush's Social Security plan certainly didn't fly in the district, and it was glaringly obvious that President Bush didn't come down here when he was promoting it," said Klein's campaign manager, Brian Smoot.

Smoot also sees the drug benefit as a potentially strong issue for his candidate. "The program is extremely complicated — there are editorials in local papers every day that voice the frustration of seniors in figuring it out," he said. Smoot added that "the plan does not do simple things, like allow the government to directly negotiate for lower prices, or reimport drugs from Canada. I think people will be extremely frustrated with it" by Election Day.

Shaw's office begs to differ. "In our district, seniors have expressed a need for reform because they're worried about whether there will be a Social Security system for the next generation or not," said Gail Gitcho, a spokeswoman for Shaw. "It's not just about what's happening to them but about what happens down the line, too."

Another hot race involving a key player in the Social Security debate is the dogfight between Sen. Rick Santorum (R-Pa.) and state Treasurer Bob Casey Jr. (D). Santorum was an early and energetic ally of Bush on Social Security reform, then later criticized the White House for tactical errors in how it rolled out and pitched the proposal.

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Already, an air war has been launched in the Santorum-Casey race, with the conservative group Americans for Job Security placing ads that tout Santorum's commitment to Social Security and seniors. Casey and his allies have assailed the ad as misleading because it doesn't mention his support for personal accounts.

Another hot Senate race where Social Security has come up is in the re-election bid of Lincoln Chafee (R-R.I.). While Chafee opposed Bush's Social Security overhaul, the Democratic Senatorial Campaign Committee last year accused him of endorsing, in an interview with the Kent County Times, a related Bush proposal that Democrats blasted as a cut in Social Security benefits.

Seven of the 10 Congressional districts with the highest percentage of Social Security beneficiaries are held by Republicans, as are two-thirds of the top 25 districts. Of those top seven, five are in Florida, making the Sunshine State ground zero in the fight over Social Security and the Medicare drug benefit.

But so far, Susan MacManus, a political scientist at the University of South Florida, hasn't yet seen frustration with the drug benefit translate directly into anger at Members of Congress. "It doesn't appear to be creating animus — confusion, yes, but not blame yet," she said. "It's one of the balls in the air. I'm not sure if it will go flat or keep bouncing."

In addition to Shaw's seat, hot races in Florida that could be shaped by the issue include the contest between Sen. Bill Nelson (D) and Rep. Katherine Harris (R), as well as the races to fill House seats vacated by Harris and retiring Rep. Mike Bilirakis (R).

Longer-shot races in which Democrats seem likely to raise the issue against GOP incumbents include the re-election bids of Reps. Ric Keller, Mark Foley and Ginny Brown-Waite. The districts held by Foley and Brown-Waite cluster near the top of the rankings in proportion of constituents who receive Social Security benefits.

Still, MacManus urges caution when analyzing the potential impact of Social Security and Medicare on House Members: Seniors are not unanimous about the right policies to follow.

Some younger, more active and more affluent seniors do not automatically oppose reforming Social Security and would likely tolerate stricter means testing on benefit levels, she said. By contrast, the strongest support for keeping Social Security in its present form comes from lower-income seniors.

Politically, this distinction is important. Many of the Florida seniors who are more affluent live in Republican-held districts, she said, while lower-income seniors are likelier to live in Democratic-held districts. And that could lead to a status-quo result electorally — a reality that could put a damper on Democrats' hopes to ride Social Security and the Medicare drug benefit to victory in 2006.

Boehlert Hangs Up His Spikes (RC)

By Josh Kurtz and Ben Pershing

Roll Call, March 20, 2006

Rep. Sherwood Boehlert, the senior Republican in New York's Congressional delegation and a leading House moderate, announced Friday that he would not seek a 13th term.

Boehlert, who first came to Capitol Hill more than 40 years ago as a Congressional aide, said he was ready to do something else.

"It's time," the 69-year-old Congressman said during an appearance at a historic train station in his home town of Utica.

Boehlert's departure ensures that his central New York district will become a top target of the Democratic Congressional Campaign Committee, and it could spark a bitter fight among Republicans seeking to replace him.

Boehlert's retirement creates the 18th Republican House vacancy heading into November; his district isn't in the top tier of competitive open GOP seats, but it isn't far down the list.

In the House, Boehlert was termed out as chairman of the Science Committee but held out some hope that he could be handed the Transportation and Infrastructure gavel in the 110th Congress.

In the wake of Boehlert's announcement Friday, both Democrats and Republicans sought to claim the advantage. Although Boehlert never had to sweat re-election — his toughest challenges came from the right in GOP primaries — the 24th district has only slightly leaned Republican in recent presidential and statewide elections.

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"This is a district that a Democrat can win and should win because New York families deserve a voice in Congress who will not become irrelevant or simply act like a rubber stamp for the special interest Bush agenda," said Bill Burton, communications director for the DCCC.

Four Democrats already are running for Boehlert's seat, with Oneida County District Attorney Michael Arcuri, who formally entered the race just a week ago, seen as the preference of national and New York party leaders. The other candidates are lawyer Leon Koziol, college professor Les Roberts and former Cortland Mayor Bruce Tytler.

In a statement Friday, Arcuri praised Boehlert's service but said his centrist views were ignored in a Congress dominated by conservative Republicans.

"I think the people in the district want a change in how Congress operates," said Arcuri, who has been his county's top prosecutor for a dozen years.

Early indications Friday were that the Democratic field was not likely to grow significantly following Boehlert's announcement, although state Assemblywoman RoAnn Destito and former Oneonta Mayor Kim Muller have been mentioned as possible candidates.

But Democratic hopes of an epic primary struggle between two prominent Republican state Senators were dashed shortly after Boehlert's announcement.

In anticipation of Boehlert's retirement, state Sens. Ray Meier (R) and Jim Seward (R) have spent the past several weeks angling for support, and both recently used state campaign funds to run TV ads — ostensibly to promote issues they were working on in the Legislature.

But Seward issued a statement late Friday saying he would seek re-election in the fall — sparing the GOP the pain of a primary between the two lawmakers and minimizing the number of open seats in the state Senate, which they are fighting desperately to keep control of this year.

Meier is expected to formally announce his candidacy today, and the state's GOP establishment will almost certainly coalesce around him.

"Senator Meier is clearly the only A-level candidate on the Republican side who's shown an interest," said Scott Armstrong, a GOP consultant in New York who is working for Meier.

But Meier probably won't have the field to himself. Former Seneca Falls Mayor Brad Jones (R) was already challenging Boehlert from the right and is expected to stay in the race. Jones, who had $49,000 in his campaign account at the end of 2005, did not respond to a phone message left at his campaign headquarters Friday.

Other possible Republican candidates for the seat are James Griffo, the Oneida County executive — a position Boehlert held before he was elected to Congress in 1982 — and Catherine Bertini, a former undersecretary of management at the United Nations who fits Boehlert's moderate profile.

Brian Adey, a Griffo spokesman, said Friday that his boss will "continue to keep all of his options open at this point."

The small but influential New York Conservative Party could play a decisive role in the Republican scrum. The Conservatives have always been estranged from Boehlert and frequently ran candidates against him. With the Democrats putting up only nominal opposition, it didn't matter; but with the DCCC showing a renewed interest in the seat, a Republican-Conservative split could prove fatal to the GOP's ability to hold on to Boehlert's seat.

Before Boehlert retired, Jones seemed like a shoo-in for the Conservative nomination, but Meier has run with Conservative support before.

"The guy's got a pretty good conservative base," said Shaun Marie Levine, executive director of the state Conservative Party.

Levine said the party's executive committee would designate a nominee in July in consultation with the Conservative chairmen in the Congressional district's 11 counties. Another candidate could choose to force a primary in September with the choice of the Conservative leaders.

Because Boehlert was one of the stalwarts of the House GOP centrists, moderate groups also may push hard to elect one of their own. Boehlert is the third Republican moderate from New York to step down from the House in the past two cycles — Reps. Amo Houghton (R) and Jack Quinn (R) called it quits at the end of the 108th Congress.

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Sarah Chamberlain Resnick, executive director of the Republican Main Street Partnership, said the organization's leaders knew for weeks that Boehlert was considering retiring, but they were hoping that he'd change his mind.

"It's a loss, but it's not a death," Resnick said.

While Boehlert is well-respected by his fellow moderates and many lawmakers like the New Yorker personally, Boehlert will be remembered with mixed feelings by members of the leadership.

Boehlert has clashed frequently with Republican leaders on a variety of subjects, particularly environmental matters — and environmental groups lavishly praised him Friday.

Boehlert was a key player last year in persuading the Republican leadership to remove a provision from the budget reconciliation measure that would open the Arctic National Wildlife Refuge to oil and gas exploration. Boehlert eventually voted for the bill, but only after leaders added money back for Medicaid, dairy subsidies and food stamps.

Boehlert's frequent rebellions on key party issues made him a long shot to chair the Transportation committee in the 110th Congress, even though he is currently third in seniority on that panel.

With Boehlert gone, the race for the Transportation gavel remains somewhat in flux, with GOP Reps. Tom Petri (Wis.), John Duncan (Tenn.) and John Mica (Fla.) all interested in the post.

On the Science Committee, the most likely contenders for the gavel are GOP Reps. Ralph Hall (Texas) and Vernon Ehlers (Mich.).

Hall previously served as ranking member on the Science panel before he switched parties in 2004. Ehlers recently became House Administration chairman but told the Grand Rapids Press in January, "I would not let this stand in the way of being chairman of the Science Committee."

To his colleagues, Boehlert is perhaps best known as a baseball fanatic whose district includes the baseball Hall of Fame in Cooperstown. He cited future Hall of Fame pitcher Roger Clemens in his farewell remarks Friday.

"When I reflect on these 24 years in Congress I, to use the language of the House in which I serve, identify with the words of the distinguished gentleman Roger Clemens who, when asked about retirement, said, '...when I shut it down, I'll be walking away with a smile on my face,'" Boehlert said. "There will be no regrets because I feel like I've done it the right way.'

"Those are my sentiments. I do feel like I've done it the right way."

Rep. Sabo Calls It A Career (RC)

By Nicole Duran

Roll Call, March 20, 2006

Rep. Martin Sabo (D-Minn.) announced Saturday that he will retire at the end the 109th Congress instead of seeking a 15th term, as he previously said he would.

"It's time to move on," he said in a statement. "In my gut, I know the time is right."

The 68-year-old Congressman's announcement quickly set off a barrage of interest among potential candidates to succeed him in his heavily Democratic seat and on the Appropriations Committee.

Many Minnesota political observers believe that Sabo's chief of staff, Mike Erlandson, who surrendered the chairmanship of the state Democratic-Farmer-Labor Party last year, is the early frontrunner.

"It's a solid Democratic district so the question will be who will get the nomination and win the primary," said Jim Farrell, one-time spokesman to the late Sen. Paul Wellstone (D-Minn.). "I know Mike Erlandson is oft-talked about as a successor for that seat so I would think he would have the advantage."

Erlandson confirmed in an interview Friday evening that he hopes to succeed Sabo in the Minneapolis-based 5th district.

Other potential contenders, according to Minnesota Democratic sources, include: Peter McLauglin, who recently lost the Minneapolis mayoral contest; Sharon Sayles Belton, a former two-term Minneapolis mayor who lost to Mayor P.T. Rybak; state Sens. Scott Dibble and Satveer Chaudhury; state Rep. Keith Ellison; Minnesota House Minority Leader Margaret Anderson Kelliher; Julie Sabo, the Congressman's daughter and a former state Senator; Minneapolis City Council Majority Leader Scott Benson; and City Councilmembers Lisa Goodman and Gary Schiff.

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Jack Nelson-Pallmeyer (D), a professor at the University of St. Thomas, opened a campaign office and was challenging Sabo at party precinct caucus, according to the Minneapolis Star-Tribune.

Republicans are not expected to seriously contest the 5th district, which gave Sen. John Kerry (D-Mass.) 71 percent of the vote in the 2004 presidential election.

Minnesota and national Democrats said they were surprised and saddened by the news that the 44-year public servant was leaving elective office.

"For his nearly 30 years in Congress, Martin Sabo has provided expertise and insight on crucial issues from national security to economic security," House Minority Leader Nancy Pelosi (D-Calif.) said in a statement. "In his tenure as the senior Democrat on the Homeland Security appropriations subcommittee, Congressman Sabo has worked tirelessly to strengthen the security of our nation. From Chairman of the Democratic Study Group to Chairman of the Budget Committee, he has always been a leader in our Caucus. His knowledge and commitment has earned him the respect and trust of his colleagues on both sides of the aisle.

"He will be missed," Pelosi concluded.

For his part Sabo said in prepared remarks that he will continue to "fight for peace and for more responsible budget policies" during the remainder of his term, adding that he's "looking forward to having more time for other things."

Sabo, a ranking member on an Appropriations subcommittee, briefly led the Budget Committee, ascending to the chairmanship in 1993 but relinquishing the gavel in 1995 after Republicans won control of the House.

While chairman he helped pass the largest deficit-reduction package in history, which led to surpluses at the end of former President Bill Clinton's administration.

The son of Norwegian immigrants, Sabo was first elected to the Minnesota state House in 1960 at the age of 22. He served as Speaker from 1969 to 1973 and was sent to Congress in 1978.

A pet issue of Sabo's is economic disparity. With regularity he has unsuccessfully introduced an Income Equity Act, which puts a cap on the wages of corporate CEOs.

Sabo is an avid baseball fan and did not let his passion for the game lie while serving in Congress.

He has managed the Democrats in the Annual Roll Call Congressional Baseball Game for 20 years, and while his team has lost more than it has won, Sabo will head back to Minnesota with the coveted Roll Call trophy he won in 1994.

It's too soon to determine who will succeed Sabo as manager, although Erlandson, who worked the game for Sabo for many years, could be a contender for that job as well.

Washington Whispers (USNEWS)

By Paul Bedard

U.S. News and World Report, March 20, 2006

SpongeBob on Brit Hume's Target List

The steady creep to the top for Brit Hume's nightly Special Report on Fox--not just the No.1 Washington-originated cable show but also the fourth in all basic cable at 6 p.m.--has the host eyeing the next victim. "We've been having a series of meetings here about how we can beat Nickelodeon," he says. "We just hope that they don't put SpongeBob SquarePants up against us." Fun aside, Hume's hourlong mix of news and debate now reaches 1.5 million nightly while dominating the key 25-to-54 age demographic. And it happened in a very un-Fox-like way: without fanfare, even though Hume has recently surged to the No. 2 spot among all cable news shows, after Bill O'Reilly.

When Special Report started in 1998, the goal was giving the growing Washington bureau some visibility. Now the top audience-getter of Washington shows, including CNN's Situation Room and MSNBC's Hardball, Hume says, "We kind of pinch ourselves." Like a good boss--Hume is the managing editor of the D.C. bureau--he credits his news team. But the "poisonous" mood in Washington doesn't hurt either. "For those who have a rooting interest in it," he says, "they want to hear about it."

While beating the pants off SpongeBob is a long-term goal, Hume has a more immediate worry: No. 12 ESPN's March Madness coverage. "If they've got games on at 6 at night," he frets, "that's gonna be tough."

California Condi Has a Nice Ring

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She doesn't want to run the country, she says, but Condoleezza Rice is the hottest thing in politics right now. Pollster Frank Luntz did a straw poll at the recent California Republican convention. Guess who won? Stanford University's provost before joining the Bush administration, Rice was first with 29 percent, followed by Virginia Sen. George Allen at 26 percent and former New York Mayor Rudolph Giuliani at 16 percent. What's it mean? With Rice on the 2008 ticket, even as veep, California could go Republican.

CIA to Bloggers: Honor the Oath

The CIA's Publications Review Board is sending out terse reminders to agency veterans reminding them of the rules requiring that any writings--even blogs--must first get agency approval. Among those getting the warning is outspoken blogger and ex-agency man Larry Johnson, who smells censorship. "It's very selective," says Johnson, who has been critical of the CIA's failure to defend outed ex-spook Valerie Plame. His note from CIA brass referenced his blogging. A CIA spokesman described the reminder as standard operating procedure. "Should anyone be surprised if CIA reminds people of the obligations they voluntarily assumed?" asks the agency in a statement. Exempted from the review list: radio and TV appearances--unless written notes are used.

New Hints That, Yep, Rudy's In

Republicans looking for some excitement in the lead-up to the 2008 presidential race are starting to chant Rudy, Rudy, Rudy. While Rudolph Giuliani, New York's 9/11 mayor and national hero, hasn't talked about running, there are hints he's ready. A key Republican senator tells us that Rudy's peeps are already at work in Florida. And we hear that he's making a trip to Iowa--home of the first 2008 presidential caucus--to help raise money for Republican gubernatorial candidate Rep. Jim Nussle.

Rummy's Really a Pressroom Junkie

Imagine this: You're the dean of the Pentagon press corps and planning a retirement party miles away at your wire service's downtown Washington HQ. You invite SecDef Donald Rumsfeld, known for snarling at the press, and Gen. Peter Pace, chairman of the Joint Chiefs. And they show up! That's exactly what happened at Reuters last week at reporter Charlie Aldinger's retirement party. And attendees say it wasn't just a quickie stop. Pace gave Aldinger, 68, a medal for his service to the country--22 years on the beat--and he and Rumsfeld stayed for over two hours, a rare tribute to a journalist. "I was deeply moved by it all," says Aldinger.

The Coyotes on Old Wolf's Tail

OK, so we know that Fox is king of cable news, largely at CNN's expense, but now it looks like Ted Turner's brainchild is under attack from the other side. Little MSNBC is making an advance during the key 6 p.m.-to-9 p.m. period, hounding Wolf Blitzer's Situation Room, Paula Zahn, and Lou Dobbs. "This is really big news," says MSNBC's Jeremy Gaines. First, let's be clear: CNN has more viewers. But, as they say in TV, only the "demo" matters, and in the key 25-to-54 demographic that ad rates are based on, MSNBC is nipping at CNN. Here, The Abrams Report has seen a 35 percent jump in just a year, though it still lags behind Dobbs. But Hardball With Chris Matthews, up 52 percent, edges Blitzer by 1,000 viewers in the demo, and Countdown With Keith Olbermann, up 39 percent, ties Zahn. MSNBC's Gaines credits "consistency" and good hosts for the trend. At CNN, they note that total viewers are still higher and say that any February pop was due to MSNBC's Olympic coverage. "People were tuning in to watch Bode Miller slip and slide down a ski slope," says spokeswoman Edie Emery, "and they got Chris Matthews instead."

A Snapshot of Presidential Power

White House photographers last week got a lesson in presidential authority. Already in place for a Bush visit to a New York seniors facility, the newsmen were asked by the master of ceremonies if they'd take pictures of the crowd before President Bush arrived. No one stepped forward. That is until Bush heard and called on Reuters photographer Larry Downing to get snapping. "Ask and ye shall receive," grinned Bush. "The president just sort of ambushed me," said Downing. Downing is something of a Bush fave. In Istanbul in 2004, Downing recalls taking a picture of NATO officials, then pausing to write down their names. From behind, a man asked, "Do you need any help with the names?" It was the prez.

An Empire State Headache For Republicans? (RC)

By Stuart Rothenberg

Roll Call, March 20, 2006

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Looking for a sign of whether a big Democratic wave is developing? Try New York.

Once a state with genuine political competitiveness where liberal Republicans (including Thomas Dewey, Jacob Javits, Nelson Rockefeller and Ken Keating) prospered, the Empire State has veered toward the Democrats over the past few decades.

Yes, New York Republicans have now held the governorship for three consecutive terms, and they retain their longtime lock on the state Senate. But Democrats hold more than a 2-to-1 advantage in the state's Congressional delegation as well as both Senate seats and an unassailable majority in the state Assembly. And, of course, no Republican presidential nominee has carried the state since Ronald Reagan's re-election landslide of 1984.

This cycle, Democrats are making a major effort to flip a handful of Congressional districts in the state, and they hope that strong Democratic showings at the top of the ticket, combined with a favorable national environment, could net them a seat or two in Congress.

Sen. Hillary Rodham Clinton (D) will coast to an easy re-election victory, and state Attorney General Eliot Spitzer is expected to win the Democratic nomination for governor and crush his eventual GOP opponent in November. Democrats also hope to make gains in the state Senate.

By contrast, New York political observers say Republicans have a chance to swipe only a single statewide office — attorney general — and even there, Westchester County District Attorney Jeanine Pirro, once thought of as a rising star, is off to another unimpressive start. Her competitiveness in that race stems from the baggage of the two leading Democratic contenders for the office, former Housing and Urban Development Secretary Andrew Cuomo and former New York City Public Advocate Mark Green.

Overall, national Democrats believe that the combination of good candidate recruitment in New York and a favorable political environment has put seven New York House districts "in play" this cycle. But do they really have a chance in any of them?

In many ways, the best Democratic opportunity is in the 20th district (Saratoga Springs to Lake Placid), currently represented by Rep. John Sweeney (R), a four-term Congressman who previously served as New York labor commissioner and executive director of the state party.

His opponent, attorney Kirsten Gillibrand, 39, has good political bloodlines and worked in the Clinton administration. Attractive and personable, Gillibrand raised an impressive $370,000 through the end of December.

Sweeney has been hospitalized with high blood pressure, and he has ruffled some feathers within his own party, including backing candidates in county party races who eventually lost. He also has strained relations with outgoing Gov. George Pataki (R).

Just based on the numbers, Democrats should have their best shot at GOP Rep. Jim Walsh. Unlike the other six districts Democrats are targeting in the state, Walsh's Syracuse-centered 25th district was carried by Democratic Sen. John Kerry (Mass.) in 2004, 50 percent to 48 percent.

From an incumbency point of view, two GOP-held seats look particularly inviting. Rep. Sherwood Boehlert's retirement creates an open seat in the 24th district (Utica/Rome), while first-term Rep. Randy Kuhl drew an unimpressive 51 percent in the 29th district against a weak opponent last time, making him an obvious target this time.

Elsewhere, Democrats think they have a shot against GOP Reps. Sue Kelly in the 19th district, Tom Reynolds in the 26th district and Vito Fossella in the 13th district.

Reynolds, as chairman of the National Republican Congressional Committee, would be a particularly sweet trophy for Democrats, though his chairmanship gives him the means to fight back effectively against a strong challenge. Millionaire Jack Davis (D), who drew 44 percent against Reynolds last time, is running again.

As for Fossella's seat, Democrats hope that New York City Councilman Bill de Blasio will take him on.

Yet while this crop of Democratic opportunities is better than in the past, Democrats remain distinct underdogs in all of these seats.

State political observers argue that upstate voters turn out with clock-like consistency, and that any surge or decline in turnout is likely to occur downstate. And there are plenty of Bush Republicans in these Democratic-targeted districts. In 2004, Bush carried Sweeney's and Kelly's districts with 53 percent, Boehlert's with 52 percent, Kuhl's with 56 percent, and Reynolds' and Fossella's with 55 percent.

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The numbers simply are against the Democrats in these districts. “There are too many cows, too many trees and too many Republicans” for Gillibrand to knock off Sweeney, one insider told me.

In Boehlert’s district, Republicans are likely to nominate a popular GOP state Senator, probably Ray Meier, who actually looks to be stronger than Boehlert — who’s repeatedly faced tough primaries with conservatives — would have been in November. And Walsh’s likely opponent doesn’t look strong enough to threaten the relatively popular Congressman.

While I found Kuhl’s main challenger — retired naval officer and former Wesley Clark aide Eric Massa — to have an interesting background and potential appeal, I wasn’t impressed that he ended December with just more than $87,000 in the bank.

The most recent buzz about a de Blasio challenge to Fossella ignores the fact that de Blasio is a Brooklyn-based politician who would have a difficult time in Fossella’s district, which is dominated by Staten Island.

One last comfort for upstate Republicans is that state Senate Majority Leader Joe Bruno will pour big money into GOP-held state Senate districts to try to retain the party’s 35-27 majority — a factor that could help Republican efforts to retain the seven Congressional districts Democrats are targeting.

Still, despite all the challenges facing Democrats in the New York Congressional races, the contests are worth watching. Political waves can build bigger and faster than anyone expects, and that fact alone makes the Empire State worth paying attention to. Just don’t lay down money on any of the Democrats just yet.

Stuart Rothenberg is editor of the Rothenberg Political Report.

Bonnie And Clyde Budgeteers (WSJ)

The Wall Street Journal, March 20, 2006

Remember when Al Gore pledged to create a "lockbox" to protect Social Security trust fund surpluses from the annual Congressional spending raid? Well last week, while voting to raise the federal-debt ceiling to $8.96 trillion, Senators had a chance to terminate this notorious money-laundering scheme.

And guess what? Every Democrat in the Senate joined with eight Republicans to kill an amendment by GOP Senators Jim DeMint and Mike Crapo that would have stopped the Bonnie and Clyde budgeting. The vote was 53-46, and on the list of those voting to continue the Social Security raid is every potential 2008 Democratic Presidential aspirant in the Senate, including Hillary Clinton, John Kerry and Joe Biden. Worse, the list also includes Republicans Conrad Burns (Montana), Jim Talent (Missouri) and Gordon Smith (Oregon), who are running for re-election this year.

Apparently, these Senators want the money stored in a lock box, but only on the condition that they know how to pick the lock. The DeMint-Crapo proposal would deposit surplus payroll tax dollars in personalized bank accounts for each U.S. worker. This would in effect have created more than 100 million personalized lock boxes -- and as taxpayers' private property, well out of the reach of the politicians.

We're talking big dollars here. The payroll tax will collect some $80 billion more in taxes next year, and $436 billion more over the next five years, than Social Security will pay out to current retirees. Under today's law, Congress simply keeps that cash to spend itself. Under the DeMint-Crapo idea, the average young worker would be able to accumulate roughly $40,000 in tax-free wealth for retirement based on eight years of surplus tax payments and 30 years of interest.

And if you want to know why Members of Congress want to keep this annual spending raid going, all you have to do is look at the budget outline for Fiscal 2007 that this ostensibly Republican Senate passed last week. Gone was President Bush's proposal to reduce runaway entitlement spending by a modest $65 billion over five years. Gone, too, was the White House proposal to expand health-savings accounts, as a way to reduce the number of uninsured and reduce health-care costs. Making the 2003 tax cuts permanent? Not a chance.

Instead, the $2.8 trillion budget outline increased spending by $16 billion more than Mr. Bush requested. Some $7 billion of that was passed in an amendment by Senator Arlen Specter (R., Pa.), who has mastered the art of what are called "advanced appropriations," which means shifting spending items between fiscal years to evade even modest budget limits. "It's not sort of a gimmick. It is a gimmick," Mr. Specter was quoted in the Journal regarding this ruse. The vote on his amendment was 73-27, and a majority of Senate Republicans joined Democrats to pass it.

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Mr. Bush can't veto a budget resolution, which is one more reason to reform the deliberately opaque budget process. And judging from last week's votes, Republicans aren't learning from their low approval ratings. They think the way out of trouble is simply to spend more money -- that is, to behave like Democrats. As long as they're behaving that way, conservative voters might well oblige them and sit home in November so next year we can get the real thing.

Katrina Lost & Found: Loyalty (WP)

By Al Kamen

The Washington Post, March 20, 2006

Politicians in Washington know bad things happen when you neglect the unglamorous but essential task of providing personal service to constituents.

Take the recent example of New York international banker and lifelong conservative Jeffrey Volk . Volk once worked in the Nixon White House for speechwriter Patrick J. Buchanan . He help draft Ronald Reagan 's economic platform in 1980.

Over the years he's contributed to and raised money for Republicans. In 1998, Volk was one of those who urged George W. Bush to run for president. He attended Bush's second gubernatorial inauguration that year in Austin and contributed to both Bush presidential campaigns, the Florida recount and attended the first presidential inauguration.

Volk, who saw the second plane hit the World Trade Center and ran away from a collapsing tower, found himself in New Orleans in August with his wife and daughter, a freshman at Tulane University, when Hurricane Katrina hit.

Volk figured they could ride it out at a downtown hotel. His daughter had no ticket home, he said and, besides, "usually they blow in and out." Not this time.

The huge hurricane struck on Sunday, and it wasn't long before arsonists and looters were prowling the streets, the hotel across the street was being ransacked, there were no lights and fresh water was barely running. Volk called the White House for help.

"I was sent to voice mail," he said, where he was told he could "leave your comments." He called back and asked to speak with someone from the Federal Emergency Management Agency. More voice mail. His third try got him to FEMA in Alabama, which had its own concerns. "I called a half-dozen times . . . there was no one to talk to."

"I decided I would call my senator," Hillary Rodham Clinton (D-N.Y.), whom he'd never met, Volk said. "An aide in Clinton's Washington Senate office took the call and said I needed to call Dan Burton , a caseworker in New York. When I called, he knew to expect a call from me.

"He basically said: 'What would you want Senator Clinton to do?' I said, 'Call [Gov. George E.] Pataki and get the National Guard plane and send it down for the New Yorkers.' "

Burton could not get the plane, but "he called two or three times a day to make sure we were okay," Volk recalled.

"I can't begin to tell you how much that meant to us in that hotel," he said. "The fact that anyone in government cared that we were there meant maybe there was a list somewhere, maybe we could get out. It was enough just that someone in government knew we were there."

Finally, on Wednesday, hotel employees put together a five-car caravan to move the guests to Baton Rouge.

Upon his return to New York, Volk said he called a White House aide who told him they were getting overwhelmed with people calling to complain. "I said I wasn't calling to complain but to try to figure out how I was supposed to get out."

"I also arranged to meet [Clinton] and to say thank you for Dan Burton," Volk said. They had a long chat, and while "she and I don't agree on a lot of things," he said, there was common ground on key issues such as the need for a balanced budget, strong armed forces and health care concerns. "We need to get an informed debate going," Volk said. "I am thoroughly unhappy with the direction of our government."

The Dec. 11 Clinton fundraiser that he co-hosted raised nearly $100,000 for her Senate campaign. Would he support her in 2008 if she runs for president? "I probably would," Volk said.

Remember, constituent service.Stealth Spokesman Under Pentagon Wraps

Reporters at the Pentagon are still hoping to meet, perchance to interview, J. Dorrance Smith , who's been assistant secretary for public affairs since Jan. 4. One reporter spotted Smith leaving his office, but he accelerated before a question could

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be asked. Another apparently bumped into him in the men's room. And another body-blocked him in a hallway and managed to chat for a few minutes.

Things may not change soon because the Pentagon has decided to adopt the White House model of a communications director and a spokesman, with Smith directing and press aide Eric Ruff doing the speaking and the briefings.Longtime Pentagon Reporter Wraps It Up

Speaking of the Pentagon, retired Air Force Gen. Richard B. Myers , who left his post as chairman of the Joint Chiefs of Staff in September, has joined the board of directors of aerospace giant Northrop Grumman Corp. Under ethics rules, he's not allowed to go near his old F-4 for two years.

Also across the river, Reuters reporter Charlie Aldinger , dean of the Pentagon press corps, retired last week after 22 years covering seven secretaries. Aldinger won a word of praise, on the record, from Defense Secretary Donald H. Rumsfeld , who said Aldinger -- "even I have to admit, almost always gets it right -- or about right."

Mass. Loses Ground In Faith-based Funding (BOS)

By Scott Helman

The Boston Globe, March 20, 2006

Massachusetts has seen its share of faith-based grant funding from the US government plunge by more than a third over the past three years, new federal figures show.

Religious groups in the state took in $19.6 million in federal grants under the program last year, down from $29.9 million in 2003, according to figures released this month by the White House Office of Faith-Based and Community Initiatives. Only Idaho had a steeper drop during that period.

The 34 percent reduction for Massachusetts from 2003 to 2005, which came as funding to faith-based groups nationwide increased, occurred largely during the tenure of Governor Mitt Romney, a Republican who has touted his ties in Washington, D.C., as a boon for Massachusetts. Romney has also stepped up his outreach to evangelical and Catholic voters as he prepares for a potential run for president.

Last June, Romney, acknowledging the state could do more to help religious charities win federal money for their social service programs, appointed his wife, Ann, to lead the effort. Ann Romney, who has worked for years with charitable causes, was appointed with three months left in federal fiscal year 2005, so the newly released figures don't reflect her involvement.

"The reason Governor Romney established the state's first-ever, faith-based liaison and appointed his wife, Ann, to this new position is because we felt we could do more to help faith organizations in Massachusetts get access to money that would allow them to do good works in the community," Romney's communications director, Eric Fehrnstrom, said in an e-mail. "Previously, that wasn't being done."

GLOBE GRAPHIC: Reaching out

In Massachusetts, federal faith-based money has gone to housing, youth mentoring, and anti-drug programs, among others. The biggest recipients have been elderly housing organizations and the Black Ministerial Alliance of Greater Boston.

Since her appointment, Ann Romney has been a "dynamo" in encouraging more Massachusetts groups to go after federal grants, said Jim Towey, director of Office of Faith-Based and Community Initiatives. The payoffs from the state's new focus will be evident down the road, he said.

"I think the fruit of their strides will be clear in future years," Towey said.

The decline in funding to Massachusetts has come as federal funding nationally to domestic faith-based programs has risen from $1.2 billion in 2003 to $1.6 billion in 2005, according to the Office of Faith-Based and Community Initiatives. The number of individual faith-based grants to the state has remained steady.

Massachusetts dropped from 13th place to 20th place overall during the three-year period. States in the West and Midwest saw the biggest increases, but every other New England state experienced a significant boost: Maine, New Hampshire, Rhode Island, and Vermont all saw their total grant funding more than double, while Connecticut saw a 69 percent increase. (The figures reflect federal fiscal years.)

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The Office of Faith-Based and Community Initiatives has no role in allocating funding. It compiles information on some 23,000 grants made to faith-based groups from federal agencies such as the US Department of Housing and Urban Development and the US Department of Health and Human Services.

Federal officials caution that the awards list is meant only to be a snapshot, not a complete accounting of federal grant dollars to organizations with religious affiliations. Indeed, several past grant recipients in Massachusetts that are not on the government's list for 2005 say they should have been, because they did receive money that year.

Over the past three years, grants have gone to an array of organizations in Massachusetts. In 2005, for example, Catholic Social Services of Fall River received almost $300,000 for housing and abstinence-education programs, and Jewish Community Housing for the Elderly in Framingham received $7.9 million for senior housing.

The Black Ministerial Alliance of Greater Boston received a $1.4 million grant in 2005. The organization uses the money to help a host of community organizations set up and run their social service programs. The alliance, for example, worked with dozens of groups to create the High-Risk Youth Network, an initiative to expand services for youths and reduce violence among teens.

"From our experience, the program works," Harold Sparrow, executive director of the Black Ministerial Alliance, said of the faith-based initiative. "At a grass-roots level it's been effective and we've helped people."

GLOBE GRAPHIC: Reaching out

It's unclear exactly why Massachusetts didn't attract as much faith-based money in 2005 as it did in prior years. One explanation could be that the state received a few sizable, one-time grants in 2003. Towey also said that the competition for federal money has intensified, with many first-time applicants around the country making a pitch for funding.

"You can argue about how big the pot of money is or should be," Towey said. "[But] this is what happens in competitive grant programs . . . You're going to see the variances."

Towey was in Boston last June for a roundtable with religious and social service leaders, and he's coming back in May for a similar meeting and to tour a program that relies on federal grants.

Massachusetts is one of 32 states that has a faith-based liaison or office, but other states have had theirs up and running longer, helping to connect religious organizations with federal grant opportunities. Ohio created its faith-based office in 2003, Oklahoma established one in 2000, and Texas opened its office in 2004.

Sparrow said that concerns about the church-state separation and political opposition to the faith-based initiative are particularly strong in Massachusetts, which he said could cause some leaders here to be more reluctant to get involved than their counterparts in other states.

"In Massachusetts it's not politically correct to do that," Sparrow said. But US Representative Edward J. Markey said faith-based grants make up only a small fraction of all the federal money Massachusetts receives, which he said has remained steady over the past five years even as the state has lost population.

"Massachusetts is doing very well overall," Markey, a Democrat, said in a statement.

President Bush launched the faith-based initiative soon after taking office in 2001, saying he wanted to remove barriers that had prevented religious organizations from accessing federal funds.

The measure stalled in Congress, but Bush later ordered federal agencies to rewrite regulations to allow religious charities to compete for federal contracts.

Many religiously affiliated charities had been getting government money before, but the change has opened the door for many others.

Critics say the faith-based initiative is little more than a political strategy to help Republicans court voters around the country, particularly African-Americans and Hispanics in so-called swing states. Bob Wineburg, a professor of social work at the University of North Carolina-Greensboro and critic of the effort, said the Bush administration is simply interested in shoring up support among conservatives.

"This is about politics," Wineburg said. "This is not about effective social-services delivery."

Towey rejects suggestions that the money is distributed for political advantage.

"The issue is not about regions, it's not about religions," he said. "It's about results."

For Bridge Over Troubled Waters, a Boston organization that helps runaway and homeless youths, the federal money has produced results.

The organization uses a federal grant to fund a mobile health van, manned by volunteers, that goes out every night to Harvard Square, Dudley Square, the Park Street T station, and other areas of the city to develop relationships with youths and connect them with other services.

"That's what opens the door to having a conversation with these kids," said Carol Phillips, director of development and public relations for Bridge Over Troubled Waters.

Work Starts On Islamic High School (WP)

By Daniel De Vise

The Washington Post, March 20, 2006

Construction has begun on a 20-acre campus near Annapolis that will house an Islamic high school, a television station, athletic facilities and eventually a college, according to project directors.

Mohammad Arafa, executive director of the Islamic Society of Annapolis, said the Mekkah Learning Center will be the first Islamic high school in the region. Work will progress on the $8 million project only as fast as donations permit; religious law forbids the society to take out a loan with interest.

The school will complement two established Islamic schools in the region, Al-Huda School in College Park and Al-Rahmah School in Baltimore, each serving a few hundred students up to the middle-school grades. Arafa said he has the support of 22 Muslim leaders across Maryland.

He envisions the campus as a means "to help our children to be Americans and Muslims without having to compromise their identity" and as a place where Muslims and non-Muslims can gather to bridge their differences.

He hopes there will not be a fight. Islamic schools and mosques have engendered fear and suspicion across the Washington region, both before and since the Sept. 11, 2001, attacks, whose creators purported to be acting in Allah's name.

Perhaps the most explosive case, which preceded the 2001 attacks, was a proposed $80 million complex for the Islamic Saudi Academy in Ashburn. Partly financed by the government of Saudi Arabia, the project thoroughly divided the community in 1998. Some residents said the school, given its backing, might pose a security risk.

Protest later subsided, but in 2004, academy officials decided not to pursue the project, according to Dave Kovalik, school spokesman. The academy serves 1,000 students in preschool through grade 12 at campuses in Burke and Alexandria. It is the only accredited Islamic high school program in the Washington-Baltimore region, Kovalik said. Some students travel from as far as Waldorf.

Arafa said the idea for the Mekkah school took root in the 2001 attacks and the resulting need for Muslims in Maryland to express the peaceful nature of their faith. A release for the new school states that "it is imperative that area Muslims get the message out as to the true peaceful nature of Islam."

He recalls fielding 106 telephone calls after Sept. 11; 104 were supportive, and two were not.

But when he learned last year that the Islamic Society's lease in a strip mall on Forest Drive would not be renewed because of parking concerns, Arafa found the search for a new home to be an exercise in rejection. Arafa said at least eight prospective landlords turned him away after learning the identity of the tenant. Mosques and Islamic schools nationwide have been victims of anti-Muslim vandalism and other hate crimes, as well as allegations that their facilities are harboring terrorists.

"They turn around, as soon as they find out who it is, and say, 'Sorry, we don't want you,' " said Martha Scott, a spokeswoman for the society, which offers prayer services for a congregation of about 250 families.

The nascent school garnered its first publicity early this month, in a write-up in the Annapolis newspaper. Afterward, neither the county nor the society received any complaints, officials said, an encouraging sign. Scott said the news coverage even improved the group's reception as a prospective tenant, with some landlords indicating that they wanted to reconsider the society's application. The society will maintain its headquarters at a separate location.

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When Arafa first saw the Millersville property and learned that the asking price for the prospective campus was $550,000, he told the real estate agent that the society could never afford it: "First of all, we don't deal with interest. Second of all, we are broke. Third of all, we don't have assets."

Much to his surprise, the seller agreed to an interest-free installment plan. About two-thirds of the purchase price has been paid, he said.

Arafa cannot predict when classes will begin on the site, southwest of where Crain Highway meets Interstate 97. The next wave of fundraising will pay for grading work and a septic system. School organizers hope they can offer classes in fall.

The first building will house a prayer hall, assembly rooms and space for two ninth-grade classes, one for boys and one for girls. Arafa hopes to add one grade each year, eventually serving 250 to 300 students. Plans call for 171,000 square feet of building space.

If all goes as planned, he said, the school will be a place "where you can give me the child at 3 years old and he can finish with a PhD."

Shama Farooq, civil rights director of the Council on American-Islamic Relations for Maryland and Virginia, said Arafa is probably correct in predicting that the school will draw students from the broader Baltimore-Washington region.

"Obviously, people are sending their children to Islamic middle schools, and they're trying to find Islamic high schools as well," she said. "I know of people who drive their children 30, 40 miles to private schools."

Hamas Presents Proposed Cabinet (AP)

By Ibrahim Barzak, Associated Press Writer

AP, March 20, 2006

Hamas presented a proposed government Sunday, giving itself key ministries after failing to persuade more moderate parties to join in a coalition that could have softened its hard-line image and prevented likely economic sanctions.

Incoming Prime Minister Ismail Haniyeh presented Palestinian President Mahmoud Abbas with a 24-member Cabinet made up of Hamas activists and professionals, including one woman and one Christian. Fellow Hamas leader Mahmoud Zahar would be the new foreign minister.

Earlier Sunday, Israeli and Palestinian negotiators reached a tentative agreement on opening at least one crossing into Gaza to get aid into the Palestinian area. The agreement was reached at a meeting called by the United States to alleviate the humanitarian crisis in Gaza.

Hamas swept to victory in January 25 parliamentary elections, but despite nearly two months of negotiations, it was unable to persuade any other faction to join. Hamas was not prepared to compromise on its basic principles — the right to violent resistance against Israel and refusal to accept the Jewish state.

Failure to bring moderate forces into its government is likely to strengthen Western resolve to cut off desperately needed aid. The United States and European Union have threatened to cut off hundreds of millions of dollars of aid to the Palestinians if Hamas does not renounce violence, recognize Israel and promise to honor existing peace agreements.

Last week a World Bank report warned of economic disaster in Gaza if aid is cut off. Hamas has killed hundreds of Israelis in suicide bombings.

Abbas said he would submit the list to the Palestine Liberation Organization executive committee and then to the parliament if it approves. PLO approval is expected to take several days.

Haniyeh said he was optimistic his Cabinet would win approval. "I can say that the indications are positive toward constitutional stability on the Palestinian platform," he said.

The Cabinet list also includes Gaza Hamas leader Said Siam as interior minister, in charge of some of the security forces. Ten of the ministers would be from Gaza and 14 from the West Bank.

Abbas, who favors negotiating a final peace settlement with Israel, has urged Hamas to moderate its violent ideology but likely will approve the Cabinet, his aides said.

Abbas was elected separately last year to a four-year term and wields considerable authority. He cannot impose his own Cabinet lineup on Hamas, however, because it controls an absolute majority in the legislature.

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With Palestinians facing severe shortages of bread, milk and other foods in Gaza, U.S. officials called an emergency meeting Sunday at the home of U.S. Ambassador Richard Jones and brokered a compromise with Israeli and Palestinian negotiators in a two-month-old border standoff.

Afterward, Jones told reporters, "We have agreed that the crossing from Kerem Shalom will open tomorrow for imports of food and other essential humanitarian products from Egypt," and details would be worked out Monday.

Palestinian negotiator Saeb Erekat, who took part in the Sunday meeting, said he hoped both Kerem Shalom and Karni would reopen Monday.

"I hope they will succeed in allowing goods to come into Gaza as of tomorrow to alleviate the dire humanitarian situation in Gaza," he told The Associated Press. He said Egyptian trucks were already lining up across from Kerem Shalom.

Israeli negotiator Amos Gilad said the Palestinians had to arrest militants before Karni could open. The vital cargo crossing between Israel and Gaza has been closed for most of the past two months, shutting off almost all exports and imports for the poverty-stricken seaside territory.

Palestinians charge Israel is punishing them for Hamas' election victory, but Israel insists it is keeping the crossing shut because of warnings of terror attacks.

Under an agreement brokered by Secretary of State Condoleezza Rice in November, Israel and the Palestinians agreed to boost cargo traffic through the crossing. The accord was meant to give momentum to peace efforts and economic recovery programs after Israel's summer pullout from Gaza.

The Karni deal was never implemented, and Israel has closed the crossing for long periods, citing security concerns.

Hamas Presents Cabinet To Palestinian President (USAT)

By Matthew Gutman

USA Today, March 20, 2006

RAMALLAH, West Bank — Hamas on Sunday presented a new Cabinet to Palestinian President Mahmoud Abbas that is dominated by veteran members of the militant Islamic group.

Hamas' month-long effort to recruit other factions into the government after winning parliamentary elections Jan. 25 failed.

Prime Minister-designate Ismail Haniyeh unveiled his lineup of 24 ministers after presenting the list to Abbas. Haniyeh told reporters in Gaza that Abbas "will study the names and the program of the Cabinet" before deciding whether to accept the new Palestinian government.

"The president will approve Hamas' list," chief Palestinian negotiator Saeb Erekat said in a telephone interview. Erekat added that Abbas retains the constitutional power to fire a Hamas Cabinet if it rejects previously signed Palestinian agreements.

Hamas, which refuses to recognize Israel, is on the U.S. State Department's list of terrorist organizations.

Asad Mubarak, Hamas' parliament leader, said in an interview that the group's armed resistance to Israel's occupation of the West Bank would continue until "it totally withdraws from our land." He added: "We've fought for 100 years and can resist for 20 more, if that's what it takes."

Haniyeh tapped Mahmoud Zahar, who survived an Israeli bombing of his home in 2003, as foreign minister. Said Siam will be interior minister in charge of Palestinian security services. Omar Abdel Razik, an economist at An-Najah National University in Nablus, will take over as finance minister. Haniyeh described his Cabinet, which will include a woman and a Christian, as full of "professionals, experts and technocrats," Reuters reported.

Erekat said it could take a week for the Cabinet and Hamas' political program to receive final approval from the parliament.

Since Hamas' electoral victory, the United States and the European Union have cut almost $1 billion in annual aid and monetary transfers to the Palestinian Authority, citing Hamas' refusal to recognize Israel and peace agreements.

Israel also has refused to transfer tax money to the new Palestinian government.

Mubarak said Hamas is raising funds in Iran and other Persian Gulf states to fill the Palestinian treasury's $1 billion shortfall. "Iran has promised to cover whatever the U.S. and the European Union do not give," he said. He conceded that no money has reached the Palestinian treasury so far.

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An economic collapse could be insignificant when compared with the political fallout, said Iyad Barghouti, director of the Ramallah Center for Human Rights Studies. "For the first time since (the Palestinian Authority was established in 1994), there is no common ground at all between the Palestinians and Israelis," he said.

Suheil Tammuz, who owns a cellphone shop in Ramallah, voted for Hamas because he wanted "Fatah's reign of corruption to be over," he said, referring to Abbas' party. However, an isolated Hamas is bad for business and for the Palestinians, he said.

Tammuz had hoped for a national unity government. Without it, he worried that "foreign aid will end and people could go hungry." He said: "Spring has started, but the days ahead are dark."

Hamas Likely To Take Key Cabinet Posts (FT)

By Harvey Morris

Financial Times, March 20, 2006

Hamas, the Islamist movement that won control of the Palestinian parliament in elections in January, has abandoned attempts to form a national unity government and was on Sunday night due to announce a cabinet in which it would hold the key posts.

A meeting was scheduled in the Gaza Strip between Ismail Haniya, Hamas's prime minister-designate, and Mahmoud Abbas, Palestinian Authority president, who must approve the cabinet list before it goes forward to the 132-member parliament for confirmation.

With 74 seats in the assembly, Hamas was certain to have its nominees, many of them technocrats, accepted. However, people close to Mr Abbas said a vote might be deferred until after Israeli elections on March 28.

Hamas's failure to persuade Mr Abbas's defeated Fatah party and other factions to join the government looked certain to worsen the international isolation of the PA. International aid donors have said they would not deal with a government run by a party regarded by the US and the European Union as a terrorist organisation.

Fatah and a number of small moderate parties decided against taking cabinet posts, although all denied they were responding to US pressure to stay out of government.

Hamas was left entirely on its own on Sunday when the leftwing secular Popular Front for the Liberation of Palestine (PFLP) belatedly announced it would also decline portfolios.

Ahmed Sa'adat, the PFLP's leader and one of its three elected representatives, was seized by Israeli forces in last week's Jericho prison siege and transferred to Israel where he is wanted for the murder of an Israeli cabinet minister.

According to an unofficial cabinet list circulating in Gaza, Hamas parliamentarians will take the senior ministries in a 24-member government. Most portfolios would go to technocrats.

Mr Haniya would serve as prime minister, a post introduced in 2003 under international pressure by a reluctant Yassir Arafat, Mr Abbas's predecessor, to dilute the powers of the presidency.

The Hamas members were likely to include Mahmoud Zahar, a Gaza leader, as foreign minister, with Said Siyyam as interior minister in charge of at least some branches of the PA's 70,000-strong security forces.

Omar Abdel-Razeq, a Nablus university economics professor recently released from Israeli administrative detention, was expected to be named finance minister.

His tasks will include finding the resources to pay salaries for the security forces and a similar number of other public employees in the face of a threatened international funding boycott. Public sector salaries support about a quarter of the 3.5m people of Gaza and the West Bank.

Mr Abbas was expected to approve the cabinet despite Hamas's refusal to commit itself to all agreements with Israel previously entered into by the Fatah-dominated PA

Key Hamas Cabinet Posts Go To Hard-liners (CSM)

By Ilene R. Prusher

The Christian Science Monitor, March 20, 2006

DOJ_NMG_0018579

JERUSALEM - Hamas introduced a cabinet Sunday that creates a hard-line Palestinian government - lacking moderate forces and led by some of the Islamic organization's most militant actors. It's a signal, say analysts, that the Palestinian leadership appears willing to forgo much of the funding it has been receiving from Western nations.

The crucial diplomatic position of foreign minister, for example, went to Mahmoud Zahar, who is adamantly opposed to any softening of Hamas's position that Israel should be destroyed. Dr. Zahar is known for his fiery rhetoric and vocal support for the organization's use of suicide bombings.

"The international community has to respect the choice of the Palestinian people," says Ahmed Abdel-Aziz Mubarek, a newly elected Hamas legislator from Ramallah. "The majority of the Palestinian people gave their votes to Hamas to establish the new government, so the world has to deal with this reality."

The world's response, however, is an increasingly complicated matter. Countries that have in the past been actively engaged in the now-dormant peace process and in giving aid to the Palestinian Authority (PA) are facing a difficult choice: how to withhold political support for Hamas without turning off humanitarian aid, especially at a time of increased instability. It is not clear how much of the estimated $1 billion a year the Palestinians get in foreign aid might be withheld. Hamas has vowed to replace it with funds from Iran and other Muslim states.

Russia and Turkey, a moderate Muslim country, recently hosted Hamas delegations in the wake of the January election landslide. But Israel, the US, and the European Union have shunned any political contacts with Hamas unless it meets several criteria outlined by UN Secretary-General Kofi Annan in January: recognize Israel, respect previously signed peace accords, and forswear violence.

Zahar, a physician, has risen to become one of the organization's most senior members, particularly since several others in the uppermost echelons of the Islamic organization were assassinated by Israel over the past few years. Zahar, too, has been the target of at least two Israeli attempts to kill him, making it unlikely, say analysts, that he or his Israeli counterparts will soon sit at the same negotiating table.

While Zahar is viewed as unbending in his beliefs, says Mr. Mubarek, that does not mean that he will define the entire outlook of the PA.

"The policy of the government will not be swayed by one member of the government only," says Mubarek. "That Mahmoud Zahar will be foreign minister will not make too much of a difference in how we approach things, because the government has its policy, and all the members will have to work according to this policy. We will ask the international community to force Israel to give the Palestinian people their rights."

In a government platform released this weekend, Hamas outlined what it believes those rights to be: the right of return for all Palestinian refugees to their land, a release of Palestinian prisoners, and an end to the Israeli occupation. The document, as translated by Reuters, says if Israel withdraws from the land it occupied in 1967, including East Jerusalem, "it will be possible to look into a mechanism of negotiation."

But Zahar, expressing a more rigid view of the conflict, has long said that all of historical Palestine is holy to Islam and must be liberated. He says that altering Hamas's charter, which calls for the Jewish state's destruction, is out of the question; Israel has said it won't deal with Hamas under the current charter.

From Israel's point of view, Zahar as foreign minister - a post that had never officially been filled in the past - is simply a symbol of what Israel faces with Hamas at the helm.

"The problem is not with the particular personalities in the cabinet: the problem is that it is a Hamas cabinet," says Israeli foreign ministry spokesman Mark Regev. "Zahar is particularly outrageous in what he says, but he's more honest than some of the other ones." Without moderating their viewpoint, he predicts, the new cabinet may lead to a situation where the PA will become a pariah government.

Several other senior figures in Hamas named to the Cabinet are considered to be relatively moderate. These include Said Siyam, who was tapped to be interior minister, and Omar Abdel Razeq, who would serve as finance minister. About half of the seats in the 24-member cabinet go to Hamas members, while other ministries were expected to be given to independent lawmakers of professionals with technical experience.

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Western officials initially hoped that Palestinian President Mahmoud Abbas of the heretofore ruling Fatah faction - whose leaders reached a historic peace deal with Israel in 1993 - could act as a go-between, bridging the gap between Hamas and Israel.

Mr. Abbas, who was directly elected more than a year ago following the death of long-reining PLO leader Yasser Arafat, technically holds presidential powers that enable him to override legislative branch decisions by vetoing them. But Abbas is in an increasingly weak position following Israel's raid last week on a prison in the West Bank city of Jericho, which embarrassed Abbas and only underscored his political ineffectiveness.

"Today I will meet [Prime Minister] Ismail Haniyeh and we will see the [formation] of the cabinet. After that the legal procedures will take place such as going to [parliament] and the swearing in," Abbas told a news conference Sunday at the Rafah terminal on the Egyptian border.

• Material from Reuters was used in this report.

Hamas, Failing To Find Partners, Proposes Cabinet (NYT)

By Greg Myre

The New York Times, March 20, 2006

JERUSALEM, March 19 — Hamas delivered its proposed cabinet list to the Palestinian Authority president, Mahmoud Abbas, on Sunday night. Hamas is expected to control the most important government ministries after weeks of negotiations failed to persuade other Palestinian parties to join its government.

Ismail Haniya, the Hamas leader and prime minister-designate, presented the lineup to Mr. Abbas at a meeting in Gaza City. Pressed by reporters, Mr. Abbas declined to say whether he would give his approval, though aides said he was likely to do so. He said he would convene the Palestinian legislature, in which the militant Islamic Hamas has an absolute majority, for a vote of confidence on the cabinet.

"I pray to God to help us," Mr. Abbas said. "The task is not easy, neither for us nor for the new government."

He added: "There are great difficulties and many obstacles ahead. But with determination and the support of our people, things will move ahead."

Mr. Haniya declined to make public the names of the proposed ministers in the 24-member cabinet, though he said it would include "professionals, experts and technocrats," in addition to Hamas members. However, Mr. Abbas's Fatah movement and all other Palestinian parties rejected Hamas's invitation to join a government of national unity. Negotiations between Hamas and the Popular Front for the Liberation of Palestine, a small, militant faction, continued until the last moment, but the group opted out.

In remarks to reporters, Mr. Haniya did say that two prominent Hamas leaders — Dr. Mahmoud Zahar and Said Siam — would be in the cabinet, though he did not give their positions. However, Dr. Zahar, more confrontational in his public comments than Mr. Haniya, is expected to become foreign minister, and Mr. Siam is believed to be the choice for interior minister, which would give him authority over the police and other branches of the security forces.

Since Hamas won the Palestinian parliamentary elections on Jan. 25, Mr. Haniya and other Hamas leaders have held a number of seemingly cordial meetings with Mr. Abbas. However, the relationship could become much more complicated once Hamas formally assumes power.

In another development, the United States ambassador to Israel, Richard H. Jones, brokered a Sunday night meeting in which Israel and the Palestinians reached a deal to allow food and other essential supplies to go into the Gaza Strip beginning Monday.

Citing security concerns, Israel has kept the Karni crossing, the main commercial goods terminal on Gaza's border, closed for most of the past two months. Palestinian and United Nations officials say Gaza is facing shortages of bread and other basic foods because the crossing has been closed.

Mr. Jones brought Israeli and Palestinian negotiators to his residence near Tel Aviv, and an agreement was reached to open the Kerem Shalom terminal, near where the borders of Israel, Gaza and Egypt converge.

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Israel's Agriculture Ministry on Sunday was supervising the destruction of hundreds of thousands of chickens and turkeys in southern and central Israel in response to the discovery of the A(H5N1) strain of bird flu.

"It is important to emphasize that at this stage, we are talking only about bird flu," the acting prime minister, Ehud Olmert, said at the regular cabinet meeting on Sunday.

Mr. Olmert and other government officials have said there is no evidence that any people in Israel have been infected. Four farmworkers were hospitalized Friday, but health officials said tests showed they did not have the disease, which can be deadly to humans.

Hamas Party Dominates Palestinian Cabinet Picks (WT)

By Joshua Mitnick

The Washington Times, March 20, 2006

JERUSALEM -- Prime Minister-designate Ismail Haniyeh announced a Palestinian Cabinet dominated by his Hamas party yesterday as the U.S. diplomats pressed Palestinian and Israeli officials to head off a potential humanitarian crisis in the Gaza Strip.

The key posts went to Mahmoud Zahar, a trained physician who was tapped as foreign minister; Said Siam, a reputed former leader of the Hamas military wing who was nominated as interior minister; and Omar Abdul Razeq, an economics professor tapped as finance minister.

The 24-member Cabinet includes one woman and one Christian.

Despite the Islamic militant group's failure to persuade the defeated Fatah party to join the government, Mr. Haniyeh and Palestinian Authority President Mahmoud Abbas appeared upbeat after a meeting in Gaza City to discuss the Cabinet and its policy guidelines.

Observers saw the atmosphere as a sign that Mr. Abbas will approve the first Palestinian government run by Islamists, even though Hamas rejected a demand by the president that the new government recognize international agreements reached by the outgoing Fatah-led administration.

"The meeting was positive," said Mr. Abbas, who told reporters that he plans to seek approval from the Palestine Liberation Organization for the new government within 48 hours. "There are obstacles and difficulties, but with good will we can overcome them."

Hours earlier, Israeli, Palestinian and U.S. negotiators agreed on a new crossing arrangement for the Israel-Gaza Strip border, averting the threat of food shortages. Israel has kept Gaza's only commercial crossing closed for much of the past two months because of security concerns.

During a meeting at the residence of the U.S. ambassador to Israel, Palestinians and Israelis agreed to open a second crossing, Kerem Shalom, to the limited passage of goods. Hamas was not a party to the negotiations, but the agreement will boost stability among Palestinians as the new government gets under way.

Hamas' failure to find a coalition partner means that the inexperienced Islamic militants will have to manage the Palestinian government on their own. Observers said a political conflict between Mr. Abbas and Hamas will be unavoidable if Mr. Haniyeh's government fails to establish domestic stability and maintain international support.

"Crises are expected unless Hamas is a surprise," said Sliman Shafi, a Palestinian affairs expert on Israel's Channel 2 television news. "If, within a month, nothing is progressing internally and externally, [Mr. Abbas] will say, 'Guys, get to work.' "

The choice of Mr. Zahar as foreign minister could complicate that effort. Mr. Zahar -- perhaps the most senior Hamas leader in Gaza alive after an Israeli assassination campaign two years ago -- speaks English but is known to be a blunt hard-liner.

Mr. Siam, a relatively unknown political figure, will get control of most of the Palestinian security services and will be expected to address effective anarchy in the Gaza Strip.

Abdul Razeq, who recently was released from an Israeli jail, is an economics professor at An Najah University in Nablus, and will be responsible for coping with a looming budgetary crisis created by the cutoff of financial aid from the United States and Europe.

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Mr. Haniyeh reportedly nominated a deputy, Nasser A-Din, to handle West Bank affairs because the Israelis refuse to allow the prime minister to travel between his Gaza Strip home and the West Bank.

If Mr. Abbas confirms the nominations, the Cabinet will be brought before the Hamas-dominated Palestinian parliament for what is expected to be routine approval.

Israeli Defense Minister Shaul Mofaz said the presentation of the Cabinet was a "moment of truth" for Mr. Abbas because he will have to decide whether to work with the Islamic militants or confront them.

Foreign Minister Tzipi Livni called for the international community to send a clear message to the new Palestinian lawmakers that they must come to terms with Israel.

Israel has said that it will not deal with a Palestinian government run by Hamas.

Hamas Is Alone In Cabinet Plan (WP)

By Scott Wilson

The Washington Post, March 20, 2006

JERUSALEM, March 19 -- Hamas finalized a proposed cabinet Sunday that would place several key ministries in the hands of senior leaders but not include any other Palestinian faction, precisely the narrowly partisan government that the radical Islamic movement had hoped to avoid.

Ismail Haniyeh, the designated prime minister, submitted the list to Palestinian leader Mahmoud Abbas, whose secular Fatah party declined to join the cabinet. The cabinet's makeup is likely to complicate efforts to persuade international donors to continue funding the government once Hamas, designated a terrorist organization by the United States and European Union, assumes control of the ministries.

"Their task was to have as wide a government as possible with Fatah, other factions and independents," said Ali Jarbawi, a political science professor at Beir Zeit University in the West Bank. "The cabinet they have proposed will be, in effect, all Hamas. They are facing a deep problem."

Also Sunday, the U.S. ambassador to Israel assembled Israeli and Palestinian delegations to discuss mounting humanitarian problems in the Gaza Strip resulting from closures of the main cargo passage with Israel. The Karni crossing has been shut for most of the year because of Israeli security concerns, but shortages of food and medicine are beginning to threaten the welfare of Gaza's 1.3 million residents.

Richard Jones, the U.S. ambassador, called the meeting in Tel Aviv on a few hours' notice to salvage a U.S.-brokered deal setting out the terms of operation at Karni following Israel's withdrawal from Gaza last fall. In recent weeks, Israeli officials have made clear they want the Palestinians to use a southern passage at the intersection of Gaza, Israel and Egypt, far from the strip's economic center in the north, rather than Karni.

Palestinian officials had refused, citing terms of the deal. But the delegations decided Sunday to open the southern passage, known as Kerem Shalom, on Monday for humanitarian deliveries from Egypt.

"The ambassador took the initiative to bring the parties together to find a way to move humanitarian assistance into Gaza in a way that addressed security concerns on both sides," said Stewart Tuttle, the U.S. Embassy spokesman.

Haniyeh's proposed cabinet, which was due by the end of the month, could change in the weeks ahead. Hamas will probably continue seeking partners to broaden its domestic support and assuage international donors, who supply nearly half of the Palestinian Authority's roughly $2 billion annual budget.

Abbas has demanded that Hamas accept several signed agreements backed by his Fatah party that would, in effect, amount to a recognition of Israel. Although Palestinian law does not give him the authority to veto the proposed cabinet, Abbas could fire Haniyeh immediately after it is sworn in by the Hamas-dominated legislature elected in January.

Hamas leaders so far have rejected Abbas's demands and pledged to continue confronting Israel "by all means." Abbas's aides have indicated in recent days that he will give Hamas a chance to run the ministries while working to persuade its leaders to endorse a negotiated two-state solution to the conflict.

Abbas will likely wait a few weeks to forward the proposed cabinet to parliament, the Palestinian Legislative Council. The delay would allow Israeli elections on March 28 to conclude before Hamas takes control of the ministries, a transition that could

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otherwise boost the showing of Israel's most hawkish parties. It would also give Haniyeh more time to recruit another Palestinian party for the cabinet, ideally Fatah, which controls the second-largest parliamentary bloc.

Haniyeh came close to bringing in the Popular Front for the Liberation of Palestine, a Marxist party that, like Hamas, appears on the U.S. list of foreign terrorist organizations. But the leaders of the party, which holds three of parliament's 132 seats, announced Sunday that they would not participate.

The Palestinian Authority is already in severe financial straits. International donors are considering ways of financing humanitarian programs for the Palestinians outside channels controlled by Hamas, whose charter calls for Israel's destruction.

Israel has frozen the monthly transfer of about $55 million in tax and customs revenue it collects on behalf of the Palestinian Authority under an arrangement established by the 1993 Oslo accords. Those transfers amount to roughly half of the authority's $115 million monthly payroll for 150,000 civil servants and trainees, nearly half of them in the security services.

Hamas officials said Haniyeh's cabinet, which was not made public, gives the interior and foreign ministries to members of the party, formally known as the Islamic Resistance Movement. But many of those nominated to run the 24 ministries are technocrats from outside the movement, although they have strong ideological connections to it.

Saed Siyam, a former teacher who won the most votes on the Hamas list in Gaza, has been nominated as interior minister with control of several Palestinian security services. Mahmoud Zahar, a thyroid surgeon and hard-liner, would run the Foreign Ministry, although Haniyeh has signaled that Abbas will be given wide latitude in dealing with foreign governments.

Haniyeh, considered a pragmatic figure within the movement, has been working since soon after the party's parliamentary victory to form a broad cabinet. But some Palestinian analysts say Hamas would have had a better chance of building a national unity government if it had selected a figure from outside the movement as prime minister.

A New Landscape: Hamas Digs In (NYT)

By Steven Erlanger

The New York Times, March 20, 2006

JERUSALEM, March 19 — When the radical Islamic group Hamas presented a cabinet it dominates to the Palestinian Authority president, Mahmoud Abbas, on Sunday, Yossi Alpher was reminded of an earlier revolution.

Mr. Alpher was an Israeli intelligence analyst on Iran from 1978 to 1980, and for him, the Hamas victory has the paradigm-shifting quality of the Iranian revolution that brought the mullahs of Shiite Islam to power. Today, he recognizes the same kind of dislocation.

The "old Iran hands" were confident that the revolution could not last, he said, and that the mullahs would be tamed by the merchants of the Iranian bazaar, or the country's youth or the experience of power. "These people knew a very different Iran, and their analysis was not just useless but diversionary," he added.

"I have an incredible sense of déjà vu now when I talk to Palestinians about Hamas," said Mr. Alpher, co-director of a Web site dedicated to Israeli-Palestinian dialogue. "Secular Palestinians don't understand what's happened. They don't know what the Muslim Brotherhood is all about. They're in a state of denial."

After Hamas's victory in the Palestinian legislative elections, analysts and diplomats suggested that nothing fundamental would change: Hamas's win was not so resounding, some said, and its convictions would be moderated by power, keeping foreign aid and the peace effort continuing roughly as before.

After all, the job of diplomacy, like antacids, is to try to make the inedible digestible. But as Hamas completes its cabinet, there is a sense that the landscape has changed for some time to come.

The Hamas victory is not just a little local difficulty. Hamas is the Palestinian part of the Muslim Brotherhood and the first to win an election; its victory has enormous resonance for radical Islam. It is a defeat for secular nationalism, Nasserite corporatism and for Fatah, the chosen partner of Washington and Israel.

Many Muslims wish for Hamas to succeed, and some will give it money. The anxious Arab governments nearby — especially Jordan, with its many Palestinians, and Egypt, with its active Muslim Brotherhood, but also fragile Syria — will feel that they cannot set higher public hurdles for Hamas than, say, Russia or the European Union.

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Palestinian and Sunni, Hamas legislators say they are wary of further dependency on Iran and reject Al Qaeda. They say they prefer a period of quiet; how they will deal with Islamic Jihad, Iran's proxy in the Palestinian territories, remains unclear.

New elections are not scheduled for four years. That gives Hamas's leaders, whom Mr. Alpher calls "pragmatic ideologues," time for their long-view strategy: softly, softly; slowly, slowly.

Hamas calls for national unity. It is likely to push a domestic agenda of reform and social welfare. It seems unlikely that it will fire the Fatah security commanders. When new legislators have talked of Islamicizing education or imposing Shariah law, Hamas has silenced them.

The indications are that Hamas will continue to talk tough toward Israel but maintain a cease-fire that has lasted roughly a year. It will give Israel no sufficient pretext to reinvade Gaza, where Hamas's army of 6,000 men can operate openly; will appeal to the world's Muslims for support; and will blame Israel and Washington for every deprivation.

While many international officials want Hamas to be a partner, its leaders may have other ideas.

On Jan. 30, five days after the election, the United States, the European Union, Russia and the United Nations — known as the quartet — warned that a Hamas-led government must recognize Israel, forswear violence and accept previous Israeli-Palestinian agreements.

Given what even a partial reduction of aid will mean for Palestinians, the quartet is looking for ways to soften those demands.

The quartet has pushed Mr. Abbas to postpone H-Day, when a Hamas government takes over, until after Israeli elections on March 28. Now the European Union and the United Nations say that a Hamas government should be given time to prepare a program before any aid cutoff.

Some diplomats suggest that if Hamas supports a moribund 2002 Saudi peace initiative, it will somehow "recognize" Israel without having to say so; some suggest that a Hamas offer of another cease-fire may be enough to "forswear violence."

But so far, Hamas is not playing along. It sees the agreements with Israel as a honey trap and recognition of Israel as impossible. In the meantime, Hamas is working on the heartstrings and sense of justice of the West, to keep aid flowing.

Hamas's victory also signaled the death of the "peace process" as it has been practiced.

The diplomatic assumptions of recent years — a peace treaty after a territorial compromise, or "land for peace" — have been blown apart. Prime Minister Ariel Sharon of Israel tried to redefine the bargain as "a state for security" — an independent Palestinian state in return for dismantling all armed "terrorist" groups, including Hamas, Islamic Jihad and Al Aksa Martyrs Brigades. That was a commitment undertaken in the "road map" by Yasir Arafat and reconfirmed by Mr. Abbas.

But it seems unlikely that Hamas will dismantle itself. Nor, its leaders say, will it abandon "the right of resistance to occupation." Its religious conviction is that all of Palestine, including the current state of Israel, is Islamic waqf land, land belonging irrevocably to the world's Muslims.

Hamas talks of a long-term armistice with Israel, so long as Israel returns to its 1967 boundaries, unannexes East Jerusalem and lets all refugees and their descendants return to their pre-1948 homes. The state of Israel itself, they insist, has no right to exist on waqf land.

So with Hamas, the argument has moved from nationalism and territorial compromise, which can be negotiated, to religious conviction and a temporary Israeli lease on its sovereignty. In that light, the quartet seems to have given Israel a free pass for unilateral action.

Israel, which has done little to support Mr. Abbas, now says it has no partner. Hamas gives Israel more freedom in the West Bank, creating borders, thickening settlements, or dismantling them, as it pleases. Last Tuesday, as troops crushed a Jericho prison to extract wanted men, acting Prime Minister Ehud Olmert said Israel would keep the settlement bloc of Ariel in the West Bank. Washington did not complain.

U.S. Brokers Compromise On Gaza Crossing (AP)

By Ibrahim Barzak, Associated Press Writer

AP, March 20, 2006

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With Palestinians facing severe shortages of bread, milk and other foods in Gaza, U.S. officials called an emergency meeting Sunday and brokered a compromise with Israeli and Palestinian negotiators in a two-month-old border standoff.

Ambassador Richard Jones said cargo traffic might start flowing as soon as Monday at one crossing, and a Palestinian official said a second crossing would be discussed at meetings Monday.

But Palestinian economic misery might take another hit after Hamas militants sworn to Israel's destruction presented their new Cabinet to Palestinian President Mahmoud Abbas on Sunday. The Islamic group's failure to bring moderate forces into its government is likely to strengthen Western resolve to cut off desperately needed aid.

The vital Karni cargo crossing between Israel and Gaza has been closed for most of the past two months, shutting off almost all exports and imports for the poverty-stricken seaside territory. Palestinians charge Israel is punishing them for Hamas' election victory, but Israel insists it is keeping the crossing shut because of warnings of terror attacks.

The lengthy closure has led to shortages of flour, milk and other goods, and bakeries are closing, United Nations workers said.

Jones invited Israeli and Palestinian negotiators to his residence Sunday to find a way to avert a humanitarian crisis in Gaza. He said later there was an agreement to open another crossing, Kerem Shalom at the convergence of Gaza, Israel and Egypt.

"We have agreed that the crossing from Kerem Shalom will open tomorrow for imports of food and other essential humanitarian products from Egypt," and details would be worked out Monday, Jones told reporters.

Jones did not mention Karni, but Palestinian negotiator Saeb Erekat said a solution also was emerging for activating that crossing and he was hopeful it could be resolved in two meetings scheduled for Monday.

"I hope they will succeed in allowing goods to come into Gaza as of tomorrow to alleviate the dire humanitarian situation in Gaza," he told The Associated Press. He said Egyptian trucks were already lining up across from Kerem Shalom.

Israeli negotiator Amos Gilad demanded that Palestinians arrest militants before the Karni crossing is reopened, Israeli officials said.

Under an agreement brokered by Secretary of State Condoleezza Rice in November, Israel and the Palestinians agreed to boost cargo traffic through the crossing. The accord was meant to give momentum to peace efforts and economic recovery programs after Israel's summer pullout from Gaza.

But the Karni deal was never implemented, and Israel has closed the crossing for long periods, citing security concerns.

During Karni's closure, Israel offered to open Kerem Shalom, 25 miles south of Karni, as an alternative crossing. But the Palestinians had rejected that up to now, saying it is too small and is completely inside Israeli territory.

"We'd like Karni to be fully functioning as soon as possible ... The only reason Karni is closed is the definite terror warnings," Israeli Foreign Ministry spokesman Mark Regev said. "We don't understand why the Palestinians refuse to have the Kerem Shalom crossing open to bring in required and needed produce into Gaza."

On Sunday evening, incoming Prime Minister Ismail Haniyeh met Abbas to present his new Cabinet, which includes one woman and one Christian.

Speaking to reporters after the meeting, Haniyeh said the Cabinet would have 24 members, 10 from Gaza and 14 from the West Bank. Fellow Hamas leader Mahmoud Zahar will be the new foreign minister, he said.

Abbas said he would submit the list to the PLO executive committee and then to parliament if it approves. Before the meeting, he said he would review the names but would not decide immediately whether to accept the list. As president, he has the authority to demand changes.

Haniyeh was optimistic his Cabinet would win approval. "I can say that the indications are positive toward constitutional stability on the Palestinian platform," he said.

Abbas, who favors negotiating a final peace settlement with Israel, has urged Hamas to moderate its violent ideology but likely will approve the Cabinet, his aides say. He will, however, warn Hamas that its refusal to soften its positions could hurt the Palestinians' international standing.

Hamas failed to form a coalition with more moderate parties that could have helped soften its hardline image.

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The United States and European Union have threatened to cut off hundreds of millions of dollars of aid to the Palestinians if Hamas does not renounce violence, recognize Israel and promise to honor existing peace agreements.

The group, which has killed hundreds of Israelis in suicide bombings, has rejected those conditions.

Last week a World Bank report warned of economic disaster in Gaza if aid is cut off.

Haniyeh, a top Hamas official in Gaza, had not announced his Cabinet lineup. But Hamas officials said privately the group would keep the top three posts — foreign affairs, finance and interior, which oversees some security forces. Professionals would fill some of the other posts.

Abbas was elected separately last year to a four-year term and wields considerable authority. He cannot impose his own Cabinet lineup on Hamas, however, because it controls an absolute majority in the legislature.

Emirates Aided Kin Of Palestinian Militants (NYT)

By Julia Preston

The New York Times, March 20, 2006

In the last four years the United Arab Emirates has provided substantial financial support, through its Red Crescent Society, to families of Palestinians, militants as well as civilians, who have been wounded or killed by Israeli forces, according to Red Crescent documents.

The United Arab Emirates is a federation of seven small states including Dubai, where a government-owned company was due to take over some American port operations. Facing intense Congressional opposition, the company said recently that it would sell its operations in the United States to an unrelated American company within six months.

In 2002 and 2003, the United Arab Emirates Red Crescent Society, a quasi-governmental organization, made donations to Palestinian charities that included social groups associated with Hamas, the radical Islamic organization that won Palestinian parliamentary elections and has long been designated a terrorist organization by the United States.

A glimpse inside the Emirates aid programs comes from documents provided to The New York Times by Gary M. Osen, an American lawyer litigating cases in the United States federal courts on behalf of American victims of Palestinian terror attacks. The documents include unclassified materials seized by Israeli forces from Palestinian organizations in the West Bank.

Mr. Osen, of Oradell, N.J., said researchers in Israel who were helping him gather evidence for the lawsuits had found the documents there in archives of materials captured in Israeli military operations.

The records include international financial transfers from the Emirates Red Crescent Society as well as budget and program reports from its Jerusalem branch, which handles programs in the Palestinian territories. They show differences between American and Emirate views of Palestinian violence, although President Bush has said the countries see eye to eye on fighting terrorism.

In 2002, according to a spreadsheet of the annual budget, the U.A.E. Friends Society in Jerusalem, the local branch of the Red Crescent, designated $100,000 to pay 50 annual stipends of $2,000 under a "martyrs' families sponsorship" program.

Officials from the government and the Red Crescent Society said "martyrs" referred to any Palestinian who had died in the conflict with Israel, including civilians and armed fighters. In a news release on May 5, 2002, Mohammed Hamad Saif, a representative accompanying a 40-ton shipment of Red Crescent relief supplies, said "the priority" of that aid would be "the needy and families of the wounded and martyrs."

In one case, the documents show, the Emirates Red Crescent provided cash payments to the wife and two children of Anwar Awni Mustafa Abdel Ghani, who was identified in a news release on Feb. 15, 2002, from Palestinian Islamic Jihad, a militant organization, as a mujahid, or fighter, for the group. The news release, and news reports from that date, indicate that Mr. Abdel Ghani was killed in a clash that day with Israeli forces in a village near Tulkarm in the West Bank.

Emirates government and Red Crescent officials confirmed that the martyrs' family support continues, including payments for at least one of Mr. Abdel Ghani's children.

There are sharp differences between American and Emirates officials over assistance to "martyrs." United States officials say payments to families of violent militants constitute direct support for their cause and encourage others to join.

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Officials of the Emirates government and the Red Crescent Society said the payments helped create possibilities for younger Palestinians. They said most of the beneficiaries were relatives of civilians who had been killed, and that the society handed out cash payments only for Palestinians under 18. Spouses and older children receive coupons for food, medicine and housing materials.

"What is the fault of the orphans?" a government official said, referring to children in the martyrs' program. "By helping them, you are pulling them away from extremism."

Daniel Glaser, a deputy assistant Treasury secretary, said the Emirates was "one of our primary partners" in the Middle East in combating financing of terrorist groups. He said the Treasury had a close working relationship with the Emirates central bank, and that financial officials there had provided concrete cooperation in recent investigations.

Mr. Glaser said he was not familiar with the details of Red Crescent programs. But as a general matter, he said, "Charities that are supporting terrorist activities, including by supporting family members and orphans — we consider that to be terrorist financing."

The documents contain no evidence that the Emirates provided direct aid to armed militant groups.

In the ports controversy, President Bush hailed the Emirates as a like-minded ally in fighting terrorism. He cited support from the sheiks who lead the Emirates for American efforts in Iraq, including a United States military air base there.

But in Israel, some Palestinians regarded as terrorists by the United States are viewed as resistance fighters and martyrs by the Emirates officials.

The Emirates government condemns suicide bombings and terrorist attacks on civilians, and officials said the Red Crescent Society had taken increasingly strict precautions to avoid providing relief to Palestinian groups engaging in such attacks, or to social groups linked to them or to bombers' families.

After "bad experiences" during the mayhem of 2002 and 2003, when some Emirates Red Crescent money ended up in militants' hands, the organization has used modern controls to track its donations and vet its staff, the government official said.

The official said there was no direct cooperation between the Emirates Red Crescent Society and Hamas. He requested anonymity, saying he did not want to awaken new controversy between the Emirates and the United States.

Documents from before 2004 show that the Red Crescent made donations through the Tulkarm Zakat Committee, identified at that time by American officials as a Hamas front. A top administrator at the Red Crescent's Jerusalem offices was Najih Bakirat, whom Israel has identified repeatedly as a Hamas member.

But the Emirates officials said they had stopped sending money to the Zakat Committee and had cut ties with Mr. Bakirat when questions arose about his political activities.

The secretary general of the Emirates Red Crescent, Sanaa Darwish al-Kitbe, said the goal of its Palestinian programs was to "influence the negative atmosphere" to build peace. "By building homes and helping people to have a better life," she said, responding to written questions with a statement sent by e-mail, "you are creating some hope in the middle of all this suffering," allowing young Palestinians to "concentrate on the positive and move away from extremist views and actions."

In Egyptian Movies, Curses! We're The Heavies (WP)

By Daniel Williams

The Washington Post, March 20, 2006

CAIRO -- When Secretary of State Condoleezza Rice visited this city last month, Egyptians had an unusual choice: watch her on TV as she expounded on issues of war and peace in the Middle East, or go to a neighborhood movie theater and see her portrayed by a look-alike actress belly-dancing and placed in "adult" situations.

The film in question is "The Night Baghdad Fell," which depicts Egyptian obsessions with war, sex and the United States. Wildly anti-American, it has done a brisk business for two months, a long screen life for Egyptian-made films. In "Night," Egyptians fret about an American invasion of Egypt and the potential destruction of their capital. Americans are bullies, rapists and mindless killers.

By the way, "The Night Baghdad Fell" is a comedy.

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The film is only the latest bit of Egyptian pop culture to display deep unease about Americans. Beginning two years ago, Yanks emerged as bad guys on Cairo stages. In one play, "Messing With the Mind," the audience was ordered around by wild-eyed ushers dressed as Marines. In another, a Statue of Liberty was blown up in the lobby.

Ugly Americans began to emerge on-screen last year. In "Alexandria, New York," director Yusef Chahine rebuked U.S. attitudes toward Arabs. "No Problem, We're Getting Screwed," a black comedy, told the tale of an Egyptian who sends his son to Iraq to deliver mangoes and then must travel there to get him out of an American jail. Along the way, the father tumbles into the hole where Saddam Hussein was hiding, gets caught in insurgent crossfire, is arrested by the Americans and is taken to President Bush. Bush forces him to wear a beard and confess to bombing the American Embassy. Somehow, the Egyptian escapes, outwits his captors, sells his mangoes and gets his son back home.

Egyptians are not the only ones depicting villainous Americans on screen. "Valley of the Wolves: Iraq" debuted in Turkey last year and featured a Turkish hero who takes revenge on U.S. forces that detain Turkish troops in northern Iraq. The on-screen Americans shoot up civilians at a wedding, firebomb a mosque and carry out summary executions. Torture at Abu Ghraib prison makes a cameo appearance.

"These movies show that there is paranoia everywhere," says Nabil Shawkat, a humor columnist at the Daily Star newspaper. "In Egypt's case, the feeling of impotence in regards to the Americans is a common feeling."

Not everyone considers the anti-U.S. theme of "Night" valid. Many critics regarded it as sophomoric and a typical Egyptian effort to blame its problems on outsiders. A critic in the al-Ahram newspaper called it "a puerile comedy expressing the views of an enthusiastic teenager with little political knowledge."

Egypt is officially one of Washington's closest allies in the Middle East. By and large, workaday Egyptians are solicitous toward visiting Americans and endlessly reassure them they are loved here. Americans-as-heavies are a departure in Egyptian film. In the distant past, British colonialists were targets of negative portrayals. Later, unlabeled foreigners appeared on-screen to exploit Egyptian wealth. Americans, if portrayed at all, were cast as unwitting victims of crafty Egyptian tour guides or as people with charming if incomprehensible customs, like wearing shorts in public.

One old satire, called "The Visit of Mr. President," portrayed a village mayor who was comically eager to show his enthusiasm for Anwar Sadat's friendship for the United States -- funny because the mayor is at a loss to explain how, only a few years before, the U.S. was Egypt's enemy. The movie was banned in Egypt for many years.

Israelis have been the most common screen menace, even in comedy. In a film last year called "The Embassy Is in the Building," an Egyptian emigre returns home, wants to engage in sexual affairs in his old apartment, but can't because Israel's embassy is next door. Missiles fly in through windows and security guards block the exits and entrances. All the neighbors have moved away. When the harried man sues the Israelis, he becomes a national hero.

In "Night," a schoolteacher tries to recruit a brilliant former student to create a weapon for use in case the Americans invade Egypt. The student is strung out on hashish, but partly because of his admiration for the teacher's radical peacenik daughter, he takes up the project. The teacher even arranges for the daughter to marry the boy. "Do it for the nation," he urges her.

The men in the film have sexual problems. The student fails to get aroused on his wedding night, fantasizes in bed about Rice and also about a Marine named Jack. The teacher and his friends are impotent. All these conundrums are resolved when wives and lovers await in bed while dressed up in U.S. desert fatigues.

Reports of U.S. atrocities in Iraq pile up and the Egyptians form a rag-tag militia to confront a possible invasion. When a test of the new defense weapon fails, the teacher has a nightmare about his daughter being raped at Abu Ghraib. Near "Night's" climax, an Egyptian who goes out to greet invading Americans is shot dead by a U.S. soldier.

"I felt that an event like the fall of Baghdad could not pass without some sort of comment," director Mohammed Amin says. "All we Arabs could do was sit and watch it on TV. So I decided to make a movie about impotence. That is what it is all about."

The film is Amin's second comic outing. Last year, he made "Cultural Film," which told the tale of a group of young Egyptians trying in vain to find a place where they could be alone to watch pornographic videos.

In "Night," he satirizes Egyptian life and politics, too, though not through the kind of shocking imagery he uses on the Americans. When the teacher wants to boost the morale of his militia, he produces a video of Egyptian achievement since the 1973 war with Israel. It is composed of a single goal in a soccer game in which Egypt tied its adversary. He approaches a general

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to ask about developing weapons, but the officer says military industry is engaged in producing umbrellas. An acquaintance says Egypt already possesses weapons of mass destruction -- he knows it's so because, once, the entire country suffered a blackout when all energy was diverted to enriching uranium.

The Condoleezza Rice fantasy sex scenes received a lot of negative commentary in Egypt, but Amin defends them on the grounds that a weak character naturally fantasizes about possessing someone more powerful. "The student hates U.S. officials, so he defeats them in bed in the form of Rice. Rice is always coming to Egypt to lecture us. It is like fantasizing about your sixth-grade teacher."

He insists he is not reflexively anti-American. His next project, he says, is a movie both about the horrors of Iraq but also the good some American doctors did recently in separating conjoined Egyptian twins. "I want to investigate how a country can do so much good and bad at the same time," he says.

Mexico Urged To Act On Border Tunnels (WT)

By Jerry Seper

The Washington Times, March 20, 2006

A bipartisan group of U.S. senators has asked the Mexican government to enact legislation to criminalize the construction or financing of border tunnels between the United States and Mexico.

In letters to Mexican President Vicente Fox and members of the Mexican Congress, the senators -- led by Sen. Dianne Feinstein, California Democrat -- said 40 tunnels into the United States have been discovered since 2001 and urged the Mexican officials to enact legislation to crack down on those involved.

"Our countries must continue to work together to address this problem by discovering and shutting down those who build, finance or use border tunnels for illegal purposes," the senators said, urging Mexico to enact legislation similar to a bill offered March 2 by Mrs. Feinstein to criminalize the construction or financing of border tunnels.

In addition to Mrs. Feinstein, the letter was signed by Republican Sens. Pete V. Domenici of New Mexico, Conrad Burns of Montana, Norm Coleman of Minnesota and Jim Talent of Missouri, and Democratic Sens. Barbara Boxer of California and Maria Cantwell of Washington.

The Department of Homeland Security has said tunnels typically have been built to smuggle drugs, but have quickly transitioned into passages for smuggling illegal aliens. The senators said they were concerned they could also be used to smuggle weapons and terrorists into the United States.

The Feinstein legislation was prompted by the discovery in January of a sophisticated tunnel between the United States and Mexico that could have been used to traffic drugs, humans, guns or terrorists between the two countries. The tunnel, which is more than 2,000 feet long and connected warehouses in Tijuana to San Diego, was the largest and most sophisticated illegal cross-border underpass Mexican and U.S. authorities said they had ever found.

Equipped with a pulley and ventilation system, the tunnel was six feet wide and 12 feet high. It had a cement floor and lights. Authorities said they were unsure how long the tunnel had been in operation.

That tunnel originated under a warehouse 150 yards south of the border, near the Tijuana airport, and surfaced about a half-mile north of the border in an abandoned warehouse in Otay Mesa, a community within the city of San Diego developed as an industrial area in 1985. Otay Mesa is California's largest commercial land-border port and one of the busiest commercial land-border crossings in the United States.

Mrs. Feinstein's bill, known as the Border Tunnel Prevention Act, would impose up to 20 years' imprisonment for constructing or financing a tunnel crossing the border into the United States and up to 10 years for anyone who negligently permits others to construct or use an unauthorized tunnel on their land.

It also would punish any person who uses a tunnel to smuggle aliens, weapons, drugs, terrorists or illegal goods by doubling the sentence for the underlying offense if convicted; calls for the forfeiture of the assets of those involved; and authorizes and funds homeland security efforts to fill in tunnels.

The bill is pending before the Senate Judiciary Committee.

Thousands In Belarus Protest Against Poll 'fraud' (FT)

DOJ_NMG_0018590

By Stefan Wagstyl And Neil Buckley In Minsk

Financial Times, March 20, 2006

Up to 5,000 opposition supporters braved blizzards and threats of violence from the Belarus authorities to protest on Sunday in central Minsk against what they called a fraudulent election victory by President Alexander Lukashenko.

Initial returns showed Mr Lukashenko, denounced by the US as Europe's last dictator, winning more than 90 per cent of the vote. But supporters of the two opposition candidates, Alexander Milinkevich and Alexander Kozulin, converged on the central October Square to claim that the president's true share of the vote was less than 50 per cent and call for a rerun.

"We don't recognise these elections. They were a farce," said Mr Milinkevich, the main opposition candidate, whose aides claimed he had won 30 per cent of the vote. "They said we want revolution, but what we want is freedom and justice. We have already achieved a colossal victory. People have overcome their fear."

Protesters later laid flowers on a war memorial in the centre of Minsk. The two opposition candidates called on protesters to return to the streets tonight, once official results are known and observers from the Organisation for Security and Co-operation in Europe have delivered what is expected to be a critical verdict on the election.

The European Union and the US, which have repeatedly pressed Mr Lukashenko to ease his repressive policies, are likely to consider further sanctions on Belarus.

The scale of the demonstration was a success for the opposition. The KGB secret police had promised to suppress any protests and treat as terrorism any attempt to stage a popular revolt on the lines of the 2004 Orange Revolution in Ukraine, which brought Viktor Yushchenko to power. Mr Lukashenko himself had threatened to "wring the necks" of anyone threatening public order.However, the protest is unlikely to be enough to overturn Mr Lukashenko's victory. The former collective farm boss has remained popular since gaining office in 1994 by promoting political stability and presiding over strong economic growth, partly supported by subsidised oil and gas from his most important ally, Russia.

Belarus President Expected To Win Reelection Amid Protests (LAT)

By Kim Murphy

The Los Angeles Times, March 20, 2006

MINSK, Belarus — Police were preparing to mobilize in the city center here today in an attempt to control election-day protests as President Alexander Lukashenko appeared headed for an overwhelming victory, but opposition leaders vowed to challenge the balloting in the streets.

Election officials said early returns had given Lukashenko 89% of the vote and his main challenger, Alexander Milinkevich, less than 4%.

In an echo of recent pro-democracy protests that have rocked authoritarian regimes across the former Soviet space, supporters of Milinkevich gathered in large numbers in the heart of the capital. They demanded a new vote and protested against a campaign they said was fraught with violations intended to preserve the reign of the 51-year-old Lukashenko, whom the Bush administration calls Europe's last dictator.

"I will be grateful to every person who comes out and says, 'We are human, we have dignity, and we no longer want to live on our knees,'." said Milinkevich, a pro-Western physicist who was chosen by a coalition of pro-democracy parties to challenge the authoritarian regime that has governed this small former Soviet republic since 1994.

"Today, the impression is that we're not holding elections, but preparing for war," added his campaign manager, Sergei Kalyakin, as authorities vowed they would not tolerate foreign-backed attempts to destabilize the government. "The psychosis has reached a crescendo in this country," he said.

An anonymous text message apparently delivered to every cell phone in Minsk warned of possible violence. "On the night of March 19, 2006, provocateurs are preparing a bloodshed. Protect your life and health," it said.

Lukashenko, a former collective farm manager who has raised salaries and pensions and fostered robust economic growth even while maintaining state control over 80% of the economy, appeared confident as he cast his own ballot this morning. He scoffed at the Bush administration's allegations that he has amassed what may be billions of dollars through corruption and sold equipment to Iran that could be used to create weapons of mass destruction.

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"Bush…is terrorist #1 on our planet, openly destroying states in different parts of the world and then killing presidents," he said, in a possible reference to former Serbian President Slobodan Milosevic.

"If someone thinks I'm a dictator, good luck to him. But it's impossible to have a dictator in Europe. Only stupid people would think that," he said.

The balloting unfolded without incident throughout the day, with many polling stations featuring folk dancers and concerts.

"We voted only for our father," said Yadviga Stashkevich, a 58-year-old pensioner who cast her ballot for the president at a suburban school. "He pays our pensions on time, and we have stability," she said.

But a group of young men said they had voted for Milinkevich.

"Why does one man have to rule a country for 15 years?" said Andrei Shimanets, a 23-year-old foundry worker. "But however we vote, Lukashenko wins."

Independent exit polling has been banned, but just four hours after the polls opened, the pro-government EcooM Center forecast an 84.2% victory for the president. Milinkevich was said to have polled 2%.

A later exit poll by the independent Levada Center of Moscow gave Lukashenko 47% and Milinkevich 25.6%. The remaining vote was split among two other candidates, according to the poll.

One of those, former university rector Alexander Kozulin, accused Lukashenko of secretly disposing of at least $12 billion in revenue from weapons sales through a parallel presidential budget not subject to public disclosure.

"Where is the money? Show me at least one civilized state with two or three budgets," he said in an interview.

Foreign Minister Sergei Martinov in an interview earlier this week denied that Belarus had improperly sold weapons material to Iran. "Belarus never ever in its arms trade violated UN sanctions. Iran is not under sanctions," he said.

"Iran is a friendly country and an important market for us, and we don't see why we would stop working in the Iranian market," he added.

A fourth candidate, Sergei Gaidukevich, is a Lukashenko ally and head of the Liberal Democratic Party. He has done little campaigning.

Opposition leaders accused Lukashenko of closing down independent newspapers, blocking legal campaign rallies, arresting opposition activists and encouraging large numbers of voters to cast ballots early in the days preceding the election in what opponents believed was an attempt to manipulate the vote tally.

"The legal [restrictive] provisions on campaigning, the manner in which they are being interpreted and actions of state bodies have limited the scope for a vibrant election campaign," the Organization for Security and Cooperation in Europe, which is monitoring the election, said in a statement before the balloting.

Milinkevich said the alleged campaign violations included the arrest of more than 450 campaign activists, with more than 160 of them subjected to substantial fines, and the seizure of 260,000 campaign leaflets paid for with state funding allocated to presidential candidates.

Milinkevich supporters in outlying regions, including the towns of Baranovichi and Bovruysk, said they were prevented from leaving town to join public protests in Minsk when authorities turned back buses or asserted there were no bus tickets.

Still, thousands of opposition supporters were allowed to stage a rally and rock concert "For Freedom" in the capital Saturday, with supporters waving European Union and Belarus nationalist flags and dissident bands singing songs critical of the regime.

"President, go home!" one musician sang.

"I was born in the Soviet Union," said another. "I don't want to go back to it."

Both Milinkevich and Kozulin said their supporters would be committed to nonviolence.

"If you have decided to take to the streets and defend your right to a worthy life in a free state, go with flowers, candies and presents. Belarus is a peaceful country and the Belarusians are peaceful people. Do not give the authorities cause to shed blood today and use force against peaceful citizens," Kozulin said in a message to his backers.

But Lukashenko's campaign spokesman, Dmitry Kostin, said those who are encouraging street protests are working against the interests of the country.

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"After they called on the people to come out to the square with their children at night, I understood that these politicians are worth nothing. Why should mothers and fathers want to bring children out to a mass rally? These calls are a provocation," he said.

He said if demonstrators attempt to block roads or railway stations, "the authorities will be obliged to use force against the violators."

President Wins Big In Belarus Vote; Thousands Protest Results (WP)

By Peter Finn

The Washington Post, March 20, 2006

MINSK, Belarus, March 20 -- Thousands of people poured onto a snow-blown central square Sunday night to protest the results of a presidential election in which incumbent Alexander Lukashenko was heading to the kind of overwhelming victory that his opponents charge lacks any credibility.

With nearly all of the ballots counted, Lukashenko, 51, had won 82.6 percent of the vote, far ahead of three other candidates, the country's Central Election Commission reported early Monday.

Alexander Milinkevich, the favorite of the country's youthful opposition, had won 6 percent, followed by another opposition candidate, Alexander Kozulin, a former university rector. The fourth candidate was Syarhey Haydukevich, an ally of Lukashenko who analysts said was on the ballot to create a sheen of competition.

The protest, which drew at least 10,000 people at its peak, was peaceful. Hundreds of riot police who had massed in vans near the square stayed away from the crowd. The mostly youthful protesters chanted "Mil-in-kev-ich," "Long live Belarus" and, periodically, "Shame" when an image of Lukashenko flashed on a large TV screen on the square.

But the weather did not smile on the crowd, which began to dissipate after a blinding blizzard swept in. The rally was not sanctioned by the government, and for many in the crowd it was difficult to hear Milinkevich, who used a bullhorn because the government would not allow a public address system.

Milinkevich called on his supporters to return to the square Monday evening to continue to contest the results. "We demand new, honest elections," he told the crowd. "This was a complete farce."

But in a country where Lukashenko controls nearly all of the news media, which portray members of the opposition as criminal revolutionaries, it will be difficult to disseminate Milinkevich's desire to challenge the vote. State media all but ignored the rally Sunday night.

Absent in Belarus are many of the elements that recently helped enable popular protests to topple governments in Ukraine and Georgia after fraudulent elections. There is no independent broadcast media, the opposition is not well-financed and Milinkevich, a former physics professor, was virtually unknown three months ago.

Moreover, Lukashenko, seeking a third term after 12 years in power, remains popular with a large segment of Belarusan society that appreciates the political and economic stability of the former Soviet republic, which has been scarred by world wars and environmental disaster.

"He's the best in the world," said Nicolai Shebeka, a 33-year-old factory worker, after voting Sunday on the edge of Minsk, the capital. "The place where I work was awful before he came to power."

Many in the crowd on October Square recognize the limits of what they can achieve, but said the fact that thousands were still willing to protest in a climate of fear gave them hope. Before the vote, Lukashenko and the country's security service, which is still known as the KGB, had promised to crush any protests.

"We are dreaming about a free and independent country," said Snezhana Lisovskaya, a 22-year-old student. "We're here and we have the feeling that something will change -- if not tonight, then soon."

Lukashenko has ruled Belarus, which borders Russia and the European Union, since 1994. In 2004, in a referendum that outside observers condemned as rigged, a two-term limit for the president was lifted, essentially allowing Lukashenko to run indefinitely.

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Sunday's election was monitored by 400 observers from the 55-nation Organization for Security and Cooperation in Europe, which is to issue a report Monday. Based on the group's interim reports leading up to the vote, the election is likely to be condemned as falling far short of democratic standards.

The head of the Belarusan Central Election Commission said she expected the report to be not just bad, but "very bad," because of what she said was the organization's Western bias. Both the United States and the E.U. have accused Lukashenko of dictatorial rule and threatened some kind of sanction if the presidential election was deemed fraudulent.

Lukashenko dismissed the anticipated criticism when he voted Sunday at a college in Minsk.

"We in Belarus are conducting the election for ourselves," he said. "What is important is that elections take place in accordance with Belarusan legislation. As for sweeping accusations, I've been hearing them for 10 years. I've already gotten used to them."

Lukashenko Wins Election; Opposition Calls For New Election (WSJ/AP)

By Associated Press

The Wall Street Journal, March 20, 2006

MINSK, Belarus -- Incumbent President Alexander Lukashenko handily won Belarus' presidential election, according to an incomplete tally released early Monday, and the main opposition candidate called for a new election as thousands of his supporters jammed a main square in central Minsk.

With 72.2% of the ballots counted from Sunday's balloting, Mr. Lukashenko had 82.3% of the vote compared to 5.8% for Alexander Milinkevich, the Central Election Commission said, pointing to a third term for the authoritarian leader, who has ruled the ex-Soviet republic since 1994. Turnout was 92.6%, it said.

Several thousand people heeded opposition candidate Mr. Milinkevich's persistent calls for a peaceful protest after polls closed across the nation of 10 million, defying a ban on election day rallies and massing in a bitter wind on Oktyabrskaya Square with shouts of "Freedom!" and "Milinkevich!" Some waved colorful light wands or flags.

"We demand new, honest elections," Mr. Milinkevich told the crowd through a small bullhorn, shouting to the snow-dusted crowd on Oktyabrskaya Square. "This was a complete farce."

Although snow had fallen sporadically all day, a squall that kicked up during the rally was suspected by many of being a police action: the snow was of a different texture than the previous flakes and it began blowing suddenly from a different direction, ending as abruptly as it began after about 10 minutes.

Mr. Milinkevich called on his supporters to return to the square Monday evening to continue their protest -- signaling a bid to hold a sustained protest of the sort that have brought opposition leaders to power in former Soviet republics including Ukraine and Georgia in recent years.

Fears of violent confrontation had mounted, with Mr. Milinkevich calling for the protests and officials saying they were banned on election day. But the authorities held back.

The crowd was the biggest the opposition had mustered in years, reaching at least 10,000, according to AP reporters' estimates, before it started thinning out. After about three hours, a smaller group marched to nearby Victory Square, some laying red, blue and white carnations at a monument there before dispersing around midnight.

"Tomorrow we will show the world our might!" said Alexander Kozulin, another opposition candidate.

He demanded authorities release what he said were hundreds of opposition activists detained during the campaign.

At Oktyabrskaya Square, demonstrators waved a national flag that Mr. Lukashenko scrapped in favor of a Soviet-style replacement, as well as EU flags. At one point, a trolley bus went by with a young man riding on the roof. He pumped his fist in a victory sign, and the crowd roared when he rode off carrying a national flag someone thrust into his hands.

People blew horns and shouted "Mi-lin-ke-vich!" -- echoing the much larger crowds on Kiev's Independence Square in Ukraine's 2004 Orange Revolution, which has inspired the opposition in neighboring Belarus.

Police made no move to disperse the crowd, though they closely guarded the building facing the square that temporarily houses the election commission. About a dozen identical unmarked white buses, filled with riot police behind draw curtains, idled on a nearby side-street.

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Mr. Lukashenko has vowed to prevent the kind of mass rallies that helped bring opposition leaders to power in Ukraine, Georgia and Kyrgyzstan following disputed elections, raising the threat of a forceful government response.

The use or threat of force neutralized opposition efforts to protest vote results in Azerbaijan and Kazakhstan last year, and a bloody government crackdown in Uzbekistan left hundreds dead.

Ahead of the vote, the government mounted a campaign of threats and allegations of violent, foreign-backed overthrow plots that its opponents said was aimed at frightening people off the streets and justifying the potential use of force against protesters.

"These elections will be recognized neither by us nor by democratic countries," Mr. Milinkevich told a news conference earlier in the day, after two groups authorized by the state to conduct exit polls released results just hours into the voting giving Mr. Lukashenko more than 80%.

"In Poland, people began laughing at communist authorities and this is when Solidarity won. We are getting there," he said. "I won't be surprised if someone allows himself to claim 120%."

Western countries have forged close ties with the opposition and made no secret of their contempt for the ruler of what Washington calls an outpost of tyranny in Europe. It condemned the campaign as "seriously flawed and tainted."

While Russia's relations with Belarus are sometimes strained, the Kremlin is wary of losing its only ally between its western border and NATO countries, and has signaled approval of a Lukashenko victory.

Mr. Lukashenko dismissed international criticism. "We in Belarus are conducting the election for ourselves," he said. "As for sweeping accusations, I've been hearing them for 10 years. I've already gotten used to them."

A dictator to his critics, many Belarusians see the 51-year-old former collective farm manager as having brought stability after the uncertainty that followed the 1991 Soviet collapse.

Even independent opinion polls suggested Mr. Lukashenko, who has pushed through a referendum scrapping term limits and hinted he plans to stay in office indefinitely, would win a majority and avoid a runoff.

Protesters Charge Fraud In Belarus Presidential Election (NYT)

By Steven Lee Myers And C. J. Chivers

The New York Times, March 20, 2006

MINSK, Belarus, Monday, March 20 — An expected landslide for President Aleksandr G. Lukashenko drew several thousand Belarussians into the streets on Sunday, as protesters ignored swirling snow and official threats of arrest to denounce the election as a clumsily orchestrated sham.

With nearly all votes counted, Mr. Lukashenko, a former collective farm boss who has been in office 12 years, won 82.6 percent of the total, the chief of the Central Election Commission, Lidiya Yermoshina, said Monday morning, according to The Associated Press. That figure exceeded even the state's own surveys of voters leaving the polls.

Early indications that Mr. Lukashenko would be the easy winner had, though, already hardened his opponents' assertions that the results were fraudulent.

"They say we want a revolution," the leading opposition candidate, Aleksandr Milinkevich, told thousands of protesters who gathered peacefully in October Square, the central square in Minsk, as the polls closed at 8 p.m. Sunday. "No. We want only free and fair elections. What happened here was a farce. We do not recognize this election."

The election commission said Monday that Mr. Milinkevich trailed in a distant second place, with 6 percent.

The protest, drawing several thousand despite the snow and bitter cold, was the largest in years against Mr. Lukashenko, who is often denounced here and abroad as the last dictator in Europe. The protesters waved flags — including the former national flag, now banned, and that of the European Union, officially scorned — and chanted slogans demanding freedom.

"All they are saying is lies," Tatyana Agechich, an engineer who lost her job for disloyalty to Mr. Lukashenko's government, said as official statements were being broadcast on a large-screen television in the square, accompanied by jeers.

Although the authorities banned election day rallies and the country's security service — still known as the K.G.B. — warned that anyone causing disturbances could face charges of terrorism, the protest passed without the violent crackdown that many had feared.

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Scores of police officers and security troops assembled in buses on side streets, but did not intervene. At times the protesters — estimated at 5,000 to 10,000 — broke into chants of "The police are with us."

Mr. Milinkevich addressed the crowd from the steps of the neo-classical Palace of Trade Unions, near the building where officials were announcing the results. A second opposition candidate, Aleksandr V. Kazulin, joined him in ridiculing the outcome.

Acknowledging the genuine popularity that Mr. Lukashenko has, however, Mr. Kazulin demanded only a second round of voting, which is required if no candidate receives more than 50 percent of the vote.

"There is only one God," he said. "All others are servants of the people."

Although Mr. Lukashenko's opponents have modeled their campaign after the popular uprising that overturned a rigged presidential vote in Ukraine in 2004, the protesters in Minsk did not block traffic or try to set up camp, as the Ukrainians did in Kiev.

After three hours, they heeded a call to march half a mile down Independence Prospect to Victory Square. By early Monday, the crowd dispersed. The two opposition candidates called on the protesters to return Monday night once, as they expect, the final results are called into doubt by observers from the Organization for Security and Cooperation in Europe.

Sunday's vote has become a new conflict between Belarus, the United States and the European Union. Both Europe and the United States have threatened penalties if the election is determined to be undemocratic. It is also likely to become a fresh source of tension between the West and Russia, which has supported Mr. Lukashenko's rule, openly at times. Russia and other former Soviet republics have sent their own election observers, who said in preliminary statements that the election was fair.

Mr. Lukashenko, after voting at a sports complex in Minsk, dismissed the chorus of American and European criticism that coincided with the end of the campaign, which was marred by dozens of arrests, restrictions on campaign events and harassment of independent organizations.

"We are holding elections for ourselves," Mr. Lukashenko said in remarks broadcast live on state television.

The transmission was abruptly stopped when he was questioned about the accusations of vote-rigging. In response to questions about whether Belarus under his rule has become a dictatorship, he denounced President Bush.

He called Mr. Bush "terrorist No. 1 on our planet" and ridiculed a White House report released last week that accused Mr. Lukashenko of amassing a personal fortune from arms sales and corruption. "He is not even capable of calculating his own incomes, gained from the oil and the war," Mr. Lukashenko said of Mr. Bush, according to the Interfax news agency.

Election day, like the campaign, was divided into parallel worlds. Mr. Milinkevich's supporters reported instances of harassment and expulsions of observers sent to monitor the voting at polling places across the country.

State television, meanwhile, offered a series of interviews with analysts and observers, including a few Westerners, who praised the election. Mr. Lukashenko, elected in 1994 in what has been called the last free election in Belarus, has since orchestrated not only presidential and parliamentary elections, but also a constitutional referendum in 2004 that lifted the limits of him seeking a third term.

"What is going on today is the seizure of power by unconstitutional means," Mr. Milinkevich said in an interview in a cramped apartment that served as his campaign headquarters.

He noted that 10 of his 30 campaign managers had been arrested and remained in jail on election day. "What kind of election are we having if my campaign managers are in jail?" he said.

Many voters who were interviewed declined to state their names or their choices, but in Minsk and especially outside of it, Mr. Lukashenko's supporters praised his leadership over the last 12 years.

"I came to vote for our batka," Zoya A. Popkovskaya said loudly as she entered a polling station in Samokhvalovichi, a village south of Minsk, using a nickname for father that Mr. Lukashenko favors. "I want him to be elected for life — at least until he is a pensioner."

Ms. Popkovskaya, 69, explained her support for Mr. Lukashenko in ways often heard, especially in rural towns and among the elderly. "He has raised us," she said. "When he became president, he gave us our pensions and our children jobs."

It remains to be seen whether the protests will have any effect. Some in the crowd on Sunday expressed disappointment at the turnout.

"We would like more," Dmitry Yakovuk, 23, said, "but maybe people are not ready yet."

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Incumbent Remains Popular In Heartland's Rural Villages (NYT)

By Steven Lee Myers

The New York Times, March 20, 2006

KRUPITSA, Belarus, March 19 — Vladimir M. Grom pulled out of a case a bagpipe known here as a duda, assembled it and demonstrated its deep, resonant music.

"There is nothing like natural sound," he said. He explained that as a young man in the Soviet Union he played electric guitar and that electronics create even more music these days. "It is like synthetic clothes," he said, shaking the lapel of his suit.

Upstairs on this election day morning, a quartet of women played cimbaloms, a version of the dulcimer, practicing for their part in Sunday's election day concert at the House of Culture here, which doubled as the village polling place. "This is our tradition," the chairwoman of the local election commission, Lyudmilla Polichik, said of the concert.

"Please, come watch," she said, inviting unexpected foreign visitors to join in Krupitsa's celebration of an election that would return to power the man who, in her view, made all this possible, President Aleksandr G. Lukashenko.

"People have already felt the change in their lives," she said, describing a heightened sense of excitement for Mr. Lukashenko's third presidential election. "And they thank the president for it."

In the capital, Minsk, 20 miles to the north, Sunday's vote took place in an atmosphere of fear and anticipation of clashes between the security forces and Mr. Lukashenko's democratic opponents, who have accused the government of orchestrating a preordained victory.

Villages like Krupitsa, by contrast, offer a window into Mr. Lukashenko's popular support.

Everyone cites the evidence. The House of Culture recently underwent a complete renovation, after 20 years without repair. The old kolkhoz, or collective farm, recently merged with a production company to become a joint venture, owned by the state and called Raps, for the rapeseed it grows and the oil made from it. A clinic was built with money raised by performances of a folk music and dance ensemble, Krupitskaya Musika, which Mr. Grom directs.

The group has toured throughout Europe and even went to Japan in 1995, though the foreign trips tapered off after 2000, when Mr. Lukashenko's government became increasingly ostracized by its European neighbors.

"It is not window dressing, like we used to do in the old times," Mr. Grom said of the clinic, a stadium and the Raps headquarters. Most of all, of course, he praises the renaissance of a musical education program that teaches the village's children the traditions of Belarussian folk culture with the instruments that he collects.

"They are not professionals," he said of the women playing the cimbalom, "but they do not grow rape any more."

Mr. Grom, 55, earns roughly $500 a month, twice the national average. He does not agree with everything Mr. Lukashenko has done, including a system of contracts for state workers, almost everyone in Belarus, that critics say allows the government to punish the disloyal, politically or otherwise. Still, he said, "The people here are happy — we have reached a certain level."

Asked about limits on democratic freedoms, including artistic expression, he said he had experienced none. He had not heard of The Free Theater in Minsk, whose performances have gone underground because its repertory is not deemed sufficiently patriotic by cultural commissars.

"You see the other republics, where they broke down the old system," he said, referring to the 14 other nations that emerged from the Soviet wreckage. "We feel sorry for them."

On stage in the House of Culture, Yevgeniya Yakovleva, 8, played Rachmaninoff's "Italian Polka" on the dulcimer. Those in the auditorium, perhaps two-thirds full, clapped along with a girl who, in her own small way, represents the future of Belarus.

"We have simply chosen our own way," Mr. Grom said.

Europe's Last Dictator (WSJ)

By Matthew Kaminski

The Wall Street Journal, March 20, 2006

Who will cry, after yesterday's fiasco of a presidential election, for Belarus? More to the point, who can find this nation of 10 million (mostly delightful) Slavic souls without a peek at a map? Safe to say, not many, which is good news for Alexander Lukashenko's career plans.

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In the club of democracy's enemies, Mr. Lukashenko is an elder statesman, a Hugo Chavez of the steppes. He is a clever populist who cultivates other pariahs and holds an old Bolshevik's contempt for opposition and political compromise. The 51-year-old collective farmer is widely known, thanks to Condi Rice, as "Europe's last dictator," though that nickname sells Vladimir Putin and other recent arrivals short.

This election will likely even the score, so to speak, in the democracy battles of the former U.S.S.R. After Georgia, Ukraine and Kyrgyzstan tossed out authoritarian regimes, the Kazakh and Azeri strongmen last year held on after their own rigged polls. Mr. Lukashenko, with Russia cheering him on, looks to make it three apiece. Official exit polls released two hours after voting started yesterday -- it was that sort of election -- gave Mr. Lukashenko over 80% in his bid for a third term, while his leading challenger Alexander Milinkevich, who'd scored up to 25% in opinion polls, got around 5%.

Mr. Milinkevich, a bearded physicist with a soft voice and pleasant manner, last night called the outcome a "farce" and his people onto the streets. He talks of a peaceful "denim revolution" to match Ukraine's orange or Georgia's rose. Jeans are still the symbol of youth, freedom and the West out East. Don't hold your breath. The riot police usually outnumber anti-Lukashenko demonstrators at opposition rallies. This time, taking no chances, the regime threatened to execute, on terrorism charges, anyone who dares take their grievances to the streets.

For promoters of democracy, Mr. Lukashenko is a reality check. Twelve years ago, he came out of nowhere to win nearly three in four votes in the country's first and last free elections. The young country's institutions were too weak to resist his frontal attack -- and the populace too scarred by decades of Soviet repression to care. Charismatic, to a Belarusan peasant at least, Mr. Lukashenko made wild allegations of corruption against the post-Soviet rulers. In power, he repressed in the name of fighting graft, proving a point I recently heard made by the Venezuelan editor of Foreign Policy magazine, Moisés Naím, that "anti-corruption campaigns" often end up subverting democracy in developing countries.

In addition to his KGB (the Soviet anthem and flag stayed the same, too) and selective murder of opponents, President Lukashenko used a series of popular votes -- the very symbol of suffrage -- to short-circuit democracy. In 1995 and 1996, the regime rammed through referendums that neutered parliament and boosted presidential powers. Independent polls show him to be the country's most popular leader, who has delivered strong economic growth, powered by Russian subsidies, while playing to nostalgia for Soviet days. With no independent press or TV widely available, most people don't know any better.

So things will stay as they are? Naturally Mr. Lukashenko, like a Milosevic or Saddam, wants nothing more than for the world to resign itself to a few more decades of him. A tyrant's best ally is fatalism.

Mr. Milinkevich at least recognizes the terms of the fight. "A majority of Belarusans want a change and want democracy," he said over dinner in Brussels recently. "People must start to believe that change is possible."

The Milinkevich candidacy was in itself a step forward. Last October, the opposition -- small except for the egos -- for the first time backed a single man to lead them. (Nothing moved in authoritarian Croatia, Serbia or Slovakia of the 1990s until the fractious democrats united.) Mr. Milinkevich surprised everyone by shooting up from nowhere in credible polls. He had no national media exposure, but word spread by mouth and blog, largely thanks to a lively student movement, Zubr. He went door to door to win votes, a first for a politician in Belarus. "Half the doors remained closed to him," said Vintsyuk Vyachorka, who leads the largest opposition party. "The main problem is the fear of the people. To overcome it, we must show this hesitant majority that there is a responsible leader who has no fear himself." A fortnight ago, Mr. Vyachorka, a key Milinkevich campaign aide, was jailed for 15 days for organizing "unauthorized rallies." Supporters fear for his life.

Belarus is as fallow ground for democracy as exists anywhere today, the Arab world included. Support from abroad helps make the playing field slightly less skewed against the opposition. The U.S. this year provided $21 million for democracy in Belarus. This money is best spent on media, Mr. Milinkevich told me, to better inform people about their own country. But foreign cash didn't bring the bodies out on the streets in Ukraine or Georgia, and can't do so here. That's up to Belarusans themselves.

In discussions of democracy-promotion today, it's fashionable to say, "Forget Poland." By that, skeptics mean that the experience of 1980s Poland, the first European Soviet satellite to fall, doesn't apply to "non-Western" cultures -- Arab or Russian or Central Asian. Try telling that to the Belarusans, who are the Poles' eastern neighbors and once shared a state with them. On hearing the early results, Mr. Milinkevich yesterday said that "People will laugh at those figures. In Poland people began laughing at communist authorities and this is when Solidarity won. We are getting there."

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It may take longer than Mr. Milinkevich might wish. Democracy isn't inevitable in Belarus, Europe or anywhere else. But nor is another 12 years of rulers like Mr. Lukashenko. "We are not romantics," Mr. Vyachorka told me before his arrest. "We are pragmatics."

Mr. Kaminski is editorial page editor of The Wall Street Journal Europe.

Furor Over French Employment Law Rages On (USAT)

By Claudia Sanchez And Jeffrey Stinson

USA Today, March 20, 2006

PARIS — Growing protests by students and unions opposed to labor laws that will make it easier to fire young workers are testing France's government. (Related: Jobs law means little in poor suburb)

Crowds estimated by the French Interior Ministry at more than 500,000 turned out in about 150 cities Saturday in the largest of six weeks of anti-government protests. Labor leaders warned President Jacques Chirac and Prime Minister Dominique de Villepin, the architect of the labor-law change, that the government had until tonight to back off or face more demonstrations and possibly a general strike.

"It is obviously an ultimatum," said Réné Valladon, confederal secretary of the Force Ouvriere union, which represents civil servants and workers at state-owned companies. "The government and the president of the republic have indeed 48 hours to decide," he said in a statement on the union's website.

Saturday's biggest protest, in the southeastern part of Paris, had the air of a street festival. Young and old turned out on a sunny day. However, the march turned violent for the second time in three days.

Police fired tear gas at rock-throwing youths at the Place de la Nation at the end of the march. Later, police fired a water cannon to disperse students who tried to storm blockades at the Sorbonne University in the Latin Quarter. The blockades were put up after police on March 11 removed 300 students who had occupied France's oldest university. The Sorbonne was the starting point of a May 1968 leftist student revolt against the French establishment. Those protests spread into general strikes across France and eventually led to the resignation of President Charles de Gaulle.

Clashes spread throughout country

Paris police said seven police officers were injured, four cars were set on fire, and 167 people were arrested Saturday. The Associated Press reported similar skirmishes in Marseille, Rennes and Lille.

Tens of thousands of high school and university students converged Thursday on Paris for a daylong, nationwide student protest. Up to 58 of France's 84 public universities were closed or partly closed during the week, according to the Ministry of National Education.

The point of controversy is a new law that allows employers to fire new workers younger than 26 during their first two years on the job without giving a reason. The change was proposed Jan. 16 by Villepin and approved March 9 by Parliament after being rushed through with little debate. It is aimed at attacking France's high youth unemployment rate.

The jobless rate is 22.8% for workers age 18 through 26. That is more than double the 9.6% overall unemployment rate. The jobless rate for youth in some suburbs in major cities, where many African immigrants and their French-born children live, is as high as 50%, the Interior Ministry says.

Villepin, who oversees France's economy, advocated the change partly in response to youth riots that began in the Paris suburbs in October and spread to other cities. The rampaging youths complained that they couldn't find jobs or places to live because they were Muslim or did not have French names.

The new law was designed to give employers greater flexibility in firing so that they would be less wary of taking on new workers, become more productive and create more jobs. It takes effect next month.

Many of Saturday's protesters in Paris, such as Johanna Etchecopar, 22, an arts student at the University of Evry, say the change in the law undermines job security. "The law will increase the precarious situation," Etchecopar says.

Celine Bureau, 17, a high school student, says, "The law will make us go from employed to unemployed very easily and very often. We want the government to prepare solutions for our future."

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Images of students battling police at the barricades at the Sorbonne in Paris' Left Bank evoked memories of May 1968, when utopia-minded students protested a bourgeois university system and demanded change in society. As the clashes grew, unions joined to protest police brutality. The unions also demanded a wage increase and launched a nationwide strike. In April 1969, de Gaulle resigned after a no-confidence vote on a referendum to restructure French government.

While the protests by students and unions against unpopular government policies appear similar, the issues are far different now. "It looks like '68. It smells like '68. It sounds like '68. But it's not," says Dominique Moisi, deputy director of the French Institute of International Relations in Paris, who was a student in 1968.

"In 1968, after 30 years of full employment and economic growth, students were bored to death," Moisi says. "Today, after 20 years of unemployment, the students of 2006 are looking for security."

The change in the law evokes such hostility because of the relationship that the French feel that they have with employers, says Iain Begg, an economist with the London School of Economics' European Institute.

Prime minister not backing down

While American and British workers may view their jobs as economic contracts, Begg says, the French see them as social contracts in which employers are obliged to provide stable employment. If the French are going to solve their high unemployment, he says, they must take more steps like this one to make companies more competitive and productive.

The prime minister has not backed away from the new law. Chiraq has stood behind him. In an interview published Sunday in Citato, a monthly for high school students, Villepin said he is convinced the law will work. What happens this week could determine not only the fate of the law, but Villepin's political future. He hopes to replace Chiraq as president next year.

The president of the Sorbonne, Jean-Robert Pitte, speaking in a telephone interview from his office behind the barricades on Friday, said he saw a comparison between the student revolt of 1968 and now. "We change by revolution. It is how we have done it over the last 200 years."

Sanchez reported from Paris, Stinson from London.

Contributing: Wire reports.

French Unions Threaten To Strike (NYT)

By James Kanter, International Herald Tribune

The New York Times, March 20, 2006

PARIS, March 19 — Prime Minister Dominique de Villepin of France on Sunday faced an ultimatum from union leaders to withdraw the employment law that set off huge nationwide demonstrations and sporadic violence over the weekend, or face a general strike.

After the protests ended in outbreaks of violence late Saturday, union leaders gave Mr. de Villepin a deadline of Monday evening to withdraw the law, known as the First Employment Contract, which was intended to make it easier for businesses to hire and fire young people.

"If nothing moves, we will propose preparing a day of general work stoppages in the coming days," said Bernard Thibault, secretary general of the powerful C.G.T. labor union.

A front-page editorial in the Sunday newspaper Le Journal du Dimanche predicted that Mr. de Villepin, who has been in office for 10 months, would hold firm. But further conflict could damage his prospects of running for president next year.

The employment measure, set to go into effect in April, would allow employers to lay off new workers younger than 26 without cause for two years. Protesters say the law erodes vital employment rights and could be turned into a charter to exploit young workers.

Security forces arrested 167 people at the protests on Saturday and were still holding 70 on Sunday morning, said Catherine Castéran, a spokeswoman for the National Police. She said 34 members of the security forces and 18 demonstrators had been hurt in the violence. None of the injuries were serious, she said.

There was little sign that the tension over the contract would ease this week. On Monday, union leaders will meet to discuss the timing of a possible general strike, said Maurice Marion, a spokesman for the C.G.T.

Student groups could resume their street protests as soon as Thursday, the newspaper Le Monde reported.

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So far the government has refused to cancel the measure, saying only that modifications are possible. But commentators say that Mr. de Villepin now looks trapped after the ultimatum from unions, a call by university presidents to suspend the measure and a recent opinion poll indicating that 68 percent of French citizens favor overturning the law.

"Watering down the contract could be a quick escape route for Villepin," said Emmanuel Rivière, the director of political research at TNS Sofres, a polling firm. "But that would be a political liability for him, too, because then the contract probably wouldn't do as much to lower unemployment."

Mr. de Villepin pushed through the law to ease chronic high unemployment, particularly among the young. One in four young people in France is out of work.

But Mr. de Villepin's plan has come unstuck as union members fight to retain their job security and students accuse the government of age discrimination and of leaving them vulnerable to unscrupulous employers.

French Unions Threaten To Strike (WSJ)

By Andrew Higgins

The Wall Street Journal, March 20, 2006

PARIS -- Buoyed by big protests Saturday across France, French trade-union leaders threatened yesterday to call a nationwide strike to increase pressure on the government over a new labor law.

The strike threat escalates the stakes in a protest movement initially driven largely by students but now grown into a far broader campaign of opposition to an overhaul of France's rigid labor market.

The alliance of students and labor is a powerful force in French politics. It drove a 1968 revolt that, like the current movement, centered on the Sorbonne, a venerable academy in the middle of Paris that has been shut for more than a week following clashes between students and riot police.

Trade unions are much weaker now, hit by declining membership that has left only a small portion of the total work force unionized. Nonetheless, unions still have muscle, thanks to their ability to disrupt the national railway and other state-run services.

In a radio interview yesterday, Bernard Thibault, head of France's biggest union, the CGT, said he would propose a one-day general strike if the government doesn't abandon its labor changes. The CGT and other trade unions will meet today to make a decision, he said. The leader of Force Ouvrière, another union, also dangled the possibility of a strike, but it is unclear whether union members would support such drastic action over labor overhauls that don't directly affect them.

The strike warnings followed protest marches Saturday in more than 150 cities and towns. Authorities put the turnout at 500,000; organizers claimed three times that many. In Paris, a march across the city drew about 100,000 people, including leaders of the socialist and communist parties. It was the biggest protest so far, attracting not only students but also many older people anxious about the encroachment of "Anglo-Saxon" free-market methods.

At the end of Saturday's Paris protest, police fired tear gas to halt a small riot near Place de la Nation. Several cars were torched and a McDonald's restaurant was attacked. Protesters also tried to break a police blockade around the Sorbonne in the Latin Quarter. In Marseille, police used tear gas against youths who clambered up a City Hall flag pole to replace the French flag with a banner reading "Anti-Capitalism."

The snowballing protest movement risks derailing the government's efforts to tackle what many economists see as a major obstacle to economic growth. They also could reshape a presidential election next year. Seriously weakened by the conflict is Dominique de Villepin, France's center-right prime minister and a presidential hopeful. France's normally fractious left-wing opposition, meanwhile, has united in opposition to the labor-law changes.

The government says the changes, which make it easier to hire and fire young workers, will ease unemployment, particularly in deprived urban areas that erupted in violent rioting last fall. Protesters, however, say the centerpiece of the changes -- a contract for workers younger than 26 that frees employers from legal constraints on dismissing them within the first two years of hire -- will erode workers' rights and create only "junk jobs." In Paris Saturday, students waved placards denouncing the measure as a "garbage job contract" and a "slave contract." Some marched wrapped in blue plastic garbage bags. "We don't want law-of-the-jungle capitalism," said Clara Borarier, 20, an art-history student.

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French unemployment stands at 9.6% but is more than twice as high for young people. Among older marchers, anger at a new labor law mingled with nostalgia for 1968 and alarm over globalization. "We were much stronger in 1968. We had all high hopes then. Now our horizons are much lower," said Gerard Daniel, a 56-year-old veteran of the 1968 unrest and CGT trade union activist. He said the goal now, in contrast with 1968, is "not to change the world" but to "protect what we've gained."

France's unrest plays into a debate across Europe over how to cut unemployment and lift sluggish economic growth without demolishing cherished worker rights introduced at a time when European economies were growing much faster. "Reform is ineluctable in Europe; if not, we'll lose everything," José Manuel Barroso, the head of the European Commission, said yesterday. "The status quo is not an option."

Jobs Law Means Little In Riot-torn Suburb (USAT)

By Jeffrey Stinson

USA Today, March 20, 2006

CLICHY-SOUS-BOIS, France — When Gnoro Biady saw youths running past his store with Molotov cocktails in this northern Paris suburb last fall, he feared that his store and livelihood would be incinerated.

But Biady, 47, an immigrant from the Ivory Coast, says he understood the frustrations that led youths here to launch nightly rampages starting Oct. 28. The riots spread over three weeks to almost 300 other enclaves of African immigrants and their French-born children.

"There are few jobs," Biady says. "And if you're black or Arab, they are hard to get."

The rioting began after teenagers Zyed Benna and Bouna Traore were electrocuted after climbing into an electrical substation. Some local residents said they were hiding there from police. Police have denied they were chasing the teens.

The rioting shook France and raised questions about whether every citizen enjoys the liberté, egalité, fraternité — "liberty, equality and brotherhood" — promised in its national motto. It also helped prompt French Prime Minister Dominique de Villepin to push through Parliament a change in labor laws designed to tackle the high unemployment by encouraging employers to be more willing to hire new, young workers.

The change, which takes effect next month, would allow employers to fire workers younger than 26 without stating a cause during their first two years on the job. The passage of the law set off a rash of protests, some violent, by students and union workers across France who say the measure takes away job security.

There have been no demonstrations in this poor suburb against the new law. People don't expect any measures undertaken or proposed by the government to provide more opportunities for minority youth.

Oliver Klein, deputy mayor of Clichy-sous-Bois, says he has seen few changes in the suburb of about 28,000 since the unrest erupted last fall.

"We still have the same problems," he says. "Transportation, housing, employment issues are still a big problem here." The only thing that has changed, he says, is that the Interior Ministry has promised to build Clichy-sous-Bois' first police station.

Karen Boucheron-Didry, 31, teaches French at the Robert Doisneau high school, where the student body is mostly minorities.

She says the future will be very hard for many of her students, despite government promises of more open university admissions and greater job opportunities.

"They (government promises) are very far from reality," says Boucheron-Didry, whose school has the national motto emblazoned on the front of the building.

Biady, whose store offers groceries and African products, sees little future in France for his five children and is contemplating returning to the Ivory Coast.

"The jobs aren't going to be long-term," he says. "If things don't change, they will grow up suffering the same. They live here. They're educated here. But they can't find a job here."

China Puts Energy At Top Of Agenda For Putin's Visit (WSJ)

By Gregory L. White And Shai Oster

The Wall Street Journal, March 20, 2006

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Russian President Vladimir Putin is scheduled to visit Beijing tomorrow for talks in which energy will be high on the agenda. China intends to push its energy-rich neighbor to deliver on past promises to supply it with more power.

During Mr. Putin's two-day stay, his hosts are likely to convey growing frustration that Russia hasn't provided as much energy assistance as China has wanted. Beijing is expected to push the Russian leader to commit to specific plans for building oil and gas pipelines to China.

"China isn't satisfied with the development of cooperation in energy," Zhang Guobao, vice chairman of the National Development and Reform Commission told Russia's Interfax news agency early this month, in a rare display of open concern. "The practical level of cooperation in my view is still very insignificant."

The lack of progress is disappointing to China, which has scoured the globe for energy to supply its fast-growing economy, even though Russia, the world's largest gas producer and No. 2 in oil, is next door. At present, Russia supplies no gas to China and roughly 5% of China's oil imports.

A legacy of Cold War tensions between the two giants, there are no major pipelines and limited rail links across the shared border. Last year, Russia shipped 7.7 million metric tons of crude by rail to China. It had promised 10 million tons.

This week's discussions are expected to center on reviving talks to build a spur that would carry oil directly to China from a $7 billion pipeline Russia plans to build across east Siberia to the Pacific, as well as a stalled gas pipeline.

For years, China has pressured Russia to build more links and expand shipments. But Kremlin politics, Russia's legendary bureaucracy and Moscow's persistent suspicions of its more-dynamic neighbor have led to delays and broken promises. Beijing's efforts to buy up Russian energy assets, meanwhile, have run into roadblocks from the Kremlin.

China is particularly eager to foster closer energy ties with Russia because routing resources by land could be more secure than sea shipping. Currently, some four-fifths of China's oil imports pass through the Straits of Malacca in Southeast Asia, which Chinese planners fear could be easily blocked.

Officials on both sides say a deal on a spur for the oil pipeline to the Pacific could be signed during Mr. Putin's visit, although Russia's record on following up pledges has Beijing wary.

"Take the question of building the oil pipeline. ... One Russian official says Russia has made the decision, another says it hasn't," Mr. Zhang told Interfax, in comments that were confirmed by his office in Beijing last week. "The whole process is unsatisfactory."

Japan, meanwhile, has been pressuring the Kremlin to ensure that any pipeline runs to the Pacific -- not directly to China -- thus preventing Beijing from monopolizing Russian supplies. Despite Russian assurances that there will be enough oil for both customers, Tokyo officials are concerned that China's surging demand could mean that no Russian crude flows to the Pacific Ocean, and on to Japan.

Within Russia, meanwhile, there is infighting over who will carry the oil. The national railroad was planning to spend more than $1 billion to expand lines to carry crude to China. It now wants the government to guarantee that the planned pipeline won't divert those flows, even though rail shipments are more costly.

Russian officials insist they want to see more oil flow to Asia, especially China, and hope the planned pipeline will stimulate growth across the desolate Siberian region. When completed in 2008, the line is slated to carry 600,000 barrels of crude a day. Moscow has said it will expand daily capacity to 1.6 million barrels, although officials have given no indication of when that might happen.

Han Xiaoping, senior vice president of Beijing-based energy consultancy Beijing Falcon Pioneer Technology Co., said the negotiations may still take time. "Russia isn't market driven. But maybe this [Putin] visit is slowly the turning point."

Moscow is only beginning talks on links to supply gas to China. An official from the state gas company OAO Gazprom said it will sign an agreement in Beijing this week spelling out planned volumes and the pricing formulas for future gas shipment. But officials indicate key issues including where the multibillion-dollar pipelines will be run remain unresolved.

"In Russia, the contract signing is only the beginning of the negotiation," said Stephen O'Sullivan, an analyst at United Financial Group, a Moscow brokerage. "The Chinese are increasingly strident in their view that 'We're not just going to wait for you.' "

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While Beijing would clearly prefer the security and low cost of pipeline gas from Russia, the Chinese government could also build more terminals for liquefied natural gas from elsewhere in Asia as an alternative.

Beijing had been working with BP PLC on a deal to bring in gas from the huge Kovykta field, which lies relatively close to the Mongolian border near Lake Baikal. But Gazprom blocked that project, saying it wants to determine where pipelines are built.

In an interview with Chinese media Friday, Russian First Deputy Premier Dmitry Medvedev, who also serves as chairman of Gazprom's board of directors, seemed to provide a ray of hope for Kovykta, citing it as an example of what he called "significant potential for cooperation in the gas sphere."

Russian officials have expressed concern that building a gas pipeline directly to China would leave them hostage to a single buyer. Analysts and officials said Gazprom needs to decide quickly on its plans for fields and pipelines to be able to deliver gas by early in the next decade.

Beijing Passes On Intervening Over Iron Ore (WSJ)

By Rebecca Blumenstein

The Wall Street Journal, March 20, 2006

BEIJING -- China's top economic planner said the government won't intervene in continuing negotiations between Chinese steelmakers and foreign mining companies that supply the iron ore they need, despite earlier warnings by Chinese officials that the country couldn't tolerate higher prices.

"The government will not interfere," Ma Kai, head of the National Development and Reform Commission, told a group of U.S. newspaper editors Friday. "This price will be decided on the basis of market and enterprise negotiations."

China is increasingly concerned about prices of key commodities needed to feed its surging economy, such as oil, copper and steel. Prices for China's iron-ore imports surged 71.5% last year from 2004. The sharp jump has hurt Chinese steelmakers, which have banded together in the current negotiations with global iron-ore suppliers.

Earlier last week, China's Ministry of Commerce issued a statement warning that China can't tolerate higher iron-ore prices. The ministry warned it may take unspecified measures if prices are deemed too high.

Speaking to a visiting delegation from the American Society of Newspaper Editors, Mr. Ma reiterated China's broader development goals approved earlier last week by China's National People's Congress, or legislature. The goals include balancing economic growth with measures to protect China's environment. Surging pollution levels in China's air and water have become an issue of national and international concern.

"We are aware that we cannot develop our economy at the expense of tomorrow," Mr. Ma said. He said local officials will be judged not only by how much their regional economies grow, but also by their success at protecting the environment.

He said China's leaders are committed to reducing a widening income disparity that is making some Chinese very rich while the country's annual per capita income averages slightly more than $1,700. "All we can say is that they are growing pains ... it is a historic and long-term process."

Mr. Ma, who has headed the NDRC since 2003, is among the country's most influential economic policy makers. Indeed, the commission, which was built on the foundation of the former State Planning Commission and a number of industrial ministries, is so powerful that it is sometimes called the "Little State Council." Besides setting macroeconomic policies, the NDRC continues to oversee a number of industrial sectors and is involved in such key issues as energy.

Mr. Ma said he isn't overly worried about inflation. If prices rise, he said, the government "has enough economic instruments to control it."

Americas Brazil, Mexico, Chile Are Expected To Fuel Strong Area Growth (WSJ)

By Patricia San Juan

The Wall Street Journal, March 20, 2006

SANTIAGO, Chile -- The economies of Latin America and the Caribbean will likely expand an overall 4.3% in 2006, according to Jose Luis Machinea, head of the United Nations' regional-research group.

"We are [forecasting] between 4% and 4.5%, but I think it will be more like 4.3%," said Mr. Machinea, head of the Economic Commission for Latin America and the Caribbean, or Eclac.

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The official said the forecast is based on expectations that Brazil and Mexico, the region's two largest economies, may expand slightly faster than expected. Furthermore, Chile also may perform better than the 5.5% forecast of Eclac, Mr. Machinea said. For now, however, the group isn't changing its estimate.

Argentina may expand closer to 7% this year, faster than the previous Eclac forecast of 6%, because a surge in growth at the end of 2005 may spill over into this year, he said.

Consumers In Japan And Europe May Help To Drive Global Growth (WSJ)

By Mark Whitehouse And Jathon Sapsford

The Wall Street Journal, March 20, 2006

An important shift is taking place in the global economy: Japan and Europe, until recently among the biggest drags on world growth, may soon be playing crucial supporting roles.

In a trend that has caught many economists by surprise, companies and consumers in the euro zone and Japan, the world's second- and third-largest economies after the U.S., have started spending again -- or appear poised to do so -- for the first time in years.

The new climate has prompted moves by central bankers in both places to push up interest rates to curb inflation, a policy that could weigh on stock and bond prices everywhere by slowing the flow of cash around the globe. But the re-emergence of spending in those nations has implications far beyond financial markets.

For one thing, it means that the world might be less dependent on the American consumer, whose willingness to borrow and spend has been a primary driver of world growth for the past five years. If U.S. economic growth starts to taper off later this year, as some economists predict, Japanese and Europeans might help pick up the slack, a global rebalancing act that many had hoped for but few had thought probable. Growing local demand in emerging economies such as China and India could make a difference, too.

"I feel nervous as hell thinking it, because it's such a ridiculously optimistic thing to think," says Jim O'Neill, chief economist at Goldman Sachs in London. But, "if the U.S. was ever going to slow down, in many ways there couldn't be a better time for it."

Even if U.S. growth doesn't slow anytime soon, stronger growth abroad would be welcome news. It could help rein in the widening U.S. trade deficit by giving American companies more opportunity to sell their goods and services overseas.

"The businesspeople in both Japan and Europe are beginning to feel their oats," U.S. Treasury Secretary John Snow said last week in an interview with The Wall Street Journal. The trend, he said, is "good for us."

For the time being, the U.S. is on a roll, fueling growth in the rest of the world by buying much more stuff from abroad than it exports. The current-account deficit, a measure of how much the U.S. borrows from overseas to pay for foreign goods and services, widened to a record $805 billion in 2005 from $668 billion in 2004. That's a sign that the world's dependence on U.S. demand has been growing.

Some economists, though, expect the U.S. economy to slow in the second half of 2006, as stagnant or falling home prices make Americans feel less wealthy, and thus less willing to spend. Economists polled by the Journal expect annualized growth in U.S. gross domestic product to slow to 2.9% by the fourth quarter of this year from 4.6% in the current quarter. That could be a significant blow to the global economy: U.S. consumers buy about a fifth of everything the world produces.

Until recently, there were few candidates to step up and buy if the U.S. consumer stepped down. Japan has been growing for three years, but slowly and without much help from its consumers. Europe, too, offered little hope of buoyancy. Household consumption in Germany, for example, fell in each of the past four quarters.

But change has come quickly. In Japan, for example, fourth-quarter GDP grew at an annualized 5.4%, the highest rate among the Group of Seven industrialized nations. More significantly, Japanese consumers have regained some of their urge to buy. After barely budging for much of the past decade, Japan's household spending grew by an annualized 3.5% in the final quarter of 2005.

Anecdotal evidence suggests a society that is learning how to spend money again. New restaurants are opening in Tokyo's posh neighborhoods, as are high-end boutiques. Apple Computer Inc. sold 14 million iPod portable music devices in the last

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quarter of 2005 -- its best sales since introducing the iPod to Japan in 2001. Coach Inc., a maker of upscale handbags, expects its Japanese sales to jump 20% to about $410 million for the fiscal year ending in June.

The picture is less clear in Europe. In France and Spain, robust household spending is fueling an economic upturn. But in Germany, Europe's largest economy, official data still show consumers in the doldrums. Many economists hope Germans will feel better about opening their pocketbooks if -- as some surveys suggest -- employers start taking on more workers.

The widely followed Ifo survey, for example, shows German business confidence at levels not seen since the reunification boom of 1991. And in the most recent Manpower survey of hiring expectations, German businesses said they expect to increase their work forces by 5% in the second quarter, reversing an expected decline of 4% in the current quarter.

U.S. multinational companies see signs that German industry is tooling up to produce for local consumers. Nordson Corp., which makes systems that apply glue and paint to packaging for the kinds of food and other products that go to local markets, says that European orders in December through February were up 12% from a year earlier, largely due to German demand. Nordson, based in Westlake, Ohio, does two-thirds of its manufacturing in the U.S., so more foreign demand means more exports.

"Talking to other industrial companies, they're having a similar experience," says Peter Hellman, president and chief operating officer at Nordson.

To be sure, even Japan and Europe won't be able to compensate if U.S. consumer demand falls sharply. And both face deeper problems that will keep their economies from growing very fast in the long run. They have aging populations and shrinking labor forces. Germany also faces another hurdle: Many of its manufacturers are relocating to cheaper locales in Central and Eastern Europe.

Still, if Japanese and European consumers start buying more over the next year, it could help curb the gaping U.S. current-account deficit, which many economists have cited as the most glaring sign of a global economic imbalance. "We will be getting worse more slowly, or possibly improving a little bit," says Michael Mussa, senior fellow at the Institute for International Economics in Washington.

Further down the road, emerging economies could play a bigger role in correcting the world's imbalances. Already, people and companies in the largest emerging economies, most of which have grown mainly by selling to the rest of the world, are making their own contributions to global demand. Data from the International Monetary Fund suggest that in 2005, China, India, Brazil and Russia together contributed about 30% of total growth in global demand, which includes consumer, corporate and government spending. That's more than double the level in 2000.

Investment has been the main driver of China's consumption growth. Massive government spending on everything from highways to sports stadiums for the 2008 Olympics has led to surging demand for imports. And China's emergence as a global center for product assembly has driven demand for high-tech parts from around the world. As the Chinese economy advances, however, consumers are playing a larger role, increasing their spending at an annualized rate of around 12%.

The rapid emergence of a middle class in cities like Shanghai and Beijing is attracting many of the world's top brands, as well as retailers such as Wal-Mart Stores Inc., Carrefour SA and Ikea. Still, Beijing isn't satisfied. It hopes consumer spending will expand much faster, replacing investment and exports as a leading engine of growth. Such a shift will take time, partly because a lack of health and welfare measures encourages the Chinese to save more and spend less. Chinese savings are among the highest in the world, at more than 40% of GDP.

India, too, is experiencing a consumer boom, driven by low interest rates, a rocketing stock market and a growing number of young urbanites employed in technology, one of the hottest corners of the global economy. Over the past year in India, sales of air conditioners and DVD players have risen 25%, washing machines 18% and microwaves 27%, according to a recent survey by the Federation of Indian Chambers of Commerce and Industry.

The emerging economies' growth is still coming from a relatively low base. China must expand about seven times as fast as the European Union to make the same dollar contribution to global demand growth. But the gap is closing -- a fact not lost on businesses in the U.S.

"In the very near term, the strength in Europe is more important," says Paul Meister, vice chairman of Fisher Scientific International Inc., Hampton, N.H., which has recently seen stronger demand for everything from beakers to high-precision scales

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as European firms ramp up research spending. "But in the medium term, strength in Asia [outside Japan] is more important, particularly in China and India."

EU Raps Ankara For Pace Of Reforms (WT)

By Andrew Borowiec

The Washington Times, March 20, 2006

NICOSIA, Cyprus -- The Turkish government has ducked a confrontation with the military over Kurdish unrest -- at the price of incurring fresh criticism from the European Union that it is not making needed reforms.

Signals from Ankara indicate the problem is likely to surface again as the EU presses Turkey for changes in the treatment of the Kurdish minority and the role of the military.

The EU said recently that Turkey "has lost its appetite for reform."

Tension remained high yesterday in southeastern Turkey, where security forces were reinforced as Kurds prepared to celebrate the Newroz spring holiday tomorrow.

Authorities in Diyarbakir, one of the centers of Kurdish unrest, banned civil servants from taking part in the festivities, warning violators of disciplinary action. Newroz is not an official holiday in Turkey.

At the same time, the government authorized two regional radio and television stations to start limited programs in the Kurdish language, use of which was until recently banned in public statements. The EU wants Turkey, a membership candidate, to eliminate all such restrictions.

Relations between the government of Prime Minister Recep Tayyip Erdogan and the military have been strained by a report that a leading general had organized a special autonomous military force to fight Kurdish nationalist guerrillas.

When a prosecuting judge called for an investigation of the report, Mr. Erdogan ordered a probe of the judge instead, saying, "No one will gain anything by making the country's military appear weak."

"The army is one of our most important institutions," he added, in what was seen by diplomats as an effort to placate the military.

The general involved, Gen. Yasar Buyukanit, is head of Turkey's land forces and is due to take over as chief of general staff in August. He publicly supports Turkey's bid to join the EU, but thinks certain reforms demanded by the union would threaten Turkish society and traditions.

Since the creation of the republic in the 1920s, the army has served as the ultimate guardian of the republican system. In 1997, it forced the resignation of Necmettin Erbakan, Turkey's first openly Islamist prime minister.

The relationship of the military and Mr. Erdogan's ruling Justice and Development Party has undergone periodic strains, mainly because of the party's Islamist roots and some government measures seen by the army as encouraging fundamentalism.

Prodded by the EU, Turkey has limited the army's role in the National Security Council, accepted the concept of civilian control over military finances and reduced the army's judicial autonomy.

But the EU says the reforms fall short of expectations and has asked for the appointment of an ombudsman to fight corruption and an easing of property restrictions for non-Muslim minorities.

Dowries Running Dry In Drought-Stricken East Africa (WP)

By Emily Wax

The Washington Post, March 20, 2006

NAIROBI, Kenya -- They were neighborhood friends who occasionally flirted amid the once lush elephant grass of the East African savanna.

He was a gregarious 28-year-old cattle herder who had a college education, spoke five languages and supplemented his income by working for an international safari business.

She was a lively 22-year-old high school graduate, respectful of her parents and a captivating storyteller who met his main physical requirement: She was tall.

He arranged to meet her parents, who brewed a traditional welcome drink of sugar, honey, herbs, sour milk and cow's blood at their farmhouse. For her dowry, he offered his best bulls and most productive dairy cows.

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Then, with her parents' blessing, Moses ole Samante proposed marriage to Evelyn Kutingala last spring.

But the engagement of the two young Kenyans, both from the Masai tribe, proved stressful. As the region's worst drought in a generation swept across East Africa, turning grazing fields to rock-strewn expanses of dust, Samante's chances for a wedding grew as thin as his bony cattle.

Each month, more of his 300 cattle collapsed. Soon, nearly all were dead. By December, he had lost cattle worth more than $10,000 in a country where most people survive on $350 a year. The wedding was canceled. And Samante moved to Nairobi to find work.

"It's such a sad time," he said. "I had to leave my beautiful fields."

"Is there any way you can mate remaining cows quickly?" he recalled Kutingala pleading in a phone call from their village of Ntulele, about 120 miles south of Nairobi. "I fear they will give me to another, to an old and richer man. My mother doesn't want me to waste my youth."

The men of marrying age in East Africa are calling the current dry season "the drought that killed the dowry." On the world's poorest continent, droughts and changing weather patterns are pushing more and more Africans into cities, putting pressure on already strained resources and changing cultural practices, from diet to marriage traditions.

Humanitarian organizations estimate that 3.5 million people, mostly nomadic herders, are facing food shortages in Kenya. About 40 people have died of hunger-related illnesses, and 70 percent of livestock in the drought-affected northeast have perished.

Masai herders trying to escape the drought are streaming into Nairobi, letting their cattle feed on the city's grassy traffic circles. Police blotters are filled with reports of herdsmen being hit by cars. The Masai are also building congested shantytowns to live in and wandering the city begging for jobs.

"The drought and changes of weather patterns are disrupting a whole way of life," said Doug Keating of Oxfam International, which is helping distribute aid in the region. "If one was to take the view that the pastoralist way of life is no longer viable and they should give up their cattle, then what's the alternative? Millions head for the cities. I think we know cities in Kenya can hardly sustain the populations they have."A Hard Life in 'Nai-Robbery'

Samante first came to Nairobi, a city of high-rises and high crime, after a punishing two-year drought started in 1999, the seventh to hit East Africa since 1975. His parents begged him to seek a college education, and it was his father's dying dream, Samante said, that his eldest son learn foreign languages and earn a living that did not depend on cattle.

Samante arrived in Nairobi with $300 for his college tuition. But he lost it to a pickpocket shortly after arriving in a city Kenyans have nicknamed "Nai-robbery."

"We didn't have cars, we have cows, so I was looking this way and that. Not paying attention," he said, laughing at his former innocence. "And there were so many people, some banging smack into me. I would just smile and shake their hands. They gave me odd glances."

He returned to his village to sell more cows to make money. But when he returned to Nairobi a second time, he was robbed again.

This time, he thought he spotted the thief, a man who had stood very close to him asking questions about his Masai life. He ran after the man, and a fight broke out, he said.

Both men ended up in jail. Samante was beaten up by some inmates and teased as a "country Kenyan." He watched in shock as the thief used his college money to bribe his way out of jail, he said.

Samante eventually got out himself by having a friend also bribe the guards. But he had to work several jobs as a security guard to pay for college, and it took him years to graduate.

"We just aren't city guys," said Simon Kiraison, 22, a friend of Samante's from Ntulele who now works in Nairobi. "I can't marry. And I keep getting mugged. The city does not soothe my heartaches. It only brings more."

Samante and his friends in the city said they were afraid of the crime and frustrated that they could not afford milk, which they used to drink for free, or find cow's blood, a staple of their diet.

"Cow blood is very fantastic," Samante said. "I couldn't understand why the Nairobi tribes didn't want any."

Worst of all, they were lonely without their girlfriends and prospective wives.

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Some of the rural men who moved to Nairobi took to having sex with prostitutes, a taboo in Masai culture. Cases of HIV infection began to increase in the Masai community, which historically has had a lower rate then the rest of the country, according to a government survey.

"We were losing all our self-respect," Samante said. "I wanted to try and remain a true Masai."A Debate About Dowries

Samante and Kutingala's wedding was to be a village celebration with more than 1,000 guests. A month beforehand, Kutingala's parents prepared a traditional wedding chest for her that contained fabrics, beaded necklaces and silverware.

But at the end of November, after he had lost nearly all of his cattle, Samante met with his fiancee's parents.

"When I told them," Samante said, "they wouldn't even look at me."

The drought has forced elders to revisit a debate about dowry and its role in a rapidly urbanizing Africa. Some of the arguments against dowries draw on stories like Samante's. Community leaders cite examples of girls being forced into early marriage by fathers eager to get the dowries to replace their livestock. Last month, educators rescued 20 schoolgirls in the herding district of Samburu from early marriage, according to national television reports.

The Catholic Church in Kenya, which has helped coordinate relief efforts, has blamed the government for failing to prepare for the droughts. In recent weeks, several high-level officials have been accused of pocketing a total of $1.3 billion in public funds, money that critics say should have gone to irrigation projects.

"It's really a big issue to see our culture being stamped out by drought, corruption and urban ways," said Julius Lemanken, a Masai who works for World Vision, an organization that is helping fund feeding projects. "Sometimes, culture changes naturally, on its own. But could this have been avoided? Will my grandchildren be able to herd like I did? Will they even know our good traditions?"

Young Kenyans say they are caught between strong traditions, which they still feel they must obey, and new ideas about wealth. Masai children are taught a proverb that says: "All cattle of the world actually belong to the Masai. Even the ones in India and the west were stolen from our lands."

"I love cows. I can't remove this mentality. If I do, we are lost people," Samante said. "The minute I have money in my pocket, I just buy cows. When I have money in the bank and no cows, it's like I am poor and pathetic."

Samante still hopes to wed, maybe in a year when he can mate his few remaining cattle. He just hopes Kutingala's family will allow her to wait for him.

"She met all of my needs for a young lady," he said. "I was so very happy."

"He was a successful and kind man in my age-set," Kutingala said she told her parents recently. "I am still longing for our married life."

At World Forum, Support Erodes For Private Management Of Water (NYT)

By Elisabeth Malkin

The New York Times, March 20, 2006

MEXICO CITY, March 19 — For more than a decade, the idea that private companies would be able to bring water to the world's poor has been a mantra of development policies promoted by international lending agencies and many governments.

It has not happened. In the past decade, according to a private water suppliers trade group, private companies have managed to extend water service to just 10 million people, less than 1 percent of those who need it. Some 1.1 billion people still lack access to clean water, the United Nations says.

The reality behind those numbers is sinking in. At the fourth World Water Forum, a six-day conference here of industry, governments and nongovernmental organizations, there is little talk of privatization.

Instead, many people here want to return to relying on the local public utilities that still supply 90 percent of the water to those households that have it.

There is a "big-time shift" in tone, said David Boys, a water policy expert with the Public Services International labor federation. Mr. Boys is a member of an advisory panel appointed by United Nations secretary general, Kofi Annan, that presented its recommendations at the forum, beginning with a call to strengthen local public utilities.

"The companies have lost tons of dough and tons of respect," Mr. Boys said. "They are pulling out."

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Nowhere has that been more evident than in Bolivia, where, in the city of El Alto, residents have been fighting a subsidiary of the French company Suez. The government is now negotiating for Suez to leave, arguing that it did not extend service to people too poor to pay enough to make it profitable.

"The water rates have to conform to reality," said Abel Mamani, an activist from El Alto who is now Bolivia's new water minister.

An uprising in the city of Cochabamba five years ago chased out a subsidiary of the United States company Bechtel after it raised rates but failed to improve service.

Bolivian officials at the World Water Forum admitted that the old public municipal water systems were mired in corruption, bureaucracy and nepotism.

"The solution is for the community to get involved in water management," said Pablo Solón, an economic adviser to the government.

That kind of citizen oversight is already in place in many cities, like Porto Alegre, Brazil, which created a permanent council of 12 citizens' groups to oversee its water utility.

Even officials of the World Water Council, the organization that runs the forum and is heavily weighted toward multinational water companies, appear to be giving up on wholesale privatization.

"Let's finance infrastructure for the 50 countries most in need and the twenty poorest megacities through a more intense donation policy," said Loïc Fauchon, president of the council, in his opening speech last week.

The debate over privatization is driving the controversy inside and outside the forum, which ends Tuesday. Across town, international and local groups held an alternative forum for activists opposed to privatization, who are unconvinced that governments and organizations like the World Bank have given up on the idea.

"The state does not assume its responsibilities properly," said Cuauhtémoc Abarca, a Mexico City activist. "In many cases there is a deliberate intention to show that public utilities work badly" as an excuse to privatize them.

For all the focus on privatization, much of the serious work of the forum was rooted in heart-wrenching statistics.

One in three people in the world, 2.6 billion, does not have access to any kind of toilet or latrine, according to a United Nations report to be presented at the conference on Tuesday.

Water-related diseases cause more than three million deaths a year, mostly of children younger than 5. Unicef, the United Nations children's agency, estimates that women and girls in the poorest countries and regions walk nearly four miles a day to carry water.

Only $3 billion in aid a year goes to improve water access and sanitation, the United Nations World Water Development Report said, and very little of that gets to the people who need it most.

But there was encouraging news, too, that local activists, even very young ones, could make a difference.

"We were scolded for being young people with big ideas," said Suresh Baral, 13, who organized a sanitation club in his school in rural Nepal. With help from Unicef, the children set up a microfinance program to help villagers pay for installing toilets.

Dolly Akhter, 15, started a hygiene group for adolescent girls in her slum in Dhaka, Bangladesh. Many teenage girls stayed away from school, too embarrassed by the lack of privacy for hygiene.

But when the group brought in new latrines, the girls returned and several were able to avoid early marriages by continuing their studies.

As her news conference ended, she looked up and said in broken English, "I hope water for all in the world."

Wise Council (WSJ)

By Kofi A. Annan

The Wall Street Journal, March 20, 2006

In just seven weeks time, on May 9, the U.N. will elect its first Human Rights Council. That moment can, and must, mark a new beginning for all the U.N.'s human-rights work. One hundred and seventy nations, including all of America's NATO allies, voted last Wednesday for the resolution creating this new Council. Belarus, Iran and Venezuela abstained. Sadly, the U.S. voted against, joined only by Israel, the Marshall Islands and Palau.

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John Bolton, the U.S. ambassador, explained his vote in a constructive speech, pledging that, despite its disappointment with the text, his country "will work cooperatively with other member states to make the Council as strong and effective as it can be." That is very encouraging. Ever since Eleanor Roosevelt helped to draft the Universal Declaration of Human Rights in 1948, the U.S. has been a leading champion of human rights at the U.N. I hope and believe it will remain so.

Why were some Americans disappointed with the text? Essentially because they fear that in the new Council, as in the Commission that it replaces, some notorious human-rights abusers will win seats and shield themselves from scrutiny. That concern is shared by many other states, which -- like the U.S. -- would have preferred that Council members be elected by a two-thirds majority of the General Assembly. I had myself suggested this when I first proposed the Council a year ago. But in exchange for dropping it the president of the assembly, Sweden's Jan Eliasson, was able to persuade the assembly to include other provisions, which will make it more difficult for gross human-rights violators to sit on the Council.

First, Council members must be elected, "directly and individually by secret ballot by the majority of the members of the General Assembly." This means that nations will not get on the Council, as they did on the Commission, simply because there is no rival candidate from their own region. There will be a separate vote on each candidate, and any state that does not win an absolute majority of all U.N. members (not just those present and voting) will not get in. Its region will have to put up another candidate instead.

Second, Council members are required to "uphold the highest standards in the promotion and protection of human rights," and to submit their own human-rights record to the Council's scrutiny during their term of membership. Already some governments have produced manifestoes, pledging specific improvements in their human-rights performance, in the hope of winning election. This was unheard of under the old system. And third, the General Assembly will have the power to suspend Council members that do commit gross and systematic violations during their term. It had no such power over the old Commission.

Taken together, these provisions should make it very hard for a notorious violator to win election, and should deter the worst offenders even from running. How effective they are depends, of course, on how seriously the U.N. membership takes them. Already a large number of states have pledged not to vote for candidates that are under Security Council sanctions for human rights-related reasons. If all governments that really care about human rights take a similar attitude, and use their powers of diplomacy to persuade others to do likewise, the membership of the new Council will be significantly different from that of the Commission.

And that will not be the only difference. Being chosen by the entire U.N. membership, the Council will have greater authority than the Commission, which was elected indirectly. It will also be faster on its feet. Unlike the Commission, the Council will meet regularly throughout the year, and can respond more promptly to human-rights crises by holding special sessions at short notice. (The Commission had only one six-week session each year, while its procedure for calling special sessions was much slower.)

Equally important, instead of singling out some countries for attack while ignoring human-rights violations in others, the Council will regularly review the human-rights record of all countries -- starting, as mentioned above, with its own members. It is required to "be guided by the principles of universality, impartiality, objectivity and non-selectivity," while eliminating "double standards and politicization." And whereas the Commission was entirely reactive, the Council is mandated to contribute to preventing human-rights violations.

Some had feared that the General Assembly would use the change to strip away some of the more valuable aspects of the U.N. human-rights system, such as the use of independent experts as special rapporteurs, or the important role of non-governmental organizations. But these are explicitly continued.

In short, there is every reason to hope that the new Council will combine the best features of the old system with some much-needed changes. All those who want it to fulfill this promise now have seven weeks to make it happen. Let no one who cares about human rights remain on the sidelines of this struggle.

Mr. Annan is U.N. secretary-general.

The Case For Caring Now (WP)

By Fred Hiatt

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The Washington Post, March 20, 2006

On one of her visits to her native Liberia, Ellen Johnson-Sirleaf told a joint session of Congress last week, she was placed in a jail cell with 15 men. "All of them were executed a few hours later," she said. "Only the intervention of a single soldier spared me from rape."

Now Johnson-Sirleaf, 67, is the newly elected president of her unhappy African country, and if you think she was trying to seize Congress's attention with that anecdote of 20 years past, you are no doubt correct.

After all, the world is full of unhappy countries that have won sympathy here, and then been rapidly discarded. Think Haiti, for example, or Afghanistan, which was of interest to Ronald Reagan, forgotten by George H.W. Bush, neglected by Bill Clinton and then (not coincidentally) a crisis again.

Now Johnson-Sirleaf, Africa's first female elected leader, is enjoying her moment of fame and good feeling. Laura Bush and Condoleezza Rice attended her inauguration in January, Congress greeted her as a hero last week, President Bush will receive her tomorrow. After a quarter-century of coups, dictators and civil wars in Liberia, this is a moment of restored democracy and hope.

Do not assume, however, that Johnson-Sirleaf therefore will stoop to unseemly flattery or diplomatic spin. After all her years of exile, harassment, surveillance and prison, with all the misery waiting for her back home, she seems to have no time for that.

As in: When she is asked during a visit to The Post how she will plead her case for aid to Bush, given draining U.S. commitments to Iraq and Afghanistan, she replies, "For the reason you said -- he needs a success. Billions are being spent on Iraq, billions are being spent on Afghanistan -- and it will take a fraction of those billions to make Liberia a success story.

"I think he needs one, and we're going to give him an opportunity to have one."

It's not that Johnson-Sirleaf, stately in traditional dress, comes across as ungrateful. In her address to Congress, she thanked the United States for its help in brokering an end to Liberia's vicious civil war and for sending money to get the country going again.

But, she says, "we still have problems. I can't tell you we're out of the woods."

Any Western leader might regard that as an astonishing understatement. Johnson-Sirleaf works out of a dilapidated palace that, like the rest of her country, depends on generators for electricity.

"We have a city that's dark," she says. "We have a city where many young children don't know that water comes out of a tap." At night, children gather on street corners to do their homework by the spillover from private floodlights, since they have no light at home. Many others do no homework because they can't afford pencils, or can't attend school at all.

Civil war drove most of the country's 3.5 million people from their homes. Some 45 percent of the population is 14 or younger; many of those children were press-ganged into armies and know no other life. Life expectancy is 42.5 years. Unemployment is 80 to 85 percent. Of every 1,000 children born, 132 die in infancy.

Why should the United States care? The standard answer of traditional historical ties, based on the freed American slaves who founded Liberia, may have worn thin after all these years. But there are two others.

One is that helping is cheaper in the long run than the alternative. When conditions in a country become too atrocious to bear -- when drug-addled marauders take to chopping off the hands of children who get in their way, as in Liberia's neighbor Sierra Leone -- public opinion may (at least some of the time) force the United States, Britain or the United Nations to intervene. By the time that demand comes, the destruction is so complete -- in Liberia, roads, hospitals, water pipes, everything has crumbled -- that repair is far more difficult and expensive.

The second is Johnson-Sirleaf herself: Harvard-trained economist, former World Bank and U.N. official, democrat. She espouses an anti-corruption, socially inclusive vision that aid officials can only dream of finding in most poor countries. Courageously, for he still has many followers, she has asked that former dictator Charles Taylor, now in Nigeria, stand trial for his crimes.

When her hour at The Post is over, she waves off the usual pleasantries and asks: What will emerge from this interview? What will Liberia get out of it? And suddenly "grandmotherly," the adjective you often hear applied to her, reminds you less of the woman who sneaked you an extra cookie when your mother wasn't looking and more of having your hands checked for cleanliness before being seated at the Sunday dinner table.

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Well, Madam President, I'm afraid this column is the best I can do. I hope you get more out of President Bush tomorrow.

Spreading Genocide To Chad (NYT)

The New York Times, March 20, 2006

After the Holocaust, the world vowed it wouldn't stand back and allow genocide to happen again. Bosnia, Cambodia and Rwanda showed how empty that promise was. Darfur was yet another reminder that when it comes to standing up to stop the slaughter of entire peoples, the nations of the world remain pitifully inadequate.

And now, as if the hundreds of thousands of Africans killed in Sudan weren't enough, the Arab militias financed by the government of Sudan to "cleanse" Darfur of blacks are moving across the border into neighboring Chad. Our colleague Nicholas Kristof reports that the janjaweed — the name given to the Arab militias — have unleashed their fury on villages in Chad, riding in and killing and raping, accompanied by their standard shouting of racial epithets like "black slaves."

Mr. Kristof is one of the few journalists willing to venture into the lawless region. He took along NBC's Ann Curry of the "Today" show on his trip this month, and wrote about a market town in Chad near the Sudan border called Koloy, where villagers were actually waiting to be massacred. There was no one to help them. Chad's government sent a handful of troops, but when the soldiers realized that they would be facing more than 500 janjaweed armed with heavy machine guns, they fled. Diplomats don't dare visit because it's not safe. Ditto for United Nations aid groups. Only one organization, Doctors Without Borders, goes to Koloy, Mr. Kristof reported, "sending in a convoy of intrepid doctors three days a week to pull bullets out of victims."

Is this really what we have come to? The United Nations has described the carnage in Darfur as the world's biggest humanitarian crisis but continues to prove itself completely useless at doing anything to stop it. In the Security Council, China protects Sudan. Europe, for its part, has been inert.

That leaves the United States, where the Bush administration has made a few strides. Deputy Secretary of State Robert Zoellick appears to be close to getting the United Nations to supplement, if not replace, the woefully ineffective African Union peacekeeping force in the region with United Nations peacekeepers. The United States should also commit to providing specialized reconnaissance and air support for the United Nations force. Sudan's government doesn't like the idea of a multinational peacekeeping force, and has even organized demonstrations in the capital against the idea, although the protesters tend to look suspiciously like government military types.

The African Union soldiers have done their best, but they are poorly equipped for one thing, and low in numbers for another — there are only 7,000 of them in an area the size of France. They don't have much in the way of intelligence capability and they are lightly armed. That's a recipe for stalemate, and stalemate is the last thing villagers waiting to be massacred need.

A Chinese Huff (WSJ)

The Wall Street Journal, March 20, 2006

Ever wonder why India's economy might overtake China's one day? China's Commerce Minister, Bo Xilai, might acknowledge India's English-language capabilities and its younger population. But never mind those pesky ideas about the rule of law and democratic principles.

At the Asia Society's annual corporate conference in Mumbai yesterday, we asked Mr. Bo what the Middle Kingdom might learn from India's experience, particularly as the Chinese economy becomes more integrated with the rest of the world. To our surprise, and to the shock of the audience -- save the mainland rent-a-clap crowd who were along to lend a literal hand -- Mr. Bo embarked on a tirade against democratic freedoms.

"Democracy is not the ultimate goal," Mr. Bo, the princeling son of Long March veteran and former Vice Premier Bo Yibo, declared. "We need to raise the living standards of the people." (Cue: rent-a-clap.) "I've been to lots of developed countries where there are also a lot of poor people," he added, jabbing his finger at us. (Encore rent-a-clap.) "I don't think it's good to separate countries into democratic or non-democratic countries." (One more clap.)

Now, Mr. Bo happens to be one of the more enlightened Beijing bureaucrats. A former mayor of Dalian, a northeastern port city in Liaoning province, he won praise for boosting foreign investment, among other things. In his new role as commerce minister, he's also reacted calmly to bouts of European and U.S. trade protectionism.

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But despite prolonged contact with open societies, Mr. Bo still doesn't seem to understand the secret of their success. Near the end of his huff, Mr. Bo backtracked and claimed that Beijing is "listening" to the voices of its people, and that its citizens are gradually gaining more democratic freedoms. If only it were so.

King Abdullah: Protector (WT)

By S. Rob Sobhani

The Washington Times, March 20, 2006

As the rest of the Muslim world was engulfed in violence over the publication of sacrilegious cartoons of the prophet Muhammad, one country at the heart and soul of the Muslim world remained surprisingly silent. Yet that country, Saudi Arabia, is where one would have expected the most virulent and violent demonstrations, since it is the birthplace of Islam. But extremists failed to capitalize on the European press' lack of respect for the prophet of Islam.

The extremists' failure to widely incite the population of Saudi Arabia is largely due to the nature of its new leader, King Abdullah. The new king is a pious and popular leader of the most significant Muslim country in the world, and he has reset the tone and tenure of political life in Saudi Arabia by emphasizing restraint and tolerance.

At his home in the outskirts of the capital, Riyadh, King Abdullah's gracious and reform-minded son, Prince Miteb, explained his father's vision as one of "constructive engagement." As custodian of Islam's two holiest shrines, King Abdullah understands the enormous responsibility he carries as the flag-bearer of Islam. Therefore, one of the most important themes that King Abdullah has been stressing is unity both within Islam and among the various faiths of the world. For example, at a recent gathering in Riyadh, he emphasized that the "clash of civilizations" is only likely to occur if instigators of discord are allowed to spread hatred without any intervening authority.

Unlike irresponsible Muslim clerics and "leaders" who encouraged violence in response to the cartoons, this reformist leader called on Muslim intellectuals to project the true picture of Islam as a moderate and tolerant religion: "We should tell the world that the mistakes committed by a small minority of extremists and fanatics do not represent the spirit of Islam and its heritage." The king led the way by expressing his satisfaction with the apologies issued by Danish authorities expressing their deep sorrow and thereby showed statesmanship on a grand scale.

Prince Miteb, who represents a new, more progressive generation of Saudi leaders, highlighted the National Dialogue Forum as an example of the king's commitment to democratization of the kingdom, individualized to adapt to the country's culture and norms. The forum was founded in 2003 on the instructions of then-Crown Prince Abdullah as a channel for "responsible expression." These Saudi-style town hall meetings have become an effective means of fighting fanaticism and extremism by enabling Saudi men and women from all walks of life to publicly discuss previously taboo subjects.

For the first time in the kingdom's history, Saudis are enjoying a culture of public dialogue that is bringing about societal change. The first two forums covered issues of religious tolerance and women's rights. As a result of these dialogues, King Abdullah was able to peacefully return the formerly shunned minority Shi'ite Muslims into the mainstream of Saudi society.

The third forum focused on education reform, whereupon most Saudis opined that the present education system produces students who are experts at memorization but who cannot think logically and rationally. Another forum was called "Us and the Other" and dealt with how Saudis relate to the rest of the world. A majority of participants were fiercely critical of the Saudi curriculum, which blames "the other" for most international problems.

As the United States faces the uncomfortable fact that its goal of energy independence is increasingly at odds with reality, America's energy security remains in lock-step with Saudi Arabia's oil strategy. Luckily for American consumers, King Abdullah's vision of a stable global-energy market is reflective of a deep understanding of the responsibility that Saudi Arabia has as the world's No. 1 oil producer.

The key policy for King Abdullah is price stability. He has ensured that Saudi Arabia is on track to increase its production capacity by 15 percent by 2009 to more than 12 million barrels per day. This bodes well for the United States because it could be importing 70 percent of its oil in 2020 (compared to 58 percent today and 33 percent in 1973). Furthermore, the king understands that globalization of the energy sector makes energy security a common responsibility of consumers and producers.

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His vision expands the concept of energy security to include the new super consumers -- China and India -- and acknowledges that the worldwide energy-supply value chain needs to be protected.

Under the leadership of King Abdullah, Saudi Arabia is undergoing a political and social reformation. It is incumbent upon the United States to work with this distinguished statesman to ensure that his vision becomes a permanent feature of this strategic, yet combustible, region.

S. Rob Sobhani is president of Caspian Energy Consulting.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

The Letter Of The Law (USNEWS)

By Chitra Ragavan
U.S. News and World Report, March 20, 2006

In the dark days after the Sept. 11, 2001, terrorist attacks, a small group of lawyers from the White House and the Justice Department began meeting to debate a number of novel legal strategies to help prevent another attack. Soon after, President Bush authorized the National Security Agency to begin conducting electronic eavesdropping on terrorism suspects in the United States, including American citizens, without court approval. Meeting in the FBI's state-of-the-art command center in the J. Edgar Hoover Building, the lawyers talked with senior FBI officials about using the same legal authority to conduct physical searches of homes and businesses of terrorism suspects--also without court approval, one current and one former government official tell U.S. News. "There was a fair amount of discussion at Justice on the warrantless physical search issue," says a former senior FBI official. "Discussions about--if [the searches] happened--where would the information go, and would it taint cases."

FBI Director Robert Mueller was alarmed by the proposal, the two officials said, and pushed back hard against it. "Mueller was personally very concerned," one official says, "not only because of the blowback issue but also because of the legal and constitutional questions raised by warrantless physical searches." FBI spokesman John Miller said none of the FBI's senior staff are aware of any such discussions and added that the bureau has not conducted "physical searches of any location without consent or a judicial order."

In December, the New York Times disclosed the NSA's warrantless electronic surveillance program, resulting in an angry reaction from President Bush. It has not previously been disclosed, however, that administration lawyers had cited the same legal authority to justify warrantless physical searches. But in a little-noticed white paper submitted by Attorney General Alberto Gonzales to Congress on January 19 justifying the legality of the NSA eavesdropping, Justice Department lawyers made a tacit case that President Bush also has the inherent authority to order such physical searches. In order to fulfill his duties as commander in chief, the 42-page white paper says, "a consistent understanding has developed that the president has inherent constitutional authority to conduct warrantless searches and surveillance within the United States for foreign intelligence purposes." The memo cites congressional testimony of Jamie Gorelick, a former deputy attorney general in the Clinton administration, in 1994 stating that the Justice Department "believes, and the case law supports, that the president has inherent authority to conduct warrantless physical searches for foreign intelligence purposes."

"Black-bag jobs." Justice Department spokesman Brian Roehrkasse says the white paper cited the Gorelick testimony simply to bolster its legal defense of the NSA's electronic surveillance program. Roehrkasse points out that Justice Department lawyers have told Congress that the NSA program "described by the president does not involve physical searches." But John Martin, a former Justice Department attorney who prosecuted the two most important cases involving warrantless searches and surveillance, says the department is sending an unambiguous message to Congress. "They couldn't make it clearer," says Martin, "that they are also making the case for inherent presidential power to conduct warrantless physical searches."

It could not be learned whether the Bush administration has cited the legal authority to carry out such searches. A former marine, Mueller has waged a quiet, behind-the-scenes battle since 9/11 to protect his special agents from legal jeopardy as a result of aggressive new investigative tactics backed by the White House and the Justice Department, government officials say. During Senate testimony about the NSA surveillance program, however, Gonzales was at pains to avoid answering questions about any warrantless physical surveillance activity that may have been authorized by the Justice Department. On February 6, Patrick Leahy, the ranking Democrat on the Judiciary Committee, asked Gonzales whether the NSA spying program includes authority to tap E-mail or postal mail without warrants. "Can you do black-bag jobs?" Leahy asked. Gonzales replied that he was trying to outline for the committee "what the president has authorized, and that is all that he has authorized"--electronic surveillance. Three weeks later, Gonzales amended his answer to Leahy's question, stating that he was addressing only the legal underpinnings for the NSA surveillance program but adding: "I did not and could not address operational aspects of the

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program, or any other classified intelligence activities." In the past, when Congress has taken up explosive issues that affect the bureau, Mueller has made it a point, officials have said, to leave Washington--and sometimes the country--so as not to get pulled into the political crossfire. When Gonzales testified February 6, Mueller was on his way to Morocco.

Government officials told the magazine that Mueller and then Deputy Attorney General James Comey, who also questioned the NSA spying program, both believed that while it was a close call legally, the president did have authority to conduct electronic surveillance of terrorism suspects in the United States without court approval; both men, however, raised grave concerns about the possible use of any information obtained from any warrantless surveillance in a court of law.

At least one defense attorney representing a subject of a terrorism investigation believes he was the target of warrantless clandestine searches. On Sept. 23, 2005--nearly three months before the Times broke the NSA story--Thomas Nelson wrote to U.S. Attorney Karin Immergut in Oregon that in the previous nine months, "I and others have seen strong indications that my office and my home have been the target of clandestine searches." In an interview, Nelson said he believes that the searches resulted from the fact that FBI agents accidentally gave his client classified documents and were trying to retrieve them. Nelson's client is Soliman al-Buthe, codirector of a now defunct charity named al-Haramain, who was indicted in 2004 for illegally taking charitable donations out of the country. The feds also froze the charity's assets, alleging ties to Osama bin Laden. The documents that were given to him, Nelson says, may prove that al-Buthe was the target of the NSA surveillance program.

The searches, if they occurred, were anything but deft. Late at night on two occasions, Nelson's colleague Jonathan Norling noticed a heavyset, middle-aged, non-Hispanic white man claiming to be a member of an otherwise all-Hispanic cleaning crew, wearing an apron and a badge and toting a vacuum. But, says Norling, "it was clear the vacuum was not moving." Three months later, the same man, waving a brillo pad, spent some time trying to open Nelson's locked office door, Norling says. Nelson's wife and son, meanwhile, repeatedly called their home security company asking why their alarm system seemed to keep malfunctioning. The company could find no fault with the system.

In October, Immergut wrote to Nelson reassuring him that the FBI would not target terrorism suspects' lawyers without warrants and, even then, only "under the most exceptional circumstances," because the government takes attorney-client relationships "extremely seriously." Nelson nevertheless filed requests, under the Freedom of Information Act, with the NSA. The agency's director of policy, Louis Giles, wrote back, saying, "The fact of the existence or nonexistence of responsive records is a currently and properly classified matter."

"Maximum speed." For the FBI, the very mention of the term "black-bag jobs" prompts a bad case of the heebie-jeebies. In 1975 and 1976, an investigative committee led by then Sen. Frank Church documented how the FBI engaged in broad surveillance of private citizens and members of antiwar and civil rights groups, as well as Martin Luther King Jr. The committee's hearings and the executive-branch abuses that were documented in the Watergate investigation led to numerous reforms, including passage of the Foreign Intelligence Surveillance Act in 1978. The law created a special secret court tasked with approving electronic wiretaps in espionage and other national security investigations. After the Aldrich Ames spy case, Congress amended FISA to include approval of physical searches. After 9/11, the law was further amended to allow investigators to place wiretaps or conduct physical searches without notifying the court for 72 hours and to obtain "roving" wiretaps to allow investigators to tap multiple cellphones.

In justifying the NSA's warrantless surveillance program, Gonzales has argued that the review process required for a FISA warrant is too cumbersome for a program that is of "a military nature" and that requires "maximum speed and agility to achieve early warning."

White House lawyers, in particular, Vice President Cheney's counsel David Addington (who is now Cheney's chief of staff), pressed Mueller to use information from the NSA program in court cases, without disclosing the origin of the information, and told Mueller to be prepared to drop prosecutions if judges demanded to know the sourcing, according to several government officials. Mueller, backed by Comey, resisted the administration's efforts. "The White House was putting pressure on Mueller to broadly make cases with the intelligence," says one official. "But he did not want to use it as a basis for any affidavit in any court." Comey declined numerous requests for comment. Sources say Mueller and his general counsel, Valerie Caproni, continue to remain troubled by the domestic spying program. Martin, who has handled more intelligence-oriented criminal cases than anyone else at the Justice Department, puts the issue in stark terms: "The failure to allow it [information obtained from warrantless surveillance] to be used in court is a concession that it is an illegal surveillance."

Mueller has been criticized by some agents for being too close to the White House. His predecessor, Louis Freeh, made his break publicly from President Clinton, even returning his White House security access badge. Until recently, Mueller reported to the White House daily to brief Bush and Cheney. But Mueller has not shied away from making tough decisions. He refused to allow FBI agents to participate in CIA and Defense Department interviews of high-value prisoners because of the administration's use of aggressive interrogation techniques. In Iraq and at the Pentagon-run camp for terrorism suspects at Guantanamo Bay, Cuba, it has been FBI agents who have called attention to what they viewed as abuse of detainees.

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It is unclear how much resistance from the FBI the White House and the Justice Department will be willing to brook. What is clear, however, is the extraordinary extent to which officials in both places inject themselves in the bureau's operations. In late 2004, President Bush asked then FBI Deputy Director Bruce Gebhardt, filling in for Mueller during the daily White House briefings, minute details about a suspected terrorism threat in Kansas. "Don't worry, Mr. President," responded Gebhardt, straight-faced. "We have Kansas surrounded."

Democrat: Punish Bush If Law Broken (USAT)

USA Today, March 20, 2006

A top Senate Democrat said Sunday that President Bush should be held responsible if he violated the law in authorizing a domestic spying program. But Sen. Dick Durbin of Illinois said it is too early to tell whether censure or impeachment of Bush would be appropriate. “I don't want to prejudge it,” Durbin, the Senate's No. 2 Democrat, said on Fox News Sunday. “But if this president or any president violates the law, he has to be held accountable.” Sen. Russ Feingold, D-Wis., introduced censure legislation last week, saying Bush violated the law in not informing Congress or getting approval from a secretive court to conduct the eavesdropping program.

Accidents involving commercial airlines and private aircraft rose last year, but fatalities declined, the National Transportation Safety Board says. NTSB Chairman Mark Rosenker called the increase in accidents to 1,779 last year from 1,717 in 2004 “disappointing,” but said the decrease in fatalities is a “hopeful sign." Fatalities fell to 600 last year — most involving small plane crashes — from 636 in 2004. Twenty-two deaths occurred in three commercial incidents. In December, a Southwest jet skidded off a snowy runway at Chicago's Midway Airport and hit a car, killing a boy in the vehicle. Also in December, a Chalk Ocean Airways plane broke up shortly after takeoff from Miami, killing 20 people. Last June at Washington's Reagan National Airport, a ground worker operating a mobile baggage loader was killed after striking a plane.

Vice President Cheney dismissed suggestions that the White House needs a shake-up in the wake of President Bush's record-low job-approval ratings. “I don't think we can pay any attention to that kind of thing,” Cheney said on CBS' Face the Nation. “The president … ignores the background noise.” Bush's approval sank to 36% in a USA TODAY/CNN/Gallup Poll taken March 10-12. Cheney said he heard grumbling 30 years ago as chief of staff for President Ford. “Administrations go through peaks and valleys,” he said. “When you're down in the polls you're going to take shots that you don't deserve, and when you're up in the polls you're probably going to get praise you don't deserve.”

President Bush's Cabinet simulated a smallpox attack Saturday as the government tested plans to counter the potential use of bioweapons. White House spokeswoman Dana Perino said there is no indication that a smallpox attack is imminent. The government has stockpiled vaccine for everyone in the USA, she said. Centers for Disease Control and Prevention Director Julie Gerberding joined the secretaries of Homeland Security, Health and Human Services, Agriculture, Transportation and Veterans Affairs in the four-hour exercise to identify gaps in local, state and federal preparedness plans.

Durbin: It's Too Early To Censure Bush (AP-Y2)

AP2, March 19, 2006

A top Senate Democrat said Sunday that President Bush should be held responsible if he violated the law in authorizing the domestic spy program.

But Sen. Dick Durbin of Illinois said it is too early to tell if either censure or impeachment of Bush would be appropriate.

"I can't rule anything out until the investigation is complete. I don't want to prejudge it," said Durbin, the Senate's No. 2 Democrat. "But if this president or any president violates the law, he has to be held accountable."

Durbin's colleague, Sen. Russell Feingold, D-Wis., last week introduced censure legislation, saying Bush violated the law in not fully informing Congress or getting approval from a secretive court to conduct the eavesdropping program. A censure resolution, if adopted, would amount to Congress scolding the president.

Since then, few Democrats have embraced the proposal, while some Republicans have sought to the cast the move as a shameless political ploy over a vital national security issue. Feingold is considered a presidential contender for 2008.

Appearing on "Fox News Sunday," Durbin said he so far has not heard a valid legal justification for the spy program that was put in place after the Sept. 11, 2001, terror attacks. But he said considering the stronger sanction of impeachment was not a "valuable discussion at this point."

"It's valuable that Senator Feingold is moving us forward to finally be a catalyst to have the kind of hearings and the kind of deliberations as to what lies behind this warrantless wiretap situation," said Durbin, calling the overall inquiries so far by the Republican-controlled Senate inadequate.

"We have a responsibility to ask the hard questions, to find out what the nature of the program is and whether the president violated the law," Durbin said.

Feingold's Censure Call A Distraction For His Party (WT)

By Christina Bellantoni

The Washington Times, March 20, 2006

Congressional Democrats say Sen. Russell D. Feingold's move to censure President Bush for authorizing warrantless surveillance is a distraction from their quest to take back Congress in the fall.

"Every time we get in a great strategic position, we manage to energize the Republican base," Rep. James P. Moran, Virginia Democrat, told The Washington Times.

"Everything is going well for the Democrats and President Bush is tanking in the polls, and then Russ Feingold comes up with the idea of censure, which is going to go nowhere and is not just quixotic but is somewhat self-serving," he said.

Mr. Moran's comments echoed a theme used by House Minority Leader Nancy Pelosi last week during a briefing with reporters.

The California Democrat said that Republicans want censure to become an election issue to make the minority party look bad and that she would not support censuring the president.

"I have no idea why anybody would censure someone before they have an investigation," she said. "Why doesn't everybody just channel their energy into winning the election?"

The Senate's No. 2 Democrat, Richard J. Durbin of Illinois, said it is too soon to make a decision about censuring Mr. Bush for his approval of domestic warrantless surveillance to investigate terror suspects.

"It's valuable that Senator Feingold is moving us forward to finally be a catalyst to have the kind of hearings and the kind of deliberations as to what lies behind this warrantless wiretap situation," said Mr. Durbin on "Fox News Sunday." "We have a responsibility to ask the hard questions, to find out what the nature of the program is and whether the president violated the law."

Already, the Republican National Committee seized on the censure effort put forth by Mr. Feingold, Wisconsin Democrat, last week.

"Sen. Feingold has become a hero again amongst the out-of-the mainstream liberal Democrat base," reads a release on GOP.com.

Mr. Feingold defended his efforts and accused his party members of "cowering," saying Mr. Bush has broken the law and has lied to Congress for ordering the eavesdropping within the United States.

"All Americans want to fight terrorism and protect our country from those who wish to do us harm, but they don't want to sacrifice the rights and principles our country was founded upon," Mr. Feingold said. "One of those fundamental American principles is that the president doesn't get to pick and choose which laws he follows."

Senate Majority Leader Bill Frist, Tennessee Republican, defended the wiretapping as a vital national security tactic.

Other Republicans dismissed Mr. Feingold's censure resolution as a "political stunt." Mr. Frist tried to force a floor vote on the measure, bypassing the Senate Judiciary Committee, but, Senate Democrats have refused to allow that.

Senate Minority Leader Harry Reid, Nevada Democrat, said the censure effort should go through the proper committee channels before it comes to the Senate floor. He praised Mr. Feingold as a "man of principle."

"The Judiciary Committee should hold hearings on this, so that the American people and Congress can find out what's going on with the program," he told reporters last week. "I'm going to wait until the committee does its work."

"People should cool their jets and let the process take its course."

Mr. Moran said the censure measure put forth by Mr. Feingold has no chance of being considered by the Republican-controlled House or Senate, "So why do it?"

"You can find lots of reasons to censure President Bush, but we have no power to do so," Mr. Moran said. However, two Democratic senators -- Barbara Boxer of California and Tom Harkin of Iowa -- added their names to Mr. Feingold's censure resolution.

"We have an out-of-control president whose arrogant and, now, illegal behavior is running our country into the ditch," Mr. Harkin says on his Web site. "It's time to rein him in."

Democrats Should Declare Censure Move 'Irresponsible' (RC)

By Morton M. Kondracke

Roll Call, March 20, 2006

The best thing that can be said about the call by Sen. Russ Feingold (D-Wis.) to censure President Bush is that practically none of his colleagues is backing him up.

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Democrats are not, as he charges, "cowering" in the face of possible Republican allegations that they are pro-terrorist. Rather, they don't want to distract attention from the main Democratic assaults on Bush and the GOP — that he's "incompetent" and that Republicans are in "disarray."

Moreover, as The New York Times reported Thursday, Feingold's move is being used by Republicans, right-wing talk show hosts and conservatives in general to motivate the base.

It's suddenly occurring to Republicans that if Democrats capture control of either chamber of Congress, they'll use their subpoena power to make life pure hell for Bush and the GOP over the next two years.

And, if it's the House that Democrats carry, it's not out of the question that impeachment proceedings could be launched against him in a Judiciary Committee chaired by firebrand lefty Rep. John Conyers (Mich.).

However demoralized Republicans are about Bush and the state of the country, the prospect of seeing him pilloried should help bring out GOP voters.

Moreover, the idea that Democrats might impeach Bush could turn off ordinary voters, much as the impeachment of President Bill Clinton did in 1998. That cost Republicans four House seats, a loss that led to the ousting of then-Speaker Newt Gingrich (R-Ga.).

Feingold himself has said he thinks Bush has committed an impeachable offense by ordering "secret" and "illegal" National Security Agency wiretaps of "domestic" terrorist targets. He claims he's being "moderate" by moving to only censure Bush.

In fact, the whole enterprise is irresponsible — and I'd like to believe that's another reason why Democrats are ducking endorsement of Feingold's action, even though no party leader has actually used that word in public.

While Democratic leaders don't want to endorse Feingold's move, they also are evidently cowering at the prospect of being further savaged by left-wing Web loggers who already are denouncing them for being "soft" on Bush.

Feingold himself admits that he favors wiretapping terrorists and would not stop the program Bush has undertaken, which he says "can easily be done" under existing law.

If that's the case, then the responsible thing for a Senator to do — especially someone who wants to be president — would be to find a way to adjust the law to enable the government to find out what terrorists are up to, rather than punishing a president who believed he had to skirt the law to do it.

In any event, Bush did report what he was doing to Congressional leaders, including Democrats, so it was not entirely "secret." It's not clear — because details of the program are secret — why Bush believed he could not comply with the Foreign Intelligence Surveillance Act and obtain warrants for the taps. If FISA procedures are too onerous, the responsible thing would be to make them less so.

Moreover, there's no evidence whatsoever that any innocent Americans have been harmed as a result of the NSA wiretaps or that Bush has ordered them for some nefarious or political purpose.

Feingold wants to censure Bush — and personally believes it's impeachable — for, at worst, an excess of diligence in protecting the country from terrorists who have vowed to kill millions of us if they can. This is scarcely a "high crime" or even a "crime."

Feingold has the reputation of being a sincere and principled civil libertarian, liberal and foreign policy dove. So, it seems he's being honest in his irresponsibility.

On the other hand, what he's doing is also politically advantageous, short-term, for his presidential prospects, even as it's politically disastrous for the Democratic Party as a whole. I'd say it's also politically polarizing and dangerous for the country.

Feingold hopes to distinguish himself among all the other male candidates chasing front-running Sen. Hillary Rodham Clinton (D-N.Y.) — and steal some of the ardent lefties who might otherwise support her and who now see him as more courageous than she.

Feingold wants to become the leading 2008 candidate of the anti-war left of the Democratic Party — the wing that nominated another sincere, principled anti-war liberal, Sen. George McGovern (D-S.D.), in 1972. He lost 49 states to President Richard Nixon that fall.

Feingold's move reinforces the party's image as "McGovernite" — weak on national security — at a time when Bush's inept Hurricane Katrina response and the Dubai ports disaster has given Democrats an opening to knock Bush on homeland security.

Democrats seem to understand the danger of repeating the McGovern mistake. That's why they rejected now-Democratic National Committee Chairman Howard Dean as their 2004 nominee and picked Vietnam War veteran Sen. John Kerry (D-Mass.) as an "electable" alternative. Right now, most Democrats are similarly shying away from Feingold's censure initiative, deeming it too far out.

On the other hand, Bush-hatred and partisanship is so intense among Democrats that their leaders often go far out themselves, as when House Minority Leader Nancy Pelosi (Calif.) embraced the proposal for a rapid withdrawal from Iraq by

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Rep. John Murtha (Pa.), and when Senate Minority Leader Harry Reid (Nev.) labeled various GOP Senators as corrupt and had to apologize.

Such conduct is a gift to Republicans. As Sen. Lamar Alexander (R-Tenn.) told me, “every time us Republicans get into trouble, along come the Democrats to help us out.”

Still, if Feingold’s move is another gift to the GOP, it’s not a gift to the country. The more left-wing activists pressure Democrats and right-wing activists pressure Republicans, the less chance there is that the two parties can come together to win the country’s wars and solve its problems.

The latest bipartisan George Washington University Battleground survey shows that the public hates this back-and-forth. Asked whether they preferred that Members of Congress possess “strength of values and convictions” or “willingness to find practical, workable solutions,” respondents favored “workable solutions” by 58 percent to 38 percent.

This suggests that the country hungers for a real “uniter” not “divider” as president in 2008. And that would not be Russ Feingold.

Revising The Old Plan (USNEWS)

By Linda Robinson

U.S. News and World Report, March 20, 2006

The Bush administration released a key document last week, following on the signing of a classified directive that gives new orders to government agencies about their roles in the war on terrorism. As a result, the National Counterterrorism Center must now produce a National Implementation Plan in the next 90 days. The NCTC, created by Congress after the 9/11 attacks, has already compiled a database of some 200,000 suspected terrorists or terrorist facilitators. Last week, the deputy director of the center, Kevin Brock, said that law enforcement in the United States is turning up about 60 "hits" a day from that list.

The new version of the administration's national security strategy was unveiled by senior White House adviser Stephen Hadley. In a change from the September 2002 version, which said that neither religion nor ideology was the enemy, the new document describes the terrorist threat as a "murderous ideology" that will require both military forces and a "battle of ideas" to defeat. New emphasis is also placed on relying on other countries to help fight the war on terrorism and spread democracy. Iran, believed to be developing a nuclear weapons capability, came in for a veiled warning. Diplomacy to dissuade the regime in Tehran "must succeed," the 49-page document states, "if confrontation is to be avoided." The White House wants to keep Tehran guessing about President Bush's intentions, but there was little confusion about his policy of pre-emption--striking at America's adversaries before they strike first. Bush is still all for it.

Interagency conflicts. The National Security Presidential Directive gives new marching orders to each agency for its role in the war on terrorism. That classified document is colabeled National Security Presidential Directive 46 and Homeland Security Presidential Directive 15, since it also directs domestic agencies on their responsibilities. A major goal of the new NSPD is to resolve discrepancies among previous presidential directives and chronic conflicts among agencies with overlapping responsibilities: The State and Defense departments have wrangled over jurisdiction for the war on terrorism in countries where the United States is not at war, and the FBI and the Department of Homeland Security have had similar turf disputes at home. The Central Intelligence Agency and the Pentagon have both claimed roles in intelligence collection abroad.

Now it falls to the National Counterterrorism Center to make sure each entity does what it has been ordered to do. Congress created the NCTC and gave it two mandates: to fuse the intelligence from all the disparate U.S. intelligence and law enforcement entities and conduct "strategic operational planning" across all those agencies to ensure there is a common plan implemented at home and abroad.

Among other things, the NCTC maintains a database of "people we want to know about because we believe they are linked to terrorism," Brock, the NCTC's deputy director, explained. The database has 325,000 names on it, including aliases; Brock estimates the names represent as many as 200,000 individuals. The database is being provided to local police, and Brock says they are responding: "We are getting about 120 hits a day, and about half of them are real."

Sri Lankan Ordered Freed From Border Jail (AP)

By Peter Prengaman

AP, March 20, 2006

SAN DIEGO - After more than four years in a U.S. detention center, Ahilan Nadarajah will soon gain the freedom he sought when he fled Sri Lanka and the government forces there that he says repeatedly jailed and tortured him.

He had reached the United States in October 2001 only to be detained on the same accusations that almost got him killed in his home country: He was suspected of being a member of the Liberation Tigers of Tamil Eelam, a separatist group listed as a terrorist organization by the U.S. State Department.

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Nadarajah denies the claims, and immigration judges have twice granted him asylum. But the federal government refused to release him.

The latest order came Friday from the 9th U.S. Circuit Court of Appeals, telling the U.S. government it was violating federal law by continuing to hold him even though he wasn't criminally charged and couldn't be deported in the foreseeable future. His lawyers said they now expect him to be freed in a few days.

"I lost my time and my life, and I almost lost my mind, too," Nadarajah said in a phone interview from the Otay Mesa detention center, at the U.S.-Mexico border south of San Diego. "It's not fair. They put me in jail without reason."

Justice Department spokeswoman Cynthia Magnuson said the decision was being reviewed but would not elaborate. It wasn't immediately clear if the government would appeal the court's decision.

Nadarajah, an ethnic Tamil who turns 26 on Wednesday, came from a family of farmers in northern Sri Lanka, the island nation of 20 million off the coast of India.

In 1995, the Sri Lankan army bombed the area, killing Nadarajah's older brother and forcing the family to relocate. When they later returned, Nadarajah was accused of being a member of the Tamil Tigers, a group that was fighting for an independent state for the ethnic minority on Sri Lanka.

Nadarajah says he was repeatedly jailed and tortured by government forces there that pistol-whipped him, forced his head into a plastic bag with gasoline and left him hanging upside down for hours. Finally, he got a passport and exit visa from a smuggler and traveled through Thailand, South Africa, Brazil and Mexico before he was arrested at the U.S. border on Oct. 27, 2001.

He applied for asylum, arguing that if he were sent back to Sri Lanka he would be tortured and possibly killed.

The U.S. government opposed his application, saying he was affiliated with the Tamil Tigers.

In the 9th Circuit's ruling Friday, Judge Sidney R. Thomas said Nadarajah's detention was "unreasonable, unjustified and in violation of federal law," and called a government argument "patently absurd." The ruling followed a 2001 Supreme Court ruling that immigrants must be freed if their deportation is "no longer reasonably foreseeable," a period interpreted by many legal experts as being about six months.

Nadarajah's attorney described the case as one of the Bush administration's repeated violations of immigration law in the name of national security.

"The government got it completely wrong about whether he was a terrorist, and overreached for detention powers Congress never granted," said Ahilan Arulanantham of the American Civil Liberties Union.

Nadarajah is anxious to be free. He wants to improve his English - which he learned in jail after arriving without speaking a word of the language - go to college and get some "good food."

"I'm tired of this place," said Nadarajah. "I want to be outside, you know? But this was worth it because it saved my life."

ON THE NET

9th Circuit: http://www.ca9.uscourts.gov/

Rules For An Unruly New War (USNEWS)

By Liz Halloran

U.S. News and World Report, March 20, 2006

It was November 2001, barely two months after the 9/11 terrorist attacks, when Osama bin Laden's personal driver was captured in Afghanistan and later shipped to the U.S. military prison in Guantanamo Bay, Cuba. Half a world away, President Bush was ordering up a new military tribunal system to try foreigners designated as enemy combatants and accused of war crimes in the ongoing "war on terror."

Next week those events will collide at the U.S. Supreme Court. In what is destined to be a landmark case, justices are scheduled to hear an appeal by that driver, Yemen native Salim Ahmed Hamdan, challenging the legality of Bush's tribunals--the first since World War II. The high court will finally have to weigh in on some of the most contentious and polarizing issues in the post-9/11 world: How should the United States treat non-American prisoners whose allegiances lie not with a country but an ideology? Does the president have the power to unilaterally decide not only which prisoners qualify as enemy combatants but what rights they have and under what justice system they should be tried? And, at the heart of it all, should past rules of war apply, or does the war on terrorism--so different from previous wars--require its own special standards?

Recruits. Hamdan, now in his mid-30s, was a poor, part-time taxi driver in Yemen just 10 years ago when he was recruited to fight with Islamic insurgents in Tajikistan, according to journalist Jonathan Mahler, who is working on a book about Hamdan. But when those recruits were rebuffed at the Tajik border, they decided to look for bin Laden, who had recently moved his militant organization to Afghanistan.

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Hamdan's lawyers acknowledge that their client went to work for bin Laden, but they argue that he was just a functionary, serving as the al Qaeda leader's driver--not involved in plotting or training for attacks on America. But the U.S. government alleges that Hamdan was much more. After his capture, he was designated an "enemy combatant," charged with conspiracy to commit terrorism and murder, and tapped as one of the first Guantanamo detainees to be tried under the new military tribunal system.

His challenge to that system will test the administration's ongoing effort to broadly expand presidential wartime authority--from conducting warrantless domestic surveillance to establishing the military tribunals, which allow unsworn statements in lieu of testimony and can impose the death penalty. And unlike a traditional court-martial, the tribunal system does not allow a review outside the military. The last line of appeal under the tribunals, except in limited circumstances, is Secretary of Defense Donald Rumsfeld. The eight justices who will hear the Hamdan case (Chief Justice John G. Roberts has recused himself because he participated in an appeals court ruling on the case) will also examine whether legal protections afforded prisoners of war under the international Geneva Conventions should extend to detainees like Hamdan, who do not operate under the flag of a country.

Dismissed? But there is a wild card: Government lawyers want the high court to simply dismiss Hamdan's appeal. They argue that a law enacted by Congress last December blocking detainee access to U.S. courts also applies to cases pending at the time. The high court is expected to consider this issue first, and if justices agree with the government, Hamdan's appeal will be moot--as will cases filed by hundreds of Guantanamo's 500 detainees--and his case will revert to the military tribunal.

The administration argues that the president has inherent constitutional power during wartime to establish the tribunals and also draws authority from legislation authorizing the use of military force that Congress passed in the wake of the 2001 attacks. There is historical precedent for the controversial tribunals, and lawyers like Richard Samp of the conservative Washington Legal Foundation argue that if detainees had access to open civilian courts, it would flood the courts and officials could be forced to reveal sensitive U.S. intelligence information.

Whatever the outcome, the justices will be drawn into a profound and emotional debate over the treatment and rights of the Guantanamo detainees--a debate that civil libertarians say has damaged America's reputation. "Military [tribunals] have been used throughout our history--there seems to me plenty of legal authority for that," says Richard D.Rosen, who spent 26 years as an Army judge advocate and now directs Texas Tech University's Center for Military Law and Policy. "But I think the courts should be allowed to get to the merits of this case. The military [tribunal] is not a court, and it's not equipped to decide these constitutional issues." The place for that, argues Rosen, is the Supreme Court. And in taking the case, the justices seem to agree that at the very least they need to establish some rules in a war that often seems not to have any.

The President And The Courts (NYT)

The New York Times, March 20, 2006

Since the Republican majority has decided to allow President Bush to usurp Congress's role in matters of national security, the battle to save the constitutional balance of powers moves to the judiciary. A critical test of judicial independence will come this month, when the Supreme Court hears arguments in a case that has become a focus of Mr. Bush's imperial vision of the presidency.

Salim Ahmed Hamdan, a Yemeni national accused of having been a bodyguard and driver for Osama bin Laden in Afghanistan, has been detained since 2002 in Guantánamo Bay. He filed suit to challenge the legitimacy of the military commission that upheld his designation as an "unlawful enemy combatant" — a term Mr. Bush invented after 9/11 to deny the protections of the Geneva Conventions, international statutes or United States law to certain prisoners.

Mr. Hamdan argued, rightly, that the commissions are not legitimate because prisoners are routinely barred from seeing evidence, much less confronting their accusers or having access to real legal representation. But his case has now become a much larger battle over the principle of habeas corpus, which is embedded in the Constitution and says that a prisoner cannot be denied the right to challenge his detention. Mr. Bush's decision after 9/11 that he had the power to put prisoners beyond the reach of the law at his choosing was the first attempt to suspend habeas corpus on American territory since the Civil War.

The Supreme Court two years ago emphatically rejected the president's claim that its jurisdiction did not extend to Guantánamo. Seeking to reverse that ruling, the White House in December helped push through a special amendment as part of the deal that also saw Mr. Bush sign a watered-down ban on torture of military detainees. The amendment, sponsored by Senator Lindsey Graham, a Republican, and Senator Carl Levin, a Democrat, stripped Guantánamo detainees of the normal rights of judicial review. It also designated a single appellate court to conduct a limited review of decisions by the military commissions, and left "enemy combatants" held without a trial in a seemingly inescapable legal black hole.

As soon as Mr. Bush signed this law, he declared that the administration was going to apply it to all pending cases, about 160 or so, and the solicitor general told the Supreme Court it no longer had a right to hear Hamdan v. Rumsfeld. This is court-stripping — the attempt by another branch of government to prevent the court from deciding a particular issue. The White House

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tried to justify this outrageous tampering with the judiciary by ignoring the new law's actual language and legislative history to argue that the new legislation took away the power of the courts to hear not just future cases but also cases already filed and accepted for review. The Supreme Court responded by adding the jurisdictional objection to the list of issues it will consider when the case is heard on March 28.

At a minimum, we hope the court will rule that Congress and the president may not deny the justices the power to review pending cases. But it should also reject the defective military commissions, as well as the idea of denying access to the courts for future valid claims brought by Guantánamo detainees, including claims of torture.

If Congress wants to take the extreme step of suspending the Supreme Court's jurisdiction over habeas corpus, especially pending appeals, it must say so in unmistakable terms, which it has not done. Both the text and the legislative history of the Graham-Levin amendment demonstrate an intention to avoid touching pending cases. Moreover, the Constitution itself requires an "invasion" or a "rebellion" as a prerequisite for suspension of habeas corpus. It's hardly likely that the founding fathers intended to give Congress the right to eliminate judicial review during an ongoing international struggle against terrorism that may well go on for generations.

The retired Justice Sandra Day O'Connor observed in a recent speech that the framers created three separate and equal branches of government because they knew that preserving liberty requires that no single branch or person can amass unchecked power. According to NPR's Nina Totenberg, who heard the speech, Justice O'Connor cited Republican court-stripping efforts as an example of dangerous overreaching. "It takes a lot of degeneration before a country falls into dictatorship," Justice O'Connor said, "but we should avoid these ends by avoiding these beginnings."

The president seems to forget that and Congress clearly will not remind him. The nation cannot afford for the Supreme Court to forget as well.

Gitmo Goat Or Hero? (TIME)

By Adam Zagorin And Sally B. Donnelly

Time, March 19, 2006

Did Major General Geoffrey Miller--commandant at GuantÃ¡namo Bay and a top adviser on interrogations at Abu Ghraib--do wrong? No, says a new report by Lieut. General Stanley Green, the Army Inspector General (IG), that TIME obtained last week. A Pentagon panel recommended last summer that Miller be reprimanded for poor oversight of a high-value prisoner at Gitmo. But Green told TIME that the evidence is not there to back charges against Miller of dereliction and lying to Congress about his role in the scandal. The report concludes that at Gitmo Miller was unaware a canine had been used to intimidate alleged "20th hijacker" Mohammed al-Qahtani, or that al-Qahtani was forced to don women's underwear and perform dog tricks--even though Miller was intimately involved in planning al-Qahtani's interrogation. The report even lavishes praise on Miller, noting the "strength, energy and effectiveness of [his] leadership." Miller's military lawyer told TIME: "The IG is entirely correct in fact and law."

Miller's exoneration may only inflame his critics. At a Senate Armed Services Committee hearing last week, chairman John Warner pointedly suggested to one of Miller's superiors that he "go back over this entire matter," warning that Miller will be recalled before the panel to explain himself. Sources close to the powerful committee say that anger at Miller has escalated sharply since he invoked his right to avoid self-incrimination and refused to testify in the detainee-abuse trial of an Abu Ghraib dog handler. In that case, defense lawyers argued that their client was following guidelines from Abu Ghraib military-intelligence chief Colonel Thomas Pappas, who in turn has said under oath that Miller advocated using dogs to "get information" from prisoners.

Green, the Army IG, says that people need in the abuse-scandal investigations to find a "donkey to pin the tail on." But he insists "Miller is not the one." Which leaves the question: Who is?

A Legal Loose Cannon (TIME)

By Douglas Waller

Time, March 19, 2006

The roots of the bungle seem to come down to this: Carla Martin, a government lawyer with a small role in the sentencing trial of confessed 9/11 conspirator Zacarias Moussaoui, thought the chief of the prosecution team was overplaying his hand. In his opening statement, Assistant U.S. Attorney Robert Spencer argued that if Moussaoui had told the FBI what he knew about the 9/11 plot in advance, authorities "would have prevented" the hijackings and thousands of lives could have been saved. Martin, 51, a veteran in the aviation field, thought defense attorneys could "drive a truck" through that assertion, as she later e-mailed a scheduled witness in the case. Thus she took it upon herself to coach that witness and six other current or former government aviation experts scheduled to testify in ways to fend off the opposing lawyers.

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While experienced litigators know how to prep witnesses without crafting their testimony, Martin crossed a line, informing her experts what she would tell the jury and feeding them transcripts from the trial in violation of an explicit order from U.S. District Judge Leonie Brinkema. It was no small mistake. When Brinkema found out, she angrily barred all aviation-security witnesses from testifying--experts prosecutors were counting on to make their case that had Moussaoui shared what he knew, officials could have prevented 9/11, and since he didn't, he should be executed.

How could such a high-profile case have been handled so sloppily? Certainly Martin, a lawyer for the Transportation Security Administration (TSA), was never meant to be a player. In court documents filed after the blowup, prosecutors painted her as a misguided "miscreant" with only a bit part in the government's case preparation--arranging witness interviews and retrieving aviation documents for prosecutors. A former flight attendant who followed her father into law, Martin developed a reputation for tenaciousness both at the TSA and, before that, at the Federal Aviation Administration, where she started working even before she graduated from law school. But she did hardly any litigating in court. Her work was focused more on administrative matters. For instance, when sensitive aviation-security issues came up in the civil suit brought against Pan Am by families of those who died in the Flight 103 bombing, she advised the presiding judge on whether to clear the courtroom. When she started delving into criminal trial tactics, say colleagues, she was simply out of her element.

Martin's coaching of the Moussaoui witnesses was discovered when one of them became so put off by her persistent e-mails that she showed them to prosecutors, who then informed the judge of Martin's misconduct. "In all my years on the bench, I've never seen a more egregious violation of the rule about witnesses," Brinkema said. She warned Martin that she may face criminal charges. Martin, who has been placed on paid administrative leave by the TSA, wouldn't comment. Her mother, Jean Martin Lay, told TIME that her daughter is "really devastated" by the accusations. Martin's lawyer, Roscoe Howard, claims that prosecutors have unfairly "vilified" her and that her side of the story, which he says she is preparing, "will show a very different, full picture of her intentions."

Moussaoui, 37, a French Moroccan who was detained about a month before the 9/11 attacks, has pleaded guilty to conspiring with al-Qaeda to hijack planes, but denies direct involvement in the 9/11 plot, claiming that he was preparing for a future attack instead. If he is not executed, he faces life imprisonment. Prosecutors were counting on the witnesses barred by Brinkema to explain to jurors how airport security could have been increased had Moussaoui come clean with FBI agents who interrogated him before 9/11.

In the end, prosecutors managed to persuade the judge to let them present to the jury a new set of aviation experts who have had no contact with Martin. But the case for executing Moussaoui remains tenuous. Legal experts, and even Brinkema, have questioned whether prosecutors are overreaching in arguing that he should be put to death for what he did not do. Martin, in one of her e-mails, said she doubted that airport screeners could have detected all the short-blade knives the hijackers took aboard, even if Moussaoui had told agents before 9/11 what he knew. Of course, that is an opinion that prosecutors wish she had kept to herself.

Another Blown Case? (WP)

The Washington Post, March 20, 2006

THE DEATH penalty case against accused Sept. 11 conspirator Zacharias Moussaoui has barely survived the government's latest bout of incompetence. In a blatant violation of a court order, a Federal Aviation Administration lawyer working on the case sent key aviation witnesses a transcript of the government's opening statement, along with her comments on it. This led U.S. District Judge Leonie M. Brinkema to exclude those witnesses -- potentially crippling the prosecutors' case for execution of the only person to face trial for the attacks on the Pentagon and the World Trade Center. On Friday, Judge Brinkema revised her order, allowing the testimony of aviation witnesses untainted by the misconduct. So the case will now limp forward.

Americans opposed to capital punishment, as we are, have little reason to regret this development. Mr. Moussaoui already has pleaded guilty and faces life in prison, which is the sentence he should get. While he is by his own admission an al-Qaeda operative sent here to do America harm, his links to the attacks -- which took place after he was in custody -- are weak.

This case nevertheless joins a line of big terrorism prosecutions marred by government misconduct, overzealousness, hyping of charges or just plain ineffectiveness. A conviction in Detroit had to be set aside because of prosecutorial misconduct. The government brought spectacular charges against accused Islamic Jihad activist Sami al-Arian, only to see a jury reject many of them -- and convict on none -- after a lengthy trial. Then-Attorney General John D. Ashcroft announced the arrest of Jose Padilla with great fanfare as the foiling of a plot to detonate a radiological "dirty" bomb; after holding him for years as an enemy combatant, the government indicted him for far lesser matters. Mohamed Qahtani, the Guantanamo Bay inmate the government has labeled the 20th hijacker -- when it wasn't busy making the same claim about Mr. Moussaoui -- was subjected to such abusive interrogation that he probably cannot face trial at all.

More generally, the military still hasn't managed to try a single person at Guantanamo before its much-vaunted commissions, whose main selling point was their efficiency. More than four years after the Sept. 11 attacks, the United States lacks a stable, predictable system for trying accused terrorists.

Prosecuting terrorists isn't easy, as Mr. Moussaoui's trial has repeatedly illustrated, but much of this is the Bush administration's fault. The administration failed to work with Congress to create viable legal structures to handle these cases, proceeding in whatever way seemed most convenient in any given situation. The results are abysmal. And, ironically, they undermine the case for the more secretive military trial procedures the government is trying to create. If authorities fail so often to play by the rules in the relatively open federal court system, it's hard to believe their behavior will be better when the spotlight is turned off.

Terror Case: 'Bizarre' Testimony (NSWK)

By Michael Isikoff and Karen Breslau

Newsweek, March 20, 2006

The justice department's case against accused 9/11 conspirator Zacarias Moussaoui is in trouble. The Feds also have a problem in another case. The credibility of the FBI's star witness against a Pakistani-American accused of Qaeda ties is under fire after he testified he saw Ayman al-Zawahiri at a mosque attended by the de-fendant in Lodi, Calif., in 1999. The testimony by informant Naseem Khan, who has been paid $250,000 by the bureau, startled counterterrorism experts: Zawahiri, Osama bin Laden's chief deputy, was in Afghanistan at the time, under indictment for the bombings of two U.S. embassies in Africa. Jack Cloonan, a former FBI agent who had tracked Zawahiri for years, told news-week the testimony was "bizarre" and "seriously wrong." While conceding "there may have been some puffery" by the informant, a Justice official who asked not to be ID'd because of legal sensitivities said prosecutors are still confident about the case against Hamid Hayat, 23, accused of attending a Qaeda camp in Pakistan, and his father, Umer Hayat, 48, who allegedly lied to the FBI about his son's travels. Defense lawyers say the testimony raises new questions about Khan, a fast-food worker with a burglary conviction who was recruited by the FBI after 9/11 and paid up to $4,500 a month to ID terror suspects. An internal FBI doc obtained by NEWSWEEK shows Khan claimed to have seen Zawahiri—and two other most-wanted terrorists—at the Lodi mosque in late 1999, describing them as Pashto-speaking Pakistanis. (They are Arabs.) The FBI first used Khan to target two radical imams in Lodi. They were deported. Meanwhile, Khan befriended the younger Hayat, a fruit packer, and secretly taped conversations while encouraging Hayat to visit a Pakistani camp in 2003. Hayat later confessed going to the camp; there is no evidence he plotted any terror acts.

HOMELAND RESPONSE:

SSA Raises Hurdle In Proposal For DP World To Sell U.S. Holdings (WSJ)

By Daniel Machalaba

The Wall Street Journal, March 20, 2006

SSA Marine Inc.'s decision to explore a sale of the company could complicate Dubai Ports World's plans to sell its U.S. holdings to an American buyer.

SSA Marine, the largest U.S. container terminal operator, has been considered one of the possible bidders for DP World's terminal operations in the U.S. With SSA Marine disclosing that it is a potential acquisition target itself, the number of viable U.S. purchasers for DP World's U.S. holdings could be reduced.

In a statement Friday, closely held SSA said it has received inquiries from "many companies looking to partner with, or invest in SSA Marine" and is exploring its strategic alternatives. The Seattle company noted "opportunities to acquire additional operations," suggesting it still could be a bidder for DP World's U.S. holdings. SSA said it is working with its financial advisor, Citigroup Inc., to evaluate its options.

DP World declined to comment on the SSA Marine announcement.

The SSA statement adds to the frenzy of interest in marine container terminals, which have seen their value soar amid rising trade, limited expansion room in some ports and global consolidation of a handful of large non-U.S. container terminal operators. SSA has operations in 150 ports throughout the world, including 11 marine container terminals on the U.S. West Coast and in Latin America. Some maritime executives have said SSA could be valued at as much as $2 billion.

At the same time, the political firestorm in the U.S. over DP World has put some U.S. terminal operations back on the market. DP World's purchase of Peninsular & Oriental Steam Navigation Co. of London for $6.8 billion included container terminal operations in five U.S. ports. Many in Congress objected to the deal, citing national security concerns because DP

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World is controlled by the Dubai government. DP World agreed to defuse the controversy by committing to sell the U.S. terminal operations to a U.S. buyer.

The Dubai deal could make it more difficult for some companies to bid for SSA. SSA Marine spokesman Bob Watters said in a statement that "none of the alternatives we are exploring would involve selling control of our U.S. operations to a company owned by a foreign government."

That would appear to bar Singapore's PSA International Pte. Ltd. and some Chinese operators from bidding for SSA. It would leave the door open to A.P. Moller-Maersk of Denmark and Hutchison Whampoa Ltd., the world's largest terminal operator, which is based in Hong Kong.

Nation's Security Is At Stake (USAT)

By Duncan Hunter

USA Today, March 20, 2006

In the post-9/11 world, America's No. 1 priority must be national security. But the process that OK'd government-owned Dubai Ports World's takeover of terminal operations at major U.S. ports was geared less toward national security and more toward economic opportunity. Otherwise, how did it overlook red flags like these: (Related: Opposing view)

As recently as 2003, customs officials in the United Arab Emirates (UAE), of which the government of Dubai is a member, allowed 66 high-speed electrical switches, which can be used for detonating nuclear weapons, to go to a Pakistani businessman with ties to that country's military — despite U.S. protests. Further evidence shows Dubai spurned U.S. requests to inspect containers holding the switches. Among other troubling examples, Pakistani physicist and nuclear proliferator A.Q. Khan shipped black-market materials through Dubai, prompting one Middle East expert to call it an "atomic bazaar."

The UAE has been our ally. But we cannot disregard its role as a point of transshipment for dangerous materials — either with governmental acquiescence or great governmental negligence. Right now, we're optimistic that DP World will keep its commitment to sell its interests in U.S. port operations.

But the need to secure critical domestic infrastructure extends beyond our maritime interests and the DP World deal.

That is why I introduced legislation that not only reforms the foreign-investment review process but goes even further to protect all of America's critical infrastructure — stipulating that any asset or system so vital that its incapacity or destruction would debilitate national security, economic security or public health and safety must remain in the hands of reliable, American-owned companies. It also mandates that appropriate authorities inspect all in-bound cargo.

Much of this isn't novel. In fact, the legislation's so-called protectionist elements are already required from Department of Defense contractors. In a post-9/11 world, we must ensure that our critical infrastructure is every bit as secure as critical parts of our defense industrial base.

Today, we can take nothing for granted. We must continue to enhance our security instead of creating even greater vulnerabilities.

To those who say this smacks of protectionism, I say this: America is worth protecting.

Rep. Duncan Hunter, R-Calif., is chairman of the House Armed Services Committee.

Scuffle Over Ports Deal Stirs Up Protectionist Fears (USAT)

USA Today, March 20, 2006

Each day, some $3 billion of foreign money pours into the United States, buying stocks, bonds, whole companies, real estate, home mortgages and more. Without that money, interest rates would skyrocket for lack of investors to finance the government's staggering debt. Job growth also would wilt as foreign investment declined. (Related: Opposing view)

You'd think those facts — and they are not in dispute — might prompt lawmakers to tour the globe drumming up more investment, or at least to recognize that we now live in a world economy. Instead, some seem intent on doing just the opposite.

Eager to tap the deep vein of anti-foreign sentiment exposed by the Dubai ports deal, they are pushing a ban on foreign purchases of any assets considered part of the nation's "critical infrastructure."

The plan may never get off the ground. It certainly won't if even a sliver of reason enters the debate. But at a time when the nation is concerned about immigration, foreign outsourcing of jobs and terrorism, it is a useful measure of just how foolish protectionism can be.

The proposal comes from Rep. Duncan Hunter, a California Republican and chairman of the House Armed Services Committee. He would like to set a series of draconian standards for any company wishing to buy a part of the nation's "critical infrastructure." Its chairman and CEO would have to be American, as would at least half of its board. The secretary of Defense would have to approve half of the board members and the company would have to keep tabs on the citizenship of its shareholders to make sure that no more than half were non-U.S. citizens.

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The idea that the government would be allowed to choose who controls private companies is bizarre by itself. More so coming from a Republican. But that's only the beginning of the problems the bill would create.

· Much of the economy could be shut off to foreign investment since the concept of critical infrastructure is inherently vague. This would dramatically slow economic growth and eliminate jobs. Hunter defines critical assets not just as those affecting national security, but those critical to economic security and public health as well. Virtually any large company could be considered economically vital.

· If "critical" industries were shut off to foreign buyers, then virtually any domestic company would claim its goods and services were critical to avoid having to compete with foreign companies. Competition would decline, driving prices up.

· Other countries would surely retaliate against U.S. firms. The protectionist tit-for-tat would quickly escalate, derailing economic growth that has been critical to raising living standards here and abroad since World War II. Similar events preceded the Great Depression.

There are, to be sure, many security issues surrounding critical infrastructure sites. The Department of Homeland Security's efforts to beef up port security have a long way to go. And the chemical industry has beaten back legislation mandating new safety measures at plants near major cities.

But these have nothing to do with corporate ownership. Shutting off foreign investment amounts to using 9/11 as a pretext for economic nationalism and protectionism. That's bad policy. And, given the USA's need for foreign capital, a bad case of biting the hand that feeds us.

Increase In Contracting Intelligence Jobs Raises Concerns (WP)

By Walter Pincus

The Washington Post, March 20, 2006

AllWorld Language Consultants Inc., a Rockville firm, is seeking experienced military interrogators to work in Iraq for $153,500 a year plus bonuses, with proficiency in Arabic "preferred but not required," according to Yahoo's Hot Jobs listings.

The U.S. Army element of the Multi-National Force-Iraq is looking for a private contractor to provide airborne surveillance over that country that will "provide situational awareness of the entire area of operations," according to another Web announcement.

Lockheed Martin Corp. is seeking a counterintelligence analyst to work for the Pentagon's newest intelligence agency, the Counterintelligence Field Activity (CIFA), in its Colorado Springs facility to "create and deliver briefings, write reports, and represent Counterintelligence Field Activity," according to a Web classified ad.

These positions and thousands like them are part of a growing trend at the Pentagon to contract out intelligence jobs that were formerly done primarily by service personnel and civil service employees.

But, by using contract employees, government agencies lose control over those doing this sensitive work and an element of profit is inserted into what is being done. Also, as investigations have revealed, politics and corruption may be introduced into the process.

The office of Director of National Intelligence John D. Negroponte has quietly begun to study the contracting issue because "it already is a problem," a senior intelligence official said in a recent interview.

A related concern for intelligence agencies inside and outside the Pentagon is that the government is training people and getting them security clearances, but they then leave for better pay offered by contractors, sometimes to do the same work.

"Once cleared, they can get a higher salary outside and they are gone," the official said. "We're leasing back our former employees."

The phenomenon is partly the result of Congress's approving large funding increases for intelligence activities but not increasing the limit on the number of full-time persons that agencies can hire. "We don't have the billets," the official said, so the surge is taken care of by contracting out the jobs.

Retired Maj. Gen. Paul D. Eaton, who ran Iraqi military training from 2003 to 2004, describes the hiring of civilians to do jobs previously done by the military as a "shell game" created by Defense Secretary Donald H. Rumsfeld to keep the "force strength static on paper." In an op-ed piece in yesterday's New York Times, Eaton wrote, "This tactic may help for a bit, but it will likely fall apart in the next budget cycle with those positions swiftly eliminated."

"The Pentagon ramped up so fast, it had to turn to contract personnel to have continuity," said another former senior intelligence official who now does contract work. He pointed out that some jobs are so complex, military personnel on three-year rotations are facing reassignment just as they master their jobs.

The trend toward contracting for intelligence analysts will hurt the ability of the CIA and the Defense Intelligence Agency to retain and keep high-quality people, said a former senior intelligence official who helped supervise the rebuilding of the CIA's

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case officer and analyst corps. "It takes time to get the young up to snuff, and you need 10 to 20 years to get the value for that investment," this former official said, asking for anonymity because of his past role in government.

John O. Brennan, the longtime CIA official who started up and headed the National Counterterrorism Center before his retirement, said contract personnel "bring on recognized expertise that exists outside government" and "often are needed as new [intelligence] systems are being built."

Now a contractor himself, Brennan said it should come as no surprise that many younger military and government-trained intelligence personnel, who have top security clearances, are resigning to take jobs in the private sector.

The CIA's contracting has generally been limited to technical support, but almost two years ago a "spy drain" was described in a column by intelligence expert James Bamford, who warned, "Private contractors are taking over jobs once reserved for highly trained agency employees." Because of the rush to expand activities, Bamford said some newly hired former CIA officers said that "their talents are being wasted on unsophisticated tasks."

Attention has also been focused on the rapid growth of Pentagon intelligence contracting because of recent guilty pleas by former representative Randy "Duke" Cunningham (R-Calif.) and contractor Mitchell J. Wade, who used contributions and job offers to get his former company, MZM Inc., more than $100 million in mostly intelligence contracts between 2002 and 2004. In one case, according to court papers, Wade drafted and gave Cunningham an outline of the work that CIFA then contracted with MZM to perform.

Federal investigators are reviewing CIFA's contracts, according to a government prosecutor involved in the inquiry. CIFA Director David A. Burtt II said in a recent interview that 70 percent of his agency's work is handled by contractors.

Brennan said that contract employees frequently cost less for government agencies when they are needed for short durations while new agencies get fully staffed. Thereafter, higher pay given to contract employees over government employees can be justified only in part because contractors offer less job security than the government does.

Brennan said he introduced a rule at the National Counterterrorism Center that personnel cannot resign and return to do the same job with a contractor until a certain amount of time had elapsed.

The contracting for intelligence personnel is "neither black nor white," according to Brennan, but it "needs to be watched."

The Arabic-speaking interrogators that AllWorld Languages is seeking must be U.S. citizens, have security clearances, and be willing to start immediately and deploy to any city in Iraq. AllWorld is a subcontractor of L-3 Communications Holdings Inc., a multibillion-dollar defense contractor that recently got a six-month, $420 million extension to its no-bid Army contract for translators. About 80 percent of the 5,000 translators L-3 employs for the Army are working in Iraq.

William Golden, who runs IntelligenceCareers Inc., maintains a Web site listing thousands of jobs, including senior posts within the intelligence community. In a slide presentation on his site, Golden points out that as the number of contract positions in the intelligence field increases, the number of candidates for such jobs decreases -- in part because the number of people leaving military and government service in the intelligence field is less than the number of jobs being opened up to contract employees.

In a recent presentation, Golden said 65 to 70 percent of new contract employees who took contract jobs after they left government with security clearances came from the military. Less than 15 percent earned their clearances while working for contractors. One reason for the difference is that it takes a year or more to get a top-secret clearance; meanwhile, an employee is waiting to be hired or is hired and doing a non-cleared job. Those who had clearances just need to have them updated, which takes far less time.

As a result, someone with a top secret and special compartmented information clearance, meaning access to electronic intercepted data, can get as much as 35 percent more pay than others with lesser clearances or no clearances, according to Golden. Brennan, who now runs his own intelligence consulting concern, the Analysis Corp., agreed that "a security clearance in the Washington area means money."

WTC Talks To Resume Next Week (WSJ)

By Alex Frangos

The Wall Street Journal, March 18, 2006

NEW YORK -- Talks to resolve how to rebuild the World Trade Center will restart next week after private developer Larry Silverstein offered a revised proposal Friday for his role in the long-troubled project.

The Port Authority of New York and New Jersey, which owns the site, said it would respond to Mr. Silverstein's proposal.

While calling aspects of Mr. Silverstein's latest proposal "unacceptable," Port Authority spokesman Steve Coleman said the agency "will develop a counter-proposal that we believe will work for both parties to get this deal done."

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Negotiations between Mr. Silverstein and the Port Authority broke down Wednesday after failing to meet a deadline imposed by New York Gov. George E. Pataki. The Port Authority walked out on the talks saying the 74-year-old real estate tycoon was bargaining in "bad faith," a charge he denied.

Mr. Silverstein's revised proposal closes the gap between the two sides and contains some new ideas, according to a person close to the talks. In a statement, Mr. Silverstein said "the sooner we get this done the better."

Before talks failed, the two sides had the broad outlines of a deal in place that would have Mr. Silverstein give up the rights to build two of the five planned towers, including the signature Freedom Tower. The sticking points revolved around how much each side would bear of the $7 billion cost.

Little has been rebuilt 4 1/2 years after the attacks that destroyed the Twin Towers. Gov. Pataki, the Port Authority, which Gov. Pataki controls with New Jersey's governor, and Mr. Silverstein have come under heavy criticism for the lack of progress.

Multiple Layers Of Contractors Drive Up Cost Of Katrina Cleanup (WP)

By Joby Warrick

The Washington Post, March 20, 2006

NEW ORLEANS -- How many contractors does it take to haul a pile of tree branches? If it's government work, at least four: a contractor, his subcontractor, the subcontractor's subcontractor, and finally, the local man with a truck and chainsaw.

If the job is patching a leaking roof, the answer may be five contractors, or even six. At the bottom tier is a Spanish-speaking crew earning less than 10 cents for every square foot of blue tarp installed. At the top, the prime contractor bills the government 15 times as much for the same job.

For the thousands of contractors in the Katrina recovery business, this is the way the system works -- a system that federal officials say is the same after every major disaster but that local government officials, watchdog groups and the contractors themselves say is one reason that costs for the hurricane cleanup continue to swell.

"If this is 'normal,' we have a serious problem in this country," said Benny Rousselle, president of Plaquemines Parish, a hurricane-ravaged district downriver from New Orleans. "The federal government ought to be embarrassed about what is happening. If local governments tried to run things this way, we'd be run out of town."

Federal agencies in charge of Katrina cleanup have been repeatedly criticized for lapses in managing the legions of contractors who perform tasks ranging from delivering ice to rebuilding schools. Last Thursday, Congress's independent auditor, the Government Accountability Office, said inadequate oversight had cost taxpayers tens of millions of dollars, by allowing contractors to build shelters in the wrong places or to purchase supplies that were not needed.

But each week, many more millions are paid to contractors who get a cut of the profits from a job performed by someone else. In instances reviewed by The Washington Post, the difference between the job's actual price and the fee charged to taxpayers ranged from 40 percent to as high as 1,700 percent.

Consider the task of cleaning up storm debris. Just after the hurricane, the Army Corps of Engineers awarded contracts for removing 62 million cubic yards of debris to four companies: Ashbritt Inc., Ceres Environmental Services Inc., Environmental Chemical Corp. and Phillips and Jordan Inc.

Each of the four contracts was authorized for a maximum of $500 million. Corps officials have declined to reveal specific payment rates, citing a court decision barring such disclosures. But local officials and businesspeople knowledgeable about the contracts say the companies are paid $28 to $30 a cubic yard.

Below the first tier, the arrangements vary. But in a typical case in Louisiana's Jefferson Parish, top contractor Ceres occupied the first rung, followed by three layers of smaller companies: Loupe Construction Co., then a company based in Reserve, La., which hired another subcontractor called McGee, which hired Troy Hebert, a hauler from New Iberia, La. Hebert, who is also a member of the state legislature, says his pay ranged from $10 to $6 for each cubic yard of debris.

"Every time it passes through another layer, $4 or $5 is taken off the top," Hebert said. "These others are taking out money, and some of them aren't doing anything."

Defenders of the multi-tiered system say it is a normal and even necessary part of doing business in the aftermath of a major disaster. The prime contracts are usually awarded by FEMA or other government agencies well in advance, so relief services can be brought in quickly after the crisis eases. These companies often must expand rapidly to meet the need, and they do so by subcontracting work to other firms.

The two federal agencies that administer most disaster-related contracts, FEMA and the Army Corps of Engineers, say the system benefits small and local companies that do not have the resources to bid for large federal contracts. At the top end, prime contractors must be large enough to carry the heavy insurance burdens and administrative requirements of overseeing thousands of workers dispersed across a wide area, agency officials say. They also note that contractors have a legal right to hire subcontractors as they need them.

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"Our purview of a contract goes to the prime contractor only," said Jean Todd, a Corps contracting officer.

But watchdog groups that monitor federal contracting say Katrina has taken the contract tiering system to a new extreme, wasting tax dollars while often cheating companies at the low end of the contracting ladder. In some cases, the groups say, companies in the top and middle rungs contribute little more than shuffling paperwork from one tier to the next.

"It's trickle-down contracting: You're paying a cut at every level, and it makes the final cost exponentially more expensive than it needs to be," said Keith Ashdown of the watchdog group Taxpayers for Common Sense. "And in almost every case, the local people who really need to be making the money are at the bottom of these upside-down pyramid schemes."

The gap is particularly large for roof repairs. Four large companies won Army Corps contracts to cover damaged roofs with blue plastic tarp, under a program known as "Operation Blue Roof." The rate paid to the prime contractors ranged from $1.50 to $1.75 per square foot of tarp installed, documents show.

The prime contractors' rate is nearly as much as local roofers charge to install a roof of asphalt shingles, according to two roofing executives who requested anonymity because they feared losing their contracts. Meanwhile, at the bottom of the contractor heap, four to five rungs lower, some crews are being paid less than 10 cents per square foot, the officials said.

At least the prime contractors for roofing and debris removal owned equipment that could be immediately applied to the job at hand. In the world of Katrina contracting, this has not always been the case.

For example, one company hired as an ice vendor owns no ice-making equipment. Landstar Systems Inc., a $2 billion Florida company placed in charge of the bus evacuation of New Orleans, is a transportation broker that specializes in trucking and has no buses of its own. In 2002, the company was awarded a $100 million contract to provide emergency transportation services for the federal government during major disasters. The contract, which is administered by the Federal Aviation Administration, was expanded in the fall to a maximum $400 million. Landstar declined a request for an interview.

Thousands of New Orleanians had been stranded in the Superdome for more than 48 hours by the time FEMA issued the first order for a bus evacuation early on the morning of Aug. 31. The order was passed to Landstar, which then turned to other companies to locate buses, according to an official chronology prepared by the Department of Transportation. Landstar hired Carey International Inc., of Washington, which then hired the BusBank, of Chicago, and Transportation Management Systems of Columbia, Md. Bus Bank and TMS called private charter-bus companies -- some from as far away as California and Washington state -- asking them to send buses and drivers to New Orleans.

More than 1,100 buses eventually responded, some arriving four days later, after traveling hundreds of miles. Daily earnings averaged about $700 per bus, according to bus company owners. Landstar's daily earnings were nearly $1,200 per bus, government records show.

"A lot of that money is going to brokers who didn't have to do anything," said Jeff Polzien, owner of Red Carpet Charters, an Oklahoma bus company that sent coaches to New Orleans as a fourth-tier subcontractor.

Lower pay is hardly the worst problem subcontractors face. With many tiers to navigate, money trickles down slowly, delaying payment by weeks and months, and frequently imposing hardships on the smallest firms.

Several bus company owners said they were still owed tens of thousands of dollars for work they did in the fall. For some, the delays have been ruinous.

Thomas Paige, owner of Coast to Coast Bus Line of Dillon, S.C., laid off staff, and two of his four buses were repossessed by creditors after payment for his New Orleans work fell behind by three months.

"I went to New Orleans to help people -- and hopefully to help myself -- but now I feel like I've dug a ditch and fallen into it," Paige said. "If I would have known what I know now, I never would have gotten involved. It's just not worth it."

Behind Louisiana Aid Package, A Change Of Heart By One Man (NYT)

By Shaila Dewan

The New York Times, March 20, 2006

Louisiana was in a foul mood on the February day that President Bush's Gulf Coast rebuilding coordinator, Donald E. Powell, stood before an audience of fellow bankers in Baton Rouge.

Two weeks before, the administration had rejected Louisiana's housing recovery plan. Mr. Powell's own idea of housing aid excluded thousands of homeowners, many of them poor, who lived in the flood plain but did not have flood insurance when Hurricane Katrina hit.

Asked about those who had counted on federally built levees to protect them, Mr. Powell, a wealthy man from the dry Texas Panhandle, noted that he had been responsible enough to buy flood insurance for his home in Amarillo.

The members of the Louisiana Bankers Association were not won over. Nor was The Advocate, Baton Rouge's newspaper, which demanded Mr. Powell's dismissal, calling him a "flint-souled" bean counter whose only concern was "guarding the money."

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Those with a more charitable view, Senator Mary L. Landrieu, Democrat of Louisiana, among them, complained that he lacked the authority to be effective, and some critics wondered if he was simply another presidential crony.

But barely a week would pass before Mr. Powell did an about-face that turned many of his critics into fans, showing that not only had he listened to the locals, but also that his conclusions had carried weight with Mr. Bush.

With Gov. Kathleen Babineaux Blanco and Mayor C. Ray Nagin at his side, Mr. Powell announced that the president would seek $4.2 billion more for Louisiana to compensate homeowners — even those in the flood plain.

Mr. Powell's epiphany came after hours of listening to Louisianians: the decision makers; the woman who cleaned his room at the Sheraton; Victoria Reggie Kennedy, the wife of Senator Edward M. Kennedy (whom he called after hearing she was a Louisiana native); the inspectors examining high-water marks in homes. As he drove through New Orleans with Mr. Bush on March 8, he pointed to a small restaurant in the Ninth Ward and rattled off the owner's real estate woes.

"He had a learning experience," said Walter Isaacson, vice chairman of the Louisiana Recovery Authority. "It's the most amazing thing for somebody of his stature. It's because by himself, he walked around. He walked around and talked to people."

Mr. Powell says walking about in the region incognito, in blue jeans and boots, is becoming a bit harder now that people are starting to recognize him. "I went with no preconceived thoughts," he said. "And I realized that while Mississippi was an act of God, Louisiana was an act of God and man. There were some flaws. The levees breached."

Last week, Mr. Powell spent much of his time lobbying House members, successfully, to preserve the appropriation. For several days, other states mounted an effort to siphon off some of the money, and conservatives said the entire amount was too large, but on Thursday the House overwhelmingly approved it.

Mr. Powell's work on the housing plan made many Louisianians think that in appointing him, the administration had finally done something right. Garland Robinette, a talk-radio host in New Orleans who has interviewed Mr. Powell several times, recalled telling him, "I was totally prepared to not like you at all, and it aggravates me that you're doing something to make me think you might be a good guy after all."

For Mr. Powell, former chief executive of the First National Bank of Amarillo, the listening tour was part of any banker's due diligence. Texas bankers are a particular breed — conservative, unpretentious and keenly competitive. One newspaper columnist recalled that years ago, after being offered a job in Amarillo, he received a solicitation call two hours later from Mr. Powell's bank. Asked about the incident, Mr. Powell said, "I probably was mad at our people because it was two hours."

Given his prominence in the Texas Panhandle, Mr. Powell's political connections go almost without saying. To the first President Bush, he is an old friend; to the second, he was a top fund-raiser. He had been to Washington only three times, he said, before he was appointed chairman of the Federal Deposit Insurance Corporation in 2001, a position he left several months early to take his current post in November.

Mr. Powell, 64, is from a working-class family in Amarillo, where he helped his father peddle tobacco and snacks to shopkeepers. A football scholarship made him the first in his family to go to college. He began his career by walking into a bank and asking for a job. During the Texas banking crisis of the 1980's, Mr. Powell hauled the Amarillo bank from the brink of failure.

The $4.2 billion was not his first accomplishment as recovery czar. Until he intervened, state officials had spent hours trying to ensure that the federal government would continue to pick up all recovery expenses, a routine matter that, nevertheless, was authorized for a month at a time.

He also persuaded the president to ask Congress for an additional $1.5 billion for the state's levee system, doubling the previous request. And he became a go-to guy for local officials who hit snags in issues like debris removal and trailer placement.

But his rejection of the housing buyout plan, called the Baker bill after Representative Richard H. Baker, the Louisiana Republican who created it, infuriated many state officials. State leaders had taken great pains to build support for the plan, which called for the creation of a federal agency to buy and sell damaged property. Mr. Powell caused further outrage by skewering the Baker bill — gratuitously, many thought — in an opinion article in The Washington Post.

But he continued to push for an alternative. The first step was to agree on how many houses were damaged, and how badly. Mr. Powell forced Louisiana to justify its figures house by house, using aerial photographs and numbers collected from the Federal Emergency Management Agency, the Red Cross and insurance companies.

He was involved in details including how to reward those who had carried insurance and how to provide incentives for people to rebuild more safely. But he made no promises.

"He's a good poker player," said Andy Kopplin, a former chief of staff for Governor Blanco who is now the executive director of the Louisiana Recovery Authority. "I'd been getting calls and making calls to those guys at 10 o'clock on a Saturday night and sending data sets up. There was an extraordinary effort going on that gave us hope; at the same time, it was never clear to us that we were going to get a breakthrough."

Some Louisiana Democrats suggested the $4.2 billion was nothing more than damage control by the administration, noting that the president had been hammered for his lack of attention to Hurricane Katrina in his State of the Union address and quickly

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responded by announcing $18 billion in new money for the Gulf Coast. Further reviled after rejecting the Baker bill, they say, Mr. Bush opted to devote the $4.2 billion to Louisiana, which had been shortchanged in an earlier appropriation.

But Mr. Powell said that the entire effort was influenced not by politics, but by hard data. "I'm on a mission, and I can't — while I'm sensitive to it — that can't guide me," he said of public opinion. "I can't be either pushed or held back. I know if we're attempting to do the right thing. I have a conscience. If you're moving, someone's going to be critical."

In the meantime, the flint-souled banker seems to be winning the battle for hearts and minds. Louisianians who might have been his adversaries have taken to inviting him over for brunch with the family and praising his frugality.

But Mr. Robinette, the talk-show host, reserves the right to change his mind if Mr. Powell starts to deliver bad news despite Mr. Bush's promises to the region.

"It could still be good cop, bad cop," Mr. Robinette said, "and we just haven't seen the bad cop yet."

FEMA Asking Some To Return Money Received For Hurricane Relief (AP)

The AP, March 19, 2006

BEAUMONT — Thousands of people who received money from the federal government after Hurricanes Katrina, Rita and Wilma might be asked to give it back.

The Federal Emergency Management Agency started sending letters last week asking people to return money they received in error.

Some 1.7 million households received FEMA assistance after Hurricanes Rita, Katrina or Wilma. About 2 to 3 percent or 34,000 to 51,000 families will reimburse the agency, Donna Dannels, acting deputy director of FEMA's recovery division.

"The truth is after Rita, FEMA was stretched awfully thin. Information they were giving out to people was extremely inconsistent," said U.S. Rep. Kevin Brady, R-The Woodlands. "Someone could have easily received it in error."

Similar to an audit, the agency goes through a process after disasters to determine if payments were properly made, Dannels said.

"It goes back to if we have made the appropriate award to the appropriate person for the damages that they incurred," she said.

Those who receive a letter requesting repayment can appeal if they believe they were entitled to the funds.

But FEMA officials encourage them to make payments while the matter is resolved or to at least set up a payment plan. If the amount isn't paid in full within 30 days, a 2 percent interest will be added.

Citizens Panel To Share Its Post-Katrina Vision (LAT)

By Sam Quinones

The Los Angeles Times, March 20, 2006

NEW ORLEANS — A commission that has been a magnet for criticism as well as a channel for emerging citizen activism will wind up its work today, bringing to a close the first planning stage for a post-Katrina New Orleans.

The Bring New Orleans Back Commission formally issues its final report to Mayor C. Ray Nagin tonight, though the reports of its seven committees have been public for several weeks.

Nagin formed the commission in the fall to recommend how the city might respond to the destruction of Hurricane Katrina. Since then, it has become a symbol of a new volunteerism and activism among Orleanians. It was also lambasted by many residents for one committee's proposal that large swaths of the city be returned to wetlands and open space.

As a post-hurricane entity, the commission went far beyond just storm and flood protection.

The committees also have recommended ways to overhaul land-use planning, rebuild neighborhoods, consolidate duplicative elected offices, revive the city's cultural life, reorder its health and public education systems, and modernize the criminal justice system.

Michael Cowan, a theology professor at Loyola University who worked on the commission's education and government effectiveness committees, said such a broad approach was necessary because so many problems needed addressing. "A lot of the status quo was a disaster," Cowan said.

Before the Aug. 29 storm, the city's schools were failing, poverty and crime were high, and opportunities for economic advancement and homeownership were low. City government was widely viewed as inefficient, inept and corrupt. The population was declining as young and talented people moved elsewhere.

Meanwhile, Cowan said, "the power structure was so locked in that reform efforts just bounced off it. Good people … gave up."

But Katrina's destruction, as well as the news coverage that followed the flood, embarrassed and reenergized people. Amid the destruction, many New Orleanians saw a chance to organize the city differently.

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"It shook a lot of us up," said Gary Solomon, a banker and chairman of the commission's government effectiveness committee. "There's a lot of good people down here who want to see change."

The Bring New Orleans Back Commission itself was a sign of how different things were after Katrina. Before the storm, residents acknowledged an apathetic civic culture. The panel, however, was made up of dozens of volunteers from many professions and classes, some of whom put in weeks of work.

"This was a citizen-led process," Cowan said. "Our public officials did not lead this process and get this work done."

In January, many residents were alarmed when they learned that the urban planning committee recommended a moratorium on building permits in the hardest-hit neighborhoods, and a return of many of the neighborhoods to wetlands and open space.

The committee has also proposed forming a Crescent City Recovery Assn. to direct neighborhood rebuilding, with the power to issue bonds and buy and sell property for redevelopment, including through eminent domain.

But the commission's proposals are merely advice, and whether any of them will be followed is an open question. Moreover, it's unclear where the funding for the proposals would come from, though one place Louisianians are looking to is just off their coast.

Louisiana's offshore wells have provided oil and natural gas for the nation since the 1940s. Though other states receive half the money generated off their shores, Louisiana receives very little. Most of it goes to the federal government.

Rep. Bobby Jindal (R-La.) has introduced a bill that would increase the state's share of the royalties from offshore oil and gas drilling for use in hurricane preparedness and economic development.

"This is going to be a land of opportunity. [But] we can't build it from scratch," said Bruce Thompson, owner of a measurement-equipment company and a member of the committee studying levees and flood protection. "There needs to be a state revenue source. We've got to be treated fairly."

Few commission members believe anything will happen before April 22, when New Orleanians elect a mayor and City Council.

Still, some hope their ideas will become part of the campaign debate.

Preparing for that, Cowan has formed Common Good — an umbrella organization of homeowner associations, nonprofits, universities and religious groups.

Common Good will bring the candidates together in public forums and ask them to commit to changes they will support, he said. After the election, the group will hold bimonthly meetings with the elected officials to see what progress has been made.

"Sometimes people in elected office need to have a broad, diverse group of citizens helping them do the right thing, because they're just subject to a lot of different pressures," Cowan said.

Among many recommendations, the commission report will propose:

· The consolidation of the sheriffs' offices. New Orleans has a criminal sheriff and a civil sheriff, performing the duties that a single sheriff handles in most U.S. counties.

· Establishing regional forensic and DNA labs, as well as one regional police academy and training facility.

· Preventing the City Council from overriding the Planning Commission's land-use decisions.

· Forming an ethics review board for city government.

WAR NEWS:

President Bush To Stop In Cleveland On Monday (ABJ)

By Lisa A. Abraham

Akron Beacon Journal, March 19, 2006

Just days after reaffirming his national security policy of pre-emptive military strikes, President Bush will be in Cleveland to sell his agenda.

Bush is expected to discuss the global war on terror in a speech Monday at the City Club of Cleveland. More than 1,000 are expected to attend.

On Thursday, the Bush administration issued its updated national security strategy -- a key component of which includes the first-strike military action that led to the U.S. invasion of Iraq three years ago.

As polls show support for the war is waning, the president is making speeches to bolster his strategy.

Ohio Democrats are balking at the president's initiative.

U.S. Rep. Sherrod Brown of Avon has scheduled a telephone conference for the media Monday to talk about how Bush's policies have alienated ``everyday Ohioans."

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U.S. Rep. Dennis Kucinich of Cleveland sent Bush a letter encouraging him to spend some time in the city to get to know Cleveland residents who are dealing with a different sort of terrorism.

``With all due respect, Mr. President, the people of Cleveland are familiar with the `war on terror.' They are familiar with the terror of joblessness, the terror of cutbacks in pensions and health care, the terror of foreclosure, the terror of trade policies that have gutted our manufacturing base and the terror of economic policies that have left many of them behind," his letter states.

Bush is expected to arrive in Cleveland shortly before noon, and will present the President's Volunteer Service Award to Lois Hagood of Garfield Heights, who volunteers as a reading tutor for first-graders in Cleveland.

Bush's speech is expected to begin about 12:30 p.m. and last about an hour, said Karen Reaves of the office of presidential advance.

City Club spokeswoman Missy Toms said sticking to the club's traditional format, the president will be expected to spend about a half-hour answering unrehearsed questions from the audience after his address.

The club moved the Bush speech from its Euclid Avenue headquarters to the ballroom of the Renaissance Hotel on Public Square to increase seating capacity to about 1,000, she said.

Ordinarily, tickets to a City Club event would be open to the public, but for Bush all of the seats were taken by club members and their guests, Toms said.

The speech is Bush's 41st visit to Ohio since taking office, and his third visit this year. In February, he was in suburban Columbus for a speech on health care and he also attended a fundraiser for Republican U.S. Sen. Mike DeWine in suburban Cincinnati.

The speech will be broadcast live on the Internet with the help of the University of Akron.

The webcast can be viewed by going to the City Club's site at www.cityclub.org and clicking on ``view the webcast." Audio and video fromWVIZ Adelphia Cable will be routed to a server at UA for a live webcast.

``To see a president in person is a unique opportunity, but unfortunately, the capacity of the auditorium is limited. With this live webcast, anyone across the country and around the world can join the City Club for the president's address," City Club Executive Director James Foster said.

Bush's appearance marks only the third time a sitting president has spoken to the City Club, a nonpartisan free-speech forum. President Clinton spoke in 1994 and Ronald Reagan in 1988.

Bush Trying To Rally War Support (CLPD)

By Sabrina Eaton

The Cleveland Plain Dealer, March 20, 2006

Three years after U.S. troops thundered into Iraq with promises of swift victory, President Bush is visiting Cleveland to shore up enthusiasm for both the lingering war and his leadership.

His luncheon speech before the City Club at the Renaissance Cleveland Hotel today comes as the president's approval ratings hit record lows and polls show increased displeasure with a war that has claimed the lives of more than 2,300 U.S. troops.

Bush will discuss how the United States is "working with all aspects of Iraqi society" to defeat terrorists, restore order and rebuild Iraq, White House spokesman Scott McClellan said. It is part of a monthlong effort by Bush to update Americans on the war's progress and "how we're fixing what was not working."

"Oftentimes, the progress that is being made doesn't get as much attention as the dramatic and horrific images of violence that people see on their TV screens," McClellan said Friday. "It's important to continue to put things in the broader context."

Republican supporters of Bush's strategy, like Ohio Sens. George Voinovich and Mike DeWine, say Cleveland is a good place for him to explain his policies. Democratic critics, like Reps. Sherrod Brown and Dennis Kucinich, insist he has handled the war ineptly.

John Alterman of Washington's bipartisan Center for Strategic and International Studies credited Bush with disrupting terrorist networks enough to prevent another attack on U.S. soil, but said U.S. allies believe Bush has "destabilized" the world.

"The question is how to keep control of post-conflict environments when you don't have a clear enemy and a clear physical objective," Alterman said. "That is not going to be solved with a presidential speech."

Bush Marks Anniversary, Never Says 'War' (AP)

By Nedra Pickler

The Associated Press, March 19, 2006

President Bush marked the anniversary of the Iraq war Sunday by touting the efforts to build democracy there and avoiding any mention of the daily violence that rages three years after he ordered an invasion.

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The president didn't utter the word "war."

"We are implementing a strategy that will lead to victory in Iraq," the president assured a public that is increasingly skeptical that he has a plan to end the fighting after the deaths of more than 2,300 U.S. troops.

Administration officials repeated the mantra that progress continues toward building a unified Iraqi government and nation.

"Now is the time for resolve, not retreat," Defense Secretary Donald H. Rumsfeld wrote in a column for The Washington Post. "Turning our backs on postwar Iraq today would be the modern equivalent of handing postwar Germany back to the Nazis."

Yet there were acknowledgments from the top commander of U.S. forces in Iraq that the situation is fragile and that he did not predict the strength of the insurgency.

"I did not think it would be as robust as it has been," Gen. George W. Casey said on NBC's "Meet the Press." "And it's something that, obviously, with my time here on the ground, my thinking on that has gained much greater clarity and insight."

Bush did not mention the insurgent attacks, the car bombs or the mounting Iraqi deaths in a two-minute statement to reporters outside the White House after returning from a weekend at Camp David. Avoiding the word "war," he called the day "the third anniversary of the beginning of the liberation of Iraq."

The president only indirectly referred to the violence when he said he spent the morning reflecting on the sacrifices made by U.S. troops. Bush said he spoke by phone earlier in the day with the U.S. ambassador to Iraq, Zalmay Khalilzad, and had received a positive report.

The White House is trying to remind the disapproving public of Bush's vision for Iraq with a public relations blitz. The president plans to give a series of speeches on Iraq, beginning Monday in Cleveland.

More than three-fourths of the public thinks it's likely that Iraq is headed toward civil war, according to an AP-Ipsos poll taken in early March.

And two-thirds of Americans say the U.S. is losing ground in preventing civil war in Iraq, according to a Pew Research Center poll taken in the same period. That's up from 48 percent in January.

On Sunday, Vice President Dick Cheney did not express any regret for predicting in the days before the invasion that U.S. troops would be greeted as liberators or his assessment 10 months ago that the insurgency was in its "last throes." On the contrary, he said the optimistic statements "were basically accurate, reflect reality."

Like Bush, Cheney touted the political progress in Iraq, pointing out that the Iraqis have met the political deadlines set for them and predicting they will form a unified government "shortly."

In an interview on CBS' "Face the Nation," Cheney flatly rejected a statement made earlier Sunday by Iraq's former interim prime minister that the increasing attacks killing dozens each day across his country can only be described as a civil war. "If this is not civil war, then God knows what civil war is," Ayad Allawi told the British Broadcasting Corp.

Instead, Cheney described the violence as the actions of terrorists who have "reached a stage of desperation."

"What we've seen is a serious effort by them to foment a civil war," Cheney said. "But I don't think they've been successful."

Cheney blamed the negative perception on news coverage of the daily violence instead of the progress being made toward democracy.

"There is a constant sort of perception, if you will, that's created because what's newsworthy is the car bomb in Baghdad," the vice president said. "It's not all the work that went on that day in 15 other provinces."

White House critics bemoaned the fact that the third anniversary of fighting ever came to pass and accused the Bush administration of incompetence.

"By any measure, in my view, we're worse off in Iraq today than we were a year ago," Sen. Joe Biden, D-Del., said on CNN's "Late Edition." He cited increased deaths and violence, incomplete government services and a long path to building a consensus government.

Rumsfeld urged Americans to continue supporting the fight and said he believes history will show that the terrorists were defeated. Meanwhile, his detractors issued another round of criticism and calls for his resignation.

In a New York Times column, retired Gen. Paul D. Eaton, who was in charge of training the Iraqi military from 2003-2004, called the defense secretary "incompetent strategically, operationally and tactically, and is far more responsible for what has happened to our important mission in Iraq. Mr. Rumsfeld must step down."

Nearly three years ago Bush announced the end to major combat in Iraq.

Last week, U.S. forces launched Operation Swarmer, described by the Pentagon as the biggest air assault since April 2003. However, Casey said Sunday that he wouldn't categorize Swarmer as a major combat operation, noting that other operations had used far more troops.

"It was an operation to go out into an almost uninhabited area," Casey said. "I think, frankly, it got a little bit more hype than it really deserved because of the use of the helicopters to get the Iraqi and the coalition forces there."

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Assessments At Odds On War's Anniversary (USAT)

By John Diamond

USA Today, March 20, 2006

WASHINGTON — On the third anniversary of the start of the U.S.-led war in Iraq, the Bush administration insisted the effort is making progress and said Iraq is doing more to fight insurgents.

Critics in Washington and protesters around the world called for a new approach.

President Bush called Sunday a "time to reflect" about the sacrifices of U.S. troops in Iraq over the past three years. He said he was pleased by Iraqi efforts toward democracy. The top U.S. general in Iraq, meanwhile, predicted "a couple of more years" of violent insurgency, but with U.S. troop presence going down.

However, Iraq's former prime minister, Ayad Allawi, said the country is in a state of civil war. Sen. Chuck Hagel, R-Neb., a critic of the administration's handling of the war, said it was time for "new thinking." And Anthony Cordesman, a leading Iraq expert and war supporter, said, "We may well fail in all our efforts because they came far too slowly."

Protests around the world focused criticism on the Bush administration. Police in London estimated 15,000 people marched from Parliament to Trafalgar Square; last year's protest drew 45,000. About 800 people rallied in Tokyo compared with about 2,000 last year. In the United States, the biggest rally was in Chicago, where about 7,000 people marched. Smaller protests were held in other cities, including Boston, San Francisco, Pittsburgh and New York.

Avoiding the word "war," Bush said Sunday marked "the third anniversary of the beginning of the liberation of Iraq." Speaking to reporters upon his return from Camp David, Bush said he talked by phone Sunday morning with the U.S. ambassador to Iraq, Zalmay Khalilzad, and came away "encouraged by the progress" the Iraqi government is making to establish a balance across Sunni Arab, Shiite Muslim and Kurdish factions.

Top Bush administration officials sought Sunday to convey a message combining a realistic assessment of continuing violence in Iraq with optimism about the future.

Defense Secretary Donald Rumsfeld issued a message to the 132,000 U.S. troops in Iraq acknowledging their sacrifice. "The progress on all fronts has been murderously contested at every turn by terrorists aligned with al-Qaeda. But they are not succeeding," he said in the statement posted on the Pentagon's website.

Vice President Cheney, appearing on CBS' Face the Nation, rejected Allawi's assessment and said insurgents have "reached a stage of desperation." Cheney also said he did not regret previous statements — that U.S. forces would be greeted as liberators and that the insurgency was in its last throes — and said they "were basically accurate, reflect reality."

Cheney blamed the media for focusing on violence instead of Iraq's progress toward rebuilding. Violence is intensifying, he said, because the enemy knows that if democracy succeeds in Iraq, its extremist agenda throughout the Middle East will be imperiled.

"There's a lot more at stake here," Cheney said.

Appearing on three networks, Army Gen. George Casey, commander of coalition forces in Iraq, described the violence there as centered in and around Baghdad.

Fifteen of 18 provinces have six incidents of violence or fewer per day, Casey said. In 12 Iraqi provinces, he said, the number of violent incidents is two or fewer per day. He predicted that current troop levels would continue over the next few months but that U.S. forces could be reduced later in 2006 and next year.

Cordesman, of the Center for Strategic and International Studies, predicted Iraq will not stabilize until 2007-08. He said there is "a real risk that Iraq will degenerate into full-scale civil war or a level of divisiveness that will paralyze or limit" the country. As to the idea that Iraq is a model for spreading democracy across the region, Cordesman was dismissive: "Iraq is not a model of anything."

Hagel, a possible Republican presidential contender in 2008, said on ABC's This Week that the war is "helping bankrupt this country" and that U.S. policy options must include withdrawal. The United States so far has spent about $400 billion on the Iraq war.

Among Democrats, Rep. John Murtha of Pennsylvania, said on NBC's Meet the Press, that "Republicans in Congress will get a rude awakening" on Iraq in the November elections if the administration does not change course.

Some Say Civil War Already Started (LAT)

By Ronald Brownstein

The Los Angeles Times, March 20, 2006

WASHINGTON — President Bush and his senior advisors Sunday sought to mark the third anniversary of the Iraq war with declarations of progress, but found themselves embroiled in renewed debate about whether the nation had fallen into civil war.

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In statements to reporters, appearances on Sunday morning TV news shows and an op-ed article, Bush, Vice President Dick Cheney, Defense Secretary Donald H. Rumsfeld and Army Gen. George W. Casey, the senior U.S. military commander in Iraq, declared that the United States was making progress toward stabilizing Iraq and defusing sectarian tensions.

But those upbeat assessments faced sharp skepticism from U.S. legislators from both parties and from a senior Iraqi political leader, former interim Prime Minister Iyad Allawi, who has been a staunch American ally. They contended that Iraq was now in the midst of a civil war between Shiite and Sunni Muslims.

The issue of whether Iraq's sectarian fighting constitutes a civil war has taken on political significance. Polls have shown American support for the Iraq war dropping since the bombing last month of a Shiite shrine in Samarra led to widespread communal violence. Strategists in both parties have said that Bush will have a more difficult time sustaining support for the U.S. military presence in Iraq if the public believes that troops are caught in the middle of a civil war.

On a day of sweeping arguments from both sides, the most dramatic comments came from Allawi.

"It is unfortunate that we are in civil war," the former prime minister told the British Broadcasting Corp. "We are losing each day, as an average, 50 to 60 people throughout the country, if not more. If this is not civil war, then God knows what civil war is."

Allawi added: "Maybe we have not reached the point of no return yet. But we are moving toward this point. We are in a terrible civil conflict now."

In separate television interviews, both Cheney and Casey rejected Allawi's characterization.

The vice president, speaking on CBS' "Face the Nation," said that "terrorists" in Iraq wanted to provoke civil war, but added, "I don't think they've been successful."

"That's been their strategy all along," Cheney said, "but my view would be they've reached a stage of desperation from their standpoint."

Appearing on CNN's "Late Edition," Casey contended that Iraq was still "a long way from civil war."

But he portrayed overall conditions much more cautiously than the vice president had, saying on NBC's "Meet the Press" that the situation in Iraq was "fragile."

"Is the situation here fragile because of the increased … sectarian tensions and increased levels of violence?" Casey said. "That's absolutely right, and I don't want … to sugarcoat it. The situation here is fragile, and I suspect it will remain fragile until we get a new government, a government of national unity formed."

In Baghdad, political leaders made their first measurable progress toward forming such a government, agreeing to create a council that would give each of the country's major political factions a voice in making security and economic policies.

Bush, speaking briefly to reporters after returning from a weekend at Camp David, said he had spoken Sunday morning with U.S. Ambassador Zalmay Khalilzad in Iraq about the government negotiations.

"I'm encouraged by the progress," Bush said. "The ambassador was encouraged by it."

But Sen. Jack Reed (D-R.I.), a member of the Senate Armed Services Committee, said the United States needed to move more aggressively to resolve the long-running negotiations over a new government, perhaps by threatening to begin removing U.S. forces if the Iraqis could not agree on a consensus government.

"The only leverage we have is our troop presence," Reed said on ABC's "This Week."

"And I think we have to make it clear to the Iraqi political leaders that if they're not able or willing to come together … that our presence can't be indefinite there."

The political effect of the continued fighting in Iraq can be seen clearly in recent polls. Since the Feb. 22 bombing of the Golden Mosque in Samarra, support among Americans for both the war and Bush's performance as president have fallen to some of the lowest levels of his tenure.

In a CNN/USA Today/Gallup national survey released last week, for instance, 55% of Americans said that chaos and civil war were the most likely outcomes in Iraq; 40% said they expected that a stable government would be formed.

Only 37% of those polled said they believed the war in Iraq had been worth the cost, down from 46% in January. Fully 60% of those surveyed said the war had not been worth the cost; that equaled the highest percentage Gallup has recorded on that question.

As administration officials sought to rebut the idea of a civil war, lawmakers, also speaking on the Sunday interview programs, supported Allawi's conclusion.

"I think … the former prime minister is correct," Sen. Chuck Hagel (R-Neb.), a member of the Senate Foreign Relations Committee, said on "This Week."

"I think we have had a low-grade civil war going on in Iraq, certainly the last six months, maybe the last year. Our own generals have told me that privately."

Rep. John P. Murtha, a traditionally hawkish Democrat from Pennsylvania who has urged Bush to remove American forces from Iraq, echoed Hagel. "Our troops are caught in a civil war," Murtha said on "Meet the Press."

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Hagel, who has become a frequent critic of the war, said that the invasion had weakened America's security position. "Are we better off than we were three years ago?" he asked. "Is the Middle East more stable than it was three years ago? Absolutely not. It's more unstable."

Sen. Richard G. Lugar (R-Ind.), chairman of the Senate Foreign Relations Committee, also expressed concern about the direction of events in Iraq.

"Materially things have worsened … for ordinary Iraqis," he told "Late Edition." "Certainly more Iraqi civilians are being killed, substantially more, and the government is not yet in operation."

Both Bush and Cheney, in their comments, said trends in Iraq were much more positive than such assessments suggested. Cheney rejected charges that he had been too optimistic in earlier assessments of the war, such as his assertion in May 2005 that the insurgency was in its "last throes."

Cheney said good news from Iraq had not been reported. Public disillusionment "has less to do with the statements we've made, which I think were basically accurate and reflect reality, than it does with the fact that there's a constant sort of perception, if you will, that's created because what's newsworthy is the car bomb in Baghdad," Cheney said. "It's not all the work that went on that day in 15 other provinces in terms of making progress toward rebuilding Iraq."

In an op-ed article in the Washington Post, Rumsfeld declared that the "terrorists seem to recognize that they are losing in Iraq" and that the U.S. must remain in the country long enough to ensure stability.

"Turning our backs on postwar Iraq today would be the modern equivalent of handing postwar Germany back to the Nazis," Rumsfeld wrote.

On Anniversary, Bush And Cheney See Iraq Success (NYT)

By David E. Sanger And Thom Shanker

The New York Times, March 20, 2006

WASHINGTON, March 19 — On the third anniversary of a war that they once expected to be over by now, President Bush and senior officials argued Sunday that their strategy was working despite escalating violence in Iraq, even as a former Iraqi prime minister once favored by the White House declared that a civil war had already started.

Displaying a carefully calibrated mix of optimism about eventual victory and caution about how long American troops would be involved, the officials who marked the day — including Mr. Bush, Vice President Dick Cheney and Secretary of Defense Donald H. Rumsfeld — sounded much as they had on the first anniversary of the invasion. At that time, the rebuilding effort had just begun, the insurgency was far less fierce, and the American occupation had suppressed, temporarily, the sectarian violence scarring Iraq today.

The picture painted by the administration clashed with that of the former interim prime minister, Ayad Allawi, once hailed by Mr. Bush as the kind of fair-minded leader Iraq needed. He declared in an interview with the BBC that the country was nearing a "point of no return."

"It is unfortunate that we are in civil war," said Mr. Allawi, who served as prime minister after the American invasion and now leads a 25-seat secular alliance of representatives in Iraq's 275-seat National Assembly. "We are losing each day, as an average, 50 to 60 people through the country, if not more."

"If this is not civil war," he said, "then God knows what civil war is."

Mr. Allawi's assessment was contradicted by Gen. George W. Casey Jr., the senior American commander in Iraq, who said on CNN's "Late Edition" that "We're a long way from civil war."

As politicians in Baghdad moved incrementally forward on Sunday on forming a unified government, at least 15 more bodies were discovered around the capital, bringing to more than 200 the number of people believed killed in sectarian violence in the past few weeks. [Page A10.]

On CBS News' "Face the Nation," Mr. Cheney sought to place the war in a broader context. "It's not just about Iraq, it's not about just today's situation in Iraq," he said. "It's about where we're going to be 10 years from now in the Middle East and whether or not there's going to be hope and the development of the governments that are responsive to the will of the people, that are not a threat to anyone, that are not safe havens for terror or manufacturers of weapons of mass destruction."

The war has taken more than 2,300 American lives, and those of 33,000 to 37,000 Iraqis, according to the estimates of the Iraq Body Count Project, an independent group that monitors the news media.

Mr. Rumsfeld dismissed calls for withdrawal by comparing the current battle to the two great struggles of his generation: World War II and the cold war. "Turning our backs on postwar Iraq today would be the modern equivalent of handing postwar Germany back to the Nazis," he wrote in an op-ed article published in The Washington Post. "It would be as great a disgrace as if we had asked the liberated nations of Eastern Europe to return to Soviet domination."

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Mr. Bush is entering the fourth year of the war able to declare success in the dismantling of Saddam Hussein's tyrannical government and in providing a framework for democratic elections, though the country has so far failed to put together the institutions to make a democracy work. Mr. Bush's approval rating, which soared in the early days of the invasion as Americans rushed to Baghdad, has sunk to the low-to-mid 30 percent range as the chaos and number of Iraqis meeting violent deaths has escalated.

Mr. Cheney was challenged on "Face the Nation" about his statement three years ago that "we will be greeted as liberators" and his assertion 10 months ago that the insurgency was in its "last throes."

He insisted that in both cases his facts were right, but that the news media had created a different perception with vivid imagery of killing.

"I think it has less to do with the statements we've made, which I think were basically accurate and reflect reality, than it does with the fact that there's a constant sort of perception, if you will, that's created because what's newsworthy is the car bomb in Baghdad," he said.

The administration could take heart this weekend from the relatively small antiwar protests around the country, compared with protests held on the previous anniversaries of the invasion. An estimated 7,000 people demonstrated in Chicago on Saturday and smaller protests were held over the weekend in Boston, San Francisco and other cities. In Times Square, the figure was about 1,000.

Television was the forum where the administration's representatives and opponents marshaled the statistics that they believe made their cases. Mr. Bush argued last week that by year's end, Iraqi forces would control more than half the country; Representative John P. Murtha, the hawkish Pennsylvania Democrat who late last year called for American withdrawal, said Sunday on NBC News' "Meet the Press" that the statistic was meaningless.

"I flew for an hour and 15 minutes over desert," he said of a recent trip. "Wasn't a soul. And that's the territory I guess they're talking about." Meanwhile, he noted, unemployment has soared in areas hardest hit by sectarian violence. Oil production, which the administration once said would pay for Iraq's rebuilding, was markedly below last year's levels.

As midterm elections approach, the White House is concerned that support for the war is ebbing fastest among Republicans who supported the war, including some influential conservatives who argue that the job of liberation is done, and American troops should not be left in the crossfire of civil strife.

Mr. Bush talked about the war in a two-minute statement to reporters on Sunday when he returned to the White House from Camp David, urging Iraq to form a unity government, and saying, "I'm encouraged by the progress." Then he entered the White House with his wife, Laura.

He offered no answers to questions about the gap between his expectations three years ago and the realities of Iraq today, seemingly underscoring the problem the White House has faced in explaining the war. Suspicions that Mr. Hussein had unconventional weapons, an original justification for the invasion, have proved unfounded.

Mr. Bush halted eroding support for his Iraq strategy last December, explaining his military, political and economic strategy and admitting some early errors. But that was before images of Shiites fighting Sunnis began a new erosion of support.

On the critical political question — how long American forces will stay — General Casey has said a significant presence will be required for "a couple more years," and "over 2006, we will continue to see a gradual reduction in coalition forces."

When the war was launched, the Pentagon expected a short conflict. Its classified plans called for the withdrawal of the majority of American troops by the fall of 2003. Today there are roughly 133,000 still there.

As of Friday, 2,313 American military personnel and Defense Department civilians had died during the Iraq effort; of those, 1,811 were killed in action and 502 in non-hostile events, like accidents, a Pentagon spokesman said Sunday. The spokesman also cited statistics that 7,912 American military personnel had been wounded so severely in action they could not return to duty, and 9,212 had been wounded in action but could return to duty.

Mr. Rumsfeld, whose refusal to send larger numbers of troops into Iraq after the invasion has made him a lightning rod for critics, said in his published remarks on Sunday that terrorists, not the American-led coalition, are losing in Iraq, a message repeated by Mr. Cheney.

And like Mr. Cheney, Mr. Rumsfeld insisted the problem was the imagery from a 24-hour news cycle. "Fortunately, history is not made up of daily headlines, blogs on Web sites or the latest sensational attack," Mr. Rumsfeld wrote. "History is a bigger picture, and it takes some time and perspective to measure accurately."

Bush Still Upbeat On Outcome In Iraq (WP)

By Michael A. Fletcher

The Washington Post, March 20, 2006

DOJ_NMG_0018642

President Bush and Vice President Cheney hailed the progress being made by Iraqi leaders to form a unity government yesterday, as the administration tried to dispel a growing perception that a continuing wave of sectarian violence has pushed Iraq into a full-fledged civil war.

Bush, speaking on the third anniversary of the U.S.-led invasion that toppled Iraqi President Saddam Hussein, assured Americans that his administration is pursuing a strategy "that will lead to victory in Iraq," an outcome about which polls show the public is increasingly skeptical.

Cheney, meanwhile, dismissed assertions made by former Iraqi prime minister Ayad Allawi that the nation is in the throes of civil war. He said Iraq is holding together as a new constitutional democracy even as terrorists are desperately trying to cause its dissolution.

"What we've seen is a serious effort by them to foment civil war, but I don't think they've been successful," Cheney said on CBS's "Face the Nation."

The upbeat appraisals by Bush and Cheney came as other voices struck a more ominous note. Allawi contradicted Bush's progress report, saying the country is edging toward "the point of no return."

"We are losing a day as an average 50 to 60 people throughout the country, if not more," Allawi said on BBC's "Sunday AM" program. "If this is not civil war, then God knows what civil war is."

Three years after U.S.-led forces quickly swept through Iraq, the country remains in the grips of a bloody insurgency. The war and its aftermath have left more than 2,300 U.S. troops and at least 30,000 Iraqis dead. Negotiations to form a unity government to lead Iraq have been deadlocked since parliamentary elections in December.

The anniversary was marked by protests around the country and around the world, as thousands of antiwar demonstrators gathered in cities from London to Tokyo. In New York, a crowd of about 200 people marched down Fifth Avenue to protest the war. Demonstrators also marched through storm-ravaged New Orleans, saying the slow pace of recovery there illustrates the cost of the war in Iraq.

Meanwhile, a growing majority of Americans believe the effort is not worth the cost both financially and in lives lost. A Washington Post-ABC News poll earlier this month found that two-thirds of Americans questioned whether the United States has a clear plan for handling the situation in Iraq.

As the administration offered optimistic appraisals of the war's progress, Sen. Chuck Hagel (R-Neb.), a frequent administration critic who is weighing a run for president in 2008, echoed Allawi's assessment, saying that Iraq is already in the midst of a "low-grade civil war."

"I think it's important that we stop this talk about we're not going to leave until we achieve victory," Hagel said on ABC's "This Week." "Well, what is victory? We achieved victory, Saddam's gone, the Iraqis have a constitution, they had an election, it's now up to them."

Hagel said a precipitous U.S. withdrawal from Iraq would be a mistake, but he added that the Bush administration should work harder to achieve a political settlement in Iraq by engaging other Middle Eastern countries in a negotiated solution.

Despite Americans' growing pessimism, the Bush administration is continuing to press ahead with its strategy, saying that it is steadily moving toward success. Bush is scheduled to deliver a speech in Cleveland today, which is part of a continuing administration effort to rebuild the eroding public support for the war by having the president speak regularly to specific elements of the war strategy.

Bush, who spoke on the White House South Lawn after returning from a weekend at Camp David, said that he is encouraged by Iraq's continuing steps toward democracy, and that he is urging Iraqi leaders "to work hard to get this government up and running." Bush said he spoke by phone yesterday to U.S. ambassador to Iraq Zalmay Khalilzad, who he said remains encouraged by the political progress being made in Iraq.

Sectarian violence intensified after last month's bombing of the Golden Mosque, a revered Shiite religious site in Samarra. Hundreds of Iraqis have been killed in brutal attacks, counterattacks and kidnappings since the mosque bombing.

Although a growing majority of Americans have come to believe that the U.S. invasion was an error and that the nation is headed toward civil war, Gen. George W. Casey Jr., the U.S. military commander in Iraq, brushed aside the idea on "Fox News Sunday." "I personally don't believe one, that we're there now; two, that civil war is imminent; and three, that it is inevitable and it will happen," he said.

Meanwhile, Cheney said that Iraq is progressing toward establishing a functioning democracy. He pointed out that Iraq has gone from the brutal rule of Hussein to negotiations to form a government in three years. In addition, he said, the United States is making substantial progress in training Iraqi security forces, who he said are leading about half the missions in Iraq.

Cheney also dismissed a statement by Sen. Edward M. Kennedy (D-Mass.), who said the war in Iraq should never have been fought: "I would not look to Ted Kennedy for guidance and leadership on how we ought to manage national security. . . . I

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think what Senator Kennedy reflects is sort of the pre-9/11 mentality about how we ought to deal with the world and that part of the world."

But CBS anchor Bob Schieffer bluntly challenged Cheney on his own string of prognostications, such as his pre-invasion assertion that U.S. troops would be welcomed in Iraq as liberators and, 10 months ago, that the insurgency was in its "last throes."

Cheney replied that those statements were "basically accurate and reflect reality," but that public perceptions of Iraq's progress are being skewed "because what's newsworthy is the car bomb in Baghdad."

Again linking the war in Iraq to the Sept. 11, 2001, terrorist attacks, Cheney called the conflict part of "an aggressive, forward-leaning" strategy that has prevented terrorist incidents in the United States since then.

Kennedy, meanwhile, put out his own statement chastising Cheney: "He was wrong about the link between al Qaeda and Saddam Hussein. He was wrong about Saddam Hussein's weapons of mass destruction. He was wrong about America being greeted as liberators. He was wrong about the insurgency being in the last throes. Now he rejects the idea of civil war."

In Iraq, US Influence Wanes As Full-scale Civil War Looms (CSM)

By Scott Peterson

The Christian Science Monitor, March 20, 2006

BAGHDAD - Every day, more violence. And more uncertainty for Iraqis than they have ever known, as they mark three years since American troops invaded.

The wave of optimism that once buoyed Iraqis after the fall of Saddam Hussein is now being marked as yet another casualty of the bombs and murders that are part of daily life here.

But even as Iraq slides toward full-scale civil war, Iraqi analysts are trying to envision a way out of a vicious insurgency, political deadlock, and sectarian bloodshed.

One factor they are considering is the changing American role. Despite the continued presence of 130,000 American troops, and arm-twisting efforts by US diplomats to forge a unity government, Iraq's democratic political process is, by definition, giving the US even less leverage to shape this broken nation's future.

"The majority of Iraqis are now against this occupation, whether they are Sunni, Shiite or Kurd," says Wamidh Omar Nadhmi, a political scientist who heads a Sunni-led group called the Foundation Conference. "But those in government positions are trying to unleash a campaign of suppression, to take advantage [of the violence], to dominate.

"Now we are told: '[The Americans] are not going to take sides,' " says Mr. Nadhmi, referring to remarks by US officials last week that Iraqi forces must handle sectarian strife on their own. "But if it comes to civil war, and the US does not try to keep order, as the controlling power, then why do they stay in Iraq?"

Tens of thousands of Iraqis have died in a maelstrom of insurgent violence. Many hundreds more are dying in sectarian killings that flared a month ago, after the destruction of the gold-domed Shiite shrine at Samarra.

The grim reality today - and the perception among so many Iraqis that the US is responsible - could not be in sharper contrast from the faith Iraqis once held, that the all-powerful Americans would solve their problems.

"It is unfortunate that we are in civil war," Iyad Allawi, Iraq's former prime minister, told BBC news Sunday. "We are losing each day an average of 50 to 60 people throughout the country, if not more. If this is not civil war, then God knows what civil war is."

That view is hotly disputed by US officials and commanders, but is on the lips of many Iraqis here. "Maybe we have not reached a point of no return yet, but we are moving towards this point," said Mr. Allawi.

But escaping that vortex will not be easy, analysts say.

"The new government is incapable of ruling the street without the American presence," says Ahmad al-Rikabi, head of the popular Radio Dijla in Baghdad. "If [US forces] left Iraq, the future of the country would be in the hands of the militias. This is the case already, but we still have some hope [the US] will keep some balance."

The stakes could not be higher, for Iraq or for the region, President Bush said last week. "The battle lines in Iraq are clearly drawn for the world to see, and there is no middle ground," he said. "The enemy will emerge from Iraq one of two ways: Emboldened or defeated."

US Ambassador Zalmay Khalilzad has been pushing Iraqi leaders to form a unity government, that would mend rifts inside the main Shiite bloc, and ensure a significant role for the minority Sunni Arabs. At the formal opening of parliament last Thursday, he had a place in the handshaking line alongside Iraqi political leaders.

But diplomats close to the talks say not all Iraqi leaders welcome the forceful US intervention. Both Washington and Tehran have signaled that they could commence talks to solve the crisis, in what would be the first publicly acknowledged contact since Iran's 1979 Islamic revolution.

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"Saddam Hussein is still ruling Iraq - he may be behind bars, but he created the mentality we have today," says Mr. Rikabi. "Saddam has to be executed. It's not revenge, and won't be satisfying for his victims. But it will be good for Shiite and Kurds, and even Sunnis, to help them focus on their leaders."

"The symbols of the past are still in front of our eyes; we're still living in the past, and must get rid of the past," says Rikabi. Sectarian violence grows

But getting rid of the past means getting rid of business as usual, and that means coming to terms with the increasingly pervasive Shiite militia influence in Iraq's security forces, which are accused of abuse, torture, and operating death squads that target Sunni Arabs. They also reportedly let other Shiite militias, like the Mahdi Army of anti-US cleric Moqtada al-Sadr, operate with impunity.

"The first thing is to change the minister," says a Shiite police colonel who asked not to be named, referring to Bayan Jabr, the minister of interior and a former Badr militia leader. "We need an independent one."

Ambassador Khalilzad has pushed for such a change. Shiites are targeted almost exclusively by the Sunni Arab extremist insurgents. But Sunni Arabs say they see little change on the ground.

"Nobody obliged the minister of interior to resign - he should be arrested," says Mr. Wamidh. "There have been no actual steps in favor of the Sunnis, but accumulated attacks against them."

The daily toll was again evident Sunday, as hundreds of thousands of Shiite pilgrims made their way by foot to the sacred city of Karbala, south of Baghdad, to mark Monday the death of Hussein, the grandson of the prophet Muhammad.

Pilgrims have been subject to drive-by shootings and bombings by Sunni Arab extremists that have killed four. A mortar landed near the shrine of Imam Hussein but caused no harm. An extra 700 American troops were deployed from Kuwait, to boost security during the religious event.

In Baghdad four bodies killed execution-style were found Sunday; 22 were found, by one count, the day before.

Whatever the result of the political wrangling, many Iraqis say it will not be enough to correct three years of US mistakes - from disbanding Saddam Hussein's 400,000-strong army with the stroke of a pen, to a vigorous de-Baathification plan that swept capable bureaucrats from government - that helped fuel insurgency. Out of touch politicians

But there is a further problem, analysts say, that no amount of US influence can help: The fact that insecurity is so pervasive, that Iraqi leaders and the government meet inside the bubble of the Green Zone, among a labyrinth of 12-foot-high concrete blast walls woven together with coils of concertina wire that keep them safe, as well as isolated.

"The politicians are out of touch with the street, so it is like a group of blind people negotiating," says Rikabi. "They have nothing to do with the Republic of Iraq ... they do not feel a power cut for a second, while outside, [electricity] is off for 22 hours a day. You can't make the right decision, when the prime minister still has his family in London."

Relying on such politicians also risks the endgame for the US, which wants a unity government to take control - and control Iraqi security forces - so American forces can begin withdrawing.

"I can see their dilemma," says Nadhmi. "[President George] Bush is triumphant about democracy in Iraq, but if he tries to intervene and put in a prime minister of his own, it would be a contradiction." Seventy-five daily insurgent attacks

Still, options are limited for the US - both military and political - which last week accused Iran of "meddling" in Iraqi affairs, and claimed that Iran had helped insurgents improve their explosive techniques.

The US military's "kinetic or muscular approach has failed to produce sustained success," says a report last month from the International Institute of Strategic Studies (IISS), noting that insurgent attacks at a tempo of 75 per day against coalition forces show "no signs of diminishing."

It notes that several key non-Al Qaeda insurgent groups secretly agreed to a 21-point "principles for dialogue" with US forces last December. Such talks have not taken place in part, the IISS says, because "the very logic of elections, bringing to power an indigenous government with a mandate, has directly reduced US influence over Iraqi politics."

This has been clear for months to many in Iraq, who look back with nostalgia on Saddam Hussein, in the way that older Russians often crave the order once instilled upon the Soviet Union by Josef Stalin.

"People were executed in Saddam's days, but it is the same today," says Rikabi, of Radio Dijla. "Then it was behind high walls, now it is by this or that militia.

"Before, people respected the traffic police, there was an organization, a state; today we have the smell, the shadow of a government," says Rikabi. "Before, people would go to restaurants until 2 a.m.; today their lives are full of fear.

"Then, we had one Saddam Hussein," concludes Rikabi. "Today, we have many Saddam Husseins."

Bush Vows Strategy Will Win In Iraq (WT)

By From combined dispatches

The Washington Times, March 20, 2006

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President Bush yesterday marked the third anniversary of the beginning of the Iraq war, saying the U.S. strategy will "lead to victory."

"A victory in Iraq will make this country more secure and will help lay the foundation of peace for generations to come," Mr. Bush said in a brief statement on the South Lawn of the White House after returning from Camp David.

Other administration officials echoed the president's call for resolve in the face of enemy attacks that have killed more than 2,300 U.S. troops in Iraq.

"Now is the time for resolve, not retreat," Defense Secretary Donald H. Rumsfeld wrote in a column for The Washington Post. "Turning our backs on postwar Iraq today would be the modern equivalent of handing postwar Germany back to the Nazis."

While protesters around the world also observed the anniversary of Operation Iraqi Freedom -- with anti-American rallies that drew smaller crowds than similar demonstrations in the past -- the president paid tribute to the nation's armed forces.

"Today ... marks the third anniversary of the beginning of the liberation of Iraq, and it's a time to reflect," Mr. Bush told reporters. "And this morning, our reflections were upon the sacrifices of the men and women who wear our uniform.

"Ours is an amazing nation where thousands have volunteered to serve our country. ... Many volunteered after 9/11, knowing full well that their time in the military could put them in harm's way. So, on this third anniversary [of] the beginning of the liberation of Iraq, I think all Americans should offer thanks to the men and women who wear the uniform, and their families who support them," he said.

The top U.S. commander in Iraq, Gen. George Casey, said Iraq has made "huge progress" toward democracy, holding three nationwide elections and adopting a constitution.

"If you think about it, three years ago Saddam Hussein was still in charge of the country. Now he's on trial, and will be held accountable by the Iraqi people," Gen. Casey said on "Fox News Sunday."

The Army general said progress has also "been made with the Iraqi security forces, barely from almost nothing to the point now where two of the Iraqi divisions, 13 of the Iraq brigades and almost 60 of the Iraqi military and special police battalions are actually in the lead conducting counterinsurgency operations across Iraq."

Gen. Casey acknowledged the continuing efforts of foreign terrorists to foment civil war in Iraq.

"So, is there violence in Iraq? Sure. Is there terrorism in Iraq? Sure," he said. "And the terrorists and insurgents are doing everything in their power to convince both the Iraqis and our public that this endeavor can't succeed. But I think the Iraqis are right now ... on the threshold of a very significant step toward their future."

Turnout for anti-war rallies was lower than on the first and second anniversaries of the war. Only about 200 demonstrators showed up yesterday for a march down New York's Fifth Avenue, with signs including, "We the People Need to do More to End the War."

Attendance was also down at anti-war events in other countries, including Japan, where about 800 showed up in Tokyo for a march to the U.S. Embassy.

"The Iraq war was President Bush's big mistake and the whole world is against him," Tokyo organizer Ayako Nishimura told the crowd.

Similar sentiments were expressed yesterday by Democrats.

"The American people can see the truth for themselves every day," said Democratic National Committee communications director Karen Finney. "We don't need more of the same permanent commitment to a failed strategy from this administration. The American people know that we need to change course in Iraq, so 2006 can be a year of transition in which the Iraqis truly take control of their country."

On NBC's "Meet the Press," Rep. John P. Murtha, Pennsylvania Democrat and war critic, dismissed the administration's reports of progress in Iraq and compared the situation to the war in Vietnam 40 years ago.

"When the whole world is against you, when our international reputation has been diminished so substantially, when all the countries in the region say, 'We'd be better off without us being in Iraq,' when the people themselves in Iraq say -- and American people say it, I mean who is right?" Mr. Murtha said.

Quiet Disapproval In US Marks War's Anniversary (FT)

By Christopher Swann

Financial Times, March 20, 2006

On the third anniversary of the US-led invasion of Iraq, the US capital's historic protest venues were surprisingly serene on Sunday. Outside the White House tourists had their pictures taken next to a cardboard cut-out of the president, families enjoyed the sun on the Mall and several bored-looking policemen stood guard outside the vice-president's DC home. Not a placard in sight or a chant to be heard.

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Americans may have turned decisively against the war in Iraq in recent months, but their change of heart has been largely expressed quietly to pollsters rather than in loud public protests. The micro-protests that have taken place around the third anniversary – including a few hundred who gathered to hear anti-war speeches in the affluent DC neighbourhood of Dupont Circle – pale by comparison with the monster demonstrations against the Vietnam war.

A clue to this curiously low-key response may be found in the bustling shopping centres. Despite the mounting cost of the war in Iraq, the economic consequences have remained relatively contained. There have been no signs of a decline in consumer confidence and no uptick in inflation.

Americans have not even been asked to stump up the cash for the war effort – at least not yet – with the administration and Congress opting for higher borrowing rather than higher taxes.

As of Friday military casualties had mounted to 2,313 killed and 17,000 wounded. This is enough to make many Americans question the conflict, but the toll still falls far short of the 58,000 Americans who died in Vietnam.

But the simmering concerns over the conflict have been taking a heavy toll on support for George W. Bush, dragging the president's approval ratings close to the levels of support for President Richard Nixon in the wake of Watergate.

A poll for Newsweek magazine at the end of last week showed that just 29 per cent of Americans approve of the president's handling of the war, down from 69 per cent in the months after the conflict began in March 2003. Almost 60 per cent of Americans now feel less confident that the war will come to a successful conclusion, with fears mounting that the country will slide into civil war.

The administration has launched a new campaign to rebuild support for the war. In a television interview on Sunday, Dick Cheney, the vice-president, said there was "overwhelming evidence" that the US was making progress in Iraq. Set-piece speeches are planned this week by both the president and vice-president.

Yet despite the reassurances, recent pronouncements of the president have had an uncharacteristically dour tone. In a speech over the weekend, Mr Bush acknowledged that there had been "horrific images from Iraq" and that a "tense situation" prevailed in parts of the country. He urged Americans to brace for "more fighting and sacrifice." That is not what was being predicted three years ago.

Allawi Says Iraq Is In Civil War; U.S. Forces Clash With Gunmen (WSJ/AP)

By Associated Press

The Wall Street Journal, March 20, 2006

Iraq is in the middle of a civil war, Iraq's former prime minister, Ayad Allawi, said in an interview with the British Broadcasting Corp. aired on Sunday.

Mr. Allawi, who heads the Iraqi National List, a secular alliance of Shiite and Sunni politicians, said there was no other way to describe the increasing violence across the country.

"It is unfortunate that we are in civil war. We are losing each day as an average 50 to 60 people throughout the country, if not more," Mr. Allawi told the BBC. "If this is not civil war, then God knows what civil war is."

Mr. Allawi said playing down the current problems in Iraq would be a mistake, telling the BBC he had warned against a power vacuum and the prevalence of militias. Mr. Allawi said the formation of a national unity government was what Iraq needed to achieve peace.

Iraq's newly elected parliament was seated Thursday, and representatives of its Shiite Arab, Sunni Arab and Kurdish blocs have been meeting in an effort to overcome deep divisions and agree on the makeup of a new government. The minority factions want to block broad Shiite control of powerful ministries.

British Defense Secretary John Reid, who is visiting Iraq, expressed concern about "a greater degree of sectarian violence," but said he didn't believe civil war was imminent. "The most urgent need at the moment is the speedy formation of a government of national unity," he said.

Meanwhile, on the eve of the third anniversary of the U.S.-led invasion, American troops clashed with gunmen north and west of Baghdad Sunday and insurgents lobbed a mortar round into Karbala, the holy city south of Baghdad where a million Shiite pilgrims assembled for a major religious commemoration.

U.S. Troops to Remain in Iraq for Years

Separately, the top commander of U.S. forces in Iraq said Sunday that U.S. troops likely will remain there for the next few years though the numbers will be scaled back as Iraqi forces gain strength. "I see a couple of more years of this with a gradually reducing coalition presence here in Iraq .. as the Iraqi security forces step forward," Gen. George W. Casey said.

Mr. Casey said he did not think at the time the war began that the insurgency in Iraq would have been as robust as it has been. Appearing on NBC's "Meet the Press," he said didn't believe Iraq was in danger of falling into civil war, although he said it

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remained a possibility because of increased sectarian tensions and violence. "The situation here is fragile," he said. "I suspect it will remain fragile here until we get a new government, a government of national unity, formed."

Continuing Violence

Iraqi police said eight civilians, including a child, were killed in clashes between U.S. troops and gunmen in Duluiyah, 45 miles (75 kilometers) north of Baghdad. The town is located in Iraq's Sunni heartland where the Iraqi army and U.S. forces opened an airborne campaign last week to hunt down insurgents.

The Americans said it was the largest "air assault" operation since the 2003 invasion.

During operations in Duluiyah, police said, U.S. troops arrested Col. Farouq Khalil, an Iraqi interior ministry official, after raiding his house. The American military didn't immediately respond to a request for comment. Earlier it said scores of suspected insurgents had been detained.

Elsewhere, two civilians were killed and 10 wounded when gunmen attacked U.S. troops stationed at the governor's office in Ramadi, 70 miles west of Baghdad.

In the capital, police found the bullet-riddled bodies of three men bound hand and foot and dumped in a sewage treatment plant in the southeast neighborhood of Rustamiyah. The victims appeared to be the latest in the wave of revenge killings after the bombing Feb. 22 of a Shiite shrine in Samarra.

The mortar round fired at the holy city of Karbala landed in a parking lot a half mile from the shrine that is the destination of the pilgrims marking the 40th and final day of mourning for Imam Hussein, the Prophet Muhammad's grandson. No one was hurt.

In violence against police, gunmen killed four guards at archaeological sites in the northern city of Mosul. A fifth policeman and a bystander were wounded. A roadside bomb exploded on a police patrol in Baqouba, 35 miles northeast of Baghdad, killing one officer and injuring 10 others, the Iraqi military said.

A Baghdad policeman driving on a rural road in Latifiyah, about 20 miles south of the Iraqi capital, was also killed by gunmen, police said. Four men riding in the car were wounded in the attack.

Near the southern city of Basra, two officials of the Iraqi Islamic Party were gunned down by four assassins. On Saturday, a dozen bodies were found in Baghdad in the shadowy war of Shiite-Sunni reprisals.

In a U.S. radio address, President Bush said the violence in Iraq "has created a new sense of urgency" among Iraqi leaders to form such a government.

Those leaders -- representatives of the squabbling Shiite, Sunni and Kurdish blocs in Iraq's new parliament -- were taking a break from negotiations to observe Monday's Shiite holiday and Tuesday's Kurdish New Year. They are deadlocked over how to apportion the most powerful jobs in the new government, as minority factions seek to limit domination by Iraq's Shiite majority.

The U.S. military reported that two 101st Airborne soldiers were killed Thursday by indirect fire, usually meaning mortars, at the Speicher operating base, north of where the joint Iraqi-U.S. operation was in progress.

At least 2,314 American military personnel have died since the Iraq war began in the early hours of March 20, 2003.

Deaths Fall For U.S., Rise For Iraqis (USAT)

By Thomas Frank

USA Today, March 20, 2006

BAGHDAD — U.S. military deaths during the past month have dropped to an average of about one a day, approaching the lowest level since the insurgency began two years ago, according to a USA TODAY analysis of U.S. military data.

The decline in U.S. deaths comes as Iraqi casualties are the highest since the U.S. military began tracking them in 2004.

In the past month, nearly five times as many Iraqi forces and civilians were killed as troops in the U.S.-led coalition in Iraq, U.S. military data show.

The shift from spring 2004, when U.S. and Iraqi casualty rates were comparable, reflects an insurgency that increasingly targets Iraqis and the growing presence of Iraqi forces on the front lines.

“The Iraqi army is far bigger in number, far higher in training capability and far more willing to go where the fight is and take casualties,” British Defense Secretary John Reid said in an interview.

On the third anniversary of the U.S.-led invasion, however, a wave of violence against Iraqis is prompting talk of civil war. In an interview Sunday with the British Broadcasting Corp., former interim prime minister Ayad Allawi said, “We are losing each day as an average 50 to 60 people throughout the country, if not more. If this is not civil war, then God knows what civil war is.”

Vice President Cheney disagreed. Speaking on CBS' Face the Nation, Cheney said, “What we've seen is a serious effort by (insurgents) to foment a civil war. But I don't think they've been successful.”

According to U.S. military data, about 15 Americans and 73 Iraqis are killed or injured each day. A USA TODAY analysis of U.S. military data shows the number of U.S. forces killed during the war has declined steadily since November.

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RAND Corp. military analyst Nora Bensahel says the increasing level of Iraqi casualties "means Iraqi security forces are in positions of responsibility." The United States, which has 132,000 troops in Iraq, is "doing fewer patrols on its own and more in support of Iraqi operations," reducing U.S. casualties.

The U.S. military also has cut the number of American deaths by thwarting the homemade bombs that are the insurgency's prime weapon. Soldiers and Marines now find and neutralize more than 40% of the bombs, Maj. Gen. Rick Lynch said in an interview. That compares with 30% in September. Lynch said that 41 insurgent bombmakers have been killed or captured. Insurgents "are losing skilled bombmakers," he said.

Meanwhile, Iraq's 240,600 security forces increasingly are fighting insurgents directly, the Pentagon says. Sixty-three Iraqi units are operating independently or in a lead role with coalition support, up from 37 in September. Iraqi Defense Ministry spokesman Mohammed al-Askari says military recruiting remains strong, despite the rising casualties.

Clashes, Accusations Mark Anniversary Of Iraq Conflict (WP)

By Ellen Knickmeyer

The Washington Post, March 20, 2006

BAGHDAD, March 19 -- Clashes between U.S. forces and suspected insurgents, and allegations of American troops killing noncombatants, marked the third anniversary Sunday of the start of the American-led invasion of Iraq.

In Duluiyah, a stretch of farms along the Tigris River about 45 miles north of Baghdad, soldiers of the 4th Infantry Division's 3rd Heavy Brigade Combat Team battled insurgents, the U.S. military said in a statement.

The statement said American troops were responding to insurgents who opened fire with small arms and rocket-propelled grenades in the area, predominated by Sunnis. Seven of the attackers were killed, and two U.S. soldiers were wounded.

A top police official, as well as a resident who claimed he saw the fighting, said U.S. troops also shot and killed a family of three during house-to-house searches after the firefight.

"I saw corpses on the ground that I believe were of armed men who had clashed with the American forces" and with the Iraqi army, said Ahmad Hashem, the resident. "Then the American soldiers appeared and started searching homes. They raided a house which was close to my home and killed a man named Ahmad Khalaf Hussein, his wife and his 10-year-old son."

Western news agencies also reported civilian deaths in the fighting. The U.S. military, in the statement from spokesmen in Baghdad, said it knew of no civilian deaths in the engagement.

U.S. military officials said the fight was not connected to another ongoing offensive, Operation Swarmer, in which U.S. and Iraqi forces have been searching for Sunni insurgents and weapons caches in arid countryside between the Tigris River and Samarra, about 65 miles north of Baghdad.

American officials announced last week that they had ordered a further investigation into a deadly incident four months ago in the town of Haditha in far western Iraq.

At least 15 civilians were killed in the incident on Nov. 19. The military's original statement on Nov. 20 said that the civilians and a U.S. Marine were killed by a roadside bomb. Time magazine reported Sunday that U.S. officials are now investigating whether Marines killed the 15 civilians, including seven women and three children, after the insurgent bombing that killed their fellow Marine.

The newsweekly said it had given military officials accounts from a doctor and survivors that said the 15 unarmed townspeople were killed as they hid in their houses, or tried to run to safety, as Marines searched the area after the bombing. Time said it had also given the military a videotape showing some of the bodies. It quoted unidentified military officials as saying that Marines had believed U.S. troops were coming under fire from the houses, and that the initial investigation indicated that Marines, rather than a bomb, had killed the 15.

"We take these allegations very seriously, and I believe the fact that two additional investigations are ongoing concerning this incident clearly demonstrate that," a U.S. military spokeswoman in Baghdad, Lt. Col. Michelle Martin-Hing, said in an e-mail on Sunday. Martin-Hing said the shootings were "the first in a series of engagements that day that began when the Marine patrol was ambushed in a residential neighborhood with an IED followed immediately by small arms fire from multiple directions. Over the course of five hours, the Marines actively tracked insurgents moving through the town among civilian homes, other structures and palm groves, on foot and by vehicle. The investigation will examine whether any rules of engagement were violated."

A roadside bomb exploded near a police patrol Sunday morning in Baqubah, killing a policeman and injuring 10 other people, according to Lt. Col. Fakhri Tamimi Hassman, an official with the Diyala provincial police. Baqubah is about 35 miles northeast of Baghdad.

In Baghdad, the bodies of three men who had been bound hand and foot and shot were found dumped in the west of the city, and another man was shot dead Sunday as he left a Shiite mosque, news agencies reported. The number of execution-style killings in Baghdad -- with the victims shot, often after being tortured or bound -- has climbed to an average of about 30 a day

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since mid-2005, according to Baghdad morgue figures. Many of the killings have allegedly been carried out by militias or police forces allied with Iraq's governing Shiite parties.

Iraq's former prime minister, Ayad Allawi, told the BBC that the increasing attacks across his country can only be described as a civil war.

Sunni, Shiite, Kurdish and secular political leaders said Sunday that they had agreed on the creation of a National Security Council that would represent all of Iraq's major political factions. The move appeared designed to counter Shiite dominance of Interior and Defense ministry forces.

"The agreements that we have declared today prove that civil war is not a possibility, and the Iraqi people could not allow for a civil war to take place," President Jalal Talabani told reporters.

The war in Iraq began on March 19, 2003, Washington time -- early morning March 20 in Baghdad -- when President Bush authorized an early strike by U.S. fighter-bombers and offshore Tomahawk cruise missiles on a Baghdad bunker where Saddam Hussein was reported to be sleeping. The Defense Department confirmed 2,313 U.S. military deaths as of Friday, with unofficial totals indicating 207 other coalition military deaths.

Tens of thousands of Iraqi civilians have died in the war, from U.S. and Iraqi military actions, insurgent attacks and, increasingly, raids attributed to government-allied Shiite Muslim squads that allegedly operate both inside and outside Iraq's new, Shiite-dominated security forces.

Top Iraqi Leaders Agree To Form A Policy Council (NYT)

By Edward Wong

The New York Times, March 20, 2006

BAGHDAD, Iraq, March 19 — Iraqi officials announced Sunday that they had agreed to form a council of the country's top politicians to make policy on security and economic issues in the new government. The council, which will include the prime minister and president, is an attempt to include all the country's major factions in decision making at a time of rising sectarian tensions.

The Iraqi Constitution approved by voters last fall does not have language supporting the creation of such a council. The 19-member body will essentially concentrate power in the hands of the country's political party leaders, and supersede the cabinet and Parliament in making broad decisions.

The move is a step forward in the snail-paced negotiations over the formation of a full, four-year government. Debate over creating the so-called national security council, and what powers it would wield, had contributed to the deadlock in the talks.

The main Shiite political bloc, which is expected to hold the most executive power in the new government, had opposed formation of the council, while the Kurds, Sunni Arabs, secular politicians and the Americans had pushed for it.

Many Shiite leaders viewed the idea of the council, first proposed by Massoud Barzani, the president of Iraqi Kurdistan, as an attempt to hamstring the prime minister, expected to be a Shiite, and check the power of the main Shiite bloc, known as the United Iraqi Alliance.

But on Sunday, after five hours of negotiations at President Jalal Talabani's guest villa here, the Shiites agreed to the council's formation. Because of the way the council will be set up, the Shiites, who constitute the largest political bloc in Parliament, will have an effective veto over council decisions.

Furthermore, the prime minister or president will be able to override any decisions they disagree with if the decisions conflict with the executives' constitutional authority, Iraqi officials said.

Otherwise, the council's actions will be considered binding.

"It's a good thing," said Adnan Pachachi, the temporary speaker of Parliament and a secular politician. "It's a safety valve in a way. Decisions will be taken in which all major political parties will be part of. No one will accuse the prime minister of making decisions on his own."

The council is expected to make policy on security issues, like how to build up and deploy the Iraqi Army and the police, how to disarm the country's many militias and what to do about insurgent territories like Anbar Province in western Iraq, Iraqi officials said. The council will also address economic matters, including oil revenue and the budget.

Any decisions that require legislation will be put before Parliament, Mr. Pachachi said. But the Parliament will probably support any decisions made by the council because all the leaders of the major parliamentary blocs will sit on the council, he added.

The council's decisions require a two-thirds vote of its 19 members. The president, prime minister, speaker of Parliament and the leader of any autonomous region (only Iraqi Kurdistan, for now) get seats on the council. The rest will be given to other party leaders. Over all, the seats will be distributed in proportion to the percentage of Parliament controlled by each major bloc.

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According to that system, the main Shiite religious bloc will get nine seats, the Kurds four, the main Sunni Arab religious bloc three, the secular bloc two and a smaller Sunni Arab bloc one, Mr. Pachachi said. The two-thirds vote requirement effectively gives the Shiite members final say over any decision, as long as they remain united.

The council will operate parallel to the cabinet but will have greater responsibility for broad policy decisions. The cabinet will run the day-to-day affairs of the government ministries. Part of the motivation for creating the council is a desire to check the power of the ministers, especially those in charge of security.

Control of the Interior and Defense Ministries has been one of the most hotly debated issues in the talks to form a government. Each political bloc suspects the others of sectarian motives in trying to control the armed forces. With heightened sectarian tensions and talk of impending civil war on the rise, whoever controls the army and the police would have a guaranteed arms supply. Besides the prime minister and president, who have yet to be chosen, the politicians expected to sit on the national security council include Abdul Aziz al-Hakim, leader of the Shiite bloc; Tarik al-Hashimi, leader of the main Sunni Arab bloc; Saleh al-Mutlak, leader of the smaller Sunni Arab bloc; Ayad Allawi, the former prime minister and a secularist; and Mr. Barzani, the president of Iraqi Kurdistan.

"It's true that there's no explicit mention of it in the Constitution," Mr. Hashimi said at a news conference at Mr. Talabani's villa. "We think that the salvation of Iraq for the time being lies in showing a lot of flexibility in establishing new political bodies that include all the components of the Iraqi people."

The political leaders must now tackle other deeply contentious issues in the talks to form a government. At the top of the list is the Shiite nomination of Ibrahim al-Jaafari, the current prime minister, to retain that post. The other blocs oppose Mr. Jaafari's nomination, and have demanded that the Shiites present a new candidate. Mr. Jaafari has come under sharp criticism for failing to quell the violence and for the huge shortcomings in postwar reconstruction.

The political jockeying took place as Mr. Allawi, the former prime minister, told the BBC News on Sunday that the country was already mired in civil war. "It is unfortunate that we are in civil war," he said. "We are losing each day, as an average, 50 to 60 people throughout the country, if not more. If this is not civil war, then God knows what civil war is."

At least 15 bodies, all of them shot, were found across Baghdad on Sunday, police and hospital officials said. More than 200 bodies have been discovered in nearly two weeks, virtually all believed to be victims of sectarian violence.

A homemade bomb killed a police commando in Baghdad on Sunday. In Kirkuk, a cluster bomb left from the American invasion of 2003 exploded, killing a shepherd and a 6-year-old boy, said Lt. Col. Yadgar Abdullah of the Kirkuk police department.

The police found two Iraqi soldiers shot dead in Hawija, west of Kirkuk. Officials in Basra said two employees of the South Oil Company were shot to death on Saturday night. Both were members of the Iraqi Islamic Party, a conservative Sunni Arab group, and had been handcuffed.

Iraq's Factions Agree To Form Security Council (LAT)

By Richard Boudreaux

The Los Angeles Times, March 20, 2006

BAGHDAD — Iraqi officials agreed Sunday to set up a council that would give each of the country's main political factions a voice in making security and economic policies for a new government.

The accord, announced after nearly a week of negotiations, was aimed at deflating rising sectarian tensions and represented the first breakthrough in the U.S.-guided effort to form a unity government after parliamentary elections Dec. 15.

President Bush applauded the deal, which came as the third anniversary of the U.S.-led invasion focused public attention on the troubled effort to stabilize Iraq and start bringing home 133,000 troops after toppling President Saddam Hussein.

"I encourage the Iraqi leaders to continue to work hard to get this government up and running," Bush told reporters in Washington.

The 19-member national security council would include the Iraqi president and prime minister and hold more power than the Cabinet, which is yet to be formed. It is expected to set policies governing the army and police, the counter-insurgency campaign in Sunni Muslim Arab areas and the disarmament of Shiite Muslim militias accused of sectarian killings.

The council also will oversee economic matters such as the budget and the allocation of oil revenues.

As outlined by participants in the talks, the council would represent political parties in rough proportion to their electoral strength — with nine members from the Shiite alliance that fell just short of a majority in the 275-member parliament, four each from the Kurdish and Sunni blocs, and two from secular parties.

Leaders of those factions took the unusual step of agreeing to form the council before what was expected to be a more contentious discussion of who would hold the positions of president and prime minister and head the Cabinet ministries controlling the army and police.

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A council with powers beyond those of the Cabinet is not mentioned in the constitution ratified by voters in October. It was proposed in January by Kurdish leaders to check the power of the Shiite alliance, which is entitled to nominate the prime minister and is expected to dominate the Cabinet.

Shiite negotiators had resisted the idea of a broad policymaking council as unconstitutional. But other political blocs contended that it would help stem Iraq's sectarian bloodshed and avert all-out civil war; they won quiet backing for the proposal from U.S. Ambassador Zalmay Khalilzad, who has been deeply involved in the talks from the start.

"We think that the salvation of Iraq at this time lies in showing a lot of flexibility in establishing new political bodies that include all the components of the Iraqi people," Tariq Hashemi, leader of the main Sunni party, said Sunday at a news conference.

At least 34 Iraqis were killed or found dead Sunday in the continuing violence, which has soared since the Feb. 22 bombing of a Shiite shrine in the predominantly Sunni city of Samarra. Worried that the power vacuum was fostering the violence, interim President Jalal Talabani, a Kurd, summoned political leaders last week to try to speed up efforts to form a government. Iraq has been run for nearly 11 months by an interim leadership formed from the transitional assembly elected in January 2005.

After the December election left no party with a parliamentary majority, all factions agreed, under U.S. pressure, to work toward a broadly representative government — one that might undermine the insurgency by including Sunnis in the Cabinet.

But the effort got bogged down a month ago after the Shiite bloc nominated interim Prime Minister Ibrahim Jafari, a religious conservative with close ties to Iran's theocratic leadership, to continue in his post for a full four-year term.

The other political groups, supported by the more secular Talabani, pledged to block Jafari's ratification, which requires a two-thirds vote in the parliament. The rival blocs have demanded that the Shiites offer a less divisive candidate, but the Shiites have balked.

In an effort to break the deadlock, Talabani last week shifted the focus of the talks to the proposed council.

Shiite negotiators succeeded in limiting some of the council's proposed authority. Its policies will require approval by 13 members, allowing the nine Shiite members a chance to thwart any decision if they stick together.

Hussein Shahristani, a Shiite negotiator, said leaders agreed that the council's decisions on the Cabinet would be binding "as long as they do not contradict the constitutional prerogatives of the president or prime minister." That formula, other politicians countered, might lead to conflicts.

"In reality, the authority of the council is uncertain," said Dhafir Ani, a spokesman for the main Sunni bloc. "It hasn't been settled."

Iraqi politicians said the formation of the council in effect added ground rules to replace the ad hoc manner in which decisions had been made in the last year, when party leaders brokered deals behind closed doors and presented them to the parliament. This time, Sunni parties would be better represented.

As political leaders wrangled in Baghdad's fortified Green Zone, violence continued outside. Iraqi sources and Western news agencies reported the discovery Sunday of 17 bodies of men tortured or shot to death in Baghdad alone, 11 of them flushed by city sewers into the tanks of water-purification plants.

Police said three civilians were killed in crossfire when insurgents attacked U.S. and Iraqi forces guarding the provincial governor's office in Ramadi, a Sunni city 60 miles west of Baghdad.

Other deaths included civilians and Iraqi policemen killed in Mosul, Baqubah, Basra and Baghdad.

In Duluiya, a Sunni town about 55 miles north of the capital, Iraqi officials said American troops killed a teacher, his wife, their 13-year-old son and four other people during clashes set off before dawn by a rocket-propelled grenade ambush on their armored patrol.

Maj. Tim Keefe, a U.S. military spokesman, contested the account from police officials and the deputy governor, saying the 3rd Heavy Brigade Combat Team of the 4th Infantry Division had killed seven "attacking terrorists."

Keefe said two U.S. soldiers were wounded in the clash, which occurred south of Samarra. More than 1,500 airborne U.S. and Iraqi troops staged a fourth day of raids in suspected insurgent bases north of Samarra, but the patrol in Duluiya was not part of that operation, Keefe said.

Police officials said the teacher and his family were shot when American soldiers raided their home after the ambush. An 18-year-old boy from another family was killed after he left home "to see what was going on," according to a Reuters reporter in the town.

Deputy Gov. Abdullah Hussein said in a telephone interview from Tikrit that two of the seven killed were insurgents.

After the clash, Reuters reported, American troops handed out leaflets saying they did not regard Sunnis as their enemy and wanted to withdraw from Iraq as soon as the country's newly formed government and army were able to stand on their own.

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My Vision For Iraq (WP)

By Ibrahim Al-jafari

The Washington Post, March 20, 2006

BAGHDAD -- The elections last December in Iraq were a monumental stage in my country's history and a testament to the courage of its people, who refuse to bow to any dictator or terrorist. As the wheels of democracy have begun to turn in Iraq, the people's wishes are becoming clearer and their representatives identified. To this end I am humbled and honored to be chosen by my coalition to lead Iraq's first democratically elected full-term government.

My government's first challenge will be to stifle the terrorism that has plagued our country and defiled the name of Islam. While we are making good progress in expanding and developing Iraq's security services, the war against the terrorists cannot be won by military means alone. It is paramount that all Iraqis work together to build a democratic, free Iraq.

Since I took office, I have sought to bring every community into the political process. I refused to marginalize the Sunni Arabs after the January 2005 election boycott, ensuring they made up over a fifth of the cabinet.

Sidelining Moqtada al-Sadr's group from the Governing Council was a mistake. Had it been integrated into the political process back then, long before the formation of the Mahdi Army, events would have turned out differently in the south. I corrected this policy and brought Sadr's group into the democratic process. This inclusive approach resulted in the huge nationwide turnout for the December elections and a parliament that truly reflects Iraq.

During my term as elected prime minister, Sadr's group has not attacked any coalition troops. Furthermore, Sadr and several Sunni leaders are now catalysts for maintaining the peace in Iraq, calling on their followers not to retaliate against terrorist provocations, which aim to ignite civil war.

Unfortunately, we have suffered setbacks during the past year. The most troubling was the discovery of prisoner torture in an Interior Ministry jail in November. As soon as I learned of these despicable acts I formed an investigative committee made up solely of Sunni leaders, and I await its findings.

The long-term solution to this problem will be multifaceted. We must ensure that all security forces receive proper training and that there is a chain of command that holds commanders and officers responsible for such abuses. In addition, the various militias that fought Saddam Hussein's regime honorably must be fully integrated into Iraq's security forces without concentrating any particular group into any one division. Finally, we need to strengthen the country's nascent judiciary, which suffered years of coercion and corruption under the former regime, to guarantee its independence and impartiality.

The other major challenge my government will face is reviving Iraq's economy. Iraq has been drowned by decades of Baathist socialist policies that have made millions reliant on government handouts. We must encourage entrepreneurship and enterprise, while establishing adequate safety nets for the less privileged.

Economic rehabilitation also requires some tough and unpopular changes, such as the reduction in government subsidies for gasoline that my administration began a few months ago. Such steps can be made only by a popular government that has the trust of the people. My administration has the political capital to be able to bring about these necessary changes.

Ultimately, I will work to secure the reality of a democratic, liberal, peaceful Iraq -- a beacon for freedom in the Middle East. This is not merely a wish but an article of faith. Having lived in London for the majority of my years in exile, I appreciate the importance of liberty for both guaranteeing democracy and ensuring human development.

I am hopeful that with Iraqi determination, and the support of the multinational force, we can defeat the terrorists and make Iraq the first democratic Arab country. I believe in working toward a peaceful, stable and nuclear-free Middle East, where Iraq is not the rogue state that it was under the previous regime.

The road ahead will be tough, but the Iraqi people have demonstrated their bravery, determination and resolve. The world should not falter at such a crucial stage in history.

The writer is prime minister of Iraq.

Justice: Talking Trash (NSWK)

By Rod Nordland

Newsweek, March 20, 2006

Saddam Hussein had a point when he described his trial as a "farce." In five months of proceedings, the Iraqi High Tribunal has managed only 17 actual court days amid tight security, hunger strikes and boycotts by lawyers. Assassins have killed a judge, a court employee and two defense attorneys. At one point Saddam's codefendant, Barzan al-Tikriti, the once feared head of the Mukhabarat intelligence service, came to court in his underwear. The ex-dictator himself complained of having guards watch him take his pants down to use the toilet during recesses. Saddam's appearance last week brought a new low, with the prosecutor and defense lawyers screaming at one another, and the chief judge repeatedly hitting a red button that cut off the

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mike as Saddam declared himself not only president, but "commander in chief of the mujahed [holy warrior] armed forces." Finally the judge closed the hearing, threw out the press and shut down TV transmissions—all as Saddam ranted on.

Saddam's diatribes were better informed than they had been in previous court appearances. Held in solitary confinement since his capture in December 2003, Saddam has had little contact with the world beyond his cell. His American jailers strictly purged his reading material of any news about events in Iraq. But since the trial began, Saddam has been allowed to see attorneys, and on Wednesday he made the most of the information he was getting, praising the resistance while calling on Iraqis to avoid civil war. "Let the people unite and resist the invaders and their backers," he said at one point. "Don't fight among yourselves." The chief judge hit the red button and silenced the audio feed, but Saddam's speech was still audible in the courtroom. "The invaders and their supporters know they're on their certain way to being swept out, like the trash they are."

Lost in the chaos was the case itself. Saddam and his seven codefendants are on trial for the executions of 148 Shiites in the village of Dujail, in reprisal for a failed 1982 assassination attempt on Saddam as his motorcade passed by the village. Of all the accusations against Saddam, it's a relatively small one—but one where the alleged chain of responsibility is well documented. By his own statements, Saddam has tied himself to the reprisals, saying in court on March 1 that he had personally ordered the Dujail villagers tried—and their orchards razed—for an ambush that involved only 20 attackers. "Where is the crime?" Saddam declared. "[Since when] is trying a suspect accused of shooting at a head of state a crime?"

The Saddam-era trial, before the Revolutionary Court in 1984, is the heart of the prosecution's case, which maintains it was a sham. Forty-six of the defendants were "liquidated under torture" —before they were recorded as appearing at the trial. Eleven of the accused were minors, one as young as 12. A few years after the trial, Saddam's officials discovered that the kids had never been executed because of their ages. "We recommend executing them in a secret manner," reads one document. There's an arrow from that sentence to the margin, where Saddam allegedly wrote "Yes. It is preferable that they are buried by the Mukhabarat."

Saddam could well be executed soon after the Dujail case ends, without waiting for other cases against him to proceed. The defense still has a chance to make its arguments, which could extend well into the summer. But once a verdict is rendered by the five-judge panel, "if any defendant were sentenced to any penalty, no matter whether it were the death penalty or imprisonment, that penalty should be executed within 30 days of the court's verdict," chief prosecutor Jafar al Musawi told NEWSWEEK. Although there would be an automatic appeal of a death sentence to the court of cassation, that court has no backlog of cases, Musawi says, and an appeal "would only take days."

Many more cases involving Saddam could follow—if he's still alive. Already, charges are being prepared in the poison-gas attacks against Kurds in Halabja, the wider Anfal massacres and the slaughter of Shiites after an abortive uprising in 1991. But if Saddam doesn't hang for Dujail, the other 12 cases being prepared against him could, at the present rate, take more than a decade to try. Even many Iraqis unhappy with the American occupation wouldn't like that. "I think most Iraqis share the opinion that I have," said Ahmed Taha, 42, a Sunni primary-school teacher from Babylon. "Let's get done with it and execute him."

At one point in last week's trial, after Saddam quieted down and apparently agreed to address the Dujail charges, the judge pressed the green button to switch on his audio. But the defendant soon rounded on him: "If it were not for the Americans, neither you nor your fathers would have been able to bring me here." It was then that the judge declared the trial closed to the public. Shia politician Ali al Dabbagh was in the visitors' gallery. "Saddam was trying to pass messages to the insurgents and encourage them to attack," he said. "The judge had to stop this." With months more to go, Saddam's only defense is to make a mockery of the entire proceeding. So far, he's succeeding.

Next Chapter As Iraq War Rages, Army Re-Examines Lessons Of Vietnam (WSJ)

By Greg Jaffe

The Wall Street Journal, March 20, 2006

The last time Defense Secretary Donald Rumsfeld visited Baghdad, back in December, the top U.S. military commander there gave him an unusual gift.

Gen. George Casey passed him a copy of "Learning to Eat Soup with a Knife: Counterinsurgency Lessons from Malaya and Vietnam," written by Lt. Col. John Nagl. Initially published in 2002, the book is brutal in its criticism of the Vietnam-era Army as an organization that failed to learn from its mistakes and tried vainly to fight guerrilla insurgents the same way it fought World War II.

In the book, Col. Nagl, who served a year in Iraq, contrasts the U.S. Army's failure with the British experience in Malaya in the 1950s. The difference: The British, who eventually prevailed, quickly saw the folly of using massive force to annihilate a shadowy communist enemy.

"The British Army was a learning institution, and the U.S. Army was not," Col. Nagl writes.

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Col. Nagl's book is one of a half dozen Vietnam histories -- most of them highly critical of the U.S. military in Vietnam -- that are changing the military's views on how to fight guerrilla wars. Two other books that have also become must-reading among senior Army officers are retired Col. Lewis Sorley's "A Better War," which chronicles the last years of the Vietnam War, and Col. H.R. McMaster's "Dereliction of Duty," which focuses on the early years.

The embrace of these Vietnam histories reflects an emerging consensus in the Army that in order to move forward in Iraq, it must better understand the mistakes of Vietnam.

In the past, it was commonly held in military circles that the Army failed in Vietnam because civilian leaders forced it to fight a limited war instead of the all-out assault it longed to wage. That belief helped shape the doctrine espoused in the 1980s by Defense Secretary Caspar Weinberger and Joint Chiefs of Staff Chairman Gen. Colin Powell. They argued that the military should fight only wars in which it could apply quick, overwhelming force to destroy the enemy.

The newer analyses of Vietnam are now supplanting that theory -- and changing the way the Army fights. The argument that the military must exercise restraint is a central point of the Army's new counterinsurgency doctrine. The doctrine, which runs about 120 pages and is still in draft form, is a handbook on how to wage guerrilla wars.

It offers Army and Marine Corps officers advice on everything from strategy development to intelligence gathering. Col. Nagl is among the four primary authors of the doctrine. Conrad Crane, a historian at the U.S. Army War College, is overseeing the effort.

One of the doctrine's primary goals is to shatter the conventional wisdom that defined the post-Vietnam Army. "We are at a turning point in the Army's institutional history," Col. Nagl and his co-authors write in a forthcoming essay in "Military Review," an Army journal.

The doctrine's biggest emphasis is on the need to curb the military's use of firepower, which created thousands of refugees and horrific collateral damage in Vietnam. "The more force you use when battling insurgents, the less effective you are," the draft states.

The Army is also using its Vietnam experience to highlight the importance and difficulty of building local security forces that can carry on independently after U.S. forces go home. For most of the Vietnam War, the U.S. gave spotty attention to South Vietnamese forces. Without U.S. air support and artillery they quickly crumbled.

Drawing on its frustrating struggle to prop up a corrupt government in Saigon, the Army in its new blueprint counsels soldiers that anti-guerrilla operations must be focused on building a government that is seen as legitimate in the eyes of the locals. "Military actions conducted without analysis of their political effectiveness will be at best ineffective and at worst help the enemy," the draft doctrine states.

Within the Bush administration, there's broad support for the Army's new direction. It matches President Bush's own shift away from a pre-9/11 aversion to nation-building and guerrilla wars. The current national-security strategy seeks to spread freedom and democracy -- even if it means committing troops to guerrilla fights in places like Iraq and Afghanistan.

For most of the 1980s and 1990s the Army's understanding of what went wrong in Vietnam was dominated by retired Col. Harry Summers's history "On Strategy: A Critical Analysis of the Vietnam War." That account argued Viet Cong guerrillas were used by the communist regime to distract the U.S. from the real threat -- the conventional North Vietnamese Army. The U.S. didn't lose because it fought a guerrilla war badly, Col. Summers asserted, but rather because it was prohibited by the civilian leadership from launching a conventional attack on North Vietnam.

His book, commissioned by the Army and published in 1981, gave Army officers reason to ignore guerrilla warfare for the two decades that followed. It quickly became part of the curriculum at the Army's war colleges and remained on reading lists until a few years ago. "The timing was perfect," says George Herring, a Vietnam scholar at the University of Kentucky who also taught at the United States Military Academy at West Point. "Summers was selling a message a lot of top people in the army wanted to hear."

Army histories that challenged Col. Summers's narrative were rebuked. In 1986, Andrew Krepinevich, then an Army major, published "The Army and Vietnam," an alternative account of the Army's failings in the war. Instead of fighting a classic guerrilla war, the Army fought a large-scale conventional war and alienated potential allies in Vietnam, Mr. Krepinevich wrote. One four-star general blasted the book in a review as "a long rambling, one-sided discourse." It wasn't widely read.

By the 1990s Army officers interested in successful careers didn't study counterinsurgency. A few, however, were drawn to it. One of those officers was Col. Nagl, who graduated from West Point and went on to study international relations at Oxford University as a Rhodes Scholar. After the first Gulf War, where he served as a platoon leader, Col. Nagl went back to Oxford to get his doctorate.

The first Gulf War seemed to vindicate the Army's big-war approach. The Army had finally been allowed to fight the conventional, firepower-intensive war it wanted to mount in Vietnam. It prevailed quickly and with few casualties. "By God, we've kicked the Vietnam syndrome once and for all," the President George H.W. Bush gushed in 1991.

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To Col. Nagl, the Army's quick, low-casualty win wasn't necessarily a good news story. "The lesson of the Gulf War was: Don't fight the U.S. conventionally," Col. Nagl says. "The way to defeat the U.S. Army is to use guerrilla warfare and exhaust the will of the U.S. At least you have a chance to win."

Col. Nagl reread Mr. Krepinevich's account of the Army in Vietnam, which he says had a big influence on his doctoral thesis. "I stole from it shamelessly," he says today, although he fully credited the work in his own. He also immersed himself in the papers of Sir Gerald Templer, who led British counterinsurgency efforts in Malaya in the 1950s. "I wanted to figure out why the British Army was able to learn how to defeat an insurgency after starting out badly and why the American Army was not able to learn as well in Vietnam," Col. Nagl says.

He concluded that the Army did learn in Vietnam, but far too slowly. By 1969 the military had shifted away from large-scale search-and-destroy missions and was putting a far greater emphasis on building indigenous security forces, safeguarding villagers and developing the local economy. However, "at that point the American people had already lost their faith," he says.

Col. Nagl's book was released in October of 2002 by Praeger Publishers, on the eve of the Iraq invasion. (It was later published in paperback by the University of Chicago Press.) He took the "Learning to Eat Soup with a Knife" title from a famous aphorism of T.E. Lawrence, also known as Lawrence of Arabia: "To make war upon rebellion is messy and slow, like eating soup with a knife."

A few months later, Col. Nagl was dispatched to Iraq to serve as the third-highest-ranking officer in a 700-soldier battalion based outside Fallujah. "I thought I knew something about counterinsurgency until I tried to do it," he says today. He quickly discovered the challenge to be even more difficult than he'd expected. His unit took heavy casualties and his battalion's efforts to build an Iraqi police and Army force sputtered in the face of insurgent attacks, poor equipment and a lack of funds.

While Col. Nagl was in Iraq, Gen. Peter Schoomaker, the Army's top officer, picked up his book and was taken by its argument that the Army's big-war culture in Vietnam often overpowered innovative ideas from inside the service and out.

The general ordered his fellow four-star generals to read it. Before he went to Iraq to take over as the top commander, Gen. Casey read Col. Nagl's book as well. "The thesis that the U.S. military was too prone to [big offensive strikes] to be good at counterinsurgency was something I noted to watch for when I got here," says Gen. Casey in an email from Baghdad.

The tome has already had an influence on the ground in Iraq. Last winter, Gen. Casey opened a school for U.S. commanders in Iraq to help officers adjust to the demands of a guerrilla-style conflict in which the enemy hides among the people and tries to provoke an overreaction. The idea for the training center, says Gen. Casey, came in part from Col. Nagl's book, which chronicles how the British in Malaya used a similar school to educate British officers coming into the country.

"Pretty much everyone on Gen. Casey's staff had read Nagl's book," says Lt. Col. Nathan Freier, who spent a year in Iraq as a strategist. A British brigadier general says that "Gen. Casey carried the book with him everywhere." Both Col. Nagl's and Mr. Krepinevich's books are included on a recommended counterinsurgency reading list included in the draft doctrine.

Other Vietnam histories have also drawn the interest of senior Army officers. Lt. Gen. John Vines, who was until recently the No. 2 commander in Iraq, recommended his staff read Col. McMaster's "Dereliction of Duty." The book portrays the military's senior Vietnam-era generals as a feckless lot, unwilling to confront President Lyndon Johnson over what they believed to be a bankrupt strategy. Its message: Military commanders must always speak the truth to their civilian bosses.

Similarly, Mr. Sorley's "A Better War" in recent months has become popular among senior Iraq and Afghanistan strategists. Mr. Sorley's book argues that the military, in the latter years of the war under the leadership of Gen. Creighton Abrams, radically shifted its approach. Instead of just hunting North Vietnamese soldiers and Viet Cong guerrillas in the jungle, commanders in 1969 began focusing far more on providing security to Vietnamese villagers, a strategy dubbed "clear and hold."

Mr. Sorley posits that in the early 1970s, Gen. Abrams's "clear and hold" approach was winning the war. Congress's precipitous withdrawal of support for the South Vietnam government and a fickle American public turned that victory into defeat, he writes. Most historians consider Mr. Sorley's account to be far too sanguine on the war's latter years. (Of late, the Bush administration has adopted Gen. Abrams's language. Secretary of State Condoleezza Rice has described the American strategy in Iraq as "clear, hold and build.")

Going forward, the big question is whether the Army's newly popular Vietnam views survive after the war in Iraq. If things go badly, there is likely to be intense pressure from within the Army to blame the political leadership for not sending enough troops, the news media for negative coverage, or the American public for its unwillingness to stick it out. None of those analyses, however, recognize the Army's own failings -- particularly in the first years of the war, say experts.

"The problem with blaming a fickle American public or the political leadership is that it gives you no tools to do better the next time," says Sarah Sewall, a former Clinton administration defense official who now oversees Harvard's Carr Center for Human Rights. "That is what happened after Vietnam."

Realism Pushes US And Iran A Bit Closer (CSM)

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By Howard LaFranchi

The Christian Science Monitor, March 20, 2006

WASHINGTON - A mutual interest in a stable Iraq is driving Washington and Tehran - two otherwise increasingly antagonistic capitals - to sit down and talk.

Even as the Bush administration says America "may face no greater challenge from a single country than from Iran," and as US-backed efforts proceed in the United Nations Security Council to address Iran's nuclear ambitions, the two governments have agreed to meet in Baghdad.

The way forward for this conversation traverses a minefield of potential explosions, but the fact it is happening at all reflects a shift to pragmatic foreign-policy outlooks in both Washington and Tehran.

"No one knows how far this will go before it all blows up, or forces on one side or the other sabotage it, but it's another mark of the reemergence of realists in the Bush administration that we can even consider talking to the Iranians," says Daniel Brumberg, a professor of comparative government at Georgetown University in Washington.

In Iran, "efforts to talk to the US may well be the work of foreign ministry pragmatists [in Tehran] reasserting their influence" over the extremist stance of President Mahmoud Ahmadinejad, adds Mr. Brumberg. For these pragmatists, landing in the Security Council is the direct result of Mr. Ahmadinejad's confrontational antics, and they may see in Iraq a way to start undoing the damage.

The White House says the talks - the first acknowledged direct contacts between the two countries since discussions in 2003 on Afghanistan - will be limited in focus to Iraq. The US accuses Iran of providing support and materials to groups that have targeted American forces and interests in Iraq.

But the talks are also an acknowledgment of Iran's pivotal role in Iraqi affairs - political, social, and religious - at a particularly difficult moment for the US engagement there.

The US sought help from Iran after the US-led toppling of the Taliban government in Afghanistan. That experience ended up souring, but not before the Iranians took some constructive steps that aided the US goal of establishing a stable government, observers say.

One aim of Zalmay Khalilzad, the US ambassador in Iraq and the man authorized by President Bush to meet with the Iranians, will be to confront his interlocutors on the supplying of Shiite militias, a relationship the US says is exacerbating sectarian violence.

But Mr. Khalilzad - who was previously the US ambassador to Afghanistan - may venture into more political discussions, analysts say, encouraging the Iranians to use their extensive influence with some political leaders of Iraq's ruling Shiites to help in ending the damaging deadlock over forming a new government.

"The US says these talks will 'just be about Iraq,' but what does that mean?" asks Ray Takeyh, an expert in US-Iran relations at the Council on Foreign Relations in Washington. "Is it just rebuking them for their actions there, or is it, 'We don't want a civil war, and you don't, so how can we both work to avoid it?' "

The problem he sees is that the Bush administration rhetoric seems diametrically opposed to such an approach. "It might seem to make sense to talk to the Iranians about the mutual interests in a stable Iraq," he says. "But it would be inconsistent with everything else that the administration has been saying about the Iranians over the past two weeks: that they are our biggest single threat, and so on."

Mr. Takeyh says the Iranian regime is also motivated by a desire to undermine the deliberations about its nuclear program in the Security Council. "They may be betting they can lessen some of the pressure to act against them if they are seen to be engaging in something helpful like talks in Iraq," he says.

Some Iranian policymakers may be moved to demonstrate a willingness to cooperate with the Americans - who, after all, rid them of two of their archenemy neighbors, the Taliban and Saddam Hussein - both by the worrisome violence next-door and by a domestic population that wants desperately to avoid international isolation.

Iranian interests may not be identical to America's in Iraq, but growing prospects of a slide to full-blown civil war have rattled the Iranians, experts say. "The Iranians know that if the civil war accelerates they may be drawn into the swamp, and they don't want that," says Georgetown's Brumberg.

Still, actors on both sides could intervene to nip the talks before they even bud. "Will Ahmadinejad try to blow them up?" wonders Brumberg, who cites efforts already made to purge the foreign ministry.

And in the US, skeptics of such talks are surely watching for any missteps, he adds. "The Afghanistan experience" of talking with Iran "is actually a cautionary tale," Brumberg says. "It left a bitter taste, and some people are going to remember that."

Iranians See Talks With U.S. As Historic (WP)

DOJ_NMG_0018657

By Karl Vick

The Washington Post, March 20, 2006

TEHRAN, March 19 -- Iran's acceptance of direct talks with the United States over Iraq is being regarded among Iranians as a major foreign policy development, a historic if still tentative departure from 27 years of official enmity that held the government of the "Great Satan" as one to be spoken against, but never with.

"America's objective in inviting Iran for talks is to send a message to Islamic movements throughout the world that Iran gave in to Washington after 27 years of resistance," Kayhan, a hard-line daily newspaper, warned Saturday in an editorial that analysts said underscored the significance of Iran's shift.

"Announce as soon as possible that you won't have any dialogue with the U.S. and avoid entering a destructive trap that has been prepared for Islamic Iran," the editorial continued.

Vehement opposition to the United States has been a pillar of Iran's theocratic system since 1979, the year an angry population overthrew the monarch Washington had helped install 26 years earlier in a coup engineered with the help of the CIA. From the U.S. side, a similar enmity was embedded in policy when student militants overran the red-brick U.S. Embassy in Tehran, taking 52 Americans hostage and holding them for more than a year.

The United States severed diplomatic relations with Iran, and over the next quarter-century both countries consistently found a reliable villain in the other.

Inside Iran, however, an appetite for rapprochement grew along with a population whose youthful majority had no memory of the revolution.

In 2002, a poll found that three-quarters of Iranians surveyed favored talks with the United States. The pollster was thrown in jail, but the reality drove a quiet competition between Iran's two rival political forces.

"Whoever could take the prize" of U.S. rapprochement would, it was widely believed, dominate Iranian politics for the foreseeable future, said Mehdi Karrubi, a moderate cleric who was speaker of the last parliament dominated by reformers.

The competition, however, had paralyzed the effort: Neither side would allow the other to reach out to the United States without risking accusations of betraying the Islamic revolution.

That changed last year, when conservative clerics edged reformists out of government, unifying Iran's elaborate ruling structure for the first time in nearly a decade. It also cleared the way for the opening to Washington, and even reformists urged the conservatives to act.

"This might be a historic irony, but it's true the state is in 'harmony,' " said Mostafa Tajzadeh, a prominent reformist theoretician, speaking before the announcement of the direct talks. "No time has been more convenient for talks between the two countries. We are less sensitive than at any time since the revolution."

A few conservatives quietly urged the same. Behind the scenes of Iran's conservative establishment, insiders whispered about the prospect of negotiations.

When the announcement came Thursday, it was pointedly public. Ali Larijani, who heads the Supreme National Security Council, announced the decision to parliament, then summoned American correspondents to interviews. With a level gaze, he said Iran would accept the invitation of the U.S. ambassador in Baghdad, Zalmay Khalilzad, to talk about Iraq.

Analysts and politicians said the decision showed every sign of carrying the weight of Iran's ultimate authority, Ayatollah Ali Khamenei. And some conservatives fell in line.

"It is obvious that when the Iranian officials present an idea, it is a calculated act," said Habibollah Asgaroladi, a leader of the Islamic Coalition Society, according to the ISNA news agency. "Considering the problems in the region, there is this necessity to solve problems through negotiations."

No dates have been set for the talks, and Iran has yet to name its delegation, which Larijani said would be of a rank "appropriate" to the task. Both Iran and the United States publicly emphasize that the subject will be limited to the teetering situation in Iraq, where both have deep interests and influence.

U.S. officials underscore this adamantly, openly arguing that Iran is opening a channel to the United States in hopes of siphoning off pressure it faces from the U.N. Security Council about the intentions of its nuclear program.

Some Iranian politicians acknowledge as much. "Although the talks will be over Iraq, these talks would have certain impacts on other regional developments and also on nuclear diplomacy," said Reza Talainik, head of parliament's national security and foreign affairs committee, ISNA reported.

Others describe the opening as a first step toward reducing Iran's estrangement from the West. The United States long has labeled Iran the world's largest state sponsor of terrorism. But Tajzadeh said he feared the escalating rhetoric over Iran's nuclear program, which many suspect is a front for acquiring atomic weapons, was building toward military action.

"The public image the U.S. has made of Iran is a monster. They have to do something, at least break a horn," he said. "There is only a small chance. This is negotiation.

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"Of course, in the short term," he said, "it would not be in my party's favor. But in the long term, it would be in the favor of the Iranian nation and our party."

Naser Hadian-Jazy, a political scientist at Tehran University, said Iranian commentators of all stripes see the new opening as the most significant public approach to Washington since 1979, despite mid-level diplomatic contacts through third parties in advance of the invasions of Afghanistan and Iraq.

"Both the supporters and those who are critical have made this point clear," he said.

The public also appeared to welcome news of talks. "I think both sides should take advantage of this opportunity. They should be friends," said Kobra Mehdipour, 68, clutching her chador against the March wind.

Asked who in Iran might feel otherwise, she said, "There might be some illiterate people in the provinces who want to be friends with other countries but might be under the influence of some kind of propaganda."

Karrubi, the moderate cleric, moved from supporting the 1979 embassy takeover to urging rapprochement with Washington. He said that was the challenge for the governments as well.

"Both sides should forget the rhetoric used in the media and politics. They should put it aside," he said. "They should create something new."

U.S. General Doubts Talks With Iran Will Promote Mideast Peace (AP)

The Associated Press, March 19, 2006

WASHINGTON — The top commander of U.S. forces in Iraq expressed doubt today that negotiations between the United States and Iran over Iraq would help bring peace and stability in the Middle East.

"I don't have a lot of confidence that these will turn out to be productive, but I could be wrong," said Gen. George W. Casey, the top commander in Iraq.

"They're playing, I think, a very delicate balancing act," he said of Iran. "On the one hand, they want a stable neighbor. On the other hand, I don't believe they want to see us succeed here."

The Bush administration agreed last week to talk to Iranian officials about Iraq after a nearly three-decade break in diplomatic ties between the two countries. U.S. intelligence strongly suspects Iran has been arming Iraqi Shiite militia and some insurgent groups.

Casey said he didn't have much faith in the talks but that it was a "political call." Any negotiations should involve the Iraqis' use against coalition forces of "improvised explosive device technology" that he says are coming from Iran.

"That needs to stop," Casey said on "Fox News Sunday."

For the talks, U.S. officials have ruled out discussion of any attempt by Iran to gain a political foothold in Iraq, as well as international concern that Iran is seeking to build a nuclear bomb, an allegation that Tehran denies.

Last week, Bush's top foreign policy adviser, Stephen Hadley, expressed concern that Iran's willingness to talk might be a ploy designed to divert attention from the nuclear dispute. The U.N. Security Council is expected to discuss the nuclear issue this month, with Washington pressing for penalties.

Still, lawmakers from both parties said today they welcomed the discussions, saying it was critical for the Bush administration to engage the Middle East region — even countries it might disagree with — as the U.S. contemplates an exit strategy in Iraq.

"I think we have to understand that we are talking frequently to people with whom we have severe disagreement, whom we dislike, whom we may feel really are terrorists, but those are the folks that are in the world that we're going to have to influence," said Sen. Richard Lugar, R-Ind.

"Now, that doesn't mean that we're necessarily going to be successful in any of these respects, but clearly we're not only sharing the burden, but probably bringing some sense of urgency to the world in a way in which we are not perceived as doing in Iraq," Lugar said.

Sen. Joe Biden, D-Del., agreed, saying that Iran and the U.S. have a mutual interest in not seeing a civil war break out in Iraq. The U.S. can refuse to negotiate on other issues, such as terrorism or a suspected nuclear arms program, he said.

"Seventy-five percent of the Iranians or more hate their leadership, and the last thing they need is 50 million Shia on the other side learning from their Shia brethren how to wage a war," said Biden, who appeared with Lugar on CNN's "Late Edition."

Sen. Chuck Hagel, R-Neb., said that talking with Iran would give the U.S. more options in eventually pulling out of Iraq. He called that a better approach than to engage in a "mindless kind of banter" about "well, if we leave, the whole place falls apart."

"We've got to think in a big-picture way here that we haven't thought before. I think we need to talk to the Iranians," he said on ABC's "This Week." "There will be no peace in Iraq or in the Middle East without the Iranians being part of that."

Top U.N. Members To Try To Break Stalemate On Iran (WP)

DOJ_NMG_0018659

By Colum Lynch
The Washington Post, March 20, 2006

UNITED NATIONS, March 19 -- The Security Council's five permanent members and Germany will hold a high-level meeting Monday in New York to try to break an impasse over the international response to the Iranian nuclear crisis.

The meeting comes as U.S. and European diplomats have failed during two weeks of negotiations to overcome Chinese and Russian objections to a Security Council statement demanding that Iran stop its nuclear-enrichment activities and cooperate with the International Atomic Energy Agency. R. Nicholas Burns, the undersecretary of state for political affairs, and top foreign affairs officials from the five other governments are expected to attend.

U.S. and European officials say they will try to assuage Russian and Chinese fears that the adoption of the statement will inevitably lead to harsh punitive measures against Iran. "We're not hellbent on going to war; we're not hellbent on imposing sanctions," said a senior State Department official familiar with the discussions, who spoke on the condition of anonymity because the talks are supposed to be confidential. "We're hellbent on having the Iranians return to the negotiations, like the Russians and the Chinese want."

Moscow's opposition to a Security Council declaration has hardened in recent weeks as senior U.S. officials, including Burns, have publicly threatened to press for targeted sanctions against Iran's rulers if they ignore the 15-nation council's call for a freeze on Iran's uranium-enrichment activities.

Russian diplomats say they are concerned that a U.S.-backed European draft, which sets a two-week deadline for Tehran to stop enrichment activities and agree to more intrusive U.N. inspections, provides too little time to test Iran's cooperation. Russia's U.N. ambassador, Andrei Denisov, mockingly told the Associated Press on Friday: "Let's just imagine that we adopt it and today we issued that statement -- then what happens after two weeks? In such a pace, we'll start bombing in June."

Monday's meeting, which will be held at the British mission, was scheduled in response to a request by Russian Foreign Minister Sergei Lavrov to hold talks outside the Security Council to map out the United Nations' long-term strategy for persuading Iran to scale back its nuclear activities.

An evening meeting, which will include the U.N. ambassadors for the six governments, will focus on reaching a deal on the presidential statement.

A second senior Bush administration official, who also spoke on the condition of anonymity, denied an AP report Saturday suggesting that Britain was considering proposing Monday to resolve the standoff through talks among the council's five veto-wielding members, Germany and Iran. "The report is absolutely false," the U.S. official said. "We checked with the Brits, and they were stupefied by that report, and they never heard of it. No one has made that proposal, and we wouldn't accept it."

The standoff hinges on whether the Iran crisis should be handled by the Vienna-based International Atomic Energy Agency or the Security Council, which can impose sanctions or use force. Russia and China have insisted that the IAEA take the lead, while the United States, France and Britain say that Iran will stop its activities only if faced with the threat of sanctions.

Some council members say the European proposal for a two-week deadline for IAEA Director General Mohamed ElBaradei to report to the council on Iran's cooperation is too short. China prefers four to six weeks. Russia opposes any report until the IAEA meets in June.

China said Friday that it would accept a continuing role for the U.N. council in managing the nuclear crisis. U.N. Ambassador Wang Guangya said he had offered a compromise to bridge the gap between Russia and the council's three major Western powers. Under the plan, ElBaradei would report on Iran to the 35-member IAEA board and the Security Council.

U.S., French and British diplomats say they have rallied a majority of the council's 15 members in support of a draft statement that would call on Iran to stop uranium-enrichment activities and cooperate with the IAEA. They will resume talks on Tuesday.

Tehran Courts Support Of Arabs (WP)

By Daniel Williams
The Washington Post, March 20, 2006

CAIRO -- Iran has embarked on a charm offensive in the Arab world aimed at expanding economic and political ties and circumventing efforts by the United States and its allies to isolate Iran over its nuclear program.

President Mahmoud Ahmadinejad traveled this month to Kuwait, the first visit there by a high-ranking Iranian official in more than 25 years. Other Iranian officials toured Persian Gulf states trying to persuade them to endorse Iran's desire to develop nuclear technology, which U.S. officials have called a cover for building weapons. In mid-February, Iran's deputy foreign minister for Arab and African affairs, Mohammad-Reza Baqeri, met in Mecca with Saudi Foreign Minister Saud al-Faisal in a bid to persuade the Saudis to coordinate stands on regional issues, according to reports from Tehran.

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Iran also moved to shore up its longtime alliance with Syria, itself a target of U.S.-led isolation efforts. Iran and Syria signed preferential trade agreements and announced plans to lay an oil pipeline between the two countries, although a key section would have to pass through Iraq. During a recent meeting with Iranian officials in Damascus, Syrian Prime Minister Naji al-Otri publicly endorsed Iran's assertion of the right to develop nuclear technology, albeit for "peaceful purposes."

Across the Mediterranean, in Tunisia, officials pledged to increase trade, flights and tourism ties with Tehran.

The activity coincides with Iran's stated support for Hamas, formally known as the Islamic Resistance Movement, which won a majority of seats in the Palestinian parliament in January. Ahmadinejad has offered to fill gaps in the Palestinian Authority budget created by a withdrawal of international aid as Hamas takes over. The United States and many European governments consider Hamas a terrorist organization and have said it ought to be isolated until it recognizes Israel and forswears violence.

Arab observers say Iran's diplomatic offensive represents a newly vigorous approach to improving relations with its neighbors. "Iran is trying to become a player in the region. At least toward the Arabs, Iran is trying to moderate its tone," said Maha Altorki, an Iran analyst in the Asia section of the Arab League, based in Cairo, the Egyptian capital.

Altorki said Iran faces numerous obstacles in its campaign. Persian Gulf states closely allied with the United States are leery. Iran has laid claims to islands and undersea territory in the oil-rich gulf. During a meeting of Persian Gulf foreign ministers this month, Abdullah bin Zayed al-Nahyan, foreign minister of the United Arab Emirates, pointed out that Iran continues to occupy islands claimed by the UAE and called for their peaceful return.

Iran also faces suspicions about its long-term intentions. It is a majority Shiite Muslim country ruled under Islamic law as Iranian clerics define it, and that makes leaders of the predominantly Sunni Muslim Arab world wary that the Iranians will try to subvert their rule. Last year, Jordan's King Abdullah warned of an emerging "Shiite crescent" stretching from Iran through Iraq and Syria into Lebanon, where Iran has long been a patron of the Hezbollah movement that fought the Israeli army.

Abdullah and Middle East observers have noted that the Bush administration boosted Iran's regional profile by toppling Saddam Hussein and effectively shifting power to Iraqi Shiite parties and militias that Tehran had hosted while they were in exile.

"I have a real problem with certain Iranian factions' political influence inside Iraq," Abdullah said in a published interview last year. "My concern is political, not religious -- revolving around Iran, Iran's political involvement inside Iraq, its relation with Syria and Hezbollah and the strengthening of this political-strategic alliance. This would create a scenario where you have these four -- Iran, Iran-influenced Iraq, Syria and Hezbollah -- [with] a strategic objective that could create a major conflict."

Not all Arab countries share such alarm, cautioned Wael al-Assad, director of the Arab League's Department of Multilateral Relations. "There is no single position in the Arab world toward Iran. In general, the closer a country is to Iran, the more worried it is," he said. "Of course, the collapse of Iraq and the rise of the Shiites make the situation more frightening to some."

The Arabs' position on Iran's nuclear program is complicated by their demand that the region should be free of nuclear weapons -- including Israel, which has long possessed a nuclear arsenal but never acknowledged it.

"We don't want Iran to have nuclear weapons. The difference with the U.S. approach is that we see it as a regional issue," Assad said. "We want a nuclear-free zone. We declare it is wrong for any country in the area to possess nuclear weapons. Otherwise there will be an arms race. The Americans handle it on a state-by-state basis."

Ayatollahs Aside, Iranians Jump For Joy At Spring (NYT)

By Michael Slackman

The New York Times, March 20, 2006

ISFAHAN, Iran, March 19 — All day and all night, the main street of this city was packed over the weekend with shoppers jockeying to buy last-minute gifts and sweets as they hurried to get ready for the celebration of the Iranian New Year, called Nowruz. Behind his cluttered desk inside an antique shop, Sayed Ali Zargabashi watched with great satisfaction as the crowds spilled off the sidewalks.

"People are not listening to the regime," said Mr. Zargabashi, 63. "They are emphasizing and embracing the traditional celebrations. People want the best they can get. Their eyes are open now."

After the Islamic Revolution in 1979, the ruling ayatollahs sought to stamp out many traditions, like Nowruz, a celebration with some Zoroastrian links that stretches back thousands of years to the pre-Islamic era, to mark the arrival of spring. The celebration is considered by many here the most Iranian of holidays.

The ayatollahs tried, and failed.

Now, nearly three decades later, some people say the increasingly enthusiastic embrace of Nowruz and other ancient traditions represents a resistance against the country's more conservative religious rulers.

A few days before Nowruz, for example, Iranians poured out of their homes to celebrate Chahar Shanbeh Suri, igniting fireworks and jumping over small fires set in the streets, a traditional practice intended to bring good health in the new year. Several years ago, the government decided it could not stop the practice, and set up special parks where the fires could be set.

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This year's celebration — a time for family gatherings — has proved especially vexing for the religious leadership as it occurs on Monday, the same day the faithful are expected to mourn the death of Imam Hussein, a figure whose defeat in battle centuries ago became a defining moment in Shiism, the dominant Islamic sect in Iran.

Some clerics said in interviews that it was acceptable to observe the new year, but because the celebration was occurring on the 40th day after the anniversary of Imam Hussein's death, people should not show joy — which in itself prompted giggles from some as they hurried to get ready.

"I think these days, there is a silent resistance in Iran, especially among the middle class," said Hamidreza Jalaipour, a sociologist. "They are resisting not politically, but socially and culturally."

Like most conflicts in a society as complex and layered as this one, the contemporary story of Nowruz is not one-sided or exclusively about resistance. It is also about accommodation. While Iran's religious leaders have followed a policy of confrontation with the West over their nation's nuclear program, they have, however grudgingly, ceded to the public's insistence on retaining, even bolstering, traditions not founded in Shiism.

While it was the reformist government of former President Mohammad Khatami that decided to establish parks to hold the fire-jumping festivities, for example, the practice was continued this year after the election of the ideologically conservative President Mahmoud Ahmadinejad.

That Iran's religious leaders have accepted Nowruz, and other prerevolution traditions like Chahar Shanbeh Suri, also demonstrates a growing degree of stability, as the country's leadership has tried to reconcile the bookends of Iranian national identity — faith and culture, experts here said.

At last week's Friday Prayer service, held in the sprawling open-air arena at Tehran University and broadcast nationwide, Ayatollah Ahmad Jannati, among Iran's chief enforcers of strict Islamic doctrine as head of the Guardian Council, did not mention Chahar Shanbeh Suri. He also did not mention Nowruz, though he acknowledged that recreation was good, as long as people continued to observe the laws of the Islamic republic.

"In this new year," Ayatollah Jannati said from a podium high above the crowd, "God's kindness and affection should be on you. We should always observe piety and all laws decided by God. You can neither commit sin in happiness or sadness."

There still exists a battlefield between those on the extremes of the debate, the ultrareligious who would like to erase elements of Iranian identity not explicitly Islamic, and others, including many in the expatriate community, who try to undermine the credibility of the Islamic government by appealing to Iranian nationalism through such traditions as Char Shanbeh Suri.

"What is interesting is that it is not clear why the opposition is trying to benefit from setting fire to little thorn bushes and firecrackers, which has mistakenly turned into a tradition, and interpret it as opposition to the Islamic republic," Hussein Shariatmadari, editor in chief of the conservative daily newspaper Kayhan, wrote on Thursday.

The exact beginning of Nowruz — the name means "New Day" — is unclear, although its origin has been traced back thousands of years. In Iran, it is closely associated with the Zoroastrian faith, a monotheistic religion in which worshipers perform prayers and rituals in the presence of fire — a symbol of order, truth and righteousness. Zoroastrians are said to have made the Nowruz tradition formal.

Tooran Shahriari, a senior member of the Zoroastrian community in Tehran, said that the ancient calendar was divided in 12 months of 30 days each. At the end of the year, she said, the five days left over became "special days" and the basis for the celebration.

In practical terms, the holiday signifies the end of winter and the start of the new growing season, and resembles a blend of New Year's Eve and Thanksgiving. In advance of the holiday, Iranians conduct an intense spring cleaning.

The holiday begins at the exact moment of spring, and so on Monday Iranian families will gather in their homes at about 10 p.m. around tables set with seven symbolic dishes, each beginning with the letter S in Persian, including items like vinegar, dried fruit, garlic and sprouting seeds, which represent renewal. The holiday ends on the 13th day with an event called Sizdah Bedar, when everyone is supposed to go out into nature, hold picnics and enjoy the early spring.

In Isfahan, there was a rush to get ready for the holiday. One tradition is to buy new clothing, and tailors were busy trying to meet holiday orders. In one shop, a tailor named Akbar said that nearly half his annual business was conducted in the month before the holiday. He said he was certain Nowruz was so popular because people were rebelling against the government and its strict social codes of behavior.

"They really tried to take away Nowruz from people," Akbar said as he fitted a customer with a new suit. "People are turning away from religion altogether. They are not listening to what the government is saying." He is not being completely identified to protect him from possible reprisal over his comments about religion, which is often considered a red line in this country.

Not everyone shared the tailor's view. Instead, some people who identified themselves as religious said they saw no conflict with Iran's culture.

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"Iranians have both tradition and religion, and they both get respected in return," said Jaafar Hemmassian, 40, a baker in the center of the city as he sold piles of cream puffs and cases of confections. "All of the traditions of Nowruz are accepted by Islam."

A few days earlier, as people gathered in a small park in Tehran to set fires and celebrate Chahar Shanbeh Suri, held on the last Wednesday of the year, many people said they were pleased that the government had finally relented — and even helped to organize the occasion.

"This is an important night for us, especially because this regime has finally realized that it should respect peoples' demand and let them celebrate it," said Manijeh Emadi, 54, a high-school teacher. "They wanted to take away Nowruz and its traditions for 27 years. Finally they learned that this tradition has survived for hundreds of years, and it will survive them as well."

Where Comedy Isn't King (NYT)

By Jake Tapper

The New York Times, March 20, 2006

Washington — I was only a few hours into my recent two-week stay in Baghdad when I first noticed the discordant images on Iraqi television: Between the grisly shots of war dead, pools of blood and burnt-out shells of cars came bits of wacky slapstick.

Grown men and women joked around in silly makeup and goofy costumes, emoting exaggeratedly, acting like buffoons. It was difficult to compute at first: amid the horror, some Iraqis were actually trying to make the country laugh.

With the newfound freedom of speech here, more than 100 television and radio stations have been licensed; the American ambassador, Zalmay Khalilzad, marveled at the transformation a few days ago, noting that until the invasion Uday Hussein's "pen ruled supreme." This has resulted not only in more news and public affairs programming, but many new entertainment shows.

Every Tuesday night, for instance, the Kurdish TV station KurdSat runs "Program," which offers music and skits about corruption and society. Every Friday afternoon "Caricatures," on the satellite station Al Sharqiya, lampoons sectarian strife and the annoyances of day-to-day life like cellphones. The American Idol-esque "Iraq Star," which recently completed a season's run on Al Sumariya, came with its own version of Simon Cowell named Mo Hadi.

On radio, every day the Rashid station offers a four-hour show called "DJ Rashid," which brings listeners music, comedy and various contests. Callers share jokes and poems on the Mahaba radio station's "Mahtata" show every evening.

Struck by this phenomenon, my producers and I called Iraqi TV and spoke to Amjad Hamid, the manager of the entertainment division. He seemed very proud of a new sitcom set to debut next month. In 15 half-hour episodes, "Me and Layla" — starring Odei Abdel-Sattar, an Iraqi Danny DeVito — will show the misadventures of a hapless Romeo. Mr. Hamid invited us to visit the set to interview the producer, director and actors. He was convinced that what they were trying to do was important.

When we went a few days later to where they were filming in north Baghdad, we could have been on a back lot in Burbank. A one-camera crew shot a scene where the diminutive Mr. Abdel-Sattar and another actor — the straight man, it seemed — had an animated discussion. The director, Jamal Abed-Jasim — bald, wearing a red shirt and tan vest — barked out his vision; a woman in a business suit clutching a clipboard never left his side. The smooth-as-silk producer, Mazin Mohammed Mustafa, paced and smoked. Mr. Abdel-Sattar hammed it up off camera. Gaffers and grips tended to their tasks; extras milled around, waiting to shine.

For us, it was a chance to cover something besides car bombs, carnage and body counts. That perhaps understandable focus — and concerns for our own security — have clearly hindered the ability of journalists to tell stories about Iraqi society, about the less obvious ways that Iraqis are trying to rebuild their country.

"Iraqis have a real need to smile now to make them forget all the destruction and terrorism surrounding them," Mr. Abdel-Sattar told us, sunglasses perched atop his head. "God willing, things will get better."

Mr. Mustafa, the producer, told us more comedies were in production at Iraqi television stations now than at any time during Saddam Hussein's reign. And many of them were political — something unheard of. He echoed the sentiment of so many Hollywood producers: "Tragedy is easy; comedy is where the challenge is."

"Every director in Iraq wants to make the Iraqi people smile," he told us. "To ease what they are going through, to make the average Iraqi forget about the misery of his daily life."

Yet tragedy still has a way of rearing its head.

We had been on the set for less than an hour when Mr. Mustafa got a phone call that clearly upset him. Grabbing Mr. Abed-Jasim by the arm, Mr. Mustafa took him aside and told him that gunmen had assassinated Mr. Hamid, the entertainment-division chief, outside his Baghdad home just minutes earlier.

The director told the cast and crew. Shock and grief turned to terror. Everyone on the set immediately became restless, anxious. Eyes moist with tears began darting about the street. Iraqi TV is widely perceived as being pro-Shiite and pro-

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government; the Sunni-leaning Baghdad TV had just had one of its anchors shot and killed a few days before. Not that any of the violence in today's Iraq needs a reason.

Mr. Mustafa told the crew to break down; within minutes everyone had jumped into cars and minivans and fled. My crew and I weren't far behind. Iraqi TV put a black band of mourning on the top left corner of its screen and spent much of the rest of the day covering Mr. Hamid's funeral.

It is American journalists' duty to try to look at the broader picture in Iraq — telling the stories about those brave souls who seek to restore normalcy and laughter into the daily routine here. But there is no denying that the horrific violence will often make that task impossible.

Jake Tapper is a correspondent for ABC News.

Afghan Man Prosecuted For Converting (USAT/AP)

By The Associated Press

USA Today, March 20, 2006

KABUL, Afghanistan (AP) — An Afghan man who allegedly converted from Islam to Christianity is being prosecuted in a Kabul court and could be sentenced to death, a judge said Sunday.

The defendant, Abdul Rahman, was arrested last month after his family went to the police and accused him of becoming a Christian, Judge Ansarullah Mawlavezada told Associated Press in an interview. Such a conversion would violate the country's Islamic laws.

Rahman, who is believed to be 41, was charged with rejecting Islam when his trial started last week, the judge said.

During the hearing, the defendant allegedly confessed that he converted from Islam to Christianity 16 years ago when he was 25 and working as a medical aid worker for Afghan refugees in neighboring Pakistan, Mawlavezada said.

Afghanistan's constitution is based on Shariah law, which states that any Muslim who rejects their religion should be sentenced to death.

"We are not against any particular religion in the world. But in Afghanistan, this sort of thing is against the law," the judge said. "It is an attack on Islam. ... The prosecutor is asking for the death penalty."

The prosecutor, Abdul Wasi, said the case was the first of its kind in Afghanistan.

He said that he had offered to drop the charges if Rahman changed his religion back to Islam, but the defendant refused.

Mawlavezada said he would rule on the case within two months.

Afghanistan is a deeply conservative society, and 99% of its 28 million people are Muslim. The rest are mainly Hindus.

Democracy And Security (WSJ)

The Wall Street Journal, March 20, 2006

The publication last week of the Bush Administration's National Security Strategy has been greeted with a combination of media indifference and contempt. "Bush clings to pre-emptive force," was one news agency's sum-up of the 49-page document. Readers of these columns might prefer to draw their own conclusions by actually reading it: www.whitehouse.gov/nsc/nss/20061. What they'll find is a strategy that's admirably specific and, in the issues that matter most, broadly right.

This is especially important at a time when countries such as Iran, Syria and Egypt are betting that the Administration's domestic political weakness and its troubles in Iraq will see them safely through the 2008 election and what they hope will be a more pliant U.S. foreign policy. The document may now give those regimes second thoughts. Crucially, it reaffirms the Administration's first-term support of pre-emption: "When the consequences of an attack with [weapons of mass destruction] are potentially so devastating, we cannot afford to stand idly by as grave dangers materialize."

We'll take that to mean that the Bush Doctrine remains alive and well, despite persistent reports that it had been quietly shelved in favor of . . . well, no one has yet made clear what. Critics of the doctrine have argued that America's intelligence failure and difficulties in Iraq demonstrate the perils of pre-emption. Yet it is precisely because U.S. policy makers will never have perfect information about the capabilities and intentions of our enemies that pre-emption is sometimes needed, particularly when the threats are potentially catastrophic.

What distinguishes this document, however, is the emphasis it places on "effective democracy": that is, nations in which the institutions of democracy -- regular and honest elections; representative and accountable government -- serve as the armature of basic political, religious and economic freedoms.

Critics have questioned whether promoting democracy really advances U.S. security interests, pointing to the recent victory of Hamas in Palestinian elections. But leaving aside that the former government of Yasser Arafat was no less bloody minded, the objections fail to appreciate the ways in which effective democracies tend to counteract the very factors that gave rise to Hamas

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in the first place: Political participation takes the place of exclusion; the free flow of information and a marketplace of ideas replace "sub-cultures of conspiracy and misinformation," and so on.

None of this guarantees that elections will inevitably lead to liberal outcomes. And, yes, there are times and places (Pakistan now) where the diplomatic prod to democracy has to be measured against the help a government is providing against a more urgent enemy (al Qaeda). But the evidence of the past century is that elections usually produce more long-run stability, and they merit a try in the Middle East.

Equally useful is the strategy's clear-eyed account of the connection between the nature of a regime and its behavior. "Governments that honor their citizens' dignity and desire for freedom tend to uphold responsible conduct toward other nations," the document notes, "while governments that brutalize their people also threaten the peace and stability of other nations."

This is directly relevant to Iran, whose nuclear ambitions are mainly a function of the ideological obsessions of its rulers -- and not, as is sometimes argued, of Iran's objective national interests. This means the threat Iran poses is unlikely to change as long as the regime remains the same: The "ultimate goal" of U.S. policy, therefore, is rightly an Iran which "[opens] up its political system and [affords] freedom to its people.

How this is done is another matter, and nobody is now arguing for changing the regime in Tehran the way it was changed in Baghdad. But we are heartened that the strategy begins with the declaration that "It is the policy of the United States to seek and support democratic movements and institutions in every nation and culture" (our emphasis). This puts us in mind of U.S. support for Russian refuseniks in the 1970s, Poland's Solidarity movement in the 1980s and Kurdish autonomy in northern Iraq in the 1990s -- all of which have analogs in modern-day Iran.

There is a great deal more in this document that deserves attention, notably the effort to retool the State Department into an engine of "transformational diplomacy," and not, as it usually is, the defender of every given status quo. It is also good to see the Administration belatedly recognize that Russian democracy is increasingly threatened by its own government.

Best of all is the line that "Though tyranny has few advocates, it needs more adversaries." One critique of the President's push for democracy is the idea that the U.S. should not too visibly support the world's democratic dissidents and movements, lest they be tainted by American associations. But we suspect that champions of liberty in places such as Egypt, Iran and China take greater courage from an America that states its purposes boldly than one that fears its own shadow. Since when did the love of liberty become the love that dare not speak its name?

DOJ:

Federal Prosecutor Joins Arent Fox's D.C. Office (WP)

The Washington Post, March 20, 2006

Baruch Weiss, a veteran federal prosecutor who most recently was associate general counsel at the Department of Homeland Security, has joined the District office of Arent Fox in the litigation and white-collar defense groups.

From 1984 through 2002, Weiss was senior trial counsel for the U.S. attorney's office in Manhattan, where he handled cases including a fraud investigation of a major securities firm, appeals involving the first World Trade Center bombing in 1993 and the unsuccessful prosecution of boxing promoter Don King for insurance fraud.

Meanwhile, Jim Schumann, who was previously in the DHS office of legislative affairs, has joined the government affairs group at Akerman Senterfitt. He will serve on the firm's disaster recovery task force.

In other moves in the Washington offices of major law firms:

· Four lawyers who were with Heller Ehrman LLP -- Colin G. Sandercock, John P. Isacson, Paul M. Booth and David W. Laub -- have joined the life sciences and intellectual property practices of Proskauer Rose LLP as partners.

· Roger Nober, outgoing chairman of the federal Surface Transportation Board, has joined Steptoe & Johnson LLP as a partner.

-- Larry Liebert

CORPORATE SCANDALS:

Enron Prosecutors Have Another Key Witness, From Jail (NYT)

By Alexei Barrionuevo

The New York Times, March 20, 2006

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The government heads this week into the home stretch of its case against two former Enron chief executives. Prosecutors will be looking to end on a flourish with the testimony of Ben F. Glisan Jr., the only former top executive who has already been sentenced in the Enron debacle.

Mr. Glisan, the former treasurer, is the last major witness for the government before the case shifts to the defense and to what promises to be memorable testimony by the defendants, Jeffrey K. Skilling and Kenneth L. Lay.

Mr. Glisan worked closely with Andrew S. Fastow, the former chief financial officer, on developing special-purpose entities, like the Raptors group, that both men have said in plea deals were used to inflate earnings and hide debt. The government is also expected to use Mr. Glisan to try to connect the dots for jurors hearing a complex case.

For seven weeks and through 14 witnesses, jurors have listened to prosecutors build a case on largely disparate pieces of indirect circumstantial evidence that Mr. Lay and Mr. Skilling, the top executives of what was once the seventh-largest company in the world by revenue, conspired to mislead and defraud investors.

Legal experts have generally praised the government's case, which has shied away from complex explanations of accounting and focused on the actions and words of Mr. Skilling and Mr. Lay in the three years before Enron collapsed in December 2001.

But legal experts continue to debate two crucial issues: whether the government has presented enough evidence that Mr. Lay knowingly lied about the true state of Enron's businesses and, more broadly, whether there was an extensive conspiracy within Enron to defraud and mislead employees and investors, as the government contends.

Those issues underscore the importance of decisions that the judge, Simeon T. Lake III of Federal District Court, will make in the coming weeks about how to structure the jury instruction. If the judge grants a "deliberate ignorance" instruction, as expected by many legal specialists because of case precedent, it could ease the way for jurors to find Mr. Lay guilty — even if the government cannot prove he knew that fraud was occurring on his watch.

"These instructions are making it very difficult if not impossible for defendants to prevail in these types of cases," said Joel Androphy, a lawyer in Houston specializing in white-collar crime.

Mr. Lay's lead lawyer, Michael Ramsey, agreed that prosecutors were more likely than not to seek the "deliberate ignorance" instruction for his client. "There is nothing direct to say about Ken Lay," Mr. Ramsey said. "It has all got to be by insinuation and innuendo."

But legal experts said the cumulative impact of such testimony could be taking a toll on Mr. Lay. Last week provided some of the most emotional testimony against Mr. Lay to date. Johnnie Nelson, a 46-year-old pipeline operator in New Mexico, blamed Mr. Lay for steep losses in his retirement savings account, saying a man he formerly admired had let him down.

At week's end, Sherron S. Watkins, a former Enron vice president and now an author and lecturer, said she had become concerned about potential accounting problems and had taken the concerns directly to Mr. Lay after Mr. Skilling abruptly resigned.

Ms. Watkins criticized Mr. Lay's handling of an inquiry into her accusations and raised the specter that Mr. Lay might have authorized lawyers to look into firing her, which did not happen in the end.

Jurors seemed riveted by her testimony, which was peppered with her negative opinions of Mr. Lay and Mr. Skilling. Judge Lake helped prosecutors by not reining in her answers.

Prosecutors have also presented evidence that Mr. Skilling participated in fraudulent acts. David W. Delainey, the former chief executive of the Enron Energy Services retail division, testified about one meeting in March 2001 in which Mr. Skilling assented to a plan to shift some $250 million in troubled retail contracts to the wholesale energy division.

Mr. Delainey contended that the meeting participants knew the move was being done to deceive investors about the retail unit, which he called a "basket case."

Mr. Fastow, while admitting his own criminality, testified that Mr. Skilling approved "bear hug" side deals guaranteeing that one partnership, LJM, would not suffer losses for doing deals with Enron that could help it manipulate its earnings. And Mr. Fastow, in somewhat shaky testimony, nevertheless said the side deals had been memorialized in a document called the Global Galactic agreement, aspects of which, he said, Richard A. Causey, the chief accounting officer, had discussed with Mr. Skilling.

Kevin P. Hannon, the former chief operating officer of Enron's troubled broadband unit, offered surprising testimony that Mr. Skilling uttered "They're on to us" in a May 2001 meeting at which senior executives discussed a research report suggesting Enron's stock was overvalued.

Despite the evidence presented so far, some legal experts said they believed the case could crumble once Mr. Skilling and Mr. Lay took the stand.

"There is still no explosive evidence," said Robert Mintz, a former federal prosecutor who is now a defense lawyer at McCarter & English in Newark. "Jurors will be expecting prosecutors to dissect their testimony with a scalpel."

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Before the defense takes over, Mr. Glisan's appearance for the prosecution offers one more chance for high drama. Mr. Glisan, 40, has already served more than half of a five-year sentence for conspiring to falsify financial results and make Enron appear more successful than it actually was. He was the chief architect of the Raptor vehicles, whose insolvency in the fall of 2001, prosecutors contend, played a role in the ultimate collapse of Enron.

Mr. Glisan is serving time at a low-security prison in Beaumont, Tex., about 100 miles east of Houston, according to Bureau of Prison records. He is sure to draw stares if he enters the courtroom in prison garb, as he did two years ago when he testified in another Enron case involving the sham sale of interests in Nigerian barges.

Affable and sharp, Mr. Glisan was credited with being a crucial government witness in the barge case, which resulted in five defendants being found guilty. Unlike other government witnesses, Mr. Glisan has less to gain from shading his testimony to fit the government's theory of the case because he is already serving his sentence, legal experts say.

Away from the courtroom, lawyers for both sides began hashing out the all-important jury instruction they will eventually submit to the court.

"I am not terribly optimistic after yesterday that we can get a charge together by agreement," he said Saturday. "The judge will have to get into it and make some rulings."

The "deliberate ignorance," or "conscious avoidance," charge made it fairly easy for jurors to find Bernard J. Ebbers, the former chief executive of WorldCom, guilty last year of conspiracy and fraud charges.

In a motion seeking a new trial, lawyers for Mr. Ebbers, who was sentenced to 25 years in prison, argue that jurors were told they could find him guilty based on "conscious avoidance" even without evidence that Mr. Ebbers "deliberately avoided learning any fact at issue."

The judge in that case justified the charge on the grounds that the circumstances were "overwhelmingly suspicious" and that Mr. Ebbers had failed to question those suspicious circumstances.

Mr. Ebbers also struggled to win a "missing witness" charge, which defense lawyers in the Enron case are likely to seek as well. In the Ebbers case the judge denied defense motions to grant immunity to some witnesses or to allow use of previous statements to impeach the government's cooperating witnesses.

Absent that, Mr. Ebbers's lawyers sought to instruct jurors that certain witnesses were "missing" because they were under government control, had indicated they would exercise their Fifth Amendment right against self-incrimination and were not given immunity by the court to testify for the defense.

Lawyers for Mr. Skilling and Mr. Lay are facing the same challenges in responding to testimony by government cooperators testifying under plea agreements. Most of the government cooperators, including Michael J. Kopper, a close confidant of Mr. Fastow; and David B. Duncan, the former Andersen partner who had approved much of Enron's questionable accounting, have told defense lawyers they would invoke Fifth Amendment rights.

Others important Enron figures who have not been charged, like the former Enron president Greg Whalley, also have indicated they would invoke the Fifth if called.

That would make it tough for the defense to disprove Mr. Delainey's accusations about what was said at the March 2001 meeting in Mr. Skilling's office. All but one participant in the meeting — a former Enron accountant, Wesley H. Colwell — is likely to be unavailable for the defense.

Mr. Colwell testified earlier in the trial for the government but was not asked about his role in the effort to shift losses out of the retail unit.

Another participant in the meeting that day, Mr. Causey, is not likely to be called by the government except as a rebuttal witness, if at all, prosecutors have said.

Executive Pay Rises Show Big Slowdown In US (FT)

By Dan Roberts

Financial Times, March 20, 2006

Growth in US executive pay has slowed sharply in spite of record profit growth, according to preliminary findings from an independent corporate governance watchdog.

The Corporate Library, which usually estimates greater pay inflation than most industry studies, calculates that US chief executives took home 11 per cent more money in 2005, compared with a 30 per cent rise the year previously. Among the 500 largest companies, median total compensation reported to date rose by just 3.7 per cent in 2005 to $5.2m.

“It is early days yet, but it may be possible to find some small encouragement in the fact that, at least for a group of companies, compensation increases for CEOs, while far exceeding those for other employees, have dropped from the heady levels found in last year’s survey,” said Paul Hodgson, senior research associate.

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The slowdown coincides with a change in tactics among pay campaigners, who believe they may be reaching the limit of their efforts to shame companies into pay restraint.

More transparent disclosure rules that were recently proposed by the Securities and Exchange Commission should soon make it much harder for companies to disguise the total pay packages that are received by their executives.

Activists, such as those running union pension funds, are shifting their attention, proposing resolutions that will make it easier for investors to nominate directors to compensation committees or vote on approving remuneration, as is common in the UK and Australia.

"We are at a critical point as boardroom vested interests fight tooth and nail against further reform and there is a danger that the focus on disclosure becomes a distraction from the real question, which is board accountability," said Brandon Rees, a researcher with the AFL-CIO's office of investment.

Some experts are sceptical that giving investors the information and the tools to tackle boardroom excesses will necessarily make much difference to overall levels of pay.

"We may discover that investors are not really that bothered," said Mr Hodgson.

"There will be even fewer excuses with the proposed disclosure regulations coming in, so what will happen then is the blame will shift from compensation committees to shareholders."

Pat McGurn, special counsel at Institutional Shareholder Services, said this coming year would prove the acid test for those who argue that improved corporate governance automatically leads to lower executive pay. "The SEC can bring you to the water, but it is up to investors to fix things," he said.

While the Corporate Library's latest figures show pay inflation slowing, many high-profile cases appear the result of voluntary restraint. For example, General Electric announced its chief executive had chosen to waive the cash portion of his bonus due to poor stock price performance.

CEOs Report Stricter Rules (USAT)

By Edward Iwata

USA Today, March 20, 2006

Large U.S. companies are making strides in corporate-governance practices, from creating stronger independent boards to linking more executives' pay packages to their companies' performance, according to a survey out today.

The survey of 100 CEOs by the Business Roundtable, a group of CEOs whose companies boast $4 trillion in revenue, suggests that leading corporations are taking their watchdog roles more seriously in the wake of Enron and other corporate scandals.

"This shows dramatic change, and it's all motivated by the desire for good corporate governance," said Steve Odland, CEO of Office Depot and corporate-governance chair of the Business Roundtable.

Among the survey's findings:

·Pay practices. Some 57% of companies have increased pay-for-performance elements in their executives' compensation packages. That's up from 40% in 2004. Also, nearly all companies have stock-ownership requirements or guidelines for executives and directors.

In general, pay and governance experts believe that corporate officials do a better job if their pay is tied to companies' earnings and stock-price performances.

·Board independence and oversight. At least 91% of the companies have an independent chairman or lead director — up from 71% two years ago.

Barely 11%, though, have split the chairman and CEO positions. Shareholder activists and some regulators think boards should be run not by CEOs, but by chairs with no ties to management.

·Compliance costs. Half the CEOs expect their costs to comply with the Sarbanes-Oxley anti-fraud laws to drop this year. Only 6% predict their costs will rise. Larger companies spend several million dollars a year in compliance costs.

Charles Elson, director of the University of Delaware's Weinberg Center for Corporate Governance, said the survey shows that companies "have made progress, but we still have a long way to go."

For instance, he said, all executives already should have pay-for-performance packages. The bigger issue: How is their pay structured? If pay increases are pegged to a 5% short-term investment return, that's far less demanding than higher goals over five or 10 years.

Elson said companies are improving their governance because of pressure from pension funds, labor unions and regulators, plus court rulings that make directors liable for not policing their firms.

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Executive pay has soared since the 1980s, provoking criticism from leading investors. “Too often executive compensation in the U.S. is ridiculously out of line with performance,” Berkshire Hathaway CEO Warren Buffett said in a letter to his shareholders last month.

CRIMINAL LAW:

Defendant In Plame Case Switches Focus To WMD (USAT/AP)

By Pete Yost, The Associated Press

USA Today, March 20, 2006

WASHINGTON — Ten months ahead of his scheduled trial in the Valerie Plame affair, I. Lewis “Scooter” Libby seems intent on zeroing in on three little letters: WMD.

In their latest court filing, Libby's legal team described Plame's CIA identity as “at most a peripheral issue” to “the media conflagration” over the failure to find weapons of mass destruction in Iraq.

It's the media conflagration, and the resulting fingerpointing among the White House, the CIA and the State Department over who was to blame, that Libby's lawyers want to focus on in a bid to get him off, their court papers suggest.

Libby's lawyers also suggested in a court filing late Friday that it's the State Department — not Libby — who's to blame for leaking Plame's CIA identity to the media.

The court papers underscore the possibility that a criminal trial of Libby could highlight the ongoing debate over whether the White House manipulated intelligence to justify the invasion of Iraq.

If the jury learns the background information about “fingerpointing,” and also understands Libby's additional focus on urgent national security matters, the jury will more easily appreciate how Libby may have forgotten or misremembered “snippets of conversation” about Plame's CIA status, the defense lawyers stated.

Vice President Cheney's former chief of staff was indicted Oct. 28 on five counts of perjury, obstruction and lying to the FBI about how he learned of Plame's CIA employment and what he told reporters about her.

Libby's lawyers are asking U.S. District Judge Reggie Walton for access to government documents about a 2002 trip that Plame's husband, former Ambassador Joseph Wilson, made to the African nation of Niger at the CIA's behest and about “his wife's involvement” with that mission.

The documents relate to what prospective witnesses — including then-deputy secretary of State Richard Armitage and deputy White House chief of staff Karl Rove — might say at Libby's trial.

Noting news reports last week, the court papers say there has been speculation that Armitage told The Washington Post's Bob Woodward that Wilson's wife worked at the CIA, and speculation that Woodward's source and the primary source for conservative columnist Robert Novak are the same person.

Novak disclosed Plame's identity on July 14, 2003, eight days after Wilson contended in a New York Times op-ed column that the administration twisted prewar intelligence to exaggerate the Iraqi threat from a nuclear weapons program.

“If the facts ultimately show that Mr. Armitage or someone else from the State Department was also Mr. Novak's primary source, then the State Department and certainly not Mr. Libby bears responsibility for the ‘leak,' ” Libby's lawyers said.

The court filing also focused on Marc Grossman, a former undersecretary of state for political affairs who allegedly told Libby a month before Plame's identity was disclosed that Wilson's wife worked at the CIA.

“If Mr. Armitage or another State Department official was in fact the primary source for Mr. Novak's article, Mr. Grossman's testimony may be colored by either his personal relationship with Mr. Armitage or his concern for the institutional concerns of the state Department,” the lawyers wrote.

Rove — a source for Novak and Time magazine reporter Matt Cooper — is under investigation by special counsel Patrick Fitzgerald.

Libby's lawyers say that “either the government or the defense may call Mr. Rove as a witness at trial” and note that “the grand jury's investigation may be continuing with respect to Mr. Rove or other witnesses.”

The defense says the documents it seeks will help demonstrate that the White House did not launch a concerted effort to punish Wilson by leaking his wife's identity.

Libby also is asking for notes from a September 2003 meeting in the White House Situation Room where Colin Powell, who was secretary of State, is reported to have said that everyone knows Wilson's wife worked at the CIA and that it was Wilson's wife who suggested the CIA sent her husband to Niger.

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"The media conflagration ignited by the failure to find WMD in Iraq and in part by Mr. Wilson's criticism of the administration, led officials within the White House, the State Department and the CIA to blame each other, publicly and in private, for faulty prewar intelligence about Iraq's WMD capabilities," the court papers state.

"The government's version of events blows out of proportion the minor role Ms. Wilson actually played and in doing so creates an impression that is highly prejudicial to Mr. Libby," they say.

Wilson's accusations stemmed from President Bush's assertion in his 2003 State of the Union address that Iraqi leader Saddam Hussein had recently sought significant quantities of uranium from Africa.

Based on his 2002 trip, Wilson said he had found it doubtful that Niger had agreed to sell uranium yellowcake to Iraq, as alleged in intelligence provided to the CIA.

Why Clearing A Cop's Name Matters In Abramoff Scandal (WP)

By Jeffrey H. Birnbaum

The Washington Post, March 20, 2006

A former D.C. cop could alter national politics this year.

Here's why: An appeals court decision that involves the police officer could well make it harder for prosecutors to make a case against lawmakers implicated in the Jack Abramoff lobbying scandal.

Pundits have long predicted that testimony by Abramoff would produce a string of indictments of federal officials this year and that those, in turn, would so tarnish the reputation of his fellow Republicans that the party could lose control of the House, the Senate or both in the November elections.

But that was before the surprising court decision that helped a former Metropolitan Police Department detective named Nelson Valdes.

According to the court's record, Valdes ran license plates through a law enforcement database and provided the vehicle-owner information he collected to a person who paid him cash. He was convicted in 2002 of taking illegal gratuities.

But a three-judge appeals court panel recently reversed that decision. It said, in an opinion dated Feb. 24, that his actions weren't a formal part of his duties and therefore weren't covered by the statute.

Scholars say that as a result of the Valdes case, the process of charging lawmakers and their aides with wrongdoing in the Abramoff scandal (and others like it) will be more difficult.

"Now, virtually every time the government tries to bring an official-acts prosecution, the defense will cite the Valdes case," said George D. Brown, professor at Boston College Law School. "The decision raises a substantial element of doubt,"

Kathleen Clark, a law professor at Washington University in St. Louis, agreed. "I'd be very troubled if I were in the Justice Department pursuing these things," she said.

The federal appeals court here in the District decided that officials such as Valdes should not be convicted for taking payoffs unless their behavior involved a "decision or action" that affected a "formal government decision made in fulfillment of government's public responsibilities."

"Casual and informal use of government resources," which in this case included Valdes's database queries, the decision added, would not qualify as the kind of official act that could be prosecuted under the law.

His conviction on three counts of receiving an illegal gratuity was overturned, and other bribery-like cases could be turned upside down, as well.

In short, Clark said, the Valdes case "narrows the scope of what is an official act."

"It certainly hamstrings the use of the gratuities statute as the basis for a public corruption indictment," Brown agreed.

Not every expert agrees, of course. And lawyers are still poring over the details of the ruling. But many of those who have studied the decision closely believe that it leaves the definition of "official act" vague enough to cast doubt on all sorts of corruption cases.

Put simply: How can prosecutors know for sure what are formal and what are informal duties involved in an official act?

Some instances are clear-cut. If a lawmaker accepts money to vote in favor of a briber's interest, that is obviously a crime.

But if the lawmaker uses his powerful position to pressure a business executive to help a friend who gives him money, is that a formal official act? Maybe not.

Or what about the instance in which a lawmaker calls an executive branch official to praise a business that wants a government contract? Even though the bureaucrat understands the conversation to be a pointed request on the business's behalf, would the communication be a formal official act or an informal one?

Who knows? But that distinction could make all the difference.

All we know is that the Valdes case has raised the bar on proof for the prosecution.

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"It opens the door for good defense lawyers to make arguments," Clark said. "This could open the way to a lot of tough motions to dismiss" bribery and gratuity cases.

Here are the facts of the case:

On Feb. 17, 2001, Valdes met William Blake, an FBI informant posing as a judge. They exchanged pleasantries at a popular nightclub called MCCXXIII near DuPont Circle and went on to see each other on several other occasions.

Blake said he might need Valdes to do him a favor. That favor turned out to be obtaining data such as automobile registration information about various people through a police computer system. In implicit exchange for the assistance, Blake gave Valdes money.

Valdes was indicted on three counts of bribery and was convicted on three counts of receipt of an illegal gratuity, a lesser charge. But he appealed and won reversal last month.

The majority ruled that the government "failed to show that the acts for which Valdes received compensation were official acts" within the meaning of the bribery statute. What the government needed, the decision stated, was to show "at least a rudimentary degree of formality" in what that official act was.

In dissent, Judge Karen LeCraft Henderson accused the majority of, in effect, making payoffs legal.

"In Mexico, they call it 'la mordida' (literally, 'the bite'); in Iran, 'bakhshish'; and in France, 'pot-de-vin.' Here in America, we call it a 'payoff' and, today, the majority calls it lawful," Henderson wrote.

She also said that Valdes was clearly acting officially when he used the police's special databases.

But at least for cases that come before the federal court in Washington, the majority will rule. Any future bribery charges against lawmakers or their aides will probably be harder to prove thanks to this obscure onetime detective.

An Unassuming Witness, Steeped In The Underworld (NYT)

By Alan Feuer

The New York Times, March 18, 2006

To look at him, one might never guess that Burton Kaplan devoted 40 years to a protean life of crime.

Short, bald, meek, myopic, Mr. Kaplan is an unassuming presence, an aging man from Brooklyn with more than a vague resemblance to the low-rent hucksters who gather every week for pastrami sandwiches in Woody Allen's "Broadway Danny Rose."

He is a complex character, who, for decades, led a double life. On one hand, he was that stock-in-trade cliché, "the legitimate businessman," who owned a discount clothing store in Bensonhurst and a factory for Chinese garment makers in Antigua. On the other hand, he is — or was — an inexhaustible fountainhead of crime.

Both sides of Mr. Kaplan's personality were on display this week in Federal District Court in Brooklyn, where he spent three vivid days as the star government witness at the trial of Louis J. Eppolito and Stephen Caracappa, retired New York detectives, who stand accused of taking part in at least eight murders for the mob.

He linked the lawmen to at least a dozen killings and kept the courtroom spellbound with his clipped accounts of how the two defendants had once gunned down a gangster on the grass berm of the Belt Parkway and, earlier, had delivered a kidnapped mobster to his rival, who accepted the bounty in the parking lot of a Flatbush Toys "R" Us.

In 14 hours on the stand, Mr. Kaplan, 72, speaking softly and lubricating his accounts with constant gulps of water, proved himself a linchpin of the prosecution's case and then survived the opening round of cross-examination. By Thursday evening, when court let out, it was clear he had an encyclopedic understanding of the underworld — the Balzac, if you will, of Brooklyn crime.

It was an unlikely expertise for a young man raised in Depression-era Bedford-Stuyvesant to a working-class family that owned an appliance store on Vanderbilt Avenue. A feckless student, Mr. Kaplan attended the prestigious Brooklyn Technical High School, but dropped out after a year and a half. "I wish I'd stood there," he testified this week.

On St. Patrick's Day 1952, he said, he enlisted in the Navy and was sent to Japan, where he spent the early cold war deciphering and analyzing Russian military codes. Discharged four years later, he returned to Brooklyn and the family business, installing washers, dryers and air-conditioners, as his father had done.

But even then, he told the court, he had a secret. He was "a degenerate gambler," betting on the horses and playing in "neighborhood poker games" from the age of 13. "I enjoyed it, I became sick with it," he said.

Gambling led to debts, which led to loan sharks, which led to the Mafia, he said. By the 1960's, Mr. Kaplan said, he was in the orbit of Christopher Furnari, a rising star in the Luchese family, to whom he offered fealty through what he called "small pays."

Mr. Kaplan was never an imposing man (he said he once paid someone $1,000 while in prison to assault another inmate on his behalf), although he did have a taste for "rough-and-tumble characters," as Mr. Eppolito's lawyer, Bruce Cutler, said. The

roughest among them was no doubt the Luchese underboss, Anthony Casso, who once shot a dog outside a gangster bar for barking too loudly.

In 1985, when Mr. Furnari went to prison, Mr. Kaplan — and his "pays"— were handed over, gangland-style, to Mr. Casso, and the two men started dining together at least twice a week. By then, Mr. Kaplan's business ventures had encompassed everything from counterfeit watches to homemade quaaludes. He was also smuggling marijuana, though at first, he said, "I didn't even know what it was."

The next year, mob assassins tried to murder Mr. Casso, and he turned to Mr. Kaplan for assistance with revenge. Mr. Kaplan testified that the gangster knew he had connections to a pair of Brooklyn lawmen who would kill for cash, and he said Mr. Casso hired them to wreak his vengeance on seven rivals, who all eventually turned up dead.

Mr. Kaplan said it was the start of a blood-tie that bound the mobster to the two detectives from 1986 to 1993, when Mr. Casso was arrested. In 1994, he agreed to cooperate with the authorities, and Mr. Kaplan, despite a wife in Brooklyn and a daughter in Manhattan, went, as he put it, "on the lam."

He was already in his 60's, but with help from friends, he said, he got a library card and memberships at AAA and Costco, all in the name of Barry Mayers, and used these fake documents to obtain a state ID. He skulked about from San Diego to Mexico to Oregon and finally to Las Vegas. There, in a triumph of fugitive entrepreneurship, he opened a storefront warehouse selling suits to "female casino executives."

"A good suit for a good value," he said.

Then, without a word to anyone, he returned to New York City in the spring of 1996 and was arrested that September on a federal narcotics charge in which he was accused of selling up to 13,000 pounds of marijuana a year.

After spending nine years in prison, he decided he would testify at trial. His agreement with the government is classic Burton Kaplan.

In exchange for his cooperation, he faces a prison term with an abundance of wiggle room: "zero to life," he said.

Pellicano Wiretap Witness Admits Scheme (LAT)

By Greg Krikorian And Andrew Blankstein, Times Staff Writers

The Los Angeles Times, March 20, 2006

A Valencia businessman who said he hired the investigator to get illegal information decides to cooperate with the federal investigation.

A Valencia businessman admitted Friday to conspiring with Anthony Pellicano to illegally dig up information about a teenager who had accused him of sexual assault, becoming the latest witness cooperating in the federal probe of the indicted private eye.

"I hired Mr. Pellicano because he told me he could listen in" to the young woman's phone calls, a shaken George Kalta, 37, told U.S. District Judge Dale S. Fischer, as he entered his guilty plea. "That was the only reason I hired Mr. Pellicano."

The plea makes Kalta the fourth person to acknowledge that they hired — or helped — Pellicano to illegally investigate others using wiretaps, confidential police record searches or other methods.

Once one of Los Angeles' best-known private investigators, Pellicano is at the center of a wide-ranging FBI investigation that has shaken Hollywood and its legal community. To date, 13 people have been charged, including an entertainment attorney, a record company executive, two former police officers accused of selling him confidential data and several telephone company employees.

Without exception, the many attorneys and celebrities who hired Pellicano over the years have said since his indictment that they were unaware that his alleged hardball tactics may have crossed the line into lawlessness.

But criminal defense attorney Leslie Abramson, representing Kalta, said outside court on Friday that Pellicano bragged to her client about listening in on other people's conversations and about having connections within law enforcement. The connections included "a contact" in the Los Angeles County district attorney's office and a police officer who he said could get him a district attorney's memo for $5,000.

"He bragged about how he did this [wiretapping] for other clients," Abramson said. "He said that is why people pay him so much."

Abramson said Pellicano also boasted of his celebrity clients, including Tom Cruise, Michael Jackson and O.J. Simpson.

Kalta, owner of a lighting manufacturing company, was charged by the district attorney's office in early 2002 with sexual battery by restraint and false imprisonment.

County prosecutors said his victim was an 18-year-old woman who was assaulted in October 2001, when she was making a delivery to Kalta's Canoga Park store.

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Kalta eventually pleaded guilty to felony assault without a deadly weapon and was granted probation. The charge was later reduced to a misdemeanor and dismissed, Abramson said.

During Friday's federal court hearing, Assistant U.S. Atty. Kevin Lally said authorities could prove that Kalta hired Pellicano on Oct. 17, 2001, to investigate his accuser and to listen to the woman's telephone conversations. Kalta paid Pellicano $50,000 for the information.

Outside court, Abramson said her client went to Pellicano after searching the Internet for a private investigator who could help prove his innocence.

She said Kalta later began to suspect that Pellicano was bugging his telephone because on four separate occasions between March and May of 2002, the investigator called Kalta right after Kalta spoke with Abramson. "Every single time we had a conversation about Pellicano, as soon as we hung up, he would call George and badmouth me," she said.

The events outlined by Abramson parallel those of another criminal defendant who also hired Pellicano and was represented by attorney Danny Davis. Davis represented Kalta before Abramson.

Last year, Abramson said, federal prosecutors played her and her client a recorded conversation in which Pellicano urged Kalta not to fire another attorney in order to hire Abramson. "He said I was not a lawyer he could trust," Abramson said.

Kalta, however, hired Abramson, who brought in another private investigator.

After that, Abramson said, Kalta found the locks in his office glued shut. One of the doors had a knife jammed into a keyhole.

Assistant U.S. Atty. Dan Saunders said he could not discuss evidence in the case that had not yet been made public. Pellicano's attorney, Steven Gruel, could not be reached for comment.

A spokeswoman for the district attorney said she was unaware of claims that Pellicano had a contact within the office and urged anyone with information to come forward.

Davis' attorney, Harland Braun, disputed the notion that Pellicano had any special relationship with Davis. He said Davis became involved in the two cases after Pellicano had been hired.

Without disputing that her client broke the law, Abramson said Kalta was hardly the most important figure in the Pellicano investigation.

"There are much bigger fish to fry," she said. "As far as I'm concerned, George is a minnow."

Men Accused In Child Prostitution Ring Describe Teens As Partners (ABJ)

Akron Beacon Journal, March 20, 2006

TOLEDO, Ohio - Troopers and a judge in Pennsylvania found themselves repeatedly processing the same young prostitutes, who paid fines with already-prepared money orders and went back to the truck stops where they worked.

Slowly, through talks with the girls, authorities built up evidence that led to federal charges against men accused forcing teenage girls from northwest Ohio to work in a prostitution ring, a newspaper reported.

The work was painstaking. And the jailed men accused of being pimps are unrepentant, The Blade reported in Sunday's editions.

"Pimps do things like ... lock the girls up in closets. I'm 'finesseful,' you know what I'm saying?" Derek Maes told the newspaper in a telephone interview from a Pennsylvania jail.

He and 12 other men were named in a 102-page federal indictment in December that accused them of taking teenagers, including at least nine from the Toledo area, across state lines for prostitution. The indictment said the girls were beaten if they failed to follow orders or make enough money.

Maes, 41, and another man charged, Robert Scott, 44, deny they are pimps, arguing that they didn't force the girls - including a 12-year-old - to do anything. They say if the girls were selling themselves against their will, they would have asked law enforcement for help when arrested.

Scott said the prostitutes were more like business partners, free to work with different employers.

"She's choosing the best investment for her money," he said. "The prosecutors are trying to make it like a bunch of us running around with candy in our pocket, going to parks and picking up little kids. It wasn't like that at all - period."

The federal case centered on truck stops outside Harrisburg, Pa., where state police had started cracking down on the problem through undercover arrests.

Fines collected for offenses such as prostitution and vandalism in a township with one of the truck stops increased tenfold to $32,400 in 2004 from about $3,300 a year earlier.

"You could sit and watch girls run down the rows, run under the trucks, in all directions. There were some nights out there it looked ridiculous," said trooper David Olweiler, a state police intelligence officer.

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As arrests piled up, Olweiler started keeping the girls' booking photos in a three-ring binder, trying to show a pattern of repeat arrests. He also had long conversations, trying to understand them.

"A lot of these girls, you wouldn't know they're victims," he said. "They love to brag. You wouldn't know they were in it against their will."

The prostitutes came to court with money orders already made out for the exact fine and costs of $418.50, West Hanover Township Magistrate Roy Bridges said.

"You should have seen how some of them were dressed," Bridges told the newspaper. "Sometimes troopers would wrap them up in one of those yellow blankets used to cover dead bodies."

Eventually, state police called for federal help.

The FBI assigned 16 new agents to the investigation, and the agency is hiring six more this year. The FBI says the interstate ring is organized crime, equating it to drug trafficking.

Many of the girls came from backgrounds of abuse or incest, and the pimps conditioned them through abuse and threats against family members to accept their fate, said Chip Burrus, the FBI's acting assistant director for criminal investigations.

"They just become accustomed to that lifestyle," Burrus said. "You can't consent to be a prostitute at age 14. That's just an impossibility."

After the indictments, the truck stops near Harrisburg cleared out.

"For a long time, we didn't see anybody," Olweiler said. "But one of our patrols came back the other day and said they're back out there."

Corruption Case Swallows The Police Force Of A Texas Town (LAT)

By Lianne Hart, Times Staff Writer

The Los Angeles Times, March 20, 2006

Many Troup residents are shocked by the shutdown amid charges of evidence tampering. But rumors of lapses have circulated for years.

TROUP, Texas — It happened without warning. The FBI swooped in, shut down Troup's five-man police force and jailed the chief and a sergeant — the 2005 Chamber of Commerce officer of the year, no less — on charges of corruption.

Startled residents watched in silence as authorities secured the tiny station with yellow crime-scene tape and swarmed the building for evidence.

Sgt. Mark Turner, 47, was charged with delivering marijuana and tampering with or fabricating evidence. According to a search warrant, Turner gave marijuana to an undercover agent, assuring him later that there was more where that came from: the police evidence box.

Police Chief Chester Kennedy, who led the force for 14 years, also was charged with evidence tampering. He admitted to investigators that he gave Turner 24 cans of light beer from a 30-pack seized in a bootlegging case, but said he planned to buy more if the case went to court. "Beer is beer," he said, according to a Sheriff's Department affidavit.

Events unfolded so quickly here that, weeks after the March 3 raid, stunned residents are still talking about it when they meet on the street. Some, however, are less surprised; rumors of police misconduct had circulated for years.

"Mind you, they're innocent until proven guilty, but I think there was too much temptation," said Addie Herring, 85, who has lived in Troup for half a century. "This used to be such a good place to live, but now we've got all this dope."

Here in rural East Texas, methamphetamine labs can operate unnoticed. Misdemeanor drug charges in Smith County, about 100 miles southeast of Dallas, are as common as drunk driving arrests, Dist. Atty. Matt Bingham said. But in the last six years, the Troup police force sent just 11 drug cases to the district attorney's office.

Maj. Mike Lusk, head of criminal investigations for the Smith County Sheriff's Department, said Troup police had sent a total of two drug evidence samples to the Texas Department of Public Safety crime lab since 2000. "We do that much in an hour," he said.

Bingham said: "It appears from the current investigation that the problem is not with the Troup Police Department prosecuting innocent people, it is that they were not prosecuting guilty people."

Lawyers for Kennedy and Turner could not be reached for comment.

Since the police force was shut down, a notice has been taped to the front door of the darkened station: Dial 911 or call the sheriff in an emergency.

Turner, unable to make $500,000 bond, remains in jail. At an emergency City Council meeting held days after his arrest, he was fired.

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Kennedy, 59, posted $400,000 bond and often can be seen at his regular table at the Farmer's Cafe in Troup. The waitresses welcome him with smiles, but fellow diners shoot sidelong glances as he keeps his eyes on his meal. At a special City Council session March 10, Kennedy too was fired.

At that meeting, resident Vicki Risvold stood and said what had festered inside for too long. For years, she said, drugs were sold openly from the house across the street. Risvold said packets of white powder were traded so casually that her young daughter recognized a sale in progress. Twice Risvold reported the drug dealing to police, who promised to look into it but never did, she said.

"We moved from Austin for a small-town life, but my children weren't exposed to the drug culture until we came here," said Risvold, 43. The city officials sat in a semi-circle in front of her. Risvold looked hard at one who, when she had told him about the drug dealing, had merely asked if she was sure.

"I hope you can sleep at night," Risvold said, her voice quaking with anger.

Mayor John Whitsell, 30, has brushed off suggestions that Troup had turned a blind eye. If there was talk of wrongdoing, it was rumor, and "in any small town, you're going to have rumors," he said.

Whitsell said he had no idea there might be a problem with the police until he got a call from authorities about the arrests. "I was shocked," he said.

It took one of the department's own to call attention to the alleged corruption. In January, patrolman Justin Johnson told a Smith County sheriff's investigator that Kennedy and Turner were accepting money or drugs in exchange for covering up crimes. Before long, Johnson was wearing a recorder and talking to Turner about taking drugs from an evidence box for personal use.

Authorities searching the station after it closed found a department in disarray, Lusk said. Drugs were lying in open bags or had not been tagged; some evidence bags were empty; rape kits were stored in a refrigerator next to rancid, moldy food. As the investigation continues, more charges and arrests will come, Bingham said.

Since the FBI raid, Bingham said, the district attorney's office has fielded dozens of calls from citizens complaining of crimes they said were poorly, or never, investigated by Troup police. "People feel like they can come out and tell us things now," Bingham said.

Troup bills itself as the "good neighbor town." It has 1,949 residents, one medical doctor and 12 churches. Its main street is a study in shuttered stores, but the businesses that seem to sustain small Texas towns hang on: a beauty parlor, a video store, a tanning salon. Outside of town are oil pumps operated by heavy-booted riggers, who stomp into eateries and leave behind trails of red dirt.

Robin Bradford works on the production line at a plastics factory, cleaning just-made buckets as they roll down a conveyor belt. In December, she said, someone stole her furniture and a lifetime of possessions from a rented storage room. The thief took an urn that held her father's ashes but left a large painting of Jesus.

"It seemed that all Mark and Chester did was take fingerprints. The more I thought about it, the more upset I got," Bradford said, stabbing a piece of fried catfish with her fork.

But some in the diner where Bradford was eating defended the officers as caring professionals who often performed acts of kindness.

Kennedy had the city turn on Rodney Colbert's water when he was new to town and waiting for his first paycheck, Colbert said.

Anita Watson said Kennedy sometimes picked up children at school in his patrol car when parents couldn't get off work.

"The children trust him," Watson said. "That says a lot about what kind of person he is. I'm worried about how the children will feel."

Bradford looked up from her plate. "I'm worried about the children too, what kind of example he's setting for them," she said.

If Kennedy is found guilty, waitress Lisa Duley said, she won't hold a grudge. "Even if he did it, he's still Chester. Everybody makes mistakes. You deal with them and move on," she said.

Town leaders are focusing on cleaning up the mess and restoring Troup's reputation. The three remaining police officers have been transferred to the public works department. County constables and sheriff's deputies are temporarily filling the void, patrolling the town with vigilance.

"This is the most Sheriff Department cars I've ever seen, and I've been living in the same spot for 45 years," one woman said.

Though relieved that change is coming, Risvold hates that Troup's problems have been so publicly exposed. She's protective of the place where she raised four children, where her friends and memories reside.

"You want people to see the good in it, not the bad," she said. This is my home…. But I think it'll take a long time to trust the police again."

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Killing In Texas Spotlights Attacks On Social Workers (NYT/AP)

By The Associated Press

The New York Times, March 20, 2006

AUSTIN, Tex., March 19 (AP) — In six years as a social worker with the state's Child Protective Services, Holly Jones has been cursed, chased by dogs and run out of houses by angry parents.

Threats are a daily part of the job for caseworkers who investigate accusations of child abuse and neglect and often remove children from their homes. But the killing of a social worker in South Texas last week has prompted Ms. Jones and her colleagues to re-evaluate the steps they take to keep safe and has raised questions about what the state can do to better protect them.

"We don't have weapons, we don't have training in self-defense, we didn't go through a police academy and we're dealing with the same people they are," Ms. Jones said.

The social worker who was killed last week, Sally Blackwell, 53, was found in a field in Victoria on Wednesday. Her family said she had received threats in her position as program director, overseeing several offices of caseworkers. The authorities have ruled the case a homicide but have not said whether her death was related to her job.

The killing comes a year after a woman fired a shotgun at two caseworkers who had come to her home near Alice, about 45 miles west of Corpus Christi, to investigate a child abuse complaint. The caseworkers fled. The woman was convicted in December of aggravated assault with a deadly weapon.

Ms. Jones, 28, who recently became a supervisor for a Child Protective Services unit in suburban Austin, said caseworkers needed to know how to protect themselves.

A study released last week by the National Association of Social Workers found that 55 percent of 5,000 licensed social workers surveyed said they faced safety issues on the job. Sixty-eight percent of them said their employers had not adequately addressed their concerns. A survey in 2002 of 800 workers found 19 percent had been victims of violence and 63 percent had been threatened.

As the investigation into Ms. Blackwell's death continues, state protective services officials are thinking about ways to make the job safer, the Family and Protective Services commissioner, Carey Cockerell, said in an e-mail message to employees on Thursday.

Currently, social workers in Texas receive a half day of safety training, and the issue frequently comes up in a 12-week course, said a spokesman, Chris Van Deusen.

The child services department has no way of tracking how many threats its roughly 3,000 caseworkers receive, said Patrick Crimmins, spokesman for the Department of Family and Protective Services. But even people who have spent their entire careers with the agency can remember only a few instances in which threats escalated to violence, Mr. Crimmins said.

In 2001, Michigan lawmakers toughened the penalties for people who threaten or attack social workers after a child welfare caseworker was beaten, bound, gagged and suffocated while checking on a family. The law also required safety training for workers who make home visits.

The death of a Kansas mental health social worker prompted Representative Dennis Moore, Democrat of Kansas, to introduce a resolution last fall that would encourage state and local agencies to improve the safety of social workers. The resolution is pending.

Victim's Kin Denounce Shooting By Md. Deputy (WP)

By Christian Davenport

The Washington Post, March 20, 2006

A 22-year-old Oxon Hill man fatally shot by a Charles County sheriff's deputy Saturday morning had drawn a handgun and fired it while three deputies were trying to arrest him on a drunken driving charge, the sheriff's office said yesterday.

Friends and relatives of the suspect, Jonathon Lyles, offered a starkly different view. They questioned whether Lyles had a gun and said officers targeted him because he was a young African American man who had had previous run-ins with police.

Sharonda Lyles, 28, of La Plata said her brother would not pull a gun on an officer. "I don't know why the police sought out to kill my brother," she said.

The sheriff's office said Lyles was shot about 7:30 a.m. after Officer James Thompson spotted his car, which had backed over a curb and nearly hit an apartment building in the 600 block of Zekiah Run Road in La Plata.

Authorities said Lyles was slumped over the steering wheel of the vehicle, which was still running, and Thompson called for backup. When two other officers arrived, they interviewed Lyles and gave him field sobriety tests, which Lyles failed, officials said.

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As the deputies tried to arrest him and place him in handcuffs, Lyles fought back, drew a semiautomatic handgun and fired a shot that missed the officers, officials said.

They said Officer Clint Walter, a four-year member of the sheriff's office, fired back, hitting Lyles in the chest with a single shot. Lyles was taken to Prince George's Hospital Center, where he was pronounced dead.

Sheriff's officials said they recovered the handgun Lyles had fired, and they denied that race played a part in the shooting.

"The man had a gun. He fired on a police officer, and the police officer returned fire," Capt. Joe Montminy said. Race "has nothing to do with it. . . . [The officers] were struggling for their lives."

The officer who initially spotted Lyles's car, Thompson, is African American, said Kristen Timko, a spokeswoman for the sheriff's office. Walter and Officer Jonathan Rager, who responded to assist in the arrest, are white, she said.

All three have been placed on routine administrative leave pending an investigation.

John Bowlin, 22, of Largo, who is Lyles's half-brother, said the authorities' version of events does not make sense. He wondered why the deputies did not immediately check whether Lyles had a gun, before the sobriety tests.

Timko said suspects may or may not be patted down for weapons, depending on the circumstances.

Lyles's friends and family members gathered yesterday at the scene of the shooting, where a shrine of candles and flowers had been created.

Sharonda Lyles said her brother had served time in prison for drug offenses and violating parole and had been pursuing a career in music since his release in November.

"He was trying to get his life together, and they kill him," said friend Michael Jones, 24, of La Plata.

Lyles worked at a mall music store selling CDs and T-shirts and was working on a rap album, his sister said. She said he was tall and plain-spoken. "He would do anything for you," she said. "He was all that. He was my little brother."

She and several of Lyles's friends, who had gone to the scene Saturday morning after word of the shooting spread, said Lyles was left lying on his back for about an hour without medical care before an ambulance came.

Timko disputed that, saying the officers immediately called for an ambulance, which arrived 3 1/2 minutes later. Once the paramedics assessed the situation, they called for a helicopter, which arrived at a nearby fire station at 7:59 a.m., about 30 minutes after the shooting, Timko said.

Quest To Heal Leads Abuse Victim To Face Old Demons (WP)

By Caryle Murphy

The Washington Post, March 20, 2006

On a balmy, hint-of-spring day last week, Michael Donovan drove his rented car slowly past Holy Name School in Northeast Washington, where a billboard read, "He who angers you, controls you."

The 63-year-old Vietnam veteran and retired businessman from California was on a mission into his past, a mission to banish his own anger and regain control. A mission of healing.

Almost 50 years ago, during Donovan's eighth-grade spring break, he was sexually abused at Holy Name by Thomas S. Schaefer, then a 30-year-old, newly minted Roman Catholic priest.

Schaefer went on to molest at least 20 more boys in the Washington Archdiocese, according to church officials, before pleading guilty in 1995 in five of those cases. Only one other priest in the archdiocese, Robert J. Petrella, had more known victims, officials said. About 25 people have reported being molested by Petrella. The two priests were responsible for more than a third of the 123 reports of sexual abuse by clergy in the archdiocese's 59-year history.

For decades, Donovan kept quiet about his traumatic experience, confiding only in his current wife. But in 2003, determined to be counted in a national survey of the church's abuse problem, he informed the archdiocese of Schaefer's 1956 misconduct. He learned then that he was Schaefer's earliest known victim.

"It took me 47 years to raise my hand," Donovan said. "These are things that get buried in people's lives. But they don't forget it."

Donovan, who served with the 101st Airborne in Vietnam, recalled that the priests who took his initial calls apologized immediately, which "was really heartfelt by me. Nobody had ever apologized to me for what happened."

He decided that he needed to do two things to "face the dragon I need to face." One was to meet Schaefer. The other was to visit the room at his old school where the abuse occurred.

Psychologists and victims' advocates say it is common for survivors of child sexual abuse to want to meet their abusers, partly because the once-powerless child becomes the empowered adult controlling the encounter.

Gary Schoener, a Minneapolis psychologist whose clinic has treated more than 4,000 people abused by professionals, including teachers, doctors, psychiatrists and clergy, said that "at least half of child abuse victims want to physically see or visit with the offender. . . . They feel that any kind of clarity about why those things happened can help healing."

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Donovan asked the archdiocese to pay for him and his wife to travel to see Schaefer. In June 2004, the archdiocese sent him a check for $3,000. It has also paid for his psychological counseling, Donovan said.

Donovan has retained a lawyer who is negotiating with the archdiocese for a financial settlement.

After his 1995 conviction, Schaefer was sentenced to 16 years in prison by Prince George's County Circuit Court Judge William B. Spellbring Jr. But after Schaefer had served less than five months, the judge suspended the rest of the sentence and released him to a facility for priests with psychological problems.

Now 80, Schaefer lives in Vianney Renewal Center in Dittmer, Mo., about 30 miles from St. Louis. Run by the Servants of the Paraclete, a religious order of men, the center is a community for priests who cannot engage in active ministry "for personal, health-related, psychological, social or canonical reasons," according to its Web site.

He is not allowed to leave the community unsupervised, Washington Archdiocese spokeswoman Susan Gibbs said, adding that "the archdiocese pays to keep him in that facility.

"He's asked several times to return to Washington. . . . He'd like to die here," Gibbs said. "And we have declined because we want to ensure that he never returns to this community where he harmed children." Schaefer is not receiving a church pension, she said.

Schaefer did not respond to a message left with a Vianney official seeking comment.

Donovan and his wife, Sharon, met Schaefer in St. Louis. A psychologist treating Schaefer was also present, Donovan said.

Schaefer, who is tall, thin and balding, was aloof, the couple said in separate interviews. "We were expecting to find a feeble, old man in poor health," said Sharon Donovan. "He seemed to be a vigorous . . . quite a dapper man. Well-dressed, well-groomed, urbane, quite distant, quite cavalier about the whole thing."

Schaefer did not admit doing anything wrong with Donovan, both said. But Sharon Donovan said he told her husband, "I'm sorry for anything I might have done to hurt you."

Donovan recalled that Schaefer "said that he had found his peace with God and that God had forgiven him."

Their meeting also included this: "He had no recollection of me," Donovan said. "Zero."

Initially, Donovan said he felt "elation" that he had "conducted myself as a gentleman. . . . I came away feeling empowered. But a few weeks later, it hit me like a ton of bricks," and he sought professional help for an emotional breakdown.

What Schaefer could not recall, Donovan could not forget.

The pale, redheaded priest at Holy Name favored him, Donovan said, often taking him out of class to spend time together because, as Schaefer told the nuns, he thought Donovan might have a vocation to be a priest.

Schaefer also knew Donovan's love of wrestling, and during spring break in 1956, when no one else was in the school, he suggested that they wrestle. But the priest showed up saying that he had forgotten his wrestling gear and asked whether they could wrestle "Greco-Roman style," or nude, Donovan said. "I gave no thought to the impropriety of it," he said.

As they wrestled for the next three-quarters of an hour, Schaefer got increasingly excited and aggressive, finally attempting to sodomize him, Donovan recalled. "At the very end, I was fighting someone who was trying to rape me," he said.

He said he struck the priest with an open-handed slap across the face. "I expected a lightning bolt from God because I'd hit a priest, but he immediately stopped and whimpered," Donovan said.

The building where he attended eighth grade is now a day care and parish activity center. On his visit, he quickly found the musty auditorium where he played a munchkin in the "Wizard of Oz" and the old basketball court "where I proved what a terrible basketball player I was."

But the low-ceilinged room, with its dusty wrestling mats, that he had come to see was not there. A layer of concrete covers the brick wall where, as Donovan recalls, there used to be a door to the room where he was molested.

He said he was not disappointed.

"I feel very good about being here. . . . It completes what I had to do. I've got what I needed out of it," he said. "There were many good days here. There was only one bad."

When Words Bear Witness (NYT)

By Michael Rips And Amy Lester

The New York Times, March 20, 2006

THE Supreme Court is scheduled to hear oral arguments today in two cases that may make domestic violence cases all but impossible to prosecute. The cases, Davis v. Washington and Hammon v. Indiana, raise the question of whether statements made to 911 operators can be admitted in prosecutions if those who made the calls refuse to appear in court. Such evidence has become crucial in bringing domestic abusers to justice.

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Domestic violence accounts for up to 34 percent of all reported violent crimes, but it is notoriously difficult to prosecute, because victims frequently drop charges or refuse to testify when their abusers threaten them with further violence. In the 1980's and 1990's, the refusal of victims to cooperate in the prosecution of their batterers may have resulted in the dismissal of as many as 70 percent of all domestic violence cases.

In recent years, however, prosecutors, police officers and advocates for domestic violence victims have developed techniques, together known as "evidence-based prosecution," that focus on the use of reliable evidence, like 911 tapes, to build cases that do not depend on the cooperation of the victim. In San Diego, the City Attorney's domestic violence unit uses evidence-based prosecution, and it obtains convictions in about 88 percent of its cases. In a typical six month period in the old days, the unit's conviction rate was just 12 percent.

But evidence-based prosecution suffered a major setback in 2004. That year, in Crawford v. Washington, the Supreme Court held that if witness statements were "testimonial" in nature, they could not be introduced unless the witness was available for cross-examination by the defendant. The court deferred the question of exactly what types of statements should be considered "testimonial." That is the matter at the heart of the two cases now before the court.

A significant number of courts have interpreted Crawford to bar the use of 911 tapes and answers to questions posed by police officers unless the witness is available for cross-examination. In so doing, they've overturned convictions in cases of domestic battery. In a survey of more than 60 prosecutors in California, Oregon and Washington, 63 percent said that Crawford hampered the prosecution of domestic violence; 76 percent reported that they'd grown more likely to drop domestic violence charges when they encountered uncooperative witnesses; and 65 percent said that Crawford had made domestic violence victims less safe than they were before. Reports from other jurisdictions echo these findings.

If the Supreme Court, in deciding Davis and Hammon, adopts a definition of "testimonial" that includes statements made by victims to 911 operators or to officers arriving at the scene of the abuse, prosecutors will face some undesirable options in domestic violence cases. They can refuse to bring cases in which the victim won't testify; or they can try to force the victim to testify. The latter is no solution because it would entail subjecting abuse victims to state-imposed sanctions, including jail time.

This is why, in answering the question left open by Crawford, the court should not define "testimonial" in a way that restricts the use of out-of-court statements made by victims to 911 operators or police officers at the scene of the crime. Without access to such evidence, the criminal justice system may be rendered virtually incapable of protecting victims of domestic violence and of holding their batterers accountable.

CIVIL LAW:

Judge Grants Google A Reprieve (WSJ)

By A Wall Street Journal Staff Reporter

The Wall Street Journal, March 20, 2006

A federal judge ruled Google Inc. doesn't have to turn over data about consumer Web-search queries to the Justice Department.

U.S. District Judge James Ware on Friday ordered Google to work with the government to provide 50,000 randomly selected addresses for Web sites from its databases. He denied a request by government lawyers for a sampling of 5,000 search queries entered by Google users, concluding that they essentially duplicated information the government could glean from the Web addresses.

Judge Ware also said that turning over the queries potentially could cost Google the trust of some users, and he expressed concern about whether releasing "search queries themselves may constitute potentially sensitive information."

The Justice Department requested the information from Google last year to defend the Child Online Protection Act, a federal law intended to shield minors from sexually explicit materials on the Internet. Enforcement of the law has been blocked in the courts.

"This is a clear victory for our users," Google said in a statement Friday. A Justice Department spokesman couldn't be reached.

Some legal experts said future government requests could meet with more success.

"The next time the government comes calling, it will pile so much more on its side of the scale -- a better explanation of its need and a more compelling set of facts -- that the court will have no choice but to compel Google to turn over search queries," said Paul Ohm, a former Justice Department lawyer and associate professor at the University of Colorado School of Law.

Tobacco Lounge Blows Smoke In The Face Of Chicago's New Ban (WP)

DOJ_NMG_0018679

By Kari Lydersen

The Washington Post, March 20, 2006

CHICAGO -- Glasses clink, friends chat in plush chairs and a fire crackles in a stone hearth at Marshall McGearty Tobacco Artisans, a "tobacco lounge" that has opened in Chicago's trendy Wicker Park neighborhood.

It appears every bit the bar or coffeehouse. But appearances can be deceiving: Marshall McGearty is technically a tobacco retail shop with at least 65 percent of its sales in tobacco.

And that means it is exempt from Chicago's new ban on smoking in bars, restaurants and other public places.

Many patrons on a recent evening were enjoying the lush atmosphere and freedom, they said, from dirty looks from nonsmokers.

But critics say the parent company of the lounge, R.J. Reynolds Tobacco Co., is taking advantage of a loophole in the city's anti-smoking ordinance.

"It's just another example of tobacco companies skirting the law," said Kevin Tynan, marketing director for the American Lung Association of Metropolitan Chicago.

Last month, city Alderman Edward M. Burke introduced an ordinance to close the loophole in the smoking ban, stating that venues that serve food and drink cannot be classified as tobacco retail stores.

Burke's ordinance charges that "tobacco lounges have attempted to circumvent the power and purpose" of the smoking ban, which currently affects restaurants, music venues and other public places; bars and taverns have until 2008 to comply.

Though Marshall McGearty opened the same week in January that the Chicago City Council passed the anti-smoking ordinance, R.J. Reynolds said the timing is pure coincidence.

"This has nothing to do with the smoking ban," said RJR Senior Marketing Director Brian Stebbins, noting that the company opposes the smoking ban.

He said the lounge is solely intended to promote the company's new high-market Marshall McGearty brand of hand-rolled, small batch cigarettes with tobacco from Zimbabwe, Brazil and North Carolina. Stebbins noted that upscale cigar stores frequently have a few chairs and a television, and offer beverages such as Scotch or coffee.

The cigarettes at Marshall McGearty, with names such as Aegeans, Muse and the Earl, are displayed in ornate boxes with descriptions that sound more like fine wines. Oriental Rose promises "smoke that is creamy, sweet and delicate, highlighted by floral notes."

Stebbins said the lounge is a first for R.J. Reynolds and the first of its kind in the country. A spokesperson for Philip Morris USA said the company has no such outlets. Both declined to say whether they anticipate more tobacco lounges in the future. But judging from the number of smoking bans around the country, it is possible companies will see the lounges as a way to promote their brands while providing a hangout for smokers otherwise denied by bans.

"We certainly expect them to try to put these in other cities with bans," said Annie Tegen, program manager for the group Americans for Nonsmokers' Rights. "This is just another slimy trick by Big Tobacco to circumvent the system. An $8 pack of cigarettes still exudes the same toxins as a $4 pack. For the people of Chicago, this is an equal opportunity killer."

Sitting in the lounge, Clay Beardshear and Clay Achee said they had traveled along the West Coast for several months recently and had a hard time finding a place to have a cigarette with their beer or coffee, because most of the cities they visited had smoking bans.

When they arrived in Chicago and heard about Marshall McGearty, they made a beeline for it.

"This place will be booming," once the Chicago ordinance goes into full effect, predicted Achee as they played Scrabble and smoked.

A group of young women who meet at the lounge every Tuesday evening said they are tired of getting heat from nonsmokers and are happy to have a place to relax among their own.

"Just last night someone was saying I was blowing smoke in their face all night, though I wasn't aware of it," said Justine Hanchar, 28, a medical receptionist. "Anywhere you go, you get those vibes."

Sarah Nawrocki, 28, predicted the group will be there "every night" once the smoking ban goes into full effect.

Shannon Moore, a 24-year-old musician who said she enjoys the ambience created by smoke in the piano bars where she plays, said smoking has become "like an underground thing" because of bans and anti-smoking sentiment. "This is like a haven for us," she said.

There are about 6,000 municipalities nationwide with some type of smoke-free ordinance, and smoking is banned in all bars in the states of California, Connecticut, Washington, Delaware, Maine, Massachusetts, New York, Rhode Island and Vermont.

Tegen and other anti-smoking advocates said they think tobacco lounges ultimately will be unsuccessful in the face of growing opposition to smoking.

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"I'd expect this business model to flop," Tegen said. "People in Chicago are excited about the smoke-free law. And many smokers I know in Chicago don't mind stepping outside for five minutes to smoke. I don't see them as a trend that will continue."

CIVIL RIGHTS:

Oakland Nears Final Payouts For Protesters Hurt By Police (NYT)

By Carolyn Marshall

The New York Times, March 20, 2006

OAKLAND, Calif., March 19 — A clash between the police and antiwar protesters here nearly three years ago will cost the City of Oakland more than $2 million, including dozens of payouts to people injured when officers fired wooden dowels, bean bags and rubber pellets.

The Oakland City Council is scheduled Tuesday to approve the final payments related to the incident, which was the most violent of many protests nationwide in the early weeks of the Iraq war. At least 58 people were injured, including nine longshoremen who were caught in the crossfire on their way to work.

The Oakland Police Department said officers had fired the "less than lethal" rounds to disperse several hundred demonstrators, some of whom the police said had thrown rocks at them.

The protesters said they had been behaving peacefully and accused the police of using excessive force. A lawsuit against the city, the Police Department and several officers, which led to the settlement payments, accused the authorities of civil rights violations.

Many here say the officers were on edge during the protest because state officials had warned that terrorists or self-described anarchists might try to disrupt the event, which was held at the Port of Oakland on April 7, 2003.

The demonstration had been organized to draw attention to two shipping companies that were assisting the government's military efforts. American President Lines was under contract to ship weapons to the military in Iraq, and Stevedoring Services of America held the government contract in 2003 to operate the port at Umm Qasr, Iraq.

In settling the lawsuit, the city did not admit fault, and there is still disagreement about whether the police were provoked by the protesters. Even so, the department did agree to change its crowd-control policy to prohibit the "indiscriminate use" of rubber and wooden bullets and similar ammunition and to require a fair warning to protesters to disperse.

"The settlements are a vindication," said Jim Chanin, one of the lawyers representing the protesters and dock workers. "The punishment did not fit the crime. It was not appropriate use of force."

Erica Harrold, a spokeswoman for the Oakland city attorney, John Russo, said the revision of the crowd-control policy was overdue, as were the clearer guidelines on the use of force.

"The most useful outcome of the case has been the revamping of the crowd-control and use-of-force policy," Ms. Harrold said, adding that the changes did not indicate an admission of wrongdoing.

The city has already paid more than $1 million to settle most of the claims. The payouts, from $5,000 to $500,000, cover medical costs associated with the injuries, which included broken bones and grapefruit-size welts and in some cases required operations and skin grafts.

Mr. Chanin estimated that the settlement would ultimately cost the city over $2 million, including $1.5 million in payments to the plaintiffs, plus legal fees and costs associated with the new crowd-control policy. That tally does not include the cost of hiring an outside lawyer to help with the case, which the city said would add well over $500,000.

Thirteen of the 52 plaintiffs had been holding out for a trial, in hopes of drawing attention to their complaints of free speech and civil rights violations, but in the end agreed to the settlement, Mr. Chanin said.

"We got the comprehensive crowd-control policy and every single person got money, with serious compensation for the most serious injured," Mr. Chanin said. "There was no need to put on a show trial for no reason."

The longshoremen's union, a plaintiff in the lawsuit, held a protest in Oakland this month and invoked the memory of the violence in 2003 to raise concerns about the Iraq war, terrorism, port security and the domestic spying program.

"Real port security means inspecting all containers offloaded," one of the injured longshoremen, Jack Heyman, wrote in an opinion article for The San Francisco Chronicle to coincide with the protest, "not stifling the free-speech rights of those who work in the ports."

Plight Deepens For Black Men, Studies Warn (NYT)

By Erik Eckholm

The New York Times, March 20, 2006

DOJ_NMG_0018681

BALTIMORE — Black men in the United States face a far more dire situation than is portrayed by common employment and education statistics, a flurry of new scholarly studies warn, and it has worsened in recent years even as an economic boom and a welfare overhaul have brought gains to black women and other groups.

Focusing more closely than ever on the life patterns of young black men, the new studies, by experts at Columbia, Princeton, Harvard and other institutions, show that the huge pool of poorly educated black men are becoming ever more disconnected from the mainstream society, and to a far greater degree than comparable white or Hispanic men.

Especially in the country's inner cities, the studies show, finishing high school is the exception, legal work is scarcer than ever and prison is almost routine, with incarceration rates climbing for blacks even as urban crime rates have declined.

Although the problems afflicting poor black men have been known for decades, the new data paint a more extensive and sobering picture of the challenges they face.

"There's something very different happening with young black men, and it's something we can no longer ignore," said Ronald B. Mincy, professor of social work at Columbia University and editor of "Black Males Left Behind" (Urban Institute Press, 2006).

"Over the last two decades, the economy did great," Mr. Mincy said, "and low-skilled women, helped by public policy, latched onto it. But young black men were falling farther back."

Many of the new studies go beyond the traditional approaches to looking at the plight of black men, especially when it comes to determining the scope of joblessness. For example, official unemployment rates can be misleading because they do not include those not seeking work or incarcerated.

"If you look at the numbers, the 1990's was a bad decade for young black men, even though it had the best labor market in 30 years," said Harry J. Holzer, an economist at Georgetown University and co-author, with Peter Edelman and Paul Offner, of "Reconnecting Disadvantaged Young Men" (Urban Institute Press, 2006).

In response to the worsening situation for young black men, a growing number of programs are placing as much importance on teaching life skills — like parenting, conflict resolution and character building — as they are on teaching job skills.

These were among the recent findings:

¶The share of young black men without jobs has climbed relentlessly, with only a slight pause during the economic peak of the late 1990's. In 2000, 65 percent of black male high school dropouts in their 20's were jobless — that is, unable to find work, not seeking it or incarcerated. By 2004, the share had grown to 72 percent, compared with 34 percent of white and 19 percent of Hispanic dropouts. Even when high school graduates were included, half of black men in their 20's were jobless in 2004, up from 46 percent in 2000.

¶Incarceration rates climbed in the 1990's and reached historic highs in the past few years. In 1995, 16 percent of black men in their 20's who did not attend college were in jail or prison; by 2004, 21 percent were incarcerated. By their mid-30's, 6 in 10 black men who had dropped out of school had spent time in prison.

¶In the inner cities, more than half of all black men do not finish high school.

None of the litany of problems that young black men face was news to a group of men from the airless neighborhoods of Baltimore who recently described their experiences.

One of them, Curtis E. Brannon, told a story so commonplace it hardly bears notice here. He quit school in 10th grade to sell drugs, fathered four children with three mothers, and spent several stretches in jail for drug possession, parole violations and other crimes.

"I was with the street life, but now I feel like I've got to get myself together," Mr. Brannon said recently in the row-house flat he shares with his girlfriend and four children. "You get tired of incarceration."

Mr. Brannon, 28, said he planned to look for work, perhaps as a mover, and he noted optimistically that he had not been locked up in six months.

A group of men, including Mr. Brannon, gathered at the Center for Fathers, Families and Workforce Development, one of several private agencies trying to help men build character along with workplace skills.

The clients readily admit to their own bad choices but say they also fight a pervasive sense of hopelessness.

"It hurts to get that boot in the face all the time," said Steve Diggs, 34. "I've had a lot of charges but only a few convictions," he said of his criminal record.

Mr. Diggs is now trying to strike out on his own, developing a party space for rentals, but he needs help with business skills.

"I don't understand," said William Baker, 47. "If a man wants to change, why won't society give him a chance to prove he's a changed person?" Mr. Baker has a lot of record to overcome, he admits, not least his recent 15-year stay in the state penitentiary for armed robbery.

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Mr. Baker led a visitor down the Pennsylvania Avenue strip he wants to escape — past idlers, addicts and hustlers, storefront churches and fortresslike liquor stores — and described a life that seemed inevitable.

He sold marijuana for his parents, he said, left school in the sixth grade and later dealt heroin and cocaine. He was for decades addicted to heroin, he said, easily keeping the habit during three terms in prison. But during his last long stay, he also studied hard to get a G.E.D. and an associate's degree.

Now out for 18 months, Mr. Baker is living in a home for recovering drug addicts. He is working a $10-an-hour warehouse job while he ponders how to make a living from his real passion, drawing and graphic arts.

"I don't want to be a criminal at 50," Mr. Baker said.

According to census data, there are about five million black men ages 20 to 39 in the United States.

Terrible schools, absent parents, racism, the decline in blue collar jobs and a subculture that glorifies swagger over work have all been cited as causes of the deepening ruin of black youths. Scholars — and the young men themselves — agree that all of these issues must be addressed.

Joseph T. Jones, director of the fatherhood and work skills center here, puts the breakdown of families at the core.

"Many of these men grew up fatherless, and they never had good role models," said Mr. Jones, who overcame addiction and prison time. "No one around them knows how to navigate the mainstream society."

All the negative trends are associated with poor schooling, studies have shown, and progress has been slight in recent years. Federal data tend to understate dropout rates among the poor, in part because imprisoned youths are not counted.

Closer studies reveal that in inner cities across the country, more than half of all black men still do not finish high school, said Gary Orfield, an education expert at Harvard and editor of "Dropouts in America" (Harvard Education Press, 2004).

"We're pumping out boys with no honest alternative," Mr. Orfield said in an interview, "and of course their neighborhoods offer many other alternatives."

Dropout rates for Hispanic youths are as bad or worse but are not associated with nearly as much unemployment or crime, the data show.

With the shift from factory jobs, unskilled workers of all races have lost ground, but none more so than blacks. By 2004, 50 percent of black men in their 20's who lacked a college education were jobless, as were 72 percent of high school dropouts, according to data compiled by Bruce Western, a sociologist at Princeton and author of the forthcoming book "Punishment and Inequality in America" (Russell Sage Press). These are more than double the rates for white and Hispanic men.

Mr. Holzer of Georgetown and his co-authors cite two factors that have curbed black employment in particular.

First, the high rate of incarceration and attendant flood of former offenders into neighborhoods have become major impediments. Men with criminal records tend to be shunned by employers, and young blacks with clean records suffer by association, studies have found.

Arrests of black men climbed steeply during the crack epidemic of the 1980's, but since then the political shift toward harsher punishments, more than any trends in crime, has accounted for the continued growth in the prison population, Mr. Western said.

By their mid-30's, 30 percent of black men with no more than a high school education have served time in prison, and 60 percent of dropouts have, Mr. Western said.

Among black dropouts in their late 20's, more are in prison on a given day — 34 percent — than are working — 30 percent — according to an analysis of 2000 census data by Steven Raphael of the University of California, Berkeley.

The second special factor is related to an otherwise successful policy: the stricter enforcement of child support. Improved collection of money from absent fathers has been a pillar of welfare overhaul. But the system can leave young men feeling overwhelmed with debt and deter them from seeking legal work, since a large share of any earnings could be seized.

About half of all black men in their late 20's and early 30's who did not go to college are noncustodial fathers, according to Mr. Holzer. From the fathers' viewpoint, support obligations "amount to a tax on earnings," he said.

Some fathers give up, while others find casual work. "The work is sporadic, not the kind that leads to advancement or provides unemployment insurance," Mr. Holzer said. "It's nothing like having a real job."

The recent studies identified a range of government programs and experiments, especially education and training efforts like the Job Corps, that had shown success and could be scaled up.

Scholars call for intensive new efforts to give children a better start, including support for parents and extra schooling for children.

They call for teaching skills to prisoners and helping them re-enter society more productively, and for less automatic incarceration of minor offenders.

In a society where higher education is vital to economic success, Mr. Mincy of Columbia said, programs to help more men enter and succeed in college may hold promise. But he lamented the dearth of policies and resources to aid single men.

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"We spent $50 billion in efforts that produced the turnaround for poor women," Mr. Mincy said. "We are not even beginning to think about the men's problem on similar orders of magnitude."

A Moral Battleground, A Civil Discourse (USAT)

By Charles C. Haynes

USA Today, March 20, 2006

Tragically, public schools have become front lines in the culture war over homosexuality — and the biggest losers are the kids caught in the crossfire of incendiary rhetoric and bitter lawsuits.

In school districts across the nation, escalating conflicts involving sexual orientation in the curriculum, student clubs, speech codes and other areas of school life are undermining the educational mission of our schools. Media stories in the past two months alone have spotlighted bitter fights over these issues in Utah, Pennsylvania, Kansas, California, Idaho and Florida. Any notion of the public interest is often lost in the clash of world views across seemingly unbridgeable distances.

When people are this far apart, every act by one side is seen as a hostile move by the other. A "Day of Silence" to protest treatment of gays and lesbians is now followed by a "Day of Truth" to promote conservative religious views of homosexuality. A T-shirt proclaiming "Straight Pride" is worn to counter one professing "Gay Pride." These differences are deep and difficult to negotiate.

Can we do better? If we care about education — and the future of the nation — we must. That's why the First Amendment Center asked Wayne Jacobsen of BridgeBuilders, an organization that helps communities find common ground on religious issues, to help me create a road map for winning the peace in the fight over sexual orientation in schools. The drafting committee also included representatives from the Christian Educators Association International and the Gay, Lesbian and Straight Education Network, two groups with widely divergent views on homosexuality, but with a shared commitment to civil discourse.

It took eight months to hammer out a statement of principles we could all support. But finally, on March 9, we released "Public Schools and Sexual Orientation: A First Amendment framework for finding common ground." Two major educational organizations, the American Association of School Administrators and the Association for Supervision and Curriculum Development, have endorsed the document. The guide does not prescribe a particular outcome, but rather proposes a process for reaching an agreement that all sides can support. All of the sponsoring groups have agreed to disseminate the guidelines widely and encourage schools to address these issues proactively.

Fairness is a two-way street

For the process to work, school officials must be fair, honest brokers of a dialogue that involves all stakeholders. That means, first and foremost, that school leaders must refrain from choosing sides in the culture-war debate over homosexuality. If schools are going to find agreement on policies and practices that bring the community together, it won't be by taking a side and coercing others to accept it.

Consider the case a few years ago of Thomas McLaughlin, a junior high school student in Pulaski County, Ark. Thomas complained that because he refused to keep quiet about being gay, school officials harassed and punished him — forcing him at one point to read aloud Bible verses and prayers. After a lawsuit was filed, the school district settled by paying damages and apologizing to the student.

On the other side of the spectrum, Betsy Hansen, a high school student in Ann Arbor, Mich., challenged her district in 2002 for censoring her religious views in opposition to homosexuality. During a "diversity week" program, school officials prevented Betsy from delivering a speech she was asked to give because they claimed her Roman Catholic views on homosexuality were "negative." Betsy also sued — and she won when a judge ruled that her free speech rights had been violated.

As the outcome of these cases makes clear, school officials can't impose one religious view of homosexuality, but neither can they censor the religious convictions of students.

First Amendment ground rules

To avoid divisive fights and lawsuits, educators and parents must agree on civic ground rules to ensure fairness for all sides. After all, public schools belong to everyone. However deeply we disagree about homosexuality, the vast majority of us want schools to uphold the rights of all students in a safe learning environment. It isn't possible for us to reach ideological or religious consensus, but it is possible — and necessary — to reach civic consensus on civil dialogue.

School districts divided about how to handle issues concerning sexual orientation should take a step back from the debate and find agreement on First Amendment principles. Most Americans can agree that freedom of religion and speech are inherent rights for all. Starting with an acknowledgement of inalienable rights immediately levels the playing field, helping to ensure that everyone has a right to speak — and everyone's claim of conscience is taken seriously.

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More challenging, but still attainable, is an agreement that we all have a civic responsibility to guard the rights of others, including those with whom we disagree. And, finally, people must agree to debate one another without resorting to personal attacks, ridicule, false characterizations of opposing positions and similar tactics.

In the guide, we call this commitment to the principles of rights, responsibilities and respect "First Amendment ground rules." Using this framework, people with deep differences are able to come to the table ready to engage in constructive dialogue.

Finding common ground

With civic ground rules in place, school districts should consider creating a permanent "common ground task force" that fully represents the range of perspectives in the community. Given time and opportunity, people with opposing views learn to trust and respect one another. And that trust and respect can then translate into shared recommendations on safe schools, balanced curricula, appropriate student expression and other issues.

When they begin to listen to one another, most educators, parents and students discover that they want the same thing: public schools that are safe and free for all students. As we say in the guide: "A safe school is free of bullying and harassment. And a free school is safe for student speech even about issues that divide us." Once these shared goals are identified, people are ready to tackle other contentious issues such as gay student clubs and the treatment of sexual orientation in the curriculum.

Winning the peace isn't easy — it takes commitment and courage. But if people on all sides uphold the rights and responsibilities of the First Amendment, they can agree on policies and practices that serve the common good.

Charles C. Haynes is the co-author of Finding Common Ground: A Guide to Religious Liberty in Public Schoolsand senior scholar at the First Amendment Center in Arlington, Va.

ANTITRUST:

Zurich Financial Unit To Settle Bid-Rigging Case With 9 States (WSJ)

By Liam Pleven

The Wall Street Journal, March 20, 2006

Zurich American Insurance Co. agreed to pay $171.7 million in a settlement with nine states that have been investigating allegations of bid rigging in the commercial-insurance business.

The company, a unit of Zurich Financial Services of Switzerland, will pay more than $150 million to reimburse policyholders and another $20 million will go to the states to cover investigative and other costs and as payments in lieu of penalties, according to the states.

"We can confirm that Zurich is finalizing agreements with certain state legal and regulatory authorities to resolve inquiries related to insurance business practices," Zurich said. The company said it will release "further details as soon as possible."

The agreement announced by several of the nine states is the latest development in the probes that authorities around the country have been conducting in recent years into insurance-industry practices.

In 2004, New York Attorney General Eliot Spitzer charged Marsh & McLennan Cos., a major insurance broker, with cheating corporate clients by rigging bids and collecting fees from insurance companies for directing business to them. Last year, without admitting wrongdoing, Marsh signed an $850 million settlement agreement with Mr. Spitzer's office.

Zurich admitted no wrongdoing as part of the settlement, said Mark Tobey, head of the antitrust and civil Medicaid-fraud division in the Texas attorney general's office.

"Going forward, companies like Zurich will be disclosing a lot more information," Mr. Tobey said. He described the company as "very cooperative."

Mr. Tobey said the policyholders involved included major companies, universities and local governments. The settlement is subject to court approval, and the court will determine which policyholders are reimbursed and how much.

Besides Texas, the states involved are California, Florida, Hawaii, Maryland, Massachusetts, Oregon, Pennsylvania and West Virginia.

Florida last week filed a civil lawsuit against Marsh making charges similar to those made by Mr. Spitzer's office. An attorney for Marsh has questioned that lawsuit's validity and said Florida's Department of Financial Services had signed a general release absolving the New York company.

Prudential PLC Rejects Aviva Bid As Big Insurance Battles Mount (WSJ)

By Charles Fleming And Michael Wang

The Wall Street Journal, March 20, 2006

DOJ_NMG_0018685

LONDON -- In what is likely to prove the first round in a long-running takeover battle that could affect insurance markets world-wide, United Kingdom life insurer Prudential PLC Saturday rejected an unsolicited £17 billion ($29.87 billion) takeover proposal from larger rival Aviva PLC.

Prudential, which isn't related to Newark, N.J., insurer Prudential Financial Inc. but is active in the U.S. through its subsidiary Jackson National Life Insurance Co. of Lansing, Mich., said Saturday it had received a proposal from Aviva about a possible combination of the two London companies. In a statement, Prudential said it had rejected the proposal as not in the best interests of its shareholders. "The board confirms that it is not in discussions with any party and reaffirms its confidence in Prudential's future as an independent company."

An Aviva spokeswoman declined to comment on the proposal or on Aviva's next possible move. Statements by Aviva's chief executive, Richard Harvey, about his desire to find acquisitions that would allow the company to expand suggest Aviva won't throw in the towel easily.

People with knowledge of Aviva's overture said the initial proposal was an all-share offer that valued Prudential at about £17 billion, a 6.25% premium to the group's market value. They said Aviva's top managers were meeting to discuss how to proceed. Although Aviva might improve the proposed terms, Mr. Harvey is seen as unlikely to launch an overtly hostile bid. He has said a hostile bid is a "low probability" because unsolicited takeovers are seldom successful in the life-insurance industry.

The global insurance industry is expected to continue to see consolidation -- although how quickly remains unclear. The Wall Street Journal, citing people familiar with the matter, reported Friday that St. Paul Travelers Cos., of St. Paul, Minn., is in the preliminary stages of discussing a possible merger with Zurich Financial Services AG of Switzerland, although no deal may ultimately emerge. Yesterday, St. Paul Travelers said "recent media reports of its being in discussions regarding the possibility of a merger with Zurich Financial Services Group are not true." A spokesman for St. Paul declined to elaborate beyond the statement. A spokesman for Zurich Financial declined to comment.

A combination of the two U.K. insurance heavyweights companies has been rumored for months. Prudential has consistently poured cold water on market speculation, and the group's chief executive, Mark Tucker, who took over in May last year, has stressed that he thinks Prudential should continue as an independent company under his management. A merger would allow the combined group to leapfrog, by market value, the continental European insurance competitors, such as AXA SA, of France, and Allianz AG Holding, of Germany.

Aviva's interest in Prudential primarily concerns the neat fit between the two group's overseas operations. While Aviva has concentrated on building its European business, Prudential has a strong U.S. presence through Jackson National Life, which sells life-insurance and savings products. Prudential has a strong presence in Asia, where it has been active since the 1920s and where it ranks as the largest European life insurer, with 8,700 workers in 12 countries, including China, India, Japan and South Korea.

Aviva, which sells life- and general-insurance policies, has a market capitalization of £20.2 billion. Prudential, which sells life-insurance and savings products, has a market capitalization of £16 billion. Prudential shares rose 7.1% to close Friday at 672 pence in London, while Aviva was up 2.8% to close at 850.50 pence.

This month, Aviva announced a 29% rise in 2005 operating profit at £2.9 billion. Prudential last week said its 2005 operating profit was up 33% to £1.7 billion.

U.K. Tallies Market Abuse (WSJ)

By Margot Patrick

The Wall Street Journal, March 20, 2006

LONDON -- The U.K. market regulator said it has found widespread signs of improper share-price moves before corporate takeovers are announced.

In an effort to assess the deterrent effects of its regulations, the Financial Services Authority studied 1,500 market announcements on takeover bids and company results in various time periods over the past eight years. The researchers found that price movements from nonpublic information may have taken place before 29% of the takeover announcements and before 22% of the trading updates.

The implementation of the Financial Services & Markets Act in 2001, which toughened sanctions for individuals caught insider trading as well as the disclosure requirements for companies, had no apparent change in market cleanliness.

The regulator said there was a small but statistically significant increase in informed price movements immediately following the conclusion of the first enforcement cases under the new rules, in 2004.

"The analysis shows that there was no improvement in market cleanliness in the period after the introduction of the FSA's new powers, and before any high-profile enforcement cases were concluded," said Hector Sants, the FSA's managing director.

"This suggests that visible enforcement action may be the key tool in our work to reduce market abuse," he said.

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The FSA said that by developing its methods to assess the cleanliness of U.K. financial markets, it should over time be able to measure whether its regulatory efforts are working.

In its 2006 Financial Risk Outlook, the FSA said some firms are failing to comply with the European Union-wide market-abuse directive, which prohibits the use of nonpublic, price-sensitive information.

"Firms must ensure that they have procedures in place to identify transactions which they reasonably suspect to be abuse, and make suspicious-transaction reports to us as appropriate," the regulator said.

It said it was reviewing trading and market behavior at institutions including investment banks and hedge funds to find potential cases of market abuse.

Roche, Amgen Engaged In 'Arms Race' On Patent Law (RC)

By Kate Ackley

Roll Call, March 20, 2006

A furious lobbying effort between F. Hoffmann-La Roche and Amgen Inc. has fueled big spending on K Street and led to both drugmakers hiring heavy-hitting firms and high-profile former government officials.

Roche is pushing for a patent-law change that lobbyists close to the debate say could make it possible for the Swiss-based company to get approval and eventually market in the United States a competing product to Amgen's renal disease treatment, Epogen.

Initially, Roche pursued a more secretive strategy, as Roll Call first reported in November. At that time, Roche quietly sought a rider on an appropriations bill that would have changed five words and two commas — the seemingly innocuous "for purposes of this title" — in U.S. patent laws.

Since then the level of rancor has only grown between the two companies. And lobbyists familiar with both sides' strategies now agree that the battle will have much wider implications on patent policy.

According to numerous sources, Roche has tapped a bipartisan team that includes Mickey Kantor, the former U.S. trade representative and Commerce secretary under former President Bill Clinton, and Ted Olson, the former U.S. solicitor general in the current Bush administration. Olson, a partner with Gibson Dunn & Crutcher did not return a call seeking comment. Kantor, who is with the firm Mayer Brown Rowe & Maw, confirmed that he and Olson were handling patent matters for Roche. Roche also has retained the Federalist Group, long a Republican powerhouse that recently went bipartisan.

For its part, Amgen upped its lobbying spending during the last six months of 2005, after the biotech firm became aware of Roche's quiet lobbying push. Between the first and second halves of 2005, Amgen spending rose by $1 million, from $2.4 million to $3.3 million, according to public filings.

And recently, Amgen has signed two patent experts from the firm Drinker Biddle & Reath: Michael Remington, an intellectual property specialist, and Chris Katopis, former director of Congressional affairs for the U.S. Patent and Trademark Office and a one-time aide to House Judiciary Chairman Jim Sensenbrenner (R-Wis.).

"I've never seen an arms race like this in terms of the hiring of consultants," said one lobbyist familiar with the issue.

Amgen's side, lobbyists say, wants to maintain current precedent set by the International Trade Commission. The ITC can stop products that infringe on U.S. patent holders from coming into the country. And the lobbyists on Amgen's side say Roche's proposed change could end up undermining the ITC's ability to do that.

"If you cannot infringe a U.S. process patent in Indiana, you should not be able to move manufacturing to India and then bring the infringing product back into the U.S.," said one lobbyist familiar with Amgen's side.

A statement from Daniel Whelan, an Amgen spokesman, said, "We believe that a strong patent system is essential to protect American jobs. We are on record as strongly opposing measures that would jeopardize the interests of patients, threaten innovation, or hurt American jobs."

Roche's side, however, argues that the change would help the ITC interpret the original intent of the patent law at issue and would simply harmonize how federal courts and the ITC treat process patents.

(Amgen is currently suing Roche for patent infringement in U.S. District Court in Boston.)

Shelley Rosenstock, a spokeswoman for Roche, said her company is restricted about what it can say on the issue because of the pending lawsuit.

In an e-mailed comment, she said: "As I understand it, the issues before Congress at this time are broad policy issues that pertain to legal forum shopping, statutory interpretation and patent law standards. Roche believes consumers would benefit if Congress would eliminate forum shopping and duplicative litigation from the patent code."

Lobbyists familiar with Amgen said they expect Roche to try to get the policy change through regular order such as hearings, markups and perhaps as a free-standing bill, or as a part of broader patent reform.

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And although no lobbyists involved in the debate said Roche is still looking for an appropriations vehicle to the make the change, Sensenbrenner and Rep. John Conyers (D-Mich.) sent a recent letter to House Appropriations Chairman Jerry Lewis (R-Calif.) warning him that such an effort could be afoot.

The letter said, "We respectfully ask that you decline any request to include changes" to the patent laws Roche is seeking "in any appropriations bill." The letter did not mention the company by name.

The letter adds that, "A proposal has been circulated that would limit the authority of the International Trade Commission (ITC) to enforce the rights of U.S. process patent holders against infringing foreign products made abroad."

Lobbyists familiar with both sides said the letter tracked Amgen's point of view almost perfectly.

Jeff Lungren, spokesman for the House Judiciary Committee, said Sensenbrenner routinely sends such letters to colleagues.

"This is more of a jurisdiction process letter, letting the Appropriations Committee know that we'd be opposed to that," Lungren said. "We had heard rumblings about maybe some type of effort to put patent provisions in an appropriations bill, and they just wanted to make sure that didn't happen."

Justices Reach Out To Consider Patent Case (NYT)

By Andrew Pollack

The New York Times, March 20, 2006

For the first time in a quarter-century, the Supreme Court will hear on Tuesday a case involving the basic question of what type of discoveries and inventions can be patented.

Both sides say the case, which involves a blood test for a vitamin deficiency, could have a wide-ranging impact on the development of diagnostics, perhaps threatening many of the underlying patents for genetic and other medical tests.

But the array of companies filing supporting briefs — including American Express, Bear Stearns and I.B.M. — indicates that intellectual property in other fields might also be affected.

Some patent specialists say they think the Supreme Court agreed to hear the case, against the advice of the United States solicitor general, to rein in patenting.

"The Supreme Court reached out and grabbed this case," said Edward R. Reines, a patent attorney at Weil, Gotshal & Manges who is not involved in the case. "These circumstances suggest that some members of the court believe there are too many patents in areas where there should be none."

At issue is whether relationships between a substance in the human body and a disease — for example, the familiar association between high cholesterol and a higher risk of heart attacks — can be the basis of a patent, or whether such relationships are unpatentable natural phenomena.

This case, LabCorp v. Metabolite Laboratories, stems from a 1990 patent awarded to scientists at the University of Colorado and Columbia University. They found that a high level in the blood of homocysteine, an amino acid, indicated a deficiency of either vitamin B12 or another B vitamin called folic acid.

Much of the patent describes a specific way to measure homocysteine, and those claims are not at issue. But the 13th claim of the patent is more general: it covers a way of determining vitamin deficiency by first testing blood or urine for homocysteine by any means and then correlating elevated levels with a vitamin deficiency.

The patent is owned by Competitive Technologies, a publicly traded patent management firm in Fairfield, Conn., and licensed to Metabolite Laboratories, a tiny company based at the University of Colorado. LabCorp, one of the biggest clinical testing companies in the nation, with 2005 revenues of $3.3 billion, sublicensed the test from Metabolite.

At first, LabCorp, whose full name is Laboratory Corporation of America Holdings, tested for homocysteine using the specific method described in the patent and paid royalties to Metabolite and Competitive Technologies. But in 1998 it switched to a newer and faster test developed by Abbott Laboratories.

Metabolite and Competitive sued, charging LabCorp with violating Claim 13 of the patent. In 2001 a federal jury in Denver ruled against LabCorp, and the company was eventually ordered to pay $7.8 million in damages and attorneys' fees. The appeals court that handles patent cases affirmed the lower court decision in 2004.

In asking the Supreme Court to overturn the lower court decisions, LabCorp is arguing that Claim 13, because it does not specify how testing is to be done, patents nothing more than the natural relationship between homocysteine and vitamin B deficiencies, blocking other inventors from developing better tests.

"The present-day implications of such a holding are limitless — and dangerous," LabCorp wrote in its brief. "Anyone who discovers a new medical correlation could stifle medical treatment through a 'test plus correlate' claim."

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But Metabolite and its allies argue that such correlations are the basis of diagnostics and that not allowing patents would stifle development of new tests. There are tests, for instance, that look at mutations in particular genes to predict a high risk of breast cancer or to predict which AIDS drugs will not work.

"Hundreds, if not thousands, of patents would at once be called into question" if the ruling goes against Metabolite, said a brief jointly submitted by Perlegen Sciences, a company developing genetic tests, and Mohr Davidow Ventures, a venture capital firm that backs diagnostics companies.

Another question in the case is whether doctors could infringe the patent merely by looking at a test result for homocysteine and then thinking about vitamin deficiency. Indeed, the lower courts said LabCorp had not directly infringed but rather had induced doctors to infringe by performing the correlation.

Partly with that in mind, the American Medical Association, the American Heart Association and AARP have submitted briefs in support of LabCorp, arguing, in the words of the heart association, that the patent could have "devastating effects on patient health care."

Millions of homocysteine tests are done each year because high levels of the amino acid are associated with an increased risk of heart attack, stroke, birth defects and other diseases; people often take B vitamins to lower homocysteine and reduce the risk. (Clinical trial results announced last week, however, suggested that taking B vitamins did not prevent heart attacks.)

Court precedents have held that laws of nature, natural phenomena and abstract ideas cannot be patented. "Einstein could not patent his celebrated law that E = mc2; nor could Newton have patented the law of gravity," the Supreme Court wrote in a 1980 decision. '

But in a 1981 decision in Diamond v. Diehr — the last time the Supreme Court considered the issue — the court upheld a patent on a method of curing rubber that made use of a well-known equation governing chemical reactions. The court said that the equation was only part of a broader invention.

Glenn K. Beaton, an attorney for Metabolite, said that as in that 1981 case, "it's not the correlation itself that is patented here," but rather "the use of that correlation to determine B12 and folate deficiencies."

In recent years, controversial patents have been granted on software and on business methods, such as ways of managing investment portfolios or of allowing people to order merchandise on Amazon.com with one click of a mouse.

Bear Stearns, Lehman Brothers and the Computer and Communications Industry Association filed briefs urging the court to use the LabCorp case to restrict such business method patents, or at least not expand them. Other companies, including American Express and I.B.M., say the LabCorp case is not relevant to business method patents.

The solicitor general, in urging the court not to hear the case, said there was not enough of a record from the lower courts on the question of patenting natural phenomena. That is because LabCorp did not raise that argument in the lower courts, instead trying to get the claim invalidated on other grounds. If LabCorp wins the case in a way that weakens patents on diagnostic tests, it could be one of the bigger losers. The company, based in Burlington, N.C., is counting on high-priced, patented genetic tests to fuel its growth.

Bradford T. Smith, executive vice president for corporate affairs at LabCorp, disputed that. "We think this case can be decided very narrowly," without undermining other patents, many of which rely on more than just correlations, he said.

ENVIRONMENT/INDIAN AFFAIRS:

For Interior, A Collaborative Conservative (CSM)

By Brad Knickerbocker

The Christian Science Monitor, March 20, 2006

ASHLAND, ORE. - Dirk Kempthorne, President Bush's nominee to the head the Interior Department, has both the experience and the record of collaboration that could help smooth the way in the often-contentious position.

As governor of Idaho, a former US senator, and mayor of Boise before that, Mr. Kempthorne is known to work in concert with those who don't agree with him. He believes that the level of government closest to a problem is the best place to find a solution. And though his environmental record - according to those who score such things - is a pale shade of green, he is not a fire-breathing ideologue likely to dismiss endangered species in the name of corporate ranching or a new highway.

"I've been dealing with this guy for years," says Rick Johnson, executive director of the Idaho Conservation League. "He's not overtly anti-environment. He is overtly states' rights."

The West, for all its wide-open spaces where most of Interior's 500 million acres of responsibility lie, in fact is becoming the most urban region of the country. Cities like Boise, growing rapidly, are more conservation-minded than in the past, says Mr.

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Johnson. As a result, many newcomers to the West value environmental quality - something reflected in some of Kempthorne's policies.

Most national environmental groups blast the nominee as "an unabashed champion of the resource-extraction and development interests that profit most from public lands," as Philip Clapp, president of the National Environmental Trust, put it. But Kempthorne has already won praise from some prominent Democrats. Arizona Gov. Janet Napolitano (D), who chairs the Western Governors' Association, warmly congratulated him. Sen. Maria Cantwell (D) of Washington noted that Kempthorne had "stood up to the administration" over nuclear-waste cleanup at a federal facility in Idaho. He has many friends in the United States Senate, which is expected to confirm his nomination.

Still, the Bush administration and Kempthorne face battles over many issues: development in roadless forest areas; salvage logging of burned timber; the proposed sale of some federal land to lessen the federal budget deficit; changes to the Endangered Species Act; a huge backlog in national parks maintenance; oil drilling in the Arctic National Wildlife Refuge and the Outer Continental Shelf; and protections for grizzly bears, wolves, and other recovering species.

As the likely new "landlord" over national parks and wilderness areas, water reclamation projects, and vast rangelands where cattle graze and new gas and oil wells have sprouted under Mr. Bush, Kempthorne will be in the thick of the fray.

National parks could be an especially difficult issue. The mammoth National Park Service, part of Interior, oversees 388 parks, monuments, battlefields, historic sites, lakeshores, scenic rivers, and trails. The number of park units has nearly doubled since 1970, and annual visits now total almost 300 million.

"One thing he did in Idaho was try to get more resources for parks," says Craig Obey, vice president of the National Parks Conservation Association. "Hopefully, he will try to carry that ahead nationally."

It's a big load to carry. The parks' maintenance backlog is between $4.5 billion and $9.7 billion, estimates the Congressional Research Service.

Meanwhile, the administration is trying to open some parks to more commercial activities, such as snowmobiling in Yellowstone. Its parks management plan, critics say, deemphasizes natural-resource protection in favor of commerce and recreation - which could increase traffic, air pollution, and other adverse impacts.

"That could be potentially devastating to the parks, depending on how it turns out," says Mr. Obey. The 500-member Coalition of National Park Service Retirees, too, has expressed concern. Last month, the watchdog group Public Employees for Environmental Responsibility sued the department for refusing to give details of industry lobbying efforts regarding national parks policies.

Utilities Offer Energy Dept. Site For Waste (New York Times)

By Matthew L. Wald

New York Times, March 20, 2006

WASHINGTON, March 19 — A group of nuclear utilities that is planning to build a private nuclear waste dump on an Indian reservation in Utah has offered to sell space there to the federal government. The move could help the government avoid billions of dollars in potential legal damages over its failure to build its own repository.

This month the utilities, eight companies from around the country, won a license from the Nuclear Regulatory Commission to open a repository at Skull Valley, on land leased on a Goshute Indian reservation, about 60 miles west of Salt Lake City.

The utility consortium, called Private Fuel Storage, does not have the permits it needs to transport waste to the site, however, and the State of Utah is trying to block those.

The Energy Department signed contracts in the 1980's with each of the nuclear operators, promising to accept their spent fuel beginning in January 1998, in exchange for a payment of a tenth of a cent for each kilowatt-hour they generated.

The project now appears to be at least 20 years behind schedule, and the department faces approximately $50 billion in damage claims from the utilities, many of which have resorted to building giant casks adjacent to their reactors to store the old fuel.

In a letter to the chairmen and the ranking minority members of the House and Senate Energy Committees, Private Fuel Storage said it could begin taking fuel within three years, at a cost of about $61 million a year. In the letter, which was sent in December but released last week, the company estimated the Energy Department's costs to maintain the fuel at the reactor sites at about $500 million a year.

The fuel is currently kept at 72 sites whose storage costs vary widely. At some sites, the reactors have been retired and torn down, and maintenance and security personnel remain in place simply for the fuel. At others, while construction of the casks was expensive, the cost to maintain them is small.

Of the eight utility partners, three have announced that they have no immediate need for off-site waste storage.

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The consortium proposed either that the Energy Department take title to the fuel and pay for storage, or let the utilities continue to own the fuel but reimburse them for the storage costs. It suggested legislation to reassure Utah that even if the government's proposed repository, at Yucca Mountain in Nevada, never opened, the Goshute site would not become permanent.

Representative David L. Hobson, the Ohio Republican who is chairman of the energy and water subcommittee of the Appropriations Committee, has been pushing for dry-cask storage, possibly as a prelude to chemical processing of the wastes to extract useful material before burial. And last month, the Bush administration endorsed such chemical processing, through a partnership. But the cask idea has not gone far with the Energy Committees.

"The view right now on Capitol Hill is that this is a free-market project, and let's see if the market sends business their way," said Marnie Funk, a spokeswoman for the Senate Energy Committee.

State-U.S. Revenue Sharing At Core Of Offshore Plans (USAT)

By Oren Dorell

USA Today, March 20, 2006

Oil companies and U.S. industries have been aching for years to get at the billions of barrels of oil and trillions of cubic feet of natural gas sitting off the shores of the USA.

There have always been reasons to look elsewhere: cheaper energy overseas, governors demanding royalty payments, beachgoers opposed to the sight of derricks in the distance, environmental groups predicting ecological disaster.

However, the creators of a new campaign to drill up and down the coasts say the time is right to get it done. And they say they've come up with a way of doing it that has statehouses, U.S. industry and even some notable environmental groups on board.

“Never before has there been such a flurry of legislative activity on the issue,” says Adam Sharp, spokesman for Sen. Mary Landrieu of the Gulf Coast state of Louisiana.

The proposal is simple:

·States that open their territory to drilling will get a cut of the royalties that currently go 100% to the federal government.

·A specified chunk of royalties must be spent restoring coastlines.

Simple, and hard to resist.

Consumers are paying relatively high prices for energy. Polls show concern among the public about U.S. alliances with even friendly Arab countries, which control much of the world's oil. The White House is calling for new energy solutions. A top item on the agenda of environmental groups — restoring coastlines ravaged by human activity — will take big money.

“We hope this will be a front-burner story for the next couple of months,” says Kevin McCoy, vice president for energy resources policy at the National Association of Manufacturers.

Former Louisiana senator John Breaux is hoping to build interest.

Breaux is a lobbyist for the Washington firm Patton Boggs and is working on a volunteer basis for the state of Louisiana to give it a share of the royalties from oil and gas off its shores. He's working with a coalition of manufacturers, municipalities and energy companies to bring attention to the plan.

“We need that oil,” said Breaux, who is working with Shell Oil, among others. “In Louisiana, it would fund coastal restoration.”

The Interior Department estimates there are 86 billion barrels of oil and 420 trillion cubic feet of gas yet to be discovered off U.S. shores. That's 11 times as much oil as the USA used in 2005 and 19 times as much gas, the U.S. Energy Information Agency says.

Major drilling off the outer continental shelf, which extends 3 miles to 200 miles from shore, is banned in all but a portion of the Gulf of Mexico.

Utilities say they have always coveted the deposits but found the political opposition too daunting. Bills filed in Congress during the 1990s went nowhere, largely because of budgetary issues.

Utilities are more optimistic this year given the drive to give states a cut of the action.

Revenue sharing “would provide, hopefully, economic incentives to the states to support … development of their offshore resources,” says Richard Shelby, executive vice president for public affairs at the American Gas Association.

Congressional leaders also see a more hopeful scenario among a handful of competing bills.

“Things are different now,” says Rep. Richard Pombo, R-Calif., chairman of the House Resources Committee, who is looking at several new bills on revenue sharing.

“We're paying an all-time high for natural gas, an all-time high for oil,” says Pombo, who expects a vote on the issue this spring. “States are beginning to look at this in terms of revenue and their own energy security. Those are things we have to balance. It's completely different than a few years ago. The stakes have changed.”

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Some coastal states are now on record as supportive of the idea.

Georgia's Department of Natural Resources supports a plan to lease the outer continental shelf for oil and gas. Connecticut's Department of Environmental Protection says it would like a share of any drilling in its region. The Virginia Legislature voted to urge its congressional representatives to support the idea.

Louisiana Gov. Kathleen Blanco says she wants an end to a double standard for gas and oil drilled on land, the royalties from which are shared with the affected state. Thirty-five states received $1.7 billion in such royalties in 2005. Wyoming received the most: $878 million.

Much more money is at stake in offshore drilling.

Oil and gas leases in the portion of the Gulf where drilling is allowed brought in $5.7 billion for the federal government in 2005. Blanco wants states to get half of the royalties and says Louisiana should get 54% of that cut in the Gulf. Under that formula, Louisiana could receive as much as $1.5 billion a year for a state with an $18.5 billion annual budget.

Members of Congress from some states are not supportive of new drilling, however, and some have filed bills to ban it. Pombo expects differences to be worked out. “I have to compromise between states that want to produce and states that don't want any production near their shores,” Pombo said.

Supporters think the stance of some environmental groups could help their cause.

For decades, such groups have lamented the degradation of the Louisiana coastline. Much of the damage was caused by channels cut through marshes for pipelines and for ships that ferry supplies to the derricks offshore.

To restore the coastline, miles of long-gone banks must be rebuilt with massive amounts of soil, then planted with cypress and marsh grass. That would take billions of dollars, and letting offshore drilling continue in order to get it is a choice some groups are willing to make.

“We think it's reasonable,” says Susan Kaderka, director of the National Wildlife Federation's Gulf States Natural Resources Center.

The deal has caused a rift among the groups. Kaderka says her group only supports revenue sharing for a significant portion of the Gulf Coast. Other groups warn that it sets a bad precedent to ever support drilling and it could lead to much more of it.

“Once this happens, it's hard not to make other states expect to get a chunk of the change,” says Lisa Speer, director of water and ocean policy at the Natural Resources Defense Council.

Marvin Odum, a Shell Oil executive vice president in charge of exploration in the Americas, is among those hoping other states do decide to join in. As for support from any environmental groups, Odum says, “That would be more voices on the idea that are favorable.”

Court Deals Blow To EPA's Relaxed Rule On Air Emissions (CSM)

By Mark Clayton

The Christian Science Monitor, March 20, 2006

The US Environmental Protection Agency will probably have to go back to the drawing board now that a US appeals court has said aging power plants and other industrial sites must meet the same federal pollution standards as new plants.

Friday's decision represents a repudiation of EPA policy under the Bush administration, which sought to exempt plants that predated the 1970 Clean Air Act from compliance with the tougher air-emission standards. It was cheered by environmentalists - especially those who live and work near such power plants.

One, Lisa Graves Marcucci, a mother and clean-air activist who lives near Pittsburgh, says the ruling gives her hope that EPA investigations of nearby aging power plants, which the agency halted a few years ago, will resume.

"It's a huge victory for people like us because, when we see a ruling like this, it gives us hope that facts and figures and law will dictate a fair outcome rather than pressure from lobbyists," she says.

The ruling, however, is a setback for industries, which may now be required to install expensive new emissions-cutting equipment. It could also initiate endless reviews of their plants, they say.

"Today's decision ... is disappointing," said Scott Segal, director of the Electric Reliability Coordinating Council, in a statement. "What benefit comes from today's decision? Certainly none for the environment."

The ruling could prompt some big utility companies to upgrade pollution controls at the oldest, most polluting power plants, or shut them down.

"The language of the court's decision is very, very strong," says Eric Schaeffer of the Environmental Integrity Project, a New York environmental group. "The EPA's excuses, always pretty thin, have gone away. We now know this rule is going to go forward, and that these guys will have to get permits, and clean up their emissions."

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Many older power plants had their sulfur-dioxide and nitrous oxide emission levels "grandfathered," or accommodated, under the Clean Air Act of 1970.

Under the EPA's "new source review" (NSR) rules, these plants weren't required to bolt on costly new air-pollution equipment in the 1970s. But NSR, as interpreted until about five years ago, subjected older plants to the more stringent contemporary pollution standards if their facilities were upgraded at any point and emissions increased.

The utility industry and the EPA under the Bush administration have argued that many plant modifications, including those that previously would have trigged NSR, did not bring about a review - even when higher emission levels were the result.

The US Fourth Circuit Court of Appeals, in Washington, D.C., disagreed with the EPA. "The EPA's interpretation would produce a 'strange' ... result," the judges wrote. "A law intended to limit increases in air pollution would allow sources ... to increase significantly the pollution they emit without government review."

The EPA could appeal the decision to the US Supreme Court.

Since President Bush took office, the EPA has held a looser interpretation of NSR. In 2003 the agency withdrew from scores of NSR investigations and a number of court cases, and refused to press 20 such cases that had been recommended to the Justice Department for prosecution, Mr. Schaeffer says.

The Road To Nowhere (NYT)

The New York Times, March 20, 2006

It seems insane that the National Park Service would even think of spending $600 million on a road that few people want and nobody needs — especially when the service has barely enough money to keep up appearances. But that could happen unless the Interior Department musters the courage to resist Representative Charles Taylor of North Carolina.

Mr. Taylor, who says a new road would stimulate the local economy, runs the subcommittee that controls the Interior Department's budget. For that reason, neither the park service nor Interior's outgoing secretary, Gale Norton, has publicly criticized the idea. But there is more at stake here than pleasing one's paymaster. The road would not only blow a hole in the department's budget; it would also leave a scar on one of the most popular national parks.

At issue is a 30-mile road proposed for the north side of Fontana Lake on the eastern edge of the Great Smoky Mountains National Park in North Carolina. The road was promised to the residents of Swain County in 1943 when the Tennessee Valley Authority built a major hydroelectric dam, creating the lake and flooding out an existing road. After a fitful start in the 1960's, the road was abandoned for environmental and budgetary reasons.

Those reasons still apply. The road, including three big bridges, each the length of the Brooklyn Bridge, would breach an unbroken tract of national forest, destroy wildlife habitat and poison hundreds of miles of streams. Its estimated cost of $604 million — up 40 percent from only a year ago — is three times the annual roads budget for the entire national park system, which is already suffering from a big repair backlog.

There is no pressing need for the project. Swain County has other roads. The road's opponents include Bill Frist, the Senate majority leader, and Swain County's own commissioners. There is broad agreement that restitution of some sort is due the residents of the region, and that the spirit if not the letter of the original agreement should be honored. A cash settlement of $52 million has been proposed.

As Mr. Taylor has noted, this will not generate the jobs and income that the road project would. But it's fair, and it won't do lasting damage. Interior should endorse the settlement. The department's neutrality serves only to keep alive an idea that makes even less sense now than it did in 1943.

Eastern Law Firms Roll The Dice On Indian Law (LAW)

By Charles Toutant, New Jersey Law Journal

New Jersey Law Journal, March 20, 2006

Native American law, long a well-established practice area west of the Mississippi, is gaining ground at eastern law firms as tribes displaced in the 19th century seek to reclaim ancestral lands -- and make them instantly profitable.

After the successful land-claim settlement by the Mashantucket Pequot Tribe in Connecticut, which led to the opening of Foxwoods Resort Casino in 1992, and the Mohegan Tribe's acquisition of land in nearby Uncasville, Conn., for the Mohegan Sun Casino, other tribes have started bringing land-claim suits, and law firms are lining up to help them.

While tribes' finances are short and the odds of prevailing long, there are still legal fees to be generated. That's because there are casino developers willing to underwrite the tribes' legal costs on the chance that they'll obtain a new site for gaming, say Indian law experts.

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"Part of what's going on these days in Indian country is there are certain forces that are trying to unearth potential claims that might be made to re-establish a tribal homeland and ultimately establish a casino," says Robert Odawi Porter, director of the Syracuse University Center for Indigenous Law, Governance and Citizenship.

In cases where land-claim suits are funded by outsiders, the tribe is usually a passive participant in the litigation, says Porter. Such arrangements are permitted under the Indian Gaming Regulatory Act of 1988, which gives states authority to negotiate revenue-sharing agreements with tribal casinos.

"Everything is dictated by the developer -- I call it the 'sit back and take a check approach,'" Porter says.

But the process is arduous. Last June, the Shinnecock Indian Nation of Long Island filed a claim for 3,600 acres in the exclusive Hamptons resort area that it says belonged to its ancestors. The casino plan is opposed by New York's governor and senators, as well as by residents of the Hamptons. The tribe's costs are being underwritten by Michigan casino developers Marian Ilitch and Michael Malik. Ilitch, founder of the Little Caesars pizza chain, owns the Motor City casino in Detroit. She and Malik are also building an Indian casino in Barstow, Calif.

The Shinnecocks' lawyers are from Roseland's Lowenstein Sandler: Kurt Lenz and Nicomedes Herrera, both real estate practitioners, and Richard Ricci, an environmental lawyer. Lenz says he and his colleagues have been instructed not to answer press inquiries. He referred questions to the tribe's public relations consultant, who did not return a call.

NATIONAL FIRMS ON BOARD

Native American law is a well-established practice niche in the West, touching on subjects ranging from mineral and timber rights agreements to treaty enforcement, federal regulation and jurisdictional disputes between tribal security forces and non-Indian police.

In the East, fewer lawyers have formed Indian-affairs practices because forced emigration of the 1800s has left few tribal groups.

But in 1987, the U.S. Supreme Court ruled, in California v. Cabazon Band of Mission Indians, 480 U.S. 202, that if a state allows any type of gambling for any purpose for any type of organization, a tribe can engage in that type of gambling on its reservations. Since then, with Foxwoods and Mohegan Sun as shining beacons, tribes have come to view casinos as a route to self-sufficiency -- and land claims have proliferated.

That helps explain why national firms such as Dorsey & Whitney of Minneapolis, and Hughes, Hubbard & Reed and Holland & Knight, both of New York, have been building up their Native American practice groups.

Holland & Knight's 23-lawyer group, which includes former U.S. Sen. Ben Nighthorse Campbell of Colorado, is headed by Jerome Levine, who joined the firm in 2000 after running an Indian law boutique in Los Angeles for 20 years. Levine says he moved his practice because his tribal clients required a Washington, D.C., presence and access to real estate and corporate finance experts that his small firm lacked.

Lawyers focused on Indian law are rare in New Jersey, where casino gambling is constitutionally limited to Atlantic City. But an exception is Michael & Carroll, for whom Native American clients constitute 50 percent of its work, says partner Guy Michael. The Atlantic City firm is counsel to the Chitimacha Tribe, which operates a successful casino in Louisiana, and Michael is general counsel to the tribe's gaming commission that his partner, Robert Carroll, chairs. Both Michael and Carroll worked in casino regulation as New Jersey deputy attorneys general and then helped develop Foxwoods in Connecticut.

Michael sees no end to the growth of Indian gaming places. "Everybody says we're going to reach the saturation point," he says, "and then more [Indian casinos] come on line and everybody goes to them."

HIGH HURDLES

Major impediments make it no easy task to win a land claim. Tribes must first have recognition from the federal Bureau of Indian Affairs as a sovereign nation. About 500 groups have earned such recognition, of which about 200 operate casinos, bingo halls or other gambling facilities, according to the National Indian Gaming Association.

But many more tribes lack official recognition, and the path toward such status can require expert analysis of a group's linguistics, culture and religion, says Hershel Kozlov of Wolf Block in Cherry Hill, N.J., who represents some Native American clients in his gaming practice.

Such proceedings are primarily administrative but can be contentious. Porter says that in the East primarily, intermarriage and assimilation make it more difficult to prove tribal integrity.

For example, the Ramapough Mountain People of New York and New Jersey were on the verge of BIA recognition when the Cabazon Band case came down and Foxwoods and Mohegan Sun went up. Atlantic City casino owners, Donald Trump among them, opposed recognition, aware that the Ramapough land was within an hour's drive from New York City. In 1994, the BIA denied recognition, saying the Ramapoughs' uncertain origins negated identity as a distinct community descended from an historic tribe.

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Even tribes that have official recognition still have to prove they are the appropriate heirs of those who occupied the seized property. Land-claim cases usually cite violations of the Non-Intercourse Act of 1790, which required that sales of land by Indians to local or state governments had to be ratified by Congress. Many local officials continued to buy land from Indians in violation of that law, Kozlov says.

One such claim of an unauthorized transaction was filed in federal court in Camden in December. The Unalachtigo Band of the Nanticoke Lenni-Lenape Nation says its 3,000-acre homestead in Shamong Township was improperly purchased by Burlington County in 1801.

But the 108-member tribe has yet to find a lawyer. On Jan. 11, it filed a brief with U.S. Magistrate Judge Ann Marie Donio claiming indigence and seeking assigned counsel. In fact, it goes so far as to request Hughes Hubbard, which has brought such cases before.

The tribe has offered to settle its case in exchange for two 1,500-acre parcels of land -- one in Rancocas State Park in Burlington County and the other the Alpine Boy Scout Camp in Bergen County -- on which to build casinos, though the tribe has not held negotiations with casino developers, says tribal chairman James Thomas.

Burlington County Solicitor Evan Crook said the county would fight the suit and had appointed Anthony Drollas Jr. of Trenton's Capehart & Scatchard as its outside counsel.

An earlier attempt by a tribe to establish an Indian casino in New Jersey fell flat in 1998. The Delaware Tribe of Western Oklahoma, which claims the New Jersey shore as its ancestral home, sought to buy a two-acre parking lot from Wildwood City for a casino. But the tribe pulled out of the project after Attorney General Peter Verniero filed suit to stop the transaction.

HOLDOUTS

Not all Indians embrace the development of casinos. Donald Daines, a land-use lawyer at Hill Wallack in Princeton, represents tribal dissidents pro bono in civil rights disputes.

In 2004, Daines represented an Oneida woman, Danielle Patterson, who was arrested and had her mobile home seized and demolished by tribal police because she refused to let it be inspected, in violation of a reservation ordinance.

At the 2nd U.S. Circuit Court of Appeals, Daines argued that Patterson was persecuted because she opposed a pro-casino tribal administration, but the Northern District of New York dismissed the claim brought under the Indian Civil Rights Act, 25 U.S.C. 1301. The 2nd Circuit affirmed in Shenandoah v. Halbritter, 366 F.3d 89 (2004), and the Supreme Court denied certification.

"There are a lot of casino nations who are disenfranchising and removing those who oppose the casino," Daines says. "What you are seeing when you talk about the area of law related to casinos is the tip of the iceberg in Indian law."

FBI/DEA/ATF/USMS:

Many N.Y. FBI Agents Have Neither E-mail, Internet-ready Phones (NYDN)

New York Daily News, March 20, 2006

NEW YORK _ It seems as if every Manhattan prep schooler has one, but many of New York's FBI agents are fighting crime and terrorists without an Internet-ready phone or even an e-mail account, the New York Daily News has learned.

Mark Mershon, the assistant director in charge of the FBI's 2,000-employee city office, blamed the technology gap on Washington budget constraints.

He said there's a cost attached to assigning an agent or analyst an e-mail address with the official domain name _ ic.fbi.gov.

"And as ridiculous as this might sound, we have real money issues right now, and the government is reluctant to give all agents and analysts dot-gov accounts," he said when asked about the gap at a News editorial board meeting.

"We just don't have the money, and that is an endless stream of complaints that come from the field."

Mershon also revealed that only about 100 agents in New York have BlackBerry devices, which allow users to send and receive e-mail and access the Internet from their phone.

And just a few weeks ago, the New York office was notified that funding for its BlackBerry pilot program _ designed to help the FBI better communicate with city, state and federal law enforcement _ was being cut.

"I, with the help of others, raised a stink," Mershon said, adding that BlackBerry funding has been restored.

Sen. Charles Schumer, D-N.Y., decried the penny-pinching.

"The FBI should have the tools it needs to fight terrorism and crime in the 21st century, most of all in New York City, and one of the most effective means of communications is e-mail and the Internet," he said. "FBI agents not having e-mail or Internet access is much too much a pre-9/11 mentality."

FBI officials in Washington, however, insisted that agents are not at a disadvantage because of cost-cutting.

Spokeswoman Cathy Milhoan said about half the FBI employees don't have official accounts because e-mail addresses are still being assigned.

By the end of the year, the entire bureau should have dot-gov mailboxes, she said.

As for the BlackBerry devices, she conceded funding for the pilot program was put in jeopardy because a lawsuit over the technology had threatened to make the machines obsolete.

Now that the issue has been resolved, the FBI intends to keep the 100 wireless gadgets in the budget, though there are no plans to issue them to more agents.

Those who don't have them can use their regular cell phones, pagers and secure radios to communicate internally and with other agencies.

"BlackBerrys do cost money," she said. "It's the newest high-tech gadget, but it's not the only way to communicate."

Official: Some New York FBI Agents Don't Have E-mail Accounts (NSDY/AP)

Long Island Newsday, March 20, 2006

NEW YORK (AP) _ Budget constraints are forcing some local FBI agents to operate without e-mail accounts, according to the agency's top official in New York.

"As ridiculous as this might sound, we have real money issues right now, and the government is reluctant to give all agents and analysts dot-gov accounts," Mark Mershon said when asked about the gap at a Daily News editorial board meeting.

"We just don't have the money, and that is an endless stream of complaints that come from the field," he said.

FBI officials in Washington denied that cost-cutting was putting agents at a disadvantage.

Spokeswoman Cathy Milhoan said e-mail addresses are still being assigned, adding that the city bureau's 2,000 employees would all have accounts by the end of the year.

Mershon, the assistant director in charge of the agency's New York City office, also said that 100 city agents have been given Internet-ready phones such as BlackBerry devices.

Sen. Charles Schumer called for better access to technology for agents.

"The FBI should have the tools it needs to fight terrorism and crime in the 21st century, most of all in New York City, and one of the most effective means of communications is e-mail and the Internet," he said. "FBI agents not having e-mail or Internet access is much too much a pre-9/11 mentality."

Internet Untouchable For FBI Agents In City (NYDN)

New York Daily News, March 20, 2006

FBI terror fighters need modern tools

Anyone who watches the TV show "24" might well believe that America's counterterrorism agents are so technologically advanced they can communicate instantly and tap into computers across the world. Well, we're here to tell you that Jack Bauer could never survive in the FBI.

Forget about having the capability to download secret documents and other such fanciful feats; superagent Bauer wouldn't even have a government e-mail account were he assigned to the bureau's New York office, headquarters of the nation's premier anti-terror unit.

You read right. Somewhere up the bean-counting chain of command, someone decided the FBI couldn't afford to give every agent and analyst in the bureau's largest office outside D.C. a <USnew_edit>basic 20th century communication tool like an FBI.gov e-mail address. As for giving them 21st century technology, such as BlackBerrys, fuhgeddaboudit.

This bit of backwardness and misplaced priorities came to light as we chatted with Mark Mershon, the assistant FBI director who runs the New York office, about the bureau's progress in creating information systems after trying and failing twice. Working our way down a technologies checklist, we arrived at what we though was the mundane item of e-mail, only to be stunned.

Establishing state-of-the-art electronic case files will take money and more expertise than we can muster, but you don't have to be a geek to know something is very wrong - and solvable - when field agents are denied modern basics.

To say there's not enough money in a $2.5 trillion federal budget to give FBI agents e-mail addresses is patently absurd. Which is why headquarters now says everyone will have official e-mail by the end of the year. That must happen. Every major employer provides workers with job-related e-mail because it enhances productivity. Agents should be able to distribute business cards that say JohnJones@fbi.gov. Now, they rely on personal accounts, on which no FBI business should take place.

As for BlackBerrys - devices that are both phones and e-mail terminals - only 100 managers and counterterrorism agents have them in the FBI's 2,000-person New York office. And those are part of a field-testing program. Testing? What's to test?

Every business executive in the country has a BlackBerry. Every assistant to every business executive and every law enforcement agency with which the FBI communicates has BlackBerrys. People who want to blow up the Brooklyn Bridge probably have BlackBerrys.

Think this is outrageous? E-mail your congressional representative. Which you can, because Congress has e-mail. And BlackBerrys.

<USnew_edit>Avoid the refund ripoff

As the April 15 tax deadline approaches, financial offices have opened in New York City's poorest neighborhoods, the better to fleece the unwary with overpriced tax-preparation services and high-interest loans that promise "instant money," all quite legally.

There's no reason to swim with the loan sharks. You can avoid predators by calling 311 and asking for the name of a nearby tax preparer who won't charge a penny for the service and who should also explain why instant-money loans are an extremely bad deal.

The lure of that type of loan is that a taxpayer gets refund money right away and repays the debt when the IRS check arrives. Two facts are left out of the picture: first, the loans carry annual interest rates as high as 700%, and, second, you don't have to wait very long for the government check to come.

According to a report by the Neighborhood Economic Development Advocacy Project, a consumer rights organization, more than 300,000 city taxpayers coughed up a total of more than $92 million in tax preparation and loan fees in 2004, paying an average of $276 per filer. More than three-quarters were families earning less than $34,678 a year.

What's worse, most of the people who took out instant-money loans were waiting for payments of the Earned Income Tax Credit, the federal program that gives cash to the working poor. As a result, companies that offer instant-refund loans wound up with millions that were intended for the needy.

Instant refunds are all but unnecessary. Thanks to improved processing, taxpayers whose filings get sent in electronically can expect a refund check in 15 days or less. And more than three dozen banks, credit unions, community organizations and government offices offer free tax preparation. Working families ought to take advantage of this painless way to avoid the annual refund ripoff.

12 Accused Of Making Marijuana-Laced Candy, Soda (LAT)

By Lee Romney, Times Staff Writer

The Los Angeles Times, March 18, 2006

They face cultivation and distribution charges over 'Pot Tarts,' 'Toka-Cola' and others.

SAN FRANCISCO — A dozen Bay Area residents appeared in federal court Friday on marijuana cultivation and distribution charges in connection with a large-scale operation to make pot-laced candy bars and sodas.

The products, bearing such slightly off-brand names as Keef Kat, Toka-Cola, Stoney Ranchers, Trippy peanut butter and Pot Tarts, are packaged to look like the legitimate brands they mimic.

According to an affidavit filed in U.S. District Court here, some of the products — sold under the company name Beyond Bomb — were seized this month at the Compassionate Caregivers medicinal marijuana dispensary in Los Angeles.

They also were being sold at other dispensaries throughout the state, including the Green Grocery Co-Op in Van Nuys, the warrant said.

Though the packaging evokes the irreverent Wacky Pack stickers of years past by mocking trademarked products, federal officials say the psychoactive goods are no joke.

"The packaging is so similar to that of the name brand, it has the potential to fall in the hands of children, with potentially tragic consequences," DEA spokeswoman Casey McEnry said.

Medicinal marijuana use, purchase and cultivation are permitted with limitations under state — but not federal — law.

Federal drug agents identified Kenneth Affolter, 39, of the upscale East Bay community of Lafayette as head of the manufacturing outfit.

Search warrants served on three East Bay warehouses and Affolter's home turned up hundreds of the candy bars and sodas, as well as $100,000 in cash and more than 4,000 marijuana plants, McEnry said.

Affolter and 11 others identified by officials as Beyond Bomb employees are being held without bail.

Their attorneys could not be located Friday. Bruce Margolin, director of Los Angeles NORML — National Organization for the Reform of Marijuana Laws — called the arrests aggressive and "uncalled for."

"There are a lot of people depending on [marijuana products] for their health and safety and welfare," he said. "What do they want, for them to be buying off the street?"

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Despite the large number of plants seized, Margolin said the suspects could have a defense if they operated as a caregivers' cooperative.

Bitter Fight Over Sweet Pot Treats Drug Agents Fear Candies Appeal To Kids -- Medical Marijuana Users Insist They're Legal (SFC)

By Henry K. Lee, Chronicle Staff Writer

San Francisco Chronicle, March 18, 2006

They had colorful labels and names such as Trippy, Stoney Rancher, Toka-Cola, Pot Tart and Budtella.

To federal drug agents, they were dangerous marijuana-laced concoctions that could fall into the hands of children. But to sick patients who rely on cannabis to ease their symptoms, they were just tasty ways to get their medicine -- and legal under California law.

Federal agents who converged on several of what they called "marijuana candy factories" in the East Bay on Thursday seized hundreds of sodas and candies laced with marijuana in what they said was the largest bust of its kind on the West Coast.

Authorities say the drug is illegal no matter what form it takes, especially marijuana candy products that mimic mainstream candies and are attractive to youths.

But angry medical-marijuana patients said Friday that investigators are blowing smoke and that the raids in Oakland and Emeryville on Thursday are just the latest proof that federal investigators are running roughshod over local and state laws that allow for medicinal cannabis use.

In 1996, California voters approved Proposition 215, which allows the use of marijuana for medical purposes with a doctor's recommendation. Despite the law, authorities -- from the California Highway Patrol to the Drug Enforcement Administration -- have pounced on local marijuana-growing operations in the Bay Area, including locations in San Francisco and Sonoma County in December.

The candy-factory raids are the latest crackdown.

"I think the government is once again trying to create terror through our community," said Angel Raich, 40, of Oakland, who uses the drug to treat pain, nausea and seizures associated with a brain tumor and a wasting syndrome. "I do know for a fact that medical-cannabis candy and those kinds of products are in the dispensaries, and patients do use them."

Rick Steeb, 55, of San Jose, who uses marijuana to treat the pain from glaucoma, said he's "never seen (the candy) outside the dispensaries. It's not like they were being sold in convenience stores."

But Special Agent Casey McEnry, spokeswoman for the DEA, the agency that conducted this week's raids, said Friday that marijuana "is a violation of federal law in this form and in the smoked form. Even though there may be claims that these weren't meant for kids, the packaging may suggest otherwise."

The alleged ringleader, Kenneth Affolter, 39, of Lafayette, six other men and five women appeared Friday before U.S. Magistrate Bernard Zimmerman in San Francisco and were ordered held without bail pending a hearing next week.

Affolter, whose nickname is "Kena," operated Beyond Bomb, a manufacturer of the marijuana treats, from adjoining warehouses at 1055 and 1071 Yerba Buena Ave. and 3960 Adeline St. in Emeryville, DEA Special Agent William Armstrong wrote in an affidavit unsealed Friday.

Investigators learned that a $3,913 PG&E balance for a month's period covered all three locations and was billed to Affolter, Armstrong wrote.

Affolter is listed as president of Clear Soap, which is under suspension for failing to pay state taxes, DEA Special Agent Jason Chin wrote in an affidavit. Affolter told Oakland police officers who responded to a silent alarm at one of the Yerba Buena warehouses last month that "he made soaps and candles," agents wrote.

Marijuana candies have been around for at least five years, cannabis users say. But raids of these products only began recently.

In May, police seized Beyond Bomb products from Compassionate Caregivers, a medical-marijuana dispensary in Los Angeles. In July, DEA agents seized Beyond Bomb candies from a San Lorenzo home.

Oakland's Compassionate Caregivers Club at 1740 Telegraph Ave., which Affolter used as a marijuana-cultivation site, was also searched as part of this week's raids, which netted up to 5,000 marijuana plants and $150,000 in cash, authorities said.

At the Telegraph Avenue site, agents found more than 100 marijuana plants, authorities said. Growers there wore identical gray, short-sleeve collared shirts and white lab coats, Armstrong wrote.

Employees also meticulously tracked their work hours on time cards, affidavits said.

Affolter's attorney, Robert Byers of Oakland, said Friday that it was unfair for authorities to claim that children could end up eating Beyond Bomb's creations.

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"They know it's not marketed for kids," Byers said. "They're only seen in the context of people who use medical marijuana. A sweet, nice-tasting product is certainly going to benefit them."

Raided Pot 'Edibles' Trouble Advocates (CCT)

By John Simerman

The Contra Costa Times, March 18, 2006

A day after federal agents seized thousands of marijuana plants and a booty of pot-laced candy and soda pop in raids on warehouses in Emeryville and Oakland, local medical cannabis advocates reacted coolly -- bitter at another federal plunder on a substance the state deems legal for the sick, but leery of an operation that packaged its products to mimic popular brands of sweets.

The raids on a business called Beyond Bomb netted some 10,000 rooted plants, thousands of tiny plant "clones," as well as boxes of candy and soda with take-off names such as "Pot Tarts," "Toka-Cola," "Stoney Rancher" and "Munchy Way," with labels to match.

Agents also raided the Lafayette home of Kenneth Dean Affolter, 39, who they say ran the business. He and 11 others were taken into custody and charged with of distributing marijuana.

Authorities say they believe the snacks and soda were headed to pot dispensaries and cooperatives across the Bay Area and California, said Special Agent Casey McEnry, a spokeswoman for the federal Drug Enforcement Administration.

"We don't have any information that these products did ultimately end up in the hands of minors, but that doesn't mean it didn't happen," she said. "They look so similar to the real products, it would almost suggest ... that's the way it looks."

Medicinal marijuana advocates pointed to state law and said it was doubtful the THC-laden snacks and soda were aimed at children.

"There's actually a lot of product like that, and dispensaries are the places they can be had. They're the only places that marijuana is retailed in California," said Dale Gieringer, California coordinator for the National Organization for the Reform of Marijuana Laws, or NORML.

"They're usually five bucks, three bucks, about like a joint. They're good. A lot of them are very professionally made."

For patients who have trouble smoking, or for whom doctors are concerned about them smoking, "edibles" are the age-old alternative. Droplets and sprays are other options, advocates say.

Gary Ainsworth, who suffers chronic pain, said he likes the taste and medicinal quality of the company's sodas, with names such as "Puffsi" and "Joint," after Pepsi and Jolt. He bought some at an Oakland dispensary but said he doesn't drink it much because of the cost and the long drive from his home in Clovis.

"It works real well for the medication part. But I think it was like $12 for an 8-ounce bottle," he said.

Still, "I'm not hip with the idea of using Jolly Ranchers and (candy) names like that," said Ainsworth. "I think it should be packaged as medicine. If a patient were to have that laying out, somebody might think it's something else -- like, 'have a lollipop.' "

Jeff Jones, executive director of the Oakland Cannabis Buyers' Cooperative, said he has the same concerns over confusion, and another one: that one of the raided warehouses was in an area near homes and schools. Jones favors regulating the suppliers like other businesses.

"If there were permits, they would not have been allowed to be in the neighborhood," said Jones. "That's what this calls for, in my mind. Businesses this big need regulations."

The four warehouses -- three in Emeryville, one in Oakland -- each had sophisticated growing equipment and "looked like they had been in operation for quite some time," said McEnry. The workers all wore gray collared work shorts, and white lab coats were found there, according to agents and the criminal complaint released Friday.

Authorities also found more than $150,000 in cash.

It was the second federal raid in a week on a California medical marijuana supplier, after a raid Tuesday of a Desert Hot Springs farmer who supplied a dispensary in Palm Desert. Federal authorities have been emboldened by a U.S. Supreme Court ruling last summer, in a case against an Oakland woman, that they can prosecute patients who keep and grow marijuana in states that allow it for medical use.

The conflict between state and federal law "means that if you are growing large quantities of marijuana for medical use, you're always going to be a target for the federal government, and the piece of the puzzle that's taking the most risk," said Camilla Norman Field, deputy director of the Drug Policy Alliance in San Francisco.

Under pressure from the federal clash, state lawmakers have tried to clarify the guidelines for medical marijuana and Proposition 215, the medical marijuana law passed in 1996 by 56 percent of California voters.

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A 2004 law established a voluntary ID system, recognized the right for patient and caregiver collectives to cultivate pot, and set out restrictions for how much pot patients could keep: up to six mature or 12 immature plants and up to a half-pound of dried, processed marijuana.

The law, however, did not authorize "any individual or group to cultivate or distribute marijuana for profit." The extent to which Affolter may have profited from Beyond Bomb was unclear Friday. Luke Macaulay, a spokesman for the U.S. Attorney's Office, declined to comment.

One medical marijuana advocate said it appeared the operation was professional, concerned with the quality and cleanliness of the product, and "most likely doing this with the best intentions of it being medical."

Still, Caren Woodson, campaign director of Americans for Safe Access, acknowledged that the packaging is somewhat hard to defend.

"But that is part of waging the debate around medical cannabis, trying to figure out what works with the public and what doesn't work," she said.

"Unfortunately, yes, the names are kid-friendly. But who's to say medical cannabis patients can't have fun, too? It's not just kids who eat Milky Ways."

27,800 Bags Of Heroin; Eight Arrests (HRE)

By Tom Jennemann

Hoboken (NJ) Reporter, March 19, 2006

Hudson County Prosecutor Edward DeFazio and the Hoboken Police Department have arrested eight Hudson County residents for running a major heroin ring.

According to Prosecutor Edward DeFazio, the arrests were the result of a six-month investigation by the Hudson County Prosecutor's Office Municipal Task Force, Hoboken Police Department, and the Drug Enforcement Administration.

The individuals arrested were allegedly part of a major organization that supplied heroin throughout the Hudson County area. Detectives also seized a number of high-end customized luxury vehicles with secret compartments allegedly used by members of this organization to hide and transport the heroin.

According to DeFazio, detectives executed search warrants at various locations in Hudson County, including 406 3rd St., Union City, and 4525 Kennedy Blvd., North Bergen. Detectives also searched several vehicles.

The searches resulted in the recovery of 22,000 bags of heroin from "a sophisticated hidden compartment" in a Ford Explorer.

DeFazio added that police also recovered four loaded semi-automatic handguns and 5,000 bags of heroin from a hidden compartment in a Lincoln Navigator. The guns recovered were two Highpoint .9mm handguns, one .45 caliber Ruger, and one .40 caliber Glock, which was reported stolen.

Also, 811 bags of heroin were recovered from the Lumina. A bulletproof vest was found in the Range Rover. DeFazio said police seized a total of more than 27,800 bags of heroin with a street value of over $250,000. Detectives believe the organization was trafficking 15,000 to 20,000 bags of heroin per week.

DeFazio said that those arrested "represented high- and mid-level distributors, suppliers and supervisory level participants. As such, they face potential state prison sentences ranging from a minimum of five years to a maximum of life imprisonment in the case of those charged with leader crimes."

DeFazio said that the U.S. Attorney's office of New York will prosecute the case because they believe it might lead to a large source of heroin in New York City. He also said that he expects more arrests in this case and that several of those arrests will be local.

Arrested individuals

The following is a list of individuals who were arrested and their respective charges and bails:

* Jose "Nutty" Gonzalez, 24, of Union City. He was charged as leader of Narcotics Trafficking Network; Possession with Intent to Distribute Heroin (2 counts); Possession with Intent to Distribute Heroin while within 1,000 feet of school property (two counts); Conspiracy to Distribute Heroin in an aggregate quantity of five ounces or more; Unlawful Possession of a Handgun; Certain Person not to have a Weapon; and Possession of a Firearm during a CDS Offense. His bail was set at $1 million.

* Rory Praylow, 27, of Hoboken. He was charged as leader of a of Narcotics Trafficking Network; Possession with Intent to Distribute Heroin; Possession with Intent to Distribute Heroin while within 1,000 feet of school property; Unlawful Possession of a Handgun; and Possession of a Firearm during a CDS Offense. His bail was set at $1 million.

* Manuel "Murder" Suarez, 30, of Jersey City. He was charged as a "Leader of Narcotics Trafficking Network"; Possession with Intent to Distribute Heroin (two counts); Possession with Intent to Distribute Heroin while within 1,000 feet of school property (two counts); Conspiracy to Distribute Heroin in an aggregate quantity of five ounces or more; Unlawful Possession of a

Handgun; Certain Person not to have a Weapon; and Possession of a Firearm during a CDS Offense. His bail was set at $1 million.

* Philip Anthony "Spud" Pasquale, 21, of Hoboken. He was charged with Possession with Intent to Distribute Heroin; Possession with Intent to Distribute Heroin while within 1,000 feet of school property; Possession with Intent to Distribute Heroin while within 500 feet of a public park; and Conspiracy to Distribute Heroin in an aggregate quantity of five ounces or more. His bail was set at $500,000.

* Jason "Jay" Santos, 24, of Jersey City. He was charged with Possession with Intent to Distribute Heroin; Possession with Intent to Distribute Heroin while within 1,000 feet of school property; Conspiracy to Distribute Heroin in an aggregate quantity of five ounces or more; Unlawful Possession of a Handgun; and Possession of a Firearm during a CDS Offense. His bail was set at $1 million.

* Alexander Gonzalez, 20, of Jersey City, He was charged with Possession with Intent to Distribute Heroin; Possession with Intent to Distribute Heroin while within 1,000 feet of school property; Conspiracy to Distribute Heroin in an aggregate quantity of five ounces or more; Unlawful Possession of a Handgun; and Possession of a Firearm during a CDS Offense. His bail was set at $100,000. * Mary J. Gama, 26, of Union City was charged with Conspiracy to Distribute Heroin in an aggregate quantity of five ounces or more. Her bail was set at $100,000.

* Darryl L. Oliver, 34, of Hoboken was charged with Possession of Marijuana. His bail was set at $5,000.

Lawyer Criticizes D.E.A. On Death Threat Response (NYT)

By Julia C. Mead

The New York Times, March 20, 2006

Thomas Liotti has been branded a big mouth for his self-promotion and propensity to tongue-lash prosecutors, police officers and even judges. He shrugs off the criticism, calling it a byproduct of being a lawyer who defends some of the most dangerous criminals to pass through any of New York's downstate courtrooms.

Mr. Liotti has defended clients on death row, others who murdered their previous lawyers and major drug traffickers with connections to Colombian drug lords.

"It's all part of a day's work," Mr. Liotti, of Garden City, N.Y., said in his characteristic boom.

But even a self-described tough guy like Mr. Liotti gets scared.

In a press release on Wednesday in which he bragged about the toughness of his clients — one, he said, was involved in a courthouse shootout; another waved a gun at him and boasted he was a contract killer — he also criticized the federal Drug Enforcement Agency for what he called its lukewarm response to a death threat against lawyers who defend Colombian drug traffickers.

"I want the U.S. government to realize that they have a responsibility to protect everyone, even criminal defense lawyers," he said. "There's not much I can do. I can't hide. I'm a person with a family."

Asked whether he took the threat — certainly not his first — seriously enough to be frightened, he said, "Yeah, absolutely."

Robert Nardoza, a spokesman for the United States attorney's office, said, "We do take these cases very seriously."

He added, however, that as a matter of policy he could not confirm that any investigation was under way.

The threat was contained in an anonymous letter that came to light in Colombia in November, naming 22 lawyers, 7 in New York and 15 in Colombia. Among other things, it said any American lawyer found in Colombia would be "captured and executed." Soon after, a memo thought to have come from inside a prison in Cómbita, Colombia, began circulating among lawyers. It rated the performance of about 30 in New York, New Jersey and Miami who had represented accused drug dealers.

"I think I won the prize for the most derogatory evaluation," said Mr. Liotti, a former president of the New York State Association of Criminal Defense Lawyers. Next to his name, it said, "Incompetente, Desleal, Mentiroso, Traidor, Sin Excrupulos" — incompetent, disloyal, liar, traitor, without scruples.

Tipped off to the threat by a colleague, Mr. Liotti wrote to the enforcement agency in early February to demand an investigation. The Feb. 28 response from Jodi L. Avergun, the agency's chief of staff, said the agency had taken the threat seriously and immediately referred the matter to the United States attorney's office in Brooklyn for investigation.

Lawrence M. Herrmann, a lawyer in Jackson Heights, Queens, who was named in the death threat, said he had clients awaiting extradition from the Cómbita prison but was afraid to visit them. "I spoke with three D.E.A. agents I know in Bogotá; two said it was nothing, the third told me to be careful," he said.

Like others on the list, Mr. Liotti said he had represented some clients who became informers rather than face a long prison term and others who refused to testify for the prosecution.

"Who knows why this threat was made?" Mr. Liotti said. "There are just rumors out there, and you never know what the plots and subplots are. It's like fighting ghosts."

Detroit Dealers Invade West Virginia Town (PPG)

By Milan Simonich, Pittsburgh Post-gazette

Pittsburgh Post-Gazette, March 19, 2006

The 'Hillbilly Highway' from Motor City now carries crack and crime, not jobs

HUNTINGTON, W.Va. -- They still talk about "the Hillbilly Highway," a route that led from poverty in Appalachia to jobs in the auto plants of Detroit.

Connections between Detroit and rural America remain strong, but nobody romanticizes about them anymore. Detroit doesn't export cars the way it used to. Instead, say police across the region, it turns out drug dealers who travel hundreds of miles to enrich themselves in smaller towns.

In Huntington, detectives keep a running list of the Detroit crack dealers they have arrested. It contains more than 250 names but accounts for only a portion of those who have infiltrated the city of 50,000 in the past three years.

"Those are just the adults that we've caught. There are more. Lots more," said narcotics Detective Paul Hunter.

Law officers in Pennsylvania, Ohio, Kentucky and West Virginia all have stories about the Detroit drug pipeline, but no town has been hit harder than Huntington.

It was here that gunmen killed four teenagers one day last year, leaving their bodies scattered on a sidewalk, a driveway and the front yard of a house. Huntington police have not arrested anybody in the case, but they have a theory.

"We believe, obviously, that there's a Detroit connection. We haven't seen anything to change our minds," Capt. Steve Hall said last week.

These days, just about every drug arrest in Huntington produces suspects from Detroit. The quadruple homicide is a variation of that pattern, Capt. Hall says.

Detectives believe the shooters targeted Donte Ward, 19, because he supposedly stole from a woman connected to Detroit drug dealers. The triggermen, determined not to leave any witnesses, also killed the three people who happened to be with Mr. Ward.

Two of them, Michael Dillon, 17, and Megan Poston, 16, had gone together to their high school prom that night.

"I can still see the corsage falling off Megan's wrist," Capt. Hall said. "That will stick with me forever."

Ten months have passed since the shootings, which also took the life of 18-year-old Eddrick Clark. Capt. Hall said three detectives continue to work the investigation in between other cases.

Huntington Mayor David Felinton said the crime changed Huntington.

"The killings were our 9/11," he said. "We're no longer the same place as a result of what happened. We're not as safe."

The mayor meets occasionally with the victims' families, sharing information about the investigation's two fronts, one at home, the other in Detroit.

But the scourge of crack cocaine makes it impossible to update everyone. Police had Mr. Ward's mother, Tina, in jail last week on drug-possession charges.

The invasion of Detroit drug dealers coincided with the layoff of police in Huntington to balance the budget. Sixteen of 91 officers were let go in 2002.

Given its size, Huntington should have 120 to 130 police officers, Mr. Felinton said. Today, the police force has been built back up to 88, though not everybody is working. Some officers are on military leave.

Narcotics officers say Detroit dealers control most of the 30 or so crack houses in Huntington. But Detective Hunter said they are shrewd enough to keep their names off deeds and leases.

With less competition in smaller cities than in Detroit, the dealers can sell crack at inflated prices. They call Huntington "Moneyton." Nearby Ashland, Ky., is "Cashland."

To fight the drug incursion, Mr. Felinton said, he hopes to add 10 police officers and two code enforcement officers to the city payroll this year.

The code enforcement officers would help police close down crack houses after raids. Sgt. J.T. Combs, who heads the narcotics unit, says he has been frustrated by the city's lack of diligence in boarding up drug dens.

Mr. Felinton says the problem is money. Huntington has only one code officer on staff. He says police will get more help if he is able to add the extra positions in the next budget.

Beefing up the police department has become a more popular idea since the quadruple homicide and a separate drive-by shooting in an affluent neighborhood.

Mr. Felinton said he thinks the quadruple murder will be solved. Capt. Hall is less confident.

"I'm not real hopeful," he said. "But we're not giving up."

For police in smaller towns, fighting the Detroit connection can be daunting, even on seemingly routine cases.

Capt. Hall said his officers have arrested Detroit residents on felony drug warrants, only to have police or prosecutors in Michigan decline to extradite them, possibly for financial reasons. Huntington is 340 miles from Detroit, so a trip to pick up a prisoner may mean lodging and food expenses, plus two days' wages.

Thomas Sansone, police chief of New Castle, Lawrence County, had the same problem with Detroit drug dealers caught in his town. He said Detroit authorities declined to extradite certain prisoners that New Castle officers arrested on felony drug warrants. Chief Sansone then had no choice but to release them.

This emboldened the suspects, he said. Instead of hiding from New Castle police, the accused drug peddlers suddenly felt comfortable.

Police in Steubenville, Ohio, have a different frustration in dealing with Detroit suspects. They say that because of the large number of cases in overburdened Detroit and Wayne County, Mich., courts, some criminals can avoid serious punishment, then move to smaller towns.

They point to the case of Ramone Barnett. He served six months in jail for a 2003 shooting in Detroit, said Steubenville narcotics Detective Jon Sowers. After Mr. Barnett, 34, went free, he headed for Steubenville and restarted a crack-dealing business, Detective Sowers said.

Steubenville police arrested him last month, alleging that he had a dozen individually wrapped packages of crack cocaine, each weighing 3 grams.

Because of his criminal record, Mr. Barnett also was charged with illegally possessing a firearm. Police say they found him carrying a 9 mm handgun, which had been reported stolen in a Weirton, W.Va., break-in.

Steubenville, an easy drive from parts of Pennsylvania and West Virginia, is the type of smaller border town that Detroit dealers often target.

Two Detroit gangs that took over crack-dealing operations in New Castle eventually expanded to Beaver Falls and Farrell in Mercer County, said Pennsylvania Attorney General Tom Corbett. Local and state law officers eventually pooled their resources to raid the gangs' crack houses and issue arrest warrants for 28 of their members, including both leaders.

In Huntington, police say, there are no Detroit gangs but there are countless Detroit drug dealers.

"You put one in jail and there are two to take their place," Capt. Hall said.

He has about four years until retirement and one last hope -- seeing the quadruple murder case solved.

Mr. Felinton said hiring more officers and stepping up day-to-day drug enforcement may give police the lead they need.

People in the drug world know who committed the killings, the mayor said, but they are not inclined to talk, unless they are arrested and facing charges themselves.

High Crimes, Or A Tokin' Figure? (WP)

By Doug Struck

The Washington Post, March 18, 2006

Canadians Find the 'Prince of Pot' Harmless. The DEA Begs to Differ.

VANCOUVER

Sweet marijuana smoke tumbles down the steps from "the Vapor Lounge," a corner of Marc Emery's bookstore where customers toke up at will.

"We get high with everybody," Emery says, shrugging. "This is a pilgrimage spot, and people come here from all over the world. We get high."

Illegal? Yes.

So were the seeds he used to keep in a case in the store, with exotic names like Afghan Dream and Chemo Grizzly. So was the booming business he ran, complete with glossy seed catalogues describing the subtle and sublime nuances of his varieties. ("Nebula: Fruity flavor and scent. Transcendental buzz. Harvest outdoor.") So, for that matter, are the other marijuana businesses that have sprouted up in the block around his Vancouver bookstore. The street is nicknamed "Vansterdam," with pot-hazy cafes, headshops filled with pipes and bongs, and neon signs advertising illegal seed sales.

Until recently, nobody much cared, it seemed. The police hadn't bothered to come around for eight years. Before that, they busted Emery for seed sales and raided him four times. But he just got fined -- once with "a nice speech from the judge saying what a nice person I was and how marijuana probably shouldn't be illegal," Emery says -- and the police stopped trying.

In truth, Emery hated being ignored. He tried to stir up notoriety. Every year, he filled out his income taxes listing his occupation as "Marijuana Seed Vendor," paying heftily and honestly, he says, on his multimillion-dollar business. The Canadian Revenue Service never questioned him.

He told the Canada post office he was getting and sending his seeds through the mail. They never stopped delivery. He started the B.C. Marijuana Party, fielded 79 candidates in 2001, and ran repeatedly for local and federal offices. He never won.

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He broadcast "Pot-TV" on the Internet, entertained politicians, and openly funded marches, lawsuits and marijuana-legalization drives from Arizona to Israel to Washington, D.C.

When it was too quiet at home, he would go somewhere to rattle up a pro-pot demonstration. He would light up a fat joint in front of a police station, daring the cops to arrest him.

Twenty-one times they did. Usually he got off, or was released after a night in jail, or fined. His longest stretch was 61 days in jail in 2004, ordered by a Saskatoon judge clearly irked at Emery's in-your-face apologia. No big deal, Emery says. He read the Bible behind bars.

Then came the DEA.

Emery figured something was up when a strange young woman pestered him to buy 10 pounds of pot. He refused. She bought some seeds at his store, asked for tips about how to hide them to go to the States, and left.

Eight days later, U.S. Drug Enforcement Administration agents and Vancouver police tromped into his store, ordered the customers out, taped paper over the windows and began hauling out computers and files. Emery, on the other side of Canada to speak near Halifax at the Atlantic Hemp Festival, was grabbed by six plainclothes policemen as he left a restaurant.

Emery is "one of the attorney general's most wanted international drug trafficking targets," the DEA in Washington crowed on July 29, 2005, announcing an extradition request for Emery and two employees. Emery's bust, the DEA said, was "a significant blow not only to the marijuana trafficking trade but also to the marijuana legalization movement."

And he thought trying to change the law was legal, Emery muses.

So did lots of other Canadians, it turned out. Emery's arrest for extradition on U.S. "drug kingpin" charges, carrying a minimum sentence of 10 years to life in prison, outraged many in Canada. They resented the long reach of America's law and what they saw as the United States' fevered preoccupation with pot.

"They need to leave our country alone," complained a letter to the editor in the London (Ontario) Free Press. "If we wanted to prosecute Emery we would, but it is not worth our time and money."

"Marc's business was known to police and every level of government," intoned a columnist in the Vancouver Province. To arrest him now "is petty and dishonest."

Todd Greenberg, the assistant U.S. attorney handling the case in Seattle, says Canada's apparent tolerance of Emery's seed business does not make the U.S. bid to prosecute him unfair.

"What Canada does or does not do is not particularly relevant to us," he says. "We are prosecuting him for what he did in our country -- distributing millions and millions of marijuana seeds in the United States. When someone does that, the United States has the obligation to enforce our laws whether that person is physically located here or overseas."

Greenberg says the charges brought by a federal grand jury followed an 18-month investigation in which DEA agents repeatedly found Marc Emery's seeds at the root of illegal marijuana "grow ops." He insists Emery's legalization campaigns did not affect the charges.

That sounds hollow to Bruce Mirken, a spokesman for the Washington-based Marijuana Policy Project that Emery says he helped finance (contributors are confidential, the organization says). The DEA's public boast to have dealt a blow to "the legalization movement" showed its hand, Mirken says.

"This is a democracy. We are supposed to be able to talk about whether our laws make any sense.

"Year after year they roll out ad campaigns that attempt to demonize marijuana," Mirken notes. "They consider it the number one drug threat in America. That always struck us as bizarre."

If the DEA tries to demonize marijuana, Emery runs a multimedia juggernaut to sanctify it. In addition to his irreverent Internet site, his Cannabis Culture magazine comes out every other month, a slick magazine chockablock with advertisements by seed vendors and hydroponics suppliers, articles on growing lush and potent plants, and even a "pot puzzler" crossword. He says he distributes 75,000 copies.

Emery's bookstore is a cheerful dispensary for books and magazines on marijuana, bongs and pipes of every conceivable design, T-shirts, pot cookbooks, grinders, vaporizers, mushroom spores, and hemp clothing.

And then there is Emery himself. At 48, he looks more like a Young Republican than a stoner who calls himself the Prince of Pot. As often as not, he is in a coat and tie, with neatly combed hair, an earnest expression, with a good sound bite for the TV. He has been a soccer coach and a foster parent. Married, divorced and soon to remarry -- to Jodie Giesz-Ramsay, 21, who transcribed his jailhouse musings and now helps edit his magazine.

He talks with a machine-gun style unmellowed by his admitted custom of a daily joint or two. He compares himself to Martin Luther King and Mahatma Gandhi. He had to apologize last year for calling a federal minister a "Nazi," and he won no PR points when he spat on a policeman during a 2000 arrest of one of his employees.

Emery's life is the limelight. For 17 years, he ran a used-book store in Ontario, and publicly challenged a business fee, his town's bid for the 1991 Pan American Games, its Sunday shopping laws and pornography laws. In 1990 he flouted the

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prohibition against selling High Times magazine, then banned as "illicit drug literature." He helped win that battle, getting the law overturned, and found his calling in the marijuana movement.

He wound up in British Columbia, a tolerant corner of a tolerant country. The official statistics agency of Canada says 45 percent of Canadians over age 15 have used marijuana. Possession and use is legal for medical purposes, and the former Liberal government tried to make possession of pot a matter of a small fine.

The legislation did not pass, but the laws on marijuana and sales of seeds are often overlooked. Until his arrest in July, Emery says only two people had ever been prosecuted for selling seeds, and both had simply been fined.

So Emery sold and sold. He accepted seed orders of the 534 varieties listed in his catalogue or on the Internet only with money orders that could not be easily traced. He got and sent seeds through the Canadian Postal Service, and then destroyed the records, he says.

"I sold millions of seeds proudly to people all over the world," and perhaps 70 percent of them were mailed to the United States, he concedes. "Everything the DEA said is correct -- except I don't buy the charge that I'm poisoning children of America."

Emery says he did it all for the movement, not for profit. He claims to have funneled more than $3 million to marches, candidates, lawsuits and ballot drives over a decade. He says he paid taxes and kept very little. He lives modestly in his fiancee's apartment. He doesn't own a car or a house, investments or fancy jewelry, he says.

Emery will get a judicial hearing in Canada later this year. The Canadian justice minister in the new conservative government could block the extradition, but he is a tough-talking former prosecutor and Emery acknowledges his chances are "slim odds indeed."

"In the U.S, I have every confidence I would get a minimum of 30 years," Emery says in an interview in the basement of his bookstore. "I'll get a longer sentence than I'd get in Canada for multiple murder, for something no one in Canada has ever gone to jail for."

Here is the twist: Emery welcomes it. Almost.

"I'm interested in whatever would legalize pot fastest," he says. "Part of me believes that going to jail will accelerate that process. And part of me believes that if I die in jail it will accelerate it even faster."

That is as much for Emery's devotion to the spotlight as devotion to the cause, he concedes.

"I'm very interested to see what happens to me, because I think I am a person of destiny," he says, with no trace of modesty. "I haven't been fearful since the moment I was arrested. I just felt my time has finally come. . . .

"I've already got this grand-scale epic going in my head. I am out to destroy the DEA and defeat them. And they are out to destroy me."

(SLPD)

By Philip Dine

St. Louis Post-Dispatch, March 18, 2006

For now, the cabbage-green rows of small poppies in the furrowed squares of land resemble any variety of legitimate crops. In a few months, these plants will stand out as a tall sea of crimson.

Viewed from the window of a low-flying helicopter, new poppy fields come into view every few seconds, spread around a desolate landscape virtually unchanged for centuries in this remote part of Afghanistan. The houses are small, isolated and fashioned from mud, some with mud walls around them. There is no sign of mosques or schools, hospitals or stores.

This is the epicenter of poppy cultivation in Afghanistan. The nation's crop provides 87 percent of the world's opium, from which heroin is produced, according to the United Nations. Early indications are that Helmand, a province deep in southern Afghanistan bordering Pakistan, will produce half the world's supply of opium this year.

The poppies are invaluable cash crops to farmers seeking to sustain their families, but dangerous to a young Afghan democracy. An unholy alliance is emerging among farmers, drug lords, Taliban remnants and al-Qaida fighters. Intelligence sources and Afghan officials cite mounting evidence that insurgents are using drugs to wreak havoc on Afghan society - including the corrupting of public officials - while also extracting funds from drug profits for their anti-government violence.

The resulting tension was in evidence on a recent tour of the area by two U.S. gunships. The helicopters landed in a poppy field to give State Department officials and a reporter a chance to look around - for two minutes - encircled by guards with automatic weapons. The guards worry about violence, either from farmers who think their crop is threatened, or from insurgents protecting the poppy fields.

"You can get on the ground, but that's when you're the most vulnerable," warned Ed Morris, lead pilot in the U.S. military detachment providing protective cover for joint Afghanistan-American drug-eradication efforts in this area.

Drugs are already the nation's sole export of any magnitude, and threaten to turn it into a "narco-state," a country whose policies and politics are dominated by drug lords.

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"The concern is that this government will fail and fall and the country will be a breeding ground for terrorists again," says Doug Wankel, director of the Counter Narcotics Task Force at the U.S. Embassy in Afghanistan. Former chief of operations for the Drug Enforcement Administration, he is a native of Bowling Green, Mo.

Poisoning "infidels"

There is also a little-noted bonus for al-Qaida in the burgeoning heroin production. Afghan sources say the terrorist group has acknowledged in private sessions its satisfaction that expanding heroin use is poisoning "infidels" in other countries. One example is a skyrocketing rate of AIDS, sparked by dirty needles, in Russia and former Soviet republics.

Kahir Ismailee of Kabul has worked for years with international groups on health, education and human rights issues in rural areas where anti-Western sentiment is strong.

He says that in the terrorists' "jihad against all Westerners, one of their tactics to ruin a society was to make them addicts, so they export heroin to the Western countries."

Ismailee says an influential Taliban cleric told him: "Drugs are illegal in Islam, but we want infidels to die."

Mohammad Nabi Hussaini directs the poppy eradication program in the Afghan Ministry of Counter Narcotics. It's dangerous work; when traveling around the country, he wears a turban to disguise himself.

"They say this, if you go to their gatherings, their religious gatherings: 'Western countries, they are sending us alcohol, they are sending us rockets - this is our rocket, poppy. This is how we can fight them,' " Hussaini says. "But they are also fighting their own people, because it brings the moral degradation of our society. It is against Islam."

And, he noted, more Afghans are becoming addicted to heroin or opium.

"It's not true that it's not our problem. It's becoming our problem," he says. "The rate of addiction will increase, I think, very badly. I believe it is something that is destroying our nation. My village has 120 families. When I was a kid, there was only one person who was taking raw opium, who was an addict. Right now in my village there are more than 12 very hard addicts."

Afghan President Hamid Karzai has put it bluntly: "If we don't destroy the poppy, it will destroy us."

The last two years have been the biggest in history for opium production in Afghanistan, each topping 4,000 tons of opium, and this year looms as a third banner year. Hoping to avert another flooding of the heroin market, Afghan forces and their allies, particularly the United States, are responding strongly - if belatedly - to the threat.

Eradication is one element in a multipronged response to the mounting drug problem, an effort that also includes a range of educational, economic and legal approaches. The point man for the U.S. State Department is St. Louis native Tom Schweich, a top official for international narcotics and law enforcement who seeks to coordinate actions among Americans, Afghans and their international partners.

"The reason we went into Afghanistan was to eliminate the people who were responsible for 9/11," Schweich says. "There's now a nascent democracy here. The threats that are posed to this democracy are narcotics and terrorism. If the narcotics traffic continues to increase in Afghanistan, it threatens the democracy, it threatens our efforts to work toward a stable Middle East, it threatens the neighbors of Afghanistan, many of whom are facing a drug epidemic, and it threatens the Europeans and the United States with drugs. It really does have implications across the entire world."

The Taliban and the poppy

In some ways, the proliferation of poppy is an unintended consequence of the U.S. overthrow of the Taliban in 2001.

In earlier years, the Taliban had been content to allow the production of opium, even urging farmers to continue in defiance of the desire of the West that poppy cultivation cease - and often profiting from drug trafficking.

"The Taliban told people this was a fight against Muslims, that you should grow poppy. Even if you have no land, you should use your roof," says Asadullah Khalid, governor of Kandahar province.

But the Taliban abruptly switched gears at the start of this decade, as it faced growing international pressure to moderate its rule. Hoping to win diplomatic recognition from the West, the Taliban knew it had to make some concessions, and yielding on narcotics was the most palatable choice, Ismailee says.

In its last years in power, the Taliban clamped down on the drug trade in an effective but brutal way.

"There were executions without any transparent trials, hands were cut off, legs were severed," Ismailee says. By 2001, the extremist government had reduced the opium production to virtually nothing.

The U.S.-led removal of the Taliban removed the fear ordinary Afghans felt, spurring many to get back into poppy farming.

In addition, American and Afghan policies initially contributed to the growth of the narcotics problem. U.S. forces enlisted the support of warlords in the fight against the Taliban, turning a blind eye to their drug trafficking. After he assumed office, Karzai - hoping to solidify his hold on the country - brought some compromised provincial figures into his government.

Now, insurgents trying to weaken the U.S.-backed government find it advantageous to forge alliances with drug traffickers and encourage farmers to grow poppy - telling them "whenever the government tries to eradicate, the Taliban will be there to protect you," Ismailee says.

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Insurgents also have issued warnings that those who stop growing poppy will be seen as "siding" with the government. It is no coincidence, officials say, that the areas where anti-government rebels are strongest are the same places where poppy production is at its highest.

Corruption, poverty, porous borders

Other factors have helped worsen the drug problem in Afghanistan.

Corruption, bribery and the quick release from jail of suspected drug traffickers.

Widespread poverty, which forces farmers to seek any possible means to support their families. Other crops pay a fraction of what poppies yield. And many traditional Afghanistan crops, such as fruits and nuts, were uprooted when Soviet troops destroyed trees to prevent guerrillas from hiding.

The return of Afghan refugees who had fled to Pakistan to escape Taliban rule. Some went into poppy farming on their own; others were compelled by landowners who made it a condition of their getting a parcel of land as tenant farmers.

Abysmal roads. Farmers often can't get legitimate crops to market, whereas poppy is so valuable that traffickers will come to the farmers.

The trend toward the processing of opium into heroin in Afghanistan, turning Afghans from opium exporters into heroin producers. Afghans have seen the profits to be made and, in recent years, provided necessary precursor chemicals by foreigners, began setting up their own labs to make the end product.

Porous borders that let drugs move freely into Iran, Pakistan or former Soviet republics to the north, often eventually going to Europe - which gets 90 percent of its heroin from Afghanistan.

The hardiness of the crop. Poppies require little care and little water, critical in a country suffering from massive environmental degradation and long arid periods and whose mountainside irrigation systems were largely destroyed over decades of armed conflict.

"The narcotics problem in our province is very, very complicated," said Engineer Daud, governor of Helmand, as he stood at an airfield flanked by Afghan and U.S. troops.

"Our land is productive land for narcotics, and we have more than 100 miles of border with Pakistan, with deserts and mountains," he says. "Because of the low capacity of our national police, it is difficult to control that part of the problem. Drug dealers and terrorists are carrying drugs across the border, and terrorists are getting money from narcotics."

"Both forces are mobilizing"

In the northern part of his province, people are so desperate for water that farmers trying to make a legitimate living on their tiny plots, with virtually no money for their own families, are forced to buy water to keep their chickens alive.

Daud understands why they "have the reason to cultivate cash crop like poppy," and he prefers to go after the larger and wealthy drug dealers rather than the simple growers, but the traffickers are more evasive, more powerful - and more threatening.

In many ways, Afghan officials and their international allies, preoccupied with overthrowing the Taliban and then keeping it and al-Qaida at bay, were caught off guard by the insidious drug trade and didn't get serious until relatively recently.

"The problem was . . . unique, because of its scope and because there are so many moving parts," said Craig Chretien, formerly a senior official at the Drug Enforcement Administration, where he spent 26 years in several South American countries. He is now deputy director of the counternarcotics task force at the American Embassy in Afghanistan, which is helping the Afghans tackle the problem.

"It's challenging, but is it impossible? No," Chretien says.

After a rather tepid Afghan response last year, and some faltering steps by the United States, both countries are launching a broader, better coordinated and more aggressive campaign.

The next few months will begin to signal how successful the effort is likely to be.

"We've got an increased ability to fight the drugs, and they've got an increased ability to grow the drug," Schweich says. "So both forces are mobilizing."

Taliban Rebels Team Up With Drug Barons (WT)

By Emmanuel Duparcq, Agence France-presse

The Washington Times, March 18, 2006

LASHKARGAH, Afghanistan -- Taliban rebels determined to keep southern Afghanistan in chaos have teamed up with drug barons against the government and its opium eradication campaign, officials say.

The campaign to destroy opium poppy fields was begun March 8 in southern Helmand, the producer of most of Afghanistan's opium crop -- which makes up nearly 90 percent of the world total -- and also one of the provinces worst-hit by a Taliban-led insurgency.

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"Terrorists and narcotics are very close; they're supporting each other," said Helmand province Gov. Muhammad Daud. "When narcotics production is up, terrorism automatically goes up."

Lt. Col. Henry Worsley of the 3,500 British forces deployed in the province agreed. "Taliban and drugs feed each other. You cannot separate them here."

In their final two years in power, before they were toppled in a U.S.-led invasion in late 2001, the Taliban banned opium and succeeded in drastically slashing its production to 185 tons from 3,300 tons.

Some observers say their motivation was to win international favor. Others say they wanted to push up the price of the raw ingredient of heroin.

Four years later, the Taliban rebels are willing to protect opium crops and farmers against the new administration in Kabul. The United States and other Western countries, which see opium as a source of terrorist funding, are pressuring the government led by President Hamid Karzai to eradicate the crop.

Several anonymous letters attributed to the Taliban have been distributed in the past few months in Helmand and other insurgency-infested provinces that threaten farmers with reprisals if they do not plant opium, residents said.

Some letters also offer protection against government eradication attempts.

"Taliban will try to disrupt the eradication campaign," said the Helmand governor who has vowed to remove all the opium from his province in two months.

"Eradication will cause fighting," said Mohammed Sardar, an official from the nongovernmental group Mercy Corps that is trying to persuade opium farmers to switch to other crops.

"Poor farmers won't fight, but Taliban and smugglers will," he said.

CONGRESS-ADMINISTRATION:

Cheney Dismisses Suggestions Of Shake-Up (AP-Y2)

By Douglass K. Daniel

AP2, March 19, 2006

Vice President Dick Cheney on Sunday dismissed suggestions that the Bush White House, hampered by a weak response to Hurricane Katrina and stumbles on policy questions, needs a shake-up.

"I don't think we can pay any attention to that kind of thing," Cheney said on CBS "Face the Nation." "The president has got a job to do. ... He ignores the background noise that's out there in the polls that are taken on a daily basis."

Bush's job approval in March was at 37 percent, which tied for his lowest rating in the AP-Ipsos poll. Senior Republicans and others have said the Bush team may need an infusion of fresh blood and ideas.

Cheney, in a rare Sunday morning television interview, told CBS that he heard similar grumbling 30 years ago when he was chief of staff for President Ford.

"Administrations go through peaks and valleys," he said. "When you're down in the polls you're going to take shots that you don't deserve, and when you're up in the polls you're probably going to get praise you don't deserve."

Asked if he and Bush had a "good cop, bad cop" partnership in which Cheney took the heat for controversial policies, the vice president said: "It may look that way. It's not conscious."

Added Cheney, who has said he will not seek the presidency: "My job is to do what I can to support him and to support the administration. My advice to him is untainted by any concern I might have on how the folks in Iowa look at me in connection with the 2008 Iowa caucuses."

Cheney chuckled when asked if he himself had ever considered resigning amid low poll numbers and suggestions by commentators that he was a liability for the administration.

"It's been a highlight of my career to be a part of this administration," he said. "I've now been elected to a second term, and I'll serve out my term."

To political strategists who say that he should step aside with a year or so remaining in his term to give someone a jump on gaining the Republican nomination for president, Cheney said such a move wouldn't make sense to him. "Nobody has suggested it to me," he said.

Cheney and the White House were criticized for not immediately notifying the national press corps after he accidentally shot a companion while hunting in Texas last month. On Sunday, the vice president said he still thought the situation had been handled appropriately.

Calling the circumstances unusual, the vice president quipped, "It's probably the first time the Secret Service ever had to worry about a protectee shooting somebody else instead of being shot at."

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Cheney Comfortable In His Role (WT)

By Audrey Hudson

The Washington Times, March 20, 2006

Dick Cheney's lack of political ambition to succeed his boss gives him unusual freedom to be a lightning rod for contentious issues and serve as an "untainted" adviser to the president, the vice president said yesterday.

"Frankly, I don't spend a lot of time worrying about the polls," said Mr. Cheney, who as vice president is spearheading some tough battles on Capitol Hill involving the treatment of terrorist detainees and the administration's terrorist surveillance program.

Historically, vice presidents have used their second term to plan their own presidential campaigns and, accordingly, walked on eggshells to appease voters.

"This has been a different kind of arrangement than most administrations have between the president and the vice president, primarily because I'm here to serve him; I'm not here to run for higher office," Mr. Cheney told CBS' Bob Schieffer on "Face the Nation."

"My advice to him is untainted by any concern I might have about how the folks in Iowa look at me with connection with the 2008 Iowa caucuses," Mr. Cheney said.

"And when I speak out on an issue, it's because somebody needs to speak out on the issue. And I can do it without fear [because] I'm not here to try to burnish my image or improve my standing in the polls. I'm here to do a job that needs to be done for the president of the United States," he said.

Mr. Cheney dismissed reports suggesting that he will be asked to step down and allow a presidential contender to take his seat.

Tongue-in-cheek, Mr. Cheney did confirm some Republican criticism that he has changed since becoming vice president: "I'm a lot older. I've got less hair," he said.

He added seriously: "The job I have now as vice president is to be an adviser to the president, primarily. I don't run anything. I'm not in charge of the White House."

"I don't talk about the conversations I have with him. I think presidents need to have somebody around them who is totally reliable and trustworthy and is going to protect those communications they have with the president."

When asked whether he and President Bush play "good cop, bad cop," with Mr. Cheney taking the political lumps on hot-button issues, the vice president said: "It may look that way. It's not conscious."

As for his accidental shooting of lawyer Harry Whittington on a recent hunting trip, Mr. Cheney said that even in hindsight and amid abundant late-night jokes, the White House press corps was adequately notified.

"I must admit the first thing I thought when I saw what had happened and rushed over to help Harry, I did not think, 'Gee, I better call the press corps and tell them what's going on here,' " said Mr. Cheney, who does not travel with the White House press corps on vacations.

"It struck me as a bit of a tempest in a teapot over the question of how it was announced. It was announced by us, I believe, in a timely fashion as soon as we knew what Harry's status was," Mr. Cheney said.

"I think it's one of those situations or circumstances that is obviously difficult and generates controversy. It's probably the first time the Secret Service ever had to worry about a protectee shooting somebody else instead of being shot at," he said.

The vice president declined to speculate about a major staff shake-up at the Bush White House. "The president hasn't indicated he plans to make any changes. If he does and when he does, I'm sure he'll announce it," Mr. Cheney said.

A 'Third Term' For Bush (WSJ)

By Fred Barnes

The Wall Street Journal, March 20, 2006

It's time for President Bush to think about a third term. No, he doesn't need to overturn the Constitution. He can start the equivalent of his third term now, by filling his presidential staff and cabinet with new faces -- or old faces in new positions -- and by concentrating on new or forgotten initiatives. The goal: rejuvenation of his presidency by shocking the media and political community with a sweeping overhaul of his administration. The impact would be enormous because it's exactly what his foes have been demanding and exactly what he is not expected to do. And it would give him a chance to escape the political doldrums that may otherwise doom his presidency through its final 34 months.

Only a few months ago, it appeared the Bush administration didn't need emergency resuscitation. True, Mr. Bush had suffered a year of serious troubles -- failure of Social Security reform, Katrina, Harriet Miers, Iraq -- following his second

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inauguration. Yet he emerged bruised but politically alive. He'd even won the confirmation of two conservative Supreme Court justices.

Then he was belted with a new round of reversals. His State of the Union address was uninspiring, the Dubai ports deal had to be nixed, and his proposed spending cuts were going nowhere. This time the fallout was worse for Mr. Bush. Republican unity, so important to his past success, dissolved as congressional Republicans began criticizing the White House. And Iraq was again a political problem. Even several top Bush aides now suspect an infusion of fresh talent could liven up the administration.

A broad transformation, playing on the media's overreaction whenever surprised, would do more. Reporters would be forced to write stories about new officials, cover confirmation hearings, show up at press conferences they might have ignored, assess new policies, and -- this is most important -- take a fresh look at the president. It would be like the beginning of a new presidential term. Sure, the press and politicians would be cynical about Mr. Bush's bold moves, especially since he wouldn't be uprooting any policy or hiring Bush critics. In truth, there would be a large element of smoke and mirrors in his actions. The trade-off is that Mr. Bush might revitalize his presidency.

A sweeping overhaul on a smaller scale has worked before. In one swoop in 1975, President Ford replaced Defense Secretary James Schlesinger with Donald Rumsfeld, made Dick Cheney chief of staff, appointed George H.W. Bush as CIA director in place of William Colby, and stripped Secretary of State Henry Kissinger of his second post as national security adviser, installing Brent Scowcroft. These surprising and dramatic steps strengthened a weak Ford presidency. President Carter tried something similar in 1979 when his presidency was at a low point. But the overhaul was handled clumsily. Mr. Carter appeared to act arbitrarily and his presidency never recovered.

Mr. Bush's first task must be to jettison his admirable but unrealistic sense of loyalty. Unlike other presidents, he reciprocates the loyalty of his aides. But for the good of his presidency, he must let some of them go, regardless of whether they deserve firing.

The president's most spectacular move would be to anoint a presidential successor. This would require Vice President Cheney to resign. His replacement? Condoleezza Rice, whom Mr. Bush regards highly. Her replacement? Democratic Sen. Joe Lieberman of Connecticut, whose Bush-like views on Iraq and the war on terror have made him a pariah in the Democratic caucus.

Mr. Cheney would probably be happy to step down and return to Wyoming. But it would make more sense for him to move to the Pentagon to replace Donald Rumsfeld as defense secretary, a job Mr. Cheney held during the elder Bush's administration. The Senate confirmation hearing for Mr. Cheney alone would produce political fireworks and attract incredible attention. At Treasury, Mr. Bush has a perfect replacement for John Snow, someone he already knows. That's Glenn Hubbard, former chairman of Mr. Bush's council of economic advisers and currently dean of Columbia's business school. He is in sync with Mr. Bush ideologically and has the added value of being respected on Wall Street.

With these changes, Mr. Bush would have brought in new Cabinet chiefs at three of the big four agencies. Only Justice would be untouched, but it might be too much for the president to force his friend Alberto Gonzales out as attorney general.

At the White House, highly visible changes would be required, starting with the most visible post of all besides the presidency -- press secretary. Dan Senor, a Republican and former spokesman for Paul Bremer in Iraq, would be a perfect successor to Scott McClellan. He would be an articulate and forceful defender of Mr. Bush on Iraq. And if not Mr. Senor, then presidential counselor Dan Bartlett, who always does well in TV interviews.

As a new chief of staff, Mr. Bush's pal from his Harvard Business School days, Al Hubbard, could replace Andy Card. Mr. Hubbard is miscast as top White House economic adviser. To replace him, Kevin Hassett of the American Enterprise Institute would fit. He has close ties to the Bush White House. There's also a natural choice for national security adviser to replace Stephen Hadley. It's Zalmay Khalilzad, the tough-minded ambassador to Iraq. Once a permanent government is installed there, he could be summoned home.

The trickiest issue is how to handle Karl Rove, the deputy White House chief of staff and political adviser. He is the closest thing to indispensable -- on policy as well as politics -- at the White House. But any overhaul that didn't involve him would run the risk of not being taken seriously. The solution is to send Mr. Rove to the Republican National Committee as chairman and bring the current chairman, Ken Mehlman, back to the president's staff as communications chief. The president lauded Mr. Rove as "the architect" of his re-election in 2004. Now he could be the architect of a Republican comeback in 2006. Mr. Mehlman would sharpen the president's communication operation. He and Mr. Rove would work together, as they do now.

New faces and personnel shifts are necessary but not sufficient to produce the aura of a new presidential term. Major policy initiatives are required, too. And there are plenty to choose from. For one, Mr. Bush could mount a fresh crusade for confirmation of federal appeals court judges: 11 of them are waiting in the wings. And there's always taxes, a hardy GOP perennial. Mr. Bush's tax reform commission was a bust, but that shouldn't stop him from proposing significant tax reforms and cuts. He doesn't have to win congressional approval. To revive his presidency, at this point he only need focus on them.

In foreign policy, there's a broad new alliance waiting to be packaged, now that NATO has lost its rationale. Suggested by Tom Donnelly of the American Enterprise Institute, it would bring together four antiterrorist, free-market democracies, all concerned about the growing power of China. They are the U.K., India, Japan and the U.S.

The new but still conservative look of the Bush administration and its new policy emphasis would thrill the base and perhaps independents as well. Should that lead to an unanticipated Republican victory in the midterm election in November, Mr. Bush would be empowered to return to old initiatives such as Social Security reform and his faith-based initiative.

Of course, there are risks and problems in trying to revitalize a flagging administration. The most worrisome risk is that Mr. Bush would look weak and desperate. Mr. Carter did in 1979 and became a laughingstock. That could happen to Mr. Bush. Also, it may be difficult to persuade outsiders to join what looks to them as a hopelessly lame-duck administration.

The president could lose a lot more than face. But the potential upside of a stunning facelift of his administration is great. It could make his presidency productive and enjoyable again rather than stymied and disheartened. Achieving the aura and feel of a new presidential term is not farfetched. Mr. Bush fooled everyone by becoming the president of big ideas and bold plans. He could fool them again.

Mr. Barnes, executive editor of the Weekly Standard, is author of "Rebel in Chief," published last month by Crown Forum.

Hardballs Replace Softballs, And Bush Takes A Few Swings (NYT)

By Elisabeth Bumiller

The New York Times, March 20, 2006

WASHINGTON

At first it looked as if it was going to be another warm bath of a White House question-and-answer session with President Bush. There was a happy group of retirees arranged on a stage, a poster in red, white and blue that proclaimed "Strengthening Medicare" and a peppy president with microphone in hand.

But at the Riderwood Village retirement community last week in the Washington suburb of Silver Spring, Md., something different happened: the president got hit with hardballs by the crowd of 80-somethings. Not only did the retirees, many of them Democrats and former government officials, ask sharp questions about the day's topic, the Medicare prescription drug program, they took on Mr. Bush on global warming and nuclear war.

"I guess I'm one of the three left standing Americans who did the negotiation of the nonproliferation treaty," one of the retirees, Lawrence Weiler, a former official of the Arms Control and Disarmament Agency, told Mr. Bush. But the treaty can't hold, Mr. Weiler said, if the position of the United States is that it will initiate a nuclear war "if it is necessary." Would the president consider a "no-first-use" policy instead?

Mr. Bush, startled, said he would think about it, thanked Mr. Weiler for his contribution, then concluded the session with a "God bless you all." Afterward, White House officials insisted that they were pleased. "The president is at his best when he's answering real and difficult questions from a cross-section of Americans," said Nicolle Wallace, the White House communications director.

Whether that is the view of the people at the sessions is another question, but the fact remains that in the last three months, Mr. Bush has started taking questions, some of them tough, from audiences not stacked with supporters. Mr. Bush typically sidesteps the hardest questions, but his answers often produce news. It is a big change from last year and, particularly, from the 2004 campaign, when the president appeared before rapt crowds who had gotten in with tickets from local Republican parties.

The result was Bush love-ins across red-state America, derision from Democrats and critical news coverage about canned events. White House officials say they took the heat because the events produced good sound bites for the local news and pumped up political troops. In 2005, they used a similar, equally criticized model — citizens screened by the White House sitting with Mr. Bush on panels and making points that underscored administration policy — in the president's failed campaign to overhaul Social Security.

The new approach began in Philadelphia in mid-December when Mr. Bush made a speech about Iraq to the World Affairs Council, a foreign policy group. With the campaign and Social Security out of the way and elections in Iraq pending, White House officials, along with Mr. Bush, reasoned that there was little to lose and much to gain by opening up. More to the point, the president had been criticized the week before for refusing to honor the tradition of taking questions after a speech at the Council of Foreign Relations in Washington.

"We like to mix things up so you'll pay more attention," said Andrew H. Card Jr., the White House chief of staff, in explaining the new approach.

People did pay attention that day in Philadelphia, when Mr. Bush said in response to the first question that about 30,000 Iraqis had been killed in the Iraq war since the beginning of the American-led invasion in 2003. It was the first time that Mr. Bush

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had publicly given an estimate of Iraqi deaths, and White House officials scrambled to explain where it had come from — a Web site on Iraqi body counts, it turned out, and not an internal government accounting.

In February, White House officials scrambled again after Mr. Bush surprised them, and everyone else, by answering a question at a session in Tampa, Fla., with the news that he would support an expanded role by NATO and a doubling of United Nations peacekeepers in the Darfur crisis in western Sudan. Mr. Bush's comments were especially startling because the question had been about Uganda, not Sudan, although Mr. Bush segued by saying, "I presume if you're worried about northern Uganda, you're also worried about western Sudan, as am I."

Mr. Bush's answer reflected planning already under way at the United Nations and the State Department, but his public comments signaled a new American commitment to the crisis. The subject seemed to be on Mr. Bush's mind after a meeting earlier in the week with Kofi Annan, the United Nations secretary general. But his apparent off-the-cuff response underscored how a president could create policy with a few sentences on a Friday afternoon on the west coast of Florida.

"He doesn't have to check with the press office to see what we've said before," Ms. Wallace said. "He's the president; it's his prerogative."

In Silver Spring, Mr. Bush made news when he told a questioner who was struggling to help her 75-year-old mother decipher the complicated drug program that he was opposed to extending the May 15 deadline for enrollment.

"And the reason why is there's got to be a fixed time for people to sign up," Mr. Bush said flatly.

The president was less direct when another questioner asked if Medicare's chief actuary had really been threatened with dismissal if he told Congress the truth about the projected cost of the drug program, which was about $600 billion, not $400 billion, as the administration was saying publicly in 2003.

"There's been a lot of estimates of the cost of the program," Mr. Bush responded, neglecting to say that a 2004 investigation by the Department of Health and Human Services confirmed the man's question. The president did say, however, that "this is a good deal for you."

Lawmakers Get Out Of The House (USAT)

By Kathy Kiely

USA Today, March 20, 2006

WASHINGTON — The House of Representatives is on track this year to be in session for fewer days than the Congress Harry Truman labeled as "do-nothing" during his 1948 re-election campaign.

Members of Congress are taking an entire week off for St. Patrick's Day. It's the latest scheduling innovation to give members more time to meet with constituents.

Through Friday, the House was in session for 19 days, compared with 33 for the Senate. If they stick to their current schedule — including two weeks off in April, a week in May and July, plus all of August — House members will spend 97 days in Washington this year.

The House was in session 108 days in 1948, according to the chamber's archives, compared with 141 days last year.

"This is an election year and people want to see more of their constituents," says House Majority Leader John Boehner, R-Ohio.

During the first two months of the year, House members logged a total of 47 hours in the Capitol. They took off almost the entire month of January, while the Senate confirmed Samuel Alito to the Supreme Court.

For both chambers, workweeks have become short in recent years. Roll call votes are seldom scheduled for Mondays or Fridays. In the House, they are often postponed until late Tuesday.

As a result, it's difficult to schedule committee meetings. Some panels meet when Congress is not in session, but not often.

When in Washington, lawmakers do a lot of multitasking. Last week, Senate Judiciary Committee Chairman Arlen Specter, R-Pa., struggled to ready an immigration bill for the full Senate, as panel members drifted in and out of the room. They were juggling a floor debate on the budget and other meetings.

Critics contend Congress needs time to discuss important issues. "The Tuesday-to-Thursday work schedule is a detriment," says Rep. Dan Lungren, R-Calif., who served five terms in the House during the 1980s and returned last year.

Some experts think an absentee Congress is not bad. "I don't think there's anything wrong with them being out of Washington," says John Samples of the Cato Institute, a think tank that favors limited government. "They might be better representatives."

Lawmakers will make $165,200 this year. Leaders get more.

GOP Struggles To Define Its Message For 2006 Elections (WP)

By Dan Balz And Jonathan Weisman

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The Washington Post, March 20, 2006

Republican efforts to craft a policy and political agenda to carry the party into the midterm elections have stumbled repeatedly as GOP leaders face widespread disaffection and disagreement within the ranks.

Anxiety over President Bush's Iraq policy, internal clashes over such divisive issues as immigration, and rising complaints that the party has abandoned conservative principles on spending restraint have all hobbled the effort to devise an election-year message, said several lawmakers involved in the effort.

While it is a Republican refrain that Democrats criticize Bush but have no positive vision, for now the governing party also has no national platform around which lawmakers are prepared to rally.

Every effort so far to produce such a platform has stumbled.

In January, Bush laid out a modest menu of ideas on health care and energy independence, but Congress has made little movement on them. Senior White House officials consulted with lawmakers earlier this year about jointly crafting an agenda that would allow Bush and Republicans in Congress -- both suffering from depressed public approval ratings -- to get off the defensive. A Republican familiar with the process said these discussions did not result in a consensus.

New House Majority Leader John A. Boehner (R-Ohio) has been wrestling with the same problem, so far without success.

The struggles reflect philosophical differences among competing factions within the party, but they also underscore the political consequences of holding power. Republicans insist they remain united around core principles of smaller government, lower taxes and a strong national defense, but can no longer agree on how to implement that philosophy and are squabbling over their delivery on those commitments.

Texas Gov. Rick Perry (R) said the root of the problem is a failure of Washington Republicans to stick to principles, saying that his party risks losing power because it has done "a pretty poor job" of executing its small-government philosophy. "Republicans just need to take stock, go back and realize that the American people elected them because of their principles, and when you do not adhere to those principles, the American people are just as likely to turn you out and choose someone else."

Lately, the drift Perry described has been on glaring display almost daily. A week ago, Republican speakers at a GOP gathering in Memphis complained about the breakdown in fiscal discipline. A few days later, lawmakers in Washington raised the federal debt ceiling by an additional $781 billion and voted to authorize more than $100 billion in new spending.

Republicans are engaged in a face-off in Congress over two sharply different views of how to deal with illegal immigration -- with no compromise in sight. The split between the White House and congressional Republicans over the Dubai port deal underscores cracks in the party's national security consensus and has given Democrats an opening to challenge the GOP on what has long been a core strength. Republicans do remain united behind Bush's Iraq policy, albeit nervously, with widespread concern that a violent and open-ended commitment in that nation will be a liability in November.

The president once clearly set the Republican agenda, and when his approval ratings were higher, congressional Republicans followed his lead. House Majority Whip Roy Blunt (R-Mo.) said that model hit a wall last year when the president's centerpiece proposal to restructure Social Security "turned out to be not doable."

This year, Bush came back to Congress with a scaled-back agenda -- including tax incentives to expand health coverage and some money to study using wood chips and switch grass as alternative energy sources -- that Blunt said "is not as easily defined." And in Bush's weakened state, his proposals command less allegiance. "It's always the challenge of a second-term administration to keep the agenda fresh, to keep moving with the same intensity they had in the first term," Blunt said. "Combine that with less popularity, and people are much slower to salute the flag."

When asked last week whether Republicans had any broad visions to pursue this year, Boehner said, "Before the week is out, you will have a pretty good idea of what they are." But on Thursday night, after House members approved a $92 billion measure to fund the wars in Iraq and Afghanistan and ongoing hurricane relief, lawmakers left town for a week-long break with no agenda ready.

Rep. Jack Kingston (R-Ga.), the vice chairman of the House Republican Conference, said Boehner has been preparing an agenda based on four "silos": national security, retirement security, economic security and energy. But Republicans will have a difficult time turning those broad themes into legislative accomplishments.

The central plank of the national security agenda is border security and a crackdown on illegal immigration. But Republicans are deeply divided between those who favor increased enforcement at borders vs. those, including the president, who want to couple those measures with a guest worker program that would offer avenues for lawful employment for those already here illegally.

Under the retirement security rubric, House leaders would like to see a restructuring of the private pension system and permanent repeal of the estate tax. The former is within reach, although its political appeal may be limited. The latter almost certainly would die in a Senate filibuster. Likewise, the centerpiece of economic security -- an extension of Bush's first-term tax cuts -- faces long odds in the Senate.

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Because of these realities, Republicans have adopted a midterm strategy designed to avoid making the election a national referendum on their performance or one that focuses on their policy divisions. Their goal is to concentrate less on the kind of positive message they have challenged the Democrats to produce and more on framing a choice that says, however unhappy voters may be right now with the Republicans' leadership, things would be worse if Democrats were in charge.

"If you are someone who favors small government," Republican National Committee Chairman Ken Mehlman said, "you're going to have a clear choice between someone who has cut taxes every year in office, who believes you ought to own your own health care . . . and who plans to cut the deficit over five years versus people who have consistently supported more spending, have opposed tax cuts and who oppose patients owning their own health care. The question is, who's on your side for reducing the size of government?"

Rep. Thomas M. Reynolds (R-N.Y.), chairman of the National Republican Congressional Committee, chided the Democrats last Thursday for not producing an agenda. But he insisted at the same time that such "inside-the-Beltway" debates will be of little consequence in November, when local issues will decide the closest congressional contests. "We have repeatedly guided our candidates: All politics are local," he said.

In the absence of a positive national message, Republicans also hope to use long-standing "wedge issues" to galvanize their own base and try to put Democrats on record with unpopular votes. Congressional leaders, for instance, plan to push a constitutional amendment banning same-sex marriage.

Democratic pollster Geoffrey Garin said that even some once-powerful weapons in the Republican political arsenal have less appeal today than in the past. "Whether it's taxes or moral conservatism or national security, there's nothing the Republicans have said or done in their experimenting with message that outweighs this overwhelming sense Americans have that President Bush has misled the country onto a negative path," he said.

Republican pollster David Winston said his party can find broad consensus on jobs and competitiveness, fighting terrorism and securing U.S. borders. "Those are the three big items," he said. "There is unanimity on those three. Once you get beyond those three, there may be different senses of direction."

Blunt said it is more important for Democrats to produce a governing agenda because Republicans have a record to run on. But he also said action this year is essential. "We are, after all, legislators," he said. "We need to be making something better, eliminating something or moving in a new direction."

Republicans have a list of prospective priorities. Whether many will become law is problematic, although that does not seem to worry GOP leaders such as Blunt. "We'd like to see them become law, but a vote lets the people know where we stand," he said.

One Republican strategist, who asked not to be identified so he could speak openly about the party's problems, said divisions between moderates and conservatives have left the House and Senate Republican conferences in disarray. "Getting consensus on policy matters . . . is very difficult," he said. "That has caused stagnation and led to perceptions that Republican governance is going nowhere."

Bush Ignores GOP Rebuffs In Congress (CHIST)

By Robert Novak

Chicago Sun-Times, March 20, 2006

"Presidents come and go," Rep. Jerry Lewis told the House Rules Committee last Wednesday. That was a reason Lewis gave, as chairman of the Appropriations Committee, for opposing President Bush's proposed line-item veto. But the broader meaning of what he said suggested the congressional Republican majority's mind-set: Bush's presence is evanescent and not to be equated with the permanence of legislators.

Lewis is a 71-year-old 14-termer who has been in public office continuously for 38 years and is known as a dependable Republican regular. It is not in character for Lewis to so casually dismiss the new fiscal initiative by a president under fire for lack of an agenda. The former insurance salesman from Redlands, Calif., is not known for swimming upstream against the Republican tide, and he was not doing so last week.

Lewis' opposition to the Bush proposal did not make headlines, and neither did similar acts of opposition to the Republican president by Republicans in Congress. As if responding to a silent signal, similar acts of defiance were simultaneously erupting all over Capitol Hill. This constitutes no rebellion and is not even a divorce. Rather, it is a trial separation of congressional Republicans from their president.

More than half a century has passed since an unpopular president has been subjected to such treatment from a Congress controlled by his own party. Harry Truman's Gallup approval rating reached its low of 23 percent in January 1952 as he began his last year as president. Burdened by the military stalemate in Korea, President Truman appeared uninterested in the wrecking

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of his program by the congressional Democratic majority. Bush, with his latest Gallup rating at 36 percent as he copes with another unpopular war, seemed similarly detached from the rebuffs handed him last week.

The White House did not react when Lewis called the president's line-item veto "a very serious error" because it would "change the relationship between the president and the legislative branch." Lewis told me he has not been contacted by the president or his agents. Nor was there a presidential reaction to these further indignities:

*At a town hall meeting Wednesday in Silver Spring, Md., Bush rejected a delay in the May 15 deadline to apply for Medicare prescription drug subsidies because "there's got to be a fixed time for people to sign up." Two hours later, the Senate voted 76-22 for a delay.

*On that same Wednesday, the House International Relations Committee overrode Bush's opposition and voted 37-3 to force the president into imposing sanctions on Iran. Even Chairman Henry Hyde, a Bush supporter, changed his mind and ended up voting for this bill.

*To complete the week Thursday, the Senate piled an additional $16 billion on the budget resolution. At the same time, Bush's efforts to slow the growth of mandatory government spending were defeated.

Although there was no sign of the president lobbying to deflect this carnage, he was at the packed ballroom of the Washington Hilton on Thursday night for the House Republican fund-raiser ($2,000 a plate or $5,000 for the reception and a photo with Bush). GOP lawmakers may disdain Bush's policies, but they respect his ability to raise money for their campaigns.

Even when he was getting battered by Congress, Truman liked to call up his former Senate colleagues for a poker-playing cruise on the presidential yacht. Bush does not care to spend his spare time with members of Congress, and it was extraordinary that Bush traveled to the Capitol on Wednesday for National Hungary Day. Typically, the White House legislative affairs office was not consulted, and the president mistakenly talked about the March 15 event commemorating the 1956 anti-communist uprising rather than the 1848 revolution.

One of the president's top political operatives is telling the party's members of Congress that they should support Bush, not out of loyalty, but for self-preservation. In 1952, Democrats in Congress, accustomed to more than 20 years in power, thought they could survive by separating themselves from Truman. Instead, Republicans swept the November elections, which might be an object lesson about abandonment of their president.

Private Account Language Fails (RC)

By Emily Pierce

Roll Call, March 20, 2006

In a little-noticed vote last Thursday, the Senate went on record, apparently for the first time, against President Bush's proposal to set up personal investment accounts under Social Security, with some unexpected Republicans helping a unified Democratic Caucus defeat the nonbinding proposal.

"This is now the starting point," said Wesley Denton, spokesman for Sen. Jim DeMint (R-S.C.), who offered the Social Security amendment to the fiscal 2007 budget resolution. "We now know where everybody stands. We know who the obstacles to reform are, and we can take the debate and go from there."

Eight Republicans joined all 45 Democrats in opposing the DeMint amendment, which would have directed the creation of a reserve fund for Social Security, but only after the Senate produced legislation allowing younger workers to divert a portion of their Social Security taxes into personal investment accounts or permitting some other type of "legally binding ownership" of a worker's Social Security money.

The 46-53 vote was sandwiched in with 20 consecutive votes on amendments to the budget resolution.

The Republican centrist votes in opposition — including Sens. Lincoln Chafee (R.I.), Susan Collins (Maine), Gordon Smith (Ore.) and Olympia Snowe (Maine) — were hardly a surprise. But the amendment also forced the hands of some less likely Republican opponents, including Sens. Conrad Burns (Mont.), Pete Domenici (N.M.), Dick Lugar (Ind.) and Jim Talent (Mo.) — who have typically been more loyal to the GOP leadership.

Chafee, Burns, and Talent all have tough re-election races this year. Snowe and Lugar also will be on the ballot in November, though their seats are considered safe.

While the vote received little press attention at the time, Democrats — who have tried to turn all talk of personal accounts under Social Security into a campaign issue (See related story, p. 11.) — made note of the vulnerable Republican Senators who voted for it.

In a news release, the Democratic Senatorial Campaign Committee blasted three GOP Senators up for re-election next year — Rick Santorum (Pa.), Mike DeWine (Ohio) and Jon Kyl (Ariz.) — for voting "to raid the Social Security trust fund in an effort to advance the President's unpopular plan to privatize Social Security."

For his part, DeMint accused the 53 Senators who voted against his measure of raiding Social Security as well.

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In his own release, DeMint excoriated his detractors: “Now, every senator will be on record whether they oppose or support the raid. This said absolutely nothing about personal accounts, it was about whether you believe Social Security should be saved or allowed to wither on the vine.”

Though the Senate voted on several Social Security-related amendments during last year’s budget debate, this is the first time Senators have actually voted on anything resembling Bush’s personal account proposal.

Denton said the vote marks “the first substantive vote in years” on Social Security. He added that DeMint was pleased with the number of Senators who voted with him, given the Democrats’ nearly uniform opposition to personal accounts.

“I think a lot of people expected us to get a lot less votes than we did,” Denton said.

President Bush began the debate to overhaul the government’s guaranteed retirement safety net when he proposed personal accounts during his 2005 State of the Union address as a part of his “ownership society” agenda. Though it was much discussed in Congress last year, GOP leaders concluded that they did not have the votes to pass Bush’s Social Security plan and that they might suffer at the ballot box in November if they were to pass such legislation.

While DeMint insisted the language of his amendment would not necessarily require the creation of private accounts, Baucus took exception to that argument.

“My colleagues are not being fooled,” said Senate Finance ranking member Max Baucus (D-Mont.) in a floor speech. “This is privatization, pure and simple.”

The exact language of DeMint’s amendment would have allowed the Senate Budget Committee to set up a reserve fund for the Social Security surplus, but only if the Senate Finance Committee approves legislation that, among other things, provides younger workers the “voluntary option ... to obtain legally binding ownership of a portion of their [Social Security] benefits.”

Baucus wasn’t the only one to say that DeMint’s amendment appeared to be trying to lay the groundwork for personal accounts under Social Security.

“This clearly was a way to try to advance private accounts under Social Security, and Sen. Snowe has been clear that she’s not against private accounts, per se, but she does have concerns about diverting money away from the traditional Social Security program in order to create private accounts,” said Snowe spokeswoman Antonia Ferrier.

Denton said the amendment would obviously permit a bill with personal accounts, “but it would also allow Democrats or anyone else to come up with another plan that meets” the “ownership” criteria.

Sen. Mike Crapo (R-Idaho), a DeMint supporter, said he supported the amendment because it offered a way to ensure that Congress does not continue to dip into the Social Security trust fund coffers to pay for other programs — not because it had anything to do with personal accounts.

“I’m saddened this amendment was characterized inaccurately as a privatization move,” said Crapo in a statement. “It is unfortunate that we continue to have partisan rhetoric cloud the issue.”

Social Security Reform Rejected (WT)

By Amy Fagan

The Washington Times, March 20, 2006

Last week, during the Senate budget debate, Republicans raised the issue of Social Security reform, and Democrats -- surprised that the issue won't go away -- pledged to make it a major campaign issue this year.

"The issue that won't die," said Sen. Charles E. Schumer after the Senate narrowly defeated a Social Security amendment to the budget bill.

"It's going to be one of the big issues in 2006," pledged the New York Democrat, who is chairman of the Democratic Senatorial Campaign Committee. "They just gave us more fuel."

Sen. Jim DeMint, South Carolina Republican, offered the proposal, which would have let Congress create a reserve fund protected under budget rules to save the Social Security surplus to pay for future benefits instead of other federal programs, as happens now.

"There is simply no way to save Social Security if we don't have the courage to stop using the surplus as a secret slush fund," Mr. DeMint said. "We will not be deterred by cynics who offer no solutions."

The Senate defeated the proposal 53-46, with eight Republicans voting no, but Democrats still called it a step towards creating the Social Security private accounts that President Bush wants.

Mr. Schumer pledged to tell voters that electing a Democratic Senate is the only way to "make sure Social Security isn't privatized."

"Any time there's an opportunity to privatize Social Security, they'll take it," said Sen. Max Baucus, Montana Democrat. He said the DeMint proposal was "evidence today that they're going to stick with it."

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Mr. Bush's proposal to let individuals divert a part of the Social Security's payroll tax into personal retirement accounts was "soundly rejected by the American people," yet Republicans still pursue it, Mr. Baucus said.

But supporters of the proposal said Democrats just want the status quo, under which Social Security will crumble. Mr. DeMint said his proposal stated "absolutely nothing about personal accounts," but was "about whether you believe Social Security should be saved or allowed to wither on the vine."

"I'm saddened this amendment was characterized inaccurately as a privatization move," said Sen. Michael D. Crapo, Idaho Republican. "The American public and future generations of taxpayers will suffer if we cannot address the issues regarding Social Security and fiscal discipline."

Democrats aren't the only ones who see a campaign issue. "Those who voted against this amendment voted to raid Social Security," Mr. DeMint said. "Now, every senator will be on record whether they oppose or support the raid."

Including interest, Congress has raided $1.7 trillion from Social Security since 1985, according to Mr. DeMint's office. Mr. Bush's Social Security proposal never gained enough momentum in Congress, but administration officials, some Republicans and even Mr. Bush himself continue to raise the issue from time to time. In his State of the Union speech, Mr. Bush called for a commission to investigate options for saving the system, and just days later he mentioned his personal-accounts proposal in his long-term budget outline.

A Contractor's Purchase On Power (WP)

By Charles R. Babcock And Renae Merle

The Washington Post, March 20, 2006

The consulting work that MZM Inc. received from a Pentagon agency in 2003 was for only $40,000, but to company owner Mitchell J. Wade, the face value was just the beginning.

Over the following year, the work grew to $4 million as MZM added employees that the government had not asked for; pressed successfully for the agreement to be on a "time and materials" basis so it could bill for hours worked; and left the impression that Wade could pull strings, if necessary, to get his way.

According to excerpts of e-mails collected by a Pentagon employee and provided to The Washington Post, one contract official inaccurately thought Wade was a former undersecretary of defense. Another wrote that "Mitch Wade is a force to be reckonned (sic) with . . . he has a lot of perceived power that can slow us down . . . maybe even grind us to a halt."

The recent corruption conviction of former congressman Randy "Duke" Cunningham -- and Wade's recent guilty plea for bribing him -- focused attention on Congress's practice of "earmarking," or setting aside, federal money for favored interests.

A review of the rise and fall of Wade and his company, based on interviews and MZM and government documents, shows that bribing Cunningham was only one part of Wade's formula for success. His firm, which had no prime federal contracts in fiscal 2002, collected more than $170 million over the next three years, thanks not just to Cunningham, but also to Wade's ability to take practices common among government contractors and push them to the limit.

In a tight labor market, he paid well above the going rate for workers with security clearances -- wages that left others in the government contracting industry puzzled. He freely distributed title and rank, appointing more than 100 vice presidents, executive vice presidents and "senior executive vice presidents" in a company of about 400 people. He aggressively used the "revolving door" between the government's defense and intelligence bureaucracy and the private industry, attracting top talent and often sending new hires back to work on contracts at their former agencies and to try to cultivate new business.

MZM was able as the sole bidder to win a "blanket purchase agreement" for up to $225 million over five years in Pentagon technology work, though procurement regulations require at least three competitive bids.

Kenneth L. Wainstein, U.S. attorney for the District, said after Wade's guilty plea that the agreement amounted to "a $225 million blank check drawn on taxpayer funds."

Cunningham admitted accepting at least $2.4 million from Wade and three other men over the past several years in return for official favors, including steering money for contracts their way. The California Republican was sentenced to eight years and four months in prison earlier this month. That was a week after Wade pleaded guilty to four felony counts for his role in the case. MZM was sold last summer to a New York investment firm, which changed its name but kept many of its contracts and people.

Wade, who declined an interview request through his lawyer, had learned the intricacies of the procurement system from the inside. He was a civilian worker at the Pentagon, working at times on classified programs, from the mid-1980s to the early 1990s. He then became a consultant to Brent Wilkes, a San Diego defense contractor who was so close to Cunningham that competitors complained the congressman was giving Wilkes's company favored treatment. In the following years, Wade supplanted Wilkes as Cunningham's favorite, and Wilkes -- who has been implicated but not charged in the scandal -- ended up as an MZM subcontractor.

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Wade first bribed Cunningham on Nov. 16, 2001, according to prosecutors' court papers. That Friday, barely two months after the terrorist attacks on New York and Washington, the contractor bought the congressman $12,000 worth of antiques, and Cunningham told Wade that he would make him "somebody." At the time, the government filings said, MZM had contracts of less than $1 million a year.

Their partnership became apparent early the next year as Wade requested a $15 million earmark for a counterintelligence program. He was also working at the time to get on the General Services Administration's schedule of companies authorized to seek federal business, a prelude to the broader intelligence-related "blanket purchase agreement" he pursued that summer and fall.

Cunningham requested that $7.5 million be set aside for MZM's program and made it his first priority, according to his office's internal chart, which prosecutors filed as an exhibit. The House approved the earmark in June, and it passed Congress as part of the defense appropriations bill in October, though at a slightly reduced level.

The GSA officials who approved MZM's application to join its schedule were supposed to ensure that the hourly labor rates Wade charged were "fair and reasonable." They were, however, higher than some other contractors from the region offering the same types of services, according to labor rates published by the GSA.

According to several sources inside and outside the company, including some former employees, Wade attracted staff by offering tens of thousands of dollars more than the going salary. The sources agreed to speak only on condition of anonymity because of the sensitivity of the subject. As his company grew, he hired people like retired Army Lt. Gen. James King, who held several high positions at Pentagon intelligence agencies and now runs Athena Innovative Solutions Inc., MZM's successor company. Wade also hired David Holmes, a former CIA lawyer; John Quattrocki, a high-ranking FBI officer; and Kay Coles James, the former head of the Bush administration's Office of Personnel Management.

The blanket purchase agreement, signed with a Defense Department contracting office in September of 2002, was written so broadly that any agency inside or outside the Pentagon could order a wide variety of help. It seemed crafted for the Bush administration's post-Sept. 11 push for more defense and intelligence spending. It referred to homeland security, law enforcement planning, geospatial integration, document exploitation and what is called MASINT, for measurement and signature intelligence.

The Defense Information Systems Agency refused to answer questions about how it selected MZM. But it announced last summer, after Wade's relationship with Cunningham was exposed, that it was cutting off further work. It said it realized Wade's company was the only one that responded to its initial request, when federal regulations required three bidders.

To ensure that MZM "could milk that account without interruption or interference" from the Defense Department officials who oversaw the contract, Wade enticed them with personal favors, the government said in court documents filed along with Wade's guilty plea. He hired the son of one Defense Department official at the Army's National Ground Intelligence Center in Charlottesville in early 2002, when MZM was still a subcontractor. In return, the official gave MZM inside information and favorable performance reviews ensuring further work, prosecutors alleged.

The matter is still under investigation.

The first order under the blanket agreement was in October 2002, a $193,281 order to do a "concept report" of a computer system in Charlottesville. Wade apparently felt so confident of his company's future with the ground intelligence center that he opened an office nearby.

The next order, in late January 2003, was much larger, though the client for the $6.1 million contract isn't clear from sketchy descriptions released under the Freedom of Information Act. A few weeks later, MZM got an order for $12.7 million.

Two days after the war in Iraq started, MZM won a $1.2 million contract to provide interpreters for "post conflict" work. And in March, Wade's company got a $6.2 million contract, this one with the Pentagon's new Counter Intelligence Field Activity. In fiscal 2003, MZM got a total of $38.6 million in orders through the blanket purchase agreement.

That climbed to $65 million, then $60 million in the following two years, as Cunningham continued to add earmarks to make more money available for programs Wade worked on, and the contractor continued his bribes for the congressman. Those included the use of a 42-foot yacht renamed the Duke-Stir, a used Rolls Royce, more antiques and the purchase of his home in San Diego for $700,000 more than it was worth -- even a check for $115,100 to pay the capital gains on Cunningham's inflated profit on the home sale.

As MZM's revenue soared, so did Wade's personal spending. He and his second wife owned a $3 million house in Kalorama. He took his staff on outings to the Greenbrier resort and Bermuda. He started the Sure Foundation, named after a Christian verse, to help children around the world who were victims of war and unrest.

The global war on terror was good for business. There was lots of work at the National Ground Intelligence Center and the Counterintelligence Field Activity. The Pentagon called on MZM to help seek counters to roadside bombs in Iraq. The Special

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Operations Command in Tampa needed help too. And thanks to an earmark from Rep. Virgil H. Goode Jr. (R-Va.), MZM was picked to run a Foreign Supplier Assessment Center in Martinsville, Va., to check out foreign-based contractors.

Last July, a month after the San Diego Union-Tribune triggered the investigation by disclosing the home sale, the Pentagon was still telling Cunningham's office that money was in the pipeline for his latest MZM earmarks.

'Phishing' Scheme Targets Thrift Savings Plan Holders (WP)

By Stephen Barr

The Washington Post, March 20, 2006

Last week's scare at the Thrift Savings Plan is an opportunity to offer this reminder: Do not click on Web links in unsolicited e-mails.

Someone, or some group, operating from somewhere, took advantage of the TSP's trusted name in a scam to rip off credit card and bank accounts. The scheme was built around a fictional TSP e-mail and a bogus TSP Web site.

After calls started pouring in from plan participants about the suspicious e-mail, the TSP staff played it safe and shut down part of the agency's Internet operation, stopping account transactions. They also called in the FBI.

"It was the first time we have had a phishing situation where they are sending people to something that looks like our Web site," a TSP official said.

The TSP, a 401(k)-type retirement savings program, has more than 3.5 million participants and assets of more than $178 billion. The plan uses the Internet to provide account information to participants and to process withdrawals, interfund transfers and other transactions.

TSP officials have no tally of how many people got the phony e-mail or how many responded and turned over personal financial information. Although it appears that many of the e-mails went to government employees and retirees, TSP officials said they have been contacted by persons who are not TSP enrollees. Some people did fall for the scheme, the officials said.

The officials pointed out that TSP does not maintain e-mail addresses for participants and never asks participants to provide credit card or banking information, such as pass codes for automated teller machines.

The phony e-mail informed recipients that a new e-mail address had been added for their TSP accounts and directed them to click on a link to www.tsp.gov "if you did not authorize this change."

The link, however, did not take the recipient to tsp.gov but to a mock site, where people were directed to type in their Social Security number and TSP personal identification number, or PIN.

Once completed, the e-mail recipient was sent an "unblock form" that should have sent up red flags to readers because of poor grammar and misspellings.

"If you see this message means that your account is bloked and u got a notification email, enter the information below and click on the Unblock my Account button," the Web page began. It directed readers to type in a credit card number and their "Atm PIN Number."

The TSP is not the only federal agency exploited for online identity-theft schemes known as "phishing." E-mails claiming to be from the Internal Revenue Service have been on the increase, even though the IRS does not communicate with taxpayers electronically.

The TSP learned about 2 p.m. Thursday that it was being impersonated and stopped transactions on its Web site at about 6 p.m. On Thursday night, TSP posted a notice warning participants about the scam.

After the scammers turned off their bogus Web site on Friday, officials restored full service on the TSP site.

TSP officials suspect that the scammers were after credit card information and doubt they could meet criteria for taking money out of a TSP account. But they said reviews are underway to detect any suspicious activity in TSP accounts.

The scam, however, has disrupted processing of loans and withdrawals, which may be delayed for two days, in part because of the TSP internal review.

If you received one of the phony e-mails, TSP urges you to read a special notice posted on tsp.gov under the heading "E-Mail Scam" and use a toll-free phone number to contact a customer service representative.On the Move

Mark A. Robbins , who worked on E Street NW as general counsel at the Office of Personnel Management, is now working on F Street, as the executive director of the president's Privacy and Civil Liberties Oversight Board.

The board was created by Congress to ensure that privacy and civil liberties issues are given appropriate consideration in the development of counterterrorism policy. Carol E. Dinkins serves as chairman and Alan Charles Raul as vice chairman.

Bogus Bush Bashing (NYT)

By Paul Krugman

The New York Times, March 20, 2006

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"The single word most frequently associated with George W. Bush today is 'incompetent,' and close behind are two other increasingly mentioned descriptors: 'idiot' and 'liar.' " So says the Pew Research Center for the People and the Press, whose most recent poll found that only 33 percent of the public approves of the job President Bush is doing.

Mr. Bush, of course, bears primary responsibility for the state of his presidency. But there's more going on here than his personal inadequacy; we're looking at the failure of a movement as well as a man. As evidence, consider the fact that most of the conservatives now rushing to distance themselves from Mr. Bush still can't bring themselves to criticize his actual policies. Instead, they accuse him of policy sins — in particular, of being a big spender on domestic programs — that he has not, in fact, committed.

Before I get to the bogus issue of domestic spending, let's look at the policies the new wave of conservative Bush bashers refuses to criticize.

Mr. Bush's new conservative critics don't say much about the issue that most disturbs the public, the quagmire in Iraq. That's not surprising. Commentators who acted as cheerleaders in the run-up to war, and in many cases questioned the patriotism of those of us who were skeptical, can't criticize the decision to start this war without facing up to their own complicity in that decision.

Nor, after years of insisting that things were going well in Iraq and denouncing anyone who said otherwise, is it easy for them to criticize Mr. Bush's almost surreal bungling of the war. (William Kristol of The Weekly Standard is the exception; he says that we never made a "serious effort" in Iraq, which will come as news to the soldiers.)

Meanwhile, the continuing allegiance of conservatives to tax cuts as the universal policy elixir prevents them from saying anything about the real sources of the federal budget deficit, in particular Mr. Bush's unprecedented decision to cut taxes in the middle of a war. (My colleague Bob Herbert points out that the Iraq hawks chose to fight a war with other people's children. They chose to fight it with other people's money, too.)

They can't even criticize Mr. Bush for the systematic dishonesty of his budgets. For one thing, that dishonesty has been apparent for five years. More than that, some prominent conservative commentators actually celebrated the administration's dishonesty. In 2001 Time.com blogger Andrew Sullivan, writing in The New Republic, conceded that Mr. Bush wasn't truthful about his economic policies. But Mr. Sullivan approved of the deception: "Bush has to obfuscate his real goals of reducing spending with the smokescreen of 'compassionate conservatism.' " As Berkeley's Brad DeLong puts it on his blog, conservatives knew that Mr. Bush was lying about the budget, but they thought they were in on the con.

So what's left? Well, it's safe for conservatives to criticize Mr. Bush for presiding over runaway growth in domestic spending, because that implies that he betrayed his conservative supporters. There's only one problem with this criticism: it's not true.

It's true that federal spending as a percentage of G.D.P. rose between 2001 and 2005. But the great bulk of this increase was accounted for by increased spending on defense and homeland security, including the costs of the Iraq war, and by rising health care costs.

Conservatives aren't criticizing Mr. Bush for his defense spending. Since the Medicare drug program didn't start until 2006, the Bush administration can't be blamed for the rise in health care costs before then. Whatever other fiscal excesses took place weren't large enough to play more than a marginal role in spending growth.

So where does the notion of Bush the big spender come from? In a direct sense it comes largely from Brian Riedl of the Heritage Foundation, who issued a report last fall alleging that government spending was out of control. Mr. Riedl is very good at his job; his report shifts artfully back and forth among various measures of spending (nominal, real, total, domestic, discretionary, domestic discretionary), managing to convey the false impression that soaring spending on domestic social programs is a major cause of the federal budget deficit without literally lying.

But the reason conservatives fall for the Heritage spin is that it suits their purposes. They need to repudiate George W. Bush, but they can't admit that when Mr. Bush made his key mistakes — starting an unnecessary war, and using dishonest numbers to justify tax cuts — they were cheering him on.

Illogical Cutbacks On Cancer (NYT)

By Bob Herbert

The New York Times, March 20, 2006

When I was a kid I had the wildest crush on my Uncle Breeze's wife, Betty. She was beautiful and with all my heart I wanted to grow up and marry someone just like her.

I remember acutely the sadness I felt some years later when my mother told me that Aunt Betty was ill. She died not long after that. Cervical cancer.

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This old memory was brought back to me by, of all things, a small but telling item in President Bush's mammoth budget proposal.

The federal government has a national breast and cervical cancer early detection program, run by the Centers for Disease Control and Prevention. It provides screening and other important services to low-income women who do not have health insurance, or are underinsured.

There is agreement across the board that the program is a success. It saves lives and it saves money. Its biggest problem is that it doesn't reach enough women. At the moment there is only enough funding to screen one in five eligible women.

A sensible policy position for the Bush administration would be to expand funding for the program so that it reached everyone who was eligible. It terms of overall federal spending, the result would be a net decrease. Preventing cancer, or treating it early, is a lot less expensive than treating advanced cancer.

So what did this president do? He proposed a cut in the program of $1.4 million (a minuscule amount when you're talking about the national budget), which would mean that 4,000 fewer women would have access to early detection.

This makes no sense. In human terms, it is cruel. From a budget standpoint, it's self-defeating.

"The program is really designed to help working women," said Dan Smith, a senior vice president at the American Cancer Society. "They may be working at a job that doesn't provide health insurance, but they're not the poorest of the poor who would qualify for Medicaid."

In many cases, these are women who do not have family doctors who might encourage them to be screened. The program offers free mammograms, Pap tests and other early detection services. "If they're diagnosed," said Mr. Smith, "there's a complementary program that allows them to be immediately insured so they can actually have the coverage for their treatment. That's a great program, as well."

"The early detection program is a good program because it has saved lives," said Dr. Harold Freeman, a senior adviser to the Cancer Society. "The women who are served come from a population that has a proven higher death rate from cervical and breast cancer."

He added: "It's hard to get into the health care system when you are asymptomatic. It's much easier to get into the system if you're obviously sick, if you're bleeding or in pain. But the problem with cancer is, if you're going to be cured, you have to get in before those kinds of symptoms occur. So these women need to be screened."

Dr. Freeman, a New York physician who has long specialized in the prevention and treatment of cancer, made it clear that his first concern was the health and quality of life of his patients. But then he addressed what he characterized as the "shortsighted" economic rationale for the budget cut.

"It won't save money," he said. "You don't save money by not diagnosing cancer early. You end up spending more money because anyone who develops cancer will get into the health care system and they will be treated. And the cost at that point will be a lot more. The logic here is very simple: the later you diagnose cancer of the breast or cervix, the more expensive it is to the country."

This is just one program in a range of cancer services that rely on support from the federal government. As if immune to the extent of human suffering involved, President Bush has proposed a barrage of cuts for these programs.

"What's really amazing," said Mr. Smith, "is that the president cut every cancer program. He cut the colorectal cancer program. He cut research at the National Cancer Institute. He cut literally every one of our cancer-specific programs. It's incomprehensible."

A bipartisan movement is under way in the Senate to block the president's proposed cuts. How that ultimately will fare is unclear.

What is clear is that cancer is a disease that horrifies most Americans, and with good reason. One out of every two men will contract the disease in his lifetime, and one out of every three women.

This is an area in which we need to be doing more, not less.

Fining The Blues (WP)

The Washington Post, March 20, 2006

THE FEDERAL Communications Commission is in a tough spot when it comes to enforcing the law against broadcast indecency. Determining what crosses the line from acceptable to indecent and therefore can't be broadcast before 10 p.m. isn't easy in an increasingly coarse culture. As network programming has become racier and more graphic, the FCC has been deluged with complaints in recent years, understandably so. Parental controls such as the V-chip can help shield children from inappropriate programs, but they aren't always effective; sports and awards shows, for example, aren't rated in advance.

At the same time, the theory that allows broadcasters to be fined for such speech consistent with the First Amendment -- that "uniquely pervasive presence" of broadcast media "in the lives of all Americans" -- seems increasingly obsolete in an age

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when the overwhelming majority of American households (more than 85 percent) get their television programming via cable or satellite -- receiving numerous channels that aren't subject to indecency rules. As a result, a single profanity uttered on one (broadcast) channel can result in a multimillion-dollar fine, while worse language spoken at the very same time on another (cable) channel is exempt from regulation.

Last week the FCC once again ventured into this politically, legally and emotionally charged territory, ruling on complaints involving nearly 50 programs broadcast between February 2002 and March 2005 and signaling a renewed zeal for indecency enforcement under its new Republican chairman, Kevin J. Martin. The commission upheld a $550,000 fine against CBS for Janet Jackson's infamous "wardrobe malfunction" in which her breast was exposed during the 2004 Super Bowl halftime show, and it levied a record $3.6 million fine against the same network for an episode of the drama "Without a Trace" that featured what the commission called a "teen sex orgy."

One particularly disturbing aspect of the ruling involved a Martin Scorsese-produced documentary, "The Blues: Godfathers and Sons," broadcast by a community college public television station in San Mateo, Calif. The documentary included scenes in which musicians and a producer used numerous profanities. The FCC, citing a previous decision that profanity in "Saving Private Ryan" would not subject broadcasters to indecency fines, noted that "in rare contexts, language that is presumptively profane" will still be allowed "where it is demonstrably essential to the nature of an artistic or educational work or essential to informing viewers on a matter of public importance."

But the commissioners didn't find that standard was satisfied in the case of the documentary, whose educational purpose, it said, "could have been fulfilled and all viewpoints expressed without the repeated broadcast of expletives." Really? How do they know better than, say, Mr. Scorsese? As commissioner Jonathan S. Adelstein, a Democrat, wrote in dissenting, "It is certain to strike fear into the hearts of news and documentary makers, and broadcasters that air them, which could chill the future expression of constitutionally protected speech." This is a dangerous kind of line-drawing -- one better left to filmmakers, or even television executives, than government bureaucrats.

Is Anyone Listening? (NSWK)

By Richard Wolffe And Holly Bailey

Newsweek, March 20, 2006

The banner hanging over President George W. Bush read united to victory. But as Republicans listened to Bush slog through his familiar pep talk at a $2,500-a-head fund-raiser last Thursday night, the party faithful knew they were anything but united. Over the last year, they ejected a majority leader, squabbled over ethics and spending, and openly criticized the president on Iraq, port security and a Supreme Court pick. If the Republican guests were hoping for a spiritual revival, they left disappointed. Bush's speech met with tepid applause, and GOP officials shuffled to the cash bar feeling deflated. "It just wasn't as celebratory as it has been," said one House aide who declined to be named when talking about a private event.

For five years nobody needed to blare the word "united" at Republicans; it was their biggest strength. The president handed his agenda to Congress and the party leaders delivered the votes. They twisted the arms of small-government conservatives to pass education reforms and Medicare drug benefits. They held their ranks together even as the Iraq occupation spiraled downward in 2004. And they picked up seats in two election cycles. But now that strategy has fallen apart. Members of Congress, tired of being taken for granted by an overbearing White House, have lost faith in the president's political touch. Social Security, Katrina, Harriet Miers, ports and, of course, Iraq have destroyed the aura of invincibility that once gave Team Bush its swagger.

The stress is starting to show. Republicans are beginning to look and sound like their own caricature of the Democrats: disorganized, off message and unsure of their identity. Fearful of defeat in November, GOP candidates are uncertain how to pull themselves together in the eight months left before the elections. The toughest question: whether to run, as they have in the past, as W Republicans, or to airbrush the president out of their campaigns. "What I've tried to tell people is that a political tsunami is gathering, and if we don't do something to stop it, we'll be in the minority a year from now," says Rep. Ray LaHood from Illinois. "But some people still don't get it."

The president won't have an easy time persuading wobbly Republicans to stick with him. Bush recorded his lowest approval rating in the NEWSWEEK Poll, with 36 percent; congressional Republicans trailed Democrats by 11 points (39 to 50 percent). Second-term presidents often suffer a six-year slump, losing seats for their party at this point in their tenure. But Reagan, Johnson and Eisenhower—who all watched their parties crater in their sixth year—enjoyed approval ratings in the high 50s or low 60s, according to Gallup. Bush has actually been lucky in one respect. He held his party together longer than most two-term presidents. Johnson kept control for just eight months until he suffered defeat on the parochial issue of home rule for the District of Columbia in 1965, when Democrats took him on—and won. "They saw they could vote against the president and wake up alive the next day," says presidential historian Michael Beschloss.

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Republicans in Congress had the same revelation when they slapped Bush down on the Dubai ports deal. Even so, the White House and its party operatives still believe they can muscle Capitol Hill back in line. Bush's aides say that it would be suicidal for members to run away from the president. In strategy memos circulated on the Hill, Republican National Committee pollsters argue that disunity will only discourage the base from turning out to vote. But even the party's analysts concede that standing shoulder to shoulder with Bush may not always be the best way to win. In one RNC memo, pollster Dave Sackett argues that incumbents need to demonstrate their "independence" and disagreements with party leaders, but still present "an overall unified front." (The easiest way to project unity: defend Bush against attacks from the other side. That's why the GOP seized on Democratic Sen. Russ Feingold's futile attempt to censure the president over the National Security Agency eavesdropping program.)

In one way, Bush has succeeded in uniting his own party: almost everyone is together in sniping at him. Some are pressing for staff changes at the White House. Sen. Norm Coleman told the Associated Press last week that he wanted to see a new White House team with "fresh political antenna." Others are telling Bush's aides to keep the current team away from the cameras. "You are losing the message," LaHood told one White House session on Iraq last week. "We don't need Don Rumsfeld or the generals or anybody in the military out trying to explain this to the American people." The White House responded tartly that there is no staff shake-up in the works.

Some candidates are happy to stand beside Bush, as long as nobody actually sees them together. Locked in a tight race for re-election, Sen. Mike DeWine chose not to accompany Bush on one trip to his home state of Ohio last month. A week later he attended a private fund-raiser with the president in Cincinnati—out of sight of photographers and reporters.

Even Hill leaders are substituting their own agendas for the president's. In the Senate, Bill Frist announced his own immigration bill last week that focuses on border security, not the temporary-worker program favored by the president. In the House, new Majority Leader John Boehner is also striking out independently. Boehner has drawn up an eight-week strategy, without White House input, that includes a Higher Education week and Protecting the Homeland week. "This is our plan and our message," says one GOP leadership aide, who spoke anonymously about strategy. "It is our a— on the line."

Republicans once happily attacked Democrats for second-guessing the commander in chief on Iraq and the war on terror. Now they are daring to do the same. Last week House and Senate leaders backed a new bipartisan panel to study Iraq policy and draw up alternatives to Bush's current war plan. A year ago GOP members would have saluted Bush and accused his critics of "undermining the troops." But now they are ready to march in a different direction. The only question is where they'll end up.

OTHER NEWS:

Snow Defends President's Handling Of Economy (WSJ)

By Greg Ip

The Wall Street Journal, March 20, 2006

WASHINGTON -- Confronting criticism of the Bush administration's economic record, Treasury Secretary John Snow said the widening gap between high-paid and low-paid Americans reflects a labor market efficiently rewarding more-productive people. But he insisted Americans are still broadly sharing in the economic expansion.

"What's been happening in the United States for about 20 years is [a] long-term trend to differentiate compensation," Mr. Snow said in an interview with The Wall Street Journal last week. "Look at the Harvard economics faculty, look at doctors over here at George Washington University...look at baseball players, look at football players. We've moved into a star system for some reason which is not fully understood. Across virtually all professions, there have been growing gaps."

Mr. Snow said the same phenomenon explains why compensation for corporate chief executive officers has climbed so sharply. "In an aggregate sense, it reflects the marginal productivity of CEOs. Do I trust the market for CEOs to work efficiently? Yes. Until we can find a better way to compensate CEOs, I'm going to trust the marketplace."

Since the 1970s, CEO compensation has gone from 40 times to more than 300 times the average worker's salary, according to a study by Carola Frydman of Harvard University and Raven Saks of the Federal Reserve.

Mr. Snow, a former CEO of CSX Corp. who holds a doctorate in economics, said the administration intends to publicly challenge perceptions that typical workers and families haven't benefited much from the economic expansion. The extent to which the expansion has been broadly shared is "the new sort of battle line in the political arena," he said.

Economic output has increased at an annualized pace of almost 4% since mid-2003, and the unemployment rate has fallen to 4.8% from 6.3%. Despite that, polls show more Americans think the economy is worsening than think it is improving.

Mr. Snow distributed a fact sheet that showed after-tax income per person, adjusted for inflation, rose 8.2% from January 2001, when George W. Bush took office as president, through January 2006. The sheet also showed that per-person net worth --

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total assets minus debt -- rose 24%, unadjusted for inflation, from early 2001 to the end of 2005. "People have more money in their pocket" and in their bank accounts, he said.

Mr. Snow's case relies on averages, which can be skewed by big gains among the wealthiest. Other data suggest the typical family has seen little advance in income or net worth since Mr. Bush took office. Census Bureau data show median family income -- half of families have income greater than the median, half have less -- fell 3.6% from 2000 through 2004. Incomes for the poorest families fell even further. The only group to gain was the family at the 95th percentile -- that is, richer than 95% of all families. Data for 2005 are unavailable.

Alan Krueger, a labor economist at Princeton University who served in the Clinton administration, cited Labor Department data that showed the real median wage rose 3% from 2000 to 2005. Gains were smallest for the lowest-paid workers and largest for the best-paid. "From the standpoint of the work force, it's been a very weak recovery," he said. Wage data don't incorporate the effects of taxes, investment income or government payments.

As for net worth, a triennial Federal Reserve survey found that the net worth of the median family rose 1.5%, after inflation, from 2001 through 2004. That is far less than the 17% increase from 1995 to 1998 and the 10% increase from 1998 to 2001. The survey wasn't conducted in 2000 or 2005.

Robert Gordon, an economist at Northwestern University, says the past few years represent the continuation of a 35-year trend in which a growing share of all labor income goes to a small group of "superstars: professional athletes, CEOs and top corporate officers." On top of this trend, income on capital -- such as interest, dividends, rent and capital gains -- has taken a growing share of national income from labor, and it "goes mainly to a small slice of the population at the very top."

Mr. Snow said inequality at "one philosophical level...is troubling. It's really a serious, far-reaching question about how to organize the economic affairs of a great country. We as a society have made two determinations. We're going to let more productive people have higher incomes and we're going to tax them more" through a progressive-tax system.

Mr. Snow argued the administration's tax cuts have made the tax code more progressive, because the rich now pay a larger share of total individual taxes. Some scholars counter that the tax cuts still widened the gap between the after-tax incomes of rich and poor Americans. The Tax Policy Center, a joint venture of the Brookings Institution and Urban Institute think tanks, estimates that after-tax incomes of the richest 1% of taxpayers were 4.6% higher in 2005 than they would have been without the tax cuts. Incomes of the middle 20% were 2.6% higher, and incomes of the bottom 20% were 0.3% higher.

Slowing Home Market To Ripple Through Many Layers Of Jobs (USAT)

By Barbara Hagenbaugh And Noelle Knox

USA Today, March 20, 2006

With the allure of easy money, thousands of Americans flocked to jobs in the real estate industry during the boom years.

“You saw it — there were dollar signs in their eyes,” recalls Nick Vayonis, a former real estate agent in Los Angeles, where median home prices rose 145% in four years.

He left the business a year ago, just in time, he says. Home sales have declined nationwide for the past five months, and sales in Southern California fell to their lowest level in five years in February, DataQuick reported Tuesday.

“I could see the ebb and flow. It wasn't going to be like that forever,” says Vayonis, 40, who just opened a coffee shop in Canton, Ga., near Atlanta with his wife Anne-Marie, also a former agent.

As the housing market slows, there will likely be a lot of stories of people who are bailing out of their real estate jobs and other professions related to housing — appraisers, mortgage brokers and home construction workers — and many not by choice. This could send shock waves through the job market and the economy.

That's because housing helped drive the economy out of the last recession. Almost four out of every 10 jobs created in the past four years were in housing-related fields. At the end of last year, a record 9.8% of U.S. workers were employed in the real estate industry, up from 8.2% a decade ago, according to Moody's Economy.com. Only the health care industry added more jobs.

“Job growth is the main engine for consumer spending,” says Scott Anderson, senior economist at Wells Fargo in Minneapolis.

“If we don't get the job creation that we need to sustain spending, the economy could be in trouble as we get into '07,” he says. “If we don't get any help from these other (non-housing) sectors, longer-term the implications are slower job growth, which means slower consumer spending, which would eventually discourage businesses from spending. You'd have this downward spiral in growth.”

While it's too early to tell how deeply the housing industry will contract, many companies are already seeing some business evaporate.

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Last month, Washington Mutual said it would close 10 mortgage processing centers and fire 2,500 employees. In November, mortgage company Ameriquest handed out 1,500 pink slips. The housing industry is braced for more belt-tightening.

"At best, people should prepare for no pay increase and no bonus, something they have been getting a lot of. At worst, they should be thinking they may need to change occupations," says Mark Zandi, chief economist at Moody's Economy.com in West Chester, Pa.

While it's painful for those involved, Zandi calls the slowing in housing "a necessary adjustment." The economy had gotten so dependent on housing that it needed to come down a bit to make the economy more evenly balanced.

"Housing has been flying high, and it's now coming back down to earth," he says.

Existing home sales fell in January for the fifth month in a row, and home builders Toll Bros. and KB Home say more buyers are canceling their orders. In all, home sales are expected to fall 8% from last year's record, according to a group of economists surveyed by USA TODAY in January.

That's going to make it harder, for example, for the nation's 2.6 million real estate agents to make a living. In a "normal" real estate market, the median income for an agent in business for two years or less is $12,852, according to the National Association of Realtors. (However, it picks up rapidly after that, with agents making about $47,187, after three to five years.)

Your income "is very unpredictable," says Janice Hofferber, who left her job as a Wall Street stock analyst in 2003 and tried her hand as an agent in Bay Head, N.J. She quit last September and became an investment adviser for Smith Barney. "You're not really building a business, you're building a reputation," explains Hofferber, 41. "There's no recurring revenue. Every year, you start at zero again. That wasn't really attractive."

It was no easier in the mortgage loan business, says Toney Goucher, who closed his restaurant in Arkansas and became a mortgage broker in 2002. When he joined Leader One Financial in Kansas, home sales were hot, interest rates were low, and anyone who wasn't buying was refinancing. Last summer, the market started drying up.

"It seemed like every month, we had another interest rate hike, and it got harder and harder to find clients," recalls Goucher, 55. "I joined organizations and networking groups to find more business. I called on Realtors every day — cold calling — I just didn't enjoy what I was doing anymore."

Goucher threw in the towel and put on an apron. After traveling to St. Louis for a conference, he opened Fat Toney's barbecue restaurant there in January.

So far, the economic impact of the downturn in housing has been soft. Other sectors of the economy are adding jobs. In February, employers added workers in a broad number of industries, such as retail, health care, restaurants and bars and state and local government. If that continues, those jobs will help take up some slack if people in housing-related fields find themselves out of work.

Plus, many economists expect housing to slow, but not to slide dramatically.

"We don't expect housing to completely collapse," says Anthony Chan, chief economist at JPMorgan Private Client Services, adding that the housing market might regain some momentum in 2007.

There are also a few trends that could reduce the blow to the economy:

·Construction. Although residential construction is weakening, commercial building is picking up, thanks to demand for new roads, government office buildings and retail shops. More than 768,000 people had jobs in the non-residential construction industry in February, the most in more than three years.

"The commercial market now seems to be on a pretty good upswing, and if housing loses ground, which I think is very likely, we will see some of those workers move into the non-residential side," says Dave Seiders, chief economist for the National Association of Home Builders.

Many of the skills used in home construction are transferable to commercial building.

"A carpenter can just as easily work in a non-residential building as … a residential building," says Michael Montgomery, an economist at Global Insight in Lexington, Mass.

·Hurricanes. Hurricanes last year damaged or destroyed 700,000 homes on the Gulf Coast, according to the Federal Emergency Management Agency, based on the number of families receiving federal housing aid.

Although it's unclear how many of those homes will be rebuilt, the process of rebuilding homes, businesses, roads and other infrastructure will likely create jobs for years to come.

·Refinancing. About 25% of outstanding mortgages in the fourth quarter were adjustable-rate mortgages, according to the Mortgage Bankers Association.

For those who got into the mortgage brokerage business, that's good news. Many homeowners will likely want to refinance their mortgages in the months and years ahead to lock in a fixed rate as interest rates are expected to rise, but not by a lot.

"That will kind of prop things (up) for awhile in terms of activity," Montgomery says

And plenty of people who got into the real estate market are determined to ride out any downturn.

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One of them is Steve Wydler, 37, who left his job as a lawyer at AOL's headquarters in Virginia in December 2002 to join his brother, Hans, an entrepreneur with a Harvard MBA who is a real estate agent.

The two are getting their brokers' licenses in Virginia and Maryland so they can operate throughout the Washington, D.C., area. They now employ three people and work with four other agents as a team. He makes more money now than he did at AOL.

"Personally, I'm not scared," he says. "We're not in it for the next sale. We're in it for the long haul."

But back in St. Louis, at Fat Toney's, Goucher says he has already gotten a couple of calls from mortgage brokers he knew in Kansas asking about possible franchise opportunities for his barbecue restaurant.

"They say, 'You're lucky you got out.' "

Parties Test Messages On Social Security And Medicare Drug Plan (RC)

By Louis Jacobson

Roll Call, March 20, 2006

With Congress gone for the St. Patrick's Day recess, there's a flurry of activity on both sides of the aisle over the Medicare prescription drug plan.

Republicans are aggressively touting the program, which debuted in January, while responding to criticism from Democrats — and, apparently, from many senior citizens — that the plan is too complex and offers too few benefits.

Building on Democratic efforts to stoke the issue back home, the Democratic Congressional Campaign Committee has unveiled an effort to boost challengers in key 2006 House contests by focusing on the drug benefit. The targeted districts so far include seats held by Republican Reps. Deborah Pryce (Ohio), Nancy Johnson (Conn.), Heather Wilson (N.M.), Steve Chabot (Ohio) and Rob Simmons (Conn.).

In this latest installment of our "Hot Topics" format, in which we gauge which competitive House and Senate races could be shaped by key issues this fall, we'll look at the impact of the Medicare drug plan and President Bush's efforts in 2005 to create personal accounts for Social Security.

Democrats are optimistic that they have a winning issue.

"Right now, seniors are squeezed on health care costs, energy prices and prescription medications, and I think that anxiety over retirement security has the potential to be a very important issue in the next election," said Brad Woodhouse, a spokesman for Americans United, the successor group to the now-defunct Americans United to Protect Social Security, a pro-Democratic group credited with helping kill Bush's Social Security overhaul.

Americans United last week announced a campaign attacking the drug plan, estimated to cost $3 million to $5 million, that will include advertisements and grass-roots organizing.

Because it's so new, the reaction to the Medicare drug plan is still evolving. But on another issue of special interest to seniors — Social Security — there's a long track record of politicians grappling with the fallout when they support major program changes. And, despite a reputation as the "third rail" of American politics, not all of that fallout has been decisively negative.

In an analysis published immediately after the 2002 election, Michael Tanner, director of the Cato Institute's Project on Social Security Choice, noted

that Republicans Elizabeth Dole (N.C.) and Lindsey Graham (S.C.) breezed to victory in Senate races despite their open support for individual accounts. Dole taunted her Democratic opponent, Erskine Bowles, by brandishing a blank sheet of paper and labeling it the "Bowles Social Security Plan."

Other Republican supporters of a Social Security overhaul who won Senate races that year despite taking fire from Democrats on the issue included John Cornyn (Texas), Saxby Chambliss (Ga.), Jim Talent (Mo.) and John Sununu (N.H.), according to Tanner. On the House side, GOP Reps. Shelley Moore Capito (W.Va.), Chris Chocola (Ind.) and John Kline (Minn.) also won tight races in which Democrats aggressively hit them on Social Security.

One obvious contest in which these issues will play a major role is the battle between Rep. Clay Shaw (R-Fla.) and Democratic state Sen. Ron Klein. Shaw represents a

Democratic-leaning district that has one of the largest populations of senior citizens in the country. The 13-term Republican has weathered tough challengers before, but Klein is expected to be the toughest yet.

As a senior Ways and Means Committee member, Shaw plays a key role in shaping Social Security policy. While he came out in support of an approach that was different from the president's, Democrats see enough similarities between the two that they can make an issue out of it.

"We haven't gone too far at this early stage of the campaign, but Bush's Social Security plan certainly didn't fly in the district, and it was glaringly obvious that President Bush didn't come down here when he was promoting it," said Klein's campaign manager, Brian Smoot.

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Smoot also sees the drug benefit as a potentially strong issue for his candidate. "The program is extremely complicated — there are editorials in local papers every day that voice the frustration of seniors in figuring it out," he said. Smoot added that "the plan does not do simple things, like allow the government to directly negotiate for lower prices, or reimport drugs from Canada. I think people will be extremely frustrated with it" by Election Day.

Shaw's office begs to differ. "In our district, seniors have expressed a need for reform because they're worried about whether there will be a Social Security system for the next generation or not," said Gail Gitcho, a spokeswoman for Shaw. "It's not just about what's happening to them but about what happens down the line, too."

Another hot race involving a key player in the Social Security debate is the dogfight between Sen. Rick Santorum (R-Pa.) and state Treasurer Bob Casey Jr. (D). Santorum was an early and energetic ally of Bush on Social Security reform, then later criticized the White House for tactical errors in how it rolled out and pitched the proposal.

Already, an air war has been launched in the Santorum-Casey race, with the conservative group Americans for Job Security placing ads that tout Santorum's commitment to Social Security and seniors. Casey and his allies have assailed the ad as misleading because it doesn't mention his support for personal accounts.

Another hot Senate race where Social Security has come up is in the re-election bid of Lincoln Chafee (R-R.I.). While Chafee opposed Bush's Social Security overhaul, the Democratic Senatorial Campaign Committee last year accused him of endorsing, in an interview with the Kent County Times, a related Bush proposal that Democrats blasted as a cut in Social Security benefits.

Seven of the 10 Congressional districts with the highest percentage of Social Security beneficiaries are held by Republicans, as are two-thirds of the top 25 districts. Of those top seven, five are in Florida, making the Sunshine State ground zero in the fight over Social Security and the Medicare drug benefit.

But so far, Susan MacManus, a political scientist at the University of South Florida, hasn't yet seen frustration with the drug benefit translate directly into anger at Members of Congress. "It doesn't appear to be creating animus — confusion, yes, but not blame yet," she said. "It's one of the balls in the air. I'm not sure if it will go flat or keep bouncing."

In addition to Shaw's seat, hot races in Florida that could be shaped by the issue include the contest between Sen. Bill Nelson (D) and Rep. Katherine Harris (R), as well as the races to fill House seats vacated by Harris and retiring Rep. Mike Bilirakis (R).

Longer-shot races in which Democrats seem likely to raise the issue against GOP incumbents include the re-election bids of Reps. Ric Keller, Mark Foley and Ginny Brown-Waite. The districts held by Foley and Brown-Waite cluster near the top of the rankings in proportion of constituents who receive Social Security benefits.

Still, MacManus urges caution when analyzing the potential impact of Social Security and Medicare on House Members: Seniors are not unanimous about the right policies to follow.

Some younger, more active and more affluent seniors do not automatically oppose reforming Social Security and would likely tolerate stricter means testing on benefit levels, she said. By contrast, the strongest support for keeping Social Security in its present form comes from lower-income seniors.

Politically, this distinction is important. Many of the Florida seniors who are more affluent live in Republican-held districts, she said, while lower-income seniors are likelier to live in Democratic-held districts. And that could lead to a status-quo result electorally — a reality that could put a damper on Democrats' hopes to ride Social Security and the Medicare drug benefit to victory in 2006.

Boehlert Hangs Up His Spikes (RC)

By Josh Kurtz and Ben Pershing

Roll Call, March 20, 2006

Rep. Sherwood Boehlert, the senior Republican in New York's Congressional delegation and a leading House moderate, announced Friday that he would not seek a 13th term.

Boehlert, who first came to Capitol Hill more than 40 years ago as a Congressional aide, said he was ready to do something else.

"It's time," the 69-year-old Congressman said during an appearance at a historic train station in his home town of Utica.

Boehlert's departure ensures that his central New York district will become a top target of the Democratic Congressional Campaign Committee, and it could spark a bitter fight among Republicans seeking to replace him.

Boehlert's retirement creates the 18th Republican House vacancy heading into November; his district isn't in the top tier of competitive open GOP seats, but it isn't far down the list.

In the House, Boehlert was termed out as chairman of the Science Committee but held out some hope that he could be handed the Transportation and Infrastructure gavel in the 110th Congress.

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In the wake of Boehlert's announcement Friday, both Democrats and Republicans sought to claim the advantage. Although Boehlert never had to sweat re-election — his toughest challenges came from the right in GOP primaries — the 24th district has only slightly leaned Republican in recent presidential and statewide elections.

"This is a district that a Democrat can win and should win because New York families deserve a voice in Congress who will not become irrelevant or simply act like a rubber stamp for the special interest Bush agenda," said Bill Burton, communications director for the DCCC.

Four Democrats already are running for Boehlert's seat, with Oneida County District Attorney Michael Arcuri, who formally entered the race just a week ago, seen as the preference of national and New York party leaders. The other candidates are lawyer Leon Koziol, college professor Les Roberts and former Cortland Mayor Bruce Tytler.

In a statement Friday, Arcuri praised Boehlert's service but said his centrist views were ignored in a Congress dominated by conservative Republicans.

"I think the people in the district want a change in how Congress operates," said Arcuri, who has been his county's top prosecutor for a dozen years.

Early indications Friday were that the Democratic field was not likely to grow significantly following Boehlert's announcement, although state Assemblywoman RoAnn Destito and former Oneonta Mayor Kim Muller have been mentioned as possible candidates.

But Democratic hopes of an epic primary struggle between two prominent Republican state Senators were dashed shortly after Boehlert's announcement.

In anticipation of Boehlert's retirement, state Sens. Ray Meier (R) and Jim Seward (R) have spent the past several weeks angling for support, and both recently used state campaign funds to run TV ads — ostensibly to promote issues they were working on in the Legislature.

But Seward issued a statement late Friday saying he would seek re-election in the fall — sparing the GOP the pain of a primary between the two lawmakers and minimizing the number of open seats in the state Senate, which they are fighting desperately to keep control of this year.

Meier is expected to formally announce his candidacy today, and the state's GOP establishment will almost certainly coalesce around him.

"Senator Meier is clearly the only A-level candidate on the Republican side who's shown an interest," said Scott Armstrong, a GOP consultant in New York who is working for Meier.

But Meier probably won't have the field to himself. Former Seneca Falls Mayor Brad Jones (R) was already challenging Boehlert from the right and is expected to stay in the race. Jones, who had $49,000 in his campaign account at the end of 2005, did not respond to a phone message left at his campaign headquarters Friday.

Other possible Republican candidates for the seat are James Griffo, the Oneida County executive — a position Boehlert held before he was elected to Congress in 1982 — and Catherine Bertini, a former undersecretary of management at the United Nations who fits Boehlert's moderate profile.

Brian Adey, a Griffo spokesman, said Friday that his boss will "continue to keep all of his options open at this point."

The small but influential New York Conservative Party could play a decisive role in the Republican scrum. The Conservatives have always been estranged from Boehlert and frequently ran candidates against him. With the Democrats putting up only nominal opposition, it didn't matter; but with the DCCC showing a renewed interest in the seat, a Republican-Conservative split could prove fatal to the GOP's ability to hold on to Boehlert's seat.

Before Boehlert retired, Jones seemed like a shoo-in for the Conservative nomination, but Meier has run with Conservative support before.

"The guy's got a pretty good conservative base," said Shaun Marie Levine, executive director of the state Conservative Party.

Levine said the party's executive committee would designate a nominee in July in consultation with the Conservative chairmen in the Congressional district's 11 counties. Another candidate could choose to force a primary in September with the choice of the Conservative leaders.

Because Boehlert was one of the stalwarts of the House GOP centrists, moderate groups also may push hard to elect one of their own. Boehlert is the third Republican moderate from New York to step down from the House in the past two cycles — Reps. Amo Houghton (R) and Jack Quinn (R) called it quits at the end of the 108th Congress.

Sarah Chamberlain Resnick, executive director of the Republican Main Street Partnership, said the organization's leaders knew for weeks that Boehlert was considering retiring, but they were hoping that he'd change his mind.

"It's a loss, but it's not a death," Resnick said.

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While Boehlert is well-respected by his fellow moderates and many lawmakers like the New Yorker personally, Boehlert will be remembered with mixed feelings by members of the leadership.

Boehlert has clashed frequently with Republican leaders on a variety of subjects, particularly environmental matters — and environmental groups lavishly praised him Friday.

Boehlert was a key player last year in persuading the Republican leadership to remove a provision from the budget reconciliation measure that would open the Arctic National Wildlife Refuge to oil and gas exploration. Boehlert eventually voted for the bill, but only after leaders added money back for Medicaid, dairy subsidies and food stamps.

Boehlert's frequent rebellions on key party issues made him a long shot to chair the Transportation committee in the 110th Congress, even though he is currently third in seniority on that panel.

With Boehlert gone, the race for the Transportation gavel remains somewhat in flux, with GOP Reps. Tom Petri (Wis.), John Duncan (Tenn.) and John Mica (Fla.) all interested in the post.

On the Science Committee, the most likely contenders for the gavel are GOP Reps. Ralph Hall (Texas) and Vernon Ehlers (Mich.).

Hall previously served as ranking member on the Science panel before he switched parties in 2004. Ehlers recently became House Administration chairman but told the Grand Rapids Press in January, "I would not let this stand in the way of being chairman of the Science Committee."

To his colleagues, Boehlert is perhaps best known as a baseball fanatic whose district includes the baseball Hall of Fame in Cooperstown. He cited future Hall of Fame pitcher Roger Clemens in his farewell remarks Friday.

"When I reflect on these 24 years in Congress I, to use the language of the House in which I serve, identify with the words of the distinguished gentleman Roger Clemens who, when asked about retirement, said, '...when I shut it down, I'll be walking away with a smile on my face,'" Boehlert said. "There will be no regrets because I feel like I've done it the right way.'

"Those are my sentiments. I do feel like I've done it the right way."

Rep. Sabo Calls It A Career (RC)

By Nicole Duran

Roll Call, March 20, 2006

Rep. Martin Sabo (D-Minn.) announced Saturday that he will retire at the end the 109th Congress instead of seeking a 15th term, as he previously said he would.

"It's time to move on," he said in a statement. "In my gut, I know the time is right."

The 68-year-old Congressman's announcement quickly set off a barrage of interest among potential candidates to succeed him in his heavily Democratic seat and on the Appropriations Committee.

Many Minnesota political observers believe that Sabo's chief of staff, Mike Erlandson, who surrendered the chairmanship of the state Democratic-Farmer-Labor Party last year, is the early frontrunner.

"It's a solid Democratic district so the question will be who will get the nomination and win the primary," said Jim Farrell, one-time spokesman to the late Sen. Paul Wellstone (D-Minn.). "I know Mike Erlandson is oft-talked about as a successor for that seat so I would think he would have the advantage."

Erlandson confirmed in an interview Friday evening that he hopes to succeed Sabo in the Minneapolis-based 5th district.

Other potential contenders, according to Minnesota Democratic sources, include: Peter McLauglin, who recently lost the Minneapolis mayoral contest; Sharon Sayles Belton, a former two-term Minneapolis mayor who lost to Mayor P.T. Rybak; state Sens. Scott Dibble and Satveer Chaudhury; state Rep. Keith Ellison; Minnesota House Minority Leader Margaret Anderson Kelliher; Julie Sabo, the Congressman's daughter and a former state Senator; Minneapolis City Council Majority Leader Scott Benson; and City Councilmembers Lisa Goodman and Gary Schiff.

Jack Nelson-Pallmeyer (D), a professor at the University of St. Thomas, opened a campaign office and was challenging Sabo at party precinct caucus, according to the Minneapolis Star-Tribune.

Republicans are not expected to seriously contest the 5th district, which gave Sen. John Kerry (D-Mass.) 71 percent of the vote in the 2004 presidential election.

Minnesota and national Democrats said they were surprised and saddened by the news that the 44-year public servant was leaving elective office.

"For his nearly 30 years in Congress, Martin Sabo has provided expertise and insight on crucial issues from national security to economic security," House Minority Leader Nancy Pelosi (D-Calif.) said in a statement. "In his tenure as the senior Democrat on the Homeland Security appropriations subcommittee, Congressman Sabo has worked tirelessly to strengthen the security of our nation. From Chairman of the Democratic Study Group to Chairman of the Budget Committee, he has always

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been a leader in our Caucus. His knowledge and commitment has earned him the respect and trust of his colleagues on both sides of the aisle.

"He will be missed," Pelosi concluded.

For his part Sabo said in prepared remarks that he will continue to "fight for peace and for more responsible budget policies" during the remainder of his term, adding that he's "looking forward to having more time for other things."

Sabo, a ranking member on an Appropriations subcommittee, briefly led the Budget Committee, ascending to the chairmanship in 1993 but relinquishing the gavel in 1995 after Republicans won control of the House.

While chairman he helped pass the largest deficit-reduction package in history, which led to surpluses at the end of former President Bill Clinton's administration.

The son of Norwegian immigrants, Sabo was first elected to the Minnesota state House in 1960 at the age of 22. He served as Speaker from 1969 to 1973 and was sent to Congress in 1978.

A pet issue of Sabo's is economic disparity. With regularity he has unsuccessfully introduced an Income Equity Act, which puts a cap on the wages of corporate CEOs.

Sabo is an avid baseball fan and did not let his passion for the game lie while serving in Congress.

He has managed the Democrats in the Annual Roll Call Congressional Baseball Game for 20 years, and while his team has lost more than it has won, Sabo will head back to Minnesota with the coveted Roll Call trophy he won in 1994.

It's too soon to determine who will succeed Sabo as manager, although Erlandson, who worked the game for Sabo for many years, could be a contender for that job as well.

Washington Whispers (USNEWS)

By Paul Bedard

U.S. News and World Report, March 20, 2006

SpongeBob on Brit Hume's Target List

The steady creep to the top for Brit Hume's nightly Special Report on Fox--not just the No.1 Washington-originated cable show but also the fourth in all basic cable at 6 p.m.--has the host eyeing the next victim. "We've been having a series of meetings here about how we can beat Nickelodeon," he says. "We just hope that they don't put SpongeBob SquarePants up against us." Fun aside, Hume's hourlong mix of news and debate now reaches 1.5 million nightly while dominating the key 25-to-54 age demographic. And it happened in a very un-Fox-like way: without fanfare, even though Hume has recently surged to the No. 2 spot among all cable news shows, after Bill O'Reilly.

When Special Report started in 1998, the goal was giving the growing Washington bureau some visibility. Now the top audience-getter of Washington shows, including CNN's Situation Room and MSNBC's Hardball, Hume says, "We kind of pinch ourselves." Like a good boss--Hume is the managing editor of the D.C. bureau--he credits his news team. But the "poisonous" mood in Washington doesn't hurt either. "For those who have a rooting interest in it," he says, "they want to hear about it."

While beating the pants off SpongeBob is a long-term goal, Hume has a more immediate worry: No. 12 ESPN's March Madness coverage. "If they've got games on at 6 at night," he frets, "that's gonna be tough."

California Condi Has a Nice Ring

She doesn't want to run the country, she says, but Condoleezza Rice is the hottest thing in politics right now. Pollster Frank Luntz did a straw poll at the recent California Republican convention. Guess who won? Stanford University's provost before joining the Bush administration, Rice was first with 29 percent, followed by Virginia Sen. George Allen at 26 percent and former New York Mayor Rudolph Giuliani at 16 percent. What's it mean? With Rice on the 2008 ticket, even as veep, California could go Republican.

CIA to Bloggers: Honor the Oath

The CIA's Publications Review Board is sending out terse reminders to agency veterans reminding them of the rules requiring that any writings--even blogs--must first get agency approval. Among those getting the warning is outspoken blogger and ex-agency man Larry Johnson, who smells censorship. "It's very selective," says Johnson, who has been critical of the CIA's failure to defend outed ex-spook Valerie Plame. His note from CIA brass referenced his blogging. A CIA spokesman described the reminder as standard operating procedure. "Should anyone be surprised if CIA reminds people of the obligations they voluntarily assumed?" asks the agency in a statement. Exempted from the review list: radio and TV appearances--unless written notes are used.

New Hints That, Yep, Rudy's In

Republicans looking for some excitement in the lead-up to the 2008 presidential race are starting to chant Rudy, Rudy, Rudy. While Rudolph Giuliani, New York's 9/11 mayor and national hero, hasn't talked about running, there are hints he's ready.

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A key Republican senator tells us that Rudy's peeps are already at work in Florida. And we hear that he's making a trip to Iowa--home of the first 2008 presidential caucus--to help raise money for Republican gubernatorial candidate Rep. Jim Nussle.

Rummy's Really a Pressroom Junkie

Imagine this: You're the dean of the Pentagon press corps and planning a retirement party miles away at your wire service's downtown Washington HQ. You invite SecDef Donald Rumsfeld, known for snarling at the press, and Gen. Peter Pace, chairman of the Joint Chiefs. And they show up! That's exactly what happened at Reuters last week at reporter Charlie Aldinger's retirement party. And attendees say it wasn't just a quickie stop. Pace gave Aldinger, 68, a medal for his service to the country--22 years on the beat--and he and Rumsfeld stayed for over two hours, a rare tribute to a journalist. "I was deeply moved by it all," says Aldinger.

The Coyotes on Old Wolf's Tail

OK, so we know that Fox is king of cable news, largely at CNN's expense, but now it looks like Ted Turner's brainchild is under attack from the other side. Little MSNBC is making an advance during the key 6 p.m.-to-9 p.m. period, hounding Wolf Blitzer's Situation Room, Paula Zahn, and Lou Dobbs. "This is really big news," says MSNBC's Jeremy Gaines. First, let's be clear: CNN has more viewers. But, as they say in TV, only the "demo" matters, and in the key 25-to-54 demographic that ad rates are based on, MSNBC is nipping at CNN. Here, The Abrams Report has seen a 35 percent jump in just a year, though it still lags behind Dobbs. But Hardball With Chris Matthews, up 52 percent, edges Blitzer by 1,000 viewers in the demo, and Countdown With Keith Olbermann, up 39 percent, ties Zahn. MSNBC's Gaines credits "consistency" and good hosts for the trend. At CNN, they note that total viewers are still higher and say that any February pop was due to MSNBC's Olympic coverage. "People were tuning in to watch Bode Miller slip and slide down a ski slope," says spokeswoman Edie Emery, "and they got Chris Matthews instead."

A Snapshot of Presidential Power

White House photographers last week got a lesson in presidential authority. Already in place for a Bush visit to a New York seniors facility, the newsmen were asked by the master of ceremonies if they'd take pictures of the crowd before President Bush arrived. No one stepped forward. That is until Bush heard and called on Reuters photographer Larry Downing to get snapping. "Ask and ye shall receive," grinned Bush. "The president just sort of ambushed me," said Downing. Downing is something of a Bush fave. In Istanbul in 2004, Downing recalls taking a picture of NATO officials, then pausing to write down their names. From behind, a man asked, "Do you need any help with the names?" It was the prez.

An Empire State Headache For Republicans? (RC)

By Stuart Rothenberg

Roll Call, March 20, 2006

Looking for a sign of whether a big Democratic wave is developing? Try New York.

Once a state with genuine political competitiveness where liberal Republicans (including Thomas Dewey, Jacob Javits, Nelson Rockefeller and Ken Keating) prospered, the Empire State has veered toward the Democrats over the past few decades.

Yes, New York Republicans have now held the governorship for three consecutive terms, and they retain their longtime lock on the state Senate. But Democrats hold more than a 2-to-1 advantage in the state's Congressional delegation as well as both Senate seats and an unassailable majority in the state Assembly. And, of course, no Republican presidential nominee has carried the state since Ronald Reagan's re-election landslide of 1984.

This cycle, Democrats are making a major effort to flip a handful of Congressional districts in the state, and they hope that strong Democratic showings at the top of the ticket, combined with a favorable national environment, could net them a seat or two in Congress.

Sen. Hillary Rodham Clinton (D) will coast to an easy re-election victory, and state Attorney General Eliot Spitzer is expected to win the Democratic nomination for governor and crush his eventual GOP opponent in November. Democrats also hope to make gains in the state Senate.

By contrast, New York political observers say Republicans have a chance to swipe only a single statewide office — attorney general — and even there, Westchester County District Attorney Jeanine Pirro, once thought of as a rising star, is off to another unimpressive start. Her competitiveness in that race stems from the baggage of the two leading Democratic contenders for the office, former Housing and Urban Development Secretary Andrew Cuomo and former New York City Public Advocate Mark Green.

Overall, national Democrats believe that the combination of good candidate recruitment in New York and a favorable political environment has put seven New York House districts "in play" this cycle. But do they really have a chance in any of them?

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In many ways, the best Democratic opportunity is in the 20th district (Saratoga Springs to Lake Placid), currently represented by Rep. John Sweeney (R), a four-term Congressman who previously served as New York labor commissioner and executive director of the state party.

His opponent, attorney Kirsten Gillibrand, 39, has good political bloodlines and worked in the Clinton administration. Attractive and personable, Gillibrand raised an impressive $370,000 through the end of December.

Sweeney has been hospitalized with high blood pressure, and he has ruffled some feathers within his own party, including backing candidates in county party races who eventually lost. He also has strained relations with outgoing Gov. George Pataki (R).

Just based on the numbers, Democrats should have their best shot at GOP Rep. Jim Walsh. Unlike the other six districts Democrats are targeting in the state, Walsh's Syracuse-centered 25th district was carried by Democratic Sen. John Kerry (Mass.) in 2004, 50 percent to 48 percent.

From an incumbency point of view, two GOP-held seats look particularly inviting. Rep. Sherwood Boehlert's retirement creates an open seat in the 24th district (Utica/Rome), while first-term Rep. Randy Kuhl drew an unimpressive 51 percent in the 29th district against a weak opponent last time, making him an obvious target this time.

Elsewhere, Democrats think they have a shot against GOP Reps. Sue Kelly in the 19th district, Tom Reynolds in the 26th district and Vito Fossella in the 13th district.

Reynolds, as chairman of the National Republican Congressional Committee, would be a particularly sweet trophy for Democrats, though his chairmanship gives him the means to fight back effectively against a strong challenge. Millionaire Jack Davis (D), who drew 44 percent against Reynolds last time, is running again.

As for Fossella's seat, Democrats hope that New York City Councilman Bill de Blasio will take him on.

Yet while this crop of Democratic opportunities is better than in the past, Democrats remain distinct underdogs in all of these seats.

State political observers argue that upstate voters turn out with clock-like consistency, and that any surge or decline in turnout is likely to occur downstate. And there are plenty of Bush Republicans in these Democratic-targeted districts. In 2004, Bush carried Sweeney's and Kelly's districts with 53 percent, Boehlert's with 52 percent, Kuhl's with 56 percent, and Reynolds' and Fossella's with 55 percent.

The numbers simply are against the Democrats in these districts. "There are too many cows, too many trees and too many Republicans" for Gillibrand to knock off Sweeney, one insider told me.

In Boehlert's district, Republicans are likely to nominate a popular GOP state Senator, probably Ray Meier, who actually looks to be stronger than Boehlert — who's repeatedly faced tough primaries with conservatives — would have been in November. And Walsh's likely opponent doesn't look strong enough to threaten the relatively popular Congressman.

While I found Kuhl's main challenger — retired naval officer and former Wesley Clark aide Eric Massa — to have an interesting background and potential appeal, I wasn't impressed that he ended December with just more than $87,000 in the bank.

The most recent buzz about a de Blasio challenge to Fossella ignores the fact that de Blasio is a Brooklyn-based politician who would have a difficult time in Fossella's district, which is dominated by Staten Island.

One last comfort for upstate Republicans is that state Senate Majority Leader Joe Bruno will pour big money into GOP-held state Senate districts to try to retain the party's 35-27 majority — a factor that could help Republican efforts to retain the seven Congressional districts Democrats are targeting.

Still, despite all the challenges facing Democrats in the New York Congressional races, the contests are worth watching. Political waves can build bigger and faster than anyone expects, and that fact alone makes the Empire State worth paying attention to. Just don't lay down money on any of the Democrats just yet.

Stuart Rothenberg is editor of the Rothenberg Political Report.

Bonnie And Clyde Budgeteers (WSJ)

The Wall Street Journal, March 20, 2006

Remember when Al Gore pledged to create a "lockbox" to protect Social Security trust fund surpluses from the annual Congressional spending raid? Well last week, while voting to raise the federal-debt ceiling to $8.96 trillion, Senators had a chance to terminate this notorious money-laundering scheme.

And guess what? Every Democrat in the Senate joined with eight Republicans to kill an amendment by GOP Senators Jim DeMint and Mike Crapo that would have stopped the Bonnie and Clyde budgeting. The vote was 53-46, and on the list of those voting to continue the Social Security raid is every potential 2008 Democratic Presidential aspirant in the Senate, including Hillary

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Clinton, John Kerry and Joe Biden. Worse, the list also includes Republicans Conrad Burns (Montana), Jim Talent (Missouri) and Gordon Smith (Oregon), who are running for re-election this year.

Apparently, these Senators want the money stored in a lock box, but only on the condition that they know how to pick the lock. The DeMint-Crapo proposal would deposit surplus payroll tax dollars in personalized bank accounts for each U.S. worker. This would in effect have created more than 100 million personalized lock boxes -- and as taxpayers' private property, well out of the reach of the politicians.

We're talking big dollars here. The payroll tax will collect some $80 billion more in taxes next year, and $436 billion more over the next five years, than Social Security will pay out to current retirees. Under today's law, Congress simply keeps that cash to spend itself. Under the DeMint-Crapo idea, the average young worker would be able to accumulate roughly $40,000 in tax-free wealth for retirement based on eight years of surplus tax payments and 30 years of interest.

And if you want to know why Members of Congress want to keep this annual spending raid going, all you have to do is look at the budget outline for Fiscal 2007 that this ostensibly Republican Senate passed last week. Gone was President Bush's proposal to reduce runaway entitlement spending by a modest $65 billion over five years. Gone, too, was the White House proposal to expand health-savings accounts, as a way to reduce the number of uninsured and reduce health-care costs. Making the 2003 tax cuts permanent? Not a chance.

Instead, the $2.8 trillion budget outline increased spending by $16 billion more than Mr. Bush requested. Some $7 billion of that was passed in an amendment by Senator Arlen Specter (R., Pa.), who has mastered the art of what are called "advanced appropriations," which means shifting spending items between fiscal years to evade even modest budget limits. "It's not sort of a gimmick. It is a gimmick," Mr. Specter was quoted in the Journal regarding this ruse. The vote on his amendment was 73-27, and a majority of Senate Republicans joined Democrats to pass it.

Mr. Bush can't veto a budget resolution, which is one more reason to reform the deliberately opaque budget process. And judging from last week's votes, Republicans aren't learning from their low approval ratings. They think the way out of trouble is simply to spend more money -- that is, to behave like Democrats. As long as they're behaving that way, conservative voters might well oblige them and sit home in November so next year we can get the real thing.

Katrina Lost & Found: Loyalty (WP)

By Al Kamen

The Washington Post, March 20, 2006

Politicians in Washington know bad things happen when you neglect the unglamorous but essential task of providing personal service to constituents.

Take the recent example of New York international banker and lifelong conservative Jeffrey Volk . Volk once worked in the Nixon White House for speechwriter Patrick J. Buchanan . He help draft Ronald Reagan 's economic platform in 1980.

Over the years he's contributed to and raised money for Republicans. In 1998, Volk was one of those who urged George W. Bush to run for president. He attended Bush's second gubernatorial inauguration that year in Austin and contributed to both Bush presidential campaigns, the Florida recount and attended the first presidential inauguration.

Volk, who saw the second plane hit the World Trade Center and ran away from a collapsing tower, found himself in New Orleans in August with his wife and daughter, a freshman at Tulane University, when Hurricane Katrina hit.

Volk figured they could ride it out at a downtown hotel. His daughter had no ticket home, he said and, besides, "usually they blow in and out." Not this time.

The huge hurricane struck on Sunday, and it wasn't long before arsonists and looters were prowling the streets, the hotel across the street was being ransacked, there were no lights and fresh water was barely running. Volk called the White House for help.

"I was sent to voice mail," he said, where he was told he could "leave your comments." He called back and asked to speak with someone from the Federal Emergency Management Agency. More voice mail. His third try got him to FEMA in Alabama, which had its own concerns. "I called a half-dozen times . . . there was no one to talk to."

"I decided I would call my senator," Hillary Rodham Clinton (D-N.Y.), whom he'd never met, Volk said. "An aide in Clinton's Washington Senate office took the call and said I needed to call Dan Burton , a caseworker in New York. When I called, he knew to expect a call from me.

"He basically said: 'What would you want Senator Clinton to do?' I said, 'Call [Gov. George E.] Pataki and get the National Guard plane and send it down for the New Yorkers.' "

Burton could not get the plane, but "he called two or three times a day to make sure we were okay," Volk recalled.

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"I can't begin to tell you how much that meant to us in that hotel," he said. "The fact that anyone in government cared that we were there meant maybe there was a list somewhere, maybe we could get out. It was enough just that someone in government knew we were there."

Finally, on Wednesday, hotel employees put together a five-car caravan to move the guests to Baton Rouge.

Upon his return to New York, Volk said he called a White House aide who told him they were getting overwhelmed with people calling to complain. "I said I wasn't calling to complain but to try to figure out how I was supposed to get out."

"I also arranged to meet [Clinton] and to say thank you for Dan Burton," Volk said. They had a long chat, and while "she and I don't agree on a lot of things," he said, there was common ground on key issues such as the need for a balanced budget, strong armed forces and health care concerns. "We need to get an informed debate going," Volk said. "I am thoroughly unhappy with the direction of our government."

The Dec. 11 Clinton fundraiser that he co-hosted raised nearly $100,000 for her Senate campaign. Would he support her in 2008 if she runs for president? "I probably would," Volk said.

Remember, constituent service.Stealth Spokesman Under Pentagon Wraps

Reporters at the Pentagon are still hoping to meet, perchance to interview, J. Dorrance Smith , who's been assistant secretary for public affairs since Jan. 4. One reporter spotted Smith leaving his office, but he accelerated before a question could be asked. Another apparently bumped into him in the men's room. And another body-blocked him in a hallway and managed to chat for a few minutes.

Things may not change soon because the Pentagon has decided to adopt the White House model of a communications director and a spokesman, with Smith directing and press aide Eric Ruff doing the speaking and the briefings.Longtime Pentagon Reporter Wraps It Up

Speaking of the Pentagon, retired Air Force Gen. Richard B. Myers , who left his post as chairman of the Joint Chiefs of Staff in September, has joined the board of directors of aerospace giant Northrop Grumman Corp. Under ethics rules, he's not allowed to go near his old F-4 for two years.

Also across the river, Reuters reporter Charlie Aldinger , dean of the Pentagon press corps, retired last week after 22 years covering seven secretaries. Aldinger won a word of praise, on the record, from Defense Secretary Donald H. Rumsfeld , who said Aldinger -- "even I have to admit, almost always gets it right -- or about right."

Mass. Loses Ground In Faith-based Funding (BOS)

By Scott Helman

The Boston Globe, March 20, 2006

Massachusetts has seen its share of faith-based grant funding from the US government plunge by more than a third over the past three years, new federal figures show.

Religious groups in the state took in $19.6 million in federal grants under the program last year, down from $29.9 million in 2003, according to figures released this month by the White House Office of Faith-Based and Community Initiatives. Only Idaho had a steeper drop during that period.

The 34 percent reduction for Massachusetts from 2003 to 2005, which came as funding to faith-based groups nationwide increased, occurred largely during the tenure of Governor Mitt Romney, a Republican who has touted his ties in Washington, D.C., as a boon for Massachusetts. Romney has also stepped up his outreach to evangelical and Catholic voters as he prepares for a potential run for president.

Last June, Romney, acknowledging the state could do more to help religious charities win federal money for their social service programs, appointed his wife, Ann, to lead the effort. Ann Romney, who has worked for years with charitable causes, was appointed with three months left in federal fiscal year 2005, so the newly released figures don't reflect her involvement.

"The reason Governor Romney established the state's first-ever, faith-based liaison and appointed his wife, Ann, to this new position is because we felt we could do more to help faith organizations in Massachusetts get access to money that would allow them to do good works in the community," Romney's communications director, Eric Fehrnstrom, said in an e-mail. "Previously, that wasn't being done."

GLOBE GRAPHIC: Reaching out

In Massachusetts, federal faith-based money has gone to housing, youth mentoring, and anti-drug programs, among others. The biggest recipients have been elderly housing organizations and the Black Ministerial Alliance of Greater Boston.

Since her appointment, Ann Romney has been a "dynamo" in encouraging more Massachusetts groups to go after federal grants, said Jim Towey, director of Office of Faith-Based and Community Initiatives. The payoffs from the state's new focus will be evident down the road, he said.

"I think the fruit of their strides will be clear in future years," Towey said.

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The decline in funding to Massachusetts has come as federal funding nationally to domestic faith-based programs has risen from $1.2 billion in 2003 to $1.6 billion in 2005, according to the Office of Faith-Based and Community Initiatives. The number of individual faith-based grants to the state has remained steady.

Massachusetts dropped from 13th place to 20th place overall during the three-year period. States in the West and Midwest saw the biggest increases, but every other New England state experienced a significant boost: Maine, New Hampshire, Rhode Island, and Vermont all saw their total grant funding more than double, while Connecticut saw a 69 percent increase. (The figures reflect federal fiscal years.)

Page 2 of 2 --The Office of Faith-Based and Community Initiatives has no role in allocating funding. It compiles information on some 23,000 grants made to faith-based groups from federal agencies such as the US Department of Housing and Urban Development and the US Department of Health and Human Services.

Federal officials caution that the awards list is meant only to be a snapshot, not a complete accounting of federal grant dollars to organizations with religious affiliations. Indeed, several past grant recipients in Massachusetts that are not on the government's list for 2005 say they should have been, because they did receive money that year.

Over the past three years, grants have gone to an array of organizations in Massachusetts. In 2005, for example, Catholic Social Services of Fall River received almost $300,000 for housing and abstinence-education programs, and Jewish Community Housing for the Elderly in Framingham received $7.9 million for senior housing.

The Black Ministerial Alliance of Greater Boston received a $1.4 million grant in 2005. The organization uses the money to help a host of community organizations set up and run their social service programs. The alliance, for example, worked with dozens of groups to create the High-Risk Youth Network, an initiative to expand services for youths and reduce violence among teens.

"From our experience, the program works," Harold Sparrow, executive director of the Black Ministerial Alliance, said of the faith-based initiative. "At a grass-roots level it's been effective and we've helped people."

GLOBE GRAPHIC: Reaching out

It's unclear exactly why Massachusetts didn't attract as much faith-based money in 2005 as it did in prior years. One explanation could be that the state received a few sizable, one-time grants in 2003. Towey also said that the competition for federal money has intensified, with many first-time applicants around the country making a pitch for funding.

"You can argue about how big the pot of money is or should be," Towey said. "[But] this is what happens in competitive grant programs . . . You're going to see the variances."

Towey was in Boston last June for a roundtable with religious and social service leaders, and he's coming back in May for a similar meeting and to tour a program that relies on federal grants.

Massachusetts is one of 32 states that has a faith-based liaison or office, but other states have had theirs up and running longer, helping to connect religious organizations with federal grant opportunities. Ohio created its faith-based office in 2003, Oklahoma established one in 2000, and Texas opened its office in 2004.

Sparrow said that concerns about the church-state separation and political opposition to the faith-based initiative are particularly strong in Massachusetts, which he said could cause some leaders here to be more reluctant to get involved than their counterparts in other states.

"In Massachusetts it's not politically correct to do that," Sparrow said. But US Representative Edward J. Markey said faith-based grants make up only a small fraction of all the federal money Massachusetts receives, which he said has remained steady over the past five years even as the state has lost population.

"Massachusetts is doing very well overall," Markey, a Democrat, said in a statement.

President Bush launched the faith-based initiative soon after taking office in 2001, saying he wanted to remove barriers that had prevented religious organizations from accessing federal funds.

The measure stalled in Congress, but Bush later ordered federal agencies to rewrite regulations to allow religious charities to compete for federal contracts.

Many religiously affiliated charities had been getting government money before, but the change has opened the door for many others.

Critics say the faith-based initiative is little more than a political strategy to help Republicans court voters around the country, particularly African-Americans and Hispanics in so-called swing states. Bob Wineburg, a professor of social work at the University of North Carolina-Greensboro and critic of the effort, said the Bush administration is simply interested in shoring up support among conservatives.

"This is about politics," Wineburg said. "This is not about effective social-services delivery."

Towey rejects suggestions that the money is distributed for political advantage.

"The issue is not about regions, it's not about religions," he said. "It's about results."

For Bridge Over Troubled Waters, a Boston organization that helps runaway and homeless youths, the federal money has produced results.

The organization uses a federal grant to fund a mobile health van, manned by volunteers, that goes out every night to Harvard Square, Dudley Square, the Park Street T station, and other areas of the city to develop relationships with youths and connect them with other services.

"That's what opens the door to having a conversation with these kids," said Carol Phillips, director of development and public relations for Bridge Over Troubled Waters.

Work Starts On Islamic High School (WP)

By Daniel De Vise

The Washington Post, March 20, 2006

Construction has begun on a 20-acre campus near Annapolis that will house an Islamic high school, a television station, athletic facilities and eventually a college, according to project directors.

Mohammad Arafa, executive director of the Islamic Society of Annapolis, said the Mekkah Learning Center will be the first Islamic high school in the region. Work will progress on the $8 million project only as fast as donations permit; religious law forbids the society to take out a loan with interest.

The school will complement two established Islamic schools in the region, Al-Huda School in College Park and Al-Rahmah School in Baltimore, each serving a few hundred students up to the middle-school grades. Arafa said he has the support of 22 Muslim leaders across Maryland.

He envisions the campus as a means "to help our children to be Americans and Muslims without having to compromise their identity" and as a place where Muslims and non-Muslims can gather to bridge their differences.

He hopes there will not be a fight. Islamic schools and mosques have engendered fear and suspicion across the Washington region, both before and since the Sept. 11, 2001, attacks, whose creators purported to be acting in Allah's name.

Perhaps the most explosive case, which preceded the 2001 attacks, was a proposed $80 million complex for the Islamic Saudi Academy in Ashburn. Partly financed by the government of Saudi Arabia, the project thoroughly divided the community in 1998. Some residents said the school, given its backing, might pose a security risk.

Protest later subsided, but in 2004, academy officials decided not to pursue the project, according to Dave Kovalik, school spokesman. The academy serves 1,000 students in preschool through grade 12 at campuses in Burke and Alexandria. It is the only accredited Islamic high school program in the Washington-Baltimore region, Kovalik said. Some students travel from as far as Waldorf.

Arafa said the idea for the Mekkah school took root in the 2001 attacks and the resulting need for Muslims in Maryland to express the peaceful nature of their faith. A release for the new school states that "it is imperative that area Muslims get the message out as to the true peaceful nature of Islam."

He recalls fielding 106 telephone calls after Sept. 11; 104 were supportive, and two were not.

But when he learned last year that the Islamic Society's lease in a strip mall on Forest Drive would not be renewed because of parking concerns, Arafa found the search for a new home to be an exercise in rejection. Arafa said at least eight prospective landlords turned him away after learning the identity of the tenant. Mosques and Islamic schools nationwide have been victims of anti-Muslim vandalism and other hate crimes, as well as allegations that their facilities are harboring terrorists.

"They turn around, as soon as they find out who it is, and say, 'Sorry, we don't want you,' " said Martha Scott, a spokeswoman for the society, which offers prayer services for a congregation of about 250 families.

The nascent school garnered its first publicity early this month, in a write-up in the Annapolis newspaper. Afterward, neither the county nor the society received any complaints, officials said, an encouraging sign. Scott said the news coverage even improved the group's reception as a prospective tenant, with some landlords indicating that they wanted to reconsider the society's application. The society will maintain its headquarters at a separate location.

When Arafa first saw the Millersville property and learned that the asking price for the prospective campus was $550,000, he told the real estate agent that the society could never afford it: "First of all, we don't deal with interest. Second of all, we are broke. Third of all, we don't have assets."

Much to his surprise, the seller agreed to an interest-free installment plan. About two-thirds of the purchase price has been paid, he said.

Arafa cannot predict when classes will begin on the site, southwest of where Crain Highway meets Interstate 97. The next wave of fundraising will pay for grading work and a septic system. School organizers hope they can offer classes in fall.

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The first building will house a prayer hall, assembly rooms and space for two ninth-grade classes, one for boys and one for girls. Arafa hopes to add one grade each year, eventually serving 250 to 300 students. Plans call for 171,000 square feet of building space.

If all goes as planned, he said, the school will be a place "where you can give me the child at 3 years old and he can finish with a PhD."

Shama Farooq, civil rights director of the Council on American-Islamic Relations for Maryland and Virginia, said Arafa is probably correct in predicting that the school will draw students from the broader Baltimore-Washington region.

"Obviously, people are sending their children to Islamic middle schools, and they're trying to find Islamic high schools as well," she said. "I know of people who drive their children 30, 40 miles to private schools."

Hamas Presents Proposed Cabinet (AP)

By Ibrahim Barzak, Associated Press Writer

AP, March 20, 2006

Hamas presented a proposed government Sunday, giving itself key ministries after failing to persuade more moderate parties to join in a coalition that could have softened its hard-line image and prevented likely economic sanctions.

Incoming Prime Minister Ismail Haniyeh presented Palestinian President Mahmoud Abbas with a 24-member Cabinet made up of Hamas activists and professionals, including one woman and one Christian. Fellow Hamas leader Mahmoud Zahar would be the new foreign minister.

Earlier Sunday, Israeli and Palestinian negotiators reached a tentative agreement on opening at least one crossing into Gaza to get aid into the Palestinian area. The agreement was reached at a meeting called by the United States to alleviate the humanitarian crisis in Gaza.

Hamas swept to victory in January 25 parliamentary elections, but despite nearly two months of negotiations, it was unable to persuade any other faction to join. Hamas was not prepared to compromise on its basic principles — the right to violent resistance against Israel and refusal to accept the Jewish state.

Failure to bring moderate forces into its government is likely to strengthen Western resolve to cut off desperately needed aid. The United States and European Union have threatened to cut off hundreds of millions of dollars of aid to the Palestinians if Hamas does not renounce violence, recognize Israel and promise to honor existing peace agreements.

Last week a World Bank report warned of economic disaster in Gaza if aid is cut off. Hamas has killed hundreds of Israelis in suicide bombings.

Abbas said he would submit the list to the Palestine Liberation Organization executive committee and then to the parliament if it approves. PLO approval is expected to take several days.

Haniyeh said he was optimistic his Cabinet would win approval. "I can say that the indications are positive toward constitutional stability on the Palestinian platform," he said.

The Cabinet list also includes Gaza Hamas leader Said Siam as interior minister, in charge of some of the security forces. Ten of the ministers would be from Gaza and 14 from the West Bank.

Abbas, who favors negotiating a final peace settlement with Israel, has urged Hamas to moderate its violent ideology but likely will approve the Cabinet, his aides said.

Abbas was elected separately last year to a four-year term and wields considerable authority. He cannot impose his own Cabinet lineup on Hamas, however, because it controls an absolute majority in the legislature.

With Palestinians facing severe shortages of bread, milk and other foods in Gaza, U.S. officials called an emergency meeting Sunday at the home of U.S. Ambassador Richard Jones and brokered a compromise with Israeli and Palestinian negotiators in a two-month-old border standoff.

Afterward, Jones told reporters, "We have agreed that the crossing from Kerem Shalom will open tomorrow for imports of food and other essential humanitarian products from Egypt," and details would be worked out Monday.

Palestinian negotiator Saeb Erekat, who took part in the Sunday meeting, said he hoped both Kerem Shalom and Karni would reopen Monday.

"I hope they will succeed in allowing goods to come into Gaza as of tomorrow to alleviate the dire humanitarian situation in Gaza," he told The Associated Press. He said Egyptian trucks were already lining up across from Kerem Shalom.

Israeli negotiator Amos Gilad said the Palestinians had to arrest militants before Karni could open. The vital cargo crossing between Israel and Gaza has been closed for most of the past two months, shutting off almost all exports and imports for the poverty-stricken seaside territory.

Palestinians charge Israel is punishing them for Hamas' election victory, but Israel insists it is keeping the crossing shut because of warnings of terror attacks.

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Under an agreement brokered by Secretary of State Condoleezza Rice in November, Israel and the Palestinians agreed to boost cargo traffic through the crossing. The accord was meant to give momentum to peace efforts and economic recovery programs after Israel's summer pullout from Gaza.

The Karni deal was never implemented, and Israel has closed the crossing for long periods, citing security concerns.

Hamas Presents Cabinet To Palestinian President (USAT)

By Matthew Gutman

USA Today, March 20, 2006

RAMALLAH, West Bank — Hamas on Sunday presented a new Cabinet to Palestinian President Mahmoud Abbas that is dominated by veteran members of the militant Islamic group.

Hamas' month-long effort to recruit other factions into the government after winning parliamentary elections Jan. 25 failed.

Prime Minister-designate Ismail Haniyeh unveiled his lineup of 24 ministers after presenting the list to Abbas. Haniyeh told reporters in Gaza that Abbas "will study the names and the program of the Cabinet" before deciding whether to accept the new Palestinian government.

"The president will approve Hamas' list," chief Palestinian negotiator Saeb Erekat said in a telephone interview. Erekat added that Abbas retains the constitutional power to fire a Hamas Cabinet if it rejects previously signed Palestinian agreements.

Hamas, which refuses to recognize Israel, is on the U.S. State Department's list of terrorist organizations.

Asad Mubarak, Hamas' parliament leader, said in an interview that the group's armed resistance to Israel's occupation of the West Bank would continue until "it totally withdraws from our land." He added: "We've fought for 100 years and can resist for 20 more, if that's what it takes."

Haniyeh tapped Mahmoud Zahar, who survived an Israeli bombing of his home in 2003, as foreign minister. Said Siam will be interior minister in charge of Palestinian security services. Omar Abdel Razik, an economist at An-Najah National University in Nablus, will take over as finance minister. Haniyeh described his Cabinet, which will include a woman and a Christian, as full of "professionals, experts and technocrats," Reuters reported.

Erekat said it could take a week for the Cabinet and Hamas' political program to receive final approval from the parliament.

Since Hamas' electoral victory, the United States and the European Union have cut almost $1 billion in annual aid and monetary transfers to the Palestinian Authority, citing Hamas' refusal to recognize Israel and peace agreements.

Israel also has refused to transfer tax money to the new Palestinian government.

Mubarak said Hamas is raising funds in Iran and other Persian Gulf states to fill the Palestinian treasury's $1 billion shortfall. "Iran has promised to cover whatever the U.S. and the European Union do not give," he said. He conceded that no money has reached the Palestinian treasury so far.

An economic collapse could be insignificant when compared with the political fallout, said Iyad Barghouti, director of the Ramallah Center for Human Rights Studies. "For the first time since (the Palestinian Authority was established in 1994), there is no common ground at all between the Palestinians and Israelis," he said.

Suheil Tammuz, who owns a cellphone shop in Ramallah, voted for Hamas because he wanted "Fatah's reign of corruption to be over," he said, referring to Abbas' party. However, an isolated Hamas is bad for business and for the Palestinians, he said.

Tammuz had hoped for a national unity government. Without it, he worried that "foreign aid will end and people could go hungry." He said: "Spring has started, but the days ahead are dark."

Hamas Likely To Take Key Cabinet Posts (FT)

By Harvey Morris

Financial Times, March 20, 2006

Hamas, the Islamist movement that won control of the Palestinian parliament in elections in January, has abandoned attempts to form a national unity government and was on Sunday night due to announce a cabinet in which it would hold the key posts.

A meeting was scheduled in the Gaza Strip between Ismail Haniya, Hamas's prime minister-designate, and Mahmoud Abbas, Palestinian Authority president, who must approve the cabinet list before it goes forward to the 132-member parliament for confirmation.

With 74 seats in the assembly, Hamas was certain to have its nominees, many of them technocrats, accepted. However, people close to Mr Abbas said a vote might be deferred until after Israeli elections on March 28.

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Hamas's failure to persuade Mr Abbas's defeated Fatah party and other factions to join the government looked certain to worsen the international isolation of the PA. International aid donors have said they would not deal with a government run by a party regarded by the US and the European Union as a terrorist organisation.

Fatah and a number of small moderate parties decided against taking cabinet posts, although all denied they were responding to US pressure to stay out of government.

Hamas was left entirely on its own on Sunday when the leftwing secular Popular Front for the Liberation of Palestine (PFLP) belatedly announced it would also decline portfolios.

Ahmed Sa'adat, the PFLP's leader and one of its three elected representatives, was seized by Israeli forces in last week's Jericho prison siege and transferred to Israel where he is wanted for the murder of an Israeli cabinet minister.

According to an unofficial cabinet list circulating in Gaza, Hamas parliamentarians will take the senior ministries in a 24-member government. Most portfolios would go to technocrats.

Mr Haniya would serve as prime minister, a post introduced in 2003 under international pressure by a reluctant Yassir Arafat, Mr Abbas's predecessor, to dilute the powers of the presidency.

The Hamas members were likely to include Mahmoud Zahar, a Gaza leader, as foreign minister, with Said Siyyam as interior minister in charge of at least some branches of the PA's 70,000-strong security forces.

Omar Abdel-Razeq, a Nablus university economics professor recently released from Israeli administrative detention, was expected to be named finance minister.

His tasks will include finding the resources to pay salaries for the security forces and a similar number of other public employees in the face of a threatened international funding boycott. Public sector salaries support about a quarter of the 3.5m people of Gaza and the West Bank.

Mr Abbas was expected to approve the cabinet despite Hamas's refusal to commit itself to all agreements with Israel previously entered into by the Fatah-dominated PA

Key Hamas Cabinet Posts Go To Hard-liners (CSM)

By Ilene R. Prusher

The Christian Science Monitor, March 20, 2006

JERUSALEM - Hamas introduced a cabinet Sunday that creates a hard-line Palestinian government - lacking moderate forces and led by some of the Islamic organization's most militant actors. It's a signal, say analysts, that the Palestinian leadership appears willing to forgo much of the funding it has been receiving from Western nations.

The crucial diplomatic position of foreign minister, for example, went to Mahmoud Zahar, who is adamantly opposed to any softening of Hamas's position that Israel should be destroyed. Dr. Zahar is known for his fiery rhetoric and vocal support for the organization's use of suicide bombings.

"The international community has to respect the choice of the Palestinian people," says Ahmed Abdel-Aziz Mubarek, a newly elected Hamas legislator from Ramallah. "The majority of the Palestinian people gave their votes to Hamas to establish the new government, so the world has to deal with this reality."

The world's response, however, is an increasingly complicated matter. Countries that have in the past been actively engaged in the now-dormant peace process and in giving aid to the Palestinian Authority (PA) are facing a difficult choice: how to withhold political support for Hamas without turning off humanitarian aid, especially at a time of increased instability. It is not clear how much of the estimated $1 billion a year the Palestinians get in foreign aid might be withheld. Hamas has vowed to replace it with funds from Iran and other Muslim states.

Russia and Turkey, a moderate Muslim country, recently hosted Hamas delegations in the wake of the January election landslide. But Israel, the US, and the European Union have shunned any political contacts with Hamas unless it meets several criteria outlined by UN Secretary-General Kofi Annan in January: recognize Israel, respect previously signed peace accords, and forswear violence.

Zahar, a physician, has risen to become one of the organization's most senior members, particularly since several others in the uppermost echelons of the Islamic organization were assassinated by Israel over the past few years. Zahar, too, has been the target of at least two Israeli attempts to kill him, making it unlikely, say analysts, that he or his Israeli counterparts will soon sit at the same negotiating table.

While Zahar is viewed as unbending in his beliefs, says Mr. Mubarek, that does not mean that he will define the entire outlook of the PA.

"The policy of the government will not be swayed by one member of the government only," says Mubarek. "That Mahmoud Zahar will be foreign minister will not make too much of a difference in how we approach things, because the government has its

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policy, and all the members will have to work according to this policy. We will ask the international community to force Israel to give the Palestinian people their rights."

In a government platform released this weekend, Hamas outlined what it believes those rights to be: the right of return for all Palestinian refugees to their land, a release of Palestinian prisoners, and an end to the Israeli occupation. The document, as translated by Reuters, says if Israel withdraws from the land it occupied in 1967, including East Jerusalem, "it will be possible to look into a mechanism of negotiation."

But Zahar, expressing a more rigid view of the conflict, has long said that all of historical Palestine is holy to Islam and must be liberated. He says that altering Hamas's charter, which calls for the Jewish state's destruction, is out of the question; Israel has said it won't deal with Hamas under the current charter.

From Israel's point of view, Zahar as foreign minister - a post that had never officially been filled in the past - is simply a symbol of what Israel faces with Hamas at the helm.

"The problem is not with the particular personalities in the cabinet: the problem is that it is a Hamas cabinet," says Israeli foreign ministry spokesman Mark Regev. "Zahar is particularly outrageous in what he says, but he's more honest than some of the other ones." Without moderating their viewpoint, he predicts, the new cabinet may lead to a situation where the PA will become a pariah government.

Several other senior figures in Hamas named to the Cabinet are considered to be relatively moderate. These include Said Siyam, who was tapped to be interior minister, and Omar Abdel Razeq, who would serve as finance minister. About half of the seats in the 24-member cabinet go to Hamas members, while other ministries were expected to be given to independent lawmakers of professionals with technical experience.

Western officials initially hoped that Palestinian President Mahmoud Abbas of the heretofore ruling Fatah faction - whose leaders reached a historic peace deal with Israel in 1993 - could act as a go-between, bridging the gap between Hamas and Israel.

Mr. Abbas, who was directly elected more than a year ago following the death of long-reining PLO leader Yasser Arafat, technically holds presidential powers that enable him to override legislative branch decisions by vetoing them. But Abbas is in an increasingly weak position following Israel's raid last week on a prison in the West Bank city of Jericho, which embarrassed Abbas and only underscored his political ineffectiveness.

"Today I will meet [Prime Minister] Ismail Haniyeh and we will see the [formation] of the cabinet. After that the legal procedures will take place such as going to [parliament] and the swearing in," Abbas told a news conference Sunday at the Rafah terminal on the Egyptian border.

· Material from Reuters was used in this report.

Hamas, Failing To Find Partners, Proposes Cabinet (NYT)

By Greg Myre

The New York Times, March 20, 2006

JERUSALEM, March 19 — Hamas delivered its proposed cabinet list to the Palestinian Authority president, Mahmoud Abbas, on Sunday night. Hamas is expected to control the most important government ministries after weeks of negotiations failed to persuade other Palestinian parties to join its government.

Ismail Haniya, the Hamas leader and prime minister-designate, presented the lineup to Mr. Abbas at a meeting in Gaza City. Pressed by reporters, Mr. Abbas declined to say whether he would give his approval, though aides said he was likely to do so. He said he would convene the Palestinian legislature, in which the militant Islamic Hamas has an absolute majority, for a vote of confidence on the cabinet.

"I pray to God to help us," Mr. Abbas said. "The task is not easy, neither for us nor for the new government."

He added: "There are great difficulties and many obstacles ahead. But with determination and the support of our people, things will move ahead."

Mr. Haniya declined to make public the names of the proposed ministers in the 24-member cabinet, though he said it would include "professionals, experts and technocrats," in addition to Hamas members. However, Mr. Abbas's Fatah movement and all other Palestinian parties rejected Hamas's invitation to join a government of national unity. Negotiations between Hamas and the Popular Front for the Liberation of Palestine, a small, militant faction, continued until the last moment, but the group opted out.

In remarks to reporters, Mr. Haniya did say that two prominent Hamas leaders — Dr. Mahmoud Zahar and Said Siam — would be in the cabinet, though he did not give their positions. However, Dr. Zahar, more confrontational in his public comments than Mr. Haniya, is expected to become foreign minister, and Mr. Siam is believed to be the choice for interior minister, which would give him authority over the police and other branches of the security forces.

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Since Hamas won the Palestinian parliamentary elections on Jan. 25, Mr. Haniya and other Hamas leaders have held a number of seemingly cordial meetings with Mr. Abbas. However, the relationship could become much more complicated once Hamas formally assumes power.

In another development, the United States ambassador to Israel, Richard H. Jones, brokered a Sunday night meeting in which Israel and the Palestinians reached a deal to allow food and other essential supplies to go into the Gaza Strip beginning Monday.

Citing security concerns, Israel has kept the Karni crossing, the main commercial goods terminal on Gaza's border, closed for most of the past two months. Palestinian and United Nations officials say Gaza is facing shortages of bread and other basic foods because the crossing has been closed.

Mr. Jones brought Israeli and Palestinian negotiators to his residence near Tel Aviv, and an agreement was reached to open the Kerem Shalom terminal, near where the borders of Israel, Gaza and Egypt converge.

Israel's Agriculture Ministry on Sunday was supervising the destruction of hundreds of thousands of chickens and turkeys in southern and central Israel in response to the discovery of the A(H5N1) strain of bird flu.

"It is important to emphasize that at this stage, we are talking only about bird flu," the acting prime minister, Ehud Olmert, said at the regular cabinet meeting on Sunday.

Mr. Olmert and other government officials have said there is no evidence that any people in Israel have been infected. Four farmworkers were hospitalized Friday, but health officials said tests showed they did not have the disease, which can be deadly to humans.

Hamas Party Dominates Palestinian Cabinet Picks (WT)

By Joshua Mitnick

The Washington Times, March 20, 2006

JERUSALEM -- Prime Minister-designate Ismail Haniyeh announced a Palestinian Cabinet dominated by his Hamas party yesterday as the U.S. diplomats pressed Palestinian and Israeli officials to head off a potential humanitarian crisis in the Gaza Strip.

The key posts went to Mahmoud Zahar, a trained physician who was tapped as foreign minister; Said Siam, a reputed former leader of the Hamas military wing who was nominated as interior minister; and Omar Abdul Razeq, an economics professor tapped as finance minister.

The 24-member Cabinet includes one woman and one Christian.

Despite the Islamic militant group's failure to persuade the defeated Fatah party to join the government, Mr. Haniyeh and Palestinian Authority President Mahmoud Abbas appeared upbeat after a meeting in Gaza City to discuss the Cabinet and its policy guidelines.

Observers saw the atmosphere as a sign that Mr. Abbas will approve the first Palestinian government run by Islamists, even though Hamas rejected a demand by the president that the new government recognize international agreements reached by the outgoing Fatah-led administration.

"The meeting was positive," said Mr. Abbas, who told reporters that he plans to seek approval from the Palestine Liberation Organization for the new government within 48 hours. "There are obstacles and difficulties, but with good will we can overcome them."

Hours earlier, Israeli, Palestinian and U.S. negotiators agreed on a new crossing arrangement for the Israel-Gaza Strip border, averting the threat of food shortages. Israel has kept Gaza's only commercial crossing closed for much of the past two months because of security concerns.

During a meeting at the residence of the U.S. ambassador to Israel, Palestinians and Israelis agreed to open a second crossing, Kerem Shalom, to the limited passage of goods. Hamas was not a party to the negotiations, but the agreement will boost stability among Palestinians as the new government gets under way.

Hamas' failure to find a coalition partner means that the inexperienced Islamic militants will have to manage the Palestinian government on their own. Observers said a political conflict between Mr. Abbas and Hamas will be unavoidable if Mr. Haniyeh's government fails to establish domestic stability and maintain international support.

"Crises are expected unless Hamas is a surprise," said Sliman Shafi, a Palestinian affairs expert on Israel's Channel 2 television news. "If, within a month, nothing is progressing internally and externally, [Mr. Abbas] will say, 'Guys, get to work.' "

The choice of Mr. Zahar as foreign minister could complicate that effort. Mr. Zahar -- perhaps the most senior Hamas leader in Gaza alive after an Israeli assassination campaign two years ago -- speaks English but is known to be a blunt hard-liner.

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Mr. Siam, a relatively unknown political figure, will get control of most of the Palestinian security services and will be expected to address effective anarchy in the Gaza Strip.

Abdul Razeq, who recently was released from an Israeli jail, is an economics professor at An Najah University in Nablus, and will be responsible for coping with a looming budgetary crisis created by the cutoff of financial aid from the United States and Europe.

Mr. Haniyeh reportedly nominated a deputy, Nasser A-Din, to handle West Bank affairs because the Israelis refuse to allow the prime minister to travel between his Gaza Strip home and the West Bank.

If Mr. Abbas confirms the nominations, the Cabinet will be brought before the Hamas-dominated Palestinian parliament for what is expected to be routine approval.

Israeli Defense Minister Shaul Mofaz said the presentation of the Cabinet was a "moment of truth" for Mr. Abbas because he will have to decide whether to work with the Islamic militants or confront them.

Foreign Minister Tzipi Livni called for the international community to send a clear message to the new Palestinian lawmakers that they must come to terms with Israel.

Israel has said that it will not deal with a Palestinian government run by Hamas.

Hamas Is Alone In Cabinet Plan (WP)

By Scott Wilson

The Washington Post, March 20, 2006

JERUSALEM, March 19 -- Hamas finalized a proposed cabinet Sunday that would place several key ministries in the hands of senior leaders but not include any other Palestinian faction, precisely the narrowly partisan government that the radical Islamic movement had hoped to avoid.

Ismail Haniyeh, the designated prime minister, submitted the list to Palestinian leader Mahmoud Abbas, whose secular Fatah party declined to join the cabinet. The cabinet's makeup is likely to complicate efforts to persuade international donors to continue funding the government once Hamas, designated a terrorist organization by the United States and European Union, assumes control of the ministries.

"Their task was to have as wide a government as possible with Fatah, other factions and independents," said Ali Jarbawi, a political science professor at Beir Zeit University in the West Bank. "The cabinet they have proposed will be, in effect, all Hamas. They are facing a deep problem."

Also Sunday, the U.S. ambassador to Israel assembled Israeli and Palestinian delegations to discuss mounting humanitarian problems in the Gaza Strip resulting from closures of the main cargo passage with Israel. The Karni crossing has been shut for most of the year because of Israeli security concerns, but shortages of food and medicine are beginning to threaten the welfare of Gaza's 1.3 million residents.

Richard Jones, the U.S. ambassador, called the meeting in Tel Aviv on a few hours' notice to salvage a U.S.-brokered deal setting out the terms of operation at Karni following Israel's withdrawal from Gaza last fall. In recent weeks, Israeli officials have made clear they want the Palestinians to use a southern passage at the intersection of Gaza, Israel and Egypt, far from the strip's economic center in the north, rather than Karni.

Palestinian officials had refused, citing terms of the deal. But the delegations decided Sunday to open the southern passage, known as Kerem Shalom, on Monday for humanitarian deliveries from Egypt.

"The ambassador took the initiative to bring the parties together to find a way to move humanitarian assistance into Gaza in a way that addressed security concerns on both sides," said Stewart Tuttle, the U.S. Embassy spokesman.

Haniyeh's proposed cabinet, which was due by the end of the month, could change in the weeks ahead. Hamas will probably continue seeking partners to broaden its domestic support and assuage international donors, who supply nearly half of the Palestinian Authority's roughly $2 billion annual budget.

Abbas has demanded that Hamas accept several signed agreements backed by his Fatah party that would, in effect, amount to a recognition of Israel. Although Palestinian law does not give him the authority to veto the proposed cabinet, Abbas could fire Haniyeh immediately after it is sworn in by the Hamas-dominated legislature elected in January.

Hamas leaders so far have rejected Abbas's demands and pledged to continue confronting Israel "by all means." Abbas's aides have indicated in recent days that he will give Hamas a chance to run the ministries while working to persuade its leaders to endorse a negotiated two-state solution to the conflict.

Abbas will likely wait a few weeks to forward the proposed cabinet to parliament, the Palestinian Legislative Council. The delay would allow Israeli elections on March 28 to conclude before Hamas takes control of the ministries, a transition that could otherwise boost the showing of Israel's most hawkish parties. It would also give Haniyeh more time to recruit another Palestinian party for the cabinet, ideally Fatah, which controls the second-largest parliamentary bloc.

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Haniyeh came close to bringing in the Popular Front for the Liberation of Palestine, a Marxist party that, like Hamas, appears on the U.S. list of foreign terrorist organizations. But the leaders of the party, which holds three of parliament's 132 seats, announced Sunday that they would not participate.

The Palestinian Authority is already in severe financial straits. International donors are considering ways of financing humanitarian programs for the Palestinians outside channels controlled by Hamas, whose charter calls for Israel's destruction.

Israel has frozen the monthly transfer of about $55 million in tax and customs revenue it collects on behalf of the Palestinian Authority under an arrangement established by the 1993 Oslo accords. Those transfers amount to roughly half of the authority's $115 million monthly payroll for 150,000 civil servants and trainees, nearly half of them in the security services.

Hamas officials said Haniyeh's cabinet, which was not made public, gives the interior and foreign ministries to members of the party, formally known as the Islamic Resistance Movement. But many of those nominated to run the 24 ministries are technocrats from outside the movement, although they have strong ideological connections to it.

Saed Siyam, a former teacher who won the most votes on the Hamas list in Gaza, has been nominated as interior minister with control of several Palestinian security services. Mahmoud Zahar, a thyroid surgeon and hard-liner, would run the Foreign Ministry, although Haniyeh has signaled that Abbas will be given wide latitude in dealing with foreign governments.

Haniyeh, considered a pragmatic figure within the movement, has been working since soon after the party's parliamentary victory to form a broad cabinet. But some Palestinian analysts say Hamas would have had a better chance of building a national unity government if it had selected a figure from outside the movement as prime minister.

A New Landscape: Hamas Digs In (NYT)

By Steven Erlanger

The New York Times, March 20, 2006

JERUSALEM, March 19 — When the radical Islamic group Hamas presented a cabinet it dominates to the Palestinian Authority president, Mahmoud Abbas, on Sunday, Yossi Alpher was reminded of an earlier revolution.

Mr. Alpher was an Israeli intelligence analyst on Iran from 1978 to 1980, and for him, the Hamas victory has the paradigm-shifting quality of the Iranian revolution that brought the mullahs of Shiite Islam to power. Today, he recognizes the same kind of dislocation.

The "old Iran hands" were confident that the revolution could not last, he said, and that the mullahs would be tamed by the merchants of the Iranian bazaar, or the country's youth or the experience of power. "These people knew a very different Iran, and their analysis was not just useless but diversionary," he added.

"I have an incredible sense of déjà vu now when I talk to Palestinians about Hamas," said Mr. Alpher, co-director of a Web site dedicated to Israeli-Palestinian dialogue. "Secular Palestinians don't understand what's happened. They don't know what the Muslim Brotherhood is all about. They're in a state of denial."

After Hamas's victory in the Palestinian legislative elections, analysts and diplomats suggested that nothing fundamental would change: Hamas's win was not so resounding, some said, and its convictions would be moderated by power, keeping foreign aid and the peace effort continuing roughly as before.

After all, the job of diplomacy, like antacids, is to try to make the inedible digestible. But as Hamas completes its cabinet, there is a sense that the landscape has changed for some time to come.

The Hamas victory is not just a little local difficulty. Hamas is the Palestinian part of the Muslim Brotherhood and the first to win an election; its victory has enormous resonance for radical Islam. It is a defeat for secular nationalism, Nasserite corporatism and for Fatah, the chosen partner of Washington and Israel.

Many Muslims wish for Hamas to succeed, and some will give it money. The anxious Arab governments nearby — especially Jordan, with its many Palestinians, and Egypt, with its active Muslim Brotherhood, but also fragile Syria — will feel that they cannot set higher public hurdles for Hamas than, say, Russia or the European Union.

Palestinian and Sunni, Hamas legislators say they are wary of further dependency on Iran and reject Al Qaeda. They say they prefer a period of quiet; how they will deal with Islamic Jihad, Iran's proxy in the Palestinian territories, remains unclear.

New elections are not scheduled for four years. That gives Hamas's leaders, whom Mr. Alpher calls "pragmatic ideologues," time for their long-view strategy: softly, softly; slowly, slowly.

Hamas calls for national unity. It is likely to push a domestic agenda of reform and social welfare. It seems unlikely that it will fire the Fatah security commanders. When new legislators have talked of Islamicizing education or imposing Shariah law, Hamas has silenced them.

The indications are that Hamas will continue to talk tough toward Israel but maintain a cease-fire that has lasted roughly a year. It will give Israel no sufficient pretext to reinvade Gaza, where Hamas's army of 6,000 men can operate openly; will appeal to the world's Muslims for support; and will blame Israel and Washington for every deprivation.

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While many international officials want Hamas to be a partner, its leaders may have other ideas.

On Jan. 30, five days after the election, the United States, the European Union, Russia and the United Nations — known as the quartet — warned that a Hamas-led government must recognize Israel, forswear violence and accept previous Israeli-Palestinian agreements.

Given what even a partial reduction of aid will mean for Palestinians, the quartet is looking for ways to soften those demands.

The quartet has pushed Mr. Abbas to postpone H-Day, when a Hamas government takes over, until after Israeli elections on March 28. Now the European Union and the United Nations say that a Hamas government should be given time to prepare a program before any aid cutoff.

Some diplomats suggest that if Hamas supports a moribund 2002 Saudi peace initiative, it will somehow "recognize" Israel without having to say so; some suggest that a Hamas offer of another cease-fire may be enough to "forswear violence."

But so far, Hamas is not playing along. It sees the agreements with Israel as a honey trap and recognition of Israel as impossible. In the meantime, Hamas is working on the heartstrings and sense of justice of the West, to keep aid flowing.

Hamas's victory also signaled the death of the "peace process" as it has been practiced.

The diplomatic assumptions of recent years — a peace treaty after a territorial compromise, or "land for peace" — have been blown apart. Prime Minister Ariel Sharon of Israel tried to redefine the bargain as "a state for security" — an independent Palestinian state in return for dismantling all armed "terrorist" groups, including Hamas, Islamic Jihad and Al Aksa Martyrs Brigades. That was a commitment undertaken in the "road map" by Yasir Arafat and reconfirmed by Mr. Abbas.

But it seems unlikely that Hamas will dismantle itself. Nor, its leaders say, will it abandon "the right of resistance to occupation." Its religious conviction is that all of Palestine, including the current state of Israel, is Islamic waqf land, land belonging irrevocably to the world's Muslims.

Hamas talks of a long-term armistice with Israel, so long as Israel returns to its 1967 boundaries, unannexes East Jerusalem and lets all refugees and their descendants return to their pre-1948 homes. The state of Israel itself, they insist, has no right to exist on waqf land.

So with Hamas, the argument has moved from nationalism and territorial compromise, which can be negotiated, to religious conviction and a temporary Israeli lease on its sovereignty. In that light, the quartet seems to have given Israel a free pass for unilateral action.

Israel, which has done little to support Mr. Abbas, now says it has no partner. Hamas gives Israel more freedom in the West Bank, creating borders, thickening settlements, or dismantling them, as it pleases. Last Tuesday, as troops crushed a Jericho prison to extract wanted men, acting Prime Minister Ehud Olmert said Israel would keep the settlement bloc of Ariel in the West Bank. Washington did not complain.

U.S. Brokers Compromise On Gaza Crossing (AP)

By Ibrahim Barzak, Associated Press Writer

AP, March 20, 2006

With Palestinians facing severe shortages of bread, milk and other foods in Gaza, U.S. officials called an emergency meeting Sunday and brokered a compromise with Israeli and Palestinian negotiators in a two-month-old border standoff.

Ambassador Richard Jones said cargo traffic might start flowing as soon as Monday at one crossing, and a Palestinian official said a second crossing would be discussed at meetings Monday.

But Palestinian economic misery might take another hit after Hamas militants sworn to Israel's destruction presented their new Cabinet to Palestinian President Mahmoud Abbas on Sunday. The Islamic group's failure to bring moderate forces into its government is likely to strengthen Western resolve to cut off desperately needed aid.

The vital Karni cargo crossing between Israel and Gaza has been closed for most of the past two months, shutting off almost all exports and imports for the poverty-stricken seaside territory. Palestinians charge Israel is punishing them for Hamas' election victory, but Israel insists it is keeping the crossing shut because of warnings of terror attacks.

The lengthy closure has led to shortages of flour, milk and other goods, and bakeries are closing, United Nations workers said.

Jones invited Israeli and Palestinian negotiators to his residence Sunday to find a way to avert a humanitarian crisis in Gaza. He said later there was an agreement to open another crossing, Kerem Shalom at the convergence of Gaza, Israel and Egypt.

"We have agreed that the crossing from Kerem Shalom will open tomorrow for imports of food and other essential humanitarian products from Egypt," and details would be worked out Monday, Jones told reporters.

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Jones did not mention Karni, but Palestinian negotiator Saeb Erekat said a solution also was emerging for activating that crossing and he was hopeful it could be resolved in two meetings scheduled for Monday.

"I hope they will succeed in allowing goods to come into Gaza as of tomorrow to alleviate the dire humanitarian situation in Gaza," he told The Associated Press. He said Egyptian trucks were already lining up across from Kerem Shalom.

Israeli negotiator Amos Gilad demanded that Palestinians arrest militants before the Karni crossing is reopened, Israeli officials said.

Under an agreement brokered by Secretary of State Condoleezza Rice in November, Israel and the Palestinians agreed to boost cargo traffic through the crossing. The accord was meant to give momentum to peace efforts and economic recovery programs after Israel's summer pullout from Gaza.

But the Karni deal was never implemented, and Israel has closed the crossing for long periods, citing security concerns.

During Karni's closure, Israel offered to open Kerem Shalom, 25 miles south of Karni, as an alternative crossing. But the Palestinians had rejected that up to now, saying it is too small and is completely inside Israeli territory.

"We'd like Karni to be fully functioning as soon as possible ... The only reason Karni is closed is the definite terror warnings," Israeli Foreign Ministry spokesman Mark Regev said. "We don't understand why the Palestinians refuse to have the Kerem Shalom crossing open to bring in required and needed produce into Gaza."

On Sunday evening, incoming Prime Minister Ismail Haniyeh met Abbas to present his new Cabinet, which includes one woman and one Christian.

Speaking to reporters after the meeting, Haniyeh said the Cabinet would have 24 members, 10 from Gaza and 14 from the West Bank. Fellow Hamas leader Mahmoud Zahar will be the new foreign minister, he said.

Abbas said he would submit the list to the PLO executive committee and then to parliament if it approves. Before the meeting, he said he would review the names but would not decide immediately whether to accept the list. As president, he has the authority to demand changes.

Haniyeh was optimistic his Cabinet would win approval. "I can say that the indications are positive toward constitutional stability on the Palestinian platform," he said.

Abbas, who favors negotiating a final peace settlement with Israel, has urged Hamas to moderate its violent ideology but likely will approve the Cabinet, his aides say. He will, however, warn Hamas that its refusal to soften its positions could hurt the Palestinians' international standing.

Hamas failed to form a coalition with more moderate parties that could have helped soften its hardline image.

The United States and European Union have threatened to cut off hundreds of millions of dollars of aid to the Palestinians if Hamas does not renounce violence, recognize Israel and promise to honor existing peace agreements.

The group, which has killed hundreds of Israelis in suicide bombings, has rejected those conditions.

Last week a World Bank report warned of economic disaster in Gaza if aid is cut off.

Haniyeh, a top Hamas official in Gaza, had not announced his Cabinet lineup. But Hamas officials said privately the group would keep the top three posts — foreign affairs, finance and interior, which oversees some security forces. Professionals would fill some of the other posts.

Abbas was elected separately last year to a four-year term and wields considerable authority. He cannot impose his own Cabinet lineup on Hamas, however, because it controls an absolute majority in the legislature.

Emirates Aided Kin Of Palestinian Militants (NYT)

By Julia Preston

The New York Times, March 20, 2006

In the last four years the United Arab Emirates has provided substantial financial support, through its Red Crescent Society, to families of Palestinians, militants as well as civilians, who have been wounded or killed by Israeli forces, according to Red Crescent documents.

The United Arab Emirates is a federation of seven small states including Dubai, where a government-owned company was due to take over some American port operations. Facing intense Congressional opposition, the company said recently that it would sell its operations in the United States to an unrelated American company within six months.

In 2002 and 2003, the United Arab Emirates Red Crescent Society, a quasi-governmental organization, made donations to Palestinian charities that included social groups associated with Hamas, the radical Islamic organization that won Palestinian parliamentary elections and has long been designated a terrorist organization by the United States.

A glimpse inside the Emirates aid programs comes from documents provided to The New York Times by Gary M. Osen, an American lawyer litigating cases in the United States federal courts on behalf of American victims of Palestinian terror attacks. The documents include unclassified materials seized by Israeli forces from Palestinian organizations in the West Bank.

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Mr. Osen, of Oradell, N.J., said researchers in Israel who were helping him gather evidence for the lawsuits had found the documents there in archives of materials captured in Israeli military operations.

The records include international financial transfers from the Emirates Red Crescent Society as well as budget and program reports from its Jerusalem branch, which handles programs in the Palestinian territories. They show differences between American and Emirate views of Palestinian violence, although President Bush has said the countries see eye to eye on fighting terrorism.

In 2002, according to a spreadsheet of the annual budget, the U.A.E. Friends Society in Jerusalem, the local branch of the Red Crescent, designated $100,000 to pay 50 annual stipends of $2,000 under a "martyrs' families sponsorship" program.

Officials from the government and the Red Crescent Society said "martyrs" referred to any Palestinian who had died in the conflict with Israel, including civilians and armed fighters. In a news release on May 5, 2002, Mohammed Hamad Saif, a representative accompanying a 40-ton shipment of Red Crescent relief supplies, said "the priority" of that aid would be "the needy and families of the wounded and martyrs."

In one case, the documents show, the Emirates Red Crescent provided cash payments to the wife and two children of Anwar Awni Mustafa Abdel Ghani, who was identified in a news release on Feb. 15, 2002, from Palestinian Islamic Jihad, a militant organization, as a mujahid, or fighter, for the group. The news release, and news reports from that date, indicate that Mr. Abdel Ghani was killed in a clash that day with Israeli forces in a village near Tulkarm in the West Bank.

Emirates government and Red Crescent officials confirmed that the martyrs' family support continues, including payments for at least one of Mr. Abdel Ghani's children.

There are sharp differences between American and Emirates officials over assistance to "martyrs." United States officials say payments to families of violent militants constitute direct support for their cause and encourage others to join.

Officials of the Emirates government and the Red Crescent Society said the payments helped create possibilities for younger Palestinians. They said most of the beneficiaries were relatives of civilians who had been killed, and that the society handed out cash payments only for Palestinians under 18. Spouses and older children receive coupons for food, medicine and housing materials.

"What is the fault of the orphans?" a government official said, referring to children in the martyrs' program. "By helping them, you are pulling them away from extremism."

Daniel Glaser, a deputy assistant Treasury secretary, said the Emirates was "one of our primary partners" in the Middle East in combating financing of terrorist groups. He said the Treasury had a close working relationship with the Emirates central bank, and that financial officials there had provided concrete cooperation in recent investigations.

Mr. Glaser said he was not familiar with the details of Red Crescent programs. But as a general matter, he said, "Charities that are supporting terrorist activities, including by supporting family members and orphans — we consider that to be terrorist financing."

The documents contain no evidence that the Emirates provided direct aid to armed militant groups.

In the ports controversy, President Bush hailed the Emirates as a like-minded ally in fighting terrorism. He cited support from the sheiks who lead the Emirates for American efforts in Iraq, including a United States military air base there.

But in Israel, some Palestinians regarded as terrorists by the United States are viewed as resistance fighters and martyrs by the Emirates officials.

The Emirates government condemns suicide bombings and terrorist attacks on civilians, and officials said the Red Crescent Society had taken increasingly strict precautions to avoid providing relief to Palestinian groups engaging in such attacks, or to social groups linked to them or to bombers' families.

After "bad experiences" during the mayhem of 2002 and 2003, when some Emirates Red Crescent money ended up in militants' hands, the organization has used modern controls to track its donations and vet its staff, the government official said.

The official said there was no direct cooperation between the Emirates Red Crescent Society and Hamas. He requested anonymity, saying he did not want to awaken new controversy between the Emirates and the United States.

Documents from before 2004 show that the Red Crescent made donations through the Tulkarm Zakat Committee, identified at that time by American officials as a Hamas front. A top administrator at the Red Crescent's Jerusalem offices was Najih Bakirat, whom Israel has identified repeatedly as a Hamas member.

But the Emirates officials said they had stopped sending money to the Zakat Committee and had cut ties with Mr. Bakirat when questions arose about his political activities.

The secretary general of the Emirates Red Crescent, Sanaa Darwish al-Kitbe, said the goal of its Palestinian programs was to "influence the negative atmosphere" to build peace. "By building homes and helping people to have a better life," she said, responding to written questions with a statement sent by e-mail, "you are creating some hope in the middle of all this suffering," allowing young Palestinians to "concentrate on the positive and move away from extremist views and actions."

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In Egyptian Movies, Curses! We're The Heavies (WP)

By Daniel Williams

The Washington Post, March 20, 2006

CAIRO -- When Secretary of State Condoleezza Rice visited this city last month, Egyptians had an unusual choice: watch her on TV as she expounded on issues of war and peace in the Middle East, or go to a neighborhood movie theater and see her portrayed by a look-alike actress belly-dancing and placed in "adult" situations.

The film in question is "The Night Baghdad Fell," which depicts Egyptian obsessions with war, sex and the United States. Wildly anti-American, it has done a brisk business for two months, a long screen life for Egyptian-made films. In "Night," Egyptians fret about an American invasion of Egypt and the potential destruction of their capital. Americans are bullies, rapists and mindless killers.

By the way, "The Night Baghdad Fell" is a comedy.

The film is only the latest bit of Egyptian pop culture to display deep unease about Americans. Beginning two years ago, Yanks emerged as bad guys on Cairo stages. In one play, "Messing With the Mind," the audience was ordered around by wild-eyed ushers dressed as Marines. In another, a Statue of Liberty was blown up in the lobby.

Ugly Americans began to emerge on-screen last year. In "Alexandria, New York," director Yusef Chahine rebuked U.S. attitudes toward Arabs. "No Problem, We're Getting Screwed," a black comedy, told the tale of an Egyptian who sends his son to Iraq to deliver mangoes and then must travel there to get him out of an American jail. Along the way, the father tumbles into the hole where Saddam Hussein was hiding, gets caught in insurgent crossfire, is arrested by the Americans and is taken to President Bush. Bush forces him to wear a beard and confess to bombing the American Embassy. Somehow, the Egyptian escapes, outwits his captors, sells his mangoes and gets his son back home.

Egyptians are not the only ones depicting villainous Americans on screen. "Valley of the Wolves: Iraq" debuted in Turkey last year and featured a Turkish hero who takes revenge on U.S. forces that detain Turkish troops in northern Iraq. The on-screen Americans shoot up civilians at a wedding, firebomb a mosque and carry out summary executions. Torture at Abu Ghraib prison makes a cameo appearance.

"These movies show that there is paranoia everywhere," says Nabil Shawkat, a humor columnist at the Daily Star newspaper. "In Egypt's case, the feeling of impotence in regards to the Americans is a common feeling."

Not everyone considers the anti-U.S. theme of "Night" valid. Many critics regarded it as sophomoric and a typical Egyptian effort to blame its problems on outsiders. A critic in the al-Ahram newspaper called it "a puerile comedy expressing the views of an enthusiastic teenager with little political knowledge."

Egypt is officially one of Washington's closest allies in the Middle East. By and large, workaday Egyptians are solicitous toward visiting Americans and endlessly reassure them they are loved here. Americans-as-heavies are a departure in Egyptian film. In the distant past, British colonialists were targets of negative portrayals. Later, unlabeled foreigners appeared on-screen to exploit Egyptian wealth. Americans, if portrayed at all, were cast as unwitting victims of crafty Egyptian tour guides or as people with charming if incomprehensible customs, like wearing shorts in public.

One old satire, called "The Visit of Mr. President," portrayed a village mayor who was comically eager to show his enthusiasm for Anwar Sadat's friendship for the United States -- funny because the mayor is at a loss to explain how, only a few years before, the U.S. was Egypt's enemy. The movie was banned in Egypt for many years.

Israelis have been the most common screen menace, even in comedy. In a film last year called "The Embassy Is in the Building," an Egyptian emigre returns home, wants to engage in sexual affairs in his old apartment, but can't because Israel's embassy is next door. Missiles fly in through windows and security guards block the exits and entrances. All the neighbors have moved away. When the harried man sues the Israelis, he becomes a national hero.

In "Night," a schoolteacher tries to recruit a brilliant former student to create a weapon for use in case the Americans invade Egypt. The student is strung out on hashish, but partly because of his admiration for the teacher's radical peacenik daughter, he takes up the project. The teacher even arranges for the daughter to marry the boy. "Do it for the nation," he urges her.

The men in the film have sexual problems. The student fails to get aroused on his wedding night, fantasizes in bed about Rice and also about a Marine named Jack. The teacher and his friends are impotent. All these conundrums are resolved when wives and lovers await in bed while dressed up in U.S. desert fatigues.

Reports of U.S. atrocities in Iraq pile up and the Egyptians form a rag-tag militia to confront a possible invasion. When a test of the new defense weapon fails, the teacher has a nightmare about his daughter being raped at Abu Ghraib. Near "Night's" climax, an Egyptian who goes out to greet invading Americans is shot dead by a U.S. soldier.

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"I felt that an event like the fall of Baghdad could not pass without some sort of comment," director Mohammed Amin says. "All we Arabs could do was sit and watch it on TV. So I decided to make a movie about impotence. That is what it is all about."

The film is Amin's second comic outing. Last year, he made "Cultural Film," which told the tale of a group of young Egyptians trying in vain to find a place where they could be alone to watch pornographic videos.

In "Night," he satirizes Egyptian life and politics, too, though not through the kind of shocking imagery he uses on the Americans. When the teacher wants to boost the morale of his militia, he produces a video of Egyptian achievement since the 1973 war with Israel. It is composed of a single goal in a soccer game in which Egypt tied its adversary. He approaches a general to ask about developing weapons, but the officer says military industry is engaged in producing umbrellas. An acquaintance says Egypt already possesses weapons of mass destruction -- he knows it's so because, once, the entire country suffered a blackout when all energy was diverted to enriching uranium.

The Condoleezza Rice fantasy sex scenes received a lot of negative commentary in Egypt, but Amin defends them on the grounds that a weak character naturally fantasizes about possessing someone more powerful. "The student hates U.S. officials, so he defeats them in bed in the form of Rice. Rice is always coming to Egypt to lecture us. It is like fantasizing about your sixth-grade teacher."

He insists he is not reflexively anti-American. His next project, he says, is a movie both about the horrors of Iraq but also the good some American doctors did recently in separating conjoined Egyptian twins. "I want to investigate how a country can do so much good and bad at the same time," he says.

Mexico Urged To Act On Border Tunnels (WT)

By Jerry Seper

The Washington Times, March 20, 2006

A bipartisan group of U.S. senators has asked the Mexican government to enact legislation to criminalize the construction or financing of border tunnels between the United States and Mexico.

In letters to Mexican President Vicente Fox and members of the Mexican Congress, the senators -- led by Sen. Dianne Feinstein, California Democrat -- said 40 tunnels into the United States have been discovered since 2001 and urged the Mexican officials to enact legislation to crack down on those involved.

"Our countries must continue to work together to address this problem by discovering and shutting down those who build, finance or use border tunnels for illegal purposes," the senators said, urging Mexico to enact legislation similar to a bill offered March 2 by Mrs. Feinstein to criminalize the construction or financing of border tunnels.

In addition to Mrs. Feinstein, the letter was signed by Republican Sens. Pete V. Domenici of New Mexico, Conrad Burns of Montana, Norm Coleman of Minnesota and Jim Talent of Missouri, and Democratic Sens. Barbara Boxer of California and Maria Cantwell of Washington.

The Department of Homeland Security has said tunnels typically have been built to smuggle drugs, but have quickly transitioned into passages for smuggling illegal aliens. The senators said they were concerned they could also be used to smuggle weapons and terrorists into the United States.

The Feinstein legislation was prompted by the discovery in January of a sophisticated tunnel between the United States and Mexico that could have been used to traffic drugs, humans, guns or terrorists between the two countries. The tunnel, which is more than 2,000 feet long and connected warehouses in Tijuana to San Diego, was the largest and most sophisticated illegal cross-border underpass Mexican and U.S. authorities said they had ever found.

Equipped with a pulley and ventilation system, the tunnel was six feet wide and 12 feet high. It had a cement floor and lights. Authorities said they were unsure how long the tunnel had been in operation.

That tunnel originated under a warehouse 150 yards south of the border, near the Tijuana airport, and surfaced about a half-mile north of the border in an abandoned warehouse in Otay Mesa, a community within the city of San Diego developed as an industrial area in 1985. Otay Mesa is California's largest commercial land-border port and one of the busiest commercial land-border crossings in the United States.

Mrs. Feinstein's bill, known as the Border Tunnel Prevention Act, would impose up to 20 years' imprisonment for constructing or financing a tunnel crossing the border into the United States and up to 10 years for anyone who negligently permits others to construct or use an unauthorized tunnel on their land.

It also would punish any person who uses a tunnel to smuggle aliens, weapons, drugs, terrorists or illegal goods by doubling the sentence for the underlying offense if convicted; calls for the forfeiture of the assets of those involved; and authorizes and funds homeland security efforts to fill in tunnels.

The bill is pending before the Senate Judiciary Committee.

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Thousands In Belarus Protest Against Poll 'fraud' (FT)

By Stefan Wagstyl And Neil Buckley In Minsk

Financial Times, March 20, 2006

Up to 5,000 opposition supporters braved blizzards and threats of violence from the Belarus authorities to protest on Sunday in central Minsk against what they called a fraudulent election victory by President Alexander Lukashenko.

Initial returns showed Mr Lukashenko, denounced by the US as Europe's last dictator, winning more than 90 per cent of the vote. But supporters of the two opposition candidates, Alexander Milinkevich and Alexander Kozulin, converged on the central October Square to claim that the president's true share of the vote was less than 50 per cent and call for a rerun.

"We don't recognise these elections. They were a farce," said Mr Milinkevich, the main opposition candidate, whose aides claimed he had won 30 per cent of the vote. "They said we want revolution, but what we want is freedom and justice. We have already achieved a colossal victory. People have overcome their fear."

Protesters later laid flowers on a war memorial in the centre of Minsk. The two opposition candidates called on protesters to return to the streets tonight, once official results are known and observers from the Organisation for Security and Co-operation in Europe have delivered what is expected to be a critical verdict on the election.

The European Union and the US, which have repeatedly pressed Mr Lukashenko to ease his repressive policies, are likely to consider further sanctions on Belarus.

The scale of the demonstration was a success for the opposition. The KGB secret police had promised to suppress any protests and treat as terrorism any attempt to stage a popular revolt on the lines of the 2004 Orange Revolution in Ukraine, which brought Viktor Yushchenko to power. Mr Lukashenko himself had threatened to "wring the necks" of anyone threatening public order.However, the protest is unlikely to be enough to overturn Mr Lukashenko's victory. The former collective farm boss has remained popular since gaining office in 1994 by promoting political stability and presiding over strong economic growth, partly supported by subsidised oil and gas from his most important ally, Russia.

Belarus President Expected To Win Reelection Amid Protests (LAT)

By Kim Murphy

The Los Angeles Times, March 20, 2006

MINSK, Belarus — Police were preparing to mobilize in the city center here today in an attempt to control election-day protests as President Alexander Lukashenko appeared headed for an overwhelming victory, but opposition leaders vowed to challenge the balloting in the streets.

Election officials said early returns had given Lukashenko 89% of the vote and his main challenger, Alexander Milinkevich, less than 4%.

In an echo of recent pro-democracy protests that have rocked authoritarian regimes across the former Soviet space, supporters of Milinkevich gathered in large numbers in the heart of the capital. They demanded a new vote and protested against a campaign they said was fraught with violations intended to preserve the reign of the 51-year-old Lukashenko, whom the Bush administration calls Europe's last dictator.

"I will be grateful to every person who comes out and says, 'We are human, we have dignity, and we no longer want to live on our knees,'." said Milinkevich, a pro-Western physicist who was chosen by a coalition of pro-democracy parties to challenge the authoritarian regime that has governed this small former Soviet republic since 1994.

"Today, the impression is that we're not holding elections, but preparing for war," added his campaign manager, Sergei Kalyakin, as authorities vowed they would not tolerate foreign-backed attempts to destabilize the government. "The psychosis has reached a crescendo in this country," he said.

An anonymous text message apparently delivered to every cell phone in Minsk warned of possible violence. "On the night of March 19, 2006, provocateurs are preparing a bloodshed. Protect your life and health," it said.

Lukashenko, a former collective farm manager who has raised salaries and pensions and fostered robust economic growth even while maintaining state control over 80% of the economy, appeared confident as he cast his own ballot this morning. He scoffed at the Bush administration's allegations that he has amassed what may be billions of dollars through corruption and sold equipment to Iran that could be used to create weapons of mass destruction.

"Bush…is terrorist #1 on our planet, openly destroying states in different parts of the world and then killing presidents," he said, in a possible reference to former Serbian President Slobodan Milosevic.

"If someone thinks I'm a dictator, good luck to him. But it's impossible to have a dictator in Europe. Only stupid people would think that," he said.

The balloting unfolded without incident throughout the day, with many polling stations featuring folk dancers and concerts.

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"We voted only for our father," said Yadviga Stashkevich, a 58-year-old pensioner who cast her ballot for the president at a suburban school. "He pays our pensions on time, and we have stability," she said.

But a group of young men said they had voted for Milinkevich.

"Why does one man have to rule a country for 15 years?" said Andrei Shimanets, a 23-year-old foundry worker. "But however we vote, Lukashenko wins."

Independent exit polling has been banned, but just four hours after the polls opened, the pro-government EcooM Center forecast an 84.2% victory for the president. Milinkevich was said to have polled 2%.

A later exit poll by the independent Levada Center of Moscow gave Lukashenko 47% and Milinkevich 25.6%. The remaining vote was split among two other candidates, according to the poll.

One of those, former university rector Alexander Kozulin, accused Lukashenko of secretly disposing of at least $12 billion in revenue from weapons sales through a parallel presidential budget not subject to public disclosure.

"Where is the money? Show me at least one civilized state with two or three budgets," he said in an interview.

Foreign Minister Sergei Martinov in an interview earlier this week denied that Belarus had improperly sold weapons material to Iran. "Belarus never ever in its arms trade violated UN sanctions. Iran is not under sanctions," he said.

"Iran is a friendly country and an important market for us, and we don't see why we would stop working in the Iranian market," he added.

A fourth candidate, Sergei Gaidukevich, is a Lukashenko ally and head of the Liberal Democratic Party. He has done little campaigning.

Opposition leaders accused Lukashenko of closing down independent newspapers, blocking legal campaign rallies, arresting opposition activists and encouraging large numbers of voters to cast ballots early in the days preceding the election in what opponents believed was an attempt to manipulate the vote tally.

"The legal [restrictive] provisions on campaigning, the manner in which they are being interpreted and actions of state bodies have limited the scope for a vibrant election campaign," the Organization for Security and Cooperation in Europe, which is monitoring the election, said in a statement before the balloting.

Milinkevich said the alleged campaign violations included the arrest of more than 450 campaign activists, with more than 160 of them subjected to substantial fines, and the seizure of 260,000 campaign leaflets paid for with state funding allocated to presidential candidates.

Milinkevich supporters in outlying regions, including the towns of Baranovichi and Bovruysk, said they were prevented from leaving town to join public protests in Minsk when authorities turned back buses or asserted there were no bus tickets.

Still, thousands of opposition supporters were allowed to stage a rally and rock concert "For Freedom" in the capital Saturday, with supporters waving European Union and Belarus nationalist flags and dissident bands singing songs critical of the regime.

"President, go home!" one musician sang.

"I was born in the Soviet Union," said another. "I don't want to go back to it."

Both Milinkevich and Kozulin said their supporters would be committed to nonviolence.

"If you have decided to take to the streets and defend your right to a worthy life in a free state, go with flowers, candies and presents. Belarus is a peaceful country and the Belarusians are peaceful people. Do not give the authorities cause to shed blood today and use force against peaceful citizens," Kozulin said in a message to his backers.

But Lukashenko's campaign spokesman, Dmitry Kostin, said those who are encouraging street protests are working against the interests of the country.

"After they called on the people to come out to the square with their children at night, I understood that these politicians are worth nothing. Why should mothers and fathers want to bring children out to a mass rally? These calls are a provocation," he said.

He said if demonstrators attempt to block roads or railway stations, "the authorities will be obliged to use force against the violators."

President Wins Big In Belarus Vote; Thousands Protest Results (WP)

By Peter Finn

The Washington Post, March 20, 2006

MINSK, Belarus, March 20 -- Thousands of people poured onto a snow-blown central square Sunday night to protest the results of a presidential election in which incumbent Alexander Lukashenko was heading to the kind of overwhelming victory that his opponents charge lacks any credibility.

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With nearly all of the ballots counted, Lukashenko, 51, had won 82.6 percent of the vote, far ahead of three other candidates, the country's Central Election Commission reported early Monday.

Alexander Milinkevich, the favorite of the country's youthful opposition, had won 6 percent, followed by another opposition candidate, Alexander Kozulin, a former university rector. The fourth candidate was Syarhey Haydukevich, an ally of Lukashenko who analysts said was on the ballot to create a sheen of competition.

The protest, which drew at least 10,000 people at its peak, was peaceful. Hundreds of riot police who had massed in vans near the square stayed away from the crowd. The mostly youthful protesters chanted "Mil-in-kev-ich," "Long live Belarus" and, periodically, "Shame" when an image of Lukashenko flashed on a large TV screen on the square.

But the weather did not smile on the crowd, which began to dissipate after a blinding blizzard swept in. The rally was not sanctioned by the government, and for many in the crowd it was difficult to hear Milinkevich, who used a bullhorn because the government would not allow a public address system.

Milinkevich called on his supporters to return to the square Monday evening to continue to contest the results. "We demand new, honest elections," he told the crowd. "This was a complete farce."

But in a country where Lukashenko controls nearly all of the news media, which portray members of the opposition as criminal revolutionaries, it will be difficult to disseminate Milinkevich's desire to challenge the vote. State media all but ignored the rally Sunday night.

Absent in Belarus are many of the elements that recently helped enable popular protests to topple governments in Ukraine and Georgia after fraudulent elections. There is no independent broadcast media, the opposition is not well-financed and Milinkevich, a former physics professor, was virtually unknown three months ago.

Moreover, Lukashenko, seeking a third term after 12 years in power, remains popular with a large segment of Belarusan society that appreciates the political and economic stability of the former Soviet republic, which has been scarred by world wars and environmental disaster.

"He's the best in the world," said Nicolai Shebeka, a 33-year-old factory worker, after voting Sunday on the edge of Minsk, the capital. "The place where I work was awful before he came to power."

Many in the crowd on October Square recognize the limits of what they can achieve, but said the fact that thousands were still willing to protest in a climate of fear gave them hope. Before the vote, Lukashenko and the country's security service, which is still known as the KGB, had promised to crush any protests.

"We are dreaming about a free and independent country," said Snezhana Lisovskaya, a 22-year-old student. "We're here and we have the feeling that something will change -- if not tonight, then soon."

Lukashenko has ruled Belarus, which borders Russia and the European Union, since 1994. In 2004, in a referendum that outside observers condemned as rigged, a two-term limit for the president was lifted, essentially allowing Lukashenko to run indefinitely.

Sunday's election was monitored by 400 observers from the 55-nation Organization for Security and Cooperation in Europe, which is to issue a report Monday. Based on the group's interim reports leading up to the vote, the election is likely to be condemned as falling far short of democratic standards.

The head of the Belarusan Central Election Commission said she expected the report to be not just bad, but "very bad," because of what she said was the organization's Western bias. Both the United States and the E.U. have accused Lukashenko of dictatorial rule and threatened some kind of sanction if the presidential election was deemed fraudulent.

Lukashenko dismissed the anticipated criticism when he voted Sunday at a college in Minsk.

"We in Belarus are conducting the election for ourselves," he said. "What is important is that elections take place in accordance with Belarusan legislation. As for sweeping accusations, I've been hearing them for 10 years. I've already gotten used to them."

Lukashenko Wins Election; Opposition Calls For New Election (WSJ/AP)

By Associated Press

The Wall Street Journal, March 20, 2006

MINSK, Belarus -- Incumbent President Alexander Lukashenko handily won Belarus' presidential election, according to an incomplete tally released early Monday, and the main opposition candidate called for a new election as thousands of his supporters jammed a main square in central Minsk.

With 72.2% of the ballots counted from Sunday's balloting, Mr. Lukashenko had 82.3% of the vote compared to 5.8% for Alexander Milinkevich, the Central Election Commission said, pointing to a third term for the authoritarian leader, who has ruled the ex-Soviet republic since 1994. Turnout was 92.6%, it said.

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Several thousand people heeded opposition candidate Mr. Milinkevich's persistent calls for a peaceful protest after polls closed across the nation of 10 million, defying a ban on election day rallies and massing in a bitter wind on Oktyabrskaya Square with shouts of "Freedom!" and "Milinkevich!" Some waved colorful light wands or flags.

"We demand new, honest elections," Mr. Milinkevich told the crowd through a small bullhorn, shouting to the snow-dusted crowd on Oktyabrskaya Square. "This was a complete farce."

Although snow had fallen sporadically all day, a squall that kicked up during the rally was suspected by many of being a police action: the snow was of a different texture than the previous flakes and it began blowing suddenly from a different direction, ending as abruptly as it began after about 10 minutes.

Mr. Milinkevich called on his supporters to return to the square Monday evening to continue their protest -- signaling a bid to hold a sustained protest of the sort that have brought opposition leaders to power in former Soviet republics including Ukraine and Georgia in recent years.

Fears of violent confrontation had mounted, with Mr. Milinkevich calling for the protests and officials saying they were banned on election day. But the authorities held back.

The crowd was the biggest the opposition had mustered in years, reaching at least 10,000, according to AP reporters' estimates, before it started thinning out. After about three hours, a smaller group marched to nearby Victory Square, some laying red, blue and white carnations at a monument there before dispersing around midnight.

"Tomorrow we will show the world our might!" said Alexander Kozulin, another opposition candidate.

He demanded authorities release what he said were hundreds of opposition activists detained during the campaign.

At Oktyabrskaya Square, demonstrators waved a national flag that Mr. Lukashenko scrapped in favor of a Soviet-style replacement, as well as EU flags. At one point, a trolley bus went by with a young man riding on the roof. He pumped his fist in a victory sign, and the crowd roared when he rode off carrying a national flag someone thrust into his hands.

People blew horns and shouted "Mi-lin-ke-vich!" -- echoing the much larger crowds on Kiev's Independence Square in Ukraine's 2004 Orange Revolution, which has inspired the opposition in neighboring Belarus.

Police made no move to disperse the crowd, though they closely guarded the building facing the square that temporarily houses the election commission. About a dozen identical unmarked white buses, filled with riot police behind draw curtains, idled on a nearby side-street.

Mr. Lukashenko has vowed to prevent the kind of mass rallies that helped bring opposition leaders to power in Ukraine, Georgia and Kyrgyzstan following disputed elections, raising the threat of a forceful government response.

The use or threat of force neutralized opposition efforts to protest vote results in Azerbaijan and Kazakhstan last year, and a bloody government crackdown in Uzbekistan left hundreds dead.

Ahead of the vote, the government mounted a campaign of threats and allegations of violent, foreign-backed overthrow plots that its opponents said was aimed at frightening people off the streets and justifying the potential use of force against protesters.

"These elections will be recognized neither by us nor by democratic countries," Mr. Milinkevich told a news conference earlier in the day, after two groups authorized by the state to conduct exit polls released results just hours into the voting giving Mr. Lukashenko more than 80%.

"In Poland, people began laughing at communist authorities and this is when Solidarity won. We are getting there," he said. "I won't be surprised if someone allows himself to claim 120%."

Western countries have forged close ties with the opposition and made no secret of their contempt for the ruler of what Washington calls an outpost of tyranny in Europe. It condemned the campaign as "seriously flawed and tainted."

While Russia's relations with Belarus are sometimes strained, the Kremlin is wary of losing its only ally between its western border and NATO countries, and has signaled approval of a Lukashenko victory.

Mr. Lukashenko dismissed international criticism. "We in Belarus are conducting the election for ourselves," he said. "As for sweeping accusations, I've been hearing them for 10 years. I've already gotten used to them."

A dictator to his critics, many Belarusians see the 51-year-old former collective farm manager as having brought stability after the uncertainty that followed the 1991 Soviet collapse.

Even independent opinion polls suggested Mr. Lukashenko, who has pushed through a referendum scrapping term limits and hinted he plans to stay in office indefinitely, would win a majority and avoid a runoff.

Protesters Charge Fraud In Belarus Presidential Election (NYT)

By Steven Lee Myers And C. J. Chivers

The New York Times, March 20, 2006

DOJ_NMG_0018752

MINSK, Belarus, Monday, March 20 — An expected landslide for President Aleksandr G. Lukashenko drew several thousand Belarussians into the streets on Sunday, as protesters ignored swirling snow and official threats of arrest to denounce the election as a clumsily orchestrated sham.

With nearly all votes counted, Mr. Lukashenko, a former collective farm boss who has been in office 12 years, won 82.6 percent of the total, the chief of the Central Election Commission, Lidiya Yermoshina, said Monday morning, according to The Associated Press. That figure exceeded even the state's own surveys of voters leaving the polls.

Early indications that Mr. Lukashenko would be the easy winner had, though, already hardened his opponents' assertions that the results were fraudulent.

"They say we want a revolution," the leading opposition candidate, Aleksandr Milinkevich, told thousands of protesters who gathered peacefully in October Square, the central square in Minsk, as the polls closed at 8 p.m. Sunday. "No. We want only free and fair elections. What happened here was a farce. We do not recognize this election."

The election commission said Monday that Mr. Milinkevich trailed in a distant second place, with 6 percent.

The protest, drawing several thousand despite the snow and bitter cold, was the largest in years against Mr. Lukashenko, who is often denounced here and abroad as the last dictator in Europe. The protesters waved flags — including the former national flag, now banned, and that of the European Union, officially scorned — and chanted slogans demanding freedom.

"All they are saying is lies," Tatyana Agechich, an engineer who lost her job for disloyalty to Mr. Lukashenko's government, said as official statements were being broadcast on a large-screen television in the square, accompanied by jeers.

Although the authorities banned election day rallies and the country's security service — still known as the K.G.B. — warned that anyone causing disturbances could face charges of terrorism, the protest passed without the violent crackdown that many had feared.

Scores of police officers and security troops assembled in buses on side streets, but did not intervene. At times the protesters — estimated at 5,000 to 10,000 — broke into chants of "The police are with us."

Mr. Milinkevich addressed the crowd from the steps of the neo-classical Palace of Trade Unions, near the building where officials were announcing the results. A second opposition candidate, Aleksandr V. Kazulin, joined him in ridiculing the outcome.

Acknowledging the genuine popularity that Mr. Lukashenko has, however, Mr. Kazulin demanded only a second round of voting, which is required if no candidate receives more than 50 percent of the vote.

"There is only one God," he said. "All others are servants of the people."

Although Mr. Lukashenko's opponents have modeled their campaign after the popular uprising that overturned a rigged presidential vote in Ukraine in 2004, the protesters in Minsk did not block traffic or try to set up camp, as the Ukrainians did in Kiev.

After three hours, they heeded a call to march half a mile down Independence Prospect to Victory Square. By early Monday, the crowd dispersed. The two opposition candidates called on the protesters to return Monday night once, as they expect, the final results are called into doubt by observers from the Organization for Security and Cooperation in Europe.

Sunday's vote has become a new conflict between Belarus, the United States and the European Union. Both Europe and the United States have threatened penalties if the election is determined to be undemocratic. It is also likely to become a fresh source of tension between the West and Russia, which has supported Mr. Lukashenko's rule, openly at times. Russia and other former Soviet republics have sent their own election observers, who said in preliminary statements that the election was fair.

Mr. Lukashenko, after voting at a sports complex in Minsk, dismissed the chorus of American and European criticism that coincided with the end of the campaign, which was marred by dozens of arrests, restrictions on campaign events and harassment of independent organizations.

"We are holding elections for ourselves," Mr. Lukashenko said in remarks broadcast live on state television.

The transmission was abruptly stopped when he was questioned about the accusations of vote-rigging. In response to questions about whether Belarus under his rule has become a dictatorship, he denounced President Bush.

He called Mr. Bush "terrorist No. 1 on our planet" and ridiculed a White House report released last week that accused Mr. Lukashenko of amassing a personal fortune from arms sales and corruption. "He is not even capable of calculating his own incomes, gained from the oil and the war," Mr. Lukashenko said of Mr. Bush, according to the Interfax news agency.

Election day, like the campaign, was divided into parallel worlds. Mr. Milinkevich's supporters reported instances of harassment and expulsions of observers sent to monitor the voting at polling places across the country.

State television, meanwhile, offered a series of interviews with analysts and observers, including a few Westerners, who praised the election. Mr. Lukashenko, elected in 1994 in what has been called the last free election in Belarus, has since orchestrated not only presidential and parliamentary elections, but also a constitutional referendum in 2004 that lifted the limits of him seeking a third term.

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"What is going on today is the seizure of power by unconstitutional means," Mr. Milinkevich said in an interview in a cramped apartment that served as his campaign headquarters.

He noted that 10 of his 30 campaign managers had been arrested and remained in jail on election day. "What kind of election are we having if my campaign managers are in jail?" he said.

Many voters who were interviewed declined to state their names or their choices, but in Minsk and especially outside of it, Mr. Lukashenko's supporters praised his leadership over the last 12 years.

"I came to vote for our batka," Zoya A. Popkovskaya said loudly as she entered a polling station in Samokhvalovichi, a village south of Minsk, using a nickname for father that Mr. Lukashenko favors. "I want him to be elected for life — at least until he is a pensioner."

Ms. Popkovskaya, 69, explained her support for Mr. Lukashenko in ways often heard, especially in rural towns and among the elderly. "He has raised us," she said. "When he became president, he gave us our pensions and our children jobs."

It remains to be seen whether the protests will have any effect. Some in the crowd on Sunday expressed disappointment at the turnout.

"We would like more," Dmitry Yakovuk, 23, said, "but maybe people are not ready yet."

Incumbent Remains Popular In Heartland's Rural Villages (NYT)

By Steven Lee Myers

The New York Times, March 20, 2006

KRUPITSA, Belarus, March 19 — Vladimir M. Grom pulled out of a case a bagpipe known here as a duda, assembled it and demonstrated its deep, resonant music.

"There is nothing like natural sound," he said. He explained that as a young man in the Soviet Union he played electric guitar and that electronics create even more music these days. "It is like synthetic clothes," he said, shaking the lapel of his suit.

Upstairs on this election day morning, a quartet of women played cimbaloms, a version of the dulcimer, practicing for their part in Sunday's election day concert at the House of Culture here, which doubled as the village polling place. "This is our tradition," the chairwoman of the local election commission, Lyudmilla Polichik, said of the concert.

"Please, come watch," she said, inviting unexpected foreign visitors to join in Krupitsa's celebration of an election that would return to power the man who, in her view, made all this possible, President Aleksandr G. Lukashenko.

"People have already felt the change in their lives," she said, describing a heightened sense of excitement for Mr. Lukashenko's third presidential election. "And they thank the president for it."

In the capital, Minsk, 20 miles to the north, Sunday's vote took place in an atmosphere of fear and anticipation of clashes between the security forces and Mr. Lukashenko's democratic opponents, who have accused the government of orchestrating a preordained victory.

Villages like Krupitsa, by contrast, offer a window into Mr. Lukashenko's popular support.

Everyone cites the evidence. The House of Culture recently underwent a complete renovation, after 20 years without repair. The old kolkhoz, or collective farm, recently merged with a production company to become a joint venture, owned by the state and called Raps, for the rapeseed it grows and the oil made from it. A clinic was built with money raised by performances of a folk music and dance ensemble, Krupitskaya Musika, which Mr. Grom directs.

The group has toured throughout Europe and even went to Japan in 1995, though the foreign trips tapered off after 2000, when Mr. Lukashenko's government became increasingly ostracized by its European neighbors.

"It is not window dressing, like we used to do in the old times," Mr. Grom said of the clinic, a stadium and the Raps headquarters. Most of all, of course, he praises the renaissance of a musical education program that teaches the village's children the traditions of Belarussian folk culture with the instruments that he collects.

"They are not professionals," he said of the women playing the cimbalom, "but they do not grow rape any more."

Mr. Grom, 55, earns roughly $500 a month, twice the national average. He does not agree with everything Mr. Lukashenko has done, including a system of contracts for state workers, almost everyone in Belarus, that critics say allows the government to punish the disloyal, politically or otherwise. Still, he said, "The people here are happy — we have reached a certain level."

Asked about limits on democratic freedoms, including artistic expression, he said he had experienced none. He had not heard of The Free Theater in Minsk, whose performances have gone underground because its repertory is not deemed sufficiently patriotic by cultural commissars.

"You see the other republics, where they broke down the old system," he said, referring to the 14 other nations that emerged from the Soviet wreckage. "We feel sorry for them."

On stage in the House of Culture, Yevgeniya Yakovleva, 8, played Rachmaninoff's "Italian Polka" on the dulcimer. Those in the auditorium, perhaps two-thirds full, clapped along with a girl who, in her own small way, represents the future of Belarus.

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"We have simply chosen our own way," Mr. Grom said.

Europe's Last Dictator (WSJ)

By Matthew Kaminski

The Wall Street Journal, March 20, 2006

Who will cry, after yesterday's fiasco of a presidential election, for Belarus? More to the point, who can find this nation of 10 million (mostly delightful) Slavic souls without a peek at a map? Safe to say, not many, which is good news for Alexander Lukashenko's career plans.

In the club of democracy's enemies, Mr. Lukashenko is an elder statesman, a Hugo Chavez of the steppes. He is a clever populist who cultivates other pariahs and holds an old Bolshevik's contempt for opposition and political compromise. The 51-year-old collective farmer is widely known, thanks to Condi Rice, as "Europe's last dictator," though that nickname sells Vladimir Putin and other recent arrivals short.

This election will likely even the score, so to speak, in the democracy battles of the former U.S.S.R. After Georgia, Ukraine and Kyrgyzstan tossed out authoritarian regimes, the Kazakh and Azeri strongmen last year held on after their own rigged polls. Mr. Lukashenko, with Russia cheering him on, looks to make it three apiece. Official exit polls released two hours after voting started yesterday -- it was that sort of election -- gave Mr. Lukashenko over 80% in his bid for a third term, while his leading challenger Alexander Milinkevich, who'd scored up to 25% in opinion polls, got around 5%.

Mr. Milinkevich, a bearded physicist with a soft voice and pleasant manner, last night called the outcome a "farce" and his people onto the streets. He talks of a peaceful "denim revolution" to match Ukraine's orange or Georgia's rose. Jeans are still the symbol of youth, freedom and the West out East. Don't hold your breath. The riot police usually outnumber anti-Lukashenko demonstrators at opposition rallies. This time, taking no chances, the regime threatened to execute, on terrorism charges, anyone who dares take their grievances to the streets.

For promoters of democracy, Mr. Lukashenko is a reality check. Twelve years ago, he came out of nowhere to win nearly three in four votes in the country's first and last free elections. The young country's institutions were too weak to resist his frontal attack -- and the populace too scarred by decades of Soviet repression to care. Charismatic, to a Belarusan peasant at least, Mr. Lukashenko made wild allegations of corruption against the post-Soviet rulers. In power, he repressed in the name of fighting graft, proving a point I recently heard made by the Venezuelan editor of Foreign Policy magazine, Moisés Naím, that "anti-corruption campaigns" often end up subverting democracy in developing countries.

In addition to his KGB (the Soviet anthem and flag stayed the same, too) and selective murder of opponents, President Lukashenko used a series of popular votes -- the very symbol of suffrage -- to short-circuit democracy. In 1995 and 1996, the regime rammed through referendums that neutered parliament and boosted presidential powers. Independent polls show him to be the country's most popular leader, who has delivered strong economic growth, powered by Russian subsidies, while playing to nostalgia for Soviet days. With no independent press or TV widely available, most people don't know any better.

So things will stay as they are? Naturally Mr. Lukashenko, like a Milosevic or Saddam, wants nothing more than for the world to resign itself to a few more decades of him. A tyrant's best ally is fatalism.

Mr. Milinkevich at least recognizes the terms of the fight. "A majority of Belarusans want a change and want democracy," he said over dinner in Brussels recently. "People must start to believe that change is possible."

The Milinkevich candidacy was in itself a step forward. Last October, the opposition -- small except for the egos -- for the first time backed a single man to lead them. (Nothing moved in authoritarian Croatia, Serbia or Slovakia of the 1990s until the fractious democrats united.) Mr. Milinkevich surprised everyone by shooting up from nowhere in credible polls. He had no national media exposure, but word spread by mouth and blog, largely thanks to a lively student movement, Zubr. He went door to door to win votes, a first for a politician in Belarus. "Half the doors remained closed to him," said Vintsyuk Vyachorka, who leads the largest opposition party. "The main problem is the fear of the people. To overcome it, we must show this hesitant majority that there is a responsible leader who has no fear himself." A fortnight ago, Mr. Vyachorka, a key Milinkevich campaign aide, was jailed for 15 days for organizing "unauthorized rallies." Supporters fear for his life.

Belarus is as fallow ground for democracy as exists anywhere today, the Arab world included. Support from abroad helps make the playing field slightly less skewed against the opposition. The U.S. this year provided $21 million for democracy in Belarus. This money is best spent on media, Mr. Milinkevich told me, to better inform people about their own country. But foreign cash didn't bring the bodies out on the streets in Ukraine or Georgia, and can't do so here. That's up to Belarusans themselves.

In discussions of democracy-promotion today, it's fashionable to say, "Forget Poland." By that, skeptics mean that the experience of 1980s Poland, the first European Soviet satellite to fall, doesn't apply to "non-Western" cultures -- Arab or Russian or Central Asian. Try telling that to the Belarusans, who are the Poles' eastern neighbors and once shared a state with them. On

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hearing the early results, Mr. Milinkevich yesterday said that "People will laugh at those figures. In Poland people began laughing at communist authorities and this is when Solidarity won. We are getting there."

It may take longer than Mr. Milinkevich might wish. Democracy isn't inevitable in Belarus, Europe or anywhere else. But nor is another 12 years of rulers like Mr. Lukashenko. "We are not romantics," Mr. Vyachorka told me before his arrest. "We are pragmatics."

Mr. Kaminski is editorial page editor of The Wall Street Journal Europe.

Furor Over French Employment Law Rages On (USAT)

By Claudia Sanchez And Jeffrey Stinson

USA Today, March 20, 2006

PARIS — Growing protests by students and unions opposed to labor laws that will make it easier to fire young workers are testing France's government. (Related: Jobs law means little in poor suburb)

Crowds estimated by the French Interior Ministry at more than 500,000 turned out in about 150 cities Saturday in the largest of six weeks of anti-government protests. Labor leaders warned President Jacques Chirac and Prime Minister Dominique de Villepin, the architect of the labor-law change, that the government had until tonight to back off or face more demonstrations and possibly a general strike.

"It is obviously an ultimatum," said Réné Valladon, confederal secretary of the Force Ouvriere union, which represents civil servants and workers at state-owned companies. "The government and the president of the republic have indeed 48 hours to decide," he said in a statement on the union's website.

Saturday's biggest protest, in the southeastern part of Paris, had the air of a street festival. Young and old turned out on a sunny day. However, the march turned violent for the second time in three days.

Police fired tear gas at rock-throwing youths at the Place de la Nation at the end of the march. Later, police fired a water cannon to disperse students who tried to storm blockades at the Sorbonne University in the Latin Quarter. The blockades were put up after police on March 11 removed 300 students who had occupied France's oldest university. The Sorbonne was the starting point of a May 1968 leftist student revolt against the French establishment. Those protests spread into general strikes across France and eventually led to the resignation of President Charles de Gaulle.

Clashes spread throughout country

Paris police said seven police officers were injured, four cars were set on fire, and 167 people were arrested Saturday. The Associated Press reported similar skirmishes in Marseille, Rennes and Lille.

Tens of thousands of high school and university students converged Thursday on Paris for a daylong, nationwide student protest. Up to 58 of France's 84 public universities were closed or partly closed during the week, according to the Ministry of National Education.

The point of controversy is a new law that allows employers to fire new workers younger than 26 during their first two years on the job without giving a reason. The change was proposed Jan. 16 by Villepin and approved March 9 by Parliament after being rushed through with little debate. It is aimed at attacking France's high youth unemployment rate.

The jobless rate is 22.8% for workers age 18 through 26. That is more than double the 9.6% overall unemployment rate. The jobless rate for youth in some suburbs in major cities, where many African immigrants and their French-born children live, is as high as 50%, the Interior Ministry says.

Villepin, who oversees France's economy, advocated the change partly in response to youth riots that began in the Paris suburbs in October and spread to other cities. The rampaging youths complained that they couldn't find jobs or places to live because they were Muslim or did not have French names.

The new law was designed to give employers greater flexibility in firing so that they would be less wary of taking on new workers, become more productive and create more jobs. It takes effect next month.

Many of Saturday's protesters in Paris, such as Johanna Etchecopar, 22, an arts student at the University of Evry, say the change in the law undermines job security. "The law will increase the precarious situation," Etchecopar says.

Celine Bureau, 17, a high school student, says, "The law will make us go from employed to unemployed very easily and very often. We want the government to prepare solutions for our future."

Images of students battling police at the barricades at the Sorbonne in Paris' Left Bank evoked memories of May 1968, when utopia-minded students protested a bourgeois university system and demanded change in society. As the clashes grew, unions joined to protest police brutality. The unions also demanded a wage increase and launched a nationwide strike. In April 1969, de Gaulle resigned after a no-confidence vote on a referendum to restructure French government.

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While the protests by students and unions against unpopular government policies appear similar, the issues are far different now. "It looks like '68. It smells like '68. It sounds like '68. But it's not," says Dominique Moisi, deputy director of the French Institute of International Relations in Paris, who was a student in 1968.

"In 1968, after 30 years of full employment and economic growth, students were bored to death," Moisi says. "Today, after 20 years of unemployment, the students of 2006 are looking for security."

The change in the law evokes such hostility because of the relationship that the French feel that they have with employers, says Iain Begg, an economist with the London School of Economics' European Institute.

Prime minister not backing down

While American and British workers may view their jobs as economic contracts, Begg says, the French see them as social contracts in which employers are obliged to provide stable employment. If the French are going to solve their high unemployment, he says, they must take more steps like this one to make companies more competitive and productive.

The prime minister has not backed away from the new law. Chiraq has stood behind him. In an interview published Sunday in Citato, a monthly for high school students, Villepin said he is convinced the law will work. What happens this week could determine not only the fate of the law, but Villepin's political future. He hopes to replace Chiraq as president next year.

The president of the Sorbonne, Jean-Robert Pitte, speaking in a telephone interview from his office behind the barricades on Friday, said he saw a comparison between the student revolt of 1968 and now. "We change by revolution. It is how we have done it over the last 200 years."

Sanchez reported from Paris, Stinson from London.

Contributing: Wire reports.

French Unions Threaten To Strike (NYT)

By James Kanter, International Herald Tribune

The New York Times, March 20, 2006

PARIS, March 19 — Prime Minister Dominique de Villepin of France on Sunday faced an ultimatum from union leaders to withdraw the employment law that set off huge nationwide demonstrations and sporadic violence over the weekend, or face a general strike.

After the protests ended in outbreaks of violence late Saturday, union leaders gave Mr. de Villepin a deadline of Monday evening to withdraw the law, known as the First Employment Contract, which was intended to make it easier for businesses to hire and fire young people.

"If nothing moves, we will propose preparing a day of general work stoppages in the coming days," said Bernard Thibault, secretary general of the powerful C.G.T. labor union.

A front-page editorial in the Sunday newspaper Le Journal du Dimanche predicted that Mr. de Villepin, who has been in office for 10 months, would hold firm. But further conflict could damage his prospects of running for president next year.

The employment measure, set to go into effect in April, would allow employers to lay off new workers younger than 26 without cause for two years. Protesters say the law erodes vital employment rights and could be turned into a charter to exploit young workers.

Security forces arrested 167 people at the protests on Saturday and were still holding 70 on Sunday morning, said Catherine Castéran, a spokeswoman for the National Police. She said 34 members of the security forces and 18 demonstrators had been hurt in the violence. None of the injuries were serious, she said.

There was little sign that the tension over the contract would ease this week. On Monday, union leaders will meet to discuss the timing of a possible general strike, said Maurice Marion, a spokesman for the C.G.T.

Student groups could resume their street protests as soon as Thursday, the newspaper Le Monde reported.

So far the government has refused to cancel the measure, saying only that modifications are possible. But commentators say that Mr. de Villepin now looks trapped after the ultimatum from unions, a call by university presidents to suspend the measure and a recent opinion poll indicating that 68 percent of French citizens favor overturning the law.

"Watering down the contract could be a quick escape route for Villepin," said Emmanuel Rivière, the director of political research at TNS Sofres, a polling firm. "But that would be a political liability for him, too, because then the contract probably wouldn't do as much to lower unemployment."

Mr. de Villepin pushed through the law to ease chronic high unemployment, particularly among the young. One in four young people in France is out of work.

But Mr. de Villepin's plan has come unstuck as union members fight to retain their job security and students accuse the government of age discrimination and of leaving them vulnerable to unscrupulous employers.

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French Unions Threaten To Strike (WSJ)

By Andrew Higgins

The Wall Street Journal, March 20, 2006

PARIS -- Buoyed by big protests Saturday across France, French trade-union leaders threatened yesterday to call a nationwide strike to increase pressure on the government over a new labor law.

The strike threat escalates the stakes in a protest movement initially driven largely by students but now grown into a far broader campaign of opposition to an overhaul of France's rigid labor market.

The alliance of students and labor is a powerful force in French politics. It drove a 1968 revolt that, like the current movement, centered on the Sorbonne, a venerable academy in the middle of Paris that has been shut for more than a week following clashes between students and riot police.

Trade unions are much weaker now, hit by declining membership that has left only a small portion of the total work force unionized. Nonetheless, unions still have muscle, thanks to their ability to disrupt the national railway and other state-run services.

In a radio interview yesterday, Bernard Thibault, head of France's biggest union, the CGT, said he would propose a one-day general strike if the government doesn't abandon its labor changes. The CGT and other trade unions will meet today to make a decision, he said. The leader of Force Ouvrière, another union, also dangled the possibility of a strike, but it is unclear whether union members would support such drastic action over labor overhauls that don't directly affect them.

The strike warnings followed protest marches Saturday in more than 150 cities and towns. Authorities put the turnout at 500,000; organizers claimed three times that many. In Paris, a march across the city drew about 100,000 people, including leaders of the socialist and communist parties. It was the biggest protest so far, attracting not only students but also many older people anxious about the encroachment of "Anglo-Saxon" free-market methods.

At the end of Saturday's Paris protest, police fired tear gas to halt a small riot near Place de la Nation. Several cars were torched and a McDonald's restaurant was attacked. Protesters also tried to break a police blockade around the Sorbonne in the Latin Quarter. In Marseille, police used tear gas against youths who clambered up a City Hall flag pole to replace the French flag with a banner reading "Anti-Capitalism."

The snowballing protest movement risks derailing the government's efforts to tackle what many economists see as a major obstacle to economic growth. They also could reshape a presidential election next year. Seriously weakened by the conflict is Dominique de Villepin, France's center-right prime minister and a presidential hopeful. France's normally fractious left-wing opposition, meanwhile, has united in opposition to the labor-law changes.

The government says the changes, which make it easier to hire and fire young workers, will ease unemployment, particularly in deprived urban areas that erupted in violent rioting last fall. Protesters, however, say the centerpiece of the changes -- a contract for workers younger than 26 that frees employers from legal constraints on dismissing them within the first two years of hire -- will erode workers' rights and create only "junk jobs." In Paris Saturday, students waved placards denouncing the measure as a "garbage job contract" and a "slave contract." Some marched wrapped in blue plastic garbage bags. "We don't want law-of-the-jungle capitalism," said Clara Borarier, 20, an art-history student.

French unemployment stands at 9.6% but is more than twice as high for young people. Among older marchers, anger at a new labor law mingled with nostalgia for 1968 and alarm over globalization. "We were much stronger in 1968. We had all high hopes then. Now our horizons are much lower," said Gerard Daniel, a 56-year-old veteran of the 1968 unrest and CGT trade union activist. He said the goal now, in contrast with 1968, is "not to change the world" but to "protect what we've gained."

France's unrest plays into a debate across Europe over how to cut unemployment and lift sluggish economic growth without demolishing cherished worker rights introduced at a time when European economies were growing much faster. "Reform is ineluctable in Europe; if not, we'll lose everything," José Manuel Barroso, the head of the European Commission, said yesterday. "The status quo is not an option."

Jobs Law Means Little In Riot-torn Suburb (USAT)

By Jeffrey Stinson

USA Today, March 20, 2006

CLICHY-SOUS-BOIS, France — When Gnoro Biady saw youths running past his store with Molotov cocktails in this northern Paris suburb last fall, he feared that his store and livelihood would be incinerated.

But Biady, 47, an immigrant from the Ivory Coast, says he understood the frustrations that led youths here to launch nightly rampages starting Oct. 28. The riots spread over three weeks to almost 300 other enclaves of African immigrants and their French-born children.

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"There are few jobs," Biady says. "And if you're black or Arab, they are hard to get."

The rioting began after teenagers Zyed Benna and Bouna Traore were electrocuted after climbing into an electrical substation. Some local residents said they were hiding there from police. Police have denied they were chasing the teens.

The rioting shook France and raised questions about whether every citizen enjoys the liberté, egalité, fraternité— "liberty, equality and brotherhood" — promised in its national motto. It also helped prompt French Prime Minister Dominique de Villepin to push through Parliament a change in labor laws designed to tackle the high unemployment by encouraging employers to be more willing to hire new, young workers.

The change, which takes effect next month, would allow employers to fire workers younger than 26 without stating a cause during their first two years on the job. The passage of the law set off a rash of protests, some violent, by students and union workers across France who say the measure takes away job security.

There have been no demonstrations in this poor suburb against the new law. People don't expect any measures undertaken or proposed by the government to provide more opportunities for minority youth.

Oliver Klein, deputy mayor of Clichy-sous-Bois, says he has seen few changes in the suburb of about 28,000 since the unrest erupted last fall.

"We still have the same problems," he says. "Transportation, housing, employment issues are still a big problem here." The only thing that has changed, he says, is that the Interior Ministry has promised to build Clichy-sous-Bois' first police station.

Karen Boucheron-Didry, 31, teaches French at the Robert Doisneau high school, where the student body is mostly minorities.

She says the future will be very hard for many of her students, despite government promises of more open university admissions and greater job opportunities.

"They (government promises) are very far from reality," says Boucheron-Didry, whose school has the national motto emblazoned on the front of the building.

Biady, whose store offers groceries and African products, sees little future in France for his five children and is contemplating returning to the Ivory Coast.

"The jobs aren't going to be long-term," he says. "If things don't change, they will grow up suffering the same. They live here. They're educated here. But they can't find a job here."

China Puts Energy At Top Of Agenda For Putin's Visit (WSJ)

By Gregory L. White And Shai Oster

The Wall Street Journal, March 20, 2006

Russian President Vladimir Putin is scheduled to visit Beijing tomorrow for talks in which energy will be high on the agenda. China intends to push its energy-rich neighbor to deliver on past promises to supply it with more power.

During Mr. Putin's two-day stay, his hosts are likely to convey growing frustration that Russia hasn't provided as much energy assistance as China has wanted. Beijing is expected to push the Russian leader to commit to specific plans for building oil and gas pipelines to China.

"China isn't satisfied with the development of cooperation in energy," Zhang Guobao, vice chairman of the National Development and Reform Commission told Russia's Interfax news agency early this month, in a rare display of open concern. "The practical level of cooperation in my view is still very insignificant."

The lack of progress is disappointing to China, which has scoured the globe for energy to supply its fast-growing economy, even though Russia, the world's largest gas producer and No. 2 in oil, is next door. At present, Russia supplies no gas to China and roughly 5% of China's oil imports.

A legacy of Cold War tensions between the two giants, there are no major pipelines and limited rail links across the shared border. Last year, Russia shipped 7.7 million metric tons of crude by rail to China. It had promised 10 million tons.

This week's discussions are expected to center on reviving talks to build a spur that would carry oil directly to China from a $7 billion pipeline Russia plans to build across east Siberia to the Pacific, as well as a stalled gas pipeline.

For years, China has pressured Russia to build more links and expand shipments. But Kremlin politics, Russia's legendary bureaucracy and Moscow's persistent suspicions of its more-dynamic neighbor have led to delays and broken promises. Beijing's efforts to buy up Russian energy assets, meanwhile, have run into roadblocks from the Kremlin.

China is particularly eager to foster closer energy ties with Russia because routing resources by land could be more secure than sea shipping. Currently, some four-fifths of China's oil imports pass through the Straits of Malacca in Southeast Asia, which Chinese planners fear could be easily blocked.

Officials on both sides say a deal on a spur for the oil pipeline to the Pacific could be signed during Mr. Putin's visit, although Russia's record on following up pledges has Beijing wary.

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"Take the question of building the oil pipeline. ... One Russian official says Russia has made the decision, another says it hasn't," Mr. Zhang told Interfax, in comments that were confirmed by his office in Beijing last week. "The whole process is unsatisfactory."

Japan, meanwhile, has been pressuring the Kremlin to ensure that any pipeline runs to the Pacific -- not directly to China -- thus preventing Beijing from monopolizing Russian supplies. Despite Russian assurances that there will be enough oil for both customers, Tokyo officials are concerned that China's surging demand could mean that no Russian crude flows to the Pacific Ocean, and on to Japan.

Within Russia, meanwhile, there is infighting over who will carry the oil. The national railroad was planning to spend more than $1 billion to expand lines to carry crude to China. It now wants the government to guarantee that the planned pipeline won't divert those flows, even though rail shipments are more costly.

Russian officials insist they want to see more oil flow to Asia, especially China, and hope the planned pipeline will stimulate growth across the desolate Siberian region. When completed in 2008, the line is slated to carry 600,000 barrels of crude a day. Moscow has said it will expand daily capacity to 1.6 million barrels, although officials have given no indication of when that might happen.

Han Xiaoping, senior vice president of Beijing-based energy consultancy Beijing Falcon Pioneer Technology Co., said the negotiations may still take time. "Russia isn't market driven. But maybe this [Putin] visit is slowly the turning point."

Moscow is only beginning talks on links to supply gas to China. An official from the state gas company OAO Gazprom said it will sign an agreement in Beijing this week spelling out planned volumes and the pricing formulas for future gas shipment. But officials indicate key issues including where the multibillion-dollar pipelines will be run remain unresolved.

"In Russia, the contract signing is only the beginning of the negotiation," said Stephen O'Sullivan, an analyst at United Financial Group, a Moscow brokerage. "The Chinese are increasingly strident in their view that 'We're not just going to wait for you.' "

While Beijing would clearly prefer the security and low cost of pipeline gas from Russia, the Chinese government could also build more terminals for liquefied natural gas from elsewhere in Asia as an alternative.

Beijing had been working with BP PLC on a deal to bring in gas from the huge Kovykta field, which lies relatively close to the Mongolian border near Lake Baikal. But Gazprom blocked that project, saying it wants to determine where pipelines are built.

In an interview with Chinese media Friday, Russian First Deputy Premier Dmitry Medvedev, who also serves as chairman of Gazprom's board of directors, seemed to provide a ray of hope for Kovykta, citing it as an example of what he called "significant potential for cooperation in the gas sphere."

Russian officials have expressed concern that building a gas pipeline directly to China would leave them hostage to a single buyer. Analysts and officials said Gazprom needs to decide quickly on its plans for fields and pipelines to be able to deliver gas by early in the next decade.

Beijing Passes On Intervening Over Iron Ore (WSJ)

By Rebecca Blumenstein

The Wall Street Journal, March 20, 2006

BEIJING -- China's top economic planner said the government won't intervene in continuing negotiations between Chinese steelmakers and foreign mining companies that supply the iron ore they need, despite earlier warnings by Chinese officials that the country couldn't tolerate higher prices.

"The government will not interfere," Ma Kai, head of the National Development and Reform Commission, told a group of U.S. newspaper editors Friday. "This price will be decided on the basis of market and enterprise negotiations."

China is increasingly concerned about prices of key commodities needed to feed its surging economy, such as oil, copper and steel. Prices for China's iron-ore imports surged 71.5% last year from 2004. The sharp jump has hurt Chinese steelmakers, which have banded together in the current negotiations with global iron-ore suppliers.

Earlier last week, China's Ministry of Commerce issued a statement warning that China can't tolerate higher iron-ore prices. The ministry warned it may take unspecified measures if prices are deemed too high.

Speaking to a visiting delegation from the American Society of Newspaper Editors, Mr. Ma reiterated China's broader development goals approved earlier last week by China's National People's Congress, or legislature. The goals include balancing economic growth with measures to protect China's environment. Surging pollution levels in China's air and water have become an issue of national and international concern.

"We are aware that we cannot develop our economy at the expense of tomorrow," Mr. Ma said. He said local officials will be judged not only by how much their regional economies grow, but also by their success at protecting the environment.

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He said China's leaders are committed to reducing a widening income disparity that is making some Chinese very rich while the country's annual per capita income averages slightly more than $1,700. "All we can say is that they are growing pains ... it is a historic and long-term process."

Mr. Ma, who has headed the NDRC since 2003, is among the country's most influential economic policy makers. Indeed, the commission, which was built on the foundation of the former State Planning Commission and a number of industrial ministries, is so powerful that it is sometimes called the "Little State Council." Besides setting macroeconomic policies, the NDRC continues to oversee a number of industrial sectors and is involved in such key issues as energy.

Mr. Ma said he isn't overly worried about inflation. If prices rise, he said, the government "has enough economic instruments to control it."

Americas Brazil, Mexico, Chile Are Expected To Fuel Strong Area Growth (WSJ)

By Patricia San Juan

The Wall Street Journal, March 20, 2006

SANTIAGO, Chile -- The economies of Latin America and the Caribbean will likely expand an overall 4.3% in 2006, according to Jose Luis Machinea, head of the United Nations' regional-research group.

"We are [forecasting] between 4% and 4.5%, but I think it will be more like 4.3%," said Mr. Machinea, head of the Economic Commission for Latin America and the Caribbean, or Eclac.

The official said the forecast is based on expectations that Brazil and Mexico, the region's two largest economies, may expand slightly faster than expected. Furthermore, Chile also may perform better than the 5.5% forecast of Eclac, Mr. Machinea said. For now, however, the group isn't changing its estimate.

Argentina may expand closer to 7% this year, faster than the previous Eclac forecast of 6%, because a surge in growth at the end of 2005 may spill over into this year, he said.

Consumers In Japan And Europe May Help To Drive Global Growth (WSJ)

By Mark Whitehouse And Jathon Sapsford

The Wall Street Journal, March 20, 2006

An important shift is taking place in the global economy: Japan and Europe, until recently among the biggest drags on world growth, may soon be playing crucial supporting roles.

In a trend that has caught many economists by surprise, companies and consumers in the euro zone and Japan, the world's second- and third-largest economies after the U.S., have started spending again -- or appear poised to do so -- for the first time in years.

The new climate has prompted moves by central bankers in both places to push up interest rates to curb inflation, a policy that could weigh on stock and bond prices everywhere by slowing the flow of cash around the globe. But the re-emergence of spending in those nations has implications far beyond financial markets.

For one thing, it means that the world might be less dependent on the American consumer, whose willingness to borrow and spend has been a primary driver of world growth for the past five years. If U.S. economic growth starts to taper off later this year, as some economists predict, Japanese and Europeans might help pick up the slack, a global rebalancing act that many had hoped for but few had thought probable. Growing local demand in emerging economies such as China and India could make a difference, too.

"I feel nervous as hell thinking it, because it's such a ridiculously optimistic thing to think," says Jim O'Neill, chief economist at Goldman Sachs in London. But, "if the U.S. was ever going to slow down, in many ways there couldn't be a better time for it."

Even if U.S. growth doesn't slow anytime soon, stronger growth abroad would be welcome news. It could help rein in the widening U.S. trade deficit by giving American companies more opportunity to sell their goods and services overseas.

"The businesspeople in both Japan and Europe are beginning to feel their oats," U.S. Treasury Secretary John Snow said last week in an interview with The Wall Street Journal. The trend, he said, is "good for us."

For the time being, the U.S. is on a roll, fueling growth in the rest of the world by buying much more stuff from abroad than it exports. The current-account deficit, a measure of how much the U.S. borrows from overseas to pay for foreign goods and services, widened to a record $805 billion in 2005 from $668 billion in 2004. That's a sign that the world's dependence on U.S. demand has been growing.

Some economists, though, expect the U.S. economy to slow in the second half of 2006, as stagnant or falling home prices make Americans feel less wealthy, and thus less willing to spend. Economists polled by the Journal expect annualized growth in U.S. gross domestic product to slow to 2.9% by the fourth quarter of this year from 4.6% in the current quarter. That could be a significant blow to the global economy: U.S. consumers buy about a fifth of everything the world produces.

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Until recently, there were few candidates to step up and buy if the U.S. consumer stepped down. Japan has been growing for three years, but slowly and without much help from its consumers. Europe, too, offered little hope of buoyancy. Household consumption in Germany, for example, fell in each of the past four quarters.

But change has come quickly. In Japan, for example, fourth-quarter GDP grew at an annualized 5.4%, the highest rate among the Group of Seven industrialized nations. More significantly, Japanese consumers have regained some of their urge to buy. After barely budging for much of the past decade, Japan's household spending grew by an annualized 3.5% in the final quarter of 2005.

Anecdotal evidence suggests a society that is learning how to spend money again. New restaurants are opening in Tokyo's posh neighborhoods, as are high-end boutiques. Apple Computer Inc. sold 14 million iPod portable music devices in the last quarter of 2005 -- its best sales since introducing the iPod to Japan in 2001. Coach Inc., a maker of upscale handbags, expects its Japanese sales to jump 20% to about $410 million for the fiscal year ending in June.

The picture is less clear in Europe. In France and Spain, robust household spending is fueling an economic upturn. But in Germany, Europe's largest economy, official data still show consumers in the doldrums. Many economists hope Germans will feel better about opening their pocketbooks if -- as some surveys suggest -- employers start taking on more workers.

The widely followed Ifo survey, for example, shows German business confidence at levels not seen since the reunification boom of 1991. And in the most recent Manpower survey of hiring expectations, German businesses said they expect to increase their work forces by 5% in the second quarter, reversing an expected decline of 4% in the current quarter.

U.S. multinational companies see signs that German industry is tooling up to produce for local consumers. Nordson Corp., which makes systems that apply glue and paint to packaging for the kinds of food and other products that go to local markets, says that European orders in December through February were up 12% from a year earlier, largely due to German demand. Nordson, based in Westlake, Ohio, does two-thirds of its manufacturing in the U.S., so more foreign demand means more exports.

"Talking to other industrial companies, they're having a similar experience," says Peter Hellman, president and chief operating officer at Nordson.

To be sure, even Japan and Europe won't be able to compensate if U.S. consumer demand falls sharply. And both face deeper problems that will keep their economies from growing very fast in the long run. They have aging populations and shrinking labor forces. Germany also faces another hurdle: Many of its manufacturers are relocating to cheaper locales in Central and Eastern Europe.

Still, if Japanese and European consumers start buying more over the next year, it could help curb the gaping U.S. current-account deficit, which many economists have cited as the most glaring sign of a global economic imbalance. "We will be getting worse more slowly, or possibly improving a little bit," says Michael Mussa, senior fellow at the Institute for International Economics in Washington.

Further down the road, emerging economies could play a bigger role in correcting the world's imbalances. Already, people and companies in the largest emerging economies, most of which have grown mainly by selling to the rest of the world, are making their own contributions to global demand. Data from the International Monetary Fund suggest that in 2005, China, India, Brazil and Russia together contributed about 30% of total growth in global demand, which includes consumer, corporate and government spending. That's more than double the level in 2000.

Investment has been the main driver of China's consumption growth. Massive government spending on everything from highways to sports stadiums for the 2008 Olympics has led to surging demand for imports. And China's emergence as a global center for product assembly has driven demand for high-tech parts from around the world. As the Chinese economy advances, however, consumers are playing a larger role, increasing their spending at an annualized rate of around 12%.

The rapid emergence of a middle class in cities like Shanghai and Beijing is attracting many of the world's top brands, as well as retailers such as Wal-Mart Stores Inc., Carrefour SA and Ikea. Still, Beijing isn't satisfied. It hopes consumer spending will expand much faster, replacing investment and exports as a leading engine of growth. Such a shift will take time, partly because a lack of health and welfare measures encourages the Chinese to save more and spend less. Chinese savings are among the highest in the world, at more than 40% of GDP.

India, too, is experiencing a consumer boom, driven by low interest rates, a rocketing stock market and a growing number of young urbanites employed in technology, one of the hottest corners of the global economy. Over the past year in India, sales of air conditioners and DVD players have risen 25%, washing machines 18% and microwaves 27%, according to a recent survey by the Federation of Indian Chambers of Commerce and Industry.

The emerging economies' growth is still coming from a relatively low base. China must expand about seven times as fast as the European Union to make the same dollar contribution to global demand growth. But the gap is closing -- a fact not lost on businesses in the U.S.

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"In the very near term, the strength in Europe is more important," says Paul Meister, vice chairman of Fisher Scientific International Inc., Hampton, N.H., which has recently seen stronger demand for everything from beakers to high-precision scales as European firms ramp up research spending. "But in the medium term, strength in Asia [outside Japan] is more important, particularly in China and India."

EU Raps Ankara For Pace Of Reforms (WT)

By Andrew Borowiec

The Washington Times, March 20, 2006

NICOSIA, Cyprus -- The Turkish government has ducked a confrontation with the military over Kurdish unrest -- at the price of incurring fresh criticism from the European Union that it is not making needed reforms.

Signals from Ankara indicate the problem is likely to surface again as the EU presses Turkey for changes in the treatment of the Kurdish minority and the role of the military.

The EU said recently that Turkey "has lost its appetite for reform."

Tension remained high yesterday in southeastern Turkey, where security forces were reinforced as Kurds prepared to celebrate the Newroz spring holiday tomorrow.

Authorities in Diyarbakir, one of the centers of Kurdish unrest, banned civil servants from taking part in the festivities, warning violators of disciplinary action. Newroz is not an official holiday in Turkey.

At the same time, the government authorized two regional radio and television stations to start limited programs in the Kurdish language, use of which was until recently banned in public statements. The EU wants Turkey, a membership candidate, to eliminate all such restrictions.

Relations between the government of Prime Minister Recep Tayyip Erdogan and the military have been strained by a report that a leading general had organized a special autonomous military force to fight Kurdish nationalist guerrillas.

When a prosecuting judge called for an investigation of the report, Mr. Erdogan ordered a probe of the judge instead, saying, "No one will gain anything by making the country's military appear weak."

"The army is one of our most important institutions," he added, in what was seen by diplomats as an effort to placate the military.

The general involved, Gen. Yasar Buyukanit, is head of Turkey's land forces and is due to take over as chief of general staff in August. He publicly supports Turkey's bid to join the EU, but thinks certain reforms demanded by the union would threaten Turkish society and traditions.

Since the creation of the republic in the 1920s, the army has served as the ultimate guardian of the republican system. In 1997, it forced the resignation of Necmettin Erbakan, Turkey's first openly Islamist prime minister.

The relationship of the military and Mr. Erdogan's ruling Justice and Development Party has undergone periodic strains, mainly because of the party's Islamist roots and some government measures seen by the army as encouraging fundamentalism.

Prodded by the EU, Turkey has limited the army's role in the National Security Council, accepted the concept of civilian control over military finances and reduced the army's judicial autonomy.

But the EU says the reforms fall short of expectations and has asked for the appointment of an ombudsman to fight corruption and an easing of property restrictions for non-Muslim minorities.

Dowries Running Dry In Drought-Stricken East Africa (WP)

By Emily Wax

The Washington Post, March 20, 2006

NAIROBI, Kenya -- They were neighborhood friends who occasionally flirted amid the once lush elephant grass of the East African savanna.

He was a gregarious 28-year-old cattle herder who had a college education, spoke five languages and supplemented his income by working for an international safari business.

She was a lively 22-year-old high school graduate, respectful of her parents and a captivating storyteller who met his main physical requirement: She was tall.

He arranged to meet her parents, who brewed a traditional welcome drink of sugar, honey, herbs, sour milk and cow's blood at their farmhouse. For her dowry, he offered his best bulls and most productive dairy cows.

Then, with her parents' blessing, Moses ole Samante proposed marriage to Evelyn Kutingala last spring.

But the engagement of the two young Kenyans, both from the Masai tribe, proved stressful. As the region's worst drought in a generation swept across East Africa, turning grazing fields to rock-strewn expanses of dust, Samante's chances for a wedding grew as thin as his bony cattle.

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Each month, more of his 300 cattle collapsed. Soon, nearly all were dead. By December, he had lost cattle worth more than $10,000 in a country where most people survive on $350 a year. The wedding was canceled. And Samante moved to Nairobi to find work.

"It's such a sad time," he said. "I had to leave my beautiful fields."

"Is there any way you can mate remaining cows quickly?" he recalled Kutingala pleading in a phone call from their village of Ntulele, about 120 miles south of Nairobi. "I fear they will give me to another, to an old and richer man. My mother doesn't want me to waste my youth."

The men of marrying age in East Africa are calling the current dry season "the drought that killed the dowry." On the world's poorest continent, droughts and changing weather patterns are pushing more and more Africans into cities, putting pressure on already strained resources and changing cultural practices, from diet to marriage traditions.

Humanitarian organizations estimate that 3.5 million people, mostly nomadic herders, are facing food shortages in Kenya. About 40 people have died of hunger-related illnesses, and 70 percent of livestock in the drought-affected northeast have perished.

Masai herders trying to escape the drought are streaming into Nairobi, letting their cattle feed on the city's grassy traffic circles. Police blotters are filled with reports of herdsmen being hit by cars. The Masai are also building congested shantytowns to live in and wandering the city begging for jobs.

"The drought and changes of weather patterns are disrupting a whole way of life," said Doug Keating of Oxfam International, which is helping distribute aid in the region. "If one was to take the view that the pastoralist way of life is no longer viable and they should give up their cattle, then what's the alternative? Millions head for the cities. I think we know cities in Kenya can hardly sustain the populations they have."A Hard Life in 'Nai-Robbery'

Samante first came to Nairobi, a city of high-rises and high crime, after a punishing two-year drought started in 1999, the seventh to hit East Africa since 1975. His parents begged him to seek a college education, and it was his father's dying dream, Samante said, that his eldest son learn foreign languages and earn a living that did not depend on cattle.

Samante arrived in Nairobi with $300 for his college tuition. But he lost it to a pickpocket shortly after arriving in a city Kenyans have nicknamed "Nai-robbery."

"We didn't have cars, we have cows, so I was looking this way and that. Not paying attention," he said, laughing at his former innocence. "And there were so many people, some banging smack into me. I would just smile and shake their hands. They gave me odd glances."

He returned to his village to sell more cows to make money. But when he returned to Nairobi a second time, he was robbed again.

This time, he thought he spotted the thief, a man who had stood very close to him asking questions about his Masai life. He ran after the man, and a fight broke out, he said.

Both men ended up in jail. Samante was beaten up by some inmates and teased as a "country Kenyan." He watched in shock as the thief used his college money to bribe his way out of jail, he said.

Samante eventually got out himself by having a friend also bribe the guards. But he had to work several jobs as a security guard to pay for college, and it took him years to graduate.

"We just aren't city guys," said Simon Kiraison, 22, a friend of Samante's from Ntulele who now works in Nairobi. "I can't marry. And I keep getting mugged. The city does not soothe my heartaches. It only brings more."

Samante and his friends in the city said they were afraid of the crime and frustrated that they could not afford milk, which they used to drink for free, or find cow's blood, a staple of their diet.

"Cow blood is very fantastic," Samante said. "I couldn't understand why the Nairobi tribes didn't want any."

Worst of all, they were lonely without their girlfriends and prospective wives.

Some of the rural men who moved to Nairobi took to having sex with prostitutes, a taboo in Masai culture. Cases of HIV infection began to increase in the Masai community, which historically has had a lower rate then the rest of the country, according to a government survey.

"We were losing all our self-respect," Samante said. "I wanted to try and remain a true Masai."A Debate About Dowries

Samante and Kutingala's wedding was to be a village celebration with more than 1,000 guests. A month beforehand, Kutingala's parents prepared a traditional wedding chest for her that contained fabrics, beaded necklaces and silverware.

But at the end of November, after he had lost nearly all of his cattle, Samante met with his fiancee's parents.

"When I told them," Samante said, "they wouldn't even look at me."

The drought has forced elders to revisit a debate about dowry and its role in a rapidly urbanizing Africa. Some of the arguments against dowries draw on stories like Samante's. Community leaders cite examples of girls being forced into early

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marriage by fathers eager to get the dowries to replace their livestock. Last month, educators rescued 20 schoolgirls in the herding district of Samburu from early marriage, according to national television reports.

The Catholic Church in Kenya, which has helped coordinate relief efforts, has blamed the government for failing to prepare for the droughts. In recent weeks, several high-level officials have been accused of pocketing a total of $1.3 billion in public funds, money that critics say should have gone to irrigation projects.

"It's really a big issue to see our culture being stamped out by drought, corruption and urban ways," said Julius Lemanken, a Masai who works for World Vision, an organization that is helping fund feeding projects. "Sometimes, culture changes naturally, on its own. But could this have been avoided? Will my grandchildren be able to herd like I did? Will they even know our good traditions?"

Young Kenyans say they are caught between strong traditions, which they still feel they must obey, and new ideas about wealth. Masai children are taught a proverb that says: "All cattle of the world actually belong to the Masai. Even the ones in India and the west were stolen from our lands."

"I love cows. I can't remove this mentality. If I do, we are lost people," Samante said. "The minute I have money in my pocket, I just buy cows. When I have money in the bank and no cows, it's like I am poor and pathetic."

Samante still hopes to wed, maybe in a year when he can mate his few remaining cattle. He just hopes Kutingala's family will allow her to wait for him.

"She met all of my needs for a young lady," he said. "I was so very happy."

"He was a successful and kind man in my age-set," Kutingala said she told her parents recently. "I am still longing for our married life."

At World Forum, Support Erodes For Private Management Of Water (NYT)

By Elisabeth Malkin

The New York Times, March 20, 2006

MEXICO CITY, March 19 — For more than a decade, the idea that private companies would be able to bring water to the world's poor has been a mantra of development policies promoted by international lending agencies and many governments.

It has not happened. In the past decade, according to a private water suppliers trade group, private companies have managed to extend water service to just 10 million people, less than 1 percent of those who need it. Some 1.1 billion people still lack access to clean water, the United Nations says.

The reality behind those numbers is sinking in. At the fourth World Water Forum, a six-day conference here of industry, governments and nongovernmental organizations, there is little talk of privatization.

Instead, many people here want to return to relying on the local public utilities that still supply 90 percent of the water to those households that have it.

There is a "big-time shift" in tone, said David Boys, a water policy expert with the Public Services International labor federation. Mr. Boys is a member of an advisory panel appointed by United Nations secretary general, Kofi Annan, that presented its recommendations at the forum, beginning with a call to strengthen local public utilities.

"The companies have lost tons of dough and tons of respect," Mr. Boys said. "They are pulling out."

Nowhere has that been more evident than in Bolivia, where, in the city of El Alto, residents have been fighting a subsidiary of the French company Suez. The government is now negotiating for Suez to leave, arguing that it did not extend service to people too poor to pay enough to make it profitable.

"The water rates have to conform to reality," said Abel Mamani, an activist from El Alto who is now Bolivia's new water minister.

An uprising in the city of Cochabamba five years ago chased out a subsidiary of the United States company Bechtel after it raised rates but failed to improve service.

Bolivian officials at the World Water Forum admitted that the old public municipal water systems were mired in corruption, bureaucracy and nepotism.

"The solution is for the community to get involved in water management," said Pablo Solón, an economic adviser to the government.

That kind of citizen oversight is already in place in many cities, like Porto Alegre, Brazil, which created a permanent council of 12 citizens' groups to oversee its water utility.

Even officials of the World Water Council, the organization that runs the forum and is heavily weighted toward multinational water companies, appear to be giving up on wholesale privatization.

"Let's finance infrastructure for the 50 countries most in need and the twenty poorest megacities through a more intense donation policy," said Loïc Fauchon, president of the council, in his opening speech last week.

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The debate over privatization is driving the controversy inside and outside the forum, which ends Tuesday. Across town, international and local groups held an alternative forum for activists opposed to privatization, who are unconvinced that governments and organizations like the World Bank have given up on the idea.

"The state does not assume its responsibilities properly," said Cuauhtémoc Abarca, a Mexico City activist. "In many cases there is a deliberate intention to show that public utilities work badly" as an excuse to privatize them.

For all the focus on privatization, much of the serious work of the forum was rooted in heart-wrenching statistics.

One in three people in the world, 2.6 billion, does not have access to any kind of toilet or latrine, according to a United Nations report to be presented at the conference on Tuesday.

Water-related diseases cause more than three million deaths a year, mostly of children younger than 5. Unicef, the United Nations children's agency, estimates that women and girls in the poorest countries and regions walk nearly four miles a day to carry water.

Only $3 billion in aid a year goes to improve water access and sanitation, the United Nations World Water Development Report said, and very little of that gets to the people who need it most.

But there was encouraging news, too, that local activists, even very young ones, could make a difference.

"We were scolded for being young people with big ideas," said Suresh Baral, 13, who organized a sanitation club in his school in rural Nepal. With help from Unicef, the children set up a microfinance program to help villagers pay for installing toilets.

Dolly Akhter, 15, started a hygiene group for adolescent girls in her slum in Dhaka, Bangladesh. Many teenage girls stayed away from school, too embarrassed by the lack of privacy for hygiene.

But when the group brought in new latrines, the girls returned and several were able to avoid early marriages by continuing their studies.

As her news conference ended, she looked up and said in broken English, "I hope water for all in the world."

Wise Council (WSJ)

By Kofi A. Annan

The Wall Street Journal, March 20, 2006

In just seven weeks time, on May 9, the U.N. will elect its first Human Rights Council. That moment can, and must, mark a new beginning for all the U.N.'s human-rights work. One hundred and seventy nations, including all of America's NATO allies, voted last Wednesday for the resolution creating this new Council. Belarus, Iran and Venezuela abstained. Sadly, the U.S. voted against, joined only by Israel, the Marshall Islands and Palau.

John Bolton, the U.S. ambassador, explained his vote in a constructive speech, pledging that, despite its disappointment with the text, his country "will work cooperatively with other member states to make the Council as strong and effective as it can be." That is very encouraging. Ever since Eleanor Roosevelt helped to draft the Universal Declaration of Human Rights in 1948, the U.S. has been a leading champion of human rights at the U.N. I hope and believe it will remain so.

Why were some Americans disappointed with the text? Essentially because they fear that in the new Council, as in the Commission that it replaces, some notorious human-rights abusers will win seats and shield themselves from scrutiny. That concern is shared by many other states, which -- like the U.S. -- would have preferred that Council members be elected by a two-thirds majority of the General Assembly. I had myself suggested this when I first proposed the Council a year ago. But in exchange for dropping it the president of the assembly, Sweden's Jan Eliasson, was able to persuade the assembly to include other provisions, which will make it more difficult for gross human-rights violators to sit on the Council.

First, Council members must be elected, "directly and individually by secret ballot by the majority of the members of the General Assembly." This means that nations will not get on the Council, as they did on the Commission, simply because there is no rival candidate from their own region. There will be a separate vote on each candidate, and any state that does not win an absolute majority of all U.N. members (not just those present and voting) will not get in. Its region will have to put up another candidate instead.

Second, Council members are required to "uphold the highest standards in the promotion and protection of human rights," and to submit their own human-rights record to the Council's scrutiny during their term of membership. Already some governments have produced manifestoes, pledging specific improvements in their human-rights performance, in the hope of winning election. This was unheard of under the old system. And third, the General Assembly will have the power to suspend Council members that do commit gross and systematic violations during their term. It had no such power over the old Commission.

Taken together, these provisions should make it very hard for a notorious violator to win election, and should deter the worst offenders even from running. How effective they are depends, of course, on how seriously the U.N. membership takes them. Already a large number of states have pledged not to vote for candidates that are under Security Council sanctions for

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human rights-related reasons. If all governments that really care about human rights take a similar attitude, and use their powers of diplomacy to persuade others to do likewise, the membership of the new Council will be significantly different from that of the Commission.

And that will not be the only difference. Being chosen by the entire U.N. membership, the Council will have greater authority than the Commission, which was elected indirectly. It will also be faster on its feet. Unlike the Commission, the Council will meet regularly throughout the year, and can respond more promptly to human-rights crises by holding special sessions at short notice. (The Commission had only one six-week session each year, while its procedure for calling special sessions was much slower.)

Equally important, instead of singling out some countries for attack while ignoring human-rights violations in others, the Council will regularly review the human-rights record of all countries -- starting, as mentioned above, with its own members. It is required to "be guided by the principles of universality, impartiality, objectivity and non-selectivity," while eliminating "double standards and politicization." And whereas the Commission was entirely reactive, the Council is mandated to contribute to preventing human-rights violations.

Some had feared that the General Assembly would use the change to strip away some of the more valuable aspects of the U.N. human-rights system, such as the use of independent experts as special rapporteurs, or the important role of non-governmental organizations. But these are explicitly continued.

In short, there is every reason to hope that the new Council will combine the best features of the old system with some much-needed changes. All those who want it to fulfill this promise now have seven weeks to make it happen. Let no one who cares about human rights remain on the sidelines of this struggle.

Mr. Annan is U.N. secretary-general.

The Case For Caring Now (WP)

By Fred Hiatt

The Washington Post, March 20, 2006

On one of her visits to her native Liberia, Ellen Johnson-Sirleaf told a joint session of Congress last week, she was placed in a jail cell with 15 men. "All of them were executed a few hours later," she said. "Only the intervention of a single soldier spared me from rape."

Now Johnson-Sirleaf, 67, is the newly elected president of her unhappy African country, and if you think she was trying to seize Congress's attention with that anecdote of 20 years past, you are no doubt correct.

After all, the world is full of unhappy countries that have won sympathy here, and then been rapidly discarded. Think Haiti, for example, or Afghanistan, which was of interest to Ronald Reagan, forgotten by George H.W. Bush, neglected by Bill Clinton and then (not coincidentally) a crisis again.

Now Johnson-Sirleaf, Africa's first female elected leader, is enjoying her moment of fame and good feeling. Laura Bush and Condoleezza Rice attended her inauguration in January, Congress greeted her as a hero last week, President Bush will receive her tomorrow. After a quarter-century of coups, dictators and civil wars in Liberia, this is a moment of restored democracy and hope.

Do not assume, however, that Johnson-Sirleaf therefore will stoop to unseemly flattery or diplomatic spin. After all her years of exile, harassment, surveillance and prison, with all the misery waiting for her back home, she seems to have no time for that.

As in: When she is asked during a visit to The Post how she will plead her case for aid to Bush, given draining U.S. commitments to Iraq and Afghanistan, she replies, "For the reason you said -- he needs a success. Billions are being spent on Iraq, billions are being spent on Afghanistan -- and it will take a fraction of those billions to make Liberia a success story.

"I think he needs one, and we're going to give him an opportunity to have one."

It's not that Johnson-Sirleaf, stately in traditional dress, comes across as ungrateful. In her address to Congress, she thanked the United States for its help in brokering an end to Liberia's vicious civil war and for sending money to get the country going again.

But, she says, "we still have problems. I can't tell you we're out of the woods."

Any Western leader might regard that as an astonishing understatement. Johnson-Sirleaf works out of a dilapidated palace that, like the rest of her country, depends on generators for electricity.

"We have a city that's dark," she says. "We have a city where many young children don't know that water comes out of a tap." At night, children gather on street corners to do their homework by the spillover from private floodlights, since they have no light at home. Many others do no homework because they can't afford pencils, or can't attend school at all.

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Civil war drove most of the country's 3.5 million people from their homes. Some 45 percent of the population is 14 or younger; many of those children were press-ganged into armies and know no other life. Life expectancy is 42.5 years. Unemployment is 80 to 85 percent. Of every 1,000 children born, 132 die in infancy.

Why should the United States care? The standard answer of traditional historical ties, based on the freed American slaves who founded Liberia, may have worn thin after all these years. But there are two others.

One is that helping is cheaper in the long run than the alternative. When conditions in a country become too atrocious to bear -- when drug-addled marauders take to chopping off the hands of children who get in their way, as in Liberia's neighbor Sierra Leone -- public opinion may (at least some of the time) force the United States, Britain or the United Nations to intervene. By the time that demand comes, the destruction is so complete -- in Liberia, roads, hospitals, water pipes, everything has crumbled -- that repair is far more difficult and expensive.

The second is Johnson-Sirleaf herself: Harvard-trained economist, former World Bank and U.N. official, democrat. She espouses an anti-corruption, socially inclusive vision that aid officials can only dream of finding in most poor countries. Courageously, for he still has many followers, she has asked that former dictator Charles Taylor, now in Nigeria, stand trial for his crimes.

When her hour at The Post is over, she waves off the usual pleasantries and asks: What will emerge from this interview? What will Liberia get out of it? And suddenly "grandmotherly," the adjective you often hear applied to her, reminds you less of the woman who sneaked you an extra cookie when your mother wasn't looking and more of having your hands checked for cleanliness before being seated at the Sunday dinner table.

Well, Madam President, I'm afraid this column is the best I can do. I hope you get more out of President Bush tomorrow.

Spreading Genocide To Chad (NYT)

The New York Times, March 20, 2006

After the Holocaust, the world vowed it wouldn't stand back and allow genocide to happen again. Bosnia, Cambodia and Rwanda showed how empty that promise was. Darfur was yet another reminder that when it comes to standing up to stop the slaughter of entire peoples, the nations of the world remain pitifully inadequate.

And now, as if the hundreds of thousands of Africans killed in Sudan weren't enough, the Arab militias financed by the government of Sudan to "cleanse" Darfur of blacks are moving across the border into neighboring Chad. Our colleague Nicholas Kristof reports that the janjaweed — the name given to the Arab militias — have unleashed their fury on villages in Chad, riding in and killing and raping, accompanied by their standard shouting of racial epithets like "black slaves."

Mr. Kristof is one of the few journalists willing to venture into the lawless region. He took along NBC's Ann Curry of the "Today" show on his trip this month, and wrote about a market town in Chad near the Sudan border called Koloy, where villagers were actually waiting to be massacred. There was no one to help them. Chad's government sent a handful of troops, but when the soldiers realized that they would be facing more than 500 janjaweed armed with heavy machine guns, they fled. Diplomats don't dare visit because it's not safe. Ditto for United Nations aid groups. Only one organization, Doctors Without Borders, goes to Koloy, Mr. Kristof reported, "sending in a convoy of intrepid doctors three days a week to pull bullets out of victims."

Is this really what we have come to? The United Nations has described the carnage in Darfur as the world's biggest humanitarian crisis but continues to prove itself completely useless at doing anything to stop it. In the Security Council, China protects Sudan. Europe, for its part, has been inert.

That leaves the United States, where the Bush administration has made a few strides. Deputy Secretary of State Robert Zoellick appears to be close to getting the United Nations to supplement, if not replace, the woefully ineffective African Union peacekeeping force in the region with United Nations peacekeepers. The United States should also commit to providing specialized reconnaissance and air support for the United Nations force. Sudan's government doesn't like the idea of a multinational peacekeeping force, and has even organized demonstrations in the capital against the idea, although the protesters tend to look suspiciously like government military types.

The African Union soldiers have done their best, but they are poorly equipped for one thing, and low in numbers for another — there are only 7,000 of them in an area the size of France. They don't have much in the way of intelligence capability and they are lightly armed. That's a recipe for stalemate, and stalemate is the last thing villagers waiting to be massacred need.

A Chinese Huff (WSJ)

The Wall Street Journal, March 20, 2006

Ever wonder why India's economy might overtake China's one day? China's Commerce Minister, Bo Xilai, might acknowledge India's English-language capabilities and its younger population. But never mind those pesky ideas about the rule of law and democratic principles.

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At the Asia Society's annual corporate conference in Mumbai yesterday, we asked Mr. Bo what the Middle Kingdom might learn from India's experience, particularly as the Chinese economy becomes more integrated with the rest of the world. To our surprise, and to the shock of the audience -- save the mainland rent-a-clap crowd who were along to lend a literal hand -- Mr. Bo embarked on a tirade against democratic freedoms.

"Democracy is not the ultimate goal," Mr. Bo, the princeling son of Long March veteran and former Vice Premier Bo Yibo, declared. "We need to raise the living standards of the people." (Cue: rent-a-clap.) "I've been to lots of developed countries where there are also a lot of poor people," he added, jabbing his finger at us. (Encore rent-a-clap.) "I don't think it's good to separate countries into democratic or non-democratic countries." (One more clap.)

Now, Mr. Bo happens to be one of the more enlightened Beijing bureaucrats. A former mayor of Dalian, a northeastern port city in Liaoning province, he won praise for boosting foreign investment, among other things. In his new role as commerce minister, he's also reacted calmly to bouts of European and U.S. trade protectionism.

But despite prolonged contact with open societies, Mr. Bo still doesn't seem to understand the secret of their success. Near the end of his huff, Mr. Bo backtracked and claimed that Beijing is "listening" to the voices of its people, and that its citizens are gradually gaining more democratic freedoms. If only it were so.

King Abdullah: Protector (WT)

By S. Rob Sobhani

The Washington Times, March 20, 2006

As the rest of the Muslim world was engulfed in violence over the publication of sacrilegious cartoons of the prophet Muhammad, one country at the heart and soul of the Muslim world remained surprisingly silent. Yet that country, Saudi Arabia, is where one would have expected the most virulent and violent demonstrations, since it is the birthplace of Islam. But extremists failed to capitalize on the European press' lack of respect for the prophet of Islam.

The extremists' failure to widely incite the population of Saudi Arabia is largely due to the nature of its new leader, King Abdullah. The new king is a pious and popular leader of the most significant Muslim country in the world, and he has reset the tone and tenure of political life in Saudi Arabia by emphasizing restraint and tolerance.

At his home in the outskirts of the capital, Riyadh, King Abdullah's gracious and reform-minded son, Prince Miteb, explained his father's vision as one of "constructive engagement." As custodian of Islam's two holiest shrines, King Abdullah understands the enormous responsibility he carries as the flag-bearer of Islam. Therefore, one of the most important themes that King Abdullah has been stressing is unity both within Islam and among the various faiths of the world. For example, at a recent gathering in Riyadh, he emphasized that the "clash of civilizations" is only likely to occur if instigators of discord are allowed to spread hatred without any intervening authority.

Unlike irresponsible Muslim clerics and "leaders" who encouraged violence in response to the cartoons, this reformist leader called on Muslim intellectuals to project the true picture of Islam as a moderate and tolerant religion: "We should tell the world that the mistakes committed by a small minority of extremists and fanatics do not represent the spirit of Islam and its heritage." The king led the way by expressing his satisfaction with the apologies issued by Danish authorities expressing their deep sorrow and thereby showed statesmanship on a grand scale.

Prince Miteb, who represents a new, more progressive generation of Saudi leaders, highlighted the National Dialogue Forum as an example of the king's commitment to democratization of the kingdom, individualized to adapt to the country's culture and norms. The forum was founded in 2003 on the instructions of then-Crown Prince Abdullah as a channel for "responsible expression." These Saudi-style town hall meetings have become an effective means of fighting fanaticism and extremism by enabling Saudi men and women from all walks of life to publicly discuss previously taboo subjects.

For the first time in the kingdom's history, Saudis are enjoying a culture of public dialogue that is bringing about societal change. The first two forums covered issues of religious tolerance and women's rights. As a result of these dialogues, King Abdullah was able to peacefully return the formerly shunned minority Shi'ite Muslims into the mainstream of Saudi society.

The third forum focused on education reform, whereupon most Saudis opined that the present education system produces students who are experts at memorization but who cannot think logically and rationally. Another forum was called "Us and the Other" and dealt with how Saudis relate to the rest of the world. A majority of participants were fiercely critical of the Saudi curriculum, which blames "the other" for most international problems.

As the United States faces the uncomfortable fact that its goal of energy independence is increasingly at odds with reality, America's energy security remains in lock-step with Saudi Arabia's oil strategy. Luckily for American consumers, King Abdullah's vision of a stable global-energy market is reflective of a deep understanding of the responsibility that Saudi Arabia has as the world's No. 1 oil producer.

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The key policy for King Abdullah is price stability. He has ensured that Saudi Arabia is on track to increase its production capacity by 15 percent by 2009 to more than 12 million barrels per day. This bodes well for the United States because it could be importing 70 percent of its oil in 2020 (compared to 58 percent today and 33 percent in 1973). Furthermore, the king understands that globalization of the energy sector makes energy security a common responsibility of consumers and producers. His vision expands the concept of energy security to include the new super consumers -- China and India -- and acknowledges that the worldwide energy-supply value chain needs to be protected.

Under the leadership of King Abdullah, Saudi Arabia is undergoing a political and social reformation. It is incumbent upon the United States to work with this distinguished statesman to ensure that his vision becomes a permanent feature of this strategic, yet combustible, region.

S. Rob Sobhani is president of Caspian Energy Consulting.

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THE ATTORNEY GENERAL'S NEWS BRIEFING

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TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

Despite Agreement On Wiretaps Illegality, Senators Said To "Recoil" From Bush Censure. The Milwaukee Journal Sentinel (3/19, Gilbert, 266K) reports that while "most senators recoiled last week from Wisconsin Democrat Russ Feingold's resolution to censure the president, many of them agreed with one of its basic premises: that the wiretapping of Americans without a warrant is against the law," and doubts about its legality are "found among both liberal and conservative scholars and on both sides of the aisle in Congress."

Dead Saudi Al Qaeda Leader Preaches Violence In Video. The Washington Times/AP (3/19, El-Magd) reports that in a video sent to the Associated Press by email, Fahd Faraaj al-Juwair, the slain leader of al Qaeda in Saudi Arabia, "vowed in his final testament that his group would overthrow the royal family and stage more attacks against the kingdom and Americans in the region."

Lawyers In Moussaoui Case Argue Over Calling Martin To Testify. The Los Angeles Times (3/19, Serrano, 958K) reports that Zacarias Moussaoui's lawyers want Carla J. Martin to "testify about why she tried to influence witnesses" even "as soon as Monday," saying "she should be the next witness before the prosecution brought in any 'untainted' witnesses on aviation security because her testimony would provide 'critical information' about the nature of the witness-tampering effort." However, "Prosecutors want to delay Martin's appearance until the middle of the week and have her testify only if she agrees to answer questions about her conduct and not invoke the 5th Amendment against self-incrimination."

Ashcroft Calls Cooperation Key To Terrorism Fight. The AP (3/19, Gresko) reports,

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"Former U.S. Attorney General John Ashcroft said Saturday that he does not believe the threat of terrorism has passed and that the United States must work with other countries to combat it." The AP continues, "In an hour-long talk as part of a conference on economic crime, the nation's former top law enforcement officer also discussed the importance and challenges of prosecuting financial crime and the emphasis after the 2001 terrorist attacks on 'prevention over prosecution.' … 'As we fight against terror . . . We need to remind ourselves of the necessity and value of being extremely cooperative with individuals of other nations and in other settings,' Ashcroft said." The AP adds, "Ashcroft also drew laughs with some self-deprecating remarks. He also joked that the crowd of approximately 200 students, professors and attorneys at St. Thomas University School of Law would not have to remember anything he said. … Not mentioned as part of his speech was the pending case in Miami against alleged terror suspect Jose Padilla, who was arrested almost four years ago while Ashcroft was attorney general."

PATRIOT ACT:

Patriot Act Satirized By Board Game. The AP (3/19, Parry) reports, "'Patriot Act: The Home Version' pokes fun at 'the historic abuse of governmental powers' by the recently renewed anti-terrorism law," and "the object of the game is not to amass the most money or real estate, but to be the last player to retain civil liberties."

HOMELAND RESPONSE:

White House Drill Tests Response To Smallpox Attack. The New York Times/AP (3/19) reports Cabinet secretaries "participated in a drill on Saturday that simulated a smallpox attack as the government tested plans to counter the potential use of bioweapons by terrorists." Officials "from various government agencies, including Dr. Julie Gerberding, director of the Centers for Disease Control and Prevention, participated in the four-hour exercise. Michael Chertoff, the homeland security secretary, and Michael O. Leavitt , the health and human services secretary, were among the cabinet members who were part of the drill."

Library Incident Cause Concern Over Maryland County's Homeland Security Force. The Washington Post (3/19, C5, Barr, 744K) reports that Montgomery County, Maryland's, "Homeland Security Department, national experts say, is the only such agency to maintain uniformed officers apart from its local police force." While "County Executive Douglas M. Duncan (D) wants to increase the department's $5 million budget by 20 percent in the next fiscal year," an incident last month when "a homeland security officer told public library patrons that they couldn't view Internet pornography," has "some County Council members…questioning the size and role of the department and its security unit," and "controversy surrounding the library incident might…be swelling."

White House Advance Workers Impersonated Reporters. The Washington Post (3/19, A11, Lee, 744K) reports, "The White House said yesterday that it will discipline two government employees who masqueraded as journalists this month while scouting locations for a presidential visit to the Gulf Coast. A Mississippi couple whose home was destroyed by Hurricane Katrina said two men who later identified themselves as Secret Service agents pretended to be Fox News journalists," but "Tom Mazur, a spokesman for the Secret Service, said he did not know who the men were but they were not Secret Service officials."

New Flood Maps Expected To Impact Louisiana Coastal Communities. The Washington Post/AP (3/19, Burdeau) reports that "new Federal Emergency Management Agency flood-vulnerability maps due to be released soon" for Louisiana's coastal areas "will likely make the insurance more costly, force residents to spend heavily to raise homes out of flood plains to qualify for coverage, make many other homes uninsurable and make lenders less willing to loan money for construction in flood-prone areas. That new reality may threaten the state's coastal population and its heritage of shrimp fishing, alligator hunting, fur trapping and oyster harvesting."

Reformers Try To Change New Orleans Bureaucracy. The Los Angeles Times (3/19, Quinones, 958K) reports, "New Orleans has what critics contend are layers of redundant government that it can no longer afford, given its greatly reduced population and budget." Part of this is its "seven elected property assessors — each with their own

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staff and responsibility for a separate district — to assess the city's 164,000 parcels." Now, "Riding the wave of change, a group of lawyers and businessmen have qualified a slate of assessor candidates — known as the I Quit Ticket — for the April 22 city elections." They "vow to lobby for legislation allowing voters to approve consolidating their offices into one, and resign en masse when that happens," forcing "a special election of a single assessor."

Old Black Church May Close In New Orleans. The Washington Post (3/19, A7, Lydersen, 744K) reports, "In the face of a much-reduced city population and physical damage to many churches post-Katrina, the Archdiocese of New Orleans is closing seven parishes," including St. Augustine, "one of the nation's oldest African American Catholic churches." Still, "local residents are rallying behind the church and hoping the parish can be saved.

Future Of New Orleans Music Landmark Uncertain. The New York Times (3/19, Saulny, 1.19M) reports that part of Milne Boys Home in New Orleans was the Colored Waif's Home for Boys. "A host of noted jazz musicians", including Louis Armstrong, trained at the Colored Waif's Home, and "Milne stands as one of the last physical connections to the city's musical past." However, it was damaged in the flooding, "and many wonder if it will have a place in the new city." While, "officials said the city was negotiating with the Federal Emergency Management Agency to determine how much federal money might be available for the site," they also have "the chaos of dealing with an acute housing shortage, a coming mayoral election and tens of thousands of displaced residents."

WAR NEWS:

Bush Highlights Progress, But Iraq Continues To Weigh Down Approval. President Bush continues to make the case that the US is making progress in Iraq, even as polls show the war is taking a toll on his job approval rating. The President addressed the challenges facing the US in his weekly radio address, and the White House says he plans two speeches this week on "lessons learned" in Iraq. The issue was the subject of extensive media coverage, with much of it focused on the problems the US and the Administration faced in achieving its goal of establishing a peaceful democracy in Iraq.

NBC Nightly News (3/18, story 4, 1:55, Jordan, 9.87M) reported, "In his weekly radio address today, President Bush says Americans have seen horrific images from Iraq and he says more sacrifice will be required." President Bush: "The fighting has been tough. The enemy has proved brutal and relentless. We changed our approach in many areas to reflect the reality on the ground." Jordan: "Still, the President said US strategy in Iraq is succeeding 'slowly, but surely.' However, the latest Newsweek poll out today suggests that the majority of Americans disagree. 29% approve of how the President is handling the situation in Iraq; 65% disapprove. And Mr. Bush's approval ratings remains at a low of 36%, [while 58% disapprove.]"

The Washington Post (3/19, Gugliotta, 744K) reports Bush "promised to 'finish the mission' with total victory, urging the American public to remain steadfast but offering no indication when victory might be achieved." His "address comes at a time when confidence in the administration's Iraq strategy appears to have reached all-time lows."

The AP (3/19, Riechmann) says Bush "braced Americans for more bloodshed in Iraq but said recent civil strife has motivated warring political factions to move quickly to set up a representative government." His upcoming speeches will "be similar in tone to a series of talks he made in December to help turn public opinion on the war in his favor. In those talks, he combined steely resolve with frank acknowledgments that mistakes have led to changes in U.S. strategy."

Taking a negative tone on Bush's radio address, the Houston Chronicle/Cox News (3/19, Deans) reports, "Three years after President Bush launched the invasion of Iraq, the war grinds on amid escalating costs — in lives, money and U.S. influence abroad." In his radion address Bush said, "We will finish what we started in Iraq. … We will complete the mission." Yet, "sectarian violence verges on civil war. More than 130,000 troops remain in Iraq. And the toll on Iraq and the United States is far beyond anything the administration prepared Americans for in the lead-up to the March 19, 2003, invasion."

Over 50 local television stations covered President Bush's weekly radio address, focusing mainly on his call for patience and need to maintain resolve. Most of these same stations also reported on protests, or continuing violence in Iraq, on the third anniversary of war. For example: KTRK-TV Houston (3/18, 5:00 p.m.) reported, "President Bush is urging Americans not to lose resolve today, signaling there will be no pullback, and promising that progress is being made, and the world is safer because of the invasion. In city after city, from

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London to Sydney and here at home, that stay-the-course strategy is fueling today's protests, one of the largest in this country in Chicago."

WAGA-TV Atlanta (3/18, 6:00 p.m.) reported President, "Bush says the horrific images from Iraq may overwhelm the good news on progress. But he insists Iraq is making strides towards a better future." KTRK-TV Houston (3/18, 6:00 p.m.) reported, "Three years ago tomorrow, President Bush ordered the start of the war in Iraq. Today, the President defends the decision and tens of thousands head to the streets to protest."

KPHO-TV Phoenix (3/1/8) 10:00 p.m.) reported, "President Bush expressed hope in his weekly radio address. He said Iraqi leaders are making progress for forming a new government and that will ease the bloodshed, but he warned of more fighting and sacrifice ahead."

WTAE-TV Pittsburgh (3/18 11:00 p.m.) reported President Bush said, "The security of our country is directly linked to the liberty of the Iraqi people, and we will settle for nothing less than complete victory." KARE-TV Minneapolis-St. Paul (3/18, 5:00 p.m.) reported, "In his weekly radio address, President Bush, facing dwindling approval ratings, is calling for patience."

Administration Lowers Expectations For Iraq Progress. The Los Angeles Times (3/19, McManus, 958K) in a front page analysis titled "U.S. Lowers Goals In Iraq" reports that after three years of war in Iraq "the Bush administration faces a new challenge: the prospect of civil war. And, in response, officials again appear to be redefining success downward." The Times notes, "In increasingly sober public statements -- and in slightly more candid assessments from officials who insisted that they not be identified -- the administration is working to lower expectations." While the Administration has "tacitly acknowledged for more than a year that trying to stabilize Iraq is proving more difficult than they expected," experts "say they see signs of a more fundamental shift in the administration's position -- a creeping redefinition of U.S. goals in Iraq that increasingly allows for the possibility that the nation may remain unstable for years to come."

Similarly, Nina Kamp and Michael O'Hanlon from the Brookings Institution in an op-ed in the New York Times (3/19, 1.19M) updating their assessment of the situation in Iraq write that "the confusion on the ground in Iraq seems to have spread to American generals' public pronouncements. Last Monday, just days after saying that pacification efforts with the Iraqis were going 'very, very well,' Gen. Peter Pace, chairman of the Joint Chiefs of Staff, told an audience that Iraq is 'a place that is having some real difficulties right now' and that 'everything is in place if they want to have a civil war.' Unfortunately, an examination of trends in Iraq backs up General Pace's later, more sober comments." But despite the problems in Iraq, "more than 60 percent of Iraqis (though very few Sunni Arabs) remain bullish on the future. … These statistics may point to the possibility of a troop drawdown strategy for the United States -- but while a strategically passable outcome still seems within reach, it is increasingly hard to believe that there are the makings of a major success for American foreign policy in Iraq."

Support For Bush's Handling Of Iraq Seen As Dropping In Heartland. The Boston Globe (3/19, Savage, 484K) reports, "Support for Bush and his handling of Iraq is sharply eroding across the American heartland, where the overcast skies and the muddy fields of late winter matched a sense of gloom about Bush and the war." Recently "the Indianapolis Star released poll findings that Bush's approval rating among Indiana voters stood at 37 percent -- a drop of 18 points over the past year. The numbers echoed national polls, but were particularly shocking in a state that has not voted for a Democratic presidential candidate since 1964, and where Democratic presidential contenders often do not bother to campaign." In rural Indiana "support for the troops remains high. But many in Indiana also say the war has not turned out the way they thought it would three years ago, and they question whether Bush has what it takes to lead the troops into a happy ending."

Bush Accused Of Using Misleading Rhetoric. The AP (3/19, Loven) in an article titled "Bush Using Straw-Man Arguments In Speeches" reports, "When the president starts a sentence with 'some say' or offers up what 'some in Washington' believe, as he is doing more often these days, a rhetorical retort almost assuredly follows." He has been "criticized for dressing up events with a too-rosy glow. But experts in political speech say the straw man device, in which the president makes himself appear entirely reasonable by contrast to supposed 'critics,' is just as problematic." Washington University professor Wayne Fields says, it is a "'bizarre kind of double talk' that abuses the rules of legitimate discussion."

Khalilzad "Dives Into Iraq Diplomacy," AP Reports. In a profile of US Ambassador Zalmay Khalilzad, the AP (3/19, Hurst) reports that the envoy "spends a lot of time these days in a soundproof room at the US Embassy, sitting in front of

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television cameras and repeating a single message: Iraq must have a unity government and Americans must be patient until that happens. The 54-year-old Afghan-born US envoy -- a snappy dresser with a soft-spoken, easy demeanor -- has become the increasingly effective face of the Bush administration's campaign to restore American confidence in the Iraq mission."

Rumsfeld Reiterates Commitment To Iraq. Defense Secretary Donald Rumsfeld in an op-ed in the Washington Post (3/19, B7, 744K) writes, "The rationale for a free and democratic Iraq is as compelling today as it was three years ago. A free and stable Iraq will not attack its neighbors, will not conspire with terrorists, will not pay rewards to the families of suicide bombers and will not seek to kill Americans." Abandoning Iraq "would be the modern equivalent of handing postwar Germany back to the Nazis. It would be as great a disgrace as if we had asked the liberated nations of Eastern Europe to return to Soviet domination because it was too hard or too tough or we didn't have the patience to work with them as they built free countries."

Former General Calls For Rumsfeld To Resign. Ret. Army Major General Paul Eaton, who was in charge of training the Iraqi military from 2003 to 2004, in a strongly-worded op-ed in the New York Times (3/19, 1.19M) says Defense Secretary Donald Rumsfeld "has shown himself incompetent strategically, operationally and tactically, and is far more than anyone else responsible for what has happened to our important mission in Iraq. Mr. Rumsfeld must step down." President Bush should accept his resignation and "in the longer term, Congress must assert itself. Too much power has shifted to the executive branch, not just in terms of waging war but also in planning the military of the future. Congress should remember it still has the power of the purse; it should call our generals, colonels, captains and sergeants to testify frequently, so that their opinions and needs are known to the men they lead. Then when they are asked if they have enough troops -- and no soldier has ever had enough of anything, more is always better -- the reply is public."

Feinstein Says Bush Needs To Provide Leadership. The AP (3/19, Riechmann) in its article on Bush's radio address also notes that "critics of the administration's handling of the war say that the Iraqis must be told that the American military will not be in Iraq forever, and they must realize that the eventual pullout will be on U.S., not Iraqi, terms." In the Democratic radio address, Sen. Dianne Feinstein said, "We need the president to urgently exercise the leadership necessary to bring Iraq's political factions together. … In no uncertain terms, the president must immediately inform the Iraqi people that they need to get their political house in order."

Skelton Says US Will Need Luck To Achieve Goals In Iraq. The Kansas City Star (3/19, 286K) publishes the predictions of six commentators on US progress in Iraq. U.S. Rep. Ike Skelton said, " "The American people strongly support the troops, (but) the support for the mission is beginning to wane. With some good luck, this can all come out at the end of the day with a responsible government and with Iraq forces quelling the violence. We're going to have to have good luck along with some hard work."

Columnist Applauds Shift In US Strategy. Two columns in the Washington Post call Bush's policy of using Democracy to achieve peace as failed. James Hoagland in his column in the Washington Post (3/19, B7, 744K) describes the evolving US policy on Iraq saying "The Bush team gets closer" to resolving the conflict in Iraq "with this exercise, which portrays the long war as a global ideological struggle that hinges on a battle of ideas within and about Islam." Instead of promoting "democracy as a cure-all for the vast frustrations and delusions of al-Qaeda's target audience," a "new tone of realism about those conflicts has taken hold in internal administration discussions of the way forward. Nothing could reassure Americans more than publicizing that change."

Columnist Says US Policy Of Promoting Democracy A Failure In Iraq. George Will in his column in the Washington Post (3/19, B7, 744K) urges Bush to "emphasize the dangers of failure and de-emphasize talk about Iraq's becoming a democracy that ignites emulative transformation in the Middle East." Will concludes, "Three years ago the administration had a theory: Democratic institutions do not just spring from a hospitable culture, they can also create such a culture. That theory has been a casualty of the war that began three years ago today."

NYT, LAT Say US Has Been Humbled By Lack Of Progress In Iraq. The New York Times (3/19, 1.19M) editorializes, "Many who supported the invasion have taken this anniversary to argue that it all would have been worthwhile if things had been run better," but "the last three years have shown how little our national leaders understood Iraq, and have reminded us how badly attempts at liberation from the outside have gone in the past." While right now

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"there is no time to imagine what the world might be like if George Bush had chosen to see things as they were instead of how he wanted them to be three years ago," his "Iraq debacle ought to serve as a humbling lesson for future generations of American leaders."

The Los Angeles Times (3/19, 958K) in an editorial writes that "the occupation of Iraq has been a humbling letdown." The Times does "concede that the Bush administration's actions were rooted in a strain of American idealism most often identified with Woodrow Wilson." But it has resulted in "a quagmire. Bush's messianic idealism was never justified, and in any event the administration's flawed execution would have undermined his purpose." Entering "its fourth year, the war in Iraq defies simplistic characterizations from both ends of the political spectrum" and "the future of Iraq remains shrouded in gray uncertainty."

On Third Anniversary Of US Invasion Of Iraq, Troops See Problems Lingering. In a story on the third anniversary of the US invasion of Iraq, ABC World News Tonight (3/18, story 3, 3:10, Raddatz, 8.78M) reported it is "a milestone" for the US troops in Iraq "in the sense, because of the fact a lot of them are back. They can't really believe they are still here. They look around, and they see some of the problems haven't gone away. I think they are very proud of themselves for what they have done here, and some of the reconstruction efforts, and some of the efforts of reaching out to the Iraqi people. But they know the security situation is not solved, and I think a lot of them think it probably would have been -- probably those especially who came in on the initial invasion thought it would be over then, and they are still here."

Soldiers Recount Negatives And Positives Of Iraq Experiences. And the Washington Post (3/19, A1, 744K) in a front page article describes the experiences of 100 Iraq war veterans interviewed over the past year reporting, "Iraq was bad, nearly all of them agreed," yet "it was not bad in the ways they see covered in the media -- the majority also agreed on this. What they experienced was more complex than the war they saw on television and in print. It was dangerous and confused, yes, but most of the vets also recalled enemies routed, buildings built and children befriended, against long odds in a poor and demoralized country.

Iraqis Said To Be Disenchanted With Lack Of Progress. ABC World News Tonight (3/18, story 3, 3:10, Harris, 8.78M) reported, "I can't find any commemorations, no sign of demonstrations or protests scheduled for tomorrow, no mention of this anniversary in the major newspapers, or on the major newscasts. If you ask Iraqis about the anniversary, you'll get an earful, mostly complaints." Drivers waiting in gas lines that could last 4-12 hours "said this would never have happened under Saddam. When I asked the natural follow up, after three years would you rather have Saddam back, they said no." A lot of Iraqis "thought with the Americans, the world's only superpower taking over, that this country would be turned into something like Connecticut overnight. And in fact, just the opposite has really happened, and they've seen a deterioration in the security front. They have less electricity than before the war in many parts of the country, and many parts of the country still don't have drinkable water. So at this point, three years after the invasion, what we're seeing is a lot of disappointment as opposed to the optimism felt in many quarters three years ago."

Similarly, the Washington Times (3/19, A1, Behn, 90K) in a front page story also reports, "Iraqis interviewed on the streets of Baghdad on the eve of the third anniversary of the U.S.-led invasion said it will take at least a decade, maybe longer, to get their country on its feet." And "many Iraqis said they had lost confidence in their political leadership's ability to pull the country together."

And the Washington Post publishes a number of opinion pieces critical of US progress from the perspective of local Iraqis. Muean Aljabiry, an Iraqi-born filmmaker and political consultant, in an op-ed in the Washington Post (3/19, B1, 744K) says that after the liberation of Iraq he served as an interpreter for "Barbara Bodine and retired Lt. Gen. Jay Garner, the two highest officials in postwar Iraq. I didn't know how the experiment would turn out. But as I arrived in Baghdad, I really believed the United States had an efficient, well-studied plan to put Iraq together after toppling the Saddam regime." But his experiences have "made me doubtful about our competence for nation building, an exercise the United States initially claimed to have no interest in carrying out. … I sometimes worry that, like the British enterprise, the U.S. effort to build a pluralistic, democratic society in Iraq will be remembered primarily for the insurgency it has spawned."

Middle East and North Africa for Women International regional coordinator Manal Omar in an op-ed in the Washington Post (3/19, B3, 744K) says that after Iraq was liberated three years ago there was concern over sectarian violence, but the situation has become worse. The "schisms

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among communities were predictable -- and predicted. The most painful fact is that, early on, the feuding was preventable." She is "continually plagued by the question of how we in the international community could have gotten this so very wrong. I believe that we have dug a grave. And it is the Iraqis who will have to lie in it. But who will be held accountable?"

And Professor Kanan Makiya, author of "Republic of Fear: The Politics of Modern Iraq," in an interview with the Washington Post (3/19, B5, Chandrasekaran, 744K) was asked whether the US could have prevented the sectarian violence in Iraq. Makiya said, "There's this old thorn…and that is the issue of provisional government versus occupation. Occupation was the wrong formula for dealing with the transition. The U.S. government pushed aside the Iraqi opposition -- both those groups that were in exile and those groups that were inside Iraq, mainly the Kurds." It was a mistake to rely on "occupation as opposed to a provisional government like what was done in Afghanistan. So what we ended up with was the rhetoric of liberation but the reality of occupation."

Iraqi Dentist and blogger Zeyad in an op-ed in the Washington Post (3/19, 744K) describes the violence he faces every day in Iraq and notes, "The new parliament was sworn in today. Our bickering politicians agreed to disagree yet again, and this time it was over the oath. I sometimes can't help wondering if it was the war that has left us so divided, or have we been that way all along."

Iraqi Insurgents Seen As Improving. Jonathan Finer in the Washington Post's (3/19, B3) "Outlook" section reports, "Long considered a fragmentary and disorganized collection of groups with varying tactics and aims, Iraq's insurgency is showing signs of increasing coordination, consolidation and confidence, those who study it now say. There is no consensus on the precise number of insurgent fighters, but estimates range from a few thousand to more than 50,000. The vast majority of insurgents, probably more than 90 percent, are believed to be Iraqis from the Sunni minority group that largely ruled the country before the fall of Saddam Hussein. But U.S. commanders say that most of the deadliest attacks, and particularly suicide attacks, are committed by foreigners from a range of neighboring countries, including Jordan, Syrian, Saudi Arabia, Egypt and Sudan."

The Washington Post (3/19, B3, 744K) also publishes statements by Iraqi insurgents like Abu Musab al-Zarqawi's top aide Abu Hafsa al-Ansari who was quoted by a Lebanses paper saying, "Be sure that the American Army is living now in a swamp of blood and is suffering a state of collapse. Also, the government forces are corrupt and falling apart psychologically. It will flee and soon, as the Americans announce the withdrawal of their forces, and this will happen very soon, Allah willing. The battle of Iraq will be the beginning of other battles in the area to topple the idols allied with Satan."

Operation Swarmer Said To Have "Fizzled."

Time (3/19, Bennett, Jallam) reports in a story headlined, "How Operation Swarmer Fizzled," that "contrary to what many many television networks erroneously reported, the operation was by no means the largest use of airpower since the start of the war." It had "no airstrikes and no leading insurgents were nabbed in an operation that some skeptical military analysts described as little more than a photo op. What's more, there were no shots fired at all and the units had met no resistance."

The Los Angeles Times/AP (3/19) adds that U.S. and Iraqi officials said they "rounded up dozens more suspected insurgents, including alleged killers of" Amjad Hameed, director of the Iraqi television station Al Iraqiya. Still, the operation "stirred growing unease among leading Sunni Arabs. One called it a needless 'escalation' at a time of difficult negotiations over forming a broad-based government."

Two US Soldiers Killed In Iraq. ABC World News Tonight (3/18, story 2, :10, Avila, 8.78M) reported, "And today, the Pentagon announced the deaths of two more American soldiers killed in Iraq. The total number of US troops killed in three years of war now stands at more than 2,300."

Violence Mars Start Of Iraqi Shiite Holiday. NBC Nightly News (3/18, story 3, 2:30, Boettcher, 9.87M) reported, "Two were killed, eight injured when a roadside bomb hit pilgrims walking to the holy city of Karbala to mark one of their holiest days, Arbayeen. Three and a half million Shiites are making this journey, an easy target for Sunni Muslim insurgents determined to spark civil war. The US mission: Thwart insurgent plans."

The New York Times (3/19, Gettleman, 1.19M) adds, "Shiite pilgrims are threading a needle of danger this week as they make their annual pilgrimage to a shrine in Karbala," as "the pilgrimage route from Baghdad to Karbala cuts straight

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across territory so overrun by Sunni Arab insurgents that the American military calls it the Triangle of Death."

Documents Appear To Show Saddam Supported Philippine Terrorism. The Weekly Standard (3/19, Hayes) reports, "The discussion of the threat posed by Saddam Hussein's Iraq is about to get more interesting," as documents captured in postwar Iraq and now released by the government "add to the growing body of evidence confirming the Iraqi regime's longtime support for terrorism abroad," showing that "Saddam hussein's regime provided financial support to Abu Sayyaf, the al Qaeda-linked jihadist group founded by Osama bin Laden's brother-in-law in the Philippines in the late 1990s." The Boston Globe (3/19, Bray, 484K) adds, "Conservative bloggers, eager to bolster the case for going to war against Iraq, have long argued for release of the documents," but "some prominent liberal bloggers scoffed at the release."

Protests For Iraq War Anniversary Fail To Draw Expected Crowds. ABC World News Tonight (3/18, lead story, 2:35, Reynolds, 8.78M) reported, "In London, thousands took to the streets with a very clear message," calling for the withdrawal of coalition troops from Iraq. But "while organizers expected upwards of 100,000 demonstrators in the British capital, police say it wasn't even a quarter of that. Indeed, while protests against the three-year-old conflict spanned the globe today, the crowds were on the small side. The gathering here in Chicago typified protests in the rest of this country. A lot of passion from the relatively few who bothered to show up." There were "maybe a couple thousand protesters in New York's Times Square, and far fewer took to the pavement in Washington, DC. Their voices were unlikely to penetrate the walls of the Vice Presidential residence nearby, if Mr. Cheney had been there, which he wasn't."

NBC Nightly News (3/18, story 2, :25, Kotb, 9.87M) reported, "Thousands hit the streets in Australia, thousands more protested in London, though it is important to note far fewer than were predicted. Demonstrators took to the streets of New York City and all carried the same message. They want the war over and the soldiers to come home."

The New York Times (3/19, Confessore, 1.19M) reports, "About 1,000 people gathered near Times Square yesterday, in one of dozens of energetic and often unfocused rallies held in cities across the United States and around the world" that "were vigorous and peaceful but far smaller than the large-scale marches that preceded the war." Also, "the Iraq war itself…was noticeably less central to the proceedings than in previous years." The Washington Post/AP (3/19, Burkhardt) adds, "many events were far smaller than organizers had hoped." Additional local coverage of the anti-war protests can be found in the Los Angeles Times (3/19, Lin, Schoch, 958K), the Baton Rouge Advocate (3/19, Johnson), the Indianapolis Star (3/19, Webber, 267K), the Mobile Register (3/19, Colquitt, 96K), the Pittsburgh Post-Gazette (3/19, Cleary, 261K) and the Minneapolis Star Tribune/AP (3/19).

Anti-War Activists Discouraged By Lack Of Public Opposition To War. The St. Louis Post-Dispatch (3/19, Lambrecht, 310K) reports that despite polls showing "growing anti-war sentiment among the American public," the "new pessimism appears to be having little effect in Washington, where Congress had approved billions of dollars more for war and a proposal to censure President George W. Bush for ordering electronic surveillance in the war on terror is drawing little support." And "anti-war organizers have expressed frustration at what they describe as a disconnect between public sentiments and continued support for the war in Congress."

Camp Nama Account Said To Belie Assertion That Prisoner Abuse Confined To Rogues. The New York Times (3/19, A1, Schmitt, Marshall, 1.19M) publishes an account of Task Force 6-26 and Camp Nama in Iraq, which "reveals the extent to which the unit members mistreated prisoners months before and after the photographs of abuse from Abu Ghraib were made public in April 2004, and it helps belie the original Pentagon assertions that abuse was confined to a small number of rogue reservists at Abu Ghraib." Even a Pentagon official admits, "there were no rules there," and in "early 2004, both the C.I.A. and the F.B.I. had expressed alarm about the military's harsh interrogation techniques." Civilians who worked there, "when pressed repeatedly by reporters who contacted them,…agreed to speak about their experiences and observations out of what they said was anger and disgust over the unit's treatment of detainees and the failure of task force commanders to punish misconduct more aggressively."

Injuries Cause Iraq Veteran To Lose Memory. The Washington Post/AP (3/19, Bynum) reports,

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"His 3-year-old son Nicholas' first steps, the first time Liam, his newborn, smiled -- Staff Sgt. Douglas Piper lived to see them. Then his scarred memory erased even those precious moments." Piper's "doctors tell him at least 80 percent of his short-term memory has been destroyed."

Drugs Threaten Afghan Democracy. The St. Louis Post-Dispatch (3/19, Dine, 310K) reports that "poppies are invaluable cash crops to farmers seeking to sustain their families, but dangerous to a young Afghan democracy. An unholy alliance is emerging among farmers, drug lords, Taliban remnants and al-Qaida fighters," and "drugs are already the nation's sole export of any magnitude." They "threaten to turn it into a 'narco-state,'" and "Afghan sources say" al-Qaida "has acknowledged in private sessions its satisfaction that expanding heroin use is poisoning 'infidels' in other countries."

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More Federal Prosecutors Urged For Washington State. The Columbia (WA) Tri-City Herald (3/19) reports, "It is time for the U.S. Justice Department to start bearing its share of the load in the Tri-Cities. … And we don't mean by asking local prosecutors to do even more of the federal government's job than they already do." The Herald continues, "We have had a federal judge in the Tri-Cities for the past six years, but no federal prosecutors. … It was four years ago that U.S. Attorney James McDevitt, in Spokane, promised to look into the question of assigning some federal prosecutors here instead of keeping them all based in Spokane or Yakima. … Local law enforcement and prosecutors have said for years many cases that should be tried in federal court instead are pushed down to local courts. … The result: Overload on local courts and prosecutors, more costs for local taxpayers and a cheap way out for the feds." The Herald concludes, "We do not doubt McDevitt's sincerity nor do we accuse him of being the problem. … Nor is it right to fault Congress for not authorizing money to have a prosecutor and other accouterments and officers of the federal government stationed here. … But between the two lies the only solution to a judicial and cost inequity. … McDevitt should press the case for a prosecutor in the Tri-Cities, and Congress should give him the money to make it happen."

CORPORATE SCANDALS:

Cross-Examination In Enron Trial Vital Despite Lack Of Drama. The Houston Chronicle (3/19, Fowler) reports, "If you stop by the Enron trial in downtown Houston expecting to witness a Perry Mason moment, don't hold your breath. … Those instances of 'gotcha,' — when an attorney catches an opposing witness in a lie or draws out a weeping confession during cross-examination — aren't as common as TV legal dramas might have you believe." The Chronicle continues, "In reality, cross-examination is often a dry, protracted process by which attorneys try to undermine a witness or dig for nuggets of information that support their case. It's not at all unusual for 'cross,' as attorneys call it, to seem random and meandering to a casual observer." The Chronicle adds, "Lawyers watching the current trial said so far the cross-examination by the defense teams for Ken Lay and Jeff Skilling has had a little bit of everything: entertainment and tedium, humor and anger, precision and confusion. … The defense will get its chance to put its best arguments before the jury when the government rests its case, but any points it can score with jurors now on cross are crucial."

CRIMINAL LAW:

Libby's Defense May Prove Embarrassing To White House. The AP (3/19, Yost) reports attorneys for I. Lewis "Scooter" Libby, Vice President Cheney's former chief of staff, are "signaling they may delve deeply at his criminal trial into infighting among the White House, the CIA and the State Department over pre-Iraq war intelligence failures." Libby's attorneys are also "suggesting that the State Department — not Libby — may be to blame for leaking the identity of covert CIA officer Valerie Plame to the media." The prospective defense raises "the possibility a trial could become politically embarrassing for the Bush administration by focusing on the debate about whether the White House manipulated intelligence to justify the U.S.-led invasion of Iraq in March 2003."

The Washington Post (3/19, A8, Smith, 744K) reports Libby's attorneys "want access to many Bush administration documents they say will demonstrate that an undercover CIA officer played a 'peripheral role' in the government's debate over prewar intelligence and that Libby had no motive to lie

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about her, according to new court filings." Libby's defense "wrote that they anticipated the trial would showcase testimony by a Who's Who of senior administration officials involved in the Iraq policymaking at the heart of the CIA leak investigation, including three top officials at the State Department who the lawyers asserted played key roles in the unraveling of Plame's covert CIA position. Those officials include then-Secretary of State Colin L. Powell and his deputy secretary, Richard Armitage, and undersecretary for political affairs, Marc Grossman."

Analyst Says CIA Not Careful In Protecting Agents' Secrecy. In a Washington Times op-ed (3/19), Scripps Howard News Service political analyst Martin Schram says that in a March 12 "investigative report," Chicago Tribune reporter John Crewdson "revealed how America's enemies, armed only with a computer hooked to the Internet, could do what he did: Break the cover of 2,653 CIA employees around the world, many of them secret agents. Headline: 'Internet blows CIA cover.'" Schram recalls his own scoop on June 6, 1974 in Newsday that "revealed how America's enemy rogues and spies, armed only with no-tech eyes, ears and shoes, could do what he did: Break the cover of a secret CIA school for spies operating in a well-appointed downtown Washington apartment building." In "both cases, the journalist revealed to the CIA an intelligence gap within its midst that stunned and embarrassed the agency -- but provided the CIA with info it needed to try to recover its secrets, post haste." Schram adds, "Sadly, the pattern is frighteningly clear. The most dangerous intelligence gap of all is the one between the ears of the CIA officials whose job requires them to think it all through and prevent gaffes that could cost agents' lives or compromise the safety of us all."

Judicial Security Still An Issue One Year After Chicago Courthouse Shootings. The New York Times (3/19, Files) reports, "About a year after the killings of the husband and mother of a Chicago federal judge and a shooting rampage in an Atlanta courthouse that left three people dead, the safety of judges and court employees remains a serious concern for the judiciary." The Times continues, "Attorney General Alberto R. Gonzales said this week that three-quarters of the more than 2,000 federal judges had sought home security systems paid by the government." The Times adds, "The Judicial Conference of the United States, which sets policy for the federal courts, met this week for the first time under Chief Justice John G. Roberts Jr. and approved security measures. … The conference authorized security equipment and workers for federal probation and pretrial services offices, urged added training for judges' security guards and called for the Bureau of Prisons to screen all outgoing mail to judges and courts from federal prison inmates." The Times notes, "A spokesman for the Administrative Office of the United States Courts, David A. Sellers, said that after the killings of the family members of the Chicago judge, Joan H. Lefkow, the security focus shifted from courthouses to judges and other court employees outside court buildings. … Last May, Congress appropriated $12 million for the Marshals Service to coordinate such security, including paying for home detection systems for any federal judge who wants one. This month, the House passed an authorization for $20 million to hire additional marshals for court security and investigating threats."

Potential Witnesses Named In Nevada Corruption Case. The Las Vegas Review-Journal (3/19, Packer) reports, "During pretrial motions in the political corruption case of former Clark County Commissioners Mary Kincaid-Chauncey and Dario Herrera, a U.S. District judge offered a glimpse of the witnesses who might be called to testify." The Review-Journal continues, "Judge Larry Hicks rattled off potential witnesses to prospective jurors Tuesday to determine whether any of them had relationship with those who could be called to the stand during the trial, which is expected to last three months." The Review-Journal adds, "Among the names were Terry Lamuraglia, a former lobbyist who now works in the county's Parks and Recreation Department; attorneys Jay Brown and Joe Brown; and Peter S. Christiansen, former strip club owner Michael Galardi's longtime lawyer. … The list also includes FBI agent Joe Dickey." The Review-Journal notes, "During opening statements on Thursday, Assistant U.S. Attorney Daniel Schiess touched on those witnesses' roles in the government's case. … A federal indictment issued in May 2003 accuses Herrera, Kincaid-Chauncey, Galardi and former Commissioners Erin Kenny and Lance Malone of bribery. The commissioners allegedly accepted cash bribes from Galardi that were delivered by Malone, in exchange for votes that furthered the success of Galardi's strip clubs, according to the indictment. … Galardi and Kenny cut deals with the government and have provided information to prosecutors."

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Data Show Federal Sentencing Disparities. The Des Moines Register (3/19) reports, "In the first 13 months since federal judges were handed more freedom in sentencing, punishment disparities have developed among courthouses nationwide, new data show." The Register continues, "Federal prosecutors and judges in Iowa downplay the meaning of the statistics, but defense attorneys say the numbers reinforce what they have always believed: Varying judicial temperaments, combined with harsher prosecution in Iowa's northern half, can create widely different sentences for similar crimes. … 'There are some judges who are far less likely to' depart from federal sentencing guidelines, said Alfredo Parrish, a defense attorney who has represented alleged criminals in both of Iowa's federal districts. 'Everybody knows it.'" The Register adds, "The data, from the U.S. Sentencing Commission, indicate a new attitude among judges since a January 2005 U.S. Supreme Court ruling that gave them much more leeway in how they dole out punishment. … Nationally, judges have been 10 percentage points more likely since the change to deviate from what were mandatory sentencing rules before then. Almost always, they deviated with less-harsh sentences. … The guidelines, created in the mid-1980s because Congress wanted more uniformity in punishments, gave judges scant wiggle room. After only 13 months with 'advisory' rules, Justice Department officials have urged Congress to take away judges' freedom."

Goodlatte Bill Would Ban Internet Gambling. The Washington Times (3/19, A1, Lemke, 90K) reports in a front page story that Internet gambling is "a $15 billion industry driven by the popularity of sports and the growing interest in poker. The industry is the subject of tense debate between companies looking to cash in on the American marketplace and lawmakers looking to ban online gambling. Analysts predict online betting soon could make up as much as 10 percent of gambling worldwide." Conservative lawmakers, "often at the urging of religious groups, have been trying to stop online gambling since it first surfaced in the mid-1990s." Rep. Bob Goodlatte said, "We feel this type of gambling is particularly pernicious." The Times adds, "However, advocates argue governments would reap big financial gains by making online gambling legal, regulating it and taxing it heavily." But the "Federal legislation introduced last month by Mr. Goodlatte seeks to clarify the law to ensure that online bets are banned and to include poker and other common gambling practices."

Law Enforcement Officials Worry Overuse May Limit Effectiveness Of Amber Alert. The New York Times/AP (3/19) reports ten years after the Amber Alerts "began being used in the Dallas-Fort Worth area, the system has been adopted in all 50 states. And in some, it is being used for reasons beyond its original purpose of helping find children abducted by strangers." In Ohio, Texas "and other states the program can be used when a child is taken away by a parent or family member who does not have custody, if the child is believed to be in immediate danger of injury or death. Some law enforcement officials say they are concerned that the alerts will be overused and become less effective."

South Carolina Sex Offender Captured. NBC Nightly News (3/18, story 11, 1:00, Kotb, 9.87M) reported, "There will be no bail for a convicted sex offender captured in South Carolina yesterday, after a four day manhunt. Police arrested Kenneth Hinson after a relative called 911 to report he had come looking for water. He is charged with assaulting two teenage girls in a room beneath has property. Many in the community were upset he was not behind bars all along. He was convicted of raping a 12-year-old girl in 1991 and released in 2000."

CIVIL LAW:

Amount Of Unpaid Federal Fines Up Significantly. The Washington Times/AP (3/19, A1, Mendoza, Sullivan) reports the "amount of unpaid federal fines has risen sharply in the past decade. Individuals and corporations regularly avoid large penalties for wrongdoing -- sometimes through negotiations, sometimes because companies go bankrupt, sometimes because of officials' failure to keep close track of who owes what." An Associated Press "examination of federal financial-penalty enforcement across the nation" also found that the "government currently is owed more than $35 billion in fines and other payments from criminals and in civil cases, according to Justice Department figures." In 2004, Federal authorities "ordered $7.8 billion in 98,985 fines, penalties and restitution demands in criminal and civil cases, but collected less than half of that." White-collar crime cases "account for the largest amount of uncollected debt."

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Google Gets Win In Battle With Government Over Data Subpoena. NBC Nightly News (3/18, story 7, 1:00, Kotb, 9.87M) reported, "In what Google's lawyers are calling a clear victory, a Federal judge ruled that the search engine does not have to turn over the terms people use to search. It does, however, have to share 50,000 web addresses. The government says its intent was to collect information it needs to uphold child pornography laws."

CIVIL RIGHTS:

FDA Investigating Two Deaths Linked To RU-486. NBC Nightly News (3/18, story 9, 1:00, Kotb, 9.87M) reported, "The Food and Drug Administration is investigating the deaths of two women who died after taking RU-486, the so called abortion pill. As a result of these reports, Planned Parenthood announced they will change the way they administer the medication. Abortion rights opponents are calling for the drug to be pulling from the market."

South Dakota Officials Get Earful Over Abortion Ban. The New York Times/AP (3/19) reports, "South Dakota politicians and state agencies have been bombarded in the past few weeks with thousands of calls, letters and e-mail messages, for and against the state's recently enacted ban on nearly all abortions." A few groups "who oppose the ban have called for a tourism boycott of South Dakota, urging people to avoid attractions like Mount Rushmore; the Badlands; the annual motorcycle rally in Sturgis; and the Corn Palace, an arena in Mitchell whose walls are covered with colorful ears of corn."

Petition Likely To Place South Dakota Abortion Ban On Ballot. The Minneapolis Star Tribune (3/19, Haga, 424K) reports, "It appears likely that South Dakota's recently adopted ban on abortions will be referred to the state's voters. Jim Robinson, secretary of the nonprofit organization Focus South Dakota, said he expects 'a large variety of groups that disagree with this extremist ban' to participate in a petition drive to keep the law from taking effect July 1 and go on the November general election ballot. 'I wouldn't anticipate too much difficulty' in obtaining the necessary 16,728 signatures, he said."

Rights Of Unwed Fathers In Dispute. The New York Times (3/19, Lewin) reports, "Although one in every three American babies has unwed parents, birth fathers' rights remain an unsettled area, a delicate balancing act between the importance of biological ties and the undisrupted placement of babies whose mothers relinquish them for adoption." The Times continues, "While women have the right to get an abortion, or to have and raise a child, without informing the father, courts have increasingly found that when birth mothers choose adoption, fathers who have shown a desire for involvement have rights, too. .. But to claim those rights most states require a father to put his name on a registry. While about 30 states now have registries, they vary widely. In some, fathers must actually claim paternity; in others, just the possibility of paternity. The deadlines may be 5 days after birth or 30, or any time before an adoption petition is filed. … And registries are a double-edged sword: It remains an open question whether they serve more to protect fathers' rights or to protect adoptive parents, and the babies they have bonded with, from biological fathers' claims."

Outcry Over New Orleans Elections Grows. The New Orleans Times-Picayune (3/19, Bazile) reports, "Echoing concerns of other civil rights leaders about the fairness of New Orleans' upcoming elections, National Urban League president and former New Orleans Mayor Marc Morial announced a plan Saturday for out-of-town mayoral forums and outreach programs to help the city's displaced voters." The Times-Picayune continues, "The National Coalition for Black Civic Participation plans to file a letter of objection to the U.S. Justice Department's approval Thursday of the plans for the April 22 and May 20 elections, said Morial, who was in New Orleans to attend a funeral." The Times-Picayune adds, "The department gave advance clearance to the plans under the terms of the 1965 Voting Rights Act, which requires the Justice Department to review proposed changes in voting procedures in Louisiana and other Southern states to ensure the changes don't discriminate against black voters. … The department's action drew immediate fire from several civil rights groups, which have contended for weeks that too little is being done to ensure that tens of thousands of black voters displaced by Hurricane Katrina will be able to participate in one of the most crucial elections in the city's history."

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ENVIRONMENT:

Some Say Interior Nominee Kempthorne Lacks Substance. The Los Angeles Times (3/19, Tizon, 958K) reports "the ready smile and neighborly style" Republican Gov. Dirk Kempthorne of Idaho "don't always get the job done, some supporters and critics say. They contend that the man President Bush has picked to succeed Gale A. Norton as secretary of the Interior often exhibits more charm than substance." Fellow Republicans "and business leaders say Kempthorne, 54, knows how to create consensus but is too politically cautious. Local Democrats and environmentalists say that he is gifted at making people feel heard but that, at the end of the day, his loyalties lie squarely with development and corporate interests."

Bingaman Criticized For Aiding GOP On Gulf Of Mexico Drilling. In his Los Angeles Times column (3/19), Ronald Brownstein says ranking Senate Energy Committee Democrat Jeff Bingaman is "now helping Senate Republicans and the energy industry advance one of their top goals: a bill to expand drilling for oil and gas in the Gulf of Mexico off the Florida coast. He's doing so even though Republicans are blocking the energy priorities of Bingaman and most other Democrats: more focus on conservation and renewable energy." By helping Republicans "pursue their agenda while the GOP suppresses Democratic preferences, Bingaman isn't only making a bad bargain — he's making it more difficult for the nation to craft a comprehensive plan to reduce our excessive dependence on foreign oil."

WPost Calls On Bush To Raise Fuel Economy Standards. An editorial in The Washington Post (3/19, B6, 744K) says, "the Bush administration is due to issue a revised set of fuel economy standards for 'light trucks.'" The Posts sees this as a way for the White House to, "start making good on its promise to end America's 'oil addiction,' in a concrete way. Unfortunately, there isn't yet any certainty that the necessary willpower exists." The Post adds that only cowardice would stop these changes, but "93 percent of Americans, according to one poll, support making cars and trucks more fuel-efficient." So, "saving fuel is not only good for the economy, good for foreign policy and good for the environment, it's politically popular, too."

NYTimes Says Court Rulings Rebuke EPA Interpretation. An editorial in the New York Times (3/19, 1.19M) states, "the United States Court of Appeals for the District of Columbia Circuit struck down as illegal an attempt by the Bush administration to allow power plants and other industrial polluters to evade the Clean Air Act. At issue was a provision of the act known as New Source Review." The Times says the court noted the EPA's new interpretation of the rule would, "have had the perverse effect of allowing plants that are now in compliance with the law to break it. … We should not expect the current E.P.A. administrators to rush the battlements with new enforcement cases. Indeed, such is Mr. Cheney's continued reach in these matters, the agency even now is seeking other, subtler ways to undermine the law. But it is nice to hear someone say that you cannot rewrite an act of Congress just because you do not like it."

FBI/DEA/ATF/USMS:

GAO Audit Criticizes FBI Oversight Of Trilogy Contractors. Under the headline "Audit Critical Of FBI, Contractors," The Washington Post (3/18, A4, Eggen) reports, "The FBI and its contractors spent more than $17 million on first-class airfare, inflated labor rates, missing equipment and other questionable payments during the botched attempt to upgrade the bureau's outdated computer system," according to a new GAO audit. The Post notes, "The FBI's struggle to modernize its computer system has been a recurring headache for Director Robert S. Mueller III and has earned it considerable criticism from lawmakers. … The auditors said the problems with Trilogy may well be much worse than their report shows because the review was based on only a portion of the FBI's payments to contractors," and warns that Sentinel could suffer similar problems "if these weaknesses go uncorrected." Sen. Charles Grassley said of the GAO report, "It's time for the FBI to explain what assurances it has that the taxpayers will be able to recover any funds these companies owe to the government before we start paying them millions more for work on Sentinel." However, "The FBI said in a statement that it has tracked down more than 1,000 of the missing items and has put in place numerous checks to avoid the problems that plagued Trilogy. 'We have strengthened our internal controls to avoid repeat of the issues cited by auditors, from any vendor,' spokesman Michael Kortan said.

CNN Live Saturday (3/18, Lin) reported, "The FBI may have wasted millions of dollars trying to update its computer systems. And a new investigation concludes it may spend

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millions more before the job is done." CNN (Nurenberg) added that the GAO report "questioned $17 million in spending saying more than 1,200 pieces of equipment can't be accounted for. Price tag for that, $7.5 million. The FBI says it has tightened up accounting procedures. After 9/11, the FBI says it was under great pressure to find a quick fix." FBI Assistant Director John Miller: "The pressure certainly came to bear on the bureau to launch a computer system that was capable of connecting the dots and to do it quickly. And under that pressure, sometimes -- not in every instance, but sometimes the message was get it done and if an obstacle came up, to move it out of the way." UPI (3/18) also briefly reports on the GAO review, noting, "However, an FBI spokesman told CNN the agency's own audit had accounted for most of the equipment."

The Washington Times (3/19, Seper, 90K) reports an audit says the FBI "has improved its ability to plan and manage a new information-technology project but still faces major problems in implementing the program, designed to replace a failed $170 million system." The Sentinel program was "introduced last year as a replacement for the failed Virtual Case File system and is scheduled to be fully operational by 2009 at an expected cost of $425 million. It is part of an FBI effort to close internal communication gaps and improve information sharing with other law-enforcement and intelligence agencies." The audit "by the Justice Department's Office of the Inspector General said that although the FBI has developed new technology-planning processes that can help the agency complete a new case- and information-management system, 'several continuing concerns' remain regarding the FBI's management of the new project."

MD Schools Turn Down First Lady Ehrlich's Anti-Drug Show. The Washington Post (3/19, C6, Mosk, 744K) reports, "Maryland first lady Kendel Ehrlich pitched the state schools superintendent a plan to air her television talk show about drug and alcohol prevention in public school classrooms, but the department eventually turned her down. The State Education Department declined her offer after an expert on drug and alcohol prevention reviewed it and determined that it was not suitable for children. One episode, filmed on the beach and at a nightclub in Ocean City, includes sexually explicit language and brief nudity as it explores the pitfalls of drinking."

Montana Running Graphic Ads To Demonstrate Dangers Of Meth Addiction. The state of Montana is running a series of TV ads to demonstrate the danger of addiction to methamphetamine. NBC Nightly News (3/18, story 10, 2:00, Hattori, 9.87M) reported the state is "blanketing the stage with edgy broadcast and print ads, dramatizing the addictiveness of meth." Peg Shea, Montana Meth Project Director: "Kids across the state said we don't want to have adults lecturing us." Hattori: "This one did extensive research on the group it's trying to reach, young people." Shea: "The kids said it was almost a dare. If you do a television ad it has got to catch our attention." The effort is privately funded, aided by software entrepreneur Thomas Siebel, who was shown saying, "We are breaking a lot of rules. I am not sure a public figure would be willing to take this heat." Hattori: "Will it make a difference here in Montana? Nearly one in four young people were offered meth within the last year. The eighth graders that we talked to were convinced.

DC Area Sees Surge In Meth Use. The Washington Post (3/19, C1, Paley, 744K) reports, "The number of methamphetamine labs and addicts in the Washington area has jumped in recent years, but law enforcement and public health officials say the region is still woefully unprepared to deal with a problem that remains under the radar." The number "of seized meth labs in Maryland, Virginia and the District has increased from close to zero in 2000 to more than 80 last year."

IMMIGRATION:

Conservatives, Catholic Officials Divided On Immigration Reform. Conservative Republicans who are taking a hard line on immigration reform are clashing with Catholic Church officials, who provide services to migrants regardless of their legal status. The New York Times (3/19, Swarns, 1.19M) reports immigration "has long caused friction between the church, with its advocacy for migrants, and conservatives, who want to slow illegal crossings over the Mexican border. But as Congress wrestles with the fate of the nation's 11 million illegal immigrants, that tension has escalated into a sharp war of words, highlighting the divide among some Republicans and Catholics who have fought side by side on other issues like abortion and same-sex marriage."

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Gates Personally Lobbying Congress On H1B Visa Cap. In his Washington Post column (3/19, B7), David Broder says Microsoft's Bill Gates "decided to add his personal voice to his Washington office's lobbying effort to expand the number of foreign-born computer scientists allowed to work in this country under a special program known as H-1B visas." Gates "told me the 'high-skills immigration issue is by far the number one thing' on the Washington agenda for Microsoft and for the electronics industry generally." Since autumn 2003, Congress "has limited the number of people admitted annually on H-1B visas to 65,000." But so "great is the demand for such skills in the burgeoning high-tech world that in August 2005 the last of the visas available for fiscal 2006 were issued. That means a 14-month shutdown of the program, until October of this year."

TAX:

Federal Officials Examining Nonprofit Hospitals' Tax Exempt Status. The New York Times (3/19, Pear, 1.19M) reports congressional leaders, "concerned that many nonprofit hospitals are not providing enough charity care to justify their tax-exempt status, say they will set standards for the industry if it does not do so itself." Senate Finance Committee Chairman Charles E. Grassley, "who had already been examining nonprofit groups like United Way and the American Red Cross, is broadening his focus to include nonprofit hospitals, with an eye to legislation that would clarify standards for their tax exemptions." House Ways and Means Chairman Bill Thomas "began investigating the financial practices of nonprofit hospitals last year," and Internal Revenue Service Commissioner Mark Everson "said tax officials often found little difference between nonprofit and for-profit hospitals 'in their operations, their attention to the benefit of the community or their levels of charity care.'"

New Definition Inadvertently Affects Child Tax Credits. The Washington Post (3/19, F5, Crenshaw, 744K) in its Cash Flow column reports, "A new provision of the tax law, which was meant to make the law simpler and fairer, is turning out to have done neither. The provision involves the definition of 'child' in claiming various tax breaks." Some taxpayers may be able to claim unintended benefits, while others may be deprived of legitimate credits. For Instance, children, "of well-to-do families may be able to use their siblings to claim the earned-income tax credit, which is meant for low-income working families." While the new definition may knock, "single taxpayers whose adult children live with them out of head-of-household filing status."

WPost Argues Bush Tax Cuts Make Balancing Budget Impossible. An editorial in the Washington Post (3/19, B6, 744K) posits that the Bush administration does not want to discuss balancing the budget without raising taxes because it "would require cuts so deep and wide as to be unimaginable as a matter of politics and unwise as a matter of policy." This goal could be accomplished, "but only if Americans are willing to sacrifice," basically, "all of the federal budget outside defense and veterans." … That's why Mr. Bush doesn't talk about the real-life consequences of his tax cuts, and the real-life people who will suffer from them after he leaves office." The Post adds, "If this is what you want government to look like, go ahead and support the extension of the president's tax cuts and oppose any tax increases."

CONGRESS-ADMINISTRATION:

Attention On Iraq Seen As Distracting Bush From Domestic Agenda. The Los Angeles Times (3/19, A1, Wallsten, Gerstenzang, 958K) in a front page article reports, "A growing Republican chorus is calling for a staff overhaul inside President Bush's beleaguered White House, but some conservatives say such a change would stop far short of fixing what they view as a serious flaw: an unfocused domestic agenda." The Times continues, "The war in Iraq is dominating the attention of Bush and his top aides, these critics say, while the recent departure of the president's top domestic policy advisor after just one year has left the White House without an obvious conductor to direct the sometimes disparate policy-making machine." While "Bush first campaigned on a largely domestic agenda, experts either said he had achieved much of what he had set out to accomplish or said he had put aside priorities at home to devote time, energy and government resources to the war on terrorism." The "frustration among domestic policy advocates underscores the range of problems facing Bush. Sixteen months after reelection, his second term has so far been dominated by a drumbeat of controversy and crises involving a range of issues."

Bush Staff Shakeup Rumors Noted. The Houston Chronicle (3/19, Mason, 581K) reports on the rumors that top

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White House aides may be suffering from burnout, leading to a shakeup among longtime Bush aides. The Chronicle reports, "Rumors of high-profile departures wax and wane. Is" Chief of Staff Andrew Card "leaving? What about" White House spokesman Scott "McClellan? Similarly, prognostications of imminent staff shake-ups are on the rise." McClellan "did little to stanch the speculation with an enigmatic nondenial last week," saying, "This is part of the inside Washington babble that goes on in this town. It's part of the parlor game. We are focused on the priorities that the American people care most about and getting things done."

Bill To Reform Pension System May Weaken It. A Pension Benefit Guaranty Corporation analysis says the measure to reform the private pension system under consideration by a House-Senate conference committee could weaken the system instead of strengthening it. The New York Times (3/19, A1, Walsh, 1.19M) reports in a front page story that lawmakers "modified many of the proposed rules, allowing companies more time to cover pension shortfalls, to make more forgiving estimates about how much they will owe workers in the future, and even sometimes to assume that their workers will die younger than the rest of the population." Companies also "persuaded lawmakers to add dozens of specific measures, including a multibillion-dollar escape clause for the nation's airlines and a special exemption for the makers of Smithfield Farms hams. As a result, the bill now being completed in a House-Senate conference committee, rather than strengthening the pension system, would actually weaken it, according to a little-noticed analysis by the government's pension agency."

Saletan Calls For Dropping Age As Criteria For Social Security. In an op-ed in the Washington Post (3/19, B2, 744K), William Saletan of Slate magazine says that with "more and more boomers living to age 65 and beyond, perfectly healthy but collecting checks for decades," we "need a radical change in Social Security. I'm not talking about privatization. I'm talking about rethinking, and possibly abolishing, the whole idea of payments based on age." The "point of Social Security was to subsidize those who couldn't work, not those who could." Abolishing "age as a standard of fitness would be fairer than simply raising the eligibility age."

Reliance On Standardized Testing Said To Increase Risk Of Error. The Los Angeles Times (3/19, Silverstein, 958K) reports on the College Board's recent SAT scoring error on 4,600 October tests, adding that while "high school seniors and their parents, along with college counselors and admissions officers, have been roiled by" the "recent disclosures," education testing experts "point out that similar mistakes have happened before — and inevitably will happen again." Kathleen Rhoades, "a research associate with the Center for the Study of Testing, Evaluation and Educational Policy at Boston College," said "there were 137 publicly disclosed cases of large-scale testing errors by educational testing companies from 1976 through early 2004, with most of them occurring since 1997." The "consequences of grading mistakes and other mishaps have intensified over the last decade with the increasing reliance on so-called high-stakes testing." In "recent years, President Bush's No Child Left Behind Act has triggered expanded testing by many states."

Boehner Says Futures Contract Fee Not Likely. The Bloomberg (3/19, Hassler) reports House Majority Leader John Boehner said Congress is unlikely to approve a "new fee on futures contracts proposed by President George W. Bush." At a Futures Industry Association conference in Boca Raton, Florida, Boehner said, "If it hasn't happened in 13 consecutive tries, that probably means it won't happen again" Bloomberg notes the fee proposed in the Bush budget "would cover the $127 million budget for the Commodity Futures Trading Commission that regulates the $2.5 trillion-a-day U.S. futures industry."

O'Connor, Ginsburg Said To Have Stepped Up Defense Of Judicial Independence. The New York Times (3/19, Liptak, 1.19M) reports former Justice Sandra Day O'Connor "told an audience at Georgetown University that a judiciary afraid to stand up to elected officials can lead to dictatorship," while last month, "speaking in South Africa, Justice Ruth Bader Ginsburg said that the courts were a safeguard 'against oppressive government and stirred-up majorities.'" The justices' speeches "were mostly a reaction, students of the court said, to attacks on judicial independence in Congress." Kermit L. Hall, the editor of "The Oxford Companion to the United States Supreme Court," said, "What's going on is that Ginsburg and O'Connor are using their position — and it is striking that both are women — to state a position in favor of the judiciary that comes real, real close to taking a political position." The Times adds the O'Connor and Ginsburg speeches, "variations on basic

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speeches they had given often before, were sharper and more topical than what many expect from Supreme Court justices."

Lobbyists Doubt Proposed Rules Will Change Much. The Washington Post (3/19, A1, Birnbaum, 744K) reports in a front page story that some of Washington's "top lobbyists say that they expect to find ways around congressional efforts to impose new restrictions on lobbyists' dealings with lawmakers in the wake of the Jack Abramoff corruption scandal, and that any limits will barely put a dent in the billions of dollars spent to influence legislation." Lobbyists say they "have already found scores of new ways to buy the attention of lawmakers through fundraising, charitable activities and industry-sponsored seminars. An estimated $10 billion is spent annually to influence legislation and regulations, and that spending is not likely to be diminished by the proposed lobbying changes, these lobbyists contend."

Legislators With Safe Seats Still Spending Campaign Cash. The Washington Post (3/19, A4, Murray, 744K) reports that although Rep. Spencer Bachus "hasn't drawn a serious opponent in the past three elections," he "burns through significant sums of campaign cash, as do plenty of other House members sitting in safe congressional seats. Among the items billed in 2005 to Bachus's campaign account and his 'Growth and Prosperity' political action committee: $6,689 for U2 concert tickets and expenses as part of a campaign event; $1,298 in lodging in Vail, Colo.; and $270 for the catering of an 'American Idol' party." Rep. Corrine Brown (D-Fla.) "spent $15,835 of campaign funds on condolence flowers for constituents, Rep. John T. Doolittle (R-Calif.) used $8,328 of his campaign war chest to buy gifts for his staff, and Rep. Mike Pence (R-Ind.) was reimbursed for a $1 'meal' at a local gas station, which his staff believes was bottled water." Some lawmakers "say that such expenditures are routine and completely legal under Federal Election Commission rules. But these spending practices are beginning to attract attention from watchdog groups and the news media, as the 2006 congressional campaigns heat up and Congress considers measures to crack down on the perks of office."

Bush Approval Drops To 36% In Newsweek Poll. Newsweek (3/18, Dickey) reports in an Internet exclusive that a Newsweek poll "shows President Bush's approval rating dropping to new lows on domestic issues and rising public anger over Iraq and homeland security." Bush's approval rating is "only 36 percent in the latest NEWSWEEK poll, matching the low point in his presidency recorded last November. His image as an effective leader in the war on terror is tarnished, with less than half the public (44 percent) approving of the way he's handling terrorism and homeland security. Despite a series of presidential speeches meant to bolster support for the war in Iraq, as well as the announcement of a major military offensive when the poll was getting under way, only 29 percent of the people questioned approved Bush's handling of the situation in Iraq. Fully 65 percent disapprove."

Bloomberg (3/19, Decker) also reports the Newsweek poll, saying "the president's misfortune has translated into good news for Democrats, with 50 percent of registered voters polled saying they will back Democratic candidates, compared with 39 percent for Republicans."

Democrats' Message Attacking Bush As "Incompetent" Finds Success. Nina Easton in her "Washington Briefing" column in the Boston Globe (3/19, 484K) reports, "The Democrats' sudden discipline at staying on message is beginning to score points in pubic opinion polls. The Pew Research Center's Andrew Kohut has reported that 'incompetent' has replaced 'hones' as the most frequent descriptor applied to Bush." Although "the Democrats have used 'incompetence' with increasing regularity since the administration's flat-footed response to Hurricane Katrina, the phrase 'dangerous incompetence' is a recent invention of Senate Democratic Leader Harry Reid." Recently, "Reid strategists began inserting the words into talking points for press secretaries to the Senate's 44 Democrats. And during Reid's weekly Saturday afternoon huddle with Democratic senators scheduled to appear on the Sunday morning talk shows, he encouraged them to use the label to describe the White House."

OTHER NEWS:

Sabo Announces Retirement. The Minneapolis Star Tribune (3/19, Olson, 424K) reports Democratic Rep. Martin Sabo, "the stoic, gentle giant of Minnesota politics, broke into tears Saturday as he announced plans to retire after 46 years in elective office, the last 28 in Congress." Sabo's action "leaves prospective candidates little time to organize for the DFL convention. The endorsee is expected to become the prohibitive favorite in the race in the strongly

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DFL district, which includes Minneapolis and a number of inner-ring suburbs." The Star Tribune adds, "State Rep. Keith Ellison, DFL-Minneapolis, Jack Nelson-Pallmeyer, a college professor, and DFL Minneapolis City Council Member Gary Schiff already are in the race to succeed Sabo. Green Party member Jay Pond also is in, as are Republicans Tim Anderson and James Turnham." Other potential candidates cited by the Star Tribune include former DFL Hennepin County Commissioner Mark Andrew, former state Sen. Ember Reichgott Jung, DFL-New Hope, state Sen. Satveer Chaudhary, DFL-Fridley, state Rep. Connie Bernardy, DFL-Fridley, Hennepin County Board Members Gail Dorfman, and Mike Opat.

Lessening Inflation Fears, Strong Economic Reports Lead Stocks Higher. Several papers noted the stock market's end of the week rise and overall positive performance this year. Reasons cited included strong economic reports and a belief inflation is under control. The Washington Post (3/19, F02, 744K) reports, "The major factor in the week's market activity was a changing consensus about inflation, and how the Federal Reserve would respond to it." A government report showed an unexpectedly low, "0.1 percent increase in consumer prices in February." And at, "the same time, some Fed officials were heard to express confidence that the economy would cool down on its own later this year."

The New York Times (3/19, Sommer, 1.19M) reports, "It was the best week for stocks since the beginning of the year, as several economic reports suggested that inflation was under control while economic growth remained strong." The Washington Post (3/19, F02, 744K) reports, "The market benefited this week from a new Wall Street consensus on interest rates. The Federal Reserve will boost rates only another half of a percentage point, most economists now are saying." The Los Angeles Times (3/19, Petruno, 958K) reports, "Something may come along to scare the U.S. stock market down from its current heights." But the, "usual suspects seem to be losing their ability to frighten investors. That's often a good sign for a bull market's staying power."

Despite Positive Signs Some On Wall Street Still Bearish. The New York Times (3/19, De Aenlle, 1.19M) reports, "Popular gauges of sentiment toward stocks show extreme bearishness, at least by the standards of the last few years, even with the market hitting new highs." A recent survey by Invests Intelligence of investment newsletters, "recorded the highest level of bearishness since April 2003 and the least bullishness since August 2004."

Rice Seeks To Strengthen Alliance Against China With Japan And Australia. As Secretary of State Condoleezza Rice concludes a trip that brought her to Latin America and Australia, the New York Times (3/19, Weisman, 1.19M) keys on relations with China, reporting, "Rice held talks on Saturday with Japan and Australia to deepen a three-way regional alliance aimed in part at balancing the spreading presence of China." State Department Spokesman Sean McCormack is quoted as saying, "The tenor of the discussion was how to make China a positive force in the region."

In its coverage, the Washington Times (3/19, Kralev, 90K) notes that the triad "discussed China's 'aggressive' buying of energy assets in Africa and Latin America, the first time China's 'energy diplomacy' has been examined at an official international forum." Rice "and the foreign ministers of Japan and Australia…were unable to agree on steps to address the issue." McCormack reportedly "said the meeting had not been a 'finger-wagging' anti-China session, but he acknowledged that Beijing's dealings with problematic states -- whose actions are often referred to the UN Security Council, where China has veto power -- were part of the discussions."

The AP (3/19, Gearan) focuses on more mundane details like the length and breadth of Rice's travels, reporting that she "is flying around the world -- and then some. Whether she breaks a record by a Secretary of State will have to wait for a thoughtful assessment free of jet lag." The AP goes on to note, "For a woman who habitually rises at 4:30 a.m. to exercise and bounds into her office two hours later, Rice's trip had a relaxed feel. Rice actually played the tourist for the first time in her 14-month tenure as the top US diplomat. She took in a boxing match and several swimming events at the Commonwealth Games in Melbourne, Australia, near the end of the trip. She hung medals around the necks of three Australian swimmers and chatted with swim star Ian Thorpe. She looked like she was having fun."

Hungry China Taps World Metals Markets. The Los Angeles Times (3/19, Lee, 958K) reports, "China's voracious appetite for metals is convulsing the world. It has led to economic booms in some nations and crime waves in others by so-called urban miners who steal metals from houses and public buildings. China's runaway economy needs the

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metals to build railroads, office towers, cars and appliances." As the "world's biggest consumer of copper, lead, zinc, iron ore, steel and aluminum," China's "hunger has boosted mineral-rich nations, from copper-laden Chile to Australia, which has vast iron deposits. Prices of new and used lead, copper, nickel and other metals have tripled or more in the last few years, triggering a worldwide scramble for the commodities."

Modernity Slowly Reaches Isolated Muslim Enclave Deep Within In China. The New York Times (3/19, Yardley, 1.19M) reports, "The most recent census found 513,000 Dongxiang people in China," the majority of whom live in and around Dongxiang County. "Of the 25 townships in the county, 19 do not have a single Chinese person. Most people do not speak Chinese, and some...have only a vague notion of China, despite living in the middle of it. The geographic isolation has helped preserve an Islamic culture, as well as an ancient language, but it has also separated the Dongxiang people from the prosperity lifting other parts of China. The Dongxiang, one of China's 56 officially recognized ethnic minorities, are now among China's poorest and most illiterate people." But "as everywhere in China, modernity is seeping up the winding roads to the county's larger settlements and beckoning many younger people. In the county seat, Suonanba, cellphones, blue jeans and Internet cafes arrived several years ago. So did Chinese building contractors, cigarettes, alcohol and food not prepared to Islamic code."

Taiwanese Rally For Freedom From China. The Los Angeles Times (3/19, Magnier, Ting-i, 958K) reports, "President Chen Shui-bian on Saturday called on Taiwan to resist China's bid to annex the island as tens of thousands of people took to the streets protesting Beijing's growing military threat. 'Our future will never be decided by the 1.3 billion people of China,' Chen told supporters in front of the presidential office building. 'Taiwan is an independent sovereign state, and its future should be determined by its 23 million people. Taiwanese people oppose annexation and invasion.'" According to the Times, "The rally, with the slogan, 'Protect democracy, oppose annexation,' was held to mark the passage of a controversial law in Beijing last year that threatens to use force if Taiwan declares independence."

Candidate Would Focus On The Practical. In a related story, the Washington Post (3/19, A19, Cody, 744K) reports, "Ma Ying-jeou has always loved to run marathons, and he has approached politics the same way." When interviewed "last week, Ma pledged that if he won the next presidential election, in 2008, as widely expected, he would shift Taiwan sharply away from the confrontational, pro-independence policies followed by President Chen Shui-bian. A Nationalist government under his leadership, he declared, would seek neither unification with nor independence from China, focusing instead on practical improvements in cross-strait relations while maintaining the status quo of Taiwanese self-rule." Ma is quoted as saying, "When I talk about these things, I say, 'Let's forget about unification and independence. ... Let's maintain the status quo and concentrate on the economy."

Anger "Spills Over" As Ex-Hostages Blocked From Seeking Iran Damages. In a front-page story, the Washington Post (3/19, A1, Kessler, 744K) reports, "At an emotional meeting this month at the State Department, steps from the office of Secretary of State Condoleezza Rice, a group of former American hostages released by Iran a quarter of a century ago, accompanied by lawyers and some relatives, confronted two of Rice's most senior aides. The families' grievance: Why has the Bush administration, which has labeled Iran one of the world's most dangerous regimes and has called the hostages American heroes, fought their efforts to win damages for their ordeal from the Islamic republic?" Although US officials "express sympathy" for the former captives, "the administration has thwarted every effort in the courts or in Congress to win a monetary judgment against Iran, even as other victims of Iranian-linked terrorism have secured hundreds of millions of dollars in compensation." The Post continues, "Those attending the March 2 meeting said that" Undersecretary R. Nicholas Burns "and legal adviser John B. Bellinger III tried to keep the discussion civil but that anger spilled over. The wife of a former hostage exclaimed at one point: 'You are bloodless!' The meeting broke up with Burns acknowledging the difficulty of the issues and saying he would be open to further discussions."

Iran Releases Prominent Dissident. The Washington Post (3/19, A16, Vick, 744K) reports, "Iran's most prominent dissident emerged from prison looking far older than his 46 years. His clothes hung on a frame reduced to 108 pounds by repeated hunger strikes. He smiled through a beard grown to the bushy nimbus of a Hindu holy man. 'All the time I was in prison was illegal,' Akbar Ganji said of the

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six-year sentence he served for exposing the government's role in assassinating its critics. 'From the very first day it was illegal.'"

The New York Times (3/19, Fathi, 1.19M) notes, "He did not make any formal comments to reporters. His lawyer, Youssef Mowlai, said he told Mr. Ganji that he first needed to recuperate from the continuing effects of the hunger strike." The timing "came as a surprise. A judiciary official had said Thursday that Mr. Ganji would not be released until March 30, and a statement by the judiciary on Saturday said Mr. Ganji was on leave for Nowruz, the Iranian New Year."

Policy Of Preventing Iran Nuclear Development Questioned. In an analytical piece, the New York Times (3/19, Sanger, 1.19M) asks, "If all other options are worse, could the world learn to live with a nuclear Iran?" President Bush's "message to Iran these days sounds unambiguous: The United States will do what it takes to keep the mullahs from getting the bomb. Diplomacy is vastly preferred, President Bush and his aides insist. Yet it was no accident that the just-revised National Security Strategy declares: 'This diplomatic effort must succeed if confrontation is to be avoided.'" The Times goes on to report, "The debate is likely to play out for much of the year, based on a series of guesses about Iran's true intentions, and its capabilities. ... But getting this right requires projecting what happens to America, Israel and Europe, especially if Iran's power to send the price of oil skyrocketing is enhanced by the confidence that a nuclear arsenal can bring."

Egyptian Woman Thought To Have Died Of Avian Flu. NBC Nightly News (3/18, story 8, 5:20, Kotb, 9.87M) reported, "Health officials are reporting what may be the first human death from" avian flu "in Egypt. A woman died after contracting the virus from contaminated chicken. The concern in this country is warmer weather may bring the virus closer to home."

Experts Believe Migrating Birds Will Bring Avian Flu To US. NBC Nightly News (3/18, story 8, 5:20, Bazell, 9.87M) reported, "Scientists expect new countries to report infections in birds with the new virus almost every day now. The reason, the spring migration of birds is underway now." Experts say "it will almost certainly arrive in birds in the US, probably crossing into Alaska and then into the lower 48 states. The US poultry industry is already preparing, keeping most birds indoors in strict isolation." Michael Leavitt, Secretary of Health and Human Services: "It would only be a crisis if we saw humans getting the virus from domestic flocks or some other course. Even that is able to be handled unless it starts passing from person-to-person."

Hamas Proposes Single-Party Cabinet, Abbas Likely To Approve. The New York Times (3/19, Myre, 1.19M) reports, "The militant Islamic group Hamas said Saturday that it had completed its lineup for a new Palestinian cabinet and would present it Sunday to the Palestinian Authority president, Mahmoud Abbas, for his approval. An aide to Mr. Abbas said he was likely to give his approval. 'Our cabinet is ready,' Ismail Haniya, the Hamas leader and prime minister-designate, told a news conference in Gaza City," though he declined to "provide names of the cabinet nominees. ... No other Palestinian political parties have announced their intention to participate despite Hamas's invitation to join." According to the Times, "The crucial question now is whether Mr. Abbas will support the Hamas-led cabinet. If he rejects it, his decision could lead to a political crisis, and Palestinian law is not clear on how it would be resolved."

The Los Angeles Times (3/19, King, 958K) adds, although "the group refrained from formally announcing its Cabinet lineup pending its presentation to Palestinian Authority President Mahmoud Abbas," Hamas officials "said key positions would go to Hamas loyalists such as firebrand Mahmoud Zahar, who has been designated foreign minister. Other senior appointees include lawmaker Said Siyam, who is considered a relative moderate, as interior minister, and economics professor Omar Abdel Razeq, who was jailed at the time of January's parliamentary elections, as finance minister."

Gaza Chafes Under Economic Hardships. The Washington Post (3/19, A12, Wilson, 744K) reports, "The main trade passage between the Gaza Strip and Israel has been closed for much of the year, despite an agreement brokered by Secretary of State Condoleezza Rice in November that required Israel to 'ensure the continued opportunity to export.' Israeli security concerns, heightened by Hamas's parliamentary victory in January and the almost daily rocket fire from Gaza, have rendered the deal largely moot." The Post continues, "Unreliable trade passages, frozen Israeli tax transfers that helped pay salaries and lapsed permits of Palestinians who work in Israel are evidence of a broader disengagement, one that Israeli security officials say

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they hope to accelerate once Hamas installs its cabinet this month."

Atmosphere Tense As Belarus Votes, Protests Planned. As Belarus votes in a presidential election amid accusations of fraud and fears of violence, the New York Times (3/19, Myers, 1.19M) reports, "The results of the election on Sunday, widely denounced [at home] and abroad as undemocratic, are a foregone conclusion. But the vote is only a prelude to the real struggle against [Belarussian President Aleksandr] Lukashenko's government, one that many fear could end in violent reprisals along the monumental streets of Minsk, the capital."

In its coverage, the Los Angeles Times (3/19, Murphy, 958K) notes, "In Belarus, President Alexander G. Lukashenko has a stake in giving democracy a black eye: The US government is spending more than $9 million a year here on attempts to develop a sophisticated political opposition and a well-informed electorate, tools for combating one of the most repressive dictatorships in the world." Yet voters will "go to the polls today for an election that is widely expected to hand Lukashenko...a third five-year term."

The Washington Post (3/19, A20, Finn, 744K) adds, "Dissent carries a real price in this country of 10 million people, sandwiched between the European Union and Russia, where Lukashenko has ordered that no one other than Lukashenko can be called 'president.' ... Opposition activists say students who step out of line often receive failing grades or face trumped-up disciplinary charges that lead to expulsion from school. State workers, who commonly have one-year contracts, are routinely dismissed if they question the president's rule. Political activists are arrested and sometimes beaten. Independent newspapers are shut down or lose an entire edition to police seizures."

Students Protesting Labor Law Clash With Police In Paris. NBC Nightly News (3/18, lead story, 2:30, Mendenhall, 9.87M) reported, "In the largest day of protests so far, more than a half million people in dozens of states violently denounced the French government. Tens of thousands descended on Paris throwing bottles, torching cars and clashing with police. Mainly students, the protesters say a proposed job law aimed at reducing unemployment would leave them with few rights and the kind of job security that the French…expect." One out of "four French youths is unemployed. The main reason is labor laws make it so difficult for employers to fire employees they don't hire in the first place. Under economic pressure, the government of Prime Minister Dominique de Villepin says the new law would give employers more flexibility. Students, backed by the French public, young and old, aren't buying it."

ABC World News Tonight (3/18, story 7, :15, Avila, 8.78M) reported, "One note from overseas, violence broke out in France today as some 500,000 people took the streets to protest a labor law. In Paris, riot police fired tear gas and rubber bullets as marchers set fires, smashed windows and stormed a McDonald's."

In its coverage, the New York Times (3/19, Sciolino, 1.19M) reports, "A number of public figures joined in, including the mayor of Paris, Bertrand Delanoe; the Socialist party leader, François Hollande; a former culture minister, Jack Lang; and the Communist Party leader, Marie-George Buffet." The Washington Post (3/19, A12, Moore, 744K) adds that "as the hours-long parade drew to a close in the chill of the early evening darkness, several hundred protesters turned on police at the Place de la Nation in the southeastern part of the city, throwing stones, garbage and sticks at riot police who huddled behind protective shields. Demonstrators smashed windows, burned a car and set a pile of boxes ablaze." The Washington Times/AP (3/19, Charlton) also covers the story.

Dutch Muslim Convert's Experiences Indicate Growing Religious Rift. The Washington Post (3/19, A21, Moore, 744K) reports, "Rabi'a Frank sees her Dutch home town through the narrow slit of the black veil that covers her face. The looks she receives from the townspeople are seldom kindly." Her "day-to-day struggle for acceptance on the streets of her home town is one woman's confrontation with a deepening rift in West European societies, where the emergence of a 15 million-member Muslim minority is reshaping concepts of national and personal identity. Some European governments have passed laws they say are intended to help preserve national identity. Critics argue that the measures reflect Islamophobia and fears of terrorism triggered by the attacks of Sept. 11, 2001, and the subsequent transit bombings in Madrid and London." Frank is quoted as saying, "Sometimes I make a joke and say, 'Oh, you don't have to be scared of me.'"

Waves Of African Immigrants Still Flocking To Spain. The New York Times (3/19, Mclean, 1.19M) reports, "Spain's deputy prime minister began an emergency

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visit to the Canary Islands on Saturday to discuss ways to control a record flow of African migrants arriving in boats from Mauritania that has led to at least 25 deaths in the last week. The Spanish government says more than 1,000 migrants have been detained at sea in the last 10 days while trying to reach the islands from Mauritania on North Africa's western coast, a voyage of 500 miles. The migrants, mostly sub-Saharan Africans, crowd into boats carrying dozens of passengers in hopes of reaching the islands and thereby gaining entry to the European Union."

US Navy Ships Engage Pirates Off Coast Of Somalia. ABC World News Tonight (3/18, story 4, :20, Avila, 8.78M) reported, "US Navy warships fired on a boat of would-be pirates near Somalia. The Navy says two of its ships were attacked when sailors tried to board the suspect boat. Naval gunners fought back, and setting the boat on fire and they say, killing one of the bandits."

NBC Nightly News (3/18, story 5, 1:00, Kotb, 9.87M) reported, "The suspected pirates were in a fishing boat armed with a rocket propelled grenade. The US ships are in that region to protect commercial traffic which has been targeted in recent months."

The New York Times/AP (3/19, Press) reports, "The battle started about 25 miles off the Somali coast when the American warships Cape St. George and Gonzalez spotted a 30-foot fishing boat towing skiffs and prepared to board the vessels. The suspects were holding what appeared to be rocket-propelled grenade launchers, the Navy said. When the suspects began shooting, naval gunners returned fire with mounted machine guns." The Washington Post (3/19, A17, Gugliotta, 744K) quotes Navy spokesman Cmdr. Jeff Breslau as saying that the pirates frequently go after "targets of opportunity. They'll take over fishing or merchant vessels, then head back to territorial waters where they demand a ransom."

Congolese Warlord Will Be Tried By ICC. The New York Times (3/19, Simons, 1.19M) reports, "A Congolese militia leader accused of abducting children and turning them into soldiers and sex slaves has become the first suspect to be delivered to the new International Criminal Court, the chief prosecutor announced Saturday. The former warlord, Thomas Lubanga, arrived at the court's detention center in The Hague late Friday after being flown here on a French military plane, the prosecutor said. Mr. Lubanga had been imprisoned since last year in Congo, whose authorities handed him over to the court for trial."

Despite Growth Of Terror, Study Says Conflict Decreasing Worldwide. New York Times (3/19, 1.19M) op-ed contributor James Traub writes, "We live in a world that is objectively more dangerous than the one we knew at the outset of the millennium; whatever our disagreements, since 9/11 both our foreign policy and our domestic politics have pivoted around this ineluctable fact." But does everyone face these greater dangers? "The answer, it seems, is no. ... According to 'Human Security Report 2005,' a study that relies on this recent scholarship, the number of armed conflicts has been dropping steadily since the end of the cold war. Major civil wars, which exploded around the world between 1946 and 1991, declined sharply in the ensuing decade. Indeed, the trend holds true for virtually every category of conflict — coups, interstate wars and even genocides and so-called politicides, in which political belief rather than ethnicity is the criterion for killing. The only exception is international terrorism — as we know all too well."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"Bush's Agenda Loses Focus."
"Spending May Prove Costly To Governor."
"A Cast of Many ON THE Phone Lines."
"A Sliding Scale For Victory."
"World Scrambles To Feed China's Appetite For Metal."

New York Times:

"Major Changes Raise Concerns On Pension Bill."
"In Secret Unit's 'Black Room,' A Grim Portrait Of US Abuse."
"Major Changes Raise Concerns On Pension Bill."
"On Eve of Vote, Belarus Braces For Aftermath."
"Unwed Fathers Fight for Babies Placed For Adoption By Mothers."
"Now Booming, Not Burning, The Bronx Fears A Downside."
"Deep in China, A Poor And Pious Muslim Enclave."

Washington Post:

"Voices of 100 Veterans: The War In Their Words."
"Lobbyists Foresee Business As Usual."

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"Md. Street's Soul Hasn't Strayed Far From Roots."
"Administration Blocks Ex-Hostages' Bid For Damages From Iran."
"Prescription For Obsession?"

Washington Times:
"French Youths Riot Over Jobs Law."
"Iraqis See Long Road To Recovery."
"Odds Favor Internet Gambling."
"Serbs Mourn, Cheer As Milosevic Is Buried."
"Federal Penalties Often Go Unpaid."

Atlanta Journal-Constitution:
"Lifestyles Of The Rich And Guilty."
"NASCAR Gains Glitz, Loses South."
"Fulton Follies: Errors Persist In Tax-Exempt List."

Dallas Morning News:
"Straight And Narrow Route For Me, T.O. Says."
"Unheard Cries."
"Eyes Of March Looking More Red Than Usual."
"War Is Never Off Their Radar."

Houston Chronicle:
"Yates Case Revisits Rigid Insanity Test."
"'Kinder And Gentler.'"
"'How Could Five People Die And Nothing Happen?'"
"For Defense Attorneys, It's All About The 'Cross.'"

Story Lineup From Last Night's Network News:
ABC: Iraq War Protests; Iraq-US KIAs; Iraq Anniversary; Somalia-Pirates; Serbia-Milosevic Funeral; Cassini Orbit; France Labor Protests; US Beef Safety; Diabetic Gonzaga Player.
CBS: Preempted By NCAA Basketball Tournament.
NBC: France Labor Protests; Iraq War Protests; Iraq-Shiite Holiday; Bush-Iraq Speeches; Somalia Pirates; Serbia-Milosevic Funeral; Google Search Data; Avian Flu; RU-486 Deaths; Anti-Meth Ads; SC Sex Offender; TX Building Demolished; Cassini Orbit.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH — At Camp David.
VICE PRESIDENT CHENEY — No public schedule.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: JOURNALISM STUDENTS _ 8:30 a.m. One hundred two high school students from across the United States who are interested in pursuing a career in journalism and have qualities of ``free spirit'' have been selected to participate in the annual Al Neuharth Free Spirit Scholarship and Conference program. Location: Sessions to be held at Freedom Forum, 1101 Wilson Blvd., Arlington, Va., the Watergate Hotel, and at Capitol Hill offices (afternoon visits).

FIREFIGHTERS CONFERENCE _ The International Association of Firefighters holds a legislative conference. Topics to include homeland security, first responder issues, mid-term elections and challenges facing firefighters. Location: Hyatt Regency-Washington on Capitol Hill, 400 New Jersey Ave. NW.

MEET THE PRESS WITH TIM RUSSERT _ Topic: Three years in Iraq. Guests include Rep. John Murtha, D-Pa., ranking member, Defense Appropriations Subcommittee. Gen. George Casey: Commander, Multi-National Force - Iraq.

FOX NEWS SUNDAY _ Topic: Three years year in Iraq. Guest: Gen. George Casey - Commanding General, Multi-National Force - Iraq. Topic: The legality of the NSA surveillance program and call for Bush censure. Guest: Sen. Richard Durbin, D-Ill.

WASHINGTON JOURNAL _ 9:15 a.m. - 10 a.m. Interview with Abdullah Abdullah, Afghan Foreign Minister. Topics: Status of Afghanistan, the fight against the Taliban, and US-Afghan relations.

CNN _ LATE EDITION WITH WOLF BLITZER. Highlights: Interview with Senator Dick Lugar and Senator Joseph Biden. Topic: Foreign relations.

FOX NEWS CHANNEL _ WEEKEND LIVE. Interview with Debra Burlingame, 9/11 family member. Topic: The trial of Zacarias Moussaoui; Michelle Malkin, conservative columnist. Topic: Immigration is dividing the GOP.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: SUNDAY, MARCH 19, 2006 7:45 AM EST

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TERRORISM NEWS:

Despite Agreement On Wiretaps Illegality, Senators Said To "Recoil" From Bush Censure. The Milwaukee Journal Sentinel (3/19, Gilbert, 266K) reports that while "most senators recoiled last week from Wisconsin Democrat Russ Feingold's resolution to censure the president, many of them agreed with one of its basic premises: that the wiretapping of Americans without a warrant is against the law," and doubts about its legality are "found among both liberal and conservative scholars and on both sides of the aisle in Congress."

Dead Saudi Al Qaeda Leader Preaches Violence In Video. The Washington Times/AP (3/19, El-Magd) reports that in a video sent to the Associated Press by email, Fahd Faraaj al-Juwair, the slain leader of al Qaeda in Saudi Arabia, "vowed in his final testament that his group would overthrow the royal family and stage more attacks against the kingdom and Americans in the region."

Lawyers In Moussaoui Case Argue Over Calling Martin To Testify. The Los Angeles Times (3/19, Serrano, 958K) reports that Zacarias Moussaoui's lawyers want Carla J. Martin to "testify about why she tried to influence witnesses" even "as soon as Monday," saying "she should be the next witness before the prosecution brought in any 'untainted' witnesses on aviation security because her testimony would provide 'critical information' about the nature of the witness-tampering effort." However, "Prosecutors want to delay Martin's appearance until the middle of the week and have her testify only if she agrees to answer questions about her conduct and not invoke the 5th Amendment against self-incrimination."

Ashcroft Calls Cooperation Key To Terrorism Fight. The AP (3/19, Gresko) reports, "Former U.S. Attorney General John Ashcroft said Saturday that he does not believe the threat of terrorism has passed and that the United States must work with other countries to combat it." The AP continues, "In an hour-long talk as part of a conference on economic crime, the nation's former top law enforcement officer also discussed the importance and challenges of prosecuting financial crime and the emphasis after the 2001 terrorist attacks on 'prevention over prosecution.' … 'As we fight against terror . . . We need to remind ourselves of the necessity and value of being extremely cooperative with individuals of other nations and in other settings,' Ashcroft said." The AP adds, "Ashcroft also drew laughs with some self-deprecating remarks. He also joked that the crowd of approximately 200 students, professors and attorneys at St. Thomas University School of Law would not have to remember anything he said. … Not mentioned as part of his speech was the pending case in Miami against alleged terror suspect Jose Padilla, who was arrested almost four years ago while Ashcroft was attorney general."

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PATRIOT ACT:

Patriot Act Satirized By Board Game. The AP (3/19, Parry) reports, "'Patriot Act: The Home Version' pokes fun at 'the historic abuse of governmental powers' by the recently renewed anti-terrorism law," and "the object of the game is not to amass the most money or real estate, but to be the last player to retain civil liberties."

HOMELAND RESPONSE:

White House Drill Tests Response To Smallpox Attack. The New York Times/AP (3/19) reports Cabinet secretaries "participated in a drill on Saturday that simulated a smallpox attack as the government tested plans to counter the potential use of bioweapons by terrorists." Officials "from various government agencies, including Dr. Julie Gerberding, director of the Centers for Disease Control and Prevention, participated in the four-hour exercise. Michael Chertoff, the homeland security secretary, and Michael O. Leavitt , the health and human services secretary, were among the cabinet members who were part of the drill."

Library Incident Cause Concern Over Maryland County's Homeland Security Force. The Washington Post (3/19, C5, Barr, 744K) reports that Montgomery County, Maryland's, "Homeland Security Department, national experts say, is the only such agency to maintain uniformed officers apart from its local police force." While "County Executive Douglas M. Duncan (D) wants to increase the department's $5 million budget by 20 percent in the next fiscal year," an incident last month when "a homeland security officer told public library patrons that they couldn't view Internet pornography," has "some County Council members…questioning the size and role of the department and its security unit," and "controversy surrounding the library incident might…be swelling."

White House Advance Workers Impersonated Reporters. The Washington Post (3/19, A11, Lee, 744K) reports, "The White House said yesterday that it will discipline two government employees who masqueraded as journalists this month while scouting locations for a presidential visit to the Gulf Coast. A Mississippi couple whose home was destroyed by Hurricane Katrina said two men who later identified themselves as Secret Service agents pretended to be Fox News journalists," but "Tom Mazur, a spokesman for the Secret Service, said he did not know who the men were but they were not Secret Service officials."

New Flood Maps Expected To Impact Louisiana Coastal Communities. The Washington Post/AP (3/19, Burdeau) reports that "new Federal Emergency Management Agency flood-vulnerability maps due to be released soon" for Louisiana's coastal areas "will likely make the insurance more costly, force residents to spend heavily to raise homes out of flood plains to qualify for coverage, make many other homes uninsurable and make lenders less willing to loan money for construction in flood-prone areas. That new reality may threaten the state's coastal population and its heritage of shrimp fishing, alligator hunting, fur trapping and oyster harvesting."

Reformers Try To Change New Orleans Bureaucracy. The Los Angeles Times (3/19, Quinones, 958K) reports, "New Orleans has what critics contend are layers of redundant government that it can no longer afford, given its greatly reduced population and budget." Part of this is its "seven elected property assessors — each with their own staff and responsibility for a separate district — to assess the city's 164,000 parcels." Now, "Riding the wave of change, a group of lawyers and businessmen have qualified a slate of assessor candidates — known as the I Quit Ticket — for the April 22 city elections." They "vow to lobby for legislation allowing voters to approve consolidating their offices into one, and resign en masse when that happens," forcing "a special election of a single assessor."

Old Black Church May Close In New Orleans. The Washington Post (3/19, A7, Lydersen, 744K) reports, "In the face of a much-reduced city population and physical damage to many churches post-Katrina, the Archdiocese of New Orleans is closing seven parishes," including St. Augustine, "one of the nation's oldest African American Catholic churches." Still, "local residents are rallying behind the church and hoping the parish can be saved.

Future Of New Orleans Music Landmark Uncertain. The New York Times (3/19, Saulny, 1.19M) reports that part of Milne Boys Home in New Orleans was the Colored Waif's Home for Boys. "A host of noted jazz musicians", including Louis Armstrong, trained at the Colored Waif's Home, and "Milne stands as one of the last physical connections to the city's musical past." However, it was damaged in the flooding, "and many wonder if it will have a place in the new city." While, "officials said the city was negotiating with the Federal Emergency Management Agency to determine how much federal money might be available for the site," they also have "the chaos of dealing with an acute housing shortage, a coming mayoral election and tens of thousands of displaced residents."

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WAR NEWS:

Bush Highlights Progress, But Iraq Continues To Weigh Down Approval. President Bush continues to make the case that the US is making progress in Iraq, even as polls show the war is taking a toll on his job approval rating. The President addressed the challenges facing the US in his weekly radio address, and the White House says he plans two speeches this week on "lessons learned" in Iraq. The issue was the subject of extensive media coverage, with much of it focused on the problems the US and the Administration faced in achieving its goal of establishing a peaceful democracy in Iraq.

NBC Nightly News (3/18, story 4, 1:55, Jordan, 9.87M) reported, "In his weekly radio address today, President Bush says Americans have seen horrific images from Iraq and he says more sacrifice will be required." President Bush: "The fighting has been tough. The enemy has proved brutal and relentless. We changed our approach in many areas to reflect the reality on the ground." Jordan: "Still, the President said US strategy in Iraq is succeeding 'slowly, but surely.' However, the latest Newsweek poll out today suggests that the majority of Americans disagree. 29% approve of how the President is handling the situation in Iraq; 65% disapprove. And Mr. Bush's approval ratings remains at a low of 36%, [while 58% disapprove.]"

The Washington Post (3/19, Gugliotta, 744K) reports Bush "promised to 'finish the mission' with total victory, urging the American public to remain steadfast but offering no indication when victory might be achieved." His "address comes at a time when confidence in the administration's Iraq strategy appears to have reached all-time lows."

The AP (3/19, Riechmann) says Bush "braced Americans for more bloodshed in Iraq but said recent civil strife has motivated warring political factions to move quickly to set up a representative government." His upcoming speeches will "be similar in tone to a series of talks he made in December to help turn public opinion on the war in his favor. In those talks, he combined steely resolve with frank acknowledgments that mistakes have led to changes in U.S. strategy."

Taking a negative tone on Bush's radio address, the Houston Chronicle/Cox News (3/19, Deans) reports, "Three years after President Bush launched the invasion of Iraq, the war grinds on amid escalating costs — in lives, money and U.S. influence abroad." In his radion address Bush said, "We will finish what we started in Iraq. … We will complete the mission." Yet, "sectarian violence verges on civil war. More than 130,000 troops remain in Iraq. And the toll on Iraq and the United States is far beyond anything the administration prepared Americans for in the lead-up to the March 19, 2003, invasion."

Over 50 local television stations covered President Bush's weekly radio address, focusing mainly on his call for patience and need to maintain resolve. Most of these same stations also reported on protests, or continuing violence in Iraq, on the third anniversary of war. For example: KTRK-TV Houston (3/18, 5:00 p.m.) reported, "President Bush is urging Americans not to lose resolve today, signaling there will be no pullback, and promising that progress is being made, and the world is safer because of the invasion. In city after city, from London to Sydney and here at home, that stay-the-course strategy is fueling today's protests, one of the largest in this country in Chicago."

WAGA-TV Atlanta (3/18, 6:00 p.m.) reported President, "Bush says the horrific images from Iraq may overwhelm the good news on progress. But he insists Iraq is making strides towards a better future." KTRK-TV Houston (3/18, 6:00 p.m.) reported, "Three years ago tomorrow, President Bush ordered the start of the war in Iraq. Today, the President defends the decision and tens of thousands head to the streets to protest."

KPHO-TV Phoenix (3/1/8) 10:00 p.m.) reported, "President Bush expressed hope in his weekly radio address. He said Iraqi leaders are making progress for forming a new government and that will ease the bloodshed, but he warned of more fighting and sacrifice ahead."

WTAE-TV Pittsburgh (3/18 11:00 p.m.) reported President Bush said, "The security of our country is directly linked to the liberty of the Iraqi people, and we will settle for nothing less than complete victory." KARE-TV Minneapolis-St. Paul (3/18, 5:00 p.m.) reported, "In his weekly radio address, President Bush, facing dwindling approval ratings, is calling for patience."

Administration Lowers Expectations For Iraq Progress. The Los Angeles Times (3/19, McManus, 958K) in a front page analysis titled "U.S. Lowers Goals In Iraq" reports that after three years of war in Iraq "the Bush administration faces a new challenge: the prospect of civil war. And, in response, officials again appear to be redefining success downward." The Times notes, "In increasingly sober public statements -- and in slightly more candid assessments from officials who insisted that they not be identified -- the administration is working to lower expectations." While the Administration has "tacitly acknowledged for more than a year that trying to stabilize Iraq is proving more difficult than they expected," experts "say they see signs of a more fundamental shift in the administration's position -- a creeping redefinition of U.S. goals in Iraq that increasingly allows for the possibility that the nation may remain unstable for years to come."

Similarly, Nina Kamp and Michael O'Hanlon from the Brookings Institution in an op-ed in the New York Times

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(3/19, 1.19M) updating their assessment of the situation in Iraq write that "the confusion on the ground in Iraq seems to have spread to American generals' public pronouncements. Last Monday, just days after saying that pacification efforts with the Iraqis were going 'very, very well,' Gen. Peter Pace, chairman of the Joint Chiefs of Staff, told an audience that Iraq is 'a place that is having some real difficulties right now' and that 'everything is in place if they want to have a civil war.' Unfortunately, an examination of trends in Iraq backs up General Pace's later, more sober comments." But despite the problems in Iraq, "more than 60 percent of Iraqis (though very few Sunni Arabs) remain bullish on the future. … These statistics may point to the possibility of a troop drawdown strategy for the United States -- but while a strategically passable outcome still seems within reach, it is increasingly hard to believe that there are the makings of a major success for American foreign policy in Iraq."

Support For Bush's Handling Of Iraq Seen As Dropping In Heartland. The Boston Globe (3/19, Savage, 484K) reports, "Support for Bush and his handling of Iraq is sharply eroding across the American heartland, where the overcast skies and the muddy fields of late winter matched a sense of gloom about Bush and the war." Recently "the Indianapolis Star released poll findings that Bush's approval rating among Indiana voters stood at 37 percent -- a drop of 18 points over the past year. The numbers echoed national polls, but were particularly shocking in a state that has not voted for a Democratic presidential candidate since 1964, and where Democratic presidential contenders often do not bother to campaign." In rural Indiana "support for the troops remains high. But many in Indiana also say the war has not turned out the way they thought it would three years ago, and they question whether Bush has what it takes to lead the troops into a happy ending."

Bush Accused Of Using Misleading Rhetoric. The AP (3/19, Loven) in an article titled "Bush Using Straw-Man Arguments In Speeches" reports, "When the president starts a sentence with 'some say' or offers up what 'some in Washington' believe, as he is doing more often these days, a rhetorical retort almost assuredly follows." He has been "criticized for dressing up events with a too-rosy glow. But experts in political speech say the straw man device, in which the president makes himself appear entirely reasonable by contrast to supposed 'critics,' is just as problematic." Washington University professor Wayne Fields says, it is a "'bizarre kind of double talk' that abuses the rules of legitimate discussion."

Khalilzad "Dives Into Iraq Diplomacy," AP Reports. In a profile of US Ambassador Zalmay Khalilzad, the AP (3/19, Hurst) reports that the envoy "spends a lot of time these days in a soundproof room at the US Embassy, sitting in front of television cameras and repeating a single message: Iraq must have a unity government and Americans must be patient until that happens. The 54-year-old Afghan-born US envoy -- a snappy dresser with a soft-spoken, easy demeanor -- has become the increasingly effective face of the Bush administration's campaign to restore American confidence in the Iraq mission."

Rumsfeld Reiterates Commitment To Iraq. Defense Secretary Donald Rumsfeld in an op-ed in the Washington Post (3/19, B7, 744K) writes, "The rationale for a free and democratic Iraq is as compelling today as it was three years ago. A free and stable Iraq will not attack its neighbors, will not conspire with terrorists, will not pay rewards to the families of suicide bombers and will not seek to kill Americans." Abandoning Iraq "would be the modern equivalent of handing postwar Germany back to the Nazis. It would be as great a disgrace as if we had asked the liberated nations of Eastern Europe to return to Soviet domination because it was too hard or too tough or we didn't have the patience to work with them as they built free countries."

Former General Calls For Rumsfeld To Resign. Ret. Army Major General Paul Eaton, who was in charge of training the Iraqi military from 2003 to 2004, in a strongly-worded op-ed in the New York Times (3/19, 1.19M) says Defense Secretary Donald Rumsfeld "has shown himself incompetent strategically, operationally and tactically, and is far more than anyone else responsible for what has happened to our important mission in Iraq. Mr. Rumsfeld must step down." President Bush should accept his resignation and "in the longer term, Congress must assert itself. Too much power has shifted to the executive branch, not just in terms of waging war but also in planning the military of the future. Congress should remember it still has the power of the purse; it should call our generals, colonels, captains and sergeants to testify frequently, so that their opinions and needs are known to the men they lead. Then when they are asked if they have enough troops -- and no soldier has ever had enough of anything, more is always better -- the reply is public."

Feinstein Says Bush Needs To Provide Leadership. The AP (3/19, Riechmann) in its article on Bush's radio address also notes that "critics of the administration's handling of the war say that the Iraqis must be told that the American military will not be in Iraq forever, and they must realize that the eventual pullout will be on U.S., not Iraqi, terms." In the Democratic radio address, Sen. Dianne Feinstein said, "We need the president to urgently exercise the leadership necessary to bring Iraq's political factions together. … In no uncertain terms, the president must immediately inform the Iraqi people that they need to get their political house in order."

Skelton Says US Will Need Luck To Achieve Goals In Iraq. The Kansas City Star (3/19, 286K) publishes the predictions of six commentators on US progress in Iraq. U.S. Rep. Ike Skelton said, " "The American people strongly

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support the troops, (but) the support for the mission is beginning to wane. With some good luck, this can all come out at the end of the day with a responsible government and with Iraq forces quelling the violence. We're going to have to have good luck along with some hard work."

Columnist Applauds Shift In US Strategy. Two columns in the Washington Post call Bush's policy of using Democracy to achieve peace as failed. James Hoagland in his column in the Washington Post (3/19, B7, 744K) describes the evolving US policy on Iraq saying "The Bush team gets closer" to resolving the conflict in Iraq "with this exercise, which portrays the long war as a global ideological struggle that hinges on a battle of ideas within and about Islam." Instead of promoting "democracy as a cure-all for the vast frustrations and delusions of al-Qaeda's target audience," a "new tone of realism about those conflicts has taken hold in internal administration discussions of the way forward. Nothing could reassure Americans more than publicizing that change."

Columnist Says US Policy Of Promoting Democracy A Failure In Iraq. George Will in his column in the Washington Post (3/19, B7, 744K) urges Bush to "emphasize the dangers of failure and de-emphasize talk about Iraq's becoming a democracy that ignites emulative transformation in the Middle East." Will concludes, "Three years ago the administration had a theory: Democratic institutions do not just spring from a hospitable culture, they can also create such a culture. That theory has been a casualty of the war that began three years ago today."

NYT, LAT Say US Has Been Humbled By Lack Of Progress In Iraq. The New York Times (3/19, 1.19M) editorializes, "Many who supported the invasion have taken this anniversary to argue that it all would have been worthwhile if things had been run better," but "the last three years have shown how little our national leaders understood Iraq, and have reminded us how badly attempts at liberation from the outside have gone in the past." While right now "there is no time to imagine what the world might be like if George Bush had chosen to see things as they were instead of how he wanted them to be three years ago," his "Iraq debacle ought to serve as a humbling lesson for future generations of American leaders."

The Los Angeles Times (3/19, 958K) in an editorial writes that "the occupation of Iraq has been a humbling letdown." The Times does "concede that the Bush administration's actions were rooted in a strain of American idealism most often identified with Woodrow Wilson." But it has resulted in "a quagmire. Bush's messianic idealism was never justified, and in any event the administration's flawed execution would have undermined his purpose." Entering "its fourth year, the war in Iraq defies simplistic characterizations from both ends of the political spectrum" and "the future of Iraq remains shrouded in gray uncertainty."

On Third Anniversary Of US Invasion Of Iraq, Troops See Problems Lingering. In a story on the third anniversary of the US invasion of Iraq, ABC World News Tonight (3/18, story 3, 3:10, Raddatz, 8.78M) reported it is "a milestone" for the US troops in Iraq "in the sense, because of the fact a lot of them are back. They can't really believe they are still here. They look around, and they see some of the problems haven't gone away. I think they are very proud of themselves for what they have done here, and some of the reconstruction efforts, and some of the efforts of reaching out to the Iraqi people. But they know the security situation is not solved, and I think a lot of them think it probably would have been -- probably those especially who came in on the initial invasion thought it would be over then, and they are still here."

Soldiers Recount Negatives And Positives Of Iraq Experiences. And the Washington Post (3/19, A1, 744K) in a front page article describes the experiences of 100 Iraq war veterans interviewed over the past year reporting, "Iraq was bad, nearly all of them agreed," yet "it was not bad in the ways they see covered in the media -- the majority also agreed on this. What they experienced was more complex than the war they saw on television and in print. It was dangerous and confused, yes, but most of the vets also recalled enemies routed, buildings built and children befriended, against long odds in a poor and demoralized country.

Iraqis Said To Be Disenchanted With Lack Of Progress. ABC World News Tonight (3/18, story 3, 3:10, Harris, 8.78M) reported, "I can't find any commemorations, no sign of demonstrations or protests scheduled for tomorrow, no mention of this anniversary in the major newspapers, or on the major newscasts. If you ask Iraqis about the anniversary, you'll get an earful, mostly complaints." Drivers waiting in gas lines that could last 4-12 hours "said this would never have happened under Saddam. When I asked the natural follow up, after three years would you rather have Saddam back, they said no." A lot of Iraqis "thought with the Americans, the world's only superpower taking over, that this country would be turned into something like Connecticut overnight. And in fact, just the opposite has really happened, and they've seen a deterioration in the security front. They have less electricity than before the war in many parts of the country, and many parts of the country still don't have drinkable water. So at this point, three years after the invasion, what we're seeing is a lot of disappointment as opposed to the optimism felt in many quarters three years ago."

Similarly, the Washington Times (3/19, A1, Behn, 90K) in a front page story also reports, "Iraqis interviewed on the streets of Baghdad on the eve of the third anniversary of the U.S.-led invasion said it will take at least a decade, maybe

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longer, to get their country on its feet." And "many Iraqis said they had lost confidence in their political leadership's ability to pull the country together."

And the Washington Post publishes a number of opinion pieces critical of US progress from the perspective of local Iraqis. Muean Aljabiry, an Iraqi-born filmmaker and political consultant, in an op-ed in the Washington Post (3/19, B1, 744K) says that after the liberation of Iraq he served as an interpreter for "Barbara Bodine and retired Lt. Gen. Jay Garner, the two highest officials in postwar Iraq. I didn't know how the experiment would turn out. But as I arrived in Baghdad, I really believed the United States had an efficient, well-studied plan to put Iraq together after toppling the Saddam regime." But his experiences have "made me doubtful about our competence for nation building, an exercise the United States initially claimed to have no interest in carrying out. … I sometimes worry that, like the British enterprise, the U.S. effort to build a pluralistic, democratic society in Iraq will be remembered primarily for the insurgency it has spawned."

Middle East and North Africa for Women International regional coordinator Manal Omar in an op-ed in the Washington Post (3/19, B3, 744K) says that after Iraq was liberated three years ago there was concern over sectarian violence, but the situation has become worse. The "schisms among communities were predictable -- and predicted. The most painful fact is that, early on, the feuding was preventable." She is "continually plagued by the question of how we in the international community could have gotten this so very wrong. I believe that we have dug a grave. And it is the Iraqis who will have to lie in it. But who will be held accountable?"

And Professor Kanan Makiya, author of "Republic of Fear: The Politics of Modern Iraq," in an interview with the Washington Post (3/19, B5, Chandrasekaran, 744K) was asked whether the US could have prevented the sectarian violence in Iraq. Makiya said, "There's this old thorn…and that is the issue of provisional government versus occupation. Occupation was the wrong formula for dealing with the transition. The U.S. government pushed aside the Iraqi opposition -- both those groups that were in exile and those groups that were inside Iraq, mainly the Kurds." It was a mistake to rely on "occupation as opposed to a provisional government like what was done in Afghanistan. So what we ended up with was the rhetoric of liberation but the reality of occupation."

Iraqi Dentist and blogger Zeyad in an op-ed in the Washington Post (3/19, 744K) describes the violence he faces every day in Iraq and notes, "The new parliament was sworn in today. Our bickering politicians agreed to disagree yet again, and this time it was over the oath. I sometimes can't help wondering if it was the war that has left us so divided, or have we been that way all along."

Iraqi Insurgents Seen As Improving. Jonathan Finer in the Washington Post's (3/19, B3) "Outlook" section reports, "Long considered a fragmentary and disorganized collection of groups with varying tactics and aims, Iraq's insurgency is showing signs of increasing coordination, consolidation and confidence, those who study it now say. There is no consensus on the precise number of insurgent fighters, but estimates range from a few thousand to more than 50,000. The vast majority of insurgents, probably more than 90 percent, are believed to be Iraqis from the Sunni minority group that largely ruled the country before the fall of Saddam Hussein. But U.S. commanders say that most of the deadliest attacks, and particularly suicide attacks, are committed by foreigners from a range of neighboring countries, including Jordan, Syrian, Saudi Arabia, Egypt and Sudan."

The Washington Post (3/19, B3, 744K) also publishes statements by Iraqi insurgents like Abu Musab al-Zarqawi's top aide Abu Hafsa al-Ansari who was quoted by a Lebanses paper saying, "Be sure that the American Army is living now in a swamp of blood and is suffering a state of collapse. Also, the government forces are corrupt and falling apart psychologically. It will flee and soon, as the Americans announce the withdrawal of their forces, and this will happen very soon, Allah willing. The battle of Iraq will be the beginning of other battles in the area to topple the idols allied with Satan."

Operation Swarmer Said To Have "Fizzled."

Time (3/19, Bennett, Jallam) reports in a story headlined, "How Operation Swarmer Fizzled," that "contrary to what many many television networks erroneously reported, the operation was by no means the largest use of airpower since the start of the war." It had "no airstrikes and no leading insurgents were nabbed in an operation that some skeptical military analysts described as little more than a photo op. What's more, there were no shots fired at all and the units had met no resistance."

The Los Angeles Times/AP (3/19) adds that U.S. and Iraqi officials said they "rounded up dozens more suspected insurgents, including alleged killers of" Amjad Hameed, director of the Iraqi television station Al Iraqiya. Still, the operation "stirred growing unease among leading Sunni Arabs. One called it a needless 'escalation' at a time of difficult negotiations over forming a broad-based government."

Two US Soldiers Killed In Iraq. ABC World News Tonight (3/18, story 2, :10, Avila, 8.78M) reported, "And today, the Pentagon announced the deaths of two more American soldiers killed in Iraq. The total number of US troops killed in three years of war now stands at more than 2,300."

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Violence Mars Start Of Iraqi Shiite Holiday. NBC Nightly News (3/18, story 3, 2:30, Boettcher, 9.87M) reported, "Two were killed, eight injured when a roadside bomb hit pilgrims walking to the holy city of Karbala to mark one of their holiest days, Arbayeen. Three and a half million Shiites are making this journey, an easy target for Sunni Muslim insurgents determined to spark civil war. The US mission: Thwart insurgent plans."

The New York Times (3/19, Gettleman, 1.19M) adds, "Shiite pilgrims are threading a needle of danger this week as they make their annual pilgrimage to a shrine in Karbala," as "the pilgrimage route from Baghdad to Karbala cuts straight across territory so overrun by Sunni Arab insurgents that the American military calls it the Triangle of Death."

Documents Appear To Show Saddam Supported Philippine Terrorism. The Weekly Standard (3/19, Hayes) reports, "The discussion of the threat posed by Saddam Hussein's Iraq is about to get more interesting," as documents captured in postwar Iraq and now released by the government "add to the growing body of evidence confirming the Iraqi regime's longtime support for terrorism abroad," showing that "Saddam hussein's regime provided financial support to Abu Sayyaf, the al Qaeda-linked jihadist group founded by Osama bin Laden's brother-in-law in the Philippines in the late 1990s." The Boston Globe (3/19, Bray, 484K) adds, "Conservative bloggers, eager to bolster the case for going to war against Iraq, have long argued for release of the documents," but "some prominent liberal bloggers scoffed at the release."

Protests For Iraq War Anniversary Fail To Draw Expected Crowds. ABC World News Tonight (3/18, lead story, 2:35, Reynolds, 8.78M) reported, "In London, thousands took to the streets with a very clear message," calling for the withdrawal of coalition troops from Iraq. But "while organizers expected upwards of 100,000 demonstrators in the British capital, police say it wasn't even a quarter of that. Indeed, while protests against the three-year-old conflict spanned the globe today, the crowds were on the small side. The gathering here in Chicago typified protests in the rest of this country. A lot of passion from the relatively few who bothered to show up." There were "maybe a couple thousand protesters in New York's Times Square, and far fewer took to the pavement in Washington, DC. Their voices were unlikely to penetrate the walls of the Vice Presidential residence nearby, if Mr. Cheney had been there, which he wasn't."

NBC Nightly News (3/18, story 2, :25, Kotb, 9.87M) reported, "Thousands hit the streets in Australia, thousands more protested in London, though it is important to note far fewer than were predicted. Demonstrators took to the streets of New York City and all carried the same message. They want the war over and the soldiers to come home."

The New York Times (3/19, Confessore, 1.19M) reports, "About 1,000 people gathered near Times Square yesterday, in one of dozens of energetic and often unfocused rallies held in cities across the United States and around the world" that "were vigorous and peaceful but far smaller than the large-scale marches that preceded the war." Also, "the Iraq war itself…was noticeably less central to the proceedings than in previous years." The Washington Post/AP (3/19, Burkhardt) adds, "many events were far smaller than organizers had hoped." Additional local coverage of the anti-war protests can be found in the Los Angeles Times (3/19, Lin, Schoch, 958K), the Baton Rouge Advocate (3/19, Johnson), the Indianapolis Star (3/19, Webber, 267K), the Mobile Register (3/19, Colquitt, 96K), the Pittsburgh Post-Gazette (3/19, Cleary, 261K) and the Minneapolis Star Tribune/AP (3/19).

Anti-War Activists Discouraged By Lack Of Public Opposition To War. The St. Louis Post-Dispatch (3/19, Lambrecht, 310K) reports that despite polls showing "growing anti-war sentiment among the American public," the "new pessimism appears to be having little effect in Washington, where Congress had approved billions of dollars more for war and a proposal to censure President George W. Bush for ordering electronic surveillance in the war on terror is drawing little support." And "anti-war organizers have expressed frustration at what they describe as a disconnect between public sentiments and continued support for the war in Congress."

Camp Nama Account Said To Belie Assertion That Prisoner Abuse Confined To Rogues. The New York Times (3/19, A1, Schmitt, Marshall, 1.19M) publishes an account of Task Force 6-26 and Camp Nama in Iraq, which "reveals the extent to which the unit members mistreated prisoners months before and after the photographs of abuse from Abu Ghraib were made public in April 2004, and it helps belie the original Pentagon assertions that abuse was confined to a small number of rogue reservists at Abu Ghraib." Even a Pentagon official admits, "there were no rules there," and in "early 2004, both the C.I.A. and the F.B.I. had expressed alarm about the military's harsh interrogation techniques." Civilians who worked there, "when pressed repeatedly by reporters who contacted them,…agreed to speak about their experiences and observations out of what they said was anger and disgust over the unit's treatment of detainees and the failure of task force commanders to punish misconduct more aggressively."

Injuries Cause Iraq Veteran To Lose Memory. The Washington Post/AP (3/19, Bynum) reports, "His 3-year-old son Nicholas' first steps, the first time Liam, his newborn,

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smiled -- Staff Sgt. Douglas Piper lived to see them. Then his scarred memory erased even those precious moments." Piper's "doctors tell him at least 80 percent of his short-term memory has been destroyed."

Drugs Threaten Afghan Democracy. The St. Louis Post-Dispatch (3/19, Dine, 310K) reports that "poppies are invaluable cash crops to farmers seeking to sustain their families, but dangerous to a young Afghan democracy. An unholy alliance is emerging among farmers, drug lords, Taliban remnants and al-Qaida fighters," and "drugs are already the nation's sole export of any magnitude." They "threaten to turn it into a 'narco-state,'" and "Afghan sources say" al-Qaida "has acknowledged in private sessions its satisfaction that expanding heroin use is poisoning 'infidels' in other countries."

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More Federal Prosecutors Urged For Washington State. The Columbia (WA) Tri-City Herald (3/19) reports, "It is time for the U.S. Justice Department to start bearing its share of the load in the Tri-Cities. … And we don't mean by asking local prosecutors to do even more of the federal government's job than they already do." The Herald continues, "We have had a federal judge in the Tri-Cities for the past six years, but no federal prosecutors. … It was four years ago that U.S. Attorney James McDevitt, in Spokane, promised to look into the question of assigning some federal prosecutors here instead of keeping them all based in Spokane or Yakima. … Local law enforcement and prosecutors have said for years many cases that should be tried in federal court instead are pushed down to local courts. … The result: Overload on local courts and prosecutors, more costs for local taxpayers and a cheap way out for the feds." The Herald concludes, "We do not doubt McDevitt's sincerity nor do we accuse him of being the problem. … Nor is it right to fault Congress for not authorizing money to have a prosecutor and other accouterments and officers of the federal government stationed here. … But between the two lies the only solution to a judicial and cost inequity. … McDevitt should press the case for a prosecutor in the Tri-Cities, and Congress should give him the money to make it happen."

CORPORATE SCANDALS:

Cross-Examination In Enron Trial Vital Despite Lack Of Drama. The Houston Chronicle (3/19, Fowler) reports, "If you stop by the Enron trial in downtown Houston expecting to witness a Perry Mason moment, don't hold your breath. … Those instances of 'gotcha,' — when an attorney catches an opposing witness in a lie or draws out a weeping confession during cross-examination — aren't as common as TV legal dramas might have you believe." The Chronicle continues, "In reality, cross-examination is often a dry, protracted process by which attorneys try to undermine a witness or dig for nuggets of information that support their case. It's not at all unusual for 'cross,' as attorneys call it, to seem random and meandering to a casual observer." The Chronicle adds, "Lawyers watching the current trial said so far the cross-examination by the defense teams for Ken Lay and Jeff Skilling has had a little bit of everything: entertainment and tedium, humor and anger, precision and confusion. … The defense will get its chance to put its best arguments before the jury when the government rests its case, but any points it can score with jurors now on cross are crucial."

CRIMINAL LAW:

Libby's Defense May Prove Embarrassing To White House. The AP (3/19, Yost) reports attorneys for I. Lewis "Scooter" Libby, Vice President Cheney's former chief of staff, are "signaling they may delve deeply at his criminal trial into infighting among the White House, the CIA and the State Department over pre-Iraq war intelligence failures." Libby's attorneys are also "suggesting that the State Department — not Libby — may be to blame for leaking the identity of covert CIA officer Valerie Plame to the media." The prospective defense raises "the possibility a trial could become politically embarrassing for the Bush administration by focusing on the debate about whether the White House manipulated intelligence to justify the U.S.-led invasion of Iraq in March 2003."

The Washington Post (3/19, A8, Smith, 744K) reports Libby's attorneys "want access to many Bush administration documents they say will demonstrate that an undercover CIA officer played a 'peripheral role' in the government's debate over prewar intelligence and that Libby had no motive to lie about her, according to new court filings." Libby's defense "wrote that they anticipated the trial would showcase testimony by a Who's Who of senior administration officials involved in the Iraq policymaking at the heart of the CIA leak investigation, including three top officials at the State Department who the lawyers asserted played key roles in the unraveling of Plame's covert CIA position. Those officials include then-Secretary of State Colin L. Powell and his deputy secretary, Richard Armitage, and undersecretary for political affairs, Marc Grossman."

Analyst Says CIA Not Careful In Protecting Agents' Secrecy. In a Washington Times op-ed (3/19), Scripps Howard News Service political analyst Martin Schram says that in a March 12 "investigative report," Chicago Tribune

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reporter John Crewdson "revealed how America's enemies, armed only with a computer hooked to the Internet, could do what he did: Break the cover of 2,653 CIA employees around the world, many of them secret agents. Headline: 'Internet blows CIA cover.'" Schram recalls his own scoop on June 6, 1974 in Newsday that "revealed how America's enemy rogues and spies, armed only with no-tech eyes, ears and shoes, could do what he did: Break the cover of a secret CIA school for spies operating in a well-appointed downtown Washington apartment building." In "both cases, the journalist revealed to the CIA an intelligence gap within its midst that stunned and embarrassed the agency -- but provided the CIA with info it needed to try to recover its secrets, post haste." Schram adds, "Sadly, the pattern is frighteningly clear. The most dangerous intelligence gap of all is the one between the ears of the CIA officials whose job requires them to think it all through and prevent gaffes that could cost agents' lives or compromise the safety of us all."

Judicial Security Still An Issue One Year After Chicago Courthouse Shootings. The New York Times (3/19, Files) reports, "About a year after the killings of the husband and mother of a Chicago federal judge and a shooting rampage in an Atlanta courthouse that left three people dead, the safety of judges and court employees remains a serious concern for the judiciary." The Times continues, "Attorney General Alberto R. Gonzales said this week that three-quarters of the more than 2,000 federal judges had sought home security systems paid by the government." The Times adds, "The Judicial Conference of the United States, which sets policy for the federal courts, met this week for the first time under Chief Justice John G. Roberts Jr. and approved security measures. … The conference authorized security equipment and workers for federal probation and pretrial services offices, urged added training for judges' security guards and called for the Bureau of Prisons to screen all outgoing mail to judges and courts from federal prison inmates." The Times notes, "A spokesman for the Administrative Office of the United States Courts, David A. Sellers, said that after the killings of the family members of the Chicago judge, Joan H. Lefkow, the security focus shifted from courthouses to judges and other court employees outside court buildings. … Last May, Congress appropriated $12 million for the Marshals Service to coordinate such security, including paying for home detection systems for any federal judge who wants one. This month, the House passed an authorization for $20 million to hire additional marshals for court security and investigating threats."

Potential Witnesses Named In Nevada Corruption Case. The Las Vegas Review-Journal (3/19, Packer) reports, "During pretrial motions in the political corruption case of former Clark County Commissioners Mary Kincaid-Chauncey and Dario Herrera, a U.S. District judge offered a glimpse of the witnesses who might be called to testify." The Review-Journal continues, "Judge Larry Hicks rattled off potential witnesses to prospective jurors Tuesday to determine whether any of them had relationship with those who could be called to the stand during the trial, which is expected to last three months." The Review-Journal adds, "Among the names were Terry Lamuraglia, a former lobbyist who now works in the county's Parks and Recreation Department; attorneys Jay Brown and Joe Brown; and Peter S. Christiansen, former strip club owner Michael Galardi's longtime lawyer. … The list also includes FBI agent Joe Dickey." The Review-Journal notes, "During opening statements on Thursday, Assistant U.S. Attorney Daniel Schiess touched on those witnesses' roles in the government's case. … A federal indictment issued in May 2003 accuses Herrera, Kincaid-Chauncey, Galardi and former Commissioners Erin Kenny and Lance Malone of bribery. The commissioners allegedly accepted cash bribes from Galardi that were delivered by Malone, in exchange for votes that furthered the success of Galardi's strip clubs, according to the indictment. … Galardi and Kenny cut deals with the government and have provided information to prosecutors."

Data Show Federal Sentencing Disparities. The Des Moines Register (3/19) reports, "In the first 13 months since federal judges were handed more freedom in sentencing, punishment disparities have developed among courthouses nationwide, new data show." The Register continues, "Federal prosecutors and judges in Iowa downplay the meaning of the statistics, but defense attorneys say the numbers reinforce what they have always believed: Varying judicial temperaments, combined with harsher prosecution in Iowa's northern half, can create widely different sentences for similar crimes. … 'There are some judges who are far less likely to' depart from federal sentencing guidelines, said Alfredo Parrish, a defense attorney who has represented alleged criminals in both of Iowa's federal districts. 'Everybody knows it.'" The Register adds, "The data, from the U.S. Sentencing Commission, indicate a new attitude among judges since a January 2005 U.S. Supreme Court ruling that gave them much more leeway in how they dole out punishment. … Nationally, judges have been 10 percentage points more likely since the change to deviate from what were mandatory sentencing rules before then. Almost always, they deviated with less-harsh sentences. … The guidelines, created in the mid-1980s because Congress wanted more uniformity in punishments, gave judges scant wiggle room. After only 13 months with 'advisory' rules, Justice Department officials have urged Congress to take away judges' freedom."

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Goodlatte Bill Would Ban Internet Gambling. The Washington Times (3/19, A1, Lemke, 90K) reports in a front page story that Internet gambling is "a $15 billion industry driven by the popularity of sports and the growing interest in poker. The industry is the subject of tense debate between companies looking to cash in on the American marketplace and lawmakers looking to ban online gambling. Analysts predict online betting soon could make up as much as 10 percent of gambling worldwide." Conservative lawmakers, "often at the urging of religious groups, have been trying to stop online gambling since it first surfaced in the mid-1990s." Rep. Bob Goodlatte said, "We feel this type of gambling is particularly pernicious." The Times adds, "However, advocates argue governments would reap big financial gains by making online gambling legal, regulating it and taxing it heavily." But the "Federal legislation introduced last month by Mr. Goodlatte seeks to clarify the law to ensure that online bets are banned and to include poker and other common gambling practices."

Law Enforcement Officials Worry Overuse May Limit Effectiveness Of Amber Alert. The New York Times/AP (3/19) reports ten years after the Amber Alerts "began being used in the Dallas-Fort Worth area, the system has been adopted in all 50 states. And in some, it is being used for reasons beyond its original purpose of helping find children abducted by strangers." In Ohio, Texas "and other states the program can be used when a child is taken away by a parent or family member who does not have custody, if the child is believed to be in immediate danger of injury or death. Some law enforcement officials say they are concerned that the alerts will be overused and become less effective."

South Carolina Sex Offender Captured. NBC Nightly News (3/18, story 11, 1:00, Kotb, 9.87M) reported, "There will be no bail for a convicted sex offender captured in South Carolina yesterday, after a four day manhunt. Police arrested Kenneth Hinson after a relative called 911 to report he had come looking for water. He is charged with assaulting two teenage girls in a room beneath has property. Many in the community were upset he was not behind bars all along. He was convicted of raping a 12-year-old girl in 1991 and released in 2000."

CIVIL LAW:

Amount Of Unpaid Federal Fines Up Significantly. The Washington Times/AP (3/19, A1, Mendoza, Sullivan) reports the "amount of unpaid federal fines has risen sharply in the past decade. Individuals and corporations regularly avoid large penalties for wrongdoing -- sometimes through negotiations, sometimes because companies go bankrupt, sometimes because of officials' failure to keep close track of who owes what." An Associated Press "examination of federal financial-penalty enforcement across the nation" also found that the "government currently is owed more than $35 billion in fines and other payments from criminals and in civil cases, according to Justice Department figures." In 2004, Federal authorities "ordered $7.8 billion in 98,985 fines, penalties and restitution demands in criminal and civil cases, but collected less than half of that." White-collar crime cases "account for the largest amount of uncollected debt."

Google Gets Win In Battle With Government Over Data Subpoena. NBC Nightly News (3/18, story 7, 1:00, Kotb, 9.87M) reported, "In what Google's lawyers are calling a clear victory, a Federal judge ruled that the search engine does not have to turn over the terms people use to search. It does, however, have to share 50,000 web addresses. The government says its intent was to collect information it needs to uphold child pornography laws."

CIVIL RIGHTS:

FDA Investigating Two Deaths Linked To RU-486. NBC Nightly News (3/18, story 9, 1:00, Kotb, 9.87M) reported, "The Food and Drug Administration is investigating the deaths of two women who died after taking RU-486, the so called abortion pill. As a result of these reports, Planned Parenthood announced they will change the way they administer the medication. Abortion rights opponents are calling for the drug to be pulling from the market."

South Dakota Officials Get Earful Over Abortion Ban. The New York Times/AP (3/19) reports, "South Dakota politicians and state agencies have been bombarded in the past few weeks with thousands of calls, letters and e-mail messages, for and against the state's recently enacted ban on nearly all abortions." A few groups "who oppose the ban have called for a tourism boycott of South Dakota, urging people to avoid attractions like Mount Rushmore; the Badlands; the annual motorcycle rally in Sturgis; and the Corn Palace, an arena in Mitchell whose walls are covered with colorful ears of corn."

Petition Likely To Place South Dakota Abortion Ban On Ballot. The Minneapolis Star Tribune (3/19, Haga, 424K) reports, "It appears likely that South Dakota's recently adopted ban on abortions will be referred to the state's voters. Jim Robinson, secretary of the nonprofit organization Focus South Dakota, said he expects 'a large variety of groups that

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disagree with this extremist ban' to participate in a petition drive to keep the law from taking effect July 1 and go on the November general election ballot. 'I wouldn't anticipate too much difficulty' in obtaining the necessary 16,728 signatures, he said."

Rights Of Unwed Fathers In Dispute. The New York Times (3/19, Lewin) reports, "Although one in every three American babies has unwed parents, birth fathers' rights remain an unsettled area, a delicate balancing act between the importance of biological ties and the undisrupted placement of babies whose mothers relinquish them for adoption." The Times continues, "While women have the right to get an abortion, or to have and raise a child, without informing the father, courts have increasingly found that when birth mothers choose adoption, fathers who have shown a desire for involvement have rights, too. .. But to claim those rights most states require a father to put his name on a registry. While about 30 states now have registries, they vary widely. In some, fathers must actually claim paternity; in others, just the possibility of paternity. The deadlines may be 5 days after birth or 30, or any time before an adoption petition is filed. … And registries are a double-edged sword: It remains an open question whether they serve more to protect fathers' rights or to protect adoptive parents, and the babies they have bonded with, from biological fathers' claims."

Outcry Over New Orleans Elections Grows. The New Orleans Times-Picayune (3/19, Bazile) reports, "Echoing concerns of other civil rights leaders about the fairness of New Orleans' upcoming elections, National Urban League president and former New Orleans Mayor Marc Morial announced a plan Saturday for out-of-town mayoral forums and outreach programs to help the city's displaced voters." The Times-Picayune continues, "The National Coalition for Black Civic Participation plans to file a letter of objection to the U.S. Justice Department's approval Thursday of the plans for the April 22 and May 20 elections, said Morial, who was in New Orleans to attend a funeral." The Times-Picayune adds, "The department gave advance clearance to the plans under the terms of the 1965 Voting Rights Act, which requires the Justice Department to review proposed changes in voting procedures in Louisiana and other Southern states to ensure the changes don't discriminate against black voters. … The department's action drew immediate fire from several civil rights groups, which have contended for weeks that too little is being done to ensure that tens of thousands of black voters displaced by Hurricane Katrina will be able to participate in one of the most crucial elections in the city's history."

ENVIRONMENT:

Some Say Interior Nominee Kempthorne Lacks Substance. The Los Angeles Times (3/19, Tizon, 958K) reports "the ready smile and neighborly style" Republican Gov. Dirk Kempthorne of Idaho "don't always get the job done, some supporters and critics say. They contend that the man President Bush has picked to succeed Gale A. Norton as secretary of the Interior often exhibits more charm than substance." Fellow Republicans "and business leaders say Kempthorne, 54, knows how to create consensus but is too politically cautious. Local Democrats and environmentalists say that he is gifted at making people feel heard but that, at the end of the day, his loyalties lie squarely with development and corporate interests."

Bingaman Criticized For Aiding GOP On Gulf Of Mexico Drilling. In his Los Angeles Times column (3/19), Ronald Brownstein says ranking Senate Energy Committee Democrat Jeff Bingaman is "now helping Senate Republicans and the energy industry advance one of their top goals: a bill to expand drilling for oil and gas in the Gulf of Mexico off the Florida coast. He's doing so even though Republicans are blocking the energy priorities of Bingaman and most other Democrats: more focus on conservation and renewable energy." By helping Republicans "pursue their agenda while the GOP suppresses Democratic preferences, Bingaman isn't only making a bad bargain — he's making it more difficult for the nation to craft a comprehensive plan to reduce our excessive dependence on foreign oil."

WPost Calls On Bush To Raise Fuel Economy Standards. An editorial in The Washington Post (3/19, B6, 744K) says, "the Bush administration is due to issue a revised set of fuel economy standards for 'light trucks.'" The Posts sees this as a way for the White House to, "start making good on its promise to end America's 'oil addiction,' in a concrete way. Unfortunately, there isn't yet any certainty that the necessary willpower exists." The Post adds that only cowardice would stop these changes, but "93 percent of Americans, according to one poll, support making cars and trucks more fuel-efficient." So, "saving fuel is not only good for the economy, good for foreign policy and good for the environment, it's politically popular, too."

NYTimes Says Court Rulings Rebuke EPA Interpretation. An editorial in the New York Times (3/19, 1.19M) states, "the United States Court of Appeals for the District of Columbia Circuit struck down as illegal an attempt by the Bush administration to allow power plants and other industrial polluters to evade the Clean Air Act. At issue was a provision of the act known as New Source Review." The

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Times says the court noted the EPA's new interpretation of the rule would, "have had the perverse effect of allowing plants that are now in compliance with the law to break it. … We should not expect the current E.P.A. administrators to rush the battlements with new enforcement cases. Indeed, such is Mr. Cheney's continued reach in these matters, the agency even now is seeking other, subtler ways to undermine the law. But it is nice to hear someone say that you cannot rewrite an act of Congress just because you do not like it."

FBI/DEA/ATF/USMS:

GAO Audit Criticizes FBI Oversight Of Trilogy Contractors. Under the headline "Audit Critical Of FBI, Contractors," The Washington Post (3/18, A4, Eggen) reports, "The FBI and its contractors spent more than $17 million on first-class airfare, inflated labor rates, missing equipment and other questionable payments during the botched attempt to upgrade the bureau's outdated computer system," according to a new GAO audit. The Post notes, "The FBI's struggle to modernize its computer system has been a recurring headache for Director Robert S. Mueller III and has earned it considerable criticism from lawmakers. … The auditors said the problems with Trilogy may well be much worse than their report shows because the review was based on only a portion of the FBI's payments to contractors," and warns that Sentinel could suffer similar problems "if these weaknesses go uncorrected." Sen. Charles Grassley said of the GAO report, "It's time for the FBI to explain what assurances it has that the taxpayers will be able to recover any funds these companies owe to the government before we start paying them millions more for work on Sentinel." However, "The FBI said in a statement that it has tracked down more than 1,000 of the missing items and has put in place numerous checks to avoid the problems that plagued Trilogy. 'We have strengthened our internal controls to avoid repeat of the issues cited by auditors, from any vendor,' spokesman Michael Kortan said.

CNN Live Saturday (3/18, Lin) reported, "The FBI may have wasted millions of dollars trying to update its computer systems. And a new investigation concludes it may spend millions more before the job is done." CNN (Nurenberg) added that the GAO report "questioned $17 million in spending saying more than 1,200 pieces of equipment can't be accounted for. Price tag for that, $7.5 million. The FBI says it has tightened up accounting procedures. After 9/11, the FBI says it was under great pressure to find a quick fix." FBI Assistant Director John Miller: "The pressure certainly came to bear on the bureau to launch a computer system that was capable of connecting the dots and to do it quickly. And under that pressure, sometimes -- not in every instance, but sometimes the message was get it done and if an obstacle came up, to move it out of the way." UPI (3/18) also briefly reports on the GAO review, noting, "However, an FBI spokesman told CNN the agency's own audit had accounted for most of the equipment."

The Washington Times (3/19, Seper, 90K) reports an audit says the FBI "has improved its ability to plan and manage a new information-technology project but still faces major problems in implementing the program, designed to replace a failed $170 million system." The Sentinel program was "introduced last year as a replacement for the failed Virtual Case File system and is scheduled to be fully operational by 2009 at an expected cost of $425 million. It is part of an FBI effort to close internal communication gaps and improve information sharing with other law-enforcement and intelligence agencies." The audit "by the Justice Department's Office of the Inspector General said that although the FBI has developed new technology-planning processes that can help the agency complete a new case- and information-management system, 'several continuing concerns' remain regarding the FBI's management of the new project."

MD Schools Turn Down First Lady Ehrlich's Anti-Drug Show. The Washington Post (3/19, C6, Mosk, 744K) reports, "Maryland first lady Kendel Ehrlich pitched the state schools superintendent a plan to air her television talk show about drug and alcohol prevention in public school classrooms, but the department eventually turned her down. The State Education Department declined her offer after an expert on drug and alcohol prevention reviewed it and determined that it was not suitable for children. One episode, filmed on the beach and at a nightclub in Ocean City, includes sexually explicit language and brief nudity as it explores the pitfalls of drinking."

Montana Running Graphic Ads To Demonstrate Dangers Of Meth Addiction. The state of Montana is running a series of TV ads to demonstrate the danger of addiction to methamphetamine. NBC Nightly News (3/18, story 10, 2:00, Hattori, 9.87M) reported the state is "blanketing the stage with edgy broadcast and print ads, dramatizing the addictiveness of meth." Peg Shea, Montana Meth Project Director: "Kids across the state said we don't want to have adults lecturing us." Hattori: "This one did extensive research on the group it's trying to reach, young people." Shea: "The kids said it was almost a dare. If you do a television ad it has got to catch our attention." The effort is privately funded, aided by software entrepreneur Thomas Siebel, who was shown saying, "We are breaking a lot of rules. I am not sure a public figure would be willing to take this heat." Hattori: "Will it make a difference here in Montana? Nearly one in four young people were offered

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meth within the last year. The eighth graders that we talked to were convinced.

DC Area Sees Surge In Meth Use. The Washington Post (3/19, C1, Paley, 744K) reports, "The number of methamphetamine labs and addicts in the Washington area has jumped in recent years, but law enforcement and public health officials say the region is still woefully unprepared to deal with a problem that remains under the radar." The number "of seized meth labs in Maryland, Virginia and the District has increased from close to zero in 2000 to more than 80 last year."

IMMIGRATION:

Conservatives, Catholic Officials Divided On Immigration Reform. Conservative Republicans who are taking a hard line on immigration reform are clashing with Catholic Church officials, who provide services to migrants regardless of their legal status. The New York Times (3/19, Swarns, 1.19M) reports immigration "has long caused friction between the church, with its advocacy for migrants, and conservatives, who want to slow illegal crossings over the Mexican border. But as Congress wrestles with the fate of the nation's 11 million illegal immigrants, that tension has escalated into a sharp war of words, highlighting the divide among some Republicans and Catholics who have fought side by side on other issues like abortion and same-sex marriage."

Gates Personally Lobbying Congress On H1B Visa Cap. In his Washington Post column (3/19, B7), David Broder says Microsoft's Bill Gates "decided to add his personal voice to his Washington office's lobbying effort to expand the number of foreign-born computer scientists allowed to work in this country under a special program known as H-1B visas." Gates "told me the 'high-skills immigration issue is by far the number one thing' on the Washington agenda for Microsoft and for the electronics industry generally." Since autumn 2003, Congress "has limited the number of people admitted annually on H-1B visas to 65,000." But so "great is the demand for such skills in the burgeoning high-tech world that in August 2005 the last of the visas available for fiscal 2006 were issued. That means a 14-month shutdown of the program, until October of this year."

TAX:

Federal Officials Examining Nonprofit Hospitals' Tax Exempt Status. The New York Times (3/19, Pear, 1.19M) reports congressional leaders, "concerned that many nonprofit hospitals are not providing enough charity care to justify their tax-exempt status, say they will set standards for the industry if it does not do so itself." Senate Finance Committee Chairman Charles E. Grassley, "who had already been examining nonprofit groups like United Way and the American Red Cross, is broadening his focus to include nonprofit hospitals, with an eye to legislation that would clarify standards for their tax exemptions." House Ways and Means Chairman Bill Thomas "began investigating the financial practices of nonprofit hospitals last year," and Internal Revenue Service Commissioner Mark Everson "said tax officials often found little difference between nonprofit and for-profit hospitals 'in their operations, their attention to the benefit of the community or their levels of charity care.'"

New Definition Inadvertently Affects Child Tax Credits. The Washington Post (3/19, F5, Crenshaw, 744K) in its Cash Flow column reports, "A new provision of the tax law, which was meant to make the law simpler and fairer, is turning out to have done neither. The provision involves the definition of 'child' in claiming various tax breaks." Some taxpayers may be able to claim unintended benefits, while others may be deprived of legitimate credits. For Instance, children, "of well-to-do families may be able to use their siblings to claim the earned-income tax credit, which is meant for low-income working families." While the new definition may knock, "single taxpayers whose adult children live with them out of head-of-household filing status."

WPost Argues Bush Tax Cuts Make Balancing Budget Impossible. An editorial in the Washington Post (3/19, B6, 744K) posits that the Bush administration does not want to discuss balancing the budget without raising taxes because it "would require cuts so deep and wide as to be unimaginable as a matter of politics and unwise as a matter of policy." This goal could be accomplished, "but only if Americans are willing to sacrifice," basically, "all of the federal budget outside defense and veterans." … That's why Mr. Bush doesn't talk about the real-life consequences of his tax cuts, and the real-life people who will suffer from them after he leaves office." The Post adds, "If this is what you want government to look like, go ahead and support the extension of the president's tax cuts and oppose any tax increases."

CONGRESS-ADMINISTRATION:

Attention On Iraq Seen As Distracting Bush From Domestic Agenda. The Los Angeles Times (3/19, A1, Wallsten, Gerstenzang, 958K) in a front page article reports, "A growing Republican chorus is calling for a staff overhaul inside President Bush's beleaguered White House, but some conservatives say such a change would

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stop far short of fixing what they view as a serious flaw: an unfocused domestic agenda." The Times continues, "The war in Iraq is dominating the attention of Bush and his top aides, these critics say, while the recent departure of the president's top domestic policy advisor after just one year has left the White House without an obvious conductor to direct the sometimes disparate policy-making machine." While "Bush first campaigned on a largely domestic agenda, experts either said he had achieved much of what he had set out to accomplish or said he had put aside priorities at home to devote time, energy and government resources to the war on terrorism." The "frustration among domestic policy advocates underscores the range of problems facing Bush. Sixteen months after reelection, his second term has so far been dominated by a drumbeat of controversy and crises involving a range of issues."

Bush Staff Shakeup Rumors Noted. The Houston Chronicle (3/19, Mason, 581K) reports on the rumors that top White House aides may be suffering from burnout, leading to a shakeup among longtime Bush aides. The Chronicle reports, "Rumors of high-profile departures wax and wane. Is" Chief of Staff Andrew Card "leaving? What about" White House spokesman Scott "McClellan? Similarly, prognostications of imminent staff shake-ups are on the rise." McClellan "did little to stanch the speculation with an enigmatic nondenial last week," saying, "This is part of the inside Washington babble that goes on in this town. It's part of the parlor game. We are focused on the priorities that the American people care most about and getting things done."

Bill To Reform Pension System May Weaken It.

A Pension Benefit Guaranty Corporation analysis says the measure to reform the private pension system under consideration by a House-Senate conference committee could weaken the system instead of strengthening it. The New York Times (3/19, A1, Walsh, 1.19M) reports in a front page story that lawmakers "modified many of the proposed rules, allowing companies more time to cover pension shortfalls, to make more forgiving estimates about how much they will owe workers in the future, and even sometimes to assume that their workers will die younger than the rest of the population." Companies also "persuaded lawmakers to add dozens of specific measures, including a multibillion-dollar escape clause for the nation's airlines and a special exemption for the makers of Smithfield Farms hams. As a result, the bill now being completed in a House-Senate conference committee, rather than strengthening the pension system, would actually weaken it, according to a little-noticed analysis by the government's pension agency."

Saletan Calls For Dropping Age As Criteria For Social Security. In an op-ed in the Washington Post (3/19, B2, 744K), William Saletan of Slate magazine says that with "more and more boomers living to age 65 and beyond, perfectly healthy but collecting checks for decades," we "need a radical change in Social Security. I'm not talking about privatization. I'm talking about rethinking, and possibly abolishing, the whole idea of payments based on age." The "point of Social Security was to subsidize those who couldn't work, not those who could." Abolishing "age as a standard of fitness would be fairer than simply raising the eligibility age."

Reliance On Standardized Testing Said To Increase Risk Of Error.

The Los Angeles Times (3/19, Silverstein, 958K) reports on the College Board's recent SAT scoring error on 4,600 October tests, adding that while "high school seniors and their parents, along with college counselors and admissions officers, have been roiled by" the "recent disclosures," education testing experts "point out that similar mistakes have happened before — and inevitably will happen again." Kathleen Rhoades, "a research associate with the Center for the Study of Testing, Evaluation and Educational Policy at Boston College," said "there were 137 publicly disclosed cases of large-scale testing errors by educational testing companies from 1976 through early 2004, with most of them occurring since 1997." The "consequences of grading mistakes and other mishaps have intensified over the last decade with the increasing reliance on so-called high-stakes testing." In "recent years, President Bush's No Child Left Behind Act has triggered expanded testing by many states."

Boehner Says Futures Contract Fee Not Likely.

The Bloomberg (3/19, Hassler) reports House Majority Leader John Boehner said Congress is unlikely to approve a "new fee on futures contracts proposed by President George W. Bush." At a Futures Industry Association conference in Boca Raton, Florida, Boehner said, "If it hasn't happened in 13 consecutive tries, that probably means it won't happen again" Bloomberg notes the fee proposed in the Bush budget "would cover the $127 million budget for the Commodity Futures Trading Commission that regulates the $2.5 trillion-a-day U.S. futures industry."

O'Connor, Ginsburg Said To Have Stepped Up Defense Of Judicial Independence.

The New York Times (3/19, Liptak, 1.19M) reports former Justice Sandra Day O'Connor "told an audience at Georgetown University that a judiciary afraid to stand up to elected officials can lead to dictatorship," while last month, "speaking in South Africa, Justice Ruth Bader Ginsburg said that the courts were a safeguard 'against oppressive government and stirred-up majorities.'" The justices' speeches "were mostly a reaction, students of the court said, to attacks on judicial independence in Congress." Kermit L. Hall, the editor of "The Oxford Companion to the United States Supreme Court," said, "What's going on is that Ginsburg and O'Connor are using

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their position — and it is striking that both are women — to state a position in favor of the judiciary that comes real, real close to taking a political position." The Times adds the O'Connor and Ginsburg speeches, "variations on basic speeches they had given often before, were sharper and more topical than what many expect from Supreme Court justices."

Lobbyists Doubt Proposed Rules Will Change Much. The Washington Post (3/19, A1, Birnbaum, 744K) reports in a front page story that some of Washington's "top lobbyists say that they expect to find ways around congressional efforts to impose new restrictions on lobbyists' dealings with lawmakers in the wake of the Jack Abramoff corruption scandal, and that any limits will barely put a dent in the billions of dollars spent to influence legislation." Lobbyists say they "have already found scores of new ways to buy the attention of lawmakers through fundraising, charitable activities and industry-sponsored seminars. An estimated $10 billion is spent annually to influence legislation and regulations, and that spending is not likely to be diminished by the proposed lobbying changes, these lobbyists contend."

Legislators With Safe Seats Still Spending Campaign Cash. The Washington Post (3/19, A4, Murray, 744K) reports that although Rep. Spencer Bachus "hasn't drawn a serious opponent in the past three elections," he "burns through significant sums of campaign cash, as do plenty of other House members sitting in safe congressional seats. Among the items billed in 2005 to Bachus's campaign account and his 'Growth and Prosperity' political action committee: $6,689 for U2 concert tickets and expenses as part of a campaign event; $1,298 in lodging in Vail, Colo.; and $270 for the catering of an 'American Idol' party." Rep. Corrine Brown (D-Fla.) "spent $15,835 of campaign funds on condolence flowers for constituents, Rep. John T. Doolittle (R-Calif.) used $8,328 of his campaign war chest to buy gifts for his staff, and Rep. Mike Pence (R-Ind.) was reimbursed for a $1 'meal' at a local gas station, which his staff believes was bottled water." Some lawmakers "say that such expenditures are routine and completely legal under Federal Election Commission rules. But these spending practices are beginning to attract attention from watchdog groups and the news media, as the 2006 congressional campaigns heat up and Congress considers measures to crack down on the perks of office."

Bush Approval Drops To 36% In Newsweek Poll. Newsweek (3/18, Dickey) reports in an Internet exclusive that a Newsweek poll "shows President Bush's approval rating dropping to new lows on domestic issues and rising public anger over Iraq and homeland security." Bush's approval rating is "only 36 percent in the latest NEWSWEEK poll, matching the low point in his presidency recorded last November. His image as an effective leader in the war on terror is tarnished, with less than half the public (44 percent) approving of the way he's handling terrorism and homeland security. Despite a series of presidential speeches meant to bolster support for the war in Iraq, as well as the announcement of a major military offensive when the poll was getting under way, only 29 percent of the people questioned approved Bush's handling of the situation in Iraq. Fully 65 percent disapprove."

Bloomberg (3/19, Decker) also reports the Newsweek poll, saying "the president's misfortune has translated into good news for Democrats, with 50 percent of registered voters polled saying they will back Democratic candidates, compared with 39 percent for Republicans."

Democrats' Message Attacking Bush As "Incompetent" Finds Success. Nina Easton in her "Washington Briefing" column in the Boston Globe (3/19, 484K) reports, "The Democrats' sudden discipline at staying on message is beginning to score points in pubic opinion polls. The Pew Research Center's Andrew Kohut has reported that 'incompetent' has replaced 'hones' as the most frequent descriptor applied to Bush." Although "the Democrats have used 'incompetence' with increasing regularity since the administration's flat-footed response to Hurricane Katrina, the phrase 'dangerous incompetence' is a recent invention of Senate Democratic Leader Harry Reid." Recently, "Reid strategists began inserting the words into talking points for press secretaries to the Senate's 44 Democrats. And during Reid's weekly Saturday afternoon huddle with Democratic senators scheduled to appear on the Sunday morning talk shows, he encouraged them to use the label to describe the White House."

OTHER NEWS:

Sabo Announces Retirement. The Minneapolis Star Tribune (3/19, Olson, 424K) reports Democratic Rep. Martin Sabo, "the stoic, gentle giant of Minnesota politics, broke into tears Saturday as he announced plans to retire after 46 years in elective office, the last 28 in Congress." Sabo's action "leaves prospective candidates little time to organize for the DFL convention. The endorsee is expected to become the prohibitive favorite in the race in the strongly DFL district, which includes Minneapolis and a number of inner-ring suburbs." The Star Tribune adds, "State Rep. Keith Ellison, DFL-Minneapolis, Jack Nelson-Pallmeyer, a college professor, and DFL Minneapolis City Council Member Gary Schiff already are in the race to succeed Sabo. Green Party member Jay Pond also is in, as are Republicans Tim Anderson and James Turnham." Other potential candidates cited by the Star Tribune include former DFL Hennepin

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County Commissioner Mark Andrew, former state Sen. Ember Reichgott Jung, DFL-New Hope, state Sen. Satveer Chaudhary, DFL-Fridley, state Rep. Connie Bernardy, DFL-Fridley, Hennepin County Board Members Gail Dorfman, and Mike Opat.

Lessening Inflation Fears, Strong Economic Reports Lead Stocks Higher. Several papers noted the stock market's end of the week rise and overall positive performance this year. Reasons cited included strong economic reports and a belief inflation is under control. The Washington Post (3/19, F02, 744K) reports, "The major factor in the week's market activity was a changing consensus about inflation, and how the Federal Reserve would respond to it." A government report showed an unexpectedly low, "0.1 percent increase in consumer prices in February." And at, "the same time, some Fed officials were heard to express confidence that the economy would cool down on its own later this year."

The New York Times (3/19, Sommer, 1.19M) reports, "It was the best week for stocks since the beginning of the year, as several economic reports suggested that inflation was under control while economic growth remained strong." The Washington Post (3/19, F02, 744K) reports, "The market benefited this week from a new Wall Street consensus on interest rates. The Federal Reserve will boost rates only another half of a percentage point, most economists now are saying." The Los Angeles Times (3/19, Petruno, 958K) reports, "Something may come along to scare the U.S. stock market down from its current heights." But the, "usual suspects seem to be losing their ability to frighten investors. That's often a good sign for a bull market's staying power."

Despite Positive Signs Some On Wall Street Still Bearish. The New York Times (3/19, De Aenlle, 1.19M) reports, "Popular gauges of sentiment toward stocks show extreme bearishness, at least by the standards of the last few years, even with the market hitting new highs." A recent survey by Invests Intelligence of investment newsletters, "recorded the highest level of bearishness since April 2003 and the least bullishness since August 2004."

Rice Seeks To Strengthen Alliance Against China With Japan And Australia. As Secretary of State Condoleezza Rice concludes a trip that brought her to Latin America and Australia, the New York Times (3/19, Weisman, 1.19M) keys on relations with China, reporting, "Rice held talks on Saturday with Japan and Australia to deepen a three-way regional alliance aimed in part at balancing the spreading presence of China." State Department Spokesman Sean McCormack is quoted as saying, "The tenor of the discussion was how to make China a positive force in the region."

In its coverage, the Washington Times (3/19, Kralev, 90K) notes that the triad "discussed China's 'aggressive' buying of energy assets in Africa and Latin America, the first time China's 'energy diplomacy' has been examined at an official international forum." Rice "and the foreign ministers of Japan and Australia…were unable to agree on steps to address the issue." McCormack reportedly "said the meeting had not been a 'finger-wagging' anti-China session, but he acknowledged that Beijing's dealings with problematic states -- whose actions are often referred to the UN Security Council, where China has veto power -- were part of the discussions."

The AP (3/19, Gearan) focuses on more mundane details like the length and breadth of Rice's travels, reporting that she "is flying around the world -- and then some. Whether she breaks a record by a Secretary of State will have to wait for a thoughtful assessment free of jet lag." The AP goes on to note, "For a woman who habitually rises at 4:30 a.m. to exercise and bounds into her office two hours later, Rice's trip had a relaxed feel. Rice actually played the tourist for the first time in her 14-month tenure as the top US diplomat. She took in a boxing match and several swimming events at the Commonwealth Games in Melbourne, Australia, near the end of the trip. She hung medals around the necks of three Australian swimmers and chatted with swim star Ian Thorpe. She looked like she was having fun."

Hungry China Taps World Metals Markets. The Los Angeles Times (3/19, Lee, 958K) reports, "China's voracious appetite for metals is convulsing the world. It has led to economic booms in some nations and crime waves in others by so-called urban miners who steal metals from houses and public buildings. China's runaway economy needs the metals to build railroads, office towers, cars and appliances." As the "world's biggest consumer of copper, lead, zinc, iron ore, steel and aluminum," China's "hunger has boosted mineral-rich nations, from copper-laden Chile to Australia, which has vast iron deposits. Prices of new and used lead, copper, nickel and other metals have tripled or more in the last few years, triggering a worldwide scramble for the commodities."

Modernity Slowly Reaches Isolated Muslim Enclave Deep Within In China. The New York Times (3/19, Yardley, 1.19M) reports, "The most recent census found 513,000 Dongxiang people in China," the majority of whom live in and around Dongxiang County. "Of the 25 townships in the county, 19 do not have a single Chinese person. Most people do not speak Chinese, and some...have only a vague notion of China, despite living in the middle of it. The geographic isolation has helped preserve an Islamic culture, as well as an ancient language, but it has also separated the Dongxiang people from the prosperity lifting other parts of China. The Dongxiang, one of China's 56 officially recognized ethnic minorities, are now among China's poorest and most illiterate people." But "as everywhere in China,

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modernity is seeping up the winding roads to the county's larger settlements and beckoning many younger people. In the county seat, Suonanba, cellphones, blue jeans and Internet cafes arrived several years ago. So did Chinese building contractors, cigarettes, alcohol and food not prepared to Islamic code."

Taiwanese Rally For Freedom From China. The Los Angeles Times (3/19, Magnier, Ting-i, 958K) reports, "President Chen Shui-bian on Saturday called on Taiwan to resist China's bid to annex the island as tens of thousands of people took to the streets protesting Beijing's growing military threat. 'Our future will never be decided by the 1.3 billion people of China,' Chen told supporters in front of the presidential office building. 'Taiwan is an independent sovereign state, and its future should be determined by its 23 million people. Taiwanese people oppose annexation and invasion.'" According to the Times, "The rally, with the slogan, 'Protect democracy, oppose annexation,' was held to mark the passage of a controversial law in Beijing last year that threatens to use force if Taiwan declares independence."

Candidate Would Focus On The Practical. In a related story, the Washington Post (3/19, A19, Cody, 744K) reports, "Ma Ying-jeou has always loved to run marathons, and he has approached politics the same way." When interviewed "last week, Ma pledged that if he won the next presidential election, in 2008, as widely expected, he would shift Taiwan sharply away from the confrontational, pro-independence policies followed by President Chen Shui-bian. A Nationalist government under his leadership, he declared, would seek neither unification with nor independence from China, focusing instead on practical improvements in cross-strait relations while maintaining the status quo of Taiwanese self-rule." Ma is quoted as saying, "When I talk about these things, I say, 'Let's forget about unification and independence. ... Let's maintain the status quo and concentrate on the economy."

Anger "Spills Over" As Ex-Hostages Blocked From Seeking Iran Damages. In a front-page story, the Washington Post (3/19, A1, Kessler, 744K) reports, "At an emotional meeting this month at the State Department, steps from the office of Secretary of State Condoleezza Rice, a group of former American hostages released by Iran a quarter of a century ago, accompanied by lawyers and some relatives, confronted two of Rice's most senior aides. The families' grievance: Why has the Bush administration, which has labeled Iran one of the world's most dangerous regimes and has called the hostages American heroes, fought their efforts to win damages for their ordeal from the Islamic republic?" Although US officials "express sympathy" for the former captives, "the administration has thwarted every effort in the courts or in Congress to win a monetary judgment against Iran, even as other victims of Iranian-linked terrorism have secured hundreds of millions of dollars in compensation." The Post continues, "Those attending the March 2 meeting said that" Undersecretary R. Nicholas Burns "and legal adviser John B. Bellinger III tried to keep the discussion civil but that anger spilled over. The wife of a former hostage exclaimed at one point: 'You are bloodless!' The meeting broke up with Burns acknowledging the difficulty of the issues and saying he would be open to further discussions."

Iran Releases Prominent Dissident. The Washington Post (3/19, A16, Vick, 744K) reports, "Iran's most prominent dissident emerged from prison looking far older than his 46 years. His clothes hung on a frame reduced to 108 pounds by repeated hunger strikes. He smiled through a beard grown to the bushy nimbus of a Hindu holy man. 'All the time I was in prison was illegal,' Akbar Ganji said of the six-year sentence he served for exposing the government's role in assassinating its critics. 'From the very first day it was illegal.'"

The New York Times (3/19, Fathi, 1.19M) notes, "He did not make any formal comments to reporters. His lawyer, Youssef Mowlai, said he told Mr. Ganji that he first needed to recuperate from the continuing effects of the hunger strike." The timing "came as a surprise. A judiciary official had said Thursday that Mr. Ganji would not be released until March 30, and a statement by the judiciary on Saturday said Mr. Ganji was on leave for Nowruz, the Iranian New Year."

Policy Of Preventing Iran Nuclear Development Questioned. In an analytical piece, the New York Times (3/19, Sanger, 1.19M) asks, "If all other options are worse, could the world learn to live with a nuclear Iran?" President Bush's "message to Iran these days sounds unambiguous: The United States will do what it takes to keep the mullahs from getting the bomb. Diplomacy is vastly preferred, President Bush and his aides insist. Yet it was no accident that the just-revised National Security Strategy declares: 'This diplomatic effort must succeed if confrontation is to be avoided.'" The Times goes on to report, "The debate is likely to play out for much of the year, based on a series of guesses about Iran's true intentions, and its capabilities. ... But getting this right requires projecting what happens to America, Israel and Europe, especially if Iran's power to send the price of oil skyrocketing is enhanced by the confidence that a nuclear arsenal can bring."

Egyptian Woman Thought To Have Died Of Avian Flu. NBC Nightly News (3/18, story 8, 5:20, Kotb, 9.87M) reported, "Health officials are reporting what may be the first human death from" avian flu "in Egypt. A woman died after contracting the virus from contaminated chicken.

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The concern in this country is warmer weather may bring the virus closer to home."

Experts Believe Migrating Birds Will Bring Avian Flu To US. NBC Nightly News (3/18, story 8, 5:20, Bazell, 9.87M) reported, "Scientists expect new countries to report infections in birds with the new virus almost every day now. The reason, the spring migration of birds is underway now." Experts say "it will almost certainly arrive in birds in the US, probably crossing into Alaska and then into the lower 48 states. The US poultry industry is already preparing, keeping most birds indoors in strict isolation." Michael Leavitt, Secretary of Health and Human Services: "It would only be a crisis if we saw humans getting the virus from domestic flocks or some other course. Even that is able to be handled unless it starts passing from person-to-person."

Hamas Proposes Single-Party Cabinet, Abbas Likely To Approve. The New York Times (3/19, Myre, 1.19M) reports, "The militant Islamic group Hamas said Saturday that it had completed its lineup for a new Palestinian cabinet and would present it Sunday to the Palestinian Authority president, Mahmoud Abbas, for his approval. An aide to Mr. Abbas said he was likely to give his approval. 'Our cabinet is ready,' Ismail Haniya, the Hamas leader and prime minister-designate, told a news conference in Gaza City," though he declined to "provide names of the cabinet nominees. ... No other Palestinian political parties have announced their intention to participate despite Hamas's invitation to join." According to the Times, "The crucial question now is whether Mr. Abbas will support the Hamas-led cabinet. If he rejects it, his decision could lead to a political crisis, and Palestinian law is not clear on how it would be resolved."

The Los Angeles Times (3/19, King, 958K) adds, although "the group refrained from formally announcing its Cabinet lineup pending its presentation to Palestinian Authority President Mahmoud Abbas," Hamas officials "said key positions would go to Hamas loyalists such as firebrand Mahmoud Zahar, who has been designated foreign minister. Other senior appointees include lawmaker Said Siyam, who is considered a relative moderate, as interior minister, and economics professor Omar Abdel Razeq, who was jailed at the time of January's parliamentary elections, as finance minister."

Gaza Chafes Under Economic Hardships. The Washington Post (3/19, A12, Wilson, 744K) reports, "The main trade passage between the Gaza Strip and Israel has been closed for much of the year, despite an agreement brokered by Secretary of State Condoleezza Rice in November that required Israel to 'ensure the continued opportunity to export.' Israeli security concerns, heightened by Hamas's parliamentary victory in January and the almost daily rocket fire from Gaza, have rendered the deal largely moot." The Post continues, "Unreliable trade passages, frozen Israeli tax transfers that helped pay salaries and lapsed permits of Palestinians who work in Israel are evidence of a broader disengagement, one that Israeli security officials say they hope to accelerate once Hamas installs its cabinet this month."

Atmosphere Tense As Belarus Votes, Protests Planned. As Belarus votes in a presidential election amid accusations of fraud and fears of violence, the New York Times (3/19, Myers, 1.19M) reports, "The results of the election on Sunday, widely denounced [at home] and abroad as undemocratic, are a foregone conclusion. But the vote is only a prelude to the real struggle against [Belarussian President Aleksandr] Lukashenko's government, one that many fear could end in violent reprisals along the monumental streets of Minsk, the capital."

In its coverage, the Los Angeles Times (3/19, Murphy, 958K) notes, "In Belarus, President Alexander G. Lukashenko has a stake in giving democracy a black eye: The US government is spending more than $9 million a year here on attempts to develop a sophisticated political opposition and a well-informed electorate, tools for combating one of the most repressive dictatorships in the world." Yet voters will "go to the polls today for an election that is widely expected to hand Lukashenko...a third five-year term."

The Washington Post (3/19, A20, Finn, 744K) adds, "Dissent carries a real price in this country of 10 million people, sandwiched between the European Union and Russia, where Lukashenko has ordered that no one other than Lukashenko can be called 'president.' ... Opposition activists say students who step out of line often receive failing grades or face trumped-up disciplinary charges that lead to expulsion from school. State workers, who commonly have one-year contracts, are routinely dismissed if they question the president's rule. Political activists are arrested and sometimes beaten. Independent newspapers are shut down or lose an entire edition to police seizures."

Students Protesting Labor Law Clash With Police In Paris. NBC Nightly News (3/18, lead story, 2:30, Mendenhall, 9.87M) reported, "In the largest day of protests so far, more than a half million people in dozens of states violently denounced the French government. Tens of thousands descended on Paris throwing bottles, torching cars and clashing with police. Mainly students, the protesters say a proposed job law aimed at reducing unemployment would leave them with few rights and the kind of job security that the French…expect." One out of "four French youths is unemployed. The main reason is labor laws make it so difficult for employers to fire employees they don't hire in the

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first place. Under economic pressure, the government of Prime Minister Dominique de Villepin says the new law would give employers more flexibility. Students, backed by the French public, young and old, aren't buying it."

ABC World News Tonight (3/18, story 7, :15, Avila, 8.78M) reported, "One note from overseas, violence broke out in France today as some 500,000 people took the streets to protest a labor law. In Paris, riot police fired tear gas and rubber bullets as marchers set fires, smashed windows and stormed a McDonald's."

In its coverage, the New York Times (3/19, Sciolino, 1.19M) reports, "A number of public figures joined in, including the mayor of Paris, Bertrand Delanoe; the Socialist party leader, François Hollande; a former culture minister, Jack Lang; and the Communist Party leader, Marie-George Buffet." The Washington Post (3/19, A12, Moore, 744K) adds that "as the hours-long parade drew to a close in the chill of the early evening darkness, several hundred protesters turned on police at the Place de la Nation in the southeastern part of the city, throwing stones, garbage and sticks at riot police who huddled behind protective shields. Demonstrators smashed windows, burned a car and set a pile of boxes ablaze." The Washington Times/AP (3/19, Charlton) also covers the story.

Dutch Muslim Convert's Experiences Indicate Growing Religious Rift. The Washington Post (3/19, A21, Moore, 744K) reports, "Rabi'a Frank sees her Dutch home town through the narrow slit of the black veil that covers her face. The looks she receives from the townspeople are seldom kindly." Her "day-to-day struggle for acceptance on the streets of her home town is one woman's confrontation with a deepening rift in West European societies, where the emergence of a 15 million-member Muslim minority is reshaping concepts of national and personal identity. Some European governments have passed laws they say are intended to help preserve national identity. Critics argue that the measures reflect Islamophobia and fears of terrorism triggered by the attacks of Sept. 11, 2001, and the subsequent transit bombings in Madrid and London." Frank is quoted as saying, "Sometimes I make a joke and say, 'Oh, you don't have to be scared of me.'"

Waves Of African Immigrants Still Flocking To Spain. The New York Times (3/19, Mclean, 1.19M) reports, "Spain's deputy prime minister began an emergency visit to the Canary Islands on Saturday to discuss ways to control a record flow of African migrants arriving in boats from Mauritania that has led to at least 25 deaths in the last week. The Spanish government says more than 1,000 migrants have been detained at sea in the last 10 days while trying to reach the islands from Mauritania on North Africa's western coast, a voyage of 500 miles. The migrants, mostly sub-Saharan Africans, crowd into boats carrying dozens of passengers in hopes of reaching the islands and thereby gaining entry to the European Union."

US Navy Ships Engage Pirates Off Coast Of Somalia. ABC World News Tonight (3/18, story 4, :20, Avila, 8.78M) reported, "US Navy warships fired on a boat of would-be pirates near Somalia. The Navy says two of its ships were attacked when sailors tried to board the suspect boat. Naval gunners fought back, and setting the boat on fire and they say, killing one of the bandits."

NBC Nightly News (3/18, story 5, 1:00, Kotb, 9.87M) reported, "The suspected pirates were in a fishing boat armed with a rocket propelled grenade. The US ships are in that region to protect commercial traffic which has been targeted in recent months."

The New York Times/AP (3/19, Press) reports, "The battle started about 25 miles off the Somali coast when the American warships Cape St. George and Gonzalez spotted a 30-foot fishing boat towing skiffs and prepared to board the vessels. The suspects were holding what appeared to be rocket-propelled grenade launchers, the Navy said. When the suspects began shooting, naval gunners returned fire with mounted machine guns." The Washington Post (3/19, A17, Gugliotta, 744K) quotes Navy spokesman Cmdr. Jeff Breslau as saying that the pirates frequently go after "targets of opportunity. They'll take over fishing or merchant vessels, then head back to territorial waters where they demand a ransom."

Congolese Warlord Will Be Tried By ICC. The New York Times (3/19, Simons, 1.19M) reports, "A Congolese militia leader accused of abducting children and turning them into soldiers and sex slaves has become the first suspect to be delivered to the new International Criminal Court, the chief prosecutor announced Saturday. The former warlord, Thomas Lubanga, arrived at the court's detention center in The Hague late Friday after being flown here on a French military plane, the prosecutor said. Mr. Lubanga had been imprisoned since last year in Congo, whose authorities handed him over to the court for trial."

Despite Growth Of Terror, Study Says Conflict Decreasing Worldwide. New York Times (3/19, 1.19M) op-ed contributor James Traub writes, "We live in a world that is objectively more dangerous than the one we knew at the outset of the millennium; whatever our disagreements, since 9/11 both our foreign policy and our domestic politics have pivoted around this ineluctable fact." But does everyone face these greater dangers? "The answer, it seems, is no. ... According to 'Human Security Report 2005,' a study that relies on this recent scholarship,

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the number of armed conflicts has been dropping steadily since the end of the cold war. Major civil wars, which exploded around the world between 1946 and 1991, declined sharply in the ensuing decade. Indeed, the trend holds true for virtually every category of conflict — coups, interstate wars and even genocides and so-called politicides, in which political belief rather than ethnicity is the criterion for killing. The only exception is international terrorism — as we know all too well."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Bush's Agenda Loses Focus."
"Spending May Prove Costly To Governor."
"A Cast of Many ON THE Phone Lines."
"A Sliding Scale For Victory."
"World Scrambles To Feed China's Appetite For Metal."

New York Times:
"Major Changes Raise Concerns On Pension Bill."
"In Secret Unit's 'Black Room,' A Grim Portrait Of US Abuse."
"Major Changes Raise Concerns On Pension Bill."
"On Eve of Vote, Belarus Braces For Aftermath."
"Unwed Fathers Fight for Babies Placed For Adoption By Mothers."
"Now Booming, Not Burning, The Bronx Fears A Downside."
"Deep in China, A Poor And Pious Muslim Enclave."

Washington Post:
"Voices of 100 Veterans: The War In Their Words."
"Lobbyists Foresee Business As Usual."
"Md. Street's Soul Hasn't Strayed Far From Roots."
"Administration Blocks Ex-Hostages' Bid For Damages From Iran."
"Prescription For Obsession?"

Washington Times:
"French Youths Riot Over Jobs Law."
"Iraqis See Long Road To Recovery."
"Odds Favor Internet Gambling."
"Serbs Mourn, Cheer As Milosevic Is Buried."
"Federal Penalties Often Go Unpaid."

Atlanta Journal-Constitution:
"Lifestyles Of The Rich And Guilty."
"NASCAR Gains Glitz, Loses South."
"Fulton Follies: Errors Persist In Tax-Exempt List."

Dallas Morning News:
"Straight And Narrow Route For Me, T.O. Says."
"Unheard Cries."
"Eyes Of March Looking More Red Than Usual."
"War Is Never Off Their Radar."

Houston Chronicle:
"Yates Case Revisits Rigid Insanity Test."
"'Kinder And Gentler.'"
"'How Could Five People Die And Nothing Happen?'"
"For Defense Attorneys, It's All About The 'Cross.'"

Story Lineup From Last Night's Network News:
ABC: Iraq War Protests; Iraq-US KIAs; Iraq Anniversary; Somalia-Pirates; Serbia-Milosevic Funeral; Cassini Orbit; France Labor Protests; US Beef Safety; Diabetic Gonzaga Player.
CBS: Preempted By NCAA Basketball Tournament.
NBC: France Labor Protests; Iraq War Protests; Iraq-Shiite Holiday; Bush-Iraq Speeches; Somalia Pirates; Serbia-Milosevic Funeral; Google Search Data; Avian Flu; RU-486 Deaths; Anti-Meth Ads; SC Sex Offender; TX Building Demolished; Cassini Orbit.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:
PRESIDENT BUSH — At Camp David.
VICE PRESIDENT CHENEY — No public schedule.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: JOURNALISM STUDENTS _ 8:30 a.m. One hundred two high school students from across the United States who are interested in pursuing a career in journalism and have qualities of ``free spirit'' have been selected to participate in the annual Al Neuharth Free Spirit Scholarship and Conference program. Location: Sessions to be held at Freedom Forum, 1101 Wilson Blvd., Arlington, Va., the Watergate Hotel, and at Capitol Hill offices (afternoon visits).

FIREFIGHTERS CONFERENCE _ The International Association of Firefighters holds a legislative conference. Topics to include homeland security, first responder issues, mid-term elections and challenges facing firefighters. Location: Hyatt Regency-Washington on Capitol Hill, 400 New Jersey Ave. NW.

MEET THE PRESS WITH TIM RUSSERT _ Topic: Three years in Iraq. Guests include Rep. John Murtha, D-Pa., ranking member, Defense Appropriations Subcommittee. Gen. George Casey: Commander, Multi-National Force - Iraq.

FOX NEWS SUNDAY _ Topic: Three years year in Iraq. Guest: Gen. George Casey - Commanding General, Multi-National Force - Iraq. Topic: The legality of the NSA surveillance program and call for Bush censure. Guest: Sen. Richard Durbin, D-Ill.

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WASHINGTON JOURNAL _ 9:15 a.m. - 10 a.m. Interview with Abdullah Abdullah, Afghan Foreign Minister. Topics: Status of Afghanistan, the fight against the Taliban, and US-Afghan relations.

CNN _ LATE EDITION WITH WOLF BLITZER. Highlights: Interview with Senator Dick Lugar and Senator Joseph Biden. Topic: Foreign relations.

FOX NEWS CHANNEL _ WEEKEND LIVE. Interview with Debra Burlingame, 9/11 family member. Topic: The trial of Zacarias Moussaoui; Michelle Malkin, conservative columnist. Topic: Immigration is dividing the GOP.

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Sent:	Monday, March 20, 2006 9:15 AM
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Subject:	Department of Justice News Clips for Sunday, March 19, 2006
Attachments:	dojclips060319.pdf; dojclips060319.doc

DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: SUNDAY, MARCH 19, 2006 7:45 AM EST

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DOJ_NMG_0018822

TERRORISM NEWS:

From left and Right, doubt on Wiretaps (MJS)

By Craig Gilbert

Milwaukee Journal Sentinel, March 18, 2006

But Feingold's call for censure of President won't fly

Washington - While most senators recoiled last week from Wisconsin Democrat Russ Feingold's resolution to censure the president, many of them agreed with one of its basic premises: that the wiretapping of Americans without a warrant is against the law.

Doubts about the legality of the government's once-secret domestic surveillance program can be found among both liberal and conservative scholars and on both sides of the aisle in Congress.

In other words, unlike his proposal for censure, Feingold's claims about "illegal wiretapping" are well within the mainstream of congressional debate on the issue.

But critics of the censure resolution make two very different arguments about those claims.

One is an unqualified assertion of the program's legality, offered by the Bush administration and on the Senate floor last week by Majority Leader Bill Frist of Tennessee, a Republican.

The other doesn't go nearly that far. In dismissing the notion of censure, some senators argue not that the wiretapping is necessarily legal, but that the question is unanswerable for now, either because too little is known about the program or because the courts haven't put the big constitutional issues to rest.

Chief among them: whether a 1978 law against warrantless domestic wiretapping is trumped by the president's inherent constitutional powers as commander in chief.

Moments after Feingold introduced his censure resolution, Illinois Democrat Dick Durbin posed a question on the Senate floor to Republican Arlen Specter, chairman of the Senate Judiciary Committee and a central figure in the wiretapping debate.

Did Specter agree with Frist that the wiretapping is legal?

"I neither agree nor disagree. I do not know," said Specter, who in that spirit introduced a bill Friday that would require the government to seek legal approval for its surveillance program from a special foreign intelligence court established in the late 1970s.

Specter said Friday that he's taking a "middle ground" between those who claim the program is legal and doesn't require a change in the law or judicial review, and those, like Feingold, who claim it's flatly illegal.

Of Frist's claim of legality, Specter said, "Senator Frist is not a judicial official."

Of Feingold's claim of illegality, Specter said there are too many unknowns about how the program works, and "I certainly think you ought not castigate the president as a criminal until you do know the answers to those questions."

Feingold, who sits on both the judiciary and intelligence committees, rejects that argument.

"I don't think there will ever be any additional information that is going to make this more legal," Feingold said at a news conference last week.

Then he proceeded to offer the legal case against the National Security Agency's surveillance program, which is intended to monitor calls between the United States and a foreign country that involve al-Qaida suspects.

Argument number one: that the program is in clear conflict with the 1978 Foreign Intelligence Surveillance Act, which makes it a crime to eavesdrop on Americans without a warrant from a court.

On this point, Feingold has plenty of company. Specter himself called the program a "flat violation" of the 1978 law on NBC's "Meet the Press" on Feb. 5.

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Argument number two: that the Bush administration is wrong when it claims that the warrant requirement in the 1978 law was superseded when Congress passed a resolution in 2001 authorizing the president to use "all necessary and appropriate force" against those responsible for the Sept. 11 attacks. Attorney General Alberto Gonzales made that case when he testified before the Senate Judiciary Committee on Feb. 6.

"That's been laughed out of the halls of Congress," Feingold said last week, and not many lawmakers have endorsed the administration's view on this point.

The Republican Specter told Gonzales that his argument "defies logic and plain English." South Carolina Republican Lindsey Graham told the attorney general that his reasoning was "very dangerous." Graham said when he voted to authorize force against al-Qaida in 2001, "I never envisioned that I was giving to this president or any other president the ability to go around (the 1978 law) carte blanche."

But the debate over the legality of the National Security Agency's domestic wiretapping also turns on a third question that is more divisive among lawmakers and in the legal community: whether the 1978 law's requirement for a warrant is outweighed by a president's "inherent" constitutional powers as commander in chief.

How clear is the law?

This question was batted around by the legal experts who testified before Specter's committee late last month. They debated not only whether the surveillance program is legal or illegal, but also whether the law itself is gray or black-and-white in this area.

Yale Law School Dean Harold Koh told the Senate panel that the eavesdropping program is "as blatantly illegal a program as I've seen."

Koh, a liberal scholar who served under President Clinton, said the program lacked the basic standards required under the Fourth Amendment right against unreasonable searches and seizures.

Two conservative legal scholars also told the panel the program was illegal, though they disagreed over whether it was a close call.

"This case is very easy," said Bruce Fein, a former Reagan administration official, who cited a landmark 1952 Supreme Court ruling involving the government's seizure of a Youngstown, Ohio, steel mill. In that case, Justice Robert Jackson held that presidential authority is at its high point when it's used in concert with congressional authorization, but that it's at its "lowest ebb" when it's "incompatible with the expressed or implied will of Congress."

Another conservative scholar, Robert Levy of the Cato Institute, agreed that Bush's inherent powers don't allow him to ignore the 1978 surveillance law. Levy called the eavesdropping program "illegal" but also called it a difficult question.

President's powers defended

Among those defending the program's legality at the hearing was Robert Turner of the University of Virginia's Center for National Security Law.

Turner said the control of foreign intelligence is "at the core of executive discretion," and that regardless of the 1978 law, "I don't think Congress could take away the president's independent powers."

Douglas Kmiec of Pepperdine University Law School also asserted the constitutionality of the government's actions. Kmiec, who served under President Reagan and the first President Bush, said the administration's legal arguments regarding both inherent powers and the 2001 use-of-force resolution were "plausible."

"Reasonable minds can differ on this question," Kmiec said.

Spectrum of opinion

In the Senate, minds clearly do differ. Much of the Democratic minority and at least one Republican (Rhode Island's Lincoln Chafee) agree with Feingold that the spying program is against the law. Some Democrats are more agnostic on the question. Among Republicans, there also appear to be two prevailing views. One group believes the program is legal. Another has doubts or questions that it hopes to resolve by passing legislation, putting the matter before the courts, or both.

Graham, the South Carolina Republican, warned Gonzales last month that the "inherent powers" argument "seems to have no boundaries when it comes to executive decisions in a time of war" and could be used to "almost wipe out anything Congress wanted to do."

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In an interview last week, Graham said he disagreed with both of the administration's main legal arguments in defense of warrantless spying.

But at the same time, he contended that the "law in this area is unsettled" and said, "This idea of censuring the president really throws politics into the middle of a good, healthy debate."

Feingold said last week he decided to offer the censure resolution after sitting through several judiciary and intelligence hearings, listening for "reasonable legal arguments," and not hearing any.

He called the "inherent powers" argument very weak. And in an interview on the "Charlie Rose Show" on PBS Friday, Feingold said he is afraid the Supreme Court may view the issue as a political conflict between the other two branches and never take it up.

"If you just leave this up to the judiciary, what you're doing is giving up Congress' role," Feingold said. "Why wouldn't we assert our role, our constitutional role, which is that we make the laws?"

Slain Al Qaeda Leader Leaves Testament To Violence (WT/AP)

By Nadia Abou El-magd, Associated Press

The Washington Times, March 19, 2006

CAIRO -- The slain leader of al Qaeda in Saudi Arabia vowed in his final testament that his group would overthrow the royal family and stage more attacks against the kingdom and Americans in the region, according to a video released yesterday.

The video showed Fahd Faraaj al-Juwair wearing a white head scarf and robes as he read his will in front of a map of Saudi Arabia with the slogan, "Expel the infidels from the Arabian Peninsula." Elsewhere in the video, he appears smiling, wearing a red T-shirt and what appears to be a belt of explosives.

Addressing the Saudi royal family, al-Juwair said, "If you know what the youth are preparing for you, you would be rushing to escape this peninsula."

The video was sent to the Associated Press in an e-mail. In it, al-Juwair also warned the Americans: "Get out of Muhammad's peninsula, get out of all Muslim lands, stop supporting the Jews in Palestine, halt supporting Christians in Muslim lands, or else you'll have nothing but killing, destruction and explosions."

Al-Juwair was reported killed by Saudi security forces along with four other leading militants in a Feb. 27 raid in the capital, Riyadh. The raid was launched in the wake of an al Qaeda attack on the Abqaiq oil complex, the largest oil-processing facility in the world.

The e-mail accompanying the video confirmed his death, with the phrase, "May God accept him as a martyr," and identified al-Juwair as the former head of al Qaeda's branch in the kingdom and as the supervisor of the attack on Abqaiq.

The authenticity of the e-mail, signed by "The Voice of Jihad for Media Production," could not be independently confirmed.

In the video, al-Juwair addressed Saudi police who have been pursuing militants, urging them to join al Qaeda's jihad, or holy war.

"What are you going to tell God when you kill a holy fighter in defense of the Americans, or if you are killed while you are defending the despots?" he asked. "Stop working for the oppressors and join the mujahedeen."

Al Qaeda militants launched a campaign of violence in 2003 in Saudi Arabia, the birthplace of group leader Osama bin Laden. Saudi security forces have carried out a heavy crackdown since, killing or capturing most of the group's leaders.

The Feb. 24 suicide bombing on Abqaiq was the first attack on Saudi Arabia's vital oil infrastructure. The kingdom is the world's largest producer of oil.

Bombers in two explosives-laden vehicles tried to ram through the facility's gates, but were stopped by guards who opened fire on them, detonating the vehicles.

Judge In Moussaoui Trial Faces A Delicate Task (LAT)

By Richard A. Serrano

The Los Angeles Times, March 19, 2006

Deciding when attorney who 'tainted' witnesses will testify while keeping jury intact are her foremost concerns.

DOJ_NMG_0018825

WASHINGTON — With the sentencing trial for Zacarias Moussaoui stumbling forward again, lawyers for the two sides were sharply at odds Saturday over when a government attorney would testify about why she tried to influence witnesses.

The coaching efforts by Carla J. Martin nearly shattered the prosecution's effort to have Moussaoui receive the death penalty for his role in the Sept. 11 terrorist attacks.

Defense lawyers want Martin on the stand as soon as Monday in the trial over whether Moussaoui, 37, should be executed or sentenced to life in prison.

Prosecutors want to delay Martin's appearance until the middle of the week and have her testify only if she agrees to answer questions about her conduct and not invoke the 5th Amendment against self-incrimination.

"We see no reason" to have Martin take the stand "simply to have [her] invoke her rights," prosecutor Robert A. Spencer said in court papers.

In the middle of the dispute is Judge Leonie M. Brinkema.

Clearly irked by the revelations about Martin early last week, Brinkema has made no secret of her view that the lawyer with the Transportation Security Administration may end up with criminal or civil sanctions for attempting to coach several witnesses.

But Brinkema also is trying to keep together a jury that has been left in the dark over the developments in the case — the only one to be tried in the U.S. that stems from the 2001 attacks.

Moussaoui pleaded guilty last year to plotting with the hijackers. The government contends he should be put to death because he failed to alert the FBI to the plot, which resulted in the deaths of almost 3,000 people.

"I'm fully aware of how important it is for this matter to become resolved," the judge told the prosecution and defense teams in a teleconference session late Friday. "I'm fully aware of the huge resources that have been expended on this case, the fact that we summoned 850 jurors, that we have an excellent jury of 17, and I agree that it would be unfortunate if this case could not go forward …."

One week into the trial, Brinkema abruptly stopped it Monday when word surfaced that Martin had attempted to influence witnesses from the transportation agency and the Federal Aviation Administration. Martin briefly appeared in court on Tuesday but declined to testify and was excused until she could find legal representation.

Her newly hired lawyer, Roscoe C. Howard Jr., has since said she was eager to testify but needed some time to prepare.

"She is entitled to a fair opportunity to prepare and present her side and a fair judgment of her intentions, her conduct and the conduct of others," Howard said.

Brinkema first banned from the trial all testimony and evidence about aviation security because of Martin's action. But the judge scaled back her ruling Friday, allowing prosecutors to present one or two witnesses on the issue who were not "tainted" by Martin.

For prosecutors, that decision drew new breath into their case for the death penalty for Moussaoui.

They had told jurors they would prove that, had the French citizen cooperated with the FBI upon his arrest on an immigration violation in August 2001, the government would have tightened airport security across the country. Those measures, prosecutors said, could have prevented hijackers from making it onto the airplanes used in the Sept. 11 attacks.

Defense lawyer Edward B. MacMahon Jr. said in court papers that he wanted Martin on the stand after he finished cross-examining FBI Special Agent Harry Samit on Monday morning, which is where the trial left off when it was postponed.

He said she should be the next witness before the prosecution brought in any "untainted" witnesses on aviation security because her testimony would provide "critical information" about the nature of the witness-tampering effort.

Ashcroft: Cooperation's Key In Fight Against Terror (AP)

By JESSICA GRESKO, ASSOCIATED PRESS WRITER

AP, March 19, 2006

MIAMI GARDENS - Former U.S. Attorney General John Ashcroft said Saturday that he does not believe the threat of terrorism has passed and that the United States must work with other countries to combat it.

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In an hour-long talk as part of a conference on economic crime, the nation's former top law enforcement officer also discussed the importance and challenges of prosecuting financial crime and the emphasis after the 2001 terrorist attacks on "prevention over prosecution."

"As we fight against terror . . . We need to remind ourselves of the necessity and value of being extremely cooperative with individuals of other nations and in other settings," Ashcroft said.

Ashcroft also drew laughs with some self-deprecating remarks. He also joked that the crowd of approximately 200 students, professors and attorneys at St. Thomas University School of Law would not have to remember anything he said.

"The good part about this lecture is that none of it will be on the quiz or the final," he said.

Not mentioned as part of his speech was the pending case in Miami against alleged terror suspect Jose Padilla, who was arrested almost four years ago while Ashcroft was attorney general. Announcing Padilla's arrest in June 2002, Ashcroft said he had planned to detonate a radioactive "dirty bomb" in the United States, charges not mentioned in the current case. Padilla's trial is expected to begin in September.

Ashcroft left the attorney general's office in early 2005 and was succeeded by Alberto Gonzales. He is now a professor at Regent University in Virginia Beach, Va.

PATRIOT ACT:

Patriot Act Games Poke Fun At Government (AP)

By Wayne Parry

AP, March 19, 2006

HAMILTON, N.J.

In this send-up of "Monopoly," players don't pass "Go" and they don't go directly to jail _ they go to Guantanamo Bay.

Instead of losing cash for landing on certain squares, they lose civil liberties. And the "Mr. Monopoly" character at the center of the board is replaced by a scowling former Attorney General John Ashcroft.

"Patriot Act: The Home Version" pokes fun at "the historic abuse of governmental powers" by the recently renewed anti-terrorism law, according to its creator's Web site.

But while it may be fun, creator Michael Kabbash, a graphic artist and Arab civil rights advocate, is serious about how he feels the law has curtailed Americans' freedom.

The object of the game is not to amass the most money or real estate, but to be the last player to retain civil liberties.

"I've had people complain to me that when they play, nobody wins. They say `We're all in Guantanamo and nobody has any civil liberties left,'" he said. "I'm like `Yeah, that's the point.'"

The real Patriot Act, passed after the Sept. 11, 2001, terror attacks and renewed earlier this month, gave law enforcement new investigative and prosecutorial powers. Critics say it unacceptably impinges on civil liberties, but the government defends the law as a vital tool that has helped prevent another terror attack.

Kabbash decided to keep Ashcroft as the visual focus of the game, even though he stepped down in January 2005, because "he really is the icon that people associate with the Patriot Act."

In a nod to President Bush's prewar comments, the "Go" space in is renamed "Bring It On!" Players roll the dice to determine how many civil liberties they start out with, accumulating them from a variety of categories: U.S. citizens get 5; non-citizens 1. Whites and Asians get 5; Arabs 1. Ultra right-wingers get 6; Democrats 3 or 4.

Instead of landing on, say Oriental Avenue, players land on a color- coded spaces corresponding to the national terror alert. A player who lands on a red space loses one civil liberty, as does anyone else within five spaces. A player who lands on an orange space gets to designate another player to lose one civil liberty.

"Chance" cards are now "Homeland Security Cards," with orders such as, "FBI wants you for questioning; Lose one turn;" and "You provide the local authorities with speculative information on your next door neighbor; Collect one civil liberty from each player."

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Kabbash, of Green Brook, created a few full board sets but is also distributing the game free over the Internet, with the game board and playing cards all printable. More than 2,000 copies have been downloaded since it debuted in 2004.

"I wanted it to be not only a parody but a teaching tool," said Kabbash, 38, who teaches graphics at the College of New Jersey. "This is my way of putting my political ideas forward, hoping people will wake up. There's a lot of apathy, and we have to realize that we're in a democracy, that we're all allowed to say something."

Ashcroft had no comment on the game when asked about it Saturday during a crime conference in Miami Gardens, Fla., but he laughed when told "jail" had been replaced with Guantanamo Bay. U.S. Justice Department public affairs did not immediately return a call Saturday seeking comment.

Kabbash says his next project will probably have something to do with the National Security Agency's domestic eavesdropping program. He is reasonably certain "there's a file on me somewhere."

Asked if the FBI keeps a file on Kabbash, a bureau spokesman refused to comment.

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Associated Press Writer Jessica Gresko in Miami Gardens, Fla., contributed to this report.

HOMELAND RESPONSE:

Cabinet Drilled On Response To Smallpox (NYT/AP)

By The Associated Press

The New York Times, March 19, 2006

WASHINGTON, March 18 — Cabinet secretaries participated in a drill on Saturday that simulated a smallpox attack as the government tested plans to counter the potential use of bioweapons by terrorists.

"The purpose of this exercise, which was only a drill, was to address the federal government's response to a potential smallpox attack," said Dana Perino, a White House spokeswoman. "While there's concern, we do not have any concern that a smallpox attack is imminent."

The World Health Organization reported the disease was eradicated in 1980. Still, there are fears that smallpox may be used by terrorists as a biological weapon.

The United States ended routine childhood vaccination against smallpox in 1971. But after the Sept. 11, 2001, terror attacks, the Bush administration ordered some military personnel vaccinated and recommended shots for some health care workers.

Officials from various government agencies, including Dr. Julie Gerberding, director of the Centers for Disease Control and Prevention, participated in the four-hour exercise. Michael Chertoff, the homeland security secretary, and Michael O. Leavitt , the health and human services secretary, were among the cabinet members who were part of the drill.

Montgomery Homeland Security Unit's Scope Challenged (WP)

By Cameron W. Barr

The Washington Post, March 19, 2006

When it comes to defending the homeland in suburbia, Montgomery County stands alone.

The county's 15-month-old Homeland Security Department, national experts say, is the only such agency to maintain uniformed officers apart from its local police force. The 60-person unit is charged with being the eyes and ears of a small but growing homeland security apparatus.

County Executive Douglas M. Duncan (D) wants to increase the department's $5 million budget by 20 percent in the next fiscal year, in part to provide the officers -- most of whom work unarmed -- with pepper spray and body armor. But after an incident last month in which a homeland security officer told public library patrons that they couldn't view Internet pornography, some County Council members are questioning the size and role of the department and its security unit.

DOJ_NMG_0018828

"I'd probably advise the next county executive not to have a Department of Homeland Security," said council President George L. Leventhal (D-At Large). "We don't want them swaggering around trying to figure out whether Osama is in the house at the Little Falls library."

Jurisdictions across the country have reorganized in reaction to the post-Sept. 11 era and the creation of the federal Department of Homeland Security. Part of the motivation was to make sure they didn't miss out on millions of dollars in federal funding.

Fairfax County has a Homeland Security Committee made up of senior officials. Prince George's County has an Office of Homeland Security. And the District's Emergency Management Agency plays a coordinating role in homeland security efforts.

None approaches the scale of Montgomery's department, which Duncan began pushing for in late 2004 to "boost the security of our homeland and ensure more coordination within county government."

The council concurred, although it initially resisted moving the security division from Public Works and Transportation into the new agency. Duncan won a council majority for the move during budget deliberations early last year.

"We've taken what should be a small unit and made it much larger than it needs to be," council member Marilyn Praisner (D-Eastern County) said last week.

Controversy surrounding the library incident might also be swelling. The county has informed the Homeland Security Department officer involved that it intends to suspend him without pay for three days because of his conduct. The officer, Ralph Gerharz, recently hired lawyer Robin Ficker, a Republican candidate for county executive, to represent him during disciplinary proceedings.

Montgomery officials contend that Gerharz did not maintain decorum or conduct himself in a professional manner Feb. 9 when he and a fellow officer entered the Little Falls library in Bethesda, Ficker said.

After Gerharz saw adult male patrons viewing explicit pornography on library computers, Ficker said, he told the men that displaying such images was a violation of the county's sexual harassment policy and asked one to leave the library with him to discuss the matter. Other patrons and librarians intervened, and an argument ensued. One librarian felt Gerharz was becoming "abusive" and called police, according to a county report of the incident.

"He was being very authoritarian -- throwing his weight around," said Asher Hyatt, a retired scientific administrator who was volunteering at the library that day.

Gerharz "was offended, and he tried to do something about it and it got a little bit out of hand," Ficker acknowledged. He said the county is making Gerharz a "political fall guy" and failing to address the underlying issue: how to control the display of pornographic materials where children might see them.

Montgomery's policy governing Internet use in public libraries says librarians "will intervene to ensure compliance with state law" and prevent minors from accessing obscene materials, including child pornography. The policy also says that librarians will call police if they believe an adult patron is accessing child pornography.

County officials have condemned the actions of Gerharz and an officer in training who witnesses said stood silent. "What they did was wrong, and I do not condone in any way, shape or form their behavior," Duncan said last month.

Immediately after the library incident, security officers were trained in the need to respect the constitutional rights of library patrons and reminded that their role is to secure and protect county facilities and personnel but not to enforce laws or policies, said Homeland Security Director Gordon Aoyagi.

Aoyagi said county officials moved the security division from the Department of Public Works and Transportation into Homeland Security last year to better integrate the division's officers into the county's emergency response systems.

But he conceded that there was no budget for training.

Duncan's proposed budget increase includes $102,000 to pay for security officer instruction. Gino Renne, president of United Food and Commercial Workers Local 1994, which represents the officers, said the training and additional equipment were funded in part because of pressure from the union.

Advance Workers For Bush Impersonated Reporters (WP)

By Christopher Lee

DOJ_NMG_0018829

The Washington Post, March 19, 2006

The White House said yesterday that it will discipline two government employees who masqueraded as journalists this month while scouting locations for a presidential visit to the Gulf Coast.

A Mississippi couple whose home was destroyed by Hurricane Katrina said two men who later identified themselves as Secret Service agents pretended to be Fox News journalists when surveying their neighborhood in advance of a March 8 visit from President Bush.

The men arrived on March 3 at the site of the beachfront home that Jerry and Elaine Akins are rebuilding in Gautier, Miss., Elaine Akins said in a telephone interview yesterday.

"They didn't show any cards or anything," Akins said. "They just came up and said they were with the media, and then they said they were with Fox. They just talked to us and asked us about rebuilding our house. Then, after everything was over with, they approached us and they were laughing, and they said: 'You know, we really weren't with Fox. We're government, Secret Service men.' "

Ken Lisaius, a White House spokesman, said the employees were out of bounds.

"This incident has been brought to our attention, and this is clearly not appropriate, nor is it part of our standard operating procedures," he said. "The individuals involved will be verbally reprimanded."

Tom Mazur, a spokesman for the Secret Service, said he did not know who the men were but they were not Secret Service officials.

"I checked with our people down there in Mississippi who were involved in the advance, and it was not Secret Service people who identified themselves as members of the media," Mazur said. "We wouldn't do that."

Asked whether he could confirm where the employees worked, Lisaius simply reiterated his earlier statement. The incident was reported in yesterday's editions of the Biloxi Sun Herald.

Akins said the men were friendly and looked around the home site for about 20 minutes. The following Wednesday, Bush flew to the small, working-class town. He appeared with Mississippi Gov. Haley Barbour (R) outside the Akins home to call attention to federal efforts to aid in reconstruction.

"Our job and our purpose is to help people like the Akins rebuild," Bush said.

The men eventually revealed their identities and displayed blue lapel pins bearing the presidential seal. Akins said she does not mind that the men temporarily misled her about their identities.

"What could they do?" she said. "They couldn't walk up and tell us who they were, because then we would have been a lot more suspicious about the president coming."

"We didn't know" about Bush's visit "until about an hour before the president actually got there," she added. "I think they handled it great."

Louisiana Faces An Exodus From The Coast (WP)

By Cain Burdeau

The Washington Post, March 19, 2006

LAFITTE, La. -- Once the salt water is in your veins, Louisiana's coastal folk say, it's hard to give up the lifestyle of moonlit shrimping trips, the town "fais do-do" dances and afternoons spent on the bayous angling for catfish. But since last year's catastrophic hurricanes, this swampy land defined by Cajuns, cypress and tupelo gum forests, bayou-side saloons and, more recently, subdivisions may have become too vulnerable for that lifestyle to continue.

Even before the devastation caused by Katrina, Louisiana's swampy coast had been sinking by as much as 2 inches a year. Along with that subsidence, the area is even more susceptible to flooding because last year's hurricanes damaged vast tracts of wetlands _ already shrinking because of man's activities _ that used to buffer the area from storms blowing in off the Gulf of Mexico.

All of those factors will be reflected in new Federal Emergency Management Agency flood-vulnerability maps due to be released soon that are the basis for flood insurance rates.

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The maps will likely make the insurance more costly, force residents to spend heavily to raise homes out of flood plains to qualify for coverage, make many other homes uninsurable and make lenders less willing to loan money for construction in flood-prone areas.

That new reality may threaten the state's coastal population and its heritage of shrimp fishing, alligator hunting, fur trapping and oyster harvesting.

Some of the roughhewn people down here won't leave willingly.

"You've got earthquakes, you've got fires, you've got volcanoes, you've got tornadoes in tornado alley," said A.J. Fabre, an outspoken leader among shrimp fishermen in Lafitte, about 30 miles south of New Orleans. "Where are you going to have everybody? In Missouri?"

Nearly every house in the area, most of them built on slabs, was flooded by Hurricane Rita. Now, families live in trailers as they rebuild.

"It's a quiet community. Virtually no crime. Kids steal a couple of bicycles," Fabre says.

But the future is gloomy. Fabre's place, a small brick house he inherited from his grandfather, has been condemned because of wind and flood damage. The only thing left of a shrimp processing plant there is a concrete slab, and the old family dock is barnacled, broken and useless.

With no flood insurance, Fabre isn't sure if he'll be able to rebuild. He and his wife might have to demolish the place and buy a mobile home.

He insists he is not defeated and lashes out at politicians, importers, the federal government.

"The fight has just begun," he said.

But many of his neighbors and friends aren't so sanguine.

"We're doomed," said Jimmy Terrebonne, a 46-year-old boat builder. He tells his children to get an education and get out of the fishing trades.

As for himself, he said, "I can't do anything else. I don't have an education. I ain't leaving until it's gone. When the land's gone, I'm leaving."

Many coastal experts believe life along the coast is going to change dramatically with the new flood maps.

"Where we had subdivisions in the marshes, they will not come back," said Shea Penland, a coastal scientist with the University of New Orleans. "I can't believe they're sustainable."

"There are going to be some significant changes across the board," said Butch Kinerney, a FEMA spokesman.

For one thing, much more is known since FEMA last calculated the area's flood vulnerability in 1984 about the area's rate of subsidence.

Last year, the National Geodetic Survey issued a report saying the area was sinking by a half-inch to 2 inches a year, and that was as of 1995.

"When they built the levees, it wasn't below sea level. It was dry land. Now it's dry land only because of the levees," said Roy Dokka, a Louisiana State University subsidence specialist.

About 1,000 homes damaged by Rita's storm surge in the heavily Cajun region southwest of Lafayette called Vermilion Parish might need to be raised to be eligible for insurance, said Robert LeBlanc, the parish's emergency preparedness director.

Younger people might leave, LeBlanc said.

Many others, however, are determined to stay.

"People like where they live, they're content," said Kimberly Chauvin, the wife of a shrimper who is thinking of raising their already-raised home up to 10 feet higher. "I wouldn't want to move to the city, not at all."

New Orleans Assesses Bureaucratic Tradition (LAT)

By Sam Quinones

The Los Angeles Times, March 19, 2006

It has seven property assessors whose jobs are virtually inherited. But an upcoming election and the 'I Quit' slate could end that.

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NEW ORLEANS — The upcoming election here will attract national attention as residents vote on who will lead their reconstruction.

But beneath the hullabaloo is an obscure, less riveting issue that advocates of change say could be just as big a step in helping the city reinvent itself.

Now is the time, they say, to revamp the city's antiquated system of property assessment, a system that some view as wasting money and encouraging cronyism.

For more than a century, New Orleans has had seven elected property assessors — each with their own staff and responsibility for a separate district — to assess the city's 164,000 parcels. The system is unique in Louisiana and is believed to be like no other in the country.

Los Angeles County, in comparison, has one elected assessor, whose staff assessed value on 2.6 million properties last year, the office's website says.

New Orleans assessor jobs have been handed down from father to son and husband to wife; one seat has been in a family since 1904.

"We have a screwy, curious, historically developed property-assessment system," said Shaun Rafferty, a local attorney who is leading the nascent movement to overhaul the assessor system. "We've kind of tolerated it. But the hurricane has caused everybody to reanalyze everything."

Since Hurricane Katrina, a new political activism has replaced the city's long-standing complacency. Many people here see the hurricane as a rare chance to discard an outdated system and begin renovating New Orleans' image as a backwater of corruption and inefficiency that left the city vulnerable before the storm.

The assessor system "didn't have anything to do with the emergency response" to Katrina, said Paul Cordes, another lawyer seeking to revamp the system. "But the general fragile nature of our city government — this is the bedrock of it."

Riding the wave of change, a group of lawyers and businessmen have qualified a slate of assessor candidates — known as the I Quit Ticket — for the April 22 city elections.

The candidates — who all hope to be listed on the ballot with the nickname "IQ" — vow to lobby for legislation allowing voters to approve consolidating their offices into one, and resign en masse when that happens. Their resignations would force a special election of a single assessor.

"Everybody felt it was chasing after windmills to take on the assessors," said Bill Aaron, a former city attorney now in private practice and an I Quit Ticket board member. "Now, with Katrina, all bets are off."

Still the issue shows how slowly change can come here, even after hurricanes Katrina and Rita.

A bill to allow a vote on consolidating New Orleans' seven assessors into one failed 8-6 in a state legislative committee last month. Among those opposing it were two legislators whose brother and father, respectively, are New Orleans assessors.

New Orleans has what critics contend are layers of redundant government that it can no longer afford, given its greatly reduced population and budget.

For example, Orleans Parish, whose boundaries are essentially the same as the city's, has a criminal sheriff, a civil sheriff and a coroner — positions that many counties combine in one job. There are several court clerks, each with separate staff, handling the job one court clerk does in most counties.

But the best example of duplication and waste, they say, has been the assessors. Several studies have suggested that consolidating the offices under one appointed assessor would lead to sustainable city financing, and make assessing more accountable, predictable and efficient.

"Every other parish gets by with one," said Janet Howard, of the Bureau of Government Research, a nonpartisan think tank that has studied the system and advocated changing it. With assessor salaries and retirement benefits, New Orleans pays more than $700,000 a year for an assessor, Howard said.

"Even with seven assessors, the job doesn't get done," she said, in part because the money that should pay to modernize and hire appraisers goes to the assessors' salaries. The offices are understaffed and employ people with insufficient training.

The result has been a patchwork of inconsistent assessments for comparable properties. "The only people who are actually paying the taxes are new home buyers" who get their homes reassessed when the sale goes through, said Aaron, the

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former city attorney. "A lot of the wealthy people are not paying the taxes they should be paying and a lot of the middle-class people are actually bearing the tax burden."

The Times-Picayune newspaper investigated the system in 2004 and found assessments 41% below market value. In response, the Louisiana Tax Commission found that owner-occupied homes in the city were assessed at least 25% below market value. Last year, the commission ordered the New Orleans assessors to reassess all their residential housing — a task they had embarked on when Katrina hit.

Uneven assessments, critics say, have created taxpayer distrust, lawsuits, a culture of corruption and shaky city finances.

Erroll Williams, the 3rd district assessor, doubts that consolidation would save much money. The New Orleans system is poorly funded compared with others around the state, he said, and "you can't save money when you're under-funding it." Moreover, he said, now is no time to change the system because the storm threw property assessment into chaos.

Also, Williams said, one assessor "could be corrupting. If you change it to one assessor in New Orleans, he's going to anoint the mayor. He could influence who becomes your councilmember, your state rep."

But that's exactly what the system now breeds, critics say.

Staying in office for years, assessors develop relationships with their constituents, which promotes lowering assessments as political favors.

"There doesn't need to be this personal relationship with your assessor," said Arthur Sterbcow, president of Latter & Blum, the region's largest real estate firm, in New Orleans, and an I Quit Ticket board member. "That's a thinly veiled way to say, 'Come see me. We'll work out a deal.' "

The success of the I Quit Ticket depends on the election of all seven of its candidates. (The group is appealing a court order that would prevent the candidates from being listed on the ballot with the "IQ" nickname.) The Legislature must also approve putting the idea of a single assessor before voters during its spring session, which runs from March to June.

Until voters approved the consolidation, he said, the candidates would use their salaries to hire professional appraisers to do the job.

The I Quit Ticket will test Orleanians' commitment to revamping the bureaucracy, Cordes said, because changing the assessor system probably would increase assessments for some of the town's wealthiest families.

"With Katrina, we can reproduce a model city," he said. "This assessor thing is a huge building block in that. It's not the apparent problem, but it is the tumor deep within that needs to be removed."

Storied Church May Be Victim Of Katrina (WP)

By Kari Lydersen

The Washington Post, March 19, 2006

St. Augustine, Founded in 1841, Is Called Vital Link to Culture of New Orleans

NEW ORLEANS -- Parishioners at one of the nation's oldest African American Catholic churches may have celebrated their last Mass as a parish last Sunday, even as they continued their efforts this week to keep the doors open at St. Augustine.

The church, in the Treme neighborhood near the French Quarter, is a center of racial harmony and great jazz, playing a central role in New Orleans history and culture. With so much of the city devastated by Hurricane Katrina, local residents are rallying behind the church and hoping the parish can be saved.

"The people of New Orleans have lost so much; we don't want to lose this," said Sandra Gordon, 52, a church volunteer who has been coming to St. Augustine since 1965, when Hurricane Betsy destroyed her former church.

In the face of a much-reduced city population and physical damage to many churches post-Katrina, the Archdiocese of New Orleans is closing seven parishes and delaying the reopening of 23 churches. Attendance at St. Augustine, down to fewer than 200 people pre-Katrina, increased significantly afterward. But archdiocese officials said current attendance is not enough.

The church sustained about half a million dollars' worth of damage to the roof and bell tower from Katrina, and it was already hurting for money for a needed renovation.

Like New Orleans itself, St. Augustine is an eclectic mix of the ancient and the contemporary, black and white, song and dance. The church was built in 1841 by slaves and by Italian and French immigrants.

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It was one of the first churches where slaves, free blacks and whites worshiped together. After a period as a segregated white church and then a black church, it has had an interracial congregation and services that blend elements of Catholicism with African spirituality and homegrown New Orleans culture. Portraits of the African American "Mardi Gras Indians" are displayed side by side with saints on the walls, and the church is known for popular jazz masses and jazz funerals, including an annual "Louis Armstrong Jazz Mass."

Archdiocese spokesman William Maestri said the 250 parishioners registered at St. Augustine will have access to more classes and social services by joining the 8,000-member parish at St. Peter Claver, another Catholic church a few blocks from St. Augustine with a predominantly African American congregation.

He said St. Augustine's parish was recommended for closure in a 1999 study: "We've kept the parish open and subsidized it long beyond the recommendation."

The church would still remain open for weddings, funerals and weekly Masses. But parish priest Jerome LeDoux, a beloved local figure, would no longer minister there.

St. Augustine members said they would miss LeDoux, 76, an African American vegan musician who speaks several languages and has charmed visitors from around the world with his energetic, multicultural services.

"You can't overstate how important St. Augustine's and Father LeDoux are to the African and Creole tradition of the city," said Morgan Clevenger, former executive director of the New Orleans Jazz Legacy Foundation. "Father LeDoux has always acknowledged the black Indians, the social pleasure clubs, the jazz of New Orleans. He acknowledged the spirituality of African people before Catholicism. The loss of Father LeDoux would be a grave loss to the community."

Economist Jacques Morial said the archdiocese should keep subsidizing the parish based on its historical and cultural importance. He is the brother of former mayor Marc Morial, and their family goes back nine generations in New Orleans.

"We need the archdiocese to reconnect itself to the souls and lives of people who need it most, not just the people who have money," Jacques Morial said.

Music Landmark Caught In Tug Of Priorities After Storm (NYT)

By Susan Saulny

The New York Times, March 19, 2006

NEW ORLEANS, March 16 — The doors of the deserted Milne Boys Home flap open in the wind, and anyone who cares to brave the dank interior here in the heart of the drowned Gentilly neighborhood can find crumbling logbooks noting who visited in the early 1900's and yellowing sheet music in the attic.

A bronze plaque on the weather-beaten facade announces that Milne is "A Landmark of American Music," but it hardly looks the part, taking its place among the city's once-grand buildings ruined by floodwater after Hurricane Katrina.

Nonetheless, what happens to this 11-acre campus of wide lawns and oak trees is of more than casual interest to many people here because of its ties to Louis Armstrong, arguably this city's most famous native son.

Before Milne was built in the 1930's, part of it was called the Colored Waif's Home for Boys, the institution where Armstrong was incarcerated at age 11 after firing a pistol to celebrate New Year's Day 1913. It was there that he learned to play the cornet.

Armstrong is but one of a host of noted jazz musicians to train at the Colored Waif's Home, and later at Milne, to which he was a friend throughout his life.

In a city that long ago demolished Armstrong's birthplace, along with Storyville, the neighborhood where early jazz developed, and the original waif's home, Milne stands as one of the last physical connections to the city's musical past, and many wonder if it will have a place in the new city. Other than the landmark plaque placed by a national music group, it was hardly noted in the old one.

"You might say this is the second, if not the third, opportunity to do something with a Louis Armstrong site where the opportunity has been missed," said Bruce Boyd Raeburn, curator of the Hogan Jazz Archive at Tulane University here. "A lot of the old jazz sites have been torn down to make new parking lots."

Mr. Raeburn added, "The track record on preserving jazz-related sites is pretty dismal for New Orleans."

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Yet this is a city that is probably more dependent on the marketing of jazz than any other, as tourism is one of the few engines of the local economy. In an acknowledgment of that, the city renamed its airport after Armstrong in 2001. But when asked about the cultural importance of the Milne site, the city official overseeing arts and entertainment said he did not know much about it. Mayor C. Ray Nagin's office did not return calls for comment.

In the chaos of dealing with an acute housing shortage, a coming mayoral election and tens of thousands of displaced residents, city officials have had little energy or resources to deal with issues like the arts or historic preservation.

But it is precisely at times like these, local activists say, that pieces of the culture slip away — especially in areas like Gentilly, where mostly modest homes line quiet streets that in feeling and geography are miles away from better known destinations like the French Quarter and the Garden District.

"It certainly is a chance once again for a rebuilt New Orleans to seize an opportunity that in the past it did not seize, and to actually help its own cause," said Lee Hampton, executive director of the Amistad Research Center, an archive for the history of African-Americans and other ethnic groups, at Tulane. "Certainly I think it would be worth preserving and worth the effort put into upkeep. I think it could actually repay the city in its interest to outsiders, to tourists."

Long neglected, Milne was not in pristine shape before the storm and had not housed children since the 1980's, becoming instead the setting for after-school social service programs and athletics. The home, not far from the London Avenue Canal, which breached the levees in two spots, flooding Gentilly and surrounding neighborhoods, had capacity for 80 boys before it closed as a residence.

The home was named for a Scottish philanthropist, Alexander Milne, who arrived here in the late 1700's and provided money for the care of troubled children in his will after making a fortune in bricks and hardware.

"The problem with the city now is, where do we place our priorities?" said Tad Jones, a local historian and co-producer of the annual Satchmo Summer Fest, a celebration of Armstrong's music. "Since we're not getting much direction from the city or the feds, all the local homeowner associations in Gentilly and around the lake are coalescing and talking about how to revitalize the neighborhoods. That's a good thing and a bad thing because we're not all on the same page."

Over the decades, not everyone in solidly middle-class Gentilly has been thrilled about having a haven for troubled youth in the area. Some wanted Milne done away with years ago. Others want to see it come back just as it was, as a scaled-down social service and recreation center. Still others want at least part of it to be a memorial to Armstrong and a reminder of what can happen when a poor child gets a chance at a better life.

"Louis Armstrong is the poster child for that," Mr. Raeburn said.

Officials said the city was negotiating with the Federal Emergency Management Agency to determine how much federal money might be available for the site. The city holds a 99-year lease on the property from the Milne Trust, a private foundation. Part of the complex has been gutted, and the roofs are protected by blue tarp.

Armstrong was born to a teenage mother in a neighborhood so notoriously dangerous, even by New Orleans' rough port-town standards, that it was called "the battlefield." He was largely abandoned by his father and dropped out of grade school, and entertained people by singing and dancing for change around the brothels of Storyville.

He occasionally got into trouble with the police, but around Storyville, he also got to hear the likes of Buddy Bolden and Jelly Roll Morton, pioneers of early jazz.

Peter Davis, the music teacher who invited Armstrong to play in the waif's home band, retired from Milne in 1949 and died in 1971.

Armstrong wrote about Mr. Davis in his memoir, "Satchmo: My Life in New Orleans."

"Every day I practiced faithfully on the lesson Mr. Davis gave me," Armstrong wrote. And later: "All in all, I am proud of the days I spent at the Colored Waif's Home for Boys."

Richard Winder, director of the city's Department of Human Services, which controls the site, said that these days, "We're in limbo."

"We don't know where we are, post-Katrina," Mr. Winder said.

Still, as a former superintendent of the home, he could not imagine losing Milne. "Those worries should be removed down the line," he said, "once we get some normalcy in this city."

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WAR NEWS:

Bush: 'Fighting And Sacrifice' Needed (WP)

By Guy Gugliotta

The Washington Post, March 19, 2006

On the eve of the third anniversary of the Iraq invasion, President Bush today promised to "finish the mission" with total victory, urging the American public to remain steadfast but offering no indication when victory might be achieved.

"More fighting and sacrifice will be required," Bush said in his weekly radio address. "For some, the temptation to retreat and abandon our commitments is strong. Yet there is no peace, there's no honor and there's no security in retreat. So America will not abandon Iraq to the terrorists who want to attack us again."

Bush's address comes at a time when confidence in the administration's Iraq strategy appears to have reached all-time lows. A Washington Post-ABC News poll this month found that 65 percent of Americans surveyed thought Bush had no plan for victory, while 35 percent -- the lowest level ever recorded by the poll -- said he did.

Bush used the radio address to draw attention to a series of speeches he is giving this month to rally support for the Iraq war. Last week the first of these focused on efforts to train Iraqi troops and success at mitigating the threat of terrorist bombings and casualties caused by the explosion of roadside "improvised explosive devices."

A White House "Fact Sheet" on Iraq that accompanied the radio address noted that casualties from the explosive devices had been halved in the past 18 months and that nearly half of the devices are being found and disabled before they can be detonated.

The fact sheet also buttressed the president's assertion last week that Iraqi security forces were assuming greater battlefield responsibility. The fact sheet said that "Iraqi forces now conduct more independent operations throughout the country that do Coalition forces."

Democrats noted last week, however, that a recent Pentagon report said the number of "level one" Iraqi units capable of operating independent of the United States had dropped from one to zero in recent months.

And for the most part, the fact sheet ignored the missteps and false starts that have dogged the Iraq war since the invasion in March 2003 and instead contrasted Iraq under Saddam Hussein with Iraq today.

Three years ago, the fact sheet said, "life in Iraq was marked by brutality, fear and terror," and Iraqis "had no voice in their country or their lives." Today, by contrast, "the reign of terror has been replaced by a democratically elected government."

In his radio address Bush noted that sectarian violence plagues Iraq, but urged Iraqis to "reach across political, religious and sectarian lines," to convert December's democratic elections into a "government that can confront the terrorist threat and earn the trust and confidence of all Iraqis."

"These past three years have tested our resolve," Bush said. "The enemy has proved brutal and relentless . . . and our troops have shown magnificent courage and made tremendous sacrifices" which, along with Iraqi sacrifices, had given Iraq a "historic opportunity" to rebuild itself.

"The security of our country is directly linked to the liberty of the Iraqi people," Bush said. "We will settle for nothing less than complete victory."

Bush: Violence Creating Urgency In Iraq (AP)

By Deb Riechmann

AP, March 19, 2006

President Bush on Saturday braced Americans for more bloodshed in Iraq but said recent civil strife has motivated warring political factions to move quickly to set up a representative government.

"Our ambassador to Iraq, Zal Khalilzad, reports that the violence has created a new sense of urgency among these leaders to form a national unity government as quickly as possible," Bush said in his weekly radio address.

"I urge them to continue their work to put aside their differences, to reach out across political, religious and sectarian lines, and to form a government that can confront the terrorist threat and earn the trust and confidence of all Iraqis."

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Bush's broadcast came in advance of a speech he plans to deliver in Cleveland on Monday, the second in a series of talks marking Sunday's three-year anniversary of the U.S.-led invasion of Iraq. In the speech, Bush will discuss how the United States is working with various sectors of Iraqi society to defeat terrorists, restore calm and help rebuild homes and communities.

The president said victory in Iraq will come when terrorists and loyalists of former Iraqi leader Saddam Hussein no longer threaten Iraq's democracy, when Iraqi security forces can ensure safety for citizens and terrorists can't call Iraq home.

"More fighting and sacrifice will be required to achieve this victory," he told listeners.

Democrats are calling on Bush to provide more leadership to unify fighting political sectors in Iraq and prevent the nation from spiraling into civil strife. The Feb. 22 bombing of a Shiite mosque and subsequent violence led to the deaths of hundreds of people and pushed the country to the brink of civil war between rival Muslim sects.

According to the latest AP-Ipsos poll, more than three-fourths of Americans, 77 percent, say they think a civil war is likely in Iraq. Seventy percent of Republicans and 90 percent of Democrats felt that way. People are evenly split on whether they think a stable, democratic government will be formed in Iraq, according to the poll taken in early March.

Bush has said that as Iraqi security forces step up, U.S. troops will be able to stand down. But critics of the administration's handling of the war say that the Iraqis must be told that the American military will not be in Iraq forever, and they must realize that the eventual pullout will be on U.S., not Iraqi, terms.

"We need the president to urgently exercise the leadership necessary to bring Iraq's political factions together," Sen. Dianne Feinstein (news, bio, voting record), D-Calif., said in the Democratic radio response Saturday. "In no uncertain terms, the president must immediately inform the Iraqi people that they need to get their political house in order."

Feinstein said the Iraqis need to be told that they must get a government and key ministries up and running, that they need to quickly secure their streets by ramping up the deployment of a viable police force, and they must reconcile differences between Sunnis and the Shia.

"Iraqis must know that we will exit on our terms, not theirs," she said.

Bush's speeches — a total of three this month and possibly more in April — would be similar in tone to a series of talks he made in December to help turn public opinion on the war in his favor. In those talks, he combined steely resolve with frank acknowledgments that mistakes have led to changes in U.S. strategy.

The president said that, in Ohio on Monday, he would provide concrete examples of how U.S. strategy in Iraq is succeeding.

"In recent weeks, Americans have seen horrific images from Iraq: the bombing of a great house of worship in Samarra, sectarian reprisals between Sunnis and Shias, and car bombings and kidnappings," Bush said.

"Amid continued reports about the tense situation in parts of that country, it may seem difficult at times to understand how we can say that progress is being made," he said. "But the reaction to the recent violence by Iraq's leaders is a clear sign of Iraq's commitment to democracy."

Iraq's True Cost Continues To Grow (HC)

By BOB DEANS, Cox News Service

Houston Chroncile, March 19, 2006

The bottom line includes a staggering death toll among troops and civilians, Pentagon spending at $6 billion a month and damage to U.S. credibility

WASHINGTON - Three years after President Bush launched the invasion of Iraq, the war grinds on amid escalating costs — in lives, money and U.S. influence abroad.

Saddam Hussein and his repressive regime are no longer in power and democracy has taken some important, if shaky, first steps.

Iraq has a "hopeful future," Bush said, despite the problems there.

"We will finish what we started in Iraq," the president said in a speech. "We will complete the mission."

But sectarian violence verges on civil war. More than 130,000 troops remain in Iraq. And the toll on Iraq and the United States is far beyond anything the administration prepared Americans for in the lead-up to the March 19, 2003, invasion.

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The war has divided the United States, set it at odds with friends and rivals alike abroad, and dominated an often-ugly national political debate. Three years on, the costs continue to mount.

According to Pentagon figures (as of March 15), 2,310 U.S. troops have died in Iraq since the launch of the invasion. Of those, 1,808 were killed in combat and 502 died from accidents, illnesses or other causes.

Another 17,124 American troops have been wounded. Of those, 9,212 were returned to duty within 72 hours. The rest had more serious wounds, including about 400 who have lost an arm, leg, hand or foot.

The figures do not include American civilians killed or wounded in Iraq while working for the U.S. government, private businesses and non-governmental aid organizations.

There are no independently verifiable estimates of the number of Iraqi soldiers killed during the first several weeks of the war, and no official estimates of civilian casualties.

Bush recently estimated the Iraqi dead at somewhere near 30,000.

A London-based human rights group called Iraq Body Count estimates that at least 33,638 Iraqi civilians have been killed as a result of the war and up to 37,754 may have died, based on the group's independent tabulation of deaths confirmed in media reports.

The number includes civilians killed by insurgent attacks as well as operations by U.S. and coalition forces.

The U.S. taxpayers' tabAmericans have spent $250 billion on military operations and reconstruction efforts in Iraq, a war that is currently costing the Pentagon roughly $6 billion a month, according to the nonpartisan Congressional Research Service.

This spending does not include so-called fixed costs that are part of Pentagon spending — such as pay for the troops — but accounts for only the direct war costs, such as bonus pay for combat operations, as well as fuel, munitions and other war-related expenses.

The war's true price tag, however, will include expenses not included in this reckoning, particularly the long-term costs of providing lifetime health care to soldiers wounded in the war or suffering from mental health issues related to the conflict, recurring expenses certain to range in the billions of dollars per year.

Nor do these costs include the interest on the additional debt incurred to finance the war.

"There will be tail costs," said U.S. Comptroller General David Walker, head of the Government Accountability Office, a congressional agency that oversees federal spending. "There will be costs that will be coming down the road."

Billions of dollars in tanks, aircraft, communications gear and other military equipment has been worn out, destroyed or given to new Iraqi forces during the conflict. "

Some replacement funds are included in the Pentagon's current spending. But military officials say billions in additional spending will be needed to bring inventories of critical gear back up to pre-war levels.

U.S. image abroadAs bloodshed and destruction have mounted, the war has undercut America's image among other countries around the world.

"After the war in Iraq, the image of the United States plummeted in most countries and has only recovered in a few," said Andrew Kohut, director of the Pew Research Center, a nonpartisan opinion monitoring group in Washington.

Bush led the country to war on the claim that Iraq possessed chemical and biological weapons and was working to reconstitute earlier efforts to build a nuclear weapon. No stockpiles of weapons of mass destruction were found, nor has evidence of a viable nuclear weapons program surfaced. Bush has said the intelligence he received in the lead-up to the war was faulty.

Those failings have undercut U.S. efforts to press for international sanctions against Iran, which is pursuing a nuclear program that Bush fears could produce weapons, and for diplomatic pressure on nuclear-minded North Korea.

A Sliding Scale For Victory (LAT)

By Doyle McManus

The Los Angeles Times, March 19, 2006

As the conflict in Iraq enters its fourth year and civil war threatens, the Bush administration is again working to lower expectations.

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WASHINGTON — Three years ago, as they ordered more than 150,000 U.S. troops to race toward Baghdad, Bush administration officials confidently predicted that Iraq would quickly evolve into a prosperous, oil-fueled democracy. When those goals proved optimistic, they lowered their sights, focusing on a military campaign to defeat Sunni-led insurgents and elections to jump-start a new political order.

As the conflict enters its fourth year today, the Bush administration faces a new challenge: the prospect of civil war. And, in response, officials again appear to be redefining success downward.

If Iraq can avoid all-out civil war, they say, if Baghdad's new security forces can hold together, if Sunni Arabs, Shiites and Kurds all participate in a new unity government, that may be enough progress to allow the administration to begin reducing the number of U.S. troops in the country by the second half of this year.

In increasingly sober public statements — and in slightly more candid assessments from officials who insisted that they not be identified — the administration is working to lower expectations.

"It may seem difficult at times to understand how we can say that progress is being made," President Bush said Saturday in his weekly radio address, acknowledging that much of the recent news from Iraq has been bad. "But … slowly but surely, our strategy is getting results."

"We may fail," said a senior official directly involved in Iraq policy. "But I think we're going to succeed. I think we're going to nudge this ball down the road…. It's not going to be easy, and it's going to take time."

The more sober tone is not entirely new; officials, from Bush on down, have tacitly acknowledged for more than a year that trying to stabilize Iraq is proving more difficult than they expected when they launched the war in 2003.

But independent foreign policy analysts say they see signs of a more fundamental shift in the administration's position — a creeping redefinition of U.S. goals in Iraq that increasingly allows for the possibility that the nation may remain unstable for years to come.

"It isn't going to be perfect," Defense Secretary Donald H. Rumsfeld said last month. "It isn't going to be pretty. It isn't going to look like the United States of America. It's going to be an Iraqi solution politically, and Iraqi solution economically and an Iraqi solution from a security standpoint."

"Initially, we were going to stay until the insurgency was defeated," noted James F. Dobbins, a former special envoy under Presidents Clinton and Bush. "About a year ago, we amended that in a fairly important way by saying we were going to stay until the Iraqi government and its army and police were capable of coping with the insurgency. We redefined victory in terms of the Iraqis' capability instead of the defeat of the insurgency."

"Now even that measure of success has proven elusive," said Dobbins, who is now with Rand Corp. "At this point I think we would be content if we could diminish our presence, allow the Iraqis to simply hold their own against the insurgency and prevent the country from rupturing into an even more serious civil war than the one that now exists."

The violence between Sunni and Shiite Arabs in recent weeks, which increased after the Feb. 22 bombing of a Shiite shrine in Samarra, touched off what one official called "a moment of fear" within the administration — a sense that events in Iraq could spiral beyond any measure of U.S. control.

In the aftermath of the bombing, U.S. Ambassador Zalmay Khalilzad said, "We have opened the Pandora's box…. There is a concerted effort to provoke civil war."

And Rumsfeld, asked whether U.S. forces would intervene in an intra-Iraqi conflict, said, "The plan is to prevent a civil war, and to the extent one were to occur … from a security standpoint, have the Iraqi security forces deal with it to the extent they're able to."

Before the recent violence, U.S. military officials said they hoped to reduce the number of troops in Iraq from about 130,000 to about 100,000 over the year. Officials said last week that the violence could slow the U.S. drawdown but that they still expected some troop reduction to occur.

The good news, Rumsfeld and other officials noted, was that U.S.-trained Iraqi security forces did not disintegrate, and Iraqi political leaders, particularly in the Shiite community, quickly intervened to stop the violence from escalating further.

But the senior official said the U.S. strategy of nurturing a unity government and building multi-ethnic Iraqi security forces was still dangerously vulnerable.

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"Sectarian violence … is not going down as [quickly] as we would like to see," he said. "A surge further in sectarian violence, way below what I would call a civil war, is still enough to really threaten what we're trying to do there, because it strengthens the militias, it strengthens the radicals, it weakens the security forces."

The most important immediate step, President Bush and other officials said, is for Iraqi politicians from all three major communities to form a unity government. "I urge them … to form a government that can confront the terrorist threat and earn the trust and confidence of all Iraqis," Bush said Saturday.

But that is proving difficult. Sunni and Kurdish leaders are unhappy with the decision by the Shiite bloc, the largest in the new parliament, to reelect Ibrahim Jafari for the post of prime minister. U.S. officials are unhappy with the choice, too; many of them consider Jafari incompetent and divisive. The result, at least in the short run, has been a political deadlock.

"They have to step up to the plate," the senior official said, reflecting the administration's frustration with the Iraqi leaders. "They cannot just sit aside and press their short-term interests."

Unless a unity government succeeds, said a civilian advisor to the Pentagon, "you are heading for a de facto independent Kurdistan, a Shia Iraq that is very close to the Iranians and a Sunni Iraq which is rebellious in perpetuity."

One of the major goals of U.S. policy in Iraq has been to avoid choosing sides. But that goal may be slipping away, outside analysts said.

"In a sense, as your own forces diminish, you have to choose sides," Dobbins said. "We may be forced to do that. We already have to some degree."

"The Sunnis already see us as having chosen sides," said Steven Biddle, a former professor at the U.S. Army War College who is at the private Council on Foreign Relations.

Biddle has argued that by building new Iraqi security forces dominated by Shiites and Kurds, the United States in effect has armed and trained two of the sides in the Iraqi conflict. The Sunnis, he wrote in a recent article, "perceive the 'national' army and police force as a Shiite-Kurdish militia on steroids."

"I think we're in a civil war now. We've been in a civil war for more than a year. It's just a civil war that's being fought at low intensity," he said in an interview.

Instead of trying to build Iraqi security forces quickly, Biddle argues, the United States should slow down its training program, slow its own military withdrawal, and concentrate on strengthening political leaders — especially among the Sunnis — who can make compromises.

But Biddle acknowledges that there is no political support in the United States for a longer or larger troop deployment.

"If we had the troops, I'd increase the troops," he said. "But we don't have the troops."

Administration officials say that waning U.S. public support for the war has become one of their major concerns, if only because Iraqis on all sides increasingly wonder how long the Americans will stay.

A poll released last week by the Pew Research Center found that public support for keeping U.S. troops in Iraq had reached its lowest point since the 2003 invasion. Half of the respondents said they wanted to bring U.S. troops home as soon as possible, compared with 44% who said the troops should stay "until the situation is stabilized."

Reflecting the increasingly partisan cast of the issue, Sen. Dianne Feinstein of California, in the Democratic response to Bush's radio address Saturday, called on the president to give the Iraqi government more responsibility for security "so our troops can responsibly be redeployed."

"The administration's dangerous incompetence has made the job harder," she said.

A former senior official said that he did not expect political pressure to affect Bush's decisions on Iraq this year but that the 2008 presidential election could be a different story.

"There is deep concern in the White House that 2008 will be a referendum on Iraq," he said. "I don't think the president will be affected by the congressional elections. But in 2007, at some point, does he say, 'I'm going to do what's right, no matter what the political consequences?' Or does he say, 'We gave the Iraqis every chance; we can't want a successful Iraq more than the Iraqis want it?'

"Leaving Iraq in its current state would be a very serious strategic setback for us," he said. "It would be a defeat. We can dress it up. We can try to recover from it. But it's a defeat."

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The State Of Iraq: An Update (NYT)

By Nina Kamp, Michael O'Hanlon And Amy Unikewicz

The New York Times, March 19, 2006

AS we reach the third anniversary of the start of the war, the confusion on the ground in Iraq seems to have spread to American generals' public pronouncements. Last Monday, just days after saying that pacification efforts with the Iraqis were going "very, very well," Gen. Peter Pace, chairman of the Joint Chiefs of Staff, told an audience that Iraq is "a place that is having some real difficulties right now" and that "everything is in place if they want to have a civil war." Unfortunately, an examination of trends in Iraq backs up General Pace's later, more sober comments.

The country's economy continues to disappoint. Although it had a fairly quick recovery in 2003 and early 2004, when gross domestic product was restored to Saddam Hussein-era levels, violence and instability have prevented much further progress. And while subsidies for gasoline and some other goods, which have been costing the Iraqi government about $10 billion a year, or a third of gross domestic product, have been reduced, projections that the country's economy will grow by 10 percent a year for the rest of the decade look increasingly suspect. Current growth sputters along at less than 5 percent despite sky-high prices for oil exports. Most utilities (except telephones and Internet services) are still performing below Baathist-era levels. Unemployment remains very high.

Politically, Iraqis have been stalemated in forming a new government since the impressive Dec. 15 elections, primarily over issues like ensuring fair distribution of Iraq's oil revenue and devising ways to reintegrate lower-level former Baathists into society. This political inertia reinforces the widespread Sunni Arab sense of estrangement. And it contributes to remarkably high levels of Sunni Arab approval for violence against coalition troops (almost 90 percent) and even against their own government.

Paradoxically, most of what good news there has been this winter is on the security front. American troop fatalities in Iraq have declined relative to last fall's typical levels. Fatalities among Iraqi security forces have also gone down, as have car bombings. Unfortunately, civilian casualties have been as high as ever and, since the Feb. 22 bombing of the Samarra mosque, sectarian violence is worse than at any time since the invasion.

All that said, according to public opinion polls, more than 60 percent of Iraqis (though very few Sunni Arabs) remain bullish on the future. And Iraqi security forces continue to improve, with far higher percentages having reached the upper half of the four-tier readiness rating system. These statistics may point to the possibility of a troop drawdown strategy for the United States — but while a strategically passable outcome still seems within reach, it is increasingly hard to believe that there are the makings of a major success for American foreign policy in Iraq.

Change Of Heartland (BOS)

By Charlie Savage

The Boston Globe, March 19, 2006

On the third anniversary of the invasion of Iraq, many Indianians are no longer strongly behind the war

SOUTH BEND, Ind. -- The third anniversary of the Iraq invasion unleashed a surge of pessimism at a local farmers' market here, where stalwart Republicans, standing amid aisles of produce and miracle cures, said President Bush has messed up a war that looks more like Vietnam every day.

"It's chaos," said Roger Madaras, who voted twice for Bush. "How many more people are going to be killed? We were going in to free the people of Iraq, but as far as I'm concerned, a lot of them are worse off today than they were under the dictatorship."

Madaras, the owner of a plumbing company, said he believed Bush when the president declared major combat to be over in May 2003, and is "disgusted" that Bush's rhetoric was hollow. And he is far from alone.

Support for Bush and his handling of Iraq is sharply eroding across the American heartland, where the overcast skies and the muddy fields of late winter matched a sense of gloom about Bush and the war.

This month, the Indianapolis Star released poll findings that Bush's approval rating among Indiana voters stood at 37 percent -- a drop of 18 points over the past year. The numbers echoed national polls, but were particularly shocking in a state that has not voted for a Democratic presidential candidate since 1964, and where Democratic presidential contenders often do not bother to campaign.

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"A 37 percent approval rating in Indiana for a Republican president is unheard of," said Brian Howey, who runs a newsletter for Indiana state political insiders. "Those are Bill Clinton or John Kerry numbers in Indiana. So there is something seriously awry going on right now."

In scattered rural diners and small-town restaurants adorned with 9/11-vintage American flag posters, support for the troops remains high. But many in Indiana also say the war has not turned out the way they thought it would three years ago, and they question whether Bush has what it takes to lead the troops into a happy ending.

Standing behind the counter where she sells bird houses and seed at the farmers' market, Beverly Beisel said she is increasingly fearful that Iraq will inevitably fall apart as soon as US soldiers leave -- making a mockery of the deaths sustained until then.

"It's not going well, that's for sure," Beisel said. "I don't like that fact that we started it. I thought Bush was actually going after the terrorists, wherever they were. We thought they had weapons that they were hiding."

Beisel said she doesn't blame Bush because "he can only deal with the intelligence he was given" and still supports him because she opposes abortion. But she added that plenty of her friends think "we should get out of there and they're probably sorry they voted for him."

Drinking coffee at Louie's Café in LaPorte, Ken Schreiber, who commands respect among the regulars because he coached the local high school baseball team to seven state championships, said he doesn't understand why the administration never sent enough troops in to stabilize Iraq's security.

Schreiber said he primarily blames the "liberal media" and "partisan politics" for the president's free-falling poll numbers. But he also blames Vice President Dick Cheney and Defense Secretary Donald Rumsfeld for giving Bush "some bad advice" about how Iraqis would "kiss our feet" for ridding them of Hussein.

"I'm frustrated like everyone else is frustrated," he said. "It's a lingering war like Vietnam. But I still don't think it was a mistake to go in."

As more and more Hoosiers find themselves making the comparison that only liberals and antiwar protesters made a year ago -- Iraq is like Vietnam -- some say they are also starting to doubt Bush's competence to protect America from terrorism on the home front.

John Lackman, a retired manager at an aircraft wheels and brakes factory who was eating breakfast at a table near Schreiber, said the slow federal response to the Hurricane Katrina disaster last year gave many pause.

"That New Orleans situation just piled it on top of the Iraq War," Lackman said. "The security issue is paramount in everyone's mind. If they couldn't respond adequately to that situation, how are they going to respond if there's a dirty bomb?"

Others sharply disagreed, saying local officials were primarily to blame for the New Orleans disaster. But there was nearly unanimous incredulity across Indiana at Bush's support for a deal that would have put a Dubai company in charge of six US ports.

Many connected the Dubai ports row to a state controversy -- Republican Governor Mitch Daniels's efforts to lease the Indiana Toll Road to a foreign firm for the next 75 years. Support for Daniels, a former top aide to Bush, is just as low as it is for the president.

"People don't think Indiana should sell its toll road to foreigners, and they don't want someone with a turban running our ports," said Denny Thomas, a retired trucker sitting near video poker machines at the back of a smoke-filled tobacco bar in LaPorte.

Daniels, who ran in 2004 on the slogan "My Man Mitch," as Bush once referred to him, has also drawn fire for ramming through a law requiring Indiana to join the rest of the country on daylight saving time. The measure is wildly unpopular in rural areas.

Pouring coffee behind the bar of Allie's Café in South Bend, restaurant owner Chuck Sulok -- a self-declared "partisan supporter" of both Bush and Daniels -- said he fears what the "double whammy" of Bush's and Daniels's unpopularity could do in the coming election.

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If Democrats can pick up 15 seats, they can retake control of the US House of Representatives for the first time since the Republican tidal wave of 1994, when the GOP picked up 54 seats. Sulok says today's atmosphere in Indiana reminds him of 1994 in reverse.

"The mid-term elections are coming and it scares me to death, speaking as a partisan Republican," he said. "There's a difference between regular dissatisfaction and a dissent that will move an election. There's that feeling in the air."

Joe Donnelly hopes Sulok's fears are well-founded. Donnelly, a local lawyer, is running for Congress against a Republican incumbent, Chris Chocola, in a rematch from 2004. He lost last time by 9 points -- but that was when the Iraq War was still young.

Donnelly said the drop in support for Bush and his handling of the war could swing the election his way, accusing Chocola of being a "rubber stamp" for the administration. Chocola, whose campaign netted $600,000 in a Bush-headlined fund-raiser in February, did not respond to an interview request.

"Truly, everyone out here wants the Iraq mission to succeed," Donnelly said. "But everyone is becoming more concerned and uncomfortable. What we need are Congress people who will ask President Bush tough questions, not be rubber stamps."

John Roos, a political science professor at the University of Notre Dame, said the dissatisfaction with Bush's record in Iraq might hand the 2006 election to Democrats by persuading disgruntled Republicans across the American heartland to stay home.

"It's not that they have become Democrats, and it's not that they have decided the war on Iraq and especially the war on terrorism is wrong," Roos said. "The people of Indiana just think [Bush] is not very good at being president."

Waiting to be seated at Allie's Café, Lee Connett, a retired automotive engineer, said he wondered about the Iraq War from the beginning. He thought it seemed like a diversion from the hunt for the Al Qaeda leader, Osama bin Laden.

But he voted for Bush anyway because he couldn't stand Kerry, the Democratic nominee. Now, he said, as it becomes ever more clear that "Bush doesn't have a plan" for Iraq, he doesn't know what he should do.

"I voted for Bush in 2000 and in 2004 . . . because he seemed like the lesser of two evils as I saw it at the time," Connett said. "How could anyone know he was going to do what he's done? He's not settled anything in Iraq and we're getting no clue as to what the outcome is going to be."

All the talk lately about Bush and the problems with Iraq bemuses Susan Grimes, a waitress at the South Junction Café, a lonely outpost at the intersection of state roads 6 and 35. Grimes said listening to her customers complain has turned her off politics.

"I hear all these people come in and say: 'That President Bush, we got to get that guy out of there.' But you ask them who they voted for, and they hush up because they were the ones who voted him in. He's their boy."

Bush Using Straw-Man Arguments In Speeches (AP)

By Jennifer Loven

AP, March 19, 2006

"Some look at the challenges in Iraq and conclude that the war is lost and not worth another dime or another day," President Bush said recently.

Another time he said, "Some say that if you're Muslim you can't be free."

"There are some really decent people," the president said earlier this year, "who believe that the federal government ought to be the decider of health care ... for all people."

Of course, hardly anyone in mainstream political debate has made such assertions.

When the president starts a sentence with "some say" or offers up what "some in Washington" believe, as he is doing more often these days, a rhetorical retort almost assuredly follows.

The device usually is code for Democrats or other White House opponents. In describing what they advocate, Bush often omits an important nuance or substitutes an extreme stance that bears little resemblance to their actual position.

He typically then says he "strongly disagrees" — conveniently knocking down a straw man of his own making.

Bush routinely is criticized for dressing up events with a too-rosy glow. But experts in political speech say the straw man device, in which the president makes himself appear entirely reasonable by contrast to supposed "critics," is just as problematic.

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Because the "some" often go unnamed, Bush can argue that his statements are true in an era of blogs and talk radio. Even so, "'some' suggests a number much larger than is actually out there," said Kathleen Hall Jamieson, director of the Annenberg Public Policy Center at the University of Pennsylvania.

A specialist in presidential rhetoric, Wayne Fields of Washington University in St. Louis, views it as "a bizarre kind of double talk" that abuses the rules of legitimate discussion.

"It's such a phenomenal hole in the national debate that you can have arguments with nonexistent people," Fields said. "All politicians try to get away with this to a certain extent. What's striking here is how much this administration rests on a foundation of this kind of stuff."

Bush has caricatured the other side for years, trying to tilt legislative debates in his favor or score election-season points with voters.

Not long after taking office in 2001, Bush pushed for a new education testing law and began portraying skeptics as opposed to holding schools accountable.

The chief opposition, however, had nothing to do with the merits of measuring performance, but rather the cost and intrusiveness of the proposal.

Campaigning for Republican candidates in the 2002 midterm elections, the president sought to use the congressional debate over a new Homeland Security Department against Democrats.

He told at least two audiences that some senators opposing him were "not interested in the security of the American people." In reality, Democrats balked not at creating the department, which Bush himself first opposed, but at letting agency workers go without the usual civil service protections.

Running for re-election against Sen. John Kerry in 2004, Bush frequently used some version of this line to paint his Democratic opponent as weaker in the fight against terrorism: "My opponent and others believe this matter is a matter of intelligence and law enforcement."

The assertion was called a mischaracterization of Kerry's views even by a Republican, Sen. John McCain (news, bio, voting record) of Arizona.

Straw men have made more frequent appearances in recent months, often on national security — once Bush's strong suit with the public but at the center of some of his difficulties today. Under fire for a domestic eavesdropping program, a ports-management deal and the rising violence in Iraq, Bush now sees his approval ratings hovering around the lowest of his presidency.

Said Jamieson, "You would expect people to do that as they feel more threatened."

Last fall, the rhetorical tool became popular with Bush when the debate heated up over when troops would return from Iraq. "Some say perhaps we ought to just pull out of Iraq," he told GOP supporters in October, echoing similar lines from other speeches. "That is foolhardy policy."

Yet even the speediest plan, as advocated by only a few Democrats, suggested not an immediate drawdown, but one over six months. Most Democrats were not even arguing for a specific troop withdrawal timetable.

Recently defending his decision to allow the National Security Agency to monitor without subpoenas the international communications of Americans suspected of terrorist ties, Bush has suggested that those who question the program underestimate the terrorist threat.

"There's some in America who say, 'Well, this can't be true there are still people willing to attack,'" Bush said during a January visit to the NSA.

The president has relied on straw men, too, on the topics of taxes and trade, issues he hopes will work against Democrats in this fall's congressional elections.

Usually without targeting Democrats specifically, Bush has suggested they are big-spenders who want to raise taxes, because most oppose extending some of his earlier tax cuts, and protectionists who do not want to open global markets to American goods, when most oppose free-trade deals that lack protections for labor and the environment.

"Some people believe the answer to this problem is to wall off our economy from the world," he said this month in India, talking about the migration of U.S. jobs overseas. "I strongly disagree."

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Analysis: Envoy Dives Into Iraq Diplomacy (AP)

By Steven R. Hurst

AP, March 19, 2006

Zalmay Khalilzad spends a lot of time these days in a soundproof room at the U.S. Embassy, sitting in front of television cameras and repeating a single message: Iraq must have a unity government and Americans must be patient until that happens.

The 54-year-old, Afghan-born U.S. envoy — a snappy dresser with a soft-spoken, easy demeanor — has become the increasingly effective face of the Bush administration's campaign to restore American confidence in the Iraq mission.

Yes, he will acknowledge, mistakes have been made. Yes, Iraq is beset with sectarian and insurgent violence.

But no, he insists, the situation is not hopeless. The United States must soldier on, pressing for a political solution — a democratic outcome to snuff out the savagery.

According to the U.S. argument, formation of an Iraqi government acceptable to and representative of all major ethnic and political factions would:

_Empower and legitimize the leaders of the Iraqi army and police to crush the Sunni Arab-dominated insurgency in the name of all citizens, whether Sunni, Shiite or Kurd.

_Cause minority Sunnis, once satisfied they are getting a fair political shake, to turn against al-Qaida in Iraq terror cells that they have either sheltered or tolerated in their midst.

_Calm Sunni-Shiite sectarian tensions and violence as members of each community see their leaders working together to unify — rather than divide — the fractious population.

Khalilzad, born in the northern Afghan city of Mazar-i-Sharif, is unusual among his colleagues in having an instinctual ability to negotiate the tangle of Iraq's variant of Middle East politics. He understands the ways of the bazaar, the need for long talks over many glasses of tea.

And that, perhaps, accounts for his success in getting Iraq's deeply divided political leaders to sit and talk together in one room, overcoming what he calls a cultural "unwillingness" to confront each other directly on issues that concern them directly.

"Their preference seems to be to talk indirectly and to talk to intermediaries," he said.

"What is encouraging to me in recent days is that they are beginning to talk to each other and directly. It seems to me ... this has been working," he added in a recent interview.

With a sly smile, he also acknowledges a bit of subterfuge — his public call for all the major Iraqi political leaders to assemble someplace outside Baghdad for round-the-clock talks "until there is an agreement and white smoke comes out of the chimney."

A day later the politicians announced they would open face-to-face negotiations — in Baghdad.

Some of them, speaking anonymously because they feared angering Khalilzad, said his arm-twisting behind the scenes is more intense.

"While you are taking your time with a government, we (Americans) have lost lives and money. You need to hurry up," one of them quoted Khalilzad as saying.

Said another, again quoting the ambassador: "Your failure (to form a government) means failure of the whole American policy in the region, a failure for President Bush. There is a major crisis and you must hurry."

So far, however, the meetings reportedly haven't progressed much beyond talking about talks.

There have been inconclusive discussions about forming a national security council to take major decisions out of the hands of individual politicians. That would have allowed Prime Minister Ibrahim al-Jaafari, who faces intense opposition from Sunnis, Kurds and some fellow Shiites, to serve a titular second term with his powers much diminished.

The difficulty in forming a new government had been widely reported to center on al-Jaafari's candidacy to stay on as prime minister. But after three sessions over the past week, the politicians spoke of problems far more widespread than the dispute over al-Jaafari.

"The political crisis that is surrounding us is much deeper than that," said Planning Minister Barham Saleh, a Kurd. "There is no doubt that there is sectarian and ethnic entrenchment in the country even while politicians try to overcome that."

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But Khalilzad appears, on the surface at least, unfazed by the difficulties as he urges patience from a U.S. population increasingly eager to be done with Iraq.

"These conversations have been the most serious that I have seen since I've been here in the course of the last seven or eight months," he said. "I think it will take a few more weeks."

Then would come the test of the U.S. theory that a unity government can solve Iraq's problems.

What We've Gained In 3 Years In Iraq (WP)

By Donald H. Rumsfeld

The Washington Post, March 19, 2006

Some have described the situation in Iraq as a tightening noose, noting that "time is not on our side"and that "morale is down." Others have described a "very dangerous" turn of events and are "extremely concerned."

Who are they that have expressed these concerns? In fact, these are the exact words of terrorists discussing Iraq -- Abu Musab al-Zarqawi and his associates -- who are describing their own situation and must be watching with fear the progress that Iraq has made over the past three years.

The terrorists seem to recognize that they are losing in Iraq. I believe that history will show that to be the case.

Fortunately, history is not made up of daily headlines, blogs on Web sites or the latest sensational attack. History is a bigger picture, and it takes some time and perspective to measure accurately.

Consider that in three years Iraq has gone from enduring a brutal dictatorship to electing a provisional government to ratifying a new constitution written by Iraqis to electing a permanent government last December. In each of these elections, the number of voters participating has increased significantly -- from 8.5 million in the January 2005 election to nearly 12 million in the December election -- in defiance of terrorists' threats and attacks.

One of the most important developments over the past year has been the increasing participation of Iraq's Sunni community in the political process. In the volatile Anbar province, where Sunnis are an overwhelming majority, voter turnout grew from 2 percent in January to 86 percent in December. Sunni sheiks and religious leaders who previously had been sympathetic to the insurgency are today meeting with coalition representatives, encouraging Iraqis to join the security forces and waging what violent extremists such as Abu al-Zarqawi and his al-Qaeda followers recognize as a "large-scale war" against them.

The terrorists are determined to stoke sectarian tension and are attempting to spark a civil war. But despite the many acts of violence and provocation, the vast majority of Iraqis have shown that they want their country to remain whole and free of ethnic conflict. We saw this last month after the attack on the Shiite shrine in Samarra, when leaders of Iraq's various political parties and religious groups condemned the violence and called for calm.

Another significant transformation has been in the size, capability and responsibility of Iraqi security forces. And this is vitally important, because it is Iraqis, after all, who must build and secure their own nation.

Today, some 100 Iraqi army battalions of several hundred troops each are in the fight, and 49 control their own battle space. About 75 percent of all military operations in the country include Iraqi security forces, and nearly half of those are independently Iraqi-planned, Iraqi-conducted and Iraqi-led. Iraqi security forces have a greater ability than coalition troops to detect a foreign terrorist's accent, identify local suspects and use force without increasing a feeling of occupation. It was these Iraqi forces -- not U.S. or coalition troops -- that enforced curfews and contained the violence after the attack on the Golden Dome Shrine in Samarra. To be sure, violence of various stripes continues to slow Iraq's progress. But the coalition is doing everything possible to see this effort succeed and is making adjustments as appropriate.

The rationale for a free and democratic Iraq is as compelling today as it was three years ago. A free and stable Iraq will not attack its neighbors, will not conspire with terrorists, will not pay rewards to the families of suicide bombers and will not seek to kill Americans.

Though there are those who will never be convinced that the cause in Iraq is worth the costs, anyone looking realistically at the world today -- at the terrorist threat we face -- can come to only one conclusion: Now is the time for resolve, not retreat.

Consider that if we retreat now, there is every reason to believe Saddamists and terrorists will fill the vacuum -- and the free world might not have the will to face them again. Turning our backs on postwar Iraq today would be the modern equivalent of

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handing postwar Germany back to the Nazis. It would be as great a disgrace as if we had asked the liberated nations of Eastern Europe to return to Soviet domination because it was too hard or too tough or we didn't have the patience to work with them as they built free countries.

What we need to understand is that the vast majority of the Iraqi people want the coalition to succeed. They want better futures for themselves and their families. They do not want the extremists to win. And they are risking their lives every day to secure their country.

That is well worth remembering on this anniversary of Operation Iraqi Freedom.

The writer is secretary of defense.

A Top-Down Review For The Pentagon (NYT)

By Paul D. Eaton

The New York Times, March 19, 2006

Fox Island, Wash.

DURING World War II, American soldiers en route to Britain before D-Day were given a pamphlet on how to behave while awaiting the invasion. The most important quote in it was this: "It is impolite to criticize your host; it is militarily stupid to criticize your allies."

By that rule, Defense Secretary Donald Rumsfeld is not competent to lead our armed forces. First, his failure to build coalitions with our allies from what he dismissively called "old Europe" has imposed far greater demands and risks on our soldiers in Iraq than necessary. Second, he alienated his allies in our own military, ignoring the advice of seasoned officers and denying subordinates any chance for input.

In sum, he has shown himself incompetent strategically, operationally and tactically, and is far more than anyone else responsible for what has happened to our important mission in Iraq. Mr. Rumsfeld must step down.

In the five years Mr. Rumsfeld has presided over the Pentagon, I have seen a climate of groupthink become dominant and a growing reluctance by experienced military men and civilians to challenge the notions of the senior leadership.

I thought we had a glimmer of hope last November when Gen. Peter Pace, the chairman of the Joint Chiefs of Staff, faced off with Mr. Rumsfeld on the question of how our soldiers should react if they witnessed illegal treatment of prisoners by Iraqi authorities. (General Pace's view was that our soldiers should intervene, while Mr. Rumsfeld's position was that they should simply report the incident to superiors.)

Unfortunately, the general subsequently backed down and supported the secretary's call to have the rules clarified, giving the impression that our senior man in uniform is just as intimidated by Secretary Rumsfeld as was his predecessor, Gen. Richard Myers.

Mr. Rumsfeld has put the Pentagon at the mercy of his ego, his cold warrior's view of the world and his unrealistic confidence in technology to replace manpower. As a result, the Army finds itself severely undermanned — cut to 10 active divisions but asked by the administration to support a foreign policy that requires at least 12 or 14.

Only Gen. Eric Shinseki, the Army chief of staff when President Bush was elected, had the courage to challenge the downsizing plans. So Mr. Rumsfeld retaliated by naming General Shinseki's successor more than a year before his scheduled retirement, effectively undercutting his authority. The rest of the senior brass got the message, and nobody has complained since.

Now the Pentagon's new Quadrennial Defense Review shows that Mr. Rumsfeld also fails to understand the nature of protracted counterinsurgency warfare in Iraq and the demands it places on ground forces. The document, amazingly, does not call for enlarging the Army; rather, it increases only our Special Operations forces, by a token 15 percent, maybe 1,500 troops.

Mr. Rumsfeld has also failed in terms of operations in Iraq. He rejected the so-called Powell Doctrine of overwhelming force and sent just enough tech-enhanced troops to complete what we called Phase III of the war — ground combat against the uniformed Iraqis. He ignored competent advisers like Gen. Anthony Zinni and others who predicted that the Iraqi Army and security forces might melt away after the state apparatus self-destructed, leading to chaos.

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It is all too clear that General Shinseki was right: several hundred thousand men would have made a big difference then, as we began Phase IV, or country reconstruction. There was never a question that we would make quick work of the Iraqi Army.

The true professional always looks to the "What's next?" phase. Unfortunately, the supreme commander, Gen. Tommy Franks, either didn't heed that rule or succumbed to Secretary Rumsfeld's bullying. We won't know which until some bright historian writes the true story of Mr. Rumsfeld and the generals he took to war, an Iraq version of the Vietnam War classic "Dereliction of Duty" by H. R. McMaster.

Last, you don't expect a secretary of defense to be criticized for tactical ineptness. Normally, tactics are the domain of the soldier on the ground. But in this case we all felt what L. Paul Bremer, the former viceroy in Iraq, has called the "8,000-mile screwdriver" reaching from the Pentagon. Commanders in the field had their discretionary financing for things like rebuilding hospitals and providing police uniforms randomly cut; money to pay Iraqi construction firms to build barracks was withheld; contracts we made for purchasing military equipment for the new Iraqi Army were rewritten back in Washington.

Donald Rumsfeld demands more than loyalty. He wants fealty. And he has hired men who give it. Consider the new secretary of the Army, Francis Harvey, who when faced with the compelling need to increase the service's size has refused to do so. He is instead relying on the shell game of hiring civilians to do jobs that had previously been done by soldiers, and thus keeping the force strength static on paper. This tactic may help for a bit, but it will likely fall apart in the next budget cycle, with those positions swiftly eliminated.

So, what to do?

First, President Bush should accept the offer to resign that Mr. Rumsfeld says he has tendered more than once, and hire a man who will listen to and support the magnificent soldiers on the ground. Perhaps a proven Democrat like Senator Joseph Lieberman could repair fissures that have arisen both between parties and between uniformed men and the Pentagon big shots.

More vital in the longer term, Congress must assert itself. Too much power has shifted to the executive branch, not just in terms of waging war but also in planning the military of the future. Congress should remember it still has the power of the purse; it should call our generals, colonels, captains and sergeants to testify frequently, so that their opinions and needs are known to the men they lead. Then when they are asked if they have enough troops — and no soldier has ever had enough of anything, more is always better — the reply is public.

Our most important, and sometimes most severe, judges are our subordinates. That is a fact I discovered early in my military career. It is, unfortunately, a lesson Donald Rumsfeld seems incapable of learning.

What Will Happen Next In Iraq? (KCS)

By Ramesh Ponnuru

The Kansas City Star, March 19, 2006

"I suspect the shape of the year to come is going to depend crucially on the next few weeks, particularly on whether there's a political settlement in Iraq. If that happens, then it is possible the security situation improves. If the political situation comes unglued, then we've lost the last great, positive thing we have going for us. That is a scenario for either civil war or some kind of ignominious kind of American retreat, followed by civil war.

"There is reason to hope. The political situation has been better than the security situation. The question is whether the fact that a civil war would serve no one's real interest will ultimately exert enough pressure to keep that (civil war) from happening."

U.S. Rep. Ike Skelton

Ranking Democrat, House Armed Services Committee

"Who has a crystal ball? Two things have to happen: You have to get the security situation under control and … all the ministries have to function, and the Iraqi people have to respond positively. If those two things don't happen, Humpty Dumpty will not be put together again, and you can bet your bottom dollar you will have a melee like you have never seen before.

"The American people strongly support the troops, (but) the support for the mission is beginning to wane. With some good luck, this can all come out at the end of the day with a responsible government and with Iraq forces quelling the violence. We're going to have to have good luck along with some hard work."

Danielle Pletka

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Vice president, foreign and defense studies, American Enterprise Institute

"I expect a drawdown of American troops. It's hard to misread the signals that we're getting from the administration. I think the (Iraqi) government will be formed. They're taking a long time coming together, but this is a big challenge. With the security force on ground, they're going to get better because they've got the best training ground in the world, unfortunately.

"I think instinctively the American people want to bring the troops home. They don't want to bring troops home prematurely if they sense there's a political overlay to the decision-making. If it's timed for the midterm election, that's a reasonable thing for the American people to have some skepticism about. I think Americans have enormous staying power. They'd have liked the Bush administration to have been more competent. But they're not just going to throw the Iraqi people to their fates saying, 'Whoops. Sorry. That was a mistake.' "

John Pike

Director, GlobalSecurity.org, a defense and security information Web site

"I think that over the next 12 months, the surprise-free scenario is that the American casualty rate drops by half and the American troop presence goes below 100,000. But this whole thing could fly apart in 48 hours. The whole thing could degenerate into a genocidal civil war very quickly, and political support for American troops (staying in Iraq after) getting caught in crossfire could collapse pretty fast. You could see political support for this in Washington collapse very quickly if there was no discernible purpose for the American presence there.

"I think we're going to bomb Iran over the next year or two. What impact is that going to have on Iraq? That's hard to say. It has to be in the back of everybody's mind as to how do we stay away from that probability."

Shibley Telhami

Anwar Sadat professor for peace and development, University of Maryland, and noted author of several books on the Middle East

"I opposed the war because we have the power to reshuffle the deck in Iraq, but we don't have the power to determine where the cards will fall. The cards are still falling. Once you dismantle a state, it is an uphill battle to reconstruct it. The forces at work are highly volatile and unpredictable. I wouldn't rule out that things could get better. I wouldn't rule out that things could get worse.

"The momentum is for more sectarian violence and civil war. Once you have central authority destroyed, all it takes is a determined minority that wants civil war. We have a determined minority that wants civil war. Even with the best of intentions, it is very difficult to overcome."

Paul Rieckhoff

Executive director and founder of Iraq and Afghanistan Veterans of America, a nonpartisan group that favors a strong military and encourages veterans to run for office. An Army 1st lieutenant, he served a year in Iraq as an infantry platoon leader.

"What you are going to start to see that is most alarming is the real cost of the overextension of our military. Every active duty division has been through at least once. The numbers are starting to look like a drawdown (of troops). But it's not going to be because of the political stability in Iraq or the political pressure on Bush at home. The generals are going to sit down and say to him, 'You are going to have to choose, one or the other: Continue the level of engagement or keep our homeland secure.'

"Like when you were a kid and played 'Risk,' you only have a certain number of pieces to play."

Diminishing The U.S. Footprint (WP)

By Jim Hoagland

The Washington Post, March 19, 2006

Two important and related changes in the Bush administration's strategy for the long war on global terrorism emerged here last week. One tiptoed in quietly. The other came with trumpets blaring for political effect. It might have worked better the other way around.

The quiet change was suggested in classified briefings for friendly diplomats and visiting foreign officials: U.S. troops will be moving out of Iraq's streets and then out of Iraq's cities by the end of this year as part of a coordinated drawing down and

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concentration of all foreign forces. Troops from Italy and other nations will leave the country, and a reduced British force will redeploy into a smaller area of operational responsibility.

This is part of a new internal exit strategy that President Bush hinted at in Monday's Iraq speech. U.S. forces will stay in Iraq beyond 2006 to fight al-Qaeda and other Islamic extremists who are using Iraq as a platform for terrorism. Iraqi units -- operating with U.S. logistical assistance from remote locations and embedded command help -- are to be given primary responsibility for containing the domestic insurgency. This is what Bush calls Iraqis standing up to allow Americans to stand down.

Drawing lines between global and local terrorists will be a difficult task, as U.S. officials privately acknowledge. And Iraqi security forces and their political leaders, deadlocked in an intensifying power struggle, still must demonstrate they can carry out their part of the internal exit strategy.

But on its face, that strategy is a coherent way of reducing the foreign occupation footprint that fuels much of the conflict in Iraq. It realistically scales down what Iraqi units can be expected to accomplish: a long-term containment of terrorist attacks to a level that does not destroy the country's fraying ethnic and sectarian balances, rather than a quick final victory over the rebels. Finally, an internal exit is consistent with the administration's newest National Security Strategy white paper, released with fanfare Thursday.

The White House has struggled since Sept. 11, 2001, to define with precision both the enemy that Americans confront and the path to victory they must take in the war on terrorism. The Bush team gets closer with this exercise, which portrays the long war as a global ideological struggle that hinges on a battle of ideas within and about Islam.

That is change: The words "ideology" and "Islam" were each mentioned only twice, and in passing, in the 12,629-word version of the strategy document issued in 2002. They are at the conceptual heart of this year's paper (longer by one-third), which argues that Washington and its allies must "counter the lies behind the terrorists' ideology" by empowering "the very people the terrorists most want to exploit: the faithful followers of Islam. . . . Responsible Islamic leaders need to denounce an ideology that distorts and exploits Islam for destructive ends and defiles a proud religion."

Bush himself steered drafters away from any discussion of Islam in the earlier paper, I am told, and his concern about attacking another religion is reflected in a caveat this year that "the War on Terror is a battle of ideas . . . not a battle of religions." But this year's realistic acknowledgment of the decisive role of moderate Muslims in defeating al-Qaeda and its allies is a welcome adjustment.

The heavy emphasis on ideology -- explicitly al-Qaeda's and implicitly Bush's -- is less useful. By proposing democracy as a cure-all for the vast frustrations and delusions of al-Qaeda's target audience, the White House skips over a lot of the hard work that must still be done to shape the military and political battlefields of the long war, trying instead to rally U.S. and foreign support for Iraq and Afghanistan.

A new tone of realism about those conflicts has taken hold in internal administration discussions of the way forward. Nothing could reassure Americans more than publicizing that change.

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The intensity of the power struggle in Baghdad was brought home to me when my phone rang shortly after a column reporting that Prime Minister Ibrahim al-Jafari is fighting to keep his job was published last week. The president of Iraq, Jalal Talabani, was calling to say that he, too, is dug in: The Shiite alliance that backs Jafari should present an alternative candidate so a "national unity" government can be formed "in the next two weeks."

Talabani, an acquaintance of 30 years, would not discuss his reasons for opposing Jafari now. But speaking in English, he emphasized that the presidency needs new powers to block "extreme demands from the other side."

As they say, stay tuned.

Bleakness In Baghdad (WP)

By George F. Will

The Washington Post, March 19, 2006

At this moment, one of the most dangerous since World War II, America's perils are exacerbated by the travails of a president indiscriminately despised by Democrats and increasingly disregarded by Republicans. What should he do?

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First, concentrate the public's mind on the deepening dangers beyond Iraq. Second, regarding Iraq, accentuate the negative and eliminate the positive -- that is, emphasize the dangers of failure and de-emphasize talk about Iraq's becoming a democracy that ignites emulative transformation in the Middle East.

The dangers? Iran's regime proceeds with its drive for nuclear weapons, unfazed by threats of "isolation." North Korea has received less attention lately than have Denmark and Dubai. In Afghanistan, according to Lt. Gen. Michael Maples, head of the Defense Intelligence Agency, "insurgents now represent a greater threat to the expansion of Afghan government authority than at any point since late 2001." That government has an army of only 35,000 for a country nearly 50 percent larger than Iraq. The insurgency, by draining the government's energy, serves the lords of the heroin trade that accounts for at least a third of Afghanistan's gross national product.

But more than any presidency in living memory, George W. Bush's will be judged by a single problem -- Iraq, where on May 30 the war will be twice as long as was U.S. involvement in World War I. Today the impotence of Iraq's quasi-government is prompting ethnic recleansing: The government is too weak to prevent private groups from pursuing coercive reversals of Saddam Hussein's various ethnic cleansings. And in the absence of law and order, Iraqis seek safety in sectarian clustering.

Maples delicately says that although Iraq is not "at this time" in a civil war, "the underlying conditions" for such a war "are present." But civil wars do not usually begin with an identifiable event, such as the firing on Fort Sumter, or proceed to massed, uniformed forces clashing in battles like Shiloh. Iraq's civil war -- which looks more like Spain's in the 1930s -- began months ago.

In Spain, the security forces were united and in three years were victorious. Defense Secretary Donald Rumsfeld and Gen. John Abizaid, U.S. commander in the Middle East, recently said that Iraqi forces would cope with a civil war "to the extent they're able to" (Rumsfeld) and "they'll handle it with our help" (Abizaid). Their problematic assumption is that Iraq's security forces have a national loyalty and will not fracture along the fissures of Iraq's sectarian society.

Tom Ricks, military correspondent for The Post, has doubts. He recently returned from his fifth visit to Iraq. In March 2003 he thought that the invasion was a strategic mistake in the struggle against terrorism. His assessment of subsequent events is the title of his book, coming in September: "Fiasco." Now, however, he thinks that a U.S. withdrawal would leave chaos that might lead to radical Islamists acquiring what they most want: Saudi oil fields and Pakistani nuclear weapons. So America, he thinks, needs a plan to reduce fatalities to two or three a week, then two or three a month.

But who, he wonders, will control the likes of Moqtada al-Sadr? Imagine, Ricks says, another cleric, the Rev. Al Sharpton, controlling the Bronx with a militia he can call into the streets at any time. Last Monday, when Bush again celebrated Iraq's progress from tyranny to December's "elections for a fully constitutional government," this was life in Iraq, as reported by the New York Times:

"Shiite vigilantes seized four men suspected of terrorist attacks, interrogated them, beat them, killed them and left their bodies dangling from lampposts. . . . In Sadr City, the Shiite slum in Baghdad where the terrorist suspects were executed, government forces have vanished. The streets are ruled by aggressive teenagers with shiny soccer jerseys and machine guns. They set up roadblocks and poke their heads into cars and detain whomever they want. . . . 'This is our government now,' [a retired teacher] said, nodding toward Mr. Sadr's glowering face on television."

Conditions in Iraq have worsened in the 94 days that have passed since Iraq's elections in December. And there still is no Iraqi government that can govern. By many measures conditions are worse than they were a year ago, when they were worse than they had been the year before.

Three years ago the administration had a theory: Democratic institutions do not just spring from a hospitable culture, they can also create such a culture. That theory has been a casualty of the war that began three years ago today.

georgewill@washpost.com

The Stuff That Happened (NYT)

The New York Times, March 19, 2006

Three years ago, the United States invaded Iraq. We can all run the story through our minds: Shock and Awe, Coalition of the Willing, Mission Accomplished, looting, "Stuff happens," no W.M.D., suicide bombers, purple fingers, blasted shrine.

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Many who supported the invasion have taken this anniversary to argue that it all would have been worthwhile if things had been run better. They argue that if the coalition forces had been large enough to actually secure the country, to keep insurgents from raiding Saddam Hussein's ammunition depots, to give the people a sense of safety, the country might well be on the road to a hopeful future.

We doubt it. The last three years have shown how little our national leaders understood Iraq, and have reminded us how badly attempts at liberation from the outside have gone in the past. Given where we are now, the question of whether a botched invasion created a lost opportunity might be moot, except for one thing. The man who did the botching, Donald Rumsfeld, is still the secretary of defense.

The generals on the ground understood what a disaster they were creating in the pell-mell race to Baghdad, which left in its wake an entire country full of places where Saddam Hussein's loyalists could regroup and prepare to carry on a permanent war against the Americans and their fellow Iraqis. As the new book "Cobra II" by Michael Gordon of The Times and Bernard Trainor underscores, the generals in the field were overruled by directives from Washington, where military decisions were being made by men who were guided not by reality, but by their own beloved myths about what Iraq was like and how the war was going to be won.

Chances are that at the time George W. Bush did not have an inkling of how badly he was being served by the decision makers at the Pentagon. But the fact that Mr. Rumsfeld continues to hold his job tells us that Mr. Bush doesn't care, that he prefers living in the same dream world that his secretary of defense inhabits.

In their wishful thinking, Mr. Bush and Mr. Rumsfeld undoubtedly tell themselves what they tell us: that the Iraqi people are better off than they were under the brutal dictator, that the Iraqi security forces are gradually learning how to take over defense of their own country and that a unified government is still a good possibility. It's true that many Iraqis are better off. Others are in far worse straits — their homes have been ruined, their relatives killed, their jobs evaporated and their ability to walk the streets in safety obliterated. Women's rights are being threatened in the south, and sectarian warfare has put families with mixed Shiite-Sunni ancestry at risk in their own neighborhoods. It is hard to quantify relative degrees of misery and pain in these circumstances. But unlike the horrors of Saddam Hussein, the horrors of the present can be laid at America's doorstep.

If the mission in Iraq was to create a stable democracy in the heart of the Middle East and inspire neighboring countries to follow the same path, the results have been crushingly bad — unless Mr. Bush regards the election of Palestinian terrorists as the leaders in Gaza and the West Bank as a step forward. Iran is extending its sway by the hour. In Afghanistan, American forces are too thin to do much more than protect the central government in downtown Kabul.

The idea that Iraqi security forces are poised to take over the job of protecting the people in a unified country is almost ludicrous. Many of those forces are actually sectarian militias that have been armed by the coalition forces, but not changed by them. So far, attempts at creating a government that could bring the country some modicum of stability have fallen apart. There are no leaders with the strength or credibility or even desire to rally anyone but their own co-religionists or ethnic group.

When Americans ask themselves whether anything has been accomplished in Iraq, they do take note that there have been no terrorist attacks on American soil since 9/11. That has been an enormous blessing, for which law enforcement officials can offer no explanation other than somewhat perplexed guesses. It's possible that the chaos in Iraq has distracted Al Qaeda, diverting its energy to fomenting civil war between Sunnis and Shiites in the heart of the Middle East. If that is so, we may have bought short-term peace while creating a training ground for terrorists and a no man's land where they can operate with impunity.

The Iraq debacle ought to serve as a humbling lesson for future generations of American leaders — although, if our leaders were capable of being humbled, they could have simply looked back to Vietnam. For the present, our goal must be to minimize the damage, through the urgent diplomacy of the current ambassador and forceful reminders that American forces are not prepared to remain for one day in a country whose leaders prefer civil war to peaceful compromise.

While we are distracted by picking up the pieces, there is no time to imagine what the world might be like if George Bush had chosen to see things as they were instead of how he wanted them to be three years ago. History will have more time to consider the question.

Shock, Awe And Humility (LAT)

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The Los Angeles Times, March 19, 2006

THREE YEARS AGO TODAY, Iraqis were "shocked and awed" by the power of the U.S. military. Today, Americans are shocked and awed by its limits. If the "cakewalks" of the 1980s and 1990s — Grenada, the Gulf War, Kosovo — restored America's belief in its omnipotence, so badly shaken in Vietnam, the occupation of Iraq has been a humbling letdown.

With a mere 38% of the public still thinking that the war is going well, and more than 2,300 U.S. troops dead, it's become fashionable for the war's initial supporters to have second thoughts. We opposed the decision to go to war. But we will resist the temptation to be fashionable and will take this opportunity to at least concede that the Bush administration's actions were rooted in a strain of American idealism most often identified with Woodrow Wilson. The decision to topple Saddam Hussein's regime was a Wilsonian attempt to preserve the notion of collective security; even more idealistically, it was an attempt to create an oasis of American-style democracy and prosperity that would alter the complexion of the entire region.

So much for the vision. The reality has been — to use a term from another unpopular war — a quagmire. Bush's messianic idealism was never justified, and in any event the administration's flawed execution would have undermined his purpose. The list of gaffes is by now distressingly familiar: the flawed intelligence on weapons of mass destruction, the lack of sufficient troops, the tainted contracting process and so on.

To be fair, Washington has persevered in its quest to create a representative democracy in Iraq. But American surprise at the unfolding Sunni-Shiite schism, and our lack of preparedness to deal with the early dismantlement of the Iraqi military, have made the world's reigning superpower look, once again, oddly naive.

And though it pledges to "stay the course" in Iraq, the Bush administration has long since fled the battlefield of ideas. It embarrassingly resorts only to Orwellian talk of a "war on terror" instead of addressing real issues, and its claims of relentless success are not to be taken seriously.

Most opponents of the war are hardly in a position to gloat about American difficulties in Iraq. Russia, France and Germany all cynically manipulated the run-up to the war for their own purposes, and they comforted Hussein by allowing him to believe that the international community would never take concerted action against him. And much of the mocking by Bush critics about the supposed absurdity of the administration's claims about weapons of mass destruction is revisionist nonsense. As the New York Times reported last Sunday, Hussein's own top military commanders were stunned to learn three months before the start of the war that they had no WMD at their disposal. There is a Shakespearean quality to the tale of the dictator bluffing his way to his own demise, and it's hard for those of us who opposed the war to bemoan his removal.

As it enters its fourth year, the war in Iraq defies simplistic characterizations from both ends of the political spectrum. The heroism of U.S. forces and of ordinary Iraqis going about their daily lives is inspiring. But the future of Iraq remains shrouded in gray uncertainty.

Veterans' Voices on Iraq (WP)

Washington Post, March 19, 2006

The heat, which is like living under a french-fry lamp, like standing in front of the world's biggest hair dryer, like sitting in a sealed car on the hottest summer day in Washington with the heater blasting and someone throwing sand in your face.

The mud, which follows the hot season, cold, slimy, sticky mud that makes you wish it would turn hot again.

The green that erupts after a spring rain and astounds you the first time you see it. The blue of the timeless sky above and beyond all the troubles. The black of the inky desert night, thickly dusted with stars and galaxies.

The eyes of the children.

These are some of the things they remember from their service in Iraq.

Over the past year, The Washington Post conducted in-depth interviews with 100 of the more than 500,000 veterans of the war. They included men and women, officers and enlisted, active-duty and reserves, combat and support troops. The questions were open-ended. The intent was to hear from them, in their own words, what the experience was like.

They remembered the camel spiders, big, fast and scary-looking. The sand flies, scorpions, mosquitoes and flying crickets. The long, hard days -- 12-hour shifts that easily turn into 20-hour shifts when they don't turn into round-the-clock marathons.

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They remembered the roaring metal of System of a Down and Adema, the throbbing rap of Public Enemy and 50 Cent, the soldier-celebrating anthems of Toby Keith:

And I can't call in sick on Mondays/When the weekend's been too strong/I just work straight through the holidays/And sometimes all night long. . . .

Stringing Xbox cables from bunk to bunk to play Madden football or Tony Hawk skateboarding games in the two-man residential trailers known as "cans." Visiting the "hadji marts," clusters of enterprising Iraqis who sell everything from bootleg DVDs to rotgut alcohol on the roadside just beyond the wire of nearly every camp. Watching an entire season of "The Simpsons" or "CSI" or "Saved by the Bell" on your laptop. Watching your baby grow up via e-mail and webcam.

Wondering how honest to be with the folks back home. You don't want them to worry. So you try to sound cheerfully vague and remind them to send gummy candies, which don't melt, rather than chocolates, which do. But all that loving deception ends in a whoosh if a mortar hits during a telephone call to Mom.

Iraq was bad, nearly all of them agreed. "Not knowing day to day what was going to happen." "Hard to figure out who the enemy was." "Never being able to relax." "The rules are that there are no rules."

But it was not bad in the ways they see covered in the media -- the majority also agreed on this. What they experienced was more complex than the war they saw on television and in print. It was dangerous and confused, yes, but most of the vets also recalled enemies routed, buildings built and children befriended, against long odds in a poor and demoralized country. "We feel like we're doing something, and then we look at the news and you feel like you're getting bashed." "It seems to me the media had a predetermined script." The vibe of the coverage is just "so, so, so negative."

No two sets of memories were identical. This almost goes without saying, but not quite, because it underscores a point made by many of the veterans. Some of the deepest impressions left over from Iraq were not the externals -- the sights, sounds, smells, scenes -- but the internal marks. In Iraq, they saw, did and endured things they hadn't seen, done or imagined before, and this affected each one uniquely.

"Each individual over there has his own little war he is fighting," Army medic Joe Drennan explained. "No two people are going to have the same experiences." These personal wars add up to the war they share.

* * * A lot depended on when they were over there.

The invasion -- three years ago today -- was a blur, pulsing with excitement and wired on Adderall. Invasion vets remembered villages of blank-faced Iraqis lining the roads as the armor sped past, and ranks of empty Iraqi tanks bombed out in the desert, and busloads of men in civilian clothes suddenly opening fire, and a sandstorm so thick they could hardly see their hands in front of their faces.

Arriving in Baghdad, "I had an Iraqi citizen come up to me," said Lance Cpl. Daniel Finn, a Marine infantryman. "She was a female. She opened her mouth and she had no tongue. She was pointing at the statue" of Saddam Hussein. "There were people with no fingers, waving at the statue of Saddam, telling us he tortured them. People were showing us the scars on their backs."

After the initial victory came lean months when the war had too much death and not enough infrastructure. Troops slept in their armored trucks -- if their trucks were armored. They ate cold chow and drank hot water and dug pit toilets where they suffered "Saddam's revenge." They scraped the grime from their skin with baby wipes mailed from home. No one had planned for so many Americans to live in Iraq for so long.

Little by little, the cans arrived with their cushioned bunks and air conditioning. Showers and restrooms were built. Apart from the improvised explosive devices, the ambushes, the suicide bombers and the mortar attacks, life became sort of bearable. Rec centers opened with large-screen TVs and air-hockey tables. Dining halls began serving hot food and icy sodas.

Once-a-week phone calls home gave way to broadband Internet connections. Movie theaters and coffee bars opened. Gyms were built on most bases.

"The great stress reliever was exercise" -- veterans reported this again and again. Opportunities for sex apparently varied from one part of the country to another, and drinking was forbidden. A few veterans admitted that they had a swig, or more, of bootlegged or smuggled booze. But the most common way to vent the tension was to pump iron and work the cardio machines for an hour or two at the end of a long day.

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With a few exceptions, the veterans described a highly professional, almost spartan force, characterized by resilient morale and good discipline. "I didn't touch a girl or alcohol for seven months, and that was tough," said Sgt. Christopher Johnson of the Marine Reserve. Many said they were ready to return to Iraq.

* * * In some ways, they talked about a war much like all wars for all troops in all times. It was a test, personal and elemental. To understand it, you must go through it; no words could entirely convey the experience to those who were not there. Many veterans described a moment, different for each person, when the test boiled down to a single yes-or-no question -- again, slightly different for each person.

Would you fight or flee? Would you crack under pressure? Would you shoot or freeze? Was it better to know that you hit your target, or not to know?

Army Staff Sgt. Christopher Day spoke of wondering "what I would do when I start getting shot at. Will I fire back or curl in a ball? And sure enough, I fired back right away."

The reason he fired back was also timeless. "It was not so much for myself, but for the guys beside me," Day said. "I was shooting and trying to kill the people that were trying to kill my friends."

He used the word "friends." Others preferred family terms. GIs talked about their "brothers." Officers spoke of their "kids." The intense bonds they formed had little to do with like-mindedness and everything to do with shared risk and mutual dependence.

"Soldiers are nonpartisan," explained Staff Sgt. Larry Gill of the National Guard. "We could give a rat's heehaw about same-sex marriage or other issues. We're given a job to do, and you go out and do your job. Because if you don't, someone's going to get hurt or die."

The officers are often gung-ho. "We are professionals," said Capt. Tyler McIntyre of the Army headquarters staff. "If you just step back, give us some breathing space, let us do our job, we'll get it done."

The enlisted troops, sometimes less so. You "meet a lot of active-duty hoorah guys and then some of us who were National Guardsmen who weren't so sure why we were there," said Spec. Amy Capistran, a mechanic with the Virginia National Guard. In other ways, it has been a war like no other.

Civilian contractors performed many of the support roles that would have been handled by GIs in past wars. Some of these were menial jobs few would have wanted. Other contractors did security work. To many troops, it didn't seem fair that these mercenaries earned big salaries and could party after work.

Technology shaped the war experience in ways both good and bad. The distance between troops and their families was closed by e-mail and satellites and instant messages and blogs. But officers worried constantly that families might discover bad news inadvertently. The bad news as of this weekend was 2,313 killed and 17,124 wounded.

The presence of women in a wider variety of roles also sets the Iraq war apart. Commanders have struggled, in some cases, to know how to manage a coed military. 1st Lt. Tanya Lawrence-Riggins of the Army National Guard said she and the other women in her unit had to bathe outdoors, screened by parked trucks, because an active-duty commanding officer didn't want them in the showers.

Other women complained that every friendship they formed with a male soldier was grist for gossip. "The rumor mill was horrific," said National Guard Lt. Connie Woodyard, whose husband served at another base in Iraq. "I was just like, 'I'm not getting that much sex! If I were, I'd like war a whole lot more.' "

* * * The difference between a hot day and a cold day in Iraq is more than 100 degrees. The historical sites are among the oldest in the world -- the ruins of Babylon, Nineveh and Ur. The poverty in some places is appalling. Iraq is an extreme land, where American troops must cope with extremity.

Extremes of doubt: "It was hard to figure out who the enemy was. Everyone practically looks the same and dresses the same. You didn't know who was a terrorist and who was not," said Spec. Greg Seely, a Virginia National Guardsman.

Extremes of emotion: "The bombs were everywhere," said Army Staff Sgt. John Thomas. "You feel like you are in a movie. You drive through the town, you see the women out in the fields, and children and other people are on the roofs watching. They are waiting on the roofs to see you get blown up."

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Extremes of angst: "It's a lot harder than what a lot of people think, especially if you have a family," said Navy Corpsman Nathanial Slenker. "You're worried about your family. About the friends that you're there with. You worry about yourself and your ability to keep handling situations. You're constantly worrying."

This report was based on interviews conducted by staff writers Cameron W. Barr, Christian Davenport, Jennifer Frey, Sonya Geis, Bradley Graham, Mary Hadar, Rosalind S. Helderman, Pablo Izmirlian, Tamara Jones, Kari Lydersen, Renae Merle, Evelyn Nieves, Don Oldenburg, Lois Romano, Jackie Spinner, Jacqueline Trescott, Ann Scott Tyson, Jose Antonio Vargas, Jonathan Weisman, Josh White, Clarence Williams and Griff Witte. It was written by staff writer David Von Drehle.

Iraqis See Long Road To Recovery (WT)

By Sharon Behn

The Washington Times, March 19, 2006

BAGHDAD -- Iraqis interviewed on the streets of Baghdad on the eve of the third anniversary of the U.S.-led invasion said it will take at least a decade, maybe longer, to get their country on its feet.

After three years of war and with no signs of the conflict in Iraq ending soon, many Iraqis said they had lost confidence in their political leadership's ability to pull the country together.

"Saddam [Hussein] was a dictator, it was one-party rule, but now we have 60 parties running the country," said 55-year-old Falah Hassan, referring to the multiple political factions that make up the main political alliances in the national assembly. Tomorrow marks the third anniversary of the invasion that toppled Saddam.

"We don't want to say Saddam is better than this, but the situation is bad," said Mr. Hassan, fingering his Muslim prayer beads as he stood in the entrance of his small hardware store in Baghdad's busy shopping district of Karrada.

"It will not be less than 10 years" before Iraq is back to normal, and we will once again feel safe, Mr. Hassan said.

For 30-year-old Ayad Khaz Ali, who works in Baghdad's leather district selling custom-made leather coats, getting rid of Saddam was like being let out of a cage.

"We felt happy when the dictator fell, but the ones who took that happiness away are the terrorists," he said, adding that business had dropped off as death and violence has dominated the streets.

"We just blame our government and security systems, because they are not doing anything to get rid of the terror here in Iraq," Mr. Ali said.

But he denied that there was a civil war.

"Our brothers are getting killed every day, Shi'ites and Sunnis. But [civil war] must start from the bedroom, because there are a lot of mixed marriages here -- that will never happen," he said.

Despite the mistakes Mr. Ali felt the American-led coalition has made in Iraq, such as disbanding the army, he called on them to stay until Iraq had a leader with a "steel fist" capable of stopping the violence.

"If they left now, it would be a victory for the terrorists," he said.

Others say civil war is already under way, and point out that even repeated curfews have failed to stop sectarian slayings and car bombs that continue to explode daily in the capital.

"Civil war exists right now, but it has not been announced," said Ali Faris, who works in a cigar shop in the once-upscale business district of Arasat.

"It will take 10 years or more to fix Iraq -- if we don't break out in full-scale civil war," he said.

Mr. Faris said the Americans are the only ones who have enough power to roll back the violence. "If the U.S. destroyed the Soviet Union, can they not fix Iraq?" he asked.

The United States currently has about 130,000 troops in Iraq, and last week deployed to the Baghdad area an additional battalion task force from its "call-forward force" in Kuwait.

Life is much more peaceful in the Shi'ite dominated south and Kurdish north, with businesses open late and few of the horrific bombs and attacks that prevail in the strongly Sunni and religiously mixed areas of central Iraq.

Najeeb Hanoudi, an Iraqi Catholic in his 70s who grew up side by side with Muslims in the now-troubled city of Mosul, said the solution to Iraq's lethal triple insurgency of nationalists, former Ba'athists and al Qaeda was not easy, but it was possible.

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"They can be bought off," he said, smoking calmly in a Baghdad hotel coffee shop. "You can buy people here by three methods: money, women and food. Every Iraqi, including myself, is amenable to this sort of treatment." All except the al Qaeda group, led by the Jordanian-born Islamic extremist Abu Musab Zarqawi, he said.

"They are the most dangerous. They don't care about human life. They murder, they decapitate, and I don't know why," Mr. Hanoudi said.

A supporter of the Americans when they first arrived in Iraq and their removal of Saddam, Mr. Hanoudi is now much more reserved. His son was shot by U.S. troops, and despite U.S. attempts to help, his son now lies in a vegetative state.

"The current situation is chaotic, dangerous and very unpredictable in every aspect. I'm very sad that it has turned out to be like that," he said, sipping some milky coffee.

After an hour of talking, Mr. Hanoudi concluded: "I might have given a gloomy and pessimistic picture, but still, in the depths of my heart, I am cautiously optimistic for a better future, for freedom, prosperity and democracy for my children and grandchildren."

In military action yesterday, American and Iraqi troops pushing through a desolate area of Iraq's Sunni Arab heartland rounded up dozens more suspected insurgents, including the purported killers of a television journalist, U.S. and Iraqi officials told the Associated Press yesterday.

In Baghdad, meanwhile, a dozen more bodies were found as a shadowy war of Shi'ite-Sunni reprisals went on, and Shi'ite Muslim pilgrims heading to the holy city of Karbala again came under attack, with a roadside bomb killing one and wounding at least five, the AP reported.

How Do You Say Clueless? (WP)

By Muean Aljabiry

The Washington Post, March 19, 2006

The noise of the C-130 was deafening. One week after the liberation of Iraq, I was bound for Baghdad. The plane's gray and red colors and the crew's khaki uniforms were in sharp contrast to the attires of the 20 or so passengers: State Department types in suits and ties, women in Eddie Bauer outfits, a few men in blue jeans. At the tail end of the plane, a young woman in uniform, her legs dangling from the edge, was "manning" a gun.

Bottled water and foam ear plugs were distributed to us. The tall cowboy from Oklahoma sitting next to me volunteered to show me how to knead the foam, in order to insert the plugs in my ears. I thanked him and introduced myself. Noticing my accent or the peculiarity of my name, he asked in a loud voice: "Where from?"

I mumbled a few words about being from Northern Virginia and added that I was born in Najaf.

He looked at me as if recalling someone he had known before. "Oh, that's India, right? Never been there, but someday I will." He shook my hand firmly and I learned that Bill was an Army Reserve lieutenant colonel being deployed to Baghdad to work with a unit dealing with civil affairs.

On the bus from the airport in Baghdad, I felt a mixture of exhilaration and nervousness. How, I wondered, would I reach the family with whom I had lost contact since the start of this war? They were unaware of my coming and I had no idea as to their safety or well-being.

The last time I had been on that road was back in October 1981, during the Iraq-Iran war, when, with a broken spirit, I had left Baghdad for the last time. After I had made "Rasheed Street," a film about the history of Baghdad's famous main street, Saddam Hussein's henchmen made me an offer that they said I should not refuse: to make a big budget film with an international cast about the life of the "great leader." Once I rejected their offer, they banned my film and made my life, and that of my family, very miserable. After spending a few days in jail and having all the money in my bank account confiscated, I left, promising never to return until the monster was gone. Now, the absolute thrill of being back in a free Iraq, liberated from that hideous regime, was so overwhelming that I shoved all my anxieties aside and contemplated my task ahead.

I was assigned by the State Department to interpret for the Baghdad Conference (to establish an interim government) and later to provide language support to both Barbara Bodine and retired Lt. Gen. Jay Garner, the two highest officials in postwar Iraq.

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I didn't know how the experiment would turn out. But as I arrived in Baghdad, I really believed the United States had an efficient, well-studied plan to put Iraq together after toppling the Saddam regime.

What I witnessed in the year or so I spent helping U.S. officials on the ground in Iraq, and what I have seen more recently, has made me doubtful about our competence for nation building, an exercise the United States initially claimed to have no interest in carrying out. Perhaps for that reason, America didn't seem to have studied Iraq's long history of repulsing occupiers. When the British attempted to build a nation in Mesopotamia at the end of World War I, it was confronted with a great revolt that continues to be a source of pride to Iraqis. I sometimes worry that, like the British enterprise, the U.S. effort to build a pluralistic, democratic society in Iraq will be remembered primarily for the insurgency it has spawned.

When we arrived from the airport, we were ushered into the Baghdad Convention Center, given flimsy mattresses and blankets and told to find a place to sleep. I tried to sleep but the acrid smell of burnt gasoline or rubber tires made it difficult to breathe. With no electricity and in the pitch darkness, everything was stirring in my mind like a film in fast forward. I imagined the voice of Lt. Col. Bill Kilgore from "Apocalypse Now" echoing across the halls of the Convention Center: "I love the smell of napalm in the morning . . . The smell, you know that gasoline smell . . . smelled like . . . victory . . . Someday this war's gonna end." Eventually I collapsed and fell into a deep, deep sleep.

The conference was reminiscent of the commotion in "Lawrence of Arabia," when the British officer T.E. Lawrence gathered the citizens of Damascus back in 1918. There were clerics in white and black turbans, men in traditional tribal headdress, and many who wore Western suits. As Garner addressed the gathering, the audience was shouting complaints about looting and the lack of security, electricity and other services. There was no semblance of order in the hall. Responding to his unruly audience's demands, Garner started assigning security functions to some of the clerics and the tribal sheiks. "Rebels, especially successful rebels, were of necessity bad subjects and worse governors," Lawrence wrote amid the chaos of liberated Damascus. It seemed that the same could be said of these Iraqi generals, clerics and chieftains.

Not long after, my new friend Lt. Col. Bill came to ask me to teach him a few words in Arabic. He said he was assigned to deal with the former Ministry of Culture and that he needed help to interact with its department heads. He inquired if Iraqis' "language" is different from that of Saudis. He wanted to know whether Iraqis say marhaba , instead of greeting each other with salaam alaikum as they do in Saudi Arabia. I managed to teach him how to say shukran, for thank you. And I promised him that learning one phrase per day would make him as good as a native speaker by the time we left Iraq. I could easily tell he did not get the cynicism in my promise.

The motorcade of the new Boss arrived at the main gate of the palace in mid-May. Many smartly dressed men and some women got out of their vehicles. I was trying to get a glimpse of this new presidential envoy, who was sent to make things right in Iraq. The gentleman in the blue suit, striped red tie and combat boots was L. Paul Bremer. He looked sharp even at this broiling temperature. I wondered how long it would be before he started dressing casually like Garner. To me, he looked like a new head of state and I knew that we'd be working closely together. I was assigned to be his interpreter.

It was the season of dreadful heat and dust storms in Baghdad. Bremer kept the massive number of Coalition Provisional Authority (CPA) staff working almost nonstop. In addition to interpreting for him in his meetings with Iraqi political leaders, I kept a hectic schedule translating his documents and correspondence.

Nothing was working right in Baghdad. Electricity, water and other services were in short supply. My family, whom I had finally managed to contact, informed me of the terrible situation. They came to fetch me and on the way from the palace to their home, I asked my nephew to drive me through Rasheed Street. It was a ghost town, nothing like the lively street I had known and loved. My mind flashed to a deserted place in Arizona where they used to shoot westerns. I wondered how long it would take to transform this shabbiness into a city center like that of Beirut. U.S. resourcefulness will make this happen very soon, I told my nephew as he cursed the old regime.

At home with my family, I deeply felt the expanse that separated us for so many years. I, in the full comfort of my Virginia surroundings, and my entire family, in Saddam's abyss, were worlds apart. They complained about how bad things were. Food and services were scarce, but they all chipped in to load the dining room table with everything they knew I liked. They were joyful that the nightmare was over, but like most Iraqis lectured me that "you Americans" should do this and that in order to get Iraq

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moving in the right direction. I assured them of our efforts to institute democracy and revealed to them that we were forming a Governing Council. It would, I promised, lead the country into a true democracy.

My niece, Akila al-Hashimi, a French-educated senior career diplomat, declared that such a dream would unquestionably require some time. "In the conduct of our daily lives," she said, "we Iraqis must liberate ourselves of autocratic ideals, in order to make such a dream a reality." With immense enthusiasm, she pressed our family to do its share in the efforts to achieve this goal. Later, after I introduced her to Bodine and Bremer, she became a prominent member of the council.

Lt. Col. Bill came over to my office to enlist my help in finding him an interpreter. He complained that the officials of the former Ministry of Culture could not speak English. Pointing at a book on my desk, he asked, "So what is this book you are reading?"

"The bible," I started to say.

"But I thought you are Shia!" he cut me off.

I told him that the book, "The Old Social Classes and the Revolutionary Movements of Iraq," was Hanna Batatu's book on Iraq and that it was a must-read for anyone dealing with modern Iraq's political history.

Bill pulled from his back pocket a green paperback, published in the mid-'80s by Iraq's Ministry of Tourism and with a straight face told me, "All I need to know about Iraq is in here."

I yawned.

By then, the process of selecting members to the Governing Council was in full swing. Assorted Iraqi figures were delivered to the palace to be interviewed and evaluated for their political, social and economic views, as well as their attitudes toward the coalition. Often, I asked myself or my colleagues: Who nominated this person? Where did they find this woman? We had people who must have borrowed Col. Bill's book scouting cities and villages in Iraq for candidates to the "GC," as we came to call it. Those who did the recruiting had Arabic vocabularies approaching that of my friend Col. Bill, although their résumés attested to their fluency in Arabic.

From a helicopter, Baghdad looked dusty and pale ocher. In all directions, patches of palm groves dotted the landscape below. On one trip that summer, I found myself surveying the satellite dishes springing up from the roofs and wondered how TV and the Internet would affect future generations.

Iraq, I told the woman sitting across from me, finally had an open window from which to see the world. She was Brig. Gen. Janis Karpinski, the commander of the Abu Ghraib prison, and she was taking a large group of coalition and U.N. officials along with several journalists to show off the newly refurbished and redecorated facility. "The sparkling cells," she told her audience that day, "are up to the highest international standards." Outside, and under the scorching sun, hundreds of inmates were gathered in an open-air camp. "Looters," she said, when a journalist asked why the inmates were sequestered there and not in the new cells. I wondered if they would furnish the prison with satellite televisions.

Iraqis are shrewd people. Those we dealt with fell into two very different groups: Those who had opposed Saddam and had just returned from exile and those who had remained in Iraq and had learned to survive by simply saying yes to anything the master said or did. As soon as those from the latter group felt a measure of safety, they unloosed an avalanche of criticism on their master. This tactic was so ingrained that they continued to use it in their dealings with us. But some U.S. officials exhibited a naivete or ignorance that was too glaring for the smart Iraqis, and communication suffered. I suspect that it continues to suffer.

One day I was invited to attend a luncheon for some Iraqi intellectuals in the convention center. The group comprised some university professors, writers, artists and clerics. They were recruited to support our efforts to convene the first session of the Governing Council. They spoke of their aspirations for the new Iraq and wondered about the makeup of the council.

"Iraq is a mosaic, very much like America," someone said. "We want to be the 51st state, and you have to help us," another pleaded. But the black-turbaned cleric from Karbala, who sat silent most of the meeting, finally spoke. "Your president had said that you will not be here one day beyond what is needed. We are very grateful to all your sacrifices to liberate us from Saddam's tyranny. You have to know that Iraq is the cradle of civilization and we gave the world a lot more than just oil. If oil is what you want, then take it and leave us to restore the structure of our society and our culture. You must start thinking of when to leave, for I swear by Allah, if you stay one day longer than what your president promised, we will fight you, men, women and children."

Everyone in the room was wordless. Lt. Col. Bill looked at me for help to break the silence.

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Twenty-two men and three women formed the newly established Governing Council. They sat around a large oval table covered in green. The way they were seated was telling. The ambitious Shiite politicians Ahmed Chalabi, Ayad Allawi and Ibrahim al-Jafari sat at the head of the table. Rival Kurdish leaders Massoud Barzani and Jalal Talabani sat across from each other. Two men in tribal headgear sat at the far end of the table, while two women sat next to each other. I noticed my niece Akila sitting separately. Neither representatives of Iraq's political elites from the pre-Saddam era nor Iraqi military officers were present. Those who had not been annihilated by Saddam lived to be ignored by the Western powers. British diplomat John Sawers, the U.N. special representative Sergio Vieira de Mello and Bremer wished them success in leading the new Iraq to the shores of democracy and prosperity.

But an undertow was tugging in the other direction.

Much happened in the months that followed. Everyone in the palace worked heroically to bring a measure of stability and structure to the new Iraq. But reconstruction and budget issues took a toll and the problems of elusive electricity and long gasoline lines continued. The number of car bombs and assassinations escalated. Mortar shells started to come nearer and nearer to the Green Zone. We had insurgency in Fallujah. Al-Qaeda, Abu Musab al-Zarqawi and Moqtada al-Sadr and his militia were thorny problems to reckon with and various parties maintained their own militias.

In September 2003, my niece Akila, while on her way to work, was shot in the abdomen by terrorists who attacked her two-car convoy. Bremer recently wrote that he received the news while dining in the United States with his wife and the Bushes. Mrs. Bremer suggested they pray for Akila, and they did. I went to the hospital with the CPA's surgeon general and we moved her to the Green Zone, but she later died of her wounds.

Members of the Governing Council continued to haggle endlessly over every issue. Every word and every sentence in the Transitional Administrative Law were surgically dissected into the late hours of the night. That it eventually passed to serve as the foundation for the country's first democratic constitution was one of Bremer's major achievements. I felt that finally -- despite Col. Bill, the death of Akila, the ruthless terrorists and feckless politicians -- we had done something right.

On June 28, 2004, I was in the studio dubbing a voiceover of the farewell speech delivered by Bremer; he was already on the plane leaving Iraq. A few days later, I too took the road to Baghdad's airport for my return to the United States. But this time, I promised my family and my friends that I would return. Maybe the sequel to that year would end more happily.

Fade to white.

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Muean Aljabiry is an Iraqi-born filmmaker and political consultant.

My Iraqi Wedding (WP)

By Manal Omar

The Washington Post, March 19, 2006

AMMAN, Jordan There was always a fear of sectarian violence in Iraq. But when I arrived in Baghdad almost three years ago, it was only that -- a fear. Back then, right after Saddam Hussein was toppled, the country was full of hope and optimism. And it was in that heady atmosphere that I found love when I met the Iraqi man to whom I am now married.

But the fear of sectarian strife became a searing reality for me last year, on the night before our wedding. Our house of celebration was transformed into a house of mourning when we learned that my husband's brother-in-law, Hussein, had been brutally murdered. As the mourners arrived, we turned away the florist and canceled the photographer. Our festival of love gave way to horror, as we realized that Hussein was just one of the many casualties of what Iraq was becoming -- a volatile mix of tribal tensions and local mafia-style killings.

A Shiite from the Kadhimiyah district of Baghdad, Hussein had been traveling in the Sunni-controlled district of Tarmiyah where he went to a bank to withdraw money. These days, when I tell Hussein's story, people stop me at this point. "What was a Shia man thinking, going to Tarmiyah?" they say. But Hussein had worked in Tarmiyah all his life. He could never have imagined that he would be attacked by armed robbers; he would never have thought that, after his body was pumped full of bullets, it would be dragged through the streets behind his killers' car. Most people didn't think like that a year ago. Now Iraqis have to think like that every day, as hope has given way to constant fear.

Killed just 12 days after his 32nd birthday, Hussein left his wife, Rana, and three children, the youngest of whom was only 6 months old. His death was one of the incidents that sparked a full-blown tribal war between the Sunnis of Tarmiyah and the Shiites of Kadhimiyah. If districts in Baghdad are resorting to bloodthirsty feuds, you can only imagine what is happening in the outlying provinces and rural areas.

These schisms among communities were predictable -- and predicted. The most painful fact is that, early on, the feuding was preventable.

Something went awry. I am continually plagued by the question of how we in the international community could have gotten this so very wrong. I believe that we have dug a grave. And it is the Iraqis who will have to lie in it.

But who will be held accountable?

As soon as I arrived in Baghdad in those fear-free days of 2003 to open the Iraq office of Women for Women International, people from all over the world began calling and writing to ask me what it was like. I used to send out an e-mail journal in response. But over the past year, I've found it increasingly difficult to record what is going on. Even before my brother-in-law's death, I felt stymied. My last journal entry was on April 19, 2005, three days after peace activist Marla Ruzicka was killed by a roadside bomb. At that moment, I realized that the loss of friends and colleagues had become overwhelming. I was losing hope.

The truth is, I used to write to share whatever success stories there were from the people of Iraq -- to try to keep the pulse of hope beating. After Marla's death, I was afraid to admit that the hope we had been clutching was becoming impossible to hold onto.

I developed a means of coping. In order to continue my aid work in Iraq, I allowed myself to fall into the comfortable shadows of denial. And for a while it worked. But however desperately I tried to stuff my head -- like an ostrich -- into the ground, the political earthquakes and violent undercurrents forced me to the surface. Then the bombing last month of the Shiite shrine in Samarra shook me out of denial. There had been signs of sectarian strife long before that: The attacks on Karbala shrines and the kidnappings of young children were reminders that nothing remains sacred in Iraq. But on that late February day, my last glimmer of hope evaporated into thin air like the gold that once shimmered on Samarra's dome.

It must be hard, from a distance, to understand how the situation deteriorated so quickly. When I speak to Westerners about the pain of watching Iraq fall apart, I usually get little sympathy. "It is war; what did you expect?" people say. But those of us who worked in Iraq saw the flame of hope. Now we watch that flame sputter and bear witness to brutal efforts to extinguish it.

When people started to discuss the possibility of civil war two years ago, I didn't believe them; I insisted that the majority of Iraqis would rise above sectarianism. People now say that I have been proven wrong. But I remember a letter I received in the early days: A young woman from Tikrit wrote that she prayed Iraqis would remember that the strength of their country was in their mosaic of religions and ethnicities. If Iraqis had been left to themselves, I tell my doubters, they would have risen above this madness.

The countless international interventions -- from neighboring countries to the coalition forces -- destabilized Iraq at a time when its people needed support from the world. Some continue to be grateful for the collapse of the Baathist regime and entertain dreams that their nation may be on the road to recovery. But for many, the Samarra bombing crushed that dream.

I wonder at the way hope evolved into fear. I had come to Baghdad to help empower Iraqi women after decades of suffering from war and sanctions. Iraqi women had a history of exercising rights in ways other women in the region could not. I was confident that, with the resources and assistance that Women for Women International provides, they would easily reclaim their status.

My background is Palestinian, but I grew up as an American and was prepared to find communities that would reject me. But from Karbala to Fallujah, from Sulaymaniyah to Baqubah, people embraced me as one of their own. Looking back, it seems only natural that there I would meet the love of my life, a fellow employee of Women for Women International.

Against that background of trust, I worked with increasing numbers of widows and abused and marginalized women. But nothing could have prepared me to see Hussein's wife, my husband's dear sister Rana, become a widow. Through her pain, I catch a glimpse into the everyday life of women struggling to overcome the trauma of war. You see, it is not only those who are killed who are casualties, but also their families.

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Every day, Rana faces reminders of her loss. There are religious pressures for her to respect the Islamic mourning period, which does not allow her to leave the house for four months. She knew she would have to violate those strictures and flee with her children to Jordan to avoid the battles that erupted after their father's death. Rana also faced the economic pressures of being the sole breadwinner for her children, never having worked outside the home. Rana also joined thousands of widows in a legal battle to protect her children's right of inheritance. Some interpretations of the Koran do not permit children to inherit their father's property if the grandparents are still living. Rana and her children were now at the full mercy of Hussein's family.

Rana brings home to me the fate of thousands of other Iraqi women. Yet she considers herself lucky because she was able to bury her husband. When Rana reminds me of this good fortune, my mind floats to the wife of one of our staff members. Her husband went missing in 2004. There are no clues of what happened to him; there has been no sign of his car or his body. Every night, I fall asleep imagining his wife and two kids anxiously waiting for him. And I tell myself that at least Rana knows her husband's fate.

Now Rana lives, as I do, in Amman. In my apartment building, only two of the 12 units are occupied by Jordanians. The rest are homes for Iraqis who have fled their homeland. Of the 10 apartments, eight are occupied by people who have come to Amman after a family member was killed or, more commonly, kidnapped. Now, the entire building is in mourning over what is happening in Iraq. Just a couple of months ago, the halls and the parking lot were filled with quips about the Saddam trial, and the discussion was about who would be going back to Iraq first. Now, none of us dare speak about going back to Iraq.

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Iraq Needed A Benign Dictator (WP)

The Washington Post, March 19, 2006

Interview by Rajiv Chandrasekaran

Kanan Makiya, an Iraqi-born, MIT-trained architect, is a professor at Brandeis University and the author of "Republic of Fear: The Politics of Modern Iraq." The book, which details human rights abuses under Saddam Hussein, was published under a pseudonym in 1989. Makiya, an active member of Ahmed Chalabi's Iraqi National Congress, was among the most vocal Iraqi exiles encouraging the Bush administration to oust Hussein.

Is Iraq in the midst of a civil war ?

We're teetering on the edge of one, and I think as always, politics is going to be the deciding factor. By politics, I mean leadership politics, which has been sorely lacking in Iraq.

Before the war, many Iraqi exiles predicted that the Iraqi people would unite behind moderate leaders. Where are those leaders, and why haven't we seen more moderation?

The failure lies in the inability of Iraqi leaders to rise above their own groups and confessional allegiances. We have not had a visionary, a leader able to think beyond the self-interest of their group. So we have a politics of selfishness . . . [and] a politics of victimhood, an elevation of victimhood into a quality as though it were something in and of itself. In particular, this applies to the Shiite leadership.

Why hasn't a more unifying leader risen from the Shiite community? Where is Iraq's Nelson Mandela or Hamid Karzai ?

We're talking about a completely new elite that has had no experience of government before. They have created a Shiite political organization, identifying Shiiteness over Iraqiness. This, I feel, is the source of their failure. Their interpretation of democracy . . . is of democracy being majority rule as opposed to minority rights.

When you remove the suffocating lid of dictatorship, a dictatorship that has oppressed on the basis of ethnic identity, then it is very natural that those who have been so repressed react by being assertive -- the very thing that has been denied from the days of [Saddam] Hussein. And that is what we are watching today.

Could the Americans have done anything differently from the outset to reduce the chances of sectarian politics and civil strife we're now seeing today? Before the war, you advocated the formation of a provisional government led by Iraqis in exile. Do you still believe that was the right way to go?

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There's this old thorn . . . and that is the issue of provisional government versus occupation. Occupation was the wrong formula for dealing with the transition. The U.S. government pushed aside the Iraqi opposition -- both those groups that were in exile and those groups that were inside Iraq, mainly the Kurds. The unwillingness, for instance, to involve the Kurds in deliberations on Iraq as a whole because of how that may look in the rest of the Arab world was a big mistake, I think. The unwillingness to have the Iraqis keep their army. That was another mistake. But that goes hand in glove with the idea of occupation as opposed to a provisional government like what was done in Afghanistan. So what we ended up with was the rhetoric of liberation but the reality of occupation.

Isn't it interesting that 80 to 90 percent of those very same characters who were waltzing in and out of Washington before the war today have been quote-unquote legitimized through elections. Look at the political elite, look at the names, they're all there -- the very same people. But what we have lost in the meantime is three years, a lot of hurt feelings, a lot of bad relations and so on.

The U.S. government bent over backwards in almost every arena of dealings with Iraqis to be seen as being representative. But my point is this: In the moment of transition was representativeness really more important than leadership? I know how bad it would've looked to Europe, to other parts of the world, in the United Nations, for the United States to have installed a puppet government. That's what it is -- let's call things by their name. But the United States could have remained the great benefactor who had removed Saddam . . . [and after] that interim period, there certainly would have been elections. Today you ask me . . . would we have been better off? There would have been a lot more mess in the first month and the first year, but there are certain things that might have been better.

"Occupation" in Arabic has nothing but a pejorative set of meanings, clearly with the occupation of the West Bank by Israel, Algeria by France. We don't have an example in our own history of what you might call an enabling occupation. We only have disabling ones.

Iraqis today care about electricity, they care about looting, they care about a sense of authority. These people have lived under extreme authority for 35 years. You just don't take the lid off and overnight have a democratic experiment. The lid of authority has to be changed and replaced. There is a benign kind of dictatorial authority, a transition between one and the other, which in this case could have been through a provisional government that was profoundly influenced by the United States. Now, after the fact, all of this is too late, but we might've had a different dynamic.

Before the war, you spoke to a number of senior officials in the U.S. government, including President Bush and Vice President Cheney. Do you feel that they understood the depth of the issues, the animus between Sunnis and Shiites, between Arabs and Kurds. Did they understand the complexity of Iraq ?

I honestly don't think that's the source of the problem. This animus is a creation. Look, let me give you a little example. It's almost a childish example. The other day, a good friend of mine interviewed a lady from the neighborhood to work as a cleaning person in his house and the first thing this lady did was say to the woman of the house, "Are you Sunnis or Shiites?" And it so happened that the family that was trying to hire this person was Sunni and the working woman was a Shiite. And she walked out of the house. She said, "Thank you very much," and she left. She told the guard at the end of the house, "I can't work in a Sunni house."

You may think that we're now talking about decades-old prejudices and hatred between Sunnis and Shiites, I say no. I say this is a manufactured consciousness -- new, real. Not that it was not there before. There were all kinds of latent divisions. There were all kinds of ways in which people discriminated against all kinds of other people. But that kind of a conversation has emerged as an issue because of the way Iraqi politics has developed in the last two years. It is the politicians, starting with the Governing Council, who sat down and thought of themselves as Shiites and Sunnis first, that created all of this in the first place. It goes from the top down, not from the bottom up.

Do you regret telling the president that the Iraqi people would "greet the troops with sweets and flowers? "

I regret the phrase but not the intent behind the phrase. By and large, the Iraqi people received the United States very well in the first two or three months -- before the occupation was enshrined.

Bush administration officials have indicated a desire to reduce the number of U.S. forces in Iraq this year. Do you support a reduction in troops ?

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I wish they wouldn't draw down their troops so quickly.

You have written extensively about the abuses of Saddam Hussein. Saddam certainly seems to be making a mockery of the proceedings .

He is. Well, of course, he's doing what in some senses was expected of him: to deny the legitimacy of the whole process.

There's something in the design of the court, in the rules of the court that . . . were badly designed. One other thing that I think is wrong is that the case against Saddam Hussein and his henchmen has not yet been properly put. We're dealing with a case where 150 people were executed. I understand the overall strategy is to move from one case to the next case to the next case, but the result is that the Iraqi people, and the Arab world, have not yet been faced with the magnitude of his crimes as a whole.

That picture has not yet been painted by the prosecution. We're talking about an act of revenge in which the president ordered the killing of 150 people. That could apply to a hundred other presidents in some way or another.

We have not yet looked at the magnitude of the crimes of this regime -- the reason why the United States went in there and the reason why this regime was beheaded. But the reasons why this regime somehow stood out in an international community that has many unpleasant regimes in it hasn't yet been presented by anybody. And that is the central failure of this court.

Was it a mistake not to allow foreign judges and foreign prosecutors at the tribunal ?

Yeah, I always thought that was a mistake. I wanted Iraqis involved, but I wanted a meeting of the two. I knew right up front that the judicial system, the judges, were simply not up to the task.

How do you feel when your countrymen in Baghdad now have to endure hours-long blackouts, and miles-long queues for petrol, water shortages, insurgent attacks and pervasive crime? Among both Sunnis and Shiites, some of them say they yearn for the days when Saddam was in power. How does hearing that make you feel?

I feel terrible and I understand why they say that. And I blame Iraqi politicians for it.

But on the issue of electricity and blackouts, there's a part of me, there's some little part of my brain that simply doesn't understand how the most powerful country on Earth just can't simply get electricity back on in Baghdad. . . . I've heard all the explanations. I've seen the reports. I know the technical stuff, but I find it mind-blowing that that was not solved.

It's been almost three years since the liberation of Iraq. Are you disappointed with how things have turned out thus far ?

Yes, no doubt in my mind. I'm sad. I'm very sad.

One Week In Baghdad (WP)

By Zeyad

The Washington Post, March 19, 2006

BAGHDAD

SUNDAY, March 12 A sudden whizzzzzz . . . KABOOM sent me flying from the couch where I was dozing off, watching TV.

"What was that?" my father asked from the hallway.

"Probably a mortar round," I replied. "A close one."

"Good. They're lobbing mortars at us now. What's next?" he said and went back to his bedroom.

It's almost 9 p.m., a dangerous time to go outside. Neighborhood watch teams -- young men brandishing AK-47s, pistols, RPGs and even sniper rifles -- set up checkpoints around this time. Many were referred to as the "mujahideen" or insurgents in the past. Now, they are considered defenders of our largely Sunni district against Shiite death squads and militias.

I tried to stay interested in the Steven Seagal action flick on TV, but my focus kept shifting to the occasional rumble of mortar shells outside. After a while I went upstairs to use the Internet.

Just as I set foot in my room, an intense barrage of gunfire erupted on our street. Not good. My cellphone was ringing; it was a friend who lives down our street. "It's an American patrol," he almost whispered. "I can see Humvees from where I am. And it looks like they have Iraqi police with them."

"Keep your head down for God's sake."

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I went to check on my younger brother, Nabil. He was playing his guitar to a Metallica tune, oblivious to his surroundings. His room has a better view, but it's not wise to stick one's head out of a window when Americans are nearby. The street was dark, but they have night vision goggles. A sniper bullet in the head is not a fun prospect, so I lay low and tried to listen.

I did hear a radio transmission from an Iraqi police vehicle, and what sounded like an American soldier shouting. The gunfire had ceased, probably after the local vigilantes had realized it was Americans, not militias or Interior ministry forc es entering our territory. The vehicles moved away, and the alarm level dropped.

No point in trying to figure out what happened. It could wait for the morning, when people would give you different versions of the incident.

I checked the door locks and called it a night.

MONDAY "The street is blocked," my taxi driver proclaimed as we approached my stop near a bus station in the Bab Al-Sharjee district in central Baghdad. "No problem. I'll get out here," I told him, forking over his fare. He grunted, and shifted into reverse.

I skulked along the remaining 300-meter stretch of street -- the main route taken by security officials from the Green Zone to the ministries' complex, and a favorite location for bombings. I usually just take a deep breath, light a cigarette and keep moving, sticking close to the wall. To my dismay, though, I found a police pickup vehicle parked in front of the bus station. A crowded bus station is already a juicy target for suicide bombers; a police patrol is an added attraction. But one has to shrug those tho ughts aside, or we'd all be clinically crazy by now.

Thankfully, the minibus didn't take long to fill -- with a couple of ladies in abayas, their two very noisy kids, a mechanic, a laborer (from the looks of him), an old man flipping through a newspaper, two nondescript young men and me, the suburba n dentist. Our destination: a district on the outskirts of the capital.

We passed through countless checkpoints manned by Iraqi troops. This time, the soldiers just waved us through. Sometimes they stop us and ask for our IDs. I gave up carrying mine some time ago; it revealed too much information, such as tribal, regional and sectarian background. I just use my neutral work ID now.

We noticed several American Humvees blocking the street. Our driver lurched onto the sidewalk and tried to squeeze through, but an American soldier yelled at him to go back, pointing his weapon at us. Without a moment's hesitation, the driver took us down a side road. Uh oh, I thought. This is where executed, blindfolded young men turn up every other day. In one cas e, bodies were found in a minibus -- just like the one I was in.

Any other day, I would have given up and gone home, but I needed to get my salary, because I can't rely on getting to work every day next week. Preparations for the Arbaeen religious anniversary are underway, and this road will be blocked to traffic to accommodate the hordes of Shiite pilgrims heading on foot to Karbala.

TUESDAY We were engrossed in morning preparations at work when a colleague called our attention to the latest "episode" of Saddam's trial -- a form of cheap entertainment for many Iraqis against the backdrop of dreary events in Baghdad. At least it's the one thing that Iraqis of all backgrounds agree upon.

Colleagues rushed, tea mugs in hand, to take a look at TV. Our clinic director wasn't amused, but he didn't protest. After all, there are no drugs in our pharmacy, my dental chair hasn't been fixed for months -- and even if it was, there are no anesthetics.

Iraqis have lost all hope for any real justice in this god-awful country. People here have long been accustomed to taking justice into their own hands -- or forgetting it altogether. "They should just lynch him and spare us this farce," one patient remarked. His comment sparked heated debate. I've heard all the arguments so I try not to listen. Iraqis are divided over everything. They can't even agree over a dictator who ruled them with a fist of steel for 30 years.

WEDNESDAY My neighbors suggested we go out for lunch today. They are a young couple living just across the street, with two kids, a girl and a boy, ages 11 and 5. I often spend time with them in the evening during the curfew, or around tea time.

I learned from my neighbor's wife that a stray bullet injured her mother's cousin during the firefight in our street three ni ghts ago. It went right through her window and shattered her collarbone. It was tragic, considering that her son was killed just months ago by kidnappers after the old widow failed to pay his ransom of $50,000.

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We discussed the issue of Abu Ghassan, who lived next door to them until he decided to take his family and relocate to Syria. He is a very well-to-do businessman and a car battery dealer. His lavish lifestyle brought him unwanted attention in our area, and it took him one failed kidnapping attempt to decide to sell up and leave.

It was an excruciating scene, watching neighbors of a lifetime carry their suitcases at dawn to board an SUV to Syria. Being forced to leave your home is not a trivial affair. The country is being stripped of its intelligentsia, and I fear that soon we will be left only with fanatics. Add to that the forced migrations of Sunnis, Shiites and Kurds out of mixed areas to sectarian strongholds.

We discussed these issues over a splendid meal of masgoof (roasted fish) on a refreshing sunny day on the bank of the Tigris, in the company of family and friends.

THURSDAY If there is any advantage of the Iraq war, it would have to be the endless stream of national and religious holidays. There was a daytime curfew today because of the opening parliamentary session, and not much activity is expected during the next week as the Arbaeen holiday will be taking place.

The new parliament was sworn in today. Our bickering politicians agreed to disagree yet again, and this time it was over the oath. I sometimes can't help wondering if it was the war that has left us so divided, or have we been that way all along.

The family stayed indoors for most of the day. For my mother it was a relief. She constantly worries and calls us on our phones, asking if everything is okay.

In addition to regular and fixed holidays, it is possible to make up your own, citing an unexpected security incident as an excuse. Many have mastered that useful trick. Personally, I use it sparingly because very often, I actually do get caught up in roadblocks.

People who need to make a living from day jobs, such as laborers, grocers and taxi drivers, are not impressed with the daytime curfews and holidays. Business is already suffering because of deteriorating security, power and fuel shortages. But lazy civil servants such as myself can lie back and enjoy the fruits of "liberation."

FRIDAY A quiet day, which left me to ponder a question that haunts me: We Iraqis continue to live between the hammer of terrorists and the anvil of American, British and Iraqi security forces. But what kind of a people are we to respond by killing our own?

zeyad_w@hotmail.com

Zeyad, an Iraqi dentist who spent his childhood in Britain, lives in Baghdad. His blog, Healing Iraq (http://healingiraq.blogspot.com) started in October 2003. For security reasons, Zeyad publishes only his first name.

Iraq's Insurgents: Who's Who (WP)

By Jonathan Finer

The Washington Post, March 19, 2006

Long considered a fragmentary and disorganized collection of groups with varying tactics and aims, Iraq's insurgency is showing signs of increasing coordination, consolidation and confidence, those who study it now say. There is no consensus on the precise number of insurgent fighters, but estimates range from a few thousand to more than 50,000. The vast majority of insurgents, probably more than 90 percent, are believed to be Iraqis from the Sunni minority group that largely ruled the country before the fall of Saddam Hussein. But U.S. commanders say that most of the deadliest attacks, and particularly suicide attacks, are committed by foreigners from a range of neighboring countries, including Jordan, Syrian, Saudi Arabia, Egypt and Sudan.

-- Jonathan FinerLarger Groups

The formation of the Mujahidin Shura Council , announced on Jan. 21, was a sign of the once-diffuse insurgency's consolidation around the leadership of a few large, powerful groups. It brought together the foreign-backed network of al-Qaeda in Iraq, led by Jordanian Abu Musab al-Zarqawi, and several smaller, Iraqi-led groups. The council's head was said to be an Iraqi, a move made to counter the image of al-Qaeda as dominated by Arabs from elsewhere in the region. This appointment may be little more than a public relations move. The group's tactics include attacks carried out with bombs, small arms and mortar against Iraqi and American soldiers, as well as, increasingly, Iraqi civilians, most of them Shiites. Two of its "brigades," or affiliates, (the bin Malik and the Al-Ansar) are devoted solely to suicide attacks. Another, the Omar Brigade, is said to target only members of the Badr organization, a feared Shiite militia.

Ansar al-Sunnah , which means "partisans of the law," is an offshoot of a group called Ansar al-Islam, which was formed in Kurdistan but has not been heard from in many months. The vast majority of its leaders and foot soldiers are Iraqi Sunnis who adhere to a strict, fundamentalist form of Islam called Salafism, which calls for a return to the practices of early Muslims and has gained radical expression throughout the Arab world. Their tactics -- including lethal suicide attacks -- and religious underpinnings are similar to those of al-Qaeda, but the two groups are considered bitter rivals for influence within the insurgent community. Among their best-known attacks was a roadside bomb blast that killed 14 Marines and an interpreter in August, the deadliest such attack of the war.

The stated goal of the Islamic Army in Iraq is to drive the U.S. military out of Iraq. Comprised almost entirely of Iraqi Sunnis, including many still loyal to Saddam Hussein's regime and Baath Party, it is considered more nationalistic than religious in motivation. As many as three-quarters of its attacks, which include improvised bombs and kidnappings but not suicide attacks, are conducted against U.S. forces and non-Iraqi contractors. It often releases video footage of its operations. The group publishes a monthly magazine called al-Fursan and has denied rumors circulating last summer that it was in discussions with Iraqi officials about laying down its weapons. Its members reportedly include a sniper named "Juba," who gained a cult following when he was said to have killed several American soldiers in Baghdad last summer and fall.

There is some discussion as to whether the Islamic Front of the Iraqi Resistance , one of the most highly publicized insurgent organizations, is actually an armed group or something of a public relations organ for other groups. It maintains a frequently updated Web site and publishes a magazine called Jami, an acronym composed of its Arabic initials, which also mean "mosque" or "gathering." It has claimed responsibility for a number of attacks in and around the northern city of Mosul, Iraq's third-largest city.Smaller groups

Mujahidin Army : A group that has released dozens of videos of bomb, rocket and sniper attacks, most of them directed against U.S. forces. Along with the Islamic Army in Iraq, it denied reports of rapprochement talks with the Iraqi government last year. It is one of a few smaller insurgent groups that called for attacks against Danish troops in the wake of the publication by a Danish newspaper of cartoons depicting the prophet Muhammad last fall.

Muhammad Army : A group made up mostly of Iraqi former Baathists and a few foreign fighters, it claimed credit for the 2003 bombing of the United Nations headquarters that killed 23 people, including the organization's chief of mission.

1920 Revolution Brigades : This group, which has claimed responsibility for a number of high-profile kidnappings of Westerners and Iraqis working with U.S. forces, is named for the Iraqi uprising against the British after World War I. The group calls itself the military wing of the Islamic Resistance Movement, another insurgent organization.

Conquering Army : A new group that has emerged in the past two months through a series of videos released on the Internet and to regional television networks showing kidnapping victims confessing to various "crimes" such as working with American forces.

Swords of the Righteous : A previously unknown group that gained prominence by claiming responsibility, in videos, for the kidnapping of four Christian Peacemaker workers, one of whom, Tom Fox of Virginia, was found dead March 10.

Iraqi Vengeance Brigades : A little-known group that has released videos showing American journalist Jill Carroll, who was abducted in Baghdad in early January.

SOURCES: SITE Institute, International Crisis Group, news reports

Statements By Insurgents (WP)

The Washington Post, March 19, 2006

"We refuse completely to participate [in the political process], because it ultimately benefits the occupiers, their followers and their agents. Their wicked aim is to attack Islam and humiliate its people, steal their wealth and support the Jews. . . . We will take revenge against all government figures or anyone related to it or supporting it, because it is a government of unbelief. I swear by Allah that if ever my father dealt with it -- or my mother, brother, sister, cousin or my son, and everyone who is related to me -- I shall cut his throat and I will not be sorry. . . .

". . . Practically and security-wise, we control all cities of Iraq and we challenge [Prime Minister Ibrahim] al-Jafari and all who claim that there is a government in Baghdad or any other city in Iraq to go out in the streets or remove the fortifications

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surrounding them and bring their families from outside Iraq to live in a normal way here. We have succeeded in placing them in a prison, like in the Green Zone. Even that is not safe anymore and is bombed every day. . . . We, meanwhile, are free to go everywhere in any city and choose our targets . . . .

". . . Be sure that the American Army is living now in a swamp of blood and is suffering a state of collapse. Also, the government forces are corrupt and falling apart psychologically. It will flee and soon, as the Americans announce the withdrawal of their forces, and this will happen very soon, Allah willing. The battle of Iraq will be the beginning of other battles in the area to topple the idols allied with Satan."

--Abu Hafsa al-Ansari, chief aide to al-Qaeda leader Abu Musab al-Zarqawi, in a Feb. 23 interview with the Lebanese magazine al-Watan al-Arabiya

"How many times have a few people overcome plenty of people? . . . America has failed in three years to defeat a few hundred mujahidin, and its disgrace is very big. The most powerful army in the world . . . equipped with very sophisticated weapons . . . has failed to control very limited numbers of [mujahidin]. Oh my God, how is that?

". . . It is Allah's work. It is this great religion with all its greatness . . . facing barbarism in its lowest form. They are Allah's people facing Satan's people. . . . it is the mujahidin versus the mercenaries. . . . it is the weapon of faith versus the arsenal of destruction."

--From a document issued by the Global Islamic Media Front, an al-Qaeda mouthpiece

"We repeat our call to the Muslim people to understand the nature of the battle; they should know the identity of their enemies and what to do with them. We must put our efforts into supporting jihad and the mujahidin, because they are the fence that pushes away the power of the scum and keeps the Muslims safe. All of us know that the Shiite attack on the Sunni sections has been stopped. . . . What stopped it was the unity of the Sunni people with their sons, the mujahidin. . . .

"The mujahidin revealed the truth of the Shiites early. . . . Blood was shed and women dishonored, mosques burned and massacred, the Koran was desecrated by burning, tearing and kicking. They will pay a high price for it, so the Shiites will have only themselves to blame."

-- March 14 statement by the Mujahidin Shura Council, addressing the Sunni people of Iraq

On Scene: How Operation Swarmer Fizzled (TIME)

By Brian Bennett/Al Jallam

Time, March 19, 2006

Friday, Mar. 17, 2006

On Scene: How Operation Swarmer Fizzled

Not a shot was fired, or a leader nabbed, in a major offensive that failed to live up to its advance billing

By BRIAN BENNETT/AL JALLAM

Four Black Hawk helicopters landed in a wheat field and dropped off a television crew, three photographers, three print reporters and three Iraqi government officials right into the middle of Operation Swarmer. Iraqi soldiers in newly painted humvees, green and red Iraqi flags stenciled on the tailgates, had just finished searching the farm populated by a half-dozen skinny cows and a woman kneading freshly risen dough and slapping it to the walls of a mud oven.

The press, flown in from Baghdad to this agricultural gridiron northeast of Samarra, huddled around the Iraqi officials and U.S. Army commanders who explained that the "largest air assault since 2003" in Iraq using over 50 helicopters to put 1500 Iraqi and U.S. troops on the ground had netted 48 suspected insurgents, 17 of which had already been cleared and released. The area, explained the officials, has long been suspected of being used as a base for insurgents operating in and around Samarra, the city north of Baghdad where the bombing of a sacred shrine recently sparked a wave of sectarian violence.

But contrary to what many many television networks erroneously reported, the operation was by no means the largest use of airpower since the start of the war. ("Air Assault" is a military term that refers specifically to transporting troops into an area.) In fact, there were no airstrikes and no leading insurgents were nabbed in an operation that some skeptical military analysts described as little more than a photo op. What's more, there were no shots fired at all and the units had met no resistance, said the U.S. and Iraqi commanders.

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The operation, which doubled the population of the flat farmland in one single airlift, was initiated by intelligence from Iraq security forces, says Lt Col Skip Johnson commander of the 187 Battallion, 3rd Combat Brigade of the 101st Airborne. "They have the lead," he said to reporters at the second stop of the tour. But by Friday afternoon, the major targets seemed to have slipped through their fingers. Iraqi Army General Abdul Jabar says that Samarra-based insurgent leader Hamad el Taki of Mohammad's Army was thought to be in the area, and Iraqi intelligence officers were still working to compare known voice recordings and photographs with the prisoners in custody.

With the Interior Ministry's Samarra commando battalion, the soldiers had found some 300 individual pieces of weaponry like mortars, rockets and plastic explosives in six different locations inside the sparsely populated farming community of over 50 square miles and about 1,500 residents. The raids also uncovered high-powered cordless telephones used as detonators in homemade bombs, medical supplies and insurgent training manuals.

Before loading up into the helicopters for a return trip to Baghdad, Iraqi and American soldiers and some reporters helped themselves to the woman's freshly baked bread, tearing bits off and chewing it as they wandered among the cows. For most of them, it was the only thing worthwhile they'd found all day.

More Insurgents Detained In U.S.-Iraqi Raids (LAT)

By the Associated Press

The Los Angeles Times, March 19, 2006

March 19, 2006

BAGHDAD — American and Iraqi troops pushing through a desolate area of Iraq's Sunni heartland rounded up dozens more suspected insurgents, including alleged killers of a television journalist, U.S. and Iraqi officials said Saturday.

The third day of the sweep through villages near Samarra, 60 miles north of Baghdad, stirred growing unease among leading Sunni Arabs. One called it a needless "escalation" at a time of difficult negotiations over forming a broad-based government.

In Baghdad, meanwhile, a dozen more bodies were found as a shadowy war of Shiite-Sunni reprisals apparently continued. And Shiite Muslims heading to the holy city of Karbala came under attack, with a roadside bomb killing one and wounding five.

Elsewhere, an oil tanker driver was shot dead 50 miles southeast of Baghdad, and a tribal sheik was slain 30 miles west of the capital.

In a radio address the day before the third anniversary of the U.S.-led invasion, President Bush said the violence in Iraq "has created a new sense of urgency" among Iraqi leaders to form a government.

Those leaders — representatives of the Shiite, Sunni and Kurdish blocs in Iraq's new parliament — were taking a break from negotiations to observe Monday's Shiite holiday and Tuesday's Kurdish New Year.

They are deadlocked over how to apportion the most powerful jobs in the new government, as minority blocs seek to limit domination by Shiite Muslims.

In the counterinsurgency sweep through a 100-square-mile area of semidesert northeast of the Tigris River town of Samarra, Iraqi soldiers and units of the U.S. 101st Airborne Division had detained about 80 suspected insurgents as of Saturday, said Lt. Col. Edward S. Loomis, a U.S. spokesman. Seventeen were released after questioning, he said.

Among those detained were six people, not further identified, allegedly responsible for the March 11 killing of Amjad Hameed, director of the Iraqi television station Al Iraqiya, and his driver, Iraqi officials said.

In other action, Iraqi counterinsurgency troops staged a predawn raid near Baqubah, about 30 miles north of Baghdad, touching off a clash in which two gunmen were killed, one was wounded and 18 were arrested, Brig. Saman Talabani said.

Besides ammunition and weapons, the soldiers seized computer discs of fatwas, or religious edicts, calling for the killing of Iraqi police and soldiers, he said.

At least 2,300 American military personnel have died since the Iraq war began.

Shiite Pilgrims Are Walking Targets In Sectarian Conflict (NYT)

By Jeffrey Gettleman

The New York Times, March 19, 2006

DOJ_NMG_0018869

BAGHDAD, Iraq, March 18 — Shiite pilgrims are threading a needle of danger this week as they make their annual pilgrimage to a shrine in Karbala, in southern Iraq.

Many of them are doing it defiantly.

On Saturday, Ali Jassim, 22, was hiking along a Baghdad highway, hoisting a huge Shiite flag, wearing the distinctive all-black pilgrim's uniform and projecting full-blown Shiite pride.

"I know the Sunnis are after us," he said.

His friend, Monir Abd al-Rad, who was trudging alongside him, tried to quiet him down.

"We are all brothers," he said.

"Rubbish," Mr. Jassim shot back. "Nobody wants to say it, but there is a sectarian war. And we are its targets."

The pilgrimage route from Baghdad to Karbala cuts straight across territory so overrun by Sunni Arab insurgents that the American military calls it the Triangle of Death. This year that triangle is deadlier than ever, with Shiite-Sunni tensions peaking.

Hundreds of thousands of Shiite pilgrims are taking the risk, marching the 50 miles from Baghdad to Karbala to commemorate the death of Imam Hussein, the grandson of the Prophet Muhammad.

Several have already paid the price.

On Friday, eight pilgrims were shot in drive-by shootings, though American and Iraqi forces patrolled nearby.

On Saturday, a string of bombs exploded along the route, wounding several people. Several pilgrims are now making the trek with assault rifles slung across their shoulders, for the first time anyone here can remember.

The violence is part of the sectarian shadow falling across Iraq. On Saturday, more bodies turned up. Interior Ministry officials said 16 men, all unidentified, were found dead with their hands tied behind their back and bullets in their heads. In the past week, nearly 200 bodies surfaced on Baghdad's streets, many of them dumped in clusters.

The widespread suspicion is that most were victims of Shiite death squads who went on a quiet but steady killing spree after a bomb attack on a Shiite market in Baghdad one week ago.

In the past few days, American officials in Baghdad have expressed more concern about the security situation than usual.

Despite recent vows to let Iraqi forces take the lead in security matters, United States commanders initiated a large-scale helicopter offensive this week against insurgents near Samarra, the city where an important Shiite shrine was bombed Feb. 22 , the incident that set off a cycle of sectarian killings.

The helicopter operation used a mix of Iraqi and American troops. On Saturday, the military said it had captured more people suspected of being insurgents, bringing the operation's total to 80, though many were quickly released.

An Iraqi army spokesman said Iraqi soldiers had captured six suspects connected to the recent assassination of two Iraqi journalists, though it was not clear if these suspects had been swept up in the Samarra raid.

Also on Saturday, several high-ranking Iraqi officials met with the British defense minister, John Reid, who visiting Baghdad to mark the three-year anniversary of the American-led invasion of Iraq on March 20.

Iraqi leaders have been struggling to form a government of national unity and a new divisive issue has emerged: whether to empower a national security council with executive authority.

Mr. Reid urged the leaders to resolve their differences quickly. "Terrorists love a vacuum," he said at a news conference.

The Iraqi defense minister, Saadun al-Dulaimi, thanked Mr. Reid for helping oust Saddam Hussein three years ago but added, "We can't rely on friendly forces forever."

In Kirkuk, a city north of Baghdad with population of Kurds, Shiites and Sunni Arabs, three people were killed and 11 wounded in a spate of attacks on Saturday.

The American military said two American soldiers were killed by indirect fire, which usually means mortars, near Tikrit on Thursday.

Mortars also seriously injured three Iraqi children in Ramadi on Friday, according to the American military. The children were playing outside when the mortars hit.

Saddam's Philippines Terror Connection (WS)

By Stephen F. Hayes

DOJ_NMG_0018870

The Weekly Standard, March 19, 2006

And other revelations from the Iraqi regime files

SADDAM HUSSEIN'S REGIME PROVIDED FINANCIAL support to Abu Sayyaf, the al Qaeda-linked jihadist group founded by Osama bin Laden's brother-in-law in the Philippines in the late 1990s, according to documents captured in postwar Iraq. An eight-page fax dated June 6, 2001, and sent from the Iraqi ambassador in Manila to the Ministry of Foreign Affairs in Baghdad, provides an update on Abu Sayyaf kidnappings and indicates that the Iraqi regime was providing the group with money to purchase weapons. The Iraqi regime suspended its support--temporarily, it seems--after high-profile kidnappings, including of Americans, focused international attention on the terrorist group.

The fax comes from the vast collection of documents recovered in postwar Afghanistan and Iraq. Up to this point, those materials have been kept from the American public. Now the proverbial dam has broken. On March 16, the U.S. government posted on the web 9 documents captured in Iraq, as well as 28 al Qaeda documents that had been released in February. Earlier last week, Foreign Affairs magazine published a lengthy article based on a review of 700 Iraqi documents by analysts with the Institute for Defense Analysis and the Joint Forces Command in Norfolk, Virginia. Plans for the release of many more documents have been announced. And if the contents of the recently released materials and other documents obtained by The Weekly Standard are any indication, the discussion of the threat posed by Saddam Hussein's Iraq is about to get more interesting.

Several months ago, The Weekly Standard received a set of English-language

documents from a senior U.S. government official. The official represented this material as U.S. government translations of three captured Iraqi documents. According to this source, the documents had been examined by the U.S. intelligence community and judged "consistent with authentic documents"--the professionals' way of saying that these items cannot definitively be certified but seem to be the real thing.

The Weekly Standard checked its English-language documents with officials serving elsewhere in the federal government to make sure they were consistent with the versions these officials had seen. With what one person characterized as "minor discrepancies," they are. One of the three documents has been posted in the original Arabic on the website of the Office of the Director of National Intelligence. A subsequent translation of that document is nearly identical to the English-language text that we were given.

These documents add to the growing body of evidence confirming the Iraqi regime's longtime support for terrorism abroad. The first of them, a series of memos from the spring of 2001, shows that the Iraqi Intelligence Service funded Abu Sayyaf, despite the reservations of some IIS officials. The second, an internal Iraqi Intelligence memo on the relationships between the IIS and Saudi opposition groups, records that Osama bin Laden requested Iraqi cooperation on terrorism and propaganda and that in January 1997 the Iraqi regime was eager to continue its relationship with bin Laden. The third, a September 15, 2001, report from an Iraqi Intelligence source in Afghanistan, contains speculation about the relationship between Iraq and al Qaeda and the likely U.S. response to it.

ON JUNE 6, 2001, the Iraqi ambassador to the Philippines sent an eight-page fax to Baghdad. Ambassador Salah Samarmad's dispatch to the Secondary Policy Directorate of the Iraqi Foreign Ministry concerned an Abu Sayyaf kidnapping a week earlier that had garnered international attention. Twenty civilians--including three Americans--had been taken from Dos Palmas Resort on Palawan Island in the southern Philippines. There had been fighting between the kidnappers and the Filipino military, Samarmad reported. Several hostages had escaped, and others were released.

"After the release of nine of the hostages, an announcement from the FBI appeared in newspapers announcing their desire to interview the escaped Filipinos in order to make a decision on the status of the three American hostages," the Iraqi ambassador wrote to his superiors in Baghdad. "The embassy stated what was mentioned above. The three American hostages were a missionary husband and wife who had lived in the Philippines for a while, Martin and Gracia Burnham, from Kansas City, and Guillermo Sobrero, from California. They are still in the hands of the Abu Sayyaf kidnappers from a total of 20 people who were kidnapped from (Dos Palmas) resort on Palawan Island." (Except where noted, parentheses, brackets, and ellipses appear in the documents quoted.)

The report notes that the Iraqis were now trying to be seen as helpful and keep a safe distance from Abu Sayyaf. "We have all cooperated in the field of intelligence information with some of our friends to encourage the tourists and the investors in the

Philippines." But Samarmad's report seems to confirm that this is a change. "The kidnappers were formerly (from the previous year) receiving money and purchasing combat weapons. From now on we (IIS) are not giving them this opportunity and are not on speaking terms with them."

Samarmad's dispatch appears to be the final installment in a series of internal Iraqi regime memos from March through June 2001. (The U.S. government translated some of these documents in full and summarized others.) The memos contain a lengthy discussion among Iraqi officials--from the Ministry of Foreign Affairs and the Iraqi Intelligence Service--about the wisdom of using a Libyan intelligence front as a way to channel Iraqi support for Abu Sayyaf without the risks of dealing directly with the group. (The Libyan regime had intervened in an Abu Sayyaf kidnapping in 2000, securing the release of several hostages by paying several million dollars in ransom. Some observers saw this as an effort by Muammar Qaddafi to improve his image; others saw it as an effort to provide support to Abu Sayyaf by paying the ransom demanded by the group. Both were probably right.)

One Iraqi memo, from the "Republican Presidency, Intelligence Apparatus" to someone identified only as D4/4, makes the case for supporting the work of the Qaddafi Charity Establishment to help Abu Sayyaf. The memo is dated March 18, 2001.

1. There are connections between the Qaddafi Charity Establishment and the Abu Sayyaf group in the Philippines; meanwhile, this establishment is providing material support to them.

2. This establishment is one of the Libyan Intelligence fronts.

3. The Tripoli post has indicated that there is a possibility to form what connections are available with this establishment as it can offer the premise of providing food supplies to [Ed: word missing] in the scope of the agreement statement.

Please review . . . it appears of intelligence value to proceed into connections with this establishment and its intelligence investments in the Abu Sayyaf group.

The short response, two days later:

Mr. Dept. 3:

Study this idea, the pros and the cons, the relative reactions, and any other remarks regarding this.

That exchange above was fully translated by U.S. government translators. The two pages of correspondence that follow it in the Iraqi files were not, but a summary of those pages informs readers that the Iraqi response "discourages the supporting of connections with the Abu Sayyaf group, as the group works against the Philippine government and relies on several methods for material gain, such as kidnapping foreigners, demanding ransoms, as well as being accused by the Philippine government of terrorist acts and drug smuggling."

These accusations were, of course, well founded. On June 12, 2001, six days after Samarmad's dispatch, authorities found the beheaded body of Guillermo Sobrero near the Abu Sayyaf camp. Martin Burnham was killed a year later during the rescue attempt that freed his wife.

A thorough understanding of the relationship between Iraq and Abu Sayyaf (the name, honoring Afghan jihadi Abdul Rasul Sayyaf, means "Father of the Sword") will not come from an analysis of three months' correspondence between Manila and Baghdad in 2001. While it is certainly significant to read in internal Iraqi documents that the regime was at one time funding Abu Sayyaf, we do not now have a complete picture of that relationship. Why did the Iraqis begin funding Abu Sayyaf, which had long been considered a regional terrorist group concerned mainly with making money? Why did they suspend their support in 2001? And why did the Iraqis resume this relationship and, according to the congressional testimony of one State Department regional specialist, intensify it?

ON MARCH 26, 2003, as war raged in Iraq, the State Department's Matthew Daley testified before Congress. Daley, the deputy assistant secretary of state for East Asian and Pacific affairs, told a subcommittee of the House International Relations Committee that he was worried about Abu Sayyaf.

"We're concerned that they have what I would call operational links to Iraqi intelligence services. And they're a danger, they're an enemy of the Philippines, they're an enemy of the United States, and we want very much to help the government in Manila deal with this challenge," Daley told the panel. Responding to a question, Daley elaborated. "There is good reason to believe that a member of the Abu Sayyaf Group who has been involved in terrorist activities was in direct contact with an IIS officer in the Iraqi Embassy in Manila. This individual was subsequently expelled from the Philippines for engaging in activities that were incompatible with his diplomatic status."

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This individual was Hisham Hussein, the second secretary of the Iraqi Embassy in Manila. And Daley was right to be concerned.

Eighteen months before his testimony, a young Filipino man rode his Honda motorcycle up a dusty road to a shanty strip mall just outside Camp Enrile Malagutay in Zamboanga City, Philippines. The camp was host to American troops stationed in the south of the country to train with Filipino soldiers fighting terrorists. The man parked his bike and began to examine its gas tank. Seconds later, the tank exploded, sending nails in all directions and killing the rider almost instantly.

The blast damaged six nearby stores and ripped the front off of a café that doubled as a karaoke bar. The café was popular with American soldiers. And on this day, October 2, 2002, SFC Mark Wayne Jackson was killed there and a fellow soldier was severely wounded. Eyewitnesses almost immediately identified the bomber as an Abu Sayyaf terrorist.

One week before the attack, Abu Sayyaf leaders had promised a campaign of terror directed at the "enemies of Islam"--Westerners and the non-Muslim Filipino majority. And one week after the attack, Abu Sayyaf attempted to strike again, this time with a bomb placed on the playground of the San Roque Elementary School. It did not detonate. Authorities recovered the cell phone that was to have set it off and analyzed incoming and outgoing calls.

As they might have expected, they discovered several calls to and from Abu Sayyaf leaders. But another call got their attention. Seventeen hours after the attack that took the life of SFC Jackson, the cell phone was used to place a call to the second secretary of the Iraqi embassy in Manila, Hisham Hussein. It was not Hussein's only contact with Abu Sayyaf.

"He was surveilled, and we found out he was in contact with Abu Sayyaf and also pro-Iraqi demonstrators," says a Philippine government source, who continued, "[Philippine intelligence] was able to monitor their cell phone calls. [Abu Sayyaf leaders] called him right after the bombing. They were always talking."

An analysis of Iraqi embassy phone records by Philippine authorities showed that Hussein had been in regular contact with Abu Sayyaf leaders both before and after the attack that killed SFC Jackson. Andrea Domingo, immigration commissioner for the Philippines, said Hussein ran an "established network" of terrorists in the country. Hussein had also met with members of the New People's Army, a Communist opposition group on the State Department's list of foreign terrorist groups, in his office at the embassy. According to a Philippine government official, the Philippine National Police uncovered documents in a New People's Army compound that indicate the Iraqi embassy had provided funding for the group. Hisham Hussein and two other Iraqi embassy employees were ordered out of the Philippines on February 14, 2003.

Interestingly, an Abu Sayyaf leader named Hamsiraji Sali at least twice publicly boasted that his group received funding from Iraq. For instance, on March 2, 2003, he told the Philippine Daily Inquirer that the Iraqi regime had provided the terrorist group with 1million pesos--about $20,000--each year since 2000.

ANOTHER ITEM from the Iraq-Philippines files is a "security report" prepared by the Iraqi embassy's third secretary, Ahmad Mahmud Ghalib, and sent to Baghdad by Ambassador Samarmad. The report provides a behind-the-scenes glimpse of the Iraqi Intelligence operation in the Philippines. A cover memo from the ambassador, dated April 12, 2001, gives an overview: "The report contain[s] a variety of issues including intelligence issues and how the Philippines, American and Zionist intelligence operate in the Philippines, especially the movements of the American intelligence in their efforts to fight terrorism and recruiting a variety of nationalities, particularly Arabs."

Ghalib's report is a rambling account of a phone conversation he had with an Iraqi intelligence informer named Muhammad al-Zanki, an Iraqi citizen living in the Philippines, who is referred to throughout the document as Abu Ahmad. The embassy official is looking for information on a third person, an informer named Omar Ghazal, and believes that Abu Ahmad might have some. (To review: Salah Samarmad is the Iraqi ambassador; Ahmad Mahmud Ghalib is the embassy's third secretary, most likely an Iraqi intelligence officer and author of the "security report"; Abu Ahmad is an Iraqi intelligence informer; and Omar Ghazal is another Iraqi intelligence informer.)

As the conversation begins, Abu Ahmad tells his embassy contact that he doesn't know where Omar Ghazal is and would have told the embassy if he did. He then tells the embassy contact that when he called Omar Ghazal's aunt to check on his whereabouts, she used a word in Tagalog--walana--which means "not here." But Abu Ahmad says its connotations are not good. "That word is used when you target one of the personnel who are assigned to complete everything (full mission). Then they announce that he is traveling and so on, and that's what I'm afraid of." The Iraqi embassy contact asks him to elaborate. "I have

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been exposed to that same phrase before, when I asked about an individual, and later on I found out that he was physically eliminated and no one knows anything about him."

The embassy official assures Abu Ahmad that Iraqi intelligence has also lost track of Ghazal, and became alarmed when he abruptly stopped attending soccer practice at a local college. Abu Ahmad fears the worst. "I'm afraid they might have killed him and I'm very worried about him," he says, according to the report. "The method that those people use is terrible and that's why I refuse to work with them."

The Iraqi embassy official interrupts Abu Ahmad. "Who are they? I would like to know who they are."

"Didn't I tell you before who they are?"

"No."

"The office group," says Abu Ahmad.

"Which office?" asks his Iraqi embassy handler.

"A long time ago the American FBI opened up an office in the Philippines, under American supervision and that there are Philippine Intelligence groups that work there. The goal of the office is to fight international terrorism (in the Philippines of course) and they have employees from various nationalities that speak of peace and international terrorism and how important it is to put an end to terrorism. The office also has other espionage affairs involving Arab citizens to work with them in order to provide them with information on the Arabs who are living in the Philippines and also for other spying purposes."

Abu Ahmad continues: "They also monitor diplomacy, and after I tried to lessen my amount of office work, I became aware that the office group was trying to get in contact with the person who is in charge of temporary work, Malik al-Athir, when he was alone."

Abu Ahmad tells his Iraqi embassy contact, Ghalib, that "the office" was trying to recruit an Arab to monitor Arab citizens in the Philippines. The Iraqi embassy contact suggests that Abu Ahmad volunteer for the job. Abu Ahmad says he had other plans. "I am leaving after I finish selling my house and properties and will move to Peshawar [Pakistan]. There I will be supplied with materials, weapons, explosives, and get married and then move to America. Do you know that there are more than one thousand Iraqi extremists who perform heroism jobs?" The speaker presumably means martyrdom operations.

The Iraqi embassy contact asks Abu Ahmad how he knows that those people are not "Saudis, Kuwaitis, Iranians."

Abu Ahmad replies: "They are bin Laden's people and all of them are extremists and they are heroes. Do you want me to give you their names?"

"Why not? Yes, I want them," says the Iraqi embassy contact.

"I will supply you with the names very soon. I will write some for you because I am in touch with them," says Abu Ahmad.

This report raises more questions than it answers. Who is Omar Ghazal and why did he disappear? What is the "office group" and how is it connected to Americans? What happened to Abu Ahmad? Were his stated plans--moving to Peshawar to obtain weapons and explosives and then moving to the United States--just bluster to impress his Iraqi embassy handler? A way to discontinue his work for the Iraqi regime? Or was he serious? Is he here now?

A SECOND internal Iraqi file obtained by The Weekly Standard concerns relations between Iraqi Intelligence and Saudi opposition groups. The document was apparently compiled at some point after January 1997, judging by the most recent date in the text, and discusses four Saudi opposition groups: the Committee for Defense of Legitimate Rights, the Reform and Advice Committee (Osama bin Laden), People of al Jazeera Union Organization, and the Saudi Hezbollah.

The New York Times first reported on the existence of this file on June 25, 2004. "American officials described the document as an internal report by the Iraqi intelligence service detailing efforts to seek cooperation with several Saudi opposition groups, including Mr. bin Laden's organization, before al Qaeda had become a full-fledged terrorist organization." According to the Times, a Pentagon task force "concluded that the document 'appeared authentic,' and that it 'corroborates and expands on previous reporting' about contacts between Iraqi intelligence and Mr. bin Laden in Sudan, according to the task force's analysis."

The most provocative aspect of the document is the discussion of efforts to seek cooperation between Iraqi Intelligence and the Saudi opposition group run by bin Laden, known to the Iraqis as the "Reform and Advice Committee." The translation of that section appears below.

We moved towards the committee by doing the following:

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A. During the visit of the Sudanese Dr. Ibrahim al-Sanusi to Iraq and his meeting with Mr. Uday Saddam Hussein, on December 13, 1994, in the presence of the respectable, Mr. Director of the Intelligence Service, he [Dr. al-Sanusi] pointed out that the opposing Osama bin Laden, residing in Sudan, is reserved and afraid to be depicted by his enemies as an agent of Iraq. We prepared to meet him in Sudan (The Honorable Presidency was informed of the results of the meeting in our letter 782 on December 17, 1994).

B. An approval to meet with opposer Osama bin Laden by the Intelligence Services was given by the Honorable Presidency in its letter 138, dated January 11, 1995 (attachment 6). He [bin Laden] was met by the previous general director of M4 in Sudan and in the presence of the Sudanese, Ibrahim al-Sanusi, on February 19, 1995. We discussed with him his organization. He requested the broadcast of the speeches of Sheikh Sulayman al-Uda (who has influence within Saudi Arabia and outside due to being a well known religious and influential personality) and to designate a program for them through the broadcast directed inside Iraq, and to perform joint operations against the foreign forces in the land of Hijaz. (The Honorable Presidency was informed of the details of the meeting in our letter 370 on March 4, 1995, attachment 7.)

C. The approval was received from the Leader, Mr. President, may God keep him, to designate a program for them through the directed broadcast. We were left to develop the relationship and the cooperation between the two sides to see what other doors of cooperation and agreement open up. The Sudanese side was informed of the Honorable Presidency's agreement above, through the representative of the Respectable Director of Intelligence Services, our Ambassador in Khartoum.

D. Due to the recent situation of Sudan and being accused of supporting and embracing of terrorism, an agreement with the opposing Saudi Osama bin Laden was reached. The agreement required him to leave Sudan to another area. He left Khartoum in July 1996. The information we have indicates that he is currently in Afghanistan. The relationship with him is ongoing through the Sudanese side. Currently we are working to invigorate this relationship through a new channel in light of his present location.

(It should be noted that the documents given to The Weekly Standard did not include the attachments, letters to and from Saddam Hussein about the status of the Iraq-al Qaeda relationship. And the last sentence differs slightly from the version provided to the New York Times. In the Weekly Standard document, Iraq is seeking to "invigorate" its relationship with al Qaeda; in the Times translation, Iraq is seeking to "continue" that relationship.)

Another passage of the Iraq-Saudi opposition memo details the relationship between the Iraqi regime and the Committee for Defense of Legitimate Rights (CDLR), founded by Dr. Muhammad Abdallah al-Massari. Once again, Dr. Ibrahim al-Sanusi, the senior Sudanese government official, was a key liaison between the two sides. Al-Massari is widely regarded as an ideological mouthpiece for al Qaeda, a designation he does little to dispute. His radio station broadcasts al Qaeda propaganda, and his website features the rantings of prominent jihadists. He has lived in London for more than a decade. The Iraqi Intelligence memo recounts two meetings involving Dr. al-Sanusi and CDLR representatives in 1994 and reports that al-Massari requested assistance from the Iraqi regime for a trip to Iraq.

In 1995, the Iraqis turned to another Saudi to facilitate their relationship with al-Massari. According to the Iraqi memo, Ahmid Khudir al-Zahrani was a diplomat at the Saudi embassy in Washington who applied for political asylum in the United States. His application was denied, and al-Zahrani contacted the Iraqi embassy in London, seeking asylum in Iraq. His timing was good. Al-Zahrani's request came just as Iraqis were stepping up efforts to establish better relations with the Saudi opposition. According to the Iraqi Intelligence memo:

A complete plan was put in place to bring the aforementioned [al-Zahrani] to Iraq in coordination with the Foreign Ministry and our [intelligence] station in Khartoum [Sudan]. He and his family were issued Iraqi passports with pseudonyms by our embassy in Khartoum. He arrived to Iraq on April 21, 1995, and multiple meetings were held with him to obtain information about the Saudi opposition.

These contacts were not, contrary to the speculation of some Middle East experts, simply an effort to keep tabs on an enemy. The memo continues, summarizing Iraqi Intelligence activities:

We are in the process of following up on the subject, to try and establish a nucleus of Saudi opposition in Iraq, and use our relationship with [al-Massari] to serve our intelligence goals.

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The final document provided to The Weekly Standard is a translation of a memo from the "Republican Command, Intelligence Division," dated September 15, 2001. It is addressed to "Mr. M.A.M.5."

Our Afghani source number 11002 (his biographic information in attachment #1) has provided us information that the Afghani consul Ahmed Dahestani (his biographic information attachment #2) has talked in front of him about the following:

1. That Osama bin Laden and the Taliban group in Afghanistan are in communication with Iraq and that previously a group of Taliban and Osama bin Laden have visited Iraq.

2. That America has evidence that the Iraqi government and the group of Osama bin Laden have cooperated to attack targets inside America.

3. In the event that it has been proven that the group of Osama bin Laden and the Taliban planning such operations, it is possible that America will attack Iraq and Afghanistan.

4. That the Afghani consul heard of the relation between Iraq and the group of Osama bin Laden while he was in Iran.

5. In the light of what has been presented, we suggest to write to the committee of information.

This document is speculative in parts, and the information it contains is third-hand at best. Its value depends on the credibility of "source number 11002" and of Ahmed Dahestani and of the sources Dahestani relied on, all of which are unknown.

We are left, then, with three small pieces to add to a large and elaborate puzzle. We will never have a complete picture of the Iraqi regime's support for global terrorism, but the coming release of a flood of captured documents should get us closer.

A new and highly illuminating article in Foreign Affairs draws on hundreds of Iraqi documents to provide a look at the Iraq war from the Iraqi perspective. The picture that emerges is that of an Iraqi regime built on a foundation of paranoia and lies and eager to attack its perceived enemies, internal and external. This paragraph is notable:

The Saddam Fedayeen also took part in the regime's domestic terrorism operations and planned for attacks throughout Europe and the Middle East. In a document dated May 1999, Saddam's older son, Uday, ordered preparations for "special operations, assassinations, and bombings, for the centers and traitor symbols in London, Iran and the self-ruled areas [Kurdistan]." Preparations for "Blessed July," a regime-directed wave of "martyrdom" operations against targets in the West, were well under way at the time of the coalition invasion.

Think about that last sentence.

US Puts Iraqi Documents On The Web (BOS)

By Hiawatha Bray

The Boston Globe, March 19, 2006

Goal is to speed up translation of files

Joseph Shahda of Randolph earns his living as an engineer. But in his spare time, he's an intelligence agent, working to ferret out the truth about the regime of deposed Iraqi dictator Saddam Hussein.

When the US government on Thursday began publishing captured Iraqi government documents on the Internet, Shahda eagerly began to translate the files into English and publish them on a conservative website.

"I feel a sense of duty," said Shahda, a native of Lebanon who supports President Bush's decision to invade Iraq. "I think it's a duty for people who know Arabic to translate the documents."

US officials hope that thousands of other Arabic speakers feel the same. Goaded by Congress, Director of National Intelligence John Negroponte has begun to release millions of pages of captured files online in an unprecedented effort to harness the Internet to disseminate raw intelligence material. There, anybody with a knowledge of Arabic can download the files and translate them for the world.

It's the same "open source" principle that drove the successful development of the Internet and of powerful free software like the Linux operating system. Instead of hiring a team of brilliant professionals to analyze Iraqi documents in secret, the open source systems will use hundreds of clever amateurs, who'll publish their work for anyone to analyze and improve upon.

"Workers control the means of production, but without all that tedious communism," said Glenn Reynolds, a law professor at the University of Tennessee and author of "An Army of Davids," a book that shows how the Internet encourages public activism.

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US intelligence officials say nearly all the documents released have been given at least a cursory reading by Arabic experts. Beth Marple, Negroponte's deputy press secretary, said amateur translators won't find any major surprises, such as proof Hussein hid stockpiles of chemical weapons.

Still, conservative bloggers, eager to bolster the case for going to war against Iraq, have long argued for release of the documents. They gained a powerful ally last month in Michigan Republican Pete Hoekstra, chairman of the House Intelligence Committee. In an interview with blogger Andrew Marcus, Hoekstra called for Negroponte to release the documents online. "Unleash the power of the Net," Hoekstra said. "Let the blogosphere go." Kansas Republican Pat Roberts, chairman of the Senate Intelligence Committee, backed Hoekstra's proposal.

Within hours of the first release of documents, Shahda posted his first translation on the conservative website Free Republic. It was an Iraqi intelligence report of an interview with an Afghan informant that suggests -- but does not prove -- agents of Al Qaeda and the Taliban were active in Iraq before the Sept. 11 attacks.

According to an intelligence official who declined to be identified, Negroponte plans to release all documents that have no further intelligence value. Files that might help apprehend members of the Iraqi insurgency will remain under wraps. So will files that could violate the privacy or harm the reputations of innocent people. For instance, the Hussein regime used rape as a method of torture, and the government won't release documents containing the names of Iraqi rape victims. Nor will it release files mentioning Iraqi-Americans or other US citizens, such as journalists.

The remaining documents, the official said, will mainly provide insights into Hussein's rule. "This stuff needs to be laid bare because it helps the democratic process in Iraq, like it did in South Africa, like it did in Germany," he said.

At least one Iraqi blogger agrees. "We are currently trying to organize a network of bilingual Iraqi bloggers to translate as many of the documents as possible," said "Omar," a Baghdad dentist who publishes IraqTheModel, which is widely read in the United States. Omar will not reveal his full name because his support for the overthrow of Saddam Hussein could put him in danger of death.

While conservative US bloggers, and some Iraqis, are eager to translate and read the Iraq documents, some prominent liberal bloggers scoffed at the release. "To me, this is just more evidence that the Bush administration doesn't take national security seriously," wrote Markos Moulitsas Zúniga, founder of the popular Daily Kos website. "Why doesn't our government have enough translators to handle this job?"

Jonathan Singer, weekend editor of the liberal site MyDD.com, was equally dismissive. "The Hussein documents are not of great interest to me," said Singer, "for the simple reason that they simply reinforce the notion that the Bush administration cherry picks intelligence to suit their needs."

Demonstrations Mark Third Anniversary Of Iraq Invasion (NYT)

By Nicholas Confessore

The New York Times, March 19, 2006

About 1,000 people gathered near Times Square yesterday, in one of dozens of energetic and often unfocused rallies held in cities across the United States and around the world to protest the third anniversary of the United States invasion of Iraq.

Yesterday's protests, like those held to mark each of the two previous anniversaries of the March 2003 invasion, were vigorous and peaceful but far smaller than the large-scale marches that preceded the war, despite polls showing lower public support for the war than in years past and anemic approval ratings for President Bush, himself a focus of many of the protesters.

But the Iraq war itself — though the obvious inspiration for the march — was noticeably less central to the proceedings than in previous years. The rally in Times Square featured dozens of speakers on topics ranging from relations with Iran to the treatment of Hurricane Katrina refugees.

"No group owns the day," said Dustin Langley, a spokesman for the Troops Out Now Coalition, which helped organize protests in New York, Boston, Washington, Los Angeles, Atlanta and other cities. "Whoever you are, be out there on the streets."

Tens of thousands of people marched in Rome, while officials in London reported a crowd of 15,000. Other demonstrations occurred in Greece, Turkey, Spain, Brazil, Australia and Canada.

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One of the biggest protests in the United States was held in San Francisco, for decades a hub of antiwar sentiment. The police there estimated the crowd gathered outside City Hall at 6,000. Many chanted slogans opposing Mr. Bush, and most appeared to hail from a distinctly grayer demographic than that of other protest events.

"There are not enough young people here," said Paul Perchonock, 61, a medical doctor from the Bay Area. "They don't see themselves as having a stake."

In his weekly radio address, President Bush defended the administration's record in Iraq, saying that the country's decision to depose the regime of Saddam Hussein was "a difficult decision—and it was the right decision." He pledged to "finish the mission" despite calls for withdrawal.

Today marks the third anniversary of the invasion.

In Washington, a relatively small crowd of about 300 people gathered at the United States Naval Observatory, where Vice President Dick Cheney lives.

Debbie Boch, 52, a restaurant manager from Denver, said she and two friends bought plane tickets to Washington two months ago, before the demonstration had been planned. It was the fifth protest march she attended since the war began, she said, and among the smallest.

"It's very disappointing, especially in Washington, D.C.," she said. "You think this is the place where people come to make things happen. I'm just not sure why there aren't more people hear today."

But other marchers took solace from recent opinion polls showing public opinion slowly drifting against the war.

"Three years ago, folks thought we were crazy; two years ago, people still thought we were crazy," said the Rev. Graylan Scott Hagler, a minister at Plymouth Congregational United Church of Christ in Washington. "We know now that most of the American people do not believe that we are crazy anymore."

In New York, protesters gathered on three lanes of Broadway south of 42nd Street, after the city denied the organizers permission to set up near an armed services recruitment office. Mounted police patrolled the avenue, while dozens of police officers attempted to keep traffic moving on the street and sidewalk.

The demonstrators, bundled against the cold and confined by police fences to a two-block stretch, came from as close as Chelsea and as far away as South Korea. Quakers mixed with communists and labor organizers with high school students, as antiwar entrepreneurs hawked T-shirts under the sultry gaze of a Calvin Klein model, reclining in a massive billboard advertisement overhead.

"I am just sick and grief stricken that we are continuing this war in Iraq," said Julie Finch, 63, who lives in Manhattan. "I mourn every soldier that dies. This war was based on lies."

A nearby Starbucks — a chain once disparaged by the anti-globalization protesters from which today's antiwar movement draws some inspiration — served as a warming hut and bathroom station for the protesters, even serving up a latte or two to placard-brandishing customers. Journalists conducted interviews in the heated vestibule of a Gap store on 42nd Street until a security guard asked them to move.

A recorded message from Mumia Abu-Jamal, an inmate in Pennsylvania and a left-wing cause célèbre, drifted across the speakers as garbled as the service announcements emanating from subway speakers in the station below ground.

Around 2:30 p.m., the rally turned into a march, as those gathered walked around the corner down 42nd Street, bound for the United Nations. They moved slowly, sprawling the length of two crosstown blocks, with a few Katrina refugees at the column's front. At the back, Devin Kyle, 26, and Tonia Shoumatoff, 50, carried a 20-foot banner reading, simply, "May Peace Prevail."

"Rather than fight hatred with hatred," Mr. Kyle said, "I came here to be a peaceful presence."

Anti-War Rallies Mark Iraq Anniversary (WP/AP)

By Paul Burkhardt, The Associated Press

The Washington Post, March 19, 2006

NEW YORK -- Thousands of anti-war protesters took to the streets around the world Saturday, marking the third anniversary of the U.S.-led invasion of Iraq with demands that coalition troops leave immediately.

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Wael Musfar of the Arab Muslim American Federation addressed more than 1,000 people who gathered in Times Square near a military recruiting station, which was guarded by police.

"We say enough hypocrisy, enough lies, our soldiers must come home now," Musfar said from a parked flatbed truck. Participants chanted, "Stop the U.S. war machine, from Iraq to Korea to the Philippines."

Many attendees emphasized that they support the troops. "I have friends in Iraq and I just want them to know that I may not be able to support them there, but I can here," said Jose Avila, 36.

Protesters in Chicago marched down Michigan Avenue to a Saturday night rally at downtown's Daley Plaza. Police estimated that more than 7,000 people took part, but said there were no arrests.

"I'm against this war, I'm against the torture," said protester Martha Conrad, 54, of Chicago. "We're doing this for the people of Iraq."

One bystander, with a red, white and black Iraqi flag flung across his shoulders, said he came to show he backed President Bush's policies in Iraq. "I support freeing Iraqis from tyranny," said 33-year-old Ryan Stiles of Chicago.

Protests also were held in Australia, Asia and Europe, but many events were far smaller than organizers had hoped. In London, police said 15,000 people joined a march from Parliament and Big Ben to a rally in Trafalgar Square. The anniversary last year attracted 45,000 protesters in the city.

"We are against this war, both for religious reasons and on a humanitarian basis, too," said Imran Saghir, 25, a Muslim student who attended the London rally.

Britain, the United States' strongest supporter in the Iraq war, has about 8,000 troops in Iraq but plans to pull out 800 of them by May. The British military has reported 103 deaths there. More than 2,300 American troops have died in the war, which began three years ago Sunday.

In Washington, a protester wearing a Bush mask and bearing fake blood on his hands waved to passing automobiles outside Vice President Dick Cheney's residence, where about 200 people demonstrated against the war.

Rev. Graylan Scott Hagler of the Plymouth Congregational United Church of Christ said the rallies nationwide are a "tapestry of resistance."

"Most people believe we aren't crazy anymore," he said.

In Concord, N.H., nearly 300 peace activists marched about a mile from a National Guard armory to the Statehouse.

"I feel a huge sense of betrayal that I went and risked my life for a lie," said Joseph Turcott, 26, a former Marine who served in the invasion.

Other U.S. cities where protesters gathered Saturday included Boston and San Francisco.

Defense Secretary Donald H. Rumsfeld answered critics of the war in a guest column in Sunday's editions of The Washington Post, asserting that if Americans were to turn away from Iraq, it would be "the modern equivalent of handing postwar Germany back to the Nazis."

"It would be as great a disgrace as if we had asked the liberated nations of Eastern Europe to return to Soviet domination because it was too hard or too tough or we didn't have the patience to work with them as they built free countries," he wrote.

Rumsfeld cited rising voter participation in successive Iraqi elections, support for security forces shown by Sunni religious leaders once sympathetic to the insurgency, and rising competence of Iraqi troops as evidence of progress since the invasion three years ago.

"The terrorists seem to recognize that they are losing in Iraq," he said.

In demonstrations in several cities worldwide, protesters carried posters showing pictures of Bush, calling him the "World's No. 1 terrorist."

In Turkey, where opposition to the war cuts across all political stripes, about 3,000 protesters gathered in Istanbul, police said. "Murderer USA," read a sign in Taksim Square.

In Stockholm, Sweden, about 1,000 demonstrators gathered for a rally and march to the U.S. Embassy. One protester was dressed as the hooded figure shown in an iconic photograph from the Abu Ghraib prison.

In Copenhagen, Denmark, more than 2,000 demonstrators marched from the U.S. Embassy to the British Embassy, demanding the withdrawal of 530 Danish troops from southern Iraq.

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On Sunday, up to 3,000 protesters were expected in Seoul, South Korea, which has the third-largest contingent of foreign troops in Iraq after the U.S. and Britain.

Britain's defense chief earlier urged demonstrators in London to support the Iraqi people and condemn terrorism.

"When people go on the streets of London today, I do wish just occasionally they would go out in support of the United Nations, the Iraqi people and the Iraqi democrats and condemn terrorists," Defense Secretary John Reid told British Broadcasting Corp. radio during a visit to Iraq.

Members of the Stop the War Coalition, the organizers of the London march, had little sympathy for Reed's remarks.

"Every day you hear of new deaths. Tony Blair has actually made Iraq a worse place for the Iraqi people," said Rose Gentle, whose soldier son Gordon, 19, was killed by a roadside bomb last year in Basra, southern Iraq.

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Associated Press Writer Sue Leeman contributed to this report from London.

Thousands Protest War's 3rd Anniversary (LAT)

By Sara Lin And Deborah Schoch, Times Staff Writers

The Los Angeles Times, March 19, 2006

From Australia to Hollywood, people march to demand that troops be withdrawn.

While some brought anti-war placards and petitions to Hollywood on Saturday, a group called Veterans for Peace crafted 100 flag-draped coffins from cardboard cartons and carried them down Sunset Boulevard to mark the more than 2,300 U.S. troops killed in the Iraq war.

At MacArthur Park in Los Angeles, the American Friends Service Committee laid out 240 pairs of boots, each bearing the name of a fallen soldier from California.

And in San Francisco, protesters dressed as members of President Bush's cabinet and carried signs that read "United World Not United States" and "Stop U.S. Imperialism."

Worldwide, demonstrations started Saturday with 500 people chanting anti-war slogans in Sydney, Australia, and rolled around the world, with major protests in Pakistan, London and the United States, where more than 1,000 people gathered in New York's Times Square.

As many as 3,000 demonstrators were expected today in Seoul. South Korea has the third-largest contingent of foreign troops in Iraq, behind the U.S. and Britain. Another protest is planned outside the U.S. embassy in Kuala Lumpur, the largest city in Malaysia.

In California on Saturday, thousands of people took part in activities to show their opposition to the U.S.-led invasion of Iraq that began three years ago and to call for a pullout of American troops.

As he sat in MacArthur Park next to a worn pair of black boots with a tag bearing his son's name, Fernando Suarez del Solar, 50, addressed the crowd in English and Spanish to encourage more Latinos to participate in the anti-war movement. A large image of his son was propped up behind him.

"My son died, and anything I do here will not bring him back … but I think I can save other children," he said. Suarez del Solar's son was one of the first Marines killed in the war.

Gary Russell, 61, noted that the crowd at the park was small and that not many people were heading to Hollywood to listen to speeches there.

"I agree this march is not big — not like the massive marches we had in the '60s — but in time it will happen," Russell said.

Later in the day, several thousand people marched in Hollywood to an area near the Kodak Theatre. Among them was Pablo Martin, who said he was joining an anti-war march for the first time. Martin, 32, of Los Angeles shouldered the corner of a prop coffin as he marched down Sunset Boulevard.

"I just got tired of not doing anything," he said. "I think we've all been duped, and the young, the poor, the minorities are taking the brunt of it."

Several of the protesters said they are growing discouraged at the length of the war.

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"I don't see any possible way for it to end any time soon," said Flo Webster, 73, of Woodland Hills, who held up a hand-drawn sign reading "Grandmothers for Peace," decorated with photos of her four grandchildren.

Those who addressed the crowd included Paul Haggis, who received two Academy Awards at the Kodak Theatre this month for the best picture winner, "Crash." He won for original screenwriting and was one of the producers honored for the film.

"This is my first time back to the Kodak Theatre since March 5 and I couldn't be prouder to be with all of you," Haggis said.

Actor Martin Sheen, who plays U.S. President Josiah Bartlet in the television series "The West Wing," drew some of the loudest cheers with his call to end the war.

"Let my country awake," he concluded, quoting India's first Nobel laureate, the late Rabindranath Tagore.

After Sheen's speech, Vietnam War veteran Edward Smith, 56, who opposes the war in Iraq, leaned over a metal guardrail and called out to Sheen, "Why isn't anyone up there talking about the troops?"

Sheen paused to talk to Smith, pointing out the makeshift coffins carried by the protesters. "We want them home safely," Sheen said of the troops.

In San Francisco, protesters danced in the streets and beat drums.

"It's very painful to me that our country is doing this and killing innocent people," said Joan Emerson, 70, of Mill Valley, who attended with the group Old Lesbians Organizing for Change. "I'm against all war, and I'm very concerned that I'm responsible as an American citizen for this kind of thing happening."

Persis Karim, 33, said she was concerned that the United States might launch a preemptive strike on Iran.

"They may not do it in quite the same way as Iraq," said Karim, a professor at San Jose State University. "But the agenda of the Bush administration is to secure the region, and obviously Iran is a problem to them."

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The Associated Press contributed to this report.

Marchers Make Slow Progress (Advocate)

By ALLEN JOHNSON JR.

The Advocate, March 19, 2006

Delays hinder, fail to stop war protesters

Published: Mar 19, 2006

CHALMETTE — Saturday morning went badly for a couple from Poplarville, Miss., until they found an anti-war march advancing slowly toward New Orleans.

Veteran anti-war activist Joyce Zehnle, 74, and her husband, Dick Zehnle, 72, a former corporate attorney, were waiting outside the Chalmette National Military Cemetery for the march to arrive.

The Zehnles are former college professors who said they have been demonstrating against war since the late 1960s, when they encouraged their students to oppose America's role in the Vietnam War.

But, the couple said, they had driven all over eastern New Orleans without finding any sign of the "Veterans March to New Orleans," the anti-war march that left Mobile, Ala., on Monday — bound to reach New Orleans by today, the third anniversary of the U.S. invasion of Iraq.

Organizers of the five-day march said their protest was designed to point out the link between the high human and economic cost of war in the Middle East — and the failure of the U.S. government to respond to the needs of Americans at home, particularly on the hurricane-ravaged Gulf Coast.

But at the moment, the only alternative to waiting at the cemetery was to get in their car for the one-hour drive back to the political isolation of their beloved ranch, deep in Mississippi.

"The land is so beautiful and it's so quiet," Joyce Zehnle said. "The people there are so good to us — and honest." Her husband nodded in agreement, again. Their neighbors made sure they had plenty of drinking water after Katrina, he said. "They are, individually, good people."

But the Zehnles' corner of Mississippi also is staunchly populated by religious conservatives, they said. The former professors lamented what they see as a lack of critical thinking among the public, especially of their government officials.

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So the Zehnles lingered by the military cemetery. A chilly March wind blew. The hasps of the cemetery flagpole clanged in the background.

Moments earlier, word came that that the "Veterans March to New Orleans" was behind schedule. A spokesperson for the march said the 200 activists were about a half-hour away from a highway junction in the swampy eastern tip of Orleans Parish. The 11 a.m. rally at Chalmette cemetery was postponed until today.

A press conference scheduled for earlier Saturday morning at the Bayou Sauvage National Wildlife Refuge was apparently too late to salvage. An update was relayed to the Zehnles and three other anti-war activists gathered outside the Chalmette cemetery, two women in a car and a skinny man on a bicycle. They left; the Zehnles stayed.

The Zehnles' disappointment in the progress of the march was clear. "Chicago was better organized," Joyce Zehnle sighed, apparently recalling some past protest.

Dick Zehnle said he was looking forward to the Chalmette rally, to be keynoted by Cindy Sheehan, the mother of a soldier killed in Iraq who became contemporary America's best-known anti-war activist when she camped outside of President Bush's retreat in Crawford, Texas.

Joyce Zehnle, meanwhile, had been eagerly anticipating the Bayou Sauvage press conference, particularly an Iraq war veteran's address on the health threat that the military's use of "depleted" uranium for ammunition allegedly poses to U.S. troops and Iraqi civilians alike.

The couple's fervor against war is matched perhaps only by their passion for political activism and books, especially the works of leftward intellectuals such as Noam Chomsky, Howard Zinn, and Middle East expert Robert Fisk.

Joyce Zehnle, who grew up in New Orleans, said she was politically active in her early 20s, during the Civil Rights Era. "I sat with blacks in the back of the streetcar because I was trying to be a good Christian."

Her husband recalled that his political awakening came much later, during his 30s when he traveled through Europe and delved into Chomsky. "We are brainwashed in school," said. "We are taught American exceptionalism. We are always moral; we are always right; and God is always on our side.'"

During the Vietnam War, both said, they were professors of religious studies who encouraged their students to oppose war.

Suddenly two women drove up, an advance team from the march. The procession had reached the highway junction in eastern New Orleans, they said. The march would resume at 1 p.m. advancing toward Bayou Sauvage.

The Zehnles got into their own car, and drove east into the wildlife refuge. Hurricane debris littered both sides of Chef Menteur Highway.

A Volkswagen bus bore a large flag with a peace sign on its rear bumper. The lead car had a sign: "Abandon Iraq — not our Gulf Coast."

Newspaper photographers lined the opposite side of the road.

The Zehnles made a U-turn and pulled their car behind the caravan trailing the marchers. They inched forward behind a bus with California markings.

On the rear of the bus, a raft of bumper stickers denounced the war: "Bring them home now!;" "Bush brings out the worst in America;" "Zero Tolerance for Torture."

The Zehnles waved from their car. They seemed happier. No longer politically isolated, still retired, and very, very active.

Pro-peace (INDYSTAR)

By Tammy Webber

The Indianapolis Star, March 19, 2006

About 600 rally in Indy on 3rd anniversary of Iraq war

Jamie Gonzalez supported her son's decision to join the Army 2 1/2 years ago to defend his nation, get an education and "have an adventure."

Loud and clear: Anne Peay, her sister Susan Coleman and Sara Federle (from left) joined Saturday's protest at Monument Circle. "We want this nightmare over," peace activist Cindy Sheehan told the group by telephone call. - MATT KRYGER / The Star

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On Saturday, holding his photo at a peace rally in Downtown Indianapolis, Gonzalez said she now just wants her son, Jamiell, 21, to come home.

"I am so afraid he will be sent to Iraq," said the Indianapolis woman, whose son is now stationed in Kuwait, on the Iraq border. "He is serving his country, doing something he loves, but they need to bring the troops home."

Gonzalez was among about 600 people who gathered on Monument Circle to rally for peace on the third anniversary of the U.S. invasion of Iraq.

Some carried hand-lettered signs with anti-war slogans such as, "War is not the answer," and "Choose peace." Others carried flags with peace signs.

At one point, the crowd broke into a chant, "One, two, three, four, bring our troops back to our shore." Others stood quietly, clutching flowers. At another point, they released red balloons carrying the names of Indiana soldiers who had died in Iraq.

One after another, speakers criticized the war's casualties and costs. Some said the war was a crime and called for the impeachment of President Bush.

"We should not be squandering hundreds of millions of dollars on a bloody boondoggle," said longtime U.S. Rep. Andy Jacobs, a Democrat who retired in 1997. He excoriated the president and his decision to go to war.

"The war hawk who has never been to war by definition doesn't know what he is talking about," said Jacobs, a Korean War veteran, prompting cheers from the crowd. "The only Americans in any danger from Iraq are the ones who were sent there to be slaughtered."

Saturday's gathering was more than triple the size of last year's rally, a sign that more Americans are growing tired of the war, said Heather Allen-Garde, a member of Progressive Indiana, one of several groups that organized the event.

"I think people realized this is costing us incredible amounts of money we don't have, and we are losing a lot of soldiers," Allen-Garde said.

At least 2,311 U.S. military members, including 59 people with Indiana ties, have died and more than 17,000 have been wounded since the Iraq war began. According to a recent Associated Press-Ipsos poll, only 39 percent of Americans support the way the president has handled the war. The poll also found almost four of five Americans, including 70 percent of Republicans, think Iraq is headed for civil war.

Marvin Wagner, 78, Indianapolis, a Korean War veteran, said the war is senseless.

"There are a few of us vets against the war," said Wagner. "I was in Korea. I was drafted. I know what the horror of war is. I never did get over it, and they're creating more like me."

The rally included a telephone call from peace activist Cindy Sheehan, whose anti-war vigils outside Bush's Texas ranch last year drew worldwide attention.

"We want this nightmare over," Sheehan said.

Sheehan, who was in New Orleans for another peace rally, encouraged the crowd to continue protesting and to "work for peace."

Across the street, a small group of counterprotesters held signs in support of Bush and the war, including one that said, "Honor the dead by rooting for victory."

Even some at the rally weren't sure the troops should come home.

Bridie Trozelli, 18, who moved to Indianapolis three years ago from Sweden, said she disagreed with war, "but from what I heard, if America pulls out now, it could leave (Iraq) in worse shape."

Gonzalez, however, said continuing to fight in Iraq wouldn't bring anything but more casualties on both sides.

"I think . . . the thing they could do now to make it better is to bring the troops home and peace will come sooner."

Anti-war Activist Cindy Sheehan Joins Marchers (MR)

By Ron Colquitt

Mobile Register, March 19, 2006

Still recovering from injuries suffered during a recent protest in New York City, anti-war activist Cindy Sheehan linked up with Gulf Coast peace marchers Thursday to participate in the final leg of their 140-mile trek from Mobile to New Orleans.

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More than 200 people are making the trek to protest the war in Iraq and what they believe is the federal government's mismanagement of the Hurricane Katrina recovery along the Gulf Coast.

The march, which began Tuesday in Mobile, includes people from along the Gulf Coast and across the nation. A BBC crew and other news organizations have been documenting the march.

Sheehan, whose son, Casey Sheehan, was killed in Iraq, said Friday that she finds the recent United States and Iraq offensive against insurgents northeast of Samarra to be "despicable."

"Number one, they don't have to escalate the war, and they need to start bringing our troops home," Sheehan said. "That is what Americans want, Iraq wants, the world wants and our soldiers want. It won't solve anything with the killing of more people, and it just makes things worse."

Sheehan, who gained national recognition as she camped outside President Bush's Texas ranch after her son was killed, said she will be speaking Sunday during a rally in New Orleans that will culminate the peace march.

She said she would have been part of the Gulf Coast protest march from the beginning had she not been injured during a protest outside the United Nations in New York. Her sister, Dede Miller, was among the marchers who left Mobile on Tuesday.

Sheehan, who is from Berkeley, Calif., said she suffered a mild concussion and injuries to her back and right arm when police outside the United Nations dragged her 15 feet.

"I can't get dragged by that arm anytime soon," she said with a laugh.

She said she's proud of her sister for participating in the Gulf Coast protest from the beginning. Miller, Sheehan said, works for Families for Peace, an organization Sheehan founded.

Sheehan said she and her sister are dedicated to working to end the war, which has now cost the lives of more than 2,300 American servicemen and women.

Sheehan said she planned to speak Friday night in Slidell, La., where marchers planned to camp.

Paul Robinson of Mobile, who helped organize the march, said marchers were led into Slidell early Friday afternoon by a five-piece, brass jazz band.

"Oh man, this has been great," said Robinson, president of the Mobile chapter of Veterans for Peace. "We added about 15 more marchers just today."

The group, which is traveling by car and by foot, left Long Beach, Miss., on Friday morning. Protesters walked at least 10 of the 30 miles between Long Beach and Slidell, he said.

Rally Calls For End To Iraq War (PPG)

By Caitlin Cleary

Pittsburgh Post-Gazette, March 19, 2006

Marchers want soldiers home now

Several hundred people marched through the streets of East Liberty, Shadyside and Oakland yesterday to protest the war in Iraq on the third anniversary of the U.S.-led invasion.

The three-mile-long march, organized by the Thomas Merton Center Anti-War Committee, began with a rally at the corner of Penn and Highland avenues. Featured were several speakers and performers including Pittsburgh rock band Soma Mestizo, whose lead singer Christiane D. said, "First I'd like to say hello to all the FBI agents who've joined us today," drawing cheers and laughter from the crowd.

Last week, the Thomas Merton Center released documents its members said showed the FBI was spying on its activists.

The rally and march were peaceful, occurring without any major incidents; only one arrest was reported. Organizers reported that some 2,000 people turned out for yesterday's rally, while police offered a much lower estimate.

Friends Katee Newhaus, 13, of Dormont, and Dana Dobson, 15, of Mt. Lebanon, called the turnout "not bad," but expressed chagrin that many of their friends and classmates couldn't be bothered to show up.

"There's a lot of apathy," said Dana. "It's like, OK, would you rather have an influence on how many people are dying, or go to a party that would happen [again] next week?"

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Dana wore a T-shirt on which she had written in permanent marker "2,317; How Many More?" It was covered in 2,317 dots -- one for each American killed in the war. One of Katee's cousins was among the first American soldiers to die in Iraq.

Dave Lesako drove all the way in from Spring Hill Township in Greene County. An artist and former art teacher, Mr. Lesako held up a large drawing of cowboy boots lying in a pool of blood; he made it when the war first began.

"I figured I complain about the war all the time, I should come out and march," he said.

As for his fellow Greene County residents, he said, "even the country conservatives are questioning what's going on."

The protesters marched down Negley Avenue and along Walnut Street, past the boutiques and cafes, chanting "While you're shopping, bombs are dropping!" to the expressionless bystanders, who were clutching their Banana Republic bags or holding up camera phones to record the event.

When the group marched past the fraternity houses of Carnegie Mellon University, protester Greg Olverson half-expected to be greeted by counter-protests, like the fraternity members had staged last year.

"I remember them yelling, 'We're for the war, and Iran is next,' " said Mr. Olverson, a security guard from Pittsburgh.

The march ended at the military recruiting offices in Oakland, where protesters met with barricades and lines of police outfitted in riot gear, some on horseback, some holding police dogs. The marchers disbanded peacefully after less than an hour.

"I thought we had a great rally and a peaceful march," said Jim Kleissler, director of the Thomas Merton Center. "We really just wanted to come out and say peace is something that's part of America, and we're not going to let the FBI intimidate us."

Similar anti-war protests were staged yesterday in cities across the United States and the world.

In Washington, a protester wearing a President Bush mask and bearing fake blood on his hands waved to passing automobiles outside Vice President Dick Cheney's residence, where about 200 people demonstrated against the war.

In Concord, N.H., nearly 300 peace activists marched about a mile from a National Guard Armory to the Statehouse.

"I feel a huge sense of betrayal that I went and risked my life for a lie," said Joseph Turcott, 26, a former Marine who served in the invasion.

Protests were also held in Australia, Asia and Europe, but many events were far smaller than organizers had hoped.

In London, police said 15,000 people joined a march from Parliament and Big Ben to a rally in Trafalgar Square. The anniversary last year attracted 45,000 protesters in the city.

Worldwide Protests As War Enters 4th Year (MINNST/AP)

By Associated Press

Minneapolis Star Tribune, March 19, 2006

Demonstrations demanded that all troops be withdrawn.

Thousands of war protesters took to the streets around the world Saturday, marking the third anniversary of the U.S.-led invasion of Iraq with demands that coalition troops leave immediately.

In Minneapolis, protesters took up half of Hennepin Avenue as they marched from Lagoon Avenue in Uptown to the Basilica of St. Mary at the edge of downtown, waving signs with slogans such as "Impeach Bush" and "Support Our Troops. Bring Them Home Now!" Police estimated there were 3,500 marchers; march organizers put the number at about 4,200.

The demonstration was organized by The March 18 Coalition, an umbrella group representing various peace organizations, including Women Against Military Madness and the Iraq Peace Coalition.

"What we do by coming out here is we show the face of the resistance and the depth of the resistance," said Marie Braun, one of the organizers.

Chuck Tomlinson, who lives in the Powderhorn neighborhood of Minneapolis, said he came to the rally to be counted, heard and seen. He's been against the war since Day One. "What has changed is that the president's incompetency has exceeded my expectations, or should I say my worst fears," he said.

David Langree, a student at South High in Minneapolis, said he's upset by how secretive he believes the government has been about its true motives for the war.

In New York, Wael Musfar of the Arab Muslim American Federation addressed more than 1,000 people who gathered in Times Square. "We say enough hypocrisy, enough lies, our soldiers must come home now," Musfar said.

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Protests also were held in Australia, Asia and Europe, but many events were far smaller than organizers had hoped. In London, police said 15,000 people joined a march from Parliament to a rally in Trafalgar Square. The anniversary last year attracted 45,000 protesters in the city.

In Washington, a protester wearing a President Bush mask and bearing fake blood on his hands waved to passing automobiles outside Vice President Dick Cheney's residence, where about 200 people demonstrated against the war.

In Concord, N.H., nearly 300 peace activists marched about a mile from a National Guard armory to the Statehouse. "I feel a huge sense of betrayal that I went and risked my life for a lie," said Joseph Turcott, 26, a former Marine who served in the invasion.

At Dudley Square in Boston, a few hundred protesters waved placards that read "Impeach Bush" and "Stop the War." About 6,000 protesters in San Francisco danced in the streets, beat drums and carried signs that read "Stop U.S. Imperialism."

Staff writer Allie Shah contributed to this report.

Polls Show Public's Dwindling Support For War (SLPD)

By Bill Lambrecht

St. Louis Post-Dispatch, March 18, 2006

On the third anniversary of the Iraq war this weekend, more than 500 protests are scheduled around the country - including 27 in Missouri and Illinois - at a time of growing anti-war sentiment among the American public.

Thus far, the new pessimism appears to be having little effect in Washington, where Congress had approved billions of dollars more for war and a proposal to censure President George W. Bush for ordering electronic surveillance in the war on terror is drawing little support.

But an alliance of anti-war groups on Friday unveiled a well-funded effort aimed at rejecting political candidates this year who refuse to support a swift end to American involvement in Iraq.

A series of public-opinion polls published last week showed that support for the war had reached its lowest point and that Americans' view about progress in Iraq had turned starkly negative in recent weeks.

One of the polls, published on Friday by the nonpartisan Pew Research Center for the People and the Press, showed that two of three Americans disapprove of the way Bush is handling the war. For the first time, the Pew poll found that half of Americans support an immediate withdrawal of troops from Iraq.

Carroll Doherty, the Pew Center's associate director, attributed the recent erosion of support for the war to doubts that U.S. troops can quell the insurgency and prevent civil war.

"The sense you get in this poll is that people don't see a lot of good options or a lot of good strategies," he said.

Bill Ramsey, a veteran organizer who is coordinating a protest rally in Forest Park on Sunday afternoon, said that he is seeing many new people involved in the St. Louis region's anti-war effort. He said that based on e-mail confirmations, he is expecting 800 people to take part in marches that culminate in a rally at the World's Fair Pavilion.

Ramsey asserted that the White House reiteration last week of its pre-emptive strike policy "is driving more people toward us."

The St. Louis protest is among more than 500 being held in all 50 states and the District of Columbia starting Sunday to commemorate the third anniversary of the Iraq invasion, according to United for Peace and Justice, a New York-based alliance of anti-war organizations. U.S. forces began bombing Iraq on March 19, 2003.

The next "soccer mom"?

The newly announced Voters for Peace is seeking five million signatures by November on a petition that reads: "I will not vote for or support any candidate for president or Congress who does not make a speedy end to the war in Iraq, and preventing any future war of aggression, a public position in his or her campaign."

A Fox News poll last week suggested that the war will be a key voting issue this year. When voters were asked what issue would determine who they supported for Congress, Iraq ranked second, just behind the category of spending and taxes.

Nonetheless, anti-war organizers have expressed frustration at what they describe as a disconnect between public sentiments and continued support for the war in Congress.

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Last week, the House approved a spending package that included nearly $68 billion for military operations in Iraq and Afghanistan. In the Senate, a proposal by Sen. Russ Feingold, D-Wis., to censure the president was unpopular even among Democrats.

Allan Lichtman, a political science professor at American University and a Democratic senatorial aspirant in Maryland, attributed the war support in Congress partly to fear.

"Critics of the president are still fearful that things will turn in Iraq and that (presidential adviser) Karl Rove will chew them up in November," he asserted.

Voters for Peace soon will begin spending some of $1 million it has raised from private donors on Web advertising to support the petition effort, organizers said at a news conference on Friday.

"The peace vote is the new soccer mom," contended Voters for Peace spokeswoman Linda Schade, referring to an influential voting bloc in recent elections.

Before And After Abu Ghraib, A U.S. Unit Abused Detainees (NYT)

By Eric Schmitt And Carolyn Marshall

The New York Times, March 19, 2006

As the Iraqi insurgency intensified in early 2004, an elite Special Operations forces unit converted one of Saddam Hussein's former military bases near Baghdad into a top-secret detention center. There, American soldiers made one of the former Iraqi government's torture chambers into their own interrogation cell. They named it the Black Room.

In the windowless, jet-black garage-size room, some soldiers beat prisoners with rifle butts, yelled and spit in their faces and, in a nearby area, used detainees for target practice in a game of jailer paintball. Their intention was to extract information to help hunt down Iraq's most-wanted terrorist, Abu Musab al-Zarqawi, according to Defense Department personnel who served with the unit or were briefed on its operations.

The Black Room was part of a temporary detention site at Camp Nama, the secret headquarters of a shadowy military unit known as Task Force 6-26. Located at Baghdad International Airport, the camp was the first stop for many insurgents on their way to the Abu Ghraib prison a few miles away.

Placards posted by soldiers at the detention area advised, "NO BLOOD, NO FOUL." The slogan, as one Defense Department official explained, reflected an adage adopted by Task Force 6-26: "If you don't make them bleed, they can't prosecute for it." According to Pentagon specialists who worked with the unit, prisoners at Camp Nama often disappeared into a detention black hole, barred from access to lawyers or relatives, and confined for weeks without charges. "The reality is, there were no rules there," another Pentagon official said.

The story of detainee abuse in Iraq is a familiar one. But the following account of Task Force 6-26, based on documents and interviews with more than a dozen people, offers the first detailed description of how the military's most highly trained counterterrorism unit committed serious abuses.

It adds to the picture of harsh interrogation practices at American military prisons in Afghanistan and Guantánamo Bay, Cuba, as well as at secret Central Intelligence Agency detention centers around the world.

The new account reveals the extent to which the unit members mistreated prisoners months before and after the photographs of abuse from Abu Ghraib were made public in April 2004, and it helps belie the original Pentagon assertions that abuse was confined to a small number of rogue reservists at Abu Ghraib.

The abuses at Camp Nama continued despite warnings beginning in August 2003 from an Army investigator and American intelligence and law enforcement officials in Iraq. The C.I.A. was concerned enough to bar its personnel from Camp Nama that August.

It is difficult to compare the conditions at the camp with those at Abu Ghraib because so little is known about the secret compound, which was off limits even to the Red Cross. The abuses appeared to have been unsanctioned, but some of them seemed to have been well known throughout the camp.

For an elite unit with roughly 1,000 people at any given time, Task Force 6-26 seems to have had a large number of troops punished for detainee abuse. Since 2003, 34 task force members have been disciplined in some form for mistreating prisoners,

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and at least 11 members have been removed from the unit, according to new figures the Special Operations Command provided in response to questions from The New York Times. Five Army Rangers in the unit were convicted three months ago for kicking and punching three detainees in September 2005.

Some of the serious accusations against Task Force 6-26 have been reported over the past 16 months by news organizations including NBC, The Washington Post and The Times. Many details emerged in hundreds of pages of documents released under a Freedom of Information Act request by the American Civil Liberties Union. But taken together for the first time, the declassified documents and interviews with more than a dozen military and civilian Defense Department and other federal personnel provide the most detailed portrait yet of the secret camp and the inner workings of the clandestine unit.

The documents and interviews also reflect a culture clash between the free-wheeling military commandos and the more cautious Pentagon civilians working with them that escalated to a tense confrontation. At one point, one of Defense Secretary Donald H. Rumsfeld's top aides, Stephen A. Cambone, ordered a subordinate to "get to the bottom" of any misconduct.

Most of the people interviewed for this article were midlevel civilian and military Defense Department personnel who worked with Task Force 6-26 and said they witnessed abuses, or who were briefed on its operations over the past three years.

Many were initially reluctant to discuss Task Force 6-26 because its missions are classified. But when pressed repeatedly by reporters who contacted them, they agreed to speak about their experiences and observations out of what they said was anger and disgust over the unit's treatment of detainees and the failure of task force commanders to punish misconduct more aggressively. The critics said the harsh interrogations yielded little information to help capture insurgents or save American lives.

Virtually all of those who agreed to speak are career government employees, many with previous military service, and they were granted anonymity to encourage them to speak candidly without fear of retribution from the Pentagon. Many of their complaints are supported by declassified military documents and e-mail messages from F.B.I. agents who worked regularly with the task force in Iraq.

A Demand for Intelligence

Military officials say there may have been extenuating circumstances for some of the harsh treatment at Camp Nama and its field stations in other parts of Iraq. By the spring of 2004, the demand on interrogators for intelligence was growing to help combat the increasingly numerous and deadly insurgent attacks.

Some detainees may have been injured resisting capture. A spokesman for the Special Operations Command, Kenneth S. McGraw, said there was sufficient evidence to prove misconduct in only 5 of 29 abuse allegations against task force members since 2003. As a result of those five incidents, 34 people were disciplined.

"We take all those allegations seriously," Gen. Bryan D. Brown, the commander of the Special Operations Command, said in a brief hallway exchange on Capitol Hill on March 8. "Any kind of abuse is not consistent with the values of the Special Operations Command."

The secrecy surrounding the highly classified unit has helped to shield its conduct from public scrutiny. The Pentagon will not disclose the unit's precise size, the names of its commanders, its operating bases or specific missions. Even the task force's name changes regularly to confuse adversaries, and the courts-martial and other disciplinary proceedings have not identified the soldiers in public announcements as task force members.

General Brown's command declined requests for interviews with several former task force members and with Lt. Gen. Stanley McChrystal, who leads the Joint Special Operations Command, the headquarters at Fort Bragg, N.C., that supplies the unit's most elite troops.

One Special Operations officer and a senior enlisted soldier identified by Defense Department personnel as former task force members at Camp Nama declined to comment when contacted by telephone. Attempts to contact three other Special Operations soldiers who were in the unit — by phone, through relatives and former neighbors — were also unsuccessful.

Cases of detainee abuse attributed to Task Force 6-26 demonstrate both confusion over and, in some cases, disregard for approved interrogation practices and standards for detainee treatment, according to Defense Department specialists who have worked with the unit.

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In early 2004, an 18-year-old man suspected of selling cars to members of the Zarqawi terrorist network was seized with his entire family at their home in Baghdad. Task force soldiers beat him repeatedly with a rifle butt and punched him in the head and kidneys, said a Defense Department specialist briefed on the incident.

Some complaints were ignored or played down in a unit where a conspiracy of silence contributed to the overall secretiveness. "It's under control," one unit commander told a Defense Department official who complained about mistreatment at Camp Nama in the spring of 2004.

For hundreds of suspected insurgents, Camp Nama was a way station on a journey that started with their capture on the battlefield or in their homes, and ended often in a cell at Abu Ghraib. Hidden in plain sight just off a dusty road fronting Baghdad International Airport, Camp Nama was an unmarked, virtually unknown compound at the edge of the taxiways.

The heart of the camp was the Battlefield Interrogation Facility, alternately known as the Temporary Detention Facility and the Temporary Holding Facility. The interrogation and detention areas occupied a corner of the larger compound, separated by a fence topped with razor wire.

Unmarked helicopters flew detainees into the camp almost daily, former task force members said. Dressed in blue jumpsuits with taped goggles covering their eyes, the shackled prisoners were led into a screening room where they were registered and examined by medics.

Just beyond the screening rooms, where Saddam Hussein was given a medical exam after his capture, detainees were kept in as many as 85 cells spread over two buildings. Some detainees were kept in what was known as Motel 6, a group of crudely built plywood shacks that reeked of urine and excrement. The shacks were cramped, forcing many prisoners to squat or crouch. Other detainees were housed inside a separate building in 6-by-8-foot cubicles in a cellblock called Hotel California.

The interrogation rooms were stark. High-value detainees were questioned in the Black Room, nearly bare but for several 18-inch hooks that jutted from the ceiling, a grisly reminder of the terrors inflicted by Mr. Hussein's inquisitors. Jailers often blared rap music or rock 'n' roll at deafening decibels over a loudspeaker to unnerve their subjects.

Another smaller room offered basic comforts like carpets and cushioned seating to put more cooperative prisoners at ease, said several Defense Department specialists who worked at Camp Nama. Detainees wore heavy, olive-drab hoods outside their cells. By June 2004, the revelations of abuse at Abu Ghraib galvanized the military to promise better treatment for prisoners. In one small concession at Camp Nama, soldiers exchanged the hoods for cloth blindfolds with drop veils that allowed detainees to breathe more freely but prevented them from peeking out.

Some former task force members said the Nama in the camp's name stood for a coarse phrase that soldiers used to describe the compound. One Defense Department specialist recalled seeing pink blotches on detainees' clothing as well as red welts on their bodies, marks he learned later were inflicted by soldiers who used detainees as targets and called themselves the High Five Paintball Club.

Mr. McGraw, the military spokesman, said he had not heard of the Black Room or the paintball club and had not seen any mention of them in the documents he had reviewed.

In a nearby operations center, task force analysts pored over intelligence collected from spies, detainees and remotely piloted Predator surveillance aircraft, to piece together clues to aid soldiers on their raids. Twice daily at noon and midnight military interrogators and their supervisors met with officials from the C.I.A., F.B.I. and allied military units to review operations and new intelligence.

Task Force 6-26 was a creation of the Pentagon's post-Sept. 11 campaign against terrorism, and it quickly became the model for how the military would gain intelligence and battle insurgents in the future. Originally known as Task Force 121, it was formed in the summer of 2003, when the military merged two existing Special Operations units, one hunting Osama bin Laden in and around Afghanistan, and the other tracking Mr. Hussein in Iraq. (Its current name is Task Force 145.)

The task force was a melting pot of military and civilian units. It drew on elite troops from the Joint Special Operations Command, whose elements include the Army unit Delta Force, Navy's Seal Team 6 and the 75th Ranger Regiment. Military reservists and Defense Intelligence Agency personnel with special skills, like interrogators, were temporarily assigned to the unit. C.I.A. officers, F.B.I. agents and special operations forces from other countries also worked closely with the task force.

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Many of the American Special Operations soldiers wore civilian clothes and were allowed to grow beards and long hair, setting them apart from their uniformed colleagues. Unlike conventional soldiers and marines whose Iraq tours lasted 7 to 12 months, unit members and their commanders typically rotated every 90 days.

Task Force 6-26 had a singular focus: capture or kill Mr. Zarqawi, the Jordanian militant operating in Iraq. "Anytime there was even the smell of Zarqawi nearby, they would go out and use any means possible to get information from a detainee," one official said.

Defense Department personnel briefed on the unit's operations said the harsh treatment extended beyond Camp Nama to small field outposts in Baghdad, Falluja, Balad, Ramadi and Kirkuk. These stations were often nestled within the alleys of a city in nondescript buildings with suburban-size yards where helicopters could land to drop off or pick up detainees.

At the outposts, some detainees were stripped naked and had cold water thrown on them to cause the sensation of drowning, said Defense Department personnel who served with the unit.

In January 2004, the task force captured the son of one of Mr. Hussein's bodyguards in Tikrit. The man told Army investigators that he was forced to strip and that he was punched in the spine until he fainted, put in front of an air-conditioner while cold water was poured on him and kicked in the stomach until he vomited. Army investigators were forced to close their inquiry in June 2005 after they said task force members used battlefield pseudonyms that made it impossible to identify and locate the soldiers involved. The unit also asserted that 70 percent of its computer files had been lost.

Despite the task force's access to a wide range of intelligence, its raids were often dry holes, yielding little if any intelligence and alienating ordinary Iraqis, Defense Department personnel said. Prisoners deemed no threat to American troops were often driven deep into the Iraqi desert at night and released, sometimes given $100 or more in American money for their trouble.

Back at Camp Nama, the task force leaders established a ritual for departing personnel who did a good job, Pentagon officials said. The commanders presented them with two unusual mementos: a detainee hood and a souvenir piece of tile from the medical screening room that once held Mr. Hussein.

Early Signs of Trouble

Accusations of abuse by Task Force 6-26 came as no surprise to many other officials in Iraq. By early 2004, both the C.I.A. and the F.B.I. had expressed alarm about the military's harsh interrogation techniques.

The C.I.A.'s Baghdad station sent a cable to headquarters on Aug. 3, 2003, raising concern that Special Operations troops who served with agency officers had used techniques that had become too aggressive. Five days later, the C.I.A. issued a classified directive that prohibited its officers from participating in harsh interrogations. Separately, the C.I.A. barred its officers from working at Camp Nama but allowed them to keep providing target information and other intelligence to the task force.

The warnings still echoed nearly a year later. On June 25, 2004, nearly two months after the disclosure of the abuses at Abu Ghraib, an F.B.I. agent in Iraq sent an e-mail message to his superiors in Washington, warning that a detainee captured by Task Force 6-26 had suspicious burn marks on his body. The detainee said he had been tortured. A month earlier, another F.B.I. agent asked top bureau officials for guidance on how to deal with military interrogators across Iraq who used techniques like loud music and yelling that exceeded "the bounds of standard F.B.I. practice."

American generals were also alerted to the problem. In December 2003, Col. Stuart A. Herrington, a retired Army intelligence officer, warned in a confidential memo that medical personnel reported that prisoners seized by the unit, then known as Task Force 121, had injuries consistent with beatings. "It seems clear that TF 121 needs to be reined in with respect to its treatment of detainees," Colonel Herrington concluded.

By May 2004, just as the scandal at Abu Ghraib was breaking, tensions increased at Camp Nama between the Special Operations troops and civilian interrogators and case officers from the D.I.A.'s Defense Human Intelligence Service, who were there to support the unit in its fight against the Zarqawi network. The discord, according to documents, centered on the harsh treatment of detainees as well as restrictions the Special Operations troops placed on their civilian colleagues, like monitoring their e-mail messages and phone calls.

Maj. Gen. George E. Ennis, who until recently commanded the D.I.A.'s human intelligence division, declined to be interviewed for this article. But in written responses to questions, General Ennis said he never heard about the numerous

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complaints made by D.I.A. personnel until he and his boss, Vice Adm. Lowell E. Jacoby, then the agency's director, were briefed on June 24, 2004.

The next day, Admiral Jacoby wrote a two-page memo to Mr. Cambone, under secretary of defense for intelligence. In it, he described a series of complaints, including a May 2004 incident in which a D.I.A. interrogator said he witnessed task force soldiers punch a detainee hard enough to require medical help. The D.I.A. officer took photos of the injuries, but a supervisor confiscated them, the memo said.

The tensions laid bare a clash of military cultures. Combat-hardened commandos seeking a steady flow of intelligence to pinpoint insurgents grew exasperated with civilian interrogators sent from Washington, many of whom were novices at interrogating hostile prisoners fresh off the battlefield.

"These guys wanted results, and our debriefers were used to a civil environment," said one Defense Department official who was briefed on the task force operations.

Within days after Admiral Jacoby sent his memo, the D.I.A. took the extraordinary step of temporarily withdrawing its personnel from Camp Nama.

Admiral Jacoby's memo also provoked an angry reaction from Mr. Cambone. "Get to the bottom of this immediately. This is not acceptable," Mr. Cambone said in a handwritten note on June 26, 2004, to his top deputy, Lt. Gen. William G. Boykin. "In particular, I want to know if this is part of a pattern of behavior by TF 6-26."

General Boykin said through a spokesman on March 17 that at the time he told Mr. Cambone he had found no pattern of misconduct with the task force.

A Shroud of Secrecy

Military and legal experts say the full breadth of abuses committed by Task Force 6-26 may never be known because of the secrecy surrounding the unit, and the likelihood that some allegations went unreported.

In the summer of 2004, Camp Nama closed and the unit moved to a new headquarters in Balad, 45 miles north of Baghdad. The unit's operations are now shrouded in even tighter secrecy.

Soon after their rank-and-file clashed in 2004, D.I.A. officials in Washington and military commanders at Fort Bragg agreed to improve how the task force integrated specialists into its ranks. The D.I.A. is now sending small teams of interrogators, debriefers and case officers, called "deployable Humint teams," to work with Special Operations forces in Iraq and Afghanistan.

Senior military commanders insist that the elite warriors, who will be relied on more than ever in the campaign against terrorism, are now treating detainees more humanely and can police themselves. The C.I.A. has resumed conducting debriefings with the task force, but does not permit harsh questioning, a C.I.A. official said.

General McChrystal, the leader of the Joint Special Operations Command, received his third star in a promotion ceremony at Fort Bragg on March 13.

On Dec. 8, 2004, the Pentagon's spokesman, Lawrence Di Rita, said that four Special Operations soldiers from the task force were punished for "excessive use of force" and administering electric shocks to detainees with stun guns. Two of the soldiers were removed from the unit. To that point, Mr. Di Rita said, 10 task force members had been disciplined. Since then, according to the new figures provided to The Times, the number of those disciplined for detainee abuse has more than tripled. Nine of the 34 troops disciplined received written or oral counseling. Others were reprimanded for slapping detainees and other offenses.

The five Army Rangers who were court-martialed in December received punishments including jail time of 30 days to six months and reduction in rank. Two of them will receive bad-conduct discharges upon completion of their sentences.

Human rights advocates and leading members of Congress say the Pentagon must still do more to hold senior-level commanders and civilian officials accountable for the misconduct.

The Justice Department inspector general is investigating complaints of detainee abuse by Task Force 6-26, a senior law enforcement official said. The only wide-ranging military inquiry into prisoner abuse by Special Operations forces was completed nearly a year ago by Brig. Gen. Richard P. Formica, and was sent to Congress.

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But the United States Central Command has refused repeated requests from The Times over the past several months to provide an unclassified copy of General Formica's findings despite Mr. Rumsfeld's instructions that such a version of all 12 major reports into detainee abuse be made public.

Iraq Leaves Vet In Personal Fog Of War (WP)

By Russ Bynum

The Washington Post, March 19, 2006

RICHMOND HILL, Ga. -- His 3-year-old son Nicholas' first steps, the first time Liam, his newborn, smiled _ Staff Sgt. Douglas Piper lived to see them. Then his scarred memory erased even those precious moments.

"I can't remember what they did yesterday," Piper says. "Sometimes, I can't remember what I did yesterday. The days are broken."

Iraq left the 30-year-old Piper in his own personal fog of war, one in which remembering the moments and days since April 2003 can be as confusing a puzzle as predicting his civilian future.

Three years ago, in the war's first month, Piper became one of the now more than 17,000 U.S. troops wounded in action. A grenade blast in Baghdad mangled his right eye, collapsed his right eardrum and slammed his brain against the inside of his skull.

In a conflict where explosions account for roughly two-thirds of Army combat wounds, and improved body armor and field medicine increase chances of survival, brain injuries such as Piper's are common.

At home in southeast Georgia, he drives his pickup truck, and even took a recent ski trip, despite having no depth perception after losing his eye. In public, he pops his prosthetic eye in and out of its socket without self-consciousness. He hears fine with the help of a hearing aid.

Yet his doctors tell him at least 80 percent of his short-term memory has been destroyed.

Watching "CSI" or "Law and Order" on TV with his wife, Sherry, he often has trouble following the plot. He has problems recalling the birthdates of their three boys _ Matthew, 4, Nicholas, 3, and 13-week-old Liam. He knows the route to his desk job at Hunter Army Airfield in nearby Savannah, but needs help keeping track of appointments.

Sometimes he'll walk into a room and forget what he's doing there. Other times, he'll stop talking in mid-sentence and grasp for the word.

"I'll try to point at something like, `What is that?' he says. "The names of things, the words, sometimes they're just gone."

Routine and his wife's guidance help compensate. He keeps his keys, wallet, cell phone, medications and spare prosthetic eyes in a basket on the kitchen counter so he won't lose them. Sherry Piper enters his doctor visits and other appointments into her Palm Pilot.

Still, Piper puts his injuries in perspective. Among the other wounded soldiers he met at Walter Reed Army Medical Center in Washington, there was always someone whose injuries seemed worse _ a Bradley armored-vehicle driver blinded in both eyes by a rocket-propelled grenade, a sniper who had been shot through the eye with a bullet that passed through his brain.

"I'd just think to myself, it could have been worse," Piper said, "so don't even think about complaining."

Walter Reed, home to one of eight brain injury facilities run jointly by the departments of Defense and Veterans Affairs, has treated more than 600 troops with traumatic brain injuries from Iraq and Afghanistan since 2003.

Brain injuries were diagnosed in 28 percent of wounded service members sent to Walter Reed from January 2003 to November 2005. Common effects include headaches, sleep disorders, trouble concentrating and memory loss.

After six surgeries between April 2003 and August 2005, Piper expects to be cleared for a medical discharge by the Army in the next two months.

"A part of him, I think, does yearn to stay in the military," said Kim Mayes, his medical case manager at Hunter. "He'll walk in, if he saw something on the news, and say, `Man, I wish I could go back over there.'"

Piper signed with an Army recruiter at 17, entering the service a year later in October 1994. As a teenager in Bridgewater, N.H., he saw the Army as a chance to escape the doldrums of a small town where most young men went to work manufacturing rubber gaskets at a local factory.

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He passed the rigorous training required to join the elite Army Ranger regiment, and served eight years in its Hunter-based battalion. He planned on a full 20-year military career.

Then came the war _ the last thing he remembers with clarity.

He wanted to deploy to Iraq so badly that he left the Rangers because, having just joined a new company, he expected to be sidelined. As war loomed in early 2003, he transferred to the Pathfinder Company of the 6th Battalion, 101st Aviation Regiment at Fort Campbell, Ky. Eight days after he arrived, Piper left for Kuwait.

On April 13, 2003, less than month after U.S. troops crossed the Iraqi border, Piper was leading his six-man team in a hunt for weapons and munitions in southern Baghdad.

The sun was setting outside a library building where the soldiers had discovered a stockpile of small arms and mortar rounds. Piper stood outside, deciding which building to clear next.

A car passed on the street. Someone leaned out the window and lobbed a grenade, announcing an ambush with an explosion a few feet from Piper's back. The blast flung him five feet, sprawled facedown behind a Humvee.

"I didn't feel any pain or anything like that, but I saw this huge halo of blood in front of me," Piper recalled.

He reached to feel his right eye, but his hand slid straight to his ear. It felt like the side of his face had been flattened, the bones of his eye socket pulverized.

Amid the fighting, two soldiers grabbed Piper to rush him to a medivac helicopter. He insisted on giving them his ammunition and grenades first. En route to the nearest field hospital, he blacked out.

Landstuhl Regional Medical Center, an Army hospital in Germany, was Piper's first stop out of Iraq. On his third day there, he insisted doctors wheel him to a bathroom mirror so he could see his face.

"When they told me the extent of the injury, I was thinking to myself, `I'm going to have a big hole in my head,'" Piper said. "My main concern was with the boys. What would they think?"

Beneath the bandages, his skin was scabbed and bruised and his right eye had turned completely black. But his face was intact. The crushed bones of his eye socket could be repaired.

On April 21, 2003, doctors at Walter Reed removed Piper's eye and reconstructed shattered bones scattered in tiny fragments from his brow into his nasal cavity. Five months later, he was fitted for a prosthetic eye, hand-painted to match the hazel hue of his remaining eye.

Piper focused on getting used to navigating with one eye. He was often bumping into walls and objects on his right side. Once, he tripped over a bush during a stroll outside the Army hospital.

"He never once said, `Oh, great, now I'm never going to be able to do this,'" Sherry Piper said. "The day he got back from Walter Reed, we came to the airport and got in the car. I was going to drive and he said, `No, I'm going to drive.'"

The Pipers say it was several months before they started to notice symptoms of his memory loss. At first, Sherry Piper attributed it to her husband's hearing loss.

"I would just be talking to him and he wasn't paying attention. I'd say, `Did you hear what I just said?' and he'd say, `No,'" she recalled. "That's how we kind of realized he was having a problem remembering."

Neurologists confirmed Piper had frontal-lobe damage to his brain, affecting his short-term memory. Periodic testing over the past year has shown little improvement, said Mayes, his medical case manager.

Piper carried a notebook for a while, jotting lists of errands and appointments, but kept losing it. For now, he relies on his wife to keep his schedule, and phones her when he feels he's forgotten something.

Grappling with short-term memory loss hasn't stopped Piper from looking to the long-term. Several months ago, he began working in his off-duty hours as an onsite supervisor for a construction company.

He isn't sure whether he'll stick with construction, but it seemed a logical first step. He's a woodworking hobbyist, and has made bookshelves, a cedar chest and end tables for his home. He likes working outdoors, especially as a break from Army desk work.

"I've been a trigger-puller for 11 years," Piper said. "I had to figure out what I was interested in other than blowing things up."

He treats his injuries with similar humor _ deadpan matter-of-factness mixed with shock-and-awe. And the family is getting in on the act.

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During a recent trip to the mall, 4-year-old Matthew asked if Piper could show his false eye to another boy who refused to believe his father had one.

"So I pop it out and clean it off and hand it to him, and he walks over there and opens his hand and goes, `See!,'" Piper said, laughing. "That boy about freaked out."

Poppy Crop Threatens Nascent Democracy (SLPD)

By Philip Dine

St. Louis Post-Dispatch, March 18, 2006

For now, the cabbage-green rows of small poppies in the furrowed squares of land resemble any variety of legitimate crops. In a few months, these plants will stand out as a tall sea of crimson.

Viewed from the window of a low-flying helicopter, new poppy fields come into view every few seconds, spread around a desolate landscape virtually unchanged for centuries in this remote part of Afghanistan. The houses are small, isolated and fashioned from mud, some with mud walls around them. There is no sign of mosques or schools, hospitals or stores.

This is the epicenter of poppy cultivation in Afghanistan. The nation's crop provides 87 percent of the world's opium, from which heroin is produced, according to the United Nations. Early indications are that Helmand, a province deep in southern Afghanistan bordering Pakistan, will produce half the world's supply of opium this year.

The poppies are invaluable cash crops to farmers seeking to sustain their families, but dangerous to a young Afghan democracy. An unholy alliance is emerging among farmers, drug lords, Taliban remnants and al-Qaida fighters. Intelligence sources and Afghan officials cite mounting evidence that insurgents are using drugs to wreak havoc on Afghan society - including the corrupting of public officials - while also extracting funds from drug profits for their anti-government violence.

The resulting tension was in evidence on a recent tour of the area by two U.S. gunships. The helicopters landed in a poppy field to give State Department officials and a reporter a chance to look around - for two minutes - encircled by guards with automatic weapons. The guards worry about violence, either from farmers who think their crop is threatened, or from insurgents protecting the poppy fields.

"You can get on the ground, but that's when you're the most vulnerable," warned Ed Morris, lead pilot in the U.S. military detachment providing protective cover for joint Afghanistan-American drug-eradication efforts in this area.

Drugs are already the nation's sole export of any magnitude, and threaten to turn it into a "narco-state," a country whose policies and politics are dominated by drug lords.

"The concern is that this government will fail and fall and the country will be a breeding ground for terrorists again," says Doug Wankel, director of the Counter Narcotics Task Force at the U.S. Embassy in Afghanistan. Former chief of operations for the Drug Enforcement Administration, he is a native of Bowling Green, Mo.

Poisoning "infidels"

There is also a little-noted bonus for al-Qaida in the burgeoning heroin production. Afghan sources say the terrorist group has acknowledged in private sessions its satisfaction that expanding heroin use is poisoning "infidels" in other countries. One example is a skyrocketing rate of AIDS, sparked by dirty needles, in Russia and former Soviet republics.

Kahir Ismailee of Kabul has worked for years with international groups on health, education and human rights issues in rural areas where anti-Western sentiment is strong.

He says that in the terrorists' "jihad against all Westerners, one of their tactics to ruin a society was to make them addicts, so they export heroin to the Western countries."

Ismailee says an influential Taliban cleric told him: "Drugs are illegal in Islam, but we want infidels to die."

Mohammad Nabi Hussaini directs the poppy eradication program in the Afghan Ministry of Counter Narcotics. It's dangerous work; when traveling around the country, he wears a turban to disguise himself.

"They say this, if you go to their gatherings, their religious gatherings: 'Western countries, they are sending us alcohol, they are sending us rockets - this is our rocket, poppy. This is how we can fight them,' " Hussaini says. "But they are also fighting their own people, because it brings the moral degradation of our society. It is against Islam."

And, he noted, more Afghans are becoming addicted to heroin or opium.

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"It's not true that it's not our problem. It's becoming our problem," he says. "The rate of addiction will increase, I think, very badly. I believe it is something that is destroying our nation. My village has 120 families. When I was a kid, there was only one person who was taking raw opium, who was an addict. Right now in my village there are more than 12 very hard addicts."

Afghan President Hamid Karzai has put it bluntly: "If we don't destroy the poppy, it will destroy us."

The last two years have been the biggest in history for opium production in Afghanistan, each topping 4,000 tons of opium, and this year looms as a third banner year. Hoping to avert another flooding of the heroin market, Afghan forces and their allies, particularly the United States, are responding strongly - if belatedly - to the threat.

Eradication is one element in a multipronged response to the mounting drug problem, an effort that also includes a range of educational, economic and legal approaches. The point man for the U.S. State Department is St. Louis native Tom Schweich, a top official for international narcotics and law enforcement who seeks to coordinate actions among Americans, Afghans and their international partners.

"The reason we went into Afghanistan was to eliminate the people who were responsible for 9/11," Schweich says. "There's now a nascent democracy here. The threats that are posed to this democracy are narcotics and terrorism. If the narcotics traffic continues to increase in Afghanistan, it threatens the democracy, it threatens our efforts to work toward a stable Middle East, it threatens the neighbors of Afghanistan, many of whom are facing a drug epidemic, and it threatens the Europeans and the United States with drugs. It really does have implications across the entire world."

The Taliban and the poppy

In some ways, the proliferation of poppy is an unintended consequence of the U.S. overthrow of the Taliban in 2001.

In earlier years, the Taliban had been content to allow the production of opium, even urging farmers to continue in defiance of the desire of the West that poppy cultivation cease - and often profiting from drug trafficking.

"The Taliban told people this was a fight against Muslims, that you should grow poppy. Even if you have no land, you should use your roof," says Asadullah Khalid, governor of Kandahar province.

But the Taliban abruptly switched gears at the start of this decade, as it faced growing international pressure to moderate its rule. Hoping to win diplomatic recognition from the West, the Taliban knew it had to make some concessions, and yielding on narcotics was the most palatable choice, Ismailee says.

In its last years in power, the Taliban clamped down on the drug trade in an effective but brutal way.

"There were executions without any transparent trials, hands were cut off, legs were severed," Ismailee says. By 2001, the extremist government had reduced the opium production to virtually nothing.

The U.S.-led removal of the Taliban removed the fear ordinary Afghans felt, spurring many to get back into poppy farming.

In addition, American and Afghan policies initially contributed to the growth of the narcotics problem. U.S. forces enlisted the support of warlords in the fight against the Taliban, turning a blind eye to their drug trafficking. After he assumed office, Karzai - hoping to solidify his hold on the country - brought some compromised provincial figures into his government.

Now, insurgents trying to weaken the U.S.-backed government find it advantageous to forge alliances with drug traffickers and encourage farmers to grow poppy - telling them "whenever the government tries to eradicate, the Taliban will be there to protect you," Ismailee says.

Insurgents also have issued warnings that those who stop growing poppy will be seen as "siding" with the government. It is no coincidence, officials say, that the areas where anti-government rebels are strongest are the same places where poppy production is at its highest.

Corruption, poverty, porous borders

Other factors have helped worsen the drug problem in Afghanistan.

Corruption, bribery and the quick release from jail of suspected drug traffickers.

Widespread poverty, which forces farmers to seek any possible means to support their families. Other crops pay a fraction of what poppies yield. And many traditional Afghanistan crops, such as fruits and nuts, were uprooted when Soviet troops destroyed trees to prevent guerrillas from hiding.

The return of Afghan refugees who had fled to Pakistan to escape Taliban rule. Some went into poppy farming on their own; others were compelled by landowners who made it a condition of their getting a parcel of land as tenant farmers.

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Abysmal roads. Farmers often can't get legitimate crops to market, whereas poppy is so valuable that traffickers will come to the farmers.

The trend toward the processing of opium into heroin in Afghanistan, turning Afghans from opium exporters into heroin producers. Afghans have seen the profits to be made and, in recent years, provided necessary precursor chemicals by foreigners, began setting up their own labs to make the end product.

Porous borders that let drugs move freely into Iran, Pakistan or former Soviet republics to the north, often eventually going to Europe - which gets 90 percent of its heroin from Afghanistan.

The hardiness of the crop. Poppies require little care and little water, critical in a country suffering from massive environmental degradation and long arid periods and whose mountainside irrigation systems were largely destroyed over decades of armed conflict.

"The narcotics problem in our province is very, very complicated," said Engineer Daud, governor of Helmand, as he stood at an airfield flanked by Afghan and U.S. troops.

"Our land is productive land for narcotics, and we have more than 100 miles of border with Pakistan, with deserts and mountains," he says. "Because of the low capacity of our national police, it is difficult to control that part of the problem . Drug dealers and terrorists are carrying drugs across the border, and terrorists are getting money from narcotics."

"Both forces are mobilizing"

In the northern part of his province, people are so desperate for water that farmers trying to make a legitimate living on their tiny plots, with virtually no money for their own families, are forced to buy water to keep their chickens alive.

Daud understands why they "have the reason to cultivate cash crop like poppy," and he prefers to go after the larger and wealthy drug dealers rather than the simple growers, but the traffickers are more evasive, more powerful - and more threatening.

In many ways, Afghan officials and their international allies, preoccupied with overthrowing the Taliban and then keeping it and al-Qaida at bay, were caught off guard by the insidious drug trade and didn't get serious until relatively recently.

"The problem was . . . unique, because of its scope and because there are so many moving parts," said Craig Chretien, formerly a senior official at the Drug Enforcement Administration, where he spent 26 years in several South American countries. He is now deputy director of the counternarcotics task force at the American Embassy in Afghanistan, which is helping the Afghans tackle the problem.

"It's challenging, but is it impossible? No," Chretien says.

After a rather tepid Afghan response last year, and some faltering steps by the United States, both countries are launching a broader, better coordinated and more aggressive campaign.

The next few months will begin to signal how successful the effort is likely to be.

"We've got an increased ability to fight the drugs, and they've got an increased ability to grow the drug," Schweich says. "So both forces are mobilizing."

DOJ:

Editorial: Wanted: One Federal Attorney For Tri-Cities (TRICITYH)

Columbia (WA) Tri-City Herald, March 19, 2006

It is time for the U.S. Justice Department to start bearing its share of the load in the Tri-Cities.

And we don't mean by asking local prosecutors to do even more of the federal government's job than they already do.

We have had a federal judge in the Tri-Cities for the past six years, but no federal prosecutors.

It was four years ago that U.S. Attorney James McDevitt, in Spokane, promised to look into the question of assigning some federal prosecutors here instead of keeping them all based in Spokane or Yakima.

Local law enforcement and prosecutors have said for years many cases that should be tried in federal court instead are pushed down to local courts.

The result: Overload on local courts and prosecutors, more costs for local taxpayers and a cheap way out for the feds.

One program allows local prosecutors to be named special deputy U.S. attorneys so they can prosecute some cases.

That answer is too little and way, way late.

Ten local police and prosecutors have written to McDevitt to try to get something going on this besides talk.

McDevitt says Congress would have to authorize the money for the assignments.

That's even though McDevitt added several attorneys to his Spokane staff recently under the Justice Department's focus on anti-terrorism. Three of the major potential targets for terrorism are near the Tri-Cities -- Hanford, the Umatilla Chemical Depot and the dams.

Consensus on getting a federal prosecutor assigned to the Tri-Cities is persuasive. Unanimity should make it a certainty.

"We've got a federal courthouse, we've got a federal judge and we've got the criminal activity," said Kennewick Police Chief Ken Hohenberg, speaking for himself and nine other chiefs, sheriffs and prosecutors in the Tri-Cities. "We need a federal prosecutor."

In a letter to McDevitt, the 10 officials pointed out that 174 Yakima-based cases were filed in federal court in 2004, compared with only 26 Benton and Franklin County cases.

It's not that fewer federal offenses are committed in the Tri-Cities -- far from it.

Inertia is the problem. Federal attorneys prosecute crimes that occur down the street, not down the valley.

It's time for the federal government to get moving on this issue.

We do not doubt McDevitt's sincerity nor do we accuse him of being the problem.

Nor is it right to fault Congress for not authorizing money to have a prosecutor and other accouterments and officers of the federal government stationed here.

But between the two lies the only solution to a judicial and cost inequity.

McDevitt should press the case for a prosecutor in the Tri-Cities, and Congress should give him the money to make it happen.

CORPORATE SCANDALS:

For Defense Attorneys, It's All About The 'cross' (HC)

By TOM FOWLER

Houston Chronicle, March 19, 2006

If you stop by the Enron trial in downtown Houston expecting to witness a Perry Mason moment, don't hold your breath.

Those instances of "gotcha," — when an attorney catches an opposing witness in a lie or draws out a weeping confession during cross-examination — aren't as common as TV legal dramas might have you believe.

In reality, cross-examination is often a dry, protracted process by which attorneys try to undermine a witness or dig for nuggets of information that support their case. It's not at all unusual for "cross," as attorneys call it, to seem random and meandering to a casual observer.

Lawyers watching the current trial said so far the cross-examination by the defense teams for Ken Lay and Jeff Skilling has had a little bit of everything: entertainment and tedium, humor and anger, precision and confusion.

The defense will get its chance to put its best arguments before the jury when the government rests its case, but any points it can score with jurors now on cross are crucial.

"Whoever goes first in making their case gets to shape the initial impression a jury gets," said David Berg, a Houston trial lawyer. "That's why you can't wait. You have to begin your case during cross."

Jurors' decision

Cross-examination is the process by which attorneys get to question a witness the opposing side puts on the stand. It's the opportunity to knock down an opponent's case as it is built.

Some studies have shown that jury verdicts in criminal cases often match the conclusions reached by the time the prosecution finishes its case. That's why defense attorneys often spend just as much time preparing an effective cross as they do preparing to put on their own arguments.

Houston attorney Dick DeGuerin said he likes to use leading questions to tell a story with cross, even though it's his opponent who is trying to tell his story.

"I think the jury is there to be entertained, in part, and to listen to something they can make sense of," DeGuerin said.

There generally are limits to what can be discussed on cross, but they differ depending on the judge overseeing the case, Berg said.

In the Enron case, U.S. District Judge Sim Lake requires attorneys to ask questions on cross that relate only to what was asked under direct questioning. That means the government largely has been able to set the agenda.

Cross may seem unfocused, with attorneys belaboring minutiae for reasons that aren't entirely clear. But Dan Hedges, a former prosecutor now in private practice in Houston, said that's not unusual in criminal cases, and actually may be necessary.

Unlike civil trials, in which attorneys usually have interviewed witnesses at great length before trial in depositions, attorneys in criminal cases face more unknowns, Hedges said.

"There's the danger of asking a question and getting a bad answer, but there's also the danger of not asking and missing out on very important information that could help your case," Hedges said.

Presenting own case

Cross has been used with varying degrees of effectiveness in the Enron trial, observers said.

In the first weeks of the trial, the defense teams were able to use it to essentially begin introducing an important part of their own case: that Enron was not the crooked and crippled enterprise the government described.

The government wanted to play excerpts of videotaped analyst and employee meetings at which Lay and Skilling allegedly made false statements, but the defense successfully argued the tapes should be played in their entirety during cross. Though it made for many boring hours in the courtroom, it allowed the defendants to show jurors what they argued was a more complete picture of a vibrant and healthy Enron.

The defense hasn't maintained that strategy of using the government's witnesses to illustrate the good points of Enron as much as it could have, however, said Joel Androphy, an attorney who has followed the trial closely. Rather, much of the cross has focused on attacks against the witnesses.

"They had a great opportunity to ask (former Chief Financial Officer Andrew) Fastow and others about Enron viability issues, about good things at the company, but I don't feel like I heard that very much," Androphy said. "I just heard and saw attack after attack. At this point, all the jurors must know about the company is that a lot of people were lying."

The attacks during cross serve a purpose, however, in that they can discredit witnesses by getting them to waver on statements made during direct questioning. That was certainly the intent in the harsh questioning of Fastow.

Fastow was grilled with blunt, argumentative and sometimes loud questions, such as, "Did you have any conscience?" He was walked back and forth through his confessed crimes. And his recollections were poked and prodded repeatedly.

The confrontational questions appeared to grab the attention of jurors early on, but later many seemed to tune out. To some observers, the shouting seemed like overdone theatrics, but Androphy said the attorneys were more sincere than they appeared.

He notes that defense attorneys such as Mike Ramsey and Daniel Petrocelli become genuinely passionate about their clients' defense, so the emotions are close to the surface during cross.

"I do that all the time, and it's not just something I'm making up," Androphy said.

The anger and outrage against Fastow was clearly designed to draw out Fastow's own anger, said Michael Wynne, a former prosecutor who has followed the trial closely. Although jurors likely have little doubt that Fastow lied regularly, the cross didn't get him to lose his composure.

"I think it was overplayed, and the defense spent too much time on it," Wynne said.

Observers said Lay attorney Chip Lewis worked a good vein of questions on his cross of former Enron executive Sherron Watkins, namely the legality of stock sales she made soon after writing her famous memo to Lay. But some noted he failed to control Watkins on the stand, letting her rattle off lengthy answers.

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Skilling attorney Ron Woods did a better job of keeping Watkins in check by quickly and firmly cutting short her responses. He also kept short and direct his questions about how guilty verdicts would be beneficial for Watkins' public speaking business, observers said.

At least twice, the Skilling defense team has broken a cardinal rule of cross by asking a question apparently without knowing the answer.

It challenged the accounting knowledge of witnesses, only to stumble upon what appeared to be the revelation that the witnesses had accounting degrees.

In one instance, however, Petrocelli used that to initiate a brief discussion of accounting rules. It's a topic the government avoided during direct questioning for fear of confusing jurors. But Petrocelli may have shown that the rules are not nearly as cut-and-dried as the government would like jurors to believe.

CRIMINAL LAW:

Libby Trial May Be Embarrassment For Bush (AP)

By Pete Yost

AP, March 19, 2006

Lawyers for Vice President Dick Cheney's former top aide are signaling they may delve deeply at his criminal trial into infighting among the White House, the CIA and the State Department over pre-Iraq war intelligence failures.

In a prelude to a possible defense, the lawyers for I. Lewis "Scooter" Libby also are suggesting that the State Department — not Libby — may be to blame for leaking the identity of covert CIA officer Valerie Plame to the media.

Court papers filed late Friday raise the possibility a trial could become politically embarrassing for the Bush administration by focusing on the debate about whether the White House manipulated intelligence to justify the U.S.-led invasion of Iraq in March 2003.

The defense team stated that in June and July 2003, Plame's CIA status was at most a peripheral issue to "the finger-pointing that went on within the executive branch about who was to blame" for the failure to find weapons of mass destruction in Iraq.

"If the jury learns this background information" about finger-pointing "and also understands Mr. Libby's additional focus on urgent national security matters, the jury will more easily appreciate how Mr. Libby may have forgotten or misremembered ... snippets of conversation" about Plame's CIA status, the lawyers said.

Cheney's former chief of staff was indicted Oct. 28 on five counts of perjury, obstruction and lying to the FBI about how he learned of Plame's CIA employment and what he told reporters about her.

Libby's lawyers are asking U.S. District Judge Reggie Walton for access to government documents about a 2002 trip that Plame's husband, former Ambassador Joseph Wilson, made to the African nation of Niger at the CIA's behest and about "his wife's involvement" with that mission.

The documents relate to what prospective witnesses — including then-Deputy Secretary of State Richard Armitage and deputy White House chief of staff Karl Rove — probably would say at Libby's trial.

Noting press reports last week, the court papers say there has been speculation that Armitage told The Washington Post's Bob Woodward that Wilson's wife worked at the CIA, and speculation that Woodward's source and the primary source for conservative columnist Robert Novak are the same person.

Novak disclosed Plame's identity on July 14, 2003, eight days after Wilson contended in a New York Times op-ed column that the administration twisted prewar intelligence to exaggerate the Iraqi threat from a nuclear weapons program.

"If the facts ultimately show that Mr. Armitage or someone else from the State Department was also Mr. Novak's primary source, then the State Department and certainly not Mr. Libby bears responsibility for the 'leak' that led to the public disclosure" of Plame's CIA identity, Libby's lawyers said.

The court filing also focused on Marc Grossman, a former undersecretary of state for political affairs who allegedly told Libby a month before Plame's identity was disclosed that Wilson's wife worked at the CIA.

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"If Mr. Armitage or another State Department official was in fact the primary source for Mr. Novak's article, Mr. Grossman's testimony may be colored by either his personal relationship with Mr. Armitage or his concern for the institutional concerns of the state Department," Libby's lawyers wrote.

Rove — a source for Novak and Time magazine reporter Matt Cooper — is under investigation by Special Counsel Patrick Fitzgerald in the probe of the leak of Plame's CIA identity.

Libby's lawyers say that "either the government or the defense may call Mr. Rove as a witness at trial" and note that "the grand jury's investigation may be continuing with respect to Mr. Rove or other witnesses."

The defense says the documents it seeks will help demonstrate that the White House did not launch a concerted effort to punish Wilson by leaking his wife's identity, as administration critics have alleged.

Libby also is asking for notes from a September 2003 meeting in the White House Situation Room where Colin Powell, who was secretary of state, is reported to have said that everyone knows Wilson's wife worked at the CIA and that it was Wilson's wife who suggested the CIA sent her husband to Niger.

"The media conflagration ignited by the failure to find WMD in Iraq and in part by Mr. Wilson's criticism of the administration, led officials within the White House, the State Department and the CIA to blame each other, publicly and in private, for faulty prewar intelligence about Iraq's WMD capabilities," the court papers state.

"The government's version of events blows out of proportion the minor role Ms. Wilson actually played and in doing so creates an impression that is highly prejudicial to Mr. Libby," they say.

Wilson's accusations stemmed from President Bush's assertion in his State of the Union address on Jan. 28, 2003, that Iraqi leader Saddam Hussein had recently sought significant quantities of uranium from Africa.

Based on his 2002 trip, Wilson said he had found it highly doubtful the nation of Niger had agreed to sell uranium yellowcake to Iraq, as alleged in intelligence provided to the CIA.

Libby's Defense To Lay Blame For Leak On State Department (WP)

By R. Jeffrey Smith

The Washington Post, March 19, 2006

Lawyers for I. Lewis "Scooter" Libby, the indicted former chief of staff to Vice President Cheney, want access to many Bush administration documents they say will demonstrate that an undercover CIA officer played a "peripheral role" in the government's debate over prewar intelligence and that Libby had no motive to lie about her, according to new court filings.

In documents filed late Friday, Libby's attorneys cast a wide net for information that they said would help demonstrate that Libby did not discuss the identity of CIA officer Valerie Plame as part of a supposed administration effort to besmirch her husband, former ambassador Joseph C. Wilson IV.

They wrote that they anticipated the trial would showcase testimony by a Who's Who of senior administration officials involved in the Iraq policymaking at the heart of the CIA leak investigation, including three top officials at the State Department who the lawyers asserted played key roles in the unraveling of Plame's covert CIA position. Those officials include then-Secretary of State Colin L. Powell and his deputy secretary, Richard Armitage, and undersecretary for political affairs, Marc Grossman.

The lawyers argued that if press reports are correct that some reporters first learned of Plame's CIA connections from Armitage, then "the State Department (and certainly not Mr. Libby) bears responsibility for the 'leak' that led to the public disclosure" of Plame's CIA identity.

Libby was indicted Oct. 28 on criminal charges of perjury, obstruction of justice and lying to the FBI about how he learned of Plame's employment and what he told reporters about her. He was not, however, charged with leaking the information to the reporter who first published it, columnist Robert D. Novak.

Libby's lawyers have asserted that inaccurate statements made by him are the result of mistakes or forgetfulness caused by the long hours he put in every day dealing with the nation's most critical national security issues.

The charges against Libby resulted from an investigation -- still underway -- by Special Counsel Patrick J. Fitzgerald into whether administration officials knowingly leaked Plame's identity to Novak and other reporters after Wilson publicly contended that the administration had twisted intelligence when it asserted that Iraq had attempted to buy nuclear weapons material from

Niger. Wilson's report was embarrassing because senior administration officials -- including President Bush -- had cited the alleged attempted purchase as one of the justifications for an invasion of Iraq.

In Friday's filing, Libby's lawyers, using Plame's married name of Wilson, said they "expect documents from the White House, the State Department and the CIA will corroborate Mr. Libby's account that Ms. Wilson's affiliation with the CIA was regarded throughout the government as a minor issue prior to Mr. Novak's article." They also said the papers will help them show that "Mr. Libby had no intent to lie because he did not believe that Ms. Wilson's employment status was classified."

Fitzgerald reiterated in his own filing that he believes Libby's team already has all the documents in hand that are relevant to Libby's defense, except a few that may be produced under seal.

Blowing The CIA's Cover (WT)

By Martin Schram

The Washington Times, March 19, 2006

A powerful, even patriotic scoop in last Sunday's Chicago Tribune set a time machine whirring, emitting a sound somewhere between Walter Mitty's ta-pocketa-pocketa-pocketa and Yogi Berra's deja-vu-vu-vu (all over again).

This time it was the Tribune's savvy senior correspondent John Crewdson who had come to the rescue of the Central Intelligence Agency (though some of the dimmer minds in the agency might not quite see it that way) by revealing a dangerous intelligence gap.

In a March 12 investigative report, Mr. Crewdson revealed how America's enemies, armed only with a computer hooked to the Internet, could do what he did: Break the cover of 2,653 CIA employees around the world, many of them secret agents. Headline: "Internet blows CIA cover."

Three decades ago, a Newsday Washington bureau chief did a similar thing, albeit on the far more primitive, low-tech scale that was, in its way, state-of-the-art spookology for that Cold War era. In a June 6, 1974, semi-investigative (semi-luck) report, the Newsday journalist (who would come in from the cold some 32 years later to write this column) revealed how America's enemy rogues and spies, armed only with no-tech eyes, ears and shoes, could do what he did: Break the cover of a secret CIA school for spies operating in a well-appointed downtown Washington apartment building. Headline: "CIA spy school blows its cover."

Ta-pocketa-pocketa-pocketa. Deja-vu-vu-vu. Slowly, a pattern emerges. In fact, a pattern within a pattern. In both cases, the journalist revealed to the CIA an intelligence gap within its midst that stunned and embarrassed the agency -- but provided the CIA with info it needed to try to recover its secrets, post haste. And in both cases, the Chicago Tribune and Newsday journalists opted not to publish the identities or other distinguishing characteristics of the CIA operatives whose covers had been blown.

The work of the Tribune's Mr. Crewdson was truly impressive. He explained how he was able to use basic search engines and commercial online data services to discover the identities of CIA operatives, front companies and so on.

He reported CIA Director Porter Goss was said to be "horrified" at the discovery and that the agency was moving swiftly (also belatedly) to plug its intelligence gap.

The Newsday scoop three decades earlier began, frankly, with a bit of luck. A friend who lived in an apartment building near K Street told the journalist he had noticed strange comings and goings concerning an apartment on his floor. Men in business suits would come in the morning, stay a few hours and leave. No one was there at night.

It turned out that if you stood in the nearby laundry room, where walls were thin and laced with audio-friendly water pipes, you could her with bare ears what was said inside the apartment: "... KGB... " "... microdot... ." Lectures about code word greetings.

One day, you could hear the teacher or trainer explain how the others can avoid being followed. Then the day's class ended; as the 1974 Newsday article reported: "It is easy to follow the spies in training as they leave. They walk several blocks and enter another apartment building where they apparently feel very much at home. They emerge a short time later on a corner balcony several stories above the street and proceed to take in the afternoon sun. It is also easy to follow the trainer. He takes the elevator down to the basement garage and drives out in a blue sedan. The car has Virginia license plates and an Arlington, Va., inspection sticker. A check of the sticker registration reveals the trainer's true identity."

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At first the CIA's spokesman gave the standard we-never-comment. But the reporter explained that wouldn't do because he had all the names and numbers adding, "If they are not ours, they are probably theirs." The CIA fessed up: "They are our guys .... It's a training exercise.... This is all rather embarrassing."

Then the CIA man asked the Newsday man for help. The operatives will want to know how they screwed up and the agency has no answer. The reporter explained all about the comings and goings, the walls and water pipes.

That Cold War mini-scoop was small time tweakery. But the Tribune gave the CIA a lifesaving gift: Disclosure of an Internet age intelligence gap that was both dangerous and discoverable.

Ta-pocketa-pocketa-pocketa. Deja-vu-vu-vu. Sadly, the pattern is frighteningly clear. The most dangerous intelligence gap of all is the one between the ears of the CIA officials whose job requires them to think it all through and prevent gaffes that could cost agents' lives or compromise the safety of us all.

Martin Schram writes political analysis for Scripps Howard News Service.

Year After Shootings, Calls To Increase Judges' Security (NYT)

By John Files

The New York Times, March 19, 2006

WASHINGTON, March 18 — About a year after the killings of the husband and mother of a Chicago federal judge and a shooting rampage in an Atlanta courthouse that left three people dead, the safety of judges and court employees remains a serious concern for the judiciary.

Attorney General Alberto R. Gonzales said this week that three-quarters of the more than 2,000 federal judges had sought home security systems paid by the government.

The Judicial Conference of the United States, which sets policy for the federal courts, met this week for the first time under Chief Justice John G. Roberts Jr. and approved security measures.

The conference authorized security equipment and workers for federal probation and pretrial services offices, urged added training for judges' security guards and called for the Bureau of Prisons to screen all outgoing mail to judges and courts from federal prison inmates.

A spokesman for the Administrative Office of the United States Courts, David A. Sellers, said that after the killings of the family members of the Chicago judge, Joan H. Lefkow, the security focus shifted from courthouses to judges and other court employees outside court buildings.

Last May, Congress appropriated $12 million for the Marshals Service to coordinate such security, including paying for home detection systems for any federal judge who wants one. This month, the House passed an authorization for $20 million to hire additional marshals for court security and investigating threats.

"Threats and attacks against judges strike at the core of our system of justice," Judge David B. Sentelle of the United States Court of Appeals for the District of Columbia Circuit said in a statement.

Judge Sentelle is also chairman of the Judicial Conference Committee on Court Security.

"Judges must be free to make judicial decisions without the fear of physical harm to themselves or to members of their families," he said.

Judge Lefkow testified before the Senate Judiciary Committee last May on increasing security for court employees.

The chairman of the committee, Senator Arlen Specter, Republican of Pennsylvania, and Senator Patrick J. Leahy of Vermont, the ranking Democrat, introduced a measure in November mandating better coordination among marshals to protect judges.

Mr. Specter said the Marshals Service had been slow in adopting changes after the Lefkow shootings and had in some cases failed to cooperate fully with the federal judiciary on security.

The bill urges new criminal sanctions on people who seek to harass or intimidate judges by filing false or malicious liens against them or by knowingly posting personal information about them on the Internet with an intent to harm the judges. The bill calls for 10 years in prison for such liens and five years for posting personal information on Web sites.

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The bill would also extend the authority of the Judicial Conference to redact sensitive personal information from judges' financial disclosure forms to prevent that information from being used for harassment or intimidation.

"This is a very serious problem," Mr. Specter said in an interview Friday. "There is no doubt that judges are targets, particularly for people who have been in their courtrooms who are unhappy with how they had their cases handled."

The Marshals Service did not return telephone calls on Friday.

The National Center for State Courts, which works with state and federal officials, had said some state and local courthouses had not followed standard safety measures. The group has urged courthouse personnel to do a better job of assessing threats, updating equipment and planning for emergencies.

"The federal courts are the gold standard," the president of the center, Mary McQueen, said. "Security is a very complex problem for the states because of jurisdictional differences. They don't have an integrated marshals service dedicated for security."

Ms. McQueen said the states had made "major strides forward in the last year," in developing security plans and sharing information on procedures and training.

Judge Offers Glimpse Of Potential Witnesses (LVRJ)

By ADRIENNE PACKER, REVIEW-JOURNAL

Las Vegas Review-Journal, March 19, 2006

Reid, Goodman on list in corruption case

During pretrial motions in the political corruption case of former Clark County Commissioners Mary Kincaid-Chauncey and Dario Herrera, a U.S. District judge offered a glimpse of the witnesses who might be called to testify.

Judge Larry Hicks rattled off potential witnesses to prospective jurors Tuesday to determine whether any of them had relationship with those who could be called to the stand during the trial, which is expected to last three months.

Among the names were Terry Lamuraglia, a former lobbyist who now works in the county's Parks and Recreation Department; attorneys Jay Brown and Joe Brown; and Peter S. Christiansen, former strip club owner Michael Galardi's longtime lawyer.

The list also includes FBI agent Joe Dickey.

During opening statements on Thursday, Assistant U.S. Attorney Daniel Schiess touched on those witnesses' roles in the government's case.

A federal indictment issued in May 2003 accuses Herrera, Kincaid-Chauncey, Galardi and former Commissioners Erin Kenny and Lance Malone of bribery. The commissioners allegedly accepted cash bribes from Galardi that were delivered by Malone, in exchange for votes that furthered the success of Galardi's strip clubs, according to the indictment.

Galardi and Kenny cut deals with the government and have provided information to prosecutors.

Schiess indicated that Christiansen "knew Galardi was corruptly taking care of commissioners."

Prosecutors said Lamuraglia, another potential witness, told the government that he often accompanied Herrera to Cheetahs. According to Schiess, Lamuraglia said Herrera once returned from a private room inside the club and bragged about receiving oral sex. The government contends that Herrera not only accepted cash bribes from Galardi, but sexual favors arranged by the strip club owner.

FBI agent Dickey is expected to testify that he was in his office listening to a telephone conversation between Malone and Herrera on Sept. 21, 2001, when Herrera asked for a meeting with Malone. Malone told him to swing by the parking lot of Landry's seafood restaurant, where Malone was having lunch with Galardi.

Dickey raced down to Landry's and saw Malone exit Herrera's vehicle. Schiess said Malone had earlier pulled a velvet bag containing $30,000 cash out of Galardi's trunk and stepped inside Herrera's vehicle.

"When Malone got out of the car, he didn't get out with that bag," Schiess said.

Assistant U.S. Attorney Eric Johnson also appears on the witness list. Galardi told federal investigators that Johnson had received free lap dances and drinks at his clubs. Johnson denied the allegations, and an internal investigation conducted by the Justice Department found no evidence to back Galardi's claims.

Clark County Chief Deputy District Attorney Craig Hendricks and former Chief Deputy District Attorney Gary Guymon, who prosecutors claim received complimentary lap dances and drinks at Galardi's clubs, could also be called to the stand.

Nicole Compton, a woman Herrera dated while he was married, is also listed as a potential witness. The federal government said in 2001 that Herrera treated Compton to an expensive weekend at the Four Seasons Hotel in Newport Beach, Calif. Herrera also paid $4,000 cash for a diamond necklace he purchased for Compton.

Other witnesses on the list include Clark County Commissioners Yvonne Atkinson Gates, Bruce Woodbury, Myrna Williams and Chip Maxfield. The board members were in office during the time Kincaid-Chauncey and Herrera served on the commission.

Other county witnesses include: Clark County Manager Thom Reilly; Administrative Services Director Don Burnette; former Business License Director Ardel Jorgensen; former Assistant Manager of Business Licensing Derek Dubasik; Registrar of Voters Larry Lomax; and Deputy District Attorneys Mary Anne Miller and Robert Warhola.

Sen. Harry Reid, D-Nev., and Las Vegas Mayor Oscar Goodman also were named at possible witnesses.

At least one dancer and a bartender at Cheetahs are on the list. Rich Buonantony, once a general manager at Jaguars, and Michael Beezley, who served as a manager at Jaguars, also might be called upon to testify.

Defense attorneys said county witnesses likely will be the first called to the stand when the trial resumes at 8:30 a.m. Monday. Burnette, the county administrative services director, is expected to be one of the first witnesses to take the stand. Burnette likely will address how the county operates in relation to zoning, commission and liquor and gaming meetings.

Data Show More Variety In Sentencing (DMR)

Des Moines Register, March 19, 2006

Some judges use too much discretion, are too lenient, critics say

In the first 13 months since federal judges were handed more freedom in sentencing, punishment disparities have developed among courthouses nationwide, new data show.

Federal prosecutors and judges in Iowa downplay the meaning of the statistics, but defense attorneys say the numbers reinforce what they have always believed: Varying judicial temperaments, combined with harsher prosecution in Iowa's northern half, can create widely different sentences for similar crimes.

"There are some judges who are far less likely to" depart from federal sentencing guidelines, said Alfredo Parrish, a defense attorney who has represented alleged criminals in both of Iowa's federal districts. "Everybody knows it."

The data, from the U.S. Sentencing Commission, indicate a new attitude among judges since a January 2005 U.S. Supreme Court ruling that gave them much more leeway in how they dole out punishment.

Nationally, judges have been 10 percentage points more likely since the change to deviate from what were mandatory sentencing rules before then. Almost always, they deviated with less-harsh sentences.

The guidelines, created in the mid-1980s because Congress wanted more uniformity in punishments, gave judges scant wiggle room. After only 13 months with "advisory" rules, Justice Department officials have urged Congress to take away judges' freedom.

William Mercer, U.S. attorney for the District of Montana, last week urged a congressional subcommittee to write new rules that would create more mandatory minimum sentences.

"There has been an undeniable erosion in the rate of compliance with the guidelines and an appreciable and troubling increase in sentencing disparities across the nation," Mercer said. "In short, both consistency and accountability are eroding."

In Iowa, that's meant a sentencing gap between two federal court districts. Previously, judges in the Northern and Southern districts followed the suggested sentences about 74 percent of the time.

Since the change, judges in Iowa's Northern District have continued to issue guideline-approved sentences in nearly 69 percent of cases. But in the Southern District, which includes Des Moines, the percentage fell to 49 percent.

Federal court authorities in Iowa argue that the numbers don't adequately reflect all the factors that go into a sentencing decision. But Steve Swift, head of a loose affiliation of northern Iowa defense lawyers, said the trend could raise the question of fairness.

"The danger, from my perspective, is that we start to get back to a world of variances in sentences, and then the question becomes, 'Is that a fair system?' " he said.

"We have these guidelines, and we tell ourselves that we're going to be handing out equal sentences, and maybe we're not."

Exact comparisons between Iowa's two districts are difficult because of differences in caseloads and in the circumstances of the crimes.

For instance, the two judges of the Northern District sentenced two defendants the first week of March. Meanwhile, three judges in the Southern District handed down 20 sentences.

None of the cases matched exactly in terms of the defendant's background, age or criminal history. But a spot comparison shows that William Edward Winn and Jodie Elaine McAtee, sentenced in separate districts on meth-making charges, drew sentences that were only slightly different: Southern District Judge Robert Pratt sentenced Winn to 16 1/2 years; northern Judge Linda Reade gave McAtee 13 years.

The issue gets more complicated when one factors in what lawyers say is a key difference between the districts - the frequency with which prosecutors ask for sentences to be reduced.

Southern District Judge Ronald Longstaff on March 3 sentenced David S. Brady to two years and nine months for marijuana trafficking. On the same day, northern Judge Mark Bennett pondered whether admitted pot distributor Kim Darby Saenz deserved the 3 1/2-year sentence that prosecutors had requested. Bennett had overshot a previous request for leniency when he sentenced Saenz to one year and eight months, which was overturned on appeal.

The federal sentencing report does not include detailed information needed to compare each judge's willingness to follow the guidelines. Federal law in most cases bans major departures unless prosecutors ask a judge to do so. The requests for special treatment usually are reserved for informants who help with other cases.

In 2004, under the old sentencing rules, Northern District prosecutors filed for leniency in 23 percent of their cases, compared with 20 percent in the Southern District.

Between Jan. 12, 2005, and Feb. 1, 2005, northern prosecutors sought lower sentences in only 14 percent of their cases, compared with 21 percent in the Southern District.

Bennett, who has criticized the stinginess of northern prosecutors on many occasions, has not yet ruled on the Saenz case and declined to be interviewed for this article.

Rich Murphy, a prosecutor for Northern District U.S. Attorney Charles Larson Sr., said the sentencing statistics are "troubling" at first glance, but he disputes any implication that his district treats anyone unfairly.

"My sense is that we're not doing anything dramatically different" this year, Murphy said. "I think it's something that ought to be studied, but I don't think you can necessarily immediately draw the conclusion that there is an increased likelihood of incarceration between one district and the other."

Murphy and Southern District U.S. Attorney Matt Whitaker questioned the value of the statistics, which are based on sometimes-incomplete case information reported to the sentencing commission. Prosecutors estimated that the numbers reflect only 60 percent to 85 percent of the work that took place.

"There are so many moving variables here," Whitaker said. "I don't think you can draw any analysis of what this says."

Reade, known among defense attorneys in the Northern District for her stiff sentences, concedes that she is "not much of a departer" from the sentencing guidelines.

Southern District judges voiced a willingness to be more lenient than the guidelines, but "even when I vary from the guidelines, I usually don't vary very far," Longstaff said.

"I think I'm still letting the guidelines be a very important factor in the sentence. I'm just not letting them be the only factor."

Frank Bowman, a law professor at the University of Missouri-Columbia who has studied the statistics, said the Iowa numbers show that "plainly, something different is happening here."

A broader point, however, is the fact that so many federal judges have proven so willing to use their new-found sentencing discretion, Bowman said.

"I don't think you can really deny the obvious, which is you have an advisory system where judges are equally free to go up and down . . . and they're going down at a rate of 22 to 1," Bowman said. "No matter how you slice it, it seems to me that you've got a judgment being expressed here that the sentences mandated by the guidelines are far too high more often than they're too low."

Odds Favor Internet Gambling (WT)

By Tim Lemke

The Washington Times, March 19, 2006

In thousands of houses across the United States at this very moment thousands of people are wagering thousands of dollars on NCAA tournament basketball games without leaving their bedrooms.

Overseas, thousands of operators of thousands of Web sites are collecting a portion of each bet and adding it to the millions of dollars they have pulled in just since breakfast.

This is the phenomenon of Internet gambling, a $15 billion industry driven by the popularity of sports and the growing interest in poker. The industry is the subject of tense debate between companies looking to cash in on the American marketplace and lawmakers looking to ban online gambling.

Analysts predict online betting soon could make up as much as 10 percent of gambling worldwide.

In fact, the total value of some online-gambling companies operating overseas is comparable to that of the major traditional American casino companies -- Partypoker.com is worth about $2.4 billion more than Harrah's -- and revenues are expected to top $25 billion by the end of the decade, according to Christiansen Capital Advisors, which tracks gambling data.

Gamblers are expected to bet $4.7 billion on sports online this year. Revenue from online poker, less than $400 million worldwide in 2003, is expected to hit $4 billion. Other casino games, such as craps and roulette, are growing in popularity, as companies expand their offerings. Even bingo soon could become a $500 million game, Christiansen said.

The business of online gambling has made many people very rich. Calvin Ayre, the chief executive officer of Bodog Entertainment, an online gambling and music company based in Costa Rica, recently was featured on Forbes magazine's list of billionaires.

"It's been quite a ride," Mr. Ayre, a Canadian citizen, said last week after the taping of a televised poker tournament at his $3.5 million estate in Santiago.

That ride largely has been funded by bettors in the United States: Nearly two-thirds of all online wagers are placed by people in this country, even though most forms of Internet gambling are illegal, according to the U.S. Department of Justice.

Conservative lawmakers, often at the urging of religious groups, have been trying to stop online gambling since it first surfaced in the mid-1990s. Their efforts largely have been focused on updating the Wire Act of 1961, the pre-Internet-era statute that currently serves as the law governing online-gambling issues.

Their arguments mostly are the same ones they cite in opposing gambling in general: Opponents point to studies that suggest gambling increases personal debt and is responsible for higher rates of divorce, drug use and depression. However, they also argue that the Internet creates additional dangers, allowing minors to place bets and criminals to use stolen credit cards.

"We feel this type of gambling is particularly pernicious," said Rep. Robert W. Goodlatte, Virginia Republican, perhaps the most outspoken opponent of gambling on Capitol Hill.

However, advocates argue governments would reap big financial gains by making online gambling legal, regulating it and taxing it heavily.

"I could pump $1 billion into the U.S. economy right away," said Peter Carruthers, chief executive officer of BetonSports.com, which also operates out of Costa Rica and earns most of its revenue from U.S. bettors.

Furthermore, companies say, regulation would protect against many of the problems gambling opponents fear would occur if online betting is legalized in the United States.

In the United Kingdom, for instance, online gambling is legal and heavily regulated. Companies are required to use special age-verification software. All bets are recorded, and there are strict caps on the amount one person can bet at once. The operations of all Internet gambling companies are routinely audited for fraud or money laundering.

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Similar regulations have been put in place in more than 80 other countries worldwide.

"[The U.S.] should regulate this, and enforce the use of software that works," said Nigel Payne, chief executive officer of London-based Sportingbet PLC, which spends time in Washington lobbying for regulation. "Do we honestly think that Americans are not going to gamble? If they honestly think they can stop people, it's an extraordinarily naive position."

The legal landscape

The Department of Justice says that online gambling is illegal and has collected millions of dollars in settlements from online payment firms, including PayPal, that have helped process bets placed on the Internet.

But shutting down gambling operations or stopping people from betting has proven tricky. U.S. laws can't stop operators working outside the country, and building a case against individual gamblers is time-consuming and not a priority.

As a result, much of the department's efforts center on pressuring credit card companies to refuse online-gambling transactions.

Legal scholars, gambling advocates and even some lawmakers said that because current laws were crafted before the Internet age and most operators are based overseas, the law is only helpful to a point.

"You've got 2,000 offshore sites," said Joseph Kelly, a professor of business law at the State University of New York in Buffalo and a specialist on gambling laws. "You have to be able to crack down on offshore operations. In my opinion, it's an exercise in futility."

Indeed, Mr. Ayre operates on the same principle: His company has no physical presence in the United States.

"We are running an Internet business, and we follow all the laws of the countries we operate in," he said. "In all these jurisdictions, what we're doing is legal. We feel we are a legal organization."

The debate over Internet gambling and U.S. law centers largely on the 45-year-old Wire Act, which was designed to crack down on sports betting by organized crime and explicitly outlaws betting on "sports or other contests" using a phone line from state to state.

However, the law says nothing about the playing of poker, blackjack or other casino-type games and was written long before the Internet was conceived.

"We're satisfied that what we're doing in the U.S. is not illegal," said John Sheperd, a spokesman for Gibraltar-based PartyGaming PLC, which pulled in $977 million in revenue last year from its Partypoker.com and Partycasino.com Web sites. "We recognize that the law was not written with the Internet in mind."

Federal legislation introduced last month by Mr. Goodlatte seeks to clarify the law to ensure that online bets are banned and to include poker and other common gambling practices.

"There needs to be a clear statement by the Congress that this is what the law is and this is what should be enforced," said Mr. Goodlatte, who claims to have more than 100 co-sponsors for his Internet Gambling Prohibition Act.

Some proposed laws target credit card companies and banks in the United States, but companies already say they can work around these measures by using foreign banks and direct-payment services, such as FirePay.

In addition, operators of online-gambling companies said Mr. Goodlatte and other lawmakers are sending mixed messages, because their legislation outlaws some activities but not others.

Mr. Goodlatte's bill, for instance, allows for online betting on horse racing and fantasy sports, exemptions that baffle online-gambling companies.

"Mr. Average is being told this is bad, Mr. Average is being told you can't do this, but Mr. Average is being told that if you bet on a horse race, it's fine," Mr. Payne said. "If you do it on a fantasy league, it's fine. If you do it on a lotto, that's fine. These are the exemptions the politician needs in order to push the bill through."

Supporters of online gambling said the new efforts from Congress are a reaction to critics who say measures against Internet gambling were killed as a result of illegal lobbying efforts.

Mr. Goodlatte blamed Jack Abramoff, the lobbyist who recently pleaded guilty to fraud and conspiracy, for working to block his Internet anti-gambling legislation in 2000. Sen. Jon Kyl, Arizona Republican, nearly inserted a similar bill into lobbying-reform legislation earlier this month, and Mr. Goodlatte makes a point of referring to Mr. Abramoff when discussing his bill.

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"Internet gambling has quadrupled since Jack Abramoff blocked the legislation back in 2000," Mr. Goodlatte said. "As several members of Congress were misled by him, we felt it was a great time to bring [the legislation] back."

The future

Online-gambling companies said they expect a 25 percent drop in revenues if the Goodlatte bill is passed. That figure, they said, represents the number of Americans who gamble online because they believe it is legal. The remaining gamblers will continue on, they said.

"You can't ban something Americans like doing and don't think is wrong," Mr. Ayre said.

Nevertheless, companies are expanding their company offerings to include less controversial games, such as bingo, backgammon and checkers.

Either way, it appears companies have no plans to stop collecting from U.S. bettors, regardless of what happens.

"These guys boast publicly at conferences about online sports wagers coming from the United States," Mr. Kelly, the business professor, said with a laugh. "And nobody bothers them."

Some Fear Popularity Is Weakening Amber Alerts (NYT/AP)

By The Associated Press

The New York Times, March 19, 2006

WAITE HILL, Ohio, March 18 — To illustrate what has happened to the Amber Alert program, Arnold Stanko, police chief in this town of about 450 people, slowly pulls his hands apart as if stretching a piece of taffy.

Ten years after the alerts began being used in the Dallas-Fort Worth area, the system has been adopted in all 50 states. And in some, it is being used for reasons beyond its original purpose of helping find children abducted by strangers.

In Ohio, Texas and other states the program can be used when a child is taken away by a parent or family member who does not have custody, if the child is believed to be in immediate danger of injury or death.

Some law enforcement officials say they are concerned that the alerts will be overused and become less effective. They say that in some cases, it is more difficult for the authorities to decide when an alert should be issued because they have to weed out cases like those in which a parent is not a threat or cases where a child has run away.

"You don't want to be in a position where you get Amber fatigue where people say, 'It never ends, another Amber Alert,' and they tune out," said Tela Mange, spokeswoman for the Texas Department of Public Safety.

The system was created in 1996 after Amber Hagerman, 9, was kidnapped while riding her bicycle near her home in Arlington, Tex., and killed. The alerts are broadcast on radio and television and appear on cellphones at the owners' request and on highway signs.

The criteria for issuing an alert vary slightly from state to state, but the Department of Justice recommends the following minimum standards: an abduction is confirmed, the child is at risk of serious injury or death, there is enough descriptive information about the child, captor or captor's vehicle, and the child is 17 or younger.

"When it started out it was for stranger abductions," said Chief Stanko, who oversees the Northeast Ohio Amber Alert Plan from this Cleveland suburb. "Over time we learned that parents abduct their own children and kill them."

Of 17 alerts issued in northeast Ohio since 2002 through January, 9 involved children abducted by parents, family members or a live-in boyfriend, according to police records reviewed by The Associated Press.

More than 240 children have been recovered nationwide because of Amber Alert programs, and about 95 percent of children reported missing through the system are recovered, according to the National Center for Missing the Exploited Children, a private, nonprofit organization. Of 252 children who were subjects of Amber Alerts in 2004, all were found alive except five who were never located and six who were dead, the center said.

Chief Stanko emphasizes in training classes for police that officers must verify a parent's accusations about another parent before issuing an alert. But persuading 200 police departments to do that is a challenge, he said.

Law enforcement officers err on the side of caution to protect people in their work, he said, but that cannot be done with Amber Alert.

"If you erred on the side of caution, this thing would be going off all the time," Chief Stanko said.

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No Amber Alert was issued the day Gina DeJesus, 14, of Cleveland failed to return home from school in April 2004, because no one witnessed her abduction.

Gina is still missing. The lack of an alert angers her father, Felix DeJesus, who believes the public will listen even if the alerts become routine.

"The Amber Alert should work for any missing child," Mr. DeJesus said. "It doesn't have to be an abduction. Whether it's an abduction or a runaway, a child needs to be found. We need to change this law."

Statistics show the first three hours are the most critical to recovering the child alive, according to the missing children center. But law enforcement officials cannot automatically issue an alert without an investigation, said Robert Hoever, deputy director of special operations at the center.

"It's a very, very difficult balancing act that these Amber coordinators face," Mr. Hoever said. "Typically, across the country these Amber coordinators are put in a position where they're damned if they do and they're damned if they don't."

CIVIL LAW:

Federal Penalties Often Go Unpaid (WT/AP)

By Martha Mendoza And Christopher Sullivan, Associated Press

The Washington Times, March 19, 2006

When a gasoline spill and explosion killed three young persons in Washington state, officials announced a record penalty against a gas-pipeline company: $3 million to send the message that such tragedies "must never happen again."

When nuclear labs across the country were found exposing workers to radiation and breaking other safety rules, assessments totaling $2.5 million were quickly ordered.

What happened next with these no-nonsense enforcement measures? Not much. The pipeline tab eventually was reduced by 92 percent, and the labs' assessments were waived as soon as they were issued.

The amount of unpaid federal fines has risen sharply in the past decade. Individuals and corporations regularly avoid large penalties for wrongdoing -- sometimes through negotiations, sometimes because companies go bankrupt, sometimes because of officials' failure to keep close track of who owes what.

These are conclusions of an Associated Press examination of federal financial-penalty enforcement across the nation, which also found:

• The government currently is owed more than $35 billion in fines and other payments from criminals and in civil cases, according to Justice Department figures. This is almost five times the amount uncollected 10 years ago -- and enough to cover the annual budget of the Department of Homeland Security. A decade ago, Congress mandated that fines be imposed regardless of defendants' ability to pay, which has added tremendously to outstanding debt.

• In 2004, federal authorities ordered $7.8 billion in 98,985 fines, penalties and restitution demands in criminal and civil cases, but collected less than half of that.

• White-collar crime cases account for the largest amount of uncollected debt. In a study, Government Accountability Office (GAO) investigators found that just 7 percent of restitution in such cases is paid.

"Fines and orders to pay restitution are an important part of how we punish convicted criminals. When so little effort is made to collect that money, we allow convicted criminals to avoid punishment for their crimes, weaken our criminal justice system and ultimately deny justice to the victims of crimes," said Sen. Byron L. Dorgan, North Dakota Democrat, who has pressed for closer scrutiny for years.

The AP filed Freedom of Information Act requests with a dozen federal agencies, seeking records on why and how they issue and collect administrative penalties and other assessments.

Although the government does collect billions each year in fines, penalties and restitution, success rates vary from agency to agency, region to region, case to case.

In many high-profile cases, fines are touted by authorities as proof that they are cracking down. Yet frequently those orders are quietly negotiated to just a fraction of their original amounts.

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Documents provided to the AP by the Labor Department's Employment Benefits Security Administration, whose job is to protect pension and welfare benefits, showed that $2,000 was the maximum amount paid on nearly a dozen penalties ranging from $86,500 to $180,000.

Why the reductions? Officials explained that compliance is the agency's goal, and that the law allows penalties to be reduced when companies make amends. Violators who don't comply risk being referred to the Treasury Department, which can collect by seizing federal benefits.

The Occupational Safety and Health Administration's written policy explains to inspectors that they can reduce penalties by as much as 95 percent, "depending upon the employer's 'good faith,' (25 percent) 'size of business,' (60 percent) and 'history of previous violations.' (10 percent)"

Federal law exempts the national nuclear laboratories from most financial liability, but the Energy Department has issued about $2.5 million in fines against Los Alamos, Livermore and Argonne national laboratories since 2000.

"This is kind of an exercise in absurdity," said Greg Mello, who heads the Los Alamos Study Group, a nuclear-disarmament activist organization in Albuquerque, N.M.

Even so, the Energy Department includes the fines in its annual reports to Congress and often announces them in press releases.

Last year, Congress tightened the rules so that as nuclear-laboratory contracts are renewed, the fine waivers are eliminated. Eventually, DOE spokesman Jeff Sherwood said, nuclear labs will have to pay imposed fines.

The reason DOE issued fines it could not collect was to show what the problems were and how bad, he said: "A $1 million fine says something different than a $10,000 fine."

When agencies can't get debtors to pay, the Justice Department may get the task of collecting a penalty. But the process is decentralized. The collection legwork falls to the 93 U.S. Attorney's Offices across the country.

Reviewing the adequacy of staffing was one of 14 recommendations made by GAO in 2001 to improve collection. A follow-up report two years ago still found "fragmented processes and lack of coordination."

The Justice Department office overseeing U.S. attorneys said it has made strides toward better coordination.

The 1996 Victims Mandatory Restitution Act requires judges to order payments regardless of a defendant's ability to pay. It's no coincidence, says Natalie Collins of the U.S. Attorney's Office in Las Vegas, that the uncollected debts have steeply increased since the law was passed.

Many people leave prison with a large debt they can't pay, she said. "We can't squeeze blood out of a turnip."

CIVIL RIGHTS:

Abortion Ban Prompts Calls For Boycott (NYT/AP)

By The Associated Press

The New York Times, March 19, 2006

PIERRE, S.D., March 18 — South Dakota politicians and state agencies have been bombarded in the past few weeks with thousands of calls, letters and e-mail messages, for and against the state's recently enacted ban on nearly all abortions.

A few groups who oppose the ban have called for a tourism boycott of South Dakota, urging people to avoid attractions like Mount Rushmore; the Badlands; the annual motorcycle rally in Sturgis; and the Corn Palace, an arena in Mitchell whose walls are covered with colorful ears of corn.

The furor was prompted by the passage of the strictest abortion law in America — a ban on all abortions except to save a woman's life.

Tourism is South Dakota's second-largest industry, behind agriculture, with visitors to the state spending $809 million last year, according to the Tourism Department.

Among those calling for a boycott is the Women's Medical Fund, an abortion rights organization based in Madison, Wis. "Our message is that if they are going to treat women in this inhumane way, they can expect to pay a price," said Anne Nicol Gaylor, administrator of the group.

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Billie Jo Waara, the South Dakota state tourism director, said her office had been getting a dozen or so calls a day from people on both sides of the issue. Some say they will not vacation in South Dakota, but very few had canceled previously made travel plans, she said.

Abortion Ban Likely To Go To Voters In South Dakota (MINNST)

Minneapolis Star Tribune, March 19, 2006

Leader of opposition says he doesn't foresee much difficulty in getting 16,728 signatures on a petition.

Chuck Haga, Star Tribune It appears likely that South Dakota's recently adopted ban on abortions will be referred to the state's voters.

Jim Robinson, secretary of the nonprofit organization Focus South Dakota, said he expects "a large variety of groups that disagree with this extremist ban" to participate in a petition drive to keep the law from taking effect July 1 and go on the November general election ballot.

"I wouldn't anticipate too much difficulty" in obtaining the necessary 16,728 signatures, he said. "We want to make it a unified effort."

That includes discouraging out-of-state groups from taking too high a profile, Robinson said. Last week, Focus South Dakota persuaded a small abortion-rights group in Wisconsin to scuttle its plans for a petition drive to refer the law.

"It's not surprising to me at all that people around the country want to help," he said. "But we want this to be done by South Dakotans."

Kate Looby of Planned Parenthood -- whose clinic in Sioux Falls is the only facility in the state to offer abortion services -- said the organization will decide this week whether to join a referral effort or seek an injunction and challenge the law in court.

Robinson said a recent poll by Focus South Dakota showed that 57 percent of registered South Dakota voters said they would overturn the ban. But abortion opponent Leslee Unruh called those results "deceptive" and said her Abstinence Clearinghouse found in December that 64 percent of state households consider themselves anti-abortion.

Unruh said she looks forward to a statewide campaign focused on abortion.

Challenge welcomed

The abortion ban, which would allow exceptions to save the life of the mother but not for rape or incest or to preserve the mother's health, was signed on March 6 by Gov. Mike Rounds.

Supporters have said they expect and welcome a challenge, with the South Dakota statute reaching the U.S. Supreme Court and affording the justices an opportunity to overturn the 1973 Roe vs. Wade decision, which established a woman's right to an abortion.

Unruh acknowledged that some abortion opponents would prefer a law that allows exceptions in cases involving rape or incest, but she expects that those people still would vote to uphold the ban, especially if they understand that women who seek help immediately after such attacks may use the so-called "morning after" pill.

"I'm not afraid to stand up for those children [conceived as a result of rape], as well," she said. "But if you go immediately to your doctor, [the alternative] is there."

Sen. Stanford Adelstein, R-Rapid City, said he's "certain" the ban will be referred to voters. He voted against the bill after proponents turned aside all amendments, including exceptions for rape and incest. "People are so angry ... I can't imagine we couldn't get enough signatures," he said from Jerusalem, where he's attending a professional meeting.

The state's tourism department reports receiving e-mails from people saying they won't visit the state because of the abortion ban. Mark Johnston, press secretary for Rounds, added, "We're hearing from people on both sides, from all over the world."

Unwed Fathers Fight For Babies Placed For Adoption By Mothers (NYT)

By Tamar Lewin

The New York Times, March 19, 2006

Jeremiah Clayton Jones discovered that his former fiancée was pregnant just three weeks before the baby was due, when an adoption-agency lawyer called and asked if he would consent to have his baby adopted.

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"I said absolutely not," said Mr. Jones, a 23-year-old Arizona man who met his ex-fiancée at Pensacola Christian College in Florida. "It was an awkward moment, hearing for the first time that I would be a father, and then right away being told, 'We want to take your kid away.' But I knew that if I was having a baby, I wanted that baby."

Mr. Jones has never seen his son, now 18 months old. Instead, he lost his parental rights because of his failure to file with a state registry for unwed fathers — something he learned of only after it was too late.

Under Florida law, and that of other states, an unmarried father has no right to withhold consent for adoption unless he has registered with the state putative father registry before an adoption petition is filed. Mr. Jones missed the deadline.

Although one in every three American babies has unwed parents, birth fathers' rights remain an unsettled area, a delicate balancing act between the importance of biological ties and the undisrupted placement of babies whose mothers relinquish them for adoption.

While women have the right to get an abortion, or to have and raise a child, without informing the father, courts have increasingly found that when birth mothers choose adoption, fathers who have shown a desire for involvement have rights, too.

But to claim those rights most states require a father to put his name on a registry. While about 30 states now have registries, they vary widely. In some, fathers must actually claim paternity; in others, just the possibility of paternity. The deadlines may be 5 days after birth or 30, or any time before an adoption petition is filed.

And registries are a double-edged sword: It remains an open question whether they serve more to protect fathers' rights or to protect adoptive parents, and the babies they have bonded with, from biological fathers' claims.

"My specialty is contested adoptions, and the most common contest is where the mom wants to place the baby and the dad objects," said Martin Bauer, president of the American Academy of Adoption Attorneys. "Registries can protect men against birth mothers who won't disclose the father's name or actively lie about his identity."

Adam Pertman, executive director of the Evan B. Donaldson Adoption Institute, a nonprofit research and education group, sees it differently. "It's all smoke and mirrors," Mr. Pertman said. "How can registries work if no one's heard of them? And it's just not reasonable to expect that men will register every time they have sex."

In the early 1990's, the two-year fight over Baby Jessica and the four-year battle over Baby Richard highlighted the wrenching dramas of birth parents winning custody of babies placed with adoptive parents years earlier. The spectacle of those children being taken from the arms of the only parents they had known raised an outcry about the need for speedy, permanent placement.

While some states have long had putative father registries — New York's registry was upheld by the United States Supreme Court in 1983 — most were started in the last decade to head off late parental claims.

In many states, fewer than 100 men register each year — not surprising, adoption experts say, because most young men have never heard of the registries. One exception is Indiana, where men are notified of the registry when a birth mother names them as the father, and 50 men register a week.

Adoption lawyers say some birth mothers refuse to identify the father to forestall interference. There are no statistics on how many unmarried fathers seek to raise babies the birth mother has relinquished.

Mary Beck, a professor at the University of Missouri School of Law, said the burden of registering should be the father's.

"There are men who complain, 'What, I have to file for every woman I've had sex with?' " Professor Beck said. "But men are on notice of possible pregnancy by virtue of having had sex, and the alternative is leaving it up to the women to chase them down."

Even for registered men, the system is flawed. Because the registries are state by state, a registration means nothing if the father or mother has moved — or if the baby was surrendered for adoption in a different state specifically to avoid a challenge.

In one case, Frank Osborne of North Carolina challenged his 5-month-old son's adoption in Utah. The Utah Supreme Court rejected Mr. Osborne's claim, but a dissenting judge found it unfair that Mr. Osborne lost a child he had lived with and supported until the mother "unilaterally and clandestinely" took the boy to Utah.

Senator Mary L. Landrieu, Democrat of Louisiana, will address that problem in the Proud Father Act, which would create a national registry and is to be introduced in Congress later this year.

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"In a perfect world, everything would be linked so that everyone could find out if a man had registered or filed for paternity," said Jim Outman, a lawyer in Atlanta who consulted on the legislation. "But in the real world, the left hand doesn't always know what the right hand is doing.

"If there's nothing in the records in their county, their state, how is an adoption agency supposed to know there's a father who's going to come forward in two years? There has to be some security for the adoptive parents and the child."

One self-made expert on the registries is Erik L. Smith, an Ohio paralegal who fathered a son in Texas and fought for paternal rights after the baby's placement with an adoptive family. In an unusual resolution, the boy, now 13, lives with the adoptive family, while Mr. Smith, a noncustodial father, has visiting rights. Mr. Smith was naturally intrigued when he heard of the Ohio registry in a class where the professor explained that babies born to unwed parents could be adopted without the father's consent unless he registered within 30 days after the birth.

"I asked if that meant that, to protect his rights, a man should register every time he has sex with a new partner, and he said yes," Mr. Smith said.

So he tried. "I called information and asked how I could contact the Ohio putative father registry, but there was no listing," Mr. Smith said. "I searched the Internet but couldn't find any address."

While Ohio's system has improved, he said, "as long as registries aren't publicized, I think they just work as a way to get rid of fathers like me."

Glenn Spraggs, a 22-year-old Cincinnati man, was recently caught short by ignorance of the Ohio registry. His girlfriend, Sharicka Watson, had a baby boy, Thomas, on Dec. 2, and Mr. Spraggs, who also has a daughter with Ms. Watson, was with her when he was born. Ms. Watson has told reporters that she discussed adoption with Mr. Spraggs, but he said he had no warning that less than two weeks after the birth, Ms. Watson would surrender Thomas for adoption.

"No one told me anything," Mr. Spraggs said. "When I found out he was gone, I called the police to see if they could help get him back, or file kidnapping charges or something, but they said there was nothing they could do because it was an adoption. By the time I heard about the registry, it was too late."

Although the Ohio registry gives men 30 days to file, a judge terminated Mr. Spraggs's parental rights when Thomas was 19 days old. After Mr. Spraggs hired a lawyer, the adoption agency returned Thomas to Ms. Watson, who now wants to raise him. A custody hearing in the case is scheduled for tomorrow.

Carol Sanger, a professor at Columbia Law School, said registries reflected a deep societal belief that unmarried fathers are irresponsible.

"If we want registries to mean anything," Professor Sanger said, "we'd have to teach them in every sex education curriculum in every school, and publicize them everywhere."

In Florida, the 2003 law creating the registry requires the State Department of Health "within existing resources" to distribute pamphlets on the registry at every office of the Health Department, the Department of Children and Families and the Bureau of Vital Statistics.

But when Barbara Busharis, a professor at Florida State University, sent students to find the brochures, they had no luck. "They couldn't find anyone who knew anything about the putative father registry," Professor Busharis said.

Mr. Jones's case illustrates the dangers of ignorance. The identity of his former fiancée is confidential, but Mr. Jones's court filings detail his struggle to prevent the adoption.

He tried to contact his ex-fiancée, who disappeared from his life when her parents took her from school and to another county. He called her friends, her brother, her pastor. He hired a Florida lawyer and filed a paternity petition the day before the baby was born, in the county where she previously lived. But that lawyer, now dead, apparently knew nothing of the putative father registry, and never mentioned registering.

Mr. Jones is appealing the termination of his rights. "I don't think there's any greater right that you could trespass on than a parent's right to his child," he said.

In her brief, Allison Perry, Mr. Jones's lawyer, called the Florida registry "a well-kept secret," with just 47 registrants for the 89,436 out-of-wedlock births in 2004. Mr. Jones, living in Arizona, had no reason to know of it. The adoption agency that alerted

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him to the pregnancy never mentioned it, and when the agency later sent him a letter, it enclosed information on a Florida registry for birth parents interested in a reunion when the children grew up, but nothing on the putative father registry.

Jeanne Tate, a lawyer for the adoption agency, said that because it represented the birth mother's interests, it could not advise Mr. Jones of his rights. Even the call to Mr. Jones went beyond the agency's legal obligations, she said.

"What's good about the law is that it provides clear guidance on whether a baby is or isn't free for adoption," she said, "so you don't get into those heart-wrenching situations where a baby who's been placed has to be removed."

Generally, fathers who have missed registry deadlines have lost their court cases. But Ms. Perry argues that the Florida law, applied as mechanically as in the Jones case, is an unconstitutional intrusion on men's fundamental rights.

"Jeremiah Jones did everything he could reasonably do to establish a relationship with his child," she said. "It's just inconceivable that the government can take away his child because he missed a filing deadline."

Morial Adds His Voice To Election Protests (NOTP)

By Karen Turni Bazile, Staff Writer

New Orleans Times-Picayune, March 19, 2006

Outcome likely to be contested, he says

Echoing concerns of other civil rights leaders about the fairness of New Orleans' upcoming elections, National Urban League president and former New Orleans Mayor Marc Morial announced a plan Saturday for out-of-town mayoral forums and outreach programs to help the city's displaced voters.

The National Coalition for Black Civic Participation plans to file a letter of objection to the U.S. Justice Department's approval Thursday of the plans for the April 22 and May 20 elections, said Morial, who was in New Orleans to attend a funeral.

The department gave advance clearance to the plans under the terms of the 1965 Voting Rights Act, which requires the Justice Department to review proposed changes in voting procedures in Louisiana and other Southern states to ensure the changes don't discriminate against black voters.

The department's action drew immediate fire from several civil rights groups, which have contended for weeks that too little is being done to ensure that tens of thousands of black voters displaced by Hurricane Katrina will be able to participate in one of the most crucial elections in the city's history.

"What New Orleans and Louisiana do not need right now is another black eye because of a marred election process," Morial said. "With 30 days to go, there's ample opportunity for the plan to be corrected."

Under the current plan, Morial said, there is a strong probability there will be challenges to the April 22 primary or May 20 runoff because absentee ballots are seen as difficult for displaced voters to obtain and fill out.

Morial said the Coalition for Black Civic Participation's objections will focus on the lack of an adequate public relations effort to educate such voters.

He said his group thinks the best way to ensure a fair election is to establish out-of-state voting places, noting that similar arrangements were made for Iraqis in the United States during last year's elections for Iraq's new government.

At a special session this year, the Legislature rejected a proposal to set up satellite sites in cities such as Houston, Atlanta and Jackson, Miss., where tens of thousands of displaced voters have relocated. A federal judge also refused to order use of such sites.

Besides filing an objection to the election plans, Morial said the coalition is planning "Katrina survivor empowerment weekends" in several cities before the election.

As part of each weekend, the group will sponsor a mayoral forum and a meet-and-greet session for all candidates in all races, and it will offer information about absentee balloting and other post-Katrina issues.

The forums are scheduled for March 25 in Houston, March 31 in New Orleans, April 8 in Atlanta and April 15 in Baton Rouge. Exact locations and times have not been announced.

Under plans developed by Secretary of State Al Ater, the state's chief elections official, and the Legislature, satellite voting places will be established in 10 other Louisiana parishes, where displaced New Orleans voters will be able to cast absentee ballots in person on April 10-13 and 15 for the primary.

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In addition, information packets are being sent to displaced voters nationwide explaining how to vote absentee by mail, and the state has bought newspaper ads in many cities to tell displaced voters about the election. Many mayoral and other candidates are expected to campaign in cities where New Orleanians are concentrated.

But Morial said those plans are not sufficient. In at least one case, he said, a displaced voter's packet was sent to his flooded local home, not his post-Katrina address.

Besides avoiding problems in the New Orleans elections, Morial said, having out-of-state satellite polling places would avert problems in fall elections that will affect displaced voters from St. Bernard and Plaquemines parishes and other areas devastated by Hurricanes Katrina and Rita.

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ENVIRONMENT:

Pick For Interior Said To Show More Charm Than Substance (LAT)

By Tomas Alex Tizon, Times Staff Writer

The Los Angeles Times, March 19, 2006

Gov. Dirk Kempthorne of Idaho is well-liked as a down-to-earth guy. But some doubt his ability to get the job done, citing a list of unfinished plans.

BOISE, Idaho — He rides motorcycles, battles a bad back, does a killer impersonation of fellow Gov. Arnold Schwarzenegger, and sometimes forgets to balance his checkbook.

Even those who don't like his politics call him "Dirk," the way he prefers to be addressed. And they speak of him like he's the guy next door who just happens to be governor.

But the ready smile and neighborly style of Idaho Gov. Dirk Kempthorne don't always get the job done, some supporters and critics say. They contend that the man President Bush has picked to succeed Gale A. Norton as secretary of the Interior often exhibits more charm than substance.

Fellow Republicans and business leaders say Kempthorne, 54, knows how to create consensus but is too politically cautious. Local Democrats and environmentalists say that he is gifted at making people feel heard but that, at the end of the day, his loyalties lie squarely with development and corporate interests.

If confirmed, what kind of Interior secretary will Kempthorne be?

In the Idaho state capital, where he has been a major political player for two decades, many predict his performance will mirror that of his years as Boise mayor, U.S. senator and two-term governor — a record of mixed success with a list of unfinished projects and a whole lot of people who refer to him as a good guy.

"His charisma carries him a long way. Even when we were at odds, he was very quick to approach our group with a smile and a handshake," said Roger Singer, the executive director of the local chapter of the Sierra Club from 1995 to 2004.

"He's very good at giving the appearance that he's listening closely to what you're saying," Singer said. "In the end, his votes have fallen along the conservative party line."

Singer cites two examples:

In the mid- to late 1990s, Kempthorne successfully brokered a deal — protested by environmentalists — allowing the military to expand a training ground into the Owyhee Canyonlands in southwestern Idaho. Kempthorne also succeeded in weakening federal protection of gray wolves, shifting control to the state.

Singer fears Kempthorne would continue his long campaign to water down the federal Endangered Species Act and would support oil-drilling in the Arctic and the sale of public lands to special-interest groups. Kempthorne, Singer said, has worked to overturn President Clinton's ban on building roads in wilderness areas.

"I'd like to give him the benefit of the doubt in his new job," Singer said, "but my fear is he'll be closely aligned with Bush administration policies that have been detrimental to the environment."

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National environmental groups are harsher in their assessment. The League of Conservation Voters gave him a rating of 6 on a zero-to-100 scale.

Local political watchers view Kempthorne as a "middle of the road" Republican in an overwhelmingly conservative state. Among his critics are Republicans who say he isn't conservative enough. But many Idaho Republicans are pleased that one of their own has been tapped to be part of the president's Cabinet.

Former state Sen. Laird Noh, who led the Senate Resources and Environment Committee from the early 1980s to 2004, called Kempthorne "a good steward, a balanced steward" of the environment.

"He used considerable political skill to protect resources while also allowing for reasonable use of those resources," the former senator said.

Noh, a Republican, credited Kempthorne with engineering an agreement with the Nez Perce Tribe over its claims to the waters of the Snake River, ending a decade of sometimes acrimonious debate. The compromise resolved the tribe's water claims, preserved the state's water rights and set protections for salmon and steelhead.

The agreement is seen as one of Kempthorne's biggest accomplishments.

But Kempthorne's most loyal supporters hail from his days as Boise mayor, between 1986 and 1993. He is largely credited for revitalizing a moribund downtown.

Don Brennan, a city councilman when Kempthorne was mayor, tells how Kempthorne took the initiative. It's a story that Kempthorne likes to tell himself.

One day in 1986, the mayor assembled all the key players, including the City Council, in one room and told the group to finally make a decision on building the Boise Centre on the Grove, an open-air commercial plaza in the city's core.

Kempthorne said the media were outside and anyone who wanted to admit failure could leave. An agreement was reached shortly after.

"The people in that room didn't think they could get out," said Brennan, a Democrat. Brennan said Kempthorne was most effective in his city role. Kempthorne's successes as U.S. senator from 1993 to 1999, and as governor from 1999 to the present, have been fewer and harder-fought, Brennan said.

Kempthorne was born in San Diego and has lived in Idaho for 35 years. He earned a political science degree from the University of Idaho, where he was student body president as a junior. He and his wife, Patricia, have two grown children.

Before running for mayor, he worked as a public affairs manager for FMC Corp., a Philadelphia chemical company, and was executive vice president of the Idaho Home Builders Assn.

His election and reelection as governor came handily: He won the 1998 election by 68%, and four years later by 56%.

Kempthorne, who got to know Bush when both were governors, was considered a leading candidate to be the new administrator of the Environmental Protection Agency in 2003. The job eventually went to a career administrator, Stephen L. Johnson, but Kempthorne remained on Bush's radar. When the president visited Idaho last summer, the two went bike riding in the mountains.

Kempthorne's popularity took some hits after the Sept. 11, 2001, attacks when he barricaded the Statehouse and closed off several city blocks for nearly a year. A number of downtown businesses in this city of 185,000 suffered as a result of the closures. "It was a huge overreaction," said Boise Mayor David H. Bieter, who held a town hall meeting on the issue.

In May of last year, Kempthorne bounced a couple of checks totaling $111 to his hairstylist. The governor, who earns a salary and housing allowance of more than $150,000, told the media that he and his wife had been very busy and that their finances had been drained by surgeries for his chronically bad back.

The mishap made the governor appear more down-to-earth to many Idahoans, just as his avid interest in Harley-Davidson motorcycles had.

Even his harshest critics — including Spokane, Wash., Democrat and former Idahoan Tom Keefe, who calls Kempthorne "a pleasant man in a somewhat empty suit" — often end their critiques with statements like "That doesn't mean I don't like the man."

Keefe said it wouldn't surprise him if, after Kempthorne served as Interior secretary, the former governor became "a head lobbyist for the mining industry." Mining and ranching interests have strongly endorsed Kempthorne.

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Overriding disagreements with Kempthorne on economic and social matters is the sense among Idahoans that "one of our own is ready for the big leagues," said political science professor Steve Shaw of Northwest Nazarene University in Nampa, Idaho.

There's great pride that another Idaho governor could follow former Gov. Cecil D. Andrus, Interior secretary under President Carter.

Shaw said some Idaho residents saw Kempthorne as "a photogenic man who isn't much into doing the heavy, hard lifting of getting policies pushed through."

Examples include Kempthorne's unfinished campaign, which began when he was U.S. senator, to overhaul the Endangered Species Act; and his child welfare program, Generation of the Child, which critics say has fizzled.

Idaho legislators fear that Kempthorne's $34-million plan to improve Idaho parks and his $1.6-billion highway project may fall by the wayside if the governor becomes too distracted by the Cabinet appointment process.

But what will probably carry the day for Kempthorne politically is his knack for connecting with people.

Last year, Northwest Nazarene University awarded Kempthorne an honorary degree. After the reception, with the media and everybody gone, Shaw watched as Kempthorne knelt on the floor and chatted face-to-face at length with several small children.

Shaw said: "There's something very human about the man."

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Times staff writer Julie Cart in Los Angeles contributed to this report.

Senator Could Play A Smarter Hand On Energy (LAT)

By Ronald Brownstein

The Los Angeles Times, March 19, 2006

Jeff Bingaman is a personable, hard-working and very smart senator. But the New Mexico Democrat doesn't appear to be much of a poker player.

Bingaman is now helping Senate Republicans and the energy industry advance one of their top goals: a bill to expand drilling for oil and gas in the Gulf of Mexico off the Florida coast. He's doing so even though Republicans are blocking the energy priorities of Bingaman and most other Democrats: more focus on conservation and renewable energy.

By helping Republicans pursue their agenda while the GOP suppresses Democratic preferences, Bingaman isn't only making a bad bargain — he's making it more difficult for the nation to craft a comprehensive plan to reduce our excessive dependence on foreign oil.

The key to greater energy independence isn't so much a scientific breakthrough as a political accommodation between the forces supporting more domestic production and those focused on greater conservation. And that won't come without the kind of hardball bargaining so far missing from the legislative maneuvering over the Florida drilling plan.

The debate on this issue is important partly because it could set the model for what are likely to be a series of confrontations over offshore drilling.

Much of the outer continental shelf has been off-limits for decades. In 1981, James G. Watt, President Reagan's chain saw of an Interior secretary, proposed to sprout oil rigs across 1 billion acres offshore; Congress, fearing oil spills and other environmental damage, blocked him by banning leasing off most of the nation's coastline.

Congress has renewed that moratorium every year since, and Presidents George H.W. Bush and Clinton reinforced it with anti-drilling directives that extend through 2012. Call it Watt's bequest to the environmental movement.

But those shields are cracking. With energy prices high and concern about energy independence higher, proposals are proliferating in Congress to reopen the outer continental shelf to drilling for natural gas or to allow states to opt out of the moratorium. Last month, the Bush administration released a draft five-year plan that envisioned substantial offshore development in the Gulf Coast, the Mid-Atlantic and off Alaska.

The next skirmish in this escalating battle is the legislation on Florida drilling, sponsored by Sen. Pete V. Domenici (R-N.M.), chairman of the Senate Energy and Natural Resources Committee, with support from Bingaman.

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The bill would open a large swath of the gulf south of Pensacola and west of Tampa. Although the area isn't covered by the congressional moratorium, environmentalists and Florida's tourism industry have long opposed drilling there. Both of the state's U.S. senators, Republican Mel Martinez and Democrat Bill Nelson, are also resisting.

The administration's new plan envisions leasing about 2 million acres in the area over the next five years. But Domenici's bill would require the Interior Department within the next year to lease as much as 3.6 million acres, including areas within 100 miles of the Florida coastline.

Martinez and Nelson want to limit the gulf drilling to no more than 1.3 million acres and bar it within 150 miles of the coastline, while extending the moratorium for the rest of the outer continental shelf through 2020. But Domenici's approach recently roared through his Energy Committee on a 16-5 vote.

Even opponents concede Domenici's bill probably has majority support in the Senate. But it's uncertain that he could muster the 60 votes needed to break a filibuster by Nelson, who has threatened one. And that should provide critics leverage to negotiate.

Environmentalists want to preserve the moratorium on almost all offshore development. That's understandable: It's their job to be purists. But given the concern about foreign oil, the Republican push for greater domestic production, and the substantial resources potentially available offshore, more drilling seems inevitable.

Rather than trying to block all offshore leasing, opponents should insist that more drilling occur only as part of a comprehensive energy plan. One element of such a plan would be tight environmental protections and careful limits on the areas opened for lease. Equally important would be commitments from drilling advocates to couple any new production with serious measures to reduce demand.

That's where Bingaman has played such a questionable hand. Last year, White House officials and congressional Republicans agreed to strip from the final version of an energy bill a measure that Bingaman had steered through the Senate requiring utilities to generate 10% of their electricity from renewable energy by 2020. Last week, the Senate, on a nearly party line vote, rejected a Bingaman proposal to pump $5.3 billion more into federal spending on conservation and renewable energy. Domenici and every Energy Committee Republican voted against Bingaman.

And yet, on the Florida bill, Bingaman is providing critical bipartisan cover for the same GOP legislators who derailed his ideas.

When asked why he and other Democrats should accept more Florida drilling while their own proposals languish, Bingaman seemed surprised.

"I think you make progress where you can in this process," he said. "I have no problem supporting this as a free-standing provision."

The problem is that this Congress isn't likely to pass any "free-standing provision" promoting conservation, efficiency or alternative energy. Those priorities, essential to any long-term energy strategy, can advance only if Republicans see them as the price of increasing domestic energy production.

Greater offshore drilling would make sense in a grand bargain on energy that includes tougher fuel economy standards for vehicles and much greater support for renewable energy. But that bargain will never come if Democrats such as Bingaman give Republicans and the energy industry what they want without demanding anything in return.

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Ronald Brownstein's column appears every Sunday. See current and past Brownstein columns on The Times website at latimes.com/brownstein.

Going Cold Turkey (WP)

The Washington Post, March 19, 2006

SOMETIME BETWEEN now and the end of the month, the Bush administration is due to issue a revised set of fuel economy standards for "light trucks," a category of passenger cars that includes most sport utility vehicles, smaller pickup trucks and minivans. In other words, the White House is at last able to start making good on its promise to end America's "oil addiction," in a concrete way.

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Unfortunately, there isn't yet any certainty that the necessary willpower exists. At the moment, the Transportation Department's tentative proposal to update the current rules requires manufacturers to raise the fuel economy standards for light trucks by only 1.8 miles per gallon over four years. That's a slower rate of improvement than is mandated at the moment. The technology exists to raise the standards much higher, much faster and not at much greater cost. Raising the standard for light trucks from the current 21 mpg to 25 mpg in 2010 and 26 mpg in 2011 would, according to a calculation by Environmental Defense, save almost as much oil annually

by 2025 as we currently import from Saudi Arabia.

More important, the administration should start including heavier pickup trucks and SUVs, which, thanks to a regulatory quirk, aren't covered by minimum mileage rules at all. Again, requiring manufacturers to use available technology and to make minimal improvements could make a huge difference over time, both in saving fuel and in reducing emissions of the carbon dioxide and other greenhouse gases that cause global warming.

There is no reason not to make these changes -- except cowardice. But these days, not even that is an excuse. Some 93 percent of Americans, according to one poll, support making cars and trucks more fuel-efficient. Nowadays, saving fuel is not only good for the economy, good for foreign policy and good for the environment, it's politically popular, too.

A Breath Of Fresh Air (NYT)

The New York Times, March 19, 2006

Clean air advocates who have had little to cheer about for the last five years finally won a big victory on Friday. In a unanimous decision, a three-judge panel of the United States Court of Appeals for the District of Columbia Circuit struck down as illegal an attempt by the Bush administration to allow power plants and other industrial polluters to evade the Clean Air Act.

At issue was a provision of the act known as New Source Review. It requires older power plants to install modern pollution controls when they undergo physical or operational changes that increase harmful emissions. The rule was largely unused until the mid-1990's, when the Clinton administration and Northeastern states led by New York's attorney general, Eliot Spitzer, decided to start suing companies that had upgraded their plants without installing the necessary controls. The companies complained to Vice President Dick Cheney about the costs and Mr. Cheney ordered the Environmental Protection Agency to find a way around the law.

The agency's answer was an amazing piece of regulatory casuistry that would have allowed utilities to make investments in a plant equal to one-fifth of the total cost of replacing it before the rule was applied; anything less than that was to be regarded as "routine maintenance."

This extraordinarily generous threshold would have allowed hundreds of plants responsible for thousands of illnesses to continue with business as usual. As the court noted, it would also have had the perverse effect of allowing plants that are now in compliance with the law to break it. This is not, the court added, what Congress had in mind. Ruling in favor of a coalition of states and environmental advocacy groups, the court declared that the "plain language" of the act required a much stricter approach, as the Clinton administration had devised, and that only "a Humpty Dumpty" interpretation, as the court called the E.P.A.'s position, could construe the law otherwise.

We should not expect the current E.P.A. administrators to rush the battlements with new enforcement cases. Indeed, such is Mr. Cheney's continued reach in these matters, the agency even now is seeking other, subtler ways to undermine the law. But it is nice to hear someone say that you cannot rewrite an act of Congress just because you do not like it.

FBI/DEA/ATF/USMS:

Audit Critical Of FBI, Contractors (WP)

By Dan Eggen

The Washington Post, March 18, 2006

GAO Questions Millions in Expenses on Computer Upgrade

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The FBI and its contractors spent more than $17 million on first-class airfare, inflated labor rates, missing equipment and other questionable payments during the botched attempt to upgrade the bureau's outdated computer system, according to a new audit from congressional investigators.

The findings by the Government Accountability Office expand the controversy surrounding the FBI's Trilogy program, which cost more than $535 million but failed to produce a usable case-management system for agents because of cost overruns and technical problems.

The FBI announced this week that it would spend an additional $425 million in an attempt to finish the job. Two of the contractors singled out in the audit for inflated spending, Computer Sciences Corp. and CACI International Inc., have been chosen as subcontractors for the new system, named Sentinel.

Officials with the FBI and the project's main contractor, Lockheed Martin Corp., have vowed to implement stricter controls to avoid cost overruns and other problems in the new initiative.

The 82-page GAO report, obtained by The Washington Post, outlines a long series of questionable expenditures by contractors assigned to the Trilogy project. For example, more than 100 airplane flights costing more than $120,000 were booked at first-class or full-fare rates by CSC and others, despite government rules requiring lower-priced tickets, the report said.

Contractors also did not provide adequate documentation for millions of dollars in costs billed to the FBI, the report said. In one invoice cited by the GAO, $1.907 million out of $1.951 million was listed only as "other direct costs" by CACI.

The review also showed that CACI bought 30,000 pens and 30,000 highlighters for training sessions that were custom-made for Trilogy. Total costs: $19,705 for the pens and $32,314 for the markers.

The audit blasts the FBI and the General Services Administration for poor oversight of these and other expenditures. The report also notes that the FBI -- which has had a history of difficulty keeping track of items including guns and laptop computers -- was unable to locate more than 1,200 items purchased with Trilogy funds, including personal computers, servers and printers, valued at $7.6 million.

The FBI's struggle to modernize its computer system has been a recurring headache for Director Robert S. Mueller III and has earned it considerable criticism from lawmakers. The Sept. 11 commission said outdated computers may have contributed to missteps before the 2001 attacks and continue to hamper the FBI in combating terrorism and other crimes.

The hardware upgrade overseen by CSC was largely successful, yielding thousands of new PCs for agents. But a separate $170 million software upgrade foundered and was abandoned last year because it was over budget and did not work.

The auditors said the problems with Trilogy may well be much worse than their report shows because the review was based on only a portion of the FBI's payments to contractors. "If these weaknesses go uncorrected, future contracts, including those related to the FBI's new electronic management system initiative, referred to as Sentinel, will be highly exposed to improper payments," the auditors wrote.

That assessment echoes a warning issued earlier this week by Justice Department Inspector General Glenn A. Fine, who said in a report that the FBI is at risk of repeating its Trilogy mistakes with Sentinel because of management turnover and weak financial controls.

Sen. Charles E. Grassley (R-Iowa), a frequent FBI critic and one of the senators who requested the audit, said, "It's time for the FBI to explain what assurances it has that the taxpayers will be able to recover any funds these companies owe to the government before we start paying them millions more for work on Sentinel."

The FBI said in a statement that it has tracked down more than 1,000 of the missing items and has put in place numerous checks to avoid the problems that plagued Trilogy. "We have strengthened our internal controls to avoid repeat of the issues cited by auditors, from any vendor," spokesman Michael Kortan said.

Tim Sheahan, president of the CSC division that handled the contract, said many of the airline expenses were due to short-notice trips by employees who frequently had to crisscross the country to troubleshoot problems or deliver equipment for the FBI's massive hardware upgrade. He also said expenditures were well documented.

"Think about a rolling wave of humans and stuff rolling across the United States and being deployed," Sheahan said. "I believe that the things we bought were well documented and if there was a question about something, we had the backup."

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In its own letter responding to the allegations, the GSA said it accepted the GAO's recommendations for reform but disagreed with some of its conclusions regarding travel and other costs. A CACI representative did not return a telephone message yesterday.

Lockheed Martin will be paid $305 million as the main contractor for the Sentinel project. It will be required to meet benchmarks in order to be paid as the six-year project proceeds, FBI and company officials said this week. Officials hope to provide FBI agents with Internet access to some FBI databases within a year, and the entire Web-based Sentinel system is scheduled to be operating by late 2009.

FBI Questioned On $17M Computer Spending (UPI)

United Press International, March 19, 2006

WASHINGTON, March 19 (UPI) -- The U.S. federal spending watchdog has challenged the FBI over $17 million in computer expenditures and other spending on equipment that can't be located.

The audit was done by the Government Accountability Office on the FBI's Virtual Case File program, which was launched after the Sept. 11, 2001, terrorist attacks.

In an 87-page report obtained by CNN, auditors said another $7.5 million was spent on 1,200 pieces of equipment that can't be accounted for.

However, an FBI spokesman told CNN the agency's own audit had accounted for most of the equipment.

The FBI's new Sentinel computer system will cost about $400 million, and the GAO warned in its report that unless accounting procedures are tightened, millions more could be wasted on the new project.

Many 'Concerns' Cited In Audit Of New FBI Program (WT)

By Jerry Seper

The Washington Times, March 19, 2006

The FBI has improved its ability to plan and manage a new information-technology project but still faces major problems in implementing the program, designed to replace a failed $170 million system, an audit says.

Known as Sentinel, the program was introduced last year as a replacement for the failed Virtual Case File system and is scheduled to be fully operational by 2009 at an expected cost of $425 million. It is part of an FBI effort to close internal communication gaps and improve information sharing with other law-enforcement and intelligence agencies.

The system will be built by Lockheed Martin Corp., the winning bidder last week on a $305 million contract. The FBI also expects to spend about $120 million evaluating the system.

The audit by the Justice Department's Office of the Inspector General said that although the FBI has developed new technology-planning processes that can help the agency complete a new case- and information-management system, "several continuing concerns" remain regarding the FBI's management of the new project.

Those concerns include incomplete staffing of the Sentinel program management office, the FBI's ability to redirect funds to complete the second phase of the project without jeopardizing its mission-critical operations, and Sentinel's ability to share information with external agencies and provide a framework for other agencies' case-management systems.

The audit also raised questions about the FBI's ability to control Sentinel's costs and a lack of documentation required by the bureau's information-technology investment management processes.

In a response to the audit, the FBI said steps were being taken to ensure the system's security, design and costs.

The Virtual Case File system ended last year after the Office of the Inspector General said the project had poorly defined design requirements, lacked mature information-technology investment management and suffered from poor management and oversight.

Inspector General Glenn A. Fine said the FBI plans to fund the first two phases of Sentinel by seeking congressional approval to redirect funds, with the third and fourth phases funded by new appropriations. He said more than $14 million of the initial redirection will come from the bureau's counterterrorism budget, $13 million from intelligence-related activities and $2 million from its cyber division.

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Previously, "the FBI lacked an effective, reliable system to track and validate the project's costs. Although the FBI stated that it is evaluating a tool to track Sentinel project costs, we view the potential weaknesses in cost control as a project risk," Mr. Fine said.

In addition, he said, the bureau has not adequately examined Sentinel's ability to connect with external systems in other Justice Department areas, the Department of Homeland Security and other intelligence agencies. He said that if "such connectivity" is not built into Sentinel's design, other agencies could be forced into costly and time-consuming modifications.

Md. First Lady's TV Talk Show Won't Be Seen In Classrooms (WP)

By Matthew Mosk

The Washington Post, March 19, 2006

Maryland first lady Kendel Ehrlich pitched the state schools superintendent a plan to air her television talk show about drug and alcohol prevention in public school classrooms, but the department eventually turned her down.

The State Education Department declined her offer after an expert on drug and alcohol prevention reviewed it and determined that it was not suitable for children. One episode, filmed on the beach and at a nightclub in Ocean City, includes sexually explicit language and brief nudity as it explores the pitfalls of drinking.

The department instead offered to distribute the videos to parents and PTAs.

Comcast Cable Communications Inc. paid Ehrlich $55,000 to host 16 episodes of "Live Right: Straight Talk on Substance Abuse," which to date has been available only in the cable provider's on-demand library.

Democrats in Annapolis said they considered the proposal the latest attempt by the Republican governor and first lady to use their clout to gain widespread television exposure and statewide name recognition.

In response to a series of taxpayer-financed tourism commercials and public service announcements that featured the governor and first lady, the legislature has included language in the budget this year that would ban the practice during the upcoming campaign season.

A spokesman for the first lady said she would not comment. State Superintendent Nancy S. Grasmick said she believes Kendel Ehrlich's goals in seeing the show distributed were in no way political but instead aimed at spreading the word about teenage drug and alcohol abuse, an issue the first lady has championed for years.

"I don't think it's politicizing the classroom," Grasmick said. "Each first lady, even Laura Bush, Hillary Clinton, they all have a piece they carve out that is a personal interest. . . . For this first lady, this is a real issue."

Grasmick said she never viewed the show and was not aware that one episode include scenes inappropriate for schoolchildren.

Most episodes feature Kendel Ehrlich interviewing authors and scientists who study alcohol abuse, and "straight talk" discussions with recovering addicts. But in one episode, a camera crew follows a group of teenagers to the beach and films them as they become drunk. They smoke cigarettes, curse and talk about such topics as pot, herpes and lesbians. A teenage girl jiggles her hips, and the camera pans to her lower torso.

The first lady appears as the host of every episode and is introduced in each show as the governor's wife. The two are shown in a photograph, hands clasped over their heads, celebrating his inauguration.

House Speaker Michael E. Busch (D-Anne Arundel) raised concerns not about the show's content but about the politics of disseminating it through the schools.

"All of us like to go into classrooms and read to kids," Busch said. "What you don't do is infringe your will on the state school system. You don't try to make yourself part of the mandated curriculum."

Grasmick said the first lady raised the prospect of distributing the show in schools at the conclusion of a November PTA conference. She said "Live Right's" producer, Kris Morrissey, had subsequent talks with education department officials about broadcasting the program.

Morrissey heads a company called Chesapeake Productions and is married to a law school classmate of the first lady's. During the 2002 gubernatorial campaign, Morrissey produced a documentary filming the two major candidates in candid moments as they moved around the state.

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In November, the governor appointed her husband, John Morrissey, then a Bowie lawyer, to the Prince George's District Court. Kris Morrissey declined to comment.

Her proposal never broached the subject of compensation, said JoAnne Carter, assistant state superintendent for student and school services.

Grasmick said the idea started to fall apart earlier this year when the department sent episodes out to an expert on drug and alcohol issues for his evaluation. That expert was Michael Gimbel, director of substance abuse education for the Sheppard Pratt Health System in Baltimore.

Gimbel hosts his own show on the topic, "Straight Talk," which has been airing for 17 years in Baltimore on a Fox affiliate. He did not want to give a lengthy review of the first lady's effort and did not wish to discuss the most racy episode.

"I gave them my opinion," he said. "The bottom line is, they're not going to hurt anybody. But when you do shows that are just interview shows, they can become pretty boring for people watching."

Gimbel also said he was surprised Ehrlich had been paid to produce and host the show, and not just because he had been doing the same work for free for 17 years.

"I thought this was part of her role as first lady because she had taken on the issue of drug abuse," he said, adding, "I immediately called my Fox 45 friends, and I asked for a raise."

Staff writer Libby Copeland contributed to this report.

The Next Crack Cocaine? (WP)

By Amit R. Paley

The Washington Post, March 19, 2006

As Meth Use Grows, Officials Fear Region Is Unprepared to Deal With It

Jimmy Garza was freaking out. As officers handcuffed him inside his posh Fairfax County home on charges relating to a crystal meth addiction, the America Online administrator realized he was about to lose his $60,000-a-year job, his two cars and his freedom.

The arresting officers seemed baffled by his drug of choice. "You know, we don't have a meth problem in this area," Garza remembers one of the officers telling him that night in 2004.

"Are you kidding?" Garza, now 40, snapped back. "Wake up and look around you."

The number of methamphetamine labs and addicts in the Washington area has jumped in recent years, but law enforcement and public health officials say the region is still woefully unprepared to deal with a problem that remains under the radar.

Meth, a dangerously addictive synthetic drug that stimulates the nervous system, has infiltrated suburbs in Virginia and, to a lesser degree, Maryland; Anne Arundel County found three labs in six months last year. In the District, the drug has been used mainly by gay white men but has recently spread into the black and Latino communities and to straight teenagers as young as 15, health officials said.

For years, officials thought the Washington region might be immune to methamphetamine, which has ravaged West Coast and midwest communities for more than a decade. Some wondered if meth was just a localized problem.

But the number of seized meth labs in Maryland, Virginia and the District has increased from close to zero in 2000 to more than 80 last year. In Washington, health officials say 75 percent of patients in some clinics have abused the drug, a big increase from a few years ago.

"The jurisdictions in this area just have not picked up on the exigency regarding crystal meth," said Sgt. Brett A. Parson, commanding officer of the D.C. police gay and lesbian liaison unit.

Sounding the alarm that the meth crisis could become the next crack epidemic, some law enforcement and public health officials are pushing for a stronger response. The Drug Enforcement Administration trained more Maryland officers to dismantle meth labs last month than it did in all of 2005; a District-funded public service announcement was released last week to be aired in local clubs and on television stations.

Still, some experts said those nascent efforts are not enough to combat the spread of meth.

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They call for training rank-and-file police officers to detect meth labs, the passage of legislation that would restrict the sale of ingredients used to produce the drug and prevention education in schools to teach children about its dangers.

"We really need to stop sitting around and just hoping that meth won't become the next crack cocaine," said Kevin Shipman, a manager with the District's Addiction Prevention and Recovery Administration. "We need to have a strong regional response before it's too late."

When meth, which, nationally, has been a largely rural epidemic, swept east across the nation, it hit the Shenandoah Valley hard, becoming one of the most-seized drugs in that part of the region. Labs have more recently popped up in semi-rural areas of Southern Maryland and Anne Arundel, where addicts are called "methnecks."

The labs require only simple equipment, such as bottles and tubing, which is easy to hide in almost any kind of building. The ingredients for the drug include medications containing ephedrine or pseudoephedrine, red phosphorous and hydrochloric acid.

The epicenter of meth use in the region is the District's gay community, where the drug showed up about five years ago and has been spreading quickly ever since, health officials said. Known as Tina in most gay circles, the drug has become the primary drug of choice, topping even alcohol among patients admitted to the Whitman-Walker Clinic, which primarily serves gay clients in the District.

"It's everywhere," Parson said. "I would defy you to find anybody in the metropolitan area who is white and gay and doesn't know one person who is using meth."

The drug is particularly troubling to medical workers in the gay community because meth is associated with risky sexual behavior. Some gay meth addicts use the Internet to find partners to use the drug and have sex -- known as party 'n' play -- encounters that sometimes turn into multiple-day sex parties.

Shipman said meth addicts are three times as likely to contract HIV as non-users because they tend to have unprotected sex and multiple partners.

Health experts say the addiction is particularly hard to treat. The National Institute on Drug Abuse says there is currently no "safe and tested" medication to treat meth addiction. Programs rely on counseling and behavioral modification.

Experts said one of the biggest problems in bringing attention to the meth problem in the area is the lack of reliable statistics on the number of users. Richard Rawson, a professor at UCLA who has been studying the drug for two decades, said public health indicators that should indicate the meth problem -- such as emergency room visits and patients in treatment -- lag five to seven years behind the emergence of the drug.

"In some places, the public health people are saying, 'Well, we're not seeing it; it's not that big a problem here,' " he said. "But that's not what the data means."

The best predictors of an emerging meth epidemic, Rawson said, are the presence of meth use in the gay community and the discovery of even small numbers of meth labs.

At the DEA's meth lab training facility in Quantico, officials have identified the growing problem in the Washington area and are admitting increasing numbers of local police officers. In a recent class for 41 state and local officers held last month, seven were from the Washington area, including Annapolis and Montgomery, Prince George's, Calvert and Fauquier counties.

"We know the growth in Maryland and Virginia is exponential," said John Michael Donnelly, chief of the training unit.

But some of the officers are concerned that most rank-and-file officers won't get this training, which is expensive and in high demand. In Prince George's alone, 10 officers are on the long waiting list.

"We've got to get more guys that are actually on the street certified in this," said a Calvert narcotics detective at the training in Quantico, who spoke on condition of anonymity because he works undercover. "I think a lot of guys are probably seeing meth but don't know what it is."

Sgt. Shawn A. Urbas, a spokesman for the Anne Arundel police, said it would be easy for officers to miss a disassembled meth lab -- which might be just a box of tubing and some beakers -- if they had never seen one before. He said that's why the department is focusing on training.

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Health officials are also pushing for legislation that would restrict the sale of cold medications that contain pseudoephedrine, one of the ingredients used to manufacture meth. Virginia, like many states across the country, limits such sales, but Maryland and the District do not. Some drugstores are voluntarily restricting sales.

Some former addicts, though, said the best way to stop meth is to educate the public about its dangers. Garza said he was adamantly against drugs -- "I was totally Nancy Reagan about it" -- until a friend offered him meth and he began using it at gay clubs.

Soon he was hooked on the drug -- which causes users to stay up for days at a time -- and at one point partied for seven straight days without sleeping. "I had no idea that that first little bit would alter my life forever," he said.

But it did. After his arrest, Garza lost his job, was evicted from his home and declared bankruptcy. He was able to get treatment, though, and now works as a limo driver. His primary mission is to tell his story so that people realize the dangers of meth.

"Even though it's so obviously here, it's still very hidden. It's very hush-hush," Garza said. "But we're trying very hard to bust the secrecy off of it."

IMMIGRATION:

Rift On Immigration Widens For Conservatives And Cardinals (NYT)

By Rachel L. Swarns

The New York Times, March 19, 2006

WASHINGTON

THE fierce battle over the future of America's immigration system is spilling from Capitol Hill onto the airwaves, as conservatives accuse Democrats, human rights groups and even some labor unions of trying to stymie Republican efforts to stem the tide of illegal immigration.

But in recent weeks, some commentators and prominent Republicans have turned their swords against another formidable foe in their battle to tighten the borders: the Roman Catholic Church.

Immigration has long caused friction between the church, with its advocacy for migrants, and conservatives, who want to slow illegal crossings over the Mexican border. But as Congress wrestles with the fate of the nation's 11 million illegal immigrants, that tension has escalated into a sharp war of words, highlighting the divide among some Republicans and Catholics who have fought side by side on other issues like abortion and same-sex marriage.

In December, after the Republican-controlled House of Representatives passed a tough border security bill that, among other things, would make it a crime to assist illegal immigrants, the United States Conference of Catholic Bishops assailed it as extremely punitive and called on its flock to oppose it. Church officials have sent lobbyists to Congress and this month parishes sent members to rallies in Chicago and Washington to push for legislation that would legalize undocumented immigrants and put them on the path to citizenship.

Some Republicans are firing back.

In February, Representative Tom Tancredo, a Colorado Republican who opposes illegal immigration, took issue with Catholic bishops, among other religious leaders, "for invoking God when arguing for a blanket amnesty" for illegal immigrants. This month, two powerful Republican representatives, Peter King of New York and F. James Sensenbrenner of Wisconsin, the co-sponsors of the border security bill, criticized the church leadership on "The O'Reilly Factor" on Fox News Channel, particularly Cardinal Roger Mahony of Los Angeles, who has said he would instruct his priests and parishioners to defy the legislation if it ever became law.

Meanwhile, cable news commentators Tucker Carlson and Lou Dobbs have questioned whether the church should maintain its tax-exempt status, given its political activism on immigration. And in an interview, Mr. King accused church leaders of "committing the sin of hypocrisy" in their campaign to sway Congress and Catholic voters.

"This is the left wing of the Catholic Church — these are the frustrated social workers," said Mr. King, who described himself as a practicing Catholic. "They're giving an incentive for more illegals to come here. I don't think it's right."

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In fact, the Catholic leadership is united on this issue, and includes several bishops who strongly suggested in 2004 that Catholics should vote for President Bush because of his opposition to abortion. Both sides say they will continue to work together on those campaigns. But the pointed attacks by some Republicans are notable, given that the party has worked hard to woo Catholic voters in recent years. Some analysts warn that such criticism of the church and of immigrants may alienate a critical voting bloc of largely immigrant origins. But others point out that, unlike their clergy, most white, non-Hispanic Catholics remain deeply divided over immigration, and a battle seems to be emerging for their hearts and minds.

There are political implications. In preparation for the 2004 presidential election, the Bush administration cultivated church leaders, organized more than 50,000 volunteers and hired staff members to reach out to Catholic voters. The goal was to break the traditional allegiance to the Democratic Party, an affiliation that began to crumble with Ronald Reagan.

The campaign bore fruit: In 2004, a majority of Catholics voted for a Republican presidential candidate for the first time in 16 years.

But some analysts warn that Republicans need to tread carefully when they criticize the church and illegal immigrants. "The danger of this situation politically is that you'll have an entire season in which Republican politicians are saying critical things about the Catholic hierarchy," said Deal Hudson, the Republican architect of the effort to court Catholic voters in 2004. "That's not going to be helpful in terms of keeping the coalition together."

But the Rev. Richard John Neuhaus, editor of First Things, a conservative journal about religion and public life, said he doubted that the disagreement would have much impact on Catholics. He said the sexual abuse scandals had already weakened the credibility of the church leadership in the minds of some Catholics.

Republicans and the Catholic clergy have differed before on other issues — like the war in Iraq and the death penalty — without deeply affecting parishioners. And Mr. Neuhaus noted that while Catholics often connect deeply with their immigrant history, some make clear distinctions between their parents and grandparents and the more recent arrivals from Latin America.

"My hunch is that if you remove from the bracket the approximately one-third of the Catholic population that is Hispanic, that probably most other Catholics would divide on this questions pretty much as the general population does," Father Neuhaus said.

The Catholic leaders are keenly aware of the divisions among the faithful on this issue. Seventy of the 197 Catholic dioceses have formally committed to the immigration campaign, and officials are working hard to recruit the others.

Leo Anchondo, who directs the immigrant campaign on behalf of the Catholic Conference of Bishops, said the cardinals and bishops were not surprised there was a backlash against such efforts.

"Immigration has unfortunately become a very controversial topic," he said.

But Cardinal Theodore E. McCarrick of Washington said he and other leaders decided they could not stay silent after witnessing the hardships endured by illegal immigrants, particularly as the wave from Latin America has surged. "This is a justice issue," he said. "We feel you have to take care of people."

Mr. Sensenbrenner, the Republican chairman of the House Judiciary Committee, said Republicans had an obligation to clamp down on the border. To do otherwise, he said, would likely transform illegal immigrants into a permanent underclass in the United States.

That, he pointed out on "The O'Reilly Factor," was an undesirable option. "And I don't think it's Christian either," he said.

For Gates, A Visa Charge (WP)

By David S. Broder

The Washington Post, March 19, 2006

When the Senate comes back to work next week, it is scheduled to take up the issue of immigration. And that is what brought Bill Gates to Washington for a rare visit last week.

The Microsoft billionaire does not love this capital, but he decided to add his personal voice to his Washington office's lobbying effort to expand the number of foreign-born computer scientists allowed to work in this country under a special program known as H-1B visas.

In an interview sandwiched between his meetings on Capitol Hill, Gates told me the "high-skills immigration issue is by far the number one thing" on the Washington agenda for Microsoft and for the electronics industry generally. "This is gigantic for us."

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Since autumn 2003 Congress has limited the number of people admitted annually on H-1B visas to 65,000. To qualify for such a visa, an applicant must have at least a bachelor's degree, specialized knowledge and a job offer from a U.S. employer. The visa is generally good for six years, with the possibility of applying for extensions.

So great is the demand for such skills in the burgeoning high-tech world that in August 2005 the last of the visas available for fiscal 2006 were issued. That means a 14-month shutdown of the program, until October of this year. "It's kind of ironic," Gates told me, "to have somebody graduate from Stanford Computer Science Department and there's not enough H-1B visas, so they have to go back to India. . . . And I have people who have been hired who are just sitting on the border waiting."

The draft bill that Senate Judiciary Committee Chairman Arlen Specter has been preparing for floor consideration would expand the annual H-1B limit from 65,000 to 115,000. By excluding dependents (who now are counted against the cap) from the total, it might mean the entry of as many as 300,000 people a year -- one-tenth of 1 percent of the U.S. population.

As Gates said, these are highly paid, highly qualified individuals. Salaries for these jobs at Microsoft start at about $100,000 a year. Their counterparts can be hired more cheaply in China or India, he said, but Microsoft does 85 percent of its research and development work in the United States because it wants its computer scientists interacting directly with its program managers and its marketing people on its own campus.

Gates said he has a hard time understanding the logic of those who decry the outsourcing of American jobs yet are reluctant to facilitate bringing the high-skill people who are catalysts for economic growth to this country. "People just shake their heads at what kind of a central planning system would say having 65,000 smart people come in, that's okay, but 70,000 smart people, no."

President Bush and his administration support the expansion of H-1B visas. And Gates, in turn, is enthusiastic about the White House and bipartisan congressional efforts to boost the teaching of math and science in American high schools with the long-term goal of expanding the supply of qualified Americans for these jobs.

He is backing that effort both with gifts of technology from the company and grants of $300 million a year from his foundation for innovation in high schools. "But the benefit of things like that has got a fair time lag," he said, "and the next four or five years, it really hangs in the balance: how many of these talented people we want to hire, and who want to come here, can we hire?"

The answer is by no means certain. Opposition to the H-1B program grew during the dot-com bust, when groups representing domestic electrical engineers and computer technicians argued that foreigners were taking away their jobs. In 2003 they succeeded in cutting the quota by two-thirds, from 195,000 to 65,000, and they continue to oppose its expansion.

The Bureau of Labor Statistics reports that unemployment among computer and mathematical operators is less than 3 percent. Gates said, "If you're graduating from a reasonable university in this country, with a degree in computer science, you have many job offers."

Still, there is reluctance -- especially in the House of Representatives -- to lift the ceiling on H-1B visas in an election year.

The House has responded to public pressure to close the borders to illegal immigration and seems incapable of distinguishing that problem from the value of encouraging high-skill workers to bring their talents to the United States.

That's why Bill Gates comes to Washington.

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TAX:

Nonprofit Hospitals Face Scrutiny Over Practices (NYT)

By Robert Pear

The New York Times, March 19, 2006

WASHINGTON, March 18 — Congressional leaders, concerned that many nonprofit hospitals are not providing enough charity care to justify their tax-exempt status, say they will set standards for the industry if it does not do so itself.

The chairman of the Senate Finance Committee, Charles E. Grassley, Republican of Iowa, who had already been examining nonprofit groups like United Way and the American Red Cross, is broadening his focus to include nonprofit hospitals,

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with an eye to legislation that would clarify standards for their tax exemptions. Representative Bill Thomas, Republican of California, the chairman of the House Ways and Means Committee, began investigating the financial practices of nonprofit hospitals last year.

The commissioner of internal revenue, Mark W. Everson, said tax officials often found little difference between nonprofit and for-profit hospitals "in their operations, their attention to the benefit of the community or their levels of charity care."

Huge changes have reshaped the health care industry in recent years, Mr. Everson said, but the basic standard for granting tax exemptions to hospitals has changed little since 1969.

Since 1969, Mr. Thomas said, "less and less has been required for hospitals to maintain tax-exempt status."

Before 1969, the Internal Revenue Service required hospitals to provide charity care to qualify for tax-exempt status. Since then, the agency has not specifically required such care, as long as hospitals provide benefits to the community in other ways — for example, by offering health fairs, screening for cancer and cholesterol, providing emergency care, training doctors and conducting medical research.

Health insurance companies typically negotiate with hospitals to secure large discounts off hospitals' posted prices. Uninsured people, with no one to negotiate on their behalf, are often charged much more than the insured, and some hospitals have been aggressive in trying to collect payment from the uninsured.

In a letter to the American Hospital Association this week, Mr. Grassley said he had "serious concern" about their billing and debt collection practices. He also expressed concern about the high salaries of some hospital executives, their joint ventures with commercial profit-making organizations and their use of profit-making subsidiaries.

While Congress is taking the initiative, administration officials have expressed similar concerns. President Bush has strongly encouraged hospitals to disclose detailed information about their prices, and tax officials say they intend to do more audits of nonprofit hospitals.

In the last few years, low-income people around the country have filed dozens of lawsuits arguing that private nonprofit hospitals are required to provide free or reduced-price services to the uninsured. Judges have generally rejected these arguments.

In a typical ruling last year, Judge Loretta A. Preska of the Federal District Court in Manhattan wrote: "Plaintiffs here have lost their way. They need to consult a map or a compass or a Constitution because plaintiffs have come to the judicial branch for relief that may only be granted by the legislative branch."

Federal tax law does not give patients an enforceable right to affordable medical care, Judge Preska said.

Sister Carol Keehan, president of the Catholic Health Association of the United States, said that nonprofit hospitals, like for-profit institutions, tried to earn a surplus, but used more of it to "take care of unmet health needs in the community."

In the last few years, Sister Carol said, a small number of Catholic hospitals have been accused of overly aggressive collection practices. These practices, she said, "resulted more from inattention than from a deliberate decision to hound poor people."

State officials have shown a keen interest in the issue. The attorney general of Kansas, Phill Kline, said he had opened an investigation of the billing and collection practices of nonprofit hospitals after receiving complaints from consumers. Some nonprofit hospitals have hired debt collection agencies that "harass the poor," Mr. Kline said.

In Illinois, Attorney General Lisa Madigan recently proposed legislation that would require hospitals to provide a minimum amount of charity care, equivalent to 8 percent of hospital operating costs. The Illinois Hospital Association opposes the legislation, saying it would "threaten the survival of many hospitals" by imposing new financial burdens.

In Minnesota, the state attorney general, Mike Hatch, said that stronger government regulation was needed because self-regulation was not enough.

Some nonprofit hospitals and health systems in Minnesota have provided "lavish gifts" and "grossly excessive" compensation to top executives while providing "paltry levels" of charity care, Mr. Hatch said.

When members of Congress raise questions about executive pay, they sometimes point to the compensation paid by teaching hospitals in New York. Tax-exempt organizations generally have to file annual returns with the Internal Revenue Service.

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These forms, which are open to public inspection, show that the president of NewYork-Presbyterian Hospital, Dr. Herbert Pardes, received more than $4.3 million in compensation in 2004, plus $1.2 million in contributions to his employee benefit plan. About half of his pay was a reward for performance in prior years, the hospital said.

Dr. Spencer Foreman, president of Montefiore Medical Center in the Bronx, received $1.1 million in compensation and $712,000 in benefits.

In an interview, Dr. Foreman said, "Congressional interest in this area is quite appropriate, and we as an industry have to come forward with a comprehensive response." But in defining the proper level of charity care, he said, it is "totally unrealistic" to apply the same mathematical formula to nonprofit hospitals in destitute urban neighborhoods and affluent suburbs.

"If a hospital provides a benefit proportional to the community's needs and the institution's resources, it meets the community benefit test," Dr. Foreman said.

Turning A Kid Into A 'Child' (WP)

By Albert B. Crenshaw

The Washington Post, March 19, 2006

Here's a tax question: When is your child not your child?

And here's a tax answer: When he's the child of his sibling.

To speakers of the English language, this sounds like gibberish. But to speakers of the arcane language of tax, it sounds like opportunity.

So if you're a well-to-do family about to file your 2005 federal income tax, it might be worth your while to wait until you read this. It may take expert help, and not everyone will benefit, but Congress appears to have laid a nice Easter egg for some of you.

A new provision of the tax law, which was meant to make the law simpler and fairer, is turning out to have done neither. The provision involves the definition of "child" in claiming various tax breaks, and it allows some alert taxpayers to claim benefits never intended for them.

It also deprives others of benefits they have gotten in the past.

A few years back, there was a hubbub around the "discovery" that federal tax law contained five different definitions of "child." This quickly became the, um, poster child for the absurd complexity that besets taxpayers as they try to figure out what they have to pay.

So in 2004, Congress, eager to look helpful, wrote into the law a single definition, to be used by taxpayers in claiming all the various tax benefits that go with having a child. That definition became applicable on 2005 returns.

The consequences have been turning up in recent months as taxpayers and accountants apply the new rules. Many of the quirks have been reported here, in the Wall Street Journal and other publications in recent weeks. But now John Buckley, chief tax counsel for the Democrats on the tax-writing House Ways and Means Committee, has put together a list and analysis of the winners and losers generated by the 2004 law, which he says "promises to be a large and embarrassing fiasco."

Buckley's paper is to be published in this week's issue of Tax Notes, an Arlington-based journal for lawyers and others interested in tax matters. The paper is accessible at the publication's Web site, http://www.taxnotes.org/ .

Among the more startling of Buckley's listings:

Children of well-to-do families may be able to use their siblings to claim the earned-income tax credit, which is meant for low-income working families. They may also be able to claim the $1,000 child credit, meant for middle-income parents. Or, they may more easily than in the past claim one of the tax credits aimed at moderate-income college students and their families.

In fact, such children may be able to claim benefits at no cost to their parents, who are ineligible because their income is too high or because they are subject to the alternative minimum tax, which among other things disallows personal exemptions.

To benefit, families need to have kids the right age, and at least one of the kids needs to owe tax, so across the country the impact is likely to be modest. But in high-income areas such as Washington, potential beneficiaries are likely to be more numerous.

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The new rules consolidate the five definitions of child into one creature called a "qualifying child." Instead of being simply a "child" -- a concept most of us can grasp -- and getting more than half of his or her support from the taxpayer, a qualifying child, as Buckley notes, "covers a far broader range of relationships."

A qualifying child can be not only a son or daughter, he or she can be a grandchild, brother or sister, niece or nephew, foster child, stepchild or adopted child.

The qualifying child must have the same principal place of abode as the taxpayer for more than half the year. The rules indicate that temporary absences, such as for school or military service, don't count, Buckley says, adding that intent to return (or not to, if that is more advantageous) is all that is needed.

The qualifying child must also be younger than 19, or 24 if a full-time student, and must not have provided more than half of his or her own support. Note that it used to be the other way around: The taxpayer had to provide more than half the child's support. Thus, while a qualifying child can't be supporting himself, there is no longer a requirement that the taxpayer who claims him be supporting him.

Under this definition, someone can be the qualifying child of more than one taxpayer, and, while there are rules for breaking ties, the rules also allow the taxpayers to decide among themselves who gets the child-related benefits.

Now, with that in mind, consider this scenario: A well-to-do couple has a 22-year-old daughter who just finished college and has gone to work but is living at home. They also have a 16-year-old son in high school. The parents earn $200,000 a year and thus are well over the limits from the earned-income tax credit and the child credit and the Lifetime Learning credit, and are being hit by the alternative minimum tax, which means that their personal exemptions are also wiped out.

So the daughter claims her brother as her qualifying child. She can take a personal exemption for him, and if her income is within the limits (no more than $31,030 of adjusted gross income and including no more than $2,700 in investment income) she can claim the earned-income tax credit. That credit is "refundable," meaning that if it exceeds her tax liability, any remaining credit is refunded to her in cash.

And when her brother goes off to college in a couple of years, she might consider paying some of his tuition and claiming the Hope education credit.

Alternatively, if the sister is still in college and is self-supporting, she cannot be the qualifying child of her parents. But under the temporary absence rule she is regarded as still residing with her parents, so she can use her brother to claim the EITC as long as she meets the income requirements.

If none of that works -- for example, if the daughter is still a full-time student and not self-supporting, or has too much investment income for the EITC -- she could still qualify for the $1,000 child credit, assuming her brother was younger that 17 at the end of 2005. That credit phases out beginning at an income of $110,000 a year, so her parents couldn't use it.

Families with two children and parents over that limit should take a hard look at this one if one of their kids has enough income to owe taxes and the other is young enough to qualify.

In fact, "for reasons that are unfathomable," Buckley says, the law allows younger children, even infants, to use older siblings to claim the child credit, as long as the older sibling is younger than 17.

The Bush administration, in its budget proposals for next year, is asking Congress to amend the law to specify that a taxpayer cannot be the qualifying child of a younger individual. It is also asking that the law require that if a parent lived with his or her child more than half the year, only the parent could claim the child as a qualifying child, though in some cases the parent would be able to waive the tax benefit to another family member with higher income.

These fixes would save the government $2.6 billion over 10 years, the Treasury Department figures.

But, as Buckley points out, the consequences of the new definition of a qualifying child are not all windfalls for taxpayers.

The new rules have knocked many single taxpayers whose adult children live with them out of head-of-household filing status, a benefit they had been able to claim in the past.

The rules also mean that a sibling who really is caring for another sibling is disqualified from the EITC if the care-provider is younger than 19 (or 24 if a full-time student).

There also can be problems in claiming personal exemptions for some taxpayers and in qualifying for the higher education benefits.

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Buckley also cautions parents that employer-sponsored medical insurance is tax-free only to employees, spouses and their dependents, so treating a child as independent could, at least theoretically, trigger higher taxable income to the parents.

Given all this, Buckley says, the logical course for Congress would be to repeal the new rules and start over.

* * *

Hurricane Katrina notwithstanding , only about half of homeowners living in some of the most flood-prone areas of the country buy federal flood insurance, a Rand Corp. study found. And most of the homeowners who do buy it do so only because it is required by mortgage lenders or others. Just 20 percent of homeowners in the most flood-prone areas buy the coverage when it isn't required, the study found.

* * *

Electronic filing of tax returns continues to rise, the Internal Revenue Service said last week. Of the 60.7 million returns filed so far this year, 71.5 percent were e-filed, compared with 69.7 percent for the same period last year. While this percentage is expected to decline as the April deadline approaches, the IRS still figures more than half of all returns will be e-filed this year. The average refund so far this year is $2,423, up $99 from last year.

A Revealing Plan (WP)

The Washington Post, March 19, 2006

WHAT WOULD IT take to get the federal budget in balance -- honest, no-gimmick, no-fooling balance -- without raising taxes? This is a question the Bush administration would prefer not to discuss, and for good reason: It would require cuts so deep and wide as to be unimaginable as a matter of politics and unwise as a matter of policy.

How can we be sure? Well, the Republican Study Committee, a group of conservative House members, has produced an alternative budget that treads where Bush will not. And it is a helpful document, not in the sense of being realistic but for exposing the airiness of administration claims of fiscal prudence. Balance could be achieved by 2011, it shows, but only if Americans are willing to sacrifice a good chunk of their health care, education, energy, transportation and foreign aid -- in fact, pretty much all of the federal budget outside defense and veterans.

What would go? Extra unemployment benefits and training to workers who lose their jobs as a result of foreign competition, heating assistance for low-income families, family planning funds, subsidized loans for graduate students and, after 2009, funding for the federal highway program. Also, Amtrak, the Corporation for Public Broadcasting, the National Endowment for the Arts, the National Endowment for the Humanities, the Agency for International Development and President Bush's Millennium Challenge Account. Substantially reduced would be funding for low-income schools, United Nations peacekeeping forces, the National Institutes of Health and block grants to states to pay for preventive health care for mothers and children. Head Start would be frozen at 2005 levels.

Average enrollment growth in Medicaid, which provides health care to poor people, was more than 7 percent annually between 2000 and 2004, and medical inflation itself is about 5 percent. Yet this budget would limit the growth in federal spending on Medicaid and the State Children's Health Insurance Program (SCHIP), which provides health care to uninsured children just above the poverty line, to 4 percent per year. The result? More poor people, and more poor children in particular, would go without care.

Some of the proposed cuts, such as eliminating farm subsidies or killing NASA's moon/Mars exploration program, are sensible. But they also are highly unlikely; just think how much trouble Congress had recently agreeing to a mere $40 billion in entitlement cuts.

Altogether, the alternative budget would cut almost $700 billion over five years -- $332 billion in non-defense discretionary spending and $358 billion in entitlements -- while allowing for $299 billion in new spending on defense and veterans and $630 billion in tax cuts (extending the previous Bush tax cuts plus adjusting the alternative minimum tax). And, for discretionary spending, these cuts are from 2006 levels -- they don't even take into account how inflation over the next five years (projected to be a cumulative

11.4 percent) would further strain federal dollars.

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Outside of defense, the amount spent on discretionary programs would be nearly a third less in 2011 than current spending, adjusted for inflation; it would amount to the smallest share of the economy (2.2 percent in 2011) at any time since 1962, when that number was first measured. And even that understates the magnitude of cuts required; the budget doesn't make room for war funding after the next fiscal year.

These budget cuts would be shortsighted and mean-spirited; they would transform the role of the federal government. We find much of this unthinkable, and we believe most Americans would, too. That's why Mr. Bush doesn't talk about the real-life consequences of his tax cuts, and the real-life people who will suffer from them after he leaves office. So we thank the Republican Study Committee for producing this document. If this is what you want government to look like, go ahead and support the extension of the president's tax cuts and oppose any tax increases.

CONGRESS-ADMINISTRATION:

Bush's Agenda Loses Focus (LAT)

By Peter Wallsten And James Gerstenzang

The Los Angeles Times, March 19, 2006

The White House staff has failed to formulate a clear domestic policy, some in the GOP say, and the administration is suffering because of it.

WASHINGTON — A growing Republican chorus is calling for a staff overhaul inside President Bush's beleaguered White House, but some conservatives say such a change would stop far short of fixing what they view as a serious flaw: an unfocused domestic agenda.

The war in Iraq is dominating the attention of Bush and his top aides, these critics say, while the recent departure of the president's top domestic policy advisor after just one year has left the White House without an obvious conductor to direct the sometimes disparate policy-making machine.

"You mean they have a domestic policy?" quipped Michael Tanner, director of health and welfare studies at the libertarian Cato Institute.

Tanner, an author of the failed Social Security plan that was Bush's No. 1 domestic priority last year, lamented the lack of a "policy czar" setting clear goals. He described the administration as "exhausted" and "rudderless" on the domestic front.

"There doesn't seem to be an endpoint for what they're doing," he said. "They need to decide what they're going to do for the next three years.... Staff changes are necessary but not sufficient. If they're just rearranging chairs and office plaques, that's not going to do anything."

Although Bush first campaigned on a largely domestic agenda, experts either said he had achieved much of what he had set out to accomplish or said he had put aside priorities at home to devote time, energy and government resources to the war on terrorism.

His once-sweeping ideas of giving every young worker a private retirement account as part of Social Security and completely rewriting the tax code have been sharply scaled back. On healthcare, with prices rising and tens of millions of uninsured, Bush's major ideas are creating tax-advantaged health savings accounts and computerizing medical records, hardly the broad overhaul sought by many advocates.

Michael Petrilli, who left the Department of Education in 2005 after four years working on school choice issues, said the administration never settled on an education agenda after Bush's No Child Left Behind Act passed in his first term.

One idea buried in Bush's proposed budget would spend $100 million on a national school voucher program. The proposal might appeal to conservatives still angry over some big-spending elements of the No Child Left Behind plan, but experts said it stood little chance of winning support this year in Congress.

Moreover, the proposed American Competitiveness Initiative laid out in Bush's State of the Union address, aimed at boosting math and science education, has not yet gained traction.

"There doesn't seem to be much of an education agenda right now coming out of this administration," said Petrilli, who is now vice president of the Thomas B. Fordham Foundation, which advocates for school choice programs.

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"It's hard to tell what the agenda's going to be for the next couple of years."

The competitiveness initiative was perhaps the most far-reaching new domestic idea in the State of the Union speech, encouraging innovation by putting renewed emphasis on teaching math and science. But, critics say, the push has come from a few lawmakers — not from the White House.

"Somebody really needs to steer it if it's going to happen, but the sense at this moment is that nobody's really steering it," said one GOP lobbyist who works closely with the administration on education issues but spoke on condition of anonymity out of fear of retribution from the White House.

Such frustration among domestic policy advocates underscores the range of problems facing Bush. Sixteen months after reelection, his second term has so far been dominated by a drumbeat of controversy and crises involving a range of issues, including ongoing violence in Iraq, the administration's domestic wiretapping program and an Arab firm's bid to manage operations at several U.S. ports.

Bush is facing the lowest approval ratings of his presidency, in the low to mid-30s.

In one independent survey, conducted by the Pew Research Center for the People and the Press, a plurality of respondents used the word "incompetent" when asked to describe Bush. In previous polls, the most common word had been "honest."

The ports controversy exposed festering tensions between the White House and once-pliant GOP lawmakers, who rebelled against Bush's push for the Arab firm to manage port operations. Many of those lawmakers are feeling increasingly free to express frustration about the administration's tendency to keep Congress in the dark on important issues.

Many conservatives have openly criticized key Bush initiatives in recent weeks, including a Medicare prescription drug program launched this year has proved complicated, costly and confusing to many seniors.

Last week, several longtime White House allies in the Senate joined with moderate Republicans and Democrats to support allowing the government to lengthen the sign-up period for the drug benefit and to negotiate cut-rate prices with drug companies.

Both votes bucked the White House, signaling concern among Republican lawmakers that the program and other Bush initiatives could spell trouble for the GOP in this year's midterm elections.

Sen. Norm Coleman (R-Minn.) set off fireworks when he said last week that he had "concerns about the team that's around the president." He told the Associated Press: "All of a sudden we're hearing the phrase 'tin ear.' That's a phrase you shouldn't hear. The fact that you're hearing it says that the kind of political sensitivity, the ear to the ground that you need in the White House, isn't there at the level that it needs to be."

Chief of Staff Andrew H. Card Jr. has held his job since Jan. 20, 2001. He rises before the sun, arriving at the West Wing ahead of the president. He even sweats with him: Card's weekend routine often includes riding mountain bikes with Bush at a Secret Service training facility or nearby wildlife sanctuary.

No other chief of staff has shown Card's stamina for the job except Sherman Adams, who served President Eisenhower for five years and eight months and established the modern model for the post. On Sept. 22, 2006, Card is to break Adams' record.

Card "is on call all the time," said a Republican senator with close ties to the White House, who spoke on condition of anonymity in order to speak freely about others in his own party. "I don't know how he's done it as long as he has. Is he fatigued? I'd have to say yes."

He added: "The collective group of people who came in have been there a long time, and it's inevitable you become insular…. You don't talk to normal people. You don't go to a Little League game.

"What I would love is some new faces to come in at senior levels," the senator said. "Some fresh thinking would be helpful."

One recent staff change was not planned: the abrupt resignation in February of Claude A. Allen, who for the last year had been Bush's chief domestic policy advisor.

Allen's resignation was a mystery to his colleagues until Maryland authorities charged him two weeks ago with theft of at least $5,000 in goods from Target and other stores in the Washington area. Before then, Allen had begun taking on a more public role, sitting in the first lady's box during this year's State of the Union address and, days before his resignation, briefing reporters on the president's budget plan.

Another lingering distraction in the West Wing is the ongoing investigation into who leaked the identify of CIA operative Valerie Plame to the media. A grand jury continues to investigate Deputy Chief of Staff Karl Rove, Bush's closest political advisor

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and the architect of linking GOP political goals to domestic policy. The inquiry has resulted in the resignation of Vice President Cheney's chief of staff, I. Lewis "Scooter" Libby, who was charged with misleading federal investigators.

Strategists close to the Bush White House say Rove is unlikely to leave unless he is forced to by an indictment.

Likewise, Bush, known for his emphasis on loyalty, would be unlikely to ask either Rove or Card to leave.

"I can see them working to make a change," said one GOP consultant with close ties to the White House, who spoke on condition of anonymity due to the sensitivity of discussing internal staff deliberations. "But either Karl or Andy has to stay. The trouble is, we don't know what Karl's future is."

Some White House officials and allies wave off the concerns.

Anti-tax activist Grover Norquist said he sees no evidence that Rove is distracted or tired. "Karl's on top of stuff," Norquist said. "You get your e-mail responses right back."

Moreover, some administration advocates say that work is proceeding quietly on some domestic initiatives.

Officials on the White House's National Economic Council, for instance, convened a meeting last week of conservative think-tank scholars to discuss strategies for expanding the use of health savings accounts, the tax-advantaged savings plans that eligible consumers can use to pay for medical expenses. Advocates view HSAs as a freemarket approach to healthcare, though critics charge that they benefit the wealthiest and least-sick Americans without helping the uninsured.

The White House meeting lasted an hour and a half. "Everyone in the room was energized," said John Goodman, president of the nonpartisan National Center for Policy Analysis.

Jennifer Marshall, director of domestic policy studies at the conservative Heritage Foundation, pointed to the $100-million school voucher idea as evidence that the White House was laying some groundwork for future initiatives. The plan, which would create a pilot voucher program in several cities for schools deemed to be failing, would most likely be adopted as part of a new education package next year, she said.

The idea, found in the president's budget proposal, has received little public notice.

"Everyone knows there's very little oxygen in the legislative room this year," she said. "So there's a second tier of what needs to be put out there as a marker, and education is probably happening on that lower tier, which doesn't require headline attention and presidential stumping."

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Times staff writer Ronald Brownstein contributed to this report.

Burnout On The Bush Team? (HC)

By JULIE MASON

HC – WH Burnout, March 19, 2006

Washington talk has members of president's inner circle resigning

WASHINGTON - An emerging question around the White House is whether staff exhaustion and isolation are causing political missteps such as the scuttled deal to have a Dubai company oversee U.S. port operations.

Much of President Bush's inner circle has been with him since 2001 and even longer, because he imported to Washington many Texans from his gubernatorial staff and 2000 presidential campaign.

Top adviser Karl Rove, presidential lawyer Harriet Miers, press secretary Scott McClellan, communications counselor Dan Bartlett, budget-minder Clay Johnson and others at the White House came from Texas. Others, such as chief of staff Andrew Card and National Security Adviser Stephen Hadley, have been around since the early days of Bush's presidency.

Bush puts a premium on loyalty. But there is generally more turnover in a two-term administration, including at the Cabinet level.

It's a burnout job. Just look at Bush — he has aged considerably since he first came to the White House. For staffers, the hours are long, expectations are high and time away from family is extensive.

And it can't be much fun now, with Bush experiencing the lowest public approval ratings of his presidency and a restive Congress behaving as if it lost the rubber stamp it used to keep on hand for him.

It's a long way from the 89 percent, do-no-wrong approval ratings Bush had right after Sept. 11.

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Rumors of high-profile departures wax and wane. Is Card leaving? What about McClellan? Similarly, prognostications of imminent staff shake-ups are on the rise.

McClellan did little to stanch the speculation with an enigmatic nondenial last week.

"This is part of the inside Washington babble that goes on in this town," the spokesman said. "It's part of the parlor game. We are focused on the priorities that the American people care most about and getting things done."

Seniors denied break, despite law's history

When Congress passed the Medicare prescription drug bill in 2003, Republican leaders held open the House vote for an extraordinary three hours while leaders twisted arms to get members to go along with the president. It finally passed by one vote.

Bush on Wednesday visited a retirement home in Maryland where he was asked about possibly extending past May 15 the deadline to sign up for the complex program.

But the president, proving again that sometimes it's the one legislative vote that matters, refused to bless an extension of a deadline for a program created thanks to the extension of a deadline on the House floor.

"No, and the reason why is there's got to be a fixed time for people to sign up," the president said.

When a media op goes to the dogs

Bush's visit to the retirement home was unusual in a number of ways. Among other things, it took the president deep into blue-state territory and placed him before an audience of seniors who were not as warm and friendly as most of the groups to whom he speaks.

A woman asked about implanting Americans with microchips containing medical records. She said her dog had one. Bush didn't seem to know what to make of it. He said he didn't know if his dogs had such chips. "Barney might not like it," he said.

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Major Changes Raise Concerns On Pension Bill (NYT)

By Mary Williams Walsh

The New York Times, March 19, 2006

With a strong directive from the Bush administration, Congress set out more than a year ago to fashion legislation that would protect America's private pension system, tightening the rules to make sure companies set aside enough money to make good on their promises to employees.

Then the political horse-trading began, with lawmakers, companies and lobbyists, representing everything from big Wall Street firms to tiny rural electric cooperatives, weighing in on the particulars of the Bush administration's blueprint.

In the end, lawmakers modified many of the proposed rules, allowing companies more time to cover pension shortfalls, to make more forgiving estimates about how much they will owe workers in the future, and even sometimes to assume that their workers will die younger than the rest of the population.

On top of those changes, companies also persuaded lawmakers to add dozens of specific measures, including a multibillion-dollar escape clause for the nation's airlines and a special exemption for the makers of Smithfield Farms hams.

As a result, the bill now being completed in a House-Senate conference committee, rather than strengthening the pension system, would actually weaken it, according to a little-noticed analysis by the government's pension agency. The agency's report projects that the House and Senate bills would lower corporate contributions to the already underfinanced pension system by $140 billion to $160 billion in the next three years.

That shortfall raises the specter of more pension plans failing, pushing their liabilities on to the government, according to the agency and critics of the bills. And some companies with fully financed pensions feel unfairly penalized by having to pay higher pension premiums to make up for others' shortfalls.

"It takes a better economist than me to understand how reducing contributions by that much is going to protect benefits and put the system on a sounder footing," said Jeremy I. Bulow, an economist at Stanford University.

Both pieces of legislation — one passed by the House and the other by the Senate, both by overwhelming majorities — do contain measures that would reduce some of the lapses and inaccuracies that the current pension law permits. They would also

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increase the premiums that companies pay to the federal guarantor, the Pension Benefit Guaranty Corporation, an agency grappling with a $23 billion deficit.

Senator Charles E. Grassley, Republican of Iowa and chairman of the Senate Finance Committee, says the bills attempt to strike the proper balance between providing for workers' pensions and allowing companies to remain competitive.

"My goal is to make sure that companies set aside enough money for the pensions they promise their workers," Mr. Grassley said. "At the same time, we can't put burdens on plan sponsors that are too heavy."

The overhaul of the pension system is being undertaken at a time when it is reeling from a series of big bankruptcies, like those of United Airlines and Bethlehem Steel, which sent billions of dollars' worth of obligations to the pension agency.

The agency's pension insurance is limited, and a growing number of these companies' employees have discovered to their dismay that their benefits exceed the limits and that they will simply lose part of the money they had been promised.

The House-Senate conference committee intends to reconcile the bills before April 15, when the next round of corporate pension contributions are due. But the White House already warned in November that President Bush might veto any bill that extended too much special pension relief to individual companies and industries.

Legislators argue that, while they want the pension agency to be strong, they also want to encourage companies to continue offering pensions. Lately, some companies, like I.B.M. and Verizon, have moved to freeze their pension plans, arguing that the costs of their plans make it hard to compete.

Kevin Smith, the spokesman for Representative John A. Boehner, Republican of Ohio and the new House majority leader, who was one of the driving forces behind pension changes, defended the House bill, arguing that many specific measures, particularly those phasing in the new rules slowly, were necessary.

"Both the House and Senate pension bills represent the most comprehensive pension reforms in a generation," Mr. Smith said, "so a responsible transition period for employers to meet the new, stricter rules is appropriate."

He added that he believed the pension agency's analysis did not take into account the weakened financial condition of many companies that offer pensions.

The law that Congress wants to amend was enacted in 1974 after a series of scandals in the auto industry in which employees of dying companies like Studebaker and Packard discovered that little or nothing had been set aside for their pensions. It gave rise to rules for the financing of pensions and to an insurance program roughly comparable to the federal insurance program for bank deposits.

The law did help safeguard pension benefits, but it has not been strong enough to stop some companies from falling short in their contributions.

When Labor Secretary Elaine L. Chao sent Congress a blueprint for amending the pension law in January 2005, many companies thought her proposals were too tough.

From the start of the legislative process, lobbyists representing a wide swath of American business, including those from the United States Chamber of Commerce, the American Benefits Council and the Erisa Industry Committee (which represents large companies with pension plans), argued for easing the burden on companies by allowing them more latitude in estimating how long their workers would live, for example, and what they would need to set aside for future payouts.

The biggest single-industry pension break in the bill passed by the Senate is for the airlines, to allow them to keep their unstable pension plans going.

Among other things, the airlines would be given 20 years to close the shortfalls in their pension funds — nearly three times as long as other companies. They would also be allowed to factor in highly optimistic assumptions about their investment returns when calculating how much they needed to contribute to their pension funds each year.

The measures were written into the bill at the request of Northwest Airlines, which is in bankruptcy proceedings and is trying to keep its pensions alive, though in sharply reduced form. Northwest sought a 14-year breather on its pension contributions.

But then Senator Johnny Isakson, Republican of Georgia, said that 14 years of relief would not be enough to help Delta, a big airline based in his state, which is also operating under Chapter 11 bankruptcy protections. Senator Isakson amended the bill to provide 20 years of relief. After complaints from other big airlines, the relief was expanded to them all.

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The Senate bill would also help recover more than $1 billion of benefits that thousands of pilots for Braniff, PanAm, Eastern, United and other airlines have lost in bankruptcy cases going back as far as the 1980's. That amendment was made by Senator Daniel H. Akaka, Democrat of Hawaii.

But helping those pilots would be expensive: the pension agency projected that the entire provision would increase its total obligations to retirees by more than $1 billion.

Someone must pay for this. Currently, the pension agency finances itself in part through the insurance premiums that companies are required to pay into the system. Raising the premiums to support pilots or help other victims of corporate bankruptcies, some companies in other industries are starting to say, would be unfair.

In a letter to shareholders last week, Edward S. Lampert, chairman of Sears Holdings, which is responsible for the pension plans of employees at Kmart and Sears, complained that his company's pension insurance premiums were going up by 60 percent, "not in order to address any risk associated with Sears, but rather to make up for the difficulties of other companies."

Mr. Lampert also deplored the current pension law, which bars companies with richly financed pension plans from taking any of the surplus money out, except in rare instances.

Prudential Financial has the same complaint, but instead of writing to its shareholders, it took direct action in Washington, hiring William F. Sweetnam Jr., until recently the Treasury Department's senior legal adviser on employee benefits, to lobby on the issue of surplus pension assets. Mr. Sweetnam is now a principal at the Groom Law Group, a Washington law firm that specializes in employee benefits issues.

Prudential has a $1.2 billion surplus in its pension fund. Mr. Sweetnam was able to persuade several senators, including Frank R. Lautenberg, Democrat of New Jersey (where Prudential has its headquarters), that the companies that are more than 15 percent overfinanced should be allowed to remove some of the surplus and use the money to buy health insurance for retirees.

Currently, only companies that are 25 percent overfinanced are allowed to do so.

Robert DeFillippo, a Prudential spokesman, said that the provision would improve pension security because in exchange for the ability to take more money out of the pension fund, the company would be required to handle the money remaining in the fund much more carefully.

Smithfield Farms also got help in the name of strengthening the system. It bought another meat company out of bankruptcy in 2003, taking over its pension fund at the same time. That kept the bankrupt firm's pension plan alive, Smithfield said, and saved the government from having to take it over. In light of that, the company contends that it would hardly be fair to impose tougher new financing rules on Smithfield.

That argument caught the ear of Senator Mike DeWine, Republican of Ohio, where Smithfield has major operations. Mr. DeWine added a provision that would let Smithfield follow the old pension rules until 2014, no matter what Congress does in the meantime.

The bills would also be a boon to Wall Street by permitting financial service companies to handle more retirement money with fewer restrictions. Hedge funds, for example, would be permitted to manage more pension money without being held to the pension law's exacting standards of fiduciary duty.

Mr. Boehner has championed easing the restrictions on investment advice for several years. He included a provision that would permit investment firms to advise participants in 401(k) retirement plans, even if the firms' own mutual funds were among the employees' investment choices. Current pension law forbids this practice, on the thinking that it could taint investment recommendations.

Mr. Boehner has argued that employees need more investment advice, however, so that they can save more and earn better returns on their money. The securities industry is his top campaign contributor, providing more than $125,000 already in the 2005-06 House election cycle.

Mr. Smith, the spokesman for Mr. Boehner, said that the House bill would provide better quality financial advice for workers, adding that the Bush administration strongly supported that amendment.

"The Senate advice provision does little more than restate current law," he said, "which has left workers to fend for themselves without the type of quality advice they so desperately need."

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Curse Of The Young Old (WP)

By William Saletan

The Washington Post, March 19, 2006

Why Should We Pay Them?

The bad news is, we're living longer.

Don't get me wrong. I hope you have a long and happy life. I just hope your kids don't end up paying one-fifth to one-third of their incomes to subsidize your retirement and mine. Because that's what awaits them: more and more boomers living to age 65 and beyond, perfectly healthy but collecting checks for decades. To head this off, we need a radical change in Social Security. I'm not talking about privatization. I'm talking about rethinking, and possibly abolishing, the whole idea of payments based on age.

The problem is grimly detailed in "65+ in the United States," a recent report by the U.S. Census Bureau. Five years from now, the boomers will start hitting age 65. By 2030, we'll have more than twice as many old people as we did three years ago. As a percentage of the population, this increase is enormous. In 1935, when Social Security was established, about 6 percent of Americans were 65 or older. Since then, the percentage has doubled. By 2030, it will have tripled. Not only are more people reaching 65; they're living well beyond it. In 1900, an American who made it to 65 could expect fewer than 12 additional years. By 1960, he could expect more than 14 years. By 1980, remaining life expectancy at 65 reached 16 years. By 2000, it was 18 years.

If you thought last week's budget fights over Iraq and Katrina were bad, wait till you see the bloodbath over retirement benefits. Hurricanes come and go. Iraq can be abandoned. But the debt to retirees increases every decade, and their clout grows, perversely, in proportion to the burden they impose. In 1945, for every Social Security beneficiary, we had 42 workers paying in. By 2002, we had just 3.3 workers per beneficiary. By 2030, we'll have only 2.2 workers per beneficiary. To keep the system afloat for the next seven decades, its trustees say the Social Security tax rate will have to reach 19 percent. And if life expectancy keeps rising over that period, academics project a tax rate of 27 to 32 percent.

Now for the good news. We're not just living longer; we're staying healthy longer. From 1982 to 1999, the percentage of senior citizens who had chronic disabilities dropped from 26 percent to less than 20. Active-life expectancy at age 65--the average number of additional years a person could expect to live free of chronic functional impairment--rose from fewer than 12 years to nearly 14. That's a five-year gain from what a 65-year-old could expect in 1935, according to Kenneth Manton, a leading scholar of old age. The experience of being 65 to 74 has changed so radically that the Census Bureau now calls this group the "young old."

So all these young old folks are working longer, right? Wrong. In 1950, more than 45 percent of men 65 or older were still in the labor force. By 2003, that percentage had plunged below 20. Five years ago, a study showed that men and women were retiring five and six years earlier, respectively, than their predecessors did 45 years earlier. Why? Because they could. Pensions helped, but the bigger factor was Social Security. By 2001, the program was supporting 91 percent of people age 65 or older. It provided nearly 40 percent of their income--equal to what they got from earnings and assets. A study quoted in the Census report documents the effect on work. When Social Security payments went up, men 65 and older quit the labor force at an accelerating pace. When payments were reined in, the trend reversed.

The point of Social Security was to subsidize those who couldn't work, not those who could. The program's founding document said it would support old people who were "dependent," "beyond the productive period" and "without means of self-support." In 1935, that described people around age 65. Today, it more accurately describes people a decade older. The intuitive remedy is to raise the retirement age well beyond the measly increases currently scheduled. Last year, Manton calculated that if you were designing a system in 1999 for people who could expect as many active years as a 65-year-old could expect in 1935, you'd set the retirement age at 70. And by 2015, you'd raise it to 73.

There are four obvious problems with this proposal. The first is that if we ask the young old to keep working, somebody's going to have to hire or retain them. This won't be easy. We all know that age discrimination is rampant in our economy. But we've shown before that this problem can be dealt with; look at the success of the 1967 Age Discrimination in Employment Act in helping raise the employment rate among older workers.

The second objection is that some jobs are too strenuous for a 65-year-old. But American jobs have become far less strenuous since 1935. One study shows that the percentage of Americans working in physically demanding jobs--defined as jobs

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"requiring frequent lifting or carrying of objects weighing more than 25 pounds"--declined from more than 20 percent in 1950 to less than 8 percent in 1996.

The third objection is that people don't age at the same rate. While true, it's not an argument for a low benefits-eligibility age. It's an argument for ending the link between age and benefits. Social Security actually consists of three programs. One pays benefits based on age; another pays if you lose your spouse; a third pays if you become disabled. As of 2002, 70 percent of the money paid out was based on age; only 15 percent was based on disability. That's insane. Inequality of aging means that age is a bad proxy for disability, which is a good proxy for need. If you turn 65 on the same day as your neighbor, but she's disabled and you aren't, we should pay her, not you.

Abolishing age as a standard of fitness would be fairer than simply raising the eligibility age. We've already taken steps in this direction. In 1986, Congress removed the upper age limit on people protected by the Age Discrimination in Employment Act. If you're healthy enough to do the job, age doesn't matter.

The final objection to both proposals is that Social Security is a trust fund; you made your deposits, and you're entitled to your withdrawals. But if you think the reason you'll live longer than your grandparents is that you're a better person, think again. Programs such as the ones Congress debated last week--Medicare, public sanitation, biomedical research--bought you longer life and better health. Maybe, instead of asking what your country owes you at 65, you should ask what you owe your country.

William Saletan covers science and technology for Slate, the online magazine at http://www.slate.com .

Standardized Tests Don't Always Make The Grade (LAT)

By Stuart Silverstein

The Los Angeles Times, March 19, 2006

Recent snafus in SAT scoring have brought attention to the inherent fallibility of such exams.

High school seniors and their parents, along with college counselors and admissions officers, have been roiled by recent disclosures that at least 4,600 SAT exams taken in October were graded incorrectly.

But education testing experts point out that similar mistakes have happened before — and inevitably will happen again.

"Tests are a fallible product," said Kathleen Rhoades, a research associate with the Center for the Study of Testing, Evaluation and Educational Policy at Boston College. "The way we treat tests in this country, it's as if the tests deliver these strong, solid, positive, irrefutable results. And that is not the case."

By Rhoades' count, there were 137 publicly disclosed cases of large-scale testing errors by educational testing companies from 1976 through early 2004, with most of them occurring since 1997.

"People are under the false illusion that because the tests are graded by a machine that the process is objective," said Robert Schaeffer, a spokesman for the National Center for Fair and Open Testing, or FairTest. "But everything, including programming the machine and doing quality control on it, is, in fact, done by human beings. And all humans make mistakes."

Rhoades and Schaeffer say a lack of regulation, cost pressures and tight deadlines aggravate the problems.

The consequences of grading mistakes and other mishaps have intensified over the last decade with the increasing reliance on so-called high-stakes testing. In recent years, President Bush's No Child Left Behind Act has triggered expanded testing by many states.

At the college level, standardized tests play an important role in deciding who is admitted, who wins scholarships and who gets into honors programs.

In K-12 education, they help make such determinations as school rankings, teacher licensing and pay, and whether students graduate high school.

The SAT and other tests are usually graded accurately, but when problems occur, "it gets people crazy because it's high stakes and it makes important decisions," said Eva L. Baker, co-director of the National Center for Research on Evaluation, Standards and Student Testing at UCLA.

The potential for problems was driven home last week with the disclosure that the Educational Testing Service, one of the nation's biggest testing organizations, had agreed to pay $11.1 million to settle a class-action lawsuit.

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The case was brought on behalf of plaintiffs who received incorrect scores on teacher-licensing tests known as the Praxis exams.

In all, 4,100 test takers were wrongly told they failed.

The tests are used in many states but not in California.

California has suffered other testing problems, however. They include a foul-up in which a company now known as Harcourt Assessment Inc. miscalculated the results of 19,000 students and 22 schools on a Stanford 9 achievement test given six years ago.

The SAT grading problem, which came to light this month, involves incorrect scoring on at least 4,600 college entrance exams, less than 1% of the total. About 400 students received lower grades than they deserved.

The College Board, the owner of the exam, later disclosed that there were an additional 1,600 SAT exams from October and that some of those tests may have been incorrectly graded. Those exams had been flagged for scrutiny due to concerns about possible cheating, among other reasons.

Many admissions experts said the effect on this year's high school seniors would be muted. Although some test scores were off by nearly 400 points — out of a possible 2400 — 83% of the errors were in the range of 10 to 40 points.

College Board officials have repeatedly expressed regret over the problem, which sent many colleges scrambling in the final days of the college admissions season to reevaluate applications from affected students.

But the officials said that with a test taken by 2.3 million students a year, including 495,000 in October, it was difficult to eliminate all errors.

"It is a very high-volume operation, and you are dealing with millions of tests a year, and you're dealing with many questions on each test," said Laurence Bunin, the College Board's senior vice president for operations. "In any high-volume operation like this, there's statistically the chance for some rare error."

In this case, the problems were blamed on the scanning of the multiple-choice portions of the test performed by a College Board contractor, Pearson Educational Measurement, one of the nation's biggest educational testing and assessment businesses.

Pearson officials said the problems stemmed mainly from humid weather that caused answer sheets to expand.

Also, some answers were penciled in too lightly or too incompletely to be read by scanners, they said.

Some testing experts said they were perplexed by that explanation and by the fact that two students, not Pearson, discovered the problems.

Craig Hoyle, a research consultant at Boston College's education school, said there were ways to prevent problems, such as using equipment to screen out humidity-tainted answer sheets. In addition, he said, "dummy" quality-check tests can be interspersed with the tests to detect scanning problems.

Pearson spokesman David Hakensen said his company had used quality-check tests, but not until the exams arrived at its processing center in Texas.

He said they were not mixed with exams at test sites — where they might pick up the same humidity that affected the actual tests — because any stray marks made on the quality-check tests would undermine their effectiveness.

Critics attribute scoring problems partly to cost-cutting by testing companies.

Pearson officials dispute that point.

The company has experienced problems in Minnesota, where in 2002 a judge found that a company Pearson acquired "continually short-staffed" a testing program, and in other states.

But experts point out that no technology, be it an airline or a testing system, is foolproof.

"Funny stuff happens," said Robert Boruch, a professor of education and statistics at the University of Pennsylvania. "The main objective is to reduce the likelihood of it happening. You can't reduce it to zero."

Bush's Fee On Futures Trades Probably Won't Pass, Boehner Says (BLOOM)

By Darrell Hassler

Bloomberg, March 19, 2006

DOJ_NMG_0018940

March 18 (Bloomberg) -- A new fee on futures contracts proposed by President George W. Bush is unlikely to be passed by U.S. legislators, given that it hasn't passed in multiple previous attempts, said John Boehner, the U.S. House Republican majority leader.

``If it hasn't happened in 13 consecutive tries, that probably means it won't happen again," Boehner, an Ohio Republican, said in response to questions at a Futures Industry Association conference in Boca Raton, Florida.

Bush's proposed $2.77 trillion budget for the fiscal year that begins in October includes an unspecified fee on futures contracts to fund the government agency regulating that market. The fee would cover the $127 million budget for the Commodity Futures Trading Commission that regulates the $2.5 trillion-a-day U.S. futures industry, according to the budget Bush sent to Congress in February.

Futures contracts are agreements to make a transaction at a preset date and price. At the expiration date, a product such as corn or sugar may be delivered at the price or the buyers and sellers settle the difference in cash between the market price and futures price.

Industry Opposition

Similar attempts by Bush in 2002 and former President Bill Clinton failed. The Chicago Board of Trade and the Chicago Mercantile Exchange, the two biggest U.S. futures exchanges, oppose the fee because the higher cost of trading may drive traders to exchanges outside the U.S.

Chicago Merc Chairman Terrence Duffy said in an interview on March 15 that he has visited legislators in Washington D.C. four times to argue against the fee. The fee likely would be about 14 cents per contact for each trade, he said. The Merc, which charges about 67 cents a contract, is assuming that legislators will consider the fee when voting on the budget, even though it's failed so many times previously, Duffy said.

``We are telling people in Washington how serious this is to our industry," Duffy said. ``This is an issue that we feel very passionate about and we have to make people understand how markets work."

The Washington-based CFTC is the only federal financial regulator that doesn't receive funding from the companies it oversees, Bush's budget document says.

Congress created the CFTC in 1974 as an independent agency to protect futures users from fraud related to the sale of commodity and financial futures. The agency's five commissioners are appointed by the U.S. president.

Separately, Boehner said he's ``hopeful" that the U.S. Senate will complete its version of the reauthorization of the CFTC within two months in order to begin negotiations between the Senate and House on the final bill.

The House approved a version in December that included a new requirement that the CFTC more closely monitor fraud in natural gas trading, an item that traders oppose because of the extra reports to the government it will require.

In the Senate there are five or six senators who want a similar requirement in the Senate version, Boehner said. That has stalled the Senate proposal, he said.

Congress reauthorizes the CFTC every five years.

Public Comments By Justices Veer Toward The Political (NYT)

By Adam Liptak

The New York Times, March 19, 2006

Speeches by Supreme Court justices are usually sleepy civics lessons studded with references to the Federalist Papers and the majesty of the law. That seems to be changing.

This month, former Justice Sandra Day O'Connor told an audience at Georgetown University that a judiciary afraid to stand up to elected officials can lead to dictatorship. Last month, speaking in South Africa, Justice Ruth Bader Ginsburg said that the courts were a safeguard "against oppressive government and stirred-up majorities."

Justice Ginsburg also revealed that she and Justice O'Connor, who retired in January, had been the targets of an Internet death threat over their practice of citing the decisions of foreign courts in their rulings.

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The justices' speeches were mostly a reaction, students of the court said, to attacks on judicial independence in Congress. "The volume is being turned up on both sides," said David J. Garrow, the legal historian, "both in the attacks on the court and in the justices' response."

The recent speeches, said Kermit L. Hall, the editor of "The Oxford Companion to the United States Supreme Court," may be breaking ground in judicial decorum.

"What's going on," Mr. Hall said, "is that Ginsburg and O'Connor are using their position — and it is striking that both are women — to state a position in favor of the judiciary that comes real, real close to taking a political position."

The O'Connor and Ginsburg speeches, variations on basic speeches they had given often before, were sharper and more topical than what many expect from Supreme Court justices. Justice O'Connor's Georgetown speech was apparently neither recorded nor transcribed, but Nina Totenberg, the legal affairs correspondent for National Public Radio, reported on it the next day.

In the speech, Justice O'Connor seemed to address comments made by two Texas Republicans, Representative Tom DeLay and Senator John Cornyn, concerning Terry Schiavo, a brain-damaged woman whose feeding tube was removed by court order.

Ms. Schiavo was the subject of a confrontation between Congress and the courts last year. Congress lost.

Senator Cornyn said afterward that political rulings from judges had fueled public frustration. "It builds up and builds up and builds up to the point where some people engage in violence," he said. "Certainly without any justification, but a concern that I have."

Justice O'Connor said that interference with an independent judiciary had allowed dictatorship to flourish in developing and Communist countries, Ms. Totenberg reported. "It takes a lot of degeneration before a country falls into dictatorship," Justice O'Connor said, according to Ms. Totenberg, "but we should avoid these ends by avoiding these beginnings."

Justice Ginsburg's speech, posted on the Supreme Court's Web site, focused on the citation of foreign law. She said that no one on the court contended that foreign decisions were binding precedents, only that they could illuminate common problems. Judges consult and cite all sorts of materials in making decisions, and she said she was perplexed that one category of potentially valuable information should be out of bounds.

She also discussed what she called "dynamic versus static, frozen-in-time constitutional interpretation," suggesting a preference for the former.

Mr. Hall, who is also the president of the State University of New York at Albany, said Justice Ginsburg's statements were "really quite remarkable in the history of the court."

"She is pressing for a view of the Constitution that is quite cosmopolitan, and she is using an out-of-country venue to make her point," Mr. Hall said.

Justice Ginsburg's comments may have been a response to Justice Antonin Scalia, who, in opinions and speeches, has rejected the view that the Constitution is a living document.

"You would have to be an idiot to believe that," Justice Scalia said in a speech in Puerto Rico last month, The Associated Press reported. "The Constitution is not a living organism. It is a legal document. It says some things and doesn't say others."

The dueling speeches, Mr. Hall said, represented "two Supreme Court justices arguing with each other off the bench."

Justice Ginsburg seemed to blame stalled Congressional measures that would have prohibited the citation of foreign law for the Internet death threat.

"Although I doubt the current measures will garner sufficient votes to pass, it is disquieting that they have attracted sizable support," she said. "And one not-so-small concern — they fuel the irrational fringe."

The threat, passed to the justices by a court security officer, was a February 2005 posting on an Internet chat site addressing unnamed "commandos."

"Here is your first patriotic assignment," the message said. "Supreme Court Justices Ginsburg and O'Connor have publicly stated that they use foreign laws and rulings to decide how to rule on American cases. This is a huge threat to our Republic and constitutional freedom. If you are what you say you are, and NOT armchair patriots, then those two justices will not live another week."

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Mr. Garrow said the threat was all the stranger because the stakes were trivial. "The odd thing is," he said, "that Justices Ginsburg and O'Connor are being attacked for their footnoting practices."

The death threat went nowhere, Justice Ginsburg said last month. Justice O'Connor, who will turn 76 this month, "remains alive and well," Justice Ginsburg, 73, said.

"As for me," she added, "you can judge for yourself."

Lobbyists Foresee Business As Usual (WP)

By Jeffrey H. Birnbaum

The Washington Post, March 19, 2006

Post-Abramoff Rules Expected to Be Merely a Nuisance

Some of Washington's top lobbyists say that they expect to find ways around congressional efforts to impose new restrictions on lobbyists' dealings with lawmakers in the wake of the Jack Abramoff corruption scandal, and that any limits will barely put a dent in the billions of dollars spent to influence legislation.

Though Congress may ultimately vote to eliminate a few of the more visible trappings of special pleading, such as gifts, free meals and luxurious trips, lobbyists say they have already found scores of new ways to buy the attention of lawmakers through fundraising, charitable activities and industry-sponsored seminars. An estimated $10 billion is spent annually to influence legislation and regulations, and that spending is not likely to be diminished by the proposed lobbying changes, these lobbyists contend.

"I wouldn't classify those changes as major," said Dan Danner, executive vice president of the National Federation of Independent Business. "Between charitable events and fundraising events, there will still be lots of ways to get in front of members [of Congress]."

Abramoff's guilty plea in January -- to charges of fraud, tax evasion and conspiracy to bribe public officials with lavish trips, luxury skybox fundraisers, meals and campaign contributions -- triggered a new push in Congress to rewrite the rules governing lobbying.

An emerging Senate bill, which has yet to be completed, would bar lawmakers from accepting meals and gifts such as sports tickets from registered lobbyists. The leading House measure, which has been proposed by GOP leaders, would rely more heavily on additional disclosures but would also impose a temporary ban on privately paid travel.

But many lobbyists said they consider these bills more of a nuisance than an impediment to their ability to work their will.

"Even if all lunches and sporting tickets are banned, legislation and regulations are so complex that the need for professional lobbyists will not diminish," said Frederick H. Graefe, a Washington lawyer and lobbyist.

"If meals are heavily restricted, we're likely to see executives from the home office picking up checks because they're not lobbyists," added J. Steven Hart of Williams & Jensen, a major lobbying firm. "And there are lots of other ways we can still get our cases before members of Congress."

Besides, experts said, industries and interest groups have turned to more sophisticated tactics in recent years, and such tactics are generally not addressed in the new bills on Capitol Hill. Lobbyists are increasing their campaign contributions, widening their use of the Internet to stir voter activism, and donating large sums to think tanks and charities affiliated with such big names as Sen. Edward M. Kennedy (D-Mass.) and House Majority Leader John A. Boehner (R-Ohio).

The Business Roundtable, which represents big-business chieftains, has embraced a new technique of advertising on Web sites for grass-roots advocates. And organizations from the left and the right are increasingly offering meetings with top government officials in exchange for hefty dues.

Americans for Tax Reform, which is headed by conservative strategist Grover G. Norquist, invites contributors who give more than $15,000 a year to receptions and dinners, often at Norquist's home. Featured speakers have included Republicans such as Sens. George Allen (Va.), Chuck Hagel (Neb.) and Bill Frist (Tenn.), the majority leader.

Third Way, a group that devises policies for moderate Democrats, invites its $25,000-a-year donors (many of whom are lobbyists) to regular discussions around Washington that have spotlighted Democratic Sens. Thomas R. Carper (Del.), Evan Bayh (Ind.), Blanche Lincoln (Ark.) and Ken Salazar (Colo.).

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The most important framework for lobbying clout -- campaign finance laws -- would not be altered in the Senate approach, while House GOP leaders have proposed putting limits on the contributions made to big-money independent groups known as 527s. But without Senate support, the effort to clamp down on the independent groups will fail.

As a result, lobbyists would still be able to contribute to lawmakers' coffers, host and organize major fundraising events, and arrange trips subsidized by their clients to encourage electoral giving -- just as they do now. Total federal giving in this election cycle is expected to rise by at least 20 percent, to more than $3 billion, compared with the 2002 midterm-election cycle, according to Michael J. Malbin, executive director of the nonpartisan Campaign Finance Institute.

Such campaign-related activities are "the most significant benefits lobbyists use to influence members of Congress," said Larry Noble, executive director of the nonpartisan Center for Responsive Politics.

The proposed ethics changes would not restrain the fastest growing part of lobbying: grass-roots activities. This ginning up of letters, telephone calls and, increasingly, e-mails from back home has become a $1 billion-a-year business, said Sen. Carl M. Levin (D-Mich.), an activist for lobbying law changes.

Congress might require that such lobbying costs be disclosed but is not likely to limit them. In fact, lobbying in its many forms would continue unabated under the coming legislation.

In 2004, the most recent full year about which data are available, lobbying was a $10 billion industry, according to estimates by James A. Thurber, a political science scholar at American University. Of the total, $2.1 billion was used to pay the salaries of registered lobbyists, while the rest was spent on more subtle forms of persuasion.

Lobbying is done even at charity events. Lobbyists say privately that they are all but required to contribute to an annual dinner that helps low-income Roman Catholic schools in the District. The dinner is co-hosted each September by Boehner and Kennedy. Boehner has solicited contributions for the $10,000 tables, a request that lobbyists say they are loath to ignore.

"Some lobbyists might consider this a lobbying opportunity," said Michael L. Smith, the dinner's director. "But we see it as a very worthy charitable event."

The communications industry has its own lobbying-and-charity gala. Every December, the Federal Communications Bar Association fills the Washington Hilton's grand ballroom for a fancy dinner that raises money for D.C. schoolchildren and honors the chairman of the Federal Communications Commission, which regulates the interests of the dinner's patrons.

At the 2004 Chairman's Dinner, FCC commissioners dined at an elaborately set table while then-Chairman Michael K. Powell gave a lengthy speech and showed a video about himself.

Interest groups also pay to participate in social activities, which double as lobbying venues. State societies, for example, offer lawmakers, congressional aides and lobbyists numerous opportunities for informal encounters.

The California State Society's fall 2005 newsletter featured a photograph of Rep. Ed Royce (R-Calif.) and former congressman Bill Lowery (R-Calif.), who is a lobbyist for an electric utility and a defense contractor. Both are active members.

According to its Web site, the society's Platinum ($10,000) corporate sponsors in 2005 included Fleishman-Hillard, a lobbying and public relations company, and Sallie Mae, a Virginia-based provider of student loans that lobbies in Washington.

Lawmakers and their staffers have lately reduced their social interactions, especially meals, with lobbyists in anticipation of a possible crackdown under a new law.

But interests will always find a way to be heard, lobbyists say. One is through think tanks. The Competitive Enterprise Institute, which widely publicizes its belief that the earth is not warming cataclysmically because of the burning of coal and oil, says Exxon Mobil Corp. is a "major donor" largely as a result of its effort to push that position.

"I think what attracted them to us was our position on global warming," said Sam Kazman, CEI's general counsel. "And we hope to get support from other industries that agree with us."

Lawmakers Holding Solid Seats Spend As If They Were Shaky (WP)

By Shailagh Murray

The Washington Post, March 19, 2006

Use of Campaign Treasuries Is Coming Under Scrutiny

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Rep. Spencer Bachus hasn't drawn a serious opponent in the past three elections. So far, his only 2006 challenger is a write-in with $49 in the bank.

But the Alabama Republican burns through significant sums of campaign cash, as do plenty of other House members sitting in safe congressional seats. Among the items billed in 2005 to Bachus's campaign account and his "Growth and Prosperity" political action committee: $6,689 for U2 concert tickets and expenses as part of a campaign event; $1,298 in lodging in Vail, Colo.; and $270 for the catering of an "American Idol" party.

Rep. Corrine Brown (D-Fla.) spent $15,835 of campaign funds on condolence flowers for constituents, Rep. John T. Doolittle (R-Calif.) used $8,328 of his campaign war chest to buy gifts for his staff, and Rep. Mike Pence (R-Ind.) was reimbursed for a $1 "meal" at a local gas station, which his staff believes was bottled water.

Some lawmakers say that such expenditures are routine and completely legal under Federal Election Commission rules. But these spending practices are beginning to attract attention from watchdog groups and the news media, as the 2006 congressional campaigns heat up and Congress considers measures to crack down on the perks of office.

A Washington Post review of more than 200 House campaign finance reports filed with the FEC for the past year found that lawmakers from safe districts demonstrated widely differing spending practices. The reports were compiled by PoliticalMoneyLine, an independent, nonpartisan campaign finance Web site.

According to those records, Rep. Mark Edward Souder, a six-term Indiana Republican who was reelected in 2004 with 69 percent of the vote, spent $45,027 in campaign operating funds last year. Most of the money went to cover phone charges, rent, payroll and catering for campaign events.

In contrast, Pence, whose congressional district adjoins Souder's to the south, spent $348,255 in 2005, plus $25,472 from his PAC, after winning a third term in 2004 with 67 percent support.

Pence sought reimbursement for 293 meals in 2005, for a total of $9,806. Most were at fast-food or family-style restaurants, including Wendy's, Arby's, Ruby Tuesday, and various pancake houses and pizza parlors, as well as convenience stores and airport concessions based in Anderson, Ind. Ninety-four of the charges totaled $10 or less. He also paid $4,082 for a 1998 Oldsmobile minivan that he drove throughout his east-central Indiana district.

"When Mike Pence campaigns, he campaigns as if he's in a tight race," said William A. Smith, Pence's chief of staff. He said that his boss prefers one-on-one meetings to big groups, which explains the numerous small charges, and that items are often billed to the campaign, as opposed to the official account, to avoid potential ethics questions. "If he's doing political work, that's going to be part of his campaign budget," Smith said.

Bachus spent $415,000 from his 2005 campaign and political action committee funds on meals, travel, entertainment and other election-related operations. He said he has no choice but to keep up the spending even without a serious challenger.

"Since the campaign registration season remains open in Alabama, I have no assurance at all I won't have serious competition again this year," he said in a statement. "It is only prudent I be prepared."

The government reimburses members for some nonpolitical expenses, such as traveling to and from their districts and attending official events, but the rules are fairly strict. In contrast, the FEC gives lawmakers broad discretion with campaign funds. As Melanie Sloan, a former federal prosecutor who heads Citizens for Responsibility and Ethics in Washington, an independent watchdog group, describes it, "as much as you can raise, you can spend."

For example, FEC rules state that campaign funds may be used "in connection with the campaign for federal office" but also "in connection with duties of the individual as a holder of federal office." Some items are specifically banned: home mortgages, clothing, personal automobile expenses, country club and health club memberships, vacations, household food, nonpolitical admissions to concerts and sporting events, and tuition.

Otherwise, candidates have a fair amount of leeway in how they spend the money they raise. "I think it's more personal than political," said Stanley Brand, a Democratic ethics lawyer. "Some people are more liberal about money." Some throw lavish fundraisers, Brand noted. "Some are looking for ways to underwrite their existence, and some aren't."

The National Republican Senatorial Committee has launched a Web site, http://www.fancyford.com , chronicling the Davidoff cigar gifts and exclusive hotel stays of Rep. Harold E. Ford Jr. (D-Tenn.), who is running to succeed retiring Senate Majority Leader Bill Frist (R-Tenn.). The Bergen Record recently tallied up $80,000 in Morton's steakhouse bills that Sen. Robert

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Menendez (D-N.J.) amassed over five years as a House member. Menendez was recently appointed to fill an open Senate seat and is battling for a full six-year term against GOP candidate Thomas H. Kean Jr.

Rep. Ralph M. Hall (R-Tex.), elected to a 13th term in 2004 with 68 percent support, submitted more than 100 meal receipts, many of which were for low-dollar charges from Sonic, IHOP, Chili's and Applebee's outlets. He was more generous with gifts for donors, billing his campaign for $13,235 in Godiva chocolates. "He has it in his head that people love Godiva chocolate," said Hall chief of staff Janet Perry Poppleton, who added that he used to give away hams.

Rep. Patrick J. Kennedy (D-R.I.), elected in 2004 to a sixth term with 64 percent, filed more than $500,000 in campaign and PAC operating expenses for 2005. He racked up the highest number of Starbucks charges for one year, submitting 24 receipts ranging from $2 to $12. Every purchase was made at the same Main Road Starbucks in Middletown, R.I., near the congressman's home. Kennedy spokeswoman Robin Costello said the location was a "convenient place for his campaign staff to meet."

Rep. John P. Murtha, a 17-term veteran from a solidly Democratic Pennsylvania district, reported $620,066 in campaign operating expenses. Nearly 250 items were related to driving, including $6,800 for gas, car washes and travel-related petty cash charges, and $6,500 to lease a 2003 Buick. Murtha spokeswoman Cynthia Abram said her boss is "very active in local politics" and attends fundraisers and other events for local candidates around his central Pennsylvania district throughout the year.

Rep. Don Young (R-Alaska), who was elected to a 17th term in 2004 with 72 percent support, filed one of the longest 2005 campaign expenditure reports, billing about $650,000 in total expenses to his campaign account and Midnight Sun PAC. Young listed $405 in snow-plowing charges, $300 to sponsor Miss Alaska, $345 for fishing licenses and $45 for a ladder. Myrna Maynard, office manager in Young's Anchorage office, said the ladder was needed because the ceiling lights are too high.

The $15,835 in flowers purchased by Brown, a seven-term incumbent who was uncontested in 2004, accounted for more than 10 percent of the total $123,243 Brown spent in 2005 on her campaign. Elias Ronnie Simmons, Brown's chief of staff, said her boss sends floral arrangements costing $60 to $80 apiece to the funerals of constituents. "You never think it's going to escalate like that," Simmons said.

"If you get in the habit of raising a lot of money, even if you don't have real races, the question is 'What are you going to do with it?' " said Fred Wertheimer, a longtime critic of political fundraising and spending and founder of Democracy 21, a nonpartisan group seeking campaign finance reform. "The fact is, there's just far more money in politics than anyone actually needs."

Losing Ground (NSWK)

By Christopher Dickey

Newsweek, March 19, 2006

A NEWSWEEK poll shows President Bush's approval rating dropping to new lows on domestic issues and rising public anger over Iraq and homeland security.

A bitterly divided electorate gives President George W. Bush an approval rating of only 36 percent in the latest NEWSWEEK poll, matching the low point in his presidency recorded last November. His image as an effective leader in the war on terror is tarnished, with less than half the public (44 percent) approving of the way he's handling terrorism and homeland security. Despite a series of presidential speeches meant to bolster support for the war in Iraq, as well as the announcement of a major military offensive when the poll was getting under way, only 29 percent of the people questioned approved Bush's handling of the situation in Iraq. Fully 65 percent disapprove.

The way the president has dealt with issues at home hasn't brought him much support either. His approval ratings for the handling of energy policy (28 percent) and health care (28 percent) were new lows, while approval on the economy (36 percent) mirrored his overall rating. The single area where President Bush accrued more approval than disapproval was in his appointments to the Supreme Court, which 47 percent approved.

The outright anger against Bush felt by many Americans was reflected in responses to questions about the effort of Democratic Sen. Russ Feingold of Wisconsin to censure Bush in Congress for his warrantless wiretapping program. Feingold has found very little support for his move on the Hill. Four in 10 (42 percent) of the adults in the general public say they would

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support Congressional censure of the president, while half (50 percent) say they would not. Censure wins majority support from Democrats (60 percent) and one in five Republicans (20 percent) say they'd support it. Yet if Democrats in Congress do decide to push for such a measure, they may run into trouble with that same public. By a margin of 53 percent to 33 percent, Americans feel the censure proposal was made as a partisan ploy, not for reasons of principle.

In today's strongly polarized political climate, roughly one in four American adults (26 percent) say they think Congress should actually impeach President Bush and consider removing him from office. There is in fact no effort to do this on the Hill, and the public mood appears to be more a reflection of the passionate sentiment against Bush in some quarters rather than considered support for actual legislative action. (Some recent national polls show about 45 percent of adults strongly disapprove of the president's performance.) The NEWSWEEK poll shows that only 5 percent of Republicans would support impeaching Bush, while 94 percent would not. Among Democrats, almost half (49 percent) support impeachment, while 48 percent oppose it. Overall, 69 percent do not think Congress should consider removing him from office.

By comparison, the level of public support for impeachment today is below the 32 percent support for Bill Clinton's removal in October 1998, before he was impeached by the U.S. House of Representatives. Support for the impeachment of Richard M. Nixon had reached 52 percent in a June 1974 Harris poll shortly before he left office.

A much less radical response to sagging confidence in President Bush—a major staff shake-up in the White House—gets a mixed response from the public. While 40 percent think it is time for the president to clean house and ask some top people to leave, 48 percent think it is best to avoid making major changes to the White House staff at this time. Only 20 percent of Republicans favor a major staff shake-up, compared with 43 percent of Independents and 56 percent of Democrats. Unhappiness with President Bush's cabinet and staff apparently is not as great as dissatisfaction with the president himself.

All of this bodes ill for the Republicans as midterm congressional elections approach this fall, although some Democratic strategists are concerned that the censure resolution and impeachment talk may actually make for an unwanted distraction. Registered voters continue to prefer Democratic candidates for Congress over GOP candidates by a margin of 50 percent to 39 percent.

This is the third of four NEWSWEEK polls taken since September 2005 showing the Democrats with a double-digit lead. The Democrats never had such an advantage in any NEWSWEEK poll conducted before the last two off-year Congressional elections, 2002 and 1998. The Democrats now lead in Congressional vote preferences of Independents by 47 percent to 31 percent. Key to the election outcome is whether the Democrats' big advantage with independent voters will be maintained and how many of these voters will actually turn out in November.

Both houses of Congress are now controlled by the Republicans, but public opinion now favors a Democratic takeover this November by a margin of 50 percent to 34 percent. Among Independents, the Democrats are preferred by more than a two-to-one margin: 51 percent to 22 percent.

Low as Bush's approval ratings are at the moment, three of the last six U.S. presidents actually had ratings below Bush's current score at some point in their presidencies. His father, George H.W. Bush, saw his rating decline to 29 percent in August 1992, amid growing economic woes. Jimmy Carter slipped to 28 percent in July 1979 and Richard Nixon plunged to 23 percent in January 1974, the year he resigned his office as a result of the Watergate scandal.

Survey Methodology

This poll was carried out by Princeton Survey Research Associates International. Results are based on telephone interviews with 1,020 adults, 18 and older, conducted March 16-17, 2005. Results are weighted so that the sample demographics match Census Current Population Survey parameters for gender, age, education, race, region, and population density. The overall margin of sampling error is plus or minus 3 percentage points for results based on total adults and plus or minus 4 for results based on 800 registered voters. Results based on smaller subgroups are subject to larger margins of sampling error. In addition to sampling error, the practical difficulties of conducting surveys can also introduce error or bias to poll results.

Bush's Approval Rating Stuck At 36%, Newsweek Poll Shows (BLOOM)

By Susan Decker

DOJ_NMG_0018947

Bloomberg, March 19, 2006

March 18 (Bloomberg) -- President George W. Bush's approval rating stands at 36 percent as voters expressed anger over the continued war in Iraq, according to a poll released today by Newsweek magazine.

The overall approval rating matches his standing in November, a record low for his presidency, and compares with 40 percent at the end of September, 2005, the magazine reported. Less than half, 44 percent of those polled, approved of how he's handling homeland security and terrorism issues compared with 57 percent a year ago.

The president's misfortune has translated into good news for Democrats, with 50 percent of registered voters polled saying they will back Democratic candidates, compared with 39 percent for Republicans. It's the third of four polls taken since September that show Democrats with a double-digit lead over Republicans. The question, Newsweek said, is whether the Democrats can maintain their strong lead among independent voters.

The poll showed that recent presidential speeches supporting the war in Iraq haven't improved the public's perception of the conflict. Two thirds of those polled, 65 percent, disapprove of how Bush is handling the war, and just 29 percent approve, the poll showed. As in other polls, Bush, a Republican, fared better among those of his own party than with Democrats.

Domestic Issues

On the domestic front, 58 percent disapproved of Bush's handling of energy issues and 62 percent disapprove of how he's dealt with health-care issues, with only 28 percent approving in each area, a new low in both cases. The poll showed 36 percent approved of his handling of the economy.

A bright spot for Bush is the Supreme Court. His choices of John Roberts and Samuel Alito met with approval from 47 percent of those polled. It was the only area where more people approved than disapproved, Newsweek said.

Wisconsin Senator's Russell Feingold's call for censure of the president was met with approval by 42 percent of those who were polled, while 50 percent disapproved of the Democrat's censure request. Those polled thought the censure call was based more on politics than principle, by a margin of 53 percent to 33 percent.

Just 26 percent would support taking the step of impeaching Bush, with 94 percent of Republicans opposing the idea and Democrats split, with 49 percent in favor and 48 percent opposed. Still, 69 percent overall oppose having him removed from office.

The poll, conducted by Princeton Survey Research Associates International, was based on telephone interviews with 1,020 adults conducted on March 16 and 17. The margin of error was plus or minus 3 percentage points for results based on total adults and plus or minus 4 for results based on 800 registered voters.

Dangerous Incompetence, Part II (BOS)

By Nina J. Easton

The Boston Globe, March 19, 2006

Republicans got a much-needed laugh last week when Senator Debbie Stabenow -- a Michigan Democrat whose seat the GOP is determined to nab this year -- launched an attack on the White House from the Senate floor. The snickers came when Stabenow's recounting of President Bush's failings was overshadowed by an unfortunate visual: She was wearing a red suit that matched a sign to her left reading DANGEROUSLY INCOMPETENT, suggesting that she, rather than the president, might have deserved the label.

A GOP aide quipped that Stabenow should wear that sign like a sandwich board. And Bob Stevenson, a spokesman for the Senate majority leader, Bill Frist of Tennessee, strolled into the Senate press gallery with a sign of his own held over his head: COMPETENCE.

Republicans don't seem to have much else to laugh about this election year.

The Democrats' sudden discipline at staying on message is beginning to score points in pubic opinion polls. The Pew Research Center's Andrew Kohut has reported that "incompetent" has replaced "honest" as the most frequent descriptor applied to Bush.

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While the Democrats have used "incompetence" with increasing regularity since the administration's flat-footed response to Hurricane Katrina, the phrase "dangerous incompetence" is a recent invention of Senate Democratic Leader Harry Reid of Nevada and his staff.

The one-time amateur boxer was eager to give the incompetence label "an edge," said a Reid aide, Jim Manley, and "dangerous" was the winning adverb, adding a flourish to the Democrats' new line of attack.

A couple of weeks ago, Reid strategists began inserting the words into talking points for press secretaries to the Senate's 44 Democrats. And during Reid's weekly Saturday afternoon huddle with Democratic senators scheduled to appear on the Sunday morning talk shows, he encouraged them to use the label to describe the White House.

"It's on the cutting edge of what's going on," Manley insisted.

A Kennedy campaigns in Boston

A Kennedy, candidate for US Senate, is planning a fund-raiser in Boston.

No, not that Kennedy. This is US Representative Mark Kennedy, Republican of Minnesota, who is on a mission to dilute the Kennedy name in the upper chamber.

The Minnesota Kennedy is drawing money and attention from Republicans nationally, including in Massachusetts, because his race is considered the GOP's best shot to pick up a US Senate seat. Kennedy is running to replace Mark Dayton, a Democrat who is retiring.

"We have almost nothing in common," Kennedy says of his relationship to Senator Edward M. Kennedy, "except that my grandmother was Rose Kennedy." Another Rose Kennedy, that is.

But the Minnesotan does share floor space on the US House, and a cordial relationship, with Rhode Island Representative Patrick J. Kennedy, Senator Kennedy's son. "Patrick and I are both third children of the youngest of four sons of Rose Kennedy," he says.

On a family visit to the US Capitol, when his son was mistakenly handed a tag identifying him as Patrick Kennedy's son, the house's other Kennedy said his boy should have kept it: "Patrick's in better shape to pay for your college."

For Kerry, Imus gets his Irish up

During the 2004 presidential campaign, MSNBC radio and TV personality Don Imus was a vocal supporter of John F. Kerry, sharing stories of the Massachusetts senator's visits to the Imus ranch. But after Kerry's loss, some of the bloom has come off that political rose.

On St. Patrick's Day, Imus -- broadcasting from Boston -- invited Kerry on his show for some respectful discourse on issues of the day.

But minutes after the senator left the air, the irascible Imus ridiculed Kerry. "If I was his adviser," Imus proclaimed, "I'd tell him he's just got to loosen up. . . . Man, talk English!"

Bid to reverse a Romney role model

As he tests the presidential waters, Governor Mitt Romney is eagerly courting the conservative wing of the Republican Party. So it was curious that in a C-SPAN interview airing tonight, he dwelled on Dwight D. Eisenhower -- a moderate-- as one of his favorite presidents.

"I looked at what he did in the White House and the character and integrity he brought to the White House and said, that's a man I respect," Romney told C-SPAN's Brian Lamb. "I grew up when he was president. He's my first memory of president, 1952 election. I remember that, you know, 'I like Ike' slogan."

And, Romney continued, Eisenhower "was a person you did like and you respected as an individual. Now he did some important things as well. The whole idea of building an interstate highway system and investing in infrastructure turned out to be enormously powerful. . . . Staring down the Russians. . . . But it's his contribution as a man, as a father, as a husband, as a person of integrity that I most respect."

Romney strategists eyeing a Republican presidential primary fight might coach the governor to use every opportunity he can find to wax eloquent over a different Republican president: Ronald Reagan. To the conservatives who dominate GOP primaries, Eisenhower is considered, in hard-right parlance, a "squish."

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OTHER NEWS:

'I Hope That I've Made A Difference' (MINNST)

Minneapolis Star Tribune, March 19, 2006

U.S. Rep. Martin Sabo bids tearful farewell to public office. He leaves with a pledge to continue his causes and a lament over political polarization.

Rochelle Olson, Star Tribune U.S. Rep. Martin Sabo, the stoic, gentle giant of Minnesota politics, broke into tears Saturday as he announced plans to retire after 46 years in elective office, the last 28 in Congress.

"I've decided it's time to move on," Sabo said. "In my gut, I know the time is right. It's time to open the door for a new generation of leadership."

Sabo, 68, said he will continue to work for peace, responsible budget policies, civil rights and civil liberties.

"I want to see more of the grandchildren," he said in Minneapolis. The baseball fan plans to attend more Twins games, play more golf and travel the country. "Some fall, I'd love to drive up to New England and see the leaves," he said.

When asked, Sabo cited no particular reason for the timing of his decision, only seven weeks before the May 7 DFL endorsing convention for the Fifth District congressional seat. He said his health and energy levels are good. Sabo quit smoking cold turkey two years ago after 45 years of a two-pack-a-day habit.

His action leaves prospective candidates little time to organize for the DFL convention. The endorsee is expected to become the prohibitive favorite in the race in the strongly DFL district, which includes Minneapolis and a number of inner-ring suburbs.

Many potential candidates remained noncommittal Saturday while Sabo gave a farewell speech filled with gratitude and a touch of criticism. He left most of the praising to others. "I hope that I've made a difference over the years," he said as his wife, Sylvia, daughters Karin Mantor and Julie Sabo and young grandchildren stood behind him.

Voice cracks, eyes fill

Sabo's voice cracked for the first of many times and his eyes filled when he talked about how he had been in public office since 1960, the first 18 years as a member of the Minnesota House. "When you've been running every two years for 46 years, the normal thing is to just keep doing it," he said in explaining the suddenness of his announcement.

He thanked Minnesotans who welcomed a North Dakota farm boy to Minneapolis 50 years ago to attend Augsburg College. "Being able to serve Minnesota has been an unimaginable dream," he said.

He offered the most praise to Wendell Anderson, whom he called the state's "greatest governor." Sabo, who was speaker of the state House for six years, said he's proud of his work on the "Minnesota Miracle" of the 1970s, which shifted the burden for public school funding from local property taxes to increased state taxes.

As former chairman of the U.S. House Budget Committee, he said he was also proud of the 1993 budget, which he said led to the first surpluses in three decades and the largest economic expansion in history.

"But these historic accomplishments also remind us that progress can be reversed. Elections do matter," he said.

Sabo said he is most concerned now about the "fiscal mess" the country is in because of what he called the "irresponsible and reckless budget policies" of the Bush administration. "We are bankrupting the country and leaving mountains of debt for our children and grandchildren," Sabo said.

He said a fundamental problem in politics today "are people who over-promise and overstate. I've tried to do the opposite."

Sabo, who praised his Democratic colleagues from Minnesota as well as GOP Rep. Jim Ramstad, lamented a growing political polarization. "I don't recall ever making a public statement critical of my colleague whether it's a Democrat or a Republican," he said.

Jim Adams was in the state House and door-knocked with Sabo in the early days. "I retired after 20 years. It was a big relief for me. It was a big relief for him," said Adams.

Sabo will serve out his term, which ends in January. Sylvia Sabo said the couple will sell their home in Washington and live permanently in their condo in Minnesota.

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Candidate list forming

State Rep. Keith Ellison, DFL-Minneapolis, Jack Nelson-Pallmeyer, a college professor, and DFL Minneapolis City Council Member Gary Schiff already are in the race to succeed Sabo.

Green Party member Jay Pond also is in, as are Republicans Tim Anderson and James Turnham.

Former DFL Hennepin County Commissioner Mark Andrew and former state Sen. Ember Reichgott Jung, DFL-New Hope, also said they are interested. State Sen. Satveer Chaudhary, DFL-Fridley, and state Rep. Connie Bernardy, DFL-Fridley, said they are thinking about a run. Sabo's longtime chief of staff, Michael Erlandson, and Julie Sabo said they wouldn't talk about their plans Saturday.

Hennepin County Board Members Gail Dorfman and Mike Opat also are considering a run.

State Sens. Scott Dibble and Linda Berglin, both DFL-Minneapolis, said they would not run.

A New Spring In The Market's Step? (WP)

The Washington Post, March 19, 2006

Spring came early to Wall Street last week, as both the stock and bond markets rallied, fears of inflation ebbed and the economy headed toward the finish of one of the strongest quarters in more than three years.

The blue-chip Dow Jones industrial average and the S&P 500 indexes both reached their highest levels since May 2001. The Dow has now been above the 11,000 mark for most of the last month, suggesting to some analysts that a new "floor" has been reached in a bull market that still has a way to run. And the broader S&P 500 index broke through 1300 early in the week. Only the tech-heavy Nasdaq lagged behind, reflecting a growing consensus that tech stocks have become too frothy and raced too far ahead of the business fundamentals.

Stocks were buoyed during the week by stable oil prices and boffo profit reports from three of Wall Street's biggest investment houses. Shares in Goldman Sachs, the second largest security firm, rose more than 6 percent for the week after reporting that its quarterly earnings jumped 64 percent. Lehman Brothers and Bear Stearns also posted strong increases. Other reports suggested continued strength in consumer confidence and industrial production.

The major factor in the week's market activity was a changing consensus about inflation, and how the Federal Reserve would respond to it. As late as last week, bond market futures reflected an expectation that the Fed would raise short-term rates three more times this spring, to 5.25 percent, to help cool down an economy that looked to be growing at an unsustainable annual rate of 5 percent.

But a government report showed a modest -- and unexpectedly low -- 0.1 percent increase in consumer prices in February, even after factoring in energy and food prices. At the same time, some Fed officials were heard to express confidence that the economy would cool down on its own later this year, as some of the steam is let out of the housing bubble. All of this led expectations to shift in favor of a two-move, 5 percent target on the Fed's benchmark short-term interest rate. Bond prices rose in response, and the yield on the closely watched 10-year Treasury bond drifted down to 4.67 percent, a decline of 8 basis points for the week.

When they weren't tuning in to the NCAA basketball tournament, Wall Street traders and analysts could be heard talking about "soft landings" or a "Goldilocks economy" -- neither too hot nor too cold. Playing out in the background has been a steady flow of corporate mergers and takeovers at premium prices that give confidence to momentum investors. Furthermore, the ease with which many of these highly leveraged deals are financed suggests to the bond market that there is still so much money sloshing around the global financial system that any sudden backup in interest rates is highly unlikely.

Stocks Rally To Best Week Yet Of '06 (NYT)

By Jeff Sommer

The New York Times, March 19, 2006

It was the best week for stocks since the beginning of the year, as several economic reports suggested that inflation was under control while economic growth remained strong. The Dow Jones industrial average and the Standard & Poor's 500-stock index both ended the week at fresh five-year highs.

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On Thursday, the Labor Department reported that the Consumer Price Index rose only 0.1 percent in February after a 0.7 percent increase the previous month.

Wall Street firms themselves helped lead the market higher. Goldman Sachs, Lehman Brothers Holdings and Bear Stearns all reported record earnings. Shares of Goldman Sachs rose more than 6 percent for the week.

Shares of North Fork Bancorp, which agreed to be bought by the Capital One Financial Corporation for $14.6 billion, rose nearly 15 percent for the week.

For the week, the Dow industrials rose 203.31 points, or 1.8 percent, to close at 11,279.65. The S.& P. 500 climbed 25.67 points, or 2 percent, to close at 1,307.25. The Nasdaq composite index gained 44.44 points, or 2 percent, to close at 2,306.48.

The yield on the benchmark 10-year Treasury note slipped to 4.67 percent from 4.72 percent the previous week. JEFF SOMMER

Stocks Blow Past previous highs (WP)

The Washington Post, March 19, 2006

With the economy tootling along and fear of inflation fading, the stock market reached new highs last week.

The Dow Jones industrial average advanced 203 points to 11,279.65. The Standard & Poor's 500-stock index gained 26 points, to 1307.25. The Nasdaq Stock Market composite index climbed 44 points, to 2306.48.

The gains were the biggest since the first week of the year for the Dow and the S&P, which last week cruised past their previous peaks and now are trading at their highest levels since the summer of 2001.

Tech stocks still lag, but the Nasdaq is just 25 points shy of the high it reached earlier this year. If it can return to that level, it too will be trading at a four-year high.

The market benefited this week from a new Wall Street consensus on interest rates. The Federal Reserve will boost rates only another half of a percentage point, most economists now are saying. That light at the end of the tunnel is what traders want to see -- even if it might be a mirage.

MARKET BEAT (LAT)

By Tom Petruno

The Los Angeles Times, March 19, 2006

Investors Aren't Scaring Easily

The Dow is up 5.2% this year, its best start since 1999. A steady economy is trumping other issues.

Market Beat

March 19, 2006

Something may come along to scare the U.S. stock market down from its current heights. But it may have to be a problem people haven't seen before.

The usual suspects seem to be losing their ability to frighten investors. That's often a good sign for a bull market's staying power.

The blue-chip Dow Jones industrial average is up 5.2% this quarter, its best start to a year since 1999.

Much of the rest of the U.S. market is doing as well or better, which should translate into some happy returns on investors' first-quarter financial statements.

The advance in share prices lifted the Dow last week to its highest level since 2001 and some broader indexes, such as the small-stock Russell 2,000 and the New York Stock Exchange composite, to record highs.

It's true that the U.S. market is a laggard compared with the gains racked up this year in many foreign markets. That was the case last year as well.

Still, this probably is a better beginning to 2006 than many investors had expected. If this pace continues, the Dow will be up more than 20% for the year.

You won't find many people on Wall Street who believe that kind of gain is achievable, however. A Bloomberg News survey last week of seven big brokerages found the average forecast was for a Dow of 11,785 at year-end, which would be a 10% full-year gain. That would mean a 4.5% rise from Friday's closing level of 11,279.65.

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What would it take to make this a 20% kind of year? The temptation is to say, "Everything has to go right." But then, the Dow has gone a quarter of that distance with plenty going wrong this year.

Oil prices are higher than they were on Jan. 1, and so are long-term bond yields. The trade deficit is up. Congress is rattling the protectionist saber. The housing market is slowing.

More risks loom. The dollar is weakening again, Iraq might yet plunge into civil war, and bird flu could arrive in the U.S. any day.

Yet none of this has been enough to undermine the equity market this quarter.

Maybe investors simply have grown tired of worrying about the ups and downs of oil and bond yields. The shock value is waning.

Or maybe the potential negatives are being trumped by one overriding positive: The U.S. economy is in good shape. The Federal Reserve said as much last week in its latest summary of regional economic conditions, the so-called beige book report.

The Fed said most of its 12 district banks characterized the pace of economic expansion as "moderate or steady" in January and February. Importantly, it said that "employment continued to increase in most locations and in many sectors of the economy."

That jibes with the government's report on March 10 that the economy created a net 243,000 jobs in February, the second-best monthly gain in the last 12 months.

Decent job growth has been the missing element of this expansion since 2001. If that tide is turning, it could underpin the next phase of economic growth. More jobs mean more households, more household income, and, eventually, more spending.

Wall Street also is betting on continued good times for the industrial sector of the economy, which is turning out the commodities and heavy machinery that are in demand in many emerging-market countries.

This year's rally in the Standard & Poor's 500 index, which is up 4.7% since Dec. 31, has been led by stocks of companies such as grain processor Archer-Daniels-Midland Inc. (up 43% year to date), machinery titan Caterpillar Inc. (up 32%, making it the hottest stock in the Dow index) and railroad Union Pacific Corp. (up 13%).

Union Pacific last week raised its earnings forecast for the current quarter by more than 20%, in part citing growth in commodity hauling.

They may lack the glamour of the technology leaders of the late 1990s, but grimy industrial stocks are getting the job done in people's portfolios in this bull market. Since the end of 2002, Caterpillar's stock is up 233% and Union Pacific is up 52%.

Semiconductor giant Intel Corp., by contrast, is up 25%.

John Kosar, head of Asbury Research in suburban Chicago and a longtime analyst of stock and bond market trends, doesn't take much comfort in the leadership of industrial shares.

Without a strong rally by tech issues the market's advance this year won't be sustained, he contends.

Historically, "If tech doesn't lead, the market doesn't go up very much," Kosar said. "When stocks really are doing well, people want to ride the fastest horses," and that's often tech shares, he said.

The tech-heavy Nasdaq composite index, which ended at 2,306.48 on Friday, remains below its five-year high of 2,331.36 reached Jan. 11.

Kosar says the broad market is likely to trip soon, although he isn't sure what the catalyst might be to take it down.

Let's say he's right. A market correction may well be overdue, given stocks' gains since October. (Although bearish analysts were arguing the same thing at the start of the year.)

But one highly anticipated event could make any sell-off short-lived: The Federal Reserve may be nearing the end of its credit-tightening campaign.

Many on Wall Street expect Fed policymakers to announce at either their May or June meetings that they are pausing after lifting their key short-term rate from 1% in mid-2004 to the current 4.5%. (A rate increase to 4.75% at the March 28 meeting seems all but certain.)

How would investors likely react to the prospect of even a temporary halt to the Fed's rate increases at, say, the 5% level?

Some surely would rush to buy long-term Treasury bonds to lock in yields.

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But if the Fed stopped, and if confidence remained high that the economy wasn't at risk of falling into recession, that almost certainly would be an invitation for investors to take on more risk in search of higher returns. The stock market would be a logical destination for those investors.

In effect, the Fed would be removing a restraint that has held the U.S. market back since the beginning of 2004, when it became obvious that rock-bottom interest rates were going away.

"When people believe with confidence that the Fed is done, equities will probably be the primary beneficiary," said Anthony Karydakis, chief U.S. economist at JPMorgan Asset Management in New York.

Consider what happened in Britain in 2004 and 2005. The Bank of England raised its benchmark rate from 3.5% in October 2003 to 4.75% by August 2004. It then went on hold.

The FTSE-100 index of British blue-chip stocks rose 9% from the date of the bank's August 2004 meeting to the end of that year. It then jumped 17% in 2005.

With so many short-term traders in markets worldwide, it isn't hard to imagine that U.S. stocks would attract a mountain of money once it was clear that the Fed was pausing, if the economic outlook remained upbeat.

How long that money would stay, and how high it might be willing to bid share prices, are anyone's guess.

But if the Fed in fact is nearly done, the stock market's performance this quarter could just be an opening act to a surprisingly good year.

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The March Of The Bears May Only Be Starting (NYT)

By Conrad De Aenlle

The New York Times, March 19, 2006

TRADERS may not have much data to worry about this week, thanks to a calendar that is light on economic reports and earnings. So maybe this is a good time to focus on how they feel, instead.

Some analysts do precisely that — study the mood on Wall Street — and their conclusion is that investors do not feel so hot. Popular gauges of sentiment toward stocks show extreme bearishness, at least by the standards of the last few years, even with the market hitting new highs.

"The equity market is climbing a wall of worry right now," David Rosenberg, an economist at Merrill Lynch, said in a note to clients. He cited a recent edition of the widely followed survey of investment newsletter writers by Investors Intelligence, which recorded the highest level of bearishness since April 2003 and the least bullishness since August 2004.

Mr. Rosenberg sees reason to cheer such comparative despondency. After those prior two milestones, he said, "the S.& P. 500 managed to take off in the ensuing two to three months." His advice is to take the survey readings "as signs that there is a lot of bad news already being discounted" in stock prices.

But Louise Yamada, head of Louise Yamada Technical Research Advisors, warned investors not to get their hopes up just yet. Bad news can be infectious, she said.

"Once the market letter-writers begin to turn bearish, there is a slow progression," she said. "Those early writers advise their clients, who lighten positions, the effect of which on stocks leads more letter writers to turn more cautious."

As the next wave of advisers turns gloomy, their followers begin to sell, and on and on. "So if the bearish writers continue to move up in numbers," Ms. Yamada said, "there can be a cascade effect on equities."

Eventually, there are so many bears that few have retained their holdings, and the market goes back up. But bearishness has been moderate during the last couple of years, she said, "so if this initial increase continues, the progression would just be beginning."

And Mr. Rosenberg acknowledged that there were reasons to feel pessimistic these days, including the inability of oil to stay below $60 a barrel; avian flu; trade skirmishes with China; and the potential for falling home prices.

"The bottom line is that there are legitimate things to be concerned about," he said.

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DATA WATCH The report on February producer prices due Tuesday is forecast in a Bloomberg News poll of economists to show a 0.3 percent decrease; excluding food and energy prices, a 0.1 percent increase is predicted.

Orders for durable goods, often a volatile statistic, are expected to record a turnaround, rising 1.4 percent in February after a 9.9 percent decline in January.

Rice Seeks To Balance China's Power (NYT)

By Steven R. Weisman

The New York Times, March 18, 2006

PAGO PAGO, American Samoa, March 18 — Secretary of State Condoleezza Rice held talks on Saturday with Japan and Australia to deepen a three-way regional alliance aimed in part at balancing the spreading presence of China.

At the same time, American officials said the United States was also looking at the meeting of top envoys of the three countries in Sydney, Australia, as a means to draw Japan into improving relations with neighboring countries still suspicious of its intentions 60 years after World War II.

Heading toward the end of what aides said would be one of the longest trips by a secretary of state, Ms. Rice joined with the foreign ministers Alexander Downer of Australia and Taro Aso of Japan in welcoming China's "constructive engagement" in East Asia. Australian and American officials acknowledge, however, that the phrase understates the Chinese sphere of influence.

"The tenor of the discussion was how to make China a positive force in the region," said Sean McCormack, the State Department spokesman, briefing reporters on the secretary's plane to American Samoa for refueling. He said the discussion was an effort to add to the web of American alliances in the area, to enhance stability and not threaten China.

Nevertheless, in Indonesia earlier in the week and then in Australia, where Ms. Rice spent nearly three days, she was repeatedly asked by the local news media about American intentions toward China, which has signed an array of economic deals with countries on its rim.

At a news conference in Sydney on Thursday, Ms. Rice reinforced those concerns, criticizing China's military buildup, economic policies and human rights record. Asked if China would see Ms. Rice's trip as a cause for concern, another senior official, speaking anonymously under briefing ground rules, said, "I think we certainly hope so."

Ms. Rice's visit to Australia, from Wednesday night to Saturday afternoon, was long compared with other stops. But American officials said Australia, an ally that has sent forces to Iraq and Afghanistan, had been feeling neglected, and Australian leaders appealed for Ms. Rice to do some public diplomacy to prop up the sagging American image.

U.S. Confers With Allies On China Energy Efforts (WT)

By Nicholas Kralev

The Washington Times, March 19, 2006

SYDNEY, Australia -- The United States, Japan and Australia yesterday discussed China's "aggressive" buying of energy assets in Africa and Latin America, the first time China's "energy diplomacy" has been examined at an official international forum.

Secretary of State Condoleezza Rice and the foreign ministers of Japan and Australia, Taro Aso and Alexander Downer, were unable to agree on steps to address the issue.

"It was a constructive conversation over China's role in the region and its future role in the world, and how to make China a positive force within the international system," State Department spokesman Sean McCormack told reporters traveling with Miss Rice.

He said the meeting had not been a "finger-wagging" anti-China session, but he acknowledged that Beijing's dealings with problematic states -- whose actions are often referred to the U.N. Security Council, where China has veto power -- were part of the discussions.

The trio did not agree on a solution to the problem, which has been most evident in Beijing's reluctance to support U.N. action against Sudan over atrocities in its Darfur region, Mr. McCormack said.

Yesterday's session had worried China, but U.S. and Australian officials insisted there was no conspiracy against the world's most-populous nation.

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"We welcomed China's constructive engagement in the region and concurred on the value of enhanced cooperation with other parties," such as the Association of Southeast Asian Nations and South Korea, the ministers said in a joint statement.

"Supporting the emergence and consolidation of democracies and strengthening cooperative frameworks in the Asia-Pacific region was a particular focus of our attention," they said.

Mr. Downer said China should not feel that the three allies are "ganging up" on it.

Earlier in the week, Miss Rice sought to assure Beijing that Washington's efforts to solidify its alliances with Japan and Australia, and to build up India and Indonesia as formidable Asian powers are not aimed at encircling China with pro-U.S. states.

At the same time, she voiced concern over China's 14 percent increase in its defense budget this year to about $35 billion.

In a separate meeting with Mr. Aso yesterday, Miss Rice asked him "to reconsider the total ban on beef imports" from the United States that Japan has imposed, Mr. McCormack said.

Japan's Kyodo news agency quoted Japanese officials in Sydney as saying that Miss Rice told Mr. Aso that reinstating the ban on U.S. beef was an excessive reaction after a U.S. meat-packing plant mistakenly shipped banned spinal materials in a batch of meat to Japan in January.

Just a month earlier, Tokyo had lifted a previous two-year ban on U.S. beef imports imposed because of mad cow disease fears.

A third case of mad cow disease in the United States was discovered last week, while Japan confirmed on Friday it had found its 24th case and the first in a beef cow.

Miss Rice and Mr. Aso also discussed the repositioning of U.S. forces in Japan.

Rice Finishing 10-Day, 31,263-Mile Trip (AP)

By Anne Gearan

AP, March 19, 2006

Condoleezza Rice is flying around the world — and then some. Whether she breaks a record by a secretary of state will have to wait for a thoughtful assessment free of jet lag.

Rice finishes a 10-day, 31,263-mile odyssey on Sunday that took her to three continents. She crossed four oceans and the international dateline twice. A trip around the world at the equator is only about 25,000 miles.

Her diplomatic tour of Chile, Indonesia and Australia probably breaks Madeleine Albright's 1997 record for the most miles flown by a secretary of state on a single trip, although State Department spokesman Sean McCormack could not say for sure.

The Rice trip included a punishing, 23-hour slog that may set its own State Department record for most continuous miles. She flew from Santiago, Chile, to Windhoek, Namibia to refuel her plane, to Mauritius to refuel again, and then to Jakarta, Indonesia.

That's a strange hopscotch across the Southern Hemisphere. The Air Force, which operates Rice's Air Force Two plane, insists it's faster than a more direct route because of favorable winds.

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There were some odd moments along the 60-hour journey around the world.

Bolivian President Evo Morales gave Rice a musical instrument shellacked with coca leaves. The gift stayed behind in Santiago, Chile, where Rice and Morales were attending the inauguration of Chilean President Michelle Bachelet. Coca growing is legal in Bolivia, even if the ultimate use of much of the crop is not.

"There was some question about the legal regulations" imposed by the U.S. Customs Department, McCormack said. "She was very pleased to receive it," he offered, well, diplomatically.

In Windhoek, the tarmac was carpeted with beetles drawn by the lights required for Rice's middle-of-the-night arrival. Really, really big beetles. She did not get off the plane and thus missed the local fauna.

The Windhoek airport is reported to be the site of a secret U.S.-run detention center for terrorism suspects. Reporters who ventured to the darkened edge of the tarmac, in sight of a string of low, nondescript buildings, met a muscular guard with a gun who materialized from the darkness.

A huge and eerily beautiful moon hung over the scene, beetles and all.

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In Mauritius, some in Rice's party boarded a bus for a quick, delightful trip to a beach while the plane was refueled and the Air Force switched crews.

In Indonesia, Rice toured an Islamic elementary school that receives U.S. funding. Announcing an $8.5 million grant to bring "Sesame Street" to Indonesia, Rice posed with an actor dressed head to toe in a red, furry Elmo suit.

In Sydney, Australia, Rice got a little rattled by anti-war protesters who interrupted her during a speech. "Sir, do you have something you'd like to say?" Rice asked a young man who called her a war criminal.

"Iraqi blood is on your hands and you can't wash that blood away," he shouted over and over until guards led him away.

Rice had a comeback, noting that democracy is alive and well both in Sydney and in Baghdad, but her voice grew thin.

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For a woman who habitually rises at 4:30 a.m. to exercise and bounds into her office two hours later, Rice's trip had a relaxed feel.

Rice actually played the tourist for the first time in her 14-month tenure as the top U.S. diplomat.

She took in a boxing match and several swimming events at the Commonwealth Games in Melbourne, Australia, near the end of the trip. She hung medals around the necks of three Australian swimmers and chatted with swim star Ian Thorpe.

She looked like she was having fun.

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What do you do for 60 hours on an airplane? Work, eat, read, sleep, eat some more. And listen to your iPod.

Most of Rice's staff and traveling party were equipped with the popular digital music devices, with tastes ranging from Vivaldi to Tupac.

Rice senior adviser Jim Wilkinson offered a tour of his iPod: Def Leppard, Kid Rock, Kanye West. Speechwriter Chris Brose listens to Spoon, Rufus Wainwright and Miles Davis.

Reading material for reporters and aides ranged from "Assassin's Gate," George Packer's account of the early phase of Iraq reconstruction, to Truman Capote's "In Cold Blood." Rice was reading Doris Kearns Goodwin's new biography of Abraham Lincoln.

"When you fly 60 hours, at some point everyone goes mad," Wilkinson said. "You just pray that it happens at different times along the way."

World Scrambles To Feed China's Appetite For Metal (LAT)

By Don Lee, Times Staff Writer

The Los Angeles Times, March 19, 2006

YONGKANG, China — About once a month, Ying Guangwu tucks some cash inside his black shirt, slings a knapsack over his back, and hits the road.

The square-jawed 33-year-old doesn't always know where he's headed or when he'll return. But he knows exactly what he's looking for: tons of scrap metal.

A pen-shaped magnet in his pocket helps him determine the quality of some metals. In December, Ying spent two weeks in Guangdong province, a 20-hour bus ride away, rummaging through factory warehouses and scrap yards. He bought 10 tons of tin ingots, lead cables and imported scrap, shipping them by truck to his wife, Lin Li. She sorted the stuff inside their two-story home before reselling it to metal traders and recyclers in town.

Ying and Lin, high school graduates, earned about $25,000 last year — more than what many Chinese doctors and lawyers make.

"I didn't want to do this when I was young. It seemed stupid to me," says the second-generation scrap collector, whose sunburned face bears the mark of 10 years on China's dusty streets. But his father took the right path, Ying says. "This is turning trash into treasure."

China's voracious appetite for metals is convulsing the world. It has led to economic booms in some nations and crime waves in others by so-called urban miners who steal metals from houses and public buildings. China's runaway economy needs the metals to build railroads, office towers, cars and appliances.

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The Middle Kingdom is now the world's biggest consumer of copper, lead, zinc, iron ore, steel and aluminum.

China's hunger has boosted mineral-rich nations, from copper-laden Chile to Australia, which has vast iron deposits. Prices of new and used lead, copper, nickel and other metals have tripled or more in the last few years, triggering a worldwide scramble for the commodities.

Chinese state-owned mining companies are prowling the planet for fresh supplies, while armies of people such as Ying and Lin spend their days hunting for castaway metals from typewriter letterheads to 30-foot-long aluminum missile casings.

Nowhere in China is the craving for metals more evident than Yongkang. This landlocked city in southeastern China's Zhejiang province calls itself the hardware capital. With a population of about 530,000, Yongkang boasts about 10,000 hardware businesses, nearly all of them private family enterprises.

Yongkang is legendary for itinerant tinkerers who mended pots and pans for a living. Today, countless homes, storefronts, junkyards and factories carry on that tradition, buying, selling and recycling more than 600,000 tons of scrap metal every year. The city's streets teem with tractors, trucks and bicycles hauling metal rods, coils and sheets.

Many head for Yongkang's scrap-metal market, an outdoor bazaar slightly smaller than the Los Angeles Convention Center. More than 400 garage-sized storefronts are filled with scrap collected around the world: crushed beer cans from Japan, fuel pumps and used car parts from the West, air-conditioning condensers from northeastern China.

On a recent afternoon, Ying Sufang sat stooped outside Store No. 287, meticulously separating printers' lead pieces no bigger than grains of rice.

The lead was shipped to her by her husband, who was foraging for scrap about 1,000 miles away — not far from the Vietnam border. Last year, Ying and her husband earned more than $7,000, their best take in 10 years.

"That's not bad," the 44-year-old said.

But it has come at a price. Ying, who is unrelated to Ying Guangwu, grumbles about the grimy, sometimes punishing work.

She has never become accustomed to her husband being away for long stretches. He has been gone for the last month, leaving her and their middle-school daughter at home.

"I chose this business because 60% to 70% of people in our village are doing this," she said. "This is how we make money.... I don't know what else to do."

Across the Pacific, George Adams is also cashing in on one of the greatest commodity booms in modern times. He is the president of Adams Steel, a scrap metal dealer in Anaheim that shreds used cars, washing machines and dryers down to the size of a wallet. The crushed metal is loaded onto trucks and containers that are shipped to traders around the world. Much of it winds up in China, in the hands of millions of scrap traders like those in Yongkang.

Adams' annual sales now exceed $100 million. Last year he bought scrap yards in Southern California, installed more shredding equipment and added 70 employees to boost his workforce to 500.

He has a lot of competition. Thieves have ripped apart ballpark fences in Des Moines and stripped copper from cathedral domes in Cleveland. In Buenos Aires, people have made away with bronze plaques on boulevards and copper wires from utility companies. And in England, India and Malaysia, tens of thousands of manhole covers have vanished.

"They're taking copper out of brand-new houses in Southern California," says Carl Clark, Adams Steel's plant manager. Such stolen copper pipes and wires don't need to be recycled; they are bundled together and sold to brokers who send them all over the world, where they fetch triple the prices of a few years ago.

"An actual copper penny today is worth more as scrap than its face value," Clark says.

The crime spree has resulted in deaths as people have fallen down manholes, and has caused such concern that countries like Argentina placed restrictions on the export of scrap metals.

The price of iron ore, a major ingredient in steel, jumped 71% in the last year alone, sharply cutting steel producers' margins. But with China accounting for one-fourth of the world's steel production last year — and half of all iron ore imports — Beijing is demanding that iron ore exporters put a lid on prices.

"The Chinese are flexing their market power," says Ruth Stroppiana, an economist at Moody's economy.com in Sydney, Australia. "The China factor," she adds, "has been absolutely huge" for Australia, Brazil, Chile and other resource-rich nations.

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Chinese towns such as Yongkang also have benefited, although the metal boom has taken a heavy toll on China's environment and workers. Pollution-spewing metal factories have tainted rivers and land.

In Yongkang, officials have shut down dozens of the 1,000-plus smelters in the city, say plant managers. Authorities also have toughened rules governing imported scrap metals — prohibiting car motors containing oil, for example, says Du Huanzheng, a metals expert at Zhejiang Institute of Industry and Commerce.

Still, China's imports of scrap metal surged nearly 30% last year, Du says, and the trend is not likely to abate soon, least of all in Yongkang.

Ying Zhiang's family has been in the scrap metal business for several generations. He is no relation to Ying Guangwu or to Ying Sufang. About 20 years ago, Ying collected scrap as he traveled the country fixing scales for merchants. "Even though products can get old and useless, the metal in them still has value," he says.

Now 52, Ying runs Yongya Copper Industrial Co., one of China's leading copper producers and recyclers. His Yongkang-based company ships 100 tons of the metal a day. He buys most of his scrap copper from dealers in town and the nearby port city of Taizhou, which is also known as Linhai.

In Yongya's warehouse, workers in red caps moved bales of scrap wire, and others in street clothes picked up small bits of loose copper on the ground. Ying says he is considering collecting scrap himself again, because prices have soared beyond belief. A decade ago, he was buying a metric ton of copper in China for about $625. Now it costs about 10 times that amount.

"The numbers are out of this world," he says.

Deep In China, A Poor And Pious Muslim Enclave (NYT)

By Jim Yardley

The New York Times, March 19, 2006

DONGXIANG, China — No, the old man answered, standing in his bare home deep in a mountain ravine, he had never seen an airplane. The man, Tie Yongxiang, has never watched television, either. He listened to the pop quiz and seemed pleased when he could answer the last question in the affirmative.

China? Had he ever heard of it?

"I know what China is," said Mr. Tie, 68. "It is a country run by people who are supposed to be helping us."

"Us," as Mr. Tie puts it, are the Dongxiang people, an ethnic group that has lived for eight centuries in the dry, forbidding mountains that make this county in Gansu Province one of the most isolated places in China.

The most recent census found 513,000 Dongxiang people in China, and an overwhelming majority live in and around Dongxiang County. Of the 25 townships in the county, 19 do not have a single Chinese person. Most people do not speak Chinese, and some, like Mr. Tie, have only a vague notion of China, despite living in the middle of it.

The geographic isolation has helped preserve an Islamic culture, as well as an ancient language, but it has also separated the Dongxiang people from the prosperity lifting other parts of China. The Dongxiang, one of China's 56 officially recognized ethnic minorities, are now among China's poorest and most illiterate people.

On a recent Friday, two days after a heavy snowstorm had coated the mountains and left a sheet of ice on the narrow village roads, old men in white caps trudged through the snow to different mosques. Though some are too poor to send their children to school, they have pooled money to build village mosques as well as graceful towers with elegant curved roofs that serve as Muslim burial vaults.

"The Dongxiang people have always believed in Islam," said Ma Ali, 36, the imam at an old mosque in the village of Hanzilin. Indeed, even within a larger region known as the center of Islam in China, the people of Dongxiang have a reputation for being particularly steadfast in their faith.

"People were devout in the past," said Ma Kui, 75, as he leaned on a wooden cane and waited for afternoon prayers with other farmers dressed in lambskin coats. "They are still devout now."

But as everywhere in China, modernity is seeping up the winding roads to the county's larger settlements and beckoning many younger people. In the county seat, Suonanba, cellphones, blue jeans and Internet cafes arrived several years ago. So did Chinese building contractors, cigarettes, alcohol and food not prepared to Islamic code.

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"The Islamic atmosphere has become watered down over time, and the older people are aware of that," said Ma Chunling, who is 22. "So they want to protect their culture, and particularly Islam."

Growing up, Ms. Ma (the family name is quite common here) felt the otherness of being from Dongxiang. Her mother told stories of hiding in caves during her own childhood, fearful that "the Chinese" were coming.

"All of the people in the village were waiting for the Chinese to come and slaughter them," Ms. Ma said. "But the Chinese never came."

Ms. Ma, now a primary school teacher, spent three years at a vocational school in the eastern port city of Tianjin and wanted to stay and become a hairdresser. But she said her parents were conservative Muslims who believed it was inappropriate for an unmarried woman to travel far from home.

"A lot of young people really want to go out and see the rest of China," she said. "But often their families don't let them. It's still very, very isolated."

For years, many Chinese scholars assumed that the Dongxiang descended from the Mongol soldiers in Genghis Khan's army who eventually settled in Gansu during the 13th century when the Mongols ruled China under the Yuan Dynasty. But their exact origins were never fully known, an uncertainty that fed an inferiority complex.

"A man once asked me, 'Where do the Dongxiang come from?' " said Ma Zhiyong, a historian who grew up in the county but moved to the provincial capital, Lanzhou, as a teenager. "I was 18 or 19, and couldn't answer the question. I was ashamed."

Mr. Ma decided to look for an answer. Over several years, he scoured research libraries in Gansu, talked to other scholars and studied old maps. He found that some Dongxiang villages shared names with places in Central Asian countries like Uzbekistan.

He also found shared customs. He said peasants in Uzbekistan and Dongxiang both learn to cut a slaughtered chicken into 13 pieces. He found that Dongxiang people described themselves as sarta, a term that once referred to Muslim traders in Central Asia.

There was even a physical similarity, as many Dongxiang look more like people from Central Asia, as opposed to Han Chinese.

Mr. Ma decided that the story about Genghis Khan's army was only half right. Some of the Dongxiang ancestors were Mongol soldiers. But he concluded that many others were a diverse group of Middle Eastern and Central Asian craftsmen conscripted into the Mongol army during Khan's famed western campaign. They brought several languages and, in many cases, a strong belief in Islam.

Mr. Ma said that generations of intermarriage, including marriages with local Han Chinese and Tibetans, resulted in a new ethnic group and language.

The language, if a source of pride, is also blamed for Dongxiang's educational shortcomings. The language is oral, so children never learn to read or write in their native tongue.

In grammar school, the curriculum is in Chinese and many students drop out. Government statistics show that the average person in Dongxiang has only 1.1 years of schooling. Because of the cost, many families never even send children to school, particularly daughters.

"When I was in primary school, I didn't understand what I was learning," said Chen Yuanlong, a local official and scholar. "Often, I wanted to talk to the teacher, but I couldn't communicate my ideas in Chinese. It was very difficult."

The challenge of trying to teach Chinese to Dongxiang children has attracted international aid groups to Dongxiang. The British government is financing a large training program for teachers.

Another pilot program, paid for by the Ford Foundation, has created a bilingual curriculum using a Dongxiang-Chinese dictionary developed by Mr. Chen and other scholars. That program has already produced an improvement in test scores, but its supporters are searching for more financial backing.

Education is a basic problem but many people still struggle just to survive. Villages in the deepest ravines depend on potatoes and face starvation during drought years.

Some men who live closer to roads and commerce have become mules for drug runners. Others have left for manual labor in bigger cities, demolishing buildings or working as butchers or dishwashers.

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Mr. Tie, the man who took the pop quiz, is too old for such work. He lives halfway down a ravine with his wife and their 16-year-old mentally retarded son. "We beg," Mr. Tie said. "We have land but when our crops aren't enough, we go to nearby villages to beg."

Farther up the ravine, closer to the road that leads to the county seat, Ma Hezhe, 25, watched over her 3-month-old son. Her family is like a snapshot of Dongxiang: two of her husband's brothers had left the county to work as migrant laborers; her mother-in-law, huddled in the corner of the communal bed, had not left Dongxiang in her entire life. The tiny baby, the newest generation, had been given an Islamic name, Ibrahim.

Ms. Ma had not yet given him a Chinese name. "He doesn't need one until he starts school," she said. It was a local custom, she added, to wait until a child came "into contact" with Chinese society.

There would be plenty of time.

Thousands Of Taiwanese Rally To Assert Freedom From China (LAT)

By Mark Magnier And Tsai Ting-i, Special To The Times

The Los Angeles Times, March 19, 2006

TAIPEI, Taiwan — President Chen Shui-bian on Saturday called on Taiwan to resist China's bid to annex the island as tens of thousands of people took to the streets protesting Beijing's growing military threat.

"Our future will never be decided by the 1.3 billion people of China," Chen told supporters in front of the presidential office building. "Taiwan is an independent sovereign state, and its future should be determined by its 23 million people. Taiwanese people oppose annexation and invasion."

Protesters on the three-hour march held balloons and waved banners as a flatbed truck hauled a large globe surrounded by red-colored likenesses of missiles bearing the Chinese flag.

The rally, with the slogan, "Protect democracy, oppose annexation," was held to mark the passage of a controversial law in Beijing last year that threatens to use force if Taiwan declares independence.

In recent weeks Chen's government has raised the temperature across the Taiwan Strait by announcing plans to dissolve a largely symbolic unification council, a move nonetheless viewed critically by Beijing, which considers Taiwan part of its territory.

The Bush administration has signaled its displeasure with Chen's latest move, concerned over the prospect of inflamed tensions across the Taiwan Strait at a time when its military forces are stretched thin by conflicts in Iraq and Afghanistan and its diplomats distracted by Iran and North Korea's nuclear programs.

Beijing, which announced a 14.7% increase in its military budget this month, raising it to $35.3 billion, has more than 700 missiles aimed at Taiwan.

Chen's Democratic Progressive Party and some television stations estimated that Saturday's march drew 100,000 people, though some police put it closer to 50,000.

The festive atmosphere often seemed more like a street fair as Taipei mothers pushed baby carriages alongside party loyalists bused in from around the island.

"I am here to show my patriotism," said 53-year-old Wang, who gave only his surname. He was accompanied by his wife and three daughters. "We have our own country."

Analysts said Chen could become more provocative in coming months, as he tries to keep his party in power beyond the next presidential election in 2008.

"The China threat issue is a perfect button to push to avoid people looking at his domestic record," said Wenran Jiang, acting director of the China Institute at the University of Alberta in Canada. "Things could get complicated with this kind of game."

Chen's ruling DPP is reeling from a weak showing in local elections late last year and a recent scandal over alleged payoffs involving the use of foreign labor.

On key issues for voters, including the economy and education, Chen's legacy leaves little for his successor to run on. And the opposition Nationalist Party is gaining momentum under the leadership of Harvard-trained Taipei Mayor Ma Ying-jeou.

Chen hopes Beijing will lose its cool and make a threatening move that will push centrist voters to his party, analysts say.

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But this strategy could create ripples well beyond the island. Keeping Taiwan in the fold is a core issue on which Chinese leaders judge their legitimacy, especially at a time when they want stability in the run-up to the 2008 Olympics in Beijing.

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Times staff writer Magnier reported from Beijing and special correspondent Tsai from Taipei.

Taiwanese Hopeful Would Alter Course On China (WP)

By Edward Cody

The Washington Post, March 19, 2006

TAIPEI, Taiwan -- Ma Ying-jeou has always loved to run marathons, and he has approached politics the same way. From the day he was named Taiwan's youngest-ever cabinet member 18 years ago, he has been running for leadership. Now, 55 and head of the Nationalist Party, he has started a sprint toward the presidency that, in the view of many Taiwanese, could dramatically alter the island's tense standoff with China.

In an interview last week, Ma pledged that if he won the next presidential election, in 2008, as widely expected, he would shift Taiwan sharply away from the confrontational, pro-independence policies followed by President Chen Shui-bian. A Nationalist government under his leadership, he declared, would seek neither unification with nor independence from China, focusing instead on practical improvements in cross-strait relations while maintaining the status quo of Taiwanese self-rule.

"When I talk about these things, I say, 'Let's forget about unification and independence,' " he said. "Let's maintain the status quo and concentrate on the economy."

His statements were framed to sound like music in Washington, where the Bush administration has repeatedly expressed irritation with Chen's relentless efforts to move Taiwan's 23 million people along the road toward independence since his rise to power in 2000. Although the United States has no formal diplomatic relations with Taiwan, it has promised to help in the island's defense, raising the specter of U.S. involvement should the tensions over independence explode into military confrontation with China.

Ma's lower-the-temperature approach is also calculated to appeal to Beijing, where Chinese leaders constantly express dismay at Chen's independence moves. China, which regards Taiwan as a province that must return to Beijing's rule, has warned it will do whatever it takes to prevent the island from attaining formal independence, including using force. Seeking to portray Chen as the main source of that danger, the Chinese government has gone out of its way to take a friendly stance toward the Nationalist Party, particularly since a history-making visit to China last April by Ma's predecessor as party leader, Lien Chan.

Here in Taiwan, a strong majority has consistently told poll-takers that maintenance of the status quo is the wisest course, expressing unwillingness to embrace reunification but uneasiness about the possibility that a passionate quest for independence could lead to war. A dip in the island's economic growth has added another argument, raising fears that Chen's independence drive is diverting official attention from economic concerns. In casual conversations last week, residents of the capital, Taipei, repeatedly emphasized worries that Chen's priorities were out of balance.

There are signs that these sentiments have caused a shift in the electorate, boding well for Ma's chances in 2008. The Nationalist Party and its allies retained control of the legislature in December 2004 elections, despite wide expectations to the contrary. Elections for city and county councils last December again showed a drop in support for Chen's Democratic Progressive Party. A poll taken the same month showed the president's approval rating down to 21 percent.

Ma, the mayor of Taipei, has the movie-star looks and sleaze-free appeal to capitalize on the new political winds, Taiwanese analysts said, provided nothing blows him off course during the next two years. Women on both sides of the Taiwan Strait especially appreciate him. Hearing that a friend was about to interview Ma, Chen Hui-ting, a 24-year-old college student, said: "Wow, that's so cool to be meeting Ma. Say hi to him for me."

But he has left nothing to chance. To broaden his appeal among Taiwan's native population -- who provide Chen his base -- Ma has been studying Taiwanese dialect and renewing ties to the man he defeated to become Nationalist chairman, Wang Jin-pyng, the parliamentary speaker and a native Taiwanese.

The son of a Nationalist general who came from the mainland with the defeated Chiang Kai-shek in 1949, Ma has been a party activist since his student days. In addition to his pedigree, an elite education and smooth manners propelled him upward. A

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fluent English speaker, he interpreted for then-President Chiang Ching-kuo when Chiang announced in a 1986 interview with The Washington Post that Taiwan would lift martial law. By age 38, he was appointed to his first cabinet-level post. Ma defeated Chen, who was then Taipei mayor, to win his current job in 1998, the first of two terms.

Ma, educated at New York University and Harvard Law School, will get a chance to convey his views directly to Americans in a visit beginning Monday in New York and including stops in Boston and Washington as well as on the West Coast. The main purpose, he said, is to promote U.S. investment in Taiwan's high-tech industries. But his schedule also includes talks with U.S. officials designed to burnish the résumé of a possible future president.

Despite his promise to smooth relations with China, Ma is likely to face hostile questions in Washington about why his party's legislative majority has blocked an $18.2 billion arms sale proposed by the Bush administration five years ago and pushed without success by Chen. Ma, whose Nationalists have sought a smaller package, said Chen's government had taken "a dangerously wrong course" by focusing on confrontation with China.

Taiwan's president, he said, seems eager to please the "nationalist fundamentalists" at the core of his Democratic Progressive Party and to steer attention away from corruption charges leveled in recent months against some of his top aides. But more broadly, Ma added, Chen appears determined, in his two years remaining in office, to advance as far as possible toward his passionately held goal of Taiwanese independence.

"What the president is doing now is an incremental policy leading toward de jure independence," he said.

Chen's announcement on Feb. 27 that Taiwan's National Unification Council had "ceased to function" was the latest step and not the last, Ma warned. The next move will be revising the Taiwanese constitution in ways that move the island toward formal independence, according to Su Chi, a Nationalist member of the Legislative Yuan, or parliament.

Ma said the Bush administration was unwise to accept Chen's decision on the unification council with only a mild reaction. U.S. and Taiwanese officials had negotiated the language carefully, leading Chen to abandon his stated intention to "abolish" the council in favor of the "ceased to function" formulation. Largely on that basis, the administration accepted Chen's contention that the status quo was not changed by his decision.

But Ma, citing his training as a lawyer, said the Chinese word Chen used in fact means "terminate," which does imply a change in the status quo. In addition, he said, no matter what the language, Chen's decision to stand up and announce the end of an official symbol of willingness to get along with China amounted to provocation.

"The U.S. side looks a little gullible," he said.

Administration Blocks Ex-Hostages' Bid For Damages From Iran (WP)

By Glenn Kessler

The Washington Post, March 19, 2006

At an emotional meeting this month at the State Department, steps from the office of Secretary of State Condoleezza Rice, a group of former American hostages released by Iran a quarter of a century ago, accompanied by lawyers and some relatives, confronted two of Rice's most senior aides.

The families' grievance: Why has the Bush administration, which has labeled Iran one of the world's most dangerous regimes and has called the hostages American heroes, fought their efforts to win damages for their ordeal from the Islamic republic?

The answer is rooted in diplomatic obligations and a wariness about favoring one set of terrorism victims over others. U.S. officials express sympathy for the former hostages. But the administration has thwarted every effort in the courts or in Congress to win a monetary judgment against Iran, even as other victims of Iranian-linked terrorism have secured hundreds of millions of dollars in compensation.

Those attending the March 2 meeting said that Undersecretary of State R. Nicholas Burns and legal adviser John B. Bellinger III tried to keep the discussion civil but that anger spilled over. The wife of a former hostage exclaimed at one point: "You are bloodless!" The meeting broke up with Burns acknowledging the difficulty of the issues and saying he would be open to further discussions.

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But last week the State Department objected when Rep. Brad Sherman (D-Calif.) tried to address the issue in a House bill that would maintain sanctions against Iran for its links to terrorism, forcing the lawmaker to withdraw his proposal.

"We have 52 of our finest Americans who were held hostage," Sherman said. "They go to court, and you know who appears against them? The State Department."

The former hostages have long tried to sue Iran over being blindfolded, tortured and held in dank cells during 444 days in captivity. Earlier lawsuits were dismissed because other countries generally cannot be sued in federal court. But in 1996 Congress amended the foreign sovereign immunity law to allow suits against countries listed as state sponsors of terrorism. The former hostages sued under the new law, seeking $33 billion in compensatory and punitive damages, and won a default judgment against Iran in 2001.

But on the eve of a hearing to consider damages, the Bush administration intervened, saying the suit violated an agreement with Iran that had secured the hostages' release. The judge threw out the suit in 2002 after Congress twice tried to intervene by passing legislation favoring the hostages. The Supreme Court declined to hear an appeal in 2004. Now the former hostages are seeking relief from Congress.

"Every one of us has spoken the same line for 26 years: The Iranians cannot get away with what they did because it sends the wrong message," said Richard H. Morefield, a former hostage and 50-year State Department veteran who was the embassy's consul general when it was seized in 1979 and who still works at State, declassifying records for the archives.

Beyond the plight of these hostages, the case raises difficult issues.

Even if a victim of terrorism wins at trial, it is almost impossible to collect damages. Iran's assets in the United States, for instance, are worth only about $20 million, mainly diplomatic property, according to State Department officials. So Congress in 2000 passed legislation authorizing the payment of $380 million in U.S. Treasury funds to claimants in cases involving 14 victims who were held hostage or killed by Iranian-supported groups such as Hezbollah, according to the Congressional Research Service. Lawmakers ordered the State Department to try to get that money reimbursed by Iran someday.

Other victims of terrorism, however, have received nothing, leading some lawmakers to conclude that it is inequitable -- and costly to U.S. taxpayers -- to carve out exceptions on a piecemeal basis.

"The problem is you have had some greedy lawyers" who have blocked efforts at a comprehensive solution because it would limit a big payout, said Rep. Frank R. Wolf (R-Va.), who wrote to Rice last month to urge the administration to come up with a "fair, just and equitable system." He said: "You have to have something that cuts the lawyers out."

The administration proposed a plan in 2003 that would have given any victim of terrorism $262,000. But only one hearing was held in the Senate, and the idea has languished, largely because of complaints that the amount was too low.

The former hostages of Iran have benefited from two laws, passed in 1980 and 1986, that among other things gave them tax breaks, paid their educational expenses and provided a "token detention benefit" of $50 for each day in captivity. In bringing a lawsuit, they must overcome the terms of the diplomatic agreement that led to their release but has also put the State Department directly in their path.

The agreement, known as the Algiers Accords, codified the 1981 deal between the United States and Iran under which the hostages were released, billions of dollars in Iranian assets were unfrozen, and an arbitration tribunal was established in the Netherlands to settle claims between the two countries. In the first part of the document, the United States pledged that it "will be the policy of the United States not to intervene, directly or indirectly, politically or militarily, in Iran's internal affairs." Elsewhere, the United States pledged to "bar and preclude" any claims filed by the hostages against Iran.

For the hostages, the situation is rich in irony. The State Department, in legal arguments and on Capitol Hill, has maintained that allowing the hostages' case to go forward will violate the Algiers Accords. But Rice has announced a $75 million plan to bolster democracy in Iran and to foster opposition to the theocracy that controls the country. The hostages say Rice's program violates the prohibition on interfering in Iran's affairs; Iran has also filed a complaint with the United States through the Swiss Embassy, which handles U.S. interests in Tehran.

"This administration has not been shy about breaking international agreements," said Barry Rosen, who was press attache at the U.S. Embassy and who now heads the Afghanistan Education Project at Columbia University's Teachers College. "The administration appears to be in contradiction of itself. It seems to me the Algiers Accords should be dead and buried."

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Rosen, angry that others have "laid claim to millions and millions of dollars of compensation," added: "This may sound weird, but if I were made aware of that agreement, I would have stayed in Iran."

U.S. officials say that supporting democracy does not amount to interference under international law. And they say abrogating the Algiers Accords, though not a formal treaty, would be viewed overseas as a serious breach of international norms, harming U.S. interests. U.S. banks and companies have been able to settle claims with Iran because of the accords, while the United States has been forced to pay about $900 million to Iran for contract violations and property damage.

William J. Daugherty, a CIA employee who spent 425 days in solitary confinement during the crisis and is now a college professor, said the State Department is being "deceitful and dishonest." He added that "you can't argue that getting people to rise up against their government is not interfering in a country's affairs." He said that, after taxes, the check he received under the 1986 detention benefit was $17,000. "This came from the U.S. taxpayer, which none of us wanted to happen," he said. "We have always wanted Iran to pay for what it did."

Spokesman J. Adam Ereli said that the State Department supported the 1980 and 1986 measures giving direct benefits to the former hostages and that now the administration favors a "comprehensive program" for victims of international terrorism, including the former hostages.

"These brave people are members of the State Department family and are true heroes," Ereli added. "We are committed to having a full and open discussion about any issues they want to raise, and we will do our best to address them."

Iranian Dissident Released From Jail (WP)

By Karl Vick

The Washington Post, March 19, 2006

Defiant Journalist's Criticism of Ruling Clerics Remains Untempered

TEHRAN, March 18 -- Iran's most prominent dissident emerged from prison looking far older than his 46 years. His clothes hung on a frame reduced to 108 pounds by repeated hunger strikes. He smiled through a beard grown to the bushy nimbus of a Hindu holy man.

"All the time I was in prison was illegal," Akbar Ganji said of the six-year sentence he served for exposing the government's role in assassinating its critics. "From the very first day it was illegal."

Ganji's incarceration ended at 10 p.m. Friday, when Iranian security services dropped him unannounced at his family's apartment in northwest Tehran. The homecoming, which blossomed Saturday morning into a celebratory news conference as word of his release spread, was a rare moment of cheer for Iranian activists who have been steadily steered to the sidelines by the clerics who regulate Iran's politics from powerful, appointive offices.

Ganji, squeezed into a love seat between his wife and his attorney, faced a living room jammed with buoyant Iranian journalists who have seen more than 100 newspapers closed down since he was jailed for what he wrote in one of them. The bones of his shoulders poked through the fabric of a rayon T-shirt. His forehead was scabbed by sores that suggested poor nutrition.

The persistence with which Ganji defied Iran's ruling clerics made him an international symbol of resistance but also ensured he served his entire sentence. Once freed, he proved unable to heed advice to keep quiet until he could assess the current level of tolerance for dissent in Iran.

"Please don't do anything that will take him off to prison again," said his beaming wife, Masoumeh Shafiei, as visiting neighbors edged through the crush, offering trays of tea and a jumbo box of sticky sweets. Digital shutters burred like cicadas, and attorney Yusef Molaei joked that since his interrogators insisted Ganji had received money from foreigners, they might as well charge photojournalists a fee.

"I was told when I was in prison I was too stubborn to listen to anybody," Ganji said. He sounded almost sincere when he added, "Don't write anything, please."

Self-censorship has become a fact of life for Iran's surviving private press as the country's reform movement has flagged. In 1999, thousands of Iranians marched in the streets to express their outrage at the assassination of dissidents in their homes. Ganji went to prison in 2000 for writing about the killings, but public support for reforms continued to grow. The demonstrations,

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along with landslide elections of a reformist president and parliament, checked the power of conservatives who insisted that a hard line was essential to protect Iran's theocratic system after the death of its charismatic founder, Ayatollah Ruhollah Khomeini.

But by 2004, conservatives had regained the upper hand, relieving pressure for social freedoms by greatly relaxing enforcement of laws on personal behavior while steadily reducing the maneuvering room of political reformers and publications that supported them.

Against that unrelenting pressure, Ganji pushed back. From prison, he published a manifesto calling for Iran to discard clerical rule and become a secular republic. When allowed home for a few days' leave, he urged foreign reporters to print statements that made officials visibly blanch.

Other advocates of reform opted against direct confrontation, hoping to nurture progress inside a system that grew steadily more responsive under eight years of reformist administration. Emad Baghi, who like Ganji was jailed for writing about what were known as the "serial murders," served only half of the same sentence. During the extra three years Ganji remained inside as a beacon of defiance, Baghi began a newspaper and, after it was banned, a human rights organization.

"I believe both of the approaches are important for us," said Saeed Bostani, a reporter who worked for Baghi and was jailed for seven months for reporting Ganji's deteriorating medical condition.

"When I was in prison, I believed in Mr. Ganji's approach that refuses to compromise, just go all out," Bostani said. "But since I came out into society, I think Mr. Baghi's approach has merit, that we can put pressure on the state and make changes."

Neither avenue is free of risk. Two of Baghi's associates were jailed for a month by security officials suspicious of their attendance at a human rights workshop in Dubai last year.

"Every day I woke up and said, 'Open your heart, I'm coming home.' It's the Pink Floyd song," said Ali Afsahi, freed this week after 30 days alone in a cell with a light that was never turned off.

Afsahi said his interrogators accused him of accepting money from the Bush administration, which has proposed spending $75 million to promote democracy in Iran. He said he was disturbed to find the Dubai workshop run by Iranian exiles, who he described as out of touch with the subtleties of the country's society.

"Look, with the reformists out of power I got put in prison," Afsahi said, but he was freed after intervention by senior officials who shared his values. "Even though I'm working alone, because the ideas I promote are in touch with the realities of our society, people understand what we are doing."

Late Saturday, eight more prisoners were released, all members of a bus drivers union jailed after striking for more pay. Mohsen Kadivar, a leading reformist cleric, said at least 40 political prisoners remain behind bars.

Iranian Writer Released After Serving 6-Year Prison Term (NYT)

By Nazila Fathi

The New York Times, March 19, 2006

TEHRAN, March 18 — An Iranian writer was released Friday night after serving a six-year sentence on charges brought after he wrote a book that accused government officials of playing a role in the killing of intellectuals.

The case of the writer, Akbar Ganji, 46, drew international attention last summer, when he went on a long hunger strike to force authorities to release him. Mr. Ganji appeared weak and frail at his apartment in Tehran on Saturday, his beard heavy.

He did not make any formal comments to reporters. His lawyer, Youssef Mowlai, said he told Mr. Ganji that he first needed to recuperate from the continuing effects of the hunger strike.

"I have advised him not to give interviews and instead see a doctor and spend time with his family," Mr. Mowlai said. "Anything is possible in Iran and we do not want to cause any sensitivity."

The timing of the release came as a surprise. A judiciary official had said Thursday that Mr. Ganji would not be released until March 30, and a statement by the judiciary on Saturday said Mr. Ganji was on leave for Nowruz, the Iranian New Year.

But Mr. Ganji's wife, Massoumeh Shafiee, said her husband was driven home by prison officials at 10 p.m. on Friday with all his belongings.

"It seems that he has been officially released," she said. "I think they want to close his case."

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Mr. Ganji, who supported the 1979 Islamic revolution and served in the hard-line Revolutionary Guards, later shifted politically. His book linked the killing of 80 dissidents and intellectuals in the late 1990's to senior Iranian officials.

While in jail, he continued his political writings, called for the resignation of the supreme religious leader, Ayatollah Ali Khamenei, and urged voters to boycott the 2005 presidential election. A manifesto, in which he argues that Iran must separate state and religion, is popular among student activists.

Abdullah Momeni, a student leader, said he received more than 100 phone calls and messages about Mr. Ganji's release from elated students.

"Mr. Ganji is very popular among students because of his resistance," he said. "He served his sentence and never showed any sign that he will surrender to pressure and give up his beliefs."

"In addition," he said, "students find their ideas very close to what Mr. Ganji has written and said about a republican system."

Reformist allies and friends gathered at Mr. Ganji's home to welcome and salute him.

Mohsen Kadivar, a midranking cleric who also served 18 months in jail in 1999 and came to greet Mr. Ganji on Saturday, also saluted his perseverance, saying, "Mr. Ganji's resistance shows that jailing activists is not a good way to suppress political dissent."

Suppose We Just Let Iran Have The Bomb (NYT)

By David E. Sanger

The New York Times, March 19, 2006

WASHINGTON

PRESIDENT BUSH'S message to Iran these days sounds unambiguous: The United States will do what it takes to keep the mullahs from getting the bomb. Diplomacy is vastly preferred, President Bush and his aides insist. Yet it was no accident that the just-revised National Security Strategy declares: "This diplomatic effort must succeed if confrontation is to be avoided."

To nervous allies, those words echo the run-up to the Iraq invasion, which began three years ago today. But Iran is not Iraq. And some experts in the United States — mostly outside the administration — have been thinking the unthinkable, or at least the undiscussable: If all other options are worse, could the world learn to live with a nuclear Iran?

"The reality is that most of us think the Iranians are probably going to get a weapon, or the technology to make one, sooner or later," an administration official acknowledged a few weeks ago, refusing to talk on the record because such an admission amounts to a concession that dragging Iran in front of the United Nations Security Council may prove an exercise in futility. "The optimists around here just hope we can delay the day by 10 or 20 years, and that by that time we'll have a different relationship with a different Iranian government."

A roll of the dice, for sure. Yet is the risk greater than it was when other countries — from the Soviet Union and China to India and Pakistan — defied the United States to join the nuclear club?

And could deterrence, containment and cool calculation of national interest work to restrain Iran as it worked to restrain America and its competitors during the cold war? Or is that false comfort?

"We've lived with Iran as a terror threat for a generation," says Stephen Biddle, the senior fellow for defense policy at the Council on Foreign Relations, making the case that containment could work again. "Iran has a return address, and states with a return address can be retaliated against."

As for concerns that an Iranian nuclear capability would touch off a Middle East arms race, with Egypt and Saudi Arabia trying to join the club, the West would most likely head them off, said Barry R. Posen, a political science professor at the Massachusetts Institute of Technology, in a Feb. 27 article on The New York Times Op-Ed page. Israel, he said, might finally acknowledge publicly that it has nuclear weapons. But everyone already knows about this capability.

What of the fear that Iran might pass a weapon to Hezbollah or to Al Qaeda in Iraq? Those arguing for a containment strategy say Iran knows that the origins of any detonated bomb would be traced sooner or later, so the mullahs would not be foolish enough to trust proxies with such a weapon.

The Bush administration rejects all such arguments as near madness, especially since Mahmoud Ahmadinejad became Iran's president.

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"Accommodating a nuclear armed Iran is not in our interests," says R. Nicholas Burns, the under secretary of state for political affairs who will be at the Security Council today to argue for a clear warning to Iran and then a steady escalation of pressure to force it to give up any ability to enrich uranium. "Given the radical nature of Iran under Ahmadinejad and its stated wish to wipe Israel off the map of the world," Mr. Burns continued, "it is entirely unconvincing that we could or should live with a nuclear Iran."

The two views of the Iran threat boil down to this: if Iran is simply a new example of a 60-year-old problem, then classic containment should work in 2016 the way it worked in 1956. But traditional deterrence strategy will not work if Iran is one of the first nightmares of a second nuclear age — in which weapons are pieced together by agents working in the shadows and supplied by networks of private entrenpreneurs like Abdul Qadeer Khan, the Pakistani nuclear engineer who gave the Iranian nuclear program its start.

In this new era, the argument goes, the best way to head off an attack is to prevent loosely controlled (or devious) countries from acquiring the makings of nuclear bombs in the first place. If an attack is staged not from a missile silo but from a basement or a cargo container, it will take time to pinpoint who deserves the blame. By then, the human cost is already too high and retaliation is no longer certain.

The debate is likely to play out for much of the year, based on a series of guesses about Iran's true intentions, and its capabilities. The list of unknowables is long. They range from the technical to the political, from how long it will take Iran's scientists to get their centrifuges running to who will ultimately prevail in Iran's seemingly endless internal battle over its relationship to the Westernized world.

But getting this right requires projecting what happens to America, Israel and Europe, especially if Iran's power to send the price of oil skyrocketing is enhanced by the confidence that a nuclear arsenal can bring.

The Iranians know exactly what the bomb would make them: the dominant regional power in the Middle East. Iran would become, in a stroke, more powerful than the Saudis, an even greater influence than it is today over a Shiite-controlled Iraq and, arguably, as powerful as Israel. And the better Iran's missile technology becomes, the greater its influence and ability to blackmail.

Bush administration officials who have reviewed the classified assessments of Iran's next moves worry that it would not even have to build a complete bomb to gain leverage. It would just have to make a credible case that it could assemble a weapon on short notice. "For their political needs, that would be enough," said Gary Samore, who was a nonproliferation official in the Clinton administration.

That explains why the Americans have been so adamant about not allowing Iran to conduct even experimental uranium-enrichment technology on its soil, even if it has a right to do so as a signer of the Nuclear Nonproliferation Treaty. It may also explain why the Iranians are so insistent that they will never give up that right.

The Iranians also know that history suggests they have a good chance of reaching their goal. This is not the first time the Americans have declared that another nation cannot be allowed to unlock the secrets of the atom — and then learned to live with the risk when it did.

In the mid-1960's, President Lyndon Johnson contemplated pre-emptive strikes against sites where China had nuclear installations. "Many today forget that Stalin's Soviet Union and Mao Zedong's China were seen as more threatening in both capabilities and intentions than are today's mullahs in Tehran," Richard K. Betts, a professor of political science at Columbia University, wrote in the most recent issue of The National Interest.

In both cases, though, what seemed at the time like a life-threatening menace morphed into a manageable threat — partly because containment worked, and partly because Soviet and Chinese leaders made shrewd assessments of their real strategic interests.

Both, however, are somewhat flawed comparisons: Iran is no superpower. The cases of Pakistan, India and North Korea may be more instructive.

When Pakistan and India set off tests and countertests in 1998, Washington tried to punish both. That effort didn't extend past 9/11. Mr. Bush needed both countries too much. Today Pakistan is a "major non-NATO ally" with a nuclear force that many in Washington still fear could fall into the wrong hands in the event of a coup. Last month, President Bush gave India the ultimate

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blessing, agreeing to seek an exemption from Congress that would allow the United States to sell India fuel for its civilian nuclear plants.

Even more to the point is the case of North Korea. As in the case of Iran, Mr. Bush has said the United States cannot "tolerate" North Korea as a nuclear power. But Washington is already tolerating exactly that. John Negroponte, the director of national intelligence, told Congress recently that intelligence officials assume that North Korea is telling the truth when it boasts it has produced enough nuclear fuel for several weapons. But no one — least of all its closest neighbors, China and South Korea — dare push it to the brink. They have learned to live with the status quo.

The Iranians are betting that this confrontation — what Graham Allison, a nuclear expert at Harvard, calls a "slow motion Cuban missile crisis" — has a good chance of coming out the same way. If so, the problem may go beyond Iran.

"Remember, Iran is just one instance of the problem, and in Iran's case, containment might work," says Brent Scowcroft, who was the national security adviser to Mr. Bush's father. "But if that happens, I think we are on the way to a world of proliferation like we have not seen before."

Hamas Completes Lineup For Palestinian Ministries (NYT)

By Greg Myre

The New York Times, March 19, 2006

JERUSALEM, March 18 — The militant Islamic group Hamas said Saturday that it had completed its lineup for a new Palestinian cabinet and would present it Sunday to the Palestinian Authority president, Mahmoud Abbas, for his approval. An aide to Mr. Abbas said he was likely to give his approval.

"Our cabinet is ready," Ismail Haniya, the Hamas leader and prime minister-designate, told a news conference in Gaza City.

Mr. Haniya declined to provide names of the cabinet nominees, though he said Hamas members, independents and technocrats would be included. However, no other Palestinian political parties have announced their intention to participate despite Hamas's invitation to join.

The crucial question now is whether Mr. Abbas will support the Hamas-led cabinet. If he rejects it, his decision could lead to a political crisis, and Palestinian law is not clear on how it would be resolved.

Mr. Abbas has called on Hamas to accept previous agreements with Israel and the possibility of negotiations with the Jewish state. Hamas has always opposed these positions.

Still, a spokesman for Mr. Abbas, Nabil Abu Rudeineh, told Reuters he did not believe that Mr. Abbas would reject the list from Hamas, which won an outright majority in parliamentary elections in January.

Mr. Abbas, known as Abu Mazen, traveled from the West Bank to Gaza on Saturday and planned to meet Hamas leaders in Gaza City on Sunday.

Hamas has until March 28 to form a new cabinet, meaning that Mr. Abbas and Hamas could still negotiate in the coming days. "We are committed to the principle of cooperation with Abu Mazen and a dialogue with all the Palestinian factions," Mr. Haniya said.

Last month, Hamas chose Mr. Haniya, 42, to be the prime minister, and he has been working on choosing a cabinet. While the names have not been formally announced, Hamas appears set to put its own members in the most important posts.

Dr. Mahmoud Zahar, a surgeon, is expected to be named foreign minister. Dr. Zahar speaks English and often deals with the foreign media. Considered a hard-liner, he is often confrontational in his public comments, in contrast to Mr. Haniya, who comes across as less radical.

Said Siam, a Hamas lawmaker from Gaza, is considered the likely choice to lead the Interior Ministry, which controls the police and other security agencies. Mr. Abbas will also control some security forces.

Omar Abdel-Razeq, a Hamas member and an economics professor from the West Bank, is expected to be appointed finance minister. He was arrested by Israel a few months ago and released this past week.

In the Jan. 25 Palestinian election, Hamas won 74 of the 132 parliamentary seats, so it does not need any partners to form a government.

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Hamas has invited other Palestinian factions to join it in the interest of Palestinian unity. But it was still not clear on Saturday whether any other factions would be taking part. Mr. Abbas's Fatah movement, the dominant Palestinian faction for decades, has said it would not join.

Salah Bardawil, a recently elected Hamas lawmaker, said the Popular Front for the Liberation of Palestine, which won three parliamentary seats, was prepared to join. But Jamil Majdalawi, one of the Popular Front's legislators, said it had not made a final decision.

Israel seized five members of the Popular Front, including its leader, Ahmed Saadat, in a raid on Tuesday on a Palestinian jail in the West Bank town of Jericho. The Popular Front had claimed responsibility for the 2001 assassination of an Israeli cabinet minister, and Israel says the five orchestrated the shooting.

Under a deal reached in 2002, the Palestinians agreed to jail the five rather than hand them over to Israel. Israel said it took the men on Tuesday because it believed Hamas was preparing to release them. Israel labels Hamas a terrorist group and says it will not deal with a Palestinian Authority led by Hamas.

In another development on Saturday, an Israeli military official said the army was investigating the circumstances surrounding the shooting death of a 10-year-old Palestinian girl, Akber Zayed, who was killed Friday night during an Israeli incursion into the West Bank village of Yamoun. Palestinians in the village said she was shot when soldiers fired on the taxi in which she was riding.

Hamas Says It Has Formed A Cabinet (LAT)

By Laura King

The Los Angeles Times, March 19, 2006

JERUSALEM — Hamas announced Saturday that it had formed a Palestinian government but acknowledged that it had been unable to attract coalition partners whose presence might have made dealings with the Islamist group more palatable to the outside world.

The group refrained from formally announcing its Cabinet lineup pending its presentation to Palestinian Authority President Mahmoud Abbas, who was expected to travel to the Gaza Strip today for meetings with the Hamas leadership.

But Hamas officials, speaking on condition of anonymity, said key positions would go to Hamas loyalists such as firebrand Mahmoud Zahar, who has been designated foreign minister.

Other senior appointees include lawmaker Said Siyam, who is considered a relative moderate, as interior minister, and economics professor Omar Abdel Razeq, who was jailed at the time of January's parliamentary elections, as finance minister.

"We respect [other] parties' decision not to join the Cabinet," Ismail Haniyeh, the Palestinian prime minister-designate, said at a news conference in Gaza.

Israeli officials declined to comment on the prospective Cabinet lineup, saying they would wait until it was formalized. But one senior official scoffed at the notion that Israel would have any dealings with Zahar, a hard-liner whom it has repeatedly tried to assassinate.

In the wake of its upset victory in the Jan. 25 elections, Hamas wrestled with the question of whether to form a government weighted toward outsiders in order to leave open the possibility of maintaining at least indirect contacts with Israel.

The idea of a broad-based government went by the wayside, however, because more militant elements within the group insisted it must not back down from its stated goal of Israel's destruction.

That unyielding stance, plus unrelated antagonisms with other Palestinian factions, appeared to have driven off any potential coalition partners, although the radical Popular Front for the Liberation of Palestine was said to still be deliberating whether to accept some junior Cabinet posts.

Haniyeh, speaking to reporters in Gaza, sought to calm fears that Israel and the United States would now intensify efforts to isolate the Palestinian government.

"We have no doubt of success in the Cabinet's responsibilities for running Palestinian affairs," he said. "Those Palestinians who granted us their trust will never starve or be deprived."

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Most Western countries have threatened to cut off or severely curtail aid to a Hamas-dominated Palestinian government. Hamas, which Israel, the United States and the European Union consider a terrorist organization, carried out dozens of suicide attacks during the five-year Palestinian uprising, or intifada, but has largely adhered to a truce over the last year.

The makeup of the Cabinet appeared to dash hopes on the part of Abbas, who was elected a year before the vote that brought Hamas to power and has broad authority of his own, that Hamas might moderate its views sufficiently to avoid an aid and diplomatic boycott.

Abbas must approve the Cabinet lineup before it can be put before parliament. He is expected to try to delay that step until after Israel's parliamentary elections, scheduled for March 28.

*

Times special correspondent Fayed abu Shammaleh contributed to this report from Gaza City.

Left To Rot In Gaza (WP)

By Scott Wilson

The Washington Post, March 19, 2006

Strip's Economy Suffers as Trade Passage to Israel Remains Sealed

NETZARIM, Gaza Strip -- The harvest is underway inside a row of greenhouses here on the grounds of a razed Israeli settlement. But most of the tomatoes and sweet peppers, usually shipped to European markets, will rot in a nearby ravine.

"We keep getting it, but we don't know what to do with it," said Abdul Fatah al-Eilah, the greenhouse manager, as workers stacked boxes of vegetables in a storage shed while tractors towing flatbeds full of produce lined up to enter.

The main trade passage between the Gaza Strip and Israel has been closed for much of the year, despite an agreement brokered by Secretary of State Condoleezza Rice in November that required Israel to "ensure the continued opportunity to export." Israeli security concerns, heightened by Hamas's parliamentary victory in January and the almost daily rocket fire from Gaza, have rendered the deal largely moot.

To protect Gaza's small farmers from competition by Eilah's Palestine Economic Development Corp. and its 1,000 acres of greenhouses, the corporation is barred from selling its produce locally. But without regular access to the outside world, the corporation has had to donate some produce to local charities and dump the rest. Losses so far add up to millions of dollars.

"The government will likely have to give this away," Eilah said of an operation once considered the key to Gaza's economic future.

The lost harvest is the most recognizable sign of Gaza's declining fortunes six months after Israel's evacuation. It is also a telling indicator of Israel's evolving policy toward the Palestinian territories as Hamas, known formally as the Islamic Resistance Movement and at war with the Jewish state, prepares to take political power.

Unreliable trade passages, frozen Israeli tax transfers that helped pay salaries and lapsed permits of Palestinians who work in Israel are evidence of a broader disengagement, one that Israeli security officials say they hope to accelerate once Hamas installs its cabinet this month.

The Israeli defense establishment plans to resurrect a proposal to ban thousands of Palestinian workers from Israel, seal trade passages and end utility services once the Palestinian Authority has arranged alternative sources. Behind the push is the belief, promoted by senior security officials, that Hamas's election has made it all but impossible to sustain economic and political relations with the Palestinian territories, at least in the near term.

Acting Prime Minister Ehud Olmert, whose Kadima party is far ahead in opinion polls heading into Israel's March 28 elections, chose another approach to the caretaker Palestinian government last month. But Olmert has said he may adopt a stricter policy after Hamas assumes control of the Palestinian ministries.

That will happen at about the time Israel concludes its own election, which is shaping up as a referendum on Olmert's proposal to withdraw unilaterally from parts of the West Bank. Olmert has said he intends to draw Israel's final borders over the course of his four-year term, consolidating scattered Jewish settlements in the West Bank into larger blocs on the side of a separation barrier that Israel intends to keep.

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Carrying out that move, designed to ensure the longevity of a Jewish majority inside Israel's final boundaries, would also entail the economic separation now quickening in Gaza. A World Bank assessment last week said frozen tax transfers, trade restrictions and future reductions in foreign aid would result in "a one-year contraction of economic activity equivalent to a deep depression," warning that per capita income in the territories would fall 30 percent this year.

As those sources dry up in Gaza, an economy dependent on public salaries, agriculture and foreign aid to sustain its 1.3 million people is already lifeless. Regular rocket fire into southern Israel, carried out by the radical group Islamic Jihad, has turned the northern strip into an artillery range. Prices have soared in stores as the supply of flour, sugar and dairy products that come from Israel is constantly interrupted.

"The thing we get most is the horror," said Ibrahim Harb, an unemployed father of 10 in the village of Um el-Nasser. "There is a panic here."

The village, alive with rowdy children one recent morning, sits on the edge of an area in the northern strip that Israel has designated a no-go zone. An Israeli artillery shell whistled high above the Harbs' sandy street, followed by a nearby bang. The children didn't pause from their play.

Among dunes in the near distance, a pair of tires mark a makeshift border. Israel declared the area beyond the tires off-limits in order to have a freer hand in targeting Palestinian fighters who launch crude rockets from there toward the smokestacks of the Ashkelon power plant in the middle distance. Earlier in the day, gunmen from Islamic Jihad had done just that.

"We want them to do this far from us," Harb said. "We live here, and we'll be the first ones harmed."

Until last month, Harb was one of the fortunate 4,000 or so Palestinians with a permit to work in Israel, where wages are higher. When his permit expired in February, it was not renewed, as the Israeli government reduces the Palestinian workforce. Harb's family gets by with help from a Hamas-run charity.

"You sit here, there is nothing, so you go inside," said Harb's 68-year-old father, Mohammed, passing a stormy morning on a bench. "That's it."

The Karni crossing, the main trade passage between Israel and Gaza, is nearby. This year, the crossing has been closed more often than not because of Israeli security concerns. A U.N. humanitarian assessment estimated that the 21-day closure that ended in February cost more than $10 million.

The Israeli military opened Karni 10 days ago for several hours a day to allow essential supplies into Gaza, but closed the crossing Tuesday. It has not reopened, and its future remains unclear, even though the Bush administration has paid to upgrade security, including state-of-the-art cargo scanners.

Nasser Jaber, director of the Palestinian Industrial Estates and Free Zone Authority at Karni, has little to do these days. He manages the compound of 30 factories adjacent to the crossing, a complex built in part with U.S. development money. A U.S.-funded security fence was being installed at the time of Hamas's election. That project and other U.S. development work in the territories have been suspended.

Jaber said Israel has closed Karni to move the main crossing to the Kerem Shalom terminal in the south, far from the strip's economic center. On Friday, Israeli defense officials said Kerem Shalom would be opened on Sunday. "This industrial park was invented by the Americans," Jaber said. "Now look at it. Things are being done you can't understand."

At a furniture factory inside one of the long corrugated-steel sheds on the grounds, 17 of 50 employees were still at work finishing stacks of living room chairs. There is no wood to begin new orders, all placed by Israeli companies.

"This will stop soon, too," said Yusef Ahmed, 27, a father of four children from the Jabaliya refugee camp. "Then we don't know what we'll do."

At Netzarim, where most of the Jewish settlement's structures were demolished during last year's evacuation, scavengers still come in hopes that the piles of concrete blocks bristling with wires and weeds may hold something of value. Beneath where homes once stood, a small canyon has become the dumping ground for export-quality peppers and tomatoes from the Palestine Economic Development Corp.

The company, formed to manage the greenhouses that were bought with international funds on behalf of the Palestinians, is nearly bankrupt. Amid al-Masri, the project manager, said he will recommend that the business be closed and its 4,000 workers laid off at the end of the month if Karni is not opened soon.

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Even if it is, Masri said, the failure of the November agreement to keep the crossing running has cost him future investors he counted on to develop the greenhouse operation. He estimated that the closures have cost him more than $6 million.

"The worst time to make a decision is during moments of chaos," Masri said. "And right now we're in such a moment."

On Eve Of Vote, Belarus Braces For Aftermath (NYT)

By Steven Lee Myers

The New York Times, March 19, 2006

MINSK, Belarus, March 18 — There are no campaign posters or billboards here, not even for President Aleksandr G. Lukashenko, who has otherwise thoroughly orchestrated his re-election to a third term on Sunday.

The security services barred campaigning in the city's center. Handing out leaflets — even possessing them — risks arrest. Dozens have already been jailed in the prelude to the vote, some of them senior campaign workers for the democratic opposition.

The results of the election on Sunday, widely denounced here and abroad as undemocratic, are a foregone conclusion. But the vote is only a prelude to the real struggle against Mr. Lukashenko's government, one that many fear could end in violent reprisals along the monumental streets of Minsk, the capital.

A text message sent to Belarussian mobile phones on Saturday, from an unknown sender, carried an ominous warning about what might unfold on Minsk's central square. "On the evening of March 19, 2006, on October Square, provocateurs are preparing bloodshed," said the message, apparently intended to discourage attendance. "Protect your life and health."

In an attempt to replicate the popular uprising against a rigged presidential election in Ukraine in 2004, two opposition candidates, Aleksandr Milinkevich and Aleksandr V. Kazulin, have called on their supporters to assemble Sunday night to protest what they denounced as a chimera of a democratic process. They have done so in defiance of a ban on Election Day rallies and threats that those who gather could face charges of terrorism.

"We will stay for 24 hours," said Alyaksei Yanukevich, a close aide of Mr. Milinkevich's, describing a plan to occupy the square in peaceful protest. "If on Monday night there are more people than on Sunday, then that means the process will continue."

What might happen after that, he could not say. Mr. Lukashenko vowed to crush any protests, warning Belarussians not to participate and foreign governments not to encourage them.

"We know where they met, whom they met with and what discussions they had," Mr. Lukashenko said during remarks made at an auto factory in Zhodino on Friday, according to the Interfax news agency. "God forbid that they should try to perpetrate something in the country. We will twist off their heads as though they are ducklings."

The United States and European Union have warned of sanctions. In Washington, the White House released a report on Friday that accused Mr. Lukashenko of having created "a repressive dictatorship on the doorstep of the European Union and NATO."

The report, citing news accounts and critics, accused him of personally enriching himself and asserted that he was "likely among the most corrupt leaders in the world."

Mr. Lukashenko, already shunned in the West, has responded with defiance as the election campaign unfolded. The arrests of opposition workers and the restrictions on public events "have limited the scope for a vibrant election campaign," the Organization for Security and Cooperation in Europe said in a report based on the findings of its observers here.

The most prominent independent newspaper, Narodnaya Volya, or People's Will, had 250,000 issues seized on March 3 as they were being delivered from a printer in Smolensk, Russia. On Monday, the printer suddenly annulled the paper's contract, said the editor, Iosif Seredich.

He found another printer in Russia, but after Tuesday's copies were seized, he shut down the newspaper, one of the last public forums available to the opposition candidates.

"There is no sense," he said.

Mr. Lukashenko himself forswore campaigning. He has instead carried on with official duties, which state television has extensively covered while it has ignored the opposition except to criticize it.

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One of his campaign managers, Vladimir Gostyukhin, declined a request to be interviewed. He said that he was very busy, and that he would vote early on Saturday — a widespread practice that Mr. Lukashenko's critics warn would be used to rig the results in the absence of observers — and then leave Minsk.

On Friday night, Mr. Lukashenko gave a short, televised address. He urged people to vote, defended his government from accusations of authoritarianism and reassured viewers that there would be no coup.

"The fact that four candidates are taking part in the ongoing election campaign is also evidence of democracy in this country," he said in remarks transcribed by the BBC. (In addition to Mr. Milinkevich and Mr. Kazulin, a fourth candidate, Sergei Gaydukevich, is a Lukashenko supporter.)

"Some candidates insistently call on people to take to the streets if the results of the vote are not in their favor," he added. "Is this their understanding of democracy? It is unrest, pogroms and violence?"

His opponents vowed only peaceful demonstrations. "I beg you to come out with smiles and flowers and balloons," Mr. Kazulin, who was beaten and detained during a confrontation with security officers on March 2, told an overflowing crowd of hundreds in a tattered movie theater on the edge of Minsk on Friday night. "Take chocolates or sweets and give them to the police."

The rally was the first joint appearance for Mr. Kazulin, a former university rector, and Mr. Milinkevich, a former physics professor who is the more prominent opposition candidate, representing a coalition of 10 parties. The audience erupted into chants of "Long live Belarus."

"The mood of the people now is different," Mr. Milinkevich said when asked about the expected announcement of an overwhelming victory for the president. "The people will laugh now, and that is what the authorities are most afraid of."

Beyond those who attend opposition events, fear remains pervasive. People asked about the election invariably refused to give their names. "Are they filming?" a middle-aged woman asked near Victory Square. She had no doubt about the outcome, she said, because she had no illusion about democracy here.

"Like Fidel Castro, he will be president forever," she said and hurried off.

The democratic changes in Ukraine — as well as in Georgia in 2003 and Kyrgyzstan in 2005 — inspired many here, but Mr. Lukashenko's government took note, too. In December, his government enacted new laws increasing criminal penalties for organizing the sort of public protest now being planned.

"He analyzed very well the mistakes made by Shevardnadze and Kuchma," said Igor Marinich, referring to former leaders of Georgia and Ukraine whose autocratic governments were swept aside by protests. He is the son of Mikhail Marinich, an opposition leader who was jailed in 2004, the first of what he predicted then would be a wave of politically motivated arrests.

"And they," he added, "were not the dictators he is."

Belarus President Expected To Win Reelection (LAT)

By Kim Murphy

The Los Angeles Times, March 19, 2006

Despite suppression of media and opposition, a poll shows Lukashenko getting a third term. Democracy groups vow to demand honesty.

MINSK, Belarus — Those who missed the highlights of American history in their civics class had only to turn on the television last week in Belarus, a small nation on Europe's eastern border where old Soviet-era propaganda machines are kept lovingly lubricated.

The program, "America Without Makeup," described Richard Nixon's attempt to bug Democratic campaign offices in 1972, Ronald Reagan's covert sale of weapons to Iran, the Pentagon's arming of Iraq and murky hints of conspiracy behind the deaths of Robert Kennedy and Marilyn Monroe.

"It's not for nothing that people say democracy demands sacrifice," a narrator commented wryly. "Money doesn't smell — that's the main principle of American democracy."

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Here in Belarus, President Alexander G. Lukashenko has a stake in giving democracy a black eye: The U.S. government is spending more than $9 million a year here on attempts to develop a sophisticated political opposition and a well-informed electorate, tools for combating one of the most repressive dictatorships in the world.

Voters go to the polls today for an election that is widely expected to hand Lukashenko, Belarus' president since 1994, a third five-year term. In echoes of recent revolutions in Ukraine and Georgia, the opposition plans to muster thousands in the streets to demand a free election.

Belarus state security, still known as the KGB, threatened Monday to charge protesters "who try to destabilize the situation" with terrorism. That prompted an immediate protest from the Organization for Security and Cooperation in Europe, which has sent observers to monitor the balloting.

"I am particularly shocked … that peaceful demonstrators could face charges of terrorism, carrying a sentence of eight years' imprisonment to the death penalty," OSCE Chairman Karel De Gucht, the Belgian foreign minister, said in a statement Friday. "Is that a way to conduct democratic elections?"

"We haven't seen such a politicization of people since perestroika," said opposition candidate Alexander Milinkevich, referring to the era that preceded the collapse of the Soviet Union in 1991. "The reason is not socioeconomic. It's a moral protest. People don't want to live in fear and humiliation. I call it a revolution of the spirit."

Lukashenko's government has all but shut down the independent media, arrested hundreds of opposition campaign activists, kicked and beaten one presidential contender during a campaign rally, expelled students and reportedly fired state workers who did not toe an ideological line that reads like a reissue of the Communist-era Pravda. The KGB has been accused of operating secret death squads responsible for some of the disappearances and deaths of half a dozen journalists, businessmen and political opponents since 1999.

Why, then, does a recent InterMedia poll show Lukashenko drawing an easy 52.9% of the vote, far ahead of his rivals?

Belarus officials say it is because they have succeeded in doing what the conventional wisdom in the West says is not possible: maintaining a state-run economy with one of the strongest growth rates in Europe, generating increases in wages and pensions, boosting productivity and minimizing the disparities in wealth that have destabilized so many of the former Soviet republics in their transition to market economies.

State-owned oil refineries here buy Russian oil and sell its products to Europe at a hefty profit. Collective farms abound and have been merged with profitable enterprises, such as tractor companies, to bring their balance sheets out of the red. Unemployment is officially at 1.5%, although thousands more may simply be unregistered.

The World Bank does not know quite what to make of the model, but said in a November report that it wouldn't last without major reforms.

Advocates of overhaul say the entire economy is operating on the good graces of neighbor Russia, which buys large quantities of Belarusian goods and sells natural gas to its closest ally at subsidies worth an estimated $3 billion a year.

Still, many Belarusians say they are ready to vote again for Lukashenko, if only for the sake of stability and his pledge that the government will keep paying pensions and salaries on time.

"People want to live quietly. They want stability, they want jobs, they want their children to walk safely in the streets," said Yelena Yeseyeva, 40, a bookkeeper at a state-owned communal services company. "I think the president has chosen the right way."

Yet support for Milinkevich, a U.S.-educated physicist chosen by a broad coalition of pro-democracy parties, and Alexander Kozulin, a former university rector and leader of the Social Democratic Party, has grown among Belarusians who say the nation's economic gains are illusory and its growing climate of repression intolerable.

"These are myths they're talking about. Simply myths. Yes, in Belarus there are no pension arrears. But if a pension in Russia were as small as it is in Belarus, it would be paid on time too," said Svetlana Kalinkina, managing editor of Narodnaya Volya, the last remaining independent daily in Belarus.

Milinkevich has drawn crowds of several thousand throughout Belarus, despite arrests and beatings.

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Opposition candidates were allowed to make addresses on state-run television and radio, but their remarks were censored. The omitted remarks were aired as part of a new 24-hour-a-day radio broadcast into the country, European Radio for Belarus, that began Feb. 26 with a $2.4-million grant from the European Commission.

U.S.-funded organizations such as the National Democratic Institute and the International Republican Institute, banned in Belarus, have set up shop in neighboring Ukraine and Lithuania. From there, they offer a democracy primer to activists, women and youths, which the Belarus government calls a covert attempt by the West to engineer an overthrow of the regime.

"When it comes to foreign financing of the political processes inside the country, we, as any other country in the world, do not welcome that … in the same way the U.S. doesn't welcome that, in fact prohibits it, according to federal laws," said Foreign Minister Sergei Martynov.

In an interview, Martynov said the United States may fear "the emergence of an entity in the area of the former Soviet Union which will be in a position to challenge the United States," and said Belarus' growing economic union with Russia could be perceived as such a threat.

"We're not trying to resurrect the former Soviet Union, it would have been stupid and unrealistic." Opposition leaders say that getting out their message in Belarus is next to impossible without outside help. In recent years, the government has prevented the few remaining independent newspapers from printing in Belarus, and when they began printing at a private press in Russia, the government prohibited sales at kiosks and distribution through the mail.

Publishers of Narodnaya Volya found volunteers to handdeliver the paper in all major cities of Belarus, but this month, authorities stopped the trucks bringing the paper into the country and seized all the copies.

"What's happening now is totally unprecedented, even for the entire rule of Lukashenko. Everybody is under KGB surveillance, telephones are bugged. If in the past they would interrogate people when they were detained on the street, now they send official invitations to parents to bring their children in and answer questions," said Irina Toustsik, an activist with the underground youth movement Zubr.

At campaign rallies last week in southeastern Belarus, Milinkevich urged citizens to imagine a future in which jobs are not dependent on loyalty to the government, small entrepreneurs can flourish and losing state businesses give way to more productive private enterprises.

"The entire world is getting integrated, and we're being self-isolated," he told supporters in Mazyr.

Outside the hall, Ivan Kovalenko, 64, a retired oil company employee, said he was ready for an alternative to Lukashenko.

"What right direction for the country can you talk about if people are scared, if they're being persecuted?" he said. "The only hope is that the number of people who begin to understand, who begin to see things in a proper light, is growing. And I am an example of such people."

Keeping The Opposition In Check, If Not In Jail (WP)

By Peter Finn

The Washington Post, March 19, 2006

Though Favored to Win Today's Vote, Belarus Leader Uses Fear as Tactic

MINSK, Belarus, March 18 -- Syrghei Marchyk, a 20-year-old former law student, has been running from the law since being charged recently with "unsanitary practices." He said he could only guess that an arrest warrant was issued for him because he was spotted putting up posters for Alexander Milinkevich, an opposition candidate in the presidential election here Sunday.

The last couple of months have been tough for Marchyk. In February, he was expelled from law school for "disciplinary problems." He said the action resulted from his political activities against the incumbent president, Alexander Lukashenko. Before his expulsion, he was briefly jailed for silently holding candles on a street with about 20 other young people to commemorate four government opponents who are missing and presumed dead. The authorities called it an unsanctioned rally.

"This may sound a little pathetic, but I love my country and I want to fight for my motherland," Marchyk said. "If I have to wait for a change of regime to continue my studies, I'll wait."

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Dissent carries a real price in this country of 10 million people, sandwiched between the European Union and Russia, where Lukashenko has ordered that no one other than Lukashenko can be called "president." Hundreds of presidents of companies, clubs and associations have had to change their titles.

Opposition activists say students who step out of line often receive failing grades or face trumped-up disciplinary charges that lead to expulsion from school. State workers, who commonly have one-year contracts, are routinely dismissed if they question the president's rule. Political activists are arrested and sometimes beaten. Independent newspapers are shut down or lose an entire edition to police seizures.

"We will wring their necks as one might a duck," Lukashenko, 51, said Friday while touring an auto plant, referring to unnamed opponents he said were planning a coup. The head of the KGB, as the security service is still called in this former Soviet republic, said this week that people who protest the outcome of the election could face the death penalty.

"There are two problems in Belarus: The first is fear and the second is apathy," Milinkevich, 58, a physics professor, said in an interview at a campaign stop. "We can ruin apathy at least. Fear is more difficult."

The repression, activists say, is designed to prevent the emergence of a strong opposition to Lukashenko, a former collective farm manager who came to office as a reformer in 1994 and has ruthlessly centralized power since. Members of his inner circle have declined to be interviewed, but analysts say they are particularly anxious about preventing the kind of popular revolt that toppled post-communist governments in Ukraine and Georgia.

What makes Lukashenko more than an average autocrat is that he is genuinely popular with a significant segment of the population -- people who value the modest but secure life that the state-controlled economy offers. Lukashenko plausibly could win a free and fair election, the opposition concedes.

According to a recent survey by Washington-based InterMedia, Lukashenko will receive at least 52.9 percent of the vote and looks set to win in the first round Sunday, avoiding a runoff. Milinkevich is projected to get 6 percent.

Lukashenko also faces Alexander Kozulin, a former rector of Belarusan State University who was once close to the president, and Syarhey Haydukevich, seen by political analysts as a Lukashenko ally whose role is to create the appearance of competition. The InterMedia poll of 1,085 Belarusans gave Kozulin 4.7 percent and Haydukevich 0.5 percent.

About 17 percent said they were undecided. Others declined to answer or said they would not vote. Polls sanctioned by the government show Lukashenko winning at least 60 percent of the vote.

Andrei Vardomatskii, a Belarusan pollster, said in an interview that the climate of fear in the country causes many people to say publicly that they will vote for Lukashenko. That results in an overestimate of his support in polls by at least 10 percent, meaning he probably could not secure a first-round victory in a fair vote, Vardomatskii said.

But there is no question that Lukashenko remains popular among many Belarusans. In a historically brutalized country -- as much as one-third of the population was killed during World War II, and the Chernobyl nuclear disaster of 1986 in Ukraine blighted a large swath of the Belarusan countryside -- stability is a value that can trump liberty.

"I don't love him like an idol, but during his time many positive changes have occurred," said Natalia Kazachenko, 52, who retired from her job as a kindergarten director last year. She said her pension was generous and stable, allowing her to vacation in Egypt and remodel her apartment. Kazachenko said she was also happy that both her sons had free educations, followed by secure jobs as construction engineers. Her eldest, who is 30, just bought his own apartment, she said proudly.

"People have something to lose with change," Kazachenko said, adding that her entire family would vote for Lukashenko.

Through his absolute control of the broadcast media, Lukashenko has warned repeatedly of chaos if the opposition, which is demonized as a puppet of the West, should ever gain political power. The dislocation, emigration and poverty caused by the transition to capitalism in the neighboring Baltic states and Poland is a constant Lukashenko theme.

The political divide is as generational as it is ideological. At a rally this week in the industrial city of Zhodino, about 50 miles northeast of the capital, Minsk, younger members of the audience enthusiastically welcomed Milinkevich. But he received glowers from older people, many of them local bureaucrats, who emulated the state media by portraying him as a Western stooge of uncertain background and values.

"Why didn't your son serve in the military?" one man asked during a question and answer session.

"Because he has a serious kidney condition," Milinkevich replied.

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As Milinkevich spoke, three of his local campaign workers were sitting in jail. Police would not say what they were charged with.

In the interview, Milinkevich said he was not running to win -- not this time. The goal of his campaign, he said, is to raise the possibility of an alternative to Lukashenko as president for life. In 2004, in a referendum that outside observers condemned as rigged, the country adopted a constitutional amendment that lifted the two-term limit for presidents.

Kozulin said in an interview that he entered the race to siphon off disaffected voters, particularly among state workers, who would never support Milinkevich in part because he is a favorite of students and the well-educated.

Both Kozulin and Milinkevich said the president's control of the media has limited their ability to present their ideas to the electorate. The 55-nation Organization for Security and Cooperation in Europe found that more than 94 percent of news broadcasts about the candidates were devoted to Lukashenko.

French Protests Over Youth Labor Law Spread To 150 Cities And Towns (NYT)

By Elaine Sciolino

The New York Times, March 19, 2006

PARIS, March 18 — Students joined forces with teachers, workers, retirees, opposition politicians and labor union leaders in more than 150 cities and towns throughout France on Saturday in the largest nationwide protest against the government's new youth labor law.

A number of public figures joined in, including the mayor of Paris, Bertrand Delanoe; the Socialist party leader, François Hollande; a former culture minister, Jack Lang; and the Communist Party leader, Marie-George Buffet.

The demonstrations were the climax of a week of protests that have shut down dozens of universities and confronted Prime Minister Dominique de Villepin with one of the most serious crises in his 10 months in office.

The giant left-wing C.G.T. workers' union estimated that 1.5 million people protested nationwide; the Interior Ministry put the total at more than 500,000, with 80,000 in Paris.

Protesters vowed to continue until the government backed down.

Bernard Thibault, the C.G.T. leader, said, "If they don't listen to us, we are going to have to think about moving to a general strike across the entire country."

Jean-Claude Mailly, the leader of the leftist union, Force Ouvriere, said in a telephone interview after the protest, "The Prime Minister must understand that he must renounce" the labor law "before a true dialogue can begin."

Bruno Julliard, the leader of the student union that first organized the protests, threatened that if by Saturday night, "the government doesn't withdraw this initiative, we'll continue."

The protesters want the abolition of a new law — known as the First Employment Contract and set to take effect in April — that allows employers to fire new workers under the age of 26 without cause for two years.

Designed by the government to help ease the crisis of chronic high unemployment, particularly among poor youth after riots last fall in the suburbs, the law is seen by its opponents as a step toward eroding long-cherished employment rights and benefits.

Protesters point out that the law was pushed through Parliament without debate and charge that it is age discrimination. They have dubbed the law the "Kleenex contract" because young workers could be discarded like a facial tissue.

Unemployment in France is at almost 10 percent, and 23 percent of French citizens under 26 are jobless, one of the highest rates in Europe; in some of the major city suburbs, the figure is nearly double that.

President Jacques Chirac appealed on Friday for the marchers to show "calm and respect," and security police officers in riot gear were out in full force throughout France on Saturday.

Authorities were on alert for what they called "professional thugs" after street fights broke out late Thursday in Paris. The police used tear gas and water cannons to quell the violence.

The protests for the most part were peaceful.

Under sunny skies in Paris on Saturday afternoon, the police, anticipating trouble, urged shopkeepers along the march route to shut down.

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But the demonstrations started with a party spirit, with balloons and music of the Rolling Stones and Madonna. Protesters were joined by parents with children. Officials from the major unions distributed banners and flags from the back of trucks. Vendors sold hotdogs and kebabs.

"I'm sick and tired of all these phony contracts and I want to protect my children's future," said Carole Cases, a 43-year-old nurse, with two of her children, from the Paris suburb of Noisy-le-Grand. "They're trying to dupe the young."

"Villepin, you nonelected jerk," read one banner. In a sign that spring, the season of protests and strikes in France, is coming, another banner read, "Long live spring."

There is little indication that the jobs measure is welcomed by unemployed youth in the suburbs, who are also worried that it does not provide any long-term job security.

"It's stupid," said Mariam Sidibe, a 17-year-old student of Malian descent from Les Mureaux, a working class suburb of Paris rocked by last fall's riots, who marched in Paris. "There's going to be more unemployment."

The police in Paris used tear gas to disperse a small band of youths who thraew bottles and stones at them at the Place de la Nation, on the right bank, the official end point of the protest. Protesters broke shop windows and one car was set afire.

In Lyon, French youths protesting the law clashed with Turks demonstrating against the construction of a memorial to Armenian victims of a 1915 massacre, Reuters reported. The youths shouted, "Fascists!" and "Go home!"

The two sides threw objects at each other and engaged in fistfights. The police used water cannons to disperse them.

In Marseille, the police used tear gas to disperse protesters who replaced the tricolor French flag at city hall with a black and red banner reading, "Anticapitalism and self-management."

In Nancy, about 200 youths blocked railroad tracks for an hour, throwing rocks at the police, who used tear gas against them.

In Rennes, protesters blocked a railway line for about an hour. The police used tear gas to disperse protesters who attacked the local office of the governing U.M.P. party.

The police are still investigating which groups or individuals were responsible for violence in the heart of Paris on Thursday evening.

It was during that protest that antiriot police fired tear gas to disperse bands of youth who threw rocks and bottles at police and burned a newspaper kiosk near the upscale Bon Marché department store. The police also used water cannons against protesters who had set fire to a bookstore and destroyed the terrace of a cafe in the square in front of the Sorbonne.

Extreme right, extreme left and anarchist groups are being blamed for inciting trouble. The youth branch of the extreme right National Front, for example, has distributed antileftist leaflets that say, "Parasites, out of our universities."

About 300 people have been arrested in a week of protests. More than 100 police and 21 protesters have been injured.

In meeting with antiriot police officers on Friday, Interior Minister Nicolas Sarkozy, who, like Mr. de Villepin, hopes to run for president next year, held up a damaged police helmet for the cameras. "Those who do this are not demonstrators, they're thugs," he said.

Thus far, Mr. de Villepin, whose poll ratings have collapsed recently, has been the main target of criticism by the law's opponents, and Mr. Sarkozy has said little about its merits.

On Friday evening, Mr. de Villepin met with a group of university presidents who asked him to suspend the new measure for "a period of reflection" of six months.

"We told him that things are getting worse and that next week could prove very risky," said Yannick Vallée, first vice president of the conference of university presidents.

Mr. de Villepin called on protesters to end their blockades and allow nonstrikers to study. "We want students to be able to prepare confidently for their exams and to have the freedom to study," he said.

Well over half of France's 84 public universities remained either closed or partially closed because of student blockades, according to the Ministry of National Education. On Friday, students demanding the right to study demonstrated in Paris and several other university towns.

Rallies Across France Protest New Job Law (WP)

DOJ_NMG_0018979

By Molly Moore

The Washington Post, March 19, 2006

Unions Bring Many Thousands to Streets

PARIS, March 18 -- Hundreds of thousands of demonstrators marched in anti-government protests Saturday across France, with the largest of the rallies ending in clashes between riot police and protesters at one of the largest plazas in Paris.

Teachers, unionized government employees and retired workers joined students in escalating demonstrations against a new law that would allow companies to fire employees under age 26 at will during their first two years of work.

Protesters jammed the streets of about 150 cities and towns in mostly peaceful, union-orchestrated demonstrations. On a perfect sunny day for a protest in Paris, families joined in the march, which began in an atmosphere of a friendly weekend outing of songs and chants with political overtones.

But as the hours-long parade drew to a close in the chill of the early evening darkness, several hundred protesters turned on police at the Place de la Nation in the southeastern part of the city, throwing stones, garbage and sticks at riot police who huddled behind protective shields.

Demonstrators smashed windows, burned a car and set a pile of boxes ablaze. City police said 14 protesters were detained and four officers were slightly injured in the standoff.

Union organizers said 1.5 million people participated in marches throughout the country, while police officials estimated the number at just more than 500,000.

The demonstrations have grown larger and have spread to more cities in recent days at the urging of France's powerful student and worker unions, creating a crisis for Prime Minister Dominique de Villepin and his Union for a Popular Movement party as France heads toward presidential elections next year.

Villepin pushed the new law as a vehicle to prompt companies to hire more young people at a time when joblessness among that group averages 23 percent and exceeds 40 percent in some poor neighborhoods populated by immigrants and their French-born children. Villepin argued that under existing labor laws, employers were increasingly reluctant to hire young people because of job protections that make it all but impossible to fire workers, even if they are incompetent.

Young people and unions argue that the law -- expected to take effect in April -- will allow employers to discriminate against their youngest workers.

"It's always better to earn one franc than nothing," said Sophia Lamri, 23, a law school graduate interning at a law firm. "The government is just about to get rid of a social policy that took over a hundred years to build. Change shouldn't mean regression."

The new law has become the latest target of youth anger at a government that many young people believe has become increasingly divorced from them.

"People say the young people are lazy and can only think about how much money they'll make," said Jean-Francois Dessessard, who walked among the Paris protesters, one arm draped around his wife and the other resting on the shoulder of his 17-year-old daughter. "But they just want to have it like we had it when we were their age."

As the march passed the Prison de la Sante, inmates waved in support from behind wire mesh windows. A sign hung out one window declared "Chirac belongs here," a reference to President Jacques Chirac.

Researcher Marie Valla contributed to this report.

French Youths Riot Over Jobs Law (WT/AP)

By Angela Charlton, Associated Press

The Washington Times, March 19, 2006

PARIS -- Police loosed water cannons and tear gas on rioting students, and activists rampaged through a McDonald's and attacked storefronts in the capital yesterday as demonstrations against a plan to relax job protections spread in a widening arc across France.

The protests, which drew an estimated 500,000 people in about 160 cities across the country, were the biggest show yet of escalating anger that is testing the strength of the conservative government before elections next year.

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At the close of a march in Paris that drew a crowd of tens of thousands, seven officers and 17 protesters were injured during two melees, at the Place de la Nation in eastern Paris and the Sorbonne university. Police said they arrested 156 persons in the French capital.

Four cars were set afire, police said, and a McDonald's restaurant was attacked along with storefronts at the close of the march.

Tensions escalated later yesterday as about 500 youths moved on to the Sorbonne, trying to break through tall metal blockades erected after police stormed the Paris landmark a week ago to dislodge occupying students. The university has become a symbol of the protest.

Police turned water cannons on the protesters at the Sorbonne and were seen throwing youths to the ground, hitting them and dragging them into vans.

"Liberate the Sorbonne," some protesters shouted. "Police everywhere, justice nowhere." In an apparent effort to set fire to a police van serving as a blockade, protesters instead torched the entrance of a nearby Gap store, apparently by accident, engulfing the small porch in flames.

With commerce snarled in some cities, people asked whether Prime Minister Dominique de Villepin would stand firm on implementing the change that he says is needed to encourage hiring. The usually outspoken leader was silent yesterday.

Protest organizers urged President Jacques Chirac yesterday to prevent the law from taking effect as expected in April.

The group issued an ultimatum, saying it expects an answer by tomorrow, when leaders will decide whether to continue protests that have paralyzed at least 16 universities and dominated political discourse for weeks.

"We give them two days to see if they understand the message we've sent," said Remi Jouan of CFDT, France's largest union.

The law would allow businesses to fire young workers in the first two years on a job without giving a reason, removing them from protections that restrict layoffs of regular employees.

Companies are often reluctant to add employees because it is hard to let them go if business conditions worsen. Students see a subtext in the new law: make it easier to hire and fire to help France compete in a globalizing world economy.

Youth joblessness stands at 23 percent nationwide, and 50 percent among impoverished young people. The lack of work was blamed in part for the Muslim riots that shook France's depressed suburbs during the fall.

Protests yesterday reached every corner of France -- most of them largely peaceful -- with organizers citing 160 marches from the small provincial town of Rochefort in the southwest to the major city of Lyon in the southeast.

In Marseille, extreme-leftist youths climbed the facade of City Hall, replacing a French flag with a banner reading "Anti-capitalism." Police used tear gas to disperse them and made several arrests.

Police also fired tear gas at a protest in Clermont-Ferrand, a central city where 10,000 people marched and about 100 youths threw beer cans and other projectiles at a building.

The Paris protest march was the biggest, attracting some 80,000 people, according to police. Organizers put the number at 300,000.

Widespread discontent with the government has crystallized around a new type of job contract that Mr. de Villepin says will alleviate France's sky-high youth unemployment by getting companies to risk hiring young workers.

Critics say the contract abolishes labor protections crucial to the social fabric.

"Aren't we the future of France?" asked Aurelie Silan, a 20-year-old student who joined a river of protesters in Paris.

Government spokesman Jean-Francois Cope insisted on the need for a "spirit of dialogue." "The hand is extended; the door is open," he said on France-3 TV network. However, he limited dialogue to "improving" Mr. de Villepin's plan -- not withdrawing it.

Waves of red union flags topped the densely packed crowd in Paris, which overflowed onto side streets and stretched more than 3½ miles under bright sunshine.

"Throw away the job contract; don't throw away the youth," chanted a group of students shaking tambourines. Many wore plastic bags to illustrate their feeling that the new law reduces young people to disposable workers.

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Some demonstrators became violent as the march ended. Youths set a car on fire, smashed a shop window, trashed a bus stop and threw stones, golf balls and other objects at police. Police responded with tear gas during skirmishes that lasted several hours.

Mr. Chirac has pushed Mr. de Villepin to act "as quickly as possible" to defuse the crisis, but has backed the contested measure.

Dutch Convert To Islam: Veiled And Viewed As A 'Traitor' (WP)

By Molly Moore

The Washington Post, March 19, 2006

A Woman's Experience Illustrates Europe's Struggle With Its Identity

BREDA, Netherlands -- Rabi'a Frank sees her Dutch home town through the narrow slit of the black veil that covers her face.

The looks she receives from the townspeople are seldom kindly.

On a recent winter afternoon, the wind tugged at her ankle-length taupe skirt, olive head scarf and black, rectangular face veil as she walked to her car from an Islamic prayer meeting in downtown Breda. Two blond teenagers on bicycles stared, their faces screwed into hostile snarls. Other passersby gawked. Some stepped off the sidewalk to avoid coming too near.

She tried to act like it didn't offend her. But it did. She knows what they think of Muslim women like her.

"If you cover yourself, you are oppressed -- that's it," said Frank, a lanky, 29-year-old Dutch woman who converted to Islam 11 years ago, about the time she married her Moroccan husband. "You are being brainwashed by your husband or your friends."

Or, you're a potential terrorist.

"Sometimes I make a joke and say, 'Oh, you don't have to be scared of me.' " Other times, she gets so fed up that she yanks up her hand under her robe like it's a pistol and shouts, "Boom!"

Frank spoke on a recent day in her living room in this city of 162,000 people near the Netherlands' southern border with Belgium. "They don't have the right to treat me different," she said. "It's like staring at someone in a wheelchair. It's not polite. I'm human, even if you don't like the way I appear."

This day-to-day struggle for acceptance on the streets of her home town is one woman's confrontation with a deepening rift in West European societies, where the emergence of a 15 million-member Muslim minority is reshaping concepts of national and personal identity.

Some European governments have passed laws they say are intended to help preserve national identity. Critics argue that the measures reflect Islamophobia and fears of terrorism triggered by the attacks of Sept. 11, 2001, and the subsequent transit bombings in Madrid and London.

The Netherlands, with nearly 1 million Muslims, almost 6 percent of its population, is particularly on edge. The 2002 assassination of an anti-immigrant politician, Pim Fortuyn, by an animal rights activist was followed by the execution-style murder in 2004 of the filmmaker Theo van Gogh, who had just released a controversial film seen as anti-Islamic. A young Muslim radical admitted to the killing.

A country with a history of tolerance is now adopting or debating some of the most restrictive anti-immigration and anti-Muslim laws in Europe. One proposed measure would ban women from wearing face veils, called niqab , in public. Another would outlaw the speaking of languages other than Dutch on the street.

Immigrants must learn some Dutch, pass a history and geography test and, to get a feel for whether they can live in this society, watch a film on Dutch culture that includes two gay men kissing and a topless woman walking on a beach.

Geert Wilders, a member of the Dutch parliament, said he was drafting a bill that would ban all immigration for the next five years. "Our culture is based on Christianity, Judaism and humanism," Wilders said in an interview in his tiny office in the parliament building in The Hague. "We should not be ashamed of it. This is who we are and who we should stay."

In Belgium, some cities have banned women from wearing face veils and burqas , which cover the entire body and face, in public places. A year ago, France barred women and girls from wearing head scarves in public schools. A London school district has imposed a similar ban.The Path of a Convert

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For natives such as Frank who have converted to Islam, the hostility is often greater than that directed at immigrants.

"They think you are a traitor," said Frank, whose thin, pale face is framed by long blondish-brown curls. "You're not acting like a Dutch girl anymore.

"I'm a Muslim, a woman and also Dutch," she continued. "What upsets people is that I'm a Muslim first."

Frank can recall the instant she decided to wear a face veil: She had just stepped into Amsterdam's Schiphol Airport last year after making her first hajj, or pilgrimage to Mecca, and going to Medina, in Saudi Arabia. They are the holiest sites in Islam.

It is more difficult, she said, to describe the evolution that took the former Rebecca Frank to her dramatic decision.

It began at age 14 as teenage defiance. She developed a crush on a 16-year-old Moroccan boy named Ali who had moved to the Netherlands as a child with his parents. He was exotic, he was different -- and, to the daughter of a Catholic mother and a Jewish father, he was off-limits.

Over the years, as the relationship became more serious, Ali told Rebecca he could not marry her because she was not Muslim, even though he was not particularly religious. It's not about Islam, he explained, it's about culture.

Without consulting him, she began reading books about Moroccan culture and Islam. Then she decided to read the Koran. "I felt like, 'This is it,' " said Frank, whose parents were divorced and who, like many teenagers, was searching for an identity.

When Ali took her to meet his mother and announced they planned to marry, his mother said she would "break both legs" if he did that, Frank said. Her future husband didn't see his family for the next three months.

Her own mother was so upset over the wedding that she brought flowers to the 18-year-old bride, broke down in tears and left before the Islamic ceremony began. Her father did attend the wedding.Clothing as a Statement

Like most of her Muslim convert friends, Frank said, she found that the process of fully embracing Islamic thinking and dress was gradual. But eventually the clothing became the outward statement of her identity. "I smiled at all the Muslim women I saw in the streets," she said. "But to them, I was just a plain Dutch girl with brown hair and blue eyes. I wanted to be recognized as a Muslim woman."

She changed her name from Rebecca to Rabi'a and began giving lectures about Islam. After she published an article on Islam in a local newspaper, a woman wrote her a letter demanding: "Go back to your own country."

"I'm in it now!" she thought angrily.

The more Frank studied her religion, the more convinced she became that she should take the final step and wear not only a head scarf but a face veil. "It took me two years to convince my husband I wanted to do it," Frank said. "He really didn't want me to wear it because of the reaction when we go out together."

Frank had begun focusing on the words of one of the Koran's foremost ancient interpreters, Rasulullah, who warned that "a woman who reveals her body" violates the tenets of Islam.

During her pilgrimage to Saudi Arabia with her husband and mother-in-law, she covered her face in public for the first time. Far from feeling oppressed, she said, she felt liberated.

"It's like the song," Frank said. She began softly singing the English lyrics of "The Veil," a popular song on Muslim Web sites.

They tell her, 'Girl, don't you know this is the West and you are free?

You don't need to be oppressed, ashamed of your femininity.'

She just shakes her head and speaks so assuredly. . . .

This Hijab, this mark of piety

Is an act of faith, a symbol

For all the world to see.

But on the streets of Breda, covered by her veil, Frank stands out as an anomaly -- a curiosity to some, a freak to others.

A few weeks ago, her middle son, 7-year-old Ismail, pleaded with her, "Why don't you take it off? The children are laughing at you at school."

"I won't take it off," she insisted. "For me, it's like driving a car without a seat belt."

She gazed out her living room window at the street that winds through her suburban enclave of brick townhouses and front gardens browned by winter frosts.

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"I am a Muslim," she said with finality. "That's my identity."

Spain Scrambles To Cope With Tide Of African Migrants (NYT)

By Renwick Mclean

The New York Times, March 19, 2006

MADRID, March 18 — Spain's deputy prime minister began an emergency visit to the Canary Islands on Saturday to discuss ways to control a record flow of African migrants arriving in boats from Mauritania that has led to at least 25 deaths in the last week.

The Spanish government says more than 1,000 migrants have been detained at sea in the last 10 days while trying to reach the islands from Mauritania on North Africa's western coast, a voyage of 500 miles.

The migrants, mostly sub-Saharan Africans, crowd into boats carrying dozens of passengers in hopes of reaching the islands and thereby gaining entry to the European Union.

The detentions have overwhelmed government and Red Cross officials on the islands, prompting them to ask residents to provide clothes and mattresses and to ask Spanish and European Union authorities for help.

"We've never seen anything like this," said an official in the central government's offices on the islands, who followed Spanish protocol by requesting anonymity to avoid upstaging his superiors.

The government of Mauritania has said that without aid from abroad it is practically helpless against the vast numbers of migrants who are collecting within its borders in hopes of going to the islands.

Before traveling to the islands on Saturday, Spain's deputy prime minister, María Teresa Fernández de la Vega, said the Spanish government would do all it could to help stem the flow of migrants and to help care for those who had been detained, many of whom arrive malnourished, dehydrated and in serious need of medical attention.

Juan Antonio Corujo Machín, a Red Cross official on the islands, said, "Most of them are completely disoriented when they arrive."

The Canary Islands, which are 70 miles off Morocco's southwestern coast, have been drawing boatloads of illegal migrants since 1995. They became a particularly popular destination in 2002, when close monitoring at the Strait of Gibraltar persuaded many migrants to look for an alternative route to Spain.

Immigration to the islands slowed over the last couple of years, partly because of a crackdown by Moroccan authorities.

In 2005, more than 4,700 migrants were detained while trying to reach the Canary Islands, down from 8,500 the year before, according to figures from the Spanish government.

The trend appears to be reversing itself this year, however. After less than three months, the number of detentions has already surpassed 3,500.

According to Spanish officials, the resurgence suggests that the Moroccan crackdown has been less effective than previously thought, because the migrants have responded by pushing their departure point south to Mauritania.

The change can add hundreds of miles to the journey, increasing the chances that the boats will wander off course, capsize or otherwise be lost at sea.

Even for migrants who are relatively well prepared, the journey can be hazardous.

All of the 25 bodies found off the coast of Mauritania this week were wearing life jackets, and one had a Global Positioning System navigator, the Spanish government said. The majority of the migrants appear to be departing from Nuadibu, in the north of Mauritania, Spanish officials said. Mauritania has estimated that more than 10,000 potential migrants have gathered in the city in hopes of reaching Spain.

U.S. Warships And Piracy Suspects Exchange Gunfire (NYT/AP)

By The Associated Press

The New York Times, March 19, 2006

DUBAI, United Arab Emirates, March 18 (AP) — Two United States Navy warships exchanged gunfire with people suspected of being pirates Saturday off the coast of Somalia, killing one of them and wounding five, the Navy said.

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No American sailors were wounded and 12 suspects, whose nationalities were not known, were taken into custody, said Lt. Cmdr. Charlie Brown, spokesman for the Navy's Fifth Fleet.

The battle started about 25 miles off the Somali coast when the American warships Cape St. George and Gonzalez spotted a 30-foot fishing boat towing skiffs and prepared to board the vessels. The suspects were holding what appeared to be rocket-propelled grenade launchers, the Navy said. When the suspects began shooting, naval gunners returned fire with mounted machine guns.

Navy Warships Fire On Suspected Pirates Off Somalia, Killing One (WP)

By Guy Gugliotta

The Washington Post, March 19, 2006

Two U.S. warships opened fire on suspected pirates in a small boat in the Indian Ocean off the coast of Somalia yesterday when the pirates brandished shoulder-fired rocket launchers at the ships as they approached, the Navy said.

One of the pirates was killed and five were wounded, the Navy said. Twelve suspects were taken into custody. Sailors worked into the night to quell a fire on the suspected pirate craft ignited by the warships' machine guns. No Americans were injured.

Cmdr. Jeff Breslau, a spokesman for the U.S. Navy Central Command at Bahrain, said the USS Cape St. George, a guided-missile cruiser, and the USS Gonzalez, a guided-missile destroyer, were conducting security patrols in international waters off Somalia's central coast when they spotted a small utility boat towing a pair of skiffs.

"All three were wooden boats," Breslau said in a telephone interview from Bahrain. "They were about 25 miles off the coast and heading west, toward shore." Breslau said the incident occurred at 5:40 a.m. local time.

He said the waters off Somalia, a country that has been in turmoil for the past 15 years, are infested with pirates, seaborne armed robbers who board any boat or ship they can approach and rob the crew at gunpoint.

"A lot of it is targets of opportunity," he said. "They'll take over fishing or merchant vessels, then head back to territorial waters where they demand a ransom." Under international law, watercraft in territorial waters cannot be easily boarded by foreign flagged ships.

Breslau said Cape St. George and Gonzalez, both based in Norfolk, were part of Task Force 150, which oversees security operations and interdictions at the Arabian Sea approaches to the Gulf of Aden and the Gulf of Oman. "The main focus," he said, "is to prevent terrorists from using the sea."

Breslau said the suspected pirate vessel was less than 40 feet long and either had two smaller skiffs in tow or was leading them toward shore. Cape St. George is 567 feet long, and Gonzalez is 505 feet long. Both ships are armed with Tomahawk cruise missiles and an arsenal of other weapons.

The warships were maneuvering to come alongside the suspect boat in preparation for boarding and search when the pirates opened fire with automatic rifles and a rocket-propelled grenade launcher, Breslau said. Sailors manning machine guns on board the warships returned fire, he added.

"There is one confirmed dead and five injured," Breslau said. "We took 12 people into custody, including the injured men." He said the firefight ignited the suspects' vessel, but sailors were working to put out the blaze in hopes of salvaging documents or other intelligence materials.

Congo Warlord Handed To International Court (NYT)

By Marlise Simons

The New York Times, March 19, 2006

THE HAGUE, March 18 — A Congolese militia leader accused of abducting children and turning them into soldiers and sex slaves has become the first suspect to be delivered to the new International Criminal Court, the chief prosecutor announced Saturday.

The former warlord, Thomas Lubanga, arrived at the court's detention center in The Hague late Friday after being flown here on a French military plane, the prosecutor said. Mr. Lubanga had been imprisoned since last year in Congo, whose authorities handed him over to the court for trial.

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"He has been accused of conscripting and enlisting children under the age of 15 into armed groups and using them in hostilities," the prosecutor, Luis Moreno-Ocampo, said at a news conference. The crimes involved were "extremely serious," he said. "Throughout the world, children are being trained to become machines of war."

Mr. Lubanga is scheduled to appear at a court hearing on Monday, the start of a new phase in the history of the I.C.C. The court, the first permanent international war crimes court, was founded in The Hague in 2002 over the objections of the United States.

Mr. Lubanga, 45, was the founder and leader of the Union of Congolese Patriots, one of the most dangerous militias in the Congo's northeastern Ituri district.

Mr. Moreno-Ocampo said that investigators had worked for months in the region almost surreptitiously because armed groups were still active in the area "and they could kill our witnesses." He said that further charges against the militia leader were still being prepared, but much evidence was already available, including photographs from camps where children as young as 7 were being trained to become soldiers.

According to Unicef, the United Nations children's aid agency, an estimated 30,000 children, most of them abducted, have been used by armed groups in Congo as fighters, messengers, cooks and sex slaves.

Mr. Lubanga's case will be one in a series of cases against militia leaders in Congolese-Rwandan border region, the prosecutor said.

The militias have been financed and supplied by a number of countries, including Uganda and Rwanda, in a fight over a region rich in minerals and timber.

"We think this is an important first step and we urge the prosecutor to go further and higher, up to the political actors who were manipulating these militias for their own ends," said Richard Dicker, a director of Human Rights Watch, based in New York.

Wonderful World? (NYT)

By James Traub

The New York Times, March 19, 2006

We live in a world that is objectively more dangerous than the one we knew at the outset of the millennium; whatever our disagreements, since 9/11 both our foreign policy and our domestic politics have pivoted around this ineluctable fact. And because the terrorists who struck us represent a global phenomenon, we assume that the world is objectively more dangerous for everyone. But is it?

The answer, it seems, is no. In recent years, scholars have been gathering data in an attempt to measure global trends in conflict and violence. The emerging view is that conflict worldwide is in fact diminishing, not growing. According to "Human Security Report 2005," a study that relies on this recent scholarship, the number of armed conflicts has been dropping steadily since the end of the cold war. Major civil wars, which exploded around the world between 1946 and 1991, declined sharply in the ensuing decade. Indeed, the trend holds true for virtually every category of conflict — coups, interstate wars and even genocides and so-called politicides, in which political belief rather than ethnicity is the criterion for killing. The only exception is international terrorism — as we know all too well.

The study, issued by the Human Security Center, a policy institute at the University of British Columbia, is not entirely convincing. Because, for example, no sound metric exists for tallying them, the "indirect deaths" caused by conflicts that uproot vast numbers of people, disrupt agriculture and shatter health-care systems have not been counted.

Nevertheless, once we get past our initial disbelief, the notion that we live in an era of comparative peace shouldn't be so surprising. Colonial struggles largely ended by the mid-70's. Cold-war proxy battles also ended. And over the last decade or so, the international community has developed a set of mechanisms to put the brakes on incipient warfare. In fact, the authors of the study argue that "the single most compelling explanation" for the decrease in conflict is that preventive diplomacy and peacemaking missions, as well as U.N. peacekeeping operations, which had been almost impossible to mount during the cold war, now accompany almost every major crisis. As a result, outright warfare is now concentrated, albeit to an extraordinary degree, in one area — sub-Saharan Africa. Entire regions that were strife-torn 20 or 30 years ago, including East and Southeast Asia, are largely peaceful today. North Africa is quiet; Latin America suffers from political instability but not warfare.

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This is certainly good news, especially for the beleaguered United Nations. But it does nothing to relieve our own sense of vulnerability, since terrorists are not amenable to negotiation or peacekeeping. You can, therefore, draw a troubling inference from the data, which is that for all the talk of "globalized" threats, the American experience of the world is becoming less, not more, similar to that of our allies and trading partners. Our world has become more dangerous; theirs, with some important exceptions, less so.

Why is it so hard for Americans to recognize how very different the world appears when seen from beyond our borders? The authors of "Human Security Report" hypothesize that myths about a rising tide of violence propagated by the media or international organizations "reinforce popular assumptions." O.K., but why the popular assumptions? Why are our intuitions about both the past and the present so far from the reality?

The answer has to do with fundamental differences between the cold war and the Age of Terror. In the cold war, the chief combatants never fought one another — thus the "coldness" of the war between them. The rest of the world was aflame with proxy combats, but the fear of provoking nuclear war served as a heat shield for the West. The authors of "Human Security Report" note that the scholarly description of the post-World War II era as the "long peace" is "deeply misleading." But psychologically it was accurate.

Now the relationship between threat and actual fatalities has been reversed. International terrorism has killed an average of 1,000 people a year over the last 30 years, according to "Human Security Report." That's not a lot. But the threat of terrorism is out of all proportion to its lethality; that is, in a way, the whole point of terrorism. It is true that since 9/11, nothing has happened in the United States, but anything can happen, anywhere, at any time. And of course something has happened. We all had nuclear nightmares in the depths of the cold war, but we recognized them as nightmares, or as scenes from apocalyptic movies. Yet in the case of terrorism, we had the apocalypse before we even had the nightmare. And so while we may accept the idea that we live in a less-war-torn age, the mind rebels at the thought that we live in a less dangerous age.

But that's us; it's not even "the West." In his famous essay "Of Paradise and Power," Robert Kagan argued that Europeans have stepped out of the Hobbesian world of anarchy — our world — into their own Kantian world of "perpetual peace." With Islamic terrorism a growing threat in Europe, Kagan's Mars/Venus distinction may not be quite as salient as it seemed. But outside the West, where in general the world really does feel less lethal than it used to, President Bush has had a very hard time enlisting allies in the war on terror. Many developing nations would rather talk about development and trade than about sleeper cells. Yet we need their help in the fight against terrorism.

The Bush administration has discovered the hard way that diplomacy is more difficult today — and arguably more important — than it was during the cold war. You can only hope that this discovery points toward a wiser and more supple view of the world we have been forced to inhabit.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

From left and Right, doubt on Wiretaps (MJS)

By Craig Gilbert

Milwaukee Journal Sentinel, March 18, 2006

But Feingold's call for censure of President won't fly

Washington - While most senators recoiled last week from Wisconsin Democrat Russ Feingold's resolution to censure the president, many of them agreed with one of its basic premises: that the wiretapping of Americans without a warrant is against the law.

Doubts about the legality of the government's once-secret domestic surveillance program can be found among both liberal and conservative scholars and on both sides of the aisle in Congress.

In other words, unlike his proposal for censure, Feingold's claims about "illegal wiretapping" are well within the mainstream of congressional debate on the issue.

But critics of the censure resolution make two very different arguments about those claims.

One is an unqualified assertion of the program's legality, offered by the Bush administration and on the Senate floor last week by Majority Leader Bill Frist of Tennessee, a Republican.

The other doesn't go nearly that far. In dismissing the notion of censure, some senators argue not that the wiretapping is necessarily legal, but that the question is unanswerable for now, either because too little is known about the program or because the courts haven't put the big constitutional issues to rest.

Chief among them: whether a 1978 law against warrantless domestic wiretapping is trumped by the president's inherent constitutional powers as commander in chief.

Moments after Feingold introduced his censure resolution, Illinois Democrat Dick Durbin posed a question on the Senate floor to Republican Arlen Specter, chairman of the Senate Judiciary Committee and a central figure in the wiretapping debate.

Did Specter agree with Frist that the wiretapping is legal?

"I neither agree nor disagree. I do not know," said Specter, who in that spirit introduced a bill Friday that would require the government to seek legal approval for its surveillance program from a special foreign intelligence court established in the late 1970s.

Specter said Friday that he's taking a "middle ground" between those who claim the program is legal and doesn't require a change in the law or judicial review, and those, like Feingold, who claim it's flatly illegal.

Of Frist's claim of legality, Specter said, "Senator Frist is not a judicial official."

Of Feingold's claim of illegality, Specter said there are too many unknowns about how the program works, and "I certainly think you ought not castigate the president as a criminal until you do know the answers to those questions."

Feingold, who sits on both the judiciary and intelligence committees, rejects that argument.

"I don't think there will ever be any additional information that is going to make this more legal," Feingold said at a news conference last week.

Then he proceeded to offer the legal case against the National Security Agency's surveillance program, which is intended to monitor calls between the United States and a foreign country that involve al-Qaida suspects.

Argument number one: that the program is in clear conflict with the 1978 Foreign Intelligence Surveillance Act, which makes it a crime to eavesdrop on Americans without a warrant from a court.

On this point, Feingold has plenty of company. Specter himself called the program a "flat violation" of the 1978 law on NBC's "Meet the Press" on Feb. 5.

Argument number two: that the Bush administration is wrong when it claims that the warrant requirement in the 1978 law was superseded when Congress passed a resolution in 2001 authorizing the president to use "all necessary and appropriate force" against those responsible for the Sept. 11 attacks. Attorney General Alberto Gonzales made that case when he testified before the Senate Judiciary Committee on Feb. 6.

"That's been laughed out of the halls of Congress," Feingold said last week, and not many lawmakers have endorsed the administration's view on this point.

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The Republican Specter told Gonzales that his argument "defies logic and plain English." South Carolina Republican Lindsey Graham told the attorney general that his reasoning was "very dangerous." Graham said when he voted to authorize force against al-Qaida in 2001, "I never envisioned that I was giving to this president or any other president the ability to go around (the 1978 law) carte blanche."

But the debate over the legality of the National Security Agency's domestic wiretapping also turns on a third question that is more divisive among lawmakers and in the legal community: whether the 1978 law's requirement for a warrant is outweighed by a president's "inherent" constitutional powers as commander in chief.

How clear is the law?

This question was batted around by the legal experts who testified before Specter's committee late last month. They debated not only whether the surveillance program is legal or illegal, but also whether the law itself is gray or black-and-white in this area.

Yale Law School Dean Harold Koh told the Senate panel that the eavesdropping program is "as blatantly illegal a program as I've seen."

Koh, a liberal scholar who served under President Clinton, said the program lacked the basic standards required under the Fourth Amendment right against unreasonable searches and seizures.

Two conservative legal scholars also told the panel the program was illegal, though they disagreed over whether it was a close call.

"This case is very easy," said Bruce Fein, a former Reagan administration official, who cited a landmark 1952 Supreme Court ruling involving the government's seizure of a Youngstown, Ohio, steel mill. In that case, Justice Robert Jackson held that presidential authority is at its high point when it's used in concert with congressional authorization, but that it's at its "lowest ebb" when it's "incompatible with the expressed or implied will of Congress."

Another conservative scholar, Robert Levy of the Cato Institute, agreed that Bush's inherent powers don't allow him to ignore the 1978 surveillance law. Levy called the eavesdropping program "illegal" but also called it a difficult question.

President's powers defended

Among those defending the program's legality at the hearing was Robert Turner of the University of Virginia's Center for National Security Law.

Turner said the control of foreign intelligence is "at the core of executive discretion," and that regardless of the 1978 law, "I don't think Congress could take away the president's independent powers."

Douglas Kmiec of Pepperdine University Law School also asserted the constitutionality of the government's actions. Kmiec, who served under President Reagan and the first President Bush, said the administration's legal arguments regarding both inherent powers and the 2001 use-of-force resolution were "plausible."

"Reasonable minds can differ on this question," Kmiec said.

Spectrum of opinion

In the Senate, minds clearly do differ. Much of the Democratic minority and at least one Republican (Rhode Island's Lincoln Chafee) agree with Feingold that the spying program is against the law. Some Democrats are more agnostic on the question. Among Republicans, there also appear to be two prevailing views. One group believes the program is legal. Another has doubts or questions that it hopes to resolve by passing legislation, putting the matter before the courts, or both.

Graham, the South Carolina Republican, warned Gonzales last month that the "inherent powers" argument "seems to have no boundaries when it comes to executive decisions in a time of war" and could be used to "almost wipe out anything Congress wanted to do."

In an interview last week, Graham said he disagreed with both of the administration's main legal arguments in defense of warrantless spying.

But at the same time, he contended that the "law in this area is unsettled" and said, "This idea of censuring the president really throws politics into the middle of a good, healthy debate."

Feingold said last week he decided to offer the censure resolution after sitting through several judiciary and intelligence hearings, listening for "reasonable legal arguments," and not hearing any.

He called the "inherent powers" argument very weak. And in an interview on the "Charlie Rose Show" on PBS Friday, Feingold said he is afraid the Supreme Court may view the issue as a political conflict between the other two branches and never take it up.

"If you just leave this up to the judiciary, what you're doing is giving up Congress' role," Feingold said. "Why wouldn't we assert our role, our constitutional role, which is that we make the laws?"

Slain Al Qaeda Leader Leaves Testament To Violence (WT/AP)

DOJ_NMG_0018991

By Nadia Abou El-magd, Associated Press
The Washington Times, March 19, 2006

CAIRO -- The slain leader of al Qaeda in Saudi Arabia vowed in his final testament that his group would overthrow the royal family and stage more attacks against the kingdom and Americans in the region, according to a video released yesterday.

The video showed Fahd Faraaj al-Juwair wearing a white head scarf and robes as he read his will in front of a map of Saudi Arabia with the slogan, "Expel the infidels from the Arabian Peninsula." Elsewhere in the video, he appears smiling, wearing a red T-shirt and what appears to be a belt of explosives.

Addressing the Saudi royal family, al-Juwair said, "If you know what the youth are preparing for you, you would be rushing to escape this peninsula."

The video was sent to the Associated Press in an e-mail. In it, al-Juwair also warned the Americans: "Get out of Muhammad's peninsula, get out of all Muslim lands, stop supporting the Jews in Palestine, halt supporting Christians in Muslim lands, or else you'll have nothing but killing, destruction and explosions."

Al-Juwair was reported killed by Saudi security forces along with four other leading militants in a Feb. 27 raid in the capital, Riyadh. The raid was launched in the wake of an al Qaeda attack on the Abqaiq oil complex, the largest oil-processing facility in the world.

The e-mail accompanying the video confirmed his death, with the phrase, "May God accept him as a martyr," and identified al-Juwair as the former head of al Qaeda's branch in the kingdom and as the supervisor of the attack on Abqaiq.

The authenticity of the e-mail, signed by "The Voice of Jihad for Media Production," could not be independently confirmed.

In the video, al-Juwair addressed Saudi police who have been pursuing militants, urging them to join al Qaeda's jihad, or holy war.

"What are you going to tell God when you kill a holy fighter in defense of the Americans, or if you are killed while you are defending the despots?" he asked. "Stop working for the oppressors and join the mujahedeen."

Al Qaeda militants launched a campaign of violence in 2003 in Saudi Arabia, the birthplace of group leader Osama bin Laden. Saudi security forces have carried out a heavy crackdown since, killing or capturing most of the group's leaders.

The Feb. 24 suicide bombing on Abqaiq was the first attack on Saudi Arabia's vital oil infrastructure. The kingdom is the world's largest producer of oil.

Bombers in two explosives-laden vehicles tried to ram through the facility's gates, but were stopped by guards who opened fire on them, detonating the vehicles.

Judge In Moussaoui Trial Faces A Delicate Task (LAT)

By Richard A. Serrano
The Los Angeles Times, March 19, 2006

Deciding when attorney who 'tainted' witnesses will testify while keeping jury intact are her foremost concerns.

WASHINGTON — With the sentencing trial for Zacarias Moussaoui stumbling forward again, lawyers for the two sides were sharply at odds Saturday over when a government attorney would testify about why she tried to influence witnesses.

The coaching efforts by Carla J. Martin nearly shattered the prosecution's effort to have Moussaoui receive the death penalty for his role in the Sept. 11 terrorist attacks.

Defense lawyers want Martin on the stand as soon as Monday in the trial over whether Moussaoui, 37, should be executed or sentenced to life in prison.

Prosecutors want to delay Martin's appearance until the middle of the week and have her testify only if she agrees to answer questions about her conduct and not invoke the 5th Amendment against self-incrimination.

"We see no reason" to have Martin take the stand "simply to have [her] invoke her rights," prosecutor Robert A. Spencer said in court papers.

In the middle of the dispute is Judge Leonie M. Brinkema.

Clearly irked by the revelations about Martin early last week, Brinkema has made no secret of her view that the lawyer with the Transportation Security Administration may end up with criminal or civil sanctions for attempting to coach several witnesses.

But Brinkema also is trying to keep together a jury that has been left in the dark over the developments in the case — the only one to be tried in the U.S. that stems from the 2001 attacks.

Moussaoui pleaded guilty last year to plotting with the hijackers. The government contends he should be put to death because he failed to alert the FBI to the plot, which resulted in the deaths of almost 3,000 people.

"I'm fully aware of how important it is for this matter to become resolved," the judge told the prosecution and defense teams in a teleconference session late Friday. "I'm fully aware of the huge resources that have been expended on this case, the fact

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that we summoned 850 jurors, that we have an excellent jury of 17, and I agree that it would be unfortunate if this case could not go forward …. "

One week into the trial, Brinkema abruptly stopped it Monday when word surfaced that Martin had attempted to influence witnesses from the transportation agency and the Federal Aviation Administration. Martin briefly appeared in court on Tuesday but declined to testify and was excused until she could find legal representation.

Her newly hired lawyer, Roscoe C. Howard Jr., has since said she was eager to testify but needed some time to prepare.

"She is entitled to a fair opportunity to prepare and present her side and a fair judgment of her intentions, her conduct and the conduct of others," Howard said.

Brinkema first banned from the trial all testimony and evidence about aviation security because of Martin's action. But the judge scaled back her ruling Friday, allowing prosecutors to present one or two witnesses on the issue who were not "tainted" by Martin.

For prosecutors, that decision drew new breath into their case for the death penalty for Moussaoui.

They had told jurors they would prove that, had the French citizen cooperated with the FBI upon his arrest on an immigration violation in August 2001, the government would have tightened airport security across the country. Those measures, prosecutors said, could have prevented hijackers from making it onto the airplanes used in the Sept. 11 attacks.

Defense lawyer Edward B. MacMahon Jr. said in court papers that he wanted Martin on the stand after he finished cross-examining FBI Special Agent Harry Samit on Monday morning, which is where the trial left off when it was postponed.

He said she should be the next witness before the prosecution brought in any "untainted" witnesses on aviation security because her testimony would provide "critical information" about the nature of the witness-tampering effort.

Ashcroft: Cooperation's Key In Fight Against Terror (AP)

By JESSICA GRESKO, ASSOCIATED PRESS WRITER

AP, March 19, 2006

MIAMI GARDENS - Former U.S. Attorney General John Ashcroft said Saturday that he does not believe the threat of terrorism has passed and that the United States must work with other countries to combat it.

In an hour-long talk as part of a conference on economic crime, the nation's former top law enforcement officer also discussed the importance and challenges of prosecuting financial crime and the emphasis after the 2001 terrorist attacks on "prevention over prosecution."

"As we fight against terror . . . We need to remind ourselves of the necessity and value of being extremely cooperative with individuals of other nations and in other settings," Ashcroft said.

Ashcroft also drew laughs with some self-deprecating remarks. He also joked that the crowd of approximately 200 students, professors and attorneys at St. Thomas University School of Law would not have to remember anything he said.

"The good part about this lecture is that none of it will be on the quiz or the final," he said.

Not mentioned as part of his speech was the pending case in Miami against alleged terror suspect Jose Padilla, who was arrested almost four years ago while Ashcroft was attorney general. Announcing Padilla's arrest in June 2002, Ashcroft said he had planned to detonate a radioactive "dirty bomb" in the United States, charges not mentioned in the current case. Padilla's trial is expected to begin in September.

Ashcroft left the attorney general's office in early 2005 and was succeeded by Alberto Gonzales. He is now a professor at Regent University in Virginia Beach, Va.

PATRIOT ACT:

Patriot Act Games Poke Fun At Government (AP)

By Wayne Parry

AP, March 19, 2006

HAMILTON, N.J.

In this send-up of "Monopoly," players don't pass "Go" and they don't go directly to jail _ they go to Guantanamo Bay.

Instead of losing cash for landing on certain squares, they lose civil liberties. And the "Mr. Monopoly" character at the center of the board is replaced by a scowling former Attorney General John Ashcroft.

"Patriot Act: The Home Version" pokes fun at "the historic abuse of governmental powers" by the recently renewed anti-terrorism law, according to its creator's Web site.

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But while it may be fun, creator Michael Kabbash, a graphic artist and Arab civil rights advocate, is serious about how he feels the law has curtailed Americans' freedom.

The object of the game is not to amass the most money or real estate, but to be the last player to retain civil liberties.

"I've had people complain to me that when they play, nobody wins. They say `We're all in Guantanamo and nobody has any civil liberties left,'" he said. "I'm like `Yeah, that's the point.'"

The real Patriot Act, passed after the Sept. 11, 2001, terror attacks and renewed earlier this month, gave law enforcement new investigative and prosecutorial powers. Critics say it unacceptably impinges on civil liberties, but the government defends the law as a vital tool that has helped prevent another terror attack.

Kabbash decided to keep Ashcroft as the visual focus of the game, even though he stepped down in January 2005, because "he really is the icon that people associate with the Patriot Act."

In a nod to President Bush's prewar comments, the "Go" space in is renamed "Bring It On!" Players roll the dice to determine how many civil liberties they start out with, accumulating them from a variety of categories: U.S. citizens get 5; non-citizens 1. Whites and Asians get 5; Arabs 1. Ultra right-wingers get 6; Democrats 3 or 4.

Instead of landing on, say Oriental Avenue, players land on a color- coded spaces corresponding to the national terror alert. A player who lands on a red space loses one civil liberty, as does anyone else within five spaces. A player who lands on an orange space gets to designate another player to lose one civil liberty.

"Chance" cards are now "Homeland Security Cards," with orders such as, "FBI wants you for questioning; Lose one turn;" and "You provide the local authorities with speculative information on your next door neighbor; Collect one civil liberty from each player."

Kabbash, of Green Brook, created a few full board sets but is also distributing the game free over the Internet, with the game board and playing cards all printable. More than 2,000 copies have been downloaded since it debuted in 2004.

"I wanted it to be not only a parody but a teaching tool," said Kabbash, 38, who teaches graphics at the College of New Jersey. "This is my way of putting my political ideas forward, hoping people will wake up. There's a lot of apathy, and we have to realize that we're in a democracy, that we're all allowed to say something."

Ashcroft had no comment on the game when asked about it Saturday during a crime conference in Miami Gardens, Fla., but he laughed when told "jail" had been replaced with Guantanamo Bay. U.S. Justice Department public affairs did not immediately return a call Saturday seeking comment.

Kabbash says his next project will probably have something to do with the National Security Agency's domestic eavesdropping program. He is reasonably certain "there's a file on me somewhere."

Asked if the FBI keeps a file on Kabbash, a bureau spokesman refused to comment.

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Associated Press Writer Jessica Gresko in Miami Gardens, Fla., contributed to this report.

HOMELAND RESPONSE:

Cabinet Drilled On Response To Smallpox (NYT/AP)

By The Associated Press

The New York Times, March 19, 2006

WASHINGTON, March 18 — Cabinet secretaries participated in a drill on Saturday that simulated a smallpox attack as the government tested plans to counter the potential use of bioweapons by terrorists.

"The purpose of this exercise, which was only a drill, was to address the federal government's response to a potential smallpox attack," said Dana Perino, a White House spokeswoman. "While there's concern, we do not have any concern that a smallpox attack is imminent."

The World Health Organization reported the disease was eradicated in 1980. Still, there are fears that smallpox may be used by terrorists as a biological weapon.

The United States ended routine childhood vaccination against smallpox in 1971. But after the Sept. 11, 2001, terror attacks, the Bush administration ordered some military personnel vaccinated and recommended shots for some health care workers.

Officials from various government agencies, including Dr. Julie Gerberding, director of the Centers for Disease Control and Prevention, participated in the four-hour exercise. Michael Chertoff, the homeland security secretary, and Michael O. Leavitt , the health and human services secretary, were among the cabinet members who were part of the drill.

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Montgomery Homeland Security Unit's Scope Challenged (WP)

By Cameron W. Barr

The Washington Post, March 19, 2006

When it comes to defending the homeland in suburbia, Montgomery County stands alone.

The county's 15-month-old Homeland Security Department, national experts say, is the only such agency to maintain uniformed officers apart from its local police force. The 60-person unit is charged with being the eyes and ears of a small but growing homeland security apparatus.

County Executive Douglas M. Duncan (D) wants to increase the department's $5 million budget by 20 percent in the next fiscal year, in part to provide the officers -- most of whom work unarmed -- with pepper spray and body armor. But after an incident last month in which a homeland security officer told public library patrons that they couldn't view Internet pornography, some County Council members are questioning the size and role of the department and its security unit.

"I'd probably advise the next county executive not to have a Department of Homeland Security," said council President George L. Leventhal (D-At Large). "We don't want them swaggering around trying to figure out whether Osama is in the house at the Little Falls library."

Jurisdictions across the country have reorganized in reaction to the post-Sept. 11 era and the creation of the federal Department of Homeland Security. Part of the motivation was to make sure they didn't miss out on millions of dollars in federal funding.

Fairfax County has a Homeland Security Committee made up of senior officials. Prince George's County has an Office of Homeland Security. And the District's Emergency Management Agency plays a coordinating role in homeland security efforts.

None approaches the scale of Montgomery's department, which Duncan began pushing for in late 2004 to "boost the security of our homeland and ensure more coordination within county government."

The council concurred, although it initially resisted moving the security division from Public Works and Transportation into the new agency. Duncan won a council majority for the move during budget deliberations early last year.

"We've taken what should be a small unit and made it much larger than it needs to be," council member Marilyn Praisner (D-Eastern County) said last week.

Controversy surrounding the library incident might also be swelling. The county has informed the Homeland Security Department officer involved that it intends to suspend him without pay for three days because of his conduct. The officer, Ralph Gerharz, recently hired lawyer Robin Ficker, a Republican candidate for county executive, to represent him during disciplinary proceedings.

Montgomery officials contend that Gerharz did not maintain decorum or conduct himself in a professional manner Feb. 9 when he and a fellow officer entered the Little Falls library in Bethesda, Ficker said.

After Gerharz saw adult male patrons viewing explicit pornography on library computers, Ficker said, he told the men that displaying such images was a violation of the county's sexual harassment policy and asked one to leave the library with him to discuss the matter. Other patrons and librarians intervened, and an argument ensued. One librarian felt Gerharz was becoming "abusive" and called police, according to a county report of the incident.

"He was being very authoritarian -- throwing his weight around," said Asher Hyatt, a retired scientific administrator who was volunteering at the library that day.

Gerharz "was offended, and he tried to do something about it and it got a little bit out of hand," Ficker acknowledged. He said the county is making Gerharz a "political fall guy" and failing to address the underlying issue: how to control the display of pornographic materials where children might see them.

Montgomery's policy governing Internet use in public libraries says librarians "will intervene to ensure compliance with state law" and prevent minors from accessing obscene materials, including child pornography. The policy also says that librarians will call police if they believe an adult patron is accessing child pornography.

County officials have condemned the actions of Gerharz and an officer in training who witnesses said stood silent. "What they did was wrong, and I do not condone in any way, shape or form their behavior," Duncan said last month.

Immediately after the library incident, security officers were trained in the need to respect the constitutional rights of library patrons and reminded that their role is to secure and protect county facilities and personnel but not to enforce laws or policies, said Homeland Security Director Gordon Aoyagi.

Aoyagi said county officials moved the security division from the Department of Public Works and Transportation into Homeland Security last year to better integrate the division's officers into the county's emergency response systems.

But he conceded that there was no budget for training.

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Duncan's proposed budget increase includes $102,000 to pay for security officer instruction. Gino Renne, president of United Food and Commercial Workers Local 1994, which represents the officers, said the training and additional equipment were funded in part because of pressure from the union.

Advance Workers For Bush Impersonated Reporters (WP)

By Christopher Lee

The Washington Post, March 19, 2006

The White House said yesterday that it will discipline two government employees who masqueraded as journalists this month while scouting locations for a presidential visit to the Gulf Coast.

A Mississippi couple whose home was destroyed by Hurricane Katrina said two men who later identified themselves as Secret Service agents pretended to be Fox News journalists when surveying their neighborhood in advance of a March 8 visit from President Bush.

The men arrived on March 3 at the site of the beachfront home that Jerry and Elaine Akins are rebuilding in Gautier, Miss., Elaine Akins said in a telephone interview yesterday.

"They didn't show any cards or anything," Akins said. "They just came up and said they were with the media, and then they said they were with Fox. They just talked to us and asked us about rebuilding our house. Then, after everything was over with, they approached us and they were laughing, and they said: 'You know, we really weren't with Fox. We're government, Secret Service men.' "

Ken Lisaius, a White House spokesman, said the employees were out of bounds.

"This incident has been brought to our attention, and this is clearly not appropriate, nor is it part of our standard operating procedures," he said. "The individuals involved will be verbally reprimanded."

Tom Mazur, a spokesman for the Secret Service, said he did not know who the men were but they were not Secret Service officials.

"I checked with our people down there in Mississippi who were involved in the advance, and it was not Secret Service people who identified themselves as members of the media," Mazur said. "We wouldn't do that."

Asked whether he could confirm where the employees worked, Lisaius simply reiterated his earlier statement. The incident was reported in yesterday's editions of the Biloxi Sun Herald.

Akins said the men were friendly and looked around the home site for about 20 minutes. The following Wednesday, Bush flew to the small, working-class town. He appeared with Mississippi Gov. Haley Barbour (R) outside the Akins home to call attention to federal efforts to aid in reconstruction.

"Our job and our purpose is to help people like the Akins rebuild," Bush said.

The men eventually revealed their identities and displayed blue lapel pins bearing the presidential seal. Akins said she does not mind that the men temporarily misled her about their identities.

"What could they do?" she said. "They couldn't walk up and tell us who they were, because then we would have been a lot more suspicious about the president coming."

"We didn't know" about Bush's visit "until about an hour before the president actually got there," she added. "I think they handled it great."

Louisiana Faces An Exodus From The Coast (WP)

By Cain Burdeau

The Washington Post, March 19, 2006

LAFITTE, La. -- Once the salt water is in your veins, Louisiana's coastal folk say, it's hard to give up the lifestyle of moonlit shrimping trips, the town "fais do-do" dances and afternoons spent on the bayous angling for catfish. But since last year's catastrophic hurricanes, this swampy land defined by Cajuns, cypress and tupelo gum forests, bayou-side saloons and, more recently, subdivisions may have become too vulnerable for that lifestyle to continue.

Even before the devastation caused by Katrina, Louisiana's swampy coast had been sinking by as much as 2 inches a year. Along with that subsidence, the area is even more susceptible to flooding because last year's hurricanes damaged vast tracts of wetlands _ already shrinking because of man's activities _ that used to buffer the area from storms blowing in off the Gulf of Mexico.

All of those factors will be reflected in new Federal Emergency Management Agency flood-vulnerability maps due to be released soon that are the basis for flood insurance rates.

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The maps will likely make the insurance more costly, force residents to spend heavily to raise homes out of flood plains to qualify for coverage, make many other homes uninsurable and make lenders less willing to loan money for construction in flood-prone areas.

That new reality may threaten the state's coastal population and its heritage of shrimp fishing, alligator hunting, fur trapping and oyster harvesting.

Some of the roughhewn people down here won't leave willingly.

"You've got earthquakes, you've got fires, you've got volcanoes, you've got tornadoes in tornado alley," said A.J. Fabre, an outspoken leader among shrimp fishermen in Lafitte, about 30 miles south of New Orleans. "Where are you going to have everybody? In Missouri?"

Nearly every house in the area, most of them built on slabs, was flooded by Hurricane Rita. Now, families live in trailers as they rebuild.

"It's a quiet community. Virtually no crime. Kids steal a couple of bicycles," Fabre says.

But the future is gloomy. Fabre's place, a small brick house he inherited from his grandfather, has been condemned because of wind and flood damage. The only thing left of a shrimp processing plant there is a concrete slab, and the old family dock is barnacled, broken and useless.

With no flood insurance, Fabre isn't sure if he'll be able to rebuild. He and his wife might have to demolish the place and buy a mobile home.

He insists he is not defeated and lashes out at politicians, importers, the federal government.

"The fight has just begun," he said.

But many of his neighbors and friends aren't so sanguine.

"We're doomed," said Jimmy Terrebonne, a 46-year-old boat builder. He tells his children to get an education and get out of the fishing trades.

As for himself, he said, "I can't do anything else. I don't have an education. I ain't leaving until it's gone. When the land's gone, I'm leaving."

Many coastal experts believe life along the coast is going to change dramatically with the new flood maps.

"Where we had subdivisions in the marshes, they will not come back," said Shea Penland, a coastal scientist with the University of New Orleans. "I can't believe they're sustainable."

"There are going to be some significant changes across the board," said Butch Kinerney, a FEMA spokesman.

For one thing, much more is known since FEMA last calculated the area's flood vulnerability in 1984 about the area's rate of subsidence.

Last year, the National Geodetic Survey issued a report saying the area was sinking by a half-inch to 2 inches a year, and that was as of 1995.

"When they built the levees, it wasn't below sea level. It was dry land. Now it's dry land only because of the levees," said Roy Dokka, a Louisiana State University subsidence specialist.

About 1,000 homes damaged by Rita's storm surge in the heavily Cajun region southwest of Lafayette called Vermilion Parish might need to be raised to be eligible for insurance, said Robert LeBlanc, the parish's emergency preparedness director.

Younger people might leave, LeBlanc said.

Many others, however, are determined to stay.

"People like where they live, they're content," said Kimberly Chauvin, the wife of a shrimper who is thinking of raising their already-raised home up to 10 feet higher. "I wouldn't want to move to the city, not at all."

New Orleans Assesses Bureaucratic Tradition (LAT)

By Sam Quinones

The Los Angeles Times, March 19, 2006

It has seven property assessors whose jobs are virtually inherited. But an upcoming election and the 'I Quit' slate could end that.

NEW ORLEANS — The upcoming election here will attract national attention as residents vote on who will lead their reconstruction.

But beneath the hullabaloo is an obscure, less riveting issue that advocates of change say could be just as big a step in helping the city reinvent itself.

Now is the time, they say, to revamp the city's antiquated system of property assessment, a system that some view as wasting money and encouraging cronyism.

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For more than a century, New Orleans has had seven elected property assessors — each with their own staff and responsibility for a separate district — to assess the city's 164,000 parcels. The system is unique in Louisiana and is believed to be like no other in the country.

Los Angeles County, in comparison, has one elected assessor, whose staff assessed value on 2.6 million properties last year, the office's website says.

New Orleans assessor jobs have been handed down from father to son and husband to wife; one seat has been in a family since 1904.

"We have a screwy, curious, historically developed property-assessment system," said Shaun Rafferty, a local attorney who is leading the nascent movement to overhaul the assessor system. "We've kind of tolerated it. But the hurricane has caused everybody to reanalyze everything."

Since Hurricane Katrina, a new political activism has replaced the city's long-standing complacency. Many people here see the hurricane as a rare chance to discard an outdated system and begin renovating New Orleans' image as a backwater of corruption and inefficiency that left the city vulnerable before the storm.

The assessor system "didn't have anything to do with the emergency response" to Katrina, said Paul Cordes, another lawyer seeking to revamp the system. "But the general fragile nature of our city government — this is the bedrock of it."

Riding the wave of change, a group of lawyers and businessmen have qualified a slate of assessor candidates — known as the I Quit Ticket — for the April 22 city elections.

The candidates — who all hope to be listed on the ballot with the nickname "IQ" — vow to lobby for legislation allowing voters to approve consolidating their offices into one, and resign en masse when that happens. Their resignations would force a special election of a single assessor.

"Everybody felt it was chasing after windmills to take on the assessors," said Bill Aaron, a former city attorney now in private practice and an I Quit Ticket board member. "Now, with Katrina, all bets are off."

Still the issue shows how slowly change can come here, even after hurricanes Katrina and Rita.

A bill to allow a vote on consolidating New Orleans' seven assessors into one failed 8-6 in a state legislative committee last month. Among those opposing it were two legislators whose brother and father, respectively, are New Orleans assessors.

New Orleans has what critics contend are layers of redundant government that it can no longer afford, given its greatly reduced population and budget.

For example, Orleans Parish, whose boundaries are essentially the same as the city's, has a criminal sheriff, a civil sheriff and a coroner — positions that many counties combine in one job. There are several court clerks, each with separate staff, handling the job one court clerk does in most counties.

But the best example of duplication and waste, they say, has been the assessors. Several studies have suggested that consolidating the offices under one appointed assessor would lead to sustainable city financing, and make assessing more accountable, predictable and efficient.

"Every other parish gets by with one," said Janet Howard, of the Bureau of Government Research, a nonpartisan think tank that has studied the system and advocated changing it. With assessor salaries and retirement benefits, New Orleans pays more than $700,000 a year for an assessor, Howard said.

"Even with seven assessors, the job doesn't get done," she said, in part because the money that should pay to modernize and hire appraisers goes to the assessors' salaries. The offices are understaffed and employ people with insufficient training.

The result has been a patchwork of inconsistent assessments for comparable properties. "The only people who are actually paying the taxes are new home buyers" who get their homes reassessed when the sale goes through, said Aaron, the former city attorney. "A lot of the wealthy people are not paying the taxes they should be paying and a lot of the middle-class people are actually bearing the tax burden."

The Times-Picayune newspaper investigated the system in 2004 and found assessments 41% below market value. In response, the Louisiana Tax Commission found that owner-occupied homes in the city were assessed at least 25% below market value. Last year, the commission ordered the New Orleans assessors to reassess all their residential housing — a task they had embarked on when Katrina hit.

Uneven assessments, critics say, have created taxpayer distrust, lawsuits, a culture of corruption and shaky city finances.

Erroll Williams, the 3rd district assessor, doubts that consolidation would save much money. The New Orleans system is poorly funded compared with others around the state, he said, and "you can't save money when you're under-funding it." Moreover, he said, now is no time to change the system because the storm threw property assessment into chaos.

Also, Williams said, one assessor "could be corrupting. If you change it to one assessor in New Orleans, he's going to anoint the mayor. He could influence who becomes your councilmember, your state rep."

But that's exactly what the system now breeds, critics say.

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Staying in office for years, assessors develop relationships with their constituents, which promotes lowering assessments as political favors.

"There doesn't need to be this personal relationship with your assessor," said Arthur Sterbcow, president of Latter & Blum, the region's largest real estate firm, in New Orleans, and an I Quit Ticket board member. "That's a thinly veiled way to say, 'Come see me. We'll work out a deal.' "

The success of the I Quit Ticket depends on the election of all seven of its candidates. (The group is appealing a court order that would prevent the candidates from being listed on the ballot with the "IQ" nickname.) The Legislature must also approve putting the idea of a single assessor before voters during its spring session, which runs from March to June.

Until voters approved the consolidation, he said, the candidates would use their salaries to hire professional appraisers to do the job.

The I Quit Ticket will test Orleanians' commitment to revamping the bureaucracy, Cordes said, because changing the assessor system probably would increase assessments for some of the town's wealthiest families.

"With Katrina, we can reproduce a model city," he said. "This assessor thing is a huge building block in that. It's not the apparent problem, but it is the tumor deep within that needs to be removed."

Storied Church May Be Victim Of Katrina (WP)

By Kari Lydersen

The Washington Post, March 19, 2006

St. Augustine, Founded in 1841, Is Called Vital Link to Culture of New Orleans

NEW ORLEANS -- Parishioners at one of the nation's oldest African American Catholic churches may have celebrated their last Mass as a parish last Sunday, even as they continued their efforts this week to keep the doors open at St. Augustine.

The church, in the Treme neighborhood near the French Quarter, is a center of racial harmony and great jazz, playing a central role in New Orleans history and culture. With so much of the city devastated by Hurricane Katrina, local residents are rallying behind the church and hoping the parish can be saved.

"The people of New Orleans have lost so much; we don't want to lose this," said Sandra Gordon, 52, a church volunteer who has been coming to St. Augustine since 1965, when Hurricane Betsy destroyed her former church.

In the face of a much-reduced city population and physical damage to many churches post-Katrina, the Archdiocese of New Orleans is closing seven parishes and delaying the reopening of 23 churches. Attendance at St. Augustine, down to fewer than 200 people pre-Katrina, increased significantly afterward. But archdiocese officials said current attendance is not enough.

The church sustained about half a million dollars' worth of damage to the roof and bell tower from Katrina, and it was already hurting for money for a needed renovation.

Like New Orleans itself, St. Augustine is an eclectic mix of the ancient and the contemporary, black and white, song and dance. The church was built in 1841 by slaves and by Italian and French immigrants.

It was one of the first churches where slaves, free blacks and whites worshiped together. After a period as a segregated white church and then a black church, it has had an interracial congregation and services that blend elements of Catholicism with African spirituality and homegrown New Orleans culture. Portraits of the African American "Mardi Gras Indians" are displayed side by side with saints on the walls, and the church is known for popular jazz masses and jazz funerals, including an annual "Louis Armstrong Jazz Mass."

Archdiocese spokesman William Maestri said the 250 parishioners registered at St. Augustine will have access to more classes and social services by joining the 8,000-member parish at St. Peter Claver, another Catholic church a few blocks from St. Augustine with a predominantly African American congregation.

He said St. Augustine's parish was recommended for closure in a 1999 study: "We've kept the parish open and subsidized it long beyond the recommendation."

The church would still remain open for weddings, funerals and weekly Masses. But parish priest Jerome LeDoux, a beloved local figure, would no longer minister there.

St. Augustine members said they would miss LeDoux, 76, an African American vegan musician who speaks several languages and has charmed visitors from around the world with his energetic, multicultural services.

"You can't overstate how important St. Augustine's and Father LeDoux are to the African and Creole tradition of the city," said Morgan Clevenger, former executive director of the New Orleans Jazz Legacy Foundation. "Father LeDoux has always acknowledged the black Indians, the social pleasure clubs, the jazz of New Orleans. He acknowledged the spirituality of African people before Catholicism. The loss of Father LeDoux would be a grave loss to the community."

Economist Jacques Morial said the archdiocese should keep subsidizing the parish based on its historical and cultural importance. He is the brother of former mayor Marc Morial, and their family goes back nine generations in New Orleans.

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"We need the archdiocese to reconnect itself to the souls and lives of people who need it most, not just the people who have money," Jacques Morial said.

Music Landmark Caught In Tug Of Priorities After Storm (NYT)

By Susan Saulny

The New York Times, March 19, 2006

NEW ORLEANS, March 16 — The doors of the deserted Milne Boys Home flap open in the wind, and anyone who cares to brave the dank interior here in the heart of the drowned Gentilly neighborhood can find crumbling logbooks noting who visited in the early 1900's and yellowing sheet music in the attic.

A bronze plaque on the weather-beaten facade announces that Milne is "A Landmark of American Music," but it hardly looks the part, taking its place among the city's once-grand buildings ruined by floodwater after Hurricane Katrina.

Nonetheless, what happens to this 11-acre campus of wide lawns and oak trees is of more than casual interest to many people here because of its ties to Louis Armstrong, arguably this city's most famous native son.

Before Milne was built in the 1930's, part of it was called the Colored Waif's Home for Boys, the institution where Armstrong was incarcerated at age 11 after firing a pistol to celebrate New Year's Day 1913. It was there that he learned to play the cornet.

Armstrong is but one of a host of noted jazz musicians to train at the Colored Waif's Home, and later at Milne, to which he was a friend throughout his life.

In a city that long ago demolished Armstrong's birthplace, along with Storyville, the neighborhood where early jazz developed, and the original waif's home, Milne stands as one of the last physical connections to the city's musical past, and many wonder if it will have a place in the new city. Other than the landmark plaque placed by a national music group, it was hardly noted in the old one.

"You might say this is the second, if not the third, opportunity to do something with a Louis Armstrong site where the opportunity has been missed," said Bruce Boyd Raeburn, curator of the Hogan Jazz Archive at Tulane University here. "A lot of the old jazz sites have been torn down to make new parking lots."

Mr. Raeburn added, "The track record on preserving jazz-related sites is pretty dismal for New Orleans."

Yet this is a city that is probably more dependent on the marketing of jazz than any other, as tourism is one of the few engines of the local economy. In an acknowledgment of that, the city renamed its airport after Armstrong in 2001. But when asked about the cultural importance of the Milne site, the city official overseeing arts and entertainment said he did not know much about it. Mayor C. Ray Nagin's office did not return calls for comment.

In the chaos of dealing with an acute housing shortage, a coming mayoral election and tens of thousands of displaced residents, city officials have had little energy or resources to deal with issues like the arts or historic preservation.

But it is precisely at times like these, local activists say, that pieces of the culture slip away — especially in areas like Gentilly, where mostly modest homes line quiet streets that in feeling and geography are miles away from better known destinations like the French Quarter and the Garden District.

"It certainly is a chance once again for a rebuilt New Orleans to seize an opportunity that in the past it did not seize, and to actually help its own cause," said Lee Hampton, executive director of the Amistad Research Center, an archive for the history of African-Americans and other ethnic groups, at Tulane. "Certainly I think it would be worth preserving and worth the effort put into upkeep. I think it could actually repay the city in its interest to outsiders, to tourists."

Long neglected, Milne was not in pristine shape before the storm and had not housed children since the 1980's, becoming instead the setting for after-school social service programs and athletics. The home, not far from the London Avenue Canal, which breached the levees in two spots, flooding Gentilly and surrounding neighborhoods, had capacity for 80 boys before it closed as a residence.

The home was named for a Scottish philanthropist, Alexander Milne, who arrived here in the late 1700's and provided money for the care of troubled children in his will after making a fortune in bricks and hardware.

"The problem with the city now is, where do we place our priorities?" said Tad Jones, a local historian and co-producer of the annual Satchmo Summer Fest, a celebration of Armstrong's music. "Since we're not getting much direction from the city or the feds, all the local homeowner associations in Gentilly and around the lake are coalescing and talking about how to revitalize the neighborhoods. That's a good thing and a bad thing because we're not all on the same page."

Over the decades, not everyone in solidly middle-class Gentilly has been thrilled about having a haven for troubled youth in the area. Some wanted Milne done away with years ago. Others want to see it come back just as it was, as a scaled-down social service and recreation center. Still others want at least part of it to be a memorial to Armstrong and a reminder of what can happen when a poor child gets a chance at a better life.

"Louis Armstrong is the poster child for that," Mr. Raeburn said.

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Officials said the city was negotiating with the Federal Emergency Management Agency to determine how much federal money might be available for the site. The city holds a 99-year lease on the property from the Milne Trust, a private foundation. Part of the complex has been gutted, and the roofs are protected by blue tarp.

Armstrong was born to a teenage mother in a neighborhood so notoriously dangerous, even by New Orleans' rough port-town standards, that it was called "the battlefield." He was largely abandoned by his father and dropped out of grade school, and entertained people by singing and dancing for change around the brothels of Storyville.

He occasionally got into trouble with the police, but around Storyville, he also got to hear the likes of Buddy Bolden and Jelly Roll Morton, pioneers of early jazz.

Peter Davis, the music teacher who invited Armstrong to play in the waif's home band, retired from Milne in 1949 and died in 1971.

Armstrong wrote about Mr. Davis in his memoir, "Satchmo: My Life in New Orleans."

"Every day I practiced faithfully on the lesson Mr. Davis gave me," Armstrong wrote. And later: "All in all, I am proud of the days I spent at the Colored Waif's Home for Boys."

Richard Winder, director of the city's Department of Human Services, which controls the site, said that these days, "We're in limbo."

"We don't know where we are, post-Katrina," Mr. Winder said.

Still, as a former superintendent of the home, he could not imagine losing Milne. "Those worries should be removed down the line," he said, "once we get some normalcy in this city."

WAR NEWS:

Bush: 'Fighting And Sacrifice' Needed (WP)

By Guy Gugliotta

The Washington Post, March 19, 2006

On the eve of the third anniversary of the Iraq invasion, President Bush today promised to "finish the mission" with total victory, urging the American public to remain steadfast but offering no indication when victory might be achieved.

"More fighting and sacrifice will be required," Bush said in his weekly radio address. "For some, the temptation to retreat and abandon our commitments is strong. Yet there is no peace, there's no honor and there's no security in retreat. So America will not abandon Iraq to the terrorists who want to attack us again."

Bush's address comes at a time when confidence in the administration's Iraq strategy appears to have reached all-time lows. A Washington Post-ABC News poll this month found that 65 percent of Americans surveyed thought Bush had no plan for victory, while 35 percent -- the lowest level ever recorded by the poll -- said he did.

Bush used the radio address to draw attention to a series of speeches he is giving this month to rally support for the Iraq war. Last week the first of these focused on efforts to train Iraqi troops and success at mitigating the threat of terrorist bombings and casualties caused by the explosion of roadside "improvised explosive devices."

A White House "Fact Sheet" on Iraq that accompanied the radio address noted that casualties from the explosive devices had been halved in the past 18 months and that nearly half of the devices are being found and disabled before they can be detonated.

The fact sheet also buttressed the president's assertion last week that Iraqi security forces were assuming greater battlefield responsibility. The fact sheet said that "Iraqi forces now conduct more independent operations throughout the country that do Coalition forces."

Democrats noted last week, however, that a recent Pentagon report said the number of "level one" Iraqi units capable of operating independent of the United States had dropped from one to zero in recent months.

And for the most part, the fact sheet ignored the missteps and false starts that have dogged the Iraq war since the invasion in March 2003 and instead contrasted Iraq under Saddam Hussein with Iraq today.

Three years ago, the fact sheet said, "life in Iraq was marked by brutality, fear and terror," and Iraqis "had no voice in their country or their lives." Today, by contrast, "the reign of terror has been replaced by a democratically elected government."

In his radio address Bush noted that sectarian violence plagues Iraq, but urged Iraqis to "reach across political, religious and sectarian lines," to convert December's democratic elections into a "government that can confront the terrorist threat and earn the trust and confidence of all Iraqis."

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"These past three years have tested our resolve," Bush said. "The enemy has proved brutal and relentless . . . and our troops have shown magnificent courage and made tremendous sacrifices" which, along with Iraqi sacrifices, had given Iraq a "historic opportunity" to rebuild itself.

"The security of our country is directly linked to the liberty of the Iraqi people," Bush said. "We will settle for nothing less than complete victory."

Bush: Violence Creating Urgency In Iraq (AP)

By Deb Riechmann

AP, March 19, 2006

President Bush on Saturday braced Americans for more bloodshed in Iraq but said recent civil strife has motivated warring political factions to move quickly to set up a representative government.

"Our ambassador to Iraq, Zal Khalilzad, reports that the violence has created a new sense of urgency among these leaders to form a national unity government as quickly as possible," Bush said in his weekly radio address.

"I urge them to continue their work to put aside their differences, to reach out across political, religious and sectarian lines, and to form a government that can confront the terrorist threat and earn the trust and confidence of all Iraqis."

Bush's broadcast came in advance of a speech he plans to deliver in Cleveland on Monday, the second in a series of talks marking Sunday's three-year anniversary of the U.S.-led invasion of Iraq. In the speech, Bush will discuss how the United States is working with various sectors of Iraqi society to defeat terrorists, restore calm and help rebuild homes and communities.

The president said victory in Iraq will come when terrorists and loyalists of former Iraqi leader Saddam Hussein no longer threaten Iraq's democracy, when Iraqi security forces can ensure safety for citizens and terrorists can't call Iraq home.

"More fighting and sacrifice will be required to achieve this victory," he told listeners.

Democrats are calling on Bush to provide more leadership to unify fighting political sectors in Iraq and prevent the nation from spiraling into civil strife. The Feb. 22 bombing of a Shiite mosque and subsequent violence led to the deaths of hundreds of people and pushed the country to the brink of civil war between rival Muslim sects.

According to the latest AP-Ipsos poll, more than three-fourths of Americans, 77 percent, say they think a civil war is likely in Iraq. Seventy percent of Republicans and 90 percent of Democrats felt that way. People are evenly split on whether they think a stable, democratic government will be formed in Iraq, according to the poll taken in early March.

Bush has said that as Iraqi security forces step up, U.S. troops will be able to stand down. But critics of the administration's handling of the war say that the Iraqis must be told that the American military will not be in Iraq forever, and they must realize that the eventual pullout will be on U.S., not Iraqi, terms.

"We need the president to urgently exercise the leadership necessary to bring Iraq's political factions together," Sen. Dianne Feinstein (news, bio, voting record), D-Calif., said in the Democratic radio response Saturday. "In no uncertain terms, the president must immediately inform the Iraqi people that they need to get their political house in order."

Feinstein said the Iraqis need to be told that they must get a government and key ministries up and running, that they need to quickly secure their streets by ramping up the deployment of a viable police force, and they must reconcile differences between Sunnis and the Shia.

"Iraqis must know that we will exit on our terms, not theirs," she said.

Bush's speeches — a total of three this month and possibly more in April — would be similar in tone to a series of talks he made in December to help turn public opinion on the war in his favor. In those talks, he combined steely resolve with frank acknowledgments that mistakes have led to changes in U.S. strategy.

The president said that, in Ohio on Monday, he would provide concrete examples of how U.S. strategy in Iraq is succeeding.

"In recent weeks, Americans have seen horrific images from Iraq: the bombing of a great house of worship in Samarra, sectarian reprisals between Sunnis and Shias, and car bombings and kidnappings," Bush said.

"Amid continued reports about the tense situation in parts of that country, it may seem difficult at times to understand how we can say that progress is being made," he said. "But the reaction to the recent violence by Iraq's leaders is a clear sign of Iraq's commitment to democracy."

Iraq's True Cost Continues To Grow (HC)

By BOB DEANS, Cox News Service

Houston Chroncile, March 19, 2006

The bottom line includes a staggering death toll among troops and civilians, Pentagon spending at $6 billion a month and damage to U.S. credibility

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WASHINGTON - Three years after President Bush launched the invasion of Iraq, the war grinds on amid escalating costs — in lives, money and U.S. influence abroad.

Saddam Hussein and his repressive regime are no longer in power and democracy has taken some important, if shaky, first steps.

Iraq has a "hopeful future," Bush said, despite the problems there.

"We will finish what we started in Iraq," the president said in a speech. "We will complete the mission."

But sectarian violence verges on civil war. More than 130,000 troops remain in Iraq. And the toll on Iraq and the United States is far beyond anything the administration prepared Americans for in the lead-up to the March 19, 2003, invasion.

The war has divided the United States, set it at odds with friends and rivals alike abroad, and dominated an often-ugly national political debate. Three years on, the costs continue to mount.

According to Pentagon figures (as of March 15), 2,310 U.S. troops have died in Iraq since the launch of the invasion. Of those, 1,808 were killed in combat and 502 died from accidents, illnesses or other causes.

Another 17,124 American troops have been wounded. Of those, 9,212 were returned to duty within 72 hours. The rest had more serious wounds, including about 400 who have lost an arm, leg, hand or foot.

The figures do not include American civilians killed or wounded in Iraq while working for the U.S. government, private businesses and non-governmental aid organizations.

There are no independently verifiable estimates of the number of Iraqi soldiers killed during the first several weeks of the war, and no official estimates of civilian casualties.

Bush recently estimated the Iraqi dead at somewhere near 30,000.

A London-based human rights group called Iraq Body Count estimates that at least 33,638 Iraqi civilians have been killed as a result of the war and up to 37,754 may have died, based on the group's independent tabulation of deaths confirmed in media reports.

The number includes civilians killed by insurgent attacks as well as operations by U.S. and coalition forces.

The U.S. taxpayers' tabAmericans have spent $250 billion on military operations and reconstruction efforts in Iraq, a war that is currently costing the Pentagon roughly $6 billion a month, according to the nonpartisan Congressional Research Service.

This spending does not include so-called fixed costs that are part of Pentagon spending — such as pay for the troops — but accounts for only the direct war costs, such as bonus pay for combat operations, as well as fuel, munitions and other war-related expenses.

The war's true price tag, however, will include expenses not included in this reckoning, particularly the long-term costs of providing lifetime health care to soldiers wounded in the war or suffering from mental health issues related to the conflict, recurring expenses certain to range in the billions of dollars per year.

Nor do these costs include the interest on the additional debt incurred to finance the war.

"There will be tail costs," said U.S. Comptroller General David Walker, head of the Government Accountability Office, a congressional agency that oversees federal spending. "There will be costs that will be coming down the road."

Billions of dollars in tanks, aircraft, communications gear and other military equipment has been worn out, destroyed or given to new Iraqi forces during the conflict. "

Some replacement funds are included in the Pentagon's current spending. But military officials say billions in additional spending will be needed to bring inventories of critical gear back up to pre-war levels.

U.S. image abroadAs bloodshed and destruction have mounted, the war has undercut America's image among other countries around the world.

"After the war in Iraq, the image of the United States plummeted in most countries and has only recovered in a few," said Andrew Kohut, director of the Pew Research Center, a nonpartisan opinion monitoring group in Washington.

Bush led the country to war on the claim that Iraq possessed chemical and biological weapons and was working to reconstitute earlier efforts to build a nuclear weapon. No stockpiles of weapons of mass destruction were found, nor has evidence of a viable nuclear weapons program surfaced. Bush has said the intelligence he received in the lead-up to the war was faulty.

Those failings have undercut U.S. efforts to press for international sanctions against Iran, which is pursuing a nuclear program that Bush fears could produce weapons, and for diplomatic pressure on nuclear-minded North Korea.

A Sliding Scale For Victory (LAT)

By Doyle McManus

The Los Angeles Times, March 19, 2006

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As the conflict in Iraq enters its fourth year and civil war threatens, the Bush administration is again working to lower expectations.

WASHINGTON — Three years ago, as they ordered more than 150,000 U.S. troops to race toward Baghdad, Bush administration officials confidently predicted that Iraq would quickly evolve into a prosperous, oil-fueled democracy. When those goals proved optimistic, they lowered their sights, focusing on a military campaign to defeat Sunni-led insurgents and elections to jump-start a new political order.

As the conflict enters its fourth year today, the Bush administration faces a new challenge: the prospect of civil war. And, in response, officials again appear to be redefining success downward.

If Iraq can avoid all-out civil war, they say, if Baghdad's new security forces can hold together, if Sunni Arabs, Shiites and Kurds all participate in a new unity government, that may be enough progress to allow the administration to begin reducing the number of U.S. troops in the country by the second half of this year.

In increasingly sober public statements — and in slightly more candid assessments from officials who insisted that they not be identified — the administration is working to lower expectations.

"It may seem difficult at times to understand how we can say that progress is being made," President Bush said Saturday in his weekly radio address, acknowledging that much of the recent news from Iraq has been bad. "But … slowly but surely, our strategy is getting results."

"We may fail," said a senior official directly involved in Iraq policy. "But I think we're going to succeed. I think we're going to nudge this ball down the road…. It's not going to be easy, and it's going to take time."

The more sober tone is not entirely new; officials, from Bush on down, have tacitly acknowledged for more than a year that trying to stabilize Iraq is proving more difficult than they expected when they launched the war in 2003.

But independent foreign policy analysts say they see signs of a more fundamental shift in the administration's position — a creeping redefinition of U.S. goals in Iraq that increasingly allows for the possibility that the nation may remain unstable for years to come.

"It isn't going to be perfect," Defense Secretary Donald H. Rumsfeld said last month. "It isn't going to be pretty. It isn't going to look like the United States of America. It's going to be an Iraqi solution politically, and Iraqi solution economically and an Iraqi solution from a security standpoint."

"Initially, we were going to stay until the insurgency was defeated," noted James F. Dobbins, a former special envoy under Presidents Clinton and Bush. "About a year ago, we amended that in a fairly important way by saying we were going to stay until the Iraqi government and its army and police were capable of coping with the insurgency. We redefined victory in terms of the Iraqis' capability instead of the defeat of the insurgency."

"Now even that measure of success has proven elusive," said Dobbins, who is now with Rand Corp. "At this point I think we would be content if we could diminish our presence, allow the Iraqis to simply hold their own against the insurgency and prevent the country from rupturing into an even more serious civil war than the one that now exists."

The violence between Sunni and Shiite Arabs in recent weeks, which increased after the Feb. 22 bombing of a Shiite shrine in Samarra, touched off what one official called "a moment of fear" within the administration — a sense that events in Iraq could spiral beyond any measure of U.S. control.

In the aftermath of the bombing, U.S. Ambassador Zalmay Khalilzad said, "We have opened the Pandora's box…. There is a concerted effort to provoke civil war."

And Rumsfeld, asked whether U.S. forces would intervene in an intra-Iraqi conflict, said, "The plan is to prevent a civil war, and to the extent one were to occur … from a security standpoint, have the Iraqi security forces deal with it to the extent they're able to."

Before the recent violence, U.S. military officials said they hoped to reduce the number of troops in Iraq from about 130,000 to about 100,000 over the year. Officials said last week that the violence could slow the U.S. drawdown but that they still expected some troop reduction to occur.

The good news, Rumsfeld and other officials noted, was that U.S.-trained Iraqi security forces did not disintegrate, and Iraqi political leaders, particularly in the Shiite community, quickly intervened to stop the violence from escalating further.

But the senior official said the U.S. strategy of nurturing a unity government and building multi-ethnic Iraqi security forces was still dangerously vulnerable.

"Sectarian violence … is not going down as [quickly] as we would like to see," he said. "A surge further in sectarian violence, way below what I would call a civil war, is still enough to really threaten what we're trying to do there, because it strengthens the militias, it strengthens the radicals, it weakens the security forces."

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The most important immediate step, President Bush and other officials said, is for Iraqi politicians from all three major communities to form a unity government. "I urge them … to form a government that can confront the terrorist threat and earn the trust and confidence of all Iraqis," Bush said Saturday.

But that is proving difficult. Sunni and Kurdish leaders are unhappy with the decision by the Shiite bloc, the largest in the new parliament, to reelect Ibrahim Jafari for the post of prime minister. U.S. officials are unhappy with the choice, too; many of them consider Jafari incompetent and divisive. The result, at least in the short run, has been a political deadlock.

"They have to step up to the plate," the senior official said, reflecting the administration's frustration with the Iraqi leaders. "They cannot just sit aside and press their short-term interests."

Unless a unity government succeeds, said a civilian advisor to the Pentagon, "you are heading for a de facto independent Kurdistan, a Shia Iraq that is very close to the Iranians and a Sunni Iraq which is rebellious in perpetuity."

One of the major goals of U.S. policy in Iraq has been to avoid choosing sides. But that goal may be slipping away, outside analysts said.

"In a sense, as your own forces diminish, you have to choose sides," Dobbins said. "We may be forced to do that. We already have to some degree."

"The Sunnis already see us as having chosen sides," said Steven Biddle, a former professor at the U.S. Army War College who is at the private Council on Foreign Relations.

Biddle has argued that by building new Iraqi security forces dominated by Shiites and Kurds, the United States in effect has armed and trained two of the sides in the Iraqi conflict. The Sunnis, he wrote in a recent article, "perceive the 'national' army and police force as a Shiite-Kurdish militia on steroids."

"I think we're in a civil war now. We've been in a civil war for more than a year. It's just a civil war that's being fought at low intensity," he said in an interview.

Instead of trying to build Iraqi security forces quickly, Biddle argues, the United States should slow down its training program, slow its own military withdrawal, and concentrate on strengthening political leaders — especially among the Sunnis — who can make compromises.

But Biddle acknowledges that there is no political support in the United States for a longer or larger troop deployment.

"If we had the troops, I'd increase the troops," he said. "But we don't have the troops."

Administration officials say that waning U.S. public support for the war has become one of their major concerns, if only because Iraqis on all sides increasingly wonder how long the Americans will stay.

A poll released last week by the Pew Research Center found that public support for keeping U.S. troops in Iraq had reached its lowest point since the 2003 invasion. Half of the respondents said they wanted to bring U.S. troops home as soon as possible, compared with 44% who said the troops should stay "until the situation is stabilized."

Reflecting the increasingly partisan cast of the issue, Sen. Dianne Feinstein of California, in the Democratic response to Bush's radio address Saturday, called on the president to give the Iraqi government more responsibility for security "so our troops can responsibly be redeployed."

"The administration's dangerous incompetence has made the job harder," she said.

A former senior official said that he did not expect political pressure to affect Bush's decisions on Iraq this year but that the 2008 presidential election could be a different story.

"There is deep concern in the White House that 2008 will be a referendum on Iraq," he said. "I don't think the president will be affected by the congressional elections. But in 2007, at some point, does he say, 'I'm going to do what's right, no matter what the political consequences?' Or does he say, 'We gave the Iraqis every chance; we can't want a successful Iraq more than the Iraqis want it?'

"Leaving Iraq in its current state would be a very serious strategic setback for us," he said. "It would be a defeat. We can dress it up. We can try to recover from it. But it's a defeat."

The State Of Iraq: An Update (NYT)

By Nina Kamp, Michael O'Hanlon And Amy Unikewicz

The New York Times, March 19, 2006

AS we reach the third anniversary of the start of the war, the confusion on the ground in Iraq seems to have spread to American generals' public pronouncements. Last Monday, just days after saying that pacification efforts with the Iraqis were going "very, very well," Gen. Peter Pace, chairman of the Joint Chiefs of Staff, told an audience that Iraq is "a place that is having some real difficulties right now" and that "everything is in place if they want to have a civil war." Unfortunately, an examination of trends in Iraq backs up General Pace's later, more sober comments.

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The country's economy continues to disappoint. Although it had a fairly quick recovery in 2003 and early 2004, when gross domestic product was restored to Saddam Hussein-era levels, violence and instability have prevented much further progress. And while subsidies for gasoline and some other goods, which have been costing the Iraqi government about $10 billion a year, or a third of gross domestic product, have been reduced, projections that the country's economy will grow by 10 percent a year for the rest of the decade look increasingly suspect. Current growth sputters along at less than 5 percent despite sky-high prices for oil exports. Most utilities (except telephones and Internet services) are still performing below Baathist-era levels. Unemployment remains very high.

Politically, Iraqis have been stalemated in forming a new government since the impressive Dec. 15 elections, primarily over issues like ensuring fair distribution of Iraq's oil revenue and devising ways to reintegrate lower-level former Baathists into society. This political inertia reinforces the widespread Sunni Arab sense of estrangement. And it contributes to remarkably high levels of Sunni Arab approval for violence against coalition troops (almost 90 percent) and even against their own government.

Paradoxically, most of what good news there has been this winter is on the security front. American troop fatalities in Iraq have declined relative to last fall's typical levels. Fatalities among Iraqi security forces have also gone down, as have car bombings. Unfortunately, civilian casualties have been as high as ever and, since the Feb. 22 bombing of the Samarra mosque, sectarian violence is worse than at any time since the invasion.

All that said, according to public opinion polls, more than 60 percent of Iraqis (though very few Sunni Arabs) remain bullish on the future. And Iraqi security forces continue to improve, with far higher percentages having reached the upper half of the four-tier readiness rating system. These statistics may point to the possibility of a troop drawdown strategy for the United States — but while a strategically passable outcome still seems within reach, it is increasingly hard to believe that there are the makings of a major success for American foreign policy in Iraq.

Change Of Heartland (BOS)

By Charlie Savage

The Boston Globe, March 19, 2006

On the third anniversary of the invasion of Iraq, many Indianians are no longer strongly behind the war

SOUTH BEND, Ind. -- The third anniversary of the Iraq invasion unleashed a surge of pessimism at a local farmers' market here, where stalwart Republicans, standing amid aisles of produce and miracle cures, said President Bush has messed up a war that looks more like Vietnam every day.

"It's chaos," said Roger Madaras, who voted twice for Bush. "How many more people are going to be killed? We were going in to free the people of Iraq, but as far as I'm concerned, a lot of them are worse off today than they were under the dictatorship."

Madaras, the owner of a plumbing company, said he believed Bush when the president declared major combat to be over in May 2003, and is "disgusted" that Bush's rhetoric was hollow. And he is far from alone.

Support for Bush and his handling of Iraq is sharply eroding across the American heartland, where the overcast skies and the muddy fields of late winter matched a sense of gloom about Bush and the war.

This month, the Indianapolis Star released poll findings that Bush's approval rating among Indiana voters stood at 37 percent -- a drop of 18 points over the past year. The numbers echoed national polls, but were particularly shocking in a state that has not voted for a Democratic presidential candidate since 1964, and where Democratic presidential contenders often do not bother to campaign.

"A 37 percent approval rating in Indiana for a Republican president is unheard of," said Brian Howey, who runs a newsletter for Indiana state political insiders. "Those are Bill Clinton or John Kerry numbers in Indiana. So there is something seriously awry going on right now."

In scattered rural diners and small-town restaurants adorned with 9/11-vintage American flag posters, support for the troops remains high. But many in Indiana also say the war has not turned out the way they thought it would three years ago, and they question whether Bush has what it takes to lead the troops into a happy ending.

Standing behind the counter where she sells bird houses and seed at the farmers' market, Beverly Beisel said she is increasingly fearful that Iraq will inevitably fall apart as soon as US soldiers leave -- making a mockery of the deaths sustained until then.

"It's not going well, that's for sure," Beisel said. "I don't like that fact that we started it. I thought Bush was actually going after the terrorists, wherever they were. We thought they had weapons that they were hiding."

Beisel said she doesn't blame Bush because "he can only deal with the intelligence he was given" and still supports him because she opposes abortion. But she added that plenty of her friends think "we should get out of there and they're probably sorry they voted for him."

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Drinking coffee at Louie's Café in LaPorte, Ken Schreiber, who commands respect among the regulars because he coached the local high school baseball team to seven state championships, said he doesn't understand why the administration never sent enough troops in to stabilize Iraq's security.

Schreiber said he primarily blames the "liberal media" and "partisan politics" for the president's free-falling poll numbers. But he also blames Vice President Dick Cheney and Defense Secretary Donald Rumsfeld for giving Bush "some bad advice" about how Iraqis would "kiss our feet" for ridding them of Hussein.

"I'm frustrated like everyone else is frustrated," he said. "It's a lingering war like Vietnam. But I still don't think it was a mistake to go in."

As more and more Hoosiers find themselves making the comparison that only liberals and antiwar protesters made a year ago -- Iraq is like Vietnam -- some say they are also starting to doubt Bush's competence to protect America from terrorism on the home front.

John Lackman, a retired manager at an aircraft wheels and brakes factory who was eating breakfast at a table near Schreiber, said the slow federal response to the Hurricane Katrina disaster last year gave many pause.

"That New Orleans situation just piled it on top of the Iraq War," Lackman said. "The security issue is paramount in everyone's mind. If they couldn't respond adequately to that situation, how are they going to respond if there's a dirty bomb?"

Others sharply disagreed, saying local officials were primarily to blame for the New Orleans disaster. But there was nearly unanimous incredulity across Indiana at Bush's support for a deal that would have put a Dubai company in charge of six US ports.

Many connected the Dubai ports row to a state controversy -- Republican Governor Mitch Daniels's efforts to lease the Indiana Toll Road to a foreign firm for the next 75 years. Support for Daniels, a former top aide to Bush, is just as low as it is for the president.

"People don't think Indiana should sell its toll road to foreigners, and they don't want someone with a turban running our ports," said Denny Thomas, a retired trucker sitting near video poker machines at the back of a smoke-filled tobacco bar in LaPorte.

Daniels, who ran in 2004 on the slogan "My Man Mitch," as Bush once referred to him, has also drawn fire for ramming through a law requiring Indiana to join the rest of the country on daylight saving time. The measure is wildly unpopular in rural areas.

Pouring coffee behind the bar of Allie's Café in South Bend, restaurant owner Chuck Sulok -- a self-declared "partisan supporter" of both Bush and Daniels -- said he fears what the "double whammy" of Bush's and Daniels's unpopularity could do in the coming election.

If Democrats can pick up 15 seats, they can retake control of the US House of Representatives for the first time since the Republican tidal wave of 1994, when the GOP picked up 54 seats. Sulok says today's atmosphere in Indiana reminds him of 1994 in reverse.

"The mid-term elections are coming and it scares me to death, speaking as a partisan Republican," he said. "There's a difference between regular dissatisfaction and a dissent that will move an election. There's that feeling in the air."

Joe Donnelly hopes Sulok's fears are well-founded. Donnelly, a local lawyer, is running for Congress against a Republican incumbent, Chris Chocola, in a rematch from 2004. He lost last time by 9 points -- but that was when the Iraq War was still young.

Donnelly said the drop in support for Bush and his handling of the war could swing the election his way, accusing Chocola of being a "rubber stamp" for the administration. Chocola, whose campaign netted $600,000 in a Bush-headlined fund-raiser in February, did not respond to an interview request.

"Truly, everyone out here wants the Iraq mission to succeed," Donnelly said. "But everyone is becoming more concerned and uncomfortable. What we need are Congress people who will ask President Bush tough questions, not be rubber stamps."

John Roos, a political science professor at the University of Notre Dame, said the dissatisfaction with Bush's record in Iraq might hand the 2006 election to Democrats by persuading disgruntled Republicans across the American heartland to stay home.

"It's not that they have become Democrats, and it's not that they have decided the war on Iraq and especially the war on terrorism is wrong," Roos said. "The people of Indiana just think [Bush] is not very good at being president."

Waiting to be seated at Allie's Café, Lee Connett, a retired automotive engineer, said he wondered about the Iraq War from the beginning. He thought it seemed like a diversion from the hunt for the Al Qaeda leader, Osama bin Laden.

But he voted for Bush anyway because he couldn't stand Kerry, the Democratic nominee. Now, he said, as it becomes ever more clear that "Bush doesn't have a plan" for Iraq, he doesn't know what he should do.

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"I voted for Bush in 2000 and in 2004 . . . because he seemed like the lesser of two evils as I saw it at the time," Connett said. "How could anyone know he was going to do what he's done? He's not settled anything in Iraq and we're getting no clue as to what the outcome is going to be."

All the talk lately about Bush and the problems with Iraq bemuses Susan Grimes, a waitress at the South Junction Café, a lonely outpost at the intersection of state roads 6 and 35. Grimes said listening to her customers complain has turned her off politics.

"I hear all these people come in and say: 'That President Bush, we got to get that guy out of there.' But you ask them who they voted for, and they hush up because they were the ones who voted him in. He's their boy."

Bush Using Straw-Man Arguments In Speeches (AP)

By Jennifer Loven

AP, March 19, 2006

"Some look at the challenges in Iraq and conclude that the war is lost and not worth another dime or another day," President Bush said recently.

Another time he said, "Some say that if you're Muslim you can't be free."

"There are some really decent people," the president said earlier this year, "who believe that the federal government ought to be the decider of health care ... for all people."

Of course, hardly anyone in mainstream political debate has made such assertions.

When the president starts a sentence with "some say" or offers up what "some in Washington" believe, as he is doing more often these days, a rhetorical retort almost assuredly follows.

The device usually is code for Democrats or other White House opponents. In describing what they advocate, Bush often omits an important nuance or substitutes an extreme stance that bears little resemblance to their actual position.

He typically then says he "strongly disagrees" — conveniently knocking down a straw man of his own making.

Bush routinely is criticized for dressing up events with a too-rosy glow. But experts in political speech say the straw man device, in which the president makes himself appear entirely reasonable by contrast to supposed "critics," is just as problematic.

Because the "some" often go unnamed, Bush can argue that his statements are true in an era of blogs and talk radio. Even so, "'some' suggests a number much larger than is actually out there," said Kathleen Hall Jamieson, director of the Annenberg Public Policy Center at the University of Pennsylvania.

A specialist in presidential rhetoric, Wayne Fields of Washington University in St. Louis, views it as "a bizarre kind of double talk" that abuses the rules of legitimate discussion.

"It's such a phenomenal hole in the national debate that you can have arguments with nonexistent people," Fields said. "All politicians try to get away with this to a certain extent. What's striking here is how much this administration rests on a foundation of this kind of stuff."

Bush has caricatured the other side for years, trying to tilt legislative debates in his favor or score election-season points with voters.

Not long after taking office in 2001, Bush pushed for a new education testing law and began portraying skeptics as opposed to holding schools accountable.

The chief opposition, however, had nothing to do with the merits of measuring performance, but rather the cost and intrusiveness of the proposal.

Campaigning for Republican candidates in the 2002 midterm elections, the president sought to use the congressional debate over a new Homeland Security Department against Democrats.

He told at least two audiences that some senators opposing him were "not interested in the security of the American people." In reality, Democrats balked not at creating the department, which Bush himself first opposed, but at letting agency workers go without the usual civil service protections.

Running for re-election against Sen. John Kerry in 2004, Bush frequently used some version of this line to paint his Democratic opponent as weaker in the fight against terrorism: "My opponent and others believe this matter is a matter of intelligence and law enforcement."

The assertion was called a mischaracterization of Kerry's views even by a Republican, Sen. John McCain (news, bio, voting record) of Arizona.

Straw men have made more frequent appearances in recent months, often on national security — once Bush's strong suit with the public but at the center of some of his difficulties today. Under fire for a domestic eavesdropping program, a ports-management deal and the rising violence in Iraq, Bush now sees his approval ratings hovering around the lowest of his presidency.

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Said Jamieson, "You would expect people to do that as they feel more threatened."

Last fall, the rhetorical tool became popular with Bush when the debate heated up over when troops would return from Iraq. "Some say perhaps we ought to just pull out of Iraq," he told GOP supporters in October, echoing similar lines from other speeches. "That is foolhardy policy."

Yet even the speediest plan, as advocated by only a few Democrats, suggested not an immediate drawdown, but one over six months. Most Democrats were not even arguing for a specific troop withdrawal timetable.

Recently defending his decision to allow the National Security Agency to monitor without subpoenas the international communications of Americans suspected of terrorist ties, Bush has suggested that those who question the program underestimate the terrorist threat.

"There's some in America who say, 'Well, this can't be true there are still people willing to attack,'" Bush said during a January visit to the NSA.

The president has relied on straw men, too, on the topics of taxes and trade, issues he hopes will work against Democrats in this fall's congressional elections.

Usually without targeting Democrats specifically, Bush has suggested they are big-spenders who want to raise taxes, because most oppose extending some of his earlier tax cuts, and protectionists who do not want to open global markets to American goods, when most oppose free-trade deals that lack protections for labor and the environment.

"Some people believe the answer to this problem is to wall off our economy from the world," he said this month in India, talking about the migration of U.S. jobs overseas. "I strongly disagree."

Analysis: Envoy Dives Into Iraq Diplomacy (AP)

By Steven R. Hurst

AP, March 19, 2006

Zalmay Khalilzad spends a lot of time these days in a soundproof room at the U.S. Embassy, sitting in front of television cameras and repeating a single message: Iraq must have a unity government and Americans must be patient until that happens.

The 54-year-old, Afghan-born U.S. envoy — a snappy dresser with a soft-spoken, easy demeanor — has become the increasingly effective face of the Bush administration's campaign to restore American confidence in the Iraq mission.

Yes, he will acknowledge, mistakes have been made. Yes, Iraq is beset with sectarian and insurgent violence.

But no, he insists, the situation is not hopeless. The United States must soldier on, pressing for a political solution — a democratic outcome to snuff out the savagery.

According to the U.S. argument, formation of an Iraqi government acceptable to and representative of all major ethnic and political factions would:

_Empower and legitimize the leaders of the Iraqi army and police to crush the Sunni Arab-dominated insurgency in the name of all citizens, whether Sunni, Shiite or Kurd.

_Cause minority Sunnis, once satisfied they are getting a fair political shake, to turn against al-Qaida in Iraq terror cells that they have either sheltered or tolerated in their midst.

_Calm Sunni-Shiite sectarian tensions and violence as members of each community see their leaders working together to unify — rather than divide — the fractious population.

Khalilzad, born in the northern Afghan city of Mazar-i-Sharif, is unusual among his colleagues in having an instinctual ability to negotiate the tangle of Iraq's variant of Middle East politics. He understands the ways of the bazaar, the need for long talks over many glasses of tea.

And that, perhaps, accounts for his success in getting Iraq's deeply divided political leaders to sit and talk together in one room, overcoming what he calls a cultural "unwillingness" to confront each other directly on issues that concern them directly.

"Their preference seems to be to talk indirectly and to talk to intermediaries," he said.

"What is encouraging to me in recent days is that they are beginning to talk to each other and directly. It seems to me ... this has been working," he added in a recent interview.

With a sly smile, he also acknowledges a bit of subterfuge — his public call for all the major Iraqi political leaders to assemble someplace outside Baghdad for round-the-clock talks "until there is an agreement and white smoke comes out of the chimney."

A day later the politicians announced they would open face-to-face negotiations — in Baghdad.

Some of them, speaking anonymously because they feared angering Khalilzad, said his arm-twisting behind the scenes is more intense.

"While you are taking your time with a government, we (Americans) have lost lives and money. You need to hurry up," one of them quoted Khalilzad as saying.

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Said another, again quoting the ambassador: "Your failure (to form a government) means failure of the whole American policy in the region, a failure for President Bush. There is a major crisis and you must hurry."

So far, however, the meetings reportedly haven't progressed much beyond talking about talks.

There have been inconclusive discussions about forming a national security council to take major decisions out of the hands of individual politicians. That would have allowed Prime Minister Ibrahim al-Jaafari, who faces intense opposition from Sunnis, Kurds and some fellow Shiites, to serve a titular second term with his powers much diminished.

The difficulty in forming a new government had been widely reported to center on al-Jaafari's candidacy to stay on as prime minister. But after three sessions over the past week, the politicians spoke of problems far more widespread than the dispute over al-Jaafari.

"The political crisis that is surrounding us is much deeper than that," said Planning Minister Barham Saleh, a Kurd. "There is no doubt that there is sectarian and ethnic entrenchment in the country even while politicians try to overcome that."

But Khalilzad appears, on the surface at least, unfazed by the difficulties as he urges patience from a U.S. population increasingly eager to be done with Iraq.

"These conversations have been the most serious that I have seen since I've been here in the course of the last seven or eight months," he said. "I think it will take a few more weeks."

Then would come the test of the U.S. theory that a unity government can solve Iraq's problems.

What We've Gained In 3 Years In Iraq (WP)

By Donald H. Rumsfeld

The Washington Post, March 19, 2006

Some have described the situation in Iraq as a tightening noose, noting that "time is not on our side"and that "morale is down." Others have described a "very dangerous" turn of events and are "extremely concerned."

Who are they that have expressed these concerns? In fact, these are the exact words of terrorists discussing Iraq -- Abu Musab al-Zarqawi and his associates -- who are describing their own situation and must be watching with fear the progress that Iraq has made over the past three years.

The terrorists seem to recognize that they are losing in Iraq. I believe that history will show that to be the case.

Fortunately, history is not made up of daily headlines, blogs on Web sites or the latest sensational attack. History is a bigger picture, and it takes some time and perspective to measure accurately.

Consider that in three years Iraq has gone from enduring a brutal dictatorship to electing a provisional government to ratifying a new constitution written by Iraqis to electing a permanent government last December. In each of these elections, the number of voters participating has increased significantly -- from 8.5 million in the January 2005 election to nearly 12 million in the December election -- in defiance of terrorists' threats and attacks.

One of the most important developments over the past year has been the increasing participation of Iraq's Sunni community in the political process. In the volatile Anbar province, where Sunnis are an overwhelming majority, voter turnout grew from 2 percent in January to 86 percent in December. Sunni sheiks and religious leaders who previously had been sympathetic to the insurgency are today meeting with coalition representatives, encouraging Iraqis to join the security forces and waging what violent extremists such as Abu al-Zarqawi and his al-Qaeda followers recognize as a "large-scale war" against them.

The terrorists are determined to stoke sectarian tension and are attempting to spark a civil war. But despite the many acts of violence and provocation, the vast majority of Iraqis have shown that they want their country to remain whole and free of ethnic conflict. We saw this last month after the attack on the Shiite shrine in Samarra, when leaders of Iraq's various political parties and religious groups condemned the violence and called for calm.

Another significant transformation has been in the size, capability and responsibility of Iraqi security forces. And this is vitally important, because it is Iraqis, after all, who must build and secure their own nation.

Today, some 100 Iraqi army battalions of several hundred troops each are in the fight, and 49 control their own battle space. About 75 percent of all military operations in the country include Iraqi security forces, and nearly half of those are independently Iraqi-planned, Iraqi-conducted and Iraqi-led. Iraqi security forces have a greater ability than coalition troops to detect a foreign terrorist's accent, identify local suspects and use force without increasing a feeling of occupation. It was these Iraqi forces -- not U.S. or coalition troops -- that enforced curfews and contained the violence after the attack on the Golden Dome Shrine in Samarra. To be sure, violence of various stripes continues to slow Iraq's progress. But the coalition is doing everything possible to see this effort succeed and is making adjustments as appropriate.

The rationale for a free and democratic Iraq is as compelling today as it was three years ago. A free and stable Iraq will not attack its neighbors, will not conspire with terrorists, will not pay rewards to the families of suicide bombers and will not seek to kill Americans.

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Though there are those who will never be convinced that the cause in Iraq is worth the costs, anyone looking realistically at the world today -- at the terrorist threat we face -- can come to only one conclusion: Now is the time for resolve, not retreat.

Consider that if we retreat now, there is every reason to believe Saddamists and terrorists will fill the vacuum -- and the free world might not have the will to face them again. Turning our backs on postwar Iraq today would be the modern equivalent of handing postwar Germany back to the Nazis. It would be as great a disgrace as if we had asked the liberated nations of Eastern Europe to return to Soviet domination because it was too hard or too tough or we didn't have the patience to work with them as they built free countries.

What we need to understand is that the vast majority of the Iraqi people want the coalition to succeed. They want better futures for themselves and their families. They do not want the extremists to win. And they are risking their lives every day to secure their country.

That is well worth remembering on this anniversary of Operation Iraqi Freedom.

The writer is secretary of defense.

A Top-Down Review For The Pentagon (NYT)

By Paul D. Eaton

The New York Times, March 19, 2006

Fox Island, Wash.

DURING World War II, American soldiers en route to Britain before D-Day were given a pamphlet on how to behave while awaiting the invasion. The most important quote in it was this: "It is impolite to criticize your host; it is militarily stupid to criticize your allies."

By that rule, Defense Secretary Donald Rumsfeld is not competent to lead our armed forces. First, his failure to build coalitions with our allies from what he dismissively called "old Europe" has imposed far greater demands and risks on our soldiers in Iraq than necessary. Second, he alienated his allies in our own military, ignoring the advice of seasoned officers and denying subordinates any chance for input.

In sum, he has shown himself incompetent strategically, operationally and tactically, and is far more than anyone else responsible for what has happened to our important mission in Iraq. Mr. Rumsfeld must step down.

In the five years Mr. Rumsfeld has presided over the Pentagon, I have seen a climate of groupthink become dominant and a growing reluctance by experienced military men and civilians to challenge the notions of the senior leadership.

I thought we had a glimmer of hope last November when Gen. Peter Pace, the chairman of the Joint Chiefs of Staff, faced off with Mr. Rumsfeld on the question of how our soldiers should react if they witnessed illegal treatment of prisoners by Iraqi authorities. (General Pace's view was that our soldiers should intervene, while Mr. Rumsfeld's position was that they should simply report the incident to superiors.)

Unfortunately, the general subsequently backed down and supported the secretary's call to have the rules clarified, giving the impression that our senior man in uniform is just as intimidated by Secretary Rumsfeld as was his predecessor, Gen. Richard Myers.

Mr. Rumsfeld has put the Pentagon at the mercy of his ego, his cold warrior's view of the world and his unrealistic confidence in technology to replace manpower. As a result, the Army finds itself severely undermanned — cut to 10 active divisions but asked by the administration to support a foreign policy that requires at least 12 or 14.

Only Gen. Eric Shinseki, the Army chief of staff when President Bush was elected, had the courage to challenge the downsizing plans. So Mr. Rumsfeld retaliated by naming General Shinseki's successor more than a year before his scheduled retirement, effectively undercutting his authority. The rest of the senior brass got the message, and nobody has complained since.

Now the Pentagon's new Quadrennial Defense Review shows that Mr. Rumsfeld also fails to understand the nature of protracted counterinsurgency warfare in Iraq and the demands it places on ground forces. The document, amazingly, does not call for enlarging the Army; rather, it increases only our Special Operations forces, by a token 15 percent, maybe 1,500 troops.

Mr. Rumsfeld has also failed in terms of operations in Iraq. He rejected the so-called Powell Doctrine of overwhelming force and sent just enough tech-enhanced troops to complete what we called Phase III of the war — ground combat against the uniformed Iraqis. He ignored competent advisers like Gen. Anthony Zinni and others who predicted that the Iraqi Army and security forces might melt away after the state apparatus self-destructed, leading to chaos.

It is all too clear that General Shinseki was right: several hundred thousand men would have made a big difference then, as we began Phase IV, or country reconstruction. There was never a question that we would make quick work of the Iraqi Army.

The true professional always looks to the "What's next?" phase. Unfortunately, the supreme commander, Gen. Tommy Franks, either didn't heed that rule or succumbed to Secretary Rumsfeld's bullying. We won't know which until some bright

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historian writes the true story of Mr. Rumsfeld and the generals he took to war, an Iraq version of the Vietnam War classic "Dereliction of Duty" by H. R. McMaster.

Last, you don't expect a secretary of defense to be criticized for tactical ineptness. Normally, tactics are the domain of the soldier on the ground. But in this case we all felt what L. Paul Bremer, the former viceroy in Iraq, has called the "8,000-mile screwdriver" reaching from the Pentagon. Commanders in the field had their discretionary financing for things like rebuilding hospitals and providing police uniforms randomly cut; money to pay Iraqi construction firms to build barracks was withheld; contracts we made for purchasing military equipment for the new Iraqi Army were rewritten back in Washington.

Donald Rumsfeld demands more than loyalty. He wants fealty. And he has hired men who give it. Consider the new secretary of the Army, Francis Harvey, who when faced with the compelling need to increase the service's size has refused to do so. He is instead relying on the shell game of hiring civilians to do jobs that had previously been done by soldiers, and thus keeping the force strength static on paper. This tactic may help for a bit, but it will likely fall apart in the next budget cycle, with those positions swiftly eliminated.

So, what to do?

First, President Bush should accept the offer to resign that Mr. Rumsfeld says he has tendered more than once, and hire a man who will listen to and support the magnificent soldiers on the ground. Perhaps a proven Democrat like Senator Joseph Lieberman could repair fissures that have arisen both between parties and between uniformed men and the Pentagon big shots.

More vital in the longer term, Congress must assert itself. Too much power has shifted to the executive branch, not just in terms of waging war but also in planning the military of the future. Congress should remember it still has the power of the purse; it should call our generals, colonels, captains and sergeants to testify frequently, so that their opinions and needs are known to the men they lead. Then when they are asked if they have enough troops — and no soldier has ever had enough of anything, more is always better — the reply is public.

Our most important, and sometimes most severe, judges are our subordinates. That is a fact I discovered early in my military career. It is, unfortunately, a lesson Donald Rumsfeld seems incapable of learning.

What Will Happen Next In Iraq? (KCS)

By Ramesh Ponnuru

The Kansas City Star, March 19, 2006

"I suspect the shape of the year to come is going to depend crucially on the next few weeks, particularly on whether there's a political settlement in Iraq. If that happens, then it is possible the security situation improves. If the political situation comes unglued, then we've lost the last great, positive thing we have going for us. That is a scenario for either civil war or some kind of ignominious kind of American retreat, followed by civil war.

"There is reason to hope. The political situation has been better than the security situation. The question is whether the fact that a civil war would serve no one's real interest will ultimately exert enough pressure to keep that (civil war) from happening."

U.S. Rep. Ike Skelton

Ranking Democrat, House Armed Services Committee

"Who has a crystal ball? Two things have to happen: You have to get the security situation under control and … all the ministries have to function, and the Iraqi people have to respond positively. If those two things don't happen, Humpty Dumpty will not be put together again, and you can bet your bottom dollar you will have a melee like you have never seen before.

"The American people strongly support the troops, (but) the support for the mission is beginning to wane. With some good luck, this can all come out at the end of the day with a responsible government and with Iraq forces quelling the violence. We're going to have to have good luck along with some hard work."

Danielle Pletka

Vice president, foreign and defense studies, American Enterprise Institute

"I expect a drawdown of American troops. It's hard to misread the signals that we're getting from the administration. I think the (Iraqi) government will be formed. They're taking a long time coming together, but this is a big challenge. With the security force on ground, they're going to get better because they've got the best training ground in the world, unfortunately.

"I think instinctively the American people want to bring the troops home. They don't want to bring troops home prematurely if they sense there's a political overlay to the decision-making. If it's timed for the midterm election, that's a reasonable thing for the American people to have some skepticism about. I think Americans have enormous staying power. They'd have liked the Bush administration to have been more competent. But they're not just going to throw the Iraqi people to their fates saying, 'Whoops. Sorry. That was a mistake.' "

John Pike

Director, GlobalSecurity.org, a defense and security information Web site

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"I think that over the next 12 months, the surprise-free scenario is that the American casualty rate drops by half and the American troop presence goes below 100,000. But this whole thing could fly apart in 48 hours. The whole thing could degenerate into a genocidal civil war very quickly, and political support for American troops (staying in Iraq after) getting caught in crossfire could collapse pretty fast. You could see political support for this in Washington collapse very quickly if there was no discernible purpose for the American presence there.

"I think we're going to bomb Iran over the next year or two. What impact is that going to have on Iraq? That's hard to say. It has to be in the back of everybody's mind as to how do we stay away from that probability."

Shibley Telhami

Anwar Sadat professor for peace and development, University of Maryland, and noted author of several books on the Middle East

"I opposed the war because we have the power to reshuffle the deck in Iraq, but we don't have the power to determine where the cards will fall. The cards are still falling. Once you dismantle a state, it is an uphill battle to reconstruct it. The forces at work are highly volatile and unpredictable. I wouldn't rule out that things could get better. I wouldn't rule out that things could get worse.

"The momentum is for more sectarian violence and civil war. Once you have central authority destroyed, all it takes is a determined minority that wants civil war. We have a determined minority that wants civil war. Even with the best of intentions, it is very difficult to overcome."

Paul Rieckhoff

Executive director and founder of Iraq and Afghanistan Veterans of America, a nonpartisan group that favors a strong military and encourages veterans to run for office. An Army 1st lieutenant, he served a year in Iraq as an infantry platoon leader.

"What you are going to start to see that is most alarming is the real cost of the overextension of our military. Every active duty division has been through at least once. The numbers are starting to look like a drawdown (of troops). But it's not going to be because of the political stability in Iraq or the political pressure on Bush at home. The generals are going to sit down and say to him, 'You are going to have to choose, one or the other: Continue the level of engagement or keep our homeland secure.'

"Like when you were a kid and played 'Risk,' you only have a certain number of pieces to play."

Diminishing The U.S. Footprint (WP)

By Jim Hoagland

The Washington Post, March 19, 2006

Two important and related changes in the Bush administration's strategy for the long war on global terrorism emerged here last week. One tiptoed in quietly. The other came with trumpets blaring for political effect. It might have worked better the other way around.

The quiet change was suggested in classified briefings for friendly diplomats and visiting foreign officials: U.S. troops will be moving out of Iraq's streets and then out of Iraq's cities by the end of this year as part of a coordinated drawing down and concentration of all foreign forces. Troops from Italy and other nations will leave the country, and a reduced British force will redeploy into a smaller area of operational responsibility.

This is part of a new internal exit strategy that President Bush hinted at in Monday's Iraq speech. U.S. forces will stay in Iraq beyond 2006 to fight al-Qaeda and other Islamic extremists who are using Iraq as a platform for terrorism. Iraqi units -- operating with U.S. logistical assistance from remote locations and embedded command help -- are to be given primary responsibility for containing the domestic insurgency. This is what Bush calls Iraqis standing up to allow Americans to stand down.

Drawing lines between global and local terrorists will be a difficult task, as U.S. officials privately acknowledge. And Iraqi security forces and their political leaders, deadlocked in an intensifying power struggle, still must demonstrate they can carry out their part of the internal exit strategy.

But on its face, that strategy is a coherent way of reducing the foreign occupation footprint that fuels much of the conflict in Iraq. It realistically scales down what Iraqi units can be expected to accomplish: a long-term containment of terrorist attacks to a level that does not destroy the country's fraying ethnic and sectarian balances, rather than a quick final victory over the rebels. Finally, an internal exit is consistent with the administration's newest National Security Strategy white paper, released with fanfare Thursday.

The White House has struggled since Sept. 11, 2001, to define with precision both the enemy that Americans confront and the path to victory they must take in the war on terrorism. The Bush team gets closer with this exercise, which portrays the long war as a global ideological struggle that hinges on a battle of ideas within and about Islam.

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That is change: The words "ideology" and "Islam" were each mentioned only twice, and in passing, in the 12,629-word version of the strategy document issued in 2002. They are at the conceptual heart of this year's paper (longer by one-third), which argues that Washington and its allies must "counter the lies behind the terrorists' ideology" by empowering "the very people the terrorists most want to exploit: the faithful followers of Islam. . . . Responsible Islamic leaders need to denounce an ideology that distorts and exploits Islam for destructive ends and defiles a proud religion."

Bush himself steered drafters away from any discussion of Islam in the earlier paper, I am told, and his concern about attacking another religion is reflected in a caveat this year that "the War on Terror is a battle of ideas . . . not a battle of religions." But this year's realistic acknowledgment of the decisive role of moderate Muslims in defeating al-Qaeda and its allies is a welcome adjustment.

The heavy emphasis on ideology -- explicitly al-Qaeda's and implicitly Bush's -- is less useful. By proposing democracy as a cure-all for the vast frustrations and delusions of al-Qaeda's target audience, the White House skips over a lot of the hard work that must still be done to shape the military and political battlefields of the long war, trying instead to rally U.S. and foreign support for Iraq and Afghanistan.

A new tone of realism about those conflicts has taken hold in internal administration discussions of the way forward. Nothing could reassure Americans more than publicizing that change.

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The intensity of the power struggle in Baghdad was brought home to me when my phone rang shortly after a column reporting that Prime Minister Ibrahim al-Jafari is fighting to keep his job was published last week. The president of Iraq, Jalal Talabani, was calling to say that he, too, is dug in: The Shiite alliance that backs Jafari should present an alternative candidate so a "national unity" government can be formed "in the next two weeks."

Talabani, an acquaintance of 30 years, would not discuss his reasons for opposing Jafari now. But speaking in English, he emphasized that the presidency needs new powers to block "extreme demands from the other side."

As they say, stay tuned.

Bleakness In Baghdad (WP)

By George F. Will

The Washington Post, March 19, 2006

At this moment, one of the most dangerous since World War II, America's perils are exacerbated by the travails of a president indiscriminately despised by Democrats and increasingly disregarded by Republicans. What should he do?

First, concentrate the public's mind on the deepening dangers beyond Iraq. Second, regarding Iraq, accentuate the negative and eliminate the positive -- that is, emphasize the dangers of failure and de-emphasize talk about Iraq's becoming a democracy that ignites emulative transformation in the Middle East.

The dangers? Iran's regime proceeds with its drive for nuclear weapons, unfazed by threats of "isolation." North Korea has received less attention lately than have Denmark and Dubai. In Afghanistan, according to Lt. Gen. Michael Maples, head of the Defense Intelligence Agency, "insurgents now represent a greater threat to the expansion of Afghan government authority than at any point since late 2001." That government has an army of only 35,000 for a country nearly 50 percent larger than Iraq. The insurgency, by draining the government's energy, serves the lords of the heroin trade that accounts for at least a third of Afghanistan's gross national product.

But more than any presidency in living memory, George W. Bush's will be judged by a single problem -- Iraq, where on May 30 the war will be twice as long as was U.S. involvement in World War I. Today the impotence of Iraq's quasi-government is prompting ethnic recleansing: The government is too weak to prevent private groups from pursuing coercive reversals of Saddam Hussein's various ethnic cleansings. And in the absence of law and order, Iraqis seek safety in sectarian clustering.

Maples delicately says that although Iraq is not "at this time" in a civil war, "the underlying conditions" for such a war "are present." But civil wars do not usually begin with an identifiable event, such as the firing on Fort Sumter, or proceed to massed, uniformed forces clashing in battles like Shiloh. Iraq's civil war -- which looks more like Spain's in the 1930s -- began months ago.

In Spain, the security forces were united and in three years were victorious. Defense Secretary Donald Rumsfeld and Gen. John Abizaid, U.S. commander in the Middle East, recently said that Iraqi forces would cope with a civil war "to the extent they're able to" (Rumsfeld) and "they'll handle it with our help" (Abizaid). Their problematic assumption is that Iraq's security forces have a national loyalty and will not fracture along the fissures of Iraq's sectarian society.

Tom Ricks, military correspondent for The Post, has doubts. He recently returned from his fifth visit to Iraq. In March 2003 he thought that the invasion was a strategic mistake in the struggle against terrorism. His assessment of subsequent events is the title of his book, coming in September: "Fiasco." Now, however, he thinks that a U.S. withdrawal would leave chaos that

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might lead to radical Islamists acquiring what they most want: Saudi oil fields and Pakistani nuclear weapons. So America, he thinks, needs a plan to reduce fatalities to two or three a week, then two or three a month.

But who, he wonders, will control the likes of Moqtada al-Sadr? Imagine, Ricks says, another cleric, the Rev. Al Sharpton, controlling the Bronx with a militia he can call into the streets at any time. Last Monday, when Bush again celebrated Iraq's progress from tyranny to December's "elections for a fully constitutional government," this was life in Iraq, as reported by the New York Times:

"Shiite vigilantes seized four men suspected of terrorist attacks, interrogated them, beat them, killed them and left their bodies dangling from lampposts. . . . In Sadr City, the Shiite slum in Baghdad where the terrorist suspects were executed, government forces have vanished. The streets are ruled by aggressive teenagers with shiny soccer jerseys and machine guns. They set up roadblocks and poke their heads into cars and detain whomever they want. . . . 'This is our government now,' [a retired teacher] said, nodding toward Mr. Sadr's glowering face on television."

Conditions in Iraq have worsened in the 94 days that have passed since Iraq's elections in December. And there still is no Iraqi government that can govern. By many measures conditions are worse than they were a year ago, when they were worse than they had been the year before.

Three years ago the administration had a theory: Democratic institutions do not just spring from a hospitable culture, they can also create such a culture. That theory has been a casualty of the war that began three years ago today.

georgewill@washpost.com

The Stuff That Happened (NYT)

The New York Times, March 19, 2006

Three years ago, the United States invaded Iraq. We can all run the story through our minds: Shock and Awe, Coalition of the Willing, Mission Accomplished, looting, "Stuff happens," no W.M.D., suicide bombers, purple fingers, blasted shrine.

Many who supported the invasion have taken this anniversary to argue that it all would have been worthwhile if things had been run better. They argue that if the coalition forces had been large enough to actually secure the country, to keep insurgents from raiding Saddam Hussein's ammunition depots, to give the people a sense of safety, the country might well be on the road to a hopeful future.

We doubt it. The last three years have shown how little our national leaders understood Iraq, and have reminded us how badly attempts at liberation from the outside have gone in the past. Given where we are now, the question of whether a botched invasion created a lost opportunity might be moot, except for one thing. The man who did the botching, Donald Rumsfeld, is still the secretary of defense.

The generals on the ground understood what a disaster they were creating in the pell-mell race to Baghdad, which left in its wake an entire country full of places where Saddam Hussein's loyalists could regroup and prepare to carry on a permanent war against the Americans and their fellow Iraqis. As the new book "Cobra II" by Michael Gordon of The Times and Bernard Trainor underscores, the generals in the field were overruled by directives from Washington, where military decisions were being made by men who were guided not by reality, but by their own beloved myths about what Iraq was like and how the war was going to be won.

Chances are that at the time George W. Bush did not have an inkling of how badly he was being served by the decision makers at the Pentagon. But the fact that Mr. Rumsfeld continues to hold his job tells us that Mr. Bush doesn't care, that he prefers living in the same dream world that his secretary of defense inhabits.

In their wishful thinking, Mr. Bush and Mr. Rumsfeld undoubtedly tell themselves what they tell us: that the Iraqi people are better off than they were under the brutal dictator, that the Iraqi security forces are gradually learning how to take over defense of their own country and that a unified government is still a good possibility. It's true that many Iraqis are better off. Others are in far worse straits — their homes have been ruined, their relatives killed, their jobs evaporated and their ability to walk the streets in safety obliterated. Women's rights are being threatened in the south, and sectarian warfare has put families with mixed Shiite-Sunni ancestry at risk in their own neighborhoods. It is hard to quantify relative degrees of misery and pain in these circumstances. But unlike the horrors of Saddam Hussein, the horrors of the present can be laid at America's doorstep.

If the mission in Iraq was to create a stable democracy in the heart of the Middle East and inspire neighboring countries to follow the same path, the results have been crushingly bad — unless Mr. Bush regards the election of Palestinian terrorists as the leaders in Gaza and the West Bank as a step forward. Iran is extending its sway by the hour. In Afghanistan, American forces are too thin to do much more than protect the central government in downtown Kabul.

The idea that Iraqi security forces are poised to take over the job of protecting the people in a unified country is almost ludicrous. Many of those forces are actually sectarian militias that have been armed by the coalition forces, but not changed by

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them. So far, attempts at creating a government that could bring the country some modicum of stability have fallen apart. There are no leaders with the strength or credibility or even desire to rally anyone but their own co-religionists or ethnic group.

When Americans ask themselves whether anything has been accomplished in Iraq, they do take note that there have been no terrorist attacks on American soil since 9/11. That has been an enormous blessing, for which law enforcement officials can offer no explanation other than somewhat perplexed guesses. It's possible that the chaos in Iraq has distracted Al Qaeda, diverting its energy to fomenting civil war between Sunnis and Shiites in the heart of the Middle East. If that is so, we may have bought short-term peace while creating a training ground for terrorists and a no man's land where they can operate with impunity.

The Iraq debacle ought to serve as a humbling lesson for future generations of American leaders — although, if our leaders were capable of being humbled, they could have simply looked back to Vietnam. For the present, our goal must be to minimize the damage, through the urgent diplomacy of the current ambassador and forceful reminders that American forces are not prepared to remain for one day in a country whose leaders prefer civil war to peaceful compromise.

While we are distracted by picking up the pieces, there is no time to imagine what the world might be like if George Bush had chosen to see things as they were instead of how he wanted them to be three years ago. History will have more time to consider the question.

Shock, Awe And Humility (LAT)

The Los Angeles Times, March 19, 2006

THREE YEARS AGO TODAY, Iraqis were "shocked and awed" by the power of the U.S. military. Today, Americans are shocked and awed by its limits. If the "cakewalks" of the 1980s and 1990s — Grenada, the Gulf War, Kosovo — restored America's belief in its omnipotence, so badly shaken in Vietnam, the occupation of Iraq has been a humbling letdown.

With a mere 38% of the public still thinking that the war is going well, and more than 2,300 U.S. troops dead, it's become fashionable for the war's initial supporters to have second thoughts. We opposed the decision to go to war. But we will resist the temptation to be fashionable and will take this opportunity to at least concede that the Bush administration's actions were rooted in a strain of American idealism most often identified with Woodrow Wilson. The decision to topple Saddam Hussein's regime was a Wilsonian attempt to preserve the notion of collective security; even more idealistically, it was an attempt to create an oasis of American-style democracy and prosperity that would alter the complexion of the entire region.

So much for the vision. The reality has been — to use a term from another unpopular war — a quagmire. Bush's messianic idealism was never justified, and in any event the administration's flawed execution would have undermined his purpose. The list of gaffes is by now distressingly familiar: the flawed intelligence on weapons of mass destruction, the lack of sufficient troops, the tainted contracting process and so on.

To be fair, Washington has persevered in its quest to create a representative democracy in Iraq. But American surprise at the unfolding Sunni-Shiite schism, and our lack of preparedness to deal with the early dismantlement of the Iraqi military, have made the world's reigning superpower look, once again, oddly naive.

And though it pledges to "stay the course" in Iraq, the Bush administration has long since fled the battlefield of ideas. It embarrassingly resorts only to Orwellian talk of a "war on terror" instead of addressing real issues, and its claims of relentless success are not to be taken seriously.

Most opponents of the war are hardly in a position to gloat about American difficulties in Iraq. Russia, France and Germany all cynically manipulated the run-up to the war for their own purposes, and they comforted Hussein by allowing him to believe that the international community would never take concerted action against him. And much of the mocking by Bush critics about the supposed absurdity of the administration's claims about weapons of mass destruction is revisionist nonsense. As the New York Times reported last Sunday, Hussein's own top military commanders were stunned to learn three months before the start of the war that they had no WMD at their disposal. There is a Shakespearean quality to the tale of the dictator bluffing his way to his own demise, and it's hard for those of us who opposed the war to bemoan his removal.

As it enters its fourth year, the war in Iraq defies simplistic characterizations from both ends of the political spectrum. The heroism of U.S. forces and of ordinary Iraqis going about their daily lives is inspiring. But the future of Iraq remains shrouded in gray uncertainty.

Veterans' Voices on Iraq (WP)

Washington Post, March 19, 2006

The heat, which is like living under a french-fry lamp, like standing in front of the world's biggest hair dryer, like sitting in a sealed car on the hottest summer day in Washington with the heater blasting and someone throwing sand in your face.

The mud, which follows the hot season, cold, slimy, sticky mud that makes you wish it would turn hot again.

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The green that erupts after a spring rain and astounds you the first time you see it. The blue of the timeless sky above and beyond all the troubles. The black of the inky desert night, thickly dusted with stars and galaxies.

The eyes of the children.

These are some of the things they remember from their service in Iraq.

Over the past year, The Washington Post conducted in-depth interviews with 100 of the more than 500,000 veterans of the war. They included men and women, officers and enlisted, active-duty and reserves, combat and support troops. The questions were open-ended. The intent was to hear from them, in their own words, what the experience was like.

They remembered the camel spiders, big, fast and scary-looking. The sand flies, scorpions, mosquitoes and flying crickets. The long, hard days -- 12-hour shifts that easily turn into 20-hour shifts when they don't turn into round-the-clock marathons.

They remembered the roaring metal of System of a Down and Adema, the throbbing rap of Public Enemy and 50 Cent, the soldier-celebrating anthems of Toby Keith:

And I can't call in sick on Mondays/When the weekend's been too strong/I just work straight through the holidays/And sometimes all night long. . . .

Stringing Xbox cables from bunk to bunk to play Madden football or Tony Hawk skateboarding games in the two-man residential trailers known as "cans." Visiting the "hadji marts," clusters of enterprising Iraqis who sell everything from bootleg DVDs to rotgut alcohol on the roadside just beyond the wire of nearly every camp. Watching an entire season of "The Simpsons" or "CSI" or "Saved by the Bell" on your laptop. Watching your baby grow up via e-mail and webcam.

Wondering how honest to be with the folks back home. You don't want them to worry. So you try to sound cheerfully vague and remind them to send gummy candies, which don't melt, rather than chocolates, which do. But all that loving deception ends in a whoosh if a mortar hits during a telephone call to Mom.

Iraq was bad, nearly all of them agreed. "Not knowing day to day what was going to happen." "Hard to figure out who the enemy was." "Never being able to relax." "The rules are that there are no rules."

But it was not bad in the ways they see covered in the media -- the majority also agreed on this. What they experienced was more complex than the war they saw on television and in print. It was dangerous and confused, yes, but most of the vets also recalled enemies routed, buildings built and children befriended, against long odds in a poor and demoralized country. "We feel like we're doing something, and then we look at the news and you feel like you're getting bashed." "It seems to me the media had a predetermined script." The vibe of the coverage is just "so, so, so negative."

No two sets of memories were identical. This almost goes without saying, but not quite, because it underscores a point made by many of the veterans. Some of the deepest impressions left over from Iraq were not the externals -- the sights, sounds, smells, scenes -- but the internal marks. In Iraq, they saw, did and endured things they hadn't seen, done or imagined before, and this affected each one uniquely.

"Each individual over there has his own little war he is fighting," Army medic Joe Drennan explained. "No two people are going to have the same experiences." These personal wars add up to the war they share.

* * * A lot depended on when they were over there.

The invasion -- three years ago today -- was a blur, pulsing with excitement and wired on Adderall. Invasion vets remembered villages of blank-faced Iraqis lining the roads as the armor sped past, and ranks of empty Iraqi tanks bombed out in the desert, and busloads of men in civilian clothes suddenly opening fire, and a sandstorm so thick they could hardly see their hands in front of their faces.

Arriving in Baghdad, "I had an Iraqi citizen come up to me," said Lance Cpl. Daniel Finn, a Marine infantryman. "She was a female. She opened her mouth and she had no tongue. She was pointing at the statue" of Saddam Hussein. "There were people with no fingers, waving at the statue of Saddam, telling us he tortured them. People were showing us the scars on their backs."

After the initial victory came lean months when the war had too much death and not enough infrastructure. Troops slept in their armored trucks -- if their trucks were armored. They ate cold chow and drank hot water and dug pit toilets where they suffered "Saddam's revenge." They scraped the grime from their skin with baby wipes mailed from home. No one had planned for so many Americans to live in Iraq for so long.

Little by little, the cans arrived with their cushioned bunks and air conditioning. Showers and restrooms were built. Apart from the improvised explosive devices, the ambushes, the suicide bombers and the mortar attacks, life became sort of bearable. Rec centers opened with large-screen TVs and air-hockey tables. Dining halls began serving hot food and icy sodas.

Once-a-week phone calls home gave way to broadband Internet connections. Movie theaters and coffee bars opened. Gyms were built on most bases.

"The great stress reliever was exercise" -- veterans reported this again and again. Opportunities for sex apparently varied from one part of the country to another, and drinking was forbidden. A few veterans admitted that they had a swig, or more, of

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bootlegged or smuggled booze. But the most common way to vent the tension was to pump iron and work the cardio machines for an hour or two at the end of a long day.

With a few exceptions, the veterans described a highly professional, almost spartan force, characterized by resilient morale and good discipline. "I didn't touch a girl or alcohol for seven months, and that was tough," said Sgt. Christopher Johnson of the Marine Reserve. Many said they were ready to return to Iraq.

* * * In some ways, they talked about a war much like all wars for all troops in all times. It was a test, personal and elemental. To understand it, you must go through it; no words could entirely convey the experience to those who were not there. Many veterans described a moment, different for each person, when the test boiled down to a single yes-or-no question -- again, slightly different for each person.

Would you fight or flee? Would you crack under pressure? Would you shoot or freeze? Was it better to know that you hit your target, or not to know?

Army Staff Sgt. Christopher Day spoke of wondering "what I would do when I start getting shot at. Will I fire back or curl in a ball? And sure enough, I fired back right away."

The reason he fired back was also timeless. "It was not so much for myself, but for the guys beside me," Day said. "I was shooting and trying to kill the people that were trying to kill my friends."

He used the word "friends." Others preferred family terms. GIs talked about their "brothers." Officers spoke of their "kids." The intense bonds they formed had little to do with like-mindedness and everything to do with shared risk and mutual dependence.

"Soldiers are nonpartisan," explained Staff Sgt. Larry Gill of the National Guard. "We could give a rat's heehaw about same-sex marriage or other issues. We're given a job to do, and you go out and do your job. Because if you don't, someone's going to get hurt or die."

The officers are often gung-ho. "We are professionals," said Capt. Tyler McIntyre of the Army headquarters staff. "If you just step back, give us some breathing space, let us do our job, we'll get it done."

The enlisted troops, sometimes less so. You "meet a lot of active-duty hoorah guys and then some of us who were National Guardsmen who weren't so sure why we were there," said Spec. Amy Capistran, a mechanic with the Virginia National Guard. In other ways, it has been a war like no other.

Civilian contractors performed many of the support roles that would have been handled by GIs in past wars. Some of these were menial jobs few would have wanted. Other contractors did security work. To many troops, it didn't seem fair that these mercenaries earned big salaries and could party after work.

Technology shaped the war experience in ways both good and bad. The distance between troops and their families was closed by e-mail and satellites and instant messages and blogs. But officers worried constantly that families might discover bad news inadvertently. The bad news as of this weekend was 2,313 killed and 17,124 wounded.

The presence of women in a wider variety of roles also sets the Iraq war apart. Commanders have struggled, in some cases, to know how to manage a coed military. 1st Lt. Tanya Lawrence-Riggins of the Army National Guard said she and the other women in her unit had to bathe outdoors, screened by parked trucks, because an active-duty commanding officer didn't want them in the showers.

Other women complained that every friendship they formed with a male soldier was grist for gossip. "The rumor mill was horrific," said National Guard Lt. Connie Woodyard, whose husband served at another base in Iraq. "I was just like, 'I'm not getting that much sex! If I were, I'd like war a whole lot more.' "

* * * The difference between a hot day and a cold day in Iraq is more than 100 degrees. The historical sites are among the oldest in the world -- the ruins of Babylon, Nineveh and Ur. The poverty in some places is appalling. Iraq is an extreme land, where American troops must cope with extremity.

Extremes of doubt: "It was hard to figure out who the enemy was. Everyone practically looks the same and dresses the same. You didn't know who was a terrorist and who was not," said Spec. Greg Seely, a Virginia National Guardsman.

Extremes of emotion: "The bombs were everywhere," said Army Staff Sgt. John Thomas. "You feel like you are in a movie. You drive through the town, you see the women out in the fields, and children and other people are on the roofs watching. They are waiting on the roofs to see you get blown up."

Extremes of angst: "It's a lot harder than what a lot of people think, especially if you have a family," said Navy Corpsman Nathanial Slenker. "You're worried about your family. About the friends that you're there with. You worry about yourself and your ability to keep handling situations. You're constantly worrying."

This report was based on interviews conducted by staff writers Cameron W. Barr, Christian Davenport, Jennifer Frey, Sonya Geis, Bradley Graham, Mary Hadar, Rosalind S. Helderman, Pablo Izmirlian, Tamara Jones, Kari Lydersen, Renae Merle,

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Evelyn Nieves, Don Oldenburg, Lois Romano, Jackie Spinner, Jacqueline Trescott, Ann Scott Tyson, Jose Antonio Vargas, Jonathan Weisman, Josh White, Clarence Williams and Griff Witte. It was written by staff writer David Von Drehle.

Iraqis See Long Road To Recovery (WT)

By Sharon Behn

The Washington Times, March 19, 2006

BAGHDAD -- Iraqis interviewed on the streets of Baghdad on the eve of the third anniversary of the U.S.-led invasion said it will take at least a decade, maybe longer, to get their country on its feet.

After three years of war and with no signs of the conflict in Iraq ending soon, many Iraqis said they had lost confidence in their political leadership's ability to pull the country together.

"Saddam [Hussein] was a dictator, it was one-party rule, but now we have 60 parties running the country," said 55-year-old Falah Hassan, referring to the multiple political factions that make up the main political alliances in the national assembly. Tomorrow marks the third anniversary of the invasion that toppled Saddam.

"We don't want to say Saddam is better than this, but the situation is bad," said Mr. Hassan, fingering his Muslim prayer beads as he stood in the entrance of his small hardware store in Baghdad's busy shopping district of Karrada.

"It will not be less than 10 years" before Iraq is back to normal, and we will once again feel safe, Mr. Hassan said.

For 30-year-old Ayad Khaz Ali, who works in Baghdad's leather district selling custom-made leather coats, getting rid of Saddam was like being let out of a cage.

"We felt happy when the dictator fell, but the ones who took that happiness away are the terrorists," he said, adding that business had dropped off as death and violence has dominated the streets.

"We just blame our government and security systems, because they are not doing anything to get rid of the terror here in Iraq," Mr. Ali said.

But he denied that there was a civil war.

"Our brothers are getting killed every day, Shi'ites and Sunnis. But [civil war] must start from the bedroom, because there are a lot of mixed marriages here -- that will never happen," he said.

Despite the mistakes Mr. Ali felt the American-led coalition has made in Iraq, such as disbanding the army, he called on them to stay until Iraq had a leader with a "steel fist" capable of stopping the violence.

"If they left now, it would be a victory for the terrorists," he said.

Others say civil war is already under way, and point out that even repeated curfews have failed to stop sectarian slayings and car bombs that continue to explode daily in the capital.

"Civil war exists right now, but it has not been announced," said Ali Faris, who works in a cigar shop in the once-upscale business district of Arasat.

"It will take 10 years or more to fix Iraq -- if we don't break out in full-scale civil war," he said.

Mr. Faris said the Americans are the only ones who have enough power to roll back the violence. "If the U.S. destroyed the Soviet Union, can they not fix Iraq?" he asked.

The United States currently has about 130,000 troops in Iraq, and last week deployed to the Baghdad area an additional battalion task force from its "call-forward force" in Kuwait.

Life is much more peaceful in the Shi'ite dominated south and Kurdish north, with businesses open late and few of the horrific bombs and attacks that prevail in the strongly Sunni and religiously mixed areas of central Iraq.

Najeeb Hanoudi, an Iraqi Catholic in his 70s who grew up side by side with Muslims in the now-troubled city of Mosul, said the solution to Iraq's lethal triple insurgency of nationalists, former Ba'athists and al Qaeda was not easy, but it was possible.

"They can be bought off," he said, smoking calmly in a Baghdad hotel coffee shop. "You can buy people here by three methods: money, women and food. Every Iraqi, including myself, is amenable to this sort of treatment." All except the al Qaeda group, led by the Jordanian-born Islamic extremist Abu Musab Zarqawi, he said.

"They are the most dangerous. They don't care about human life. They murder, they decapitate, and I don't know why," Mr. Hanoudi said.

A supporter of the Americans when they first arrived in Iraq and their removal of Saddam, Mr. Hanoudi is now much more reserved. His son was shot by U.S. troops, and despite U.S. attempts to help, his son now lies in a vegetative state.

"The current situation is chaotic, dangerous and very unpredictable in every aspect. I'm very sad that it has turned out to be like that," he said, sipping some milky coffee.

After an hour of talking, Mr. Hanoudi concluded: "I might have given a gloomy and pessimistic picture, but still, in the depths of my heart, I am cautiously optimistic for a better future, for freedom, prosperity and democracy for my children and grandchildren."

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In military action yesterday, American and Iraqi troops pushing through a desolate area of Iraq's Sunni Arab heartland rounded up dozens more suspected insurgents, including the purported killers of a television journalist, U.S. and Iraqi officials told the Associated Press yesterday.

In Baghdad, meanwhile, a dozen more bodies were found as a shadowy war of Shi'ite-Sunni reprisals went on, and Shi'ite Muslim pilgrims heading to the holy city of Karbala again came under attack, with a roadside bomb killing one and wounding at least five, the AP reported.

How Do You Say Clueless? (WP)

By Muean Aljabiry

The Washington Post, March 19, 2006

The noise of the C-130 was deafening. One week after the liberation of Iraq, I was bound for Baghdad. The plane's gray and red colors and the crew's khaki uniforms were in sharp contrast to the attires of the 20 or so passengers: State Department types in suits and ties, women in Eddie Bauer outfits, a few men in blue jeans. At the tail end of the plane, a young woman in uniform, her legs dangling from the edge, was "manning" a gun.

Bottled water and foam ear plugs were distributed to us. The tall cowboy from Oklahoma sitting next to me volunteered to show me how to knead the foam, in order to insert the plugs in my ears. I thanked him and introduced myself. Noticing my accent or the peculiarity of my name, he asked in a loud voice: "Where from?"

I mumbled a few words about being from Northern Virginia and added that I was born in Najaf.

He looked at me as if recalling someone he had known before. "Oh, that's India, right? Never been there, but someday I will." He shook my hand firmly and I learned that Bill was an Army Reserve lieutenant colonel being deployed to Baghdad to work with a unit dealing with civil affairs.

On the bus from the airport in Baghdad, I felt a mixture of exhilaration and nervousness. How, I wondered, would I reach the family with whom I had lost contact since the start of this war? They were unaware of my coming and I had no idea as to their safety or well-being.

The last time I had been on that road was back in October 1981, during the Iraq-Iran war, when, with a broken spirit, I had left Baghdad for the last time. After I had made "Rasheed Street," a film about the history of Baghdad's famous main street, Saddam Hussein's henchmen made me an offer that they said I should not refuse: to make a big budget film with an international cast about the life of the "great leader." Once I rejected their offer, they banned my film and made my life, and that of my family, very miserable. After spending a few days in jail and having all the money in my bank account confiscated, I left, promising never to return until the monster was gone. Now, the absolute thrill of being back in a free Iraq, liberated from that hideous regime, was so overwhelming that I shoved all my anxieties aside and contemplated my task ahead.

I was assigned by the State Department to interpret for the Baghdad Conference (to establish an interim government) and later to provide language support to both Barbara Bodine and retired Lt. Gen. Jay Garner, the two highest officials in postwar Iraq. I didn't know how the experiment would turn out. But as I arrived in Baghdad, I really believed the United States had an efficient, well-studied plan to put Iraq together after toppling the Saddam regime.

What I witnessed in the year or so I spent helping U.S. officials on the ground in Iraq, and what I have seen more recently, has made me doubtful about our competence for nation building, an exercise the United States initially claimed to have no interest in carrying out. Perhaps for that reason, America didn't seem to have studied Iraq's long history of repulsing occupiers. When the British attempted to build a nation in Mesopotamia at the end of World War I, it was confronted with a great revolt that continues to be a source of pride to Iraqis. I sometimes worry that, like the British enterprise, the U.S. effort to build a pluralistic, democratic society in Iraq will be remembered primarily for the insurgency it has spawned.

When we arrived from the airport, we were ushered into the Baghdad Convention Center, given flimsy mattresses and blankets and told to find a place to sleep. I tried to sleep but the acrid smell of burnt gasoline or rubber tires made it difficult to breathe. With no electricity and in the pitch darkness, everything was stirring in my mind like a film in fast forward. I imagined the voice of Lt. Col. Bill Kilgore from "Apocalypse Now" echoing across the halls of the Convention Center: "I love the smell of napalm in the morning . . . The smell, you know that gasoline smell . . . smelled like . . . victory . . . Someday this war's gonna end." Eventually I collapsed and fell into a deep, deep sleep.

The conference was reminiscent of the commotion in "Lawrence of Arabia," when the British officer T.E. Lawrence gathered the citizens of Damascus back in 1918. There were clerics in white and black turbans, men in traditional tribal headdress, and many who wore Western suits. As Garner addressed the gathering, the audience was shouting complaints about looting and the lack of security, electricity and other services. There was no semblance of order in the hall. Responding to his unruly audience's demands, Garner started assigning security functions to some of the clerics and the tribal sheiks. "Rebels,

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especially successful rebels, were of necessity bad subjects and worse governors," Lawrence wrote amid the chaos of liberated Damascus. It seemed that the same could be said of these Iraqi generals, clerics and chieftains.

Not long after, my new friend Lt. Col. Bill came to ask me to teach him a few words in Arabic. He said he was assigned to deal with the former Ministry of Culture and that he needed help to interact with its department heads. He inquired if Iraqis' "language" is different from that of Saudis. He wanted to know whether Iraqis say marhaba , instead of greeting each other with salaam alaikum as they do in Saudi Arabia. I managed to teach him how to say shukran, for thank you. And I promised him that learning one phrase per day would make him as good as a native speaker by the time we left Iraq. I could easily tell he did not get the cynicism in my promise.

The motorcade of the new Boss arrived at the main gate of the palace in mid-May. Many smartly dressed men and some women got out of their vehicles. I was trying to get a glimpse of this new presidential envoy, who was sent to make things right in Iraq. The gentleman in the blue suit, striped red tie and combat boots was L. Paul Bremer. He looked sharp even at this broiling temperature. I wondered how long it would be before he started dressing casually like Garner. To me, he looked like a new head of state and I knew that we'd be working closely together. I was assigned to be his interpreter.

It was the season of dreadful heat and dust storms in Baghdad. Bremer kept the massive number of Coalition Provisional Authority (CPA) staff working almost nonstop. In addition to interpreting for him in his meetings with Iraqi political leaders, I kept a hectic schedule translating his documents and correspondence.

Nothing was working right in Baghdad. Electricity, water and other services were in short supply. My family, whom I had finally managed to contact, informed me of the terrible situation. They came to fetch me and on the way from the palace to their home, I asked my nephew to drive me through Rasheed Street. It was a ghost town, nothing like the lively street I had known and loved. My mind flashed to a deserted place in Arizona where they used to shoot westerns. I wondered how long it would take to transform this shabbiness into a city center like that of Beirut. U.S. resourcefulness will make this happen very soon, I told my nephew as he cursed the old regime.

At home with my family, I deeply felt the expanse that separated us for so many years. I, in the full comfort of my Virginia surroundings, and my entire family, in Saddam's abyss, were worlds apart. They complained about how bad things were. Food and services were scarce, but they all chipped in to load the dining room table with everything they knew I liked. They were joyful that the nightmare was over, but like most Iraqis lectured me that "you Americans" should do this and that in order to get Iraq moving in the right direction. I assured them of our efforts to institute democracy and revealed to them that we were forming a Governing Council. It would, I promised, lead the country into a true democracy.

My niece, Akila al-Hashimi, a French-educated senior career diplomat, declared that such a dream would unquestionably require some time. "In the conduct of our daily lives," she said, "we Iraqis must liberate ourselves of autocratic ideals, in order to make such a dream a reality." With immense enthusiasm, she pressed our family to do its share in the efforts to achieve this goal. Later, after I introduced her to Bodine and Bremer, she became a prominent member of the council.

Lt. Col. Bill came over to my office to enlist my help in finding him an interpreter. He complained that the officials of the former Ministry of Culture could not speak English. Pointing at a book on my desk, he asked, "So what is this book you are reading?"

"The bible," I started to say.

"But I thought you are Shia!" he cut me off.

I told him that the book, "The Old Social Classes and the Revolutionary Movements of Iraq," was Hanna Batatu's book on Iraq and that it was a must-read for anyone dealing with modern Iraq's political history.

Bill pulled from his back pocket a green paperback, published in the mid-'80s by Iraq's Ministry of Tourism and with a straight face told me, "All I need to know about Iraq is in here."

I yawned.

By then, the process of selecting members to the Governing Council was in full swing. Assorted Iraqi figures were delivered to the palace to be interviewed and evaluated for their political, social and economic views, as well as their attitudes toward the coalition. Often, I asked myself or my colleagues: Who nominated this person? Where did they find this woman? We had people who must have borrowed Col. Bill's book scouting cities and villages in Iraq for candidates to the "GC," as we came to call it. Those who did the recruiting had Arabic vocabularies approaching that of my friend Col. Bill, although their résumés attested to their fluency in Arabic.

From a helicopter, Baghdad looked dusty and pale ocher. In all directions, patches of palm groves dotted the landscape below. On one trip that summer, I found myself surveying the satellite dishes springing up from the roofs and wondered how TV and the Internet would affect future generations.

Iraq, I told the woman sitting across from me, finally had an open window from which to see the world. She was Brig. Gen. Janis Karpinski, the commander of the Abu Ghraib prison, and she was taking a large group of coalition and U.N. officials along

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with several journalists to show off the newly refurbished and redecorated facility. "The sparkling cells," she told her audience that day, "are up to the highest international standards." Outside, and under the scorching sun, hundreds of inmates were gathered in an open-air camp. "Looters," she said, when a journalist asked why the inmates were sequestered there and not in the new cells. I wondered if they would furnish the prison with satellite televisions.

Iraqis are shrewd people. Those we dealt with fell into two very different groups: Those who had opposed Saddam and had just returned from exile and those who had remained in Iraq and had learned to survive by simply saying yes to anything the master said or did. As soon as those from the latter group felt a measure of safety, they unloosed an avalanche of criticism on their master. This tactic was so ingrained that they continued to use it in their dealings with us. But some U.S. officials exhibited a naivete or ignorance that was too glaring for the smart Iraqis, and communication suffered. I suspect that it continues to suffer.

One day I was invited to attend a luncheon for some Iraqi intellectuals in the convention center. The group comprised some university professors, writers, artists and clerics. They were recruited to support our efforts to convene the first session of the Governing Council. They spoke of their aspirations for the new Iraq and wondered about the makeup of the council.

"Iraq is a mosaic, very much like America," someone said. "We want to be the 51st state, and you have to help us," another pleaded. But the black-turbaned cleric from Karbala, who sat silent most of the meeting, finally spoke. "Your president had said that you will not be here one day beyond what is needed. We are very grateful to all your sacrifices to liberate us from Saddam's tyranny. You have to know that Iraq is the cradle of civilization and we gave the world a lot more than just oil. If oil is what you want, then take it and leave us to restore the structure of our society and our culture. You must start thinking of when to leave, for I swear by Allah, if you stay one day longer than what your president promised, we will fight you, men, women and children."

Everyone in the room was wordless. Lt. Col. Bill looked at me for help to break the silence.

Twenty-two men and three women formed the newly established Governing Council. They sat around a large oval table covered in green. The way they were seated was telling. The ambitious Shiite politicians Ahmed Chalabi, Ayad Allawi and Ibrahim al-Jafari sat at the head of the table. Rival Kurdish leaders Massoud Barzani and Jalal Talabani sat across from each other. Two men in tribal headgear sat at the far end of the table, while two women sat next to each other. I noticed my niece Akila sitting separately. Neither representatives of Iraq's political elites from the pre-Saddam era nor Iraqi military officers were present. Those who had not been annihilated by Saddam lived to be ignored by the Western powers. British diplomat John Sawers, the U.N. special representative Sergio Vieira de Mello and Bremer wished them success in leading the new Iraq to the shores of democracy and prosperity.

But an undertow was tugging in the other direction.

Much happened in the months that followed. Everyone in the palace worked heroically to bring a measure of stability and structure to the new Iraq. But reconstruction and budget issues took a toll and the problems of elusive electricity and long gasoline lines continued. The number of car bombs and assassinations escalated. Mortar shells started to come nearer and nearer to the Green Zone. We had insurgency in Fallujah. Al-Qaeda, Abu Musab al-Zarqawi and Moqtada al-Sadr and his militia were thorny problems to reckon with and various parties maintained their own militias.

In September 2003, my niece Akila, while on her way to work, was shot in the abdomen by terrorists who attacked her two-car convoy. Bremer recently wrote that he received the news while dining in the United States with his wife and the Bushes. Mrs. Bremer suggested they pray for Akila, and they did. I went to the hospital with the CPA's surgeon general and we moved her to the Green Zone, but she later died of her wounds.

Members of the Governing Council continued to haggle endlessly over every issue. Every word and every sentence in the Transitional Administrative Law were surgically dissected into the late hours of the night. That it eventually passed to serve as the foundation for the country's first democratic constitution was one of Bremer's major achievements. I felt that finally -- despite Col. Bill, the death of Akila, the ruthless terrorists and feckless politicians -- we had done something right.

On June 28, 2004, I was in the studio dubbing a voiceover of the farewell speech delivered by Bremer; he was already on the plane leaving Iraq. A few days later, I too took the road to Baghdad's airport for my return to the United States. But this time, I promised my family and my friends that I would return. Maybe the sequel to that year would end more happily.

Fade to white.

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Muean Aljabiry is an Iraqi-born filmmaker and political consultant.

My Iraqi Wedding (WP)

By Manal Omar

The Washington Post, March 19, 2006

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AMMAN, Jordan There was always a fear of sectarian violence in Iraq. But when I arrived in Baghdad almost three years ago, it was only that -- a fear. Back then, right after Saddam Hussein was toppled, the country was full of hope and optimism. And it was in that heady atmosphere that I found love when I met the Iraqi man to whom I am now married.

But the fear of sectarian strife became a searing reality for me last year, on the night before our wedding. Our house of celebration was transformed into a house of mourning when we learned that my husband's brother-in-law, Hussein, had been brutally murdered. As the mourners arrived, we turned away the florist and canceled the photographer. Our festival of love gave way to horror, as we realized that Hussein was just one of the many casualties of what Iraq was becoming-- a volatile mix of tribal tensions and local mafia-style killings.

A Shiite from the Kadhimiyah district of Baghdad, Hussein had been traveling in the Sunni-controlled district of Tarmiyah where he went to a bank to withdraw money. These days, when I tell Hussein's story, people stop me at this point. "What was a Shia man thinking, going to Tarmiyah?" they say. But Hussein had worked in Tarmiyah all his life. He could never have imagined that he would be attacked by armed robbers; he would never have thought that, after his body was pumped full of bullets, it would be dragged through the streets behind his killers' car. Most people didn't think like that a year ago. Now Iraqis have to think like that every day, as hope has given way to constant fear.

Killed just 12 days after his 32nd birthday, Hussein left his wife, Rana, and three children, the youngest of whom was only 6 months old. His death was one of the incidents that sparked a full-blown tribal war between the Sunnis of Tarmiyah and the Shiites of Kadhimiyah. If districts in Baghdad are resorting to bloodthirsty feuds, you can only imagine what is happening in the outlying provinces and rural areas.

These schisms among communities were predictable -- and predicted. The most painful fact is that, early on, the feuding was preventable.

Something went awry. I am continually plagued by the question of how we in the international community could have gotten this so very wrong. I believe that we have dug a grave. And it is the Iraqis who will have to lie in it.

But who will be held accountable?

As soon as I arrived in Baghdad in those fear-free days of 2003 to open the Iraq office of Women for Women International, people from all over the world began calling and writing to ask me what it was like. I used to send out an e-mail journal in response. But over the past year, I've found it increasingly difficult to record what is going on. Even before my brother-in-law's death, I felt stymied. My last journal entry was on April 19, 2005, three days after peace activist Marla Ruzicka was killed by a roadside bomb. At that moment, I realized that the loss of friends and colleagues had become overwhelming. I was losing hope.

The truth is, I used to write to share whatever success stories there were from the people of Iraq -- to try to keep the pulse of hope beating. After Marla's death, I was afraid to admit that the hope we had been clutching was becoming impossible to hold onto.

I developed a means of coping. In order to continue my aid work in Iraq, I allowed myself to fall into the comfortable shadows of denial. And for a while it worked. But however desperately I tried to stuff my head -- like an ostrich -- into the ground, the political earthquakes and violent undercurrents forced me to the surface. Then the bombing last month of the Shiite shrine in Samarra shook me out of denial. There had been signs of sectarian strife long before that: The attacks on Karbala shrines and the kidnappings of young children were reminders that nothing remains sacred in Iraq. But on that late February day, my last glimmer of hope evaporated into thin air like the gold that once shimmered on Samarra's dome.

It must be hard, from a distance, to understand how the situation deteriorated so quickly. When I speak to Westerners about the pain of watching Iraq fall apart, I usually get little sympathy. "It is war; what did you expect?" people say. But those of us who worked in Iraq saw the flame of hope. Now we watch that flame sputter and bear witness to brutal efforts to extinguish it.

When people started to discuss the possibility of civil war two years ago, I didn't believe them; I insisted that the majority of Iraqis would rise above sectarianism. People now say that I have been proven wrong. But I remember a letter I received in the early days: A young woman from Tikrit wrote that she prayed Iraqis would remember that the strength of their country was in their mosaic of religions and ethnicities. If Iraqis had been left to themselves, I tell my doubters, they would have risen above this madness.

The countless international interventions -- from neighboring countries to the coalition forces -- destabilized Iraq at a time when its people needed support from the world. Some continue to be grateful for the collapse of the Baathist regime and entertain dreams that their nation may be on the road to recovery. But for many, the Samarra bombing crushed that dream.

I wonder at the way hope evolved into fear. I had come to Baghdad to help empower Iraqi women after decades of suffering from war and sanctions. Iraqi women had a history of exercising rights in ways other women in the region could not. I was confident that, with the resources and assistance that Women for Women International provides, they would easily reclaim their status.

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My background is Palestinian, but I grew up as an American and was prepared to find communities that would reject me. But from Karbala to Fallujah, from Sulaymaniyah to Baqubah, people embraced me as one of their own. Looking back, it seems only natural that there I would meet the love of my life, a fellow employee of Women for Women International.

Against that background of trust, I worked with increasing numbers of widows and abused and marginalized women. But nothing could have prepared me to see Hussein's wife, my husband's dear sister Rana, become a widow. Through her pain, I catch a glimpse into the everyday life of women struggling to overcome the trauma of war. You see, it is not only those who are killed who are casualties, but also their families.

Every day, Rana faces reminders of her loss. There are religious pressures for her to respect the Islamic mourning period, which does not allow her to leave the house for four months. She knew she would have to violate those strictures and flee with her children to Jordan to avoid the battles that erupted after their father's death. Rana also faced the economic pressures of being the sole breadwinner for her children, never having worked outside the home. Rana also joined thousands of widows in a legal battle to protect her children's right of inheritance. Some interpretations of the Koran do not permit children to inherit their father's property if the grandparents are still living. Rana and her children were now at the full mercy of Hussein's family.

Rana brings home to me the fate of thousands of other Iraqi women. Yet she considers herself lucky because she was able to bury her husband. When Rana reminds me of this good fortune, my mind floats to the wife of one of our staff members. Her husband went missing in 2004. There are no clues of what happened to him; there has been no sign of his car or his body. Every night, I fall asleep imagining his wife and two kids anxiously waiting for him. And I tell myself that at least Rana knows her husband's fate.

Now Rana lives, as I do, in Amman. In my apartment building, only two of the 12 units are occupied by Jordanians. The rest are homes for Iraqis who have fled their homeland. Of the 10 apartments, eight are occupied by people who have come to Amman after a family member was killed or, more commonly, kidnapped. Now, the entire building is in mourning over what is happening in Iraq. Just a couple of months ago, the halls and the parking lot were filled with quips about the Saddam trial, and the discussion was about who would be going back to Iraq first. Now, none of us dare speak about going back to Iraq.

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Iraq Needed A Benign Dictator (WP)

The Washington Post, March 19, 2006

Interview by Rajiv Chandrasekaran

Kanan Makiya, an Iraqi-born, MIT-trained architect, is a professor at Brandeis University and the author of "Republic of Fear: The Politics of Modern Iraq." The book, which details human rights abuses under Saddam Hussein, was published under a pseudonym in 1989. Makiya, an active member of Ahmed Chalabi's Iraqi National Congress, was among the most vocal Iraqi exiles encouraging the Bush administration to oust Hussein.

Is Iraq in the midst of a civil war ?

We're teetering on the edge of one, and I think as always, politics is going to be the deciding factor. By politics, I mean leadership politics, which has been sorely lacking in Iraq.

Before the war, many Iraqi exiles predicted that the Iraqi people would unite behind moderate leaders. Where are those leaders, and why haven't we seen more moderation?

The failure lies in the inability of Iraqi leaders to rise above their own groups and confessional allegiances. We have not had a visionary, a leader able to think beyond the self-interest of their group. So we have a politics of selfishness . . . [and] a politics of victimhood, an elevation of victimhood into a quality as though it were something in and of itself. In particular, this applies to the Shiite leadership.

Why hasn't a more unifying leader risen from the Shiite community? Where is Iraq's Nelson Mandela or Hamid Karzai ?

We're talking about a completely new elite that has had no experience of government before. They have created a Shiite political organization, identifying Shiiteness over Iraqiness. This, I feel, is the source of their failure. Their interpretation of democracy . . . is of democracy being majority rule as opposed to minority rights.

When you remove the suffocating lid of dictatorship, a dictatorship that has oppressed on the basis of ethnic identity, then it is very natural that those who have been so repressed react by being assertive -- the very thing that has been denied from the days of [Saddam] Hussein. And that is what we are watching today.

Could the Americans have done anything differently from the outset to reduce the chances of sectarian politics and civil strife we're now seeing today? Before the war, you advocated the formation of a provisional government led by Iraqis in exile. Do you still believe that was the right way to go?

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There's this old thorn . . . and that is the issue of provisional government versus occupation. Occupation was the wrong formula for dealing with the transition. The U.S. government pushed aside the Iraqi opposition -- both those groups that were in exile and those groups that were inside Iraq, mainly the Kurds. The unwillingness, for instance, to involve the Kurds in deliberations on Iraq as a whole because of how that may look in the rest of the Arab world was a big mistake, I think. The unwillingness to have the Iraqis keep their army. That was another mistake. But that goes hand in glove with the idea of occupation as opposed to a provisional government like what was done in Afghanistan. So what we ended up with was the rhetoric of liberation but the reality of occupation.

Isn't it interesting that 80 to 90 percent of those very same characters who were waltzing in and out of Washington before the war today have been quote-unquote legitimized through elections. Look at the political elite, look at the names, they're all there -- the very same people. But what we have lost in the meantime is three years, a lot of hurt feelings, a lot of bad relations and so on.

The U.S. government bent over backwards in almost every arena of dealings with Iraqis to be seen as being representative. But my point is this: In the moment of transition was representativeness really more important than leadership? I know how bad it would've looked to Europe, to other parts of the world, in the United Nations, for the United States to have installed a puppet government. That's what it is -- let's call things by their name. But the United States could have remained the great benefactor who had removed Saddam . . . [and after] that interim period, there certainly would have been elections. Today you ask me . . . would we have been better off? There would have been a lot more mess in the first month and the first year, but there are certain things that might have been better.

"Occupation" in Arabic has nothing but a pejorative set of meanings, clearly with the occupation of the West Bank by Israel, Algeria by France. We don't have an example in our own history of what you might call an enabling occupation. We only have disabling ones.

Iraqis today care about electricity, they care about looting, they care about a sense of authority. These people have lived under extreme authority for 35 years. You just don't take the lid off and overnight have a democratic experiment. The lid of authority has to be changed and replaced. There is a benign kind of dictatorial authority, a transition between one and the other, which in this case could have been through a provisional government that was profoundly influenced by the United States. Now, after the fact, all of this is too late, but we might've had a different dynamic.

Before the war, you spoke to a number of senior officials in the U.S. government, including President Bush and Vice President Cheney. Do you feel that they understood the depth of the issues, the animus between Sunnis and Shiites, between Arabs and Kurds. Did they understand the complexity of Iraq ?

I honestly don't think that's the source of the problem. This animus is a creation. Look, let me give you a little example. It's almost a childish example. The other day, a good friend of mine interviewed a lady from the neighborhood to work as a cleaning person in his house and the first thing this lady did was say to the woman of the house, "Are you Sunnis or Shiites?" And it so happened that the family that was trying to hire this person was Sunni and the working woman was a Shiite. And she walked out of the house. She said, "Thank you very much," and she left. She told the guard at the end of the house, "I can't work in a Sunni house."

You may think that we're now talking about decades-old prejudices and hatred between Sunnis and Shiites, I say no. I say this is a manufactured consciousness -- new, real. Not that it was not there before. There were all kinds of latent divisions. There were all kinds of ways in which people discriminated against all kinds of other people. But that kind of a conversation has emerged as an issue because of the way Iraqi politics has developed in the last two years. It is the politicians, starting with the Governing Council, who sat down and thought of themselves as Shiites and Sunnis first, that created all of this in the first place. It goes from the top down, not from the bottom up.

Do you regret telling the president that the Iraqi people would "greet the troops with sweets and flowers? "

I regret the phrase but not the intent behind the phrase. By and large, the Iraqi people received the United States very well in the first two or three months -- before the occupation was enshrined.

Bush administration officials have indicated a desire to reduce the number of U.S. forces in Iraq this year. Do you support a reduction in troops ?

I wish they wouldn't draw down their troops so quickly.

You have written extensively about the abuses of Saddam Hussein. Saddam certainly seems to be making a mockery of the proceedings .

He is. Well, of course, he's doing what in some senses was expected of him: to deny the legitimacy of the whole process.

There's something in the design of the court, in the rules of the court that . . . were badly designed. One other thing that I think is wrong is that the case against Saddam Hussein and his henchmen has not yet been properly put. We're dealing with a case where 150 people were executed. I understand the overall strategy is to move from one case to the next case to the next

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case, but the result is that the Iraqi people, and the Arab world, have not yet been faced with the magnitude of his crimes as a whole.

That picture has not yet been painted by the prosecution. We're talking about an act of revenge in which the president ordered the killing of 150 people. That could apply to a hundred other presidents in some way or another.

We have not yet looked at the magnitude of the crimes of this regime -- the reason why the United States went in there and the reason why this regime was beheaded. But the reasons why this regime somehow stood out in an international community that has many unpleasant regimes in it hasn't yet been presented by anybody. And that is the central failure of this court.

Was it a mistake not to allow foreign judges and foreign prosecutors at the tribunal ?

Yeah, I always thought that was a mistake. I wanted Iraqis involved, but I wanted a meeting of the two. I knew right up front that the judicial system, the judges, were simply not up to the task.

How do you feel when your countrymen in Baghdad now have to endure hours-long blackouts, and miles-long queues for petrol, water shortages, insurgent attacks and pervasive crime? Among both Sunnis and Shiites, some of them say they yearn for the days when Saddam was in power. How does hearing that make you feel?

I feel terrible and I understand why they say that. And I blame Iraqi politicians for it.

But on the issue of electricity and blackouts, there's a part of me, there's some little part of my brain that simply doesn't understand how the most powerful country on Earth just can't simply get electricity back on in Baghdad. . . . I've heard all the explanations. I've seen the reports. I know the technical stuff, but I find it mind-blowing that that was not solved.

It's been almost three years since the liberation of Iraq. Are you disappointed with how things have turned out thus far ?

Yes, no doubt in my mind. I'm sad. I'm very sad.

One Week In Baghdad (WP)

By Zeyad

The Washington Post, March 19, 2006

BAGHDAD

SUNDAY, March 12 A sudden whizzzzzz . . . KABOOM sent me flying from the couch where I was dozing off, watching TV.

"What was that?" my father asked from the hallway.

"Probably a mortar round," I replied. "A close one."

"Good. They're lobbing mortars at us now. What's next?" he said and went back to his bedroom.

It's almost 9 p.m., a dangerous time to go outside. Neighborhood watch teams -- young men brandishing AK-47s, pistols, RPGs and even sniper rifles -- set up checkpoints around this time. Many were referred to as the "mujahideen" or insurgents in the past. Now, they are considered defenders of our largely Sunni district against Shiite death squads and militias.

I tried to stay interested in the Steven Seagal action flick on TV, but my focus kept shifting to the occasional rumble of mortar shells outside. After a while I went upstairs to use the Internet.

Just as I set foot in my room, an intense barrage of gunfire erupted on our street. Not good. My cellphone was ringing; it was a friend who lives down our street. "It's an American patrol," he al most whispered. "I can see Humvees from where I am. And it looks like they have Iraqi police with them."

"Keep your head down for God's sake."

I went to check on my younger brother, Nabil. He was playing his guitar to a Metallica tune, oblivious to his surroundings. His room has a better view, but it's not wise to stick one's head out of a window when Americans are nearby. The street was dark, but they have night vision goggles. A sniper bullet in the head is not a fun prospect, so I lay low and tried to listen.

I did hear a radio transmission from an Iraqi police vehicle, and what sounded like an American soldier shouting. The gunfire had ceased, probably after the local vigilantes had realized it was Americans, not militias or Interior ministry forces entering our territory. The vehicles moved away, and the alarm level dropped.

No point in trying to figure out what happened. It could wait for the morning, when people would give you different versions of the incident.

I checked the door locks and called it a night.

MONDAY "The street is blocked," my taxi driver proclaimed as we approached my stop near a bus station in the Bab Al-Sharjee district in central Baghdad. "No problem. I'll get out here," I told him, forking over his fare. He grunted, and shifted into reverse.

I skulked along the remaining 300-meter stretch of street -- the main route taken by security officials from the Green Zone to the ministries' complex, and a favorite location for bombings. I usually just take a deep breath, light a cigarette and keep moving, sticking close to the wall. To my dismay, though, I found a police pickup vehicle parked in front of the bus station. A

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crowded bus station is already a juicy target for suicide bombers; a police patrol is an added attraction. But one has to shrug those thoughts aside, or we'd all be clinically crazy by now.

Thankfully, the minibus didn't take long to fill -- with a couple of ladies in abayas, their two very noisy kids, a mechanic, a laborer (from the looks of him), an old man flipping through a newspaper, two nondescript young men and me, the suburban dentist. Our destination: a district on the outskirts of the capital.

We passed through countless checkpoints manned by Iraqi troops. This time, the soldiers just waved us through. Sometimes they stop us and ask for our IDs. I gave up carrying mine some time ago; it revealed too much information, such as tribal, regional and sectarian background. I just use my neutral work ID now.

We noticed several American Humvees blocking the street. Our driver lurched onto the sidewalk and tried to squeeze through, but an American soldier yelled at him to go back, pointing his weapon at us. Without a moment's hesitation, the driver took us down a side road. Uh oh, I thought. This is where executed, blindfolded young men turn up every other day. In one case, bodies were found in a minibus -- just like the one I was in.

Any other day, I would have given up and gone home, but I needed to get my salary, because I can't rely on getting to work every day next week. Preparations for the Arbaeen religious anniversary are underway, and this road will be blocked to traffic to accommodate the hordes of Shiite pilgrims heading on foot to Karbala.

TUESDAY We were engrossed in morning preparations at work when a colleague called our attention to the latest "episode" of Saddam's trial -- a form of cheap entertainment for many Iraqis against the backdrop of dreary events in Baghdad. At least it's the one thing that Iraqis of all backgrounds agree upon.

Colleagues rushed, tea mugs in hand, to take a look at TV. Our clinic director wasn't amused, but he didn't protest. After all, there are no drugs in our pharmacy, my dental chair hasn't been fixed for months -- and even if it was, there are no anesthetics.

Iraqis have lost all hope for any real justice in this god-awful country. People here have long been accustomed to taking justice into their own hands -- or forgetting it altogether. "They should just lynch him and spare us this farce," one patient remarked. His comment sparked heated debate. I've heard all the arguments so I try not to listen. Iraqis are divided over everything. They can't even agree over a dictator who ruled them with a fist of steel for 30 years.

WEDNESDAY My neighbors suggested we go out for lunch today. They are a young couple living just across the street, with two kids, a girl and a boy, ages 11 and 5. I often spend time with them in the evening during the curfew, or around tea time.

I learned from my neighbor's wife that a stray bullet injured her mother's cousin during the firefight in our street three nights ago. It went right through her window and shattered her collarbone. It was tragic, considering that her son was killed just months ago by kidnappers after the old widow failed to pay his ransom of $50,000.

We discussed the issue of Abu Ghassan, who lived next door to them until he decided to take his family and relocate to Syria. He is a very well-to-do businessman and a car battery dealer. His lavish lifestyle brought him unwanted attention in our area, and it took him one failed kidnapping attempt to decide to sell up and leave.

It was an excruciating scene, watching neighbors of a lifetime carry their suitcases at dawn to board an SUV to Syria. Being forced to leave your home is not a trivial affair. The country is being stripped of its intelligentsia, and I fear that soon we will be left only with fanatics. Add to that the forced migrations of Sunnis, Shiites and Kurds out of mixed areas to sectarian strongholds.

We discussed these issues over a splendid meal of masgoof (roasted fish) on a refreshing sunny day on the bank of the Tigris, in the company of family and friends.

THURSDAY If there is any advantage of the Iraq war, it would have to be the endless stream of national and religious holidays. There was a daytime curfew today because of the opening parliamentary session, and not much activity is expected during the next week as the Arbaeen holiday will be taking place.

The new parliament was sworn in today. Our bickering politicians agreed to disagree yet again, and this time it was over the oath. I sometimes can't help wondering if it was the war that has left us so divided, or have we been that way all along.

The family stayed indoors for most of the day. For my mother it was a relief. She constantly worries and calls us on our phones, asking if everything is okay.

In addition to regular and fixed holidays, it is possible to make up your own, citing an unexpected security incident as an excuse. Many have mastered that useful trick. Personally, I use it sparingly because very often, I actually do get caught up in roadblocks.

People who need to make a living from day jobs, such as laborers, grocers and taxi drivers, are not impressed with the daytime curfews and holidays. Business is already suffering because of deteriorating security, power and fuel shortages. But lazy civil servants such as myself can lie back and enjoy the fruits of "liberation."

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FRIDAY A quiet day, which left me to ponder a question that haunts me: We Iraqis continue to live between the hammer of terrorists and the anvil of American, British and Iraqi security forces. But what kind of a people are we to respond by killing our own?

zeyad_w@hotmail.com

Zeyad, an Iraqi dentist who spent his childhood in Britain, lives in Baghdad. His blog, Healing Iraq (http://healingiraq.blogspot.com) started in October 2003. For security reasons, Zeyad publishes only his first name.

Iraq's Insurgents: Who's Who (WP)

By Jonathan Finer

The Washington Post, March 19, 2006

Long considered a fragmentary and disorganized collection of groups with varying tactics and aims, Iraq's insurgency is showing signs of increasing coordination, consolidation and confidence, those who study it now say. There is no consensus on the precise number of insurgent fighters, but estimates range from a few thousand to more than 50,000. The vast majority of insurgents, probably more than 90 percent, are believed to be Iraqis from the Sunni minority group that largely ruled the country before the fall of Saddam Hussein. But U.S. commanders say that most of the deadliest attacks, and particularly suicide attacks, are committed by foreigners from a range of neighboring countries, including Jordan, Syrian, Saudi Arabia, Egypt and Sudan.

-- Jonathan FinerLarger Groups

The formation of the Mujahidin Shura Council , announced on Jan. 21, was a sign of the once-diffuse insurgency's consolidation around the leadership of a few large, powerful groups. It brought together the foreign-backed network of al-Qaeda in Iraq, led by Jordanian Abu Musab al-Zarqawi, and several smaller, Iraqi-led groups. The council's head was said to be an Iraqi, a move made to counter the image of al-Qaeda as dominated by Arabs from elsewhere in the region. This appointment may be little more than a public relations move. The group's tactics include attacks carried out with bombs, small arms and mortar against Iraqi and American soldiers, as well as, increasingly, Iraqi civilians, most of them Shiites. Two of its "brigades," or affiliates, (the bin Malik and the Al-Ansar) are devoted solely to suicide attacks. Another, the Omar Brigade, is said to target only members of the Badr organization, a feared Shiite militia.

Ansar al-Sunnah , which means "partisans of the law," is an offshoot of a group called Ansar al-Islam, which was formed in Kurdistan but has not been heard from in many months. The vast majority of its leaders and foot soldiers are Iraqi Sunnis who adhere to a strict, fundamentalist form of Islam called Salafism, which calls for a return to the practices of early Muslims and has gained radical expression throughout the Arab world. Their tactics -- including lethal suicide attacks -- and religious underpinnings are similar to those of al-Qaeda, but the two groups are considered bitter rivals for influence within the insurgent community. Among their best-known attacks was a roadside bomb blast that killed 14 Marines and an interpreter in August, the deadliest such attack of the war.

The stated goal of the Islamic Army in Iraq is to drive the U.S. military out of Iraq. Comprised almost entirely of Iraqi Sunnis, including many still loyal to Saddam Hussein's regime and Baath Party, it is considered more nationalistic than religious in motivation. As many as three-quarters of its attacks, which include improvised bombs and kidnappings but not suicide attacks, are conducted against U.S. forces and non-Iraqi contractors. It often releases video footage of its operations. The group publishes a monthly magazine called al-Fursan and has denied rumors circulating last summer that it was in discussions with Iraqi officials about laying down its weapons. Its members reportedly include a sniper named "Juba," who gained a cult following when he was said to have killed several American soldiers in Baghdad last summer and fall.

There is some discussion as to whether the Islamic Front of the Iraqi Resistance , one of the most highly publicized insurgent organizations, is actually an armed group or something of a public relations organ for other groups. It maintains a frequently updated Web site and publishes a magazine called Jami, an acronym composed of its Arabic initials, which also mean "mosque" or "gathering." It has claimed responsibility for a number of attacks in and around the northern city of Mosul, Iraq's third-largest city.Smaller groups

Mujahidin Army : A group that has released dozens of videos of bomb, rocket and sniper attacks, most of them directed against U.S. forces. Along with the Islamic Army in Iraq, it denied reports of rapprochement talks with the Iraqi government last year. It is one of a few smaller insurgent groups that called for attacks against Danish troops in the wake of the publication by a Danish newspaper of cartoons depicting the prophet Muhammad last fall.

Muhammad Army : A group made up mostly of Iraqi former Baathists and a few foreign fighters, it claimed credit for the 2003 bombing of the United Nations headquarters that killed 23 people, including the organization's chief of mission.

1920 Revolution Brigades : This group, which has claimed responsibility for a number of high-profile kidnappings of Westerners and Iraqis working with U.S. forces, is named for the Iraqi uprising against the British after World War I. The group calls itself the military wing of the Islamic Resistance Movement, another insurgent organization.

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Conquering Army : A new group that has emerged in the past two months through a series of videos released on the Internet and to regional television networks showing kidnapping victims confessing to various "crimes" such as working with American forces.

Swords of the Righteous : A previously unknown group that gained prominence by claiming responsibility, in videos, for the kidnapping of four Christian Peacemaker workers, one of whom, Tom Fox of Virginia, was found dead March 10.

Iraqi Vengeance Brigades : A little-known group that has released videos showing American journalist Jill Carroll, who was abducted in Baghdad in early January.

SOURCES: SITE Institute, International Crisis Group, news reports

Statements By Insurgents (WP)

The Washington Post, March 19, 2006

"W e refuse completely to participate [in the political process], because it ultimately benefits the occupiers, their followers and their agents. Their wicked aim is to attack Islam and humiliate its people, steal their wealth and support the Jews. . . . We will take revenge against all government figures or anyone related to it or supporting it, because it is a government of unbelief. I swear by Allah that if ever my father dealt with it -- or my mother, brother, sister, cousin or my son, and everyone who is related to me -- I shall cut his throat and I will not be sorry. . . .

". . . Practically and security-wise, we control all cities of Iraq and we challenge [Prime Minister Ibrahim] al-Jafari and all who claim that there is a government in Baghdad or any other city in Iraq to go out in the streets or remove the fortifications surrounding them and bring their families from outside Iraq to live in a normal way here. We have succeeded in placing them in a prison, like in the Green Zone. Even that is not safe anymore and is bombed every day. . . . We, meanwhile, are free to go everywhere in any city and choose our targets . . . .

". . . Be sure that the American Army is living now in a swamp of blood and is suffering a state of collapse. Also, the government forces are corrupt and falling apart psychologically. It will flee and soon, as the Americans announce the withdrawal of their forces, and this will happen very soon, Allah willing. The battle of Iraq will be the beginning of other battles in the area to topple the idols allied with Satan."

--Abu Hafsa al-Ansari, chief aide to al-Qaeda leader Abu Musab al-Zarqawi, in a Feb. 23 interview with the Lebanese magazine al-Watan al-Arabiya

"How many times have a few people overcome plenty of people? . . . America has failed in three years to defeat a few hundred mujahidin, and its disgrace is very big. The most powerful army in the world . . . equipped with very sophisticated weapons . . . has failed to control very limited numbers of [mujahidin]. Oh my God, how is that?

". . . It is Allah's work. It is this great religion with all its greatness . . . facing barbarism in its lowest form. They are Allah's people facing Satan's people. . . . it is the mujahidin versus the mercenaries. . . . it is the weapon of faith versus the arsenal of destruction."

--From a document issued by the Global Islamic Media Front, an al-Qaeda mouthpiece

"W e repeat our call to the Muslim people to understand the nature of the battle; they should know the identity of their enemies and what to do with them. We must put our efforts into supporting jihad and the mujahidin, because they are the fence that pushes away the power of the scum and keeps the Muslims safe. All of us know that the Shiite attack on the Sunni sections has been stopped. . . . What stopped it was the unity of the Sunni people with their sons, the mujahidin. . . .

"The mujahidin revealed the truth of the Shiites early. . . . Blood was shed and women dishonored, mosques burned and massacred, the Koran was desecrated by burning, tearing and kicking. They will pay a high price for it, so the Shiites will have only themselves to blame."

-- March 14 statement by the Mujahidin Shura Council, addressing the Sunni people of Iraq

On Scene: How Operation Swarmer Fizzled (TIME)

By Brian Bennett/Al Jallam

Time, March 19, 2006

Friday, Mar. 17, 2006

On Scene: How Operation Swarmer Fizzled

Not a shot was fired, or a leader nabbed, in a major offensive that failed to live up to its advance billing

By BRIAN BENNETT/AL JALLAM

Four Black Hawk helicopters landed in a wheat field and dropped off a television crew, three photographers, three print reporters and three Iraqi government officials right into the middle of Operation Swarmer. Iraqi soldiers in newly painted

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humvees, green and red Iraqi flags stenciled on the tailgates, had just finished searching the farm populated by a half-dozen skinny cows and a woman kneading freshly risen dough and slapping it to the walls of a mud oven.

The press, flown in from Baghdad to this agricultural gridiron northeast of Samarra, huddled around the Iraqi officials and U.S. Army commanders who explained that the "largest air assault since 2003" in Iraq using over 50 helicopters to put 1500 Iraqi and U.S. troops on the ground had netted 48 suspected insurgents, 17 of which had already been cleared and released. The area, explained the officials, has long been suspected of being used as a base for insurgents operating in and around Samarra, the city north of Baghdad where the bombing of a sacred shrine recently sparked a wave of sectarian violence.

But contrary to what many many television networks erroneously reported, the operation was by no means the largest use of airpower since the start of the war. ("Air Assault" is a military term that refers specifically to transporting troops into an area.) In fact, there were no airstrikes and no leading insurgents were nabbed in an operation that some skeptical military analysts described as little more than a photo op. What's more, there were no shots fired at all and the units had met no resistance, said the U.S. and Iraqi commanders.

The operation, which doubled the population of the flat farmland in one single airlift, was initiated by intelligence from Iraq security forces, says Lt Col Skip Johnson commander of the 187 Battallion, 3rd Combat Brigade of the 101st Airborne. "They have the lead," he said to reporters at the second stop of the tour. But by Friday afternoon, the major targets seemed to have slipped through their fingers. Iraqi Army General Abdul Jabar says that Samarra-based insurgent leader Hamad el Taki of Mohammad's Army was thought to be in the area, and Iraqi intelligence officers were still working to compare known voice recordings and photographs with the prisoners in custody.

With the Interior Ministry's Samarra commando battalion, the soldiers had found some 300 individual pieces of weaponry like mortars, rockets and plastic explosives in six different locations inside the sparsely populated farming community of over 50 square miles and about 1,500 residents. The raids also uncovered high-powered cordless telephones used as detonators in homemade bombs, medical supplies and insurgent training manuals.

Before loading up into the helicopters for a return trip to Baghdad, Iraqi and American soldiers and some reporters helped themselves to the woman's freshly baked bread, tearing bits off and chewing it as they wandered among the cows. For most of them, it was the only thing worthwhile they'd found all day.

More Insurgents Detained In U.S.-Iraqi Raids (LAT)

By the Associated Press

The Los Angeles Times, March 19, 2006

March 19, 2006

BAGHDAD — American and Iraqi troops pushing through a desolate area of Iraq's Sunni heartland rounded up dozens more suspected insurgents, including alleged killers of a television journalist, U.S. and Iraqi officials said Saturday.

The third day of the sweep through villages near Samarra, 60 miles north of Baghdad, stirred growing unease among leading Sunni Arabs. One called it a needless "escalation" at a time of difficult negotiations over forming a broad-based government.

In Baghdad, meanwhile, a dozen more bodies were found as a shadowy war of Shiite-Sunni reprisals apparently continued. And Shiite Muslims heading to the holy city of Karbala came under attack, with a roadside bomb killing one and wounding five.

Elsewhere, an oil tanker driver was shot dead 50 miles southeast of Baghdad, and a tribal sheik was slain 30 miles west of the capital.

In a radio address the day before the third anniversary of the U.S.-led invasion, President Bush said the violence in Iraq "has created a new sense of urgency" among Iraqi leaders to form a government.

Those leaders — representatives of the Shiite, Sunni and Kurdish blocs in Iraq's new parliament — were taking a break from negotiations to observe Monday's Shiite holiday and Tuesday's Kurdish New Year.

They are deadlocked over how to apportion the most powerful jobs in the new government, as minority blocs seek to limit domination by Shiite Muslims.

In the counterinsurgency sweep through a 100-square-mile area of semidesert northeast of the Tigris River town of Samarra, Iraqi soldiers and units of the U.S. 101st Airborne Division had detained about 80 suspected insurgents as of Saturday, said Lt. Col. Edward S. Loomis, a U.S. spokesman. Seventeen were released after questioning, he said.

Among those detained were six people, not further identified, allegedly responsible for the March 11 killing of Amjad Hameed, director of the Iraqi television station Al Iraqiya, and his driver, Iraqi officials said.

In other action, Iraqi counterinsurgency troops staged a predawn raid near Baqubah, about 30 miles north of Baghdad, touching off a clash in which two gunmen were killed, one was wounded and 18 were arrested, Brig. Saman Talabani said.

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Besides ammunition and weapons, the soldiers seized computer discs of fatwas, or religious edicts, calling for the killing of Iraqi police and soldiers, he said.

At least 2,300 American military personnel have died since the Iraq war began.

Shiite Pilgrims Are Walking Targets In Sectarian Conflict (NYT)

By Jeffrey Gettleman

The New York Times, March 19, 2006

BAGHDAD, Iraq, March 18 — Shiite pilgrims are threading a needle of danger this week as they make their annual pilgrimage to a shrine in Karbala, in southern Iraq.

Many of them are doing it defiantly.

On Saturday, Ali Jassim, 22, was hiking along a Baghdad highway, hoisting a huge Shiite flag, wearing the distinctive all-black pilgrim's uniform and projecting full-blown Shiite pride.

"I know the Sunnis are after us," he said.

His friend, Monir Abd al-Rad, who was trudging alongside him, tried to quiet him down.

"We are all brothers," he said.

"Rubbish," Mr. Jassim shot back. "Nobody wants to say it, but there is a sectarian war. And we are its targets."

The pilgrimage route from Baghdad to Karbala cuts straight across territory so overrun by Sunni Arab insurgents that the American military calls it the Triangle of Death. This year that triangle is deadlier than ever, with Shiite-Sunni tensions peaking.

Hundreds of thousands of Shiite pilgrims are taking the risk, marching the 50 miles from Baghdad to Karbala to commemorate the death of Imam Hussein, the grandson of the Prophet Muhammad.

Several have already paid the price.

On Friday, eight pilgrims were shot in drive-by shootings, though American and Iraqi forces patrolled nearby.

On Saturday, a string of bombs exploded along the route, wounding several people. Several pilgrims are now making the trek with assault rifles slung across their shoulders, for the first time anyone here can remember.

The violence is part of the sectarian shadow falling across Iraq. On Saturday, more bodies turned up. Interior Ministry officials said 16 men, all unidentified, were found dead with their hands tied behind their back and bullets in their heads. In the past week, nearly 200 bodies surfaced on Baghdad's streets, many of them dumped in clusters.

The widespread suspicion is that most were victims of Shiite death squads who went on a quiet but steady killing spree after a bomb attack on a Shiite market in Baghdad one week ago.

In the past few days, American officials in Baghdad have expressed more concern about the security situation than usual.

Despite recent vows to let Iraqi forces take the lead in security matters, United States commanders initiated a large-scale helicopter offensive this week against insurgents near Samarra, the city where an important Shiite shrine was bombed Feb. 22 , the incident that set off a cycle of sectarian killings.

The helicopter operation used a mix of Iraqi and American troops. On Saturday, the military said it had captured more people suspected of being insurgents, bringing the operation's total to 80, though many were quickly released.

An Iraqi army spokesman said Iraqi soldiers had captured six suspects connected to the recent assassination of two Iraqi journalists, though it was not clear if these suspects had been swept up in the Samarra raid.

Also on Saturday, several high-ranking Iraqi officials met with the British defense minister, John Reid, who visiting Baghdad to mark the three-year anniversary of the American-led invasion of Iraq on March 20.

Iraqi leaders have been struggling to form a government of national unity and a new divisive issue has emerged: whether to empower a national security council with executive authority.

Mr. Reid urged the leaders to resolve their differences quickly. "Terrorists love a vacuum," he said at a news conference.

The Iraqi defense minister, Saadun al-Dulaimi, thanked Mr. Reid for helping oust Saddam Hussein three years ago but added, "We can't rely on friendly forces forever."

In Kirkuk, a city north of Baghdad with population of Kurds, Shiites and Sunni Arabs, three people were killed and 11 wounded in a spate of attacks on Saturday.

The American military said two American soldiers were killed by indirect fire, which usually means mortars, near Tikrit on Thursday.

Mortars also seriously injured three Iraqi children in Ramadi on Friday, according to the American military. The children were playing outside when the mortars hit.

Saddam's Philippines Terror Connection (WS)

By Stephen F. Hayes

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The Weekly Standard, March 19, 2006

And other revelations from the Iraqi regime files

SADDAM HUSSEIN'S REGIME PROVIDED FINANCIAL support to Abu Sayyaf, the al Qaeda-linked jihadist group founded by Osama bin Laden's brother-in-law in the Philippines in the late 1990s, according to documents captured in postwar Iraq. An eight-page fax dated June 6, 2001, and sent from the Iraqi ambassador in Manila to the Ministry of Foreign Affairs in Baghdad, provides an update on Abu Sayyaf kidnappings and indicates that the Iraqi regime was providing the group with money to purchase weapons. The Iraqi regime suspended its support--temporarily, it seems--after high-profile kidnappings, including of Americans, focused international attention on the terrorist group.

The fax comes from the vast collection of documents recovered in postwar Afghanistan and Iraq. Up to this point, those materials have been kept from the American public. Now the proverbial dam has broken. On March 16, the U.S. government posted on the web 9 documents captured in Iraq, as well as 28 al Qaeda documents that had been released in February. Earlier last week, Foreign Affairs magazine published a lengthy article based on a review of 700 Iraqi documents by analysts with the Institute for Defense Analysis and the Joint Forces Command in Norfolk, Virginia. Plans for the release of many more documents have been announced. And if the contents of the recently released materials and other documents obtained by The Weekly Standard are any indication, the discussion of the threat posed by Saddam Hussein's Iraq is about to get more interesting.

Several months ago, The Weekly Standard received a set of English-language

documents from a senior U.S. government official. The official represented this material as U.S. government translations of three captured Iraqi documents. According to this source, the documents had been examined by the U.S. intelligence community and judged "consistent with authentic documents"--the professionals' way of saying that these items cannot definitively be certified but seem to be the real thing.

The Weekly Standard checked its English-language documents with officials serving elsewhere in the federal government to make sure they were consistent with the versions these officials had seen. With what one person characterized as "minor discrepancies," they are. One of the three documents has been posted in the original Arabic on the website of the Office of the Director of National Intelligence. A subsequent translation of that document is nearly identical to the English-language text that we were given.

These documents add to the growing body of evidence confirming the Iraqi regime's longtime support for terrorism abroad. The first of them, a series of memos from the spring of 2001, shows that the Iraqi Intelligence Service funded Abu Sayyaf, despite the reservations of some IIS officials. The second, an internal Iraqi Intelligence memo on the relationships between the IIS and Saudi opposition groups, records that Osama bin Laden requested Iraqi cooperation on terrorism and propaganda and that in January 1997 the Iraqi regime was eager to continue its relationship with bin Laden. The third, a September 15, 2001, report from an Iraqi Intelligence source in Afghanistan, contains speculation about the relationship between Iraq and al Qaeda and the likely U.S. response to it.

ON JUNE 6, 2001, the Iraqi ambassador to the Philippines sent an eight-page fax to Baghdad. Ambassador Salah Samarmad's dispatch to the Secondary Policy Directorate of the Iraqi Foreign Ministry concerned an Abu Sayyaf kidnapping a week earlier that had garnered international attention. Twenty civilians--including three Americans--had been taken from Dos Palmas Resort on Palawan Island in the southern Philippines. There had been fighting between the kidnappers and the Filipino military, Samarmad reported. Several hostages had escaped, and others were released.

"After the release of nine of the hostages, an announcement from the FBI appeared in newspapers announcing their desire to interview the escaped Filipinos in order to make a decision on the status of the three American hostages," the Iraqi ambassador wrote to his superiors in Baghdad. "The embassy stated what was mentioned above. The three American hostages were a missionary husband and wife who had lived in the Philippines for a while, Martin and Gracia Burnham, from Kansas City, and Guillermo Sobrero, from California. They are still in the hands of the Abu Sayyaf kidnappers from a total of 20 people who were kidnapped from (Dos Palmas) resort on Palawan Island." (Except where noted, parentheses, brackets, and ellipses appear in the documents quoted.)

The report notes that the Iraqis were now trying to be seen as helpful and keep a safe distance from Abu Sayyaf. "We have all cooperated in the field of intelligence information with some of our friends to encourage the tourists and the investors in the Philippines." But Samarmad's report seems to confirm that this is a change. "The kidnappers were formerly (from the previous year) receiving money and purchasing combat weapons. From now on we (IIS) are not giving them this opportunity and are not on speaking terms with them."

Samarmad's dispatch appears to be the final installment in a series of internal Iraqi regime memos from March through June 2001. (The U.S. government translated some of these documents in full and summarized others.) The memos contain a lengthy discussion among Iraqi officials--from the Ministry of Foreign Affairs and the Iraqi Intelligence Service--about the wisdom of using a Libyan intelligence front as a way to channel Iraqi support for Abu Sayyaf without the risks of dealing directly with the

group. (The Libyan regime had intervened in an Abu Sayyaf kidnapping in 2000, securing the release of several hostages by paying several million dollars in ransom. Some observers saw this as an effort by Muammar Qaddafi to improve his image; others saw it as an effort to provide support to Abu Sayyaf by paying the ransom demanded by the group. Both were probably right.)

One Iraqi memo, from the "Republican Presidency, Intelligence Apparatus" to someone identified only as D4/4, makes the case for supporting the work of the Qaddafi Charity Establishment to help Abu Sayyaf. The memo is dated March 18, 2001.

1. There are connections between the Qaddafi Charity Establishment and the Abu Sayyaf group in the Philippines; meanwhile, this establishment is providing material support to them.

2. This establishment is one of the Libyan Intelligence fronts.

3. The Tripoli post has indicated that there is a possibility to form what connections are available with this establishment as it can offer the premise of providing food supplies to [Ed: word missing] in the scope of the agreement statement.

Please review . . . it appears of intelligence value to proceed into connections with this establishment and its intelligence investments in the Abu Sayyaf group.

The short response, two days later:

Mr. Dept. 3:

Study this idea, the pros and the cons, the relative reactions, and any other remarks regarding this.

That exchange above was fully translated by U.S. government translators. The two pages of correspondence that follow it in the Iraqi files were not, but a summary of those pages informs readers that the Iraqi response "discourages the supporting of connections with the Abu Sayyaf group, as the group works against the Philippine government and relies on several methods for material gain, such as kidnapping foreigners, demanding ransoms, as well as being accused by the Philippine government of terrorist acts and drug smuggling."

These accusations were, of course, well founded. On June 12, 2001, six days after Samarmad's dispatch, authorities found the beheaded body of Guillermo Sobrero near the Abu Sayyaf camp. Martin Burnham was killed a year later during the rescue attempt that freed his wife.

A thorough understanding of the relationship between Iraq and Abu Sayyaf (the name, honoring Afghan jihadi Abdul Rasul Sayyaf, means "Father of the Sword") will not come from an analysis of three months' correspondence between Manila and Baghdad in 2001. While it is certainly significant to read in internal Iraqi documents that the regime was at one time funding Abu Sayyaf, we do not now have a complete picture of that relationship. Why did the Iraqis begin funding Abu Sayyaf, which had long been considered a regional terrorist group concerned mainly with making money? Why did they suspend their support in 2001? And why did the Iraqis resume this relationship and, according to the congressional testimony of one State Department regional specialist, intensify it?

ON MARCH 26, 2003, as war raged in Iraq, the State Department's Matthew Daley testified before Congress. Daley, the deputy assistant secretary of state for East Asian and Pacific affairs, told a subcommittee of the House International Relations Committee that he was worried about Abu Sayyaf.

"We're concerned that they have what I would call operational links to Iraqi intelligence services. And they're a danger, they're an enemy of the Philippines, they're an enemy of the United States, and we want very much to help the government in Manila deal with this challenge," Daley told the panel. Responding to a question, Daley elaborated. "There is good reason to believe that a member of the Abu Sayyaf Group who has been involved in terrorist activities was in direct contact with an IIS officer in the Iraqi Embassy in Manila. This individual was subsequently expelled from the Philippines for engaging in activities that were incompatible with his diplomatic status."

This individual was Hisham Hussein, the second secretary of the Iraqi Embassy in Manila. And Daley was right to be concerned.

Eighteen months before his testimony, a young Filipino man rode his Honda motorcycle up a dusty road to a shanty strip mall just outside Camp Enrile Malagutay in Zamboanga City, Philippines. The camp was host to American troops stationed in the south of the country to train with Filipino soldiers fighting terrorists. The man parked his bike and began to examine its gas tank. Seconds later, the tank exploded, sending nails in all directions and killing the rider almost instantly.

The blast damaged six nearby stores and ripped the front off of a café that doubled as a karaoke bar. The café was popular with American soldiers. And on this day, October 2, 2002, SFC Mark Wayne Jackson was killed there and a fellow soldier was severely wounded. Eyewitnesses almost immediately identified the bomber as an Abu Sayyaf terrorist.

One week before the attack, Abu Sayyaf leaders had promised a campaign of terror directed at the "enemies of Islam"--Westerners and the non-Muslim Filipino majority. And one week after the attack, Abu Sayyaf attempted to strike again, this time with a bomb placed on the playground of the San Roque Elementary School. It did not detonate. Authorities recovered the cell phone that was to have set it off and analyzed incoming and outgoing calls.

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As they might have expected, they discovered several calls to and from Abu Sayyaf leaders. But another call got their attention. Seventeen hours after the attack that took the life of SFC Jackson, the cell phone was used to place a call to the second secretary of the Iraqi embassy in Manila, Hisham Hussein. It was not Hussein's only contact with Abu Sayyaf.

"He was surveilled, and we found out he was in contact with Abu Sayyaf and also pro-Iraqi demonstrators," says a Philippine government source, who continued, "[Philippine intelligence] was able to monitor their cell phone calls. [Abu Sayyaf leaders] called him right after the bombing. They were always talking."

An analysis of Iraqi embassy phone records by Philippine authorities showed that Hussein had been in regular contact with Abu Sayyaf leaders both before and after the attack that killed SFC Jackson. Andrea Domingo, immigration commissioner for the Philippines, said Hussein ran an "established network" of terrorists in the country. Hussein had also met with members of the New People's Army, a Communist opposition group on the State Department's list of foreign terrorist groups, in his office at the embassy. According to a Philippine government official, the Philippine National Police uncovered documents in a New People's Army compound that indicate the Iraqi embassy had provided funding for the group. Hisham Hussein and two other Iraqi embassy employees were ordered out of the Philippines on February 14, 2003.

Interestingly, an Abu Sayyaf leader named Hamsiraji Sali at least twice publicly boasted that his group received funding from Iraq. For instance, on March 2, 2003, he told the Philippine Daily Inquirer that the Iraqi regime had provided the terrorist group with 1million pesos--about $20,000--each year since 2000.

ANOTHER ITEM from the Iraq-Philippines files is a "security report" prepared by the Iraqi embassy's third secretary, Ahmad Mahmud Ghalib, and sent to Baghdad by Ambassador Samarmad. The report provides a behind-the-scenes glimpse of the Iraqi Intelligence operation in the Philippines. A cover memo from the ambassador, dated April 12, 2001, gives an overview: "The report contain[s] a variety of issues including intelligence issues and how the Philippines, American and Zionist intelligence operate in the Philippines, especially the movements of the American intelligence in their efforts to fight terrorism and recruiting a variety of nationalities, particularly Arabs."

Ghalib's report is a rambling account of a phone conversation he had with an Iraqi intelligence informer named Muhammad al-Zanki, an Iraqi citizen living in the Philippines, who is referred to throughout the document as Abu Ahmad. The embassy official is looking for information on a third person, an informer named Omar Ghazal, and believes that Abu Ahmad might have some. (To review: Salah Samarmad is the Iraqi ambassador; Ahmad Mahmud Ghalib is the embassy's third secretary, most likely an Iraqi intelligence officer and author of the "security report"; Abu Ahmad is an Iraqi intelligence informer; and Omar Ghazal is another Iraqi intelligence informer.)

As the conversation begins, Abu Ahmad tells his embassy contact that he doesn't know where Omar Ghazal is and would have told the embassy if he did. He then tells the embassy contact that when he called Omar Ghazal's aunt to check on his whereabouts, she used a word in Tagalog--walana--which means "not here." But Abu Ahmad says its connotations are not good. "That word is used when you target one of the personnel who are assigned to complete everything (full mission). Then they announce that he is traveling and so on, and that's what I'm afraid of." The Iraqi embassy contact asks him to elaborate. "I have been exposed to that same phrase before, when I asked about an individual, and later on I found out that he was physically eliminated and no one knows anything about him."

The embassy official assures Abu Ahmad that Iraqi intelligence has also lost track of Ghazal, and became alarmed when he abruptly stopped attending soccer practice at a local college. Abu Ahmad fears the worst. "I'm afraid they might have killed him and I'm very worried about him," he says, according to the report. "The method that those people use is terrible and that's why I refuse to work with them."

The Iraqi embassy official interrupts Abu Ahmad. "Who are they? I would like to know who they are."

"Didn't I tell you before who they are?"

"No."

"The office group," says Abu Ahmad.

"Which office?" asks his Iraqi embassy handler.

"A long time ago the American FBI opened up an office in the Philippines, under American supervision and that there are Philippine Intelligence groups that work there. The goal of the office is to fight international terrorism (in the Philippines of course) and they have employees from various nationalities that speak of peace and international terrorism and how important it is to put an end to terrorism. The office also has other espionage affairs involving Arab citizens to work with them in order to provide them with information on the Arabs who are living in the Philippines and also for other spying purposes."

Abu Ahmad continues: "They also monitor diplomacy, and after I tried to lessen my amount of office work, I became aware that the office group was trying to get in contact with the person who is in charge of temporary work, Malik al-Athir, when he was alone."

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Abu Ahmad tells his Iraqi embassy contact, Ghalib, that "the office" was trying to recruit an Arab to monitor Arab citizens in the Philippines. The Iraqi embassy contact suggests that Abu Ahmad volunteer for the job. Abu Ahmad says he had other plans. "I am leaving after I finish selling my house and properties and will move to Peshawar [Pakistan]. There I will be supplied with materials, weapons, explosives, and get married and then move to America. Do you know that there are more than one thousand Iraqi extremists who perform heroism jobs?" The speaker presumably means martyrdom operations.

The Iraqi embassy contact asks Abu Ahmad how he knows that those people are not "Saudis, Kuwaitis, Iranians."

Abu Ahmad replies: "They are bin Laden's people and all of them are extremists and they are heroes. Do you want me to give you their names?"

"Why not? Yes, I want them," says the Iraqi embassy contact.

"I will supply you with the names very soon. I will write some for you because I am in touch with them," says Abu Ahmad.

This report raises more questions than it answers. Who is Omar Ghazal and why did he disappear? What is the "office group" and how is it connected to Americans? What happened to Abu Ahmad? Were his stated plans--moving to Peshawar to obtain weapons and explosives and then moving to the United States--just bluster to impress his Iraqi embassy handler? A way to discontinue his work for the Iraqi regime? Or was he serious? Is he here now?

A SECOND internal Iraqi file obtained by The Weekly Standard concerns relations between Iraqi Intelligence and Saudi opposition groups. The document was apparently compiled at some point after January 1997, judging by the most recent date in the text, and discusses four Saudi opposition groups: the Committee for Defense of Legitimate Rights, the Reform and Advice Committee (Osama bin Laden), People of al Jazeera Union Organization, and the Saudi Hezbollah.

The New York Times first reported on the existence of this file on June 25, 2004. "American officials described the document as an internal report by the Iraqi intelligence service detailing efforts to seek cooperation with several Saudi opposition groups, including Mr. bin Laden's organization, before al Qaeda had become a full-fledged terrorist organization." According to the Times, a Pentagon task force "concluded that the document 'appeared authentic,' and that it 'corroborates and expands on previous reporting' about contacts between Iraqi intelligence and Mr. bin Laden in Sudan, according to the task force's analysis."

The most provocative aspect of the document is the discussion of efforts to seek cooperation between Iraqi Intelligence and the Saudi opposition group run by bin Laden, known to the Iraqis as the "Reform and Advice Committee." The translation of that section appears below.

We moved towards the committee by doing the following:

A. During the visit of the Sudanese Dr. Ibrahim al-Sanusi to Iraq and his meeting with Mr. Uday Saddam Hussein, on December 13, 1994, in the presence of the respectable, Mr. Director of the Intelligence Service, he [Dr. al-Sanusi] pointed out that the opposing Osama bin Laden, residing in Sudan, is reserved and afraid to be depicted by his enemies as an agent of Iraq. We prepared to meet him in Sudan (The Honorable Presidency was informed of the results of the meeting in our letter 782 on December 17, 1994).

B. An approval to meet with opposer Osama bin Laden by the Intelligence Services was given by the Honorable Presidency in its letter 138, dated January 11, 1995 (attachment 6). He [bin Laden] was met by the previous general director of M4 in Sudan and in the presence of the Sudanese, Ibrahim al-Sanusi, on February 19, 1995. We discussed with him his organization. He requested the broadcast of the speeches of Sheikh Sulayman al-Uda (who has influence within Saudi Arabia and outside due to being a well known religious and influential personality) and to designate a program for them through the broadcast directed inside Iraq, and to perform joint operations against the foreign forces in the land of Hijaz. (The Honorable Presidency was informed of the details of the meeting in our letter 370 on March 4, 1995, attachment 7.)

C. The approval was received from the Leader, Mr. President, may God keep him, to designate a program for them through the directed broadcast. We were left to develop the relationship and the cooperation between the two sides to see what other doors of cooperation and agreement open up. The Sudanese side was informed of the Honorable Presidency's agreement above, through the representative of the Respectable Director of Intelligence Services, our Ambassador in Khartoum.

D. Due to the recent situation of Sudan and being accused of supporting and embracing of terrorism, an agreement with the opposing Saudi Osama bin Laden was reached. The agreement required him to leave Sudan to another area. He left Khartoum in July 1996. The information we have indicates that he is currently in Afghanistan. The relationship with him is ongoing through the Sudanese side. Currently we are working to invigorate this relationship through a new channel in light of his present location.

(It should be noted that the documents given to The Weekly Standard did not include the attachments, letters to and from Saddam Hussein about the status of the Iraq-al Qaeda relationship. And the last sentence differs slightly from the version provided to the New York Times. In the Weekly Standard document, Iraq is seeking to "invigorate" its relationship with al Qaeda; in the Times translation, Iraq is seeking to "continue" that relationship.)

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Another passage of the Iraq-Saudi opposition memo details the relationship between the Iraqi regime and the Committee for Defense of Legitimate Rights (CDLR), founded by Dr. Muhammad Abdallah al-Massari. Once again, Dr. Ibrahim al-Sanusi, the senior Sudanese government official, was a key liaison between the two sides. Al-Massari is widely regarded as an ideological mouthpiece for al Qaeda, a designation he does little to dispute. His radio station broadcasts al Qaeda propaganda, and his website features the rantings of prominent jihadists. He has lived in London for more than a decade. The Iraqi Intelligence memo recounts two meetings involving Dr. al-Sanusi and CDLR representatives in 1994 and reports that al-Massari requested assistance from the Iraqi regime for a trip to Iraq.

In 1995, the Iraqis turned to another Saudi to facilitate their relationship with al-Massari. According to the Iraqi memo, Ahmid Khudir al-Zahrani was a diplomat at the Saudi embassy in Washington who applied for political asylum in the United States. His application was denied, and al-Zahrani contacted the Iraqi embassy in London, seeking asylum in Iraq. His timing was good. Al-Zahrani's request came just as Iraqis were stepping up efforts to establish better relations with the Saudi opposition. According to the Iraqi Intelligence memo:

A complete plan was put in place to bring the aforementioned [al-Zahrani] to Iraq in coordination with the Foreign Ministry and our [intelligence] station in Khartoum [Sudan]. He and his family were issued Iraqi passports with pseudonyms by our embassy in Khartoum. He arrived to Iraq on April 21, 1995, and multiple meetings were held with him to obtain information about the Saudi opposition.

These contacts were not, contrary to the speculation of some Middle East experts, simply an effort to keep tabs on an enemy. The memo continues, summarizing Iraqi Intelligence activities:

We are in the process of following up on the subject, to try and establish a nucleus of Saudi opposition in Iraq, and use our relationship with [al-Massari] to serve our intelligence goals.

The final document provided to The Weekly Standard is a translation of a memo from the "Republican Command, Intelligence Division," dated September 15, 2001. It is addressed to "Mr. M.A.M.5."

Our Afghani source number 11002 (his biographic information in attachment #1) has provided us information that the Afghani consul Ahmed Dahestani (his biographic information attachment #2) has talked in front of him about the following:

1. That Osama bin Laden and the Taliban group in Afghanistan are in communication with Iraq and that previously a group of Taliban and Osama bin Laden have visited Iraq.

2. That America has evidence that the Iraqi government and the group of Osama bin Laden have cooperated to attack targets inside America.

3. In the event that it has been proven that the group of Osama bin Laden and the Taliban planning such operations, it is possible that America will attack Iraq and Afghanistan.

4. That the Afghani consul heard of the relation between Iraq and the group of Osama bin Laden while he was in Iran.

5. In the light of what has been presented, we suggest to write to the committee of information.

This document is speculative in parts, and the information it contains is third-hand at best. Its value depends on the credibility of "source number 11002" and of Ahmed Dahestani and of the sources Dahestani relied on, all of which are unknown.

We are left, then, with three small pieces to add to a large and elaborate puzzle. We will never have a complete picture of the Iraqi regime's support for global terrorism, but the coming release of a flood of captured documents should get us closer.

A new and highly illuminating article in Foreign Affairs draws on hundreds of Iraqi documents to provide a look at the Iraq war from the Iraqi perspective. The picture that emerges is that of an Iraqi regime built on a foundation of paranoia and lies and eager to attack its perceived enemies, internal and external. This paragraph is notable:

The Saddam Fedayeen also took part in the regime's domestic terrorism operations and planned for attacks throughout Europe and the Middle East. In a document dated May 1999, Saddam's older son, Uday, ordered preparations for "special operations, assassinations, and bombings, for the centers and traitor symbols in London, Iran and the self-ruled areas [Kurdistan]." Preparations for "Blessed July," a regime-directed wave of "martyrdom" operations against targets in the West, were well under way at the time of the coalition invasion.

Think about that last sentence.

US Puts Iraqi Documents On The Web (BOS)

By Hiawatha Bray

The Boston Globe, March 19, 2006

Goal is to speed up translation of files

Joseph Shahda of Randolph earns his living as an engineer. But in his spare time, he's an intelligence agent, working to ferret out the truth about the regime of deposed Iraqi dictator Saddam Hussein.

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When the US government on Thursday began publishing captured Iraqi government documents on the Internet, Shahda eagerly began to translate the files into English and publish them on a conservative website.

"I feel a sense of duty," said Shahda, a native of Lebanon who supports President Bush's decision to invade Iraq. "I think it's a duty for people who know Arabic to translate the documents."

US officials hope that thousands of other Arabic speakers feel the same. Goaded by Congress, Director of National Intelligence John Negroponte has begun to release millions of pages of captured files online in an unprecedented effort to harness the Internet to disseminate raw intelligence material. There, anybody with a knowledge of Arabic can download the files and translate them for the world.

It's the same "open source" principle that drove the successful development of the Internet and of powerful free software like the Linux operating system. Instead of hiring a team of brilliant professionals to analyze Iraqi documents in secret, the open source systems will use hundreds of clever amateurs, who'll publish their work for anyone to analyze and improve upon.

"Workers control the means of production, but without all that tedious communism," said Glenn Reynolds, a law professor at the University of Tennessee and author of "An Army of Davids," a book that shows how the Internet encourages public activism.

US intelligence officials say nearly all the documents released have been given at least a cursory reading by Arabic experts. Beth Marple, Negroponte's deputy press secretary, said amateur translators won't find any major surprises, such as proof Hussein hid stockpiles of chemical weapons.

Still, conservative bloggers, eager to bolster the case for going to war against Iraq, have long argued for release of the documents. They gained a powerful ally last month in Michigan Republican Pete Hoekstra, chairman of the House Intelligence Committee. In an interview with blogger Andrew Marcus, Hoekstra called for Negroponte to release the documents online. "Unleash the power of the Net," Hoekstra said. "Let the blogosphere go." Kansas Republican Pat Roberts, chairman of the Senate Intelligence Committee, backed Hoekstra's proposal.

Within hours of the first release of documents, Shahda posted his first translation on the conservative website Free Republic. It was an Iraqi intelligence report of an interview with an Afghan informant that suggests -- but does not prove -- agents of Al Qaeda and the Taliban were active in Iraq before the Sept. 11 attacks.

According to an intelligence official who declined to be identified, Negroponte plans to release all documents that have no further intelligence value. Files that might help apprehend members of the Iraqi insurgency will remain under wraps. So will files that could violate the privacy or harm the reputations of innocent people. For instance, the Hussein regime used rape as a method of torture, and the government won't release documents containing the names of Iraqi rape victims. Nor will it release files mentioning Iraqi-Americans or other US citizens, such as journalists.

The remaining documents, the official said, will mainly provide insights into Hussein's rule. "This stuff needs to be laid bare because it helps the democratic process in Iraq, like it did in South Africa, like it did in Germany," he said.

At least one Iraqi blogger agrees. "We are currently trying to organize a network of bilingual Iraqi bloggers to translate as many of the documents as possible," said "Omar," a Baghdad dentist who publishes IraqTheModel, which is widely read in the United States. Omar will not reveal his full name because his support for the overthrow of Saddam Hussein could put him in danger of death.

While conservative US bloggers, and some Iraqis, are eager to translate and read the Iraq documents, some prominent liberal bloggers scoffed at the release. "To me, this is just more evidence that the Bush administration doesn't take national security seriously," wrote Markos Moulitsas Zúniga, founder of the popular Daily Kos website. "Why doesn't our government have enough translators to handle this job?"

Jonathan Singer, weekend editor of the liberal site MyDD.com, was equally dismissive. "The Hussein documents are not of great interest to me," said Singer, "for the simple reason that they simply reinforce the notion that the Bush administration cherry picks intelligence to suit their needs."

Demonstrations Mark Third Anniversary Of Iraq Invasion (NYT)

By Nicholas Confessore

The New York Times, March 19, 2006

About 1,000 people gathered near Times Square yesterday, in one of dozens of energetic and often unfocused rallies held in cities across the United States and around the world to protest the third anniversary of the United States invasion of Iraq.

Yesterday's protests, like those held to mark each of the two previous anniversaries of the March 2003 invasion, were vigorous and peaceful but far smaller than the large-scale marches that preceded the war, despite polls showing lower public support for the war than in years past and anemic approval ratings for President Bush, himself a focus of many of the protesters.

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But the Iraq war itself — though the obvious inspiration for the march — was noticeably less central to the proceedings than in previous years. The rally in Times Square featured dozens of speakers on topics ranging from relations with Iran to the treatment of Hurricane Katrina refugees.

"No group owns the day," said Dustin Langley, a spokesman for the Troops Out Now Coalition, which helped organize protests in New York, Boston, Washington, Los Angeles, Atlanta and other cities. "Whoever you are, be out there on the streets."

Tens of thousands of people marched in Rome, while officials in London reported a crowd of 15,000. Other demonstrations occurred in Greece, Turkey, Spain, Brazil, Australia and Canada.

One of the biggest protests in the United States was held in San Francisco, for decades a hub of antiwar sentiment. The police there estimated the crowd gathered outside City Hall at 6,000. Many chanted slogans opposing Mr. Bush, and most appeared to hail from a distinctly grayer demographic than that of other protest events.

"There are not enough young people here," said Paul Perchonock, 61, a medical doctor from the Bay Area. "They don't see themselves as having a stake."

In his weekly radio address, President Bush defended the administration's record in Iraq, saying that the country's decision to depose the regime of Saddam Hussein was "a difficult decision—and it was the right decision." He pledged to "finish the mission" despite calls for withdrawal.

Today marks the third anniversary of the invasion.

In Washington, a relatively small crowd of about 300 people gathered at the United States Naval Observatory, where Vice President Dick Cheney lives.

Debbie Boch, 52, a restaurant manager from Denver, said she and two friends bought plane tickets to Washington two months ago, before the demonstration had been planned. It was the fifth protest march she attended since the war began, she said, and among the smallest.

"It's very disappointing, especially in Washington, D.C.," she said. "You think this is the place where people come to make things happen. I'm just not sure why there aren't more people hear today."

But other marchers took solace from recent opinion polls showing public opinion slowly drifting against the war.

"Three years ago, folks thought we were crazy; two years ago, people still thought we were crazy," said the Rev. Graylan Scott Hagler, a minister at Plymouth Congregational United Church of Christ in Washington. "We know now that most of the American people do not believe that we are crazy anymore."

In New York, protesters gathered on three lanes of Broadway south of 42nd Street, after the city denied the organizers permission to set up near an armed services recruitment office. Mounted police patrolled the avenue, while dozens of police officers attempted to keep traffic moving on the street and sidewalk.

The demonstrators, bundled against the cold and confined by police fences to a two-block stretch, came from as close as Chelsea and as far away as South Korea. Quakers mixed with communists and labor organizers with high school students, as antiwar entrepreneurs hawked T-shirts under the sultry gaze of a Calvin Klein model, reclining in a massive billboard advertisement overhead.

"I am just sick and grief stricken that we are continuing this war in Iraq," said Julie Finch, 63, who lives in Manhattan. "I mourn every soldier that dies. This war was based on lies."

A nearby Starbucks — a chain once disparaged by the anti-globalization protesters from which today's antiwar movement draws some inspiration — served as a warming hut and bathroom station for the protesters, even serving up a latte or two to placard-brandishing customers. Journalists conducted interviews in the heated vestibule of a Gap store on 42nd Street until a security guard asked them to move.

A recorded message from Mumia Abu-Jamal, an inmate in Pennsylvania and a left-wing cause célèbre, drifted across the speakers as garbled as the service announcements emanating from subway speakers in the station below ground.

Around 2:30 p.m., the rally turned into a march, as those gathered walked around the corner down 42nd Street, bound for the United Nations. They moved slowly, sprawling the length of two crosstown blocks, with a few Katrina refugees at the column's front. At the back, Devin Kyle, 26, and Tonia Shoumatoff, 50, carried a 20-foot banner reading, simply, "May Peace Prevail."

"Rather than fight hatred with hatred," Mr. Kyle said, "I came here to be a peaceful presence."

Anti-War Rallies Mark Iraq Anniversary (WP/AP)

By Paul Burkhardt, The Associated Press

The Washington Post, March 19, 2006

NEW YORK -- Thousands of anti-war protesters took to the streets around the world Saturday, marking the third anniversary of the U.S.-led invasion of Iraq with demands that coalition troops leave immediately.

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Wael Musfar of the Arab Muslim American Federation addressed more than 1,000 people who gathered in Times Square near a military recruiting station, which was guarded by police.

"We say enough hypocrisy, enough lies, our soldiers must come home now," Musfar said from a parked flatbed truck. Participants chanted, "Stop the U.S. war machine, from Iraq to Korea to the Philippines."

Many attendees emphasized that they support the troops. "I have friends in Iraq and I just want them to know that I may not be able to support them there, but I can here," said Jose Avila, 36.

Protesters in Chicago marched down Michigan Avenue to a Saturday night rally at downtown's Daley Plaza. Police estimated that more than 7,000 people took part, but said there were no arrests.

"I'm against this war, I'm against the torture," said protester Martha Conrad, 54, of Chicago. "We're doing this for the people of Iraq."

One bystander, with a red, white and black Iraqi flag flung across his shoulders, said he came to show he backed President Bush's policies in Iraq. "I support freeing Iraqis from tyranny," said 33-year-old Ryan Stiles of Chicago.

Protests also were held in Australia, Asia and Europe, but many events were far smaller than organizers had hoped. In London, police said 15,000 people joined a march from Parliament and Big Ben to a rally in Trafalgar Square. The anniversary last year attracted 45,000 protesters in the city.

"We are against this war, both for religious reasons and on a humanitarian basis, too," said Imran Saghir, 25, a Muslim student who attended the London rally.

Britain, the United States' strongest supporter in the Iraq war, has about 8,000 troops in Iraq but plans to pull out 800 of them by May. The British military has reported 103 deaths there. More than 2,300 American troops have died in the war, which began three years ago Sunday.

In Washington, a protester wearing a Bush mask and bearing fake blood on his hands waved to passing automobiles outside Vice President Dick Cheney's residence, where about 200 people demonstrated against the war.

Rev. Graylan Scott Hagler of the Plymouth Congregational United Church of Christ said the rallies nationwide are a "tapestry of resistance."

"Most people believe we aren't crazy anymore," he said.

In Concord, N.H., nearly 300 peace activists marched about a mile from a National Guard armory to the Statehouse.

"I feel a huge sense of betrayal that I went and risked my life for a lie," said Joseph Turcott, 26, a former Marine who served in the invasion.

Other U.S. cities where protesters gathered Saturday included Boston and San Francisco.

Defense Secretary Donald H. Rumsfeld answered critics of the war in a guest column in Sunday's editions of The Washington Post, asserting that if Americans were to turn away from Iraq, it would be "the modern equivalent of handing postwar Germany back to the Nazis."

"It would be as great a disgrace as if we had asked the liberated nations of Eastern Europe to return to Soviet domination because it was too hard or too tough or we didn't have the patience to work with them as they built free countries," he wrote.

Rumsfeld cited rising voter participation in successive Iraqi elections, support for security forces shown by Sunni religious leaders once sympathetic to the insurgency, and rising competence of Iraqi troops as evidence of progress since the invasion three years ago.

"The terrorists seem to recognize that they are losing in Iraq," he said.

In demonstrations in several cities worldwide, protesters carried posters showing pictures of Bush, calling him the "World's No. 1 terrorist."

In Turkey, where opposition to the war cuts across all political stripes, about 3,000 protesters gathered in Istanbul, police said. "Murderer USA," read a sign in Taksim Square.

In Stockholm, Sweden, about 1,000 demonstrators gathered for a rally and march to the U.S. Embassy. One protester was dressed as the hooded figure shown in an iconic photograph from the Abu Ghraib prison.

In Copenhagen, Denmark, more than 2,000 demonstrators marched from the U.S. Embassy to the British Embassy, demanding the withdrawal of 530 Danish troops from southern Iraq.

On Sunday, up to 3,000 protesters were expected in Seoul, South Korea, which has the third-largest contingent of foreign troops in Iraq after the U.S. and Britain.

Britain's defense chief earlier urged demonstrators in London to support the Iraqi people and condemn terrorism.

"When people go on the streets of London today, I do wish just occasionally they would go out in support of the United Nations, the Iraqi people and the Iraqi democrats and condemn terrorists," Defense Secretary John Reid told British Broadcasting Corp. radio during a visit to Iraq.

Members of the Stop the War Coalition, the organizers of the London march, had little sympathy for Reed's remarks.

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"Every day you hear of new deaths. Tony Blair has actually made Iraq a worse place for the Iraqi people," said Rose Gentle, whose soldier son Gordon, 19, was killed by a roadside bomb last year in Basra, southern Iraq.

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Associated Press Writer Sue Leeman contributed to this report from London.

Thousands Protest War's 3rd Anniversary (LAT)

By Sara Lin And Deborah Schoch, Times Staff Writers

The Los Angeles Times, March 19, 2006

From Australia to Hollywood, people march to demand that troops be withdrawn.

While some brought anti-war placards and petitions to Hollywood on Saturday, a group called Veterans for Peace crafted 100 flag-draped coffins from cardboard cartons and carried them down Sunset Boulevard to mark the more than 2,300 U.S. troops killed in the Iraq war.

At MacArthur Park in Los Angeles, the American Friends Service Committee laid out 240 pairs of boots, each bearing the name of a fallen soldier from California.

And in San Francisco, protesters dressed as members of President Bush's cabinet and carried signs that read "United World Not United States" and "Stop U.S. Imperialism."

Worldwide, demonstrations started Saturday with 500 people chanting anti-war slogans in Sydney, Australia, and rolled around the world, with major protests in Pakistan, London and the United States, where more than 1,000 people gathered in New York's Times Square.

As many as 3,000 demonstrators were expected today in Seoul. South Korea has the third-largest contingent of foreign troops in Iraq, behind the U.S. and Britain. Another protest is planned outside the U.S. embassy in Kuala Lumpur, the largest city in Malaysia.

In California on Saturday, thousands of people took part in activities to show their opposition to the U.S.-led invasion of Iraq that began three years ago and to call for a pullout of American troops.

As he sat in MacArthur Park next to a worn pair of black boots with a tag bearing his son's name, Fernando Suarez del Solar, 50, addressed the crowd in English and Spanish to encourage more Latinos to participate in the anti-war movement. A large image of his son was propped up behind him.

"My son died, and anything I do here will not bring him back … but I think I can save other children," he said. Suarez del Solar's son was one of the first Marines killed in the war.

Gary Russell, 61, noted that the crowd at the park was small and that not many people were heading to Hollywood to listen to speeches there.

"I agree this march is not big — not like the massive marches we had in the '60s — but in time it will happen," Russell said.

Later in the day, several thousand people marched in Hollywood to an area near the Kodak Theatre. Among them was Pablo Martin, who said he was joining an anti-war march for the first time. Martin, 32, of Los Angeles shouldered the corner of a prop coffin as he marched down Sunset Boulevard.

"I just got tired of not doing anything," he said. "I think we've all been duped, and the young, the poor, the minorities are taking the brunt of it."

Several of the protesters said they are growing discouraged at the length of the war.

"I don't see any possible way for it to end any time soon," said Flo Webster, 73, of Woodland Hills, who held up a hand-drawn sign reading "Grandmothers for Peace," decorated with photos of her four grandchildren.

Those who addressed the crowd included Paul Haggis, who received two Academy Awards at the Kodak Theatre this month for the best picture winner, "Crash." He won for original screenwriting and was one of the producers honored for the film.

"This is my first time back to the Kodak Theatre since March 5 and I couldn't be prouder to be with all of you," Haggis said.

Actor Martin Sheen, who plays U.S. President Josiah Bartlet in the television series "The West Wing," drew some of the loudest cheers with his call to end the war.

"Let my country awake," he concluded, quoting India's first Nobel laureate, the late Rabindranath Tagore.

After Sheen's speech, Vietnam War veteran Edward Smith, 56, who opposes the war in Iraq, leaned over a metal guardrail and called out to Sheen, "Why isn't anyone up there talking about the troops?"

Sheen paused to talk to Smith, pointing out the makeshift coffins carried by the protesters. "We want them home safely," Sheen said of the troops.

In San Francisco, protesters danced in the streets and beat drums.

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"It's very painful to me that our country is doing this and killing innocent people," said Joan Emerson, 70, of Mill Valley, who attended with the group Old Lesbians Organizing for Change. "I'm against all war, and I'm very concerned that I'm responsible as an American citizen for this kind of thing happening."

Persis Karim, 33, said she was concerned that the United States might launch a preemptive strike on Iran.

"They may not do it in quite the same way as Iraq," said Karim, a professor at San Jose State University. "But the agenda of the Bush administration is to secure the region, and obviously Iran is a problem to them."

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The Associated Press contributed to this report.

Marchers Make Slow Progress (Advocate)

By ALLEN JOHNSON JR.

The Advocate, March 19, 2006

Delays hinder, fail to stop war protesters

Published: Mar 19, 2006

CHALMETTE — Saturday morning went badly for a couple from Poplarville, Miss., until they found an anti-war march advancing slowly toward New Orleans.

Veteran anti-war activist Joyce Zehnle, 74, and her husband, Dick Zehnle, 72, a former corporate attorney, were waiting outside the Chalmette National Military Cemetery for the march to arrive.

The Zehnles are former college professors who said they have been demonstrating against war since the late 1960s, when they encouraged their students to oppose America's role in the Vietnam War.

But, the couple said, they had driven all over eastern New Orleans without finding any sign of the "Veterans March to New Orleans," the anti-war march that left Mobile, Ala., on Monday — bound to reach New Orleans by today, the third anniversary of the U.S. invasion of Iraq.

Organizers of the five-day march said their protest was designed to point out the link between the high human and economic cost of war in the Middle East — and the failure of the U.S. government to respond to the needs of Americans at home, particularly on the hurricane-ravaged Gulf Coast.

But at the moment, the only alternative to waiting at the cemetery was to get in their car for the one-hour drive back to the political isolation of their beloved ranch, deep in Mississippi.

"The land is so beautiful and it's so quiet," Joyce Zehnle said. "The people there are so good to us — and honest." Her husband nodded in agreement, again. Their neighbors made sure they had plenty of drinking water after Katrina, he said. "They are, individually, good people."

But the Zehnles' corner of Mississippi also is staunchly populated by religious conservatives, they said. The former professors lamented what they see as a lack of critical thinking among the public, especially of their government officials.

So the Zehnles lingered by the military cemetery. A chilly March wind blew. The hasps of the cemetery flagpole clanged in the background.

Moments earlier, word came that that the "Veterans March to New Orleans" was behind schedule. A spokesperson for the march said the 200 activists were about a half-hour away from a highway junction in the swampy eastern tip of Orleans Parish. The 11 a.m. rally at Chalmette cemetery was postponed until today.

A press conference scheduled for earlier Saturday morning at the Bayou Sauvage National Wildlife Refuge was apparently too late to salvage. An update was relayed to the Zehnles and three other anti-war activists gathered outside the Chalmette cemetery, two women in a car and a skinny man on a bicycle. They left; the Zehnles stayed.

The Zehnles' disappointment in the progress of the march was clear. "Chicago was better organized," Joyce Zehnle sighed, apparently recalling some past protest.

Dick Zehnle said he was looking forward to the Chalmette rally, to be keynoted by Cindy Sheehan, the mother of a soldier killed in Iraq who became contemporary America's best-known anti-war activist when she camped outside of President Bush's retreat in Crawford, Texas.

Joyce Zehnle, meanwhile, had been eagerly anticipating the Bayou Sauvage press conference, particularly an Iraq war veteran's address on the health threat that the military's use of "depleted" uranium for ammunition allegedly poses to U.S. troops and Iraqi civilians alike.

The couple's fervor against war is matched perhaps only by their passion for political activism and books, especially the works of leftward intellectuals such as Noam Chomsky, Howard Zinn, and Middle East expert Robert Fisk.

Joyce Zehnle, who grew up in New Orleans, said she was politically active in her early 20s, during the Civil Rights Era. "I sat with blacks in the back of the streetcar because I was trying to be a good Christian."

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Her husband recalled that his political awakening came much later, during his 30s when he traveled through Europe and delved into Chomsky. “We are brainwashed in school,” said. “We are taught American exceptionalism. We are always moral; we are always right; and God is always on our side.’”

During the Vietnam War, both said, they were professors of religious studies who encouraged their students to oppose war.

Suddenly two women drove up, an advance team from the march. The procession had reached the highway junction in eastern New Orleans, they said. The march would resume at 1 p.m. advancing toward Bayou Sauvage.

The Zehnles got into their own car, and drove east into the wildlife refuge. Hurricane debris littered both sides of Chef Menteur Highway.

A Volkswagen bus bore a large flag with a peace sign on its rear bumper. The lead car had a sign: “Abandon Iraq — not our Gulf Coast.”

Newspaper photographers lined the opposite side of the road.

The Zehnles made a U-turn and pulled their car behind the caravan trailing the marchers. They inched forward behind a bus with California markings.

On the rear of the bus, a raft of bumper stickers denounced the war: “Bring them home now!;” “Bush brings out the worst in America;” “Zero Tolerance for Torture.”

The Zehnles waved from their car. They seemed happier. No longer politically isolated, still retired, and very, very active.

Pro-peace (INDYSTAR)

By Tammy Webber

The Indianapolis Star, March 19, 2006

About 600 rally in Indy on 3rd anniversary of Iraq war

Jamie Gonzalez supported her son's decision to join the Army 2 1/2 years ago to defend his nation, get an education and "have an adventure."

Loud and clear: Anne Peay, her sister Susan Coleman and Sara Federle (from left) joined Saturday's protest at Monument Circle. "We want this nightmare over," peace activist Cindy Sheehan told the group by telephone call. - MATT KRYGER / The Star

On Saturday, holding his photo at a peace rally in Downtown Indianapolis, Gonzalez said she now just wants her son, Jamiell, 21, to come home.

"I am so afraid he will be sent to Iraq," said the Indianapolis woman, whose son is now stationed in Kuwait, on the Iraq border. "He is serving his country, doing something he loves, but they need to bring the troops home."

Gonzalez was among about 600 people who gathered on Monument Circle to rally for peace on the third anniversary of the U.S. invasion of Iraq.

Some carried hand-lettered signs with anti-war slogans such as, "War is not the answer," and "Choose peace." Others carried flags with peace signs.

At one point, the crowd broke into a chant, "One, two, three, four, bring our troops back to our shore." Others stood quietly, clutching flowers. At another point, they released red balloons carrying the names of Indiana soldiers who had died in Iraq.

One after another, speakers criticized the war's casualties and costs. Some said the war was a crime and called for the impeachment of President Bush.

"We should not be squandering hundreds of millions of dollars on a bloody boondoggle," said longtime U.S. Rep. Andy Jacobs, a Democrat who retired in 1997. He excoriated the president and his decision to go to war.

"The war hawk who has never been to war by definition doesn't know what he is talking about," said Jacobs, a Korean War veteran, prompting cheers from the crowd. "The only Americans in any danger from Iraq are the ones who were sent there to be slaughtered."

Saturday's gathering was more than triple the size of last year's rally, a sign that more Americans are growing tired of the war, said Heather Allen-Garde, a member of Progressive Indiana, one of several groups that organized the event.

"I think people realized this is costing us incredible amounts of money we don't have, and we are losing a lot of soldiers," Allen-Garde said.

At least 2,311 U.S. military members, including 59 people with Indiana ties, have died and more than 17,000 have been wounded since the Iraq war began. According to a recent Associated Press-Ipsos poll, only 39 percent of Americans support the way the president has handled the war. The poll also found almost four of five Americans, including 70 percent of Republicans, think Iraq is headed for civil war.

Marvin Wagner, 78, Indianapolis, a Korean War veteran, said the war is senseless.

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"There are a few of us vets against the war," said Wagner. "I was in Korea. I was drafted. I know what the horror of war is. I never did get over it, and they're creating more like me."

The rally included a telephone call from peace activist Cindy Sheehan, whose anti-war vigils outside Bush's Texas ranch last year drew worldwide attention.

"We want this nightmare over," Sheehan said.

Sheehan, who was in New Orleans for another peace rally, encouraged the crowd to continue protesting and to "work for peace."

Across the street, a small group of counterprotesters held signs in support of Bush and the war, including one that said, "Honor the dead by rooting for victory."

Even some at the rally weren't sure the troops should come home.

Bridie Trozelli, 18, who moved to Indianapolis three years ago from Sweden, said she disagreed with war, "but from what I heard, if America pulls out now, it could leave (Iraq) in worse shape."

Gonzalez, however, said continuing to fight in Iraq wouldn't bring anything but more casualties on both sides.

"I think . . . the thing they could do now to make it better is to bring the troops home and peace will come sooner."

Anti-war Activist Cindy Sheehan Joins Marchers (MR)

By Ron Colquitt

Mobile Register, March 19, 2006

Still recovering from injuries suffered during a recent protest in New York City, anti-war activist Cindy Sheehan linked up with Gulf Coast peace marchers Thursday to participate in the final leg of their 140-mile trek from Mobile to New Orleans.

More than 200 people are making the trek to protest the war in Iraq and what they believe is the federal government's mismanagement of the Hurricane Katrina recovery along the Gulf Coast.

The march, which began Tuesday in Mobile, includes people from along the Gulf Coast and across the nation. A BBC crew and other news organizations have been documenting the march.

Sheehan, whose son, Casey Sheehan, was killed in Iraq, said Friday that she finds the recent United States and Iraq offensive against insurgents northeast of Samarra to be "despicable."

"Number one, they don't have to escalate the war, and they need to start bringing our troops home," Sheehan said. "That is what Americans want, Iraq wants, the world wants and our soldiers want. It won't solve anything with the killing of more people, and it just makes things worse."

Sheehan, who gained national recognition as she camped outside President Bush's Texas ranch after her son was killed, said she will be speaking Sunday during a rally in New Orleans that will culminate the peace march.

She said she would have been part of the Gulf Coast protest march from the beginning had she not been injured during a protest outside the United Nations in New York. Her sister, Dede Miller, was among the marchers who left Mobile on Tuesday.

Sheehan, who is from Berkeley, Calif., said she suffered a mild concussion and injuries to her back and right arm when police outside the United Nations dragged her 15 feet.

"I can't get dragged by that arm anytime soon," she said with a laugh.

She said she's proud of her sister for participating in the Gulf Coast protest from the beginning. Miller, Sheehan said, works for Families for Peace, an organization Sheehan founded.

Sheehan said she and her sister are dedicated to working to end the war, which has now cost the lives of more than 2,300 American servicemen and women.

Sheehan said she planned to speak Friday night in Slidell, La., where marchers planned to camp.

Paul Robinson of Mobile, who helped organize the march, said marchers were led into Slidell early Friday afternoon by a five-piece, brass jazz band.

"Oh man, this has been great," said Robinson, president of the Mobile chapter of Veterans for Peace. "We added about 15 more marchers just today."

The group, which is traveling by car and by foot, left Long Beach, Miss., on Friday morning. Protesters walked at least 10 of the 30 miles between Long Beach and Slidell, he said.

Rally Calls For End To Iraq War (PPG)

By Caitlin Cleary

Pittsburgh Post-Gazette, March 19, 2006

Marchers want soldiers home now

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Several hundred people marched through the streets of East Liberty, Shadyside and Oakland yesterday to protest the war in Iraq on the third anniversary of the U.S.-led invasion.

The three-mile-long march, organized by the Thomas Merton Center Anti-War Committee, began with a rally at the corner of Penn and Highland avenues. Featured were several speakers and performers including Pittsburgh rock band Soma Mestizo, whose lead singer Christiane D. said, "First I'd like to say hello to all the FBI agents who've joined us today," drawing cheers and laughter from the crowd.

Last week, the Thomas Merton Center released documents its members said showed the FBI was spying on its activists.

The rally and march were peaceful, occurring without any major incidents; only one arrest was reported. Organizers reported that some 2,000 people turned out for yesterday's rally, while police offered a much lower estimate.

Friends Katee Newhaus, 13, of Dormont, and Dana Dobson, 15, of Mt. Lebanon, called the turnout "not bad," but expressed chagrin that many of their friends and classmates couldn't be bothered to show up.

"There's a lot of apathy," said Dana. "It's like, OK, would you rather have an influence on how many people are dying, or go to a party that would happen [again] next week?"

Dana wore a T-shirt on which she had written in permanent marker "2,317; How Many More?" It was covered in 2,317 dots -- one for each American killed in the war. One of Katee's cousins was among the first American soldiers to die in Iraq.

Dave Lesako drove all the way in from Spring Hill Township in Greene County. An artist and former art teacher, Mr. Lesako held up a large drawing of cowboy boots lying in a pool of blood; he made it when the war first began.

"I figured I complain about the war all the time, I should come out and march," he said.

As for his fellow Greene County residents, he said, "even the country conservatives are questioning what's going on."

The protesters marched down Negley Avenue and along Walnut Street, past the boutiques and cafes, chanting "While you're shopping, bombs are dropping!" to the expressionless bystanders, who were clutching their Banana Republic bags or holding up camera phones to record the event.

When the group marched past the fraternity houses of Carnegie Mellon University, protester Greg Olverson half-expected to be greeted by counter-protests, like the fraternity members had staged last year.

"I remember them yelling, 'We're for the war, and Iran is next,' " said Mr. Olverson, a security guard from Pittsburgh.

The march ended at the military recruiting offices in Oakland, where protesters met with barricades and lines of police outfitted in riot gear, some on horseback, some holding police dogs. The marchers disbanded peacefully after less than an hour.

"I thought we had a great rally and a peaceful march," said Jim Kleissler, director of the Thomas Merton Center. "We really just wanted to come out and say peace is something that's part of America, and we're not going to let the FBI intimidate us."

Similar anti-war protests were staged yesterday in cities across the United States and the world.

In Washington, a protester wearing a President Bush mask and bearing fake blood on his hands waved to passing automobiles outside Vice President Dick Cheney's residence, where about 200 people demonstrated against the war.

In Concord, N.H., nearly 300 peace activists marched about a mile from a National Guard Armory to the Statehouse.

"I feel a huge sense of betrayal that I went and risked my life for a lie," said Joseph Turcott, 26, a former Marine who served in the invasion.

Protests were also held in Australia, Asia and Europe, but many events were far smaller than organizers had hoped.

In London, police said 15,000 people joined a march from Parliament and Big Ben to a rally in Trafalgar Square. The anniversary last year attracted 45,000 protesters in the city.

Worldwide Protests As War Enters 4th Year (MINNST/AP)

By Associated Press

Minneapolis Star Tribune, March 19, 2006

Demonstrations demanded that all troops be withdrawn.

Thousands of war protesters took to the streets around the world Saturday, marking the third anniversary of the U.S.-led invasion of Iraq with demands that coalition troops leave immediately.

In Minneapolis, protesters took up half of Hennepin Avenue as they marched from Lagoon Avenue in Uptown to the Basilica of St. Mary at the edge of downtown, waving signs with slogans such as "Impeach Bush" and "Support Our Troops. Bring Them Home Now!" Police estimated there were 3,500 marchers; march organizers put the number at about 4,200.

The demonstration was organized by The March 18 Coalition, an umbrella group representing various peace organizations, including Women Against Military Madness and the Iraq Peace Coalition.

"What we do by coming out here is we show the face of the resistance and the depth of the resistance," said Marie Braun, one of the organizers.

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Chuck Tomlinson, who lives in the Powderhorn neighborhood of Minneapolis, said he came to the rally to be counted, heard and seen. He's been against the war since Day One. "What has changed is that the president's incompetency has exceeded my expectations, or should I say my worst fears," he said.

David Langree, a student at South High in Minneapolis, said he's upset by how secretive he believes the government has been about its true motives for the war.

In New York, Wael Musfar of the Arab Muslim American Federation addressed more than 1,000 people who gathered in Times Square. "We say enough hypocrisy, enough lies, our soldiers must come home now," Musfar said.

Protests also were held in Australia, Asia and Europe, but many events were far smaller than organizers had hoped. In London, police said 15,000 people joined a march from Parliament to a rally in Trafalgar Square. The anniversary last year attracted 45,000 protesters in the city.

In Washington, a protester wearing a President Bush mask and bearing fake blood on his hands waved to passing automobiles outside Vice President Dick Cheney's residence, where about 200 people demonstrated against the war.

In Concord, N.H., nearly 300 peace activists marched about a mile from a National Guard armory to the Statehouse. "I feel a huge sense of betrayal that I went and risked my life for a lie," said Joseph Turcott, 26, a former Marine who served in the invasion.

At Dudley Square in Boston, a few hundred protesters waved placards that read "Impeach Bush" and "Stop the War." About 6,000 protesters in San Francisco danced in the streets, beat drums and carried signs that read "Stop U.S. Imperialism."

Staff writer Allie Shah contributed to this report.

Polls Show Public's Dwindling Support For War (SLPD)

By Bill Lambrecht

St. Louis Post-Dispatch, March 18, 2006

On the third anniversary of the Iraq war this weekend, more than 500 protests are scheduled around the country - including 27 in Missouri and Illinois - at a time of growing anti-war sentiment among the American public.

Thus far, the new pessimism appears to be having little effect in Washington, where Congress had approved billions of dollars more for war and a proposal to censure President George W. Bush for ordering electronic surveillance in the war on terror is drawing little support.

But an alliance of anti-war groups on Friday unveiled a well-funded effort aimed at rejecting political candidates this year who refuse to support a swift end to American involvement in Iraq.

A series of public-opinion polls published last week showed that support for the war had reached its lowest point and that Americans' view about progress in Iraq had turned starkly negative in recent weeks.

One of the polls, published on Friday by the nonpartisan Pew Research Center for the People and the Press, showed that two of three Americans disapprove of the way Bush is handling the war. For the first time, the Pew poll found that half of Americans support an immediate withdrawal of troops from Iraq.

Carroll Doherty, the Pew Center's associate director, attributed the recent erosion of support for the war to doubts that U.S. troops can quell the insurgency and prevent civil war.

"The sense you get in this poll is that people don't see a lot of good options or a lot of good strategies," he said.

Bill Ramsey, a veteran organizer who is coordinating a protest rally in Forest Park on Sunday afternoon, said that he is seeing many new people involved in the St. Louis region's anti-war effort. He said that based on e-mail confirmations, he is expecting 800 people to take part in marches that culminate in a rally at the World's Fair Pavilion.

Ramsey asserted that the White House reiteration last week of its pre-emptive strike policy "is driving more people toward us."

The St. Louis protest is among more than 500 being held in all 50 states and the District of Columbia starting Sunday to commemorate the third anniversary of the Iraq invasion, according to United for Peace and Justice, a New York-based alliance of anti-war organizations. U.S. forces began bombing Iraq on March 19, 2003.

The next "soccer mom"?

The newly announced Voters for Peace is seeking five million signatures by November on a petition that reads: "I will not vote for or support any candidate for president or Congress who does not make a speedy end to the war in Iraq, and preventing any future war of aggression, a public position in his or her campaign."

A Fox News poll last week suggested that the war will be a key voting issue this year. When voters were asked what issue would determine who they supported for Congress, Iraq ranked second, just behind the category of spending and taxes.

Nonetheless, anti-war organizers have expressed frustration at what they describe as a disconnect between public sentiments and continued support for the war in Congress.

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Last week, the House approved a spending package that included nearly $68 billion for military operations in Iraq and Afghanistan. In the Senate, a proposal by Sen. Russ Feingold, D-Wis., to censure the president was unpopular even among Democrats.

Allan Lichtman, a political science professor at American University and a Democratic senatorial aspirant in Maryland, attributed the war support in Congress partly to fear.

"Critics of the president are still fearful that things will turn in Iraq and that (presidential adviser) Karl Rove will chew them up in November," he asserted.

Voters for Peace soon will begin spending some of $1 million it has raised from private donors on Web advertising to support the petition effort, organizers said at a news conference on Friday.

"The peace vote is the new soccer mom," contended Voters for Peace spokeswoman Linda Schade, referring to an influential voting bloc in recent elections.

Before And After Abu Ghraib, A U.S. Unit Abused Detainees (NYT)

By Eric Schmitt And Carolyn Marshall

The New York Times, March 19, 2006

As the Iraqi insurgency intensified in early 2004, an elite Special Operations forces unit converted one of Saddam Hussein's former military bases near Baghdad into a top-secret detention center. There, American soldiers made one of the former Iraqi government's torture chambers into their own interrogation cell. They named it the Black Room.

In the windowless, jet-black garage-size room, some soldiers beat prisoners with rifle butts, yelled and spit in their faces and, in a nearby area, used detainees for target practice in a game of jailer paintball. Their intention was to extract information to help hunt down Iraq's most-wanted terrorist, Abu Musab al-Zarqawi, according to Defense Department personnel who served with the unit or were briefed on its operations.

The Black Room was part of a temporary detention site at Camp Nama, the secret headquarters of a shadowy military unit known as Task Force 6-26. Located at Baghdad International Airport, the camp was the first stop for many insurgents on their way to the Abu Ghraib prison a few miles away.

Placards posted by soldiers at the detention area advised, "NO BLOOD, NO FOUL." The slogan, as one Defense Department official explained, reflected an adage adopted by Task Force 6-26: "If you don't make them bleed, they can't prosecute for it." According to Pentagon specialists who worked with the unit, prisoners at Camp Nama often disappeared into a detention black hole, barred from access to lawyers or relatives, and confined for weeks without charges. "The reality is, there were no rules there," another Pentagon official said.

The story of detainee abuse in Iraq is a familiar one. But the following account of Task Force 6-26, based on documents and interviews with more than a dozen people, offers the first detailed description of how the military's most highly trained counterterrorism unit committed serious abuses.

It adds to the picture of harsh interrogation practices at American military prisons in Afghanistan and Guantánamo Bay, Cuba, as well as at secret Central Intelligence Agency detention centers around the world.

The new account reveals the extent to which the unit members mistreated prisoners months before and after the photographs of abuse from Abu Ghraib were made public in April 2004, and it helps belie the original Pentagon assertions that abuse was confined to a small number of rogue reservists at Abu Ghraib.

The abuses at Camp Nama continued despite warnings beginning in August 2003 from an Army investigator and American intelligence and law enforcement officials in Iraq. The C.I.A. was concerned enough to bar its personnel from Camp Nama that August.

It is difficult to compare the conditions at the camp with those at Abu Ghraib because so little is known about the secret compound, which was off limits even to the Red Cross. The abuses appeared to have been unsanctioned, but some of them seemed to have been well known throughout the camp.

For an elite unit with roughly 1,000 people at any given time, Task Force 6-26 seems to have had a large number of troops punished for detainee abuse. Since 2003, 34 task force members have been disciplined in some form for mistreating prisoners, and at least 11 members have been removed from the unit, according to new figures the Special Operations Command provided in response to questions from The New York Times. Five Army Rangers in the unit were convicted three months ago for kicking and punching three detainees in September 2005.

Some of the serious accusations against Task Force 6-26 have been reported over the past 16 months by news organizations including NBC, The Washington Post and The Times. Many details emerged in hundreds of pages of documents released under a Freedom of Information Act request by the American Civil Liberties Union. But taken together for the first time,

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the declassified documents and interviews with more than a dozen military and civilian Defense Department and other federal personnel provide the most detailed portrait yet of the secret camp and the inner workings of the clandestine unit.

The documents and interviews also reflect a culture clash between the free-wheeling military commandos and the more cautious Pentagon civilians working with them that escalated to a tense confrontation. At one point, one of Defense Secretary Donald H. Rumsfeld's top aides, Stephen A. Cambone, ordered a subordinate to "get to the bottom" of any misconduct.

Most of the people interviewed for this article were midlevel civilian and military Defense Department personnel who worked with Task Force 6-26 and said they witnessed abuses, or who were briefed on its operations over the past three years.

Many were initially reluctant to discuss Task Force 6-26 because its missions are classified. But when pressed repeatedly by reporters who contacted them, they agreed to speak about their experiences and observations out of what they said was anger and disgust over the unit's treatment of detainees and the failure of task force commanders to punish misconduct more aggressively. The critics said the harsh interrogations yielded little information to help capture insurgents or save American lives.

Virtually all of those who agreed to speak are career government employees, many with previous military service, and they were granted anonymity to encourage them to speak candidly without fear of retribution from the Pentagon. Many of their complaints are supported by declassified military documents and e-mail messages from F.B.I. agents who worked regularly with the task force in Iraq.

A Demand for Intelligence

Military officials say there may have been extenuating circumstances for some of the harsh treatment at Camp Nama and its field stations in other parts of Iraq. By the spring of 2004, the demand on interrogators for intelligence was growing to help combat the increasingly numerous and deadly insurgent attacks.

Some detainees may have been injured resisting capture. A spokesman for the Special Operations Command, Kenneth S. McGraw, said there was sufficient evidence to prove misconduct in only 5 of 29 abuse allegations against task force members since 2003. As a result of those five incidents, 34 people were disciplined.

"We take all those allegations seriously," Gen. Bryan D. Brown, the commander of the Special Operations Command, said in a brief hallway exchange on Capitol Hill on March 8. "Any kind of abuse is not consistent with the values of the Special Operations Command."

The secrecy surrounding the highly classified unit has helped to shield its conduct from public scrutiny. The Pentagon will not disclose the unit's precise size, the names of its commanders, its operating bases or specific missions. Even the task force's name changes regularly to confuse adversaries, and the courts-martial and other disciplinary proceedings have not identified the soldiers in public announcements as task force members.

General Brown's command declined requests for interviews with several former task force members and with Lt. Gen. Stanley McChrystal, who leads the Joint Special Operations Command, the headquarters at Fort Bragg, N.C., that supplies the unit's most elite troops.

One Special Operations officer and a senior enlisted soldier identified by Defense Department personnel as former task force members at Camp Nama declined to comment when contacted by telephone. Attempts to contact three other Special Operations soldiers who were in the unit — by phone, through relatives and former neighbors — were also unsuccessful.

Cases of detainee abuse attributed to Task Force 6-26 demonstrate both confusion over and, in some cases, disregard for approved interrogation practices and standards for detainee treatment, according to Defense Department specialists who have worked with the unit.

In early 2004, an 18-year-old man suspected of selling cars to members of the Zarqawi terrorist network was seized with his entire family at their home in Baghdad. Task force soldiers beat him repeatedly with a rifle butt and punched him in the head and kidneys, said a Defense Department specialist briefed on the incident.

Some complaints were ignored or played down in a unit where a conspiracy of silence contributed to the overall secretiveness. "It's under control," one unit commander told a Defense Department official who complained about mistreatment at Camp Nama in the spring of 2004.

For hundreds of suspected insurgents, Camp Nama was a way station on a journey that started with their capture on the battlefield or in their homes, and ended often in a cell at Abu Ghraib. Hidden in plain sight just off a dusty road fronting Baghdad International Airport, Camp Nama was an unmarked, virtually unknown compound at the edge of the taxiways.

The heart of the camp was the Battlefield Interrogation Facility, alternately known as the Temporary Detention Facility and the Temporary Holding Facility. The interrogation and detention areas occupied a corner of the larger compound, separated by a fence topped with razor wire.

Unmarked helicopters flew detainees into the camp almost daily, former task force members said. Dressed in blue jumpsuits with taped goggles covering their eyes, the shackled prisoners were led into a screening room where they were registered and examined by medics.

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Just beyond the screening rooms, where Saddam Hussein was given a medical exam after his capture, detainees were kept in as many as 85 cells spread over two buildings. Some detainees were kept in what was known as Motel 6, a group of crudely built plywood shacks that reeked of urine and excrement. The shacks were cramped, forcing many prisoners to squat or crouch. Other detainees were housed inside a separate building in 6-by-8-foot cubicles in a cellblock called Hotel California.

The interrogation rooms were stark. High-value detainees were questioned in the Black Room, nearly bare but for several 18-inch hooks that jutted from the ceiling, a grisly reminder of the terrors inflicted by Mr. Hussein's inquisitors. Jailers often blared rap music or rock 'n' roll at deafening decibels over a loudspeaker to unnerve their subjects.

Another smaller room offered basic comforts like carpets and cushioned seating to put more cooperative prisoners at ease, said several Defense Department specialists who worked at Camp Nama. Detainees wore heavy, olive-drab hoods outside their cells. By June 2004, the revelations of abuse at Abu Ghraib galvanized the military to promise better treatment for prisoners. In one small concession at Camp Nama, soldiers exchanged the hoods for cloth blindfolds with drop veils that allowed detainees to breathe more freely but prevented them from peeking out.

Some former task force members said the Nama in the camp's name stood for a coarse phrase that soldiers used to describe the compound. One Defense Department specialist recalled seeing pink blotches on detainees' clothing as well as red welts on their bodies, marks he learned later were inflicted by soldiers who used detainees as targets and called themselves the High Five Paintball Club.

Mr. McGraw, the military spokesman, said he had not heard of the Black Room or the paintball club and had not seen any mention of them in the documents he had reviewed.

In a nearby operations center, task force analysts pored over intelligence collected from spies, detainees and remotely piloted Predator surveillance aircraft, to piece together clues to aid soldiers on their raids. Twice daily at noon and midnight military interrogators and their supervisors met with officials from the C.I.A., F.B.I. and allied military units to review operations and new intelligence.

Task Force 6-26 was a creation of the Pentagon's post-Sept. 11 campaign against terrorism, and it quickly became the model for how the military would gain intelligence and battle insurgents in the future. Originally known as Task Force 121, it was formed in the summer of 2003, when the military merged two existing Special Operations units, one hunting Osama bin Laden in and around Afghanistan, and the other tracking Mr. Hussein in Iraq. (Its current name is Task Force 145.)

The task force was a melting pot of military and civilian units. It drew on elite troops from the Joint Special Operations Command, whose elements include the Army unit Delta Force, Navy's Seal Team 6 and the 75th Ranger Regiment. Military reservists and Defense Intelligence Agency personnel with special skills, like interrogators, were temporarily assigned to the unit. C.I.A. officers, F.B.I. agents and special operations forces from other countries also worked closely with the task force.

Many of the American Special Operations soldiers wore civilian clothes and were allowed to grow beards and long hair, setting them apart from their uniformed colleagues. Unlike conventional soldiers and marines whose Iraq tours lasted 7 to 12 months, unit members and their commanders typically rotated every 90 days.

Task Force 6-26 had a singular focus: capture or kill Mr. Zarqawi, the Jordanian militant operating in Iraq. "Anytime there was even the smell of Zarqawi nearby, they would go out and use any means possible to get information from a detainee," one official said.

Defense Department personnel briefed on the unit's operations said the harsh treatment extended beyond Camp Nama to small field outposts in Baghdad, Falluja, Balad, Ramadi and Kirkuk. These stations were often nestled within the alleys of a city in nondescript buildings with suburban-size yards where helicopters could land to drop off or pick up detainees.

At the outposts, some detainees were stripped naked and had cold water thrown on them to cause the sensation of drowning, said Defense Department personnel who served with the unit.

In January 2004, the task force captured the son of one of Mr. Hussein's bodyguards in Tikrit. The man told Army investigators that he was forced to strip and that he was punched in the spine until he fainted, put in front of an air-conditioner while cold water was poured on him and kicked in the stomach until he vomited. Army investigators were forced to close their inquiry in June 2005 after they said task force members used battlefield pseudonyms that made it impossible to identify and locate the soldiers involved. The unit also asserted that 70 percent of its computer files had been lost.

Despite the task force's access to a wide range of intelligence, its raids were often dry holes, yielding little if any intelligence and alienating ordinary Iraqis, Defense Department personnel said. Prisoners deemed no threat to American troops were often driven deep into the Iraqi desert at night and released, sometimes given $100 or more in American money for their trouble.

Back at Camp Nama, the task force leaders established a ritual for departing personnel who did a good job, Pentagon officials said. The commanders presented them with two unusual mementos: a detainee hood and a souvenir piece of tile from the medical screening room that once held Mr. Hussein.

Early Signs of Trouble

Accusations of abuse by Task Force 6-26 came as no surprise to many other officials in Iraq. By early 2004, both the C.I.A. and the F.B.I. had expressed alarm about the military's harsh interrogation techniques.

The C.I.A.'s Baghdad station sent a cable to headquarters on Aug. 3, 2003, raising concern that Special Operations troops who served with agency officers had used techniques that had become too aggressive. Five days later, the C.I.A. issued a classified directive that prohibited its officers from participating in harsh interrogations. Separately, the C.I.A. barred its officers from working at Camp Nama but allowed them to keep providing target information and other intelligence to the task force.

The warnings still echoed nearly a year later. On June 25, 2004, nearly two months after the disclosure of the abuses at Abu Ghraib, an F.B.I. agent in Iraq sent an e-mail message to his superiors in Washington, warning that a detainee captured by Task Force 6-26 had suspicious burn marks on his body. The detainee said he had been tortured. A month earlier, another F.B.I. agent asked top bureau officials for guidance on how to deal with military interrogators across Iraq who used techniques like loud music and yelling that exceeded "the bounds of standard F.B.I. practice."

American generals were also alerted to the problem. In December 2003, Col. Stuart A. Herrington, a retired Army intelligence officer, warned in a confidential memo that medical personnel reported that prisoners seized by the unit, then known as Task Force 121, had injuries consistent with beatings. "It seems clear that TF 121 needs to be reined in with respect to its treatment of detainees," Colonel Herrington concluded.

By May 2004, just as the scandal at Abu Ghraib was breaking, tensions increased at Camp Nama between the Special Operations troops and civilian interrogators and case officers from the D.I.A.'s Defense Human Intelligence Service, who were there to support the unit in its fight against the Zarqawi network. The discord, according to documents, centered on the harsh treatment of detainees as well as restrictions the Special Operations troops placed on their civilian colleagues, like monitoring their e-mail messages and phone calls.

Maj. Gen. George E. Ennis, who until recently commanded the D.I.A.'s human intelligence division, declined to be interviewed for this article. But in written responses to questions, General Ennis said he never heard about the numerous complaints made by D.I.A. personnel until he and his boss, Vice Adm. Lowell E. Jacoby, then the agency's director, were briefed on June 24, 2004.

The next day, Admiral Jacoby wrote a two-page memo to Mr. Cambone, under secretary of defense for intelligence. In it, he described a series of complaints, including a May 2004 incident in which a D.I.A. interrogator said he witnessed task force soldiers punch a detainee hard enough to require medical help. The D.I.A. officer took photos of the injuries, but a supervisor confiscated them, the memo said.

The tensions laid bare a clash of military cultures. Combat-hardened commandos seeking a steady flow of intelligence to pinpoint insurgents grew exasperated with civilian interrogators sent from Washington, many of whom were novices at interrogating hostile prisoners fresh off the battlefield.

"These guys wanted results, and our debriefers were used to a civil environment," said one Defense Department official who was briefed on the task force operations.

Within days after Admiral Jacoby sent his memo, the D.I.A. took the extraordinary step of temporarily withdrawing its personnel from Camp Nama.

Admiral Jacoby's memo also provoked an angry reaction from Mr. Cambone. "Get to the bottom of this immediately. This is not acceptable," Mr. Cambone said in a handwritten note on June 26, 2004, to his top deputy, Lt. Gen. William G. Boykin. "In particular, I want to know if this is part of a pattern of behavior by TF 6-26."

General Boykin said through a spokesman on March 17 that at the time he told Mr. Cambone he had found no pattern of misconduct with the task force.

A Shroud of Secrecy

Military and legal experts say the full breadth of abuses committed by Task Force 6-26 may never be known because of the secrecy surrounding the unit, and the likelihood that some allegations went unreported.

In the summer of 2004, Camp Nama closed and the unit moved to a new headquarters in Balad, 45 miles north of Baghdad. The unit's operations are now shrouded in even tighter secrecy.

Soon after their rank-and-file clashed in 2004, D.I.A. officials in Washington and military commanders at Fort Bragg agreed to improve how the task force integrated specialists into its ranks. The D.I.A. is now sending small teams of interrogators, debriefers and case officers, called "deployable Humint teams," to work with Special Operations forces in Iraq and Afghanistan.

Senior military commanders insist that the elite warriors, who will be relied on more than ever in the campaign against terrorism, are now treating detainees more humanely and can police themselves. The C.I.A. has resumed conducting debriefings with the task force, but does not permit harsh questioning, a C.I.A. official said.

General McChrystal, the leader of the Joint Special Operations Command, received his third star in a promotion ceremony at Fort Bragg on March 13.

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On Dec. 8, 2004, the Pentagon's spokesman, Lawrence Di Rita, said that four Special Operations soldiers from the task force were punished for "excessive use of force" and administering electric shocks to detainees with stun guns. Two of the soldiers were removed from the unit. To that point, Mr. Di Rita said, 10 task force members had been disciplined. Since then, according to the new figures provided to The Times, the number of those disciplined for detainee abuse has more than tripled. Nine of the 34 troops disciplined received written or oral counseling. Others were reprimanded for slapping detainees and other offenses.

The five Army Rangers who were court-martialed in December received punishments including jail time of 30 days to six months and reduction in rank. Two of them will receive bad-conduct discharges upon completion of their sentences.

Human rights advocates and leading members of Congress say the Pentagon must still do more to hold senior-level commanders and civilian officials accountable for the misconduct.

The Justice Department inspector general is investigating complaints of detainee abuse by Task Force 6-26, a senior law enforcement official said. The only wide-ranging military inquiry into prisoner abuse by Special Operations forces was completed nearly a year ago by Brig. Gen. Richard P. Formica, and was sent to Congress.

But the United States Central Command has refused repeated requests from The Times over the past several months to provide an unclassified copy of General Formica's findings despite Mr. Rumsfeld's instructions that such a version of all 12 major reports into detainee abuse be made public.

Iraq Leaves Vet In Personal Fog Of War (WP)

By Russ Bynum

The Washington Post, March 19, 2006

RICHMOND HILL, Ga. -- His 3-year-old son Nicholas' first steps, the first time Liam, his newborn, smiled _ Staff Sgt. Douglas Piper lived to see them. Then his scarred memory erased even those precious moments.

"I can't remember what they did yesterday," Piper says. "Sometimes, I can't remember what I did yesterday. The days are broken."

Iraq left the 30-year-old Piper in his own personal fog of war, one in which remembering the moments and days since April 2003 can be as confusing a puzzle as predicting his civilian future.

Three years ago, in the war's first month, Piper became one of the now more than 17,000 U.S. troops wounded in action. A grenade blast in Baghdad mangled his right eye, collapsed his right eardrum and slammed his brain against the inside of his skull.

In a conflict where explosions account for roughly two-thirds of Army combat wounds, and improved body armor and field medicine increase chances of survival, brain injuries such as Piper's are common.

At home in southeast Georgia, he drives his pickup truck, and even took a recent ski trip, despite having no depth perception after losing his eye. In public, he pops his prosthetic eye in and out of its socket without self-consciousness. He hears fine with the help of a hearing aid.

Yet his doctors tell him at least 80 percent of his short-term memory has been destroyed.

Watching "CSI" or "Law and Order" on TV with his wife, Sherry, he often has trouble following the plot. He has problems recalling the birthdates of their three boys _ Matthew, 4, Nicholas, 3, and 13-week-old Liam. He knows the route to his desk job at Hunter Army Airfield in nearby Savannah, but needs help keeping track of appointments.

Sometimes he'll walk into a room and forget what he's doing there. Other times, he'll stop talking in mid-sentence and grasp for the word.

"I'll try to point at something like, `What is that?' he says. "The names of things, the words, sometimes they're just gone."

Routine and his wife's guidance help compensate. He keeps his keys, wallet, cell phone, medications and spare prosthetic eyes in a basket on the kitchen counter so he won't lose them. Sherry Piper enters his doctor visits and other appointments into her Palm Pilot.

Still, Piper puts his injuries in perspective. Among the other wounded soldiers he met at Walter Reed Army Medical Center in Washington, there was always someone whose injuries seemed worse _ a Bradley armored-vehicle driver blinded in both eyes by a rocket-propelled grenade, a sniper who had been shot through the eye with a bullet that passed through his brain.

"I'd just think to myself, it could have been worse," Piper said, "so don't even think about complaining."

Walter Reed, home to one of eight brain injury facilities run jointly by the departments of Defense and Veterans Affairs, has treated more than 600 troops with traumatic brain injuries from Iraq and Afghanistan since 2003.

Brain injuries were diagnosed in 28 percent of wounded service members sent to Walter Reed from January 2003 to November 2005. Common effects include headaches, sleep disorders, trouble concentrating and memory loss.

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After six surgeries between April 2003 and August 2005, Piper expects to be cleared for a medical discharge by the Army in the next two months.

"A part of him, I think, does yearn to stay in the military," said Kim Mayes, his medical case manager at Hunter. "He'll walk in, if he saw something on the news, and say, `Man, I wish I could go back over there.'"

Piper signed with an Army recruiter at 17, entering the service a year later in October 1994. As a teenager in Bridgewater, N.H., he saw the Army as a chance to escape the doldrums of a small town where most young men went to work manufacturing rubber gaskets at a local factory.

He passed the rigorous training required to join the elite Army Ranger regiment, and served eight years in its Hunter-based battalion. He planned on a full 20-year military career.

Then came the war _ the last thing he remembers with clarity.

He wanted to deploy to Iraq so badly that he left the Rangers because, having just joined a new company, he expected to be sidelined. As war loomed in early 2003, he transferred to the Pathfinder Company of the 6th Battalion, 101st Aviation Regiment at Fort Campbell, Ky. Eight days after he arrived, Piper left for Kuwait.

On April 13, 2003, less than month after U.S. troops crossed the Iraqi border, Piper was leading his six-man team in a hunt for weapons and munitions in southern Baghdad.

The sun was setting outside a library building where the soldiers had discovered a stockpile of small arms and mortar rounds. Piper stood outside, deciding which building to clear next.

A car passed on the street. Someone leaned out the window and lobbed a grenade, announcing an ambush with an explosion a few feet from Piper's back. The blast flung him five feet, sprawled facedown behind a Humvee.

"I didn't feel any pain or anything like that, but I saw this huge halo of blood in front of me," Piper recalled.

He reached to feel his right eye, but his hand slid straight to his ear. It felt like the side of his face had been flattened, the bones of his eye socket pulverized.

Amid the fighting, two soldiers grabbed Piper to rush him to a medivac helicopter. He insisted on giving them his ammunition and grenades first. En route to the nearest field hospital, he blacked out.

Landstuhl Regional Medical Center, an Army hospital in Germany, was Piper's first stop out of Iraq. On his third day there, he insisted doctors wheel him to a bathroom mirror so he could see his face.

"When they told me the extent of the injury, I was thinking to myself, `I'm going to have a big hole in my head,'" Piper said. "My main concern was with the boys. What would they think?"

Beneath the bandages, his skin was scabbed and bruised and his right eye had turned completely black. But his face was intact. The crushed bones of his eye socket could be repaired.

On April 21, 2003, doctors at Walter Reed removed Piper's eye and reconstructed shattered bones scattered in tiny fragments from his brow into his nasal cavity. Five months later, he was fitted for a prosthetic eye, hand-painted to match the hazel hue of his remaining eye.

Piper focused on getting used to navigating with one eye. He was often bumping into walls and objects on his right side. Once, he tripped over a bush during a stroll outside the Army hospital.

"He never once said, `Oh, great, now I'm never going to be able to do this,'" Sherry Piper said. "The day he got back from Walter Reed, we came to the airport and got in the car. I was going to drive and he said, `No, I'm going to drive.'"

The Pipers say it was several months before they started to notice symptoms of his memory loss. At first, Sherry Piper attributed it to her husband's hearing loss.

"I would just be talking to him and he wasn't paying attention. I'd say, `Did you hear what I just said?' and he'd say, `No,'" she recalled. "That's how we kind of realized he was having a problem remembering."

Neurologists confirmed Piper had frontal-lobe damage to his brain, affecting his short-term memory. Periodic testing over the past year has shown little improvement, said Mayes, his medical case manager.

Piper carried a notebook for a while, jotting lists of errands and appointments, but kept losing it. For now, he relies on his wife to keep his schedule, and phones her when he feels he's forgotten something.

Grappling with short-term memory loss hasn't stopped Piper from looking to the long-term. Several months ago, he began working in his off-duty hours as an onsite supervisor for a construction company.

He isn't sure whether he'll stick with construction, but it seemed a logical first step. He's a woodworking hobbyist, and has made bookshelves, a cedar chest and end tables for his home. He likes working outdoors, especially as a break from Army desk work.

"I've been a trigger-puller for 11 years," Piper said. "I had to figure out what I was interested in other than blowing things up."

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He treats his injuries with similar humor _ deadpan matter-of-factness mixed with shock-and-awe. And the family is getting in on the act.

During a recent trip to the mall, 4-year-old Matthew asked if Piper could show his false eye to another boy who refused to believe his father had one.

"So I pop it out and clean it off and hand it to him, and he walks over there and opens his hand and goes, `See!,'" Piper said, laughing. "That boy about freaked out."

Poppy Crop Threatens Nascent Democracy (SLPD)

By Philip Dine

St. Louis Post-Dispatch, March 18, 2006

For now, the cabbage-green rows of small poppies in the furrowed squares of land resemble any variety of legitimate crops. In a few months, these plants will stand out as a tall sea of crimson.

Viewed from the window of a low-flying helicopter, new poppy fields come into view every few seconds, spread around a desolate landscape virtually unchanged for centuries in this remote part of Afghanistan. The houses are small, isolated and fashioned from mud, some with mud walls around them. There is no sign of mosques or schools, hospitals or stores.

This is the epicenter of poppy cultivation in Afghanistan. The nation's crop provides 87 percent of the world's opium, from which heroin is produced, according to the United Nations. Early indications are that Helmand, a province deep in southern Afghanistan bordering Pakistan, will produce half the world's supply of opium this year.

The poppies are invaluable cash crops to farmers seeking to sustain their families, but dangerous to a young Afghan democracy. An unholy alliance is emerging among farmers, drug lords, Taliban remnants and al-Qaida fighters. Intelligence sources and Afghan officials cite mounting evidence that insurgents are using drugs to wreak havoc on Afghan society - including the corrupting of public officials - while also extracting funds from drug profits for their anti-government violence.

The resulting tension was in evidence on a recent tour of the area by two U.S. gunships. The helicopters landed in a poppy field to give State Department officials and a reporter a chance to look around - for two minutes - encircled by guards with automatic weapons. The guards worry about violence, either from farmers who think their crop is threatened, or from insurgents protecting the poppy fields.

"You can get on the ground, but that's when you're the most vulnerable," warned Ed Morris, lead pilot in the U.S. military detachment providing protective cover for joint Afghanistan-American drug-eradication efforts in this area.

Drugs are already the nation's sole export of any magnitude, and threaten to turn it into a "narco-state," a country whose policies and politics are dominated by drug lords.

"The concern is that this government will fail and fall and the country will be a breeding ground for terrorists again," says Doug Wankel, director of the Counter Narcotics Task Force at the U.S. Embassy in Afghanistan. Former chief of operations for the Drug Enforcement Administration, he is a native of Bowling Green, Mo.

Poisoning "infidels"

There is also a little-noted bonus for al-Qaida in the burgeoning heroin production. Afghan sources say the terrorist group has acknowledged in private sessions its satisfaction that expanding heroin use is poisoning "infidels" in other countries. One example is a skyrocketing rate of AIDS, sparked by dirty needles, in Russia and former Soviet republics.

Kahir Ismailee of Kabul has worked for years with international groups on health, education and human rights issues in rural areas where anti-Western sentiment is strong.

He says that in the terrorists' "jihad against all Westerners, one of their tactics to ruin a society was to make them addicts, so they export heroin to the Western countries."

Ismailee says an influential Taliban cleric told him: "Drugs are illegal in Islam, but we want infidels to die."

Mohammad Nabi Hussaini directs the poppy eradication program in the Afghan Ministry of Counter Narcotics. It's dangerous work; when traveling around the country, he wears a turban to disguise himself.

"They say this, if you go to their gatherings, their religious gatherings: 'Western countries, they are sending us alcohol, they are sending us rockets - this is our rocket, poppy. This is how we can fight them,' " Hussaini says. "But they are also fighting their own people, because it brings the moral degradation of our society. It is against Islam."

And, he noted, more Afghans are becoming addicted to heroin or opium.

"It's not true that it's not our problem. It's becoming our problem," he says. "The rate of addiction will increase, I think, very badly. I believe it is something that is destroying our nation. My village has 120 families. When I was a kid, there was only one person who was taking raw opium, who was an addict. Right now in my village there are more than 12 very hard addicts."

Afghan President Hamid Karzai has put it bluntly: "If we don't destroy the poppy, it will destroy us."

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The last two years have been the biggest in history for opium production in Afghanistan, each topping 4,000 tons of opium, and this year looms as a third banner year. Hoping to avert another flooding of the heroin market, Afghan forces and their allies, particularly the United States, are responding strongly - if belatedly - to the threat.

Eradication is one element in a multipronged response to the mounting drug problem, an effort that also includes a range of educational, economic and legal approaches. The point man for the U.S. State Department is St. Louis native Tom Schweich, a top official for international narcotics and law enforcement who seeks to coordinate actions among Americans, Afghans and their international partners.

"The reason we went into Afghanistan was to eliminate the people who were responsible for 9/11," Schweich says. "There's now a nascent democracy here. The threats that are posed to this democracy are narcotics and terrorism. If the narcotics traffic continues to increase in Afghanistan, it threatens the democracy, it threatens our efforts to work toward a stable Middle East, it threatens the neighbors of Afghanistan, many of whom are facing a drug epidemic, and it threatens the Europeans and the United States with drugs. It really does have implications across the entire world."

The Taliban and the poppy

In some ways, the proliferation of poppy is an unintended consequence of the U.S. overthrow of the Taliban in 2001.

In earlier years, the Taliban had been content to allow the production of opium, even urging farmers to continue in defiance of the desire of the West that poppy cultivation cease - and often profiting from drug trafficking.

"The Taliban told people this was a fight against Muslims, that you should grow poppy. Even if you have no land, you should use your roof," says Asadullah Khalid, governor of Kandahar province.

But the Taliban abruptly switched gears at the start of this decade, as it faced growing international pressure to moderate its rule. Hoping to win diplomatic recognition from the West, the Taliban knew it had to make some concessions, and yielding on narcotics was the most palatable choice, Ismailee says.

In its last years in power, the Taliban clamped down on the drug trade in an effective but brutal way.

"There were executions without any transparent trials, hands were cut off, legs were severed," Ismailee says. By 2001, the extremist government had reduced the opium production to virtually nothing.

The U.S.-led removal of the Taliban removed the fear ordinary Afghans felt, spurring many to get back into poppy farming.

In addition, American and Afghan policies initially contributed to the growth of the narcotics problem. U.S. forces enlisted the support of warlords in the fight against the Taliban, turning a blind eye to their drug trafficking. After he assumed office, Karzai - hoping to solidify his hold on the country - brought some compromised provincial figures into his government.

Now, insurgents trying to weaken the U.S.-backed government find it advantageous to forge alliances with drug traffickers and encourage farmers to grow poppy - telling them "whenever the government tries to eradicate, the Taliban will be there to protect you," Ismailee says.

Insurgents also have issued warnings that those who stop growing poppy will be seen as "siding" with the government. It is no coincidence, officials say, that the areas where anti-government rebels are strongest are the same places where poppy production is at its highest.

Corruption, poverty, porous borders

Other factors have helped worsen the drug problem in Afghanistan.

Corruption, bribery and the quick release from jail of suspected drug traffickers.

Widespread poverty, which forces farmers to seek any possible means to support their families. Other crops pay a fraction of what poppies yield. And many traditional Afghanistan crops, such as fruits and nuts, were uprooted when Soviet troops destroyed trees to prevent guerrillas from hiding.

The return of Afghan refugees who had fled to Pakistan to escape Taliban rule. Some went into poppy farming on their own; others were compelled by landowners who made it a condition of their getting a parcel of land as tenant farmers.

Abysmal roads. Farmers often can't get legitimate crops to market, whereas poppy is so valuable that traffickers will come to the farmers.

The trend toward the processing of opium into heroin in Afghanistan, turning Afghans from opium exporters into heroin producers. Afghans have seen the profits to be made and, in recent years, provided necessary precursor chemicals by foreigners, began setting up their own labs to make the end product.

Porous borders that let drugs move freely into Iran, Pakistan or former Soviet republics to the north, often eventually going to Europe - which gets 90 percent of its heroin from Afghanistan.

The hardiness of the crop. Poppies require little care and little water, critical in a country suffering from massive environmental degradation and long arid periods and whose mountainside irrigation systems were largely destroyed over decades of armed conflict.

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"The narcotics problem in our province is very, very complicated," said Engineer Daud, governor of Helmand, as he stood at an airfield flanked by Afghan and U.S. troops.

"Our land is productive land for narcotics, and we have more than 100 miles of border with Pakistan, with deserts and mountains," he says. "Because of the low capacity of our national police, it is difficult to control that part of the problem. Drug dealers and terrorists are carrying drugs across the border, and terrorists are getting money from narcotics."

"Both forces are mobilizing"

In the northern part of his province, people are so desperate for water that farmers trying to make a legitimate living on their tiny plots, with virtually no money for their own families, are forced to buy water to keep their chickens alive.

Daud understands why they "have the reason to cultivate cash crop like poppy," and he prefers to go after the larger and wealthy drug dealers rather than the simple growers, but the traffickers are more evasive, more powerful - and more threatening.

In many ways, Afghan officials and their international allies, preoccupied with overthrowing the Taliban and then keeping it and al-Qaida at bay, were caught off guard by the insidious drug trade and didn't get serious until relatively recently.

"The problem was . . . unique, because of its scope and because there are so many moving parts," said Craig Chretien, formerly a senior official at the Drug Enforcement Administration, where he spent 26 years in several South American countries. He is now deputy director of the counternarcotics task force at the American Embassy in Afghanistan, which is helping the Afghans tackle the problem.

"It's challenging, but is it impossible? No," Chretien says.

After a rather tepid Afghan response last year, and some faltering steps by the United States, both countries are launching a broader, better coordinated and more aggressive campaign.

The next few months will begin to signal how successful the effort is likely to be.

"We've got an increased ability to fight the drugs, and they've got an increased ability to grow the drug," Schweich says. "So both forces are mobilizing."

DOJ:

Editorial: Wanted: One Federal Attorney For Tri-Cities (TRICITYH)

Columbia (WA) Tri-City Herald, March 19, 2006

It is time for the U.S. Justice Department to start bearing its share of the load in the Tri-Cities.

And we don't mean by asking local prosecutors to do even more of the federal government's job than they already do.

We have had a federal judge in the Tri-Cities for the past six years, but no federal prosecutors.

It was four years ago that U.S. Attorney James McDevitt, in Spokane, promised to look into the question of assigning some federal prosecutors here instead of keeping them all based in Spokane or Yakima.

Local law enforcement and prosecutors have said for years many cases that should be tried in federal court instead are pushed down to local courts.

The result: Overload on local courts and prosecutors, more costs for local taxpayers and a cheap way out for the feds.

One program allows local prosecutors to be named special deputy U.S. attorneys so they can prosecute some cases.

That answer is too little and way, way late.

Ten local police and prosecutors have written to McDevitt to try to get something going on this besides talk.

McDevitt says Congress would have to authorize the money for the assignments.

That's even though McDevitt added several attorneys to his Spokane staff recently under the Justice Department's focus on anti-terrorism. Three of the major potential targets for terrorism are near the Tri-Cities -- Hanford, the Umatilla Chemical Depot and the dams.

Consensus on getting a federal prosecutor assigned to the Tri-Cities is persuasive. Unanimity should make it a certainty.

"We've got a federal courthouse, we've got a federal judge and we've got the criminal activity," said Kennewick Police Chief Ken Hohenberg, speaking for himself and nine other chiefs, sheriffs and prosecutors in the Tri-Cities. "We need a federal prosecutor."

In a letter to McDevitt, the 10 officials pointed out that 174 Yakima-based cases were filed in federal court in 2004, compared with only 26 Benton and Franklin County cases.

It's not that fewer federal offenses are committed in the Tri-Cities -- far from it.

Inertia is the problem. Federal attorneys prosecute crimes that occur down the street, not down the valley.

It's time for the federal government to get moving on this issue.

We do not doubt McDevitt's sincerity nor do we accuse him of being the problem.

Nor is it right to fault Congress for not authorizing money to have a prosecutor and other accouterments and officers of the federal government stationed here.

But between the two lies the only solution to a judicial and cost inequity.

McDevitt should press the case for a prosecutor in the Tri-Cities, and Congress should give him the money to make it happen.

CORPORATE SCANDALS:

For Defense Attorneys, It's All About The 'cross' (HC)

By TOM FOWLER

Houston Chronicle, March 19, 2006

If you stop by the Enron trial in downtown Houston expecting to witness a Perry Mason moment, don't hold your breath.

Those instances of "gotcha," — when an attorney catches an opposing witness in a lie or draws out a weeping confession during cross-examination — aren't as common as TV legal dramas might have you believe.

In reality, cross-examination is often a dry, protracted process by which attorneys try to undermine a witness or dig for nuggets of information that support their case. It's not at all unusual for "cross," as attorneys call it, to seem random and meandering to a casual observer.

Lawyers watching the current trial said so far the cross-examination by the defense teams for Ken Lay and Jeff Skilling has had a little bit of everything: entertainment and tedium, humor and anger, precision and confusion.

The defense will get its chance to put its best arguments before the jury when the government rests its case, but any points it can score with jurors now on cross are crucial.

"Whoever goes first in making their case gets to shape the initial impression a jury gets," said David Berg, a Houston trial lawyer. "That's why you can't wait. You have to begin your case during cross."

Jurors' decision

Cross-examination is the process by which attorneys get to question a witness the opposing side puts on the stand. It's the opportunity to knock down an opponent's case as it is built.

Some studies have shown that jury verdicts in criminal cases often match the conclusions reached by the time the prosecution finishes its case. That's why defense attorneys often spend just as much time preparing an effective cross as they do preparing to put on their own arguments.

Houston attorney Dick DeGuerin said he likes to use leading questions to tell a story with cross, even though it's his opponent who is trying to tell his story.

"I think the jury is there to be entertained, in part, and to listen to something they can make sense of," DeGuerin said.

There generally are limits to what can be discussed on cross, but they differ depending on the judge overseeing the case, Berg said.

In the Enron case, U.S. District Judge Sim Lake requires attorneys to ask questions on cross that relate only to what was asked under direct questioning. That means the government largely has been able to set the agenda.

Cross may seem unfocused, with attorneys belaboring minutiae for reasons that aren't entirely clear. But Dan Hedges, a former prosecutor now in private practice in Houston, said that's not unusual in criminal cases, and actually may be necessary.

Unlike civil trials, in which attorneys usually have interviewed witnesses at great length before trial in depositions, attorneys in criminal cases face more unknowns, Hedges said.

"There's the danger of asking a question and getting a bad answer, but there's also the danger of not asking and missing out on very important information that could help your case," Hedges said.

Presenting own case

Cross has been used with varying degrees of effectiveness in the Enron trial, observers said.

In the first weeks of the trial, the defense teams were able to use it to essentially begin introducing an important part of their own case: that Enron was not the crooked and crippled enterprise the government described.

The government wanted to play excerpts of videotaped analyst and employee meetings at which Lay and Skilling allegedly made false statements, but the defense successfully argued the tapes should be played in their entirety during cross. Though it made for many boring hours in the courtroom, it allowed the defendants to show jurors what they argued was a more complete picture of a vibrant and healthy Enron.

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The defense hasn't maintained that strategy of using the government's witnesses to illustrate the good points of Enron as much as it could have, however, said Joel Androphy, an attorney who has followed the trial closely. Rather, much of the cross has focused on attacks against the witnesses.

"They had a great opportunity to ask (former Chief Financial Officer Andrew) Fastow and others about Enron viability issues, about good things at the company, but I don't feel like I heard that very much," Androphy said. "I just heard and saw attack after attack. At this point, all the jurors must know about the company is that a lot of people were lying."

The attacks during cross serve a purpose, however, in that they can discredit witnesses by getting them to waver on statements made during direct questioning. That was certainly the intent in the harsh questioning of Fastow.

Fastow was grilled with blunt, argumentative and sometimes loud questions, such as, "Did you have any conscience?" He was walked back and forth through his confessed crimes. And his recollections were poked and prodded repeatedly.

The confrontational questions appeared to grab the attention of jurors early on, but later many seemed to tune out. To some observers, the shouting seemed like overdone theatrics, but Androphy said the attorneys were more sincere than they appeared.

He notes that defense attorneys such as Mike Ramsey and Daniel Petrocelli become genuinely passionate about their clients' defense, so the emotions are close to the surface during cross.

"I do that all the time, and it's not just something I'm making up," Androphy said.

The anger and outrage against Fastow was clearly designed to draw out Fastow's own anger, said Michael Wynne, a former prosecutor who has followed the trial closely. Although jurors likely have little doubt that Fastow lied regularly, the cross didn't get him to lose his composure.

"I think it was overplayed, and the defense spent too much time on it," Wynne said.

Observers said Lay attorney Chip Lewis worked a good vein of questions on his cross of former Enron executive Sherron Watkins, namely the legality of stock sales she made soon after writing her famous memo to Lay. But some noted he failed to control Watkins on the stand, letting her rattle off lengthy answers.

Skilling attorney Ron Woods did a better job of keeping Watkins in check by quickly and firmly cutting short her responses. He also kept short and direct his questions about how guilty verdicts would be beneficial for Watkins' public speaking business, observers said.

At least twice, the Skilling defense team has broken a cardinal rule of cross by asking a question apparently without knowing the answer.

It challenged the accounting knowledge of witnesses, only to stumble upon what appeared to be the revelation that the witnesses had accounting degrees.

In one instance, however, Petrocelli used that to initiate a brief discussion of accounting rules. It's a topic the government avoided during direct questioning for fear of confusing jurors. But Petrocelli may have shown that the rules are not nearly as cut-and-dried as the government would like jurors to believe.

CRIMINAL LAW:

Libby Trial May Be Embarrassment For Bush (AP)

By Pete Yost

AP, March 19, 2006

Lawyers for Vice President Dick Cheney's former top aide are signaling they may delve deeply at his criminal trial into infighting among the White House, the CIA and the State Department over pre-Iraq war intelligence failures.

In a prelude to a possible defense, the lawyers for I. Lewis "Scooter" Libby also are suggesting that the State Department — not Libby — may be to blame for leaking the identity of covert CIA officer Valerie Plame to the media.

Court papers filed late Friday raise the possibility a trial could become politically embarrassing for the Bush administration by focusing on the debate about whether the White House manipulated intelligence to justify the U.S.-led invasion of Iraq in March 2003.

The defense team stated that in June and July 2003, Plame's CIA status was at most a peripheral issue to "the finger-pointing that went on within the executive branch about who was to blame" for the failure to find weapons of mass destruction in Iraq.

"If the jury learns this background information" about finger-pointing "and also understands Mr. Libby's additional focus on urgent national security matters, the jury will more easily appreciate how Mr. Libby may have forgotten or misremembered ... snippets of conversation" about Plame's CIA status, the lawyers said.

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Cheney's former chief of staff was indicted Oct. 28 on five counts of perjury, obstruction and lying to the FBI about how he learned of Plame's CIA employment and what he told reporters about her.

Libby's lawyers are asking U.S. District Judge Reggie Walton for access to government documents about a 2002 trip that Plame's husband, former Ambassador Joseph Wilson, made to the African nation of Niger at the CIA's behest and about "his wife's involvement" with that mission.

The documents relate to what prospective witnesses — including then-Deputy Secretary of State Richard Armitage and deputy White House chief of staff Karl Rove — probably would say at Libby's trial.

Noting press reports last week, the court papers say there has been speculation that Armitage told The Washington Post's Bob Woodward that Wilson's wife worked at the CIA, and speculation that Woodward's source and the primary source for conservative columnist Robert Novak are the same person.

Novak disclosed Plame's identity on July 14, 2003, eight days after Wilson contended in a New York Times op-ed column that the administration twisted prewar intelligence to exaggerate the Iraqi threat from a nuclear weapons program.

"If the facts ultimately show that Mr. Armitage or someone else from the State Department was also Mr. Novak's primary source, then the State Department and certainly not Mr. Libby bears responsibility for the 'leak' that led to the public disclosure" of Plame's CIA identity, Libby's lawyers said.

The court filing also focused on Marc Grossman, a former undersecretary of state for political affairs who allegedly told Libby a month before Plame's identity was disclosed that Wilson's wife worked at the CIA.

"If Mr. Armitage or another State Department official was in fact the primary source for Mr. Novak's article, Mr. Grossman's testimony may be colored by either his personal relationship with Mr. Armitage or his concern for the institutional concerns of the state Department," Libby's lawyers wrote.

Rove — a source for Novak and Time magazine reporter Matt Cooper — is under investigation by Special Counsel Patrick Fitzgerald in the probe of the leak of Plame's CIA identity.

Libby's lawyers say that "either the government or the defense may call Mr. Rove as a witness at trial" and note that "the grand jury's investigation may be continuing with respect to Mr. Rove or other witnesses."

The defense says the documents it seeks will help demonstrate that the White House did not launch a concerted effort to punish Wilson by leaking his wife's identity, as administration critics have alleged.

Libby also is asking for notes from a September 2003 meeting in the White House Situation Room where Colin Powell, who was secretary of state, is reported to have said that everyone knows Wilson's wife worked at the CIA and that it was Wilson's wife who suggested the CIA sent her husband to Niger.

"The media conflagration ignited by the failure to find WMD in Iraq and in part by Mr. Wilson's criticism of the administration, led officials within the White House, the State Department and the CIA to blame each other, publicly and in private, for faulty prewar intelligence about Iraq's WMD capabilities," the court papers state.

"The government's version of events blows out of proportion the minor role Ms. Wilson actually played and in doing so creates an impression that is highly prejudicial to Mr. Libby," they say.

Wilson's accusations stemmed from President Bush's assertion in his State of the Union address on Jan. 28, 2003, that Iraqi leader Saddam Hussein had recently sought significant quantities of uranium from Africa.

Based on his 2002 trip, Wilson said he had found it highly doubtful the nation of Niger had agreed to sell uranium yellowcake to Iraq, as alleged in intelligence provided to the CIA.

Libby's Defense To Lay Blame For Leak On State Department (WP)

By R. Jeffrey Smith

The Washington Post, March 19, 2006

Lawyers for I. Lewis "Scooter" Libby, the indicted former chief of staff to Vice President Cheney, want access to many Bush administration documents they say will demonstrate that an undercover CIA officer played a "peripheral role" in the government's debate over prewar intelligence and that Libby had no motive to lie about her, according to new court filings.

In documents filed late Friday, Libby's attorneys cast a wide net for information that they said would help demonstrate that Libby did not discuss the identity of CIA officer Valerie Plame as part of a supposed administration effort to besmirch her husband, former ambassador Joseph C. Wilson IV.

They wrote that they anticipated the trial would showcase testimony by a Who's Who of senior administration officials involved in the Iraq policymaking at the heart of the CIA leak investigation, including three top officials at the State Department who the lawyers asserted played key roles in the unraveling of Plame's covert CIA position. Those officials include then-Secretary of State Colin L. Powell and his deputy secretary, Richard Armitage, and undersecretary for political affairs, Marc Grossman.

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The lawyers argued that if press reports are correct that some reporters first learned of Plame's CIA connections from Armitage, then "the State Department (and certainly not Mr. Libby) bears responsibility for the 'leak' that led to the public disclosure" of Plame's CIA identity.

Libby was indicted Oct. 28 on criminal charges of perjury, obstruction of justice and lying to the FBI about how he learned of Plame's employment and what he told reporters about her. He was not, however, charged with leaking the information to the reporter who first published it, columnist Robert D. Novak.

Libby's lawyers have asserted that inaccurate statements made by him are the result of mistakes or forgetfulness caused by the long hours he put in every day dealing with the nation's most critical national security issues.

The charges against Libby resulted from an investigation -- still underway -- by Special Counsel Patrick J. Fitzgerald into whether administration officials knowingly leaked Plame's identity to Novak and other reporters after Wilson publicly contended that the administration had twisted intelligence when it asserted that Iraq had attempted to buy nuclear weapons material from Niger. Wilson's report was embarrassing because senior administration officials -- including President Bush -- had cited the alleged attempted purchase as one of the justifications for an invasion of Iraq.

In Friday's filing, Libby's lawyers, using Plame's married name of Wilson, said they "expect documents from the White House, the State Department and the CIA will corroborate Mr. Libby's account that Ms. Wilson's affiliation with the CIA was regarded throughout the government as a minor issue prior to Mr. Novak's article." They also said the papers will help them show that "Mr. Libby had no intent to lie because he did not believe that Ms. Wilson's employment status was classified."

Fitzgerald reiterated in his own filing that he believes Libby's team already has all the documents in hand that are relevant to Libby's defense, except a few that may be produced under seal.

Blowing The CIA's Cover (WT)

By Martin Schram

The Washington Times, March 19, 2006

A powerful, even patriotic scoop in last Sunday's Chicago Tribune set a time machine whirring, emitting a sound somewhere between Walter Mitty's ta-pocketa-pocketa-pocketa and Yogi Berra's deja-vu-vu-vu (all over again).

This time it was the Tribune's savvy senior correspondent John Crewdson who had come to the rescue of the Central Intelligence Agency (though some of the dimmer minds in the agency might not quite see it that way) by revealing a dangerous intelligence gap.

In a March 12 investigative report, Mr. Crewdson revealed how America's enemies, armed only with a computer hooked to the Internet, could do what he did: Break the cover of 2,653 CIA employees around the world, many of them secret agents. Headline: "Internet blows CIA cover."

Three decades ago, a Newsday Washington bureau chief did a similar thing, albeit on the far more primitive, low-tech scale that was, in its way, state-of-the-art spookology for that Cold War era. In a June 6, 1974, semi-investigative (semi-luck) report, the Newsday journalist (who would come in from the cold some 32 years later to write this column) revealed how America's enemy rogues and spies, armed only with no-tech eyes, ears and shoes, could do what he did: Break the cover of a secret CIA school for spies operating in a well-appointed downtown Washington apartment building. Headline: "CIA spy school blows its cover."

Ta-pocketa-pocketa-pocketa. Deja-vu-vu-vu. Slowly, a pattern emerges. In fact, a pattern within a pattern. In both cases, the journalist revealed to the CIA an intelligence gap within its midst that stunned and embarrassed the agency -- but provided the CIA with info it needed to try to recover its secrets, post haste. And in both cases, the Chicago Tribune and Newsday journalists opted not to publish the identities or other distinguishing characteristics of the CIA operatives whose covers had been blown.

The work of the Tribune's Mr. Crewdson was truly impressive. He explained how he was able to use basic search engines and commercial online data services to discover the identities of CIA operatives, front companies and so on.

He reported CIA Director Porter Goss was said to be "horrified" at the discovery and that the agency was moving swiftly (also belatedly) to plug its intelligence gap.

The Newsday scoop three decades earlier began, frankly, with a bit of luck. A friend who lived in an apartment building near K Street told the journalist he had noticed strange comings and goings concerning an apartment on his floor. Men in business suits would come in the morning, stay a few hours and leave. No one was there at night.

It turned out that if you stood in the nearby laundry room, where walls were thin and laced with audio-friendly water pipes, you could her with bare ears what was said inside the apartment: "... KGB... " "... microdot... ." Lectures about code word greetings.

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One day, you could hear the teacher or trainer explain how the others can avoid being followed. Then the day's class ended; as the 1974 Newsday article reported: "It is easy to follow the spies in training as they leave. They walk several blocks and enter another apartment building where they apparently feel very much at home. They emerge a short time later on a corner balcony several stories above the street and proceed to take in the afternoon sun. It is also easy to follow the trainer. He takes the elevator down to the basement garage and drives out in a blue sedan. The car has Virginia license plates and an Arlington, Va., inspection sticker. A check of the sticker registration reveals the trainer's true identity."

At first the CIA's spokesman gave the standard we-never-comment. But the reporter explained that wouldn't do because he had all the names and numbers adding, "If they are not ours, they are probably theirs." The CIA fessed up: "They are our guys.... It's a training exercise.... This is all rather embarrassing."

Then the CIA man asked the Newsday man for help. The operatives will want to know how they screwed up and the agency has no answer. The reporter explained all about the comings and goings, the walls and water pipes.

That Cold War mini-scoop was small time tweakery. But the Tribune gave the CIA a lifesaving gift: Disclosure of an Internet age intelligence gap that was both dangerous and discoverable.

Ta-pocketa-pocketa-pocketa. Deja-vu-vu-vu. Sadly, the pattern is frighteningly clear. The most dangerous intelligence gap of all is the one between the ears of the CIA officials whose job requires them to think it all through and prevent gaffes that could cost agents' lives or compromise the safety of us all.

Martin Schram writes political analysis for Scripps Howard News Service.

Year After Shootings, Calls To Increase Judges' Security (NYT)

By John Files

The New York Times, March 19, 2006

WASHINGTON, March 18 — About a year after the killings of the husband and mother of a Chicago federal judge and a shooting rampage in an Atlanta courthouse that left three people dead, the safety of judges and court employees remains a serious concern for the judiciary.

Attorney General Alberto R. Gonzales said this week that three-quarters of the more than 2,000 federal judges had sought home security systems paid by the government.

The Judicial Conference of the United States, which sets policy for the federal courts, met this week for the first time under Chief Justice John G. Roberts Jr. and approved security measures.

The conference authorized security equipment and workers for federal probation and pretrial services offices, urged added training for judges' security guards and called for the Bureau of Prisons to screen all outgoing mail to judges and courts from federal prison inmates.

A spokesman for the Administrative Office of the United States Courts, David A. Sellers, said that after the killings of the family members of the Chicago judge, Joan H. Lefkow, the security focus shifted from courthouses to judges and other court employees outside court buildings.

Last May, Congress appropriated $12 million for the Marshals Service to coordinate such security, including paying for home detection systems for any federal judge who wants one. This month, the House passed an authorization for $20 million to hire additional marshals for court security and investigating threats.

"Threats and attacks against judges strike at the core of our system of justice," Judge David B. Sentelle of the United States Court of Appeals for the District of Columbia Circuit said in a statement.

Judge Sentelle is also chairman of the Judicial Conference Committee on Court Security.

"Judges must be free to make judicial decisions without the fear of physical harm to themselves or to members of their families," he said.

Judge Lefkow testified before the Senate Judiciary Committee last May on increasing security for court employees.

The chairman of the committee, Senator Arlen Specter, Republican of Pennsylvania, and Senator Patrick J. Leahy of Vermont, the ranking Democrat, introduced a measure in November mandating better coordination among marshals to protect judges.

Mr. Specter said the Marshals Service had been slow in adopting changes after the Lefkow shootings and had in some cases failed to cooperate fully with the federal judiciary on security.

The bill urges new criminal sanctions on people who seek to harass or intimidate judges by filing false or malicious liens against them or by knowingly posting personal information about them on the Internet with an intent to harm the judges. The bill calls for 10 years in prison for such liens and five years for posting personal information on Web sites.

The bill would also extend the authority of the Judicial Conference to redact sensitive personal information from judges' financial disclosure forms to prevent that information from being used for harassment or intimidation.

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"This is a very serious problem," Mr. Specter said in an interview Friday. "There is no doubt that judges are targets, particularly for people who have been in their courtrooms who are unhappy with how they had their cases handled."

The Marshals Service did not return telephone calls on Friday.

The National Center for State Courts, which works with state and federal officials, had said some state and local courthouses had not followed standard safety measures. The group has urged courthouse personnel to do a better job of assessing threats, updating equipment and planning for emergencies.

"The federal courts are the gold standard," the president of the center, Mary McQueen, said. "Security is a very complex problem for the states because of jurisdictional differences. They don't have an integrated marshals service dedicated for security."

Ms. McQueen said the states had made "major strides forward in the last year," in developing security plans and sharing information on procedures and training.

Judge Offers Glimpse Of Potential Witnesses (LVRJ)

By ADRIENNE PACKER, REVIEW-JOURNAL

Las Vegas Review-Journal, March 19, 2006

Reid, Goodman on list in corruption case

During pretrial motions in the political corruption case of former Clark County Commissioners Mary Kincaid-Chauncey and Dario Herrera, a U.S. District judge offered a glimpse of the witnesses who might be called to testify.

Judge Larry Hicks rattled off potential witnesses to prospective jurors Tuesday to determine whether any of them had relationship with those who could be called to the stand during the trial, which is expected to last three months.

Among the names were Terry Lamuraglia, a former lobbyist who now works in the county's Parks and Recreation Department; attorneys Jay Brown and Joe Brown; and Peter S. Christiansen, former strip club owner Michael Galardi's longtime lawyer.

The list also includes FBI agent Joe Dickey.

During opening statements on Thursday, Assistant U.S. Attorney Daniel Schiess touched on those witnesses' roles in the government's case.

A federal indictment issued in May 2003 accuses Herrera, Kincaid-Chauncey, Galardi and former Commissioners Erin Kenny and Lance Malone of bribery. The commissioners allegedly accepted cash bribes from Galardi that were delivered by Malone, in exchange for votes that furthered the success of Galardi's strip clubs, according to the indictment.

Galardi and Kenny cut deals with the government and have provided information to prosecutors.

Schiess indicated that Christiansen "knew Galardi was corruptly taking care of commissioners."

Prosecutors said Lamuraglia, another potential witness, told the government that he often accompanied Herrera to Cheetahs. According to Schiess, Lamuraglia said Herrera once returned from a private room inside the club and bragged about receiving oral sex. The government contends that Herrera not only accepted cash bribes from Galardi, but sexual favors arranged by the strip club owner.

FBI agent Dickey is expected to testify that he was in his office listening to a telephone conversation between Malone and Herrera on Sept. 21, 2001, when Herrera asked for a meeting with Malone. Malone told him to swing by the parking lot of Landry's seafood restaurant, where Malone was having lunch with Galardi.

Dickey raced down to Landry's and saw Malone exit Herrera's vehicle. Schiess said Malone had earlier pulled a velvet bag containing $30,000 cash out of Galardi's trunk and stepped inside Herrera's vehicle.

"When Malone got out of the car, he didn't get out with that bag," Schiess said.

Assistant U.S. Attorney Eric Johnson also appears on the witness list. Galardi told federal investigators that Johnson had received free lap dances and drinks at his clubs. Johnson denied the allegations, and an internal investigation conducted by the Justice Department found no evidence to back Galardi's claims.

Clark County Chief Deputy District Attorney Craig Hendricks and former Chief Deputy District Attorney Gary Guymon, who prosecutors claim received complimentary lap dances and drinks at Galardi's clubs, could also be called to the stand.

Nicole Compton, a woman Herrera dated while he was married, is also listed as a potential witness. The federal government said in 2001 that Herrera treated Compton to an expensive weekend at the Four Seasons Hotel in Newport Beach, Calif. Herrera also paid $4,000 cash for a diamond necklace he purchased for Compton.

Other witnesses on the list include Clark County Commissioners Yvonne Atkinson Gates, Bruce Woodbury, Myrna Williams and Chip Maxfield. The board members were in office during the time Kincaid-Chauncey and Herrera served on the commission.

Other county witnesses include: Clark County Manager Thom Reilly; Administrative Services Director Don Burnette; former Business License Director Ardel Jorgensen; former Assistant Manager of Business Licensing Derek Dubasik; Registrar of Voters Larry Lomax; and Deputy District Attorneys Mary Anne Miller and Robert Warhola.

Sen. Harry Reid, D-Nev., and Las Vegas Mayor Oscar Goodman also were named at possible witnesses.

At least one dancer and a bartender at Cheetahs are on the list. Rich Buonantony, once a general manager at Jaguars, and Michael Beezley, who served as a manager at Jaguars, also might be called upon to testify.

Defense attorneys said county witnesses likely will be the first called to the stand when the trial resumes at 8:30 a.m. Monday. Burnette, the county administrative services director, is expected to be one of the first witnesses to take the stand. Burnette likely will address how the county operates in relation to zoning, commission and liquor and gaming meetings.

Data Show More Variety In Sentencing (DMR)

Des Moines Register, March 19, 2006

Some judges use too much discretion, are too lenient, critics say

In the first 13 months since federal judges were handed more freedom in sentencing, punishment disparities have developed among courthouses nationwide, new data show.

Federal prosecutors and judges in Iowa downplay the meaning of the statistics, but defense attorneys say the numbers reinforce what they have always believed: Varying judicial temperaments, combined with harsher prosecution in Iowa's northern half, can create widely different sentences for similar crimes.

"There are some judges who are far less likely to" depart from federal sentencing guidelines, said Alfredo Parrish, a defense attorney who has represented alleged criminals in both of Iowa's federal districts. "Everybody knows it."

The data, from the U.S. Sentencing Commission, indicate a new attitude among judges since a January 2005 U.S. Supreme Court ruling that gave them much more leeway in how they dole out punishment.

Nationally, judges have been 10 percentage points more likely since the change to deviate from what were mandatory sentencing rules before then. Almost always, they deviated with less-harsh sentences.

The guidelines, created in the mid-1980s because Congress wanted more uniformity in punishments, gave judges scant wiggle room. After only 13 months with "advisory" rules, Justice Department officials have urged Congress to take away judges' freedom.

William Mercer, U.S. attorney for the District of Montana, last week urged a congressional subcommittee to write new rules that would create more mandatory minimum sentences.

"There has been an undeniable erosion in the rate of compliance with the guidelines and an appreciable and troubling increase in sentencing disparities across the nation," Mercer said. "In short, both consistency and accountability are eroding."

In Iowa, that's meant a sentencing gap between two federal court districts. Previously, judges in the Northern and Southern districts followed the suggested sentences about 74 percent of the time.

Since the change, judges in Iowa's Northern District have continued to issue guideline-approved sentences in nearly 69 percent of cases. But in the Southern District, which includes Des Moines, the percentage fell to 49 percent.

Federal court authorities in Iowa argue that the numbers don't adequately reflect all the factors that go into a sentencing decision. But Steve Swift, head of a loose affiliation of northern Iowa defense lawyers, said the trend could raise the question of fairness.

"The danger, from my perspective, is that we start to get back to a world of variances in sentences, and then the question becomes, 'Is that a fair system?' " he said.

"We have these guidelines, and we tell ourselves that we're going to be handing out equal sentences, and maybe we're not."

Exact comparisons between Iowa's two districts are difficult because of differences in caseloads and in the circumstances of the crimes.

For instance, the two judges of the Northern District sentenced two defendants the first week of March. Meanwhile, three judges in the Southern District handed down 20 sentences.

None of the cases matched exactly in terms of the defendant's background, age or criminal history. But a spot comparison shows that William Edward Winn and Jodie Elaine McAtee, sentenced in separate districts on meth-making charges, drew sentences that were only slightly different: Southern District Judge Robert Pratt sentenced Winn to 16 1/2 years; northern Judge Linda Reade gave McAtee 13 years.

The issue gets more complicated when one factors in what lawyers say is a key difference between the districts - the frequency with which prosecutors ask for sentences to be reduced.

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Southern District Judge Ronald Longstaff on March 3 sentenced David S. Brady to two years and nine months for marijuana trafficking. On the same day, northern Judge Mark Bennett pondered whether admitted pot distributor Kim Darby Saenz deserved the 3 1/2-year sentence that prosecutors had requested. Bennett had overshot a previous request for leniency when he sentenced Saenz to one year and eight months, which was overturned on appeal.

The federal sentencing report does not include detailed information needed to compare each judge's willingness to follow the guidelines. Federal law in most cases bans major departures unless prosecutors ask a judge to do so. The requests for special treatment usually are reserved for informants who help with other cases.

In 2004, under the old sentencing rules, Northern District prosecutors filed for leniency in 23 percent of their cases, compared with 20 percent in the Southern District.

Between Jan. 12, 2005, and Feb. 1, 2005, northern prosecutors sought lower sentences in only 14 percent of their cases, compared with 21 percent in the Southern District.

Bennett, who has criticized the stinginess of northern prosecutors on many occasions, has not yet ruled on the Saenz case and declined to be interviewed for this article.

Rich Murphy, a prosecutor for Northern District U.S. Attorney Charles Larson Sr., said the sentencing statistics are "troubling" at first glance, but he disputes any implication that his district treats anyone unfairly.

"My sense is that we're not doing anything dramatically different" this year, Murphy said. "I think it's something that ought to be studied, but I don't think you can necessarily immediately draw the conclusion that there is an increased likelihood of incarceration between one district and the other."

Murphy and Southern District U.S. Attorney Matt Whitaker questioned the value of the statistics, which are based on sometimes-incomplete case information reported to the sentencing commission. Prosecutors estimated that the numbers reflect only 60 percent to 85 percent of the work that took place.

"There are so many moving variables here," Whitaker said. "I don't think you can draw any analysis of what this says."

Reade, known among defense attorneys in the Northern District for her stiff sentences, concedes that she is "not much of a departer" from the sentencing guidelines.

Southern District judges voiced a willingness to be more lenient than the guidelines, but "even when I vary from the guidelines, I usually don't vary very far," Longstaff said.

"I think I'm still letting the guidelines be a very important factor in the sentence. I'm just not letting them be the only factor."

Frank Bowman, a law professor at the University of Missouri-Columbia who has studied the statistics, said the Iowa numbers show that "plainly, something different is happening here."

A broader point, however, is the fact that so many federal judges have proven so willing to use their new-found sentencing discretion, Bowman said.

"I don't think you can really deny the obvious, which is you have an advisory system where judges are equally free to go up and down . . . and they're going down at a rate of 22 to 1," Bowman said. "No matter how you slice it, it seems to me that you've got a judgment being expressed here that the sentences mandated by the guidelines are far too high more often than they're too low."

Odds Favor Internet Gambling (WT)

By Tim Lemke

The Washington Times, March 19, 2006

In thousands of houses across the United States at this very moment thousands of people are wagering thousands of dollars on NCAA tournament basketball games without leaving their bedrooms.

Overseas, thousands of operators of thousands of Web sites are collecting a portion of each bet and adding it to the millions of dollars they have pulled in just since breakfast.

This is the phenomenon of Internet gambling, a $15 billion industry driven by the popularity of sports and the growing interest in poker. The industry is the subject of tense debate between companies looking to cash in on the American marketplace and lawmakers looking to ban online gambling.

Analysts predict online betting soon could make up as much as 10 percent of gambling worldwide.

In fact, the total value of some online-gambling companies operating overseas is comparable to that of the major traditional American casino companies -- Partypoker.com is worth about $2.4 billion more than Harrah's -- and revenues are expected to top $25 billion by the end of the decade, according to Christiansen Capital Advisors, which tracks gambling data.

Gamblers are expected to bet $4.7 billion on sports online this year. Revenue from online poker, less than $400 million worldwide in 2003, is expected to hit $4 billion. Other casino games, such as craps and roulette, are growing in popularity, as companies expand their offerings. Even bingo soon could become a $500 million game, Christiansen said.

The business of online gambling has made many people very rich. Calvin Ayre, the chief executive officer of Bodog Entertainment, an online gambling and music company based in Costa Rica, recently was featured on Forbes magazine's list of billionaires.

"It's been quite a ride," Mr. Ayre, a Canadian citizen, said last week after the taping of a televised poker tournament at his $3.5 million estate in Santiago.

That ride largely has been funded by bettors in the United States: Nearly two-thirds of all online wagers are placed by people in this country, even though most forms of Internet gambling are illegal, according to the U.S. Department of Justice.

Conservative lawmakers, often at the urging of religious groups, have been trying to stop online gambling since it first surfaced in the mid-1990s. Their efforts largely have been focused on updating the Wire Act of 1961, the pre-Internet-era statute that currently serves as the law governing online-gambling issues.

Their arguments mostly are the same ones they cite in opposing gambling in general: Opponents point to studies that suggest gambling increases personal debt and is responsible for higher rates of divorce, drug use and depression. However, they also argue that the Internet creates additional dangers, allowing minors to place bets and criminals to use stolen credit cards.

"We feel this type of gambling is particularly pernicious," said Rep. Robert W. Goodlatte, Virginia Republican, perhaps the most outspoken opponent of gambling on Capitol Hill.

However, advocates argue governments would reap big financial gains by making online gambling legal, regulating it and taxing it heavily.

"I could pump $1 billion into the U.S. economy right away," said Peter Carruthers, chief executive officer of BetonSports.com, which also operates out of Costa Rica and earns most of its revenue from U.S. bettors.

Furthermore, companies say, regulation would protect against many of the problems gambling opponents fear would occur if online betting is legalized in the United States.

In the United Kingdom, for instance, online gambling is legal and heavily regulated. Companies are required to use special age-verification software. All bets are recorded, and there are strict caps on the amount one person can bet at once. The operations of all Internet gambling companies are routinely audited for fraud or money laundering.

Similar regulations have been put in place in more than 80 other countries worldwide.

"[The U.S.] should regulate this, and enforce the use of software that works," said Nigel Payne, chief executive officer of London-based Sportingbet PLC, which spends time in Washington lobbying for regulation. "Do we honestly think that Americans are not going to gamble? If they honestly think they can stop people, it's an extraordinarily naive position."

The legal landscape

The Department of Justice says that online gambling is illegal and has collected millions of dollars in settlements from online payment firms, including PayPal, that have helped process bets placed on the Internet.

But shutting down gambling operations or stopping people from betting has proven tricky. U.S. laws can't stop operators working outside the country, and building a case against individual gamblers is time-consuming and not a priority.

As a result, much of the department's efforts center on pressuring credit card companies to refuse online-gambling transactions.

Legal scholars, gambling advocates and even some lawmakers said that because current laws were crafted before the Internet age and most operators are based overseas, the law is only helpful to a point.

"You've got 2,000 offshore sites," said Joseph Kelly, a professor of business law at the State University of New York in Buffalo and a specialist on gambling laws. "You have to be able to crack down on offshore operations. In my opinion, it's an exercise in futility."

Indeed, Mr. Ayre operates on the same principle: His company has no physical presence in the United States.

"We are running an Internet business, and we follow all the laws of the countries we operate in," he said. "In all these jurisdictions, what we're doing is legal. We feel we are a legal organization."

The debate over Internet gambling and U.S. law centers largely on the 45-year-old Wire Act, which was designed to crack down on sports betting by organized crime and explicitly outlaws betting on "sports or other contests" using a phone line from state to state.

However, the law says nothing about the playing of poker, blackjack or other casino-type games and was written long before the Internet was conceived.

"We're satisfied that what we're doing in the U.S. is not illegal," said John Sheperd, a spokesman for Gibraltar-based PartyGaming PLC, which pulled in $977 million in revenue last year from its Partypoker.com and Partycasino.com Web sites. "We recognize that the law was not written with the Internet in mind."

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Federal legislation introduced last month by Mr. Goodlatte seeks to clarify the law to ensure that online bets are banned and to include poker and other common gambling practices.

"There needs to be a clear statement by the Congress that this is what the law is and this is what should be enforced," said Mr. Goodlatte, who claims to have more than 100 co-sponsors for his Internet Gambling Prohibition Act.

Some proposed laws target credit card companies and banks in the United States, but companies already say they can work around these measures by using foreign banks and direct-payment services, such as FirePay.

In addition, operators of online-gambling companies said Mr. Goodlatte and other lawmakers are sending mixed messages, because their legislation outlaws some activities but not others.

Mr. Goodlatte's bill, for instance, allows for online betting on horse racing and fantasy sports, exemptions that baffle online-gambling companies.

"Mr. Average is being told this is bad, Mr. Average is being told you can't do this, but Mr. Average is being told that if you bet on a horse race, it's fine," Mr. Payne said. "If you do it on a fantasy league, it's fine. If you do it on a lotto, that's fine. These are the exemptions the politician needs in order to push the bill through."

Supporters of online gambling said the new efforts from Congress are a reaction to critics who say measures against Internet gambling were killed as a result of illegal lobbying efforts.

Mr. Goodlatte blamed Jack Abramoff, the lobbyist who recently pleaded guilty to fraud and conspiracy, for working to block his Internet anti-gambling legislation in 2000. Sen. Jon Kyl, Arizona Republican, nearly inserted a similar bill into lobbying-reform legislation earlier this month, and Mr. Goodlatte makes a point of referring to Mr. Abramoff when discussing his bill.

"Internet gambling has quadrupled since Jack Abramoff blocked the legislation back in 2000," Mr. Goodlatte said. "As several members of Congress were misled by him, we felt it was a great time to bring [the legislation] back."

The future

Online-gambling companies said they expect a 25 percent drop in revenues if the Goodlatte bill is passed. That figure, they said, represents the number of Americans who gamble online because they believe it is legal. The remaining gamblers will continue on, they said.

"You can't ban something Americans like doing and don't think is wrong," Mr. Ayre said.

Nevertheless, companies are expanding their company offerings to include less controversial games, such as bingo, backgammon and checkers.

Either way, it appears companies have no plans to stop collecting from U.S. bettors, regardless of what happens.

"These guys boast publicly at conferences about online sports wagers coming from the United States," Mr. Kelly, the business professor, said with a laugh. "And nobody bothers them."

Some Fear Popularity Is Weakening Amber Alerts (NYT/AP)

By The Associated Press

The New York Times, March 19, 2006

WAITE HILL, Ohio, March 18 — To illustrate what has happened to the Amber Alert program, Arnold Stanko, police chief in this town of about 450 people, slowly pulls his hands apart as if stretching a piece of taffy.

Ten years after the alerts began being used in the Dallas-Fort Worth area, the system has been adopted in all 50 states. And in some, it is being used for reasons beyond its original purpose of helping find children abducted by strangers.

In Ohio, Texas and other states the program can be used when a child is taken away by a parent or family member who does not have custody, if the child is believed to be in immediate danger of injury or death.

Some law enforcement officials say they are concerned that the alerts will be overused and become less effective. They say that in some cases, it is more difficult for the authorities to decide when an alert should be issued because they have to weed out cases like those in which a parent is not a threat or cases where a child has run away.

"You don't want to be in a position where you get Amber fatigue where people say, 'It never ends, another Amber Alert,' and they tune out," said Tela Mange, spokeswoman for the Texas Department of Public Safety.

The system was created in 1996 after Amber Hagerman, 9, was kidnapped while riding her bicycle near her home in Arlington, Tex., and killed. The alerts are broadcast on radio and television and appear on cellphones at the owners' request and on highway signs.

The criteria for issuing an alert vary slightly from state to state, but the Department of Justice recommends the following minimum standards: an abduction is confirmed, the child is at risk of serious injury or death, there is enough descriptive information about the child, captor or captor's vehicle, and the child is 17 or younger.

"When it started out it was for stranger abductions," said Chief Stanko, who oversees the Northeast Ohio Amber Alert Plan from this Cleveland suburb. "Over time we learned that parents abduct their own children and kill them."

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Of 17 alerts issued in northeast Ohio since 2002 through January, 9 involved children abducted by parents, family members or a live-in boyfriend, according to police records reviewed by The Associated Press.

More than 240 children have been recovered nationwide because of Amber Alert programs, and about 95 percent of children reported missing through the system are recovered, according to the National Center for Missing the Exploited Children, a private, nonprofit organization. Of 252 children who were subjects of Amber Alerts in 2004, all were found alive except five who were never located and six who were dead, the center said.

Chief Stanko emphasizes in training classes for police that officers must verify a parent's accusations about another parent before issuing an alert. But persuading 200 police departments to do that is a challenge, he said.

Law enforcement officers err on the side of caution to protect people in their work, he said, but that cannot be done with Amber Alert.

"If you erred on the side of caution, this thing would be going off all the time," Chief Stanko said.

No Amber Alert was issued the day Gina DeJesus, 14, of Cleveland failed to return home from school in April 2004, because no one witnessed her abduction.

Gina is still missing. The lack of an alert angers her father, Felix DeJesus, who believes the public will listen even if the alerts become routine.

"The Amber Alert should work for any missing child," Mr. DeJesus said. "It doesn't have to be an abduction. Whether it's an abduction or a runaway, a child needs to be found. We need to change this law."

Statistics show the first three hours are the most critical to recovering the child alive, according to the missing children center. But law enforcement officials cannot automatically issue an alert without an investigation, said Robert Hoever, deputy director of special operations at the center.

"It's a very, very difficult balancing act that these Amber coordinators face," Mr. Hoever said. "Typically, across the country these Amber coordinators are put in a position where they're damned if they do and they're damned if they don't."

CIVIL LAW:

Federal Penalties Often Go Unpaid (WT/AP)

By Martha Mendoza And Christopher Sullivan, Associated Press

The Washington Times, March 19, 2006

When a gasoline spill and explosion killed three young persons in Washington state, officials announced a record penalty against a gas-pipeline company: $3 million to send the message that such tragedies "must never happen again."

When nuclear labs across the country were found exposing workers to radiation and breaking other safety rules, assessments totaling $2.5 million were quickly ordered.

What happened next with these no-nonsense enforcement measures? Not much. The pipeline tab eventually was reduced by 92 percent, and the labs' assessments were waived as soon as they were issued.

The amount of unpaid federal fines has risen sharply in the past decade. Individuals and corporations regularly avoid large penalties for wrongdoing -- sometimes through negotiations, sometimes because companies go bankrupt, sometimes because of officials' failure to keep close track of who owes what.

These are conclusions of an Associated Press examination of federal financial-penalty enforcement across the nation, which also found:

· The government currently is owed more than $35 billion in fines and other payments from criminals and in civil cases, according to Justice Department figures. This is almost five times the amount uncollected 10 years ago -- and enough to cover the annual budget of the Department of Homeland Security. A decade ago, Congress mandated that fines be imposed regardless of defendants' ability to pay, which has added tremendously to outstanding debt.

· In 2004, federal authorities ordered $7.8 billion in 98,985 fines, penalties and restitution demands in criminal and civil cases, but collected less than half of that.

· White-collar crime cases account for the largest amount of uncollected debt. In a study, Government Accountability Office (GAO) investigators found that just 7 percent of restitution in such cases is paid.

"Fines and orders to pay restitution are an important part of how we punish convicted criminals. When so little effort is made to collect that money, we allow convicted criminals to avoid punishment for their crimes, weaken our criminal justice system and ultimately deny justice to the victims of crimes," said Sen. Byron L. Dorgan, North Dakota Democrat, who has pressed for closer scrutiny for years.

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The AP filed Freedom of Information Act requests with a dozen federal agencies, seeking records on why and how they issue and collect administrative penalties and other assessments.

Although the government does collect billions each year in fines, penalties and restitution, success rates vary from agency to agency, region to region, case to case.

In many high-profile cases, fines are touted by authorities as proof that they are cracking down. Yet frequently those orders are quietly negotiated to just a fraction of their original amounts.

Documents provided to the AP by the Labor Department's Employment Benefits Security Administration, whose job is to protect pension and welfare benefits, showed that $2,000 was the maximum amount paid on nearly a dozen penalties ranging from $86,500 to $180,000.

Why the reductions? Officials explained that compliance is the agency's goal, and that the law allows penalties to be reduced when companies make amends. Violators who don't comply risk being referred to the Treasury Department, which can collect by seizing federal benefits.

The Occupational Safety and Health Administration's written policy explains to inspectors that they can reduce penalties by as much as 95 percent, "depending upon the employer's 'good faith,' (25 percent) 'size of business,' (60 percent) and 'history of previous violations.' (10 percent)"

Federal law exempts the national nuclear laboratories from most financial liability, but the Energy Department has issued about $2.5 million in fines against Los Alamos, Livermore and Argonne national laboratories since 2000.

"This is kind of an exercise in absurdity," said Greg Mello, who heads the Los Alamos Study Group, a nuclear-disarmament activist organization in Albuquerque, N.M.

Even so, the Energy Department includes the fines in its annual reports to Congress and often announces them in press releases.

Last year, Congress tightened the rules so that as nuclear-laboratory contracts are renewed, the fine waivers are eliminated. Eventually, DOE spokesman Jeff Sherwood said, nuclear labs will have to pay imposed fines.

The reason DOE issued fines it could not collect was to show what the problems were and how bad, he said: "A $1 million fine says something different than a $10,000 fine."

When agencies can't get debtors to pay, the Justice Department may get the task of collecting a penalty. But the process is decentralized. The collection legwork falls to the 93 U.S. Attorney's Offices across the country.

Reviewing the adequacy of staffing was one of 14 recommendations made by GAO in 2001 to improve collection. A follow-up report two years ago still found "fragmented processes and lack of coordination."

The Justice Department office overseeing U.S. attorneys said it has made strides toward better coordination.

The 1996 Victims Mandatory Restitution Act requires judges to order payments regardless of a defendant's ability to pay. It's no coincidence, says Natalie Collins of the U.S. Attorney's Office in Las Vegas, that the uncollected debts have steeply increased since the law was passed.

Many people leave prison with a large debt they can't pay, she said. "We can't squeeze blood out of a turnip."

CIVIL RIGHTS:

Abortion Ban Prompts Calls For Boycott (NYT/AP)

By The Associated Press

The New York Times, March 19, 2006

PIERRE, S.D., March 18 — South Dakota politicians and state agencies have been bombarded in the past few weeks with thousands of calls, letters and e-mail messages, for and against the state's recently enacted ban on nearly all abortions.

A few groups who oppose the ban have called for a tourism boycott of South Dakota, urging people to avoid attractions like Mount Rushmore; the Badlands; the annual motorcycle rally in Sturgis; and the Corn Palace, an arena in Mitchell whose walls are covered with colorful ears of corn.

The furor was prompted by the passage of the strictest abortion law in America — a ban on all abortions except to save a woman's life.

Tourism is South Dakota's second-largest industry, behind agriculture, with visitors to the state spending $809 million last year, according to the Tourism Department.

Among those calling for a boycott is the Women's Medical Fund, an abortion rights organization based in Madison, Wis. "Our message is that if they are going to treat women in this inhumane way, they can expect to pay a price," said Anne Nicol Gaylor, administrator of the group.

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Billie Jo Waara, the South Dakota state tourism director, said her office had been getting a dozen or so calls a day from people on both sides of the issue. Some say they will not vacation in South Dakota, but very few had canceled previously made travel plans, she said.

Abortion Ban Likely To Go To Voters In South Dakota (MINNST)

Minneapolis Star Tribune, March 19, 2006

Leader of opposition says he doesn't foresee much difficulty in getting 16,728 signatures on a petition.

Chuck Haga, Star Tribune It appears likely that South Dakota's recently adopted ban on abortions will be referred to the state's voters.

Jim Robinson, secretary of the nonprofit organization Focus South Dakota, said he expects "a large variety of groups that disagree with this extremist ban" to participate in a petition drive to keep the law from taking effect July 1 and go on the November general election ballot.

"I wouldn't anticipate too much difficulty" in obtaining the necessary 16,728 signatures, he said. "We want to make it a unified effort."

That includes discouraging out-of-state groups from taking too high a profile, Robinson said. Last week, Focus South Dakota persuaded a small abortion-rights group in Wisconsin to scuttle its plans for a petition drive to refer the law.

"It's not surprising to me at all that people around the country want to help," he said. "But we want this to be done by South Dakotans."

Kate Looby of Planned Parenthood -- whose clinic in Sioux Falls is the only facility in the state to offer abortion services -- said the organization will decide this week whether to join a referral effort or seek an injunction and challenge the law in court.

Robinson said a recent poll by Focus South Dakota showed that 57 percent of registered South Dakota voters said they would overturn the ban. But abortion opponent Leslee Unruh called those results "deceptive" and said her Abstinence Clearinghouse found in December that 64 percent of state households consider themselves anti-abortion.

Unruh said she looks forward to a statewide campaign focused on abortion.

Challenge welcomed

The abortion ban, which would allow exceptions to save the life of the mother but not for rape or incest or to preserve the mother's health, was signed on March 6 by Gov. Mike Rounds.

Supporters have said they expect and welcome a challenge, with the South Dakota statute reaching the U.S. Supreme Court and affording the justices an opportunity to overturn the 1973 Roe vs. Wade decision, which established a woman's right to an abortion.

Unruh acknowledged that some abortion opponents would prefer a law that allows exceptions in cases involving rape or incest, but she expects that those people still would vote to uphold the ban, especially if they understand that women who seek help immediately after such attacks may use the so-called "morning after" pill.

"I'm not afraid to stand up for those children [conceived as a result of rape], as well," she said. "But if you go immediately to your doctor, [the alternative] is there."

Sen. Stanford Adelstein, R-Rapid City, said he's "certain" the ban will be referred to voters. He voted against the bill after proponents turned aside all amendments, including exceptions for rape and incest. "People are so angry ... I can't imagine we couldn't get enough signatures," he said from Jerusalem, where he's attending a professional meeting.

The state's tourism department reports receiving e-mails from people saying they won't visit the state because of the abortion ban. Mark Johnston, press secretary for Rounds, added, "We're hearing from people on both sides, from all over the world."

Unwed Fathers Fight For Babies Placed For Adoption By Mothers (NYT)

By Tamar Lewin

The New York Times, March 19, 2006

Jeremiah Clayton Jones discovered that his former fiancée was pregnant just three weeks before the baby was due, when an adoption-agency lawyer called and asked if he would consent to have his baby adopted.

"I said absolutely not," said Mr. Jones, a 23-year-old Arizona man who met his ex-fiancée at Pensacola Christian College in Florida. "It was an awkward moment, hearing for the first time that I would be a father, and then right away being told, 'We want to take your kid away.' But I knew that if I was having a baby, I wanted that baby."

Mr. Jones has never seen his son, now 18 months old. Instead, he lost his parental rights because of his failure to file with a state registry for unwed fathers — something he learned of only after it was too late.

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Under Florida law, and that of other states, an unmarried father has no right to withhold consent for adoption unless he has registered with the state putative father registry before an adoption petition is filed. Mr. Jones missed the deadline.

Although one in every three American babies has unwed parents, birth fathers' rights remain an unsettled area, a delicate balancing act between the importance of biological ties and the undisrupted placement of babies whose mothers relinquish them for adoption.

While women have the right to get an abortion, or to have and raise a child, without informing the father, courts have increasingly found that when birth mothers choose adoption, fathers who have shown a desire for involvement have rights, too.

But to claim those rights most states require a father to put his name on a registry. While about 30 states now have registries, they vary widely. In some, fathers must actually claim paternity; in others, just the possibility of paternity. The deadlines may be 5 days after birth or 30, or any time before an adoption petition is filed.

And registries are a double-edged sword: It remains an open question whether they serve more to protect fathers' rights or to protect adoptive parents, and the babies they have bonded with, from biological fathers' claims.

"My specialty is contested adoptions, and the most common contest is where the mom wants to place the baby and the dad objects," said Martin Bauer, president of the American Academy of Adoption Attorneys. "Registries can protect men against birth mothers who won't disclose the father's name or actively lie about his identity."

Adam Pertman, executive director of the Evan B. Donaldson Adoption Institute, a nonprofit research and education group, sees it differently. "It's all smoke and mirrors," Mr. Pertman said. "How can registries work if no one's heard of them? And it's just not reasonable to expect that men will register every time they have sex."

In the early 1990's, the two-year fight over Baby Jessica and the four-year battle over Baby Richard highlighted the wrenching dramas of birth parents winning custody of babies placed with adoptive parents years earlier. The spectacle of those children being taken from the arms of the only parents they had known raised an outcry about the need for speedy, permanent placement.

While some states have long had putative father registries — New York's registry was upheld by the United States Supreme Court in 1983 — most were started in the last decade to head off late parental claims.

In many states, fewer than 100 men register each year — not surprising, adoption experts say, because most young men have never heard of the registries. One exception is Indiana, where men are notified of the registry when a birth mother names them as the father, and 50 men register a week.

Adoption lawyers say some birth mothers refuse to identify the father to forestall interference. There are no statistics on how many unmarried fathers seek to raise babies the birth mother has relinquished.

Mary Beck, a professor at the University of Missouri School of Law, said the burden of registering should be the father's.

"There are men who complain, 'What, I have to file for every woman I've had sex with?' " Professor Beck said. "But men are on notice of possible pregnancy by virtue of having had sex, and the alternative is leaving it up to the women to chase them down."

Even for registered men, the system is flawed. Because the registries are state by state, a registration means nothing if the father or mother has moved — or if the baby was surrendered for adoption in a different state specifically to avoid a challenge.

In one case, Frank Osborne of North Carolina challenged his 5-month-old son's adoption in Utah. The Utah Supreme Court rejected Mr. Osborne's claim, but a dissenting judge found it unfair that Mr. Osborne lost a child he had lived with and supported until the mother "unilaterally and clandestinely" took the boy to Utah.

Senator Mary L. Landrieu, Democrat of Louisiana, will address that problem in the Proud Father Act, which would create a national registry and is to be introduced in Congress later this year.

"In a perfect world, everything would be linked so that everyone could find out if a man had registered or filed for paternity," said Jim Outman, a lawyer in Atlanta who consulted on the legislation. "But in the real world, the left hand doesn't always know what the right hand is doing.

"If there's nothing in the records in their county, their state, how is an adoption agency supposed to know there's a father who's going to come forward in two years? There has to be some security for the adoptive parents and the child."

One self-made expert on the registries is Erik L. Smith, an Ohio paralegal who fathered a son in Texas and fought for paternal rights after the baby's placement with an adoptive family. In an unusual resolution, the boy, now 13, lives with the adoptive family, while Mr. Smith, a noncustodial father, has visiting rights. Mr. Smith was naturally intrigued when he heard of the Ohio registry in a class where the professor explained that babies born to unwed parents could be adopted without the father's consent unless he registered within 30 days after the birth.

"I asked if that meant that, to protect his rights, a man should register every time he has sex with a new partner, and he said yes," Mr. Smith said.

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So he tried. "I called information and asked how I could contact the Ohio putative father registry, but there was no listing," Mr. Smith said. "I searched the Internet but couldn't find any address."

While Ohio's system has improved, he said, "as long as registries aren't publicized, I think they just work as a way to get rid of fathers like me."

Glenn Spraggs, a 22-year-old Cincinnati man, was recently caught short by ignorance of the Ohio registry. His girlfriend, Sharicka Watson, had a baby boy, Thomas, on Dec. 2, and Mr. Spraggs, who also has a daughter with Ms. Watson, was with her when he was born. Ms. Watson has told reporters that she discussed adoption with Mr. Spraggs, but he said he had no warning that less than two weeks after the birth, Ms. Watson would surrender Thomas for adoption.

"No one told me anything," Mr. Spraggs said. "When I found out he was gone, I called the police to see if they could help get him back, or file kidnapping charges or something, but they said there was nothing they could do because it was an adoption. By the time I heard about the registry, it was too late."

Although the Ohio registry gives men 30 days to file, a judge terminated Mr. Spraggs's parental rights when Thomas was 19 days old. After Mr. Spraggs hired a lawyer, the adoption agency returned Thomas to Ms. Watson, who now wants to raise him. A custody hearing in the case is scheduled for tomorrow.

Carol Sanger, a professor at Columbia Law School, said registries reflected a deep societal belief that unmarried fathers are irresponsible.

"If we want registries to mean anything," Professor Sanger said, "we'd have to teach them in every sex education curriculum in every school, and publicize them everywhere."

In Florida, the 2003 law creating the registry requires the State Department of Health "within existing resources" to distribute pamphlets on the registry at every office of the Health Department, the Department of Children and Families and the Bureau of Vital Statistics.

But when Barbara Busharis, a professor at Florida State University, sent students to find the brochures, they had no luck. "They couldn't find anyone who knew anything about the putative father registry," Professor Busharis said.

Mr. Jones's case illustrates the dangers of ignorance. The identity of his former fiancée is confidential, but Mr. Jones's court filings detail his struggle to prevent the adoption.

He tried to contact his ex-fiancée, who disappeared from his life when her parents took her from school and to another county. He called her friends, her brother, her pastor. He hired a Florida lawyer and filed a paternity petition the day before the baby was born, in the county where she previously lived. But that lawyer, now dead, apparently knew nothing of the putative father registry, and never mentioned registering.

Mr. Jones is appealing the termination of his rights. "I don't think there's any greater right that you could trespass on than a parent's right to his child," he said.

In her brief, Allison Perry, Mr. Jones's lawyer, called the Florida registry "a well-kept secret," with just 47 registrants for the 89,436 out-of-wedlock births in 2004. Mr. Jones, living in Arizona, had no reason to know of it. The adoption agency that alerted him to the pregnancy never mentioned it, and when the agency later sent him a letter, it enclosed information on a Florida registry for birth parents interested in a reunion when the children grew up, but nothing on the putative father registry.

Jeanne Tate, a lawyer for the adoption agency, said that because it represented the birth mother's interests, it could not advise Mr. Jones of his rights. Even the call to Mr. Jones went beyond the agency's legal obligations, she said.

"What's good about the law is that it provides clear guidance on whether a baby is or isn't free for adoption," she said, "so you don't get into those heart-wrenching situations where a baby who's been placed has to be removed."

Generally, fathers who have missed registry deadlines have lost their court cases. But Ms. Perry argues that the Florida law, applied as mechanically as in the Jones case, is an unconstitutional intrusion on men's fundamental rights.

"Jeremiah Jones did everything he could reasonably do to establish a relationship with his child," she said. "It's just inconceivable that the government can take away his child because he missed a filing deadline."

Morial Adds His Voice To Election Protests (NOTP)

By Karen Turni Bazile, Staff Writer

New Orleans Times-Picayune, March 19, 2006

Outcome likely to be contested, he says

Echoing concerns of other civil rights leaders about the fairness of New Orleans' upcoming elections, National Urban League president and former New Orleans Mayor Marc Morial announced a plan Saturday for out-of-town mayoral forums and outreach programs to help the city's displaced voters.

The National Coalition for Black Civic Participation plans to file a letter of objection to the U.S. Justice Department's approval Thursday of the plans for the April 22 and May 20 elections, said Morial, who was in New Orleans to attend a funeral.

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The department gave advance clearance to the plans under the terms of the 1965 Voting Rights Act, which requires the Justice Department to review proposed changes in voting procedures in Louisiana and other Southern states to ensure the changes don't discriminate against black voters.

The department's action drew immediate fire from several civil rights groups, which have contended for weeks that too little is being done to ensure that tens of thousands of black voters displaced by Hurricane Katrina will be able to participate in one of the most crucial elections in the city's history.

"What New Orleans and Louisiana do not need right now is another black eye because of a marred election process," Morial said. "With 30 days to go, there's ample opportunity for the plan to be corrected."

Under the current plan, Morial said, there is a strong probability there will be challenges to the April 22 primary or May 20 runoff because absentee ballots are seen as difficult for displaced voters to obtain and fill out.

Morial said the Coalition for Black Civic Participation's objections will focus on the lack of an adequate public relations effort to educate such voters.

He said his group thinks the best way to ensure a fair election is to establish out-of-state voting places, noting that similar arrangements were made for Iraqis in the United States during last year's elections for Iraq's new government.

At a special session this year, the Legislature rejected a proposal to set up satellite sites in cities such as Houston, Atlanta and Jackson, Miss., where tens of thousands of displaced voters have relocated. A federal judge also refused to order use of such sites.

Besides filing an objection to the election plans, Morial said the coalition is planning "Katrina survivor empowerment weekends" in several cities before the election.

As part of each weekend, the group will sponsor a mayoral forum and a meet-and-greet session for all candidates in all races, and it will offer information about absentee balloting and other post-Katrina issues.

The forums are scheduled for March 25 in Houston, March 31 in New Orleans, April 8 in Atlanta and April 15 in Baton Rouge. Exact locations and times have not been announced.

Under plans developed by Secretary of State Al Ater, the state's chief elections official, and the Legislature, satellite voting places will be established in 10 other Louisiana parishes, where displaced New Orleans voters will be able to cast absentee ballots in person on April 10-13 and 15 for the primary.

In addition, information packets are being sent to displaced voters nationwide explaining how to vote absentee by mail, and the state has bought newspaper ads in many cities to tell displaced voters about the election. Many mayoral and other candidates are expected to campaign in cities where New Orleanians are concentrated.

But Morial said those plans are not sufficient. In at least one case, he said, a displaced voter's packet was sent to his flooded local home, not his post-Katrina address.

Besides avoiding problems in the New Orleans elections, Morial said, having out-of-state satellite polling places would avert problems in fall elections that will affect displaced voters from St. Bernard and Plaquemines parishes and other areas devastated by Hurricanes Katrina and Rita.

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ENVIRONMENT:

Pick For Interior Said To Show More Charm Than Substance (LAT)

By Tomas Alex Tizon, Times Staff Writer

The Los Angeles Times, March 19, 2006

Gov. Dirk Kempthorne of Idaho is well-liked as a down-to-earth guy. But some doubt his ability to get the job done, citing a list of unfinished plans.

BOISE, Idaho — He rides motorcycles, battles a bad back, does a killer impersonation of fellow Gov. Arnold Schwarzenegger, and sometimes forgets to balance his checkbook.

Even those who don't like his politics call him "Dirk," the way he prefers to be addressed. And they speak of him like he's the guy next door who just happens to be governor.

But the ready smile and neighborly style of Idaho Gov. Dirk Kempthorne don't always get the job done, some supporters and critics say. They contend that the man President Bush has picked to succeed Gale A. Norton as secretary of the Interior often exhibits more charm than substance.

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Fellow Republicans and business leaders say Kempthorne, 54, knows how to create consensus but is too politically cautious. Local Democrats and environmentalists say that he is gifted at making people feel heard but that, at the end of the day, his loyalties lie squarely with development and corporate interests.

If confirmed, what kind of Interior secretary will Kempthorne be?

In the Idaho state capital, where he has been a major political player for two decades, many predict his performance will mirror that of his years as Boise mayor, U.S. senator and two-term governor — a record of mixed success with a list of unfinished projects and a whole lot of people who refer to him as a good guy.

"His charisma carries him a long way. Even when we were at odds, he was very quick to approach our group with a smile and a handshake," said Roger Singer, the executive director of the local chapter of the Sierra Club from 1995 to 2004.

"He's very good at giving the appearance that he's listening closely to what you're saying," Singer said. "In the end, his votes have fallen along the conservative party line."

Singer cites two examples:

In the mid- to late 1990s, Kempthorne successfully brokered a deal — protested by environmentalists — allowing the military to expand a training ground into the Owyhee Canyonlands in southwestern Idaho. Kempthorne also succeeded in weakening federal protection of gray wolves, shifting control to the state.

Singer fears Kempthorne would continue his long campaign to water down the federal Endangered Species Act and would support oil-drilling in the Arctic and the sale of public lands to special-interest groups. Kempthorne, Singer said, has worked to overturn President Clinton's ban on building roads in wilderness areas.

"I'd like to give him the benefit of the doubt in his new job," Singer said, "but my fear is he'll be closely aligned with Bush administration policies that have been detrimental to the environment."

National environmental groups are harsher in their assessment. The League of Conservation Voters gave him a rating of 6 on a zero-to-100 scale.

Local political watchers view Kempthorne as a "middle of the road" Republican in an overwhelmingly conservative state. Among his critics are Republicans who say he isn't conservative enough. But many Idaho Republicans are pleased that one of their own has been tapped to be part of the president's Cabinet.

Former state Sen. Laird Noh, who led the Senate Resources and Environment Committee from the early 1980s to 2004, called Kempthorne "a good steward, a balanced steward" of the environment.

"He used considerable political skill to protect resources while also allowing for reasonable use of those resources," the former senator said.

Noh, a Republican, credited Kempthorne with engineering an agreement with the Nez Perce Tribe over its claims to the waters of the Snake River, ending a decade of sometimes acrimonious debate. The compromise resolved the tribe's water claims, preserved the state's water rights and set protections for salmon and steelhead.

The agreement is seen as one of Kempthorne's biggest accomplishments.

But Kempthorne's most loyal supporters hail from his days as Boise mayor, between 1986 and 1993. He is largely credited for revitalizing a moribund downtown.

Don Brennan, a city councilman when Kempthorne was mayor, tells how Kempthorne took the initiative. It's a story that Kempthorne likes to tell himself.

One day in 1986, the mayor assembled all the key players, including the City Council, in one room and told the group to finally make a decision on building the Boise Centre on the Grove, an open-air commercial plaza in the city's core.

Kempthorne said the media were outside and anyone who wanted to admit failure could leave. An agreement was reached shortly after.

"The people in that room didn't think they could get out," said Brennan, a Democrat. Brennan said Kempthorne was most effective in his city role. Kempthorne's successes as U.S. senator from 1993 to 1999, and as governor from 1999 to the present, have been fewer and harder-fought, Brennan said.

Kempthorne was born in San Diego and has lived in Idaho for 35 years. He earned a political science degree from the University of Idaho, where he was student body president as a junior. He and his wife, Patricia, have two grown children.

Before running for mayor, he worked as a public affairs manager for FMC Corp., a Philadelphia chemical company, and was executive vice president of the Idaho Home Builders Assn.

His election and reelection as governor came handily: He won the 1998 election by 68%, and four years later by 56%.

Kempthorne, who got to know Bush when both were governors, was considered a leading candidate to be the new administrator of the Environmental Protection Agency in 2003. The job eventually went to a career administrator, Stephen L. Johnson, but Kempthorne remained on Bush's radar. When the president visited Idaho last summer, the two went bike riding in the mountains.

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Kempthorne's popularity took some hits after the Sept. 11, 2001, attacks when he barricaded the Statehouse and closed off several city blocks for nearly a year. A number of downtown businesses in this city of 185,000 suffered as a result of the closures. "It was a huge overreaction," said Boise Mayor David H. Bieter, who held a town hall meeting on the issue.

In May of last year, Kempthorne bounced a couple of checks totaling $111 to his hairstylist. The governor, who earns a salary and housing allowance of more than $150,000, told the media that he and his wife had been very busy and that their finances had been drained by surgeries for his chronically bad back.

The mishap made the governor appear more down-to-earth to many Idahoans, just as his avid interest in Harley-Davidson motorcycles had.

Even his harshest critics — including Spokane, Wash., Democrat and former Idahoan Tom Keefe, who calls Kempthorne "a pleasant man in a somewhat empty suit" — often end their critiques with statements like "That doesn't mean I don't like the man."

Keefe said it wouldn't surprise him if, after Kempthorne served as Interior secretary, the former governor became "a head lobbyist for the mining industry." Mining and ranching interests have strongly endorsed Kempthorne.

Overriding disagreements with Kempthorne on economic and social matters is the sense among Idahoans that "one of our own is ready for the big leagues," said political science professor Steve Shaw of Northwest Nazarene University in Nampa, Idaho.

There's great pride that another Idaho governor could follow former Gov. Cecil D. Andrus, Interior secretary under President Carter.

Shaw said some Idaho residents saw Kempthorne as "a photogenic man who isn't much into doing the heavy, hard lifting of getting policies pushed through."

Examples include Kempthorne's unfinished campaign, which began when he was U.S. senator, to overhaul the Endangered Species Act; and his child welfare program, Generation of the Child, which critics say has fizzled.

Idaho legislators fear that Kempthorne's $34-million plan to improve Idaho parks and his $1.6-billion highway project may fall by the wayside if the governor becomes too distracted by the Cabinet appointment process.

But what will probably carry the day for Kempthorne politically is his knack for connecting with people.

Last year, Northwest Nazarene University awarded Kempthorne an honorary degree. After the reception, with the media and everybody gone, Shaw watched as Kempthorne knelt on the floor and chatted face-to-face at length with several small children.

Shaw said: "There's something very human about the man."

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Times staff writer Julie Cart in Los Angeles contributed to this report.

Senator Could Play A Smarter Hand On Energy (LAT)

By Ronald Brownstein

The Los Angeles Times, March 19, 2006

Jeff Bingaman is a personable, hard-working and very smart senator. But the New Mexico Democrat doesn't appear to be much of a poker player.

Bingaman is now helping Senate Republicans and the energy industry advance one of their top goals: a bill to expand drilling for oil and gas in the Gulf of Mexico off the Florida coast. He's doing so even though Republicans are blocking the energy priorities of Bingaman and most other Democrats: more focus on conservation and renewable energy.

By helping Republicans pursue their agenda while the GOP suppresses Democratic preferences, Bingaman isn't only making a bad bargain — he's making it more difficult for the nation to craft a comprehensive plan to reduce our excessive dependence on foreign oil.

The key to greater energy independence isn't so much a scientific breakthrough as a political accommodation between the forces supporting more domestic production and those focused on greater conservation. And that won't come without the kind of hardball bargaining so far missing from the legislative maneuvering over the Florida drilling plan.

The debate on this issue is important partly because it could set the model for what are likely to be a series of confrontations over offshore drilling.

Much of the outer continental shelf has been off-limits for decades. In 1981, James G. Watt, President Reagan's chain saw of an Interior secretary, proposed to sprout oil rigs across 1 billion acres offshore; Congress, fearing oil spills and other environmental damage, blocked him by banning leasing off most of the nation's coastline.

Congress has renewed that moratorium every year since, and Presidents George H.W. Bush and Clinton reinforced it with anti-drilling directives that extend through 2012. Call it Watt's bequest to the environmental movement.

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But those shields are cracking. With energy prices high and concern about energy independence higher, proposals are proliferating in Congress to reopen the outer continental shelf to drilling for natural gas or to allow states to opt out of the moratorium. Last month, the Bush administration released a draft five-year plan that envisioned substantial offshore development in the Gulf Coast, the Mid-Atlantic and off Alaska.

The next skirmish in this escalating battle is the legislation on Florida drilling, sponsored by Sen. Pete V. Domenici (R-N.M.), chairman of the Senate Energy and Natural Resources Committee, with support from Bingaman.

The bill would open a large swath of the gulf south of Pensacola and west of Tampa. Although the area isn't covered by the congressional moratorium, environmentalists and Florida's tourism industry have long opposed drilling there. Both of the state's U.S. senators, Republican Mel Martinez and Democrat Bill Nelson, are also resisting.

The administration's new plan envisions leasing about 2 million acres in the area over the next five years. But Domenici's bill would require the Interior Department within the next year to lease as much as 3.6 million acres, including areas within 100 miles of the Florida coastline.

Martinez and Nelson want to limit the gulf drilling to no more than 1.3 million acres and bar it within 150 miles of the coastline, while extending the moratorium for the rest of the outer continental shelf through 2020. But Domenici's approach recently roared through his Energy Committee on a 16-5 vote.

Even opponents concede Domenici's bill probably has majority support in the Senate. But it's uncertain that he could muster the 60 votes needed to break a filibuster by Nelson, who has threatened one. And that should provide critics leverage to negotiate.

Environmentalists want to preserve the moratorium on almost all offshore development. That's understandable: It's their job to be purists. But given the concern about foreign oil, the Republican push for greater domestic production, and the substantial resources potentially available offshore, more drilling seems inevitable.

Rather than trying to block all offshore leasing, opponents should insist that more drilling occur only as part of a comprehensive energy plan. One element of such a plan would be tight environmental protections and careful limits on the areas opened for lease. Equally important would be commitments from drilling advocates to couple any new production with serious measures to reduce demand.

That's where Bingaman has played such a questionable hand. Last year, White House officials and congressional Republicans agreed to strip from the final version of an energy bill a measure that Bingaman had steered through the Senate requiring utilities to generate 10% of their electricity from renewable energy by 2020. Last week, the Senate, on a nearly party line vote, rejected a Bingaman proposal to pump $5.3 billion more into federal spending on conservation and renewable energy. Domenici and every Energy Committee Republican voted against Bingaman.

And yet, on the Florida bill, Bingaman is providing critical bipartisan cover for the same GOP legislators who derailed his ideas.

When asked why he and other Democrats should accept more Florida drilling while their own proposals languish, Bingaman seemed surprised.

"I think you make progress where you can in this process," he said. "I have no problem supporting this as a free-standing provision."

The problem is that this Congress isn't likely to pass any "free-standing provision" promoting conservation, efficiency or alternative energy. Those priorities, essential to any long-term energy strategy, can advance only if Republicans see them as the price of increasing domestic energy production.

Greater offshore drilling would make sense in a grand bargain on energy that includes tougher fuel economy standards for vehicles and much greater support for renewable energy. But that bargain will never come if Democrats such as Bingaman give Republicans and the energy industry what they want without demanding anything in return.

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Ronald Brownstein's column appears every Sunday. See current and past Brownstein columns on The Times website at latimes.com/brownstein.

Going Cold Turkey (WP)

The Washington Post, March 19, 2006

SOMETIME BETWEEN now and the end of the month, the Bush administration is due to issue a revised set of fuel economy standards for "light trucks," a category of passenger cars that includes most sport utility vehicles, smaller pickup trucks and minivans. In other words, the White House is at last able to start making good on its promise to end America's "oil addiction," in a concrete way.

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Unfortunately, there isn't yet any certainty that the necessary willpower exists. At the moment, the Transportation Department's tentative proposal to update the current rules requires manufacturers to raise the fuel economy standards for light trucks by only 1.8 miles per gallon over four years. That's a slower rate of improvement than is mandated at the moment. The technology exists to raise the standards much higher, much faster and not at much greater cost. Raising the standard for light trucks from the current 21 mpg to 25 mpg in 2010 and 26 mpg in 2011 would, according to a calculation by Environmental Defense, save almost as much oil annually

by 2025 as we currently import from Saudi Arabia.

More important, the administration should start including heavier pickup trucks and SUVs, which, thanks to a regulatory quirk, aren't covered by minimum mileage rules at all. Again, requiring manufacturers to use available technology and to make minimal improvements could make a huge difference over time, both in saving fuel and in reducing emissions of the carbon dioxide and other greenhouse gases that cause global warming.

There is no reason not to make these changes -- except cowardice. But these days, not even that is an excuse. Some 93 percent of Americans, according to one poll, support making cars and trucks more fuel-efficient. Nowadays, saving fuel is not only good for the economy, good for foreign policy and good for the environment, it's politically popular, too.

A Breath Of Fresh Air (NYT)

The New York Times, March 19, 2006

Clean air advocates who have had little to cheer about for the last five years finally won a big victory on Friday. In a unanimous decision, a three-judge panel of the United States Court of Appeals for the District of Columbia Circuit struck down as illegal an attempt by the Bush administration to allow power plants and other industrial polluters to evade the Clean Air Act.

At issue was a provision of the act known as New Source Review. It requires older power plants to install modern pollution controls when they undergo physical or operational changes that increase harmful emissions. The rule was largely unused until the mid-1990's, when the Clinton administration and Northeastern states led by New York's attorney general, Eliot Spitzer, decided to start suing companies that had upgraded their plants without installing the necessary controls. The companies complained to Vice President Dick Cheney about the costs and Mr. Cheney ordered the Environmental Protection Agency to find a way around the law.

The agency's answer was an amazing piece of regulatory casuistry that would have allowed utilities to make investments in a plant equal to one-fifth of the total cost of replacing it before the rule was applied; anything less than that was to be regarded as "routine maintenance."

This extraordinarily generous threshold would have allowed hundreds of plants responsible for thousands of illnesses to continue with business as usual. As the court noted, it would also have had the perverse effect of allowing plants that are now in compliance with the law to break it. This is not, the court added, what Congress had in mind. Ruling in favor of a coalition of states and environmental advocacy groups, the court declared that the "plain language" of the act required a much stricter approach, as the Clinton administration had devised, and that only "a Humpty Dumpty" interpretation, as the court called the E.P.A.'s position, could construe the law otherwise.

We should not expect the current E.P.A. administrators to rush the battlements with new enforcement cases. Indeed, such is Mr. Cheney's continued reach in these matters, the agency even now is seeking other, subtler ways to undermine the law. But it is nice to hear someone say that you cannot rewrite an act of Congress just because you do not like it.

FBI/DEA/ATF/USMS:

Audit Critical Of FBI, Contractors (WP)

By Dan Eggen

The Washington Post, March 18, 2006

GAO Questions Millions in Expenses on Computer Upgrade

The FBI and its contractors spent more than $17 million on first-class airfare, inflated labor rates, missing equipment and other questionable payments during the botched attempt to upgrade the bureau's outdated computer system, according to a new audit from congressional investigators.

The findings by the Government Accountability Office expand the controversy surrounding the FBI's Trilogy program, which cost more than $535 million but failed to produce a usable case-management system for agents because of cost overruns and technical problems.

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The FBI announced this week that it would spend an additional $425 million in an attempt to finish the job. Two of the contractors singled out in the audit for inflated spending, Computer Sciences Corp. and CACI International Inc., have been chosen as subcontractors for the new system, named Sentinel.

Officials with the FBI and the project's main contractor, Lockheed Martin Corp., have vowed to implement stricter controls to avoid cost overruns and other problems in the new initiative.

The 82-page GAO report, obtained by The Washington Post, outlines a long series of questionable expenditures by contractors assigned to the Trilogy project. For example, more than 100 airplane flights costing more than $120,000 were booked at first-class or full-fare rates by CSC and others, despite government rules requiring lower-priced tickets, the report said.

Contractors also did not provide adequate documentation for millions of dollars in costs billed to the FBI, the report said. In one invoice cited by the GAO, $1.907 million out of $1.951 million was listed only as "other direct costs" by CACI.

The review also showed that CACI bought 30,000 pens and 30,000 highlighters for training sessions that were custom-made for Trilogy. Total costs: $19,705 for the pens and $32,314 for the markers.

The audit blasts the FBI and the General Services Administration for poor oversight of these and other expenditures. The report also notes that the FBI -- which has had a history of difficulty keeping track of items including guns and laptop computers -- was unable to locate more than 1,200 items purchased with Trilogy funds, including personal computers, servers and printers, valued at $7.6 million.

The FBI's struggle to modernize its computer system has been a recurring headache for Director Robert S. Mueller III and has earned it considerable criticism from lawmakers. The Sept. 11 commission said outdated computers may have contributed to missteps before the 2001 attacks and continue to hamper the FBI in combating terrorism and other crimes.

The hardware upgrade overseen by CSC was largely successful, yielding thousands of new PCs for agents. But a separate $170 million software upgrade foundered and was abandoned last year because it was over budget and did not work.

The auditors said the problems with Trilogy may well be much worse than their report shows because the review was based on only a portion of the FBI's payments to contractors. "If these weaknesses go uncorrected, future contracts, including those related to the FBI's new electronic management system initiative, referred to as Sentinel, will be highly exposed to improper payments," the auditors wrote.

That assessment echoes a warning issued earlier this week by Justice Department Inspector General Glenn A. Fine, who said in a report that the FBI is at risk of repeating its Trilogy mistakes with Sentinel because of management turnover and weak financial controls.

Sen. Charles E. Grassley (R-Iowa), a frequent FBI critic and one of the senators who requested the audit, said, "It's time for the FBI to explain what assurances it has that the taxpayers will be able to recover any funds these companies owe to the government before we start paying them millions more for work on Sentinel."

The FBI said in a statement that it has tracked down more than 1,000 of the missing items and has put in place numerous checks to avoid the problems that plagued Trilogy. "We have strengthened our internal controls to avoid repeat of the issues cited by auditors, from any vendor," spokesman Michael Kortan said.

Tim Sheahan, president of the CSC division that handled the contract, said many of the airline expenses were due to short-notice trips by employees who frequently had to crisscross the country to troubleshoot problems or deliver equipment for the FBI's massive hardware upgrade. He also said expenditures were well documented.

"Think about a rolling wave of humans and stuff rolling across the United States and being deployed," Sheahan said. "I believe that the things we bought were well documented and if there was a question about something, we had the backup."

In its own letter responding to the allegations, the GSA said it accepted the GAO's recommendations for reform but disagreed with some of its conclusions regarding travel and other costs. A CACI representative did not return a telephone message yesterday.

Lockheed Martin will be paid $305 million as the main contractor for the Sentinel project. It will be required to meet benchmarks in order to be paid as the six-year project proceeds, FBI and company officials said this week. Officials hope to provide FBI agents with Internet access to some FBI databases within a year, and the entire Web-based Sentinel system is scheduled to be operating by late 2009.

FBI Questioned On $17M Computer Spending (UPI)

United Press International, March 19, 2006

WASHINGTON, March 19 (UPI) -- The U.S. federal spending watchdog has challenged the FBI over $17 million in computer expenditures and other spending on equipment that can't be located.

The audit was done by the Government Accountability Office on the FBI's Virtual Case File program, which was launched after the Sept. 11, 2001, terrorist attacks.

In an 87-page report obtained by CNN, auditors said another $7.5 million was spent on 1,200 pieces of equipment that can't be accounted for.

However, an FBI spokesman told CNN the agency's own audit had accounted for most of the equipment.

The FBI's new Sentinel computer system will cost about $400 million, and the GAO warned in its report that unless accounting procedures are tightened, millions more could be wasted on the new project.

Many 'Concerns' Cited In Audit Of New FBI Program (WT)

By Jerry Seper

The Washington Times, March 19, 2006

The FBI has improved its ability to plan and manage a new information-technology project but still faces major problems in implementing the program, designed to replace a failed $170 million system, an audit says.

Known as Sentinel, the program was introduced last year as a replacement for the failed Virtual Case File system and is scheduled to be fully operational by 2009 at an expected cost of $425 million. It is part of an FBI effort to close internal communication gaps and improve information sharing with other law-enforcement and intelligence agencies.

The system will be built by Lockheed Martin Corp., the winning bidder last week on a $305 million contract. The FBI also expects to spend about $120 million evaluating the system.

The audit by the Justice Department's Office of the Inspector General said that although the FBI has developed new technology-planning processes that can help the agency complete a new case- and information-management system, "several continuing concerns" remain regarding the FBI's management of the new project.

Those concerns include incomplete staffing of the Sentinel program management office, the FBI's ability to redirect funds to complete the second phase of the project without jeopardizing its mission-critical operations, and Sentinel's ability to share information with external agencies and provide a framework for other agencies' case-management systems.

The audit also raised questions about the FBI's ability to control Sentinel's costs and a lack of documentation required by the bureau's information-technology investment management processes.

In a response to the audit, the FBI said steps were being taken to ensure the system's security, design and costs.

The Virtual Case File system ended last year after the Office of the Inspector General said the project had poorly defined design requirements, lacked mature information-technology investment management and suffered from poor management and oversight.

Inspector General Glenn A. Fine said the FBI plans to fund the first two phases of Sentinel by seeking congressional approval to redirect funds, with the third and fourth phases funded by new appropriations. He said more than $14 million of the initial redirection will come from the bureau's counterterrorism budget, $13 million from intelligence-related activities and $2 million from its cyber division.

Previously, "the FBI lacked an effective, reliable system to track and validate the project's costs. Although the FBI stated that it is evaluating a tool to track Sentinel project costs, we view the potential weaknesses in cost control as a project risk," Mr. Fine said.

In addition, he said, the bureau has not adequately examined Sentinel's ability to connect with external systems in other Justice Department areas, the Department of Homeland Security and other intelligence agencies. He said that if "such connectivity" is not built into Sentinel's design, other agencies could be forced into costly and time-consuming modifications.

Md. First Lady's TV Talk Show Won't Be Seen In Classrooms (WP)

By Matthew Mosk

The Washington Post, March 19, 2006

Maryland first lady Kendel Ehrlich pitched the state schools superintendent a plan to air her television talk show about drug and alcohol prevention in public school classrooms, but the department eventually turned her down.

The State Education Department declined her offer after an expert on drug and alcohol prevention reviewed it and determined that it was not suitable for children. One episode, filmed on the beach and at a nightclub in Ocean City, includes sexually explicit language and brief nudity as it explores the pitfalls of drinking.

The department instead offered to distribute the videos to parents and PTAs.

Comcast Cable Communications Inc. paid Ehrlich $55,000 to host 16 episodes of "Live Right: Straight Talk on Substance Abuse," which to date has been available only in the cable provider's on-demand library.

Democrats in Annapolis said they considered the proposal the latest attempt by the Republican governor and first lady to use their clout to gain widespread television exposure and statewide name recognition.

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In response to a series of taxpayer-financed tourism commercials and public service announcements that featured the governor and first lady, the legislature has included language in the budget this year that would ban the practice during the upcoming campaign season.

A spokesman for the first lady said she would not comment. State Superintendent Nancy S. Grasmick said she believes Kendel Ehrlich's goals in seeing the show distributed were in no way political but instead aimed at spreading the word about teenage drug and alcohol abuse, an issue the first lady has championed for years.

"I don't think it's politicizing the classroom," Grasmick said. "Each first lady, even Laura Bush, Hillary Clinton, they all have a piece they carve out that is a personal interest. . . . For this first lady, this is a real issue."

Grasmick said she never viewed the show and was not aware that one episode include scenes inappropriate for schoolchildren.

Most episodes feature Kendel Ehrlich interviewing authors and scientists who study alcohol abuse, and "straight talk" discussions with recovering addicts. But in one episode, a camera crew follows a group of teenagers to the beach and films them as they become drunk. They smoke cigarettes, curse and talk about such topics as pot, herpes and lesbians. A teenage girl jiggles her hips, and the camera pans to her lower torso.

The first lady appears as the host of every episode and is introduced in each show as the governor's wife. The two are shown in a photograph, hands clasped over their heads, celebrating his inauguration.

House Speaker Michael E. Busch (D-Anne Arundel) raised concerns not about the show's content but about the politics of disseminating it through the schools.

"All of us like to go into classrooms and read to kids," Busch said. "What you don't do is infringe your will on the state school system. You don't try to make yourself part of the mandated curriculum."

Grasmick said the first lady raised the prospect of distributing the show in schools at the conclusion of a November PTA conference. She said "Live Right's" producer, Kris Morrissey, had subsequent talks with education department officials about broadcasting the program.

Morrissey heads a company called Chesapeake Productions and is married to a law school classmate of the first lady's. During the 2002 gubernatorial campaign, Morrissey produced a documentary filming the two major candidates in candid moments as they moved around the state.

In November, the governor appointed her husband, John Morrissey, then a Bowie lawyer, to the Prince George's District Court. Kris Morrissey declined to comment.

Her proposal never broached the subject of compensation, said JoAnne Carter, assistant state superintendent for student and school services.

Grasmick said the idea started to fall apart earlier this year when the department sent episodes out to an expert on drug and alcohol issues for his evaluation. That expert was Michael Gimbel, director of substance abuse education for the Sheppard Pratt Health System in Baltimore.

Gimbel hosts his own show on the topic, "Straight Talk," which has been airing for 17 years in Baltimore on a Fox affiliate. He did not want to give a lengthy review of the first lady's effort and did not wish to discuss the most racy episode.

"I gave them my opinion," he said. "The bottom line is, they're not going to hurt anybody. But when you do shows that are just interview shows, they can become pretty boring for people watching."

Gimbel also said he was surprised Ehrlich had been paid to produce and host the show, and not just because he had been doing the same work for free for 17 years.

"I thought this was part of her role as first lady because she had taken on the issue of drug abuse," he said, adding, "I immediately called my Fox 45 friends, and I asked for a raise."

Staff writer Libby Copeland contributed to this report.

The Next Crack Cocaine? (WP)

By Amit R. Paley

The Washington Post, March 19, 2006

As Meth Use Grows, Officials Fear Region Is Unprepared to Deal With It

Jimmy Garza was freaking out. As officers handcuffed him inside his posh Fairfax County home on charges relating to a crystal meth addiction, the America Online administrator realized he was about to lose his $60,000-a-year job, his two cars and his freedom.

The arresting officers seemed baffled by his drug of choice. "You know, we don't have a meth problem in this area," Garza remembers one of the officers telling him that night in 2004.

"Are you kidding?" Garza, now 40, snapped back. "Wake up and look around you."

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The number of methamphetamine labs and addicts in the Washington area has jumped in recent years, but law enforcement and public health officials say the region is still woefully unprepared to deal with a problem that remains under the radar.

Meth, a dangerously addictive synthetic drug that stimulates the nervous system, has infiltrated suburbs in Virginia and, to a lesser degree, Maryland; Anne Arundel County found three labs in six months last year. In the District, the drug has been used mainly by gay white men but has recently spread into the black and Latino communities and to straight teenagers as young as 15, health officials said.

For years, officials thought the Washington region might be immune to methamphetamine, which has ravaged West Coast and midwest communities for more than a decade. Some wondered if meth was just a localized problem.

But the number of seized meth labs in Maryland, Virginia and the District has increased from close to zero in 2000 to more than 80 last year. In Washington, health officials say 75 percent of patients in some clinics have abused the drug, a big increase from a few years ago.

"The jurisdictions in this area just have not picked up on the exigency regarding crystal meth," said Sgt. Brett A. Parson, commanding officer of the D.C. police gay and lesbian liaison unit.

Sounding the alarm that the meth crisis could become the next crack epidemic, some law enforcement and public health officials are pushing for a stronger response. The Drug Enforcement Adminis tration trained more Maryland officers to dismantle meth labs last month than it did in all of 2005; a District-funded public service announcement was released last week to be aired in local clubs and on television stations.

Still, some experts said those nascent efforts are not enough to combat the spread of meth.

They call for training rank-and-file police officers to detect meth labs, the passage of legislation that would restrict the sale of ingredients used to produce the drug and prevention education in schools to teach children about its dangers.

"We really need to stop sitting around and just hoping that meth won't become the next crack cocaine," said Kevin Shipman, a manager with the District's Addiction Prevention and Recovery Administration. "We need to have a strong regional response before it's too late."

When meth, which, nationally, has been a largely rural epidemic, swept east across the nation, it hit the Shenandoah Valley hard, becoming one of the most-seized drugs in that part of the region. Labs have more recently popped up in semi-rural areas of Southern Maryland and Anne Arundel, where addicts are called "methnecks."

The labs require only simple equipment, such as bottles and tubing, which is easy to hide in almost any kind of building. The ingredients for the drug include medications containing ephedrine or pseudoephedrine, red phosphorous and hydrochloric acid.

The epicenter of meth use in the region is the District's gay community, where the drug showed up about five years ago and has been spreading quickly ever since, health officials said. Known as Tina in most gay circles, the drug has become the primary drug of choice, topping even alcohol among patients admitted to the Whitman-Walker Clinic, which primarily serves gay clients in the District.

"It's everywhere," Parson said. "I would defy you to find anybody in the metropolitan area who is white and gay and doesn't know one person who is using meth."

The drug is particularly troubling to medical workers in the gay community because meth is associated with risky sexual behavior. Some gay meth addicts use the Internet to find partners to use the drug and have sex -- known as party 'n' play -- encounters that sometimes turn into multiple-day sex parties.

Shipman said meth addicts are three times as likely to contract HIV as non-users because they tend to have unprotected sex and multiple partners.

Health experts say the addiction is particularly hard to treat. The National Institute on Drug Abuse says there is currently no "safe and tested" medication to treat meth addiction. Programs rely on counseling and behavioral modification.

Experts said one of the biggest problems in bringing attention to the meth problem in the area is the lack of reliable statistics on the number of users. Richard Rawson, a professor at UCLA who has been studying the drug for two decades, said public health indicators that should indicate the meth problem -- such as emergency room visits and patients in treatment -- lag five to seven years behind the emergence of the drug.

"In some places, the public health people are saying, 'Well, we're not seeing it; it's not that big a problem here,' " he said. "But that's not what the data means."

The best predictors of an emerging meth epidemic, Rawson said, are the presence of meth use in the gay community and the discovery of even small numbers of meth labs.

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At the DEA's meth lab training facility in Quantico, officials have identified the growing problem in the Washington area and are admitting increasing numbers of local police officers. In a recent class for 41 state and local officers held last month, seven were from the Washington area, including Annapolis and Montgomery, Prince George's, Calvert and Fauquier counties.

"We know the growth in Maryland and Virginia is exponential," said John Michael Donnelly, chief of the training unit.

But some of the officers are concerned that most rank-and-file officers won't get this training, which is expensive and in high demand. In Prince George's alone, 10 officers are on the long waiting list.

"We've got to get more guys that are actually on the street certified in this," said a Calvert narcotics detective at the training in Quantico, who spoke on condition of anonymity because he works undercover. "I think a lot of guys are probably seeing meth but don't know what it is."

Sgt. Shawn A. Urbas, a spokesman for the Anne Arundel police, said it would be easy for officers to miss a disassembled meth lab -- which might be just a box of tubing and some beakers -- if they had never seen one before. He said that's why the department is focusing on training.

Health officials are also pushing for legislation that would restrict the sale of cold medications that contain pseudoephedrine, one of the ingredients used to manufacture meth. Virginia, like many states across the country, limits such sales, but Maryland and the District do not. Some drugstores are voluntarily restricting sales.

Some former addicts, though, said the best way to stop meth is to educate the public about its dangers. Garza said he was adamantly against drugs -- "I was totally Nancy Reagan about it" -- until a friend offered him meth and he began using it at gay clubs.

Soon he was hooked on the drug -- which causes users to stay up for days at a time -- and at one point partied for seven straight days without sleeping. "I had no idea that that first little bit would alter my life forever," he said.

But it did. After his arrest, Garza lost his job, was evicted from his home and declared bankruptcy. He was able to get treatment, though, and now works as a limo driver. His primary mission is to tell his story so that people realize the dangers of meth.

"Even though it's so obviously here, it's still very hidden. It's very hush-hush," Garza said. "But we're trying very hard to bust the secrecy off of it."

IMMIGRATION:

Rift On Immigration Widens For Conservatives And Cardinals (NYT)

By Rachel L. Swarns

The New York Times, March 19, 2006

WASHINGTON

THE fierce battle over the future of America's immigration system is spilling from Capitol Hill onto the airwaves, as conservatives accuse Democrats, human rights groups and even some labor unions of trying to stymie Republican efforts to stem the tide of illegal immigration.

But in recent weeks, some commentators and prominent Republicans have turned their swords against another formidable foe in their battle to tighten the borders: the Roman Catholic Church.

Immigration has long caused friction between the church, with its advocacy for migrants, and conservatives, who want to slow illegal crossings over the Mexican border. But as Congress wrestles with the fate of the nation's 11 million illegal immigrants, that tension has escalated into a sharp war of words, highlighting the divide among some Republicans and Catholics who have fought side by side on other issues like abortion and same-sex marriage.

In December, after the Republican-controlled House of Representatives passed a tough border security bill that, among other things, would make it a crime to assist illegal immigrants, the United States Conference of Catholic Bishops assailed it as extremely punitive and called on its flock to oppose it. Church officials have sent lobbyists to Congress and this month parishes sent members to rallies in Chicago and Washington to push for legislation that would legalize undocumented immigrants and put them on the path to citizenship.

Some Republicans are firing back.

In February, Representative Tom Tancredo, a Colorado Republican who opposes illegal immigration, took issue with Catholic bishops, among other religious leaders, "for invoking God when arguing for a blanket amnesty" for illegal immigrants. This month, two powerful Republican representatives, Peter King of New York and F. James Sensenbrenner of Wisconsin, the co-sponsors of the border security bill, criticized the church leadership on "The O'Reilly Factor" on Fox News Channel,

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particularly Cardinal Roger Mahony of Los Angeles, who has said he would instruct his priests and parishioners to defy the legislation if it ever became law.

Meanwhile, cable news commentators Tucker Carlson and Lou Dobbs have questioned whether the church should maintain its tax-exempt status, given its political activism on immigration. And in an interview, Mr. King accused church leaders of "committing the sin of hypocrisy" in their campaign to sway Congress and Catholic voters.

"This is the left wing of the Catholic Church — these are the frustrated social workers," said Mr. King, who described himself as a practicing Catholic. "They're giving an incentive for more illegals to come here. I don't think it's right."

In fact, the Catholic leadership is united on this issue, and includes several bishops who strongly suggested in 2004 that Catholics should vote for President Bush because of his opposition to abortion. Both sides say they will continue to work together on those campaigns. But the pointed attacks by some Republicans are notable, given that the party has worked hard to woo Catholic voters in recent years. Some analysts warn that such criticism of the church and of immigrants may alienate a critical voting bloc of largely immigrant origins. But others point out that, unlike their clergy, most white, non-Hispanic Catholics remain deeply divided over immigration, and a battle seems to be emerging for their hearts and minds.

There are political implications. In preparation for the 2004 presidential election, the Bush administration cultivated church leaders, organized more than 50,000 volunteers and hired staff members to reach out to Catholic voters. The goal was to break the traditional allegiance to the Democratic Party, an affiliation that began to crumble with Ronald Reagan.

The campaign bore fruit: In 2004, a majority of Catholics voted for a Republican presidential candidate for the first time in 16 years.

But some analysts warn that Republicans need to tread carefully when they criticize the church and illegal immigrants. "The danger of this situation politically is that you'll have an entire season in which Republican politicians are saying critical things about the Catholic hierarchy," said Deal Hudson, the Republican architect of the effort to court Catholic voters in 2004. "That's not going to be helpful in terms of keeping the coalition together."

But the Rev. Richard John Neuhaus, editor of First Things, a conservative journal about religion and public life, said he doubted that the disagreement would have much impact on Catholics. He said the sexual abuse scandals had already weakened the credibility of the church leadership in the minds of some Catholics.

Republicans and the Catholic clergy have differed before on other issues — like the war in Iraq and the death penalty — without deeply affecting parishioners. And Mr. Neuhaus noted that while Catholics often connect deeply with their immigrant history, some make clear distinctions between their parents and grandparents and the more recent arrivals from Latin America.

"My hunch is that if you remove from the bracket the approximately one-third of the Catholic population that is Hispanic, that probably most other Catholics would divide on this questions pretty much as the general population does," Father Neuhaus said.

The Catholic leaders are keenly aware of the divisions among the faithful on this issue. Seventy of the 197 Catholic dioceses have formally committed to the immigration campaign, and officials are working hard to recruit the others.

Leo Anchondo, who directs the immigrant campaign on behalf of the Catholic Conference of Bishops, said the cardinals and bishops were not surprised there was a backlash against such efforts.

"Immigration has unfortunately become a very controversial topic," he said.

But Cardinal Theodore E. McCarrick of Washington said he and other leaders decided they could not stay silent after witnessing the hardships endured by illegal immigrants, particularly as the wave from Latin America has surged. "This is a justice issue," he said. "We feel you have to take care of people."

Mr. Sensenbrenner, the Republican chairman of the House Judiciary Committee, said Republicans had an obligation to clamp down on the border. To do otherwise, he said, would likely transform illegal immigrants into a permanent underclass in the United States.

That, he pointed out on "The O'Reilly Factor," was an undesirable option. "And I don't think it's Christian either," he said.

For Gates, A Visa Charge (WP)

By David S. Broder

The Washington Post, March 19, 2006

When the Senate comes back to work next week, it is scheduled to take up the issue of immigration. And that is what brought Bill Gates to Washington for a rare visit last week.

The Microsoft billionaire does not love this capital, but he decided to add his personal voice to his Washington office's lobbying effort to expand the number of foreign-born computer scientists allowed to work in this country under a special program known as H-1B visas.

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In an interview sandwiched between his meetings on Capitol Hill, Gates told me the "high-skills immigration issue is by far the number one thing" on the Washington agenda for Microsoft and for the electronics industry generally. "This is gigantic for us."

Since autumn 2003 Congress has limited the number of people admitted annually on H-1B visas to 65,000. To qualify for such a visa, an applicant must have at least a bachelor's degree, specialized knowledge and a job offer from a U.S. employer. The visa is generally good for six years, with the possibility of applying for extensions.

So great is the demand for such skills in the burgeoning high-tech world that in August 2005 the last of the visas available for fiscal 2006 were issued. That means a 14-month shutdown of the program, until October of this year. "It's kind of ironic," Gates told me, "to have somebody graduate from Stanford Computer Science Department and there's not enough H-1B visas, so they have to go back to India. . . . And I have people who have been hired who are just sitting on the border waiting."

The draft bill that Senate Judiciary Committee Chairman Arlen Specter has been preparing for floor consideration would expand the annual H-1B limit from 65,000 to 115,000. By excluding dependents (who now are counted against the cap) from the total, it might mean the entry of as many as 300,000 people a year -- one-tenth of 1 percent of the U.S. population.

As Gates said, these are highly paid, highly qualified individuals. Salaries for these jobs at Microsoft start at about $100,000 a year. Their counterparts can be hired more cheaply in China or India, he said, but Microsoft does 85 percent of its research and development work in the United States because it wants its computer scientists interacting directly with its program managers and its marketing people on its own campus.

Gates said he has a hard time understanding the logic of those who decry the outsourcing of American jobs yet are reluctant to facilitate bringing the high-skill people who are catalysts for economic growth to this country. "People just shake their heads at what kind of a central planning system would say having 65,000 smart people come in, that's okay, but 70,000 smart people, no."

President Bush and his administration support the expansion of H-1B visas. And Gates, in turn, is enthusiastic about the White House and bipartisan congressional efforts to boost the teaching of math and science in American high schools with the long-term goal of expanding the supply of qualified Americans for these jobs.

He is backing that effort both with gifts of technology from the company and grants of $300 million a year from his foundation for innovation in high schools. "But the benefit of things like that has got a fair time lag," he said, "and the next four or five years, it really hangs in the balance: how many of these talented people we want to hire, and who want to come here, can we hire?"

The answer is by no means certain. Opposition to the H-1B program grew during the dot-com bust, when groups representing domestic electrical engineers and computer technicians argued that foreigners were taking away their jobs. In 2003 they succeeded in cutting the quota by two-thirds, from 195,000 to 65,000, and they continue to oppose its expansion.

The Bureau of Labor Statistics reports that unemployment among computer and mathematical operators is less than 3 percent. Gates said, "If you're graduating from a reasonable university in this country, with a degree in computer science, you have many job offers."

Still, there is reluctance -- especially in the House of Representatives -- to lift the ceiling on H-1B visas in an election year.

The House has responded to public pressure to close the borders to illegal immigration and seems incapable of distinguishing that problem from the value of encouraging high-skill workers to bring their talents to the United States.

That's why Bill Gates comes to Washington.

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TAX:

Nonprofit Hospitals Face Scrutiny Over Practices (NYT)

By Robert Pear

The New York Times, March 19, 2006

WASHINGTON, March 18 — Congressional leaders, concerned that many nonprofit hospitals are not providing enough charity care to justify their tax-exempt status, say they will set standards for the industry if it does not do so itself.

The chairman of the Senate Finance Committee, Charles E. Grassley, Republican of Iowa, who had already been examining nonprofit groups like United Way and the American Red Cross, is broadening his focus to include nonprofit hospitals, with an eye to legislation that would clarify standards for their tax exemptions. Representative Bill Thomas, Republican of California, the chairman of the House Ways and Means Committee, began investigating the financial practices of nonprofit hospitals last year.

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The commissioner of internal revenue, Mark W. Everson, said tax officials often found little difference between nonprofit and for-profit hospitals "in their operations, their attention to the benefit of the community or their levels of charity care."

Huge changes have reshaped the health care industry in recent years, Mr. Everson said, but the basic standard for granting tax exemptions to hospitals has changed little since 1969.

Since 1969, Mr. Thomas said, "less and less has been required for hospitals to maintain tax-exempt status."

Before 1969, the Internal Revenue Service required hospitals to provide charity care to qualify for tax-exempt status. Since then, the agency has not specifically required such care, as long as hospitals provide benefits to the community in other ways — for example, by offering health fairs, screening for cancer and cholesterol, providing emergency care, training doctors and conducting medical research.

Health insurance companies typically negotiate with hospitals to secure large discounts off hospitals' posted prices. Uninsured people, with no one to negotiate on their behalf, are often charged much more than the insured, and some hospitals have been aggressive in trying to collect payment from the uninsured.

In a letter to the American Hospital Association this week, Mr. Grassley said he had "serious concern" about their billing and debt collection practices. He also expressed concern about the high salaries of some hospital executives, their joint ventures with commercial profit-making organizations and their use of profit-making subsidiaries.

While Congress is taking the initiative, administration officials have expressed similar concerns. President Bush has strongly encouraged hospitals to disclose detailed information about their prices, and tax officials say they intend to do more audits of nonprofit hospitals.

In the last few years, low-income people around the country have filed dozens of lawsuits arguing that private nonprofit hospitals are required to provide free or reduced-price services to the uninsured. Judges have generally rejected these arguments.

In a typical ruling last year, Judge Loretta A. Preska of the Federal District Court in Manhattan wrote: "Plaintiffs here have lost their way. They need to consult a map or a compass or a Constitution because plaintiffs have come to the judicial branch for relief that may only be granted by the legislative branch."

Federal tax law does not give patients an enforceable right to affordable medical care, Judge Preska said.

Sister Carol Keehan, president of the Catholic Health Association of the United States, said that nonprofit hospitals, like for-profit institutions, tried to earn a surplus, but used more of it to "take care of unmet health needs in the community."

In the last few years, Sister Carol said, a small number of Catholic hospitals have been accused of overly aggressive collection practices. These practices, she said, "resulted more from inattention than from a deliberate decision to hound poor people."

State officials have shown a keen interest in the issue. The attorney general of Kansas, Phill Kline, said he had opened an investigation of the billing and collection practices of nonprofit hospitals after receiving complaints from consumers. Some nonprofit hospitals have hired debt collection agencies that "harass the poor," Mr. Kline said.

In Illinois, Attorney General Lisa Madigan recently proposed legislation that would require hospitals to provide a minimum amount of charity care, equivalent to 8 percent of hospital operating costs. The Illinois Hospital Association opposes the legislation, saying it would "threaten the survival of many hospitals" by imposing new financial burdens.

In Minnesota, the state attorney general, Mike Hatch, said that stronger government regulation was needed because self-regulation was not enough.

Some nonprofit hospitals and health systems in Minnesota have provided "lavish gifts" and "grossly excessive" compensation to top executives while providing "paltry levels" of charity care, Mr. Hatch said.

When members of Congress raise questions about executive pay, they sometimes point to the compensation paid by teaching hospitals in New York. Tax-exempt organizations generally have to file annual returns with the Internal Revenue Service.

These forms, which are open to public inspection, show that the president of NewYork-Presbyterian Hospital, Dr. Herbert Pardes, received more than $4.3 million in compensation in 2004, plus $1.2 million in contributions to his employee benefit plan. About half of his pay was a reward for performance in prior years, the hospital said.

Dr. Spencer Foreman, president of Montefiore Medical Center in the Bronx, received $1.1 million in compensation and $712,000 in benefits.

In an interview, Dr. Foreman said, "Congressional interest in this area is quite appropriate, and we as an industry have to come forward with a comprehensive response." But in defining the proper level of charity care, he said, it is "totally unrealistic" to apply the same mathematical formula to nonprofit hospitals in destitute urban neighborhoods and affluent suburbs.

"If a hospital provides a benefit proportional to the community's needs and the institution's resources, it meets the community benefit test," Dr. Foreman said.

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Turning A Kid Into A 'Child' (WP)

By Albert B. Crenshaw

The Washington Post, March 19, 2006

Here's a tax question: When is your child not your child?

And here's a tax answer: When he's the child of his sibling.

To speakers of the English language, this sounds like gibberish. But to speakers of the arcane language of tax, it sounds like opportunity.

So if you're a well-to-do family about to file your 2005 federal income tax, it might be worth your while to wait until you read this. It may take expert help, and not everyone will benefit, but Congress appears to have laid a nice Easter egg for some of you.

A new provision of the tax law, which was meant to make the law simpler and fairer, is turning out to have done neither. The provision involves the definition of "child" in claiming various tax breaks, and it allows some alert taxpayers to claim benefits never intended for them.

It also deprives others of benefits they have gotten in the past.

A few years back, there was a hubbub around the "discovery" that federal tax law contained five different definitions of "child." This quickly became the, um, poster child for the absurd complexity that besets taxpayers as they try to figure out what they have to pay.

So in 2004, Congress, eager to look helpful, wrote into the law a single definition, to be used by taxpayers in claiming all the various tax benefits that go with having a child. That definition became applicable on 2005 returns.

The consequences have been turning up in recent months as taxpayers and accountants apply the new rules. Many of the quirks have been reported here, in the Wall Street Journal and other publications in recent weeks. But now John Buckley, chief tax counsel for the Democrats on the tax-writing House Ways and Means Committee, has put together a list and analysis of the winners and losers generated by the 2004 law, which he says "promises to be a large and embarrassing fiasco."

Buckley's paper is to be published in this week's issue of Tax Notes, an Arlington-based journal for lawyers and others interested in tax matters. The paper is accessible at the publication's Web site, http://www.taxnotes.org/ .

Among the more startling of Buckley's listings:

Children of well-to-do families may be able to use their siblings to claim the earned-income tax credit, which is meant for low-income working families. They may also be able to claim the $1,000 child credit, meant for middle-income parents. Or, they may more easily than in the past claim one of the tax credits aimed at moderate-income college students and their families.

In fact, such children may be able to claim benefits at no cost to their parents, who are ineligible because their income is too high or because they are subject to the alternative minimum tax, which among other things disallows personal exemptions.

To benefit, families need to have kids the right age, and at least one of the kids needs to owe tax, so across the country the impact is likely to be modest. But in high-income areas such as Washington, potential beneficiaries are likely to be more numerous.

The new rules consolidate the five definitions of child into one creature called a "qualifying child." Instead of being simply a "child" -- a concept most of us can grasp -- and getting more than half of his or her support from the taxpayer, a qualifying child, as Buckley notes, "covers a far broader range of relationships."

A qualifying child can be not only a son or daughter, he or she can be a grandchild, brother or sister, niece or nephew, foster child, stepchild or adopted child.

The qualifying child must have the same principal place of abode as the taxpayer for more than half the year. The rules indicate that temporary absences, such as for school or military service, don't count, Buckley says, adding that intent to return (or not to, if that is more advantageous) is all that is needed.

The qualifying child must also be younger than 19, or 24 if a full-time student, and must not have provided more than half of his or her own support. Note that it used to be the other way around: The taxpayer had to provide more than half the child's support. Thus, while a qualifying child can't be supporting himself, there is no longer a requirement that the taxpayer who claims him be supporting him.

Under this definition, someone can be the qualifying child of more than one taxpayer, and, while there are rules for breaking ties, the rules also allow the taxpayers to decide among themselves who gets the child-related benefits.

Now, with that in mind, consider this scenario: A well-to-do couple has a 22-year-old daughter who just finished college and has gone to work but is living at home. They also have a 16-year-old son in high school. The parents earn $200,000 a year and thus are well over the limits from the earned-income tax credit and the child credit and the Lifetime Learning credit, and are being hit by the alternative minimum tax, which means that their personal exemptions are also wiped out.

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So the daughter claims her brother as her qualifying child. She can take a personal exemption for him, and if her income is within the limits (no more than $31,030 of adjusted gross income and including no more than $2,700 in investment income) she can claim the earned-income tax credit. That credit is "refundable," meaning that if it exceeds her tax liability, any remaining credit is refunded to her in cash.

And when her brother goes off to college in a couple of years, she might consider paying some of his tuition and claiming the Hope education credit.

Alternatively, if the sister is still in college and is self-supporting, she cannot be the qualifying child of her parents. But under the temporary absence rule she is regarded as still residing with her parents, so she can use her brother to claim the EITC as long as she meets the income requirements.

If none of that works -- for example, if the daughter is still a full-time student and not self-supporting, or has too much investment income for the EITC -- she could still qualify for the $1,000 child credit, assuming her brother was younger that 17 at the end of 2005. That credit phases out beginning at an income of $110,000 a year, so her parents couldn't use it.

Families with two children and parents over that limit should take a hard look at this one if one of their kids has enough income to owe taxes and the other is young enough to qualify.

In fact, "for reasons that are unfathomable," Buckley says, the law allows younger children, even infants, to use older siblings to claim the child credit, as long as the older sibling is younger than 17.

The Bush administration, in its budget proposals for next year, is asking Congress to amend the law to specify that a taxpayer cannot be the qualifying child of a younger individual. It is also asking that the law require that if a parent lived with his or her child more than half the year, only the parent could claim the child as a qualifying child, though in some cases the parent would be able to waive the tax benefit to another family member with higher income.

These fixes would save the government $2.6 billion over 10 years, the Treasury Department figures.

But, as Buckley points out, the consequences of the new definition of a qualifying child are not all windfalls for taxpayers.

The new rules have knocked many single taxpayers whose adult children live with them out of head-of-household filing status, a benefit they had been able to claim in the past.

The rules also mean that a sibling who really is caring for another sibling is disqualified from the EITC if the care-provider is younger than 19 (or 24 if a full-time student).

There also can be problems in claiming personal exemptions for some taxpayers and in qualifying for the higher education benefits.

Buckley also cautions parents that employer-sponsored medical insurance is tax-free only to employees, spouses and their dependents, so treating a child as independent could, at least theoretically, trigger higher taxable income to the parents.

Given all this, Buckley says, the logical course for Congress would be to repeal the new rules and start over.

* * *

Hurricane Katrina notwithstanding , only about half of homeowners living in some of the most flood-prone areas of the country buy federal flood insurance, a Rand Corp. study found. And most of the homeowners who do buy it do so only because it is required by mortgage lenders or others. Just 20 percent of homeowners in the most flood-prone areas buy the coverage when it isn't required, the study found.

* * *

Electronic filing of tax returns continues to rise, the Internal Revenue Service said last week. Of the 60.7 million returns filed so far this year, 71.5 percent were e-filed, compared with 69.7 percent for the same period last year. While this percentage is expected to decline as the April deadline approaches, the IRS still figures more than half of all returns will be e-filed this year. The average refund so far this year is $2,423, up $99 from last year.

A Revealing Plan (WP)

The Washington Post, March 19, 2006

WHAT WOULD IT take to get the federal budget in balance -- honest, no-gimmick, no-fooling balance -- without raising taxes? This is a question the Bush administration would prefer not to discuss, and for good reason: It would require cuts so deep and wide as to be unimaginable as a matter of politics and unwise as a matter of policy.

How can we be sure? Well, the Republican Study Committee, a group of conservative House members, has produced an alternative budget that treads where Bush will not. And it is a helpful document, not in the sense of being realistic but for exposing the airiness of administration claims of fiscal prudence. Balance could be achieved by 2011, it shows, but only if Americans are willing to sacrifice a good chunk of their health care, education, energy, transportation and foreign aid -- in fact, pretty much all of the federal budget outside defense and veterans.

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What would go? Extra unemployment benefits and training to workers who lose their jobs as a result of foreign competition, heating assistance for low-income families, family planning funds, subsidized loans for graduate students and, after 2009, funding for the federal highway program. Also, Amtrak, the Corporation for Public Broadcasting, the National Endowment for the Arts, the National Endowment for the Humanities, the Agency for International Development and President Bush's Millennium Challenge Account. Substantially reduced would be funding for low-income schools, United Nations peacekeeping forces, the National Institutes of Health and block grants to states to pay for preventive health care for mothers and children. Head Start would be frozen at 2005 levels.

Average enrollment growth in Medicaid, which provides health care to poor people, was more than 7 percent annually between 2000 and 2004, and medical inflation itself is about 5 percent. Yet this budget would limit the growth in federal spending on Medicaid and the State Children's Health Insurance Program (SCHIP), which provides health care to uninsured children just above the poverty line, to 4 percent per year. The result? More poor people, and more poor children in particular, would go without care.

Some of the proposed cuts, such as eliminating farm subsidies or killing NASA's moon/Mars exploration program, are sensible. But they also are highly unlikely; just think how much trouble Congress had recently agreeing to a mere $40 billion in entitlement cuts.

Altogether, the alternative budget would cut almost $700 billion over five years -- $332 billion in non-defense discretionary spending and $358 billion in entitlements -- while allowing for $299 billion in new spending on defense and veterans and $630 billion in tax cuts (extending the previous Bush tax cuts plus adjusting the alternative minimum tax). And, for discretionary spending, these cuts are from 2006 levels -- they don't even take into account how inflation over the next five years (projected to be a cumulative

11.4 percent) would further strain federal dollars.

Outside of defense, the amount spent on discretionary programs would be nearly a third less in 2011 than current spending, adjusted for inflation; it would amount to the smallest share of the economy (2.2 percent in 2011) at any time since 1962, when that number was first measured. And even that understates the magnitude of cuts required; the budget doesn't make room for war funding after the next fiscal year.

These budget cuts would be shortsighted and mean-spirited; they would transform the role of the federal government. We find much of this unthinkable, and we believe most Americans would, too. That's why Mr. Bush doesn't talk about the real-life consequences of his tax cuts, and the real-life people who will suffer from them after he leaves office. So we thank the Republican Study Committee for producing this document. If this is what you want government to look like, go ahead and support the extension of the president's tax cuts and oppose any tax increases.

CONGRESS-ADMINISTRATION:

Bush's Agenda Loses Focus (LAT)

By Peter Wallsten And James Gerstenzang

The Los Angeles Times, March 19, 2006

The White House staff has failed to formulate a clear domestic policy, some in the GOP say, and the administration is suffering because of it.

WASHINGTON — A growing Republican chorus is calling for a staff overhaul inside President Bush's beleaguered White House, but some conservatives say such a change would stop far short of fixing what they view as a serious flaw: an unfocused domestic agenda.

The war in Iraq is dominating the attention of Bush and his top aides, these critics say, while the recent departure of the president's top domestic policy advisor after just one year has left the White House without an obvious conductor to direct the sometimes disparate policy-making machine.

"You mean they have a domestic policy?" quipped Michael Tanner, director of health and welfare studies at the libertarian Cato Institute.

Tanner, an author of the failed Social Security plan that was Bush's No. 1 domestic priority last year, lamented the lack of a "policy czar" setting clear goals. He described the administration as "exhausted" and "rudderless" on the domestic front.

"There doesn't seem to be an endpoint for what they're doing," he said. "They need to decide what they're going to do for the next three years…. Staff changes are necessary but not sufficient. If they're just rearranging chairs and office plaques, that's not going to do anything."

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Although Bush first campaigned on a largely domestic agenda, experts either said he had achieved much of what he had set out to accomplish or said he had put aside priorities at home to devote time, energy and government resources to the war on terrorism.

His once-sweeping ideas of giving every young worker a private retirement account as part of Social Security and completely rewriting the tax code have been sharply scaled back. On healthcare, with prices rising and tens of millions of uninsured, Bush's major ideas are creating tax-advantaged health savings accounts and computerizing medical records, hardly the broad overhaul sought by many advocates.

Michael Petrilli, who left the Department of Education in 2005 after four years working on school choice issues, said the administration never settled on an education agenda after Bush's No Child Left Behind Act passed in his first term.

One idea buried in Bush's proposed budget would spend $100 million on a national school voucher program. The proposal might appeal to conservatives still angry over some big-spending elements of the No Child Left Behind plan, but experts said it stood little chance of winning support this year in Congress.

Moreover, the proposed American Competitiveness Initiative laid out in Bush's State of the Union address, aimed at boosting math and science education, has not yet gained traction.

"There doesn't seem to be much of an education agenda right now coming out of this administration," said Petrilli, who is now vice president of the Thomas B. Fordham Foundation, which advocates for school choice programs.

"It's hard to tell what the agenda's going to be for the next couple of years."

The competitiveness initiative was perhaps the most far-reaching new domestic idea in the State of the Union speech, encouraging innovation by putting renewed emphasis on teaching math and science. But, critics say, the push has come from a few lawmakers — not from the White House.

"Somebody really needs to steer it if it's going to happen, but the sense at this moment is that nobody's really steering it," said one GOP lobbyist who works closely with the administration on education issues but spoke on condition of anonymity out of fear of retribution from the White House.

Such frustration among domestic policy advocates underscores the range of problems facing Bush. Sixteen months after reelection, his second term has so far been dominated by a drumbeat of controversy and crises involving a range of issues, including ongoing violence in Iraq, the administration's domestic wiretapping program and an Arab firm's bid to manage operations at several U.S. ports.

Bush is facing the lowest approval ratings of his presidency, in the low to mid-30s.

In one independent survey, conducted by the Pew Research Center for the People and the Press, a plurality of respondents used the word "incompetent" when asked to describe Bush. In previous polls, the most common word had been "honest."

The ports controversy exposed festering tensions between the White House and once-pliant GOP lawmakers, who rebelled against Bush's push for the Arab firm to manage port operations. Many of those lawmakers are feeling increasingly free to express frustration about the administration's tendency to keep Congress in the dark on important issues.

Many conservatives have openly criticized key Bush initiatives in recent weeks, including a Medicare prescription drug program launched this year has proved complicated, costly and confusing to many seniors.

Last week, several longtime White House allies in the Senate joined with moderate Republicans and Democrats to support allowing the government to lengthen the sign-up period for the drug benefit and to negotiate cut-rate prices with drug companies.

Both votes bucked the White House, signaling concern among Republican lawmakers that the program and other Bush initiatives could spell trouble for the GOP in this year's midterm elections.

Sen. Norm Coleman (R-Minn.) set off fireworks when he said last week that he had "concerns about the team that's around the president." He told the Associated Press: "All of a sudden we're hearing the phrase 'tin ear.' That's a phrase you shouldn't hear. The fact that you're hearing it says that the kind of political sensitivity, the ear to the ground that you need in the White House, isn't there at the level that it needs to be."

Chief of Staff Andrew H. Card Jr. has held his job since Jan. 20, 2001. He rises before the sun, arriving at the West Wing ahead of the president. He even sweats with him: Card's weekend routine often includes riding mountain bikes with Bush at a Secret Service training facility or nearby wildlife sanctuary.

No other chief of staff has shown Card's stamina for the job except Sherman Adams, who served President Eisenhower for five years and eight months and established the modern model for the post. On Sept. 22, 2006, Card is to break Adams' record.

Card "is on call all the time," said a Republican senator with close ties to the White House, who spoke on condition of anonymity in order to speak freely about others in his own party. "I don't know how he's done it as long as he has. Is he fatigued? I'd have to say yes."

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He added: "The collective group of people who came in have been there a long time, and it's inevitable you become insular…. You don't talk to normal people. You don't go to a Little League game.

"What I would love is some new faces to come in at senior levels," the senator said. "Some fresh thinking would be helpful."

One recent staff change was not planned: the abrupt resignation in February of Claude A. Allen, who for the last year had been Bush's chief domestic policy advisor.

Allen's resignation was a mystery to his colleagues until Maryland authorities charged him two weeks ago with theft of at least $5,000 in goods from Target and other stores in the Washington area. Before then, Allen had begun taking on a more public role, sitting in the first lady's box during this year's State of the Union address and, days before his resignation, briefing reporters on the president's budget plan.

Another lingering distraction in the West Wing is the ongoing investigation into who leaked the identify of CIA operative Valerie Plame to the media. A grand jury continues to investigate Deputy Chief of Staff Karl Rove, Bush's closest political advisor and the architect of linking GOP political goals to domestic policy. The inquiry has resulted in the resignation of Vice President Cheney's chief of staff, I. Lewis "Scooter" Libby, who was charged with misleading federal investigators.

Strategists close to the Bush White House say Rove is unlikely to leave unless he is forced to by an indictment.

Likewise, Bush, known for his emphasis on loyalty, would be unlikely to ask either Rove or Card to leave.

"I can see them working to make a change," said one GOP consultant with close ties to the White House, who spoke on condition of anonymity due to the sensitivity of discussing internal staff deliberations. "But either Karl or Andy has to stay. The trouble is, we don't know what Karl's future is."

Some White House officials and allies wave off the concerns.

Anti-tax activist Grover Norquist said he sees no evidence that Rove is distracted or tired. "Karl's on top of stuff," Norquist said. "You get your e-mail responses right back."

Moreover, some administration advocates say that work is proceeding quietly on some domestic initiatives.

Officials on the White House's National Economic Council, for instance, convened a meeting last week of conservative think-tank scholars to discuss strategies for expanding the use of health savings accounts, the tax-advantaged savings plans that eligible consumers can use to pay for medical expenses. Advocates view HSAs as a freemarket approach to healthcare, though critics charge that they benefit the wealthiest and least-sick Americans without helping the uninsured.

The White House meeting lasted an hour and a half. "Everyone in the room was energized," said John Goodman, president of the nonpartisan National Center for Policy Analysis.

Jennifer Marshall, director of domestic policy studies at the conservative Heritage Foundation, pointed to the $100-million school voucher idea as evidence that the White House was laying some groundwork for future initiatives. The plan, which would create a pilot voucher program in several cities for schools deemed to be failing, would most likely be adopted as part of a new education package next year, she said.

The idea, found in the president's budget proposal, has received little public notice.

"Everyone knows there's very little oxygen in the legislative room this year," she said. "So there's a second tier of what needs to be put out there as a marker, and education is probably happening on that lower tier, which doesn't require headline attention and presidential stumping."

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Times staff writer Ronald Brownstein contributed to this report.

Burnout On The Bush Team? (HC)

By JULIE MASON

HC – WH Burnout, March 19, 2006

Washington talk has members of president's inner circle resigning

WASHINGTON - An emerging question around the White House is whether staff exhaustion and isolation are causing political missteps such as the scuttled deal to have a Dubai company oversee U.S. port operations.

Much of President Bush's inner circle has been with him since 2001 and even longer, because he imported to Washington many Texans from his gubernatorial staff and 2000 presidential campaign.

Top adviser Karl Rove, presidential lawyer Harriet Miers, press secretary Scott McClellan, communications counselor Dan Bartlett, budget-minder Clay Johnson and others at the White House came from Texas. Others, such as chief of staff Andrew Card and National Security Adviser Stephen Hadley, have been around since the early days of Bush's presidency.

Bush puts a premium on loyalty. But there is generally more turnover in a two-term administration, including at the Cabinet level.

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It's a burnout job. Just look at Bush — he has aged considerably since he first came to the White House. For staffers, the hours are long, expectations are high and time away from family is extensive.

And it can't be much fun now, with Bush experiencing the lowest public approval ratings of his presidency and a restive Congress behaving as if it lost the rubber stamp it used to keep on hand for him.

It's a long way from the 89 percent, do-no-wrong approval ratings Bush had right after Sept. 11.

Rumors of high-profile departures wax and wane. Is Card leaving? What about McClellan? Similarly, prognostications of imminent staff shake-ups are on the rise.

McClellan did little to stanch the speculation with an enigmatic nondenial last week.

"This is part of the inside Washington babble that goes on in this town," the spokesman said. "It's part of the parlor game. We are focused on the priorities that the American people care most about and getting things done."

Seniors denied break, despite law's history

When Congress passed the Medicare prescription drug bill in 2003, Republican leaders held open the House vote for an extraordinary three hours while leaders twisted arms to get members to go along with the president. It finally passed by one vote.

Bush on Wednesday visited a retirement home in Maryland where he was asked about possibly extending past May 15 the deadline to sign up for the complex program.

But the president, proving again that sometimes it's the one legislative vote that matters, refused to bless an extension of a deadline for a program created thanks to the extension of a deadline on the House floor.

"No, and the reason why is there's got to be a fixed time for people to sign up," the president said.

When a media op goes to the dogs

Bush's visit to the retirement home was unusual in a number of ways. Among other things, it took the president deep into blue-state territory and placed him before an audience of seniors who were not as warm and friendly as most of the groups to whom he speaks.

A woman asked about implanting Americans with microchips containing medical records. She said her dog had one. Bush didn't seem to know what to make of it. He said he didn't know if his dogs had such chips. "Barney might not like it," he said.

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Major Changes Raise Concerns On Pension Bill (NYT)

By Mary Williams Walsh

The New York Times, March 19, 2006

With a strong directive from the Bush administration, Congress set out more than a year ago to fashion legislation that would protect America's private pension system, tightening the rules to make sure companies set aside enough money to make good on their promises to employees.

Then the political horse-trading began, with lawmakers, companies and lobbyists, representing everything from big Wall Street firms to tiny rural electric cooperatives, weighing in on the particulars of the Bush administration's blueprint.

In the end, lawmakers modified many of the proposed rules, allowing companies more time to cover pension shortfalls, to make more forgiving estimates about how much they will owe workers in the future, and even sometimes to assume that their workers will die younger than the rest of the population.

On top of those changes, companies also persuaded lawmakers to add dozens of specific measures, including a multibillion-dollar escape clause for the nation's airlines and a special exemption for the makers of Smithfield Farms hams.

As a result, the bill now being completed in a House-Senate conference committee, rather than strengthening the pension system, would actually weaken it, according to a little-noticed analysis by the government's pension agency. The agency's report projects that the House and Senate bills would lower corporate contributions to the already underfinanced pension system by $140 billion to $160 billion in the next three years.

That shortfall raises the specter of more pension plans failing, pushing their liabilities on to the government, according to the agency and critics of the bills. And some companies with fully financed pensions feel unfairly penalized by having to pay higher pension premiums to make up for others' shortfalls.

"It takes a better economist than me to understand how reducing contributions by that much is going to protect benefits and put the system on a sounder footing," said Jeremy I. Bulow, an economist at Stanford University.

Both pieces of legislation — one passed by the House and the other by the Senate, both by overwhelming majorities — do contain measures that would reduce some of the lapses and inaccuracies that the current pension law permits. They would also increase the premiums that companies pay to the federal guarantor, the Pension Benefit Guaranty Corporation, an agency grappling with a $23 billion deficit.

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Senator Charles E. Grassley, Republican of Iowa and chairman of the Senate Finance Committee, says the bills attempt to strike the proper balance between providing for workers' pensions and allowing companies to remain competitive.

"My goal is to make sure that companies set aside enough money for the pensions they promise their workers," Mr. Grassley said. "At the same time, we can't put burdens on plan sponsors that are too heavy."

The overhaul of the pension system is being undertaken at a time when it is reeling from a series of big bankruptcies, like those of United Airlines and Bethlehem Steel, which sent billions of dollars' worth of obligations to the pension agency.

The agency's pension insurance is limited, and a growing number of these companies' employees have discovered to their dismay that their benefits exceed the limits and that they will simply lose part of the money they had been promised.

The House-Senate conference committee intends to reconcile the bills before April 15, when the next round of corporate pension contributions are due. But the White House already warned in November that President Bush might veto any bill that extended too much special pension relief to individual companies and industries.

Legislators argue that, while they want the pension agency to be strong, they also want to encourage companies to continue offering pensions. Lately, some companies, like I.B.M. and Verizon, have moved to freeze their pension plans, arguing that the costs of their plans make it hard to compete.

Kevin Smith, the spokesman for Representative John A. Boehner, Republican of Ohio and the new House majority leader, who was one of the driving forces behind pension changes, defended the House bill, arguing that many specific measures, particularly those phasing in the new rules slowly, were necessary.

"Both the House and Senate pension bills represent the most comprehensive pension reforms in a generation," Mr. Smith said, "so a responsible transition period for employers to meet the new, stricter rules is appropriate."

He added that he believed the pension agency's analysis did not take into account the weakened financial condition of many companies that offer pensions.

The law that Congress wants to amend was enacted in 1974 after a series of scandals in the auto industry in which employees of dying companies like Studebaker and Packard discovered that little or nothing had been set aside for their pensions. It gave rise to rules for the financing of pensions and to an insurance program roughly comparable to the federal insurance program for bank deposits.

The law did help safeguard pension benefits, but it has not been strong enough to stop some companies from falling short in their contributions.

When Labor Secretary Elaine L. Chao sent Congress a blueprint for amending the pension law in January 2005, many companies thought her proposals were too tough.

From the start of the legislative process, lobbyists representing a wide swath of American business, including those from the United States Chamber of Commerce, the American Benefits Council and the Erisa Industry Committee (which represents large companies with pension plans), argued for easing the burden on companies by allowing them more latitude in estimating how long their workers would live, for example, and what they would need to set aside for future payouts.

The biggest single-industry pension break in the bill passed by the Senate is for the airlines, to allow them to keep their unstable pension plans going.

Among other things, the airlines would be given 20 years to close the shortfalls in their pension funds — nearly three times as long as other companies. They would also be allowed to factor in highly optimistic assumptions about their investment returns when calculating how much they needed to contribute to their pension funds each year.

The measures were written into the bill at the request of Northwest Airlines, which is in bankruptcy proceedings and is trying to keep its pensions alive, though in sharply reduced form. Northwest sought a 14-year breather on its pension contributions.

But then Senator Johnny Isakson, Republican of Georgia, said that 14 years of relief would not be enough to help Delta, a big airline based in his state, which is also operating under Chapter 11 bankruptcy protections. Senator Isakson amended the bill to provide 20 years of relief. After complaints from other big airlines, the relief was expanded to them all.

The Senate bill would also help recover more than $1 billion of benefits that thousands of pilots for Braniff, PanAm, Eastern, United and other airlines have lost in bankruptcy cases going back as far as the 1980's. That amendment was made by Senator Daniel H. Akaka, Democrat of Hawaii.

But helping those pilots would be expensive: the pension agency projected that the entire provision would increase its total obligations to retirees by more than $1 billion.

Someone must pay for this. Currently, the pension agency finances itself in part through the insurance premiums that companies are required to pay into the system. Raising the premiums to support pilots or help other victims of corporate bankruptcies, some companies in other industries are starting to say, would be unfair.

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In a letter to shareholders last week, Edward S. Lampert, chairman of Sears Holdings, which is responsible for the pension plans of employees at Kmart and Sears, complained that his company's pension insurance premiums were going up by 60 percent, "not in order to address any risk associated with Sears, but rather to make up for the difficulties of other companies."

Mr. Lampert also deplored the current pension law, which bars companies with richly financed pension plans from taking any of the surplus money out, except in rare instances.

Prudential Financial has the same complaint, but instead of writing to its shareholders, it took direct action in Washington, hiring William F. Sweetnam Jr., until recently the Treasury Department's senior legal adviser on employee benefits, to lobby on the issue of surplus pension assets. Mr. Sweetnam is now a principal at the Groom Law Group, a Washington law firm that specializes in employee benefits issues.

Prudential has a $1.2 billion surplus in its pension fund. Mr. Sweetnam was able to persuade several senators, including Frank R. Lautenberg, Democrat of New Jersey (where Prudential has its headquarters), that the companies that are more than 15 percent overfinanced should be allowed to remove some of the surplus and use the money to buy health insurance for retirees.

Currently, only companies that are 25 percent overfinanced are allowed to do so.

Robert DeFillippo, a Prudential spokesman, said that the provision would improve pension security because in exchange for the ability to take more money out of the pension fund, the company would be required to handle the money remaining in the fund much more carefully.

Smithfield Farms also got help in the name of strengthening the system. It bought another meat company out of bankruptcy in 2003, taking over its pension fund at the same time. That kept the bankrupt firm's pension plan alive, Smithfield said, and saved the government from having to take it over. In light of that, the company contends that it would hardly be fair to impose tougher new financing rules on Smithfield.

That argument caught the ear of Senator Mike DeWine, Republican of Ohio, where Smithfield has major operations. Mr. DeWine added a provision that would let Smithfield follow the old pension rules until 2014, no matter what Congress does in the meantime.

The bills would also be a boon to Wall Street by permitting financial service companies to handle more retirement money with fewer restrictions. Hedge funds, for example, would be permitted to manage more pension money without being held to the pension law's exacting standards of fiduciary duty.

Mr. Boehner has championed easing the restrictions on investment advice for several years. He included a provision that would permit investment firms to advise participants in 401(k) retirement plans, even if the firms' own mutual funds were among the employees' investment choices. Current pension law forbids this practice, on the thinking that it could taint investment recommendations.

Mr. Boehner has argued that employees need more investment advice, however, so that they can save more and earn better returns on their money. The securities industry is his top campaign contributor, providing more than $125,000 already in the 2005-06 House election cycle.

Mr. Smith, the spokesman for Mr. Boehner, said that the House bill would provide better quality financial advice for workers, adding that the Bush administration strongly supported that amendment.

"The Senate advice provision does little more than restate current law," he said, "which has left workers to fend for themselves without the type of quality advice they so desperately need."

Curse Of The Young Old (WP)

By William Saletan

The Washington Post, March 19, 2006

Why Should We Pay Them?

The bad news is, we're living longer.

Don't get me wrong. I hope you have a long and happy life. I just hope your kids don't end up paying one-fifth to one-third of their incomes to subsidize your retirement and mine. Because that's what awaits them: more and more boomers living to age 65 and beyond, perfectly healthy but collecting checks for decades. To head this off, we need a radical change in Social Security. I'm not talking about privatization. I'm talking about rethinking, and possibly abolishing, the whole idea of payments based on age.

The problem is grimly detailed in "65+ in the United States," a recent report by the U.S. Census Bureau. Five years from now, the boomers will start hitting age 65. By 2030, we'll have more than twice as many old people as we did three years ago. As a percentage of the population, this increase is enormous. In 1935, when Social Security was established, about 6 percent of Americans were 65 or older. Since then, the percentage has doubled. By 2030, it will have tripled. Not only are more people

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reaching 65; they're living well beyond it. In 1900, an American who made it to 65 could expect fewer than 12 additional years. By 1960, he could expect more than 14 years. By 1980, remaining life expectancy at 65 reached 16 years. By 2000, it was 18 years.

If you thought last week's budget fights over Iraq and Katrina were bad, wait till you see the bloodbath over retirement benefits. Hurricanes come and go. Iraq can be abandoned. But the debt to retirees increases every decade, and their clout grows, perversely, in proportion to the burden they impose. In 1945, for every Social Security beneficiary, we had 42 workers paying in. By 2002, we had just 3.3 workers per beneficiary. By 2030, we'll have only 2.2 workers per beneficiary. To keep the system afloat for the next seven decades, its trustees say the Social Security tax rate will have to reach 19 percent. And if life expectancy keeps rising over that period, academics project a tax rate of 27 to 32 percent.

Now for the good news. We're not just living longer; we're staying healthy longer. From 1982 to 1999, the percentage of senior citizens who had chronic disabilities dropped from 26 percent to less than 20. Active-life expectancy at age 65--the average number of additional years a person could expect to live free of chronic functional impairment--rose from fewer than 12 years to nearly 14. That's a five-year gain from what a 65-year-old could expect in 1935, according to Kenneth Manton, a leading scholar of old age. The experience of being 65 to 74 has changed so radically that the Census Bureau now calls this group the "young old."

So all these young old folks are working longer, right? Wrong. In 1950, more than 45 percent of men 65 or older were still in the labor force. By 2003, that percentage had plunged below 20. Five years ago, a study showed that men and women were retiring five and six years earlier, respectively, than their predecessors did 45 years earlier. Why? Because they could. Pensions helped, but the bigger factor was Social Security. By 2001, the program was supporting 91 percent of people age 65 or older. It provided nearly 40 percent of their income--equal to what they got from earnings and assets. A study quoted in the Census report documents the effect on work. When Social Security payments went up, men 65 and older quit the labor force at an accelerating pace. When payments were reined in, the trend reversed.

The point of Social Security was to subsidize those who couldn't work, not those who could. The program's founding document said it would support old people who were "dependent," "beyond the productive period" and "without means of self-support." In 1935, that described people around age 65. Today, it more accurately describes people a decade older. The intuitive remedy is to raise the retirement age well beyond the measly increases currently scheduled. Last year, Manton calculated that if you were designing a system in 1999 for people who could expect as many active years as a 65-year-old could expect in 1935, you'd set the retirement age at 70. And by 2015, you'd raise it to 73.

There are four obvious problems with this proposal. The first is that if we ask the young old to keep working, somebody's going to have to hire or retain them. This won't be easy. We all know that age discrimination is rampant in our economy. But we've shown before that this problem can be dealt with; look at the success of the 1967 Age Discrimination in Employment Act in helping raise the employment rate among older workers.

The second objection is that some jobs are too strenuous for a 65-year-old. But American jobs have become far less strenuous since 1935. One study shows that the percentage of Americans working in physically demanding jobs--defined as jobs "requiring frequent lifting or carrying of objects weighing more than 25 pounds"--declined from more than 20 percent in 1950 to less than 8 percent in 1996.

The third objection is that people don't age at the same rate. While true, it's not an argument for a low benefits-eligibility age. It's an argument for ending the link between age and benefits. Social Security actually consists of three programs. One pays benefits based on age; another pays if you lose your spouse; a third pays if you become disabled. As of 2002, 70 percent of the money paid out was based on age; only 15 percent was based on disability. That's insane. Inequality of aging means that age is a bad proxy for disability, which is a good proxy for need. If you turn 65 on the same day as your neighbor, but she's disabled and you aren't, we should pay her, not you.

Abolishing age as a standard of fitness would be fairer than simply raising the eligibility age. We've already taken steps in this direction. In 1986, Congress removed the upper age limit on people protected by the Age Discrimination in Employment Act. If you're healthy enough to do the job, age doesn't matter.

The final objection to both proposals is that Social Security is a trust fund; you made your deposits, and you're entitled to your withdrawals. But if you think the reason you'll live longer than your grandparents is that you're a better person, think again. Programs such as the ones Congress debated last week--Medicare, public sanitation, biomedical research--bought you longer life and better health. Maybe, instead of asking what your country owes you at 65, you should ask what you owe your country.

William Saletan covers science and technology for Slate, the online magazine at http://www.slate.com .

Standardized Tests Don't Always Make The Grade (LAT)

By Stuart Silverstein

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The Los Angeles Times, March 19, 2006

Recent snafus in SAT scoring have brought attention to the inherent fallibility of such exams.

High school seniors and their parents, along with college counselors and admissions officers, have been roiled by recent disclosures that at least 4,600 SAT exams taken in October were graded incorrectly.

But education testing experts point out that similar mistakes have happened before — and inevitably will happen again.

"Tests are a fallible product," said Kathleen Rhoades, a research associate with the Center for the Study of Testing, Evaluation and Educational Policy at Boston College. "The way we treat tests in this country, it's as if the tests deliver these strong, solid, positive, irrefutable results. And that is not the case."

By Rhoades' count, there were 137 publicly disclosed cases of large-scale testing errors by educational testing companies from 1976 through early 2004, with most of them occurring since 1997.

"People are under the false illusion that because the tests are graded by a machine that the process is objective," said Robert Schaeffer, a spokesman for the National Center for Fair and Open Testing, or FairTest. "But everything, including programming the machine and doing quality control on it, is, in fact, done by human beings. And all humans make mistakes."

Rhoades and Schaeffer say a lack of regulation, cost pressures and tight deadlines aggravate the problems.

The consequences of grading mistakes and other mishaps have intensified over the last decade with the increasing reliance on so-called high-stakes testing. In recent years, President Bush's No Child Left Behind Act has triggered expanded testing by many states.

At the college level, standardized tests play an important role in deciding who is admitted, who wins scholarships and who gets into honors programs.

In K-12 education, they help make such determinations as school rankings, teacher licensing and pay, and whether students graduate high school.

The SAT and other tests are usually graded accurately, but when problems occur, "it gets people crazy because it's high stakes and it makes important decisions," said Eva L. Baker, co-director of the National Center for Research on Evaluation, Standards and Student Testing at UCLA.

The potential for problems was driven home last week with the disclosure that the Educational Testing Service, one of the nation's biggest testing organizations, had agreed to pay $11.1 million to settle a class-action lawsuit.

The case was brought on behalf of plaintiffs who received incorrect scores on teacher-licensing tests known as the Praxis exams.

In all, 4,100 test takers were wrongly told they failed.

The tests are used in many states but not in California.

California has suffered other testing problems, however. They include a foul-up in which a company now known as Harcourt Assessment Inc. miscalculated the results of 19,000 students and 22 schools on a Stanford 9 achievement test given six years ago.

The SAT grading problem, which came to light this month, involves incorrect scoring on at least 4,600 college entrance exams, less than 1% of the total. About 400 students received lower grades than they deserved.

The College Board, the owner of the exam, later disclosed that there were an additional 1,600 SAT exams from October and that some of those tests may have been incorrectly graded. Those exams had been flagged for scrutiny due to concerns about possible cheating, among other reasons.

Many admissions experts said the effect on this year's high school seniors would be muted. Although some test scores were off by nearly 400 points — out of a possible 2400 — 83% of the errors were in the range of 10 to 40 points.

College Board officials have repeatedly expressed regret over the problem, which sent many colleges scrambling in the final days of the college admissions season to reevaluate applications from affected students.

But the officials said that with a test taken by 2.3 million students a year, including 495,000 in October, it was difficult to eliminate all errors.

"It is a very high-volume operation, and you are dealing with millions of tests a year, and you're dealing with many questions on each test," said Laurence Bunin, the College Board's senior vice president for operations. "In any high-volume operation like this, there's statistically the chance for some rare error."

In this case, the problems were blamed on the scanning of the multiple-choice portions of the test performed by a College Board contractor, Pearson Educational Measurement, one of the nation's biggest educational testing and assessment businesses.

Pearson officials said the problems stemmed mainly from humid weather that caused answer sheets to expand.

Also, some answers were penciled in too lightly or too incompletely to be read by scanners, they said.

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Some testing experts said they were perplexed by that explanation and by the fact that two students, not Pearson, discovered the problems.

Craig Hoyle, a research consultant at Boston College's education school, said there were ways to prevent problems, such as using equipment to screen out humidity-tainted answer sheets. In addition, he said, "dummy" quality-check tests can be interspersed with the tests to detect scanning problems.

Pearson spokesman David Hakensen said his company had used quality-check tests, but not until the exams arrived at its processing center in Texas.

He said they were not mixed with exams at test sites — where they might pick up the same humidity that affected the actual tests — because any stray marks made on the quality-check tests would undermine their effectiveness.

Critics attribute scoring problems partly to cost-cutting by testing companies.

Pearson officials dispute that point.

The company has experienced problems in Minnesota, where in 2002 a judge found that a company Pearson acquired "continually short-staffed" a testing program, and in other states.

But experts point out that no technology, be it an airline or a testing system, is foolproof.

"Funny stuff happens," said Robert Boruch, a professor of education and statistics at the University of Pennsylvania. "The main objective is to reduce the likelihood of it happening. You can't reduce it to zero."

Bush's Fee On Futures Trades Probably Won't Pass, Boehner Says (BLOOM)

By Darrell Hassler

Bloomberg, March 19, 2006

March 18 (Bloomberg) -- A new fee on futures contracts proposed by President George W. Bush is unlikely to be passed by U.S. legislators, given that it hasn't passed in multiple previous attempts, said John Boehner, the U.S. House Republican majority leader.

``If it hasn't happened in 13 consecutive tries, that probably means it won't happen again," Boehner, an Ohio Republican, said in response to questions at a Futures Industry Association conference in Boca Raton, Florida.

Bush's proposed $2.77 trillion budget for the fiscal year that begins in October includes an unspecified fee on futures contracts to fund the government agency regulating that market. The fee would cover the $127 million budget for the Commodity Futures Trading Commission that regulates the $2.5 trillion-a-day U.S. futures industry, according to the budget Bush sent to Congress in February.

Futures contracts are agreements to make a transaction at a preset date and price. At the expiration date, a product such as corn or sugar may be delivered at the price or the buyers and sellers settle the difference in cash between the market price and futures price.

Industry Opposition

Similar attempts by Bush in 2002 and former President Bill Clinton failed. The Chicago Board of Trade and the Chicago Mercantile Exchange, the two biggest U.S. futures exchanges, oppose the fee because the higher cost of trading may drive traders to exchanges outside the U.S.

Chicago Merc Chairman Terrence Duffy said in an interview on March 15 that he has visited legislators in Washington D.C. four times to argue against the fee. The fee likely would be about 14 cents per contact for each trade, he said. The Merc, which charges about 67 cents a contract, is assuming that legislators will consider the fee when voting on the budget, even though it's failed so many times previously, Duffy said.

``We are telling people in Washington how serious this is to our industry," Duffy said. ``This is an issue that we feel very passionate about and we have to make people understand how markets work."

The Washington-based CFTC is the only federal financial regulator that doesn't receive funding from the companies it oversees, Bush's budget document says.

Congress created the CFTC in 1974 as an independent agency to protect futures users from fraud related to the sale of commodity and financial futures. The agency's five commissioners are appointed by the U.S. president.

Separately, Boehner said he's ``hopeful" that the U.S. Senate will complete its version of the reauthorization of the CFTC within two months in order to begin negotiations between the Senate and House on the final bill.

The House approved a version in December that included a new requirement that the CFTC more closely monitor fraud in natural gas trading, an item that traders oppose because of the extra reports to the government it will require.

In the Senate there are five or six senators who want a similar requirement in the Senate version, Boehner said. That has stalled the Senate proposal, he said.

Congress reauthorizes the CFTC every five years.

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Public Comments By Justices Veer Toward The Political (NYT)

By Adam Liptak

The New York Times, March 19, 2006

Speeches by Supreme Court justices are usually sleepy civics lessons studded with references to the Federalist Papers and the majesty of the law. That seems to be changing.

This month, former Justice Sandra Day O'Connor told an audience at Georgetown University that a judiciary afraid to stand up to elected officials can lead to dictatorship. Last month, speaking in South Africa, Justice Ruth Bader Ginsburg said that the courts were a safeguard "against oppressive government and stirred-up majorities."

Justice Ginsburg also revealed that she and Justice O'Connor, who retired in January, had been the targets of an Internet death threat over their practice of citing the decisions of foreign courts in their rulings.

The justices' speeches were mostly a reaction, students of the court said, to attacks on judicial independence in Congress. "The volume is being turned up on both sides," said David J. Garrow, the legal historian, "both in the attacks on the court and in the justices' response."

The recent speeches, said Kermit L. Hall, the editor of "The Oxford Companion to the United States Supreme Court," may be breaking ground in judicial decorum.

"What's going on," Mr. Hall said, "is that Ginsburg and O'Connor are using their position — and it is striking that both are women — to state a position in favor of the judiciary that comes real, real close to taking a political position."

The O'Connor and Ginsburg speeches, variations on basic speeches they had given often before, were sharper and more topical than what many expect from Supreme Court justices. Justice O'Connor's Georgetown speech was apparently neither recorded nor transcribed, but Nina Totenberg, the legal affairs correspondent for National Public Radio, reported on it the next day.

In the speech, Justice O'Connor seemed to address comments made by two Texas Republicans, Representative Tom DeLay and Senator John Cornyn, concerning Terry Schiavo, a brain-damaged woman whose feeding tube was removed by court order.

Ms. Schiavo was the subject of a confrontation between Congress and the courts last year. Congress lost.

Senator Cornyn said afterward that political rulings from judges had fueled public frustration. "It builds up and builds up and builds up to the point where some people engage in violence," he said. "Certainly without any justification, but a concern that I have."

Justice O'Connor said that interference with an independent judiciary had allowed dictatorship to flourish in developing and Communist countries, Ms. Totenberg reported. "It takes a lot of degeneration before a country falls into dictatorship," Justice O'Connor said, according to Ms. Totenberg, "but we should avoid these ends by avoiding these beginnings."

Justice Ginsburg's speech, posted on the Supreme Court's Web site, focused on the citation of foreign law. She said that no one on the court contended that foreign decisions were binding precedents, only that they could illuminate common problems. Judges consult and cite all sorts of materials in making decisions, and she said she was perplexed that one category of potentially valuable information should be out of bounds.

She also discussed what she called "dynamic versus static, frozen-in-time constitutional interpretation," suggesting a preference for the former.

Mr. Hall, who is also the president of the State University of New York at Albany, said Justice Ginsburg's statements were "really quite remarkable in the history of the court."

"She is pressing for a view of the Constitution that is quite cosmopolitan, and she is using an out-of-country venue to make her point," Mr. Hall said.

Justice Ginsburg's comments may have been a response to Justice Antonin Scalia, who, in opinions and speeches, has rejected the view that the Constitution is a living document.

"You would have to be an idiot to believe that," Justice Scalia said in a speech in Puerto Rico last month, The Associated Press reported. "The Constitution is not a living organism. It is a legal document. It says some things and doesn't say others."

The dueling speeches, Mr. Hall said, represented "two Supreme Court justices arguing with each other off the bench."

Justice Ginsburg seemed to blame stalled Congressional measures that would have prohibited the citation of foreign law for the Internet death threat.

"Although I doubt the current measures will garner sufficient votes to pass, it is disquieting that they have attracted sizable support," she said. "And one not-so-small concern — they fuel the irrational fringe."

The threat, passed to the justices by a court security officer, was a February 2005 posting on an Internet chat site addressing unnamed "commandos."

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"Here is your first patriotic assignment," the message said. "Supreme Court Justices Ginsburg and O'Connor have publicly stated that they use foreign laws and rulings to decide how to rule on American cases. This is a huge threat to our Republic and constitutional freedom. If you are what you say you are, and NOT armchair patriots, then those two justices will not live another week."

Mr. Garrow said the threat was all the stranger because the stakes were trivial. "The odd thing is," he said, "that Justices Ginsburg and O'Connor are being attacked for their footnoting practices."

The death threat went nowhere, Justice Ginsburg said last month. Justice O'Connor, who will turn 76 this month, "remains alive and well," Justice Ginsburg, 73, said.

"As for me," she added, "you can judge for yourself."

Lobbyists Foresee Business As Usual (WP)

By Jeffrey H. Birnbaum

The Washington Post, March 19, 2006

Post-Abramoff Rules Expected to Be Merely a Nuisance

Some of Washington's top lobbyists say that they expect to find ways around congressional efforts to impose new restrictions on lobbyists' dealings with lawmakers in the wake of the Jack Abramoff corruption scandal, and that any limits will barely put a dent in the billions of dollars spent to influence legislation.

Though Congress may ultimately vote to eliminate a few of the more visible trappings of special pleading, such as gifts, free meals and luxurious trips, lobbyists say they have already found scores of new ways to buy the attention of lawmakers through fundraising, charitable activities and industry-sponsored seminars. An estimated $10 billion is spent annually to influence legislation and regulations, and that spending is not likely to be diminished by the proposed lobbying changes, these lobbyists contend.

"I wouldn't classify those changes as major," said Dan Danner, executive vice president of the National Federation of Independent Business. "Between charitable events and fundraising events, there will still be lots of ways to get in front of members [of Congress]."

Abramoff's guilty plea in January -- to charges of fraud, tax evasion and conspiracy to bribe public officials with lavish trips, luxury skybox fundraisers, meals and campaign contributions -- triggered a new push in Congress to rewrite the rules governing lobbying.

An emerging Senate bill, which has yet to be completed, would bar lawmakers from accepting meals and gifts such as sports tickets from registered lobbyists. The leading House measure, which has been proposed by GOP leaders, would rely more heavily on additional disclosures but would also impose a temporary ban on privately paid travel.

But many lobbyists said they consider these bills more of a nuisance than an impediment to their ability to work their will.

"Even if all lunches and sporting tickets are banned, legislation and regulations are so complex that the need for professional lobbyists will not diminish," said Frederick H. Graefe, a Washington lawyer and lobbyist.

"If meals are heavily restricted, we're likely to see executives from the home office picking up checks because they're not lobbyists," added J. Steven Hart of Williams & Jensen, a major lobbying firm. "And there are lots of other ways we can still get our cases before members of Congress."

Besides, experts said, industries and interest groups have turned to more sophisticated tactics in recent years, and such tactics are generally not addressed in the new bills on Capitol Hill. Lobbyists are increasing their campaign contributions, widening their use of the Internet to stir voter activism, and donating large sums to think tanks and charities affiliated with such big names as Sen. Edward M. Kennedy (D-Mass.) and House Majority Leader John A. Boehner (R-Ohio).

The Business Roundtable, which represents big-business chieftains, has embraced a new technique of advertising on Web sites for grass-roots advocates. And organizations from the left and the right are increasingly offering meetings with top government officials in exchange for hefty dues.

Americans for Tax Reform, which is headed by conservative strategist Grover G. Norquist, invites contributors who give more than $15,000 a year to receptions and dinners, often at Norquist's home. Featured speakers have included Republicans such as Sens. George Allen (Va.), Chuck Hagel (Neb.) and Bill Frist (Tenn.), the majority leader.

Third Way, a group that devises policies for moderate Democrats, invites its $25,000-a-year donors (many of whom are lobbyists) to regular discussions around Washington that have spotlighted Democratic Sens. Thomas R. Carper (Del.), Evan Bayh (Ind.), Blanche Lincoln (Ark.) and Ken Salazar (Colo.).

The most important framework for lobbying clout -- campaign finance laws -- would not be altered in the Senate approach, while House GOP leaders have proposed putting limits on the contributions made to big-money independent groups known as 527s. But without Senate support, the effort to clamp down on the independent groups will fail.

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As a result, lobbyists would still be able to contribute to lawmakers' coffers, host and organize major fundraising events, and arrange trips subsidized by their clients to encourage electoral giving -- just as they do now. Total federal giving in this election cycle is expected to rise by at least 20 percent, to more than $3 billion, compared with the 2002 midterm-election cycle, according to Michael J. Malbin, executive director of the nonpartisan Campaign Finance Institute.

Such campaign-related activities are "the most significant benefits lobbyists use to influence members of Congress," said Larry Noble, executive director of the nonpartisan Center for Responsive Politics.

The proposed ethics changes would not restrain the fastest growing part of lobbying: grass-roots activities. This ginning up of letters, telephone calls and, increasingly, e-mails from back home has become a $1 billion-a-year business, said Sen. Carl M. Levin (D-Mich.), an activist for lobbying law changes.

Congress might require that such lobbying costs be disclosed but is not likely to limit them. In fact, lobbying in its many forms would continue unabated under the coming legislation.

In 2004, the most recent full year about which data are available, lobbying was a $10 billion industry, according to estimates by James A. Thurber, a political science scholar at American University. Of the total, $2.1 billion was used to pay the salaries of registered lobbyists, while the rest was spent on more subtle forms of persuasion.

Lobbying is done even at charity events. Lobbyists say privately that they are all but required to contribute to an annual dinner that helps low-income Roman Catholic schools in the District. The dinner is co-hosted each September by Boehner and Kennedy. Boehner has solicited contributions for the $10,000 tables, a request that lobbyists say they are loath to ignore.

"Some lobbyists might consider this a lobbying opportunity," said Michael L. Smith, the dinner's director. "But we see it as a very worthy charitable event."

The communications industry has its own lobbying-and-charity gala. Every December, the Federal Communications Bar Association fills the Washington Hilton's grand ballroom for a fancy dinner that raises money for D.C. schoolchildren and honors the chairman of the Federal Communications Commission, which regulates the interests of the dinner's patrons.

At the 2004 Chairman's Dinner, FCC commissioners dined at an elaborately set table while then-Chairman Michael K. Powell gave a lengthy speech and showed a video about himself.

Interest groups also pay to participate in social activities, which double as lobbying venues. State societies, for example, offer lawmakers, congressional aides and lobbyists numerous opportunities for informal encounters.

The California State Society's fall 2005 newsletter featured a photograph of Rep. Ed Royce (R-Calif.) and former congressman Bill Lowery (R-Calif.), who is a lobbyist for an electric utility and a defense contractor. Both are active members.

According to its Web site, the society's Platinum ($10,000) corporate sponsors in 2005 included Fleishman-Hillard, a lobbying and public relations company, and Sallie Mae, a Virginia-based provider of student loans that lobbies in Washington.

Lawmakers and their staffers have lately reduced their social interactions, especially meals, with lobbyists in anticipation of a possible crackdown under a new law.

But interests will always find a way to be heard, lobbyists say. One is through think tanks. The Competitive Enterprise Institute, which widely publicizes its belief that the earth is not warming cataclysmically because of the burning of coal and oil, says Exxon Mobil Corp. is a "major donor" largely as a result of its effort to push that position.

"I think what attracted them to us was our position on global warming," said Sam Kazman, CEI's general counsel. "And we hope to get support from other industries that agree with us."

Lawmakers Holding Solid Seats Spend As If They Were Shaky (WP)

By Shailagh Murray

The Washington Post, March 19, 2006

Use of Campaign Treasuries Is Coming Under Scrutiny

Rep. Spencer Bachus hasn't drawn a serious opponent in the past three elections. So far, his only 2006 challenger is a write-in with $49 in the bank.

But the Alabama Republican burns through significant sums of campaign cash, as do plenty of other House members sitting in safe congressional seats. Among the items billed in 2005 to Bachus's campaign account and his "Growth and Prosperity" political action committee: $6,689 for U2 concert tickets and expenses as part of a campaign event; $1,298 in lodging in Vail, Colo.; and $270 for the catering of an "American Idol" party.

Rep. Corrine Brown (D-Fla.) spent $15,835 of campaign funds on condolence flowers for constituents, Rep. John T. Doolittle (R-Calif.) used $8,328 of his campaign war chest to buy gifts for his staff, and Rep. Mike Pence (R-Ind.) was reimbursed for a $1 "meal" at a local gas station, which his staff believes was bottled water.

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Some lawmakers say that such expenditures are routine and completely legal under Federal Election Commission rules. But these spending practices are beginning to attract attention from watchdog groups and the news media, as the 2006 congressional campaigns heat up and Congress considers measures to crack down on the perks of office.

A Washington Post review of more than 200 House campaign finance reports filed with the FEC for the past year found that lawmakers from safe districts demonstrated widely differing spending practices. The reports were compiled by PoliticalMoneyLine, an independent, nonpartisan campaign finance Web site.

According to those records, Rep. Mark Edward Souder, a six-term Indiana Republican who was reelected in 2004 with 69 percent of the vote, spent $45,027 in campaign operating funds last year. Most of the money went to cover phone charges, rent, payroll and catering for campaign events.

In contrast, Pence, whose congressional district adjoins Souder's to the south, spent $348,255 in 2005, plus $25,472 from his PAC, after winning a third term in 2004 with 67 percent support.

Pence sought reimbursement for 293 meals in 2005, for a total of $9,806. Most were at fast-food or family-style restaurants, including Wendy's, Arby's, Ruby Tuesday, and various pancake houses and pizza parlors, as well as convenience stores and airport concessions based in Anderson, Ind. Ninety-four of the charges totaled $10 or less. He also paid $4,082 for a 1998 Oldsmobile minivan that he drove throughout his east-central Indiana district.

"When Mike Pence campaigns, he campaigns as if he's in a tight race," said William A. Smith, Pence's chief of staff. He said that his boss prefers one-on-one meetings to big groups, which explains the numerous small charges, and that items are often billed to the campaign, as opposed to the official account, to avoid potential ethics questions. "If he's doing political work, that's going to be part of his campaign budget," Smith said.

Bachus spent $415,000 from his 2005 campaign and political action committee funds on meals, travel, entertainment and other election-related operations. He said he has no choice but to keep up the spending even without a serious challenger.

"Since the campaign registration season remains open in Alabama, I have no assurance at all I won't have serious competition again this year," he said in a statement. "It is only prudent I be prepared."

The government reimburses members for some nonpolitical expenses, such as traveling to and from their districts and attending official events, but the rules are fairly strict. In contrast, the FEC gives lawmakers broad discretion with campaign funds. As Melanie Sloan, a former federal prosecutor who heads Citizens for Responsibility and Ethics in Washington, an independent watchdog group, describes it, "as much as you can raise, you can spend."

For example, FEC rules state that campaign funds may be used "in connection with the campaign for federal office" but also "in connection with duties of the individual as a holder of federal office." Some items are specifically banned: home mortgages, clothing, personal automobile expenses, country club and health club memberships, vacations, household food, nonpolitical admissions to concerts and sporting events, and tuition.

Otherwise, candidates have a fair amount of leeway in how they spend the money they raise. "I think it's more personal than political," said Stanley Brand, a Democratic ethics lawyer. "Some people are more liberal about money." Some throw lavish fundraisers, Brand noted. "Some are looking for ways to underwrite their existence, and some aren't."

The National Republican Senatorial Committee has launched a Web site, http://www.fancyford.com , chronicling the Davidoff cigar gifts and exclusive hotel stays of Rep. Harold E. Ford Jr. (D-Tenn.), who is running to succeed retiring Senate Majority Leader Bill Frist (R-Tenn.). The Bergen Record recently tallied up $80,000 in Morton's steakhouse bills that Sen. Robert Menendez (D-N.J.) amassed over five years as a House member. Menendez was recently appointed to fill an open Senate seat and is battling for a full six-year term against GOP candidate Thomas H. Kean Jr.

Rep. Ralph M. Hall (R-Tex.), elected to a 13th term in 2004 with 68 percent support, submitted more than 100 meal receipts, many of which were for low-dollar charges from Sonic, IHOP, Chili's and Applebee's outlets. He was more generous with gifts for donors, billing his campaign for $13,235 in Godiva chocolates. "He has it in his head that people love Godiva chocolate," said Hall chief of staff Janet Perry Poppleton, who added that he used to give away hams.

Rep. Patrick J. Kennedy (D-R.I.), elected in 2004 to a sixth term with 64 percent, filed more than $500,000 in campaign and PAC operating expenses for 2005. He racked up the highest number of Starbucks charges for one year, submitting 24 receipts ranging from $2 to $12. Every purchase was made at the same Main Road Starbucks in Middletown, R.I., near the congressman's home. Kennedy spokeswoman Robin Costello said the location was a "convenient place for his campaign staff to meet."

Rep. John P. Murtha, a 17-term veteran from a solidly Democratic Pennsylvania district, reported $620,066 in campaign operating expenses. Nearly 250 items were related to driving, including $6,800 for gas, car washes and travel-related petty cash charges, and $6,500 to lease a 2003 Buick. Murtha spokeswoman Cynthia Abram said her boss is "very active in local politics" and attends fundraisers and other events for local candidates around his central Pennsylvania district throughout the year.

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Rep. Don Young (R-Alaska), who was elected to a 17th term in 2004 with 72 percent support, filed one of the longest 2005 campaign expenditure reports, billing about $650,000 in total expenses to his campaign account and Midnight Sun PAC. Young listed $405 in snow-plowing charges, $300 to sponsor Miss Alaska, $345 for fishing licenses and $45 for a ladder. Myrna Maynard, office manager in Young's Anchorage office, said the ladder was needed because the ceiling lights are too high.

The $15,835 in flowers purchased by Brown, a seven-term incumbent who was uncontested in 2004, accounted for more than 10 percent of the total $123,243 Brown spent in 2005 on her campaign. Elias Ronnie Simmons, Brown's chief of staff, said her boss sends floral arrangements costing $60 to $80 apiece to the funerals of constituents. "You never think it's going to escalate like that," Simmons said.

"If you get in the habit of raising a lot of money, even if you don't have real races, the question is 'What are you going to do with it?' " said Fred Wertheimer, a longtime critic of political fundraising and spending and founder of Democracy 21, a nonpartisan group seeking campaign finance reform. "The fact is, there's just far more money in politics than anyone actually needs."

Losing Ground (NSWK)

By Christopher Dickey

Newsweek, March 19, 2006

A NEWSWEEK poll shows President Bush's approval rating dropping to new lows on domestic issues and rising public anger over Iraq and homeland security.

A bitterly divided electorate gives President George W. Bush an approval rating of only 36 percent in the latest NEWSWEEK poll, matching the low point in his presidency recorded last November. His image as an effective leader in the war on terror is tarnished, with less than half the public (44 percent) approving of the way he's handling terrorism and homeland security. Despite a series of presidential speeches meant to bolster support for the war in Iraq, as well as the announcement of a major military offensive when the poll was getting under way, only 29 percent of the people questioned approved Bush's handling of the situation in Iraq. Fully 65 percent disapprove.

The way the president has dealt with issues at home hasn't brought him much support either. His approval ratings for the handling of energy policy (28 percent) and health care (28 percent) were new lows, while approval on the economy (36 percent) mirrored his overall rating. The single area where President Bush accrued more approval than disapproval was in his appointments to the Supreme Court, which 47 percent approved.

The outright anger against Bush felt by many Americans was reflected in responses to questions about the effort of Democratic Sen. Russ Feingold of Wisconsin to censure Bush in Congress for his warrantless wiretapping program. Feingold has found very little support for his move on the Hill. Four in 10 (42 percent) of the adults in the general public say they would support Congressional censure of the president, while half (50 percent) say they would not. Censure wins majority support from Democrats (60 percent) and one in five Republicans (20 percent) say they'd support it. Yet if Democrats in Congress do decide to push for such a measure, they may run into trouble with that same public. By a margin of 53 percent to 33 percent, Americans feel the censure proposal was made as a partisan ploy, not for reasons of principle.

In today's strongly polarized political climate, roughly one in four American adults (26 percent) say they think Congress should actually impeach President Bush and consider removing him from office. There is in fact no effort to do this on the Hill, and the public mood appears to be more a reflection of the passionate sentiment against Bush in some quarters rather than considered support for actual legislative action. (Some recent national polls show about 45 percent of adults strongly disapprove of the president's performance.) The NEWSWEEK poll shows that only 5 percent of Republicans would support impeaching Bush, while 94 percent would not. Among Democrats, almost half (49 percent) support impeachment, while 48 percent oppose it. Overall, 69 percent do not think Congress should consider removing him from office.

By comparison, the level of public support for impeachment today is below the 32 percent support for Bill Clinton's removal in October 1998, before he was impeached by the U.S. House of Representatives. Support for the impeachment of Richard M. Nixon had reached 52 percent in a June 1974 Harris poll shortly before he left office.

A much less radical response to sagging confidence in President Bush—a major staff shake-up in the White House—gets a mixed response from the public. While 40 percent think it is time for the president to clean house and ask some top people to leave, 48 percent think it is best to avoid making major changes to the White House staff at this time. Only 20 percent of Republicans favor a major staff shake-up, compared with 43 percent of Independents and 56 percent of Democrats. Unhappiness with President Bush's cabinet and staff apparently is not as great as dissatisfaction with the president himself.

All of this bodes ill for the Republicans as midterm congressional elections approach this fall, although some Democratic strategists are concerned that the censure resolution and impeachment talk may actually make for an unwanted distraction.

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Registered voters continue to prefer Democratic candidates for Congress over GOP candidates by a margin of 50 percent to 39 percent.

This is the third of four NEWSWEEK polls taken since September 2005 showing the Democrats with a double-digit lead. The Democrats never had such an advantage in any NEWSWEEK poll conducted before the last two off-year Congressional elections, 2002 and 1998. The Democrats now lead in Congressional vote preferences of Independents by 47 percent to 31 percent. Key to the election outcome is whether the Democrats' big advantage with independent voters will be maintained and how many of these voters will actually turn out in November.

Both houses of Congress are now controlled by the Republicans, but public opinion now favors a Democratic takeover this November by a margin of 50 percent to 34 percent. Among Independents, the Democrats are preferred by more than a two-to-one margin: 51 percent to 22 percent.

Low as Bush's approval ratings are at the moment, three of the last six U.S. presidents actually had ratings below Bush's current score at some point in their presidencies. His father, George H.W. Bush, saw his rating decline to 29 percent in August 1992, amid growing economic woes. Jimmy Carter slipped to 28 percent in July 1979 and Richard Nixon plunged to 23 percent in January 1974, the year he resigned his office as a result of the Watergate scandal.

Survey Methodology

This poll was carried out by Princeton Survey Research Associates International. Results are based on telephone interviews with 1,020 adults, 18 and older, conducted March 16-17, 2005. Results are weighted so that the sample demographics match Census Current Population Survey parameters for gender, age, education, race, region, and population density. The overall margin of sampling error is plus or minus 3 percentage points for results based on total adults and plus or minus 4 for results based on 800 registered voters. Results based on smaller subgroups are subject to larger margins of sampling error. In addition to sampling error, the practical difficulties of conducting surveys can also introduce error or bias to poll results.

Bush's Approval Rating Stuck At 36%, Newsweek Poll Shows (BLOOM)

By Susan Decker

Bloomberg, March 19, 2006

March 18 (Bloomberg) -- President George W. Bush's approval rating stands at 36 percent as voters expressed anger over the continued war in Iraq, according to a poll released today by Newsweek magazine.

The overall approval rating matches his standing in November, a record low for his presidency, and compares with 40 percent at the end of September, 2005, the magazine reported. Less than half, 44 percent of those polled, approved of how he's handling homeland security and terrorism issues compared with 57 percent a year ago.

The president's misfortune has translated into good news for Democrats, with 50 percent of registered voters polled saying they will back Democratic candidates, compared with 39 percent for Republicans. It's the third of four polls taken since September that show Democrats with a double-digit lead over Republicans. The question, Newsweek said, is whether the Democrats can maintain their strong lead among independent voters.

The poll showed that recent presidential speeches supporting the war in Iraq haven't improved the public's perception of the conflict. Two thirds of those polled, 65 percent, disapprove of how Bush is handling the war, and just 29 percent approve, the poll showed. As in other polls, Bush, a Republican, fared better among those of his own party than with Democrats.

Domestic Issues

On the domestic front, 58 percent disapproved of Bush's handling of energy issues and 62 percent disapprove of how he's dealt with health-care issues, with only 28 percent approving in each area, a new low in both cases. The poll showed 36 percent approved of his handling of the economy.

A bright spot for Bush is the Supreme Court. His choices of John Roberts and Samuel Alito met with approval from 47 percent of those polled. It was the only area where more people approved than disapproved, Newsweek said.

Wisconsin Senator's Russell Feingold's call for censure of the president was met with approval by 42 percent of those who were polled, while 50 percent disapproved of the Democrat's censure request. Those polled thought the censure call was based more on politics than principle, by a margin of 53 percent to 33 percent.

Just 26 percent would support taking the step of impeaching Bush, with 94 percent of Republicans opposing the idea and Democrats split, with 49 percent in favor and 48 percent opposed. Still, 69 percent overall oppose having him removed from office.

The poll, conducted by Princeton Survey Research Associates International, was based on telephone interviews with 1,020 adults conducted on March 16 and 17. The margin of error was plus or minus 3 percentage points for results based on total adults and plus or minus 4 for results based on 800 registered voters.

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Dangerous Incompetence, Part II (BOS)

By Nina J. Easton

The Boston Globe, March 19, 2006

Republicans got a much-needed laugh last week when Senator Debbie Stabenow-- a Michigan Democrat whose seat the GOP is determined to nab this year -- launched an attack on the White House from the Senate floor. The snickers came when Stabenow's recounting of President Bush's failings was overshadowed by an unfortunate visual: She was wearing a red suit that matched a sign to her left reading DANGEROUSLY INCOMPETENT, suggesting that she, rather than the president, might have deserved the label.

A GOP aide quipped that Stabenow should wear that sign like a sandwich board. And Bob Stevenson, a spokesman for the Senate majority leader, Bill Frist of Tennessee, strolled into the Senate press gallery with a sign of his own held over his head: COMPETENCE.

Republicans don't seem to have much else to laugh about this election year.

The Democrats' sudden discipline at staying on message is beginning to score points in pubic opinion polls. The Pew Research Center's Andrew Kohut has reported that "incompetent" has replaced "honest" as the most frequent descriptor applied to Bush.

While the Democrats have used "incompetence" with increasing regularity since the administration's flat-footed response to Hurricane Katrina, the phrase "dangerous incompetence" is a recent invention of Senate Democratic Leader Harry Reid of Nevada and his staff.

The one-time amateur boxer was eager to give the incompetence label "an edge," said a Reid aide, Jim Manley, and "dangerous" was the winning adverb, adding a flourish to the Democrats' new line of attack.

A couple of weeks ago, Reid strategists began inserting the words into talking points for press secretaries to the Senate's 44 Democrats. And during Reid's weekly Saturday afternoon huddle with Democratic senators scheduled to appear on the Sunday morning talk shows, he encouraged them to use the label to describe the White House.

"It's on the cutting edge of what's going on," Manley insisted.

A Kennedy campaigns in Boston

A Kennedy, candidate for US Senate, is planning a fund-raiser in Boston.

No, not that Kennedy. This is US Representative Mark Kennedy, Republican of Minnesota, who is on a mission to dilute the Kennedy name in the upper chamber.

The Minnesota Kennedy is drawing money and attention from Republicans nationally, including in Massachusetts, because his race is considered the GOP's best shot to pick up a US Senate seat. Kennedy is running to replace Mark Dayton, a Democrat who is retiring.

"We have almost nothing in common," Kennedy says of his relationship to Senator Edward M. Kennedy, "except that my grandmother was Rose Kennedy." Another Rose Kennedy, that is.

But the Minnesotan does share floor space on the US House, and a cordial relationship, with Rhode Island Representative Patrick J. Kennedy, Senator Kennedy's son. "Patrick and I are both third children of the youngest of four sons of Rose Kennedy," he says.

On a family visit to the US Capitol, when his son was mistakenly handed a tag identifying him as Patrick Kennedy's son, the house's other Kennedy said his boy should have kept it: "Patrick's in better shape to pay for your college."

For Kerry, Imus gets his Irish up

During the 2004 presidential campaign, MSNBC radio and TV personality Don Imus was a vocal supporter of John F. Kerry, sharing stories of the Massachusetts senator's visits to the Imus ranch. But after Kerry's loss, some of the bloom has come off that political rose.

On St. Patrick's Day, Imus -- broadcasting from Boston -- invited Kerry on his show for some respectful discourse on issues of the day.

But minutes after the senator left the air, the irascible Imus ridiculed Kerry. "If I was his adviser," Imus proclaimed, "I'd tell him he's just got to loosen up. . . . Man, talk English!"

Bid to reverse a Romney role model

As he tests the presidential waters, Governor Mitt Romney is eagerly courting the conservative wing of the Republican Party. So it was curious that in a C-SPAN interview airing tonight, he dwelled on Dwight D. Eisenhower -- a moderate-- as one of his favorite presidents.

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"I looked at what he did in the White House and the character and integrity he brought to the White House and said, that's a man I respect," Romney told C-SPAN's Brian Lamb. "I grew up when he was president. He's my first memory of president, 1952 election. I remember that, you know, 'I like Ike' slogan."

And, Romney continued, Eisenhower "was a person you did like and you respected as an individual. Now he did some important things as well. The whole idea of building an interstate highway system and investing in infrastructure turned out to be enormously powerful. . . . Staring down the Russians. . . . But it's his contribution as a man, as a father, as a husband, as a person of integrity that I most respect."

Romney strategists eyeing a Republican presidential primary fight might coach the governor to use every opportunity he can find to wax eloquent over a different Republican president: Ronald Reagan. To the conservatives who dominate GOP primaries, Eisenhower is considered, in hard-right parlance, a "squish."

OTHER NEWS:

'I Hope That I've Made A Difference' (MINNST)

Minneapolis Star Tribune, March 19, 2006

U.S. Rep. Martin Sabo bids tearful farewell to public office. He leaves with a pledge to continue his causes and a lament over political polarization.

Rochelle Olson, Star Tribune U.S. Rep. Martin Sabo, the stoic, gentle giant of Minnesota politics, broke into tears Saturday as he announced plans to retire after 46 years in elective office, the last 28 in Congress.

"I've decided it's time to move on," Sabo said. "In my gut, I know the time is right. It's time to open the door for a new generation of leadership."

Sabo, 68, said he will continue to work for peace, responsible budget policies, civil rights and civil liberties.

"I want to see more of the grandchildren," he said in Minneapolis. The baseball fan plans to attend more Twins games, play more golf and travel the country. "Some fall, I'd love to drive up to New England and see the leaves," he said.

When asked, Sabo cited no particular reason for the timing of his decision, only seven weeks before the May 7 DFL endorsing convention for the Fifth District congressional seat. He said his health and energy levels are good. Sabo quit smoking cold turkey two years ago after 45 years of a two-pack-a-day habit.

His action leaves prospective candidates little time to organize for the DFL convention. The endorsee is expected to become the prohibitive favorite in the race in the strongly DFL district, which includes Minneapolis and a number of inner-ring suburbs.

Many potential candidates remained noncommittal Saturday while Sabo gave a farewell speech filled with gratitude and a touch of criticism. He left most of the praising to others. "I hope that I've made a difference over the years," he said as his wife, Sylvia, daughters Karin Mantor and Julie Sabo and young grandchildren stood behind him.

Voice cracks, eyes fill

Sabo's voice cracked for the first of many times and his eyes filled when he talked about how he had been in public office since 1960, the first 18 years as a member of the Minnesota House. "When you've been running every two years for 46 years, the normal thing is to just keep doing it," he said in explaining the suddenness of his announcement.

He thanked Minnesotans who welcomed a North Dakota farm boy to Minneapolis 50 years ago to attend Augsburg College. "Being able to serve Minnesota has been an unimaginable dream," he said.

He offered the most praise to Wendell Anderson, whom he called the state's "greatest governor." Sabo, who was speaker of the state House for six years, said he's proud of his work on the "Minnesota Miracle" of the 1970s, which shifted the burden for public school funding from local property taxes to increased state taxes.

As former chairman of the U.S. House Budget Committee, he said he was also proud of the 1993 budget, which he said led to the first surpluses in three decades and the largest economic expansion in history.

"But these historic accomplishments also remind us that progress can be reversed. Elections do matter," he said.

Sabo said he is most concerned now about the "fiscal mess" the country is in because of what he called the "irresponsible and reckless budget policies" of the Bush administration. "We are bankrupting the country and leaving mountains of debt for our children and grandchildren," Sabo said.

He said a fundamental problem in politics today "are people who over-promise and overstate. I've tried to do the opposite."

Sabo, who praised his Democratic colleagues from Minnesota as well as GOP Rep. Jim Ramstad, lamented a growing political polarization. "I don't recall ever making a public statement critical of my colleague whether it's a Democrat or a Republican," he said.

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Jim Adams was in the state House and door-knocked with Sabo in the early days. "I retired after 20 years. It was a big relief for me. It was a big relief for him," said Adams.

Sabo will serve out his term, which ends in January. Sylvia Sabo said the couple will sell their home in Washington and live permanently in their condo in Minnesota.

Candidate list forming

State Rep. Keith Ellison, DFL-Minneapolis, Jack Nelson-Pallmeyer, a college professor, and DFL Minneapolis City Council Member Gary Schiff already are in the race to succeed Sabo.

Green Party member Jay Pond also is in, as are Republicans Tim Anderson and James Turnham.

Former DFL Hennepin County Commissioner Mark Andrew and former state Sen. Ember Reichgott Jung, DFL-New Hope, also said they are interested. State Sen. Satveer Chaudhary, DFL-Fridley, and state Rep. Connie Bernardy, DFL-Fridley, said they are thinking about a run. Sabo's longtime chief of staff, Michael Erlandson, and Julie Sabo said they wouldn't talk about their plans Saturday.

Hennepin County Board Members Gail Dorfman and Mike Opat also are considering a run.

State Sens. Scott Dibble and Linda Berglin, both DFL-Minneapolis, said they would not run.

A New Spring In The Market's Step? (WP)

The Washington Post, March 19, 2006

Spring came early to Wall Street last week, as both the stock and bond markets rallied, fears of inflation ebbed and the economy headed toward the finish of one of the strongest quarters in more than three years.

The blue-chip Dow Jones industrial average and the S&P 500 indexes both reached their highest levels since May 2001. The Dow has now been above the 11,000 mark for most of the last month, suggesting to some analysts that a new "floor" has been reached in a bull market that still has a way to run. And the broader S&P 500 index broke through 1300 early in the week. Only the tech-heavy Nasdaq lagged behind, reflecting a growing consensus that tech stocks have become too frothy and raced too far ahead of the business fundamentals.

Stocks were buoyed during the week by stable oil prices and boffo profit reports from three of Wall Street's biggest investment houses. Shares in Goldman Sachs, the second largest security firm, rose more than 6 percent for the week after reporting that its quarterly earnings jumped 64 percent. Lehman Brothers and Bear Stearns also posted strong increases. Other reports suggested continued strength in consumer confidence and industrial production.

The major factor in the week's market activity was a changing consensus about inflation, and how the Federal Reserve would respond to it. As late as last week, bond market futures reflected an expectation that the Fed would raise short-term rates three more times this spring, to 5.25 percent, to help cool down an economy that looked to be growing at an unsustainable annual rate of 5 percent.

But a government report showed a modest -- and unexpectedly low -- 0.1 percent increase in consumer prices in February, even after factoring in energy and food prices. At the same time, some Fed officials were heard to express confidence that the economy would cool down on its own later this year, as some of the steam is let out of the housing bubble. All of this led expectations to shift in favor of a two-move, 5 percent target on the Fed's benchmark short-term interest rate. Bond prices rose in response, and the yield on the closely watched 10-year Treasury bond drifted down to 4.67 percent, a decline of 8 basis points for the week.

When they weren't tuning in to the NCAA basketball tournament, Wall Street traders and analysts could be heard talking about "soft landings" or a "Goldilocks economy" -- neither too hot nor too cold. Playing out in the background has been a steady flow of corporate mergers and takeovers at premium prices that give confidence to momentum investors. Furthermore, the ease with which many of these highly leveraged deals are financed suggests to the bond market that there is still so much money sloshing around the global financial system that any sudden backup in interest rates is highly unlikely.

Stocks Rally To Best Week Yet Of '06 (NYT)

By Jeff Sommer

The New York Times, March 19, 2006

It was the best week for stocks since the beginning of the year, as several economic reports suggested that inflation was under control while economic growth remained strong. The Dow Jones industrial average and the Standard & Poor's 500-stock index both ended the week at fresh five-year highs.

On Thursday, the Labor Department reported that the Consumer Price Index rose only 0.1 percent in February after a 0.7 percent increase the previous month.

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Wall Street firms themselves helped lead the market higher. Goldman Sachs, Lehman Brothers Holdings and Bear Stearns all reported record earnings. Shares of Goldman Sachs rose more than 6 percent for the week.

Shares of North Fork Bancorp, which agreed to be bought by the Capital One Financial Corporation for $14.6 billion, rose nearly 15 percent for the week.

For the week, the Dow industrials rose 203.31 points, or 1.8 percent, to close at 11,279.65. The S.& P. 500 climbed 25.67 points, or 2 percent, to close at 1,307.25. The Nasdaq composite index gained 44.44 points, or 2 percent, to close at 2,306.48.

The yield on the benchmark 10-year Treasury note slipped to 4.67 percent from 4.72 percent the previous week. JEFF SOMMER

Stocks Blow Past previous highs (WP)

The Washington Post, March 19, 2006

With the economy tootling along and fear of inflation fading, the stock market reached new highs last week.

The Dow Jones industrial average advanced 203 points to 11,279.65. The Standard & Poor's 500-stock index gained 26 points, to 1307.25. The Nasdaq Stock Market composite index climbed 44 points, to 2306.48.

The gains were the biggest since the first week of the year for the Dow and the S&P, which last week cruised past their previous peaks and now are trading at their highest levels since the summer of 2001.

Tech stocks still lag, but the Nasdaq is just 25 points shy of the high it reached earlier this year. If it can return to that level, it too will be trading at a four-year high.

The market benefited this week from a new Wall Street consensus on interest rates. The Federal Reserve will boost rates only another half of a percentage point, most economists now are saying. That light at the end of the tunnel is what traders want to see -- even if it might be a mirage.

MARKET BEAT (LAT)

By Tom Petruno

The Los Angeles Times, March 19, 2006

Investors Aren't Scaring Easily

The Dow is up 5.2% this year, its best start since 1999. A steady economy is trumping other issues.

Market Beat

March 19, 2006

Something may come along to scare the U.S. stock market down from its current heights. But it may have to be a problem people haven't seen before.

The usual suspects seem to be losing their ability to frighten investors. That's often a good sign for a bull market's staying power.

The blue-chip Dow Jones industrial average is up 5.2% this quarter, its best start to a year since 1999.

Much of the rest of the U.S. market is doing as well or better, which should translate into some happy returns on investors' first-quarter financial statements.

The advance in share prices lifted the Dow last week to its highest level since 2001 and some broader indexes, such as the small-stock Russell 2,000 and the New York Stock Exchange composite, to record highs.

It's true that the U.S. market is a laggard compared with the gains racked up this year in many foreign markets. That was the case last year as well.

Still, this probably is a better beginning to 2006 than many investors had expected. If this pace continues, the Dow will be up more than 20% for the year.

You won't find many people on Wall Street who believe that kind of gain is achievable, however. A Bloomberg News survey last week of seven big brokerages found the average forecast was for a Dow of 11,785 at year-end, which would be a 10% full-year gain. That would mean a 4.5% rise from Friday's closing level of 11,279.65.

What would it take to make this a 20% kind of year? The temptation is to say, "Everything has to go right." But then, the Dow has gone a quarter of that distance with plenty going wrong this year.

Oil prices are higher than they were on Jan. 1, and so are long-term bond yields. The trade deficit is up. Congress is rattling the protectionist saber. The housing market is slowing.

More risks loom. The dollar is weakening again, Iraq might yet plunge into civil war, and bird flu could arrive in the U.S. any day.

Yet none of this has been enough to undermine the equity market this quarter.

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Maybe investors simply have grown tired of worrying about the ups and downs of oil and bond yields. The shock value is waning.

Or maybe the potential negatives are being trumped by one overriding positive: The U.S. economy is in good shape. The Federal Reserve said as much last week in its latest summary of regional economic conditions, the so-called beige book report.

The Fed said most of its 12 district banks characterized the pace of economic expansion as "moderate or steady" in January and February. Importantly, it said that "employment continued to increase in most locations and in many sectors of the economy."

That jibes with the government's report on March 10 that the economy created a net 243,000 jobs in February, the second-best monthly gain in the last 12 months.

Decent job growth has been the missing element of this expansion since 2001. If that tide is turning, it could underpin the next phase of economic growth. More jobs mean more households, more household income, and, eventually, more spending.

Wall Street also is betting on continued good times for the industrial sector of the economy, which is turning out the commodities and heavy machinery that are in demand in many emerging-market countries.

This year's rally in the Standard & Poor's 500 index, which is up 4.7% since Dec. 31, has been led by stocks of companies such as grain processor Archer-Daniels-Midland Inc. (up 43% year to date), machinery titan Caterpillar Inc. (up 32%, making it the hottest stock in the Dow index) and railroad Union Pacific Corp. (up 13%).

Union Pacific last week raised its earnings forecast for the current quarter by more than 20%, in part citing growth in commodity hauling.

They may lack the glamour of the technology leaders of the late 1990s, but grimy industrial stocks are getting the job done in people's portfolios in this bull market. Since the end of 2002, Caterpillar's stock is up 233% and Union Pacific is up 52%.

Semiconductor giant Intel Corp., by contrast, is up 25%.

John Kosar, head of Asbury Research in suburban Chicago and a longtime analyst of stock and bond market trends, doesn't take much comfort in the leadership of industrial shares.

Without a strong rally by tech issues the market's advance this year won't be sustained, he contends.

Historically, "If tech doesn't lead, the market doesn't go up very much," Kosar said. "When stocks really are doing well, people want to ride the fastest horses," and that's often tech shares, he said.

The tech-heavy Nasdaq composite index, which ended at 2,306.48 on Friday, remains below its five-year high of 2,331.36 reached Jan. 11.

Kosar says the broad market is likely to trip soon, although he isn't sure what the catalyst might be to take it down.

Let's say he's right. A market correction may well be overdue, given stocks' gains since October. (Although bearish analysts were arguing the same thing at the start of the year.)

But one highly anticipated event could make any sell-off short-lived: The Federal Reserve may be nearing the end of its credit-tightening campaign.

Many on Wall Street expect Fed policymakers to announce at either their May or June meetings that they are pausing after lifting their key short-term rate from 1% in mid-2004 to the current 4.5%. (A rate increase to 4.75% at the March 28 meeting seems all but certain.)

How would investors likely react to the prospect of even a temporary halt to the Fed's rate increases at, say, the 5% level?

Some surely would rush to buy long-term Treasury bonds to lock in yields.

But if the Fed stopped, and if confidence remained high that the economy wasn't at risk of falling into recession, that almost certainly would be an invitation for investors to take on more risk in search of higher returns. The stock market would be a logical destination for those investors.

In effect, the Fed would be removing a restraint that has held the U.S. market back since the beginning of 2004, when it became obvious that rock-bottom interest rates were going away.

"When people believe with confidence that the Fed is done, equities will probably be the primary beneficiary," said Anthony Karydakis, chief U.S. economist at JPMorgan Asset Management in New York.

Consider what happened in Britain in 2004 and 2005. The Bank of England raised its benchmark rate from 3.5% in October 2003 to 4.75% by August 2004. It then went on hold.

The FTSE-100 index of British blue-chip stocks rose 9% from the date of the bank's August 2004 meeting to the end of that year. It then jumped 17% in 2005.

With so many short-term traders in markets worldwide, it isn't hard to imagine that U.S. stocks would attract a mountain of money once it was clear that the Fed was pausing, if the economic outlook remained upbeat.

How long that money would stay, and how high it might be willing to bid share prices, are anyone's guess.

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But if the Fed in fact is nearly done, the stock market's performance this quarter could just be an opening act to a surprisingly good year.

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The March Of The Bears May Only Be Starting (NYT)

By Conrad De Aenlle

The New York Times, March 19, 2006

TRADERS may not have much data to worry about this week, thanks to a calendar that is light on economic reports and earnings. So maybe this is a good time to focus on how they feel, instead.

Some analysts do precisely that — study the mood on Wall Street — and their conclusion is that investors do not feel so hot. Popular gauges of sentiment toward stocks show extreme bearishness, at least by the standards of the last few years, even with the market hitting new highs.

"The equity market is climbing a wall of worry right now," David Rosenberg, an economist at Merrill Lynch, said in a note to clients. He cited a recent edition of the widely followed survey of investment newsletter writers by Investors Intelligence, which recorded the highest level of bearishness since April 2003 and the least bullishness since August 2004.

Mr. Rosenberg sees reason to cheer such comparative despondency. After those prior two milestones, he said, "the S.& P. 500 managed to take off in the ensuing two to three months." His advice is to take the survey readings "as signs that there is a lot of bad news already being discounted" in stock prices.

But Louise Yamada, head of Louise Yamada Technical Research Advisors, warned investors not to get their hopes up just yet. Bad news can be infectious, she said.

"Once the market letter-writers begin to turn bearish, there is a slow progression," she said. "Those early writers advise their clients, who lighten positions, the effect of which on stocks leads more letter writers to turn more cautious."

As the next wave of advisers turns gloomy, their followers begin to sell, and on and on. "So if the bearish writers continue to move up in numbers," Ms. Yamada said, "there can be a cascade effect on equities."

Eventually, there are so many bears that few have retained their holdings, and the market goes back up. But bearishness has been moderate during the last couple of years, she said, "so if this initial increase continues, the progression would just be beginning."

And Mr. Rosenberg acknowledged that there were reasons to feel pessimistic these days, including the inability of oil to stay below $60 a barrel; avian flu; trade skirmishes with China; and the potential for falling home prices.

"The bottom line is that there are legitimate things to be concerned about," he said.

DATA WATCH The report on February producer prices due Tuesday is forecast in a Bloomberg News poll of economists to show a 0.3 percent decrease; excluding food and energy prices, a 0.1 percent increase is predicted.

Orders for durable goods, often a volatile statistic, are expected to record a turnaround, rising 1.4 percent in February after a 9.9 percent decline in January.

Rice Seeks To Balance China's Power (NYT)

By Steven R. Weisman

The New York Times, March 18, 2006

PAGO PAGO, American Samoa, March 18 — Secretary of State Condoleezza Rice held talks on Saturday with Japan and Australia to deepen a three-way regional alliance aimed in part at balancing the spreading presence of China.

At the same time, American officials said the United States was also looking at the meeting of top envoys of the three countries in Sydney, Australia, as a means to draw Japan into improving relations with neighboring countries still suspicious of its intentions 60 years after World War II.

Heading toward the end of what aides said would be one of the longest trips by a secretary of state, Ms. Rice joined with the foreign ministers Alexander Downer of Australia and Taro Aso of Japan in welcoming China's "constructive engagement" in East Asia. Australian and American officials acknowledge, however, that the phrase understates the Chinese sphere of influence.

"The tenor of the discussion was how to make China a positive force in the region," said Sean McCormack, the State Department spokesman, briefing reporters on the secretary's plane to American Samoa for refueling. He said the discussion was an effort to add to the web of American alliances in the area, to enhance stability and not threaten China.

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Nevertheless, in Indonesia earlier in the week and then in Australia, where Ms. Rice spent nearly three days, she was repeatedly asked by the local news media about American intentions toward China, which has signed an array of economic deals with countries on its rim.

At a news conference in Sydney on Thursday, Ms. Rice reinforced those concerns, criticizing China's military buildup, economic policies and human rights record. Asked if China would see Ms. Rice's trip as a cause for concern, another senior official, speaking anonymously under briefing ground rules, said, "I think we certainly hope so."

Ms. Rice's visit to Australia, from Wednesday night to Saturday afternoon, was long compared with other stops. But American officials said Australia, an ally that has sent forces to Iraq and Afghanistan, had been feeling neglected, and Australian leaders appealed for Ms. Rice to do some public diplomacy to prop up the sagging American image.

U.S. Confers With Allies On China Energy Efforts (WT)

By Nicholas Kralev

The Washington Times, March 19, 2006

SYDNEY, Australia -- The United States, Japan and Australia yesterday discussed China's "aggressive" buying of energy assets in Africa and Latin America, the first time China's "energy diplomacy" has been examined at an official international forum.

Secretary of State Condoleezza Rice and the foreign ministers of Japan and Australia, Taro Aso and Alexander Downer, were unable to agree on steps to address the issue.

"It was a constructive conversation over China's role in the region and its future role in the world, and how to make China a positive force within the international system," State Department spokesman Sean McCormack told reporters traveling with Miss Rice.

He said the meeting had not been a "finger-wagging" anti-China session, but he acknowledged that Beijing's dealings with problematic states -- whose actions are often referred to the U.N. Security Council, where China has veto power -- were part of the discussions.

The trio did not agree on a solution to the problem, which has been most evident in Beijing's reluctance to support U.N. action against Sudan over atrocities in its Darfur region, Mr. McCormack said.

Yesterday's session had worried China, but U.S. and Australian officials insisted there was no conspiracy against the world's most-populous nation.

"We welcomed China's constructive engagement in the region and concurred on the value of enhanced cooperation with other parties," such as the Association of Southeast Asian Nations and South Korea, the ministers said in a joint statement.

"Supporting the emergence and consolidation of democracies and strengthening cooperative frameworks in the Asia-Pacific region was a particular focus of our attention," they said.

Mr. Downer said China should not feel that the three allies are "ganging up" on it.

Earlier in the week, Miss Rice sought to assure Beijing that Washington's efforts to solidify its alliances with Japan and Australia, and to build up India and Indonesia as formidable Asian powers are not aimed at encircling China with pro-U.S. states.

At the same time, she voiced concern over China's 14 percent increase in its defense budget this year to about $35 billion.

In a separate meeting with Mr. Aso yesterday, Miss Rice asked him "to reconsider the total ban on beef imports" from the United States that Japan has imposed, Mr. McCormack said.

Japan's Kyodo news agency quoted Japanese officials in Sydney as saying that Miss Rice told Mr. Aso that reinstating the ban on U.S. beef was an excessive reaction after a U.S. meat-packing plant mistakenly shipped banned spinal materials in a batch of meat to Japan in January.

Just a month earlier, Tokyo had lifted a previous two-year ban on U.S. beef imports imposed because of mad cow disease fears.

A third case of mad cow disease in the United States was discovered last week, while Japan confirmed on Friday it had found its 24th case and the first in a beef cow.

Miss Rice and Mr. Aso also discussed the repositioning of U.S. forces in Japan.

Rice Finishing 10-Day, 31,263-Mile Trip (AP)

By Anne Gearan

AP, March 19, 2006

Condoleezza Rice is flying around the world — and then some. Whether she breaks a record by a secretary of state will have to wait for a thoughtful assessment free of jet lag.

Rice finishes a 10-day, 31,263-mile odyssey on Sunday that took her to three continents. She crossed four oceans and the international dateline twice. A trip around the world at the equator is only about 25,000 miles.

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Her diplomatic tour of Chile, Indonesia and Australia probably breaks Madeleine Albright's 1997 record for the most miles flown by a secretary of state on a single trip, although State Department spokesman Sean McCormack could not say for sure.

The Rice trip included a punishing, 23-hour slog that may set its own State Department record for most continuous miles. She flew from Santiago, Chile, to Windhoek, Namibia to refuel her plane, to Mauritius to refuel again, and then to Jakarta, Indonesia.

That's a strange hopscotch across the Southern Hemisphere. The Air Force, which operates Rice's Air Force Two plane, insists it's faster than a more direct route because of favorable winds.

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There were some odd moments along the 60-hour journey around the world.

Bolivian President Evo Morales gave Rice a musical instrument shellacked with coca leaves. The gift stayed behind in Santiago, Chile, where Rice and Morales were attending the inauguration of Chilean President Michelle Bachelet. Coca growing is legal in Bolivia, even if the ultimate use of much of the crop is not.

"There was some question about the legal regulations" imposed by the U.S. Customs Department, McCormack said. "She was very pleased to receive it," he offered, well, diplomatically.

In Windhoek, the tarmac was carpeted with beetles drawn by the lights required for Rice's middle-of-the-night arrival. Really, really big beetles. She did not get off the plane and thus missed the local fauna.

The Windhoek airport is reported to be the site of a secret U.S.-run detention center for terrorism suspects. Reporters who ventured to the darkened edge of the tarmac, in sight of a string of low, nondescript buildings, met a muscular guard with a gun who materialized from the darkness.

A huge and eerily beautiful moon hung over the scene, beetles and all.

In Mauritius, some in Rice's party boarded a bus for a quick, delightful trip to a beach while the plane was refueled and the Air Force switched crews.

In Indonesia, Rice toured an Islamic elementary school that receives U.S. funding. Announcing an $8.5 million grant to bring "Sesame Street" to Indonesia, Rice posed with an actor dressed head to toe in a red, furry Elmo suit.

In Sydney, Australia, Rice got a little rattled by anti-war protesters who interrupted her during a speech. "Sir, do you have something you'd like to say?" Rice asked a young man who called her a war criminal.

"Iraqi blood is on your hands and you can't wash that blood away," he shouted over and over until guards led him away.

Rice had a comeback, noting that democracy is alive and well both in Sydney and in Baghdad, but her voice grew thin.

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For a woman who habitually rises at 4:30 a.m. to exercise and bounds into her office two hours later, Rice's trip had a relaxed feel.

Rice actually played the tourist for the first time in her 14-month tenure as the top U.S. diplomat.

She took in a boxing match and several swimming events at the Commonwealth Games in Melbourne, Australia, near the end of the trip. She hung medals around the necks of three Australian swimmers and chatted with swim star Ian Thorpe.

She looked like she was having fun.

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What do you do for 60 hours on an airplane? Work, eat, read, sleep, eat some more. And listen to your iPod.

Most of Rice's staff and traveling party were equipped with the popular digital music devices, with tastes ranging from Vivaldi to Tupac.

Rice senior adviser Jim Wilkinson offered a tour of his iPod: Def Leppard, Kid Rock, Kanye West. Speechwriter Chris Brose listens to Spoon, Rufus Wainwright and Miles Davis.

Reading material for reporters and aides ranged from "Assassin's Gate," George Packer's account of the early phase of Iraq reconstruction, to Truman Capote's "In Cold Blood." Rice was reading Doris Kearns Goodwin's new biography of Abraham Lincoln.

"When you fly 60 hours, at some point everyone goes mad," Wilkinson said. "You just pray that it happens at different times along the way."

World Scrambles To Feed China's Appetite For Metal (LAT)

By Don Lee, Times Staff Writer

The Los Angeles Times, March 19, 2006

YONGKANG, China — About once a month, Ying Guangwu tucks some cash inside his black shirt, slings a knapsack over his back, and hits the road.

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The square-jawed 33-year-old doesn't always know where he's headed or when he'll return. But he knows exactly what he's looking for: tons of scrap metal.

A pen-shaped magnet in his pocket helps him determine the quality of some metals. In December, Ying spent two weeks in Guangdong province, a 20-hour bus ride away, rummaging through factory warehouses and scrap yards. He bought 10 tons of tin ingots, lead cables and imported scrap, shipping them by truck to his wife, Lin Li. She sorted the stuff inside their two-story home before reselling it to metal traders and recyclers in town.

Ying and Lin, high school graduates, earned about $25,000 last year — more than what many Chinese doctors and lawyers make.

"I didn't want to do this when I was young. It seemed stupid to me," says the second-generation scrap collector, whose sunburned face bears the mark of 10 years on China's dusty streets. But his father took the right path, Ying says. "This is turning trash into treasure."

China's voracious appetite for metals is convulsing the world. It has led to economic booms in some nations and crime waves in others by so-called urban miners who steal metals from houses and public buildings. China's runaway economy needs the metals to build railroads, office towers, cars and appliances.

The Middle Kingdom is now the world's biggest consumer of copper, lead, zinc, iron ore, steel and aluminum.

China's hunger has boosted mineral-rich nations, from copper-laden Chile to Australia, which has vast iron deposits. Prices of new and used lead, copper, nickel and other metals have tripled or more in the last few years, triggering a worldwide scramble for the commodities.

Chinese state-owned mining companies are prowling the planet for fresh supplies, while armies of people such as Ying and Lin spend their days hunting for castaway metals from typewriter letterheads to 30-foot-long aluminum missile casings.

Nowhere in China is the craving for metals more evident than Yongkang. This landlocked city in southeastern China's Zhejiang province calls itself the hardware capital. With a population of about 530,000, Yongkang boasts about 10,000 hardware businesses, nearly all of them private family enterprises.

Yongkang is legendary for itinerant tinkerers who mended pots and pans for a living. Today, countless homes, storefronts, junkyards and factories carry on that tradition, buying, selling and recycling more than 600,000 tons of scrap metal every year. The city's streets teem with tractors, trucks and bicycles hauling metal rods, coils and sheets.

Many head for Yongkang's scrap-metal market, an outdoor bazaar slightly smaller than the Los Angeles Convention Center. More than 400 garage-sized storefronts are filled with scrap collected around the world: crushed beer cans from Japan, fuel pumps and used car parts from the West, air-conditioning condensers from northeastern China.

On a recent afternoon, Ying Sufang sat stooped outside Store No. 287, meticulously separating printers' lead pieces no bigger than grains of rice.

The lead was shipped to her by her husband, who was foraging for scrap about 1,000 miles away — not far from the Vietnam border. Last year, Ying and her husband earned more than $7,000, their best take in 10 years.

"That's not bad," the 44-year-old said.

But it has come at a price. Ying, who is unrelated to Ying Guangwu, grumbles about the grimy, sometimes punishing work.

She has never become accustomed to her husband being away for long stretches. He has been gone for the last month, leaving her and their middle-school daughter at home.

"I chose this business because 60% to 70% of people in our village are doing this," she said. "This is how we make money…. I don't know what else to do."

Across the Pacific, George Adams is also cashing in on one of the greatest commodity booms in modern times. He is the president of Adams Steel, a scrap metal dealer in Anaheim that shreds used cars, washing machines and dryers down to the size of a wallet. The crushed metal is loaded onto trucks and containers that are shipped to traders around the world. Much of it winds up in China, in the hands of millions of scrap traders like those in Yongkang.

Adams' annual sales now exceed $100 million. Last year he bought scrap yards in Southern California, installed more shredding equipment and added 70 employees to boost his workforce to 500.

He has a lot of competition. Thieves have ripped apart ballpark fences in Des Moines and stripped copper from cathedral domes in Cleveland. In Buenos Aires, people have made away with bronze plaques on boulevards and copper wires from utility companies. And in England, India and Malaysia, tens of thousands of manhole covers have vanished.

"They're taking copper out of brand-new houses in Southern California," says Carl Clark, Adams Steel's plant manager. Such stolen copper pipes and wires don't need to be recycled; they are bundled together and sold to brokers who send them all over the world, where they fetch triple the prices of a few years ago.

"An actual copper penny today is worth more as scrap than its face value," Clark says.

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The crime spree has resulted in deaths as people have fallen down manholes, and has caused such concern that countries like Argentina placed restrictions on the export of scrap metals.

The price of iron ore, a major ingredient in steel, jumped 71% in the last year alone, sharply cutting steel producers' margins. But with China accounting for one-fourth of the world's steel production last year — and half of all iron ore imports — Beijing is demanding that iron ore exporters put a lid on prices.

"The Chinese are flexing their market power," says Ruth Stroppiana, an economist at Moody's economy.com in Sydney, Australia. "The China factor," she adds, "has been absolutely huge" for Australia, Brazil, Chile and other resource-rich nations.

Chinese towns such as Yongkang also have benefited, although the metal boom has taken a heavy toll on China's environment and workers. Pollution-spewing metal factories have tainted rivers and land.

In Yongkang, officials have shut down dozens of the 1,000-plus smelters in the city, say plant managers. Authorities also have toughened rules governing imported scrap metals — prohibiting car motors containing oil, for example, says Du Huanzheng, a metals expert at Zhejiang Institute of Industry and Commerce.

Still, China's imports of scrap metal surged nearly 30% last year, Du says, and the trend is not likely to abate soon, least of all in Yongkang.

Ying Zhiang's family has been in the scrap metal business for several generations. He is no relation to Ying Guangwu or to Ying Sufang. About 20 years ago, Ying collected scrap as he traveled the country fixing scales for merchants. "Even though products can get old and useless, the metal in them still has value," he says.

Now 52, Ying runs Yongya Copper Industrial Co., one of China's leading copper producers and recyclers. His Yongkang-based company ships 100 tons of the metal a day. He buys most of his scrap copper from dealers in town and the nearby port city of Taizhou, which is also known as Linhai.

In Yongya's warehouse, workers in red caps moved bales of scrap wire, and others in street clothes picked up small bits of loose copper on the ground. Ying says he is considering collecting scrap himself again, because prices have soared beyond belief. A decade ago, he was buying a metric ton of copper in China for about $625. Now it costs about 10 times that amount.

"The numbers are out of this world," he says.

Deep In China, A Poor And Pious Muslim Enclave (NYT)

By Jim Yardley

The New York Times, March 19, 2006

DONGXIANG, China — No, the old man answered, standing in his bare home deep in a mountain ravine, he had never seen an airplane. The man, Tie Yongxiang, has never watched television, either. He listened to the pop quiz and seemed pleased when he could answer the last question in the affirmative.

China? Had he ever heard of it?

"I know what China is," said Mr. Tie, 68. "It is a country run by people who are supposed to be helping us."

"Us," as Mr. Tie puts it, are the Dongxiang people, an ethnic group that has lived for eight centuries in the dry, forbidding mountains that make this county in Gansu Province one of the most isolated places in China.

The most recent census found 513,000 Dongxiang people in China, and an overwhelming majority live in and around Dongxiang County. Of the 25 townships in the county, 19 do not have a single Chinese person. Most people do not speak Chinese, and some, like Mr. Tie, have only a vague notion of China, despite living in the middle of it.

The geographic isolation has helped preserve an Islamic culture, as well as an ancient language, but it has also separated the Dongxiang people from the prosperity lifting other parts of China. The Dongxiang, one of China's 56 officially recognized ethnic minorities, are now among China's poorest and most illiterate people.

On a recent Friday, two days after a heavy snowstorm had coated the mountains and left a sheet of ice on the narrow village roads, old men in white caps trudged through the snow to different mosques. Though some are too poor to send their children to school, they have pooled money to build village mosques as well as graceful towers with elegant curved roofs that serve as Muslim burial vaults.

"The Dongxiang people have always believed in Islam," said Ma Ali, 36, the imam at an old mosque in the village of Hanzilin. Indeed, even within a larger region known as the center of Islam in China, the people of Dongxiang have a reputation for being particularly steadfast in their faith.

"People were devout in the past," said Ma Kui, 75, as he leaned on a wooden cane and waited for afternoon prayers with other farmers dressed in lambskin coats. "They are still devout now."

But as everywhere in China, modernity is seeping up the winding roads to the county's larger settlements and beckoning many younger people. In the county seat, Suonanba, cellphones, blue jeans and Internet cafes arrived several years ago. So did Chinese building contractors, cigarettes, alcohol and food not prepared to Islamic code.

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"The Islamic atmosphere has become watered down over time, and the older people are aware of that," said Ma Chunling, who is 22. "So they want to protect their culture, and particularly Islam."

Growing up, Ms. Ma (the family name is quite common here) felt the otherness of being from Dongxiang. Her mother told stories of hiding in caves during her own childhood, fearful that "the Chinese" were coming.

"All of the people in the village were waiting for the Chinese to come and slaughter them," Ms. Ma said. "But the Chinese never came."

Ms. Ma, now a primary school teacher, spent three years at a vocational school in the eastern port city of Tianjin and wanted to stay and become a hairdresser. But she said her parents were conservative Muslims who believed it was inappropriate for an unmarried woman to travel far from home.

"A lot of young people really want to go out and see the rest of China," she said. "But often their families don't let them. It's still very, very isolated."

For years, many Chinese scholars assumed that the Dongxiang descended from the Mongol soldiers in Genghis Khan's army who eventually settled in Gansu during the 13th century when the Mongols ruled China under the Yuan Dynasty. But their exact origins were never fully known, an uncertainty that fed an inferiority complex.

"A man once asked me, 'Where do the Dongxiang come from?' " said Ma Zhiyong, a historian who grew up in the county but moved to the provincial capital, Lanzhou, as a teenager. "I was 18 or 19, and couldn't answer the question. I was ashamed."

Mr. Ma decided to look for an answer. Over several years, he scoured research libraries in Gansu, talked to other scholars and studied old maps. He found that some Dongxiang villages shared names with places in Central Asian countries like Uzbekistan.

He also found shared customs. He said peasants in Uzbekistan and Dongxiang both learn to cut a slaughtered chicken into 13 pieces. He found that Dongxiang people described themselves as sarta, a term that once referred to Muslim traders in Central Asia.

There was even a physical similarity, as many Dongxiang look more like people from Central Asia, as opposed to Han Chinese.

Mr. Ma decided that the story about Genghis Khan's army was only half right. Some of the Dongxiang ancestors were Mongol soldiers. But he concluded that many others were a diverse group of Middle Eastern and Central Asian craftsmen conscripted into the Mongol army during Khan's famed western campaign. They brought several languages and, in many cases, a strong belief in Islam.

Mr. Ma said that generations of intermarriage, including marriages with local Han Chinese and Tibetans, resulted in a new ethnic group and language.

The language, if a source of pride, is also blamed for Dongxiang's educational shortcomings. The language is oral, so children never learn to read or write in their native tongue.

In grammar school, the curriculum is in Chinese and many students drop out. Government statistics show that the average person in Dongxiang has only 1.1 years of schooling. Because of the cost, many families never even send children to school, particularly daughters.

"When I was in primary school, I didn't understand what I was learning," said Chen Yuanlong, a local official and scholar. "Often, I wanted to talk to the teacher, but I couldn't communicate my ideas in Chinese. It was very difficult."

The challenge of trying to teach Chinese to Dongxiang children has attracted international aid groups to Dongxiang. The British government is financing a large training program for teachers.

Another pilot program, paid for by the Ford Foundation, has created a bilingual curriculum using a Dongxiang-Chinese dictionary developed by Mr. Chen and other scholars. That program has already produced an improvement in test scores, but its supporters are searching for more financial backing.

Education is a basic problem but many people still struggle just to survive. Villages in the deepest ravines depend on potatoes and face starvation during drought years.

Some men who live closer to roads and commerce have become mules for drug runners. Others have left for manual labor in bigger cities, demolishing buildings or working as butchers or dishwashers.

Mr. Tie, the man who took the pop quiz, is too old for such work. He lives halfway down a ravine with his wife and their 16-year-old mentally retarded son. "We beg," Mr. Tie said. "We have land but when our crops aren't enough, we go to nearby villages to beg."

Farther up the ravine, closer to the road that leads to the county seat, Ma Hezhe, 25, watched over her 3-month-old son. Her family is like a snapshot of Dongxiang: two of her husband's brothers had left the county to work as migrant laborers; her mother-in-law, huddled in the corner of the communal bed, had not left Dongxiang in her entire life. The tiny baby, the newest generation, had been given an Islamic name, Ibrahim.

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Ms. Ma had not yet given him a Chinese name. "He doesn't need one until he starts school," she said. It was a local custom, she added, to wait until a child came "into contact" with Chinese society.

There would be plenty of time.

Thousands Of Taiwanese Rally To Assert Freedom From China (LAT)

By Mark Magnier And Tsai Ting-i, Special To The Times

The Los Angeles Times, March 19, 2006

TAIPEI, Taiwan — President Chen Shui-bian on Saturday called on Taiwan to resist China's bid to annex the island as tens of thousands of people took to the streets protesting Beijing's growing military threat.

"Our future will never be decided by the 1.3 billion people of China," Chen told supporters in front of the presidential office building. "Taiwan is an independent sovereign state, and its future should be determined by its 23 million people. Taiwanese people oppose annexation and invasion."

Protesters on the three-hour march held balloons and waved banners as a flatbed truck hauled a large globe surrounded by red-colored likenesses of missiles bearing the Chinese flag.

The rally, with the slogan, "Protect democracy, oppose annexation," was held to mark the passage of a controversial law in Beijing last year that threatens to use force if Taiwan declares independence.

In recent weeks Chen's government has raised the temperature across the Taiwan Strait by announcing plans to dissolve a largely symbolic unification council, a move nonetheless viewed critically by Beijing, which considers Taiwan part of its territory.

The Bush administration has signaled its displeasure with Chen's latest move, concerned over the prospect of inflamed tensions across the Taiwan Strait at a time when its military forces are stretched thin by conflicts in Iraq and Afghanistan and its diplomats distracted by Iran and North Korea's nuclear programs.

Beijing, which announced a 14.7% increase in its military budget this month, raising it to $35.3 billion, has more than 700 missiles aimed at Taiwan.

Chen's Democratic Progressive Party and some television stations estimated that Saturday's march drew 100,000 people, though some police put it closer to 50,000.

The festive atmosphere often seemed more like a street fair as Taipei mothers pushed baby carriages alongside party loyalists bused in from around the island.

"I am here to show my patriotism," said 53-year-old Wang, who gave only his surname. He was accompanied by his wife and three daughters. "We have our own country."

Analysts said Chen could become more provocative in coming months, as he tries to keep his party in power beyond the next presidential election in 2008.

"The China threat issue is a perfect button to push to avoid people looking at his domestic record," said Wenran Jiang, acting director of the China Institute at the University of Alberta in Canada. "Things could get complicated with this kind of game."

Chen's ruling DPP is reeling from a weak showing in local elections late last year and a recent scandal over alleged payoffs involving the use of foreign labor.

On key issues for voters, including the economy and education, Chen's legacy leaves little for his successor to run on. And the opposition Nationalist Party is gaining momentum under the leadership of Harvard-trained Taipei Mayor Ma Ying-jeou.

Chen hopes Beijing will lose its cool and make a threatening move that will push centrist voters to his party, analysts say.

But this strategy could create ripples well beyond the island. Keeping Taiwan in the fold is a core issue on which Chinese leaders judge their legitimacy, especially at a time when they want stability in the run-up to the 2008 Olympics in Beijing.

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Times staff writer Magnier reported from Beijing and special correspondent Tsai from Taipei.

Taiwanese Hopeful Would Alter Course On China (WP)

By Edward Cody

The Washington Post, March 19, 2006

TAIPEI, Taiwan -- Ma Ying-jeou has always loved to run marathons, and he has approached politics the same way. From the day he was named Taiwan's youngest-ever cabinet member 18 years ago, he has been running for leadership. Now, 55 and head of the Nationalist Party, he has started a sprint toward the presidency that, in the view of many Taiwanese, could dramatically alter the island's tense standoff with China.

In an interview last week, Ma pledged that if he won the next presidential election, in 2008, as widely expected, he would shift Taiwan sharply away from the confrontational, pro-independence policies followed by President Chen Shui-bian. A

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Nationalist government under his leadership, he declared, would seek neither unification with nor independence from China, focusing instead on practical improvements in cross-strait relations while maintaining the status quo of Taiwanese self-rule.

"When I talk about these things, I say, 'Let's forget about unification and independence,' " he said. "Let's maintain the status quo and concentrate on the economy."

His statements were framed to sound like music in Washington, where the Bush administration has repeatedly expressed irritation with Chen's relentless efforts to move Taiwan's 23 million people along the road toward independence since his rise to power in 2000. Although the United States has no formal diplomatic relations with Taiwan, it has promised to help in the island's defense, raising the specter of U.S. involvement should the tensions over independence explode into military confrontation with China.

Ma's lower-the-temperature approach is also calculated to appeal to Beijing, where Chinese leaders constantly express dismay at Chen's independence moves. China, which regards Taiwan as a province that must return to Beijing's rule, has warned it will do whatever it takes to prevent the island from attaining formal independence, including using force. Seeking to portray Chen as the main source of that danger, the Chinese government has gone out of its way to take a friendly stance toward the Nationalist Party, particularly since a history-making visit to China last April by Ma's predecessor as party leader, Lien Chan.

Here in Taiwan, a strong majority has consistently told poll-takers that maintenance of the status quo is the wisest course, expressing unwillingness to embrace reunification but uneasiness about the possibility that a passionate quest for independence could lead to war. A dip in the island's economic growth has added another argument, raising fears that Chen's independence drive is diverting official attention from economic concerns. In casual conversations last week, residents of the capital, Taipei, repeatedly emphasized worries that Chen's priorities were out of balance.

There are signs that these sentiments have caused a shift in the electorate, boding well for Ma's chances in 2008. The Nationalist Party and its allies retained control of the legislature in December 2004 elections, despite wide expectations to the contrary. Elections for city and county councils last December again showed a drop in support for Chen's Democratic Progressive Party. A poll taken the same month showed the president's approval rating down to 21 percent.

Ma, the mayor of Taipei, has the movie-star looks and sleaze-free appeal to capitalize on the new political winds, Taiwanese analysts said, provided nothing blows him off course during the next two years. Women on both sides of the Taiwan Strait especially appreciate him. Hearing that a friend was about to interview Ma, Chen Hui-ting, a 24-year-old college student, said: "Wow, that's so cool to be meeting Ma. Say hi to him for me."

But he has left nothing to chance. To broaden his appeal among Taiwan's native population -- who provide Chen his base -- Ma has been studying Taiwanese dialect and renewing ties to the man he defeated to become Nationalist chairman, Wang Jin-pyng, the parliamentary speaker and a native Taiwanese.

The son of a Nationalist general who came from the mainland with the defeated Chiang Kai-shek in 1949, Ma has been a party activist since his student days. In addition to his pedigree, an elite education and smooth manners propelled him upward. A fluent English speaker, he interpreted for then-President Chiang Ching-kuo when Chiang announced in a 1986 interview with The Washington Post that Taiwan would lift martial law. By age 38, he was appointed to his first cabinet-level post. Ma defeated Chen, who was then Taipei mayor, to win his current job in 1998, the first of two terms.

Ma, educated at New York University and Harvard Law School, will get a chance to convey his views directly to Americans in a visit beginning Monday in New York and including stops in Boston and Washington as well as on the West Coast. The main purpose, he said, is to promote U.S. investment in Taiwan's high-tech industries. But his schedule also includes talks with U.S. officials designed to burnish the résumé of a possible future president.

Despite his promise to smooth relations with China, Ma is likely to face hostile questions in Washington about why his party's legislative majority has blocked an $18.2 billion arms sale proposed by the Bush administration five years ago and pushed without success by Chen. Ma, whose Nationalists have sought a smaller package, said Chen's government had taken "a dangerously wrong course" by focusing on confrontation with China.

Taiwan's president, he said, seems eager to please the "nationalist fundamentalists" at the core of his Democratic Progressive Party and to steer attention away from corruption charges leveled in recent months against some of his top aides. But more broadly, Ma added, Chen appears determined, in his two years remaining in office, to advance as far as possible toward his passionately held goal of Taiwanese independence.

"What the president is doing now is an incremental policy leading toward de jure independence," he said.

Chen's announcement on Feb. 27 that Taiwan's National Unification Council had "ceased to function" was the latest step and not the last, Ma warned. The next move will be revising the Taiwanese constitution in ways that move the island toward formal independence, according to Su Chi, a Nationalist member of the Legislative Yuan, or parliament.

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Ma said the Bush administration was unwise to accept Chen's decision on the unification council with only a mild reaction. U.S. and Taiwanese officials had negotiated the language carefully, leading Chen to abandon his stated intention to "abolish" the council in favor of the "ceased to function" formulation. Largely on that basis, the administration accepted Chen's contention that the status quo was not changed by his decision.

But Ma, citing his training as a lawyer, said the Chinese word Chen used in fact means "terminate," which does imply a change in the status quo. In addition, he said, no matter what the language, Chen's decision to stand up and announce the end of an official symbol of willingness to get along with China amounted to provocation.

"The U.S. side looks a little gullible," he said.

Administration Blocks Ex-Hostages' Bid For Damages From Iran (WP)

By Glenn Kessler

The Washington Post, March 19, 2006

At an emotional meeting this month at the State Department, steps from the office of Secretary of State Condoleezza Rice, a group of former American hostages released by Iran a quarter of a century ago, accompanied by lawyers and some relatives, confronted two of Rice's most senior aides.

The families' grievance: Why has the Bush administration, which has labeled Iran one of the world's most dangerous regimes and has called the hostages American heroes, fought their efforts to win damages for their ordeal from the Islamic republic?

The answer is rooted in diplomatic obligations and a wariness about favoring one set of terrorism victims over others. U.S. officials express sympathy for the former hostages. But the administration has thwarted every effort in the courts or in Congress to win a monetary judgment against Iran, even as other victims of Iranian-linked terrorism have secured hundreds of millions of dollars in compensation.

Those attending the March 2 meeting said that Undersecretary of State R. Nicholas Burns and legal adviser John B. Bellinger III tried to keep the discussion civil but that anger spilled over. The wife of a former hostage exclaimed at one point: "You are bloodless!" The meeting broke up with Burns acknowledging the difficulty of the issues and saying he would be open to further discussions.

But last week the State Department objected when Rep. Brad Sherman (D-Calif.) tried to address the issue in a House bill that would maintain sanctions against Iran for its links to terrorism, forcing the lawmaker to withdraw his proposal.

"We have 52 of our finest Americans who were held hostage," Sherman said. "They go to court, and you know who appears against them? The State Department."

The former hostages have long tried to sue Iran over being blindfolded, tortured and held in dank cells during 444 days in captivity. Earlier lawsuits were dismissed because other countries generally cannot be sued in federal court. But in 1996 Congress amended the foreign sovereign immunity law to allow suits against countries listed as state sponsors of terrorism. The former hostages sued under the new law, seeking $33 billion in compensatory and punitive damages, and won a default judgment against Iran in 2001.

But on the eve of a hearing to consider damages, the Bush administration intervened, saying the suit violated an agreement with Iran that had secured the hostages' release. The judge threw out the suit in 2002 after Congress twice tried to intervene by passing legislation favoring the hostages. The Supreme Court declined to hear an appeal in 2004. Now the former hostages are seeking relief from Congress.

"Every one of us has spoken the same line for 26 years: The Iranians cannot get away with what they did because it sends the wrong message," said Richard H. Morefield, a former hostage and 50-year State Department veteran who was the embassy's consul general when it was seized in 1979 and who still works at State, declassifying records for the archives.

Beyond the plight of these hostages, the case raises difficult issues.

Even if a victim of terrorism wins at trial, it is almost impossible to collect damages. Iran's assets in the United States, for instance, are worth only about $20 million, mainly diplomatic property, according to State Department officials. So Congress in 2000 passed legislation authorizing the payment of $380 million in U.S. Treasury funds to claimants in cases involving 14 victims who were held hostage or killed by Iranian-supported groups such as Hezbollah, according to the Congressional Research Service. Lawmakers ordered the State Department to try to get that money reimbursed by Iran someday.

Other victims of terrorism, however, have received nothing, leading some lawmakers to conclude that it is inequitable -- and costly to U.S. taxpayers -- to carve out exceptions on a piecemeal basis.

"The problem is you have had some greedy lawyers" who have blocked efforts at a comprehensive solution because it would limit a big payout, said Rep. Frank R. Wolf (R-Va.), who wrote to Rice last month to urge the administration to come up with a "fair, just and equitable system." He said: "You have to have something that cuts the lawyers out."

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The administration proposed a plan in 2003 that would have given any victim of terrorism $262,000. But only one hearing was held in the Senate, and the idea has languished, largely because of complaints that the amount was too low.

The former hostages of Iran have benefited from two laws, passed in 1980 and 1986, that among other things gave them tax breaks, paid their educational expenses and provided a "token detention benefit" of $50 for each day in captivity. In bringing a lawsuit, they must overcome the terms of the diplomatic agreement that led to their release but has also put the State Department directly in their path.

The agreement, known as the Algiers Accords, codified the 1981 deal between the United States and Iran under which the hostages were released, billions of dollars in Iranian assets were unfrozen, and an arbitration tribunal was established in the Netherlands to settle claims between the two countries. In the first part of the document, the United States pledged that it "will be the policy of the United States not to intervene, directly or indirectly, politically or militarily, in Iran's internal affairs." Elsewhere, the United States pledged to "bar and preclude" any claims filed by the hostages against Iran.

For the hostages, the situation is rich in irony. The State Department, in legal arguments and on Capitol Hill, has maintained that allowing the hostages' case to go forward will violate the Algiers Accords. But Rice has announced a $75 million plan to bolster democracy in Iran and to foster opposition to the theocracy that controls the country. The hostages say Rice's program violates the prohibition on interfering in Iran's affairs; Iran has also filed a complaint with the United States through the Swiss Embassy, which handles U.S. interests in Tehran.

"This administration has not been shy about breaking international agreements," said Barry Rosen, who was press attache at the U.S. Embassy and who now heads the Afghanistan Education Project at Columbia University's Teachers College. "The administration appears to be in contradiction of itself. It seems to me the Algiers Accords should be dead and buried."

Rosen, angry that others have "laid claim to millions and millions of dollars of compensation," added: "This may sound weird, but if I were made aware of that agreement, I would have stayed in Iran."

U.S. officials say that supporting democracy does not amount to interference under international law. And they say abrogating the Algiers Accords, though not a formal treaty, would be viewed overseas as a serious breach of international norms, harming U.S. interests. U.S. banks and companies have been able to settle claims with Iran because of the accords, while the United States has been forced to pay about $900 million to Iran for contract violations and property damage.

William J. Daugherty, a CIA employee who spent 425 days in solitary confinement during the crisis and is now a college professor, said the State Department is being "deceitful and dishonest." He added that "you can't argue that getting people to rise up against their government is not interfering in a country's affairs." He said that, after taxes, the check he received under the 1986 detention benefit was $17,000. "This came from the U.S. taxpayer, which none of us wanted to happen," he said. "We have always wanted Iran to pay for what it did."

Spokesman J. Adam Ereli said that the State Department supported the 1980 and 1986 measures giving direct benefits to the former hostages and that now the administration favors a "comprehensive program" for victims of international terrorism, including the former hostages.

"These brave people are members of the State Department family and are true heroes," Ereli added. "We are committed to having a full and open discussion about any issues they want to raise, and we will do our best to address them."

Iranian Dissident Released From Jail (WP)

By Karl Vick

The Washington Post, March 19, 2006

Defiant Journalist's Criticism of Ruling Clerics Remains Untempered

TEHRAN, March 18 -- Iran's most prominent dissident emerged from prison looking far older than his 46 years. His clothes hung on a frame reduced to 108 pounds by repeated hunger strikes. He smiled through a beard grown to the bushy nimbus of a Hindu holy man.

"All the time I was in prison was illegal," Akbar Ganji said of the six-year sentence he served for exposing the government's role in assassinating its critics. "From the very first day it was illegal."

Ganji's incarceration ended at 10 p.m. Friday, when Iranian security services dropped him unannounced at his family's apartment in northwest Tehran. The homecoming, which blossomed Saturday morning into a celebratory news conference as word of his release spread, was a rare moment of cheer for Iranian activists who have been steadily steered to the sidelines by the clerics who regulate Iran's politics from powerful, appointive offices.

Ganji, squeezed into a love seat between his wife and his attorney, faced a living room jammed with buoyant Iranian journalists who have seen more than 100 newspapers closed down since he was jailed for what he wrote in one of them. The bones of his shoulders poked through the fabric of a rayon T-shirt. His forehead was scabbed by sores that suggested poor nutrition.

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The persistence with which Ganji defied Iran's ruling clerics made him an international symbol of resistance but also ensured he served his entire sentence. Once freed, he proved unable to heed advice to keep quiet until he could assess the current level of tolerance for dissent in Iran.

"Please don't do anything that will take him off to prison again," said his beaming wife, Masoumeh Shafiei, as visiting neighbors edged through the crush, offering trays of tea and a jumbo box of sticky sweets. Digital shutters burred like cicadas, and attorney Yusef Molaei joked that since his interrogators insisted Ganji had received money from foreigners, they might as well charge photojournalists a fee.

"I was told when I was in prison I was too stubborn to listen to anybody," Ganji said. He sounded almost sincere when he added, "Don't write anything, please."

Self-censorship has become a fact of life for Iran's surviving private press as the country's reform movement has flagged. In 1999, thousands of Iranians marched in the streets to express their outrage at the assassination of dissidents in their homes. Ganji went to prison in 2000 for writing about the killings, but public support for reforms continued to grow. The demonstrations, along with landslide elections of a reformist president and parliament, checked the power of conservatives who insisted that a hard line was essential to protect Iran's theocratic system after the death of its charismatic founder, Ayatollah Ruhollah Khomeini.

But by 2004, conservatives had regained the upper hand, relieving pressure for social freedoms by greatly relaxing enforcement of laws on personal behavior while steadily reducing the maneuvering room of political reformers and publications that supported them.

Against that unrelenting pressure, Ganji pushed back. From prison, he published a manifesto calling for Iran to discard clerical rule and become a secular republic. When allowed home for a few days' leave, he urged foreign reporters to print statements that made officials visibly blanch.

Other advocates of reform opted against direct confrontation, hoping to nurture progress inside a system that grew steadily more responsive under eight years of reformist administration. Emad Baghi, who like Ganji was jailed for writing about what were known as the "serial murders," served only half of the same sentence. During the extra three years Ganji remained inside as a beacon of defiance, Baghi began a newspaper and, after it was banned, a human rights organization.

"I believe both of the approaches are important for us," said Saeed Bostani, a reporter who worked for Baghi and was jailed for seven months for reporting Ganji's deteriorating medical condition.

"When I was in prison, I believed in Mr. Ganji's approach that refuses to compromise, just go all out," Bostani said. "But since I came out into society, I think Mr. Baghi's approach has merit, that we can put pressure on the state and make changes."

Neither avenue is free of risk. Two of Baghi's associates were jailed for a month by security officials suspicious of their attendance at a human rights workshop in Dubai last year.

"Every day I woke up and said, 'Open your heart, I'm coming home.' It's the Pink Floyd song," said Ali Afsahi, freed this week after 30 days alone in a cell with a light that was never turned off.

Afsahi said his interrogators accused him of accepting money from the Bush administration, which has proposed spending $75 million to promote democracy in Iran. He said he was disturbed to find the Dubai workshop run by Iranian exiles, who he described as out of touch with the subtleties of the country's society.

"Look, with the reformists out of power I got put in prison," Afsahi said, but he was freed after intervention by senior officials who shared his values. "Even though I'm working alone, because the ideas I promote are in touch with the realities of our society, people understand what we are doing."

Late Saturday, eight more prisoners were released, all members of a bus drivers union jailed after striking for more pay. Mohsen Kadivar, a leading reformist cleric, said at least 40 political prisoners remain behind bars.

Iranian Writer Released After Serving 6-Year Prison Term (NYT)

By Nazila Fathi

The New York Times, March 19, 2006

TEHRAN, March 18 — An Iranian writer was released Friday night after serving a six-year sentence on charges brought after he wrote a book that accused government officials of playing a role in the killing of intellectuals.

The case of the writer, Akbar Ganji, 46, drew international attention last summer, when he went on a long hunger strike to force authorities to release him. Mr. Ganji appeared weak and frail at his apartment in Tehran on Saturday, his beard heavy.

He did not make any formal comments to reporters. His lawyer, Youssef Mowlai, said he told Mr. Ganji that he first needed to recuperate from the continuing effects of the hunger strike.

"I have advised him not to give interviews and instead see a doctor and spend time with his family," Mr. Mowlai said. "Anything is possible in Iran and we do not want to cause any sensitivity."

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The timing of the release came as a surprise. A judiciary official had said Thursday that Mr. Ganji would not be released until March 30, and a statement by the judiciary on Saturday said Mr. Ganji was on leave for Nowruz, the Iranian New Year.

But Mr. Ganji's wife, Massoumeh Shafiee, said her husband was driven home by prison officials at 10 p.m. on Friday with all his belongings.

"It seems that he has been officially released," she said. "I think they want to close his case."

Mr. Ganji, who supported the 1979 Islamic revolution and served in the hard-line Revolutionary Guards, later shifted politically. His book linked the killing of 80 dissidents and intellectuals in the late 1990's to senior Iranian officials.

While in jail, he continued his political writings, called for the resignation of the supreme religious leader, Ayatollah Ali Khamenei, and urged voters to boycott the 2005 presidential election. A manifesto, in which he argues that Iran must separate state and religion, is popular among student activists.

Abdullah Momeni, a student leader, said he received more than 100 phone calls and messages about Mr. Ganji's release from elated students.

"Mr. Ganji is very popular among students because of his resistance," he said. "He served his sentence and never showed any sign that he will surrender to pressure and give up his beliefs."

"In addition," he said, "students find their ideas very close to what Mr. Ganji has written and said about a republican system."

Reformist allies and friends gathered at Mr. Ganji's home to welcome and salute him.

Mohsen Kadivar, a midranking cleric who also served 18 months in jail in 1999 and came to greet Mr. Ganji on Saturday, also saluted his perseverance, saying, "Mr. Ganji's resistance shows that jailing activists is not a good way to suppress political dissent."

Suppose We Just Let Iran Have The Bomb (NYT)

By David E. Sanger

The New York Times, March 19, 2006

WASHINGTON

PRESIDENT BUSH'S message to Iran these days sounds unambiguous: The United States will do what it takes to keep the mullahs from getting the bomb. Diplomacy is vastly preferred, President Bush and his aides insist. Yet it was no accident that the just-revised National Security Strategy declares: "This diplomatic effort must succeed if confrontation is to be avoided."

To nervous allies, those words echo the run-up to the Iraq invasion, which began three years ago today. But Iran is not Iraq. And some experts in the United States — mostly outside the administration — have been thinking the unthinkable, or at least the undiscussable: If all other options are worse, could the world learn to live with a nuclear Iran?

"The reality is that most of us think the Iranians are probably going to get a weapon, or the technology to make one, sooner or later," an administration official acknowledged a few weeks ago, refusing to talk on the record because such an admission amounts to a concession that dragging Iran in front of the United Nations Security Council may prove an exercise in futility. "The optimists around here just hope we can delay the day by 10 or 20 years, and that by that time we'll have a different relationship with a different Iranian government."

A roll of the dice, for sure. Yet is the risk greater than it was when other countries — from the Soviet Union and China to India and Pakistan — defied the United States to join the nuclear club?

And could deterrence, containment and cool calculation of national interest work to restrain Iran as it worked to restrain America and its competitors during the cold war? Or is that false comfort?

"We've lived with Iran as a terror threat for a generation," says Stephen Biddle, the senior fellow for defense policy at the Council on Foreign Relations, making the case that containment could work again. "Iran has a return address, and states with a return address can be retaliated against."

As for concerns that an Iranian nuclear capability would touch off a Middle East arms race, with Egypt and Saudi Arabia trying to join the club, the West would most likely head them off, said Barry R. Posen, a political science professor at the Massachusetts Institute of Technology, in a Feb. 27 article on The New York Times Op-Ed page. Israel, he said, might finally acknowledge publicly that it has nuclear weapons. But everyone already knows about this capability.

What of the fear that Iran might pass a weapon to Hezbollah or to Al Qaeda in Iraq? Those arguing for a containment strategy say Iran knows that the origins of any detonated bomb would be traced sooner or later, so the mullahs would not be foolish enough to trust proxies with such a weapon.

The Bush administration rejects all such arguments as near madness, especially since Mahmoud Ahmadinejad became Iran's president.

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"Accommodating a nuclear armed Iran is not in our interests," says R. Nicholas Burns, the under secretary of state for political affairs who will be at the Security Council today to argue for a clear warning to Iran and then a steady escalation of pressure to force it to give up any ability to enrich uranium. "Given the radical nature of Iran under Ahmadinejad and its stated wish to wipe Israel off the map of the world," Mr. Burns continued, "it is entirely unconvincing that we could or should live with a nuclear Iran."

The two views of the Iran threat boil down to this: if Iran is simply a new example of a 60-year-old problem, then classic containment should work in 2016 the way it worked in 1956. But traditional deterrence strategy will not work if Iran is one of the first nightmares of a second nuclear age — in which weapons are pieced together by agents working in the shadows and supplied by networks of private entrenpreneurs like Abdul Qadeer Khan, the Pakistani nuclear engineer who gave the Iranian nuclear program its start.

In this new era, the argument goes, the best way to head off an attack is to prevent loosely controlled (or devious) countries from acquiring the makings of nuclear bombs in the first place. If an attack is staged not from a missile silo but from a basement or a cargo container, it will take time to pinpoint who deserves the blame. By then, the human cost is already too high and retaliation is no longer certain.

The debate is likely to play out for much of the year, based on a series of guesses about Iran's true intentions, and its capabilities. The list of unknowables is long. They range from the technical to the political, from how long it will take Iran's scientists to get their centrifuges running to who will ultimately prevail in Iran's seemingly endless internal battle over its relationship to the Westernized world.

But getting this right requires projecting what happens to America, Israel and Europe, especially if Iran's power to send the price of oil skyrocketing is enhanced by the confidence that a nuclear arsenal can bring.

The Iranians know exactly what the bomb would make them: the dominant regional power in the Middle East. Iran would become, in a stroke, more powerful than the Saudis, an even greater influence than it is today over a Shiite-controlled Iraq and, arguably, as powerful as Israel. And the better Iran's missile technology becomes, the greater its influence and ability to blackmail.

Bush administration officials who have reviewed the classified assessments of Iran's next moves worry that it would not even have to build a complete bomb to gain leverage. It would just have to make a credible case that it could assemble a weapon on short notice. "For their political needs, that would be enough," said Gary Samore, who was a nonproliferation official in the Clinton administration.

That explains why the Americans have been so adamant about not allowing Iran to conduct even experimental uranium-enrichment technology on its soil, even if it has a right to do so as a signer of the Nuclear Nonproliferation Treaty. It may also explain why the Iranians are so insistent that they will never give up that right.

The Iranians also know that history suggests they have a good chance of reaching their goal. This is not the first time the Americans have declared that another nation cannot be allowed to unlock the secrets of the atom — and then learned to live with the risk when it did.

In the mid-1960's, President Lyndon Johnson contemplated pre-emptive strikes against sites where China had nuclear installations. "Many today forget that Stalin's Soviet Union and Mao Zedong's China were seen as more threatening in both capabilities and intentions than are today's mullahs in Tehran," Richard K. Betts, a professor of political science at Columbia University, wrote in the most recent issue of The National Interest.

In both cases, though, what seemed at the time like a life-threatening menace morphed into a manageable threat — partly because containment worked, and partly because Soviet and Chinese leaders made shrewd assessments of their real strategic interests.

Both, however, are somewhat flawed comparisons: Iran is no superpower. The cases of Pakistan, India and North Korea may be more instructive.

When Pakistan and India set off tests and countertests in 1998, Washington tried to punish both. That effort didn't extend past 9/11. Mr. Bush needed both countries too much. Today Pakistan is a "major non-NATO ally" with a nuclear force that many in Washington still fear could fall into the wrong hands in the event of a coup. Last month, President Bush gave India the ultimate blessing, agreeing to seek an exemption from Congress that would allow the United States to sell India fuel for its civilian nuclear plants.

Even more to the point is the case of North Korea. As in the case of Iran, Mr. Bush has said the United States cannot "tolerate" North Korea as a nuclear power. But Washington is already tolerating exactly that. John Negroponte, the director of national intelligence, told Congress recently that intelligence officials assume that North Korea is telling the truth when it boasts it has produced enough nuclear fuel for several weapons. But no one — least of all its closest neighbors, China and South Korea — dare push it to the brink. They have learned to live with the status quo.

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The Iranians are betting that this confrontation — what Graham Allison, a nuclear expert at Harvard, calls a "slow motion Cuban missile crisis" — has a good chance of coming out the same way. If so, the problem may go beyond Iran.

"Remember, Iran is just one instance of the problem, and in Iran's case, containment might work," says Brent Scowcroft, who was the national security adviser to Mr. Bush's father. "But if that happens, I think we are on the way to a world of proliferation like we have not seen before."

Hamas Completes Lineup For Palestinian Ministries (NYT)

By Greg Myre

The New York Times, March 19, 2006

JERUSALEM, March 18 — The militant Islamic group Hamas said Saturday that it had completed its lineup for a new Palestinian cabinet and would present it Sunday to the Palestinian Authority president, Mahmoud Abbas, for his approval. An aide to Mr. Abbas said he was likely to give his approval.

"Our cabinet is ready," Ismail Haniya, the Hamas leader and prime minister-designate, told a news conference in Gaza City.

Mr. Haniya declined to provide names of the cabinet nominees, though he said Hamas members, independents and technocrats would be included. However, no other Palestinian political parties have announced their intention to participate despite Hamas's invitation to join.

The crucial question now is whether Mr. Abbas will support the Hamas-led cabinet. If he rejects it, his decision could lead to a political crisis, and Palestinian law is not clear on how it would be resolved.

Mr. Abbas has called on Hamas to accept previous agreements with Israel and the possibility of negotiations with the Jewish state. Hamas has always opposed these positions.

Still, a spokesman for Mr. Abbas, Nabil Abu Rudeineh, told Reuters he did not believe that Mr. Abbas would reject the list from Hamas, which won an outright majority in parliamentary elections in January.

Mr. Abbas, known as Abu Mazen, traveled from the West Bank to Gaza on Saturday and planned to meet Hamas leaders in Gaza City on Sunday.

Hamas has until March 28 to form a new cabinet, meaning that Mr. Abbas and Hamas could still negotiate in the coming days. "We are committed to the principle of cooperation with Abu Mazen and a dialogue with all the Palestinian factions," Mr. Haniya said.

Last month, Hamas chose Mr. Haniya, 42, to be the prime minister, and he has been working on choosing a cabinet. While the names have not been formally announced, Hamas appears set to put its own members in the most important posts.

Dr. Mahmoud Zahar, a surgeon, is expected to be named foreign minister. Dr. Zahar speaks English and often deals with the foreign media. Considered a hard-liner, he is often confrontational in his public comments, in contrast to Mr. Haniya, who comes across as less radical.

Said Siam, a Hamas lawmaker from Gaza, is considered the likely choice to lead the Interior Ministry, which controls the police and other security agencies. Mr. Abbas will also control some security forces.

Omar Abdel-Razeq, a Hamas member and an economics professor from the West Bank, is expected to be appointed finance minister. He was arrested by Israel a few months ago and released this past week.

In the Jan. 25 Palestinian election, Hamas won 74 of the 132 parliamentary seats, so it does not need any partners to form a government.

Hamas has invited other Palestinian factions to join it in the interest of Palestinian unity. But it was still not clear on Saturday whether any other factions would be taking part. Mr. Abbas's Fatah movement, the dominant Palestinian faction for decades, has said it would not join.

Salah Bardawil, a recently elected Hamas lawmaker, said the Popular Front for the Liberation of Palestine, which won three parliamentary seats, was prepared to join. But Jamil Majdalawi, one of the Popular Front's legislators, said it had not made a final decision.

Israel seized five members of the Popular Front, including its leader, Ahmed Saadat, in a raid on Tuesday on a Palestinian jail in the West Bank town of Jericho. The Popular Front had claimed responsibility for the 2001 assassination of an Israeli cabinet minister, and Israel says the five orchestrated the shooting.

Under a deal reached in 2002, the Palestinians agreed to jail the five rather than hand them over to Israel. Israel said it took the men on Tuesday because it believed Hamas was preparing to release them. Israel labels Hamas a terrorist group and says it will not deal with a Palestinian Authority led by Hamas.

In another development on Saturday, an Israeli military official said the army was investigating the circumstances surrounding the shooting death of a 10-year-old Palestinian girl, Akber Zayed, who was killed Friday night during an Israeli

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incursion into the West Bank village of Yamoun. Palestinians in the village said she was shot when soldiers fired on the taxi in which she was riding.

Hamas Says It Has Formed A Cabinet (LAT)

By Laura King

The Los Angeles Times, March 19, 2006

JERUSALEM — Hamas announced Saturday that it had formed a Palestinian government but acknowledged that it had been unable to attract coalition partners whose presence might have made dealings with the Islamist group more palatable to the outside world.

The group refrained from formally announcing its Cabinet lineup pending its presentation to Palestinian Authority President Mahmoud Abbas, who was expected to travel to the Gaza Strip today for meetings with the Hamas leadership.

But Hamas officials, speaking on condition of anonymity, said key positions would go to Hamas loyalists such as firebrand Mahmoud Zahar, who has been designated foreign minister.

Other senior appointees include lawmaker Said Siyam, who is considered a relative moderate, as interior minister, and economics professor Omar Abdel Razeq, who was jailed at the time of January's parliamentary elections, as finance minister.

"We respect [other] parties' decision not to join the Cabinet," Ismail Haniyeh, the Palestinian prime minister-designate, said at a news conference in Gaza.

Israeli officials declined to comment on the prospective Cabinet lineup, saying they would wait until it was formalized. But one senior official scoffed at the notion that Israel would have any dealings with Zahar, a hard-liner whom it has repeatedly tried to assassinate.

In the wake of its upset victory in the Jan. 25 elections, Hamas wrestled with the question of whether to form a government weighted toward outsiders in order to leave open the possibility of maintaining at least indirect contacts with Israel.

The idea of a broad-based government went by the wayside, however, because more militant elements within the group insisted it must not back down from its stated goal of Israel's destruction.

That unyielding stance, plus unrelated antagonisms with other Palestinian factions, appeared to have driven off any potential coalition partners, although the radical Popular Front for the Liberation of Palestine was said to still be deliberating whether to accept some junior Cabinet posts.

Haniyeh, speaking to reporters in Gaza, sought to calm fears that Israel and the United States would now intensify efforts to isolate the Palestinian government.

"We have no doubt of success in the Cabinet's responsibilities for running Palestinian affairs," he said. "Those Palestinians who granted us their trust will never starve or be deprived."

Most Western countries have threatened to cut off or severely curtail aid to a Hamas-dominated Palestinian government. Hamas, which Israel, the United States and the European Union consider a terrorist organization, carried out dozens of suicide attacks during the five-year Palestinian uprising, or intifada, but has largely adhered to a truce over the last year.

The makeup of the Cabinet appeared to dash hopes on the part of Abbas, who was elected a year before the vote that brought Hamas to power and has broad authority of his own, that Hamas might moderate its views sufficiently to avoid an aid and diplomatic boycott.

Abbas must approve the Cabinet lineup before it can be put before parliament. He is expected to try to delay that step until after Israel's parliamentary elections, scheduled for March 28.

*

Times special correspondent Fayed abu Shammaleh contributed to this report from Gaza City.

Left To Rot In Gaza (WP)

By Scott Wilson

The Washington Post, March 19, 2006

Strip's Economy Suffers as Trade Passage to Israel Remains Sealed

NETZARIM, Gaza Strip -- The harvest is underway inside a row of greenhouses here on the grounds of a razed Israeli settlement. But most of the tomatoes and sweet peppers, usually shipped to European markets, will rot in a nearby ravine.

"We keep getting it, but we don't know what to do with it," said Abdul Fatah al-Eilah, the greenhouse manager, as workers stacked boxes of vegetables in a storage shed while tractors towing flatbeds full of produce lined up to enter.

The main trade passage between the Gaza Strip and Israel has been closed for much of the year, despite an agreement brokered by Secretary of State Condoleezza Rice in November that required Israel to "ensure the continued opportunity to

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export." Israeli security concerns, heightened by Hamas's parliamentary victory in January and the almost daily rocket fire from Gaza, have rendered the deal largely moot.

To protect Gaza's small farmers from competition by Eilah's Palestine Economic Development Corp. and its 1,000 acres of greenhouses, the corporation is barred from selling its produce locally. But without regular access to the outside world, the corporation has had to donate some produce to local charities and dump the rest. Losses so far add up to millions of dollars.

"The government will likely have to give this away," Eilah said of an operation once considered the key to Gaza's economic future.

The lost harvest is the most recognizable sign of Gaza's declining fortunes six months after Israel's evacuation. It is also a telling indicator of Israel's evolving policy toward the Palestinian territories as Hamas, known formally as the Islamic Resistance Movement and at war with the Jewish state, prepares to take political power.

Unreliable trade passages, frozen Israeli tax transfers that helped pay salaries and lapsed permits of Palestinians who work in Israel are evidence of a broader disengagement, one that Israeli security officials say they hope to accelerate once Hamas installs its cabinet this month.

The Israeli defense establishment plans to resurrect a proposal to ban thousands of Palestinian workers from Israel, seal trade passages and end utility services once the Palestinian Authority has arranged alternative sources. Behind the push is the belief, promoted by senior security officials, that Hamas's election has made it all but impossible to sustain economic and political relations with the Palestinian territories, at least in the near term.

Acting Prime Minister Ehud Olmert, whose Kadima party is far ahead in opinion polls heading into Israel's March 28 elections, chose another approach to the caretaker Palestinian government last month. But Olmert has said he may adopt a stricter policy after Hamas assumes control of the Palestinian ministries.

That will happen at about the time Israel concludes its own election, which is shaping up as a referendum on Olmert's proposal to withdraw unilaterally from parts of the West Bank. Olmert has said he intends to draw Israel's final borders over the course of his four-year term, consolidating scattered Jewish settlements in the West Bank into larger blocs on the side of a separation barrier that Israel intends to keep.

Carrying out that move, designed to ensure the longevity of a Jewish majority inside Israel's final boundaries, would also entail the economic separation now quickening in Gaza. A World Bank assessment last week said frozen tax transfers, trade restrictions and future reductions in foreign aid would result in "a one-year contraction of economic activity equivalent to a deep depression," warning that per capita income in the territories would fall 30 percent this year.

As those sources dry up in Gaza, an economy dependent on public salaries, agriculture and foreign aid to sustain its 1.3 million people is already lifeless. Regular rocket fire into southern Israel, carried out by the radical group Islamic Jihad, has turned the northern strip into an artillery range. Prices have soared in stores as the supply of flour, sugar and dairy products that come from Israel is constantly interrupted.

"The thing we get most is the horror," said Ibrahim Harb, an unemployed father of 10 in the village of Um el-Nasser. "There is a panic here."

The village, alive with rowdy children one recent morning, sits on the edge of an area in the northern strip that Israel has designated a no-go zone. An Israeli artillery shell whistled high above the Harbs' sandy street, followed by a nearby bang. The children didn't pause from their play.

Among dunes in the near distance, a pair of tires mark a makeshift border. Israel declared the area beyond the tires off-limits in order to have a freer hand in targeting Palestinian fighters who launch crude rockets from there toward the smokestacks of the Ashkelon power plant in the middle distance. Earlier in the day, gunmen from Islamic Jihad had done just that.

"We want them to do this far from us," Harb said. "We live here, and we'll be the first ones harmed."

Until last month, Harb was one of the fortunate 4,000 or so Palestinians with a permit to work in Israel, where wages are higher. When his permit expired in February, it was not renewed, as the Israeli government reduces the Palestinian workforce. Harb's family gets by with help from a Hamas-run charity.

"You sit here, there is nothing, so you go inside," said Harb's 68-year-old father, Mohammed, passing a stormy morning on a bench. "That's it."

The Karni crossing, the main trade passage between Israel and Gaza, is nearby. This year, the crossing has been closed more often than not because of Israeli security concerns. A U.N. humanitarian assessment estimated that the 21-day closure that ended in February cost more than $10 million.

The Israeli military opened Karni 10 days ago for several hours a day to allow essential supplies into Gaza, but closed the crossing Tuesday. It has not reopened, and its future remains unclear, even though the Bush administration has paid to upgrade security, including state-of-the-art cargo scanners.

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Nasser Jaber, director of the Palestinian Industrial Estates and Free Zone Authority at Karni, has little to do these days. He manages the compound of 30 factories adjacent to the crossing, a complex built in part with U.S. development money. A U.S.-funded security fence was being installed at the time of Hamas's election. That project and other U.S. development work in the territories have been suspended.

Jaber said Israel has closed Karni to move the main crossing to the Kerem Shalom terminal in the south, far from the strip's economic center. On Friday, Israeli defense officials said Kerem Shalom would be opened on Sunday. "This industrial park was invented by the Americans," Jaber said. "Now look at it. Things are being done you can't understand."

At a furniture factory inside one of the long corrugated-steel sheds on the grounds, 17 of 50 employees were still at work finishing stacks of living room chairs. There is no wood to begin new orders, all placed by Israeli companies.

"This will stop soon, too," said Yusef Ahmed, 27, a father of four children from the Jabaliya refugee camp. "Then we don't know what we'll do."

At Netzarim, where most of the Jewish settlement's structures were demolished during last year's evacuation, scavengers still come in hopes that the piles of concrete blocks bristling with wires and weeds may hold something of value. Beneath where homes once stood, a small canyon has become the dumping ground for export-quality peppers and tomatoes from the Palestine Economic Development Corp.

The company, formed to manage the greenhouses that were bought with international funds on behalf of the Palestinians, is nearly bankrupt. Amid al-Masri, the project manager, said he will recommend that the business be closed and its 4,000 workers laid off at the end of the month if Karni is not opened soon.

Even if it is, Masri said, the failure of the November agreement to keep the crossing running has cost him future investors he counted on to develop the greenhouse operation. He estimated that the closures have cost him more than $6 million.

"The worst time to make a decision is during moments of chaos," Masri said. "And right now we're in such a moment."

On Eve Of Vote, Belarus Braces For Aftermath (NYT)

By Steven Lee Myers

The New York Times, March 19, 2006

MINSK, Belarus, March 18 — There are no campaign posters or billboards here, not even for President Aleksandr G. Lukashenko, who has otherwise thoroughly orchestrated his re-election to a third term on Sunday.

The security services barred campaigning in the city's center. Handing out leaflets — even possessing them — risks arrest. Dozens have already been jailed in the prelude to the vote, some of them senior campaign workers for the democratic opposition.

The results of the election on Sunday, widely denounced here and abroad as undemocratic, are a foregone conclusion. But the vote is only a prelude to the real struggle against Mr. Lukashenko's government, one that many fear could end in violent reprisals along the monumental streets of Minsk, the capital.

A text message sent to Belarussian mobile phones on Saturday, from an unknown sender, carried an ominous warning about what might unfold on Minsk's central square. "On the evening of March 19, 2006, on October Square, provocateurs are preparing bloodshed," said the message, apparently intended to discourage attendance. "Protect your life and health."

In an attempt to replicate the popular uprising against a rigged presidential election in Ukraine in 2004, two opposition candidates, Aleksandr Milinkevich and Aleksandr V. Kazulin, have called on their supporters to assemble Sunday night to protest what they denounced as a chimera of a democratic process. They have done so in defiance of a ban on Election Day rallies and threats that those who gather could face charges of terrorism.

"We will stay for 24 hours," said Alyaksei Yanukevich, a close aide of Mr. Milinkevich's, describing a plan to occupy the square in peaceful protest. "If on Monday night there are more people than on Sunday, then that means the process will continue."

What might happen after that, he could not say. Mr. Lukashenko vowed to crush any protests, warning Belarussians not to participate and foreign governments not to encourage them.

"We know where they met, whom they met with and what discussions they had," Mr. Lukashenko said during remarks made at an auto factory in Zhodino on Friday, according to the Interfax news agency. "God forbid that they should try to perpetrate something in the country. We will twist off their heads as though they are ducklings."

The United States and European Union have warned of sanctions. In Washington, the White House released a report on Friday that accused Mr. Lukashenko of having created "a repressive dictatorship on the doorstep of the European Union and NATO."

The report, citing news accounts and critics, accused him of personally enriching himself and asserted that he was "likely among the most corrupt leaders in the world."

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Mr. Lukashenko, already shunned in the West, has responded with defiance as the election campaign unfolded. The arrests of opposition workers and the restrictions on public events "have limited the scope for a vibrant election campaign," the Organization for Security and Cooperation in Europe said in a report based on the findings of its observers here.

The most prominent independent newspaper, Narodnaya Volya, or People's Will, had 250,000 issues seized on March 3 as they were being delivered from a printer in Smolensk, Russia. On Monday, the printer suddenly annulled the paper's contract, said the editor, Iosif Seredich.

He found another printer in Russia, but after Tuesday's copies were seized, he shut down the newspaper, one of the last public forums available to the opposition candidates.

"There is no sense," he said.

Mr. Lukashenko himself forswore campaigning. He has instead carried on with official duties, which state television has extensively covered while it has ignored the opposition except to criticize it.

One of his campaign managers, Vladimir Gostyukhin, declined a request to be interviewed. He said that he was very busy, and that he would vote early on Saturday — a widespread practice that Mr. Lukashenko's critics warn would be used to rig the results in the absence of observers — and then leave Minsk.

On Friday night, Mr. Lukashenko gave a short, televised address. He urged people to vote, defended his government from accusations of authoritarianism and reassured viewers that there would be no coup.

"The fact that four candidates are taking part in the ongoing election campaign is also evidence of democracy in this country," he said in remarks transcribed by the BBC. (In addition to Mr. Milinkevich and Mr. Kazulin, a fourth candidate, Sergei Gaydukevich, is a Lukashenko supporter.)

"Some candidates insistently call on people to take to the streets if the results of the vote are not in their favor," he added. "Is this their understanding of democracy? It is unrest, pogroms and violence?"

His opponents vowed only peaceful demonstrations. "I beg you to come out with smiles and flowers and balloons," Mr. Kazulin, who was beaten and detained during a confrontation with security officers on March 2, told an overflowing crowd of hundreds in a tattered movie theater on the edge of Minsk on Friday night. "Take chocolates or sweets and give them to the police."

The rally was the first joint appearance for Mr. Kazulin, a former university rector, and Mr. Milinkevich, a former physics professor who is the more prominent opposition candidate, representing a coalition of 10 parties. The audience erupted into chants of "Long live Belarus."

"The mood of the people now is different," Mr. Milinkevich said when asked about the expected announcement of an overwhelming victory for the president. "The people will laugh now, and that is what the authorities are most afraid of."

Beyond those who attend opposition events, fear remains pervasive. People asked about the election invariably refused to give their names. "Are they filming?" a middle-aged woman asked near Victory Square. She had no doubt about the outcome, she said, because she had no illusion about democracy here.

"Like Fidel Castro, he will be president forever," she said and hurried off.

The democratic changes in Ukraine — as well as in Georgia in 2003 and Kyrgyzstan in 2005 — inspired many here, but Mr. Lukashenko's government took note, too. In December, his government enacted new laws increasing criminal penalties for organizing the sort of public protest now being planned.

"He analyzed very well the mistakes made by Shevardnadze and Kuchma," said Igor Marinich, referring to former leaders of Georgia and Ukraine whose autocratic governments were swept aside by protests. He is the son of Mikhail Marinich, an opposition leader who was jailed in 2004, the first of what he predicted then would be a wave of politically motivated arrests.

"And they," he added, "were not the dictators he is."

Belarus President Expected To Win Reelection (LAT)

By Kim Murphy

The Los Angeles Times, March 19, 2006

Despite suppression of media and opposition, a poll shows Lukashenko getting a third term. Democracy groups vow to demand honesty.

MINSK, Belarus — Those who missed the highlights of American history in their civics class had only to turn on the television last week in Belarus, a small nation on Europe's eastern border where old Soviet-era propaganda machines are kept lovingly lubricated.

The program, "America Without Makeup," described Richard Nixon's attempt to bug Democratic campaign offices in 1972, Ronald Reagan's covert sale of weapons to Iran, the Pentagon's arming of Iraq and murky hints of conspiracy behind the deaths of Robert Kennedy and Marilyn Monroe.

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"It's not for nothing that people say democracy demands sacrifice," a narrator commented wryly. "Money doesn't smell — that's the main principle of American democracy."

Here in Belarus, President Alexander G. Lukashenko has a stake in giving democracy a black eye: The U.S. government is spending more than $9 million a year here on attempts to develop a sophisticated political opposition and a well-informed electorate, tools for combating one of the most repressive dictatorships in the world.

Voters go to the polls today for an election that is widely expected to hand Lukashenko, Belarus' president since 1994, a third five-year term. In echoes of recent revolutions in Ukraine and Georgia, the opposition plans to muster thousands in the streets to demand a free election.

Belarus state security, still known as the KGB, threatened Monday to charge protesters "who try to destabilize the situation" with terrorism. That prompted an immediate protest from the Organization for Security and Cooperation in Europe, which has sent observers to monitor the balloting.

"I am particularly shocked … that peaceful demonstrators could face charges of terrorism, carrying a sentence of eight years' imprisonment to the death penalty," OSCE Chairman Karel De Gucht, the Belgian foreign minister, said in a statement Friday. "Is that a way to conduct democratic elections?"

"We haven't seen such a politicization of people since perestroika," said opposition candidate Alexander Milinkevich, referring to the era that preceded the collapse of the Soviet Union in 1991. "The reason is not socioeconomic. It's a moral protest. People don't want to live in fear and humiliation. I call it a revolution of the spirit."

Lukashenko's government has all but shut down the independent media, arrested hundreds of opposition campaign activists, kicked and beaten one presidential contender during a campaign rally, expelled students and reportedly fired state workers who did not toe an ideological line that reads like a reissue of the Communist-era Pravda. The KGB has been accused of operating secret death squads responsible for some of the disappearances and deaths of half a dozen journalists, businessmen and political opponents since 1999.

Why, then, does a recent InterMedia poll show Lukashenko drawing an easy 52.9% of the vote, far ahead of his rivals?

Belarus officials say it is because they have succeeded in doing what the conventional wisdom in the West says is not possible: maintaining a state-run economy with one of the strongest growth rates in Europe, generating increases in wages and pensions, boosting productivity and minimizing the disparities in wealth that have destabilized so many of the former Soviet republics in their transition to market economies.

State-owned oil refineries here buy Russian oil and sell its products to Europe at a hefty profit. Collective farms abound and have been merged with profitable enterprises, such as tractor companies, to bring their balance sheets out of the red. Unemployment is officially at 1.5%, although thousands more may simply be unregistered.

The World Bank does not know quite what to make of the model, but said in a November report that it wouldn't last without major reforms.

Advocates of overhaul say the entire economy is operating on the good graces of neighbor Russia, which buys large quantities of Belarusian goods and sells natural gas to its closest ally at subsidies worth an estimated $3 billion a year.

Still, many Belarusians say they are ready to vote again for Lukashenko, if only for the sake of stability and his pledge that the government will keep paying pensions and salaries on time.

"People want to live quietly. They want stability, they want jobs, they want their children to walk safely in the streets," said Yelena Yeseyeva, 40, a bookkeeper at a state-owned communal services company. "I think the president has chosen the right way."

Yet support for Milinkevich, a U.S.-educated physicist chosen by a broad coalition of pro-democracy parties, and Alexander Kozulin, a former university rector and leader of the Social Democratic Party, has grown among Belarusians who say the nation's economic gains are illusory and its growing climate of repression intolerable.

"These are myths they're talking about. Simply myths. Yes, in Belarus there are no pension arrears. But if a pension in Russia were as small as it is in Belarus, it would be paid on time too," said Svetlana Kalinkina, managing editor of Narodnaya Volya, the last remaining independent daily in Belarus.

Milinkevich has drawn crowds of several thousand throughout Belarus, despite arrests and beatings.

Opposition candidates were allowed to make addresses on state-run television and radio, but their remarks were censored. The omitted remarks were aired as part of a new 24-hour-a-day radio broadcast into the country, European Radio for Belarus, that began Feb. 26 with a $2.4-million grant from the European Commission.

U.S.-funded organizations such as the National Democratic Institute and the International Republican Institute, banned in Belarus, have set up shop in neighboring Ukraine and Lithuania. From there, they offer a democracy primer to activists, women and youths, which the Belarus government calls a covert attempt by the West to engineer an overthrow of the regime.

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"When it comes to foreign financing of the political processes inside the country, we, as any other country in the world, do not welcome that … in the same way the U.S. doesn't welcome that, in fact prohibits it, according to federal laws," said Foreign Minister Sergei Martynov.

In an interview, Martynov said the United States may fear "the emergence of an entity in the area of the former Soviet Union which will be in a position to challenge the United States," and said Belarus' growing economic union with Russia could be perceived as such a threat.

"We're not trying to resurrect the former Soviet Union, it would have been stupid and unrealistic." Opposition leaders say that getting out their message in Belarus is next to impossible without outside help. In recent years, the government has prevented the few remaining independent newspapers from printing in Belarus, and when they began printing at a private press in Russia, the government prohibited sales at kiosks and distribution through the mail.

Publishers of Narodnaya Volya found volunteers to handdeliver the paper in all major cities of Belarus, but this month, authorities stopped the trucks bringing the paper into the country and seized all the copies.

"What's happening now is totally unprecedented, even for the entire rule of Lukashenko. Everybody is under KGB surveillance, telephones are bugged. If in the past they would interrogate people when they were detained on the street, now they send official invitations to parents to bring their children in and answer questions," said Irina Toustsik, an activist with the underground youth movement Zubr.

At campaign rallies last week in southeastern Belarus, Milinkevich urged citizens to imagine a future in which jobs are not dependent on loyalty to the government, small entrepreneurs can flourish and losing state businesses give way to more productive private enterprises.

"The entire world is getting integrated, and we're being self-isolated," he told supporters in Mazyr.

Outside the hall, Ivan Kovalenko, 64, a retired oil company employee, said he was ready for an alternative to Lukashenko.

"What right direction for the country can you talk about if people are scared, if they're being persecuted?" he said. "The only hope is that the number of people who begin to understand, who begin to see things in a proper light, is growing. And I am an example of such people."

Keeping The Opposition In Check, If Not In Jail (WP)

By Peter Finn

The Washington Post, March 19, 2006

Though Favored to Win Today's Vote, Belarus Leader Uses Fear as Tactic

MINSK, Belarus, March 18 -- Syrghei Marchyk, a 20-year-old former law student, has been running from the law since being charged recently with "unsanitary practices." He said he could only guess that an arrest warrant was issued for him because he was spotted putting up posters for Alexander Milinkevich, an opposition candidate in the presidential election here Sunday.

The last couple of months have been tough for Marchyk. In February, he was expelled from law school for "disciplinary problems." He said the action resulted from his political activities against the incumbent president, Alexander Lukashenko. Before his expulsion, he was briefly jailed for silently holding candles on a street with about 20 other young people to commemorate four government opponents who are missing and presumed dead. The authorities called it an unsanctioned rally.

"This may sound a little pathetic, but I love my country and I want to fight for my motherland," Marchyk said. "If I have to wait for a change of regime to continue my studies, I'll wait."

Dissent carries a real price in this country of 10 million people, sandwiched between the European Union and Russia, where Lukashenko has ordered that no one other than Lukashenko can be called "president." Hundreds of presidents of companies, clubs and associations have had to change their titles.

Opposition activists say students who step out of line often receive failing grades or face trumped-up disciplinary charges that lead to expulsion from school. State workers, who commonly have one-year contracts, are routinely dismissed if they question the president's rule. Political activists are arrested and sometimes beaten. Independent newspapers are shut down or lose an entire edition to police seizures.

"We will wring their necks as one might a duck," Lukashenko, 51, said Friday while touring an auto plant, referring to unnamed opponents he said were planning a coup. The head of the KGB, as the security service is still called in this former Soviet republic, said this week that people who protest the outcome of the election could face the death penalty.

"There are two problems in Belarus: The first is fear and the second is apathy," Milinkevich, 58, a physics professor, said in an interview at a campaign stop. "We can ruin apathy at least. Fear is more difficult."

The repression, activists say, is designed to prevent the emergence of a strong opposition to Lukashenko, a former collective farm manager who came to office as a reformer in 1994 and has ruthlessly centralized power since. Members of his

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inner circle have declined to be interviewed, but analysts say they are particularly anxious about preventing the kind of popular revolt that toppled post-communist governments in Ukraine and Georgia.

What makes Lukashenko more than an average autocrat is that he is genuinely popular with a significant segment of the population -- people who value the modest but secure life that the state-controlled economy offers. Lukashenko plausibly could win a free and fair election, the opposition concedes.

According to a recent survey by Washington-based InterMedia, Lukashenko will receive at least 52.9 percent of the vote and looks set to win in the first round Sunday, avoiding a runoff. Milinkevich is projected to get 6 percent.

Lukashenko also faces Alexander Kozulin, a former rector of Belarusan State University who was once close to the president, and Syarhey Haydukevich, seen by political analysts as a Lukashenko ally whose role is to create the appearance of competition. The InterMedia poll of 1,085 Belarusans gave Kozulin 4.7 percent and Haydukevich 0.5 percent.

About 17 percent said they were undecided. Others declined to answer or said they would not vote. Polls sanctioned by the government show Lukashenko winning at least 60 percent of the vote.

Andrei Vardomatskii, a Belarusan pollster, said in an interview that the climate of fear in the country causes many people to say publicly that they will vote for Lukashenko. That results in an overestimate of his support in polls by at least 10 percent, meaning he probably could not secure a first-round victory in a fair vote, Vardomatskii said.

But there is no question that Lukashenko remains popular among many Belarusans. In a historically brutalized country -- as much as one-third of the population was killed during World War II, and the Chernobyl nuclear disaster of 1986 in Ukraine blighted a large swath of the Belarusan countryside -- stability is a value that can trump liberty.

"I don't love him like an idol, but during his time many positive changes have occurred," said Natalia Kazachenko, 52, who retired from her job as a kindergarten director last year. She said her pension was generous and stable, allowing her to vacation in Egypt and remodel her apartment. Kazachenko said she was also happy that both her sons had free educations, followed by secure jobs as construction engineers. Her eldest, who is 30, just bought his own apartment, she said proudly.

"People have something to lose with change," Kazachenko said, adding that her entire family would vote for Lukashenko.

Through his absolute control of the broadcast media, Lukashenko has warned repeatedly of chaos if the opposition, which is demonized as a puppet of the West, should ever gain political power. The dislocation, emigration and poverty caused by the transition to capitalism in the neighboring Baltic states and Poland is a constant Lukashenko theme.

The political divide is as generational as it is ideological. At a rally this week in the industrial city of Zhodino, about 50 miles northeast of the capital, Minsk, younger members of the audience enthusiastically welcomed Milinkevich. But he received glowers from older people, many of them local bureaucrats, who emulated the state media by portraying him as a Western stooge of uncertain background and values.

"Why didn't your son serve in the military?" one man asked during a question and answer session.

"Because he has a serious kidney condition," Milinkevich replied.

As Milinkevich spoke, three of his local campaign workers were sitting in jail. Police would not say what they were charged with.

In the interview, Milinkevich said he was not running to win -- not this time. The goal of his campaign, he said, is to raise the possibility of an alternative to Lukashenko as president for life. In 2004, in a referendum that outside observers condemned as rigged, the country adopted a constitutional amendment that lifted the two-term limit for presidents.

Kozulin said in an interview that he entered the race to siphon off disaffected voters, particularly among state workers, who would never support Milinkevich in part because he is a favorite of students and the well-educated.

Both Kozulin and Milinkevich said the president's control of the media has limited their ability to present their ideas to the electorate. The 55-nation Organization for Security and Cooperation in Europe found that more than 94 percent of news broadcasts about the candidates were devoted to Lukashenko.

French Protests Over Youth Labor Law Spread To 150 Cities And Towns (NYT)

By Elaine Sciolino

The New York Times, March 19, 2006

PARIS, March 18 — Students joined forces with teachers, workers, retirees, opposition politicians and labor union leaders in more than 150 cities and towns throughout France on Saturday in the largest nationwide protest against the government's new youth labor law.

A number of public figures joined in, including the mayor of Paris, Bertrand Delanoe; the Socialist party leader, François Hollande; a former culture minister, Jack Lang; and the Communist Party leader, Marie-George Buffet.

The demonstrations were the climax of a week of protests that have shut down dozens of universities and confronted Prime Minister Dominique de Villepin with one of the most serious crises in his 10 months in office.

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The giant left-wing C.G.T. workers' union estimated that 1.5 million people protested nationwide; the Interior Ministry put the total at more than 500,000, with 80,000 in Paris.

Protesters vowed to continue until the government backed down.

Bernard Thibault, the C.G.T. leader, said, "If they don't listen to us, we are going to have to think about moving to a general strike across the entire country."

Jean-Claude Mailly, the leader of the leftist union, Force Ouvriere, said in a telephone interview after the protest, "The Prime Minister must understand that he must renounce" the labor law "before a true dialogue can begin."

Bruno Julliard, the leader of the student union that first organized the protests, threatened that if by Saturday night, "the government doesn't withdraw this initiative, we'll continue."

The protesters want the abolition of a new law — known as the First Employment Contract and set to take effect in April — that allows employers to fire new workers under the age of 26 without cause for two years.

Designed by the government to help ease the crisis of chronic high unemployment, particularly among poor youth after riots last fall in the suburbs, the law is seen by its opponents as a step toward eroding long-cherished employment rights and benefits.

Protesters point out that the law was pushed through Parliament without debate and charge that it is age discrimination. They have dubbed the law the "Kleenex contract" because young workers could be discarded like a facial tissue.

Unemployment in France is at almost 10 percent, and 23 percent of French citizens under 26 are jobless, one of the highest rates in Europe; in some of the major city suburbs, the figure is nearly double that.

President Jacques Chirac appealed on Friday for the marchers to show "calm and respect," and security police officers in riot gear were out in full force throughout France on Saturday.

Authorities were on alert for what they called "professional thugs" after street fights broke out late Thursday in Paris. The police used tear gas and water cannons to quell the violence.

The protests for the most part were peaceful.

Under sunny skies in Paris on Saturday afternoon, the police, anticipating trouble, urged shopkeepers along the march route to shut down.

But the demonstrations started with a party spirit, with balloons and music of the Rolling Stones and Madonna. Protesters were joined by parents with children. Officials from the major unions distributed banners and flags from the back of trucks. Vendors sold hotdogs and kebabs.

"I'm sick and tired of all these phony contracts and I want to protect my children's future," said Carole Cases, a 43-year-old nurse, with two of her children, from the Paris suburb of Noisy-le-Grand. "They're trying to dupe the young."

"Villepin, you nonelected jerk," read one banner. In a sign that spring, the season of protests and strikes in France, is coming, another banner read, "Long live spring."

There is little indication that the jobs measure is welcomed by unemployed youth in the suburbs, who are also worried that it does not provide any long-term job security.

"It's stupid," said Mariam Sidibe, a 17-year-old student of Malian descent from Les Mureaux, a working class suburb of Paris rocked by last fall's riots, who marched in Paris. "There's going to be more unemployment."

The police in Paris used tear gas to disperse a small band of youths who thraew bottles and stones at them at the Place de la Nation, on the right bank, the official end point of the protest. Protesters broke shop windows and one car was set afire.

In Lyon, French youths protesting the law clashed with Turks demonstrating against the construction of a memorial to Armenian victims of a 1915 massacre, Reuters reported. The youths shouted, "Fascists!" and "Go home!"

The two sides threw objects at each other and engaged in fistfights. The police used water cannons to disperse them.

In Marseille, the police used tear gas to disperse protesters who replaced the tricolor French flag at city hall with a black and red banner reading, "Anticapitalism and self-management."

In Nancy, about 200 youths blocked railroad tracks for an hour, throwing rocks at the police, who used tear gas against them.

In Rennes, protesters blocked a railway line for about an hour. The police used tear gas to disperse protesters who attacked the local office of the governing U.M.P. party.

The police are still investigating which groups or individuals were responsible for violence in the heart of Paris on Thursday evening.

It was during that protest that antiriot police fired tear gas to disperse bands of youth who threw rocks and bottles at police and burned a newspaper kiosk near the upscale Bon Marché department store. The police also used water cannons against protesters who had set fire to a bookstore and destroyed the terrace of a cafe in the square in front of the Sorbonne.

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Extreme right, extreme left and anarchist groups are being blamed for inciting trouble. The youth branch of the extreme right National Front, for example, has distributed antileftist leaflets that say, "Parasites, out of our universities."

About 300 people have been arrested in a week of protests. More than 100 police and 21 protesters have been injured.

In meeting with antiriot police officers on Friday, Interior Minister Nicolas Sarkozy, who, like Mr. de Villepin, hopes to run for president next year, held up a damaged police helmet for the cameras. "Those who do this are not demonstrators, they're thugs," he said.

Thus far, Mr. de Villepin, whose poll ratings have collapsed recently, has been the main target of criticism by the law's opponents, and Mr. Sarkozy has said little about its merits.

On Friday evening, Mr. de Villepin met with a group of university presidents who asked him to suspend the new measure for "a period of reflection" of six months.

"We told him that things are getting worse and that next week could prove very risky," said Yannick Vallée, first vice president of the conference of university presidents.

Mr. de Villepin called on protesters to end their blockades and allow nonstrikers to study. "We want students to be able to prepare confidently for their exams and to have the freedom to study," he said.

Well over half of France's 84 public universities remained either closed or partially closed because of student blockades, according to the Ministry of National Education. On Friday, students demanding the right to study demonstrated in Paris and several other university towns.

Rallies Across France Protest New Job Law (WP)

By Molly Moore

The Washington Post, March 19, 2006

Unions Bring Many Thousands to Streets

PARIS, March 18 -- Hundreds of thousands of demonstrators marched in anti-government protests Saturday across France, with the largest of the rallies ending in clashes between riot police and protesters at one of the largest plazas in Paris.

Teachers, unionized government employees and retired workers joined students in escalating demonstrations against a new law that would allow companies to fire employees under age 26 at will during their first two years of work.

Protesters jammed the streets of about 150 cities and towns in mostly peaceful, union-orchestrated demonstrations. On a perfect sunny day for a protest in Paris, families joined in the march, which began in an atmosphere of a friendly weekend outing of songs and chants with political overtones.

But as the hours-long parade drew to a close in the chill of the early evening darkness, several hundred protesters turned on police at the Place de la Nation in the southeastern part of the city, throwing stones, garbage and sticks at riot police who huddled behind protective shields.

Demonstrators smashed windows, burned a car and set a pile of boxes ablaze. City police said 14 protesters were detained and four officers were slightly injured in the standoff.

Union organizers said 1.5 million people participated in marches throughout the country, while police officials estimated the number at just more than 500,000.

The demonstrations have grown larger and have spread to more cities in recent days at the urging of France's powerful student and worker unions, creating a crisis for Prime Minister Dominique de Villepin and his Union for a Popular Movement party as France heads toward presidential elections next year.

Villepin pushed the new law as a vehicle to prompt companies to hire more young people at a time when joblessness among that group averages 23 percent and exceeds 40 percent in some poor neighborhoods populated by immigrants and their French-born children. Villepin argued that under existing labor laws, employers were increasingly reluctant to hire young people because of job protections that make it all but impossible to fire workers, even if they are incompetent.

Young people and unions argue that the law -- expected to take effect in April -- will allow employers to discriminate against their youngest workers.

"It's always better to earn one franc than nothing," said Sophia Lamri, 23, a law school graduate interning at a law firm. "The government is just about to get rid of a social policy that took over a hundred years to build. Change shouldn't mean regression."

The new law has become the latest target of youth anger at a government that many young people believe has become increasingly divorced from them.

"People say the young people are lazy and can only think about how much money they'll make," said Jean-Francois Dessessard, who walked among the Paris protesters, one arm draped around his wife and the other resting on the shoulder of his 17-year-old daughter. "But they just want to have it like we had it when we were their age."

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As the march passed the Prison de la Sante, inmates waved in support from behind wire mesh windows. A sign hung out one window declared "Chirac belongs here," a reference to President Jacques Chirac.

Researcher Marie Valla contributed to this report.

French Youths Riot Over Jobs Law (WT/AP)

By Angela Charlton, Associated Press

The Washington Times, March 19, 2006

PARIS -- Police loosed water cannons and tear gas on rioting students, and activists rampaged through a McDonald's and attacked storefronts in the capital yesterday as demonstrations against a plan to relax job protections spread in a widening arc across France.

The protests, which drew an estimated 500,000 people in about 160 cities across the country, were the biggest show yet of escalating anger that is testing the strength of the conservative government before elections next year.

At the close of a march in Paris that drew a crowd of tens of thousands, seven officers and 17 protesters were injured during two melees, at the Place de la Nation in eastern Paris and the Sorbonne university. Police said they arrested 156 persons in the French capital.

Four cars were set afire, police said, and a McDonald's restaurant was attacked along with storefronts at the close of the march.

Tensions escalated later yesterday as about 500 youths moved on to the Sorbonne, trying to break through tall metal blockades erected after police stormed the Paris landmark a week ago to dislodge occupying students. The university has become a symbol of the protest.

Police turned water cannons on the protesters at the Sorbonne and were seen throwing youths to the ground, hitting them and dragging them into vans.

"Liberate the Sorbonne," some protesters shouted. "Police everywhere, justice nowhere." In an apparent effort to set fire to a police van serving as a blockade, protesters instead torched the entrance of a nearby Gap store, apparently by accident, engulfing the small porch in flames.

With commerce snarled in some cities, people asked whether Prime Minister Dominique de Villepin would stand firm on implementing the change that he says is needed to encourage hiring. The usually outspoken leader was silent yesterday.

Protest organizers urged President Jacques Chirac yesterday to prevent the law from taking effect as expected in April.

The group issued an ultimatum, saying it expects an answer by tomorrow, when leaders will decide whether to continue protests that have paralyzed at least 16 universities and dominated political discourse for weeks.

"We give them two days to see if they understand the message we've sent," said Remi Jouan of CFDT, France's largest union.

The law would allow businesses to fire young workers in the first two years on a job without giving a reason, removing them from protections that restrict layoffs of regular employees.

Companies are often reluctant to add employees because it is hard to let them go if business conditions worsen. Students see a subtext in the new law: make it easier to hire and fire to help France compete in a globalizing world economy.

Youth joblessness stands at 23 percent nationwide, and 50 percent among impoverished young people. The lack of work was blamed in part for the Muslim riots that shook France's depressed suburbs during the fall.

Protests yesterday reached every corner of France -- most of them largely peaceful -- with organizers citing 160 marches from the small provincial town of Rochefort in the southwest to the major city of Lyon in the southeast.

In Marseille, extreme-leftist youths climbed the facade of City Hall, replacing a French flag with a banner reading "Anti-capitalism." Police used tear gas to disperse them and made several arrests.

Police also fired tear gas at a protest in Clermont-Ferrand, a central city where 10,000 people marched and about 100 youths threw beer cans and other projectiles at a building.

The Paris protest march was the biggest, attracting some 80,000 people, according to police. Organizers put the number at 300,000.

Widespread discontent with the government has crystallized around a new type of job contract that Mr. de Villepin says will alleviate France's sky-high youth unemployment by getting companies to risk hiring young workers.

Critics say the contract abolishes labor protections crucial to the social fabric.

"Aren't we the future of France?" asked Aurelie Silan, a 20-year-old student who joined a river of protesters in Paris.

Government spokesman Jean-Francois Cope insisted on the need for a "spirit of dialogue." "The hand is extended; the door is open," he said on France-3 TV network. However, he limited dialogue to "improving" Mr. de Villepin's plan -- not withdrawing it.

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Waves of red union flags topped the densely packed crowd in Paris, which overflowed onto side streets and stretched more than 3½ miles under bright sunshine.

"Throw away the job contract; don't throw away the youth," chanted a group of students shaking tambourines. Many wore plastic bags to illustrate their feeling that the new law reduces young people to disposable workers.

Some demonstrators became violent as the march ended. Youths set a car on fire, smashed a shop window, trashed a bus stop and threw stones, golf balls and other objects at police. Police responded with tear gas during skirmishes that lasted several hours.

Mr. Chirac has pushed Mr. de Villepin to act "as quickly as possible" to defuse the crisis, but has backed the contested measure.

Dutch Convert To Islam: Veiled And Viewed As A 'Traitor' (WP)

By Molly Moore

The Washington Post, March 19, 2006

A Woman's Experience Illustrates Europe's Struggle With Its Identity

BREDA, Netherlands -- Rabi'a Frank sees her Dutch home town through the narrow slit of the black veil that covers her face.

The looks she receives from the townspeople are seldom kindly.

On a recent winter afternoon, the wind tugged at her ankle-length taupe skirt, olive head scarf and black, rectangular face veil as she walked to her car from an Islamic prayer meeting in downtown Breda. Two blond teenagers on bicycles stared, their faces screwed into hostile snarls. Other passersby gawked. Some stepped off the sidewalk to avoid coming too near.

She tried to act like it didn't offend her. But it did. She knows what they think of Muslim women like her.

"If you cover yourself, you are oppressed -- that's it," said Frank, a lanky, 29-year-old Dutch woman who converted to Islam 11 years ago, about the time she married her Moroccan husband. "You are being brainwashed by your husband or your friends."

Or, you're a potential terrorist.

"Sometimes I make a joke and say, 'Oh, you don't have to be scared of me.' " Other times, she gets so fed up that she yanks up her hand under her robe like it's a pistol and shouts, "Boom!"

Frank spoke on a recent day in her living room in this city of 162,000 people near the Netherlands' southern border with Belgium. "They don't have the right to treat me different," she said. "It's like staring at someone in a wheelchair. It's not polite. I'm human, even if you don't like the way I appear."

This day-to-day struggle for acceptance on the streets of her home town is one woman's confrontation with a deepening rift in West European societies, where the emergence of a 15 million-member Muslim minority is reshaping concepts of national and personal identity.

Some European governments have passed laws they say are intended to help preserve national identity. Critics argue that the measures reflect Islamophobia and fears of terrorism triggered by the attacks of Sept. 11, 2001, and the subsequent transit bombings in Madrid and London.

The Netherlands, with nearly 1 million Muslims, almost 6 percent of its population, is particularly on edge. The 2002 assassination of an anti-immigrant politician, Pim Fortuyn, by an animal rights activist was followed by the execution-style murder in 2004 of the filmmaker Theo van Gogh, who had just released a controversial film seen as anti-Islamic. A young Muslim radical admitted to the killing.

A country with a history of tolerance is now adopting or debating some of the most restrictive anti-immigration and anti-Muslim laws in Europe. One proposed measure would ban women from wearing face veils, called niqab , in public. Another would outlaw the speaking of languages other than Dutch on the street.

Immigrants must learn some Dutch, pass a history and geography test and, to get a feel for whether they can live in this society, watch a film on Dutch culture that includes two gay men kissing and a topless woman walking on a beach.

Geert Wilders, a member of the Dutch parliament, said he was drafting a bill that would ban all immigration for the next five years. "Our culture is based on Christianity, Judaism and humanism," Wilders said in an interview in his tiny office in the parliament building in The Hague. "We should not be ashamed of it. This is who we are and who we should stay."

In Belgium, some cities have banned women from wearing face veils and burqas , which cover the entire body and face, in public places. A year ago, France barred women and girls from wearing head scarves in public schools. A London school district has imposed a similar ban.The Path of a Convert

For natives such as Frank who have converted to Islam, the hostility is often greater than that directed at immigrants.

"They think you are a traitor," said Frank, whose thin, pale face is framed by long blondish-brown curls. "You're not acting like a Dutch girl anymore.

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"I'm a Muslim, a woman and also Dutch," she continued. "What upsets people is that I'm a Muslim first."

Frank can recall the instant she decided to wear a face veil: She had just stepped into Amsterdam's Schiphol Airport last year after making her first hajj, or pilgrimage to Mecca, and going to Medina, in Saudi Arabia. They are the holiest sites in Islam.

It is more difficult, she said, to describe the evolution that took the former Rebecca Frank to her dramatic decision.

It began at age 14 as teenage defiance. She developed a crush on a 16-year-old Moroccan boy named Ali who had moved to the Netherlands as a child with his parents. He was exotic, he was different -- and, to the daughter of a Catholic mother and a Jewish father, he was off-limits.

Over the years, as the relationship became more serious, Ali told Rebecca he could not marry her because she was not Muslim, even though he was not particularly religious. It's not about Islam, he explained, it's about culture.

Without consulting him, she began reading books about Moroccan culture and Islam. Then she decided to read the Koran. "I felt like, 'This is it,' " said Frank, whose parents were divorced and who, like many teenagers, was searching for an identity.

When Ali took her to meet his mother and announced they planned to marry, his mother said she would "break both legs" if he did that, Frank said. Her future husband didn't see his family for the next three months.

Her own mother was so upset over the wedding that she brought flowers to the 18-year-old bride, broke down in tears and left before the Islamic ceremony began. Her father did attend the wedding.Clothing as a Statement

Like most of her Muslim convert friends, Frank said, she found that the process of fully embracing Islamic thinking and dress was gradual. But eventually the clothing became the outward statement of her identity. "I smiled at all the Muslim women I saw in the streets," she said. "But to them, I was just a plain Dutch girl with brown hair and blue eyes. I wanted to be recognized as a Muslim woman."

She changed her name from Rebecca to Rabi'a and began giving lectures about Islam. After she published an article on Islam in a local newspaper, a woman wrote her a letter demanding: "Go back to your own country."

"I'm in it now!" she thought angrily.

The more Frank studied her religion, the more convinced she became that she should take the final step and wear not only a head scarf but a face veil. "It took me two years to convince my husband I wanted to do it," Frank said. "He really didn't want me to wear it because of the reaction when we go out together."

Frank had begun focusing on the words of one of the Koran's foremost ancient interpreters, Rasulullah, who warned that "a woman who reveals her body" violates the tenets of Islam.

During her pilgrimage to Saudi Arabia with her husband and mother-in-law, she covered her face in public for the first time. Far from feeling oppressed, she said, she felt liberated.

"It's like the song," Frank said. She began softly singing the English lyrics of "The Veil," a popular song on Muslim Web sites.

They tell her, 'Girl, don't you know this is the West and you are free?

You don't need to be oppressed, ashamed of your femininity.'

She just shakes her head and speaks so assuredly. . . .

This Hijab, this mark of piety

Is an act of faith, a symbol

For all the world to see.

But on the streets of Breda, covered by her veil, Frank stands out as an anomaly -- a curiosity to some, a freak to others.

A few weeks ago, her middle son, 7-year-old Ismail, pleaded with her, "Why don't you take it off? The children are laughing at you at school."

"I won't take it off," she insisted. "For me, it's like driving a car without a seat belt."

She gazed out her living room window at the street that winds through her suburban enclave of brick townhouses and front gardens browned by winter frosts.

"I am a Muslim," she said with finality. "That's my identity."

Spain Scrambles To Cope With Tide Of African Migrants (NYT)

By Renwick Mclean

The New York Times, March 19, 2006

MADRID, March 18 — Spain's deputy prime minister began an emergency visit to the Canary Islands on Saturday to discuss ways to control a record flow of African migrants arriving in boats from Mauritania that has led to at least 25 deaths in the last week.

The Spanish government says more than 1,000 migrants have been detained at sea in the last 10 days while trying to reach the islands from Mauritania on North Africa's western coast, a voyage of 500 miles.

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The migrants, mostly sub-Saharan Africans, crowd into boats carrying dozens of passengers in hopes of reaching the islands and thereby gaining entry to the European Union.

The detentions have overwhelmed government and Red Cross officials on the islands, prompting them to ask residents to provide clothes and mattresses and to ask Spanish and European Union authorities for help.

"We've never seen anything like this," said an official in the central government's offices on the islands, who followed Spanish protocol by requesting anonymity to avoid upstaging his superiors.

The government of Mauritania has said that without aid from abroad it is practically helpless against the vast numbers of migrants who are collecting within its borders in hopes of going to the islands.

Before traveling to the islands on Saturday, Spain's deputy prime minister, María Teresa Fernández de la Vega, said the Spanish government would do all it could to help stem the flow of migrants and to help care for those who had been detained, many of whom arrive malnourished, dehydrated and in serious need of medical attention.

Juan Antonio Corujo Machín, a Red Cross official on the islands, said, "Most of them are completely disoriented when they arrive."

The Canary Islands, which are 70 miles off Morocco's southwestern coast, have been drawing boatloads of illegal migrants since 1995. They became a particularly popular destination in 2002, when close monitoring at the Strait of Gibraltar persuaded many migrants to look for an alternative route to Spain.

Immigration to the islands slowed over the last couple of years, partly because of a crackdown by Moroccan authorities.

In 2005, more than 4,700 migrants were detained while trying to reach the Canary Islands, down from 8,500 the year before, according to figures from the Spanish government.

The trend appears to be reversing itself this year, however. After less than three months, the number of detentions has already surpassed 3,500.

According to Spanish officials, the resurgence suggests that the Moroccan crackdown has been less effective than previously thought, because the migrants have responded by pushing their departure point south to Mauritania.

The change can add hundreds of miles to the journey, increasing the chances that the boats will wander off course, capsize or otherwise be lost at sea.

Even for migrants who are relatively well prepared, the journey can be hazardous.

All of the 25 bodies found off the coast of Mauritania this week were wearing life jackets, and one had a Global Positioning System navigator, the Spanish government said. The majority of the migrants appear to be departing from Nuadibu, in the north of Mauritania, Spanish officials said. Mauritania has estimated that more than 10,000 potential migrants have gathered in the city in hopes of reaching Spain.

U.S. Warships And Piracy Suspects Exchange Gunfire (NYT/AP)

By The Associated Press

The New York Times, March 19, 2006

DUBAI, United Arab Emirates, March 18 (AP) — Two United States Navy warships exchanged gunfire with people suspected of being pirates Saturday off the coast of Somalia, killing one of them and wounding five, the Navy said.

No American sailors were wounded and 12 suspects, whose nationalities were not known, were taken into custody, said Lt. Cmdr. Charlie Brown, spokesman for the Navy's Fifth Fleet.

The battle started about 25 miles off the Somali coast when the American warships Cape St. George and Gonzalez spotted a 30-foot fishing boat towing skiffs and prepared to board the vessels. The suspects were holding what appeared to be rocket-propelled grenade launchers, the Navy said. When the suspects began shooting, naval gunners returned fire with mounted machine guns.

Navy Warships Fire On Suspected Pirates Off Somalia, Killing One (WP)

By Guy Gugliotta

The Washington Post, March 19, 2006

Two U.S. warships opened fire on suspected pirates in a small boat in the Indian Ocean off the coast of Somalia yesterday when the pirates brandished shoulder-fired rocket launchers at the ships as they approached, the Navy said.

One of the pirates was killed and five were wounded, the Navy said. Twelve suspects were taken into custody. Sailors worked into the night to quell a fire on the suspected pirate craft ignited by the warships' machine guns. No Americans were injured.

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Cmdr. Jeff Breslau, a spokesman for the U.S. Navy Central Command at Bahrain, said the USS Cape St. George, a guided-missile cruiser, and the USS Gonzalez, a guided-missile destroyer, were conducting security patrols in international waters off Somalia's central coast when they spotted a small utility boat towing a pair of skiffs.

"All three were wooden boats," Breslau said in a telephone interview from Bahrain. "They were about 25 miles off the coast and heading west, toward shore." Breslau said the incident occurred at 5:40 a.m. local time.

He said the waters off Somalia, a country that has been in turmoil for the past 15 years, are infested with pirates, seaborne armed robbers who board any boat or ship they can approach and rob the crew at gunpoint.

"A lot of it is targets of opportunity," he said. "They'll take over fishing or merchant vessels, then head back to territorial waters where they demand a ransom." Under international law, watercraft in territorial waters cannot be easily boarded by foreign flagged ships.

Breslau said Cape St. George and Gonzalez, both based in Norfolk, were part of Task Force 150, which oversees security operations and interdictions at the Arabian Sea approaches to the Gulf of Aden and the Gulf of Oman. "The main focus," he said, "is to prevent terrorists from using the sea."

Breslau said the suspected pirate vessel was less than 40 feet long and either had two smaller skiffs in tow or was leading them toward shore. Cape St. George is 567 feet long, and Gonzalez is 505 feet long. Both ships are armed with Tomahawk cruise missiles and an arsenal of other weapons.

The warships were maneuvering to come alongside the suspect boat in preparation for boarding and search when the pirates opened fire with automatic rifles and a rocket-propelled grenade launcher, Breslau said. Sailors manning machine guns on board the warships returned fire, he added.

"There is one confirmed dead and five injured," Breslau said. "We took 12 people into custody, including the injured men." He said the firefight ignited the suspects' vessel, but sailors were working to put out the blaze in hopes of salvaging documents or other intelligence materials.

Congo Warlord Handed To International Court (NYT)

By Marlise Simons

The New York Times, March 19, 2006

THE HAGUE, March 18 — A Congolese militia leader accused of abducting children and turning them into soldiers and sex slaves has become the first suspect to be delivered to the new International Criminal Court, the chief prosecutor announced Saturday.

The former warlord, Thomas Lubanga, arrived at the court's detention center in The Hague late Friday after being flown here on a French military plane, the prosecutor said. Mr. Lubanga had been imprisoned since last year in Congo, whose authorities handed him over to the court for trial.

"He has been accused of conscripting and enlisting children under the age of 15 into armed groups and using them in hostilities," the prosecutor, Luis Moreno-Ocampo, said at a news conference. The crimes involved were "extremely serious," he said. "Throughout the world, children are being trained to become machines of war."

Mr. Lubanga is scheduled to appear at a court hearing on Monday, the start of a new phase in the history of the I.C.C. The court, the first permanent international war crimes court, was founded in The Hague in 2002 over the objections of the United States.

Mr. Lubanga, 45, was the founder and leader of the Union of Congolese Patriots, one of the most dangerous militias in the Congo's northeastern Ituri district.

Mr. Moreno-Ocampo said that investigators had worked for months in the region almost surreptitiously because armed groups were still active in the area "and they could kill our witnesses." He said that further charges against the militia leader were still being prepared, but much evidence was already available, including photographs from camps where children as young as 7 were being trained to become soldiers.

According to Unicef, the United Nations children's aid agency, an estimated 30,000 children, most of them abducted, have been used by armed groups in Congo as fighters, messengers, cooks and sex slaves.

Mr. Lubanga's case will be one in a series of cases against militia leaders in Congolese-Rwandan border region, the prosecutor said.

The militias have been financed and supplied by a number of countries, including Uganda and Rwanda, in a fight over a region rich in minerals and timber.

"We think this is an important first step and we urge the prosecutor to go further and higher, up to the political actors who were manipulating these militias for their own ends," said Richard Dicker, a director of Human Rights Watch, based in New York.

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Wonderful World? (NYT)

By James Traub

The New York Times, March 19, 2006

We live in a world that is objectively more dangerous than the one we knew at the outset of the millennium; whatever our disagreements, since 9/11 both our foreign policy and our domestic politics have pivoted around this ineluctable fact. And because the terrorists who struck us represent a global phenomenon, we assume that the world is objectively more dangerous for everyone. But is it?

The answer, it seems, is no. In recent years, scholars have been gathering data in an attempt to measure global trends in conflict and violence. The emerging view is that conflict worldwide is in fact diminishing, not growing. According to "Human Security Report 2005," a study that relies on this recent scholarship, the number of armed conflicts has been dropping steadily since the end of the cold war. Major civil wars, which exploded around the world between 1946 and 1991, declined sharply in the ensuing decade. Indeed, the trend holds true for virtually every category of conflict — coups, interstate wars and even genocides and so-called politicides, in which political belief rather than ethnicity is the criterion for killing. The only exception is international terrorism — as we know all too well.

The study, issued by the Human Security Center, a policy institute at the University of British Columbia, is not entirely convincing. Because, for example, no sound metric exists for tallying them, the "indirect deaths" caused by conflicts that uproot vast numbers of people, disrupt agriculture and shatter health-care systems have not been counted.

Nevertheless, once we get past our initial disbelief, the notion that we live in an era of comparative peace shouldn't be so surprising. Colonial struggles largely ended by the mid-70's. Cold-war proxy battles also ended. And over the last decade or so, the international community has developed a set of mechanisms to put the brakes on incipient warfare. In fact, the authors of the study argue that "the single most compelling explanation" for the decrease in conflict is that preventive diplomacy and peacemaking missions, as well as U.N. peacekeeping operations, which had been almost impossible to mount during the cold war, now accompany almost every major crisis. As a result, outright warfare is now concentrated, albeit to an extraordinary degree, in one area — sub-Saharan Africa. Entire regions that were strife-torn 20 or 30 years ago, including East and Southeast Asia, are largely peaceful today. North Africa is quiet; Latin America suffers from political instability but not warfare.

This is certainly good news, especially for the beleaguered United Nations. But it does nothing to relieve our own sense of vulnerability, since terrorists are not amenable to negotiation or peacekeeping. You can, therefore, draw a troubling inference from the data, which is that for all the talk of "globalized" threats, the American experience of the world is becoming less, not more, similar to that of our allies and trading partners. Our world has become more dangerous; theirs, with some important exceptions, less so.

Why is it so hard for Americans to recognize how very different the world appears when seen from beyond our borders? The authors of "Human Security Report" hypothesize that myths about a rising tide of violence propagated by the media or international organizations "reinforce popular assumptions." O.K., but why the popular assumptions? Why are our intuitions about both the past and the present so far from the reality?

The answer has to do with fundamental differences between the cold war and the Age of Terror. In the cold war, the chief combatants never fought one another — thus the "coldness" of the war between them. The rest of the world was aflame with proxy combats, but the fear of provoking nuclear war served as a heat shield for the West. The authors of "Human Security Report" note that the scholarly description of the post-World War II era as the "long peace" is "deeply misleading." But psychologically it was accurate.

Now the relationship between threat and actual fatalities has been reversed. International terrorism has killed an average of 1,000 people a year over the last 30 years, according to "Human Security Report." That's not a lot. But the threat of terrorism is out of all proportion to its lethality; that is, in a way, the whole point of terrorism. It is true that since 9/11, nothing has happened in the United States, but anything can happen, anywhere, at any time. And of course something has happened. We all had nuclear nightmares in the depths of the cold war, but we recognized them as nightmares, or as scenes from apocalyptic movies. Yet in the case of terrorism, we had the apocalypse before we even had the nightmare. And so while we may accept the idea that we live in a less-war-torn age, the mind rebels at the thought that we live in a less dangerous age.

But that's us; it's not even "the West." In his famous essay "Of Paradise and Power," Robert Kagan argued that Europeans have stepped out of the Hobbesian world of anarchy — our world — into their own Kantian world of "perpetual peace." With Islamic terrorism a growing threat in Europe, Kagan's Mars/Venus distinction may not be quite as salient as it seemed. But outside the West, where in general the world really does feel less lethal than it used to, President Bush has had a very hard time enlisting allies in the war on terror. Many developing nations would rather talk about development and trade than about sleeper cells. Yet we need their help in the fight against terrorism.

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The Bush administration has discovered the hard way that diplomacy is more difficult today — and arguably more important — than it was during the cold war. You can only hope that this discovery points toward a wiser and more supple view of the world we have been forced to inhabit.

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Williams, Jan

From: Williams, Jan

Sent: Monday, March 20, 2006 9:15 AM

To: Williams, Jan; Horvath, Jane (JMD); Garrett, Paul; Cushmac, Anne Marie; Davis, Michael; Fuentes, Maria; Balfe, Robert; Biskupic, Steven (USAWIE); Bogden, Daniel (USANV); Brooks, Susan; Brownlee, John (USAVAW); Buchanan, MaryBeth (USAPAW); Canary, Leura G. (USAALM); Charlton, Paul (USAAZ); Chiara, Margaret M. (USAMIW); Christie, Christopher (USANJ); Colantuono, Thomas P. (USANH); Connolly, Colm (USADE); Corrente, Robert (USARI); Cummins, Bud (USAARE); Dugas, David R. (USALAM); Fitzgerald, Patrick J. (USAILN); Garcia, H; Garcia, Michael J (SDNY); Graves, Todd (USAMOW); Greenlee, Jim (USAMSN); Heavican, Michael (USANE); Heffelfinger, Tom (USAMN); Huber, David L. (USAKYW); Iglesias, David C. (USANM); Immergut, Karin (USAOR); Jenkins, Anthony; Kubo, Ed (USAHI); Lam, Carol (USACAS); Lampton, Dunn (USAMSS); Larson, Charles (USAIAN); Letten, James (USALAE); 'Lockhart, Gregory'; Marino, Thomas (USAPAM); Martin, Alice (USAALN); Mauskopf, Roslynn; McDevitt, Jim A. (USAWAE); McKay, John (USAWAW); Mead, Matthew H. (USAWY); Meehan, Patrick (USAPAE); Melgren, Eric (USAKS); Mercer, Bill (USAMT); Miller, Gregory (USAFLN); Moss, Thomas (USAID); Murphy, Stephen J. (USAMIE); Nahmias, David (USAGAN); O'Connor, Kevin (USACT); 'O'Melia, Michael (USAAZ)'; Orwig, Matt (USATXE); Perez, Paul (USAFLM); Rapadas, Leonardo; Roper, Richard (USATXN); Rosenstein, Rod (USAMD); Ryan, Kevin (USACAN); Scott, McGregor (USACAE); Shappert, Gretchen (USANCW); Sperling, Sheldon J. (USAOKE); Suddaby, Glenn T. (USANYN); Sullivan, Michael (USAMA); Sutton, Johnny K. (USATXW); Vines, Jim (USATNM); Wagoner, Anna Mills S. (USANCM); Wainstein, Kenneth; Washington, Donald (USALAW); Whitaker, Matt (USAIAS); White, Greg (USAOHN); Whitney, Frank (USANCE); Wood, Lisa (USAGAS); Wood, Maxwell; Wrigley, Drew (USAND); Yang, Debra Wong
(USACAC); '/o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez'; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); '/o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy'; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); 'Bianco, Joseph F.'; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); 'Burch, Victoria'; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; 'David, Matt'; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; 'Gambatesa, Donald (USMS)'; Garre, Gregory G; Glut, Martha (USANE); 'Gober, Chris'; 'Golden, Lois'; Goodling, Monica; Gorsuch, Neil M; 'Greg Harris'; Hagle, Timothy; 'Harris, Gregory'; Henke, Tracy (SMO); Hertling, Richard; 'Hofer, Patrick F. (TAX)'; Hoisington, Jana;

Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; 'Korn, Jennifer'; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; 'Neumayr, Mary (ENRD)'; Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; 'Roper, Matt M'; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Woodruff, William; Lewis, Matthew; Nelson, Ryan (ENRD); Becker, Grace (CRT); Masugi, Ken (OPA); Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford; Murray, Fred F. (TAX)

Subject: The Morning Update: 3/20/06

Attachments: tmp.htm

Importance: Low

The Morning Update

Today, President Bush will meet with NATO Secretary General Jaap de Hoop Scheffer to discuss efforts to strengthen and transform NATO and the Alliance's contributions to transatlantic and global security.

The President will also travel to Cleveland, Ohio, to discuss our work with all elements of Iraqi society to remove the terrorists and restore order in Iraqi cities, to rebuild homes and communities, and achieve stability. The President will highlight concrete examples of real progress and how the strategy for victory is succeeding.

9:30 am: THE PRESIDENT meets with NATO Secretary General

EST The White House | Washington, DC

12:25 pm: THE PRESIDENT makes remarks on the Global War on Terror

EST Renaissance Cleveland Hotel | Cleveland, Ohio

From Today's Morning Headlines

President Bush Marks The Third-Year Anniversary Of Operation Iraqi Freedom. "President Bush called Sunday a 'time to reflect' about the sacrifices of U.S. troops in Iraq over the past three years. <http://www.usatoday.com/news/washington/2006-03-19-iraq-assessments_x.htm> He said he was pleased by Iraqi efforts toward democracy. ...
Speaking to reporters upon his return from Camp David, Bush said he talked by phone Sunday morning with the U.S. ambassador to Iraq, Zalmay Khalilzad, and came away 'encouraged by the progress' the Iraqi government is making to establish a balance across Sunni Arab, Shiite Muslim and Kurdish factions." (John Diamond, "Assessments At Odds On War's Anniversary," USA Today, 3/20/06)

Vice President Cheney Discusses The Political Progress Made By Iraqis.
THE VICE PRESIDENT: "The facts are pretty straightforward. The Iraqis have met every single political deadline that's been set for them. <http://www.cbsnews.com/stories/2006/02/26/ftn/main1346210.shtml> They haven't missed a single one. They took over, in terms of sovereignty, 21 months ago. They held national elections the following January. They wrote a constitution - one of the best constitutions in that part of the world. They held a referendum on it last October, and last December, had turnout of about 78 percent in terms of the election, and now are putting together a government which they'll form up here shortly." (CBS' "Face The Nation," 3/19/06)

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This Weekend From The White House

President Remarks On Third Anniversary Of Beginning Of Iraq Liberation <http://www.whitehouse.gov/news/releases/2006/03/20060319.html>

* Fact Sheet: Operation Iraqi Freedom: Three Years Later <http://www.whitehouse.gov/news/releases/2006/03/20060318-1.html>
* In Focus: Renewal In Iraq <http://www.whitehouse.gov/infocus/iraq/>

Interview Of The Vice President By Bob Schieffer, CBS News Face The Nation <http://www.whitehouse.gov/news/releases/2006/03/20060319-1.html>

President's Radio Address <http://www.whitehouse.gov/news/releases/2006/03/20060318.html>

President Welcomes Irish Prime Minister Ahern For St. Patrick's Day <http://www.whitehouse.gov/news/releases/2006/03/20060317-1.html>

* In Focus: Global Diplomacy <http://www.whitehouse.gov/infocus/globaldiplomacy/>

President To Welcome NATO Secretary General Jaap De Hoop Scheffer To The White House <http://www.whitehouse.gov/news/releases/2006/03/20060317.html>

Vice President's Remarks At A Rally For The Troops At Charleston Air Force Base <http://www.whitehouse.gov/news/releases/2006/03/20060317-3.html>

Greek Independence Day: A National Day Of Celebration Of Greek And American Democracy, 2006 <http://www.whitehouse.gov/news/releases/2006/03/20060317-5.html>

Ask The White House - Ambassador James Kenny Discusses U.S.-Ireland Relations On St. Patrick's Day
<http://www.whitehouse.gov/ask/20060317.html>

Press Briefing By Scott McClellan
<http://www.whitehouse.gov/news/releases/2006/03/20060317-2.html>

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The Morning Update

Today, President Bush will meet with NATO Secretary General Jaap de Hoop Scheffer to discuss efforts to strengthen and transform NATO and the Alliance's contributions to transatlantic and global security.

The President will also travel to Cleveland, Ohio, to discuss our work with all elements of Iraqi society to remove the terrorists and restore order in Iraqi cities, to rebuild homes and communities, and achieve stability. The President will highlight concrete examples of real progress and how the strategy for victory is succeeding.

9:30 am:	THE PRESIDENT meets with NATO Secretary General
EST	The White House | Washington, DC
12:25 pm:	THE PRESIDENT makes remarks on the Global War on Terror
EST	Renaissance Cleveland Hotel | Cleveland, Ohio

From Today's Morning Headlines

President Bush Marks The Third-Year Anniversary Of Operation Iraqi Freedom. "President Bush called Sunday a 'time to reflect' about the sacrifices of U.S. troops in Iraq over the past three years. He said he was pleased by Iraqi efforts toward democracy. ... Speaking to reporters upon his return from Camp David, Bush said he talked by phone Sunday morning with the U.S. ambassador to Iraq, Zalmay Khalilzad, and came away 'encouraged by the progress' the Iraqi government is making to establish a balance across Sunni Arab, Shiite Muslim and Kurdish factions." (John Diamond, "Assessments At Odds On War's Anniversary," *USA Today*, 3/20/06)

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Attachments:	agnb060318.pdf; agnb060318.doc

THE ATTORNEY GENERAL'S NEWS BRIEFING

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: SATURDAY, MARCH 18, 2006 7:45 AM EST

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TERRORISM NEWS:

Judge To Allow New Aviation Witnesses In Moussaoui Trial. Judge Leonie Brinkema yesterday ruled prosecutors in the death sentence trial of al Qaeda member Zacarias Moussaoui will be permitted to present new aviation witnesses in lieu of the witnesses whose testimony was tainted by the actions of a Transportation Security Administration lawyer.

NBC Nightly News (3/17, story 5, 1:10, Williams, 9.87M) reported, "This means the Justice Department can put on a more a or less complete case, arguing that if Moussaoui had not lied when he was arrested, the government could have beefed up airport security and might have blocked the hijackers. But all the preparation the prosecution has done on this point, Power Point presentations and charts, that is all tossed out, still considered tainted by the TSA lawyer. So it will be a nearly complete case, but just not as polished one." The CBS Evening News (3/17, story 5, Schieffer, 7.66M) also reported the story in a brief segment.

The New York Times (3/18, Lewis, 1.19M) adds, "The question remains as to whether it is possible to find new witnesses who are not only untainted, as the judge has required, but familiar enough with the state of aviation security in August 2001 to help support the government's case." In a front page story, the Washington Post (3/18, A1, Markon, 744K) calls it "an extraordinary week." Legal experts say "the week's events still leave prosecutors in a tough spot" as they "are left to scramble to find new witnesses."

The Los Angeles Times (3/18, Serrano, 958K) reports that while "prosecutors will be working from a marked disadvantage, with much of the central part of their case stricken from the trial," they say they will "call one witness to explain" do not fly lists "and how they are used to keep suspected terrorists from boarding commercial aircraft.' This, they said, 'will allow us to present our complete theory of the case, albeit in imperfect form.'" The Minneapolis Star Tribune (3/18, 424K) covered this story under the headline "Moussaoui ruling salvages the trial." The Washington Times (3/18, Seper, 90K) and the AP (3/18, Barakat, Sniffen) also covered this story.

Prosecution, Defense At Odds Over When Martin Will Testify. The Los Angeles Times (3/19, Serrano) reports, "With the sentencing trial for Zacarias Moussaoui stumbling forward again, lawyers for the two sides were sharply at odds Saturday over when" TSA attorney Carla Martin "would testify about why she tried to influence witnesses." Prosecutors want her to appear at "the middle of the week and…testify only if she agrees to answer questions about her conduct and not invoke the 5th Amendment," but "defense lawyer Edward B. MacMahon Jr. said in court papers that he wanted Martin on the stand after he finished cross-examining FBI Special Agent Harry Samit on Monday morning."

Specter Introduces Bill For Oversight Of Warrantless Spying. The Washington Times (3/18, Hurt, 90K) reports, "Senate Judiciary Committee Chairman Arlen Specter introduced a bill this week to increase congressional oversight of President Bush's warrantless spy program and require a court review of the program for its constitutionality," saying that "rule of law takes precedent even when the nation is at war with a new type of enemy capable of exploiting modern technology."

US Asks Judge To Reconsider Eavesdropping Order In 9/11 Detainee Civil Suit. The New York Times (3/18, Bernstein) reports that in the civil lawsuit by Muslims "swept up" in the post-9/11 US terrorism investigations, US Magistrate Judge Steven M. Gold "ordered the government on March 7 to guarantee in writing that neither the litigation team nor the potential witnesses — who include the F.B.I. director, Robert S. Mueller III — were aware" of secret eavesdropping on plaintiffs and their lawyers, "and that no such evidence would be used in the case." But on Friday, asking Gold to reconsider the order, "Stephen E. Handler of the Justice Department wrote in a filing…that if knowledge of such activity were denied in one case, a refusal to confirm or deny it in another case 'could itself tend to reveal classified information.'" NYU law professor Stephen J. Schulhofer said the filing "'is a pretty clear red flag' that eavesdropping occurred in the detainees' case."

Pentagon Hired Company That Bribed Cunningham To Help Collect Data On US Sites. Knight Ridder (3/18, Landay) reports that the Pentagon's Joint Counter-Intelligence Field Activity, CIFA, which "kept files on American anti-war activists hired" MZM

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Inc., "one of the contractors who bribed former Rep. Randy 'Duke' Cunningham, R-Calif., to help it collect data on houses of worship, schools, power plants and other locations in the United States."

Foreign Firms Important Pentagon Contractors. The Washington Post (3/18, D1, Mccarthy, 744K) reports, "Foreign-owned companies already help manage some of the nation's most sensitive business, working on classified weapons and information programs and dealing daily with government secrets," and "with joint defense projects among allies common, and the need for the best technology ever more acute, contracting experts say they expect the trend" of granting more foreign companies classified access "to continue." Still, "foreign-owned or controlled companies that work with classified information are subject to a special set of rules."

US Port Operator May Find Selling Difficult After Ports Controversy. The Financial Times (3/18, Wright) reports, "SSA Marine, the largest US-based container terminal operator, has taken on Citigroup to advise on a possible sale in a move that could reignite controversy about the ownership of US port operations." However, the DP World controversy "is understood to be deterring some of the world's largest terminal operators from looking at SSA's US assets," so "it could prove harder to sell SSA's US assets than its international business since foreign buyers are likely to shy away from entering the market and few domestic operators are large enough to make the purchase."

FBI "Source" Reported Seeing Top Al Qaeda Figures At Lodi Mosque. The Lodi News-Sentinel (3/18, Bohm) reports, "Osama bin Laden's right-hand man isn't the only Taliban member alleged to have once visited Lodi. An FBI 'source who is in a position to testify' told agents that he had seen two wanted terrorists visiting the Lodi Muslim Mosque and raising funds in 1999, according to federal court documents filed late Thursday night. … On Nov. 15, 2001, the source told agents that al-Zawahri was seen" at the Lodi mosque with Abdelkarim Hussein Mohamed Al-Nasser, charged in the Khobar Towers bombing, and Ahmed Mohammed Hamed Ali, charged in the bombings of US embassies in Africa. "Lodi Muslims deny that the Taliban members stayed in Lodi. FBI spokeswoman Karen Ernst said Friday that she could not comment because it's an ongoing investigation and the matter is in trial." The Stockton Record (3/18, Hood) notes that the "heavily censored FBI reports" filed Thursday do not identify the source as FBI informant Naseem Khan – who earlier testified to seeing al Zawahri at the mosque – "but prosecutors handed over the documents in response to defense attorneys' demands for information relating to Khan, who is expected to return to the witness stand Tuesday." Hamid Hayat's lawyer, Wazhma Mojaddidi, "wants those blacked-out portions revealed. U.S. District Judge Garland E. Burrell Jr. will hear arguments on the matter Monday."

Lodi Muslims Find Claims Dubious. The San Francisco Chronicle (3/18, Zamora, Martin) reports, "An FBI informant's claims that three of the world's most-wanted terrorism suspects passed through town in recent years are outrageous and could damage the federal government's case against two local men, residents and legal experts said Friday." Lodi mosque leader Mohammed Shoaib said, "I think the FBI should rely on more-reliable informants. I am an American citizen, and I love this country. They never talked to me." The Chronicle adds that although "the revelations could cause problems for the federal government if the jury feels that Khan's credibility is an issue," former US Attorney Kendall Coffey "and defense lawyer James Brosnahan said the government may be able to counter any credibility problems with Khan if corroborating evidence against the Hayats, including FBI interviews with them, is strong."

Toledo Terror Suspect's Lawyer Seeks Information On Recording Of Conversations. The Toledo Blade (3/18) reports, "An attorney for accused terrorist Mohammad Zaki Amawi has asked a federal judge for assurances that the government will not be recording his conversations with his client." On Friday, public defender Dennis Terez "filed a motion yesterday in U.S. District Court in Toledo asking for comprehensive information about federal agents' use of monitoring attorney-client communications." Attorneys for co-defendants Wassim I. Mazloum and Marwan Othman El-Hindi "said they plan to file similar motions on behalf of their clients very soon."

Bond Denied For Florida Doctor Accused Of Taking Al Qaeda Loyalty Oath. The Miami Herald (3/18, Benn) reports US District Judge Loretta Preska on Friday denied bond for Florida doctor Rafiq A. Sabir, who "will continue to be held in solitary confinement in a New York prison until his trial on charges of conspiring to support

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Osama bin Laden's terrorist network. … Sabir was arrested at his Palm Beach County home last May, days after investigators claim he recited an oath of loyalty in front of an undercover FBI agent."

Summaries Of FBI Wiretaps Said To Contradict Hammoudeh Indictment. The St. Petersburg Times (3/18, Laughlin) reports the indictment of Sami al Arian codefendant Sameeh Hammoudeh "accused him of 'transferring monies and funds…for the purpose of promoting PIJ activities,'" but "summaries of the wiretapped conversations that the government used to justify this accusation seem to undercut the charges." The Times cites three FBI tech cuts and adds, "federal prosecutors declined to comment on repeated contradictions between information in the indictment and the tech cuts," but "former FBI agent and federal prosecutor Todd Foster didn't." Foster referred to the Aisenberg case in 1997, which also "was built on secret surveillance of the defendants' conversations," calling it "a shocking example of how wiretap information in an indictment can be full of missing statements, statements taken out of context and false statements."

Administration Seeks Dismissal Of Guantanamo Bay Suits. The AP (3/18) reports, "The Bush administration argued Friday that a newly enacted law wipes out hundreds of pending court cases by detainees in Guantanamo Bay, Cuba, who are challenging their confinement." However, "lawyers for the detainees say the new law does not cover pre-existing cases filed in U.S. District Courts."

Judge Orders DOJ To Release New York Mosque Material. The Albany Times-Union (3/18, Lyons) reports, "A federal judge has ordered the Justice Department to turn over certain classified materials to attorneys for two members of an Albany mosque who were ensnared in an FBI counterterrorism sting." The Times-Union continues, "The judge's ruling allows prosecutors to withhold some of their top-secret files in the case, and it's not clear what information will be disclosed or how soon it might become public. … The information may provide more details on why the FBI launched a sting three years ago that targeted Yassin Aref, a 35-year-old Kurdish refugee who is being held in jail without bond while awaiting trial on terrorism-related charges." The Times-Union adds, "Federal prosecutors have the option of appealing the order issued late Thursday by U.S. District Court Judge Thomas J. McAvoy, but said they won't. … McAvoy's decision comes after more than 20 meetings between the judge and federal prosecutors in which they had haggled, in private, about what classified information the government must disclose so the men can defend themselves at trial. … 'The government intends to comply with the court's order,' said Assistant U.S. Attorney William Pericak."

Pakistan's UN Spokesman Affirms Converging Interests. In a letter to the Wall Street Journal (3/18, 2.11M), Mansoor Suhail, press minister at Pakistan's UN mission, writes, "Mahnaz Ispahani's March 3 editorial-page commentary 'Our Man in Pakistan' is based on wrong assumptions and analysis, but, paradoxically, draws the right conclusion: The US must remain engaged with Pakistan. President Pervez Musharraf's government's cooperation with the US is based on the convergence of Pakistan-US interests both tactical and strategic." He continues, "Pakistan is in the frontline of the war on terrorism," and the "US also needs nuclear Pakistan's cooperation to prevent proliferation and ensure peace in South Asia, which is essential to realize US commercial and strategic goals in the region."

NYTimes Praises Bloomberg's Handling Imam's Comments. The New York Times (3/18, 1.19M) editorializes that New York City Mayor Michael Bloomberg's response to chief chaplain for the New York City Corrections Department, Imam Umar Abdul-Jalil, saying "the greatest terrorists in the world occupy the White House," was "a Solomonic solution" that "also found his voice on an issue that has challenged his administration in the past: free speech." The Mayor "took wide-ranging swipes at the right and the left for stifling the airing of unpopular or offensive opinions" and "stood up for immigrants, the free press, fair elections and justice" by allowing the Imam to keep his job but adding a suspension "without pay for two weeks for his failure to disclose that he had been speaking as a private citizen, not as a city employee. It was a fair outcome."

Ahern Seeks Information On CIA Rendition Flights. Focusing on a more controversial angle, the AP (3/18, Riechmann) in an article titled "Ahern Asks Bush About CIA Flights Over EU" led its article on Bush's meeting with

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Ahern reporting Ahern "asked the president for more 'transparency' about CIA flights over Europe." He "said that while Ireland facilitates U.S. troop movements, and is 'happy to do it,' there is public concern over the CIA flights." He said "that it would be easier for him to explain the flights in his country if he knew more about them. 'We are going to continue to look at, perhaps, how we might bring more transparency to that process, if that's possible.'" The Washington Post ran the AP article in its coverage of Bush's meeting with Ahern.

IRA Leader Adams Detained At Reagan National Airport. The Los Angeles Times/AP (3/18) reports, "Gerry Adams, leader of the IRA-allied Sinn Fein party in Northern Ireland, was detained at Reagan National Airport after attending a St. Patrick's Day event at the White House, according to" Rep. Brian Higgins. Higgins "had invited Adams to speak in Buffalo, N.Y., said Adams' name appeared on a terrorism watch list, triggering a lengthy inspection. Because of the delay, Adams missed his speaking engagement, Higgins said."

HOMELAND RESPONSE:

Markey Criticizes TSA For Failure To Screen For Explosives. NBC Nightly News (3/17, story 6, 2:20, Myers, 9.87M) reported, "Four and a half years after 9/11, government investigators got materials for homemade bombs through security at 21 airports, every airport tested." Rep. Ed Markey "says this proves that the Transportation Security Administration has not improved safety nearly enough." Rep. Edward Markey: "TSA is way behind. TSA has put a beware-of-dogs sign on the lawn but not purchased a guard dog." Myers: "Analysts say detecting materials for homemade bombs is not easy because the ingredients themselves aren't dangerous, or explosive, until combined with other materials. TSA says it now considers explosives the number one threat. And today the top official argued that even though bomb materials got through the screeners, there are many other layers of security to keep terrorists with bombs off planes." TSA Director Kip Hawley: "Any one piece can be beatable, but it's the combination of many put together that we believe is very secure." TSA "argues that it needs more money to improve technology and hire more officers."

The Dallas Morning News (3/18, Mittelstadt) adds, "The head of the Transportation Security Administration, which oversees nearly 43,000 screeners at 429 commercial airports, didn't quarrel with the GAO analysis – and in fact termed it helpful as his agency focuses on its top mission: intercepting improvised explosive devices." However advocates note that "the GAO testing doesn't take into account the many layers of security that occur before passengers reach the screening checkpoint and once they're through."

White House To Host Smallpox Drill. The AP (3/18) reports, "Cabinet secretaries and other top officials are gathering at the White House complex Saturday to act out the roles they would play in a smallpox outbreak." White House spokesman Scott McClellan said the "four-hour drill, designed to test the federal government's smallpox response plans, won't be attended by the president."

WPost Calls For Changes In Real ID Act. The Washington Post (3/18, A20, 744K) editorializes, "When Congress passed the Real ID Act last year, it presumably did not intend to prevent human rights victims all over the world from entering the United States," but "its effects have been cruel to people already oppressed by vile regimes and terrorist groups. The law needs to be changed," as "the legal definitions of terrorism, terrorist organizations and material support are so broad that they include countless people who deserve the United States' protection, not exclusion." While "the problem could be alleviated if the administration would use" its waiver authority "aggressively," it "would address only some of the cases, and only by having the government forgiving 'terrorism' on the part of refugees whom it should not be labeling terrorists in the first place."

Silverstein Offer To Talk On WTC Rebuilding Rebuffed By Port Authority. The New York Times (3/18, Bagli, 1.19M) reports that although talks "abruptly broke off late Tuesday night, "it looked as if the stalled talks over financing and rebuilding at ground zero could resume next week." Developer Larry A. Silverstein, "eager to restart the talks," made a new offer, which the Port Authority of New York and New Jersey rejected. However it "said it would unveil its own proposal for the site next week." The Wall Street Journal (3/18, Frangos, 2.11M) adds that a person close to the talks said "Mr. Silverstein's revised proposal closes the gap between the two sides and contains some new ideas."

WSJournal Criticizes Government For Ground Zero Delays. The Wall Street Journal (3/18, 2.11M) editorializes, "The failure to even begin rebuilding Ground

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Zero is a disgrace, but it's also a classic display of New York's dysfunctional political culture." New York Governor George Pataki is "the politician with the most responsibility here," and he "knows that when you're in trouble in politics, blame a rich old white guy." In contrast, "Silverstein has the most credibility here, not least because he's the only one who has actually built something downtown since 9/11." Leadership "has been in pathetic and short supply," and "the failure at Ground Zero is a case study in government incompetence and buck-passing. It's no way to revive the economy of Downtown Manhattan, and it's certainly no way to honor the men and women who perished there on September 11."

FEMA To Try To Reclaim Wrongly Distributed Aid. The New York Times (3/18, Lipton, 1.19M) reports, "Acknowledging that it wrongly distributed tens of millions of dollars in hurricane relief last year, the Federal Emergency Management Agency said Friday that it would try to recoup aid from thousands of individuals or families who fraudulently or otherwise wrongly collected money." The "auditors examining the $6.8 billion in disaster assistance distributed last year to 1.7 million households after Hurricanes Katrina, Rita and Wilma said FEMA was to blame for much of the abuse because of a woefully inadequate accounting system that left it vulnerable to fraud," and "thousands of inappropriate payments were made because people were able to apply for and collect aid repeatedly."

Graft Investigations Growing In Louisiana. In a front page story, the New York Times (3/18, A1, Eaton, 1.19M) reports, "Growing numbers of subpoenas may soon be issued across Louisiana, where local politics remains a blood sport and corruption has been a bad habit," and "new hurricane fraud investigations are being opened 'sometimes by the day,' said Jim Letten, the United States attorney in New Orleans." In Keener, "federal prosecutors in New Orleans began bringing witnesses before a grand jury looking into possible fraud in…municipal contracts that were awarded immediately before and after the hurricane. The mayor and the entire City Council have been subpoenaed to testify, although the government has not made clear its target."

EPA Head Favors Coastal Restorations But Offers No Money Or Specifics. The New Orleans Times-Picayune (3/18, Brown, 257K) reports, "U.S. Environmental Protection Agency Administrator Stephen Johnson said Friday that the Bush administration is committed to rebuilding Louisiana's shattered coastline." However, he did not offer "new money for an effort expected to cost up to $14 billion" or "any specifics as to what role his agency would play." Johnson simply "indicated he wanted the EPA to 'get going' on at least a handful of the many coastal restoration projects under consideration."

Katrina Hurt Proctor & Gamble's Coffee Production, Spawned "Gentilly Village." The New York Times (3/18, Rich, 1.19M) reports, "Hurricane Katrina was making a mess of" Procter & Gamble's "coffee business, which got 50 percent of its supply from four sites in New Orleans," and "there are still, as Doug McGraw, the executive in charge of global coffee, put it, 'holes on the shelves' where Folgers and Millstone, Procter's brands, should be." Still after the storm, to help the employees whose homes were damaged, they "created what we call Gentilly Village, which was the trailers, some of which we bought and some of which we got from FEMA, on our parking lot, along with the generators, laundry facilities, a large kitchen and food-service operation, etc."

Blanco Spending Plan Advances In Legislature. The Baton Rouge Advocate (3/18) reports, "Legislators on Friday advanced the biggest part of Gov. Kathleen Blanco's hurricane recovery plan — totaling $6.2 billion — despite gripes about the lack of detail on how the money will be spent," as "the administration outlined the plan for legislators on two pages, not using more than a paragraph to describe each type of expense." Also, "the state must submit a spending plan to the federal government before the funds start flowing," and "the Louisiana Recovery Authority's executive director, Andy Kopplin, said the state is only ready to spend part of the money." The New Orleans Times-Picayune (3/18, Scott, 257K) adds there was "a warning shot to the governor's administration that lawmakers need to be better informed and integrated into the process. In response, administration officials expressed concern that the flow of federal money for housing and other recovery programs could be unnecessarily delayed."

Congress Boosts Flood Insurance Program's Borrowing Authority. The AP (3/18, Abrams) reports Congress has "agreed to boost the borrowing power of the federal flood insurance agency, which is fast running out of money needed to meet some 225,000 claims from hurricanes Katrina and Rita." The legislation "allows the

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National Flood Insurance Program to borrow up to $20.8 billion from the Treasury, up from the current ceiling of $18.5 billion."

WAR NEWS:

Bush To Highlight Successes, Acknowledge Mistakes In Iraq Policy. President Bush will continue his campaign to boost public support for the war in Iraq. ABC World News Tonight (3/17, lead story, 2:40, Vargas, 8.78M) reported, "The Bush Administration says, given enough time, there is a plan that will work. It will also require enough money. A new report from the Congressional Research Service says US military spending in Iraq and Afghanistan will increase to $9.8 billion a month this year. On Monday, to mark the third anniversary of the war, President Bush will, once again, make his case that the mission can succeed." ABC (Karl) added the White House "says the President will mark the third anniversary of the invasion by touting success, but also acknowledging mistakes that have prompted changes in tactics. As one senior Administration official said today, 'We are learning as we go.' One success the White House is expected to cite is Tal Afar, a one-time insurgent stronghold believed to have been a base for al Qaeda leader Abu Musab al Zarqawi."

Dozens of local television stations reported on the third anniversary of the Iraq war. Major themes included President Bush restating his determination to succeed in Iraq and improving Iraqi military strength as a means to reduce U.S. troop levels. Examples include: WTAE-TV Pittsburgh (3/17, 12:00 p.m.) reported, "The White House calls Operation Swarmer a show of Iraqi military capability." And Thursday night President Bush, "reiterated that is the key to bringing U.S. troops home. As Iraqis stand up, we will stand down."

KING-TV Seattle-Tacoma (3.17, 12:00 p.m.) reported, "President Bush spotlighted the participation of trained Iraqi troops in this relatively complex military operation." The station continued, "Monday the President goes to Cleveland where he will highlight what the government calls concrete examples of real progress being made in Iraq." WTVD-TV Raleigh (3/17, 5:00 p.m.) reported, "President said Monday his aim is to have Iraqis control more territory than coalition forces by year's end." WTAE-TV Pittsburgh (3/17 11:00 p.m.) reported, "President Bush continues to rally support for his strategy in Iraq."

Hadley Says US Making Progress In Iraq. The CBS Evening News (3/17, story 4, 2:00, Schieffer, 7.66M) interviewed National Security Adviser, Stephen Hadley. Asked if it was "possible that Iraqi security forces could control 75% of the country by this summer," Hadley said, "Whether it's 75 by this summer, 75% by the end of the year, we'll have to see, but the point is, it is the objective. We are making progress. We are every month at this point been able to turn over more territory to the Iraqis." Asked when the US would begin drawing down troops in Iraq, Hadley said, "I think you're beginning to see that process occur now. Remember during the period of elections, we were up to over 160,000 troops. We've now come back down to something like over 130,000 troops. As we train Iraqi security forces, as they take greater responsibility for security, we will be able to step back to a training activity and to going after terrorists and we'll be able to both change the composition and reduce the number of those forces. That's clearly where we're headed."

US Aims To Turn Over 75% Of Country To Iraqi Security Forces. A top US military official in Iraq, Lt. Gen. Peter Chiarelli, said yesterday that the US goal is to turn security responsibilities for over 75% of Iraq to Iraqi forces by the end of the summer. The story was reported in the lead on ABC and early in CBS' lineup. ABC World News Tonight (3/17, lead story, 2:40, Karl, 8.78M) reported, "Currently, Iraqi forces control less than 50% of the country." But "turning over so much area to the Iraqis would set the stage for a significant reduction of the 133,000 US troops in Iraq, but there are major obstacles. As General Chiarelli himself warned, sectarian violence could get much worse."

The CBS Evening News (3/17, story 2, 2:25, Martin, 7.66M) reported that "as evidence of progress in turning the fight over to Iraqi troops," Gen. Chiarelli cited Operation Swarmer "northeast of Samarra in which helicopters dropped 800 American and 700 Iraqi troops into what is believed to be an insurgent staging area." Gen. Chiarelli: "Had we tried to accomplish a mission like this 11 months ago, it would have been primarily US forces."

The AP (3/18, Burns) notes that the turn over "is more ambitious than President Bush's statement on Monday that his aim was to have Iraqis control more territory than the U.S.-led coalition by the end of 2006," and that Chiarelli "repeatedly stressed that he does not believe civil war will break out." In a later version of the article the AP (3/18, Burns) adds, "The Pentagon wants to pull increasing numbers of American troops out of the line of fire in Iraq." However, "three

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years after the invasion this latest evolution in the U.S. military's mission will depend largely on whether Iraqi security forces can handle it," and "it is not yet clear that the Iraqis will prove ready — politically or militarily — to take on the added responsibility."

US Will Remain In Charge Of Dangerous Convoy Duty. Contrasting with the announcements of Iraqis taking over US military duties, the New Orleans Times-Picayune/Newhouse News (3/18, Wood) reports, "The reality behind President Bush's assertion this week that Iraqi units are increasingly capable of standing on their own is that none can operate without heavy and sustained logistics support from the United States," when means that "no matter how many U.S. combat troops in Iraq eventually are replaced by Iraqis, an especially difficult and risky mission will remain an American responsibility: convoy duty." Thus, US troops "will be exposed to highly dangerous conditions there for the foreseeable future."

Allawi Warns Point Of "No Return" Approaches. In a status report on the approach of the third anniversary of the US invasion of Iraq, the CBS Evening News (3/17, story 3, 2:55, Logan, 7.66M) last night examined the state of security in the country. CBS reported that the current situation is a "long way from where many Americans expected to be after President Bush declared the end of major combat operations back in May 2003." Former Iraqi Prime Minister Iyad Allawi "remains a strong supporter of US involvement in his country. But he warned this week that militias are ruling the streets, and al Qaeda in Iraq has become less foreign and more Iraqi." Allawi: "I personally think that we now are approaching the no return point. If we get there, it's going to be very difficult to bring the country back." Logan: "What's normal, three years on for Iraqis in the capital, is waiting as long as two days for gas and struggling with only four hours of power on Iraqi officials talked about when and how to deceive international authorities about their weapons programs in the mid-1990s average per day. The picture, though, is not entirely dark." US Ambassador Zalmay Khalilzad: "There are some good things that are happening. The election was a very good thing. The constitution, it's a very good thing. There is freedom of speech. There is freedom of press. There is much more economic activities, interaction with the rest of the world." The Washington Times/AP (3/18, Hanley) also covered these deaths.

Concerns Raised Sectarian Strife Could Disrupt Region. The Dallas Morning News (3/18, Robberson) reports, "The U.S.-led invasion launched three years ago to oust Iraq's dictatorship and eliminate weapons of mass destruction has instead pushed it to the brink of civil war and escalated Iraqi fears of imminent doom at the hands of radical militiamen." While "this was hardly the outcome President Bush envisioned when he ordered the March 19, 2003, assault on Iraq, senior U.S. officials now acknowledge that their plans have gone awry. Iraqi leaders and clerics are urging restraint as they warn that their nation, already split along sectarian and ethnic lines, is close to imploding." Concerns are increasing that sectarian strife "could spark broader conflict around the region, and that Iraq's security void is tempting its neighbors to meddle militarily."

American Iraqis Impatient With Lack Of Progress In Homeland. American Iraqis, who were ecstatic at the fall of Saddam in 2003, are now growing impatient with the situation in Iraq. ABC World News Tonight (3/17, story 2, 2:25, Vargas, 8.78M) reported Dearborn, Michigan is "home to tens of thousands of Iraqi-Americans. They were out in the street, cheering when US forces led the invasion that toppled Saddam Hussein. Today, almost three years later, the mood is strikingly different." ABC (Reynolds) added that in Dearborn, it "is next to impossible to find anyone with anything good to say about the Bush Administration's handling of the war." Most are Shiites and are "deeply suspicious of the American ambassador in Iraq, Zalmay Khalizad, who is a Sunni. They believe Khalilzad's efforts to draw Sunnis into a government dominated by Shiites is unfair and unwise." There are "calls to return power to the Iraqis, quickly. And they have grown from a request to a demand."

Senate Democrats To Attack Bush On National Security Issues. The Washington Times (3/18, A1, Scarborough, 90K) in a front page story reports, "Senate Democrats have mapped a political battle plan for the March congressional recess that calls on lawmakers to stage press events with active duty military personnel, veterans and emergency responders to bash President Bush on virtually every one of his national security policies." Senate Minority Leader Harry Reid's game plan titled "Real Security," calls "for staged town hall events at military bases, weapons factories, National Guard units, fire stations and veterans posts." The DoD "prohibits political events on military bases." Reid's spokesman Jim Manley "said yesterday the planned events are not part of a political campaign. They would involve only incumbent Democratic senators, some of whom

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are up for re-election, but not Democratic Senate challengers, he said." The Times notes, "In almost every issue in the Reid memo, Democratic lawmakers are called upon to criticize the president for not spending enough federal dollars."

Democrats Seen As Divided On How To Confront Bush Policies. In contrast to the Washington Times report on Reid's plan to target Bush on national security, CQ (3/18, Ota) reports that if Sen. Russ Feingold's "censure resolution (S Res 398) gained little traction, it nonetheless crystallized a long-simmering divide among congressional Democrats over whether to move to the center with party leaders on a range of issues or swing to the left to energize the party's liberal base heading into this fall's elections." Senate Minority Leader Harry Reid "and other top Democrats are urging rank-and-file members to take a safer legislative course, emphasizing their opposition to cuts in Medicare and Medicaid, and touting Democratic domestic initiatives." In contrast to former Senate Democratic Leader Tom Daschle, "Instead of tying the Senate in knots with parliamentary tactics…Reid let regular order prevail for the most part." But Sen. Tom Harkin said, "I don't know that it is getting us anything." An "evolving Democratic agenda includes increased funding for homeland security, stronger guarantees for veterans' benefits and efforts to close the so-called tax gap. … Reid also is likely to seek another vote in the Senate on a proposed increase in the $5.15 per hour federal minimum wage." Yet, "the agenda does not include -- for now -- any frontal attacks on Iraq War funding, a demand for troop withdrawals or resolutions aimed at embarrassing Bush."

Antiwar Activists Seek To Build Support For Referendum Against Iraq War In Wisconsin. The Washington Post (3/18, A3, Slevin, 744K) reports, "In an exercise that one side calls democracy and the other considers a disservice, voters in 30 Wisconsin towns will cast ballots next month on whether the Bush administration should withdraw U.S. troops from Iraq." In cities across Wisconsin, "antiwar activists invoked a 1911 state law to schedule a bring-the-troops-home referendum designed to send a message to Congress and the White House that the war is costing too many lives and too much money." Anti-war activists "have waged counter-recruitment drives at high schools and colleges across the country, pressing to provide information tables or teach-ins about alternatives to military service. Antiwar organizations have scheduled hundreds of protests and other events to mark the war's third anniversary this weekend, yet the national effort to end the war has proved fitful."

Anti-War Activists Struggle To Generate Public Opposition To War. Similarly noting the anti-war activists lack of success in generating public opposition to the war in Iraq, the San Francisco Chronicle (3/18, Garofoli, Writer) in a front page article reports, "Even though polls say a majority of Americans think President Bush has bungled the war in Iraq and now oppose it, anti-war organizers are struggling to get new converts to tell someone besides pollsters that the country needs to change course." Their "focus has shifted in the past couple of years from the street to online organizing and opposing military recruiting in high schools. But anti-war forces are still frustrated that more Americans -- and Congress -- haven't actively opposed the administration's policy."

Feingold Defends Call For Censure. Sen. Russ Feingold in a letter to the editor in the New York Times (3/18, 1.19M) defends his call for censuring President Bush writing, "The president broke the law, and Congress must hold the president accountable." Feingold applauds "Senator Harry Reid's effort to take the Senate into closed session to get answers on the intelligence and policy failures leading up to the Iraq war. But to suggest that such a maneuver is our only recourse now ignores the role the founders expected Congress to play when a president commits such a flagrant abuse of power."

But Eleanor Clift in her column in Newsweek (3/18) writes, "Democrats must have a death wish. Just when the momentum was going against the president, Feingold pops up to toss the GOP a life raft." Clift notes, "It's brilliant strategy for him, a dark horse presidential candidate carving out a niche to the left of Hillary Clinton." But only two other Democratic Senators have signed on "for good reason. The broader public sees it as political extremism."

Pew Poll Suggests Shift In Public Perception Of Bush From "Honest" To "Incompetent." Time (3/18, Cooper) in a short web exclusive article titled "Bush the 'Incompetent'" reports, "Over the last seven years, the Pew Research Center for the People and the Press has played a game of word association as part of its regular presidential polling, asking, 'What one word best describes your impression of George W. Bush?" No options or suggestions are offered. The latest results -- from a sample of 710 people done in March -- aren't good for the President. Until this month, the word most associated with President Bush had

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always been 'honest.' Now the leading answer is 'incompetent' (given by 29 people), followed by 'good', 'idiot' and 'liar.' 'Honest' has slipped to 5th, tied with 'Christian.'" In 2003, "positive descriptions of Bush far outnumbered negative ones. In the past two years, the positive-negative ratio has been more nearly equal. This time, 48% of those polled used a negative word to describe Bush; just 28% picked a positive term; 10% chose neutral language. Six respondents chose a word that everyone could agree on: 'President.'"

Administration Officials Downplay Prospects Of Talks With Iran. The Administration is taking a cautious approach to possible negotiations with Iran over its intentions in Iraq. NBC Nightly News (3/17, story 4, 1:50, Gregory, 9.87M) reported US officials said any prospective meeting with Iran "would be only about the future of Iraq, particularly whether Iran is willing to help the US stabilize the country politically as it tries to come up with a unity government that's built around Sunnis, Shiites and Kurds. Iran's foreign minister has indicated a willingness to sit down with the US Ambassador in Iraq, Zalmay Khalilzad." US officials "say this would be a chance for the US to confront Iran over what the President has called its meddling in Iraq. Charge one -- that Iran is supplying explosives, IEDs, improvised explosive devices to insurgents. Charge two -- that it's helping Shiite militias in their activities with financing and explosives." But "will such a meeting happen? Well, tonight, White House officials are increasingly skeptical. National Security Advisor Steve Hadley saying the White House now thinks this might be a ploy by Iran to divert attention from all the heat it's getting internationally because of its nuclear ambition."

Similarly stressing the Administration's cautious approach the AP (3/18, Loven) notes, "There was concern Friday in the Bush administration that the Iranian offer could increase the stature of Iran's government in its citizens' eyes, raise Tehran's status in the region and curry broader international sympathy that could undermine the U.N. Security Council efforts." In an interview US ambassador Khalilzad said "that any meeting should be held in Baghdad. He also made clear that discussions would be limited only to issues related to Iraq, not the standoff over Tehran's nuclear activities, and would represent merely a face-to-face forum for the United States to state concerns it has expressed publicly." The Washington Times (3/18, A1, 90K) in a front page reports similar details fro combined wire service dispatches.

The Washington Post (3/18, A15, Knickmeyer, Branigin, 744K) reports, "Khalilzad said he would not describe the proposed talks as 'negotiations' but as a chance to express concerns about what Washington and some in Iraq regard as Iran's alarming activities here." Khalilzad said, "Iraqis will decide their own future…but they have concerns about [Iranian] policy regarding Iraq." He "spoke after the U.S. Embassy in Baghdad issued a statement critical of Iran in response to remarks Thursday by the top Iranian national security official.

Focusing on opposition to the talks by Sunni leaders in Iraq, the New York Times (3/18, Semple, 1.19M) reports, "Sunni Arab political leaders on Friday denounced an agreement between the United States and Iran to hold face-to-face talks about solutions to the unrest in Iraq, saying the conversations would amount to meddling by foreign nations in Iraq's domestic affairs." Meanwhile, White House press secretary Scott McClellan "said the Bush administration would not meet with Iran to negotiate the future of Iraq but rather to voice its concerns about what he called Iran's 'unhelpful role' in Iraq. It remained unclear on Friday whether Iraqi leaders would be invited to the meetings."

Also taking a negative tone, the Los Angeles Times (3/18, Richter, 958K) reports, "A day after raising international hopes by agreeing to hold direct talks about stabilizing Iraq, U.S. and Iranian officials Friday took a decidedly sharper tone toward each other, differing markedly over the purpose of their planned discussions." The Times adds, "As differences between the two sides intensified, fears grew that the longtime adversaries were jeopardizing an opportunity to help stabilize Iraq, an effort in which they both have an important stake."

But the AP (3/18, Schweid) in an analysis titled "Talks With Iran Could Help Bush" reports, "Possible negotiations between the United States and Iran and the convening of the first session of a new Iraqi parliament could give the Bush administration a long-needed lift. The recent inaugural session of Iraq's parliament is a positive step toward the new Iraq that President Bush envisions as he pursues a war that's unpopular with many Americans. Progress toward forging a unity government representing all of Iraq's sects would be a boost for a country that has been veering close to civil war." For the President, "whose dive in the polls reflects Americans' eroding confidence in his Iraq strategy, progress on either front would be welcome relief -- especially with midterm elections for control of Congress just eight months away."

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Columnist Says Public Tiring Of Bush Rhetoric On War Against Terrorism. Roger Cohen in his "Globalist" column in the New York Times (3/18, 1.19M) faults President Bush for characterizing the war against terrorism writing "to frame the confrontation with this danger as a 'war'…is a political decision, one of whose effects has been to cast Bush as a 'war president.'" And now "the epithet is tired; Americans have soured on their war president. It's partly the festering situation in Iraq. But the disillusionment runs deeper. With his approval rating at 33 percent, according to a new poll by the Pew Research Center, Bush is in Nixonian territory." Cohen comes to a similar conclusion as Schweid's AP analysis saying, "Bush has a program, but he's increasingly seen as unable to deliver. … Talking to Iran -- the country identified in the new strategy as presenting the greatest challenge to America -- may help more by delivering results in Iraq and elsewhere."

WPost Warns Of Iran's Ulterior Motives. Echoing the Administration's concerns about negotiations with Iran, the Washington Post (3/18, A20, 744K) editorializes, "By drawing the Bush administration into talks about Iraq, the Iranians give themselves a shot at splintering or distracting the fragile coalition that may be forming in New York. Already Iranian officials are speaking openly about the possibility that any discussions would expand into the broader security dialogue that Tehran has long coveted with the United States. In Iraq -- where American soldiers are dying from Iranian-supplied roadside bombs and sectarian violence by Iranian-supported militias is steadily mounting -- the Islamic regime has a tacit and sinister offer to make: Back down in New York, and the carnage in Baghdad might just drop off. Even the appearance that the Bush administration might be considering such a trade-off would worsen the situation in Iraq and wreck a year of careful and mostly effective anti-proliferation diplomacy."

Iraqi Leaders Discuss Creation Of National Security Council. The New York Times (3/18, Semple, 1.19M) in its article on possible US talks with Iran on Iraq also reports, "The Sunni criticism" of possible talks "came as leaders of Iraq's major political blocs, as well as the American ambassador, gathered…to discuss the formation of a new Iraqi government." Those talks "focused on the proposal to create a national security council composed of leaders of the executive, judicial and legislative branches, as well as representatives of the country's main political blocs. The council would be consulted on pivotal national issues, like the economy, oil policy, public services and security." The Times notes, "Some Sunni leaders wanted the council's decisions to have binding executive authority. But, several participants said, the Shiite leadership and others were insisting that the council have only advisory powers, thereby safeguarding the constitutional powers of the executive."

UN To Seek Higher Profile In Iraq. The Washington Times (3/18, A1, Pisik, 90K) reports in a front page story that Ashraf Qazi, the special representative of U.N. Secretary-General Kofi Annan, "said that the United Nations will soon be raising its profile" in Iraq, "acknowledging that its 'perceived absence' has been noticeable since a tragic suicide bombing after the U.S. invasion three years ago."

Iraqi Officials Believe Samarra Ringleader Is In Custody. The Los Angeles Times (3/18, Johnson, 958K) reports, "Iraqi military officials said Friday that a continuing offensive targeting insurgents in the hardpan desert northeast of here has resulted in the capture of additional weapons and a man they believe is among those responsible for the recent bombing of a venerated Shiite Muslim shrine in Samarra." They are "checking photos and other documents." While "a handful of suspects have been arrested,…authorities have not identified them."

Violence Continues In Iraq. NBC Nightly News (3/17, story 3, :20, Williams, 9.87M) reported "though it's not clear whether it's connected to" Operation Swarmer, "the military says an American soldier in Samarra has been shot and killed." The CBS Evening News (3/17, story 2, 2:25, Schieffer, 7.66M) reported, "There was scattered violence in Baghdad, and pilgrims headed to the holy city of Karbala for a religious holiday on Monday found themselves caught in a highway of bullets and bombs. 19 people killed or wounded by drive-by shootings, by roadside and bus bombs there, and US forces are now bracing for more bloodshed as the holiday gets closer."

Study Finds Overlap, Resistance In Counterterrorism Efforts. The New York Times (3/18, A1, Shanker, 1.19M) reports, "A classified Pentagon study" ordered by Defense Secretary Donald H. Rumsfeld and conducted by retired four-star Gen. Wayne A. Downing Jr. "analyzing the effectiveness of Special Operations forces has found that the military's counterterrorism effort is hampered by

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bureaucratic duplication," especially "particular an overlap between" the new Center for Special Operations and the new National Counterterrorism Center. It also found "broad resistance to the Special Operations Command's new counterterrorism role." The study is "viewed as so provocative that the classified report has not been distributed widely."

Documents Show Iraqis Misled Weapons Inspectors. The AP (3/18, Shrader) reports, "Several dozen documents made public Friday by the U.S. government as part of a program allowing researchers, the media and Iraqis comb through millions of pages of documents and audio recordings confiscated since the 2003 invasion," show "Iraqi officials talked about when and how to deceive international authorities about their weapons programs in the mid-1990s."

Documents Suggest Hussein Aware Of Bin Laden Activity. And ABC News (3/17) on its web sight reports that a summary analysis of some documents released shows one dated Sept. 15, 2001 reveals "An Iraqi intelligence service document saying that their Afghani informant, who's only identified by a number, told them that the Afghani Consul Ahmed Dahastani claimed the following in front of him: That OBL and the Taliban are in contact with Iraq and that a group of Taliban and bin Laden group members visited Iraq. That the U.S. has proof the Iraqi government and 'bin Laden's group' agreed to cooperate to attack targets inside America." But in an editor's note, ABC states, "While the assertions contained in this document clearly support the claim," that bin Laden was cooperating with Hussien, "the sourcing is questionable" and "this document is of limited evidentiary value."

Al Qaeda Recruits Eager For Attacks Against US. The Los Angeles Times/AP (3/18, Ghattas) reports, "Recruits at Osama bin Laden's terrorist training camps in Afghanistan were clamoring for suicide missions against the United States more than a year before the Sept. 11 attacks, according to al-Qaida documents declassified by the U.S. Defense Department. One document published on the Pentagon Web site this week contained rare criticism of bin Laden from an al-Qaida operative, who accused the terrorist leader of monopolizing decision-making and ignoring advice."

Abu Ghraib Detainee Admits He Isn't Man In Photo. In a front page article, the New York Times (3/18, A1, Zernike, 1.19M) reports that Ali Shalal Qaissi a former detainee of Abu Ghraib prison, "now acknowledges he is not the" hooded man hooked up to wires "in the specific photograph he printed and held up in a portrait that accompanied" a Times article about him. However, Qaissi "appears with a hood over his head in some photographs that Army investigators seized from the computer belonging to Specialist Charles Graner, and "he and his lawyers maintain that he was photographed in a similar position and shocked with wires and that he is the one on his business card." The Washington Post (3/18, C1, Kurtz, 744K) adds, "The Times was hardly the only news organization to name Qaissi as the hooded prisoner, although its profile…gave him considerable prominence."

Jury Deliberating On Guilt Of Abu Ghraib Dog Handler's Guilt. The AP (3/18, Dishneau) reports, "A military jury began deliberating Friday in the case against" Sgt. Michael Smith, "an Army dog handler accused of using his barking animal to torment prisoners at Abu Ghraib for his own amusement." His "defense argued that Smith believed he was following orders in a chaotic and confusing environment," and "testimony in the trial revealed conflicting notions among prison workers about how dogs were supposed to be used and what the approval process was."

Military To Investigate Marines For Death Of 15 Iraqis During Firefight. The AP (3/18, Baldor) reports, "The military will investigate allegations of potential misconduct by Marines during a bombing and firefight last November that left 15 Iraqi civilians dead." The criminal investigation "will try to determine whether the Marines followed the international law of armed conflict, including whether they positively identified or tried to identify the enemy and whether they determined there was hostile intent, as they are supposed to do." The Knight Ridder (3/18, Brown) adds, "One official said it's unclear whether the Marines killed the civilians accidentally or whether they fired indiscriminately. It's also unclear whether all the civilians died in the same house or in separate locations."

Brain Damage Said To be "Signature Injury" Of Iraq War. Newsweek (3/18, Riccitiello) reports, "More than 1,700 military personnel wounded in Iraq and Afghanistan in recent years, Marine Cpl. Samuel Reyes Jr. is suffering from traumatic brain injury, known in military jargon as TBI, which leaves survivors unable to perform the most

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basic cognitive functions." As "TBI affects more than 25 percent of bomb-blast survivors," it is "the signature injury of the Iraq war," and "the increasing number of TBI survivors and the vexing limitations they face has become an enormous challenge for both military medicine and for the Department of Veterans Affairs, which will treat these survivors for life."

Father Of Soldier Doesn't Want Son Redeployed. H. Barry Holt, father of an American soldier, writes in an op-ed in the Washington Post (3/18, A21, 744K), "I generally accepted the reasons we went to war and worried about terrorism and weapons of mass destruction." However, once his son deployed, lack of information was stressful. "I had persistent nightmares about improvised explosive devices, mortar rounds, snipers and accidents, knowing nothing but fearing the worst." Also, "we were confused and angry at the Army when he asked us to buy ammo pouches and other military accessories that weren't issued to him." U.S Army and Marine parents "have seen far too much for people so young, and I don't want any of them to die. My son is home and alive. He has done his duty and I don't want him to go back."

Experts Discuss Whether Iraq War Was "Worth It." Time (3/18) reports, Time magazine publishes people's opinions on if the Iraq war was worth it. David Kennedy, Professor of History, Stanford University said "No. From the outset the war was a colossally bold and breathtakingly risky gamble. Unfortunately, and unsurprisingly, the United States has failed to beat the odds" when it followed an "extravagant ambition to transform the political culture of the entire Middle East." Hisham Kassem, Egyptian democracy activist, said "it achieved something useful. Parallel to the chaos and bloodshed, there is a political process evolving in Iraq." Also, Lawrence B. Wilkerson, Colonel, U.S. Army (ret.); former chief of staff for Secretary of State Colin Powell, said, "No. I'm principally a strategist and from that perspective the war has been a disaster."

Taliban Allies With Drug Lords Against Opium Eradication. The Washington Times (3/18, Duparcq, 90K) reports, "Taliban rebels determined to keep southern Afghanistan in chaos have teamed up with drug barons against the government and its opium eradication campaign." While "in their final two years in power…the Taliban banned opium," today "the Taliban rebels are willing to protect opium crops and farmers against the new administration in Kabul."

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Rosenberg Tapped As Northern Virginia US Attorney. The AP (3/18) reports, "Chuck Rosenberg, a veteran Justice Department lawyer serving as the top federal prosecutor in Houston, will take over the high-profile chief prosecutor's job in Alexandria, Va." The AP continues, "Attorney General Alberto Gonzales on Friday named Rosenberg the interim U.S. attorney for the Eastern District of Virginia. He replaces Paul McNulty, who was confirmed by the Senate late Thursday as deputy attorney general. … Rosenberg, 45, will be in charge of the office that is seeking the death penalty against Zacarias Moussaoui and has prosecuted other terrorism cases."

The Washington Post (3/18, B5, Markon) reports, "The Alexandria U.S. attorney's job has always been considered a law enforcement plum, and it grew increasingly visible after the Sept. 11, 2001, terrorist attacks as the Justice Department made McNulty's office a central front in terrorism prosecutions. The office won a guilty plea from Zacarias Moussaoui, the only person convicted in a U.S. courtroom on charges stemming from Sept. 11, and is now trying to convince a jury to execute him." The Post adds, "Other prominent cases in Alexandria have included the prosecutions of John Walker Lindh, a Californian convicted of fighting for the Taliban in Afghanistan, and of a group of Muslim men convicted of training overseas for holy war against the United States. The office also has been known to handle highly publicized espionage cases such as the Aldrich H. Ames and Robert P. Hanssen cases. … Law enforcement sources have said Rosenberg was the favored candidate to replace McNulty in part because his selection would provide continuity in terrorism prosecutions and national security. A Justice Department news release yesterday said Rosenberg has focused on counterterrorism, counterintelligence and national security matters in recent years."

CORPORATE SCANDALS:

Pelosi, Other Democrats Praised For Call To Revisit Sarbane-Oxley. In a Wall Street Journal op-ed (3/18), Mallory Factor, chairman of the Free Enterprise

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Fund, says, "Have America's entrepreneurs and corporate leaders found a new voice of regulatory sanity in, of all people, Nancy Pelosi? Apparently so, and that should be a wake-up call to Republicans -- because like everything else in the free market, the free enterprise agenda is up for grabs." In the recent "Innovation Agenda" that the House Minority Leader "and her party unveiled, Ms. Pelosi acknowledges specifically the need to 'ensure Sarbanes-Oxley requirements are not overly burdensome,' and endorses reform. Meanwhile, the scourge of Wall Street, New York Attorney General Eliot Spitzer, is criticizing Sarbanes-Oxley's 'unbelievable burden on small companies' and its possible role in 'preventing some initial public offerings.'" Pelosi and "other Democrats have been quicker to recognize what many traditional champions of free enterprise have been slow to see: the law's disastrous consequences for our nation's ability to compete."

CRIMINAL LAW:

Prosecutor Disputes Libby Effort To Quash Indictment. The AP (3/18) reports Special Counsel Patrick Fitzgerald "disputed the claim" of I. Lewis "Scooter" Libby, Vice President Dick Cheney's former chief of staff, that he "lacks legal authority to indict him in the CIA leak investigation." Fitzgerald "argued that being allowed to operate outside any control of the Justice Department is constitutional and in accordance with federal law."

Judge Drops Fraud Charges Against Virginia Executive. The Washington Post (3/18, D1, Kang) reports, "Charges have been dropped against Northern Virginia businessman Frank L. Cowles Jr., who was arrested in November on allegations of conspiring to defraud a hedge fund out of $25 million." The Post continues, "A U.S. District Court judge in Chicago dropped criminal charges against Cowles on March 1 after the U.S. attorney's office there filed a motion to dismiss. Cases continue against two men who were charged with Cowles for allegedly defrauding a Chicago-based fund. … Cowles's attorney, Robert D. Luskin of the law firm Patton Boggs in the District, said the complaint against Cowles was a mistake and that his client had been the victim of a scheme that cost him a great financial loss." The Post adds, "The two men still facing prosecution in the case are accused by prosecutors of wire fraud. Richard E. Warren of Fredericksburg, who has pleaded not guilty, was indicted and detained. A complaint against David L. Myatt of Los Banos, Calif., is pending."

Nearing Halfway Point, Enron Trial May Hinge On Defendants' Testimony. The AP (3/18, Hays) reports, "The fraud and conspiracy trial of Enron Corp. founder Kenneth Lay and former CEO Jeffrey Skilling is reaching its halfway mark: Seven weeks, 15 prosecution witnesses and more to come. … Yet for all the government's methodical efforts to show through documents, video and audio tapes and those witnesses' memories of how the former corporate titans repeatedly lied about the disgraced company's financial health, the jury's conclusion may hinge on what the defendants say if they testify as expected." The AP continues, "The government has already brought on its highly anticipated witnesses. This past week started with former Chief Financial Officer Andrew Fastow's fourth and last day on the stand. Fastow, an admitted liar and thief, hid none of his own culpability as he said he helped Lay and Skilling lie about Enron's financial health. … The week wrapped with Sherron Watkins, the former vice president hailed as a hero by Congress for warning Lay of impending financial disaster months before the company crashed, denting Lay's claim that he believed the company was strong at the time. … Yet a conviction is far from a foregone conclusion. … 'It's the difference between legitimate spinning and impermissible lying,' Robert Mintz, a former federal prosecutor who has followed the trial, said of what will likely drive the outcome of the biggest fraud case to emerge from the recent era of corporate scandals. … 'In a case like this, if Lay or Skilling or both take the stand, it becomes almost a new trial in the sense that jurors will either believe them or disbelieve them,' Mintz said." The AP notes, "The government's 'brick by brick' approach is living up to expectations of putting together a puzzle without betting all on a single witness, said Michael Wynne, another former federal prosecutor in Houston who has observed much of the trial."

The Washington Post (3/18, D1, Johnson) reports, "Seven weeks into the blockbuster fraud trial of Lay and Skilling, defense lawyers have tried to wear down the government's witnesses with questions tailored to exploit personality quirks, large or small. Cross-examination, after all, is a high-stakes game of endurance and amateur psychology -- a matter of finding a witness's Achilles' heel, that trait most likely to undermine their performances on the witness stand. … And, in this case, the defense has plenty of weapons at its

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disposal. 'The fact is, the defense does have a somewhat unusual amount of material to cross-examine them with,' said Washington criminal defense lawyer E. Lawrence Barcella Jr. of the Enron investigation, which generated countless articles and voluminous written reports from Congress, a bankruptcy examiner, the company's board and federal regulators. … The defense came out of the gate in February determined to test the endurance of the government's witnesses, many of them former executives who pleaded guilty and agreed to testify in exchange for reduced prison terms. Former investor relations chief Mark E. Koenig, the fraud trial's first witness, remained on the stand for eight days -- including five of protracted cross-examination in which a tired Koenig sometimes appeared to agree with the defense on certain points, if only to shorten his ordeal."

9th Circuit Reverses Death Sentence Of Los Angeles Man. The Los Angeles Times (3/18, Suarez) reports, "A federal appeals court on Friday overturned the death sentence of a Los Angeles man who avenged the loss of his therapist by murdering her husband." The Times continues, "The U.S. 9th Circuit Court of Appeals upheld William Clark's conviction, which included murder, two counts of attempted murder, rape and arson. But the court said the judge had misled the jury about death penalty law. The court also said the California Supreme Court should have overturned the penalty during its review." The Times adds, "Ava Gawronski was counseling Clark, a 37-year-old Canoga Park underwriter, and his wife, but stopped treating him after he threatened to rape her in her office. … In January 1982, Clark set Gawronski's West Los Angeles house ablaze. His intent, Clark said during his trial, was to chase the family out so he could shoot and kill David Gawronski, a 35-year-old federal job trainer, in front of his wife and infant daughter. … Instead, David Gawronski perished in the fire."

US May Drop Capital Case Against Massachusetts Men. The Boston Herald (3/18, Sweet) reports, "Federal prosecutors may soon drop the controversial death-penalty case against two Dorchester men the federal government wanted to try for murder and gang activity." The Herald continues, "Pending a green light from U.S. Attorney General Alberto Gonzales, murder and racketeering indictments against Darryl Green and Branden Morris could be dropped as early as next month. … Prosecutor Theodore Heinrich said in court documents 'the likelihood of dismissal is so great' after two co-defendants of Green and Morris who weren't facing capital punishment were acquitted, that it would be futile to go on." The Herald adds, "Green's defense counsel, Randolph Gioia, said, 'The only reason you bring a case like this to federal court is because you want to make an example of these kids.' … In order to successfully prosecute Green, 28, and Morris, 22, in federal court for the 2001 murder of Terrell Gethers, the government had to prove a racketeering case against them. But in January, Judge Nancy Gertner ordered acquittals in the companion case of Jonathan Hart, 24, and Edward Washington, 25, after a jury deadlocked on whether their street-corner crew operated on the same "criminal enterprise" level as the Mafia. … Green and Morris still face federal drug charges and may yet be tried for Gethers' homicide in state court."

Philadelphia Councilman Convicted Of Corruption. The Philadelphia Inquirer (3/18, Shiffman, Schaffer) reports, "Rick Mariano, an electrician who rose from a tough corner of Northeast Philadelphia to become a city councilman, was convicted of corruption charges yesterday and led from a federal courtroom in handcuffs." The Inquirer continues, "Mariano's wife, son and staffers did not flinch at the guilty verdicts, but Susan Mariano and others gasped when U.S. District Judge Lawrence F. Stengel ordered the councilman imprisoned immediately. Stengel, citing Mariano's suicide scare at City Hall shortly before last year's indictment, revoked bail pending a psychiatric evaluation." The Inquirer adds, "Mariano, 50, became the first elected city official convicted in 15 years, and under state law he can remain on Council only until he is sentenced, probably by midsummer. Mayor Street, a longtime friend, called on Mariano yesterday to resign immediately. Mariano's top aide vowed the councilman would not step down. … The jury deliberated for about six hours before convicting Mariano of 18 counts, including conspiracy, bribery, money laundering, fraud and tax charges. He was acquitted of four fraud charges." The Philadelphia Daily News (3/18, Brennan, Hinkelman) adds Meehan said that Mariano "had turned his Council post into 'a branch office for businesses that will pay bribes to get things done.' … Mayor Street, in a statement, called on Mariano to resign from Council, saying that was in the 'best interests of the city.' Street, who often joked with Mariano that they were so close they called each other

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'cousin,' said Mariano was a close friend but not above the law."

The AP (3/18, Dale) notes, "More than a dozen people have been convicted in the various probes, one of which became public when police discovered an FBI bug in Mayor John F. Street's office in October 2003." UPI (3/18) also briefly reports on the conviction.

Meanwhile, The Philadelphia Inquirer (3/19, Schaffer) reports on Mariano's conviction in light of his political career, noting, "Other crooked Philly pols have reached for the stars, conspiring with mobsters or taking bribes from purported Arab sheikhs. But Mariano, the ultimate neighborhood guy, was felled by just under $30,000 in ill-gotten gains - less than a third of his City Council salary."

Mariano Intends To Keep Council Seat Until Sentencing. The Philadelphia Inquirer (3/18, Schaffer) reports Mariano's conviction "throws into question the future of the City Council seat he has held since 1996. Pennsylvania's constitution bars felons from elected office, meaning Mariano must step down. But moments after Mariano's bail was revoked and he was led away to detention, his chief of staff said Mariano intended to stay in office until sentencing, as the law allows. … By declining to step down until his sentencing, Mariano will keep drawing his $102,000 salary." The Philadelphia Daily News (3/18) adds, "Council President Anna Verna said…Mariano must resign when he is sentenced. Verna on Thursday asked City Solicitor Romulo Diaz to issue a legal opinion to back that up. But Verna stopped short of saying if she would call a special election to fill Mariano's post, calling that 'premature.'"

Philadelphia Inquirer Praises Verdict, Calls For Mariano To Resign. In an editorial, The Philadelphia Inquirer (3/18) hails the verdict, saying "this is a big city; crime and corruption are going to happen. You just want to feel that decent people can fight back, can stem the tide. This time, the courts offered hope." The Inquirer also calls for Mariano "to do the right thing, for once: resign his seat, instead of hanging on pointlessly until his sentencing forces the issue. His friends on Council, who vouched for his redeeming qualities at trial, should let him know it's best for him to go now."

Former Chicago City Clerk Pleads Guilty To Taking Bribes. The Chicago Tribune (3/18, O'Connor , Bush) reports, "Former Chicago City Clerk James Laski, the highest-ranking city official charged in the federal probe of the city's Hired Truck Program, pleaded guilty Friday to pocketing nearly $50,000 in bribes for steering city business to two trucking companies." Laski's friend and city employee Randy Aderman also pleaded guilty Friday to bribery charges. "According to court records, Frank Cannatello, another Hired Truck defendant who pleaded guilty this month to lying to FBI agents, asked Aderman to help obtain Hired Truck business after Cannatello and a relative started FRC Trucking. Friday's guilty pleas by Laski and Aderman bring to 34 the number of convictions in the Hired Truck probe." The Chicago Sun-Times (3/18, Korecki) adds, "When asked what Laski would tell others in City Hall who thought about taking bribes, his lawyer Jeffrey Steinback responded: 'Don't do it, don't do it.'" The Sun-Times notes, "44 people have been charged in the federal government's investigation of Chicago's Hired Truck Program, including 26 city workers." The AP (3/18, Robinson) and Los Angeles Times (3/18, Huffstutter) also report on Laski's and Aderman's guilty pleas.

Illinois Man Held In Isolation After Being Charged With Child Pornography. The Chicago Sun-Times (3/18, Korecki) reports, "A Bartlett (IL) man indicted this week on charges he molested an infant and broadcast it live over an Internet chatroom is being kept in isolation after his lawyer complained he was receiving threats from other inmates." The Sun-Times continues, "Brian Annoreno, 29, is being held in a Kankakee lockup, but his lawyer, Michael Falconer, said Annoreno also needs to be kept in isolation when he is taken to court appearances in Chicago for his own safety. … 'Regular street criminals hate people who are accused of being child molesters,' Falconer said." The Sun-Times adds, "Falconer said Annoreno was getting threats from inmates and harsh words from jail guards. … Annoreno and two others charged this week with being tied to a child pornography chatroom pleaded not guilty to the charges Friday. U.S. Attorney General Alberto Gonzales flew to Chicago on Wednesday to announce that the chatroom was shut down and a worldwide investigation had nabbed 47 people. … Falconer criticized the feds Friday for putting on a 'dog and pony show,' saying Gonzales' news conference was 'deplorable' and over the top. Gonzales said the crimes were particularly disturbing because the chatroom allegedly broadcast video showing young children being molested. But Falconer said the prosecution does not have evidence of those videos except for a witness' testimony."

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Indiana County Launches Cyber Sex Crime Unit. The Indianapolis Star (3/18, Bird) reports, "Johnson County (IN) officials have formed a 'Cyber Sex Crimes Task Force' to protect children from Internet predators." The Star continues, "County Prosecutor Lance Hamner appointed Deputy Prosecutor Paul Felix to spearhead the effort. … Greenwood police Detective Erick Klinkowski, Franklin police Detective Brain Goldfarb and Johnson County Sheriff's Detective Bill Pfifer are the rest of the task force." The Star adds, "A month ago, U.S. Attorney General Alberto Gonzales announced the Justice Department's Safe Child Initiative to stop sexual exploitation of children through the Internet. … The county team recently returned from Washington, D.C., after getting training on procedures and protocols to use during investigations and prosecutions of Internet predators. … Klinkowski already has conducted two stings that led to arrests and convictions, one a special deputy with the Genesee County (Mich.) Sheriff's Department who traveled to Greenwood to meet a 13-year-old girl, Hamner said."

Judge Sentences California ELF Members To Prison For Ecoterror Arsons. The Sacramento Bee (3/18, B1, Carreon) reports, "A follower of an eco-terrorism group and two other Newcastle residents were sentenced Friday in Sacramento federal court for their roles in attempted firebombings of buildings under construction. Ryan Daniel Lewis, the 22-year-old admitted adherent of the Earth Liberation Front…was sentenced to six years in federal prison for orchestrating arsons in Placer and Amador counties in late 2004 and early 2005." Sisters Lili Marie and Eva Rose Holland "were sentenced to two years each in prison." During the sentencing, US District Judge Edward J. Garcia "chided defense attorneys for misusing the term 'idealism' in explaining their clients' actions," saying, "I consider this type of terrorism most serious crime." The Los Angeles Times (3/18) briefly reports the story under the headline "6-Year Prison Sentence In Series of Arsons," as does the AP (3/18), under the headline "3 Eco-Terrorists Sentenced For Firebombs."

CIVIL LAW:

Google Won't Have To Disclose Web Search Data. The Wall Street Journal (3/18, Delaney, 2.11M) reports US District Judge James Ware "ruled Friday that Google Inc. did not have to turn over data about consumer Web search queries that the Department of Justice had requested." Juge Ware "ordered Google to work with the government to provide 50,000 randomly selected addresses for Web sites from its databases. But he denied government lawyers' request for a sampling of 5,000 search queries entered by Google users, concluding that they essentially duplicated information the government could glean from the Web addresses."

The Los Angeles Times (3/18, Gaither, 958K) reports Judge Ware's ruling "was a victory for Google, which argued that handing over the records would violate the privacy of people who might scour the Internet with terms as diverse as 'best-actor nominees,' 'third trimester abortion' or 'pipe bomb.'" Although Ware "required Google to reveal some information about the websites in its database, he ordered the government to reimburse the Mountain View, Calif., company for the time and expense required to comply." Privacy advocates "cheered the decision as a check on the Bush administration's efforts to collect information about people, but noted that the trove of personal data gathered and stored by sites like Google was irresistible to investigators."

The AP (3/18, Liedtke) and Bloomberg (3/18) also report this story.

WSJournal Says Google, Other Net Firms "Innocent Bystanders" In COPA Lawsuit. The Wall Street Journal (3/18, 2.11M) says in an editorial, "This outcome may seem Solomonic, but the precedent is still troubling. The subpoena that started it all emerged from a separate case being tried in Pennsylvania. In that case, the ACLU is challenging the constitutionality of the 1998 Child Online Protection Act, or COPA." The government "wants to use" the "search data" from Google, Yahoo, and MSN "as part of its effort to show that the law is necessary to protect minors from the Internet's seamier side. But these companies are innocent bystanders in the dispute over the constitutionality of COPA."

CIVIL RIGHTS:

DOJ Forges Deal With North Carolina On Overseas Voting. The Charlotte Observer (3/18) reports, "The Justice Department said it had reached an agreement with North Carolina officials that will allow military and other overseas voters to participate in a second primary election, if one is needed this year. … The U.S. District Court in Raleigh still must approve the agreement." The Observer

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continues, "The agreement was filed at the same time as the Civil Rights Division filed a lawsuit because of the short amount of time between North Carolina's primary and runoff elections. Federal officials said in a news release Thursday that the four-week break doesn't provide enough time to get runoff ballots to and returned from absentee voters. … Besides other changes, the state and federal governments agreed that all military and overseas voters requesting an absentee ballot for the primary election also will receive a blank write-in ballot for a runoff. They also agreed to allow write-in ballots to be faxed and e-mailed, if necessary." The Observer notes, "The agreement also provides for reporting to the court on the status of the North Carolina Legislature's efforts to find a permanent solution to the timing problem. … 'These measures provide an immediate solution while the Legislature adopts permanent procedures, as we trust they will promptly,' Wan J. Kim, assistant attorney general of the Civil Rights Division, said in a statement."

Group Sues Libraries For Blocking Access To Web Site. The St. Louis Post-Dispatch (3/18, Shinkle) reports, "The Council of Conservative Citizens, a nationwide group that has been portrayed as racist, is suing four libraries in the St. Louis area for allegedly blocking patrons from viewing its Web site." The Post-Dispatch continues, "Gordon Baum, a lawyer from St. Charles who is the group's chief executive, said the U.S. Constitution protects the public's right to see his Web site. … 'We don't believe we're any more to the right than the NAACP is to the left,' he said, adding that his group does not advocate violence." The Post-Dispatch adds, "The site, cofcc.org, does not feature the racial epithets commonly used by racist groups. It does, however, provide a slate of news stories about crime by blacks or immigrants. It also offers for sale a T-shirt with the words, 'White Pride,' 'Deutschland' and 'Save Our Culture.'" The Post-Dispatch adds, "The Southern Poverty Law Center says that racism 'underlies' the group and that it has long had ties to politicians the law center considers racist. … Baum filed a suit in U.S. District Court on Monday claiming the Maplewood City Library, University City Public Library, Valley Park Community Library and Festus Public Library had violated his constitutional right to free speech by blocking access to the Web site. At least two of the libraries say they now permit patrons to view the site."

Whistleblower Who Allegedly Stole Papers About Voting Machines Faces Charges. The Los Angeles Times (3/18, So) reports, "A whistle-blower to some, a thief to others, Stephen Heller says he's a regular guy, not an activist or a member of any political group. … But charged last month in Los Angeles with three felonies for allegedly stealing damaging documents about voting machine manufacturer Diebold Election Systems, Heller has become a hero to digital rights and political activists who say he helped expose a threat to the election system." The Times continues, "Prosecutors say Heller, a 43-year-old actor and resident of Van Nuys, took more than 500 pages of Diebold-related documents, including memos from the company's attorneys at the Jones Day law firm. The memos suggested that the company might have broken state law by providing Alameda County with voting machines that had not been certified by the state. … 'This case is not about whistle-blowing. It's about theft of attorney-client privileged material from an attorney's office,' Los Angeles County district attorney spokeswoman Sandi Gibbons said. … But activists and bloggers — including the California Voter Foundation; Black Box Voting, an electronic voting group; and the liberal http://www.huffingtonpost.com website — say the purloined documents, some of which turned up on the Oakland Tribune website, helped spur a state crackdown on Diebold."

Alabama Bill Would Make Rights Activists Eligible For Pardon. The Los Angeles Times (3/18, Fausset) reports, "Civil rights activists and others convicted under laws that enforced racial discrimination would be eligible for a pardon from the state of Alabama under a bill working its way through the Legislature, the bill's sponsor said Friday." The Times continues, "Rep. Thad McClammy said that his proposed 'Rosa Parks Act' would serve the symbolic purpose of bestowing posthumous pardons on activists like Parks, whose 1955 arrest sparked the 381-day Montgomery bus boycott. … But McClammy, a Democrat, said the pardons also could help living veterans of the segregated South, who still may have trouble explaining away their arrests when applying for jobs or loans." The Times adds, "Some of the most famous arrests of the civil rights era occurred in Alabama in the 1950s and '60s. Parks was convicted of violating Montgomery's municipal code for refusing to move to the back of a city bus. Dozens more were charged under anti-boycott and curfew statutes. … McClammy's bill unanimously passed the Democratic-controlled Alabama

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House Judiciary Committee this week; House Minority Leader Mike Hubbard predicted that his fellow Republicans probably would support the measure."

Questions Remain After Second Autopsy In Teen Boot Camp Death. The New York Times (3/18, Goodnough) reports, "Martin Lee Anderson was buried a second time this week, more than two months after he died following a confrontation with guards at a boot camp for teenage offenders in the Florida Panhandle. But questions about his death, and whether the state should close all its boot camps in the aftermath, are very much alive." The Times continues, "After supervising a second autopsy of Martin's body on Monday, a special prosecutor appointed by Gov. Jeb Bush disputed the findings of the original pathologist in the case: that the youth had died from complications of sickle cell trait, an undiagnosed blood disorder. But the prosecutor, Mark Ober, would not say more until his broader investigation of the case was finished." The Times adds, "The guards at Bay Boot Camp in Panama City kneed, kicked and hit Martin, 14, after he stopped running during an orientation drill on Jan. 5. He had been sent to the camp for violating probation after stealing his grandmother's car. In a videotape, which the state released after news organizations sued for it, the boy appears limp throughout the encounter. … He died early on Jan. 6, and when the original autopsy report came out a month later, his parents, lawmakers and civil rights groups expressed outrage. Even after Mr. Ober said through a spokeswoman that Martin 'did not die of sickle cell trait, nor did he die of a natural cause,' the medical examiner who made those findings, Dr. Charles Siebert of Bay County, stood by them."

6th Circuit Panel Allows Tennessee To Issue "Choose Life" License Plates. The AP (3/18, Johnson) reports, "A federal appeals court Friday allowed Tennessee to offer anti-abortion license plates bearing the message 'Choose Life.'" The AP continues, "A three-judge panel of the 6th U.S. Circuit Court of Appeals in Cincinnati overturned a lower-court ruling that said the tag illegally promoted only one side of the abortion debate. … 'Although this exercise of government one-sidedness with respect to a very contentious political issue may be ill-advised, we are unable to conclude that the Tennessee statute contravenes the First Amendment,' Judge John M. Rogers said in a 2-1 ruling." The AP adds, "An anti-abortion group, Tennessee Right to Life, declared victory. … 'It's a validation of our position all along that the Legislature had the authority to authorize a plate that favors normal childbirth over the practice of abortion,' said Brian Harris, the group's president." The AP notes, "In a dissenting opinion, Judge Boyce F. Martin Jr. said the plates should be banned because they amount to unconstitutional viewpoint discrimination. … The plaintiffs, the American Civil Liberties Union of Tennessee and Planned Parenthood of Middle and East Tennessee, said they were still reviewing Friday's ruling."

Two New Deaths Linked To RU48. The New York Times (3/18, Harris, 1.19M) reports, "The FDA has now received reports that six women in the United States died after taking RU-486, or Mifeprex." The two recent deaths, "and two of the previous four underwent their procedures at Planned Parenthood clinics, a spokeswoman said. Federal officials do not yet know the cause of the latest two deaths."

The Washington Post (3/18, A6, Kaufman, 744K) reports, "Opponents of abortion quickly described the FDA advisory as another reason to ban the abortion pill, sold as Mifeprex. Sen. Jim DeMint said,"RU-486 is a deadly drug that is killing pregnant women. … This drug should never have been approved, and it must be suspended immediately." The Washington Times (3/18, Price, 90K) and The Los Angeles Times (3/18, Rockoff, 958K) reported a similar stories.

Wal Mart To Carry "Morning After Pill". The Wall Street Journal (3/18, Zimmerman, 2.11M) reports, "On Monday, Wal-Mart Stores Inc. is set to sell for the first time prescription emergency contraceptives commonly referred to as Plan B or the morning-after pill. The move comes after a short but vociferous activist campaign that labeled the world's largest retailer as antiwomen for being the only large pharmacy chain in the country that refused to stock the pills.

Courts Seen As Complicating Abortion Debate. In an op-ed for the Wall Street Journal (3/18, 2.11M) James Wilson, an author and professor writes, "Abortion has become the key test for selecting people for high-level judicial offices." But, "abortion is scarcely an issue in most European democracies, not because the people who live there have views radically different from American ones, but because legislatures, not courts, authorized abortions using language that tried to strike a reasonable balance among competing views."

FDA Reconsiders Ban On Gay Blood Donors. The Washington Post (3/18, A6, Stein, 744K)

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reports the FDA, "is considering revising its policy that bars as a blood donor any man who has had sex with another man since 1977." The change was urged by, "the American Red Cross, the American Association of Blood Banks and America's Blood Centers." The groups recommend, "men be barred from donating for only a year after having had sex with another man, treating them the same as other groups at increased risk for spreading sexually transmitted virus through donated blood."

ANTITRUST:

DOJ May Oppose Maytag-Whirlpool Merger. The AP (3/18, Pitt) reports, "Shares of Maytag Corp. (the parent of North Canton's Hoover Co.) and Whirlpool Corp. fell Friday on speculation that the federal government may challenge their proposed merger." The AP continues, "Whirlpool, based in Benton Harbor, Mich., has proposed a $1.79 billion acquisition of Maytag. … The U.S. Department of Justice antitrust division sought an extension to review the merger last month. The companies have agreed not to close the transaction before March 30." The AP adds, "A leading antitrust lawyer said a decision is likely to come next week. … Steven C. Sunshine, a supervisor of the antitrust division's merger enforcement program from 1993 to 1995, said antitrust attorneys have expected the government to challenge the deal because it concentrates so much power in one company. … The merger would create a company that produces half of the dishwashers in the United States and more than 70 percent of its clothes washers and dryers. Under long-standing federal guidelines, a rise in market concentration of that magnitude would usually draw a court challenge. … Gina Talamona, spokeswoman for the Justice Department, declined to comment Friday, confirming only that the merger is still under review."

Bloomberg (3/18) reports, "Antitrust enforcers are worried the Whirlpool deal would let the combined company raise prices through control of more than two-thirds of the U.S. market for some appliances, said antitrust lawyers who spoke on condition of anonymity because they aren't authorized to talk about the case. They said the government has questioned such retailers as Lowe's Cos. and Home Depot Inc. and Whirlpool's manufacturing rivals. … The decision on whether to pursue the agency's first court challenge to a takeover in two years will be up to the Bush administration's new antitrust chief, Thomas O. Barnett, 44. It will be the first test of his approach to mergers since he won Senate confirmation Feb. 10 as assistant attorney general. … 'If they don't challenge this merger, Ford and General Motors is next,' said Steven M. Axinn, a New York antitrust lawyer not involved in the transaction. 'Unless someone can argue that Maytag is going out of business, I don't understand how the government can let this deal happen.'"

Four Firms Under DOJ Probe For Alleged Chemical Price-Fixing. The Beaumont (TX) Enterprise (3/18, Wallach) reports, "Four U.S. chemical companies, including two with a major Southeast Texas presence, received subpoenas from the U.S. Department of Justice as part of an investigation into possible anti-competitive pricing in certain materials that are used in a variety of consumer goods. … The companies include Huntsman Corp., BASF Corp., Dow Chemical Co., and Lyondell Chemical Co." The Enterprise continues, "The justice department delivered the subpoenas for documents to the companies in mid-February, said publicists for three of the companies contacted Friday by The Enterprise. … A spokeswoman for the justice department acknowledged the investigation but offered little detail. … 'The anti-trust division is investigating the possibility of anti-competitive practices in the polyurethanes industry,' said justice department spokeswoman Gina Talamona."

Experts See No Antitrust Violations In Airline Meetings. The Fort Worth Star-Telegram (3/18, Cox) reports, "Officials from American Airlines and Southwest Airlines could negotiate a proposal to resolve the Wright Amendment controversy without running afoul of federal antitrust laws, legal experts said Friday." The Star-Telegram continues, "Legal precedent allows competing businesses 'to petition government' and propose legislation or regulation if they are not conspiring to fix prices or divide up market share, experts said. American says it is reluctant to enter talks with Southwest on Wright for fear of an antitrust inquiry or Justice Department lawsuit." The Star-Telegram adds, "What the legal community calls the Noerr-Pennington doctrine, named for two precedent-setting Supreme Court cases, allows competing companies to work together to influence the legislative or executive branch of government without violating the Sherman Antitrust Act. … 'No violation of the Sherman Act can be predicated upon mere attempts to influence the passage or enforcement of laws, and the Sherman Act,

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therefore, does not prohibit two or more persons from associating together in an attempt to persuade the legislature or the executive to take particular action with respect to a law that would produce a restraint or monopoly,' the court ruled in the 1961 Noerr case. … In the cases, the court ruled that the constitutional guarantee of individuals' and corporations' right to petition government supersedes antitrust laws, designed to preserve competition among businesses."

Merger Mania Builds On Momentum Of Telecom Deal. The New York Times (3/18, Stein) reports, "March madness is not limited to college basketball. Billions of dollars in mergers were announced this week, building on the momentum created when AT&T offered to acquire BellSouth for $67 billion earlier in the month." The Times continues, "The trend even swept up entire stock exchanges, as the Nasdaq Stock Market offered to buy the London Stock Exchange (just as the New York Stock Exchange was weighing a bid of its own), and Euronext, the owner of the Paris, Amsterdam, Brussels and Lisbon stock markets, said it was interested in buying Deutsche Börse, the German exchange." The Times adds, "Eager to further diversify its business amid rising interest rates and slowing growth for credit card issuers, Capital One Financial, the big credit card company, agreed to buy the North Fork Bancorporation, a regional bank serving the Northeast, for about $14.6 billion in cash and stock. … After its acquisition last fall of the Hibernia National Bank in New Orleans, Capital One would have deposits of more than $84 billion when its North Fork acquisition is completed. It would have more than 50 million customer accounts and 655 branches from White Plains to Brownsville, Tex."

ENVIRONMENT:

DC Court Overturns Administration's New Source Review Policy. The United States Court of Appeals for the District of Columbia Circuit yesterday overturned the Environmental Protection Agency's New Source Review policy, ruling that the Bush Administration's implementation of the Clean Air Act provision failed to square with the statutory language. The story was widely covered by the major dailies this morning; the media consensus is that the ruling is a significant setback to the Administration's environmental policy.

The New York Times (3/18, Janofsky, 1.19M) reports the court "on Friday overturned a clean-air regulation issued by the Bush administration that would have let many power plants, refineries and factories avoid installing costly new pollution controls to help offset any increased emissions caused by repairs and replacements of equipment." Unlike its "ruling last summer, when the court largely upheld the E.P.A.'s approach against challenges from industry, state governments and environmental groups, the new ruling was a defeat for the agency and for industry, and a victory for the states and their environmentalist allies."

The Los Angeles Times (3/18, Gerstenzang, 958K) the court's decision dealt "a sharp setback to the Bush administration," ruling that the EPA "had relied on 'Humpty Dumpty' reasoning in arriving at a rule that critics said would have eased enforcement of a law intended to reduce industrial air pollution."

The Washington Post (3/18, A1, Eilperin, 744K) reports in a front page story that the court's ruling blocks the Bush Administration's "four-year effort to loosen emission rules for aging coal-fired power plants, unanimously ruling yesterday that the changes violated the Clean Air Act and that only Congress could authorize such revisions." The court "sided with officials from 14 states, including New York, California and Maryland, who contended that the rule changes -- allowing older power plants, refineries and factories to upgrade their facilities without having to install the most advanced pollution controls -- were illegal and could increase the amount of health-threatening pollution in the atmosphere."

The Wall Street Journal (3/18, Dalton, 2.11M) reports the court "handed environmentalists a victory Friday." State officials "hailed the appeals-court ruling. New York Attorney General Eliot Spitzer, who led the states' action, called the ruling 'an enormous victory for clean air and for the enforcement of the law and an overwhelming rejection of the Bush administration's efforts to gut the law.'"

Bloomberg (3/18, Arthur) reported John Engler, president of the National Association of Manufacturers, "said the ruling was a 'significant setback to business efficiency and, for that matter, environmental quality.'"

Future Of ANWR Provision Uncertain. The Washington Post (3/18, A5, Weisman, 744K) reports a "last-minute deal to secure the vote of Sen. Mary Landrieu (D-La.) on a $2.8 trillion budget plan has given new life to the

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Republican drive to open Alaska's Arctic National Wildlife Refuge to oil drilling." The budget resolution "includes a $10 billion Gulf Coast restoration fund that would be financed from the leasing of arctic refuge drilling rights, revenue from new drilling in the Outer Continental Shelf of the Gulf of Mexico and further sales of the broadcast spectrum." But it is "not clear whether the political equation has shifted at all since December, when moderate Republicans -- led by Rep. Charles Bass (R-N.H.) -- forced their leaders to take arctic drilling out of a 2006 budget-cutting measure to secure their votes."

FBI/DEA/ATF/USMS:

Mexico Tries To Re-Up Drug Interdiction Program. Knight Ridder (3/18, Root) reports, after the general in charge disappeared and a noticeable increase in border-region drug killings, "Mexican officials, recognizing that the Secure Mexico program had failed, announced a new program this week, dubbed Northern Border. Under the program, 600 to 800 more federal police agents were dispatched to this besieged border city. But few expect that to make much difference, and drug traffickers weren't intimidated: On Thursday, they gunned down four federal police intelligence agents in broad daylight outside a school here. At least 30 shots were fired into the agents' bodies."

IMMIGRATION:

Frist Sponsors Hard Line Immigration Bill. The AP (3/18, Gamboa) reports Senate Majority Leader Bill Frist "sidesteps President Bush's call for giving illegal immigrants temporary work permits in an election-year immigration bill the Tennessee Republican unveiled Friday." Frist "said the Senate will turn to his proposal to tighten borders, punish employers who hire illegal immigrants and provide more visas if the Senate Judiciary Committee doesn't complete a broader bill in the next 10 days." But a "clear majority on the 18-member committee has come out in favor of a 'guest worker' program that would let employed illegal immigrants remain in the U.S. — at least temporarily — rather than be deported."

NYTimes Praises Specter For Reaching Consensus On Immigration. The New York Times (3/18, 1.19M) says in an editorial that "a bipartisan consensus emerged" in the Senate Judiciary Committee last week as Chairman Arlen Specter "endorsed the principle behind an earlier bill sponsored by Senators John McCain and Edward Kennedy: that illegal immigrants who met strict criteria and paid fines and back taxes should have a path to permanent residency and citizenship." But the "blowback was instantaneous." Majority Leader Bill Frist "announced that he would be putting his own bill forward as an alternative to the committee's. Seventy-one House members signed a letter saying that the Judiciary Committee's actions were 'fundamentally incompatible' with the House's strident vision of immigration reform, which completely rejects the idea of providing illegal immigrants any path to legalization." Specter "often wilts under party pressure like lettuce in a broiler, but he has shown admirable resilience in working to get a comprehensive immigration bill to the Senate floor."

Ahearn Asks Bush To Support Citizenship Bill For Illegal Immigrants. The CBS Evening News (3/17, story 6, 2:30, Schieffer, 7.66M) reported, "On this St. Patrick's Day, the visitor at the White House was, who else, the Prime Minister of Ireland, Bertie Ahearn. He told the President he is still committed to the 1998 Northern Ireland peace accord. And he asked the President to support a Senate bill that would allow illegal immigrants from Ireland to stay in this country. Like many people here illegally, thousands of Irish live in daily fear." CBS (Alfonsi) added, "The Irish are urging Washington legislators to open some doors. Senators John McCain and Ted Kennedy are sponsoring a bill that would make it easier for all immigrants in this country illegally to earn legal status."

The Washington Times (3/18, A1, Dinan, 90K) in a front page story notes Ahern "was just the latest in a line of foreign leaders to beg the president to relax immigration rules." The requests by foreign leaders have been common as "some nations, such as Ireland and Mexico, want citizenship for their illegal alien nationals," while "others want the United States to lift the caps for temporary student or worker visas." Speaking with Pakistani reporters before his recent trip to Southeast Asis, "Bush said he is working to loosen visa restrictions." Bush said, "We had a very restrictive visa policy right after 9/11. … Our visa policy was a natural reaction to a terrible event that took place, but it didn't take me long to realize that we were missing a great opportunity to have students from Pakistan see the real America."

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TAX:

US Claims $25 Million Lost By Fraudulent Tan Preparation In California. The San Bernardino County (CA) Sun (3/18, Wall) reports, "A firm accused of preparing thousands of fraudulent tax returns costing the government more than $25 million has been barred from doing business by a federal court order." The Sun continues, "N.C.K. Services and its three preparers - sisters Karen and Carla Berry of Rialto and Ivan Johnson of San Bernardino - are set to appear in court March 24 to respond to the civil complaint." The Sun adds, "The three defendants are accused of preparing thousands of tax returns containing false and fraudulent home-mortgage interest deductions since 2001, federal officials said. … The total loss to the government as a result of the understatements of tax on customers' returns exceeds $25 million, according to an IRS audit. … The government claims the defendants systematically claimed fictitious home-mortgage interest deductions for their customers, even in cases where the customers did not own homes. … Justice Department officials said the case is part of the federal government's increased effort to stop tax-fraud schemes. … 'Tax-preparation fraud costs the federal treasury hundreds of millions of dollars every year,' said Eileen O'Connor, the assistant attorney general for the department's tax division. … 'It's important to check the work on the return to make sure the numbers match your financial situation before you send in your return,' said Justice Department spokeswoman Cynthia Magnuson. 'People ought to be very suspicious and should have a red light go off if you hear you can always get a return if you go to x or y return preparer.'"

CONGRESS-ADMINISTRATION:

Politics Seen As Reason Extra Spending In Senate Budget. The New York Times (3/18, A1, Hulse, 1.19M) reports the "largess demonstrated by the Senate in padding its budget with billions of dollars in additional spending this week showed that lawmakers are no different from many of their constituents: they don't mind pulling out the charge card when money is tight." Forced to "choose between calls for renewed austerity and demands for more money, many Republicans joined Democrats in reaching deeper into the Treasury, leaving the party's push for new fiscal restraint in tatters." Republicans in "some of this year's tightest races — Conrad Burns of Montana, Mike DeWine of Ohio, Rick Santorum of Pennsylvania, Jim Talent of Missouri and Lincoln Chafee of Rhode Island — all backed the chief budget-busting provision as they endorsed an extra $7 billion for medical research, education and worker safety."

The Los Angeles Times (3/18, Havemann, Simon, 958K) reports that last weekend in Memphis, "four U.S. senators who hope to carry the Republican banner in the 2008 presidential election pledged allegiance to one of the GOP's most revered principles: fiscal responsibility — never spend taxpayers' money you don't have." Less than "a week later, the Senate's Republican majority overwhelmingly approved billions of dollars in deficit spending. Despite outcry from conservative groups that helped build the GOP majorities in both houses of Congress, the Republican spenders were undeterred, for one reason: They're convinced that voters now care less about big deficits than they do about the things that increased federal spending will buy."

SAT Errors Prompt Testing Critics To Call For Regulation. The New York Times (3/18, Arenson, 1.19M) reports that as the College Board "races to score the final 1,600 exams from its problem-ridden October SAT test, a string of recent testing errors around the country has college and high school officials, testing experts, students and parents asking with rising urgency, Who is watching the testing industry?" With the increase in testing since the passage of the No Child Left Behind law, the "volume is stretching the $2 billion-a-year education testing industry, educators say, taxing its ability to draw up enough tests and score them quickly and reliably. The states are struggling to find experienced officials to provide quality control. The resulting flurry of errors has educators and lawmakers calling for better disclosure and oversight."

Reliance On Testing For Standards Criticized. In a Washington Post op-ed (3/18, A21), Colman McCarthy, director of the Center for Teaching Peace, criticizes the current academic testing trend, saying, "Tests represent fear-based learning, the opposite of learning based on desire. Frightened and fretting with pre-test jitters, students stuff their minds with information they disgorge on exam sheets and sweat out the results. I know of no meaningful evidence that acing tests has anything to do with students' character

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development or whether their natural instincts for idealism or altruism are nurtured."

Critics Say More Medicare Drug Benefit Confusion Ahead. The AP (3/18, Freking) reports advocacy groups say "many elderly and disabled Americans enrolled for the Medicare drug benefit will face new difficulties in obtaining their medicines on April 1," when "insurers will have more latitude to tell pharmacists that they won't pay for a particular drug. Before that, insurers have been told that they should pay for a prescription even if it's not on the list of drugs they cover."

Leavitt Calls For Reforms To Cut Healthcare Costs. The Pittsburgh Post-Gazette (3/18, Snowbeck, 261K) reports Secretary of Health and Human Services Michael Leavitt says "the Pittsburgh region is contributing to health care innovations, but it also is the 13th costliest market in the country for people buying health care services." During a "breakfast talk yesterday with the Pittsburgh Technology Council at the Sheraton Station Square, Mr. Leavitt called for a variety of reforms to help tame health care costs." Leavitt said the "situation in Pittsburgh…exemplifies the broad challenge with health care in the country: No one wants to go without advanced treatments that people rightly regard as 'priceless,' yet health care comes a price -- one that's increasingly difficult for society to afford."

House GOP Seen As Backing Away From Lobbying Reform. Knight Ridder (3/18, Thomma) reports that with "the spotlight turned elsewhere, Republicans this week backed off their vow to crack down on the relationship between lobbyists and Washington politics." House Republicans on Thursday proposed a measure that "would suspend privately financed travel for members of Congress only until this year's congressional elections and would put off a decision on a permanent ban of travel, meals or other gifts until after the elections." All the "proposed new regulations stopped short of those offered weeks earlier when congressional leaders rushed to embrace reform in the wake of the political fallout from the scandal surrounding disgraced lobbyist Jack Abramoff."

Study Says Boehner Frequently Traveled On Privately-Funded Trips. The Washington Post (3/18, A2, Birnbaum, 744K) reports a Center for Public Integrity study shows House Majority Leader John A. Boehner, "who rose to power in the wake of a congressional lobbying scandal, spent the equivalent of nearly six months on privately funded trips over the past six years." The report says Boehner "accepted 42 privately sponsored trips from January 2000 to December 2005. That put him on the road to other countries and 'golfing hotspots,' often with his wife, Debbie, for about half a year, 'only nine days of which he listed as being 'at personal expense,'' the center said." Boehner also "flew at least 45 times on corporate jets owned by companies 'with a financial stake in congressional affairs' from June 2001 through September 2005, the center reported."

Bill Would Preempt States On Credit Report Access. The New York Times (3/18, Darlin, 1.19M) reports legislatures in "a dozen states" have "set up procedures for residents afraid of identity theft to lock and unlock their credit reports." But "credit-reporting agencies are pushing Congress to override the state laws, which could make it harder for Americans to keep their credit information under wraps." Lobbyists for "the big agencies — Equifax, Experian and TransUnion, owned by the Marmon Group — are seeking to add an amendment to the Financial Data Protection Act, a bill being rewritten by the House of Representatives." Consumer groups "are upset that a federal law might supersede what has been done at the state level."

OTHER NEWS:

Stock Markets Have Banner Week. Positive news on the stock market was highlighted by the media. The CBS Evening News (3/17, lead story, 2:15, Schieffer, 7.66M) reported, "Lower oil prices and a government report that industrial production is starting to grow again kept the stock market rally going and for the fourth day in a row now, the market set a few five-year high. All the major indexes were up about 2% for the week." CBS (Mason) added, "The stock market had its best week of the year, and suddenly, the Dow is up at levels we haven't seen it at since -- well, since the turn of the century. As the closing bell rang, the Dow was closing in on 11,300." With "red-hot real estate prices cooling, some investors are looking to put their money back in the market. Retail broker Charles Schwab took in over $10 billion in new money in February, nearly 70% more than a year ago."

NBC Nightly News (3/17, story 2, 1:10, Williams, 9.87M) reported, "Stocks were up today as they were for the week. The Dow was up more than 26 points in today's trading [to

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close at 11,279.65]. Nasdaq gained just under 7 [points to close at 2,306.48.] For the week, the blue chip stocks finished up more than 203 points. Nasdaq was up more than 44 points." CNBC's Jim Cramer added, "I think this is a first-class bull market. And I think a lot of it is because people are pulling money out of housing and going back into stocks, first time in six years."

Emphasizing that the positive news on the stock market was an indication of broad economic strength the Wall Street Journal/Dow Jones (3/18, Patterson) says, "Fueled by renewed expectations that the Federal Reserve will ease off the interest-rate brakes, the Dow Jones Industrial Average motored higher this week, nearing a six-year high." The increase "left the average less than 60 points shy of its highest level since January 2000, when the dot-com bubble was in full bloom -- and about to burst. It was also the same month the Dow industrials hit their all-time closing high of 11722.98." Dow Jones notes, "Those airy heights proved fleeting," but experts "say this move is different. Strong gains by financial, energy and basic materials companies -- more resilient than the dot-com babies of the late 1990s -- have driven the latest rally. Indeed, the move up has come from big, blue-chip companies, while the Nasdaq Composite Index, which rose 6.92 points to 2306.48 Friday, has been sluggish."

And the Washington Times/AP (3/18) reports, "Bullish data on inflation and the housing market sent stocks mostly higher yesterday." The stock market "welcomed the latest report from the Labor Department, which showed consumer prices rising just 0.1 percent in February, far less than the 0.7 percent jump in January. Core CPI, with food and fuel prices removed, also rose 0.1 percent, down from 0.2 percent the previous month." In addition to "better-than-expected housing construction in February, investors were reassured that the economy continues to grow while inflation remains in check."

Bloomberg (3/18) notes, "A drop in oil prices helped the Standard & Poor's 500 Index and the Dow Jones Industrial Average advance to their highest levels since May 2001. Boeing Co., the largest U.S. aircraft maker, led the advance on demand for its 787 jetliner."

But the Washington Post/AP (3/18, D2) in an article titled "Oil And Productivity Set A Positive Tone" also notes, "Stocks' gains were limited, however, as the day's news reports did little to address Wall Street's persistent worries about inflation and more interest-rate increases from the Fed, said Ken Tower, chief market strategist for Schwab's CyberTrader."

Industrial Production Report Suggests Economy Healthy. The Wall Street Journal (3/18, Gerena-Morales, 2.11M) reports, "Industrial production expanded at a healthy pace last month, the latest sign that American industry is thriving." A Federal Reserve report showed "industrial production in February at the nation's factories, mines and utilities jumped 0.7% from January, boosted by a surge in production at utility plants. Compared with a year earlier, industrial production was up 3.3%." It "was slightly weaker than economists had expected," yet "economists found lots of positive news in the report, especially in the manufacturing sector, which is seeing year-over-year output expand at double-digit rates for some key sectors that reflect consumer spending and business investment. Overall, manufacturing output was flat last month, but was up 4.2% over the past 12 months."

The Bloomberg (3/18, Torres) notes, "The lack of untapped capacity may cause factories to raise prices, prompting Fed policy makers to boost interest rates one or two more times, economists forecast. Higher borrowing costs and gasoline prices limited consumer confidence this month, a University of Michigan survey showed today." It showed consumer confidence "held at 86.7, reflecting a rise in Americans' perceptions of current conditions and a decline in expectations."

Recent Gas Prices Up Sharply, But February Declines Help Rein In Inflation. Focusing on recent increases in gas prices, NBC Nightly News (3/17, lead story, 2:30, Williams, 9.87M) reported, "At the end of a week that saw most of the top oil company executives in this country testify under oath in Washington, the price of gasoline in this country has suddenly spiked. It has gone up by just about the same amount, just about everywhere." NBC (Costello) added that in "the last day alone, gasoline has jumped four cents on average nationwide. And 15 cents in the last month." It's "all about supply and demand." Mary Thompson, CNBC: "Gasoline futures are up 23 cents in the last month because demand here in the US is strong, it's about 2% above last year's levels. And there are fears we could see some supply shortages this summer." NBC cited global instability, fallout from Hurricanes Katrina and Rita, and new ethanol mix requirements as reasons for the price increase.

But highlighting how a decline in energy prices in February helped slow inflation, the Washington Times/AP

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(3/18) reports, "Inflation slowed sharply in February as food costs moderated and the price of gasoline, natural gas and other energy products posted big declines." The AP adds, "The Labor Department reported yesterday that its closely watched U.S. Consumer Price Index (CPI) posted a tiny 0.1 percent increase last month after having jumped 0.7 percent in January. The slowdown in price pressures was certain to be welcomed at the Federal Reserve, which has been boosting interest rates since June 2004 to make sure inflation does not get out of control."

Boehlert To Retire From Potentially Competitive Seat. The New York Times (3/18, Hulse, 1.19M) reports moderate Republican Rep. Sherwood L. Boehlert, "who became a national advocate of science and a champion of environmental protection, announced Friday that he would not seek re-election." Boehlert, who "under party rules would have had to surrender his chairmanship of the Science Committee at the end of this session, said he believed he had recorded solid accomplishments in his current term and decided after 24 years on Capitol Hill that he was ready to step aside." Boehlert's "departure provides an added opportunity for Democrats who need 15 seats to gain control of the House of Representatives."

The Washington Post (3/18, A2, Babington, 744K) reports Democrats "hope Boehlert's retirement and President Bush's low approval ratings will give them a chance to win the seat, which the GOP has held for decades." Political analyst Stuart Rothenberg said, "It's a difficult opportunity for the Democrats, but nevertheless an opportunity. Democrats are going to need a wave there." The Post adds Democratic activists "expect Michael A. Arcuri, 46, the Oneida County district attorney since 1993, to win the Sept. 12 primary. Republicans are looking to five-term state Sen. Raymond A. Meier, 53, to be their nominee."

Despite Retirement, Sabo's District Seen As Safe For Democrats. The Minneapolis Star Tribune (3/18, Diaz, Hotakainen, Olson, 424K) reports Democratic Rep. Martin Sabo "is expected to announce his retirement today after 28 years in Congress." Sabo, who "turned 68 last month, has scheduled a noon news conference in his Minneapolis office. His departure is expected to set off a scramble within the DFL party for a replacement." Jack Nelson-Pallmeyer, "a professor of justice and peace studies at the University of St. Thomas, already has opened a campaign office and challenged Sabo at last week's precinct caucuses. And Michael Erlandson, Sabo's chief of staff and the former chair of the state DFL party, is expected to run." State Rep. Keith Ellison, DFL-Minneapolis, and DFL Minneapolis City Council Member Gary Schiff "also said Friday that they would run." Sabo's 5th CD is "one of the nation's safest Democratic seats. He won his 14th term in 2004 with 70 percent of the vote."

After UN Rights-Council Vote, Some Complain US "Failing To Engage." After losing a vote 170-4 on the creation of a UN Human Rights Council, the Los Angeles Times (3/18, Farley, 958K) reports, "The US is being criticized by many diplomats and human rights representatives here as having never fully engaged in negotiations over the matter and being unwilling to compromise. Some diplomats said that if US Ambassador John R. Bolton had spent as much time lobbying at the United Nations as he did in Washington, the US would have had a better result." An unnamed "diplomat closely involved in the talks" is quoted as saying, "It's not clear that they wanted to move. ... In fact I couldn't tell what they wanted. We offered ideas to Washington to achieve their goals, and nothing happened." Bolton, however, is quoted as saying, "We would rather have nothing than something that falls short of our standards. That was our view all along. ... What we found sad was that some of our central allies gave up on key points. I don't understand it to this day."

Rice Encourages Asian Powers To Improve Relations. The Washington Times (3/18, Kralev, 90K) reports, "Secretary of State Condoleezza Rice yesterday expressed concern over tensions between Japan and China and urged the two Asian powers to find common ground and overcome their differences for the sake of stability in the region. 'We have encouraged good relations between China and Japan, and even though there are difficulties in that relationship, China and Japan also share a lot of interests and, indeed, a lot of trade and commerce and a lot of economic relations,' the secretary said."

China Appears Ready To Release Imprisoned Journalist. The New York Times (3/18, Yardley, 1.19M) reports, "Chinese authorities on Friday withdrew at least part of the case against a Chinese researcher for The New York Times, in a surprise legal

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maneuver that left unclear whether he would soon be released as President Hu Jintao prepares to visit the United States next month. Zhao Yan, 44, a researcher in the Beijing office of The Times, has been imprisoned for 18 months on a charge that he disclosed state secrets to the newspaper, as well as a lesser charge of fraud. Mr. Zhao has denied both charges."

The Washington Post (3/18, A16, Pan, 744K) adds, "The move amounts to a rare admission of error by the Chinese government in a criminal prosecution involving national security, and it almost certainly required Hu's approval, because he had endorsed the investigation that led to Zhao's arrest and issued instructions to the officials running it, according to people familiar with the probe." Meanwhile, the Financial Times (3/18, Yeh) notes, "The decision by prosecutors to dismiss charges against Zhao Yan comes ahead of President Hu Jintao's visit to the US in April." The Los Angeles Times (3/18, Magnier, 958K) also covers the story.

German Trial Could Help Unpack Nuclear Black Market. The Los Angeles Times (3/18, Fleishman, 958K) reports, "A German engineer accused of belonging to a worldwide nuclear smuggling network went on trial Friday for allegedly providing technology to Libya that could have been used to enrich uranium for weapons. The case, being heard in a Mannheim court, is expected to offer a glimpse of the nuclear black market once masterminded by Pakistani scientist Abdul Qadeer Khan." According to the Times, "Gotthard Lerch, 63, is charged with violating Germany's weapons control and foreign trade acts. He allegedly was paid $34 million to provide Libya with gas centrifuges and other dual-use technologies." Goetz Neuneck of the Institute for Peace Research and Security Policy at the University of Hamburg, is quoted as saying, "The trial is hugely important in strengthening international attention to the problem of illegal proliferation. ... It would be very good for international nonproliferation if the trial were to provide more details and shine more light on dark corners."

Hamas Prepared To Announce Government. The AP (3/18, Barzak) reports, "Hamas said it is ready to announce the formation of its government Saturday, two weeks ahead of a deadline but apparently without coalition partners that might have softened the militants' image. In another possible setback, the Hamas government program is not expected to win the approval of Palestinian President Mahmoud Abbas, who is to meet with the group's leaders in Gaza Saturday. Abbas' aides said the Palestinian leader considers the Hamas platform too vague and wants it rewritten." According to the AP, "The new foreign minister will almost definitely be Mahmoud Zahar, a Hamas firebrand, according to a preliminary list given to The Associated Press by officials in Hamas and the Popular Front for the Liberation of Palestine, a smaller PLO faction that was considering joining the government. Said Siyam, a Hamas lawmaker from Gaza, has been tapped for the Interior and Civil Affairs Ministries, which control three of the five Palestinian security forces and is responsible for contacts with Israel's security services, said the officials, speaking on condition of anonymity because the list was not final."

In earlier coverage, the New York Times (3/18, Erlanger, 1.19M) reports, "Abbas may yet reject the new government's agenda, because it does not explicitly acknowledge the validity of past agreements between Israel and the Palestine Liberation Organization, or support negotiations with Israel."

Fatah Officials Calls For Abbas's Resignation. The AP (3/18, Daraghmeh) reports, "Several Fatah officials called on President Mahmoud Abbas to resign and dissolve the Palestinian Authority to protest Israel's raid of a West Bank prison earlier this week, party activists said Friday. The raid...was seen as a humiliating blow to Abbas's prestige and raised new questions in his Fatah Party about their president's ability to govern." The AP goes on to report, "The call for Mr. Abbas' resignation and the dissolution of the Palestinian Authority at the Fatah Central Committee late Thursday was the first time such a demand was made. Analysts and Fatah officials said the demands -- raised both in a letter to Mr. Abbas signed by five midlevel Fatah activists and at Thursday's meeting by a senior party official -- are not serious at the moment."

Netanyahu Could Be Primed For A Comeback. The Los Angeles Times (3/18, King, 958K) reports, "Heading into a March 28 parliamentary election, the onetime boy wonder of Israeli politics leads a party that once dominated the electoral landscape, but now is lagging far behind." Still, "many observers believe it would be foolish to count out Netanyahu, a charismatic but divisive politician whose career has been marked by dramatic reversals of fortune." As Likud leader, having assumed the "leadership of

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Israel's hard right at a time when the country is embracing a more centrist view, Netanyahu now finds himself struggling to broaden his appeal." Political scientist Itzhak Galnoor of Hebrew University is quoted as saying, "Likud has not been able to follow the swing in Israeli public opinion. ... The public generally agrees with the partitioning of the biblical Land of Israel, and the Likud leadership remains stuck in its previous position."

Sharon's Wall Is Justified, Scholar Writes. In a New York Times (3/18, 1.19M) op-ed piece penned by scholar Irshad Manji writes that Israelis will soon elect a new prime minister, "but I'd bet my last shekel that I'll continue to hear the phrase 'Ariel Sharon's apartheid wall.' It's a phrase spoken — make that spewed — on almost every university campus I visit in North America and Europe." Manji continues, "This barrier, although built by Mr. Sharon, was birthed by "shaheeds," suicide bombers whom Palestinian leaders have glorified as martyrs. Qassam missiles can kill two or three people at a time. Suicide bombers lay waste to many more. Since the barrier went up, suicide attacks have plunged, which means innocent Arab lives have been spared along with Jewish ones. Does a concrete effort to save civilian lives justify the hardship posed by this structure? The humanitarian in me bristles, but ultimately answers yes."

Israeli Turkeys Now Afflicted With Deadly Flu. The Washington Post (3/18, A14, Wilson, 744K) reports, "Israeli health officials announced Friday that they believe more than 1,000 turkeys have died in recent days from bird flu, the first reported cases in the country. Initial test results appeared to confirm that birds being raised on four farms in southern Israel died after being infected by the H5N1 virus, avian influenza's deadly strain. Additional tests recommended by the World Health Organization are being conducted to confirm the findings, but Israeli officials are already taking precautions."

Georgia Gripped By Bird-Flu Fears. The New York Times (3/18, Chivers, 1.19M) reports, "In the early morning hours, the cobblestone alleys that wander this city's slopes are normally crowded with schoolchildren, walking in groups with their backpacks and books. But such sights have lately become rare." As fears of avian influenza spread throughout this mountainous former-Soviet republic, "school attendance has dipped to half of normal levels, said Alexander Lomaia, the minister of education. Ambulance calls have soared, reaching 900 a day here, up from slightly more than 600, said Lado Chipashvili, the minister of labor, health and social affairs."

G-8 Energy Chiefs Back A Nuclear Future. The Washington Times/AP (3/18) reports, "Energy ministers from the world's leading industrialized nations called yesterday for major new investments and the development of nuclear power as high oil prices and uncertainty about supplies weigh on the global economy. The ministers from the Group of Eight nations, meeting in the Russian capital to discuss global energy security, said significant investments would be needed in the production, transportation and processing of resources and urged policies to encourage this." According to the G-8 statement, the ministers "recognize that to attract investment it is essential for countries to have open and favorable investment regimes...including stable and predictable regulations, clear tax laws and efficient administration procedures, as well as fair and reciprocal access to markets along the energy value chain."

Kremlin Moves To Shut Down Khodorkovsky NGO. The New York Times (3/18, Chivers, 1.19M) reports, "The bank accounts of a foundation led by an imprisoned Russian businessman, Mikhail B. Khodorkovsky, were frozen Friday by court order, the foundation and its bank said, a move that strongly suggests the organization is about to be shut down. The group, the Open Russia Foundation, immediately announced that it was forced to suspend its activities promoting civil society and accused the government of extending its crackdown on private organizations." Open Russia vice chairwoman Irina Yasina is quoted as saying, "It seems that they are trying to stop all of our activities, because of course without money, we can do nothing."

New Belarus Sanctions Could Be In Offing, White House Says. As the people of Belarus prepare to cast their votes in presidential elections this weekend, the Washington Post (3/18, A18, Baker, 744K) reports, "The White House accused the authoritarian president of Belarus yesterday of being 'among the most corrupt leaders in the world,' and administration officials said they will consider new sanctions assuming tomorrow's elections are manipulated as expected. In a report sent to Congress on Thursday night and posted on the Web yesterday, the White House alleged that President Alexander Lukashenko 'has created a repressive

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dictatorship on the doorstep of the European Union,' sold arms to rogue states and enriched himself at the expense of his people." Press Secretary Scott McClellan is quoted as saying, "We are very concerned about the behavior of the leaders in Belarus. They are not pursuing a democratic course." The Post goes on to cite "two other administration officials who were not authorized to speak on the record [as saying] the US government is studying ways of applying more sanctions against Lukashenko's regime, targeted specifically against him and his cronies."

Pelosi Calls For End To Darfur Conflict. The Washington Times (3/18, Debose, 90K) reports, "House Minority Leader Nancy Pelosi yesterday said the warring in the Darfur region of Sudan demands immediate attention, a day after privately urging President Bush to appoint a special envoy to help end what the White House calls a genocide." Pelosi is quoted as saying, "President Bush and I don't agree...well we disagree on almost everything, but on this we do, and he has told us 'not on his watch' and I believe him. ... To do this we must stop the violence, bring the parties to the negotiating table and get humanitarian relief to the people who need it."

New Liberia Leader Wants Taylor To Stand Trial. The New York Times (3/18, Hoge, 1.19M) reports, "Ellen Johnson Sirleaf, the president of Liberia, said Friday that she had asked Nigeria to extradite Charles Taylor, the former Liberian president and guerrilla leader, to face war crimes charges in Sierra Leone. Ms. Johnson Sirleaf told the Security Council that she had made a formal request to President Olusegun Obasanjo of Nigeria, where Mr. Taylor lives in exile." According to the Times, "Even from exile, he has maintained influence in Liberia, with thousands of young combatants still loyal to him, Ms. Johnson Sirleaf said, making her plea 'courageous but risky.'" She is quoted as saying, "Please bear in mind that time is of the essence in this regard. ... Liberia's peace is fragile. There are many loyalists in our country to Mr. Taylor, there are many business interests he has. Whatever decision is taken by the African leadership must ensure that the safety of the Liberian people and the stability of our nation is not undermined.'"

In its coverage, the Washington Post (3/18, A17, Lynch, 744K) notes, "Obasanjo has previously resisted international pressure to hand Taylor over, citing the need for a request from a democratically elected Liberian leader. His office said Friday that he is considering sending Taylor back to Liberia, not Sierra Leone, where he is charged. A statement issued by Obasanjo's office cited his 'commitment to give due consideration to any formal request from a democratically elected government of Liberia for the return of former president Charles Taylor.'"

The Los Angeles Times (3/18, Dixon, 958K) and the AP (3/18, Lederer) also cover the story.

Sirleaf Represents Rare New Start For Liberia, WSJ Says. In a staff editorial headlined, "African Hope," the Wall Street Journal (3/18, 2.11M) opines, "Good news out of Africa has been all too rare in recent years. But a major exception was the election last year of Liberian President Ellen Johnson Sirleaf, who stopped by our offices yesterday after addressing the United Nations." Mrs. Sirleaf "used her time with us to emphasize that Liberia is 'open for business.'" When asked "if she believed the US owes Liberia anything, she said flatly, 'no.' She just wants it to be treated like other countries."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:

"U.S. Is Denied Google Queries."
"Musicians Still Hear Paris' Call."
"Housing Speculators Relocate To Hotter Spots."
"Obsession And Isolation In A Dictator's Last Days."
"Mayor, Businesses and ACLU Are In Same Camp On Skid Row."
"Smoking Ban Moves Outdoors."
"9/11 Case Prosecutors Granted A Reprieve."

New York Times:

"Judges Overturn Bush Bid To Ease Pollution Rules."
"Politics Drives Money Binge."
"Judges Overturn Bush Bid To Ease Pollution Rules."
"Cited As Symbol of Abu Ghraib, Man Admits He Is Not In Photo."
"In Louisiana, Graft Inquiries Are Increasing."
"Testing Errors Prompt Calls For Oversight."
"A $65 Table, And A Tale To Tell Around It."

Washington Post:

"Looser Emission Rules Rejected."
"Sex Cases Rarely Go To Trial At Academy."
"Moussaoui Prosecutors Get A Break."

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"Cooking 101: Add 1 Cup Of Simplicity."
"Africans Lay Traditional Rites To Rest."

Washington Times:

"U.N. To Raise Its Profile In Iraq."
"Political Offensive Targets Bush."
"Ireland Asks Bush For Alien Amnesty."
"U.S. Eyes Baghdad For Talks With Iran."
"Historic Buildings Purged In Moscow Modernization."
"Area Gas Prices Jumped This Week."
"Show Dog Still A No-Show."

Detroit Free Press:

"GM, UAW On Edge Of Delphi Solution."
"Road Money? Plenty Of Takers."
"Nuclear Safety Left Hanging As Crane Dangled Fuel Rods."
"Company, Union Fight Back Together; Can They Do More?"

Atlanta Journal-Constitution:

"Power Plant Rule Voided."
"Breaking With Tradition."
"Electric Bills Likely To Edge Up."
"Sign-Up Bonus Pumps Re-Enlistments In 48th."
"Past Returns To Haunt Freeman's Chief Of Staff."

Dallas Morning News:

"T.O. On His Way."
"Industry Girds For Special Session."
"She Goes Her Own Way In Legal Fights."
"Civil Strife Fuels Fears Of War, Wider Conflict."

Houston Chronicle:

"Gas At $2.40 A Gallon — And Rising."
"PCs In Council Office Seized."
"Manhunt On For Drug Officers' Assassins."
"They Pass On Champs, But Always Get A Winner."
"Mumphrey's Pardon Ends 'Miscarriage Of Justice.'"

Story Lineup From Last Night's Network News:

ABC: Bush-Iraq Anniversary; Dearborn, Michigan Iraqis; Pharmaceutical Trials; Pharmaceutical Trials-Analysis; Big Bang; Avian Flu; Nascar Pit Crews; Child Porn Detectives.
CBS: Stock Markets; Iraq Violence; Iraq Anniversary; Hadley-Iraq Progress; Moussaoui Trial; Illegal Irish Immigrants; Hurricane Katrina Reunion; Milosevic Funeral; College Debate Teams.
NBC: Gas Prices; Stock Markets; Iraq-Operation Swarmer; US-Iran Talks; Moussaoui Trial; Airport Securities-Explosives; Israel-Avian Flu; Vehicle Cameras; Calabasas-Smoking Ban; St. Patrick's Day; Green Companies.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — At Camp David.
VICE PRESIDENT CHENEY — No public schedule.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: JOURNALISM STUDENTS _ 8:30 a.m. One hundred two high school students from across the United States who are interested in pursuing a career in journalism and have qualities of ``free spirit'' have been selected to participate in the annual Al Neuharth Free Spirit Scholarship and Conference program. Location: Sessions to be held at Freedom Forum, 1101 Wilson Blvd., Arlington, Va., the Watergate Hotel, and at Capitol Hill offices (afternoon visits).

IRAQ WAR-MARCH _ 9 a.m. Local peace activists hold a march to mark the three year anniversary of the war in Iraq and to call for an end to the war. Sponored by the Washington Peace Center; DC Anti-War Network; Code Pink; Neighbors United for Peace and Justice; and others. Highlights: 9 a.m. Pre-march service for the homeless at Canadian Embassy, 501 Pennsylvania Ave. NW. 2 p.m. Convergence to begin march at home of Vice President Dick Cheney, U.S. Naval Observatory, 3450 Massachusetts Ave. NW. March procedes to Dupont Circle. 3 p.m. - 6 p.m. Rally with speeches, music, poetry and a speak-out by local D.C. area residents. Dupont Circle, NW. 3:30 p.m. News conference. Southeast quadrant, Dupont Circle, NW.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: SATURDAY, MARCH 18, 2006 7:45 AM EST

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TERRORISM NEWS:

Judge To Allow New Aviation Witnesses In Moussaoui Trial. Judge Leonie Brinkema yesterday ruled prosecutors in the death sentence trial of al Qaeda member Zacarias Moussaoui will be permitted to present new aviation witnesses in lieu of the witnesses whose testimony was tainted by the actions of a Transportation Security Administration lawyer.

NBC Nightly News (3/17, story 5, 1:10, Williams, 9.87M) reported, "This means the Justice Department can put on a more a or less complete case, arguing that if Moussaoui had not lied when he was arrested, the government could have beefed up airport security and might have blocked the hijackers. But all the preparation the prosecution has done on this point, Power Point presentations and charts, that is all tossed out, still considered tainted by the TSA lawyer. So it will be a nearly complete case, but just not as polished one." The CBS Evening News (3/17, story 5, Schieffer, 7.66M) also reported the story in a brief segment.

The New York Times (3/18, Lewis, 1.19M) adds, "The question remains as to whether it is possible to find new witnesses who are not only untainted, as the judge has required, but familiar enough with the state of aviation security in August 2001 to help support the government's case." In a front page story, the Washington Post (3/18, A1, Markon, 744K) calls it "an extraordinary week." Legal experts say "the week's events still leave prosecutors in a tough spot" as they "are left to scramble to find new witnesses."

The Los Angeles Times (3/18, Serrano, 958K) reports that while "prosecutors will be working from a marked disadvantage, with much of the central part of their case stricken from the trial," they say they will "call one witness to explain" do not fly lists "and how they are used to keep suspected terrorists from boarding commercial aircraft.' This, they said, 'will allow us to present our complete theory of the case, albeit in imperfect form.'" The Minneapolis Star Tribune (3/18, 424K) covered this story under the headline "Moussaoui ruling salvages the trial." The Washington Times (3/18, Seper, 90K) and the AP (3/18, Barakat, Sniffen) also covered this story.

Prosecution, Defense At Odds Over When Martin Will Testify. The Los Angeles Times (3/19, Serrano) reports, "With the sentencing trial for Zacarias Moussaoui stumbling forward again, lawyers for the two sides were sharply at odds Saturday over when" TSA attorney Carla Martin "would testify about why she tried to influence witnesses." Prosecutors want her to appear at "the middle of the week and…testify only if she agrees to answer questions about her conduct and not invoke the 5th Amendment," but "defense lawyer Edward B. MacMahon Jr. said in court papers that he wanted Martin on the stand after he finished cross-examining FBI Special Agent Harry Samit on Monday morning."

Specter Introduces Bill For Oversight Of Warrantless Spying. The Washington Times (3/18, Hurt, 90K) reports, "Senate Judiciary Committee Chairman Arlen Specter introduced a bill this week to increase congressional oversight of President Bush's warrantless spy program and require a court review of the program for its constitutionality," saying that "rule of law takes precedent even when the nation is at war with a new type of enemy capable of exploiting modern technology."

US Asks Judge To Reconsider Eavesdropping Order In 9/11 Detainee Civil Suit. The New York Times (3/18, Bernstein) reports that in the civil lawsuit by Muslims "swept up" in the post-9/11 US terrorism investigations, US Magistrate Judge Steven M. Gold "ordered the government on March 7 to guarantee in writing that neither the litigation team nor the potential witnesses — who include the F.B.I. director, Robert S. Mueller III — were aware" of secret eavesdropping on plaintiffs and their lawyers, "and that no such evidence would be used in the case." But on Friday, asking Gold to reconsider the order, "Stephen E. Handler of the Justice Department wrote in a filing…that if knowledge of such activity were denied in one case, a refusal to confirm or deny it in another case 'could itself tend to reveal classified information.'" NYU law professor Stephen J. Schulhofer said the filing "'is a pretty clear red flag' that eavesdropping occurred in the detainees' case."

Pentagon Hired Company That Bribed Cunningham To Help Collect Data On US Sites. Knight Ridder (3/18, Landay) reports that the Pentagon's Joint Counter-Intelligence Field Activity, CIFA, which "kept files on American anti-war activists hired" MZM Inc., "one of the contractors who bribed former Rep. Randy 'Duke' Cunningham, R-Calif., to help it collect data on houses of worship, schools, power plants and other locations in the United States."

Foreign Firms Important Pentagon Contractors. The Washington Post (3/18, D1, Mccarthy, 744K) reports, "Foreign-owned companies already help manage some of the nation's most sensitive business, working on classified weapons and information programs and dealing daily with government secrets," and "with joint defense projects among allies common, and the need for the best technology ever

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more acute, contracting experts say they expect the trend" of granting more foreign companies classified access "to continue." Still, "foreign-owned or controlled companies that work with classified information are subject to a special set of rules."

US Port Operator May Find Selling Difficult After Ports Controversy. The Financial Times (3/18, Wright) reports, "SSA Marine, the largest US-based container terminal operator, has taken on Citigroup to advise on a possible sale in a move that could reignite controversy about the ownership of US port operations." However, the DP World controversy "is understood to be deterring some of the world's largest terminal operators from looking at SSA's US assets," so "it could prove harder to sell SSA's US assets than its international business since foreign buyers are likely to shy away from entering the market and few domestic operators are large enough to make the purchase."

FBI "Source" Reported Seeing Top Al Qaeda Figures At Lodi Mosque. The Lodi News-Sentinel (3/18, Bohm) reports, "Osama bin Laden's right-hand man isn't the only Taliban member alleged to have once visited Lodi. An FBI 'source who is in a position to testify' told agents that he had seen two wanted terrorists visiting the Lodi Muslim Mosque and raising funds in 1999, according to federal court documents filed late Thursday night. … On Nov. 15, 2001, the source told agents that al-Zawahri was seen" at the Lodi mosque with Abdelkarim Hussein Mohamed Al-Nasser, charged in the Khobar Towers bombing, and Ahmed Mohammed Hamed Ali, charged in the bombings of US embassies in Africa. "Lodi Muslims deny that the Taliban members stayed in Lodi. FBI spokeswoman Karen Ernst said Friday that she could not comment because it's an ongoing investigation and the matter is in trial." The Stockton Record (3/18, Hood) notes that the "heavily censored FBI reports" filed Thursday do not identify the source as FBI informant Naseem Khan – who earlier testified to seeing al Zawahri at the mosque – "but prosecutors handed over the documents in response to defense attorneys' demands for information relating to Khan, who is expected to return to the witness stand Tuesday." Hamid Hayat's lawyer, Wazhma Mojaddidi, "wants those blacked-out portions revealed. U.S. District Judge Garland E. Burrell Jr. will hear arguments on the matter Monday."

Lodi Muslims Find Claims Dubious. The San Francisco Chronicle (3/18, Zamora, Martin) reports, "An FBI informant's claims that three of the world's most-wanted terrorism suspects passed through town in recent years are outrageous and could damage the federal government's case against two local men, residents and legal experts said Friday." Lodi mosque leader Mohammed Shoaib said, "I think the FBI should rely on more-reliable informants. I am an American citizen, and I love this country. They never talked to me." The Chronicle adds that although "the revelations could cause problems for the federal government if the jury feels that Khan's credibility is an issue," former US Attorney Kendall Coffey "and defense lawyer James Brosnahan said the government may be able to counter any credibility problems with Khan if corroborating evidence against the Hayats, including FBI interviews with them, is strong."

Toledo Terror Suspect's Lawyer Seeks Information On Recording Of Conversations. The Toledo Blade (3/18) reports, "An attorney for accused terrorist Mohammad Zaki Amawi has asked a federal judge for assurances that the government will not be recording his conversations with his client." On Friday, public defender Dennis Terez "filed a motion yesterday in U.S. District Court in Toledo asking for comprehensive information about federal agents' use of monitoring attorney-client communications." Attorneys for co-defendants Wassim I. Mazloum and Marwan Othman El-Hindi "said they plan to file similar motions on behalf of their clients very soon."

Bond Denied For Florida Doctor Accused Of Taking Al Qaeda Loyalty Oath. The Miami Herald (3/18, Benn) reports US District Judge Loretta Preska on Friday denied bond for Florida doctor Rafiq A. Sabir, who "will continue to be held in solitary confinement in a New York prison until his trial on charges of conspiring to support Osama bin Laden's terrorist network. … Sabir was arrested at his Palm Beach County home last May, days after investigators claim he recited an oath of loyalty in front of an undercover FBI agent."

Summaries Of FBI Wiretaps Said To Contradict Hammoudeh Indictment. The St. Petersburg Times (3/18, Laughlin) reports the indictment of Sami al Arian codefendant Sameeh Hammoudeh "accused him of 'transferring monies and funds…for the purpose of promoting PIJ activities,'" but "summaries of the wiretapped conversations that the government used to justify this accusation seem to undercut the charges." The Times cites three FBI tech cuts and adds, "federal prosecutors declined to comment on repeated contradictions between information in the indictment and the tech cuts," but "former FBI agent and federal prosecutor Todd Foster didn't." Foster referred to the Aisenberg case in 1997, which also "was built on secret surveillance of the defendants' conversations," calling it "a shocking example of how wiretap information in an indictment can be full of missing statements, statements taken out of context and false statements."

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Administration Seeks Dismissal Of Guantanamo Bay Suits. The AP (3/18) reports, "The Bush administration argued Friday that a newly enacted law wipes out hundreds of pending court cases by detainees in Guantanamo Bay, Cuba, who are challenging their confinement." However, "lawyers for the detainees say the new law does not cover pre-existing cases filed in U.S. District Courts."

Judge Orders DOJ To Release New York Mosque Material. The Albany Times-Union (3/18, Lyons) reports, "A federal judge has ordered the Justice Department to turn over certain classified materials to attorneys for two members of an Albany mosque who were ensnared in an FBI counterterrorism sting." The Times-Union continues, "The judge's ruling allows prosecutors to withhold some of their top-secret files in the case, and it's not clear what information will be disclosed or how soon it might become public. … The information may provide more details on why the FBI launched a sting three years ago that targeted Yassin Aref, a 35-year-old Kurdish refugee who is being held in jail without bond while awaiting trial on terrorism-related charges." The Times-Union adds, "Federal prosecutors have the option of appealing the order issued late Thursday by U.S. District Court Judge Thomas J. McAvoy, but said they won't. … McAvoy's decision comes after more than 20 meetings between the judge and federal prosecutors in which they had haggled, in private, about what classified information the government must disclose so the men can defend themselves at trial. … 'The government intends to comply with the court's order,' said Assistant U.S. Attorney William Pericak."

Pakistan's UN Spokesman Affirms Converging Interests. In a letter to the Wall Street Journal (3/18, 2.11M), Mansoor Suhail, press minister at Pakistan's UN mission, writes, "Mahnaz Ispahani's March 3 editorial-page commentary 'Our Man in Pakistan' is based on wrong assumptions and analysis, but, paradoxically, draws the right conclusion: The US must remain engaged with Pakistan. President Pervez Musharraf's government's cooperation with the US is based on the convergence of Pakistan-US interests both tactical and strategic." He continues, "Pakistan is in the frontline of the war on terrorism," and the "US also needs nuclear Pakistan's cooperation to prevent proliferation and ensure peace in South Asia, which is essential to realize US commercial and strategic goals in the region."

NYTimes Praises Bloomberg's Handling Imam's Comments. The New York Times (3/18, 1.19M) editorializes that New York City Mayor Michael Bloomberg's response to chief chaplain for the New York City Corrections Department, Imam Umar Abdul-Jalil, saying "the greatest terrorists in the world occupy the White House," was "a Solomonic solution" that "also found his voice on an issue that has challenged his administration in the past: free speech." The Mayor "took wide-ranging swipes at the right and the left for stifling the airing of unpopular or offensive opinions" and "stood up for immigrants, the free press, fair elections and justice" by allowing the Imam to keep his job but adding a suspension "without pay for two weeks for his failure to disclose that he had been speaking as a private citizen, not as a city employee. It was a fair outcome."

Ahern Seeks Information On CIA Rendition Flights. Focusing on a more controversial angle, the AP (3/18, Riechmann) in an article titled "Ahern Asks Bush About CIA Flights Over EU" led its article on Bush's meeting with Ahern reporting Ahern "asked the president for more 'transparency' about CIA flights over Europe." He "said that while Ireland facilitates U.S. troop movements, and is 'happy to do it,' there is public concern over the CIA flights." He said "that it would be easier for him to explain the flights in his country if he knew more about them. 'We are going to continue to look at, perhaps, how we might bring more transparency to that process, if that's possible.'" The Washington Post ran the AP article in its coverage of Bush's meeting with Ahern.

IRA Leader Adams Detained At Reagan National Airport. The Los Angeles Times/AP (3/18) reports, "Gerry Adams, leader of the IRA-allied Sinn Fein party in Northern Ireland, was detained at Reagan National Airport after attending a St. Patrick's Day event at the White House, according to" Rep. Brian Higgins. Higgins "had invited Adams to speak in Buffalo, N.Y., said Adams' name appeared on a terrorism watch list, triggering a lengthy inspection. Because of the delay, Adams missed his speaking engagement, Higgins said."

HOMELAND RESPONSE:

Markey Criticizes TSA For Failure To Screen For Explosives. NBC Nightly News (3/17, story 6, 2:20, Myers, 9.87M) reported, "Four and a half years after 9/11, government investigators got materials for homemade bombs through security at 21 airports, every airport tested." Rep. Ed Markey "says this proves that the Transportation Security Administration has not improved safety nearly enough." Rep. Edward Markey: "TSA is way behind. TSA has put a beware-of-dogs sign on the lawn but not purchased a guard dog." Myers: "Analysts say detecting materials for homemade bombs is not easy because the ingredients themselves aren't dangerous, or explosive, until combined with other materials. TSA says it now considers explosives

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the number one threat. And today the top official argued that even though bomb materials got through the screeners, there are many other layers of security to keep terrorists with bombs off planes." TSA Director Kip Hawley: "Any one piece can be beatable, but it's the combination of many put together that we believe is very secure." TSA "argues that it needs more money to improve technology and hire more officers."

The Dallas Morning News (3/18, Mittelstadt) adds, "The head of the Transportation Security Administration, which oversees nearly 43,000 screeners at 429 commercial airports, didn't quarrel with the GAO analysis – and in fact termed it helpful as his agency focuses on its top mission: intercepting improvised explosive devices." However advocates note that "the GAO testing doesn't take into account the many layers of security that occur before passengers reach the screening checkpoint and once they're through."

White House To Host Smallpox Drill. The AP (3/18) reports, "Cabinet secretaries and other top officials are gathering at the White House complex Saturday to act out the roles they would play in a smallpox outbreak." White House spokesman Scott McClellan said the "four-hour drill, designed to test the federal government's smallpox response plans, won't be attended by the president."

WPost Calls For Changes In Real ID Act. The Washington Post (3/18, A20, 744K) editorializes, "When Congress passed the Real ID Act last year, it presumably did not intend to prevent human rights victims all over the world from entering the United States," but "its effects have been cruel to people already oppressed by vile regimes and terrorist groups. The law needs to be changed," as "the legal definitions of terrorism, terrorist organizations and material support are so broad that they include countless people who deserve the United States' protection, not exclusion." While "the problem could be alleviated if the administration would use" its waiver authority "aggressively," it "would address only some of the cases, and only by having the government forgiving 'terrorism' on the part of refugees whom it should not be labeling terrorists in the first place."

Silverstein Offer To Talk On WTC Rebuilding Rebuffed By Port Authority. The New York Times (3/18, Bagli, 1.19M) reports that although talks "abruptly broke off late Tuesday night, "it looked as if the stalled talks over financing and rebuilding at ground zero could resume next week." Developer Larry A. Silverstein, "eager to restart the talks," made a new offer, which the Port Authority of New York and New Jersey rejected. However it "said it would unveil its own proposal for the site next week." The Wall Street Journal (3/18, Frangos, 2.11M) adds that a person close to the talks said "Mr. Silverstein's revised proposal closes the gap between the two sides and contains some new ideas."

WSJournal Criticizes Government For Ground Zero Delays. The Wall Street Journal (3/18, 2.11M) editorializes, "The failure to even begin rebuilding Ground Zero is a disgrace, but it's also a classic display of New York's dysfunctional political culture." New York Governor George Pataki is "the politician with the most responsibility here," and he "knows that when you're in trouble in politics, blame a rich old white guy." In contrast, "Silverstein has the most credibility here, not least because he's the only one who has actually built something downtown since 9/11." Leadership "has been in pathetic and short supply," and "the failure at Ground Zero is a case study in government incompetence and buck-passing. It's no way to revive the economy of Downtown Manhattan, and it's certainly no way to honor the men and women who perished there on September 11."

FEMA To Try To Reclaim Wrongly Distributed Aid. The New York Times (3/18, Lipton, 1.19M) reports, "Acknowledging that it wrongly distributed tens of millions of dollars in hurricane relief last year, the Federal Emergency Management Agency said Friday that it would try to recoup aid from thousands of individuals or families who fraudulently or otherwise wrongly collected money." The "auditors examining the $6.8 billion in disaster assistance distributed last year to 1.7 million households after Hurricanes Katrina, Rita and Wilma said FEMA was to blame for much of the abuse because of a woefully inadequate accounting system that left it vulnerable to fraud," and "thousands of inappropriate payments were made because people were able to apply for and collect aid repeatedly."

Graft Investigations Growing In Louisiana. In a front page story, the New York Times (3/18, A1, Eaton, 1.19M) reports, "Growing numbers of subpoenas may soon be issued across Louisiana, where local politics remains a blood sport and corruption has been a bad habit," and "new hurricane fraud investigations are being opened 'sometimes by the day,' said Jim Letten, the United States attorney in New Orleans." In Keener, "federal prosecutors in New Orleans began bringing witnesses before a grand jury looking into possible fraud in…municipal contracts that were awarded immediately before and after the hurricane. The mayor and the entire City Council have been subpoenaed to testify, although the government has not made clear its target."

EPA Head Favors Coastal Restorations But Offers No Money Or Specifics. The New Orleans Times-Picayune (3/18, Brown, 257K) reports, "U.S. Environmental Protection Agency Administrator Stephen Johnson said Friday that the Bush administration is committed to rebuilding Louisiana's shattered coastline."

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However, he did not offer "new money for an effort expected to cost up to $14 billion" or "any specifics as to what role his agency would play." Johnson simply "indicated he wanted the EPA to 'get going' on at least a handful of the many coastal restoration projects under consideration."

Katrina Hurt Proctor & Gamble's Coffee Production, Spawned "Gentilly Village." The New York Times (3/18, Rich, 1.19M) reports, "Hurricane Katrina was making a mess of" Procter & Gamble's "coffee business, which got 50 percent of its supply from four sites in New Orleans," and "there are still, as Doug McGraw, the executive in charge of global coffee, put it, 'holes on the shelves' where Folgers and Millstone, Procter's brands, should be." Still after the storm, to help the employees whose homes were damaged, they "created what we call Gentilly Village, which was the trailers, some of which we bought and some of which we got from FEMA, on our parking lot, along with the generators, laundry facilities, a large kitchen and food-service operation, etc."

Blanco Spending Plan Advances In Legislature. The Baton Rouge Advocate (3/18) reports, "Legislators on Friday advanced the biggest part of Gov. Kathleen Blanco's hurricane recovery plan — totaling $6.2 billion — despite gripes about the lack of detail on how the money will be spent," as "the administration outlined the plan for legislators on two pages, not using more than a paragraph to describe each type of expense." Also, "the state must submit a spending plan to the federal government before the funds start flowing," and "the Louisiana Recovery Authority's executive director, Andy Kopplin, said the state is only ready to spend part of the money." The New Orleans Times-Picayune (3/18, Scott, 257K) adds there was "a warning shot to the governor's administration that lawmakers need to be better informed and integrated into the process. In response, administration officials expressed concern that the flow of federal money for housing and other recovery programs could be unnecessarily delayed."

Congress Boosts Flood Insurance Program's Borrowing Authority. The AP (3/18, Abrams) reports Congress has "agreed to boost the borrowing power of the federal flood insurance agency, which is fast running out of money needed to meet some 225,000 claims from hurricanes Katrina and Rita." The legislation "allows the National Flood Insurance Program to borrow up to $20.8 billion from the Treasury, up from the current ceiling of $18.5 billion."

WAR NEWS:

Bush To Highlight Successes, Acknowledge Mistakes In Iraq Policy. President Bush will continue his campaign to boost public support for the war in Iraq. ABC World News Tonight (3/17, lead story, 2:40, Vargas, 8.78M) reported, "The Bush Administration says, given enough time, there is a plan that will work. It will also require enough money. A new report from the Congressional Research Service says US military spending in Iraq and Afghanistan will increase to $9.8 billion a month this year. On Monday, to mark the third anniversary of the war, President Bush will, once again, make his case that the mission can succeed." ABC (Karl) added the White House "says the President will mark the third anniversary of the invasion by touting success, but also acknowledging mistakes that have prompted changes in tactics. As one senior Administration official said today, 'We are learning as we go.' One success the White House is expected to cite is Tal Afar, a one-time insurgent stronghold believed to have been a base for al Qaeda leader Abu Musab al Zarqawi."

Dozens of local television stations reported on the third anniversary of the Iraq war. Major themes included President Bush restating his determination to succeed in Iraq and improving Iraqi military strength as a means to reduce U.S. troop levels. Examples include: WTAE-TV Pittsburgh (3/17, 12:00 p.m.) reported, "The White House calls Operation Swarmer a show of Iraqi military capability." And Thursday night President Bush, "reiterated that is the key to bringing U.S. troops home. As Iraqis stand up, we will stand down."

KING-TV Seattle-Tacoma (3.17, 12:00 p.m.) reported, "President Bush spotlighted the participation of trained Iraqi troops in this relatively complex military operation." The station continued, "Monday the President goes to Cleveland where he will highlight what the government calls concrete examples of real progress being made in Iraq." WTVD-TV Raleigh (3/17, 5:00 p.m.) reported, "President said Monday his aim is to have Iraqis control more territory than coalition forces by year's end." WTAE-TV Pittsburgh (3/17 11:00 p.m.) reported, "President Bush continues to rally support for his strategy in Iraq."

Hadley Says US Making Progress In Iraq. The CBS Evening News (3/17, story 4, 2:00, Schieffer, 7.66M) interviewed National Security Adviser, Stephen Hadley. Asked if it was "possible that Iraqi security forces could control 75% of the country by this summer," Hadley said, "Whether it's 75 by this summer, 75% by the end of the year, we'll have to see, but the point is, it is the objective. We are making progress. We are every month at this point been able to turn over more territory to the Iraqis." Asked when the US would begin drawing down troops in Iraq, Hadley said, "I think you're beginning to see that process occur now. Remember during the period of elections, we were up to over 160,000 troops. We've now come back down to something like over 130,000 troops. As we train Iraqi security forces, as they take greater responsibility for security, we will be able to step back to a training activity and to going after terrorists and we'll be

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able to both change the composition and reduce the number of those forces. That's clearly where we're headed."

US Aims To Turn Over 75% Of Country To Iraqi Security Forces. A top US military official in Iraq, Lt. Gen. Peter Chiarelli, said yesterday that the US goal is to turn security responsibilities for over 75% of Iraq to Iraqi forces by the end of the summer. The story was reported in the lead on ABC and early in CBS' lineup. ABC World News Tonight (3/17, lead story, 2:40, Karl, 8.78M) reported, "Currently, Iraqi forces control less than 50% of the country." But "turning over so much area to the Iraqis would set the stage for a significant reduction of the 133,000 US troops in Iraq, but there are major obstacles. As General Chiarelli himself warned, sectarian violence could get much worse."

The CBS Evening News (3/17, story 2, 2:25, Martin, 7.66M) reported that "as evidence of progress in turning the fight over to Iraqi troops," Gen. Chiarelli cited Operation Swarmer "northeast of Samarra in which helicopters dropped 800 American and 700 Iraqi troops into what is believed to be an insurgent staging area." Gen. Chiarelli: "Had we tried to accomplish a mission like this 11 months ago, it would have been primarily US forces."

The AP (3/18, Burns) notes that the turn over "is more ambitious than President Bush's statement on Monday that his aim was to have Iraqis control more territory than the U.S.-led coalition by the end of 2006," and that Chiarelli "repeatedly stressed that he does not believe civil war will break out." In a later version of the article the AP (3/18, Burns) adds, "The Pentagon wants to pull increasing numbers of American troops out of the line of fire in Iraq." However, "three years after the invasion this latest evolution in the U.S. military's mission will depend largely on whether Iraqi security forces can handle it," and "it is not yet clear that the Iraqis will prove ready — politically or militarily — to take on the added responsibility."

US Will Remain In Charge Of Dangerous Convoy Duty. Contrasting with the announcements of Iraqis taking over US military duties, the New Orleans Times-Picayune/Newhouse News (3/18, Wood) reports, "The reality behind President Bush's assertion this week that Iraqi units are increasingly capable of standing on their own is that none can operate without heavy and sustained logistics support from the United States," when means that "no matter how many U.S. combat troops in Iraq eventually are replaced by Iraqis, an especially difficult and risky mission will remain an American responsibility: convoy duty." Thus, US troops "will be exposed to highly dangerous conditions there for the foreseeable future."

Allawi Warns Point Of "No Return" Approaches. In a status report on the approach of the third anniversary of the US invasion of Iraq, the CBS Evening News (3/17, story 3, 2:55, Logan, 7.66M) last night examined the state of security in the country. CBS reported that the current situation is a "long way from where many Americans expected to be after President Bush declared the end of major combat operations back in May 2003." Former Iraqi Prime Minister Iyad Allawi "remains a strong supporter of US involvement in his country. But he warned this week that militias are ruling the streets, and al Qaeda in Iraq has become less foreign and more Iraqi." Allawi: "I personally think that we now are approaching the no return point. If we get there, it's going to be very difficult to bring the country back." Logan: "What's normal, three years on for Iraqis in the capital, is waiting as long as two days for gas and struggling with only four hours of power on Iraqi officials talked about when and how to deceive international authorities about their weapons programs in the mid-1990s average per day. The picture, though, is not entirely dark." US Ambassador Zalmay Khalilzad: "There are some good things that are happening. The election was a very good thing. The constitution, it's a very good thing. There is freedom of speech. There is freedom of press. There is much more economic activities, interaction with the rest of the world." The Washington Times/AP (3/18, Hanley) also covered these deaths.

Concerns Raised Sectarian Strife Could Disrupt Region. The Dallas Morning News (3/18, Robberson) reports, "The U.S.-led invasion launched three years ago to oust Iraq's dictatorship and eliminate weapons of mass destruction has instead pushed it to the brink of civil war and escalated Iraqi fears of imminent doom at the hands of radical militiamen." While "this was hardly the outcome President Bush envisioned when he ordered the March 19, 2003, assault on Iraq, senior U.S. officials now acknowledge that their plans have gone awry. Iraqi leaders and clerics are urging restraint as they warn that their nation, already split along sectarian and ethnic lines, is close to imploding." Concerns are increasing that sectarian strife "could spark broader conflict around the region, and that Iraq's security void is tempting its neighbors to meddle militarily."

American Iraqis Impatient With Lack Of Progress In Homeland. American Iraqis, who were ecstatic at the fall of Saddam in 2003, are now growing impatient with the situation in Iraq. ABC World News Tonight (3/17, story 2, 2:25, Vargas, 8.78M) reported Dearborn, Michigan is "home to tens of thousands of Iraqi-Americans. They were out in the street, cheering when US forces led the invasion that toppled Saddam Hussein. Today, almost three years later, the mood is strikingly different." ABC (Reynolds) added that in Dearborn, it "is next to impossible to find anyone with anything good to say about the Bush Administration's handling of the war." Most are Shiites and are "deeply suspicious of the American ambassador in Iraq, Zalmay Khalizad, who is a Sunni. They believe Khalilzad's efforts to draw Sunnis into a government dominated by Shiites is unfair and unwise." There are "calls to return power to the Iraqis, quickly. And they have grown from a request to a demand."

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Senate Democrats To Attack Bush On National Security Issues. The Washington Times (3/18, A1, Scarborough, 90K) in a front page story reports, "Senate Democrats have mapped a political battle plan for the March congressional recess that calls on lawmakers to stage press events with active duty military personnel, veterans and emergency responders to bash President Bush on virtually every one of his national security policies." Senate Minority Leader Harry Reid's game plan titled "Real Security," calls "for staged town hall events at military bases, weapons factories, National Guard units, fire stations and veterans posts." The DoD "prohibits political events on military bases." Reid's spokesman Jim Manley "said yesterday the planned events are not part of a political campaign. They would involve only incumbent Democratic senators, some of whom are up for re-election, but not Democratic Senate challengers, he said." The Times notes, "In almost every issue in the Reid memo, Democratic lawmakers are called upon to criticize the president for not spending enough federal dollars."

Democrats Seen As Divided On How To Confront Bush Policies. In contrast to the Washington Times report on Reid's plan to target Bush on national security, CQ (3/18, Ota) reports that if Sen. Russ Feingold's "censure resolution (S Res 398) gained little traction, it nonetheless crystallized a long-simmering divide among congressional Democrats over whether to move to the center with party leaders on a range of issues or swing to the left to energize the party's liberal base heading into this fall's elections." Senate Minority Leader Harry Reid "and other top Democrats are urging rank-and-file members to take a safer legislative course, emphasizing their opposition to cuts in Medicare and Medicaid, and touting Democratic domestic initiatives." In contrast to former Senate Democratic Leader Tom Daschle, "Instead of tying the Senate in knots with parliamentary tactics…Reid let regular order prevail for the most part." But Sen. Tom Harkin said, "I don't know that it is getting us anything." An "evolving Democratic agenda includes increased funding for homeland security, stronger guarantees for veterans' benefits and efforts to close the so-called tax gap. … Reid also is likely to seek another vote in the Senate on a proposed increase in the $5.15 per hour federal minimum wage." Yet, "the agenda does not include -- for now -- any frontal attacks on Iraq War funding, a demand for troop withdrawals or resolutions aimed at embarrassing Bush."

Antiwar Activists Seek To Build Support For Referendum Against Iraq War In Wisconsin. The Washington Post (3/18, A3, Slevin, 744K) reports, "In an exercise that one side calls democracy and the other considers a disservice, voters in 30 Wisconsin towns will cast ballots next month on whether the Bush administration should withdraw U.S. troops from Iraq." In cities across Wisconsin, "antiwar activists invoked a 1911 state law to schedule a bring-the-troops-home referendum designed to send a message to Congress and the White House that the war is costing too many lives and too much money." Anti-war activists "have waged counter-recruitment drives at high schools and colleges across the country, pressing to provide information tables or teach-ins about alternatives to military service. Antiwar organizations have scheduled hundreds of protests and other events to mark the war's third anniversary this weekend, yet the national effort to end the war has proved fitful."

Anti-War Activists Struggle To Generate Public Opposition To War. Similarly noting the anti-war activists lack of success in generating public opposition to the war in Iraq, the San Francisco Chronicle (3/18, Garofoli, Writer) in a front page article reports, "Even though polls say a majority of Americans think President Bush has bungled the war in Iraq and now oppose it, anti-war organizers are struggling to get new converts to tell someone besides pollsters that the country needs to change course." Their "focus has shifted in the past couple of years from the street to online organizing and opposing military recruiting in high schools. But anti-war forces are still frustrated that more Americans -- and Congress -- haven't actively opposed the administration's policy."

Feingold Defends Call For Censure. Sen. Russ Feingold in a letter to the editor in the New York Times (3/18, 1.19M) defends his call for censuring President Bush writing, "The president broke the law, and Congress must hold the president accountable." Feingold applauds "Senator Harry Reid's effort to take the Senate into closed session to get answers on the intelligence and policy failures leading up to the Iraq war. But to suggest that such a maneuver is our only recourse now ignores the role the founders expected Congress to play when a president commits such a flagrant abuse of power."

But Eleanor Clift in her column in Newsweek (3/18) writes, "Democrats must have a death wish. Just when the momentum was going against the president, Feingold pops up to toss the GOP a life raft." Clift notes, "It's brilliant strategy for him, a dark horse presidential candidate carving out a niche to the left of Hillary Clinton." But only two other Democratic Senators have signed on "for good reason. The broader public sees it as political extremism."

Pew Poll Suggests Shift In Public Perception Of Bush From "Honest" To "Incompetent." Time (3/18, Cooper) in a short web exclusive article titled "Bush the 'Incompetent'" reports, "Over the last seven years, the Pew Research Center for the People and the Press has played a game of word association as part of its regular presidential polling, asking, 'What one word best describes your impression of George W. Bush?" No options or suggestions are offered. The latest results -- from a sample of 710 people

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done in March -- aren't good for the President. Until this month, the word most associated with President Bush had always been 'honest.' Now the leading answer is 'incompetent' (given by 29 people), followed by 'good', 'idiot' and 'liar.' 'Honest' has slipped to 5th, tied with 'Christian.'" In 2003, "positive descriptions of Bush far outnumbered negative ones. In the past two years, the positive-negative ratio has been more nearly equal. This time, 48% of those polled used a negative word to describe Bush; just 28% picked a positive term; 10% chose neutral language. Six respondents chose a word that everyone could agree on: 'President.'"

Administration Officials Downplay Prospects Of Talks With Iran. The Administration is taking a cautious approach to possible negotiations with Iran over its intentions in Iraq. NBC Nightly News (3/17, story 4, 1:50, Gregory, 9.87M) reported US officials said any prospective meeting with Iran "would be only about the future of Iraq, particularly whether Iran is willing to help the US stabilize the country politically as it tries to come up with a unity government that's built around Sunnis, Shiites and Kurds. Iran's foreign minister has indicated a willingness to sit down with the US Ambassador in Iraq, Zalmay Khalilzad." US officials "say this would be a chance for the US to confront Iran over what the President has called its meddling in Iraq. Charge one -- that Iran is supplying explosives, IEDs, improvised explosive devices to insurgents. Charge two -- that it's helping Shiite militias in their activities with financing and explosives." But "will such a meeting happen? Well, tonight, White House officials are increasingly skeptical. National Security Advisor Steve Hadley saying the White House now thinks this might be a ploy by Iran to divert attention from all the heat it's getting internationally because of its nuclear ambition."

Similarly stressing the Administration's cautious approach the AP (3/18, Loven) notes, "There was concern Friday in the Bush administration that the Iranian offer could increase the stature of Iran's government in its citizens' eyes, raise Tehran's status in the region and curry broader international sympathy that could undermine the U.N. Security Council efforts." In an interview US ambassador Khalilzad said "that any meeting should be held in Baghdad. He also made clear that discussions would be limited only to issues related to Iraq, not the standoff over Tehran's nuclear activities, and would represent merely a face-to-face forum for the United States to state concerns it has expressed publicly." The Washington Times (3/18, A1, 90K) in a front page reports similar details fro combined wire service dispatches.

The Washington Post (3/18, A15, Knickmeyer, Branigin, 744K) reports, "Khalilzad said he would not describe the proposed talks as 'negotiations' but as a chance to express concerns about what Washington and some in Iraq regard as Iran's alarming activities here." Khalilzad said, "Iraqis will decide their own future…but they have concerns about [Iranian] policy regarding Iraq." He "spoke after the U.S. Embassy in Baghdad issued a statement critical of Iran in response to remarks Thursday by the top Iranian national security official.

Focusing on opposition to the talks by Sunni leaders in Iraq, the New York Times (3/18, Semple, 1.19M) reports, "Sunni Arab political leaders on Friday denounced an agreement between the United States and Iran to hold face-to-face talks about solutions to the unrest in Iraq, saying the conversations would amount to meddling by foreign nations in Iraq's domestic affairs." Meanwhile, White House press secretary Scott McClellan "said the Bush administration would not meet with Iran to negotiate the future of Iraq but rather to voice its concerns about what he called Iran's 'unhelpful role' in Iraq. It remained unclear on Friday whether Iraqi leaders would be invited to the meetings."

Also taking a negative tone, the Los Angeles Times (3/18, Richter, 958K) reports, "A day after raising international hopes by agreeing to hold direct talks about stabilizing Iraq, U.S. and Iranian officials Friday took a decidedly sharper tone toward each other, differing markedly over the purpose of their planned discussions." The Times adds, "As differences between the two sides intensified, fears grew that the longtime adversaries were jeopardizing an opportunity to help stabilize Iraq, an effort in which they both have an important stake."

But the AP (3/18, Schweid) in an analysis titled "Talks With Iran Could Help Bush" reports, "Possible negotiations between the United States and Iran and the convening of the first session of a new Iraqi parliament could give the Bush administration a long-needed lift. The recent inaugural session of Iraq's parliament is a positive step toward the new Iraq that President Bush envisions as he pursues a war that's unpopular with many Americans. Progress toward forging a unity government representing all of Iraq's sects would be a boost for a country that has been veering close to civil war." For the President, "whose dive in the polls reflects Americans' eroding confidence in his Iraq strategy, progress on either front would be welcome relief -- especially with midterm elections for control of Congress just eight months away."

Columnist Says Public Tiring Of Bush Rhetoric On War Against Terrorism. Roger Cohen in his "Globalist" column in the New York Times (3/18, 1.19M) faults President Bush for characterizing the war against terrorism writing "to frame the confrontation with this danger as a 'war'…is a political decision, one of whose effects has been to cast Bush as a 'war president.'" And now "the epithet is tired; Americans have soured on their war president. It's partly the festering situation in Iraq. But the disillusionment runs

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deeper. With his approval rating at 33 percent, according to a new poll by the Pew Research Center, Bush is in Nixonian territory." Cohen comes to a similar conclusion as Schweid's AP analysis saying, "Bush has a program, but he's increasingly seen as unable to deliver. … Talking to Iran -- the country identified in the new strategy as presenting the greatest challenge to America -- may help more by delivering results in Iraq and elsewhere."

WPost Warns Of Iran's Ulterior Motives. Echoing the Administration's concerns about negotiations with Iran, the Washington Post (3/18, A20, 744K) editorializes, "By drawing the Bush administration into talks about Iraq, the Iranians give themselves a shot at splintering or distracting the fragile coalition that may be forming in New York. Already Iranian officials are speaking openly about the possibility that any discussions would expand into the broader security dialogue that Tehran has long coveted with the United States. In Iraq -- where American soldiers are dying from Iranian-supplied roadside bombs and sectarian violence by Iranian-supported militias is steadily mounting -- the Islamic regime has a tacit and sinister offer to make: Back down in New York, and the carnage in Baghdad might just drop off. Even the appearance that the Bush administration might be considering such a trade-off would worsen the situation in Iraq and wreck a year of careful and mostly effective anti-proliferation diplomacy."

Iraqi Leaders Discuss Creation Of National Security Council. The New York Times (3/18, Semple, 1.19M) in its article on possible US talks with Iran on Iraq also reports, "The Sunni criticism" of possible talks "came as leaders of Iraq's major political blocs, as well as the American ambassador, gathered…to discuss the formation of a new Iraqi government." Those talks "focused on the proposal to create a national security council composed of leaders of the executive, judicial and legislative branches, as well as representatives of the country's main political blocs. The council would be consulted on pivotal national issues, like the economy, oil policy, public services and security." The Times notes, "Some Sunni leaders wanted the council's decisions to have binding executive authority. But, several participants said, the Shiite leadership and others were insisting that the council have only advisory powers, thereby safeguarding the constitutional powers of the executive."

UN To Seek Higher Profile In Iraq. The Washington Times (3/18, A1, Pisik, 90K) reports in a front page story that Ashraf Qazi, the special representative of U.N. Secretary-General Kofi Annan, "said that the United Nations will soon be raising its profile" in Iraq, "acknowledging that its 'perceived absence' has been noticeable since a tragic suicide bombing after the U.S. invasion three years ago."

Iraqi Officials Believe Samarra Ringleader Is In Custody. The Los Angeles Times (3/18, Johnson, 958K) reports, "Iraqi military officials said Friday that a continuing offensive targeting insurgents in the hardpan desert northeast of here has resulted in the capture of additional weapons and a man they believe is among those responsible for the recent bombing of a venerated Shiite Muslim shrine in Samarra." They are "checking photos and other documents." While "a handful of suspects have been arrested,…authorities have not identified them."

Violence Continues In Iraq. NBC Nightly News (3/17, story 3, :20, Williams, 9.87M) reported "though it's not clear whether it's connected to" Operation Swarmer, "the military says an American soldier in Samarra has been shot and killed." The CBS Evening News (3/17, story 2, 2:25, Schieffer, 7.66M) reported, "There was scattered violence in Baghdad, and pilgrims headed to the holy city of Karbala for a religious holiday on Monday found themselves caught in a highway of bullets and bombs. 19 people killed or wounded by drive-by shootings, by roadside and bus bombs there, and US forces are now bracing for more bloodshed as the holiday gets closer."

Study Finds Overlap, Resistance In Counterterrorism Efforts. The New York Times (3/18, A1, Shanker, 1.19M) reports, "A classified Pentagon study" ordered by Defense Secretary Donald H. Rumsfeld and conducted by retired four-star Gen. Wayne A. Downing Jr. "analyzing the effectiveness of Special Operations forces has found that the military's counterterrorism effort is hampered by bureaucratic duplication," especially "particular an overlap between" the new Center for Special Operations and the new National Counterterrorism Center. It also found "broad resistance to the Special Operations Command's new counterterrorism role." The study is "viewed as so provocative that the classified report has not been distributed widely."

Documents Show Iraqis Misled Weapons Inspectors. The AP (3/18, Shrader) reports, "Several dozen documents made public Friday by the U.S. government as part of a program allowing researchers, the media and Iraqis comb through millions of pages of documents and audio recordings confiscated since the 2003 invasion," show "Iraqi officials talked about when and how to deceive international authorities about their weapons programs in the mid-1990s."

Documents Suggest Hussein Aware Of Bin Laden Activity. And ABC News (3/17) on its web sight reports that a summary analysis of some documents released shows one dated Sept. 15, 2001 reveals "An Iraqi intelligence service

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document saying that their Afghani informant, who's only identified by a number, told them that the Afghani Consul Ahmed Dahastani claimed the following in front of him: That OBL and the Taliban are in contact with Iraq and that a group of Taliban and bin Laden group members visited Iraq. That the U.S. has proof the Iraqi government and 'bin Laden's group' agreed to cooperate to attack targets inside America." But in an editor's note, ABC states, "While the assertions contained in this document clearly support the claim," that bin Laden was cooperating with Hussien, "the sourcing is questionable" and "this document is of limited evidentiary value."

Al Qaeda Recruits Eager For Attacks Against US. The Los Angeles Times/AP (3/18, Ghattas) reports, "Recruits at Osama bin Laden's terrorist training camps in Afghanistan were clamoring for suicide missions against the United States more than a year before the Sept. 11 attacks, according to al-Qaida documents declassified by the U.S. Defense Department. One document published on the Pentagon Web site this week contained rare criticism of bin Laden from an al-Qaida operative, who accused the terrorist leader of monopolizing decision-making and ignoring advice."

Abu Ghraib Detainee Admits He Isn't Man In Photo. In a front page article, the New York Times (3/18, A1, Zernike, 1.19M) reports that Ali Shalal Qaissi a former detainee of Abu Ghraib prison, "now acknowledges he is not the" hooded man hooked up to wires "in the specific photograph he printed and held up in a portrait that accompanied" a Times article about him. However, Qaissi "appears with a hood over his head in some photographs that Army investigators seized from the computer belonging to Specialist Charles Graner, and "he and his lawyers maintain that he was photographed in a similar position and shocked with wires and that he is the one on his business card." The Washington Post (3/18, C1, Kurtz, 744K) adds, "The Times was hardly the only news organization to name Qaissi as the hooded prisoner, although its profile…gave him considerable prominence."

Jury Deliberating On Guilt Of Abu Ghraib Dog Handler's Guilt. The AP (3/18, Dishneau) reports, "A military jury began deliberating Friday in the case against" Sgt. Michael Smith, "an Army dog handler accused of using his barking animal to torment prisoners at Abu Ghraib for his own amusement." His "defense argued that Smith believed he was following orders in a chaotic and confusing environment," and "testimony in the trial revealed conflicting notions among prison workers about how dogs were supposed to be used and what the approval process was."

Military To Investigate Marines For Death Of 15 Iraqis During Firefight. The AP (3/18, Baldor) reports, "The military will investigate allegations of potential misconduct by Marines during a bombing and firefight last November that left 15 Iraqi civilians dead." The criminal investigation "will try to determine whether the Marines followed the international law of armed conflict, including whether they positively identified or tried to identify the enemy and whether they determined there was hostile intent, as they are supposed to do." The Knight Ridder (3/18, Brown) adds, "One official said it's unclear whether the Marines killed the civilians accidentally or whether they fired indiscriminately. It's also unclear whether all the civilians died in the same house or in separate locations."

Brain Damage Said To be "Signature Injury" Of Iraq War. Newsweek (3/18, Riccitiello) reports, "More than 1,700 military personnel wounded in Iraq and Afghanistan in recent years, Marine Cpl. Samuel Reyes Jr. is suffering from traumatic brain injury, known in military jargon as TBI, which leaves survivors unable to perform the most basic cognitive functions." As "TBI affects more than 25 percent of bomb-blast survivors," it is "the signature injury of the Iraq war," and "the increasing number of TBI survivors and the vexing limitations they face has become an enormous challenge for both military medicine and for the Department of Veterans Affairs, which will treat these survivors for life."

Father Of Soldier Doesn't Want Son Redeployed. H. Barry Holt, father of an American soldier, writes in an op-ed in the Washington Post (3/18, A21, 744K), "I generally accepted the reasons we went to war and worried about terrorism and weapons of mass destruction." However, once his son deployed, lack of information was stressful. "I had persistent nightmares about improvised explosive devices, mortar rounds, snipers and accidents, knowing nothing but fearing the worst." Also, "we were confused and angry at the Army when he asked us to buy ammo pouches and other military accessories that weren't issued to him." U.S Army and Marine parents "have seen far too much for people so young, and I don't want any of them to die. My son is home and alive. He has done his duty and I don't want him to go back."

Experts Discuss Whether Iraq War Was "Worth It." Time (3/18) reports, Time magazine publishes people's opinions on if the Iraq war was worth it. David Kennedy, Professor of History, Stanford University said "No. From the outset the war was a colossally bold and breathtakingly risky gamble. Unfortunately, and unsurprisingly, the United States has failed to beat the odds" when it followed an "extravagant ambition to transform the political culture of the entire Middle East." Hisham Kassem, Egyptian democracy activist, said "it achieved something useful. Parallel to the chaos and

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bloodshed, there is a political process evolving in Iraq." Also, Lawrence B. Wilkerson, Colonel, U.S. Army (ret.); former chief of staff for Secretary of State Colin Powell, said, "No. I'm principally a strategist and from that perspective the war has been a disaster."

Taliban Allies With Drug Lords Against Opium Eradication. The Washington Times (3/18, Duparcq, 90K) reports, "Taliban rebels determined to keep southern Afghanistan in chaos have teamed up with drug barons against the government and its opium eradication campaign." While "in their final two years in power…the Taliban banned opium," today "the Taliban rebels are willing to protect opium crops and farmers against the new administration in Kabul."

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Rosenberg Tapped As Northern Virginia US Attorney. The AP (3/18) reports, "Chuck Rosenberg, a veteran Justice Department lawyer serving as the top federal prosecutor in Houston, will take over the high-profile chief prosecutor's job in Alexandria, Va." The AP continues, "Attorney General Alberto Gonzales on Friday named Rosenberg the interim U.S. attorney for the Eastern District of Virginia. He replaces Paul McNulty, who was confirmed by the Senate late Thursday as deputy attorney general. … Rosenberg, 45, will be in charge of the office that is seeking the death penalty against Zacarias Moussaoui and has prosecuted other terrorism cases."

The Washington Post (3/18, B5, Markon) reports, "The Alexandria U.S. attorney's job has always been considered a law enforcement plum, and it grew increasingly visible after the Sept. 11, 2001, terrorist attacks as the Justice Department made McNulty's office a central front in terrorism prosecutions. The office won a guilty plea from Zacarias Moussaoui, the only person convicted in a U.S. courtroom on charges stemming from Sept. 11, and is now trying to convince a jury to execute him." The Post adds, "Other prominent cases in Alexandria have included the prosecutions of John Walker Lindh, a Californian convicted of fighting for the Taliban in Afghanistan, and of a group of Muslim men convicted of training overseas for holy war against the United States. The office also has been known to handle highly publicized espionage cases such as the Aldrich H. Ames and Robert P. Hanssen cases. … Law enforcement sources have said Rosenberg was the favored candidate to replace McNulty in part because his selection would provide continuity in terrorism prosecutions and national security. A Justice Department news release yesterday said Rosenberg has focused on counterterrorism, counterintelligence and national security matters in recent years."

CORPORATE SCANDALS:

Pelosi, Other Democrats Praised For Call To Revisit Sarbane-Oxley. In a Wall Street Journal op-ed (3/18), Mallory Factor, chairman of the Free Enterprise Fund, says, "Have America's entrepreneurs and corporate leaders found a new voice of regulatory sanity in, of all people, Nancy Pelosi? Apparently so, and that should be a wake-up call to Republicans -- because like everything else in the free market, the free enterprise agenda is up for grabs." In the recent "Innovation Agenda" that the House Minority Leader "and her party unveiled, Ms. Pelosi acknowledges specifically the need to 'ensure Sarbanes-Oxley requirements are not overly burdensome,' and endorses reform. Meanwhile, the scourge of Wall Street, New York Attorney General Eliot Spitzer, is criticizing Sarbanes-Oxley's 'unbelievable burden on small companies' and its possible role in 'preventing some initial public offerings.'" Pelosi and "other Democrats have been quicker to recognize what many traditional champions of free enterprise have been slow to see: the law's disastrous consequences for our nation's ability to compete."

CRIMINAL LAW:

Prosecutor Disputes Libby Effort To Quash Indictment. The AP (3/18) reports Special Counsel Patrick Fitzgerald "disputed the claim" of I. Lewis "Scooter" Libby, Vice President Dick Cheney's former chief of staff, that he "lacks legal authority to indict him in the CIA leak investigation." Fitzgerald "argued that being allowed to operate outside any control of the Justice Department is constitutional and in accordance with federal law."

Judge Drops Fraud Charges Against Virginia Executive. The Washington Post (3/18, D1, Kang) reports, "Charges have been dropped against Northern Virginia businessman Frank L. Cowles Jr., who was arrested in November on allegations of conspiring to defraud a hedge fund out of $25 million." The Post continues, "A U.S. District Court judge in Chicago dropped criminal charges against Cowles on March 1 after the U.S. attorney's office there filed a motion to dismiss. Cases continue against two men who were charged with Cowles for allegedly defrauding a Chicago-based fund. … Cowles's attorney, Robert D. Luskin of the law firm Patton Boggs in the District, said the complaint against Cowles was a mistake and that his client had been the victim of a scheme that cost him a great financial loss." The Post adds, "The two men still facing prosecution in the case are accused by prosecutors of wire fraud. Richard E. Warren of Fredericksburg, who has pleaded not guilty, was

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indicted and detained. A complaint against David L. Myatt of Los Banos, Calif., is pending."

Nearing Halfway Point, Enron Trial May Hinge On Defendants' Testimony. The AP (3/18, Hays) reports, "The fraud and conspiracy trial of Enron Corp. founder Kenneth Lay and former CEO Jeffrey Skilling is reaching its halfway mark: Seven weeks, 15 prosecution witnesses and more to come. … Yet for all the government's methodical efforts to show through documents, video and audio tapes and those witnesses' memories of how the former corporate titans repeatedly lied about the disgraced company's financial health, the jury's conclusion may hinge on what the defendants say if they testify as expected." The AP continues, "The government has already brought on its highly anticipated witnesses. This past week started with former Chief Financial Officer Andrew Fastow's fourth and last day on the stand. Fastow, an admitted liar and thief, hid none of his own culpability as he said he helped Lay and Skilling lie about Enron's financial health. … The week wrapped with Sherron Watkins, the former vice president hailed as a hero by Congress for warning Lay of impending financial disaster months before the company crashed, denting Lay's claim that he believed the company was strong at the time. … Yet a conviction is far from a foregone conclusion. … 'It's the difference between legitimate spinning and impermissible lying,' Robert Mintz, a former federal prosecutor who has followed the trial, said of what will likely drive the outcome of the biggest fraud case to emerge from the recent era of corporate scandals. … 'In a case like this, if Lay or Skilling or both take the stand, it becomes almost a new trial in the sense that jurors will either believe them or disbelieve them,' Mintz said." The AP notes, "The government's 'brick by brick' approach is living up to expectations of putting together a puzzle without betting all on a single witness, said Michael Wynne, another former federal prosecutor in Houston who has observed much of the trial."

The Washington Post (3/18, D1, Johnson) reports, "Seven weeks into the blockbuster fraud trial of Lay and Skilling, defense lawyers have tried to wear down the government's witnesses with questions tailored to exploit personality quirks, large or small. Cross-examination, after all, is a high-stakes game of endurance and amateur psychology -- a matter of finding a witness's Achilles' heel, that trait most likely to undermine their performances on the witness stand. … And, in this case, the defense has plenty of weapons at its disposal. 'The fact is, the defense does have a somewhat unusual amount of material to cross-examine them with,' said Washington criminal defense lawyer E. Lawrence Barcella Jr. of the Enron investigation, which generated countless articles and voluminous written reports from Congress, a bankruptcy examiner, the company's board and federal regulators. … The defense came out of the gate in February determined to test the endurance of the government's witnesses, many of them former executives who pleaded guilty and agreed to testify in exchange for reduced prison terms. Former investor relations chief Mark E. Koenig, the fraud trial's first witness, remained on the stand for eight days -- including five of protracted cross-examination in which a tired Koenig sometimes appeared to agree with the defense on certain points, if only to shorten his ordeal."

9th Circuit Reverses Death Sentence Of Los Angeles Man. The Los Angeles Times (3/18, Suarez) reports, "A federal appeals court on Friday overturned the death sentence of a Los Angeles man who avenged the loss of his therapist by murdering her husband." The Times continues, "The U.S. 9th Circuit Court of Appeals upheld William Clark's conviction, which included murder, two counts of attempted murder, rape and arson. But the court said the judge had misled the jury about death penalty law. The court also said the California Supreme Court should have overturned the penalty during its review." The Times adds, "Ava Gawronski was counseling Clark, a 37-year-old Canoga Park underwriter, and his wife, but stopped treating him after he threatened to rape her in her office. … In January 1982, Clark set Gawronski's West Los Angeles house ablaze. His intent, Clark said during his trial, was to chase the family out so he could shoot and kill David Gawronski, a 35-year-old federal job trainer, in front of his wife and infant daughter. … Instead, David Gawronski perished in the fire."

US May Drop Capital Case Against Massachusetts Men. The Boston Herald (3/18, Sweet) reports, "Federal prosecutors may soon drop the controversial death-penalty case against two Dorchester men the federal government wanted to try for murder and gang activity." The Herald continues, "Pending a green light from U.S. Attorney General Alberto Gonzales, murder and racketeering indictments against Darryl Green and Branden Morris could be dropped as early as next month. … Prosecutor Theodore Heinrich said in court documents 'the likelihood of dismissal is so great' after two co-defendants of Green and Morris who weren't facing capital punishment were acquitted, that it would be futile to go on." The Herald adds, "Green's defense counsel, Randolph Gioia, said, 'The only reason you bring a case like this to federal court is because you want to make an example of these kids.' … In order to successfully prosecute Green, 28, and Morris, 22, in federal court for the 2001 murder of Terrell Gethers, the government had to prove a racketeering case against them. But in January, Judge Nancy Gertner ordered acquittals in the companion case of Jonathan Hart, 24, and Edward Washington, 25, after a jury deadlocked on whether their

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street-corner crew operated on the same "criminal enterprise" level as the Mafia. … Green and Morris still face federal drug charges and may yet be tried for Gethers' homicide in state court."

Philadelphia Councilman Convicted Of Corruption. The Philadelphia Inquirer (3/18, Shiffman, Schaffer) reports, "Rick Mariano, an electrician who rose from a tough corner of Northeast Philadelphia to become a city councilman, was convicted of corruption charges yesterday and led from a federal courtroom in handcuffs." The Inquirer continues, "Mariano's wife, son and staffers did not flinch at the guilty verdicts, but Susan Mariano and others gasped when U.S. District Judge Lawrence F. Stengel ordered the councilman imprisoned immediately. Stengel, citing Mariano's suicide scare at City Hall shortly before last year's indictment, revoked bail pending a psychiatric evaluation." The Inquirer adds, "Mariano, 50, became the first elected city official convicted in 15 years, and under state law he can remain on Council only until he is sentenced, probably by midsummer. Mayor Street, a longtime friend, called on Mariano yesterday to resign immediately. Mariano's top aide vowed the councilman would not step down. … The jury deliberated for about six hours before convicting Mariano of 18 counts, including conspiracy, bribery, money laundering, fraud and tax charges. He was acquitted of four fraud charges." The Philadelphia Daily News (3/18, Brennan, Hinkelman) adds Meehan said that Mariano "had turned his Council post into 'a branch office for businesses that will pay bribes to get things done.' … Mayor Street, in a statement, called on Mariano to resign from Council, saying that was in the 'best interests of the city.' Street, who often joked with Mariano that they were so close they called each other 'cousin,' said Mariano was a close friend but not above the law."

The AP (3/18, Dale) notes, "More than a dozen people have been convicted in the various probes, one of which became public when police discovered an FBI bug in Mayor John F. Street's office in October 2003." UPI (3/18) also briefly reports on the conviction.

Meanwhile, The Philadelphia Inquirer (3/19, Schaffer) reports on Mariano's conviction in light of his political career, noting, "Other crooked Philly pols have reached for the stars, conspiring with mobsters or taking bribes from purported Arab sheikhs. But Mariano, the ultimate neighborhood guy, was felled by just under $30,000 in ill-gotten gains - less than a third of his City Council salary."

Mariano Intends To Keep Council Seat Until Sentencing. The Philadelphia Inquirer (3/18, Schaffer) reports Mariano's conviction "throws into question the future of the City Council seat he has held since 1996. Pennsylvania's constitution bars felons from elected office, meaning Mariano must step down. But moments after Mariano's bail was revoked and he was led away to detention, his chief of staff said Mariano intended to stay in office until sentencing, as the law allows. … By declining to step down until his sentencing, Mariano will keep drawing his $102,000 salary." The Philadelphia Daily News (3/18) adds, "Council President Anna Verna said…Mariano must resign when he is sentenced. Verna on Thursday asked City Solicitor Romulo Diaz to issue a legal opinion to back that up. But Verna stopped short of saying if she would call a special election to fill Mariano's post, calling that 'premature.'"

Philadelphia Inquirer Praises Verdict, Calls For Mariano To Resign. In an editorial, The Philadelphia Inquirer (3/18) hails the verdict, saying "this is a big city; crime and corruption are going to happen. You just want to feel that decent people can fight back, can stem the tide. This time, the courts offered hope." The Inquirer also calls for Mariano "to do the right thing, for once: resign his seat, instead of hanging on pointlessly until his sentencing forces the issue. His friends on Council, who vouched for his redeeming qualities at trial, should let him know it's best for him to go now."

Former Chicago City Clerk Pleads Guilty To Taking Bribes. The Chicago Tribune (3/18, O'Connor , Bush) reports, "Former Chicago City Clerk James Laski, the highest-ranking city official charged in the federal probe of the city's Hired Truck Program, pleaded guilty Friday to pocketing nearly $50,000 in bribes for steering city business to two trucking companies." Laski's friend and city employee Randy Aderman also pleaded guilty Friday to bribery charges. "According to court records, Frank Cannatello, another Hired Truck defendant who pleaded guilty this month to lying to FBI agents, asked Aderman to help obtain Hired Truck business after Cannatello and a relative started FRC Trucking. Friday's guilty pleas by Laski and Aderman bring to 34 the number of convictions in the Hired Truck probe." The Chicago Sun-Times (3/18, Korecki) adds, "When asked what Laski would tell others in City Hall who thought about taking bribes, his lawyer Jeffrey Steinback responded: 'Don't do it, don't do it.'" The Sun-Times notes, "44 people have been charged in the federal government's investigation of Chicago's Hired Truck Program, including 26 city workers." The AP (3/18, Robinson) and Los Angeles Times (3/18, Huffstutter) also report on Laski's and Aderman's guilty pleas.

Illinois Man Held In Isolation After Being Charged With Child Pornography. The Chicago Sun-Times (3/18, Korecki) reports, "A Bartlett (IL) man indicted this week on charges he molested an infant and broadcast it live over an Internet chatroom is being kept in isolation after his lawyer complained he was receiving threats from other inmates." The Sun-Times continues, "Brian

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Annoreno, 29, is being held in a Kankakee lockup, but his lawyer, Michael Falconer, said Annoreno also needs to be kept in isolation when he is taken to court appearances in Chicago for his own safety. … 'Regular street criminals hate people who are accused of being child molesters,' Falconer said." The Sun-Times adds, "Falconer said Annoreno was getting threats from inmates and harsh words from jail guards. … Annoreno and two others charged this week with being tied to a child pornography chatroom pleaded not guilty to the charges Friday. U.S. Attorney General Alberto Gonzales flew to Chicago on Wednesday to announce that the chatroom was shut down and a worldwide investigation had nabbed 47 people. … Falconer criticized the feds Friday for putting on a 'dog and pony show,' saying Gonzales' news conference was 'deplorable' and over the top. Gonzales said the crimes were particularly disturbing because the chatroom allegedly broadcast video showing young children being molested. But Falconer said the prosecution does not have evidence of those videos except for a witness' testimony."

Indiana County Launches Cyber Sex Crime Unit. The Indianapolis Star (3/18, Bird) reports, "Johnson County (IN) officials have formed a 'Cyber Sex Crimes Task Force' to protect children from Internet predators." The Star continues, "County Prosecutor Lance Hamner appointed Deputy Prosecutor Paul Felix to spearhead the effort. … Greenwood police Detective Erick Klinkowski, Franklin police Detective Brain Goldfarb and Johnson County Sheriff's Detective Bill Pfifer are the rest of the task force." The Star adds, "A month ago, U.S. Attorney General Alberto Gonzales announced the Justice Department's Safe Child Initiative to stop sexual exploitation of children through the Internet. … The county team recently returned from Washington, D.C., after getting training on procedures and protocols to use during investigations and prosecutions of Internet predators. … Klinkowski already has conducted two stings that led to arrests and convictions, one a special deputy with the Genesee County (Mich.) Sheriff's Department who traveled to Greenwood to meet a 13-year-old girl, Hamner said."

Judge Sentences California ELF Members To Prison For Ecoterror Arsons. The Sacramento Bee (3/18, B1, Carreon) reports, "A follower of an eco-terrorism group and two other Newcastle residents were sentenced Friday in Sacramento federal court for their roles in attempted firebombings of buildings under construction. Ryan Daniel Lewis, the 22-year-old admitted adherent of the Earth Liberation Front…was sentenced to six years in federal prison for orchestrating arsons in Placer and Amador counties in late 2004 and early 2005." Sisters Lili Marie and Eva Rose Holland "were sentenced to two years each in prison." During the sentencing, US District Judge Edward J. Garcia "chided defense attorneys for misusing the term 'idealism' in explaining their clients' actions," saying, "I consider this type of terrorism most serious crime." The Los Angeles Times (3/18) briefly reports the story under the headline "6-Year Prison Sentence In Series of Arsons," as does the AP (3/18), under the headline "3 Eco-Terrorists Sentenced For Firebombs."

CIVIL LAW:

Google Won't Have To Disclose Web Search Data. The Wall Street Journal (3/18, Delaney, 2.11M) reports US District Judge James Ware "ruled Friday that Google Inc. did not have to turn over data about consumer Web search queries that the Department of Justice had requested." Juge Ware "ordered Google to work with the government to provide 50,000 randomly selected addresses for Web sites from its databases. But he denied government lawyers' request for a sampling of 5,000 search queries entered by Google users, concluding that they essentially duplicated information the government could glean from the Web addresses."

The Los Angeles Times (3/18, Gaither, 958K) reports Judge Ware's ruling "was a victory for Google, which argued that handing over the records would violate the privacy of people who might scour the Internet with terms as diverse as 'best-actor nominees,' 'third trimester abortion' or 'pipe bomb.'" Although Ware "required Google to reveal some information about the websites in its database, he ordered the government to reimburse the Mountain View, Calif., company for the time and expense required to comply." Privacy advocates "cheered the decision as a check on the Bush administration's efforts to collect information about people, but noted that the trove of personal data gathered and stored by sites like Google was irresistible to investigators."

The AP (3/18, Liedtke) and Bloomberg (3/18) also report this story.

WSJournal Says Google, Other Net Firms "Innocent Bystanders" In COPA Lawsuit. The Wall Street Journal (3/18, 2.11M) says in an editorial, "This outcome may seem Solomonic, but the precedent is still troubling. The subpoena that started it all emerged from a separate case being tried in Pennsylvania. In that case, the ACLU is challenging the constitutionality of the 1998 Child Online Protection Act, or COPA." The government "wants to use" the "search data" from Google, Yahoo, and MSN "as part of its effort to show that the law is necessary to protect minors from the Internet's seamier side. But these companies are innocent bystanders in the dispute over the constitutionality of COPA."

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CIVIL RIGHTS:

DOJ Forges Deal With North Carolina On Overseas Voting. The Charlotte Observer (3/18) reports, "The Justice Department said it had reached an agreement with North Carolina officials that will allow military and other overseas voters to participate in a second primary election, if one is needed this year. … The U.S. District Court in Raleigh still must approve the agreement." The Observer continues, "The agreement was filed at the same time as the Civil Rights Division filed a lawsuit because of the short amount of time between North Carolina's primary and runoff elections. Federal officials said in a news release Thursday that the four-week break doesn't provide enough time to get runoff ballots to and returned from absentee voters. … Besides other changes, the state and federal governments agreed that all military and overseas voters requesting an absentee ballot for the primary election also will receive a blank write-in ballot for a runoff. They also agreed to allow write-in ballots to be faxed and e-mailed, if necessary." The Observer notes, "The agreement also provides for reporting to the court on the status of the North Carolina Legislature's efforts to find a permanent solution to the timing problem. … 'These measures provide an immediate solution while the Legislature adopts permanent procedures, as we trust they will promptly,' Wan J. Kim, assistant attorney general of the Civil Rights Division, said in a statement."

Group Sues Libraries For Blocking Access To Web Site. The St. Louis Post-Dispatch (3/18, Shinkle) reports, "The Council of Conservative Citizens, a nationwide group that has been portrayed as racist, is suing four libraries in the St. Louis area for allegedly blocking patrons from viewing its Web site." The Post-Dispatch continues, "Gordon Baum, a lawyer from St. Charles who is the group's chief executive, said the U.S. Constitution protects the public's right to see his Web site. … 'We don't believe we're any more to the right than the NAACP is to the left,' he said, adding that his group does not advocate violence." The Post-Dispatch adds, "The site, cofcc.org, does not feature the racial epithets commonly used by racist groups. It does, however, provide a slate of news stories about crime by blacks or immigrants. It also offers for sale a T-shirt with the words, 'White Pride,' 'Deutschland' and 'Save Our Culture.'" The Post-Dispatch adds, "The Southern Poverty Law Center says that racism 'underlies' the group and that it has long had ties to politicians the law center considers racist. … Baum filed a suit in U.S. District Court on Monday claiming the Maplewood City Library, University City Public Library, Valley Park Community Library and Festus Public Library had violated his constitutional right to free speech by blocking access to the Web site. At least two of the libraries say they now permit patrons to view the site."

Whistleblower Who Allegedly Stole Papers About Voting Machines Faces Charges. The Los Angeles Times (3/18, So) reports, "A whistle-blower to some, a thief to others, Stephen Heller says he's a regular guy, not an activist or a member of any political group. … But charged last month in Los Angeles with three felonies for allegedly stealing damaging documents about voting machine manufacturer Diebold Election Systems, Heller has become a hero to digital rights and political activists who say he helped expose a threat to the election system." The Times continues, "Prosecutors say Heller, a 43-year-old actor and resident of Van Nuys, took more than 500 pages of Diebold-related documents, including memos from the company's attorneys at the Jones Day law firm. The memos suggested that the company might have broken state law by providing Alameda County with voting machines that had not been certified by the state. … 'This case is not about whistle-blowing. It's about theft of attorney-client privileged material from an attorney's office,' Los Angeles County district attorney spokeswoman Sandi Gibbons said. … But activists and bloggers — including the California Voter Foundation; Black Box Voting, an electronic voting group; and the liberal http://www.huffingtonpost.com website — say the purloined documents, some of which turned up on the Oakland Tribune website, helped spur a state crackdown on Diebold."

Alabama Bill Would Make Rights Activists Eligible For Pardon. The Los Angeles Times (3/18, Fausset) reports, "Civil rights activists and others convicted under laws that enforced racial discrimination would be eligible for a pardon from the state of Alabama under a bill working its way through the Legislature, the bill's sponsor said Friday." The Times continues, "Rep. Thad McClammy said that his proposed 'Rosa Parks Act' would serve the symbolic purpose of bestowing posthumous pardons on activists like Parks, whose 1955 arrest sparked the 381-day Montgomery bus boycott. … But McClammy, a Democrat, said the pardons also could help living veterans of the segregated South, who still may have trouble explaining away their arrests when applying for jobs or loans." The Times adds, "Some of the most famous arrests of the civil rights era occurred in Alabama in the 1950s and '60s. Parks was convicted of violating Montgomery's municipal code for refusing to move to the back of a city bus. Dozens more were charged under anti-boycott and curfew statutes. … McClammy's bill unanimously passed the Democratic-controlled Alabama House Judiciary Committee this week; House Minority Leader Mike Hubbard predicted that his fellow Republicans probably would support the measure."

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Questions Remain After Second Autopsy In Teen Boot Camp Death. The New York Times (3/18, Goodnough) reports, "Martin Lee Anderson was buried a second time this week, more than two months after he died following a confrontation with guards at a boot camp for teenage offenders in the Florida Panhandle. But questions about his death, and whether the state should close all its boot camps in the aftermath, are very much alive." The Times continues, "After supervising a second autopsy of Martin's body on Monday, a special prosecutor appointed by Gov. Jeb Bush disputed the findings of the original pathologist in the case: that the youth had died from complications of sickle cell trait, an undiagnosed blood disorder. But the prosecutor, Mark Ober, would not say more until his broader investigation of the case was finished." The Times adds, "The guards at Bay Boot Camp in Panama City kneed, kicked and hit Martin, 14, after he stopped running during an orientation drill on Jan. 5. He had been sent to the camp for violating probation after stealing his grandmother's car. In a videotape, which the state released after news organizations sued for it, the boy appears limp throughout the encounter. … He died early on Jan. 6, and when the original autopsy report came out a month later, his parents, lawmakers and civil rights groups expressed outrage. Even after Mr. Ober said through a spokeswoman that Martin 'did not die of sickle cell trait, nor did he die of a natural cause,' the medical examiner who made those findings, Dr. Charles Siebert of Bay County, stood by them."

6th Circuit Panel Allows Tennessee To Issue "Choose Life" License Plates. The AP (3/18, Johnson) reports, "A federal appeals court Friday allowed Tennessee to offer anti-abortion license plates bearing the message 'Choose Life.'" The AP continues, "A three-judge panel of the 6th U.S. Circuit Court of Appeals in Cincinnati overturned a lower-court ruling that said the tag illegally promoted only one side of the abortion debate. … 'Although this exercise of government one-sidedness with respect to a very contentious political issue may be ill-advised, we are unable to conclude that the Tennessee statute contravenes the First Amendment,' Judge John M. Rogers said in a 2-1 ruling." The AP adds, "An anti-abortion group, Tennessee Right to Life, declared victory. … 'It's a validation of our position all along that the Legislature had the authority to authorize a plate that favors normal childbirth over the practice of abortion,' said Brian Harris, the group's president." The AP notes, "In a dissenting opinion, Judge Boyce F. Martin Jr. said the plates should be banned because they amount to unconstitutional viewpoint discrimination. … The plaintiffs, the American Civil Liberties Union of Tennessee and Planned Parenthood of Middle and East Tennessee, said they were still reviewing Friday's ruling."

Two New Deaths Linked To RU48. The New York Times (3/18, Harris, 1.19M) reports, "The FDA has now received reports that six women in the United States died after taking RU-486, or Mifeprex." The two recent deaths, "and two of the previous four underwent their procedures at Planned Parenthood clinics, a spokeswoman said. Federal officials do not yet know the cause of the latest two deaths."

The Washington Post (3/18, A6, Kaufman, 744K) reports, "Opponents of abortion quickly described the FDA advisory as another reason to ban the abortion pill, sold as Mifeprex. Sen. Jim DeMint said,"RU-486 is a deadly drug that is killing pregnant women. … This drug should never have been approved, and it must be suspended immediately." The Washington Times (3/18, Price, 90K) and The Los Angeles Times (3/18, Rockoff, 958K) reported a similar stories.

Wal Mart To Carry "Morning After Pill". The Wall Street Journal (3/18, Zimmerman, 2.11M) reports, "On Monday, Wal-Mart Stores Inc. is set to sell for the first time prescription emergency contraceptives commonly referred to as Plan B or the morning-after pill. The move comes after a short but vociferous activist campaign that labeled the world's largest retailer as antiwomen for being the only large pharmacy chain in the country that refused to stock the pills.

Courts Seen As Complicating Abortion Debate. In an op-ed for the Wall Street Journal (3/18, 2.11M) James Wilson, an author and professor writes, "Abortion has become the key test for selecting people for high-level judicial offices." But, "abortion is scarcely an issue in most European democracies, not because the people who live there have views radically different from American ones, but because legislatures, not courts, authorized abortions using language that tried to strike a reasonable balance among competing views."

FDA Reconsiders Ban On Gay Blood Donors. The Washington Post (3/18, A6, Stein, 744K) reports the FDA, "is considering revising its policy that bars as a blood donor any man who has had sex with another man since 1977." The change was urged by, "the American Red Cross, the American Association of Blood Banks and America's Blood Centers." The groups recommend, "men be barred from donating for only a year after having had sex with another man, treating them the same as other groups at increased risk for spreading sexually transmitted virus through donated blood."

ANTITRUST:

DOJ May Oppose Maytag-Whirlpool Merger. The AP (3/18, Pitt) reports, "Shares of Maytag Corp. (the parent of North Canton's Hoover Co.) and Whirlpool Corp. fell

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Friday on speculation that the federal government may challenge their proposed merger." The AP continues, "Whirlpool, based in Benton Harbor, Mich., has proposed a $1.79 billion acquisition of Maytag. … The U.S. Department of Justice antitrust division sought an extension to review the merger last month. The companies have agreed not to close the transaction before March 30." The AP adds, "A leading antitrust lawyer said a decision is likely to come next week. … Steven C. Sunshine, a supervisor of the antitrust division's merger enforcement program from 1993 to 1995, said antitrust attorneys have expected the government to challenge the deal because it concentrates so much power in one company. … The merger would create a company that produces half of the dishwashers in the United States and more than 70 percent of its clothes washers and dryers. Under long-standing federal guidelines, a rise in market concentration of that magnitude would usually draw a court challenge. … Gina Talamona, spokeswoman for the Justice Department, declined to comment Friday, confirming only that the merger is still under review."

Bloomberg (3/18) reports, "Antitrust enforcers are worried the Whirlpool deal would let the combined company raise prices through control of more than two-thirds of the U.S. market for some appliances, said antitrust lawyers who spoke on condition of anonymity because they aren't authorized to talk about the case. They said the government has questioned such retailers as Lowe's Cos. and Home Depot Inc. and Whirlpool's manufacturing rivals. … The decision on whether to pursue the agency's first court challenge to a takeover in two years will be up to the Bush administration's new antitrust chief, Thomas O. Barnett, 44. It will be the first test of his approach to mergers since he won Senate confirmation Feb. 10 as assistant attorney general. … 'If they don't challenge this merger, Ford and General Motors is next,' said Steven M. Axinn, a New York antitrust lawyer not involved in the transaction. 'Unless someone can argue that Maytag is going out of business, I don't understand how the government can let this deal happen.'"

Four Firms Under DOJ Probe For Alleged Chemical Price-Fixing. The Beaumont (TX) Enterprise (3/18, Wallach) reports, "Four U.S. chemical companies, including two with a major Southeast Texas presence, received subpoenas from the U.S. Department of Justice as part of an investigation into possible anti-competitive pricing in certain materials that are used in a variety of consumer goods. … The companies include Huntsman Corp., BASF Corp., Dow Chemical Co., and Lyondell Chemical Co." The Enterprise continues, "The justice department delivered the subpoenas for documents to the companies in mid-February, said publicists for three of the companies contacted Friday by The Enterprise. … A spokeswoman for the justice department acknowledged the investigation but offered little detail. … 'The anti-trust division is investigating the possibility of anti-competitive practices in the polyurethanes industry,' said justice department spokeswoman Gina Talamona."

Experts See No Antitrust Violations In Airline Meetings. The Fort Worth Star-Telegram (3/18, Cox) reports, "Officials from American Airlines and Southwest Airlines could negotiate a proposal to resolve the Wright Amendment controversy without running afoul of federal antitrust laws, legal experts said Friday." The Star-Telegram continues, "Legal precedent allows competing businesses 'to petition government' and propose legislation or regulation if they are not conspiring to fix prices or divide up market share, experts said. American says it is reluctant to enter talks with Southwest on Wright for fear of an antitrust inquiry or Justice Department lawsuit." The Star-Telegram adds, "What the legal community calls the Noerr-Pennington doctrine, named for two precedent-setting Supreme Court cases, allows competing companies to work together to influence the legislative or executive branch of government without violating the Sherman Antitrust Act. … 'No violation of the Sherman Act can be predicated upon mere attempts to influence the passage or enforcement of laws, and the Sherman Act, therefore, does not prohibit two or more persons from associating together in an attempt to persuade the legislature or the executive to take particular action with respect to a law that would produce a restraint or monopoly,' the court ruled in the 1961 Noerr case. … In the cases, the court ruled that the constitutional guarantee of individuals' and corporations' right to petition government supersedes antitrust laws, designed to preserve competition among businesses."

Merger Mania Builds On Momentum Of Telecom Deal. The New York Times (3/18, Stein) reports, "March madness is not limited to college basketball. Billions of dollars in mergers were announced this week, building on the momentum created when AT&T offered to acquire BellSouth for $67 billion earlier in the month." The Times continues, "The trend even swept up entire stock exchanges, as the Nasdaq Stock Market offered to buy the London Stock Exchange (just as the New York Stock Exchange was weighing a bid of its own), and Euronext, the owner of the Paris, Amsterdam, Brussels and Lisbon stock markets, said it was interested in buying Deutsche Börse, the German exchange." The Times adds, "Eager to further diversify its business amid rising interest rates and slowing growth for credit card issuers, Capital One Financial, the big credit card company, agreed to buy the North Fork Bancorporation, a regional bank serving the Northeast, for about $14.6 billion in cash and stock. … After its acquisition

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last fall of the Hibernia National Bank in New Orleans, Capital One would have deposits of more than $84 billion when its North Fork acquisition is completed. It would have more than 50 million customer accounts and 655 branches from White Plains to Brownsville, Tex."

ENVIRONMENT:

DC Court Overturns Administration's New Source Review Policy. The United States Court of Appeals for the District of Columbia Circuit yesterday overturned the Environmental Protection Agency's New Source Review policy, ruling that the Bush Administration's implementation of the Clean Air Act provision failed to square with the statutory language. The story was widely covered by the major dailies this morning; the media consensus is that the ruling is a significant setback to the Administration's environmental policy.

The New York Times (3/18, Janofsky, 1.19M) reports the court "on Friday overturned a clean-air regulation issued by the Bush administration that would have let many power plants, refineries and factories avoid installing costly new pollution controls to help offset any increased emissions caused by repairs and replacements of equipment." Unlike its "ruling last summer, when the court largely upheld the E.P.A.'s approach against challenges from industry, state governments and environmental groups, the new ruling was a defeat for the agency and for industry, and a victory for the states and their environmentalist allies."

The Los Angeles Times (3/18, Gerstenzang, 958K) the court's decision dealt "a sharp setback to the Bush administration," ruling that the EPA "had relied on 'Humpty Dumpty' reasoning in arriving at a rule that critics said would have eased enforcement of a law intended to reduce industrial air pollution."

The Washington Post (3/18, A1, Eilperin, 744K) reports in a front page story that the court's ruling blocks the Bush Administration's "four-year effort to loosen emission rules for aging coal-fired power plants, unanimously ruling yesterday that the changes violated the Clean Air Act and that only Congress could authorize such revisions." The court "sided with officials from 14 states, including New York, California and Maryland, who contended that the rule changes -- allowing older power plants, refineries and factories to upgrade their facilities without having to install the most advanced pollution controls -- were illegal and could increase the amount of health-threatening pollution in the atmosphere."

The Wall Street Journal (3/18, Dalton, 2.11M) reports the court "handed environmentalists a victory Friday." State officials "hailed the appeals-court ruling. New York Attorney General Eliot Spitzer, who led the states' action, called the ruling 'an enormous victory for clean air and for the enforcement of the law and an overwhelming rejection of the Bush administration's efforts to gut the law.'"

Bloomberg (3/18, Arthur) reported John Engler, president of the National Association of Manufacturers, "said the ruling was a 'significant setback to business efficiency and, for that matter, environmental quality.'"

Future Of ANWR Provision Uncertain. The Washington Post (3/18, A5, Weisman, 744K) reports a "last-minute deal to secure the vote of Sen. Mary Landrieu (D-La.) on a $2.8 trillion budget plan has given new life to the Republican drive to open Alaska's Arctic National Wildlife Refuge to oil drilling." The budget resolution "includes a $10 billion Gulf Coast restoration fund that would be financed from the leasing of arctic refuge drilling rights, revenue from new drilling in the Outer Continental Shelf of the Gulf of Mexico and further sales of the broadcast spectrum." But it is "not clear whether the political equation has shifted at all since December, when moderate Republicans -- led by Rep. Charles Bass (R-N.H.) -- forced their leaders to take arctic drilling out of a 2006 budget-cutting measure to secure their votes."

FBI/DEA/ATF/USMS:

Mexico Tries To Re-Up Drug Interdiction Program. Knight Ridder (3/18, Root) reports, after the general in charge disappeared and a noticeable increase in border-region drug killings, "Mexican officials, recognizing that the Secure Mexico program had failed, announced a new program this week, dubbed Northern Border. Under the program, 600 to 800 more federal police agents were dispatched to this besieged border city. But few expect that to make much difference, and drug traffickers weren't intimidated: On Thursday, they gunned down four federal police intelligence agents in broad daylight outside a school here. At least 30 shots were fired into the agents' bodies."

IMMIGRATION:

Frist Sponsors Hard Line Immigration Bill. The AP (3/18, Gamboa) reports Senate Majority Leader Bill Frist "sidesteps President Bush's call for giving illegal immigrants temporary work permits in an election-year immigration bill the Tennessee Republican unveiled Friday." Frist "said the Senate will turn to his proposal to tighten borders, punish employers who hire illegal immigrants and provide more visas if the Senate Judiciary Committee doesn't complete a broader bill in the next 10 days." But a "clear majority on the 18-member committee has come out in favor of a 'guest worker'

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program that would let employed illegal immigrants remain in the U.S. — at least temporarily — rather than be deported."

NYTimes Praises Specter For Reaching Consensus On Immigration. The New York Times (3/18, 1.19M) says in an editorial that "a bipartisan consensus emerged" in the Senate Judiciary Committee last week as Chairman Arlen Specter "endorsed the principle behind an earlier bill sponsored by Senators John McCain and Edward Kennedy: that illegal immigrants who met strict criteria and paid fines and back taxes should have a path to permanent residency and citizenship." But the "blowback was instantaneous." Majority Leader Bill Frist "announced that he would be putting his own bill forward as an alternative to the committee's. Seventy-one House members signed a letter saying that the Judiciary Committee's actions were 'fundamentally incompatible' with the House's strident vision of immigration reform, which completely rejects the idea of providing illegal immigrants any path to legalization." Specter "often wilts under party pressure like lettuce in a broiler, but he has shown admirable resilience in working to get a comprehensive immigration bill to the Senate floor."

Ahearn Asks Bush To Support Citizenship Bill For Illegal Immigrants. The CBS Evening News (3/17, story 6, 2:30, Schieffer, 7.66M) reported, "On this St. Patrick's Day, the visitor at the White House was, who else, the Prime Minister of Ireland, Bertie Ahearn. He told the President he is still committed to the 1998 Northern Ireland peace accord. And he asked the President to support a Senate bill that would allow illegal immigrants from Ireland to stay in this country. Like many people here illegally, thousands of Irish live in daily fear." CBS (Alfonsi) added, "The Irish are urging Washington legislators to open some doors. Senators John McCain and Ted Kennedy are sponsoring a bill that would make it easier for all immigrants in this country illegally to earn legal status."

The Washington Times (3/18, A1, Dinan, 90K) in a front page story notes Ahern "was just the latest in a line of foreign leaders to beg the president to relax immigration rules." The requests by foreign leaders have been common as "some nations, such as Ireland and Mexico, want citizenship for their illegal alien nationals," while "others want the United States to lift the caps for temporary student or worker visas." Speaking with Pakistani reporters before his recent trip to Southeast Asis, "Bush said he is working to loosen visa restrictions." Bush said, "We had a very restrictive visa policy right after 9/11. … Our visa policy was a natural reaction to a terrible event that took place, but it didn't take me long to realize that we were missing a great opportunity to have students from Pakistan see the real America."

TAX:

US Claims $25 Million Lost By Fraudulent Tan Preparation In California. The San Bernardino County (CA) Sun (3/18, Wall) reports, "A firm accused of preparing thousands of fraudulent tax returns costing the government more than $25 million has been barred from doing business by a federal court order." The Sun continues, "N.C.K. Services and its three preparers - sisters Karen and Carla Berry of Rialto and Ivan Johnson of San Bernardino - are set to appear in court March 24 to respond to the civil complaint." The Sun adds, "The three defendants are accused of preparing thousands of tax returns containing false and fraudulent home-mortgage interest deductions since 2001, federal officials said. … The total loss to the government as a result of the understatements of tax on customers' returns exceeds $25 million, according to an IRS audit. … The government claims the defendants systematically claimed fictitious home-mortgage interest deductions for their customers, even in cases where the customers did not own homes. … Justice Department officials said the case is part of the federal government's increased effort to stop tax-fraud schemes. … 'Tax-preparation fraud costs the federal treasury hundreds of millions of dollars every year,' said Eileen O'Connor, the assistant attorney general for the department's tax division. … 'It's important to check the work on the return to make sure the numbers match your financial situation before you send in your return,' said Justice Department spokeswoman Cynthia Magnuson. 'People ought to be very suspicious and should have a red light go off if you hear you can always get a return if you go to x or y return preparer.'"

CONGRESS-ADMINISTRATION:

Politics Seen As Reason Extra Spending In Senate Budget. The New York Times (3/18, A1, Hulse, 1.19M) reports the "largess demonstrated by the Senate in padding its budget with billions of dollars in additional spending this week showed that lawmakers are no different from many of their constituents: they don't mind pulling out the charge card when money is tight." Forced to "choose between calls for renewed austerity and demands for more money, many Republicans joined Democrats in reaching deeper into the Treasury, leaving the party's push for new fiscal restraint in tatters." Republicans in "some of this year's tightest races — Conrad Burns of Montana, Mike DeWine of Ohio, Rick Santorum of Pennsylvania, Jim Talent of Missouri and Lincoln Chafee of Rhode Island — all backed the chief

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budget-busting provision as they endorsed an extra $7 billion for medical research, education and worker safety."

The Los Angeles Times (3/18, Havemann, Simon, 958K) reports that last weekend in Memphis, "four U.S. senators who hope to carry the Republican banner in the 2008 presidential election pledged allegiance to one of the GOP's most revered principles: fiscal responsibility — never spend taxpayers' money you don't have." Less than "a week later, the Senate's Republican majority overwhelmingly approved billions of dollars in deficit spending. Despite outcry from conservative groups that helped build the GOP majorities in both houses of Congress, the Republican spenders were undeterred, for one reason: They're convinced that voters now care less about big deficits than they do about the things that increased federal spending will buy."

SAT Errors Prompt Testing Critics To Call For Regulation. The New York Times (3/18, Arenson, 1.19M) reports that as the College Board "races to score the final 1,600 exams from its problem-ridden October SAT test, a string of recent testing errors around the country has college and high school officials, testing experts, students and parents asking with rising urgency, Who is watching the testing industry?" With the increase in testing since the passage of the No Child Left Behind law, the "volume is stretching the $2 billion-a-year education testing industry, educators say, taxing its ability to draw up enough tests and score them quickly and reliably. The states are struggling to find experienced officials to provide quality control. The resulting flurry of errors has educators and lawmakers calling for better disclosure and oversight."

Reliance On Testing For Standards Criticized. In a Washington Post op-ed (3/18, A21), Colman McCarthy, director of the Center for Teaching Peace, criticizes the current academic testing trend, saying, "Tests represent fear-based learning, the opposite of learning based on desire. Frightened and fretting with pre-test jitters, students stuff their minds with information they disgorge on exam sheets and sweat out the results. I know of no meaningful evidence that acing tests has anything to do with students' character development or whether their natural instincts for idealism or altruism are nurtured."

Critics Say More Medicare Drug Benefit Confusion Ahead. The AP (3/18, Freking) reports advocacy groups say "many elderly and disabled Americans enrolled for the Medicare drug benefit will face new difficulties in obtaining their medicines on April 1," when "insurers will have more latitude to tell pharmacists that they won't pay for a particular drug. Before that, insurers have been told that they should pay for a prescription even if it's not on the list of drugs they cover."

Leavitt Calls For Reforms To Cut Healthcare Costs. The Pittsburgh Post-Gazette (3/18, Snowbeck, 261K) reports Secretary of Health and Human Services Michael Leavitt says "the Pittsburgh region is contributing to health care innovations, but it also is the 13th costliest market in the country for people buying health care services." During a "breakfast talk yesterday with the Pittsburgh Technology Council at the Sheraton Station Square, Mr. Leavitt called for a variety of reforms to help tame health care costs." Leavitt said the "situation in Pittsburgh…exemplifies the broad challenge with health care in the country: No one wants to go without advanced treatments that people rightly regard as 'priceless,' yet health care comes a price -- one that's increasingly difficult for society to afford."

House GOP Seen As Backing Away From Lobbying Reform. Knight Ridder (3/18, Thomma) reports that with "the spotlight turned elsewhere, Republicans this week backed off their vow to crack down on the relationship between lobbyists and Washington politics." House Republicans on Thursday proposed a measure that "would suspend privately financed travel for members of Congress only until this year's congressional elections and would put off a decision on a permanent ban of travel, meals or other gifts until after the elections." All the "proposed new regulations stopped short of those offered weeks earlier when congressional leaders rushed to embrace reform in the wake of the political fallout from the scandal surrounding disgraced lobbyist Jack Abramoff."

Study Says Boehner Frequently Traveled On Privately-Funded Trips. The Washington Post (3/18, A2, Birnbaum, 744K) reports a Center for Public Integrity study shows House Majority Leader John A. Boehner, "who rose to power in the wake of a congressional lobbying scandal, spent the equivalent of nearly six months on privately funded trips over the past six years." The report says Boehner "accepted 42 privately sponsored trips from January 2000 to December 2005. That put him on the road to other countries and 'golfing hotspots,' often with his wife, Debbie, for about half a year, 'only nine days of which he listed as being 'at personal expense,'' the center said." Boehner also "flew at least 45 times on corporate jets owned by companies 'with a financial stake in congressional affairs' from June 2001 through September 2005, the center reported."

Bill Would Preempt States On Credit Report Access. The New York Times (3/18, Darlin, 1.19M) reports legislatures in "a dozen states" have "set up procedures for residents afraid of identity theft to lock and unlock their credit

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reports." But "credit-reporting agencies are pushing Congress to override the state laws, which could make it harder for Americans to keep their credit information under wraps." Lobbyists for "the big agencies — Equifax, Experian and TransUnion, owned by the Marmon Group — are seeking to add an amendment to the Financial Data Protection Act, a bill being rewritten by the House of Representatives." Consumer groups "are upset that a federal law might supersede what has been done at the state level."

OTHER NEWS:

Stock Markets Have Banner Week. Positive news on the stock market was highlighted by the media. The CBS Evening News (3/17, lead story, 2:15, Schieffer, 7.66M) reported, "Lower oil prices and a government report that industrial production is starting to grow again kept the stock market rally going and for the fourth day in a row now, the market set a few five-year high. All the major indexes were up about 2% for the week." CBS (Mason) added, "The stock market had its best week of the year, and suddenly, the Dow is up at levels we haven't seen it at since -- well, since the turn of the century. As the closing bell rang, the Dow was closing in on 11,300." With "red-hot real estate prices cooling, some investors are looking to put their money back in the market. Retail broker Charles Schwab took in over $10 billion in new money in February, nearly 70% more than a year ago."

NBC Nightly News (3/17, story 2, 1:10, Williams, 9.87M) reported, "Stocks were up today as they were for the week. The Dow was up more than 26 points in today's trading [to close at 11,279.65]. Nasdaq gained just under 7 [points to close at 2,306.48.] For the week, the blue chip stocks finished up more than 203 points. Nasdaq was up more than 44 points." CNBC's Jim Cramer added, "I think this is a first-class bull market. And I think a lot of it is because people are pulling money out of housing and going back into stocks, first time in six years."

Emphasizing that the positive news on the stock market was an indication of broad economic strength the Wall Street Journal/Dow Jones (3/18, Patterson) says, "Fueled by renewed expectations that the Federal Reserve will ease off the interest-rate brakes, the Dow Jones Industrial Average motored higher this week, nearing a six-year high." The increase "left the average less than 60 points shy of its highest level since January 2000, when the dot-com bubble was in full bloom -- and about to burst. It was also the same month the Dow industrials hit their all-time closing high of 11722.98." Dow Jones notes, "Those airy heights proved fleeting," but experts "say this move is different. Strong gains by financial, energy and basic materials companies -- more resilient than the dot-com babies of the late 1990s -- have driven the latest rally. Indeed, the move up has come from big, blue-chip companies, while the Nasdaq Composite Index, which rose 6.92 points to 2306.48 Friday, has been sluggish."

And the Washington Times/AP (3/18) reports, "Bullish data on inflation and the housing market sent stocks mostly higher yesterday." The stock market "welcomed the latest report from the Labor Department, which showed consumer prices rising just 0.1 percent in February, far less than the 0.7 percent jump in January. Core CPI, with food and fuel prices removed, also rose 0.1 percent, down from 0.2 percent the previous month." In addition to "better-than-expected housing construction in February, investors were reassured that the economy continues to grow while inflation remains in check."

Bloomberg (3/18) notes, "A drop in oil prices helped the Standard & Poor's 500 Index and the Dow Jones Industrial Average advance to their highest levels since May 2001. Boeing Co., the largest U.S. aircraft maker, led the advance on demand for its 787 jetliner."

But the Washington Post/AP (3/18, D2) in an article titled "Oil And Productivity Set A Positive Tone" also notes, "Stocks' gains were limited, however, as the day's news reports did little to address Wall Street's persistent worries about inflation and more interest-rate increases from the Fed, said Ken Tower, chief market strategist for Schwab's CyberTrader."

Industrial Production Report Suggests Economy Healthy. The Wall Street Journal (3/18, Gerena-Morales, 2.11M) reports, "Industrial production expanded at a healthy pace last month, the latest sign that American industry is thriving." A Federal Reserve report showed "industrial production in February at the nation's factories, mines and utilities jumped 0.7% from January, boosted by a surge in production at utility plants. Compared with a year earlier, industrial production was up 3.3%." It "was slightly weaker than economists had expected," yet "economists found lots of positive news in the report, especially in the manufacturing sector, which is seeing year-over-year output expand at double-digit rates for some key sectors that reflect consumer spending and business investment. Overall, manufacturing output was flat last month, but was up 4.2% over the past 12 months."

The Bloomberg (3/18, Torres) notes, "The lack of untapped capacity may cause factories to raise prices, prompting Fed policy makers to boost interest rates one or two more times, economists forecast. Higher borrowing costs and gasoline prices limited consumer confidence this month, a University of Michigan survey showed today." It showed consumer confidence "held at 86.7, reflecting a rise in Americans' perceptions of current conditions and a decline in expectations."

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Recent Gas Prices Up Sharply, But February Declines Help Rein In Inflation. Focusing on recent increases in gas prices, NBC Nightly News (3/17, lead story, 2:30, Williams, 9.87M) reported, "At the end of a week that saw most of the top oil company executives in this country testify under oath in Washington, the price of gasoline in this country has suddenly spiked. It has gone up by just about the same amount, just about everywhere." NBC (Costello) added that in "the last day alone, gasoline has jumped four cents on average nationwide. And 15 cents in the last month." It's "all about supply and demand." Mary Thompson, CNBC: "Gasoline futures are up 23 cents in the last month because demand here in the US is strong, it's about 2% above last year's levels. And there are fears we could see some supply shortages this summer." NBC cited global instability, fallout from Hurricanes Katrina and Rita, and new ethanol mix requirements as reasons for the price increase.

But highlighting how a decline in energy prices in February helped slow inflation, the Washington Times/AP (3/18) reports, "Inflation slowed sharply in February as food costs moderated and the price of gasoline, natural gas and other energy products posted big declines." The AP adds, "The Labor Department reported yesterday that its closely watched U.S. Consumer Price Index (CPI) posted a tiny 0.1 percent increase last month after having jumped 0.7 percent in January. The slowdown in price pressures was certain to be welcomed at the Federal Reserve, which has been boosting interest rates since June 2004 to make sure inflation does not get out of control."

Boehlert To Retire From Potentially Competitive Seat. The New York Times (3/18, Hulse, 1.19M) reports moderate Republican Rep. Sherwood L. Boehlert, "who became a national advocate of science and a champion of environmental protection, announced Friday that he would not seek re-election." Boehlert, who "under party rules would have had to surrender his chairmanship of the Science Committee at the end of this session, said he believed he had recorded solid accomplishments in his current term and decided after 24 years on Capitol Hill that he was ready to step aside." Boehlert's "departure provides an added opportunity for Democrats who need 15 seats to gain control of the House of Representatives."

The Washington Post (3/18, A2, Babington, 744K) reports Democrats "hope Boehlert's retirement and President Bush's low approval ratings will give them a chance to win the seat, which the GOP has held for decades." Political analyst Stuart Rothenberg said, "It's a difficult opportunity for the Democrats, but nevertheless an opportunity. Democrats are going to need a wave there." The Post adds Democratic activists "expect Michael A. Arcuri, 46, the Oneida County district attorney since 1993, to win the Sept. 12 primary. Republicans are looking to five-term state Sen. Raymond A. Meier, 53, to be their nominee."

Despite Retirement, Sabo's District Seen As Safe For Democrats. The Minneapolis Star Tribune (3/18, Diaz, Hotakainen, Olson, 424K) reports Democratic Rep. Martin Sabo "is expected to announce his retirement today after 28 years in Congress." Sabo, who "turned 68 last month, has scheduled a noon news conference in his Minneapolis office. His departure is expected to set off a scramble within the DFL party for a replacement." Jack Nelson-Pallmeyer, "a professor of justice and peace studies at the University of St. Thomas, already has opened a campaign office and challenged Sabo at last week's precinct caucuses. And Michael Erlandson, Sabo's chief of staff and the former chair of the state DFL party, is expected to run." State Rep. Keith Ellison, DFL-Minneapolis, and DFL Minneapolis City Council Member Gary Schiff "also said Friday that they would run." Sabo's 5th CD is "one of the nation's safest Democratic seats. He won his 14th term in 2004 with 70 percent of the vote."

After UN Rights-Council Vote, Some Complain US "Failing To Engage." After losing a vote 170-4 on the creation of a UN Human Rights Council, the Los Angeles Times (3/18, Farley, 958K) reports, "The US is being criticized by many diplomats and human rights representatives here as having never fully engaged in negotiations over the matter and being unwilling to compromise. Some diplomats said that if US Ambassador John R. Bolton had spent as much time lobbying at the United Nations as he did in Washington, the US would have had a better result." An unnamed "diplomat closely involved in the talks" is quoted as saying, "It's not clear that they wanted to move. ... In fact I couldn't tell what they wanted. We offered ideas to Washington to achieve their goals, and nothing happened." Bolton, however, is quoted as saying, "We would rather have nothing than something that falls short of our standards. That was our view all along. ... What we found sad was that some of our central allies gave up on key points. I don't understand it to this day."

Rice Encourages Asian Powers To Improve Relations. The Washington Times (3/18, Kralev, 90K) reports, "Secretary of State Condoleezza Rice yesterday expressed concern over tensions between Japan and China and urged the two Asian powers to find common ground and overcome their differences for the sake of stability in the region. 'We have encouraged good relations between China and Japan, and even though there are difficulties in that relationship, China and Japan also share a lot of interests

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and, indeed, a lot of trade and commerce and a lot of economic relations,' the secretary said."

China Appears Ready To Release Imprisoned Journalist. The New York Times (3/18, Yardley, 1.19M) reports, "Chinese authorities on Friday withdrew at least part of the case against a Chinese researcher for The New York Times, in a surprise legal maneuver that left unclear whether he would soon be released as President Hu Jintao prepares to visit the United States next month. Zhao Yan, 44, a researcher in the Beijing office of The Times, has been imprisoned for 18 months on a charge that he disclosed state secrets to the newspaper, as well as a lesser charge of fraud. Mr. Zhao has denied both charges."

The Washington Post (3/18, A16, Pan, 744K) adds, "The move amounts to a rare admission of error by the Chinese government in a criminal prosecution involving national security, and it almost certainly required Hu's approval, because he had endorsed the investigation that led to Zhao's arrest and issued instructions to the officials running it, according to people familiar with the probe." Meanwhile, the Financial Times (3/18, Yeh) notes, "The decision by prosecutors to dismiss charges against Zhao Yan comes ahead of President Hu Jintao's visit to the US in April." The Los Angeles Times (3/18, Magnier, 958K) also covers the story.

German Trial Could Help Unpack Nuclear Black Market. The Los Angeles Times (3/18, Fleishman, 958K) reports, "A German engineer accused of belonging to a worldwide nuclear smuggling network went on trial Friday for allegedly providing technology to Libya that could have been used to enrich uranium for weapons. The case, being heard in a Mannheim court, is expected to offer a glimpse of the nuclear black market once masterminded by Pakistani scientist Abdul Qadeer Khan." According to the Times, "Gotthard Lerch, 63, is charged with violating Germany's weapons control and foreign trade acts. He allegedly was paid $34 million to provide Libya with gas centrifuges and other dual-use technologies." Goetz Neuneck of the Institute for Peace Research and Security Policy at the University of Hamburg, is quoted as saying, "The trial is hugely important in strengthening international attention to the problem of illegal proliferation. ... It would be very good for international nonproliferation if the trial were to provide more details and shine more light on dark corners."

Hamas Prepared To Announce Government. The AP (3/18, Barzak) reports, "Hamas said it is ready to announce the formation of its government Saturday, two weeks ahead of a deadline but apparently without coalition partners that might have softened the militants' image. In another possible setback, the Hamas government program is not expected to win the approval of Palestinian President Mahmoud Abbas, who is to meet with the group's leaders in Gaza Saturday. Abbas' aides said the Palestinian leader considers the Hamas platform too vague and wants it rewritten." According to the AP, "The new foreign minister will almost definitely be Mahmoud Zahar, a Hamas firebrand, according to a preliminary list given to The Associated Press by officials in Hamas and the Popular Front for the Liberation of Palestine, a smaller PLO faction that was considering joining the government. Said Siyam, a Hamas lawmaker from Gaza, has been tapped for the Interior and Civil Affairs Ministries, which control three of the five Palestinian security forces and is responsible for contacts with Israel's security services, said the officials, speaking on condition of anonymity because the list was not final."

In earlier coverage, the New York Times (3/18, Erlanger, 1.19M) reports, "Abbas may yet reject the new government's agenda, because it does not explicitly acknowledge the validity of past agreements between Israel and the Palestine Liberation Organization, or support negotiations with Israel."

Fatah Officials Calls For Abbas's Resignation. The AP (3/18, Daraghmeh) reports, "Several Fatah officials called on President Mahmoud Abbas to resign and dissolve the Palestinian Authority to protest Israel's raid of a West Bank prison earlier this week, party activists said Friday. The raid...was seen as a humiliating blow to Abbas's prestige and raised new questions in his Fatah Party about their president's ability to govern." The AP goes on to report, "The call for Mr. Abbas' resignation and the dissolution of the Palestinian Authority at the Fatah Central Committee late Thursday was the first time such a demand was made. Analysts and Fatah officials said the demands -- raised both in a letter to Mr. Abbas signed by five midlevel Fatah activists and at Thursday's meeting by a senior party official -- are not serious at the moment."

Netanyahu Could Be Primed For A Comeback. The Los Angeles Times (3/18, King, 958K) reports, "Heading into a March 28 parliamentary election, the onetime boy wonder of Israeli politics leads a party that once dominated the electoral landscape, but now is lagging far behind." Still, "many observers believe it would be foolish to count out Netanyahu, a charismatic but divisive politician whose career has been marked by dramatic reversals of fortune." As Likud leader, having assumed the "leadership of Israel's hard right at a time when the country is embracing a more centrist view, Netanyahu now finds himself struggling to broaden his appeal." Political scientist Itzhak Galnoor of Hebrew University is quoted as saying, "Likud has not been able to follow the swing in Israeli public opinion. ... The public generally agrees with the partitioning of the biblical Land of

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Israel, and the Likud leadership remains stuck in its previous position."

Sharon's Wall Is Justified, Scholar Writes. In a New York Times (3/18, 1.19M) op-ed piece penned by scholar Irshad Manji writes that Israelis will soon elect a new prime minister, "but I'd bet my last shekel that I'll continue to hear the phrase 'Ariel Sharon's apartheid wall.' It's a phrase spoken — make that spewed — on almost every university campus I visit in North America and Europe." Manji continues, "This barrier, although built by Mr. Sharon, was birthed by "shaheeds," suicide bombers whom Palestinian leaders have glorified as martyrs. Qassam missiles can kill two or three people at a time. Suicide bombers lay waste to many more. Since the barrier went up, suicide attacks have plunged, which means innocent Arab lives have been spared along with Jewish ones. Does a concrete effort to save civilian lives justify the hardship posed by this structure? The humanitarian in me bristles, but ultimately answers yes."

Israeli Turkeys Now Afflicted With Deadly Flu. The Washington Post (3/18, A14, Wilson, 744K) reports, "Israeli health officials announced Friday that they believe more than 1,000 turkeys have died in recent days from bird flu, the first reported cases in the country. Initial test results appeared to confirm that birds being raised on four farms in southern Israel died after being infected by the H5N1 virus, avian influenza's deadly strain. Additional tests recommended by the World Health Organization are being conducted to confirm the findings, but Israeli officials are already taking precautions."

Georgia Gripped By Bird-Flu Fears. The New York Times (3/18, Chivers, 1.19M) reports, "In the early morning hours, the cobblestone alleys that wander this city's slopes are normally crowded with schoolchildren, walking in groups with their backpacks and books. But such sights have lately become rare." As fears of avian influenza spread throughout this mountainous former-Soviet republic, "school attendance has dipped to half of normal levels, said Alexander Lomaia, the minister of education. Ambulance calls have soared, reaching 900 a day here, up from slightly more than 600, said Lado Chipashvili, the minister of labor, health and social affairs."

G-8 Energy Chiefs Back A Nuclear Future. The Washington Times/AP (3/18) reports, "Energy ministers from the world's leading industrialized nations called yesterday for major new investments and the development of nuclear power as high oil prices and uncertainty about supplies weigh on the global economy. The ministers from the Group of Eight nations, meeting in the Russian capital to discuss global energy security, said significant investments would be needed in the production, transportation and processing of resources and urged policies to encourage this." According to the G-8 statement, the ministers "recognize that to attract investment it is essential for countries to have open and favorable investment regimes...including stable and predictable regulations, clear tax laws and efficient administration procedures, as well as fair and reciprocal access to markets along the energy value chain."

Kremlin Moves To Shut Down Khodorkovsky NGO. The New York Times (3/18, Chivers, 1.19M) reports, "The bank accounts of a foundation led by an imprisoned Russian businessman, Mikhail B. Khodorkovsky, were frozen Friday by court order, the foundation and its bank said, a move that strongly suggests the organization is about to be shut down. The group, the Open Russia Foundation, immediately announced that it was forced to suspend its activities promoting civil society and accused the government of extending its crackdown on private organizations." Open Russia vice chairwoman Irina Yasina is quoted as saying, "It seems that they are trying to stop all of our activities, because of course without money, we can do nothing."

New Belarus Sanctions Could Be In Offing, White House Says. As the people of Belarus prepare to cast their votes in presidential elections this weekend, the Washington Post (3/18, A18, Baker, 744K) reports, "The White House accused the authoritarian president of Belarus yesterday of being 'among the most corrupt leaders in the world,' and administration officials said they will consider new sanctions assuming tomorrow's elections are manipulated as expected. In a report sent to Congress on Thursday night and posted on the Web yesterday, the White House alleged that President Alexander Lukashenko 'has created a repressive dictatorship on the doorstep of the European Union,' sold arms to rogue states and enriched himself at the expense of his people." Press Secretary Scott McClellan is quoted as saying, "We are very concerned about the behavior of the leaders in Belarus. They are not pursuing a democratic course." The Post goes on to cite "two other administration officials who were not authorized to speak on the record [as saying] the US government is studying ways of applying more sanctions against Lukashenko's regime, targeted specifically against him and his cronies."

Pelosi Calls For End To Darfur Conflict. The Washington Times (3/18, Debose, 90K) reports, "House Minority Leader Nancy Pelosi yesterday said the warring in the Darfur region of Sudan demands immediate attention, a day after privately urging President Bush to appoint a special envoy to help end what the White House calls a genocide." Pelosi is quoted as saying, "President Bush and I don't agree...well we disagree on almost everything, but on this we do, and he has told us 'not on his watch' and I believe him. ... To do this we must stop the violence, bring the parties to the

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negotiating table and get humanitarian relief to the people who need it."

New Liberia Leader Wants Taylor To Stand Trial. The New York Times (3/18, Hoge, 1.19M) reports, "Ellen Johnson Sirleaf, the president of Liberia, said Friday that she had asked Nigeria to extradite Charles Taylor, the former Liberian president and guerrilla leader, to face war crimes charges in Sierra Leone. Ms. Johnson Sirleaf told the Security Council that she had made a formal request to President Olusegun Obasanjo of Nigeria, where Mr. Taylor lives in exile." According to the Times, "Even from exile, he has maintained influence in Liberia, with thousands of young combatants still loyal to him, Ms. Johnson Sirleaf said, making her plea 'courageous but risky.'" She is quoted as saying, "Please bear in mind that time is of the essence in this regard. ... Liberia's peace is fragile. There are many loyalists in our country to Mr. Taylor, there are many business interests he has. Whatever decision is taken by the African leadership must ensure that the safety of the Liberian people and the stability of our nation is not undermined.'"

In its coverage, the Washington Post (3/18, A17, Lynch, 744K) notes, "Obasanjo has previously resisted international pressure to hand Taylor over, citing the need for a request from a democratically elected Liberian leader. His office said Friday that he is considering sending Taylor back to Liberia, not Sierra Leone, where he is charged. A statement issued by Obasanjo's office cited his 'commitment to give due consideration to any formal request from a democratically elected government of Liberia for the return of former president Charles Taylor.'"

The Los Angeles Times (3/18, Dixon, 958K) and the AP (3/18, Lederer) also cover the story.

Sirleaf Represents Rare New Start For Liberia, WSJ Says. In a staff editorial headlined, "African Hope," the Wall Street Journal (3/18, 2.11M) opines, "Good news out of Africa has been all too rare in recent years. But a major exception was the election last year of Liberian President Ellen Johnson Sirleaf, who stopped by our offices yesterday after addressing the United Nations." Mrs. Sirleaf "used her time with us to emphasize that Liberia is 'open for business.'" When asked "if she believed the US owes Liberia anything, she said flatly, 'no.' She just wants it to be treated like other countries."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"U.S. Is Denied Google Queries."
"Musicians Still Hear Paris' Call."
"Housing Speculators Relocate To Hotter Spots."
"Obsession And Isolation In A Dictator's Last Days."
"Mayor, Businesses and ACLU Are In Same Camp On Skid Row."
"Smoking Ban Moves Outdoors."
"9/11 Case Prosecutors Granted A Reprieve."

New York Times:
"Judges Overturn Bush Bid To Ease Pollution Rules."
"Politics Drives Money Binge."
"Judges Overturn Bush Bid To Ease Pollution Rules."
"Cited As Symbol of Abu Ghraib, Man Admits He Is Not In Photo."
"In Louisiana, Graft Inquiries Are Increasing."
"Testing Errors Prompt Calls For Oversight."
"A $65 Table, And A Tale To Tell Around It."

Washington Post:
"Looser Emission Rules Rejected."
"Sex Cases Rarely Go To Trial At Academy."
"Moussaoui Prosecutors Get A Break."
"Cooking 101: Add 1 Cup Of Simplicity."
"Africans Lay Traditional Rites To Rest."

Washington Times:
"U.N. To Raise Its Profile In Iraq."
"Political Offensive Targets Bush."
"Ireland Asks Bush For Alien Amnesty."
"U.S. Eyes Baghdad For Talks With Iran."
"Historic Buildings Purged In Moscow Modernization."
"Area Gas Prices Jumped This Week."
"Show Dog Still A No-Show."

Detroit Free Press:
"GM, UAW On Edge Of Delphi Solution."
"Road Money? Plenty Of Takers."
"Nuclear Safety Left Hanging As Crane Dangled Fuel Rods."
"Company, Union Fight Back Together; Can They Do More?"

Atlanta Journal-Constitution:
"Power Plant Rule Voided."
"Breaking With Tradition."
"Electric Bills Likely To Edge Up."
"Sign-Up Bonus Pumps Re-Enlistments In 48th."
"Past Returns To Haunt Freeman's Chief Of Staff."

Dallas Morning News:
"T.O. On His Way."
"Industry Girds For Special Session."
"She Goes Her Own Way In Legal Fights."
"Civil Strife Fuels Fears Of War, Wider Conflict."

Houston Chronicle:
"Gas At $2.40 A Gallon — And Rising."
"PCs In Council Office Seized."
"Manhunt On For Drug Officers' Assassins."
"They Pass On Champs, But Always Get A Winner."

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"Mumphrey's Pardon Ends 'Miscarriage Of Justice.'"

Story Lineup From Last Night's Network News:

ABC: Bush-Iraq Anniversary; Dearborn, Michigan Iraqis; Pharmaceutical Trials; Pharmaceutical Trials-Analysis; Big Bang; Avian Flu; Nascar Pit Crews; Child Porn Detectives.
CBS: Stock Markets; Iraq Violence; Iraq Anniversary; Hadley-Iraq Progress; Moussaoui Trial; Illegal Irish Immigrants; Hurricane Katrina Reunion; Milosevic Funeral; College Debate Teams.
NBC: Gas Prices; Stock Markets; Iraq-Operation Swarmer; US-Iran Talks; Moussaoui Trial; Airport Securities-Explosives; Israel-Avian Flu; Vehicle Cameras; Calabasas-Smoking Ban; St. Patrick's Day; Green Companies.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — At Camp David.
VICE PRESIDENT CHENEY — No public schedule.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: JOURNALISM STUDENTS _ 8:30 a.m. One hundred two high school students from across the United States who are interested in pursuing a career in journalism and have qualities of ``free spirit'' have been selected to participate in the annual Al Neuharth Free Spirit Scholarship and Conference program. Location: Sessions to be held at Freedom Forum, 1101 Wilson Blvd., Arlington, Va., the Watergate Hotel, and at Capitol Hill offices (afternoon visits).

IRAQ WAR-MARCH _ 9 a.m. Local peace activists hold a march to mark the three year anniversary of the war in Iraq and to call for an end to the war. Sponored by the Washington Peace Center; DC Anti-War Network; Code Pink; Neighbors United for Peace and Justice; and others. Highlights: 9 a.m. Pre-march service for the homeless at Canadian Embassy, 501 Pennsylvania Ave. NW. 2 p.m. Convergence to begin march at home of Vice President Dick Cheney, U.S. Naval Observatory, 3450 Massachusetts Ave. NW. March procedes to Dupont Circle. 3 p.m. - 6 p.m. Rally with speeches, music, poetry and a speak-out by local D.C. area residents. Dupont Circle, NW. 3:30 p.m. News conference. Southeast quadrant, Dupont Circle, NW.

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USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
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Subject:	Department of Justice News Clips for Saturday, March 18, 2006
Attachments:	dojclips060318.pdf; dojclips060318.doc

DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: SATURDAY, MARCH 18, 2006 7:45 AM EST

TODAY'S EDITION

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TERRORISM NEWS:

Judge Gives Prosecutors New Chance In Terror Case (NYT)

By Neil A. Lewis
The New York Times, March 18, 2006

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WASHINGTON, March 17 — The judge in the sentencing trial of Zacarias Moussaoui said on Friday that prosecutors could try to find new, untainted aviation-security witnesses to replace those who were barred from testifying because they were improperly coached by a government lawyer.

The ruling effectively allows the government to try to salvage its effort to execute Mr. Moussaoui, the only person charged in a United States courtroom with responsibility for the deaths in the terrorist attacks of Sept. 11, 2001.

The judge, Leonie M. Brinkema of Federal District Court, declined to undo her earlier decision prohibiting the prosecutors from using any of the aviation officials they originally intended to call as witnesses because they had been coached by Carla J. Martin, a government lawyer who was assisting the prosecutors.

The trial, which is solely about whether Mr. Moussaoui should be executed or jailed for life, was on the brink of falling apart after the judge's ruling on Wednesday struck at the heart of the government's case. The chief prosecutor, Robert J. Spencer, had told the judge there would "be no point in going forward" unless she relented in some manner.

But even as Judge Brinkema denied the prosecutors' request that she reconsider her striking of those witnesses, she accepted a suggestion that they put forward in a court filing: that they be allowed to try to find someone new to present the same testimony.

"The government's proposed alternate remedy of allowing it to call untainted aviation witnesses or otherwise produce evidence not tainted by Ms. Martin has merit," Judge Brinkema wrote.

Tasia Scolinos, the Justice Department's spokeswoman, said in response, "We are pleased to be able to move forward with this important case on behalf of the thousands of victims and their families."

That means the trial, in its second week when it was thrown into turmoil by the disclosure of Ms. Martin's behavior, will resume Monday morning with the cross-examination of an F.B.I. agent who arrested and interviewed Mr. Moussaoui three weeks before the Sept. 11 attacks.

But the question remains as to whether it is possible to find new witnesses who are not only untainted, as the judge has required, but familiar enough with the state of aviation security in August 2001 to help support the government's case.

Mr. Moussaoui was in jail at the time of the attacks after having been arrested for immigration violations in Minnesota, where he was learning to fly a jetliner. The Justice Department has asserted that he is nonetheless responsible for the Sept. 11 deaths because he had lied to investigators and concealed his membership in Al Qaeda and his knowledge of that group's plans to fly planes into buildings.

The government's main aviation-security witness, Lynne Osmus, a senior official of the Federal Aviation Administration in August 2001, was to testify about what steps the agency "could" have taken had Mr. Moussaoui told investigators what he knew about Al Qaeda's plans.

The prosecutors were prepared to have Ms. Osmus, in particular, assert that the agency could have issued a directive putting in place 10 security measures, including a ban on short-blade knives like those used by the Sept. 11 hijackers and also owned by Mr. Moussaoui. The judge has barred aviation witnesses from testifying as to what the government "would" have done, because that would be speculation.

Edward B. MacMahon Jr., the chief defense lawyer for Mr. Moussaoui, said in a court filing that he did not believe it was possible to find any new, untainted witnesses because anyone who had the expertise of Ms. Osmus would by now have been exposed to the coaching suggestions of Ms. Martin through news reports.

Mr. MacMahon said that it was possible that someone familiar with how the aviation agency operated in August 2001 might not have had contact with Ms. Martin, but that it was highly implausible that such people would not have read about her suggestions to the witnesses.

But Justice Department officials said they were confident they could find witnesses who would be deemed authoritative and untainted.

Ms. Martin's name came up in other court proceedings Friday as lawyers defending the airlines against Sept. 11 liability suits denied that they had communicated with her. Lawyers for family members of flight attendants killed in the attacks had raised questions about alleged contacts between Ms. Martin and the airlines' lawyers.

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Moussaoui Prosecutors Get A Break (WP)

By Jerry Markon

The Washington Post, March 18, 2006

Judge to Allow Testimony From Untainted Witnesses

A federal judge yesterday revived the Justice Department's death penalty case for Sept. 11 conspirator Zacarias Moussaoui, accepting a compromise offered by prosecutors to find new aviation security witnesses not tainted by the misconduct of a government lawyer.

The decision by U.S. District Judge Leonie M. Brinkema caps an extraordinary week in the terror prosecution and means that Moussaoui's death penalty hearing will resume Monday in Alexandria. The proceeding had been imperiled by Transportation Security Administration lawyer Carla J. Martin, who violated a court order and improperly contacted witnesses.

"I'm fully aware of the huge resources that have been expended on this case, the fact that we summoned 850 jurors . . . and I agree it would be unfortunate if this case could not go forward to some final resolution," Brinkema said in a teleconference with case attorneys, according to a transcript.

The ruling amends an order Brinkema issued Tuesday that shook the sentencing hearing of the only person convicted in the United States on charges stemming from the attacks on Sept. 11, 2001. Brinkema barred the testimony of seven witnesses contacted by Martin and banned all other aviation evidence. Immediately after the ruling, prosecutors said it might be pointless to continue, because such evidence is crucial to their case.

But the judge yesterday allowed the government to present aviation evidence through new witnesses untainted by any association with Martin. "We are pleased to be able to move forward with this important case on behalf of the thousands of victims and their families," said Tasia Scolinos, a Justice Department spokeswoman.

The ruling allows the government to present a fuller version of its central argument for why Moussaoui should be executed: that if he had truthfully confessed his knowledge of the Sept. 11 plot, the attacks could have been prevented.

Although the government will continue its case, legal experts said the week's events still leave prosecutors in a tough spot. Martin had worked on the case since at least 2002 and had contact with aviation security experts throughout the government.

"They're going to need to scrounge around pretty hard and find some alternative evidence," said Paul Rothstein, who teaches national security at Georgetown University's law school. "The government is not entirely dead in the water. I think their plans for this case are severely damaged but salvageable."

Prosecutors are left to scramble to find new witnesses for a case they have been building for four years against Moussaoui, 37, who pleaded guilty last year to conspiring with al-Qaeda in the attacks.

"We're working on it, your honor," Assistant U.S. Attorney Robert A. Spencer said in the teleconference. He said the government probably will have one or two new witnesses available by late Tuesday or Wednesday.

As the case moved on without Martin, her conduct continued to reverberate yesterday. Moussaoui's attorneys are likely to try to get evidence of her actions before the jury, and yesterday they filed a motion asking Brinkema to summon Martin to court Monday to testify at a special hearing.

"Given the importance of understanding the extent of the taint and the critical impact Ms. Martin's actions have had on this case," the defense filing said, "it is imperative that before any additional 'untainted' aviation witnesses are permitted to testify, the extent of Ms. Martin's actions are explained by the only person in a position to know, Ms. Martin."

Prosecutors said they welcomed the opportunity to question Martin but only if her attorney guaranteed that she would not invoke her Fifth Amendment right against self-incrimination and refuse to testify.

Martin's attorney, Roscoe C. Howard Jr., said he had sent a letter to the two sides and to Brinkema saying Martin would not testify Monday. He said she needs more time to assemble witnesses and documents in defense of her actions. "If she is going to be accused of committing a crime, we want the opportunity to put on a defense," Howard said. "We think it will take more than just her testifying."

Brinkema has not ruled on the defense motion for a hearing.

In e-mails to the seven witnesses, Martin was highly critical of the prosecution's argument that aviation officials could have kept the hijackers' knives from getting onto the planes, and defense attorneys might want jurors to hear of her doubts. But experts

said it would be difficult for the defense to persuade Brinkema to allow evidence of Martin's conduct or e-mails. "It shouldn't come in, and I don't see how it would," said Carl Tobias, a law professor at the University of Richmond. "It could poison the minds of the jury."

Jurors are under strict orders not to read news accounts of the trial, and Brinkema is likely to question them about that Monday. When she halted the sentencing hearing, after prosecutors alerted her to Martin's conduct, Brinkema told jurors that the issue involved the misconduct of a government lawyer not on the prosecution team.

Martin violated a standing court order by e-mailing trial transcripts to the seven witnesses and coaching them on their testimony. All those witnesses worked for the government and were experts on aviation security. They would have testified about the government's ability to have stopped the terror attacks had Moussaoui not lied to the FBI when he was arrested in August 2001.

Brinkema had ruled earlier that most witnesses could not attend or follow the trial and could not read transcripts. After a hearing Tuesday, Brinkema barred the testimony of the seven witnesses and the aviation evidence. That evidence is key, because about half of the prosecution's case consists of showing that airport security would have been dramatically stepped up if Moussaoui had provided the information.

In her revised order yesterday, Brinkema denied a request from prosecutors that she restore all of the aviation evidence. But she accepted their suggestion that they be allowed to present other aviation witnesses who had no contact with Martin.

Brinkema also said prosecutors could call only aviation witnesses who would testify about what the government could have done to stop the attacks if Moussaoui had confessed his knowledge of the plot. She said the witnesses "may not, however, testify as to what the United States government 'would' have done with this information, as such testimony would be unduly speculative and misleading to the jury."

Staff writer Keith L. Alexander contributed to this report.

Moussaoui Ruling Breathes Life Into Prosecution (LAT)

By Richard Serrano

The Los Angeles Times, March 18, 2006

WASHINGTON — The federal judge in the sentencing trial of Zacarias Moussaoui refused today to reconsider her ruling banning testimony by aviation witnesses improperly influenced by a government attorney, but did allow prosecutors to use other airport security witnesses who were "untainted" by attorney Carla J. Martin.

With prosecutors unlikely to appeal the issue further, the judge's compromise appeared to put the troubled trial back on track when it is scheduled to resume before the jury Monday morning. But prosecutors will be working from a marked disadvantage, with much of the central part of their case stricken from the trial.

Prosecutors indicated they would use a single witness in place of the six who were improperly coached by government lawyer Martin, calling it an "imperfect" solution.

And U.S. District Judge Leonie M. Brinkema added another restriction: any such witness may only testify that aviation officials "could" have prevented the Sept. 11 terror attacks had Moussaoui cooperated with the FBI. She said they would not be allowed to back the prosecution's contention that the Al Qaeda hijackers "would" have been stopped at the airport.

This week, prosecutors said they would have had to abandon efforts to secure the death penalty for the 37-year-old French terrorist if they were not allowed to put on some aviation testimony.

In their opening statements March 6, prosecutors told the jury they would prove that security officials would have stopped the Sept. 11 hijackers at the airports had Moussaoui helped them after his arrest in August 2001.

Moussaoui last year pleaded guilty to plotting with the Sept. 11 hijackers. Jurors are now being asked to decide whether he should be sentenced to death or to life in prison. He was in jail when the attacks occurred, but the government contends that he was responsible for the loss of lives because he failed to alert the FBI to the plot.

The case came near to collapse Monday when the judge learned that Martin, a 15-year government attorney working for the Transportation Security Administration, had violated the court's order against sharing trial transcripts with witnesses and trying to shape their testimony.

Brinkema ordered all aviation witnesses and evidence stricken from the trial. Prosecutors asked her to reconsider, saying that they needed to put some aviation testimony before the jury in order to win a sentence of death for Moussaoui.

The sanction would leave prosecutors "with no way to show what the FBI could have done with information it had obtained about the hijackers. More important … the jury and the public will see only half the picture of what could have happened had the defendant told the truth," the government said.

Prosecutors proposed alternatives to an outright ban on aviation testimony and evidence, which the judge agreed to today. But she warned that the new witnesses "may not testify as to what the United States government 'would' have done with this information" from Moussaoui, "as such testimony would be unduly speculative and misleading to the jury."

The government's new testimony and evidence centers on a "no transport" security directive, commonly called a "no fly list," that prosecutors said security officials would have put in place if they believed a Sept. 11-like attack was imminent.

"This evidence is simple, straightforward, and entirely uncontroversial, consisting mainly of FAA security directives issued over the years," the prosecutors said. "We would call one witness to explain what they are and how they are used to keep suspected terrorists from boarding commercial aircraft."

This, they said, "will allow us to present our complete theory of the case, albeit in imperfect form. We can then carry out our arguments from the FBI through to the FAA transport directive and present to the jury some semblance of what really could have happened had the defendant told the truth upon arrest."

They described this witness as someone who was "easily free of the specter of taint caused by Martin."

"We can readily call a witness who worked at the FAA during August 2001, and who had no contact with Ms. Martin during this prosecution," they said.

Moussaoui's defense attorneys had urged the judge to throw out the death penalty. They told the judge that allowing new, untainted witnesses would be unfair to the defense because Moussaoui's lawyers would not have enough time to investigate their claims and prepare to cross-examine them.

To that end, the judge ordered the government to give the defense the names of the new witnesses and the nature of their testimony at least three days before they are called to testify.

Martin awaits a hearing before the trial judge on possible civil or criminal contempt charges.

Moussaoui Ruling Salvages The Trial (MINNST)

By Greg Gordon

Minneapolis Star Tribune, March 18, 2006

The judge agreed to let "untainted" witnesses testify, saving enough of the prosecutors' case to resume trial Monday.

ALEXANDRIA, VA. - A federal judge put the death-penalty trial of confessed Al-Qaida conspirator Zacarias Moussaoui back on track Friday, allowing prosecutors to present evidence "untainted" by a government lawyer's improper coaching of witnesses.

But District Judge Leonia Brinkema refused a request from prosecutors to entirely rescind an order earlier in the week barring aviation-related witnesses and evidence.

Brinkema's ruling appears to have allowed the government to salvage enough of its case for the trial to resume on Monday, after a week-long recess.

Prosecutors had told Brinkema their case would collapse without testimony from senior Federal Aviation Administration (FAA) security officials.

"I'm fully aware of the huge resources that have been expended on this case, the fact that we summoned 850 jurors, that we have an excellent jury of 17," Brinkema told lawyers, according to a transcript of their conference call. "And I agree that it would be unfortunate if this case could not go forward to some final resolution."

But defense lawyers promptly filed papers asking the judge to reopen an inquiry into Transportation Security Administration lawyer Carla Martin's improper contacts with witnesses by calling Martin to testify next week so the full "extent of the taint" can be examined.

The aviation evidence is critical because prosecutors are seeking to prove, beyond a reasonable doubt, that the FBI and FAA would have stopped the Sept. 11 terrorist attacks if Moussaoui had told what he knew about a suicide hijacking plot when he was arrested in the Twin Cities in August, 2001.

'Could,' not 'would'

In her two-page order, Brinkema stressed that the aviation witnesses may testify to what "could" have happened if Moussaoui had been truthful when interrogated in Minnesota.

"The witness, or witnesses, may not, however, testify as to what the United States government 'would' have done with this information, as such testimony would be unduly speculative and misleading to the jury," the judge wrote.

The 17 jurors in the only U.S. criminal prosecution stemming from the terrorist attacks have heard no testimony this week because of the imbroglio over Martin's approaches to seven potential aviation-security witnesses.

During an extraordinary hearing Tuesday, six of the witnesses -- including four tabbed as hostile defense witnesses -- each testified that Martin sent them a transcript of the trial's first day. E-mails showed that she also made suggestions as to how they could adjust their testimony so it meshed better with lead prosecutor Robert Spencer's opening statement.

Brinkema ruled that the witnesses' testimony had been so "tainted" that they must be excluded to protect Moussaoui's constitutional rights.

She said the rights of the 37-year-old Frenchman of Moroccan descent also were violated because Martin advised prosecutors that the four government officials sought by the defense would not speak with defense attorneys, even though she had yet to check with them.

'Terribly excessive'

Prosecutors petitioned for reconsideration, arguing that the sanction was "terribly excessive," and came up with a compromise solution in which Brinkema would allow an FAA official who had no contact with Martin to testify as to how the agency's "no fly list" prevents suspected terrorists from boarding aircraft.

Defense lawyers responded that it is "difficult, if not impossible," to imagine that such an untainted witness exists and that "assurances that there is a rock at the FAA under which that person has been found should be greeted with the skepticism it plainly deserves."

Michael Mello, a University of Vermont law professor specializing in capital cases, said he questions whether prosecutors will find any "completely untainted" witnesses.

"If they've been following [the case] as closely as I have, they can't testify," he said. "If they've been reading daily newspapers and watching the news, they're going to know generally what's been happening in the trial, who's been saying what."

Defense lawyers also pointed to a federal law requiring that, in capital cases, the government must identify all witnesses at least three days before a trial begins. Brinkema's order requires the government to notify defense lawyers three days before any new aviation witness is called and to turn over new exhibits as soon as they are available.

Moussaoui Trial Opened To 'Untainted' Witnesses (WT)

By Jerry Seper, The Washington Times

The Washington Times, March 18, 2006

A federal judge in the death penalty trial of admitted al Qaeda terrorist Zacarias Moussaoui yesterday changed course and said the prosecutors can call "untainted" aviation specialists as witnesses, restoring a major part of the government's case.

U.S. District Judge Leonie M. Brinkema did not overturn her Wednesday ruling to bar witnesses coached by an outside lawyer, but granted prosecutors' request to offer new witnesses and evidence.

In her order, the judge said the new witnesses can only testify to what the U.S. government "could have done to prevent" the September 11 attacks had Moussaoui disclosed during his August 2001 arrest that he was training to attack U.S. targets with planes.

"The witness, or witnesses, may not, however, testify as to what the United States government 'would' have done with this information, as such testimony would be unduly speculative and misleading to the jury," she said.

The ruling was a victory for prosecutors, who had considered abandoning their case when Judge Brinkema banned testimony from Federal Aviation Administration officials because they were given transcripts of the trial in violation of earlier court orders.

Moussaoui, 37, a French citizen of Moroccan descent, pleaded guilty in April to charges of conspiring with al Qaeda terrorists in the September 11 attacks that killed nearly 3,000 people. The penalty trial is to determine whether he should be sentenced to life in prison without the possibility of parole or receive a lethal injection.

He denied being a part of the initial attack but said he was in training for a second wave of hijacked airplanes to slam into U.S. targets. In his plea, Moussaoui admitted knowing the 19 al Qaeda hijackers were going to fly aircraft into U.S. buildings.

Transportation Security Administration lawyer Carla J. Martin, who coached the witnesses, has since been placed on paid administrative leave from her $120,000-a-year job as an attorney adviser.

She has been threatened by the judge with criminal and civil contempt and has been labeled by prosecutors as a "miscreant," whose "aberrant and apparently criminal behavior should not be the basis for undoing the good work of so many."

Moussaoui's lawyers argued that it will be difficult to find any witness who has not been following the recent events in the trial.

"The existence of such a person is difficult, if not impossible to imagine and assurances that there is a rock at the FAA under which that person has been found should be greeted with the skepticism it plainly deserves," defense attorney Edward B. MacMahon Jr. said.

In a separate motion, Mr. MacMahon said, "The government should not be given an end-run around its creation of a record simply too riddled with problems."

Judge Brinkema ordered the government to provide "the name or names of such untainted witnesses" to the defense no less than three days before they are to testify.

She also told prosecutors to hand over to defense counsel all appropriate information as well as untainted physical evidence as soon as it is available.

The trial is scheduled to resume at 9:30 a.m. Monday.

Judge Admits Evidence In Moussaoui Trial (KCS)

By Matthew Barakat And Michael J. Sniffen

The Kansas City Star, March 18, 2006

ALEXANDRIA, Va. - The death-penalty trial of al-Qaida conspirator Zacarias Moussaoui is back on track after a judge reversed course and agreed to admit some evidence about aviation security.

U.S. District Judge Leonie M. Brinkema relented Friday from her earlier order barring all such testimony. She had issued that ruling Tuesday as punishment for the alleged misconduct of Transportation Security Administration lawyer Carla J. Martin, who coached witnesses.

"It would be unfortunate if this case could not go forward to some final resolution," Brinkema told trial attorneys in a telephone conference. Moussaoui is the only person charged in this country in connection with the al-Qaida terror network's Sept. 11, 2001, attacks on the World Trade Center and the Pentagon.

The trial, begun March 6 and suspended for a week to deal with the misconduct, is to resume Monday with the jury back in court.

Late Friday, Moussaoui's lawyers asked Brinkema to further investigate Martin on Monday before allowing any aviation testimony. Prosecutors agreed, if Martin is willing to testify. Brinkema gave no immediate response.

The judge accepted a compromise proposal by the government. It allows prosecutors to present limited testimony about what the government could have done to enhance aviation security before the Sept. 11 attacks if Moussaoui had not lied to FBI agents Aug. 16-17, 2001, about his al-Qaida membership and plans to crash a jetliner into the White House.

Prosecutors had told Brinkema their case would be gutted without at least some testimony on aviation security. While they disputed her ruling that the aviation security evidence was contaminated beyond repair by Martin, prosecutors suggested using a new, substitute witness and documents that Martin had no contact with.

Prosecutors said a substitute witness could be found who worked at the Federal Aviation Administration around Sept. 11 and could discuss how government used "no-fly" lists to bar specific terrorist suspects from airplanes.

The testimony is crucial because prosecutors must prove that Moussaoui's actions led directly to at least one death on Sept. 11 to obtain the death penalty. They argue that Moussaoui's lies about his true intentions prevented the FBI from identifying some hijackers in advance and prevented the FAA from taking airport security steps to keep them off airplanes.

Moussaoui's lawyers had urged Brinkema not to reconsider. They said federal law since 1790 has required that the defense be notified of the government's witnesses at least three days before trial in death-penalty cases. Allowing new witnesses mid-trial would leave them unprepared, the defense argued.

Brinkema acknowledged that substitute government witnesses would present problems for the defense, including finding rebuttal witnesses.

Moussaoui pleaded guilty in April to conspiring with al-Qaida to crash airplanes into U.S. buildings. But Moussaoui denies any role in 9/11 and says he was training for a possible later attack on the White House. The current trial is to determine whether he is executed or spends life in prison.

A hearing Tuesday revealed that Martin sent current and former FAA employees a transcript of the trial's first day and coached them on how to testify about certain topics to deflect the kinds of attacks the defense mounted that day.

Judge In Moussaoui Trial Faces A Delicate Task (LAT)

By Richard A. Serrano, Times Staff Writer

The Los Angeles Times, March 19, 2006

Deciding when attorney who 'tainted' witnesses will testify while keeping jury intact are her foremost concerns.

WASHINGTON — With the sentencing trial for Zacarias Moussaoui stumbling forward again, lawyers for the two sides were sharply at odds Saturday over when a government attorney would testify about why she tried to influence witnesses.

The coaching efforts by Carla J. Martin nearly shattered the prosecution's effort to have Moussaoui receive the death penalty for his role in the Sept. 11 terrorist attacks.

Defense lawyers want Martin on the stand as soon as Monday in the trial over whether Moussaoui, 37, should be executed or sentenced to life in prison.

Prosecutors want to delay Martin's appearance until the middle of the week and have her testify only if she agrees to answer questions about her conduct and not invoke the 5th Amendment against self-incrimination.

"We see no reason" to have Martin take the stand "simply to have [her] invoke her rights," prosecutor Robert A. Spencer said in court papers.

In the middle of the dispute is Judge Leonie M. Brinkema.

Clearly irked by the revelations about Martin early last week, Brinkema has made no secret of her view that the lawyer with the Transportation Security Administration may end up with criminal or civil sanctions for attempting to coach several witnesses.

But Brinkema also is trying to keep together a jury that has been left in the dark over the developments in the case — the only one to be tried in the U.S. that stems from the 2001 attacks.

Moussaoui pleaded guilty last year to plotting with the hijackers. The government contends he should be put to death because he failed to alert the FBI to the plot, which resulted in the deaths of almost 3,000 people.

"I'm fully aware of how important it is for this matter to become resolved," the judge told the prosecution and defense teams in a teleconference session late Friday. "I'm fully aware of the huge resources that have been expended on this case, the fact that we summoned 850 jurors, that we have an excellent jury of 17, and I agree that it would be unfortunate if this case could not go forward …."

One week into the trial, Brinkema abruptly stopped it Monday when word surfaced that Martin had attempted to influence witnesses from the transportation agency and the Federal Aviation Administration. Martin briefly appeared in court on Tuesday but declined to testify and was excused until she could find legal representation.

Her newly hired lawyer, Roscoe C. Howard Jr., has since said she was eager to testify but needed some time to prepare.

"She is entitled to a fair opportunity to prepare and present her side and a fair judgment of her intentions, her conduct and the conduct of others," Howard said.

Brinkema first banned from the trial all testimony and evidence about aviation security because of Martin's action. But the judge scaled back her ruling Friday, allowing prosecutors to present one or two witnesses on the issue who were not "tainted" by Martin.

For prosecutors, that decision drew new breath into their case for the death penalty for Moussaoui.

They had told jurors they would prove that, had the French citizen cooperated with the FBI upon his arrest on an immigration violation in August 2001, the government would have tightened airport security across the country. Those measures, prosecutors said, could have prevented hijackers from making it onto the airplanes used in the Sept. 11 attacks.

Defense lawyer Edward B. MacMahon Jr. said in court papers that he wanted Martin on the stand after he finished cross-examining FBI Special Agent Harry Samit on Monday morning, which is where the trial left off when it was postponed.

He said she should be the next witness before the prosecution brought in any "untainted" witnesses on aviation security because her testimony would provide "critical information" about the nature of the witness-tampering effort.

Specter Eyes Oversight Of Spy Program (WT)

By Charles Hurt

The Washington Times, March 18, 2006

Senate Judiciary Committee Chairman Arlen Specter introduced a bill this week to increase congressional oversight of President Bush's warrantless spy program and require a court review of the program for its constitutionality.

The Pennsylvania Republican said rule of law takes precedent even when the nation is at war with a new type of enemy capable of exploiting modern technology.

"Our enemy is the enemy of freedom, and we will not give that enemy the satisfaction of making us give up the very freedom we cherish," Mr. Specter said on the Senate floor.

Under Mr. Specter's bill, the administration would be required to present the program to the Foreign Intelligence Surveillance Act (FISA) court, the federal panel charged by Congress with granting warrants for wiretaps for gathering foreign intelligence.

The bill also would require that the administration go before the FISA court to renew the program every 45 days. And every six months, an analysis of the program would be submitted to the chairmen and ranking members of the House and Senate intelligence committees.

Both Republicans and Democrats have accused Mr. Bush of circumventing federal law to spy on people in the U.S. The White House says the program has been used selectively and only on calls coming from numbers linked to terrorists from foreign countries.

Mr. Specter's bill comes after four other Republicans introduced a separate bill that would address the spy program.

A bill by Republican Sens. Mike DeWine of Ohio, Lindsey Graham of South Carolina, Chuck Hagel of Nebraska and Olympia J. Snowe of Maine would allow the National Security Agency to use warrantless wiretaps for up to 45 days.

At that point, the proposed legislation would require the Department of Justice to drop the surveillance, get a FISA warrant or seek a bypass from congressional leaders.

Among Democrats, only Sen. Russell D. Feingold of Wisconsin has moved yet toward official action in response to the spy program. He introduced a resolution earlier this week to censure Mr. Bush.

While many Democrats have expressed interest in legislation to curb the spying, they haven't shown much support for Mr. Feingold's effort and have yet to introduce any bills.

Sen. Patrick J. Leahy, Vermont Democrat and ranking member of the Judiciary Committee, did write Attorney General Alberto R. Gonzales asking for information about any defendants netted by the program who are challenging their cases in court.

"According to press accounts, several terrorism defendants have filed legal challenges to the President's program of electronic surveillance of Americans without a warrant," wrote Mr. Leahy and Sen. Edward M. Kennedy, Massachusetts Democrat.

"The Judiciary Committee is continuing its inquiry into the President's 'Terrorist Surveillance Program,' and we ask that you send for our review a list of every criminal case in which a defendant is alleging that evidence was illegally obtained through this program ... ."

U.S. Lawyers Keep Silence On Listening In (NYT)

By Nina Bernstein

The New York Times, March 18, 2006

Is the government secretly monitoring communications between plaintiffs and their lawyers in a federal class-action lawsuit against former Attorney General John Ashcroft and other top officials? Government lawyers yesterday politely refused a court order that they answer that question, asking instead that the court reconsider the order.

The plaintiffs in the case are Muslim immigrants who were swept up in the New York area after Sept. 11, 2001, detained for months and deported after being cleared of any links to terrorism.

Magistrate Judge Steven M. Gold of United States District Court in Brooklyn ordered the government on March 7 to guarantee in writing that neither the litigation team nor the potential witnesses — who include the F.B.I. director, Robert S. Mueller III — were aware of such eavesdropping, and that no such evidence would be used in the case.

But Stephen E. Handler of the Justice Department wrote in a filing yesterday that if knowledge of such activity were denied in one case, a refusal to confirm or deny it in another case "could itself tend to reveal classified information."

A legal scholar said the government's refusal raised new concerns about the scope of a program of electronic interceptions conducted without a warrant by National Security Agency inside and outside the United States under an executive order being challenged in a separate lawsuit.

"This is a pretty clear red flag" that eavesdropping occurred in the detainees' case, said Stephen J. Schulhofer, a professor of law at New York University who is an expert on national security. "The kind of surveillance that the president authorized under the N.S.A. wiretap was very likely deployed against these individuals when one party to the conversation was abroad and one party to the conversation, probably their lawyers, were in this country."

Rachel Meeropol, a lawyer for the Center for Constitutional Rights, which represents the detainees, said she was shocked by the government's stance.

"The implication of this letter is that attorneys defending the United States in civil cases could have access to the confidential communication between their opponents and their opponents' clients," she said. "You can't ethically represent a client if you can't have a conversation with them where you're secure that your opponent can't hear it."

Pentagon Hired Contractor To Advise On Collecting Information On Churches, Mosques, Other U.S. Sites (KRT)

By Jonathan S. Landay

Knight Ridder, March 18, 2006

WASHINGTON - A Pentagon intelligence agency that kept files on American anti-war activists hired one of the contractors who bribed former Rep. Randy "Duke" Cunningham, R-Calif., to help it collect data on houses of worship, schools, power plants and other locations in the United States.

MZM Inc., headed by Mitchell Wade, also received three contracts totaling more than $250,000 to provide unspecified "intelligence services" to the White House, according to documents obtained by Knight Ridder. The White House didn't respond to an inquiry about what those intelligence services entailed.

MZM's Pentagon and White House deals were part of tens of millions of dollars in federal government business that Wade's company attracted beginning in 2002.

MZM and Wade, who pleaded guilty last month to bribing Cunningham and unnamed Defense Department officials to steer work to his firm, are the focus of ongoing probes by Pentagon and Department of Justice investigators.

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In February 2003, MZM won a two-month contract worth $503,144.70 to provide technical support to the Pentagon's Joint Counter-Intelligence Field Activity, or CIFA. The top-secret agency was created five months earlier primarily to protect U.S. defense personnel and facilities from foreign terrorists.

The job involved advising CIFA on selecting software and technology designed to ferret out commercial and government data that could be used in what's called a Geospatial Information System. A GIS system inserts information about geographic locations, such as buildings, into digital maps produced from satellite photographs.

According to a "statement of work," the data that CIFA was interested in obtaining included "maps, street addresses, lines of communication, critical infrastructure elements, demographic and other pertinent sources that would support geocoding and multi-level analysis."

Geocoding involves assigning latitudes and longitudes to locations, such as street addresses, so they can be displayed as points on maps. Such tools increasingly are being used by U.S. corporations and law enforcement agencies.

MZM was to "assist the government in identifying and procuring data" on maps, as well as "airports, ports, dams, churches/mosques/synagogues, schools (and) power plants," said the statement of work.

"In many cases, the government already owns such data, and for reasons of economy, government-owned data is preferred," said the statement. It isn't clear why U.S. intelligence agencies couldn't do the work themselves.

Navy Cmdr. Gregory Hicks, a Pentagon spokesman, said MZM began working on the project in October 2002, when the agency was created.

Its job was to help the agency integrate technology into its "information architecture to help CIFA use available (satellite) imagery, which is produced legally by other commercial and government agencies," Hicks said.

"GIS software ... is designed to allow integration of geographic and imagery data with threat information to provide complex analytic products," he said. "Not knowing the location of key infrastructure and points of interest, such as bridges, chemical plants, schools, parks, and even religious facilities, as they relate to threat information, could significantly affect the accuracy of such analysis and plans and lead to disastrous results."

He was unable to discuss further details of CIFA's dealings with MZM, citing the ongoing investigations into Wade's dealings with the Pentagon.

CIFA recently has come under fire following disclosures that it maintained information on individuals and groups involved in peaceful anti-war protests at defense facilities and recruiting offices.

The information was stored in a database that was supposed to be reserved for reports related to potential foreign terrorist activity.

In a March 8 letter to Sen. Patrick Leahy, D-Vt., a senior Pentagon official said that a review of the Cornerstone database had identified 186 "protest-related reports" containing the names of 43 people that were mistakenly retained in the database.

"These reports have since been removed from the Cornerstone database and refresher training on intelligence oversight and database management is being given to all CI (counter-intelligence) and intelligence personnel," said the letter from Robert W. Rogalski, an acting deputy undersecretary of defense.

The disclosure that CIFA was storing information on anti-war activities added to concerns that the Bush administration may have used its war on terrorism to give government agencies expanded power to monitor Americans' finances, associations, travel and other activities.

The administration's domestic eavesdropping program and FBI monitoring of environmental, animal rights and anti-war groups have also fueled such fears. The administration contends that its programs are legal and insists that they're designed to ensure civil liberties while protecting national security.

A Washington Post story last year contained a brief reference to the White House contracts in a report on the company's dealings with the Pentagon.

Wade, who faces up to 20 years in prison, was one of four men charged in the Cunningham case. Cunningham, who resigned from Congress in November after serving for 15 years, was sentenced to eight years and four months in prison earlier this month.

DOJ_NMG_0019218

Foreign Firms A Mainstay Of Pentagon Contracting (WP)

By Ellen Mccarthy

The Washington Post, March 18, 2006

Edward Nadworny's bosses at CGI Group Inc. are just up the road in Montreal, but to the U.S. government he still works for a foreign company, which means logging every phone call to Canada, submitting his e-mails for audits, and being supervised by a local board whose members have been approved by the Defense Department.

If he and his colleagues from other parts of the company chat about work at happy hour, they must tell a Pentagon-approved security officer what they discussed. It's inconvenient but a fact of life for the dozens of foreign-owned companies authorized to do high-level security work for the U.S. government.

"I log my calls more frequently than I do my expenses. . . . It's just a way of doing business," says Nadworny, who runs CGI Federal, a subsidiary of the Canadian firm that was set up to win software and other information technology contracts with the U.S. government.

As politicians battled in recent weeks over a Dubai firm's plan to take control of a company that operates U.S. ports, the fight stood in relief to a reality that local government contractors know well: Foreign-owned companies already help manage some of the nation's most sensitive business, working on classified weapons and information programs and dealing daily with government secrets.

At least 98 foreign-owned firms like CGI have agreements with the Pentagon that allow them access to classified government programs, up from 58 a decade ago, according to the Defense Security Service, the office of the Pentagon that oversees companies that do classified work. With joint defense projects among allies common, and the need for the best technology ever more acute, contracting experts say they expect the trend to continue.

"We're in a global technology environment," said Stan Z. Soloway, president of the Professional Services Council, a government contracting industry group that includes foreign-owned companies like BAE Systems Inc.

An Italian-owned firm is designing the president's new helicopter; a Paris-owned firm is making the new radios for U.S. Special Operations Forces; at the Chesapeake Innovation Center, an Annapolis incubator for homeland security companies that counts the National Security Agency among its partners, five of the 24 companies it has assisted were based overseas.

"Some of our allies have had more extensive experience in homeland security than the United States," said Mark Sauter, the incubator's chief operating officer. "We can't afford to get into a 'not invented here,' mindset."

The Defense Security Service would not release the names of the foreign-owned companies with access to classified information, though many, like BAE, are well known. But the agency did provide a list of their 18 home nations. The list includes nine nations that are part of the North Atlantic Treaty Organization, such as France and Britain; all but four -- Australia, Bermuda, Israel and Singapore -- are European.

That in itself indicates a certain caution concerning which companies can get access to sensitive data, said Steve Schooner, a professor of government contracting law at George Washington University Law School.

"The bottom line is: Who are you willing to share your technology with?" Schooner said. "For more developed countries, we have more expectation for rule of law, respect for classified information."

Despite the comparative openness of the U.S. economy -- overseas investors own buildings and businesses throughout the country -- foreign involvement can touch a nerve. The Dubai port deal was ultimately scuttled over security concerns. The purchase of International Business Machine Corp.'s personal computer division by Chinese firm Lenovo Group Ltd. was put through a national security review before being approved. Locally, an Israeli company's proposed takeover of Columbia-based computer security firm Sourcefire Inc. has triggered a review because of Sourcefire's contracts with intelligence agencies.

Foreign-owned or controlled companies that work with classified information are subject to a special set of rules. The firms must set up U.S. subsidiaries with separate boards that include members approved by the Defense Department. The subsidiaries must have their own e-mail systems and network servers and must fully document communications with employees of the parent company -- hence Nadworny's phone logs.

U.S. citizens must be involved in key roles and are the only individuals who can be cleared to have access to classified material, a fact Pentagon officials consider an important protection.

A report published by the Government Accountability Office last July, however, found the system lacking -- understaffed, too dependent on self-reporting by companies, and unable to fully track foreign involvement with high-security U.S. contractors. In one instance, the GAO found that a foreign-owned company had access to classified information for six months before proper safeguards were in place. In another, the GAO found that Pentagon officials were unaware that a company had hired a foreign national as its president until someone spotted the fact on a Web site nine months later.

"Just think of the magnitude, the complexity, of monitoring what 96 companies are doing with access to classified information. Just the potential for letting something slip or get in the way is hugely magnified," said Rep. John Barrow (D-Ga.), a critic of the Dubai ports deal.

Defense Department officials and contracting experts defended the current system.

In a written response to the GAO, Carol A. Haave, deputy undersecretary of defense for counterintelligence and security, said that defense officials vet foreign involvement in contractors carefully, but also keep in mind issues like the "nature and source" of the foreign involvement, the sensitivity of the information, and "the relationship of the foreign source's government with our government."

"If there is any indication of risk to classified information . . . appropriate action is taken."

David Dempsey, a partner with Holland & Knight LLP who helps foreign companies navigate Pentagon regulations, said it can take up to nine months and cost as much as $600,000 to comply. But, he added, the system seems to work.

"I have never seen an intentional breach and I have never seen a serious breach," of security rules, Dempsey said.

Mideast Wrangle May Hit New Port Sale (FT)

By Robert Wright

Financial Times, March 18, 2006

SSA Marine, the largest US-based container terminal operator, has taken on Citigroup to advise on a possible sale in a move that could reignite controversy about the ownership of US port operations.

According to banking and industry sources, other terminal operators have been asked whether they would be interested in purchasing the company, which is based in Seattle and has a powerful position on the US west coast, in Latin America and New Zealand.

The privately held company, which unsuccessfully explored a sale in 2003, is understood to have started re-examining the potential for a sale after Dubai's DP World agreed to pay £3.92bn ($6.85bn) – more than 15 times forecast ebitda – for P&O, the UK container terminals and ferries operator.

Citigroup is understood to be managing the process. It has regularly done work before for SSA and also successfully represented P&O during its sale.

However, any sale could face complications after the controversy over DP World's takeover of P&O's US operations. DP World was last week forced to agree to sell P&O's interests in five US container terminals and other cargo and passenger-handling operations after widespread political protest at the takeover by a state-owned Arab company.

The controversy is understood to be deterring some of the world's largest terminal operators from looking at SSA's US assets.

Among the companies that could face problems is Singapore's PSA, the world number three container terminal operator by throughput. It looks unlikely to pursue SSA because PSA is owned by Temasek, the Singapore government's investment company. During the campaign against DP World's takeover of P&O, critics said it involved a foreign government gaining a presence in US ports.

The controversy could also deter Hong Kong's Hutchison Ports, the world number one. Although Hutchison Whampoa, Hutchison Ports' parent, is a private sector, publicly-listed company, Hutchison is mistrusted on the US nationalist right, which dislikes the alleged links of Li Ka-Shing, the largest shareholder, with the Chinese authorities.

Neither SSA Marine nor Citigroup would comment.

It could prove harder to sell SSA's US assets than its international business since foreign buyers are likely to shy away from entering the market and few domestic operators are large enough to make the purchase.

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Unnamed Source Told FBI He Saw Alleged Terrorists In Lodi (LODINS)

By Layla Bohm, News-Sentinel Staff Writer

Lodi News-Sentinel, March 18, 2006

Osama bin Laden's right-hand man isn't the only Taliban member alleged to have once visited Lodi. An FBI "source who is in a position to testify" told agents that he had seen two wanted terrorists visiting the Lodi Muslim Mosque and raising funds in 1999, according to federal court documents filed late Thursday night.

The reports do not name the source, but government prosecutors earlier Thursday told a judge that the information pertained to the testimony of informant Naseem Khan. The 32-year-old, who has paid by the FBI to infiltrate Lodi's Muslim community, has been one of the key witnesses in the case against two Lodi men on trial for alleged terror links.

Umer Hayat, 48, and his 23-year-old son, Hamid Hayat, are on trial in Sacramento, accused of lying to FBI agents about their alleged knowledge of terror training camps in Pakistan. The younger Hayat is also charged with providing support to terrorists by attending a camp. Both have pleaded not guilty.

Ahmed Ali

Part of the case is built on secretly recorded conversations between Hamid Hayat and Khan, who began working in Lodi in December 2001 and befriended the younger Hayat in summer 2002.

Earlier this week, Khan testified that he had seen Ayman al-Zawahri — second-in-command of al-Qaida and bin Laden's spokesman and physician — coming and going from the Lodi mosque in 1998 and 1999.

In the FBI reports, parts of which were blacked out, agents summarized accounts given them by the source. On Nov. 15, 2001, the source told agents that al-Zawahri was seen with two fellow Taliban members in Lodi in December 1999:

• Abdelkarim Hussein Mohamed Al-Nasser was indicted in June 2001 in the Eastern District of Virginia for the June 25, 1996, bombing of the Khobar Towers military housing building in Dhahran, Saudi Arabia. A total of 19 U.S. troops and one Saudi died, and another 372 were injured.

• Ahmed Mohammed Hamed Ali was indicted in December 2000 in the Southern District of New York in relation to the Aug. 7, 1998, bombings of the U.S. embassies in Kenya, Tanzania and Dar es Salaam. The simultaneous attacks killed more than 200 people and injured at least 4,000. Four men were convicted in May 2001, while others, including Ali, remain at large.

The FBI's source identified the men just five weeks after President Bush and the nation's top leaders announced the formation of the FBI's "Most Wanted Terrorists" list, featuring photos and rewards of 22 terrorists sought by the U.S.

All three men remain on the list. A $25 million reward has been offered for the capture of al-Zawahri (sometimes spelled al-Zawahiri), and $5 million rewards are offered for the other two men.

The FBI reports were made public in a filing by the Hayats' defense attorneys, who want to see the whole reports before Khan resumes the witness stand Tuesday.

Johnny Griffin III, Umer Hayat's attorney, said al-Zawahri was not in Lodi at the times Khan alleged he was, but that he is still investigating the claims about the two additional men who were named. That, he said, is why he needs to see the entire FBI reports.

"I don't want to make assumptions as to the validity of these assertions without knowing the context to which they were made, and whether he was speculating or had knowledge to support it," Griffin said.

Griffin and Wazhma Mojaddidi, who represents Hamid Hayat, said in their legal motion that they are entitled to receive the full reports because the information could prove whether Khan is a credible source.

One potential flaw in his story was apparent in the FBI reports: Khan previously testified in court that he began working in Lodi in December 2001. But the FBI reports pertain to dates in November of that year.

In several reports, mention is made of Taliban members who were soliciting funds in Lodi, Stockton and Yuba City. In Lodi, they were seen several times walking between a Central Avenue house and the mosque on Poplar Street.

Lodi Muslims deny that the Taliban members stayed in Lodi. FBI spokeswoman Karen Ernst said Friday that she could not comment because it's an ongoing investigation and the matter is in trial.

Witness Outlines Ties To Terror (STOCKREC)

By Jeff Hood, Lodi Bureau Chief

Stockton Record, March 18, 2006

Informant calls Lodi a haven for extremists

LODI - A paid FBI informant told agents as early as October 2001 that Lodi was a haven for Muslim extremists, saying he had seen three of the agency's most-wanted terrorists here in late 1999.

The name of Naseem Khan, the government's key witness in the trial of two Lodi men charged with terrorism-related crimes, does not appear in the heavily censored FBI reports defense attorneys attached to a court filing late Thursday. But prosecutors handed over the documents in response to defense attorneys' demands for information relating to Khan, who is expected to return to the witness stand Tuesday.

Defense attorney Wazhma Mojaddidi, who represents accused terrorist-in-waiting Hamid Hayat, wants those blacked-out portions revealed. U.S. District Judge Garland E. Burrell Jr. will hear arguments on the matter Monday.

Khan testified Monday that he saw Ayman al-Zawahri - al-Qaida's second-in-command - in Lodi in 1998 and 1999. According to the newly filed papers, Khan told an Oregon-based FBI agent on Oct. 26, 2001, that he saw al-Zawahri in Lodi in 1999. Khan also told the agent that two other terrorists visited the Lodi mosque while he was there: Abdelkarim Hussein Mohamed Al-Nasser, a Saudi man indicted by a Virginia grand jury for the 1996 bombing of a military housing complex in Saudi Arabia that left 19 U.S. servicemen dead; and Ahmed Mohammad Hamed Ali, an Egyptian wanted in connection with the U.S. Embassy bombings in Kenya and Tanzania in 1998.

The FBI's Web page states Ali fled to Pakistan from Kenya on Aug. 2, 1998, five days before the bombings.

Khan also told the FBI that the men - whose names were on a list of the FBI's 22 most-wanted terrorists - visited mosques in Stockton, Yuba City and the Sutter County city of Live Oak in 1999.

Hameed Khan, past president of the Islamic Center of Live Oak's board of directors and a Gridley police detective, dismissed the informant's story.

"I can assure you no one visited," said Hameed Khan, who said he was one of the Live Oak mosque's founders in 1989. "This is the kind of stuff that really upsets me. I'd like to confront this guy. If he's going to be bringing our mosque into this, I'd like to ask him some questions myself."

Likewise, Lodi Muslims say the claims are preposterous and that Naseem Khan needlessly hurt their community.

Naseem Khan testified in Sacramento's U.S. District Court on Feb. 22 that the FBI approached him in Oregon roughly two weeks after the terrorist attacks on Sept. 11, 2001, and asked for his help. Khan, a native of Pakistan who lived in the Lodi area in the late 1990s, told the FBI the following month he believed the owners of ethnic markets in Lodi and Stockton were laundering money for terrorist organizations in the Middle East and that the terrorists had met with top mosque officials.

One of those mosque officials, who asked not to be identified because he fears for his safety, said he figures that's why the FBI wanted to interview him last year, but agents turned down his offer to speak with an attorney present.

The man, who works for a company with government contracts, said Naseem Khan was "making up stories" to land a job with the FBI. The informant, who until then held myriad jobs at fast-food restaurants and convenience stores, was paid more than $200,000 in salary and reimbursements after being hired in November 2001.

"We're going to rely on people who are lying through their teeth to the FBI, and that's supposed to be preventing terrorism?" the Lodi man said. "Come on."

Another Lodi man also said that Muslims in the community have destroyed religious books and pamphlets out of fear the government could consider it incriminating evidence. A government witness testified this week that a prayer found in Hayat's wallet shows he was on a mission to wage a holy war against Islam's enemies, including the United States.

"I know people are concerned the government was trying to prosecute Hamid Hayat for a prayer that's commonly recited," said Basim Elkarra, director of the Council for American-Islamic Relations' Sacramento-based chapter. "Fellow Americans in Lodi are freaked out."

Hayat was indicted by a federal grand jury on a charge of supporting terrorism by attending a training camp in Pakistan in 2003 and 2004, and on three charges of lying to the FBI. His father, Umer Hayat, a 48-year-old ice cream vendor, faces two charges of lying to federal agents.

LODI Muslims Skeptical About FBI's Informant They Say They'd Know If Terror Suspects Visited (SFC)

By Jim Herron Zamora, Mark Martin, Chronicle Staff Writers

San Francisco Chronicle, March 18, 2006

Lodi -- An FBI informant's claims that three of the world's most-wanted terrorism suspects passed through town in recent years are outrageous and could damage the federal government's case against two local men, residents and legal experts said Friday.

Members of the city's Islamic community said they had never seen any of the notorious suspects at their mosque or anywhere else, and questioned why federal agents didn't talk to them.

"I think the FBI should rely on more-reliable informants," Mohammed Shoaib said Friday during a prayer session at the yellow ranch-style home that has been converted to a mosque. "I am an American citizen, and I love this country. They never talked to me."

Shoaib, a Pakistani who has lived in Lodi since 1978, has been president of the mosque for the last two years.

In a report filed in federal court Thursday night, the FBI revealed that the man who became the key informant in the Lodi prosecution told investigators in 2001 that he saw Osama bin Laden's chief deputy, Ayman al-Zawahiri, in Lodi in 1999.

The informant, Naseem Khan, also recalled seeing Abdelkarim Hussein Mohamed al-Nasser, a suspect in the 1996 bombing of the Khobar Towers military housing complex in Saudi Arabia, in Lodi. And he said he had seen Ahmed Mohammed Hamed Ali, a suspect in the 1998 bombings of U.S. embassies in Tanzania and Kenya, in Stockton in 1999.

Khan, 32, is the key witness against Hamid Hayat, a 23-year-old Lodi man accused of supporting terrorism by attending a training camp in Pakistan in 2003. Hayat is on trial in U.S. District Court in Sacramento along with his father, who is charged with lying about his son's alleged camp attendance.

The informant's claims run counter to other federal government reports that all three of the wanted terrorists were outside the United States at that time. Khan made the assertions in November 2001 in a series of interviews with the FBI in Bend, Ore. At the time, Khan identified several of the high-profile terrorists based on photographs from their FBI most-wanted posters, the FBI report states.

It is unclear whether the FBI deemed the reports credible at the time, but the government sent Khan, a former fast-food worker who has earned about $250,000 as a paid government informant, back to Lodi to collect information on possible terrorist cells in the valley town's small Islamic community.

The FBI interview documents were released in a heavily redacted version after Khan testified Monday that he had seen al-Zawahiri, whom the FBI calls Osama bin Laden's personal physician and second in command, in Lodi in 1999.

FBI spokeswoman Karen Ernst declined to comment on the case on Friday.

But Lodi residents brushed off Khan's claims that wanted terrorists had stopped there.

"The whole community is dumbfounded as to what's going on with this," said Nasim Khan, who was the Lodi mosque's leader from 1998 to 2000 and is no relation to the government informant. "Everything that is coming out, there's no basis into it."

They said all three of the terror suspects, from Arab countries, would have stood out in the tight-knit Muslim community, which includes many Pakistanis and South Asians. The most prominent of the three, al-Zawahiri, is an Egyptian. "A majority of the congregation at the mosque is Pakistani," said Shoaib, the mosque leader. "There's only a half-dozen or so of Arab descent. If he came in on a regular basis, people would remember him. It's a ridiculous claim."

Former prosecutors and veteran defense attorneys said the revelations could cause problems for the federal government if the jury feels that Khan's credibility is an issue.

"The government has a really difficult time getting people who are both in the radical Islamic community and reliable," said Kendall Coffey, the former U.S. attorney in South Florida. "Usually people like this don't come to the government voluntarily, and usually they don't come totally clean. It takes a thief to know a thief."

But Coffey and defense lawyer James Brosnahan said the government may be able to counter any credibility problems with Khan if corroborating evidence against the Hayats, including FBI interviews with them, is strong.

"If a witness has a problem with truthfulness, the question is where is the corroboration," said Brosnahan, who defended John Walker Lindh, the so-called American Taliban, among other high-profile cases. "In drug cases, you often have terrible (prosecution) witnesses, but if there is corroboration in the form of tapes or photographs, these are things that can really sway a jury. "

Much of the prosecution's case against the Hayats is based on secretly recorded conversations they had with Khan and videotaped interviews with the FBI.

In his 2001 FBI interview, Khan also accused the owner of a Lodi store that sells Indian spices and the owner of a market in Lodi of raising and laundering money for terrorist organizations.

The owner of the Pak-India Spices grocery store declined to be interviewed Friday, but one of his cashiers summed up the feeling that many have about Naseem Khan.

"If the FBI gave me half the money they gave him, I'd tell them all kinds of crazy stories, too," said Mumtaz Khan, 58.

Chronicle staff writer Demian Bulwa contributed to this report. E-mail Jim Zamora at jzamora@sfchronicle.com and Mark Martin at markmartin@fchronicle.com.

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Attorney Seeks Data On Inmate Privacy (TOLB)

Toledo Blade (OH), March 18, 2006

Prison recording policy in question

An attorney for accused terrorist Mohammad Zaki Amawi has asked a federal judge for assurances that the government will not be recording his conversations with his client.

Dennis Terez, a public defender appointed to represent Mr. Amawi, filed a motion yesterday in U.S. District Court in Toledo asking for comprehensive information about federal agents' use of monitoring attorney-client communications.

Judge James Carr has scheduled a pretrial hearing in the case for April 10.

Mr. Amawi and two other men, Wassim I. Mazloum and Marwan Othman El-Hindi, are accused of plotting to support the killing or injuring of people in the Middle East. The Toledo area men are being held in a federal prison in Milan, Mich.

Mr. Amawi is also accused of threatening to kill or inflict harm on President Bush.

The assistant U.S. attorneys who are handling the case have provided the attorneys for the defendants with the policy that the U.S. Bureau of Prison uses for recording conversations between attorneys and inmates, both in person while in prison and in phone communications.

But Mr. Terez said the government's response was insufficient and doesn't provide enough detail on what could be recorded. He wants the government to provide "confirmation and clarification" to the court as to what, if any, attorney-client discussions would be monitored.

Stephen Hartman and Jeff Helmick, the respective attorneys for Mr. El-Hindi and Mr. Mazloum, said they plan to file similar motions on behalf of their clients very soon.

"We will be joining in that request [today]," Mr. Hartman said.

Also yesterday, Mr. Hartman and his co-counsel, Charles Boss, filed an initial request asking the government to release the evidence it has on their client.

Bond Denied To Boca Doctor In Terrorism Case (MH)

By Evan S. Benn

The Miami Herald, March 18, 2006

A federal judge on Friday denied a bond request from a Boca Raton doctor accused of pledging an oath of loyalty to al Qaeda.

Dr. Rafiq A. Sabir, 51, will continue to be held in solitary confinement in a New York prison until his trial on charges of conspiring to support Osama bin Laden's terrorist network.

U.S. District Judge Loretta Preska made the ruling at a pretrial hearing Friday in New York after Sabir's attorney asked for his client to be released on bond, according to a spokeswoman at the U.S. Attorney's Office.

HOME SEARCH

Sabir was arrested at his Palm Beach County home last May, days after investigators claim he recited an oath of loyalty in front of an undercover FBI agent.

Prosecutors said a search of Sabir's home after his arrest revealed charred pages of Arabic writing in a backyard grill. Agents also found swords and other martial-arts equipment in his home.

But Sabir's lawyers said at the time that the writing found in the grill may have been from the Koran, Islam's holy book.

Burning tattered or worn pages of the Koran is an acceptable method of disposal, according to Islamic tradition.

And Sabir's defense counsel has said the oath he uttered was a bayat, a traditional and spiritual Islamic oath, and that he did not state or imply a desire to harm Americans.

Also charged with Sabir are Tarik Shah, 42, a jazz musician and martial-arts instructor from Bronx, N.Y.; Abdulrahman Farhane, 51, a bookstore owner from Brooklyn, N.Y.; and Mahmud Brent, 31, a cab driver from Washington, D.C.

FOUR DEFENDANTS

Prosecutors said Shah and Sabir promised to use their skills in martial arts and medicine to train and treat jihadist fighters.

Farhane allegedly discussed a plan with Shah in December 2001 to send money to terrorist fighters in Afghanistan so they could hurt U.S. troops.

Brent is accused of conspiring to support Lashkar-e-Taiba, a Pakistani-based terror group.

The four defendants, all U.S. citizens who are Muslim, have pleaded not guilty to the charges.

They are being held without bail in federal custody and face up to 15 years in prison if convicted.

On Friday, Preska set a date for the defendants' attorneys to file pretrial motions.

The four will return to her court on Oct. 30 for their next hearing.

Was Indictment Misleading? (SPT)

By MEG LAUGHLIN

St. Petersburg Times, March 18, 2006

When the government charged Sameeh Hammoudeh with terrorism-related activities, it used transcripts from wiretaps that may have been unfairly edited.

On that chilly day three years ago when Hammoudeh was arrested, two FBI agents handcuffed him and drove him to FBI headquarters for questioning. Hammoudeh said the agents told him he was not their target, but that they wanted him to aid their investigation. They asked him to provide information about how he helped Sami Al-Arian, a former professor at the University of South Florida, get money to the Palestinian Islamic Jihad after 1994.

The U.S. government has designated the PIJ a terrorist organization. The group has claimed responsibility for the deaths of hundreds of people in Israel and the occupied territories.

In 1995, it became illegal for people in the United States to provide funds, goods or services to the organization. Because Hammoudeh worked with Al-Arian, prosecutors focused on money Hammoudeh was sending to the occupied territories, in an attempt to link Al-Arian to the PIJ after 1994. Hammoudeh's indictment accused him of "transferring monies and funds . . . for the purpose of promoting PIJ activities."

Summaries of the wiretapped conversations that the government used to justify this accusation seem to undercut the charges.

Here are three excerpts, chosen from more than a dozen similar examples in the indictment, that show what the government chose to include from the tech cuts in building a case that Hammoudeh's activities are linked to the PIJ:

From the indictment: "On Dec. 20, 1999, defendant Sameeh Hammoudeh used his residence telephone line to call his father, who is in the occupied territories of Israel. In this conversation, Sameeh Hammoudeh indicated to his father that he raised some money and will be receiving more. He also told his father he will be sending him $1,000 to distribute."

From the FBI tech cut, the source for this Dec. 20, 1999, conversation: "Sameeh told his father, "I would like you to spend, give a thousand and when I get someone traveling to the homeland I will send it to you with him.'"

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"His father said he would "distribute it to the people or give it to the Kaffiat,'" believed to be an institution for the blind and/or disabled in the area.

Hammoudeh replied: "There are orphans in the Family Welfare Organization. Give them. They are also an institution."

A second example from the indictment: "On or about Dec. 29, 1999, Sameeh Hammoudeh called his father who was overseas. Sameeh Hammoudeh asked his father to distribute money, and Sameeh Hammoudeh said he would reimburse him by sending money overseas via courier."

From the tech cut of this same Dec. 29, 1999, conversation: "Hammoudeh asked his father to give the funds to those in need, especially the orphans. His father said that he will give it to the orphans, the family sponsorship society and the disable (sic) and/or blind society."

A third example from the indictment: "On or about Feb. 22, 1995, . . . Sameeh Hammoudeh . . . received a facsimile at WISE (a think tank where he worked that was created by Al-Arian and affiliated with the University of South Florida) . . . from Fathi Shikaki (the head of the PIJ in Damascus, Syria)." From the tech cuts: The receiving phone number is (813) 989-xxxx.

According to the tech cut index, that was the phone number for the Tampa home of Ramadan Shallah, who also worked at WISE. The PIJ faxes were not sent to WISE or to Sameeh Hammoudeh. They were sent from PIJ headquarters to Shallah's home. (Editor's note: We have omitted the last four digits because the number is no longer issued to Shallah, and may belong to someone else.)

Shallah worked at WISE until May 1995. He left Florida and became the leader of the PIJ in October 1995 in Syria after the death of Shikaki.

A year and a half after Hammoudeh was arrested, prosecutors acknowledged the phone number in the faxes was Shallah's and dropped the eight counts associated with the error. But the misinformation, contradicted by the tech cuts, was among the justifications used for arresting Hammoudeh.

Federal prosecutors declined to comment on repeated contradictions between information in the indictment and the tech cuts, the source material for the indictment. But former FBI agent and federal prosecutor Todd Foster didn't.

Foster, now a Tampa criminal defense attorney, was part of the defense team in a high-profile 1997 case, which, like the case against Hammoudeh, was built on secret surveillance of the defendants' conversations.

In the Aisenberg case, a Valrico couple reported their baby girl, Sabrina, missing. Hillsborough County sheriff's investigators planted secret listening devices in the couple's home and based the indictment on their conversations. But a federal judge said many of the surveillance tapes were largely inaudible, and that investigators had misled authorities about what they contained in order to justify arresting the parents. The case crumbled.

Foster called the Aisenberg case "a shocking example of how wiretap information in an indictment can be full of missing statements, statements taken out of context and false statements."

He said, however, that he doesn't think such distortions are common: "But when it happens rarely, that's too often. Whether reckless or deliberate, it's wrong."

Wednesday, an Immigration and Customs Enforcement officer brought papers to Hammoudeh's cell at the Manatee County Jail. They said, "ICE has made the decision to continue your detention."

Federal prosecutors have a Monday deadline to file documents explaining why. Wednesday, U.S. District Judge James Whittemore will preside over a habeas corpus hearing for Hammoudeh, where his attorneys will argue that his continued incarceration is unconstitutional.

"I am hopeful," Hammoudeh said. "I can't say why after this long nightmare. But I am."

Gov't: Some Gitmo Cases Should Be Scuttled (AP)

AP, March 18, 2006

The Bush administration argued Friday that a newly enacted law wipes out hundreds of pending court cases by detainees in Guantanamo Bay, Cuba, who are challenging their confinement.

In papers filed with a federal appeals court, the Justice Department said the Detainee Treatment Act signed by President Bush on Dec. 30 restricts detainees' rights to reviews by the U.S. Circuit Court of Appeals in the District of Columbia.

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The reviews are limited, said the Justice Department, to the question of whether the detainees have been correctly categorized by the U.S. military as enemy combatants.

The enemy combatant designation enables the U.S. military to hold the detainees indefinitely.

Lawyers for the detainees say the new law does not cover pre-existing cases filed in U.S. District Courts, which deal with a wide range of issues, from allegations of prisoner abuse to assertions that detainees have no ties to terrorism and should be released.

Set up more than four years ago after the war in Afghanistan, the Guantanamo Bay prison camp is holding some 500 detainees. Some have been there since the facility opened.

In 2004, the Supreme Court said the detainees were entitled to file petitions in the federal court system, resulting in more than 200 cases covering over 300 detainees.

At issue is the legislative intent of the Detainee Treatment Act, a compromise reached among Sens. Carl Levin, D-Mich., Lindsey Graham, R-S.C., and Jon Kyl, R-Ariz.

Lawyers for the detainees and Levin say the new law does not cover pending cases. Graham, Kyl and the Bush administration insist that it does.

Mosque Material Ordered Released (ALBTU)

By BRENDAN LYONS, Staff writer

Albany Times-Union, March 18, 2006

Judge says Justice Department must turn over certain classified data to defendants' attorneys

ALBANY -- A federal judge has ordered the Justice Department to turn over certain classified materials to attorneys for two members of an Albany mosque who were ensnared in an FBI counterterrorism sting.

The judge's ruling allows prosecutors to withhold some of their top-secret files in the case, and it's not clear what information will be disclosed or how soon it might become public.

The information may provide more details on why the FBI launched a sting three years ago that targeted Yassin Aref, a 35-year-old Kurdish refugee who is being held in jail without bond while awaiting trial on terrorism-related charges.

Federal prosecutors have the option of appealing the order issued late Thursday by U.S. District Court Judge Thomas J. McAvoy, but said they won't.

McAvoy's decision comes after more than 20 meetings between the judge and federal prosecutors in which they had haggled, in private, about what classified information the government must disclose so the men can defend themselves at trial.

"The government intends to comply with the court's order," said Assistant U.S. Attorney William Pericak.

Aref's attorney, Terence L. Kindlon, said he can't react to the order until he sees the materials.

It's possible the classified information could provide more background on Aref's alleged ties to overseas terrorist figures that U.S. authorities have said made him a target in the first place.

Aref and Mohammed Hossain, an Albany pizza shop owner, are accused of taking part in a plot to make money from the sale of missile launchers to terrorists. The plot was not real and was created by the FBI, which used an informant to allegedly lure the men into the deal.

Kevin Luibrand, Hossain's attorney, also reserved judgment on the significance of the judge's disclosure order, which comes 18 months after he first requested access to classified materials in the case.

"It would be a guess for us to determine now if they materials they do provide would be helpful," he said.

Federal authorities have long acknowledged that Aref was the "ultimate target" of their investigation, although they have not said why. Two months before the sting was launched, in the summer of 2003, Aref's name, phone number and Albany address were found in a notebook recovered from a bombed-out Iraqi encampment the government contends was occupied by terrorists.

Since then, prosecutors have filed motions accusing Aref of having ties to terrorist organizations in Iraq. But Aref disputes that and his attorney said the assertions were based almost entirely on entries in Aref's personal journal in which he'd recorded meetings with people he'd met, including some the U.S. government labels terrorists.

Officials have not made any similar charges against Hossain.

No timetable was set for when the classified materials must be turned over to the defense.

Brendan Lyons can be reached at 454-5547 or by e-mail at blyons@timesunion.com.

U.S., Pakistan's Strategic Interests Are Converging (WSJ)

By Mansoor Suhail

The Wall Street Journal, March 18, 2006

Mahnaz Ispahani's March 3 editorial-page commentary "Our Man in Pakistan" is based on wrong assumptions and analysis, but, paradoxically, draws the right conclusion: The U.S. must remain engaged with Pakistan. President Pervez Musharraf's government's cooperation with the U.S. is based on the convergence of Pakistan-U.S. interests both tactical and strategic.

Pakistan is in the frontline of the war on terrorism. More than 600 al Qaeda terrorists have been killed or captured by Pakistan. Success will require Pakistan's continued cooperation. Peace in Afghanistan is threatened not so much by border infiltration as the efforts of some anti-Pakistan elements in Kabul to deny power to the Pashtuns and to blame Pakistan for their failure to control security in Afghanistan.

As Mr. Musharraf and President Bush have agreed, success against terrorism and extremism requires a comprehensive strategy. Pakistan is pursuing a strategy whose aim is to create a modern, democratic Islamic state. This will have a pervasive and positive impact on the entire Islamic world and help improve Washington's strained relations with Muslims.

The U.S. also needs nuclear Pakistan's cooperation to prevent proliferation and ensure peace in South Asia, which is essential to realize U.S. commercial and strategic goals in the region.

Pakistan's economic potential should not be discounted. Pakistan is the second fastest growing economy in Asia; its trade and investment regime is among the most liberal; per-capita foreign investment is much higher than India's. And Pakistan can become the economic hub of three emerging dynamic regions - South Asia, Central Asia and West Asia.

Mansoor Suhail

Minister (Press)

Pakistan Mission to the U.N.

New York

The Mayor And The Imam (NYT)

The New York Times, March 18, 2006

When a government employee says "the greatest terrorists in the world occupy the White House," he is bound to raise some hackles, but should it be a dismissible offense? The chief chaplain for the New York City Corrections Department, Imam Umar Abdul-Jalil, made that remark in a speech last year in Tucson before a group of Muslim students. For good measure, he also took a shot at "Zionists of the media." What made the case seminal was Mayor Michael Bloomberg's response. He arrived at a Solomonic solution and, in the process, also found his voice on an issue that has challenged his administration in the past: free speech.

In an unexpectedly stirring defense of First Amendment rights, Mr. Bloomberg took wide-ranging swipes at the right and the left for stifling the airing of unpopular or offensive opinions. He stood up for immigrants, the free press, fair elections and justice. He rang the bell for intellectual freedom and for the right to criticize the government.

Mr. Abdul-Jalil will keep his $76,600-a-year job, but the mayor announced that he had been suspended without pay for two weeks for his failure to disclose that he had been speaking as a private citizen, not as a city employee. It was a fair outcome. The imam chose his words poorly, at the least. But those comments occupied brief moments in remarks that mostly encouraged Muslims to read the Koran and decried the high levels of incarceration in the United States. And the speech was only one event in a career that Jewish chaplains and other clerics at the Corrections Department have described as exemplary.

For the mayor, however, the moment could be much more significant. Mr. Bloomberg's record on free speech took a beating in his first term after he moved aggressively to limit protests, most notably those surrounding the Republican National Convention in New York two years ago. And as a report in yesterday's Times by Jim Dwyer made clear, the Police Department's

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willingness to subvert free speech in the name of security appears to have gone beyond that one event to an ongoing strategy that included "proactive arrests" of political demonstrators who were spotted as potential troublemakers.

When this page endorsed Mr. Bloomberg's re-election, we said we hoped that he would make up for his first-term lapses and make protection of free speech a hallmark of his second term. His decision on the imam can be an excellent beginning.

Ahern Asks Bush About CIA Flights Over EU (AP)

By Deb Riechmann

AP, March 18, 2006

Irish Prime Minister Bertie Ahern gave President Bush a bowl of shamrocks on Friday and then asked the president for more "transparency" about CIA flights over Europe.

After his St. Patrick's Day meeting with Bush, which lasted for more than two hours, Ahern renewed his commitment to seeing the implementation of Northern Ireland's 1998 peace accord and its central goal: power-sharing between the province's British Protestant majority and Irish Catholic minority.

The consensus among Irish Americans and political leaders is that "we just have to move on," Ahern said after meeting with Bush, who also visited with relatives killed in murders linked to the Irish Republican Army.

"We've seen the end of the IRA campaign," Ahern said. "We've seen the end of the arms issue. We're dealing with the criminality issue. We saw the big raids on the border last week. The politicians have to get back to the work that they were elected to, and we have to do that this year."

Gerry Adams, who has spent the past two decades guiding his IRA-allied party into Ireland's political mainstream, was among the Irish visitors to the White House. Last year, Bush barred all Northern Ireland leaders from the St. Patrick's Day event to put pressure on Adams.

Bush administration officials said last year that they withdrew Sinn Fein's White House invitation — for the first time since 1995 — because of the IRA's admission that its members were involved in killing Robert McCartney in Belfast last year and that the outlawed group stole $50 million worth of British pounds from a Belfast bank.

Ahern said he asked Bush if there was a way to bring more "transparency" to the issue of rendition. The European Union is investigating allegations that CIA agents interrogated al-Qaida suspects at secret prisons in eastern Europe and transported some on secret flights that passed through Europe.

Ahern said that while Ireland facilitates U.S. troop movements, and is "happy to do it," there is public concern over the CIA flights.

"We've asked for the president's understanding and cooperation," Ahern said, adding that it would be easier for him to explain the flights in his country if he knew more about them. "We are going to continue to look at, perhaps, how we might bring more transparency to that process, if that's possible."

In the traditional trek to the White House, the prime minister gave the president a glass bowl of shamrocks, a symbol of warm U.S. relations.

"The Census Bureau tells us there are more than 34 million Americans that claim Irish ancestry," said Bush, who wore a pale green tie for the occasion. "On St. Patrick's Day, I suspect that number jumps a little bit."

Bush and the Irish leader talked about Iraq, Iran, Darfur, India and the Middle East. Ahern said he expressed support for immigration legislation that would benefit the estimated 50,000 to 70,000 illegal Irish immigrants in the United States.

Ahern said he backed a proposal by Sens. John McCain, R-Ariz., and Edward Kennedy, D-Mass., which would let illegal immigrants stay for six years if they remain employed and pay a $1,000 fine. They would then become eligible for permanent residency.

Much of their discussion focused on the killings of McCartney, who was stabbed in the neck and stomach and bludgeoned with iron bars outside a Belfast pub on Jan. 30, 2005; Joseph Rafferty, who was shot dead outside his home in Dublin on April 12, 2005; and Pat Finucane, a Belfast lawyer who was shot 14 times on Feb. 12, 1989, as he sat down to a Sunday lunch.

Finucane's family and Catholic leaders have demanded a public probe into suspected involvement of British security forces in the assassination.

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Ahern said he was with Bush when they met with Ester Uzell and Bart Little, Rafferty's sister and brother-in-law; and Catherine and Kathleen McCartney and Emily Hamilton, McCartney's sister, mother and aunt.

"The president is very familiar with the cases — extremely familiar — and very well-briefed on all of the cases," Ahern said. "I should say we had quite a long conversation on the Finucane case.

In a speech Thursday night, Ahern said he hoped "all parties and all communities will fully accept and participate the new beginning for policing," a reference to Sinn Fein and its Catholic supporters, which refuse to work with Northern Ireland's mostly Protestant police force.

Sinn Fein boycotts a Catholic-Protestant board that is overseeing a 10-year plan for reshaping the police force, which requires at least 50 percent of recruits to be Catholic. The Bush administration has said it won't allow Adams to raise funds directly in the United States until Sinn Fein takes its seats on the Northern Ireland Policing Board.

The policy means that, while Sinn Fein's U.S. fundraising arm can collect funds from supporters, it can't do this at any events that Adams attends. Adams said this restriction meant the party had to return about $100,000 collected at a Washington breakfast that the Sinn Fein chief attended Thursday.

At that event, Adams took the unusual step of publicly criticizing Bush's special envoy to Northern Ireland. "I don't have any high regard for Mitchell Reiss' input in this process," Adams said. "If it is he who is advising the president, then it's very, very bad advice."

Reiss, however, got high marks from Ahern.

"I warmly applaud the work of your special envoy, Ambassador Mitchell Reiss, as well as (U.S. Ambassador to Ireland) James Kenny."

IRA-Allied Politician Detained At Airport From Times Wire Reports (LAT)

The Los Angeles Times, March 18, 2006

Gerry Adams, leader of the IRA-allied Sinn Fein party in Northern Ireland, was detained at Reagan National Airport after attending a St. Patrick's Day event at the White House, according to a congressman.

Rep. Brian Higgins (D-N.Y.), who had invited Adams to speak in Buffalo, N.Y., said Adams' name appeared on a terrorism watch list, triggering a lengthy inspection. Because of the delay, Adams missed his speaking engagement, Higgins said.

Earlier Friday, Adams joined Irish Prime Minister Bertie Ahern and other Irish visitors at a White House St. Patrick's Day ceremony.

HOMELAND RESPONSE:

Bomb Material Got Past TSA Screeners (DMN)

By Michelle Mittelstadt

The Dallas Morning News, March 18, 2006

21 airports failed test; homeland official defends security

WASHINGTON – Despite the multibillion-dollar ramp-up in aviation security since 9/11, congressional investigators were able to sneak homemade bomb components past federal screeners at all 21 airports they targeted in a recent covert exercise.

The General Accountability Office conducted the tests between October and January to determine the vulnerability posed by a would-be suicide bomber carrying easily purchased materials that could be assembled into a bomb once past security.

The GAO findings, first reported by NBC News, are classified, and the airports' identities were not disclosed. The GAO refused to comment Friday on any aspect of its report.

The head of the Transportation Security Administration, which oversees nearly 43,000 screeners at 429 commercial airports, didn't quarrel with the GAO analysis – and in fact termed it helpful as his agency focuses on its top mission: intercepting improvised explosive devices.

But Homeland Security Assistant Secretary Edmund "Kip" Hawley said the GAO testing doesn't take into account the many layers of security that occur before passengers reach the screening checkpoint and once they're through. Among them: checking

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travelers' names against watch lists; analyzing behavior patterns; making security procedures less predictable; and deploying federal air marshals.

While deeming the report "interesting," Mr. Hawley said it is "not at all an evaluation of the entire system. It's a data point on that one particular thing."

Speaking to reporters at a Homeland Security Department briefing, he added, "This should not be an alarming report."

His outlook wasn't shared by a pair of House Homeland Security Committee members.

"Half-measures will not prevent the next terrorist disaster – we cannot allow half of the contents traveling on passenger planes to go unscreened, as we continue to do today," said Rep. Ed Markey, D-Mass., who has long lobbied for tighter aviation security. "How many warnings does this administration need to take action?"

Rep. Bennie Thompson of Mississippi, the committee's top Democrat, said: "It's like the story of the Trojan horse. TSA has spent so much time telling people to take off their shoes and belts, that they have missed the bomb-making materials."

TSA has adapted its policies, however, to give screeners more time to look for potential bomb components. In a December shift that sparked some controversy, TSA removed small scissors and tools from its list of prohibited items.

The GAO test also occurred as TSA was in the midst of providing explosives-detection training for 18,000 screeners at the nation's biggest airports, Mr. Hawley said. "Certainly, the training had not burned in," he said.

Two thousand additional screeners have been trained since.

The problem is that TSA hasn't been given the resources to deploy technologies that could ferret out explosives, said Douglas Laird, an aviation security consultant who was a former Northwest Airlines security director.

"We don't give the screeners the technology they need to succeed," Mr. Laird said. "It's not that we don't know how to do security, it's that we're not willing to pay for security."

He noted that CTX machines to screen checked baggage for explosives have yet to be deployed at all airports. The machines are at Dallas/Fort Worth International Airport and other major airports. He also said TSA is moving gingerly to test backscatter scanners that can detect explosives and weapons hidden on people – with an X-ray technology that essentially allows scanners to peer through clothing.

The union that has fought for screeners' bargaining rights, the American Federation of Government Employees, agreed that the TSA workers lack the equipment and training to do their jobs properly.

"It is clear that TSA doesn't take this seriously," said John Gage, president of the government employees group. "The agency seems to be more concerned with presenting the public with the appearance of security rather than making sure the appropriate security measures are taken."

While both Mr. Gage and Mr. Laird said the equipment exists to do the job right, Mr. Hawley said technologies to detect all manner of combustibles – many of which can be assembled from household products – remain in development.

Though countless items could be used to assemble a bomb, Mr. Hawley said TSA knows which materials pose the greatest risk, having blown up hundreds of planes in tests.

"We know exactly what it takes and where to bring an airplane down," he said. "We use that information to guide us in our priorities, our technology, and the physical processes that we do to check."

White House Plans Smallpox Drill (AP)

AP, March 18, 2006

Cabinet secretaries and other top officials are gathering at the White House complex Saturday to act out the roles they would play in a smallpox outbreak.

The four-hour drill, designed to test the federal government's smallpox response plans, won't be attended by the president, White House press secretary Scott McClellan said Friday.

Officials conducted a similar "tabletop exercise" in December to examine the nation's readiness for pandemic flu. The drills are kept behind closed doors.

"The president directed his Cabinet to conduct a series of such exercises to assess our response efforts to catastrophic attacks," McClellan said.

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The United States ended routine childhood vaccination against smallpox in 1971, and the World Health Organization reported the disease was eradicated in 1980.

But there are fears that smallpox could be used by terrorists as a biological weapon. About 15 months after the Sept. 11, 2001, attacks, the U.S. government ordered certain military personnel vaccinated and recommended shots for front-line health care workers.

The president did not attend the pandemic flu drill, and was to be at Camp David, the presidential retreat in the nearby Maryland mountains, during this one.

After the flu drill, conducted around a C-shaped table for four hours, officials said it showed that saving lives and containing the economic damage of a pandemic flu would require more planning in local communities and increased production of vaccines and medications.

Real Injustice (WP)

The Washington Post, March 18, 2006

WHEN CONGRESS passed the Real ID Act last year, it presumably did not intend to prevent human rights victims all over the world from entering the United States. Its goal was to keep terrorists and those who support them from resettling in the United States as refugees. The legislative language, however, was irresponsibly broad; its effects have been cruel to people already oppressed by vile regimes and terrorist groups. The law needs to be changed.

Terrorists were excluded from the United States even before the Real ID Act, but the law made substantial changes to keep out donors to terrorist groups or others who provide them "material support." The trouble is that, because of the new law and its interaction with existing provisions, the legal definitions of terrorism, terrorist organizations and material support are so broad that they include countless people who deserve the United States' protection, not exclusion.

The law bars associates of any group that contains "two or more individuals, whether organized or not, [which] engages in, or has a subgroup which engages in" activities as general as using an "explosive, firearm or other weapon or dangerous device." The law contains no exceptions for people who are forced to support a group, or for children, or for tiny contributions, or for contributions that took place decades ago. It does not make any distinction between an al-Qaeda member and an armed combatant against a murderous regime. While the government has waiver authority in some cases, it has not yet used this power.

The results are terrible. According to the office of the U.N. High Commissioner for Refugees and to officials and academics who have looked at the issue, here are some people who may be barred from entry to the United States: Colombians who were forced to help the leftist insurgency of the Revolutionary Armed Forces of Colombia; thousands of Karen and Chin nationals who suffered brutal repression at the hands of the Burmese military junta; Liberian, Somali and Vietnamese Montagnard victims of terrorism and repression; and some dissident Cubans who aided anti-Castro forces in the 1960s. The administration recently acknowledged in one asylum proceeding that those who fought with or aided the Northern Alliance against the Taliban or who supported the African National Congress against South Africa's apartheid government would be excluded, too.

A spokesman for House Judiciary Committee Chairman F. James Sensenbrenner Jr. (R-Wis.), who championed the Real ID Act, says the law's waiver authority gives the government the flexibility it needs to deal with such cases. And the problem could be alleviated if the administration would use that authority aggressively. But that would address only some of the cases, and only by having the government forgiving "terrorism" on the part of refugees whom it should not be labeling terrorists in the first place. This problem can be solved only by Congress. If this mess is not what Mr. Sensenbrenner had in mind, he ought to do something to clean it up.

Port Authority Rejects Silverstein's Offer To Talk (NYT)

By Charles V. Bagli

The New York Times, March 18, 2006

Nobody was calling the latest overtures negotiations yesterday, but it looked as if the stalled talks over financing and rebuilding at ground zero could resume next week, at least by mail if not face to face.

The Port Authority rejected a new offer yesterday from the developer Larry A. Silverstein to revive the negotiations and said it would unveil its own proposal for the site next week.

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Talks between Mr. Silverstein, who controls the lease at ground zero, and the Port Authority of New York and New Jersey, which owns the land, abruptly broke off late Tuesday night. The developer had submitted what state officials and Port Authority executives said was a one-sided counterproposal that shifted all the development risks onto the authority, while guaranteeing Mr. Silverstein a profit.

Eager to restart the talks, Mr. Silverstein sent the Port Authority a new proposal yesterday that he had hoped would lead both sides back to the bargaining table. While it may not contain some of the most unacceptable provisions of the old proposal, Port Authority officials said that the overture did not amount to a starting point for a new agreement.

"Silverstein Properties has attempted to provide a revision to their proposal of last Tuesday night," wrote the Port Authority in a tersely worded statement released yesterday evening. "However, many aspects remain unacceptable. Port Authority staff will develop a counterproposal that we believe will work for both parties to get this deal done."

The Port Authority's response drew a rapid retort from the Silverstein camp.

"We're glad the Port Authority has finally decided to produce a counterproposal, which is what we've been asking for since they abruptly broke off talks on Tuesday night," said Bud Perrone, a spokesman for Mr. Silverstein. "We hope it means that they are also prepared to return to the table without further needless delay."

The collapse of the negotiations, an embarrassment to both Mr. Silverstein and Gov. George E. Pataki, is only the latest problem to cast doubt over the future of the ground zero site. Fund-raising for the World Trade Center memorial is going slowly and critics have questioned whether the $2.3 billion Freedom Tower should be built.

The dispute between Mr. Silverstein and the Port Authority surfaced as state and city officials became concerned about the developer's ability to rebuild the entire site, at an estimated cost of more than $7 billion, when there is only $2.9 billion in insurance money available. Under Mr. Silverstein's lease at the trade center, he has both the right and the obligation to rebuild all the commercial space, at an estimated cost of more than $7 billion.

As a result, state officials and Port Authority executives have sought to fashion a new arrangement at ground zero in which they split the site.

Last Tuesday evening, the two sides appeared to be close to a deal in which the Port Authority would take control of building the Freedom Tower, the most symbolic and least economically viable of the five towers planned for the area. The authority would also have taken over a second building site at Greenwich and Cedar Streets, where the heavily damaged Deutsche Bank building stands.

Mr. Silverstein, in turn, would have retained what everyone regards as the most lucrative sites for three towers on Church Street, next to the $2 billion PATH terminal now under construction.

But the talks foundered over a series of interrelated financial issues, including the allocation of $2.9 billion in insurance money; Mr. Silverstein's rent, which rises to $125.25 million in July; and his share of the infrastructure costs. Although the Silverstein camp insisted that the two sides were close, Charles A. Gargano, vice chairman of the Port Authority and the state's top economic development official, said they were about $1 billion apart on Tuesday night.

But even if Mr. Silverstein adjusts the financial terms of his offer, it remains to be seen if the Port Authority, whose 12 commissioners are appointed by the governors of New York and New Jersey, will revisit the old deal. Some commissioners had agreed on Tuesday only after prodding by Governor Pataki's chief negotiator, John Cahill.

At least two of the six New York commissioners considered the deal discussed last Tuesday to be overly generous to Mr. Silverstein.

"The majority of us, if not all, would prefer a buyout of his development rights," said a New York commissioner who spoke on condition of anonymity because he was not authorized to speak for the board.

Anthony R. Coscia, chairman of the Port Authority, has expressed that he will not agree to a deal that enriches Mr. Silverstein, while leaving the authority with hundreds of millions, if not billions, of dollars in bills.

Mayor Michael R. Bloomberg is of a similar view. "I thought the deal the governor offered Larry Silverstein was a better deal than I would have offered, I'll tell you that," he said yesterday during his weekly radio show.

The mayor, who has been a frequent critic of Mr. Silverstein, said that ultimately Governor Pataki, Governor John S. Corzine and the Port Authority will lay out a plan telling Mr. Silverstein, "Look this is a fair deal; let's do this one, and Larry will agree."

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WTC Talks To Resume Next Week (WSJ)

By Alex Frangos

The Wall Street Journal, March 18, 2006

NEW YORK -- Talks to resolve how to rebuild the World Trade Center will restart next week after private developer Larry Silverstein offered a revised proposal Friday for his role in the long-troubled project.

The Port Authority of New York and New Jersey, which owns the site, said it would respond to Mr. Silverstein's proposal.

While calling aspects of Mr. Silverstein's latest proposal "unacceptable," Port Authority spokesman Steve Coleman said the agency "will develop a counter-proposal that we believe will work for both parties to get this deal done."

Negotiations between Mr. Silverstein and the Port Authority broke down Wednesday after failing to meet a deadline imposed by New York Gov. George E. Pataki. The Port Authority walked out on the talks saying the 74-year-old real estate tycoon was bargaining in "bad faith," a charge he denied.

Mr. Silverstein's revised proposal closes the gap between the two sides and contains some new ideas, according to a person close to the talks. In a statement, Mr. Silverstein said "the sooner we get this done the better."

Before talks failed, the two sides had the broad outlines of a deal in place that would have Mr. Silverstein give up the rights to build two of the five planned towers, including the signature Freedom Tower. The sticking points revolved around how much each side would bear of the $7 billion cost.

Little has been rebuilt 4 1/2 years after the attacks that destroyed the Twin Towers. Gov. Pataki, the Port Authority, which Gov. Pataki controls with New Jersey's governor, and Mr. Silverstein have come under heavy criticism for the lack of progress.

Ground Zeroes (WSJ)

The Wall Street Journal, March 18, 2006

Not long after the 9/11 terror attacks evicted us from our offices across from the World Trade Center, we remember thinking that it might be 10 years before the destroyed site was fully rebuilt. If only. Four and a half years later, Ground Zero remains just that -- a hole in the ground.

The failure to even begin rebuilding Ground Zero is a disgrace, but it's also a classic display of New York's dysfunctional political culture. What was a rare chance to improve lower Manhattan and show the world our ability to bounce back has deteriorated into a familiar squabble among interest groups and politicians assigning blame.

The latest roadblock occurred this week, when private developer Larry Silverstein and the site's owner, the Port Authority of New York and New Jersey, failed to agree on a financial plan for building the five office towers planned for the site. New York Governor George Pataki, the politician with the most responsibility here, accused Mr. Silverstein of greed and "betray[ing] the public trust" and now wants to oust him from at least part of the project.

Mr. Pataki knows that when you're in trouble in politics, blame a rich old white guy. Mayor Michael Bloomberg, another leadership vanishing act (though with less influence over the WTC site), has adopted the same strategy. The developer counters that he could build commercially viable buildings if only the state and city would get out of the way.

Mr. Silverstein has the most credibility here, not least because he's the only one who has actually built something downtown since 9/11 -- the new 52-story skyscraper adjacent to Ground Zero known as 7 World Trade Center. "I can't tell you why government does what it does," he was quoted as saying in a wire-service report this week, in plaintive understatement. "In the private sector, this doesn't happen."

Much of the squabbling is over the Freedom Tower, the site's signature building, whose design took years to finalize. Mr. Silverstein isn't crazy about the latest version, though he's never trashed it the way his fellow real estate developer, Donald Trump, has. The Donald spoke for many New Yorkers last year when he called it "an egghead design, designed by an egghead, which has no practical application and, which, frankly, doesn't look very good."

We'd just as soon see the 1,776-foot-high tower scrapped in favor of a building less fraught with "symbolism" and more suited to real tenants. Everyone agrees that the iconic Freedom Tower will instantly become Manhattan's No. 1 terrorist target, and for that reason -- along with its size -- it's not an easily rentable property. Rather, it's destined as a home for government

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tenants, says the Manhattan Institute's Steven Malanga. The plans don't even include some high-tech amenities that corporate clients would demand.

An even bigger point of contention is the memorial to the September 11 victims, work on which was finally begun on Monday after years of wrangling. A lawsuit to stop the memorial is pending in state court, brought by family members dissatisfied with the design. The sister of a firefighter who was killed on September 11 demonstrated her opposition this week by sleeping in front of the firehouse across from Ground Zero.

The memorial is scheduled to open in 2009 (good luck), but first there's the little matter of money. The partially underground design is so controversial -- some say uninspiring -- that the foundation established to fund it has come up way short of the necessary $500 million. Some $200 million has come from Washington and another $100 million from private donations, but that still leaves $200 million to go.

On the first anniversary of 9/11, when the wreckage had been cleared more quickly than anyone dreamed possible, we expressed hope that a thriving new commercial center would soon rise from the rubble. Everyone expected that someone, the Governor ideally, would step forward to exert some leadership. But that has been in pathetic and short supply.

The failure at Ground Zero is a case study in government incompetence and buck-passing. It's no way to revive the economy of Downtown Manhattan, and it's certainly no way to honor the men and women who perished there on September 11.

FEMA Will Try To Recoup Millions Distributed For Hurricane Relief (NYT)

By Eric Lipton

The New York Times, March 18, 2006

WASHINGTON, March 17 — Acknowledging that it wrongly distributed tens of millions of dollars in hurricane relief last year, the Federal Emergency Management Agency said Friday that it would try to recoup aid from thousands of individuals or families who fraudulently or otherwise wrongly collected money.

Officials at the agency said it was a routine step taken after any disaster because in the rush to distribute emergency aid, benefits were occasionally paid twice to the same family or to people who were ineligible.

"In every disaster there are just some people who are bad apples who attempt to take advantage of the programs," said Donna Dannels, the acting deputy director of disaster recovery at FEMA.

But auditors examining the $6.8 billion in disaster assistance distributed last year to 1.7 million households after Hurricanes Katrina, Rita and Wilma said FEMA was to blame for much of the abuse because of a woefully inadequate accounting system that left it vulnerable to fraud.

"The right way to do this is to prevent it in the first place," said Gregory D. Kutz, managing director of a unit in the Government Accountability Office that has already found that thousands of people submitted duplicate or invalid Social Security numbers to receive aid. "You will never catch even a fraction of the people who have committed fraud here."

So far, FEMA has sent letters to 1,500 families asking them to return payments, which most frequently came in the form of $2,000 in cash but could legally reach $26,200 per household.

FEMA's requests for repayment came after it conducted its own search for duplicate payments and other irregularities.

The letters that went out this week were just the first wave. FEMA officials said Friday that they would most likely seek the return of aid from 2 percent to 3 percent of approved applicants. They said that they could not estimate how much money they would try to recoup, but that it could be up to $100 million.

In some cases, payments were made to families to cover immediate expenses that have since been reimbursed by private insurance, Ms. Dannels said.

But the inquiry by Mr. Kutz and his staff members, which is still under way, has already shown that thousands and perhaps tens of thousands of inappropriate payments were made because people were able to apply for and collect aid repeatedly.

For example, about 5,000 of the 11,000 victims of Hurricane Katrina who collected FEMA debit cards worth $2,000 that were distributed in Texas also received $2,000 payments in the mail, even though they were eligible for only one so-called expedited assistance payment to buy food, clothing and other emergency supplies.

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Separately, investigators found that thousands of payments for cash aid and rental assistance were sent to people who applied with falsified Social Security numbers or numbers that belonged to people who had died.

The problem, the investigators found, was that when people called FEMA's toll-free registration number, the agency did not try to confirm their identities by using government records to match the applicants' names with the submitted Social Security numbers.

"FEMA provided the fraudsters an opportunity that was very appealing to steal money," Mr. Kutz said. In one case, a person used 15 different Social Security numbers to collect $41,000.

The weaknesses in FEMA's emergency aid system are not new: in 2004, after Hurricane Frances in Florida, it gave out $31 million in aid to more than 12,000 residents of the Miami area that auditors later ruled was largely unjustified because hurricane-force winds never hit the area. FEMA ultimately moved to recoup much of this money as well.

Individuals who receive a letter from FEMA will have a month to repay the requested amount before they will be charged interest. Recipients will have a chance to appeal, but if the appeal is not sustained and the payment is not made, the debt will be turned over to the Treasury Department to collect.

Officials from FEMA and the treasury could not say Friday how successful the government had been at recovering excessive or unjustified payments from past disasters.

R. David Paulison, the acting FEMA director, said the agency was moving to correct some of the problems, including establishing a way to verify applicants' identities when they applied for aid over the phone, a system that would be in place for the next hurricane season.

Ultimately, Mr. Paulison said, there will never be a way to stop all fraud and waste.

"For every instance of an incorrect payment, there are thousands who were genuinely in need of the federal government's help," Mr. Paulison said in a statement Friday. "It is our job to ensure there is not delay in receiving that assistance."

In Louisiana, Graft Inquiries Are Increasing (NYT)

By Leslie Eaton

The New York Times, March 18, 2006

KENNER, La. — Long before this suburb west of New Orleans was shaken by Hurricane Katrina, it was notorious for its fierce political infighting, for name-calling and mudslinging, for charges and countercharges of cronyism and corruption.

But accusations about matters like ticket-fixing are one thing, and allegations involving millions of federal dollars for storm recovery are quite another.

In February, federal prosecutors in New Orleans began bringing witnesses before a grand jury looking into possible fraud in Kenner municipal contracts that were awarded immediately before and after the hurricane. The mayor and the entire City Council have been subpoenaed to testify, although the government has not made clear its target.

Growing numbers of subpoenas may soon be issued across Louisiana, where local politics remains a blood sport and corruption has been a bad habit. That combination has become far more volatile with the addition of millions of dollars in aid beginning to flow from Washington and an army of auditors, investigators and prosecutors determined to make sure that the money is properly spent.

So far, the scrutiny has resulted in several major fraud prosecutions around the state. The government has filed charges against a politician in St. Tammany Parish, north of New Orleans, who is accused of seeking hurricane contract kickbacks, and against several federal workers accused of seeking bribes and a contractor who was paid millions of dollars for work the government says he did not perform at a tent camp.

New hurricane fraud investigations are being opened "sometimes by the day," said Jim Letten, the United States attorney in New Orleans, who was the lead prosecutor in the corruption case against former Gov. Edwin W. Edwards, convicted in 2000 of a scheme to extort money from businessmen seeking gambling boat licenses.

"Additional investigations focus on everything from fake charities to identity theft to contractors behaving fraudulently to public corruption cases," Mr. Letten said.

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Grand jury investigations normally take place in secret, and Mr. Letten said he could not discuss the focus or the scope of the inquiry in Kenner, a city of 70,000 people that is home to New Orleans's airport.

But some information has become public, in part because the mayor and several City Council members have held news conferences on the investigation. Reporters were waiting in the halls of the Hale Boggs Federal Building on March 9 when a contractor and all seven members of the Council trooped up to the fourth floor to testify. And the contracts in question have been a subject of public acrimony between the mayor and the Council, a circumstance that led to a fistfight between a contractor and the brothers of a councilman at a Mardi Gras ball in February.

"Kenner is the home of hardball politics," said Jeff Crouere, a political commentator who is a former executive director of the Louisiana Republican Party. (Almost all the battling politicians in Kenner are Republicans.) But the grand jury inquiry, coming so soon before hotly contested city elections on April 1, "is just an incredible situation," Mr. Crouere said, "where voters are left scratching their heads."

Dominic O. Weilbaecher, a city councilman and former interim mayor, has raised questions about at least $22 million in city spending on debris removal, trailers and public relations.

The spending was approved by the current mayor, Philip L. Capitano, who is running for re-election. A former ally of his, Mr. Weilbaecher contends that Mr. Capitano is now rewarding campaign contributors, overpaying cronies and generally spending taxpayer money without demonstrating that the city is getting anything in return.

"I've been talking to guys from the F.B.I. for two years, just because of the foolishness I've seen from this administration," Mr. Weilbaecher (pronounced WHILE-backer) said in an interview.

What is new, he said, is that federal money is now involved: the city is seeking reimbursement for storm-related expenses from the Federal Emergency Management Agency.

"My take is, the U.S. attorney wants to send a message that regardless of what's going on with elections or any other thing, you don't mess with the federal government," Mr. Weilbaecher said.

The mayor replied that his efforts after the storm saved the city money, got it up and running quickly, and did not involve any impropriety.

"We did it better, we did it cheaper," he said in an interview. "That's why it's so funny we're being investigated by a grand jury right now, when we were more efficient, cheaper and better than all the surrounding communities."

The mayor later sent along a letter he had received from the University of Chicago Graduate School of Business praising his "bold and intelligent leadership" after the storm.

Randal Perkins, owner of a major debris removal company that worked in Louisiana and Mississippi after the hurricane, said in a phone interview that he believed Kenner was paying less on its cleanup contract than the Army Corps of Engineers was spending on similar work.

"It's politics," Mr. Capitano said of the inquiry. Mr. Weilbaecher and another councilman, Michael McMyne, "are trying to help the guy who ran against me" in the last election.

That guy, Nick Congemi, is the police chief and brother of Mr. Capitano's predecessor as mayor. The chief is among four candidates challenging Mr. Capitano this time.

"I don't think anybody can plot with the U.S. attorney's office," Mr. Congemi said recently. "That accusation is a simple politician's answer to a deep dilemma he's in now."

Whatever is behind the accusations, Mr. Letten, the prosecutor, had no choice but to look into them, said L. Eades Hogue, a former federal prosecutor representing the contractor who has appeared before the grand jury. "It smacks of politics," Mr. Hogue said, "but the U.S. attorney is obligated to investigate allegations such as these."

Even some critics of the mayor do not dispute that this city of about 15 square miles began rebounding from the hurricane faster than many other communities. But they suggest that this had less to do with politicians than with the route of the storm, which struck hardest at points farther east.

"As bad as it was, this city was blessed," said John T. Lavarine III, who like his father before him serves on the City Council. "We were on the western fringes."

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Which is not to say that Kenner escaped unscathed. Driving his Crown Victoria through the city recently, Mr. Lavarine headed north and west to Loyola Drive, where white FEMA trailers line the streets like false teeth in front of damaged houses. Across town, a huge apartment complex that housed mostly Hispanic residents sits moldering, roofs torn off and walls tipped in.

Worried about rebuilding their homes and about the next hurricane, Kenner's residents, some politicians among them, seem embarrassed by the investigation and fed up with the political squabbling.

"The fighting and all has not served the city well," said Edmond J. Muniz, a retired businessman and politician known for founding Endymion, one of the biggest Mardi Gras krewes, or parade groups, who decided at the last minute to run for mayor. "I don't know how to put it. I wouldn't want to say we are a laughingstock, because it isn't funny."

EPA Chief Backs Coast Restoration (NOTP)

By Matthew Brown

New Orleans Times-Picayune, March 18, 2006

But he's offering no new money for it

U.S. Environmental Protection Agency Administrator Stephen Johnson said Friday that the Bush administration is committed to rebuilding Louisiana's shattered coastline, but offered no new money for an effort expected to cost up to $14 billion.

Nor did he offer any specifics as to what role his agency would play.

"President Bush and EPA are determined to rebuild and rejuvenate our nation's wetlands," Johnson said in a speech at the annual meeting of the National Wildlife Federation in New Orleans. "After Katrina and Rita, the entire world knows how important wetlands are to our lives and our communities. . . . Coastal security and sustainability are about more than levees and concrete."

Participants in a private breakfast meeting with Johnson Friday morning said he indicated he wanted the EPA to "get going" on at least a handful of the many coastal restoration projects under consideration. Some have been stuck on the drawing boards for years.

"They want to identify some projects they can work on collaboratively," said Richard Innes, a Washington conservation lobbyist who sat in on the meeting. "He said let's pick a couple and just get going so we can say the money's there, the bulldozers are on the ground."

Since the 1930s, Louisiana has lost an estimated 1,900 square miles of coastal wetlands to erosion. Despite passage of the Breaux Act by Congress in 1990 in an attempt to stop the losses, land has continued to disappear at the rate of about 24 square miles annually over the past decade.

Adam Kolton, senior director for congressional affairs for the wildlife federation, said he was encouraged by Johnson's broad statements on wetlands issues, but said the administration needs to press Congress to follow up with cash. "Thus far, we haven't gotten what we needed from Congress and, frankly, that's disappointing," Kolton said.

In an earlier address to the wildlife federation, King Milling, president of Whitney National Bank and chairman of Gov. Kathleen Blanco's advisory commission on coastal protection, repeated calls made by Louisiana's elected leaders to give the state a larger share of offshore oil and gas royalties to finance the restoration effort.

Johnson did not address the administration's stand on that proposal, and after his speech declined to answer questions from a reporter.

A Hurricane And Espresso. What's Next? (NYT)

By Laura Rich

The New York Times, March 18, 2006

In its fourth-quarter earnings report, Procter & Gamble had one particularly dark cloud in a generally bright update: Hurricane Katrina was making a mess of its coffee business, which got 50 percent of its supply from four sites in New Orleans.

Though the plants were among the first back in operation after the hurricane struck on Aug. 29, there are still, as Doug McGraw, the executive in charge of global coffee, put it, "holes on the shelves" where Folgers and Millstone, Procter's brands, should be. Mr. McGraw spoke recently about the impact of the hurricane and how the business is doing now. The following are excerpts:

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Q. In the coffee market, regional roasters and the popularity of espresso drinks are changing the market. How are you addressing those new forms of competition?

A. On a macro level, I'd say that the really good thing that's happening in the coffee market right now is that people are becoming more interested in the coffee. The terminology I've used on previous occasions is that "coffee is kind of becoming cool." And that's really good for the industry and it's manifesting itself in a number of ways. One is, there are new, smaller, regional coffee businesses coming online. Obviously, coffee shops are becoming far more prevalent than they were 5 years ago, 10 years ago.

One of the things we're really excited about that we hope we see continue is that consumers are trading up from more kind of mainstream coffees to more gourmet and more expensive coffees as they become more knowledgeable and more sophisticated about what's out there. And certainly, the trend toward espresso-based beverages is partially what's behind that.

Q. Since Folgers is more of a mainstream brand, what are you doing to address the move toward the higher end of the market?

A. One of the things we've done in the last year is, we have a segment of our line called the Folgers Coffehouse Series. It provides more gourmet-like blends and roasts such as French Roast, Gourmet Supreme, Colombian. So we have shifted our emphasis within our product and marketing programs to make Folgers consumers and other coffee drinkers aware that Folgers, too, offers these more gourmet, slightly darker, roasted coffees.

We also have a second brand, Millstone, which is one of the leading national gourmet brands, which we have shifted more of our emphasis to with the hope of capturing additional consumers as they explore what's available in the coffee market.

Q. Is Starbucks a market that's important to crack?

A. No, our primary focus and business model is to sell through retail outlets: grocery stores, mass merchandisers, club stores.

Q. What steps did you take to get back online in New Orleans?

A. For the first several weeks, we were renting helicopters to drop people in during the day, first to assess the damage. Over the course of the recovery, we dug our own well. We were trucking water in from Baton Rouge.

But probably the biggest undertaking that is still in place today — it's just an amazing picture — we have 130-some trailers located on what used to be our employee parking lot, because, as I said, most of our employees had left the area with their families. Since close to two-thirds of them had significant property damage, they didn't have any place to come back to, so we created what we call Gentilly Village, which was the trailers, some of which we bought and some of which we got from FEMA, on our parking lot, along with the generators, laundry facilities, a large kitchen and food-service operation, etc.

Q. How many of the employees who left came back?

A. Upwards of 90 percent. So, over 400 of our 500-some employees have come back.

Q. When do you expect everything will be back to normal?

A. For as good as our operation is running right now, there are some unique challenges associated with operating a business in the New Orleans area right now. The costs of operation have gone up pretty dramatically.

Hopefully as the city infrastructure gets back under control and operating at whatever level it's going to operate at, those will improve. But it's an issue today.

Blanco Plan Passes First Test (BRA)

Baton Rouge Advocate, March 18, 2006

Legislators on Friday advanced the biggest part of Gov. Kathleen Blanco's hurricane recovery plan — totaling $6.2 billion — despite gripes about the lack of detail on how the money will be spent.

The dollars are coming from Congress. The state must submit a spending plan to the federal government before the funds start flowing.

The Louisiana Recovery Authority's executive director, Andy Kopplin, said the state is only ready to spend part of the money.

The Joint Legislative Committee on the Budget approved two plans Friday — a broad outline for spending the $6.2 billion and a more specific plan for using $368.9 million of it. The plan now goes to the full Legislature for approval.

The governor is asking Congress for another $4.2 billion of the same kind of funds, known as Community Development Block Grants. The aid is crucial to the governor's plans because the state decides how to spend the federal money.

Blanco wants to start setting up the mechanism for eventually distributing billions for housing aid to homeowners and renters affected by the hurricanes.

She also wants federal reimbursement for the cost of setting up call centers to gather information from hurricane victims on their housing situations.

Another part of the plan calls for establishing recovery centers to help displaced renters and homeowners.

The administration outlined the plan for legislators on two pages, not using more than a paragraph to describe each type of expense.

Sen. Jay Dardenne, R-Baton Rouge, found the two-sentence description of the recovery centers to be lacking.

"I couldn't explain to anybody what we're approving," he complained.

Dardenne pointed out that legislation to create recovery centers to counsel hurricane victims on their housing options didn't survive the Legislature's recent special session.

A bill creating the centers was part of the governor's legislative package. It passed the Senate but died in the House because it was never called up for a vote.

"What is a recovery center if the Legislature didn't authorize the creation of it?" Dardenne asked.

Suzie Elkins, director of the Office of Community Development, which is coordinating the funding, said the centers are simply a mechanism to get money into the hands of homeowners.

The centers will determine how much financial assistance a homeowner needs and make sure homes are inspected and appraised, she said.

The centers share the same name as the counseling centers proposed in the legislation, but they are not the same thing, she said.

"Call it whatever you want," Elkins told Dardenne. "You have to have something in place."

Dardenne also asked why banks or housing entities could not handle the distribution of funds.

Kopplin said that may be what happens. He said the state plans to seek bids to pick a firm to manage the money.

Rep. Don Cazayoux, D-New Roads, puzzled over the administration's intention to use a portion of the federal funds to employ staff.

"I thought we were approving an action plan," he said. "What are you talking about hiring people?"

Kopplin said the state has to staff the call centers.

Pressed further about the extent of the hiring, Elkins said the state does intend to start contracting for people to set up the recovery centers.

Rep. Steve Scalise, R-Jefferson, made a motion to remove the recovery centers from the administration's plan.

Kopplin urged against the action, saying it would slow the state's recovery from the hurricanes.

Sen. Francis Heitmeier, D-New Orleans, agreed.

"We don't want to cause roadblocks where we're not getting money to people," he said.

Heitmeier also scolded Kopplin for not providing more information.

"In the future, we need a breakdown of where you going to spend the dollars," he said. "You can't just throw this at us."

In the ends, Scalise's motion to remove the centers failed on a vote of four in favor to 25 against.

The plan now goes to the full Legislature for approval.

Money the Blanco administration is ready to spend so far includes:

$95 million for loans ranging from $5,000 to $100,000 for small businesses in hurricane-affected areas.

$95 million for local governments to provide money required for the federal government to share the cost of rebuilding infrastructure.

$142.5 million to repair state buildings damaged by the hurricanes.

$1 million to design housing programs.

$2 million for a call center to gather information from homeowners in need of housing.

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$9.8 million to establish housing assistance centers for hurricane victims.

$5.1 million to conduct environmental reviews of property in the hurricane-affected areas.

$18.45 million in administrative expenses.

Legislators OK Recovery Plan Grudgingly (NOTP)

By Robert Travis Scott

New Orleans Times-Picayune, March 18, 2006

They warn governor to keep them in loop

BATON ROUGE -- A critical portion of the state's plan seeking billions of federal dollars for hurricane recovery passed a legislative panel Friday, but not without a warning shot to the governor's administration that lawmakers need to be better informed and integrated into the process.

In response, administration officials expressed concern that the flow of federal money for housing and other recovery programs could be unnecessarily delayed.

The Joint Legislative Committee on the Budget approved an "action plan" outlining how the state would spend $6.2 billion in federal block grants for storm relief. The plan next will be submitted to the full Legislature soon after it convenes a spring session on March 27, then will go to the Department of Housing and Urban Development for federal approval.

Among the components of the state's plan are $332.5 million for economic development bridge loans, $1.19 billion for local and state government infrastructure and $4.37 billion for housing recovery. The governor's handpicked Louisiana Recovery Authority designed the plan.

The panel approved what for the most part was a proposal for spending, not actual spending. But the request contained several items that would accelerate the state's ability to start spending money to put the plan in place.

Getting the facts

Among those items, several members of the committee raised concerns about a $9.8 million request to begin creating "recovery centers" to assist homeowners applying for loans and grants to repair their damaged properties. Though only a tiny amount of the overall package, the item is a catalyst for getting the housing program started, LRA director Andy Kopplin said.

The money would be used to begin the long process of getting the centers up and running, starting with official state requests for private companies and organizations to submit their proposals for doing the work, Kopplin said.

"Our greatest fear is that we're going to have the money available but the implementation status delayed," Kopplin said.

Panel member Sen. Jay Dardenne, R-Baton Rouge, criticized the recovery center request for its lack of clarity and wondered whether the state was using the money to hire staff.

"All I have is a piece of paper that says give me $9.8 million for a recovery center," Dardenne said. "We don't have any backup information."

Dardenne said the state might be better off using banks or accountants to implement the program, rather than creating its own bureaucracy. The recovery center request appeared to create a new layer of state administration on the housing issue, an idea the Legislature rejected in the recent special session, he said.

Kopplin said it was too early to know how the recovery centers would operate, because the state will first want to see how financial companies and nonprofit organizations propose to handle the work, and for how much compensation. That will not be known until the contract proposals come in, he said.

Sen. Francis Heitmeier, D-Algiers, who chaired the meeting, said the Legislature cannot do its job properly with such sparse information and short notice.

"We just can't have y'all throwin' numbers at us . . . and not knowing how you're going to use it," Heitmeier told Kopplin.

He said the committee did not want to create roadblocks to people getting their money, but repeatedly warned Kopplin that in the future lawmakers will expect more details.

If HUD approves the plan, the Legislature will once again have a say on budget requests for how to spend the money.

Hospitals feel squeeze

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The panel also heard Friday from representatives of Ochsner Foundation Hospital, West Jefferson Medical Center and East Jefferson General Hospital, which are operating under financial strains brought on by providing care to uninsured patients unable to pay their bills. Prior to Hurricane Katrina, the bulk of such care was provided to patients for free or at low cost by the state-run Charity Hospital, which is shut down.

With mounting costs, difficulty borrowing in the current economic climate and no immediate avenues for federal relief, the hospitals have reached a financial crisis in which they may have to curtail services and let go of staff, they said. And those professionals will be hard to lure back.

Meanwhile, the community needs more hospital beds to keep up with the recovery.

"What we're facing is wanting to do what's right for the community, but opening beds means increasing losses," said Mark Peters, president of East Jefferson General.

"The prudent business thing to do is close," said Patrick Quinlan, chief executive of Ochsner Clinic Foundation, noting that institutions that closed could collect business interruption insurance. "We get lots of sympathy, lots of understanding, but we've gotten zero help."

The health executives asked the Legislature to look for solutions during the upcoming session. On Friday, Rep. Steve Scalise, R-Jefferson, filed House Bills 989 and 1024 to allow non-state hospitals to receive reimbursement through the state for treating uninsured patients.

Congress Boosts Flood Insurance Agency (AP)

By Jim Abrams

AP, March 18, 2006

Congress has agreed to boost the borrowing power of the federal flood insurance agency, which is fast running out of money needed to meet some 225,000 claims from hurricanes Katrina and Rita.

The legislation, passed by voice vote in the Senate late Thursday, allows the National Flood Insurance Program to borrow up to $20.8 billion from the Treasury, up from the current ceiling of $18.5 billion.

A year ago, before last summer's hurricanes, the borrowing limit was set at $1.5 billion.

The measure, approved by the House last month, now goes to the president for his signature.

The NFIP, set up in 1968 to help homeowners in flood-vulnerable areas get flood insurance at a reasonable rate, operates within the Federal Emergency Management Agency.

It has estimated claims liabilities from Katrina and Rita at $24 billion, more than the total of all claims paid in the history of the program. The agency had said that, without congressional action, it would hit its current borrowing ceiling this month and would have to tell insurance companies that administer claims payments to stop all such payments.

The NFIP insures about 4.4 million policyholders in some 20,000 communities across the country. Participating communities must agree to carry out floodplain management and other steps to reduce losses from floods.

Also on Thursday, the House Financial Services Committee approved a bill to improve the financial viability of the NFIP by giving FEMA greater authority to raise rates and increasing fines for non-enforcement of the mandatory purchase requirement. The measure would also increase the program's borrowing authority to $25 billion.

The Senate Banking Committee plans to take up a similar measure in the next few weeks.

That legislation follows on an act passed by Congress in 2004 to crack down on property owners who file repeated claims for flood damage without relocating or floodproofing their homes.

WAR NEWS:

Gen. Ambitious On Increasing Iraqi Control (AP)

By Robert Burns

AP, March 18, 2006

DOJ_NMG_0019242

The U.S. military's goal is to have Iraqi security forces in control of 75 percent of the country's territory by this summer, the second-ranking U.S. commander in Baghdad said Friday.

That is more ambitious than President Bush's statement on Monday that his aim was to have Iraqis control more territory than the U.S.-led coalition by the end of 2006 — a process that Bush said would free up more American troops to focus on training the Iraqi forces and hunting down the chief terrorists inside Iraq.

Lt. Gen. Peter Chiarelli, the commander of Multinational Corps Iraq, told reporters at the Pentagon that he had no firm estimate of how much territory the Iraqi forces currently control, but he said it was less than 50 percent.

"By this summer, about 75 percent of Iraq will be ... owned by Iraqi units," he said. Asked to be more specific, he said the plan was to get there by "the end of summer" and added, "All indications, we will make that, but again I don't want to be so precise as to put myself into a box."

Chiarelli did not further define the 75 percent goal, such as saying whether it would include some or all of the most troubled territory such as the area north and west of Baghdad known as the Sunni Triangle. The insurgent violence in Iraq is confined largely to that area and Anbar province west of the capital.

Speaking by videoteleconference from his headquarters, Chiarelli also said that while he believes Iraq is "far away" from civil war, the sectarian tensions created by a Feb. 22 attack on a Shiite shrine in Samarra mean "the possibility of civil war may be higher today than it has in the last three years."

He repeatedly stressed that he does not believe civil war will break out. "There are a vast majority of Iraqis in the middle, who don't see the divisions that are being highlighted" by reports about sectarian attacks, he added.

Chiarelli also said news reports in the weeks following the Feb. 22 mosque bombing have exaggerated the extent of sectarian violence.

The general described this week's heliborne assault on a large expanse of desert northeast of the city of Samarra, dubbed Operation Swarmer, as mainly an effort to flush out "terrorists and foreign fighters" and uncover arms caches in an area that he said was 10 miles by 10 miles in size and largely uninhabited.

Resistance was "very, very light," he said, adding that there would be "more and more" missions like this in the future.

"It really marks a change, and it marks an evolution (in) our ability to get outside many of the large metropolitan areas and conduct operations based intelligence we receive from U.S. sources, from Iraqi sources in areas where we think insurgent networks are operating," he said.

Earlier Friday, retired Gen. Richard Myers said on CBS's "The Early Show" there are many things the military "could have done differently" in Iraq from the start of the conflict three years ago this month.

"I can't single out one thing, but I can assure you that if we had this to do again, we'd look at different ways to do it," he said, adding, "we made mistakes, absolutely."

Myers retired from his post as chairman of the Joint Chiefs of Staff last fall.

U.S. Wants Fewer Troops In Line Of Fire (AP)

By Robert Burns

AP, March 18, 2006

The Pentagon wants to pull increasing numbers of American troops out of the line of fire in Iraq, but three years after the invasion this latest evolution in the U.S. military's mission will depend largely on whether Iraqi security forces can handle it.

Whether there will be the first sustained decline in American casualties since the insurgency took hold in late summer 2003 depends on how quickly and fully U.S. troops' roles are changed. So far more than 2,300 American troops have died in the campaign, with more than 17,000 wounded.

Though the stated goal of U.S. officials is to make a substantial withdrawal of troops this year, it is not yet clear that the Iraqis will prove ready — politically or militarily — to take on the added responsibility. A Feb. 22 bombing of a Shiite shrine set off sectarian violence that has slowed the process of forming a permanent government in Baghdad, more than three months after December's elections.

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This week the outlook was altered by two developments. The Pentagon announced it was sending 700 more U.S. troops into Iraq from Kuwait, and it launched a large assault on suspected insurgent territory near Samarra, north of Baghdad.

The dispatching of extra troops to Iraq pointed up the problem of relying too much on Iraqi security forces during periods of heightened tension. But the helicopter-led assault near Samarra, which involved large numbers of Iraqi troops, showed that Iraqi forces are taking on bigger responsibilities, top U.S. officers said.

Lt. Gen. Peter Chiarelli, the No. 2 U.S. commander in Baghdad, said Friday that the goal is to turn control of 75 percent of the country's territory over to Iraqi forces by the end of summer. That did not necessarily mean the Iraqis would be given areas where the insurgency is strongest, but it did underscore the goal of enlarging their role.

Pentagon officials never expected that the invasion of Iraq, capped by a swift toppling of Saddam Hussein, would be followed by three years of deadly combat with a shadowy and resilient insurgency. Nor did they think it would take so long to get a capable Iraqi army trained and equipped.

"We did not plan three years ago to create more than token Iraqi forces," said Anthony Cordesman, an Iraq expert at the Center for Strategic and International Studies. "Now we're at 230,000 roughly, and counting. Our whole strategy is dependent on the success of the Iraqi army and the Iraqi police."

As U.S. commanders place more and more Iraqi territory under the control of local forces, Americans have begun moving to more of a back-seat role — putting the Iraqi army and police in charge. This is happening even with the expectation that at some point the Iraqis will careen off their path and need more U.S. help.

Defense Secretary Donald H. Rumsfeld alluded to this in a Feb. 17 speech at the Council on Foreign Relations, when he said the Pentagon must keep pushing the Iraqis to stand on their own:

"We're going to have to pull out of some pieces of real estate and turn over things to Iraqis. And they're going to drop the ball; I mean, let's face it. And we're going to have to step in, go back in and fix it, and then turn it back over again. And it's going to be three steps forward and one step back."

Cordesman said in an interview that the U.S. military and the Bush administration vastly underestimated the difficulty they would face in stabilizing a conquered Iraq.

"We find ourselves having been able to prevent the insurgency from rising, but not from creating a growing risk of civil war," he said. "We have not by any means lost, but we can't say that we are — at least yet — winning."

Iraqi forces are being given full control of more territory each month, although U.S. soldiers are still operating with them as advisers, trainers and monitors. When an Iraqi army brigade assumed control of areas in central and southern Baghdad from the U.S. Army's 4th Infantry Division on Feb. 21, Col. Michael Beech said 60 percent of the capital was in Iraqi hands.

In a report to Congress on Feb. 24, the Pentagon said it will be possible to consider further U.S. troop reductions beyond the 7,000-troop cut announced by Rumsfeld in December. But it was cautious, noting that while U.S. troops may become less visible, their numbers might have to be increased at some point.

The last time the Pentagon began reducing the U.S. presence, in early 2004, the insurgency suddenly intensified, with a rash of U.S. troop deaths and a near complete breakdown of civil order in the city of Fallujah.

From a low point in January 2004 of just under 110,000, the U.S. troop total grew to about 142,000 four months later and has hovered in the range of 135,000 to 160,000 ever since. That has put an enormous strain on the military, particularly the Army and Marine Corps as the primary U.S. ground forces in Iraq.

The Pentagon says it is making progress in training Iraqi security forces, but officers directly involved acknowledge the task is complicated by language and other cultural gaps between the U.S. and Iraqi soldiers. Few Iraqis have more than a vague notion of what it means to have a professional military.

"They're worried about survival," said Maj. Rodrigo E. Mateo, who led a team of U.S. military advisers in Iraq last year. That can make it hard for the Americans to understand the motives of Iraqi army recruits and how they will react to military discipline, he said.

Mateo and other former Army trainers said in recent interviews that the quality of Iraqi recruits has varied widely.

"A lot of people joined (the Iraqi military) because that's the best opportunity they have to feed their families and to earn a living," said Lt. Col. Reginald E. Allen, a trainer in Iraq in 2004.

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"If they get in that situation and the training is too rough for them or not does not adhere to their normal cultural standards where they get a certain amount of time off ... then they're going to jump ship," Allen said.

Convoy Duty Is Still Task Of U.S. (NOTP)

By David Wood, Newhouse News Service

New Orleans Times-Picayune, March 18, 2006

Iraqis not trained for dangerous role

WASHINGTON -- No matter how many U.S. combat troops in Iraq eventually are replaced by Iraqis, an especially difficult and risky mission will remain an American responsibility: convoy duty.

The reality behind President Bush's assertion this week that Iraqi units are increasingly capable of standing on their own is that none can operate without heavy and sustained logistics support from the United States, according to military assessments.

This means the American soldiers who drive and guard convoys -- troops drawn mostly from Army Reserve and National Guard units that already have seen hard duty in Iraq -- will be exposed to highly dangerous conditions there for the foreseeable future.

This week, Staff Sgt. Bryan A. Lewis, 32, of Bunkie was killed during a convoy operation north of Rustamiyah on the edge of Baghdad. The Defense Department said the Louisiana man died Monday after an improvised explosive device detonated near his Humvee. Lewis was assigned to the 519th Military Police Battalion, 49th Military Police Brigade, Fort Polk.

Long, imperiled line

Every day, more than 1,000 trucks in long-haul convoys are on Iraq's roads delivering the fuel, spare parts, ammunition, boots, medical supplies, food and water on which both U.S. and Iraqi forces depend. Thousands more keep far-flung American Forward Operating Bases supplied with rations, water and ammunition.

The crawling lines are guarded by military police and soldiers in Humvees and armored combat vehicles, often with attack helicopters overhead. Convoys endure a steady drumbeat of sniper fire, ambushes, suicide vehicle attacks, roadside bombings and other assaults, and bear a major share of U.S. combat deaths and injuries. For security reasons, the Pentagon does not segregate convoy casualty data.

Approaching the third anniversary of the 2003 U.S.-led invasion, Bush repeated this week that "as Iraqis stand up, America and our coalition will stand down," his formulation for replacing Americans in combat with Iraqis and bringing the troops home. Defense Secretary Donald Rumsfeld, meanwhile, said that "some 100 Iraqi battalions are in the fight against the terrorists, and 49 control their own battle space."

But by the Pentagon's own analysis, there are significant caveats.

In a wide-ranging assessment of the war, mandated by Congress, the Defense Department reported last month on the steadily growing numbers of Iraqi units taking to the field. Deep in the fine print, however, it warned that Iraq's forces remain "largely dependent" on the United States for logistics supply and support.

The problem is not just lack of trucks, drivers and security, but organization up to the defense ministry level, the Pentagon said.

Convoy training

It rated not one unit capable of fully independent operations, and added, "It will take some time before a substantial number of units are assessed as fully independent and requiring no assistance."

And, at present, Iraqis are not being prepared to take over convoy operations, U.S. Army transportation officers say. Instead, the Army is training increasing numbers of its own soldiers for convoy duty, once seen as a relatively soft "support" function and now viewed as a full-fledged combat assignment.

"We typically are the first ones in and the last ones out" of a war zone, said Col. Mike Dooley of the Army Transportation Corps, headquartered at Fort Eustis, Va.

Of Iraq, he added, "We will be there as long as the war goes on."

Dooley said he has urged the Army to begin readying the Iraqis to run their own convoys. "That hasn't happened yet," he said.

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The military freight that must eventually move by truck in Iraq is substantial. About 1,700 truckloads a month come by air to logistics bases in Kuwait or Qatar for onward shipment by air or truck. More tonnage comes by sea. Separately, Air Force C-130 and C-17 cargo planes land about 580 truckloads monthly at airstrips in Iraq, as close to troops as possible.

"By moving more cargo via airlift, we are able to reduce the number of vehicles, drivers and escorts exposed to the risk of enemy attack," said Brig. Gen. Darren McDew, director of mobility forces for U.S. Central Command Air Forces.

But all cargo must move at least some distance by truck. Managing the convoys becomes the responsibility of the thousands of officers and enlisted soldiers graduating from the Army's convoy courses.

Attention to detail

Today every basic trainee is taught convoy combat operations in anticipation of duty in Iraq. "We're sending them out into the wild, wild west, so we've got to prepare them," said Lt. Col. Chris Rizzo, a battalion commander overseeing live-fire convoy training at Fort Jackson, S.C.

At the Army's transportation center at Fort Eustis, Lt. Col. Andrew Peters, 39, chief of officer education, rides his students hard. As they prepare a training convoy, he barks, "Do you have a combat life saver? Have you looked in his bag to see if he's got IV solution?"

"I can't teach them every situation they will run into in Iraq," said Peters, whose elbow was shattered in an attack on his convoy in Iraq in August 2003. "They do need technical know-how -- how to call in a medevac -- but mostly what I teach them is attention to detail."

Pilgrims Attacked On Road To Holy City (WT/AP)

By Charles J. Hanley, Associated Press

The Washington Times, March 18, 2006

BAGHDAD -- With bombs and drive-by shootings, anti-Shi'ite extremists targeted pilgrims on the road to the holy city of Karbala yesterday, as political leaders remained divided over how to shape a broad-based government to work for peace in Iraq.

In Sunni Arab areas of western Baghdad, gunmen in passing vehicles killed three Shi'ite Muslim pilgrims and wounded five others. To the south, bombs in a minibus and along the pilgrimage road killed two persons and wounded nine.

North of the capital, helicopter-borne U.S. and Iraqi troops pressed their sweep through a 100-square-mile swath of the Sunni Triangle to break up a growing insurgent stronghold, the U.S. military said.

No resistance or casualties were reported as the offensive picked up dozens of insurgent suspects.

The operation was mounted Thursday northeast of the city of Samarra, where an insurgent bombing on Feb. 22 severely damaged a major Shi'ite shrine and ignited days of sectarian bloodshed across Iraq. More than 500 people died.

That spasm of violence deepened the political divide -- between representatives of the Shi'ite majority and Sunni minority -- that is blocking formation of a new government of national unity. An all-party meeting was scheduled for late yesterday to try to move those negotiations forward.

An American soldier was fatally shot Thursday while manning an observation post in Samarra, 60 miles north of Baghdad, the U.S. military said. The soldier was from the 101st Airborne Division's 3rd Brigade Combat Team, part of which is participating in the airborne sweep.

At least 2,312 members of the U.S. military have died since the war in Iraq started in March 2003, according to an Associated Press count.

Authorities had feared new attacks as tens of thousands of devout Shi'ites converged on Karbala, 50 miles south of Baghdad, for Monday's celebration of Arbaeen, a day of mourning for Imam Hussein, the prophet Muhammad's grandson, who was killed at Karbala in 680.

The bloodshed in Baghdad began yesterday as groups of Shi'ite faithful, many of them parents with children in tow, trekked down city streets in the morning, headed for the southbound highway to Karbala.

To help guard against violence in Shi'ite holy cities, the U.S. military earlier this week announced it was dispatching a fresh battalion of the 2nd Brigade, 1st Armored Division, about 700 troops, to Iraq from its base in Kuwait to provide extra security.

U.S. Seeks A Way Forward In Iraq (DMN)

DOJ_NMG_0019246

By Tod Robberson

The Dallas Morning News, March 18, 2006

Officials cite dangers as elements inside and out escalate tensions

LONDON — The U.S.-led invasion launched three years ago to oust Iraq's dictatorship and eliminate weapons of mass destruction has instead pushed it to the brink of civil war and escalated Iraqi fears of imminent doom at the hands of radical militiamen.

Though this was hardly the outcome President Bush envisioned when he ordered the March 19, 2003, assault on Iraq, senior U.S. officials now acknowledge that their plans have gone awry. Iraqi leaders and clerics are urging restraint as they warn that their nation, already split along sectarian and ethnic lines, is close to imploding.

In a region already fraught with decades of war and religious friction, an Iraqi civil conflict has catastrophic implications, according to diplomats and academic researchers. Fears are mounting that fighting between Shiite and Sunni Muslims in Iraq could spark broader conflict around the region, and that Iraq's security void is tempting its neighbors to meddle militarily.

The U.S. ambassador to Iraq, Zalmay Khalilzad, underscored the dangers when he warned this month of the regional implications of civil war in Iraq, telling the Los Angeles Times, "We have opened the Pandora's box, and the question is, what is the way forward?"

President Bush stated bluntly in a speech Tuesday, "I wish I could tell you that the violence is waning and that the road ahead will be smooth. It will not. There will be more tough fighting and more days of struggle, and we will see more images of chaos and carnage in the days and months to come."

The State Department's coordinator for Iraq policy, James Jeffrey, expressed "full confidence" in the ability of Iraqi security forces to quell sectarian violence and added in a prepared statement Monday, "While civil war is a possibility, we do not believe that it is likely at this point."

There appears little or nothing that the 157,000 foreign troops, mainly Americans, deployed in Iraq can do to stop the bloodshed, officials and analysts agree.

"There can only be an Iraqi solution to this violence," Mr. Jeffrey stated.

Signs of divisions

Iraqis point to a number of worrying signs that the nation's security forces are dividing along sectarian lines. In Baghdad and the southern city of Basra, Shiite-dominated police forces have engaged in mass roundups of Sunni Muslims, in some cases torturing suspects and holding them without trial in secret jails.

Police this week uncovered a mass grave in a Shiite neighborhood of Baghdad filled with the bodies of 87 men who appeared to have been shot execution style.

Sunni militants have stepped up a campaign of bombings and mortar attacks aimed at Shiite religious shrines and busy street markets. A Feb. 22 bomb attack that blew up one of Iraq's most sacred Shiite shrines helped spark the current wave of bloodshed that has led to more than 500 deaths so far.

"We hear mortars or bombs almost every night," said Osama Saadoun, a Baghdad resident contacted by telephone. "Nowadays, the conditions are so hard that you cannot leave your house. If you have work, you must leave early in the morning and just hope you get to the office alive. When you get there, you sit down at the desk and say, 'Thanks to God.'

Mr. Saadoun, who described himself as non-Muslim and nonpolitical, said there is a widespread feeling in Iraq that the American military presence is making matters worse, not better.

"There used to be agreement, generally, that it [foreign presence] was good. Now, I think that 90 percent of the people think it's time for the Americans to go out. … Personally, I think Iraq is at a very critical edge."

Elements inside the country appear intent on pushing tensions to the breaking point, said Munir Chalabi, an Iraqi anti-war activist based in London. He said the primary instigators are Iraqi members of the radical Sunni Islamist group al-Qaeda, as well as supporters of ousted dictator Saddam Hussein.

But he also blamed U.S. political decisions in Iraq that helped cause the nation's political system to develop primarily along sectarian and ethnic lines, rather than creating parties with a cross-sectarian membership.

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"The strategy concentrates on dividing the Iraqi people on ethnic and religious grounds. When you divide a society this way, you only increase the possibility of tensions and … civil war," Mr. Chalabi said.

His assertions are backed by poll results released ahead of national parliamentary elections in December in which 34 percent of respondents listed religion as the single most important consideration influencing their vote — double the percentage who listed a candidate's qualifications or a party's platform. The International Republican Institute conducted the poll.

With democratic institutions already split, Mr. Chalabi said, the nation is ripe for provocation, and Sunni Islamists appear intent on exploiting it with bomb attacks on Shiite shrines. Their goal, he said, is a war that would wipe out Islam's minority Shiite sect, which they regard as a heretic offshoot of mainstream Sunni Islam.

Outside help

According to various analysts, Iraq's Sunni militants are receiving support from radical backers in several neighboring countries, including Syria, Jordan and Saudi Arabia.

Apparently to counter the Sunni threat, overwhelmingly Shiite Iran has been dispatching intelligence agents and other personnel to advise pro-Iranian Shiite militias in Iraq, according to British and U.S. government reports.

Donald Rumsfeld, the U.S. secretary of defense, charged Tuesday that Iran was deliberately trying to destabilize Iraq by sending Revolutionary Guard troops and weapons across the border.

"A 'reasonable man' test would suggest that they're not freelancing, and they're not pilgrims," Mr. Rumsfeld said of the Iranian military infiltration.

On Thursday, Iran invited U.S. officials to meet for talks on stabilizing the situation in Iraq, a development the U.S. welcomed very cautiously.

Turkey has threatened to intervene if Iraq's Kurdish minority takes advantage of civil strife to declare an independent Kurdish state in northern Iraq. Polls in northern Iraq indicate an overwhelming majority of ethnic Kurds favor independence.

Few viable options remain for the Bush administration, said David G. Newton, U.S. ambassador to Iraq from 1984 to 1988 and now adjunct scholar at the Middle East Institute in Washington.

After months of haggling since the December election, Iraqi leaders have yet to agree on a permanent government. Elected leaders "are becoming less and less relevant as the … blood lust and the revenge heats up," Mr. Newton said. Under such rapidly deteriorating circumstances, he added, "the pressure to cut and run will be overwhelming" for Mr. Bush.

The final step to civil war would be the breakup of government security forces into opposing sectarian armies. If that happened, there would be little reason for U.S. troops to remain anyway.

"The bottom line is to have some kind of government — friendly or not — that can minimally maintain order," Mr. Newton said. "You can forget about human rights, women's rights, democracy and all of that stuff. If you can't achieve that, then it is a victory for the radicals."

Political Offensive Targets Bush (WT)

By Rowan Scarborough

The Washington Times, March 18, 2006

Senate Democrats have mapped a political battle plan for the March congressional recess that calls on lawmakers to stage press events with active duty military personnel, veterans and emergency responders to bash President Bush on virtually every one of his national security policies.

The game plan, devised by the office of Senate Minority Leader Harry Reid, Nevada Democrat, is contained in a six-page memo distributed to Democratic senators on Thursday at a closed-door meeting at the Capitol and provided to The Washington Times by a congressional staffer.

Titled "Real Security," the political document calls for staged town hall events at military bases, weapons factories, National Guard units, fire stations and veterans posts.

"Ensure that you have the proper U.S. and state flags at the event, and consider finding someone to sing the national anthem and lead the group in the Pledge of Allegiance at the start of the event," the battle plan states.

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However, the Defense Department prohibits political events on military bases. The rule states, "commanders will not permit the use of installation facilities by any candidate for political campaign or election events, including public assemblies or town hall meetings. ..."

Jim Manley, Mr. Reid's spokesman, said yesterday the planned events are not part of a political campaign. They would involve only incumbent Democratic senators, some of whom are up for re-election, but not Democratic Senate challengers, he said. Democrats hope to capture Senate control in November's election.

"These are events to highlight the need for increased funding for the troops," Mr. Manley said. "It's an effort to paint the White House and the Republican Congress as having a failed effort on national security issues, which is a direct result of their misplaced priorities and mismanagement."

The Senate plan urges holding town hall events to "draw attention to the security vulnerabilities caused by the Bush budget and explain how Democrats fought to restore programs that keep America safe."

The plan is the latest attempt by Democrats to criticize Mr. Bush on national security issues in the aftermath of the Dubai ports deal dust-up, which Republicans conceded was mishandled by the administration. One of the few areas where Republicans continue to poll well versus Democrats is on fighting terrorists.

In almost every issue in the Reid memo, Democratic lawmakers are called upon to criticize the president for not spending enough federal dollars.

The plan urges the lawmakers to:

•"Hold a town hall meeting with state officials and a local National Guard unit at their armory to discuss the security impact of long deployments. ... Ask National Guard members to offer input on how security and disaster response at home is compromised by long deployments."

•"Hold a town hall meeting with troops at a local military installation. ... When selecting a location at the military installation for the event, make sure to select a space that allows easy press access and clearly conveys the message in the shot. Planes, vehicles, equipment and signage in the background enhance the pictures coming out of your event."

•"Work with [veterans] organizations ... to find recently returned Iraq and Afghanistan veterans willing to discuss the mental effects they or their fellow veterans have experienced."

•"Tour a factory in your state that manufactures military equipment like Humvees or body armor and hold a press availability afterwards with Iraq and Afghanistan veterans on the importance of protective equipment."

•"Visit the home of a military family that has purchased body armor on their own for a family member serving in Iraq or Afghanistan and hold an open press 'conversion' on the issue. ... Ask the family if they would be willing to hold the open press conversation/town hall meeting in their yard, on their front porch or in their home."

As commander in chief, Mr. Bush has made frequent visits to military bases in the United States and abroad. His remarks are generally limited to explaining his war policies and encouraging the troops.

The Democratic memo calls on senators to seek the help of the Iraq and Afghanistan Veterans of America (IAVA), which is critical of Mr. Bush.

The IAVA political action committee has raised for $100,000 for Iraq and Afghanistan war veterans running for the House. It has endorsed all seven Democrats in that category who are running against House Republicans. An IAVA PAC spokesman said Republican candidates chose not to seek the group's endorsement.

Wisconsin Voters Prepare To Weigh In On The War In Iraq (WP)

By Peter Slevin

The Washington Post, March 18, 2006

Referendum Stirs Passion on Both Sides

WATERTOWN, Wis. -- In an exercise that one side calls democracy and the other considers a disservice, voters in 30 Wisconsin towns will cast ballots next month on whether the Bush administration should withdraw U.S. troops from Iraq.

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From Baraboo and Monona to Madison and La Crosse, antiwar activists invoked a 1911 state law to schedule a bring-the-troops-home referendum designed to send a message to Congress and the White House that the war is costing too many lives and too much money.

Watertown, a conservative city of 23,000 on the Rock River, voted strongly for President Bush in the past two elections, yet war opponents had no trouble gathering nearly 1,000 signatures to put the referendum on the April 4 ballot. The City Council objected, but it was overruled by a local court.

Letters from readers flew into the popular "Voice of the People" section of the Watertown Daily Times. Posters began popping up. Veterans groups, including the American Legion, have been discussing how to turn a referendum they oppose into a victory for U.S. forces.

Meaning and motivation are discussed as heatedly as the referendum itself.

"We got accused of splitting the community," said Penny Eiler, 59, an organizer of the ballot question. "We weren't the ones who split the community. It was split already. All we did was give the people who didn't have a voice a voice."

Nationally, three years after the U.S. invasion, 76 cities have passed resolutions calling for troops to come home, most recently Corvallis, Ore., and Lansdowne, Pa. Among them are Chicago; Berkeley, Calif.; Chapel Hill, N.C.; and Gary, Ind., as well as dozens of towns in Vermont.

A Washington Post-ABC News poll earlier this month found that 57 percent of Americans believe the Iraq war has not been worth fighting, with 52 percent saying U.S. troop levels should be decreased. Among that group, one-third said withdrawal should be immediate.

Peace groups have waged counter-recruitment drives at high schools and colleges across the country, pressing to provide information tables or teach-ins about alternatives to military service. Antiwar organizations have scheduled hundreds of protests and other events to mark the war's third anniversary this weekend, yet the national effort to end the war has proved fitful.

"Attitudes are a little more complicated than thumbs up or thumbs down," said Andrew Kohut, president of the Pew Research Center. "Americans do care about Iraq, but it doesn't have the personal impact that the war in Vietnam had. Secondly, this is a more patriotic time. Even though the public is disillusioned with the war in Iraq, it tends to support the concept of preemptive war at a time when most people feel we're at risk."

Objections to the war in Wisconsin, which has long had twin streaks of activism and iconoclasm, have been growing steadily, to the dismay of Watertown residents such as Steve Gillis, who wears a green T-shirt that says "Army tradition."

The father of a soldier who served recently in Iraq, Gillis spent more than 20 years in the Wisconsin Army National Guard, and he does not like what the referendum is doing to his town or the troops he admires.

"They say they're supporting the troops, but they're not," said Gillis, 53, a city worker who believes that the troops and the mission are inseparable.

Gillis sees in the Wisconsin initiative an echo of the 1960s protests against the Vietnam War in nearby Madison that helped sour a nation on the war and how it was fought. He said: "We gave up before our mission was accomplished, and we turned around and came home. I don't want to see that happen again."

The passion in some quarters in Watertown is as clear as the writing on the window of lawyer Ronald W. Ziwisky's downtown office and the words sent from Iraq by Army Capt. Jim Leslie, who left his City Council post late last year to serve as a chaplain in the 4th Infantry Division.

"Sent to their death by Osama: 2,189," Ziwisky's window read on a recent day, referring to the Sept. 11 terrorist attacks.

"Sent to their death by George: 2,296," referring to the number of American casualties since the Iraq war began.

As the council debated the referendum, Leslie wrote from Forward Operating Base Duke to urge them not to permit the April vote. He said "disagreement is an all-American pastime" but also said passing the measure would comfort the enemy and frustrate U.S. soldiers.

"We had five soldiers killed recently here from an IED," Leslie said, referring to an improvised explosive device. "Soldiers hate war. I saw with my own eyes what war does to soldiers, and I hope never to see it again. Please send us an encouraging referendum or don't send one at all."

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The Watertown referendum, like most others in the state, began with the Wisconsin Green Party, which made a pitch to Eiler and her group in October. Drawing on a law from the Progressive Era that sanctioned "direct legislation" in municipalities as a curb on power, activists soon started gathering signatures -- a number equal to 15 percent of the people who voted for governor in the last election.

When the city clerk checked their work, 986 of the 1,000 signatures proved valid, six more than they needed.

The City Council objected, however, voting 5 to 4 that the issue was a federal matter unsuitable for local action. Eiler and fellow members of the Watertown Peace and Democracy Coalition filed suit.

A judge ruled in their favor and ordered the council to approve a resolution on its own or set a referendum. The council approved a citywide vote. But members also voted 8 to 0 to declare their opposition to the referendum.

"Be it resolved," the ballot issue reads, in language that differs slightly among the Wisconsin towns, "the city of Watertown urges the United States to begin an immediate withdrawal of its troops from Iraq, starting with National Guard and Reserves."

Mayor John David said the politics became personal, but he said he mostly hears comments that amount to spoofs, such as the person who collared him at a high school basketball game and said Watertown ought to vote on renaming Minnesota's official state bird, for all the influence the town has over national security policy.

"If it was something that no matter how it turned out, it might do some good, it might be worth discussing," said David, whose office in a Republican town is nonpartisan. "But we're having the discussion, and I'm not sure it's going to do any good. That's the sad part of it."

A number of anti-referendum organizations have established steering committees and Web sites in an effort to defeat the April 4 measures. One site urges "Vote No to Cut and Run" and admonishes readers to "let our troops git 'er done."

Chris Muller, chairman of the La Crosse Republican Party, runs Choosevictory.org, which aims to defeat the antiwar activists at their own game. Like their counterparts to the east, La Crosse council members permitted the referendum but voted 13 to 3 to oppose an immediate troop withdrawal.

"A defeatist attitude is not going to get us anywhere in the world, and it's certainly not going to help our children in the future," Muller said, adding that a yes vote would harm troop morale. "Constantly seeing the negative stuff and not seeing the good that they're doing over there, and having people essentially second-guessing them and their leadership has got to have an effect on them."

That is not how the referendum's supporters see the exercise.

"People always have to lead politicians. Politicians are waiting to see which way the wind is blowing," said Bill Reichertz, who gathered signatures for the petition in Watertown. "The fight is worth it no matter whether we win or lose, because democracy lets people have a vote."

Even As Support For War Shrinks, Few Protest It (SFC)

By Joe Garofoli

San Francisco Chronicle, March 18, 2006

Even though polls say a majority of Americans think President Bush has bungled the war in Iraq and now oppose it, anti-war organizers are struggling to get new converts to tell someone besides pollsters that the country needs to change course.

Activists say the fear of being labeled unpatriotic or unsupportive of the nation's troops will keep many anti-war newcomers away from today's 11 a.m. demonstration in San Francisco and the hundreds of others around the country marking the third anniversary of the U.S. invasion of Iraq.

Organizers expect several thousand demonstrators to show up for the downtown march and rally at Civic Center, compared to the tens of thousands who strode down Market Street in the weeks before the war.

The movement's focus has shifted in the past couple of years from the street to online organizing and opposing military recruiting in high schools. But anti-war forces are still frustrated that more Americans -- and Congress -- haven't actively opposed the administration's policy.

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"People get more involved when they see a glimmer of hope in the Iraq story," said Tom Matzzie, the Washington, D.C., director of the 3.3 million-member MoveOn.org. A "positive story" for the left, Matzzie said, such as Cindy Sheehan's vigil last August outside Bush's Texas ranch, excites donors and brings people out for demonstrations.

Another good-news story for the anti-war movement -- Pennsylvania Democratic Rep. John Murtha's call to withdraw U.S. troops from Iraq -- prompted MoveOn members to contribute $350,000 in 48 hours last November after an online fundraising plea. By contrast, members dropped only $90,000 after MoveOn issued an appeal for money when the 2,000th U.S. soldier was killed in Iraq.

Yet Sheehan isn't everyone's cup of activism -- even in her home state. A Field Poll of 680 registered California voters released this month found that 36 percent had an unfavorable rating of Sheehan, and 24 percent saw her favorably. Forty percent had no opinion.

"As an organizer, it can be tricky to find that sweet spot where people want to get involved," Matzzie said.

With that in mind, MoveOn will focus on electing strong anti-war candidates to Congress this year, even if that means opposing incumbent Democrats. Earlier this year, the group raised money for Texas Democrat Ciro Rodriguez for his unsuccessful primary race against Rep. Henry Cuellar, who is seen as supportive of Bush's policies.

Matzzie said 86 percent of MoveOn's members say they want the organization to challenge Democrats who are "consistently wrong" on the issues dear to the liberal membership.

"A lot of people are frustrated because they don't think there's anything they can do," said Karen Dolan, a fellow at the Institute for Policy Studies, a liberal think tank in Washington, D.C.

She has been working on a nonbinding resolution to "bring the troops home now," which will be voted on April 4 by 30 cities and towns in Wisconsin. Voters and representatives in 76 cities nationwide -- including San Francisco, Oakland and other Bay Area cities -- have passed similar resolutions.

Dolan says there is value in the symbolic gesture.

"Wisconsin is a swing state," she said. "And aside from Madison, which is very liberal, a lot of those towns (with measures on the ballot) are in conservative parts of the state."

In the months before the invasion, some anti-war leaders pledged to make an extra effort to include more voices from the Latino community in the peace movement, which has traditionally been dominated by white, middle-class activists. But while organizers have printed leaflets and other materials in Spanish and English, those outreach efforts have failed to engage much of the Latino community, which polls show opposes the war.

"Our community is never going to identify with these larger anti-war organizations like United for Peace or Code Pink or International Answer," said Pablo Paredes, who was sentenced to three months of hard labor and busted down to the Navy's lowest rank for refusing to board a ship bound for the Persian Gulf in December 2004. Now he travels the country on behalf of anti-war organizations to oppose military recruiting on high school campuses.

"There was a little bit of communication gap between the big organizations and the community," Paredes said. "The rhetoric was there, but those organizations were always saying, 'Come have a seat at our table,' instead of joining us in our community." Plus, Paredes said that after Sept. 11, many Latino immigrants fear publicly opposing the administration because they don't want to be seen as unpatriotic.

Paredes, along with several other Latino war resisters and activists, began a walk this week from Tijuana to San Francisco's Mission District. Their goal was to rally support for a separate Latino anti-war movement. "We hope to be lighting candles along the way that will lead to something bigger," he said.

Something bigger, like a change in the administration's Iraq policy, is unlikely to happen as long as Congress backs the war and pays for it. Demonstrators at a rally and march at noon today at Palo Alto's Civic Center Plaza had been planning to drop 2,000 handbills outside the office of Rep. Anna Eshoo, D-Atherton, that said, "I urge you to take a stronger stance against the war in Iraq."

But after Eshoo voted Thursday against the latest bill to pay for military operations in Iraq, organizers will encourage marchers to write, "Thanks for voting against the funding" on the cards. The $92 billion spending package -- the sixth since the United States invaded Iraq -- passed the House easily. The Senate is expected to vote on its version in the next month.

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"We're kind of scrambling after she voted that way," said Paul George, a rally organizer who is director of the Peninsula Peace and Justice Center.

Anti-war organizers have been frustrated that the movement hasn't taken root in the suburbs. George is hoping for a crowd of 2,000 people at today's rally. In Walnut Creek, activists are expecting about 1,000 people and are advertising an all-star cast of liberals more commonly found in the big city.

Former San Francisco Supervisor Matt Gonzalez, Bush-bashing media critic Norman Solomon and hip-hop artist Boots Reilly of the Coup will be awaiting marchers meeting at 11 a.m. at the Walnut Creek BART station. Last year's highlight of a much smaller rally in the Contra Costa County city: an oom-pah band.

Co-organizer Mary Alice O'Connor joked that Gonzalez, who is strongly identified with San Francisco's hipster community, might need directions to get to Walnut Creek.

"We want to wake up people in the suburbs," O'Connor said. "There's a lot of people sitting in their homes out here, thinking the same thoughts, but they're afraid that nobody else feels the same way. We want to show people that their neighbor feels the same way."

O'Connor said many suburbanites don't want to go to a San Francisco rally because they are put off by the many causes on display at such events that seemingly have no connection to the Iraq war.

"People don't want to get into the middle of the Israel-Palestine thing," she said. "They say that they feel that people are yelling at them at the rallies."

Rachael Hereford, a youth organizer with International Answer, which is sponsoring the San Francisco demonstration, said suburban rallies are "a long time coming, and it shows that the anti-war movement isn't just the hippie faces that the media shows you all the time."

But anti-war organizing can't stop with a demonstration, she conceded.

"It's easy to get students to come to a demonstration," Hereford said. "But will they bring their friends? And will they start organizing against the war when they go back to school?"

Hold The President Accountable (NYT)

By Senator Russell Feingold

The New York Times, March 18, 2006

To the Editor:

Re "Time for Facts, Not Resolutions" (editorial, March 17):

The president broke the law, and Congress must hold the president accountable.

You are right that the nation deserves to know more details about the National Security Agency's spying program, but there's nothing we could learn that would change the fact that by authorizing the program, the president broke the law.

Member of both parties who have concerns about the legality of the N.S.A.'s program, and there are quite a few, should not try to avoid that central issue while offering proposals to legalize the president's conduct.

I strongly support wiretapping terrorists to protect our national security, which current law allows.

The president needs to follow that law, or inform Congress of any reasons he thinks that law should be changed. He has a responsibility to obey the laws that Congress passes.

There must be no equivocation on that central tenet of our system of government.

I applauded Senator Harry Reid's effort to take the Senate into closed session to get answers on the intelligence and policy failures leading up to the Iraq war. But to suggest that such a maneuver is our only recourse now ignores the role the founders expected Congress to play when a president commits such a flagrant abuse of power.

We don't need a closed session to highlight the president's lawbreaking; we need an open debate and an expression of the Senate's judgment.

Members of Congress do need to "fulfill their sworn duty," as you suggest, and that means censuring a president who so plainly broke the law and violated the trust of the American people.

Democrats' Dilemma (NSWK)

By Eleanor Clift

Newsweek, March 18, 2006

The Dems must satisfy their base without alienating the rest of the country. Russ Feingold's censure bid isn't the smartest way to do that.

Republicans finally had something to celebrate this week when Democratic Sen. Russ Feingold called for censuring George W. Bush. Democrats must have a death wish. Just when the momentum was going against the president, Feingold pops up to toss the GOP a life raft.

It's brilliant strategy for him, a dark horse presidential candidate carving out a niche to the left of Hillary Clinton. The junior senator from New York is under attack for being too soft on Bush and the war, and most of the non-Hillarys are to her right. There is a vacuum in the heart of the party's base that Feingold fills, but at what cost? His censure proposal looks like a stunt, "the equivalent of calling for a filibuster from Davos," says Marshall Wittmann, a senior fellow with the centrist Democratic Leadership Council. To win in '06, he says, "Democrats need to take the Hippocratic Oath: first, do no harm."

Just as John Kerry's belated effort to stop Judge Samuel Alito's confirmation to the Supreme Court failed to rally his fellow Democrats, Feingold's move toward censure has been received like a foul odor, sending Democrats scurrying for the exits. Only two of his colleagues, Iowa's Tom Harkin and California's Barbara Boxer, signed on as cosponsors. And for good reason. The broader public sees it as political extremism. Just when the Republicans looked like they were coming unhinged, the Democrats serve up a refresher course on why they can't be trusted with the keys to the country. Nor could it have come at a better time for a Republican Party still battered by bad news in the polls. The latest Wall Street Journal/NBC survey, released earlier this week, shows that Bush's job approval rating at its lowest ever—37 percent—as a majority of Americans lose confidence that the Iraq war will end successfully. The same poll shows a significant uptick in the country's willingness to accept a Democratic Congress, with 50 percent of those questioned saying they would prefer the party to control Congress. Thirty-seven percent say they want it controlled by Republicans.

The Democrats' dilemma is how to satisfy a restive and angry base without losing the rest of the country. "If someone proposed stringing up Bush like they did Mussolini, that would have a lot of support in the base of the party, too," says a Democratic strategist. "But it's not smart." Democrats want the November election to be a plebiscite on Bush's job performance, not a personal vendetta. "Republicans will rally round him if they think it's a personal attack just like we did with Clinton," warns the strategist.

Feingold has a reputation for being a principled politician who often takes positions at odds with his party. He didn't give Senate leader Harry Reid a heads-up about his censure motion, and Democrats were caught off-guard. What the country saw wasn't pretty, Democrats dodging and weaving and Republicans loving the whole sorry spectacle. With everything souring for the Republicans, the only thing that can rescue them is a foil, and Feingold's call for censure offered that, at least for now. Conservative radio hosts were raising the specter of impeachment should the Democrats take over the House in November, a call to arms for the otherwise demoralized GOP base.

The joy among Republicans could only be matched in the blogosphere, where liberal Democrats cheered Feingold—a synergy that prompted the DLC's Wittmann to speculate that the right and left are codependent. But the political mixing and matching provide only a brief respite from the real politics that will determine each party's fortunes in November. Congressional insiders say if the election were held today, the Democrats would capture 18 to 23 seats in the House. They need 15 to regain the majority. Things could get better by November, or worse, depending on your perspective.

There is talk of a possible October surprise to revive the GOP's standing, and the fact that the biggest military air assault in Iraq since the war began came the day after Bush sank to 33 percent in a Pew poll had some Democrats suspicious. "Is it an attempt to prop up his numbers?" asks the Democratic strategist. "It's probably not fair to think that, but it shows where we are in this presidency."

With the war about to enter its fourth year, the Center for American Progress, a liberal think tank, held a seminar on "Next Steps for U.S. Policy" that featured a keynote address by former national-security adviser Zbigniew Brzezinski. "I favor a decision by the U.S. to leave Iraq," Brzezinski declared. "I would ask the Iraqi leaders to ask us to leave," he explained, adding he would talk with them first privately and "treat them as adults, not colonial wards." He sees two parallel wars in Iraq, one is the insurgency,

which is consolidating and widening, and the other is the growing sectarian violence. “We are engaged in a war of attrition,” he said, and unless the Bush administration puts in 500,000 troops—the number it would take to crush the opposition—U.S. policymakers need to make “a very cold judgment whether staying the course is likely to be more or less damaging to U.S. interests.”

Brzezinski, a hawk during the Carter administration, has emerged as a hero among progressives frustrated by their party’s unwillingness to take a stand. Democrats have been “silent or evasive” on the war, he said, offering no alternative, which is “a form of political desertion.” If Democrats don’t want to talk about censure, they could change the topic in an instant with a credible exit plan from Iraq.

Bush The "Incompetent" (TIME)

By Matthew Cooper

Time, March 18, 2006

The polls are bad enough. Now the President fails a word-assocation test

Over the last seven years, the Pew Research Center for the People and the Press has played a game of word association as part of its regular presidential polling, asking, "What one word best describes your impression of George W. Bush?" No options or suggestions are offered. The latest results — from a sample of 710 people done in March — aren't good for the President. Until this month, the word most associated with President Bush had always been "honest." Now the leading answer is "incompetent" (given by 29 people), followed by "good", "idiot" and "liar." "Honest" has slipped to 5th, tied with "Christian."

Three years ago, positive descriptions of Bush far outnumbered negative ones. In the past two years, the positive-negative ratio has been more nearly equal. This time, 48% of those polled used a negative word to describe Bush; just 28% picked a positive term; 10% chose neutral language. Six respondents chose a word that everyone could agree on: "President."

Bush Adviser Says Iran Bluffing On Iraq (AP)

By Jennifer Loven

AP, March 18, 2006

President Bush's top foreign policy adviser said Friday that Iran's new willingness to talk about Iraq with the United States is probably a ploy designed to "divert pressure and divert attention" from international concern that Tehran wants a nuclear bomb.

The United States has accused Iran of using a civilian nuclear program as a cover to build atomic weapons, an allegation Tehran denies. The U.N. Security Council is expected to discuss Iran's nuclear program this month, with Washington pressing for penalties.

The Bush administration views Tehran's acceptance of an American offer to talk about Iraq, made months ago, as an indication that Iran is feeling the international heat, national security adviser Steven J. Hadley said.

"What is interesting is that the Iranians would choose now, at this moment, in such a very public way, to embrace this idea and try to expand it to a negotiation about a broader set of issues," Hadley said.

"The concern, therefore, is that it is simply a device by the Iranians to try and divert pressure that they're feeling in New York, to try and drive a wedge between the United States and the other countries with which we are working on the nuclear issue and, if you will, divert pressure and divert attention."

Hadley added: "Obviously, this is something that we and those who are working with us on these issues will not let happen."

The secretary of Iran's Supreme National Security Council, Ali Larijani, said Thursday that Iran would discuss Iraq directly with the United States. Washington has accused Tehran of meddling in Iraqi politics and of supporting armed militias in Iraq by sending men and weapons, including components for increasingly lethal roadside bombs.

There was concern Friday in the Bush administration that the Iranian offer could increase the stature of Iran's government in its citizens' eyes, raise Tehran's status in the region and curry broader international sympathy that could undermine the U.N. Security Council efforts.

For that reason, there was also skepticism that talks would even take place.

"They've made such statements in the past that they would be open to talking about the matters in Iraq," said White House press secretary Scott McClellan. "We'll have to see."

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The administration is proceeding with discussions about a meeting on the chance that it could save lives — as well as out of concern that the administration would be criticized if it didn't try, said a senior administration official, who spoke on condition of anonymity because of the sensitivity of the diplomatic situation.

Earlier this week, Bush said Iran had supplied components for roadside bombs, which the president called the greatest threats to U.S. troops in Iraq.

But officials made clear that any talks with Iran would be given as low-key a status as possible, in an effort to defuse any broader benefit Iran might gain. The Bush administration is also sensitive to possible criticism that talks with Iran represent negotiating with terrorists.

The American ambassador to Iraq, Zalmay Khalilzad, in charge of discussions on the talks, said Friday in an interview with The Associated Press that any meeting should be held in Baghdad. He also made clear that discussions would be limited only to issues related to Iraq, not the standoff over Tehran's nuclear activities, and would represent merely a face-to-face forum for the United States to state concerns it has expressed publicly.

"This is not a negotiation by any means," McClellan said.

U.S. Eyes Baghdad For Talks With Iran (WT)

The Washington Times, March 18, 2006

From combined dispatches

BAGHDAD -- The American ambassador said yesterday he wants to talk with the Iranians -- but not negotiate -- in Baghdad.

"We are not entering into negotiations about Iraq with Iran. The Iraqis will decide the future of Iraq. We have concerns -- and I've spoken about them -- with regard to Iranian policy in Iraq," U.S. Ambassador to Iraq Zalmay Khalilzad told the Associated Press in an interview.

In Washington, the Bush administration said any meeting would have to involve Iraqi leaders, and it expressed concern that Iran might use such a meeting to divert attention from its nuclear program.

"The concern, therefore, is that it is simply a device by the Iranians to try to divert pressure that they are feeling in New York," said National Security Adviser Stephen J. Hadley, referring to talks at the U.N. Security Council.

The United States has not decided whether to talk to Iran about its support for armed Shi'ite militias in Iraq, a U.S. official told the AP on the condition of anonymity.

The majority of Iraqis are Shi'ite Muslims. The overwhelming majority of Iranians belong to that sect and are governed by a Shi'ite theocracy.

Many important Shi'ite religious shrines are located in Iraq, meaning that thousands of pilgrims routinely cross the countries' long, common border.

Iraqi Sunnis objected yesterday to any U.S.-Iranian engagement.

"Iran is interfering deeply in Iraqi affairs, and the Iraqi people are afraid that a deal might be settled between Iran and America at the expense of Iraq's independence," said Bashar al-Faydi, a spokesman for the Association of Muslim Scholars.

Mr. Khalilzad said that talks would be limited to Iraq -- not the angry U.S. standoff with Tehran over its nuclear program.

The Afghanistan-born Mr. Khalilzad, who can speak with Iranians in a common language -- his native Dari is a Persian dialect -- insisted there would be no bargaining with Iran.

The 54-year-old ambassador has held talks with Iranians before, when he was envoy to Afghanistan, Iran's neighbor to the east.

"I was authorized by the president of the United States to talk with the Iranians about our concerns about Afghanistan. So I'm doing the same thing now here," he said.

"I think we would assume since these discussions are with regard to our concern with Iranian policies in Iraq that [the talks] should be in Baghdad," Mr. Khalilzad said.

The Iranians said their participation in talks may help Iraqis form a stable government.

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"The Islamic Republic of Iran will hold talks with the United States about Iraq to help the process of building a government there, and to support the Iraqi people," Foreign Minister Manouchehr Mottaki said in a speech to worshippers who had gathered at Tehran University for Friday prayers.

Meanwhile, at the United Nations in New York, Chinese Ambassador Wang Guangya said the Security Council should give Iran "four weeks to six weeks" to comply with demands by the U.N. nuclear watchdog that it halt all uranium enrichment activities.

Speaking before a formal meeting of the council on the crisis, Mr. Wang said: "We must leave sufficient time for diplomacy and for the [U.N. International Atomic Energy Agency] to work ... at least four weeks to six weeks."

Russia's U.N. ambassador yesterday also spoke in opposition to proposals for the council to demand a quick progress report on Iran's suspect nuclear program.

He said, reportedly only half in jest, that fast action could lead to the bombing of Iran by June.

Andrey Denisov spoke just before a Security Council meeting in which diplomats considered a revised list of British, French and American proposals for a statement on Iran.

A key sticking point for Russia is a proposal asking Mohamed ElBaradei, the chief of the International Atomic Energy Agency, to deliver a report in two weeks on Iran's progress toward clearing up suspicions about its nuclear program.

U.S., Iran Closer To Talks On Iraq (WP)

By Ellen Knickmeyer And William Branigin

The Washington Post, March 18, 2006

Concern About Tehran's Role in Country Reopens Channels

BAGHDAD, March 17 -- U.S. Ambassador Zalmay Khalilzad said Friday that back-channel discussions were underway with Iran on resuming direct talks about Iraq that broke off shortly after the 2003 U.S.-led invasion, and he said the talks should be held in Baghdad.

Khalilzad said he would not describe the proposed talks as "negotiations" but as a chance to express concerns about what Washington and some in Iraq regard as Iran's alarming activities here.

"Iraqis will decide their own future," Khalilzad said, "but they have concerns about [Iranian] policy regarding Iraq."

The ambassador spoke after the U.S. Embassy in Baghdad issued a statement critical of Iran in response to remarks Thursday by the top Iranian national security official.

Saying that the embassy had taken note of remarks by Ali Larijani, secretary of Iran's Supreme National Security Council, the statement said: "The future of Iraq will not be decided by the United States, Iran or any other country. Iraqis will decide the future of Iraq. The United States is concerned about unhelpful Iranian activities in Iraq. These concerns are well known, and we have talked about them."

Khalilzad's comments came a day after Tehran offered to enter into talks with the United States aimed at stabilizing Iraq, following a request to do so by the Shiite Muslim political heavyweight Abdul Aziz al-Hakim, who spent years in self-imposed exile in Iran when Saddam Hussein ruled Iraq. Hakim's party, the Supreme Council for the Islamic Revolution in Iraq, and other members of the Shiite coalition that dominate Iraq's government are closely allied with Iran.

In Baghdad, Jalal al-Sagheer, a cleric and ally of Hakim's, hailed the "diplomatic victory." Sagheer rejected widespread accusations by Sunni Arabs in Iraq that Iran was promoting torture, illegal detention and extrajudicial killing by Shiite militiamen against Iraq's Sunni minority.

"In every case, the sectarian terrorism uses the Iran question as an excuse to slaughter us," Sagheer told worshipers during Friday prayers at Baghdad's Buratha mosque. "This is why we are working on this case and making many contacts to solve the problem between America and Iran, so the Iraqis will not be affected by any problem between them.

"It's not for a specific sect," Sagheer said. "It is for the fate of all Iraqis."

Meanwhile, U.S. and Iraqi troops searched house to house for insurgents for a second day in arid farmland east of Samarra. Forty-eight suspects had been detained, with 17 of them released, Maj. Tom Bryant, public affairs officers with the 3rd Brigade of the Army's 101st Airborne Division, told journalists flown to the area Friday.

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Six weapons caches with a total of about 300 rockets, mortar rounds and other ordnance had been found by late Friday, "a typical number" for weapons caches discovered in the area, said Maj. John Calahan, another public affairs officer with the 3rd Brigade. U.S. and Iraqi forces had made "no contact whatsoever," Calahan added, meaning no shots had been fired or resistance encountered.

The 600 to 800 Iraqi police commandos in the U.S.-Iraqi force deployed Thursday had returned to normal duties by midday Friday, U.S. authorities said.

Roughly 50 Chinook and Black Hawk helicopters had transported the Iraqi and U.S. forces from bases in the surrounding area. The operation, which is continuing, has been good for building the confidence of Iraqi forces and for showing insurgents that the Iraqis, with the help of U.S. air assets, can go anywhere, U.S. officials said.

U.S. Army Lt. Gen. Peter Chiarelli, the commanding general of Multinational Corps-Iraq, said that by the end of this summer Iraqi units will take charge in 75 percent of the country's territory, compared with less than 50 percent now. He did not specify whether these areas would include the most violent or populous parts. Other U.S. commanders have said that Iraqi police and army units are now responsible for security in about 60 percent of Baghdad.

Chiarelli, briefing Pentagon reporters via teleconference from Iraq, said the country was closer to civil war than at any time since the U.S. invasion three years ago, but added that such an eventuality remained "a long ways away."

Branigin reported from Washington. Staff writer Ann Scott Tyson in Washington and special correspondent Naseer Nouri in Baghdad contributed to this report.

Sunni Leaders Say U.S.-Iran Talks Amount To Meddling (NYT)

By Kirk Semple

The New York Times, March 18, 2006

BAGHDAD, Iraq, March 17 — Sunni Arab political leaders on Friday denounced an agreement between the United States and Iran to hold face-to-face talks about solutions to the unrest in Iraq, saying the conversations would amount to meddling by foreign nations in Iraq's domestic affairs.

The Iraqi Consensus Front, the country's main Sunni political bloc, issued a statement calling the agreement "an obvious unjustified interference" and asserted that it was not obligated to comply with any results of the negotiations.

The Sunni leadership has long criticized Tehran's influence over Iraq's powerful Shiite religious parties, and its opposition to the talks could add another obstacle to the grinding efforts by Iraq's political leaders to forge a coalition government.

"The Iraqis in the current government should have these talks with the Iranians and discuss the level of intervention of Iran," Naseer al-Ani, a member of the Sunni Arab bloc, said in a telephone interview. "It's not up to the American ambassador to talk to Iran about Iraq."

The agreement between the United States and Iran was announced Thursday. Ali Larijani, general secretary of Iran's Supreme National Security Council, said Iran's participation came at the request of Abdul Aziz al-Hakim, leader of the Supreme Council for the Islamic Revolution in Iraq, a powerful Shiite party with ties to Iran.

Scott McClellan, the White House press secretary, said the Bush administration would not meet with Iran to negotiate the future of Iraq but rather to voice its concerns about what he called Iran's "unhelpful role" in Iraq. It remained unclear on Friday whether Iraqi leaders would be invited to the meetings.

The Sunni criticism came as leaders of Iraq's major political blocs, as well as the American ambassador, gathered in the heavily fortified compound of President Jalal Talabani to discuss the formation of a new Iraqi government.

According to several participants, the discussions focused on the proposal to create a national security council composed of leaders of the executive, judicial and legislative branches, as well as representatives of the country's main political blocs. The council would be consulted on pivotal national issues, like the economy, oil policy, public services and security.

Some Sunni leaders wanted the council's decisions to have binding executive authority. But, several participants said, the Shiite leadership and others were insisting that the council have only advisory powers, thereby safeguarding the constitutional powers of the executive.

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A working group planned to continue the discussions on Saturday and was expected to submit its conclusions to the blocs' political leaders by Sunday, officials said.

In Halabja, Kurdistan, militias loyal to the Patriotic Union of Kurdistan, the party that governs the eastern part of the autonomous region, began a crackdown after a riot on Thursday in which demonstrators destroyed a museum dedicated to the thousands who perished in a poison gas attack by Saddam Hussein's security forces in 1988.

The riot began as a rally against government corruption but became violent after government guards fired weapons over the protesters' heads.

"The episode is a painful reminder that reforms are needed everywhere in this part of the world," Barham Saleh, Iraq's planning minister and a Kurd, said in an interview on Friday.

Although the riot may have arisen in part from the legitimate grievances of frustrated people, he said, radical Islamists might have taken advantage of the discord to foment violence. "Obviously this has to be investigated thoroughly," he said.

American and Iraqi security forces continued their search for insurgent hide-outs near Samarra on Friday, the second day of an assault in the area, north of Baghdad, though the results appeared to be modest and the American command began to return some troops to their bases.

About 10 people were detained on Friday, bringing the number of suspected insurgents captured during the raid to 47, said Lt. Col. Edward Loomis, a spokesman for the 101st Airborne Division, which is leading the operation. At least 17 have been released after questioning, he said, adding that troops uncovered no new weapons stockpiles on Friday.

The operation has garnered widespread attention, in part because Samarra is where a Shiite shrine was bombed by insurgents last month, setting off a wave of sectarian violence. But the military has not suggested that this assault was a direct response to the bombing.

The American military command described the push as the largest "air assault" since the invasion in 2003. The military defines air assault as the insertion of troops by aircraft. Some television networks erroneously used the term "airstrikes," conjuring images of the "shock and awe" bombing campaign that heralded the invasion.

But there were no reported aerial bombardments during this operation, and Colonel Loomis said Friday that the American and Iraqi forces had encountered no armed resistance and suffered no casualties.

The American military reported that a soldier from the 101st Airborne was shot and killed at an observation post in Samarra on Thursday, but the incident appeared to be unrelated to the operation.

In Baghdad, the authorities recovered two more bodies, both handcuffed, blindfolded and shot in the head, according to an official in the Interior Ministry. At least 170 bodies, all showing evidence of execution-style killings, have been recovered around Baghdad in the last 10 days, according to Iraqi officials.

Though the motives for most of the killings remain unclear, officials fear that the wave of executions is a continuation of the sectarian reprisals that followed the destruction of the Samarra shrine last month.

Gunmen fired on Shiite pilgrims in several locations on Friday, killing at least one and wounding 12, the ministry official said. An improvised bomb, apparently directed at pilgrims, exploded on the road between Mahmudiya and Karbala, killing one and wounding four, the official said.

Thousands of Shiites are converging on Karbala, in the south, to celebrate the end of the 40-day mourning period commemorating the death of Imam Hussein, the grandson of the Prophet Muhammad.

Iran, U.S. Disagree Over Goal Of Talks (LAT)

By Paul Richter, Times Staff Writer

The Los Angeles Times, March 18, 2006

America says it wants to discuss Tehran's meddling in Iraq, while the Islamic Republic asserts it wants to work to get foreign troops out.

WASHINGTON — A day after raising international hopes by agreeing to hold direct talks about stabilizing Iraq, U.S. and Iranian officials Friday took a decidedly sharper tone toward each other, differing markedly over the purpose of their planned discussions.

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U.S. officials accused Iran of meddling in Iraq's internal affairs and said the discussions were aimed only at expressing American unhappiness over the interference. In Tehran, a senior official said Iran's goal in meeting with the Americans was to accelerate the U.S. departure from Iraq.

As differences between the two sides intensified, fears grew that the longtime adversaries were jeopardizing an opportunity to help stabilize Iraq, an effort in which they both have an important stake.

U.S. and Iranian officials fueled expectations for improved relations between the two countries Thursday when each said that teams of officials would meet to discuss Iraq. On Friday, U.S. officials said arrangements were being made by unidentified intermediaries to set a date and place for a meeting.

However, differences began to emerge almost immediately. At first, the Iranians suggested the talks could range more widely, encompassing issues other than Iraq. But U.S. officials quickly rejected that possibility, pointing out they had suggested talks last year only as a way to bring peace in Iraq.

Also Thursday, Iran's foreign policy chief, Ali Larijani, said Tehran had accepted "the proposal to help resolve the problems in Iraq and establish an independent government there."

U.S. officials retorted Friday that the talks would be held to discuss "unhelpful Iranian activities in Iraq," including, they alleged, allowing the shipment of components for roadside bombs used in Iraq and sending Iranian military agents into the country.

"These concerns are well known and we have talked about them," the U.S. Embassy in Baghdad said in a statement, adding that "Iraqis will decide the future of Iraq."

U.S. Secretary of State Condoleezza Rice, in Australia, said the talks would be limited in scope, and cast doubt on whether they would take place.

"We will see if and when those talks take place," she said.

The inability of Washington and Tehran to agree on the subject of the talks gave rise to concerns that any meetings would be fruitless, ending in acrimony and heightening tensions between the two countries.

"If the Americans just plan to yell at them, then this will be about charges and counter-charges, and it won't be particularly productive," said Ray Takeyh, a Middle East specialist at the Council on Foreign Relations. "If this is about their common interests, which they do have, then maybe there will be something to it."

The Iranians can't afford to let Iraq descend into civil war, Takeyh said, because the conflict would spill across their border. In contrast, an Iraqi democracy would give power to a Shiite Muslim majority whose leaders have close ties to Iran. The agreement to meet reflects that, even as they continue to trade harsh denunciations, the two sides have been forced to recognize that they must work together to stabilize Iraq, he said.

But President Bush's national security advisor, Stephen J. Hadley, charged Friday that Iran's agreement to talk about Iraq was probably a ploy intended to head off adverse action by the United Nations Security Council, which is considering ways to address concerns over Tehran's nuclear program.

"What is interesting is that the Iranians would choose now, at this moment, in such a very public way, to embrace this idea and try to expand it to a negotiation about a broader set of issues," Hadley told a group of reporters. "The concern, therefore, is that it is simply a device by the Iranians to try and divert pressure that they're feeling in New York, to try and drive a wedge between the United States and the other countries with which we are working on the nuclear issue and, if you will, divert pressure and divert attention."

Takeyh agreed that talks between U.S. and Iranian officials could ease pressure to act against the Tehran government.

"This could take all the air out of the Security Council effort," he said.

In Tehran, meanwhile, Larijani said Friday that Iran's motivation had nothing to do with the case before the Security Council.

"Iran's motive behind assistance to the Iraqi nation is helping establishment of lasting security in Iraq, and helping it get rid of the occupiers' tyranny … and there is no other hidden issue in that connection," he said, the official news agency IRNA reported. "At present there is no connection between the issue and Iran's nuclear case."

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Zalmay Khalilzad, the U.S. ambassador to Iraq, stressed Friday that a stable Iraqi government was a key U.S. goal, but that it would be up to Iraqis to form it — without Iranian interference.

"We won't negotiate with Iran over that," Khalilzad said in an interview on Al Arabiya television. He said any talks would concentrate on U.S. concerns about Iran's involvement in Iraq.

"We'll just express concerns with aspects of Iranian policy destabilizing Iraq," he said. "Iraq can rely on itself. We have serious concerns on aspects of Iranian policy that we will raise."

ANALYSIS: Talks With Iran Could Help Bush (MINNST/AP)

By Barry Schweid, The Associated Press

Minneapolis Star Tribune, March 18, 2006

Possible negotiations between the United States and Iran and the convening of the first session of a new Iraqi parliament could give the Bush administration a long-needed lift.

WASHINGTON (AP) - Possible negotiations between the United States and Iran and the convening of the first session of a new Iraqi parliament could give the Bush administration a long-needed lift.

The recent inaugural session of Iraq's parliament is a positive step toward the new Iraq that President Bush envisions as he pursues a war that's unpopular with many Americans. Progress toward forging a unity government representing all of Iraq's sects would be a boost for a country that has been veering close to civil war.

U.S. intelligence strongly suspects Iran has been arming Iraqi Shiite militia and some insurgent groups. If talks with Iran come off, the administration would try persuading Tehran to curb its activities with the argument that instability in Iraq could envelop the area, including Iran.

For Bush, whose dive in the polls reflects Americans' eroding confidence in his Iraq strategy, progress on either front would be welcome relief - especially with midterm elections for control of Congress just eight months away.

There are troublesome developments as well. The eruption of violence among Kurds in northern Iraq poses new security problems for already strained Iraqi forces, particularly if Islamic radicals were behind the outbreak in Halabja.

Indications are the stone-throwing Kurds were registering displeasure with their own leaders and not threatening conflict with other Iraqi groups.

The disorder distracts from an aggressive U.S.-Iraqi military campaign against insurgents in a Sunni Arab-dominated area outside Samarra, where the bombing of a Shiite shrine three weeks ago ignited the most recent siege of violence.

Referring to the volatile situation in the country, U.N. envoy Ashraf Qazi said Friday that it has deteriorated since he took up the post 19 months ago.

Qazi, speaking at the U.S. Institute of Peace in Washington, said Iraq was not on the brink of civil war. But he described the situation as serious and said it "could lead to a breakdown of order" if left unchecked.

Bush administration officials are convinced Iran is playing a mischievous role in Iraq, especially in arming militias with explosives and other weapons.

They said Friday that Tehran's willingness to have face-to-face discussions with U.S. officials about Iraq could be an effort to divert attention from an approaching confrontation at the United Nations over Iran's nuclear program.

"The concern, therefore, is that it is simply a device by the Iranians to try and divert pressure that they're feeling in New York," White House national security adviser Steven Hadley said.

"Obviously, this is something that we and those who are working with us on these issues will not let happen," he added.

Despite the standoff over Iran's nuclear program, the administration has been seeking talks with Tehran narrowly limited to its intervention in Iraq. Despite its skepticism, some in the administration want to try setting up the talks, at the very least to avoid criticism in case Iran turns out to be serious about seeking a solution in Iraq.

Ruled out by U.S. officials is discussion of any attempt by Iran to gain a political foothold in Iraq, and the nuclear dispute, which could soon come before the U.N. Security Council.

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The talks, which would be held in Baghdad, are not the first between the United States and Iran even though the two foes do not have diplomatic relations. They have met in the past for cooperative efforts in stabilizing Afghanistan and countering narcotics, for instance.

The antipathy is immense, however. American officials have denounced Iran repeatedly as the world's No. 1 supporter of terrorism.

'War' As Epithet: Sound Of Clay Feet Cracking (NYT)

By Roger Cohen International Herald Tribune

The New York Times, March 18, 2006

NEW YORK 'America is at war." These are the first words of the Bush administration's new national security strategy, a simple declarative sentence open to multiple interpretations and contestations.

That America is at war in Iraq is certainly true, although it's not the war the administration prepared for. Nor is it a war like any other. It's been accompanied by tax cuts; national sacrifice is not the theme of the hour; small-town America and smaller-salary America have borne the brunt.

But the war that President George W. Bush goes on to outline in the strategy, a revised version of the 2002 document whose emphasis on the supremacy of American power and the right to strike pre-emptively caused global unease, is not merely the Mesopotamian mess.

No, this war is of greater scope. "The United States is in the early years of a long struggle, similar to what our country faced in the early years of the Cold War," the document says. "The 20th century witnessed the triumph of freedom over the threats of fascism and communism. Yet a new totalitarian ideology now threatens, an ideology grounded not in secular philosophy but in the perversion of a proud religion."

This is a little pat. Let's leave aside whether the problem is a "perversion" of Islam or merely a certain reading of it. To compare Osama bin Laden and his scattered followers to the divisions of the Soviet empire is a stretch.

To invoke totalitarianism - a system of complete control over certain territory through state-directed terror - in describing a motley bunch of fanatics who control very little also seems fanciful, however vile the jihadists' methods and however ominous their visions of a restored caliphate.

All in all, it's easy enough to see this broader war as a construct that preserves the familiar paradigm of American liberty confronting tyranny, comforts the far-flung garrisons that serve a global American mission, and gives Bush's Republican Party a pivotal issue that plays to its strengths against a Democratic Party still seen as weak on national security.

None of this is meant to suggest that the terrorist threat to the United States is not real. But to frame the confrontation with this danger as a "war" - a war without apparent or possible end, a war without geographical definition, a war without an opposing army - is a political decision, one of whose effects has been to cast Bush as a "war president."

The epithet has played well. It was decisive in delivering the 2004 election to Bush: you don't change commander-in-chiefs in the middle of a war.

It also captured the qualities many Americans thought they liked in Bush: boldness and decisiveness and an unwavering determination. Because they did not see those traits in John Kerry, the Democratic candidate, they rejected him.

But, a little over a year into Bush's second term, the epithet is tired; Americans have soured on their war president. It's partly the festering situation in Iraq. But the disillusionment runs deeper. With his approval rating at 33 percent, according to a new poll by the Pew Research Center, Bush is in Nixonian territory.

The same poll found that where "honesty" had been the single characteristic most closely associated with Bush, the description now most favored was "incompetent." That's a seismic shift - from war leader to clown.

The shift has many roots. The president has never recovered from his administration's hapless distractedness at the time Hurricane Katrina struck New Orleans. It was one thing not to have a plan for postwar Baghdad, quite another to have no plan to save a major American city.

The same impression - of hubris and inattention and waywardness - was left by the administration's handling of the aborted takeover of several U.S. port terminals by a Dubai-owned company.

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Having whipped the country into a frenzy over security, Bush favored free trade in this instance, a reasonable position. But he failed to see that he would reap what he had sown: a congressional outcry based in the scurrilous but pervasive notion that all Arabs are dangerous. The absence of preparation for a predictable storm was startling.

Bush's unpopularity is also startling. With the Dow at its highest level in years and the economy growing briskly, his low ratings suggest that links between the economy and a president's popularity are weaker in an era of globalization.

The stock market may be up and profits at investment banks soaring, but companies are cutting back on pensions and health plans to achieve the profits Wall Street likes, and insecurity about jobs is high. Competition is so remorseless that a strong economy is no longer synonymous with the feel-good factor presidents need.

"There is a level of unease about whether you will be able to preserve what you've got," said Norman Ornstein, a political analyst at the American Enterprise Institute.

In theory, that's the sort of economic unease the Democrats should be able to pounce on to seize the political initiative as Bush's popularity erodes. With the president's stature on national security issues also falling, the stars seem to be aligning themselves for the Democrats.

Still, it's striking that the nadir of Bush's popularity has not coincided with the emergence of any compelling Democratic message or theme, from Hillary Clinton or anyone else. Attacking the president's incompetence may be enough for the Democrats to secure a House majority in the midterm election in November. But a negative campaign alone will not gain the presidency in 2008.

"The Democrats have still not come up with a coherent national security or homeland security posture," said Ornstein. "Saying no Arabs should run our ports is not a program."

Bush has a program, but he's increasingly seen as unable to deliver. The "war president" aura has crumbled. War talk of decades-long struggles seems unlikely to revive him. Talking to Iran - the country identified in the new strategy as presenting the greatest challenge to America - may help more by delivering results in Iraq and elsewhere.

Why Iran Wants To Talk (WP)

The Washington Post, March 18, 2006

IT'S EASY to see the potential advantage to Iran of opening negotiations with the United States on Iraq. The sudden announcement by Iran's national security chief Thursday that Tehran would accept an offer of dialogue made months ago by the U.S. ambassador in Baghdad came as members of the U.N. Security Council were meeting to discuss a council statement about the Iranian nuclear program.

That statement could be the first in an escalating series of steps to force Tehran to give up the enrichment of uranium and fully cooperate with international inspectors. Preventing such diplomatic action has been Iran's main aim since its illegal nuclear program was discovered in 2004; the failure to stop the issue from reaching the Security Council has prompted some visible handwringing and backbiting among the

mullahs.

By drawing the Bush administration into talks about Iraq, the Iranians give themselves a shot at splintering or distracting the fragile coalition that may be forming in New York. Already Iranian officials are speaking openly about the possibility that any discussions would expand into the broader security dialogue that Tehran has long coveted with the United States. In Iraq -- where American soldiers are dying from Iranian-supplied roadside bombs and sectarian violence by Iranian-supported militias is steadily mounting -- the Islamic regime has a tacit and sinister offer to make: Back down in New York, and the carnage in Baghdad might just drop off. Even the appearance that the Bush administration might be considering such a trade-off would worsen the situation in Iraq and wreck a year of careful and mostly effective anti-proliferation

diplomacy.

The right response to the Iranian initiative is to limit any discussions to short-term U.S. priorities in Iraq and to ensure that the exchange is as open as possible. In theory, the United States and Iran share an interest in preventing an all-out Iraqi civil war, and thus in the establishment of a government that could rein in both the Sunni insurgency and the Shiite militias. But Iran's other objectives in Iraq are mostly inimical: It has promoted the creation of a Shiite ministate in southern Iraq that would control the

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country's largest oil fields and be dominated by Iran's allies; it hopes that the Sunni insurgency will meanwhile bleed American troops and exhaust U.S. willpower.

The U.S. goal of a broad and cohesive Iraqi government that would fairly balance Shiite, Sunni and Kurdish interests and be defended by a national Iraqi army would, if achieved, check Iranian ambitions. If Ambassador Zalmay Khalilzad can advance that cause through talks with Iran, good. But it will be worth bearing in mind that Tehran has agreed to sit down with him for entirely different reasons.

U.N. To Raise Its Profile In Iraq (WT)

By Betsy Pisik

The Washington Times, March 18, 2006

The senior U.N. official in Iraq yesterday said that the United Nations will soon be raising its profile there, acknowledging that its "perceived absence" has been noticeable since a tragic suicide bombing after the U.S. invasion three years ago.

Ashraf Qazi, the special representative of U.N. Secretary-General Kofi Annan, will be in Washington through Monday for meetings at the Pentagon, State Department and National Security Council.

"It is a fact that the United States strongly encourages us to play a more proactive role in a whole range of activities to make an impact on Iraqi lives," Mr. Qazi told editors and reporters at The Washington Times.

He said the organization has been active in many aspects of nation building, assisting Iraqis in drafting a constitution, holding elections and rebuilding infrastructure.

But Mr. Qazi also said that it was time for the 90-member U.N. Assistance Mission for Iraq, or UNAMI, to take a higher profile despite security concerns.

"A lot of people are not aware of our contributions," he said, in part because U.N. officials are based inside the heavily fortified Green Zone.

"People ask 'where are you?' because they don't always notice us," said the former Pakistani ambassador to Washington.

"We need to do a better job in terms of enlarging the scale of our activities, being seen and being safe at the same time."

Mr. Qazi's predecessor, Sergio Vieira de Mello of Brazil, and 21 others died in an August 2003 suicide bombing of the U.N. headquarters in Baghdad.

Mr. Qazi, told the U.N. Security Council earlier this week that UNAMI needs its own helicopters and small aircraft to transport U.N. staff between the Green Zone base and new offices in Irbil and Basra.

The planes, he said yesterday, would allow the organization to be more active and independent in a country where the roads are dangerous and movement is often curtailed.

Mr. Qazi made it clear that he disagreed with the frequent warnings that Iraq is slipping into a full-scale civil war.

"What is civil war? I wouldn't say it is even a prospect right now, but there is no reason to be complacent," he said, acknowledging serious human rights violations, sectarian violence, little protection for civil servants and an absence of civil services that would make daily life easier for average Iraqis.

For example, he said yesterday, the bombing of the Golden Mosque in Samarra last month might have actually been a turning point in the effort to calm sectarian violence that continues to cripple reconstruction efforts.

"The government has managed to keep a lid on it but [sectarian tensions] have to be addressed through a broad-based approach" that includes security, political inclusiveness and restored electricity, transportation, education, health care and other services.

The Iraqi government plans to rebuild the historic Shi'ite mosque, as well as many Christian churches that have been bombed over the past three years.

Mr. Qazi said UNAMI is working with U.N. agencies such as UNESCO and the World Bank to try to raise money and recruit expertise for the project, which he said would also encourage sectarian healing.

Although Mr. Qazi declined to comment on the progress or strength of the U.S.-led multinational forces, he noted that the Iraqi police remain tangled in sectarian and political divisions, even though the Iraqi army seems to be making greater progress.

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This will be one of his messages when he addresses the donors conference, which is likely to be convened this June or July in Istanbul.

About $13 billion has been pledged for Iraq's reconstruction, and more than half of the nearly $1 billion received has already been spent on governance, humanitarian and reconstruction projects.

Mr. Qazi and his team also met yesterday with World Bank President Paul Wolfowitz, who said the bank would soon have a larger presence in Iraq.

Mr. Qazi stressed that he has frequent contact with Zalmay Khalilzad, the U.S. ambassador in Iraq. And he repeatedly made clear that the United Nations is in service to the Iraqi government, rather than dictating to it.

Ringleader In Custody, Iraqi Officials Say (LAT)

By John Johnson Jr.

The Los Angeles Times, March 18, 2006

Military and political leaders say a sweep in the Samarra area has yielded a key figure in last month's divisive mosque attack.

SAMARRA, Iraq — Iraqi military officials said Friday that a continuing offensive targeting insurgents in the hardpan desert northeast of here has resulted in the capture of additional weapons and a man they believe is among those responsible for the recent bombing of a venerated Shiite Muslim shrine in Samarra.

Iraqi military and political leaders, speaking at an operations base along the Tigris River about 80 miles northeast of Baghdad, said they were checking photos and other documents to determine if they had captured one of the people they believe planned the bombing of the Golden Mosque and the killing of an Arabic TV journalist.

"One ringleader is in custody," Iraqi Gen. Abdul Jabbar said. "He is a main person in all the attacks that took place."

The Golden Mosque, one of Shiite Islam's holiest places, was stormed Feb. 22 by about 20 men who placed 475 pounds of explosives throughout the building and set them off by remote control. A handful of suspects have been arrested, but authorities have not identified them.

The bombing led to scores of retaliatory attacks on Sunni Islam's holy places and a series of tit-for-tat executions by Sunnis and Shiites. The slaying of Al Arabiya broadcast journalist Atwar Bahjat, a Samarra native who had returned to her hometown to report on the mosque bombing, underscored the deteriorating security situation.

On Thursday, in what U.S. military officials called the largest airborne operation since shortly after the start of the war in March 2003, about 1,500 U.S. and Iraqi troops swooped into the desert area in 50 helicopters.

By late Friday, officials said they had detained more than 50 people and uncovered as many as eight weapons caches, most buried in fields. In a soccer field near Balad, searchers said, they turned up a Soviet antiaircraft gun, four rocket-propelled grenade launchers, 100 pounds of explosives and hand grenades.

U.S. officials on Friday said the scope of the operation was proportionate to the relatively modest amount of weapons uncovered.

They added that the timing was not tied to the impending three-year anniversary of the invasion, which toppled President Saddam Hussein.

The officials said the offensive, called Operation Swarmer, was a show of force in an area teeming with insurgents, and was a symbol of the growing maturity of Iraqi fighting forces.

Much of the planning was done by Iraqis, the officials said. The Iraqis, who make up about half the force, which includes Americans from the Army's 101st Airborne Division, took the lead in searching houses in the sparsely populated region.

"We realize the importance of an Iraqi army being able to take responsibility" in combat missions, said Col. Skip Johnson, standing in the shadow of the ruins of a mosque he said had been destroyed by insurgents three months ago.

Iraq's military capability is also key to Washington's hopes of drawing down U.S. forces in coming months.

Just as important as the planning and execution was the fact that Iraqi intelligence provided the basis for the operation.

"This fight will be won at the intelligence level," Johnson said. "The Iraqis know the culture and they know the people."

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The operation, and the wide television coverage it has been accorded, appeared to have inflamed some Muslim clerics, who accused the Americans of waging sectarian "ethnic cleansing" against Iraq's Sunnis.

Sheik Mohammed Faidhi, a spokesman for the Muslim Scholars Assn., called the operation "a scandal which is bigger than Abu Ghraib," the prison where Iraqi inmates were humiliated and abused by U.S. soldiers.

"Places are raided, innocents are killed and villages are bombed under the pretext of terrorists," he said.

U.S. military officials and local political leaders insisted that there had been no bombing.

The troops searched on foot, they said, adding that there had been no firefights in the first two days, no resistance to the troops and no deaths or injuries.

In Samarra, about 30 miles south of the search area, a soldier from the 3rd Brigade Combat Team of the 101st Airborne was shot and killed Thursday while manning an observation post.

The military said the killing of the soldier was unrelated to the operation.

Two other soldiers from the 101st Airborne were killed Thursday in an "indirect fire attack" on their base northwest of Tikrit, the military announced today.

The names of all three were withheld pending notification of their relatives.

Officials said about 1,500 people live in the remote area where the offensive is taking place.

There are about 150 buildings, mostly simple huts. By evening Friday, about a third of them had been searched.

At a 70-acre okra and wheat farm, Rahma Saleh was making flatbread in an outdoor stove in the 80-degree sunshine while two of her seven children looked on.

"A lot of people came here and searched," she said while pounding out the dough, wetting it and sticking it to the inside of the stove's narrow chimney.

Saleh, who said her husband had been wounded in the Iran-Iraq war and could no longer work, called the soldiers polite and "very respectful." But she insisted: "It's all families here, no insurgents."

The deputy governor of Salahuddin province, Abdullah Hussein, disagreed. He said residents had been complaining of being harassed by insurgents.

"A lot of people have been killed for not cooperating with them," he said.

The bombing of the shrine in Samarra was a factor in the decision to go after the insurgents nearby.

The deputy governor guessed that they numbered about 200; U.S. officers estimated that the number was closer to 100.

Jabbar, a brigade commander with the Iraqi forces, said he was hunting a group called Mohammed's Army, or Takfiris, which was linked to the forces of Jordanian militant Abu Musab Zarqawi.

Their principal target, the Iraqis said, was Hamed Taki, alleged to be the leader of a terrorist cell.

A U.S. military official called Taki "a person of interest that we'd like to catch."

Elsewhere in Iraq, gunmen in Ramadi attacked people headed to Friday prayers, killing one, and fought Iraqi soldiers, killing five, officials said.

In Baghdad, gunmen also attacked worshipers, killing two and injuring 16. A suicide bomber killed himself and the driver of a bus.

Police found six more bodies around Baghdad. Four of the victims had been blindfolded, handcuffed and shot in the head.

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Times staff writers Asmaa Waguih, Caesar Ahmed, Raheem Salman and Zainab Hussein in Baghdad contributed to this report.

Study Is Said To Find Overlap In U.S. Counterterror Effort (NYT)

By Thom Shanker

The New York Times, March 18, 2006

WASHINGTON, March 17 — A classified Pentagon study analyzing the effectiveness of Special Operations forces has found that the military's counterterrorism effort is hampered by bureaucratic duplication, officials said, citing in particular an overlap between new government centers.

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The study also found evidence of broad resistance to the Special Operations Command's new counterterrorism role, from regional military commands and from other parts of the government's sprawling defense and intelligence apparatus.

The findings were viewed as so provocative that the classified report has not been distributed widely, even among officials with the security clearance needed to read such internal reviews, Pentagon and military officials said. The study was initially ordered by Defense Secretary Donald H. Rumsfeld.

Pentagon and military officials who have read the study say that the mission of the new Center for Special Operations, a large military headquarters created in Florida in 2003, mirrors the work of the new National Counterterrorism Center, established by executive order in 2004. The military center is intended to bring together elements of the armed services under a three-star general; the intelligence center answers to John D. Negroponte, the director of national intelligence.

The officials were granted anonymity to discuss the classified report's contents because they were not authorized to speak about it.

The review, conducted by a retired four-star officer, Gen. Wayne A. Downing Jr., grew out of a budget and strategy briefing last October during which Mr. Rumsfeld expressed grave concerns over the readiness of the troops and the effectiveness of the Special Operations Command's counterterrorist operations.

"The Rumsfeld family crest probably says something like, 'More, and faster,' " said a senior Pentagon official involved in the policy debate over the role of the command, known as Socom in military circles. "So what he thinks about Socom is, 'With all this new money and all these extra people and all this wider latitude to maneuver, why haven't you won the war on terror for me yet?' "

The Special Operations Command reports to Mr. Rumsfeld, and falls outside those organizations that report to Mr. Negroponte. The command's new global role in counterterrorism has rankled some officers at the Pentagon and in regional war-fighting commands who previously took charge of that mission.

Some of the command's new efforts, in particular the placement of small teams in American embassies to gather intelligence on terrorists and to prepare for potential missions, has outraged some intelligence officers and career diplomats.

According to Pentagon civilians and military officers who have read the Downing study, the review found "a tremendous duplication of effort" in the government and military that overlaps with assignments given the Special Operations Command.

More broadly, the review found that the government-wide national security bureaucracy still does not respond rapidly and effectively to the new requirements of the counterterrorism campaign. The report said more streamlining was necessary across a broad swath of the civilian bureaucracy and military, including civilians in the policy office that reports to Mr. Rumsfeld and the office of the secretary of defense, the military organization that reports to the chairman of the Joint Chiefs of Staff, the regional combatant commanders and even the National Security Council staff at the White House.

One Pentagon official who read the review said it criticized the Defense Department and National Security Council bureaucracy for not creating ways to answer Socom's real-time needs, forcing the command to navigate plodding bureaucratic channels whenever it wanted to adjust course. The official said this made it difficult to mount the quick action required to single out insurgents or terrorist leaders whose locations may become known only for brief periods of time.

Seeking answers to his concerns, Mr. Rumsfeld asked General Downing, who is known for his blunt, independent style, to conduct the classified review. General Downing, a former Socom commander, led the inquiry into the 1996 bombing at the Khobar Towers housing complex in Saudi Arabia and served as counterterrorism adviser for the first President Bush.

Contacted by telephone and e-mail, General Downing declined to discuss the review, citing the secrecy of the project. But when asked to summarize his personal views of the debate, he said: "Over the years, the inter-agency system has become so lethargic and dysfunctional that it materially inhibits the ability to apply the vast power of the U.S. government on problems. You see this inability to synchronize in our operations in Iraq and in Afghanistan, across our foreign policy and in our response to Katrina."

The Downing study criticizes Pentagon civilians, the military's Joint Staff, the regional war-fighting commanders and the National Security Council staff for not readjusting their organizations to expedite the Special Operations Command's new counterterrorism missions.

Another official who read the review said it took to task senior civilian and military leaders who demanded "responsive, flexible, agile operations around the world, yet tolerate a staff system that gives you exactly the opposite."

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Under a Unified Command Plan signed by President Bush, the Special Operations Command now "leads, plans, synchronizes, and as directed, executes global operations against terrorist networks." But the Special Operations Command, based in Tampa, Fla., "does not have the power to do what it has been assigned," said yet another official in paraphrasing the report.

The report included one radical proposal: It advocated relocating to Washington the headquarters of the Joint Special Operations Command, which runs all of the "special-mission units" that carry out the most secret attacks against terrorists and work to halt the proliferation of unconventional weapons. It proposed that these highly trained units then be put under Mr. Rumsfeld's direct, personal control.

Several readers of the Downing review said they believed the proposal was intended to call the bluff of those at the Pentagon who say these elite counterterrorism teams are not doing enough to find and capture or kill terrorist leaders. The implicit message, the readers said, was that if Pentagon leaders were dissatisfied, then they should try being in charge of planning and executing counterterrorism missions.

That proposal was rejected.

Documents Reveal Iraqis Dodging Inspectors (AP)

By Katherine Shrader

AP, March 18, 2006

Iraqi officials talked about when and how to deceive international authorities about their weapons programs in the mid-1990s, referring at one point to materials imported from the United States for an apparent chemical program.

A transcript of the conversation is one of several dozen documents made public Friday by the U.S. government as part of a program allowing researchers, the media and Iraqis comb through millions of pages of documents and audio recordings confiscated since the 2003 invasion.

In the U.S. government's translation of captured Iraqi audio recordings, an official identified as "Comrade Husayn" talks to Iraqi President Saddam Hussein and other officials about when it would be best to lie to weapons inspectors and U.N. Security Council members and when to be open.

He shows particular concern that outsiders will learn about the importation of material, including some from the U.S., apparently for chemical weapons.

"They have a bigger problem with the chemical program than the biological program," he says. "We have not told them that we used it on Iran, nor have we told them abut the size or kind of chemical weapons that we produced, and we have not told them the truth about the imported material."

He went on to say, "We imported a quantity from America and we imported a quantity from Europe. However, we did not come forth with the quantities."

On the overall question of weapons of mass destruction, he said: "I must say that it is in our best interest not to uncover it, not only in fear of exposing the technology that we have or that we possess or to hide it for future agendas."

The precise date of the conversation was not clear, but clues suggest it came at the end of Rolf Ekeus' leadership of the United Nations Special Commission on Iraq, which he headed from 1991 to 1997.

The documents show debates among Iraq's senior leadership about U.N. sanctions, inspections and resolutions — and how to handle the country's economic and military security. They come in an era when U.S. officials now believe that Saddam's ability to develop weapons of mass destruction was diminishing, under pressure from international sanctions.

Although the Bush administration used the weapons programs as the main justification for the 2003 invasion, U.S. arms inspectors ultimately found no concrete evidence that Iraq produced weapons of mass destruction after 1991.

Yet the Iraqis apparently were far from forthcoming about their actions. Another conversation with Saddam from the mid-1990s indicates that officials knew they had problems with the weapons inspectors.

"On the nuclear file, sir, we are saying we disclosed everything? No, we have uncleared problems in the nuclear field, and I believe that they (the inspectors) know some of them," said a man identified as al-Sahhaf, possibly a reference to the former Iraqi diplomat and Information Minister Mohammed Saeed al-Sahaf. "Some teams work, and no one knows some of them."

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He then apologized for speaking so clearly. "Everything is over. But, did they know? No, sir, they did not know, not all the methods, not all the means, not all the scientists and not all the places."

He tells Saddam that missing materials and equipment — for biological and nuclear weapons — would be a problem in dealing with the U.N. as it crafted resolutions against Iraq. "Really, sir, we must be frank so that the resolution will be straightforward," al-Sahaf said.

The transcripts also show extensive debates among Saddam's inner circle about how to deal with other governments.

"Comrade Husayn" expressed frustration at Iraq's increasing isolation, venting particularly at the French, who were managing to upset the Americans as well.

He said the French had an "attitude."

"To be truthful before your Excellency, I do not trust the French in their current position. Maybe this will change after the election," said Husayn. "I think that they are more distant than the Chinese are, even though the Chinese are very far also. They (French) appear in the Security Council with a yes one time and a no another time.

"Therefore, sir, my personal belief is that they are layered (two-faced) and possibly in coordination with America and in coordination with the world."

Years later, the U.S. and the French would be at odds over the invasion of Iraq.

There are personal nuggets in the documents, too. "Bring us tea and milk," Saddam would interrupt meetings to order. Attendants would hustle to pour.

Saddam also spoke to his aides about a need to give Iraqis hope in the face of sanctions that were starting to make them suffer.

"We can't just tell the people to be patient," he said. "They need to see and hear results that they consider logical."

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Associated Press Writer Cal Woodward contributed to this report.

New Documents From Saddam Hussein's Archives Discuss Bin Laden, WMDs (ABC)

ABC News website, March 16, 2006

U.S. Government Releases Papers From Saddam's Reign

March 16, 2006 — Following are the ABC News Investigative Unit's summaries of four of the nine Iraqi documents from Saddam Hussein's government, which were released by the U.S. government Wednesday.

The documents discuss Osama bin Laden, weapons of mass destruction, al Qaeda and more.

The full documents can be found on the U.S. Army Foreign Military Studies Office Web site: http://fmso.leavenworth.army.mil/products-docex.htm.

Note: Document titles were added by ABC News.

"Osama bin Laden and the Taliban"

Document dated Sept. 15, 2001

An Iraqi intelligence service document saying that their Afghani informant, who's only identified by a number, told them that the Afghani Consul Ahmed Dahastani claimed the following in front of him:

That OBL and the Taliban are in contact with Iraq and that a group of Taliban and bin Laden group members visited Iraq.

That the U.S. has proof the Iraqi government and "bin Laden's group" agreed to cooperate to attack targets inside America.

That in case the Taliban and bin Laden's group turn out to be involved in "these destructive operations," the U.S. may strike Iraq and Afghanistan.

That the Afghani consul heard about the issue of Iraq's relationship with "bin Laden's group" while he was in Iran.

At the end, the writer recommends informing "the committee of intentions" about the above-mentioned items. The signature on the document is unclear.

(Editor's Note: The controversial claim that Osama bin Laden was cooperating with Saddam Hussein is an ongoing matter of intense debate. While the assertions contained in this document clearly support the claim, the sourcing is questionable — i.e.

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an unnamed Afghan "informant" reporting on a conversation with another Afghan "consul." The date of the document — four days after 9/11 — is worth noting but without further corroboration, this document is of limited evidentiary value.)

"Election Campaign Laws in France"

Documents dated July-August 1999

Correspondence regarding election campaigns in France. This includes a document from the Iraqi intelligence service classified as "secret," ordering the translation of important parts of a 1997 report about campaign financing laws in France. It also includes a document from the foreign minister's office indicating the report was attached. The attached translated report included very detailed information about all the regulations regarding financing of election campaigns in France. Translation was done by someone called "Salam Abdul Karim Mohammed."

(Editor's Note: This is an intriguing document which suggests Saddam Hussein's regime had a strong interest in the mechanics and legalities of financial contributions to French politicians. Several former French politicians are implicated in receiving oil vouchers from Iraq under the U.N. Oil for Food program.)

"Hiding Docs from the U.N. Team"

Document dated March 23, 1997

A letter from the Iraqi intelligence service to directors and managers advising them to follow certain procedures in case of a search by the U.N. team, including:

Removing correspondence with the atomic energy and military industry departments concerning the prohibited weapons (proposals, research, studies, catalogs, etc.).

Removing prohibited materials and equipment, including documents and catalogs and making sure to clear labs and storages of any traces of chemical or biological materials that were previously used or stored.

Doing so through a committee which will decide whether to destroy the documents.

Removing files from computers.

The letter also advises them on how they should answer questions by U.N. team members. It says the intelligence service should be informed within one week about the progress made in discarding the documents.

(Editor's Note: This document is consistent with the Report of the Special Advisor to the Director of Central Intelligence, which described a pattern of deception and concealment on the part of Saddam Hussein's government towards the U.N. inspectors in the mid to late 90's. Hussein halted all cooperation with those inspectors and expelled them in October 1998.)

"Al Qaeda Presence in Iraq"

Document dated August 2002

A number of correspondences to check rumors that some members of al Qaeda organization have entered Iraq. Three letters say this information cannot be confirmed. The letter on page seven, however, says that information coming from "a trustworthy source" indicates that subjects who are interested in dealing with al Qaeda are in Iraq and have several passports.

The letter seems to be coming from or going to Trebil, a town on the Iraqi-Jordanian border. Follow up on the presence of those subjects is ordered, as well as comparison of their pictures with those of Jordanian subjects living in Iraq. (This may be referring to pictures of Abu Musaab al Zarqawi and another man on pages 4-6) The letter also says tourist areas, including hotels and rented apartments, should be searched.

(Editor's note: This document indicates that the Iraqis were aware of and interested in reports that members of al Qaeda were present in Iraq in 2002. The document does not support allegations that Iraq was colluding with al Qaeda.)

Papers Give Glimpse Of Al-Qaida Recruits (LAT/AP)

By Sam F. Ghattas, Associated Press Writer

The Los Angeles Times, March 18, 2006

BEIRUT, Lebanon — Recruits at Osama bin Laden's terrorist training camps in Afghanistan were clamoring for suicide missions against the United States more than a year before the Sept. 11 attacks, according to al-Qaida documents declassified by the U.S. Defense Department.

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One document published on the Pentagon Web site this week contained rare criticism of bin Laden from an al-Qaida operative, who accused the terrorist leader of monopolizing decision-making and ignoring advice.

"We must completely stop outside operations until we sit down and consider the disaster we have caused," said the operative, who used the name Abdel Halim Adel.

Adel appealed to a friend in the al-Qaida leadership to steer the group away from the policies of bin Laden, whom he referred to as Abu Abdullah.

"Stop foreign operations, stop sending people to detention, and stop planning new operations, whether they are ordered by Abu Abdullah or not," he wrote.

The documents provide a rare glimpse of the mentality and training of recruits at al-Qaida's camps in Afghanistan, where bin Laden was based until late 2001. After the Sept. 11, 2001, attacks on New York and Washington, the United States threw its weight behind opponents of the Taliban regime that hosted bin Laden.

While the camps in Afghanistan have been destroyed, many of those who trained there have returned to their home countries, taking al-Qaida's ideology and tactics with them.

The U.S. military said the documents, published Wednesday, were "captured during recent operations." Some were seized in the 2003 invasion of Iraq but many, according to U.S. Rep. Pete Hoekstra, were found in Afghanistan.

"Why have the martyrdom operations against the Americans been delayed?" one recruit wrote on a calendar page dated July 8, 2000.

Another recruit referred to the 1998 suicide attacks on the U.S. embassies in Kenya and Tanzania, which killed 231 people, saying: "We look forward to martyrdom operations like the ones in Nairobi and Dar es Salaam. What are the characteristics of the man that is required to execute such operations?"

A third recruit asked the leadership why it disapproved of assassination: "Why do you oppose and find it inappropriate, knowing that it cleansed many tyrants?"

The recruits called bin Laden "sheik," a clerical title. But it was not clear whether their questions were addressed to him or to one of his lieutenants.

"Our sheik, you have previously given us lessons and asked the question: 'How do we drive the infidels out of the Arabian Peninsula?'" a recruit said in one document.

He then asked: "Is striking at the origin (America) the priority or is it driving them out (of Saudi Arabia)?"

The documents show al-Qaida members were concerned about their safety and the safety of their families, although they embraced suicide attacks.

Adel, the operative who criticized bin Laden, protests the leadership's posting on the Internet of a letter in which he sent kisses to his children.

"Please quickly take it off because I think the whole world now knows how many kids I have and their names," he wrote.

A recruit said a reconnaissance plane has been spotted over the camp and asked: "Why aren't there enough personal weapons (Kalashnikov rifles) for the self-defense of all the holy warriors, particularly as an attack on the camp by the global infidels is possible anytime?"

Bin Laden is thought to have written one of the documents -- a letter to Taliban leader Mullah Omar. It is not clear whether the letter was written before or after Omar was overthrown.

Bin Laden told Omar that if they continued attacks in the "Islamic republics" -- apparently Muslim-dominated areas of the former Soviet Union -- it will "keep the enemies busy and divert them away from the Afghan issue and ease the pressure."

"It is a fact that the region of the Islamic republics is rich with significant scientific experience in conventional and non-conventional military industries, which will have a great role in future holy war against the enemies of Islam," the letter said. It was not specific about the type of non-conventional armaments, but seemed to refer to biological and chemical warfare.

The letter also addressed the importance of communicating with the media, a matter on which Mullah Omar would have disagreed. The Taliban leader was known for refusing press interviews and avoiding cameras.

"It is obvious that the media war in this century is one of the strongest methods (of struggle). In fact, its ratio may reach 90 percent of the total preparation for battles," bin Laden wrote.

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The release of the documents, which is expected to continue for months, is designed to allow U.S. lawmakers and the public to investigate issues such as what Saddam Hussein's Iraqi regime said about weapons of mass destruction.

The Pentagon cautioned it has made "no determination regarding the authenticity of the documents, validity or factual accuracy."

Cited As Symbol Of Abu Ghraib, Man Admits He Is Not In Photo (NYT)

By Kate Zernike

The New York Times, March 18, 2006

In the summer of 2004, a group of former detainees of Abu Ghraib prison filed a lawsuit claiming that they had been the victims of the abuse captured in photographs that incited outrage around the world.

One, Ali Shalal Qaissi, soon emerged as their chief representative, appearing in publications and on television in several countries to detail his suffering. His prominence made sense, because he claimed to be the man in the photograph that had become the international icon of the Abu Ghraib scandal: standing on a cardboard box, hooded, with wires attached to his outstretched arms. He had even emblazoned the silhouette of that image on business cards.

The trouble was, the man in the photograph was not Mr. Qaissi. [Editors' Note, Page A2.]

Military investigators had identified the man on the box as a different detainee who had described the episode in a sworn statement immediately after the photographs were discovered in January 2004, but then the man seemed to go silent.

Mr. Qaissi had energetically filled the void, traveling abroad with slide shows to argue that abuse in Iraq continued, as hea d of a group he called the Association of Victims of American Occupation Prisons.

The New York Times profiled him last Saturday in a front-page article; in it, Mr. Qaissi insisted he had never sought the fame of his iconic status. Mr. Qaissi had been interviewed on a number of earlier occasions, including by PBS's "Now," Vanity Fair, Der Spiegel and in the Italian news media as the man on the box.

This week, after the online magazine Salon raised questions about the identity of the man in the photograph, Mr. Qaissi and his lawyers insisted he was telling the truth.

Certainly, he was at Abu Ghraib, and appears with a hood over his head in some photographs that Army investigators seized from the computer belonging to Specialist Charles Graner, the soldier later convicted of being the ringleader of the abuse.

However, he now acknowledges he is not the man in the specific photograph he printed and held up in a portrait that accompanied the Times article. But he and his lawyers maintain that he was photographed in a similar position and shocked with wires and that he is the one on his business card. The Army says it believes only one prisoner was treated in that way.

"I know one thing," Mr. Qaissi said yesterday, breaking down in tears when reached by telephone. "I wore that blanket, I stood on that box, and I was wired up and electrocuted."

Susan Burke, a lawyer in Philadelphia who is representing Mr. Qaissi and other former prisoners in a lawsuit against civilian interrogators and translators at Abu Ghraib, said that Mr. Qaissi had been abused in the same way as the man in the photo. "The sad fact is that there is not only one man on the box," she said.

Using a name that Mr. Qaissi is often called, she said, "Haj Ali is but one of many victims of the torture by Graner and the others."

In the interview for the article, Mr. Qaissi pointed to his deformed hand and said it matched the hand in the photograph. A close look at the photograph, however, is inconclusive.

Whether he was forced to stand on a box and photographed is not clear, but evidence suggests that he adopted the identity of the iconic man on the box, the very symbol of Abu Ghraib, well after he left the prison.

Records confirm that Mr. Qaissi became inmate 151716 sometime after the prison opened in June 2003, but do not give firm dates; Mr. Qaissi, a 43-year-old former Baath Party member and neighborhood mayor in Baghdad, said he arrived at Abu Ghraib in October 2003 and was released in March 2004, two months after the Army began an investigation into the abuse.

And he suffered mistreatment and humiliation at the hands of the same people who photographed the man on the box: photographs investigators seized show him forced into a crouch, identifiable by his mangled hand, with the nickname guards gave him — "The Claw" — scrawled in black marker across his orange jumpsuit.

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But if he was the hooded man on the box, he did not mention it on several key occasions in the first months after the scandal broke.

In the spring of 2004, Mr. Qaissi approached Muhammad Hamid al-Moussawi, the deputy director of the Human Rights Organization of Iraq, and proposed that the men set up a group for prisoners of the occupation, Mr. Moussawi said this week. Yet Mr. Qaissi never claimed at the time that he had been the man in the photograph, Mr. Moussawi recalled.

A journalist who interviewed Mr. Qaissi three times that May and June about what happened at Abu Ghraib similarly said he never mentioned the pose or the photograph. The journalist, Gert Van Langendonck, said Mr. Qaissi mentioned the other cruelties he described in the Times profile.

A lawsuit Mr. Qaissi joined, filed on July 27, 2004, also made no allegation that he was shocked with wires or forced to stand on a box. That allegation appeared only on an amended version of a complaint he later joined, filed last month, which said he had been forced to stand on the box and fell off from the shocks of the electrocution: "They repeated this at least five times."

Another man had already been publicly identified as the man on the box in May 2004, when documents including logbooks and sworn statements from detainees and soldiers were leaked to The Times.

On May 22, 2004, The Times quoted the testimony of a detainee, Abdou Hussain Saad Faleh: "Then a tall black soldier came and put electrical wires on my fingers and toes and on my penis, and I had a bag over my head. Then he was saying, 'Which switch is on for electricity?'"

Specialist Sabrina Harman, one of the soldiers later convicted of abuse, identified the man by his nickname, Gilligan, in her statement.

She left some room to believe that others were subjected to the same treatment. "The wires part," she said, was her idea, but she said Specialist Graner and Staff Sgt. Ivan Frederick II had forced detainees to stand on a box to stay awake, and did so at the request of military intelligence officials. Abu Ghraib photographs show more than one example of a hooded man forced to stand on boxes.

But Chris Grey, a spokesman for the Army's Criminal Investigation Command, said that the military believed that Mr. Faleh had been the only prisoner subjected to the treatment shown in the photo. "To date, and after a very thorough criminal investigation, we have neither credible information, nor reason to believe, that more than one incident of this nature occurred," he said.

Mr. Qaissi's lawyer, Ms. Burke, countered, "We do not trust the torturers."

Mr. Qaissi seems to have first begun identifying himself as the hooded man in the fall of 2004, by which point he had started his prisoners' group out of a politically charged mosque in Baghdad.

In an article in the February 2005 issue of Vanity Fair, Donovan Webster identified Mr. Qaissi as Haj Ali, the likely man on the box, based on an extensive investigation of military records. Soon, Mr. Qaissi was featured in numerous profiles, including in Der Spiegel, reprinted by Salon, as well as on the PBS current affairs program "Now," where he described being shocked: "It felt like my eyeballs were coming out of my sockets."

With his soft voice and occasionally self-deprecating humor, he has impressed interviewers as affable and credible. He told his story with a level of detail that separated it from that of many others.

Most of his assertions and details could be confirmed, Mr. Webster and others stress. In his three-hour interview with The Times, Mr. Qaissi did not veer from reported details and appeared confident in his discussion, punctuating his story with bitter laughter and occasionally, tears. But he never raised the possibility that another man may have also been photographed in the same pose.

Human rights workers were compelled by his story, as well. Reporting the Saturday article, The Times relied in part on their statements that he could well be the hooded man, as well as on prison records and interviews with friends and his lawyers, who say they have Mr. Qaissi's blanket, the same one, they said, draped over the man in the photograph. Army officials at the time refused to confirm or refute Mr. Qaissi's claims, citing privacy protections in the Geneva Convention.

Abdel Jabbar al-Azzawi, who now lives in Baghdad and says he was in the prison with both Mr. Qaissi and the man named Gilligan and has joined the lawsuit, says he saw Mr. Qaissi wearing the blanket fashioned into a poncho depicted in the photograph, though he did not see the photographs being taken.

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Mr. Qaissi's lawyers also stress that the iconic photograph is not the basis of his case. In court papers, he also says he was punched, kicked, hit with a stick and chained to his cell while his captors poured cold water over his naked body.

Meanwhile, it is not clear what happened to the real hooded man, Mr. Faleh. An Army spokesman said he was released from American custody in January 2004. Tribal leaders, and the manager of a brick factory next to the address where prison records say he lived, said they had never heard the name. Besides, they said, detainees often make up identities when they are imprisoned. Mr. Qaissi's attorneys said they have not attempted to search for him.

Times Says It Misidentified Iraqi As Hooded Prisoner (WP)

By Howard Kurtz

The Washington Post, March 18, 2006

It was a dramatic front-page story to match an infamous photo: the chilling shot of an Abu Ghraib prisoner, hooded, standing on a box, electrical wires attached to his outstretched arms.

He is Ali Shalal Qaissi, the New York Times said last Saturday, and the Iraqi told the paper that his wounds are still raw.

But after questions were raised by the online magazine Salon, the Times acknowledged last night that the story was flat wrong. The prisoner in the photograph was not Qaissi, who has belatedly admitted that to the newspaper.

"The Times did not adequately research Mr. Qaissi's insistence that he was the man in the photograph" and "should have been more persistent in seeking comment from the military," the paper said in an editor's note.

Susan Chira, the Times foreign editor, said in an interview earlier this week that Salon had "raised legitimate questions" about the newspaper's story. "Any time you talk to someone like this, you worry: Are they telling you some kind of story?"

In a story published in today's editions, Qaissi is quoted as saying in a tearful telephone interview that he was photographed in a similar position. "I know one thing," Qaissi told the Times. "I wore that blanket, I stood on that box, and I was wired up and electrocuted."

The Army, however, says that only one man was mistreated that way, a prisoner whom guards nicknamed "The Claw," according to the Times report. Further undercutting Qaissi's account, the Times reported, is that he never claimed to have been the man under the hood in the first months after his release from Abu Ghraib or in a July 2004 lawsuit that he joined.

In last Saturday's Times story, written from Amman by staff writer Hassan Fattah, the 43-year-old Qaissi was quoted as saying: "I never wanted to be famous, especially not in this way." The paper reported that Qaissi has a slight limp and a mangled hand -- an old injury that became infected by his shackles -- after his six-month imprisonment at Abu Ghraib in 2003 and 2004, and that he is now a prisoner advocate who uses the hooded image on his business card.

A U.S. military spokesman would not comment to the Times, citing the Geneva Conventions' rules against disclosing the identity of prisoners. But the paper said government records made available by Amnesty International show that Qaissi was in U.S. custody at the time and that the organization, along with Human Rights Watch and attorneys involved in a class-action suit over the abuses at Abu Ghraib, "believe that he is the man in the photograph."

In today's report, however, the Times said: "Evidence suggests that he adopted the identity of the iconic man on the box, the very symbol of Abu Ghraib, well after he left the prison."

Qaissi, who had been a neighborhood official in Saddam Hussein's government, has been touring the Arab world and delivering computer slide shows about the mistreatment of prisoners at Abu Ghraib, the photographs of which became a global embarrassment for the U.S. military after they were obtained by several news organizations.

Days after the Times story was published, Salon reported that Qaissi was not the man in the picture and that it was actually "another detainee, named Saad, whose full name is being withheld by Salon to protect his identity." The magazine cited Army documents and confirmation by a spokesman for the Army's Criminal Investigation Command.

Salon Editor Joan Walsh said her organization raised questions after obtaining 279 photos taken inside Abu Ghraib along with other Army documents. "We thought, gee, let's check and see how this lines up with the documentation we had, and it really didn't," Walsh said. "We knew who the Army said that particular prisoner was," and it was not Qaissi.

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The Times was hardly the only news organization to name Qaissi as the hooded prisoner, although its profile -- headlined "Symbol of Abu Ghraib Seeks to Spare Others His Nightmare" -- gave him considerable prominence. Vanity Fair, the PBS show "Now," Der Spiegel and the Italian news media have all identified Qaissi as "The Claw."

"We did not present this as a scoop," Chira said. After careful checking, "we came up with a lot of people who believed he was this guy" in the photo.

Walsh credited the Times for its response to Salon. "As a Times subscriber, I was happy they moved to at least try to correct the record so quickly," she said.

Abu Ghraib Dog Handler Case Goes To Jury (AP)

By David Dishneau

AP, March 18, 2006

A military jury began deliberating Friday in the case against an Army dog handler accused of using his barking animal to torment prisoners at Abu Ghraib for his own amusement.

Sgt. Michael Smith, 24, of Fort Lauderdale, Fla., could get up to 24 1/2 years in prison if convicted on all counts.

The jury met for about six hours before going home. Deliberations were to resume Monday morning.

The government contended Smith and another canine handler competed to make terrified prisoners at the Iraqi prison soil themselves. The defense argued that Smith believed he was following orders in a chaotic and confusing environment.

An Army prosecutor, Maj. Christopher Graveline, said in his closing argument that Smith violated training on treating prisoners humanely and using the minimum amount of force necessary. Graveline showed the jury enlarged photographs from 2003 and 2004 of Smith's black Belgian shepherd menacing cowering detainees.

"American soldiers don't do that," Graveline said. "And we don't do it because we think it's fun. And we don't do it for our laughs. And we don't take pictures of it."

But defense attorney Capt. Mary G. McCarthy countered: "He's on trial for his life for things he did because he thought he was supposed to — things he did because there was a lack of clear guidance."

She said that all Smith's dog did to prisoners was bark at them. One witness' testimony that the dog appeared to have nipped a prisoner's wrist was not corroborated.

Smith told investigators that he and Sgt. Santos A. Cardona used their unmuzzled dogs to help military intelligence interrogators. Cardona, 31, of Fullerton, Calif., is to stand trial May 22.

Testimony in the trial revealed conflicting notions among prison workers about how dogs were supposed to be used and what the approval process was.

Abu Ghraib's former military intelligence chief, Col. Thomas M. Pappas, testified that the dogs were to be used "to assist in setting conditions for interrogations." Pappas said that he approved a one-time use of muzzled dogs inside interrogation booths but later learned he lacked the authority to give such an order.

Military Investigating Deaths Of 15 Iraqis (AP)

By Lolita C. Baldor

AP, March 18, 2006

The military will investigate allegations of potential misconduct by Marines during a bombing and firefight last November that left 15 Iraqi civilians dead, a top U.S. commander in Iraq said Friday.

Lt. Gen. Peter Chiarelli, the number two U.S. commander in Iraq, said that after a preliminary review of the incident he directed a criminal investigation into whether the Marines violated the rules of military engagement.

"We take these allegations of potential misconduct seriously and they will be thoroughly investigated. I really can't comment any further on this incident because of the ongoing investigation," said Chiarelli, who made the first public statements about the investigation Friday while speaking from Iraq to Pentagon reporters.

About a dozen Marines are being investigated for possible war crimes in connection with the November 2005 bombing and subsequent firefight between Marines and insurgents that led to the deaths of the Iraqi citizens. The 15 Iraqi civilians were initially reported killed by a roadside bomb.

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Chiarelli said allegations of possible violations were brought to the attention of the military by a reporter in mid-February. He has referred the matter to the Naval Criminal Investigative Service.

Fifteen Iraqis, eight insurgents and a Marine were killed during the Nov. 19 firefight, which began when a roadside bomb detonated next to a joint Iraqi-U.S. squad patrolling Haditha, about 140 miles northwest of Baghdad. Immediately after the explosion, insurgents attacked the patrol with small arms.

The Marine killed was assigned to Regimental Combat Team 2 of the 2nd Marine Division; two other Marines were wounded. Defense officials would not identify the unit or Marines involved in the investigation. While several Iraqis were part of the patrol, they are not involved in the investigation, the official said.

Military officials will try to determine whether the Marines followed the international law of armed conflict, including whether they positively identified or tried to identify the enemy and whether they determined there was hostile intent, as they are supposed to do.

The law regulates international military operations, and anyone found in violation can be held liable for war crimes and be court-martialed under the Uniform Code of Military Justice.

It is not uncommon for insurgents to launch attacks from homes, hospitals and other public buildings, where civilians can get caught in the crossfire.

The official said the investigation is not focused on any one individual. About a dozen Marines were involved in the incident.

As the Iraq war ends its third year, estimates vary on civilian casualties. President Bush has said he thinks at least 30,000 Iraqis had been killed as of December, while some researchers put the number at 50,000 or more.

More than 2,300 U.S. military personnel have died, but the Pentagon does not release a tally of civilian or insurgent deaths.

U.S. To Investigate Civilian Deaths In Iraq (KRT)

By Drew Brown

Knight Ridder, March 18, 2006

WASHINGTON - Naval investigators are looking into whether Marines intentionally killed 15 Iraqi civilians - four of them women and five of them children - during fighting last November, defense officials said Friday.

One official said it's unclear whether the Marines killed the civilians accidentally or whether they fired indiscriminately. It's also unclear whether all the civilians died in the same house or in separate locations. Among the dead was a 15-year-old girl, an official said.

The investigation will examine how the Marines determined hostile intent during the firefight and whether they attempted to positively identify their targets before firing, the official said.

Lt. Gen. Peter W. Chiarelli, the ground commander of U.S. and coalition forces in Iraq, said he ordered the investigation to determine what happened during a firefight on Nov. 19, 2005, after insurgents exploded a bomb near a Marine convoy in the insurgent stronghold of Haditha, in western Iraq.

A U.S. military press release issued the next day said that one Marine and 15 Iraqi civilians died in the blast and that eight insurgents were killed in an ensuing firefight.

Chiarelli said he ordered an initial fact-finding investigation on Feb. 14 after a news reporter in Iraq raised allegations of possible wrongdoing by the Marines.

Chiarelli said he ordered the second investigation on March 9. That was after the preliminary inquiry found that the civilians didn't die in the blast, but were killed in the firefight that followed, according to the two defense officials familiar with the investigation.

"We take these allegations of potential misconduct seriously, and they will be thoroughly investigated," Chiarelli said, speaking from Iraq by teleconference to reporters at the Pentagon.

The Navy's Criminal Investigative Service is conducting the probe.

The Navy's investigation will seek to answer whether the Marines killed the civilians accidentally or whether the killings were deliberate, said one of the defense officials. The two officials asked not to be named because they weren't authorized to comment on specifics of the case.

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CNN reported the first details of the investigation late Thursday.

Marines from the 2nd Marine Division's Regimental Combat Team 2 were traveling in a four-Humvee convoy through Haditha on Nov. 19 when an improvised explosive device went off, according to one of the officials. Lance Cpl. Miguel Tarrazas, 20, of El Paso, Texas, was killed in the blast.

The explosion was the first of five blasts and coordinated small-arms attacks that hit the Marines over the next five hours. They stopped only after U.S. warplanes dropped two bombs on suspected insurgents, an official said. Haditha, which is about 140 miles northwest of Baghdad, is an insurgent stronghold and has been the scene of frequent attacks on U.S. troops in the past three years.

After the initial blast, a gun battle developed in which a squad of 12 to 15 Marines pursued the insurgents from house to house, with civilians inside apparently caught in the crossfire.

The incident isn't the first time that U.S. forces have been accused of killing unarmed civilians in Iraq. During the siege of the insurgent stronghold of Fallujah in November 2004, a television cameraman recorded a Marine shooting and killing an unarmed Iraqi who'd been wounded during the fierce fighting. The Marine was later cleared of any wrongdoing.

The two officials who asked not to be identified said that the squad that's under investigation in the present case is from the same unit, 3rd Battalion, 1st Marine Regiment, that was involved in the 2004 incident.

Casualty Of War (NSWK)

By Robina Riccitiello With Martha Brant and Karen Breslau

Newsweek, March 18, 2006

Damaged brains are emerging as the singular injury of the Iraq conflict. A soldier's story.

Sam Reyes remembers nothing of the suicide bomb attack on a highway outside Fallujah that nearly killed him on the morning of Sept. 6, 2004. Perhaps it's just as well. When medics arrived at the site of the attack, which left 12 Marines dead, they found Reyes sprawled on the road in desperate condition: his arms, back and head were pierced by shrapnel; his left arm was ripped open to the muscle; his stomach and spleen had been sliced; his ribs were broken, his face was badly burned and his tongue had been cut in half.

In the helicopter on the way to a military hospital in Baghdad, the medical team had to defibrillate his heart to keep him alive. Over the next 18 months, during an agonizing recovery, the young Marine gunner underwent several operations and lost 45 pounds. Although his physical wounds have largely healed—save for scattered scars across his forehead and his sense of taste, which has yet to return—the bomb blast left Reyes, now 21, with a less visible, but devastating injury to his brain. Like many Iraq vets who survive the concussive force of an improvised explosive device, or IED, Reyes is now sometimes unable to recognize his friends or family, to recall what he just read or heard, to concentrate or to read faster than the average second-grader. " I feel kind of odd when I see people and they say, 'Oh, you don't remember me'," says Reyes. "And I say, 'No, I don't.' They'll say, 'Remember, we did this and that when we were younger.' And I go, 'Oh, yeah.' It kind of makes me feel bad."

Like more than 1,700 military personnel wounded in Iraq and Afghanistan in recent years, Marine Cpl. Samuel Reyes Jr. is suffering from traumatic brain injury, known in military jargon as TBI, which leaves survivors unable to perform the most basic cognitive functions. According to officials at the Walter Reed Army Medical Center in Washington, TBI affects more than 25 percent of bomb-blast survivors like Sam Reyes, making it the signature injury of the Iraq war. In fact, military officials say that were it not for advances in body armor, helmets and drastically improved battlefield medicine, the majority of survivors being treated for TBI would not have even survived their injuries as recently as the first gulf war 15 years ago. The increasing number of TBI survivors and the vexing limitations they face has become an enormous challenge for both military medicine and for the Department of Veterans Affairs, which will treat these survivors for life. "In the military, the question is 'are you battle ready?'" says Dr. Harriet Zeiner, a clinical neuropsychologist for the VA in Palo Alto, Calif., where Reyes is being treated. "Our criteria at the VA [are], are you going to be able to hold down a job, sustain a relationship, get married, have kids or do you have something that's going to impair you?"

For Reyes, and hundreds of others suffering from TBI, the answers to these questions are still far from clear. The diffuse but debilitating symptoms of traumatic brain injury—which sometimes are not apparent until months after the bomb blast—can leave

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veterans with festering psychological problems and anger that often lead to failed relationships and careers, substance-abuse problems and the inability to adapt to civilian life. Many TBI patients, like Reyes, are also suffering from posttraumatic stress syndrome (PTSD), a psychological condition affecting many combat veterans and other trauma survivors that is marked by flashbacks, nightmares, anxiety and irritability. The combination of TBI and PTSD, says the VA's Zeiner, "is pretty deadly." Reyes suffered damage to the frontal lobe of his brain, the area that helps a person calm himself after a stressful or frightening experience and where problem-solving takes place. When Reyes becomes anxious, he quickly escalates to a state of agitation. It's not uncommon, says Zeiner, for those suffering from TBI and PTSD to "either drink themselves into a stupor," in an effort to self-medicate, or to become agoraphobic, afraid to go out where they may have to contend with overwhelming stimuli.

In the months after his injury, Reyes tried over and over again to qualify for combat duty and return to Iraq. The first three times, he wasn't strong enough to run and do the pullups required to demonstrate his fitness for duty. On the last two attempts, Reyes passed the physical tests, but knee pain, stomach problems and the increasing effects of the brain injury kept him confined to barracks at Camp Pendleton, near San Diego. While other members of his unit, the First Marine Division, Second Battalion Fox Company weapons platoon, returned from Iraq in October 2004 and went back to work at Camp Pendleton, Reyes lived in limbo for nearly a year. "I never had to get dressed. I didn't have to go to work," says Reyes. "They wouldn't want me to have a 'brain-injury moment'." He spent his days in the barracks watching movies and playing videogames to make the time pass and seeing a doctor for his memory problems and nightmares. He began to drink heavily. In June 2005, Reyes was examined by a civilian doctor who recognized signs of traumatic brain injury, and he was transferred almost immediately to the VA's specialized brain-injury unit in Palo Alto.

At the Palo Alto center, one of four VA facilities around the country with a specialized TBI unit, Reyes began the frustrating process of retraining the damaged memory center of his brain. All the brain-injury patients in Palo Alto are issued handheld computers, which the staff jokingly calls "brain prosthetics." Reyes sets the alarm on his twice a day in order to remember to check his to-do list. He began keeping a journal to try to spur his memory. Another device, a Franklin electronic dictionary, pronounces words to help rebuild his vocabulary while reading. It recently took Reyes a month and a half to read "Jarhead," the memoir of a Marine sniper. Before his injury, he says would have read the same book in a day or two. In his lighter moments, Reyes, who hopes to attend college on the G.I. bill, quips that Dr. Seuss's "Green Eggs and Ham" is about his speed now.

The brain damage also has painful emotional consequences. His family members were shocked that he often couldn't remember their faces. Sometimes a voice will help him remember. Other times an object can prod his memory. One buddy gave him a football to remind Reyes of his high-school football career in Houston, where he grew up. Tossing the football can bring back specific memories of plays he used to run and hits he made. Other times, it's harder to remember. If a therapist reads him a two-line story about a mom and dad going to the store and the purchases they made, he'll say, "Who went to the store?" Reyes says, "It gets kind of annoying." When he watches movies, he tends to forget by the end what happened in the beginning.

Soon after he arrived at the brain-injury center, Reyes's doctors began trying to convince him to go for treatment at the VA's PTSD center in nearby Menlo Park, where Vietnam veterans work side by side with active-duty Marines and soldiers, trying to find ways to deal with the lingering trauma of their respective wars. At first, Reyes resisted, worried that his fellow Marines might think he was weak. Meeting the other men in the PTSD treatment center had a big impact on him. "Some of them are real tough, big guys, real smart, and that made me feel better. It showed me I wasn't the only one in the whole world who would have it." Reyes says his fellow Marines who haven't gotten help are suffering. "I tried to let some guys know who I thought could use help, and they said, 'Nah, I don't need that. I take sleep medicine and I drink, so I'm doing pretty good'." Although the Marine Corps is sending some mental-health workers into the field, Reyes says he didn't have any discussions about combat-related stress. He got a brochure about PTSD at one point, but says it didn't explain the symptoms. "It scares me that all these guys could be just like me, having the same problems, and they're getting ready to ruin a whole lot of their life."

As the population of wounded Iraq veterans increases, the military is also trying to raise awareness about TBI, especially the less severe cases like Reyes's, which can easily be misdiagnosed or overlooked in the chaos of battlefield medicine. The Defense Department is developing a training course for medics to teach them how to screen for TBI in the field. Any injured combatant who has lost consciousness is a candidate for TBI diagnosis. The military is also making plans to station a TBI expert at medical facility in Germany where the U.S. wounded are first evacuated after leaving Iraq. "I'm sure people do get

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misdiagnosed , says Dr. Warren Lux, deputy director of the Defense and Veterans Brain Injury Center at Walter Reed. "That is why we are trying to get education out there."

For now, the 6-foot-3 Reyes fills his days with volleyball and basketball, group-therapy sessions, meditation and recreational therapy at the VA's Residential Rehabilitation Program in Menlo Park. Being so close to the civilian world has exposed him to painful criticism of the war. "It kind of hurts that I lost a lot of friends and I got injured," he says. "I guess that's what freedom of speech is for." Someday, he hopes the Iraqi children who once enthusiastically greeted Reyes and his fellow Marines will appreciate their sacrifices. In the meantime, Reyes is working on putting his own life back together. Later this year, he plans to marry, and before long, to attend college. First though, he wants to learn once again to recognize his family members, especially his beloved 5-year-old brother who dressed up as a Marine for Halloween in honor of the injured big brother who struggles to remember his name.

The War Through A Father's Eyes (WP)

By H. Barry Holt

The Washington Post, March 18, 2006

I cannot describe the relief I felt when our oldest son returned from war alive -- for the second time. He is an Army communications specialist, a job designed to support combat units in a mobile war. Although his first deployment to Iraq may have been inevitable, my wife and I were terrified when he received his orders, less than a year after he had enlisted as an uncertain and directionless 18-year-old and less than six months after basic training. Uncertain information from the Army meant we couldn't be there to see him board the plane to war. But we managed to be there the week before, full of parental stoicism and quiet terror demonstrated through hugs and tears.

I generally accepted the reasons we went to war and worried about terrorism and weapons of mass destruction. Like many Americans, I believed that America had a moral duty to protect the oppressed of Iraq. But with my son in that war, my interest became much more parochial. Policy meant less than facts.

At first we heard nothing, then finally one short phone call from Kuwait told us he was safe and bored with waiting. I filled time between infrequent e-mails scouring the Internet for local newspapers showing pictures of his unit's equipment being shrink-wrapped and loaded on transport ships. Think-tank Web sites gave information about bases in western Iraq, where he was headed. I devoured bits of information he gave me through e-mail and telephone calls, and slowly his story unfolded. I shuddered when he described his terrifying 36-hour convoy race from Kuwait to Anbar province. His girlfriend told us (he tried to protect us from such news) about the attack on his convoy and his using his newly minted "expert" qualification on the SAW light machine gun to kill an attacking Iraqi soldier.

I anguished over his descriptions of random mortar attacks on his base, and I chastised him for volunteering for "shotgun" duty on missions conducted by the combat unit he supported. But hearing nothing for long periods was so much worse. I had persistent nightmares about improvised explosive devices, mortar rounds, snipers and accidents, knowing nothing but fearing the worst. Every report of an attack triggered frantic efforts to unearth the latest news, each time followed by guilty relief that my son was not hurt and by shame that I was relieved that someone else had died. But I cried every time I saw lists of casualties as I scoured the names for soldiers and Marines from his home base or our hometown. Now they were my children, too.

My fears escalated when he told me he was slightly wounded during a firefight, and his only reaction was annoyance that there would be no Purple Heart because an investigation revealed the cause was friendly fire. My heart broke when he told me about two friends who died in different accidents and about a sergeant he knew who was killed by a sniper. When he left Anbar on the convoy back to Kuwait, with improvised armor on his vehicle, I worried until he phoned after his safe arrival.

My son came home . . . alive.

Our visit after he returned was emotional and sweet. He had not changed much, but he was moody and uninterested in news about the war. During the next nine months, with another deployment expected, life became more urgent as he married and then fathered our first grandchild. Much of that immediate joy was denied him because he was in northern Iraq when his son was born. But our grandson is beautiful and will grow up proud of his father.

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My son's second tour in Iraq was, in some ways, easier on us than the first. We knew more of what to expect, and my anxiety dulled to a continuous daily ache. He complained to me about boredom -- and I celebrated! "A little boredom is a good thing, enjoy it," I would tell him. But with youthful impatience, he longed for more action.

Although the second deployment generally was less stressful, we were confused and angry at the Army when he asked us to buy ammo pouches and other military accessories that weren't issued to him. His convoy to northern Iraq was nerve-wracking and dangerous, but he made it safely. His base was more developed than it was in Anbar, but mortar and rocket-propelled grenade attacks continued, and some fell perilously close. Our persistent worry resurfaced. But he survived all of that and finally flew back home safely.

My view of the war hasn't changed. I am concerned about mistakes made and whether it will be worth all the bloodshed. I wonder how long the troops will remain -- will my son have to go back? Even though our thoughts are full of visits with son, daughter-in-law and grandson, in the back of my mind the worry persists. Rumors are that his unit will return to Iraq next fall. Will he survive?

Anxiety resurrects itself each time I see casualty lists, and I still cry over each soldier's death. I am one with all the parents who lie sleepless every night worrying over their soldier children. Their children are still my children, and that feeling will never end. We are U.S Army and Marine parents, proud of all our sons and daughters who protect this country. But they have seen far too much for people so young, and I don't want any of them to die.

My son is home and alive. He has done his duty and I don't want him to go back.

The writer lives in Arlington.

Was The War Worth It? (TIME)

By David Kennedy

Time, March 16, 2006

As the third anniversary of the beginning of the Iraq War approaches, TIME asked leading thinkers around the world to weigh in on the question at the heart of the ongoing debate about the controversial conflict.

This is the first installment of a feature that will appear in the forthcoming issue of TIME.

No. From the outset the war was a colossally bold and breathtakingly risky gamble. Unfortunately, and unsurprisingly, the United States has failed to beat the odds. Forget about WMDs and links to al-Queda as rationales for the war. The real purpose for invading Iraq was the extravagant ambition to transform the political culture of the entire Middle East. The Bush administration bet American might and good intentions against the accumulated weight of centuries of religious rivalry, tribal tensions, wanton bloodletting, and authoritarian rule. Even American hyper-power has proved no match for the burden of all that sorry history.

Hisham Kassem, Egyptian democracy activist:

Sadly, I have to say yes. It is difficult to commend such a bloody scene. But it achieved something useful. Parallel to the chaos and bloodshed, there is a political process evolving in Iraq. Bloodshed is the price of the transition from Saddam's psychopathic dictatorship. The losses would have been higher had Saddam stayed on. You could easily see that regime lasting for another 30 years, under his sons and top generals. Negotiating with Iraq was not an option. There had to be a military intervention. You have a block of 22 countries in the Arab world dominated by authoritarianism and dictatorship. It is not a block you could engage politically and pressure for reform. By military intervention, the U.S. is able to pressure the region into the reforms we are beginning to see across the region that might avert many countries from becoming failed states. The world cannot put up with state failure in the back yard of the world's oil fields, Israel and Europe.

Lawrence B. Wilkerson, Colonel, U.S. Army (ret.); former chief of staff for Secretary of State Colin Powell:

No. I'm principally a strategist and from that perspective the war has been a disaster. First, the foremost winner has been Iran: it rid itself of its greatest threat, Saddam Hussein and his military, without firing a shot; won the December 15 Iraq elections; owns the south, particularly Basra; and has felt the freedom to elect Mahmoud Amadinejad who, in turn, has felt the freedom to reclaim leadership of radical Islam, leadership Osama bin Laden claimed on 9/11. Second, the foremost loser, after Iraq itself, has been Israel, whose leaders must now fear more than ever before the new strategic maneuver room afforded Iran by America's ineptitude. Third, the general war against global terrorists has been affected greatly by the failure in Iraq. Recruiting

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among Muslim ranks has been aided significantly, while America has squandered the upper hand in the world of ideas, which is the real battlefield of this conflict. Lastly, if our failure in Iraq produces regional conflict, we will find ourselves expending far greater blood and treasure to stabilize the situation once it gets completely out of hand. And the odds that it will get completely out of hand if we continue on the present course are quite high.

Tommy Franks, General, U.S. Army (ret.); as chief of U.S. Central Command, Franks oversaw the invasion and the three months following it, until his retirement on July 7, 2003:

Yes. America remains very proud of, and very thankful to our sons and daughters serving in Iraq and around the world in the cause of freedom. The events of 9-11-01 taught us a valuable lesson.... ignoring terrorism will not make the problem go away. The sacrifices of our military members and their families are giving Iraqis a chance for freedom. And a free Iraq serves not only Iraqis... it will stand as a model in the Middle East. A model that represents to millions of people that there is an alternative to terrorism.

Taliban Rebels Team Up With Drug Barons (WT/AFP)

By Emmanuel Duparcq, Agence France-presse

The Washington Times, March 18, 2006

LASHKARGAH, Afghanistan -- Taliban rebels determined to keep southern Afghanistan in chaos have teamed up with drug barons against the government and its opium eradication campaign, officials say.

The campaign to destroy opium poppy fields was begun March 8 in southern Helmand, the producer of most of Afghanistan's opium crop -- which makes up nearly 90 percent of the world total -- and also one of the provinces worst-hit by a Taliban-led insurgency.

"Terrorists and narcotics are very close; they're supporting each other," said Helmand province Gov. Muhammad Daud. "When narcotics production is up, terrorism automatically goes up."

Lt. Col. Henry Worsley of the 3,500 British forces deployed in the province agreed. "Taliban and drugs feed each other. You cannot separate them here."

In their final two years in power, before they were toppled in a U.S.-led invasion in late 2001, the Taliban banned opium and succeeded in drastically slashing its production to 185 tons from 3,300 tons.

Some observers say their motivation was to win international favor. Others say they wanted to push up the price of the raw ingredient of heroin.

Four years later, the Taliban rebels are willing to protect opium crops and farmers against the new administration in Kabul. The United States and other Western countries, which see opium as a source of terrorist funding, are pressuring the government led by President Hamid Karzai to eradicate the crop.

Several anonymous letters attributed to the Taliban have been distributed in the past few months in Helmand and other insurgency-infested provinces that threaten farmers with reprisals if they do not plant opium, residents said.

Some letters also offer protection against government eradication attempts.

"Taliban will try to disrupt the eradication campaign," said the Helmand governor who has vowed to remove all the opium from his province in two months.

"Eradication will cause fighting," said Mohammed Sardar, an official from the nongovernmental group Mercy Corps that is trying to persuade opium farmers to switch to other crops.

"Poor farmers won't fight, but Taliban and smugglers will," he said.

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Justice Lawyer Named Interim U.S. Attorney (AP-Y2)

AP2, March 18, 2006

Chuck Rosenberg, a veteran Justice Department lawyer serving as the top federal prosecutor in Houston, will take over the high-profile chief prosecutor's job in Alexandria, Va.

Attorney General Alberto Gonzales on Friday named Rosenberg the interim U.S. attorney for the Eastern District of Virginia. He replaces Paul McNulty, who was confirmed by the Senate late Thursday as deputy attorney general.

Rosenberg, 45, will be in charge of the office that is seeking the death penalty against Zacarias Moussaoui and has prosecuted other terrorism cases.

Rosenberg served as the chief of staff to then-Deputy Attorney General James Comey when Comey reportedly raised objections to aspects of the National Security Agency's warrantless eavesdropping program.

Alexandria Federal Prosecutor Sworn In (WP)

By Jerry Markon

The Washington Post, March 18, 2006

Job Likely to Be Made Permanent

A veteran prosecutor with experience in Northern Virginia was appointed yesterday as interim U.S. attorney in Alexandria, one of the highest-profile federal prosecutor's jobs in the country, the Justice Department announced.

Chuck Rosenberg, 45, was sworn in last night before U.S. District Judge T.S. Ellis III. President Bush intends to nominate Rosenberg for the job permanently, but it was unclear when that would occur, officials familiar with the selection process said.

Rosenberg, the interim U.S. attorney in Houston and a former federal prosecutor in Alexandria, succeeds Paul J. McNulty, who was sworn in yesterday as deputy attorney general after being confirmed by the U.S. Senate. McNulty had been U.S. attorney in Alexandria since 2001.

The Alexandria U.S. attorney's job has always been considered a law enforcement plum, and it grew increasingly visible after the Sept. 11, 2001, terrorist attacks as the Justice Department made McNulty's office a central front in terrorism prosecutions. The office won a guilty plea from Zacarias Moussaoui, the only person convicted in a U.S. courtroom on charges stemming from Sept. 11, and is now trying to convince a jury to execute him.

Other prominent cases in Alexandria have included the prosecutions of John Walker Lindh, a Californian convicted of fighting for the Taliban in Afghanistan, and of a group of Muslim men convicted of training overseas for holy war against the United States. The office also has been known to handle highly publicized espionage cases such as the Aldrich H. Ames and Robert P. Hanssen cases.

Rosenberg declined to comment last night on the selection process.

Law enforcement sources have said Rosenberg was the favored candidate to replace McNulty in part because his selection would provide continuity in terrorism prosecutions and national security. A Justice Department news release yesterday said Rosenberg has focused on counterterrorism, counterintelligence and national security matters in recent years.

He has held the Houston post for nine months and previously served in a variety of high-profile jobs at the Justice Department and the FBI in Washington. They included chief of staff for Deputy Attorney General James B. Comey, counselor to then-Attorney General John D. Ashcroft and counsel to FBI Director Robert S. Mueller III.

In the 1990s, Rosenberg worked as a prosecutor in Alexandria and Richmond and specialized in financial fraud crimes, violent crimes and espionage cases.

The U.S. attorney's office in Alexandria serves the eastern half of Virginia, including all of Northern Virginia and Richmond, Norfolk and Newport News.

CORPORATE SCANDALS:

Two Cheers For Nancy Pelosi (WSJ)

By Mallory Factor

The Wall Street Journal, March 18, 2006

Have America's entrepreneurs and corporate leaders found a new voice of regulatory sanity in, of all people, Nancy Pelosi? Apparently so, and that should be a wake-up call to Republicans -- because like everything else in the free market, the free enterprise agenda is up for grabs. In the recent "Innovation Agenda" that the House Democratic leader and her party unveiled,

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Ms. Pelosi acknowledges specifically the need to "ensure Sarbanes-Oxley requirements are not overly burdensome," and endorses reform. Meanwhile, the scourge of Wall Street, New York Attorney General Eliot Spitzer, is criticizing Sarbanes-Oxley's "unbelievable burden on small companies" and its possible role in "preventing some initial public offerings."

Ms. Pelosi and other Democrats have been quicker to recognize what many traditional champions of free enterprise have been slow to see: the law's disastrous consequences for our nation's ability to compete. Congress passed this law hastily in 2002 after the egregious accounting frauds at Enron and WorldCom. The intent was to hold publicly held companies and their executives more accountable and weed out bad actors; but that's not been the effect. Four years after passage, it is now evident that the costs of Sarbox clearly outweigh the benefits.

Consider first the costs. Recent estimates from the American Electronic Association, for example, show that U.S. companies are spending $35 billion annually simply to comply with the law as opposed to original federal estimates of $1.2 billion. A University of Nebraska study found that audit fees for Fortune 1000 companies, on average, increased a staggering 103% from 2003 to 2004. The costs of being a U.S. public company are now more than triple what they were before the law passed, according to a study conducted by the Milwaukee-based law firm of Foley & Lardner. Some smaller firms report that they are spending 300% more on Sarbox compliance than on health care for their employees.

Based on a growing body of theoretical and empirical research, the SEC's Advisory Committee on Smaller Public Companies concluded that Sarbox places a disproportionate compliance burden on small public companies, making it more difficult for them to compete with foreign companies and to a lesser extent with larger U.S. companies. Consider the survey by the American Electronics Association, which found that companies with sales of $100 million and under are spending 2.6% of their revenues on Sarbox compliance -- enough to tip many of them from profitability into unprofitability. This makes it something of a challenge for these companies to innovate, compete or grow -- or even survive.

As a result of these burdensome costs, enterprises are deciding not to go public, or else are opting to back out of our capital markets. Explaining his company's absorption into privately held Koch Industries, Peter Correll, the CEO of Georgia-Pacific, said, "There is a lot of time spent by top management on things that are not value-adding, but are simply bureaucratic and are required by a raft of regulation." In fact, the Foley & Lardner study found that 20% of public companies are considering going private just to avoid Sarbox compliance. It's no wonder, then, that the London Stock Exchange -- eager to exploit a competitive advantage -- now promotes itself by reminding companies that by listing on the LSE they are not subject to Sarbox.

Beyond the direct cost of compliance to individual companies, a recent University of Rochester study concluded that the total effect of the law has reduced the stock value of American companies by $1.4 trillion. That is $1.4 trillion that could be invested in infrastructure improvements, jobs, innovative technologies or research and development. As Sun Microsystems CEO Scott McNealy says, Sarbanes-Oxley throws "buckets of sand into the gears of the market economy."

The true beneficiaries of Sarbox are the nation's large auditing firms, which now maintain a regulatory oligarchy composed of a handful of entrenched services corporations. They will continue to champion Sarbox, since it provides a guaranteed market for their services. Surely this law was not intended by its authors to become a full employment act for the same auditing industry which was implicated in the original malfeasance of four or five years ago.

Sarbox highlighted the importance of financial transparency and management integrity. And those in the corporate world who break the law should be punished. They are: Over 700 prosecutions have been launched since 2002 to address corporate crimes. Nevertheless, not one conviction was a result of Sarbox. Meanwhile, Sarbox clearly failed to prevent the massive accounting scandal at Fannie Mae.

On top of everything else, the Public Company Accounting Oversight Board (PCAOB), which is central to the operation of the law, violates the separation of powers principle and the federal Constitution's Appointments Clause -- which is why the Free Enterprise Fund has joined with a team of legal experts to challenge the PCAOB's constitutionality. Since the Sarbanes-Oxley law is not severable, the result would be to throw out the entire law.

The PCAOB performs an executive branch function, but the president does not have the authority to appoint or remove members of the board; they're appointed by the SEC in consultation with the chairman of the Federal Reserve and the secretary of the Treasury, and may be removed only by the SEC. In short, PCAOB is not accountable to any elected official or the citizens. It

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therefore violates the Appointments Clause (Article II, Section 2) of the U.S. Constitution, which calls for appointment by the president with the "advice and consent" of the Senate -- not the SEC.

American financial markets have long been at the center of economic growth, innovation and world commerce. Unfortunately, Sarbanes-Oxley is undermining our financial markets; and in its current form it is also unconstitutional. For the sake of the free enterprise system and America's prosperity, I hope that the desires of Ms. Pelosi and Mr. Spitzer to reform this well-intentioned, but misguided attempt at reform will soon be joined by many others in Congress -- and in the Bush administration.

Mr. Factor is the chairman of the Free Enterprise Fund.

CRIMINAL LAW:

Prosecutor Opposes Libby Motion To Dismiss (AP)

AP, March 18, 2006

Special Counsel Patrick Fitzgerald on Friday disputed the claim of Vice President Dick Cheney's former top aide that the prosecutor lacks legal authority to indict him in the CIA leak investigation.

Fitzgerald opposed the move of I. Lewis "Scooter" Libby asking a judge to dismiss the five-count indictment against him in the Valerie Plame affair. In court papers, the prosecutor argued that being allowed to operate outside any control of the Justice Department is constitutional and in accordance with federal law.

The prosecutor, who is investigating the disclosure of Plame's CIA undercover status, is not supervised by the Justice Department and he is not required to inform anyone at the department about the investigation's progress.

In a court filing in February, Libby said that only Congress could approve such an arrangement.

"The attorney general may delegate powers but he may not abdicate responsibility," Libby's lawyers wrote.

Fitzgerald replied that the attorney general has been granted broad legal authority by Congress "to delegate any of his functions to other offices of the Department of Justice."

Fitzgerald is the U.S. attorney in Chicago. He was appointed in December 2003 by then-Deputy Attorney General James Comey. John Ashcroft, the attorney general at the time, recused himself from the matter because of a conflict.

Fitzgerald obtained an indictment of Libby on five counts of perjury, obstruction and lying to the FBI.

Charges Against Cowles Dropped (WP)

By Cecilia Kang

The Washington Post, March 18, 2006

U.S. Court Clears Local Executive

Charges have been dropped against Northern Virginia businessman Frank L. Cowles Jr., who was arrested in November on allegations of conspiring to defraud a hedge fund out of $25 million.

A U.S. District Court judge in Chicago dropped criminal charges against Cowles on March 1 after the U.S. attorney's office there filed a motion to dismiss. Cases continue against two men who were charged with Cowles for allegedly defrauding a Chicago-based fund.

From his horse farm in Scottsville, Va., Cowles, an attorney and former board chairman of Arlington-based Virginia Commerce Bank, said he was "ebullient" that the charges were dismissed.

"For someone who has been absolutely clean and honorable all my life, the charges came as quite a blow," Cowles, 76, said in a telephone interview.

"The only thing I've ever had on my record is three speeding tickets when I was 18," he said. "After a very, very exhaustive 3 1/2 -month investigation, they came up with the right conclusion."

Cowles's attorney, Robert D. Luskin of the law firm Patton Boggs in the District, said the complaint against Cowles was a mistake and that his client had been the victim of a scheme that cost him a great financial loss.

"This was a mistake," Luskin said. "The person that was thought to be the predator was actually the prey."

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The two men still facing prosecution in the case are accused by prosecutors of wire fraud. Richard E. Warren of Fredericksburg, who has pleaded not guilty, was indicted and detained. A complaint against David L. Myatt of Los Banos, Calif., is pending.

Cowles said he lost "millions of dollars" from his dealings with Warren.

After his arrest, Cowles resigned as a director of Virginia Commerce Bank. He owns two car dealerships in Woodbridge and raises Brangus cattle and Arabian horses on his Scottsville farm. The decision to drop charges against him was reported yesterday by the Washington Business Journal.

Enron Trial Approaches Halfway Point (AP)

By Kristen Hays, Ap Business Writer

AP, March 18, 2006

(AP) - HOUSTON-The fraud and conspiracy trial of Enron Corp. founder Kenneth Lay and former CEO Jeffrey Skilling is reaching its halfway mark: Seven weeks, 15 prosecution witnesses and more to come.

Yet for all the government's methodical efforts to show through documents, video and audio tapes and those witnesses' memories of how the former corporate titans repeatedly lied about the disgraced company's financial health, the jury's conclusion may hinge on what the defendants say if they testify as expected.

The government has already brought on its highly anticipated witnesses. This past week started with former Chief Financial Officer Andrew Fastow's fourth and last day on the stand. Fastow, an admitted liar and thief, hid none of his own culpability as he said he helped Lay and Skilling lie about Enron's financial health.

The week wrapped with Sherron Watkins, the former vice president hailed as a hero by Congress for warning Lay of impending financial disaster months before the company crashed, denting Lay's claim that he believed the company was strong at the time.

Yet a conviction is far from a foregone conclusion.

"It's the difference between legitimate spinning and impermissible lying," Robert Mintz, a former federal prosecutor who has followed the trial, said of what will likely drive the outcome of the biggest fraud case to emerge from the recent era of corporate scandals.

"In a case like this, if Lay or Skilling or both take the stand, it becomes almost a new trial in the sense that jurors will either believe them or disbelieve them," Mintz said.

The government's "brick by brick" approach is living up to expectations of putting together a puzzle without betting all on a single witness, said Michael Wynne, another former federal prosecutor in Houston who has observed much of the trial.

Even Fastow, who has been vilified for stealing millions and running scams that helped fuel the company's 2001 collapse, isn't the government's linchpin - and his public excoriation through brutal cross-examination provided plenty of drama, Wynne said.

Lay has said repeatedly he will testify - most recently in a speech to Houston business and academic leaders more than a month before the trial commenced. Lead Skilling lawyer Daniel Petrocelli told jurors during his opening statement his client would do the same.

Both can change their minds, particularly if they decide the government's case is weak and they don't need to subject themselves to bruising cross-examination.

"If they testify, and we've been promised that, it is going to be one for the ages," Wynne said.

The government contends that Lay and Skilling repeatedly spouted ebullient optimism about Enron's financial strength when they allegedly knew accounting tricks propped up weak ventures and hid losses.

The defendants counter that there was no fraud at Enron, they did nothing wrong, and scathing publicity along with diminished market confidence pushed the company into bankruptcy protection in December 2001.

Prosecutors said they expect to wrap up their case by the last week of March. Then the defense gets its turn, and the government can have the last word with rebuttal witnesses.

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"We'll probably end before the end of April," U.S. District Judge Sim Lake told jurors this past week, indicating that both sides may have severely whittled their cases in a trial that had been expected to last four months or more.

So far, Mintz said, "The government has done a very solid job and the defense has done its job as well.

"The government had its witnesses well prepared, but as with all witnesses, there are certain vulnerabilities that can't be avoided and the defense did an excellent job of highlighting those for the jury. Those who cut deals can't run from those deals. Those who have lied previously can't deny it," he said.

Wynne said both sides "are trying to arm individual jurors who may be leaning their way with arguments or examples to pull out during jury deliberations."

So far, seven ex-Enron executives who pleaded guilty to crimes have testified. Two other cooperators who haven't been charged with crimes - one who paid half a million dollars to settle regulatory allegations of manipulating Enron's books and another who obtained an immunity deal - also spoke from the witness chair.

Of the rest, three were ex-executives who said they unearthed alarming financial problems and voiced concerns to no avail; two were rank-and-file Enron workers who lost their jobs and retirement savings when the company collapsed; and one is an accountant still employed by what is left of Enron who explained how the company once developed spending and profit plans to meet earnings goals.

In the coming week, prosecutors aim to present two former Arthur Andersen LLP accountants who once audited Enron's books; a credit rating analyst for Standard & Poors; and Ben Glisan Jr., the former Enron treasurer who pleaded guilty to conspiracy for creating financial structures to cook the company's books and is serving the five-year maximum prison term for his crime.

The cooperators provide an inside view and admit they participated in string of lies. Those like Watkins who voiced concerns demonstrate that top executives had access to negative financial information that contradicted rosy public statements. The victims provide a human view of what ex-workers lost when the company crumbled.

The ex-Andersen accountants are expected to testify that Enron hid the true nature of transactions to get their approvals, and the credit rating analyst is expected to say Enron's investment grade rating assumed the company's financial disclosures were accurate.

The defense teams have consistently challenged credibility of cooperators, indicating they succumbed to government pressure to plead guilty and hope for a lenient sentence rather than risk a trial. Some were likable, others weren't, but whether jurors believe them is paramount, Wynne said.

"It's not a question of whether you want to bring them home for dinner or if you like them," he said. "It's whether or not they are providing evidence that tends to prove up the counts in the indictment. You've got to put them on the stand and you've got to tell the whole story."

In Enron Trial, Witnesses' Quirks And Stamina Are On The Stand (WP)

By Carrie Johnson

The Washington Post, March 18, 2006

HOUSTON, March 16 -- When former Enron Corp. executive Sherron Watkins took the witness stand Wednesday, she spoke confidently of the failings of her former bosses, chief executive Jeffrey K. Skilling and chairman Kenneth L. Lay.

The media-savvy Watkins, who won plaudits from Congress and the public for her warnings that the Houston company would collapse, volunteered opinions about everything from accounting strategy to board members she called inept.

But on cross-examination, defense lawyers took one of Watkins's apparent strengths -- her outspokenness -- and turned it against her.

Ron Woods, a lawyer for Skilling, asked whether Watkins had developed a reputation at Enron for overheated judgments and for failing to listen, and Watkins more or less concurred.

"I found out my nickname was 'Buzzsaw,' " the witness said.

Seven weeks into the blockbuster fraud trial of Lay and Skilling, defense lawyers have tried to wear down the government's witnesses with questions tailored to exploit personality quirks, large or small. Cross-examination, after all, is a high-stakes game

of endurance and amateur psychology -- a matter of finding a witness's Achilles' heel, that trait most likely to undermine their performances on the witness stand.

And, in this case, the defense has plenty of weapons at its disposal. "The fact is, the defense does have a somewhat unusual amount of material to cross-examine them with," said Washington criminal defense lawyer E. Lawrence Barcella Jr. of the Enron investigation, which generated countless articles and voluminous written reports from Congress, a bankruptcy examiner, the company's board and federal regulators.

The defense came out of the gate in February determined to test the endurance of the government's witnesses, many of them former executives who pleaded guilty and agreed to testify in exchange for reduced prison terms. Former investor relations chief Mark E. Koenig, the fraud trial's first witness, remained on the stand for eight days -- including five of protracted cross-examination in which a tired Koenig sometimes appeared to agree with the defense on certain points, if only to shorten his ordeal.

Questions to Kevin P. Hannon, a former official in Enron's high-speed-Internet unit who followed Koenig to the stand, appealed to the jury's sense of humor -- and Hannon's apparent lack of one.

Hannon delivered one of the most surprising bits of testimony so far -- saying under oath that Skilling uttered, "They're on to us," in a May 2001 meeting at which high-level executives discussed a research report suggesting that Enron's stock was overvalued. In a prosecution case built on subtle, indirect testimony, that quote resonated.

But Skilling lawyer Mark Holscher managed to diminish its impact. He underscored Hannon's stiff demeanor, repeatedly highlighting the witness's inability to react to a joke. Holscher suggested that Skilling often employed sarcasm to deride investors who bet that Enron's stock price would fall, implying that the "They're on to us" remark was a note of humor that everyone else in the room picked up but Hannon.

"Do you recall Mr. Skilling making reference to the Mr. Bill segment on 'Saturday Night Live'? The gag routine with Mr. Bill, 'Ooooh, noooo, Mr. Bill'?" Holscher asked.

No, Hannon replied solemnly.

"You're a rather tightly wound, intense person aren't you, Mr. Hannon?" the smiling defense lawyer said.

Taking a different tack, Skilling's lawyer Daniel M. Petrocelli hammered away at former investor relations official and corporate secretary Paula H. Rieker last month. Rieker is a controlled, impeccably dressed woman who spent most of her questioning by prosecutors smiling, nodding and speaking directly to the jury in calm tones. But she was rattled and blinked repeatedly after Petrocelli pounded at exhibits in a notebook in front of her and stood directly beside her, invading her space until she asked him, with a chill in her voice, to step back to the podium.

The defense lawyer later turned the moment into a joke, asking the witness rather than the judge if he might "approach." Rieker granted him permission, but she had lost some of the confidence that characterized her earlier performance on the stand.

"Sometimes it's not what you get a witness to say but how you get a jury to perceive a witness," said Chip Lewis, a lawyer for Lay who led the cross-examination of Watkins on Wednesday.

The Enron defendants are following a strategy similar to that of former HealthSouth Corp. founder Richard M. Scrushy, acquitted by a Birmingham jury last year of three dozen criminal charges related to a $2.7 billion accounting fraud. At Scrushy's urging, and armed with his insights about former colleagues, his lawyers vigorously went after five chief financial officers who testified against him. James Parkman, Scrushy's lawyer, goaded the government's star witness, William T. Owens, into demonstrating a formidable ego that once led him to call himself "the smartest man in the world." Jurors later said they discounted his testimony.

Houston trial lawyer Rusty Hardin, whose questions in a successful probate dispute over the estate of billionaire J. Howard Marshall II sparked his widow, model and reality-TV star Anna Nicole Smith, to lose her cool and holler, "Screw you, Rusty!" from the witness stand, has taken a softer approach when circumstances called for it.

For instance, sensing that a key witness did not believe he had really broken the law, the lawyer gently prodded auditor David B. Duncan to raise questions about his own guilt, to which he had pleaded, and by implication, that of his firm, Arthur Andersen LLP, in a 2002 obstruction-of-justice case. Jurors ultimately convicted Andersen, but the Supreme Court tossed out the

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verdict because of faulty jury instructions that struck at the heart of Hardin's argument: that no one had intended to commit a crime.

Cross-examination involves walking a delicate line between discrediting a witness and being too harsh and invoking sympathy from the jury, he said.

"You have to stay polite," Hardin said. "I want a jury to like me, because I want 'em to go back there and resolve the close issues in my favor. They're suspicious of lawyers to begin with. You don't want to be in a position of beating up on a cripple."

Despite scoring points on many of the government's 15 witnesses, lawyers for Skilling and Lay, who argued in opening statements that no major fraud occurred at Enron, have yet to get one of prosecutors' cooperating witnesses to recant the way Duncan did in the Andersen trial. And while they have raised questions about the motives and the truthfulness of former executives who pleaded guilty, they have met with less success in shaking them from assertions that at least two of Enron's core business units performed disastrously in the company's final years and that management was aware of the disasters at the same time Lay and Skilling were reassuring investors and employees that all was well.

And even as Skilling lawyer Ron Woods confronted Watkins with the prospect that her lucrative speech-making career could be cut short if jurors acquit the defendants, Watkins got the last word Wednesday afternoon.

"Sir, I speak on leadership failures," she said. "They remain failed business leaders."

Court Reverses Death Sentence Of L.A. Man (LAT)

By Kelly-anne Suarez, Times Staff Writer

The Los Angeles Times, March 18, 2006

A federal appeals court on Friday overturned the death sentence of a Los Angeles man who avenged the loss of his therapist by murdering her husband.

The U.S. 9th Circuit Court of Appeals upheld William Clark's conviction, which included murder, two counts of attempted murder, rape and arson. But the court said the judge had misled the jury about death penalty law. The court also said the California Supreme Court should have overturned the penalty during its review.

Ava Gawronski was counseling Clark, a 37-year-old Canoga Park underwriter, and his wife, but stopped treating him after he threatened to rape her in her office.

In January 1982, Clark set Gawronski's West Los Angeles house ablaze. His intent, Clark said during his trial, was to chase the family out so he could shoot and kill David Gawronski, a 35-year-old federal job trainer, in front of his wife and infant daughter.

Instead, David Gawronski perished in the fire.

Ava Gawronski, 32, was hospitalized for 10 months and lost her nose and fingers. A neighbor rescued the baby, who was unharmed.

Deputy Atty. Gen. Scott Taryle, who represented the prosecution, called it an "unfortunate decision."

Taryle said Clark initially considered mailing Ava Gawronski severed heads, but decided that wasn't enough.

"The crime itself was a horrible act by a coldblooded murderer," he said.

Attorneys with the federal public defender's office in Los Angeles, who brought the appeal, could not be reached for comment.

Feds May Drop Capital Case: Dot Men Face Death Penalty In Slay (BOSH)

By Laurel J. Sweet

Boston Herald, March 18, 2006

Federal prosecutors may soon drop the controversial death-penalty case against two Dorchester menthe federal government wanted to try for murder and gang activity.

Pending a green light from U.S. Attorney General Alberto Gonzales, murder and racketeering indictments against Darryl Green and Branden Morris could be dropped as early as next month.

Prosecutor Theodore Heinrich said in court documents “the likelihood of dismissal is so great” after two co-defendants of Green and Morris who weren’t facing capital punishment were acquitted, that it would be futile to go on.

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Morris is “tremendously relieved,” his attorney, Patricia Garin, said yesterday. “We were all incredulous from the beginning that this case was charged as a death-penalty case and that our client was charged at all.”

Green’s defense counsel, Randolph Gioia, said, “The only reason you bring a case like this to federal court is because you want to make an example of these kids.”

Green, he said, “does feel some bitterness, but he just wants to put it behind him.”

In order to successfully prosecute Green, 28, and Morris, 22, in federal court for the 2001 murder of Terrell Gethers, the government had to prove a racketeering case against them. But in January, Judge Nancy Gertner ordered acquittals in the companion case of Jonathan Hart, 24, and Edward Washington, 25, after a jury deadlocked on whether their street-corner crew operated on the same “criminal enterprise” level as the Mafia.

Green and Morris still face federal drug charges and may yet be tried for Gethers’ homicide in state court. The federal prosecution of Green and Morris angered Suffolk District Attorney Daniel Conley, who said he felt life imprisonment was sufficient, and some members of the black community, who said the defendants were fall guys in a state that outlawed capital punishment. The case also publicly forced U.S. District Court in Boston to question why it seats predominantly white, middle-class juries for black defendants.

Of the 122 federal death-penalty cases pursued nationwide since 1988, the government has dropped charges 28 times before going to trial, according to the Capital Defense Network.

Mariano Guilty Of Corruption Charges (PHI)

By John Shiffman And Michael Currie Schaffer

The Philadelphia Inquirer, March 18, 2006

Rick Mariano, an electrician who rose from a tough corner of Northeast Philadelphia to become a city councilman, was convicted of corruption charges yesterday and led from a federal courtroom in handcuffs.

Mariano's wife, son and staffers did not flinch at the guilty verdicts, but Susan Mariano and others gasped when U.S. District Judge Lawrence F. Stengel ordered the councilman imprisoned immediately. Stengel, citing Mariano's suicide scare at City Hall shortly before last year's indictment, revoked bail pending a psychiatric evaluation.

As a marshal prepared to cuff him in public, Mariano said, "Can we do it back there?" He didn't get his wish and is expected to remain at the Federal Detention Center through the weekend.

Mariano, 50, became the first elected city official convicted in 15 years, and under state law he can remain on Council only until he is sentenced, probably by midsummer. Mayor Street, a longtime friend, called on Mariano yesterday to resign immediately. Mariano's top aide vowed the councilman would not step down.

The jury deliberated for about six hours before convicting Mariano of 18 counts, including conspiracy, bribery, money laundering, fraud and tax charges. He was acquitted of four fraud charges.

"The evidence was so glaring, so overwhelming, we had no choice but to come up with a guilty verdict," said juror Jon Thorpe, a real estate agent from East Norriton, Montgomery County. "The prosecution had a very tight case and the defense did very little to contest the evidence."

Another juror said the paper trail doomed Mariano.

"Regardless of the witnesses' credibility, the checks, the receipts and the bank account were the deciding factor," said Drew Folk, a chemist from Hamburg, Berks County. "None of us felt he was a bad guy, but the evidence speaks for itself."

Jurors found that Mariano accepted nearly $30,000 from businessmen in exchange for regulatory favors, tax breaks, cheap city land, and a suspect schools contract. The crimes cost taxpayers $700,000, prosecutors said.

"When City Council becomes a branch office for those who provide bribes, it becomes a perversion of the process," U.S. Attorney Patrick L. Meehan said at a news conference with FBI agents.

Mariano likely faces six to 10 years in federal prison. His character is likely to weigh heavily at sentencing. During the trial, witnesses testified to his good deeds and hard work, but also to retaliatory acts against former city aides.

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Mariano's lawyer, Nino V. Tinari, said he would appeal, but his primary focus would be to get the councilman released before sentencing. Everyone in Mariano's camp, including the councilman, was surprised by Stengel's decision, the lawyer told reporters afterward.

"There was no need to have that sort of display but apparently it makes a good media event," Tinari said. He quickly added: "The judge is not playing to media at all. However, it occurred."

Tinari said handcuffing Mariano in front of his family, supporters and reporters - standard procedure in federal court - "was really reprehensible in my mind."

Mariano will be evaluated by a court-approved psychiatrist who will consider Stengel's concern that Mariano could pose a danger to himself or others or is a flight risk.

In ordering Mariano detained, Stengel cited the councilman's highly publicized climb to the top of the City Hall tower on Oct. 20, just days before he was indicted. Mariano was hospitalized and received psychiatric care after that. Tinari said yesterday Mariano's mental health is good.

At City Hall yesterday, Street issued a statement calling Mariano "a good friend for many years," but said it was time for Mariano to step down.

"No city employee or elected official is entitled to misuse a public position for private gain," Street said. "His resignation would be in the best interests of the city."

Council President Anna C. Verna called it "a sad day for this city," but said Mariano should not resign until he is sentenced.

"I guess going up to the tower didn't help him, did it?" Verna said. "If you want to meditate, go to church."

Councilman Juan Ramos said he felt sorry for his friend. Majority Leader Jannie Blackwell, long a Mariano ally, called the news "a shame" and said she would pray for him. She noted that the last two councilmen convicted on corruption charges, Lee Beloff in 1987 and James Tayoun in 1991, had since made comebacks.

Blackwell was among three Council members who testified to Mariano's good character during the two-week trial. Under cross-examination, however, prosecutors got them to acknowledge that the law obligated them to disclose loans and gifts, which Mariano did not do.

Mariano was convicted of taking six bribes - three to pay credit card debts and three to pay for a fancy gym membership.

He took $23,000 from Philip Chartock, who operated a North Philadelphia factory, Erie Steel Ltd. Prosecutors Michael Schwartz and Kenya Mann ridiculed Mariano's assertion that these were loans, not bribes, by noting that two checks were laundered through two businessmen. The two men, Vincent DiPentio and Joseph Pellecchia, have since have pleaded guilty.

In return for the money, the jury found, Mariano helped Erie Steel with tax breaks and city regulatory agencies and Pellecchia with a $225,000 city schools contract. Reinaldo Pastrana, who paid Mariano's gym membership, got help buying city land for 25 percent of its market value.

Most of the evidence in the case was dry paperwork. But there were flashes of drama: retellings of profanity-laced exchanges at City Hall, witnesses calling one another liars, prosecutors alleging a cover-up, and a defense attorney alleging a plot to sabotage a vulnerable man.

And there was always the question of whether Mariano would take the stand. He flirted with the idea at the last moment, but did not.

"It would have helped his case a little, but I don't think it would have changed the outcome," said Thorpe, the juror.

Without Mariano's testimony, jurors had only the version of the councilman presented by his defense. In the end, as the councilman's attorney called forth a parade of character witnesses - a priest, a disabled veteran, a community activist - Mariano began to seem like a wounded character, the focus of a charity project.

Even his physical demeanor was a far cry from the burly, blunt figure he presented for 10 years in Council. Hobbling from recent knee surgery, he carried a cane to court every day.

After Mariano was taken into custody, hands behind his back, relatives and supporters took turns carrying his cane during the long walk from the courthouse.

Contact staff writer John Shiffman at 215-854-2658 or jshiffman@phillynews.com.

Inquirer staff writer Marcia Gelbart contributed to this article.

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The Fallout

What happens next with Mariano's Council seat is uncertain. A6.

A breakdown of the schemes that led

to Mariano's conviction. A6.

JURY: MARIANO'S CORRUPT (PHDN)

By Chris Brennan & Michael Hinkelman

Philadelphia Daily News, March 18, 2006

CITY COUNCILMAN Rick Mariano, preparing to enter a federal courtroom yesterday to hear the verdict in his corruption trial, offered this prediction with a smile: "Innocent, as always."

The jury disagreed, convicting Mariano on 18 counts of conspiracy, mail and wire fraud, money laundering, bribery and filing a false tax return. He faces a maximum of close to 10 years in prison. He was cleared on four counts of mail or wire fraud.

U.S. District Judge Lawrence Stengel then stunned Mariano and his attorney by quickly revoking Mariano's bail, suggesting that he might be a danger to himself or others. As part of his concern, Stengel cited a suicide scare that Mariano sparked in City Hall in October.

U.S. marshals handcuffed Mariano, dressed in a green suit, shirt and tie for St. Patrick's Day, and whisked him out of the courtroom as his wife watched while wiping away tears.

U.S. Attorney Patrick Meehan hailed the verdict, saying Mariano, 50, had turned his Council post into "a branch office for businesses that will pay bribes to get things done."

Meehan, who has overseen a long-running corruption probe that has targeted several areas in City Hall, called on the business community to "stand up and take control" by refusing to give in to the demands of corrupt officials.

"What surprises you... is that they sell it out for so little," Meehan said. "But the effect is so big because it tears apart the whole future of the city."

Mayor Street, in a statement, called on Mariano to resign from Council, saying that was in the "best interests of the city." Street, who often joked with Mariano that they were so close they called each other "cousin," said Mariano was a close friend but not above the law.

Mariano's one-time political patron, electricians' union president John Dougherty, declined to be interviewed yesterday, issuing a statement through a spokesman that he hopes people will pray for Mariano and his family.

The end of Mariano's freedom and political career began in 2002, when he felt the financial pinch of one marriage ending and another starting as City Council went several months without pay because it had not approved a political redistricting plan.

Erie Steel Co., a business in Mariano's district run by friends, wrote three checks totaling $23,455 to help him pay his credit-card bills.

Mariano asked two friends, who have since pleaded guilty, to launder two of the checks through their businesses and create bogus invoices to make it look like they provided services to Erie Steel.

Mariano asked another friend, who is expected to plead guilty soon, to pay $5,400 for his Center City gym dues.

Erie Steel's owners, Philip Chartock and his father, Lou, are set to go on trial in late April.

Philip Chartock watched most of Mariano's two-week trial but was not in court for yesterday's verdict.

Erie Steel's former office manager, charged with embezzlement in 2004, cut a deal last year to have 95 felony counts reduced to one misdemeanor in exchange for her cooperation against the Chartocks and Mariano.

The office manager, Margaret "Maggie" Greer, testified that Phil Chartock instructed her to write the checks when Mariano was present.

Federal prosecutors spent the last two weeks linking the money Mariano received to a range of services he provided to his friends - helping get speedy service from city agencies, reductions on tax bills and buying city property.

The jurors - two from Philadelphia and 10 from suburban towns as far away as Bethlehem, Millersville and Hamburg - took about 6 ½ hours over two days to convict Mariano.

They declined to be interviewed by reporters after the verdict.

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"We considered the evidence carefully and did what we believed was right," jury forewoman Jennifer Sweeney of Lansdale said.

Mariano's attorney, Nino Tinari, led a bombastic defense based on attacking the credibility of witnesses, especially Greer and three former staffers fired by Mariano late last year.

Tinari repeatedly suggested to the jury that the money Mariano had received had been loans from friends. But he never offered any evidence to support that theory.

Tinari yesterday said he did not think that attacking the witnesses had backfired for Mariano. "We did whatever we felt was best," he said. "Let some other lawyer think of all that later on."

Tinari now is focused on getting Mariano again out on bail until he is sentenced.

Stengel shot down a government request earlier in the case to have Mariano evaluated by a psychiatrist after an October incident in City Hall, just days before he was indicted with his friends.

Mariano had to be talked down from the City Hall tower by Street that day and then spent a weekend in a psychiatric ward. He later said he was just taking pictures with a new camera.

Stengel said he now wanted the psychiatric evaluation, which will probably happen early next week.

"There are a number of felony convictions here and exposure to a lengthy prison sentence," Stengel said, explaining his concern. He did not say when he would sentence Mariano.

Tinari argued in court after the verdict that the evaluation was not necessary. Federal prosecutors had been prepared to allow Mariano to remain free on $250,000 bail.

Tinari later said he would provide Stengel with information about the October incident, including "what motivated it and whether it has anything to do with his state of mind."

Asked what that was, Tinari said the information should be disclosed in a court hearing and raised the possibility that it might be closed to the public.

Tinari was not happy with the rush to put Mariano in handcuffs.

"It was really disturbing to me personally and to his family, of course," Tinari said. "It just appeared there was no need to have that kind of display. Apparently it makes a good media event."

Philly Councilman Found Guilty Of Bribery, Money Laundering (AP)

By MARYCLAIRE DALE, The Associated Press

AP, March 18, 2006

PHILADELPHIA - A city councilman was convicted Friday of trading political favors for bribes from friends and businesses, money that he used to pay his credit-card bills and other personal expenses.

A federal jury returned guilty verdicts on 18 of the 22 counts against Councilman Rick Mariano, including bribery, money laundering, filing a false tax return and honest services fraud.

U.S. District Judge Lawrence F. Stengel immediately revoked Mariano's bail, pending a mental health evaluation. Mariano, a former union electrician who earns about $100,000 as a councilman, remains in office.

Five days before he was indicted in October, Mariano caused a suicide scare by taking a solitary trip up to the observation deck of City Hall. He later said he went up to reflect, not harm himself, though Mariano did check himself into a hospital after the incident.

The judge said that the incident was never explained to his satisfaction and he feared Mariano could be a harm to himself and possibly put others at risk.

The jury found Mariano not guilty of two counts each of mail fraud and wire fraud.

Mariano's lawyer had argued that the councilman simply accepted loans when he found himself in financial trouble, and did not provide official favors in return.

But prosecutors say there was a clear quid-pro-quo: Businessmen paid Mariano's credit-card bills and membership dues at a tony gym - worth about $28,500 in all - and Mariano helped them obtain tax breaks, city contracts and properties, they said.

After the verdict, Mayor John Street issued a statement saying it is "in the best interests of the city" for Mariano to resign.

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"No city employee or elected official is entitled to misuse a public position for private gain," Street said. "Such behavior is not only illegal, it erodes public confidence in government."

The case against Mariano, an outspoken member of the council for the past decade, is the latest in a string of federal corruption investigations in the city.

More than a dozen people have been convicted in the various probes, one of which became public when police discovered an FBI bug in Mayor John F. Street's office in October 2003.

The federal investigations have brought down a former city treasurer serving a 10-year prison term for accepting trips and other gifts; two Commerce Bank executives; a prominent Muslim imam with close ties to the mayor; and others.

Street, a Democrat, denies wrongdoing and has not been charged.

Mariano defense lawyer Nino Tinari in closing remarks Thursday compared staff members who testified against Mariano to Brutus and others who betrayed Julius Caesar. But prosecutors spun the analogy to their own end.

"The only thing Mariano has in common with Julius Caesar is that the councilman stabbed the citizens of Philadelphia in the back each time he took a bribe," Assistant U.S. Attorney Kenya Mann said.

Philly Councilman Guilty In Bribery Case (UPI)

United Press International, March 18, 2006

PHILADELPHIA, March 17 (UPI) -- A Philadelphia city councilman was convicted Friday of taking bribes from business owners seeking contracts from the city.

Rick Mariano faces six to 10 years behind bars. A judge ordered his immediate incarceration pending a psychiatric evaluation.

Prosecutors said Mariano received $30,000 from contractors who got about $700,000 in business.

Mariano continued to attend council meetings while he was under indictment, and even after the trial began, when he was able. City officials seemed unsure whether he would be forced out of office immediately or only after he is sentenced.

Mayor John Street suggested Mariano resign immediately.

"A jury has determined the law has been violated. No one is above the law," Street said. "No city employee or elected official is entitled to misuse a public position for private gain."

Once A Key Political Ally, Now Alone (PHI)

By Michael Currie Schaffer

The Philadelphia Inquirer, March 18, 2006

In the end, the crimes that ended Rick Mariano's political career were tailor-made for the man who spent a decade representing a struggling swatch of lower Northeast Philadelphia.

Other crooked Philly pols have reached for the stars, conspiring with mobsters or taking bribes from purported Arab sheikhs. But Mariano, the ultimate neighborhood guy, was felled by just under $30,000 in ill-gotten gains - less than a third of his City Council salary.

Mariano's defense strategy, likewise, involved asking the jury to view the case through the same small-time, parochial prism that defined Mariano's politics.

Thus, in defense lawyer Nino V. Tinari's telling, the case against Mariano became just a small-town food fight between estranged political factions. The witnesses against him became jilted liars grubbing for payoffs. And the bribes he took became simple loans between old neighborhood pals who don't bother with fancy uptown formalities such as receipts or IOUs.

The jurors didn't buy it. On Friday, they convicted Mariano, 50, of 18 counts of bribery, fraud and conspiracy. He faces a likely 6 to 10 years in prison.

Mariano, who fashioned himself a tough guy, wound up being swept immediately to jail as a result of his perceived fragility. Recalling last fall's suicide scare atop City Hall Tower, Judge Lawrence F. Stengel revoked his bail until a psychiatric evaluation could be conducted.

He was led away in handcuffs. He was led away alone.

It was a particularly poignant moment for someone who had served as the quintessential foot soldier for many other bigger names in Philadelphia politics.

During his career, Mariano was shrewd about making alliances - belying the bumbling caricature of a man Philadelphia Weekly once named as the city's dumbest politician. In Council, he did little by way of legislation but enthusiastically rattled the chandeliers on behalf of allies.

Many of those whose battles Mariano fought are among the city's most powerful politicians, such as Mayor Street, U.S. Rep. Bob Brady, electricians union leader John Dougherty, and State Sen. Vincent J. Fumo, who strongly supported Mariano's first campaign before the two fell out amid Fumo's epic feud with Dougherty.

According to Daniel P. McElhatton, the councilman whom Mariano served as a staffer before ousting him from office in 1995, political Philadelphia didn't have any problem with Mariano's behavior back then.

"They hounded my daughters," McElhatton said of the Mariano campaign, supported by the Democratic establishment. "They had people making threats. There were... goons around to intimidate my poll workers. Had some of that happened in a third-world country, we would have said, 'We won't stand for this.' "

Mariano's campaign denied the allegations at the time.

McElhatton said Mariano's supporters knew just what they were getting.

"He got the support of the party structure, and they got a predictable vote," he said. "You lie down with dogs, you get fleas."

No one was closer to Mariano than Dougherty. Dougherty's union's political fund has given Mariano $452,000 since 1998 - a third of all money he raised - and put him on the payroll when a redistricting dispute held up City Council's paychecks. Union officials also selected top Mariano staffers.

Mariano, meanwhile, beat the drum for top union priorities, such as public funding for new stadiums for the Eagles and Phillies.

The relationship stayed strong through a long run of Mariano miscues - from the 1999 "Cookiegate" incident, when Mariano staffers were caught delivering cookies for his wife's business, to the first anonymous bribery allegations against him last year, after which Dougherty gathered top political aides to plot strategy.

But the pair split after the investigation became public last year. At trial, Tinari repeatedly suggested that Dougherty was behind a shadowy conspiracy to jail Mariano. He never spelled out the details.

Through spokesman Frank Keel - who until last fall spoke for Mariano, as well - Dougherty declined to comment, except to say that he "asks everyone to keep Rick and his children in their prayers."

Street was another Mariano booster, affectionately calling him "Cousin Rick" while Mariano was one of six votes that helped Street sustain key vetoes and battle new ethics legislation.

Unlike Dougherty, Street did not break with Mariano as the feds circled. Over the summer, he regularly sent Mariano religious text messages urging him to keep his spirits up. Street was among those who talked Mariano down from City Hall Tower last fall.

In a statement after the verdict, Street called Mariano "a good friend" but called for him to step down immediately. Under the law, he wouldn't have to do that until sentencing, which could be months away.

Whether Mariano was a dummy who was in way over his head or a ticking time bomb whose enablers should have known better, McElhatton said, the damage to Philadelphia was massive - much bigger than the $700,000 in benefits that Mariano got for the men who bribed him.

Just in the last week, he noted, state lawmakers moved to strip the city of zoning power over casinos, saying Philadelphia was too corrupt to be trusted.

"Imagine businesspeople somewhere, reading about Mariano in the New York Times," he said. "They'll say, 'I was thinking about going back there, starting a business, but look at how corrupt.' That stains us irreparably and immeasurably."

For his part, even before the conviction, the former electrician seemed to wish he had never met Dougherty or Street, or even McElhatton, his first boss in politics.

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"If I knew 20 years ago what I know now, I'd be just getting home, putting my feet up, and watching TV after a day working at some construction site," Mariano said Thursday outside the courtroom as jurors deliberated late into the afternoon. "Instead, I'm sitting here waiting for a bunch of people to decide if I'm going to jail."

Immediate Fate Of Mariano's Council Seat Unclear (PHI)

By Michael Currie Schaffer

The Philadelphia Inquirer, March 18, 2006

Rick Mariano's corruption conviction throws into question the future of the City Council seat he has held since 1996.

Pennsylvania's constitution bars felons from elected office, meaning Mariano must step down. But moments after Mariano's bail was revoked and he was led away to detention, his chief of staff said Mariano intended to stay in office until sentencing, as the law allows. That could be several months from now.

"He'll continue to come to Council when permitted," Jay McCalla said. "If for no other reason than to show we have what it takes, we'll continue to push for an agenda that's focused on his district."

By declining to step down until his sentencing, Mariano will keep drawing his $102,000 salary.

In a statement, Mayor Street called on Mariano to resign immediately. But Council President Anna C. Verna said she would not try to dissuade Mariano from coming to Council.

"That's the law," she said.

Verna has asked the city solicitor whether there have been any changes in legal interpretations that could force Mariano from office sooner. She is awaiting a response.

As for the future of Mariano's seat, there is no guarantee that a replacement would be chosen before the next election in 2007.

Under Philadelphia's charter, the power to call a special election rests with Verna. She said it was premature to say whether she would call one.

Verna said the issue was more complicated because Mariano's seat would be the second vacancy on the 17-member Council. Councilman David Cohen died in office last fall.

Special elections differ from ordinary elections in that each party's nominee is chosen not through a primary election but through a closed vote of the party ward leaders. Thus the lead-up to such elections - and the decision about whether to hold one - typically involves considerable political jockeying.

Mariano's district, which includes parts of North and Northeast Philadelphia, is heavily Democratic, giving anyone the party nominates a strong advantage.

Job, Pension Go When Rick Does (PHDN)

Philadelphia Daily News, March 18, 2006

Councilman Rick Mariano's chief of staff, Jay McCalla, said yesterday that Mariano would continue to show up for work at City Hall.

But for how long? As a convicted felon, Mariano can't hang onto his elected post, according to the state constitution and the city charter.

Council President Anna Verna said yesterday Mariano must resign when he is sentenced. Verna on Thursday asked City Solicitor Romulo Diaz to issue a legal opinion to back that up.

But Verna stopped short of saying if she would call a special election to fill Mariano's post, calling that "premature."

Mayor Street, a political ally of Mariano's, yesterday called on him to resign.

Mariano, now in the third year of his third four-year term, also faces the loss of his city pension from his time on Council and, before that, as a staffer to Councilmen Dan McElhatton and Jim Kenney.

The city could move to claim some of that forfeited money as repayment for attorney fees paid for Mariano from late March until he was indicted in October.

Editorial | The Rick Mariano Verdict (PHI)

The Philadelphia Inquirer, March 18, 2006

Another day, another verdict that lets you dare think there might be hope for the city.

One day, two thugs get convicted, as they should have, of murdering a little boy in a schoolyard.

The next day, a city councilman gets convicted, as the evidence screamed he should, of betraying the public trust by taking bribes.

You'd rather that little Faheem Thomas-Childs were still alive.

You'd rather that Rick Mariano, bully and cheat, had never been elected to City Council, never been allowed to cost taxpayers $700,000 by exploiting his powers as councilman.

But this is a big city; crime and corruption are going to happen. You just want to feel that decent people can fight back, can stem the tide. This time, the courts offered hope.

In Mariano's case, it's time for him to do the right thing, for once: resign his seat, instead of hanging on pointlessly until his sentencing forces the issue. His friends on Council, who vouched for his redeeming qualities at trial, should let him know it's best for him to go now.

Laski Admits Guilt, Braces For Jail Time (CHIT)

By Matt O'connor And Rudolph Bush, Tribune Staff Reporters. Tribune Staff Reporters Gary Washburn And Todd Lighty Contributed To This Report

Chicago Tribune, March 18, 2006

Ex-clerk admits taking $50,000 to help friends

Former Chicago City Clerk James Laski, the highest-ranking city official charged in the federal probe of the city's Hired Truck Program, pleaded guilty Friday to pocketing nearly $50,000 in bribes for steering city business to two trucking companies.

Laski, 52, who disclosed that he takes anti-anxiety medication, appeared nervous as he stood before U.S. District Judge Charles Norgle, but he spoke in a clear, soft voice as the judge questioned him.

Asked by Norgle if he had done a good job as city clerk, Laski replied, "I thought I did, your honor."

"Until recently?" Norgle asked.

"Until recently," said Laski, who pleaded guilty to one count of bribery.

Laski's wrongdoing, in fact, had nothing directly to do with his city clerk duties.

He solicited bribes totaling about $48,000 from two friends after interceding on their behalf with other city officials and obtaining Hired Truck work for separate trucking companies.

Between 1998 and 2004, Laski pocketed monthly cash bribes of $500 to $1,000 from Michael "Mick" Jones, a top official in the clerk's office who helped operate Get Plowed Inc. Jones pleaded guilty Thursday to bribery.

Laski also acknowledged he took $2,000 a month for 12 months from Randy Aderman, another friend and city employee, after Laski arranged for Hired Truck work for FRC Trucking. Aderman pleaded guilty to bribery Friday.

According to court records, Frank Cannatello, another Hired Truck defendant who pleaded guilty this month to lying to FBI agents, asked Aderman to help obtain Hired Truck business after Cannatello and a relative started FRC Trucking.

Friday's guilty pleas by Laski and Aderman bring to 34 the number of convictions in the Hired Truck probe. Charges are pending against nine others, but the investigation continues.

As city clerk, Laski ranked second to the mayor among the city's elected officials.

Laski's plea agreement does not call for his cooperation with prosecutors, because he had no additional criminal wrongdoing to reveal, according to a source close to Laski.

Laski faces up to 3 years in prison when he is sentenced May 25.

Mayor Richard Daley hasn't tipped his hand on whom he is considering to replace Laski.

Laski's lawyer, Jeffrey Steinback, declined to let Laski comment to reporters as the two left the Dirksen U.S. Courthouse following his guilty plea.

"I think he especially feels bad about what he's done and how it's affected his office and how he's let down his constituents," Steinback said.

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Laski is "bracing himself" for prison, Steinback said.

Laski's plea marks an ignominious end to the former 23rd Ward alderman's once-promising political career. A onetime protege of former U.S. Rep. William Lipinski (D-Ill.), he was elected city clerk in 1995, a post he held until his resignation last month following his indictment.

According to his plea agreement, Laski asked an undisclosed alderman as well as officials in the Mayor's Office for Intergovernmental Affairs for assistance in obtaining Hired Truck work for Jones' Get Plowed.

A source close to the investigation previously identified the alderman as Patrick Huels from Daley's native 11th Ward. Huels was Daley's City Council floor leader until he resigned in October 1997 after admitting he borrowed $1.25 million from another Daley friend and city contractor, Mike Tadin.

Daley's intergovernmental affairs director until December 2000 was Victor Reyes, who heads the pro-Daley Hispanic Democratic Organization. A top aide to Reyes at the time was Robert Sorich, who is facing charges that he helped rig city personnel decisions to get jobs and promotions for political campaign workers.

With Aderman's introduction, Laski also reached out to Donald Tomczak, the No. 2 official in the city's Department of Water Management who held sway over which trucking companies got coveted Hired Truck work.

Tomczak, who directed work to Get Plowed, pleaded guilty in the federal probe and has cooperated with authorities.

Though prosecutors agreed to drop an obstruction of justice charge against Laski, he admitted he advised Jones' wife, Traci, to lie in a grand-jury appearance.

In October, Laski acknowledged, he called Mick Jones and announced, "Go Cubs," an agreed-on code of his approval for Jones' wife to lie to the grand jury.

Jones by then was cooperating with federal authorities and secretly tape-recorded the conversation.

Laski also admitted that he personally reviewed his campaign records to identify dates on which cash deposits had been made. An intermediary then passed that information on to Jones' wife to bolster her phony claim that the payoffs to Laski were actually campaign contributions.

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Laski Admits Taking Payoffs (CHIST)

By NATASHA KORECKI, Federal Courts Reporter

Chicago Sun-Times, March 18, 2006

Former City Clerk James Laski pleaded guilty Friday to taking bribes in return for steering Hired Truck business to friends -- making him the highest-ranking public official convicted in the ongoing probe.

Jail time is nearly certain for Laski, 52, who resigned earlier this year after serving as clerk since 1995. The government says he should go to prison for 30 to 37 months.

When asked what Laski would tell others in City Hall who thought about taking bribes, his lawyer Jeffrey Steinback responded: "Don't do it, don't do it. . . . I think he feels terrible about mistakes he's made and how he's let down his constituents."

CAUGHT IN SCANDAL

44 people have been charged in the federal government's investigation of Chicago's Hired Truck Program, including 26 city workers.

34 of them have pleaded guilty, including 21 city workers.

22 have been sentenced to terms from 3 years of probation to 7 years in prison.

1 former city worker will never stand trial. He died after he was thrown from a horse.

Clout on Wheels

The scandal of the city's Hired Truck Program - a Chicago Sun-Times investigation.

Laski admitted to taking $48,000 in payoffs. While other charges were dropped in his plea bargain, Laski still admitted to the conduct. That includes obstructing justice at one point by using the coded comment of "Go, Cubs" to try to get a witness to lie to the grand jury.

Case taking its toll

Moments before his plea hearing, Laski nervously paced the courthouse hallway. Earlier that morning, he had downed a tranquilizer and an anti-anxiety pill, along with some orange juice and a Pepsi, he later told U.S. District Judge Charles R. Norgle. The night before, he had a few beers, he said.

"He's feeling the wear," Steinback said, adding that Laski is battling health issues. Laski has said he has long had stomach problems, which have been exacerbated by his indictment.

When he stepped up to the courtroom lectern, he kept his hands clasped before him, leaned forward, and spoke in a thick Chicago accent.

"I'm unemployed right now," Laski said, smiling at Norgle's question of what he did for a living. "I resigned my position, based on these proceedings."

"Did you do a good job while you were there?" Norgle asked.

"I thought I did, your honor," Laski said.

"Until recently?" Norgle asked.

"Until recently," Laski said, his voice trailing off.

In addition to resigning, Laski relinquished his law license and agreed to pay $48,000 in bribes he said he took -- already having paid $15,400, Steinback said.

Norgle asked if Laski knew what rights he was waiving by pleading guilty.

Laski took a deep breath. "I know exactly what I'm doing, your honor," he said.

"No one pushed or shoved or squeezed you into pleading guilty?" Norgle asked.

"No, your honor," Laski said.

Laski admitted he took money from his longtime friend Michael Jones in return for getting Jones' company, Get Plowed Inc., business with the city's Hired Truck Program. Jones paid Laski $500 a month beginning in 1998, and that went up to $1,000 a month in 2001.

Laski also admitted to taking $2,000 a month for 12 months from Randy Aderman, whom Laski also helped get Hired Truck work. Jones wore a wire on Laski, his boyhood friend.

Assistant U.S. Attorney Manish Shah told Norgle that Laski also admitted to coaching a witness on how to lie to the grand jury and later called him and said, "Go Cubs," as a go-ahead to lie.

Slew of admissions

Laski's plea came a day after Jones admitted giving Laski thousands of dollars in bribe money to retain Hired Truck business. And Aderman also pleaded guilty Friday to bribery. He faces an agreed sentence of 16 months in prison.

Also this week, Robert Mangiamele was sentenced to 18 months in prison after admitting he paid bribes to get business in the Hired Truck program. He pleaded guilty in December.

Jones argues he should keep his pension because the crime was related to his trucking firm -- not his city job as the chief investigator in Laski's office.

Steinback said another lawyer is determining whether Laski could keep his pension.

"We don't want to give it up if we don't have to," Steinback said. "It's his life's work."

Former Chicago City Clerk Pleads Guilty To Bribery In Trucking Scandal (AP)

By Mike Robinson

AP, March 18, 2006

CHICAGO - Chicago's former city clerk pleaded guilty Friday to taking $48,000 in payoffs to get companies into the city's scandal-plagued Hired Truck Program.

James J. Laski, 52, became the highest-ranking official convicted in the two-year federal investigation of the scandal-plagued program that was designed to save money by outsourcing the city's hauling work to private truckers but which prosecutors say is awash in corruption.

Laski, who had been city clerk since 1995, admitted he received envelopes of cash from an official in his own office, Michael Jones, who doubled as an operator of a trucking company.

He also admitted to taking payoffs from a former employee of the city water department, Randy Aderman, to help get other trucks into the program.

Forty-four people have been charged thus far in the investigation, which has expanded to include alleged patronage hiring abuses. Laski was the 33rd person convicted.

Unlike many who have pleaded guilty, Laski did not agree to help prosecutors in the ongoing investigation - something that might have lessened his sentence.

He pleaded guilty to one count of bribery. Under advisory sentencing guidelines, he could get 30 to 37 months in federal prison when he is set to be sentenced on May 25.

As he left court, a reporter asked Laski what he had to say to those who elected him.

His attorney, Jeffrey Steinback, stepped forward and said "I think you can tell from the way today's proceedings went that Jim is very sorry."

"I think he feels terrible about the mistakes he made," Steinback said. "He admitted them in open court today and I think he especially feels bad about what he's done and how it has affected his office and how it has affected his constituents."

Laski declined to say anything. "This has been an extremely difficult day for Jim," Steinback said.

In response to questions from U.S. District Judge Charles R. Norgle Sr., Laski said that on waking up Friday morning he took a mild tranquilizer as well as a separate anti-anxiety drug.

"Do you know what you're doing?" Norgle asked.

"I know exactly what I'm doing," Laski said.

Norgle asked Laski briefly about his political career as city clerk.

"Did you do a good job?" Norgle asked.

"I thought I did, your honor," Laski said, hesitantly.

"Until recently?" Norgle asked.

"Until recently," Laski said.

Laski acknowledged in his plea agreement that starting in 1998, he took $500-a.m.onth envelopes of cash from Jones, who has cooperated with the federal investigation and pleaded guilty to payoff charges on Thursday.

Besides working in the clerk's office, Jones was one of the operators of Get Plowed Inc., which had trucks working in the program. Laski acknowledged that in 2001, the amount was upped to $1,000 a month in return for additional Get Plowed trucks in the program.

Laski also acknowledged he received $2,000 for a year from Aderman to get another trucking company into the program.

He said that at one point he discussed a deal with Donald Tomczak, the retired head of day-to-day operations at the water department. Under that deal, Tomczak would put trucks in the program and Laski would in return give jobs in the clerk's office to individuals that Tomczak recommended.

It was not clear if anything came of the discussion.

Tomczak, a former precinct captain and the unofficial commander of a group of election workers with political patronage jobs, has pleaded guilty to racketeering and tax fraud.

After Laski left Norgle's courtroom Friday, Aderman arrived and pleaded guilty to one count of bribery. Guidelines call for a sentence in the range of 24 to 30 months. Norgle set sentencing for June 21.

Aderman said in his plea agreement that he paid $750 a month to former water department official John Briatta to secure Tomczak's help in getting trucks into the program. Briatta has pleaded guilty to charges in the case. He is the brother-in-law of Cook County Commissioner John Daley - the mayor's brother.

Still scheduled for trial in April is Laski's former political aide, Sam Gammicchia. The indictment says that Gammicchia advised and coached a witness in the case to mislead a federal grand jury. He has pleaded not guilty and is due for a status hearing on Monday.

Ex-Chicago City Clerk Pleads Guilty In Trucking Kickback Scheme (LAT)

By P.j. Huffstutter, Times Staff Writer

The Los Angeles Times, March 18, 2006

CHICAGO — James J. Laski Jr., the former city clerk and Chicago's second-highest public official, pleaded guilty Friday to a federal bribery charge and admitted that he had taken cash payoffs in exchange for city trucking contracts.

According to the plea agreement, Laski took $48,000 in kickbacks from 1998 to 2003 from trucking companies eager to participate in the city's Hired Truck Program.

The program, which contracted vehicles from private businesses to assist with public works and construction projects, was promoted by City Hall as a means of helping to cut costs.

But federal investigators found that many of the trucking companies were being paid millions of dollars to do no work, and city workers were seeking bribes in exchange for securing the contracts.

Of the 44 people charged in the investigation, about half are city workers. To date, 34 people have been convicted.

The Hired Truck scandal — though arguably among the widest reaching in City Hall — is only one of a series of corruption woes plaguing Mayor Richard M. Daley, who has said he was completely unaware of such doings.

Among other things, federal investigators have been digging for evidence of alleged fraud in politically based promotions and hiring practices.

Though Daley has had a public approval rating of 56%, according to a Chicago Tribune poll conducted last month, 70% of respondents didn't believe the mayor's claims of ignorance.

Among those convicted in the Hired Truck scandal was a trucking company head who contributed money to political groups to stay in the program organizers' good graces.

The donations included funds sent to the 11th Ward Democratic organization — headed by Cook County Commissioner John Daley, the mayor's brother — and the Committee to Elect John Daley.

"The corruption is just so blatant, and it's very much a growing pain for the mayor," said Paul Green, director of policy studies at Roosevelt University in Chicago.

"It's a constant pinprick in him, and no one knows where the pin's going next."

Laski, 52, resigned his position as city clerk Feb. 6.

On Friday, Laski admitted that the owner of Get Plowed Inc. trucking company had given him monthly installments of cash to get business from various city departments.

An unnamed person "handed [Laski] an envelope containing $500 to $1,000" each month as payoff for getting and staying with the Hired Truck Program, according to the plea agreement.

The bribes stopped in 2003, after federal investigators began to look into the program.

Laski, who has repaid $15,400, faces as much as three years in prison. His sentencing hearing is scheduled for May 25.

The Get Plowed company was run by Laski's friend Michael Jones, 48, who also was an employee at the city clerk's office.

On Thursday, Jones pleaded guilty to one count of bribery.

Man Held In Isolation On Child Porn Charges (CHIST)

By NATASHA KORECKI, Federal Courts Reporter

Chicago Sun-Times, March 18, 2006

A Bartlett man indicted this week on charges he molested an infant and broadcast it live over an Internet chatroom is being kept in isolation after his lawyer complained he was receiving threats from other inmates.

Brian Annoreno, 29, is being held in a Kankakee lockup, but his lawyer, Michael Falconer, said Annoreno also needs to be kept in isolation when he is taken to court appearances in Chicago for his own safety.

"Regular street criminals hate people who are accused of being child molesters," Falconer said.

Falconer said Annoreno was getting threats from inmates and harsh words from jail guards.

"They just told him he's the scum of the earth," Falconer said.

Annoreno and two others charged this week with being tied to a child pornography chatroom pleaded not guilty to the charges Friday. U.S. Attorney General Alberto Gonzales flew to Chicago on Wednesday to announce that the chatroom was shut down and a worldwide investigation had nabbed 47 people.

Evidence lacking, lawyer says

Falconer criticized the feds Friday for putting on a "dog and pony show," saying Gonzales' news conference was "deplorable" and over the top. Gonzales said the crimes were particularly disturbing because the chatroom allegedly broadcast video showing young children being molested. But Falconer said the prosecution does not have evidence of those videos except for a witness' testimony.

Falconer would not comment on whether Annoreno is cooperating but said he has made "a ton of admissions" to the feds. However, he said Annoreno has a low IQ and may not have known what he was saying. Annoreno has a 22-month-old daughter, whom the Department of Children and Family Services took into custody and placed with a family member.

Cyber Sex Crime Unit Begun (INDYSTAR)

By Paul Bird

The Indianapolis Star, March 18, 2006

Officials hope to protect kids from predators

Johnson County officials have formed a "Cyber Sex Crimes Task Force" to protect children from Internet predators.

County Prosecutor Lance Hamner appointed Deputy Prosecutor Paul Felix to spearhead the effort.

Greenwood police Detective Erick Klinkowski, Franklin police Detective Brain Goldfarb and Johnson County Sheriff's Detective Bill Pfifer are the rest of the task force.

A month ago, U.S. Attorney General Alberto Gonzales announced the Justice Department's Safe Child Initiative to stop sexual exploitation of children through the Internet.

The county team recently returned from Washington, D.C., after getting training on procedures and protocols to use during investigations and prosecutions of Internet predators.

"With this initiative, sexual predators who prey on children will be relentlessly targeted and prosecuted," Hamner said.

Klinkowski already has conducted two stings that led to arrests and convictions, one a special deputy with the Genesee County (Mich.) Sheriff's Department who traveled to Greenwood to meet a 13-year-old girl, Hamner said.

The man was charged with child exploitation, solicitation of a minor, dissemination of matter harmful to minors and possession of child pornography. In May 2005, he was sentenced to an 18-year prison term, with nine years suspended.

"When the would-be child molester shows up at an arranged location and finds me waiting for him instead of the 13-year-old girl he was expecting, he's going to jail," Klinkowski said. "He won't be able to slither away into the darkness."

Franklin Police Chief John Borges believes Internet child solicitation is a global problem.

"We have had some child pornography cases here," he said.

Greenwood Police Chief Joe Pitcher has purchased equipment to track Internet child pornography.

"We've have equipment that will allow us to look deep into computers and expose kiddie porn," he said. "We are going to set traps and arrest child molesters who travel Johnson County."

3 Sentenced In ELF Terror Case (SACBEE)

By Crystal Carreon, Bee Staff Writer

The Sacramento Bee, March 18, 2006

Man, sisters pleaded guilty to arson and attempts to torch buildings

A follower of an eco-terrorism group and two other Newcastle residents were sentenced Friday in Sacramento federal court for their roles in attempted firebombings of buildings under construction.

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Ryan Daniel Lewis, the 22-year-old admitted adherent of the Earth Liberation Front - a radical group that targets suburban development - was sentenced to six years in federal prison for orchestrating arsons in Placer and Amador counties in late 2004 and early 2005.

Two of his acquaintances, sisters Lili Marie Holland, 21, and Eva Rose Holland, 26, were sentenced to two years each in prison. In an earlier plea agreement, the women faced three years and three months behind bars.

A fourth person arrested in the case, Jeremiah Colcleasure, 21, also of Newcastle, is scheduled to be sentenced in May. He pleaded guilty to attempted arson earlier this month.

Immediately after U.S. District Judge Edward J. Garcia sentenced Lewis on Friday, the bespectacled Newcastle man - who had been free on bond since November - was remanded into custody and led out of the courtroom past a row of his sobbing relatives.

Garcia called Lewis the ringleader who recruited the Holland sisters and another acquaintance to exact acts of violence on property under misguided ideals. At times, the judge chided defense attorneys for misusing the term "idealism" in explaining their clients' actions.

"I don't understand why you and the other lawyers talk about ideals," Garcia said to Lewis' attorney. "I consider this type of terrorism (a) most serious crime."

Earlier in the day, Garcia had allowed the Holland sisters, who reiterated their remorse before the court, to surrender to authorities April 28. Lewis did not make a statement before the judge.

Friday's sentencing marked the first successful prosecution of ELF activity from the Oregon border to Bakersfield and should serve, authorities said, as a cautionary tale for others influenced to act on behalf of the shadowy organization.

In January, three other followers of ELF were arrested on suspicion of plotting a bombing campaign on local targets, including Nimbus Dam and fish hatchery and a forest genetics lab in Placerville.

"Domestic terrorists mistakenly believe they are on the moral high ground, but their actions are those of cowards," U.S. Attorney McGregor W. Scott told reporters after the sentences were handed down.

"Let today's sentencings be a warning to idealistic young people that if they make the wrong decisions, they will spend several years in prison."

But Lewis' attorney, Timothy Zindel, said he did not believe the six-year sentence was warranted for a "kid who made a serious mistake."

He said Lewis was not a terrorist.

"I don't agree that the Earth Liberation Front is a terrorist organization; (terrorism) it's a word that is cheapened in how it's thrown around," Zindel said after the sentencing hearing.

Anyone involved in a "protest crime has to watch out ... the federal government is very unforgiving."

The trio, who were arrested last year, admitted conspiracy to plant incendiary devices at an upscale housing development in Lincoln after leaving a Christmas party in 2004.

On Dec. 27, 2004, four homemade incendiary devices with kitchen timers were found in two homes under construction. "ELF" was painted in a cul-de-sac and other graffiti was discovered, including the statements "U will pay" and "Leave."

Lewis also confessed to placing firebombs inside an office building under construction in Auburn and devices inside apartments near completion in the Amador County town of Sutter Creek early last year.

The bombs in Lincoln and Auburn failed to ignite, and sprinkler systems in Sutter Creek managed to abate much of the damage.

However, one device did spark a fire, causing at least $243,000 in damage.

In the original indictment, the defendants faced a minimum of five years and up to 20 years in prison on each charge, including conspiracy to commit arson, attempted arson and additional counts of arson against Lewis.

In October, however, Lewis and the Holland sisters pleaded guilty as part of an agreement reached with the prosecutor, Assistant U.S. Attorney R. Steven Lapham.

They were sentenced Friday on charges reached in their plea agreements: two counts of attempted arson and one count of arson against Lewis; one count each of attempted arson for the Holland sisters.

Eva Holland, surrounded by supporters after the hearing, said she was relieved that her legal ordeal was over and expressed hope that officials would house her in the same prison as her younger sister.

"We're just glad to be moving forward with our life," she said moments later, leaving the courthouse with her sister and mother, who declined to comment.

Members of Lewis' family marched out of the courtroom after shaking hands with Zindel. They declined to speak with reporters.

Lewis, his attorney said, will remain at the Sacramento Main Jail for about a month.

He then will be transferred to a federal prison.

6-Year Prison Sentence In Series Of Arsons (LAT)

The Los Angeles Times, March 18, 2006

A 22-year-old man was sentenced Friday to six years in prison for a string of Northern California arsons on behalf of the Earth Liberation Front.

Ryan Daniel Lewis will also have to pay $243,000 in restitution for setting fire in February 2005 to a nearly completed apartment building in Sutter Creek, a Gold Country tourist town.

Lewis also admitted to two earlier arson attempts in nearby Placer County.

Two other defendants, Eva Rose Holland, 26, and Lili Marie Holland, 21, received two-year sentences for joining Lewis in attempting to set fire to several unfinished structures at a housing tract in fast-growing Lincoln.

3 Eco-terrorists Sentenced For Firebombs (MHCA/AP)

Montery (CA) Herald, March 18, 2006

SACRAMENTO (AP) - Three eco-terrorists were sentenced Friday to federal prison for a series of firebombings that put towns in the Sierra foothills on edge.

Ryan Daniel Lewis, 22, the alleged leader of the group, was sentenced to six years, and two sisters -- Eva Rose Holland, 26, and Lili Marie Holland, 21 -- were each handed two-year prison terms.

Prosecutors alleged Lewis recruited the Holland sisters and Jeremiah Dean Colcleasure, 24, on Christmas Eve 2004 to help him burn down two unoccupied upscale homes in Lincoln, a Sacramento suburb, in the name of the Earth Liberation Front.

The four set up incendiary devices in two homes, but the firebombs didn't ignite.

Lewis tried and failed again on Jan. 12, 2005. In a third attempt Feb. 7, 2005, Lewis caused $50,000 damage to an apartment complex in Sutter Creek.

Lewis and the Holland sisters pleaded guilty in October.

CIVIL LAW:

Google Doesn't Have To Turn Over Query Data (WSJ)

By Kevin J. Delaney

The Wall Street Journal, March 18, 2006

A federal judge ruled Friday that Google Inc. did not have to turn over data about consumer Web search queries that the Department of Justice had requested.

U.S. District Judge James Ware ordered Google to work with the government to provide 50,000 randomly selected addresses for Web sites from its databases. But he denied government lawyers' request for a sampling of 5,000 search queries entered by Google users, concluding that they essentially duplicated information the government could glean from the Web addresses. In addition, Judge Ware said that Google's providing the queries could potentially cost it the trust of some users and expressed concerns about whether "search queries themselves may constitute potentially sensitive information."

The Department of Justice originally requested the information from Google last year to defend the Child Online Protection Act, a law designed to shield minors from sexually explicit materials on the Internet that has been blocked in the courts. Judge

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Ware had said during a public hearing Tuesday that he was leaning toward ordering Google to at least partially respond to a Department of Justice subpoena.

"This is a clear victory for our users," said Google in a statement. "The subpoena has been drastically limited."

U.S. Is Denied Google Queries (LAT)

By Chris Gaither

The Los Angeles Times, March 18, 2006

Privacy activists hail a federal judge's ruling. But he orders the search engine to reveal some information about websites in its database.

A federal judge Friday denied a Justice Department demand for access to some Internet search queries of Google Inc. users in a closely watched case testing the limits of online privacy.

The ruling by U.S. District Judge James Ware in San Jose was a victory for Google, which argued that handing over the records would violate the privacy of people who might scour the Internet with terms as diverse as "best-actor nominees," "third trimester abortion" or "pipe bomb."

Although Ware required Google to reveal some information about the websites in its database, he ordered the government to reimburse the Mountain View, Calif., company for the time and expense required to comply.

But for Google — a quirky dot-com with the corporate mantra "Don't be evil" — the more important issue was whether it could restrict access to potentially revealing queries.

"We will always be subject to government subpoenas, but the fact that the judge sent a clear message about privacy is reassuring," said Google's associate general counsel, Nicole Wong. "What his ruling means is that neither the government nor anyone else has carte blanche when demanding data from Internet companies."

Privacy advocates cheered the decision as a check on the Bush administration's efforts to collect information about people, but noted that the trove of personal data gathered and stored by sites like Google was irresistible to investigators.

"This issue is going to come up over and over again," said Cindy Cohn, legal director of the Electronic Frontier Foundation. "I don't think this should make anybody very comfortable about the future. Google still has this stuff and people will still try to seek it."

Atty. Gen. Alberto R. Gonzales issued subpoenas to Google and three other top Internet companies last year, seeking details of potentially billions of search queries as part of an investigation into online pornography. The Justice Department also demanded a sample of the millions of websites archived in the search engines' databases.

The other companies — Yahoo Inc., Microsoft Corp. and America Online Inc. — complied at least in part. Google executives balked and the case became a test of the government's reach in the Internet Age.

Yahoo, Microsoft and America Online declined to comment after Ware's ruling late Friday.

Those companies have said that the information they provided did not violate users' privacy, because it did not include names or computer addresses. Even so, the disclosure alarmed civil liberties advocates, who feared that the searches could reveal private information and that the government could pass alarming queries to criminal investigators.

"People for too long thought they were anonymous on the Internet," said Andrew Serwin, an attorney specializing in privacy and Internet law. "People now realize they're not."

Justice Department officials could not be reached late Friday.

Federal lawyers earlier this week slashed their Google request to 5,000 randomly selected search terms entered by users and 50,000 website addresses in the company's searchable index. The government previously had requested a week's worth of queries, which could have numbered in the billions, as well as a million indexed Web addresses.

Ware granted the request for the Web addresses but declined to force Google to release the queries. He wrote in his 21-page ruling that he was balancing the government's need to gather data against Google's expectation that it could operate without undue interference or fear that its trade secrets might be revealed. Google lawyers argued at a hearing Tuesday that the company's search engine was popular in part because users trusted that their personal information would be guarded.

"The expectation of privacy by some Google users may not be reasonable, but may nonetheless have an appreciable impact on the way in which Google is perceived, and consequently the frequency with which users use Google," Ware wrote.

Federal laws generally require a search warrant or court order to procure electronic information without a user's permission, not the simple subpoena presented to Google.

Government lawyers had requested the data for an unrelated civil lawsuit regarding the Child Online Protection Act, a 1998 law blocked by a federal court. The Justice Department, seeking to restore the law, said it would use the information from search engines only to test how well Internet filters prevent children from accessing potentially harmful websites.

Deirdre Mulligan, a law profesor at UC Berkeley, called the government's request to Google "a fishing expedition."

"It's the same as going into a medical clinic and saying, 'The last few people who came in, what diseases did they ask you about?' " Mulligan said.

Google To Reveal Sites, Not Searches (AP)

By MICHAEL LIEDTKE, The Associated Press

AP, March 18, 2006

SAN FRANCISCO – A federal judge on Friday ordered Google Inc. to give the Bush administration a peek inside its search engine, but rebuffed the government's demand for a list of people's search requests – potentially sensitive information the company had fought to protect.

In his 21-page ruling, U.S. District Judge James Ware told Google to provide the U.S. Justice Department by April 3 with the addresses of 50,000 randomly selected Internet sites indexed by its search engine .

The government says it plans to use the data for a study in another case in Pennsylvania, where the Bush administration is trying to revive a law meant to shield children from online pornography.

Ware, though, decided Google won't have to disclose what people have been looking for on its widely used search engine, handing a significant victory to the company and privacy rights advocates.

"We will always be subject to government subpoenas, but the fact that the judge sent a clear message about privacy is reassuring," Google lawyer Nicole Wong wrote on the company's Web site Friday night. "What his ruling means is that neither the government nor anyone else has carte blanche when demanding data from Internet companies."

Attempts to reach a spokesman for the Justice Department late Friday were not immediately successful.

The government had asked for the contents of 5,000 randomly selected search requests, dramatically scaling back its initial demands after Google's vehement protests gained widespread attention.

When the Justice Department first turned to Ware for help in January, the government wanted an entire week's worth of Google search requests — a list that would encompass queries posed by millions of people.

Google Wins Ruling On Turning Over Search Queries To Government (BLOOM)

Bloomberg, March 18, 2006

March 18 (Bloomberg) -- Google Inc. won a partial victory in a battle with the government when a federal judge ruled yesterday that the company didn't have to turn over customer search queries to the U.S. Justice Department.

U.S. District Judge James Ware in San Jose, California, refused to make Google, the most-used Internet search engine, give the agency 5,000 search queries as part of an effort to defend a law aimed at keeping children from accessing Internet pornography. Ware did rule Google had to comply with the U.S. demand for 50,000 Web addresses from its index of Web sites.

Google's success in limiting the government's access to customer search records came after a two-month battle that led to concerns that some Web surfers might avoid using Google, which profits by displaying ads next to search results and earning fees when consumers click on the ads.

``This is a victory for Google," said Andrew Serwin, a lawyer in the San Diego office of Foley & Lardner, who has followed the case. Google ``didn't want to give up search terms or anonymous customer data, and they didn't have to."

Ware ordered Google and the Justice Department to come up with a method to randomly select the 50,000 Web addresses in a way that would not force Google to disclose any confidential information. He gave both sides until April 3 to raise any problems with the confidentiality requirement.

1 Million Addresses

The government had originally sought as many as 1 million Web addresses, then agreed at a hearing earlier this week to narrow the data request to 50,000 Web addresses, of which the government would examine 10,000. The government also wanted the 5,000 search queries, of which it would look at 1,000.

``This is a clear victory for our users and for our company," Nicole Wong, associated general Counsel at Google said on the company's Web site. ``We believe that if the government was permitted to require Google to hand over search queries, that could have undermined confidence that our users have in our ability to keep their information private."

The government wants the data to support a lawsuit pending in federal court in Pennsylvania over whether a federal law may prove more effective in limiting minors' access to pornography on the Internet than filtering software.

``The search query data could have shown why filtering software doesn't always work," Serwin said.

The ACLU and other privacy rights organizations have so far successfully sued to block enforcement of the 1998 Child Online Protection Act, or COPA, since it was signed into law in 1998. A trial in the Pennsylvania case challenging COPA is set for Oct. 23 before U.S. District Judge Lowell Reed in Philadelphia, Fine said.

`Significantly Hampered'

Ware said that Google must turn over the Web addresses because they could help the government study the effectiveness of filtering software. Because Google is the biggest search engine, the government's effort could be ``significantly hampered" if it didn't have access to some of the information it sought.

``What the government has not demonstrated, however, is a substantial need for both the information contained in the sample of URLs and the sample of search query text," Ware wrote in a 21-page ruling released yesterday.

Ware said groups challenging the government's anti- pornography law may also seek information from Google that ``may implicate Google's confidential commercial information."

Shares of Mountain View, California-based Google rose $1.02 to $339.72 in Nasdaq Stock Market composite trading yesterday.

The case is Gonzales v. Google Inc., 5:06-mc-80006, U.S. District Court, Northern District of California (San Jose).

Searching For Google (WSJ)

The Wall Street Journal, March 18, 2006

Google had its day in court this week in its battle with the Justice Department over a subpoena for data about Web searches and the sites available through Google's search engine. The judge indicated that he was inclined to give both sides something, and Justice later agreed to limit its request to "just" 5,000 sample searches and 50,000 Web addresses.

This outcome may seem Solomonic, but the precedent is still troubling. The subpoena that started it all emerged from a separate case being tried in Pennsylvania. In that case, the ACLU is challenging the constitutionality of the 1998 Child Online Protection Act, or COPA.

That law has never been enforced owing to an injunction and multiple unfavorable rulings, including one from the Supreme Court. But it nonetheless aims to protect minors from "harmful" material on the Internet by making it a crime to allow them to access it. The ACLU suit claims the law is a restriction on free speech. The Supreme Court said it might be, and sent the case back to trial for the government to prove that it wasn't.

Which is where Google, Yahoo and MSN come in. The government wants to use their search data as part of its effort to show that the law is necessary to protect minors from the Internet's seamier side. But these companies are innocent bystanders in the dispute over the constitutionality of COPA. It is one thing when company data are pursued by the government as evidence in a criminal proceeding. Most Americans would probably accept if otherwise private information were turned over to law enforcement in a case where the request is narrowly tailored and probable cause exists.

The COPA trial is different. Tasked by the Supreme Court with justifying COPA's Internet restrictions, the Justice Department has embarked on a fishing expedition for large swathes of data about Internet use. The whole project suggests that the government has little basis for defending the law in the first place, and is hoping it can use the Web sites' data to generate a rationale after the fact.

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But dragging these companies into this litigation is not without risks. The first is the possibility that the data could lead to further inquiries -- possibly under COPA, should it be upheld -- of a criminal nature. Justice has taken pains to emphasize that this case is being handled by the civil division and that there are safeguards to ensure the information does not find its way into any future criminal case. But it's not hard to imagine a legal rationale for securing the data for such a use in the future, once the precedent has been set.

Then there are the ramifications for Google, Yahoo and the rest in the COPA case itself. The ACLU has already argued that if the Web site operators become, in effect, witnesses for the government in this case, the ACLU may be compelled to seek further discovery of the data employed by Justice, the Web sites' means of gathering it, their search methodology, and so on. This is no small intrusion into the business practices and privacy reputations of companies whose stock in trade is information about what is searched for and found on the Web.

All of which highlights the dangers and unintended consequences of the government's conducting wide-ranging market research by subpoena. Two prior incarnations of COPA have already been struck down twice by the Supreme Court. The third time, the Court created a presumption of unconstitutionality but remanded the case for trial. If commandeering such data from private companies against their will is what it takes to defend the law, maybe defending it isn't worth the effort.

CIVIL RIGHTS:

N.C., Justice Department Agree On Overseas Voting In 2nd Primary (CO)

The Charlotte Observer, March 18, 2006

RALEIGH, N.C. - The Justice Department said it had reached an agreement with North Carolina officials that will allow military and other overseas voters to participate in a second primary election, if one is needed this year.

The U.S. District Court in Raleigh still must approve the agreement.

The agreement was filed at the same time as the Civil Rights Division filed a lawsuit because of the short amount of time between North Carolina's primary and runoff elections. Federal officials said in a news release Thursday that the four-week break doesn't provide enough time to get runoff ballots to and returned from absentee voters.

Besides other changes, the state and federal governments agreed that all military and overseas voters requesting an absentee ballot for the primary election also will receive a blank write-in ballot for a runoff. They also agreed to allow write-in ballots to be faxed and e-mailed, if necessary.

The agreement also provides for reporting to the court on the status of the North Carolina Legislature's efforts to find a permanent solution to the timing problem.

"These measures provide an immediate solution while the Legislature adopts permanent procedures, as we trust they will promptly," Wan J. Kim, assistant attorney general of the Civil Rights Division, said in a statement.

The lawsuit was brought under the Uniformed and Overseas Citizens Absentee Voting Act, which requires states to allow uniformed services voters and other overseas citizens to register to vote and vote absentee for all elections for federal office.

Group Charges Libraries Filtered Out Web Site (SLPD)

By Peter Shinkle, ST. LOUIS POST-DISPATCH

St. Louis Post-Dispatch, March 18, 2006

The Council of Conservative Citizens, a nationwide group that has been portrayed as racist, is suing four libraries in the St. Louis area for allegedly blocking patrons from viewing its Web site.

Gordon Baum, a lawyer from St. Charles who is the group's chief executive, said the U.S. Constitution protects the public's right to see his Web site.

"We don't believe we're any more to the right than the NAACP is to the left," he said, adding that his group does not advocate violence.

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The site, cofcc.org, does not feature the racial epithets commonly used by racist groups. It does, however, provide a slate of news stories about crime by blacks or immigrants. It also offers for sale a T-shirt with the words, "White Pride," "Deutschland" and "Save Our Culture."

The Southern Poverty Law Center says that racism "underlies" the group and that it has long had ties to politicians the law center considers racist.

Baum filed a suit in U.S. District Court on Monday claiming the Maplewood City Library, University City Public Library, Valley Park Community Library and Festus Public Library had violated his constitutional right to free speech by blocking access to the Web site. At least two of the libraries say they now permit patrons to view the site.

Baum said the suit was filed after the group checked on local libraries and wrote letters complaining to those libraries that blocked access to the group's site.

Maplewood City Library Director Terrence Donnelly sent the group a letter replying that the Internet filter service the library uses had blocked the site after tagging it as being in "the categories of Hate and Discrimination."

On Friday, however, Donnelly said that changed after the library's board discussed the issue on Wednesday and he consulted with a lawyer. Donnelly said the Web site is now accessible at the library.

Federal law requires libraries that use federal money to have an Internet filter that can block out pornography, but it does not require a filter to block hate speech, Donnelly said.

The University City Library stopped blocking the group's Web site after it received a letter from Baum in November, said the library's director, Linda Ballard.

"We have turned off the hate speech filters for the adult machines, but they're still in place for the children's machines," she said.

Both libraries use Morenet, a division of the University of Missouri in Columbia that offers Internet service to 85 libraries across the state. Morenet provides the libraries with the Bess filter system offered by Secure Computing, a software company in San Jose, Calif. Secure Computing's site on the Internet enables users to check on how its filters would categorize a given Web site. A check Friday on cofcc.org showed the site was considered to be "hate speech."

It was unclear whether the two other libraries block the site. Festus Public Library director Lollie Gray declined to comment. Valley Park Community Library director Bonnie Morris could not be reached for comment.

Baum said the group is not like the Ku Klux Klan and includes Jewish members. "We're not a white Supremacist group that insists you have to be a white Christian," he said.

Whistle-Blower Or Thief In Diebold Case? (LAT)

By Hemmy So, Times Staff Writer

The Los Angeles Times, March 18, 2006

Stephen Heller's alleged theft of papers about the firm's electronic voting machines spurs praise and scorn as he faces felony charges.

A whistle-blower to some, a thief to others, Stephen Heller says he's a regular guy, not an activist or a member of any political group.

But charged last month in Los Angeles with three felonies for allegedly stealing damaging documents about voting machine manufacturer Diebold Election Systems, Heller has become a hero to digital rights and political activists who say he helped expose a threat to the election system.

"My wife would never describe me as someone on the front lines of anything, and I wouldn't either," Heller said in a recent interview. "I'm not politically active except I've voted since I was 18."

Prosecutors say Heller, a 43-year-old actor and resident of Van Nuys, took more than 500 pages of Diebold-related documents, including memos from the company's attorneys at the Jones Day law firm. The memos suggested that the company might have broken state law by providing Alameda County with voting machines that had not been certified by the state.

"This case is not about whistle-blowing. It's about theft of attorney-client privileged material from an attorney's office," Los Angeles County district attorney spokeswoman Sandi Gibbons said.

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But activists and bloggers — including the California Voter Foundation; Black Box Voting, an electronic voting group; and the liberal http://www.huffingtonpost.com website — say the purloined documents, some of which turned up on the Oakland Tribune website, helped spur a state crackdown on Diebold.

"People should be thanking Stephen Heller because ultimately he helped our secretary of state stop illegal acts by Diebold," said Cindy Coen, legal director of the Electronic Frontier Foundation, a digital rights group based in San Francisco.

Heller has pleaded not guilty to three counts of felony access to computer data, commercial burglary and receiving stolen property.

Although state law protects whistle-blowers from retaliation by employers, it does not preclude criminal prosecution.

On the advice of his lawyer, Heller declined to discuss the facts of his case, but agreed to talk more generally.

Brought up in a small dairy farming town in upstate New York, Heller moved to Los Angeles in 1997 after years of waiting tables and performing in small theaters in Chicago. Heller said he had stopped just short of finishing a theater degree at DePaul University to dedicate himself to an acting career.

In Los Angeles, he managed to land a few small roles on television shows and in commercials. But acting failed to pay the bills and Heller refused to wait any more tables. So he brushed up on his typing skills and found work as a word processor — a decent, less stressful way to make ends meet, he said.

He lives in a quaint, one-story home with his wife, an actress and writer who also works as a word processor. They have three cats and a dog.

Heller began a three-month stint as a temporary worker at the Los Angeles office of Jones Day in December 2003. One of his assignments was transcribing an attorney's tapes on legal issues facing a major client: Diebold.

The name was familiar because of media attention surrounding the company and its new touch-screen voting systems. Heller, a news junkie, said he had had no prior dealings with the company.

Bev Harris, founder of Black Box Voting, told investigators that Heller met her in a park in Ventura County in early 2004 and gave her the documents, which she turned over to the secretary of state and the Oakland Tribune.

"What Stephen did was the best of citizenry," Harris said.

Harris and fellow activist Jim March, later joined by the state attorney general, had already sued Diebold in 2003 for allegedly failing to certify the voting system.

The lawsuit gained traction when Diebold's touch-screen systems failed in March 2004. Because of a battery drain, the screens could not display the proper ballot, and poll workers in San Diego County had to turn away some early voters. Alameda County residents had to use paper ballots.

Diebold eventually settled the suit for $2.6 million. The state banned use of its machines, but the ban was reversed this year and the machines were certified for use in 17 counties.

Gibbons said Heller's alleged theft had nothing to do with the attorney general's suit or a later investigation of Diebold by the secretary of state's office.

Members of a state commission considering the ban on Diebold, however, did question witnesses about the leaked documents.

Jones Day sued the Oakland Tribune over the leak, but later dropped the case and referred the alleged theft to authorities.

Diebold declined to comment on Heller's prosecution. Jones Day officials have said his actions forced them to return $1 million in legal fees to Diebold and damaged the reputation of one of their lawyers.

John Majoras, a partner at Jones Day, said: "As far we are aware, this is a criminal matter. The authorities are taking care of it, and we will watch to see what comes of it."

Heller said he learned that he was under investigation when a team of district attorney investigators and police descended on his Van Nuys home in August 2004 and seized his computer, personal papers and address book.

"For the first few minutes, I thought this is a mistake … just cooperate and they'll find out that I'm not that drug dealer they're looking for," Heller said. "But that wasn't the case."

Heller eventually was fired by the temporary employment agency, and remained jobless for eight months before landing work in a related field. He declined to identify his job for fear that it would be jeopardized by the publicity.

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D.A. spokeswoman Jane Robison said defendants such as Heller, with no criminal record, typically receive probation if convicted.

But Heller's lawyer said he doesn't want to risk a conviction.

"The felony conviction itself will prohibit many kinds of employment for him," attorney Blair Berk said. "He'll lose his right of citizenship to vote."

The Electronic Frontier Foundation and the Assn. of Computing Machinery, an information technology group, are searching for a pro bono attorney to help represent Heller, who said he has exhausted his savings on legal fees.

Black Box Voting has donated $10,000 to the Stephen Heller Legal Defense Fund.

"I'm optimistic that the right thing is going to be done here," Heller said.

"Hopefully, I'll get a chance to properly defend myself and justice will prevail."

Putting A Racist Past In The Past (LAT)

By Richard Fausset, Times Staff Writer

The Los Angeles Times, March 18, 2006

A bill says activists who broke racially biased laws would be eligible for Alabama pardon.

ATLANTA — Civil rights activists and others convicted under laws that enforced racial discrimination would be eligible for a pardon from the state of Alabama under a bill working its way through the Legislature, the bill's sponsor said Friday.

Rep. Thad McClammy said that his proposed "Rosa Parks Act" would serve the symbolic purpose of bestowing posthumous pardons on activists like Parks, whose 1955 arrest sparked the 381-day Montgomery bus boycott.

But McClammy, a Democrat, said the pardons also could help living veterans of the segregated South, who still may have trouble explaining away their arrests when applying for jobs or loans.

"If they do a background check, they say: 'Oh my … this person was arrested five times,' " McClammy said. "It follows you. What we're saying is, not only should individuals be pardoned, but the record should be expunged. These were illegal laws."

Some of the most famous arrests of the civil rights era occurred in Alabama in the 1950s and '60s. Parks was convicted of violating Montgomery's municipal code for refusing to move to the back of a city bus. Dozens more were charged under anti-boycott and curfew statutes.

The early 1960s saw the arrests of "freedom riders" and protesters who engaged in civil disobedience at lunch counter sit-ins. In 1963, about 3,000 children were arrested in Birmingham for taking part in civil rights demonstrations. Horace Huntley of the Birmingham Civil Rights Institute said many of those young people eventually were convicted. "Those [convictions] are still on the books, just as it was in Rosa Parks' case," said Huntley, director of the institute's oral history project.

McClammy's bill unanimously passed the Democratic-controlled Alabama House Judiciary Committee this week; House Minority Leader Mike Hubbard predicted that his fellow Republicans probably would support the measure.

"I guess it's just never occurred to me that there'd be any opposition to it," Hubbard said. "I'm 44 years old, and I've never been a part of any segregation or race problems or whatever."

Alabama has struggled to emerge from the shadows of its racist past. In 2004, voters narrowly rejected a proposed constitutional amendment to strike language requiring separate schools for "white and colored" children. That wording is superseded by federal law.

However, if McClammy's bill becomes law, it will be one of a number of recent steps taken by Alabamians toward reconciliation. In December, Montgomery's predominantly white First Baptist Church kicked off an effort to bridge the gap between black and white churches to commemorate the 50th anniversary of the bus boycott. The church has held prayer vigils and meals with members of predominantly black churches. And the Montgomery library system has named its main branch for Juliette Hampton Morgan, a library research director in the 1950s who was an outspoken white opponent of segregation. Morgan reportedly committed suicide in 1957 after intense public ridicule and threats to the library system by racist whites.

2nd Autopsy In Youth Boot Camp Death Fails To End Questions (NYT)

By Abby Goodnough

The New York Times, March 18, 2006

DOJ_NMG_0019310

MIAMI, March 17 — Martin Lee Anderson was buried a second time this week, more than two months after he died following a confrontation with guards at a boot camp for teenage offenders in the Florida Panhandle. But questions about his death, and whether the state should close all its boot camps in the aftermath, are very much alive.

After supervising a second autopsy of Martin's body on Monday, a special prosecutor appointed by Gov. Jeb Bush disputed the findings of the original pathologist in the case: that the youth had died from complications of sickle cell trait, an undiagnosed blood disorder. But the prosecutor, Mark Ober, would not say more until his broader investigation of the case was finished.

The guards at Bay Boot Camp in Panama City kneed, kicked and hit Martin, 14, after he stopped running during an orientation drill on Jan. 5. He had been sent to the camp for violating probation after stealing his grandmother's car. In a videotape, which the state released after news organizations sued for it, the boy appears limp throughout the encounter.

He died early on Jan. 6, and when the original autopsy report came out a month later, his parents, lawmakers and civil rights groups expressed outrage. Even after Mr. Ober said through a spokeswoman that Martin "did not die of sickle cell trait, nor did he die of a natural cause," the medical examiner who made those findings, Dr. Charles Siebert of Bay County, stood by them.

"I am appalled at the baseless and mean-spirited accusations from special interest groups with little or no knowledge of the evidence in this case," Dr. Siebert said in a statement on Thursday, "who are calling for everything from the revocation of my license to criminal charges."

Dr. Michael Baden, a pathologist who attended the second autopsy on behalf of Martin's family, told a legislative committee in Tallahassee on Friday that Martin had most likely suffocated during the incident and was brain dead by the time an ambulance carried him away.

"There was a time when there were hands over Anderson's mouth," Dr. Baden said in an interview, noting that the guards held ammonia capsules under the boy's nose several times during the incident. "There may have been ammonia capsules blocking his nose, hands blocking his mouth — that could contribute to asphyxia."

The boot camp, run by the Bay County Sheriff's Office, will close next month. In a letter to state officials, Sheriff W. Frank McKeithen said he was closing it because the program had been "virtually paralyzed" after Martin's death.

The seven guards in the incident remain on the job — though not working with young offenders, who have already been cleared from the camp — while Mr. Ober decides whether they should face criminal charges.

Meanwhile, Governor Bush and his Department of Juvenile Justice are reviewing policies for the state's five other boot camps, as the Legislature debates whether they should remain open. Many states have closed military-style boot camps for teenagers in recent years, but Governor Bush said Thursday that they have "yielded a good result," and Anthony Schembri, his juvenile justice secretary, affirmed that assessment in an interview Friday.

"I think the remainder are good options that we can use for certain kids," Mr. Schembri said of the five surviving boot camps, though he said every camp should have education and therapy components.

Martin's parents, Gina Jones and Robert Anderson, said they were appalled to hear that Dr. Siebert had not changed his assessment of Martin's death after the second autopsy, which he attended. In an interview, they said every guard involved in the incident should be arrested immediately, as should a nurse who stood by during the confrontation.

"My baby passed away from the beating," said Ms. Jones, who said her son was an honor student who liked basketball, chess and video games. "It's not only the guards to blame; it's the sheriff, the doctor, the governor. It's time for the governor to step in."

In an interview, Dr. Siebert said Dr. Baden, a former chief medical examiner for New York City, was biased because Martin's parents had sought his involvement.

"I'm charged with coming to a truthful and unbiased manner of death, and I feel that's what I did in this case," he said. "I have nothing to gain by conspiring with anybody."

During a meeting on Friday of the Criminal Justice Appropriations Committee of the Florida House of Representatives, Mr. Schembri's chief of staff, Chris Caballero, said the Juvenile Justice Department might require young offenders to get electrocardiograms and drug tests before entering boot camps.

Mr. Schembri, who would not discuss the Anderson incident except to call it tragic, said he would also revise use-of-force policies at boot camps, which in Florida are for "moderate risk" young offenders.

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Representative Dan Gelber, a Miami Beach Democrat on the Criminal Justice Appropriations Committee, said the video suggested that guards at the Bay Boot Camp were following an established use-of-force protocol.

"I just was shocked that the officers seemed to think this was what they were supposed to do," he said. "They clearly were inflicting substantial force on somebody who was not threatening them or himself."

Mr. Gelber added: "They knew the camera was there, they knew they were being filmed, they weren't trying to hide anything. But the notion that you could inflict pain to get somebody to run or say, 'Yes, sir' — that is just un-American."

Federal Appeals Court Allows 'Choose Life' License Plates In Tennessee (FINDLAW/AP)

By Lucas L. Johnson Ii, Associated Press Writer

AP, March 18, 2006

(AP) - NASHVILLE, Tennessee-A federal appeals court Friday allowed Tennessee to offer anti-abortion license plates bearing the message "Choose Life."

A three-judge panel of the 6th U.S. Circuit Court of Appeals in Cincinnati overturned a lower-court ruling that said the tag illegally promoted only one side of the abortion debate.

"Although this exercise of government one-sidedness with respect to a very contentious political issue may be ill-advised, we are unable to conclude that the Tennessee statute contravenes the First Amendment," Judge John M. Rogers said in a 2-1 ruling.

An anti-abortion group, Tennessee Right to Life, declared victory.

"It's a validation of our position all along that the Legislature had the authority to authorize a plate that favors normal childbirth over the practice of abortion," said Brian Harris, the group's president.

In a dissenting opinion, Judge Boyce F. Martin Jr. said the plates should be banned because they amount to unconstitutional viewpoint discrimination.

The plaintiffs, the American Civil Liberties Union of Tennessee and Planned Parenthood of Middle and East Tennessee, said they were still reviewing Friday's ruling.

Abortion-rights proponents complained the state does not offer those with other political views a similar way to express them. An attempt to create a "Choose Choice" tag failed in the Legislature in 2002.

Federal appeals courts have been divided over whether such license plate programs are constitutional. Last year the U.S. Supreme Court let stand a lower-court ruling that said similar South Carolina license plates violated the First Amendment.

Drivers will be able to pay an extra fee in Tennessee for the "Choose Life" plate, and some of the proceeds will go to New Life Resources, an anti-abortion group.

Tennessee is the 13th state to offer "Choose Life" plates. The others are Alabama, Arkansas, Connecticut, Florida, Hawaii, Louisiana, Maryland, Mississippi, Montana, Ohio, Oklahoma and South Dakota. Most states donate proceeds to adoption groups, but Alabama, Hawaii, Maryland and Montana donate at least some of the money to anti-abortion groups.

Tennessee has more than 120 specialty plates, most of them saluting uncontroversial subjects such as the Tennessee Titans football team, the Smoky Mountains and the Tennessee Walking Horse.

Gov. Phil Bredesen let the anti-abortion license plates measure become law but declined to sign it, and he urged lawmakers to develop a new approach to deciding which causes would benefit from the sale of specialty plates.

After 2 More Deaths, Planned Parenthood Alters Method For Abortion Pill (NYT)

By Gardiner Harris

The New York Times, March 18, 2006

WASHINGTON, March 17 — After receiving reports that two more women died after taking abortion pills, Planned Parenthood, the nation's largest provider of abortion and contraceptive services, announced that it would immediately change the way it gives the medicines.

The change partly resolves a long-running dispute between Planned Parenthood and the Food and Drug Administration over the safest way to provide pill-based abortions.

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The F.D.A. has now received reports that six women in the United States died after taking RU-486, or Mifeprex. A seventh died in Canada. The two most recent deaths and two of the previous four underwent their procedures at Planned Parenthood clinics, a spokeswoman said.

Federal officials do not yet know the cause of the latest two deaths. The previous four resulted from systemic infections with a virulent bacteria, Clostridium sordellii. Planned Parenthood announced in a statement that one of the two recent deaths occurred within days of the victim's undergoing a pill-based abortion, while the other woman died within five weeks.

Mifeprex has been used in more than 560,000 medical abortions in the United States and more than 1.5 million in Europe. The risks of death from infection after using the pill are similar to the risks after surgical abortions or childbirth, drug agency officials said.

When Mifeprex was first approved by the agency in 2000, the standard regimen was to give the drug in a doctor's office followed two days later by an oral dose of a different drug, misoprostol, also in a doctor's office. Women expelled the fetus over the following days or weeks in a process that mimicked a miscarriage. The procedure must begin within 49 days of conception.

Soon after Mifeprex's approval, most Planned Parenthood doctors switched to a different regimen, instructing women to insert misoprostol vaginally at home two to three days after taking Mifeprex. Studies of the new regimen showed that it was effective, and it allowed women to take lower doses of misoprostol. It also meant fewer office visits for Planned Parenthood.

But this regimen was not approved by the drug agency. It is not unusual for doctors to use drugs differently from how they are officially approved. But as reports of deaths among women undergoing the procedure trickled into the F.D.A., government officials issued stern warnings that doctors should stick to the approved regimen.

Until Friday, Planned Parenthood had rejected those warnings.

Dr. Vanessa Cullins, vice president of medical affairs for Planned Parenthood, said in an interview that effective immediately the group would ask patients to take misoprostol orally instead of vaginally. Although the F.D.A. has asked that this be done in doctors' offices, a Planned Parenthood spokeswoman said patients would still be asked to take the second drug at home.

"There is no single reason for the change" in policy by the group, Dr. Cullins said.

"We don't really know all the circumstances surrounding these women's deaths," she said.

Whether the method of drug administration has anything to do with the deaths is not known. The drug agency said it was "investigating all the circumstances associated with these cases." The agency has already added strong warnings to Mifeprex's label regarding the risks of infection.

On Friday, the agency repeated warnings that women who undergo pill-based abortions should be vigilant for signs of trouble. If they suffer from nausea, vomiting or diarrhea and weakness with or without abdominal pain more than a day after taking abortion medicines they should be given antibiotics.

Clostridium sordellii infections are rare and can be difficult to diagnose because they are not always accompanied by fever.

Since reporting drug side effects is voluntary in the United States, it is possible that more women have died and that their deaths have gone unreported because doctors, medical examiners and coroners are not obligated to forward such reports to the F.D.A. Doctors and local officials also may not associate a death with a pill-based abortion, especially if the death occurs weeks later.

The risk of infections could be lowered or eliminated if abortion patients were given antibiotics as a preventative. But antibiotic therapy has its own risks, and officials say that the risk of infection from Clostridium sordellii is so slight that it does not merit such a precaution.

The government has scheduled a scientific conference on May 11 at the Centers for Disease Control and Prevention to discuss Clostridium sordellii and a related bacteria, Clostridium difficile, that has caused outbreaks of diarrhea and colitis in hospitals and nursing homes.

Both bacteria generally live in the soil and human intestinal tracts. Both thrive in environments with limited oxygen. When these bacteria infect the bloodstream, they can produce a toxin that causes something akin to toxic shock syndrome.

Senators Jim DeMint, Republican of South Carolina, and Tom Coburn, Republican of Oklahoma, released a statement Friday calling for the withdrawal of Mifeprex. They have sponsored a bill that would force the F.D.A. to withdraw the drug.

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Monty Patterson, whose 18-year-old daughter, Holly, died on Sept. 17, 2003, from a Clostridium sordellii infection after a medical abortion, has since argued that Mifeprex predisposes women to such infections by suppressing their immune systems.

"How many women have to die needlessly before this drug is removed from the market?" Mr. Patterson asked.

FDA Says 2 More Women Have Died After Taking Abortion Pill (WP)

By Marc Kaufman

The Washington Post, March 18, 2006

Agency Is Investigating; 7 Fatalities Now Tied to RU-486

The Food and Drug Administration reported yesterday that two more women have died after taking the RU-486 abortion pill, bringing to seven the number of fatalities associated with the drug since it was approved for use in 2000.

The agency said that it was investigating the new reports, provided by the manufacturer of the drug, but so far was not able to confirm any cause of death. In four earlier fatalities of California women who had undergone medical abortions, the victims died of a form of blood poisoning caused by Clostridium sordellii , a common but rarely fatal bacterium.

Opponents of abortion quickly described the FDA advisory as another reason to ban the abortion pill, sold as Mifeprex.

"RU-486 is a deadly drug that is killing pregnant women," Sen. Jim DeMint (R-S.C.), who has co-sponsored a bill to take the drug off the market pending a review, said in a statement. "This drug should never have been approved, and it must be suspended immediately."

But supporters said that the pill, which has been used worldwide for years, remains safe.

"To put this in context . . . 560,000 medication abortions have occurred in the United States. We know of seven reported deaths of women who had medication abortions in North America," Vanessa Cullins, vice president for medical affairs of the Planned Parenthood Federation of America, said in a statement. "At this time, none of those deaths have been directly attributed" to the abortion pill, she said.

Though commonly known as RU-486, this medical abortion actually entails taking two pills. The first, an antiprogestin, binds itself to the wall of the uterus, triggering the shedding of the uterine wall and not allowing the embryo to become implanted. One or two days later, the woman takes another drug -- misoprostol -- that causes her cervix to soften and dilate so the embryo can be expelled.

As a precaution, Cullins said, Planned Parenthood is changing its policy on how medical abortions should be administered. In the past, many women received misoprostol vaginally, although the FDA had never reviewed or approved that method. Vaginal use is considered to be more effective and has fewer side effects, but Cullins said that her organization would no longer recommend that method.

In its advisory, the FDA pointedly said that the safety and effectiveness of vaginal use of the second drug "has not been established." It also said that providers of medical abortion and emergency-room staffs should investigate the possibility of blood poisoning whenever women who have taken the drugs come in complaining of nausea, vomiting or weakness unassociated with fever or other signs of infection.

The FDA said yesterday that it did not know whether the clostridium bacteria played any role in the most recent deaths, but the agency did establish that it was present in four earlier fatalities. One other death related to medical abortion was in a woman who had an ectopic pregnancy -- a condition where RU-486 is not considered appropriate.

The issue of clostridium infection will be discussed at a public workshop in May hosted by the FDA and the Centers for Disease Control and Prevention. The bacterium has been associated with a small number of deaths and more hospitalizations involving both medical abortions and skin grafts.

The agency's handling of the seven deaths of women who had undergone medical abortion was criticized by opponents of the drug.

"The FDA has pulled other drugs that have caused fewer deaths and less severe complications than RU-486," Wendy Wright, president of Concerned Women for America, said in a statement. "Why the double-standard for an abortion drug that is now linked to the deaths of seven healthy women and over 800 other reported complications?"

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Opponents of medical abortion filed a citizen's petition with the FDA soon after the drug was approved for use, but the FDA has never acted on it. In addition, Rep. Roscoe G. Bartlett (R-Md.) introduced a bill in 2003 -- called Holly's Law, after Holly Patterson, an 18-year-old California woman who died following a medical abortion -- that would ban use of RU-486. The bill has 79 co-sponsors.

Bartlett said yesterday that the maker of Mifeprex, Danco Laboratories LLC, should pull the drug from the market. If it refuses, he said, the FDA should force its withdrawal.

FDA Says Two More Women Dead After Abortion Pill Use (WT)

By Joyce Howard Price

The Washington Times, March 18, 2006

The Food and Drug Administration disclosed yesterday that two more American women had died after taking the abortion pill, mifepristone or RU-486; bringing to seven the number of mifepristone users who have died in this country since the drug was approved here in 2000.

"At this time, we are investigating all circumstances associated with these cases and are not able to confirm the causes of death," or know whether the abortion pill was a factor, the FDA said in a "public health advisory" posted at its Web site.

Reacting to the two new deaths, Sen. Jim DeMint, South Carolina Republican, and Sen. Tom Coburn, Oklahoma Republican, both demanded that sales of mifepristone be suspended immediately.

In addition to the seven deaths potentially linked to the drug, Mr. DeMint said federal records also indicate another 600 women have experienced adverse events following its use. They include 200 women whose complications were "either life-threatening or extremely serious," Mr. DeMint said.

Mifepristone, known under the trade name of Mifeprex, is approved to end pregnancies up to 49 days after the start of a woman's last menstrual cycle. It blocks a hormone needed to sustain a pregnancy. Misoprostol, which should be taken two days after mifepristone, induces labor contractions to end a pregnancy.

In its health advisory yesterday, the FDA presented the regimen it has approved for taking mifepristone and misoprostol. Rather than taking misoprostol orally, as the FDA recommends, four California women who died inserted that drug vaginally.

Planned Parenthood Federation of America Inc. said since 2000, four of the seven women who died, including the latest two, received the pills at affiliated clinics. The organization said it will immediately stop recommending vaginal insertion of the final two tablets.

The FDA yesterday warned doctors to watch for sepsis, a potentially deadly blood infection, that previously killed four California women following medical abortions using mifepristone and misoprostol. The four all tested positive for a rare bacterial infection known as Clostridium sordelli.

"We do not know if these [two] new deaths were caused by sepsis or, if they were, if they were caused by infection with Clostridium sordelli," the FDA said in its notice. But the agency urged physicians to be on the lookout for such infections in women who have used mifepristone and misoprostol to terminate pregnancies.

Wendy Wright, president of Concerned Women for America, a pro-life organization, said she was dismayed that the FDA "did not pull" the abortion pill when it announced the two additional deaths.

"The FDA has pulled other drugs that have caused fewer deaths and even some that caused complications but no deaths. Why the double standard for this abortion drug?" Miss Wright asked. The FDA says it cannot prove mifepristone or misoprostol were to blame, but says the rate of fatal sepsis in medical abortions is approximately 1 in 100,000, which is comparable with infection risks in surgical abortions and childbirths.

2 More Women Die After Taking Abortion Pills (LAT)

By Jonathan D. Rockoff, Baltimore Sun

The Los Angeles Times, March 18, 2006

Federal regulators are looking into whether they had the same infection that killed four California women who also took RU-486.

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WASHINGTON — Two more women who took the abortion pill RU-486 have died, according to federal drug regulators who are investigating whether the same rare infection that caused four earlier deaths was responsible.

In announcing the two additional cases Friday, the Food and Drug Administration issued an alert urging doctors and patients to follow approved directions for the drug — which is used in combination with another medication, misoprostol — and to look for warning signs warranting immediate attention.

The agency did not provide further details about the two deaths, which followed reports that four women in California had died from septic shock since 2003 after undergoing medical abortions, as the procedure for using RU-486 is called.

Planned Parenthood Federation of America said it would immediately alter its procedures for administering the drug. The group had been recommending that women take the misoprostol vaginally, a widespread practice that is generally believed to be more effective but is not what the FDA recommends. The four California women took the drug vaginally.

In a statement, Planned Parenthood said one of the two recent deaths took place weeks after use of the pills, and the second several days after. It emphasized that of 560,000 women who had taken the pills in the U.S., a tiny fraction — seven — had died afterward.

According to the FDA, reports of fatal infections in women taking RU-486 are "very rare" — about 1 in every 100,000 cases.

After learning that the four California women who died had taken the abortion pills, the FDA issued a warning in July but said it did not know whether use of the abortion pills had caused the deaths. In November, it updated its alert to say that the women were infected with the same Clostridium sordellii bacterium.

Controversial even before the FDA approved its sale six years ago, RU-486 has been a flashpoint in the abortion wars. It ends a pregnancy, unlike the "morning after" pill, which prevents one.

Government investigators have said that RU-486 poses a small risk to women and that the infection that killed the four California women could occur in women giving birth as well.

The infections are hard to detect because they do not produce fevers or other signs of infection.

Some groups have called on the FDA to restrict sales, saying hundreds of deaths may not have been reported. Other groups say evidence shows that the drug is safe.

A May 11 workshop by the FDA, the Centers for Disease Control and the National Institute of Allergy and Infectious Diseases will review cases of clostridial infections, including the California deaths.

Investigators are trying to determine whether use of RU-486, sold as Mifeprex, makes women more susceptible to infection.

Birth Control (WSJ)

By Ann Zimmerman

The Wall Street Journal, March 18, 2006

Morning-After Pill Comes to Wal-Mart

On Monday, Wal-Mart Stores Inc. is set to sell for the first time prescription emergency contraceptives commonly referred to as Plan B or the morning-after pill.

The move comes after a short but vociferous activist campaign that labeled the world's largest retailer as antiwomen for being the only large pharmacy chain in the country that refused to stock the pills.

Emergency contraception is in essence a high-dose birth-control pill that works by preventing the ovaries from releasing an egg, blocking the union of sperm and egg, or stopping a fertilized egg from implanting in the uterus. The pill must be taken within five days of sex, but the earlier it is taken, the more effective it is.

That Wal-Mart chose "for business reasons" not to stock the pill was an issue that simmered on the back burner for women's groups for years after the pill was first approved by the Food and Drug Administration in 1997. But with Wal-Mart on the hot seat for a slew of other issues, from a huge gender-discrimination lawsuit to its high-deductible health benefits, activists saw this as an excellent time to hit the issue again.

In February, three women filed suit against the retailer in Massachusetts. A few days later, the board that oversees Massachusetts pharmacies ruled that Wal-Mart stores in that state must fill prescriptions for emergency contraception. Illinois has a similar rule. Within short order, several other states, including Connecticut and New York, were making noise that they

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would follow suit. The last thing Wal-Mart needed was another state-by-state battle on its hands: More than 20 states are considering legislation that would require Wal-Mart to pay a higher percentage of employee's health-care benefits.

But Wal-Mart's decision to stock Plan B doesn't mean the pressure is off. The retailer will allow pharmacists who object to the pills for personal reasons to refuse to dispense them, recommending another pharmacy instead if no other Wal-Mart pharmacist on the premises is willing to fill the prescription. With Wal-Mart occasionally the only pharmacy in town, especially in rural areas, some argue that refusing to dispense Plan B could present a real hardship for women. Groups are already starting to send petitions to the company, asking them to rescind the policy.

This will be a tougher fight, as Wal-Mart has more company in this arena. Rite Aid Corp., Target Corp., Walgreen Co. and Winn-Dixie Stores Inc. also allow pharmacists to refuse to dispense the pills, except in the states where it is illegal to do so. Pressure is coming from the other side, too: Sixteen states are considering legislation that would allow pharmacies to refuse to fill prescriptions for any sort of birth control -- Plan B or just everyday birth control.

Abortion Nation (WSJ)

By James Q. Wilson

The Wall Street Journal, March 18, 2006

When South Dakota passed a law banning all abortions save those that threaten the physical health of the mother, opponents of abortion were cheered and defenders of it outraged. I think both sides were mistaken.

Roe v. Wade, decided in 1973, did not create abortion, it created a right to an abortion. The decision had few merits on constitutional grounds and it was a disaster on political ones. For nearly a quarter of a century American politics has been convulsed by a polarizing debate. No one can become the Democratic presidential candidate without favoring abortion and (so far) no one can become the Republican candidate without opposing it. This has driven the candidates and parties far apart even though most Americans occupy a middle ground on the issue.

Abortion has become the key test for selecting people for high-level judicial offices. When Sen. Charles Schumer says he favors using "ideology" as a test for judges, the ideology he has in mind is abortion. When other senators oppose a "litmus test" for judges, the test to which they refer is about abortion. We closely watch Supreme Court decisions to see if they will oppose even the slightest restriction on this "right."

By contrast, abortion is scarcely an issue in most European democracies, not because the people who live there have views radically different from American ones, but because legislatures, not courts, authorized abortions using language that tried to strike a reasonable balance among competing views.

When other countries authorized abortions, they did not authorize a right to one. Their laws were designed to give varying degrees of respect to unborn life. (Only in China is there a law as permissive as that conferred by Roe v. Wade.) When Prof. Mary Ann Glendon surveyed abortion laws here and abroad in the late 1980s, she found that in France, Germany, Italy, the Netherlands, Switzerland and the U.K. there existed pre-abortion waiting periods, mandatory counseling, time limits of when during a pregnancy an abortion could occur, and a requirement that several physicians agree on the need for an abortion.

Suppose, in response to a lawsuit brought against the South Dakota law, Roe were overturned. Abortion would not disappear. Women would not visit quack doctors or travel to Sweden. Abortion would be legalized in many states (it was legal in five before Roe was decided), but having been made legal by state legislatures, the laws would, as in Europe, accommodate the diverse views of proponents and opponents. Ardent defenders of abortion would realize that, in exchange for a small bus fare, a woman in South Dakota could go to a nearby state where abortions were easy to obtain. Ardent opponents would know that if they wished to live in an abortion-free state, they could move to one.

In making these decisions, the states would be exercising their police powers; that is, their right to pass laws that protect the lives, health and morality of their citizens. The federal government has no such police power; it can only act in ways that can be plausibly derived from the Constitution. The Framers would have never imagined that the national government would pass laws about abortion -- or marriage, or parenting, or private sexual acts.

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There are, of course, checks on the states' police powers. They cannot be used in ways that plainly deprive people of rights guaranteed by state or federal constitutions. A state regulation must be reasonably related to the provision of a public good. But within those limits, states can and do regulate sex, marriage, divorce, parenting and communicable diseases.

The states should also decide about gay marriage. Some conservatives are urging Congress to propose a constitutional amendment banning this, but this would be a mistake. People should vote on this matter and about the conditions of life they wish to experience where they live. Though I oppose gay marriage, voters in some states may approve it. If they do, we will have a chance to learn what it means in practice, with the costs and benefits falling on people who have accepted it.

Moreover, a state-by-state vote on the matter provides an opportunity for gay advocates of this policy to make their case. A constitutional amendment would deny them that opportunity, leaving them perpetually angry. Since feelings run high on this matter, it would be a mistake to let it be decided as the right to abortion was decided. If there were the gay marriage equivalent of Roe v. Wade or a constitutional ban on it, we would infect the nation with the divisive anger that followed Roe and our earlier attempt at alcohol prohibition.

If there is to be a constitutional amendment, it would be better if it said this: "Nothing in this Constitution shall authorize a federal judge to decide that a marriage can be other than between one man and one woman." If I could think of language to bar judges from making other social policy decisions, I would add it, but the words fail me.

The rising demand that every personal preference become a constitutional right is a worrisome disease. People, of course do have rights; the Constitution and the first 10 amendments spell most of them out. That document defines the essential requirements of life and liberty. Adding new invented rights by either a ratified amendment or judicial overreaching is a mistake.

Mr. Wilson has taught at Harvard, UCLA and Pepperdine, and is the author, among other books, of "The Moral Sense" (Free Press, 1997).

FDA To Review Ban On Gay Men Donating Blood (WP)

By Rob Stein

The Washington Post, March 18, 2006

The Food and Drug Administration is considering revising its policy that bars as a blood donor any man who has had sex with another man since 1977, officials said yesterday.

The change in policy is being recommended by the American Red Cross, the American Association of Blood Banks and America's Blood Centers, which collect virtually all the blood used for transfusions nationwide.

The three groups requested the change at a March 8 workshop the FDA convened to review the latest scientific information about the safety of the blood supply, arguing that current tests and screening methods have improved enough to protect transfusion recipients without the lifetime ban.

Instead, the group recommended that men be barred from donating for only a year after having had sex with another man, treating them the same as other groups at increased risk for spreading sexually transmitted virus through donated blood.

"We strongly support the use of rational, scientifically based deferral policies, and we want them to be applied fairly and consistently," said Ryland Dodge, a Red Cross spokesman.

The FDA implemented the lifetime ban in the mid-1980s when concerns about the spread of the human immunodeficiency virus, which causes AIDS, were running high and many questions remained about the ease with which people could spread the virus and the reliability of screening methods. Since then, the accuracy of testing has improved substantially, as have questionnaires that all donors answer to identify those posing the greatest risk, Dodge said.

"All these things come together to make us much more confident that our layers of safety have improved to the point where they should review the policy," Dodge said.

FDA spokesman Stephen King said the agency would convene a meeting of its Blood Products Advisory Committee to formally reconsider revising the policy, probably later this year.

Agency officials are "definitely interested in hearing all the science, and if there's hard evidence in place that changing the policy would not endanger the blood supply they're definitely open to it," King said.

The current policy has drawn strong criticism from gay rights groups.

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"The blood deferral policy that exists is not based on science. It's based on inertia and in many cases stereotypes," said Jon Givner of the Lambda Legal Defense and Education Fund. "The FDA should revisit the issue and adopt a deferral policy that is based on actual risk rather than sexual orientation."

ANTITRUST:

Maytag, Whirlpool Deal At Risk (AP)

By David Pitt

AP, March 18, 2006

DES MOINES, IOWA - Shares of Maytag Corp. (the parent of North Canton's Hoover Co.) and Whirlpool Corp. fell Friday on speculation that the federal government may challenge their proposed merger.

Whirlpool, based in Benton Harbor, Mich., has proposed a $1.79 billion acquisition of Maytag.

The U.S. Department of Justice antitrust division sought an extension to review the merger last month. The companies have agreed not to close the transaction before March 30.

A leading antitrust lawyer said a decision is likely to come next week.

The heightened speculation drove stock prices for both companies lower Friday. Maytag shares dropped $1.23, or 6.9 percent, to close at $16.71 on the New York Stock Exchange. Whirlpool shares fell $1.29, or 1.5 percent, to $86.25.

Steven C. Sunshine, a supervisor of the antitrust division's merger enforcement program from 1993 to 1995, said antitrust attorneys have expected the government to challenge the deal because it concentrates so much power in one company.

``I think this is a merger that on true antitrust principles raises real concerns," said Sunshine, now head of the antitrust practice at the New York law firm of Cadwalader, Wickersham & Taft.

The merger would create a company that produces half of the dishwashers in the United States and more than 70 percent of its clothes washers and dryers. Under long-standing federal guidelines, a rise in market concentration of that magnitude would usually draw a court challenge.

Antitrust attorneys have sought sworn statements from business rivals and customers as they review the deal, which was approved by Maytag's shareholders in December, the Wall Street Journal reported Feb 13.

Gina Talamona, spokeswoman for the Justice Department, declined to comment Friday, confirming only that the merger is still under review.

The Competition Bureau of Canada, an independent law enforcement agency, concluded on Tuesday that it had no grounds to challenge the merger under Canada's Competition Act.

Sunshine said it appears the U.S. Department of Justice antitrust staff has made a recommendation to challenge the merger to Tom Barnett, who heads the division. Barnett will make the final decision about whether the government challenges the merger in court.

If it does, the companies have the option of fighting a lengthy court battle, abandoning the deal or agreeing to sell off parts of the business to allay government concerns.

If Whirlpool chooses to walk away, it must pay Maytag $120 million.

Prudential Equity Group analyst Nicholas Heymann said he believes the Justice Department will oppose the merger ``based on the potential for anticompetitive pricing by the merged entity."

In a March 17 research note to investors, he speculated that the merger makes economic sense for Whirlpool only if the company increases the price of some washers and dryers to help boost profits.

A Whirlpool spokesman didn't immediately return calls for comment. CEO Jeff M. Fettig said Tuesday that the merger ``will result in better products, quality and service, as well as cost efficiencies, which will enhance our ability to succeed in the competitive global home-appliance industry."

A Maytag spokesman declined to comment. Maytag is based in Newton, Iowa.

Whirlpool's Maytag Purchase May Be Opposed By U.S. (Update7) (BLOOM)

DOJ_NMG_0019319

Bloomberg, March 18, 2006

March 17 (Bloomberg) -- U.S. Justice Department lawyers are gathering evidence for a possible court challenge to Whirlpool Corp.'s proposed $1.68 billion purchase of home appliance rival Maytag Corp., people familiar with the case say.

Antitrust enforcers are worried the Whirlpool deal would let the combined company raise prices through control of more than two-thirds of the U.S. market for some appliances, said antitrust lawyers who spoke on condition of anonymity because they aren't authorized to talk about the case. They said the government has questioned such retailers as Lowe's Cos. and Home Depot Inc. and Whirlpool's manufacturing rivals.

The decision on whether to pursue the agency's first court challenge to a takeover in two years will be up to the Bush administration's new antitrust chief, Thomas O. Barnett, 44. It will be the first test of his approach to mergers since he won Senate confirmation Feb. 10 as assistant attorney general.

``If they don't challenge this merger, Ford and General Motors is next," said Steven M. Axinn, a New York antitrust lawyer not involved in the transaction. ``Unless someone can argue that Maytag is going out of business, I don't understand how the government can let this deal happen."

Maytag shares fell $1.03, or 5.7 percent, to $16.91 as of 1:06 p.m. in New York Stock Exchange composite trading. Whirlpool shares declined 90 cents, or 1 percent, to $86.64.

Maytag Shares

Maytag shares are up about 16 percent and Whirlpool has risen about 26 percent since June when Ripplewood Holdings and Chinese refrigerator maker Haier Group Corp. entered the bidding for Maytag. Haier withdrew from the competition in July.

The difference between Whirlpool's $21 offer for each Maytag share and the current share price widened to almost 25 percent today.

``That suggests that Wall Street does not have confidence this transaction will happen," Axinn said. ``This is not a situation for the faint of heart."

The combination of Whirlpool, which makes stoves, ranges and washing machines, and Maytag, manufacturer of Amana refrigerators and Maytag washers and dryers, would create the world's largest appliance maker. The takeover would give Whirlpool more than 70 percent of the U.S. market for washing machines and dryers and almost half the dishwasher market.

Under Review

``We are still looking at the proposed transaction," said Justice Department spokesman Gina Talamona.

``We are not commenting," said Whirlpool spokesman Christopher Wyse. Maytag spokesman John Daggett declined to comment.

Maytag, which reported a fourth-quarter loss of $75 million, or 93 cents a share, said last month it may sell its Jade commercial business and its Hoover vacuum cleaner unit. In the year-earlier period, the loss was $14.1 million, or 18 cents a share.

Maytag's operating margin, the amount it makes after deducting costs, turned negative last quarter. It reported losing 1.6 cents for every dollar of sales. In 2000, the company made about 14 cents of profit on each dollar of sales. Whirlpool's operating margin was 6.3 percent last quarter, according to Bloomberg data.

Whirlpool and Maytag say their deal would promote competition by cutting costs from closing Maytag factories and consolidating production. They cite increased sales by foreign appliance makers such as Sweden's Electrolux AB, LG Corp. of South Korea and Haier.

Questioned Under Oath

The Justice Department's staff has questioned executives of the companies under oath, a sign the agency is preparing for a possible court challenge, the people familiar with the case said.

Last month, Whirlpool, based in Benton Harbor, Michigan, and Newton, Iowa-based Maytag, agreed to give the department until March 30 to complete its investigation. The company could extend that deadline if the government wants more time.

Before Barnett makes a decision, company officials will get a chance to meet with him and others at the Antitrust Division to argue for the transaction.

Atlanta-based Home Depot, the world's largest home improvement retailer, has told the government the deal would hurt its business, people said. Home Depot, which now sells Maytag products, fears that the combined company would deny it access to the most popular brands and could lead to higher prices for less popular brands made by other companies, one person said.

``We don't comment on vendor transactions," said Home Depot spokesman Jerry Shields.

Losing Battles

The government lost its last two court battles to stop mergers. In 2004, a U.S. judge in San Francisco rejected the Justice Department's request to block software maker Oracle Corp.'s $7.7 billion acquisition of PeopleSoft Inc. The Federal Trade Commission also lost an effort later that year to block Arch Coal Inc.'s $364 million acquisition of Triton Coal Co. in Wyoming's Powder River Basin.

Those defeats have made the government cautious about challenging mergers, according to observers and antitrust experts.

``Justice has been very gun shy about going into court" since the Oracle defeat, said Herb Hovenkamp, who teaches antitrust at the University of Iowa's College of Law in Iowa City.

He predicted ``the tide will turn a little" and the government may be more aggressive in the Whirlpool case because recent Supreme Court decisions show deference to the government on antitrust issues.

Congressional Concerns

Barnett's decision on the Whirlpool case is being watched closely. He became acting head of the antitrust division in June when his former boss, R. Hewitt Pate, left government for private law practice.

Late last year, Republican senators Jon Kyl of Arizona and Sam Brownback of Kansas held up a Senate vote on Barnett's nomination for three months, complaining about his role in pressing for a breakup of the Oracle-PeopleSoft deal.

On Dec. 16, the Wall Street Journal's editorial page praised Kyl and Brownback for ``raising a red flag" about Barnett, and on March 13 the newspaper urged the Justice Department to clear Whirlpool's bid for Maytag. The ``main beneficiary of an antitrust injunction would be foreign companies," the editorial said.

``Mr. Barnett assured Congress during his confirmation hearings that he appreciates the global scope of modern markets," the newspaper said. The Whirlpool case ``will be the first test of his sincerity."

Higher Prices

With just three large U.S. appliance makers, Whirlpool, Maytag and General Electric Co., the Justice Department is trying to determine whether the Whirlpool-Maytag combination would result in higher prices for washers, dryers and dishwashers. Foreign makers such as Electrolux, LG and Haier sell expensive appliances in the U.S., accounting for less than 10 percent of the U.S. market.

Consumers purchasing washing machines priced from $200 to $600 have fewer choices because it is too expensive for foreign makers to ship their cheaper brands to the U.S.

After Whirlpool announced its Maytag offer in July, the company's antitrust lawyer, James F. Rill, argued that increased sales by foreign manufacturers plus the buying power of discount appliance stores such as Home Depot, Lowe's, Best Buy Co. and Sears Holding Corp. would keep the market competitive.

``Synergies and efficiencies" from the combination would also mean cheaper products, Rill said. He also said the government shouldn't consider Whirlpool's production of Sears Kenmore appliances part of its market share.

``Sears owns the Kenmore label. Sears sets the pricing for the Kenmore product," Rill said in a July 18, 2005, interview. Antitrust enforcers have rejected that argument, people familiar with the case said.

4 Companies Under Federal Investigation (BEAUENT)

By Dan Wallach, The Enterprise

Beaumont (TX) Enterprise, March 18, 2006

Four U.S. chemical companies, including two with a major Southeast Texas presence, received subpoenas from the U.S. Department of Justice as part of an investigation into possible anti-competitive pricing in certain materials that are used in a variety of consumer goods.

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The companies include Huntsman Corp., BASF Corp., Dow Chemical Co., and Lyondell Chemical Co.

The justice department delivered the subpoenas for documents to the companies in mid-February, said publicists for three of the companies contacted Friday by The Enterprise.

A spokeswoman for the justice department acknowledged the investigation but offered little detail.

"The anti-trust division is investigating the possibility of anti-competitive practices in the polyurethanes industry," said justice department spokeswoman Gina Talamona.

Polyurethanes are made from chemical bases that eventually are used in the production of consumer goods. The material is used in shoe soles, furniture padding, automotive components such as steering wheels and dashboards, particle board used in home construction and as insulation in residential and commercial refrigerators.

Huntsman Corp. spokesman Don Olsen said the subpoena sought documents related to sales and pricing.

"We are cooperating fully," Olsen said. "We don't know the basis of the investigation nor do we know why."

Huntsman does not make any of the material in Jefferson County, Olsen said. The company's largest manufacturing unit for polyurethanes is in Geismar, La.

BASF also does not make the material in Jefferson County, and most of its production also is in Geismar, said Jack Maurer, a BASF spokesman.

"Yes, we were subpoenaed but we're not aware of any violation on the part of BASF," he said.

Susan Moore, a spokeswoman for Houston-based Lyondell, also confirmed the company received a subpoena.

"We believe we haven't violated any antitrust laws," she said.

In 2004, Lyondell acquired the PD Glycol plant in Beaumont, which makes products such as antifreeze, unrelated to the justice department's probe.

A call to Dow Chemical at its headquarters in Midland, Mich., was not returned Friday.

Airlines Can Legally Meet (FWST)

By Bob Cox

The Fort Worth Star-Telegram, March 18, 2006

Officials from American Airlines and Southwest Airlines could negotiate a proposal to resolve the Wright Amendment controversy without running afoul of federal antitrust laws, legal experts said Friday.

Legal precedent allows competing businesses "to petition government" and propose legislation or regulation if they are not conspiring to fix prices or divide up market share, experts said. American says it is reluctant to enter talks with Southwest on Wright for fear of an antitrust inquiry or Justice Department lawsuit.

If American and Southwest "work out a compromise and ask Congress to enact a statute, then they're protected," said George Cohen, a professor at the University of Virginia's law school.

What the legal community calls the Noerr-Pennington doctrine, named for two precedent-setting Supreme Court cases, allows competing companies to work together to influence the legislative or executive branch of government without violating the Sherman Antitrust Act.

"No violation of the Sherman Act can be predicated upon mere attempts to influence the passage or enforcement of laws, and the Sherman Act, therefore, does not prohibit two or more persons from associating together in an attempt to persuade the legislature or the executive to take particular action with respect to a law that would produce a restraint or monopoly," the court ruled in the 1961 Noerr case.

In the cases, the court ruled that the constitutional guarantee of individuals' and corporations' right to petition government supersedes antitrust laws, designed to preserve competition among businesses.

American and Southwest could offer a compromise to resolve the Wright controversy "no matter how stupid or anticompetitive it might be," said Bruce Foer, president of the American Antitrust Institute, a Washington, D.C.-based legal group that works to preserve and enhance business competition.

Cohen and Foer cited the example of tobacco companies working together to propose legislation that allowed the industry to resolve lawsuits brought by states and individuals.

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Still, any law or regulation enacted through the airlines' efforts could still be subject to legal challenges.

Proposing a political compromise would be one thing. But if the two airlines tried to divide up routes between them, Foer said, the legal ramifications "might get dicey."

That Other Madness This Month: Mergers (NYT)

By Mark A. Stein

The New York Times, March 18, 2006

MARCH madness is not limited to college basketball. Billions of dollars in mergers were announced this week, building on the momentum created when AT&T offered to acquire BellSouth for $67 billion earlier in the month.

The trend even swept up entire stock exchanges, as the Nasdaq Stock Market offered to buy the London Stock Exchange (just as the New York Stock Exchange was weighing a bid of its own), and Euronext, the owner of the Paris, Amsterdam, Brussels and Lisbon stock markets, said it was interested in buying Deutsche Börse, the German exchange.

BUT FIRST, A CORRECTION Just as investors may have been recovering from General Motors' $8.6 billion loss last year, the company stepped up to say the loss was actually $10.6 billion. It said the added losses more accurately reflected the costs of scaling back its North American operations and of helping its former parts subsidiary, Delphi, restructure while in bankruptcy protection.

G.M. said it would also restate five years of results and delay filing its annual report with the Securities and Exchange Commission while it looks into accounting irregularities at its residential mortgage unit.

CHARGE! Eager to further diversify its business amid rising interest rates and slowing growth for credit card issuers, Capital One Financial, the big credit card company, agreed to buy the North Fork Bancorporation, a regional bank serving the Northeast, for about $14.6 billion in cash and stock.

After its acquisition last fall of the Hibernia National Bank in New Orleans, Capital One would have deposits of more than $84 billion when its North Fork acquisition is completed. It would have more than 50 million customer accounts and 655 branches from White Plains to Brownsville, Tex.

Credit card companies are looking for new ways of financing the debt accumulated by their customers. In the past, card issuers repackaged the debt into bonds. Teaming up with banks also lets them use relatively inexpensive bank deposits to finance card debt.

HEADLINE NEWS The McClatchy Company, a California newspaper publisher, won a one-bid auction for Knight Ridder, offering $4.5 billion in cash and stock for its 32 newspapers, including The Miami Herald, The Star-Telegram of Fort Worth and The Charlotte Observer in North Carolina.

To help finance the deal and head off some antitrust concerns, McClatchy, which is based in Sacramento, immediately put 12 of the papers back up for sale. Among those it plans to sell are The Mercury News in San Jose, Calif., Knight Ridder's hometown; The Akron Beacon Journal in Ohio, which was the first in the chain; and both papers in Philadelphia, The Inquirer and The Daily News.

Gary Pruitt, the chief executive of McClatchy, which already owned The Star Tribune in Minneapolis, The Sacramento Bee and The News & Observer in Raleigh, N.C., said he hoped he could complete both the acquisition and the sale this summer.

DRUG DEAL Even some Europeans got carried away by merger furor: Merck of Germany made a hostile $17.7 billion bid for Schering of Germany, the largest maker of oral contraceptives. The businesses are unaffiliated with similarly named American companies: Merck & Company and Schering-Plough.

A combination of Merck and Schering would create the second-largest drug maker in Germany after Bayer, with annual sales of $13 billion. Midsize pharmaceutical companies are under pressure to buy one another as generics makers eat away at their profit margins and the cost of discovering and developing new drugs rises.

Schering's board rejected the Merck offer, but it may be persuaded by a higher price from a bigger company, including Novartis of Switzerland or GlaxoSmithKline of Britain.

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TAX FIRM SUED The New York attorney general, Eliot Spitzer, sued H&R Block, the nation's largest tax-preparation service, accusing it of selling retirement-savings plans without disclosing that investors would probably earn less from the plans than they would pay in fees.

Last month, the California attorney general, Bill Lockyer, accused Block of illegally promoting high-cost loans as "instant" tax refunds. The company agreed last year to pay $62.5 million to settle four class-action lawsuits over those refund-anticipation loans.

Perhaps even more embarrassing for the company, Block has said it will need to restate profits for two years because it understated its 2004 state tax liabilities by millions of dollars.

Despite these issues, federal banking regulators have approved H&R Block's plan to start its own savings bank later this year.

DELAY OF GAME In an embarrassing development, Sony pushed back the introduction of its PlayStation 3 video game console to November — months after it originally planned to start selling the consoles and almost a full year after its chief rival, Microsoft, was able to put its latest hardware into stores.

Sony is counting on PlayStation 3 to showcase two new technologies: the Blu-ray high-definition DVD format and the Cell processing chip. Sony had hoped the new PlayStation would help spread the use of the Blu-ray format, which is in a separate battle with a Toshiba technology to become the global standard for next-generation DVD's.

Analysts said Sony would probably try to sell PlayStation 3 for about $500. While that is $100 more than the Microsoft Xbox 360, they said it was probably much less than the actual building cost.

MOST VIEWED Following are the most-viewed business news articles on nytimes.com from March 11 through March 17:

1. A Cancer Drug's Big Price Rise Is Cause for Concern
2. Many Utilities Collect for Taxes They Never Pay
3. As Internet TV Aims at Niche Audiences, the Slivercast Is Born
4. TV Stations Fined Over CBS Show Deemed to Be Indecent
5. Surgical Device Poses a Rare but Serious Peril

ENVIRONMENT:

Judges Overturn Bush Bid To Ease Pollution Rules (NYT)

By Michael Janofsky

The New York Times, March 18, 2006

WASHINGTON, March 17 — A federal appeals court on Friday overturned a clean-air regulation issued by the Bush administration that would have let many power plants, refineries and factories avoid installing costly new pollution controls to help offset any increased emissions caused by repairs and replacements of equipment.

Ruling in favor of a coalition of states and environmental advocacy groups, the United States Court of Appeals for the District of Columbia Circuit said the "plain language" of the law required a stricter approach. The court has primary jurisdiction in challenges to federal regulations.

The ruling by a three-judge panel was the court's second decision in less than a year in a pair of closely related cases involving the administration's interpretations of a complex section of the Clean Air Act. Unlike its ruling last summer, when the court largely upheld the E.P.A.'s approach against challenges from industry, state governments and environmental groups, the new ruling was a defeat for the agency and for industry, and a victory for the states and their environmentalist allies.

In the earlier case, a panel including two of the three judges who ruled on Friday decided that the agency had acted reasonably in 2002, when it issued a rule changing how pollution would be measured, effectively loosening the strictures on companies making changes to their equipment and operations.

But on Friday, the court said the agency went too far in 2003 when it issued a separate new rule that opponents said would exempt most equipment changes from environmental reviews — even changes that would result in higher emissions.

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With a wry footnote to Lewis Carroll's "Through the Looking Glass," the court said that "only in a Humpty-Dumpty world" could the law be read otherwise.

"We decline such a world view," said their unanimous decision, written by Judge Judith W. Rogers, an appointee of President Bill Clinton. Judges David Tatel, another Clinton appointee, and Janice Rogers Brown, a recent Bush appointee, joined her.

The winners this time —more than a dozen states, including New York and California and a large group of environmental organizations — hailed the decision as one of their most important gains in years of litigation, regulation and legal challenges under the Clean Air Act.

The provision of the law at issue, the "new source review" section, governs the permits required at more than 1,300 coal-fueled power plants around the country and 17,000 factories, refineries and chemical plants that spew millions of tons of pollution into the air each year.

"This is an enormous victory over the concerted efforts by the Bush administration to dismantle the Clean Air Act," Eliot Spitzer, the New York attorney general, whose office led the opposition from the states, said in an interview.

Mr. Spitzer, who is running for governor, said the ruling "shows that the administration's effort to misinterpret and undermine the statute is illegal."

Howard Fox, a lawyer for Earth Justice, which represented six environmental and health groups in the case, called the ruling "a victory for public health," adding, "It makes no sense to allow huge multimillion-dollar projects that drastically increase air pollution without installing up-to-date pollution controls."

The E.P.A. issued only a brief statement, saying: "We are disappointed that the court did not find in favor of the United States. We are reviewing and analyzing the opinion."

The decision is unlikely to be the last word; several circuit courts or appeals courts have considered or decided related cases, and the issue may eventually reach the Supreme Court. Some in Congress say the uncertainty demands an overhaul of the Clean Air Act itself, but there has been no real movement in that direction in recent years.

The new ruling addressed the administration's effort in 2003 to offer relief to energy companies that faced costly settlements of litigation brought by President Clinton's E.P.A. The agency proposed exemptions for companies whenever upgrades to their equipment amounted to less than 20 percent of the replacement cost of the equipment. In effect, that made perennial repairs of old equipment a more attractive alternative in many cases than its outright replacement.

Energy companies said the two rules the administration proposed in 2002 and 2003 would help them expand energy supplies at lower cost to consumers. But environmentalists said the change would result in just the kind of increased pollution that the law was intended to control.

The Clean Air Act calls for companies to build plants with up-to-date control technologies, and the new source provision was a way to ensure that as time goes by, pollution controls must be modernized along with the plants themselves.

Industry groups, which had challenged the first E.P.A. rule last year as not being flexible enough, were aligned with the agency this time. In general, they have been close partners with the Bush administration in environmental matters, pushing for greater economic considerations in the creation of any new policy.

The 20 percent threshold in the overturned rule would have enabled plant operators to make many repairs and upgrades without spending additional tens of millions of dollars for more advanced pollution controls. In settlements under the old rules, some companies faced costs of more than $100 million.

"This is a terrible decision," said Scott Segal, director of the Electric Reliability Coordinating Council, a trade organization, arguing that the "any physical change" definition created financial instability for plant operators who spent as much as $800 million for a new boiler.

He and other industry leaders expressed hope that the court ruling might induce Congress to pass new legislation that would include New Source Review, a step that he said would make it easier for plant operators to plan for their future upgrades and investments.

John Engler, president of the National Association of Manufacturers, called the ruling "a significant setback to business efficiency" and environmental quality.

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The government has 45 days to decide whether to seek a review of the ruling by the entire appeals court.

Court Rejects EPA's Loosening Of Air Rule (LAT)

By James Gerstenzang, Times Staff Writer

The Los Angeles Times, March 18, 2006

WASHINGTON — Dealing a sharp setback to the Bush administration, a federal appeals court Friday threw out a controversial regulation in the federal government's clean-air program that would have allowed older factories, refineries and power plants to install new equipment without using the most modern anti-pollution devices.

The U.S. Circuit Court of Appeals for the District of Columbia, which decides some of the most far-reaching cases dealing with federal regulations, said the Environmental Protection Agency had relied on "Humpty Dumpty" reasoning in arriving at a rule that critics said would have eased enforcement of a law intended to reduce industrial air pollution.

If the regulation were allowed to take effect, the court said, "a law intended to limit increases in air pollution would allow sources operating below applicable emission limits to increase significantly the pollution they emit without government review."

California and 13 other states had challenged the EPA ruling.

The Clean Air Act requires major industrial sites that modernize their equipment to install the most modern pollution-reducing devices. But in August 2003, the Bush administration altered enforcement of the regulation to allow companies to avoid installing the most expensive new emissions-cutting equipment if the price of the modernization was less than 20% of what it would cost to replace a major component of the plant. In California, whose air pollution rules are among the strictest in the nation, it takes less pollution to count as a major emitter than elsewhere. Many smaller facilities, among them some auto body paint shops, bakeries and small-parts manufacturers, fall into that category and come under the regulation.

Manufacturers, power plant operators and others had worked for years to win the revision in a section of the law known as "new source review." Almost as soon as it was announced, it faced legal challenges. Since then, court actions have chipped away at the administration's relaxation of the landmark 1970 law that has cleaned up some of the nation's worst air pollution. In December 2003, the appeals court here stayed enforcement of the administration's revision.

Last June, the court delivered a divided verdict on the measure. It upheld the rule change itself, but it decided that the EPA had erred in declaring that power plants and other large polluters did not have to keep records of their emissions. It concluded that without the documentation, regulators would not know whether the facilities were breaking clean-air laws.

The case decided Friday, which can be appealed to the Supreme Court, reaches further. Representatives of industry and environmental groups disagreed sharply over the impact.

The National Assn. of Manufacturers said the court was applying unnecessary limits on an EPA effort to ease what proponents of the change consider a burdensome aspect of the clean-air law. John Engler, the association's president, said the clean-air law could "trigger an endless review process for power plants and other stationary sources of air emissions that merely want to repair or upgrade existing facilities."

New York Atty. Gen. Eliot Spitzer, whose office played a leading role in opposing the administration's rule, called the decision "an enormous victory for clean air and for the enforcement of the law, and an overwhelming rejection of the Bush administration's efforts to gut the law."

Spitzer's top environmental lawyer, Peter Lehner, said 800 power plants and up to 17,000 factories nationwide would be affected.

"This is a victory for public health," said Howard Fox, an attorney at Earthjustice, which represented six groups in the case. "It makes no sense to allow huge multimillion-dollar projects that drastically increase air pollution without installing up-to-date pollution controls or even notifying nearby residents."

The case was decided unanimously by a panel made up of two judges appointed by President Clinton — Judith W. Rogers and David S. Tatel — and Judge Janice Rogers Brown, a former California Supreme Court justice, whose nomination to the appeals court by Bush encountered a filibuster by Democrats.

The new-source-review regulation was intended to bring aging facilities, which are responsible for a disproportionate share of the nation's air pollution, up to current standards when their operators modernized for efficiency and profitability. The

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administration said relaxing the rule would encourage plants to increase their efficiency and provide more affordable energy. Critics said it would make it easier for plants to increase emissions, causing more asthma and premature deaths, and choking cities and national parks with smog.

That argument continued Friday: Scott Segal, director of the Electric Reliability Coordinating Council, said the ruling would "delay efficiency improvements … at the heart of effective emissions control."

Sen. Barbara Boxer (D-Calif.) said the rule was written "to allow polluters to get away with not installing modern pollution controls on upgraded plants," and was "nothing more than a free ride for polluters."

The Associated Press contributed to this report.

Looser Emission Rules Rejected (WP)

By Juliet Eilperin

The Washington Post, March 18, 2006

Court Says Changes By EPA Violated Clean Air Act

A federal appeals court blocked the Bush administration's four-year effort to loosen emission rules for aging coal-fired power plants, unanimously ruling yesterday that the changes violated the Clean Air Act and that only Congress could authorize such revisions.

A three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit sided with officials from 14 states, including New York, California and Maryland, who contended that the rule changes -- allowing older power plants, refineries and factories to upgrade their facilities without having to install the most advanced pollution controls -- were illegal and could increase the amount of health-threatening pollution in the atmosphere.

The Environmental Protection Agency's New Source Review policy was formally issued in 2003 but has never taken effect because of legal challenges by state officials and environmental groups. The administration has long argued that the existing standards are too stringent and have discouraged utility plants and other industries from upgrading and expanding their facilities. But opponents have characterized the rule changes as a favor to administration allies in the utility and coal-producing industries that would greatly add to public health problems.

New York Attorney General Eliot L. Spitzer, who led the court fight to block the administration's New Source Review policy, called yesterday's ruling "a major victory for clean air and public health" and a "rejection of a flawed policy."

"It will encourage industry to build new and cleaner facilities, instead of prolonging the life of old, dirty plants," Spitzer said.

In a statement, EPA spokesman John Millet said: "We are disappointed that the Court did not find in favor of the United States. We are reviewing and analyzing the opinion and cannot comment further at this time."

Some studies have linked pollution from coal-fired power plants to as many as 20,000 premature deaths in the United States every year. Environmental activists have made curbing this type of pollution one of their most pressing legislative and legal priorities, and yesterday they celebrated the ruling.

"Irish eyes are surely smiling -- and we all will be breathing easier -- with this green court ruling on St. Patrick's Day," said John Walke, director of the clean-air program at the Natural Resources Defense Council. "This is about as thorough a rebuke a court can give."

President Bush took office in 2001 promising to ease regulations on coal-fired power plants as part of a larger energy production initiative. Three successive administrators of the EPA have tried without success to alter the rules and policies adopted during the Clinton administration that cracked down on aging power plants and refineries that were not equipped with modern air pollution equipment when they were upgraded and when their output was expanded.

Under the revised policy that was rejected by the court yesterday, power plants and other industrial polluters would not have to install new pollution technology if they modernized less than 20 percent of their operations.

The central question in the case focused on what constitutes an industrial facility "modification," because that is what triggers the federal requirement to cut down on the smog or soot emitted by utilities, oil refineries, incinerators, chemical plants and manufacturing operations. Previous administrations, including Bill Clinton's, had interpreted that phrase to encompass any physical activity that increases pollution from a given facility, with the exception of routine maintenance.

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EPA officials in the Bush administration sought to broaden this exemption by asserting that "routine maintenance" is any activity that amounts to less than 20 percent of a plant's value. But the ruling, written by Judge Judith W. Rogers, rejected that reasoning as illogical.

"EPA's approach would ostensibly require that the definition of 'modification' include a phrase such as 'regardless of size, cost, frequency, effect,' or other distinguishing characteristic," Rogers wrote. "Only in a Humpty Dumpty world would Congress be required to use superfluous words while an agency could ignore an expansive word that Congress did use. We decline to adopt such a world-view."

The other two judges on the panel were David S. Tatel and Janice Rogers Brown.

The EPA's statement did not indicate whether the administration intends to appeal the ruling. Both Walke and Scott Segal, a lobbyist for the utilities industry, said it would be difficult for the administration to forge ahead in light of the appeals court's strong ruling. Walke said the decision is tantamount to the court "burying the rule six feet under, where before it was just in a casket."

Segal said the ruling will make it more costly for plants to operate. "This is a missed opportunity for reform that would have made it easier to improve power plant efficiency and workplace safety, and that's bad news for consumers and the environment," he said. "We believe it is a step backwards for the protection of air quality in the United States."

Court Overturns Bush Clean Air Act Exemption In Loss For Power Industry (WSJ)

By Matthew Dalton

The Wall Street Journal, March 18, 2006

A U.S. appeals court handed environmentalists a victory Friday, overturning a Bush-administration rule that gave power plants and petroleum refineries more leeway to expand facilities without triggering requirements to install expensive pollution-control equipment.

The rule attempted to set a standard for what counts as "routine maintenance" under the New Source Review, or NSR, provisions of the Clean Air Act. Construction projects deemed to be routine maintenance are exempt from pollution-control requirements, and compliance with those requirements can cost hundreds of millions of dollars.

Construction projects valued at less than 20% of a facility's total value were exempt from the Environmental Protection Agency's rule, issued in 2003. But state officials and environmental groups said that exemption was too large and a violation of federal law.

On Friday, the U.S. Court of Appeals for the District of Columbia agreed, deciding that the EPA rule "is contrary to the plain language of" the Clean Air Act. In the opinion for the three-judge panel, Judge Judith W. Rogers wrote that, "Although EPA might prefer market-based methods of controlling pollution, Congress has chosen a different course" with the NSR requirements.

State officials hailed the appeals-court ruling. New York Attorney General Eliot Spitzer, who led the states' action, called the ruling "an enormous victory for clean air and for the enforcement of the law and an overwhelming rejection of the Bush administration's efforts to gut the law." He said the ruling will encourage industry to build new and cleaner facilities "instead of prolonging the life of old dirty plants." Mr. Spitzer's office estimates that the decision covers about 800 power plants and as many as 17,000 industrial sites nationwide.

The ruling Friday overturns a regulatory change, made by the Bush administration, that was designed to clarify the EPA's requirements for construction projects at power plants and refineries. The Clinton administration had begun suing owners of older, coal-fired plants and oil refineries, alleging that they were secretly overhauling them under the guise of "routine maintenance" and that they were essentially new plants subject to tighter air-emission restrictions.

John Millett, a spokesman for EPA, said: "We are disappointed that the court did not find in favor of the United States. We are reviewing and analyzing the opinion and cannot comment further at this time."

Scott Segal, a lawyer representing a group of coal-fired utilities, called the ruling "a step backward for the protection of air quality in the United States." He noted, however, that the decision doesn't undermine the defense that electric utilities have mounted against the lawsuits brought by the Clinton administration. Several of those cases are still under review by federal

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courts. The environmental community's victory, Mr. Segal said, amounted to "the ability to place roadblocks in front of energy-efficient projects. This is terrible news."

Vickie Patton, a lawyer for Environmental Defense, a New York-based environmental group, said the ruling "firmly rejects EPA's attempt to adopt damaging air-pollution loopholes for thousands of industrial sources across the country." She called for new legislation that would "end the parade of loopholes, exemptions and rollbacks."

The rule has been among the most hotly contested regulations of the Bush administration, with environmental groups saying it amounts to a rollback of the Clean Air Act and companies arguing that they needed the rule to give them more certainty on construction projects.

In October 2003, 14 states, a number of cities and environmental groups filed to block the rules from going into effect. The appeals court had issued a stay in December 2003, preventing utilities and industrial facilities from taking advantage of the change.

U.S. Court Blocks EPA Standard On Modernizing Plants, Factories (BLOOM)

By Bill Arthur

Bloomberg, March 18, 2006

March 17 (Bloomberg) -- A U.S. appeals court ruled that the Environmental Protection Agency can't make it easier for power plants, factories and refineries to avoid installing pollution controls when they replace aging equipment.

The U.S. Court of Appeals for the District of Columbia Circuit sided with 15 states and three cities that said a rule issued by the EPA in 2003 violated the Clean Air Act. The federal law requires plants undergoing ``any physical change" that would increase their pollution discharges to install the best available control technology.

The EPA's rule, which wasn't enforced during the lawsuit, interpreted the law to let plants install new equipment without including pollution-control devices as long as the new installation cost less than 20 percent of the plant's value.

Such an interpretation would produce a ``strange" result in which a law intended to limit increases in air pollution would allow plants ``to increase significantly the pollution they emit without government review," the court ruled today.

``The decision is a major victory for clean air and public health," New York Attorney General Eliot Spitzer said in a statement. ``It will encourage industry to build new and cleaner facilities instead of prolonging the life of old, dirty plants." New York was one of the states that sued the EPA over the rule.

John Engler, president of the National Association of Manufacturers, said the ruling was a ``significant setback to business efficiency and, for that matter, environmental quality."

`Unnecessary' Delays

The EPA exemption would have benefited consumers and businesses by allowing ``power companies and manufacturers to upgrade their facilities and increase efficiency without undergoing unnecessary and costly delays," Engler said in a statement.

EPA spokesman John Millett said in an e-mailed statement that the agency was disappointed in the ruling and had no further comment.

Other states joining the lawsuit were California, Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New Mexico, Pennsylvania, Rhode Island, Vermont and Wisconsin. Cities participating were Washington D.C., New York City and San Francisco.

Budget Vote Revives Bid For Arctic Oil Drilling (WP)

By Jonathan Weisman

The Washington Post, March 18, 2006

A last-minute deal to secure the vote of Sen. Mary Landrieu (D-La.) on a $2.8 trillion budget plan has given new life to the Republican drive to open Alaska's Arctic National Wildlife Refuge to oil drilling.

The budget blueprint for fiscal 2007, which will begin in October, includes a $10 billion Gulf Coast restoration fund that would be financed from the leasing of arctic refuge drilling rights, revenue from new drilling in the Outer Continental Shelf of the Gulf of Mexico and further sales of the broadcast spectrum. With that provision in hand, Landrieu cast the only Democratic vote for the budget resolution, which squeaked through Thursday night, 51 to 49.

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"It's not easy being alone on anything. I don't relish this position," Landrieu said. "But, at times, it's necessary."

Republicans, who have been trying to open up the refuge for well over a decade, hope that by explicitly linking oil drilling to Gulf Coast restoration, they can prompt some Democrats to drop their opposition. Under the Senate plan, the funds from oil leases could be used for coastal restoration projects in Texas, Louisiana, Mississippi and Alabama that have long been sought by environmentalists. The fund could also be tapped to rebuild levees damaged last year by hurricanes Katrina and Rita.

But it is not clear whether the political equation has shifted at all since December, when moderate Republicans -- led by Rep. Charles Bass (R-N.H.) -- forced their leaders to take arctic drilling out of a 2006 budget-cutting measure to secure their votes. Bass has warned House budget writers that nothing has changed.

"We are all aware of last year's effort and outcome, and I don't see any reason why this year would be different," Bass told the House Budget Committee last month. Using the budget process to pass drilling "is a gimmick that must be resisted," he said.

The issue of arctic drilling has presented Republican leaders with a quandary for years. Majorities in both the House and the Senate support drilling, but the measure does not have the votes to clear Congress for President Bush's signature.

Lacking the 60 votes to overcome a filibuster, Senate leaders for two years now have tried to attach a drilling measure to a budget resolution. By doing so, subsequent legislation to open the arctic would be protected from a filibuster under congressional budget rules.

In the House, a bipartisan majority favors drilling, but when GOP leaders have attached the issue to a broader budget measure, Democratic supporters have abandoned the cause to oppose the budget.

The 2007 budget, which will be drafted by the House Budget Committee the week of March 27, is not likely to include an arctic drilling provision, but it is also not likely to include significant cuts to popular federal programs, a senior leadership aide said.

If House and Senate negotiators produce a final budget blueprint that includes the Senate drilling plan and excludes deep cuts, a sufficient number of House Democrats may be persuaded to support the budget to overcome moderate Republican opposition, the aide said.

FBI/DEA/ATF/USMS:

Mexico's Attempt To Quell Drug Violence Falters (KRT)

By Jay Root

Knight Ridder, March 18, 2006

NUEVO LAREDO, Mexico - The general who'd been in charge of Mexico's efforts to quell drug violence on the border with the United States hasn't been seen by officials here in weeks, and the program is in disarray.

Drug killings are on the rise, local news outlets have been cowed into silence, and evidence is mounting that members of two warring drug-trafficking cartels have infiltrated the program's elite anti-drug forces.

U.S. officials are concerned that the violence is crossing the border: Assaults on U.S. Border Patrol agents are up 108 percent this year, according to recent congressional testimony.

Mexican officials, recognizing that the Secure Mexico program had failed, announced a new program this week, dubbed Northern Border. Under the program, 600 to 800 more federal police agents were dispatched to this besieged border city.

But few expect that to make much difference, and drug traffickers weren't intimidated: On Thursday, they gunned down four federal police intelligence agents in broad daylight outside a school here. At least 30 shots were fired into the agents' bodies.

Adding to the confusion is the absence of Gen. Alvaro Moreno Moreno, who'd been in charge of Secure Mexico. Nuevo Laredo city officials and a Mexican diplomat on the U.S. side of the border said they'd had no contact with the general in weeks.

"I couldn't tell you where he is," said Eloy Caloca, a spokesman in Mexico City for the federal Ministry of Public Security, the agency to which Moreno reports. Asked who's in charge in Nuevo Laredo now, Caloca said: "I don't have his name right now."

The deaths of the four agents brought the number of killings laid to drug traffickers in this city so far this year to 50 in less than three months, a rate that outpaces last year's, when about 170 people total died in drug violence.

Statements Friday by Ruben Aguilar, a spokesman for President Vicente Fox, suggest that efforts to get rid of corrupt city police officers have failed. He said preliminary evidence indicated that the hit men who killed the four agents were municipal police aligned with one of the cartels.

Experts see no end to the killings as long as the two cartels battle to control the distribution routes that lead into the United States.

"It won't be resolved until this war is over, until one of the cartels wins," said Jorge Chabat, an expert on U.S.-Mexico relations and border security. "It's clear that the (Mexican) federal government doesn't have the capacity to stop this wave of violence."

Mexico's federal authorities launched Secure Mexico last year after Nuevo Laredo's police chief, Alejandro Dominguez, was gunned down by suspected traffickers only hours after he took the job.

The Secure Mexico program was designed to weed out local police corruption and place all levels of law enforcement under the command of a single military official - Gen. Moreno.

But the violence has only become more virulent, often spectacularly so: Suspected drug gang members used a grenade to attack a newspaper newsroom here last month.

The Mexican government's new initiative is supposed to re-establish order. Authorities announced that they were sending up to 800 more agents from Federal Preventative Police, known by its Spanish acronym PFP. There already were hundreds here, but estimates vary wildly on the total number patrolling now.

But few are optimistic. "Last year there were over 170-something murders. I don't think anyone was charged or has been arrested in connection with those murders, and the majority of those were drug-related," said a U.S. official involved in drug enforcement who was granted anonymity because his agency doesn't allow him to speak publicly. "They've had the military employed at different occasions during those spates of murder, and they've continued to happen."

Meanwhile, Mexican media reports and public statements have raised questions about whether the PFP forces sent to restore order under Secure Mexico have been infiltrated by elements of the drug cartels.

In Nuevo Laredo, questions center on a Feb. 2 shootout in which armed bandits, in broad daylight near the police headquarters, attacked a marked PFP vehicle that was carrying a suspect, U.S. citizen Javier Escalera. The American was later handed over to U.S. authorities.

News accounts said two PFP agents were wounded. But since then doubts have been raised about whether one of the wounded men was really a PFP agent. Photos show him wounded, dressed in a PFP uniform.

But the man in the photos, identified as Mario Humberto Rodriguez Castillo, later fled Nuevo Laredo by bus toward the northern Mexico city of Monterrey. Along the way, he was attacked and shot again by armed assailants, according to Rafael Luque, a spokesman for the state of Tamaulipas. He survived, but his whereabouts aren't known.

Daniel Hernandez, Mexico's consul general in Laredo, said it's not unusual for law enforcement agencies to protect the identity and whereabouts of an agent who might be involved in intelligence. He also noted that corruption can be found on both sides of the border, citing the recent indictment of two U.S. Border Patrol agents who are accused of taking $300,000 in bribes from smugglers to release immigrants from detention.

The violence has become a problem for Nuevo Laredo's businesses, said Jack Suneson, owner of upscale Marti's jewelry and crafts store in Nuevo Laredo. Noting that many businesses have relocated to the U.S. side of the border, Suneson said he might have to shut his doors after five decades of operation.

"No more promises. I want them to safeguard our city," Suneson said. "I don't know how much longer we can hold out. This is the third year we've taken a nosedive."

Root reports for the Fort Worth Star-Telegram.

IMMIGRATION:

Frist Immigration Bill Would Target Bosses (AP)

By Suzanne Gamboa

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AP, March 18, 2006

Senate Majority Leader Bill Frist sidesteps President Bush's call for giving illegal immigrants temporary work permits in an election-year immigration bill the Tennessee Republican unveiled Friday.

Frist, who is seeking his party's nomination in 2008 to succeed Bush in the White House, said the Senate will turn to his proposal to tighten borders, punish employers who hire illegal immigrants and provide more visas if the Senate Judiciary Committee doesn't complete a broader bill in the next 10 days.

A clear majority on the 18-member committee has come out in favor of a "guest worker" program that would let employed illegal immigrants remain in the U.S. — at least temporarily — rather than be deported. The committee members agreed Friday to try to come up with a substitute for Frist's bill by March 27.

Bush — walking a tightrope between businesses that oppose deporting undocumented workers they've trained, and social conservatives who want all 11 million illegals in the U.S. deported — has called for letting those with jobs stay for up to six years.

The House passed a tough immigration enforcement bill in December that would make it a felony for illegal immigrants to be in the United States, impose new penalties on employers who hire them and erect fencing along a third of the U.S.-Mexico border. But it had no temporary worker program.

Sen. Edward M. Kennedy (news, bio, voting record), D-Mass., faulted Frist's bill for not addressing what to do with illegal immigrants already in the U.S. "Countless businesses rely heavily on their labor and it's long past time to provide legal avenues to bring this underground economy out of the shadow," he said.

Frist's bill would:

_Require all employers to verify the identity and immigration status of their employees through an electronic system.

_Assess civil penalties of between $500 and $20,000 against employers for each illegal immigrant they hire and criminal penalties of up to $20,000 per illegal immigrant hired and up to six months in jail for engaging in a pattern of employing illegal workers.

_Add 4,400 Border Patrol agents over six years to the 10,000 Congress provided for in the intelligence reform law passed in 2004, and 1,000 more immigrant smuggling investigators over the next five years.

_More than double the number of employment-based green cards, from 140,000 to 290,000, and make more employment based visas available to unskilled workers. It also would free up other visas by exempting immediate relatives of U.S. citizens from being counted in the annual pool of 480,000 visas, and increase country-by-country ceilings on family sponsored and employment-based immigrants.

An Immigration Breakthrough (NYT)

The New York Times, March 18, 2006

The clock was running out on the Senate Judiciary Committee this week, and with it the chances for a meaningful overhaul of the nation's immigration laws. After weeks of work, the committee members faced a rigid deadline to get a bill ready before next week's recess. But about all they had agreed on were various ways to tighten the borders. It was increasingly likely that Congress's message to 12 million illegal immigrants would end up being this: Thanks for the help — now get out.

But in a startling pivot, so sharp you could almost hear it, a bipartisan consensus emerged in the hearing room. Senator Arlen Specter, the committee's chairman, endorsed the principle behind an earlier bill sponsored by Senators John McCain and Edward Kennedy: that illegal immigrants who met strict criteria and paid fines and back taxes should have a path to permanent residency and citizenship.

Mr. Specter said he was all for that, as long as the country first cleared up the backlog of three million foreigners seeking to come here through legal channels. The panel also neared an agreement on a related proposal to allow foreign guest workers to enter legally and earn permanent status. Mr. Specter said he wanted a comprehensive bill ready when Congress reconvened on March 27, the deadline set by the Senate majority leader, Bill Frist, who has his own hard-line border-tightening bill waiting in the wings.

The blowback was instantaneous. Mr. Frist announced that he would be putting his own bill forward as an alternative to the committee's. Seventy-one House members signed a letter saying that the Judiciary Committee's actions were "fundamentally

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incompatible" with the House's strident vision of immigration reform, which completely rejects the idea of providing illegal immigrants any path to legalization.

Mr. Specter often wilts under party pressure like lettuce in a broiler, but he has shown admirable resilience in working to get a comprehensive immigration bill to the Senate floor. His committee's emergent consensus, fragile but real, has finally pointed to a way out of what has been a bitter struggle between starkly conflicting visions of what America should do about immigration. For too long the debate has been hijacked by stereotypes. The recent waves of newcomers are not all potential terrorists living among us like pod people. Nor is every last one a model-citizen-in-waiting.

The chances of finally fixing the immigration system depend on Congress's recognition and acceptance of what President Bush has said for years: that immigration reform is about far more than border enforcement, and that there is a way to bring order and lawfulness to an unauthorized population without compromising the values and traditions of our robust immigrant nation.

Mr. Specter's compromise has wisely elevated the discussion by endorsing a balanced approach. That means making the borders more secure, trying to match the supply of work visas with the demand, and sending this message to the illegal immigrants who are already here: Come out of the shadows, and join your neighbors in making America a better place.

Ireland Asks Bush For Alien Amnesty (WT)

By Stephen Dinan

The Washington Times, March 18, 2006

When the Irish prime minister urged President Bush yesterday to grant amnesty to illegal Irish aliens in the United States, he was just the latest in a line of foreign leaders to beg the president to relax immigration rules.

Before handing over a bowl of shamrocks in the traditional St. Patrick's Day ceremony involving U.S. and Irish leaders, Prime Minister Bertie Ahern asked Mr. Bush to push for a way for "current Irish immigrants to legalize their status in the United States on a permanent basis."

That sort of lobbying, which comes as Congress is debating what to do about illegal aliens and new temporary workers, has become a standard plea from foreign leaders meeting with Mr. Bush.

While some nations, such as Ireland and Mexico, want citizenship for their illegal alien nationals, others want the United States to lift the caps for temporary student or worker visas.

That was the request Mr. Bush heard earlier this week from the Slovak Republic's prime minister -- a message Mr. Bush told reporters was made "very clear" to him. And two weeks ago, in his joint press conference with the Indian prime minister during a trip to New Delhi, Mr. Bush called for an expansion of skilled worker temporary visas.

Speaking with Pakistani reporters before his trip to India, Pakistan and Afghanistan, Mr. Bush said he is working to loosen visa restrictions.

"We had a very restrictive visa policy right after 9/11," he said. "Our visa policy was a natural reaction to a terrible event that took place, but it didn't take me long to realize that we were missing a great opportunity to have students from Pakistan see the real America."

The issue is coming to a head in Congress. The House voted for an immigration enforcement bill in December. The Senate is preparing for a full-scale debate on creating a new guest-worker program and offering a path to citizenship to illegal aliens already in the United States.

Ireland's government has lined up behind the legalization plan of Sens. John McCain, Arizona Republican, and Edward M. Kennedy, Massachusetts Democrat, which is expected to receive a vote in the Senate Judiciary Committee in two weeks. It is unclear whether that plan has majority support on the Senate floor, and the plan is unlikely to survive a House-Senate conference because too many House Republicans say it amounts to amnesty.

Mr. Ahern said if the McCain-Kennedy plan fails, Ireland will then ask for specific consideration for Irish nationals, or what he called "an Irish arrangement."

Those calling for immigration restrictions said the amnesty President Reagan signed into law in 1986 was a failure, as it effectively prompted an increase in illegal entries.

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"We certainly have legal channels to get people like the Irish or whomever from any other nation to be residents or legal immigrants, but we learned our mistake in 1986 and it's not something we should be willing to repeat and encourage an even greater problem down the line," said Rikki Horton, who lobbies on immigration for the Federation for American Immigration Reform.

Even as Ireland pushes for more liberal U.S. laws, it is moving the other direction at home, including trying to find and deport aliens whose asylum applications were rejected. Ireland also has passed a referendum ending "birthright citizenship" for children of non-Irish nationals born in Ireland. That issue is proving contentious in the United States.

Also contentious, apparently, is the current U.S. status of Gerry Adams, leader of the IRA-allied Sinn Fein party in Northern Ireland.

A New York congressman said yesterday that Mr. Adams was detained at Ronald Reagan Washington National Airport after attending the White House event, the Associated Press reported.

Last year, Mr. Bush barred all Northern Ireland leaders from the St. Patrick's Day event to put pressure on Mr. Adams because of his links to the IRA.

Rep. Brian Higgins, New York Democrat, who had invited Mr. Adams to speak in Buffalo, told his audience last night that Mr. Adams didn't make it on time because he had been detained at Reagan Airport.

A spokeswoman for the Transportation Security Administration said she could not confirm that Mr. Adams had been detained. Jennifer Peppin said the TSA log showed no record of Mr. Adams' having been detained or subjected to secondary screening.

A Homeland Security official said Mr. Adams had left the Washington area, but he would give no further details.

TAX:

Judge Ties Up Tax Firm (SBCS)

By Stephen Wall, Staff Writer

San Bernardino County (CA) Sun, March 18, 2006

IRS claims $25M lost by fraudulent preparation in Rialto

RIALTO - A firm accused of preparing thousands of fraudulent tax returns costing the government more than $25 million has been barred from doing business by a federal court order.

N.C.K. Services and its three preparers - sisters Karen and Carla Berry of Rialto and Ivan Johnson of San Bernardino - are set to appear in court March 24 to respond to the civil complaint.

The three defendants are accused of preparing thousands of tax returns containing false and fraudulent home-mortgage interest deductions since 2001, federal officials said.

Calls to the firm's office at 2850 W. Foothill Blvd. were not answered Friday.

The total loss to the government as a result of the understatements of tax on customers' returns exceeds $25 million, according to an IRS audit.

The government claims the defendants systematically claimed fictitious home-mortgage interest deductions for their customers, even in cases where the customers did not own homes.

The complaint also states the preparers failed to sign customer returns as required by federal law.

"Immediate and irreparable injury will result" if the preparers are allowed to continue doing business, Judge Virginia Phillips of the U.S. District Court in Riverside wrote in her Wednesday ruling granting the temporary restraining order.

Phillips is scheduled to decide Friday whether a preliminary injunction should be issued against the defendants.

A preliminary injunction would prevent the firm from operating until the case

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goes to trial, which is expected July 25.

Justice Department officials said the case is part of the federal government's increased effort to stop tax-fraud schemes.

Since 2001, the department has obtained injunctions against more than 160 tax-scam promoters and preparers of false or fraudulent returns, federal officials said.

"Tax-preparation fraud costs the federal treasury hundreds of millions of dollars every year," said Eileen O'Connor, the assistant attorney general for the department's tax division.

Officials warned customers to carefully review their tax returns and make sure they contain the preparer's signature and identification number.

"It's important to check the work on the return to make sure the numbers match your financial situation before you send in your return," said Justice Department spokeswoman Cynthia Magnuson. "People ought to be very suspicious and should have a red light go off if you hear you can always get a return if you go to x or y return preparer."

CONGRESS-ADMINISTRATION:

Politics Drives A Senate Spending Spree (NYT)

By Carl Hulse

The New York Times, March 18, 2006

WASHINGTON, March 17 — The largess demonstrated by the Senate in padding its budget with billions of dollars in additional spending this week showed that lawmakers are no different from many of their constituents: they don't mind pulling out the charge card when money is tight.

Just hours after opening a new line of credit through an increase in the federal debt limit, the Senate splurged on a bevy of popular programs before approving a spending plan that was as much a political document as an economic one, its fine print geared to the coming elections.

Forced to choose between calls for renewed austerity and demands for more money, many Republicans joined Democrats in reaching deeper into the Treasury, leaving the party's push for new fiscal restraint in tatters.

Some of their colleagues said it was an open-and-shut case of nervous politicians ducking a tough spending stance to avoid starring in negative campaign commercials. Republicans in some of this year's tightest races — Conrad Burns of Montana, Mike DeWine of Ohio, Rick Santorum of Pennsylvania, Jim Talent of Missouri and Lincoln Chafee of Rhode Island — all backed the chief budget-busting provision as they endorsed an extra $7 billion for medical research, education and worker safety.

Lawmakers, analysts and others said the Senate's reluctance to clamp down on spending was a natural result of an approach that fails to recognize a sharply changed reality. In some respects, the administration and Congress act as if the surplus that greeted President Bush when he checked into the White House is still in the bank, rather than recognizing that whatever windfall was available then was eaten up and more by tax cuts.

The reality is that the cuts, plus two wars, new domestic security needs, natural disasters and a big expansion of Medicare have left the government's account badly overdrawn with no prospect of getting it back in balance anytime soon.

The criticisms set out by many Democrats — that no real progress can be made in setting the nation's finances right until Congress proves willing to revisit the tax cuts and that the nation is failing to invest sufficiently in addressing its economic and social ills — do not receive much of a hearing in a Washington where Republicans are in charge.

"I think the critical flaw is the failure to adjust fiscal policy in the face of new circumstances," said Robert L. Bixby, executive director of the Concord Coalition, a bipartisan group that advocates reducing the deficit through spending cuts and tax increases.

Mr. Bixby and others say the Republican-controlled Congress and the Bush administration have shown a near total disregard for fiscal discipline, running up new debt.

"The problem we have had on the budget all along is a lack of adult supervision on the part of the White House," said Bruce Bartlett, an economist and author of a new book critical of Mr. Bush's economic record. "You can't blame members of Congress for looking out for their parochial interests. It is the president's responsibility to look out for the national interest."

With the president's influence on Capitol Hill slipping along with his poll numbers, it is unclear how much authority Mr. Bush could exert over lawmakers regardless. Senate Republicans showed no hesitation about bursting through the spending ceiling he set, adding more than $16 billion after eliminating some of his cuts.

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And while the House, which was considering $92 billion in emergency war spending and hurricane aid, rejected most efforts to increase that total, lawmakers did buy a few extras, including $50 million more for peacekeeping in Darfur.

Almost lost in all the budget and spending activity was that House and Senate negotiators continue to try to hammer out an agreement for new tax cuts that could cost an additional $70 billion over five years.

If Republicans in the Senate were motivated by a political calculation that this was not the time to close the fiscal taps, much less cut more deeply into domestic spending, they risked what some conservatives suggested could be a backlash from the right. Many strategists have warned Republicans that their core conservative supporters are demoralized by what they see as the unchecked growth of government.

John Kasich, a former Republican chairman of the House Budget Committee and devotee of balanced budgets who is now an investment adviser and author, said much of Washington had surrendered to the political impulse to please various voter groups with unbridled spending."

Republican leaders see it a bit differently. They point to nearly $40 billion in savings from social insurance programs they produced last year, an effort that took a tremendous amount of political effort. And an across-the-board cut shaved about $8 billion from current agency budgets.

They say they intend to hold spending for most agencies outside of the military and domestic security under this year's tight limits and will try to erase some of the Senate spending additions in negotiations with the House.

To do so, they will have to get around Senator Arlen Specter, Republican of Pennsylvania, who clamored for the extra $7 billion. Mr. Specter said that spending constraints had cut too deeply into health and education programs and that there was a strong show of support for the money — a majority of Republicans backed it.

Republicans also say they see a proposed line-item veto and new restrictions on pet projects as part of a rehabilitation program to kick their spending habit. While those initiatives may end some suspect practices, most see the savings as chump change in an era of $350 billion annual deficits and $9 trillion in total debt.

Serious fiscal worriers believe the only true fix can come from a bipartisan meeting of the minds that would put all federal programs on the table along with consideration of both spending cuts and tax increases.

"I've concluded this job is so big it can only be done if the two parties work together," said Senator Kent Conrad of North Dakota, the senior Democrat on the Budget Committee.

But Mr. Conrad acknowledged that nothing substantive could get done in the short term, with both parties girding for November. As the Senate deliberations show, frugality is not an election-year budget value.

GOP Spenders Think Voters Dismiss Deficits (LAT)

By Joel Havemann And Richard Simon, Times Staff Writers

The Los Angeles Times, March 18, 2006

Fiscal conservatives may be upset with increased spending, but Congress just can't say no.

WASHINGTON — For two days they marched past the huge marble fountain and upstairs to the terra-cotta and creamy-gold splendor of the grand ballroom at the historic Peabody Hotel in Memphis. There, flanked by the flags of more than two dozen states, four U.S. senators who hope to carry the Republican banner in the 2008 presidential election pledged allegiance to one of the GOP's most revered principles: fiscal responsibility — never spend taxpayers' money you don't have.

Less than a week later, the Senate's Republican majority overwhelmingly approved billions of dollars in deficit spending. Despite outcry from conservative groups that helped build the GOP majorities in both houses of Congress, the Republican spenders were undeterred, for one reason:

They're convinced that voters now care less about big deficits than they do about the things that increased federal spending will buy.

"Senators are betting that pandering to the public with billions in election-year promises will pay off more than they lose by cutting the fiscal conservatives in their own party off at the knees," said Keith Ashdown of Taxpayers for Common Sense.

That political calculation was behind congressional Republicans' support for the new Medicare prescription drug entitlement in 2003. And it drove Thursday's votes to raise the debt ceiling and approve more deficit spending.

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There is another reason that many congressional Republicans have drawn back from fiscal discipline: Two other elements in the conservative credo, support for greater spending on national security and determination to cut taxes, have left budget makers with little room to maneuver, and so significant budget cuts have become hard to make.

Some Republicans warned that the GOP could pay a heavy price for yielding to spending pressures.

Former Rep. Patrick J. Toomey (R-Pa.), who now heads the free-market-oriented Club for Growth, warned that "Republican voters are going to ask themselves, 'Why bother having Republicans in office?' " Senate Republicans have shown "absolutely no semblance of discipline on spending," said Toomey, adding that they have also failed to extend President Bush's expiring tax cuts.

"If they can't do either taxes or spending right, how do they expect Republicans to turn out in the fall to reelect Republican majorities?" Toomey said. "I think they're in … for a very rude awakening in November."

Democrats, long vilified by opponents as the tax-and-spend party, think they can turn the tables by calling the Republicans the party of borrow and spend. The federal budget, in surplus when Bush took office in 2001, immediately ran deficits that assumed record proportions.

Rep. John Tanner (D-Tenn.) told the House on Wednesday that he grew up with three principles: "Live within your means, pay your debts and invest in the future.

"This government under this leadership is doing none of those," he said.

He noted that the House approved a $92-billion emergency spending bill Thursday that provided $68 billion for the conflicts in Iraq and Afghanistan and $19 billion for communities struck by Hurricane Katrina. The bill passed handily, 348 to 71, with only 19 Republicans joining 52 Democrats in opposition.

The Senate meanwhile added $16 billion for a host of domestic programs, including health, education and heating assistance for the poor, to the $2.8-trillion budget for fiscal year 2007 that its Budget Committee had recommended. The budget passed on a scant 51 to 49 vote, with a lone Democrat — Mary Landrieu of Louisiana — joining 50 Republicans to form the majority and five Republicans voting no, mostly to protest the budget's call for legislation to open the Arctic National Wildlife Refuge to oil drilling.

"When it comes to fiscal discipline," said Executive Director Robert L. Bixby of the Concord Coalition, a budget watchdog group, "the gap between rhetoric and reality on Capitol Hill is as wide as the deficit."

Spending has grown more in Bush's five years in office than it did in President Clinton's eight, even excluding the boom in defense spending under Bush. Altogether, spending rose about 4% a year under Clinton and has risen 9% a year under Bush.

Despite this arithmetic, some Republicans think the Democrats will have a hard time convincing the public that they are the party of spending restraint. "It would be even worse under the Democrats," said Dick Armey, a former House majority leader from Texas who now is chairman of FreedomWorks, a group advocating lower taxes and less government.

And restraint may have lost some of its political appeal. The Pew Research Center for the People and the Press, in its annual survey in January of what issues weigh on the public, said 36% of conservative Republicans rated the deficit a "top priority" — well below eduction, jobs, terrorism and illegal immigration.

"The deficit does not have the same resonance that it did through much of the 1990s," said the Pew center's Carroll Doherty.

Paying homage to fiscal responsibility is apparently still mandatory for Republican politicians who aspire to higher office, however.

Among those who vowed to curb spending last weekend when they addressed a combined meeting of the Southern and Midwestern Republican Leadership Conference in Memphis were four of the party's leading presidential hopefuls: Senate Majority Leader Bill Frist of Tennessee and Sens. John McCain of Arizona, George Allen of Virginia and Sam Brownback of Kansas.

All four, however, supported the final budget bill.

Some fiscal conservatives in the House were so furious at the absence of spending cuts to offset hurricane relief that they voted against the spending bill despite its defense funding.

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"I strongly support our troops," said Rep. Jeb Hensarling (R-Texas). "Successfully fighting the war on terror is our most important national priority. But another national priority is saving our children from a mountain of debt or unconscionable tax increases."

For other conservative lawmakers, local interests trumped ideology. Sen. Craig Thomas (R-Wyo.) issued a statement Friday praising his chamber's vote, which made room for $235 million more for rural healthcare.

"While it is important to identify and eliminate wasteful and inefficient programs," Thomas said, "I also believe that we must support policies that work."

Mike Franc, a former House Republican leadership aide now with the conservative Heritage Foundation, said many Republican lawmakers, "as Ricky Ricardo used to say, have some explaining to do."

"It's an uphill battle for many Republicans to explain why, during an era when they control the House, the Senate and the White House, spending has been unleashed as it has," he said.

Testing Errors Prompt Calls For Oversight (NYT)

By Karen W. Arenson

The New York Times, March 18, 2006

As the College Board races to score the final 1,600 exams from its problem-ridden October SAT test, a string of recent testing errors around the country has college and high school officials, testing experts, students and parents asking with rising urgency, Who is watching the testing industry?

Spurred largely by the No Child Left Behind law, testing has exploded in recent years. Educators are now trying to measure factors like whether toddlers in Head Start know their letters and whether elementary and high school students are making progress in reading and math.

The states alone are administering about 45 million tests this school year.

And for students headed to college, there are the Advanced Placement exams, the SAT and the ACT.

The volume is stretching the $2 billion-a-year education testing industry, educators say, taxing its ability to draw up enough tests and score them quickly and reliably. The states are struggling to find experienced officials to provide quality control.

The resulting flurry of errors has educators and lawmakers calling for better disclosure and oversight. Some are even proposing a national agency like the Food and Drug Administration to regulate testing.

"We need accountability," said George F. Madaus, a research professor at the Center for the Study of Testing, Evaluation and Educational Policy at Boston College. "I certainly wouldn't get rid of testing, but we need to be much more aware than we are now about the shortcomings, the limitations and the fallibility of the technology."

The past few weeks have shown the range of the problems. The College Board's disclosure that at least 4,600 students out of 495,000 who took its October SAT test had scoring errors was followed this week by an $11 million settlement by the Educational Testing Service of a case involving scoring errors for 27,000 people on tests that more than half the states use for teacher certification.

The Illinois superintendent of education, Randy J. Dunn, threatened last week to recommend ending the state's $44.5 million five-year contract with Harcourt Assessment because state tests were delivered late with misprints and collating errors. (He later backed away.) And New York State said this week that its seventh- and eighth-grade math tests had several questions that had been in test preparation materials.

"All of these tests have errors," said John Katzman, chairman and founder of the Princeton Review, a test-coaching company that has benefited from the testing boom. "The questions might be flawed in some way. The scoring might be flawed. The administration is often flawed."

A large part of the problem, policy makers and educators say, is that the demand for tests is outstripping the abilities of the industry, and testing and scoring quality have deteriorated. Adding to the pressure, each state has its own specifications.

Robert L. Linn, a professor emeritus at the University of Colorado at Boulder who serves on a College Board advisory committee, said that problems like those with the October SAT were not uncommon in testing.

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"These things happen now and then in a lot of testing programs," Dr. Linn said. "But there are too many now; the industry is stretched pretty thin." He added, "It's pretty clear, I guess, that the quality-control issues need to be looked at again."

In a recent study for EducationSector, a new education research organization, Thomas Toch, the group's co-director, found that the high stakes of the No Child Left Behind law, which sanctions schools that do not improve, had states trying to administer tests as late as possible so children had the most time to prepare. But they still want scoring completed in time for summer school placement, giving companies little turnaround time.

Mr. Toch said states were having trouble recruiting and retaining experts, leaving testing companies largely responsible for their own quality control. Companies, too, are struggling with these demands.

"They get so little money for these contracts that they are hard pressed to hire all the people they need to do this immense amount of work without making mistakes," he said.

Joyce E. Karon, a member of the Illinois State Board of Education, said that although she believed Harcourt was "a reliable company," like other test providers, it was "working at the brink, and when you work at the brink, things happen."

Mrs. Karon said that before the board chose Harcourt, it asked other states whether they had experienced problems. "Almost universally," she said, "they had all had some problems."

Rick Blake, a spokesman for Harcourt Assessment, said the company regretted the hardship that the problems had created for Illinois and was working to ensure that the rest of the testing went "smoothly and without further delay."

Still, as the pressure for more tests intensifies, testing experts and policy makers are beginning to weigh whether more oversight is needed.

One suggestion would require that testing problems be reported publicly. W. James Popham, an emeritus professor at the University of California at Los Angeles, said that more exposure might help. "Frankly, because it is in the best public-relations interest of both the scoring service and the state officials who hire them, many scoring muck-ups are masked," Dr. Popham said.

One step toward disclosure could come from the inspector general of the federal Education Department, who is planning to study what states are doing about errors and whether there is need for federal oversight.

Another approach being suggested by Mr. Toch, Dr. Madaus and others is to have some kind of auditor or oversight board, an independent entity or a federal body. "There are all kinds of things in society that get monitored," Dr. Madaus said. "Nobody is seriously looking over the shoulder of those testing programs."

But some in the industry say regulation is unnecessary and will raise the price of testing. "When something like this occurs, you want to make sure you don't create regulations or ways of doing things that increase costs and don't improve the quality of service," said Gaston Caperton, the College Board president.

Kenneth P. LaValle, the New York State senator responsible for the state's 1979 Truth in Testing law mandating disclosure, said he believed more disclosure of test questions and answers might be needed.

"We are now living in a testing culture," said Mr. LaValle, Republican of Long Island. "We need accuracy and security and all these things."

Some counselors are urging college-bound students to pay extra to obtain answers after a test is administered to check their own performance, and for hand scoring.

Eugene Falik, a computer specialist in Far Rockaway, N.Y., said that after his daughter signed up recently for an Advanced Placement exam, he spotted the hand-scoring option. "The clear implication is that these marked sense sheets, or optical mark readers, are not reliable," Mr. Falik said.

More colleges have stopped requiring the SAT. Joanne V. Creighton, president of Mount Holyoke College in Massachusetts, said she felt her college's decision five years ago to make the tests optional was reinforced when she learned of the SAT scoring errors. She said the college had found this made "no measurable difference" in quality.

But others say testing is a crucial tool. Richard P. Mills, education commissioner in New York State, said recent problems had not changed his mind about the usefulness of testing. "It can be done right," Mr. Mills said. "Does that mean it's flawless? No. Errors crop up. No error is acceptable. But testing is indispensable."

'Teach To The Test'? What Test? (WP)

DOJ_NMG_0019339

By Colman Mccarthy

The Washington Post, March 18, 2006

From the academic sidelines, where calls to Leave No Child Untested are routinely sounded by quick-fix school reformers, Jay Mathews joins in with his Feb. 20 op-ed column, "Let's Teach to the Test." In well-crafted prose, he reports that "in 23 years of visiting classrooms I have yet to see any teacher preparing kids for exams in ways that were not careful, sensible and likely to produce more learning."

On Mathews's visit to my classroom four years ago -- at School Without Walls, where I have been volunteering since 1982 -- he must not have noticed that not only was I not preparing my 28 students for tests but that I regard tests as educational insults. At School Without Walls and two other high schools where I am a guest teacher -- Wilson High School in the District and Bethesda-Chevy Chase High School in lower Montgomery County -- I have never given a test. I respect my students too much to demean them with exercises in fake knowledge.

Tests represent fear-based learning, the opposite of learning based on desire. Frightened and fretting with pre-test jitters, students stuff their minds with information they disgorge on exam sheets and sweat out the results. I know of no meaningful evidence that acing tests has anything to do with students' character development or whether their natural instincts for idealism or altruism are nurtured.

I have large amounts of evidence that tests promote the opposite: character defects. After having two of my high school classes read Mathews's column, I asked the students: If during a test the opportunity came to cheat, with no fear of being caught, would you? A majority of hands went up. A few students dismissed the question as naive. Not cheat if you could get away with it? Get real. When speaking at high school assemblies, I ask students how many can raise their hands and say with total honesty that they never cheated in school. Few hands go up. If some brave souls do confess to honesty, they are greeted with jeers or calls of "yeah, right."

Standardized tests measure braininess and memory skills. American society has plenty of people who were academic whizzes in high school but were so driven by the lure of a high grade-point average that their spiritual lives remained stunted. I worry about students who make too many A's. What parts of their inner lives are they sacrificing to conform to someone else's notion that doing well in tests means doing well in life? Is any time left over from mastering theoretical knowledge for gaining the kind of experiential knowledge found in community service or volunteering in programs such as Special Olympics or DC Reads?

Desire-based learning happens when teachers deal in combustibles, when fires are lit and students burn to explore ideas that have nothing to do with what testocrats require. Quality teachers who are fire-lighters often find themselves trapped in schools that have been seduced by the Advanced Placement fad. Teachers whose students can't hack the AP final are regarded as failures.

School principals get hammerlocked also. They watch teachers' performance the way teachers watch students' performance. A hierarchy results. Most everyone is fearful of someone in power right above. Students worry about teachers, teachers worry about principals, principals worry about school boards, school boards worry about politicians and politicians worry about the voters.

Before riskily breaking ranks with an innovation or two that might actually eliminate fear in the classroom, a deviator must ask: Will I be whacked by that power-wielder just above me? Caution reigns.

To compensate for my no-testing policy, I assign tons of homework. The assignments? Tell someone you love him or her. Do a favor for someone who won't know you did it. Say a kind word to the workers at the school: the people who clean the toilets, cook the food, drive the buses and heat the buildings. And a warning: If you don't do the homework, you'll fail. You'll fail your better self, you'll fail to make the world better, you'll fail at being a peacemaker.

For 25 years of testing the waters by not testing, I've been telling my students not to worry about answering questions. Be braver and bolder: Question the answers. Which answers? To start, the ones from anyone who champions classroom get-aheadism based on test scores. Throw off your chains, students. You have nothing to lose but your backpacks.

The writer, a former Post columnist, directs the Center for Teaching Peace and teaches nonviolence at three high schools and four universities.

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April May Bring New Medicare Drug Problems (AP)

By Kevin Freking

AP, March 18, 2006

Many elderly and disabled Americans enrolled for the Medicare drug benefit will face new difficulties in obtaining their medicines on April 1, say advocacy groups familiar with the program.

On that date, insurers will have more latitude to tell pharmacists that they won't pay for a particular drug. Before that, insurers have been told that they should pay for a prescription even if it's not on the list of drugs they cover.

"I think that, after April 1, you're going to see huge problems with access. It's going to be January 1 all over again," said Tom Clark, policy director at the American Society of Consultant Pharmacists. The association represents pharmacists who serve nursing homes.

Government officials said the Medicare drug benefit covers most of the drugs commonly used by seniors and the disabled. They say beneficiaries who take those drugs will have nothing to worry about come April 1.

And, if beneficiaries find that their drugs are not on a plan's list of drugs covered, often referred to as the formulary, then they usually will have access to substitute medicines. The poorest beneficiaries can switch plans at any time.

"What we're requiring is that the formularies all must be broad, all must meet our stricter-than-usual requirements, plus there must be a timely way for beneficiaries to get an exception," said Mark McClellan, head of the Centers for Medicare and Medicaid Services.

McClellan said he has heard from some insurers who plan to make the transition easier by gradually restricting which drugs customers can get, rather than doing it all at once on April 1. Insurers put in place such restrictions to move patients into safer drugs, as well as cheaper drugs that save the company money.

Many insurers are also sending customers letters to let them know when their drug is not covered, McClellan said.

Still, McClellan was not as resolute in countering the warnings as he had been in December before to the program's startup. Then, he aggressively contested concerns raised by the Government Accountability Office that some poor and disabled beneficiaries would have trouble getting their medicine.

"CMS has significant concerns about the GAO's finding," McClellan had said in his reply to the government's auditors. "These individuals will get effective, comprehensive prescription drug coverage when the new Medicare prescription drug benefit begins."

That did not turn out to be the case for hundreds of thousands of poor senior citizens who were not properly enrolled in the program. They faced delays in getting their medicine or were charged higher out-of-pocket costs than they should have been.

McClellan said the issues now are different. In January, the main problem was getting people enrolled in the program properly. Now, it's about making sure that insurers do what they said they would do in setting up their appeals process.

McClellan said the government would monitor insurers in April to make sure they respond quickly to patients who ask to continue taking a particular drug not covered by a plan.

For urgently needed drugs, plans are required to act within a day. If patients lose that appeal, they can then take their case to an independent reviewer.

"Because we are tracking plan wait times on call lines, because we're tracking complaints, we will take prompt enforcement actions," McClellan said.

Vicki Gottlich, senior policy attorney for the Center for Medicare Advocacy Inc., said she's concerned that the poorest of senior citizens and the disabled would again have the most significant problems on April 1.

Often, those beneficiaries were automatically enrolled into a drug plan, and they will have no idea until next month that their medicine is not covered.

"To be honest, we've been talking to CMS, and I got the sense they thought this was an issue," Gottlich said.

The Center for Medicare Advocacy has been critical of the drug program. Gottlich said the organization has heard stories of clients with numerous drugs not covered by their drug plans.

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Another advocacy group that has criticized the program, the Medicare Rights Center, said it's hearing complaints that people calling to appeal coverage restrictions have been put on hold for more than an hour. In other cases, customer service representatives promise to call back but never do.

"The plans make it difficult for patients and doctors to navigate the appeals process," the group said.

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On the Net:

Official Medicare site: http://www.medicare.gov

Center for Medicare Advocacy: http://www.medicareadvocacy.org/

Health Secretary: Costs Too High (PPG)

By Christopher Snowbeck

Pittsburgh Post-Gazette, March 18, 2006

The Pittsburgh region is contributing to health care innovations, but it also is the 13th costliest market in the country for people buying health care services, says Michael Leavitt, secretary of the U.S. Department of Health and Human Services.

During a breakfast talk yesterday with the Pittsburgh Technology Council at the Sheraton Station Square, Mr. Leavitt called for a variety of reforms to help tame health care costs. The situation in Pittsburgh, he said, exemplifies the broad challenge with health care in the country: No one wants to go without advanced treatments that people rightly regard as "priceless," yet health care comes a price -- one that's increasingly difficult for society to afford.

"This isn't just about debits and credits, it's about human lives," Mr. Leavitt said. "[But] we've got to find ways to reconcile priceless with pricey."

Speaking to about 100 people, Mr. Leavitt reiterated a pledge made earlier this week to publish the prices Medicare pays for common procedures, which would help individuals shop more smartly for care. The lack of good pricing information is one of the key problems with the move toward high-deductible health plans that feature Health Savings Accounts, another Bush administration initiative.

What's more, the current system is "saturated with inefficiency" and suffers from "poorly-aligned incentives," he said.

A focus on getting more value out of the system is important, he said, because the current rate of growth in health care spending can't be sustained.

Health care currently accounts for 16 percent of the gross domestic product, and its share is expected to increase to 20 percent by 2015. Spending in the Medicare program alone accounts for 3.4 percent of GDP today, Mr. Leavitt said, adding that spending for that single program is projected to consume 14 percent of GDP by 2070.

"It can't happen," Mr. Leavitt said, noting the impact of health care costs on the competitiveness of U.S. businesses. "We'll either change, or we'll have been eliminated from the competition."

Congress Backs Off From Lobbying Limits (KRT)

By Steven Thomma

Knight Ridder, March 18, 2006

WASHINGTON - With the spotlight turned elsewhere, Republicans this week backed off their vow to crack down on the relationship between lobbyists and Washington politics.

A proposal offered by House Republicans late Thursday would suspend privately financed travel for members of Congress only until this year's congressional elections and would put off a decision on a permanent ban of travel, meals or other gifts until after the elections.

It would require lobbyists to disclose their activities more frequently, but offered only occasional audits to ensure compliance with no additional people or resources to enforce the rules.

It wouldn't do anything to limit pork-barrel spending, as some had urged, or ban those lobbyists who are former members of Congress from mingling with current lawmakers on the House floor or in the House gym. And it wouldn't lengthen the period in which former members of Congress or their staffs are prohibited from lobbying their former colleagues.

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All the proposed new regulations stopped short of those offered weeks earlier when congressional leaders rushed to embrace reform in the wake of the political fallout from the scandal surrounding disgraced lobbyist Jack Abramoff.

Rep. David Dreier, R-Calif., who put the proposal together, called it "real reform." Outside analysts said it passed the buck.

"The House is taking baby steps that will be ineffective in preventing future Abramoff-style scandals," said Joan Claybrook, president of the watchdog group Public Citizen.

"Their interest is waning because the public's interest is waning," said Roberta Baskin, executive director of Center for Public Integrity, another Washington watchdog group.

In January, congressional leaders promised aggressive new regulations to assure the public that the government would never be influenced and tarred again by free-spending lobbyists like Abramoff. Republicans, in particular, feared a backlash that could hurt them in the fall elections.

Leading the reform charge, House Speaker Dennis Hastert, R-Ill., urged permanently banning members of Congress from accepting privately financed trips on corporate jets, overseas junkets and gifts worth more than $20, such as meals or tickets to sporting events. It was necessary, he said at the time, "to regain the trust of the American people."

He also wanted to consider banning pork-barrel spending, or "earmarks," and stripping former members of their visiting privileges on the House floor or in the House gym if they became lobbyists.

Since then, however, Hastert has found Republicans and Democrats reluctant to stop all interaction with lobbyists.

First, members privately groused to Hastert that he was going too far. Then, House Republicans elected Rep. John Boehner of Ohio as their new majority leader, rejecting the bid of Rep. John Shadegg of Arizona, who promised a tougher crackdown on lobbying.

"This is a very difficult process when you begin to look at changing the rules in terms of the way we do business," Boehner said this week. "You know, the Senate started on it, looked like it was moving pretty well, but they've got their own issues that are bogging them down."

A key reason is that the public's attention has turned elsewhere to stories such as the possible turnover of some U.S. port operations to a foreign company and the vice president's accidental shooting of a friend. That took the heat off of Congress, at least temporarily.

A recent survey by the Pew Research Center found that fewer than one out of five Americans still followed the lobbying scandal story closely.

Yet public interest could rise again. "There will be other indictments. Just stand by," cautioned Sen. John McCain, R-Ariz., who hopes to offer a bipartisan set of new regulations on lobbyists and politicians.

And if the public tunes back in, it could find at least some of the Washington response to the scandal wanting.

A recent bipartisan survey, the Battleground Poll, found broad public support for many possible new regulations, including one that was offered by the Republicans and many more that weren't proposed:

The deepest support, 87 percent, was for greater disclosure by lobbyists about their work and their contacts with the government. The Republican proposal would require lobbyists to file more detailed reports more frequently.

Other popular reforms weren't in the plan, however, including:

-Broader ban on gifts, supported by 79 percent.

-Lengthening the lobbying ban for former members of Congress or their staffs from one year to two years, supported by 75 percent.

-Banning lobbying on the House floor and in House gym, supported by 67 percent.

-A broader travel ban, supported by 67 percent.

-Ending earmarks, supported by 59 percent.

Even before the proposal was unveiled, Republican pollster Ed Goeas said the survey offered a road map to political success - if it were followed.

But Baskin, of the Center for Public Integrity, noted that Congress has resisted such advice in the past. She recalled that the first proposal to ban members-turned-lobbyists from the House floor was made in 1897 -and that it's been rejected ever since.

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"The way it works in Washington, lobbyists have tremendous power," she said. "And they will continue to as Congress backs off from all the verbiage about cracking down."

House GOP Leader Well Traveled (WP)

By Jeffrey H. Birnbaum

The Washington Post, March 18, 2006

Privately Paid Trips Total Half a Year

House Majority Leader John A. Boehner (Ohio), who rose to power in the wake of a congressional lobbying scandal, spent the equivalent of nearly six months on privately funded trips over the past six years, according to a new study by a nonpartisan research group.

The Center for Public Integrity said that Boehner accepted 42 privately sponsored trips from January 2000 to December 2005. That put him on the road to other countries and "golfing hotspots," often with his wife, Debbie, for about half a year, "only nine days of which he listed as being 'at personal expense,' " the center said.

Boehner also flew at least 45 times on corporate jets owned by companies "with a financial stake in congressional affairs" from June 2001 through September 2005, the center reported. The corporations on whose planes Boehner flew included tobacco companies such as R.J. Reynolds Tobacco (15 times), UST Inc. (seven times) and Swisher International Inc. (seven times).

"Boehner is one of Congress' most frequent corporate fliers," Roberta Baskin, executive director of the center, said, based on a review of other lawmakers' disclosure forms.

The report is the most detailed and comprehensive look at the new majority leader. Boehner, who was elected to the post last month, had been criticized by lawmakers who opposed his elevation for being too close to lobbyists.

Boehner rejected that characterization and offered himself as an agent of change, especially on the issue of congressional ethics. The center concluded, however, that Boehner built "a network of political and business relationships" with corporations and other interests "not unlike" his predecessor, Rep. Tom DeLay (R-Tex.), whose tenure in the job was controversial in large part because of his close ties to lobbyists and lobbying groups. DeLay stepped down last year after he was indicted in Texas on charges of political money laundering.

In the early debate over how to crack down on lobbyists -- a byproduct of the guilty plea in January of former GOP lobbyist Jack Abramoff -- Boehner had been a leading opponent of a ban on privately paid travel. One of his first public pronouncements after winning the second-ranking position in the House leadership was to declare his disagreement with Speaker J. Dennis Hastert (R-Ill.), who wanted to end travel paid for by private interests.

Boehner pushed instead for enhanced disclosure of privately provided benefits including travel, meals and gifts -- the direction the House now appears to be taking in pending legislation. In the meantime, he has accepted a compromise that would ban privately paid travel this year until the House ethics committee devises new rules.

Kevin A. Madden, a Boehner spokesman, defended the lawmaker's trips as legal, proper and educational. He said Boehner's initial enmity toward a ban on privately paid trips was not because he has taken so many of them.

Rather, Madden pointed to the center's report as proof that disclosure works well. Madden said the study was possible because of the thorough disclosures Boehner made through the years and which he now advocates expanding. The center was able to detail Boehner's activities because his trips, "in each and every instance, were promptly and publicly disclosed according to law," Madden said.

"The fact that this report uses publicly available documents underscores Mr. Boehner's commitment to transparency and full disclosure," Madden said. "The entire approach of transparency and disclosure is so that groups like this one [the center] aren't the ultimate judge. The voters are."

Among the places Boehner traveled on privately financed trips were Edinburgh, Scotland; Venice; Brussels; and Barcelona, the center said. Two of his domestic destinations, which the center pointed out are famous for their golf courses, were Boca Raton, Fla., and Scottsdale, Ariz.

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The report said Boehner received more than $160,000 in food, lodging, transportation and other expenditures on his privately paid journeys. His benefactors included the Chicago Board of Trade, the Chicago Mercantile Exchange, CSX Corp. and the Sallie Mae Foundation.

The congressman also "hosted many high-end fundraisers to wine and dine potential donors and Republican colleagues," the center said. Boehner's Freedom Project political action committee, which he used to help fellow Republicans get elected to Congress, paid more than $119,000 for golf-outing fundraisers from March 2003 through the end of 2005, the center said. It also paid $25,000 to Duck Soup, the "unofficial band of the PGA Tour."

The same leadership PAC spent more than $87,000 on food, beverages and fund-raising costs at Sam & Harry's, a D.C. steakhouse popular with lobbyists, from 2001 through August 2005. It also paid more than $40,000 over two nights at Washington's Hard Rock Cafe, the center reported.

Boehner's spokesman said that those kinds of expenditures were commonplace for fundraising events.

Boehner's staff has benefited from corporate-paid travel. The congressman approved trips taken by dozens of his aides from his personal office and the staff of the House Committee on Education and the Workforce, which he chaired starting in 2001. Over the past five years, the center said, his staff aides took more than 150 privately paid trips worth more than $200,000 to locations as far-flung as Japan and Europe.

Opening The Door On The Credit Report And Throwing Away The Lock (NYT)

By Damon Darlin

The New York Times, March 18, 2006

In a dozen states, legislatures have set up procedures for residents afraid of identity theft to lock and unlock their credit reports.

But credit-reporting agencies are pushing Congress to override the state laws, which could make it harder for Americans to keep their credit information under wraps.

Lobbyists for the big agencies — Equifax, Experian and TransUnion, owned by the Marmon Group — are seeking to add an amendment to the Financial Data Protection Act, a bill being rewritten by the House of Representatives. (A similar bill, S 1408, is working its way through the Senate.) While the wording has not been set for the bill, also known as HR3997, lobbyists for the credit agencies are pushing for a law that limits the ability to lock credit reports to victims of identity theft. Moreover, the reports could be unlocked with five days' advance notice.

Once a report is locked, an agency cannot release any of its details.

Consumer groups are upset that a federal law might supersede what has been done at the state level.

"Is Congress going to go soft on crime?" asked Abigail Caplovitz, legislative advocate at the New Jersey Public Interest Research Group. Her group thinks that a law it pushed through the New Jersey Legislature last year cuts down on identity theft because it makes it relatively easy and inexpensive for consumers to lock and unlock their credit reports. "Unless a credit freeze is user-friendly, it is useless because it won't be used," Ms. Caplovitz said.

Even if Congress does nothing, protecting credit information is going to become more complicated and inconvenient as more states pass laws that try to balance protecting consumers and protecting the credit-reporting industry.

Before we get to the advice, let's take a look at what is at stake here. The New Jersey law, which went into effect in January, permits any resident to freeze access to a credit report free. A thaw costs the consumer $5 an agency. The law also calls on the agencies to set up technology allowing credit to be thawed as quickly as 15 minutes after notification. Utah recently passed a bill, as yet unsigned by the governor, that would require the credit agencies, by 2008, to switch a lock on or off in 15 minutes.

The lag time is important because a three- or five-day delay could prevent a person from making a spur-of-the-moment purchase. Merchants may lose sales if they have to wait several days before they can verify a customer's creditworthiness. By then the consumer's urge to buy may pass — which, for some people, might not be such a bad thing.

Getting Americans to spend less and save more is not what the credit-reporting agencies are after. And there is no technological barrier that makes a quick unlock impossible. They are concerned that each state will have different rules and

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prices. That is already happening. Nevadans pay the most: $15 to lock and $18 to unlock. It is free in Illinois, Texas, Washington and Vermont, but only fraud victims can do it.

The agencies also dislike laws like New Jersey's because they fear that making it too easy to lock a credit report may ruin their business in the way that the Do Not Call list decimated the phone solicitation business. The companies' main business is selling credit information to potential lenders, insurers and even employers.

The ability to turn credit reports on and off is a "false promise," said Stuart Platt, president of the Consumer Data Industry Association, the trade group that represents the credit reporting industry. He said it could damage an industry that has helped to reduce the cost of credit by helping lenders manage risk.

Locking reports, however, does not stop credit card solicitations. That can already be done by calling 888-5OPTOUT (888-567-8688). The ban lasts five years.

Congress will not take a vote on the full Financial Data Protection Act until fall. In the meantime, the confusion in the current system presents an opportunity for businesses to charge consumers who want to protect themselves. They have already scared Americans with statistics like, nine million Americans were victims of identity theft. Never mind that most cases labeled identity theft are simple fraud resulting from a lost or stolen credit card, according to Federal Trade Commission statistics. A consumer's liability is limited to $50 in those cases.

But the marketing campaigns seem to be working. Ten million Americans already pay about $100 a year to protect their credit information. In other words, it is already a $1 billion industry. Consumers will probably be paying more, though they don't always need to.

There are various levels of protection. Every year, a person can go to annualcreditreport.com for a free copy of all three credit reports or space them out over several months. There is no reason to ever pay for this service. Look it over for errors. (Making sense of credit scores, which determine your rate of interest, may be getting easier. This week, the three agencies said they had created a VantageScore, a single scoring system that each company will use.)

If you are worried about someone opening accounts in your name, you can call or write one of the agencies to put a fraud alert on your account. Each has the responsibility to alert the other two. The protection lasts 90 days. An additional 90 days are available but you will have to write to each credit bureau and ask. You have to keep doing this for as long as you want lenders to double-check with you.

When this fraud alert works correctly, lenders are supposed to take extra precautions before extending credit, but they do not have to do this. It could be a simple as asking for additional identification, but others may want to call you and ask for other information.

One drawback of fraud alert is that you may find it difficult to take advantage of instant-credit offers at stores. (Though this, too, might not be a bad thing. Opening too many lines of credit in a short period of time will harm your credit score.) Sometimes you may be denied credit because the lender does not want to go through the extra verification.

Another drawback is that while it is simple to sign up for a fraud alert, it is difficult to get off the list when you find it more trouble than it is worth. You have to make the request in writing and provide documents attesting to your identity.

An alternative is credit monitoring, but these services will cost you. TransUnion's TrueCredit offers three-bureau credit monitoring for $15 a month, while Equifax's Credit Watch Gold is $13 a month, also for three bureaus. A consumer is notified by e-mail after a new credit card has been issued or when a chunk of a home equity line of credit has been used. But after a while, those messages sound like the little boy who cried wolf and you might start ignoring them.

"They tell you after the fact," says Scott Mitic, vice president for business development at TrustedID, a start-up company that intends to take advantage of the confusion surrounding the protection of credit information. "It is this reactive system that irked us."

Mr. Mitic, a former executive with Fair Isaac, the company that created the formulas for computing credit scores, and Omar Ahmad, chief technology officer at TrustedID, were introduced on what they call an "entrepreneurial blind date." They discovered a shared interest in identity theft and they came up with a way to profit from it.

"No one will confuse the credit bureaus' customer service with Nordstrom's," said Mr. Ahmad, a former chief information officer at Napster.

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TrustedID plans to automate the process of locking and unlocking credit reports. When you want your credit locked or unlocked, for instance, when you intend to buy a car or apply for a mortgage, TrustedID will send the agencies all the paperwork and the fees and charge you $8 a month or $90 a year.

You could do it yourself for far less, especially if you live in one of those states where the service is free. But the company is counting on the process being so onerous that you would pay them to do it instead. Indeed, the notion that people will pay extra for the convenience of protecting their credit reports is so compelling that the company has attracted financing from one of Silicon Valley's top venture capital firms, Draper Fisher Jurvetson.

The bottom line: Those few people who have been victimized by identity thieves — not credit-card thieves — and continue to be vulnerable should take the extra precautions. For everyone else, all these services are just going to be one more hassle.

OTHER NEWS:

'A Strong Move Higher' (WSJ)

The Wall Street Journal, March 18, 2006

March 17, 2006 4:57 p.m.

Fueled by renewed expectations that the Federal Reserve will ease off the interest-rate brakes, the Dow Jones Industrial Average motored higher this week, nearing a six-year high.

Friday, the Dow industrials rose 26.41 points to 11279.65 Friday, finishing the week with a 203-point gain. That left the average less than 60 points shy of its highest level since January 2000, when the dot-com bubble was in full bloom -- and about to burst. It was also the same month the Dow industrials hit their all-time closing high of 11722.98.

Those airy heights proved fleeting: By Jan. 28, the Dow industrials closed at 10738.87, shedding nearly 1,000 points in two weeks as investors started to doubt the foundation of the powerful move by technology stocks. Another factor that deflated stocks: a rate-lifting campaign by the Fed.

Analysts say this move is different. Strong gains by financial, energy and basic materials companies -- more resilient than the dot-com babies of the late 1990s -- have driven the latest rally. Indeed, the move up has come from big, blue-chip companies, while the Nasdaq Composite Index, which rose 6.92 points to 2306.48 Friday, has been sluggish. The Standard & Poor's 500-stock index, up six days in a row, added 1.92 to 1307.25.

The relatively solid underpinning of the gains has analysts forecasting more good things to come. "I believe this is the beginning of a strong move higher," said Ned Riley of Riley Asset Management. Investors who've been sitting on the sidelines will get drawn into the market as they see major stock benchmarks such as the Dow hitting multiyear highs, he said.

Russ Koesterich, senior portfolio manager at Barclays Global Investments, said the market could pull back next week as it consolidates its gains, but thinks the rally could still have legs if economic reports over the next few months show inflation remains under control. "If you don't see evidence that either wages are building up or that there's a continuous buildup in manufacturing prices, the likelihood is that the Fed is going to stop" raising rates soon, he said.

One factor driving stocks Friday was the expiration of four types of futures and options contracts, a quarterly phenomenon known as "quadruple witching." Midday, more than one billion shares changed hands on the New York Stock Exchange -- more than one-half of the average day's total. Volume topped 500 million shares in the first hour of trading.

Treasury bonds declined, sending yields higher. The dollar fell against the euro and yen. Futures prices for light, sweet crude oil, which jumped Thursday amid news of a big military operation in Iraq, fell 75 cents to $62.83 on the New York Mercantile Exchange.

Weighing on the Dow industrials Friday was the familiar sight of General Motors hitting the skids. The auto maker shed 4.9% after it said it was increasing its 2005 loss by $2 billion4 and that it intends to restate earnings dating back to 2000. The company also delayed the filing of its 10-K report with the Securities and Exchange Commission.

On the economic front, industrial output rose at a solid pace in February on a surge in utilities production and consumer-goods output. The Federal Reserve said industrial production, which fell 0.3% in January, rose 0.7% in February, better than the

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0.2% drop forecast. A confidence measure put out by the University of Michigan came in at 86.7, below the 87.8 reading expected and unchanged from February.

In major market action:

Stocks rose5. On the New York Stock Exchange, where 2 billion shares traded, 1,939 stocks rose and 1,464 fell. On the Nasdaq Stock Market, where 2.6 billion shares traded, 1,581 rose and 1,434 declined.

Bonds fell6. The benchmark 10-year Treasury fell 8/32, or $2.50 for every $1,000 invested, to yield 4.674%. The 30-year bond fell 12/32 to yield 4.718%. Yields move inversely to prices.

The dollar declined.7 It traded at 115.85 yen, down from 116.84 yen late Wednesday, while the euro rose to $1.2196 from $1.2178.

Housing, Inflation Data Give Investors A Boost (WT/AP)

The Washington Times, March 18, 2006

NEW YORK (AP) -- Bullish data on inflation and the housing market sent stocks mostly higher yesterday, with the Dow Jones industrials and Standard & Poor's 500 Index posting nearly five-year highs for the third straight session. A jump in oil prices moderated the gains, however, and the Nasdaq Composite Index finished lower.

Wall Street welcomed the latest report from the Labor Department, which showed consumer prices rising just 0.1 percent in February, far less than the 0.7 percent jump in January. Core CPI, with food and fuel prices removed, also rose 0.1 percent, down from 0.2 percent the previous month.

Combined with better-than-expected housing construction in February, investors were reassured that the economy continues to grow while inflation remains in check.

The Dow rose 43.47, or 0.39 percent, to 11,253.24, its highest close since May 22, 2001, when it finished at 11,257.24.

Broader stock indicators were narrowly mixed. The S&P 500 Index added 2.31, or 0.18 percent, to 1,305.33, its best close since May 22, 2001. The Nasdaq Composite Index slid 12.28, or 0.53 percent, to 2,299.56.

The Russell 2000 Index of smaller companies rose 0.85, or 0.11 percent, to 743.79, an all-time high.

Advancers outnumbered decliners by nearly 2 to 1 on the New York Stock Exchange.

Bonds mounted another strong rally, with the yield on the 10-year Treasury note falling to 4.64 percent from 4.73 percent late yesterday. The dollar fell against most major currencies, while gold prices also fell.

Rising crude-oil futures eroded some of the major indexes' earlier gains. A barrel of light crude settled at $63.58, up $1.41, on the New York Mercantile Exchange.

Fears of a declining housing market eased after the Commerce Department reported an annualized 2.145 million new homes under construction in February, down slightly from 2.216 million in January but a better figure than economists had expected.

First-time unemployment claims rose again, with 309,000 new jobless forms filed last week, up from 304,000 the previous week. The rising trend, while troubling to the labor market, also reassured investors that consumers' spending power would remain moderate, lowering the risk of inflation and, in turn, rate increases from the Fed.

"Once again, we're seeing a reaction to soft economic data," said Jeff Kleintop, chief investment strategist for PNC Financial Services Group in Philadelphia. "It seems to be the key to reducing worries about how aggressive the Fed is going to be going forward, which seems to be the catalyst for stocks here."

Ford Motor Co. rose 8 cents, or 1 percent, to $7.93 despite a Citigroup downgrade to "underweight" from "equal weight," or the equivalent of a "sell" rating. Citigroup said Ford was losing market share in sport utility vehicles and is seeing increased competition in pickup trucks.

Bear Stearns Cos. continued the streak of record earnings posted by Wall Street brokerage houses this week. The company's first-quarter profits beat analysts' expectations by 59 cents per share. After the session began, however, regulators announced a $250 million settlement with the company over improper mutual fund trading. Bear Stearns lost 94 cents to $133.27.

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ConAgra Foods Inc. fell 91 cents to $19.50 after the food producer announced a massive restructuring plan that includes the sale of its seafood and cheese businesses and would result in unspecified one-time charges for the rest of the year. The company also cut its quarterly dividend by 34 percent.

Barnes & Noble Inc., the nation's largest bookseller, surged $4.18, or 9.7 percent, to $47.40 after it reported a 6.3 percent profit increase in its fourth quarter, beating Wall Street's expectations, and offered an earnings outlook for the current year that is higher than what Wall Street had expected.

Overseas, Japan's Nikkei stock average tumbled 1.37 percent as investors there bid stocks lower in preparation for a possible rise in interest rates there. In Europe, Britain's FTSE 100 closed up 0.47 percent, France's CAC-40 fell 0.04 percent for the session, and Germany's DAX Index slipped 0.01 percent.

That would allow the economy to withstand further interest rate increases from the Federal Reserve, which is expected to approve another quarter percentage point rate rise when it meets March 28.

"The consumer price index rise was very modest. It suggests, as I think many of us have been forecasting, that inflation is in the process of moderating," said Hugh Johnson, chairman and chief investment officer at Johnson Illington Advisors. "The good news is investors can feel somewhat more comfortable about monetary policy."

U.S. Stocks Rise, Notching Best Week In 2 Months; Boeing Gains (BLOOM)

By Hilary Johnson

Bloomberg, March 18, 2006

March 17 (Bloomberg) -- U.S. stocks rose, closing out their best week in two months amid signs of steady economic growth and tame inflation.

A drop in oil prices helped the Standard & Poor's 500 Index and the Dow Jones Industrial Average advance to their highest levels since May 2001. Boeing Co., the largest U.S. aircraft maker, led the advance on demand for its 787 jetliner.

Stocks this week were aided by the biggest drop in bond yields this year and record profits from Goldman Sachs Group Inc., Bear Stearns Cos. and Lehman Brothers Holdings Inc.

``There's pent up optimism that the next couple of quarters should be OK for corporate America and the economy because the interest-rate environment has stabilized," said Jay Suskind, co-head of capital markets at Ryan Beck & Co. in Florham Park, New Jersey.

The S&P 500 added 1.92, or 0.2 percent, to 1307.25, climbing for a sixth consecutive day. The Dow Jones Industrial Average gained 26.41, or 0.2 percent, to 11,279.65. The Nasdaq Composite Index rose 6.92, or 0.3 percent, to 2306.48.

Almost four stocks rose for every three that fell on the New York Stock Exchange. Some 2 billion shares changed hands on the Big Board, the highest since Jan. 26. Trading was heavier than usual because of the expiration of options and futures contracts, known as quadruple witching.

The S&P 500 climbed 2 percent since March 10, the biggest weekly advance since Jan. 6. The Dow average gained 1.8 percent and the Nasdaq is up 2 percent. Data on consumer prices and retail sales, along with a regional business survey from the Federal Reserve, eased concern that inflation will drive the central bank to raise interest rates beyond mid-year.

Bond Yields

The yield on the 10-year Treasury note dropped almost 9 basis points, or 0.09 percent, to 4.67 percent this week, the biggest decrease since December.

Boeing jumped $1.12, or 1.5 percent, to a record $77.85 for the biggest gain in the Dow average. The world's No. 2 commercial-aircraft maker met with its top suppliers on March 14 and 15 to discuss boosting production, said a spokeswoman. Doubling 787 production may mean an extra $12.6 billion in annual revenue, based on top list prices for the plane.

Boeing's gain and a Fed report on industrial production lifted a measure of industrial companies to the best gain among 10 groups in the S&P 500, rising 0.6 percent. United Technologies Corp., the largest maker of elevators and air conditioners, gained 57 cents to $58.80.

Industrial Production

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Production at the nation's factories, mines and utilities increased 0.7 percent last month after decreasing 0.3 percent in January, the Fed said. The proportion of industrial capacity in use rose to 81.2 percent, the highest since September 2000, from 80.8 percent.

A separate report showed the University of Michigan's preliminary index of consumer sentiment for March was unchanged at 86.7 this month. Economists expected an increase to 88.

Crude oil for April delivery fell 1.3 percent to $62.77 a barrel in New York. The Organization of Petroleum Exporting Countries lowered its forecast for world demand amid signs that surging U.S. supplies are sufficient to make up for a possible disruption.

General Motors Corp. weighed on the Dow average, losing $1.09, or 4.9 percent, to $21.13. The world's No. 1 automaker said its 2005 loss will be $10.6 billion, wider than the loss of $8.6 billion it reported. GM cited higher costs to eliminate workers and bail out its bankrupt former unit Delphi Corp.

Wall Street reported record earnings this week on increases in stock trading and takeovers.

Goldman, Lehman

Goldman climbed $2.67 to $150.36 today, extending its weekly gain to 6.2 percent. The second-largest securities firm said quarterly earnings jumped 64 percent to $2.48 billion, greater than it netted in all of fiscal 2002.

Lehman rose 0.5 percent to $142.80 this week. The fifth- biggest securities firm said earnings climbed 24 percent to $1.09 billion. Bear Stearns, the No. 6 securities firm, added 0.5 percent for the week to $132.87. Its quarterly results exceeded the highest analyst estimate in a Thomson survey.

Futures show traders kept bets the Fed will increase its main rate to 4.75 percent this month. The chance of a 5 percent rate at the meeting in May dropped to 73 percent from 90 percent at the beginning of the week, and traders erased bets on any increase in June, from 22 percent odds on March 13.

``We have a tug-of-war going on between earnings, which are reasonably good, versus the Fed, where people are trying to figure out are they still going to tighten or not,'' said Richard Bernstein, chief U.S. strategist for Merrill Lynch & Co. in New York.

Copper and zinc prices rose to records, leading a rally in base metals and boosting shares of Phelps Dodge Corp. and Southern Copper Corp. Phelps Dodge climbed $3.06 to $75.57. Southern Copper $2.38 to $83.89.

Accounting Issues

American International Group Inc., the world's largest insurer that has restated earnings twice in the past year, fell 42 cents to $68.82 today. AIG said fourth-quarter profit before some items was 14 cents a share, less than the 19 cents predicted by Mark Lane, an analyst at William Blair & Co. in Chicago. AIG also said it is trying to fix remaining flaws in its accounting systems by 2007.

Bausch & Lomb Inc. gained after the impact from its accounting problems proved to be less than feared. The maker of contact lenses and eye-care products, which plans to restate results for 2001 to 2005 due to financial misconduct in Brazil, said improper revenue practices at some other overseas units lowered sales during that period by $12.6 million. The adjustments are ``minor,'' said Suey Wong, an analyst at Robert W. Baird & Co. The stock rose $3.81 to $68.87.

Maytag, Sirius

Maytag Corp. fell $1.23, or 6.9 percent, to $16.71 for the steepest drop in the S&P 500. The Justice Department may fight Whirlpool Corp.'s proposed $1.68 billion purchase of its rival, on concern the deal is anticompetitive, people familiar with the case say. Whirlpool spokesman Christopher Wyse and Maytag spokesman John Daggett declined to comment.

Shares of Sirius Satellite Radio Inc., the No. 2 pay-radio company, jumped 38 cents to $4.89. The company said it signed an exclusive 5-year agreement for Volkswagen AG to put its receivers in 80 percent of the carmaker's new U.S. cars starting with 2007 models.

Tektronix Inc., a maker of test equipment for electronics manufacturers, climbed $4.11, or 13 percent, to $36.70 for its biggest gain in three years on better-than-expected earnings. Fiscal third-quarter profit, excluding some items, was 37 cents a share, more than the 33 cents average expected in a Thomson Financial survey. Thomson does not provide the parameters of its estimates to Bloomberg News.

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Oil And Productivity Set A Positive Tone (WP/AP)

By Associated Press

The Washington Post, March 18, 2006

NEW YOR -- A rebound in manufacturing activity along with declining oil prices helped Wall Street extend its rally Friday, lifting the Dow Jones industrial average and the Standard & Poor's 500-stock index to fresh five-year highs for the fourth consecutive session.

The Federal Reserve reported that industrial production grew 0.7 percent in February after sliding 0.3 percent the month before, with the onset of cold weather driving an upswing in utilities output.

Stocks' gains were limited, however, as the day's news reports did little to address Wall Street's persistent worries about inflation and more interest-rate increases from the Fed, said Ken Tower, chief market strategist for Schwab's CyberTrader.

"I think the question the market is struggling with is whether we are concerned about inflation and too strong an economy, or if the Fed is raising interest rates too much and cooling things off," Tower said. "So we have a little pause in the market today as it tries to work this question out."

The Dow rose 26.41, or 0.23 percent, to 11,279.65, its highest level since May 21, 2001.

The S&P rose 1.92, or 0.12 percent, to 1307.25 , its highest close since May 22, 2001. The Nasdaq composite index rose 6.92, or 0.3 percent, to 2306.48.

Bonds cooled following this week's rally, with the yield on the 10-year Treasury note edging up to 4.67 percent, from 4.64 percent late Thursday.

Crude oil futures declined slightly after OPEC cut its projected global demand by 110,000 barrels a day.

The market also weighed a mixed assessment of consumers from the University of Michigan. Its consumer-sentiment index for March came in at 86.7, unchanged from February but below economists' prediction of 88.

"One thing worth noting is that we saw several positive pre-announcements from economically sensitive companies," such as DuPont and Union Pacific, Sheldon said.

Analysts also said that while the Dow and the S&P 500 are pressing past multiyear highs, the Nasdaq is still about 30 points off its January record of 2331.36. Whether the tech sector can close that gap and contribute to the market's gains could determine how long this rally will continue, Tower said.Movers

Viacom rose 60 cents, to $38.97. It is selling the film library of recently acquired DreamWorks SKG for $900 million.

Google rose $1.02, to $339.79, after saying it expects its 2006 capital expenditures to be significantly greater than the $838.2 million it spent last year.

General Motors fell $1.09, to $21.13, after saying its 2005 loss was $2 billion more than originally reported.Indexes

New York Stock Exchange composite index rose 9.69, to 8271.61.

American Stock Exchange index fell 3.89, to 1927.83.

Russell 2000 index of smaller-company stocks rose 2.30, to 746.09.Volume

NYSE: 2.39 billion shares, down from 2.41 billion Thursday. Advancers outnumbered decliners by nearly 2 to 1.

Nasdaq: 2.51 billion shares, up from 2.38 billion. Advancers narrowly outnumbered decliners.Commodities

Crude oil for April delivery: $62.77, down 81 cents.

Gold for current delivery: $554.10 a troy ounce, down from $554.40 on Thursday.

Industrial Output Advanced Briskly Last Month (WSJ)

By Rafael Gerena-morales

The Wall Street Journal, March 18, 2006

Utility-Plant Production Surges to Fuel the Gains; Manufacturing Stays Solid

Industrial production expanded at a healthy pace last month, the latest sign that American industry is thriving.

The Federal Reserve reported Friday that industrial production in February at the nation's factories, mines and utilities jumped 0.7% from January, boosted by a surge in production at utility plants. Compared with a year earlier, industrial production was up 3.3%.

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Read the complete text1 of the Federal Reserve's report on February industrial production and capacity utilization, and analysis2 from Briefing.com.

On the surface, the showing was slightly weaker than economists had expected, due partly to declining auto production. In addition, February's output follows an unusually strong January, when manufacturing output expanded at a 10% annualized rate as factories along the Gulf Coast continued to come back online in the aftermath of last year's hurricanes. January's surge was "due for a pause," said Daniel Meckstroth, chief economist at the Manufacturers Alliance/MAPI.

But economists found lots of positive news in the report, especially in the manufacturing sector, which is seeing year-over-year output expand at double-digit rates for some key sectors that reflect consumer spending and business investment. Overall, manufacturing output was flat last month, but was up 4.2% over the past 12 months.

"The manufacturing sector is solid," said Joel Naroff, chief economist at Commerce Bancorp. "We're still in the midst of a pretty well-rounded expansion. Consumers have been buying. Businesses have been investing. That's translating into more output" on an annual basis, he said. In February, manufacturing output "was taking a deep breather more than anything else."

The average capacity utilization rate -- which measures how fast industry is running -- rose to 81.2% last month from 80.8% in January. When utilization rates spike, busy factories compete for workers and materials, which could eventually put upward pressure on inflation. For now, though, economists said capacity levels aren't high enough to do so.

Within manufacturing, production was strongest among makers of computers and electronic products, where output rose 19% during the past 12 months and 1.2% last month. Economists pay close attention to computer output because it suggests that businesses are investing in new equipment. When business spending is rising, "it's a suggestion that businesses are doing well and they have a high level of confidence in the U.S. economy," said John Silvia, chief economist at Wachovia Corp. "It shows you there is more breadth in the economic expansion than the consumer alone."

Breach Security Inc., a 38-employee manufacturer of data-security equipment in Carlsbad, Calif., is riding the technology-investment boom. The company's security device -- which sells for as much as $50,000 per unit -- works on computer networks to prevent hackers from penetrating corporate Web sites and also safeguards sensitive information. Last year, Breach Security sold 20 units, but it has ramped up production and manufactured 40 of the 50 units it expects to sell in 2006. Any business "with privileged information on the Web has to protect its customers and employees," said Marc Shinbrood, Breach Security's chief executive officer.

A housing boom has kept factories humming for makers of electrical equipment and appliances. Although the sector declined 1.7% last month following a 2.4% gain in January, production for the group was up 7.3% year over year. The category includes washing machines, refrigerators and dishwashers.

Whirlpool Corp., Benton Harbor, Mich., last month reported that its fourth-quarter net income rose 30% to $126 million. Roy Armes, senior vice president of the program management office, said sales are rising as consumers trade up to higher-quality appliances in new styles that emphasize modern design. Customers are willing to pay more for those goods, which include energy-efficient, front-load washers and stainless-steel refrigerators that resist fingerprints, he said. "We are entering 2006 with strong business momentum," Jeff Fettig, Whirlpool's chairman and CEO, recently told investors.

Last month, utility output increased 7.9% as the weather turned cooler and consumers used more electricity to heat their homes. Natural-gas production rose 12.9%. Spending on business equipment rose 0.1%. Meanwhile, production of cars and parts fell 0.8%, and textile production fell 1.3%, according to the Fed. Excluding autos and parts, manufacturing output rose 0.1% last month.

Separately, the University of Michigan's midmonth report on consumer sentiment for March held steady at 86.7, the same level seen at the end of February.

U.S. Economy: Industrial Production Rebounds In Feb. (Update2) (BLOOM)

By Carlos Torres

Bloomberg, March 18, 2006

March 17 (Bloomberg) -- Industrial production in the U.S. rebounded last month, led by utilities and computer makers, as a record increase in demand for power raised the risk of faster inflation.

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The 0.7 percent increase last month in production at the nation's factories, mines and utilities followed a 0.3 percent decrease in January, the Federal Reserve said in Washington. The proportion of industrial capacity in use rose to 81.2 percent, matching December as the highest since September 2000.

``You can no longer make the argument that there is a lot of excess capacity out there," said John Silvia, chief economist at Wachovia Corp. in Charlotte, North Carolina. ``The bias on inflation is a little bit to the upside and the Fed has to be careful about that."

The lack of untapped capacity may cause factories to raise prices, prompting Fed policy makers to boost interest rates one or two more times, economists forecast. Higher borrowing costs and gasoline prices limited consumer confidence this month, a University of Michigan survey showed today.

The university's index of sentiment held at 86.7, reflecting a rise in Americans' perceptions of current conditions and a decline in expectations.

The Fed's report followed data yesterday that showed consumer price inflation slowed in February from a month earlier, suggesting companies are having limited success passing along higher costs.

The gain in February industrial production was led by a 7.9 percent jump in utility output as people used more electricity and natural gas to heat their homes.

Manufacturing

Manufacturing was unchanged, restrained by a decrease in motor vehicle production. Factories churned out more computers, semiconductors and communications equipment, reflecting an increase in corporate investment that will help drive economic growth.

``The big surprise here, though, is the unchanged manufacturing output, following four straight gains," said Ian Shepherdson, chief U.S. economist at High Frequency Economics in Valhalla, New York. ``This looks like nothing more than a blip. The average gain in manufacturing in January and February is a healthy 0.4 percent."

Economists expected a 0.8 percent increase in industrial production, according to the median of 63 forecasts in a Bloomberg News survey, following January's previously reported 0.2 percent decrease. Capacity utilization rose from January's 80.8 percent.

The yield on the benchmark 10-year note rose 3 basis points to 4.67 percent at 4:15 p.m. in New York. Ten-year notes still increased this week by the most since the period ended Dec. 16.

Interest Rate Futures

Interest-rate futures show traders kept bets the Fed will increase its key rate to 4.75 percent this month. The chance of a 5 percent rate at the meeting in May dropped to 73 percent from 90 percent at the beginning of the week, and traders erased bets on any increase in June, from 22 percent odds March 13.

Industries used 81 percent of capacity on average over the last three decades, according to Fed data. Higher-than-average operating rates increase the risk bottlenecks develop in the production process that will cause manufacturers to raise prices.

Work at factories, which accounts for almost 90 percent of industrial production, was unchanged after rising 0.8 percent in January. Production of consumer durable goods, which includes automobiles, furniture and electronics, roes 0.1 percent after increasing 1 percent the previous month.

Vehicle Production

Production of autos and parts fell 0.8 percent after increasing 2.4 percent. Manufacturing production excluding autos rose 0.1 percent after a 0.6 percent increase.

Business equipment production, which includes transportation and information processing equipment, rose 0.1 percent in February after increasing 1.2 percent the previous month. Production of technology equipment, such as computers, communications gear and semiconductors, rose 2.3 percent last month after no change.

Production of non-durable consumer goods, which include food, clothing, and paper products, rose 1 percent in February after falling 1.4 percent the previous month.

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The return of more seasonable temperatures in February also contributed to the production increase. Utility use slumped a record 11.5 percent in January, when the average temperature was the warmest for the month in over a century of record keeping.

Mine production decreased 0.5 percent last month after rising 2.3 percent.

Manufacturing Employment

Factories are hiring and boosting hours to keep up with demand from companies looking to expand operations. Manufacturers added 41,000 workers to their payrolls in the last five months and the workweek rose to 41 hours in February, 30 minutes longer than the average over the last five years, figures from the Labor Department show.

While U.S. automakers are struggling, foreign competitors are among those growing.

Toyota Motor Corp., the world's second-largest automaker, said this week it will build Camry sedans at Fuji Heavy Industries Ltd.'s U.S. Subaru plant, as the company rushes to add capacity to meet rising sales in the biggest auto market.

Toyota plans to make as many as 100,000 Camry automobiles annually at its factory in Lafayette, Indiana, with production to begin in 2007. In turn, Fuji plans to hire 1,000 workers and invest $230 million to upgrade the factory.

Inventories

Low inventories are also giving manufacturers reason to ramp up production. After sales jumped in January, businesses had enough goods on hand to meet 1.24 months' demand at the current pace, a record low, according to a Commerce Department report this week.

``We came into the year on the lean side'' in inventories, Abhi Talwalkar, chief executive officer at LSI Logic Corp., said in an interview March 15. The Milpitas, California-based maker of chips for consumer products and data storage devices had ``pretty strong growth'' in demand last year which is likely to continue in 2006, he said.

Regional surveys suggest factory activity gained momentum this month. Manufacturing in New York unexpectedly accelerated, a report this week from the state's Fed Bank showed. Measures of hiring, sales, and orders all rose. A similar report from the Philadelphia Fed showed total activity in the region slowed even as orders and sales accelerated.

The strength in manufacturing will prompt central bankers to raise interest rates one or two more times, economists forecast. Fed policy makers, when they meet in two weeks, are forecast to raise their target rate to 4.75 percent, according to the median estimate of economists surveyed by Bloomberg News. It would be the 15th consecutive quarter percentage point increase since they began raising the rate in June 2004.

Reduced Gas Price Slows Inflation (WT/AP)

The Washington Times, March 18, 2006

ASSOCIATED PRESS

Inflation slowed sharply in February as food costs moderated and the price of gasoline, natural gas and other energy products posted big declines.

The Labor Department reported yesterday that its closely watched U.S. Consumer Price Index (CPI) posted a tiny 0.1 percent increase last month after having jumped 0.7 percent in January. The slowdown in price pressures was certain to be welcomed at the Federal Reserve, which has been boosting interest rates since June 2004 to make sure inflation does not get out of control.

The number of Americans filing claims for unemployment benefits edged up to 309,000 last week, an increase of 5,000 from the previous week. Even with the slight increase, analysts said the level of claims was still signaling a strong labor market.

The third consecutive rise in jobless claims pushed them to the highest point in 11 weeks. However, analysts said they remain at a level that shows the labor market has rebounded from the blows delivered last year by the Gulf Coast hurricanes and surging energy prices.

The government reported last week that 243,000 new jobs were created in February, the strongest gain in three months, as hiring picked up across the country. Analysts are forecasting similar strong job gains in coming months.

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In a third report, the Commerce Department said that construction of new homes and apartments declined by 7.9 percent in February to a seasonally adjusted annual rate of 2.12 million units, another sign that the nation's five-year housing boom is slowing.

Analysts had expected the February slowdown after housing had surged to the fastest pace in more than three decades in January, reflecting unusually warm weather during the month.

The CPI report showed that energy prices dipped by 1.2 percent last month after a big 5 percent increase in January. The moderation reflected a 1 percent drop in gasoline pump prices, a 2.8 percent fall in home heating oil costs and a 4.5 percent drop in the price of natural gas, which was the biggest decline in more than four years.

New York Congressman Won't Seek 13th Term (NYT)

By Carl Hulse

The New York Times, March 18, 2006

WASHINGTON, March 17 — Representative Sherwood L. Boehlert, a moderate Republican from central New York who became a national advocate of science and a champion of environmental protection, announced Friday that he would not seek re-election.

Mr. Boehlert, 69, who under party rules would have had to surrender his chairmanship of the Science Committee at the end of this session, said he believed he had recorded solid accomplishments in his current term and decided after 24 years on Capitol Hill that he was ready to step aside.

"It is just time," Mr. Boehlert said in a telephone interview before he made his decision public at an event in his district, which is centered in Oneida and Cayuga Counties.

"There are other things to challenge my free time," said Mr. Boehlert, a baseball fan who said he wanted to spend some time at the ballpark and more time with his family. "I'm not tired, but I would rather not work 25 hours a day, eight days a week."

Although Mr. Boehlert and Republican leaders say the party will hold onto the seat in November, his departure provides an added opportunity for Democrats who need 15 seats to gain control of the House of Representatives.

Amy Walter, who follows House races for the nonpartisan Cook Political Report, observed that President Bush won the district with about 17,000 votes or 53 percent in 2004 but carried it by only 3,000 votes or 48 percent in 2000. "If this were a normal election year, you would give Republicans a bit of an edge," she said. "But between the reality of a bleak national political environment for Republicans and a weak Republican slate at the top of the ticket in New York, you wonder if Republican voters will be motivated to go the polls."

But Representative Thomas M. Reynolds, a New York colleague who heads the National Republican Congressional Committee, said he was confident that Republicans would keep the 24th District.

"Look, I would like Sherry to stay," Mr. Reynolds said. "But it is a Republican seat, and we will do fine."

Mr. Boehlert said he provided assurances to President Bush that the seat was safely Republican when he rode to New York on Air Force One with the president earlier this week, and he reiterated that view to Speaker J. Dennis Hastert. Mr. Boehlert is the 17th House Republican to retire this year.

A former Congressional staffer, Mr. Boehlert also served as Oneida County executive before he won the House seat. He compiled a liberal voting record for a Republican and has been challenged from the right in recent primaries.

In the House he was known for his willingness to challenge his conservative colleagues on environmental issues like the Endangered Species Act, automobile mileage standards and oil drilling in the Arctic National Wildlife Refuge. His frequent breaks with the party would have complicated his efforts to win the chairmanship of the Transportation and Infrastructure Committee had he decided to seek another term.

Mr. Boehlert said he believed that he could have captured the post, but that the panel's most important piece of legislation — the highway bill — would not be taken up again until 2009, meaning a decision to run again would have also meant a commitment to seek re-election in 2008.

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Mr. Boehlert used his seniority on that panel to steer tens of millions of dollars in highway and transportation money to his district over the years, and he announced his plans on Friday afternoon at the Boehlert Transportation Center in Utica. "Some people outside my district might call it pork," he said, "but to me it is the lifeblood."

He said he considered retiring in 2002 but decided to stay to help prevent the closing of military facilities in his district. As the head of the Science Committee, Mr. Boehlert was a supporter of space exploration and helped lead the Congressional inquiry after the Columbia disaster. But he said he took pride in moving the scope of the panel beyond the space agency into a push for more science education and new energy technology while beefing up the academic credentials of the committee staff.

"We are still No. 1," said Mr. Boehlert, referring to America's standing against its international competitors, "but they are catching up fast."

N.Y. Republican Boehlert Won't Seek 13th House Term (WP)

By Charles Babington

The Washington Post, March 18, 2006

Rep. Sherwood L. Boehlert (N.Y.), a champion of space exploration and environmental causes who remained a moderate Republican as the House shifted rightward, said yesterday that he will not seek a 13th term this fall.

Another House veteran -- 14-term Rep. Martin O. Sabo (D-Minn.) -- has scheduled a news conference for today to announce his retirement as well, the Minneapolis Star Tribune reported on its Web site yesterday. Democrats have some hope of replacing Boehlert in his Upstate New York district, whereas Sabo's solidly Democratic district is almost surely beyond the GOP's reach.

Republican term limits would have forced Boehlert, 69, to give up his Science Committee chairmanship next year. He had told hundreds of supporters in his home town of Utica that he would retire after 24 years as the representative of his district -- and 15 as a congressional aide to his predecessors.

Democrats hope Boehlert's retirement and President Bush's low approval ratings will give them a chance to win the seat, which the GOP has held for decades. Bush won 53 percent of the district's 2004 presidential votes while John F. Kerry drew 47 percent, and independent analysts say it still leans Republican.

"It's a difficult opportunity for the Democrats, but nevertheless an opportunity," said Stuart Rothenberg, who writes a nonpartisan political newsletter in Washington. "Democrats are going to need a wave there."

Democratic activists expect Michael A. Arcuri, 46, the Oneida County district attorney since 1993, to win the Sept. 12 primary. Republicans are looking to five-term state Sen. Raymond A. Meier, 53, to be their nominee. Rothenberg said Meier could be formidable because, as a mainstream Republican, he might enjoy stronger support from conservatives than did Boehlert, who often irritated his party's right.

In announcing his retirement, Boehlert said: "It is time. I feel like I've done it the right way."

Once a heavy smoker, Boehlert had heart bypass surgery in 2004. But insiders attributed his retirement largely to Republican rules that force most committee chairmen to step aside after six years. Other GOP veterans who have chosen to retire this fall rather than return to rank-and-file status include Ways and Means Committee Chairman Bill Thomas (Calif.).

Boehlert has been among the most liberal House Republicans for years. He has voted to raise the minimum wage and against a ban on a late-term abortion procedure. He supports stricter limits on carbon dioxide pollution -- a cause of greenhouse-effect warming -- than the Bush administration and many of his colleagues.

In 2001, Boehlert opposed an administration proposal to reduce the international space station's activities to allow only three astronauts to work there. After the space shuttle Columbia was lost in February 2003, he co-chaired hearings about the space program. He endorsed Bush's call for manned missions to the moon and Mars, but he said people should go into space "on a limited basis, on an as-needed basis."

Sabo, 68, has represented Minneapolis in the House since 1979, and he spent 18 years in the Minnesota House before that. He briefly served as House Budget Committee chairman before the GOP takeover of the chamber, which followed the 1994 elections.

Rep. Sabo To End His Long Career In Congress (MINNST)

Minneapolis Star Tribune, March 18, 2006

The Minneapolis Democrat will retire one of the nation's safest seats for an incumbent, setting off a DFL scramble to replace him.

Kevin Diaz, Rob Hotakainen and Rochelle Olson Star Tribune Staff Writers WASHINGTON - Rep. Martin Sabo, a lion of Minneapolis DFL politics for four decades, is expected to announce his retirement today after 28 years in Congress, people familiar with his decision told the Star Tribune on Friday.

Sabo, who turned 68 last month, has scheduled a noon news conference in his Minneapolis office.

His departure is expected to set off a scramble within the DFL party for a replacement. Jack Nelson-Pallmeyer, a professor of justice and peace studies at the University of St. Thomas, already has opened a campaign office and challenged Sabo at last week's precinct caucuses. And Michael Erlandson, Sabo's chief of staff and the former chair of the state DFL party, is expected to run.

"If the right situation arose, I've spent 19 years in public service and public policy, and such an opportunity would be the opportunity of a lifetime," Erlandson said Friday.

State Rep. Keith Ellison, DFL-Minneapolis, and DFL Minneapolis City Council Member Gary Schiff also said Friday that they would run.

Sabo's departure comes as a big surprise, especially since he could have become a committee chairman next year if Democrats recapture the House in this fall's elections. He had been campaigning for another term. One person familiar with the decision said the congressman's decision had nothing to do with his health or that of his wife, Sylvia, who had breast cancer.

The people who said Sabo would announce his retirement spoke on the condition that they wouldn't be identified, because they did not want to upstage Sabo's official announcement.

Minneapolis Mayor R.T. Rybak said he was stunned and saddened by Sabo's decision.

"There is no other politician who has had more of an impact on the character of Minneapolis, our roads, bridges, parks, schools," he said.

Rybak said that he met with Sabo two days ago in Washington and that Sabo said nothing about his retirement.

"He was the one single bright light in government who was always watching out for the city," Rybak said. "I am in awe of the man. He's one of those very quiet guys who delivers tremendously more than he would ever promise."

Sabo, who always took pride in his ability to deliver projects to his district, has helped Minnesota win tens of millions in dollars for the Twin Cities light-rail system and other transportation projects. Rybak said Sabo has an "enormous grasp of the big picture" and an "ability to get things done."

Minnesota now will have three of its 10 congressional seats open in the November election. Democratic Sen. Mark Dayton is retiring, and Republican Rep. Mark Kennedy is giving up his House seat to run for Dayton's seat. The last time Minnesota had three open seats was 1994.

Elected at age 22

Born in North Dakota, Sabo attended Augsburg College and was elected to the Minnesota House of Representatives in 1960 at age 22. He was elected House speaker at 34. He won a seat in Congress in 1978 and has consistently ranked among its most liberal members, a fit for his district, the staunchest Democratic district in the state.

Sabo, always soft-spoken and low-key, perhaps hit his pinnacle of power in 1993 and 1994, when he chaired the House Budget Committee, earning a reputation as a deficit hawk.

He has been a vocal critic of the Bush administration, consistently voting against the president's tax cuts, saying they were skewed to wealthy Americans. In an open letter to President Bush last month, he reiterated his opposition to the war in Iraq, asking the president how he can justify spending $5.9 billion each month on the effort. Sabo was one of 133 House members who voted against the war.

Even though the idea never went anywhere on Capitol Hill, Sabo vigorously pushed legislation that would cap tax write-offs when the pay for a company's chief executive officer exceeds 25 times the pay of the company's lowest-paid worker. In recent years, Sabo left a mark by promoting civil libertarians' concerns about airline passenger profiling. And Sabo, who was born to Norwegian immigrant parents, founded the Friends of Norway caucus in 1999.

Not fertile for Republicans

Sabo, Minnesota's longest-sitting legislator, has been a popular figure in Minnesota's Fifth District, one of the nation's safest Democratic seats. He won his 14th term in 2004 with 70 percent of the vote.

"Downtown Minneapolis is not fertile Republican territory," said Jonathan Collegio, a spokesman for the National Republican Congressional Committee.

In Washington, Democrats have no worries about Sabo's seat.

"No matter what Congressman Sabo announces, we are 100 percent confident that Minnesotans will send a Democrat to represent them in Congress this November," said Bill Burton, communications director for the Democratic Congressional Campaign Committee.

University of Minnesota political science Prof. Larry Jacobs called Sabo's departure a changing of the guard.

"It really is the last link to the original DFL," Jacobs said. "In another way, it's a big loss for Minnesota because Sabo had so much seniority. If the Democrats ever had the majority again, it would have meant a lot of money for the state."

But Jacobs said it's certainly not a bellwether district: "I think of the Sabo seat as the United Republic of Social Democracy. I think of it as the most liberal seat in Minnesota. I think it will be an interesting scuffle within the party."

Sabo had come under attack from the left side of his party lately, with Nelson-Pallmeyer saying that he was a decent man but that he had failed to press hard enough for an end to the war in Iraq and for other progressive causes.

"I'm confident in the power of our message. ... The people are eager for a different kind of politics," Nelson-Pallmeyer said Friday. He thanked Sabo for his long tenure in Congress and urged him to stay involved: "There are ways for Martin to be helpful to the DFL without returning to Washington for another two years."

His departure will mean changes for the Democrats' baseball team in Washington. A huge baseball fan who follows the Minnesota Twins closely, Sabo had long played for and coached the Democrats in the annual congressional charity baseball game.

Sabo's office declined to say anything about his announcement. "He's holding a press conference and that's all I can say," Erlandson said. "I'm going to leave it at that."

Until Friday, Sabo had been expected to run for another term. He had set up a website, seeking volunteers for the "2006 Sabo team," telling his supporters that he needed help with parades, festivals, door-knocking and literature drops.

"I hope I can count on your support," he wrote on the site. "It would mean a great deal to me." Washington Bureau correspondents Greg Gordon and Aaron Blake contributed to this report.

U.S. Seen As Failing To Engage In U.N. Process (LAT)

By Maggie Farley

The Los Angeles Times, March 18, 2006

Bolton shunned most talks on a rights council and his aides refused to negotiate, envoys say.

UNITED NATIONS — After being on the losing end of a 170-4 vote on the creation of a U.N. Human Rights Council, the U.S. is being criticized by many diplomats and human rights representatives here as having never fully engaged in negotiations over the matter and being unwilling to compromise.

Some diplomats said that if U.S. Ambassador John R. Bolton had spent as much time lobbying at the United Nations as he did in Washington, the U.S. would have had a better result.

Bolton and other U.S. officials disagreed, saying they talked but that other nations didn't listen, and insisting they were right in trying to hold out for a better plan.

"We would rather have nothing than something that falls short of our standards. That was our view all along," Bolton said Thursday, a day after the lopsided tally in which the U.S. found itself with Palau, the Marshall Islands and Israel.

"What we found sad was that some of our central allies gave up on key points. I don't understand it to this day," he said.

The outcome seems to be a result of mixed messages and mutual miscalculation. But it was rooted in the United States' ambivalence about how deeply to engage at the United Nations on certain issues.

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"It is not clear whether or not they wanted the council to succeed, but it is clear that they were ineffective," said Lawrence Moss,Ö the special counsel for U.N. reform for Human Rights Watch. "The Bush administration was divided about the proposed human rights council, and that was reflected in the way they negotiated. They could have been much more focused and joined with others in Europe and Latin America to press for their goals."

The drive for a new human rights body began last fallÖ after world leaders agreed at a U.N. summit to replace the Human Rights Commission, which Secretary-General Kofi Annan lamented was being used to protect violators from censure more than safeguarding human rights.

There should be no place for human rights violators on the new council, Annan said.

He suggested that new members must win support of two-thirds of the 191-nation General Assembly rather than have seats allocated by region. membership hinge on winning the support of two-thirds of the 191-nation National Assembly rather than on allocation of seats by region. In the past, countries with poor human rights records such as Sudan, Libya and Zimbabwe had been able to gain seats, and the commission could not pass a resolution condemning Sudan in 2004 even after the United States had called deemed the systematic massacres in Darfur genocide.

However, the majority of the General Assembly members, many from Africa and Asia, feared that the new council would be dominated by wealthy countries and be used against them.

When negotiations began in late October, the United States insisted that human rights violators be kept off the new council, and that the panel be able to take effective action against abusers.

"Their bottom lines were not unreasonable," said one of the chairs of the preparatory meetings. "But their inflexibility was. If one formula does not work, if you're serious, you should work to come up with another one. For the most part, they did not do that."

In the end, members who feared they could not win a vote for the 2/3 rule two-thirds support rule agreed that candidates for the council would have to win a majority, or 96 votes, in a direct election in the General Assembly. In addition, each council member's human rights record would be reviewed from time to time, and a systematic violator could be suspended from the council by a two-thirds vote of the General Assembly.

Critics said that instead of negotiating at meetings, the U.S. kept repeating its position. As well, Bolton did not appear at most of the formal sessions, which other ambassadors who did show up took to mean that Washington was not taking the process seriously, diplomats said.

In addition, they said that U.S. negotiators privately acknowledged that the standard could even be used to keep the U.S. off the council in a time when the United States is under scrutiny for its treatment of detainees at the Abu Ghraib prison in Iraq and the detention camp at Guantanamo Bay, Cuba.

"Other countries engaged more in the process than the United States did," said Ricardo A. Arias,Ö Panamanian envoy who was one of the chairmen, known in the U.N. parlance as a "facilitators."

"I can not say they were not negotiating constructively," he said, "but they were firm in their position all through the process."

Bolton said that his deputy, Alex Wolf, and other U.S. mission staffers attended the meetings, and represented the United States well.

The negotiations stalled, and on Feb. 1, under pressure to deliver a new council before the existing Human Rights commission convened in early March, the president of the General Assembly and two facilitators sounded out countries to find a middle ground.

On Feb. 27, after many revisions and dozens of meetings, General Assembly President Jan EliassonÖ presented the final proposal. Bolton immediately denounced it because it did not contain the U.S. demands for the two-thirds threshold and a ban on countries under sanctions and called for negotiations to reopen.

"I think in the facilitator process, the United States does not get heard," said Bolton. "I would rather sit down at the table across from other countries with my red pen, and go through it line by line."

The U.S. demand put Eliasson in a quandary. "Opening up negotiations would be a ticket to misery," he said in an interview Friday. "We would end up in a deadlock — or even worse-with a text that was weaker. Every country that gave up something would want to put something back in."

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But it was a situation that seemed familiar. In two other negotiations on U.N. reform in the last six months, Bolton had presented a hard line in New York, only to have Secretary of State Condoleezza Rice ultimately approve a compromise. Eliasson and his aides gambled that the same thing might happen again.

"I certainly made clear to Under-Secretary [Nicholas] Burns that I had my concerns and worries," said Eliasson. "I was glad that they did not appear to close the door."

There was a last-minute scramble to find a way to win U.S. support — or to at least keep it from blowing up the whole thing. To Eliasson, putting the proposal up for further negotiations would not only kill the council, but endanger a whole raft of U.N. reforms yet to be considered.

"It's not clear that they wanted to move," said a diplomat closely involved in the talks. "In fact I couldn't tell what they wanted. We offered ideas to Washington to achieve their goals, and nothing happened."

The diplomat questioned if the U.S. understood the disruptive effect its strategy would have on subsequent talks on human rights and UN reform, and if there was too much playing to the domestic gallery.

If Bolton was not making his message clear at the U.N., it was certainly clear in Washington. The ambassador spent every Friday there in Washington, briefing Congress members and meeting with State Department and White House government officials.

His press secretary, Ric Grenell,Ö arranged calls and meetings with about 70 editorial page editors. In one influential editorial, the New York Times wrote, "John Bolton is right; Secretary General Kofi Annan is wrong."

"We would show up at the facilitator meetings, present our case, and be ignored. When the U.S. is ignored, ignored, ignored, they can't complain when we have to go public to present our case," Grenell said.

Eliasson went ahead and scheduled a meeting of the General Assembly on Wednesday to adopt the proposal.

After the nearly unanimous vote, even the traditionally toughest critics, the human rights groups, praised the result. It may not have had the 62/37threshold that they were pushing for, but it had other measures to keep the worst violators off the council.

Bolton said the U.N. had missed a historic opportunity to help people who are most in need. But he did not carry through on a threat to block funding for the new body.

"It is encouraging to hear that despite voting against the resolution, the U.S. government will cooperate with the council and support it," said Yvonne Terlingen, of Amnesty International. "It's a victory for human rights protection around the world. Now the test is for the U.S. and other countries to join forces to make it work."

While the outcome may have reflected the White House bottom line, the bruising negotiations left bitter feelings among allies at the U.N. — and even within the State Department, said U.N. and U.S. officials. Those sentiments may play into future negotiations, some warn.

"If you don't want to be isolated, you have to willing to work to end the isolation," said the European diplomat. "You have to create conditions to get people to want to help you. So far, we haven't seen that."

Rice Urges Better Japan-China Ties (WT)

By Nicholas Kralev, The Washington Times

The Washington Times, March 18, 2006

SYDNEY, Australia -- Secretary of State Condoleezza Rice yesterday expressed concern over tensions between Japan and China and urged the two Asian powers to find common ground and overcome their differences for the sake of stability in the region.

"We have encouraged good relations between China and Japan, and even though there are difficulties in that relationship, China and Japan also share a lot of interest and, indeed, a lot of trade and commerce and a lot of economic relations," the secretary said.

Miss Rice made her remarks at a press conference with Australian Prime Minister John Howard in Sydney, where she is to participate in an inaugural trilateral forum on the Asia-Pacific region with Australia and Japan today.

Beijing views the meeting as a strategy-plotting session against it, but Miss Rice insisted that the United States had a policy of engagement, not containment, toward the world's most populous country.

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Japan and China often feud over a benign view of Japan's colonial past and a denial by Japanese nationalists that their nation committed atrocities in World War II.

Miss Rice, who visited Indonesia earlier in the week, traveled to the Victoria Barracks in Melbourne, Australia's second-largest city, yesterday to thank Australian troops for their participation in the U.S.-led coalition in Iraq.

"It is always good to have friends, but it is especially good to have steadfast friends when you have difficult fights ahead," she said, noting that Mr. Howard was in Washington on September 11, 2001.

"As we continue to fight the war on terrorism, as we continue to try and supplant that ideology of hatred that has produced terrorism with the hope of democracy and liberty for people around the world, it is wonderful to have a steadfast friend like Australia," she said.

Mr. Howard signaled that he might be willing to change long-standing Australian ban on exports of uranium to nations that have not signed the nuclear Non-Proliferation Treaty and make an exception for India.

The prime minister visited New Delhi earlier this month, a few days after President Bush, who reached a deal on U.S.-Indian civilian nuclear cooperation. The agreement requires legislation in Congress to exempt India from U.S. proliferation laws similar to those in Australia.

On Thursday, Australian Foreign Minister Alexander Downer said that this is a "good deal and it takes forward this whole process of openness and transparency about at least many aspects of India's nuclear program."

But asked about selling uranium to India, as New Delhi has asked, he said: "We don't have any plans to change our current policy."

Mr. Howard softened that position yesterday, saying that there will not be an "immediate" policy change and added, "You never say never."

China May Release Jailed Times Researcher, Lawyer Says (NYT)

By Jim Yardley

The New York Times, March 18, 2006

BEIJING, March 17 — Chinese authorities on Friday withdrew at least part of the case against a Chinese researcher for The New York Times, in a surprise legal maneuver that left unclear whether he would soon be released as President Hu Jintao prepares to visit the United States next month.

Zhao Yan, 44, a researcher in the Beijing office of The Times, has been imprisoned for 18 months on a charge that he disclosed state secrets to the newspaper, as well as a lesser charge of fraud. Mr. Zhao has denied both charges.

His lawyer, Mo Shaoping, said court officials told him on Friday that the decision meant that both charges against Mr. Zhao were being withdrawn. He said his client could possibly be released within days. But a court order on the matter, issued Friday, made no mention of a release date for Mr. Zhao and gave no definitive statement about his status.

Officials with China's Foreign Ministry, who had failed to respond to earlier calls, said late in the evening that "further information" was needed about the "new developments." The ministry declined to say whether Mr. Zhao would be released.

In Washington, the State Department could not confirm that one or both charges against Mr. Zhao had been dropped, said a spokesman, Tom Casey. He said the embassy in Beijing would continue to press for Mr. Zhao's release, "because the charges against him lack merit."

The uncertainty about Mr. Zhao's fate lies in the unusual legal maneuver invoked by prosecutors. Mr. Zhao was supposed to go on trial no later than Monday, his lawyer said. But prosecutors used a procedural clause to ask the court to withdraw the lesser fraud charge, citing a need for more investigation.

Mr. Mo said prosecutors sometimes use this language to request a delay of the trial date. But, in this instance, Mr. Mo said, prosecutors instead asked to withdraw the case. He said Chinese law held that prosecutors could not indict Mr. Zhao again on the same charges, unless they found new evidence.

"They are clearly looking for a reason to end the case," Mr. Mo said.

The order issued by the Beijing Second Intermediate Court is written in vague language. It defines "the case" as consisting of both charges. It then says the court agrees with the motion by prosecutors to withdraw the case. But, as explanation for the

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withdrawal, the order said prosecutors wanted more investigation into the lesser fraud charge. It does not refer to any new disposition of the state secrets charge, which carries a prison sentence of at least 10 years.

Mr. Zhao's case has brought heavy criticism against China from human rights groups, the United States government and other nations. President Bush has twice personally raised Mr. Zhao's case with Mr. Hu, while Secretary of State Condoleezza Rice has also criticized the arrest.

Bill Keller, executive editor of The Times, said he hoped that the new developments meant that Mr. Zhao would be released. "The notion that Zhao Yan's work for The Times constituted anything but dogged journalism was wrong from the outset," he said. "If this represents a legal system working the way it is supposed to, that is happy news far beyond the family of The New York Times."

The case against Mr. Zhao was politically delicate because it involved the highest levels of the Chinese leadership, which made the decision to drop any charges all the more remarkable. His arrest was tied to a Sept. 7, 2004, article in The Times, which disclosed that the former president, Jiang Zemin, had unexpectedly offered to give up his final leadership position as head of the military. The article later proved accurate when Mr. Jiang resigned.

The Chinese news media are forbidden to report on the inner workings of the top leadership of the Communist Party. The Times article prompted a high-level investigation to find the sources of the leak, according to a person familiar with the investigation. State security agents apparently quickly focused on Mr. Zhao, who had been an investigative journalist for Chinese publications before joining The Times's Beijing bureau in April 2004.

Mr. Zhao was arrested on Sept. 17, 10 days after the publication of the Times article. The key piece of evidence, later revealed in a confidential state security report, was a photocopy of a handwritten note that Mr. Zhao had written to The Times's Beijing bureau chief, Joseph Kahn, the writer of the Sept. 7 article.

The note, written two months before the publication of the article, was unrelated to Mr. Jiang's resignation plans. Instead, it described maneuvering taking place between Mr. Hu and Mr. Jiang over military appointments. Mr. Kahn later referred to the political jockeying at the end of the Sept. 7 article.

It is still uncertain how state security agents obtained the photocopy. Agents either entered the office without permission or enlisted someone to help them make a copy. Under Chinese law, the note should not have been admissible in court.

Investigators added the fraud charge a few months after Mr. Zhao was arrested. It is unrelated to the state secrets charge and involves allegations involving improper payments that date from Mr. Zhao's work at a Chinese publication, before he joined The Times. Mr. Zhao and a witness disputed the accusation.

John Kamm, a human rights campaigner who negotiates the release of political prisoners in China, urged caution about the new developments in Mr. Zhao's case, but said he was "cautiously optimistic" that the researcher would be released.

Mr. Kamm said he raised the case of Mr. Zhao and others last month in a meeting with Foreign Ministry officials. He said the officials had suggested that China would make "human rights gestures" in advance of Mr. Hu's trip to the United States.

Mr. Mo said the procedural clause used by prosecutors to withdraw the case could allow them to release Mr. Zhao without restraint, or to release him on something similar to bail for up to 12 months. Then prosecutors would decide whether to bring a new case with new evidence, he added.

China Dismisses Journalist's Case (WP)

By Philip P. Pan

The Washington Post, March 18, 2006

N.Y. Times Researcher Was Accused of Leaking State Secrets

BEIJING, March 17 -- Chinese authorities dropped charges Friday against a New York Times researcher accused of leaking state secrets, according to his attorney. The surprise decision could lead to the researcher's release from prison and soften criticism of China's human rights record during President Hu Jintao's upcoming visit to the United States.

Zhao Yan, 44, a Chinese journalist who worked in the newspaper's Beijing bureau, could be freed as early as Monday from the detention center where he has been held by the Ministry of State Security for the past 18 months, according to his attorney, Mo Shaoping, who said he received a formal court notice withdrawing the charges.

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The move amounts to a rare admission of error by the Chinese government in a criminal prosecution involving national security, and it almost certainly required Hu's approval, because he had endorsed the investigation that led to Zhao's arrest and issued instructions to the officials running it, according to people familiar with the probe.

State security agents detained Zhao in September 2004 after the New York Times published an article accurately predicting the retirement of China's former president. Zhao's prolonged detention without trial on vague state secrets charges provoked criticism by human rights groups, and U.S. officials pressed for his release during President Bush's prior two meetings with Hu.

In a written statement, Bill Keller, executive editor of the Times, said: "The apparent end of Zhao Yan's ordeal is thrilling news for all of his colleagues. We are grateful to the many people outside the paper who spoke up on his behalf."

"The notion that Zhao Yan's work for the Times constituted anything but dogged journalism has seemed ridiculous from the outset," he added.

China often releases political prisoners as a gesture of goodwill ahead of high-level meetings with foreign leaders, and the Bush administration had put Zhao's name on a shortlist of prisoners it hoped to see released before Hu's trip to Washington next month.

But another person whose case U.S. officials had raised with the Chinese was jailed last week after spending more than six months confined to his home. Chen Guangcheng, a blind activist who led a legal campaign against the use of forced abortion and sterilization to implement China's one-child policy, was taken away March 11 and has not been heard from since, according to his wife, Yuan Weijing.

Zhao was arrested 10 days after the Times reported that former president Jiang Zemin had agreed to give up his last leadership post as chief of the military. The ruling Communist Party rarely discloses information about the senior leadership's deliberations, and the article prompted an urgent investigation to find the sources of the leak, according to people familiar with the probe.

Investigators focused almost immediately on Zhao, who friends said had been under scrutiny by state security agents even before he joined the Times in April 2004 because of his work as a journalist for Chinese publications and as an advocate for the rural poor.

But after his arrest, both he and the Times denied he was a source for the article. Prosecutors twice returned Zhao's case to state security agents for more evidence before finally indicting him in January on a charge of leaking state secrets and a lesser charge of fraud related to his work as a reporter before joining the Times.

After a series of delays, Zhao was scheduled to go to trial on Monday at the latest. But Mo, his attorney, said he received a notice Friday morning indicating that prosecutors had applied to drop the charges and that the court had reviewed and approved the request.

The notice dropping the case said prosecutors wanted to conduct "additional investigation" into the fraud charge against Zhao but gave no reason for the withdrawal of the state secrets charge, Mo said. It also said nothing about when Zhao might be released.

Under Chinese law, Mo said, "withdrawing an indictment is the equivalent of a verdict of innocence." He said that such decisions are "extremely, extremely uncommon in China" and that he had never heard of it occurring in a case involving state security.

In past cases involving international pressure, the Chinese government has usually released prisoners only after convicting them.

There are no clear procedures for releasing a defendant after prosecutors withdraw charges, but Mo said he expected Zhao to be freed on bail by Monday, the original trial deadline. He added that prosecutors could not indict Zhao again on the same charges unless they found new evidence.

"The key is that Hu Jintao would have faced a lot of questions about this case on his trip," said Jerome A. Cohen, a scholar of Chinese law retained by the Times to assist with Zhao's defense. "If they tried to delay the trial again, people would be asking, 'How can you keep delaying it? What are you afraid of?' "

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But if the government put Zhao on trial, the case would have focused attention on the party's obsession with secrecy and its record of imprisoning journalists, perhaps overshadowing Hu's first state visit to the United States since he became president in 2003.

For example, the authorities would have been challenged to explain how state security agents obtained a key piece of evidence, a photocopy of a note describing rumors of political jockeying over military promotions that Zhao had written by hand for Joseph Kahn, the Beijing bureau chief of the Times. The paper has said it suspects agents entered the office without permission or recruited someone to make a copy of the memo.

China Dismisses Case Against US Reporter (FT)

By Andrew Yeh

Financial Times, March 18, 2006

Chinese authorities have dropped charges against a New York Times news assistant who has been detained for a year and a half without trial on allegations he leaked state secrets.

The decision by prosecutors to dismiss charges against Zhao Yan comes ahead of President Hu Jintao's visit to the US in April.

The case was one of a series involving foreign and domestic journalists that has drawn international concern, amid efforts by China's ruling Communist party to tighten controls on the media – with its at times vague definition of what constitutes a state secret.

"All charges have been withdrawn," said Mo Shao-ping, Mr Zhao's attorney. He expected Mr Zhao to be released in days.

Mr Mo said government prosecutors had submitted a request to a Beijing court to have the charges dismissed and the court had agreed on Friday.

Mr Zhao was accused of revealing state secrets to foreigners and committing fraud.

The case against Mr Zhao was probably prompted by a New York Times story in September 2004 that correctly forecast the retirement of China's former president, Jiang Zemin.

However, a legal expert advising the newspaper has said the evidence against him rests on an internal memo from Mr Zhao about possible personnel changes in the military mentioned in the same story.

China often acts against journalists and intellectuals whose work focuses on the inner workings of the top communist leadership, or those dealing with sensitive topics such as the 1989 Tiananmen massacre.

Since Mr Zhao's arrest, the New York Times has repeatedly denied the allegations against him and lobbied for his release. But the long-time investigative reporter, who may have drawn the government's ire well before the story was published, was indicted last December.

The Bush administration had also raised the case as one of great concern.

Mr Zhao, now in his mid-40s, has been held incommunicado for much of the time since his arrest. He is believed to be in a high-security detention centre south of Beijing.

State security and police agents often closely monitor the activities of foreign media bureaux in China, especially those with a high profile.

``A Chinese court on Friday sentenced a junior high school teacher to 10 years in jail for publishing sensitive material on the internet, Reuters reports from Beijing. Ren Ziyuan, 27, was found guilty of "subversion of state power" for publishing an essay titled "The Road to Democracy" and other papers on the web, his father said.

Mr Ren was sentenced by the Jining Intermediate People's Court in Shandong.

Chinese Researcher For New York Times To Be Let Out Of Jail (LAT)

By Mark Magnier

The Los Angeles Times, March 18, 2006

Zhao Yan was held on a charge of revealing state secrets. Beijing's move precedes a U.S. summit.

BEIJING — A Chinese court said Friday that it would drop a high-profile case against a New York Times researcher, a move coming a few weeks before President Hu Jintao is to meet President Bush in Washington.

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The decision on Zhao Yan fits China's pattern of releasing token numbers of political or human rights prisoners before major summit meetings.

"I'm so happy," said Zhao Kun, the researcher's sister. "When I heard the news, I felt like a window had opened in my heart. Everything seemed so bright."

Zhao Yan was detained in September 2004 and charged several months later with revealing state secrets. He faced 10 years in prison. The charge came on the heels of an exclusive story by the newspaper that former President Jiang Zemin planned to step down from a government military commission, surrendering his last major post.

China's Communist Party does not view favorably the release of information on its internal workings, particularly by media beyond its direct control.

"The government doesn't accept that journalists can have scoops," said Vincent Brossel, director of the Asia desk of Reporters Without Borders, a Paris-based advocacy group. "When a big decision is made inside the party, they won't accept the liberal Chinese media or the foreign media releasing the news."

Zhao's lawyer, Mo Shaoping, said Friday that he hoped his client would be released within the next few days. It was unclear why Zhao was not released immediately, or whether he would face new charges in Beijing No. 2 Intermediate Court or some other court, Mo said.

But the news of the charges being dropped was viewed as a good sign.

"Of course I'm pleased," Mo said.

Human rights groups, attorneys and legal scholars said it was difficult to draw a broader lesson from the case. Authorities might have acted because of the gradual strengthening of the legal system, because of lobbying, or some combination. Bush, Secretary of State Condoleezza Rice and other officials all have raised Zhao's case with Chinese officials. Hu is to visit Washington the last week of April.

But on the same day Zhao's case was reportedly dropped, a court sentenced a 27-year-old teacher, Ren Ziyuan, to 10 years in prison on charges of "subversion of state power" for publishing Internet essays critical of the Chinese government, according to the Reuters news service.

Ren, like most Chinese in trouble for criticizing the government, had no foreign leaders calling for his release.

"On one day there's good news, and then there's bad," Brossel said. "In the long run, I really hope things are changing. But I can't read the implications of Zhao's case."

Media watchdogs also wondered whether the Zhao decision augured well for a related case, that of Singapore reporter Ching Cheong, who was detained on spying charges last year.

For the seventh year in a row, China put more journalists in jail in 2005 than any other nation, according to the New York-based Committee to Protect Journalists. Thirty-two were in prison as of Dec. 1.

Analysts said one result of the court's decision to drop the Zhao case might be to ease the chill on Chinese reporters, some of whom push censorship boundaries at significant personal risk.

"Zhao is a senior reporter," said Wu Ge, director of the Constitution and Human Rights Center at Qinghua University. "Chinese media will be encouraged by this decision."

Zhao's sister, who lives in the northeastern city of Harbin, said she planned to give her brother a big hug when she saw him.

"I've been very worried about him being in jail for the past 18 months," she said. "At the same time, I always believed he'd be OK. He's only a journalist, and I don't think my brother would ever do anything to hurt the country."

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Yin Lijin of The Times' Beijing Bureau contributed to this report.

German Trial Promises A Look Into The Nuclear Black Market (LAT)

By Jeffrey Fleishman

The Los Angeles Times, March 18, 2006

BERLIN — A German engineer accused of belonging to a worldwide nuclear smuggling network went on trial Friday for allegedly providing technology to Libya that could have been used to enrich uranium for weapons.

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The case, being heard in a Mannheim court, is expected to offer a glimpse of the nuclear black market once masterminded by Pakistani scientist Abdul Qadeer Khan. The trial is likely to focus on Western intelligence information, middlemen, money trails and what role German companies may have played in aiding leaders such as Libyan ruler Moammar Kadafi.

Gotthard Lerch, 63, is charged with violating Germany's weapons control and foreign trade acts. He allegedly was paid $34 million to provide Libya with gas centrifuges and other dual-use technologies.

Lerch had earlier been charged with treason. Prosecutors dropped that charge as part of an agreement with Switzerland, where Lerch had been living, to have him extradited to Germany in 2005.

Lerch has pleaded not guilty. His lawyers argued Friday that they had been denied access to prosecution documents, and they requested that the six judges hearing the case be replaced. Lerch is expected to seek intelligence records from the CIA and other Western spy agencies.

"The trial is hugely important in strengthening international attention to the problem of illegal proliferation," Goetz Neuneck of the Institute for Peace Research and Security Policy at the University of Hamburg told German radio. "It would be very good for international nonproliferation if the trial were to provide more details and shine more light on dark corners."

Authorities focused on Lerch after the U.S. and Britain seized a shipment of nuclear-related components from a Libya-bound freighter in October 2003. Under Western pressure to abandon its quest for weapons of mass destruction, Libya cooperated with investigators. The seizure also provided details of Khan's dealings with other countries, including North Korea and Iran.

The International Atomic Energy Agency, the United Nations' nuclear watchdog, told German prosecutors that Lerch was involved in supplying technology to Libya. He was also mentioned in a Malaysian investigation of smuggling.

The Times reported last year that an IAEA investigator had found that rotors for an advanced centrifuge were delivered for the Libyan project to Khan's operations in Dubai.

The alleged sale of such technology led to Lerch's arrest. Investigators fear that other crucial components collected by the Khan network never arrived in Libya and may have been diverted to another country. The father of Pakistan's nuclear program, Khan was humiliated when he confessed in 2004 that his black market had provided technology to Libya and Iran. He is under house arrest.

In the late 1970s, Lerch, working for a German company that produced nuclear technology, was investigated by German trade authorities for selling centrifuges and pumps to Pakistan. He was never charged. He was also investigated, but again never charged, for allegedly smuggling nuclear blueprints into Switzerland in the 1980s.

Hamas Ready To Announce Government (AP)

By IBRAHIM BARZAK

Associated Press, March 18, 2006

GAZA CITY, Gaza Strip (AP) -- Hamas said it is ready to announce the formation of its government Saturday, two weeks ahead of a deadline but apparently without coalition partners that might have softened the militants' image.

In another possible setback, the Hamas government program is not expected to win the approval of Palestinian President Mahmoud Abbas, who is to meet with the group's leaders in Gaza Saturday. Abbas' aides said the Palestinian leader considers the Hamas platform too vague and wants it rewritten.

Hamas cannot present its Cabinet to parliament for approval without backing from the moderate Abbas, who was elected separately and wields considerable authority. However, Abbas cannot impose his own Cabinet lineup on Hamas, which swept January parliament elections and controls an absolute majority in the legislature.

Abbas is expected to put off the approval of a new government until after Israel's March 28 election, but his confidants say he is not ready to force a full-blown political crisis with the Islamic militants.

The new foreign minister will almost definitely be Mahmoud Zahar, a Hamas firebrand, according to a preliminary list given to The Associated Press by officials in Hamas and the Popular Front for the Liberation of Palestine, a smaller PLO faction that was considering joining the government.

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Said Siyam, a Hamas lawmaker from Gaza, has been tapped for the Interior and Civil Affairs Ministries, which control three of the five Palestinian security forces and is responsible for contacts with Israel's security services, said the officials, speaking on condition of anonymity because the list was not final.

Siyam, considered a relative moderate, was among hundreds of militants deported by Israel to south Lebanon in 1992.

The wrangling over the new government comes at a time when some officials in Abbas' Fatah Party are calling on him to resign and to dissolve the Palestinian Authority, to protest Israel's raid of a West Bank prison earlier this week. The raid, in which troops snatched Ahmed Saadat, the leader of a small PLO faction, and other suspects in the assassination of an Israeli Cabinet minister, was a blow to Abbas' prestige.

If the Palestinian Authority were to be dissolved, Israel - as occupier of the West Bank and Gaza Strip - would be forced to assume responsibility for some 3 million Palestinians living there. The dissolution would also render Hamas' election victory irrelevant.

Abbas said earlier this week he was not ready yet to break up the Palestinian Authority.

In other developments Saturday, Israeli troops left a West Bank village after a failed overnight arrest raid. At the start of the operation late Friday, a 10-year-old Palestinian girl was killed when soldiers fired at a car she was riding in with her older brother and uncle, Palestinian witnesses and Israel Radio said. The witnesses said the soldiers were dressed in civilian clothes and fired without warning. The army declined comment.

After the initial shooting, soldiers surrounded a house where they believed three militants were holed up, and an army bulldozer began demolishing the building. However, the fugitives escaped.

In Gaza City, the designated Hamas prime minister, Ismail Haniyeh, was to hold a news conference Saturday to announce the formation of the Hamas government, officials in the group said.

Abbas was to travel from the West Bank to Gaza on Saturday for a meeting with Hamas leaders, his office said. In the meeting, Hamas is to present its Cabinet lineup and program. Abbas aides said he was expected to ask for revisions in the Hamas program.

Hamas has rejected demands that it moderate its views, despite threats by the West that it will cut off substantial foreign aid to the Palestinian Authority unless the new government renounces violence, recognizes Israel and promises to honor existing peace agreements.

Hamas To Propose Palestinian Cabinet That Excludes Other Parties (NYT)

By Steven Erlanger

The New York Times, March 18, 2006

JERUSALEM, March 17 — Hamas said Friday that it would propose a new Palestinian cabinet consisting of Hamas members and independent figures, but without officials from any other party.

Hamas said it expected to give the list to Mahmoud Abbas, the president of the Palestinian Authority, on Saturday. Mr. Abbas's Fatah faction has already said it will not participate in a Hamas-led government. Mr. Abbas may yet reject the new government's agenda, because it does not explicitly acknowledge the validity of past agreements between Israel and the Palestine Liberation Organization, or support negotiations with Israel.

But it is not clear what consequences such a rejection would have in this untested political situation for the Palestinians. Hamas is expected to take the crucial ministries of foreign affairs, finance, education and interior, which controls the police.

An indication of Hamas's position came from its exiled political leader, Khaled Meshal, who said in Damascus on Thursday night that political power for Hamas was only "a means to an end" and is less important than fighting Israel, Reuters reported.

"Our fate is to combine resistance and politics, but resistance remains the basis and politics only a branch," Mr. Meshal said. "Being in power is only a means to an end for Hamas."

Mr. Meshal was speaking at a memorial gathering on Thursday night. "We and the Zionists have a date with destiny," he said. "If they want a war, we are the sons of war," he said, adding, "We have more stamina than Israel and will defeat it, God willing."

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Mr. Abbas was a crucial negotiator for the P.L.O., but Mr. Meshal criticized its agreements with Israel that created the interim Palestinian Authority. "A country can only exist on liberated land," he said.

Mr. Meshal's comments did not suggest that Hamas would soon agree to international demands that a new Palestinian government recognize Israel, forswear violence and accept previous Israeli-Palestinian agreements.

In Brussels, at a meeting of the United States, the European Union, Russia and the United Nations — together known as the quartet — an American assistant secretary of state, David Welch, said, "To this date, I have not seen a positive Hamas reaction in respect to any of these principles." He said the quartet was discussing ways to channel emergency aid to the Palestinians while trying to avoid sending money to a government led by Hamas, which is classified by the United States and the European Union as a terrorist group.

In Israel, the government officially confirmed its first avian cases of the A(H5N1) strain of bird flu, saying the virus had killed thousands of turkeys and chickens in the south. Three people who worked with infected birds have been hospitalized.

The European Union immediately banned the import of Israeli poultry, unless the meat had been heat-treated or the birds were slaughtered before mid-February.

Separately, Israel's Justice Ministry said it was investigating a hospital that reportedly held a newborn baby to ensure that the parents of triplets would pay their hospital bill. The mother, an Israeli Arab, gave birth prematurely two months ago, and the babies required extensive treatment. After the case was written about in the daily newspaper Haaretz, the ministry ordered the release of the child and said it would ensure payment to the hospital.

Beyond that, Prime Minister Ariel Sharon, still comatose after a stroke in January, will be moved to a long-term care center outside Tel Aviv after elections this month, The Associated Press reported, citing an Israeli television station.

Fatah Officials Call For Abbas To Resign (AP)

By Mohammed Daraghmeh

AP, March 18, 2006

Several Fatah officials called on President Mahmoud Abbas to resign and dissolve the Palestinian Authority to protest Israel's raid of a West Bank prison earlier this week, party activists said Friday.

The raid, in which Israel seized six top militants, was seen as a humiliating blow to Abbas' prestige and raised new questions in his Fatah Party about their president's ability to govern, especially following Hamas' landslide victory in a January parliamentary election.

If the Palestinian Authority is dissolved, Israel — as occupier of the West Bank and Gaza Strip — would be forced to assume responsibility for the 3 million Palestinians living there. The dissolution also would render Hamas' election victory irrelevant.

In violence Friday, Israeli soldiers shot and killed a 10-year-old girl during an operation in the West Bank village of Yamoun, the girl's father, Abdul Rahman Zaed, said. The girl was in a car with her uncle, who was shot in the head and arrested, Zaed said.

The army, engaged in a fierce gunbattle with militants in Yamoun, surrounded a house in which three militants were holed up and called on them to surrender, Palestinian security officials said. Later, a 13-year-old boy was wounded in the fighting, officials said.

The call for Abbas' resignation and the dissolution of the Palestinian Authority at the Fatah Central Committee late Thursday was the first time such a demand was made.

Analysts and Fatah officials said the demands — raised both in a letter to Abbas signed by five midlevel Fatah activists and at Thursday's meeting by a senior party official — are not serious at the moment.

However, the idea could gain momentum if a resumption of peace talks becomes increasingly unlikely and the economic situation deteriorates further, said Ghassan Khatib, the outgoing Palestinian planning minister.

Taysir Nasrallah, a Fatah official from the West Bank city of Nablus who signed the letter, said Israel's prison raid showed the Palestinian Authority was useless.

"Israel should pay a heavy price for occupying the Palestinian Authority," Nasrallah told The Associated Press.

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In Thursday's meeting of Fatah's Central Committee, one of the members, Tayeb Abdel Rahim, opened the session by demanding that Abbas resign and dissolve the Palestinian Authority, a participant said. He spoke on condition of anonymity because he was not authorized to talk to the media about the closed-door session.

The official quoted Abdel Rahim as saying that the Palestinian Authority is unable to solve Palestinian problems and that it is "time for us to leave."

During a tour of the demolished prison in Jericho a day after Israel's raid, Abbas rejected the idea that he would resign and dissolve the Palestinian Authority.

Fatah has been increasingly frustrated with Abbas since Hamas' election victory, and the party is almost certainly not joining the Islamic group's new government.

Abbas is tentatively scheduled to meet Hamas' designated prime minister, Ismail Haniyeh, on Saturday.

Hamas spokesman Salah Bardawil said the group would be ready to present its government to Abbas on Saturday. Abbas has the power to veto Hamas' government, forcing it to return with a different program.

Since Hamas' election victory, Israel has tightened its hold on the Palestinians.

It has stopped transferring millions of dollars in tax revenues collected for the Palestinian Authority and has called on the international community to slap economic sanctions on a Hamas government, steps the World Bank says would devastate the already poverty-ridden Palestinian areas.

A closure on Palestinian areas, meant to end Thursday after the Jewish holiday of Purim, has been extended until at least next week, and the army is inclined to continue it until after Israel's March 28 elections.

The closure bars Palestinian laborers from entering Israel and shuts down Gaza's main cargo crossing, Karni. Israel, citing security concerns, has closed Karni on and off for most of the past two months.

Karni's closure led the Palestinian Mill Co., which says it supplies about 60 percent of Gaza's flour, to idle last week because it used up its flour stocks. On Friday, Palestinians flocked to bakeries in Gaza City, fearing a bread shortage.

The Palestinian National Economy Ministry said Friday it expects bakeries to run out of flour within a few days because of the mill's shutdown.

Also Friday, two Palestinians were killed and three wounded in northern Gaza when homemade rockets they were preparing to fire at Israel exploded prematurely, Palestinian security officials said.

Netanyahu Angles For Yet Another Comeback (LAT)

By Laura King

The Los Angeles Times, March 18, 2006

Israel's former prime minister, lagging in the run-up to a national election, leads a party whose prospects, like his own, have turned.

TEL HAI, Israel — Benjamin Netanyahu was in his element: a dramatic, wind-whipped overlook at Israel's northern tip, a onetime fortress where 86 years ago, a storied band of beleaguered Jewish pioneers fought and died at the hands of Arab attackers.

Here in Tel Hai, a Zionist touchstone, the 56-year-old candidate for prime minister paid his respects to the fallen — and symbolically linked their lonely struggle to his own.

"Who is going to act against Hamas, for the safety of our children?" he thundered, referring to the Islamist group that swept to victory in January's Palestinian elections. "Who is going to do it? We're talking about our country!"

It wasn't subtle, but neither is Netanyahu's style. And even if it were, subtlety is a luxury he could ill afford these days.

Heading into a March 28 parliamentary election, the onetime boy wonder of Israeli politics leads a party that once dominated the electoral landscape, but now is lagging far behind.

There is no small irony in this turn of events. Netanyahu devoted most of the last three years to trying to wrest control of the conservative Likud Party from his archrival, Ariel Sharon. He achieved that ambition at last, but only after Sharon quit Likud, leaving it a shriveled husk. The centrist Kadima party that Sharon started — now led by Ehud Olmert, who took over after Sharon suffered a massive stroke — is forecast to win at least twice as many seats as Likud.

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Still, many observers believe it would be foolish to count out Netanyahu, a charismatic but divisive politician whose career has been marked by dramatic reversals of fortune.

In the 1996 campaign, six months after the assassination of Prime Minister Yitzhak Rabin, Netanyahu at one point trailed the dovish Shimon Peres by 20 percentage points. Then Israel was rocked by a devastating series of Palestinian bombings. The attacks killed 67 people in 13 days. Netanyahu emerged the victor by a razor-thin margin. At the age of 46, the U.S.-educated, media-savvy Netanyahu, universally known by his nickname Bibi, became the country's youngest prime minister.

A scant three years later, irate Israeli voters booted him out of office by a humiliatingly large margin.

When Netanyahu reentered politics in 2001 after a hiatus to lick his wounds, he presumed that the aging Sharon would present little obstacle to his claim on the Likud leadership. Instead, the old ex-general went on to become one of the most popular leaders in modern Israeli political history, with his statesmanship likened to such towering figures as David Ben-Gurion, Israel's first prime minister.

Having assumed the leadership of Israel's hard right at a time when the country is embracing a more centrist view, Netanyahu now finds himself struggling to broaden his appeal.

"Likud has not been able to follow the swing in Israeli public opinion," said political scientist Itzhak Galnoor of Hebrew University. "The public generally agrees with the partitioning of the biblical Land of Israel, and the Likud leadership remains stuck in its previous position."

Likud's platform opposes the creation of a Palestinian state — something most Israelis now accept as inevitable.

Netanyahu strategists express frustration that voters apparently are giving little weight to his impressive qualifications.

The Israeli economy was a shambles when he took over as finance minister in 2003, but was booming when his tenure ended. Even critics agreed the turnaround was largely due to the rigorous economic reforms Netanyahu championed, though many complained his policies caused hardship to the poor and elderly.

And after years spent in the shadow of one ex-general after another, Netanyahu is finally in a race in which his military credentials, including a stint in the ultra-elite commando unit Sayeret Matkal, are far more solid than those of either of his main opponents, Olmert and Peretz.

Instead, a viewer of the political ads that flicker across the country's TV screens every night might be forgiven for believing Netanyahu was the electoral contest's dominant figure and his character the chief issue.

Kadima has devoted considerable resources to skewering him, playing to the perception that Netanyahu is manipulative and insincere. One much-discussed Kadima ad, apparently aimed at making Netanyahu appear untrustworthy, features nothing but footage of him giving a speech while his eyes continually shift back and forth.

The Israeli electorate's relationship with Netanyahu is a complicated one. He is simultaneously admired and reviled for his smooth public persona, widely remembered for a made-for-television moment during the 1991 Persian Gulf War, in which he suavely donned a gas mask while speaking live on CNN in his perfect colloquial American English.

"He's really a very skilled politician — an extremely good speaker, good at diplomacy, and he works hard and does his homework," said political analyst Gideon Doron of Tel Aviv University. "But his weakness is lack of credibility — the public perception that he lies to those around him, that under pressure he panics."

On the campaign trail, Netanyahu appears to be fighting the stereotype of slickness. He's a man who knows how to carry himself in an expensively tailored suit, but at recent speeches and appearances, he has favored a simple open-collared shirt. At one campaign stop, he ignored the raised platform set up for him and brought a microphone down to crowd level.

Few things irritate Netanyahu more than what he calls "armchair analysis" of his family history, but it looms large in his public persona. Almost every Israeli knows the story of Netanyahu's elder brother, Yonatan, who was killed in the daring 1976 raid at Entebbe airport in Uganda, when Israeli commandos rescued the passengers of a plane held by Palestinian hijackers.

The family was devastated, and hopes of a brilliant future for Yonatan, the favored son, were transferred to the younger Benjamin. Despite protestations that he hates having his character dissected in connection with Yonatan's death, Netanyahu chose to feature footage of Entebbe in his campaign ads.

Netanyahu is adept at cultivating political allies, but appears to have few real friends in Israel's political establishment.

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On a Likud campaign swing through the economically depressed northern town of Kiryat Shemona, Uzi Landau, a prominent Likud member of parliament, stumped energetically for the party in a shopping mall and an open-air produce market, but turned snappish when asked about Netanyahu's leadership attributes.

"I think I would have made a better leader," Landau said.

If asked what quality they associate with Netanyahu, many Israelis mention raw opportunism. Even among Netanyahu's supporters, many noticed that although he railed for months against Sharon's plan to withdraw troops and settlers from the Gaza Strip, he waited until just days before the pullout to give up his Cabinet post in protest.

Among voters, those character traits often outweigh Netanyahu's strengths, including his searching intelligence. Visiting a high-tech factory in the Negev desert town of Sderot, the MIT-schooled candidate sat with computer-circuitry technicians in their white lab coats, peppering them with detailed questions.

"I was surprised — he really knows a lot about this," said 30-year-old technician Alexander Kirzner. But asked whether that was enough to win his vote, he smiled.

"I admire what he's done with the economy, and this is the best-paying job I've ever had," he said.

"But that doesn't mean I trust him with everything to do with our lives."

How I Learned To Love The Wall (NYT)

By Irshad Manji

The New York Times, March 18, 2006

New Haven

ON March 28, Israelis will elect a new prime minister to replace the ailing Ariel Sharon. But I'd bet my last shekel that I'll continue to hear the phrase "Ariel Sharon's apartheid wall." It's a phrase spoken — make that spewed — on almost every university campus I visit in North America and Europe.

Among a new generation of Muslims, this is what Mr. Sharon will be known for long after he leaves office: unilaterally erecting a barrier, most of it a fence, some of it a wall, that cuts Arab villages in half, chokes the movement of ordinary Palestinians, cripples local economies and, ultimately, separates human beings.

The critics have a point — up to a point.

They're right that Palestinians are virtually wailing at "the wall." When I went to see its towering cement slabs in the West Bank town of Abu Dis last year, an Arab man approached me to unload his sadness. "It's no good," he said. "It's hard."

"Why do you think they built it?" I asked.

The man shook his head and repeated, "It's hard." After some silence, he added, "We are not two people. We are one."

"How do you explain that to suicide bombers?" I wondered aloud.

The man smiled. "No understand," he replied. "No English. Thank you. Goodbye."

Was it something I said? Maybe my impolite mention of Palestinian martyrs? Then again, how could I not mention them?

After all, this barrier, although built by Mr. Sharon, was birthed by "shaheeds," suicide bombers whom Palestinian leaders have glorified as martyrs. Qassam missiles can kill two or three people at a time. Suicide bombers lay waste to many more. Since the barrier went up, suicide attacks have plunged, which means innocent Arab lives have been spared along with Jewish ones. Does a concrete effort to save civilian lives justify the hardship posed by this structure? The humanitarian in me bristles, but ultimately answers yes.

That's not to deny or even diminish Arab pain. I had to twist myself like an amateur gymnast when I helped a Palestinian woman carry her grocery bags through a gap in the wall (such gaps, closely watched by Israeli soldiers, do exist). It made me wonder how much more difficult the obstacle course must be for people twice my age, who must travel to one of the wider official checkpoints nearby.

I appreciate that Israel's intent is not to keep Palestinians "in" so much as to keep suicide bombers "out." But in the minds of many Palestinians, Ariel Sharon never adequately acknowledged the humiliation felt by a 60-year-old Arab whose family has harvested the Holy Land for generations when she has to show her identity card to an 18-year-old Ethiopian immigrant in an Israeli Army uniform who's been in the country for eight months. In that context, fences and walls come off as cruelly gratuitous.

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For all the closings, however, Israel is open enough to tolerate lawsuits by civil society groups who despise every mile of the barrier. Mr. Sharon himself agreed to reroute sections of it when the Israel High Court ruled in favor of the complainants. Where else in the Middle East can Arabs and Jews work together so visibly to contest, and change, state policies?

I reflected on this question as I observed an Israeli Army jeep patrol the gap in Abu Dis. The vehicle was crammed with soldiers who, in turn, observed me filming the anti-Israel graffiti scrawled by Western activists — "Scotland hates the blood-sucking Zionists!" I turned my video camera on the soldiers. Nobody ordered me to shut it off or show the tape. My Arab taxi driver stood by, unprotected by a diplomatic license plate or press banner.

Like all Muslims, I look forward to the day when neither the jeep nor the wall is in Abu Dis. So will we tell the self-appointed martyrs of Islam that the people — not just Arabs, but Arabs and Jews — "are one"? That before the barrier, there was the bomber? And that the barrier can be dismantled, but the bomber's victims are gone forever?

Young Muslims, especially those privileged with a good education, cannot walk away from these questions as my interlocutor in Abu Dis did. If we follow in his footsteps, we are only conspiring against ourselves. After all, once the election is over, we won't have Ariel Sharon to kick around anymore.

Israel Announces First Cases Of Deadly Bird Flu Strain, In Turkeys (WP)

By Scott Wilson

The Washington Post, March 18, 2006

JERUSALEM, March 17 -- Israeli health officials announced Friday that they believe more than 1,000 turkeys have died in recent days from bird flu, the first reported cases in the country.

Initial test results appeared to confirm that birds being raised on four farms in southern Israel died after being infected by the H5N1 virus, avian influenza's deadly strain. Additional tests recommended by the World Health Organization are being conducted to confirm the findings, but Israeli officials are already taking precautions.

The Agriculture Ministry began preparations Friday to kill 86,000 birds within a roughly two-mile radius around the farms where, by some unofficial estimates, 11,000 turkeys have died in recent days.

Israel also halted the export of all unprocessed chicken and turkey meat, and health officials sought to assure Israelis that the supply in stores was safe.

"The risk that people will contract the virus is very, very low," said Avi Yisraeli, the Health Ministry's director general.

Nearly 100 people worldwide have died of avian flu, and tens of millions of birds have been slaughtered in efforts to stop its spread.

After it was discovered in Turkey last fall, Israeli health and agriculture officials said it was likely only a matter of time before the first birds here contracted the virus. Yaakov Edri, Israel's health minister, told Army Radio on Friday that there was a "very high chance that this is avian flu."

"But, of course, there are more tests to be done," Edri said.

Last month, the H5N1 virus was detected in poultry in Egypt, Israel's southern neighbor. Because the suspected cases of infection in Israel have so far been concentrated in the south, Agriculture Minister Zeev Boim said the virus may have migrated from Egypt.

Israeli military officials have also asked the Palestinian Authority for blood samples from poultry in the Gaza Strip, seeking to determine if the virus may have come from there. Israel evacuated settlers and military installations in Gaza last year but still maintains control over trade passages into Israel.

Israeli agriculture officials imposed a quarantine on at least three farms in the Negev region of southern Israel while testing is underway. Israeli officials said the results would be ready within two days.

The Haaretz newspaper reported that at least three workers from the farms were being treated for symptoms associated with bird flu, although there has been no confirmation that they are suffering from the virus. One of the men, a Thai immigrant, is being held in isolation at the Soroka Medical Center in the city of Beersheba.

Health officials said they had vaccinations for about half of Israel's roughly 6.2 million people and planned to fly in an additional 4 million doses from the Netherlands in the coming days.

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The Ynet news Web site reported that culling had begun Friday and estimated it would eventually involve more than 200,000 birds. The killing is done by poisoning the birds' drinking water, and Israeli farmers are expressing fears of huge financial losses.

As Spring Thaws The Caucasus, Birds And Fear Are Flying North Through Georgia (NYT)

By C. J. Chivers

The New York Times, March 18, 2006

TBILISI, Georgia, March 16 — In the early morning hours, the cobblestone alleys that wander this city's slopes are normally crowded with schoolchildren, walking in groups with their backpacks and books. But such sights have lately become rare.

At School No. 50 on Thursday, the director, Nino Gogsadze, stood in the corridors for the 9 a.m. opening. Only two students were waiting for the day's lessons. Both were her sons.

The school's 822 other children were absent.

"The parents do not let their children go to school," Ms. Gogsadze said. "They are afraid."

Such is the power that avian influenza can hold over the public imagination as the March thaw advances north across the former Soviet Union.

Two girls from School No. 50 died this month of complications related to a strain of common influenza. The deaths were not caused by avian influenza, according to the Georgian government and the World Health Organization, which has reviewed the laboratory results of biological samples taken from the girls.

But clinical facts have hardly mattered, and Tbilisi has succumbed to an outbreak — not of avian influenza, but of fear.

School attendance has dipped to half of normal levels, said Alexander Lomaia, the minister of education. Ambulance calls have soared, reaching 900 a day here, up from slightly more than 600, said Lado Chipashvili, the minister of labor, health and social affairs.

The fear has undermined confidence in the food supply, reducing poultry sales and making it hard to find dishes containing chicken or eggs in restaurants.

Even Mr. Chipashvili has had trouble ordering shkmeruli, the sautéed chicken in garlic-and-cream sauce that is part of Georgia's national cuisine. "Unfortunately, it is impossible," he said.

Only one bird has been identified in Georgia with the avian influenza virus — a wild swan found dead near the coast of the Black Sea on Feb. 23. Domestic birds within a radius of about two miles of the dead swan were promptly culled, about 1,700 birds in all, according to Levan Ramishvili, the coordinator of avian influenza programs at the Ministry of Agriculture.

Georgia has had no human cases of avian influenza, and the World Health Organization said Georgia had monitored bird populations, improved its health system's ability to treat human cases, and educated its public about the virus and how it its transmitted.

"I have the impression that they are doing quite well," said Dr. Bernardus Ganter, the adviser on communicable diseases for the World Health Organization's European region, which includes Georgia. "They are serious about this."

The public reaction, however, has tapped a combination of fears. Georgia borders Turkey and Azerbaijan, which between them have had seven confirmed human deaths from avian influenza this winter.

And as residents of a post-Soviet state, Georgians retain an ingrained distrust of government announcements, even though the current government, which came to power in 2003, has proved much more open than the old.

The sense that official assurances should be treated with skepticism was deepened by the handling of three deaths in recent weeks in Azerbaijan, where government officials alternately said the victims had died from avian influenza and that such diagnoses were "premature."

The World Health Organization, working with Azerbaijani officials, on Tuesday confirmed that the deaths were caused by avian influenza, which is not contagious among humans but can be contracted by people who come in contact with the blood or feces of poultry.

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Georgian officials have embarked anew on a public relations campaign, which has already included public service announcements about the disease on television, and pamphlets for schoolchildren and medical workers. "It is like a panic and we are trying to calm this panic down," Mr. Chipashvili said.

He noted, however, that the spring bird migration is under way, and that as more birds pass through the region, the virus could readily spread to wild and domestic birds.

That has been the case on the other side of the Caucasus ridge, in southwestern Russia, where more than a million birds have been killed by the virus or by the culling of domestic stocks.

As the concerns multiply, Dr. Ganter says the World Health Organization has increased its presence and diagnostic capacity in Azerbaijan, and is getting cooperation from the government there.

If School No. 50 is any indicator, however, restoring public confidence in the Caucasus will be slow. Ms. Gogsadze has invited citizens to examine medical certificates showing that the girls who died did not have avian influenza. The school has been disinfected from end to end. "Every room, every corner, every toilet," Mr. Chipashvili said.

Yet the building stands empty.

"Epidemiologists told me that this school is the cleanest in Georgia," Ms. Gogsadze said. "But fear has emerged."

G-8 Countries Back Nuclear Power In Future (WT/AP)

The Washington Times, March 18, 2006

MOSCOW (AP) -- Energy ministers from the world's leading industrialized nations called yesterday for major new investments and the development of nuclear power as high oil prices and uncertainty about supplies weigh on the global economy.

The ministers from the Group of Eight nations, meeting in the Russian capital to discuss global energy security, said significant investments would be needed in the production, transportation and processing of resources and urged policies to encourage this.

"We recognize that to attract investment it is essential for countries to have open and favorable investment regimes," they stated, "including stable and predictable regulations, clear tax laws and efficient administration procedures, as well as fair and reciprocal access to markets along the energy value chain."

Though they conceded that fossil fuels "will remain the basis of the world energy industry for at least the first half of the 21st century," the ministers urged a diversification of energy sources, suppliers, consumers, routes and delivery methods as a means of reducing energy security risks. They noted in particular the importance of nuclear energy.

"For those countries that wish, wide-scale development of safe and secure nuclear energy is crucial for long-term, environmentally sustainable diversification of energy supply," they said in a statement released by Russia's Ministry of Industry and Energy.

"We are hopeful for a very substantial worldwide rebirth of the nuclear power industry, which appears to be taking place in various parts of the world," U.S. Energy Secretary Samuel W. Bodman said at a press conference.

The ministers called for increasing energy supplies to less-developed countries, and said the development of low-carbon technologies will be "crucial" to long-term global environmental sustainability.

Britain's trade and industry minister, Alan Johnson, emphasized there was no simple solution to easing world's dependence on hydrocarbons -- with fossil fuels likely to continue to provide 80 percent of global energy needs in the first half of this century.

But he said new technologies could reduce the environmental effects.

The ministers also said better communication between energy producers, transit providers and consumer countries was necessary.

Russia is the world's No. 1 gas producer and the biggest oil exporter after Saudi Arabia, but Moscow's recent behavior has raised concern among Western oil companies about investing in Russia and European Union worries about the dependability of supplies from state-controlled monopoly Gazprom.

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Russian President Vladimir Putin promised that in the next few months Russia's parliament will pass a key bill regulating taxes on mineral extraction along with new legislation on using subsoil resources, including with the participation of the foreign capital.

The changes were "aimed at making energy business in Russia as transparent and predictable as possible," Mr. Putin said.

Russian Energy Minister Viktor Khristenko said yesterday that $17 trillion needed to be invested by 2030 "to create an effective global energy system that is resilient to shocks."

Stable legislation, a clear tax regime and flexible administration are key to realizing this goal, Mr. Khristenko said.

Russia Effectively Closes A Political Opponent's Rights Group (NYT)

By C. J. Chivers

The New York Times, March 18, 2006

MOSCOW, March 17 — The bank accounts of a foundation led by an imprisoned Russian businessman, Mikhail B. Khodorkovsky, were frozen Friday by court order, the foundation and its bank said, a move that strongly suggests the organization is about to be shut down.

The group, the Open Russia Foundation, immediately announced that it was forced to suspend its activities promoting civil society and accused the government of extending its crackdown on private organizations.

"It seems that they are trying to stop all of our activities, because of course without money, we can do nothing," said Irina Yasina, the vice chairwoman.

The court action follows a general crackdown in Russia on private nonprofit organizations that receive foreign financing, all of which will be subject next month to a law signed in January restricting their activities.

Although Open Russia is a domestic organization, the new provisions seem tailored to include it, as a clause extends the law's restrictions to organizations founded by citizens convicted of crimes.

Mr. Khodorkovsky, the founder of the Yukos oil company, set up Open Russia in 2001. Once Russia's wealthiest man, he was convicted of fraud and other charges last year, and is serving an eight-year prison term in Siberia. He and his supporters contend that the charges against him were contrived by the Kremlin as punishment for his political activities. Mr. Khodorkovsky remains chairman of Open Russia.

The foundation, which claims to be the country's largest, has advocated for human rights and political freedoms, in part by providing grants to partner organizations throughout Russia. It had planned a budget of $11 million this year and maintained its accounts at Trast Bank, Ms. Yasina said.

Its activities have been the subject of intense government interest, including a raid on its offices here last fall and at least five tax inspections last year, she said. On Friday, much of the suspense about Russia's intentions ended.

Dmitry V. Chukseyev, a spokesman for Trast Bank, said an official from the general prosecutor's office arrived in the morning with a court order stipulating that the accounts had been frozen "in relation to a criminal matter against Khodorkovsky, Lebedev and other unidentified people." Platon Lebedev was a business associate of Mr. Khodorkovsky and was convicted with him.

The order, Mr. Chukseyev said, "immobilizes any movements of money" without the prosecutor's approval. It did not make clear the nature of the criminal activity, he said.

The general prosecutor's office made no public statement about the case.

Mr. Yasina said that the accounts contained several million dollars, and that the assets were frozen on a day that Open Russia had planned to distribute funds to organizations it helps underwrite. She said the move was another example of Russia's backsliding on human rights, even as it holds the rotating chairmanship of the Group of 8 industrialized nations.

Mr. Khodorkovsky's supporters said Friday that he had been sentenced to serve a week in a punitive cell because he had been drinking tea outside an approved prison area. Officials of the prison service could not be reached for comment.

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Almost all aspects of Mr. Khodorkovsky's business and public activities have faced government pressure since his arrest in 2003. His oil company is in ruins, after being drained of assets by enormous tax judgments against it and by having its core business auctioned off by the Russian authorities. Mr. Khodorkovsky himself still has several years to serve on his prison term.

Ms. Yasina said the events on Friday signaled to her that Open Russia, like Yukos, would not survive.

"Now it is absolutely clear," she said. "I had some hope, even today in the morning. Now I understand that we are stopped."

U.S. May Consider New Belarus Sanctions (WP)

By Peter Baker

The Washington Post, March 18, 2006

White House Report Calls Leader 'Corrupt'

The White House accused the authoritarian president of Belarus yesterday of being "among the most corrupt leaders in the world," and administration officials said they will consider new sanctions assuming tomorrow's elections are manipulated as expected.

In a report sent to Congress on Thursday night and posted on the Web yesterday, the White House alleged that President Alexander Lukashenko "has created a repressive dictatorship on the doorstep of the European Union," sold arms to rogue states and enriched himself at the expense of his people.

The release of the report just two days before presidential elections in the former Soviet republic was intended as a sharp repudiation of a man often called Europe's last dictator amid a pre-vote crackdown on dissent. Authorities in Belarus, where the KGB retains its Soviet name, have shut down newspapers, raided civil society organizations, stifled anti-government rallies, and beaten and arrested opposition figures, including a candidate running against Lukashenko.

"We are very concerned about the behavior of the leaders in Belarus," White House press secretary Scott McClellan said yesterday. "They are not pursuing a democratic course."

In separate interviews, two other administration officials who were not authorized to speak on the record said the U.S. government is studying ways of applying more sanctions against Lukashenko's regime, targeted specifically against him and his cronies. The United States has already imposed travel restrictions on some high-level Belarusan officials.

Assuming the elections are not deemed free and fair, the administration would consider working with European governments to go after the assets of Lukashenko and his circle, the officials said. "This is something that people at the highest level feel strongly about," said one of the officials. The other said, "It's unacceptable that there's a dictator and a tyrant on the border of NATO and the E.U."

Although Belarus is a small country with 10 million people and little strategic importance, Bush has taken a personal interest as part of his vow to spread democracy. On Feb. 27, he invited to the Oval Office two Belarusan women, Irina Krasovskaya and Svetlana Zavadskaya, who have become important opposition symbols since their husbands disappeared. In the national security strategy he unveiled this week, Bush included Belarus among seven countries deemed "despotic systems."

The new report, drafted in response to the Belarus Democracy Act passed by Congress in 2004, alleges that Belarus sold arms, military equipment and dual-use items to countries such as Iran and Sudan. The money goes into secret funds controlled by Lukashenko, according to the report.

The report says that Lukashenko controls a presidential fund with more than $100 million and quotes him once bragging that it really has $1 billion. "The precise extent of corruption is difficult to determine because of the regime's lack of transparency and the blurring of personal and state property," the report says. Lukashenko gave the U.S. embassy a document reporting his annual income as $16,596.

Much of the information about his finances comes from public statements by Tamara Vinnikova, a former head of the national bank who fled Belarus in 1999. A classified version of the report has other authentication, sources said.

"This gives a very clear picture of this monstrous regime," said Rep. Christopher H. Smith (R-N.J.), who sponsored the Belarus Democracy Act. "We're not going to give up. As we've seen with every thief and dictator over time -- remember Nicolae Ceausescu? -- there's a long list of people who are no longer there to torture and abuse their people." Ceausescu, the Romanian dictator, was executed in a popular uprising in 1989.

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Belarusan Ambassador Mikhail Khvostov complained that the White House report was filled with "false allegations" and "black PR." Khvostov said Belarus does not hide its arms sales but complies with U.N. regulations. And he said Lukashenko does not use the presidential fund for personal purposes but instead to fund arts and sports.

"In my view, this action on the eve of the election is an attempt of a black intervention into the internal affairs of another country," Khvostov said. "This administration does not like President Lukashenko to win this election."

Pelosi Seeks End To Darfur Violence (WT)

By Brian Debose

The Washington Times, March 18, 2006

House Minority Leader Nancy Pelosi yesterday said the warring in the Darfur region of Sudan demands immediate attention, a day after privately urging President Bush to appoint a special envoy to help end what the White House calls a genocide.

"President Bush and I don't agree ... well we disagree on almost everything, but on this we do, and he has told us 'not on his watch' and I believe him," Mrs. Pelosi said after a speech to the Center for National Policy.

Mrs. Pelosi and congressional Democrats, who last month visited Darfur, told Mr. Bush in a meeting Thursday that an envoy would signal that peace in Sudan is important to the U.S.

"To do this we must stop the violence, bring the parties to the negotiating table and get humanitarian relief to the people who need it," the California Democrat said in her address.

The war between rebels and government forces and Arab militias has killed an estimated 180,000 people and displaced 2 million more.

Mrs. Pelosi said the congressional delegation found "a mass of death, disease and despair" for the native farmers imposed by both the state-sponsored Janjaweed militia and thieving rebels.

"[Sudanese] Vice President [Ali Osman Mohammed] Taha denied what we had seen with our very eyes," Mrs. Pelosi said.

"After persistent questioning by Congresswoman Maxine Waters, Vice President Taha finally admitted that the Sudan government had supported the Janjaweed in the past," she said.

Congress on Thursday approved more than $350 million in aid to the region, including more than $90 million for United Nations peacekeepers, who have not yet been authorized to enter the African nation.

Mrs. Pelosi said one of the problems with U.N. intervention is that the African Union has not yet requested it, and the Sudanese government fought against it in a meeting held March 10.

A decision has been postponed to give all the parties a chance to reach and sign a peace accord with a deadline of April 30. Sudan yesterday said it expected to meet the deadline.

Mrs. Pelosi said a request for U.N. troops may not come until September: "But that will only allow for more death, disease and genocide to take place."

Part of the reason the conflict has gone on for so long without U.N. intervention is contention over whether the situation classifies as genocide. The U.N. describes the conflict as the world's gravest humanitarian crisis.

Imam Mahdi Bray, executive director of the Muslim American Society Freedom Foundation, said the debate is based on the semantic arguments of a "ridiculously high" standard.

"I am also troubled that during our trips there we were told by numerous officials throughout the country that the U.S. and U.N. have not given the African Union the financial support they need," he said.

An African Union military force has been in the region acting as a peacekeeping force since October 2004, but it only has 7,000 troops to protect hundreds of thousands of displaced families in scattered camps throughout Darfur.

Liberian Seeks Extradition Of Predecessor For Atrocities Trial (NYT)

By Warren Hoge

The New York Times, March 18, 2006

UNITED NATIONS, March 17 — Ellen Johnson Sirleaf, the president of Liberia, said Friday that she had asked Nigeria to extradite Charles Taylor, the former Liberian president and guerrilla leader, to face war crimes charges in Sierra Leone.

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Ms. Johnson Sirleaf told the Security Council that she had made a formal request to President Olusegun Obasanjo of Nigeria, where Mr. Taylor lives in exile.

Mr. Taylor claimed asylum in Nigeria in August 2003 as part of an internationally brokered peace settlement ending 14 years of civil war in Liberia. He was later indicted on 17 counts of war crimes and crimes against humanity by a United Nations-backed court in Sierra Leone.

Mr. Taylor, 58, a warlord-turned-president, rampaged through his own country and much of West Africa during the 1990's, unleashing ruthless campaigns of torture, rape and dismemberment.

Even from exile, he has maintained influence in Liberia, with thousands of young combatants still loyal to him, Ms. Johnson Sirleaf said, making her plea "courageous but risky."

"Please bear in mind that time is of the essence in this regard," she said at a news conference. "Liberia's peace is fragile. There are many loyalists in our country to Mr. Taylor, there are many business interests he has. Whatever decision is taken by the African leadership must ensure that the safety of the Liberian people and the stability of our nation is not undermined."

She said Mr. Obasanjo would consult African leaders because they had been signatories to the deal that sent Mr. Taylor into exile.

She said she also wanted to "ensure that in any proceedings, there is an environment that protects all, including the accused's, fundamental human rights."

She was not seeking Mr. Taylor's extradition to Liberia, she said, because he was not under indictment there. If he is sent to Liberia, peacekeepers there have been authorized by the Security Council to transfer him to Sierra Leone.

Mr. Obasanjo has been under pressure to act on Mr. Taylor but had said he would await a request from a democratically elected Liberian president. Ms. Johnson Sirleaf was elected in November and inaugurated on Jan. 16.

She complained that the international community should have acted sooner to help Liberia free itself from Mr. Taylor's influence.

"We inherited a problem, we are faced with serious pressure, we are a small country, we have no powers that others have, we have no security forces to protect our people and the safety of our nation, so we are caught in a situation that we have to take a major decision that should have been taken long before, giving us an opportunity to pursue our development agenda," she said.

Corinne Dufka, a senior researcher for Human Rights Watch in Dakar, Senegal, who has followed the Taylor case closely, hailed the move as an "enormous step toward advancing justice in West Africa," but she said she was troubled by Mr. Obasanjo's decision to seek the approval of other African leaders.

"Obasanjo must now play his own part in the fight against impunity in West Africa," she said.

Ms. Johnson Sirleaf, who served five years as an assistant secretary general with the United Nations Development Program, addressed a joint meeting of Congress on Wednesday and will see President Bush in the White House on Tuesday.

She used her appearance before the Council on Friday to thank the United Nations for helping Liberia end its debilitating conflicts and hold the election that put her in office.

The United Nations has a peacekeeping force in Liberia of 16,000 soldiers and police officers, and Ms. Johnson Sirleaf asked the Council to guarantee its continuance.

She was praised in speeches by many of the ambassadors, and her speech was greeted with applause, a rare occurrence in the chamber.

Liberia Seeks Trial For Ex-President (WP)

By Colum Lynch

The Washington Post, March 18, 2006

New Leader Presses Nigeria and U.N.

UNITED NATIONS, March 17 -- Liberian President Ellen Johnson-Sirleaf has asked Nigerian leader Olusegun Obasanjo and other African leaders to force Charles Taylor, Liberia's exiled former president, to face trial for war crimes allegedly committed in neighboring Sierra Leone's bloody 10-year-long civil war.

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Johnson-Sirleaf, who was elected president in November, appealed to the U.N. Security Council on Friday to back her government's efforts, noting that "Liberia is still fragile." She asked Obasanjo in a meeting in Abuja last weekend to rally other African leaders to make a formal statement requesting that Taylor be tried by the U.N.-backed Special Court in Sierra Leone.

Taylor resigned and went to exile in Nigeria in August 2003 as part of a U.S.-backed deal to end Liberia's civil war and pave the way for a U.N.-led effort to rebuild the country.

Obasanjo has previously resisted international pressure to hand Taylor over, citing the need for a request from a democratically elected Liberian leader. His office said Friday that he is considering sending Taylor back to Liberia, not Sierra Leone, where he is charged.

A statement issued by Obasanjo's office cited his "commitment to give due consideration to any formal request from a democratically elected government of Liberia for the return of former president Charles Taylor," Reuters reported from Lagos.

The request for a broader African decision on Taylor's fate is aimed at easing political pressure on Liberia's fledgling government, which is struggling to put the country back on its feet after more than a decade of civil war, extreme poverty and misrule.

U.N. prosecutors maintain that Taylor has continued to exercise considerable power in Liberia from his compound in Calabar, Nigeria. They have also accused him of plotting two assassination attempts against Guinea's president, Lansana Conte.

"I have consulted with Nigerian President Olusegun Obasanjo and asked him that we and the leaders of Africa, particularly those that were involved in the arrangement that took Mr. Taylor to exile now bring this matter to closure," Johnson-Sirleaf told reporters at the United Nations. "And by closure I mean that a decision should be taken that would allow Mr. Taylor to have his case in court."

Johnson-Sirleaf voiced frustration that Nigeria and other African governments that crafted the deal that led to Taylor's resignation left her with the burden of confronting Taylor's legacy. "We have to take a major decision which should have been taken a long time ago," she told reporters after speaking to the council. "The pressure that has been put on Liberia is in a way unfair."

The United States and other Security Council members praised Johnson-Sirleaf's decision to press for Taylor's trial before the war crimes court. "We support President Johnson-Sirleaf's stand on Charles Taylor," said Emyr Jones-Parry, Britain's U.N. ambassador. "She has shown courage in approaching President Obasanjo on what is a difficult issue. Charles Taylor stands accused of the gravest human rights abuses and war crimes. We want to see him face the charges against him at the Sierra Leone Special Court. We hope regional leaders will support President Johnson-Sirleaf."

Taylor pitched Liberia into a civil war in 1989, when he launched an insurgency from his base in Ivory Coast. He was elected president in 1997 and has sponsored rebel movements throughout the region.

Sierra Leone's Special Court, a U.N.-sanctioned court comprised of national and international judges and prosecutors, indicted him on 17 counts of crimes against humanity, including mass murder, rape and the use of child soldiers. The court accused Taylor of training and equipping Sierra Leonean rebels believed responsible for killing, mutilating and terrorizing civilians in their quest to seize power and to control the country's lucrative diamond trade.

Liberia Seeks Extradition Of Indicted Ex-Leader (LAT)

By Robyn Dixon

The Los Angeles Times, March 18, 2006

Ex-President Charles Taylor, who lives in Nigeria, faces war crimes charges in Sierra Leone.

JOHANNESBURG, South Africa — Liberian President Ellen Johnson-Sirleaf has asked Nigeria to extradite her country's former leader, Charles Taylor, to face war crimes charges, a move cheered by human rights advocates that is also laden with risks for her battered West African country.

An international court in Sierra Leone, which borders Liberia, has a cell waiting for Taylor, who has been indicted on 17 counts of war crimes. The United States has been putting intense pressure on Nigeria and Liberia to ensure that Taylor faces trial for his role in Sierra Leone's 10-year civil war.

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In Sierra Leone, Taylor is accused of supporting rebels of the Revolutionary United Front, whose trademark was mutilating civilians and cutting off their limbs, as well as using children as soldiers. He left Liberia in 2003, accepting exile in Nigeria in a move that paved the way for the end of the civil war that racked his country.

Johnson-Sirleaf, a former World Bank official, upset the favored candidate, former soccer star George Weah, in a presidential election last year and took office in January. She has been applauded for her tough stance against corruption, but she also has alienated powerful figures in the country.

In recent months there has been increased speculation about a Taylor trial, and whether it would lead to a border attack on Sierra Leone by his supporters in Liberia or some other destabilizing event. Some have suggested holding the trial outside Africa, but many analysts say that would anger Africans who are highly sensitive to the legacy of colonialism.

President Olusegun Obasanjo of Nigeria confirmed Friday that Liberia had formally sought Taylor's extradition.

Obasanjo has repeatedly promised to hand Taylor over if requested by a democratically elected Liberian president. However, he seemed to be setting new conditions, saying he intends to consult the African Union and West African government leaders.

Johnson-Sirleaf told journalists Friday that the decision would be a collective one involving African leaders. She appealed to the United Nations Security Council to help bring Taylor to justice.

"It is time to bring the Taylor issue to closure," she said.

Nigeria argues that the AU and the Economic Community of West African States, or ECOWAS, must be consulted because they were part of the original deal to exile Taylor. But human rights groups and analysts say that extradition may become bogged down in a long consultation process, or that Taylor may take advantage of the delay and flee.

"The prosecution itself does not necessarily agree that this [consultations with the AU and ECOWAS] is a precondition to the transfer at all," said Harpinder Athwal, special assistant to the prosecution at the Special Court for Sierra Leone. Those groups were involved at a point when Liberia did not have a functioning government, she said.

"Now this is an issue government-to-government and the prosecution doesn't necessarily see that there is a role for the African Union or ECOWAS," she said. "It only takes one spoiler to say 'no' for the whole thing to collapse again and then we're back to square one."

She said prosecution of Taylor would send a powerful message to Sierra Leone, to the region with its complex web of interrelated conflicts and to the world that no one is above the rule of law.

"Often it's seen that the rich and powerful escape the rules that have been set, that there's one rule for one person and another for another," Athwal said.

Johnson-Sirleaf has moved quickly in her first two months in office. She set up a truth and reconciliation commission, fired top officials in the Finance Ministry as part of her anti-corruption drive and barred officials of the former transitional government from traveling abroad until they underwent financial audits.

The transitional government consisted of members of factions from Liberia's 14-year civil war. When they left, there were reports that members stole cars, as well as the furniture, carpets and even the light fixtures in their offices.

The new president promised to give women's issues prominence, saying she had experienced the terror of attempted rape.

Johnson-Sirleaf won enthusiastic applause when she addressed a joint session of the U.S. Congress this week, and won the warm backing of the U.N. Security Council on Friday. But the extradition move is seen as her boldest yet.

"It's a very bold step," said Mike McGovern, West Africa analyst for the International Crisis Group. "It's going to buy her a degree of goodwill because people should recognize that she's taking a risk here for the sake of ending the culture of immunity and moving Liberia into a new era."

Corinne Dufka, West Africa analyst for Human Rights Watch, said there was no reason for Nigeria to balk at Johnson-Sirleaf's request.

"Now Obasanjo will have to move ahead, and do it quickly. We do not think that he needs to get approval from the African Union or from ECOWAS," Dufka said. "He has repeatedly stated that he will surrender former President Taylor after there has

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been a legitimate election in Liberia. That has happened. President Johnson-Sirleaf has made a request. There is no reason to delay this any further."

*

Times staff writer Maggie Farley at the United Nations contributed to this report.

Liberia Seeks Handover Of Taylor To Court (AP)

By Edith M. Lederer

AP, March 18, 2006

Liberian President Ellen Johnson Sirleaf said Friday she wants ex-president Charles Taylor handed over to a war crimes tribunal for prosecution for his role in Sierra Leone's civil war, with the agreement of African leaders.

Sirleaf told the U.N. Security Council Liberia "is determined to address issues from our painful past ... so that the country can move ahead."

Taylor was given asylum in Nigeria to help end Liberia's civil war and Sirleaf said she and Nigerian President Olusegun Obasanjo agreed at a recent meeting to seek African leaders' views before any handover.

"I have consulted with Nigerian president Obasanjo and asked him that we and the leaders of Africa, particularly those that were involved in the arrangements that took Mr. Taylor to exile, now bring this matter to closure — and by closure I mean that that decision should be taken that would allow Mr. Taylor to have his day in court," Sirleaf told a news conference after addressing the Security Council.

Obasanjo, who was credited with helping end Liberia's civil war when he helped arrange Taylor's asylum, is consulting with other African leaders on how to respond to Sirleaf's request, his office said.

Both Nigeria and Liberia have been under heavy international pressure to hand over Taylor to the court.

Obasanjo had said he would consider any request by a democratically elected Liberian leader. Sirleaf became African's first woman president after winning election in January.

Taylor plunged Liberia into years of civil war in 1989 when he led a small rebel band that invaded from neighboring Ivory Coast. He was elected president in 1997 during a lull in fighting.

He has been indicted by a U.N. tribunal in Sierra Leone on charges of committing crimes against humanity while in office by aiding and directing a Sierra Leone rebel movement and trading guns and gems with the insurgents infamous for chopping off the lips, ears and limbs of civilian victims. Fighting ended in 2001 in Sierra Leone.

Taylor has lived in exile in the southern Nigerian city of Calabar since being forced from power under a peace deal brokered in 2003 that ended the rebel assault on the Liberian capital, Monrovia.

The first word of Liberia's move came from Obasanjo's office, which issued a statement earlier on Friday saying Liberia had asked for Taylor's extradition. It said the Nigerian president was consulting with leaders from the African Union and the Economic Community of West African States who helped broker Taylor's exile on how to respond.

When Sirleaf arrived at the United Nations and was asked about Nigeria's statement, she clarified that she wanted African leaders to agree to ask for Taylor's handover.

Sirleaf criticized Obasanjo and the international community for not acting much earlier to bring Taylor to justice.

She said Liberia was taking "a rather courageous but risky" stand because "Liberia's peace is fragile."

"There are many loyalists in our country to Mr. Taylor. There are many business interests he has. Whatever decision is taken by the African leadership must ensure that the safety of the Liberian people and the stability of our nation is not undermined," she said.

Sirleaf said she met with Obasanjo in response to the increasing international pressure.

U.S. Ambassador John Bolton told the Security Council that the United States supported efforts by Sirleaf, Obasanjo "and other African leaders to bring Charles Taylor to justice."

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Associated Press Writer Bashir Adigun contributed to this story from Abuja, Nigeria.

African Hope (WSJ)

DOJ_NMG_0019381

The Wall Street Journal, March 18, 2006

Good news out of Africa has been all too rare in recent years. But a major exception was the election last year of Liberian President Ellen Johnson Sirleaf, who stopped by our offices yesterday after addressing the United Nations.

Established by former American slaves, Liberia descended into a hellish civil war in the 1990s -- a conflict that ex-Liberian President and fugitive war criminal Charles Taylor helped spread to neighboring countries like Sierra Leone. One of Mrs. Sirleaf's agenda items at Turtle Bay was requesting that Nigeria extradite Mr. Taylor to face charges at an international tribunal in Sierra Leone.

But more important for her country's future, Mrs. Sirleaf used her time with us to emphasize that Liberia is "open for business." She's a former World Bank economist herself, and she brought along a retinue of advisers who seemed to understand that low tax rates and the rule of law are the sine qua non of Liberian hopes for growth and development. What a refreshing difference from some other African leaders, who blame the West for every trouble. Asked if she believed the U.S. owes Liberia anything, she said flatly, "no." She just wants it to be treated like other countries.

Mrs. Sirleaf is the first woman elected as an African head of state, beating out soccer superstar George Weah for the post -- a remarkable sign of political maturity from war-ravaged Liberians. "The fact that I beat a football star is proof that African electorates are looking for someone who can reverse violence, oppression and lack of freedom," she told us. Let's hope so.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: SATURDAY, MARCH 18, 2006 7:45 AM EST

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TERRORISM NEWS:

Judge Gives Prosecutors New Chance In Terror Case (NYT)

By Neil A. Lewis

The New York Times, March 18, 2006

WASHINGTON, March 17 — The judge in the sentencing trial of Zacarias Moussaoui said on Friday that prosecutors could try to find new, untainted aviation-security witnesses to replace those who were barred from testifying because they were improperly coached by a government lawyer.

The ruling effectively allows the government to try to salvage its effort to execute Mr. Moussaoui, the only person charged in a United States courtroom with responsibility for the deaths in the terrorist attacks of Sept. 11, 2001.

The judge, Leonie M. Brinkema of Federal District Court, declined to undo her earlier decision prohibiting the prosecutors from using any of the aviation officials they originally intended to call as witnesses because they had been coached by Carla J. Martin, a government lawyer who was assisting the prosecutors.

The trial, which is solely about whether Mr. Moussaoui should be executed or jailed for life, was on the brink of falling apart after the judge's ruling on Wednesday struck at the heart of the government's case. The chief prosecutor, Robert J. Spencer, had told the judge there would "be no point in going forward" unless she relented in some manner.

But even as Judge Brinkema denied the prosecutors' request that she reconsider her striking of those witnesses, she accepted a suggestion that they put forward in a court filing: that they be allowed to try to find someone new to present the same testimony.

"The government's proposed alternate remedy of allowing it to call untainted aviation witnesses or otherwise produce evidence not tainted by Ms. Martin has merit," Judge Brinkema wrote.

Tasia Scolinos, the Justice Department's spokeswoman, said in response, "We are pleased to be able to move forward with this important case on behalf of the thousands of victims and their families."

That means the trial, in its second week when it was thrown into turmoil by the disclosure of Ms. Martin's behavior, will resume Monday morning with the cross-examination of an F.B.I. agent who arrested and interviewed Mr. Moussaoui three weeks before the Sept. 11 attacks.

But the question remains as to whether it is possible to find new witnesses who are not only untainted, as the judge has required, but familiar enough with the state of aviation security in August 2001 to help support the government's case.

Mr. Moussaoui was in jail at the time of the attacks after having been arrested for immigration violations in Minnesota, where he was learning to fly a jetliner. The Justice Department has asserted that he is nonetheless responsible for the Sept. 11 deaths because he had lied to investigators and concealed his membership in Al Qaeda and his knowledge of that group's plans to fly planes into buildings.

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The government's main aviation-security witness, Lynne Osmus, a senior official of the Federal Aviation Administration in August 2001, was to testify about what steps the agency "could" have taken had Mr. Moussaoui told investigators what he knew about Al Qaeda's plans.

The prosecutors were prepared to have Ms. Osmus, in particular, assert that the agency could have issued a directive putting in place 10 security measures, including a ban on short-blade knives like those used by the Sept. 11 hijackers and also owned by Mr. Moussaoui. The judge has barred aviation witnesses from testifying as to what the government "would" have done, because that would be speculation.

Edward B. MacMahon Jr., the chief defense lawyer for Mr. Moussaoui, said in a court filing that he did not believe it was possible to find any new, untainted witnesses because anyone who had the expertise of Ms. Osmus would by now have been exposed to the coaching suggestions of Ms. Martin through news reports.

Mr. MacMahon said that it was possible that someone familiar with how the aviation agency operated in August 2001 might not have had contact with Ms. Martin, but that it was highly implausible that such people would not have read about her suggestions to the witnesses.

But Justice Department officials said they were confident they could find witnesses who would be deemed authoritative and untainted.

Ms. Martin's name came up in other court proceedings Friday as lawyers defending the airlines against Sept. 11 liability suits denied that they had communicated with her. Lawyers for family members of flight attendants killed in the attacks had raised questions about alleged contacts between Ms. Martin and the airlines' lawyers.

Moussaoui Prosecutors Get A Break (WP)

By Jerry Markon

The Washington Post, March 18, 2006

Judge to Allow Testimony From Untainted Witnesses

A federal judge yesterday revived the Justice Department's death penalty case for Sept. 11 conspirator Zacarias Moussaoui, accepting a compromise offered by prosecutors to find new aviation security witnesses not tainted by the misconduct of a government lawyer.

The decision by U.S. District Judge Leonie M. Brinkema caps an extraordinary week in the terror prosecution and means that Moussaoui's death penalty hearing will resume Monday in Alexandria. The proceeding had been imperiled by Transportation Security Administration lawyer Carla J. Martin, who violated a court order and improperly contacted witnesses.

"I'm fully aware of the huge resources that have been expended on this case, the fact that we summoned 850 jurors . . . and I agree it would be unfortunate if this case could not go forward to some final resolution," Brinkema said in a teleconference with case attorneys, according to a transcript.

The ruling amends an order Brinkema issued Tuesday that shook the sentencing hearing of the only person convicted in the United States on charges stemming from the attacks on Sept. 11, 2001. Brinkema barred the testimony of seven witnesses contacted by Martin and banned all other aviation evidence. Immediately after the ruling, prosecutors said it might be pointless to continue, because such evidence is crucial to their case.

But the judge yesterday allowed the government to present aviation evidence through new witnesses untainted by any association with Martin. "We are pleased to be able to move forward with this important case on behalf of the thousands of victims and their families," said Tasia Scolinos, a Justice Department spokeswoman.

The ruling allows the government to present a fuller version of its central argument for why Moussaoui should be executed: that if he had truthfully confessed his knowledge of the Sept. 11 plot, the attacks could have been prevented.

Although the government will continue its case, legal experts said the week's events still leave prosecutors in a tough spot. Martin had worked on the case since at least 2002 and had contact with aviation security experts throughout the government.

"They're going to need to scrounge around pretty hard and find some alternative evidence," said Paul Rothstein, who teaches national security at Georgetown University's law school. "The government is not entirely dead in the water. I think their plans for this case are severely damaged but salvageable."

Prosecutors are left to scramble to find new witnesses for a case they have been building for four years against Moussaoui, 37, who pleaded guilty last year to conspiring with al-Qaeda in the attacks.

"We're working on it, your honor," Assistant U.S. Attorney Robert A. Spencer said in the teleconference. He said the government probably will have one or two new witnesses available by late Tuesday or Wednesday.

As the case moved on without Martin, her conduct continued to reverberate yesterday. Moussaoui's attorneys are likely to try to get evidence of her actions before the jury, and yesterday they filed a motion asking Brinkema to summon Martin to court Monday to testify at a special hearing.

"Given the importance of understanding the extent of the taint and the critical impact Ms. Martin's actions have had on this case," the defense filing said, "it is imperative that before any additional 'untainted' aviation witnesses are permitted to testify, the extent of Ms. Martin's actions are explained by the only person in a position to know, Ms. Martin."

Prosecutors said they welcomed the opportunity to question Martin but only if her attorney guaranteed that she would not invoke her Fifth Amendment right against self-incrimination and refuse to testify.

Martin's attorney, Roscoe C. Howard Jr., said he had sent a letter to the two sides and to Brinkema saying Martin would not testify Monday. He said she needs more time to assemble witnesses and documents in defense of her actions. "If she is going to be accused of committing a crime, we want the opportunity to put on a defense," Howard said. "We think it will take more than just her testifying."

Brinkema has not ruled on the defense motion for a hearing.

In e-mails to the seven witnesses, Martin was highly critical of the prosecution's argument that aviation officials could have kept the hijackers' knives from getting onto the planes, and defense attorneys might want jurors to hear of her doubts. But experts said it would be difficult for the defense to persuade Brinkema to allow evidence of Martin's conduct or e-mails. "It shouldn't come in, and I don't see how it would," said Carl Tobias, a law professor at the University of Richmond. "It could poison the minds of the jury."

Jurors are under strict orders not to read news accounts of the trial, and Brinkema is likely to question them about that Monday. When she halted the sentencing hearing, after prosecutors alerted her to Martin's conduct, Brinkema told jurors that the issue involved the misconduct of a government lawyer not on the prosecution team.

Martin violated a standing court order by e-mailing trial transcripts to the seven witnesses and coaching them on their testimony. All those witnesses worked for the government and were experts on aviation security. They would have testified about the government's ability to have stopped the terror attacks had Moussaoui not lied to the FBI when he was arrested in August 2001.

Brinkema had ruled earlier that most witnesses could not attend or follow the trial and could not read transcripts. After a hearing Tuesday, Brinkema barred the testimony of the seven witnesses and the aviation evidence. That evidence is key, because about half of the prosecution's case consists of showing that airport security would have been dramatically stepped up if Moussaoui had provided the information.

In her revised order yesterday, Brinkema denied a request from prosecutors that she restore all of the aviation evidence. But she accepted their suggestion that they be allowed to present other aviation witnesses who had no contact with Martin.

Brinkema also said prosecutors could call only aviation witnesses who would testify about what the government could have done to stop the attacks if Moussaoui had confessed his knowledge of the plot. She said the witnesses "may not, however, testify as to what the United States government 'would' have done with this information, as such testimony would be unduly speculative and misleading to the jury."

Staff writer Keith L. Alexander contributed to this report.

Moussaoui Ruling Breathes Life Into Prosecution (LAT)

By Richard Serrano

The Los Angeles Times, March 18, 2006

WASHINGTON — The federal judge in the sentencing trial of Zacarias Moussaoui refused today to reconsider her ruling banning testimony by aviation witnesses improperly influenced by a government attorney, but did allow prosecutors to use other airport security witnesses who were "untainted" by attorney Carla J. Martin.

With prosecutors unlikely to appeal the issue further, the judge's compromise appeared to put the troubled trial back on track when it is scheduled to resume before the jury Monday morning. But prosecutors will be working from a marked disadvantage, with much of the central part of their case stricken from the trial.

Prosecutors indicated they would use a single witness in place of the six who were improperly coached by government lawyer Martin, calling it an "imperfect" solution.

And U.S. District Judge Leonie M. Brinkema added another restriction: any such witness may only testify that aviation officials "could" have prevented the Sept. 11 terror attacks had Moussaoui cooperated with the FBI. She said they would not be allowed to back the prosecution's contention that the Al Qaeda hijackers "would" have been stopped at the airport.

This week, prosecutors said they would have had to abandon efforts to secure the death penalty for the 37-year-old French terrorist if they were not allowed to put on some aviation testimony.

In their opening statements March 6, prosecutors told the jury they would prove that security officials would have stopped the Sept. 11 hijackers at the airports had Moussaoui helped them after his arrest in August 2001.

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Moussaoui last year pleaded guilty to plotting with the Sept. 11 hijackers. Jurors are now being asked to decide whether he should be sentenced to death or to life in prison. He was in jail when the attacks occurred, but the government contends that he was responsible for the loss of lives because he failed to alert the FBI to the plot.

The case came near to collapse Monday when the judge learned that Martin, a 15-year government attorney working for the Transportation Security Administration, had violated the court's order against sharing trial transcripts with witnesses and trying to shape their testimony.

Brinkema ordered all aviation witnesses and evidence stricken from the trial. Prosecutors asked her to reconsider, saying that they needed to put some aviation testimony before the jury in order to win a sentence of death for Moussaoui.

The sanction would leave prosecutors "with no way to show what the FBI could have done with information it had obtained about the hijackers. More important … the jury and the public will see only half the picture of what could have happened had the defendant told the truth," the government said.

Prosecutors proposed alternatives to an outright ban on aviation testimony and evidence, which the judge agreed to today. But she warned that the new witnesses "may not testify as to what the United States government 'would' have done with this information" from Moussaoui, "as such testimony would be unduly speculative and misleading to the jury."

The government's new testimony and evidence centers on a "no transport" security directive, commonly called a "no fly list," that prosecutors said security officials would have put in place if they believed a Sept. 11-like attack was imminent.

"This evidence is simple, straightforward, and entirely uncontroversial, consisting mainly of FAA security directives issued over the years," the prosecutors said. "We would call one witness to explain what they are and how they are used to keep suspected terrorists from boarding commercial aircraft."

This, they said, "will allow us to present our complete theory of the case, albeit in imperfect form. We can then carry out our arguments from the FBI through to the FAA transport directive and present to the jury some semblance of what really could have happened had the defendant told the truth upon arrest."

They described this witness as someone who was "easily free of the specter of taint caused by Martin."

"We can readily call a witness who worked at the FAA during August 2001, and who had no contact with Ms. Martin during this prosecution," they said.

Moussaoui's defense attorneys had urged the judge to throw out the death penalty. They told the judge that allowing new, untainted witnesses would be unfair to the defense because Moussaoui's lawyers would not have enough time to investigate their claims and prepare to cross-examine them.

To that end, the judge ordered the government to give the defense the names of the new witnesses and the nature of their testimony at least three days before they are called to testify.

Martin awaits a hearing before the trial judge on possible civil or criminal contempt charges.

Moussaoui Ruling Salvages The Trial (MINNST)

By Greg Gordon

Minneapolis Star Tribune, March 18, 2006

The judge agreed to let "untainted" witnesses testify, saving enough of the prosecutors' case to resume trial Monday.

ALEXANDRIA, VA. - A federal judge put the death-penalty trial of confessed Al-Qaida conspirator Zacarias Moussaoui back on track Friday, allowing prosecutors to present evidence "untainted" by a government lawyer's improper coaching of witnesses.

But District Judge Leonia Brinkema refused a request from prosecutors to entirely rescind an order earlier in the week barring aviation-related witnesses and evidence.

Brinkema's ruling appears to have allowed the government to salvage enough of its case for the trial to resume on Monday, after a week-long recess.

Prosecutors had told Brinkema their case would collapse without testimony from senior Federal Aviation Administration (FAA) security officials.

"I'm fully aware of the huge resources that have been expended on this case, the fact that we summoned 850 jurors, that we have an excellent jury of 17," Brinkema told lawyers, according to a transcript of their conference call. "And I agree that it would be unfortunate if this case could not go forward to some final resolution."

But defense lawyers promptly filed papers asking the judge to reopen an inquiry into Transportation Security Administration lawyer Carla Martin's improper contacts with witnesses by calling Martin to testify next week so the full "extent of the taint" can be examined.

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The aviation evidence is critical because prosecutors are seeking to prove, beyond a reasonable doubt, that the FBI and FAA would have stopped the Sept. 11 terrorist attacks if Moussaoui had told what he knew about a suicide hijacking plot when he was arrested in the Twin Cities in August, 2001.

'Could,' not 'would'

In her two-page order, Brinkema stressed that the aviation witnesses may testify to what "could" have happened if Moussaoui had been truthful when interrogated in Minnesota.

"The witness, or witnesses, may not, however, testify as to what the United States government 'would' have done with this information, as such testimony would be unduly speculative and misleading to the jury," the judge wrote.

The 17 jurors in the only U.S. criminal prosecution stemming from the terrorist attacks have heard no testimony this week because of the imbroglio over Martin's approaches to seven potential aviation-security witnesses.

During an extraordinary hearing Tuesday, six of the witnesses -- including four tabbed as hostile defense witnesses -- each testified that Martin sent them a transcript of the trial's first day. E-mails showed that she also made suggestions as to how they could adjust their testimony so it meshed better with lead prosecutor Robert Spencer's opening statement.

Brinkema ruled that the witnesses' testimony had been so "tainted" that they must be excluded to protect Moussaoui's constitutional rights.

She said the rights of the 37-year-old Frenchman of Moroccan descent also were violated because Martin advised prosecutors that the four government officials sought by the defense would not speak with defense attorneys, even though she had yet to check with them.

'Terribly excessive'

Prosecutors petitioned for reconsideration, arguing that the sanction was "terribly excessive," and came up with a compromise solution in which Brinkema would allow an FAA official who had no contact with Martin to testify as to how the agency's "no fly list" prevents suspected terrorists from boarding aircraft.

Defense lawyers responded that it is "difficult, if not impossible," to imagine that such an untainted witness exists and that "assurances that there is a rock at the FAA under which that person has been found should be greeted with the skepticism it plainly deserves."

Michael Mello, a University of Vermont law professor specializing in capital cases, said he questions whether prosecutors will find any "completely untainted" witnesses.

"If they've been following [the case] as closely as I have, they can't testify," he said. "If they've been reading daily newspapers and watching the news, they're going to know generally what's been happening in the trial, who's been saying what."

Defense lawyers also pointed to a federal law requiring that, in capital cases, the government must identify all witnesses at least three days before a trial begins. Brinkema's order requires the government to notify defense lawyers three days before any new aviation witness is called and to turn over new exhibits as soon as they are available.

Moussaoui Trial Opened To 'Untainted' Witnesses (WT)

By Jerry Seper, The Washington Times

The Washington Times, March 18, 2006

A federal judge in the death penalty trial of admitted al Qaeda terrorist Zacarias Moussaoui yesterday changed course and said the prosecutors can call "untainted" aviation specialists as witnesses, restoring a major part of the government's case.

U.S. District Judge Leonie M. Brinkema did not overturn her Wednesday ruling to bar witnesses coached by an outside lawyer, but granted prosecutors' request to offer new witnesses and evidence.

In her order, the judge said the new witnesses can only testify to what the U.S. government "could have done to prevent" the September 11 attacks had Moussaoui disclosed during his August 2001 arrest that he was training to attack U.S. targets with planes.

"The witness, or witnesses, may not, however, testify as to what the United States government 'would' have done with this information, as such testimony would be unduly speculative and misleading to the jury," she said.

The ruling was a victory for prosecutors, who had considered abandoning their case when Judge Brinkema banned testimony from Federal Aviation Administration officials because they were given transcripts of the trial in violation of earlier court orders.

Moussaoui, 37, a French citizen of Moroccan descent, pleaded guilty in April to charges of conspiring with al Qaeda terrorists in the September 11 attacks that killed nearly 3,000 people. The penalty trial is to determine whether he should be sentenced to life in prison without the possibility of parole or receive a lethal injection.

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He denied being a part of the initial attack but said he was in training for a second wave of hijacked airplanes to slam into U.S. targets. In his plea, Moussaoui admitted knowing the 19 al Qaeda hijackers were going to fly aircraft into U.S. buildings.

Transportation Security Administration lawyer Carla J. Martin, who coached the witnesses, has since been placed on paid administrative leave from her $120,000-a-year job as an attorney adviser.

She has been threatened by the judge with criminal and civil contempt and has been labeled by prosecutors as a "miscreant," whose "aberrant and apparently criminal behavior should not be the basis for undoing the good work of so many."

Moussaoui's lawyers argued that it will be difficult to find any witness who has not been following the recent events in the trial.

"The existence of such a person is difficult, if not impossible to imagine and assurances that there is a rock at the FAA under which that person has been found should be greeted with the skepticism it plainly deserves," defense attorney Edward B. MacMahon Jr. said.

In a separate motion, Mr. MacMahon said, "The government should not be given an end-run around its creation of a record simply too riddled with problems."

Judge Brinkema ordered the government to provide "the name or names of such untainted witnesses" to the defense no less than three days before they are to testify.

She also told prosecutors to hand over to defense counsel all appropriate information as well as untainted physical evidence as soon as it is available.

The trial is scheduled to resume at 9:30 a.m. Monday.

Judge Admits Evidence In Moussaoui Trial (KCS)

By Matthew Barakat And Michael J. Sniffen

The Kansas City Star, March 18, 2006

ALEXANDRIA, Va. - The death-penalty trial of al-Qaida conspirator Zacarias Moussaoui is back on track after a judge reversed course and agreed to admit some evidence about aviation security.

U.S. District Judge Leonie M. Brinkema relented Friday from her earlier order barring all such testimony. She had issued that ruling Tuesday as punishment for the alleged misconduct of Transportation Security Administration lawyer Carla J. Martin, who coached witnesses.

"It would be unfortunate if this case could not go forward to some final resolution," Brinkema told trial attorneys in a telephone conference. Moussaoui is the only person charged in this country in connection with the al-Qaida terror network's Sept. 11, 2001, attacks on the World Trade Center and the Pentagon.

The trial, begun March 6 and suspended for a week to deal with the misconduct, is to resume Monday with the jury back in court.

Late Friday, Moussaoui's lawyers asked Brinkema to further investigate Martin on Monday before allowing any aviation testimony. Prosecutors agreed, if Martin is willing to testify. Brinkema gave no immediate response.

The judge accepted a compromise proposal by the government. It allows prosecutors to present limited testimony about what the government could have done to enhance aviation security before the Sept. 11 attacks if Moussaoui had not lied to FBI agents Aug. 16-17, 2001, about his al-Qaida membership and plans to crash a jetliner into the White House.

Prosecutors had told Brinkema their case would be gutted without at least some testimony on aviation security. While they disputed her ruling that the aviation security evidence was contaminated beyond repair by Martin, prosecutors suggested using a new, substitute witness and documents that Martin had no contact with.

Prosecutors said a substitute witness could be found who worked at the Federal Aviation Administration around Sept. 11 and could discuss how government used "no-fly" lists to bar specific terrorist suspects from airplanes.

The testimony is crucial because prosecutors must prove that Moussaoui's actions led directly to at least one death on Sept. 11 to obtain the death penalty. They argue that Moussaoui's lies about his true intentions prevented the FBI from identifying some hijackers in advance and prevented the FAA from taking airport security steps to keep them off airplanes.

Moussaoui's lawyers had urged Brinkema not to reconsider. They said federal law since 1790 has required that the defense be notified of the government's witnesses at least three days before trial in death-penalty cases. Allowing new witnesses mid-trial would leave them unprepared, the defense argued.

Brinkema acknowledged that substitute government witnesses would present problems for the defense, including finding rebuttal witnesses.

Moussaoui pleaded guilty in April to conspiring with al-Qaida to crash airplanes into U.S. buildings. But Moussaoui denies any role in 9/11 and says he was training for a possible later attack on the White House. The current trial is to determine whether he is executed or spends life in prison.

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A hearing Tuesday revealed that Martin sent current and former FAA employees a transcript of the trial's first day and coached them on how to testify about certain topics to deflect the kinds of attacks the defense mounted that day.

Judge In Moussaoui Trial Faces A Delicate Task (LAT)

By Richard A. Serrano, Times Staff Writer

The Los Angeles Times, March 19, 2006

Deciding when attorney who 'tainted' witnesses will testify while keeping jury intact are her foremost concerns.

WASHINGTON — With the sentencing trial for Zacarias Moussaoui stumbling forward again, lawyers for the two sides were sharply at odds Saturday over when a government attorney would testify about why she tried to influence witnesses.

The coaching efforts by Carla J. Martin nearly shattered the prosecution's effort to have Moussaoui receive the death penalty for his role in the Sept. 11 terrorist attacks.

Defense lawyers want Martin on the stand as soon as Monday in the trial over whether Moussaoui, 37, should be executed or sentenced to life in prison.

Prosecutors want to delay Martin's appearance until the middle of the week and have her testify only if she agrees to answer questions about her conduct and not invoke the 5th Amendment against self-incrimination.

"We see no reason" to have Martin take the stand "simply to have [her] invoke her rights," prosecutor Robert A. Spencer said in court papers.

In the middle of the dispute is Judge Leonie M. Brinkema.

Clearly irked by the revelations about Martin early last week, Brinkema has made no secret of her view that the lawyer with the Transportation Security Administration may end up with criminal or civil sanctions for attempting to coach several witnesses.

But Brinkema also is trying to keep together a jury that has been left in the dark over the developments in the case — the only one to be tried in the U.S. that stems from the 2001 attacks.

Moussaoui pleaded guilty last year to plotting with the hijackers. The government contends he should be put to death because he failed to alert the FBI to the plot, which resulted in the deaths of almost 3,000 people.

"I'm fully aware of how important it is for this matter to become resolved," the judge told the prosecution and defense teams in a teleconference session late Friday. "I'm fully aware of the huge resources that have been expended on this case, the fact that we summoned 850 jurors, that we have an excellent jury of 17, and I agree that it would be unfortunate if this case could not go forward …. "

One week into the trial, Brinkema abruptly stopped it Monday when word surfaced that Martin had attempted to influence witnesses from the transportation agency and the Federal Aviation Administration. Martin briefly appeared in court on Tuesday but declined to testify and was excused until she could find legal representation.

Her newly hired lawyer, Roscoe C. Howard Jr., has since said she was eager to testify but needed some time to prepare.

"She is entitled to a fair opportunity to prepare and present her side and a fair judgment of her intentions, her conduct and the conduct of others," Howard said.

Brinkema first banned from the trial all testimony and evidence about aviation security because of Martin's action. But the judge scaled back her ruling Friday, allowing prosecutors to present one or two witnesses on the issue who were not "tainted" by Martin.

For prosecutors, that decision drew new breath into their case for the death penalty for Moussaoui.

They had told jurors they would prove that, had the French citizen cooperated with the FBI upon his arrest on an immigration violation in August 2001, the government would have tightened airport security across the country. Those measures, prosecutors said, could have prevented hijackers from making it onto the airplanes used in the Sept. 11 attacks.

Defense lawyer Edward B. MacMahon Jr. said in court papers that he wanted Martin on the stand after he finished cross-examining FBI Special Agent Harry Samit on Monday morning, which is where the trial left off when it was postponed.

He said she should be the next witness before the prosecution brought in any "untainted" witnesses on aviation security because her testimony would provide "critical information" about the nature of the witness-tampering effort.

Specter Eyes Oversight Of Spy Program (WT)

By Charles Hurt

The Washington Times, March 18, 2006

Senate Judiciary Committee Chairman Arlen Specter introduced a bill this week to increase congressional oversight of President Bush's warrantless spy program and require a court review of the program for its constitutionality.

The Pennsylvania Republican said rule of law takes precedent even when the nation is at war with a new type of enemy capable of exploiting modern technology.

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"Our enemy is the enemy of freedom, and we will not give that enemy the satisfaction of making us give up the very freedom we cherish," Mr. Specter said on the Senate floor.

Under Mr. Specter's bill, the administration would be required to present the program to the Foreign Intelligence Surveillance Act (FISA) court, the federal panel charged by Congress with granting warrants for wiretaps for gathering foreign intelligence.

The bill also would require that the administration go before the FISA court to renew the program every 45 days. And every six months, an analysis of the program would be submitted to the chairmen and ranking members of the House and Senate intelligence committees.

Both Republicans and Democrats have accused Mr. Bush of circumventing federal law to spy on people in the U.S. The White House says the program has been used selectively and only on calls coming from numbers linked to terrorists from foreign countries.

Mr. Specter's bill comes after four other Republicans introduced a separate bill that would address the spy program.

A bill by Republican Sens. Mike DeWine of Ohio, Lindsey Graham of South Carolina, Chuck Hagel of Nebraska and Olympia J. Snowe of Maine would allow the National Security Agency to use warrantless wiretaps for up to 45 days.

At that point, the proposed legislation would require the Department of Justice to drop the surveillance, get a FISA warrant or seek a bypass from congressional leaders.

Among Democrats, only Sen. Russell D. Feingold of Wisconsin has moved yet toward official action in response to the spy program. He introduced a resolution earlier this week to censure Mr. Bush.

While many Democrats have expressed interest in legislation to curb the spying, they haven't shown much support for Mr. Feingold's effort and have yet to introduce any bills.

Sen. Patrick J. Leahy, Vermont Democrat and ranking member of the Judiciary Committee, did write Attorney General Alberto R. Gonzales asking for information about any defendants netted by the program who are challenging their cases in court.

"According to press accounts, several terrorism defendants have filed legal challenges to the President's program of electronic surveillance of Americans without a warrant," wrote Mr. Leahy and Sen. Edward M. Kennedy, Massachusetts Democrat.

"The Judiciary Committee is continuing its inquiry into the President's 'Terrorist Surveillance Program,' and we ask that you send for our review a list of every criminal case in which a defendant is alleging that evidence was illegally obtained through this program ... ."

U.S. Lawyers Keep Silence On Listening In (NYT)

By Nina Bernstein

The New York Times, March 18, 2006

Is the government secretly monitoring communications between plaintiffs and their lawyers in a federal class-action lawsuit against former Attorney General John Ashcroft and other top officials? Government lawyers yesterday politely refused a court order that they answer that question, asking instead that the court reconsider the order.

The plaintiffs in the case are Muslim immigrants who were swept up in the New York area after Sept. 11, 2001, detained for months and deported after being cleared of any links to terrorism.

Magistrate Judge Steven M. Gold of United States District Court in Brooklyn ordered the government on March 7 to guarantee in writing that neither the litigation team nor the potential witnesses — who include the F.B.I. director, Robert S. Mueller III — were aware of such eavesdropping, and that no such evidence would be used in the case.

But Stephen E. Handler of the Justice Department wrote in a filing yesterday that if knowledge of such activity were denied in one case, a refusal to confirm or deny it in another case "could itself tend to reveal classified information."

A legal scholar said the government's refusal raised new concerns about the scope of a program of electronic interceptions conducted without a warrant by National Security Agency inside and outside the United States under an executive order being challenged in a separate lawsuit.

"This is a pretty clear red flag" that eavesdropping occurred in the detainees' case, said Stephen J. Schulhofer, a professor of law at New York University who is an expert on national security. "The kind of surveillance that the president authorized under the N.S.A. wiretap was very likely deployed against these individuals when one party to the conversation was abroad and one party to the conversation, probably their lawyers, were in this country."

Rachel Meeropol, a lawyer for the Center for Constitutional Rights, which represents the detainees, said she was shocked by the government's stance.

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"The implication of this letter is that attorneys defending the United States in civil cases could have access to the confidential communication between their opponents and their opponents' clients," she said. "You can't ethically represent a client if you can't have a conversation with them where you're secure that your opponent can't hear it."

Pentagon Hired Contractor To Advise On Collecting Information On Churches, Mosques, Other U.S. Sites (KRT)

By Jonathan S. Landay

Knight Ridder, March 18, 2006

WASHINGTON - A Pentagon intelligence agency that kept files on American anti-war activists hired one of the contractors who bribed former Rep. Randy "Duke" Cunningham, R-Calif., to help it collect data on houses of worship, schools, power plants and other locations in the United States.

MZM Inc., headed by Mitchell Wade, also received three contracts totaling more than $250,000 to provide unspecified "intelligence services" to the White House, according to documents obtained by Knight Ridder. The White House didn't respond to an inquiry about what those intelligence services entailed.

MZM's Pentagon and White House deals were part of tens of millions of dollars in federal government business that Wade's company attracted beginning in 2002.

MZM and Wade, who pleaded guilty last month to bribing Cunningham and unnamed Defense Department officials to steer work to his firm, are the focus of ongoing probes by Pentagon and Department of Justice investigators.

In February 2003, MZM won a two-month contract worth $503,144.70 to provide technical support to the Pentagon's Joint Counter-Intelligence Field Activity, or CIFA. The top-secret agency was created five months earlier primarily to protect U.S. defense personnel and facilities from foreign terrorists.

The job involved advising CIFA on selecting software and technology designed to ferret out commercial and government data that could be used in what's called a Geospatial Information System. A GIS system inserts information about geographic locations, such as buildings, into digital maps produced from satellite photographs.

According to a "statement of work," the data that CIFA was interested in obtaining included "maps, street addresses, lines of communication, critical infrastructure elements, demographic and other pertinent sources that would support geocoding and multi-level analysis."

Geocoding involves assigning latitudes and longitudes to locations, such as street addresses, so they can be displayed as points on maps. Such tools increasingly are being used by U.S. corporations and law enforcement agencies.

MZM was to "assist the government in identifying and procuring data" on maps, as well as "airports, ports, dams, churches/mosques/synagogues, schools (and) power plants," said the statement of work.

"In many cases, the government already owns such data, and for reasons of economy, government-owned data is preferred," said the statement. It isn't clear why U.S. intelligence agencies couldn't do the work themselves.

Navy Cmdr. Gregory Hicks, a Pentagon spokesman, said MZM began working on the project in October 2002, when the agency was created.

Its job was to help the agency integrate technology into its "information architecture to help CIFA use available (satellite) imagery, which is produced legally by other commercial and government agencies," Hicks said.

"GIS software ... is designed to allow integration of geographic and imagery data with threat information to provide complex analytic products," he said. "Not knowing the location of key infrastructure and points of interest, such as bridges, chemical plants, schools, parks, and even religious facilities, as they relate to threat information, could significantly affect the accuracy of such analysis and plans and lead to disastrous results."

He was unable to discuss further details of CIFA's dealings with MZM, citing the ongoing investigations into Wade's dealings with the Pentagon.

CIFA recently has come under fire following disclosures that it maintained information on individuals and groups involved in peaceful anti-war protests at defense facilities and recruiting offices.

The information was stored in a database that was supposed to be reserved for reports related to potential foreign terrorist activity.

In a March 8 letter to Sen. Patrick Leahy, D-Vt., a senior Pentagon official said that a review of the Cornerstone database had identified 186 "protest-related reports" containing the names of 43 people that were mistakenly retained in the database.

"These reports have since been removed from the Cornerstone database and refresher training on intelligence oversight and database management is being given to all CI (counter-intelligence) and intelligence personnel," said the letter from Robert W. Rogalski, an acting deputy undersecretary of defense.

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The disclosure that CIFA was storing information on anti-war activities added to concerns that the Bush administration may have used its war on terrorism to give government agencies expanded power to monitor Americans' finances, associations, travel and other activities.

The administration's domestic eavesdropping program and FBI monitoring of environmental, animal rights and anti-war groups have also fueled such fears. The administration contends that its programs are legal and insists that they're designed to ensure civil liberties while protecting national security.

A Washington Post story last year contained a brief reference to the White House contracts in a report on the company's dealings with the Pentagon.

Wade, who faces up to 20 years in prison, was one of four men charged in the Cunningham case. Cunningham, who resigned from Congress in November after serving for 15 years, was sentenced to eight years and four months in prison earlier this month.

Foreign Firms A Mainstay Of Pentagon Contracting (WP)

By Ellen Mccarthy

The Washington Post, March 18, 2006

Edward Nadworny's bosses at CGI Group Inc. are just up the road in Montreal, but to the U.S. government he still works for a foreign company, which means logging every phone call to Canada, submitting his e-mails for audits, and being supervised by a local board whose members have been approved by the Defense Department.

If he and his colleagues from other parts of the company chat about work at happy hour, they must tell a Pentagon-approved security officer what they discussed. It's inconvenient but a fact of life for the dozens of foreign-owned companies authorized to do high-level security work for the U.S. government.

"I log my calls more frequently than I do my expenses. . . . It's just a way of doing business," says Nadworny, who runs CGI Federal, a subsidiary of the Canadian firm that was set up to win software and other information technology contracts with the U.S. government.

As politicians battled in recent weeks over a Dubai firm's plan to take control of a company that operates U.S. ports, the fight stood in relief to a reality that local government contractors know well: Foreign-owned companies already help manage some of the nation's most sensitive business, working on classified weapons and information programs and dealing daily with government secrets.

At least 98 foreign-owned firms like CGI have agreements with the Pentagon that allow them access to classified government programs, up from 58 a decade ago, according to the Defense Security Service, the office of the Pentagon that oversees companies that do classified work. With joint defense projects among allies common, and the need for the best technology ever more acute, contracting experts say they expect the trend to continue.

"We're in a global technology environment," said Stan Z. Soloway, president of the Professional Services Council, a government contracting industry group that includes foreign-owned companies like BAE Systems Inc.

An Italian-owned firm is designing the president's new helicopter; a Paris-owned firm is making the new radios for U.S. Special Operations Forces; at the Chesapeake Innovation Center, an Annapolis incubator for homeland security companies that counts the National Security Agency among its partners, five of the 24 companies it has assisted were based overseas.

"Some of our allies have had more extensive experience in homeland security than the United States," said Mark Sauter, the incubator's chief operating officer. "We can't afford to get into a 'not invented here,' mindset."

The Defense Security Service would not release the names of the foreign-owned companies with access to classified information, though many, like BAE, are well known. But the agency did provide a list of their 18 home nations. The list includes nine nations that are part of the North Atlantic Treaty Organization, such as France and Britain; all but four -- Australia, Bermuda, Israel and Singapore -- are European.

That in itself indicates a certain caution concerning which companies can get access to sensitive data, said Steve Schooner, a professor of government contracting law at George Washington University Law School.

"The bottom line is: Who are you willing to share your technology with?" Schooner said. "For more developed countries, we have more expectation for rule of law, respect for classified information."

Despite the comparative openness of the U.S. economy -- overseas investors own buildings and businesses throughout the country -- foreign involvement can touch a nerve. The Dubai port deal was ultimately scuttled over security concerns. The purchase of International Business Machine Corp.'s personal computer division by Chinese firm Lenovo Group Ltd. was put through a national security review before being approved. Locally, an Israeli company's proposed takeover of Columbia-based computer security firm Sourcefire Inc. has triggered a review because of Sourcefire's contracts with intelligence agencies.

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Foreign-owned or controlled companies that work with classified information are subject to a special set of rules. The firms must set up U.S. subsidiaries with separate boards that include members approved by the Defense Department. The subsidiaries must have their own e-mail systems and network servers and must fully document communications with employees of the parent company -- hence Nadworny's phone logs.

U.S. citizens must be involved in key roles and are the only individuals who can be cleared to have access to classified material, a fact Pentagon officials consider an important protection.

A report published by the Government Accountability Office last July, however, found the system lacking -- understaffed, too dependent on self-reporting by companies, and unable to fully track foreign involvement with high-security U.S. contractors. In one instance, the GAO found that a foreign-owned company had access to classified information for six months before proper safeguards were in place. In another, the GAO found that Pentagon officials were unaware that a company had hired a foreign national as its president until someone spotted the fact on a Web site nine months later.

"Just think of the magnitude, the complexity, of monitoring what 96 companies are doing with access to classified information. Just the potential for letting something slip or get in the way is hugely magnified," said Rep. John Barrow (D-Ga.), a critic of the Dubai ports deal.

Defense Department officials and contracting experts defended the current system.

In a written response to the GAO, Carol A. Haave, deputy undersecretary of defense for counterintelligence and security, said that defense officials vet foreign involvement in contractors carefully, but also keep in mind issues like the "nature and source" of the foreign involvement, the sensitivity of the information, and "the relationship of the foreign source's government with our government."

"If there is any indication of risk to classified information . . . appropriate action is taken."

David Dempsey, a partner with Holland & Knight LLP who helps foreign companies navigate Pentagon regulations, said it can take up to nine months and cost as much as $600,000 to comply. But, he added, the system seems to work.

"I have never seen an intentional breach and I have never seen a serious breach," of security rules, Dempsey said.

Mideast Wrangle May Hit New Port Sale (FT)

By Robert Wright

Financial Times, March 18, 2006

SSA Marine, the largest US-based container terminal operator, has taken on Citigroup to advise on a possible sale in a move that could reignite controversy about the ownership of US port operations.

According to banking and industry sources, other terminal operators have been asked whether they would be interested in purchasing the company, which is based in Seattle and has a powerful position on the US west coast, in Latin America and New Zealand.

The privately held company, which unsuccessfully explored a sale in 2003, is understood to have started re-examining the potential for a sale after Dubai's DP World agreed to pay £3.92bn ($6.85bn) – more than 15 times forecast ebitda – for P&O, the UK container terminals and ferries operator.

Citigroup is understood to be managing the process. It has regularly done work before for SSA and also successfully represented P&O during its sale.

However, any sale could face complications after the controversy over DP World's takeover of P&O's US operations. DP World was last week forced to agree to sell P&O's interests in five US container terminals and other cargo and passenger-handling operations after widespread political protest at the takeover by a state-owned Arab company.

The controversy is understood to be deterring some of the world's largest terminal operators from looking at SSA's US assets.

Among the companies that could face problems is Singapore's PSA, the world number three container terminal operator by throughput. It looks unlikely to pursue SSA because PSA is owned by Temasek, the Singapore government's investment company. During the campaign against DP World's takeover of P&O, critics said it involved a foreign government gaining a presence in US ports.

The controversy could also deter Hong Kong's Hutchison Ports, the world number one. Although Hutchison Whampoa, Hutchison Ports' parent, is a private sector, publicly-listed company, Hutchison is mistrusted on the US nationalist right, which dislikes the alleged links of Li Ka-Shing, the largest shareholder, with the Chinese authorities.

Neither SSA Marine nor Citigroup would comment.

It could prove harder to sell SSA's US assets than its international business since foreign buyers are likely to shy away from entering the market and few domestic operators are large enough to make the purchase.

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Unnamed Source Told FBI He Saw Alleged Terrorists In Lodi (LODINS)

By Layla Bohm, News-Sentinel Staff Writer

Lodi News-Sentinel, March 18, 2006

Osama bin Laden's right-hand man isn't the only Taliban member alleged to have once visited Lodi. An FBI "source who is in a position to testify" told agents that he had seen two wanted terrorists visiting the Lodi Muslim Mosque and raising funds in 1999, according to federal court documents filed late Thursday night.

The reports do not name the source, but government prosecutors earlier Thursday told a judge that the information pertained to the testimony of informant Naseem Khan. The 32-year-old, who has paid by the FBI to infiltrate Lodi's Muslim community, has been one of the key witnesses in the case against two Lodi men on trial for alleged terror links.

Umer Hayat, 48, and his 23-year-old son, Hamid Hayat, are on trial in Sacramento, accused of lying to FBI agents about their alleged knowledge of terror training camps in Pakistan. The younger Hayat is also charged with providing support to terrorists by attending a camp. Both have pleaded not guilty.

Ahmed Ali

Part of the case is built on secretly recorded conversations between Hamid Hayat and Khan, who began working in Lodi in December 2001 and befriended the younger Hayat in summer 2002.

Earlier this week, Khan testified that he had seen Ayman al-Zawahri — second-in-command of al-Qaida and bin Laden's spokesman and physician — coming and going from the Lodi mosque in 1998 and 1999.

In the FBI reports, parts of which were blacked out, agents summarized accounts given them by the source. On Nov. 15, 2001, the source told agents that al-Zawahri was seen with two fellow Taliban members in Lodi in December 1999:

· Abdelkarim Hussein Mohamed Al-Nasser was indicted in June 2001 in the Eastern District of Virginia for the June 25, 1996, bombing of the Khobar Towers military housing building in Dhahran, Saudi Arabia. A total of 19 U.S. troops and one Saudi died, and another 372 were injured.

· Ahmed Mohammed Hamed Ali was indicted in December 2000 in the Southern District of New York in relation to the Aug. 7, 1998, bombings of the U.S. embassies in Kenya, Tanzania and Dar es Salaam. The simultaneous attacks killed more than 200 people and injured at least 4,000. Four men were convicted in May 2001, while others, including Ali, remain at large.

The FBI's source identified the men just five weeks after President Bush and the nation's top leaders announced the formation of the FBI's "Most Wanted Terrorists" list, featuring photos and rewards of 22 terrorists sought by the U.S.

All three men remain on the list. A $25 million reward has been offered for the capture of al-Zawahri (sometimes spelled al-Zawahiri), and $5 million rewards are offered for the other two men.

The FBI reports were made public in a filing by the Hayats' defense attorneys, who want to see the whole reports before Khan resumes the witness stand Tuesday.

Johnny Griffin III, Umer Hayat's attorney, said al-Zawahri was not in Lodi at the times Khan alleged he was, but that he is still investigating the claims about the two additional men who were named. That, he said, is why he needs to see the entire FBI reports.

"I don't want to make assumptions as to the validity of these assertions without knowing the context to which they were made, and whether he was speculating or had knowledge to support it," Griffin said.

Griffin and Wazhma Mojaddidi, who represents Hamid Hayat, said in their legal motion that they are entitled to receive the full reports because the information could prove whether Khan is a credible source.

One potential flaw in his story was apparent in the FBI reports: Khan previously testified in court that he began working in Lodi in December 2001. But the FBI reports pertain to dates in November of that year.

In several reports, mention is made of Taliban members who were soliciting funds in Lodi, Stockton and Yuba City. In Lodi, they were seen several times walking between a Central Avenue house and the mosque on Poplar Street.

Lodi Muslims deny that the Taliban members stayed in Lodi. FBI spokeswoman Karen Ernst said Friday that she could not comment because it's an ongoing investigation and the matter is in trial.

Witness Outlines Ties To Terror (STOCKREC)

By Jeff Hood, Lodi Bureau Chief

Stockton Record, March 18, 2006

Informant calls Lodi a haven for extremists

LODI - A paid FBI informant told agents as early as October 2001 that Lodi was a haven for Muslim extremists, saying he had seen three of the agency's most-wanted terrorists here in late 1999.

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The name of Naseem Khan, the government's key witness in the trial of two Lodi men charged with terrorism-related crimes, does not appear in the heavily censored FBI reports defense attorneys attached to a court filing late Thursday. But prosecutors handed over the documents in response to defense attorneys' demands for information relating to Khan, who is expected to return to the witness stand Tuesday.

Defense attorney Wazhma Mojaddidi, who represents accused terrorist-in-waiting Hamid Hayat, wants those blacked-out portions revealed. U.S. District Judge Garland E. Burrell Jr. will hear arguments on the matter Monday.

Khan testified Monday that he saw Ayman al-Zawahri - al-Qaida's second-in-command - in Lodi in 1998 and 1999. According to the newly filed papers, Khan told an Oregon-based FBI agent on Oct. 26, 2001, that he saw al-Zawahri in Lodi in 1999. Khan also told the agent that two other terrorists visited the Lodi mosque while he was there: Abdelkarim Hussein Mohamed Al-Nasser, a Saudi man indicted by a Virginia grand jury for the 1996 bombing of a military housing complex in Saudi Arabia that left 19 U.S. servicemen dead; and Ahmed Mohammad Hamed Ali, an Egyptian wanted in connection with the U.S. Embassy bombings in Kenya and Tanzania in 1998.

The FBI's Web page states Ali fled to Pakistan from Kenya on Aug. 2, 1998, five days before the bombings.

Khan also told the FBI that the men - whose names were on a list of the FBI's 22 most-wanted terrorists - visited mosques in Stockton, Yuba City and the Sutter County city of Live Oak in 1999.

Hameed Khan, past president of the Islamic Center of Live Oak's board of directors and a Gridley police detective, dismissed the informant's story.

"I can assure you no one visited," said Hameed Khan, who said he was one of the Live Oak mosque's founders in 1989. "This is the kind of stuff that really upsets me. I'd like to confront this guy. If he's going to be bringing our mosque into this, I'd like to ask him some questions myself."

Likewise, Lodi Muslims say the claims are preposterous and that Naseem Khan needlessly hurt their community.

Naseem Khan testified in Sacramento's U.S. District Court on Feb. 22 that the FBI approached him in Oregon roughly two weeks after the terrorist attacks on Sept. 11, 2001, and asked for his help. Khan, a native of Pakistan who lived in the Lodi area in the late 1990s, told the FBI the following month he believed the owners of ethnic markets in Lodi and Stockton were laundering money for terrorist organizations in the Middle East and that the terrorists had met with top mosque officials.

One of those mosque officials, who asked not to be identified because he fears for his safety, said he figures that's why the FBI wanted to interview him last year, but agents turned down his offer to speak with an attorney present.

The man, who works for a company with government contracts, said Naseem Khan was "making up stories" to land a job with the FBI. The informant, who until then held myriad jobs at fast-food restaurants and convenience stores, was paid more than $200,000 in salary and reimbursements after being hired in November 2001.

"We're going to rely on people who are lying through their teeth to the FBI, and that's supposed to be preventing terrorism?" the Lodi man said. "Come on."

Another Lodi man also said that Muslims in the community have destroyed religious books and pamphlets out of fear the government could consider it incriminating evidence. A government witness testified this week that a prayer found in Hayat's wallet shows he was on a mission to wage a holy war against Islam's enemies, including the United States.

"I know people are concerned the government was trying to prosecute Hamid Hayat for a prayer that's commonly recited," said Basim Elkarra, director of the Council for American-Islamic Relations' Sacramento-based chapter. "Fellow Americans in Lodi are freaked out."

Hayat was indicted by a federal grand jury on a charge of supporting terrorism by attending a training camp in Pakistan in 2003 and 2004, and on three charges of lying to the FBI. His father, Umer Hayat, a 48-year-old ice cream vendor, faces two charges of lying to federal agents.

LODI Muslims Skeptical About FBI's Informant They Say They'd Know If Terror Suspects Visited (SFC)

By Jim Herron Zamora, Mark Martin, Chronicle Staff Writers

San Francisco Chronicle, March 18, 2006

Lodi -- An FBI informant's claims that three of the world's most-wanted terrorism suspects passed through town in recent years are outrageous and could damage the federal government's case against two local men, residents and legal experts said Friday.

Members of the city's Islamic community said they had never seen any of the notorious suspects at their mosque or anywhere else, and questioned why federal agents didn't talk to them.

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"I think the FBI should rely on more-reliable informants," Mohammed Shoaib said Friday during a prayer session at the yellow ranch-style home that has been converted to a mosque. "I am an American citizen, and I love this country. They never talked to me."

Shoaib, a Pakistani who has lived in Lodi since 1978, has been president of the mosque for the last two years.

In a report filed in federal court Thursday night, the FBI revealed that the man who became the key informant in the Lodi prosecution told investigators in 2001 that he saw Osama bin Laden's chief deputy, Ayman al-Zawahiri, in Lodi in 1999.

The informant, Naseem Khan, also recalled seeing Abdelkarim Hussein Mohamed al-Nasser, a suspect in the 1996 bombing of the Khobar Towers military housing complex in Saudi Arabia, in Lodi. And he said he had seen Ahmed Mohammed Hamed Ali, a suspect in the 1998 bombings of U.S. embassies in Tanzania and Kenya, in Stockton in 1999.

Khan, 32, is the key witness against Hamid Hayat, a 23-year-old Lodi man accused of supporting terrorism by attending a training camp in Pakistan in 2003. Hayat is on trial in U.S. District Court in Sacramento along with his father, who is charged with lying about his son's alleged camp attendance.

The informant's claims run counter to other federal government reports that all three of the wanted terrorists were outside the United States at that time. Khan made the assertions in November 2001 in a series of interviews with the FBI in Bend, Ore. At the time, Khan identified several of the high-profile terrorists based on photographs from their FBI most-wanted posters, the FBI report states.

It is unclear whether the FBI deemed the reports credible at the time, but the government sent Khan, a former fast-food worker who has earned about $250,000 as a paid government informant, back to Lodi to collect information on possible terrorist cells in the valley town's small Islamic community.

The FBI interview documents were released in a heavily redacted version after Khan testified Monday that he had seen al-Zawahiri, whom the FBI calls Osama bin Laden's personal physician and second in command, in Lodi in 1999.

FBI spokeswoman Karen Ernst declined to comment on the case on Friday.

But Lodi residents brushed off Khan's claims that wanted terrorists had stopped there.

"The whole community is dumbfounded as to what's going on with this," said Nasim Khan, who was the Lodi mosque's leader from 1998 to 2000 and is no relation to the government informant. "Everything that is coming out, there's no basis into it."

They said all three of the terror suspects, from Arab countries, would have stood out in the tight-knit Muslim community, which includes many Pakistanis and South Asians. The most prominent of the three, al-Zawahiri, is an Egyptian. "A majority of the congregation at the mosque is Pakistani," said Shoaib, the mosque leader. "There's only a half-dozen or so of Arab descent. If he came in on a regular basis, people would remember him. It's a ridiculous claim."

Former prosecutors and veteran defense attorneys said the revelations could cause problems for the federal government if the jury feels that Khan's credibility is an issue.

"The government has a really difficult time getting people who are both in the radical Islamic community and reliable," said Kendall Coffey, the former U.S. attorney in South Florida. "Usually people like this don't come to the government voluntarily, and usually they don't come totally clean. It takes a thief to know a thief."

But Coffey and defense lawyer James Brosnahan said the government may be able to counter any credibility problems with Khan if corroborating evidence against the Hayats, including FBI interviews with them, is strong.

"If a witness has a problem with truthfulness, the question is where is the corroboration," said Brosnahan, who defended John Walker Lindh, the so-called American Taliban, among other high-profile cases. "In drug cases, you often have terrible (prosecution) witnesses, but if there is corroboration in the form of tapes or photographs, these are things that can really sway a jury. "

Much of the prosecution's case against the Hayats is based on secretly recorded conversations they had with Khan and videotaped interviews with the FBI.

In his 2001 FBI interview, Khan also accused the owner of a Lodi store that sells Indian spices and the owner of a market in Lodi of raising and laundering money for terrorist organizations.

The owner of the Pak-India Spices grocery store declined to be interviewed Friday, but one of his cashiers summed up the feeling that many have about Naseem Khan.

"If the FBI gave me half the money they gave him, I'd tell them all kinds of crazy stories, too," said Mumtaz Khan, 58.

Chronicle staff writer Demian Bulwa contributed to this report. E-mail Jim Zamora at jzamora@sfchronicle.com and Mark Martin at markmartin@fchronicle.com.

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Attorney Seeks Data On Inmate Privacy (TOLB)

Toledo Blade (OH), March 18, 2006

Prison recording policy in question

An attorney for accused terrorist Mohammad Zaki Amawi has asked a federal judge for assurances that the government will not be recording his conversations with his client.

Dennis Terez, a public defender appointed to represent Mr. Amawi, filed a motion yesterday in U.S. District Court in Toledo asking for comprehensive information about federal agents' use of monitoring attorney-client communications.

Judge James Carr has scheduled a pretrial hearing in the case for April 10.

Mr. Amawi and two other men, Wassim I. Mazloum and Marwan Othman El-Hindi, are accused of plotting to support the killing or injuring of people in the Middle East. The Toledo area men are being held in a federal prison in Milan, Mich.

Mr. Amawi is also accused of threatening to kill or inflict harm on President Bush.

The assistant U.S. attorneys who are handling the case have provided the attorneys for the defendants with the policy that the U.S. Bureau of Prison uses for recording conversations between attorneys and inmates, both in person while in prison and in phone communications.

But Mr. Terez said the government's response was insufficient and doesn't provide enough detail on what could be recorded. He wants the government to provide "confirmation and clarification" to the court as to what, if any, attorney-client discussions would be monitored.

Stephen Hartman and Jeff Helmick, the respective attorneys for Mr. El-Hindi and Mr. Mazloum, said they plan to file similar motions on behalf of their clients very soon.

"We will be joining in that request [today]," Mr. Hartman said.

Also yesterday, Mr. Hartman and his co-counsel, Charles Boss, filed an initial request asking the government to release the evidence it has on their client.

Bond Denied To Boca Doctor In Terrorism Case (MH)

By Evan S. Benn

The Miami Herald, March 18, 2006

A federal judge on Friday denied a bond request from a Boca Raton doctor accused of pledging an oath of loyalty to al Qaeda.

Dr. Rafiq A. Sabir, 51, will continue to be held in solitary confinement in a New York prison until his trial on charges of conspiring to support Osama bin Laden's terrorist network.

U.S. District Judge Loretta Preska made the ruling at a pretrial hearing Friday in New York after Sabir's attorney asked for his client to be released on bond, according to a spokeswoman at the U.S. Attorney's Office.

HOME SEARCH

Sabir was arrested at his Palm Beach County home last May, days after investigators claim he recited an oath of loyalty in front of an undercover FBI agent.

Prosecutors said a search of Sabir's home after his arrest revealed charred pages of Arabic writing in a backyard grill. Agents also found swords and other martial-arts equipment in his home.

But Sabir's lawyers said at the time that the writing found in the grill may have been from the Koran, Islam's holy book.

Burning tattered or worn pages of the Koran is an acceptable method of disposal, according to Islamic tradition.

And Sabir's defense counsel has said the oath he uttered was a bayat, a traditional and spiritual Islamic oath, and that he did not state or imply a desire to harm Americans.

Also charged with Sabir are Tarik Shah, 42, a jazz musician and martial-arts instructor from Bronx, N.Y.; Abdulrahman Farhane, 51, a bookstore owner from Brooklyn, N.Y.; and Mahmud Brent, 31, a cab driver from Washington, D.C.

FOUR DEFENDANTS

Prosecutors said Shah and Sabir promised to use their skills in martial arts and medicine to train and treat jihadist fighters.

Farhane allegedly discussed a plan with Shah in December 2001 to send money to terrorist fighters in Afghanistan so they could hurt U.S. troops.

Brent is accused of conspiring to support Lashkar-e-Taiba, a Pakistani-based terror group.

The four defendants, all U.S. citizens who are Muslim, have pleaded not guilty to the charges.

They are being held without bail in federal custody and face up to 15 years in prison if convicted.

On Friday, Preska set a date for the defendants' attorneys to file pretrial motions.

The four will return to her court on Oct. 30 for their next hearing.

Was Indictment Misleading? (SPT)

By MEG LAUGHLIN

St. Petersburg Times, March 18, 2006

When the government charged Sameeh Hammoudeh with terrorism-related activities, it used transcripts from wiretaps that may have been unfairly edited.

On that chilly day three years ago when Hammoudeh was arrested, two FBI agents handcuffed him and drove him to FBI headquarters for questioning. Hammoudeh said the agents told him he was not their target, but that they wanted him to aid their investigation. They asked him to provide information about how he helped Sami Al-Arian, a former professor at the University of South Florida, get money to the Palestinian Islamic Jihad after 1994.

The U.S. government has designated the PIJ a terrorist organization. The group has claimed responsibility for the deaths of hundreds of people in Israel and the occupied territories.

In 1995, it became illegal for people in the United States to provide funds, goods or services to the organization. Because Hammoudeh worked with Al-Arian, prosecutors focused on money Hammoudeh was sending to the occupied territories, in an attempt to link Al-Arian to the PIJ after 1994. Hammoudeh's indictment accused him of "transferring monies and funds . . . for the purpose of promoting PIJ activities."

Summaries of the wiretapped conversations that the government used to justify this accusation seem to undercut the charges.

Here are three excerpts, chosen from more than a dozen similar examples in the indictment, that show what the government chose to include from the tech cuts in building a case that Hammoudeh's activities are linked to the PIJ:

From the indictment: "On Dec. 20, 1999, defendant Sameeh Hammoudeh used his residence telephone line to call his father, who is in the occupied territories of Israel. In this conversation, Sameeh Hammoudeh indicated to his father that he raised some money and will be receiving more. He also told his father he will be sending him $1,000 to distribute."

From the FBI tech cut, the source for this Dec. 20, 1999, conversation: "Sameeh told his father, "I would like you to spend, give a thousand and when I get someone traveling to the homeland I will send it to you with him.'"

"His father said he would "distribute it to the people or give it to the Kaffiat,'" believed to be an institution for the blind and/or disabled in the area.

Hammoudeh replied: "There are orphans in the Family Welfare Organization. Give them. They are also an institution."

A second example from the indictment: "On or about Dec. 29, 1999, Sameeh Hammoudeh called his father who was overseas. Sameeh Hammoudeh asked his father to distribute money, and Sameeh Hammoudeh said he would reimburse him by sending money overseas via courier."

From the tech cut of this same Dec. 29, 1999, conversation: "Hammoudeh asked his father to give the funds to those in need, especially the orphans. His father said that he will give it to the orphans, the family sponsorship society and the disable (sic) and/or blind society."

A third example from the indictment: "On or about Feb. 22, 1995, . . . Sameeh Hammoudeh . . . received a facsimile at WISE (a think tank where he worked that was created by Al-Arian and affiliated with the University of South Florida) . . . from Fathi Shikaki (the head of the PIJ in Damascus, Syria)." From the tech cuts: The receiving phone number is (813) 989-xxxx.

According to the tech cut index, that was the phone number for the Tampa home of Ramadan Shallah, who also worked at WISE. The PIJ faxes were not sent to WISE or to Sameeh Hammoudeh. They were sent from PIJ headquarters to Shallah's home. (Editor's note: We have omitted the last four digits because the number is no longer issued to Shallah, and may belong to someone else.)

Shallah worked at WISE until May 1995. He left Florida and became the leader of the PIJ in October 1995 in Syria after the death of Shikaki.

A year and a half after Hammoudeh was arrested, prosecutors acknowledged the phone number in the faxes was Shallah's and dropped the eight counts associated with the error. But the misinformation, contradicted by the tech cuts, was among the justifications used for arresting Hammoudeh.

Federal prosecutors declined to comment on repeated contradictions between information in the indictment and the tech cuts, the source material for the indictment. But former FBI agent and federal prosecutor Todd Foster didn't.

Foster, now a Tampa criminal defense attorney, was part of the defense team in a high-profile 1997 case, which, like the case against Hammoudeh, was built on secret surveillance of the defendants' conversations.

In the Aisenberg case, a Valrico couple reported their baby girl, Sabrina, missing. Hillsborough County sheriff's investigators planted secret listening devices in the couple's home and based the indictment on their conversations. But a federal judge said many of the surveillance tapes were largely inaudible, and that investigators had misled authorities about what they contained in order to justify arresting the parents. The case crumbled.

Foster called the Aisenberg case "a shocking example of how wiretap information in an indictment can be full of missing statements, statements taken out of context and false statements."

He said, however, that he doesn't think such distortions are common: "But when it happens rarely, that's too often. Whether reckless or deliberate, it's wrong."

Wednesday, an Immigration and Customs Enforcement officer brought papers to Hammoudeh's cell at the Manatee County Jail. They said, "ICE has made the decision to continue your detention."

Federal prosecutors have a Monday deadline to file documents explaining why. Wednesday, U.S. District Judge James Whittemore will preside over a habeas corpus hearing for Hammoudeh, where his attorneys will argue that his continued incarceration is unconstitutional.

"I am hopeful," Hammoudeh said. "I can't say why after this long nightmare. But I am."

Gov't: Some Gitmo Cases Should Be Scuttled (AP)

AP, March 18, 2006

The Bush administration argued Friday that a newly enacted law wipes out hundreds of pending court cases by detainees in Guantanamo Bay, Cuba, who are challenging their confinement.

In papers filed with a federal appeals court, the Justice Department said the Detainee Treatment Act signed by President Bush on Dec. 30 restricts detainees' rights to reviews by the U.S. Circuit Court of Appeals in the District of Columbia.

The reviews are limited, said the Justice Department, to the question of whether the detainees have been correctly categorized by the U.S. military as enemy combatants.

The enemy combatant designation enables the U.S. military to hold the detainees indefinitely.

Lawyers for the detainees say the new law does not cover pre-existing cases filed in U.S. District Courts, which deal with a wide range of issues, from allegations of prisoner abuse to assertions that detainees have no ties to terrorism and should be released.

Set up more than four years ago after the war in Afghanistan, the Guantanamo Bay prison camp is holding some 500 detainees. Some have been there since the facility opened.

In 2004, the Supreme Court said the detainees were entitled to file petitions in the federal court system, resulting in more than 200 cases covering over 300 detainees.

At issue is the legislative intent of the Detainee Treatment Act, a compromise reached among Sens. Carl Levin, D-Mich., Lindsey Graham, R-S.C., and Jon Kyl, R-Ariz.

Lawyers for the detainees and Levin say the new law does not cover pending cases. Graham, Kyl and the Bush administration insist that it does.

Mosque Material Ordered Released (ALBTU)

By BRENDAN LYONS, Staff writer

Albany Times-Union, March 18, 2006

Judge says Justice Department must turn over certain classified data to defendants' attorneys

ALBANY -- A federal judge has ordered the Justice Department to turn over certain classified materials to attorneys for two members of an Albany mosque who were ensnared in an FBI counterterrorism sting.

The judge's ruling allows prosecutors to withhold some of their top-secret files in the case, and it's not clear what information will be disclosed or how soon it might become public.

The information may provide more details on why the FBI launched a sting three years ago that targeted Yassin Aref, a 35-year-old Kurdish refugee who is being held in jail without bond while awaiting trial on terrorism-related charges.

Federal prosecutors have the option of appealing the order issued late Thursday by U.S. District Court Judge Thomas J. McAvoy, but said they won't.

McAvoy's decision comes after more than 20 meetings between the judge and federal prosecutors in which they had haggled, in private, about what classified information the government must disclose so the men can defend themselves at trial.

"The government intends to comply with the court's order," said Assistant U.S. Attorney William Pericak.

Aref's attorney, Terence L. Kindlon, said he can't react to the order until he sees the materials.

It's possible the classified information could provide more background on Aref's alleged ties to overseas terrorist figures that U.S. authorities have said made him a target in the first place.

Aref and Mohammed Hossain, an Albany pizza shop owner, are accused of taking part in a plot to make money from the sale of missile launchers to terrorists. The plot was not real and was created by the FBI, which used an informant to allegedly lure the men into the deal.

Kevin Luibrand, Hossain's attorney, also reserved judgment on the significance of the judge's disclosure order, which comes 18 months after he first requested access to classified materials in the case.

"It would be a guess for us to determine now if they materials they do provide would be helpful," he said.

Federal authorities have long acknowledged that Aref was the "ultimate target" of their investigation, although they have not said why. Two months before the sting was launched, in the summer of 2003, Aref's name, phone number and Albany address were found in a notebook recovered from a bombed-out Iraqi encampment the government contends was occupied by terrorists.

Since then, prosecutors have filed motions accusing Aref of having ties to terrorist organizations in Iraq. But Aref disputes that and his attorney said the assertions were based almost entirely on entries in Aref's personal journal in which he'd recorded meetings with people he'd met, including some the U.S. government labels terrorists.

Officials have not made any similar charges against Hossain.

No timetable was set for when the classified materials must be turned over to the defense.

Brendan Lyons can be reached at 454-5547 or by e-mail at blyons@timesunion.com.

U.S., Pakistan's Strategic Interests Are Converging (WSJ)

By Mansoor Suhail

The Wall Street Journal, March 18, 2006

Mahnaz Ispahani's March 3 editorial-page commentary "Our Man in Pakistan" is based on wrong assumptions and analysis, but, paradoxically, draws the right conclusion: The U.S. must remain engaged with Pakistan. President Pervez Musharraf's government's cooperation with the U.S. is based on the convergence of Pakistan-U.S. interests both tactical and strategic.

Pakistan is in the frontline of the war on terrorism. More than 600 al Qaeda terrorists have been killed or captured by Pakistan. Success will require Pakistan's continued cooperation. Peace in Afghanistan is threatened not so much by border infiltration as the efforts of some anti-Pakistan elements in Kabul to deny power to the Pashtuns and to blame Pakistan for their failure to control security in Afghanistan.

As Mr. Musharraf and President Bush have agreed, success against terrorism and extremism requires a comprehensive strategy. Pakistan is pursuing a strategy whose aim is to create a modern, democratic Islamic state. This will have a pervasive and positive impact on the entire Islamic world and help improve Washington's strained relations with Muslims.

The U.S. also needs nuclear Pakistan's cooperation to prevent proliferation and ensure peace in South Asia, which is essential to realize U.S. commercial and strategic goals in the region.

Pakistan's economic potential should not be discounted. Pakistan is the second fastest growing economy in Asia; its trade and investment regime is among the most liberal; per-capita foreign investment is much higher than India's. And Pakistan can become the economic hub of three emerging dynamic regions - South Asia, Central Asia and West Asia.

Mansoor Suhail
Minister (Press)
Pakistan Mission to the U.N.
New York

The Mayor And The Imam (NYT)

The New York Times, March 18, 2006

When a government employee says "the greatest terrorists in the world occupy the White House," he is bound to raise some hackles, but should it be a dismissible offense? The chief chaplain for the New York City Corrections Department, Imam Umar Abdul-Jalil, made that remark in a speech last year in Tucson before a group of Muslim students. For good measure, he also took a shot at "Zionists of the media." What made the case seminal was Mayor Michael Bloomberg's response. He arrived at a Solomonic solution and, in the process, also found his voice on an issue that has challenged his administration in the past: free speech.

In an unexpectedly stirring defense of First Amendment rights, Mr. Bloomberg took wide-ranging swipes at the right and the left for stifling the airing of unpopular or offensive opinions. He stood up for immigrants, the free press, fair elections and justice. He rang the bell for intellectual freedom and for the right to criticize the government.

Mr. Abdul-Jalil will keep his $76,600-a-year job, but the mayor announced that he had been suspended without pay for two weeks for his failure to disclose that he had been speaking as a private citizen, not as a city employee. It was a fair outcome. The imam chose his words poorly, at the least. But those comments occupied brief moments in remarks that mostly encouraged Muslims to read the Koran and decried the high levels of incarceration in the United States. And the speech was only one event in a career that Jewish chaplains and other clerics at the Corrections Department have described as exemplary.

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For the mayor, however, the moment could be much more significant. Mr. Bloomberg's record on free speech took a beating in his first term after he moved aggressively to limit protests, most notably those surrounding the Republican National Convention in New York two years ago. And as a report in yesterday's Times by Jim Dwyer made clear, the Police Department's willingness to subvert free speech in the name of security appears to have gone beyond that one event to an ongoing strategy that included "proactive arrests" of political demonstrators who were spotted as potential troublemakers.

When this page endorsed Mr. Bloomberg's re-election, we said we hoped that he would make up for his first-term lapses and make protection of free speech a hallmark of his second term. His decision on the imam can be an excellent beginning.

Ahern Asks Bush About CIA Flights Over EU (AP)

By Deb Riechmann

AP, March 18, 2006

Irish Prime Minister Bertie Ahern gave President Bush a bowl of shamrocks on Friday and then asked the president for more "transparency" about CIA flights over Europe.

After his St. Patrick's Day meeting with Bush, which lasted for more than two hours, Ahern renewed his commitment to seeing the implementation of Northern Ireland's 1998 peace accord and its central goal: power-sharing between the province's British Protestant majority and Irish Catholic minority.

The consensus among Irish Americans and political leaders is that "we just have to move on," Ahern said after meeting with Bush, who also visited with relatives killed in murders linked to the Irish Republican Army.

"We've seen the end of the IRA campaign," Ahern said. "We've seen the end of the arms issue. We're dealing with the criminality issue. We saw the big raids on the border last week. The politicians have to get back to the work that they were elected to, and we have to do that this year."

Gerry Adams, who has spent the past two decades guiding his IRA-allied party into Ireland's political mainstream, was among the Irish visitors to the White House. Last year, Bush barred all Northern Ireland leaders from the St. Patrick's Day event to put pressure on Adams.

Bush administration officials said last year that they withdrew Sinn Fein's White House invitation — for the first time since 1995 — because of the IRA's admission that its members were involved in killing Robert McCartney in Belfast last year and that the outlawed group stole $50 million worth of British pounds from a Belfast bank.

Ahern said he asked Bush if there was a way to bring more "transparency" to the issue of rendition. The European Union is investigating allegations that CIA agents interrogated al-Qaida suspects at secret prisons in eastern Europe and transported some on secret flights that passed through Europe.

Ahern said that while Ireland facilitates U.S. troop movements, and is "happy to do it," there is public concern over the CIA flights.

"We've asked for the president's understanding and cooperation," Ahern said, adding that it would be easier for him to explain the flights in his country if he knew more about them. "We are going to continue to look at, perhaps, how we might bring more transparency to that process, if that's possible."

In the traditional trek to the White House, the prime minister gave the president a glass bowl of shamrocks, a symbol of warm U.S. relations.

"The Census Bureau tells us there are more than 34 million Americans that claim Irish ancestry," said Bush, who wore a pale green tie for the occasion. "On St. Patrick's Day, I suspect that number jumps a little bit."

Bush and the Irish leader talked about Iraq, Iran, Darfur, India and the Middle East. Ahern said he expressed support for immigration legislation that would benefit the estimated 50,000 to 70,000 illegal Irish immigrants in the United States.

Ahern said he backed a proposal by Sens. John McCain, R-Ariz., and Edward Kennedy, D-Mass., which would let illegal immigrants stay for six years if they remain employed and pay a $1,000 fine. They would then become eligible for permanent residency.

Much of their discussion focused on the killings of McCartney, who was stabbed in the neck and stomach and bludgeoned with iron bars outside a Belfast pub on Jan. 30, 2005; Joseph Rafferty, who was shot dead outside his home in Dublin on April 12, 2005; and Pat Finucane, a Belfast lawyer who was shot 14 times on Feb. 12, 1989, as he sat down to a Sunday lunch.

Finucane's family and Catholic leaders have demanded a public probe into suspected involvement of British security forces in the assassination.

Ahern said he was with Bush when they met with Ester Uzell and Bart Little, Rafferty's sister and brother-in-law; and Catherine and Kathleen McCartney and Emily Hamilton, McCartney's sister, mother and aunt.

"The president is very familiar with the cases — extremely familiar — and very well-briefed on all of the cases," Ahern said. "I should say we had quite a long conversation on the Finucane case.

In a speech Thursday night, Ahern said he hoped "all parties and all communities will fully accept and participate the new beginning for policing," a reference to Sinn Fein and its Catholic supporters, which refuse to work with Northern Ireland's mostly Protestant police force.

Sinn Fein boycotts a Catholic-Protestant board that is overseeing a 10-year plan for reshaping the police force, which requires at least 50 percent of recruits to be Catholic. The Bush administration has said it won't allow Adams to raise funds directly in the United States until Sinn Fein takes its seats on the Northern Ireland Policing Board.

The policy means that, while Sinn Fein's U.S. fundraising arm can collect funds from supporters, it can't do this at any events that Adams attends. Adams said this restriction meant the party had to return about $100,000 collected at a Washington breakfast that the Sinn Fein chief attended Thursday.

At that event, Adams took the unusual step of publicly criticizing Bush's special envoy to Northern Ireland. "I don't have any high regard for Mitchell Reiss' input in this process," Adams said. "If it is he who is advising the president, then it's very, very bad advice."

Reiss, however, got high marks from Ahern.

"I warmly applaud the work of your special envoy, Ambassador Mitchell Reiss, as well as (U.S. Ambassador to Ireland) James Kenny."

IRA-Allied Politician Detained At Airport From Times Wire Reports (LAT)

The Los Angeles Times, March 18, 2006

Gerry Adams, leader of the IRA-allied Sinn Fein party in Northern Ireland, was detained at Reagan National Airport after attending a St. Patrick's Day event at the White House, according to a congressman.

Rep. Brian Higgins (D-N.Y.), who had invited Adams to speak in Buffalo, N.Y., said Adams' name appeared on a terrorism watch list, triggering a lengthy inspection. Because of the delay, Adams missed his speaking engagement, Higgins said.

Earlier Friday, Adams joined Irish Prime Minister Bertie Ahern and other Irish visitors at a White House St. Patrick's Day ceremony.

HOMELAND RESPONSE:

Bomb Material Got Past TSA Screeners (DMN)

By Michelle Mittelstadt

The Dallas Morning News, March 18, 2006

21 airports failed test; homeland official defends security

WASHINGTON – Despite the multibillion-dollar ramp-up in aviation security since 9/11, congressional investigators were able to sneak homemade bomb components past federal screeners at all 21 airports they targeted in a recent covert exercise.

The General Accountability Office conducted the tests between October and January to determine the vulnerability posed by a would-be suicide bomber carrying easily purchased materials that could be assembled into a bomb once past security.

The GAO findings, first reported by NBC News, are classified, and the airports' identities were not disclosed. The GAO refused to comment Friday on any aspect of its report.

The head of the Transportation Security Administration, which oversees nearly 43,000 screeners at 429 commercial airports, didn't quarrel with the GAO analysis – and in fact termed it helpful as his agency focuses on its top mission: intercepting improvised explosive devices.

But Homeland Security Assistant Secretary Edmund "Kip" Hawley said the GAO testing doesn't take into account the many layers of security that occur before passengers reach the screening checkpoint and once they're through. Among them: checking travelers' names against watch lists; analyzing behavior patterns; making security procedures less predictable; and deploying federal air marshals.

While deeming the report "interesting," Mr. Hawley said it is "not at all an evaluation of the entire system. It's a data point on that one particular thing."

Speaking to reporters at a Homeland Security Department briefing, he added, "This should not be an alarming report."

His outlook wasn't shared by a pair of House Homeland Security Committee members.

"Half-measures will not prevent the next terrorist disaster – we cannot allow half of the contents traveling on passenger planes to go unscreened, as we continue to do today," said Rep. Ed Markey, D-Mass., who has long lobbied for tighter aviation security. "How many warnings does this administration need to take action?"

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Rep. Bennie Thompson of Mississippi, the committee's top Democrat, said: "It's like the story of the Trojan horse. TSA has spent so much time telling people to take off their shoes and belts, that they have missed the bomb-making materials."

TSA has adapted its policies, however, to give screeners more time to look for potential bomb components. In a December shift that sparked some controversy, TSA removed small scissors and tools from its list of prohibited items.

The GAO test also occurred as TSA was in the midst of providing explosives-detection training for 18,000 screeners at the nation's biggest airports, Mr. Hawley said. "Certainly, the training had not burned in," he said.

Two thousand additional screeners have been trained since.

The problem is that TSA hasn't been given the resources to deploy technologies that could ferret out explosives, said Douglas Laird, an aviation security consultant who was a former Northwest Airlines security director.

"We don't give the screeners the technology they need to succeed," Mr. Laird said. "It's not that we don't know how to do security, it's that we're not willing to pay for security."

He noted that CTX machines to screen checked baggage for explosives have yet to be deployed at all airports. The machines are at Dallas/Fort Worth International Airport and other major airports. He also said TSA is moving gingerly to test backscatter scanners that can detect explosives and weapons hidden on people – with an X-ray technology that essentially allows scanners to peer through clothing.

The union that has fought for screeners' bargaining rights, the American Federation of Government Employees, agreed that the TSA workers lack the equipment and training to do their jobs properly.

"It is clear that TSA doesn't take this seriously," said John Gage, president of the government employees group. "The agency seems to be more concerned with presenting the public with the appearance of security rather than making sure the appropriate security measures are taken."

While both Mr. Gage and Mr. Laird said the equipment exists to do the job right, Mr. Hawley said technologies to detect all manner of combustibles – many of which can be assembled from household products – remain in development.

Though countless items could be used to assemble a bomb, Mr. Hawley said TSA knows which materials pose the greatest risk, having blown up hundreds of planes in tests.

"We know exactly what it takes and where to bring an airplane down," he said. "We use that information to guide us in our priorities, our technology, and the physical processes that we do to check."

White House Plans Smallpox Drill (AP)

AP, March 18, 2006

Cabinet secretaries and other top officials are gathering at the White House complex Saturday to act out the roles they would play in a smallpox outbreak.

The four-hour drill, designed to test the federal government's smallpox response plans, won't be attended by the president, White House press secretary Scott McClellan said Friday.

Officials conducted a similar "tabletop exercise" in December to examine the nation's readiness for pandemic flu. The drills are kept behind closed doors.

"The president directed his Cabinet to conduct a series of such exercises to assess our response efforts to catastrophic attacks," McClellan said.

The United States ended routine childhood vaccination against smallpox in 1971, and the World Health Organization reported the disease was eradicated in 1980.

But there are fears that smallpox could be used by terrorists as a biological weapon. About 15 months after the Sept. 11, 2001, attacks, the U.S. government ordered certain military personnel vaccinated and recommended shots for front-line health care workers.

The president did not attend the pandemic flu drill, and was to be at Camp David, the presidential retreat in the nearby Maryland mountains, during this one.

After the flu drill, conducted around a C-shaped table for four hours, officials said it showed that saving lives and containing the economic damage of a pandemic flu would require more planning in local communities and increased production of vaccines and medications.

Real Injustice (WP)

The Washington Post, March 18, 2006

WHEN CONGRESS passed the Real ID Act last year, it presumably did not intend to prevent human rights victims all over the world from entering the United States. Its goal was to keep terrorists and those who support them from resettling in the

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United States as refugees. The legislative language, however, was irresponsibly broad; its effects have been cruel to people already oppressed by vile regimes and terrorist groups. The law needs to be changed.

Terrorists were excluded from the United States even before the Real ID Act, but the law made substantial changes to keep out donors to terrorist groups or others who provide them "material support." The trouble is that, because of the new law and its interaction with existing provisions, the legal definitions of terrorism, terrorist organizations and material support are so broad that they include countless people who deserve the United States' protection, not exclusion.

The law bars associates of any group that contains "two or more individuals, whether organized or not, [which] engages in, or has a subgroup which engages in" activities as general as using an "explosive, firearm or other weapon or dangerous device." The law contains no exceptions for people who are forced to support a group, or for children, or for tiny contributions, or for contributions that took place decades ago. It does not make any distinction between an al-Qaeda member and an armed combatant against a murderous regime. While the government has waiver authority in some cases, it has not yet used this power.

The results are terrible. According to the office of the U.N. High Commissioner for Refugees and to officials and academics who have looked at the issue, here are some people who may be barred from entry to the United States: Colombians who were forced to help the leftist insurgency of the Revolutionary Armed Forces of Colombia; thousands of Karen and Chin nationals who suffered brutal repression at the hands of the Burmese military junta; Liberian, Somali and Vietnamese Montagnard victims of terrorism and repression; and some dissident Cubans who aided anti-Castro forces in the 1960s. The administration recently acknowledged in one asylum proceeding that those who fought with or aided the Northern Alliance against the Taliban or who supported the African National Congress against South Africa's apartheid government would be excluded, too.

A spokesman for House Judiciary Committee Chairman F. James Sensenbrenner Jr. (R-Wis.), who championed the Real ID Act, says the law's waiver authority gives the government the flexibility it needs to deal with such cases. And the problem could be alleviated if the administration would use that authority aggressively. But that would address only some of the cases, and only by having the government forgiving "terrorism" on the part of refugees whom it should not be labeling terrorists in the first place. This problem can be solved only by Congress. If this mess is not what Mr. Sensenbrenner had in mind, he ought to do something to clean it up.

Port Authority Rejects Silverstein's Offer To Talk (NYT)

By Charles V. Bagli

The New York Times, March 18, 2006

Nobody was calling the latest overtures negotiations yesterday, but it looked as if the stalled talks over financing and rebuilding at ground zero could resume next week, at least by mail if not face to face.

The Port Authority rejected a new offer yesterday from the developer Larry A. Silverstein to revive the negotiations and said it would unveil its own proposal for the site next week.

Talks between Mr. Silverstein, who controls the lease at ground zero, and the Port Authority of New York and New Jersey, which owns the land, abruptly broke off late Tuesday night. The developer had submitted what state officials and Port Authority executives said was a one-sided counterproposal that shifted all the development risks onto the authority, while guaranteeing Mr. Silverstein a profit.

Eager to restart the talks, Mr. Silverstein sent the Port Authority a new proposal yesterday that he had hoped would lead both sides back to the bargaining table. While it may not contain some of the most unacceptable provisions of the old proposal, Port Authority officials said that the overture did not amount to a starting point for a new agreement.

"Silverstein Properties has attempted to provide a revision to their proposal of last Tuesday night," wrote the Port Authority in a tersely worded statement released yesterday evening. "However, many aspects remain unacceptable. Port Authority staff will develop a counterproposal that we believe will work for both parties to get this deal done."

The Port Authority's response drew a rapid retort from the Silverstein camp.

"We're glad the Port Authority has finally decided to produce a counterproposal, which is what we've been asking for since they abruptly broke off talks on Tuesday night," said Bud Perrone, a spokesman for Mr. Silverstein. "We hope it means that they are also prepared to return to the table without further needless delay."

The collapse of the negotiations, an embarrassment to both Mr. Silverstein and Gov. George E. Pataki, is only the latest problem to cast doubt over the future of the ground zero site. Fund-raising for the World Trade Center memorial is going slowly and critics have questioned whether the $2.3 billion Freedom Tower should be built.

The dispute between Mr. Silverstein and the Port Authority surfaced as state and city officials became concerned about the developer's ability to rebuild the entire site, at an estimated cost of more than $7 billion, when there is only $2.9 billion in

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insurance money available. Under Mr. Silverstein's lease at the trade center, he has both the right and the obligation to rebuild all the commercial space, at an estimated cost of more than $7 billion.

As a result, state officials and Port Authority executives have sought to fashion a new arrangement at ground zero in which they split the site.

Last Tuesday evening, the two sides appeared to be close to a deal in which the Port Authority would take control of building the Freedom Tower, the most symbolic and least economically viable of the five towers planned for the area. The authority would also have taken over a second building site at Greenwich and Cedar Streets, where the heavily damaged Deutsche Bank building stands.

Mr. Silverstein, in turn, would have retained what everyone regards as the most lucrative sites for three towers on Church Street, next to the $2 billion PATH terminal now under construction.

But the talks foundered over a series of interrelated financial issues, including the allocation of $2.9 billion in insurance money; Mr. Silverstein's rent, which rises to $125.25 million in July; and his share of the infrastructure costs. Although the Silverstein camp insisted that the two sides were close, Charles A. Gargano, vice chairman of the Port Authority and the state's top economic development official, said they were about $1 billion apart on Tuesday night.

But even if Mr. Silverstein adjusts the financial terms of his offer, it remains to be seen if the Port Authority, whose 12 commissioners are appointed by the governors of New York and New Jersey, will revisit the old deal. Some commissioners had agreed on Tuesday only after prodding by Governor Pataki's chief negotiator, John Cahill.

At least two of the six New York commissioners considered the deal discussed last Tuesday to be overly generous to Mr. Silverstein.

"The majority of us, if not all, would prefer a buyout of his development rights," said a New York commissioner who spoke on condition of anonymity because he was not authorized to speak for the board.

Anthony R. Coscia, chairman of the Port Authority, has expressed that he will not agree to a deal that enriches Mr. Silverstein, while leaving the authority with hundreds of millions, if not billions, of dollars in bills.

Mayor Michael R. Bloomberg is of a similar view. "I thought the deal the governor offered Larry Silverstein was a better deal than I would have offered, I'll tell you that," he said yesterday during his weekly radio show.

The mayor, who has been a frequent critic of Mr. Silverstein, said that ultimately Governor Pataki, Governor John S. Corzine and the Port Authority will lay out a plan telling Mr. Silverstein, "Look this is a fair deal; let's do this one, and Larry will agree."

WTC Talks To Resume Next Week (WSJ)

By Alex Frangos

The Wall Street Journal, March 18, 2006

NEW YORK -- Talks to resolve how to rebuild the World Trade Center will restart next week after private developer Larry Silverstein offered a revised proposal Friday for his role in the long-troubled project.

The Port Authority of New York and New Jersey, which owns the site, said it would respond to Mr. Silverstein's proposal.

While calling aspects of Mr. Silverstein's latest proposal "unacceptable," Port Authority spokesman Steve Coleman said the agency "will develop a counter-proposal that we believe will work for both parties to get this deal done."

Negotiations between Mr. Silverstein and the Port Authority broke down Wednesday after failing to meet a deadline imposed by New York Gov. George E. Pataki. The Port Authority walked out on the talks saying the 74-year-old real estate tycoon was bargaining in "bad faith," a charge he denied.

Mr. Silverstein's revised proposal closes the gap between the two sides and contains some new ideas, according to a person close to the talks. In a statement, Mr. Silverstein said "the sooner we get this done the better."

Before talks failed, the two sides had the broad outlines of a deal in place that would have Mr. Silverstein give up the rights to build two of the five planned towers, including the signature Freedom Tower. The sticking points revolved around how much each side would bear of the $7 billion cost.

Little has been rebuilt 4 1/2 years after the attacks that destroyed the Twin Towers. Gov. Pataki, the Port Authority, which Gov. Pataki controls with New Jersey's governor, and Mr. Silverstein have come under heavy criticism for the lack of progress.

Ground Zeroes (WSJ)

The Wall Street Journal, March 18, 2006

Not long after the 9/11 terror attacks evicted us from our offices across from the World Trade Center, we remember thinking that it might be 10 years before the destroyed site was fully rebuilt. If only. Four and a half years later, Ground Zero remains just that -- a hole in the ground.

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The failure to even begin rebuilding Ground Zero is a disgrace, but it's also a classic display of New York's dysfunctional political culture. What was a rare chance to improve lower Manhattan and show the world our ability to bounce back has deteriorated into a familiar squabble among interest groups and politicians assigning blame.

The latest roadblock occurred this week, when private developer Larry Silverstein and the site's owner, the Port Authority of New York and New Jersey, failed to agree on a financial plan for building the five office towers planned for the site. New York Governor George Pataki, the politician with the most responsibility here, accused Mr. Silverstein of greed and "betray[ing] the public trust" and now wants to oust him from at least part of the project.

Mr. Pataki knows that when you're in trouble in politics, blame a rich old white guy. Mayor Michael Bloomberg, another leadership vanishing act (though with less influence over the WTC site), has adopted the same strategy. The developer counters that he could build commercially viable buildings if only the state and city would get out of the way.

Mr. Silverstein has the most credibility here, not least because he's the only one who has actually built something downtown since 9/11 -- the new 52-story skyscraper adjacent to Ground Zero known as 7 World Trade Center. "I can't tell you why government does what it does," he was quoted as saying in a wire-service report this week, in plaintive understatement. "In the private sector, this doesn't happen."

Much of the squabbling is over the Freedom Tower, the site's signature building, whose design took years to finalize. Mr. Silverstein isn't crazy about the latest version, though he's never trashed it the way his fellow real estate developer, Donald Trump, has. The Donald spoke for many New Yorkers last year when he called it "an egghead design, designed by an egghead, which has no practical application and, which, frankly, doesn't look very good."

We'd just as soon see the 1,776-foot-high tower scrapped in favor of a building less fraught with "symbolism" and more suited to real tenants. Everyone agrees that the iconic Freedom Tower will instantly become Manhattan's No. 1 terrorist target, and for that reason -- along with its size -- it's not an easily rentable property. Rather, it's destined as a home for government tenants, says the Manhattan Institute's Steven Malanga. The plans don't even include some high-tech amenities that corporate clients would demand.

An even bigger point of contention is the memorial to the September 11 victims, work on which was finally begun on Monday after years of wrangling. A lawsuit to stop the memorial is pending in state court, brought by family members dissatisfied with the design. The sister of a firefighter who was killed on September 11 demonstrated her opposition this week by sleeping in front of the firehouse across from Ground Zero.

The memorial is scheduled to open in 2009 (good luck), but first there's the little matter of money. The partially underground design is so controversial -- some say uninspiring -- that the foundation established to fund it has come up way short of the necessary $500 million. Some $200 million has come from Washington and another $100 million from private donations, but that still leaves $200 million to go.

On the first anniversary of 9/11, when the wreckage had been cleared more quickly than anyone dreamed possible, we expressed hope that a thriving new commercial center would soon rise from the rubble. Everyone expected that someone, the Governor ideally, would step forward to exert some leadership. But that has been in pathetic and short supply.

The failure at Ground Zero is a case study in government incompetence and buck-passing. It's no way to revive the economy of Downtown Manhattan, and it's certainly no way to honor the men and women who perished there on September 11.

FEMA Will Try To Recoup Millions Distributed For Hurricane Relief (NYT)

By Eric Lipton

The New York Times, March 18, 2006

WASHINGTON, March 17 — Acknowledging that it wrongly distributed tens of millions of dollars in hurricane relief last year, the Federal Emergency Management Agency said Friday that it would try to recoup aid from thousands of individuals or families who fraudulently or otherwise wrongly collected money.

Officials at the agency said it was a routine step taken after any disaster because in the rush to distribute emergency aid, benefits were occasionally paid twice to the same family or to people who were ineligible.

"In every disaster there are just some people who are bad apples who attempt to take advantage of the programs," said Donna Dannels, the acting deputy director of disaster recovery at FEMA.

But auditors examining the $6.8 billion in disaster assistance distributed last year to 1.7 million households after Hurricanes Katrina, Rita and Wilma said FEMA was to blame for much of the abuse because of a woefully inadequate accounting system that left it vulnerable to fraud.

"The right way to do this is to prevent it in the first place," said Gregory D. Kutz, managing director of a unit in the Government Accountability Office that has already found that thousands of people submitted duplicate or invalid Social Security numbers to receive aid. "You will never catch even a fraction of the people who have committed fraud here."

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So far, FEMA has sent letters to 1,500 families asking them to return payments, which most frequently came in the form of $2,000 in cash but could legally reach $26,200 per household.

FEMA's requests for repayment came after it conducted its own search for duplicate payments and other irregularities.

The letters that went out this week were just the first wave. FEMA officials said Friday that they would most likely seek the return of aid from 2 percent to 3 percent of approved applicants. They said that they could not estimate how much money they would try to recoup, but that it could be up to $100 million.

In some cases, payments were made to families to cover immediate expenses that have since been reimbursed by private insurance, Ms. Dannels said.

But the inquiry by Mr. Kutz and his staff members, which is still under way, has already shown that thousands and perhaps tens of thousands of inappropriate payments were made because people were able to apply for and collect aid repeatedly.

For example, about 5,000 of the 11,000 victims of Hurricane Katrina who collected FEMA debit cards worth $2,000 that were distributed in Texas also received $2,000 payments in the mail, even though they were eligible for only one so-called expedited assistance payment to buy food, clothing and other emergency supplies.

Separately, investigators found that thousands of payments for cash aid and rental assistance were sent to people who applied with falsified Social Security numbers or numbers that belonged to people who had died.

The problem, the investigators found, was that when people called FEMA's toll-free registration number, the agency did not try to confirm their identities by using government records to match the applicants' names with the submitted Social Security numbers.

"FEMA provided the fraudsters an opportunity that was very appealing to steal money," Mr. Kutz said. In one case, a person used 15 different Social Security numbers to collect $41,000.

The weaknesses in FEMA's emergency aid system are not new: in 2004, after Hurricane Frances in Florida, it gave out $31 million in aid to more than 12,000 residents of the Miami area that auditors later ruled was largely unjustified because hurricane-force winds never hit the area. FEMA ultimately moved to recoup much of this money as well.

Individuals who receive a letter from FEMA will have a month to repay the requested amount before they will be charged interest. Recipients will have a chance to appeal, but if the appeal is not sustained and the payment is not made, the debt will be turned over to the Treasury Department to collect.

Officials from FEMA and the treasury could not say Friday how successful the government had been at recovering excessive or unjustified payments from past disasters.

R. David Paulison, the acting FEMA director, said the agency was moving to correct some of the problems, including establishing a way to verify applicants' identities when they applied for aid over the phone, a system that would be in place for the next hurricane season.

Ultimately, Mr. Paulison said, there will never be a way to stop all fraud and waste.

"For every instance of an incorrect payment, there are thousands who were genuinely in need of the federal government's help," Mr. Paulison said in a statement Friday. "It is our job to ensure there is not delay in receiving that assistance."

In Louisiana, Graft Inquiries Are Increasing (NYT)

By Leslie Eaton

The New York Times, March 18, 2006

KENNER, La. — Long before this suburb west of New Orleans was shaken by Hurricane Katrina, it was notorious for its fierce political infighting, for name-calling and mudslinging, for charges and countercharges of cronyism and corruption.

But accusations about matters like ticket-fixing are one thing, and allegations involving millions of federal dollars for storm recovery are quite another.

In February, federal prosecutors in New Orleans began bringing witnesses before a grand jury looking into possible fraud in Kenner municipal contracts that were awarded immediately before and after the hurricane. The mayor and the entire City Council have been subpoenaed to testify, although the government has not made clear its target.

Growing numbers of subpoenas may soon be issued across Louisiana, where local politics remains a blood sport and corruption has been a bad habit. That combination has become far more volatile with the addition of millions of dollars in aid beginning to flow from Washington and an army of auditors, investigators and prosecutors determined to make sure that the money is properly spent.

So far, the scrutiny has resulted in several major fraud prosecutions around the state. The government has filed charges against a politician in St. Tammany Parish, north of New Orleans, who is accused of seeking hurricane contract kickbacks, and against several federal workers accused of seeking bribes and a contractor who was paid millions of dollars for work the government says he did not perform at a tent camp.

New hurricane fraud investigations are being opened "sometimes by the day," said Jim Letten, the United States attorney in New Orleans, who was the lead prosecutor in the corruption case against former Gov. Edwin W. Edwards, convicted in 2000 of a scheme to extort money from businessmen seeking gambling boat licenses.

"Additional investigations focus on everything from fake charities to identity theft to contractors behaving fraudulently to public corruption cases," Mr. Letten said.

Grand jury investigations normally take place in secret, and Mr. Letten said he could not discuss the focus or the scope of the inquiry in Kenner, a city of 70,000 people that is home to New Orleans's airport.

But some information has become public, in part because the mayor and several City Council members have held news conferences on the investigation. Reporters were waiting in the halls of the Hale Boggs Federal Building on March 9 when a contractor and all seven members of the Council trooped up to the fourth floor to testify. And the contracts in question have been a subject of public acrimony between the mayor and the Council, a circumstance that led to a fistfight between a contractor and the brothers of a councilman at a Mardi Gras ball in February.

"Kenner is the home of hardball politics," said Jeff Crouere, a political commentator who is a former executive director of the Louisiana Republican Party. (Almost all the battling politicians in Kenner are Republicans.) But the grand jury inquiry, coming so soon before hotly contested city elections on April 1, "is just an incredible situation," Mr. Crouere said, "where voters are left scratching their heads."

Dominic O. Weilbaecher, a city councilman and former interim mayor, has raised questions about at least $22 million in city spending on debris removal, trailers and public relations.

The spending was approved by the current mayor, Philip L. Capitano, who is running for re-election. A former ally of his, Mr. Weilbaecher contends that Mr. Capitano is now rewarding campaign contributors, overpaying cronies and generally spending taxpayer money without demonstrating that the city is getting anything in return.

"I've been talking to guys from the F.B.I. for two years, just because of the foolishness I've seen from this administration," Mr. Weilbaecher (pronounced WHILE-backer) said in an interview.

What is new, he said, is that federal money is now involved: the city is seeking reimbursement for storm-related expenses from the Federal Emergency Management Agency.

"My take is, the U.S. attorney wants to send a message that regardless of what's going on with elections or any other thing, you don't mess with the federal government," Mr. Weilbaecher said.

The mayor replied that his efforts after the storm saved the city money, got it up and running quickly, and did not involve any impropriety.

"We did it better, we did it cheaper," he said in an interview. "That's why it's so funny we're being investigated by a grand jury right now, when we were more efficient, cheaper and better than all the surrounding communities."

The mayor later sent along a letter he had received from the University of Chicago Graduate School of Business praising his "bold and intelligent leadership" after the storm.

Randal Perkins, owner of a major debris removal company that worked in Louisiana and Mississippi after the hurricane, said in a phone interview that he believed Kenner was paying less on its cleanup contract than the Army Corps of Engineers was spending on similar work.

"It's politics," Mr. Capitano said of the inquiry. Mr. Weilbaecher and another councilman, Michael McMyne, "are trying to help the guy who ran against me" in the last election.

That guy, Nick Congemi, is the police chief and brother of Mr. Capitano's predecessor as mayor. The chief is among four candidates challenging Mr. Capitano this time.

"I don't think anybody can plot with the U.S. attorney's office," Mr. Congemi said recently. "That accusation is a simple politician's answer to a deep dilemma he's in now."

Whatever is behind the accusations, Mr. Letten, the prosecutor, had no choice but to look into them, said L. Eades Hogue, a former federal prosecutor representing the contractor who has appeared before the grand jury. "It smacks of politics," Mr. Hogue said, "but the U.S. attorney is obligated to investigate allegations such as these."

Even some critics of the mayor do not dispute that this city of about 15 square miles began rebounding from the hurricane faster than many other communities. But they suggest that this had less to do with politicians than with the route of the storm, which struck hardest at points farther east.

"As bad as it was, this city was blessed," said John T. Lavarine III, who like his father before him serves on the City Council. "We were on the western fringes."

Which is not to say that Kenner escaped unscathed. Driving his Crown Victoria through the city recently, Mr. Lavarine headed north and west to Loyola Drive, where white FEMA trailers line the streets like false teeth in front of damaged houses. Across town, a huge apartment complex that housed mostly Hispanic residents sits moldering, roofs torn off and walls tipped in.

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Worried about rebuilding their homes and about the next hurricane, Kenner's residents, some politicians among them, seem embarrassed by the investigation and fed up with the political squabbling.

"The fighting and all has not served the city well," said Edmond J. Muniz, a retired businessman and politician known for founding Endymion, one of the biggest Mardi Gras krewes, or parade groups, who decided at the last minute to run for mayor. "I don't know how to put it. I wouldn't want to say we are a laughingstock, because it isn't funny."

EPA Chief Backs Coast Restoration (NOTP)

By Matthew Brown

New Orleans Times-Picayune, March 18, 2006

But he's offering no new money for it

U.S. Environmental Protection Agency Administrator Stephen Johnson said Friday that the Bush administration is committed to rebuilding Louisiana's shattered coastline, but offered no new money for an effort expected to cost up to $14 billion.

Nor did he offer any specifics as to what role his agency would play.

"President Bush and EPA are determined to rebuild and rejuvenate our nation's wetlands," Johnson said in a speech at the annual meeting of the National Wildlife Federation in New Orleans. "After Katrina and Rita, the entire world knows how important wetlands are to our lives and our communities. . . . Coastal security and sustainability are about more than levees and concrete."

Participants in a private breakfast meeting with Johnson Friday morning said he indicated he wanted the EPA to "get going" on at least a handful of the many coastal restoration projects under consideration. Some have been stuck on the drawing boards for years.

"They want to identify some projects they can work on collaboratively," said Richard Innes, a Washington conservation lobbyist who sat in on the meeting. "He said let's pick a couple and just get going so we can say the money's there, the bulldozers are on the ground."

Since the 1930s, Louisiana has lost an estimated 1,900 square miles of coastal wetlands to erosion. Despite passage of the Breaux Act by Congress in 1990 in an attempt to stop the losses, land has continued to disappear at the rate of about 24 square miles annually over the past decade.

Adam Kolton, senior director for congressional affairs for the wildlife federation, said he was encouraged by Johnson's broad statements on wetlands issues, but said the administration needs to press Congress to follow up with cash. "Thus far, we haven't gotten what we needed from Congress and, frankly, that's disappointing," Kolton said.

In an earlier address to the wildlife federation, King Milling, president of Whitney National Bank and chairman of Gov. Kathleen Blanco's advisory commission on coastal protection, repeated calls made by Louisiana's elected leaders to give the state a larger share of offshore oil and gas royalties to finance the restoration effort.

Johnson did not address the administration's stand on that proposal, and after his speech declined to answer questions from a reporter.

A Hurricane And Espresso. What's Next? (NYT)

By Laura Rich

The New York Times, March 18, 2006

In its fourth-quarter earnings report, Procter & Gamble had one particularly dark cloud in a generally bright update: Hurricane Katrina was making a mess of its coffee business, which got 50 percent of its supply from four sites in New Orleans.

Though the plants were among the first back in operation after the hurricane struck on Aug. 29, there are still, as Doug McGraw, the executive in charge of global coffee, put it, "holes on the shelves" where Folgers and Millstone, Procter's brands, should be. Mr. McGraw spoke recently about the impact of the hurricane and how the business is doing now. The following are excerpts:

Q. In the coffee market, regional roasters and the popularity of espresso drinks are changing the market. How are you addressing those new forms of competition?

A. On a macro level, I'd say that the really good thing that's happening in the coffee market right now is that people are becoming more interested in the coffee. The terminology I've used on previous occasions is that "coffee is kind of becoming cool." And that's really good for the industry and it's manifesting itself in a number of ways. One is, there are new, smaller, regional coffee businesses coming online. Obviously, coffee shops are becoming far more prevalent than they were 5 years ago, 10 years ago.

One of the things we're really excited about that we hope we see continue is that consumers are trading up from more kind of mainstream coffees to more gourmet and more expensive coffees as they become more knowledgeable and more sophisticated about what's out there. And certainly, the trend toward espresso-based beverages is partially what's behind that.

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Q. Since Folgers is more of a mainstream brand, what are you doing to address the move toward the higher end of the market?

A. One of the things we've done in the last year is, we have a segment of our line called the Folgers Coffehouse Series. It provides more gourmet-like blends and roasts such as French Roast, Gourmet Supreme, Colombian. So we have shifted our emphasis within our product and marketing programs to make Folgers consumers and other coffee drinkers aware that Folgers, too, offers these more gourmet, slightly darker, roasted coffees.

We also have a second brand, Millstone, which is one of the leading national gourmet brands, which we have shifted more of our emphasis to with the hope of capturing additional consumers as they explore what's available in the coffee market.

Q. Is Starbucks a market that's important to crack?

A. No, our primary focus and business model is to sell through retail outlets: grocery stores, mass merchandisers, club stores.

Q. What steps did you take to get back online in New Orleans?

A. For the first several weeks, we were renting helicopters to drop people in during the day, first to assess the damage. Over the course of the recovery, we dug our own well. We were trucking water in from Baton Rouge.

But probably the biggest undertaking that is still in place today — it's just an amazing picture — we have 130-some trailers located on what used to be our employee parking lot, because, as I said, most of our employees had left the area with their families. Since close to two-thirds of them had significant property damage, they didn't have any place to come back to, so we created what we call Gentilly Village, which was the trailers, some of which we bought and some of which we got from FEMA, on our parking lot, along with the generators, laundry facilities, a large kitchen and food-service operation, etc.

Q. How many of the employees who left came back?

A. Upwards of 90 percent. So, over 400 of our 500-some employees have come back.

Q. When do you expect everything will be back to normal?

A. For as good as our operation is running right now, there are some unique challenges associated with operating a business in the New Orleans area right now. The costs of operation have gone up pretty dramatically.

Hopefully as the city infrastructure gets back under control and operating at whatever level it's going to operate at, those will improve. But it's an issue today.

Blanco Plan Passes First Test (BRA)

Baton Rouge Advocate, March 18, 2006

Legislators on Friday advanced the biggest part of Gov. Kathleen Blanco's hurricane recovery plan — totaling $6.2 billion — despite gripes about the lack of detail on how the money will be spent.

The dollars are coming from Congress. The state must submit a spending plan to the federal government before the funds start flowing.

The Louisiana Recovery Authority's executive director, Andy Kopplin, said the state is only ready to spend part of the money.

The Joint Legislative Committee on the Budget approved two plans Friday — a broad outline for spending the $6.2 billion and a more specific plan for using $368.9 million of it. The plan now goes to the full Legislature for approval.

The governor is asking Congress for another $4.2 billion of the same kind of funds, known as Community Development Block Grants. The aid is crucial to the governor's plans because the state decides how to spend the federal money.

Blanco wants to start setting up the mechanism for eventually distributing billions for housing aid to homeowners and renters affected by the hurricanes.

She also wants federal reimbursement for the cost of setting up call centers to gather information from hurricane victims on their housing situations.

Another part of the plan calls for establishing recovery centers to help displaced renters and homeowners.

The administration outlined the plan for legislators on two pages, not using more than a paragraph to describe each type of expense.

Sen. Jay Dardenne, R-Baton Rouge, found the two-sentence description of the recovery centers to be lacking.

"I couldn't explain to anybody what we're approving," he complained.

Dardenne pointed out that legislation to create recovery centers to counsel hurricane victims on their housing options didn't survive the Legislature's recent special session.

A bill creating the centers was part of the governor's legislative package. It passed the Senate but died in the House because it was never called up for a vote.

"What is a recovery center if the Legislature didn't authorize the creation of it?" Dardenne asked.

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Suzie Elkins, director of the Office of Community Development, which is coordinating the funding, said the centers are simply a mechanism to get money into the hands of homeowners.

The centers will determine how much financial assistance a homeowner needs and make sure homes are inspected and appraised, she said.

The centers share the same name as the counseling centers proposed in the legislation, but they are not the same thing, she said.

"Call it whatever you want," Elkins told Dardenne. "You have to have something in place."

Dardenne also asked why banks or housing entities could not handle the distribution of funds.

Kopplin said that may be what happens. He said the state plans to seek bids to pick a firm to manage the money.

Rep. Don Cazayoux, D-New Roads, puzzled over the administration's intention to use a portion of the federal funds to employ staff.

"I thought we were approving an action plan," he said. "What are you talking about hiring people?"

Kopplin said the state has to staff the call centers.

Pressed further about the extent of the hiring, Elkins said the state does intend to start contracting for people to set up the recovery centers.

Rep. Steve Scalise, R-Jefferson, made a motion to remove the recovery centers from the administration's plan.

Kopplin urged against the action, saying it would slow the state's recovery from the hurricanes.

Sen. Francis Heitmeier, D-New Orleans, agreed.

"We don't want to cause roadblocks where we're not getting money to people," he said.

Heitmeier also scolded Kopplin for not providing more information.

"In the future, we need a breakdown of where you going to spend the dollars," he said. "You can't just throw this at us."

In the ends, Scalise's motion to remove the centers failed on a vote of four in favor to 25 against.

The plan now goes to the full Legislature for approval.

Money the Blanco administration is ready to spend so far includes:

$95 million for loans ranging from $5,000 to $100,000 for small businesses in hurricane-affected areas.

$95 million for local governments to provide money required for the federal government to share the cost of rebuilding infrastructure.

$142.5 million to repair state buildings damaged by the hurricanes.

$1 million to design housing programs.

$2 million for a call center to gather information from homeowners in need of housing.

$9.8 million to establish housing assistance centers for hurricane victims.

$5.1 million to conduct environmental reviews of property in the hurricane-affected areas.

$18.45 million in administrative expenses.

Legislators OK Recovery Plan Grudgingly (NOTP)

By Robert Travis Scott

New Orleans Times-Picayune, March 18, 2006

They warn governor to keep them in loop

BATON ROUGE -- A critical portion of the state's plan seeking billions of federal dollars for hurricane recovery passed a legislative panel Friday, but not without a warning shot to the governor's administration that lawmakers need to be better informed and integrated into the process.

In response, administration officials expressed concern that the flow of federal money for housing and other recovery programs could be unnecessarily delayed.

The Joint Legislative Committee on the Budget approved an "action plan" outlining how the state would spend $6.2 billion in federal block grants for storm relief. The plan next will be submitted to the full Legislature soon after it convenes a spring session on March 27, then will go to the Department of Housing and Urban Development for federal approval.

Among the components of the state's plan are $332.5 million for economic development bridge loans, $1.19 billion for local and state government infrastructure and $4.37 billion for housing recovery. The governor's handpicked Louisiana Recovery Authority designed the plan.

The panel approved what for the most part was a proposal for spending, not actual spending. But the request contained several items that would accelerate the state's ability to start spending money to put the plan in place.

Getting the facts

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Among those items, several members of the committee raised concerns about a $9.8 million request to begin creating "recovery centers" to assist homeowners applying for loans and grants to repair their damaged properties. Though only a tiny amount of the overall package, the item is a catalyst for getting the housing program started, LRA director Andy Kopplin said.

The money would be used to begin the long process of getting the centers up and running, starting with official state requests for private companies and organizations to submit their proposals for doing the work, Kopplin said.

"Our greatest fear is that we're going to have the money available but the implementation status delayed," Kopplin said.

Panel member Sen. Jay Dardenne, R-Baton Rouge, criticized the recovery center request for its lack of clarity and wondered whether the state was using the money to hire staff.

"All I have is a piece of paper that says give me $9.8 million for a recovery center," Dardenne said. "We don't have any backup information."

Dardenne said the state might be better off using banks or accountants to implement the program, rather than creating its own bureaucracy. The recovery center request appeared to create a new layer of state administration on the housing issue, an idea the Legislature rejected in the recent special session, he said.

Kopplin said it was too early to know how the recovery centers would operate, because the state will first want to see how financial companies and nonprofit organizations propose to handle the work, and for how much compensation. That will not be known until the contract proposals come in, he said.

Sen. Francis Heitmeier, D-Algiers, who chaired the meeting, said the Legislature cannot do its job properly with such sparse information and short notice.

"We just can't have y'all throwin' numbers at us . . . and not knowing how you're going to use it," Heitmeier told Kopplin.

He said the committee did not want to create roadblocks to people getting their money, but repeatedly warned Kopplin that in the future lawmakers will expect more details.

If HUD approves the plan, the Legislature will once again have a say on budget requests for how to spend the money.

Hospitals feel squeeze

The panel also heard Friday from representatives of Ochsner Foundation Hospital, West Jefferson Medical Center and East Jefferson General Hospital, which are operating under financial strains brought on by providing care to uninsured patients unable to pay their bills. Prior to Hurricane Katrina, the bulk of such care was provided to patients for free or at low cost by the state-run Charity Hospital, which is shut down.

With mounting costs, difficulty borrowing in the current economic climate and no immediate avenues for federal relief, the hospitals have reached a financial crisis in which they may have to curtail services and let go of staff, they said. And those professionals will be hard to lure back.

Meanwhile, the community needs more hospital beds to keep up with the recovery.

"What we're facing is wanting to do what's right for the community, but opening beds means increasing losses," said Mark Peters, president of East Jefferson General.

"The prudent business thing to do is close," said Patrick Quinlan, chief executive of Ochsner Clinic Foundation, noting that institutions that closed could collect business interruption insurance. "We get lots of sympathy, lots of understanding, but we've gotten zero help."

The health executives asked the Legislature to look for solutions during the upcoming session. On Friday, Rep. Steve Scalise, R-Jefferson, filed House Bills 989 and 1024 to allow non-state hospitals to receive reimbursement through the state for treating uninsured patients.

Congress Boosts Flood Insurance Agency (AP)

By Jim Abrams

AP, March 18, 2006

Congress has agreed to boost the borrowing power of the federal flood insurance agency, which is fast running out of money needed to meet some 225,000 claims from hurricanes Katrina and Rita.

The legislation, passed by voice vote in the Senate late Thursday, allows the National Flood Insurance Program to borrow up to $20.8 billion from the Treasury, up from the current ceiling of $18.5 billion.

A year ago, before last summer's hurricanes, the borrowing limit was set at $1.5 billion.

The measure, approved by the House last month, now goes to the president for his signature.

The NFIP, set up in 1968 to help homeowners in flood-vulnerable areas get flood insurance at a reasonable rate, operates within the Federal Emergency Management Agency.

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It has estimated claims liabilities from Katrina and Rita at $24 billion, more than the total of all claims paid in the history of the program. The agency had said that, without congressional action, it would hit its current borrowing ceiling this month and would have to tell insurance companies that administer claims payments to stop all such payments.

The NFIP insures about 4.4 million policyholders in some 20,000 communities across the country. Participating communities must agree to carry out floodplain management and other steps to reduce losses from floods.

Also on Thursday, the House Financial Services Committee approved a bill to improve the financial viability of the NFIP by giving FEMA greater authority to raise rates and increasing fines for non-enforcement of the mandatory purchase requirement. The measure would also increase the program's borrowing authority to $25 billion.

The Senate Banking Committee plans to take up a similar measure in the next few weeks.

That legislation follows on an act passed by Congress in 2004 to crack down on property owners who file repeated claims for flood damage without relocating or floodproofing their homes.

WAR NEWS:

Gen. Ambitious On Increasing Iraqi Control (AP)

By Robert Burns

AP, March 18, 2006

The U.S. military's goal is to have Iraqi security forces in control of 75 percent of the country's territory by this summer, the second-ranking U.S. commander in Baghdad said Friday.

That is more ambitious than President Bush's statement on Monday that his aim was to have Iraqis control more territory than the U.S.-led coalition by the end of 2006 — a process that Bush said would free up more American troops to focus on training the Iraqi forces and hunting down the chief terrorists inside Iraq.

Lt. Gen. Peter Chiarelli, the commander of Multinational Corps Iraq, told reporters at the Pentagon that he had no firm estimate of how much territory the Iraqi forces currently control, but he said it was less than 50 percent.

"By this summer, about 75 percent of Iraq will be ... owned by Iraqi units," he said. Asked to be more specific, he said the plan was to get there by "the end of summer" and added, "All indications, we will make that, but again I don't want to be so precise as to put myself into a box."

Chiarelli did not further define the 75 percent goal, such as saying whether it would include some or all of the most troubled territory such as the area north and west of Baghdad known as the Sunni Triangle. The insurgent violence in Iraq is confined largely to that area and Anbar province west of the capital.

Speaking by videoteleconference from his headquarters, Chiarelli also said that while he believes Iraq is "far away" from civil war, the sectarian tensions created by a Feb. 22 attack on a Shiite shrine in Samarra mean "the possibility of civil war may be higher today than it has in the last three years."

He repeatedly stressed that he does not believe civil war will break out. "There are a vast majority of Iraqis in the middle, who don't see the divisions that are being highlighted" by reports about sectarian attacks, he added.

Chiarelli also said news reports in the weeks following the Feb. 22 mosque bombing have exaggerated the extent of sectarian violence.

The general described this week's heliborne assault on a large expanse of desert northeast of the city of Samarra, dubbed Operation Swarmer, as mainly an effort to flush out "terrorists and foreign fighters" and uncover arms caches in an area that he said was 10 miles by 10 miles in size and largely uninhabited.

Resistance was "very, very light," he said, adding that there would be "more and more" missions like this in the future.

"It really marks a change, and it marks an evolution (in) our ability to get outside many of the large metropolitan areas and conduct operations based intelligence we receive from U.S. sources, from Iraqi sources in areas where we think insurgent networks are operating," he said.

Earlier Friday, retired Gen. Richard Myers said on CBS's "The Early Show" there are many things the military "could have done differently" in Iraq from the start of the conflict three years ago this month.

"I can't single out one thing, but I can assure you that if we had this to do again, we'd look at different ways to do it," he said, adding, "we made mistakes, absolutely."

Myers retired from his post as chairman of the Joint Chiefs of Staff last fall.

U.S. Wants Fewer Troops In Line Of Fire (AP)

By Robert Burns

DOJ_NMG_0019415

AP, March 18, 2006

The Pentagon wants to pull increasing numbers of American troops out of the line of fire in Iraq, but three years after the invasion this latest evolution in the U.S. military's mission will depend largely on whether Iraqi security forces can handle it.

Whether there will be the first sustained decline in American casualties since the insurgency took hold in late summer 2003 depends on how quickly and fully U.S. troops' roles are changed. So far more than 2,300 American troops have died in the campaign, with more than 17,000 wounded.

Though the stated goal of U.S. officials is to make a substantial withdrawal of troops this year, it is not yet clear that the Iraqis will prove ready — politically or militarily — to take on the added responsibility. A Feb. 22 bombing of a Shiite shrine set off sectarian violence that has slowed the process of forming a permanent government in Baghdad, more than three months after December's elections.

This week the outlook was altered by two developments. The Pentagon announced it was sending 700 more U.S. troops into Iraq from Kuwait, and it launched a large assault on suspected insurgent territory near Samarra, north of Baghdad.

The dispatching of extra troops to Iraq pointed up the problem of relying too much on Iraqi security forces during periods of heightened tension. But the helicopter-led assault near Samarra, which involved large numbers of Iraqi troops, showed that Iraqi forces are taking on bigger responsibilities, top U.S. officers said.

Lt. Gen. Peter Chiarelli, the No. 2 U.S. commander in Baghdad, said Friday that the goal is to turn control of 75 percent of the country's territory over to Iraqi forces by the end of summer. That did not necessarily mean the Iraqis would be given areas where the insurgency is strongest, but it did underscore the goal of enlarging their role.

Pentagon officials never expected that the invasion of Iraq, capped by a swift toppling of Saddam Hussein, would be followed by three years of deadly combat with a shadowy and resilient insurgency. Nor did they think it would take so long to get a capable Iraqi army trained and equipped.

"We did not plan three years ago to create more than token Iraqi forces," said Anthony Cordesman, an Iraq expert at the Center for Strategic and International Studies. "Now we're at 230,000 roughly, and counting. Our whole strategy is dependent on the success of the Iraqi army and the Iraqi police."

As U.S. commanders place more and more Iraqi territory under the control of local forces, Americans have begun moving to more of a back-seat role — putting the Iraqi army and police in charge. This is happening even with the expectation that at some point the Iraqis will careen off their path and need more U.S. help.

Defense Secretary Donald H. Rumsfeld alluded to this in a Feb. 17 speech at the Council on Foreign Relations, when he said the Pentagon must keep pushing the Iraqis to stand on their own:

"We're going to have to pull out of some pieces of real estate and turn over things to Iraqis. And they're going to drop the ball; I mean, let's face it. And we're going to have to step in, go back in and fix it, and then turn it back over again. And it's going to be three steps forward and one step back."

Cordesman said in an interview that the U.S. military and the Bush administration vastly underestimated the difficulty they would face in stabilizing a conquered Iraq.

"We find ourselves having been able to prevent the insurgency from rising, but not from creating a growing risk of civil war," he said. "We have not by any means lost, but we can't say that we are — at least yet — winning."

Iraqi forces are being given full control of more territory each month, although U.S. soldiers are still operating with them as advisers, trainers and monitors. When an Iraqi army brigade assumed control of areas in central and southern Baghdad from the U.S. Army's 4th Infantry Division on Feb. 21, Col. Michael Beech said 60 percent of the capital was in Iraqi hands.

In a report to Congress on Feb. 24, the Pentagon said it will be possible to consider further U.S. troop reductions beyond the 7,000-troop cut announced by Rumsfeld in December. But it was cautious, noting that while U.S. troops may become less visible, their numbers might have to be increased at some point.

The last time the Pentagon began reducing the U.S. presence, in early 2004, the insurgency suddenly intensified, with a rash of U.S. troop deaths and a near complete breakdown of civil order in the city of Fallujah.

From a low point in January 2004 of just under 110,000, the U.S. troop total grew to about 142,000 four months later and has hovered in the range of 135,000 to 160,000 ever since. That has put an enormous strain on the military, particularly the Army and Marine Corps as the primary U.S. ground forces in Iraq.

The Pentagon says it is making progress in training Iraqi security forces, but officers directly involved acknowledge the task is complicated by language and other cultural gaps between the U.S. and Iraqi soldiers. Few Iraqis have more than a vague notion of what it means to have a professional military.

"They're worried about survival," said Maj. Rodrigo E. Mateo, who led a team of U.S. military advisers in Iraq last year. That can make it hard for the Americans to understand the motives of Iraqi army recruits and how they will react to military discipline, he said.

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Mateo and other former Army trainers said in recent interviews that the quality of Iraqi recruits has varied widely.

"A lot of people joined (the Iraqi military) because that's the best opportunity they have to feed their families and to earn a living," said Lt. Col. Reginald E. Allen, a trainer in Iraq in 2004.

"If they get in that situation and the training is too rough for them or not does not adhere to their normal cultural standards where they get a certain amount of time off ... then they're going to jump ship," Allen said.

Convoy Duty Is Still Task Of U.S. (NOTP)

By David Wood, Newhouse News Service

New Orleans Times-Picayune, March 18, 2006

Iraqis not trained for dangerous role

WASHINGTON -- No matter how many U.S. combat troops in Iraq eventually are replaced by Iraqis, an especially difficult and risky mission will remain an American responsibility: convoy duty.

The reality behind President Bush's assertion this week that Iraqi units are increasingly capable of standing on their own is that none can operate without heavy and sustained logistics support from the United States, according to military assessments.

This means the American soldiers who drive and guard convoys -- troops drawn mostly from Army Reserve and National Guard units that already have seen hard duty in Iraq -- will be exposed to highly dangerous conditions there for the foreseeable future.

This week, Staff Sgt. Bryan A. Lewis, 32, of Bunkie was killed during a convoy operation north of Rustamiyah on the edge of Baghdad. The Defense Department said the Louisiana man died Monday after an improvised explosive device detonated near his Humvee. Lewis was assigned to the 519th Military Police Battalion, 49th Military Police Brigade, Fort Polk.

Long, imperiled line

Every day, more than 1,000 trucks in long-haul convoys are on Iraq's roads delivering the fuel, spare parts, ammunition, boots, medical supplies, food and water on which both U.S. and Iraqi forces depend. Thousands more keep far-flung American Forward Operating Bases supplied with rations, water and ammunition.

The crawling lines are guarded by military police and soldiers in Humvees and armored combat vehicles, often with attack helicopters overhead. Convoys endure a steady drumbeat of sniper fire, ambushes, suicide vehicle attacks, roadside bombings and other assaults, and bear a major share of U.S. combat deaths and injuries. For security reasons, the Pentagon does not segregate convoy casualty data.

Approaching the third anniversary of the 2003 U.S.-led invasion, Bush repeated this week that "as Iraqis stand up, America and our coalition will stand down," his formulation for replacing Americans in combat with Iraqis and bringing the troops home. Defense Secretary Donald Rumsfeld, meanwhile, said that "some 100 Iraqi battalions are in the fight against the terrorists, and 49 control their own battle space."

But by the Pentagon's own analysis, there are significant caveats.

In a wide-ranging assessment of the war, mandated by Congress, the Defense Department reported last month on the steadily growing numbers of Iraqi units taking to the field. Deep in the fine print, however, it warned that Iraq's forces remain "largely dependent" on the United States for logistics supply and support.

The problem is not just lack of trucks, drivers and security, but organization up to the defense ministry level, the Pentagon said.

Convoy training

It rated not one unit capable of fully independent operations, and added, "It will take some time before a substantial number of units are assessed as fully independent and requiring no assistance."

And, at present, Iraqis are not being prepared to take over convoy operations, U.S. Army transportation officers say. Instead, the Army is training increasing numbers of its own soldiers for convoy duty, once seen as a relatively soft "support" function and now viewed as a full-fledged combat assignment.

"We typically are the first ones in and the last ones out" of a war zone, said Col. Mike Dooley of the Army Transportation Corps, headquartered at Fort Eustis, Va.

Of Iraq, he added, "We will be there as long as the war goes on."

Dooley said he has urged the Army to begin readying the Iraqis to run their own convoys. "That hasn't happened yet," he said.

The military freight that must eventually move by truck in Iraq is substantial. About 1,700 truckloads a month come by air to logistics bases in Kuwait or Qatar for onward shipment by air or truck. More tonnage comes by sea. Separately, Air Force C-130 and C-17 cargo planes land about 580 truckloads monthly at airstrips in Iraq, as close to troops as possible.

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"By moving more cargo via airlift, we are able to reduce the number of vehicles, drivers and escorts exposed to the risk of enemy attack," said Brig. Gen. Darren McDew, director of mobility forces for U.S. Central Command Air Forces.

But all cargo must move at least some distance by truck. Managing the convoys becomes the responsibility of the thousands of officers and enlisted soldiers graduating from the Army's convoy courses.

Attention to detail

Today every basic trainee is taught convoy combat operations in anticipation of duty in Iraq. "We're sending them out into the wild, wild west, so we've got to prepare them," said Lt. Col. Chris Rizzo, a battalion commander overseeing live-fire convoy training at Fort Jackson, S.C.

At the Army's transportation center at Fort Eustis, Lt. Col. Andrew Peters, 39, chief of officer education, rides his students hard. As they prepare a training convoy, he barks, "Do you have a combat life saver? Have you looked in his bag to see if he's got IV solution?"

"I can't teach them every situation they will run into in Iraq," said Peters, whose elbow was shattered in an attack on his convoy in Iraq in August 2003. "They do need technical know-how -- how to call in a medevac -- but mostly what I teach them is attention to detail."

Pilgrims Attacked On Road To Holy City (WT/AP)

By Charles J. Hanley, Associated Press

The Washington Times, March 18, 2006

BAGHDAD -- With bombs and drive-by shootings, anti-Shi'ite extremists targeted pilgrims on the road to the holy city of Karbala yesterday, as political leaders remained divided over how to shape a broad-based government to work for peace in Iraq.

In Sunni Arab areas of western Baghdad, gunmen in passing vehicles killed three Shi'ite Muslim pilgrims and wounded five others. To the south, bombs in a minibus and along the pilgrimage road killed two persons and wounded nine.

North of the capital, helicopter-borne U.S. and Iraqi troops pressed their sweep through a 100-square-mile swath of the Sunni Triangle to break up a growing insurgent stronghold, the U.S. military said.

No resistance or casualties were reported as the offensive picked up dozens of insurgent suspects.

The operation was mounted Thursday northeast of the city of Samarra, where an insurgent bombing on Feb. 22 severely damaged a major Shi'ite shrine and ignited days of sectarian bloodshed across Iraq. More than 500 people died.

That spasm of violence deepened the political divide -- between representatives of the Shi'ite majority and Sunni minority -- that is blocking formation of a new government of national unity. An all-party meeting was scheduled for late yesterday to try to move those negotiations forward.

An American soldier was fatally shot Thursday while manning an observation post in Samarra, 60 miles north of Baghdad, the U.S. military said. The soldier was from the 101st Airborne Division's 3rd Brigade Combat Team, part of which is participating in the airborne sweep.

At least 2,312 members of the U.S. military have died since the war in Iraq started in March 2003, according to an Associated Press count.

Authorities had feared new attacks as tens of thousands of devout Shi'ites converged on Karbala, 50 miles south of Baghdad, for Monday's celebration of Arbaeen, a day of mourning for Imam Hussein, the prophet Muhammad's grandson, who was killed at Karbala in 680.

The bloodshed in Baghdad began yesterday as groups of Shi'ite faithful, many of them parents with children in tow, trekked down city streets in the morning, headed for the southbound highway to Karbala.

To help guard against violence in Shi'ite holy cities, the U.S. military earlier this week announced it was dispatching a fresh battalion of the 2nd Brigade, 1st Armored Division, about 700 troops, to Iraq from its base in Kuwait to provide extra security.

U.S. Seeks A Way Forward In Iraq (DMN)

By Tod Robberson

The Dallas Morning News, March 18, 2006

Officials cite dangers as elements inside and out escalate tensions

LONDON — The U.S.-led invasion launched three years ago to oust Iraq's dictatorship and eliminate weapons of mass destruction has instead pushed it to the brink of civil war and escalated Iraqi fears of imminent doom at the hands of radical militiamen.

Though this was hardly the outcome President Bush envisioned when he ordered the March 19, 2003, assault on Iraq, senior U.S. officials now acknowledge that their plans have gone awry. Iraqi leaders and clerics are urging restraint as they warn that their nation, already split along sectarian and ethnic lines, is close to imploding.

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In a region already fraught with decades of war and religious friction, an Iraqi civil conflict has catastrophic implications, according to diplomats and academic researchers. Fears are mounting that fighting between Shiite and Sunni Muslims in Iraq could spark broader conflict around the region, and that Iraq's security void is tempting its neighbors to meddle militarily.

The U.S. ambassador to Iraq, Zalmay Khalilzad, underscored the dangers when he warned this month of the regional implications of civil war in Iraq, telling the Los Angeles Times, "We have opened the Pandora's box, and the question is, what is the way forward?"

President Bush stated bluntly in a speech Tuesday, "I wish I could tell you that the violence is waning and that the road ahead will be smooth. It will not. There will be more tough fighting and more days of struggle, and we will see more images of chaos and carnage in the days and months to come."

The State Department's coordinator for Iraq policy, James Jeffrey, expressed "full confidence" in the ability of Iraqi security forces to quell sectarian violence and added in a prepared statement Monday, "While civil war is a possibility, we do not believe that it is likely at this point."

There appears little or nothing that the 157,000 foreign troops, mainly Americans, deployed in Iraq can do to stop the bloodshed, officials and analysts agree.

"There can only be an Iraqi solution to this violence," Mr. Jeffrey stated.

Signs of divisions

Iraqis point to a number of worrying signs that the nation's security forces are dividing along sectarian lines. In Baghdad and the southern city of Basra, Shiite-dominated police forces have engaged in mass roundups of Sunni Muslims, in some cases torturing suspects and holding them without trial in secret jails.

Police this week uncovered a mass grave in a Shiite neighborhood of Baghdad filled with the bodies of 87 men who appeared to have been shot execution style.

Sunni militants have stepped up a campaign of bombings and mortar attacks aimed at Shiite religious shrines and busy street markets. A Feb. 22 bomb attack that blew up one of Iraq's most sacred Shiite shrines helped spark the current wave of bloodshed that has led to more than 500 deaths so far.

"We hear mortars or bombs almost every night," said Osama Saadoun, a Baghdad resident contacted by telephone. "Nowadays, the conditions are so hard that you cannot leave your house. If you have work, you must leave early in the morning and just hope you get to the office alive. When you get there, you sit down at the desk and say, 'Thanks to God.'

Mr. Saadoun, who described himself as non-Muslim and nonpolitical, said there is a widespread feeling in Iraq that the American military presence is making matters worse, not better.

"There used to be agreement, generally, that it [foreign presence] was good. Now, I think that 90 percent of the people think it's time for the Americans to go out. … Personally, I think Iraq is at a very critical edge."

Elements inside the country appear intent on pushing tensions to the breaking point, said Munir Chalabi, an Iraqi anti-war activist based in London. He said the primary instigators are Iraqi members of the radical Sunni Islamist group al-Qaeda, as well as supporters of ousted dictator Saddam Hussein.

But he also blamed U.S. political decisions in Iraq that helped cause the nation's political system to develop primarily along sectarian and ethnic lines, rather than creating parties with a cross-sectarian membership.

"The strategy concentrates on dividing the Iraqi people on ethnic and religious grounds. When you divide a society this way, you only increase the possibility of tensions and … civil war," Mr. Chalabi said.

His assertions are backed by poll results released ahead of national parliamentary elections in December in which 34 percent of respondents listed religion as the single most important consideration influencing their vote — double the percentage who listed a candidate's qualifications or a party's platform. The International Republican Institute conducted the poll.

With democratic institutions already split, Mr. Chalabi said, the nation is ripe for provocation, and Sunni Islamists appear intent on exploiting it with bomb attacks on Shiite shrines. Their goal, he said, is a war that would wipe out Islam's minority Shiite sect, which they regard as a heretic offshoot of mainstream Sunni Islam.

Outside help

According to various analysts, Iraq's Sunni militants are receiving support from radical backers in several neighboring countries, including Syria, Jordan and Saudi Arabia.

Apparently to counter the Sunni threat, overwhelmingly Shiite Iran has been dispatching intelligence agents and other personnel to advise pro-Iranian Shiite militias in Iraq, according to British and U.S. government reports.

Donald Rumsfeld, the U.S. secretary of defense, charged Tuesday that Iran was deliberately trying to destabilize Iraq by sending Revolutionary Guard troops and weapons across the border.

"A 'reasonable man' test would suggest that they're not freelancing, and they're not pilgrims," Mr. Rumsfeld said of the Iranian military infiltration.

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On Thursday, Iran invited U.S. officials to meet for talks on stabilizing the situation in Iraq, a development the U.S. welcomed very cautiously.

Turkey has threatened to intervene if Iraq's Kurdish minority takes advantage of civil strife to declare an independent Kurdish state in northern Iraq. Polls in northern Iraq indicate an overwhelming majority of ethnic Kurds favor independence.

Few viable options remain for the Bush administration, said David G. Newton, U.S. ambassador to Iraq from 1984 to 1988 and now adjunct scholar at the Middle East Institute in Washington.

After months of haggling since the December election, Iraqi leaders have yet to agree on a permanent government. Elected leaders "are becoming less and less relevant as the … blood lust and the revenge heats up," Mr. Newton said. Under such rapidly deteriorating circumstances, he added, "the pressure to cut and run will be overwhelming" for Mr. Bush.

The final step to civil war would be the breakup of government security forces into opposing sectarian armies. If that happened, there would be little reason for U.S. troops to remain anyway.

"The bottom line is to have some kind of government — friendly or not — that can minimally maintain order," Mr. Newton said. "You can forget about human rights, women's rights, democracy and all of that stuff. If you can't achieve that, then it is a victory for the radicals."

Political Offensive Targets Bush (WT)

By Rowan Scarborough

The Washington Times, March 18, 2006

Senate Democrats have mapped a political battle plan for the March congressional recess that calls on lawmakers to stage press events with active duty military personnel, veterans and emergency responders to bash President Bush on virtually every one of his national security policies.

The game plan, devised by the office of Senate Minority Leader Harry Reid, Nevada Democrat, is contained in a six-page memo distributed to Democratic senators on Thursday at a closed-door meeting at the Capitol and provided to The Washington Times by a congressional staffer.

Titled "Real Security," the political document calls for staged town hall events at military bases, weapons factories, National Guard units, fire stations and veterans posts.

"Ensure that you have the proper U.S. and state flags at the event, and consider finding someone to sing the national anthem and lead the group in the Pledge of Allegiance at the start of the event," the battle plan states.

However, the Defense Department prohibits political events on military bases. The rule states, "commanders will not permit the use of installation facilities by any candidate for political campaign or election events, including public assemblies or town hall meetings. ..."

Jim Manley, Mr. Reid's spokesman, said yesterday the planned events are not part of a political campaign. They would involve only incumbent Democratic senators, some of whom are up for re-election, but not Democratic Senate challengers, he said. Democrats hope to capture Senate control in November's election.

"These are events to highlight the need for increased funding for the troops," Mr. Manley said. "It's an effort to paint the White House and the Republican Congress as having a failed effort on national security issues, which is a direct result of their misplaced priorities and mismanagement."

The Senate plan urges holding town hall events to "draw attention to the security vulnerabilities caused by the Bush budget and explain how Democrats fought to restore programs that keep America safe."

The plan is the latest attempt by Democrats to criticize Mr. Bush on national security issues in the aftermath of the Dubai ports deal dust-up, which Republicans conceded was mishandled by the administration. One of the few areas where Republicans continue to poll well versus Democrats is on fighting terrorists.

In almost every issue in the Reid memo, Democratic lawmakers are called upon to criticize the president for not spending enough federal dollars.

The plan urges the lawmakers to:

·"Hold a town hall meeting with state officials and a local National Guard unit at their armory to discuss the security impact of long deployments. ... Ask National Guard members to offer input on how security and disaster response at home is compromised by long deployments."

·"Hold a town hall meeting with troops at a local military installation. ... When selecting a location at the military installation for the event, make sure to select a space that allows easy press access and clearly conveys the message in the shot. Planes, vehicles, equipment and signage in the background enhance the pictures coming out of your event."

·"Work with [veterans] organizations ... to find recently returned Iraq and Afghanistan veterans willing to discuss the mental effects they or their fellow veterans have experienced."

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·"Tour a factory in your state that manufactures military equipment like Humvees or body armor and hold a press availability afterwards with Iraq and Afghanistan veterans on the importance of protective equipment."

·"Visit the home of a military family that has purchased body armor on their own for a family member serving in Iraq or Afghanistan and hold an open press 'conversion' on the issue. ... Ask the family if they would be willing to hold the open press conversation/town hall meeting in their yard, on their front porch or in their home."

As commander in chief, Mr. Bush has made frequent visits to military bases in the United States and abroad. His remarks are generally limited to explaining his war policies and encouraging the troops.

The Democratic memo calls on senators to seek the help of the Iraq and Afghanistan Veterans of America (IAVA), which is critical of Mr. Bush.

The IAVA political action committee has raised for $100,000 for Iraq and Afghanistan war veterans running for the House. It has endorsed all seven Democrats in that category who are running against House Republicans. An IAVA PAC spokesman said Republican candidates chose not to seek the group's endorsement.

Wisconsin Voters Prepare To Weigh In On The War In Iraq (WP)

By Peter Slevin

The Washington Post, March 18, 2006

Referendum Stirs Passion on Both Sides

WATERTOWN, Wis. -- In an exercise that one side calls democracy and the other considers a disservice, voters in 30 Wisconsin towns will cast ballots next month on whether the Bush administration should withdraw U.S. troops from Iraq.

From Baraboo and Monona to Madison and La Crosse, antiwar activists invoked a 1911 state law to schedule a bring-the-troops-home referendum designed to send a message to Congress and the White House that the war is costing too many lives and too much money.

Watertown, a conservative city of 23,000 on the Rock River, voted strongly for President Bush in the past two elections, yet war opponents had no trouble gathering nearly 1,000 signatures to put the referendum on the April 4 ballot. The City Council objected, but it was overruled by a local court.

Letters from readers flew into the popular "Voice of the People" section of the Watertown Daily Times. Posters began popping up. Veterans groups, including the American Legion, have been discussing how to turn a referendum they oppose into a victory for U.S. forces.

Meaning and motivation are discussed as heatedly as the referendum itself.

"We got accused of splitting the community," said Penny Eiler, 59, an organizer of the ballot question. "We weren't the ones who split the community. It was split already. All we did was give the people who didn't have a voice a voice."

Nationally, three years after the U.S. invasion, 76 cities have passed resolutions calling for troops to come home, most recently Corvallis, Ore., and Lansdowne, Pa. Among them are Chicago; Berkeley, Calif.; Chapel Hill, N.C.; and Gary, Ind., as well as dozens of towns in Vermont.

A Washington Post-ABC News poll earlier this month found that 57 percent of Americans believe the Iraq war has not been worth fighting, with 52 percent saying U.S. troop levels should be decreased. Among that group, one-third said withdrawal should be immediate.

Peace groups have waged counter-recruitment drives at high schools and colleges across the country, pressing to provide information tables or teach-ins about alternatives to military service. Antiwar organizations have scheduled hundreds of protests and other events to mark the war's third anniversary this weekend, yet the national effort to end the war has proved fitful.

"Attitudes are a little more complicated than thumbs up or thumbs down," said Andrew Kohut, president of the Pew Research Center. "Americans do care about Iraq, but it doesn't have the personal impact that the war in Vietnam had. Secondly, this is a more patriotic time. Even though the public is disillusioned with the war in Iraq, it tends to support the concept of preemptive war at a time when most people feel we're at risk."

Objections to the war in Wisconsin, which has long had twin streaks of activism and iconoclasm, have been growing steadily, to the dismay of Watertown residents such as Steve Gillis, who wears a green T-shirt that says "Army tradition."

The father of a soldier who served recently in Iraq, Gillis spent more than 20 years in the Wisconsin Army National Guard, and he does not like what the referendum is doing to his town or the troops he admires.

"They say they're supporting the troops, but they're not," said Gillis, 53, a city worker who believes that the troops and the mission are inseparable.

Gillis sees in the Wisconsin initiative an echo of the 1960s protests against the Vietnam War in nearby Madison that helped sour a nation on the war and how it was fought. He said: "We gave up before our mission was accomplished, and we turned around and came home. I don't want to see that happen again."

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The passion in some quarters in Watertown is as clear as the writing on the window of lawyer Ronald W. Ziwisky's downtown office and the words sent from Iraq by Army Capt. Jim Leslie, who left his City Council post late last year to serve as a chaplain in the 4th Infantry Division.

"Sent to their death by Osama: 2,189," Ziwisky's window read on a recent day, referring to the Sept. 11 terrorist attacks.

"Sent to their death by George: 2,296," referring to the number of American casualties since the Iraq war began.

As the council debated the referendum, Leslie wrote from Forward Operating Base Duke to urge them not to permit the April vote. He said "disagreement is an all-American pastime" but also said passing the measure would comfort the enemy and frustrate U.S. soldiers.

"We had five soldiers killed recently here from an IED," Leslie said, referring to an improvised explosive device. "Soldiers hate war. I saw with my own eyes what war does to soldiers, and I hope never to see it again. Please send us an encouraging referendum or don't send one at all."

The Watertown referendum, like most others in the state, began with the Wisconsin Green Party, which made a pitch to Eiler and her group in October. Drawing on a law from the Progressive Era that sanctioned "direct legislation" in municipalities as a curb on power, activists soon started gathering signatures -- a number equal to 15 percent of the people who voted for governor in the last election.

When the city clerk checked their work, 986 of the 1,000 signatures proved valid, six more than they needed.

The City Council objected, however, voting 5 to 4 that the issue was a federal matter unsuitable for local action. Eiler and fellow members of the Watertown Peace and Democracy Coalition filed suit.

A judge ruled in their favor and ordered the council to approve a resolution on its own or set a referendum. The council approved a citywide vote. But members also voted 8 to 0 to declare their opposition to the referendum.

"Be it resolved," the ballot issue reads, in language that differs slightly among the Wisconsin towns, "the city of Watertown urges the United States to begin an immediate withdrawal of its troops from Iraq, starting with National Guard and Reserves."

Mayor John David said the politics became personal, but he said he mostly hears comments that amount to spoofs, such as the person who collared him at a high school basketball game and said Watertown ought to vote on renaming Minnesota's official state bird, for all the influence the town has over national security policy.

"If it was something that no matter how it turned out, it might do some good, it might be worth discussing," said David, whose office in a Republican town is nonpartisan. "But we're having the discussion, and I'm not sure it's going to do any good. That's the sad part of it."

A number of anti-referendum organizations have established steering committees and Web sites in an effort to defeat the April 4 measures. One site urges "Vote No to Cut and Run" and admonishes readers to "let our troops git 'er done."

Chris Muller, chairman of the La Crosse Republican Party, runs Choosevictory.org, which aims to defeat the antiwar activists at their own game. Like their counterparts to the east, La Crosse council members permitted the referendum but voted 13 to 3 to oppose an immediate troop withdrawal.

"A defeatist attitude is not going to get us anywhere in the world, and it's certainly not going to help our children in the future," Muller said, adding that a yes vote would harm troop morale. "Constantly seeing the negative stuff and not seeing the good that they're doing over there, and having people essentially second-guessing them and their leadership has got to have an effect on them."

That is not how the referendum's supporters see the exercise.

"People always have to lead politicians. Politicians are waiting to see which way the wind is blowing," said Bill Reichertz, who gathered signatures for the petition in Watertown. "The fight is worth it no matter whether we win or lose, because democracy lets people have a vote."

Even As Support For War Shrinks, Few Protest It (SFC)

By Joe Garofoli

San Francisco Chronicle, March 18, 2006

Even though polls say a majority of Americans think President Bush has bungled the war in Iraq and now oppose it, anti-war organizers are struggling to get new converts to tell someone besides pollsters that the country needs to change course.

Activists say the fear of being labeled unpatriotic or unsupportive of the nation's troops will keep many anti-war newcomers away from today's 11 a.m. demonstration in San Francisco and the hundreds of others around the country marking the third anniversary of the U.S. invasion of Iraq.

Organizers expect several thousand demonstrators to show up for the downtown march and rally at Civic Center, compared to the tens of thousands who strode down Market Street in the weeks before the war.

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The movement's focus has shifted in the past couple of years from the street to online organizing and opposing military recruiting in high schools. But anti-war forces are still frustrated that more Americans -- and Congress -- haven't actively opposed the administration's policy.

"People get more involved when they see a glimmer of hope in the Iraq story," said Tom Matzzie, the Washington, D.C., director of the 3.3 million-member MoveOn.org. A "positive story" for the left, Matzzie said, such as Cindy Sheehan's vigil last August outside Bush's Texas ranch, excites donors and brings people out for demonstrations.

Another good-news story for the anti-war movement -- Pennsylvania Democratic Rep. John Murtha's call to withdraw U.S. troops from Iraq -- prompted MoveOn members to contribute $350,000 in 48 hours last November after an online fundraising plea. By contrast, members dropped only $90,000 after MoveOn issued an appeal for money when the 2,000th U.S. soldier was killed in Iraq.

Yet Sheehan isn't everyone's cup of activism -- even in her home state. A Field Poll of 680 registered California voters released this month found that 36 percent had an unfavorable rating of Sheehan, and 24 percent saw her favorably. Forty percent had no opinion.

"As an organizer, it can be tricky to find that sweet spot where people want to get involved," Matzzie said.

With that in mind, MoveOn will focus on electing strong anti-war candidates to Congress this year, even if that means opposing incumbent Democrats. Earlier this year, the group raised money for Texas Democrat Ciro Rodriguez for his unsuccessful primary race against Rep. Henry Cuellar, who is seen as supportive of Bush's policies.

Matzzie said 86 percent of MoveOn's members say they want the organization to challenge Democrats who are "consistently wrong" on the issues dear to the liberal membership.

"A lot of people are frustrated because they don't think there's anything they can do," said Karen Dolan, a fellow at the Institute for Policy Studies, a liberal think tank in Washington, D.C.

She has been working on a nonbinding resolution to "bring the troops home now," which will be voted on April 4 by 30 cities and towns in Wisconsin. Voters and representatives in 76 cities nationwide -- including San Francisco, Oakland and other Bay Area cities -- have passed similar resolutions.

Dolan says there is value in the symbolic gesture.

"Wisconsin is a swing state," she said. "And aside from Madison, which is very liberal, a lot of those towns (with measures on the ballot) are in conservative parts of the state."

In the months before the invasion, some anti-war leaders pledged to make an extra effort to include more voices from the Latino community in the peace movement, which has traditionally been dominated by white, middle-class activists. But while organizers have printed leaflets and other materials in Spanish and English, those outreach efforts have failed to engage much of the Latino community, which polls show opposes the war.

"Our community is never going to identify with these larger anti-war organizations like United for Peace or Code Pink or International Answer," said Pablo Paredes, who was sentenced to three months of hard labor and busted down to the Navy's lowest rank for refusing to board a ship bound for the Persian Gulf in December 2004. Now he travels the country on behalf of anti-war organizations to oppose military recruiting on high school campuses.

"There was a little bit of communication gap between the big organizations and the community," Paredes said. "The rhetoric was there, but those organizations were always saying, 'Come have a seat at our table,' instead of joining us in our community." Plus, Paredes said that after Sept. 11, many Latino immigrants fear publicly opposing the administration because they don't want to be seen as unpatriotic.

Paredes, along with several other Latino war resisters and activists, began a walk this week from Tijuana to San Francisco's Mission District. Their goal was to rally support for a separate Latino anti-war movement. "We hope to be lighting candles along the way that will lead to something bigger," he said.

Something bigger, like a change in the administration's Iraq policy, is unlikely to happen as long as Congress backs the war and pays for it. Demonstrators at a rally and march at noon today at Palo Alto's Civic Center Plaza had been planning to drop 2,000 handbills outside the office of Rep. Anna Eshoo, D-Atherton, that said, "I urge you to take a stronger stance against the war in Iraq."

But after Eshoo voted Thursday against the latest bill to pay for military operations in Iraq, organizers will encourage marchers to write, "Thanks for voting against the funding" on the cards. The $92 billion spending package -- the sixth since the United States invaded Iraq -- passed the House easily. The Senate is expected to vote on its version in the next month.

"We're kind of scrambling after she voted that way," said Paul George, a rally organizer who is director of the Peninsula Peace and Justice Center.

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Anti-war organizers have been frustrated that the movement hasn't taken root in the suburbs. George is hoping for a crowd of 2,000 people at today's rally. In Walnut Creek, activists are expecting about 1,000 people and are advertising an all-star cast of liberals more commonly found in the big city.

Former San Francisco Supervisor Matt Gonzalez, Bush-bashing media critic Norman Solomon and hip-hop artist Boots Reilly of the Coup will be awaiting marchers meeting at 11 a.m. at the Walnut Creek BART station. Last year's highlight of a much smaller rally in the Contra Costa County city: an oom-pah band.

Co-organizer Mary Alice O'Connor joked that Gonzalez, who is strongly identified with San Francisco's hipster community, might need directions to get to Walnut Creek.

"We want to wake up people in the suburbs," O'Connor said. "There's a lot of people sitting in their homes out here, thinking the same thoughts, but they're afraid that nobody else feels the same way. We want to show people that their neighbor feels the same way."

O'Connor said many suburbanites don't want to go to a San Francisco rally because they are put off by the many causes on display at such events that seemingly have no connection to the Iraq war.

"People don't want to get into the middle of the Israel-Palestine thing," she said. "They say that they feel that people are yelling at them at the rallies."

Rachael Hereford, a youth organizer with International Answer, which is sponsoring the San Francisco demonstration, said suburban rallies are "a long time coming, and it shows that the anti-war movement isn't just the hippie faces that the media shows you all the time."

But anti-war organizing can't stop with a demonstration, she conceded.

"It's easy to get students to come to a demonstration," Hereford said. "But will they bring their friends? And will they start organizing against the war when they go back to school?"

Hold The President Accountable (NYT)

By Senator Russell Feingold

The New York Times, March 18, 2006

To the Editor:

Re "Time for Facts, Not Resolutions" (editorial, March 17):

The president broke the law, and Congress must hold the president accountable.

You are right that the nation deserves to know more details about the National Security Agency's spying program, but there's nothing we could learn that would change the fact that by authorizing the program, the president broke the law.

Member of both parties who have concerns about the legality of the N.S.A.'s program, and there are quite a few, should not try to avoid that central issue while offering proposals to legalize the president's conduct.

I strongly support wiretapping terrorists to protect our national security, which current law allows.

The president needs to follow that law, or inform Congress of any reasons he thinks that law should be changed. He has a responsibility to obey the laws that Congress passes.

There must be no equivocation on that central tenet of our system of government.

I applauded Senator Harry Reid's effort to take the Senate into closed session to get answers on the intelligence and policy failures leading up to the Iraq war. But to suggest that such a maneuver is our only recourse now ignores the role the founders expected Congress to play when a president commits such a flagrant abuse of power.

We don't need a closed session to highlight the president's lawbreaking; we need an open debate and an expression of the Senate's judgment.

Members of Congress do need to "fulfill their sworn duty," as you suggest, and that means censuring a president who so plainly broke the law and violated the trust of the American people.

Democrats' Dilemma (NSWK)

By Eleanor Clift

Newsweek, March 18, 2006

The Dems must satisfy their base without alienating the rest of the country. Russ Feingold's censure bid isn't the smartest way to do that.

Republicans finally had something to celebrate this week when Democratic Sen. Russ Feingold called for censuring George W. Bush. Democrats must have a death wish. Just when the momentum was going against the president, Feingold pops up to toss the GOP a life raft.

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It's brilliant strategy for him, a dark horse presidential candidate carving out a niche to the left of Hillary Clinton. The junior senator from New York is under attack for being too soft on Bush and the war, and most of the non-Hillarys are to her right. There is a vacuum in the heart of the party's base that Feingold fills, but at what cost? His censure proposal looks like a stunt, "the equivalent of calling for a filibuster from Davos," says Marshall Wittmann, a senior fellow with the centrist Democratic Leadership Council. To win in '06, he says, "Democrats need to take the Hippocratic Oath: first, do no harm."

Just as John Kerry's belated effort to stop Judge Samuel Alito's confirmation to the Supreme Court failed to rally his fellow Democrats, Feingold's move toward censure has been received like a foul odor, sending Democrats scurrying for the exits. Only two of his colleagues, Iowa's Tom Harkin and California's Barbara Boxer, signed on as cosponsors. And for good reason. The broader public sees it as political extremism. Just when the Republicans looked like they were coming unhinged, the Democrats serve up a refresher course on why they can't be trusted with the keys to the country. Nor could it have come at a better time for a Republican Party still battered by bad news in the polls. The latest Wall Street Journal/NBC survey, released earlier this week, shows that Bush's job approval rating at its lowest ever—37 percent—as a majority of Americans lose confidence that the Iraq war will end successfully. The same poll shows a significant uptick in the country's willingness to accept a Democratic Congress, with 50 percent of those questioned saying they would prefer the party to control Congress. Thirty-seven percent say they want it controlled by Republicans.

The Democrats' dilemma is how to satisfy a restive and angry base without losing the rest of the country. "If someone proposed stringing up Bush like they did Mussolini, that would have a lot of support in the base of the party, too," says a Democratic strategist. "But it's not smart." Democrats want the November election to be a plebiscite on Bush's job performance, not a personal vendetta. "Republicans will rally round him if they think it's a personal attack just like we did with Clinton," warns the strategist.

Feingold has a reputation for being a principled politician who often takes positions at odds with his party. He didn't give Senate leader Harry Reid a heads-up about his censure motion, and Democrats were caught off-guard. What the country saw wasn't pretty, Democrats dodging and weaving and Republicans loving the whole sorry spectacle. With everything souring for the Republicans, the only thing that can rescue them is a foil, and Feingold's call for censure offered that, at least for now. Conservative radio hosts were raising the specter of impeachment should the Democrats take over the House in November, a call to arms for the otherwise demoralized GOP base.

The joy among Republicans could only be matched in the blogosphere, where liberal Democrats cheered Feingold—a synergy that prompted the DLC's Wittmann to speculate that the right and left are codependent. But the political mixing and matching provide only a brief respite from the real politics that will determine each party's fortunes in November. Congressional insiders say if the election were held today, the Democrats would capture 18 to 23 seats in the House. They need 15 to regain the majority. Things could get better by November, or worse, depending on your perspective.

There is talk of a possible October surprise to revive the GOP's standing, and the fact that the biggest military air assault in Iraq since the war began came the day after Bush sank to 33 percent in a Pew poll had some Democrats suspicious. "Is it an attempt to prop up his numbers?" asks the Democratic strategist. "It's probably not fair to think that, but it shows where we are in this presidency."

With the war about to enter its fourth year, the Center for American Progress, a liberal think tank, held a seminar on "Next Steps for U.S. Policy" that featured a keynote address by former national-security adviser Zbigniew Brzezinski. "I favor a decision by the U.S. to leave Iraq," Brzezinski declared. "I would ask the Iraqi leaders to ask us to leave," he explained, adding he would talk with them first privately and "treat them as adults, not colonial wards." He sees two parallel wars in Iraq, one is the insurgency, which is consolidating and widening, and the other is the growing sectarian violence. "We are engaged in a war of attrition," he said, and unless the Bush administration puts in 500,000 troops—the number it would take to crush the opposition—U.S. policymakers need to make "a very cold judgment whether staying the course is likely to be more or less damaging to U.S. interests."

Brzezinski, a hawk during the Carter administration, has emerged as a hero among progressives frustrated by their party's unwillingness to take a stand. Democrats have been "silent or evasive" on the war, he said, offering no alternative, which is "a form of political desertion." If Democrats don't want to talk about censure, they could change the topic in an instant with a credible exit plan from Iraq.

Bush The "Incompetent" (TIME)

By Matthew Cooper

Time, March 18, 2006

The polls are bad enough. Now the President fails a word-assocation test

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Over the last seven years, the Pew Research Center for the People and the Press has played a game of word association as part of its regular presidential polling, asking, "What one word best describes your impression of George W. Bush?" No options or suggestions are offered. The latest results — from a sample of 710 people done in March — aren't good for the President. Until this month, the word most associated with President Bush had always been "honest." Now the leading answer is "incompetent" (given by 29 people), followed by "good", "idiot" and "liar." "Honest" has slipped to 5th, tied with "Christian."

Three years ago, positive descriptions of Bush far outnumbered negative ones. In the past two years, the positive-negative ratio has been more nearly equal. This time, 48% of those polled used a negative word to describe Bush; just 28% picked a positive term; 10% chose neutral language. Six respondents chose a word that everyone could agree on: "President."

Bush Adviser Says Iran Bluffing On Iraq (AP)

By Jennifer Loven

AP, March 18, 2006

President Bush's top foreign policy adviser said Friday that Iran's new willingness to talk about Iraq with the United States is probably a ploy designed to "divert pressure and divert attention" from international concern that Tehran wants a nuclear bomb.

The United States has accused Iran of using a civilian nuclear program as a cover to build atomic weapons, an allegation Tehran denies. The U.N. Security Council is expected to discuss Iran's nuclear program this month, with Washington pressing for penalties.

The Bush administration views Tehran's acceptance of an American offer to talk about Iraq, made months ago, as an indication that Iran is feeling the international heat, national security adviser Steven J. Hadley said.

"What is interesting is that the Iranians would choose now, at this moment, in such a very public way, to embrace this idea and try to expand it to a negotiation about a broader set of issues," Hadley said.

"The concern, therefore, is that it is simply a device by the Iranians to try and divert pressure that they're feeling in New York, to try and drive a wedge between the United States and the other countries with which we are working on the nuclear issue and, if you will, divert pressure and divert attention."

Hadley added: "Obviously, this is something that we and those who are working with us on these issues will not let happen."

The secretary of Iran's Supreme National Security Council, Ali Larijani, said Thursday that Iran would discuss Iraq directly with the United States. Washington has accused Tehran of meddling in Iraqi politics and of supporting armed militias in Iraq by sending men and weapons, including components for increasingly lethal roadside bombs.

There was concern Friday in the Bush administration that the Iranian offer could increase the stature of Iran's government in its citizens' eyes, raise Tehran's status in the region and curry broader international sympathy that could undermine the U.N. Security Council efforts.

For that reason, there was also skepticism that talks would even take place.

"They've made such statements in the past that they would be open to talking about the matters in Iraq," said White House press secretary Scott McClellan. "We'll have to see."

The administration is proceeding with discussions about a meeting on the chance that it could save lives — as well as out of concern that the administration would be criticized if it didn't try, said a senior administration official, who spoke on condition of anonymity because of the sensitivity of the diplomatic situation.

Earlier this week, Bush said Iran had supplied components for roadside bombs, which the president called the greatest threats to U.S. troops in Iraq.

But officials made clear that any talks with Iran would be given as low-key a status as possible, in an effort to defuse any broader benefit Iran might gain. The Bush administration is also sensitive to possible criticism that talks with Iran represent negotiating with terrorists.

The American ambassador to Iraq, Zalmay Khalilzad, in charge of discussions on the talks, said Friday in an interview with The Associated Press that any meeting should be held in Baghdad. He also made clear that discussions would be limited only to issues related to Iraq, not the standoff over Tehran's nuclear activities, and would represent merely a face-to-face forum for the United States to state concerns it has expressed publicly.

"This is not a negotiation by any means," McClellan said.

U.S. Eyes Baghdad For Talks With Iran (WT)

The Washington Times, March 18, 2006

From combined dispatches

DOJ_NMG_0019426

BAGHDAD -- The American ambassador said yesterday he wants to talk with the Iranians -- but not negotiate -- in Baghdad.

"We are not entering into negotiations about Iraq with Iran. The Iraqis will decide the future of Iraq. We have concerns -- and I've spoken about them -- with regard to Iranian policy in Iraq," U.S. Ambassador to Iraq Zalmay Khalilzad told the Associated Press in an interview.

In Washington, the Bush administration said any meeting would have to involve Iraqi leaders, and it expressed concern that Iran might use such a meeting to divert attention from its nuclear program.

"The concern, therefore, is that it is simply a device by the Iranians to try to divert pressure that they are feeling in New York," said National Security Adviser Stephen J. Hadley, referring to talks at the U.N. Security Council.

The United States has not decided whether to talk to Iran about its support for armed Shi'ite militias in Iraq, a U.S. official told the AP on the condition of anonymity.

The majority of Iraqis are Shi'ite Muslims. The overwhelming majority of Iranians belong to that sect and are governed by a Shi'ite theocracy.

Many important Shi'ite religious shrines are located in Iraq, meaning that thousands of pilgrims routinely cross the countries' long, common border.

Iraqi Sunnis objected yesterday to any U.S.-Iranian engagement.

"Iran is interfering deeply in Iraqi affairs, and the Iraqi people are afraid that a deal might be settled between Iran and America at the expense of Iraq's independence," said Bashar al-Faydi, a spokesman for the Association of Muslim Scholars.

Mr. Khalilzad said that talks would be limited to Iraq -- not the angry U.S. standoff with Tehran over its nuclear program.

The Afghanistan-born Mr. Khalilzad, who can speak with Iranians in a common language -- his native Dari is a Persian dialect -- insisted there would be no bargaining with Iran.

The 54-year-old ambassador has held talks with Iranians before, when he was envoy to Afghanistan, Iran's neighbor to the east.

"I was authorized by the president of the United States to talk with the Iranians about our concerns about Afghanistan. So I'm doing the same thing now here," he said.

"I think we would assume since these discussions are with regard to our concern with Iranian policies in Iraq that [the talks] should be in Baghdad," Mr. Khalilzad said.

The Iranians said their participation in talks may help Iraqis form a stable government.

"The Islamic Republic of Iran will hold talks with the United States about Iraq to help the process of building a government there, and to support the Iraqi people," Foreign Minister Manouchehr Mottaki said in a speech to worshippers who had gathered at Tehran University for Friday prayers.

Meanwhile, at the United Nations in New York, Chinese Ambassador Wang Guangya said the Security Council should give Iran "four weeks to six weeks" to comply with demands by the U.N. nuclear watchdog that it halt all uranium enrichment activities.

Speaking before a formal meeting of the council on the crisis, Mr. Wang said: "We must leave sufficient time for diplomacy and for the [U.N. International Atomic Energy Agency] to work ... at least four weeks to six weeks."

Russia's U.N. ambassador yesterday also spoke in opposition to proposals for the council to demand a quick progress report on Iran's suspect nuclear program.

He said, reportedly only half in jest, that fast action could lead to the bombing of Iran by June.

Andrey Denisov spoke just before a Security Council meeting in which diplomats considered a revised list of British, French and American proposals for a statement on Iran.

A key sticking point for Russia is a proposal asking Mohamed ElBaradei, the chief of the International Atomic Energy Agency, to deliver a report in two weeks on Iran's progress toward clearing up suspicions about its nuclear program.

U.S., Iran Closer To Talks On Iraq (WP)

By Ellen Knickmeyer And William Branigin

The Washington Post, March 18, 2006

Concern About Tehran's Role in Country Reopens Channels

BAGHDAD, March 17 -- U.S. Ambassador Zalmay Khalilzad said Friday that back-channel discussions were underway with Iran on resuming direct talks about Iraq that broke off shortly after the 2003 U.S.-led invasion, and he said the talks should be held in Baghdad.

Khalilzad said he would not describe the proposed talks as "negotiations" but as a chance to express concerns about what Washington and some in Iraq regard as Iran's alarming activities here.

"Iraqis will decide their own future," Khalilzad said, "but they have concerns about [Iranian] policy regarding Iraq."

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The ambassador spoke after the U.S. Embassy in Baghdad issued a statement critical of Iran in response to remarks Thursday by the top Iranian national security official.

Saying that the embassy had taken note of remarks by Ali Larijani, secretary of Iran's Supreme National Security Council, the statement said: "The future of Iraq will not be decided by the United States, Iran or any other country. Iraqis will decide the future of Iraq. The United States is concerned about unhelpful Iranian activities in Iraq. These concerns are well known, and we have talked about them."

Khalilzad's comments came a day after Tehran offered to enter into talks with the United States aimed at stabilizing Iraq, following a request to do so by the Shiite Muslim political heavyweight Abdul Aziz al-Hakim, who spent years in self-imposed exile in Iran when Saddam Hussein ruled Iraq. Hakim's party, the Supreme Council for the Islamic Revolution in Iraq, and other members of the Shiite coalition that dominate Iraq's government are closely allied with Iran.

In Baghdad, Jalal al-Sagheer, a cleric and ally of Hakim's, hailed the "diplomatic victory." Sagheer rejected widespread accusations by Sunni Arabs in Iraq that Iran was promoting torture, illegal detention and extrajudicial killing by Shiite militiamen against Iraq's Sunni minority.

"In every case, the sectarian terrorism uses the Iran question as an excuse to slaughter us," Sagheer told worshipers during Friday prayers at Baghdad's Buratha mosque. "This is why we are working on this case and making many contacts to solve the problem between America and Iran, so the Iraqis will not be affected by any problem between them.

"It's not for a specific sect," Sagheer said. "It is for the fate of all Iraqis."

Meanwhile, U.S. and Iraqi troops searched house to house for insurgents for a second day in arid farmland east of Samarra. Forty-eight suspects had been detained, with 17 of them released, Maj. Tom Bryant, public affairs officers with the 3rd Brigade of the Army's 101st Airborne Division, told journalists flown to the area Friday.

Six weapons caches with a total of about 300 rockets, mortar rounds and other ordnance had been found by late Friday, "a typical number" for weapons caches discovered in the area, said Maj. John Calahan, another public affairs officer with the 3rd Brigade. U.S. and Iraqi forces had made "no contact whatsoever," Calahan added, meaning no shots had been fired or resistance encountered.

The 600 to 800 Iraqi police commandos in the U.S.-Iraqi force deployed Thursday had returned to normal duties by midday Friday, U.S. authorities said.

Roughly 50 Chinook and Black Hawk helicopters had transported the Iraqi and U.S. forces from bases in the surrounding area. The operation, which is continuing, has been good for building the confidence of Iraqi forces and for showing insurgents that the Iraqis, with the help of U.S. air assets, can go anywhere, U.S. officials said.

U.S. Army Lt. Gen. Peter Chiarelli, the commanding general of Multinational Corps-Iraq, said that by the end of this summer Iraqi units will take charge in 75 percent of the country's territory, compared with less than 50 percent now. He did not specify whether these areas would include the most violent or populous parts. Other U.S. commanders have said that Iraqi police and army units are now responsible for security in about 60 percent of Baghdad.

Chiarelli, briefing Pentagon reporters via teleconference from Iraq, said the country was closer to civil war than at any time since the U.S. invasion three years ago, but added that such an eventuality remained "a long ways away."

Branigin reported from Washington. Staff writer Ann Scott Tyson in Washington and special correspondent Naseer Nouri in Baghdad contributed to this report.

Sunni Leaders Say U.S.-Iran Talks Amount To Meddling (NYT)

By Kirk Semple

The New York Times, March 18, 2006

BAGHDAD, Iraq, March 17 — Sunni Arab political leaders on Friday denounced an agreement between the United States and Iran to hold face-to-face talks about solutions to the unrest in Iraq, saying the conversations would amount to meddling by foreign nations in Iraq's domestic affairs.

The Iraqi Consensus Front, the country's main Sunni political bloc, issued a statement calling the agreement "an obvious unjustified interference" and asserted that it was not obligated to comply with any results of the negotiations.

The Sunni leadership has long criticized Tehran's influence over Iraq's powerful Shiite religious parties, and its opposition to the talks could add another obstacle to the grinding efforts by Iraq's political leaders to forge a coalition government.

"The Iraqis in the current government should have these talks with the Iranians and discuss the level of intervention of Iran," Naseer al-Ani, a member of the Sunni Arab bloc, said in a telephone interview. "It's not up to the American ambassador to talk to Iran about Iraq."

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The agreement between the United States and Iran was announced Thursday. Ali Larijani, general secretary of Iran's Supreme National Security Council, said Iran's participation came at the request of Abdul Aziz al-Hakim, leader of the Supreme Council for the Islamic Revolution in Iraq, a powerful Shiite party with ties to Iran.

Scott McClellan, the White House press secretary, said the Bush administration would not meet with Iran to negotiate the future of Iraq but rather to voice its concerns about what he called Iran's "unhelpful role" in Iraq. It remained unclear on Friday whether Iraqi leaders would be invited to the meetings.

The Sunni criticism came as leaders of Iraq's major political blocs, as well as the American ambassador, gathered in the heavily fortified compound of President Jalal Talabani to discuss the formation of a new Iraqi government.

According to several participants, the discussions focused on the proposal to create a national security council composed of leaders of the executive, judicial and legislative branches, as well as representatives of the country's main political blocs. The council would be consulted on pivotal national issues, like the economy, oil policy, public services and security.

Some Sunni leaders wanted the council's decisions to have binding executive authority. But, several participants said, the Shiite leadership and others were insisting that the council have only advisory powers, thereby safeguarding the constitutional powers of the executive.

A working group planned to continue the discussions on Saturday and was expected to submit its conclusions to the blocs' political leaders by Sunday, officials said.

In Halabja, Kurdistan, militias loyal to the Patriotic Union of Kurdistan, the party that governs the eastern part of the autonomous region, began a crackdown after a riot on Thursday in which demonstrators destroyed a museum dedicated to the thousands who perished in a poison gas attack by Saddam Hussein's security forces in 1988.

The riot began as a rally against government corruption but became violent after government guards fired weapons over the protesters' heads.

"The episode is a painful reminder that reforms are needed everywhere in this part of the world," Barham Saleh, Iraq's planning minister and a Kurd, said in an interview on Friday.

Although the riot may have arisen in part from the legitimate grievances of frustrated people, he said, radical Islamists might have taken advantage of the discord to foment violence. "Obviously this has to be investigated thoroughly," he said.

American and Iraqi security forces continued their search for insurgent hide-outs near Samarra on Friday, the second day of an assault in the area, north of Baghdad, though the results appeared to be modest and the American command began to return some troops to their bases.

About 10 people were detained on Friday, bringing the number of suspected insurgents captured during the raid to 47, said Lt. Col. Edward Loomis, a spokesman for the 101st Airborne Division, which is leading the operation. At least 17 have been released after questioning, he said, adding that troops uncovered no new weapons stockpiles on Friday.

The operation has garnered widespread attention, in part because Samarra is where a Shiite shrine was bombed by insurgents last month, setting off a wave of sectarian violence. But the military has not suggested that this assault was a direct response to the bombing.

The American military command described the push as the largest "air assault" since the invasion in 2003. The military defines air assault as the insertion of troops by aircraft. Some television networks erroneously used the term "airstrikes," conjuring images of the "shock and awe" bombing campaign that heralded the invasion.

But there were no reported aerial bombardments during this operation, and Colonel Loomis said Friday that the American and Iraqi forces had encountered no armed resistance and suffered no casualties.

The American military reported that a soldier from the 101st Airborne was shot and killed at an observation post in Samarra on Thursday, but the incident appeared to be unrelated to the operation.

In Baghdad, the authorities recovered two more bodies, both handcuffed, blindfolded and shot in the head, according to an official in the Interior Ministry. At least 170 bodies, all showing evidence of execution-style killings, have been recovered around Baghdad in the last 10 days, according to Iraqi officials.

Though the motives for most of the killings remain unclear, officials fear that the wave of executions is a continuation of the sectarian reprisals that followed the destruction of the Samarra shrine last month.

Gunmen fired on Shiite pilgrims in several locations on Friday, killing at least one and wounding 12, the ministry official said. An improvised bomb, apparently directed at pilgrims, exploded on the road between Mahmudiya and Karbala, killing one and wounding four, the official said.

Thousands of Shiites are converging on Karbala, in the south, to celebrate the end of the 40-day mourning period commemorating the death of Imam Hussein, the grandson of the Prophet Muhammad.

Iran, U.S. Disagree Over Goal Of Talks (LAT)

DOJ_NMG_0019429

By Paul Richter, Times Staff Writer

The Los Angeles Times, March 18, 2006

America says it wants to discuss Tehran's meddling in Iraq, while the Islamic Republic asserts it wants to work to get foreign troops out.

WASHINGTON — A day after raising international hopes by agreeing to hold direct talks about stabilizing Iraq, U.S. and Iranian officials Friday took a decidedly sharper tone toward each other, differing markedly over the purpose of their planned discussions.

U.S. officials accused Iran of meddling in Iraq's internal affairs and said the discussions were aimed only at expressing American unhappiness over the interference. In Tehran, a senior official said Iran's goal in meeting with the Americans was to accelerate the U.S. departure from Iraq.

As differences between the two sides intensified, fears grew that the longtime adversaries were jeopardizing an opportunity to help stabilize Iraq, an effort in which they both have an important stake.

U.S. and Iranian officials fueled expectations for improved relations between the two countries Thursday when each said that teams of officials would meet to discuss Iraq. On Friday, U.S. officials said arrangements were being made by unidentified intermediaries to set a date and place for a meeting.

However, differences began to emerge almost immediately. At first, the Iranians suggested the talks could range more widely, encompassing issues other than Iraq. But U.S. officials quickly rejected that possibility, pointing out they had suggested talks last year only as a way to bring peace in Iraq.

Also Thursday, Iran's foreign policy chief, Ali Larijani, said Tehran had accepted "the proposal to help resolve the problems in Iraq and establish an independent government there."

U.S. officials retorted Friday that the talks would be held to discuss "unhelpful Iranian activities in Iraq," including, they alleged, allowing the shipment of components for roadside bombs used in Iraq and sending Iranian military agents into the country.

"These concerns are well known and we have talked about them," the U.S. Embassy in Baghdad said in a statement, adding that "Iraqis will decide the future of Iraq."

U.S. Secretary of State Condoleezza Rice, in Australia, said the talks would be limited in scope, and cast doubt on whether they would take place.

"We will see if and when those talks take place," she said.

The inability of Washington and Tehran to agree on the subject of the talks gave rise to concerns that any meetings would be fruitless, ending in acrimony and heightening tensions between the two countries.

"If the Americans just plan to yell at them, then this will be about charges and counter-charges, and it won't be particularly productive," said Ray Takeyh, a Middle East specialist at the Council on Foreign Relations. "If this is about their common interests, which they do have, then maybe there will be something to it."

The Iranians can't afford to let Iraq descend into civil war, Takeyh said, because the conflict would spill across their border. In contrast, an Iraqi democracy would give power to a Shiite Muslim majority whose leaders have close ties to Iran. The agreement to meet reflects that, even as they continue to trade harsh denunciations, the two sides have been forced to recognize that they must work together to stabilize Iraq, he said.

But President Bush's national security advisor, Stephen J. Hadley, charged Friday that Iran's agreement to talk about Iraq was probably a ploy intended to head off adverse action by the United Nations Security Council, which is considering ways to address concerns over Tehran's nuclear program.

"What is interesting is that the Iranians would choose now, at this moment, in such a very public way, to embrace this idea and try to expand it to a negotiation about a broader set of issues," Hadley told a group of reporters. "The concern, therefore, is that it is simply a device by the Iranians to try and divert pressure that they're feeling in New York, to try and drive a wedge between the United States and the other countries with which we are working on the nuclear issue and, if you will, divert pressure and divert attention."

Takeyh agreed that talks between U.S. and Iranian officials could ease pressure to act against the Tehran government.

"This could take all the air out of the Security Council effort," he said.

In Tehran, meanwhile, Larijani said Friday that Iran's motivation had nothing to do with the case before the Security Council.

"Iran's motive behind assistance to the Iraqi nation is helping establishment of lasting security in Iraq, and helping it get rid of the occupiers' tyranny … and there is no other hidden issue in that connection," he said, the official news agency IRNA reported. "At present there is no connection between the issue and Iran's nuclear case."

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Zalmay Khalilzad, the U.S. ambassador to Iraq, stressed Friday that a stable Iraqi government was a key U.S. goal, but that it would be up to Iraqis to form it — without Iranian interference.

"We won't negotiate with Iran over that," Khalilzad said in an interview on Al Arabiya television. He said any talks would concentrate on U.S. concerns about Iran's involvement in Iraq.

"We'll just express concerns with aspects of Iranian policy destabilizing Iraq," he said. "Iraq can rely on itself. We have serious concerns on aspects of Iranian policy that we will raise."

ANALYSIS: Talks With Iran Could Help Bush (MINNST/AP)

By Barry Schweid, The Associated Press

Minneapolis Star Tribune, March 18, 2006

Possible negotiations between the United States and Iran and the convening of the first session of a new Iraqi parliament could give the Bush administration a long-needed lift.

WASHINGTON (AP) - Possible negotiations between the United States and Iran and the convening of the first session of a new Iraqi parliament could give the Bush administration a long-needed lift.

The recent inaugural session of Iraq's parliament is a positive step toward the new Iraq that President Bush envisions as he pursues a war that's unpopular with many Americans. Progress toward forging a unity government representing all of Iraq's sects would be a boost for a country that has been veering close to civil war.

U.S. intelligence strongly suspects Iran has been arming Iraqi Shiite militia and some insurgent groups. If talks with Iran come off, the administration would try persuading Tehran to curb its activities with the argument that instability in Iraq could envelop the area, including Iran.

For Bush, whose dive in the polls reflects Americans' eroding confidence in his Iraq strategy, progress on either front would be welcome relief - especially with midterm elections for control of Congress just eight months away.

There are troublesome developments as well. The eruption of violence among Kurds in northern Iraq poses new security problems for already strained Iraqi forces, particularly if Islamic radicals were behind the outbreak in Halabja.

Indications are the stone-throwing Kurds were registering displeasure with their own leaders and not threatening conflict with other Iraqi groups.

The disorder distracts from an aggressive U.S.-Iraqi military campaign against insurgents in a Sunni Arab-dominated area outside Samarra, where the bombing of a Shiite shrine three weeks ago ignited the most recent siege of violence.

Referring to the volatile situation in the country, U.N. envoy Ashraf Qazi said Friday that it has deteriorated since he took up the post 19 months ago.

Qazi, speaking at the U.S. Institute of Peace in Washington, said Iraq was not on the brink of civil war. But he described the situation as serious and said it "could lead to a breakdown of order" if left unchecked.

Bush administration officials are convinced Iran is playing a mischievous role in Iraq, especially in arming militias with explosives and other weapons.

They said Friday that Tehran's willingness to have face-to-face discussions with U.S. officials about Iraq could be an effort to divert attention from an approaching confrontation at the United Nations over Iran's nuclear program.

"The concern, therefore, is that it is simply a device by the Iranians to try and divert pressure that they're feeling in New York," White House national security adviser Steven Hadley said.

"Obviously, this is something that we and those who are working with us on these issues will not let happen," he added.

Despite the standoff over Iran's nuclear program, the administration has been seeking talks with Tehran narrowly limited to its intervention in Iraq. Despite its skepticism, some in the administration want to try setting up the talks, at the very least to avoid criticism in case Iran turns out to be serious about seeking a solution in Iraq.

Ruled out by U.S. officials is discussion of any attempt by Iran to gain a political foothold in Iraq, and the nuclear dispute, which could soon come before the U.N. Security Council.

The talks, which would be held in Baghdad, are not the first between the United States and Iran even though the two foes do not have diplomatic relations. They have met in the past for cooperative efforts in stabilizing Afghanistan and countering narcotics, for instance.

The antipathy is immense, however. American officials have denounced Iran repeatedly as the world's No. 1 supporter of terrorism.

'War' As Epithet: Sound Of Clay Feet Cracking (NYT)

By Roger Cohen International Herald Tribune

The New York Times, March 18, 2006

DOJ_NMG_0019431

NEW YORK 'America is at war." These are the first words of the Bush administration's new national security strategy, a simple declarative sentence open to multiple interpretations and contestations.

That America is at war in Iraq is certainly true, although it's not the war the administration prepared for. Nor is it a war like any other. It's been accompanied by tax cuts; national sacrifice is not the theme of the hour; small-town America and smaller-salary America have borne the brunt.

But the war that President George W. Bush goes on to outline in the strategy, a revised version of the 2002 document whose emphasis on the supremacy of American power and the right to strike pre-emptively caused global unease, is not merely the Mesopotamian mess.

No, this war is of greater scope. "The United States is in the early years of a long struggle, similar to what our country faced in the early years of the Cold War," the document says. "The 20th century witnessed the triumph of freedom over the threats of fascism and communism. Yet a new totalitarian ideology now threatens, an ideology grounded not in secular philosophy but in the perversion of a proud religion."

This is a little pat. Let's leave aside whether the problem is a "perversion" of Islam or merely a certain reading of it. To compare Osama bin Laden and his scattered followers to the divisions of the Soviet empire is a stretch.

To invoke totalitarianism - a system of complete control over certain territory through state-directed terror - in describing a motley bunch of fanatics who control very little also seems fanciful, however vile the jihadists' methods and however ominous their visions of a restored caliphate.

All in all, it's easy enough to see this broader war as a construct that preserves the familiar paradigm of American liberty confronting tyranny, comforts the far-flung garrisons that serve a global American mission, and gives Bush's Republican Party a pivotal issue that plays to its strengths against a Democratic Party still seen as weak on national security.

None of this is meant to suggest that the terrorist threat to the United States is not real. But to frame the confrontation with this danger as a "war" - a war without apparent or possible end, a war without geographical definition, a war without an opposing army - is a political decision, one of whose effects has been to cast Bush as a "war president."

The epithet has played well. It was decisive in delivering the 2004 election to Bush: you don't change commander-in-chiefs in the middle of a war.

It also captured the qualities many Americans thought they liked in Bush: boldness and decisiveness and an unwavering determination. Because they did not see those traits in John Kerry, the Democratic candidate, they rejected him.

But, a little over a year into Bush's second term, the epithet is tired; Americans have soured on their war president. It's partly the festering situation in Iraq. But the disillusionment runs deeper. With his approval rating at 33 percent, according to a new poll by the Pew Research Center, Bush is in Nixonian territory.

The same poll found that where "honesty" had been the single characteristic most closely associated with Bush, the description now most favored was "incompetent." That's a seismic shift - from war leader to clown.

The shift has many roots. The president has never recovered from his administration's hapless distractedness at the time Hurricane Katrina struck New Orleans. It was one thing not to have a plan for postwar Baghdad, quite another to have no plan to save a major American city.

The same impression - of hubris and inattention and waywardness - was left by the administration's handling of the aborted takeover of several U.S. port terminals by a Dubai- owned company.

Having whipped the country into a frenzy over security, Bush favored free trade in this instance, a reasonable position. But he failed to see that he would reap what he had sown: a congressional outcry based in the scurrilous but pervasive notion that all Arabs are dangerous. The absence of preparation for a predictable storm was startling.

Bush's unpopularity is also startling. With the Dow at its highest level in years and the economy growing briskly, his low ratings suggest that links between the economy and a president's popularity are weaker in an era of globalization.

The stock market may be up and profits at investment banks soaring, but companies are cutting back on pensions and health plans to achieve the profits Wall Street likes, and insecurity about jobs is high. Competition is so remorseless that a strong economy is no longer synonymous with the feel-good factor presidents need.

"There is a level of unease about whether you will be able to preserve what you've got," said Norman Ornstein, a political analyst at the American Enterprise Institute.

In theory, that's the sort of economic unease the Democrats should be able to pounce on to seize the political initiative as Bush's popularity erodes. With the president's stature on national security issues also falling, the stars seem to be aligning themselves for the Democrats.

Still, it's striking that the nadir of Bush's popularity has not coincided with the emergence of any compelling Democratic message or theme, from Hillary Clinton or anyone else. Attacking the president's incompetence may be enough for the

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Democrats to secure a House majority in the midterm election in November. But a negative campaign alone will not gain the presidency in 2008.

"The Democrats have still not come up with a coherent national security or homeland security posture," said Ornstein. "Saying no Arabs should run our ports is not a program."

Bush has a program, but he's increasingly seen as unable to deliver. The "war president" aura has crumbled. War talk of decades-long struggles seems unlikely to revive him. Talking to Iran - the country identified in the new strategy as presenting the greatest challenge to America - may help more by delivering results in Iraq and elsewhere.

Why Iran Wants To Talk (WP)

The Washington Post, March 18, 2006

IT'S EASY to see the potential advantage to Iran of opening negotiations with the United States on Iraq. The sudden announcement by Iran's national security chief Thursday that Tehran would accept an offer of dialogue made months ago by the U.S. ambassador in Baghdad came as members of the U.N. Security Council were meeting to discuss a council statement about the Iranian nuclear program.

That statement could be the first in an escalating series of steps to force Tehran to give up the enrichment of uranium and fully cooperate with international inspectors. Preventing such diplomatic action has been Iran's main aim since its illegal nuclear program was discovered in 2004; the failure to stop the issue from reaching the Security Council has prompted some visible handwringing and backbiting among the

mullahs.

By drawing the Bush administration into talks about Iraq, the Iranians give themselves a shot at splintering or distracting the fragile coalition that may be forming in New York. Already Iranian officials are speaking openly about the possibility that any discussions would expand into the broader security dialogue that Tehran has long coveted with the United States. In Iraq -- where American soldiers are dying from Iranian-supplied roadside bombs and sectarian violence by Iranian-supported militias is steadily mounting -- the Islamic regime has a tacit and sinister offer to make: Back down in New York, and the carnage in Baghdad might just drop off. Even the appearance that the Bush administration might be considering such a trade-off would worsen the situation in Iraq and wreck a year of careful and mostly effective anti-proliferation

diplomacy.

The right response to the Iranian initiative is to limit any discussions to short-term U.S. priorities in Iraq and to ensure that the exchange is as open as possible. In theory, the United States and Iran share an interest in preventing an all-out Iraqi civil war, and thus in the establishment of a government that could rein in both the Sunni insurgency and the Shiite militias. But Iran's other objectives in Iraq are mostly inimical: It has promoted the creation of a Shiite ministate in southern Iraq that would control the country's largest oil fields and be dominated by Iran's allies; it hopes that the Sunni insurgency will meanwhile bleed American troops and exhaust U.S. willpower.

The U.S. goal of a broad and cohesive Iraqi government that would fairly balance Shiite, Sunni and Kurdish interests and be defended by a national Iraqi army would, if achieved, check Iranian ambitions. If Ambassador Zalmay Khalilzad can advance that cause through talks with Iran, good. But it will be worth bearing in mind that Tehran has agreed to sit down with him for entirely different reasons.

U.N. To Raise Its Profile In Iraq (WT)

By Betsy Pisik

The Washington Times, March 18, 2006

The senior U.N. official in Iraq yesterday said that the United Nations will soon be raising its profile there, acknowledging that its "perceived absence" has been noticeable since a tragic suicide bombing after the U.S. invasion three years ago.

Ashraf Qazi, the special representative of U.N. Secretary-General Kofi Annan, will be in Washington through Monday for meetings at the Pentagon, State Department and National Security Council.

"It is a fact that the United States strongly encourages us to play a more proactive role in a whole range of activities to make an impact on Iraqi lives," Mr. Qazi told editors and reporters at The Washington Times.

He said the organization has been active in many aspects of nation building, assisting Iraqis in drafting a constitution, holding elections and rebuilding infrastructure.

But Mr. Qazi also said that it was time for the 90-member U.N. Assistance Mission for Iraq, or UNAMI, to take a higher profile despite security concerns.

"A lot of people are not aware of our contributions," he said, in part because U.N. officials are based inside the heavily fortified Green Zone.

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"People ask 'where are you?' because they don't always notice us," said the former Pakistani ambassador to Washington.

"We need to do a better job in terms of enlarging the scale of our activities, being seen and being safe at the same time."

Mr. Qazi's predecessor, Sergio Vieira de Mello of Brazil, and 21 others died in an August 2003 suicide bombing of the U.N. headquarters in Baghdad.

Mr. Qazi, told the U.N. Security Council earlier this week that UNAMI needs its own helicopters and small aircraft to transport U.N. staff between the Green Zone base and new offices in Irbil and Basra.

The planes, he said yesterday, would allow the organization to be more active and independent in a country where the roads are dangerous and movement is often curtailed.

Mr. Qazi made it clear that he disagreed with the frequent warnings that Iraq is slipping into a full-scale civil war.

"What is civil war? I wouldn't say it is even a prospect right now, but there is no reason to be complacent," he said, acknowledging serious human rights violations, sectarian violence, little protection for civil servants and an absence of civil services that would make daily life easier for average Iraqis.

For example, he said yesterday, the bombing of the Golden Mosque in Samarra last month might have actually been a turning point in the effort to calm sectarian violence that continues to cripple reconstruction efforts.

"The government has managed to keep a lid on it but [sectarian tensions] have to be addressed through a broad-based approach" that includes security, political inclusiveness and restored electricity, transportation, education, health care and other services.

The Iraqi government plans to rebuild the historic Shi'ite mosque, as well as many Christian churches that have been bombed over the past three years.

Mr. Qazi said UNAMI is working with U.N. agencies such as UNESCO and the World Bank to try to raise money and recruit expertise for the project, which he said would also encourage sectarian healing.

Although Mr. Qazi declined to comment on the progress or strength of the U.S.-led multinational forces, he noted that the Iraqi police remain tangled in sectarian and political divisions, even though the Iraqi army seems to be making greater progress.

This will be one of his messages when he addresses the donors conference, which is likely to be convened this June or July in Istanbul.

About $13 billion has been pledged for Iraq's reconstruction, and more than half of the nearly $1 billion received has already been spent on governance, humanitarian and reconstruction projects.

Mr. Qazi and his team also met yesterday with World Bank President Paul Wolfowitz, who said the bank would soon have a larger presence in Iraq.

Mr. Qazi stressed that he has frequent contact with Zalmay Khalilzad, the U.S. ambassador in Iraq. And he repeatedly made clear that the United Nations is in service to the Iraqi government, rather than dictating to it.

Ringleader In Custody, Iraqi Officials Say (LAT)

By John Johnson Jr.

The Los Angeles Times, March 18, 2006

Military and political leaders say a sweep in the Samarra area has yielded a key figure in last month's divisive mosque attack.

SAMARRA, Iraq — Iraqi military officials said Friday that a continuing offensive targeting insurgents in the hardpan desert northeast of here has resulted in the capture of additional weapons and a man they believe is among those responsible for the recent bombing of a venerated Shiite Muslim shrine in Samarra.

Iraqi military and political leaders, speaking at an operations base along the Tigris River about 80 miles northeast of Baghdad, said they were checking photos and other documents to determine if they had captured one of the people they believe planned the bombing of the Golden Mosque and the killing of an Arabic TV journalist.

"One ringleader is in custody," Iraqi Gen. Abdul Jabbar said. "He is a main person in all the attacks that took place."

The Golden Mosque, one of Shiite Islam's holiest places, was stormed Feb. 22 by about 20 men who placed 475 pounds of explosives throughout the building and set them off by remote control. A handful of suspects have been arrested, but authorities have not identified them.

The bombing led to scores of retaliatory attacks on Sunni Islam's holy places and a series of tit-for-tat executions by Sunnis and Shiites. The slaying of Al Arabiya broadcast journalist Atwar Bahjat, a Samarra native who had returned to her hometown to report on the mosque bombing, underscored the deteriorating security situation.

On Thursday, in what U.S. military officials called the largest airborne operation since shortly after the start of the war in March 2003, about 1,500 U.S. and Iraqi troops swooped into the desert area in 50 helicopters.

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By late Friday, officials said they had detained more than 50 people and uncovered as many as eight weapons caches, most buried in fields. In a soccer field near Balad, searchers said, they turned up a Soviet antiaircraft gun, four rocket-propelled grenade launchers, 100 pounds of explosives and hand grenades.

U.S. officials on Friday said the scope of the operation was proportionate to the relatively modest amount of weapons uncovered.

They added that the timing was not tied to the impending three-year anniversary of the invasion, which toppled President Saddam Hussein.

The officials said the offensive, called Operation Swarmer, was a show of force in an area teeming with insurgents, and was a symbol of the growing maturity of Iraqi fighting forces.

Much of the planning was done by Iraqis, the officials said. The Iraqis, who make up about half the force, which includes Americans from the Army's 101st Airborne Division, took the lead in searching houses in the sparsely populated region.

"We realize the importance of an Iraqi army being able to take responsibility" in combat missions, said Col. Skip Johnson, standing in the shadow of the ruins of a mosque he said had been destroyed by insurgents three months ago.

Iraq's military capability is also key to Washington's hopes of drawing down U.S. forces in coming months.

Just as important as the planning and execution was the fact that Iraqi intelligence provided the basis for the operation.

"This fight will be won at the intelligence level," Johnson said. "The Iraqis know the culture and they know the people."

The operation, and the wide television coverage it has been accorded, appeared to have inflamed some Muslim clerics, who accused the Americans of waging sectarian "ethnic cleansing" against Iraq's Sunnis.

Sheik Mohammed Faidhi, a spokesman for the Muslim Scholars Assn., called the operation "a scandal which is bigger than Abu Ghraib," the prison where Iraqi inmates were humiliated and abused by U.S. soldiers.

"Places are raided, innocents are killed and villages are bombed under the pretext of terrorists," he said.

U.S. military officials and local political leaders insisted that there had been no bombing.

The troops searched on foot, they said, adding that there had been no firefights in the first two days, no resistance to the troops and no deaths or injuries.

In Samarra, about 30 miles south of the search area, a soldier from the 3rd Brigade Combat Team of the 101st Airborne was shot and killed Thursday while manning an observation post.

The military said the killing of the soldier was unrelated to the operation.

Two other soldiers from the 101st Airborne were killed Thursday in an "indirect fire attack" on their base northwest of Tikrit, the military announced today.

The names of all three were withheld pending notification of their relatives.

Officials said about 1,500 people live in the remote area where the offensive is taking place.

There are about 150 buildings, mostly simple huts. By evening Friday, about a third of them had been searched.

At a 70-acre okra and wheat farm, Rahma Saleh was making flatbread in an outdoor stove in the 80-degree sunshine while two of her seven children looked on.

"A lot of people came here and searched," she said while pounding out the dough, wetting it and sticking it to the inside of the stove's narrow chimney.

Saleh, who said her husband had been wounded in the Iran-Iraq war and could no longer work, called the soldiers polite and "very respectful." But she insisted: "It's all families here, no insurgents."

The deputy governor of Salahuddin province, Abdullah Hussein, disagreed. He said residents had been complaining of being harassed by insurgents.

"A lot of people have been killed for not cooperating with them," he said.

The bombing of the shrine in Samarra was a factor in the decision to go after the insurgents nearby.

The deputy governor guessed that they numbered about 200; U.S. officers estimated that the number was closer to 100.

Jabbar, a brigade commander with the Iraqi forces, said he was hunting a group called Mohammed's Army, or Takfiris, which was linked to the forces of Jordanian militant Abu Musab Zarqawi.

Their principal target, the Iraqis said, was Hamed Taki, alleged to be the leader of a terrorist cell.

A U.S. military official called Taki "a person of interest that we'd like to catch."

Elsewhere in Iraq, gunmen in Ramadi attacked people headed to Friday prayers, killing one, and fought Iraqi soldiers, killing five, officials said.

In Baghdad, gunmen also attacked worshipers, killing two and injuring 16. A suicide bomber killed himself and the driver of a bus.

Police found six more bodies around Baghdad. Four of the victims had been blindfolded, handcuffed and shot in the head.

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Times staff writers Asmaa Waguih, Caesar Ahmed, Raheem Salman and Zainab Hussein in Baghdad contributed to this report.

Study Is Said To Find Overlap In U.S. Counterterror Effort (NYT)

By Thom Shanker

The New York Times, March 18, 2006

WASHINGTON, March 17 — A classified Pentagon study analyzing the effectiveness of Special Operations forces has found that the military's counterterrorism effort is hampered by bureaucratic duplication, officials said, citing in particular an overlap between new government centers.

The study also found evidence of broad resistance to the Special Operations Command's new counterterrorism role, from regional military commands and from other parts of the government's sprawling defense and intelligence apparatus.

The findings were viewed as so provocative that the classified report has not been distributed widely, even among officials with the security clearance needed to read such internal reviews, Pentagon and military officials said. The study was initially ordered by Defense Secretary Donald H. Rumsfeld.

Pentagon and military officials who have read the study say that the mission of the new Center for Special Operations, a large military headquarters created in Florida in 2003, mirrors the work of the new National Counterterrorism Center, established by executive order in 2004. The military center is intended to bring together elements of the armed services under a three-star general; the intelligence center answers to John D. Negroponte, the director of national intelligence.

The officials were granted anonymity to discuss the classified report's contents because they were not authorized to speak about it.

The review, conducted by a retired four-star officer, Gen. Wayne A. Downing Jr., grew out of a budget and strategy briefing last October during which Mr. Rumsfeld expressed grave concerns over the readiness of the troops and the effectiveness of the Special Operations Command's counterterrorist operations.

"The Rumsfeld family crest probably says something like, 'More, and faster,' " said a senior Pentagon official involved in the policy debate over the role of the command, known as Socom in military circles. "So what he thinks about Socom is, 'With all this new money and all these extra people and all this wider latitude to maneuver, why haven't you won the war on terror for me yet?' "

The Special Operations Command reports to Mr. Rumsfeld, and falls outside those organizations that report to Mr. Negroponte. The command's new global role in counterterrorism has rankled some officers at the Pentagon and in regional war-fighting commands who previously took charge of that mission.

Some of the command's new efforts, in particular the placement of small teams in American embassies to gather intelligence on terrorists and to prepare for potential missions, has outraged some intelligence officers and career diplomats.

According to Pentagon civilians and military officers who have read the Downing study, the review found "a tremendous duplication of effort" in the government and military that overlaps with assignments given the Special Operations Command.

More broadly, the review found that the government-wide national security bureaucracy still does not respond rapidly and effectively to the new requirements of the counterterrorism campaign. The report said more streamlining was necessary across a broad swath of the civilian bureaucracy and military, including civilians in the policy office that reports to Mr. Rumsfeld and the office of the secretary of defense, the military organization that reports to the chairman of the Joint Chiefs of Staff, the regional combatant commanders and even the National Security Council staff at the White House.

One Pentagon official who read the review said it criticized the Defense Department and National Security Council bureaucracy for not creating ways to answer Socom's real-time needs, forcing the command to navigate plodding bureaucratic channels whenever it wanted to adjust course. The official said this made it difficult to mount the quick action required to single out insurgents or terrorist leaders whose locations may become known only for brief periods of time.

Seeking answers to his concerns, Mr. Rumsfeld asked General Downing, who is known for his blunt, independent style, to conduct the classified review. General Downing, a former Socom commander, led the inquiry into the 1996 bombing at the Khobar Towers housing complex in Saudi Arabia and served as counterterrorism adviser for the first President Bush.

Contacted by telephone and e-mail, General Downing declined to discuss the review, citing the secrecy of the project. But when asked to summarize his personal views of the debate, he said: "Over the years, the inter-agency system has become so lethargic and dysfunctional that it materially inhibits the ability to apply the vast power of the U.S. government on problems. You see this inability to synchronize in our operations in Iraq and in Afghanistan, across our foreign policy and in our response to Katrina."

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The Downing study criticizes Pentagon civilians, the military's Joint Staff, the regional war-fighting commanders and the National Security Council staff for not readjusting their organizations to expedite the Special Operations Command's new counterterrorism missions.

Another official who read the review said it took to task senior civilian and military leaders who demanded "responsive, flexible, agile operations around the world, yet tolerate a staff system that gives you exactly the opposite."

Under a Unified Command Plan signed by President Bush, the Special Operations Command now "leads, plans, synchronizes, and as directed, executes global operations against terrorist networks." But the Special Operations Command, based in Tampa, Fla., "does not have the power to do what it has been assigned," said yet another official in paraphrasing the report.

The report included one radical proposal: It advocated relocating to Washington the headquarters of the Joint Special Operations Command, which runs all of the "special-mission units" that carry out the most secret attacks against terrorists and work to halt the proliferation of unconventional weapons. It proposed that these highly trained units then be put under Mr. Rumsfeld's direct, personal control.

Several readers of the Downing review said they believed the proposal was intended to call the bluff of those at the Pentagon who say these elite counterterrorism teams are not doing enough to find and capture or kill terrorist leaders. The implicit message, the readers said, was that if Pentagon leaders were dissatisfied, then they should try being in charge of planning and executing counterterrorism missions.

That proposal was rejected.

Documents Reveal Iraqis Dodging Inspectors (AP)

By Katherine Shrader

AP, March 18, 2006

Iraqi officials talked about when and how to deceive international authorities about their weapons programs in the mid-1990s, referring at one point to materials imported from the United States for an apparent chemical program.

A transcript of the conversation is one of several dozen documents made public Friday by the U.S. government as part of a program allowing researchers, the media and Iraqis comb through millions of pages of documents and audio recordings confiscated since the 2003 invasion.

In the U.S. government's translation of captured Iraqi audio recordings, an official identified as "Comrade Husayn" talks to Iraqi President Saddam Hussein and other officials about when it would be best to lie to weapons inspectors and U.N. Security Council members and when to be open.

He shows particular concern that outsiders will learn about the importation of material, including some from the U.S., apparently for chemical weapons.

"They have a bigger problem with the chemical program than the biological program," he says. "We have not told them that we used it on Iran, nor have we told them abut the size or kind of chemical weapons that we produced, and we have not told them the truth about the imported material."

He went on to say, "We imported a quantity from America and we imported a quantity from Europe. However, we did not come forth with the quantities."

On the overall question of weapons of mass destruction, he said: "I must say that it is in our best interest not to uncover it, not only in fear of exposing the technology that we have or that we possess or to hide it for future agendas."

The precise date of the conversation was not clear, but clues suggest it came at the end of Rolf Ekeus' leadership of the United Nations Special Commission on Iraq, which he headed from 1991 to 1997.

The documents show debates among Iraq's senior leadership about U.N. sanctions, inspections and resolutions — and how to handle the country's economic and military security. They come in an era when U.S. officials now believe that Saddam's ability to develop weapons of mass destruction was diminishing, under pressure from international sanctions.

Although the Bush administration used the weapons programs as the main justification for the 2003 invasion, U.S. arms inspectors ultimately found no concrete evidence that Iraq produced weapons of mass destruction after 1991.

Yet the Iraqis apparently were far from forthcoming about their actions. Another conversation with Saddam from the mid-1990s indicates that officials knew they had problems with the weapons inspectors.

"On the nuclear file, sir, we are saying we disclosed everything? No, we have uncleared problems in the nuclear field, and I believe that they (the inspectors) know some of them," said a man identified as al-Sahhaf, possibly a reference to the former Iraqi diplomat and Information Minister Mohammed Saeed al-Sahaf. "Some teams work, and no one knows some of them."

He then apologized for speaking so clearly. "Everything is over. But, did they know? No, sir, they did not know, not all the methods, not all the means, not all the scientists and not all the places."

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He tells Saddam that missing materials and equipment — for biological and nuclear weapons — would be a problem in dealing with the U.N. as it crafted resolutions against Iraq. "Really, sir, we must be frank so that the resolution will be straightforward," al-Sahaf said.

The transcripts also show extensive debates among Saddam's inner circle about how to deal with other governments.

"Comrade Husayn" expressed frustration at Iraq's increasing isolation, venting particularly at the French, who were managing to upset the Americans as well.

He said the French had an "attitude."

"To be truthful before your Excellency, I do not trust the French in their current position. Maybe this will change after the election," said Husayn. "I think that they are more distant than the Chinese are, even though the Chinese are very far also. They (French) appear in the Security Council with a yes one time and a no another time.

"Therefore, sir, my personal belief is that they are layered (two-faced) and possibly in coordination with America and in coordination with the world."

Years later, the U.S. and the French would be at odds over the invasion of Iraq.

There are personal nuggets in the documents, too. "Bring us tea and milk," Saddam would interrupt meetings to order. Attendants would hustle to pour.

Saddam also spoke to his aides about a need to give Iraqis hope in the face of sanctions that were starting to make them suffer.

"We can't just tell the people to be patient," he said. "They need to see and hear results that they consider logical."

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Associated Press Writer Cal Woodward contributed to this report.

New Documents From Saddam Hussein's Archives Discuss Bin Laden, WMDs (ABC)

ABC News website, March 16, 2006

U.S. Government Releases Papers From Saddam's Reign

March 16, 2006 — Following are the ABC News Investigative Unit's summaries of four of the nine Iraqi documents from Saddam Hussein's government, which were released by the U.S. government Wednesday.

The documents discuss Osama bin Laden, weapons of mass destruction, al Qaeda and more.

The full documents can be found on the U.S. Army Foreign Military Studies Office Web site: http://fmso.leavenworth.army.mil/products-docex.htm.

Note: Document titles were added by ABC News.

"Osama bin Laden and the Taliban"

Document dated Sept. 15, 2001

An Iraqi intelligence service document saying that their Afghani informant, who's only identified by a number, told them that the Afghani Consul Ahmed Dahastani claimed the following in front of him:

That OBL and the Taliban are in contact with Iraq and that a group of Taliban and bin Laden group members visited Iraq.

That the U.S. has proof the Iraqi government and "bin Laden's group" agreed to cooperate to attack targets inside America.

That in case the Taliban and bin Laden's group turn out to be involved in "these destructive operations," the U.S. may strike Iraq and Afghanistan.

That the Afghani consul heard about the issue of Iraq's relationship with "bin Laden's group" while he was in Iran.

At the end, the writer recommends informing "the committee of intentions" about the above-mentioned items. The signature on the document is unclear.

(Editor's Note: The controversial claim that Osama bin Laden was cooperating with Saddam Hussein is an ongoing matter of intense debate. While the assertions contained in this document clearly support the claim, the sourcing is questionable — i.e. an unnamed Afghan "informant" reporting on a conversation with another Afghan "consul." The date of the document — four days after 9/11 — is worth noting but without further corroboration, this document is of limited evidentiary value.)

"Election Campaign Laws in France"

Documents dated July-August 1999

Correspondence regarding election campaigns in France. This includes a document from the Iraqi intelligence service classified as "secret," ordering the translation of important parts of a 1997 report about campaign financing laws in France. It also includes a document from the foreign minister's office indicating the report was attached. The attached translated report included very detailed information about all the regulations regarding financing of election campaigns in France. Translation was done by someone called "Salam Abdul Karim Mohammed."

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(Editor's Note: This is an intriguing document which suggests Saddam Hussein's regime had a strong interest in the mechanics and legalities of financial contributions to French politicians. Several former French politicians are implicated in receiving oil vouchers from Iraq under the U.N. Oil for Food program.)

"Hiding Docs from the U.N. Team"

Document dated March 23, 1997

A letter from the Iraqi intelligence service to directors and managers advising them to follow certain procedures in case of a search by the U.N. team, including:

Removing correspondence with the atomic energy and military industry departments concerning the prohibited weapons (proposals, research, studies, catalogs, etc.).

Removing prohibited materials and equipment, including documents and catalogs and making sure to clear labs and storages of any traces of chemical or biological materials that were previously used or stored.

Doing so through a committee which will decide whether to destroy the documents.

Removing files from computers.

The letter also advises them on how they should answer questions by U.N. team members. It says the intelligence service should be informed within one week about the progress made in discarding the documents.

(Editor's Note: This document is consistent with the Report of the Special Advisor to the Director of Central Intelligence, which described a pattern of deception and concealment on the part of Saddam Hussein's government towards the U.N. inspectors in the mid to late 90's. Hussein halted all cooperation with those inspectors and expelled them in October 1998.)

"Al Qaeda Presence in Iraq"

Document dated August 2002

A number of correspondences to check rumors that some members of al Qaeda organization have entered Iraq. Three letters say this information cannot be confirmed. The letter on page seven, however, says that information coming from "a trustworthy source" indicates that subjects who are interested in dealing with al Qaeda are in Iraq and have several passports.

The letter seems to be coming from or going to Trebil, a town on the Iraqi-Jordanian border. Follow up on the presence of those subjects is ordered, as well as comparison of their pictures with those of Jordanian subjects living in Iraq. (This may be referring to pictures of Abu Musaab al Zarqawi and another man on pages 4-6) The letter also says tourist areas, including hotels and rented apartments, should be searched.

(Editor's note: This document indicates that the Iraqis were aware of and interested in reports that members of al Qaeda were present in Iraq in 2002. The document does not support allegations that Iraq was colluding with al Qaeda.)

Papers Give Glimpse Of Al-Qaida Recruits (LAT/AP)

By Sam F. Ghattas, Associated Press Writer

The Los Angeles Times, March 18, 2006

BEIRUT, Lebanon — Recruits at Osama bin Laden's terrorist training camps in Afghanistan were clamoring for suicide missions against the United States more than a year before the Sept. 11 attacks, according to al-Qaida documents declassified by the U.S. Defense Department.

One document published on the Pentagon Web site this week contained rare criticism of bin Laden from an al-Qaida operative, who accused the terrorist leader of monopolizing decision-making and ignoring advice.

"We must completely stop outside operations until we sit down and consider the disaster we have caused," said the operative, who used the name Abdel Halim Adel.

Adel appealed to a friend in the al-Qaida leadership to steer the group away from the policies of bin Laden, whom he referred to as Abu Abdullah.

"Stop foreign operations, stop sending people to detention, and stop planning new operations, whether they are ordered by Abu Abdullah or not," he wrote.

The documents provide a rare glimpse of the mentality and training of recruits at al-Qaida's camps in Afghanistan, where bin Laden was based until late 2001. After the Sept. 11, 2001, attacks on New York and Washington, the United States threw its weight behind opponents of the Taliban regime that hosted bin Laden.

While the camps in Afghanistan have been destroyed, many of those who trained there have returned to their home countries, taking al-Qaida's ideology and tactics with them.

The U.S. military said the documents, published Wednesday, were "captured during recent operations." Some were seized in the 2003 invasion of Iraq but many, according to U.S. Rep. Pete Hoekstra, were found in Afghanistan.

"Why have the martyrdom operations against the Americans been delayed?" one recruit wrote on a calendar page dated July 8, 2000.

Another recruit referred to the 1998 suicide attacks on the U.S. embassies in Kenya and Tanzania, which killed 231 people, saying: "We look forward to martyrdom operations like the ones in Nairobi and Dar es Salaam. What are the characteristics of the man that is required to execute such operations?"

A third recruit asked the leadership why it disapproved of assassination: "Why do you oppose and find it inappropriate, knowing that it cleansed many tyrants?"

The recruits called bin Laden "sheik," a clerical title. But it was not clear whether their questions were addressed to him or to one of his lieutenants.

"Our sheik, you have previously given us lessons and asked the question: 'How do we drive the infidels out of the Arabian Peninsula?'" a recruit said in one document.

He then asked: "Is striking at the origin (America) the priority or is it driving them out (of Saudi Arabia)?"

The documents show al-Qaida members were concerned about their safety and the safety of their families, although they embraced suicide attacks.

Adel, the operative who criticized bin Laden, protests the leadership's posting on the Internet of a letter in which he sent kisses to his children.

"Please quickly take it off because I think the whole world now knows how many kids I have and their names," he wrote.

A recruit said a reconnaissance plane has been spotted over the camp and asked: "Why aren't there enough personal weapons (Kalashnikov rifles) for the self-defense of all the holy warriors, particularly as an attack on the camp by the global infidels is possible anytime?"

Bin Laden is thought to have written one of the documents -- a letter to Taliban leader Mullah Omar. It is not clear whether the letter was written before or after Omar was overthrown.

Bin Laden told Omar that if they continued attacks in the "Islamic republics" -- apparently Muslim-dominated areas of the former Soviet Union -- it will "keep the enemies busy and divert them away from the Afghan issue and ease the pressure."

"It is a fact that the region of the Islamic republics is rich with significant scientific experience in conventional and non-conventional military industries, which will have a great role in future holy war against the enemies of Islam," the letter said. It was not specific about the type of non-conventional armaments, but seemed to refer to biological and chemical warfare.

The letter also addressed the importance of communicating with the media, a matter on which Mullah Omar would have disagreed. The Taliban leader was known for refusing press interviews and avoiding cameras.

"It is obvious that the media war in this century is one of the strongest methods (of struggle). In fact, its ratio may reach 90 percent of the total preparation for battles," bin Laden wrote.

The release of the documents, which is expected to continue for months, is designed to allow U.S. lawmakers and the public to investigate issues such as what Saddam Hussein's Iraqi regime said about weapons of mass destruction.

The Pentagon cautioned it has made "no determination regarding the authenticity of the documents, validity or factual accuracy."

Cited As Symbol Of Abu Ghraib, Man Admits He Is Not In Photo (NYT)

By Kate Zernike

The New York Times, March 18, 2006

In the summer of 2004, a group of former detainees of Abu Ghraib prison filed a lawsuit claiming that they had been the victims of the abuse captured in photographs that incited outrage around the world.

One, Ali Shalal Qaissi, soon emerged as their chief representative, appearing in publications and on television in several countries to detail his suffering. His prominence made sense, because he claimed to be the man in the photograph that had become the international icon of the Abu Ghraib scandal: standing on a cardboard box, hooded, with wires attached to his outstretched arms. He had even emblazoned the silhouette of that image on business cards.

The trouble was, the man in the photograph was not Mr. Qaissi. [Editors' Note, Page A2.]

Military investigators had identified the man on the box as a different detainee who had described the episode in a sworn statement immediately after the photographs were discovered in January 2004, but then the man seemed to go silent.

Mr. Qaissi had energetically filled the void, traveling abroad with slide shows to argue that abuse in Iraq continued, as head of a group he called the Association of Victims of American Occupation Prisons.

The New York Times profiled him last Saturday in a front-page article; in it, Mr. Qaissi insisted he had never sought the fame of his iconic status. Mr. Qaissi had been interviewed on a number of earlier occasions, including by PBS's "Now," Vanity Fair, Der Spiegel and in the Italian news media as the man on the box.

This week, after the online magazine Salon raised questions about the identity of the man in the photograph, Mr. Qaissi and his lawyers insisted he was telling the truth.

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Certainly, he was at Abu Ghraib, and appears with a hood over his head in some photographs that Army investigators seized from the computer belonging to Specialist Charles Graner, the soldier later convicted of being the ringleader of the abuse.

However, he now acknowledges he is not the man in the specific photograph he printed and held up in a portrait that accompanied the Times article. But he and his lawyers maintain that he was photographed in a similar position and shocked with wires and that he is the one on his business card. The Army says it believes only one prisoner was treated in that way.

"I know one thing," Mr. Qaissi said yesterday, breaking down in tears when reached by telephone. "I wore that blanket, I stood on that box, and I was wired up and electrocuted."

Susan Burke, a lawyer in Philadelphia who is representing Mr. Qaissi and other former prisoners in a lawsuit against civilian interrogators and translators at Abu Ghraib, said that Mr. Qaissi had been abused in the same way as the man in the photo. "The sad fact is that there is not only one man on the box," she said.

Using a name that Mr. Qaissi is often called, she said, "Haj Ali is but one of many victims of the torture by Graner and the others."

In the interview for the article, Mr. Qaissi pointed to his deformed hand and said it matched the hand in the photograph. A close look at the photograph, however, is inconclusive.

Whether he was forced to stand on a box and photographed is not clear, but evidence suggests that he adopted the identity of the iconic man on the box, the very symbol of Abu Ghraib, well after he left the prison.

Records confirm that Mr. Qaissi became inmate 151716 sometime after the prison opened in June 2003, but do not give firm dates; Mr. Qaissi, a 43-year-old former Baath Party member and neighborhood mayor in Baghdad, said he arrived at Abu Ghraib in October 2003 and was released in March 2004, two months after the Army began an investigation into the abuse.

And he suffered mistreatment and humiliation at the hands of the same people who photographed the man on the box: photographs investigators seized show him forced into a crouch, identifiable by his mangled hand, with the nickname guards gave him — "The Claw" — scrawled in black marker across his orange jumpsuit.

But if he was the hooded man on the box, he did not mention it on several key occasions in the first months after the scandal broke.

In the spring of 2004, Mr. Qaissi approached Muhammad Hamid al-Moussawi, the deputy director of the Human Rights Organization of Iraq, and proposed that the men set up a group for prisoners of the occupation, Mr. Moussawi said this week. Yet Mr. Qaissi never claimed at the time that he had been the man in the photograph, Mr. Moussawi recalled.

A journalist who interviewed Mr. Qaissi three times that May and June about what happened at Abu Ghraib similarly said he never mentioned the pose or the photograph. The journalist, Gert Van Langendonck, said Mr. Qaissi mentioned the other cruelties he described in the Times profile.

A lawsuit Mr. Qaissi joined, filed on July 27, 2004, also made no allegation that he was shocked with wires or forced to stand on a box. That allegation appeared only on an amended version of a complaint he later joined, filed last month, which said he had been forced to stand on the box and fell off from the shocks of the electrocution: "They repeated this at least five times."

Another man had already been publicly identified as the man on the box in May 2004, when documents including logbooks and sworn statements from detainees and soldiers were leaked to The Times.

On May 22, 2004, The Times quoted the testimony of a detainee, Abdou Hussain Saad Faleh: "Then a tall black soldier came and put electrical wires on my fingers and toes and on my penis, and I had a bag over my head. Then he was saying, 'Which switch is on for electricity?'"

Specialist Sabrina Harman, one of the soldiers later convicted of abuse, identified the man by his nickname, Gilligan, in her statement.

She left some room to believe that others were subjected to the same treatment. "The wires part," she said, was her idea, but she said Specialist Graner and Staff Sgt. Ivan Frederick II had forced detainees to stand on a box to stay awake, and did so at the request of military intelligence officials. Abu Ghraib photographs show more than one example of a hooded man forced to stand on boxes.

But Chris Grey, a spokesman for the Army's Criminal Investigation Command, said that the military believed that Mr. Faleh had been the only prisoner subjected to the treatment shown in the photo. "To date, and after a very thorough criminal investigation, we have neither credible information, nor reason to believe, that more than one incident of this nature occurred," he said.

Mr. Qaissi's lawyer, Ms. Burke, countered, "We do not trust the torturers."

Mr. Qaissi seems to have first begun identifying himself as the hooded man in the fall of 2004, by which point he had started his prisoners' group out of a politically charged mosque in Baghdad.

In an article in the February 2005 issue of Vanity Fair, Donovan Webster identified Mr. Qaissi as Haj Ali, the likely man on the box, based on an extensive investigation of military records. Soon, Mr. Qaissi was featured in numerous profiles, including in

Der Spiegel, reprinted by Salon, as well as on the PBS current affairs program "Now," where he described being shocked: "It felt like my eyeballs were coming out of my sockets."

With his soft voice and occasionally self-deprecating humor, he has impressed interviewers as affable and credible. He told his story with a level of detail that separated it from that of many others.

Most of his assertions and details could be confirmed, Mr. Webster and others stress. In his three-hour interview with The Times, Mr. Qaissi did not veer from reported details and appeared confident in his discussion, punctuating his story with bitter laughter and occasionally, tears. But he never raised the possibility that another man may have also been photographed in the same pose.

Human rights workers were compelled by his story, as well. Reporting the Saturday article, The Times relied in part on their statements that he could well be the hooded man, as well as on prison records and interviews with friends and his lawyers, who say they have Mr. Qaissi's blanket, the same one, they said, draped over the man in the photograph. Army officials at the time refused to confirm or refute Mr. Qaissi's claims, citing privacy protections in the Geneva Convention.

Abdel Jabbar al-Azzawi, who now lives in Baghdad and says he was in the prison with both Mr. Qaissi and the man named Gilligan and has joined the lawsuit, says he saw Mr. Qaissi wearing the blanket fashioned into a poncho depicted in the photograph, though he did not see the photographs being taken.

Mr. Qaissi's lawyers also stress that the iconic photograph is not the basis of his case. In court papers, he also says he was punched, kicked, hit with a stick and chained to his cell while his captors poured cold water over his naked body.

Meanwhile, it is not clear what happened to the real hooded man, Mr. Faleh. An Army spokesman said he was released from American custody in January 2004. Tribal leaders, and the manager of a brick factory next to the address where prison records say he lived, said they had never heard the name. Besides, they said, detainees often make up identities when they are imprisoned. Mr. Qaissi's attorneys said they have not attempted to search for him.

Times Says It Misidentified Iraqi As Hooded Prisoner (WP)

By Howard Kurtz

The Washington Post, March 18, 2006

It was a dramatic front-page story to match an infamous photo: the chilling shot of an Abu Ghraib prisoner, hooded, standing on a box, electrical wires attached to his outstretched arms.

He is Ali Shalal Qaissi, the New York Times said last Saturday, and the Iraqi told the paper that his wounds are still raw.

But after questions were raised by the online magazine Salon, the Times acknowledged last night that the story was flat wrong. The prisoner in the photograph was not Qaissi, who has belatedly admitted that to the newspaper.

"The Times did not adequately research Mr. Qaissi's insistence that he was the man in the photograph" and "should have been more persistent in seeking comment from the military," the paper said in an editor's note.

Susan Chira, the Times foreign editor, said in an interview earlier this week that Salon had "raised legitimate questions" about the newspaper's story. "Any time you talk to someone like this, you worry: Are they telling you some kind of story?"

In a story published in today's editions, Qaissi is quoted as saying in a tearful telephone interview that he was photographed in a similar position. "I know one thing," Qaissi told the Times. "I wore that blanket, I stood on that box, and I was wired up and electrocuted."

The Army, however, says that only one man was mistreated that way, a prisoner whom guards nicknamed "The Claw," according to the Times report. Further undercutting Qaissi's account, the Times reported, is that he never claimed to have been the man under the hood in the first months after his release from Abu Ghraib or in a July 2004 lawsuit that he joined.

In last Saturday's Times story, written from Amman by staff writer Hassan Fattah, the 43-year-old Qaissi was quoted as saying: "I never wanted to be famous, especially not in this way." The paper reported that Qaissi has a slight limp and a mangled hand -- an old injury that became infected by his shackles -- after his six-month imprisonment at Abu Ghraib in 2003 and 2004, and that he is now a prisoner advocate who uses the hooded image on his business card.

A U.S. military spokesman would not comment to the Times, citing the Geneva Conventions' rules against disclosing the identity of prisoners. But the paper said government records made available by Amnesty International show that Qaissi was in U.S. custody at the time and that the organization, along with Human Rights Watch and attorneys involved in a class-action suit over the abuses at Abu Ghraib, "believe that he is the man in the photograph."

In today's report, however, the Times said: "Evidence suggests that he adopted the identity of the iconic man on the box, the very symbol of Abu Ghraib, well after he left the prison."

Qaissi, who had been a neighborhood official in Saddam Hussein's government, has been touring the Arab world and delivering computer slide shows about the mistreatment of prisoners at Abu Ghraib, the photographs of which became a global embarrassment for the U.S. military after they were obtained by several news organizations.

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Days after the Times story was published, Salon reported that Qaissi was not the man in the picture and that it was actually "another detainee, named Saad, whose full name is being withheld by Salon to protect his identity." The magazine cited Army documents and confirmation by a spokesman for the Army's Criminal Investigation Command.

Salon Editor Joan Walsh said her organization raised questions after obtaining 279 photos taken inside Abu Ghraib along with other Army documents. "We thought, gee, let's check and see how this lines up with the documentation we had, and it really didn't," Walsh said. "We knew who the Army said that particular prisoner was," and it was not Qaissi.

The Times was hardly the only news organization to name Qaissi as the hooded prisoner, although its profile -- headlined "Symbol of Abu Ghraib Seeks to Spare Others His Nightmare" -- gave him considerable prominence. Vanity Fair, the PBS show "Now," Der Spiegel and the Italian news media have all identified Qaissi as "The Claw."

"We did not present this as a scoop," Chira said. After careful checking, "we came up with a lot of people who believed he was this guy" in the photo.

Walsh credited the Times for its response to Salon. "As a Times subscriber, I was happy they moved to at least try to correct the record so quickly," she said.

Abu Ghraib Dog Handler Case Goes To Jury (AP)

By David Dishneau

AP, March 18, 2006

A military jury began deliberating Friday in the case against an Army dog handler accused of using his barking animal to torment prisoners at Abu Ghraib for his own amusement.

Sgt. Michael Smith, 24, of Fort Lauderdale, Fla., could get up to 24 1/2 years in prison if convicted on all counts.

The jury met for about six hours before going home. Deliberations were to resume Monday morning.

The government contended Smith and another canine handler competed to make terrified prisoners at the Iraqi prison soil themselves. The defense argued that Smith believed he was following orders in a chaotic and confusing environment.

An Army prosecutor, Maj. Christopher Graveline, said in his closing argument that Smith violated training on treating prisoners humanely and using the minimum amount of force necessary. Graveline showed the jury enlarged photographs from 2003 and 2004 of Smith's black Belgian shepherd menacing cowering detainees.

"American soldiers don't do that," Graveline said. "And we don't do it because we think it's fun. And we don't do it for our laughs. And we don't take pictures of it."

But defense attorney Capt. Mary G. McCarthy countered: "He's on trial for his life for things he did because he thought he was supposed to — things he did because there was a lack of clear guidance."

She said that all Smith's dog did to prisoners was bark at them. One witness' testimony that the dog appeared to have nipped a prisoner's wrist was not corroborated.

Smith told investigators that he and Sgt. Santos A. Cardona used their unmuzzled dogs to help military intelligence interrogators. Cardona, 31, of Fullerton, Calif., is to stand trial May 22.

Testimony in the trial revealed conflicting notions among prison workers about how dogs were supposed to be used and what the approval process was.

Abu Ghraib's former military intelligence chief, Col. Thomas M. Pappas, testified that the dogs were to be used "to assist in setting conditions for interrogations." Pappas said that he approved a one-time use of muzzled dogs inside interrogation booths but later learned he lacked the authority to give such an order.

Military Investigating Deaths Of 15 Iraqis (AP)

By Lolita C. Baldor

AP, March 18, 2006

The military will investigate allegations of potential misconduct by Marines during a bombing and firefight last November that left 15 Iraqi civilians dead, a top U.S. commander in Iraq said Friday.

Lt. Gen. Peter Chiarelli, the number two U.S. commander in Iraq, said that after a preliminary review of the incident he directed a criminal investigation into whether the Marines violated the rules of military engagement.

"We take these allegations of potential misconduct seriously and they will be thoroughly investigated. I really can't comment any further on this incident because of the ongoing investigation," said Chiarelli, who made the first public statements about the investigation Friday while speaking from Iraq to Pentagon reporters.

About a dozen Marines are being investigated for possible war crimes in connection with the November 2005 bombing and subsequent firefight between Marines and insurgents that led to the deaths of the Iraqi citizens. The 15 Iraqi civilians were initially reported killed by a roadside bomb.

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Chiarelli said allegations of possible violations were brought to the attention of the military by a reporter in mid-February. He has referred the matter to the Naval Criminal Investigative Service.

Fifteen Iraqis, eight insurgents and a Marine were killed during the Nov. 19 firefight, which began when a roadside bomb detonated next to a joint Iraqi-U.S. squad patrolling Haditha, about 140 miles northwest of Baghdad. Immediately after the explosion, insurgents attacked the patrol with small arms.

The Marine killed was assigned to Regimental Combat Team 2 of the 2nd Marine Division; two other Marines were wounded. Defense officials would not identify the unit or Marines involved in the investigation. While several Iraqis were part of the patrol, they are not involved in the investigation, the official said.

Military officials will try to determine whether the Marines followed the international law of armed conflict, including whether they positively identified or tried to identify the enemy and whether they determined there was hostile intent, as they are supposed to do.

The law regulates international military operations, and anyone found in violation can be held liable for war crimes and be court-martialed under the Uniform Code of Military Justice.

It is not uncommon for insurgents to launch attacks from homes, hospitals and other public buildings, where civilians can get caught in the crossfire.

The official said the investigation is not focused on any one individual. About a dozen Marines were involved in the incident.

As the Iraq war ends its third year, estimates vary on civilian casualties. President Bush has said he thinks at least 30,000 Iraqis had been killed as of December, while some researchers put the number at 50,000 or more.

More than 2,300 U.S. military personnel have died, but the Pentagon does not release a tally of civilian or insurgent deaths.

U.S. To Investigate Civilian Deaths In Iraq (KRT)

By Drew Brown

Knight Ridder, March 18, 2006

WASHINGTON - Naval investigators are looking into whether Marines intentionally killed 15 Iraqi civilians - four of them women and five of them children - during fighting last November, defense officials said Friday.

One official said it's unclear whether the Marines killed the civilians accidentally or whether they fired indiscriminately. It's also unclear whether all the civilians died in the same house or in separate locations. Among the dead was a 15-year-old girl, an official said.

The investigation will examine how the Marines determined hostile intent during the firefight and whether they attempted to positively identify their targets before firing, the official said.

Lt. Gen. Peter W. Chiarelli, the ground commander of U.S. and coalition forces in Iraq, said he ordered the investigation to determine what happened during a firefight on Nov. 19, 2005, after insurgents exploded a bomb near a Marine convoy in the insurgent stronghold of Haditha, in western Iraq.

A U.S. military press release issued the next day said that one Marine and 15 Iraqi civilians died in the blast and that eight insurgents were killed in an ensuing firefight.

Chiarelli said he ordered an initial fact-finding investigation on Feb. 14 after a news reporter in Iraq raised allegations of possible wrongdoing by the Marines.

Chiarelli said he ordered the second investigation on March 9. That was after the preliminary inquiry found that the civilians didn't die in the blast, but were killed in the firefight that followed, according to the two defense officials familiar with the investigation.

"We take these allegations of potential misconduct seriously, and they will be thoroughly investigated," Chiarelli said, speaking from Iraq by teleconference to reporters at the Pentagon.

The Navy's Criminal Investigative Service is conducting the probe.

The Navy's investigation will seek to answer whether the Marines killed the civilians accidentally or whether the killings were deliberate, said one of the defense officials. The two officials asked not to be named because they weren't authorized to comment on specifics of the case.

CNN reported the first details of the investigation late Thursday.

Marines from the 2nd Marine Division's Regimental Combat Team 2 were traveling in a four-Humvee convoy through Haditha on Nov. 19 when an improvised explosive device went off, according to one of the officials. Lance Cpl. Miguel Tarrazas, 20, of El Paso, Texas, was killed in the blast.

The explosion was the first of five blasts and coordinated small-arms attacks that hit the Marines over the next five hours. They stopped only after U.S. warplanes dropped two bombs on suspected insurgents, an official said. Haditha, which is about

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140 miles northwest of Baghdad, is an insurgent stronghold and has been the scene of frequent attacks on U.S. troops in the past three years.

After the initial blast, a gun battle developed in which a squad of 12 to 15 Marines pursued the insurgents from house to house, with civilians inside apparently caught in the crossfire.

The incident isn't the first time that U.S. forces have been accused of killing unarmed civilians in Iraq. During the siege of the insurgent stronghold of Fallujah in November 2004, a television cameraman recorded a Marine shooting and killing an unarmed Iraqi who'd been wounded during the fierce fighting. The Marine was later cleared of any wrongdoing.

The two officials who asked not to be identified said that the squad that's under investigation in the present case is from the same unit, 3rd Battalion, 1st Marine Regiment, that was involved in the 2004 incident.

Casualty Of War (NSWK)

By Robina Riccitiello With Martha Brant and Karen Breslau

Newsweek, March 18, 2006

Damaged brains are emerging as the singular injury of the Iraq conflict. A soldier's story.

Sam Reyes remembers nothing of the suicide bomb attack on a highway outside Fallujah that nearly killed him on the morning of Sept. 6, 2004. Perhaps it's just as well. When medics arrived at the site of the attack, which left 12 Marines dead, they found Reyes sprawled on the road in desperate condition: his arms, back and head were pierced by shrapnel; his left arm was ripped open to the muscle; his stomach and spleen had been sliced; his ribs were broken, his face was badly burned and his tongue had been cut in half.

In the helicopter on the way to a military hospital in Baghdad, the medical team had to defibrillate his heart to keep him alive. Over the next 18 months, during an agonizing recovery, the young Marine gunner underwent several operations and lost 45 pounds. Although his physical wounds have largely healed—save for scattered scars across his forehead and his sense of taste, which has yet to return—the bomb blast left Reyes, now 21, with a less visible, but devastating injury to his brain. Like many Iraq vets who survive the concussive force of an improvised explosive device, or IED, Reyes is now sometimes unable to recognize his friends or family, to recall what he just read or heard, to concentrate or to read faster than the average second-grader. " I feel kind of odd when I see people and they say, 'Oh, you don't remember me'," says Reyes. "And I say, 'No, I don't.' They'll say, 'Remember, we did this and that when we were younger.' And I go, 'Oh, yeah.' It kind of makes me feel bad."

Like more than 1,700 military personnel wounded in Iraq and Afghanistan in recent years, Marine Cpl. Samuel Reyes Jr. is suffering from traumatic brain injury, known in military jargon as TBI, which leaves survivors unable to perform the most basic cognitive functions. According to officials at the Walter Reed Army Medical Center in Washington, TBI affects more than 25 percent of bomb-blast survivors like Sam Reyes, making it the signature injury of the Iraq war. In fact, military officials say that were it not for advances in body armor, helmets and drastically improved battlefield medicine, the majority of survivors being treated for TBI would not have even survived their injuries as recently as the first gulf war 15 years ago. The increasing number of TBI survivors and the vexing limitations they face has become an enormous challenge for both military medicine and for the Department of Veterans Affairs, which will treat these survivors for life. "In the military, the question is 'are you battle ready?'" says Dr. Harriet Zeiner, a clinical neuropsychologist for the VA in Palo Alto, Calif., where Reyes is being treated. "Our criteria at the VA [are], are you going to be able to hold down a job, sustain a relationship, get married, have kids or do you have something that's going to impair you?"

For Reyes, and hundreds of others suffering from TBI, the answers to these questions are still far from clear. The diffuse but debilitating symptoms of traumatic brain injury—which sometimes are not apparent until months after the bomb blast—can leave veterans with festering psychological problems and anger that often lead to failed relationships and careers, substance-abuse problems and the inability to adapt to civilian life. Many TBI patients, like Reyes, are also suffering from posttraumatic stress syndrome (PTSD), a psychological condition affecting many combat veterans and other trauma survivors that is marked by flashbacks, nightmares, anxiety and irritability. The combination of TBI and PTSD, says the VA's Zeiner, "is pretty deadly." Reyes suffered damage to the frontal lobe of his brain, the area that helps a person calm himself after a stressful or frightening experience and where problem-solving takes place. When Reyes becomes anxious, he quickly escalates to a state of agitation. It's not uncommon, says Zeiner, for those suffering from TBI and PTSD to "either drink themselves into a stupor," in an effort to self-medicate, or to become agoraphobic, afraid to go out where they may have to contend with overwhelming stimuli.

In the months after his injury, Reyes tried over and over again to qualify for combat duty and return to Iraq. The first three times, he wasn't strong enough to run and do the pullups required to demonstrate his fitness for duty. On the last two attempts, Reyes passed the physical tests, but knee pain, stomach problems and the increasing effects of the brain injury kept him confined to barracks at Camp Pendleton, near San Diego. While other members of his unit, the First Marine Division, Second Battalion Fox Company weapons platoon, returned from Iraq in October 2004 and went back to work at Camp Pendleton, Reyes

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lived in limbo for nearly a year. "I never had to get dressed. I didn't have to go to work," says Reyes. "They wouldn't want me to have a 'brain-injury moment'." He spent his days in the barracks watching movies and playing videogames to make the time pass and seeing a doctor for his memory problems and nightmares. He began to drink heavily. In June 2005, Reyes was examined by a civilian doctor who recognized signs of traumatic brain injury, and he was transferred almost immediately to the VA's specialized brain-injury unit in Palo Alto.

At the Palo Alto center, one of four VA facilities around the country with a specialized TBI unit, Reyes began the frustrating process of retraining the damaged memory center of his brain. All the brain-injury patients in Palo Alto are issued handheld computers, which the staff jokingly calls "brain prosthetics." Reyes sets the alarm on his twice a day in order to remember to check his to-do list. He began keeping a journal to try to spur his memory. Another device, a Franklin electronic dictionary, pronounces words to help rebuild his vocabulary while reading. It recently took Reyes a month and a half to read "Jarhead," the memoir of a Marine sniper. Before his injury, he says would have read the same book in a day or two. In his lighter moments, Reyes, who hopes to attend college on the G.I. bill, quips that Dr. Seuss's "Green Eggs and Ham" is about his speed now.

The brain damage also has painful emotional consequences. His family members were shocked that he often couldn't remember their faces. Sometimes a voice will help him remember. Other times an object can prod his memory. One buddy gave him a football to remind Reyes of his high-school football career in Houston, where he grew up. Tossing the football can bring back specific memories of plays he used to run and hits he made. Other times, it's harder to remember. If a therapist reads him a two-line story about a mom and dad going to the store and the purchases they made, he'll say, "Who went to the store?" Reyes says, "It gets kind of annoying." When he watches movies, he tends to forget by the end what happened in the beginning.

Soon after he arrived at the brain-injury center, Reyes's doctors began trying to convince him to go for treatment at the VA's PTSD center in nearby Menlo Park, where Vietnam veterans work side by side with active-duty Marines and soldiers, trying to find ways to deal with the lingering trauma of their respective wars. At first, Reyes resisted, worried that his fellow Marines might think he was weak. Meeting the other men in the PTSD treatment center had a big impact on him. "Some of them are real tough, big guys, real smart, and that made me feel better. It showed me I wasn't the only one in the whole world who would have it." Reyes says his fellow Marines who haven't gotten help are suffering. "I tried to let some guys know who I thought could use help, and they said, 'Nah, I don't need that. I take sleep medicine and I drink, so I'm doing pretty good'." Although the Marine Corps is sending some mental-health workers into the field, Reyes says he didn't have any discussions about combat-related stress. He got a brochure about PTSD at one point, but says it didn't explain the symptoms. "It scares me that all these guys could be just like me, having the same problems, and they're getting ready to ruin a whole lot of their life."

As the population of wounded Iraq veterans increases, the military is also trying to raise awareness about TBI, especially the less severe cases like Reyes's, which can easily be misdiagnosed or overlooked in the chaos of battlefield medicine. The Defense Department is developing a training course for medics to teach them how to screen for TBI in the field. Any injured combatant who has lost consciousness is a candidate for TBI diagnosis. The military is also making plans to station a TBI expert at medical facility in Germany where the U.S. wounded are first evacuated after leaving Iraq. "I'm sure people do get misdiagnosed , says Dr. Warren Lux, deputy director of the Defense and Veterans Brain Injury Center at Walter Reed. "That is why we are trying to get education out there."

For now, the 6-foot-3 Reyes fills his days with volleyball and basketball, group-therapy sessions, meditation and recreational therapy at the VA's Residential Rehabilitation Program in Menlo Park. Being so close to the civilian world has exposed him to painful criticism of the war. "It kind of hurts that I lost a lot of friends and I got injured," he says. "I guess that's what freedom of speech is for." Someday, he hopes the Iraqi children who once enthusiastically greeted Reyes and his fellow Marines will appreciate their sacrifices. In the meantime, Reyes is working on putting his own life back together. Later this year, he plans to marry, and before long, to attend college. First though, he wants to learn once again to recognize his family members, especially his beloved 5-year-old brother who dressed up as a Marine for Halloween in honor of the injured big brother who struggles to remember his name.

The War Through A Father's Eyes (WP)

By H. Barry Holt

The Washington Post, March 18, 2006

I cannot describe the relief I felt when our oldest son returned from war alive -- for the second time. He is an Army communications specialist, a job designed to support combat units in a mobile war. Although his first deployment to Iraq may have been inevitable, my wife and I were terrified when he received his orders, less than a year after he had enlisted as an uncertain and directionless 18-year-old and less than six months after basic training. Uncertain information from the Army meant we couldn't be there to see him board the plane to war. But we managed to be there the week before, full of parental stoicism and quiet terror demonstrated through hugs and tears.

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I generally accepted the reasons we went to war and worried about terrorism and weapons of mass destruction. Like many Americans, I believed that America had a moral duty to protect the oppressed of Iraq. But with my son in that war, my interest became much more parochial. Policy meant less than facts.

At first we heard nothing, then finally one short phone call from Kuwait told us he was safe and bored with waiting. I filled time between infrequent e-mails scouring the Internet for local newspapers showing pictures of his unit's equipment being shrink-wrapped and loaded on transport ships. Think-tank Web sites gave information about bases in western Iraq, where he was headed. I devoured bits of information he gave me through e-mail and telephone calls, and slowly his story unfolded. I shuddered when he described his terrifying 36-hour convoy race from Kuwait to Anbar province. His girlfriend told us (he tried to protect us from such news) about the attack on his convoy and his using his newly minted "expert" qualification on the SAW light machine gun to kill an attacking Iraqi soldier.

I anguished over his descriptions of random mortar attacks on his base, and I chastised him for volunteering for "shotgun" duty on missions conducted by the combat unit he supported. But hearing nothing for long periods was so much worse. I had persistent nightmares about improvised explosive devices, mortar rounds, snipers and accidents, knowing nothing but fearing the worst. Every report of an attack triggered frantic efforts to unearth the latest news, each time followed by guilty relief that my son was not hurt and by shame that I was relieved that someone else had died. But I cried every time I saw lists of casualties as I scoured the names for soldiers and Marines from his home base or our hometown. Now they were my children, too.

My fears escalated when he told me he was slightly wounded during a firefight, and his only reaction was annoyance that there would be no Purple Heart because an investigation revealed the cause was friendly fire. My heart broke when he told me about two friends who died in different accidents and about a sergeant he knew who was killed by a sniper. When he left Anbar on the convoy back to Kuwait, with improvised armor on his vehicle, I worried until he phoned after his safe arrival.

My son came home . . . alive.

Our visit after he returned was emotional and sweet. He had not changed much, but he was moody and uninterested in news about the war. During the next nine months, with another deployment expected, life became more urgent as he married and then fathered our first grandchild. Much of that immediate joy was denied him because he was in northern Iraq when his son was born. But our grandson is beautiful and will grow up proud of his father.

My son's second tour in Iraq was, in some ways, easier on us than the first. We knew more of what to expect, and my anxiety dulled to a continuous daily ache. He complained to me about boredom -- and I celebrated! "A little boredom is a good thing, enjoy it," I would tell him. But with youthful impatience, he longed for more action.

Although the second deployment generally was less stressful, we were confused and angry at the Army when he asked us to buy ammo pouches and other military accessories that weren't issued to him. His convoy to northern Iraq was nerve-wracking and dangerous, but he made it safely. His base was more developed than it was in Anbar, but mortar and rocket-propelled grenade attacks continued, and some fell perilously close. Our persistent worry resurfaced. But he survived all of that and finally flew back home safely.

My view of the war hasn't changed. I am concerned about mistakes made and whether it will be worth all the bloodshed. I wonder how long the troops will remain -- will my son have to go back? Even though our thoughts are full of visits with son, daughter-in-law and grandson, in the back of my mind the worry persists. Rumors are that his unit will return to Iraq next fall. Will he survive?

Anxiety resurrects itself each time I see casualty lists, and I still cry over each soldier's death. I am one with all the parents who lie sleepless every night worrying over their soldier children. Their children are still my children, and that feeling will never end. We are U.S Army and Marine parents, proud of all our sons and daughters who protect this country. But they have seen far too much for people so young, and I don't want any of them to die.

My son is home and alive. He has done his duty and I don't want him to go back.

The writer lives in Arlington.

Was The War Worth It? (TIME)

By David Kennedy

Time, March 16, 2006

As the third anniversary of the beginning of the Iraq War approaches, TIME asked leading thinkers around the world to weigh in on the question at the heart of the ongoing debate about the controversial conflict.

This is the first installment of a feature that will appear in the forthcoming issue of TIME.

No. From the outset the war was a colossally bold and breathtakingly risky gamble. Unfortunately, and unsurprisingly, the United States has failed to beat the odds. Forget about WMDs and links to al-Queda as rationales for the war. The real purpose for invading Iraq was the extravagant ambition to transform the political culture of the entire Middle East. The Bush administration

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bet American might and good intentions against the accumulated weight of centuries of religious rivalry, tribal tensions, wanton bloodletting, and authoritarian rule. Even American hyper-power has proved no match for the burden of all that sorry history.

Hisham Kassem, Egyptian democracy activist:

Sadly, I have to say yes. It is difficult to commend such a bloody scene. But it achieved something useful. Parallel to the chaos and bloodshed, there is a political process evolving in Iraq. Bloodshed is the price of the transition from Saddam's psychopathic dictatorship. The losses would have been higher had Saddam stayed on. You could easily see that regime lasting for another 30 years, under his sons and top generals. Negotiating with Iraq was not an option. There had to be a military intervention. You have a block of 22 countries in the Arab world dominated by authoritarianism and dictatorship. It is not a block you could engage politically and pressure for reform. By military intervention, the U.S. is able to pressure the region into the reforms we are beginning to see across the region that might avert many countries from becoming failed states. The world cannot put up with state failure in the back yard of the world's oil fields, Israel and Europe.

Lawrence B. Wilkerson, Colonel, U.S. Army (ret.); former chief of staff for Secretary of State Colin Powell:

No. I'm principally a strategist and from that perspective the war has been a disaster. First, the foremost winner has been Iran: it rid itself of its greatest threat, Saddam Hussein and his military, without firing a shot; won the December 15 Iraq elections; owns the south, particularly Basra; and has felt the freedom to elect Mahmoud Amadinejad who, in turn, has felt the freedom to reclaim leadership of radical Islam, leadership Osama bin Laden claimed on 9/11. Second, the foremost loser, after Iraq itself, has been Israel, whose leaders must now fear more than ever before the new strategic maneuver room afforded Iran by America's ineptitude. Third, the general war against global terrorists has been affected greatly by the failure in Iraq. Recruiting among Muslim ranks has been aided significantly, while America has squandered the upper hand in the world of ideas, which is the real battlefield of this conflict. Lastly, if our failure in Iraq produces regional conflict, we will find ourselves expending far greater blood and treasure to stabilize the situation once it gets completely out of hand. And the odds that it will get completely out of hand if we continue on the present course are quite high.

Tommy Franks, General, U.S. Army (ret.); as chief of U.S. Central Command, Franks oversaw the invasion and the three months following it, until his retirement on July 7, 2003:

Yes. America remains very proud of, and very thankful to our sons and daughters serving in Iraq and around the world in the cause of freedom. The events of 9-11-01 taught us a valuable lesson.... ignoring terrorism will not make the problem go away. The sacrifices of our military members and their families are giving Iraqis a chance for freedom. And a free Iraq serves not only Iraqis... it will stand as a model in the Middle East. A model that represents to millions of people that there is an alternative to terrorism.

Taliban Rebels Team Up With Drug Barons (WT/AFP)

By Emmanuel Duparcq, Agence France-presse

The Washington Times, March 18, 2006

LASHKARGAH, Afghanistan -- Taliban rebels determined to keep southern Afghanistan in chaos have teamed up with drug barons against the government and its opium eradication campaign, officials say.

The campaign to destroy opium poppy fields was begun March 8 in southern Helmand, the producer of most of Afghanistan's opium crop -- which makes up nearly 90 percent of the world total -- and also one of the provinces worst-hit by a Taliban-led insurgency.

"Terrorists and narcotics are very close; they're supporting each other," said Helmand province Gov. Muhammad Daud. "When narcotics production is up, terrorism automatically goes up."

Lt. Col. Henry Worsley of the 3,500 British forces deployed in the province agreed. "Taliban and drugs feed each other. You cannot separate them here."

In their final two years in power, before they were toppled in a U.S.-led invasion in late 2001, the Taliban banned opium and succeeded in drastically slashing its production to 185 tons from 3,300 tons.

Some observers say their motivation was to win international favor. Others say they wanted to push up the price of the raw ingredient of heroin.

Four years later, the Taliban rebels are willing to protect opium crops and farmers against the new administration in Kabul. The United States and other Western countries, which see opium as a source of terrorist funding, are pressuring the government led by President Hamid Karzai to eradicate the crop.

Several anonymous letters attributed to the Taliban have been distributed in the past few months in Helmand and other insurgency-infested provinces that threaten farmers with reprisals if they do not plant opium, residents said.

Some letters also offer protection against government eradication attempts.

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"Taliban will try to disrupt the eradication campaign," said the Helmand governor who has vowed to remove all the opium from his province in two months.

"Eradication will cause fighting," said Mohammed Sardar, an official from the nongovernmental group Mercy Corps that is trying to persuade opium farmers to switch to other crops.

"Poor farmers won't fight, but Taliban and smugglers will," he said.

DOJ:

Justice Lawyer Named Interim U.S. Attorney (AP-Y2)

AP2, March 18, 2006

Chuck Rosenberg, a veteran Justice Department lawyer serving as the top federal prosecutor in Houston, will take over the high-profile chief prosecutor's job in Alexandria, Va.

Attorney General Alberto Gonzales on Friday named Rosenberg the interim U.S. attorney for the Eastern District of Virginia. He replaces Paul McNulty, who was confirmed by the Senate late Thursday as deputy attorney general.

Rosenberg, 45, will be in charge of the office that is seeking the death penalty against Zacarias Moussaoui and has prosecuted other terrorism cases.

Rosenberg served as the chief of staff to then-Deputy Attorney General James Comey when Comey reportedly raised objections to aspects of the National Security Agency's warrantless eavesdropping program.

Alexandria Federal Prosecutor Sworn In (WP)

By Jerry Markon

The Washington Post, March 18, 2006

Job Likely to Be Made Permanent

A veteran prosecutor with experience in Northern Virginia was appointed yesterday as interim U.S. attorney in Alexandria, one of the highest-profile federal prosecutor's jobs in the country, the Justice Department announced.

Chuck Rosenberg, 45, was sworn in last night before U.S. District Judge T.S. Ellis III. President Bush intends to nominate Rosenberg for the job permanently, but it was unclear when that would occur, officials familiar with the selection process said.

Rosenberg, the interim U.S. attorney in Houston and a former federal prosecutor in Alexandria, succeeds Paul J. McNulty, who was sworn in yesterday as deputy attorney general after being confirmed by the U.S. Senate. McNulty had been U.S. attorney in Alexandria since 2001.

The Alexandria U.S. attorney's job has always been considered a law enforcement plum, and it grew increasingly visible after the Sept. 11, 2001, terrorist attacks as the Justice Department made McNulty's office a central front in terrorism prosecutions. The office won a guilty plea from Zacarias Moussaoui, the only person convicted in a U.S. courtroom on charges stemming from Sept. 11, and is now trying to convince a jury to execute him.

Other prominent cases in Alexandria have included the prosecutions of John Walker Lindh, a Californian convicted of fighting for the Taliban in Afghanistan, and of a group of Muslim men convicted of training overseas for holy war against the United States. The office also has been known to handle highly publicized espionage cases such as the Aldrich H. Ames and Robert P. Hanssen cases.

Rosenberg declined to comment last night on the selection process.

Law enforcement sources have said Rosenberg was the favored candidate to replace McNulty in part because his selection would provide continuity in terrorism prosecutions and national security. A Justice Department news release yesterday said Rosenberg has focused on counterterrorism, counterintelligence and national security matters in recent years.

He has held the Houston post for nine months and previously served in a variety of high-profile jobs at the Justice Department and the FBI in Washington. They included chief of staff for Deputy Attorney General James B. Comey, counselor to then-Attorney General John D. Ashcroft and counsel to FBI Director Robert S. Mueller III.

In the 1990s, Rosenberg worked as a prosecutor in Alexandria and Richmond and specialized in financial fraud crimes, violent crimes and espionage cases.

The U.S. attorney's office in Alexandria serves the eastern half of Virginia, including all of Northern Virginia and Richmond, Norfolk and Newport News.

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CORPORATE SCANDALS:

Two Cheers For Nancy Pelosi (WSJ)

By Mallory Factor

The Wall Street Journal, March 18, 2006

Have America's entrepreneurs and corporate leaders found a new voice of regulatory sanity in, of all people, Nancy Pelosi? Apparently so, and that should be a wake-up call to Republicans -- because like everything else in the free market, the free enterprise agenda is up for grabs. In the recent "Innovation Agenda" that the House Democratic leader and her party unveiled, Ms. Pelosi acknowledges specifically the need to "ensure Sarbanes-Oxley requirements are not overly burdensome," and endorses reform. Meanwhile, the scourge of Wall Street, New York Attorney General Eliot Spitzer, is criticizing Sarbanes-Oxley's "unbelievable burden on small companies" and its possible role in "preventing some initial public offerings."

Ms. Pelosi and other Democrats have been quicker to recognize what many traditional champions of free enterprise have been slow to see: the law's disastrous consequences for our nation's ability to compete. Congress passed this law hastily in 2002 after the egregious accounting frauds at Enron and WorldCom. The intent was to hold publicly held companies and their executives more accountable and weed out bad actors; but that's not been the effect. Four years after passage, it is now evident that the costs of Sarbox clearly outweigh the benefits.

Consider first the costs. Recent estimates from the American Electronic Association, for example, show that U.S. companies are spending $35 billion annually simply to comply with the law as opposed to original federal estimates of $1.2 billion. A University of Nebraska study found that audit fees for Fortune 1000 companies, on average, increased a staggering 103% from 2003 to 2004. The costs of being a U.S. public company are now more than triple what they were before the law passed, according to a study conducted by the Milwaukee-based law firm of Foley & Lardner. Some smaller firms report that they are spending 300% more on Sarbox compliance than on health care for their employees.

Based on a growing body of theoretical and empirical research, the SEC's Advisory Committee on Smaller Public Companies concluded that Sarbox places a disproportionate compliance burden on small public companies, making it more difficult for them to compete with foreign companies and to a lesser extent with larger U.S. companies. Consider the survey by the American Electronics Association, which found that companies with sales of $100 million and under are spending 2.6% of their revenues on Sarbox compliance -- enough to tip many of them from profitability into unprofitability. This makes it something of a challenge for these companies to innovate, compete or grow -- or even survive.

As a result of these burdensome costs, enterprises are deciding not to go public, or else are opting to back out of our capital markets. Explaining his company's absorption into privately held Koch Industries, Peter Correll, the CEO of Georgia-Pacific, said, "There is a lot of time spent by top management on things that are not value-adding, but are simply bureaucratic and are required by a raft of regulation." In fact, the Foley & Lardner study found that 20% of public companies are considering going private just to avoid Sarbox compliance. It's no wonder, then, that the London Stock Exchange -- eager to exploit a competitive advantage -- now promotes itself by reminding companies that by listing on the LSE they are not subject to Sarbox.

Beyond the direct cost of compliance to individual companies, a recent University of Rochester study concluded that the total effect of the law has reduced the stock value of American companies by $1.4 trillion. That is $1.4 trillion that could be invested in infrastructure improvements, jobs, innovative technologies or research and development. As Sun Microsystems CEO Scott McNealy says, Sarbanes-Oxley throws "buckets of sand into the gears of the market economy."

The true beneficiaries of Sarbox are the nation's large auditing firms, which now maintain a regulatory oligarchy composed of a handful of entrenched services corporations. They will continue to champion Sarbox, since it provides a guaranteed market for their services. Surely this law was not intended by its authors to become a full employment act for the same auditing industry which was implicated in the original malfeasance of four or five years ago.

Sarbox highlighted the importance of financial transparency and management integrity. And those in the corporate world who break the law should be punished. They are: Over 700 prosecutions have been launched since 2002 to address corporate crimes. Nevertheless, not one conviction was a result of Sarbox. Meanwhile, Sarbox clearly failed to prevent the massive accounting scandal at Fannie Mae.

On top of everything else, the Public Company Accounting Oversight Board (PCAOB), which is central to the operation of the law, violates the separation of powers principle and the federal Constitution's Appointments Clause -- which is why the Free Enterprise Fund has joined with a team of legal experts to challenge the PCAOB's constitutionality. Since the Sarbanes-Oxley law is not severable, the result would be to throw out the entire law.

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The PCAOB performs an executive branch function, but the president does not have the authority to appoint or remove members of the board; they're appointed by the SEC in consultation with the chairman of the Federal Reserve and the secretary of the Treasury, and may be removed only by the SEC. In short, PCAOB is not accountable to any elected official or the citizens. It therefore violates the Appointments Clause (Article II, Section 2) of the U.S. Constitution, which calls for appointment by the president with the "advice and consent" of the Senate -- not the SEC.

American financial markets have long been at the center of economic growth, innovation and world commerce. Unfortunately, Sarbanes-Oxley is undermining our financial markets; and in its current form it is also unconstitutional. For the sake of the free enterprise system and America's prosperity, I hope that the desires of Ms. Pelosi and Mr. Spitzer to reform this well-intentioned, but misguided attempt at reform will soon be joined by many others in Congress -- and in the Bush administration.

Mr. Factor is the chairman of the Free Enterprise Fund.

CRIMINAL LAW:

Prosecutor Opposes Libby Motion To Dismiss (AP)

AP, March 18, 2006

Special Counsel Patrick Fitzgerald on Friday disputed the claim of Vice President Dick Cheney's former top aide that the prosecutor lacks legal authority to indict him in the CIA leak investigation.

Fitzgerald opposed the move of I. Lewis "Scooter" Libby asking a judge to dismiss the five-count indictment against him in the Valerie Plame affair. In court papers, the prosecutor argued that being allowed to operate outside any control of the Justice Department is constitutional and in accordance with federal law.

The prosecutor, who is investigating the disclosure of Plame's CIA undercover status, is not supervised by the Justice Department and he is not required to inform anyone at the department about the investigation's progress.

In a court filing in February, Libby said that only Congress could approve such an arrangement.

"The attorney general may delegate powers but he may not abdicate responsibility," Libby's lawyers wrote.

Fitzgerald replied that the attorney general has been granted broad legal authority by Congress "to delegate any of his functions to other offices of the Department of Justice."

Fitzgerald is the U.S. attorney in Chicago. He was appointed in December 2003 by then-Deputy Attorney General James Comey. John Ashcroft, the attorney general at the time, recused himself from the matter because of a conflict.

Fitzgerald obtained an indictment of Libby on five counts of perjury, obstruction and lying to the FBI.

Charges Against Cowles Dropped (WP)

By Cecilia Kang

The Washington Post, March 18, 2006

U.S. Court Clears Local Executive

Charges have been dropped against Northern Virginia businessman Frank L. Cowles Jr., who was arrested in November on allegations of conspiring to defraud a hedge fund out of $25 million.

A U.S. District Court judge in Chicago dropped criminal charges against Cowles on March 1 after the U.S. attorney's office there filed a motion to dismiss. Cases continue against two men who were charged with Cowles for allegedly defrauding a Chicago-based fund.

From his horse farm in Scottsville, Va., Cowles, an attorney and former board chairman of Arlington-based Virginia Commerce Bank, said he was "ebullient" that the charges were dismissed.

"For someone who has been absolutely clean and honorable all my life, the charges came as quite a blow," Cowles, 76, said in a telephone interview.

"The only thing I've ever had on my record is three speeding tickets when I was 18," he said. "After a very, very exhaustive 3 1/2 -month investigation, they came up with the right conclusion."

Cowles's attorney, Robert D. Luskin of the law firm Patton Boggs in the District, said the complaint against Cowles was a mistake and that his client had been the victim of a scheme that cost him a great financial loss.

"This was a mistake," Luskin said. "The person that was thought to be the predator was actually the prey."

The two men still facing prosecution in the case are accused by prosecutors of wire fraud. Richard E. Warren of Fredericksburg, who has pleaded not guilty, was indicted and detained. A complaint against David L. Myatt of Los Banos, Calif., is pending.

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Cowles said he lost "millions of dollars" from his dealings with Warren.

After his arrest, Cowles resigned as a director of Virginia Commerce Bank. He owns two car dealerships in Woodbridge and raises Brangus cattle and Arabian horses on his Scottsville farm. The decision to drop charges against him was reported yesterday by the Washington Business Journal.

Enron Trial Approaches Halfway Point (AP)

By Kristen Hays, Ap Business Writer

AP, March 18, 2006

(AP) - HOUSTON-The fraud and conspiracy trial of Enron Corp. founder Kenneth Lay and former CEO Jeffrey Skilling is reaching its halfway mark: Seven weeks, 15 prosecution witnesses and more to come.

Yet for all the government's methodical efforts to show through documents, video and audio tapes and those witnesses' memories of how the former corporate titans repeatedly lied about the disgraced company's financial health, the jury's conclusion may hinge on what the defendants say if they testify as expected.

The government has already brought on its highly anticipated witnesses. This past week started with former Chief Financial Officer Andrew Fastow's fourth and last day on the stand. Fastow, an admitted liar and thief, hid none of his own culpability as he said he helped Lay and Skilling lie about Enron's financial health.

The week wrapped with Sherron Watkins, the former vice president hailed as a hero by Congress for warning Lay of impending financial disaster months before the company crashed, denting Lay's claim that he believed the company was strong at the time.

Yet a conviction is far from a foregone conclusion.

"It's the difference between legitimate spinning and impermissible lying," Robert Mintz, a former federal prosecutor who has followed the trial, said of what will likely drive the outcome of the biggest fraud case to emerge from the recent era of corporate scandals.

"In a case like this, if Lay or Skilling or both take the stand, it becomes almost a new trial in the sense that jurors will either believe them or disbelieve them," Mintz said.

The government's "brick by brick" approach is living up to expectations of putting together a puzzle without betting all on a single witness, said Michael Wynne, another former federal prosecutor in Houston who has observed much of the trial.

Even Fastow, who has been vilified for stealing millions and running scams that helped fuel the company's 2001 collapse, isn't the government's linchpin - and his public excoriation through brutal cross-examination provided plenty of drama, Wynne said.

Lay has said repeatedly he will testify - most recently in a speech to Houston business and academic leaders more than a month before the trial commenced. Lead Skilling lawyer Daniel Petrocelli told jurors during his opening statement his client would do the same.

Both can change their minds, particularly if they decide the government's case is weak and they don't need to subject themselves to bruising cross-examination.

"If they testify, and we've been promised that, it is going to be one for the ages," Wynne said.

The government contends that Lay and Skilling repeatedly spouted ebullient optimism about Enron's financial strength when they allegedly knew accounting tricks propped up weak ventures and hid losses.

The defendants counter that there was no fraud at Enron, they did nothing wrong, and scathing publicity along with diminished market confidence pushed the company into bankruptcy protection in December 2001.

Prosecutors said they expect to wrap up their case by the last week of March. Then the defense gets its turn, and the government can have the last word with rebuttal witnesses.

"We'll probably end before the end of April," U.S. District Judge Sim Lake told jurors this past week, indicating that both sides may have severely whittled their cases in a trial that had been expected to last four months or more.

So far, Mintz said, "The government has done a very solid job and the defense has done its job as well.

"The government had its witnesses well prepared, but as with all witnesses, there are certain vulnerabilities that can't be avoided and the defense did an excellent job of highlighting those for the jury. Those who cut deals can't run from those deals. Those who have lied previously can't deny it," he said.

Wynne said both sides "are trying to arm individual jurors who may be leaning their way with arguments or examples to pull out during jury deliberations."

So far, seven ex-Enron executives who pleaded guilty to crimes have testified. Two other cooperators who haven't been charged with crimes - one who paid half a million dollars to settle regulatory allegations of manipulating Enron's books and another who obtained an immunity deal - also spoke from the witness chair.

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Of the rest, three were ex-executives who said they unearthed alarming financial problems and voiced concerns to no avail; two were rank-and-file Enron workers who lost their jobs and retirement savings when the company collapsed; and one is an accountant still employed by what is left of Enron who explained how the company once developed spending and profit plans to meet earnings goals.

In the coming week, prosecutors aim to present two former Arthur Andersen LLP accountants who once audited Enron's books; a credit rating analyst for Standard & Poors; and Ben Glisan Jr., the former Enron treasurer who pleaded guilty to conspiracy for creating financial structures to cook the company's books and is serving the five-year maximum prison term for his crime.

The cooperators provide an inside view and admit they participated in string of lies. Those like Watkins who voiced concerns demonstrate that top executives had access to negative financial information that contradicted rosy public statements. The victims provide a human view of what ex-workers lost when the company crumbled.

The ex-Andersen accountants are expected to testify that Enron hid the true nature of transactions to get their approvals, and the credit rating analyst is expected to say Enron's investment grade rating assumed the company's financial disclosures were accurate.

The defense teams have consistently challenged credibility of cooperators, indicating they succumbed to government pressure to plead guilty and hope for a lenient sentence rather than risk a trial. Some were likable, others weren't, but whether jurors believe them is paramount, Wynne said.

"It's not a question of whether you want to bring them home for dinner or if you like them," he said. "It's whether or not they are providing evidence that tends to prove up the counts in the indictment. You've got to put them on the stand and you've got to tell the whole story."

In Enron Trial, Witnesses' Quirks And Stamina Are On The Stand (WP)

By Carrie Johnson

The Washington Post, March 18, 2006

HOUSTON, March 16 -- When former Enron Corp. executive Sherron Watkins took the witness stand Wednesday, she spoke confidently of the failings of her former bosses, chief executive Jeffrey K. Skilling and chairman Kenneth L. Lay.

The media-savvy Watkins, who won plaudits from Congress and the public for her warnings that the Houston company would collapse, volunteered opinions about everything from accounting strategy to board members she called inept.

But on cross-examination, defense lawyers took one of Watkins's apparent strengths -- her outspokenness -- and turned it against her.

Ron Woods, a lawyer for Skilling, asked whether Watkins had developed a reputation at Enron for overheated judgments and for failing to listen, and Watkins more or less concurred.

"I found out my nickname was 'Buzzsaw,' " the witness said.

Seven weeks into the blockbuster fraud trial of Lay and Skilling, defense lawyers have tried to wear down the government's witnesses with questions tailored to exploit personality quirks, large or small. Cross-examination, after all, is a high-stakes game of endurance and amateur psychology -- a matter of finding a witness's Achilles' heel, that trait most likely to undermine their performances on the witness stand.

And, in this case, the defense has plenty of weapons at its disposal. "The fact is, the defense does have a somewhat unusual amount of material to cross-examine them with," said Washington criminal defense lawyer E. Lawrence Barcella Jr. of the Enron investigation, which generated countless articles and voluminous written reports from Congress, a bankruptcy examiner, the company's board and federal regulators.

The defense came out of the gate in February determined to test the endurance of the government's witnesses, many of them former executives who pleaded guilty and agreed to testify in exchange for reduced prison terms. Former investor relations chief Mark E. Koenig, the fraud trial's first witness, remained on the stand for eight days -- including five of protracted cross-examination in which a tired Koenig sometimes appeared to agree with the defense on certain points, if only to shorten his ordeal.

Questions to Kevin P. Hannon, a former official in Enron's high-speed-Internet unit who followed Koenig to the stand, appealed to the jury's sense of humor -- and Hannon's apparent lack of one.

Hannon delivered one of the most surprising bits of testimony so far -- saying under oath that Skilling uttered, "They're on to us," in a May 2001 meeting at which high-level executives discussed a research report suggesting that Enron's stock was overvalued. In a prosecution case built on subtle, indirect testimony, that quote resonated.

But Skilling lawyer Mark Holscher managed to diminish its impact. He underscored Hannon's stiff demeanor, repeatedly highlighting the witness's inability to react to a joke. Holscher suggested that Skilling often employed sarcasm to deride investors

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who bet that Enron's stock price would fall, implying that the "They're on to us" remark was a note of humor that everyone else in the room picked up but Hannon.

"Do you recall Mr. Skilling making reference to the Mr. Bill segment on 'Saturday Night Live'? The gag routine with Mr. Bill, 'Ooooh, noooo, Mr. Bill'?" Holscher asked.

No, Hannon replied solemnly.

"You're a rather tightly wound, intense person aren't you, Mr. Hannon?" the smiling defense lawyer said.

Taking a different tack, Skilling's lawyer Daniel M. Petrocelli hammered away at former investor relations official and corporate secretary Paula H. Rieker last month. Rieker is a controlled, impeccably dressed woman who spent most of her questioning by prosecutors smiling, nodding and speaking directly to the jury in calm tones. But she was rattled and blinked repeatedly after Petrocelli pounded at exhibits in a notebook in front of her and stood directly beside her, invading her space until she asked him, with a chill in her voice, to step back to the podium.

The defense lawyer later turned the moment into a joke, asking the witness rather than the judge if he might "approach." Rieker granted him permission, but she had lost some of the confidence that characterized her earlier performance on the stand.

"Sometimes it's not what you get a witness to say but how you get a jury to perceive a witness," said Chip Lewis, a lawyer for Lay who led the cross-examination of Watkins on Wednesday.

The Enron defendants are following a strategy similar to that of former HealthSouth Corp. founder Richard M. Scrushy, acquitted by a Birmingham jury last year of three dozen criminal charges related to a $2.7 billion accounting fraud. At Scrushy's urging, and armed with his insights about former colleagues, his lawyers vigorously went after five chief financial officers who testified against him. James Parkman, Scrushy's lawyer, goaded the government's star witness, William T. Owens, into demonstrating a formidable ego that once led him to call himself "the smartest man in the world." Jurors later said they discounted his testimony.

Houston trial lawyer Rusty Hardin, whose questions in a successful probate dispute over the estate of billionaire J. Howard Marshall II sparked his widow, model and reality-TV star Anna Nicole Smith, to lose her cool and holler, "Screw you, Rusty!" from the witness stand, has taken a softer approach when circumstances called for it.

For instance, sensing that a key witness did not believe he had really broken the law, the lawyer gently prodded auditor David B. Duncan to raise questions about his own guilt, to which he had pleaded, and by implication, that of his firm, Arthur Andersen LLP, in a 2002 obstruction-of-justice case. Jurors ultimately convicted Andersen, but the Supreme Court tossed out the verdict because of faulty jury instructions that struck at the heart of Hardin's argument: that no one had intended to commit a crime.

Cross-examination involves walking a delicate line between discrediting a witness and being too harsh and invoking sympathy from the jury, he said.

"You have to stay polite," Hardin said. "I want a jury to like me, because I want 'em to go back there and resolve the close issues in my favor. They're suspicious of lawyers to begin with. You don't want to be in a position of beating up on a cripple."

Despite scoring points on many of the government's 15 witnesses, lawyers for Skilling and Lay, who argued in opening statements that no major fraud occurred at Enron, have yet to get one of prosecutors' cooperating witnesses to recant the way Duncan did in the Andersen trial. And while they have raised questions about the motives and the truthfulness of former executives who pleaded guilty, they have met with less success in shaking them from assertions that at least two of Enron's core business units performed disastrously in the company's final years and that management was aware of the disasters at the same time Lay and Skilling were reassuring investors and employees that all was well.

And even as Skilling lawyer Ron Woods confronted Watkins with the prospect that her lucrative speech-making career could be cut short if jurors acquit the defendants, Watkins got the last word Wednesday afternoon.

"Sir, I speak on leadership failures," she said. "They remain failed business leaders."

Court Reverses Death Sentence Of L.A. Man (LAT)

By Kelly-anne Suarez, Times Staff Writer

The Los Angeles Times, March 18, 2006

A federal appeals court on Friday overturned the death sentence of a Los Angeles man who avenged the loss of his therapist by murdering her husband.

The U.S. 9th Circuit Court of Appeals upheld William Clark's conviction, which included murder, two counts of attempted murder, rape and arson. But the court said the judge had misled the jury about death penalty law. The court also said the California Supreme Court should have overturned the penalty during its review.

Ava Gawronski was counseling Clark, a 37-year-old Canoga Park underwriter, and his wife, but stopped treating him after he threatened to rape her in her office.

In January 1982, Clark set Gawronski's West Los Angeles house ablaze. His intent, Clark said during his trial, was to chase the family out so he could shoot and kill David Gawronski, a 35-year-old federal job trainer, in front of his wife and infant daughter.

Instead, David Gawronski perished in the fire.

Ava Gawronski, 32, was hospitalized for 10 months and lost her nose and fingers. A neighbor rescued the baby, who was unharmed.

Deputy Atty. Gen. Scott Taryle, who represented the prosecution, called it an "unfortunate decision."

Taryle said Clark initially considered mailing Ava Gawronski severed heads, but decided that wasn't enough.

"The crime itself was a horrible act by a coldblooded murderer," he said.

Attorneys with the federal public defender's office in Los Angeles, who brought the appeal, could not be reached for comment.

Feds May Drop Capital Case: Dot Men Face Death Penalty In Slay (BOSH)

By Laurel J. Sweet

Boston Herald, March 18, 2006

Federal prosecutors may soon drop the controversial death-penalty case against two Dorchester menthe federal government wanted to try for murder and gang activity.

Pending a green light from U.S. Attorney General Alberto Gonzales, murder and racketeering indictments against Darryl Green and Branden Morris could be dropped as early as next month.

Prosecutor Theodore Heinrich said in court documents “the likelihood of dismissal is so great” after two co-defendants of Green and Morris who weren’t facing capital punishment were acquitted, that it would be futile to go on.

Morris is “tremendously relieved,” his attorney, Patricia Garin, said yesterday. “We were all incredulous from the beginning that this case was charged as a death-penalty case and that our client was charged at all.”

Green’s defense counsel, Randolph Gioia, said, “The only reason you bring a case like this to federal court is because you want to make an example of these kids.”

Green, he said, “does feel some bitterness, but he just wants to put it behind him.”

In order to successfully prosecute Green, 28, and Morris, 22, in federal court for the 2001 murder of Terrell Gethers, the government had to prove a racketeering case against them. But in January, Judge Nancy Gertner ordered acquittals in the companion case of Jonathan Hart, 24, and Edward Washington, 25, after a jury deadlocked on whether their street-corner crew operated on the same “criminal enterprise” level as the Mafia.

Green and Morris still face federal drug charges and may yet be tried for Gethers’ homicide in state court. The federal prosecution of Green and Morris angered Suffolk District Attorney Daniel Conley, who said he felt life imprisonment was sufficient, and some members of the black community, who said the defendants were fall guys in a state that outlawed capital punishment. The case also publicly forced U.S. District Court in Boston to question why it seats predominantly white, middle-class juries for black defendants.

Of the 122 federal death-penalty cases pursued nationwide since 1988, the government has dropped charges 28 times before going to trial, according to the Capital Defense Network.

Mariano Guilty Of Corruption Charges (PHI)

By John Shiffman And Michael Currie Schaffer

The Philadelphia Inquirer, March 18, 2006

Rick Mariano, an electrician who rose from a tough corner of Northeast Philadelphia to become a city councilman, was convicted of corruption charges yesterday and led from a federal courtroom in handcuffs.

Mariano's wife, son and staffers did not flinch at the guilty verdicts, but Susan Mariano and others gasped when U.S. District Judge Lawrence F. Stengel ordered the councilman imprisoned immediately. Stengel, citing Mariano's suicide scare at City Hall shortly before last year's indictment, revoked bail pending a psychiatric evaluation.

As a marshal prepared to cuff him in public, Mariano said, "Can we do it back there?" He didn't get his wish and is expected to remain at the Federal Detention Center through the weekend.

Mariano, 50, became the first elected city official convicted in 15 years, and under state law he can remain on Council only until he is sentenced, probably by midsummer. Mayor Street, a longtime friend, called on Mariano yesterday to resign immediately. Mariano's top aide vowed the councilman would not step down.

The jury deliberated for about six hours before convicting Mariano of 18 counts, including conspiracy, bribery, money laundering, fraud and tax charges. He was acquitted of four fraud charges.

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"The evidence was so glaring, so overwhelming, we had no choice but to come up with a guilty verdict," said juror Jon Thorpe, a real estate agent from East Norriton, Montgomery County. "The prosecution had a very tight case and the defense did very little to contest the evidence."

Another juror said the paper trail doomed Mariano.

"Regardless of the witnesses' credibility, the checks, the receipts and the bank account were the deciding factor," said Drew Folk, a chemist from Hamburg, Berks County. "None of us felt he was a bad guy, but the evidence speaks for itself."

Jurors found that Mariano accepted nearly $30,000 from businessmen in exchange for regulatory favors, tax breaks, cheap city land, and a suspect schools contract. The crimes cost taxpayers $700,000, prosecutors said.

"When City Council becomes a branch office for those who provide bribes, it becomes a perversion of the process," U.S. Attorney Patrick L. Meehan said at a news conference with FBI agents.

Mariano likely faces six to 10 years in federal prison. His character is likely to weigh heavily at sentencing. During the trial, witnesses testified to his good deeds and hard work, but also to retaliatory acts against former city aides.

Mariano's lawyer, Nino V. Tinari, said he would appeal, but his primary focus would be to get the councilman released before sentencing. Everyone in Mariano's camp, including the councilman, was surprised by Stengel's decision, the lawyer told reporters afterward.

"There was no need to have that sort of display but apparently it makes a good media event," Tinari said. He quickly added: "The judge is not playing to media at all. However, it occurred."

Tinari said handcuffing Mariano in front of his family, supporters and reporters - standard procedure in federal court - "was really reprehensible in my mind."

Mariano will be evaluated by a court-approved psychiatrist who will consider Stengel's concern that Mariano could pose a danger to himself or others or is a flight risk.

In ordering Mariano detained, Stengel cited the councilman's highly publicized climb to the top of the City Hall tower on Oct. 20, just days before he was indicted. Mariano was hospitalized and received psychiatric care after that. Tinari said yesterday Mariano's mental health is good.

At City Hall yesterday, Street issued a statement calling Mariano "a good friend for many years," but said it was time for Mariano to step down.

"No city employee or elected official is entitled to misuse a public position for private gain," Street said. "His resignation would be in the best interests of the city."

Council President Anna C. Verna called it "a sad day for this city," but said Mariano should not resign until he is sentenced.

"I guess going up to the tower didn't help him, did it?" Verna said. "If you want to meditate, go to church."

Councilman Juan Ramos said he felt sorry for his friend. Majority Leader Jannie Blackwell, long a Mariano ally, called the news "a shame" and said she would pray for him. She noted that the last two councilmen convicted on corruption charges, Lee Beloff in 1987 and James Tayoun in 1991, had since made comebacks.

Blackwell was among three Council members who testified to Mariano's good character during the two-week trial. Under cross-examination, however, prosecutors got them to acknowledge that the law obligated them to disclose loans and gifts, which Mariano did not do.

Mariano was convicted of taking six bribes - three to pay credit card debts and three to pay for a fancy gym membership.

He took $23,000 from Philip Chartock, who operated a North Philadelphia factory, Erie Steel Ltd. Prosecutors Michael Schwartz and Kenya Mann ridiculed Mariano's assertion that these were loans, not bribes, by noting that two checks were laundered through two businessmen. The two men, Vincent DiPentio and Joseph Pellecchia, have since have pleaded guilty.

In return for the money, the jury found, Mariano helped Erie Steel with tax breaks and city regulatory agencies and Pellecchia with a $225,000 city schools contract. Reinaldo Pastrana, who paid Mariano's gym membership, got help buying city land for 25 percent of its market value.

Most of the evidence in the case was dry paperwork. But there were flashes of drama: retellings of profanity-laced exchanges at City Hall, witnesses calling one another liars, prosecutors alleging a cover-up, and a defense attorney alleging a plot to sabotage a vulnerable man.

And there was always the question of whether Mariano would take the stand. He flirted with the idea at the last moment, but did not.

"It would have helped his case a little, but I don't think it would have changed the outcome," said Thorpe, the juror.

Without Mariano's testimony, jurors had only the version of the councilman presented by his defense. In the end, as the councilman's attorney called forth a parade of character witnesses - a priest, a disabled veteran, a community activist - Mariano began to seem like a wounded character, the focus of a charity project.

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Even his physical demeanor was a far cry from the burly, blunt figure he presented for 10 years in Council. Hobbling from recent knee surgery, he carried a cane to court every day.

After Mariano was taken into custody, hands behind his back, relatives and supporters took turns carrying his cane during the long walk from the courthouse.

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Inquirer staff writer Marcia Gelbart contributed to this article.

The Fallout

What happens next with Mariano's Council seat is uncertain. A6.

A breakdown of the schemes that led

to Mariano's conviction. A6.

JURY: MARIANO'S CORRUPT (PHDN)

By Chris Brennan & Michael Hinkelman

Philadelphia Daily News, March 18, 2006

CITY COUNCILMAN Rick Mariano, preparing to enter a federal courtroom yesterday to hear the verdict in his corruption trial, offered this prediction with a smile: "Innocent, as always."

The jury disagreed, convicting Mariano on 18 counts of conspiracy, mail and wire fraud, money laundering, bribery and filing a false tax return. He faces a maximum of close to 10 years in prison. He was cleared on four counts of mail or wire fraud.

U.S. District Judge Lawrence Stengel then stunned Mariano and his attorney by quickly revoking Mariano's bail, suggesting that he might be a danger to himself or others. As part of his concern, Stengel cited a suicide scare that Mariano sparked in City Hall in October.

U.S. marshals handcuffed Mariano, dressed in a green suit, shirt and tie for St. Patrick's Day, and whisked him out of the courtroom as his wife watched while wiping away tears.

U.S. Attorney Patrick Meehan hailed the verdict, saying Mariano, 50, had turned his Council post into "a branch office for businesses that will pay bribes to get things done."

Meehan, who has overseen a long-running corruption probe that has targeted several areas in City Hall, called on the business community to "stand up and take control" by refusing to give in to the demands of corrupt officials.

"What surprises you... is that they sell it out for so little," Meehan said. "But the effect is so big because it tears apart the whole future of the city."

Mayor Street, in a statement, called on Mariano to resign from Council, saying that was in the "best interests of the city." Street, who often joked with Mariano that they were so close they called each other "cousin," said Mariano was a close friend but not above the law.

Mariano's one-time political patron, electricians' union president John Dougherty, declined to be interviewed yesterday, issuing a statement through a spokesman that he hopes people will pray for Mariano and his family.

The end of Mariano's freedom and political career began in 2002, when he felt the financial pinch of one marriage ending and another starting as City Council went several months without pay because it had not approved a political redistricting plan.

Erie Steel Co., a business in Mariano's district run by friends, wrote three checks totaling $23,455 to help him pay his credit- card bills.

Mariano asked two friends, who have since pleaded guilty, to launder two of the checks through their businesses and create bogus invoices to make it look like they provided services to Erie Steel.

Mariano asked another friend, who is expected to plead guilty soon, to pay $5,400 for his Center City gym dues.

Erie Steel's owners, Philip Chartock and his father, Lou, are set to go on trial in late April.

Philip Chartock watched most of Mariano's two-week trial but was not in court for yesterday's verdict.

Erie Steel's former office manager, charged with embezzlement in 2004, cut a deal last year to have 95 felony counts reduced to one misdemeanor in exchange for her cooperation against the Chartocks and Mariano.

The office manager, Margaret "Maggie" Greer, testified that Phil Chartock instructed her to write the checks when Mariano was present.

Federal prosecutors spent the last two weeks linking the money Mariano received to a range of services he provided to his friends - helping get speedy service from city agencies, reductions on tax bills and buying city property.

The jurors - two from Philadelphia and 10 from suburban towns as far away as Bethlehem, Millersville and Hamburg - took about 6 ½ hours over two days to convict Mariano.

They declined to be interviewed by reporters after the verdict.

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"We considered the evidence carefully and did what we believed was right," jury forewoman Jennifer Sweeney of Lansdale said.

Mariano's attorney, Nino Tinari, led a bombastic defense based on attacking the credibility of witnesses, especially Greer and three former staffers fired by Mariano late last year.

Tinari repeatedly suggested to the jury that the money Mariano had received had been loans from friends. But he never offered any evidence to support that theory.

Tinari yesterday said he did not think that attacking the witnesses had backfired for Mariano. "We did whatever we felt was best," he said. "Let some other lawyer think of all that later on."

Tinari now is focused on getting Mariano again out on bail until he is sentenced.

Stengel shot down a government request earlier in the case to have Mariano evaluated by a psychiatrist after an October incident in City Hall, just days before he was indicted with his friends.

Mariano had to be talked down from the City Hall tower by Street that day and then spent a weekend in a psychiatric ward. He later said he was just taking pictures with a new camera.

Stengel said he now wanted the psychiatric evaluation, which will probably happen early next week.

"There are a number of felony convictions here and exposure to a lengthy prison sentence," Stengel said, explaining his concern. He did not say when he would sentence Mariano.

Tinari argued in court after the verdict that the evaluation was not necessary. Federal prosecutors had been prepared to allow Mariano to remain free on $250,000 bail.

Tinari later said he would provide Stengel with information about the October incident, including "what motivated it and whether it has anything to do with his state of mind."

Asked what that was, Tinari said the information should be disclosed in a court hearing and raised the possibility that it might be closed to the public.

Tinari was not happy with the rush to put Mariano in handcuffs.

"It was really disturbing to me personally and to his family, of course," Tinari said. "It just appeared there was no need to have that kind of display. Apparently it makes a good media event."

Philly Councilman Found Guilty Of Bribery, Money Laundering (AP)

By MARYCLAIRE DALE, The Associated Press

AP, March 18, 2006

PHILADELPHIA - A city councilman was convicted Friday of trading political favors for bribes from friends and businesses, money that he used to pay his credit-card bills and other personal expenses.

A federal jury returned guilty verdicts on 18 of the 22 counts against Councilman Rick Mariano, including bribery, money laundering, filing a false tax return and honest services fraud.

U.S. District Judge Lawrence F. Stengel immediately revoked Mariano's bail, pending a mental health evaluation. Mariano, a former union electrician who earns about $100,000 as a councilman, remains in office.

Five days before he was indicted in October, Mariano caused a suicide scare by taking a solitary trip up to the observation deck of City Hall. He later said he went up to reflect, not harm himself, though Mariano did check himself into a hospital after the incident.

The judge said that the incident was never explained to his satisfaction and he feared Mariano could be a harm to himself and possibly put others at risk.

The jury found Mariano not guilty of two counts each of mail fraud and wire fraud.

Mariano's lawyer had argued that the councilman simply accepted loans when he found himself in financial trouble, and did not provide official favors in return.

But prosecutors say there was a clear quid-pro-quo: Businessmen paid Mariano's credit-card bills and membership dues at a tony gym - worth about $28,500 in all - and Mariano helped them obtain tax breaks, city contracts and properties, they said.

After the verdict, Mayor John Street issued a statement saying it is "in the best interests of the city" for Mariano to resign.

"No city employee or elected official is entitled to misuse a public position for private gain," Street said. "Such behavior is not only illegal, it erodes public confidence in government."

The case against Mariano, an outspoken member of the council for the past decade, is the latest in a string of federal corruption investigations in the city.

More than a dozen people have been convicted in the various probes, one of which became public when police discovered an FBI bug in Mayor John F. Street's office in October 2003.

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The federal investigations have brought down a former city treasurer serving a 10-year prison term for accepting trips and other gifts; two Commerce Bank executives; a prominent Muslim imam with close ties to the mayor; and others.

Street, a Democrat, denies wrongdoing and has not been charged.

Mariano defense lawyer Nino Tinari in closing remarks Thursday compared staff members who testified against Mariano to Brutus and others who betrayed Julius Caesar. But prosecutors spun the analogy to their own end.

"The only thing Mariano has in common with Julius Caesar is that the councilman stabbed the citizens of Philadelphia in the back each time he took a bribe," Assistant U.S. Attorney Kenya Mann said.

Philly Councilman Guilty In Bribery Case (UPI)

United Press International, March 18, 2006

PHILADELPHIA, March 17 (UPI) -- A Philadelphia city councilman was convicted Friday of taking bribes from business owners seeking contracts from the city.

Rick Mariano faces six to 10 years behind bars. A judge ordered his immediate incarceration pending a psychiatric evaluation.

Prosecutors said Mariano received $30,000 from contractors who got about $700,000 in business.

Mariano continued to attend council meetings while he was under indictment, and even after the trial began, when he was able. City officials seemed unsure whether he would be forced out of office immediately or only after he is sentenced.

Mayor John Street suggested Mariano resign immediately.

"A jury has determined the law has been violated. No one is above the law," Street said. "No city employee or elected official is entitled to misuse a public position for private gain."

Once A Key Political Ally, Now Alone (PHI)

By Michael Currie Schaffer

The Philadelphia Inquirer, March 18, 2006

In the end, the crimes that ended Rick Mariano's political career were tailor-made for the man who spent a decade representing a struggling swatch of lower Northeast Philadelphia.

Other crooked Philly pols have reached for the stars, conspiring with mobsters or taking bribes from purported Arab sheikhs. But Mariano, the ultimate neighborhood guy, was felled by just under $30,000 in ill-gotten gains - less than a third of his City Council salary.

Mariano's defense strategy, likewise, involved asking the jury to view the case through the same small-time, parochial prism that defined Mariano's politics.

Thus, in defense lawyer Nino V. Tinari's telling, the case against Mariano became just a small-town food fight between estranged political factions. The witnesses against him became jilted liars grubbing for payoffs. And the bribes he took became simple loans between old neighborhood pals who don't bother with fancy uptown formalities such as receipts or IOUs.

The jurors didn't buy it. On Friday, they convicted Mariano, 50, of 18 counts of bribery, fraud and conspiracy. He faces a likely 6 to 10 years in prison.

Mariano, who fashioned himself a tough guy, wound up being swept immediately to jail as a result of his perceived fragility. Recalling last fall's suicide scare atop City Hall Tower, Judge Lawrence F. Stengel revoked his bail until a psychiatric evaluation could be conducted.

He was led away in handcuffs. He was led away alone.

It was a particularly poignant moment for someone who had served as the quintessential foot soldier for many other bigger names in Philadelphia politics.

During his career, Mariano was shrewd about making alliances - belying the bumbling caricature of a man Philadelphia Weekly once named as the city's dumbest politician. In Council, he did little by way of legislation but enthusiastically rattled the chandeliers on behalf of allies.

Many of those whose battles Mariano fought are among the city's most powerful politicians, such as Mayor Street, U.S. Rep. Bob Brady, electricians union leader John Dougherty, and State Sen. Vincent J. Fumo, who strongly supported Mariano's first campaign before the two fell out amid Fumo's epic feud with Dougherty.

According to Daniel P. McElhatton, the councilman whom Mariano served as a staffer before ousting him from office in 1995, political Philadelphia didn't have any problem with Mariano's behavior back then.

"They hounded my daughters," McElhatton said of the Mariano campaign, supported by the Democratic establishment. "They had people making threats. There were... goons around to intimidate my poll workers. Had some of that happened in a third-world country, we would have said, 'We won't stand for this.' "

Mariano's campaign denied the allegations at the time.

McElhatton said Mariano's supporters knew just what they were getting.

"He got the support of the party structure, and they got a predictable vote," he said. "You lie down with dogs, you get fleas."

No one was closer to Mariano than Dougherty. Dougherty's union's political fund has given Mariano $452,000 since 1998 - a third of all money he raised - and put him on the payroll when a redistricting dispute held up City Council's paychecks. Union officials also selected top Mariano staffers.

Mariano, meanwhile, beat the drum for top union priorities, such as public funding for new stadiums for the Eagles and Phillies.

The relationship stayed strong through a long run of Mariano miscues - from the 1999 "Cookiegate" incident, when Mariano staffers were caught delivering cookies for his wife's business, to the first anonymous bribery allegations against him last year, after which Dougherty gathered top political aides to plot strategy.

But the pair split after the investigation became public last year. At trial, Tinari repeatedly suggested that Dougherty was behind a shadowy conspiracy to jail Mariano. He never spelled out the details.

Through spokesman Frank Keel - who until last fall spoke for Mariano, as well - Dougherty declined to comment, except to say that he "asks everyone to keep Rick and his children in their prayers."

Street was another Mariano booster, affectionately calling him "Cousin Rick" while Mariano was one of six votes that helped Street sustain key vetoes and battle new ethics legislation.

Unlike Dougherty, Street did not break with Mariano as the feds circled. Over the summer, he regularly sent Mariano religious text messages urging him to keep his spirits up. Street was among those who talked Mariano down from City Hall Tower last fall.

In a statement after the verdict, Street called Mariano "a good friend" but called for him to step down immediately. Under the law, he wouldn't have to do that until sentencing, which could be months away.

Whether Mariano was a dummy who was in way over his head or a ticking time bomb whose enablers should have known better, McElhatton said, the damage to Philadelphia was massive - much bigger than the $700,000 in benefits that Mariano got for the men who bribed him.

Just in the last week, he noted, state lawmakers moved to strip the city of zoning power over casinos, saying Philadelphia was too corrupt to be trusted.

"Imagine businesspeople somewhere, reading about Mariano in the New York Times," he said. "They'll say, 'I was thinking about going back there, starting a business, but look at how corrupt.' That stains us irreparably and immeasurably."

For his part, even before the conviction, the former electrician seemed to wish he had never met Dougherty or Street, or even McElhatton, his first boss in politics.

"If I knew 20 years ago what I know now, I'd be just getting home, putting my feet up, and watching TV after a day working at some construction site," Mariano said Thursday outside the courtroom as jurors deliberated late into the afternoon. "Instead, I'm sitting here waiting for a bunch of people to decide if I'm going to jail."

Immediate Fate Of Mariano's Council Seat Unclear (PHI)

By Michael Currie Schaffer

The Philadelphia Inquirer, March 18, 2006

Rick Mariano's corruption conviction throws into question the future of the City Council seat he has held since 1996.

Pennsylvania's constitution bars felons from elected office, meaning Mariano must step down. But moments after Mariano's bail was revoked and he was led away to detention, his chief of staff said Mariano intended to stay in office until sentencing, as the law allows. That could be several months from now.

"He'll continue to come to Council when permitted," Jay McCalla said. "If for no other reason than to show we have what it takes, we'll continue to push for an agenda that's focused on his district."

By declining to step down until his sentencing, Mariano will keep drawing his $102,000 salary.

In a statement, Mayor Street called on Mariano to resign immediately. But Council President Anna C. Verna said she would not try to dissuade Mariano from coming to Council.

"That's the law," she said.

Verna has asked the city solicitor whether there have been any changes in legal interpretations that could force Mariano from office sooner. She is awaiting a response.

As for the future of Mariano's seat, there is no guarantee that a replacement would be chosen before the next election in 2007.

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Under Philadelphia's charter, the power to call a special election rests with Verna. She said it was premature to say whether she would call one.

Verna said the issue was more complicated because Mariano's seat would be the second vacancy on the 17-member Council. Councilman David Cohen died in office last fall.

Special elections differ from ordinary elections in that each party's nominee is chosen not through a primary election but through a closed vote of the party ward leaders. Thus the lead-up to such elections - and the decision about whether to hold one - typically involves considerable political jockeying.

Mariano's district, which includes parts of North and Northeast Philadelphia, is heavily Democratic, giving anyone the party nominates a strong advantage.

Job, Pension Go When Rick Does (PHDN)

Philadelphia Daily News, March 18, 2006

Councilman Rick Mariano's chief of staff, Jay McCalla, said yesterday that Mariano would continue to show up for work at City Hall.

But for how long? As a convicted felon, Mariano can't hang onto his elected post, according to the state constitution and the city charter.

Council President Anna Verna said yesterday Mariano must resign when he is sentenced. Verna on Thursday asked City Solicitor Romulo Diaz to issue a legal opinion to back that up.

But Verna stopped short of saying if she would call a special election to fill Mariano's post, calling that "premature."

Mayor Street, a political ally of Mariano's, yesterday called on him to resign.

Mariano, now in the third year of his third four-year term, also faces the loss of his city pension from his time on Council and, before that, as a staffer to Councilmen Dan McElhatton and Jim Kenney.

The city could move to claim some of that forfeited money as repayment for attorney fees paid for Mariano from late March until he was indicted in October.

Editorial | The Rick Mariano Verdict (PHI)

The Philadelphia Inquirer, March 18, 2006

Another day, another verdict that lets you dare think there might be hope for the city.

One day, two thugs get convicted, as they should have, of murdering a little boy in a schoolyard.

The next day, a city councilman gets convicted, as the evidence screamed he should, of betraying the public trust by taking bribes.

You'd rather that little Faheem Thomas-Childs were still alive.

You'd rather that Rick Mariano, bully and cheat, had never been elected to City Council, never been allowed to cost taxpayers $700,000 by exploiting his powers as councilman.

But this is a big city; crime and corruption are going to happen. You just want to feel that decent people can fight back, can stem the tide. This time, the courts offered hope.

In Mariano's case, it's time for him to do the right thing, for once: resign his seat, instead of hanging on pointlessly until his sentencing forces the issue. His friends on Council, who vouched for his redeeming qualities at trial, should let him know it's best for him to go now.

Laski Admits Guilt, Braces For Jail Time (CHIT)

By Matt O'connor And Rudolph Bush, Tribune Staff Reporters. Tribune Staff Reporters Gary Washburn And Todd Lighty Contributed To This Report

Chicago Tribune, March 18, 2006

Ex-clerk admits taking $50,000 to help friends

Former Chicago City Clerk James Laski, the highest-ranking city official charged in the federal probe of the city's Hired Truck Program, pleaded guilty Friday to pocketing nearly $50,000 in bribes for steering city business to two trucking companies.

Laski, 52, who disclosed that he takes anti-anxiety medication, appeared nervous as he stood before U.S. District Judge Charles Norgle, but he spoke in a clear, soft voice as the judge questioned him.

Asked by Norgle if he had done a good job as city clerk, Laski replied, "I thought I did, your honor."

"Until recently?" Norgle asked.

"Until recently," said Laski, who pleaded guilty to one count of bribery.

Laski's wrongdoing, in fact, had nothing directly to do with his city clerk duties.

He solicited bribes totaling about $48,000 from two friends after interceding on their behalf with other city officials and obtaining Hired Truck work for separate trucking companies.

Between 1998 and 2004, Laski pocketed monthly cash bribes of $500 to $1,000 from Michael "Mick" Jones, a top official in the clerk's office who helped operate Get Plowed Inc. Jones pleaded guilty Thursday to bribery.

Laski also acknowledged he took $2,000 a month for 12 months from Randy Aderman, another friend and city employee, after Laski arranged for Hired Truck work for FRC Trucking. Aderman pleaded guilty to bribery Friday.

According to court records, Frank Cannatello, another Hired Truck defendant who pleaded guilty this month to lying to FBI agents, asked Aderman to help obtain Hired Truck business after Cannatello and a relative started FRC Trucking.

Friday's guilty pleas by Laski and Aderman bring to 34 the number of convictions in the Hired Truck probe. Charges are pending against nine others, but the investigation continues.

As city clerk, Laski ranked second to the mayor among the city's elected officials.

Laski's plea agreement does not call for his cooperation with prosecutors, because he had no additional criminal wrongdoing to reveal, according to a source close to Laski.

Laski faces up to 3 years in prison when he is sentenced May 25.

Mayor Richard Daley hasn't tipped his hand on whom he is considering to replace Laski.

Laski's lawyer, Jeffrey Steinback, declined to let Laski comment to reporters as the two left the Dirksen U.S. Courthouse following his guilty plea.

"I think he especially feels bad about what he's done and how it's affected his office and how he's let down his constituents," Steinback said.

Laski is "bracing himself" for prison, Steinback said.

Laski's plea marks an ignominious end to the former 23rd Ward alderman's once-promising political career. A onetime protege of former U.S. Rep. William Lipinski (D-Ill.), he was elected city clerk in 1995, a post he held until his resignation last month following his indictment.

According to his plea agreement, Laski asked an undisclosed alderman as well as officials in the Mayor's Office for Intergovernmental Affairs for assistance in obtaining Hired Truck work for Jones' Get Plowed.

A source close to the investigation previously identified the alderman as Patrick Huels from Daley's native 11th Ward. Huels was Daley's City Council floor leader until he resigned in October 1997 after admitting he borrowed $1.25 million from another Daley friend and city contractor, Mike Tadin.

Daley's intergovernmental affairs director until December 2000 was Victor Reyes, who heads the pro-Daley Hispanic Democratic Organization. A top aide to Reyes at the time was Robert Sorich, who is facing charges that he helped rig city personnel decisions to get jobs and promotions for political campaign workers.

With Aderman's introduction, Laski also reached out to Donald Tomczak, the No. 2 official in the city's Department of Water Management who held sway over which trucking companies got coveted Hired Truck work.

Tomczak, who directed work to Get Plowed, pleaded guilty in the federal probe and has cooperated with authorities.

Though prosecutors agreed to drop an obstruction of justice charge against Laski, he admitted he advised Jones' wife, Traci, to lie in a grand-jury appearance.

In October, Laski acknowledged, he called Mick Jones and announced, "Go Cubs," an agreed-on code of his approval for Jones' wife to lie to the grand jury.

Jones by then was cooperating with federal authorities and secretly tape-recorded the conversation.

Laski also admitted that he personally reviewed his campaign records to identify dates on which cash deposits had been made. An intermediary then passed that information on to Jones' wife to bolster her phony claim that the payoffs to Laski were actually campaign contributions.

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Laski Admits Taking Payoffs (CHIST)

By NATASHA KORECKI, Federal Courts Reporter
Chicago Sun-Times, March 18, 2006

Former City Clerk James Laski pleaded guilty Friday to taking bribes in return for steering Hired Truck business to friends -- making him the highest-ranking public official convicted in the ongoing probe.

Jail time is nearly certain for Laski, 52, who resigned earlier this year after serving as clerk since 1995. The government says he should go to prison for 30 to 37 months.

When asked what Laski would tell others in City Hall who thought about taking bribes, his lawyer Jeffrey Steinback responded: "Don't do it, don't do it. . . . I think he feels terrible about mistakes he's made and how he's let down his constituents."

CAUGHT IN SCANDAL

44 people have been charged in the federal government's investigation of Chicago's Hired Truck Program, including 26 city workers.

34 of them have pleaded guilty, including 21 city workers.

22 have been sentenced to terms from 3 years of probation to 7 years in prison.

1 former city worker will never stand trial. He died after he was thrown from a horse.

Clout on Wheels

The scandal of the city's Hired Truck Program - a Chicago Sun-Times investigation.

Laski admitted to taking $48,000 in payoffs. While other charges were dropped in his plea bargain, Laski still admitted to the conduct. That includes obstructing justice at one point by using the coded comment of "Go, Cubs" to try to get a witness to lie to the grand jury.

Case taking its toll

Moments before his plea hearing, Laski nervously paced the courthouse hallway. Earlier that morning, he had downed a tranquilizer and an anti-anxiety pill, along with some orange juice and a Pepsi, he later told U.S. District Judge Charles R. Norgle. The night before, he had a few beers, he said.

"He's feeling the wear," Steinback said, adding that Laski is battling health issues. Laski has said he has long had stomach problems, which have been exacerbated by his indictment.

When he stepped up to the courtroom lectern, he kept his hands clasped before him, leaned forward, and spoke in a thick Chicago accent.

"I'm unemployed right now," Laski said, smiling at Norgle's question of what he did for a living. "I resigned my position, based on these proceedings."

"Did you do a good job while you were there?" Norgle asked.

"I thought I did, your honor," Laski said.

"Until recently?" Norgle asked.

"Until recently," Laski said, his voice trailing off.

In addition to resigning, Laski relinquished his law license and agreed to pay $48,000 in bribes he said he took -- already having paid $15,400, Steinback said.

Norgle asked if Laski knew what rights he was waiving by pleading guilty.

Laski took a deep breath. "I know exactly what I'm doing, your honor," he said.

"No one pushed or shoved or squeezed you into pleading guilty?" Norgle asked.

"No, your honor," Laski said.

Laski admitted he took money from his longtime friend Michael Jones in return for getting Jones' company, Get Plowed Inc., business with the city's Hired Truck Program. Jones paid Laski $500 a month beginning in 1998, and that went up to $1,000 a month in 2001.

Laski also admitted to taking $2,000 a month for 12 months from Randy Aderman, whom Laski also helped get Hired Truck work. Jones wore a wire on Laski, his boyhood friend.

Assistant U.S. Attorney Manish Shah told Norgle that Laski also admitted to coaching a witness on how to lie to the grand jury and later called him and said, "Go Cubs," as a go-ahead to lie.

Slew of admissions

Laski's plea came a day after Jones admitted giving Laski thousands of dollars in bribe money to retain Hired Truck business. And Aderman also pleaded guilty Friday to bribery. He faces an agreed sentence of 16 months in prison.

Also this week, Robert Mangiamele was sentenced to 18 months in prison after admitting he paid bribes to get business in the Hired Truck program. He pleaded guilty in December.

Jones argues he should keep his pension because the crime was related to his trucking firm -- not his city job as the chief investigator in Laski's office.

Steinback said another lawyer is determining whether Laski could keep his pension.

"We don't want to give it up if we don't have to," Steinback said. "It's his life's work."

Former Chicago City Clerk Pleads Guilty To Bribery In Trucking Scandal (AP)

By Mike Robinson

AP, March 18, 2006

DOJ_NMG_0019463

CHICAGO - Chicago's former city clerk pleaded guilty Friday to taking $48,000 in payoffs to get companies into the city's scandal-plagued Hired Truck Program.

James J. Laski, 52, became the highest-ranking official convicted in the two-year federal investigation of the scandal-plagued program that was designed to save money by outsourcing the city's hauling work to private truckers but which prosecutors say is awash in corruption.

Laski, who had been city clerk since 1995, admitted he received envelopes of cash from an official in his own office, Michael Jones, who doubled as an operator of a trucking company.

He also admitted to taking payoffs from a former employee of the city water department, Randy Aderman, to help get other trucks into the program.

Forty-four people have been charged thus far in the investigation, which has expanded to include alleged patronage hiring abuses. Laski was the 33rd person convicted.

Unlike many who have pleaded guilty, Laski did not agree to help prosecutors in the ongoing investigation - something that might have lessened his sentence.

He pleaded guilty to one count of bribery. Under advisory sentencing guidelines, he could get 30 to 37 months in federal prison when he is set to be sentenced on May 25.

As he left court, a reporter asked Laski what he had to say to those who elected him.

His attorney, Jeffrey Steinback, stepped forward and said "I think you can tell from the way today's proceedings went that Jim is very sorry."

"I think he feels terrible about the mistakes he made," Steinback said. "He admitted them in open court today and I think he especially feels bad about what he's done and how it has affected his office and how it has affected his constituents."

Laski declined to say anything. "This has been an extremely difficult day for Jim," Steinback said.

In response to questions from U.S. District Judge Charles R. Norgle Sr., Laski said that on waking up Friday morning he took a mild tranquilizer as well as a separate anti-anxiety drug.

"Do you know what you're doing?" Norgle asked.

"I know exactly what I'm doing," Laski said.

Norgle asked Laski briefly about his political career as city clerk.

"Did you do a good job?" Norgle asked.

"I thought I did, your honor," Laski said, hesitantly.

"Until recently?" Norgle asked.

"Until recently," Laski said.

Laski acknowledged in his plea agreement that starting in 1998, he took $500-a.m.onth envelopes of cash from Jones, who has cooperated with the federal investigation and pleaded guilty to payoff charges on Thursday.

Besides working in the clerk's office, Jones was one of the operators of Get Plowed Inc., which had trucks working in the program. Laski acknowledged that in 2001, the amount was upped to $1,000 a month in return for additional Get Plowed trucks in the program.

Laski also acknowledged he received $2,000 for a year from Aderman to get another trucking company into the program.

He said that at one point he discussed a deal with Donald Tomczak, the retired head of day-to-day operations at the water department. Under that deal, Tomczak would put trucks in the program and Laski would in return give jobs in the clerk's office to individuals that Tomczak recommended.

It was not clear if anything came of the discussion.

Tomczak, a former precinct captain and the unofficial commander of a group of election workers with political patronage jobs, has pleaded guilty to racketeering and tax fraud.

After Laski left Norgle's courtroom Friday, Aderman arrived and pleaded guilty to one count of bribery. Guidelines call for a sentence in the range of 24 to 30 months. Norgle set sentencing for June 21.

Aderman said in his plea agreement that he paid $750 a month to former water department official John Briatta to secure Tomczak's help in getting trucks into the program. Briatta has pleaded guilty to charges in the case. He is the brother-in-law of Cook County Commissioner John Daley - the mayor's brother.

Still scheduled for trial in April is Laski's former political aide, Sam Gammicchia. The indictment says that Gammicchia advised and coached a witness in the case to mislead a federal grand jury. He has pleaded not guilty and is due for a status hearing on Monday.

Ex-Chicago City Clerk Pleads Guilty In Trucking Kickback Scheme (LAT)

By P.j. Huffstutter, Times Staff Writer

DOJ_NMG_0019464

The Los Angeles Times, March 18, 2006

CHICAGO — James J. Laski Jr., the former city clerk and Chicago's second-highest public official, pleaded guilty Friday to a federal bribery charge and admitted that he had taken cash payoffs in exchange for city trucking contracts.

According to the plea agreement, Laski took $48,000 in kickbacks from 1998 to 2003 from trucking companies eager to participate in the city's Hired Truck Program.

The program, which contracted vehicles from private businesses to assist with public works and construction projects, was promoted by City Hall as a means of helping to cut costs.

But federal investigators found that many of the trucking companies were being paid millions of dollars to do no work, and city workers were seeking bribes in exchange for securing the contracts.

Of the 44 people charged in the investigation, about half are city workers. To date, 34 people have been convicted.

The Hired Truck scandal — though arguably among the widest reaching in City Hall — is only one of a series of corruption woes plaguing Mayor Richard M. Daley, who has said he was completely unaware of such doings.

Among other things, federal investigators have been digging for evidence of alleged fraud in politically based promotions and hiring practices.

Though Daley has had a public approval rating of 56%, according to a Chicago Tribune poll conducted last month, 70% of respondents didn't believe the mayor's claims of ignorance.

Among those convicted in the Hired Truck scandal was a trucking company head who contributed money to political groups to stay in the program organizers' good graces.

The donations included funds sent to the 11th Ward Democratic organization — headed by Cook County Commissioner John Daley, the mayor's brother — and the Committee to Elect John Daley.

"The corruption is just so blatant, and it's very much a growing pain for the mayor," said Paul Green, director of policy studies at Roosevelt University in Chicago.

"It's a constant pinprick in him, and no one knows where the pin's going next."

Laski, 52, resigned his position as city clerk Feb. 6.

On Friday, Laski admitted that the owner of Get Plowed Inc. trucking company had given him monthly installments of cash to get business from various city departments.

An unnamed person "handed [Laski] an envelope containing $500 to $1,000" each month as payoff for getting and staying with the Hired Truck Program, according to the plea agreement.

The bribes stopped in 2003, after federal investigators began to look into the program.

Laski, who has repaid $15,400, faces as much as three years in prison. His sentencing hearing is scheduled for May 25.

The Get Plowed company was run by Laski's friend Michael Jones, 48, who also was an employee at the city clerk's office.

On Thursday, Jones pleaded guilty to one count of bribery.

Man Held In Isolation On Child Porn Charges (CHIST)

By NATASHA KORECKI, Federal Courts Reporter

Chicago Sun-Times, March 18, 2006

A Bartlett man indicted this week on charges he molested an infant and broadcast it live over an Internet chatroom is being kept in isolation after his lawyer complained he was receiving threats from other inmates.

Brian Annoreno, 29, is being held in a Kankakee lockup, but his lawyer, Michael Falconer, said Annoreno also needs to be kept in isolation when he is taken to court appearances in Chicago for his own safety.

"Regular street criminals hate people who are accused of being child molesters," Falconer said.

Falconer said Annoreno was getting threats from inmates and harsh words from jail guards.

"They just told him he's the scum of the earth," Falconer said.

Annoreno and two others charged this week with being tied to a child pornography chatroom pleaded not guilty to the charges Friday. U.S. Attorney General Alberto Gonzales flew to Chicago on Wednesday to announce that the chatroom was shut down and a worldwide investigation had nabbed 47 people.

Evidence lacking, lawyer says

Falconer criticized the feds Friday for putting on a "dog and pony show," saying Gonzales' news conference was "deplorable" and over the top. Gonzales said the crimes were particularly disturbing because the chatroom allegedly broadcast video showing young children being molested. But Falconer said the prosecution does not have evidence of those videos except for a witness' testimony.

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Falconer would not comment on whether Annoreno is cooperating but said he has made "a ton of admissions" to the feds. However, he said Annoreno has a low IQ and may not have known what he was saying. Annoreno has a 22-month-old daughter, whom the Department of Children and Family Services took into custody and placed with a family member.

Cyber Sex Crime Unit Begun (INDYSTAR)

By Paul Bird

The Indianapolis Star, March 18, 2006

Officials hope to protect kids from predators

Johnson County officials have formed a "Cyber Sex Crimes Task Force" to protect children from Internet predators.

County Prosecutor Lance Hamner appointed Deputy Prosecutor Paul Felix to spearhead the effort.

Greenwood police Detective Erick Klinkowski, Franklin police Detective Brain Goldfarb and Johnson County Sheriff's Detective Bill Pfifer are the rest of the task force.

A month ago, U.S. Attorney General Alberto Gonzales announced the Justice Department's Safe Child Initiative to stop sexual exploitation of children through the Internet.

The county team recently returned from Washington, D.C., after getting training on procedures and protocols to use during investigations and prosecutions of Internet predators.

"With this initiative, sexual predators who prey on children will be relentlessly targeted and prosecuted," Hamner said.

Klinkowski already has conducted two stings that led to arrests and convictions, one a special deputy with the Genesee County (Mich.) Sheriff's Department who traveled to Greenwood to meet a 13-year-old girl, Hamner said.

The man was charged with child exploitation, solicitation of a minor, dissemination of matter harmful to minors and possession of child pornography. In May 2005, he was sentenced to an 18-year prison term, with nine years suspended.

"When the would-be child molester shows up at an arranged location and finds me waiting for him instead of the 13-year-old girl he was expecting, he's going to jail," Klinkowski said. "He won't be able to slither away into the darkness."

Franklin Police Chief John Borges believes Internet child solicitation is a global problem.

"We have had some child pornography cases here," he said.

Greenwood Police Chief Joe Pitcher has purchased equipment to track Internet child pornography.

"We've have equipment that will allow us to look deep into computers and expose kiddie porn," he said. "We are going to set traps and arrest child molesters who travel Johnson County."

3 Sentenced In ELF Terror Case (SACBEE)

By Crystal Carreon, Bee Staff Writer

The Sacramento Bee, March 18, 2006

Man, sisters pleaded guilty to arson and attempts to torch buildings

A follower of an eco-terrorism group and two other Newcastle residents were sentenced Friday in Sacramento federal court for their roles in attempted firebombings of buildings under construction.

Ryan Daniel Lewis, the 22-year-old admitted adherent of the Earth Liberation Front - a radical group that targets suburban development - was sentenced to six years in federal prison for orchestrating arsons in Placer and Amador counties in late 2004 and early 2005.

Two of his acquaintances, sisters Lili Marie Holland, 21, and Eva Rose Holland, 26, were sentenced to two years each in prison. In an earlier plea agreement, the women faced three years and three months behind bars.

A fourth person arrested in the case, Jeremiah Colcleasure, 21, also of Newcastle, is scheduled to be sentenced in May. He pleaded guilty to attempted arson earlier this month.

Immediately after U.S. District Judge Edward J. Garcia sentenced Lewis on Friday, the bespectacled Newcastle man - who had been free on bond since November - was remanded into custody and led out of the courtroom past a row of his sobbing relatives.

Garcia called Lewis the ringleader who recruited the Holland sisters and another acquaintance to exact acts of violence on property under misguided ideals. At times, the judge chided defense attorneys for misusing the term "idealism" in explaining their clients' actions.

"I don't understand why you and the other lawyers talk about ideals," Garcia said to Lewis' attorney. "I consider this type of terrorism (a) most serious crime."

Earlier in the day, Garcia had allowed the Holland sisters, who reiterated their remorse before the court, to surrender to authorities April 28. Lewis did not make a statement before the judge.

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Friday's sentencing marked the first successful prosecution of ELF activity from the Oregon border to Bakersfield and should serve, authorities said, as a cautionary tale for others influenced to act on behalf of the shadowy organization.

In January, three other followers of ELF were arrested on suspicion of plotting a bombing campaign on local targets, including Nimbus Dam and fish hatchery and a forest genetics lab in Placerville.

"Domestic terrorists mistakenly believe they are on the moral high ground, but their actions are those of cowards," U.S. Attorney McGregor W. Scott told reporters after the sentences were handed down.

"Let today's sentencings be a warning to idealistic young people that if they make the wrong decisions, they will spend several years in prison."

But Lewis' attorney, Timothy Zindel, said he did not believe the six-year sentence was warranted for a "kid who made a serious mistake."

He said Lewis was not a terrorist.

"I don't agree that the Earth Liberation Front is a terrorist organization; (terrorism) it's a word that is cheapened in how it's thrown around," Zindel said after the sentencing hearing.

Anyone involved in a "protest crime has to watch out ... the federal government is very unforgiving."

The trio, who were arrested last year, admitted conspiracy to plant incendiary devices at an upscale housing development in Lincoln after leaving a Christmas party in 2004.

On Dec. 27, 2004, four homemade incendiary devices with kitchen timers were found in two homes under construction. "ELF" was painted in a cul-de-sac and other graffiti was discovered, including the statements "U will pay" and "Leave."

Lewis also confessed to placing firebombs inside an office building under construction in Auburn and devices inside apartments near completion in the Amador County town of Sutter Creek early last year.

The bombs in Lincoln and Auburn failed to ignite, and sprinkler systems in Sutter Creek managed to abate much of the damage.

However, one device did spark a fire, causing at least $243,000 in damage.

In the original indictment, the defendants faced a minimum of five years and up to 20 years in prison on each charge, including conspiracy to commit arson, attempted arson and additional counts of arson against Lewis.

In October, however, Lewis and the Holland sisters pleaded guilty as part of an agreement reached with the prosecutor, Assistant U.S. Attorney R. Steven Lapham.

They were sentenced Friday on charges reached in their plea agreements: two counts of attempted arson and one count of arson against Lewis; one count each of attempted arson for the Holland sisters.

Eva Holland, surrounded by supporters after the hearing, said she was relieved that her legal ordeal was over and expressed hope that officials would house her in the same prison as her younger sister.

"We're just glad to be moving forward with our life," she said moments later, leaving the courthouse with her sister and mother, who declined to comment.

Members of Lewis' family marched out of the courtroom after shaking hands with Zindel. They declined to speak with reporters.

Lewis, his attorney said, will remain at the Sacramento Main Jail for about a month.

He then will be transferred to a federal prison.

6-Year Prison Sentence In Series Of Arsons (LAT)

The Los Angeles Times, March 18, 2006

A 22-year-old man was sentenced Friday to six years in prison for a string of Northern California arsons on behalf of the Earth Liberation Front.

Ryan Daniel Lewis will also have to pay $243,000 in restitution for setting fire in February 2005 to a nearly completed apartment building in Sutter Creek, a Gold Country tourist town.

Lewis also admitted to two earlier arson attempts in nearby Placer County.

Two other defendants, Eva Rose Holland, 26, and Lili Marie Holland, 21, received two-year sentences for joining Lewis in attempting to set fire to several unfinished structures at a housing tract in fast-growing Lincoln.

3 Eco-terrorists Sentenced For Firebombs (MHCA/AP)

Montery (CA) Herald, March 18, 2006

SACRAMENTO (AP) - Three eco-terrorists were sentenced Friday to federal prison for a series of firebombings that put towns in the Sierra foothills on edge.

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Ryan Daniel Lewis, 22, the alleged leader of the group, was sentenced to six years, and two sisters -- Eva Rose Holland, 26, and Lili Marie Holland, 21 -- were each handed two-year prison terms.

Prosecutors alleged Lewis recruited the Holland sisters and Jeremiah Dean Colcleasure, 24, on Christmas Eve 2004 to help him burn down two unoccupied upscale homes in Lincoln, a Sacramento suburb, in the name of the Earth Liberation Front.

The four set up incendiary devices in two homes, but the firebombs didn't ignite.

Lewis tried and failed again on Jan. 12, 2005. In a third attempt Feb. 7, 2005, Lewis caused $50,000 damage to an apartment complex in Sutter Creek.

Lewis and the Holland sisters pleaded guilty in October.

CIVIL LAW:

Google Doesn't Have To Turn Over Query Data (WSJ)

By Kevin J. Delaney

The Wall Street Journal, March 18, 2006

A federal judge ruled Friday that Google Inc. did not have to turn over data about consumer Web search queries that the Department of Justice had requested.

U.S. District Judge James Ware ordered Google to work with the government to provide 50,000 randomly selected addresses for Web sites from its databases. But he denied government lawyers' request for a sampling of 5,000 search queries entered by Google users, concluding that they essentially duplicated information the government could glean from the Web addresses. In addition, Judge Ware said that Google's providing the queries could potentially cost it the trust of some users and expressed concerns about whether "search queries themselves may constitute potentially sensitive information."

The Department of Justice originally requested the information from Google last year to defend the Child Online Protection Act, a law designed to shield minors from sexually explicit materials on the Internet that has been blocked in the courts. Judge Ware had said during a public hearing Tuesday that he was leaning toward ordering Google to at least partially respond to a Department of Justice subpoena.

"This is a clear victory for our users," said Google in a statement. "The subpoena has been drastically limited."

U.S. Is Denied Google Queries (LAT)

By Chris Gaither

The Los Angeles Times, March 18, 2006

Privacy activists hail a federal judge's ruling. But he orders the search engine to reveal some information about websites in its database.

A federal judge Friday denied a Justice Department demand for access to some Internet search queries of Google Inc. users in a closely watched case testing the limits of online privacy.

The ruling by U.S. District Judge James Ware in San Jose was a victory for Google, which argued that handing over the records would violate the privacy of people who might scour the Internet with terms as diverse as "best-actor nominees," "third trimester abortion" or "pipe bomb."

Although Ware required Google to reveal some information about the websites in its database, he ordered the government to reimburse the Mountain View, Calif., company for the time and expense required to comply.

But for Google — a quirky dot-com with the corporate mantra "Don't be evil" — the more important issue was whether it could restrict access to potentially revealing queries.

"We will always be subject to government subpoenas, but the fact that the judge sent a clear message about privacy is reassuring," said Google's associate general counsel, Nicole Wong. "What his ruling means is that neither the government nor anyone else has carte blanche when demanding data from Internet companies."

Privacy advocates cheered the decision as a check on the Bush administration's efforts to collect information about people, but noted that the trove of personal data gathered and stored by sites like Google was irresistible to investigators.

"This issue is going to come up over and over again," said Cindy Cohn, legal director of the Electronic Frontier Foundation. "I don't think this should make anybody very comfortable about the future. Google still has this stuff and people will still try to seek it."

Atty. Gen. Alberto R. Gonzales issued subpoenas to Google and three other top Internet companies last year, seeking details of potentially billions of search queries as part of an investigation into online pornography. The Justice Department also demanded a sample of the millions of websites archived in the search engines' databases.

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The other companies — Yahoo Inc., Microsoft Corp. and America Online Inc. — complied at least in part. Google executives balked and the case became a test of the government's reach in the Internet Age.

Yahoo, Microsoft and America Online declined to comment after Ware's ruling late Friday.

Those companies have said that the information they provided did not violate users' privacy, because it did not include names or computer addresses. Even so, the disclosure alarmed civil liberties advocates, who feared that the searches could reveal private information and that the government could pass alarming queries to criminal investigators.

"People for too long thought they were anonymous on the Internet," said Andrew Serwin, an attorney specializing in privacy and Internet law. "People now realize they're not."

Justice Department officials could not be reached late Friday.

Federal lawyers earlier this week slashed their Google request to 5,000 randomly selected search terms entered by users and 50,000 website addresses in the company's searchable index. The government previously had requested a week's worth of queries, which could have numbered in the billions, as well as a million indexed Web addresses.

Ware granted the request for the Web addresses but declined to force Google to release the queries. He wrote in his 21-page ruling that he was balancing the government's need to gather data against Google's expectation that it could operate without undue interference or fear that its trade secrets might be revealed. Google lawyers argued at a hearing Tuesday that the company's search engine was popular in part because users trusted that their personal information would be guarded.

"The expectation of privacy by some Google users may not be reasonable, but may nonetheless have an appreciable impact on the way in which Google is perceived, and consequently the frequency with which users use Google," Ware wrote.

Federal laws generally require a search warrant or court order to procure electronic information without a user's permission, not the simple subpoena presented to Google.

Government lawyers had requested the data for an unrelated civil lawsuit regarding the Child Online Protection Act, a 1998 law blocked by a federal court. The Justice Department, seeking to restore the law, said it would use the information from search engines only to test how well Internet filters prevent children from accessing potentially harmful websites.

Deirdre Mulligan, a law profesor at UC Berkeley, called the government's request to Google "a fishing expedition."

"It's the same as going into a medical clinic and saying, 'The last few people who came in, what diseases did they ask you about?' " Mulligan said.

Google To Reveal Sites, Not Searches (AP)

By MICHAEL LIEDTKE, The Associated Press

AP, March 18, 2006

SAN FRANCISCO – A federal judge on Friday ordered Google Inc. to give the Bush administration a peek inside its search engine, but rebuffed the government's demand for a list of people's search requests – potentially sensitive information the company had fought to protect.

In his 21-page ruling, U.S. District Judge James Ware told Google to provide the U.S. Justice Department by April 3 with the addresses of 50,000 randomly selected Internet sites indexed by its search engine .

The government says it plans to use the data for a study in another case in Pennsylvania, where the Bush administration is trying to revive a law meant to shield children from online pornography.

Ware, though, decided Google won't have to disclose what people have been looking for on its widely used search engine, handing a significant victory to the company and privacy rights advocates.

"We will always be subject to government subpoenas, but the fact that the judge sent a clear message about privacy is reassuring," Google lawyer Nicole Wong wrote on the company's Web site Friday night. "What his ruling means is that neither the government nor anyone else has carte blanche when demanding data from Internet companies."

Attempts to reach a spokesman for the Justice Department late Friday were not immediately successful.

The government had asked for the contents of 5,000 randomly selected search requests, dramatically scaling back its initial demands after Google's vehement protests gained widespread attention.

When the Justice Department first turned to Ware for help in January, the government wanted an entire week's worth of Google search requests — a list that would encompass queries posed by millions of people.

Google Wins Ruling On Turning Over Search Queries To Government (BLOOM)

Bloomberg, March 18, 2006

March 18 (Bloomberg) -- Google Inc. won a partial victory in a battle with the government when a federal judge ruled yesterday that the company didn't have to turn over customer search queries to the U.S. Justice Department.

DOJ_NMG_0019469

U.S. District Judge James Ware in San Jose, California, refused to make Google, the most-used Internet search engine, give the agency 5,000 search queries as part of an effort to defend a law aimed at keeping children from accessing Internet pornography. Ware did rule Google had to comply with the U.S. demand for 50,000 Web addresses from its index of Web sites.

Google's success in limiting the government's access to customer search records came after a two-month battle that led to concerns that some Web surfers might avoid using Google, which profits by displaying ads next to search results and earning fees when consumers click on the ads.

``This is a victory for Google," said Andrew Serwin, a lawyer in the San Diego office of Foley & Lardner, who has followed the case. Google ``didn't want to give up search terms or anonymous customer data, and they didn't have to."

Ware ordered Google and the Justice Department to come up with a method to randomly select the 50,000 Web addresses in a way that would not force Google to disclose any confidential information. He gave both sides until April 3 to raise any problems with the confidentiality requirement.

1 Million Addresses

The government had originally sought as many as 1 million Web addresses, then agreed at a hearing earlier this week to narrow the data request to 50,000 Web addresses, of which the government would examine 10,000. The government also wanted the 5,000 search queries, of which it would look at 1,000.

``This is a clear victory for our users and for our company," Nicole Wong, associated general Counsel at Google said on the company's Web site. ``We believe that if the government was permitted to require Google to hand over search queries, that could have undermined confidence that our users have in our ability to keep their information private."

The government wants the data to support a lawsuit pending in federal court in Pennsylvania over whether a federal law may prove more effective in limiting minors' access to pornography on the Internet than filtering software.

``The search query data could have shown why filtering software doesn't always work," Serwin said.

The ACLU and other privacy rights organizations have so far successfully sued to block enforcement of the 1998 Child Online Protection Act, or COPA, since it was signed into law in 1998. A trial in the Pennsylvania case challenging COPA is set for Oct. 23 before U.S. District Judge Lowell Reed in Philadelphia, Fine said.

`Significantly Hampered'

Ware said that Google must turn over the Web addresses because they could help the government study the effectiveness of filtering software. Because Google is the biggest search engine, the government's effort could be ``significantly hampered" if it didn't have access to some of the information it sought.

``What the government has not demonstrated, however, is a substantial need for both the information contained in the sample of URLs and the sample of search query text," Ware wrote in a 21-page ruling released yesterday.

Ware said groups challenging the government's anti- pornography law may also seek information from Google that ``may implicate Google's confidential commercial information."

Shares of Mountain View, California-based Google rose $1.02 to $339.72 in Nasdaq Stock Market composite trading yesterday.

The case is Gonzales v. Google Inc., 5:06-mc-80006, U.S. District Court, Northern District of California (San Jose).

Searching For Google (WSJ)

The Wall Street Journal, March 18, 2006

Google had its day in court this week in its battle with the Justice Department over a subpoena for data about Web searches and the sites available through Google's search engine. The judge indicated that he was inclined to give both sides something, and Justice later agreed to limit its request to "just" 5,000 sample searches and 50,000 Web addresses.

This outcome may seem Solomonic, but the precedent is still troubling. The subpoena that started it all emerged from a separate case being tried in Pennsylvania. In that case, the ACLU is challenging the constitutionality of the 1998 Child Online Protection Act, or COPA.

That law has never been enforced owing to an injunction and multiple unfavorable rulings, including one from the Supreme Court. But it nonetheless aims to protect minors from "harmful" material on the Internet by making it a crime to allow them to access it. The ACLU suit claims the law is a restriction on free speech. The Supreme Court said it might be, and sent the case back to trial for the government to prove that it wasn't.

Which is where Google, Yahoo and MSN come in. The government wants to use their search data as part of its effort to show that the law is necessary to protect minors from the Internet's seamier side. But these companies are innocent bystanders in the dispute over the constitutionality of COPA. It is one thing when company data are pursued by the government as evidence in a criminal proceeding. Most Americans would probably accept if otherwise private information were turned over to law enforcement in a case where the request is narrowly tailored and probable cause exists.

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The COPA trial is different. Tasked by the Supreme Court with justifying COPA's Internet restrictions, the Justice Department has embarked on a fishing expedition for large swathes of data about Internet use. The whole project suggests that the government has little basis for defending the law in the first place, and is hoping it can use the Web sites' data to generate a rationale after the fact.

But dragging these companies into this litigation is not without risks. The first is the possibility that the data could lead to further inquiries -- possibly under COPA, should it be upheld -- of a criminal nature. Justice has taken pains to emphasize that this case is being handled by the civil division and that there are safeguards to ensure the information does not find its way into any future criminal case. But it's not hard to imagine a legal rationale for securing the data for such a use in the future, once the precedent has been set.

Then there are the ramifications for Google, Yahoo and the rest in the COPA case itself. The ACLU has already argued that if the Web site operators become, in effect, witnesses for the government in this case, the ACLU may be compelled to seek further discovery of the data employed by Justice, the Web sites' means of gathering it, their search methodology, and so on. This is no small intrusion into the business practices and privacy reputations of companies whose stock in trade is information about what is searched for and found on the Web.

All of which highlights the dangers and unintended consequences of the government's conducting wide-ranging market research by subpoena. Two prior incarnations of COPA have already been struck down twice by the Supreme Court. The third time, the Court created a presumption of unconstitutionality but remanded the case for trial. If commandeering such data from private companies against their will is what it takes to defend the law, maybe defending it isn't worth the effort.

CIVIL RIGHTS:

N.C., Justice Department Agree On Overseas Voting In 2nd Primary (CO)

The Charlotte Observer, March 18, 2006

RALEIGH, N.C. - The Justice Department said it had reached an agreement with North Carolina officials that will allow military and other overseas voters to participate in a second primary election, if one is needed this year.

The U.S. District Court in Raleigh still must approve the agreement.

The agreement was filed at the same time as the Civil Rights Division filed a lawsuit because of the short amount of time between North Carolina's primary and runoff elections. Federal officials said in a news release Thursday that the four-week break doesn't provide enough time to get runoff ballots to and returned from absentee voters.

Besides other changes, the state and federal governments agreed that all military and overseas voters requesting an absentee ballot for the primary election also will receive a blank write-in ballot for a runoff. They also agreed to allow write-in ballots to be faxed and e-mailed, if necessary.

The agreement also provides for reporting to the court on the status of the North Carolina Legislature's efforts to find a permanent solution to the timing problem.

"These measures provide an immediate solution while the Legislature adopts permanent procedures, as we trust they will promptly," Wan J. Kim, assistant attorney general of the Civil Rights Division, said in a statement.

The lawsuit was brought under the Uniformed and Overseas Citizens Absentee Voting Act, which requires states to allow uniformed services voters and other overseas citizens to register to vote and vote absentee for all elections for federal office.

Group Charges Libraries Filtered Out Web Site (SLPD)

By Peter Shinkle, ST. LOUIS POST-DISPATCH

St. Louis Post-Dispatch, March 18, 2006

The Council of Conservative Citizens, a nationwide group that has been portrayed as racist, is suing four libraries in the St. Louis area for allegedly blocking patrons from viewing its Web site.

Gordon Baum, a lawyer from St. Charles who is the group's chief executive, said the U.S. Constitution protects the public's right to see his Web site.

"We don't believe we're any more to the right than the NAACP is to the left," he said, adding that his group does not advocate violence.

The site, cofcc.org, does not feature the racial epithets commonly used by racist groups. It does, however, provide a slate of news stories about crime by blacks or immigrants. It also offers for sale a T-shirt with the words, "White Pride," "Deutschland" and "Save Our Culture."

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The Southern Poverty Law Center says that racism "underlies" the group and that it has long had ties to politicians the law center considers racist.

Baum filed a suit in U.S. District Court on Monday claiming the Maplewood City Library, University City Public Library, Valley Park Community Library and Festus Public Library had violated his constitutional right to free speech by blocking access to the Web site. At least two of the libraries say they now permit patrons to view the site.

Baum said the suit was filed after the group checked on local libraries and wrote letters complaining to those libraries that blocked access to the group's site.

Maplewood City Library Director Terrence Donnelly sent the group a letter replying that the Internet filter service the library uses had blocked the site after tagging it as being in "the categories of Hate and Discrimination."

On Friday, however, Donnelly said that changed after the library's board discussed the issue on Wednesday and he consulted with a lawyer. Donnelly said the Web site is now accessible at the library.

Federal law requires libraries that use federal money to have an Internet filter that can block out pornography, but it does not require a filter to block hate speech, Donnelly said.

The University City Library stopped blocking the group's Web site after it received a letter from Baum in November, said the library's director, Linda Ballard.

"We have turned off the hate speech filters for the adult machines, but they're still in place for the children's machines," she said.

Both libraries use Morenet, a division of the University of Missouri in Columbia that offers Internet service to 85 libraries across the state. Morenet provides the libraries with the Bess filter system offered by Secure Computing, a software company in San Jose, Calif. Secure Computing's site on the Internet enables users to check on how its filters would categorize a given Web site. A check Friday on cofcc.org showed the site was considered to be "hate speech."

It was unclear whether the two other libraries block the site. Festus Public Library director Lollie Gray declined to comment. Valley Park Community Library director Bonnie Morris could not be reached for comment.

Baum said the group is not like the Ku Klux Klan and includes Jewish members. "We're not a white Supremacist group that insists you have to be a white Christian," he said.

Whistle-Blower Or Thief In Diebold Case? (LAT)

By Hemmy So, Times Staff Writer

The Los Angeles Times, March 18, 2006

Stephen Heller's alleged theft of papers about the firm's electronic voting machines spurs praise and scorn as he faces felony charges.

A whistle-blower to some, a thief to others, Stephen Heller says he's a regular guy, not an activist or a member of any political group.

But charged last month in Los Angeles with three felonies for allegedly stealing damaging documents about voting machine manufacturer Diebold Election Systems, Heller has become a hero to digital rights and political activists who say he helped expose a threat to the election system.

"My wife would never describe me as someone on the front lines of anything, and I wouldn't either," Heller said in a recent interview. "I'm not politically active except I've voted since I was 18."

Prosecutors say Heller, a 43-year-old actor and resident of Van Nuys, took more than 500 pages of Diebold-related documents, including memos from the company's attorneys at the Jones Day law firm. The memos suggested that the company might have broken state law by providing Alameda County with voting machines that had not been certified by the state.

"This case is not about whistle-blowing. It's about theft of attorney-client privileged material from an attorney's office," Los Angeles County district attorney spokeswoman Sandi Gibbons said.

But activists and bloggers — including the California Voter Foundation; Black Box Voting, an electronic voting group; and the liberal http://www.huffingtonpost.com website — say the purloined documents, some of which turned up on the Oakland Tribune website, helped spur a state crackdown on Diebold.

"People should be thanking Stephen Heller because ultimately he helped our secretary of state stop illegal acts by Diebold," said Cindy Coen, legal director of the Electronic Frontier Foundation, a digital rights group based in San Francisco.

Heller has pleaded not guilty to three counts of felony access to computer data, commercial burglary and receiving stolen property.

Although state law protects whistle-blowers from retaliation by employers, it does not preclude criminal prosecution.

On the advice of his lawyer, Heller declined to discuss the facts of his case, but agreed to talk more generally.

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Brought up in a small dairy farming town in upstate New York, Heller moved to Los Angeles in 1997 after years of waiting tables and performing in small theaters in Chicago. Heller said he had stopped just short of finishing a theater degree at DePaul University to dedicate himself to an acting career.

In Los Angeles, he managed to land a few small roles on television shows and in commercials. But acting failed to pay the bills and Heller refused to wait any more tables. So he brushed up on his typing skills and found work as a word processor — a decent, less stressful way to make ends meet, he said.

He lives in a quaint, one-story home with his wife, an actress and writer who also works as a word processor. They have three cats and a dog.

Heller began a three-month stint as a temporary worker at the Los Angeles office of Jones Day in December 2003. One of his assignments was transcribing an attorney's tapes on legal issues facing a major client: Diebold.

The name was familiar because of media attention surrounding the company and its new touch-screen voting systems. Heller, a news junkie, said he had had no prior dealings with the company.

Bev Harris, founder of Black Box Voting, told investigators that Heller met her in a park in Ventura County in early 2004 and gave her the documents, which she turned over to the secretary of state and the Oakland Tribune.

"What Stephen did was the best of citizenry," Harris said.

Harris and fellow activist Jim March, later joined by the state attorney general, had already sued Diebold in 2003 for allegedly failing to certify the voting system.

The lawsuit gained traction when Diebold's touch-screen systems failed in March 2004. Because of a battery drain, the screens could not display the proper ballot, and poll workers in San Diego County had to turn away some early voters. Alameda County residents had to use paper ballots.

Diebold eventually settled the suit for $2.6 million. The state banned use of its machines, but the ban was reversed this year and the machines were certified for use in 17 counties.

Gibbons said Heller's alleged theft had nothing to do with the attorney general's suit or a later investigation of Diebold by the secretary of state's office.

Members of a state commission considering the ban on Diebold, however, did question witnesses about the leaked documents.

Jones Day sued the Oakland Tribune over the leak, but later dropped the case and referred the alleged theft to authorities.

Diebold declined to comment on Heller's prosecution. Jones Day officials have said his actions forced them to return $1 million in legal fees to Diebold and damaged the reputation of one of their lawyers.

John Majoras, a partner at Jones Day, said: "As far we are aware, this is a criminal matter. The authorities are taking care of it, and we will watch to see what comes of it."

Heller said he learned that he was under investigation when a team of district attorney investigators and police descended on his Van Nuys home in August 2004 and seized his computer, personal papers and address book.

"For the first few minutes, I thought this is a mistake … just cooperate and they'll find out that I'm not that drug dealer they're looking for," Heller said. "But that wasn't the case."

Heller eventually was fired by the temporary employment agency, and remained jobless for eight months before landing work in a related field. He declined to identify his job for fear that it would be jeopardized by the publicity.

D.A. spokeswoman Jane Robison said defendants such as Heller, with no criminal record, typically receive probation if convicted.

But Heller's lawyer said he doesn't want to risk a conviction.

"The felony conviction itself will prohibit many kinds of employment for him," attorney Blair Berk said. "He'll lose his right of citizenship to vote."

The Electronic Frontier Foundation and the Assn. of Computing Machinery, an information technology group, are searching for a pro bono attorney to help represent Heller, who said he has exhausted his savings on legal fees.

Black Box Voting has donated $10,000 to the Stephen Heller Legal Defense Fund.

"I'm optimistic that the right thing is going to be done here," Heller said.

"Hopefully, I'll get a chance to properly defend myself and justice will prevail."

Putting A Racist Past In The Past (LAT)

By Richard Fausset, Times Staff Writer

The Los Angeles Times, March 18, 2006

A bill says activists who broke racially biased laws would be eligible for Alabama pardon.

DOJ_NMG_0019473

ATLANTA — Civil rights activists and others convicted under laws that enforced racial discrimination would be eligible for a pardon from the state of Alabama under a bill working its way through the Legislature, the bill's sponsor said Friday.

Rep. Thad McClammy said that his proposed "Rosa Parks Act" would serve the symbolic purpose of bestowing posthumous pardons on activists like Parks, whose 1955 arrest sparked the 381-day Montgomery bus boycott.

But McClammy, a Democrat, said the pardons also could help living veterans of the segregated South, who still may have trouble explaining away their arrests when applying for jobs or loans.

"If they do a background check, they say: 'Oh my … this person was arrested five times,' " McClammy said. "It follows you. What we're saying is, not only should individuals be pardoned, but the record should be expunged. These were illegal laws."

Some of the most famous arrests of the civil rights era occurred in Alabama in the 1950s and '60s. Parks was convicted of violating Montgomery's municipal code for refusing to move to the back of a city bus. Dozens more were charged under anti-boycott and curfew statutes.

The early 1960s saw the arrests of "freedom riders" and protesters who engaged in civil disobedience at lunch counter sit-ins. In 1963, about 3,000 children were arrested in Birmingham for taking part in civil rights demonstrations. Horace Huntley of the Birmingham Civil Rights Institute said many of those young people eventually were convicted. "Those [convictions] are still on the books, just as it was in Rosa Parks' case," said Huntley, director of the institute's oral history project.

McClammy's bill unanimously passed the Democratic-controlled Alabama House Judiciary Committee this week; House Minority Leader Mike Hubbard predicted that his fellow Republicans probably would support the measure.

"I guess it's just never occurred to me that there'd be any opposition to it," Hubbard said. "I'm 44 years old, and I've never been a part of any segregation or race problems or whatever."

Alabama has struggled to emerge from the shadows of its racist past. In 2004, voters narrowly rejected a proposed constitutional amendment to strike language requiring separate schools for "white and colored" children. That wording is superseded by federal law.

However, if McClammy's bill becomes law, it will be one of a number of recent steps taken by Alabamians toward reconciliation. In December, Montgomery's predominantly white First Baptist Church kicked off an effort to bridge the gap between black and white churches to commemorate the 50th anniversary of the bus boycott. The church has held prayer vigils and meals with members of predominantly black churches. And the Montgomery library system has named its main branch for Juliette Hampton Morgan, a library research director in the 1950s who was an outspoken white opponent of segregation. Morgan reportedly committed suicide in 1957 after intense public ridicule and threats to the library system by racist whites.

2nd Autopsy In Youth Boot Camp Death Fails To End Questions (NYT)

By Abby Goodnough

The New York Times, March 18, 2006

MIAMI, March 17 — Martin Lee Anderson was buried a second time this week, more than two months after he died following a confrontation with guards at a boot camp for teenage offenders in the Florida Panhandle. But questions about his death, and whether the state should close all its boot camps in the aftermath, are very much alive.

After supervising a second autopsy of Martin's body on Monday, a special prosecutor appointed by Gov. Jeb Bush disputed the findings of the original pathologist in the case: that the youth had died from complications of sickle cell trait, an undiagnosed blood disorder. But the prosecutor, Mark Ober, would not say more until his broader investigation of the case was finished.

The guards at Bay Boot Camp in Panama City kneed, kicked and hit Martin, 14, after he stopped running during an orientation drill on Jan. 5. He had been sent to the camp for violating probation after stealing his grandmother's car. In a videotape, which the state released after news organizations sued for it, the boy appears limp throughout the encounter.

He died early on Jan. 6, and when the original autopsy report came out a month later, his parents, lawmakers and civil rights groups expressed outrage. Even after Mr. Ober said through a spokeswoman that Martin "did not die of sickle cell trait, nor did he die of a natural cause," the medical examiner who made those findings, Dr. Charles Siebert of Bay County, stood by them.

"I am appalled at the baseless and mean-spirited accusations from special interest groups with little or no knowledge of the evidence in this case," Dr. Siebert said in a statement on Thursday, "who are calling for everything from the revocation of my license to criminal charges."

Dr. Michael Baden, a pathologist who attended the second autopsy on behalf of Martin's family, told a legislative committee in Tallahassee on Friday that Martin had most likely suffocated during the incident and was brain dead by the time an ambulance carried him away.

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"There was a time when there were hands over Anderson's mouth," Dr. Baden said in an interview, noting that the guards held ammonia capsules under the boy's nose several times during the incident. "There may have been ammonia capsules blocking his nose, hands blocking his mouth — that could contribute to asphyxia."

The boot camp, run by the Bay County Sheriff's Office, will close next month. In a letter to state officials, Sheriff W. Frank McKeithen said he was closing it because the program had been "virtually paralyzed" after Martin's death.

The seven guards in the incident remain on the job — though not working with young offenders, who have already been cleared from the camp — while Mr. Ober decides whether they should face criminal charges.

Meanwhile, Governor Bush and his Department of Juvenile Justice are reviewing policies for the state's five other boot camps, as the Legislature debates whether they should remain open. Many states have closed military-style boot camps for teenagers in recent years, but Governor Bush said Thursday that they have "yielded a good result," and Anthony Schembri, his juvenile justice secretary, affirmed that assessment in an interview Friday.

"I think the remainder are good options that we can use for certain kids," Mr. Schembri said of the five surviving boot camps, though he said every camp should have education and therapy components.

Martin's parents, Gina Jones and Robert Anderson, said they were appalled to hear that Dr. Siebert had not changed his assessment of Martin's death after the second autopsy, which he attended. In an interview, they said every guard involved in the incident should be arrested immediately, as should a nurse who stood by during the confrontation.

"My baby passed away from the beating," said Ms. Jones, who said her son was an honor student who liked basketball, chess and video games. "It's not only the guards to blame; it's the sheriff, the doctor, the governor. It's time for the governor to step in."

In an interview, Dr. Siebert said Dr. Baden, a former chief medical examiner for New York City, was biased because Martin's parents had sought his involvement.

"I'm charged with coming to a truthful and unbiased manner of death, and I feel that's what I did in this case," he said. "I have nothing to gain by conspiring with anybody."

During a meeting on Friday of the Criminal Justice Appropriations Committee of the Florida House of Representatives, Mr. Schembri's chief of staff, Chris Caballero, said the Juvenile Justice Department might require young offenders to get electrocardiograms and drug tests before entering boot camps.

Mr. Schembri, who would not discuss the Anderson incident except to call it tragic, said he would also revise use-of-force policies at boot camps, which in Florida are for "moderate risk" young offenders.

Representative Dan Gelber, a Miami Beach Democrat on the Criminal Justice Appropriations Committee, said the video suggested that guards at the Bay Boot Camp were following an established use-of-force protocol.

"I just was shocked that the officers seemed to think this was what they were supposed to do," he said. "They clearly were inflicting substantial force on somebody who was not threatening them or himself."

Mr. Gelber added: "They knew the camera was there, they knew they were being filmed, they weren't trying to hide anything. But the notion that you could inflict pain to get somebody to run or say, 'Yes, sir' — that is just un-American."

Federal Appeals Court Allows 'Choose Life' License Plates In Tennessee (FINDLAW/AP)

By Lucas L. Johnson Ii, Associated Press Writer

AP, March 18, 2006

(AP) - NASHVILLE, Tennessee-A federal appeals court Friday allowed Tennessee to offer anti-abortion license plates bearing the message "Choose Life."

A three-judge panel of the 6th U.S. Circuit Court of Appeals in Cincinnati overturned a lower-court ruling that said the tag illegally promoted only one side of the abortion debate.

"Although this exercise of government one-sidedness with respect to a very contentious political issue may be ill-advised, we are unable to conclude that the Tennessee statute contravenes the First Amendment," Judge John M. Rogers said in a 2-1 ruling.

An anti-abortion group, Tennessee Right to Life, declared victory.

"It's a validation of our position all along that the Legislature had the authority to authorize a plate that favors normal childbirth over the practice of abortion," said Brian Harris, the group's president.

In a dissenting opinion, Judge Boyce F. Martin Jr. said the plates should be banned because they amount to unconstitutional viewpoint discrimination.

The plaintiffs, the American Civil Liberties Union of Tennessee and Planned Parenthood of Middle and East Tennessee, said they were still reviewing Friday's ruling.

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Abortion-rights proponents complained the state does not offer those with other political views a similar way to express them. An attempt to create a "Choose Choice" tag failed in the Legislature in 2002.

Federal appeals courts have been divided over whether such license plate programs are constitutional. Last year the U.S. Supreme Court let stand a lower-court ruling that said similar South Carolina license plates violated the First Amendment.

Drivers will be able to pay an extra fee in Tennessee for the "Choose Life" plate, and some of the proceeds will go to New Life Resources, an anti-abortion group.

Tennessee is the 13th state to offer "Choose Life" plates. The others are Alabama, Arkansas, Connecticut, Florida, Hawaii, Louisiana, Maryland, Mississippi, Montana, Ohio, Oklahoma and South Dakota. Most states donate proceeds to adoption groups, but Alabama, Hawaii, Maryland and Montana donate at least some of the money to anti-abortion groups.

Tennessee has more than 120 specialty plates, most of them saluting uncontroversial subjects such as the Tennessee Titans football team, the Smoky Mountains and the Tennessee Walking Horse.

Gov. Phil Bredesen let the anti-abortion license plates measure become law but declined to sign it, and he urged lawmakers to develop a new approach to deciding which causes would benefit from the sale of specialty plates.

After 2 More Deaths, Planned Parenthood Alters Method For Abortion Pill (NYT)

By Gardiner Harris

The New York Times, March 18, 2006

WASHINGTON, March 17 — After receiving reports that two more women died after taking abortion pills, Planned Parenthood, the nation's largest provider of abortion and contraceptive services, announced that it would immediately change the way it gives the medicines.

The change partly resolves a long-running dispute between Planned Parenthood and the Food and Drug Administration over the safest way to provide pill-based abortions.

The F.D.A. has now received reports that six women in the United States died after taking RU-486, or Mifeprex. A seventh died in Canada. The two most recent deaths and two of the previous four underwent their procedures at Planned Parenthood clinics, a spokeswoman said.

Federal officials do not yet know the cause of the latest two deaths. The previous four resulted from systemic infections with a virulent bacteria, Clostridium sordellii. Planned Parenthood announced in a statement that one of the two recent deaths occurred within days of the victim's undergoing a pill-based abortion, while the other woman died within five weeks.

Mifeprex has been used in more than 560,000 medical abortions in the United States and more than 1.5 million in Europe. The risks of death from infection after using the pill are similar to the risks after surgical abortions or childbirth, drug agency officials said.

When Mifeprex was first approved by the agency in 2000, the standard regimen was to give the drug in a doctor's office followed two days later by an oral dose of a different drug, misoprostol, also in a doctor's office. Women expelled the fetus over the following days or weeks in a process that mimicked a miscarriage. The procedure must begin within 49 days of conception.

Soon after Mifeprex's approval, most Planned Parenthood doctors switched to a different regimen, instructing women to insert misoprostol vaginally at home two to three days after taking Mifeprex. Studies of the new regimen showed that it was effective, and it allowed women to take lower doses of misoprostol. It also meant fewer office visits for Planned Parenthood.

But this regimen was not approved by the drug agency. It is not unusual for doctors to use drugs differently from how they are officially approved. But as reports of deaths among women undergoing the procedure trickled into the F.D.A., government officials issued stern warnings that doctors should stick to the approved regimen.

Until Friday, Planned Parenthood had rejected those warnings.

Dr. Vanessa Cullins, vice president of medical affairs for Planned Parenthood, said in an interview that effective immediately the group would ask patients to take misoprostol orally instead of vaginally. Although the F.D.A. has asked that this be done in doctors' offices, a Planned Parenthood spokeswoman said patients would still be asked to take the second drug at home.

"There is no single reason for the change" in policy by the group, Dr. Cullins said.

"We don't really know all the circumstances surrounding these women's deaths," she said.

Whether the method of drug administration has anything to do with the deaths is not known. The drug agency said it was "investigating all the circumstances associated with these cases." The agency has already added strong warnings to Mifeprex's label regarding the risks of infection.

On Friday, the agency repeated warnings that women who undergo pill-based abortions should be vigilant for signs of trouble. If they suffer from nausea, vomiting or diarrhea and weakness with or without abdominal pain more than a day after taking abortion medicines they should be given antibiotics.

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Clostridium sordellii infections are rare and can be difficult to diagnose because they are not always accompanied by fever.

Since reporting drug side effects is voluntary in the United States, it is possible that more women have died and that their deaths have gone unreported because doctors, medical examiners and coroners are not obligated to forward such reports to the F.D.A. Doctors and local officials also may not associate a death with a pill-based abortion, especially if the death occurs weeks later.

The risk of infections could be lowered or eliminated if abortion patients were given antibiotics as a preventative. But antibiotic therapy has its own risks, and officials say that the risk of infection from Clostridium sordellii is so slight that it does not merit such a precaution.

The government has scheduled a scientific conference on May 11 at the Centers for Disease Control and Prevention to discuss Clostridium sordellii and a related bacteria, Clostridium difficile, that has caused outbreaks of diarrhea and colitis in hospitals and nursing homes.

Both bacteria generally live in the soil and human intestinal tracts. Both thrive in environments with limited oxygen. When these bacteria infect the bloodstream, they can produce a toxin that causes something akin to toxic shock syndrome.

Senators Jim DeMint, Republican of South Carolina, and Tom Coburn, Republican of Oklahoma, released a statement Friday calling for the withdrawal of Mifeprex. They have sponsored a bill that would force the F.D.A. to withdraw the drug.

Monty Patterson, whose 18-year-old daughter, Holly, died on Sept. 17, 2003, from a Clostridium sordellii infection after a medical abortion, has since argued that Mifeprex predisposes women to such infections by suppressing their immune systems.

"How many women have to die needlessly before this drug is removed from the market?" Mr. Patterson asked.

FDA Says 2 More Women Have Died After Taking Abortion Pill (WP)

By Marc Kaufman

The Washington Post, March 18, 2006

Agency Is Investigating; 7 Fatalities Now Tied to RU-486

The Food and Drug Administration reported yesterday that two more women have died after taking the RU-486 abortion pill, bringing to seven the number of fatalities associated with the drug since it was approved for use in 2000.

The agency said that it was investigating the new reports, provided by the manufacturer of the drug, but so far was not able to confirm any cause of death. In four earlier fatalities of California women who had undergone medical abortions, the victims died of a form of blood poisoning caused by Clostridium sordellii , a common but rarely fatal bacterium.

Opponents of abortion quickly described the FDA advisory as another reason to ban the abortion pill, sold as Mifeprex.

"RU-486 is a deadly drug that is killing pregnant women," Sen. Jim DeMint (R-S.C.), who has co-sponsored a bill to take the drug off the market pending a review, said in a statement. "This drug should never have been approved, and it must be suspended immediately."

But supporters said that the pill, which has been used worldwide for years, remains safe.

"To put this in context . . . 560,000 medication abortions have occurred in the United States. We know of seven reported deaths of women who had medication abortions in North America," Vanessa Cullins, vice president for medical affairs of the Planned Parenthood Federation of America, said in a statement. "At this time, none of those deaths have been directly attributed" to the abortion pill, she said.

Though commonly known as RU-486, this medical abortion actually entails taking two pills. The first, an antiprogestin, binds itself to the wall of the uterus, triggering the shedding of the uterine wall and not allowing the embryo to become implanted. One or two days later, the woman takes another drug -- misoprostol -- that causes her cervix to soften and dilate so the embryo can be expelled.

As a precaution, Cullins said, Planned Parenthood is changing its policy on how medical abortions should be administered. In the past, many women received misoprostol vaginally, although the FDA had never reviewed or approved that method. Vaginal use is considered to be more effective and has fewer side effects, but Cullins said that her organization would no longer recommend that method.

In its advisory, the FDA pointedly said that the safety and effectiveness of vaginal use of the second drug "has not been established." It also said that providers of medical abortion and emergency-room staffs should investigate the possibility of blood poisoning whenever women who have taken the drugs come in complaining of nausea, vomiting or weakness unassociated with fever or other signs of infection.

The FDA said yesterday that it did not know whether the clostridium bacteria played any role in the most recent deaths, but the agency did establish that it was present in four earlier fatalities. One other death related to medical abortion was in a woman who had an ectopic pregnancy -- a condition where RU-486 is not considered appropriate.

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The issue of clostridium infection will be discussed at a public workshop in May hosted by the FDA and the Centers for Disease Control and Prevention. The bacterium has been associated with a small number of deaths and more hospitalizations involving both medical abortions and skin grafts.

The agency's handling of the seven deaths of women who had undergone medical abortion was criticized by opponents of the drug.

"The FDA has pulled other drugs that have caused fewer deaths and less severe complications than RU-486," Wendy Wright, president of Concerned Women for America, said in a statement. "Why the double-standard for an abortion drug that is now linked to the deaths of seven healthy women and over 800 other reported complications?"

Opponents of medical abortion filed a citizen's petition with the FDA soon after the drug was approved for use, but the FDA has never acted on it. In addition, Rep. Roscoe G. Bartlett (R-Md.) introduced a bill in 2003 -- called Holly's Law, after Holly Patterson, an 18-year-old California woman who died following a medical abortion -- that would ban use of RU-486. The bill has 79 co-sponsors.

Bartlett said yesterday that the maker of Mifeprex, Danco Laboratories LLC, should pull the drug from the market. If it refuses, he said, the FDA should force its withdrawal.

FDA Says Two More Women Dead After Abortion Pill Use (WT)

By Joyce Howard Price

The Washington Times, March 18, 2006

The Food and Drug Administration disclosed yesterday that two more American women had died after taking the abortion pill, mifepristone or RU-486; bringing to seven the number of mifepristone users who have died in this country since the drug was approved here in 2000.

"At this time, we are investigating all circumstances associated with these cases and are not able to confirm the causes of death," or know whether the abortion pill was a factor, the FDA said in a "public health advisory" posted at its Web site.

Reacting to the two new deaths, Sen. Jim DeMint, South Carolina Republican, and Sen. Tom Coburn, Oklahoma Republican, both demanded that sales of mifepristone be suspended immediately.

In addition to the seven deaths potentially linked to the drug, Mr. DeMint said federal records also indicate another 600 women have experienced adverse events following its use. They include 200 women whose complications were "either life-threatening or extremely serious," Mr. DeMint said.

Mifepristone, known under the trade name of Mifeprex, is approved to end pregnancies up to 49 days after the start of a woman's last menstrual cycle. It blocks a hormone needed to sustain a pregnancy. Misoprostol, which should be taken two days after mifepristone, induces labor contractions to end a pregnancy.

In its health advisory yesterday, the FDA presented the regimen it has approved for taking mifepristone and misoprostol. Rather than taking misoprostol orally, as the FDA recommends, four California women who died inserted that drug vaginally.

Planned Parenthood Federation of America Inc. said since 2000, four of the seven women who died, including the latest two, received the pills at affiliated clinics. The organization said it will immediately stop recommending vaginal insertion of the final two tablets.

The FDA yesterday warned doctors to watch for sepsis, a potentially deadly blood infection, that previously killed four California women following medical abortions using mifepristone and misoprostol. The four all tested positive for a rare bacterial infection known as Clostridium sordelli.

"We do not know if these [two] new deaths were caused by sepsis or, if they were, if they were caused by infection with Clostridium sordelli," the FDA said in its notice. But the agency urged physicians to be on the lookout for such infections in women who have used mifepristone and misoprostol to terminate pregnancies.

Wendy Wright, president of Concerned Women for America, a pro-life organization, said she was dismayed that the FDA "did not pull" the abortion pill when it announced the two additional deaths.

"The FDA has pulled other drugs that have caused fewer deaths and even some that caused complications but no deaths. Why the double standard for this abortion drug?" Miss Wright asked. The FDA says it cannot prove mifepristone or misoprostol were to blame, but says the rate of fatal sepsis in medical abortions is approximately 1 in 100,000, which is comparable with infection risks in surgical abortions and childbirths.

2 More Women Die After Taking Abortion Pills (LAT)

By Jonathan D. Rockoff, Baltimore Sun

The Los Angeles Times, March 18, 2006

DOJ_NMG_0019478

Federal regulators are looking into whether they had the same infection that killed four California women who also took RU-486.

WASHINGTON — Two more women who took the abortion pill RU-486 have died, according to federal drug regulators who are investigating whether the same rare infection that caused four earlier deaths was responsible.

In announcing the two additional cases Friday, the Food and Drug Administration issued an alert urging doctors and patients to follow approved directions for the drug — which is used in combination with another medication, misoprostol — and to look for warning signs warranting immediate attention.

The agency did not provide further details about the two deaths, which followed reports that four women in California had died from septic shock since 2003 after undergoing medical abortions, as the procedure for using RU-486 is called.

Planned Parenthood Federation of America said it would immediately alter its procedures for administering the drug. The group had been recommending that women take the misoprostol vaginally, a widespread practice that is generally believed to be more effective but is not what the FDA recommends. The four California women took the drug vaginally.

In a statement, Planned Parenthood said one of the two recent deaths took place weeks after use of the pills, and the second several days after. It emphasized that of 560,000 women who had taken the pills in the U.S., a tiny fraction — seven — had died afterward.

According to the FDA, reports of fatal infections in women taking RU-486 are "very rare" — about 1 in every 100,000 cases.

After learning that the four California women who died had taken the abortion pills, the FDA issued a warning in July but said it did not know whether use of the abortion pills had caused the deaths. In November, it updated its alert to say that the women were infected with the same Clostridium sordellii bacterium.

Controversial even before the FDA approved its sale six years ago, RU-486 has been a flashpoint in the abortion wars. It ends a pregnancy, unlike the "morning after" pill, which prevents one.

Government investigators have said that RU-486 poses a small risk to women and that the infection that killed the four California women could occur in women giving birth as well.

The infections are hard to detect because they do not produce fevers or other signs of infection.

Some groups have called on the FDA to restrict sales, saying hundreds of deaths may not have been reported. Other groups say evidence shows that the drug is safe.

A May 11 workshop by the FDA, the Centers for Disease Control and the National Institute of Allergy and Infectious Diseases will review cases of clostridial infections, including the California deaths.

Investigators are trying to determine whether use of RU-486, sold as Mifeprex, makes women more susceptible to infection.

Birth Control (WSJ)

By Ann Zimmerman

The Wall Street Journal, March 18, 2006

Morning-After Pill Comes to Wal-Mart

On Monday, Wal-Mart Stores Inc. is set to sell for the first time prescription emergency contraceptives commonly referred to as Plan B or the morning-after pill.

The move comes after a short but vociferous activist campaign that labeled the world's largest retailer as antiwomen for being the only large pharmacy chain in the country that refused to stock the pills.

Emergency contraception is in essence a high-dose birth-control pill that works by preventing the ovaries from releasing an egg, blocking the union of sperm and egg, or stopping a fertilized egg from implanting in the uterus. The pill must be taken within five days of sex, but the earlier it is taken, the more effective it is.

That Wal-Mart chose "for business reasons" not to stock the pill was an issue that simmered on the back burner for women's groups for years after the pill was first approved by the Food and Drug Administration in 1997. But with Wal-Mart on the hot seat for a slew of other issues, from a huge gender-discrimination lawsuit to its high-deductible health benefits, activists saw this as an excellent time to hit the issue again.

In February, three women filed suit against the retailer in Massachusetts. A few days later, the board that oversees Massachusetts pharmacies ruled that Wal-Mart stores in that state must fill prescriptions for emergency contraception. Illinois has a similar rule. Within short order, several other states, including Connecticut and New York, were making noise that they would follow suit. The last thing Wal-Mart needed was another state-by-state battle on its hands: More than 20 states are considering legislation that would require Wal-Mart to pay a higher percentage of employee's health-care benefits.

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But Wal-Mart's decision to stock Plan B doesn't mean the pressure is off. The retailer will allow pharmacists who object to the pills for personal reasons to refuse to dispense them, recommending another pharmacy instead if no other Wal-Mart pharmacist on the premises is willing to fill the prescription. With Wal-Mart occasionally the only pharmacy in town, especially in rural areas, some argue that refusing to dispense Plan B could present a real hardship for women. Groups are already starting to send petitions to the company, asking them to rescind the policy.

This will be a tougher fight, as Wal-Mart has more company in this arena. Rite Aid Corp., Target Corp., Walgreen Co. and Winn-Dixie Stores Inc. also allow pharmacists to refuse to dispense the pills, except in the states where it is illegal to do so. Pressure is coming from the other side, too: Sixteen states are considering legislation that would allow pharmacies to refuse to fill prescriptions for any sort of birth control -- Plan B or just everyday birth control.

Abortion Nation (WSJ)

By James Q. Wilson

The Wall Street Journal, March 18, 2006

When South Dakota passed a law banning all abortions save those that threaten the physical health of the mother, opponents of abortion were cheered and defenders of it outraged. I think both sides were mistaken.

Roe v. Wade, decided in 1973, did not create abortion, it created a right to an abortion. The decision had few merits on constitutional grounds and it was a disaster on political ones. For nearly a quarter of a century American politics has been convulsed by a polarizing debate. No one can become the Democratic presidential candidate without favoring abortion and (so far) no one can become the Republican candidate without opposing it. This has driven the candidates and parties far apart even though most Americans occupy a middle ground on the issue.

Abortion has become the key test for selecting people for high-level judicial offices. When Sen. Charles Schumer says he favors using "ideology" as a test for judges, the ideology he has in mind is abortion. When other senators oppose a "litmus test" for judges, the test to which they refer is about abortion. We closely watch Supreme Court decisions to see if they will oppose even the slightest restriction on this "right."

By contrast, abortion is scarcely an issue in most European democracies, not because the people who live there have views radically different from American ones, but because legislatures, not courts, authorized abortions using language that tried to strike a reasonable balance among competing views.

When other countries authorized abortions, they did not authorize a right to one. Their laws were designed to give varying degrees of respect to unborn life. (Only in China is there a law as permissive as that conferred by Roe v. Wade.) When Prof. Mary Ann Glendon surveyed abortion laws here and abroad in the late 1980s, she found that in France, Germany, Italy, the Netherlands, Switzerland and the U.K. there existed pre-abortion waiting periods, mandatory counseling, time limits of when during a pregnancy an abortion could occur, and a requirement that several physicians agree on the need for an abortion.

Suppose, in response to a lawsuit brought against the South Dakota law, Roe were overturned. Abortion would not disappear. Women would not visit quack doctors or travel to Sweden. Abortion would be legalized in many states (it was legal in five before Roe was decided), but having been made legal by state legislatures, the laws would, as in Europe, accommodate the diverse views of proponents and opponents. Ardent defenders of abortion would realize that, in exchange for a small bus fare, a woman in South Dakota could go to a nearby state where abortions were easy to obtain. Ardent opponents would know that if they wished to live in an abortion-free state, they could move to one.

In making these decisions, the states would be exercising their police powers; that is, their right to pass laws that protect the lives, health and morality of their citizens. The federal government has no such police power; it can only act in ways that can be plausibly derived from the Constitution. The Framers would have never imagined that the national government would pass laws about abortion -- or marriage, or parenting, or private sexual acts.

There are, of course, checks on the states' police powers. They cannot be used in ways that plainly deprive people of rights guaranteed by state or federal constitutions. A state regulation must be reasonably related to the provision of a public good. But within those limits, states can and do regulate sex, marriage, divorce, parenting and communicable diseases.

The states should also decide about gay marriage. Some conservatives are urging Congress to propose a constitutional amendment banning this, but this would be a mistake. People should vote on this matter and about the conditions of life they wish to experience where they live. Though I oppose gay marriage, voters in some states may approve it. If they do, we will have a chance to learn what it means in practice, with the costs and benefits falling on people who have accepted it.

Moreover, a state-by-state vote on the matter provides an opportunity for gay advocates of this policy to make their case. A constitutional amendment would deny them that opportunity, leaving them perpetually angry. Since feelings run high on this matter, it would be a mistake to let it be decided as the right to abortion was decided. If there were the gay marriage equivalent of

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Roe v. Wade or a constitutional ban on it, we would infect the nation with the divisive anger that followed Roe and our earlier attempt at alcohol prohibition.

If there is to be a constitutional amendment, it would be better if it said this: "Nothing in this Constitution shall authorize a federal judge to decide that a marriage can be other than between one man and one woman." If I could think of language to bar judges from making other social policy decisions, I would add it, but the words fail me.

The rising demand that every personal preference become a constitutional right is a worrisome disease. People, of course do have rights; the Constitution and the first 10 amendments spell most of them out. That document defines the essential requirements of life and liberty. Adding new invented rights by either a ratified amendment or judicial overreaching is a mistake.

Mr. Wilson has taught at Harvard, UCLA and Pepperdine, and is the author, among other books, of "The Moral Sense" (Free Press, 1997).

FDA To Review Ban On Gay Men Donating Blood (WP)

By Rob Stein

The Washington Post, March 18, 2006

The Food and Drug Administration is considering revising its policy that bars as a blood donor any man who has had sex with another man since 1977, officials said yesterday.

The change in policy is being recommended by the American Red Cross, the American Association of Blood Banks and America's Blood Centers, which collect virtually all the blood used for transfusions nationwide.

The three groups requested the change at a March 8 workshop the FDA convened to review the latest scientific information about the safety of the blood supply, arguing that current tests and screening methods have improved enough to protect transfusion recipients without the lifetime ban.

Instead, the group recommended that men be barred from donating for only a year after having had sex with another man, treating them the same as other groups at increased risk for spreading sexually transmitted virus through donated blood.

"We strongly support the use of rational, scientifically based deferral policies, and we want them to be applied fairly and consistently," said Ryland Dodge, a Red Cross spokesman.

The FDA implemented the lifetime ban in the mid-1980s when concerns about the spread of the human immunodeficiency virus, which causes AIDS, were running high and many questions remained about the ease with which people could spread the virus and the reliability of screening methods. Since then, the accuracy of testing has improved substantially, as have questionnaires that all donors answer to identify those posing the greatest risk, Dodge said.

"All these things come together to make us much more confident that our layers of safety have improved to the point where they should review the policy," Dodge said.

FDA spokesman Stephen King said the agency would convene a meeting of its Blood Products Advisory Committee to formally reconsider revising the policy, probably later this year.

Agency officials are "definitely interested in hearing all the science, and if there's hard evidence in place that changing the policy would not endanger the blood supply they're definitely open to it," King said.

The current policy has drawn strong criticism from gay rights groups.

"The blood deferral policy that exists is not based on science. It's based on inertia and in many cases stereotypes," said Jon Givner of the Lambda Legal Defense and Education Fund. "The FDA should revisit the issue and adopt a deferral policy that is based on actual risk rather than sexual orientation."

ANTITRUST:

Maytag, Whirlpool Deal At Risk (AP)

By David Pitt

AP, March 18, 2006

DES MOINES, IOWA - Shares of Maytag Corp. (the parent of North Canton's Hoover Co.) and Whirlpool Corp. fell Friday on speculation that the federal government may challenge their proposed merger.

Whirlpool, based in Benton Harbor, Mich., has proposed a $1.79 billion acquisition of Maytag.

The U.S. Department of Justice antitrust division sought an extension to review the merger last month. The companies have agreed not to close the transaction before March 30.

A leading antitrust lawyer said a decision is likely to come next week.

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The heightened speculation drove stock prices for both companies lower Friday. Maytag shares dropped $1.23, or 6.9 percent, to close at $16.71 on the New York Stock Exchange. Whirlpool shares fell $1.29, or 1.5 percent, to $86.25.

Steven C. Sunshine, a supervisor of the antitrust division's merger enforcement program from 1993 to 1995, said antitrust attorneys have expected the government to challenge the deal because it concentrates so much power in one company.

``I think this is a merger that on true antitrust principles raises real concerns," said Sunshine, now head of the antitrust practice at the New York law firm of Cadwalader, Wickersham & Taft.

The merger would create a company that produces half of the dishwashers in the United States and more than 70 percent of its clothes washers and dryers. Under long-standing federal guidelines, a rise in market concentration of that magnitude would usually draw a court challenge.

Antitrust attorneys have sought sworn statements from business rivals and customers as they review the deal, which was approved by Maytag's shareholders in December, the Wall Street Journal reported Feb 13.

Gina Talamona, spokeswoman for the Justice Department, declined to comment Friday, confirming only that the merger is still under review.

The Competition Bureau of Canada, an independent law enforcement agency, concluded on Tuesday that it had no grounds to challenge the merger under Canada's Competition Act.

Sunshine said it appears the U.S. Department of Justice antitrust staff has made a recommendation to challenge the merger to Tom Barnett, who heads the division. Barnett will make the final decision about whether the government challenges the merger in court.

If it does, the companies have the option of fighting a lengthy court battle, abandoning the deal or agreeing to sell off parts of the business to allay government concerns.

If Whirlpool chooses to walk away, it must pay Maytag $120 million.

Prudential Equity Group analyst Nicholas Heymann said he believes the Justice Department will oppose the merger ``based on the potential for anticompetitive pricing by the merged entity."

In a March 17 research note to investors, he speculated that the merger makes economic sense for Whirlpool only if the company increases the price of some washers and dryers to help boost profits.

A Whirlpool spokesman didn't immediately return calls for comment. CEO Jeff M. Fettig said Tuesday that the merger ``will result in better products, quality and service, as well as cost efficiencies, which will enhance our ability to succeed in the competitive global home-appliance industry."

A Maytag spokesman declined to comment. Maytag is based in Newton, Iowa.

Whirlpool's Maytag Purchase May Be Opposed By U.S. (Update7) (BLOOM)

Bloomberg, March 18, 2006

March 17 (Bloomberg) -- U.S. Justice Department lawyers are gathering evidence for a possible court challenge to Whirlpool Corp.'s proposed $1.68 billion purchase of home appliance rival Maytag Corp., people familiar with the case say.

Antitrust enforcers are worried the Whirlpool deal would let the combined company raise prices through control of more than two-thirds of the U.S. market for some appliances, said antitrust lawyers who spoke on condition of anonymity because they aren't authorized to talk about the case. They said the government has questioned such retailers as Lowe's Cos. and Home Depot Inc. and Whirlpool's manufacturing rivals.

The decision on whether to pursue the agency's first court challenge to a takeover in two years will be up to the Bush administration's new antitrust chief, Thomas O. Barnett, 44. It will be the first test of his approach to mergers since he won Senate confirmation Feb. 10 as assistant attorney general.

``If they don't challenge this merger, Ford and General Motors is next," said Steven M. Axinn, a New York antitrust lawyer not involved in the transaction. ``Unless someone can argue that Maytag is going out of business, I don't understand how the government can let this deal happen."

Maytag shares fell $1.03, or 5.7 percent, to $16.91 as of 1:06 p.m. in New York Stock Exchange composite trading. Whirlpool shares declined 90 cents, or 1 percent, to $86.64.

Maytag Shares

Maytag shares are up about 16 percent and Whirlpool has risen about 26 percent since June when Ripplewood Holdings and Chinese refrigerator maker Haier Group Corp. entered the bidding for Maytag. Haier withdrew from the competition in July.

The difference between Whirlpool's $21 offer for each Maytag share and the current share price widened to almost 25 percent today.

``That suggests that Wall Street does not have confidence this transaction will happen," Axinn said. ``This is not a situation for the faint of heart."

The combination of Whirlpool, which makes stoves, ranges and washing machines, and Maytag, manufacturer of Amana refrigerators and Maytag washers and dryers, would create the world's largest appliance maker. The takeover would give Whirlpool more than 70 percent of the U.S. market for washing machines and dryers and almost half the dishwasher market.

Under Review

``We are still looking at the proposed transaction,'' said Justice Department spokesman Gina Talamona.

``We are not commenting,'' said Whirlpool spokesman Christopher Wyse. Maytag spokesman John Daggett declined to comment.

Maytag, which reported a fourth-quarter loss of $75 million, or 93 cents a share, said last month it may sell its Jade commercial business and its Hoover vacuum cleaner unit. In the year-earlier period, the loss was $14.1 million, or 18 cents a share.

Maytag's operating margin, the amount it makes after deducting costs, turned negative last quarter. It reported losing 1.6 cents for every dollar of sales. In 2000, the company made about 14 cents of profit on each dollar of sales. Whirlpool's operating margin was 6.3 percent last quarter, according to Bloomberg data.

Whirlpool and Maytag say their deal would promote competition by cutting costs from closing Maytag factories and consolidating production. They cite increased sales by foreign appliance makers such as Sweden's Electrolux AB, LG Corp. of South Korea and Haier.

Questioned Under Oath

The Justice Department's staff has questioned executives of the companies under oath, a sign the agency is preparing for a possible court challenge, the people familiar with the case said.

Last month, Whirlpool, based in Benton Harbor, Michigan, and Newton, Iowa-based Maytag, agreed to give the department until March 30 to complete its investigation. The company could extend that deadline if the government wants more time.

Before Barnett makes a decision, company officials will get a chance to meet with him and others at the Antitrust Division to argue for the transaction.

Atlanta-based Home Depot, the world's largest home improvement retailer, has told the government the deal would hurt its business, people said. Home Depot, which now sells Maytag products, fears that the combined company would deny it access to the most popular brands and could lead to higher prices for less popular brands made by other companies, one person said.

``We don't comment on vendor transactions,'' said Home Depot spokesman Jerry Shields.

Losing Battles

The government lost its last two court battles to stop mergers. In 2004, a U.S. judge in San Francisco rejected the Justice Department's request to block software maker Oracle Corp.'s $7.7 billion acquisition of PeopleSoft Inc. The Federal Trade Commission also lost an effort later that year to block Arch Coal Inc.'s $364 million acquisition of Triton Coal Co. in Wyoming's Powder River Basin.

Those defeats have made the government cautious about challenging mergers, according to observers and antitrust experts.

``Justice has been very gun shy about going into court'' since the Oracle defeat, said Herb Hovenkamp, who teaches antitrust at the University of Iowa's College of Law in Iowa City.

He predicted ``the tide will turn a little'' and the government may be more aggressive in the Whirlpool case because recent Supreme Court decisions show deference to the government on antitrust issues.

Congressional Concerns

Barnett's decision on the Whirlpool case is being watched closely. He became acting head of the antitrust division in June when his former boss, R. Hewitt Pate, left government for private law practice.

Late last year, Republican senators Jon Kyl of Arizona and Sam Brownback of Kansas held up a Senate vote on Barnett's nomination for three months, complaining about his role in pressing for a breakup of the Oracle-PeopleSoft deal.

On Dec. 16, the Wall Street Journal's editorial page praised Kyl and Brownback for ``raising a red flag'' about Barnett, and on March 13 the newspaper urged the Justice Department to clear Whirlpool's bid for Maytag. The ``main beneficiary of an antitrust injunction would be foreign companies,'' the editorial said.

``Mr. Barnett assured Congress during his confirmation hearings that he appreciates the global scope of modern markets,'' the newspaper said. The Whirlpool case ``will be the first test of his sincerity.''

Higher Prices

With just three large U.S. appliance makers, Whirlpool, Maytag and General Electric Co., the Justice Department is trying to determine whether the Whirlpool-Maytag combination would result in higher prices for washers, dryers and dishwashers.

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Foreign makers such as Electrolux, LG and Haier sell expensive appliances in the U.S., accounting for less than 10 percent of the U.S. market.

Consumers purchasing washing machines priced from $200 to $600 have fewer choices because it is too expensive for foreign makers to ship their cheaper brands to the U.S.

After Whirlpool announced its Maytag offer in July, the company's antitrust lawyer, James F. Rill, argued that increased sales by foreign manufacturers plus the buying power of discount appliance stores such as Home Depot, Lowe's, Best Buy Co. and Sears Holding Corp. would keep the market competitive.

``Synergies and efficiencies'' from the combination would also mean cheaper products, Rill said. He also said the government shouldn't consider Whirlpool's production of Sears Kenmore appliances part of its market share.

``Sears owns the Kenmore label. Sears sets the pricing for the Kenmore product,'' Rill said in a July 18, 2005, interview. Antitrust enforcers have rejected that argument, people familiar with the case said.

4 Companies Under Federal Investigation (BEAUENT)

By Dan Wallach, The Enterprise

Beaumont (TX) Enterprise, March 18, 2006

Four U.S. chemical companies, including two with a major Southeast Texas presence, received subpoenas from the U.S. Department of Justice as part of an investigation into possible anti-competitive pricing in certain materials that are used in a variety of consumer goods.

The companies include Huntsman Corp., BASF Corp., Dow Chemical Co., and Lyondell Chemical Co.

The justice department delivered the subpoenas for documents to the companies in mid-February, said publicists for three of the companies contacted Friday by The Enterprise.

A spokeswoman for the justice department acknowledged the investigation but offered little detail.

"The anti-trust division is investigating the possibility of anti-competitive practices in the polyurethanes industry," said justice department spokeswoman Gina Talamona.

Polyurethanes are made from chemical bases that eventually are used in the production of consumer goods. The material is used in shoe soles, furniture padding, automotive components such as steering wheels and dashboards, particle board used in home construction and as insulation in residential and commercial refrigerators.

Huntsman Corp. spokesman Don Olsen said the subpoena sought documents related to sales and pricing.

"We are cooperating fully," Olsen said. "We don't know the basis of the investigation nor do we know why."

Huntsman does not make any of the material in Jefferson County, Olsen said. The company's largest manufacturing unit for polyurethanes is in Geismar, La.

BASF also does not make the material in Jefferson County, and most of its production also is in Geismar, said Jack Maurer, a BASF spokesman.

"Yes, we were subpoenaed but we're not aware of any violation on the part of BASF," he said.

Susan Moore, a spokeswoman for Houston-based Lyondell, also confirmed the company received a subpoena.

"We believe we haven't violated any antitrust laws," she said.

In 2004, Lyondell acquired the PD Glycol plant in Beaumont, which makes products such as antifreeze, unrelated to the justice department's probe.

A call to Dow Chemical at its headquarters in Midland, Mich., was not returned Friday.

Airlines Can Legally Meet (FWST)

By Bob Cox

The Fort Worth Star-Telegram, March 18, 2006

Officials from American Airlines and Southwest Airlines could negotiate a proposal to resolve the Wright Amendment controversy without running afoul of federal antitrust laws, legal experts said Friday.

Legal precedent allows competing businesses "to petition government" and propose legislation or regulation if they are not conspiring to fix prices or divide up market share, experts said. American says it is reluctant to enter talks with Southwest on Wright for fear of an antitrust inquiry or Justice Department lawsuit.

If American and Southwest "work out a compromise and ask Congress to enact a statute, then they're protected," said George Cohen, a professor at the University of Virginia's law school.

What the legal community calls the Noerr-Pennington doctrine, named for two precedent-setting Supreme Court cases, allows competing companies to work together to influence the legislative or executive branch of government without violating the Sherman Antitrust Act.

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"No violation of the Sherman Act can be predicated upon mere attempts to influence the passage or enforcement of laws, and the Sherman Act, therefore, does not prohibit two or more persons from associating together in an attempt to persuade the legislature or the executive to take particular action with respect to a law that would produce a restraint or monopoly," the court ruled in the 1961 Noerr case.

In the cases, the court ruled that the constitutional guarantee of individuals' and corporations' right to petition government supersedes antitrust laws, designed to preserve competition among businesses.

American and Southwest could offer a compromise to resolve the Wright controversy "no matter how stupid or anticompetitive it might be," said Bruce Foer, president of the American Antitrust Institute, a Washington, D.C.-based legal group that works to preserve and enhance business competition.

Cohen and Foer cited the example of tobacco companies working together to propose legislation that allowed the industry to resolve lawsuits brought by states and individuals.

Still, any law or regulation enacted through the airlines' efforts could still be subject to legal challenges.

Proposing a political compromise would be one thing. But if the two airlines tried to divide up routes between them, Foer said, the legal ramifications "might get dicey."

That Other Madness This Month: Mergers (NYT)

By Mark A. Stein

The New York Times, March 18, 2006

MARCH madness is not limited to college basketball. Billions of dollars in mergers were announced this week, building on the momentum created when AT&T offered to acquire BellSouth for $67 billion earlier in the month.

The trend even swept up entire stock exchanges, as the Nasdaq Stock Market offered to buy the London Stock Exchange (just as the New York Stock Exchange was weighing a bid of its own), and Euronext, the owner of the Paris, Amsterdam, Brussels and Lisbon stock markets, said it was interested in buying Deutsche Börse, the German exchange.

BUT FIRST, A CORRECTION Just as investors may have been recovering from General Motors' $8.6 billion loss last year, the company stepped up to say the loss was actually $10.6 billion. It said the added losses more accurately reflected the costs of scaling back its North American operations and of helping its former parts subsidiary, Delphi, restructure while in bankruptcy protection.

G.M. said it would also restate five years of results and delay filing its annual report with the Securities and Exchange Commission while it looks into accounting irregularities at its residential mortgage unit.

CHARGE! Eager to further diversify its business amid rising interest rates and slowing growth for credit card issuers, Capital One Financial, the big credit card company, agreed to buy the North Fork Bancorporation, a regional bank serving the Northeast, for about $14.6 billion in cash and stock.

After its acquisition last fall of the Hibernia National Bank in New Orleans, Capital One would have deposits of more than $84 billion when its North Fork acquisition is completed. It would have more than 50 million customer accounts and 655 branches from White Plains to Brownsville, Tex.

Credit card companies are looking for new ways of financing the debt accumulated by their customers. In the past, card issuers repackaged the debt into bonds. Teaming up with banks also lets them use relatively inexpensive bank deposits to finance card debt.

HEADLINE NEWS The McClatchy Company, a California newspaper publisher, won a one-bid auction for Knight Ridder, offering $4.5 billion in cash and stock for its 32 newspapers, including The Miami Herald, The Star-Telegram of Fort Worth and The Charlotte Observer in North Carolina.

To help finance the deal and head off some antitrust concerns, McClatchy, which is based in Sacramento, immediately put 12 of the papers back up for sale. Among those it plans to sell are The Mercury News in San Jose, Calif., Knight Ridder's hometown; The Akron Beacon Journal in Ohio, which was the first in the chain; and both papers in Philadelphia, The Inquirer and The Daily News.

Gary Pruitt, the chief executive of McClatchy, which already owned The Star Tribune in Minneapolis, The Sacramento Bee and The News & Observer in Raleigh, N.C., said he hoped he could complete both the acquisition and the sale this summer.

DRUG DEAL Even some Europeans got carried away by merger furor: Merck of Germany made a hostile $17.7 billion bid for Schering of Germany, the largest maker of oral contraceptives. The businesses are unaffiliated with similarly named American companies: Merck & Company and Schering-Plough.

A combination of Merck and Schering would create the second-largest drug maker in Germany after Bayer, with annual sales of $13 billion. Midsize pharmaceutical companies are under pressure to buy one another as generics makers eat away at their profit margins and the cost of discovering and developing new drugs rises.

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Schering's board rejected the Merck offer, but it may be persuaded by a higher price from a bigger company, including Novartis of Switzerland or GlaxoSmithKline of Britain.

TAX FIRM SUED The New York attorney general, Eliot Spitzer, sued H&R Block, the nation's largest tax-preparation service, accusing it of selling retirement-savings plans without disclosing that investors would probably earn less from the plans than they would pay in fees.

Last month, the California attorney general, Bill Lockyer, accused Block of illegally promoting high-cost loans as "instant" tax refunds. The company agreed last year to pay $62.5 million to settle four class-action lawsuits over those refund-anticipation loans.

Perhaps even more embarrassing for the company, Block has said it will need to restate profits for two years because it understated its 2004 state tax liabilities by millions of dollars.

Despite these issues, federal banking regulators have approved H&R Block's plan to start its own savings bank later this year.

DELAY OF GAME In an embarrassing development, Sony pushed back the introduction of its PlayStation 3 video game console to November — months after it originally planned to start selling the consoles and almost a full year after its chief rival, Microsoft, was able to put its latest hardware into stores.

Sony is counting on PlayStation 3 to showcase two new technologies: the Blu-ray high-definition DVD format and the Cell processing chip. Sony had hoped the new PlayStation would help spread the use of the Blu-ray format, which is in a separate battle with a Toshiba technology to become the global standard for next-generation DVD's.

Analysts said Sony would probably try to sell PlayStation 3 for about $500. While that is $100 more than the Microsoft Xbox 360, they said it was probably much less than the actual building cost.

MOST VIEWED Following are the most-viewed business news articles on nytimes.com from March 11 through March 17:

1. A Cancer Drug's Big Price Rise Is Cause for Concern
2. Many Utilities Collect for Taxes They Never Pay
3. As Internet TV Aims at Niche Audiences, the Slivercast Is Born
4. TV Stations Fined Over CBS Show Deemed to Be Indecent
5. Surgical Device Poses a Rare but Serious Peril

ENVIRONMENT:

Judges Overturn Bush Bid To Ease Pollution Rules (NYT)

By Michael Janofsky

The New York Times, March 18, 2006

WASHINGTON, March 17 — A federal appeals court on Friday overturned a clean-air regulation issued by the Bush administration that would have let many power plants, refineries and factories avoid installing costly new pollution controls to help offset any increased emissions caused by repairs and replacements of equipment.

Ruling in favor of a coalition of states and environmental advocacy groups, the United States Court of Appeals for the District of Columbia Circuit said the "plain language" of the law required a stricter approach. The court has primary jurisdiction in challenges to federal regulations.

The ruling by a three-judge panel was the court's second decision in less than a year in a pair of closely related cases involving the administration's interpretations of a complex section of the Clean Air Act. Unlike its ruling last summer, when the court largely upheld the E.P.A.'s approach against challenges from industry, state governments and environmental groups, the new ruling was a defeat for the agency and for industry, and a victory for the states and their environmentalist allies.

In the earlier case, a panel including two of the three judges who ruled on Friday decided that the agency had acted reasonably in 2002, when it issued a rule changing how pollution would be measured, effectively loosening the strictures on companies making changes to their equipment and operations.

But on Friday, the court said the agency went too far in 2003 when it issued a separate new rule that opponents said would exempt most equipment changes from environmental reviews — even changes that would result in higher emissions.

With a wry footnote to Lewis Carroll's "Through the Looking Glass," the court said that "only in a Humpty-Dumpty world" could the law be read otherwise.

"We decline such a world view," said their unanimous decision, written by Judge Judith W. Rogers, an appointee of President Bill Clinton. Judges David Tatel, another Clinton appointee, and Janice Rogers Brown, a recent Bush appointee, joined her.

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The winners this time —more than a dozen states, including New York and California and a large group of environmental organizations — hailed the decision as one of their most important gains in years of litigation, regulation and legal challenges under the Clean Air Act.

The provision of the law at issue, the "new source review" section, governs the permits required at more than 1,300 coal-fueled power plants around the country and 17,000 factories, refineries and chemical plants that spew millions of tons of pollution into the air each year.

"This is an enormous victory over the concerted efforts by the Bush administration to dismantle the Clean Air Act," Eliot Spitzer, the New York attorney general, whose office led the opposition from the states, said in an interview.

Mr. Spitzer, who is running for governor, said the ruling "shows that the administration's effort to misinterpret and undermine the statute is illegal."

Howard Fox, a lawyer for Earth Justice, which represented six environmental and health groups in the case, called the ruling "a victory for public health," adding, "It makes no sense to allow huge multimillion-dollar projects that drastically increase air pollution without installing up-to-date pollution controls."

The E.P.A. issued only a brief statement, saying: "We are disappointed that the court did not find in favor of the United States. We are reviewing and analyzing the opinion."

The decision is unlikely to be the last word; several circuit courts or appeals courts have considered or decided related cases, and the issue may eventually reach the Supreme Court. Some in Congress say the uncertainty demands an overhaul of the Clean Air Act itself, but there has been no real movement in that direction in recent years.

The new ruling addressed the administration's effort in 2003 to offer relief to energy companies that faced costly settlements of litigation brought by President Clinton's E.P.A. The agency proposed exemptions for companies whenever upgrades to their equipment amounted to less than 20 percent of the replacement cost of the equipment. In effect, that made perennial repairs of old equipment a more attractive alternative in many cases than its outright replacement.

Energy companies said the two rules the administration proposed in 2002 and 2003 would help them expand energy supplies at lower cost to consumers. But environmentalists said the change would result in just the kind of increased pollution that the law was intended to control.

The Clean Air Act calls for companies to build plants with up-to-date control technologies, and the new source provision was a way to ensure that as time goes by, pollution controls must be modernized along with the plants themselves.

Industry groups, which had challenged the first E.P.A. rule last year as not being flexible enough, were aligned with the agency this time. In general, they have been close partners with the Bush administration in environmental matters, pushing for greater economic considerations in the creation of any new policy.

The 20 percent threshold in the overturned rule would have enabled plant operators to make many repairs and upgrades without spending additional tens of millions of dollars for more advanced pollution controls. In settlements under the old rules, some companies faced costs of more than $100 million.

"This is a terrible decision," said Scott Segal, director of the Electric Reliability Coordinating Council, a trade organization, arguing that the "any physical change" definition created financial instability for plant operators who spent as much as $800 million for a new boiler.

He and other industry leaders expressed hope that the court ruling might induce Congress to pass new legislation that would include New Source Review, a step that he said would make it easier for plant operators to plan for their future upgrades and investments.

John Engler, president of the National Association of Manufacturers, called the ruling "a significant setback to business efficiency" and environmental quality.

The government has 45 days to decide whether to seek a review of the ruling by the entire appeals court.

Court Rejects EPA's Loosening Of Air Rule (LAT)

By James Gerstenzang, Times Staff Writer

The Los Angeles Times, March 18, 2006

WASHINGTON — Dealing a sharp setback to the Bush administration, a federal appeals court Friday threw out a controversial regulation in the federal government's clean-air program that would have allowed older factories, refineries and power plants to install new equipment without using the most modern anti-pollution devices.

The U.S. Circuit Court of Appeals for the District of Columbia, which decides some of the most far-reaching cases dealing with federal regulations, said the Environmental Protection Agency had relied on "Humpty Dumpty" reasoning in arriving at a rule that critics said would have eased enforcement of a law intended to reduce industrial air pollution.

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If the regulation were allowed to take effect, the court said, "a law intended to limit increases in air pollution would allow sources operating below applicable emission limits to increase significantly the pollution they emit without government review."

California and 13 other states had challenged the EPA ruling.

The Clean Air Act requires major industrial sites that modernize their equipment to install the most modern pollution-reducing devices. But in August 2003, the Bush administration altered enforcement of the regulation to allow companies to avoid installing the most expensive new emissions-cutting equipment if the price of the modernization was less than 20% of what it would cost to replace a major component of the plant. In California, whose air pollution rules are among the strictest in the nation, it takes less pollution to count as a major emitter than elsewhere. Many smaller facilities, among them some auto body paint shops, bakeries and small-parts manufacturers, fall into that category and come under the regulation.

Manufacturers, power plant operators and others had worked for years to win the revision in a section of the law known as "new source review." Almost as soon as it was announced, it faced legal challenges. Since then, court actions have chipped away at the administration's relaxation of the landmark 1970 law that has cleaned up some of the nation's worst air pollution. In December 2003, the appeals court here stayed enforcement of the administration's revision.

Last June, the court delivered a divided verdict on the measure. It upheld the rule change itself, but it decided that the EPA had erred in declaring that power plants and other large polluters did not have to keep records of their emissions. It concluded that without the documentation, regulators would not know whether the facilities were breaking clean-air laws.

The case decided Friday, which can be appealed to the Supreme Court, reaches further. Representatives of industry and environmental groups disagreed sharply over the impact.

The National Assn. of Manufacturers said the court was applying unnecessary limits on an EPA effort to ease what proponents of the change consider a burdensome aspect of the clean-air law. John Engler, the association's president, said the clean-air law could "trigger an endless review process for power plants and other stationary sources of air emissions that merely want to repair or upgrade existing facilities."

New York Atty. Gen. Eliot Spitzer, whose office played a leading role in opposing the administration's rule, called the decision "an enormous victory for clean air and for the enforcement of the law, and an overwhelming rejection of the Bush administration's efforts to gut the law."

Spitzer's top environmental lawyer, Peter Lehner, said 800 power plants and up to 17,000 factories nationwide would be affected.

"This is a victory for public health," said Howard Fox, an attorney at Earthjustice, which represented six groups in the case. "It makes no sense to allow huge multimillion-dollar projects that drastically increase air pollution without installing up-to-date pollution controls or even notifying nearby residents."

The case was decided unanimously by a panel made up of two judges appointed by President Clinton — Judith W. Rogers and David S. Tatel — and Judge Janice Rogers Brown, a former California Supreme Court justice, whose nomination to the appeals court by Bush encountered a filibuster by Democrats.

The new-source-review regulation was intended to bring aging facilities, which are responsible for a disproportionate share of the nation's air pollution, up to current standards when their operators modernized for efficiency and profitability. The administration said relaxing the rule would encourage plants to increase their efficiency and provide more affordable energy. Critics said it would make it easier for plants to increase emissions, causing more asthma and premature deaths, and choking cities and national parks with smog.

That argument continued Friday: Scott Segal, director of the Electric Reliability Coordinating Council, said the ruling would "delay efficiency improvements … at the heart of effective emissions control."

Sen. Barbara Boxer (D-Calif.) said the rule was written "to allow polluters to get away with not installing modern pollution controls on upgraded plants," and was "nothing more than a free ride for polluters."

The Associated Press contributed to this report.

Looser Emission Rules Rejected (WP)

By Juliet Eilperin

The Washington Post, March 18, 2006

Court Says Changes By EPA Violated Clean Air Act

A federal appeals court blocked the Bush administration's four-year effort to loosen emission rules for aging coal-fired power plants, unanimously ruling yesterday that the changes violated the Clean Air Act and that only Congress could authorize such revisions.

A three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit sided with officials from 14 states, including New York, California and Maryland, who contended that the rule changes -- allowing older power plants, refineries and

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factories to upgrade their facilities without having to install the most advanced pollution controls -- were illegal and could increase the amount of health-threatening pollution in the atmosphere.

The Environmental Protection Agency's New Source Review policy was formally issued in 2003 but has never taken effect because of legal challenges by state officials and environmental groups. The administration has long argued that the existing standards are too stringent and have discouraged utility plants and other industries from upgrading and expanding their facilities. But opponents have characterized the rule changes as a favor to administration allies in the utility and coal-producing industries that would greatly add to public health problems.

New York Attorney General Eliot L. Spitzer, who led the court fight to block the administration's New Source Review policy, called yesterday's ruling "a major victory for clean air and public health" and a "rejection of a flawed policy."

"It will encourage industry to build new and cleaner facilities, instead of prolonging the life of old, dirty plants," Spitzer said.

In a statement, EPA spokesman John Millet said: "We are disappointed that the Court did not find in favor of the United States. We are reviewing and analyzing the opinion and cannot comment further at this time."

Some studies have linked pollution from coal-fired power plants to as many as 20,000 premature deaths in the United States every year. Environmental activists have made curbing this type of pollution one of their most pressing legislative and legal priorities, and yesterday they celebrated the ruling.

"Irish eyes are surely smiling -- and we all will be breathing easier -- with this green court ruling on St. Patrick's Day," said John Walke, director of the clean-air program at the Natural Resources Defense Council. "This is about as thorough a rebuke a court can give."

President Bush took office in 2001 promising to ease regulations on coal-fired power plants as part of a larger energy production initiative. Three successive administrators of the EPA have tried without success to alter the rules and policies adopted during the Clinton administration that cracked down on aging power plants and refineries that were not equipped with modern air pollution equipment when they were upgraded and when their output was expanded.

Under the revised policy that was rejected by the court yesterday, power plants and other industrial polluters would not have to install new pollution technology if they modernized less than 20 percent of their operations.

The central question in the case focused on what constitutes an industrial facility "modification," because that is what triggers the federal requirement to cut down on the smog or soot emitted by utilities, oil refineries, incinerators, chemical plants and manufacturing operations. Previous administrations, including Bill Clinton's, had interpreted that phrase to encompass any physical activity that increases pollution from a given facility, with the exception of routine maintenance.

EPA officials in the Bush administration sought to broaden this exemption by asserting that "routine maintenance" is any activity that amounts to less than 20 percent of a plant's value. But the ruling, written by Judge Judith W. Rogers, rejected that reasoning as illogical.

"EPA's approach would ostensibly require that the definition of 'modification' include a phrase such as 'regardless of size, cost, frequency, effect,' or other distinguishing characteristic," Rogers wrote. "Only in a Humpty Dumpty world would Congress be required to use superfluous words while an agency could ignore an expansive word that Congress did use. We decline to adopt such a world-view."

The other two judges on the panel were David S. Tatel and Janice Rogers Brown.

The EPA's statement did not indicate whether the administration intends to appeal the ruling. Both Walke and Scott Segal, a lobbyist for the utilities industry, said it would be difficult for the administration to forge ahead in light of the appeals court's strong ruling. Walke said the decision is tantamount to the court "burying the rule six feet under, where before it was just in a casket."

Segal said the ruling will make it more costly for plants to operate. "This is a missed opportunity for reform that would have made it easier to improve power plant efficiency and workplace safety, and that's bad news for consumers and the environment," he said. "We believe it is a step backwards for the protection of air quality in the United States."

Court Overturns Bush Clean Air Act Exemption In Loss For Power Industry (WSJ)

By Matthew Dalton

The Wall Street Journal, March 18, 2006

A U.S. appeals court handed environmentalists a victory Friday, overturning a Bush-administration rule that gave power plants and petroleum refineries more leeway to expand facilities without triggering requirements to install expensive pollution-control equipment.

The rule attempted to set a standard for what counts as "routine maintenance" under the New Source Review, or NSR, provisions of the Clean Air Act. Construction projects deemed to be routine maintenance are exempt from pollution-control requirements, and compliance with those requirements can cost hundreds of millions of dollars.

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Construction projects valued at less than 20% of a facility's total value were exempt from the Environmental Protection Agency's rule, issued in 2003. But state officials and environmental groups said that exemption was too large and a violation of federal law.

On Friday, the U.S. Court of Appeals for the District of Columbia agreed, deciding that the EPA rule "is contrary to the plain language of" the Clean Air Act. In the opinion for the three-judge panel, Judge Judith W. Rogers wrote that, "Although EPA might prefer market-based methods of controlling pollution, Congress has chosen a different course" with the NSR requirements.

State officials hailed the appeals-court ruling. New York Attorney General Eliot Spitzer, who led the states' action, called the ruling "an enormous victory for clean air and for the enforcement of the law and an overwhelming rejection of the Bush administration's efforts to gut the law." He said the ruling will encourage industry to build new and cleaner facilities "instead of prolonging the life of old dirty plants." Mr. Spitzer's office estimates that the decision covers about 800 power plants and as many as 17,000 industrial sites nationwide.

The ruling Friday overturns a regulatory change, made by the Bush administration, that was designed to clarify the EPA's requirements for construction projects at power plants and refineries. The Clinton administration had begun suing owners of older, coal-fired plants and oil refineries, alleging that they were secretly overhauling them under the guise of "routine maintenance" and that they were essentially new plants subject to tighter air-emission restrictions.

John Millett, a spokesman for EPA, said: "We are disappointed that the court did not find in favor of the United States. We are reviewing and analyzing the opinion and cannot comment further at this time."

Scott Segal, a lawyer representing a group of coal-fired utilities, called the ruling "a step backward for the protection of air quality in the United States." He noted, however, that the decision doesn't undermine the defense that electric utilities have mounted against the lawsuits brought by the Clinton administration. Several of those cases are still under review by federal courts. The environmental community's victory, Mr. Segal said, amounted to "the ability to place roadblocks in front of energy-efficient projects. This is terrible news."

Vickie Patton, a lawyer for Environmental Defense, a New York-based environmental group, said the ruling "firmly rejects EPA's attempt to adopt damaging air-pollution loopholes for thousands of industrial sources across the country." She called for new legislation that would "end the parade of loopholes, exemptions and rollbacks."

The rule has been among the most hotly contested regulations of the Bush administration, with environmental groups saying it amounts to a rollback of the Clean Air Act and companies arguing that they needed the rule to give them more certainty on construction projects.

In October 2003, 14 states, a number of cities and environmental groups filed to block the rules from going into effect. The appeals court had issued a stay in December 2003, preventing utilities and industrial facilities from taking advantage of the change.

U.S. Court Blocks EPA Standard On Modernizing Plants, Factories (BLOOM)

By Bill Arthur

Bloomberg, March 18, 2006

March 17 (Bloomberg) -- A U.S. appeals court ruled that the Environmental Protection Agency can't make it easier for power plants, factories and refineries to avoid installing pollution controls when they replace aging equipment.

The U.S. Court of Appeals for the District of Columbia Circuit sided with 15 states and three cities that said a rule issued by the EPA in 2003 violated the Clean Air Act. The federal law requires plants undergoing ``any physical change'' that would increase their pollution discharges to install the best available control technology.

The EPA's rule, which wasn't enforced during the lawsuit, interpreted the law to let plants install new equipment without including pollution-control devices as long as the new installation cost less than 20 percent of the plant's value.

Such an interpretation would produce a ``strange'' result in which a law intended to limit increases in air pollution would allow plants ``to increase significantly the pollution they emit without government review,'' the court ruled today.

``The decision is a major victory for clean air and public health,'' New York Attorney General Eliot Spitzer said in a statement. ``It will encourage industry to build new and cleaner facilities instead of prolonging the life of old, dirty plants.'' New York was one of the states that sued the EPA over the rule.

John Engler, president of the National Association of Manufacturers, said the ruling was a ``significant setback to business efficiency and, for that matter, environmental quality.''

`Unnecessary' Delays

The EPA exemption would have benefited consumers and businesses by allowing ``power companies and manufacturers to upgrade their facilities and increase efficiency without undergoing unnecessary and costly delays,'' Engler said in a statement.

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EPA spokesman John Millett said in an e-mailed statement that the agency was disappointed in the ruling and had no further comment.

Other states joining the lawsuit were California, Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New Mexico, Pennsylvania, Rhode Island, Vermont and Wisconsin. Cities participating were Washington D.C., New York City and San Francisco.

Budget Vote Revives Bid For Arctic Oil Drilling (WP)

By Jonathan Weisman

The Washington Post, March 18, 2006

A last-minute deal to secure the vote of Sen. Mary Landrieu (D-La.) on a $2.8 trillion budget plan has given new life to the Republican drive to open Alaska's Arctic National Wildlife Refuge to oil drilling.

The budget blueprint for fiscal 2007, which will begin in October, includes a $10 billion Gulf Coast restoration fund that would be financed from the leasing of arctic refuge drilling rights, revenue from new drilling in the Outer Continental Shelf of the Gulf of Mexico and further sales of the broadcast spectrum. With that provision in hand, Landrieu cast the only Democratic vote for the budget resolution, which squeaked through Thursday night, 51 to 49.

"It's not easy being alone on anything. I don't relish this position," Landrieu said. "But, at times, it's necessary."

Republicans, who have been trying to open up the refuge for well over a decade, hope that by explicitly linking oil drilling to Gulf Coast restoration, they can prompt some Democrats to drop their opposition. Under the Senate plan, the funds from oil leases could be used for coastal restoration projects in Texas, Louisiana, Mississippi and Alabama that have long been sought by environmentalists. The fund could also be tapped to rebuild levees damaged last year by hurricanes Katrina and Rita.

But it is not clear whether the political equation has shifted at all since December, when moderate Republicans -- led by Rep. Charles Bass (R-N.H.) -- forced their leaders to take arctic drilling out of a 2006 budget-cutting measure to secure their votes. Bass has warned House budget writers that nothing has changed.

"We are all aware of last year's effort and outcome, and I don't see any reason why this year would be different," Bass told the House Budget Committee last month. Using the budget process to pass drilling "is a gimmick that must be resisted," he said.

The issue of arctic drilling has presented Republican leaders with a quandary for years. Majorities in both the House and the Senate support drilling, but the measure does not have the votes to clear Congress for President Bush's signature.

Lacking the 60 votes to overcome a filibuster, Senate leaders for two years now have tried to attach a drilling measure to a budget resolution. By doing so, subsequent legislation to open the arctic would be protected from a filibuster under congressional budget rules.

In the House, a bipartisan majority favors drilling, but when GOP leaders have attached the issue to a broader budget measure, Democratic supporters have abandoned the cause to oppose the budget.

The 2007 budget, which will be drafted by the House Budget Committee the week of March 27, is not likely to include an arctic drilling provision, but it is also not likely to include significant cuts to popular federal programs, a senior leadership aide said.

If House and Senate negotiators produce a final budget blueprint that includes the Senate drilling plan and excludes deep cuts, a sufficient number of House Democrats may be persuaded to support the budget to overcome moderate Republican opposition, the aide said.

FBI/DEA/ATF/USMS:

Mexico's Attempt To Quell Drug Violence Falters (KRT)

By Jay Root

Knight Ridder, March 18, 2006

NUEVO LAREDO, Mexico - The general who'd been in charge of Mexico's efforts to quell drug violence on the border with the United States hasn't been seen by officials here in weeks, and the program is in disarray.

Drug killings are on the rise, local news outlets have been cowed into silence, and evidence is mounting that members of two warring drug-trafficking cartels have infiltrated the program's elite anti-drug forces.

U.S. officials are concerned that the violence is crossing the border: Assaults on U.S. Border Patrol agents are up 108 percent this year, according to recent congressional testimony.

Mexican officials, recognizing that the Secure Mexico program had failed, announced a new program this week, dubbed Northern Border. Under the program, 600 to 800 more federal police agents were dispatched to this besieged border city.

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But few expect that to make much difference, and drug traffickers weren't intimidated: On Thursday, they gunned down four federal police intelligence agents in broad daylight outside a school here. At least 30 shots were fired into the agents' bodies.

Adding to the confusion is the absence of Gen. Alvaro Moreno Moreno, who'd been in charge of Secure Mexico. Nuevo Laredo city officials and a Mexican diplomat on the U.S. side of the border said they'd had no contact with the general in weeks.

"I couldn't tell you where he is," said Eloy Caloca, a spokesman in Mexico City for the federal Ministry of Public Security, the agency to which Moreno reports. Asked who's in charge in Nuevo Laredo now, Caloca said: "I don't have his name right now."

The deaths of the four agents brought the number of killings laid to drug traffickers in this city so far this year to 50 in less than three months, a rate that outpaces last year's, when about 170 people total died in drug violence.

Statements Friday by Ruben Aguilar, a spokesman for President Vicente Fox, suggest that efforts to get rid of corrupt city police officers have failed. He said preliminary evidence indicated that the hit men who killed the four agents were municipal police aligned with one of the cartels.

Experts see no end to the killings as long as the two cartels battle to control the distribution routes that lead into the United States.

"It won't be resolved until this war is over, until one of the cartels wins," said Jorge Chabat, an expert on U.S.-Mexico relations and border security. "It's clear that the (Mexican) federal government doesn't have the capacity to stop this wave of violence."

Mexico's federal authorities launched Secure Mexico last year after Nuevo Laredo's police chief, Alejandro Dominguez, was gunned down by suspected traffickers only hours after he took the job.

The Secure Mexico program was designed to weed out local police corruption and place all levels of law enforcement under the command of a single military official - Gen. Moreno.

But the violence has only become more virulent, often spectacularly so: Suspected drug gang members used a grenade to attack a newspaper newsroom here last month.

The Mexican government's new initiative is supposed to re-establish order. Authorities announced that they were sending up to 800 more agents from Federal Preventative Police, known by its Spanish acronym PFP. There already were hundreds here, but estimates vary wildly on the total number patrolling now.

But few are optimistic. "Last year there were over 170-something murders. I don't think anyone was charged or has been arrested in connection with those murders, and the majority of those were drug-related," said a U.S. official involved in drug enforcement who was granted anonymity because his agency doesn't allow him to speak publicly. "They've had the military employed at different occasions during those spates of murder, and they've continued to happen."

Meanwhile, Mexican media reports and public statements have raised questions about whether the PFP forces sent to restore order under Secure Mexico have been infiltrated by elements of the drug cartels.

In Nuevo Laredo, questions center on a Feb. 2 shootout in which armed bandits, in broad daylight near the police headquarters, attacked a marked PFP vehicle that was carrying a suspect, U.S. citizen Javier Escalera. The American was later handed over to U.S. authorities.

News accounts said two PFP agents were wounded. But since then doubts have been raised about whether one of the wounded men was really a PFP agent. Photos show him wounded, dressed in a PFP uniform.

But the man in the photos, identified as Mario Humberto Rodriguez Castillo, later fled Nuevo Laredo by bus toward the northern Mexico city of Monterrey. Along the way, he was attacked and shot again by armed assailants, according to Rafael Luque, a spokesman for the state of Tamaulipas. He survived, but his whereabouts aren't known.

Daniel Hernandez, Mexico's consul general in Laredo, said it's not unusual for law enforcement agencies to protect the identity and whereabouts of an agent who might be involved in intelligence. He also noted that corruption can be found on both sides of the border, citing the recent indictment of two U.S. Border Patrol agents who are accused of taking $300,000 in bribes from smugglers to release immigrants from detention.

The violence has become a problem for Nuevo Laredo's businesses, said Jack Suneson, owner of upscale Marti's jewelry and crafts store in Nuevo Laredo. Noting that many businesses have relocated to the U.S. side of the border, Suneson said he might have to shut his doors after five decades of operation.

"No more promises. I want them to safeguard our city," Suneson said. "I don't know how much longer we can hold out. This is the third year we've taken a nosedive."

Root reports for the Fort Worth Star-Telegram.

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IMMIGRATION:

Frist Immigration Bill Would Target Bosses (AP)

By Suzanne Gamboa

AP, March 18, 2006

Senate Majority Leader Bill Frist sidesteps President Bush's call for giving illegal immigrants temporary work permits in an election-year immigration bill the Tennessee Republican unveiled Friday.

Frist, who is seeking his party's nomination in 2008 to succeed Bush in the White House, said the Senate will turn to his proposal to tighten borders, punish employers who hire illegal immigrants and provide more visas if the Senate Judiciary Committee doesn't complete a broader bill in the next 10 days.

A clear majority on the 18-member committee has come out in favor of a "guest worker" program that would let employed illegal immigrants remain in the U.S. — at least temporarily — rather than be deported. The committee members agreed Friday to try to come up with a substitute for Frist's bill by March 27.

Bush — walking a tightrope between businesses that oppose deporting undocumented workers they've trained, and social conservatives who want all 11 million illegals in the U.S. deported — has called for letting those with jobs stay for up to six years.

The House passed a tough immigration enforcement bill in December that would make it a felony for illegal immigrants to be in the United States, impose new penalties on employers who hire them and erect fencing along a third of the U.S.-Mexico border. But it had no temporary worker program.

Sen. Edward M. Kennedy (news, bio, voting record), D-Mass., faulted Frist's bill for not addressing what to do with illegal immigrants already in the U.S. "Countless businesses rely heavily on their labor and it's long past time to provide legal avenues to bring this underground economy out of the shadow," he said.

Frist's bill would:

_Require all employers to verify the identity and immigration status of their employees through an electronic system.

_Assess civil penalties of between $500 and $20,000 against employers for each illegal immigrant they hire and criminal penalties of up to $20,000 per illegal immigrant hired and up to six months in jail for engaging in a pattern of employing illegal workers.

_Add 4,400 Border Patrol agents over six years to the 10,000 Congress provided for in the intelligence reform law passed in 2004, and 1,000 more immigrant smuggling investigators over the next five years.

_More than double the number of employment-based green cards, from 140,000 to 290,000, and make more employment based visas available to unskilled workers. It also would free up other visas by exempting immediate relatives of U.S. citizens from being counted in the annual pool of 480,000 visas, and increase country-by-country ceilings on family sponsored and employment-based immigrants.

An Immigration Breakthrough (NYT)

The New York Times, March 18, 2006

The clock was running out on the Senate Judiciary Committee this week, and with it the chances for a meaningful overhaul of the nation's immigration laws. After weeks of work, the committee members faced a rigid deadline to get a bill ready before next week's recess. But about all they had agreed on were various ways to tighten the borders. It was increasingly likely that Congress's message to 12 million illegal immigrants would end up being this: Thanks for the help — now get out.

But in a startling pivot, so sharp you could almost hear it, a bipartisan consensus emerged in the hearing room. Senator Arlen Specter, the committee's chairman, endorsed the principle behind an earlier bill sponsored by Senators John McCain and Edward Kennedy: that illegal immigrants who met strict criteria and paid fines and back taxes should have a path to permanent residency and citizenship.

Mr. Specter said he was all for that, as long as the country first cleared up the backlog of three million foreigners seeking to come here through legal channels. The panel also neared an agreement on a related proposal to allow foreign guest workers to enter legally and earn permanent status. Mr. Specter said he wanted a comprehensive bill ready when Congress reconvened on March 27, the deadline set by the Senate majority leader, Bill Frist, who has his own hard-line border-tightening bill waiting in the wings.

The blowback was instantaneous. Mr. Frist announced that he would be putting his own bill forward as an alternative to the committee's. Seventy-one House members signed a letter saying that the Judiciary Committee's actions were "fundamentally incompatible" with the House's strident vision of immigration reform, which completely rejects the idea of providing illegal immigrants any path to legalization.

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Mr. Specter often wilts under party pressure like lettuce in a broiler, but he has shown admirable resilience in working to get a comprehensive immigration bill to the Senate floor. His committee's emergent consensus, fragile but real, has finally pointed to a way out of what has been a bitter struggle between starkly conflicting visions of what America should do about immigration. For too long the debate has been hijacked by stereotypes. The recent waves of newcomers are not all potential terrorists living among us like pod people. Nor is every last one a model-citizen-in-waiting.

The chances of finally fixing the immigration system depend on Congress's recognition and acceptance of what President Bush has said for years: that immigration reform is about far more than border enforcement, and that there is a way to bring order and lawfulness to an unauthorized population without compromising the values and traditions of our robust immigrant nation.

Mr. Specter's compromise has wisely elevated the discussion by endorsing a balanced approach. That means making the borders more secure, trying to match the supply of work visas with the demand, and sending this message to the illegal immigrants who are already here: Come out of the shadows, and join your neighbors in making America a better place.

Ireland Asks Bush For Alien Amnesty (WT)

By Stephen Dinan

The Washington Times, March 18, 2006

When the Irish prime minister urged President Bush yesterday to grant amnesty to illegal Irish aliens in the United States, he was just the latest in a line of foreign leaders to beg the president to relax immigration rules.

Before handing over a bowl of shamrocks in the traditional St. Patrick's Day ceremony involving U.S. and Irish leaders, Prime Minister Bertie Ahern asked Mr. Bush to push for a way for "current Irish immigrants to legalize their status in the United States on a permanent basis."

That sort of lobbying, which comes as Congress is debating what to do about illegal aliens and new temporary workers, has become a standard plea from foreign leaders meeting with Mr. Bush.

While some nations, such as Ireland and Mexico, want citizenship for their illegal alien nationals, others want the United States to lift the caps for temporary student or worker visas.

That was the request Mr. Bush heard earlier this week from the Slovak Republic's prime minister -- a message Mr. Bush told reporters was made "very clear" to him. And two weeks ago, in his joint press conference with the Indian prime minister during a trip to New Delhi, Mr. Bush called for an expansion of skilled worker temporary visas.

Speaking with Pakistani reporters before his trip to India, Pakistan and Afghanistan, Mr. Bush said he is working to loosen visa restrictions.

"We had a very restrictive visa policy right after 9/11," he said. "Our visa policy was a natural reaction to a terrible event that took place, but it didn't take me long to realize that we were missing a great opportunity to have students from Pakistan see the real America."

The issue is coming to a head in Congress. The House voted for an immigration enforcement bill in December. The Senate is preparing for a full-scale debate on creating a new guest-worker program and offering a path to citizenship to illegal aliens already in the United States.

Ireland's government has lined up behind the legalization plan of Sens. John McCain, Arizona Republican, and Edward M. Kennedy, Massachusetts Democrat, which is expected to receive a vote in the Senate Judiciary Committee in two weeks. It is unclear whether that plan has majority support on the Senate floor, and the plan is unlikely to survive a House-Senate conference because too many House Republicans say it amounts to amnesty.

Mr. Ahern said if the McCain-Kennedy plan fails, Ireland will then ask for specific consideration for Irish nationals, or what he called "an Irish arrangement."

Those calling for immigration restrictions said the amnesty President Reagan signed into law in 1986 was a failure, as it effectively prompted an increase in illegal entries.

"We certainly have legal channels to get people like the Irish or whomever from any other nation to be residents or legal immigrants, but we learned our mistake in 1986 and it's not something we should be willing to repeat and encourage an even greater problem down the line," said Rikki Horton, who lobbies on immigration for the Federation for American Immigration Reform.

Even as Ireland pushes for more liberal U.S. laws, it is moving the other direction at home, including trying to find and deport aliens whose asylum applications were rejected. Ireland also has passed a referendum ending "birthright citizenship" for children of non-Irish nationals born in Ireland. That issue is proving contentious in the United States.

Also contentious, apparently, is the current U.S. status of Gerry Adams, leader of the IRA-allied Sinn Fein party in Northern Ireland.

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A New York congressman said yesterday that Mr. Adams was detained at Ronald Reagan Washington National Airport after attending the White House event, the Associated Press reported.

Last year, Mr. Bush barred all Northern Ireland leaders from the St. Patrick's Day event to put pressure on Mr. Adams because of his links to the IRA.

Rep. Brian Higgins, New York Democrat, who had invited Mr. Adams to speak in Buffalo, told his audience last night that Mr. Adams didn't make it on time because he had been detained at Reagan Airport.

A spokeswoman for the Transportation Security Administration said she could not confirm that Mr. Adams had been detained. Jennifer Peppin said the TSA log showed no record of Mr. Adams' having been detained or subjected to secondary screening.

A Homeland Security official said Mr. Adams had left the Washington area, but he would give no further details.

TAX:

Judge Ties Up Tax Firm (SBCS)

By Stephen Wall, Staff Writer

San Bernardino County (CA) Sun, March 18, 2006

IRS claims $25M lost by fraudulent preparation in Rialto

RIALTO - A firm accused of preparing thousands of fraudulent tax returns costing the government more than $25 million has been barred from doing business by a federal court order.

N.C.K. Services and its three preparers - sisters Karen and Carla Berry of Rialto and Ivan Johnson of San Bernardino - are set to appear in court March 24 to respond to the civil complaint.

The three defendants are accused of preparing thousands of tax returns containing false and fraudulent home-mortgage interest deductions since 2001, federal officials said.

Calls to the firm's office at 2850 W. Foothill Blvd. were not answered Friday.

The total loss to the government as a result of the understatements of tax on customers' returns exceeds $25 million, according to an IRS audit.

The government claims the defendants systematically claimed fictitious home-mortgage interest deductions for their customers, even in cases where the customers did not own homes.

The complaint also states the preparers failed to sign customer returns as required by federal law.

"Immediate and irreparable injury will result" if the preparers are allowed to continue doing business, Judge Virginia Phillips of the U.S. District Court in Riverside wrote in her Wednesday ruling granting the temporary restraining order.

Phillips is scheduled to decide Friday whether a preliminary injunction should be issued against the defendants.

A preliminary injunction would prevent the firm from operating until the case

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goes to trial, which is expected July 25.

Justice Department officials said the case is part of the federal government's increased effort to stop tax-fraud schemes.

Since 2001, the department has obtained injunctions against more than 160 tax-scam promoters and preparers of false or fraudulent returns, federal officials said.

"Tax-preparation fraud costs the federal treasury hundreds of millions of dollars every year," said Eileen O'Connor, the assistant attorney general for the department's tax division.

Officials warned customers to carefully review their tax returns and make sure they contain the preparer's signature and identification number.

"It's important to check the work on the return to make sure the numbers match your financial situation before you send in your return," said Justice Department spokeswoman Cynthia Magnuson. "People ought to be very suspicious and should have a red light go off if you hear you can always get a return if you go to x or y return preparer."

CONGRESS-ADMINISTRATION:

Politics Drives A Senate Spending Spree (NYT)

By Carl Hulse

The New York Times, March 18, 2006

DOJ_NMG_0019495

WASHINGTON, March 17 — The largess demonstrated by the Senate in padding its budget with billions of dollars in additional spending this week showed that lawmakers are no different from many of their constituents: they don't mind pulling out the charge card when money is tight.

Just hours after opening a new line of credit through an increase in the federal debt limit, the Senate splurged on a bevy of popular programs before approving a spending plan that was as much a political document as an economic one, its fine print geared to the coming elections.

Forced to choose between calls for renewed austerity and demands for more money, many Republicans joined Democrats in reaching deeper into the Treasury, leaving the party's push for new fiscal restraint in tatters.

Some of their colleagues said it was an open-and-shut case of nervous politicians ducking a tough spending stance to avoid starring in negative campaign commercials. Republicans in some of this year's tightest races — Conrad Burns of Montana, Mike DeWine of Ohio, Rick Santorum of Pennsylvania, Jim Talent of Missouri and Lincoln Chafee of Rhode Island — all backed the chief budget-busting provision as they endorsed an extra $7 billion for medical research, education and worker safety.

Lawmakers, analysts and others said the Senate's reluctance to clamp down on spending was a natural result of an approach that fails to recognize a sharply changed reality. In some respects, the administration and Congress act as if the surplus that greeted President Bush when he checked into the White House is still in the bank, rather than recognizing that whatever windfall was available then was eaten up and more by tax cuts.

The reality is that the cuts, plus two wars, new domestic security needs, natural disasters and a big expansion of Medicare have left the government's account badly overdrawn with no prospect of getting it back in balance anytime soon.

The criticisms set out by many Democrats — that no real progress can be made in setting the nation's finances right until Congress proves willing to revisit the tax cuts and that the nation is failing to invest sufficiently in addressing its economic and social ills — do not receive much of a hearing in a Washington where Republicans are in charge.

"I think the critical flaw is the failure to adjust fiscal policy in the face of new circumstances," said Robert L. Bixby, executive director of the Concord Coalition, a bipartisan group that advocates reducing the deficit through spending cuts and tax increases.

Mr. Bixby and others say the Republican-controlled Congress and the Bush administration have shown a near total disregard for fiscal discipline, running up new debt.

"The problem we have had on the budget all along is a lack of adult supervision on the part of the White House," said Bruce Bartlett, an economist and author of a new book critical of Mr. Bush's economic record. "You can't blame members of Congress for looking out for their parochial interests. It is the president's responsibility to look out for the national interest."

With the president's influence on Capitol Hill slipping along with his poll numbers, it is unclear how much authority Mr. Bush could exert over lawmakers regardless. Senate Republicans showed no hesitation about bursting through the spending ceiling he set, adding more than $16 billion after eliminating some of his cuts.

And while the House, which was considering $92 billion in emergency war spending and hurricane aid, rejected most efforts to increase that total, lawmakers did buy a few extras, including $50 million more for peacekeeping in Darfur.

Almost lost in all the budget and spending activity was that House and Senate negotiators continue to try to hammer out an agreement for new tax cuts that could cost an additional $70 billion over five years.

If Republicans in the Senate were motivated by a political calculation that this was not the time to close the fiscal taps, much less cut more deeply into domestic spending, they risked what some conservatives suggested could be a backlash from the right. Many strategists have warned Republicans that their core conservative supporters are demoralized by what they see as the unchecked growth of government.

John Kasich, a former Republican chairman of the House Budget Committee and devotee of balanced budgets who is now an investment adviser and author, said much of Washington had surrendered to the political impulse to please various voter groups with unbridled spending."

Republican leaders see it a bit differently. They point to nearly $40 billion in savings from social insurance programs they produced last year, an effort that took a tremendous amount of political effort. And an across-the-board cut shaved about $8 billion from current agency budgets.

They say they intend to hold spending for most agencies outside of the military and domestic security under this year's tight limits and will try to erase some of the Senate spending additions in negotiations with the House.

To do so, they will have to get around Senator Arlen Specter, Republican of Pennsylvania, who clamored for the extra $7 billion. Mr. Specter said that spending constraints had cut too deeply into health and education programs and that there was a strong show of support for the money — a majority of Republicans backed it.

Republicans also say they see a proposed line-item veto and new restrictions on pet projects as part of a rehabilitation program to kick their spending habit. While those initiatives may end some suspect practices, most see the savings as chump change in an era of $350 billion annual deficits and $9 trillion in total debt.

Serious fiscal worriers believe the only true fix can come from a bipartisan meeting of the minds that would put all federal programs on the table along with consideration of both spending cuts and tax increases.

"I've concluded this job is so big it can only be done if the two parties work together," said Senator Kent Conrad of North Dakota, the senior Democrat on the Budget Committee.

But Mr. Conrad acknowledged that nothing substantive could get done in the short term, with both parties girding for November. As the Senate deliberations show, frugality is not an election-year budget value.

GOP Spenders Think Voters Dismiss Deficits (LAT)

By Joel Havemann And Richard Simon, Times Staff Writers

The Los Angeles Times, March 18, 2006

Fiscal conservatives may be upset with increased spending, but Congress just can't say no.

WASHINGTON — For two days they marched past the huge marble fountain and upstairs to the terra-cotta and creamy-gold splendor of the grand ballroom at the historic Peabody Hotel in Memphis. There, flanked by the flags of more than two dozen states, four U.S. senators who hope to carry the Republican banner in the 2008 presidential election pledged allegiance to one of the GOP's most revered principles: fiscal responsibility — never spend taxpayers' money you don't have.

Less than a week later, the Senate's Republican majority overwhelmingly approved billions of dollars in deficit spending. Despite outcry from conservative groups that helped build the GOP majorities in both houses of Congress, the Republican spenders were undeterred, for one reason:

They're convinced that voters now care less about big deficits than they do about the things that increased federal spending will buy.

"Senators are betting that pandering to the public with billions in election-year promises will pay off more than they lose by cutting the fiscal conservatives in their own party off at the knees," said Keith Ashdown of Taxpayers for Common Sense.

That political calculation was behind congressional Republicans' support for the new Medicare prescription drug entitlement in 2003. And it drove Thursday's votes to raise the debt ceiling and approve more deficit spending.

There is another reason that many congressional Republicans have drawn back from fiscal discipline: Two other elements in the conservative credo, support for greater spending on national security and determination to cut taxes, have left budget makers with little room to maneuver, and so significant budget cuts have become hard to make.

Some Republicans warned that the GOP could pay a heavy price for yielding to spending pressures.

Former Rep. Patrick J. Toomey (R-Pa.), who now heads the free-market-oriented Club for Growth, warned that "Republican voters are going to ask themselves, 'Why bother having Republicans in office?' " Senate Republicans have shown "absolutely no semblance of discipline on spending," said Toomey, adding that they have also failed to extend President Bush's expiring tax cuts.

"If they can't do either taxes or spending right, how do they expect Republicans to turn out in the fall to reelect Republican majorities?" Toomey said. "I think they're in … for a very rude awakening in November."

Democrats, long vilified by opponents as the tax-and-spend party, think they can turn the tables by calling the Republicans the party of borrow and spend. The federal budget, in surplus when Bush took office in 2001, immediately ran deficits that assumed record proportions.

Rep. John Tanner (D-Tenn.) told the House on Wednesday that he grew up with three principles: "Live within your means, pay your debts and invest in the future.

"This government under this leadership is doing none of those," he said.

He noted that the House approved a $92-billion emergency spending bill Thursday that provided $68 billion for the conflicts in Iraq and Afghanistan and $19 billion for communities struck by Hurricane Katrina. The bill passed handily, 348 to 71, with only 19 Republicans joining 52 Democrats in opposition.

The Senate meanwhile added $16 billion for a host of domestic programs, including health, education and heating assistance for the poor, to the $2.8-trillion budget for fiscal year 2007 that its Budget Committee had recommended. The budget passed on a scant 51 to 49 vote, with a lone Democrat — Mary Landrieu of Louisiana — joining 50 Republicans to form the majority and five Republicans voting no, mostly to protest the budget's call for legislation to open the Arctic National Wildlife Refuge to oil drilling.

"When it comes to fiscal discipline," said Executive Director Robert L. Bixby of the Concord Coalition, a budget watchdog group, "the gap between rhetoric and reality on Capitol Hill is as wide as the deficit."

Spending has grown more in Bush's five years in office than it did in President Clinton's eight, even excluding the boom in defense spending under Bush. Altogether, spending rose about 4% a year under Clinton and has risen 9% a year under Bush.

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Despite this arithmetic, some Republicans think the Democrats will have a hard time convincing the public that they are the party of spending restraint. "It would be even worse under the Democrats," said Dick Armey, a former House majority leader from Texas who now is chairman of FreedomWorks, a group advocating lower taxes and less government.

And restraint may have lost some of its political appeal. The Pew Research Center for the People and the Press, in its annual survey in January of what issues weigh on the public, said 36% of conservative Republicans rated the deficit a "top priority" — well below eduction, jobs, terrorism and illegal immigration.

"The deficit does not have the same resonance that it did through much of the 1990s," said the Pew center's Carroll Doherty.

Paying homage to fiscal responsibility is apparently still mandatory for Republican politicians who aspire to higher office, however.

Among those who vowed to curb spending last weekend when they addressed a combined meeting of the Southern and Midwestern Republican Leadership Conference in Memphis were four of the party's leading presidential hopefuls: Senate Majority Leader Bill Frist of Tennessee and Sens. John McCain of Arizona, George Allen of Virginia and Sam Brownback of Kansas.

All four, however, supported the final budget bill.

Some fiscal conservatives in the House were so furious at the absence of spending cuts to offset hurricane relief that they voted against the spending bill despite its defense funding.

"I strongly support our troops," said Rep. Jeb Hensarling (R-Texas). "Successfully fighting the war on terror is our most important national priority. But another national priority is saving our children from a mountain of debt or unconscionable tax increases."

For other conservative lawmakers, local interests trumped ideology. Sen. Craig Thomas (R-Wyo.) issued a statement Friday praising his chamber's vote, which made room for $235 million more for rural healthcare.

"While it is important to identify and eliminate wasteful and inefficient programs," Thomas said, "I also believe that we must support policies that work."

Mike Franc, a former House Republican leadership aide now with the conservative Heritage Foundation, said many Republican lawmakers, "as Ricky Ricardo used to say, have some explaining to do."

"It's an uphill battle for many Republicans to explain why, during an era when they control the House, the Senate and the White House, spending has been unleashed as it has," he said.

Testing Errors Prompt Calls For Oversight (NYT)

By Karen W. Arenson

The New York Times, March 18, 2006

As the College Board races to score the final 1,600 exams from its problem-ridden October SAT test, a string of recent testing errors around the country has college and high school officials, testing experts, students and parents asking with rising urgency, Who is watching the testing industry?

Spurred largely by the No Child Left Behind law, testing has exploded in recent years. Educators are now trying to measure factors like whether toddlers in Head Start know their letters and whether elementary and high school students are making progress in reading and math.

The states alone are administering about 45 million tests this school year.

And for students headed to college, there are the Advanced Placement exams, the SAT and the ACT.

The volume is stretching the $2 billion-a-year education testing industry, educators say, taxing its ability to draw up enough tests and score them quickly and reliably. The states are struggling to find experienced officials to provide quality control.

The resulting flurry of errors has educators and lawmakers calling for better disclosure and oversight. Some are even proposing a national agency like the Food and Drug Administration to regulate testing.

"We need accountability," said George F. Madaus, a research professor at the Center for the Study of Testing, Evaluation and Educational Policy at Boston College. "I certainly wouldn't get rid of testing, but we need to be much more aware than we are now about the shortcomings, the limitations and the fallibility of the technology."

The past few weeks have shown the range of the problems. The College Board's disclosure that at least 4,600 students out of 495,000 who took its October SAT test had scoring errors was followed this week by an $11 million settlement by the Educational Testing Service of a case involving scoring errors for 27,000 people on tests that more than half the states use for teacher certification.

The Illinois superintendent of education, Randy J. Dunn, threatened last week to recommend ending the state's $44.5 million five-year contract with Harcourt Assessment because state tests were delivered late with misprints and collating errors.

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(He later backed away.) And New York State said this week that its seventh- and eighth-grade math tests had several questions that had been in test preparation materials.

"All of these tests have errors," said John Katzman, chairman and founder of the Princeton Review, a test-coaching company that has benefited from the testing boom. "The questions might be flawed in some way. The scoring might be flawed. The administration is often flawed."

A large part of the problem, policy makers and educators say, is that the demand for tests is outstripping the abilities of the industry, and testing and scoring quality have deteriorated. Adding to the pressure, each state has its own specifications.

Robert L. Linn, a professor emeritus at the University of Colorado at Boulder who serves on a College Board advisory committee, said that problems like those with the October SAT were not uncommon in testing.

"These things happen now and then in a lot of testing programs," Dr. Linn said. "But there are too many now; the industry is stretched pretty thin." He added, "It's pretty clear, I guess, that the quality-control issues need to be looked at again."

In a recent study for EducationSector, a new education research organization, Thomas Toch, the group's co-director, found that the high stakes of the No Child Left Behind law, which sanctions schools that do not improve, had states trying to administer tests as late as possible so children had the most time to prepare. But they still want scoring completed in time for summer school placement, giving companies little turnaround time.

Mr. Toch said states were having trouble recruiting and retaining experts, leaving testing companies largely responsible for their own quality control. Companies, too, are struggling with these demands.

"They get so little money for these contracts that they are hard pressed to hire all the people they need to do this immense amount of work without making mistakes," he said.

Joyce E. Karon, a member of the Illinois State Board of Education, said that although she believed Harcourt was "a reliable company," like other test providers, it was "working at the brink, and when you work at the brink, things happen."

Mrs. Karon said that before the board chose Harcourt, it asked other states whether they had experienced problems. "Almost universally," she said, "they had all had some problems."

Rick Blake, a spokesman for Harcourt Assessment, said the company regretted the hardship that the problems had created for Illinois and was working to ensure that the rest of the testing went "smoothly and without further delay."

Still, as the pressure for more tests intensifies, testing experts and policy makers are beginning to weigh whether more oversight is needed.

One suggestion would require that testing problems be reported publicly. W. James Popham, an emeritus professor at the University of California at Los Angeles, said that more exposure might help. "Frankly, because it is in the best public-relations interest of both the scoring service and the state officials who hire them, many scoring muck-ups are masked," Dr. Popham said.

One step toward disclosure could come from the inspector general of the federal Education Department, who is planning to study what states are doing about errors and whether there is need for federal oversight.

Another approach being suggested by Mr. Toch, Dr. Madaus and others is to have some kind of auditor or oversight board, an independent entity or a federal body. "There are all kinds of things in society that get monitored," Dr. Madaus said. "Nobody is seriously looking over the shoulder of those testing programs."

But some in the industry say regulation is unnecessary and will raise the price of testing. "When something like this occurs, you want to make sure you don't create regulations or ways of doing things that increase costs and don't improve the quality of service," said Gaston Caperton, the College Board president.

Kenneth P. LaValle, the New York State senator responsible for the state's 1979 Truth in Testing law mandating disclosure, said he believed more disclosure of test questions and answers might be needed.

"We are now living in a testing culture," said Mr. LaValle, Republican of Long Island. "We need accuracy and security and all these things."

Some counselors are urging college-bound students to pay extra to obtain answers after a test is administered to check their own performance, and for hand scoring.

Eugene Falik, a computer specialist in Far Rockaway, N.Y., said that after his daughter signed up recently for an Advanced Placement exam, he spotted the hand-scoring option. "The clear implication is that these marked sense sheets, or optical mark readers, are not reliable," Mr. Falik said.

More colleges have stopped requiring the SAT. Joanne V. Creighton, president of Mount Holyoke College in Massachusetts, said she felt her college's decision five years ago to make the tests optional was reinforced when she learned of the SAT scoring errors. She said the college had found this made "no measurable difference" in quality.

But others say testing is a crucial tool. Richard P. Mills, education commissioner in New York State, said recent problems had not changed his mind about the usefulness of testing. "It can be done right," Mr. Mills said. "Does that mean it's flawless? No. Errors crop up. No error is acceptable. But testing is indispensable."

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'Teach To The Test'? What Test? (WP)

By Colman Mccarthy

The Washington Post, March 18, 2006

From the academic sidelines, where calls to Leave No Child Untested are routinely sounded by quick-fix school reformers, Jay Mathews joins in with his Feb. 20 op-ed column, "Let's Teach to the Test." In well-crafted prose, he reports that "in 23 years of visiting classrooms I have yet to see any teacher preparing kids for exams in ways that were not careful, sensible and likely to produce more learning."

On Mathews's visit to my classroom four years ago -- at School Without Walls, where I have been volunteering since 1982 -- he must not have noticed that not only was I not preparing my 28 students for tests but that I regard tests as educational insults. At School Without Walls and two other high schools where I am a guest teacher -- Wilson High School in the District and Bethesda-Chevy Chase High School in lower Montgomery County -- I have never given a test. I respect my students too much to demean them with exercises in fake knowledge.

Tests represent fear-based learning, the opposite of learning based on desire. Frightened and fretting with pre-test jitters, students stuff their minds with information they disgorge on exam sheets and sweat out the results. I know of no meaningful evidence that acing tests has anything to do with students' character development or whether their natural instincts for idealism or altruism are nurtured.

I have large amounts of evidence that tests promote the opposite: character defects. After having two of my high school classes read Mathews's column, I asked the students: If during a test the opportunity came to cheat, with no fear of being caught, would you? A majority of hands went up. A few students dismissed the question as naive. Not cheat if you could get away with it? Get real. When speaking at high school assemblies, I ask students how many can raise their hands and say with total honesty that they never cheated in school. Few hands go up. If some brave souls do confess to honesty, they are greeted with jeers or calls of "yeah, right."

Standardized tests measure braininess and memory skills. American society has plenty of people who were academic whizzes in high school but were so driven by the lure of a high grade-point average that their spiritual lives remained stunted. I worry about students who make too many A's. What parts of their inner lives are they sacrificing to conform to someone else's notion that doing well in tests means doing well in life? Is any time left over from mastering theoretical knowledge for gaining the kind of experiential knowledge found in community service or volunteering in programs such as Special Olympics or DC Reads?

Desire-based learning happens when teachers deal in combustibles, when fires are lit and students burn to explore ideas that have nothing to do with what testocrats require. Quality teachers who are fire-lighters often find themselves trapped in schools that have been seduced by the Advanced Placement fad. Teachers whose students can't hack the AP final are regarded as failures.

School principals get hammerlocked also. They watch teachers' performance the way teachers watch students' performance. A hierarchy results. Most everyone is fearful of someone in power right above. Students worry about teachers, teachers worry about principals, principals worry about school boards, school boards worry about politicians and politicians worry about the voters.

Before riskily breaking ranks with an innovation or two that might actually eliminate fear in the classroom, a deviator must ask: Will I be whacked by that power-wielder just above me? Caution reigns.

To compensate for my no-testing policy, I assign tons of homework. The assignments? Tell someone you love him or her. Do a favor for someone who won't know you did it. Say a kind word to the workers at the school: the people who clean the toilets, cook the food, drive the buses and heat the buildings. And a warning: If you don't do the homework, you'll fail. You'll fail your better self, you'll fail to make the world better, you'll fail at being a peacemaker.

For 25 years of testing the waters by not testing, I've been telling my students not to worry about answering questions. Be braver and bolder: Question the answers. Which answers? To start, the ones from anyone who champions classroom get-aheadism based on test scores. Throw off your chains, students. You have nothing to lose but your backpacks.

The writer, a former Post columnist, directs the Center for Teaching Peace and teaches nonviolence at three high schools and four universities.

April May Bring New Medicare Drug Problems (AP)

By Kevin Freking

AP, March 18, 2006

Many elderly and disabled Americans enrolled for the Medicare drug benefit will face new difficulties in obtaining their medicines on April 1, say advocacy groups familiar with the program.

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On that date, insurers will have more latitude to tell pharmacists that they won't pay for a particular drug. Before that, insurers have been told that they should pay for a prescription even if it's not on the list of drugs they cover.

"I think that, after April 1, you're going to see huge problems with access. It's going to be January 1 all over again," said Tom Clark, policy director at the American Society of Consultant Pharmacists. The association represents pharmacists who serve nursing homes.

Government officials said the Medicare drug benefit covers most of the drugs commonly used by seniors and the disabled. They say beneficiaries who take those drugs will have nothing to worry about come April 1.

And, if beneficiaries find that their drugs are not on a plan's list of drugs covered, often referred to as the formulary, then they usually will have access to substitute medicines. The poorest beneficiaries can switch plans at any time.

"What we're requiring is that the formularies all must be broad, all must meet our stricter-than-usual requirements, plus there must be a timely way for beneficiaries to get an exception," said Mark McClellan, head of the Centers for Medicare and Medicaid Services.

McClellan said he has heard from some insurers who plan to make the transition easier by gradually restricting which drugs customers can get, rather than doing it all at once on April 1. Insurers put in place such restrictions to move patients into safer drugs, as well as cheaper drugs that save the company money.

Many insurers are also sending customers letters to let them know when their drug is not covered, McClellan said.

Still, McClellan was not as resolute in countering the warnings as he had been in December before to the program's startup. Then, he aggressively contested concerns raised by the Government Accountability Office that some poor and disabled beneficiaries would have trouble getting their medicine.

"CMS has significant concerns about the GAO's finding," McClellan had said in his reply to the government's auditors. "These individuals will get effective, comprehensive prescription drug coverage when the new Medicare prescription drug benefit begins."

That did not turn out to be the case for hundreds of thousands of poor senior citizens who were not properly enrolled in the program. They faced delays in getting their medicine or were charged higher out-of-pocket costs than they should have been.

McClellan said the issues now are different. In January, the main problem was getting people enrolled in the program properly. Now, it's about making sure that insurers do what they said they would do in setting up their appeals process.

McClellan said the government would monitor insurers in April to make sure they respond quickly to patients who ask to continue taking a particular drug not covered by a plan.

For urgently needed drugs, plans are required to act within a day. If patients lose that appeal, they can then take their case to an independent reviewer.

"Because we are tracking plan wait times on call lines, because we're tracking complaints, we will take prompt enforcement actions," McClellan said.

Vicki Gottlich, senior policy attorney for the Center for Medicare Advocacy Inc., said she's concerned that the poorest of senior citizens and the disabled would again have the most significant problems on April 1.

Often, those beneficiaries were automatically enrolled into a drug plan, and they will have no idea until next month that their medicine is not covered.

"To be honest, we've been talking to CMS, and I got the sense they thought this was an issue," Gottlich said.

The Center for Medicare Advocacy has been critical of the drug program. Gottlich said the organization has heard stories of clients with numerous drugs not covered by their drug plans.

Another advocacy group that has criticized the program, the Medicare Rights Center, said it's hearing complaints that people calling to appeal coverage restrictions have been put on hold for more than an hour. In other cases, customer service representatives promise to call back but never do.

"The plans make it difficult for patients and doctors to navigate the appeals process," the group said.

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On the Net:

Official Medicare site: http://www.medicare.gov

Center for Medicare Advocacy: http://www.medicareadvocacy.org/

Health Secretary: Costs Too High (PPG)

By Christopher Snowbeck

Pittsburgh Post-Gazette, March 18, 2006

The Pittsburgh region is contributing to health care innovations, but it also is the 13th costliest market in the country for people buying health care services, says Michael Leavitt, secretary of the U.S. Department of Health and Human Services.

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During a breakfast talk yesterday with the Pittsburgh Technology Council at the Sheraton Station Square, Mr. Leavitt called for a variety of reforms to help tame health care costs. The situation in Pittsburgh, he said, exemplifies the broad challenge with health care in the country: No one wants to go without advanced treatments that people rightly regard as "priceless," yet health care comes a price -- one that's increasingly difficult for society to afford.

"This isn't just about debits and credits, it's about human lives," Mr. Leavitt said. "[But] we've got to find ways to reconcile priceless with pricey."

Speaking to about 100 people, Mr. Leavitt reiterated a pledge made earlier this week to publish the prices Medicare pays for common procedures, which would help individuals shop more smartly for care. The lack of good pricing information is one of the key problems with the move toward high-deductible health plans that feature Health Savings Accounts, another Bush administration initiative.

What's more, the current system is "saturated with inefficiency" and suffers from "poorly-aligned incentives," he said.

A focus on getting more value out of the system is important, he said, because the current rate of growth in health care spending can't be sustained.

Health care currently accounts for 16 percent of the gross domestic product, and its share is expected to increase to 20 percent by 2015. Spending in the Medicare program alone accounts for 3.4 percent of GDP today, Mr. Leavitt said, adding that spending for that single program is projected to consume 14 percent of GDP by 2070.

"It can't happen," Mr. Leavitt said, noting the impact of health care costs on the competitiveness of U.S. businesses. "We'll either change, or we'll have been eliminated from the competition."

Congress Backs Off From Lobbying Limits (KRT)

By Steven Thomma

Knight Ridder, March 18, 2006

WASHINGTON - With the spotlight turned elsewhere, Republicans this week backed off their vow to crack down on the relationship between lobbyists and Washington politics.

A proposal offered by House Republicans late Thursday would suspend privately financed travel for members of Congress only until this year's congressional elections and would put off a decision on a permanent ban of travel, meals or other gifts until after the elections.

It would require lobbyists to disclose their activities more frequently, but offered only occasional audits to ensure compliance with no additional people or resources to enforce the rules.

It wouldn't do anything to limit pork-barrel spending, as some had urged, or ban those lobbyists who are former members of Congress from mingling with current lawmakers on the House floor or in the House gym. And it wouldn't lengthen the period in which former members of Congress or their staffs are prohibited from lobbying their former colleagues.

All the proposed new regulations stopped short of those offered weeks earlier when congressional leaders rushed to embrace reform in the wake of the political fallout from the scandal surrounding disgraced lobbyist Jack Abramoff.

Rep. David Dreier, R-Calif., who put the proposal together, called it "real reform." Outside analysts said it passed the buck.

"The House is taking baby steps that will be ineffective in preventing future Abramoff-style scandals," said Joan Claybrook, president of the watchdog group Public Citizen.

"Their interest is waning because the public's interest is waning," said Roberta Baskin, executive director of Center for Public Integrity, another Washington watchdog group.

In January, congressional leaders promised aggressive new regulations to assure the public that the government would never be influenced and tarred again by free-spending lobbyists like Abramoff. Republicans, in particular, feared a backlash that could hurt them in the fall elections.

Leading the reform charge, House Speaker Dennis Hastert, R-Ill., urged permanently banning members of Congress from accepting privately financed trips on corporate jets, overseas junkets and gifts worth more than $20, such as meals or tickets to sporting events. It was necessary, he said at the time, "to regain the trust of the American people."

He also wanted to consider banning pork-barrel spending, or "earmarks," and stripping former members of their visiting privileges on the House floor or in the House gym if they became lobbyists.

Since then, however, Hastert has found Republicans and Democrats reluctant to stop all interaction with lobbyists.

First, members privately groused to Hastert that he was going too far. Then, House Republicans elected Rep. John Boehner of Ohio as their new majority leader, rejecting the bid of Rep. John Shadegg of Arizona, who promised a tougher crackdown on lobbying.

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"This is a very difficult process when you begin to look at changing the rules in terms of the way we do business," Boehner said this week. "You know, the Senate started on it, looked like it was moving pretty well, but they've got their own issues that are bogging them down."

A key reason is that the public's attention has turned elsewhere to stories such as the possible turnover of some U.S. port operations to a foreign company and the vice president's accidental shooting of a friend. That took the heat off of Congress, at least temporarily.

A recent survey by the Pew Research Center found that fewer than one out of five Americans still followed the lobbying scandal story closely.

Yet public interest could rise again. "There will be other indictments. Just stand by," cautioned Sen. John McCain, R-Ariz., who hopes to offer a bipartisan set of new regulations on lobbyists and politicians.

And if the public tunes back in, it could find at least some of the Washington response to the scandal wanting.

A recent bipartisan survey, the Battleground Poll, found broad public support for many possible new regulations, including one that was offered by the Republicans and many more that weren't proposed:

The deepest support, 87 percent, was for greater disclosure by lobbyists about their work and their contacts with the government. The Republican proposal would require lobbyists to file more detailed reports more frequently.

Other popular reforms weren't in the plan, however, including:

-Broader ban on gifts, supported by 79 percent.

-Lengthening the lobbying ban for former members of Congress or their staffs from one year to two years, supported by 75 percent.

-Banning lobbying on the House floor and in House gym, supported by 67 percent.

-A broader travel ban, supported by 67 percent.

-Ending earmarks, supported by 59 percent.

Even before the proposal was unveiled, Republican pollster Ed Goeas said the survey offered a road map to political success - if it were followed.

But Baskin, of the Center for Public Integrity, noted that Congress has resisted such advice in the past. She recalled that the first proposal to ban members-turned-lobbyists from the House floor was made in 1897 -and that it's been rejected ever since.

"The way it works in Washington, lobbyists have tremendous power," she said. "And they will continue to as Congress backs off from all the verbiage about cracking down."

House GOP Leader Well Traveled (WP)

By Jeffrey H. Birnbaum

The Washington Post, March 18, 2006

Privately Paid Trips Total Half a Year

House Majority Leader John A. Boehner (Ohio), who rose to power in the wake of a congressional lobbying scandal, spent the equivalent of nearly six months on privately funded trips over the past six years, according to a new study by a nonpartisan research group.

The Center for Public Integrity said that Boehner accepted 42 privately sponsored trips from January 2000 to December 2005. That put him on the road to other countries and "golfing hotspots," often with his wife, Debbie, for about half a year, "only nine days of which he listed as being 'at personal expense,' " the center said.

Boehner also flew at least 45 times on corporate jets owned by companies "with a financial stake in congressional affairs" from June 2001 through September 2005, the center reported. The corporations on whose planes Boehner flew included tobacco companies such as R.J. Reynolds Tobacco (15 times), UST Inc. (seven times) and Swisher International Inc. (seven times).

"Boehner is one of Congress' most frequent corporate fliers," Roberta Baskin, executive director of the center, said, based on a review of other lawmakers' disclosure forms.

The report is the most detailed and comprehensive look at the new majority leader. Boehner, who was elected to the post last month, had been criticized by lawmakers who opposed his elevation for being too close to lobbyists.

Boehner rejected that characterization and offered himself as an agent of change, especially on the issue of congressional ethics. The center concluded, however, that Boehner built "a network of political and business relationships" with corporations and other interests "not unlike" his predecessor, Rep. Tom DeLay (R-Tex.), whose tenure in the job was controversial in large part because of his close ties to lobbyists and lobbying groups. DeLay stepped down last year after he was indicted in Texas on charges of political money laundering.

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In the early debate over how to crack down on lobbyists -- a byproduct of the guilty plea in January of former GOP lobbyist Jack Abramoff -- Boehner had been a leading opponent of a ban on privately paid travel. One of his first public pronouncements after winning the second-ranking position in the House leadership was to declare his disagreement with Speaker J. Dennis Hastert (R-Ill.), who wanted to end travel paid for by private interests.

Boehner pushed instead for enhanced disclosure of privately provided benefits including travel, meals and gifts -- the direction the House now appears to be taking in pending legislation. In the meantime, he has accepted a compromise that would ban privately paid travel this year until the House ethics committee devises new rules.

Kevin A. Madden, a Boehner spokesman, defended the lawmaker's trips as legal, proper and educational. He said Boehner's initial enmity toward a ban on privately paid trips was not because he has taken so many of them.

Rather, Madden pointed to the center's report as proof that disclosure works well. Madden said the study was possible because of the thorough disclosures Boehner made through the years and which he now advocates expanding. The center was able to detail Boehner's activities because his trips, "in each and every instance, were promptly and publicly disclosed according to law," Madden said.

"The fact that this report uses publicly available documents underscores Mr. Boehner's commitment to transparency and full disclosure," Madden said. "The entire approach of transparency and disclosure is so that groups like this one [the center] aren't the ultimate judge. The voters are."

Among the places Boehner traveled on privately financed trips were Edinburgh, Scotland; Venice; Brussels; and Barcelona, the center said. Two of his domestic destinations, which the center pointed out are famous for their golf courses, were Boca Raton, Fla., and Scottsdale, Ariz.

The report said Boehner received more than $160,000 in food, lodging, transportation and other expenditures on his privately paid journeys. His benefactors included the Chicago Board of Trade, the Chicago Mercantile Exchange, CSX Corp. and the Sallie Mae Foundation.

The congressman also "hosted many high-end fundraisers to wine and dine potential donors and Republican colleagues," the center said. Boehner's Freedom Project political action committee, which he used to help fellow Republicans get elected to Congress, paid more than $119,000 for golf-outing fundraisers from March 2003 through the end of 2005, the center said. It also paid $25,000 to Duck Soup, the "unofficial band of the PGA Tour."

The same leadership PAC spent more than $87,000 on food, beverages and fund-raising costs at Sam & Harry's, a D.C. steakhouse popular with lobbyists, from 2001 through August 2005. It also paid more than $40,000 over two nights at Washington's Hard Rock Cafe, the center reported.

Boehner's spokesman said that those kinds of expenditures were commonplace for fundraising events.

Boehner's staff has benefited from corporate-paid travel. The congressman approved trips taken by dozens of his aides from his personal office and the staff of the House Committee on Education and the Workforce, which he chaired starting in 2001. Over the past five years, the center said, his staff aides took more than 150 privately paid trips worth more than $200,000 to locations as far-flung as Japan and Europe.

Opening The Door On The Credit Report And Throwing Away The Lock (NYT)

By Damon Darlin

The New York Times, March 18, 2006

In a dozen states, legislatures have set up procedures for residents afraid of identity theft to lock and unlock their credit reports.

But credit-reporting agencies are pushing Congress to override the state laws, which could make it harder for Americans to keep their credit information under wraps.

Lobbyists for the big agencies — Equifax, Experian and TransUnion, owned by the Marmon Group — are seeking to add an amendment to the Financial Data Protection Act, a bill being rewritten by the House of Representatives. (A similar bill, S1408, is working its way through the Senate.) While the wording has not been set for the bill, also known as HR3997, lobbyists for the credit agencies are pushing for a law that limits the ability to lock credit reports to victims of identity theft. Moreover, the reports could be unlocked with five days' advance notice.

Once a report is locked, an agency cannot release any of its details.

Consumer groups are upset that a federal law might supersede what has been done at the state level.

"Is Congress going to go soft on crime?" asked Abigail Caplovitz, legislative advocate at the New Jersey Public Interest Research Group. Her group thinks that a law it pushed through the New Jersey Legislature last year cuts down on identity theft because it makes it relatively easy and inexpensive for consumers to lock and unlock their credit reports. "Unless a credit freeze is user-friendly, it is useless because it won't be used," Ms. Caplovitz said.

Even if Congress does nothing, protecting credit information is going to become more complicated and inconvenient as more states pass laws that try to balance protecting consumers and protecting the credit-reporting industry.

Before we get to the advice, let's take a look at what is at stake here. The New Jersey law, which went into effect in January, permits any resident to freeze access to a credit report free. A thaw costs the consumer $5 an agency. The law also calls on the agencies to set up technology allowing credit to be thawed as quickly as 15 minutes after notification. Utah recently passed a bill, as yet unsigned by the governor, that would require the credit agencies, by 2008, to switch a lock on or off in 15 minutes.

The lag time is important because a three- or five-day delay could prevent a person from making a spur-of-the-moment purchase. Merchants may lose sales if they have to wait several days before they can verify a customer's creditworthiness. By then the consumer's urge to buy may pass — which, for some people, might not be such a bad thing.

Getting Americans to spend less and save more is not what the credit-reporting agencies are after. And there is no technological barrier that makes a quick unlock impossible. They are concerned that each state will have different rules and prices. That is already happening. Nevadans pay the most: $15 to lock and $18 to unlock. It is free in Illinois, Texas, Washington and Vermont, but only fraud victims can do it.

The agencies also dislike laws like New Jersey's because they fear that making it too easy to lock a credit report may ruin their business in the way that the Do Not Call list decimated the phone solicitation business. The companies' main business is selling credit information to potential lenders, insurers and even employers.

The ability to turn credit reports on and off is a "false promise," said Stuart Platt, president of the Consumer Data Industry Association, the trade group that represents the credit reporting industry. He said it could damage an industry that has helped to reduce the cost of credit by helping lenders manage risk.

Locking reports, however, does not stop credit card solicitations. That can already be done by calling 888-5OPTOUT (888-567-8688). The ban lasts five years.

Congress will not take a vote on the full Financial Data Protection Act until fall. In the meantime, the confusion in the current system presents an opportunity for businesses to charge consumers who want to protect themselves. They have already scared Americans with statistics like, nine million Americans were victims of identity theft. Never mind that most cases labeled identity theft are simple fraud resulting from a lost or stolen credit card, according to Federal Trade Commission statistics. A consumer's liability is limited to $50 in those cases.

But the marketing campaigns seem to be working. Ten million Americans already pay about $100 a year to protect their credit information. In other words, it is already a $1 billion industry. Consumers will probably be paying more, though they don't always need to.

There are various levels of protection. Every year, a person can go to annualcreditreport.com for a free copy of all three credit reports or space them out over several months. There is no reason to ever pay for this service. Look it over for errors. (Making sense of credit scores, which determine your rate of interest, may be getting easier. This week, the three agencies said they had created a VantageScore, a single scoring system that each company will use.)

If you are worried about someone opening accounts in your name, you can call or write one of the agencies to put a fraud alert on your account. Each has the responsibility to alert the other two. The protection lasts 90 days. An additional 90 days are available but you will have to write to each credit bureau and ask. You have to keep doing this for as long as you want lenders to double-check with you.

When this fraud alert works correctly, lenders are supposed to take extra precautions before extending credit, but they do not have to do this. It could be a simple as asking for additional identification, but others may want to call you and ask for other information.

One drawback of fraud alert is that you may find it difficult to take advantage of instant-credit offers at stores. (Though this, too, might not be a bad thing. Opening too many lines of credit in a short period of time will harm your credit score.) Sometimes you may be denied credit because the lender does not want to go through the extra verification.

Another drawback is that while it is simple to sign up for a fraud alert, it is difficult to get off the list when you find it more trouble than it is worth. You have to make the request in writing and provide documents attesting to your identity.

An alternative is credit monitoring, but these services will cost you. TransUnion's TrueCredit offers three-bureau credit monitoring for $15 a month, while Equifax's Credit Watch Gold is $13 a month, also for three bureaus. A consumer is notified by e-mail after a new credit card has been issued or when a chunk of a home equity line of credit has been used. But after a while, those messages sound like the little boy who cried wolf and you might start ignoring them.

"They tell you after the fact," says Scott Mitic, vice president for business development at TrustedID, a start-up company that intends to take advantage of the confusion surrounding the protection of credit information. "It is this reactive system that irked us."

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Mr. Mitic, a former executive with Fair Isaac, the company that created the formulas for computing credit scores, and Omar Ahmad, chief technology officer at TrustedID, were introduced on what they call an "entrepreneurial blind date." They discovered a shared interest in identity theft and they came up with a way to profit from it.

"No one will confuse the credit bureaus' customer service with Nordstrom's," said Mr. Ahmad, a former chief information officer at Napster.

TrustedID plans to automate the process of locking and unlocking credit reports. When you want your credit locked or unlocked, for instance, when you intend to buy a car or apply for a mortgage, TrustedID will send the agencies all the paperwork and the fees and charge you $8 a month or $90 a year.

You could do it yourself for far less, especially if you live in one of those states where the service is free. But the company is counting on the process being so onerous that you would pay them to do it instead. Indeed, the notion that people will pay extra for the convenience of protecting their credit reports is so compelling that the company has attracted financing from one of Silicon Valley's top venture capital firms, Draper Fisher Jurvetson.

The bottom line: Those few people who have been victimized by identity thieves — not credit-card thieves — and continue to be vulnerable should take the extra precautions. For everyone else, all these services are just going to be one more hassle.

OTHER NEWS:

'A Strong Move Higher' (WSJ)

The Wall Street Journal, March 18, 2006

March 17, 2006 4:57 p.m.

Fueled by renewed expectations that the Federal Reserve will ease off the interest-rate brakes, the Dow Jones Industrial Average motored higher this week, nearing a six-year high.

Friday, the Dow industrials rose 26.41 points to 11279.65 Friday, finishing the week with a 203-point gain. That left the average less than 60 points shy of its highest level since January 2000, when the dot-com bubble was in full bloom -- and about to burst. It was also the same month the Dow industrials hit their all-time closing high of 11722.98.

Those airy heights proved fleeting: By Jan. 28, the Dow industrials closed at 10738.87, shedding nearly 1,000 points in two weeks as investors started to doubt the foundation of the powerful move by technology stocks. Another factor that deflated stocks: a rate-lifting campaign by the Fed.

Analysts say this move is different. Strong gains by financial, energy and basic materials companies -- more resilient than the dot-com babies of the late 1990s -- have driven the latest rally. Indeed, the move up has come from big, blue-chip companies, while the Nasdaq Composite Index, which rose 6.92 points to 2306.48 Friday, has been sluggish. The Standard & Poor's 500-stock index, up six days in a row, added 1.92 to 1307.25.

The relatively solid underpinning of the gains has analysts forecasting more good things to come. "I believe this is the beginning of a strong move higher," said Ned Riley of Riley Asset Management. Investors who've been sitting on the sidelines will get drawn into the market as they see major stock benchmarks such as the Dow hitting multiyear highs, he said.

Russ Koesterich, senior portfolio manager at Barclays Global Investments, said the market could pull back next week as it consolidates its gains, but thinks the rally could still have legs if economic reports over the next few months show inflation remains under control. "If you don't see evidence that either wages are building up or that there's a continuous buildup in manufacturing prices, the likelihood is that the Fed is going to stop" raising rates soon, he said.

One factor driving stocks Friday was the expiration of four types of futures and options contracts, a quarterly phenomenon known as "quadruple witching." Midday, more than one billion shares changed hands on the New York Stock Exchange -- more than one-half of the average day's total. Volume topped 500 million shares in the first hour of trading.

Treasury bonds declined, sending yields higher. The dollar fell against the euro and yen. Futures prices for light, sweet crude oil, which jumped Thursday amid news of a big military operation in Iraq, fell 75 cents to $62.83 on the New York Mercantile Exchange.

Weighing on the Dow industrials Friday was the familiar sight of General Motors hitting the skids. The auto maker shed 4.9% after it said it was increasing its 2005 loss by $2 billion4 and that it intends to restate earnings dating back to 2000. The company also delayed the filing of its 10-K report with the Securities and Exchange Commission.

On the economic front, industrial output rose at a solid pace in February on a surge in utilities production and consumer-goods output. The Federal Reserve said industrial production, which fell 0.3% in January, rose 0.7% in February, better than the 0.2% drop forecast. A confidence measure put out by the University of Michigan came in at 86.7, below the 87.8 reading expected and unchanged from February.

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In major market action:

Stocks rose5. On the New York Stock Exchange, where 2 billion shares traded, 1,939 stocks rose and 1,464 fell. On the Nasdaq Stock Market, where 2.6 billion shares traded, 1,581 rose and 1,434 declined.

Bonds fell6. The benchmark 10-year Treasury fell 8/32, or $2.50 for every $1,000 invested, to yield 4.674%. The 30-year bond fell 12/32 to yield 4.718%. Yields move inversely to prices.

The dollar declined.7 It traded at 115.85 yen, down from 116.84 yen late Wednesday, while the euro rose to $1.2196 from $1.2178.

Housing, Inflation Data Give Investors A Boost (WT/AP)

The Washington Times, March 18, 2006

NEW YORK (AP) -- Bullish data on inflation and the housing market sent stocks mostly higher yesterday, with the Dow Jones industrials and Standard & Poor's 500 Index posting nearly five-year highs for the third straight session. A jump in oil prices moderated the gains, however, and the Nasdaq Composite Index finished lower.

Wall Street welcomed the latest report from the Labor Department, which showed consumer prices rising just 0.1 percent in February, far less than the 0.7 percent jump in January. Core CPI, with food and fuel prices removed, also rose 0.1 percent, down from 0.2 percent the previous month.

Combined with better-than-expected housing construction in February, investors were reassured that the economy continues to grow while inflation remains in check.

The Dow rose 43.47, or 0.39 percent, to 11,253.24, its highest close since May 22, 2001, when it finished at 11,257.24.

Broader stock indicators were narrowly mixed. The S&P 500 Index added 2.31, or 0.18 percent, to 1,305.33, its best close since May 22, 2001. The Nasdaq Composite Index slid 12.28, or 0.53 percent, to 2,299.56.

The Russell 2000 Index of smaller companies rose 0.85, or 0.11 percent, to 743.79, an all-time high.

Advancers outnumbered decliners by nearly 2 to 1 on the New York Stock Exchange.

Bonds mounted another strong rally, with the yield on the 10-year Treasury note falling to 4.64 percent from 4.73 percent late yesterday. The dollar fell against most major currencies, while gold prices also fell.

Rising crude-oil futures eroded some of the major indexes' earlier gains. A barrel of light crude settled at $63.58, up $1.41, on the New York Mercantile Exchange.

Fears of a declining housing market eased after the Commerce Department reported an annualized 2.145 million new homes under construction in February, down slightly from 2.216 million in January but a better figure than economists had expected.

First-time unemployment claims rose again, with 309,000 new jobless forms filed last week, up from 304,000 the previous week. The rising trend, while troubling to the labor market, also reassured investors that consumers' spending power would remain moderate, lowering the risk of inflation and, in turn, rate increases from the Fed.

"Once again, we're seeing a reaction to soft economic data," said Jeff Kleintop, chief investment strategist for PNC Financial Services Group in Philadelphia. "It seems to be the key to reducing worries about how aggressive the Fed is going to be going forward, which seems to be the catalyst for stocks here."

Ford Motor Co. rose 8 cents, or 1 percent, to $7.93 despite a Citigroup downgrade to "underweight" from "equal weight," or the equivalent of a "sell" rating. Citigroup said Ford was losing market share in sport utility vehicles and is seeing increased competition in pickup trucks.

Bear Stearns Cos. continued the streak of record earnings posted by Wall Street brokerage houses this week. The company's first-quarter profits beat analysts' expectations by 59 cents per share. After the session began, however, regulators announced a $250 million settlement with the company over improper mutual fund trading. Bear Stearns lost 94 cents to $133.27.

ConAgra Foods Inc. fell 91 cents to $19.50 after the food producer announced a massive restructuring plan that includes the sale of its seafood and cheese businesses and would result in unspecified one-time charges for the rest of the year. The company also cut its quarterly dividend by 34 percent.

Barnes & Noble Inc., the nation's largest bookseller, surged $4.18, or 9.7 percent, to $47.40 after it reported a 6.3 percent profit increase in its fourth quarter, beating Wall Street's expectations, and offered an earnings outlook for the current year that is higher than what Wall Street had expected.

Overseas, Japan's Nikkei stock average tumbled 1.37 percent as investors there bid stocks lower in preparation for a possible rise in interest rates there. In Europe, Britain's FTSE 100 closed up 0.47 percent, France's CAC-40 fell 0.04 percent for the session, and Germany's DAX Index slipped 0.01 percent.

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That would allow the economy to withstand further interest rate increases from the Federal Reserve, which is expected to approve another quarter percentage point rate rise when it meets March 28.

"The consumer price index rise was very modest. It suggests, as I think many of us have been forecasting, that inflation is in the process of moderating," said Hugh Johnson, chairman and chief investment officer at Johnson Illington Advisors. "The good news is investors can feel somewhat more comfortable about monetary policy."

U.S. Stocks Rise, Notching Best Week In 2 Months; Boeing Gains (BLOOM)

By Hilary Johnson

Bloomberg, March 18, 2006

March 17 (Bloomberg) -- U.S. stocks rose, closing out their best week in two months amid signs of steady economic growth and tame inflation.

A drop in oil prices helped the Standard & Poor's 500 Index and the Dow Jones Industrial Average advance to their highest levels since May 2001. Boeing Co., the largest U.S. aircraft maker, led the advance on demand for its 787 jetliner.

Stocks this week were aided by the biggest drop in bond yields this year and record profits from Goldman Sachs Group Inc., Bear Stearns Cos. and Lehman Brothers Holdings Inc.

``There's pent up optimism that the next couple of quarters should be OK for corporate America and the economy because the interest-rate environment has stabilized," said Jay Suskind, co-head of capital markets at Ryan Beck & Co. in Florham Park, New Jersey.

The S&P 500 added 1.92, or 0.2 percent, to 1307.25, climbing for a sixth consecutive day. The Dow Jones Industrial Average gained 26.41, or 0.2 percent, to 11,279.65. The Nasdaq Composite Index rose 6.92, or 0.3 percent, to 2306.48.

Almost four stocks rose for every three that fell on the New York Stock Exchange. Some 2 billion shares changed hands on the Big Board, the highest since Jan. 26. Trading was heavier than usual because of the expiration of options and futures contracts, known as quadruple witching.

The S&P 500 climbed 2 percent since March 10, the biggest weekly advance since Jan. 6. The Dow average gained 1.8 percent and the Nasdaq is up 2 percent. Data on consumer prices and retail sales, along with a regional business survey from the Federal Reserve, eased concern that inflation will drive the central bank to raise interest rates beyond mid-year.

Bond Yields

The yield on the 10-year Treasury note dropped almost 9 basis points, or 0.09 percent, to 4.67 percent this week, the biggest decrease since December.

Boeing jumped $1.12, or 1.5 percent, to a record $77.85 for the biggest gain in the Dow average. The world's No. 2 commercial-aircraft maker met with its top suppliers on March 14 and 15 to discuss boosting production, said a spokeswoman. Doubling 787 production may mean an extra $12.6 billion in annual revenue, based on top list prices for the plane.

Boeing's gain and a Fed report on industrial production lifted a measure of industrial companies to the best gain among 10 groups in the S&P 500, rising 0.6 percent. United Technologies Corp., the largest maker of elevators and air conditioners, gained 57 cents to $58.80.

Industrial Production

Production at the nation's factories, mines and utilities increased 0.7 percent last month after decreasing 0.3 percent in January, the Fed said. The proportion of industrial capacity in use rose to 81.2 percent, the highest since September 2000, from 80.8 percent.

A separate report showed the University of Michigan's preliminary index of consumer sentiment for March was unchanged at 86.7 this month. Economists expected an increase to 88.

Crude oil for April delivery fell 1.3 percent to $62.77 a barrel in New York. The Organization of Petroleum Exporting Countries lowered its forecast for world demand amid signs that surging U.S. supplies are sufficient to make up for a possible disruption.

General Motors Corp. weighed on the Dow average, losing $1.09, or 4.9 percent, to $21.13. The world's No. 1 automaker said its 2005 loss will be $10.6 billion, wider than the loss of $8.6 billion it reported. GM cited higher costs to eliminate workers and bail out its bankrupt former unit Delphi Corp.

Wall Street reported record earnings this week on increases in stock trading and takeovers.

Goldman, Lehman

Goldman climbed $2.67 to $150.36 today, extending its weekly gain to 6.2 percent. The second-largest securities firm said quarterly earnings jumped 64 percent to $2.48 billion, greater than it netted in all of fiscal 2002.

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Lehman rose 0.5 percent to $142.80 this week. The fifth- biggest securities firm said earnings climbed 24 percent to $1.09 billion. Bear Stearns, the No. 6 securities firm, added 0.5 percent for the week to $132.87. Its quarterly results exceeded the highest analyst estimate in a Thomson survey.

Futures show traders kept bets the Fed will increase its main rate to 4.75 percent this month. The chance of a 5 percent rate at the meeting in May dropped to 73 percent from 90 percent at the beginning of the week, and traders erased bets on any increase in June, from 22 percent odds on March 13.

``We have a tug-of-war going on between earnings, which are reasonably good, versus the Fed, where people are trying to figure out are they still going to tighten or not,'' said Richard Bernstein, chief U.S. strategist for Merrill Lynch & Co. in New York.

Copper and zinc prices rose to records, leading a rally in base metals and boosting shares of Phelps Dodge Corp. and Southern Copper Corp. Phelps Dodge climbed $3.06 to $75.57. Southern Copper $2.38 to $83.89.

Accounting Issues

American International Group Inc., the world's largest insurer that has restated earnings twice in the past year, fell 42 cents to $68.82 today. AIG said fourth-quarter profit before some items was 14 cents a share, less than the 19 cents predicted by Mark Lane, an analyst at William Blair & Co. in Chicago. AIG also said it is trying to fix remaining flaws in its accounting systems by 2007.

Bausch & Lomb Inc. gained after the impact from its accounting problems proved to be less than feared. The maker of contact lenses and eye-care products, which plans to restate results for 2001 to 2005 due to financial misconduct in Brazil, said improper revenue practices at some other overseas units lowered sales during that period by $12.6 million. The adjustments are ``minor,'' said Suey Wong, an analyst at Robert W. Baird & Co. The stock rose $3.81 to $68.87.

Maytag, Sirius

Maytag Corp. fell $1.23, or 6.9 percent, to $16.71 for the steepest drop in the S&P 500. The Justice Department may fight Whirlpool Corp.'s proposed $1.68 billion purchase of its rival, on concern the deal is anticompetitive, people familiar with the case say. Whirlpool spokesman Christopher Wyse and Maytag spokesman John Daggett declined to comment.

Shares of Sirius Satellite Radio Inc., the No. 2 pay-radio company, jumped 38 cents to $4.89. The company said it signed an exclusive 5-year agreement for Volkswagen AG to put its receivers in 80 percent of the carmaker's new U.S. cars starting with 2007 models.

Tektronix Inc., a maker of test equipment for electronics manufacturers, climbed $4.11, or 13 percent, to $36.70 for its biggest gain in three years on better-than-expected earnings. Fiscal third-quarter profit, excluding some items, was 37 cents a share, more than the 33 cents average expected in a Thomson Financial survey. Thomson does not provide the parameters of its estimates to Bloomberg News.

Oil And Productivity Set A Positive Tone (WP/AP)

By Associated Press

The Washington Post, March 18, 2006

NEW YOR -- A rebound in manufacturing activity along with declining oil prices helped Wall Street extend its rally Friday, lifting the Dow Jones industrial average and the Standard & Poor's 500-stock index to fresh five-year highs for the fourth consecutive session.

The Federal Reserve reported that industrial production grew 0.7 percent in February after sliding 0.3 percent the month before, with the onset of cold weather driving an upswing in utilities output.

Stocks' gains were limited, however, as the day's news reports did little to address Wall Street's persistent worries about inflation and more interest-rate increases from the Fed, said Ken Tower, chief market strategist for Schwab's CyberTrader.

"I think the question the market is struggling with is whether we are concerned about inflation and too strong an economy, or if the Fed is raising interest rates too much and cooling things off," Tower said. "So we have a little pause in the market today as it tries to work this question out."

The Dow rose 26.41, or 0.23 percent, to 11,279.65, its highest level since May 21, 2001.

The S&P rose 1.92, or 0.12 percent, to 1307.25 , its highest close since May 22, 2001. The Nasdaq composite index rose 6.92, or 0.3 percent, to 2306.48.

Bonds cooled following this week's rally, with the yield on the 10-year Treasury note edging up to 4.67 percent, from 4.64 percent late Thursday.

Crude oil futures declined slightly after OPEC cut its projected global demand by 110,000 barrels a day.

The market also weighed a mixed assessment of consumers from the University of Michigan. Its consumer-sentiment index for March came in at 86.7, unchanged from February but below economists' prediction of 88.

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"One thing worth noting is that we saw several positive pre-announcements from economically sensitive companies," such as DuPont and Union Pacific, Sheldon said.

Analysts also said that while the Dow and the S&P 500 are pressing past multiyear highs, the Nasdaq is still about 30 points off its January record of 2331.36. Whether the tech sector can close that gap and contribute to the market's gains could determine how long this rally will continue, Tower said.Movers

Viacom rose 60 cents, to $38.97. It is selling the film library of recently acquired DreamWorks SKG for $900 million.

Google rose $1.02, to $339.79, after saying it expects its 2006 capital expenditures to be significantly greater than the $838.2 million it spent last year.

General Motors fell $1.09, to $21.13, after saying its 2005 loss was $2 billion more than originally reported.Indexes

New York Stock Exchange composite index rose 9.69, to 8271.61.

American Stock Exchange index fell 3.89, to 1927.83.

Russell 2000 index of smaller-company stocks rose 2.30, to 746.09.Volume

NYSE: 2.39 billion shares, down from 2.41 billion Thursday. Advancers outnumbered decliners by nearly 2 to 1.

Nasdaq: 2.51 billion shares, up from 2.38 billion. Advancers narrowly outnumbered decliners.Commodities

Crude oil for April delivery: $62.77, down 81 cents.

Gold for current delivery: $554.10 a troy ounce, down from $554.40 on Thursday.

Industrial Output Advanced Briskly Last Month (WSJ)

By Rafael Gerena-morales

The Wall Street Journal, March 18, 2006

Utility-Plant Production Surges to Fuel the Gains; Manufacturing Stays Solid

Industrial production expanded at a healthy pace last month, the latest sign that American industry is thriving.

The Federal Reserve reported Friday that industrial production in February at the nation's factories, mines and utilities jumped 0.7% from January, boosted by a surge in production at utility plants. Compared with a year earlier, industrial production was up 3.3%.

Read the complete text1 of the Federal Reserve's report on February industrial production and capacity utilization, and analysis2 from Briefing.com.

On the surface, the showing was slightly weaker than economists had expected, due partly to declining auto production. In addition, February's output follows an unusually strong January, when manufacturing output expanded at a 10% annualized rate as factories along the Gulf Coast continued to come back online in the aftermath of last year's hurricanes. January's surge was "due for a pause," said Daniel Meckstroth, chief economist at the Manufacturers Alliance/MAPI.

But economists found lots of positive news in the report, especially in the manufacturing sector, which is seeing year-over-year output expand at double-digit rates for some key sectors that reflect consumer spending and business investment. Overall, manufacturing output was flat last month, but was up 4.2% over the past 12 months.

"The manufacturing sector is solid," said Joel Naroff, chief economist at Commerce Bancorp. "We're still in the midst of a pretty well-rounded expansion. Consumers have been buying. Businesses have been investing. That's translating into more output" on an annual basis, he said. In February, manufacturing output "was taking a deep breather more than anything else."

The average capacity utilization rate -- which measures how fast industry is running -- rose to 81.2% last month from 80.8% in January. When utilization rates spike, busy factories compete for workers and materials, which could eventually put upward pressure on inflation. For now, though, economists said capacity levels aren't high enough to do so.

Within manufacturing, production was strongest among makers of computers and electronic products, where output rose 19% during the past 12 months and 1.2% last month. Economists pay close attention to computer output because it suggests that businesses are investing in new equipment. When business spending is rising, "it's a suggestion that businesses are doing well and they have a high level of confidence in the U.S. economy," said John Silvia, chief economist at Wachovia Corp. "It shows you there is more breadth in the economic expansion than the consumer alone."

Breach Security Inc., a 38-employee manufacturer of data-security equipment in Carlsbad, Calif., is riding the technology-investment boom. The company's security device -- which sells for as much as $50,000 per unit -- works on computer networks to prevent hackers from penetrating corporate Web sites and also safeguards sensitive information. Last year, Breach Security sold 20 units, but it has ramped up production and manufactured 40 of the 50 units it expects to sell in 2006. Any business "with privileged information on the Web has to protect its customers and employees," said Marc Shinbrood, Breach Security's chief executive officer.

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A housing boom has kept factories humming for makers of electrical equipment and appliances. Although the sector declined 1.7% last month following a 2.4% gain in January, production for the group was up 7.3% year over year. The category includes washing machines, refrigerators and dishwashers.

Whirlpool Corp., Benton Harbor, Mich., last month reported that its fourth-quarter net income rose 30% to $126 million. Roy Armes, senior vice president of the program management office, said sales are rising as consumers trade up to higher-quality appliances in new styles that emphasize modern design. Customers are willing to pay more for those goods, which include energy-efficient, front-load washers and stainless-steel refrigerators that resist fingerprints, he said. "We are entering 2006 with strong business momentum," Jeff Fettig, Whirlpool's chairman and CEO, recently told investors.

Last month, utility output increased 7.9% as the weather turned cooler and consumers used more electricity to heat their homes. Natural-gas production rose 12.9%. Spending on business equipment rose 0.1%. Meanwhile, production of cars and parts fell 0.8%, and textile production fell 1.3%, according to the Fed. Excluding autos and parts, manufacturing output rose 0.1% last month.

Separately, the University of Michigan's midmonth report on consumer sentiment for March held steady at 86.7, the same level seen at the end of February.

U.S. Economy: Industrial Production Rebounds In Feb. (Update2) (BLOOM)

By Carlos Torres

Bloomberg, March 18, 2006

March 17 (Bloomberg) -- Industrial production in the U.S. rebounded last month, led by utilities and computer makers, as a record increase in demand for power raised the risk of faster inflation.

The 0.7 percent increase last month in production at the nation's factories, mines and utilities followed a 0.3 percent decrease in January, the Federal Reserve said in Washington. The proportion of industrial capacity in use rose to 81.2 percent, matching December as the highest since September 2000.

``You can no longer make the argument that there is a lot of excess capacity out there," said John Silvia, chief economist at Wachovia Corp. in Charlotte, North Carolina. ``The bias on inflation is a little bit to the upside and the Fed has to be careful about that."

The lack of untapped capacity may cause factories to raise prices, prompting Fed policy makers to boost interest rates one or two more times, economists forecast. Higher borrowing costs and gasoline prices limited consumer confidence this month, a University of Michigan survey showed today.

The university's index of sentiment held at 86.7, reflecting a rise in Americans' perceptions of current conditions and a decline in expectations.

The Fed's report followed data yesterday that showed consumer price inflation slowed in February from a month earlier, suggesting companies are having limited success passing along higher costs.

The gain in February industrial production was led by a 7.9 percent jump in utility output as people used more electricity and natural gas to heat their homes.

Manufacturing

Manufacturing was unchanged, restrained by a decrease in motor vehicle production. Factories churned out more computers, semiconductors and communications equipment, reflecting an increase in corporate investment that will help drive economic growth.

``The big surprise here, though, is the unchanged manufacturing output, following four straight gains," said Ian Shepherdson, chief U.S. economist at High Frequency Economics in Valhalla, New York. ``This looks like nothing more than a blip. The average gain in manufacturing in January and February is a healthy 0.4 percent."

Economists expected a 0.8 percent increase in industrial production, according to the median of 63 forecasts in a Bloomberg News survey, following January's previously reported 0.2 percent decrease. Capacity utilization rose from January's 80.8 percent.

The yield on the benchmark 10-year note rose 3 basis points to 4.67 percent at 4:15 p.m. in New York. Ten-year notes still increased this week by the most since the period ended Dec. 16.

Interest Rate Futures

Interest-rate futures show traders kept bets the Fed will increase its key rate to 4.75 percent this month. The chance of a 5 percent rate at the meeting in May dropped to 73 percent from 90 percent at the beginning of the week, and traders erased bets on any increase in June, from 22 percent odds March 13.

Industries used 81 percent of capacity on average over the last three decades, according to Fed data. Higher-than-average operating rates increase the risk bottlenecks develop in the production process that will cause manufacturers to raise prices.

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Work at factories, which accounts for almost 90 percent of industrial production, was unchanged after rising 0.8 percent in January. Production of consumer durable goods, which includes automobiles, furniture and electronics, roes 0.1 percent after increasing 1 percent the previous month.

Vehicle Production

Production of autos and parts fell 0.8 percent after increasing 2.4 percent. Manufacturing production excluding autos rose 0.1 percent after a 0.6 percent increase.

Business equipment production, which includes transportation and information processing equipment, rose 0.1 percent in February after increasing 1.2 percent the previous month. Production of technology equipment, such as computers, communications gear and semiconductors, rose 2.3 percent last month after no change.

Production of non-durable consumer goods, which include food, clothing, and paper products, rose 1 percent in February after falling 1.4 percent the previous month.

The return of more seasonable temperatures in February also contributed to the production increase. Utility use slumped a record 11.5 percent in January, when the average temperature was the warmest for the month in over a century of record keeping.

Mine production decreased 0.5 percent last month after rising 2.3 percent.

Manufacturing Employment

Factories are hiring and boosting hours to keep up with demand from companies looking to expand operations. Manufacturers added 41,000 workers to their payrolls in the last five months and the workweek rose to 41 hours in February, 30 minutes longer than the average over the last five years, figures from the Labor Department show.

While U.S. automakers are struggling, foreign competitors are among those growing.

Toyota Motor Corp., the world's second-largest automaker, said this week it will build Camry sedans at Fuji Heavy Industries Ltd.'s U.S. Subaru plant, as the company rushes to add capacity to meet rising sales in the biggest auto market.

Toyota plans to make as many as 100,000 Camry automobiles annually at its factory in Lafayette, Indiana, with production to begin in 2007. In turn, Fuji plans to hire 1,000 workers and invest $230 million to upgrade the factory.

Inventories

Low inventories are also giving manufacturers reason to ramp up production. After sales jumped in January, businesses had enough goods on hand to meet 1.24 months' demand at the current pace, a record low, according to a Commerce Department report this week.

``We came into the year on the lean side'' in inventories, Abhi Talwalkar, chief executive officer at LSI Logic Corp., said in an interview March 15. The Milpitas, California-based maker of chips for consumer products and data storage devices had ``pretty strong growth'' in demand last year which is likely to continue in 2006, he said.

Regional surveys suggest factory activity gained momentum this month. Manufacturing in New York unexpectedly accelerated, a report this week from the state's Fed Bank showed. Measures of hiring, sales, and orders all rose. A similar report from the Philadelphia Fed showed total activity in the region slowed even as orders and sales accelerated.

The strength in manufacturing will prompt central bankers to raise interest rates one or two more times, economists forecast. Fed policy makers, when they meet in two weeks, are forecast to raise their target rate to 4.75 percent, according to the median estimate of economists surveyed by Bloomberg News. It would be the 15th consecutive quarter percentage point increase since they began raising the rate in June 2004.

Reduced Gas Price Slows Inflation (WT/AP)

The Washington Times, March 18, 2006

ASSOCIATED PRESS

Inflation slowed sharply in February as food costs moderated and the price of gasoline, natural gas and other energy products posted big declines.

The Labor Department reported yesterday that its closely watched U.S. Consumer Price Index (CPI) posted a tiny 0.1 percent increase last month after having jumped 0.7 percent in January. The slowdown in price pressures was certain to be welcomed at the Federal Reserve, which has been boosting interest rates since June 2004 to make sure inflation does not get out of control.

The number of Americans filing claims for unemployment benefits edged up to 309,000 last week, an increase of 5,000 from the previous week. Even with the slight increase, analysts said the level of claims was still signaling a strong labor market.

The third consecutive rise in jobless claims pushed them to the highest point in 11 weeks. However, analysts said they remain at a level that shows the labor market has rebounded from the blows delivered last year by the Gulf Coast hurricanes and surging energy prices.

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The government reported last week that 243,000 new jobs were created in February, the strongest gain in three months, as hiring picked up across the country. Analysts are forecasting similar strong job gains in coming months.

In a third report, the Commerce Department said that construction of new homes and apartments declined by 7.9 percent in February to a seasonally adjusted annual rate of 2.12 million units, another sign that the nation's five-year housing boom is slowing.

Analysts had expected the February slowdown after housing had surged to the fastest pace in more than three decades in January, reflecting unusually warm weather during the month.

The CPI report showed that energy prices dipped by 1.2 percent last month after a big 5 percent increase in January. The moderation reflected a 1 percent drop in gasoline pump prices, a 2.8 percent fall in home heating oil costs and a 4.5 percent drop in the price of natural gas, which was the biggest decline in more than four years.

New York Congressman Won't Seek 13th Term (NYT)

By Carl Hulse

The New York Times, March 18, 2006

WASHINGTON, March 17 — Representative Sherwood L. Boehlert, a moderate Republican from central New York who became a national advocate of science and a champion of environmental protection, announced Friday that he would not seek re-election.

Mr. Boehlert, 69, who under party rules would have had to surrender his chairmanship of the Science Committee at the end of this session, said he believed he had recorded solid accomplishments in his current term and decided after 24 years on Capitol Hill that he was ready to step aside.

"It is just time," Mr. Boehlert said in a telephone interview before he made his decision public at an event in his district, which is centered in Oneida and Cayuga Counties.

"There are other things to challenge my free time," said Mr. Boehlert, a baseball fan who said he wanted to spend some time at the ballpark and more time with his family. "I'm not tired, but I would rather not work 25 hours a day, eight days a week."

Although Mr. Boehlert and Republican leaders say the party will hold onto the seat in November, his departure provides an added opportunity for Democrats who need 15 seats to gain control of the House of Representatives.

Amy Walter, who follows House races for the nonpartisan Cook Political Report, observed that President Bush won the district with about 17,000 votes or 53 percent in 2004 but carried it by only 3,000 votes or 48 percent in 2000. "If this were a normal election year, you would give Republicans a bit of an edge," she said. "But between the reality of a bleak national political environment for Republicans and a weak Republican slate at the top of the ticket in New York, you wonder if Republican voters will be motivated to go the polls."

But Representative Thomas M. Reynolds, a New York colleague who heads the National Republican Congressional Committee, said he was confident that Republicans would keep the 24th District.

"Look, I would like Sherry to stay," Mr. Reynolds said. "But it is a Republican seat, and we will do fine."

Mr. Boehlert said he provided assurances to President Bush that the seat was safely Republican when he rode to New York on Air Force One with the president earlier this week, and he reiterated that view to Speaker J. Dennis Hastert. Mr. Boehlert is the 17th House Republican to retire this year.

A former Congressional staffer, Mr. Boehlert also served as Oneida County executive before he won the House seat. He compiled a liberal voting record for a Republican and has been challenged from the right in recent primaries.

In the House he was known for his willingness to challenge his conservative colleagues on environmental issues like the Endangered Species Act, automobile mileage standards and oil drilling in the Arctic National Wildlife Refuge. His frequent breaks with the party would have complicated his efforts to win the chairmanship of the Transportation and Infrastructure Committee had he decided to seek another term.

Mr. Boehlert said he believed that he could have captured the post, but that the panel's most important piece of legislation — the highway bill — would not be taken up again until 2009, meaning a decision to run again would have also meant a commitment to seek re-election in 2008.

Mr. Boehlert used his seniority on that panel to steer tens of millions of dollars in highway and transportation money to his district over the years, and he announced his plans on Friday afternoon at the Boehlert Transportation Center in Utica. "Some people outside my district might call it pork," he said, "but to me it is the lifeblood."

He said he considered retiring in 2002 but decided to stay to help prevent the closing of military facilities in his district. As the head of the Science Committee, Mr. Boehlert was a supporter of space exploration and helped lead the Congressional inquiry after the Columbia disaster. But he said he took pride in moving the scope of the panel beyond the space agency into a push for more science education and new energy technology while beefing up the academic credentials of the committee staff.

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"We are still No. 1," said Mr. Boehlert, referring to America's standing against its international competitors, "but they are catching up fast."

N.Y. Republican Boehlert Won't Seek 13th House Term (WP)

By Charles Babington

The Washington Post, March 18, 2006

Rep. Sherwood L. Boehlert (N.Y.), a champion of space exploration and environmental causes who remained a moderate Republican as the House shifted rightward, said yesterday that he will not seek a 13th term this fall.

Another House veteran -- 14-term Rep. Martin O. Sabo (D-Minn.) -- has scheduled a news conference for today to announce his retirement as well, the Minneapolis Star Tribune reported on its Web site yesterday. Democrats have some hope of replacing Boehlert in his Upstate New York district, whereas Sabo's solidly Democratic district is almost surely beyond the GOP's reach.

Republican term limits would have forced Boehlert, 69, to give up his Science Committee chairmanship next year. He had told hundreds of supporters in his home town of Utica that he would retire after 24 years as the representative of his district -- and 15 as a congressional aide to his predecessors.

Democrats hope Boehlert's retirement and President Bush's low approval ratings will give them a chance to win the seat, which the GOP has held for decades. Bush won 53 percent of the district's 2004 presidential votes while John F. Kerry drew 47 percent, and independent analysts say it still leans Republican.

"It's a difficult opportunity for the Democrats, but nevertheless an opportunity," said Stuart Rothenberg, who writes a nonpartisan political newsletter in Washington. "Democrats are going to need a wave there."

Democratic activists expect Michael A. Arcuri, 46, the Oneida County district attorney since 1993, to win the Sept. 12 primary. Republicans are looking to five-term state Sen. Raymond A. Meier, 53, to be their nominee. Rothenberg said Meier could be formidable because, as a mainstream Republican, he might enjoy stronger support from conservatives than did Boehlert, who often irritated his party's right.

In announcing his retirement, Boehlert said: "It is time. I feel like I've done it the right way."

Once a heavy smoker, Boehlert had heart bypass surgery in 2004. But insiders attributed his retirement largely to Republican rules that force most committee chairmen to step aside after six years. Other GOP veterans who have chosen to retire this fall rather than return to rank-and-file status include Ways and Means Committee Chairman Bill Thomas (Calif.).

Boehlert has been among the most liberal House Republicans for years. He has voted to raise the minimum wage and against a ban on a late-term abortion procedure. He supports stricter limits on carbon dioxide pollution -- a cause of greenhouse-effect warming -- than the Bush administration and many of his colleagues.

In 2001, Boehlert opposed an administration proposal to reduce the international space station's activities to allow only three astronauts to work there. After the space shuttle Columbia was lost in February 2003, he co-chaired hearings about the space program. He endorsed Bush's call for manned missions to the moon and Mars, but he said people should go into space "on a limited basis, on an as-needed basis."

Sabo, 68, has represented Minneapolis in the House since 1979, and he spent 18 years in the Minnesota House before that. He briefly served as House Budget Committee chairman before the GOP takeover of the chamber, which followed the 1994 elections.

Rep. Sabo To End His Long Career In Congress (MINNST)

Minneapolis Star Tribune, March 18, 2006

The Minneapolis Democrat will retire one of the nation's safest seats for an incumbent, setting off a DFL scramble to replace him.

Kevin Diaz, Rob Hotakainen and Rochelle Olson Star Tribune Staff Writers WASHINGTON - Rep. Martin Sabo, a lion of Minneapolis DFL politics for four decades, is expected to announce his retirement today after 28 years in Congress, people familiar with his decision told the Star Tribune on Friday.

Sabo, who turned 68 last month, has scheduled a noon news conference in his Minneapolis office.

His departure is expected to set off a scramble within the DFL party for a replacement. Jack Nelson-Pallmeyer, a professor of justice and peace studies at the University of St. Thomas, already has opened a campaign office and challenged Sabo at last week's precinct caucuses. And Michael Erlandson, Sabo's chief of staff and the former chair of the state DFL party, is expected to run.

"If the right situation arose, I've spent 19 years in public service and public policy, and such an opportunity would be the opportunity of a lifetime," Erlandson said Friday.

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State Rep. Keith Ellison, DFL-Minneapolis, and DFL Minneapolis City Council Member Gary Schiff also said Friday that they would run.

Sabo's departure comes as a big surprise, especially since he could have become a committee chairman next year if Democrats recapture the House in this fall's elections. He had been campaigning for another term. One person familiar with the decision said the congressman's decision had nothing to do with his health or that of his wife, Sylvia, who had breast cancer.

The people who said Sabo would announce his retirement spoke on the condition that they wouldn't be identified, because they did not want to upstage Sabo's official announcement.

Minneapolis Mayor R.T. Rybak said he was stunned and saddened by Sabo's decision.

"There is no other politician who has had more of an impact on the character of Minneapolis, our roads, bridges, parks, schools," he said.

Rybak said that he met with Sabo two days ago in Washington and that Sabo said nothing about his retirement.

"He was the one single bright light in government who was always watching out for the city," Rybak said. "I am in awe of the man. He's one of those very quiet guys who delivers tremendously more than he would ever promise."

Sabo, who always took pride in his ability to deliver projects to his district, has helped Minnesota win tens of millions in dollars for the Twin Cities light-rail system and other transportation projects. Rybak said Sabo has an "enormous grasp of the big picture" and an "ability to get things done."

Minnesota now will have three of its 10 congressional seats open in the November election. Democratic Sen. Mark Dayton is retiring, and Republican Rep. Mark Kennedy is giving up his House seat to run for Dayton's seat. The last time Minnesota had three open seats was 1994.

Elected at age 22

Born in North Dakota, Sabo attended Augsburg College and was elected to the Minnesota House of Representatives in 1960 at age 22. He was elected House speaker at 34. He won a seat in Congress in 1978 and has consistently ranked among its most liberal members, a fit for his district, the staunchest Democratic district in the state.

Sabo, always soft-spoken and low-key, perhaps hit his pinnacle of power in 1993 and 1994, when he chaired the House Budget Committee, earning a reputation as a deficit hawk.

He has been a vocal critic of the Bush administration, consistently voting against the president's tax cuts, saying they were skewed to wealthy Americans. In an open letter to President Bush last month, he reiterated his opposition to the war in Iraq, asking the president how he can justify spending $5.9 billion each month on the effort. Sabo was one of 133 House members who voted against the war.

Even though the idea never went anywhere on Capitol Hill, Sabo vigorously pushed legislation that would cap tax write-offs when the pay for a company's chief executive officer exceeds 25 times the pay of the company's lowest-paid worker. In recent years, Sabo left a mark by promoting civil libertarians' concerns about airline passenger profiling. And Sabo, who was born to Norwegian immigrant parents, founded the Friends of Norway caucus in 1999.

Not fertile for Republicans

Sabo, Minnesota's longest-sitting legislator, has been a popular figure in Minnesota's Fifth District, one of the nation's safest Democratic seats. He won his 14th term in 2004 with 70 percent of the vote.

"Downtown Minneapolis is not fertile Republican territory," said Jonathan Collegio, a spokesman for the National Republican Congressional Committee.

In Washington, Democrats have no worries about Sabo's seat.

"No matter what Congressman Sabo announces, we are 100 percent confident that Minnesotans will send a Democrat to represent them in Congress this November," said Bill Burton, communications director for the Democratic Congressional Campaign Committee.

University of Minnesota political science Prof. Larry Jacobs called Sabo's departure a changing of the guard.

"It really is the last link to the original DFL," Jacobs said. "In another way, it's a big loss for Minnesota because Sabo had so much seniority. If the Democrats ever had the majority again, it would have meant a lot of money for the state."

But Jacobs said it's certainly not a bellwether district: "I think of the Sabo seat as the United Republic of Social Democracy. I think of it as the most liberal seat in Minnesota. I think it will be an interesting scuffle within the party."

Sabo had come under attack from the left side of his party lately, with Nelson-Pallmeyer saying that he was a decent man but that he had failed to press hard enough for an end to the war in Iraq and for other progressive causes.

"I'm confident in the power of our message. ... The people are eager for a different kind of politics," Nelson-Pallmeyer said Friday. He thanked Sabo for his long tenure in Congress and urged him to stay involved: "There are ways for Martin to be helpful to the DFL without returning to Washington for another two years."

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His departure will mean changes for the Democrats' baseball team in Washington. A huge baseball fan who follows the Minnesota Twins closely, Sabo had long played for and coached the Democrats in the annual congressional charity baseball game.

Sabo's office declined to say anything about his announcement. "He's holding a press conference and that's all I can say," Erlandson said. "I'm going to leave it at that."

Until Friday, Sabo had been expected to run for another term. He had set up a website, seeking volunteers for the "2006 Sabo team," telling his supporters that he needed help with parades, festivals, door-knocking and literature drops.

"I hope I can count on your support," he wrote on the site. "It would mean a great deal to me." Washington Bureau correspondents Greg Gordon and Aaron Blake contributed to this report.

U.S. Seen As Failing To Engage In U.N. Process (LAT)

By Maggie Farley

The Los Angeles Times, March 18, 2006

Bolton shunned most talks on a rights council and his aides refused to negotiate, envoys say.

UNITED NATIONS — After being on the losing end of a 170-4 vote on the creation of a U.N. Human Rights Council, the U.S. is being criticized by many diplomats and human rights representatives here as having never fully engaged in negotiations over the matter and being unwilling to compromise.

Some diplomats said that if U.S. Ambassador John R. Bolton had spent as much time lobbying at the United Nations as he did in Washington, the U.S. would have had a better result.

Bolton and other U.S. officials disagreed, saying they talked but that other nations didn't listen, and insisting they were right in trying to hold out for a better plan.

"We would rather have nothing than something that falls short of our standards. That was our view all along," Bolton said Thursday, a day after the lopsided tally in which the U.S. found itself with Palau, the Marshall Islands and Israel.

"What we found sad was that some of our central allies gave up on key points. I don't understand it to this day," he said.

The outcome seems to be a result of mixed messages and mutual miscalculation. But it was rooted in the United States' ambivalence about how deeply to engage at the United Nations on certain issues.

"It is not clear whether or not they wanted the council to succeed, but it is clear that they were ineffective," said Lawrence Moss,Ö the special counsel for U.N. reform for Human Rights Watch. "The Bush administration was divided about the proposed human rights council, and that was reflected in the way they negotiated. They could have been much more focused and joined with others in Europe and Latin America to press for their goals."

The drive for a new human rights body began last fallÖ after world leaders agreed at a U.N. summit to replace the Human Rights Commission, which Secretary-General Kofi Annan lamented was being used to protect violators from censure more than safeguarding human rights.

There should be no place for human rights violators on the new council, Annan said.

He suggested that new members must win support of two-thirds of the 191-nation General Assembly rather than have seats allocated by region. membership hinge on winning the support of two-thirds of the 191-nation National Assembly rather than on allocation of seats by region. In the past, countries with poor human rights records such as Sudan, Libya and Zimbabwe had been able to gain seats, and the commission could not pass a resolution condemning Sudan in 2004 even after the United States had called deemed the systematic massacres in Darfur genocide.

However, the majority of the General Assembly members, many from Africa and Asia, feared that the new council would be dominated by wealthy countries and be used against them.

When negotiations began in late October, the United States insisted that human rights violators be kept off the new council, and that the panel be able to take effective action against abusers.

"Their bottom lines were not unreasonable," said one of the chairs of the preparatory meetings. "But their inflexibility was. If one formula does not work, if you're serious, you should work to come up with another one. For the most part, they did not do that."

In the end, members who feared they could not win a vote for the 2/3 rule two-thirds support rule agreed that candidates for the council would have to win a majority, or 96 votes, in a direct election in the General Assembly. In addition, each council member's human rights record would be reviewed from time to time, and a systematic violator could be suspended from the council by a two-thirds vote of the General Assembly.

Critics said that instead of negotiating at meetings, the U.S. kept repeating its position. As well, Bolton did not appear at most of the formal sessions, which other ambassadors who did show up took to mean that Washington was not taking the process seriously, diplomats said.

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In addition, they said that U.S. negotiators privately acknowledged that the standard could even be used to keep the U.S. off the council in a time when the United States is under scrutiny for its treatment of detainees at the Abu Ghraib prison in Iraq and the detention camp at Guantanamo Bay, Cuba.

"Other countries engaged more in the process than the United States did," said Ricardo A. Arias,Ö Panamanian envoy who was one of the chairmen, known in the U.N. parlance as a "facilitators."

"I can not say they were not negotiating constructively," he said, "but they were firm in their position all through the process."

Bolton said that his deputy, Alex Wolf, and other U.S. mission staffers attended the meetings, and represented the United States well.

The negotiations stalled, and on Feb. 1, under pressure to deliver a new council before the existing Human Rights commission convened in early March, the president of the General Assembly and two facilitators sounded out countries to find a middle ground.

On Feb. 27, after many revisions and dozens of meetings, General Assembly President Jan EliassonÖ presented the final proposal. Bolton immediately denounced it because it did not contain the U.S. demands for the two-thirds threshold and a ban on countries under sanctions and called for negotiations to reopen.

"I think in the facilitator process, the United States does not get heard," said Bolton. "I would rather sit down at the table across from other countries with my red pen, and go through it line by line."

The U.S. demand put Eliasson in a quandary. "Opening up negotiations would be a ticket to misery," he said in an interview Friday. "We would end up in a deadlock — or even worse-with a text that was weaker. Every country that gave up something would want to put something back in."

But it was a situation that seemed familiar. In two other negotiations on U.N. reform in the last six months, Bolton had presented a hard line in New York, only to have Secretary of State Condoleezza Rice ultimately approve a compromise. Eliasson and his aides gambled that the same thing might happen again.

"I certainly made clear to Under-Secretary [Nicholas] Burns that I had my concerns and worries," said Eliasson. "I was glad that they did not appear to close the door."

There was a last-minute scramble to find a way to win U.S. support — or to at least keep it from blowing up the whole thing. To Eliasson, putting the proposal up for further negotiations would not only kill the council, but endanger a whole raft of U.N. reforms yet to be considered.

"It's not clear that they wanted to move," said a diplomat closely involved in the talks. "In fact I couldn't tell what they wanted. We offered ideas to Washington to achieve their goals, and nothing happened."

The diplomat questioned if the U.S. understood the disruptive effect its strategy would have on subsequent talks on human rights and UN reform, and if there was too much playing to the domestic gallery.

If Bolton was not making his message clear at the U.N., it was certainly clear in Washington. The ambassador spent every Friday there in Washington, briefing Congress members and meeting with State Department and White House government officials.

His press secretary, Ric Grenell,Ö arranged calls and meetings with about 70 editorial page editors. In one influential editorial, the New York Times wrote, "John Bolton is right; Secretary General Kofi Annan is wrong."

"We would show up at the facilitator meetings, present our case, and be ignored. When the U.S. is ignored, ignored, ignored, they can't complain when we have to go public to present our case," Grenell said.

Eliasson went ahead and scheduled a meeting of the General Assembly on Wednesday to adopt the proposal.

After the nearly unanimous vote, even the traditionally toughest critics, the human rights groups, praised the result. It may not have had the 62/37threshold that they were pushing for, but it had other measures to keep the worst violators off the council.

Bolton said the U.N. had missed a historic opportunity to help people who are most in need. But he did not carry through on a threat to block funding for the new body.

"It is encouraging to hear that despite voting against the resolution, the U.S. government will cooperate with the council and support it," said Yvonne Terlingen, of Amnesty International. "It's a victory for human rights protection around the world. Now the test is for the U.S. and other countries to join forces to make it work."

While the outcome may have reflected the White House bottom line, the bruising negotiations left bitter feelings among allies at the U.N. — and even within the State Department, said U.N. and U.S. officials. Those sentiments may play into future negotiations, some warn.

"If you don't want to be isolated, you have to willing to work to end the isolation," said the European diplomat. "You have to create conditions to get people to want to help you. So far, we haven't seen that."

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Rice Urges Better Japan-China Ties (WT)

By Nicholas Kralev, The Washington Times

The Washington Times, March 18, 2006

SYDNEY, Australia -- Secretary of State Condoleezza Rice yesterday expressed concern over tensions between Japan and China and urged the two Asian powers to find common ground and overcome their differences for the sake of stability in the region.

"We have encouraged good relations between China and Japan, and even though there are difficulties in that relationship, China and Japan also share a lot of interest and, indeed, a lot of trade and commerce and a lot of economic relations," the secretary said.

Miss Rice made her remarks at a press conference with Australian Prime Minister John Howard in Sydney, where she is to participate in an inaugural trilateral forum on the Asia-Pacific region with Australia and Japan today.

Beijing views the meeting as a strategy-plotting session against it, but Miss Rice insisted that the United States had a policy of engagement, not containment, toward the world's most populous country.

Japan and China often feud over a benign view of Japan's colonial past and a denial by Japanese nationalists that their nation committed atrocities in World War II.

Miss Rice, who visited Indonesia earlier in the week, traveled to the Victoria Barracks in Melbourne, Australia's second-largest city, yesterday to thank Australian troops for their participation in the U.S.-led coalition in Iraq.

"It is always good to have friends, but it is especially good to have steadfast friends when you have difficult fights ahead," she said, noting that Mr. Howard was in Washington on September 11, 2001.

"As we continue to fight the war on terrorism, as we continue to try and supplant that ideology of hatred that has produced terrorism with the hope of democracy and liberty for people around the world, it is wonderful to have a steadfast friend like Australia," she said.

Mr. Howard signaled that he might be willing to change long-standing Australian ban on exports of uranium to nations that have not signed the nuclear Non-Proliferation Treaty and make an exception for India.

The prime minister visited New Delhi earlier this month, a few days after President Bush, who reached a deal on U.S.-Indian civilian nuclear cooperation. The agreement requires legislation in Congress to exempt India from U.S. proliferation laws similar to those in Australia.

On Thursday, Australian Foreign Minister Alexander Downer said that this is a "good deal and it takes forward this whole process of openness and transparency about at least many aspects of India's nuclear program."

But asked about selling uranium to India, as New Delhi has asked, he said: "We don't have any plans to change our current policy."

Mr. Howard softened that position yesterday, saying that there will not be an "immediate" policy change and added, "You never say never."

China May Release Jailed Times Researcher, Lawyer Says (NYT)

By Jim Yardley

The New York Times, March 18, 2006

BEIJING, March 17 — Chinese authorities on Friday withdrew at least part of the case against a Chinese researcher for The New York Times, in a surprise legal maneuver that left unclear whether he would soon be released as President Hu Jintao prepares to visit the United States next month.

Zhao Yan, 44, a researcher in the Beijing office of The Times, has been imprisoned for 18 months on a charge that he disclosed state secrets to the newspaper, as well as a lesser charge of fraud. Mr. Zhao has denied both charges.

His lawyer, Mo Shaoping, said court officials told him on Friday that the decision meant that both charges against Mr. Zhao were being withdrawn. He said his client could possibly be released within days. But a court order on the matter, issued Friday, made no mention of a release date for Mr. Zhao and gave no definitive statement about his status.

Officials with China's Foreign Ministry, who had failed to respond to earlier calls, said late in the evening that "further information" was needed about the "new developments." The ministry declined to say whether Mr. Zhao would be released.

In Washington, the State Department could not confirm that one or both charges against Mr. Zhao had been dropped, said a spokesman, Tom Casey. He said the embassy in Beijing would continue to press for Mr. Zhao's release, "because the charges against him lack merit."

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The uncertainty about Mr. Zhao's fate lies in the unusual legal maneuver invoked by prosecutors. Mr. Zhao was supposed to go on trial no later than Monday, his lawyer said. But prosecutors used a procedural clause to ask the court to withdraw the lesser fraud charge, citing a need for more investigation.

Mr. Mo said prosecutors sometimes use this language to request a delay of the trial date. But, in this instance, Mr. Mo said, prosecutors instead asked to withdraw the case. He said Chinese law held that prosecutors could not indict Mr. Zhao again on the same charges, unless they found new evidence.

"They are clearly looking for a reason to end the case," Mr. Mo said.

The order issued by the Beijing Second Intermediate Court is written in vague language. It defines "the case" as consisting of both charges. It then says the court agrees with the motion by prosecutors to withdraw the case. But, as explanation for the withdrawal, the order said prosecutors wanted more investigation into the lesser fraud charge. It does not refer to any new disposition of the state secrets charge, which carries a prison sentence of at least 10 years.

Mr. Zhao's case has brought heavy criticism against China from human rights groups, the United States government and other nations. President Bush has twice personally raised Mr. Zhao's case with Mr. Hu, while Secretary of State Condoleezza Rice has also criticized the arrest.

Bill Keller, executive editor of The Times, said he hoped that the new developments meant that Mr. Zhao would be released. "The notion that Zhao Yan's work for The Times constituted anything but dogged journalism was wrong from the outset," he said. "If this represents a legal system working the way it is supposed to, that is happy news far beyond the family of The New York Times."

The case against Mr. Zhao was politically delicate because it involved the highest levels of the Chinese leadership, which made the decision to drop any charges all the more remarkable. His arrest was tied to a Sept. 7, 2004, article in The Times, which disclosed that the former president, Jiang Zemin, had unexpectedly offered to give up his final leadership position as head of the military. The article later proved accurate when Mr. Jiang resigned.

The Chinese news media are forbidden to report on the inner workings of the top leadership of the Communist Party. The Times article prompted a high-level investigation to find the sources of the leak, according to a person familiar with the investigation. State security agents apparently quickly focused on Mr. Zhao, who had been an investigative journalist for Chinese publications before joining The Times's Beijing bureau in April 2004.

Mr. Zhao was arrested on Sept. 17, 10 days after the publication of the Times article. The key piece of evidence, later revealed in a confidential state security report, was a photocopy of a handwritten note that Mr. Zhao had written to The Times's Beijing bureau chief, Joseph Kahn, the writer of the Sept. 7 article.

The note, written two months before the publication of the article, was unrelated to Mr. Jiang's resignation plans. Instead, it described maneuvering taking place between Mr. Hu and Mr. Jiang over military appointments. Mr. Kahn later referred to the political jockeying at the end of the Sept. 7 article.

It is still uncertain how state security agents obtained the photocopy. Agents either entered the office without permission or enlisted someone to help them make a copy. Under Chinese law, the note should not have been admissible in court.

Investigators added the fraud charge a few months after Mr. Zhao was arrested. It is unrelated to the state secrets charge and involves allegations involving improper payments that date from Mr. Zhao's work at a Chinese publication, before he joined The Times. Mr. Zhao and a witness disputed the accusation.

John Kamm, a human rights campaigner who negotiates the release of political prisoners in China, urged caution about the new developments in Mr. Zhao's case, but said he was "cautiously optimistic" that the researcher would be released.

Mr. Kamm said he raised the case of Mr. Zhao and others last month in a meeting with Foreign Ministry officials. He said the officials had suggested that China would make "human rights gestures" in advance of Mr. Hu's trip to the United States.

Mr. Mo said the procedural clause used by prosecutors to withdraw the case could allow them to release Mr. Zhao without restraint, or to release him on something similar to bail for up to 12 months. Then prosecutors would decide whether to bring a new case with new evidence, he added.

China Dismisses Journalist's Case (WP)

By Philip P. Pan

The Washington Post, March 18, 2006

N.Y. Times Researcher Was Accused of Leaking State Secrets

BEIJING, March 17 -- Chinese authorities dropped charges Friday against a New York Times researcher accused of leaking state secrets, according to his attorney. The surprise decision could lead to the researcher's release from prison and soften criticism of China's human rights record during President Hu Jintao's upcoming visit to the United States.

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Zhao Yan, 44, a Chinese journalist who worked in the newspaper's Beijing bureau, could be freed as early as Monday from the detention center where he has been held by the Ministry of State Security for the past 18 months, according to his attorney, Mo Shaoping, who said he received a formal court notice withdrawing the charges.

The move amounts to a rare admission of error by the Chinese government in a criminal prosecution involving national security, and it almost certainly required Hu's approval, because he had endorsed the investigation that led to Zhao's arrest and issued instructions to the officials running it, according to people familiar with the probe.

State security agents detained Zhao in September 2004 after the New York Times published an article accurately predicting the retirement of China's former president. Zhao's prolonged detention without trial on vague state secrets charges provoked criticism by human rights groups, and U.S. officials pressed for his release during President Bush's prior two meetings with Hu.

In a written statement, Bill Keller, executive editor of the Times, said: "The apparent end of Zhao Yan's ordeal is thrilling news for all of his colleagues. We are grateful to the many people outside the paper who spoke up on his behalf."

"The notion that Zhao Yan's work for the Times constituted anything but dogged journalism has seemed ridiculous from the outset," he added.

China often releases political prisoners as a gesture of goodwill ahead of high-level meetings with foreign leaders, and the Bush administration had put Zhao's name on a shortlist of prisoners it hoped to see released before Hu's trip to Washington next month.

But another person whose case U.S. officials had raised with the Chinese was jailed last week after spending more than six months confined to his home. Chen Guangcheng, a blind activist who led a legal campaign against the use of forced abortion and sterilization to implement China's one-child policy, was taken away March 11 and has not been heard from since, according to his wife, Yuan Weijing.

Zhao was arrested 10 days after the Times reported that former president Jiang Zemin had agreed to give up his last leadership post as chief of the military. The ruling Communist Party rarely discloses information about the senior leadership's deliberations, and the article prompted an urgent investigation to find the sources of the leak, according to people familiar with the probe.

Investigators focused almost immediately on Zhao, who friends said had been under scrutiny by state security agents even before he joined the Times in April 2004 because of his work as a journalist for Chinese publications and as an advocate for the rural poor.

But after his arrest, both he and the Times denied he was a source for the article. Prosecutors twice returned Zhao's case to state security agents for more evidence before finally indicting him in January on a charge of leaking state secrets and a lesser charge of fraud related to his work as a reporter before joining the Times.

After a series of delays, Zhao was scheduled to go to trial on Monday at the latest. But Mo, his attorney, said he received a notice Friday morning indicating that prosecutors had applied to drop the charges and that the court had reviewed and approved the request.

The notice dropping the case said prosecutors wanted to conduct "additional investigation" into the fraud charge against Zhao but gave no reason for the withdrawal of the state secrets charge, Mo said. It also said nothing about when Zhao might be released.

Under Chinese law, Mo said, "withdrawing an indictment is the equivalent of a verdict of innocence." He said that such decisions are "extremely, extremely uncommon in China" and that he had never heard of it occurring in a case involving state security.

In past cases involving international pressure, the Chinese government has usually released prisoners only after convicting them.

There are no clear procedures for releasing a defendant after prosecutors withdraw charges, but Mo said he expected Zhao to be freed on bail by Monday, the original trial deadline. He added that prosecutors could not indict Zhao again on the same charges unless they found new evidence.

"The key is that Hu Jintao would have faced a lot of questions about this case on his trip," said Jerome A. Cohen, a scholar of Chinese law retained by the Times to assist with Zhao's defense. "If they tried to delay the trial again, people would be asking, 'How can you keep delaying it? What are you afraid of?' "

But if the government put Zhao on trial, the case would have focused attention on the party's obsession with secrecy and its record of imprisoning journalists, perhaps overshadowing Hu's first state visit to the United States since he became president in 2003.

For example, the authorities would have been challenged to explain how state security agents obtained a key piece of evidence, a photocopy of a note describing rumors of political jockeying over military promotions that Zhao had written by hand

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for Joseph Kahn, the Beijing bureau chief of the Times. The paper has said it suspects agents entered the office without permission or recruited someone to make a copy of the memo.

China Dismisses Case Against US Reporter (FT)

By Andrew Yeh

Financial Times, March 18, 2006

Chinese authorities have dropped charges against a New York Times news assistant who has been detained for a year and a half without trial on allegations he leaked state secrets.

The decision by prosecutors to dismiss charges against Zhao Yan comes ahead of President Hu Jintao's visit to the US in April.

The case was one of a series involving foreign and domestic journalists that has drawn international concern, amid efforts by China's ruling Communist party to tighten controls on the media – with its at times vague definition of what constitutes a state secret.

"All charges have been withdrawn," said Mo Shao-ping, Mr Zhao's attorney. He expected Mr Zhao to be released in days.

Mr Mo said government prosecutors had submitted a request to a Beijing court to have the charges dismissed and the court had agreed on Friday.

Mr Zhao was accused of revealing state secrets to foreigners and committing fraud.

The case against Mr Zhao was probably prompted by a New York Times story in September 2004 that correctly forecast the retirement of China's former president, Jiang Zemin.

However, a legal expert advising the newspaper has said the evidence against him rests on an internal memo from Mr Zhao about possible personnel changes in the military mentioned in the same story.

China often acts against journalists and intellectuals whose work focuses on the inner workings of the top communist leadership, or those dealing with sensitive topics such as the 1989 Tiananmen massacre.

Since Mr Zhao's arrest, the New York Times has repeatedly denied the allegations against him and lobbied for his release. But the long-time investigative reporter, who may have drawn the government's ire well before the story was published, was indicted last December.

The Bush administration had also raised the case as one of great concern.

Mr Zhao, now in his mid-40s, has been held incommunicado for much of the time since his arrest. He is believed to be in a high-security detention centre south of Beijing.

State security and police agents often closely monitor the activities of foreign media bureaux in China, especially those with a high profile.

``A Chinese court on Friday sentenced a junior high school teacher to 10 years in jail for publishing sensitive material on the internet, Reuters reports from Beijing. Ren Ziyuan, 27, was found guilty of "subversion of state power" for publishing an essay titled "The Road to Democracy" and other papers on the web, his father said.

Mr Ren was sentenced by the Jining Intermediate People's Court in Shandong.

Chinese Researcher For New York Times To Be Let Out Of Jail (LAT)

By Mark Magnier

The Los Angeles Times, March 18, 2006

Zhao Yan was held on a charge of revealing state secrets. Beijing's move precedes a U.S. summit.

BEIJING — A Chinese court said Friday that it would drop a high-profile case against a New York Times researcher, a move coming a few weeks before President Hu Jintao is to meet President Bush in Washington.

The decision on Zhao Yan fits China's pattern of releasing token numbers of political or human rights prisoners before major summit meetings.

"I'm so happy," said Zhao Kun, the researcher's sister. "When I heard the news, I felt like a window had opened in my heart. Everything seemed so bright."

Zhao Yan was detained in September 2004 and charged several months later with revealing state secrets. He faced 10 years in prison. The charge came on the heels of an exclusive story by the newspaper that former President Jiang Zemin planned to step down from a government military commission, surrendering his last major post.

China's Communist Party does not view favorably the release of information on its internal workings, particularly by media beyond its direct control.

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"The government doesn't accept that journalists can have scoops," said Vincent Brossel, director of the Asia desk of Reporters Without Borders, a Paris-based advocacy group. "When a big decision is made inside the party, they won't accept the liberal Chinese media or the foreign media releasing the news."

Zhao's lawyer, Mo Shaoping, said Friday that he hoped his client would be released within the next few days. It was unclear why Zhao was not released immediately, or whether he would face new charges in Beijing No. 2 Intermediate Court or some other court, Mo said.

But the news of the charges being dropped was viewed as a good sign.

"Of course I'm pleased," Mo said.

Human rights groups, attorneys and legal scholars said it was difficult to draw a broader lesson from the case. Authorities might have acted because of the gradual strengthening of the legal system, because of lobbying, or some combination. Bush, Secretary of State Condoleezza Rice and other officials all have raised Zhao's case with Chinese officials. Hu is to visit Washington the last week of April.

But on the same day Zhao's case was reportedly dropped, a court sentenced a 27-year-old teacher, Ren Ziyuan, to 10 years in prison on charges of "subversion of state power" for publishing Internet essays critical of the Chinese government, according to the Reuters news service.

Ren, like most Chinese in trouble for criticizing the government, had no foreign leaders calling for his release.

"On one day there's good news, and then there's bad," Brossel said. "In the long run, I really hope things are changing. But I can't read the implications of Zhao's case."

Media watchdogs also wondered whether the Zhao decision augured well for a related case, that of Singapore reporter Ching Cheong, who was detained on spying charges last year.

For the seventh year in a row, China put more journalists in jail in 2005 than any other nation, according to the New York-based Committee to Protect Journalists. Thirty-two were in prison as of Dec. 1.

Analysts said one result of the court's decision to drop the Zhao case might be to ease the chill on Chinese reporters, some of whom push censorship boundaries at significant personal risk.

"Zhao is a senior reporter," said Wu Ge, director of the Constitution and Human Rights Center at Qinghua University. "Chinese media will be encouraged by this decision."

Zhao's sister, who lives in the northeastern city of Harbin, said she planned to give her brother a big hug when she saw him.

"I've been very worried about him being in jail for the past 18 months," she said. "At the same time, I always believed he'd be OK. He's only a journalist, and I don't think my brother would ever do anything to hurt the country."

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Yin Lijin of The Times' Beijing Bureau contributed to this report.

German Trial Promises A Look Into The Nuclear Black Market (LAT)

By Jeffrey Fleishman

The Los Angeles Times, March 18, 2006

BERLIN — A German engineer accused of belonging to a worldwide nuclear smuggling network went on trial Friday for allegedly providing technology to Libya that could have been used to enrich uranium for weapons.

The case, being heard in a Mannheim court, is expected to offer a glimpse of the nuclear black market once masterminded by Pakistani scientist Abdul Qadeer Khan. The trial is likely to focus on Western intelligence information, middlemen, money trails and what role German companies may have played in aiding leaders such as Libyan ruler Moammar Kadafi.

Gotthard Lerch, 63, is charged with violating Germany's weapons control and foreign trade acts. He allegedly was paid $34 million to provide Libya with gas centrifuges and other dual-use technologies.

Lerch had earlier been charged with treason. Prosecutors dropped that charge as part of an agreement with Switzerland, where Lerch had been living, to have him extradited to Germany in 2005.

Lerch has pleaded not guilty. His lawyers argued Friday that they had been denied access to prosecution documents, and they requested that the six judges hearing the case be replaced. Lerch is expected to seek intelligence records from the CIA and other Western spy agencies.

"The trial is hugely important in strengthening international attention to the problem of illegal proliferation," Goetz Neuneck of the Institute for Peace Research and Security Policy at the University of Hamburg told German radio. "It would be very good for international nonproliferation if the trial were to provide more details and shine more light on dark corners."

Authorities focused on Lerch after the U.S. and Britain seized a shipment of nuclear-related components from a Libya-bound freighter in October 2003. Under Western pressure to abandon its quest for weapons of mass destruction, Libya

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cooperated with investigators. The seizure also provided details of Khan's dealings with other countries, including North Korea and Iran.

The International Atomic Energy Agency, the United Nations' nuclear watchdog, told German prosecutors that Lerch was involved in supplying technology to Libya. He was also mentioned in a Malaysian investigation of smuggling.

The Times reported last year that an IAEA investigator had found that rotors for an advanced centrifuge were delivered for the Libyan project to Khan's operations in Dubai.

The alleged sale of such technology led to Lerch's arrest. Investigators fear that other crucial components collected by the Khan network never arrived in Libya and may have been diverted to another country. The father of Pakistan's nuclear program, Khan was humiliated when he confessed in 2004 that his black market had provided technology to Libya and Iran. He is under house arrest.

In the late 1970s, Lerch, working for a German company that produced nuclear technology, was investigated by German trade authorities for selling centrifuges and pumps to Pakistan. He was never charged. He was also investigated, but again never charged, for allegedly smuggling nuclear blueprints into Switzerland in the 1980s.

Hamas Ready To Announce Government (AP)

By IBRAHIM BARZAK

Associated Press, March 18, 2006

GAZA CITY, Gaza Strip (AP) -- Hamas said it is ready to announce the formation of its government Saturday, two weeks ahead of a deadline but apparently without coalition partners that might have softened the militants' image.

In another possible setback, the Hamas government program is not expected to win the approval of Palestinian President Mahmoud Abbas, who is to meet with the group's leaders in Gaza Saturday. Abbas' aides said the Palestinian leader considers the Hamas platform too vague and wants it rewritten.

Hamas cannot present its Cabinet to parliament for approval without backing from the moderate Abbas, who was elected separately and wields considerable authority. However, Abbas cannot impose his own Cabinet lineup on Hamas, which swept January parliament elections and controls an absolute majority in the legislature.

Abbas is expected to put off the approval of a new government until after Israel's March 28 election, but his confidants say he is not ready to force a full-blown political crisis with the Islamic militants.

The new foreign minister will almost definitely be Mahmoud Zahar, a Hamas firebrand, according to a preliminary list given to The Associated Press by officials in Hamas and the Popular Front for the Liberation of Palestine, a smaller PLO faction that was considering joining the government.

Said Siyam, a Hamas lawmaker from Gaza, has been tapped for the Interior and Civil Affairs Ministries, which control three of the five Palestinian security forces and is responsible for contacts with Israel's security services, said the officials, speaking on condition of anonymity because the list was not final.

Siyam, considered a relative moderate, was among hundreds of militants deported by Israel to south Lebanon in 1992.

The wrangling over the new government comes at a time when some officials in Abbas' Fatah Party are calling on him to resign and to dissolve the Palestinian Authority, to protest Israel's raid of a West Bank prison earlier this week. The raid, in which troops snatched Ahmed Saadat, the leader of a small PLO faction, and other suspects in the assassination of an Israeli Cabinet minister, was a blow to Abbas' prestige.

If the Palestinian Authority were to be dissolved, Israel - as occupier of the West Bank and Gaza Strip - would be forced to assume responsibility for some 3 million Palestinians living there. The dissolution would also render Hamas' election victory irrelevant.

Abbas said earlier this week he was not ready yet to break up the Palestinian Authority.

In other developments Saturday, Israeli troops left a West Bank village after a failed overnight arrest raid. At the start of the operation late Friday, a 10-year-old Palestinian girl was killed when soldiers fired at a car she was riding in with her older brother and uncle, Palestinian witnesses and Israel Radio said. The witnesses said the soldiers were dressed in civilian clothes and fired without warning. The army declined comment.

After the initial shooting, soldiers surrounded a house where they believed three militants were holed up, and an army bulldozer began demolishing the building. However, the fugitives escaped.

In Gaza City, the designated Hamas prime minister, Ismail Haniyeh, was to hold a news conference Saturday to announce the formation of the Hamas government, officials in the group said.

Abbas was to travel from the West Bank to Gaza on Saturday for a meeting with Hamas leaders, his office said. In the meeting, Hamas is to present its Cabinet lineup and program. Abbas aides said he was expected to ask for revisions in the Hamas program.

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Hamas has rejected demands that it moderate its views, despite threats by the West that it will cut off substantial foreign aid to the Palestinian Authority unless the new government renounces violence, recognizes Israel and promises to honor existing peace agreements.

Hamas To Propose Palestinian Cabinet That Excludes Other Parties (NYT)

By Steven Erlanger

The New York Times, March 18, 2006

JERUSALEM, March 17 — Hamas said Friday that it would propose a new Palestinian cabinet consisting of Hamas members and independent figures, but without officials from any other party.

Hamas said it expected to give the list to Mahmoud Abbas, the president of the Palestinian Authority, on Saturday. Mr. Abbas's Fatah faction has already said it will not participate in a Hamas-led government. Mr. Abbas may yet reject the new government's agenda, because it does not explicitly acknowledge the validity of past agreements between Israel and the Palestine Liberation Organization, or support negotiations with Israel.

But it is not clear what consequences such a rejection would have in this untested political situation for the Palestinians. Hamas is expected to take the crucial ministries of foreign affairs, finance, education and interior, which controls the police.

An indication of Hamas's position came from its exiled political leader, Khaled Meshal, who said in Damascus on Thursday night that political power for Hamas was only "a means to an end" and is less important than fighting Israel, Reuters reported.

"Our fate is to combine resistance and politics, but resistance remains the basis and politics only a branch," Mr. Meshal said. "Being in power is only a means to an end for Hamas."

Mr. Meshal was speaking at a memorial gathering on Thursday night. "We and the Zionists have a date with destiny," he said. "If they want a war, we are the sons of war," he said, adding, "We have more stamina than Israel and will defeat it, God willing."

Mr. Abbas was a crucial negotiator for the P.L.O., but Mr. Meshal criticized its agreements with Israel that created the interim Palestinian Authority. "A country can only exist on liberated land," he said.

Mr. Meshal's comments did not suggest that Hamas would soon agree to international demands that a new Palestinian government recognize Israel, forswear violence and accept previous Israeli-Palestinian agreements.

In Brussels, at a meeting of the United States, the European Union, Russia and the United Nations — together known as the quartet — an American assistant secretary of state, David Welch, said, "To this date, I have not seen a positive Hamas reaction in respect to any of these principles." He said the quartet was discussing ways to channel emergency aid to the Palestinians while trying to avoid sending money to a government led by Hamas, which is classified by the United States and the European Union as a terrorist group.

In Israel, the government officially confirmed its first avian cases of the A(H5N1) strain of bird flu, saying the virus had killed thousands of turkeys and chickens in the south. Three people who worked with infected birds have been hospitalized.

The European Union immediately banned the import of Israeli poultry, unless the meat had been heat-treated or the birds were slaughtered before mid-February.

Separately, Israel's Justice Ministry said it was investigating a hospital that reportedly held a newborn baby to ensure that the parents of triplets would pay their hospital bill. The mother, an Israeli Arab, gave birth prematurely two months ago, and the babies required extensive treatment. After the case was written about in the daily newspaper Haaretz, the ministry ordered the release of the child and said it would ensure payment to the hospital.

Beyond that, Prime Minister Ariel Sharon, still comatose after a stroke in January, will be moved to a long-term care center outside Tel Aviv after elections this month, The Associated Press reported, citing an Israeli television station.

Fatah Officials Call For Abbas To Resign (AP)

By Mohammed Daraghmeh

AP, March 18, 2006

Several Fatah officials called on President Mahmoud Abbas to resign and dissolve the Palestinian Authority to protest Israel's raid of a West Bank prison earlier this week, party activists said Friday.

The raid, in which Israel seized six top militants, was seen as a humiliating blow to Abbas' prestige and raised new questions in his Fatah Party about their president's ability to govern, especially following Hamas' landslide victory in a January parliamentary election.

If the Palestinian Authority is dissolved, Israel — as occupier of the West Bank and Gaza Strip — would be forced to assume responsibility for the 3 million Palestinians living there. The dissolution also would render Hamas' election victory irrelevant.

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In violence Friday, Israeli soldiers shot and killed a 10-year-old girl during an operation in the West Bank village of Yamoun, the girl's father, Abdul Rahman Zaed, said. The girl was in a car with her uncle, who was shot in the head and arrested, Zaed said.

The army, engaged in a fierce gunbattle with militants in Yamoun, surrounded a house in which three militants were holed up and called on them to surrender, Palestinian security officials said. Later, a 13-year-old boy was wounded in the fighting, officials said.

The call for Abbas' resignation and the dissolution of the Palestinian Authority at the Fatah Central Committee late Thursday was the first time such a demand was made.

Analysts and Fatah officials said the demands — raised both in a letter to Abbas signed by five midlevel Fatah activists and at Thursday's meeting by a senior party official — are not serious at the moment.

However, the idea could gain momentum if a resumption of peace talks becomes increasingly unlikely and the economic situation deteriorates further, said Ghassan Khatib, the outgoing Palestinian planning minister.

Taysir Nasrallah, a Fatah official from the West Bank city of Nablus who signed the letter, said Israel's prison raid showed the Palestinian Authority was useless.

"Israel should pay a heavy price for occupying the Palestinian Authority," Nasrallah told The Associated Press.

In Thursday's meeting of Fatah's Central Committee, one of the members, Tayeb Abdel Rahim, opened the session by demanding that Abbas resign and dissolve the Palestinian Authority, a participant said. He spoke on condition of anonymity because he was not authorized to talk to the media about the closed-door session.

The official quoted Abdel Rahim as saying that the Palestinian Authority is unable to solve Palestinian problems and that it is "time for us to leave."

During a tour of the demolished prison in Jericho a day after Israel's raid, Abbas rejected the idea that he would resign and dissolve the Palestinian Authority.

Fatah has been increasingly frustrated with Abbas since Hamas' election victory, and the party is almost certainly not joining the Islamic group's new government.

Abbas is tentatively scheduled to meet Hamas' designated prime minister, Ismail Haniyeh, on Saturday.

Hamas spokesman Salah Bardawil said the group would be ready to present its government to Abbas on Saturday. Abbas has the power to veto Hamas' government, forcing it to return with a different program.

Since Hamas' election victory, Israel has tightened its hold on the Palestinians.

It has stopped transferring millions of dollars in tax revenues collected for the Palestinian Authority and has called on the international community to slap economic sanctions on a Hamas government, steps the World Bank says would devastate the already poverty-ridden Palestinian areas.

A closure on Palestinian areas, meant to end Thursday after the Jewish holiday of Purim, has been extended until at least next week, and the army is inclined to continue it until after Israel's March 28 elections.

The closure bars Palestinian laborers from entering Israel and shuts down Gaza's main cargo crossing, Karni. Israel, citing security concerns, has closed Karni on and off for most of the past two months.

Karni's closure led the Palestinian Mill Co., which says it supplies about 60 percent of Gaza's flour, to idle last week because it used up its flour stocks. On Friday, Palestinians flocked to bakeries in Gaza City, fearing a bread shortage.

The Palestinian National Economy Ministry said Friday it expects bakeries to run out of flour within a few days because of the mill's shutdown.

Also Friday, two Palestinians were killed and three wounded in northern Gaza when homemade rockets they were preparing to fire at Israel exploded prematurely, Palestinian security officials said.

Netanyahu Angles For Yet Another Comeback (LAT)

By Laura King

The Los Angeles Times, March 18, 2006

Israel's former prime minister, lagging in the run-up to a national election, leads a party whose prospects, like his own, have turned.

TEL HAI, Israel — Benjamin Netanyahu was in his element: a dramatic, wind-whipped overlook at Israel's northern tip, a onetime fortress where 86 years ago, a storied band of beleaguered Jewish pioneers fought and died at the hands of Arab attackers.

Here in Tel Hai, a Zionist touchstone, the 56-year-old candidate for prime minister paid his respects to the fallen — and symbolically linked their lonely struggle to his own.

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"Who is going to act against Hamas, for the safety of our children?" he thundered, referring to the Islamist group that swept to victory in January's Palestinian elections. "Who is going to do it? We're talking about our country!"

It wasn't subtle, but neither is Netanyahu's style. And even if it were, subtlety is a luxury he could ill afford these days.

Heading into a March 28 parliamentary election, the onetime boy wonder of Israeli politics leads a party that once dominated the electoral landscape, but now is lagging far behind.

There is no small irony in this turn of events. Netanyahu devoted most of the last three years to trying to wrest control of the conservative Likud Party from his archrival, Ariel Sharon. He achieved that ambition at last, but only after Sharon quit Likud, leaving it a shriveled husk. The centrist Kadima party that Sharon started — now led by Ehud Olmert, who took over after Sharon suffered a massive stroke — is forecast to win at least twice as many seats as Likud.

Still, many observers believe it would be foolish to count out Netanyahu, a charismatic but divisive politician whose career has been marked by dramatic reversals of fortune.

In the 1996 campaign, six months after the assassination of Prime Minister Yitzhak Rabin, Netanyahu at one point trailed the dovish Shimon Peres by 20 percentage points. Then Israel was rocked by a devastating series of Palestinian bombings. The attacks killed 67 people in 13 days. Netanyahu emerged the victor by a razor-thin margin. At the age of 46, the U.S.-educated, media-savvy Netanyahu, universally known by his nickname Bibi, became the country's youngest prime minister.

A scant three years later, irate Israeli voters booted him out of office by a humiliatingly large margin.

When Netanyahu reentered politics in 2001 after a hiatus to lick his wounds, he presumed that the aging Sharon would present little obstacle to his claim on the Likud leadership. Instead, the old ex-general went on to become one of the most popular leaders in modern Israeli political history, with his statesmanship likened to such towering figures as David Ben-Gurion, Israel's first prime minister.

Having assumed the leadership of Israel's hard right at a time when the country is embracing a more centrist view, Netanyahu now finds himself struggling to broaden his appeal.

"Likud has not been able to follow the swing in Israeli public opinion," said political scientist Itzhak Galnoor of Hebrew University. "The public generally agrees with the partitioning of the biblical Land of Israel, and the Likud leadership remains stuck in its previous position."

Likud's platform opposes the creation of a Palestinian state — something most Israelis now accept as inevitable.

Netanyahu strategists express frustration that voters apparently are giving little weight to his impressive qualifications.

The Israeli economy was a shambles when he took over as finance minister in 2003, but was booming when his tenure ended. Even critics agreed the turnaround was largely due to the rigorous economic reforms Netanyahu championed, though many complained his policies caused hardship to the poor and elderly.

And after years spent in the shadow of one ex-general after another, Netanyahu is finally in a race in which his military credentials, including a stint in the ultra-elite commando unit Sayeret Matkal, are far more solid than those of either of his main opponents, Olmert and Peretz.

Instead, a viewer of the political ads that flicker across the country's TV screens every night might be forgiven for believing Netanyahu was the electoral contest's dominant figure and his character the chief issue.

Kadima has devoted considerable resources to skewering him, playing to the perception that Netanyahu is manipulative and insincere. One much-discussed Kadima ad, apparently aimed at making Netanyahu appear untrustworthy, features nothing but footage of him giving a speech while his eyes continually shift back and forth.

The Israeli electorate's relationship with Netanyahu is a complicated one. He is simultaneously admired and reviled for his smooth public persona, widely remembered for a made-for-television moment during the 1991 Persian Gulf War, in which he suavely donned a gas mask while speaking live on CNN in his perfect colloquial American English.

"He's really a very skilled politician — an extremely good speaker, good at diplomacy, and he works hard and does his homework," said political analyst Gideon Doron of Tel Aviv University. "But his weakness is lack of credibility — the public perception that he lies to those around him, that under pressure he panics."

On the campaign trail, Netanyahu appears to be fighting the stereotype of slickness. He's a man who knows how to carry himself in an expensively tailored suit, but at recent speeches and appearances, he has favored a simple open-collared shirt. At one campaign stop, he ignored the raised platform set up for him and brought a microphone down to crowd level.

Few things irritate Netanyahu more than what he calls "armchair analysis" of his family history, but it looms large in his public persona. Almost every Israeli knows the story of Netanyahu's elder brother, Yonatan, who was killed in the daring 1976 raid at Entebbe airport in Uganda, when Israeli commandos rescued the passengers of a plane held by Palestinian hijackers.

The family was devastated, and hopes of a brilliant future for Yonatan, the favored son, were transferred to the younger Benjamin. Despite protestations that he hates having his character dissected in connection with Yonatan's death, Netanyahu chose to feature footage of Entebbe in his campaign ads.

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Netanyahu is adept at cultivating political allies, but appears to have few real friends in Israel's political establishment.

On a Likud campaign swing through the economically depressed northern town of Kiryat Shemona, Uzi Landau, a prominent Likud member of parliament, stumped energetically for the party in a shopping mall and an open-air produce market, but turned snappish when asked about Netanyahu's leadership attributes.

"I think I would have made a better leader," Landau said.

If asked what quality they associate with Netanyahu, many Israelis mention raw opportunism. Even among Netanyahu's supporters, many noticed that although he railed for months against Sharon's plan to withdraw troops and settlers from the Gaza Strip, he waited until just days before the pullout to give up his Cabinet post in protest.

Among voters, those character traits often outweigh Netanyahu's strengths, including his searching intelligence. Visiting a high-tech factory in the Negev desert town of Sderot, the MIT-schooled candidate sat with computer-circuitry technicians in their white lab coats, peppering them with detailed questions.

"I was surprised — he really knows a lot about this," said 30-year-old technician Alexander Kirzner. But asked whether that was enough to win his vote, he smiled.

"I admire what he's done with the economy, and this is the best-paying job I've ever had," he said.

"But that doesn't mean I trust him with everything to do with our lives."

How I Learned To Love The Wall (NYT)

By Irshad Manji

The New York Times, March 18, 2006

New Haven

ON March 28, Israelis will elect a new prime minister to replace the ailing Ariel Sharon. But I'd bet my last shekel that I'll continue to hear the phrase "Ariel Sharon's apartheid wall." It's a phrase spoken — make that spewed — on almost every university campus I visit in North America and Europe.

Among a new generation of Muslims, this is what Mr. Sharon will be known for long after he leaves office: unilaterally erecting a barrier, most of it a fence, some of it a wall, that cuts Arab villages in half, chokes the movement of ordinary Palestinians, cripples local economies and, ultimately, separates human beings.

The critics have a point — up to a point.

They're right that Palestinians are virtually wailing at "the wall." When I went to see its towering cement slabs in the West Bank town of Abu Dis last year, an Arab man approached me to unload his sadness. "It's no good," he said. "It's hard."

"Why do you think they built it?" I asked.

The man shook his head and repeated, "It's hard." After some silence, he added, "We are not two people. We are one."

"How do you explain that to suicide bombers?" I wondered aloud.

The man smiled. "No understand," he replied. "No English. Thank you. Goodbye."

Was it something I said? Maybe my impolite mention of Palestinian martyrs? Then again, how could I not mention them?

After all, this barrier, although built by Mr. Sharon, was birthed by "shaheeds," suicide bombers whom Palestinian leaders have glorified as martyrs. Qassam missiles can kill two or three people at a time. Suicide bombers lay waste to many more. Since the barrier went up, suicide attacks have plunged, which means innocent Arab lives have been spared along with Jewish ones. Does a concrete effort to save civilian lives justify the hardship posed by this structure? The humanitarian in me bristles, but ultimately answers yes.

That's not to deny or even diminish Arab pain. I had to twist myself like an amateur gymnast when I helped a Palestinian woman carry her grocery bags through a gap in the wall (such gaps, closely watched by Israeli soldiers, do exist). It made me wonder how much more difficult the obstacle course must be for people twice my age, who must travel to one of the wider official checkpoints nearby.

I appreciate that Israel's intent is not to keep Palestinians "in" so much as to keep suicide bombers "out." But in the minds of many Palestinians, Ariel Sharon never adequately acknowledged the humiliation felt by a 60-year-old Arab whose family has harvested the Holy Land for generations when she has to show her identity card to an 18-year-old Ethiopian immigrant in an Israeli Army uniform who's been in the country for eight months. In that context, fences and walls come off as cruelly gratuitous.

For all the closings, however, Israel is open enough to tolerate lawsuits by civil society groups who despise every mile of the barrier. Mr. Sharon himself agreed to reroute sections of it when the Israel High Court ruled in favor of the complainants. Where else in the Middle East can Arabs and Jews work together so visibly to contest, and change, state policies?

I reflected on this question as I observed an Israeli Army jeep patrol the gap in Abu Dis. The vehicle was crammed with soldiers who, in turn, observed me filming the anti-Israel graffiti scrawled by Western activists — "Scotland hates the blood-

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sucking Zionists!" I turned my video camera on the soldiers. Nobody ordered me to shut it off or show the tape. My Arab taxi driver stood by, unprotected by a diplomatic license plate or press banner.

Like all Muslims, I look forward to the day when neither the jeep nor the wall is in Abu Dis. So will we tell the self-appointed martyrs of Islam that the people — not just Arabs, but Arabs and Jews — "are one"? That before the barrier, there was the bomber? And that the barrier can be dismantled, but the bomber's victims are gone forever?

Young Muslims, especially those privileged with a good education, cannot walk away from these questions as my interlocutor in Abu Dis did. If we follow in his footsteps, we are only conspiring against ourselves. After all, once the election is over, we won't have Ariel Sharon to kick around anymore.

Israel Announces First Cases Of Deadly Bird Flu Strain, In Turkeys (WP)

By Scott Wilson

The Washington Post, March 18, 2006

JERUSALEM, March 17 -- Israeli health officials announced Friday that they believe more than 1,000 turkeys have died in recent days from bird flu, the first reported cases in the country.

Initial test results appeared to confirm that birds being raised on four farms in southern Israel died after being infected by the H5N1 virus, avian influenza's deadly strain. Additional tests recommended by the World Health Organization are being conducted to confirm the findings, but Israeli officials are already taking precautions.

The Agriculture Ministry began preparations Friday to kill 86,000 birds within a roughly two-mile radius around the farms where, by some unofficial estimates, 11,000 turkeys have died in recent days.

Israel also halted the export of all unprocessed chicken and turkey meat, and health officials sought to assure Israelis that the supply in stores was safe.

"The risk that people will contract the virus is very, very low," said Avi Yisraeli, the Health Ministry's director general.

Nearly 100 people worldwide have died of avian flu, and tens of millions of birds have been slaughtered in efforts to stop its spread.

After it was discovered in Turkey last fall, Israeli health and agriculture officials said it was likely only a matter of time before the first birds here contracted the virus. Yaakov Edri, Israel's health minister, told Army Radio on Friday that there was a "very high chance that this is avian flu."

"But, of course, there are more tests to be done," Edri said.

Last month, the H5N1 virus was detected in poultry in Egypt, Israel's southern neighbor. Because the suspected cases of infection in Israel have so far been concentrated in the south, Agriculture Minister Zeev Boim said the virus may have migrated from Egypt.

Israeli military officials have also asked the Palestinian Authority for blood samples from poultry in the Gaza Strip, seeking to determine if the virus may have come from there. Israel evacuated settlers and military installations in Gaza last year but still maintains control over trade passages into Israel.

Israeli agriculture officials imposed a quarantine on at least three farms in the Negev region of southern Israel while testing is underway. Israeli officials said the results would be ready within two days.

The Haaretz newspaper reported that at least three workers from the farms were being treated for symptoms associated with bird flu, although there has been no confirmation that they are suffering from the virus. One of the men, a Thai immigrant, is being held in isolation at the Soroka Medical Center in the city of Beersheba.

Health officials said they had vaccinations for about half of Israel's roughly 6.2 million people and planned to fly in an additional 4 million doses from the Netherlands in the coming days.

The Ynet news Web site reported that culling had begun Friday and estimated it would eventually involve more than 200,000 birds. The killing is done by poisoning the birds' drinking water, and Israeli farmers are expressing fears of huge financial losses.

As Spring Thaws The Caucasus, Birds And Fear Are Flying North Through Georgia (NYT)

By C. J. Chivers

The New York Times, March 18, 2006

TBILISI, Georgia, March 16 — In the early morning hours, the cobblestone alleys that wander this city's slopes are normally crowded with schoolchildren, walking in groups with their backpacks and books. But such sights have lately become rare.

At School No. 50 on Thursday, the director, Nino Gogsadze, stood in the corridors for the 9 a.m. opening. Only two students were waiting for the day's lessons. Both were her sons.

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The school's 822 other children were absent.

"The parents do not let their children go to school," Ms. Gogsadze said. "They are afraid."

Such is the power that avian influenza can hold over the public imagination as the March thaw advances north across the former Soviet Union.

Two girls from School No. 50 died this month of complications related to a strain of common influenza. The deaths were not caused by avian influenza, according to the Georgian government and the World Health Organization, which has reviewed the laboratory results of biological samples taken from the girls.

But clinical facts have hardly mattered, and Tbilisi has succumbed to an outbreak — not of avian influenza, but of fear.

School attendance has dipped to half of normal levels, said Alexander Lomaia, the minister of education. Ambulance calls have soared, reaching 900 a day here, up from slightly more than 600, said Lado Chipashvili, the minister of labor, health and social affairs.

The fear has undermined confidence in the food supply, reducing poultry sales and making it hard to find dishes containing chicken or eggs in restaurants.

Even Mr. Chipashvili has had trouble ordering shkmeruli, the sautéed chicken in garlic-and-cream sauce that is part of Georgia's national cuisine. "Unfortunately, it is impossible," he said.

Only one bird has been identified in Georgia with the avian influenza virus — a wild swan found dead near the coast of the Black Sea on Feb. 23. Domestic birds within a radius of about two miles of the dead swan were promptly culled, about 1,700 birds in all, according to Levan Ramishvili, the coordinator of avian influenza programs at the Ministry of Agriculture.

Georgia has had no human cases of avian influenza, and the World Health Organization said Georgia had monitored bird populations, improved its health system's ability to treat human cases, and educated its public about the virus and how it its transmitted.

"I have the impression that they are doing quite well," said Dr. Bernardus Ganter, the adviser on communicable diseases for the World Health Organization's European region, which includes Georgia. "They are serious about this."

The public reaction, however, has tapped a combination of fears. Georgia borders Turkey and Azerbaijan, which between them have had seven confirmed human deaths from avian influenza this winter.

And as residents of a post-Soviet state, Georgians retain an ingrained distrust of government announcements, even though the current government, which came to power in 2003, has proved much more open than the old.

The sense that official assurances should be treated with skepticism was deepened by the handling of three deaths in recent weeks in Azerbaijan, where government officials alternately said the victims had died from avian influenza and that such diagnoses were "premature."

The World Health Organization, working with Azerbaijani officials, on Tuesday confirmed that the deaths were caused by avian influenza, which is not contagious among humans but can be contracted by people who come in contact with the blood or feces of poultry.

Georgian officials have embarked anew on a public relations campaign, which has already included public service announcements about the disease on television, and pamphlets for schoolchildren and medical workers. "It is like a panic and we are trying to calm this panic down," Mr. Chipashvili said.

He noted, however, that the spring bird migration is under way, and that as more birds pass through the region, the virus could readily spread to wild and domestic birds.

That has been the case on the other side of the Caucasus ridge, in southwestern Russia, where more than a million birds have been killed by the virus or by the culling of domestic stocks.

As the concerns multiply, Dr. Ganter says the World Health Organization has increased its presence and diagnostic capacity in Azerbaijan, and is getting cooperation from the government there.

If School No. 50 is any indicator, however, restoring public confidence in the Caucasus will be slow. Ms. Gogsadze has invited citizens to examine medical certificates showing that the girls who died did not have avian influenza. The school has been disinfected from end to end. "Every room, every corner, every toilet," Mr. Chipashvili said.

Yet the building stands empty.

"Epidemiologists told me that this school is the cleanest in Georgia," Ms. Gogsadze said. "But fear has emerged."

G-8 Countries Back Nuclear Power In Future (WT/AP)

The Washington Times, March 18, 2006

MOSCOW (AP) -- Energy ministers from the world's leading industrialized nations called yesterday for major new investments and the development of nuclear power as high oil prices and uncertainty about supplies weigh on the global economy.

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The ministers from the Group of Eight nations, meeting in the Russian capital to discuss global energy security, said significant investments would be needed in the production, transportation and processing of resources and urged policies to encourage this.

"We recognize that to attract investment it is essential for countries to have open and favorable investment regimes," they stated, "including stable and predictable regulations, clear tax laws and efficient administration procedures, as well as fair and reciprocal access to markets along the energy value chain."

Though they conceded that fossil fuels "will remain the basis of the world energy industry for at least the first half of the 21st century," the ministers urged a diversification of energy sources, suppliers, consumers, routes and delivery methods as a means of reducing energy security risks. They noted in particular the importance of nuclear energy.

"For those countries that wish, wide-scale development of safe and secure nuclear energy is crucial for long-term, environmentally sustainable diversification of energy supply," they said in a statement released by Russia's Ministry of Industry and Energy.

"We are hopeful for a very substantial worldwide rebirth of the nuclear power industry, which appears to be taking place in various parts of the world," U.S. Energy Secretary Samuel W. Bodman said at a press conference.

The ministers called for increasing energy supplies to less-developed countries, and said the development of low-carbon technologies will be "crucial" to long-term global environmental sustainability.

Britain's trade and industry minister, Alan Johnson, emphasized there was no simple solution to easing world's dependence on hydrocarbons -- with fossil fuels likely to continue to provide 80 percent of global energy needs in the first half of this century.

But he said new technologies could reduce the environmental effects.

The ministers also said better communication between energy producers, transit providers and consumer countries was necessary.

Russia is the world's No. 1 gas producer and the biggest oil exporter after Saudi Arabia, but Moscow's recent behavior has raised concern among Western oil companies about investing in Russia and European Union worries about the dependability of supplies from state-controlled monopoly Gazprom.

Russian President Vladimir Putin promised that in the next few months Russia's parliament will pass a key bill regulating taxes on mineral extraction along with new legislation on using subsoil resources, including with the participation of the foreign capital.

The changes were "aimed at making energy business in Russia as transparent and predictable as possible," Mr. Putin said.

Russian Energy Minister Viktor Khristenko said yesterday that $17 trillion needed to be invested by 2030 "to create an effective global energy system that is resilient to shocks."

Stable legislation, a clear tax regime and flexible administration are key to realizing this goal, Mr. Khristenko said.

Russia Effectively Closes A Political Opponent's Rights Group (NYT)

By C. J. Chivers

The New York Times, March 18, 2006

MOSCOW, March 17 — The bank accounts of a foundation led by an imprisoned Russian businessman, Mikhail B. Khodorkovsky, were frozen Friday by court order, the foundation and its bank said, a move that strongly suggests the organization is about to be shut down.

The group, the Open Russia Foundation, immediately announced that it was forced to suspend its activities promoting civil society and accused the government of extending its crackdown on private organizations.

"It seems that they are trying to stop all of our activities, because of course without money, we can do nothing," said Irina Yasina, the vice chairwoman.

The court action follows a general crackdown in Russia on private nonprofit organizations that receive foreign financing, all of which will be subject next month to a law signed in January restricting their activities.

Although Open Russia is a domestic organization, the new provisions seem tailored to include it, as a clause extends the law's restrictions to organizations founded by citizens convicted of crimes.

Mr. Khodorkovsky, the founder of the Yukos oil company, set up Open Russia in 2001. Once Russia's wealthiest man, he was convicted of fraud and other charges last year, and is serving an eight-year prison term in Siberia. He and his supporters contend that the charges against him were contrived by the Kremlin as punishment for his political activities. Mr. Khodorkovsky remains chairman of Open Russia.

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The foundation, which claims to be the country's largest, has advocated for human rights and political freedoms, in part by providing grants to partner organizations throughout Russia. It had planned a budget of $11 million this year and maintained its accounts at Trast Bank, Ms. Yasina said.

Its activities have been the subject of intense government interest, including a raid on its offices here last fall and at least five tax inspections last year, she said. On Friday, much of the suspense about Russia's intentions ended.

Dmitry V. Chukseyev, a spokesman for Trast Bank, said an official from the general prosecutor's office arrived in the morning with a court order stipulating that the accounts had been frozen "in relation to a criminal matter against Khodorkovsky, Lebedev and other unidentified people." Platon Lebedev was a business associate of Mr. Khodorkovsky and was convicted with him.

The order, Mr. Chukseyev said, "immobilizes any movements of money" without the prosecutor's approval. It did not make clear the nature of the criminal activity, he said.

The general prosecutor's office made no public statement about the case.

Mr. Yasina said that the accounts contained several million dollars, and that the assets were frozen on a day that Open Russia had planned to distribute funds to organizations it helps underwrite. She said the move was another example of Russia's backsliding on human rights, even as it holds the rotating chairmanship of the Group of 8 industrialized nations.

Mr. Khodorkovsky's supporters said Friday that he had been sentenced to serve a week in a punitive cell because he had been drinking tea outside an approved prison area. Officials of the prison service could not be reached for comment.

Almost all aspects of Mr. Khodorkovsky's business and public activities have faced government pressure since his arrest in 2003. His oil company is in ruins, after being drained of assets by enormous tax judgments against it and by having its core business auctioned off by the Russian authorities. Mr. Khodorkovsky himself still has several years to serve on his prison term.

Ms. Yasina said the events on Friday signaled to her that Open Russia, like Yukos, would not survive.

"Now it is absolutely clear," she said. "I had some hope, even today in the morning. Now I understand that we are stopped."

U.S. May Consider New Belarus Sanctions (WP)

By Peter Baker

The Washington Post, March 18, 2006

White House Report Calls Leader 'Corrupt'

The White House accused the authoritarian president of Belarus yesterday of being "among the most corrupt leaders in the world," and administration officials said they will consider new sanctions assuming tomorrow's elections are manipulated as expected.

In a report sent to Congress on Thursday night and posted on the Web yesterday, the White House alleged that President Alexander Lukashenko "has created a repressive dictatorship on the doorstep of the European Union," sold arms to rogue states and enriched himself at the expense of his people.

The release of the report just two days before presidential elections in the former Soviet republic was intended as a sharp repudiation of a man often called Europe's last dictator amid a pre-vote crackdown on dissent. Authorities in Belarus, where the KGB retains its Soviet name, have shut down newspapers, raided civil society organizations, stifled anti-government rallies, and beaten and arrested opposition figures, including a candidate running against Lukashenko.

"We are very concerned about the behavior of the leaders in Belarus," White House press secretary Scott McClellan said yesterday. "They are not pursuing a democratic course."

In separate interviews, two other administration officials who were not authorized to speak on the record said the U.S. government is studying ways of applying more sanctions against Lukashenko's regime, targeted specifically against him and his cronies. The United States has already imposed travel restrictions on some high-level Belarusan officials.

Assuming the elections are not deemed free and fair, the administration would consider working with European governments to go after the assets of Lukashenko and his circle, the officials said. "This is something that people at the highest level feel strongly about," said one of the officials. The other said, "It's unacceptable that there's a dictator and a tyrant on the border of NATO and the E.U."

Although Belarus is a small country with 10 million people and little strategic importance, Bush has taken a personal interest as part of his vow to spread democracy. On Feb. 27, he invited to the Oval Office two Belarusan women, Irina Krasovskaya and Svetlana Zavadskaya, who have become important opposition symbols since their husbands disappeared. In the national security strategy he unveiled this week, Bush included Belarus among seven countries deemed "despotic systems."

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The new report, drafted in response to the Belarus Democracy Act passed by Congress in 2004, alleges that Belarus sold arms, military equipment and dual-use items to countries such as Iran and Sudan. The money goes into secret funds controlled by Lukashenko, according to the report.

The report says that Lukashenko controls a presidential fund with more than $100 million and quotes him once bragging that it really has $1 billion. "The precise extent of corruption is difficult to determine because of the regime's lack of transparency and the blurring of personal and state property," the report says. Lukashenko gave the U.S. embassy a document reporting his annual income as $16,596.

Much of the information about his finances comes from public statements by Tamara Vinnikova, a former head of the national bank who fled Belarus in 1999. A classified version of the report has other authentication, sources said.

"This gives a very clear picture of this monstrous regime," said Rep. Christopher H. Smith (R-N.J.), who sponsored the Belarus Democracy Act. "We're not going to give up. As we've seen with every thief and dictator over time -- remember Nicolae Ceausescu? -- there's a long list of people who are no longer there to torture and abuse their people." Ceausescu, the Romanian dictator, was executed in a popular uprising in 1989.

Belarusan Ambassador Mikhail Khvostov complained that the White House report was filled with "false allegations" and "black PR." Khvostov said Belarus does not hide its arms sales but complies with U.N. regulations. And he said Lukashenko does not use the presidential fund for personal purposes but instead to fund arts and sports.

"In my view, this action on the eve of the election is an attempt of a black intervention into the internal affairs of another country," Khvostov said. "This administration does not like President Lukashenko to win this election."

Pelosi Seeks End To Darfur Violence (WT)

By Brian Debose

The Washington Times, March 18, 2006

House Minority Leader Nancy Pelosi yesterday said the warring in the Darfur region of Sudan demands immediate attention, a day after privately urging President Bush to appoint a special envoy to help end what the White House calls a genocide.

"President Bush and I don't agree ... well we disagree on almost everything, but on this we do, and he has told us 'not on his watch' and I believe him," Mrs. Pelosi said after a speech to the Center for National Policy.

Mrs. Pelosi and congressional Democrats, who last month visited Darfur, told Mr. Bush in a meeting Thursday that an envoy would signal that peace in Sudan is important to the U.S.

"To do this we must stop the violence, bring the parties to the negotiating table and get humanitarian relief to the people who need it," the California Democrat said in her address.

The war between rebels and government forces and Arab militias has killed an estimated 180,000 people and displaced 2 million more.

Mrs. Pelosi said the congressional delegation found "a mass of death, disease and despair" for the native farmers imposed by both the state-sponsored Janjaweed militia and thieving rebels.

"[Sudanese] Vice President [Ali Osman Mohammed] Taha denied what we had seen with our very eyes," Mrs. Pelosi said.

"After persistent questioning by Congresswoman Maxine Waters, Vice President Taha finally admitted that the Sudan government had supported the Janjaweed in the past," she said.

Congress on Thursday approved more than $350 million in aid to the region, including more than $90 million for United Nations peacekeepers, who have not yet been authorized to enter the African nation.

Mrs. Pelosi said one of the problems with U.N. intervention is that the African Union has not yet requested it, and the Sudanese government fought against it in a meeting held March 10.

A decision has been postponed to give all the parties a chance to reach and sign a peace accord with a deadline of April 30. Sudan yesterday said it expected to meet the deadline.

Mrs. Pelosi said a request for U.N. troops may not come until September: "But that will only allow for more death, disease and genocide to take place."

Part of the reason the conflict has gone on for so long without U.N. intervention is contention over whether the situation classifies as genocide. The U.N. describes the conflict as the world's gravest humanitarian crisis.

Imam Mahdi Bray, executive director of the Muslim American Society Freedom Foundation, said the debate is based on the semantic arguments of a "ridiculously high" standard.

"I am also troubled that during our trips there we were told by numerous officials throughout the country that the U.S. and U.N. have not given the African Union the financial support they need," he said.

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An African Union military force has been in the region acting as a peacekeeping force since October 2004, but it only has 7,000 troops to protect hundreds of thousands of displaced families in scattered camps throughout Darfur.

Liberian Seeks Extradition Of Predecessor For Atrocities Trial (NYT)

By Warren Hoge

The New York Times, March 18, 2006

UNITED NATIONS, March 17 — Ellen Johnson Sirleaf, the president of Liberia, said Friday that she had asked Nigeria to extradite Charles Taylor, the former Liberian president and guerrilla leader, to face war crimes charges in Sierra Leone.

Ms. Johnson Sirleaf told the Security Council that she had made a formal request to President Olusegun Obasanjo of Nigeria, where Mr. Taylor lives in exile.

Mr. Taylor claimed asylum in Nigeria in August 2003 as part of an internationally brokered peace settlement ending 14 years of civil war in Liberia. He was later indicted on 17 counts of war crimes and crimes against humanity by a United Nations-backed court in Sierra Leone.

Mr. Taylor, 58, a warlord-turned-president, rampaged through his own country and much of West Africa during the 1990's, unleashing ruthless campaigns of torture, rape and dismemberment.

Even from exile, he has maintained influence in Liberia, with thousands of young combatants still loyal to him, Ms. Johnson Sirleaf said, making her plea "courageous but risky."

"Please bear in mind that time is of the essence in this regard," she said at a news conference. "Liberia's peace is fragile. There are many loyalists in our country to Mr. Taylor, there are many business interests he has. Whatever decision is taken by the African leadership must ensure that the safety of the Liberian people and the stability of our nation is not undermined."

She said Mr. Obasanjo would consult African leaders because they had been signatories to the deal that sent Mr. Taylor into exile.

She said she also wanted to "ensure that in any proceedings, there is an environment that protects all, including the accused's, fundamental human rights."

She was not seeking Mr. Taylor's extradition to Liberia, she said, because he was not under indictment there. If he is sent to Liberia, peacekeepers there have been authorized by the Security Council to transfer him to Sierra Leone.

Mr. Obasanjo has been under pressure to act on Mr. Taylor but had said he would await a request from a democratically elected Liberian president. Ms. Johnson Sirleaf was elected in November and inaugurated on Jan. 16.

She complained that the international community should have acted sooner to help Liberia free itself from Mr. Taylor's influence.

"We inherited a problem, we are faced with serious pressure, we are a small country, we have no powers that others have, we have no security forces to protect our people and the safety of our nation, so we are caught in a situation that we have to take a major decision that should have been taken long before, giving us an opportunity to pursue our development agenda," she said.

Corinne Dufka, a senior researcher for Human Rights Watch in Dakar, Senegal, who has followed the Taylor case closely, hailed the move as an "enormous step toward advancing justice in West Africa," but she said she was troubled by Mr. Obasanjo's decision to seek the approval of other African leaders.

"Obasanjo must now play his own part in the fight against impunity in West Africa," she said.

Ms. Johnson Sirleaf, who served five years as an assistant secretary general with the United Nations Development Program, addressed a joint meeting of Congress on Wednesday and will see President Bush in the White House on Tuesday.

She used her appearance before the Council on Friday to thank the United Nations for helping Liberia end its debilitating conflicts and hold the election that put her in office.

The United Nations has a peacekeeping force in Liberia of 16,000 soldiers and police officers, and Ms. Johnson Sirleaf asked the Council to guarantee its continuance.

She was praised in speeches by many of the ambassadors, and her speech was greeted with applause, a rare occurrence in the chamber.

Liberia Seeks Trial For Ex-President (WP)

By Colum Lynch

The Washington Post, March 18, 2006

New Leader Presses Nigeria and U.N.

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UNITED NATIONS, March 17 -- Liberian President Ellen Johnson-Sirleaf has asked Nigerian leader Olusegun Obasanjo and other African leaders to force Charles Taylor, Liberia's exiled former president, to face trial for war crimes allegedly committed in neighboring Sierra Leone's bloody 10-year-long civil war.

Johnson-Sirleaf, who was elected president in November, appealed to the U.N. Security Council on Friday to back her government's efforts, noting that "Liberia is still fragile." She asked Obasanjo in a meeting in Abuja last weekend to rally other African leaders to make a formal statement requesting that Taylor be tried by the U.N.-backed Special Court in Sierra Leone.

Taylor resigned and went to exile in Nigeria in August 2003 as part of a U.S.-backed deal to end Liberia's civil war and pave the way for a U.N.-led effort to rebuild the country.

Obasanjo has previously resisted international pressure to hand Taylor over, citing the need for a request from a democratically elected Liberian leader. His office said Friday that he is considering sending Taylor back to Liberia, not Sierra Leone, where he is charged.

A statement issued by Obasanjo's office cited his "commitment to give due consideration to any formal request from a democratically elected government of Liberia for the return of former president Charles Taylor," Reuters reported from Lagos.

The request for a broader African decision on Taylor's fate is aimed at easing political pressure on Liberia's fledgling government, which is struggling to put the country back on its feet after more than a decade of civil war, extreme poverty and misrule.

U.N. prosecutors maintain that Taylor has continued to exercise considerable power in Liberia from his compound in Calabar, Nigeria. They have also accused him of plotting two assassination attempts against Guinea's president, Lansana Conte.

"I have consulted with Nigerian President Olusegun Obasanjo and asked him that we and the leaders of Africa, particularly those that were involved in the arrangement that took Mr. Taylor to exile now bring this matter to closure," Johnson-Sirleaf told reporters at the United Nations. "And by closure I mean that a decision should be taken that would allow Mr. Taylor to have his case in court."

Johnson-Sirleaf voiced frustration that Nigeria and other African governments that crafted the deal that led to Taylor's resignation left her with the burden of confronting Taylor's legacy. "We have to take a major decision which should have been taken a long time ago," she told reporters after speaking to the council. "The pressure that has been put on Liberia is in a way unfair."

The United States and other Security Council members praised Johnson-Sirleaf's decision to press for Taylor's trial before the war crimes court. "We support President Johnson-Sirleaf's stand on Charles Taylor," said Emyr Jones-Parry, Britain's U.N. ambassador. "She has shown courage in approaching President Obasanjo on what is a difficult issue. Charles Taylor stands accused of the gravest human rights abuses and war crimes. We want to see him face the charges against him at the Sierra Leone Special Court. We hope regional leaders will support President Johnson-Sirleaf."

Taylor pitched Liberia into a civil war in 1989, when he launched an insurgency from his base in Ivory Coast. He was elected president in 1997 and has sponsored rebel movements throughout the region.

Sierra Leone's Special Court, a U.N.-sanctioned court comprised of national and international judges and prosecutors, indicted him on 17 counts of crimes against humanity, including mass murder, rape and the use of child soldiers. The court accused Taylor of training and equipping Sierra Leonean rebels believed responsible for killing, mutilating and terrorizing civilians in their quest to seize power and to control the country's lucrative diamond trade.

Liberia Seeks Extradition Of Indicted Ex-Leader (LAT)

By Robyn Dixon

The Los Angeles Times, March 18, 2006

Ex-President Charles Taylor, who lives in Nigeria, faces war crimes charges in Sierra Leone.

JOHANNESBURG, South Africa — Liberian President Ellen Johnson-Sirleaf has asked Nigeria to extradite her country's former leader, Charles Taylor, to face war crimes charges, a move cheered by human rights advocates that is also laden with risks for her battered West African country.

An international court in Sierra Leone, which borders Liberia, has a cell waiting for Taylor, who has been indicted on 17 counts of war crimes. The United States has been putting intense pressure on Nigeria and Liberia to ensure that Taylor faces trial for his role in Sierra Leone's 10-year civil war.

In Sierra Leone, Taylor is accused of supporting rebels of the Revolutionary United Front, whose trademark was mutilating civilians and cutting off their limbs, as well as using children as soldiers. He left Liberia in 2003, accepting exile in Nigeria in a move that paved the way for the end of the civil war that racked his country.

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Johnson-Sirleaf, a former World Bank official, upset the favored candidate, former soccer star George Weah, in a presidential election last year and took office in January. She has been applauded for her tough stance against corruption, but she also has alienated powerful figures in the country.

In recent months there has been increased speculation about a Taylor trial, and whether it would lead to a border attack on Sierra Leone by his supporters in Liberia or some other destabilizing event. Some have suggested holding the trial outside Africa, but many analysts say that would anger Africans who are highly sensitive to the legacy of colonialism.

President Olusegun Obasanjo of Nigeria confirmed Friday that Liberia had formally sought Taylor's extradition.

Obasanjo has repeatedly promised to hand Taylor over if requested by a democratically elected Liberian president. However, he seemed to be setting new conditions, saying he intends to consult the African Union and West African government leaders.

Johnson-Sirleaf told journalists Friday that the decision would be a collective one involving African leaders. She appealed to the United Nations Security Council to help bring Taylor to justice.

"It is time to bring the Taylor issue to closure," she said.

Nigeria argues that the AU and the Economic Community of West African States, or ECOWAS, must be consulted because they were part of the original deal to exile Taylor. But human rights groups and analysts say that extradition may become bogged down in a long consultation process, or that Taylor may take advantage of the delay and flee.

"The prosecution itself does not necessarily agree that this [consultations with the AU and ECOWAS] is a precondition to the transfer at all," said Harpinder Athwal, special assistant to the prosecution at the Special Court for Sierra Leone. Those groups were involved at a point when Liberia did not have a functioning government, she said.

"Now this is an issue government-to-government and the prosecution doesn't necessarily see that there is a role for the African Union or ECOWAS," she said. "It only takes one spoiler to say 'no' for the whole thing to collapse again and then we're back to square one."

She said prosecution of Taylor would send a powerful message to Sierra Leone, to the region with its complex web of inter-related conflicts and to the world that no one is above the rule of law.

"Often it's seen that the rich and powerful escape the rules that have been set, that there's one rule for one person and another for another," Athwal said.

Johnson-Sirleaf has moved quickly in her first two months in office. She set up a truth and reconciliation commission, fired top officials in the Finance Ministry as part of her anti-corruption drive and barred officials of the former transitional government from traveling abroad until they underwent financial audits.

The transitional government consisted of members of factions from Liberia's 14-year civil war. When they left, there were reports that members stole cars, as well as the furniture, carpets and even the light fixtures in their offices.

The new president promised to give women's issues prominence, saying she had experienced the terror of attempted rape.

Johnson-Sirleaf won enthusiastic applause when she addressed a joint session of the U.S. Congress this week, and won the warm backing of the U.N. Security Council on Friday. But the extradition move is seen as her boldest yet.

"It's a very bold step," said Mike McGovern, West Africa analyst for the International Crisis Group. "It's going to buy her a degree of goodwill because people should recognize that she's taking a risk here for the sake of ending the culture of immunity and moving Liberia into a new era."

Corinne Dufka, West Africa analyst for Human Rights Watch, said there was no reason for Nigeria to balk at Johnson-Sirleaf's request.

"Now Obasanjo will have to move ahead, and do it quickly. We do not think that he needs to get approval from the African Union or from ECOWAS," Dufka said. "He has repeatedly stated that he will surrender former President Taylor after there has been a legitimate election in Liberia. That has happened. President Johnson-Sirleaf has made a request. There is no reason to delay this any further."

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Times staff writer Maggie Farley at the United Nations contributed to this report.

Liberia Seeks Handover Of Taylor To Court (AP)

By Edith M. Lederer

AP, March 18, 2006

Liberian President Ellen Johnson Sirleaf said Friday she wants ex-president Charles Taylor handed over to a war crimes tribunal for prosecution for his role in Sierra Leone's civil war, with the agreement of African leaders.

Sirleaf told the U.N. Security Council Liberia "is determined to address issues from our painful past ... so that the country can move ahead."

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Taylor was given asylum in Nigeria to help end Liberia's civil war and Sirleaf said she and Nigerian President Olusegun Obasanjo agreed at a recent meeting to seek African leaders' views before any handover.

"I have consulted with Nigerian president Obasanjo and asked him that we and the leaders of Africa, particularly those that were involved in the arrangements that took Mr. Taylor to exile, now bring this matter to closure — and by closure I mean that that decision should be taken that would allow Mr. Taylor to have his day in court," Sirleaf told a news conference after addressing the Security Council.

Obasanjo, who was credited with helping end Liberia's civil war when he helped arrange Taylor's asylum, is consulting with other African leaders on how to respond to Sirleaf's request, his office said.

Both Nigeria and Liberia have been under heavy international pressure to hand over Taylor to the court.

Obasanjo had said he would consider any request by a democratically elected Liberian leader. Sirleaf became African's first woman president after winning election in January.

Taylor plunged Liberia into years of civil war in 1989 when he led a small rebel band that invaded from neighboring Ivory Coast. He was elected president in 1997 during a lull in fighting.

He has been indicted by a U.N. tribunal in Sierra Leone on charges of committing crimes against humanity while in office by aiding and directing a Sierra Leone rebel movement and trading guns and gems with the insurgents infamous for chopping off the lips, ears and limbs of civilian victims. Fighting ended in 2001 in Sierra Leone.

Taylor has lived in exile in the southern Nigerian city of Calabar since being forced from power under a peace deal brokered in 2003 that ended the rebel assault on the Liberian capital, Monrovia.

The first word of Liberia's move came from Obasanjo's office, which issued a statement earlier on Friday saying Liberia had asked for Taylor's extradition. It said the Nigerian president was consulting with leaders from the African Union and the Economic Community of West African States who helped broker Taylor's exile on how to respond.

When Sirleaf arrived at the United Nations and was asked about Nigeria's statement, she clarified that she wanted African leaders to agree to ask for Taylor's handover.

Sirleaf criticized Obasanjo and the international community for not acting much earlier to bring Taylor to justice.

She said Liberia was taking "a rather courageous but risky" stand because "Liberia's peace is fragile."

"There are many loyalists in our country to Mr. Taylor. There are many business interests he has. Whatever decision is taken by the African leadership must ensure that the safety of the Liberian people and the stability of our nation is not undermined," she said.

Sirleaf said she met with Obasanjo in response to the increasing international pressure.

U.S. Ambassador John Bolton told the Security Council that the United States supported efforts by Sirleaf, Obasanjo "and other African leaders to bring Charles Taylor to justice."

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Associated Press Writer Bashir Adigun contributed to this story from Abuja, Nigeria.

African Hope (WSJ)

The Wall Street Journal, March 18, 2006

Good news out of Africa has been all too rare in recent years. But a major exception was the election last year of Liberian President Ellen Johnson Sirleaf, who stopped by our offices yesterday after addressing the United Nations.

Established by former American slaves, Liberia descended into a hellish civil war in the 1990s -- a conflict that ex-Liberian President and fugitive war criminal Charles Taylor helped spread to neighboring countries like Sierra Leone. One of Mrs. Sirleaf's agenda items at Turtle Bay was requesting that Nigeria extradite Mr. Taylor to face charges at an international tribunal in Sierra Leone.

But more important for her country's future, Mrs. Sirleaf used her time with us to emphasize that Liberia is "open for business." She's a former World Bank economist herself, and she brought along a retinue of advisers who seemed to understand that low tax rates and the rule of law are the sine qua non of Liberian hopes for growth and development. What a refreshing difference from some other African leaders, who blame the West for every trouble. Asked if she believed the U.S. owes Liberia anything, she said flatly, "no." She just wants it to be treated like other countries.

Mrs. Sirleaf is the first woman elected as an African head of state, beating out soccer superstar George Weah for the post -- a remarkable sign of political maturity from war-ravaged Liberians. "The fact that I beat a football star is proof that African electorates are looking for someone who can reverse violence, oppression and lack of freedom," she told us. Let's hope so.

DOJ_NMG_0019536

[redacted]@nsc.eop.gov

From: [redacted]@nsc.eop.gov
Sent: Monday, March 20, 2006 9:42 AM
To: Gorsuch, Neil M; Garre, Gregory G
Subject: RE: Supreme Court

I should join the bar but I am not currently a Member. Is here any way to get into the argument wihtout waiting in the public line?

-----Original Message-----
From: Neil.Gorsuch@usdoj.gov [mailto:Neil.Gorsuch@usdoj.gov]
Sent: Sunday, March 19, 2006 11:03 PM
To: Gregory.G.Garre@usdoj.gov; [redacted]
Subject: Re: Supreme Court

[redacted]- My recollection is that if you're a member of the sct bar you can pretty easily get a seat in the section reserved for bar members just so long as you arrive early. If you're not a member of the bar you can still get a seat but need to arrive earlier still. Am adding Greg Garre, Principal Depty SG, for any further/better info bc he's the real expert here. Greg - [redacted] is head of leg for the NSC and he led the charge on the DTA through many long days and nights.

-----Original Message-----
From: [redacted]@nsc.eop.gov
To: Gorsuch, Neil M
Sent: Sun Mar 19 15:43:23 2006
Subject: Supreme Court

Neil: Good to see you the other week at the CFR event. Any advice on how I might get a seat for the Hamdan oral arguments? Does anyone at DoJ know how to arrange this?

Thanks,
[redacted]

Garre, Gregory G

From: Garre, Gregory G
Sent: Monday, March 20, 2006 10:12 AM
To: [redacted]@nsc.eop.gov'; Gorsuch, Neil M
Subject: RE: Supreme Court

Unfortunately we have already received numerous requests for tickets from DoD and the Office of Military Commissions, and Paul has been only 9 seats for oral argument (including seats for [redacted]. Paul will make the final determination as to how to allocate seats, but as it now stands there are not enough seats even for all the attorneys who worked on the case. If we get more tickets, I will let you know; we are trying to pull all stops on this, but the Supreme Court also is receiving high demands for tickets as well. Very sorry. Greg

-----Original Message-----
From: [redacted]@nsc.eop.gov [mailto[redacted]@nsc.eop.gov]
Sent: Monday, March 20, 2006 8:42 AM
To: Gorsuch, Neil M; Garre, Gregory G
Subject: RE: Supreme Court

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Thanks

Thanks,

[redacted]

Williams, Jan

From: Williams, Jan

Sent: Monday, March 20, 2006 11:20 AM

To: Williams, Jan; Horvath, Jane (JMD); Garrett, Paul; Cushmac, Anne Marie; Davis, Michael; Fuentes, Maria; Balfe, Robert; Biskupic, Steven (USAWIE); Bogden, Daniel (USANV); Brooks, Susan; Brownlee, John (USAVAW); Buchanan, MaryBeth (USAPAW); Canary, Leura G. (USAALM); Charlton, Paul (USAAZ); Chiara, Margaret M. (USAMIW); Christie, Christopher (USANJ); Colantuono, Thomas P. (USANH); Connolly, Colm (USADE); Corrente, Robert (USARI); Cummins, Bud (USAARE); Dugas, David R. (USALAM); Fitzgerald, Patrick J. (USAILN); Garcia, H; Garcia, Michael J (SDNY); Graves, Todd (USAMOW); Greenlee, Jim (USAMSN); Heavican, Michael (USANE); Heffelfinger, Tom (USAMN); Huber, David L. (USAKYW); Iglesias, David C. (USANM); Immergut, Karin (USAOR); Jenkins, Anthony; Kubo, Ed (USAHI); Lam, Carol (USACAS); Lampton, Dunn (USAMSS); Larson, Charles (USAIAN); Letten, James (USALAE); 'Lockhart, Gregory'; Marino, Thomas (USAPAM); Martin, Alice (USAALN); Mauskopf, Roslynn; McDevitt, Jim A. (USAWAE); McKay, John (USAWAW); Mead, Matthew H. (USAWY); Meehan, Patrick (USAPAE); Melgren, Eric (USAKS); Mercer, Bill (USAMT); Miller, Gregory (USAFLN); Moss, Thomas (USAID); Murphy, Stephen J. (USAMIE); Nahmias, David (USAGAN); O'Connor, Kevin (USACT); 'O'Melia, Michael (USAAZ)'; Orwig, Matt (USATXE); Perez, Paul (USAFLM); Rapadas, Leonardo; Roper, Richard (USATXN); Rosenstein, Rod (USAMD); Ryan, Kevin (USACAN); Scott, McGregor (USACAE); Shappert, Gretchen (USANCW); Sperling, Sheldon J. (USAOKE); Suddaby, Glenn T. (USANYN); Sullivan, Michael (USAMA); Sutton, Johnny K. (USATXW); Vines, Jim (USATNM); Wagoner, Anna Mills S. (USANCM); Wainstein, Kenneth; Washington, Donald (USALAW); Whitaker, Matt (USAIAS); White, Greg (USAOHN); Whitney, Frank (USANCE); Wood, Lisa (USAGAS); Wood, Maxwell; Wrigley, Drew (USAND); Yang, Debra Wong (USACAC); '/o=USDOJ/ou=CRT/cn=Recipients/cn=Mailboxes/cn=wsanchez'; Bradbury, Steve; Brand, Rachel; Clark, John (USMS); Clement, Paul D; Fisher, Alice; Flores, Robert; Gillis, John; Herraiz, Domingo S.; Keisler, Peter D (CIV); Kim, Wan (CRT); Leonhart, Michele M.; McCallum, Robert (SMO); McNulty, Paul J; Moschella, William; O'Connor, Eileen J. (AAG/TAX); Schofield, Regina; Spagnoli, Deborah A. (USPC); Tamargo, Mauricio J; Tandy, Karen P (DEA); Wooldridge, Sue Ellen (ENRD); '/o=USDOJ/ou=USAPAE/cn=Recipients/cn=Mailboxes/cn=SMalloy'; Agarwal, Asheesh (CIV); Akers, Eric J.; Ames, Andrew; Barnett, Thomas O.; Battle, Michael (USAEO); Beach, Andrew; Beck, Cherith (USAARE); 'Bianco, Joseph F.'; Blomquist, Kathleen M; Boardman, Michelle; Boote, John; Bottner, Andrea; Bounds, Ryan W (OLP); Bucholtz, Jeffrey (CIV); 'Burch, Victoria'; Chambers, Shane P; Clinger, James H; Cohen, Brian; Cohn, Jonathan (CIV); Comisac, Rena (CRT); Cook, Elisebeth C; Cook, Marita L. (USAWY); Cooperstein, Theodore M; Coppenger, Chesed L. (TAX); Costigan, Michael; Coughlin, Robert; Curtis, O. Benton; Daley, Cybele; 'David, Matt'; Dhillon, Uttam; Dummermuth, Matt (USAVAE); Eisenberg, John; Elwood, Courtney; Elwood, John; Flaherty, Connor; Freeman, Sharee (CRT); Friedrich, Matthew; 'Gambatesa, Donald (USMS)'; Garre, Gregory G; Glut, Martha (USANE); 'Gober, Chris'; 'Golden, Lois'; Goodling, Monica; Gorsuch, Neil M; 'Greg Harris'; Hagle, Timothy; 'Harris, Gregory'; Henke, Tracy (SMO); Hertling, Richard; 'Hofer, Patrick F. (TAX)';

Hoisington, Jana; Holland, Eric W; Irving, John (ODAG); Jaffer, Jamil N; Jezierski, Crystal; Jordan, Theresa (USADE); Jungeblut, Neal P.; Katsas, Gregory (CIV); Keehner, Laura; Kessler, Elizabeth A; 'Korn, Jennifer'; Lesch, Jaclyn; Little, Kimani (CRT); Longlet, Benjamin; Lonick, Saundra; Luckinbill, Trent W.; Macklin, Kristi R; MacLean, Alex (CRT); Magnuson, Cynthia; Marshall, C. Kevin; Martinson, Wanda; Masoudi, Gerald; McArthur, Patrick; McDonald, Bruce; McFarland, Steven T (ODAG); McIntosh, Brent; McKee, Cindy (USAKS); McKeown, Matt (ENRD); McKnight, Cynthia M (CRT); McNally, Edward; McNeil, Tucker (OPA); Mercer, Bill (ODAG); Meron, Daniel (CIV); Metcalf, Mark H (CRT); Miranda, Matthew; Monheim, Thomas; Moore, Miriam (ODAG); Morrison, Richard T. (TAX); Murphy, Sean; 'Neumayr, Mary (ENRD)'; Nichols, Carl (CIV); Nichols, Grant W; Nowacki, John; OConnell, James; Otis, Lee L; Otis, William G.; Pagliocca, Theresa; Parsky, Laura; Peabody, Payson R. (TAX); Peed, Carl; Potter, Janet; Racicot, Tim (USAMT); Reyes, Luis (SMO); Roe, Price (OCIO); Roehrkasse, Brian; 'Roper, Matt M'; Rosenberg, Chuck; Rowe, Kiri; Sampson, Kyle; Schlozman, Brad (CRT); Schmitt, Glenn; Schwartz, Arthur; Scolinos, Tasia; Seidel, Rebecca; Selim, George (CRS); Sellers, Kiahna (OAG); Smith, Kimberly A; Sours, Raquel; Strug, Kerri; Swenson, Lily F; Taylor, Bruce A.; Tenpas, Ronald J (ODAG); Todd, Gordon (SMO); Tomlinson, Linda (USANH); Turner, Donald J. (USAPAM); Tzitzon, Nicholas; Underhill, Deborah; Vargas, Omar (CRT); Voris, Natalie (USAEO); Warren, Julie; Woodruff, William; Lewis, Matthew; Nelson, Ryan (ENRD); Becker, Grace (CRT); Masugi, Ken (OPA); Boente, Dana J. (TAX); Nash, Stuart (ODAG); Oldham, Jeffrey L; Pacold, Martha M; Purpura, Michael M (ODAG); Rowan, Patrick (ODAG); Senger, Jeffrey M; Taylor, Jeffrey (OAG); Webb, Lauren; White, Clifford; Murray, Fred F. (TAX)

Subject: White House Progress in Iraq Newsletter

Attachments: tmp.htm; Iraq_Newsletter_3-17-1-1.jpg; Iraq_Newsletter_3-17-1-2.jpg; Progress in Iraq _Newsletter_3-17-1 final.pdf

Attached is the White House's lastest edition of the Progress in Iraq newsletter.

THE REAL DEAL: PROGRESS IN IRAQ

MARCH 2006

"And I believe this country has got to be aggressive in our pursuit of democracy and liberty, based upon our firm belief that there are such things as the natural rights of men and women. After all, that's what caused our founding, that there is universality to liberty. And we shouldn't be surprised when 11 million Iraqis go to the polls and demand freedom in the face of unbelievable terrorist attacks."

President Bush
Remarks To National Governors Association
Washington, DC, 2/27/06

Strategy For Victory

The President's Strategy for Victory in Iraq has three components: political, economic, and security. On March 13, 2006 the President outlined the plans to defeat the terrorists while training more Iraqi Security Forces.

The Iraqi people have chosen a future of freedom and peace, and they oppose a violent minority that seeks to take that future away. Out of the new Iraq, a free government will emerge that represents the will of the Iraqi people — instead of the will of one cruel dictator. Iraqi Security Forces are taking the lead in defending their new democracy, making progress against the enemy and gaining the confidence of the Iraqi people. A major goal of 2006 is to accelerate training of the Iraqi police.

President George W. Bush addresses his remarks on the global war on terror, Monday, March 13, 2006 , before members and guests of the Foundation for the Defense of Democracies at the Dorothy Betts Marvin Theatre at George Washington University in Washington. White House photo by Paul Morse

An Iraqi child is greeted by Staff Sgt. Robert Proteau, from 2nd Squadron, 3rd Armored Cavalry Regiment, during a patrol in Tal Afar. This photo appeared on www.army.mil.

Security Progress: Iraqi Forces Are Growing In Size And Capability

- Coalition military commanders are developing Iraqi police forces, and are helping Iraqis develop a disciplined force that protects the rights of all Iraqis.
- There are some 100 Iraqi Ministry of Defense combat battalions in the fight – up from August 2004 when there were only a handful of Iraqi Army battalions.
- There are 10 Iraqi brigade headquarters and 43 battalions that have assumed battle space. In July 2004, there were no operational Army division or brigade headquarters, and no Iraqi battalions owned their own battle space.
- In December 2005, the Iraqi armed forces performed more independent operations than did the coalition forces.
- There are approximately 240,000 trained and equipped Iraqi security forces – up from 115,000 15 months ago.

Political Progress: Iraq Moving Towards Freedom And Democracy

- Iraqi leaders are working to form a national unity government to represent all of Iraq's people.
- The IECI calculated that nearly 11.9 million Iraqi's – approximately 75 percent – voted in the Dec. 2005 elections. This represents an increase of about 4 million voters from the Jan. 2005 elections.
- Since June 2004, when the Coalition transferred sovereignty, Iraqi people have: Elected an interim government (Jan. 2005); Drafted and ratified a constitution (Oct. 2005); and elected a four-year, constitutionally based government (Dec. 2005).

Last week, the White House released President Bush's second term National Security Strategy (NSS), which explains how we are working to protect the American people, advance American interests, enhance global security, and expand global liberty & prosperity. The National Security Strategy Report is available in both text and PDF formats on the White House website: www.whitehouse.gov/nsc/nss/2006

DOJ_NMG_0019543

Economic Progress: Iraq's Economy Is Growing

- Iraq's economy is recovering after 30 years of dictatorship and lack of infrastructure maintenance.
- In 2005 the Iraqi economy grew an estimated 3 percent in real terms. The International Monetary Fund anticipates the Iraqi economy will grow by more than 10 percent in 2006.
- Under Saddam Hussein's regime, Iraqis' standard of living deteriorated rapidly. Iraq's per capita income had dropped from $3,800 in 1980 (higher than Spain at the time) to $715 in 2002 (lower than Angola).
- Today, economic recovery is picking up, with GDP growing from $18.9 billion in 2002 to $33.1 billion in 2005.

The Department of Defense Speaker's Bureau

Many community leaders have requested a member of the military to speak at community events (Rotary, Chamber of Commerce, etc.). We encourage you to visit a website that can facilitate that request:
http://www.defendamerica.mil/speakers/SpeakerProgram2.html

The DOD Speaker's Bureau places service members and civilian employees in speaking forums across the country. To request a speaker, simply click the link and fill out the form online.

"Next week, we will mark the three-year anniversary of the start of Operation Iraqi Freedom. In less than three years, the Iraqi people have gone from living under the boot of a brutal tyrant, to liberation, to sovereignty, to free elections, to a constitutional referendum, and last December, to elections for a fully constitutional government. In those December elections, over 11 million Iraqis—more than 75 percent of the Iraqi voting age population—defied the terrorists to cast their ballots.

President Bush
Discusses Freedom And Democracy In Iraq, Washington, D.C, 3/13/06

www.defendamerica.mil/

DEMOCRACY IN ACTION

An Iraqi security force soldier (bottom right) leads Iraqi citizens into a voting area during elections, in Rawah, Iraq, Dec. 15. Photo taken by Lance Cpl. Shane S. Keller. This photo courtesy of the Department of Defense.

Close to 1,500 newly-trained Iraqi soldiers graduate from the Kirkush Military Training Base March 20. Photo by Sgt. Lorie Jewell. This Photo courtesy of the Department of Defense

Yes, I want to learn more about the progress in Iraq…

Name _____

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City _____ State _____ Zip Code _____

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THE REAL DEAL: PROGRESS IN IRAQ

MARCH 2006

"And I believe this country has got to be aggressive in our pursuit of democracy and liberty, based upon our firm belief that there are such things as the natural rights of men and women. After all, that's what caused our founding, that there is universality to liberty. And we shouldn't be surprised when 11 million Iraqis go to the polls and demand freedom in the face of unbelievable terrorist attacks."

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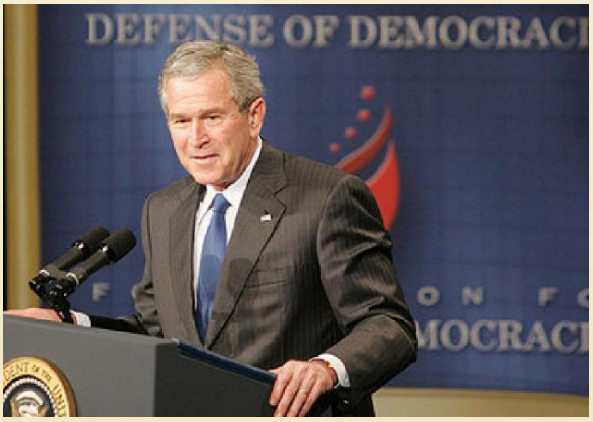

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Name _____

Title _____

E-mail Address (required) _____

Address _____

City _____ **State** _____ **Zip Code** _____

Work Phone _____ **Home Phone** _____

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Please share as appropriate. Thank you.

From: Sinatra, Nicholas A.
Sent: Monday, March 20, 2006 9:26 AM
To: OSI - Strategic Initiatives; OPL - Public Liaison; OPA - Political Affairs; OCL - Cabinet Liaison; IGA-Intergovernmental Affairs
Cc: Ralston, Susan B.
Subject: White House IGA Progress in Iraq Newsletter

USDOJ- Office of Public Affairs

From:	USDOJ- Office of Public Affairs
Sent:	Tuesday, March 21, 2006 9:50 AM
To:	USDOJ- Office of Public Affairs
Subject:	Attorney General's News Briefing for Tuesday, March 21, 2006
Attachments:	agnb060321.pdf; agnb060321.doc

THE ATTORNEY GENERAL'S NEWS BRIEFING

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, MARCH 21, 2006 7:45 AM EST

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TERRORISM NEWS:

Agent Testifies Senior FBI Officials Repeatedly Dismissed Moussaoui Concerns. At the penalty phase of al Qaeda conspirator Zacarias Moussoui's trial on Monday, defense lawyer Edward MacMahon cross-examined Minneapolis FBI Special Agent Harry Samit, who arrested Moussaoui in August 2001 and – as he testified earlier for the government on March 9 and yesterday in greater detail – unsuccessfully sought approval from FBI headquarters for a warrant to search Moussaoui's computer and belongings because Samit believed he was a terrorist who wanted to use an airliner for an attack in the US. Samit's testimony receives heavy print press coverage which emphasizes his contention, as the AP (3/21, Sniffen) puts it, "'criminal negligence' by superiors in Washington thwarted a chance to stop the 9/11 attacks."

The CBS Evening News (3/20, story 4, 2:30, Schieffer, 7.66M) was the only network which covered the testimony, noting it was "an embarrassment a day for the Federal Government." CBS (Stewart) added Samit "was supposed to be the government's star witness," but he "accused his own headquarters of 'criminal negligence' for not investigating Moussaoui hard enough. And that failure, he testified, directly prevented 'a serious opportunity to stop the 9/11 attacks and save innocent lives.'" Samit "blamed the lack of action on careerism within the bureau."

Under the headline "FBI Witness In Moussaoui Trial Faults Superiors," The Los Angeles Times (3/21, Serrano, 958K) adds that "Samit also said his superiors did not share other critical counterterrorism intelligence with him, such as a memo from the FBI's Phoenix office about suspected terrorists taking flight lessons and a briefing for President Bush citing intelligence that planes might be hijacked. … His testimony undermined the prosecution's argument for sentencing Moussaoui to death, even though he was in jail for overstaying his visa at the time of the attacks."

The New York Times (3/21, Lewis, 1.19M) notes, under the headline "F.B.I. Discounted Suspicions About Moussaoui, Agent Says," Samit "said that two senior agents declined to provide help in getting a search warrant, either through" the FISA court "or through a normal application to any federal court for a criminal investigation," and his testimony "appeared to provide a lift for the defense."

Under the headline "FBI Was Warned About Moussaoui," The Washington Post (3/21, A1, Markon, Dwyer, 744K) adds that Samit "warned his supervisors more than 70 times that Moussaoui was a terrorist and spelled out his suspicions that the al-Qaeda operative was plotting to hijack an airplane." His "testimony added striking detail to the voluminous public record on the FBI's bungling of the Moussaoui case. It also could help Moussaoui's defense."

USA Today (3/21, 3A, Johnson, 2.31M) reports, "Samit's FBI superiors at the time did not believe he had enough evidence to support a warrant for either a criminal or intelligence investigation," the Patriot Act "has made it easier

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for federal authorities to obtain such warrants in terrorism investigations."

The AP (3/21) reports, "The FBI agent who arrested Zacarias Moussaoui in August 2001 testified Monday that he spent almost four weeks trying to warn U.S. officials about the radical Islamic student pilot but that 'criminal negligence' by superiors in Washington thwarted a chance to stop the 9/11 attacks." The AP continues, "FBI Agent Harry Samit of Minneapolis originally testified as a government witness on March 9, but his daylong cross examination by defense attorney Edward MacMahon was the strongest moment yet for the court-appointed lawyers defending Mr. Moussaoui. The Frenchman of Moroccan descent is the only person charged in this country in connection with al-Qaeda's Sept. 11, 2001, attacks on the World Trade Center and the Pentagon." The AP adds, "Mr. MacMahon displayed a communication addressed to Agent Samit and FBI headquarters Agent Mike Maltbie from a bureau agent in Paris relaying word from French intelligence that Mr. Moussaoui, 37, was 'very dangerous,' had been indoctrinated in radical Islamic fundamentalism at London's Finsbury Park mosque, was 'completely devoted' to a variety of radical fundamentalism that Osama bin Laden espoused, and had been to Afghanistan. … The communication arrived Aug. 30, 2001. The Sept. 11 commission reported that British intelligence told U.S. officials on Sept. 13, 2001, that Mr. Moussaoui had attended an al-Qaeda camp in Afghanistan. 'Had this information been available in late August 2001, the Moussaoui case would almost certainly have received intense, high-level attention,' the commission concluded. … But Agent Samit told Mr. MacMahon he couldn't persuade FBI headquarters or the Justice Department to take his fears seriously. No one from Washington called Agent Samit to say this intelligence altered the picture the agent had been painting since Aug. 18 in a running battle with Agent Maltbie and Agent Maltbie's boss, David Frasca, chief of the radical fundamentalist unit at headquarters. … They fought over Agent Samit's desire for a warrant to search Mr. Moussaoui's computer and belongings."

The Long Island Newsday (3/21, Riley) reports, "Prosecutors are trying to show that Moussaoui should get the death penalty because his lies prevented agents from thwarting the Sept. 11 attacks, while Moussaoui says he knew no details of the plot. Defense lawyer Edward MacMahon spent his five-hour cross-examination trying to show that the FBI's failure to act on Samit's instincts was to blame. … 'Your investigation here was to uncover the facts that Moussaoui was in fact a terrorist ... and you uncovered those facts didn't you?' MacMahon asked. 'I uncovered enough facts to generate suspicion in my mind that he was a terrorist," Samit said, "But that's a far distance from being able to prove it.'"

Martin's Actions Cast Doubt On Death Penalty Push. The Legal Times (3/21, Kelley, Mclure) reports, "Almost from the beginning, the goal was clear: Zacarias Moussaoui must die. … This was the government's first, and likely only, chance to prosecute a suspect in the Sept. 11 plot in a U.S. court. And from the start, doing so would present a monumental challenge to federal prosecutors. With the world watching, the pressure would be enormous." The Times continues, "Pursuing a death sentence meant raising the stakes in what already was considered the highest-profile criminal case ever in the United States. For the team of three federal prosecutors it meant facing an unprecedented task: convincing a jury that Moussaoui should be executed even though -- by their own admission -- he wasn't directly involved in the attacks on the World Trade Center and the Pentagon. … The government's decision to seek death was scrutinized from the outset and continued to be so even after Moussaoui pleaded guilty, in April 2005, to participating in a conspiracy to commit acts of terrorism in the United States. But last week it became clear just how precarious the argument for death was. The government's case was in jeopardy of crumbling midway through the penalty phase of the trial after Transportation Security Administration lawyer Carla Martin allegedly tampered with government witnesses."

9th Circuit Critical Of DOJ Over Sri Lankan Man's Detention. The California Recorder (3/21, Scheck) reports, "Ahilan Nadarajah was detained as a terrorism suspect for nearly five years before he got to argue his case before the 9th U.S. Circuit Court of Appeals. It only took a three-judge panel 10 days to order his release." The Recorder continues, "In a unanimous decision Friday, Judge Sidney Thomas wrote that federal immigration officials can't detain an asylum seeker indefinitely after an immigration court orders his release. Thomas wrote that the government's interpretation that a Supreme Court opinion allowed indefinite detention was 'patently absurd.' … 'The general immigration detention statutes do not authorize the Attorney General to incarcerate detainees for an indefinite period,' Thomas wrote. He was joined by Judge Richard Tallman and Senior U.S. District Judge James Fitzgerald of the District of Alaska,

who sat by designation." The Recorder adds, "Nadarajah's lawyer, Ahilan Arulanantham of the ACLU Foundation of Southern California, argued the case to the panel on March 7, and asked the judges to rule quickly, given the long detention at issue. … Immigration and appeals courts found that Nadarajah had been beaten, burned and hung upside down, his head submersed in gasoline, by Sri Lankan authorities. … But the Justice Department insisted that Nadarajah was a member of the rebel Tamil Tigers, which it classifies as a terrorist group. And after missing two hearings, a Department of Homeland Security agent appeared in an immigration court to provide evidence of Nadarajah's terrorist links."

Judge Approves Media Release Of Edited Hayat Interview Video. The AP (3/21, Thompson) reports U.S. District Court Judge Garland Burrell Jr., presiding over the Umer and Hamid Hayat trial, "approved releasing an edited version of their videotaped FBI interviews on Monday," over the objections of defense attorneys. "Edited out of the videotapes to be released will be mentions of two Islamic religious leaders who were deported to Pakistan last year and segments in which Umer Hayat speculates that four Lodi men could be preparing to commit terrorist acts." The AP notes, "Oakland television station KTVU sought release of the tapes" and was joined by "NBC and ABC affiliates in Los Angeles, San Diego and Sacramento." KXTV-TV Sacramento (3/20, Bishop) also reports on the ruling and notes that the station, which was part of the lawsuit, will air the videos and post them to its Web site.

Convenience Store Clerk Turned FBI Informant Is Central US Witness. The Los Angeles Times (3/21, Tempest, 958K) runs a profile of FBI informant Naseem Khan. "The picture of Khan that emerges from interviews with friends, co-workers and landlords in Bend…is of a quiet, hard-working, mostly solitary young man with an interest in law enforcement. … Last week, he shocked the Sacramento courtroom when he said he saw" Ayman al Zawahri at the Lodi mosque, and "he is expected to take the stand today for the first time since he made that claim, which terrorism experts discount as highly improbable." The Times goes on to detail Khan's recruitment and surveillance in Lodi, noting he "was first approached by FBI agents…after someone reported him as a possible terrorism suspect," but "quickly cleared of those suspicions, the $7-an-hour manager of the K Market convenience store was hired by the FBI…and was paid more than $200,000 in salary and expenses for his three-year undercover assignment."

Hayat Defense Is First Major Case For Young Afghan Immigrant. In a flattering profile of Hayat defense lawyer Wazhma Mojaddidi – who is only 18 months out of law school – the AP (3/21, Thompson) reports, "Despite her inexperience, Mojaddidi has stood her ground. She sparred with the prosecution's expert on Islamic religion and law" and "challenged an FBI linguist about the significance of news articles praising" bin Laden and the Taliban. "The case represents a leap for Mojaddidi, who previously was using her command of Urdu, Farsi and Pashto to help immigrants with family law cases." In an AP interview, "she described her family's flight from Afghanistan when was 5, what she described as a middle-of-the-night escape into Pakistan in 1979 after the Russian invasion."

Bush May Have Mentioned NSA Surveillance Program To Musharraf In 2001. The Washington Post (3/21, A15, Eggen, 744K) reports "a brief passage" in Bob Woodward's book "Bush at War" raises the possibility that President Bush may have mentioned "the government's secret warrantless surveillance program to the president of Pakistan more than four years ago." Woodward "recounts a meeting between Bush and Pakistani President Pervez Musharraf at the Waldorf Towers in New York in early November 2001." On page 303, Woodward wrote, "He had become fascinated with the ability of the National Security Agency to intercept phone calls and other communications worldwide. If they got the key phone calls, future terrorism might be stopped, certainly curtailed. Bush summarized his strategy: 'Listen to every phone call and close them down and protect the innocents.'"

Al Qaeda Operative Disrupts Trial In Turkey. The Washington Post (3/21, A11, Vick, 744K) reports Louai al-Sakka, the "al-Qaeda operative accused of organizing the 2003 Istanbul bombings and a botched attempt to sink an Israeli cruise ship appeared in a Turkish courtroom on Monday -- and did his best to take it over." Al-Sakka, "who by his own account worked beside insurgent leader Abu Musab al-Zarqawi in Iraq, first told the court he was someone else, then was hustled out of the morning session after refusing to stand to address the judge." Sakka shouted, "I performed jihad and killed Americans! Why should I stand up in front of you? Should I stand in front of these liars?" The Post adds

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Sakka, "a Syrian described by Turkish officials as a senior figure in al-Qaeda, is accused of providing other operatives with about $170,000 from the group to carry out four truck bombings that killed 57 people over two days in November 2003."

PATRIOT ACT:

Banks Filing More Suspicious Activity Reports Under Patriot Act. The Washington Times (3/21, Haberkorn, 90K) reports that after the Holy Name Monastery of the Benedictine Sisters' bank account was frozen last year "because one of the account's signatories -- an 80-year-old nun -- didn't have an identification card on file," Sister Jean Abbott said that the bank blamed the USA Patriot Act "for the account freeze." The Times continues, "The number of suspicious transactions that financial institutions are reporting to the government has nearly tripled since the Patriot Act was passed in 2001." However, "The average consumer 'should not be concerned as long as the transactions they're doing are legit,' said Anne Marie Kelly, a spokeswoman for the Financial Crimes Enforcement Network, the Treasury Department bureau responsible for administering the Bank Secrecy Act."

Librarians, Civil Libertarians Remain Skeptical Of Patriot Act Safeguards. The New York Times (3/21, Cowan, 1.19M) reports, "Lawmakers may be giving themselves credit for having improved safeguards on civil liberties when they reauthorized" the Patriot Act, but "many librarians and civil liberties lawyers say the revisions did nothing to enable the guest of honor" at a January American Library Association meeting in Texas "to take the stage and discuss the Patriot Act without risk of prosecution. Known as John Doe in court filings, the guest of honor was the Connecticut librarian who was visited by the Federal Bureau of Investigation last year and presented with…a national security letter demanding patron records." The Times notes, "The section of the new law that addresses 'privacy protection for library patrons' states that library records are beyond the reach of national security letters so long as the library is not operating as an 'electronic communication service.' … But much of what a modern library does courses through its computers."

HOMELAND RESPONSE:

Chertoff Says DHS Planning Chemical Plant Security Crackdown. The AP (3/21, Jordan) reports, "Homeland Security Secretary Michael Chertoff said Monday his department will crack down on chemical manufacturers and storage facilities that he described as 'free riders' — those that haven't beefed up their security measures." Meanwhile, "Legislation is pending in the Senate to authorize Homeland Security to shut down facilities that do not comply with minimum safety standards. … Chertoff has not endorsed the plan, but he is expected on Tuesday to outline elements that he said would need to be in acceptable legislation."

The Wall Street Journal (3/21, A4, Block, 2.11M) reports that in a preview of today's remarks to the American Chemical Council, Chertoff told an audience at the Heritage Foundation that "chemical plants and, in fact, transportation of chemicals, remains a vulnerability. Progress on this has stalled for too long. We do need legislation and congressional action and leadership on this point,'" said Chertoff. "Chris VandenHeuvel, a spokesman for the American Chemistry Council, said he expects Mr. Chertoff will say legislation must give his department authority to work with the industry to set minimum security standards."

Chertoff Called "A Model Technocrat," But Not "Commanding Leader." Dana Milbank, in his "Washington Sketch" column for the Washington Post (3/21, A2, 744K) writes that a year after taking the job, Homeland Security Secretary Michael Chertoff "is getting much of the blame for the woeful Hurricane Katrina response, insufficient supervision of the Dubai port deal and domestic defenses that remain, by most accounts, unacceptably weak." Milbank writes that Chertoff is not "incompetent. … His problem, if anything, is he's a model technocrat in a position that sometimes demands a commanding leader." In a speech at the Heritage Foundation yesterday, rather than "telling people that he's protecting them," Chertoff said "that his department has 'done a lot to elevate the general baseline of security in this country.'" Milbank adds, "These kinds of statements…make the wiry Chertoff a big target for those building a case that the administration is lax about homeland security."

DHS May Outsource Some Port Security Processes. The Washington Times (3/21, Hudson, 90K)

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reports, "Homeland Security officials are looking to have private companies validate the security procedures under which cargo travels from foreign ports into US terminals." The Customs-Trade Partnership Against Terrorism "is now in the hands of 80 Homeland Security inspectors who have to plow through more than 10,000 applicants." DHS "is looking to outsource to private companies some of its duties, in particular the validation process, which has dragged for years and involves on-site inspections of ships and cargo abroad." Meanwhile, "Peter Tirschwell, publisher of the Journal of Commerce, called the Homeland Security idea an 'outsourcing of security.'"

Dubai Firm Delays Purchase Of US Military Manufacturer. The New York Times/Bloomberg News (3/21) the Dubai government "delayed its $1.2 billion purchase of a military equipment maker yesterday, the second time in a month that a takeover by the Middle East emirate has been jeopardized by American security concerns." Dubai International Capital "said that it would delay its acquisition of the Doncasters Group, a British company that has nine plants in the United States, by as much as two months from March 31 while government agencies review the purchase."

DPW "Debacle" Could Trigger Decline In Value Of Dollar. In a Washington Times op-ed (3/21), Michael R. Czinkota of Georgetown University says that while the Dubai Ports World deal debacle "appears to be over," there "may be significant long-term consequences for currency values and trade practices." What "appears to be not yet widely understood are the potential effects that these and similar policy decisions (such as the Unocal walk-away by China) can have on the value of global currencies and on trade flows. Congress' law of unintended consequences may strike again: The short-term direct effects of this action are likely to be far outweighed by the long-run indirect effects." It "does appear that in addition to growing international competitiveness of U.S. firms, changes in the value of the U.S. dollar are needed to reverse the astounding trade imbalances. The Dubai withdrawal may well be the watershed that triggers shifts in exchange rates now. The congressional debate, the national posture and the global repercussions may well form the basis of new Plaza Agreement-type conditions, which will gradually drive down the value of the dollar for the long term."

FEMA Seeking Return Of Disaster Relief Funds From 51,000 Families. NBC Nightly News (3/20, story 5, 2:15, Brown, 9.87M) reported, "Nearly $7 billion in direct relief was handed out last year to 1.7 million households, and now FEMA says some who got that aid didn't deserve it and they're trying to get that money back." NBC (Ellis) added FEMA says, "based on an audit…2% to 3% of households that got relief money probably didn't deserve it. And now FEMA is sending out this letter to about 51,000 families asking for the money back, up to $100 million." Marty Bahamonde, FEMA: "If we err on the side of helping people and have to ask for it back later, that's what we're doing now." Ellis: "Authorities say this kind of thing has happened before but never in this magnitude." The Government Accountability Office "alleges fraud for one thing. Thousands submitted duplicate or false Social Security numbers and in other cases, relief money was paid twice to the same family. But the GAO says FEMA is also to blame" because it did not have fraud prevention controls in place.

House Panel To Investigate Post-Katrina Contracts. The Government Accountability Office said last week that millions of dollars had been wasted in post-Katrina hurricane contracts and the Washington Post reported yesterday that contractors profits are resulting in overpriced cleanup work. In an article appearing on no less than 59 news websites, the AP (3/21) reports that the House Government Reform Committee "said Monday it would review several post-Katrina hurricane contracts for waste and abuse, citing recent concerns about limited oversight and the haste in which they were awarded." The committee "will hold at least one hearing in April, said Robert White, a spokesman for chairman Tom Davis, R-Va. Witnesses and the specific contracts that will be scrutinized have yet to be determined, he said."

Nagin Endorses Plan To Allow Rebuilding In All Neighborhoods. The Washington Post/AP (3/21, A3) reports New Orleans Mayor C. Ray Nagin endorsed a rebuilding plan Monday "that would allow all residents to rebuild their homes in neighborhoods shattered by Hurricane Katrina." Nagin, who is running for reelection on April 22, "distanced himself" from a plan recommended by his advisory commission in January "that some flooded neighborhoods be replaced with parks and that the city take a go-slow attitude in rebuilding low-lying areas." However, Nagin "warned that homeowners in flood-prone areas would do so at their own risk."

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Officials Say More Bodies May Be Found In New Orleans. The Los Angeles Times (3/21, Simmons, 958K) reports that in New Orleans, "Eight bodies have been found since March 1, and with about 1,400 people still unaccounted for, Louisiana state officials said they could not rule out the possibility of finding others. Until recently, recovery teams were unable to retrieve bodies from the neighborhoods that were rendered uninhabitable and designated off-limits to residents." The Times notes that the task of "alerting families when a deceased relative had been identified, and then alerting families" moved from the federal government's Disaster Mortuary Operational Response Team to the Orleans Parish coroner's office in early March.

New Orleans Says It Will Need Federal Help Evacuating Residents. USA Today (3/21, Konigsmark, Hall, 2.31M) reports that New Orleans "doesn't have an emergency shelter," and with the approach of hurricane season, "local officials are asking for federal help to get people out of harm's way if another disaster strikes." Terry Ebbert, the city's director of homeland security "said he fears that without federal help, citizens could be stranded in the city with nowhere to go." He "sent written requests for help recently to Homeland Security Secretary Michael Chertoff and R. David Paulison, the acting director of the Federal Emergency Management Agency, both of whom he criticized for not reacting quickly enough. 'The silence has been deafening,' Ebbert said." However, DHS Undersecretary for Preparedness George Foresman "and FEMA will be in the region this week to get a 'clear, blunt assessment' of what's needed, Chertoff said Monday."

WAR NEWS:

Bush Sounds Upbeat Message On US Progress In Iraq. On the third anniversary of the start of the Iraq war, President Bush delivered a speech at the Cleveland City Club to highlight successes in the effort to combat the insurgency in Iraq. Bush cited the example of Tal Afar, an insurgent stronghold that was liberated by a joint US-Iraqi force. Many reports this morning note the President's comments about the "horrific violence" in Iraq, and its effect on Americans' morale. The Akron Beacon Journal (3/21, Chancellor, Abraham, 148K) reports Bush "said more days of sacrifice and fighting are ahead, but he predicted that freedom would prevail, in the same way that Germany and Japan were turned into democracies after World War II." He also "said a democratic Iraq would one day serve as an inspiration for freedom throughout the Middle East." Much of the media coverage of the speech is largely negative, with most stories citing sagging poll numbers for the Iraq mission. Many also report Bush was challenged by skeptical audience members on Iraq as well as other issues, such as the National Security Agency's domestic intelligence program.

Typical of the tenor of the reporting is the AP (3/21, Raum), which says that "beginning the fourth year of an unpopular war…Bush defended his Iraq record…against skeptical questioning." He "said he could 'understand people being disheartened'" but "appealed to Americans to look beyond the bloodshed and see signs of progress." Bush "fielded questions for nearly an hour at the City Club, a forum known for its tough interrogations of world leaders. Not only was he grilled on Iraq, but he also was asked to justify his warrantless wiretapping program, US relations with Pakistan and his domestic priorities."

Under the headline "Old Forecasts Come Back To Haunt Bush," the Washington Post (3/21, A14, VandeHei, 744K) runs a front-page story reporting, "Three years of upbeat White House assessments about Iraq that turned out to be premature, incomplete or plain wrong are complicating…Bush's efforts to restore public faith in the military operation and his presidency, according to pollsters and Republican lawmakers and strategists." The Post adds, "The last two weeks have provided a snapshot of White House optimism that skeptics contend is at odds with the facts on the ground in Iraq. … Pollsters and some congressional Republicans said the administration's sunny-side-up appraisals, instead of lifting the public mood, may now complicate the task of sustaining support for a long-term military commitment in Iraq. The loss of trust, they said, is affecting Bush's presidency more broadly, as polls show his public support at a nadir."

The story was reported on each of the networks. ABC World News Tonight (3/20, lead story, 1:35, Vargas, 8.78M) reported President Bush "used today's anniversary to send an optimistic message on Iraq. Public support for the war has fallen sharply in the last three years," and Bush said, "this is partly because reporters have missed stories of progress, while covering conflict." President Bush: "Others look at the violence they see each night on their television screens. And they wonder how I can remain so optimistic, about the prospects of success in Iraq. They wonder what I see that they don't."

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The CBS Evening News (3/20, lead story, 2:45, Axelrod, 7.66M) reported that in a "new tactic designed to win over skeptics…Bush acknowledged what he called horrific violence in Iraq." President Bush: "And in the face of continued reports about killings and reprisals, I understand how some Americans have had their confidence shaken." Axelrod Bush then "pointed to Tal Afar as a model for how he intends to secure the rest of Iraq, describing the city of 200,000 as an example of a strategy called 'clear, hold and build.' Clear out the terrorists, hold the city with Iraqi forces, and build its economy and government."

NBC Nightly News (3/20, lead story, 4:45, O'Donnell, 9.87M) said Bush "provided unusual detail, a 20-minute explanation of how one northern Iraqi town struggled with US help to break from terrorist control." President Bush: "It came only after much trial and error. It took time to understand and adjust to the brutality of the enemy in Iraq." Questions "were not screened in advance. Two of 11 clearly supported the President." But others "sharply challenged Mr. Bush on issues including the mounting cost of the conflict, the President's warrantless spy program, and the rationale for war."

Knight Ridder (3/21, Hutcheson), meanwhile, says Bush "got an earful from skeptics who questioned his motives and his credibility." Bush "seemed taken aback when the first questioner asked him whether he views the conflict in biblical terms, as an apocalyptic struggle for the Middle East. Some of the president's critics have speculated that his Christianity and a wish to protect the Holy Land are behind his desire to transform the Middle East. 'The answer is, I haven't really thought of it that way,' he replied. 'First I've heard of that, by the way. I guess I'm more of a practical fella.'"

USA Today (3/21, Jackson, 2.31M) says Bush "has opened himself up to audience questions more frequently in recent months, starting with a December speech on Iraq before the Philadelphia World Affairs Council. Last week, he took critical questions on his prescription-drug program at a senior citizens center in Maryland." Bush "clearly enjoys the repartee." Adam Levine, a former Bush assistant press secretary, "says the president is 'at his best' in a give-and-take. More important, this lets him bypass the media."

CNN's The Situation Room (3/20, Blitzer) reported Bush "tried again to sound upbeat about the situation in Iraq, despite dwindling public support for the mission and for him." CNN's The Situation Room (3/20, Quijano) later said the President's appearance "was really part of the renewed push by the administration to shape public opinion on Iraq." The Los Angeles Times (3/21, Gerstenzang, 958K) says Bush's recent speeches on Iraq "reflect a two-fold campaign: To lower expectations and at the same time hold out prospects for a successful outcome. Unless pressed by a questioner, the president makes no mention any more of one of the original reasons for the invasion: the suspicion that Hussein was developing unconventional weapons. No evidence of such a program has been found." Rather, "Bush focuses on the effort to establish democracy in a part of the world where it is rare, and on placing Iraq at the center of his effort to secure the United States from terrorist attacks." He has also "avoided the optimistic language that Vice President Dick Cheney has used. … White House aides have concluded that Bush would lose credibility with such a rosy scenario." In a similar story, the Chicago Tribune (3/21, Silva, 643K) says the President "is taking a new tack of balancing a sober and chilling recognition of persistent bloodshed with an unrelenting optimism for eventual victory."

The New York Times (3/21, O'Neil, 1.19M) headlines its story "Bush Bluntly Defends Iraq Strategy, But Admits Missteps," and calls Bush's remarks "characteristically optimistic and unusually candid about shortcomings in the war's earlier phases and the suffering it caused for ordinary Iraqis." The speech "followed a carefully calibrated mix of optimism about eventual victory and caution about how long American troops would be involved that was displayed on Sunday by Mr. Bush, Vice President Dick Cheney and Secretary of Defense Donald H. Rumsfeld, who sounded much as they had on the first anniversary of the invasion."

Bloomberg (3/21, Keil) also reports Bush "said today that he remains optimistic about the outcome of the war that defines his presidency." The Financial Times (3/21, Daniel) notes that last week "a poll showed that only one third of Americans thought Mr Bush had a clear plan for Iraq. However, only 24 per cent thought the Democrats in Congress had a clear plan."

Offering a more positive view of Bush's speech, Fox News' Special Report (3/20, Cameron) reported, "The President argued insurgents know they can't win militarily so they are trying to provoke civil war to halt progress. He pressed Iraqis to act quickly in forming a consensus government." Fox added, "The President acknowledged in the short return run, there will be more challenge in Iraq, but he remains undaunted by public doubts." The Washington

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Times (3/21, Dinan, 90K) runs a similar story under the headline "Pledges Not To Give Into Insurgents."

Tal Afar Situation Said To Be "More Complex" Than Bush Acknowledged. The Washington Post (3/21, A1, Baker, 744K) reports that as Bush "tells the tale, the battle for Tall Afar offers a case study in how US and Iraqi forces working together can root out insurgents and restore stability. … Reports from the streets of Tall Afar, half a world away, offer a more complex story. US forces last fall did drive out radicals who had brutalized the mid-size city near the Syrian border. But lately, residents say, the city has taken another dark turn." The Post adds, "The twists of Tall Afar underline the difficulties Bush has had in reassuring a doubtful American public that progress is being made in Iraq. The president and his aides say that the positive developments in Iraq get overwhelmed by the grim pictures of mayhem and massacre that dominate the evening news. If Americans knew about the success stories, the White House maintains, they would understand Bush's confidence of victory." Yet "even the success stories seem to come with asterisks."

Number Of Iraqi Security Forces Increasing, But Equipment Still Lacking. ABC World News Tonight (3/20, story 2, 4:20, Vargas, 8.78M) reported, "The Pentagon has spent $10 billion already to strain and equip 128,000 Iraqi police and 113,000 Iraqi soldiers. But how many of them are truly ready to fight?" ABC (Raddatz) added that in Sadr City, the "biggest change here on this anniversary of the invasion, is that the American battalions that were here are now gone. About 1,500 soldiers replaced by Iraqi security forces. Today, only 37 American soldiers remain here. These Iraqis are now considered to be what the Pentagon calls 'Level 2' forces, meaning they are capable of taking the lead in a fight, as long as there are some US forces present." There are "currently 60 of these so-called Level 2 battalions across Iraq, which means more than 36,000 Iraqi security forces judged capable of leading a fight." But the Iraqi commander in Sadr City "tells us if things heat up here, his troops will be in trouble. 'The militia has the capability to defeat my soldiers,' he said. 'They have rocket-propelled grenades, mines and mortars. My soldiers have only AK-47 rifles.'"

Khalilzad Says Iraq "Bleeding," But Not In Civil War. ABC World News Tonight (3/20, story 5, 2:35, Vargas, 8.78M) interviewed US Ambassador to Iraq Zalmay Khalilzad, who said the US is "making progress. But it's a difficult situation that we are in." Asked why the Iraqi politicians are taking so long to form a government, Amb. Khalilzad said, "They are trying to form a government of national unity. Agree on a program. Agree on processes for decision making. There is not a lot of tradition for compromising. So it is not easy for them, given the background from which they come." Khalilzad said it is "a particular period of vulnerability" in Iraq because of the insurgent violence, adding, "I am optimistic they will make the right decision and form a government of national unity in the coming weeks." Khalilzad added that while there are "sectarian tensions" and "sectarian killings. Civil war, in my judgment, is not here yet. But the potential for increased sectarian violence is there. And terrorists are seeking to provoke it. The country is bleeding."

Biden Urges Bush To Bolster International Pressure On Iraqi Leaders. CNN's The Situation Room (3/20, Blitzer) reported, "A leading Democratic critical today is urging the president to take a political risk to try to improve the situation in Iraq. On this, the third anniversary of the US-led invasion, Senator Joe Biden is blaming what he calls the administration's, and I'm quoting now, 'dangerous incompetence for leaving Iraq or the brink of a full- blown civil war.'" Biden "says the president should personally fly to other countries to try to bolster international pressure on Iraqi leaders to form that kind of national unity government.'

Mehlman Says Iraq War Was "Worth It." RNC Chairman Ken Mehlman was asked on CNN's The Situation Room (3/20) about the recent CNN/USA Today/Gallup poll, which found that 37% say the situation in Iraq worth going to war over. Mehlman said, "It certainly was worth it. The fact is I believe, and I think most Americans who think about it, will recognize that we're safer."

Analysts Say Iraq War Has Put Middle East On Edge. Analysts say that three years into the Iraq war, the Middle East is experiencing heightened sectarian tensions between Sunni and Shiite Muslims, growing Islamic militance, high levels of anti-Western hostility and authoritarian regimes still clinging to power. The Christian Science Monitor (3/21, Blanford, 61K) reports, "The Iraq invasion jolted complacent regimes, especially as it coincided with nascent attempts by Arab democracy campaigners to push for reform. But, says Jordanian political commentator Rami Khouri, 'the way the American adventure in Iraq has gone has emboldened many Arab [regimes] to defy the US because they feel that it has gone badly in Iraq and the Americans are not likely to do this again.'" The Monitor adds, "The turmoil in Iraq is not solely to blame for the ills in the region, but it represents a powerful dynamic that

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has rippled across the Middle East feeding into other conflicts."

Hitchens Says Iraq Needs Federal Democracy, Power Sharing. Christopher Hitchens writes in the Wall Street Journal (3/21, 2.11M)that "if our apparent domestic demoralization continues, the options could come down to two. First, we might use our latent power and threaten to withdraw, implicitly asking Iraqis and their neighbors if that is really what they want, and concentrating their minds. This still runs the risk of allowing the diseased spokesmen of al Qaeda to claim victory. Second, we can demand to know, of the wider international community, if it could afford to view an imploded Iraq as a spectator. Three years ago, the smug answer to that, from most U.N. members, was 'yes.'" According to Hitchens, "Absent federal democracy and power-sharing, there will not just be anarchy and fragmentation and thus a moral victory for jihadism, but opportunist interventions from Iran, Saudi Arabia and Turkey."

Tierney Says Pentagon Did Not Prepare For Post-War Looting, Disorder. John Tierney writes in the New York Times (3/21, 1.19M) that the looting and disorder in Iraq were predictable. Some Pentagon officials 'did warn of civil disorder and crime, but they didn't do anything about it. They passed the buck to Gen. Tommy Franks, even though he didn't have enough troops or money for the job and showed little interest in postwar planning. … Looting, crime, mayhem — that was always someone else's department." Hitchens adds, "That summer, as Iraqis watched looters and criminals taking control, they kept asking why nobody put a stop to the crime. The answer from officials in Washington, it turns out, is the same one that would have been given by the old Iraqi police: not my job."

Gunmen Attack Iraqi Police Station Killing 15 Police Officers. Gunmen have ambushed a police station in the Iraqi city of Muqdadiyah today, killing 15 police officers and a guard at a nearby courthouse. The AP (3/21) reports, "The suspected insurgents struck at dawn, burning the police station and detonating a string of roadside bombs as they raced from the scene, a police spokesman in the region said."

Over 20 Dead In Iraq Violence Yesterday. The CBS Evening News (3/20, story 1, 2:45, Schieffer, 7.66M) reported, "The war in Iraq entered its fourth year today. And in Baghdad it was a day like so many others: 20 people were killed or found dead in and around the city, victims of one kind of violence or another. So far, 2,311 Americans and more than 30,000 Iraqis have died." NBC Nightly News (3/20, lead story, 4:45, Brown, 9.87M) reported, "For the insurgents in Iraq tonight, three years is just another opportunity for violence." The AP (3/21, Hurst) also reports on the violence.

Iraqis Said To Have Contradictory Emotions On Third Anniversary Of US Invasion. ABC World News Tonight (3/20, story 4, 3:15, Vargas, 8.78M) reported the Iraqi nation "of 26 million people is deeply divided along political and religious lines. It is also split on what life is like three years after Saddam and how to make it better." ABC (Harris) added, "After invasion and elections, new freedoms and new terrors, Iraqis today show a range of complex, competing emotions." They "express the same, seemingly contradictory emotions so common in Iraq today. They sometimes miss the days of Saddam, but don't want him back. They want the Americans to get out, but just not yet."

NBC Nightly News (3/20, story 3, 4:15, Engel, 9.87M) reported, "Few Iraqis imagined that three years after the war began, Iraq would still look like this. Since the US invasion, there has not been a single day without mortar fire, car bombings, or IED attacks."

The AP (3/21, Salaheddin) reports that some Iraqis are expressing anger and dismay about their lives as the war enters its fourth year. Salah Hashim, a 49-year-old businessman, "said he yearned for the return of Saddam Hussein, the country's ousted dictator, given the violence that now envelops the country." Ahmen Najeeb, a 33-year-old supermarket owner, "said he originally 'waved his hands' at American forces as they entered the country in March 2003, but that his outlook has since changed. 'Day after day the Americans proved that they are here to steal our oil and protect their homes by keeping the their war against terror in another country,' he said. One English teacher, though, said that Iraqis had tolerated Saddam's tyranny for so long that it was worth fighting through the violence to rebuild the country."

The Washington Post (3/21, A13, Anderson, Fekeiki, 744K) notes a "stark difference" between Iraqis' "pessimistic outlook and some U.S. officials' upbeat assessment of the situation. With insurgent violence grinding on, essential services sagging below pre-invasion levels and the prospect of civil war looming, many Iraqis question whether Hussein's ouster was worth the cost."

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More Iraqis Buying Terrorism Insurance. The New York Times (3/21, Worth, 1.19M) reports "a small but growing number of Iraqis" are buying "terrorism insurance" policies that look "like an ordinary life insurance policy, but with a one-page rider adding coverage for 'the following dangers: 1) explosions caused by weapons of war and car bombs; 2) assassinations; 3) terrorist attacks.'" That guarantee "appears to be the first off-the-shelf terrorism policy in the world, insurance experts say. In most countries, of course, there is no need for it: death by terrorism is rare enough that it is usually covered by ordinary accident insurance. In Iraq it is not, partly because the state used to compensate the families of war victims directly. So the Iraq Insurance Company began stepping into the gap about a year ago." The Iraq Insurance Company, "a state-owned group, has sold about 200 individual terrorism policies in the last year, and is now negotiating with several government ministries and private companies for group policies that would cover thousands of employees."

Lawmakers Create Independent Panel To Study Iraq Alternatives. Lawmakers are signaling that this year could be a decisive one in the Iraq war and, according to the Christian Science Monitor (3/21, Chaddock, 61K), "many of the war's vigorous defenders are looking for guidance outside the Bush administration on how to move ahead." The Monitor adds the "quiet launch of an independent, bipartisan panel to bring 'fresh eyes' to the Iraq conflict. Last week, the House included $1.3 million in a defense funding bill for the panel, which will work out of the congressionally chartered US Institute for Peace here." The Monitor adds, "The move to develop alternatives to Bush administrative briefings signals a growing distrust on Capitol Hill for the 'closed circuit between people sitting inside the Green Zone and the 'good news' being sent back to Washington,' says Mr. [Edward] Luttwak," a senior adviser at the Center for Strategic and International Studies.

US Military Investigating Two Incidents Involving Civilian Deaths. The CBS Evening News (3/20, story 2, 2:25, Schieffer, 7.66M) reported, "US officials confirmed there are investigations under way into two separate incidents in which US forces are being blamed for the deaths of Iraqi women and children." CBS (Logan) added, "A spokesman for the US military in Baghdad says the top general in Iraq, General George Casey, has ordered an investigation into the discrepancy over how many Iraqi civilians were killed in a US raid here last Wednesday." Iraqi police "and human rights groups say there were 11 dead, including at least 5 children and 4 women. The US military confirms 4 killed, including 2 women and a child."

NBC Nightly News (3/20, story 2, 1:20, Miklaszewski, 9.87M) reported that in the other incident, "a team of Naval investigators is on its way to Iraq tonight where 12 US Marines are accused of killing 15 Iraqi civilians, including 7 women and 3 children, in a vengeful rage after one of their fellow Marines was killed by a roadside bomb. The incident occurred last November in Haditha." The "formal criminal investigation was opened after some of the Marines had changed their original stories

Saddam's Foreign Minister Was CIA Informant. NBC Nightly News (3/20, story 4, 4:00, Myers, 9.87M) reported Naji Sabri was "Saddam Hussein's foreign minister before the war, part of his inner circle." But "after Saddam fell, Naji Sabri was never arrested, nor included in the infamous deck of cards of wanted Iraqis. Why? Perhaps because sources tell NBC News that at the same time he denounced the US, Iraq's foreign minister was a secret, paid source of the CIA. Current and former US intelligence officials say Sabri provided the US information on Saddam's WMD that turned out to be more accurate than CIA estimates. So why didn't anyone listen?" Intelligence sources "say the deal was brokered by the French in September 2002, and that Sabri was paid more than $100,000 through an intermediary. Sabri may have thought he was working with the French, but some US intelligence officials believe he knew it was the CIA. The CIA questioned Sabri through a go-between about Saddam's WMD capabilities." Intelligence sources "say Sabri indicated Saddam had no significant weapons program. Sabri was right." Intelligence sources "say the CIA's brief relationship with Sabri ended when the CIA, hoping for a public relations coup, pressured him to defect to the United States. He refused."

Father Went To Iraq Seeking Revenge For Son's Death. The AP (3/21, Hanley) reports on Army Cpl. Joe Johnson, who joined the Army after his son Justin was killed by a roadside bomb in Iraq. The death of Justin, "stunned his parents with a shock that lingers still." Joe, who was training with the National Guard at the time of Justin's death tried to explain his reasons for going to Iraq, saying, "It's

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a lot of things combined," adding, "One, a sense of duty. I was pissed off at the terrorists for 9/11 and other atrocities. Second, I'd only trained. I wanted combat." Johnson also said, "There's some revenge involved. I'd be lying if I said there wasn't."

At Least 120,000 Children In Military Families Have Parent In Iraq. ABC World News Tonight (3/20, story 6, 3:05, Vargas, 8.78M) reported, "The American mission in Iraq has had a tremendous impact on many communities in this country. At least 120,000 children have a father or mother in Iraq right now. For them, the war is not a distant abstraction, but something they're living with every day."

US Closely Watching Trial Of Afghan Christian. The US says it is closely watching the trial of an Afghan man who face a possible death sentence for converting to Christianity. AFP (3/21) reports, "State Department spokesman Sean McCormack urged the Afghan authorities to deal with the proceedings against Abdul Rahman transparently and according to the rule of law. … 'Our view certainly...is that tolerance, freedom of worship, is an important element of any democracy,' he said. 'These are issues, as Afghan democracy matures, that they are going to have to deal with increasingly.'"

Van Hollen Argues Against Troop Withdrawal From Afghanistan. Rep. Chris Van Hollen writes in the Washington Post (3/21, A17, 744K) that the US has not accomplished "our mission of destroying bin Laden and al-Qaeda. Fulfilling that mission and preventing a resurgence of the Taliban will depend on the actions we take in Afghanistan. This is no time to reduce our commitment there. … The anticipated withdrawal of US forces has reportedly already caused some local leaders to hedge their bets with respect to the Taliban." Van Hollen adds, "With the Bush administration and political Washington focused on Iraq, many Afghan leaders worry that the reduction of U.S. forces is a sign that we will again lose sight of Afghanistan. We do so at our peril. Let us not forget that the Sept. 11 plot was launched from Afghanistan, and not from Iraq."

Army Conducting Criminal Investigation Of Tillman Shooting. The New York Times (3/21, Davey, Schmitt, 1.19M) reports that the family of former NFL player and Army Ranger Pat Tillman, who was killed in a friendly fire incident in Afghanistan, "may be close to getting some of the answers they so desperately seek. After repeated complaints from the Tillmans and members of Congress contacted by them, the Army is immersed in a highly unusual criminal investigation of the killing, and the Defense Department's inspector general, which called for the criminal investigation this month, is looking separately into the Army's conduct in its aftermath." The inquiry "is for the first time examining whether the soldiers broke military law when they failed to identify their targets before firing on Corporal Tillman's position."

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Gonzales' Taco Bell Visit Noted. The Reliable Source column in the Washington Post (3/21, C03, Argetsinger, Roberts) reports on "Attorney General Alberto Gonzales picking up lunch Sunday at the Leesburg Pike Taco Bell in Falls Church, wearing a dark suit and accompanied by a Secret Service detail. A Justice source says the trip was 'at the request of his 10- and 13-year-olds.'"

CORPORATE SCANDALS:

2nd Circuit Panel Tosses Quattrone Conviction. The Washington Post (3/21, A1, Masters) reports, "A federal appeals court tossed out the obstruction-of-justice conviction of once high-flying investment banker Frank P. Quattrone, in a blow to the government's effort to prosecute and deter white-collar crime." The Post continues, "The U.S. Court of Appeals for the 2nd Circuit held unanimously that the trial judge's instructions to the jury included such a 'glaring deficiency' that Quattrone did not get a fair trial on charges that he encouraged subordinates to destroy documents sought by a federal grand jury. … The court also took the unusual step of reassigning the case to a new trial judge, writing that 'certain comments' made by U.S. District Judge Richard Owen 'could be viewed as rising beyond mere impatience and annoyance.'"

The New York Times (3/21, Sorkin) reports, "The appeals panel found that the judge in the case, Richard Owen, a Nixon appointee known for being pro-prosecution, gave erroneous jury instructions on what was required for the jury to find Mr. Quattrone guilty. The panel also said that 'in the interest of justice,' the case should be reassigned to

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another judge on the United States District Court for the Southern District of New York. … The prosecutors in the case, Steven R. Peiken and David Anders — both of whom have since left the United States attorney's office for private practice — were also singled out by the appellate panel for unfairly trying to prejudice the jury during their questioning of Mr. Quattrone. … Still, the appeals court found that there was sufficient evidence to retry Mr. Quattrone. And despite finding that Judge Owen had given flawed jury instructions, the panel said it agreed with many of his rulings, including his decision to restrict the introduction of mountains of evidence that defense lawyers contended would have led to a not guilty verdict."

The Wall Street Journal (3/21, Smith) reports, "While prosecutors issued a short statement saying only 'we are reviewing the opinion and considering our options,' the Quattrone defense team hailed the ruling as 'a significant victory.' … Mr. Quattrone himself said in a statement, 'For over three years during this difficult ordeal, I have held my head high knowing I was innocent and never intended to obstruct justice.'"

The Financial Times (3/21, Ben White) reports, "The ruling dealt a blow to the federal government's efforts to crack down on alleged white-collar crime. It followed a similar ruling by the Supreme Court last year voiding the criminal conviction of now defunct accounting firm Arthur Andersen." The Times adds, "A retrial would mark the third time Mr Quattrone, who emerged as the top technology banker of the 1990s, has faced a federal jury. The first trial ended with no decision after a jury was unable to reach a verdict. … In the second trial, a jury convicted Mr Quattrone of two counts of obstructing justice and one count of witness tampering. He was sentenced to 18 months in prison, but remained free pending his appeal."

USA Today (3/21, Farrell) reports, "The charges against the former Credit Suisse First Boston banker and onetime Silicon Valley rainmaker grew out of a federal investigation into the allocation of red-hot technology IPOs during the dot-com bubble. In December 2000, after being informed that a grand jury was investigating the matter, Quattrone endorsed and circulated a colleague's e-mail reminding subordinates to clean up their files, including paperwork from the IPOs in question. … Prosecutors said Quattrone's sending of the e-mail amounted to obstruction. In his first trial in the fall of 2003 the jury deadlocked, partly because some jurors didn't find Quattrone credible on the stand. His spring 2004 retrial resulted in a conviction."

The Los Angeles Times (3/21, Sanchez) reports, "Prosecutors said the intent of Quattrone's e-mail was to destroy documents sought in federal probes into whether the investment bank forced customers to pay kickbacks for shares of hugely profitable IPOs in the late-1990s bull market. … Quattrone had argued that he thought the investigations centered on other units of his company. He also was unaware that a grand jury subpoena called for documents from his technology banking group, his attorneys claimed."

Bloomberg (3/21) reports, "It's now up to federal prosecutors to decide whether to re- try the former investment banker. Today's reversal may also lead the government and Quattrone to open plea negotiations. Quattrone was convicted in May 2004 after his first trial ended in a hung jury in October 2003."

The New York Law Journal (3/21, Hamblett) reports, "U.S. Attorney Michael Garcia now must decide whether to retry Quattrone. If Garcia decides to go ahead, it would be the third trial for the former head of Credit Suisse's Global Technology Group, which was accused of obstructing two investigations into the allocation of shares in red-hot initial public offerings during the height of the high-tech boom."

Ruling Shows Importance Of Jury Instructions. The Wall Street Journal (3/21, Davies, Scannell) reports, "At the end of any jury trial, the judge's instructions to the jurors can be the most boring part of the proceedings. … They can also be the most important. Just ask Frank Quattrone." The Journal continues, "The court ruled that (Judge Owen's) instructions to jurors wrongly allowed them to convict him of obstruction for urging the destruction of documents without determining 'that the defendant knew the documents were subject to a subpoena [or document request].' The panel said that 'the jury was allowed to convict Quattrone of obstruction of justice regardless of whether he intended such.' … The witness-tampering conviction was overturned because, after Mr. Quattrone's conviction, the Supreme Court -- in a similar case against the accounting firm of Arthur Andersen -- ruled that jurors should have been told that a conviction requires a link between the defendant urging the destruction of documents and 'a particular proceeding.' The judge in the Quattrone case didn't include such an instruction."

Order For New Judge Seen As Unusual. The Wall Street Journal (3/21, Sidel, Lattman) reports, "In reversing the conviction of the former star technology-industry investment

banker, a federal appeals court yesterday assigned a new judge to the case, saying that 'the interests of all involved would best be served by another judge.' The appeals court didn't name the judge who would take the case. … Lawyers who aren't involved in the case said it is rare for an appeals court to assign a new judge when sending a case back to the lower court for a new trial. … 'It is highly unusual for the court of appeals to reverse a case with instructions that it be assigned to a new trial judge because it implies that the appellate court believes that the original judge may have been partial to one side or the other,' said former prosecutor Marc Mukasey, now of Bracewell & Giuliani in New York. 'In this case, however, the court of appeals stressed that it didn't question Judge Owen's impartiality.'"

Former Enron Auditors Testify On Charges, Reserve Accounts. The Wall Street Journal (3/21, Mcwilliams, Emshwiller) reports, "Two former partners of Enron Corp.'s outside auditor, Arthur Andersen LLP, took the witness stand to help prosecutors link former top company executives Kenneth Lay1 and Jeffrey Skilling2 to the alleged manipulation of the energy firm's reported financial results." The Journal continues, "The auditors' testimony at the beginning of the eighth week of the conspiracy and fraud trial touched on two main areas: the alleged downward manipulation of charges for goodwill expenses and the alleged misuse of reserve accounts to bump up reported earnings." The Journal adds, "In the case of goodwill, prosecutors contend that Mr. Lay, Enron's former chairman, misled Andersen and the public in October 2001 about the company's plans for its big water-distribution unit in order to avoid a hefty charge to earnings. On the reserve issue, the government contends Enron improperly tapped a reserve account to meet the desire by Mr. Skilling, the former company president, to beat analysts' earnings estimates. … The goodwill issue arose because of a new accounting rule in 2001 that required the write-down of an asset if it didn't meet certain criteria, which in the case of the Enron water unit included whether the company had an expensive growth plan, testified John R. Sult, one of the former Andersen partners. Without such a growth strategy, said Mr. Sult, Enron likely would have been forced to recognize an "impairment," or write-down, which prosecutors have said could have totaled hundreds of millions of dollars."

Former Gemstar-TV Guide CEO Found Liable For Securities Fraud. The AP (3/21, Marquez) reports, "A federal judge found former Gemstar-TV Guide CEO Henry C. Yuen liable for securities fraud, according to a ruling unsealed Monday in a federal regulatory lawsuit that claimed Yuen inflated the company's revenue by $248 million to boost its stock." The AP continues, "U.S. District Judge Mariana R. Pfaelzer also found Yuen liable for misrepresenting facts to Gemstar's auditors and falsifying its books. … The Securities and Exchange Commission will now submit a proposed penalty." The AP adds, "Yuen's attorney, Stanley Arkin, said an appeal was being considered. … 'I don't see eye to eye with her decision, but she's a judge,' Arkin said. 'The game isn't over.' … Gemstar, meanwhile, said in a statement that it was pleased by the decision to hold Yuen 'accountable for his wrongful and inappropriate actions.'" The AP notes, "Pfaelzer's findings came almost three years after the SEC filed the lawsuit against Yuen and Elsie Leung, Gemstar's ex-finance chief, in an alleged scheme to inflate company revenue to meet certain financial targets. … Regulators contend that Yuen's actions contributed to a windfall between 2000 and 2002 - at least $18.8 million in salary and bonuses, $14.6 million in exercised stock options, and more than $63.6 million in Gemstar stock sales."

"Chicago" Suit Hits Movie Industry Accounting Practices. The New York Times (3/21, Hartocollis) reports, "The producer of 'Chicago,' the Oscar-winning 2002 movie, is charging that Miramax has cheated him out of millions of dollars of profit from it by using deceptive accounting to understate revenue." The Times continues, "The producer, Martin Richards, sold Miramax an option to the movie rights to the musical in 1994. In papers filed in State Supreme Court in Manhattan yesterday, he said that he has been cheated by a Hollywood system of contingency payments to participants in moviemaking like producers, actors and writers that gives studios an incentive to underreport revenues. … Under that system, the court papers say, 'the worse a movie performs financially, the better off the studio is.'" The Times adds, "Mr. Richards's lawsuit says that he does not know precisely how much he is owed, but it seeks at least $10 million, which he estimates is his share of the movie's profits. … Mr. Richards declined to say how much he had been paid for the movie upfront, although the court papers said that his contract called for him to be

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paid several fees, including $500,000 after the movie reached its initial break-even point. "

CRIMINAL LAW:

Star Witness At "Mafia Cops" Trial Recalls Government Pressure To Cooperate. The New York Times (3/21, Feuer, 1.19M) reports that the trial of alleged "Mafia cops" Louis Eppolito and Stephen Caracappa on Monday "veered…from Brooklyn murder and Las Vegas lunacy to the high-stakes poker game played by government agents and gangland turncoats as the trial's star witness," Burton Kaplan, testified under cross-examination that, "after he was arrested in 1996 on marijuana and tax-evasion charges, 'the government was willing to go to any length' to have him 'crack' and come 'on board to provide information' against" Eppolito and Caracappa. Newsday (3/21, DeStefano) adds that Kaplan "testified that he wasn't aware of any surveillance photos that show him meeting over the years with the alleged 'Mafia Cops.' … During two full days of cross examination, Kaplan didn't appear to waver or change his story about his dealings with the detectives," but "the defense is likely to use Kaplan's admission that he wasn't shown surveillance photos to undermine his claim that he met Eppolito and Caracappa during the six-year period."

Kaplan's Lawyer Expected To Testify As Surprise Prosecution Witness Today. The New York Daily News (3/21, Marzulli, 729K) reports, "Federal prosecutors plan to call Judd Burstein, the ex-mouthpiece of Burton Kaplan, to the witness stand today, the Daily News has learned. Burstein is expected to testify that Kaplan told him back in 1994 about his role as a middleman between" Eppolito and Caracappa "and gangster Anthony (Gaspipe) Casso. Contacted last night, Burstein acknowledged to The News that he had volunteered to share what he knew with prosecutors." The Daily News adds, "The surprise witness echoes a successful gambit this month in the racketeering trial of John A. (Junior) Gotti, whose defense team had lawyer Ron Kuby testify that Gotti told him in 1998 that he had left the mob because he was sick of that life."

Pellicano Asks To Represent Himself As Defense Lawyer Challenges FBI Search. The AP (3/21, Risling) reports, "Imprisoned private investigator Anthony Pellicano said Monday he wants to act as his own lawyer in a case charging that he orchestrated an illegal wiretapping scheme targeting Hollywood celebrities and executives. … Meanwhile, federal prosecutors provided the judge with snippets of their case scheduled to go to trial next month." At the hearing, Assistant US Attorney Daniel Saunders "said three search warrant affidavits connected to raids on Pellicano's offices in 2002 would be unsealed later this week. FBI agents found illegal explosives and seized documents and computers during the searches," but Pellicano's current counsel, Steven Gruel "filed a motion Monday revisiting the legality of the search warrants," writing, "The Pellicano defense seeks discovery that will show that the FBI knew and expected to find a lot more than what they represented to or sought from the magistrate judge."

The Los Angeles Times (3/21, Krikorian, Weinstein, 958K) adds, "In his motion, Gruel said FBI Agent Stan Ornellas stated in a search warrant affidavit that authorities wanted to seize Pellicano's office computers, suggesting a far broader investigation than the threat against" Los Angeles Times reporter Anita Busch. "Gruel noted that long before the search of Pellicano's offices, the FBI had become aware of allegations that one of its own agents had illegally wiretapped while investigating a dispute over control of a $40-million Internet business." Additionally, Gruel questioned "the role Pellicano's former girlfriend played in the case," saying "it may have been improper for a 'cooperating' government witness to be visiting Pellicano in prison at a time when he was representing himself."

Jury Hears FBI Tapes During Informant's Testimony At Baltimore Police Corruption Trial. The Baltimore Sun (3/21, Dolan, 296K) reports that "in hours of secretly recorded conversations by federal agents, prosecutors say, one topic of conversation dominated the relationship between Detective William A. King and his informant, Antonio Mosby: selling illegal drugs for mutual profit. A federal jury heard more than a dozen recorded phone calls Monday that prosecutors say show how King and his partner, Detective Antonio L. Murray, shook down drug dealers pointed out by Mosby at open-air drug markets across Baltimore." The Sun notes that King's trial "is the culmination of the FBI's seven-month wiretap probe into misconduct in the Baltimore Police Department that ended with the May 2005 arrests of King and Murray."

Eight More Indicted In California Red Cross Katrina Aid Fraud Scheme. In a widely-distributed

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story, the AP (3/21) reports, "The number of Bakersfield-area people indicted in a scheme that bilked thousands of dollars from an American Red Cross fund designated for Hurricane Katrina victims has risen to 61, federal authorities said. Eight people were indicted last week in federal court in Fresno on charges of wire fraud and filing fake claims" with FEMA. "The Red Cross contacted the FBI after it performed an audit and discovered an unusually high number of claims were being paid out at Western Union outlets in the Bakersfield area, even though not many evacuees had moved there." The Los Angeles Times (3/21, 958K) also briefly reports on the indictments in "California In Brief."

Federal Scrutiny Of Chicago Hiring Practices Goes Back At Least Nine Years. The Chicago Tribune (3/21, Higgins, Lighty, 643K) reports, "As far back as 1997, federal authorities were investigating the hiring practices in Mayor Richard Daley's administration — obtaining backup tapes from the city's mainframe computer system and questioning a top Daley aide about how some people got their city jobs. The disclosures of the government's earlier interest in City Hall hiring came Monday during a routine court hearing for Daley's former patronage chief Robert Sorich, who is under indictment along with three others." Sorich lawyer Thomas Anthony Durkin "said FBI agents had interviewed his client in August 1997 as part of…Operation Silver Shovel," but "Assistant U.S. Attorneys Patrick Collins and Barry Miller did not concede that information in the 1997 records would be helpful to the defense."

US Attorney Challenges Campbell Lawyer's Criticism Of Investigation. In an Atlanta Journal-Constitution (3/21, 430K) op-ed, US Attorney David E. Nahmias responds to former Mayor Bill Campbell's lawyer, Michael Coleman, who "claims that the government's investigation targeted Campbell, lasted for eight years and cost 'millions of dollars in resources and manpower.' That is not true. … The 'army' from the FBI and U.S. attorney's office consisted of one or two agents and two prosecutors," which "increased to three prosecutors shortly before Campbell's indictment and to five agents only in the months just before and during his trial." Nahmias adds, "in essence the mayor's lawyer's argument is that, if someone concocts a criminal scheme that is complicated and difficult to uncover, and obstructs and delays efforts to do so, we should ignore the crimes rather than invest the time and resources needed to bring them to court."

Philadelphia Council Members Reluctant To Call For Mariano's Resignation. The Philadelphia Inquirer (3/21, Schaffer, Shiffman, 423K) reports, "Many members of City Council hope Rick Mariano will resign following his federal corruption conviction," but "they don't want to call on him to step down. The legislators' semantic two-step came as city solicitor Romulo L. Diaz Jr. issued an opinion confirming that the state ban on felons in elected office won't kick in until Mariano's sentencing, which Judge Lawrence F. Stengel yesterday set for July 6." The Inquirer notes, "Of 14 members interviewed, only one -- Councilman Michael Nutter -- said he would definitely vote for a resolution asking Mariano to quit." The Philadelphia Daily News (3/21, Brennan, McDonald) adds, "Only four Council members -- Donna Reed Miller, Michael Nutter, Juan Ramos and Jack Kelly - echoed Mayor Street's call from last week for Mariano to resign immediately. The rest are content to let state law take its course."

FBI, IRS Raids On Accountant Seen As Spurring Businessman's Guilty Plea. The Philadelphia Daily News (3/21, Hinkelman) reports, "A new federal-court filing yesterday offered a broad clue as to why a key figure in the Rick Mariano bribery-and-corruption case abruptly agreed to change his plea to guilty in late February. On Feb. 28 -- the day after businessman Reinaldo Pastrana had his surprising change of heart -- FBI and IRS agents raided the office of Pastrana's accountant and seized copies of false tax returns filed on behalf of Pastrana; his mother, Ada, and sister Debbie. … Now in state prison for violating parole in connection with a state tax conviction, Pastrana has agreed to enter a guilty plea on Thursday to three counts of bribery."

Eight Former Southwest Airlines Employees Charged In Embezzlement Scheme. The San Antonio Express-News (3/21, Contreras) reports, "Eight former Southwest Airlines employees have been charged with wire fraud over allegations they stole more than $1 million from the Dallas-based carrier by using used tickets to issue new ones and pocketing some of the proceeds. … The scheme lasted from March 2000 through January 2003," and "Special agent Andrea Simmons, a spokeswoman for the FBI in El Paso, said the probe took a while to come to fruition because the case involved 'hundreds to thousands of tickets' that needed

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to be compared." The Express-News notes that seven of the defendants were in custody, and the FBI was still searching for the eighth. The AP (3/21) also reports on the charges, and notes Simmons' comment to the Express-News.

California Developer Sentenced To Prison For Real Estate Fraud. The San Francisco Chronicle (3/18, C3, Lee) reported, "A San Francisco real estate developer will spend eight years in prison and pay more than $17 million in restitution and fines for defrauding more than 700 investors, a judge has ruled. U.S. District Judge William Alsup sentenced John A. Hickey…on Thursday to 97 months in prison and ordered him to pay a $15,000 fine and $17.4 million in restitution." The Chronicle notes, "Federal prosecutors said Hickey raised about $20 million from 724 investors through his company, Continental Capital Financial Group, by offering shares in two limited partnerships," allegedly "to develop real estate in Napa and Sonoma, among other locations."

Maryland Man Sentenced To Six Years For Child Porn Possession. The Baltimore Sun (3/21, 296K) reports Joshua M. Marsh of Great Mills, Maryland, yesterday "was sentenced…in federal court to six years in prison for transmitting child pornography files over the Internet, the U.S. attorney's office said. … According to a statement of facts at the plea, Marsh admitted to allowing users to download child pornography from his personal computer, as well as to facilitating the transmission of pornographic files between users. When the FBI conducted a search warrant in 2004, they found more than 1,000 files of child pornography on Marsh's computer."

FBI Arrests Senior Pentagon IT Employee On Child Porn Charges. UPI (3/21) reports, "A senior Defense Department employee managing the Pentagon's transition to a new Internet system was arrested for child pornography, DOD announced last week." Charles Lamont Lynch of Clifton, Virginia, "was operating a peer-to-peer file sharing program on his comuter at the Defense Information Systems Agency, according to the United States Attorney for the Eastern District of Virginia. FBI Agents on March 8 seized a computer and more than 1,000 CD-Rom disks during a search of Lynch's office," and he "is now on leave without pay while his case is pending in court."

Former East St Louis Police Chief Sentenced. The AP (3/21, Suhr) reports that the former police chief of East St. Louis, IL, "was sentenced Monday to more than two years in federal prison for attempting to shield a politically connected businessman from a criminal probe." The AP continues, "Ronald Matthews, 56, had faced up to five years behind bars for conspiracy to obstruct justice, attempted obstruction of justice and perjury before a grand jury. He was convicted Dec. 21... Matthews professed his innocence and said he would appeal. But he also told the judge he preferred to begin his prison term immediately." The AP notes, "The case stems from a traffic stop during which Ayoub 'Dave' Qattoum, an auxiliary policeman and businessman, was found with a .38-caliber handgun. Under federal law, Qattoum was not entitled to have a gun as a convicted felon. … Prosecutors described Qattoum as well-connected, quick to give loans or kickbacks to local elected officials to curry favor as the owner of a convenience store. … Authorities accused Matthews of commandeering the local investigation of Qattoum's arrest after the Jordanian national expressed fear that U.S. immigration officials had learned of his legal troubles and might deport him."

The Belleville News Democrat (3/21, Pawlaczyk) reports, "Although Murphy offered him the opportunity to remain free until being ordered to report to prison, Matthews opted to be taken immediately into custody. … Two federal marshals asked him to remove any personal items, including a driver's license and a comb, which he gave to family members, and then he was escorted into a backroom."

Guatemalan Pleads Guilty To DC Hit Man Plot. The Washington Times (3/21, Emerling) reports, "An illegal alien from Guatemala pleaded guilty in federal court yesterday to charges that he tried to arrange the killing of a D.C. jail inmate last year." The Times continues, "Victor Moscoso Espana, 20, of Hyattsville, admitted in D.C. District Court that he attempted to have inmate Alvaro Garcia-Hernandez -- a fellow Guatemalan in jail on drug charges -- killed for $15,000, which would have been paid in monthly installments." The Times adds, "According to court documents, Moscoso tried to arrange the hit because he 'did not like' Garcia-Hernandez and wanted to 'take over' his drug sources and 'make money.' … Agents with the federal Immigration and Customs Enforcement (ICE) began investigating Moscoso in September after receiving information about a conspiracy to import cocaine and heroin

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from Guatemala through various U.S. entry points, including Washington Dulles International Airport. … Court documents show that the hit man plot began when Moscoso arranged to meet another person -- who was cooperating with investigating agents -- at a Hess gasoline station in the 1900 block of New Jersey Avenue Northwest in October."

SCOTUS Refuses To Hear Pollard Appeal. The AP (3/21) reports, "The Supreme Court refused Monday to give Jonathan Pollard, now serving a life sentence for spying for Israel, access to records that could bolster his case for a presidential clemency." The AP continues, "Pollard's lawyers wanted the justices to reopen his case, so that they could pursue secret documents the government submitted to the judge who sentenced Pollard in 1987." The AP adds, "Pollard sold military secrets to Israel while he worked at the Defense Department's Pentagon headquarters. He was arrested in 1985 and pleaded guilty. The Supreme Court had already refused to let the former Navy intelligence analyst withdraw the guilty plea. …The latest Supreme Court case was not about spying, but about government authority to keep records used in court sealed from the public. … A federal appeals court said last summer that it had no authority to review requests for the documents which Pollard contends will help his bid for presidential clemency."

High Court Appears To Side Against Prosecutors' Use Of Victims' Words. The New York Times (3/21, Greenhouse, 1.19M) reports, "A crime victim's emergency call to 911, when introduced in court, can provide powerful evidence of the attacker's identity and the circumstances of the crime. Perhaps too powerful -- or so most Supreme Court justices seemed to conclude during an argument Monday on whether the prosecution could use such evidence without violating defendants' constitutional rights to face their accusers in the courtroom." The constitutional problem "arises when the victim fails to appear in court and is therefore not available for cross-examination."

The Los Angeles Times (3/21, Savage, 958K) reports, "Eight of the nine Supreme Court justices -- all but Ruth Bader Ginsburg -- sounded today as though they would vote to bar prosecutors from using in court the words of crime victims who spoke to authorities but refused to testify." The Washington Post (3/21, A4, Lane, 744K) says that "at stake are the rules of evidence that will govern not only many domestic violence prosecutions but also any criminal case in which prosecutors seek to introduce past accusations by people who, whether out of fear or any other reason, cannot or will not repeat their charges in open court." The AP (3/21, Locy) also reports the story.

Former Philippine President Says US Tapped His Calls With Aragoncillo. The AP (3/21, Gomez) reports former Philippine President Joseph Estrada "said Tuesday he has been notified by an American court that U.S. authorities bugged his telephone conversations with an FBI analyst accused of revealing U.S. government secrets. The New Jersey court indicated it had authorized the wiretapping as part of an investigation into Leandro Aragoncillo last year, Estrada said, adding that there was no suggestion he was under investigation." The AP notes, "Aragoncillo was arrested in the United States last year" and "has been charged with conspiring to reveal government secrets, acting as a foreign agent and improperly using FBI computers."

California Sex Assault Case Shifts To Civil Courtroom. The Los Angeles Times (3/21, Goffard) reports, "Now that a judge has imposed a prison term on the attackers, the sordid, painful four-year-long case involving Gregory Haidl and two co-defendants — and the woman who says they destroyed her — shifts to the civil courtroom, which may prove the ugliest show yet. … The victim, now 20 and known publicly as Jane Doe, has sued the three young men convicted of sexually assaulting her while a video camera rolled and she lay unconscious on a pool table one July night in 2002. And she is suing Haidl's father, a rich former Orange County assistant sheriff, alleging that he should have known of the drug- and alcohol-fueled parties raging in his Corona del Mar home, where the attack occurred. … But, as part of her $26-million lawsuit, Jane Doe is also targeting others who, she says, subjected her to years of 'harassment, intimidation and torture' after the attack itself." The Times continues, "In a rare legal move, her suit names Haidl defense attorney Joseph G. Cavallo and two defense investigators, John Warren and Shawn Smigel. She says the defense staked out her Rancho Cucamonga house, went through her trash, stalked her, improperly obtained her medical records, broadcast her identity and once cornered her in a parking lot while snapping pictures. … 'We're taking these people to task about what they did,' said Jane Doe's attorney, Sheldon Lodmer. 'They crossed the line in terms of appropriate legal

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defense.' … Cavallo said he did nothing improper in trying to defend a client who could have faced life in prison, and characterized the lawsuit as 'revenge' for his zealous representation."

States Move To Pass "Stand Your Ground" Bills. USA Today (3/21, Willing, 2.31M) reports that states are beginning to pass bills allowing citizens to use deadly force against muggers and other attackers. USA reports, "Dubbed 'Stand Your Ground' bills by supporters such as the National Rifle Association, the measures generally grant immunity from prosecution and lawsuits to those who use deadly force to combat any unlawful entry or attack. Several states allow people to use deadly force in their homes against intruders; the new measures represent an expansion of self-defense rights to crimes committed in public."

CIVIL LAW:

RJ Reynolds Tries To Evade Chicago Smoking Ban. The CBS Evening News (3/20, story 7, 2:35, Schieffer) reported, "Smoking laws have been tightened so much over the last few years that in many parts of the country it is pretty much illegal to smoke anywhere in public. But one spot in nearly smoke-free Chicago has begun to buck the trend." CBS (Bowers) added, "Chicago, like a growing number of American cities, recently enacted its own version of the Clean Air Act, which basically stamps out smoking in public, even in bars." But the tobacco lounges aren't "licensed as a restaurant or a bar but as a tobacco manufacturer where smoking is permitted, which starts sense when you consider the owner is RJ Reynolds. And as you might imagine, the cigarette-maker is fuming over what it sees as a thinly veiled attempt to outlaw smoking."

NYTimes Calls Court Ruling "Partial Victory" For Google. An editorial in the Wall Street Journal (3/21, 2.11M) calls a Federal judge's ruling that Google would not be forced to hand over a sample of user searches a "partial victory" for Google. The Post adds, "The real question is whether criminalizing whole categories of speech on the basis of vaguely worded 'community standards' is the least restrictive way of protecting children." Friday's ruling established "some limits on what the government can demand from private corporations in seeking to defend this law against a First Amendment challenge. Justice's initial request was for every indexed Web address and two months' worth of search queries. By comparison, what the government will now get looks reasonable indeed."

CIVIL RIGHTS:

Judge Sentences Two Cuban Human Smugglers To Maximum 10-Year Sentences. The Miami Herald (3/21, Weaver) reports, "Two Cuban immigrants who captained a smuggling mission that ended with the drowning of a young boy received the maximum prison sentence on Monday -- 10 years." The Herald continues, "U.S. District Judge K. Michael Moore hammered the two men after concluding a six-year term proposed under federal sentencing guidelines was not enough punishment for the child's death in the Oct. 13 illegal crossing of the Florida Straits." The Herald adds, "A lawyer for both Alexander Gil Rodriguez, 25, and Luis Manuel Taboada-Cabrera, 28, whose relatives sobbed outside the courtroom, said they will appeal the judge's sentences for their alien-smuggling convictions. Attorney Steven Amster said the two Miami men, who were not charged or convicted of causing the death of 6-year-old Julian Villasuso, still faced up to the maximum prison term because his drowning was a factor in the judge's sentencing under advisory guidelines. … The two men had reached plea deals in November, expecting to receive lighter sentences. They pleaded guilty to a conspiracy to smuggle 29 Cubans in a 33-foot speedboat that overturned and claimed the life of the boy, who got trapped beneath the capsized vessel. … But Assistant U.S. Attorney Dana Washington said he didn't have enough evidence to charge them with the death of Julian Villasuso."

The AP (3/21, Anderson) reports that Judge Moore "said he was imposing the long sentence because of a marked increase in dangerous pursuits between U.S. authorities and smugglers on the open ocean. Moore also said the two men should pay an extra penalty for playing a role in the boy's death. … Sentences imposed under federal guidelines are 'not providing an adequate deterrent for this kind of criminal conduct,' Moore said."

The South Florida Sun-Sentinel (3/21, Blum) reports, "Defense attorney Steven Amster argued that the lower penalty was sufficient punishment, in part because the smuggling trip was not organized for profit. In remarks to the judge, Taboada apologized and took responsibility for his actions. … Amster also suggested that the Coast Guard

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played a role in the boy's death by casting a net over their boat's engines, causing water to rush over the stern and precipitating the boat's capsizing. There also was a delay in the attempt to rescue Julian after it was realized he was still under the boat. … But Moore said the smugglers should not expect leniency by attempting to shift blame to the Coast Guard and noted that other migrants on the boat had pleaded with the two smugglers to stop once the chase began."

Attorney Charges Cover-Up In Florida Boot Camp Death. The AP (3/21, Kallestad) reports, "Bay County (FL) authorities are covering up their role in the death of a boy who was punched and kicked by guards at a boot camp, and his relatives want any trial in the case moved to another area to ensure a fair proceeding, the family's attorney said Monday." The AP continues, "Bay County sheriff's spokeswoman Ruth Sasser declined to comment on the cover-up allegations, but said seven drill instructors involved in the altercation and a nurse who witnessed it will be among about 20 people who lose their jobs when the camp closes next month. The closure plans had already been announced." The AP adds, "Ben Crump, the attorney for Martin Lee Anderson's parents, said they were 'outraged' because medical examiner Dr. Charles Siebert last week defended his findings that the 14-year-old died from complications of sickle cell trait, a usually harmless blood disorder. … Investigators re-examining the death with a second autopsy said last week that Anderson didn't die of natural causes. … Anderson died Jan. 6 after the confrontation at the boot camp in Panama City run by Bay County sheriff's officials. He had been struck, kicked and dragged to the ground by several guards during a half-hour ordeal that was recorded on videotape. … Gov. Jeb Bush has appointed Hillsborough County State Attorney Mark Ober to investigate and he observed the second autopsy done in Tampa. The U.S. Attorney's office in Tallahassee and the Justice Department's Civil Rights Division also have opened an investigation into Anderson's death."

California Prisons Prepare For Desegregation Policy. The Wall Street Journal (3/21, Jordan) reports, "It's exercise time at the California Institution for Men, and dozens of inmates walk around the track in pairs or small groups -- blacks with blacks, whites with whites, Hispanics with Hispanics. … Prison culture dictates that inmates stick with their own kind, associating almost exclusively with other inmates from their race or ethnic group, defending them to the death if necessary. And that is why prison officials, inmates and scholars are uneasy as California's prison system prepares to introduce a formal policy desegregating its double cells, after the U.S. Supreme Court ruled last year that prisoners may not be routinely segregated in cells by race. The ruling has ramifications for state correctional systems nationwide." The Journal continues, "In 2004, an African-American inmate challenged the California Department of Corrections' unwritten policy of assigning new prisoners and transfers to double cells only with a cellmate of the same race or ethnic group. The corrections department claimed segregated prison cells were necessary to avoid racial violence. Unswayed, the high court last year refused to strike down the inmate's challenge. California's new policy, which officials expect to implement over the next 2½ years, is the result of a settlement of that case. … Critics of the new policy say the purpose of segregated cells is to keep prisons peaceful and safe, not to discriminate. … California's prison system, at present still operating largely under the old policy, uses ethnicity as the main criteria when assigning higher-threat inmates to double cells. … Criminal-justice scholars say it is impossible to get a clear picture of prison-cell integration across the U.S. because practices vary widely from facility to facility."

Consumers Group Challenges Geico's Risk Criteria. The Washington Post (3/21, D1, Crenshaw, Mayer) reports, "According to an internal Geico document, the auto insurer uses drivers' levels of education and occupations in setting insurance rates. … As a result, Consumer Federation of America argued, blue-collar workers with relatively low levels of education sometimes are charged almost twice as much as better-educated professionals, based on those criteria." The Post continues, "Geico said in a statement that it uses many factors in setting rates and that allegations that education and occupation are being used as the sole criterion are 'absolutely untrue.'" The Post adds, "The document cited by the consumer group and a Geico competitor raises long-standing questions about which criteria insurance companies may use as proper gauges of risk and which improperly discriminate against poor people and minorities. … Insurers, consumer advocates, regulators and politicians have been struggling for years over such issues, including the use of credit scores in assessing risk.

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The use of credit scores is permissible in about 30 states but continues to be debated."

ANTITRUST:

Online Poll Shows Small-Business Opposition To AT&T-BellSouth Merger. The San Antonio Business Journal (3/21) reports, "AT&T Inc.'s plan to merge with BellSouth Corp. is seen as a development that will not work in favor of San Antonio's small-business community, according to the majority of individuals who participated in an online Business Pulse poll." The Journal continues, "Slightly more than half of the San Antonio Business Journal readers who responded to the survey say San Antonio-based AT&T's planned $67 billion stock merger with BellSouth in Atlanta will lead to less competition in the marketplace, rising prices, less technological innovation and poor customer service. … (The online poll is not scientific and the results represent only a snap shot of some readers' opinions.)" The Journal adds, "AT&T officials, however, disagree with the negative assessments of the merger and have long maintained that there is sufficient competition in the marketplace as evidenced by the full slate of services offered by cable, wireless carriers and competing local phone companies. … The merger still needs shareholder and regulatory approval in five states and with the Justice Department and Federal Communications Commission."

Proxy Adviser Backs Boston Scientific-Guidant Deal. Dow Jones (3/21, Kamp) reports, "Shareholders of Boston Scientific Corp. and Guidant Corp. should approve the consolidation of the two companies in votes scheduled for March 31, according to Institutional Shareholder Services, an influential proxy advisory firm." Dow Jones continues, "In reports recently directed to shareholders of each company, ISS said 'the acquisition of GDT will allow BSX to diversify its product offerings, adding defibrillators and pacemakers, and should ameliorate some of the concerns regarding future growth.'" Dow Jones adds, "On Jan. 25, Boston Scientific and Guidant announced a merger agreement, under which Boston Scientific will buy Guidant for a combination of cash and stock worth about $27 billion. The deal is valued at $80 a share to Guidant shareholders as long as Boston Scientific shares close within a $22.62-$28.86 collar over a certain period prior to the deal's closing. … So far, Boston Scientific's closing price has largely remained within that range. Boston Scientific recently traded at $23.28, up 66 cents, or 2.9%. … Jim Tobin, Boston Scientific's chief executive, repeated that the acquisition is expected to close in the first week of April. In a recent filing with the U.S. Securities and Exchange Commission, Boston Scientific said it anticipates antitrust approval for the deal that week."

Lucent Gets FTC Nod To Purchase Riverstone Operations. Dow Jones (3/21) reports, "Lucent Technologies Inc. received antitrust clearance from the Federal Trade Commission to buy the business operations of Riverstone Networks Inc. for $170 million in cash." Dow Jones continues, "The FTC said Monday that on Friday it granted Lucent early termination of the waiting period required under the Hart-Scott-Rodino Antitrust Improvements Act. … Lucent has said the acquisition would complement its broadband, data and optical-networking products. The transaction is subject to bankruptcy court approval and other conditions."

Analysts Expect Counter-Bid For UK Insurer Prudential. The Financial Times (3/21, Felsted) reports, "Image Investors were braced for a counter-bid for Prudential, Britain's second biggest life assurer, after its shares rose 5 per cent above the offer price proposed by Aviva. Shares in Prudential rose 11 per cent to 743½p, ahead of the 706p proposed by Aviva in its all-share offer which, valuing Prudential at £16.8bn. 'The share price is telling you that the market is expecting a counter-bid,' said Roman Cizdyn, an analyst at Oriel Securities. 'As we sit where we are now, Aviva is not likely to succeed. The price is telling you that.'" Aviva CEO Richard Harvey, however, "said a counterbid was 'unlikely' and that consequently, Aviva was not expected to make a hostile offer. 'I think it's unlikely that someone else would come in and that is why we are expecting to proceed on a recommended basis,' Mr. Harvey said. France's Axa is seen as the most likely counter-bidder for Prudential, but some analysts said that it had been reluctant to become involved in contested bid situations in the past."

Aviva CEO Says He'll Seek To Sell Prudential Shareholders On Takeover Proposal. The Wall Street Journal (3/21, A9, Fleming) reports that Harvey, "said he would take his case for a merger with" Prudential "directly to shareholders, overriding Prudential managers' rejection of his unsolicited £17.1 billion (€24.63 billion or $30.04 billion) takeover offer." Harvey "said the two companies have many

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shareholders in common and that Aviva's investor-relations team is currently working the telephones to explain Aviva's position to investors. 'I expect them to arrange a number of rendezvous for me [with shareholders] in the coming weeks,' Mr. Harvey said." Meanwhile, Prudential officials on Monday continued to voice opposition to the proposal. Prudential Chairman David Clementi "said in a statement that Prudential's potential as a stand-alone company was 'tremendous and distinctive' and that a combination with Aviva would dilute the benefits of its growth."

Belgium Seeks Concessions On GDF-Suez Deal. The AP (3/21) reports, "Belgian Prime Minister Guy Verhofstadt said Monday he plans to hold talks to seek concessions on the French government-backed plan for Gaz de France SA to acquire French utility company Suez SA." The AP continues, "Speaking after a meeting with President Jacques Chirac in Paris, Verhofstadt said he had told the French leader that a GDF-Suez deal should not prevent Belgium from opening its gas and electricity markets to more competition. … Verhofstadt also said the two Paris-based companies would likely have to sell assets in order to meet that requirement." The AP adds, "The GDF-Suez deal was announced by the French government last month just days after Italian power company Enel SPA said it might launch a takeover bid for Suez. … Suez owns Electrabel, the Belgium's largest power company, and GDF holds a sizable stake in its nearest domestic rival, SPE. … Verhofstadt said last week that it would be unacceptable for one company to control 90 percent of his country's electricity market. The Belgian energy regulator is also concerned about the country's nuclear plants coming under French control, according to press reports."

FCC Deregulates Verizon's Big-Business Market. The Wall Street Journal (3/21, Schatz) reports, "Verizon Communications Inc. got a boost in the big-business market as federal regulators agreed to deregulate its high-volume data lines for its largest corporate customers." The Journal continues, "The decision by the Federal Communications Commission essentially lifts price controls and possibly reverses some conditions imposed on the New York telecommunications company last year during its acquisition of MCI Inc. It also gives Verizon pricing flexibility for lucrative high-volume services sold to major corporations, although regulations may continue to stay in effect for smaller business customers." The Journal adds, "The action signaled the FCC's willingness to expand phone companies' control over high-speed Internet lines to cover the large corporate market as well as residential customers. … But by granting Verizon's request without guidance, the FCC prompted confusion in the industry Monday. The action could lead to legal challenges by smaller competitors, particularly companies that resell high-volume services, such as Internet access, to small businesses. Also, other phone companies are likely to file requests for similar relief with the FCC."

Kerzner Takes $3 Billion Buyout Offer. The Wall Street Journal (3/21, Sanders) reports, "Casino operator Kerzner International Ltd. agreed to be acquired by a consortium of private-equity concerns for $3 billion in cash plus the assumption of $599 million in debt." The Journal continues, "The consortium, including Kerzner Chairman Sol Kerzner and his son, Butch Kerzner, the company's chief executive, agreed to pay $76 a share for the Bahamas-based casino company, an 8% premium to the stock's Friday closing price. The company operates its flagship Atlantis properties in the Bahamas and soon in Dubai, as well as the ultraluxury 'One&Only' hotels in exotic destinations around the world. Kerzner International also receives income from the Mohegan Sun tribal casino in Connecticut, which it developed, and has a large casino at its Atlantis property in the Bahamas." The Journal adds, "If successful in their buyout attempt, the Kerzners would see their ownership stake rise to about 25% from about 10%, Butch Kerzner said in an interview. Kerzner officials insist they 'will actively solicit superior proposals during the next 45 days,' but the proposed deal represents a multiple of about 19 times last year's earnings, according to a person familiar with the situation."

France Copyright Proposal Would Open Up iTunes. The Financial Times (3/21, Braithwaite) reports, "Apple Computer could on Tuesday be forced to open up its digital music business to competitors after a vote in the French parliament." The Times continues, "The owner of iTunes, the online music store, and the iPod digital music player, will have to choose between making downloaded music compatible with rival platforms or pulling out of France if, as expected, the parliament in Paris approves a draft copyright law." The Times adds, "Software in digital downloads from iTunes prevents music being played by any rival to the popular iPod, but the French bill seeks to impose 'interoperability' on online music stores and break Apple's

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closed system. … 'It is unacceptable that . . . the key should be controlled by a monopoly. France is against monopolies,' said Martin Rogard, an adviser at the French Culture Ministry. 'The consumer must be able to listen to the music they have bought on no matter what platform.' … Mr Rogard said it was 'desirable' that France led in this respect, but hoped that it was the start of a Europe-wide move to open up digital music."

Supreme Court To Hear Patent Case. The New York Times (3/20, Pollack, 1.19M) reports, "For the first time in a quarter-century, the Supreme Court will hear on Tuesday a case involving the basic question of what type of discoveries and inventions can be patented." Both sides say "the case, which involves a blood test for a vitamin deficiency, could have a wide-ranging impact on the development of diagnostics, perhaps threatening many of the underlying patents for genetic and other medical tests." But "the array of companies filing supporting briefs -- including American Express, Bear Stearns and IBM -- indicates that intellectual property in other fields might also be affected."

Writers See Patent Problems As Structural, Systemic. In an op-ed in the Wall Street Journal (3/21), Adam Jaffe, professor of economics and dean of arts and sciences at Brandeis University, and Josh Lerner, Jacob Schiff Professor of Investment Banking at Harvard Business School, write, "The problems of the U.S. patent system are under discussion today with an urgency not seen in decades. The Supreme Court will soon hear oral arguments in eBay v. MercExchange LLC, which promises to be its most far-reaching examination of patent law in many years. Today the court will also consider LabCorp v. Metabolite Laboratories -- the contested matter is whether a patent can be issued for the correlation between a disease and a naturally occurring substance in the human body. That is: Can you actually patent the laws of nature? And shockingly, Research in Motion has been forced to pay $612 million to prevent all of our BlackBerry handhelds from going dark, even though the U.S. Patent and Trademark Office (USPTO) has indicated that it is likely to find all of the patents behind this ransom demand invalid. Congressional subcommittees, with good reason, have recently held hearings asking fundamental questions about developments like these in the patent system." Jaffe and Lerner adds, "Commentators have tended to focus on the incompetence of the USPTO in allowing 'bad patents.' Others have concluded that the patent system is not working with respect to a particular area of technology. Concerns about software awards led, for instance, Jeff Bezos of Amazon to propose a new patent type for software; others have suggested that biotechnology be excluded in various ways from the patent regime. … We believe, instead, that the problems with the patent system are systemic and fundamental, the result of two congressional changes to the patent system." Jaffe and Lerner concludes, "The protection for true innovators created by a workable patent system is vital to technological change and economic growth. The problems in the existing patent system are structural, and the fundamental solutions need to be structural as well. As much as the USPTO needs to do a better job, it can only do so if the system is modified so that all parties have incentives to help with the job, and the courts provide a reliable backstop when mistakes are made."

ENVIRONMENT:

Kerr-McGee Suit Disputes Federal Oil Royalties. The Wall Street Journal (3/21, Levine) reports, "Kerr-McGee Corp., at a time of rising political scrutiny of oil-company profits, is suing the federal government to avoid about $108 million in royalties on its deep-water production in the Gulf of Mexico." The Journal continues, "The issue of royalty payments on Gulf-of-Mexico oil properties owned by the federal government has attracted much criticism in Congress because of high gasoline prices and record oil-company financial results. Some lawmakers have called for a windfall-profits tax on the industry, though such a levy still appears to be a long shot." The Journal adds, "In all, the Interior Department estimates that royalty exemptions in the Gulf of Mexico could cost the U.S. treasury some $7 billion over time, depending on the price of oil and the level of production. … Kerr-McGee, which produces oil and natural gas from 17 deep-water fields in the Gulf, filed suit Friday in federal court in Lake Charles, La. The Oklahoma City company is seeking to overturn a January order by the department's Minerals Management Service division that Kerr-McGee and other oil companies pay more in royalties for the fields. Most oil companies complied with the order, but Kerr-McGee was among three that didn't pay. … The case involves fallout from a 1995 congressional act that, at a time of relatively low oil prices and shrinking U.S. production, attempted to increase oil and natural-gas production from the deep-water sections of the Gulf of Mexico. Water depths there

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often exceed 2,500 feet, and exploration is expensive and riskier than elsewhere. The congressional act exempted oil companies from royalty payments for millions of barrels of deep-water production for leases obtained from 1996 to 2000 as long as world prices didn't exceed a certain level."

US Expects Bird Flu This Year. Leaders of three federal agencies Monday warned that the bird flu could reach the USA this year on the wings of migratory birds. However, USA Today (3/21, Manning, 2.31M) reports Agriculture Secretary Mike Johanns said the appearance of the virus "will not constitute a reason for panic," stressing that "a detection of this virus in birds does not signal the start of a pandemic in people." For his part, Health and Human Services Secretary Mike Leavitt said local communities need to make their own pandemic plans, and "any community that fails to prepare with the expectation that the federal government will, at the last moment, be able to come to the rescue will be tragically wrong."

US To Increase Testing Of Wild Birds For Avian Flu. Meanwhile, Interior Secretary Gale Norton said a program to test up to 100,000 wild birds for signs of infection this year will focus on breeding grounds in Alaska and islands in the Pacific where migrating birds from Asia are now heading. The Washington Post (3/21, A5, Stein, 744K) says the program signals a "sharp increase" in the number of testing, and "is part of the Bush administration's $29 million plan to protect the country against the virus." The AP (3/21, Quaid) quotes Norton as saying that the wild bird testing "could reveal 20 to 100 suspected cases of bird flu," although follow-up testing is likely to reveal "dozens" are false alarms. The Los Angeles Times (3/21, 958K) also briefly noted Norton's comments.

US Businesses Prepare For Avian Flu Arrival. The New York Times (3/21, Warner, 1.19M) reports that many US poultry firms, such as Tyson, Pilgrim's Pride, and KFC, "all say they have formed internal avian flu task forces that meet regularly" with government health officials to discuss "what information should go on the companies' Web sites and when, and devising sales loss projections."

FDA To Ban Poultry Use Of Flu Vaccines. The Wall Street Journal (3/21, A4, Zhang, 2.11M) reports "amid concern of a possible avian-flu pandemic," the Food and Drug Administration "moved to ban the poultry industry from using two groups of human antiviral drugs to treat their flocks, for fear that may reduce their effectiveness in humans." The agency is "proposing to ban veterinarians from prescribing" Roche's Tamiflu and GlaxoSmithKline's Relenza for animal use.

Scientists Oppose Removing ESA Protections For Yellowstone Grizzly. A group of 269 scientists have asked the Fish and Wildlife Service on Monday not to lift Endangered Species Act protections for the Yellowstone grizzly bear. The New York Times (3/21, 1.19M) reports that the scientists say removing the protections could jeopardize the bear's survival. The scientists' letter "says the Yellowstone grizzly is cut off from other bears, and therefore new sources of DNA. Because of that, the population needs to be 2,000 to 3,000, the scientists say, to survive a catastrophic event, like disease or the loss of a critical food source."

Conservationists Move To Buy Timber Company Holdings. A front page story in the Washington Post (3/21, A1, Eilperin, 744K) reports that timber companies have been shedding holdings in recent years, which has "spurred a land rush that has conservation groups scrambling to raise money to buy environmentally sensitive tracts in competition with private investors seeking to snap up the land for development. … The consulting firm U.S. Forest Capital estimates that half of all U.S. timberland has changed hands in the past decade. The Bush administration also wants to sell off forest land, by auctioning more than 300,000 acres of national forest to fund a rural school program." However, "if the selling spree continues, environmentalists fear, these areas could be cut up into much smaller parcels in which condominiums and trailer parks would replace soaring trees."

NYTimes Calls Administration Record On Mine Safety "Embarrassing." An editorial in the New York Times (3/21, 1.19M) says the Bush Administration's "accommodation of the mining industry…has produced a marked decline in major fines for negligent companies. A recent data analysis by The Times documented a risky, business-friendly downturn in penalties since 2001. At the same time, nearly half of the announced fines still go uncollected." In the wake of recent mine deaths, Congress is considering tougher fines for violations, but, "what good are fines if they are not being forcefully used by the federal agencies supposedly responsible for workers' safety?" The Times adds that the Bush Administration begin "an urgent

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reversal of its embarrassing record on penalizing flagrantly negligent companies."

FBI/DEA/ATF/USMS:

Two Sentinel Subcontractors Criticized In GAO Trilogy Audit. In a widely-distributed story, the AP (3/21, Sherman) reports, "Two companies that will share in a new FBI computer contract were singled out in a government audit Monday that questioned $17 million in the agency's computer overhaul." In its review of the Trilogy program, the GAO said that "the FBI and its contractors share the blame for $10 million in questionable costs and for 1,205 pieces of missing computer equipment valued at $7.6 million," citing CACI and Computer Sciences Corp. specifically. But FBI spokeswoman Cathy Milhoan said, "The lessons learned from the Trilogy program are guiding us, and the FBI continues to strengthen our internal controls." She added that "the CSC unit that worked on Trilogy will not be part of the Sentinel project," and "CACI will provide training for new system, as it did for Trilogy."

ATF Team To Target Violence In Atlanta, Other Cities. The Washington Times (3/21, Seper) reports, "Attorney General Alberto R. Gonzales yesterday said Atlanta would become the 23rd U.S. city assigned a federal Violent Crime Impact Team in an aggressive effort to make that city safer. … 'The citizens of the city of Atlanta deserve to live free from violent crime,' Mr. Gonzales said in announcing the law-enforcement initiative during a press conference at the U.S. attorney's office in Atlanta. 'VCIT will help make Atlanta safer through a coordinated campaign to investigate and prosecute those individuals who threaten our communities with guns and violence.' … Washington, Baltimore and Richmond are among the other cities participating in the VCIT program." The Times adds, "The VCIT teams, led by the Bureau of Alcohol, Tobacco, Firearms and Explosives, consist of ATF agents, U.S. marshals, Drug Enforcement Administration agents and federal prosecutors who partner with state and local law-enforcement officers and prosecutors to proactively and aggressively identify, arrest and prosecute those responsible for firearms-related offenses and other violent crimes. … 'Make no mistake about it; Violent Crime Impact Teams have saved lives by getting armed criminals off the streets,' said ATF Director Carl J. Truscott. … Mr. Truscott said the teams use technology and human intelligence to identify geographic areas within cities with violent firearms crime; identify the 'worst' violent offenders, the criminal organizations that support them and armed career criminals; and use criminal investigations and investigative tools and resources to disrupt and dismantle criminal activity being perpetrated by the targeted persons and organizations."

Gonzales Targets Georgia Meth Production. The AP (3/21, Gross) reports, "Anti-methamphetamine laws like the ones passed in Georgia are tamping down the domestic production of the deadly drug, U.S. Attorney General Alberto Gonzales said Monday. … But Gonzales said an increase in the amount of meth being smuggled into the country from Mexico threatens to offset those advances." The AP continues, "Gonzales joined Gov. Sonny Perdue (in Waleska, GA) at a town-hall meeting of law enforcement officials, community activists and others on what they called the methamphetamine crisis in the state. … 'Meth threatens to turn the American dream into the American nightmare - not just for the users, but for their families ... and their communities,' Gonzales said." The AP adds, "The event was held at Reinhardt College in north Georgia's Cherokee County, where there were 490 meth-related arrests and more than $300,000 worth of the drug confiscated by authorities last year, according to Perdue. … The governor highlighted anti-meth measures taken by Georgia's Legislature over the past few years, such as requiring the drug's key ingredients to be moved behind the counter of stores that sell them and making it a felony to cook meth in the presence of a child. … Earlier Monday, Gonzales was in Atlanta to announce the launch of a federal initiative to target violent crime in the worst parts of the city."

The Atlanta Journal-Constitution (3/21, Williams) reports, "Much of Georgia's methamphetamine problem starts in Mexico, Gov. Sonny Perdue said Monday, making a good working relationship with federal and foreign authorities increasingly important. … To stress the need for help in combating the highly addictive drug, the governor appeared with U.S. Attorney General Alberto Gonzales at a meeting at Reinhardt College in Cherokee County." The AJC continues, "About 200 people made up the invitation-only group of law enforcement officials, prosecutors, drug rehabilitation professionals and elected officials. … Metro Atlanta has become a hub for eastern U.S. distribution of the drug being manufactured at large clandestine labs in Mexico and in the Western United States, according to the U.S. Drug

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Enforcement Administration. … Stemming the flow of the drug, known as 'ice,' will take international cooperation, Gonzales said Monday afternoon, noting that he is to meet with the Mexican attorney general in Dallas in May. The United States is training Mexican officials on how to deal with the cleanup of toxic meth labs and other issues, Gonzales said."

Former Baton Rouge Police Officer Charged With Cocaine Possession. The Baton Rouge (LA) Advocate (3/21) reports, "A former Baton Rouge police officer who once went to jail for selling items from the evidence room now faces more prison time after federal agents allegedly found 6 kilograms of cocaine in a trash can in his garage. Daryl W. Davis…was charged Monday. … In an affidavit, DEA Special Agent Mark Lusco writes that investigators believed Davis was 'obtaining multikilograms of cocaine from Houston, Texas, and distributing them in the Baton Rouge area.'"

Accused "Chief" Cocaine Trafficker Appears In Colorado Court. The Aspen (CO) Daily News (3/21) reports a Little Annie's Eating House employee "was bound over for trial Monday after the prosecution portrayed him as a chief trafficker of a local cocaine network." Fernando Leal-Ruiz "listened as law-enforcement officers at his preliminary hearing testified that during a Dec. 2 drug raid they saw him reaching in the direction of a plastic bag that was later determined to contain 44 bindles of cocaine. … Monday's hearing was the latest courtroom development concerning the December drug raids of two downtown restaurants in an operation coordinated by local, state and federal authorities."

The Aspen (CO) Times (3/21) reports, "A judge ruled Monday there is enough evidence to try a man on cocaine distribution and conspiracy charges. Fernando Leal-Ruiz of Carbondale was arrested, along with nine others, in the Dec. 2 drug raids on Little Annie's Eating House and Cooper Street Pier. … Monday's preliminary hearing saw testimony by the Aspen police detective who led the raid on Little Annie's, a DEA agent and an immigration officer."

NBA Player's Dismissal Upheld For Violating Drug Policy. The New York Times (3/21, Robbins) reports an arbitrator "ruled in favor of the N.B,A. yesterday and upheld the league's dismissal of Hornets forward Chris Andersen for violating the league's drug policy. … Andersen, dismissed Jan. 27, cannot apply for reinstatement for two years."

The AP (3/20) writes, "According to the league's collective bargaining agreement, a player can be disqualified only for a fourth positive test for performance-enhancing drugs, or a first positive test for 'drugs of abuse.'"

Bolivia Takes Coca Debate To UN. The UK's Independent (3/21) writes, "Bolivia stepped up a long-running battle with Washington this week by taking its campaign to legalize coca plants to the United Nations in a bid to persuade the international community that the leaf should no longer be banned because of its links to the illegal drugs trade." Bolivia "is determined to prove that coca can be the source of legitimate products for export and not just the raw material for cocaine."

The UK's Telegraph (3/20) reports, "Under the slogan 'coca is not cocaine,' politicians, consumers and growers across the Andes are promoting the leaf's qualities and calling for coca-based tea, yoghurt, bread, toothpaste, shampoo and soap to be mass produced and exported."

Government Accused Of Being Willfully Blind To Canada's Marijuana Problem. The BBC (3/21) reports on its Web site, "Nearly half of Canadians admit to smoking marijuana at least once. … Tens of thousands of illegal 'grow-ops' remain in Canada. Estimates suggest marijuana may generate up to C$7bn (£3.5bn; US$6.1bn) a year in BC, the sunny province thought to be at the heart of the industry." The BBC adds that critics "accuse the government of being willfully blind to the historic failures of law enforcement, and ignoring public opinion and the findings of expert committees in favor of a policy of demonizing marijuana."

Former German Track Coach Convicted Of Doping Athletes. The AP (3/20) reports, "Former German track coach Thomas Springstein was convicted of doping charges Monday and given a 16-month suspended prison sentence. The court found the 47-year-old Springstein guilty on charges including the alleged doping of young athletes in 2003. … Springstein was accused of supplying testosterone to his athletes, including a 16-year-old girl."

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IMMIGRATION:

Melloan Says Illegal Aliens Should Be Given Green Cards. George Melloan writes in the Wall Street Journal (3/21, Melloan, 2.11M) that "US immigration policy is a mess. … The equation is simple: The US needs labor; immigrants supply labor. So the solution is to find ways to bring the two together in some legal, orderly way." Melloan adds, "Offering to give illegals green cards and wipe the slate clean is the only practical solution. If they come forward, they can stay on their jobs and travel back and forth to their homes legally. Some who have been trapped in the U.S. by their inability to travel freely will choose to go home permanently. There will be less incentive to sneak in family members, since it will be possible to visit relatives or send remittances."

TAX:

Tax Refund Advances Under Attack. The Wall Street Journal (3/21, Opdyke) reports, "A variety of companies are trying to get their hands on your tax refund before you do, and state law-enforcement officials are cracking down on some of the practices." The Journal continues, "As the April tax-filing deadline approaches, businesses from tax-preparation firms to auto dealerships are offering consumers the opportunity to put their expected refund checks to work weeks before the IRS sends them out -- often by loaning them the expected amount for a high fee. Dozens of retailers, including Olive Garden restaurants and AMC move theaters, have begun offering gift cards in exchange for tax refunds to people who file using TurboTax, the popular tax-preparation software. H&R Block Inc. recently launched savings accounts for customers to channel their tax refunds. And hundreds of car dealerships will prepare your taxes if your refund is applied toward a down payment on a car." The Journal adds, "But now, state officials are clamping down on some of these programs, claiming they saddle low and moderate-income families, recent college graduates and others with high fees. Last year about three of every four tax filers received a refund, according to the Internal Revenue Service. Those refunds totaled nearly $218 billion, or about $2,171 per household."

Training Of Pastors On GOTV Activities May Lead To IRS "Crackdown." The New York Times (3/21, Kirkpatrick, 1.19M) reports, "Weeks after the Internal Revenue Service announced a crackdown on political activities by churches and other tax-exempt organizations, a coalition of nonprofit conservative groups is holding training sessions to enlist Pennsylvania pastors in turning out voters for the November elections." The Times adds, "Experts in tax law said the sessions, organized by four groups as the Pennsylvania Pastors Network, could test the promises by the tax agency to step up enforcement of the law that prohibits such activity by exempt organizations. Such a test could define the boundaries for churches and other groups." Although "the tax agency has often overlooked political activity by churches, it has repeatedly warned the clergy and religious groups that it intends to enforce its rules with new vigor this yea."

Justices Reject Former Arkansas Governor's Whitewater Appeal. The AP (3/21, Zeman) reports, "The seven-year, $70 million Whitewater investigation that toppled an Arkansas governor and dogged Bill Clinton for most of his presidency officially drew to a close Monday when the US Supreme Court declined to hear the last remaining appeal." Former Gov. Jim Guy Tucker "had asked the high court to let him withdraw a guilty plea in a tax-conspiracy case that he said was based on an outdated law." Tucker "was accused of crookedly scheming to reduce his tax liability on the sale of cable television system." The Washington Times (3/21, Seper, 90K) also reports the story, saying the Whitewater probe "netted 14 guilty verdicts or pleas."

Overpayment Of Taxes Is Growing Trend. USA Today (3/21, Cauchon, 2.31M) reports, "Taxpayers overpaid their federal income taxes by a record 29% in both 2003 and 2004, according to a USA TODAY analysis of Internal Revenue Service data. That has pushed refunds above $200 billion a year. Final figures aren't in for the 2005 tax year, but the average refund so far is $2,423, up 4% from last year. The fatter refunds are the result of taxpayers withholding nearly twice the traditional safety margin from their paychecks to avoid a year-end tax bill." USA adds, "Overwithholding has grown fastest among families earning $50,000 or less a year because they benefit most from tax credits. Many low-income families obtain refund anticipation loans, which typically cost $100 or more, to get their money about 10 days earlier than from Internal Revenue Service."

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Taxpayer Advocate Is Public's Designated Voice At IRS. The Wall Street Journal (3/21, Matthews, 2.11M) profiles National Taxpayer Advocate Nina Olson. As advocate, "one of her tasks is to tell [IRS Commissioner Mark] Everson what he's doing wrong -- and to take action if, in her view, injustices against taxpayers aren't resolved fairly and quickly." Olson "is the designated 'voice' of the taxpayer within the IRS. Congress created the position in 1998, when the IRS was under criticism for being unyielding and heavy-handed with taxpayers. Ms. Olson was appointed in 2001.'

CONGRESS-ADMINISTRATION:

Bush Signs Debt Limit Increase Into Law. The A2 (3/21) reports, "With no fanfare, President Bush signed a bill Monday pushing the ceiling on the national debt to nearly $9 trillion." The debt limit increase "was the fourth of Bush's presidency, totaling $3 trillion. With the budget deficit near record levels, an additional increase in the debt limit almost certainly will be required next year."

Bush Signs Bill Increasing Energy Aid To Poor. The AP (3/21) reports, "Federal aid to help the poor cope with energy costs will increase by $1 billion to more than $3 billion this year under legislation President Bush signed on Monday." The $1 billion, "on top of $2.1 billion already allotted for the current budget year, was obtained by transferring money originally intended for the budget year that begins Oct. 1."

Study Finds Fewer Choices In Medicare Drug Plans. The Los Angeles Times (3/21, Alonso-Zaldivar, 958K) reports that an independent study of the Medicare prescription benefit "has concluded that many low-income California seniors now have access to a narrower range of drugs than when the state covered their medications." The program "contains pitfalls for middle-class beneficiaries as well, the report said, because of wide differences in the number of drugs the private Medicare prescription plans cover." Medicare administrator Mark McClellan "took issue with the report's conclusions Monday, saying that many of the medications that plans do not cover have generic equivalents that cost much less and are paid for by the plans."

Education Department Official To Leave Post. The New York Times (3/21, Schemo, 1.19M) reports, "The federal Education Department's top official overseeing colleges and universities has resigned and will become deputy staff director of the House committee on education, the panel announced on Monday." The official, Sally L. Stroup, the assistant secretary for postsecondary education, "said in an interview on Monday that she submitted her resignation last Wednesday and would leave the department in mid-April. 'I've been here four years,' Ms. Stroup said. '"That was long enough.'" The Times adds, "In moving to Capitol Hill, Ms. Stroup will return to her onetime employer, officially known as the Committee on Education and the Workforce, for which she had worked for seven years."

Republicans Make Play For Firefighters' Union. The New York Times (3/21, Greenhouse, 1.19M) reports, "With the election season heating up, the Bush administration and the Republican Party used a good deal of energy and charm on Monday to woo a group that has long been part of the Democrats' base: organized labor." Homeland Security Secretary Michael Chertoff; Senator Chuck Hagel, Republican of Nebraska; and the Republican National Committee chairman, Ken Mehlman, "spoke to the annual legislative conference of the main firefighters' union, saying they were eager to work with the union on issues of common ground." The White House chief of staff, Andrew H. Card Jr., "had been scheduled to speak, but canceled, citing illness." Harold A. Schaitberger, the president of the International Association of Fire Fighters "and the first prominent labor leader to back Senator John Kerry, Democrat of Massachusetts, for president in 2004, voiced the views of an increasing number of union leaders in saying it was important to work with Republicans."

Allen's "Paycheck Penalty" Legislation Unpopular In Congress. The Washington Times (3/21, Bellantoni, 90K) reports, "Sen. George Allen, testing the 2008 presidential waters while facing his own re-election in the fall, says members of Congress should not get paid if they miss the deadline for passing a federal budget." Allen's "so-called 'paycheck penalty' proposal has piqued the interest of fiscal conservatives, but is unpopular among his colleagues." His "critics call the proposal disingenuous, noting that last week the senator voted to increase the federal debt limit to $9 trillion."

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Jackson Takes Mentoring Next Generation Seriously. The Washington Post (3/21, Blumenfeld, 744K) reports on Housing and Urban Development Secretary Alphonso Jackson's mentoring of Jerell Blakeley, a Howard University Student. Jackson, who grew up in Texas as the youngest of 12 children believes his "happy ending is meaningless….unless it is retold through the lives of other young blacks. It is why he reached out to Blakeley and why, on weekends, he is tape-recording his memoirs for his first grandchild. Jackson is a grandfather now and has a story to tell, one that he hopes will cast a spell."

West Texas Eliminated As Possible Site For Bush Library. The Washington Post (3/21, A15, 744K) reports that West Texas has been dropped from consideration as a site for President Bush's Presidential Library. The West Texas Coalition "had proposed a contemporary-style or Spanish Renaissance library on 100 acres west of Texas Tech's Health Science Center and, at Midland College, a Laura Welch Bush Center for Early Literacy." The Post adds, "Still in the running as library sites are Southern Methodist University in Dallas (Laura Bush's alma mater), the University of Dallas and Baylor University in Waco. Although SMU has little land available for new building, it is perceived to be the favorite because Laura Bush is a member of the board of trustees."

Intelligence Community To Move Toward Common Pay System This Year. The Washington Post (3/21, D4, Barr, 744K) reports in its "Federal Diary" column, "The intelligence community…plans to take the first steps this year toward pulling its tens of thousands of employees into a common pay system." The "departments of Homeland Security and Defense have firmed up plans to roll out performance-based pay systems this year. Pay changes also may come to parts of the FBI, such as its new national security branch."

Teacher's Union Official Opposes Bush Adjunct Faculty Proposal. Tom Mooney, president of the Ohio Federation of Teachers, writes in USA Today (3/21, 2.31M), "The Bush administration's proposal to import the concept of adjunct faculty from higher education and apply it to America's high schools is just another quick-fix attempt to avoid tackling the real problems that limit and drain the teaching talent pool. Low pay, poor working conditions and the lack of opportunity for advancement cause too many talented people to take a pass or just pass through. … The president's proposal is unlikely to be helpful, and it could erode the quality of teaching in America's high schools. The last thing secondary education needs is to replicate the extensive use of exploited adjunct faculty that is turning our public colleges and universities into academic sweatshops."

USA Today Makes Case For Proposal. An accompanying editorial in USA Today (3/21, 2.31M), "Teachers' union leaders are resisting a plan by President Bush to build an 'adjunct teacher corps' of 30,000 experienced scientists and mathematicians…to assist in the nation's schools. The union leaders say raising teacher pay and improving working conditions, not bring in outside experts, is the way to enhance math and science teaching." USA adds that "Bush's $25 million adjunct teacher plan, being considered by Congress, could prove invaluable. Some of these volunteer experts might advise teachers and mentor students. … Other scientists might become certified to try teaching as a full-time second career." Teachers "should see them as educational partners, not as a threat to their livelihoods."

Professor Criticizes Feingold Censure Plan. H. W. Brands, a history professor at the University of Texas at Austin, writes in the New York Times (3/21, 1.19M) that history shows that Sen. Russ Feingold should "move carefully" in his effort to censure President Bush for authorizing wiretaps of Americans without court orders. If Feingold "hopes to discredit Mr. Bush, as he doubtless does, I'd suggest he find means other than censure."

Marcus Criticizes Administration "Manliness." Ruth Marcus writes in the Washington Post (3/21, A17, 744K), "I have a new theory about what's behind everything that's wrong with the Bush administration: manliness." In his book "Manliness," Harvard professor Harvey C. Mansfield argues that manliness "seeks and welcomes drama and prefers times of war, conflict, and risk." The manliness of the Bush White House "has a darker side that has proved more curse than advantage. The prime example is the war in Iraq: the administration's assertion of the right to engage in preemptive and unilateral war; the resolute avoidance of debate about the "slam-dunk" intelligence on weapons of mass destruction; the determined lack of introspection or self-doubt about the course of the war;

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and the swaggering dismissal of dissenting views as the carping of those not on the team." Marcus adds, "What this country could use is a little less manliness -- and a little more of what you would describe as womanly qualities: restraint, introspection, a desire for consensus, maybe even a touch of self-doubt."

OTHER NEWS:

Bernanke Says Low Rates Not Indicative Of Looming Slowdown. USA Today (3/21, Kirchhoff, 2.31M) reports, "Federal Reserve Chairman Ben Bernanke said Monday the fact that long-term interest rates have stayed low, even though the central bank has been raising short-term rates since mid-2004, does not indicate a major, looming economic slowdown." But "in a speech to the Economic Club of New York, Bernanke said the reasons for the tame long-term rates, unusual during a period of Fed tightening, are unclear, as are the implications for future policy." USA Today adds, "If low long-term rates signal investor expectations of a slower economy, a Fed response might be to ease short-term rates. If other factors, such as a decline in long-term inflation fears or higher demand, are in play, that would be more stimulative, and the Fed might need a higher short-term rate, he said."

The New York Times (3/21, Porter, 1.19M) reports the Fed chairman said he is "skeptical about the argument that the economy will slow in the near future, a view that many investors may take as a sign that the Fed is not quite near the end of its string of interest rate increases," and the Financial Times (3/21, Balls) runs a similar report under the headline "Bernanke Dismisses Fears Of US Slowdown." The Washington Post (3/21, D3, Henderson, 744K) also reports the story.

Meanwhile, the Wall Street Journal (3/21, Ip, 2.11M) says that "for the first time since Mr. Bernanke became chairman, the Fed's policy-making committee meets Monday and Tuesday. It is expected to raise the funds rate by one-quarter percentage point to 4.75%." It also "is likely to signal a bias to raise rates further, though possibly with less certainty than it has to date."

Leading Indicators Down 0.2% In February. The Wall Street Journal (3/21, McAuley, 2.11M) reports, "A gauge of future economic activity slipped 0.2% in February to 139, according to preliminary estimates by the Conference Board." The group said "its composite index of leading indicators edged down in February after a revised 0.5% increase in January, when the index was originally reported to have increased 1.1%. The February reading for the leading index came in slightly less weak than the -0.3% median estimate of 21 economists surveyed by Dow Jones Newswires." The index "was equal to 100 in 1996."

US Gasoline Prices Up 14 Cents In One Week; Oil Prices Down. NBC Nightly News (3/20, story 8, 0:20, Brown, 9.87M) reported, "If you are trying to outrun the spring storms and head somewhere warm, it will cost you. Gas prices jumped nearly 14 cents a gallon since last week to just above $2.50 a gallon nationwide. That is the third-biggest weekly jump ever and the highest price ever for the month of March." Meanwhile, the Wall Street Journal (3/21, Civils, 2.11M) reports oil prices "plunged Monday," with "benchmark light, sweet crude futures for April, set to expire Tuesday," falling "$2.35, or nearly 4%, to settle at a one-week low of $60.42 a barrel on the New York Mercantile Exchange."

Stock Markets Have Mixed Finish. NBC Nightly News (3/20, story 9, 0:10, Brown, 9.87M) reported, "On Wall Street today, stocks finished narrowly mixed. The Dow was down just over 5 points on the day [to close at 11,274.53]. The NASDAQ gained nearly 8 points [to close at 2,314.11]." The Wall Street Journal (3/21, Browning, 2.11M) reports the Standard & Poor's 500-stock index "fell 0.17%, or 2.17 points, to 1305.08, up 4.6% this year."

"Da Vinci Code" Trial Wraps Up In London. The Washington Post (3/21, C1, Sullivan) reports, "The 'Da Vinci Code' copyright infringement trial, which ended in a London courtroom Monday, combined lively peeks into a celebrity author's lifestyle and hours of legal arcana so numbing that they put a white-wigged attorney to sleep within feet of the judge." The Post continues, "Fans of media-shy author Dan Brown learned that his inspiration to write fiction came on a Tahitian vacation when he read Sidney Sheldon's alien-invasion thriller 'The Doomsday Conspiracy.' The next day lawyers were arguing about obscure points of religious history, such as whether and why Pepin the Fat murdered Dagobert II, and what Godefroi de Bouillon was really up to during the First Crusade." The Post adds, "In 12 days of testimony over three weeks, authors Michael Baigent and Richard Leigh tried to prove that Brown stole the idea for his mega-selling novel from a nonfiction book they published in 1982, 'The Holy Blood and the Holy Grail.' Judge Peter Smith, a man so soft-spoken that his words often seemed to have

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trouble escaping his thick black mustache, said he hoped to issue a ruling by April 8. … At stake is a multimillion-dollar slice of Brown's pie, which includes sales of nearly 40 million books and an upcoming Hollywood film starring Tom Hanks that, if 'Da Vinci's' luck holds, is expected to sell movie tickets and Raisinets from here to the Sea of Tranquillity. (And next week the paperback, a massive 5 million copies, will finally hit U.S. shelves.)"

Penn Says Swing Voters, Not Base, Key To Election Victories. Mark J. Penn, head of a polling firm that conducted surveys for President Bill Clinton in 1996, writes in the Washington Post (3/21, A17, 744K), "We hear it every day: America is divided into two camps -- red and blue -- and the key to elections is just energizing the base. But in fact, while the base is critical, it's not the whole picture. Behind all the rhetoric, the reality is that swing is still king. The two or three or 10 voters who are the quietest in focus groups, who never demonstrate and who belong to no political party, will be the ones who determine the political course of America. … Recent polls show that rather than a static electorate, we have a dynamically changing one. Based on the polls six months ago, journalists were declaring Republican hegemony. Today, Democrats have the widest margin in two decades on the generic congressional vote."

Gore Says He Has No Plan To Run For President In 2008. The Washington Times (3/21, Pierce, 90K) reports in its "Inside Politics" column, "Former Vice President Al Gore said yesterday he has no plans to run for president in 2008, but hasn't ruled out a future in politics." However, the Atlanta Journal-Constitution (3/21, Shepard, 430K) reports that "even those who were part of his inner circle in 2000," when Al Gore "lost the White House to George W. Bush in one of the closest and most controversial presidential elections in American history, still don't have a clear idea what the former vice president is thinking in terms of a 2008 campaign. … Speculation about Gore's intentions has intensified in recent weeks due to three events: his Martin Luther King Jr. holiday speech in January lambasting the president for 'breaking the law' with his warrantless domestic surveillance program; his message to Democratic donors in February soliciting funds for the Democratic Senatorial Campaign Committee; and his party fund-raising appearances this month in Florida, the scene of the contentious vote recount that ended with a Supreme Court ruling that made Bush president in the 2000 election." Gore's activities "prompted pollster Lee Miringoff to include Gore in a recent poll on possible Democratic 2008 contenders. It found Gore was second only to Sen. Hillary Rodham Clinton of New York. Clinton was the favorite of 33 percent, Gore was the choice of 17 percent."

Rice Not Applying For NFL Commissioner. State Department spokesman Sean McCormack said Monday that Secretary of State Condoleezza Rice is not applying for the NFL commissioner's job which has recently become open. The AP (3/21) reports, "Rice, who is avid particularly in support of the Cleveland Browns, is enjoying being secretary of state 'at the moment,' spokesman Sean McCormack said. The wiggle-room in his response after NFL commissioner Paul Tagliabue announced he would retire resonated off frequent only half-joking statements by Rice that as a lifelong football fan she aspires to run the league one day."

Dell To Double Its Workforce In India. Dell plans to double its employee strength in India to 20,000. The New York Times (3/21, Rai, 1.19M) reports, "Dell, which is based in Round Rock, Tex., has four call centers in India, where the bulk of its 10,000 employees work, as well as software development and product testing centers." The Times adds, "Salaries in India are rising rapidly, but still are about a fifth of what they are in the West for comparable jobs. … In a market where the penetration of computers is very low, companies such as Dell are eager to set up a manufacturing base to help expand sales. Dell accounts for about four percent of the 4 million computers purchased in India."

Dionne Says Republican Moderates Are Gone. E.J. Dionne writes in the Washington Post (3/21, 744K), "Boehlert chose to retire in the year when National Journal, the political world's answer to Sports Illustrated, featured him as the ultimate 'Down the Middle' guy. In its Feb. 25 issue, the magazine published its annual ratings, which showed that Boehlert's votes were more liberal than those of 52.2 percent of House members and more conservative than 47.8 percent." Dionne adds, "I'll miss Boehlert and his optimistic moderation. Our politics worked better when a sufficiently large band of Republican moderates and liberals could take the edge off polarization and orient government toward problem-solving."

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WPost Objects To Ginsburg Insinuations In Making Foreign Law Argument. An editorial in the Washington Post (3/21, 744K) says, "In a speech last month at the Constitutional Court of South Africa, Justice Ruth Bader Ginsburg made some unfair insinuations about critics of the use of foreign law in American courts. Justice Ginsburg was defending what is, in our view, a perfectly defensible proposition: that American courts should 'learn from legal systems with values and a commitment to democracy similar to our own.' Yet in doing so, she managed to link those who take an opposing view to the legacies of slavery and apartheid and to paint them as 'fuel[ing] the irrational fringe' in its threats against judges." The Post adds, "We agree with Justice Ginsburg and the court majority that American courts need not pretend that foreign courts do not exist. … Justice Ginsburg has a strong case to make without stooping to such insinuations."

US Officials Believe Iran Aiding Al Qaeda. The Los Angeles Times (3/21, Meyer, 958K) reports, "US intelligence officials, already focused on Iran's potential for building nuclear weapons, are struggling to solve a more immediate mystery: the murky relationship between the new Tehran leadership and the contingent of Al Qaeda leaders residing in the country. Some officials, citing evidence from highly classified satellite feeds and electronic eavesdropping, believe the Iranian regime is playing host to much of Al Qaeda's remaining brain trust and allowing the senior operatives freedom to communicate and help plan the terrorist network's operations." They also "suggest that new President Mahmoud Ahmadinejad may be forging an alliance with Al Qaeda operatives as a way to expand Iran's influence or, at a minimum, that he is looking the other way as Al Qaeda leaders in his country collaborate with their counterparts elsewhere."

Bush Warns Iran He Would Use Military Force To Defend Israel. AFP (3/20) reports, "US President George W. Bush said he hoped to resolve the nuclear dispute with Iran with diplomacy, but warned Tehran he would 'use military might' if necessary to defend Israel." Said Bush, "The threat from Iran is, of course, their stated objective to destroy our strong ally Israel. That's a threat, a serious threat. It's a threat to world peace. … I made it clear, and I'll make it clear again, that we will use military might to protect our ally Israel."

Key Security Council Members Cannot Agree On Tehran Strategy. The Washington Post (3/21, A12, Lynch, 744K) reports Germany and the five permanent members of the UNSC "failed to reach agreement at a meeting Monday on how to respond to the Iranian nuclear crisis but said they would forge ahead in the coming days to break the impasse." While the British representative denied that London has offered a new diplomatic solution, Under Secretary Burns "said the United States is not going to participate in direct negotiations with Iran on the nuclear issue." The Post says the meeting's six-way joint statement resulting "echoed an agreement Secretary of State Condoleezza Rice had reached with those five governments in January." The AP (3/21, Lederer, Jahn) reports Britain "is calling for new talks with Iran about its suspect nuclear program but will push for militarily enforceable U.N. Security Council sanctions if those talks do not make progress, according to a letter obtained by The Associated Press." The proposal is angled toward Russia and China, allies of Tehran who staunchly oppose firm Security Council action."

Ahmadinejad Says West Should Apologize. The AP (3/21, Karimi) reports Ahmadinejad yesterday "said the West should apologize to Iran for accusing it of trying to develop a nuclear weapons program and said his country would continue to resist international pressure to halt its nuclear energy program."

Iranian Jews Fear Fallout. The Washington Times (3/21, Bradley, 90K) reports, "Members of Iran's Jewish community fear they are being set up to take the blame if President Mahmoud Ahmadinejad's drive to establish a nuclear program ends badly for the country." Members of the "30,000-strong community" say "they already are being viewed as a potential fifth column after a series of speeches in which the firebrand president has spoken of a 'Holocaust myth' and heaped scorn on Europe for its defense of the 'Zionist entity.'"

More Commentary. Jessica T. Matthews, president of the Carnegie Endowment for International Peace, writes in the New York Times (3/21, 1.19M), "The idea that 'it's too late' to stop Iran's progress toward building nuclear weapons is technologically wrong. 'There's nothing we can do about it' ignores a range of options between economic sanctions, going to war and more of doing nothing. And the argument that "we can learn to live with it" misses the nature of the challenge." A nuclear Iran "is dangerous enough, but this crisis is only proximately about Iran. More important, it is about the likely consequence of an Iranian bomb, namely, that Saudi Arabia, Turkey and Egypt would produce their own

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bombs, and, thanks to the concomitant international failure to deal with North Korea, the nonproliferation regime would collapse. What is at stake is not a choice between 9 and 10 nuclear weapons states, but a choice between 9 and 30 or more."

Israel Briefly Reopens Gaza Crossing. The New York Times (3/21, Myre, 1.19M) reports, "Israel reopened the main freight crossing to the Gaza Strip on Monday to allow delivery of flour and sugar to the Palestinians. But it abruptly closed the crossing after just a half-hour, citing security threats." The Israeli military "said there were security alerts, but did not provide additional details."

After Rice Meeting, Bahrain Leader Calls On Hamas To Engage Israel. The AP (3/21, Schweid) reports, "An Arab leader said Monday a Hamas-led Palestinian government has no alternative but to deal with Israel. 'They will be obliged to do that because the Palestinians, as a government, deal with Israel,' Crown Prince Salman bin Hamad bin Isa Al-Khalifa of Bahrain told reporters after meeting with Secretary...Rice. 'How can they deal with Israel if they don't recognize Israel?'" The crown prince went on to say, "This is an international Palestinian issue. ... We encourage our Palestinian brothers to be committed to all the agreements they were committed to over all the long years."

Nunn Voices "Serious Concerns" About India Nuclear Deal. The Washington Post (3/21, A9, Kessler, 744K) reports Nuclear Threat Initiative co-chair and former Senate Armed Services Chair Sam Nunn "said yesterday that he has serious concerns the [India nuclear] deal would harm the 'United States' vital interest' in preventing nuclear proliferation and urged Congress to set conditions for its support." The Post calls Nunn's remarks "a setback for the administration's efforts to win approval of" the nuclear pact. Nunn "said he is concerned it would lead to the spread of weapons-grade nuclear material, unleash a regional arms race with China and Pakistan, and make it more difficult for the United States to win support for sanctions against nuclear renegades such as Iran and North Korea." The Post repeats Under Secretary Burns' remarks last week "that congressionally mandated conditions could cause the agreement to unravel. He and other administration officials say the agreement is a groundbreaking achievement that will bring India, which has not signed the nuclear Non-Proliferation Treaty, into the nonproliferation mainstream, while bolstering U.S.-India ties and adding jobs to the U.S. economy."

NATO Secretary-General Pledges Alliance Force For Darfur. The AP (3/20, Schweid) reports NATO Secretary-General Jaap De Hoop Scheffer told President Bush Monday that "NATO is prepared to support a U.N. force in the Darfur region of Sudan." The AP notes that "Bush has called for greater NATO involvement in Darfur" but "said the African Union must request that its mission in Darfur be converted to a U.N. mission. When that happens, NATO can move in with U.S. help 'to make it clear to the Sudanese government that we're intent upon providing security for the people there and intent upon helping work toward a lasting peace agreement.'" The AP reports Secretary Rice made similar statements after her meeting with De Hoop Scheffer. Assistant Secretary McCormack "issued a statement, meanwhile, criticizing the Sudanese government's closing of several U.S.-supported social development, health and food distribution offices. [He] urged the government in Khartoum to remove immediately all obstacles to delivery of humanitarian assistance and to provide protection for civilians and aid workers."

US Calls For New Belarus Vote. The New York Times (3/21, Chivers, Myers, 1.19M) reports, "The United States declared the results of the president election in Belarus invalid on Monday and called for a new race, even as President Aleksandr G. Lukashenko defiantly swept aside criticism and declared himself the winner of a third term." White House spokesman Scott McClellan is quoted saying, "The United States does not accept the results of the election. ... We support the call for a new election." Appearing on state television after official results gave him 83 percent of the vote, "Mr. Lukashenko exuded confidence and said the outcome had 'convincingly demonstrated who the Belarussians are and who is the master of our house.'"

The Washington Post (3/21, A1, Finn, 744K) adds, "The United States will work with the European Union to possibly freeze the foreign assets of Belarussians responsible for electoral fraud or human rights violations." McClellan is quoted saying the campaign "was conducted in a climate of fear. It included arrests and beatings and fraud. We applaud democrats in Belarus for their courage and peaceful stand." Bloomberg (3/21, Neuger) adds, "The Vienna-based

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Organization for Security and Cooperation in Europe said about 400 observers found 'substantial empirical evidence' of fraud. The elections were not 'free and fair,' the group said." The Financial Times (3/21, Buckley, Wagstyl, Dombey), Washington Times (3/21, Mainville, 90K), AP (3/21, Danilova) and Christian Science Monitor (3/21, Weir, 61K), among other sources, also report the story.

WPost Says Russia Prefers Dictatorships In Europe. An editorial in the Washington Post (3/21, A16, 744K) says, "After years of tolerating a dictatorship on their borders, European countries finally are taking measures against Belarus. … All of this might have a decisive impact if not for the countervailing influence of Russia, which still prefers dictatorships in Europe. The Post notes that the G8 Chairman, Russian President Vladimir Putin, "publicly congratulated Mr. Lukashenko yesterday." Putin's policy "is to preserve Russia's domination of its neighbor by backing a dictator who falsifies elections, has murdered leading opponents and enriches himself through arms sales to such countries as Iran and Sudan. That presumably won't stop President Bush and the six other leaders of Western democracies from toasting their G-8 chairman in St. Petersburg this summer. Too bad the national security strategy seems not to extend that far; Mr. Putin's emerging autocracy also deserves some adversaries."

Courted By China, Buffeted By Western Neighbors, Putin Faces New Ascendancy. The AP (3/21, Meyer) reports, "The Kremlin may be reclaiming a dominant role in its former Soviet backyard. In Belarus, Moscow-allied strongman Alexander Lukashenko just won re-election by a landslide — at least by the official count. And President Vladimir Putin's allies could return to government in Sunday's Ukrainian parliamentary election, just over a year after the Orange Revolution. Such developments set back Western hopes of a democratic tidal wave in the former Soviet sphere and could further tarnish Putin's democratic credentials as he tries to cast himself as a statesman capable of brokering deals with Iran and Hamas."

Meanwhile, as Putin arrives in China for "his fifth meeting in under a year with the Chinese president," a separate AP (3/21, Eckel) says, "With China's wealth and might on the ascendancy, Putin's meetings with Chinese President Hu Jintao and other officials are expected to be spectacles of symbolism and overtures to Russia's gigantic neighbor." Hoping to ink a major pipeline deal, "officials in both Moscow and Beijing are looking to spur new investment between the former Cold War adversaries and double last year's $29 billion in trade by 2010." The two Eurasian behemoths "have also moved to deepen political ties following years of Cold War suspicion. Both have pledged commitment to a 'multipolar world' and last year warned other nations against attempts to dominate global affairs and interfere in sovereign nations' domestic matters." The Financial Times (3/21, McGregor, Yeh) reports Putin "arrives in China on Tuesday for a visit that Beijing hopes will secure it a decisive advantage over Japan in their lengthy battle to secure the route of an oil pipeline from east Siberia."

Mexican Government Takes Out Full-Page Ads In US Newspapers. The Dallas Morning News (3/21, Mittelstadt) reports, "Worried by the sometimes harsh tone of the immigration debate unfolding in the US, the Mexican government on Monday took its message directly to the American public: As your neighbor, we want to work with you to fashion a solution. In full-page ads in The New York Times, Washington Post and other newspapers, the Mexican government acknowledged a shared responsibility to address illegal immigration and to stem its citizens' northward exodus by creating more jobs at home." Designed by Dallas-based Allyn & Co., the ad says "the US should allow Mexico to participate in the 'design, management, supervision and evaluation' of a guest worker program that should cover 'the largest possible number of workers and their families' currently in the US illegally."

Proposed Tariffs On Chinese Imports Called "Close To Economic Suicide" For US. The Wall Street Journal (3/21, Dean, 2.11M) reports, "Morgan Stanley Chief Economist Stephen S. Roach said Tuesday that a successful move by the US Congress to pass sweeping tariffs on imports from China would be 'close to economic suicide' for the U.S." US Sens. Charles Schumer and Lindsey Graham "have proposed a bill that would impose 27.5% tariffs on all Chinese imports unless Beijing sharply revalues its currency." Roach, "in Beijing for meetings with Chinese officials, told reporters Tuesday that he believes that bill would easily pass in the Senate, and could well pass in the House of Representatives as well." He added the tariffs "would be a 'horrible mistake' that could prompt Beijing to cut back on purchases of US treasuries, leading to a weaker dollar and higher interest rates."

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French Protesters Call For Strikes Next Week. The New York Times (3/21, Smith, 1.19M) reports, "French students and unions stepped up pressure on the government today, calling for more demonstrations culminating in strikes next week to fight a hotly contested new labor law that makes it easier for companies to fire young employees." The protesters "set March 28 as the fourth 'day of action' since street rallies over the new job rules began Feb. 7."

In an editorial titled "The Decline Of France," the Wall Street Journal (3/21, 2.11M) says, "The right to assemble is a pillar of free society. But in France it's the only pillar its citizens seem to take seriously. So much so that any public debate of import gets conducted in the streets rather than through the ballot box or institutions of a purportedly mature democracy. In less enlightened societies, as opposed to the birthplace of the Enlightenment, that's usually called mob rule." But "the violent street demonstrations roiling France's cities today, and the unhappy career prospects of Prime Minister Dominique de Villepin, are the latest symptoms of an ailing democracy."

Danish Emphasis On Retraining Said To Have Cut Jobless Rate In Half. The Wall Street Journal (3/21, Walker, 2.11M) reports, "Most of Western Europe is fighting to hold on to its traditionally strong job protections while in some cases cutting jobless benefits, as the region struggles to compete in a globalized economy. Denmark has gone the other way." The government "allows liberal hiring and firing as in the US. And it has imposed limits on the duration of its high unemployment benefits." But "it also invests more than any other country, as a percentage of its gross domestic product, in retraining the jobless -- a combination it calls 'flexicurity.' Its unusual mix of the free market and big government has helped Denmark cut its unemployment rate in half, from about 10% in the early 1990s to U.S.-style levels of under 5% now."

Blair Government Proposes Ban On Secret Loans To Political Parties. The Washington Post (3/21, A9, Jordan, 744K) reports, "The government of Prime Minister Tony Blair on Monday proposed banning secret loans to political parties to try to end a financing scandal blamed for sending Blair's popularity ratings to record lows." Charles Falconer, the cabinet minister in charge of the judiciary, "said he would immediately seek to amend campaign finance laws to force political parties to disclose who lends them money." Blair's Labor Party "said Friday that it had accepted loans worth more than $24 million from unidentified donors. Under British law, political parties must disclose the source of donations, but they do not have to declare the source of loans." Blair "has been badly hurt by recent disclosures that several wealthy businessmen who privately lent money to his campaign were then recommended for seats in the House of Lords, the upper house of Parliament."

Protesters Continue To Demand Thai PM's Resignation. The Washington Post (3/21, A9, Sipress, 744K) reports, "For several weeks, Thai Prime Minister Thaksin Shinawatra has faced nightly demonstrations demanding his ouster. Tens of thousands of protesters have crowded into the capital, joining ranks with brown-robed monks, Chinese opera performers and tribal children in colorful costumes." The "spectacle" so far "has remained peaceful, though the potential for violence is growing as Thaksin refuses to budge."

Ethiopian Regime Cracks Down On Critics. The Washington Times (3/21, Pisik, 90K) reports, "A climate bordering on fear has taken hold of the Ethiopian capital as journalists, lawyers and politicians carefully measure their public remarks and contacts in the face of widespread arrests and prosecutions." The Times adds "tens of thousands…have been arrested on a variety of charges, according to Amnesty International, most of these stemming from violent political demonstrations in November. Advocates say it is impossible to know how many are still being held." Human Rights Watch "offers anecdotal reports of farmers denied fertilizer and seed because of their political affiliations, nighttime sweeps by federal police and beatings at checkpoints. Most independent newspapers have been shut down."

NYTimes Backs Liberian Request For Taylor's Extradition From Nigeria. The New York Times (3/21, 1.19M) editorializes, "Last week, Liberia's new president, Ellen Johnson Sirleaf, called for Nigeria to extradite the former president and warlord Charles Taylor to face war crimes charges. Mr. Taylor, who has been living in a Nigerian government guesthouse since 2003, is wanted on a range of charges relating to his decade-long West African rampage, which unleashed campaigns of torture, rape and dismemberment in Ivory Coast and Sierra Leone and on his

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home turf, Liberia." The Times adds, "In a just world, Mr. Taylor would have already been tried, condemned and sent up the river. … For West Africans, who have endured more than a decade of war, there's no justice without peace."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Agent Faults FBI On 9/11."
"Attack Of The Pandas."
"Choices Shrink In Drug Plan, Study Says."
"Welcome To Maywood, Where Roads Open Up For Immigrants."
"Some U.S. Officials Fear Iran Is Helping Al Qaeda."
"As Japanese Bring Work Home, Virus Hitches A Ride."
"Downsizing And In Debt, Idealab Chief Still Pitching."

USA Today:
"US Tax Refunds Break Records."
"Fear Of Flying Can Cripple Workers."
"States Allow Deadly Self-Defense."

New York Times:
"Banker Granted Retrial In A Case From 90's Boom."
"2 Years After Soldier's Death, Family's Battle Is With Army."
"New Business Blooms In Iraq: Terror Insurance."
"NYU And Columbia To Receive $200 Million Gifts For Research."
"Visitors Seek A Taste Of Revolution In Venezuela."
"Airline Workers Are Left At Gate, Mourning A Perk."

Washington Post:
"FBI Was Warned About Moussaoui."
"Conviction Of Ex-Star Banker Tossed Out."
"An Iraq Success Story's Sad New Chapter."
"Overnight Success, Instant Changes At George Mason."
"Conservationists Vie To Buy Forest Habitat."
"Belarus Leader Defiant After Reelection As US, EU Threaten Sanctions."

Washington Times:
"George Mason Basketball Has Finally Arrived."
"Bush Pledges Not To Give In To Insurgents."
"Jews Wary Of Becoming Fall Guy For Iran's Woes."
"US Eyes Privatizing Cargo Security Work."
"DC Schools Salaries Skyrocket."
"Ethiopia Gripped By Harsh Regime."
"Freezing Nuns A Result Of Patriot Act Move."

Detroit Free Press:
"Little Caesars Thinks Huge."
"Hospital To Give Detroit A Shot In Arm."
"As Best Pals, Belbin And Agosto Dance For History."
"Zoo Aid Likely, But On Legislature's Timeline."

Atlanta Journal-Constitution:
"DeKalb Tax Freeze Closer."
"Divorce Wait Bill Likely Dead This Session After House Balks."
"Bush Defends Agenda, Motives."
"Termite Panic Is Much Ado About Nothing."
"NFL Chief Goes Out On Top."

Houston Chronicle:
"Perry Orders Up Evacuation Plan."
"Suspected Killer 'B-Stupid' Arrested."
"FBI Agent Says He Warned His Bosses About Moussaoui."
"DeLay Case May Once Again Face Bias Issue."
"'They Make Him Into Something He Wasn't.'"

Story Lineup From Last Night's Network News:
ABC: Bush-Iraq Speech; Iraqi Security Forces; Iraqi Insurgents; Iraqi Divisions; Khalilzad Interview; Military Families; Iraq Retrospective.
CBS: Bush-Iraq Speech; Iraq-US Military Investigations; Iraqi Insurgents; FBI-Moussaoui; Hurricanes-Global Warming; US-Extreme Weather; Smoking Laws-Premium Cigarettes; Tagliabue-Retirement Announcement; Attention Deficit Disorder-Athletes.
NBC: Bush-Iraq Speech; Marines-Shooting Investigation; Iraq-Citizens; Saddam's Cabinet-CIA Contact; FEMA-Relief Payments; Australia-Cyclone; US-Extreme Weather; Gas Prices; Stock Markets; National Anthem-Correct Lyrics Promotion.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Nagin-New Orleans Rebuilding Plan; 2006 Hurricane Season; TX-Roof Collapse; Iraq-Iraqi Police Officers Killed; Bush-Iraq;
CBS: Iraq-Police Officers Killed; Bush-Iraq; Moussaoui Sentencing; World Baseball Classic; Midwest Snowstorm; Wall Street.
NPR: Iraq-Police Officers Killed; Bush-Iraq; Moussaoui Sentencing; Red Cross-Katrina Relief Fraud; Midwest Snowstorm; UN Human Rights Commission-Session

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Canceled; World Baseball Classic; NFL-Tagliabue Retirement.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.

White House:

PRESIDENT BUSH — Meet with President Ellen Johnson Sirleaf of the Republic of Liberia; President and Mrs. Bush meet with Iraq and Afghanistan Non-Governmental Organizations. Roosevelt Room.

VICE PRESIDENT CHENEY — Arrives Scott Airforce Base, Illinois, open press; participates in a command briefing by General Schwarz, Commander of TRANSCOM, Building 1900, Scott Air Force Base; delivers remarks on Iraq and the global war on terror at a rally for the troops at Scott Air Force Base. Hangar 1, Scott Air Force Base, IL. Open press.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: SECURITY ISSUES _ American University's Washington College of Law hosts EMININT 2006 (Emerging Issues in National and International Security) to discuss emerging issues in national and international security. Highlights: Location: Room 603, American University's Washington College of Law, 4801 Massachusetts Ave. NW.

CHEMICAL SECURITY-CHERTOFF _ 9 a.m. - 10:30 a.m. Homeland Security Secretary Michael Chertoff delivers remarks on chemical facility security issues at the The National Chemical Security Forum. With Chris Beck, critical infrastructure specialist, House Committee on Homeland Security; Tim Scott, chief security officer, Dow Chemical; and others. Location: Capital Hilton, 16th and K Sts. NW.

CENSUS-HISPANICS _ 10 a.m. The Census Bureau holds a news conference to release new details on Hispanic-owned businesses. Location: Room 4830, main Commerce.

FEMINISTS-PENNA. SENATE _ 10 a.m. Kim Gandy of NOW PAC and Eleanor Smeal of Feminist Majority PAC will announce what they say is a major move in to mobilize both political resources and grassroots activists in order to make a difference in the Pennsylvania Senate race. Location: National Press Club, First Amendment Room.

DEFICIT REDUCTION LAWSUIT _ 10:30 a.m. Public Citizen holds a teleconference to discuss a lawsuit being filed Tuesday that challenges the validity of the Deficit Reduction Act of 2005 on constitutional grounds.The suit, being brought by Public Citizen, says the act is invalid because the bill that President Bush signed was passed by the U.S. Senate but not the U.S. House of Representatives. Bills must be approved by both chambers to become law. Notes: Call-in is 1-800-377-8846, passcode 36707396.. All material is embargoed until 10:30 a.m.

NATIONAL SECURITY-BUSH _ 10:30 a.m. - 12 p.m. The Brookings Institution hosts a discussion on the Bush national security strategy and meeting global challenges. With Carlos Pascual, Vice President and Director, Foreign Policy Studies; Ivo H. Daalder, Senior Fellow, Foreign Policy Studies; Richard A. Falkenrath, Senior Fellow, Foreign Policy Studies; Martin S. Indyk, Senior Fellow and Director, Saban Center for Middle East Policy; and Michael E. O'Hanlon Senior Fellow, Foreign Policy Studies. Location: The Saul/Zilkha Room, 1775 Massachusetts Ave. NW.

COX _ 12 p.m. The Committee for Economic Development holds a luncheon to release a new report on corporate governance in the wake of Sarbanes-Oxley, with featured speaker SEC Chairman Christopher Cox. Location: Atrium Ballroom, Washington Court Hotel, 525 New Jersey Ave. NW.

LOBBYING REFORM _ 12 p.m. The Cato Institute hosts a briefing, ``Lobby Reform or Retrogression.'' Briefers are Bradley A. Smith, former chairman of the Federal Election Commission and senior adviser to the Center for Competitive Politics; Nan Aron, president, Alliance for Justice; and John Samples, director, Center for Representative Government, Cato Institute. Location: Room B-354, Rayburn House Office Building.

COLLINS-PORTS _ 12:30 p.m. Senator Susan Collins accepts an award from the American Association of Port Authorities in honor of her selection as their ``Port Person of the Year'' for 2006. Location: Willard Inter-Continental Hotel, 1401 Pennsylvania Ave. NW.

SCIENCE-HEALTH LEADERSHIP FORUM _ 12:45 p.m. - 3:30 p.m. ResearchAmerica holds its 2006 national forum on leadership in science and health in the 21st century. With David Gergen, editor-at-large, U.S. News & World Report; Ralph Cicerone, president, National Academy of Sciences; Arden Bement, Jr., president, National Science Foundation; Carolyn Clancy, MD, director, Agency for Healthcare Research and Quality; Helen Darling, president, National Business Group on Health; Declan Doogan, MD, senior vice president, Pfizer Global Research and Development; Julie L. Gerberding, director, Centers for

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Disease Control and Prevention; John M. Leonard, MD, vice president, Global Pharmaceutical Development, Abbott; Myrl Weinberg, CAE, president, National Health Council; and Elias Zerhouni, MD, director, National Institutes of Health. Location: National Press Club, 14th and F Sts. NW.

BIRD FLU-ECONOMY _ 6 p.m. The Congressional Budget Office hosts a seminar, ``A Potential Bird Flu Pandemic: Possible Macroeconomic Effects." Participants are Robert W. Arnold, Congressional Budget Office; and Joseph A. Barbera, M.D., co-director of the George Washington University Institute for Crisis, Disaster, and Risk Management. Location: Conference room 483, Congressional Budget Office, 2nd & D Streets SW, 4th Floor.

SIRLEAF-LIBERIA _ 6:30 p.m. - 7:30 p.m. The Council on Foreign Relations hosts a speech by the new president of Liberia, Ellen Johnson Sirleaf. With Princeton Lyman, director of African Studies, Council on Foreign Relations. Location: Council on Foreign Relations, 1779 Massachusetts Ave., NW.

AMNESTY INTERNATIONAL-TORTURE _ 7 p.m. - 9:30 p.m. Amnesty International holds a public information forum, ``Torture and the War on Terror: What You Should Know and What You Can Do." Speakers include Congressman Moran; Barbara Olshansky, Deputy Legal Director of the Center for Constitutional Rights; and Major Tom Fleener, attorney for Ali Hamza Al Bahlul, a detainee at Guantanamo Bay. Rep. Jim Moran, D-Va., will address what specific actions Congress has taken with regard to U.S. torture policy and what needs to be done legislatively to prevent torture from occurring. Location: Room 329, George Mason University, Arlington Campus, 3401 N. Fairfax Drive, Arlington, Va.

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THE ATTORNEY GENERAL'S *NEWS BRIEFING*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, U.S. DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

DATE: TUESDAY, MARCH 21, 2006 7:45 AM EST

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TERRORISM NEWS:

Agent Testifies Senior FBI Officials Repeatedly Dismissed Moussaoui Concerns. At the penalty phase of al Qaeda conspirator Zacarias Moussoui's trial on Monday, defense lawyer Edward MacMahon cross-examined Minneapolis FBI Special Agent Harry Samit, who arrested Moussaoui in August 2001 and – as he testified earlier for the government on March 9 and yesterday in greater detail – unsuccessfully sought approval from FBI headquarters for a warrant to search Moussaoui's computer and belongings because Samit believed he was a terrorist who wanted to use an airliner for an attack in the US. Samit's testimony receives heavy print press coverage which emphasizes his contention, as the AP (3/21, Sniffen) puts it, "'criminal negligence' by superiors in Washington thwarted a chance to stop the 9/11 attacks."

The CBS Evening News (3/20, story 4, 2:30, Schieffer, 7.66M) was the only network which covered the testimony, noting it was "an embarrassment a day for the Federal Government." CBS (Stewart) added Samit "was supposed to be the government's star witness," but he "accused his own headquarters of 'criminal negligence' for not investigating Moussaoui hard enough. And that failure, he testified, directly prevented 'a serious opportunity to stop the 9/11 attacks and save innocent lives.'" Samit "blamed the lack of action on careerism within the bureau."

Under the headline "FBI Witness In Moussaoui Trial Faults Superiors," The Los Angeles Times (3/21, Serrano, 958K) adds that "Samit also said his superiors did not share other critical counterterrorism intelligence with him, such as a memo from the FBI's Phoenix office about suspected terrorists taking flight lessons and a briefing for President Bush citing intelligence that planes might be hijacked. … His testimony undermined the prosecution's argument for sentencing Moussaoui to death, even though he was in jail for overstaying his visa at the time of the attacks."

The New York Times (3/21, Lewis, 1.19M) notes, under the headline "F.B.I. Discounted Suspicions About Moussaoui, Agent Says," Samit "said that two senior agents declined to provide help in getting a search warrant, either through" the FISA court "or through a normal application to any federal court for a criminal investigation," and his testimony "appeared to provide a lift for the defense."

Under the headline "FBI Was Warned About Moussaoui," The Washington Post (3/21, A1, Markon, Dwyer, 744K) adds that Samit "warned his supervisors more than 70 times that Moussaoui was a terrorist and spelled out his suspicions that the al-Qaeda operative was plotting to hijack an airplane." His "testimony added striking detail to the voluminous public record on the FBI's bungling of the Moussaoui case. It also could help Moussaoui's defense."

USA Today (3/21, 3A, Johnson, 2.31M) reports, "Samit's FBI superiors at the time did not believe he had enough evidence to support a warrant for either a criminal or intelligence investigation," the Patriot Act "has made it easier for federal authorities to obtain such warrants in terrorism investigations."

The AP (3/21) reports, "The FBI agent who arrested Zacarias Moussaoui in August 2001 testified Monday that he spent almost four weeks trying to warn U.S. officials about the radical Islamic student pilot but that 'criminal negligence' by superiors in Washington thwarted a chance to stop the 9/11 attacks." The AP continues, "FBI Agent Harry Samit of Minneapolis originally testified as a government witness on March 9, but his daylong cross examination by defense attorney Edward MacMahon was the strongest moment yet for the court-appointed lawyers defending Mr. Moussaoui. The Frenchman of Moroccan descent is the only person charged in this country in connection with al-Qaeda's Sept. 11, 2001, attacks on the World Trade Center and the Pentagon." The AP adds, "Mr. MacMahon displayed a communication addressed to Agent Samit and FBI headquarters Agent Mike Maltbie from a bureau agent in Paris relaying word from French intelligence that Mr. Moussaoui, 37, was 'very dangerous,' had been indoctrinated in radical Islamic fundamentalism at London's Finsbury Park mosque, was 'completely devoted' to a variety of radical fundamentalism that Osama bin Laden espoused, and had been to Afghanistan. … The communication arrived Aug. 30, 2001. The Sept. 11 commission reported that British intelligence told U.S. officials on Sept. 13, 2001, that Mr. Moussaoui had attended an al-Qaeda camp in Afghanistan. 'Had this information been available in late August 2001, the Moussaoui case would almost certainly have received intense, high-level attention,' the commission concluded. … But Agent Samit told Mr. MacMahon he couldn't persuade FBI headquarters or the Justice Department to take his fears seriously. No one from Washington called Agent Samit to say this intelligence altered the picture the agent had been painting since Aug. 18 in a running battle with Agent Maltbie and Agent Maltbie's boss, David Frasca, chief of the radical fundamentalist unit at headquarters. … They fought over Agent Samit's desire for a warrant to search Mr. Moussaoui's computer and belongings."

The Long Island Newsday (3/21, Riley) reports, "Prosecutors are trying to show that Moussaoui should get the death penalty because his lies prevented agents from thwarting the Sept. 11 attacks, while Moussaoui says he knew no details of the plot. Defense lawyer Edward MacMahon spent his five-hour cross-examination trying to show that the FBI's failure to act on Samit's instincts was to blame. … 'Your investigation here was to uncover the facts that Moussaoui was in fact a terrorist ... and you uncovered those facts didn't you?' MacMahon asked. 'I uncovered

enough facts to generate suspicion in my mind that he was a terrorist," Samit said, "But that's a far distance from being able to prove it.'"

Martin's Actions Cast Doubt On Death Penalty Push. The Legal Times (3/21, Kelley, Mclure) reports, "Almost from the beginning, the goal was clear: Zacarias Moussaoui must die. … This was the government's first, and likely only, chance to prosecute a suspect in the Sept. 11 plot in a U.S. court. And from the start, doing so would present a monumental challenge to federal prosecutors. With the world watching, the pressure would be enormous." The Times continues, "Pursuing a death sentence meant raising the stakes in what already was considered the highest-profile criminal case ever in the United States. For the team of three federal prosecutors it meant facing an unprecedented task: convincing a jury that Moussaoui should be executed even though -- by their own admission -- he wasn't directly involved in the attacks on the World Trade Center and the Pentagon. … The government's decision to seek death was scrutinized from the outset and continued to be so even after Moussaoui pleaded guilty, in April 2005, to participating in a conspiracy to commit acts of terrorism in the United States. But last week it became clear just how precarious the argument for death was. The government's case was in jeopardy of crumbling midway through the penalty phase of the trial after Transportation Security Administration lawyer Carla Martin allegedly tampered with government witnesses."

9th Circuit Critical Of DOJ Over Sri Lankan Man's Detention. The California Recorder (3/21, Scheck) reports, "Ahilan Nadarajah was detained as a terrorism suspect for nearly five years before he got to argue his case before the 9th U.S. Circuit Court of Appeals. It only took a three-judge panel 10 days to order his release." The Recorder continues, "In a unanimous decision Friday, Judge Sidney Thomas wrote that federal immigration officials can't detain an asylum seeker indefinitely after an immigration court orders his release. Thomas wrote that the government's interpretation that a Supreme Court opinion allowed indefinite detention was 'patently absurd.' … 'The general immigration detention statutes do not authorize the Attorney General to incarcerate detainees for an indefinite period,' Thomas wrote. He was joined by Judge Richard Tallman and Senior U.S. District Judge James Fitzgerald of the District of Alaska, who sat by designation." The Recorder adds, "Nadarajah's lawyer, Ahilan Arulanantham of the ACLU Foundation of Southern California, argued the case to the panel on March 7, and asked the judges to rule quickly, given the long detention at issue. … Immigration and appeals courts found that Nadarajah had been beaten, burned and hung upside down, his head submersed in gasoline, by Sri Lankan authorities. … But the Justice Department insisted that Nadarajah was a member of the rebel Tamil Tigers, which it classifies as a terrorist group. And after missing two hearings, a Department of Homeland Security agent appeared in an immigration court to provide evidence of Nadarajah's terrorist links."

Judge Approves Media Release Of Edited Hayat Interview Video. The AP (3/21, Thompson) reports U.S. District Court Judge Garland Burrell Jr., presiding over the Umer and Hamid Hayat trial, "approved releasing an edited version of their videotaped FBI interviews on Monday," over the objections of defense attorneys. "Edited out of the videotapes to be released will be mentions of two Islamic religious leaders who were deported to Pakistan last year and segments in which Umer Hayat speculates that four Lodi men could be preparing to commit terrorist acts." The AP notes, "Oakland television station KTVU sought release of the tapes" and was joined by "NBC and ABC affiliates in Los Angeles, San Diego and Sacramento." KXTV-TV Sacramento (3/20, Bishop) also reports on the ruling and notes that the station, which was part of the lawsuit, will air the videos and post them to its Web site.

Convenience Store Clerk Turned FBI Informant Is Central US Witness. The Los Angeles Times (3/21, Tempest, 958K) runs a profile of FBI informant Naseem Khan. "The picture of Khan that emerges from interviews with friends, co-workers and landlords in Bend…is of a quiet, hard-working, mostly solitary young man with an interest in law enforcement. … Last week, he shocked the Sacramento courtroom when he said he saw" Ayman al Zawahri at the Lodi mosque, and "he is expected to take the stand today for the first time since he made that claim, which terrorism experts discount as highly improbable." The Times goes on to detail Khan's recruitment and surveillance in Lodi, noting he "was first approached by FBI agents…after someone reported him as a possible terrorism suspect," but "quickly cleared of those suspicions, the $7-an-hour manager of the K Market convenience store was hired by the FBI…and was paid more than $200,000 in salary and expenses for his three-year undercover assignment."

Hayat Defense Is First Major Case For Young Afghan Immigrant. In a flattering profile of Hayat defense lawyer Wazhma Mojaddidi – who is only 18 months out of law school – the AP (3/21, Thompson) reports, "Despite her inexperience, Mojaddidi has stood her ground. She sparred with the prosecution's expert on Islamic religion and law" and "challenged an FBI linguist about the significance of news articles praising" bin Laden and the Taliban. "The case represents a leap for Mojaddidi, who previously was using her command of Urdu, Farsi and Pashto to help immigrants with family law cases." In an AP interview, "she described her family's flight from Afghanistan when was 5, what she described as a middle-of-the-night escape into Pakistan in 1979 after the Russian invasion."

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Bush May Have Mentioned NSA Surveillance Program To Musharraf In 2001. The Washington Post (3/21, A15, Eggen, 744K) reports "a brief passage" in Bob Woodward's book "Bush at War" raises the possibility that President Bush may have mentioned "the government's secret warrantless surveillance program to the president of Pakistan more than four years ago." Woodward "recounts a meeting between Bush and Pakistani President Pervez Musharraf at the Waldorf Towers in New York in early November 2001." On page 303, Woodward wrote, "He had become fascinated with the ability of the National Security Agency to intercept phone calls and other communications worldwide. If they got the key phone calls, future terrorism might be stopped, certainly curtailed. Bush summarized his strategy: 'Listen to every phone call and close them down and protect the innocents.'"

Al Qaeda Operative Disrupts Trial In Turkey. The Washington Post (3/21, A11, Vick, 744K) reports Louai al-Sakka, the "al-Qaeda operative accused of organizing the 2003 Istanbul bombings and a botched attempt to sink an Israeli cruise ship appeared in a Turkish courtroom on Monday -- and did his best to take it over." Al-Sakka, "who by his own account worked beside insurgent leader Abu Musab al-Zarqawi in Iraq, first told the court he was someone else, then was hustled out of the morning session after refusing to stand to address the judge." Sakka shouted, "I performed jihad and killed Americans! Why should I stand up in front of you? Should I stand in front of these liars?" The Post adds Sakka, "a Syrian described by Turkish officials as a senior figure in al-Qaeda, is accused of providing other operatives with about $170,000 from the group to carry out four truck bombings that killed 57 people over two days in November 2003."

PATRIOT ACT:

Banks Filing More Suspicious Activity Reports Under Patriot Act. The Washington Times (3/21, Haberkorn, 90K) reports that after the Holy Name Monastery of the Benedictine Sisters' bank account was frozen last year "because one of the account's signatories -- an 80-year-old nun -- didn't have an identification card on file," Sister Jean Abbott said that the bank blamed the USA Patriot Act "for the account freeze." The Times continues, "The number of suspicious transactions that financial institutions are reporting to the government has nearly tripled since the Patriot Act was passed in 2001." However, "The average consumer 'should not be concerned as long as the transactions they're doing are legit,' said Anne Marie Kelly, a spokeswoman for the Financial Crimes Enforcement Network, the Treasury Department bureau responsible for administering the Bank Secrecy Act."

Librarians, Civil Libertarians Remain Skeptical Of Patriot Act Safeguards. The New York Times (3/21, Cowan, 1.19M) reports, "Lawmakers may be giving themselves credit for having improved safeguards on civil liberties when they reauthorized" the Patriot Act, but "many librarians and civil liberties lawyers say the revisions did nothing to enable the guest of honor" at a January American Library Association meeting in Texas "to take the stage and discuss the Patriot Act without risk of prosecution. Known as John Doe in court filings, the guest of honor was the Connecticut librarian who was visited by the Federal Bureau of Investigation last year and presented with…a national security letter demanding patron records." The Times notes, "The section of the new law that addresses 'privacy protection for library patrons' states that library records are beyond the reach of national security letters so long as the library is not operating as an 'electronic communication service.' … But much of what a modern library does courses through its computers."

HOMELAND RESPONSE:

Chertoff Says DHS Planning Chemical Plant Security Crackdown. The AP (3/21, Jordan) reports, "Homeland Security Secretary Michael Chertoff said Monday his department will crack down on chemical manufacturers and storage facilities that he described as 'free riders' — those that haven't beefed up their security measures." Meanwhile, "Legislation is pending in the Senate to authorize Homeland Security to shut down facilities that do not comply with minimum safety standards. … Chertoff has not endorsed the plan, but he is expected on Tuesday to outline elements that he said would need to be in acceptable legislation."

The Wall Street Journal (3/21, A4, Block, 2.11M) reports that in a preview of today's remarks to the American Chemical Council, Chertoff told an audience at the Heritage Foundation that "chemical plants and, in fact, transportation of chemicals, remains a vulnerability. Progress on this has stalled for too long. We do need legislation and congressional action and leadership on this point,'" said Chertoff. "Chris VandenHeuvel, a spokesman for the American Chemistry Council, said he expects Mr. Chertoff will say legislation must give his department authority to work with the industry to set minimum security standards."

Chertoff Called "A Model Technocrat," But Not "Commanding Leader." Dana Milbank, in his "Washington Sketch" column for the Washington Post (3/21, A2, 744K) writes that a year after taking the job, Homeland

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Security Secretary Michael Chertoff "is getting much of the blame for the woeful Hurricane Katrina response, insufficient supervision of the Dubai port deal and domestic defenses that remain, by most accounts, unacceptably weak." Milbank writes that Chertoff is not "incompetent. … His problem, if anything, is he's a model technocrat in a position that sometimes demands a commanding leader." In a speech at the Heritage Foundation yesterday, rather than "telling people that he's protecting them," Chertoff said "that his department has 'done a lot to elevate the general baseline of security in this country.'" Milbank adds, "These kinds of statements…make the wiry Chertoff a big target for those building a case that the administration is lax about homeland security."

DHS May Outsource Some Port Security Processes. The Washington Times (3/21, Hudson, 90K) reports, "Homeland Security officials are looking to have private companies validate the security procedures under which cargo travels from foreign ports into US terminals." The Customs-Trade Partnership Against Terrorism "is now in the hands of 80 Homeland Security inspectors who have to plow through more than 10,000 applicants." DHS "is looking to outsource to private companies some of its duties, in particular the validation process, which has dragged for years and involves on-site inspections of ships and cargo abroad." Meanwhile, "Peter Tirschwell, publisher of the Journal of Commerce, called the Homeland Security idea an 'outsourcing of security.'"

Dubai Firm Delays Purchase Of US Military Manufacturer. The New York Times/Bloomberg News (3/21) the Dubai government "delayed its $1.2 billion purchase of a military equipment maker yesterday, the second time in a month that a takeover by the Middle East emirate has been jeopardized by American security concerns." Dubai International Capital "said that it would delay its acquisition of the Doncasters Group, a British company that has nine plants in the United States, by as much as two months from March 31 while government agencies review the purchase."

DPW "Debacle" Could Trigger Decline In Value Of Dollar. In a Washington Times op-ed (3/21), Michael R. Czinkota of Georgetown University says that while the Dubai Ports World deal debacle "appears to be over," there "may be significant long-term consequences for currency values and trade practices." What "appears to be not yet widely understood are the potential effects that these and similar policy decisions (such as the Unocal walk-away by China) can have on the value of global currencies and on trade flows. Congress' law of unintended consequences may strike again: The short-term direct effects of this action are likely to be far outweighed by the long-run indirect effects." It "does appear that in addition to growing international competitiveness of U.S. firms, changes in the value of the U.S. dollar are needed to reverse the astounding trade imbalances. The Dubai withdrawal may well be the watershed that triggers shifts in exchange rates now. The congressional debate, the national posture and the global repercussions may well form the basis of new Plaza Agreement-type conditions, which will gradually drive down the value of the dollar for the long term."

FEMA Seeking Return Of Disaster Relief Funds From 51,000 Families. NBC Nightly News (3/20, story 5, 2:15, Brown, 9.87M) reported, "Nearly $7 billion in direct relief was handed out last year to 1.7 million households, and now FEMA says some who got that aid didn't deserve it and they're trying to get that money back." NBC (Ellis) added FEMA says, "based on an audit…2% to 3% of households that got relief money probably didn't deserve it. And now FEMA is sending out this letter to about 51,000 families asking for the money back, up to $100 million." Marty Bahamonde, FEMA: "If we err on the side of helping people and have to ask for it back later, that's what we're doing now." Ellis: "Authorities say this kind of thing has happened before but never in this magnitude." The Government Accountability Office "alleges fraud for one thing. Thousands submitted duplicate or false Social Security numbers and in other cases, relief money was paid twice to the same family. But the GAO says FEMA is also to blame" because it did not have fraud prevention controls in place.

House Panel To Investigate Post-Katrina Contracts. The Government Accountability Office said last week that millions of dollars had been wasted in post-Katrina hurricane contracts and the Washington Post reported yesterday that contractors profits are resulting in overpriced cleanup work. In an article appearing on no less than 59 news websites, the AP (3/21) reports that the House Government Reform Committee "said Monday it would review several post-Katrina hurricane contracts for waste and abuse, citing recent concerns about limited oversight and the haste in which they were awarded." The committee "will hold at least one hearing in April, said Robert White, a spokesman for chairman Tom Davis, R-Va. Witnesses and the specific contracts that will be scrutinized have yet to be determined, he said."

Nagin Endorses Plan To Allow Rebuilding In All Neighborhoods. The Washington Post/AP (3/21, A3) reports New Orleans Mayor C. Ray Nagin endorsed a rebuilding plan Monday "that would allow all residents to rebuild their homes in neighborhoods shattered by Hurricane Katrina." Nagin, who is running for reelection on April 22, "distanced himself" from a plan recommended by his advisory commission in January "that some flooded neighborhoods be replaced with parks and that the city take a go-slow attitude in

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rebuilding low-lying areas." However, Nagin "warned that homeowners in flood-prone areas would do so at their own risk."

Officials Say More Bodies May Be Found In New Orleans. The Los Angeles Times (3/21, Simmons, 958K) reports that in New Orleans, "Eight bodies have been found since March 1, and with about 1,400 people still unaccounted for, Louisiana state officials said they could not rule out the possibility of finding others. Until recently, recovery teams were unable to retrieve bodies from the neighborhoods that were rendered uninhabitable and designated off-limits to residents." The Times notes that the task of "alerting families when a deceased relative had been identified, and then alerting families" moved from the federal government's Disaster Mortuary Operational Response Team to the Orleans Parish coroner's office in early March.

New Orleans Says It Will Need Federal Help Evacuating Residents. USA Today (3/21, Konigsmark, Hall, 2.31M) reports that New Orleans "doesn't have an emergency shelter," and with the approach of hurricane season, "local officials are asking for federal help to get people out of harm's way if another disaster strikes." Terry Ebbert, the city's director of homeland security "said he fears that without federal help, citizens could be stranded in the city with nowhere to go." He "sent written requests for help recently to Homeland Security Secretary Michael Chertoff and R. David Paulison, the acting director of the Federal Emergency Management Agency, both of whom he criticized for not reacting quickly enough. 'The silence has been deafening,' Ebbert said." However, DHS Undersecretary for Preparedness George Foresman "and FEMA will be in the region this week to get a 'clear, blunt assessment' of what's needed, Chertoff said Monday."

WAR NEWS:

Bush Sounds Upbeat Message On US Progress In Iraq. On the third anniversary of the start of the Iraq war, President Bush delivered a speech at the Cleveland City Club to highlight successes in the effort to combat the insurgency in Iraq. Bush cited the example of Tal Afar, an insurgent stronghold that was liberated by a joint US-Iraqi force. Many reports this morning note the President's comments about the "horrific violence" in Iraq, and its effect on Americans' morale. The Akron Beacon Journal (3/21, Chancellor, Abraham, 148K) reports Bush "said more days of sacrifice and fighting are ahead, but he predicted that freedom would prevail, in the same way that Germany and Japan were turned into democracies after World War II." He also "said a democratic Iraq would one day serve as an inspiration for freedom throughout the Middle East." Much of the media coverage of the speech is largely negative, with most stories citing sagging poll numbers for the Iraq mission. Many also report Bush was challenged by skeptical audience members on Iraq as well as other issues, such as the National Security Agency's domestic intelligence program.

Typical of the tenor of the reporting is the AP (3/21, Raum), which says that "beginning the fourth year of an unpopular war…Bush defended his Iraq record…against skeptical questioning." He "said he could 'understand people being disheartened'" but "appealed to Americans to look beyond the bloodshed and see signs of progress." Bush "fielded questions for nearly an hour at the City Club, a forum known for its tough interrogations of world leaders. Not only was he grilled on Iraq, but he also was asked to justify his warrantless wiretapping program, US relations with Pakistan and his domestic priorities."

Under the headline "Old Forecasts Come Back To Haunt Bush," the Washington Post (3/21, A14, VandeHei, 744K) runs a front-page story reporting, "Three years of upbeat White House assessments about Iraq that turned out to be premature, incomplete or plain wrong are complicating…Bush's efforts to restore public faith in the military operation and his presidency, according to pollsters and Republican lawmakers and strategists." The Post adds, "The last two weeks have provided a snapshot of White House optimism that skeptics contend is at odds with the facts on the ground in Iraq. … Pollsters and some congressional Republicans said the administration's sunny-side-up appraisals, instead of lifting the public mood, may now complicate the task of sustaining support for a long-term military commitment in Iraq. The loss of trust, they said, is affecting Bush's presidency more broadly, as polls show his public support at a nadir."

The story was reported on each of the networks. ABC World News Tonight (3/20, lead story, 1:35, Vargas, 8.78M) reported President Bush "used today's anniversary to send an optimistic message on Iraq. Public support for the war has fallen sharply in the last three years," and Bush said, "this is partly because reporters have missed stories of progress, while covering conflict." President Bush: "Others look at the violence they see each night on their television screens. And they wonder how I can remain so optimistic, about the prospects of success in Iraq. They wonder what I see that they don't."

The CBS Evening News (3/20, lead story, 2:45, Axelrod, 7.66M) reported that in a "new tactic designed to win over skeptics…Bush acknowledged what he called horrific violence in Iraq." President Bush: "And in the face of continued reports about killings and reprisals, I understand how some Americans have had their confidence shaken." Axelrod Bush then "pointed to Tal Afar as a model for how he intends to secure the rest of Iraq, describing the city of 200,000 as an example of a strategy called 'clear, hold and

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build.' Clear out the terrorists, hold the city with Iraqi forces, and build its economy and government."

NBC Nightly News (3/20, lead story, 4:45, O'Donnell, 9.87M) said Bush "provided unusual detail, a 20-minute explanation of how one northern Iraqi town struggled with US help to break from terrorist control." President Bush: "It came only after much trial and error. It took time to understand and adjust to the brutality of the enemy in Iraq." Questions "were not screened in advance. Two of 11 clearly supported the President." But others "sharply challenged Mr. Bush on issues including the mounting cost of the conflict, the President's warrantless spy program, and the rationale for war."

Knight Ridder (3/21, Hutcheson), meanwhile, says Bush "got an earful from skeptics who questioned his motives and his credibility." Bush "seemed taken aback when the first questioner asked him whether he views the conflict in biblical terms, as an apocalyptic struggle for the Middle East. Some of the president's critics have speculated that his Christianity and a wish to protect the Holy Land are behind his desire to transform the Middle East. 'The answer is, I haven't really thought of it that way,' he replied. 'First I've heard of that, by the way. I guess I'm more of a practical fella.'"

USA Today (3/21, Jackson, 2.31M) says Bush "has opened himself up to audience questions more frequently in recent months, starting with a December speech on Iraq before the Philadelphia World Affairs Council. Last week, he took critical questions on his prescription-drug program at a senior citizens center in Maryland." Bush "clearly enjoys the repartee." Adam Levine, a former Bush assistant press secretary, "says the president is 'at his best' in a give-and-take. More important, this lets him bypass the media."

CNN's The Situation Room (3/20, Blitzer) reported Bush "tried again to sound upbeat about the situation in Iraq, despite dwindling public support for the mission and for him." CNN's The Situation Room (3/20, Quijano) later said the President's appearance "was really part of the renewed push by the administration to shape public opinion on Iraq." The Los Angeles Times (3/21, Gerstenzang, 958K) says Bush's recent speeches on Iraq "reflect a two-fold campaign: To lower expectations and at the same time hold out prospects for a successful outcome. Unless pressed by a questioner, the president makes no mention any more of one of the original reasons for the invasion: the suspicion that Hussein was developing unconventional weapons. No evidence of such a program has been found." Rather, "Bush focuses on the effort to establish democracy in a part of the world where it is rare, and on placing Iraq at the center of his effort to secure the United States from terrorist attacks." He has also "avoided the optimistic language that Vice President Dick Cheney has used. … White House aides have concluded that Bush would lose credibility with such a rosy scenario." In a similar story, the Chicago Tribune (3/21, Silva, 643K) says the President "is taking a new tack of balancing a sober and chilling recognition of persistent bloodshed with an unrelenting optimism for eventual victory."

The New York Times (3/21, O'Neil, 1.19M) headlines its story "Bush Bluntly Defends Iraq Strategy, But Admits Missteps," and calls Bush's remarks "characteristically optimistic and unusually candid about shortcomings in the war's earlier phases and the suffering it caused for ordinary Iraqis." The speech "followed a carefully calibrated mix of optimism about eventual victory and caution about how long American troops would be involved that was displayed on Sunday by Mr. Bush, Vice President Dick Cheney and Secretary of Defense Donald H. Rumsfeld, who sounded much as they had on the first anniversary of the invasion."

Bloomberg (3/21, Keil) also reports Bush "said today that he remains optimistic about the outcome of the war that defines his presidency." The Financial Times (3/21, Daniel) notes that last week "a poll showed that only one third of Americans thought Mr Bush had a clear plan for Iraq. However, only 24 per cent thought the Democrats in Congress had a clear plan."

Offering a more positive view of Bush's speech, Fox News' Special Report (3/20, Cameron) reported, "The President argued insurgents know they can't win militarily so they are trying to provoke civil war to halt progress. He pressed Iraqis to act quickly in forming a consensus government." Fox added, "The President acknowledged in the short return run, there will be more challenge in Iraq, but he remains undaunted by public doubts." The Washington Times (3/21, Dinan, 90K) runs a similar story under the headline "Pledges Not To Give Into Insurgents."

Tal Afar Situation Said To Be "More Complex" Than Bush Acknowledged. The Washington Post (3/21, A1, Baker, 744K) reports that as Bush "tells the tale, the battle for Tall Afar offers a case study in how US and Iraqi forces working together can root out insurgents and restore stability. … Reports from the streets of Tall Afar, half a world away, offer a more complex story. US forces last fall did drive out radicals who had brutalized the mid-size city near the Syrian border. But lately, residents say, the city has taken another dark turn." The Post adds, "The twists of Tall Afar underline the difficulties Bush has had in reassuring a doubtful American public that progress is being made in Iraq. The president and his aides say that the positive developments in Iraq get overwhelmed by the grim pictures of mayhem and massacre that dominate the evening news. If Americans knew about the success stories, the White House maintains, they would understand Bush's confidence of victory." Yet "even the success stories seem to come with asterisks."

Number Of Iraqi Security Forces Increasing, But Equipment Still Lacking. ABC World News Tonight (3/20, story 2, 4:20, Vargas, 8.78M) reported, "The Pentagon has spent $10 billion already to strain and equip 128,000 Iraqi

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police and 113,000 Iraqi soldiers. But how many of them are truly ready to fight?" ABC (Raddatz) added that in Sadr City, the "biggest change here on this anniversary of the invasion, is that the American battalions that were here are now gone. About 1,500 soldiers replaced by Iraqi security forces. Today, only 37 American soldiers remain here. These Iraqis are now considered to be what the Pentagon calls 'Level 2' forces, meaning they are capable of taking the lead in a fight, as long as there are some US forces present." There are "currently 60 of these so-called Level 2 battalions across Iraq, which means more than 36,000 Iraqi security forces judged capable of leading a fight." But the Iraqi commander in Sadr City "tells us if things heat up here, his troops will be in trouble. 'The militia has the capability to defeat my soldiers,' he said. 'They have rocket-propelled grenades, mines and mortars. My soldiers have only AK-47 rifles.'"

Khalilzad Says Iraq "Bleeding," But Not In Civil War. ABC World News Tonight (3/20, story 5, 2:35, Vargas, 8.78M) interviewed US Ambassador to Iraq Zalmay Khalilzad, who said the US is "making progress. But it's a difficult situation that we are in." Asked why the Iraqi politicians are taking so long to form a government, Amb. Khalilzad said, "They are trying to form a government of national unity. Agree on a program. Agree on processes for decision making. There is not a lot of tradition for compromising. So it is not easy for them, given the background from which they come." Khalilzad said it is "a particular period of vulnerability" in Iraq because of the insurgent violence, adding, "I am optimistic they will make the right decision and form a government of national unity in the coming weeks." Khalilzad added that while there are "sectarian tensions" and "sectarian killings. Civil war, in my judgment, is not here yet. But the potential for increased sectarian violence is there. And terrorists are seeking to provoke it. The country is bleeding."

Biden Urges Bush To Bolster International Pressure On Iraqi Leaders. CNN's The Situation Room (3/20, Blitzer) reported, "A leading Democratic critical today is urging the president to take a political risk to try to improve the situation in Iraq. On this, the third anniversary of the US-led invasion, Senator Joe Biden is blaming what he calls the administration's, and I'm quoting now, 'dangerous incompetence for leaving Iraq or the brink of a full- blown civil war.'" Biden "says the president should personally fly to other countries to try to bolster international pressure on Iraqi leaders to form that kind of national unity government.'

Mehlman Says Iraq War Was "Worth It." RNC Chairman Ken Mehlman was asked on CNN's The Situation Room (3/20) about the recent CNN/USA Today/Gallup poll, which found that 37% say the situation in Iraq worth going to war over. Mehlman said, "It certainly was worth it. The fact is I believe, and I think most Americans who think about it, will recognize that we're safer."

Analysts Say Iraq War Has Put Middle East On Edge. Analysts say that three years into the Iraq war, the Middle East is experiencing heightened sectarian tensions between Sunni and Shiite Muslims, growing Islamic militance, high levels of anti-Western hostility and authoritarian regimes still clinging to power. The Christian Science Monitor (3/21, Blanford, 61K) reports, "The Iraq invasion jolted complacent regimes, especially as it coincided with nascent attempts by Arab democracy campaigners to push for reform. But, says Jordanian political commentator Rami Khouri, 'the way the American adventure in Iraq has gone has emboldened many Arab [regimes] to defy the US because they feel that it has gone badly in Iraq and the Americans are not likely to do this again.'" The Monitor adds, "The turmoil in Iraq is not solely to blame for the ills in the region, but it represents a powerful dynamic that has rippled across the Middle East feeding into other conflicts."

Hitchens Says Iraq Needs Federal Democracy, Power Sharing. Christopher Hitchens writes in the Wall Street Journal (3/21, 2.11M)that "if our apparent domestic demoralization continues, the options could come down to two. First, we might use our latent power and threaten to withdraw, implicitly asking Iraqis and their neighbors if that is really what they want, and concentrating their minds. This still runs the risk of allowing the diseased spokesmen of al Qaeda to claim victory. Second, we can demand to know, of the wider international community, if it could afford to view an imploded Iraq as a spectator. Three years ago, the smug answer to that, from most U.N. members, was 'yes.'" According to Hitchens, "Absent federal democracy and power-sharing, there will not just be anarchy and fragmentation and thus a moral victory for jihadism, but opportunist interventions from Iran, Saudi Arabia and Turkey."

Tierney Says Pentagon Did Not Prepare For Post-War Looting, Disorder. John Tierney writes in the New York Times (3/21, 1.19M) that the looting and disorder in Iraq were predictable. Some Pentagon officials 'did warn of civil disorder and crime, but they didn't do anything about it. They passed the buck to Gen. Tommy Franks, even though he didn't have enough troops or money for the job and showed little interest in postwar planning. … Looting, crime, mayhem — that was always someone else's department." Hitchens adds, "That summer, as Iraqis watched looters and criminals taking control, they kept asking why nobody put a stop to the crime. The answer from officials in Washington, it turns out, is the same one that would have been given by the old Iraqi police: not my job."

Gunmen Attack Iraqi Police Station Killing 15 Police Officers. Gunmen have ambushed a police station in the Iraqi city of Muqdadiyah today, killing 15 police officers and a guard at a nearby courthouse. The AP (3/21) reports, "The suspected insurgents struck at dawn, burning

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the police station and detonating a string of roadside bombs as they raced from the scene, a police spokesman in the region said."

Over 20 Dead In Iraq Violence Yesterday. The CBS Evening News (3/20, story 1, 2:45, Schieffer, 7.66M) reported, "The war in Iraq entered its fourth year today. And in Baghdad it was a day like so many others: 20 people were killed or found dead in and around the city, victims of one kind of violence or another. So far, 2,311 Americans and more than 30,000 Iraqis have died." NBC Nightly News (3/20, lead story, 4:45, Brown, 9.87M) reported, "For the insurgents in Iraq tonight, three years is just another opportunity for violence." The AP (3/21, Hurst) also reports on the violence.

Iraqis Said To Have Contradictory Emotions On Third Anniversary Of US Invasion. ABC World News Tonight (3/20, story 4, 3:15, Vargas, 8.78M) reported the Iraqi nation "of 26 million people is deeply divided along political and religious lines. It is also split on what life is like three years after Saddam and how to make it better." ABC (Harris) added, "After invasion and elections, new freedoms and new terrors, Iraqis today show a range of complex, competing emotions." They "express the same, seemingly contradictory emotions so common in Iraq today. They sometimes miss the days of Saddam, but don't want him back. They want the Americans to get out, but just not yet."

NBC Nightly News (3/20, story 3, 4:15, Engel, 9.87M) reported, "Few Iraqis imagined that three years after the war began, Iraq would still look like this. Since the US invasion, there has not been a single day without mortar fire, car bombings, or IED attacks."

The AP (3/21, Salaheddin) reports that some Iraqis are expressing anger and dismay about their lives as the war enters its fourth year. Salah Hashim, a 49-year-old businessman, "said he yearned for the return of Saddam Hussein, the country's ousted dictator, given the violence that now envelops the country." Ahmen Najeeb, a 33-year-old supermarket owner, "said he originally 'waved his hands' at American forces as they entered the country in March 2003, but that his outlook has since changed. 'Day after day the Americans proved that they are here to steal our oil and protect their homes by keeping the their war against terror in another country,' he said. One English teacher, though, said that Iraqis had tolerated Saddam's tyranny for so long that it was worth fighting through the violence to rebuild the country."

The Washington Post (3/21, A13, Anderson, Fekeiki, 744K) notes a "stark difference" between Iraqis' "pessimistic outlook and some U.S. officials' upbeat assessment of the situation. With insurgent violence grinding on, essential services sagging below pre-invasion levels and the prospect of civil war looming, many Iraqis question whether Hussein's ouster was worth the cost."

More Iraqis Buying Terrorism Insurance. The New York Times (3/21, Worth, 1.19M) reports "a small but growing number of Iraqis" are buying "terrorism insurance" policies that look "like an ordinary life insurance policy, but with a one-page rider adding coverage for 'the following dangers: 1) explosions caused by weapons of war and car bombs; 2) assassinations; 3) terrorist attacks.'" That guarantee "appears to be the first off-the-shelf terrorism policy in the world, insurance experts say. In most countries, of course, there is no need for it: death by terrorism is rare enough that it is usually covered by ordinary accident insurance. In Iraq it is not, partly because the state used to compensate the families of war victims directly. So the Iraq Insurance Company began stepping into the gap about a year ago." The Iraq Insurance Company, "a state-owned group, has sold about 200 individual terrorism policies in the last year, and is now negotiating with several government ministries and private companies for group policies that would cover thousands of employees."

Lawmakers Create Independent Panel To Study Iraq Alternatives. Lawmakers are signaling that this year could be a decisive one in the Iraq war and, according to the Christian Science Monitor (3/21, Chaddock, 61K), "many of the war's vigorous defenders are looking for guidance outside the Bush administration on how to move ahead." The Monitor adds the "quiet launch of an independent, bipartisan panel to bring 'fresh eyes' to the Iraq conflict. Last week, the House included $1.3 million in a defense funding bill for the panel, which will work out of the congressionally chartered US Institute for Peace here." The Monitor adds, "The move to develop alternatives to Bush administrative briefings signals a growing distrust on Capitol Hill for the 'closed circuit between people sitting inside the Green Zone and the 'good news' being sent back to Washington,' says Mr. [Edward] Luttwak," a senior adviser at the Center for Strategic and International Studies.

US Military Investigating Two Incidents Involving Civilian Deaths. The CBS Evening News (3/20, story 2, 2:25, Schieffer, 7.66M) reported, "US officials confirmed there are investigations under way into two separate incidents in which US forces are being blamed for the deaths of Iraqi women and children." CBS (Logan) added, "A spokesman for the US military in Baghdad says the top general in Iraq, General George Casey, has ordered an investigation into the discrepancy over how many Iraqi civilians were killed in a US raid here last Wednesday." Iraqi police "and human rights groups say there were 11 dead,

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including at least 5 children and 4 women. The US military confirms 4 killed, including 2 women and a child."

NBC Nightly News (3/20, story 2, 1:20, Miklaszewski, 9.87M) reported that in the other incident, "a team of Naval investigators is on its way to Iraq tonight where 12 US Marines are accused of killing 15 Iraqi civilians, including 7 women and 3 children, in a vengeful rage after one of their fellow Marines was killed by a roadside bomb. The incident occurred last November in Haditha." The "formal criminal investigation was opened after some of the Marines had changed their original stories

Saddam's Foreign Minister Was CIA Informant. NBC Nightly News (3/20, story 4, 4:00, Myers, 9.87M) reported Naji Sabri was "Saddam Hussein's foreign minister before the war, part of his inner circle." But "after Saddam fell, Naji Sabri was never arrested, nor included in the infamous deck of cards of wanted Iraqis. Why? Perhaps because sources tell NBC News that at the same time he denounced the US, Iraq's foreign minister was a secret, paid source of the CIA. Current and former US intelligence officials say Sabri provided the US information on Saddam's WMD that turned out to be more accurate than CIA estimates. So why didn't anyone listen?" Intelligence sources "say the deal was brokered by the French in September 2002, and that Sabri was paid more than $100,000 through an intermediary. Sabri may have thought he was working with the French, but some US intelligence officials believe he knew it was the CIA. The CIA questioned Sabri through a go-between about Saddam's WMD capabilities." Intelligence sources "say Sabri indicated Saddam had no significant weapons program. Sabri was right." Intelligence sources "say the CIA's brief relationship with Sabri ended when the CIA, hoping for a public relations coup, pressured him to defect to the United States. He refused."

Father Went To Iraq Seeking Revenge For Son's Death. The AP (3/21, Hanley) reports on Army Cpl. Joe Johnson, who joined the Army after his son Justin was killed by a roadside bomb in Iraq. The death of Justin, "stunned his parents with a shock that lingers still." Joe, who was training with the National Guard at the time of Justin's death tried to explain his reasons for going to Iraq, saying, "It's a lot of things combined," adding, "One, a sense of duty. I was pissed off at the terrorists for 9/11 and other atrocities. Second, I'd only trained. I wanted combat." Johnson also said, "There's some revenge involved. I'd be lying if I said there wasn't."

At Least 120,000 Children In Military Families Have Parent In Iraq. ABC World News Tonight (3/20, story 6, 3:05, Vargas, 8.78M) reported, "The American mission in Iraq has had a tremendous impact on many communities in this country. At least 120,000 children have a father or mother in Iraq right now. For them, the war is not a distant abstraction, but something they're living with every day."

US Closely Watching Trial Of Afghan Christian. The US says it is closely watching the trial of an Afghan man who face a possible death sentence for converting to Christianity. AFP (3/21) reports, "State Department spokesman Sean McCormack urged the Afghan authorities to deal with the proceedings against Abdul Rahman transparently and according to the rule of law. … 'Our view certainly...is that tolerance, freedom of worship, is an important element of any democracy,' he said. 'These are issues, as Afghan democracy matures, that they are going to have to deal with increasingly.'"

Van Hollen Argues Against Troop Withdrawal From Afghanistan. Rep. Chris Van Hollen writes in the Washington Post (3/21, A17, 744K) that the US has not accomplished "our mission of destroying bin Laden and al-Qaeda. Fulfilling that mission and preventing a resurgence of the Taliban will depend on the actions we take in Afghanistan. This is no time to reduce our commitment there. … The anticipated withdrawal of US forces has reportedly already caused some local leaders to hedge their bets with respect to the Taliban." Van Hollen adds, "With the Bush administration and political Washington focused on Iraq, many Afghan leaders worry that the reduction of U.S. forces is a sign that we will again lose sight of Afghanistan. We do so at our peril. Let us not forget that the Sept. 11 plot was launched from Afghanistan, and not from Iraq."

Army Conducting Criminal Investigation Of Tillman Shooting. The New York Times (3/21, Davey, Schmitt, 1.19M) reports that the family of former NFL player and Army Ranger Pat Tillman, who was killed in a friendly fire incident in Afghanistan, "may be close to getting some of the answers they so desperately seek. After repeated complaints from the Tillmans and members of Congress contacted by them, the Army is immersed in a highly unusual criminal investigation of the killing, and the Defense Department's inspector general, which called for the criminal investigation this month, is looking separately into the Army's conduct in its aftermath." The inquiry "is for the first time examining whether the soldiers broke military law when they failed to identify their targets before firing on Corporal Tillman's position."

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Gonzales' Taco Bell Visit Noted. The Reliable Source column in the Washington Post (3/21, C03, Argetsinger, Roberts) reports on "Attorney General Alberto Gonzales picking up lunch Sunday at the Leesburg Pike Taco Bell in Falls Church, wearing a dark suit and accompanied by a Secret Service detail. A Justice source says the trip was 'at the request of his 10- and 13-year-olds.'"

CORPORATE SCANDALS:

2nd Circuit Panel Tosses Quattrone Conviction. The Washington Post (3/21, A1, Masters) reports, "A federal appeals court tossed out the obstruction-of-justice conviction of once high-flying investment banker Frank P. Quattrone, in a blow to the government's effort to prosecute and deter white-collar crime." The Post continues, "The U.S. Court of Appeals for the 2nd Circuit held unanimously that the trial judge's instructions to the jury included such a 'glaring deficiency' that Quattrone did not get a fair trial on charges that he encouraged subordinates to destroy documents sought by a federal grand jury. … The court also took the unusual step of reassigning the case to a new trial judge, writing that 'certain comments' made by U.S. District Judge Richard Owen 'could be viewed as rising beyond mere impatience and annoyance.'"

The New York Times (3/21, Sorkin) reports, "The appeals panel found that the judge in the case, Richard Owen, a Nixon appointee known for being pro-prosecution, gave erroneous jury instructions on what was required for the jury to find Mr. Quattrone guilty. The panel also said that 'in the interest of justice,' the case should be reassigned to another judge on the United States District Court for the Southern District of New York. … The prosecutors in the case, Steven R. Peiken and David Anders — both of whom have since left the United States attorney's office for private practice — were also singled out by the appellate panel for unfairly trying to prejudice the jury during their questioning of Mr. Quattrone. … Still, the appeals court found that there was sufficient evidence to retry Mr. Quattrone. And despite finding that Judge Owen had given flawed jury instructions, the panel said it agreed with many of his rulings, including his decision to restrict the introduction of mountains of evidence that defense lawyers contended would have led to a not guilty verdict."

The Wall Street Journal (3/21, Smith) reports, "While prosecutors issued a short statement saying only 'we are reviewing the opinion and considering our options,' the Quattrone defense team hailed the ruling as 'a significant victory.' … Mr. Quattrone himself said in a statement, 'For over three years during this difficult ordeal, I have held my head high knowing I was innocent and never intended to obstruct justice.'"

The Financial Times (3/21, Ben White) reports, "The ruling dealt a blow to the federal government's efforts to crack down on alleged white-collar crime. It followed a similar ruling by the Supreme Court last year voiding the criminal conviction of now defunct accounting firm Arthur Andersen." The Times adds, "A retrial would mark the third time Mr Quattrone, who emerged as the top technology banker of the 1990s, has faced a federal jury. The first trial ended with no decision after a jury was unable to reach a verdict. … In the second trial, a jury convicted Mr Quattrone of two counts of obstructing justice and one count of witness tampering. He was sentenced to 18 months in prison, but remained free pending his appeal."

USA Today (3/21, Farrell) reports, "The charges against the former Credit Suisse First Boston banker and onetime Silicon Valley rainmaker grew out of a federal investigation into the allocation of red-hot technology IPOs during the dot-com bubble. In December 2000, after being informed that a grand jury was investigating the matter, Quattrone endorsed and circulated a colleague's e-mail reminding subordinates to clean up their files, including paperwork from the IPOs in question. … Prosecutors said Quattrone's sending of the e-mail amounted to obstruction. In his first trial in the fall of 2003 the jury deadlocked, partly because some jurors didn't find Quattrone credible on the stand. His spring 2004 retrial resulted in a conviction."

The Los Angeles Times (3/21, Sanchez) reports, "Prosecutors said the intent of Quattrone's e-mail was to destroy documents sought in federal probes into whether the investment bank forced customers to pay kickbacks for shares of hugely profitable IPOs in the late-1990s bull market. … Quattrone had argued that he thought the investigations centered on other units of his company. He also was unaware that a grand jury subpoena called for documents from his technology banking group, his attorneys claimed."

Bloomberg (3/21) reports, "It's now up to federal prosecutors to decide whether to re- try the former investment banker. Today's reversal may also lead the government and Quattrone to open plea negotiations. Quattrone was convicted in May 2004 after his first trial ended in a hung jury in October 2003."

The New York Law Journal (3/21, Hamblett) reports, "U.S. Attorney Michael Garcia now must decide whether to retry Quattrone. If Garcia decides to go ahead, it would be the third trial for the former head of Credit Suisse's Global Technology Group, which was accused of obstructing two investigations into the allocation of shares in red-hot initial public offerings during the height of the high-tech boom."

Ruling Shows Importance Of Jury Instructions. The Wall Street Journal (3/21, Davies, Scannell) reports, "At the

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end of any jury trial, the judge's instructions to the jurors can be the most boring part of the proceedings. … They can also be the most important. Just ask Frank Quattrone." The Journal continues, "The court ruled that (Judge Owen's) instructions to jurors wrongly allowed them to convict him of obstruction for urging the destruction of documents without determining 'that the defendant knew the documents were subject to a subpoena [or document request].' The panel said that 'the jury was allowed to convict Quattrone of obstruction of justice regardless of whether he intended such.' … The witness-tampering conviction was overturned because, after Mr. Quattrone's conviction, the Supreme Court -- in a similar case against the accounting firm of Arthur Andersen -- ruled that jurors should have been told that a conviction requires a link between the defendant urging the destruction of documents and 'a particular proceeding.' The judge in the Quattrone case didn't include such an instruction."

Order For New Judge Seen As Unusual. The Wall Street Journal (3/21, Sidel, Lattman) reports, "In reversing the conviction of the former star technology-industry investment banker, a federal appeals court yesterday assigned a new judge to the case, saying that 'the interests of all involved would best be served by another judge.' The appeals court didn't name the judge who would take the case. … Lawyers who aren't involved in the case said it is rare for an appeals court to assign a new judge when sending a case back to the lower court for a new trial. … 'It is highly unusual for the court of appeals to reverse a case with instructions that it be assigned to a new trial judge because it implies that the appellate court believes that the original judge may have been partial to one side or the other,' said former prosecutor Marc Mukasey, now of Bracewell & Giuliani in New York. 'In this case, however, the court of appeals stressed that it didn't question Judge Owen's impartiality.'"

Former Enron Auditors Testify On Charges, Reserve Accounts. The Wall Street Journal (3/21, Mcwilliams, Emshwiller) reports, "Two former partners of Enron Corp.'s outside auditor, Arthur Andersen LLP, took the witness stand to help prosecutors link former top company executives Kenneth Lay1 and Jeffrey Skilling2 to the alleged manipulation of the energy firm's reported financial results." The Journal continues, "The auditors' testimony at the beginning of the eighth week of the conspiracy and fraud trial touched on two main areas: the alleged downward manipulation of charges for goodwill expenses and the alleged misuse of reserve accounts to bump up reported earnings." The Journal adds, "In the case of goodwill, prosecutors contend that Mr. Lay, Enron's former chairman, misled Andersen and the public in October 2001 about the company's plans for its big water-distribution unit in order to avoid a hefty charge to earnings. On the reserve issue, the government contends Enron improperly tapped a reserve account to meet the desire by Mr. Skilling, the former company president, to beat analysts' earnings estimates. … The goodwill issue arose because of a new accounting rule in 2001 that required the write-down of an asset if it didn't meet certain criteria, which in the case of the Enron water unit included whether the company had an expensive growth plan, testified John R. Sult, one of the former Andersen partners. Without such a growth strategy, said Mr. Sult, Enron likely would have been forced to recognize an "impairment," or write-down, which prosecutors have said could have totaled hundreds of millions of dollars."

Former Gemstar-TV Guide CEO Found Liable For Securities Fraud. The AP (3/21, Marquez) reports, "A federal judge found former Gemstar-TV Guide CEO Henry C. Yuen liable for securities fraud, according to a ruling unsealed Monday in a federal regulatory lawsuit that claimed Yuen inflated the company's revenue by $248 million to boost its stock." The AP continues, "U.S. District Judge Mariana R. Pfaelzer also found Yuen liable for misrepresenting facts to Gemstar's auditors and falsifying its books. … The Securities and Exchange Commission will now submit a proposed penalty." The AP adds, "Yuen's attorney, Stanley Arkin, said an appeal was being considered. … 'I don't see eye to eye with her decision, but she's a judge,' Arkin said. 'The game isn't over.' … Gemstar, meanwhile, said in a statement that it was pleased by the decision to hold Yuen 'accountable for his wrongful and inappropriate actions.'" The AP notes, "Pfaelzer's findings came almost three years after the SEC filed the lawsuit against Yuen and Elsie Leung, Gemstar's ex-finance chief, in an alleged scheme to inflate company revenue to meet certain financial targets. … Regulators contend that Yuen's actions contributed to a windfall between 2000 and 2002 - at least $18.8 million in salary and bonuses, $14.6 million in exercised stock options, and more than $63.6 million in Gemstar stock sales."

"Chicago" Suit Hits Movie Industry Accounting Practices. The New York Times (3/21, Hartocollis) reports, "The producer of 'Chicago,' the Oscar-winning 2002 movie, is charging that Miramax has cheated him out of millions of dollars of profit from it by using deceptive accounting to understate revenue." The Times continues, "The producer, Martin Richards, sold Miramax an option to the movie rights to the musical in 1994. In papers filed in State Supreme Court in Manhattan yesterday, he said that he has been cheated by a Hollywood system of contingency payments to participants in moviemaking like producers, actors and writers that gives studios an incentive to underreport revenues. … Under that system, the court papers say, 'the worse a movie performs financially, the better off the

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studio is.'" The Times adds, "Mr. Richards's lawsuit says that he does not know precisely how much he is owed, but it seeks at least $10 million, which he estimates is his share of the movie's profits. … Mr. Richards declined to say how much he had been paid for the movie upfront, although the court papers said that his contract called for him to be paid several fees, including $500,000 after the movie reached its initial break-even point. "

CRIMINAL LAW:

Star Witness At "Mafia Cops" Trial Recalls Government Pressure To Cooperate. The New York Times (3/21, Feuer, 1.19M) reports that the trial of alleged "Mafia cops" Louis Eppolito and Stephen Caracappa on Monday "veered…from Brooklyn murder and Las Vegas lunacy to the high-stakes poker game played by government agents and gangland turncoats as the trial's star witness," Burton Kaplan, testified under cross-examination that, "after he was arrested in 1996 on marijuana and tax-evasion charges, 'the government was willing to go to any length' to have him 'crack' and come 'on board to provide information' against" Eppolito and Caracappa. Newsday (3/21, DeStefano) adds that Kaplan "testified that he wasn't aware of any surveillance photos that show him meeting over the years with the alleged 'Mafia Cops.' … During two full days of cross examination, Kaplan didn't appear to waver or change his story about his dealings with the detectives," but "the defense is likely to use Kaplan's admission that he wasn't shown surveillance photos to undermine his claim that he met Eppolito and Caracappa during the six-year period."

Kaplan's Lawyer Expected To Testify As Surprise Prosecution Witness Today. The New York Daily News (3/21, Marzulli, 729K) reports, "Federal prosecutors plan to call Judd Burstein, the ex-mouthpiece of Burton Kaplan, to the witness stand today, the Daily News has learned. Burstein is expected to testify that Kaplan told him back in 1994 about his role as a middleman between" Eppolito and Caracappa "and gangster Anthony (Gaspipe) Casso. Contacted last night, Burstein acknowledged to The News that he had volunteered to share what he knew with prosecutors." The Daily News adds, "The surprise witness echoes a successful gambit this month in the racketeering trial of John A. (Junior) Gotti, whose defense team had lawyer Ron Kuby testify that Gotti told him in 1998 that he had left the mob because he was sick of that life."

Pellicano Asks To Represent Himself As Defense Lawyer Challenges FBI Search. The AP (3/21, Risling) reports, "Imprisoned private investigator Anthony Pellicano said Monday he wants to act as his own lawyer in a case charging that he orchestrated an illegal wiretapping scheme targeting Hollywood celebrities and executives. … Meanwhile, federal prosecutors provided the judge with snippets of their case scheduled to go to trial next month." At the hearing, Assistant US Attorney Daniel Saunders "said three search warrant affidavits connected to raids on Pellicano's offices in 2002 would be unsealed later this week. FBI agents found illegal explosives and seized documents and computers during the searches," but Pellicano's current counsel, Steven Gruel "filed a motion Monday revisiting the legality of the search warrants," writing, "The Pellicano defense seeks discovery that will show that the FBI knew and expected to find a lot more than what they represented to or sought from the magistrate judge."

The Los Angeles Times (3/21, Krikorian, Weinstein, 958K) adds, "In his motion, Gruel said FBI Agent Stan Ornellas stated in a search warrant affidavit that authorities wanted to seize Pellicano's office computers, suggesting a far broader investigation than the threat against" Los Angeles Times reporter Anita Busch. "Gruel noted that long before the search of Pellicano's offices, the FBI had become aware of allegations that one of its own agents had illegally wiretapped while investigating a dispute over control of a $40-million Internet business." Additionally, Gruel questioned "the role Pellicano's former girlfriend played in the case," saying "it may have been improper for a 'cooperating' government witness to be visiting Pellicano in prison at a time when he was representing himself."

Jury Hears FBI Tapes During Informant's Testimony At Baltimore Police Corruption Trial. The Baltimore Sun (3/21, Dolan, 296K) reports that "in hours of secretly recorded conversations by federal agents, prosecutors say, one topic of conversation dominated the relationship between Detective William A. King and his informant, Antonio Mosby: selling illegal drugs for mutual profit. A federal jury heard more than a dozen recorded phone calls Monday that prosecutors say show how King and his partner, Detective Antonio L. Murray, shook down drug dealers pointed out by Mosby at open-air drug markets across Baltimore." The Sun notes that King's trial "is the culmination of the FBI's seven-month wiretap probe into misconduct in the Baltimore Police Department that ended with the May 2005 arrests of King and Murray."

Eight More Indicted In California Red Cross Katrina Aid Fraud Scheme. In a widely-distributed story, the AP (3/21) reports, "The number of Bakersfield-area people indicted in a scheme that bilked thousands of dollars from an American Red Cross fund designated for Hurricane Katrina victims has risen to 61, federal authorities said. Eight people were indicted last week in federal court in Fresno on charges of wire fraud and filing fake claims" with FEMA. "The

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Red Cross contacted the FBI after it performed an audit and discovered an unusually high number of claims were being paid out at Western Union outlets in the Bakersfield area, even though not many evacuees had moved there." The Los Angeles Times (3/21, 958K) also briefly reports on the indictments in "California In Brief."

Federal Scrutiny Of Chicago Hiring Practices Goes Back At Least Nine Years. The Chicago Tribune (3/21, Higgins, Lighty, 643K) reports, "As far back as 1997, federal authorities were investigating the hiring practices in Mayor Richard Daley's administration — obtaining backup tapes from the city's mainframe computer system and questioning a top Daley aide about how some people got their city jobs. The disclosures of the government's earlier interest in City Hall hiring came Monday during a routine court hearing for Daley's former patronage chief Robert Sorich, who is under indictment along with three others." Sorich lawyer Thomas Anthony Durkin "said FBI agents had interviewed his client in August 1997 as part of…Operation Silver Shovel," but "Assistant U.S. Attorneys Patrick Collins and Barry Miller did not concede that information in the 1997 records would be helpful to the defense."

US Attorney Challenges Campbell Lawyer's Criticism Of Investigation. In an Atlanta Journal-Constitution (3/21, 430K) op-ed, US Attorney David E. Nahmias responds to former Mayor Bill Campbell's lawyer, Michael Coleman, who "claims that the government's investigation targeted Campbell, lasted for eight years and cost 'millions of dollars in resources and manpower.' That is not true. … The 'army' from the FBI and U.S. attorney's office consisted of one or two agents and two prosecutors," which "increased to three prosecutors shortly before Campbell's indictment and to five agents only in the months just before and during his trial." Nahmias adds, "in essence the mayor's lawyer's argument is that, if someone concocts a criminal scheme that is complicated and difficult to uncover, and obstructs and delays efforts to do so, we should ignore the crimes rather than invest the time and resources needed to bring them to court."

Philadelphia Council Members Reluctant To Call For Mariano's Resignation. The Philadelphia Inquirer (3/21, Schaffer, Shiffman, 423K) reports, "Many members of City Council hope Rick Mariano will resign following his federal corruption conviction," but "they don't want to call on him to step down. The legislators' semantic two-step came as city solicitor Romulo L. Diaz Jr. issued an opinion confirming that the state ban on felons in elected office won't kick in until Mariano's sentencing, which Judge Lawrence F. Stengel yesterday set for July 6." The Inquirer notes, "Of 14 members interviewed, only one -- Councilman Michael Nutter -- said he would definitely vote for a resolution asking Mariano to quit." The Philadelphia Daily News (3/21, Brennan, McDonald) adds, "Only four Council members -- Donna Reed Miller, Michael Nutter, Juan Ramos and Jack Kelly - echoed Mayor Street's call from last week for Mariano to resign immediately. The rest are content to let state law take its course."

FBI, IRS Raids On Accountant Seen As Spurring Businessman's Guilty Plea. The Philadelphia Daily News (3/21, Hinkelman) reports, "A new federal-court filing yesterday offered a broad clue as to why a key figure in the Rick Mariano bribery-and-corruption case abruptly agreed to change his plea to guilty in late February. On Feb. 28 -- the day after businessman Reinaldo Pastrana had his surprising change of heart -- FBI and IRS agents raided the office of Pastrana's accountant and seized copies of false tax returns filed on behalf of Pastrana; his mother, Ada, and sister Debbie. … Now in state prison for violating parole in connection with a state tax conviction, Pastrana has agreed to enter a guilty plea on Thursday to three counts of bribery."

Eight Former Southwest Airlines Employees Charged In Embezzlement Scheme. The San Antonio Express-News (3/21, Contreras) reports, "Eight former Southwest Airlines employees have been charged with wire fraud over allegations they stole more than $1 million from the Dallas-based carrier by using used tickets to issue new ones and pocketing some of the proceeds. … The scheme lasted from March 2000 through January 2003," and "Special agent Andrea Simmons, a spokeswoman for the FBI in El Paso, said the probe took a while to come to fruition because the case involved 'hundreds to thousands of tickets' that needed to be compared." The Express-News notes that seven of the defendants were in custody, and the FBI was still searching for the eighth. The AP (3/21) also reports on the charges, and notes Simmons' comment to the Express-News.

California Developer Sentenced To Prison For Real Estate Fraud. The San Francisco Chronicle (3/18, C3, Lee) reported, "A San Francisco real estate developer will spend eight years in prison and pay more than $17 million in restitution and fines for defrauding more than 700 investors, a judge has ruled. U.S. District Judge William Alsup sentenced John A. Hickey…on Thursday to 97 months in prison and ordered him to pay a $15,000 fine and $17.4 million in restitution." The Chronicle notes, "Federal prosecutors said Hickey raised about $20 million from 724 investors through his company, Continental Capital Financial Group, by offering

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shares in two limited partnerships," allegedly "to develop real estate in Napa and Sonoma, among other locations."

Maryland Man Sentenced To Six Years For Child Porn Possession. The Baltimore Sun (3/21, 296K) reports Joshua M. Marsh of Great Mills, Maryland, yesterday "was sentenced…in federal court to six years in prison for transmitting child pornography files over the Internet, the U.S. attorney's office said. … According to a statement of facts at the plea, Marsh admitted to allowing users to download child pornography from his personal computer, as well as to facilitating the transmission of pornographic files between users. When the FBI conducted a search warrant in 2004, they found more than 1,000 files of child pornography on Marsh's computer."

FBI Arrests Senior Pentagon IT Employee On Child Porn Charges. UPI (3/21) reports, "A senior Defense Department employee managing the Pentagon's transition to a new Internet system was arrested for child pornography, DOD announced last week." Charles Lamont Lynch of Clifton, Virginia, "was operating a peer-to-peer file sharing program on his comuter at the Defense Information Systems Agency, according to the United States Attorney for the Eastern District of Virginia. FBI Agents on March 8 seized a computer and more than 1,000 CD-Rom disks during a search of Lynch's office," and he "is now on leave without pay while his case is pending in court."

Former East St Louis Police Chief Sentenced. The AP (3/21, Suhr) reports that the former police chief of East St. Louis, IL, "was sentenced Monday to more than two years in federal prison for attempting to shield a politically connected businessman from a criminal probe." The AP continues, "Ronald Matthews, 56, had faced up to five years behind bars for conspiracy to obstruct justice, attempted obstruction of justice and perjury before a grand jury. He was convicted Dec. 21... Matthews professed his innocence and said he would appeal. But he also told the judge he preferred to begin his prison term immediately." The AP notes, "The case stems from a traffic stop during which Ayoub 'Dave' Qattoum, an auxiliary policeman and businessman, was found with a .38-caliber handgun. Under federal law, Qattoum was not entitled to have a gun as a convicted felon. … Prosecutors described Qattoum as well-connected, quick to give loans or kickbacks to local elected officials to curry favor as the owner of a convenience store. … Authorities accused Matthews of commandeering the local investigation of Qattoum's arrest after the Jordanian national expressed fear that U.S. immigration officials had learned of his legal troubles and might deport him."

The Belleville News Democrat (3/21, Pawlaczyk) reports, "Although Murphy offered him the opportunity to remain free until being ordered to report to prison, Matthews opted to be taken immediately into custody. … Two federal marshals asked him to remove any personal items, including a driver's license and a comb, which he gave to family members, and then he was escorted into a backroom."

Guatemalan Pleads Guilty To DC Hit Man Plot. The Washington Times (3/21, Emerling) reports, "An illegal alien from Guatemala pleaded guilty in federal court yesterday to charges that he tried to arrange the killing of a D.C. jail inmate last year." The Times continues, "Victor Moscoso Espana, 20, of Hyattsville, admitted in D.C. District Court that he attempted to have inmate Alvaro Garcia-Hernandez -- a fellow Guatemalan in jail on drug charges -- killed for $15,000, which would have been paid in monthly installments." The Times adds, "According to court documents, Moscoso tried to arrange the hit because he 'did not like' Garcia-Hernandez and wanted to 'take over' his drug sources and 'make money.' … Agents with the federal Immigration and Customs Enforcement (ICE) began investigating Moscoso in September after receiving information about a conspiracy to import cocaine and heroin from Guatemala through various U.S. entry points, including Washington Dulles International Airport. … Court documents show that the hit man plot began when Moscoso arranged to meet another person -- who was cooperating with investigating agents -- at a Hess gasoline station in the 1900 block of New Jersey Avenue Northwest in October."

SCOTUS Refuses To Hear Pollard Appeal. The AP (3/21) reports, "The Supreme Court refused Monday to give Jonathan Pollard, now serving a life sentence for spying for Israel, access to records that could bolster his case for a presidential clemency." The AP continues, "Pollard's lawyers wanted the justices to reopen his case, so that they could pursue secret documents the government submitted to the judge who sentenced Pollard in 1987." The AP adds, "Pollard sold military secrets to Israel while he worked at the Defense Department's Pentagon headquarters. He was arrested in 1985 and pleaded guilty. The Supreme Court had already refused to let the former Navy intelligence analyst withdraw the guilty plea. …The latest Supreme Court case was not about spying, but about government authority to keep records used in court sealed from the public. … A federal appeals court said last summer that it had no authority to review requests for the documents which Pollard contends will help his bid for presidential clemency."

High Court Appears To Side Against Prosecutors' Use Of Victims' Words. The New York Times (3/21, Greenhouse, 1.19M) reports, "A crime victim's emergency call to 911, when introduced in court, can provide powerful evidence of the attacker's identity and the

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circumstances of the crime. Perhaps too powerful -- or so most Supreme Court justices seemed to conclude during an argument Monday on whether the prosecution could use such evidence without violating defendants' constitutional rights to face their accusers in the courtroom." The constitutional problem "arises when the victim fails to appear in court and is therefore not available for cross-examination."

The Los Angeles Times (3/21, Savage, 958K) reports, "Eight of the nine Supreme Court justices -- all but Ruth Bader Ginsburg -- sounded today as though they would vote to bar prosecutors from using in court the words of crime victims who spoke to authorities but refused to testify." The Washington Post (3/21, A4, Lane, 744K) says that "at stake are the rules of evidence that will govern not only many domestic violence prosecutions but also any criminal case in which prosecutors seek to introduce past accusations by people who, whether out of fear or any other reason, cannot or will not repeat their charges in open court." The AP (3/21, Locy) also reports the story.

Former Philippine President Says US Tapped His Calls With Aragoncillo. The AP (3/21, Gomez) reports former Philippine President Joseph Estrada "said Tuesday he has been notified by an American court that U.S. authorities bugged his telephone conversations with an FBI analyst accused of revealing U.S. government secrets. The New Jersey court indicated it had authorized the wiretapping as part of an investigation into Leandro Aragoncillo last year, Estrada said, adding that there was no suggestion he was under investigation." The AP notes, "Aragoncillo was arrested in the United States last year" and "has been charged with conspiring to reveal government secrets, acting as a foreign agent and improperly using FBI computers."

California Sex Assault Case Shifts To Civil Courtroom. The Los Angeles Times (3/21, Goffard) reports, "Now that a judge has imposed a prison term on the attackers, the sordid, painful four-year-long case involving Gregory Haidl and two co-defendants — and the woman who says they destroyed her — shifts to the civil courtroom, which may prove the ugliest show yet. … The victim, now 20 and known publicly as Jane Doe, has sued the three young men convicted of sexually assaulting her while a video camera rolled and she lay unconscious on a pool table one July night in 2002. And she is suing Haidl's father, a rich former Orange County assistant sheriff, alleging that he should have known of the drug- and alcohol-fueled parties raging in his Corona del Mar home, where the attack occurred. … But, as part of her $26-million lawsuit, Jane Doe is also targeting others who, she says, subjected her to years of 'harassment, intimidation and torture' after the attack itself." The Times continues, "In a rare legal move, her suit names Haidl defense attorney Joseph G. Cavallo and two defense investigators, John Warren and Shawn Smigel. She says the defense staked out her Rancho Cucamonga house, went through her trash, stalked her, improperly obtained her medical records, broadcast her identity and once cornered her in a parking lot while snapping pictures. … 'We're taking these people to task about what they did,' said Jane Doe's attorney, Sheldon Lodmer. 'They crossed the line in terms of appropriate legal defense.' … Cavallo said he did nothing improper in trying to defend a client who could have faced life in prison, and characterized the lawsuit as 'revenge' for his zealous representation."

States Move To Pass "Stand Your Ground" Bills. USA Today (3/21, Willing, 2.31M) reports that states are beginning to pass bills allowing citizens to use deadly force against muggers and other attackers. USA reports, "Dubbed 'Stand Your Ground' bills by supporters such as the National Rifle Association, the measures generally grant immunity from prosecution and lawsuits to those who use deadly force to combat any unlawful entry or attack. Several states allow people to use deadly force in their homes against intruders; the new measures represent an expansion of self-defense rights to crimes committed in public."

CIVIL LAW:

RJ Reynolds Tries To Evade Chicago Smoking Ban. The CBS Evening News (3/20, story 7, 2:35, Schieffer) reported, "Smoking laws have been tightened so much over the last few years that in many parts of the country it is pretty much illegal to smoke anywhere in public. But one spot in nearly smoke-free Chicago has begun to buck the trend." CBS (Bowers) added, "Chicago, like a growing number of American cities, recently enacted its own version of the Clean Air Act, which basically stamps out smoking in public, even in bars." But the tobacco lounges aren't "licensed as a restaurant or a bar but as a tobacco manufacturer where smoking is permitted, which starts sense when you consider the owner is RJ Reynolds. And as you might imagine, the cigarette-maker is fuming over what it sees as a thinly veiled attempt to outlaw smoking."

NYTimes Calls Court Ruling "Partial Victory" For Google. An editorial in the Wall Street Journal (3/21, 2.11M) calls a Federal judge's ruling that Google would not be forced to hand over a sample of user searches a "partial victory" for Google. The Post adds, "The real question is whether criminalizing whole categories of speech on the basis of vaguely worded 'community standards' is the least restrictive way of protecting children." Friday's ruling

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established "some limits on what the government can demand from private corporations in seeking to defend this law against a First Amendment challenge. Justice's initial request was for every indexed Web address and two months' worth of search queries. By comparison, what the government will now get looks reasonable indeed."

CIVIL RIGHTS:

Judge Sentences Two Cuban Human Smugglers To Maximum 10-Year Sentences. The Miami Herald (3/21, Weaver) reports, "Two Cuban immigrants who captained a smuggling mission that ended with the drowning of a young boy received the maximum prison sentence on Monday -- 10 years." The Herald continues, "U.S. District Judge K. Michael Moore hammered the two men after concluding a six-year term proposed under federal sentencing guidelines was not enough punishment for the child's death in the Oct. 13 illegal crossing of the Florida Straits." The Herald adds, "A lawyer for both Alexander Gil Rodriguez, 25, and Luis Manuel Taboada-Cabrera, 28, whose relatives sobbed outside the courtroom, said they will appeal the judge's sentences for their alien-smuggling convictions. Attorney Steven Amster said the two Miami men, who were not charged or convicted of causing the death of 6-year-old Julian Villasuso, still faced up to the maximum prison term because his drowning was a factor in the judge's sentencing under advisory guidelines. … The two men had reached plea deals in November, expecting to receive lighter sentences. They pleaded guilty to a conspiracy to smuggle 29 Cubans in a 33-foot speedboat that overturned and claimed the life of the boy, who got trapped beneath the capsized vessel. … But Assistant U.S. Attorney Dana Washington said he didn't have enough evidence to charge them with the death of Julian Villasuso."

The AP (3/21, Anderson) reports that Judge Moore "said he was imposing the long sentence because of a marked increase in dangerous pursuits between U.S. authorities and smugglers on the open ocean. Moore also said the two men should pay an extra penalty for playing a role in the boy's death. … Sentences imposed under federal guidelines are 'not providing an adequate deterrent for this kind of criminal conduct,' Moore said."

The South Florida Sun-Sentinel (3/21, Blum) reports, "Defense attorney Steven Amster argued that the lower penalty was sufficient punishment, in part because the smuggling trip was not organized for profit. In remarks to the judge, Taboada apologized and took responsibility for his actions. … Amster also suggested that the Coast Guard played a role in the boy's death by casting a net over their boat's engines, causing water to rush over the stern and precipitating the boat's capsizing. There also was a delay in the attempt to rescue Julian after it was realized he was still under the boat. … But Moore said the smugglers should not expect leniency by attempting to shift blame to the Coast Guard and noted that other migrants on the boat had pleaded with the two smugglers to stop once the chase began."

Attorney Charges Cover-Up In Florida Boot Camp Death. The AP (3/21, Kallestad) reports, "Bay County (FL) authorities are covering up their role in the death of a boy who was punched and kicked by guards at a boot camp, and his relatives want any trial in the case moved to another area to ensure a fair proceeding, the family's attorney said Monday." The AP continues, "Bay County sheriff's spokeswoman Ruth Sasser declined to comment on the cover-up allegations, but said seven drill instructors involved in the altercation and a nurse who witnessed it will be among about 20 people who lose their jobs when the camp closes next month. The closure plans had already been announced." The AP adds, "Ben Crump, the attorney for Martin Lee Anderson's parents, said they were 'outraged' because medical examiner Dr. Charles Siebert last week defended his findings that the 14-year-old died from complications of sickle cell trait, a usually harmless blood disorder. … Investigators re-examining the death with a second autopsy said last week that Anderson didn't die of natural causes. … Anderson died Jan. 6 after the confrontation at the boot camp in Panama City run by Bay County sheriff's officials. He had been struck, kicked and dragged to the ground by several guards during a half-hour ordeal that was recorded on videotape. … Gov. Jeb Bush has appointed Hillsborough County State Attorney Mark Ober to investigate and he observed the second autopsy done in Tampa. The U.S. Attorney's office in Tallahassee and the Justice Department's Civil Rights Division also have opened an investigation into Anderson's death."

California Prisons Prepare For Desegregation Policy. The Wall Street Journal (3/21, Jordan) reports, "It's exercise time at the California Institution for Men, and dozens of inmates walk around the track in pairs or small groups -- blacks with blacks, whites with whites, Hispanics with Hispanics. … Prison culture dictates that inmates stick with their own kind, associating almost exclusively with other inmates from their race or ethnic group, defending them to the death if necessary. And that is why prison officials, inmates and scholars are uneasy as California's prison system prepares to introduce a formal policy desegregating its double cells, after the U.S. Supreme Court ruled last year that prisoners may not be routinely segregated in cells by race. The ruling has ramifications for state correctional systems nationwide." The Journal continues, "In 2004, an African-American inmate challenged the California

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Department of Corrections' unwritten policy of assigning new prisoners and transfers to double cells only with a cellmate of the same race or ethnic group. The corrections department claimed segregated prison cells were necessary to avoid racial violence. Unswayed, the high court last year refused to strike down the inmate's challenge. California's new policy, which officials expect to implement over the next 2½ years, is the result of a settlement of that case. … Critics of the new policy say the purpose of segregated cells is to keep prisons peaceful and safe, not to discriminate. … California's prison system, at present still operating largely under the old policy, uses ethnicity as the main criteria when assigning higher-threat inmates to double cells. … Criminal-justice scholars say it is impossible to get a clear picture of prison-cell integration across the U.S. because practices vary widely from facility to facility."

Consumers Group Challenges Geico's Risk Criteria. The Washington Post (3/21, D1, Crenshaw, Mayer) reports, "According to an internal Geico document, the auto insurer uses drivers' levels of education and occupations in setting insurance rates. … As a result, Consumer Federation of America argued, blue-collar workers with relatively low levels of education sometimes are charged almost twice as much as better-educated professionals, based on those criteria." The Post continues, "Geico said in a statement that it uses many factors in setting rates and that allegations that education and occupation are being used as the sole criterion are 'absolutely untrue.'" The Post adds, "The document cited by the consumer group and a Geico competitor raises long-standing questions about which criteria insurance companies may use as proper gauges of risk and which improperly discriminate against poor people and minorities. … Insurers, consumer advocates, regulators and politicians have been struggling for years over such issues, including the use of credit scores in assessing risk. The use of credit scores is permissible in about 30 states but continues to be debated."

ANTITRUST:

Online Poll Shows Small-Business Opposition To AT&T-BellSouth Merger. The San Antonio Business Journal (3/21) reports, "AT&T Inc.'s plan to merge with BellSouth Corp. is seen as a development that will not work in favor of San Antonio's small-business community, according to the majority of individuals who participated in an online Business Pulse poll." The Journal continues, "Slightly more than half of the San Antonio Business Journal readers who responded to the survey say San Antonio-based AT&T's planned $67 billion stock merger with BellSouth in Atlanta will lead to less competition in the marketplace, rising prices, less technological innovation and poor customer service. … (The online poll is not scientific and the results represent only a snap shot of some readers' opinions.)" The Journal adds, "AT&T officials, however, disagree with the negative assessments of the merger and have long maintained that there is sufficient competition in the marketplace as evidenced by the full slate of services offered by cable, wireless carriers and competing local phone companies. … The merger still needs shareholder and regulatory approval in five states and with the Justice Department and Federal Communications Commission."

Proxy Adviser Backs Boston Scientific-Guidant Deal. Dow Jones (3/21, Kamp) reports, "Shareholders of Boston Scientific Corp. and Guidant Corp. should approve the consolidation of the two companies in votes scheduled for March 31, according to Institutional Shareholder Services, an influential proxy advisory firm." Dow Jones continues, "In reports recently directed to shareholders of each company, ISS said 'the acquisition of GDT will allow BSX to diversify its product offerings, adding defibrillators and pacemakers, and should ameliorate some of the concerns regarding future growth.'" Dow Jones adds, "On Jan. 25, Boston Scientific and Guidant announced a merger agreement, under which Boston Scientific will buy Guidant for a combination of cash and stock worth about $27 billion. The deal is valued at $80 a share to Guidant shareholders as long as Boston Scientific shares close within a $22.62-$28.86 collar over a certain period prior to the deal's closing. … So far, Boston Scientific's closing price has largely remained within that range. Boston Scientific recently traded at $23.28, up 66 cents, or 2.9%. … Jim Tobin, Boston Scientific's chief executive, repeated that the acquisition is expected to close in the first week of April. In a recent filing with the U.S. Securities and Exchange Commission, Boston Scientific said it anticipates antitrust approval for the deal that week."

Lucent Gets FTC Nod To Purchase Riverstone Operations. Dow Jones (3/21) reports, "Lucent Technologies Inc. received antitrust clearance from the Federal Trade Commission to buy the business operations of Riverstone Networks Inc. for $170 million in cash." Dow Jones continues, "The FTC said Monday that on Friday it granted Lucent early termination of the waiting period required under the Hart-Scott-Rodino Antitrust Improvements Act. … Lucent has said the acquisition would complement its broadband, data and optical-networking products. The transaction is subject to bankruptcy court approval and other conditions."

Analysts Expect Counter-Bid For UK Insurer Prudential. The Financial Times (3/21, Felsted) reports,

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"Image Investors were braced for a counter-bid for Prudential, Britain's second biggest life assurer, after its shares rose 5 per cent above the offer price proposed by Aviva. Shares in Prudential rose 11 per cent to 743½p, ahead of the 706p proposed by Aviva in its all-share offer which, valuing Prudential at £16.8bn. 'The share price is telling you that the market is expecting a counter-bid,' said Roman Cizdyn, an analyst at Oriel Securities. 'As we sit where we are now, Aviva is not likely to succeed. The price is telling you that.'" Aviva CEO Richard Harvey, however, "said a counterbid was 'unlikely' and that consequently, Aviva was not expected to make a hostile offer. 'I think it's unlikely that someone else would come in and that is why we are expecting to proceed on a recommended basis,' Mr. Harvey said. France's Axa is seen as the most likely counter-bidder for Prudential, but some analysts said that it had been reluctant to become involved in contested bid situations in the past."

Aviva CEO Says He'll Seek To Sell Prudential Shareholders On Takeover Proposal. The Wall Street Journal (3/21, A9, Fleming) reports that Harvey, "said he would take his case for a merger with" Prudential "directly to shareholders, overriding Prudential managers' rejection of his unsolicited £17.1 billion (€24.63 billion or $30.04 billion) takeover offer." Harvey "said the two companies have many shareholders in common and that Aviva's investor-relations team is currently working the telephones to explain Aviva's position to investors. 'I expect them to arrange a number of rendezvous for me [with shareholders] in the coming weeks,' Mr. Harvey said." Meanwhile, Prudential officials on Monday continued to voice opposition to the proposal. Prudential Chairman David Clementi "said in a statement that Prudential's potential as a stand-alone company was 'tremendous and distinctive' and that a combination with Aviva would dilute the benefits of its growth."

Belgium Seeks Concessions On GDF-Suez Deal. The AP (3/21) reports, "Belgian Prime Minister Guy Verhofstadt said Monday he plans to hold talks to seek concessions on the French government-backed plan for Gaz de France SA to acquire French utility company Suez SA." The AP continues, "Speaking after a meeting with President Jacques Chirac in Paris, Verhofstadt said he had told the French leader that a GDF-Suez deal should not prevent Belgium from opening its gas and electricity markets to more competition. … Verhofstadt also said the two Paris-based companies would likely have to sell assets in order to meet that requirement." The AP adds, "The GDF-Suez deal was announced by the French government last month just days after Italian power company Enel SPA said it might launch a takeover bid for Suez. … Suez owns Electrabel, the Belgium's largest power company, and GDF holds a sizable stake in its nearest domestic rival, SPE. … Verhofstadt said last week that it would be unacceptable for one company to control 90 percent of his country's electricity market. The Belgian energy regulator is also concerned about the country's nuclear plants coming under French control, according to press reports."

FCC Deregulates Verizon's Big-Business Market. The Wall Street Journal (3/21, Schatz) reports, "Verizon Communications Inc. got a boost in the big-business market as federal regulators agreed to deregulate its high-volume data lines for its largest corporate customers." The Journal continues, "The decision by the Federal Communications Commission essentially lifts price controls and possibly reverses some conditions imposed on the New York telecommunications company last year during its acquisition of MCI Inc. It also gives Verizon pricing flexibility for lucrative high-volume services sold to major corporations, although regulations may continue to stay in effect for smaller business customers." The Journal adds, "The action signaled the FCC's willingness to expand phone companies' control over high-speed Internet lines to cover the large corporate market as well as residential customers. … But by granting Verizon's request without guidance, the FCC prompted confusion in the industry Monday. The action could lead to legal challenges by smaller competitors, particularly companies that resell high-volume services, such as Internet access, to small businesses. Also, other phone companies are likely to file requests for similar relief with the FCC."

Kerzner Takes $3 Billion Buyout Offer. The Wall Street Journal (3/21, Sanders) reports, "Casino operator Kerzner International Ltd. agreed to be acquired by a consortium of private-equity concerns for $3 billion in cash plus the assumption of $599 million in debt." The Journal continues, "The consortium, including Kerzner Chairman Sol Kerzner and his son, Butch Kerzner, the company's chief executive, agreed to pay $76 a share for the Bahamas-based casino company, an 8% premium to the stock's Friday closing price. The company operates its flagship Atlantis properties in the Bahamas and soon in Dubai, as well as the ultraluxury 'One&Only' hotels in exotic destinations around the world. Kerzner International also receives income from the Mohegan Sun tribal casino in Connecticut, which it developed, and has a large casino at its Atlantis property in the Bahamas." The Journal adds, "If successful in their buyout attempt, the Kerzners would see their ownership stake rise to about 25% from about 10%, Butch Kerzner said in an interview. Kerzner officials insist they 'will actively solicit superior proposals during the next 45 days,' but the proposed deal represents a multiple of about 19 times last year's earnings, according to a person familiar with the situation."

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France Copyright Proposal Would Open Up iTunes. The Financial Times (3/21, Braithwaite) reports, "Apple Computer could on Tuesday be forced to open up its digital music business to competitors after a vote in the French parliament." The Times continues, "The owner of iTunes, the online music store, and the iPod digital music player, will have to choose between making downloaded music compatible with rival platforms or pulling out of France if, as expected, the parliament in Paris approves a draft copyright law." The Times adds, "Software in digital downloads from iTunes prevents music being played by any rival to the popular iPod, but the French bill seeks to impose 'interoperability' on online music stores and break Apple's closed system. … 'It is unacceptable that . . . the key should be controlled by a monopoly. France is against monopolies,' said Martin Rogard, an adviser at the French Culture Ministry. 'The consumer must be able to listen to the music they have bought on no matter what platform.' … Mr Rogard said it was 'desirable' that France led in this respect, but hoped that it was the start of a Europe-wide move to open up digital music."

Supreme Court To Hear Patent Case. The New York Times (3/20, Pollack, 1.19M) reports, "For the first time in a quarter-century, the Supreme Court will hear on Tuesday a case involving the basic question of what type of discoveries and inventions can be patented." Both sides say "the case, which involves a blood test for a vitamin deficiency, could have a wide-ranging impact on the development of diagnostics, perhaps threatening many of the underlying patents for genetic and other medical tests." But "the array of companies filing supporting briefs -- including American Express, Bear Stearns and IBM -- indicates that intellectual property in other fields might also be affected."

Writers See Patent Problems As Structural, Systemic. In an op-ed in the Wall Street Journal (3/21), Adam Jaffe, professor of economics and dean of arts and sciences at Brandeis University, and Josh Lerner, Jacob Schiff Professor of Investment Banking at Harvard Business School, write, "The problems of the U.S. patent system are under discussion today with an urgency not seen in decades. The Supreme Court will soon hear oral arguments in eBay v. MercExchange LLC, which promises to be its most far-reaching examination of patent law in many years. Today the court will also consider LabCorp v. Metabolite Laboratories -- the contested matter is whether a patent can be issued for the correlation between a disease and a naturally occurring substance in the human body. That is: Can you actually patent the laws of nature? And shockingly, Research in Motion has been forced to pay $612 million to prevent all of our BlackBerry handhelds from going dark, even though the U.S. Patent and Trademark Office (USPTO) has indicated that it is likely to find all of the patents behind this ransom demand invalid. Congressional subcommittees, with good reason, have recently held hearings asking fundamental questions about developments like these in the patent system." Jaffe and Lerner adds, "Commentators have tended to focus on the incompetence of the USPTO in allowing 'bad patents.' Others have concluded that the patent system is not working with respect to a particular area of technology. Concerns about software awards led, for instance, Jeff Bezos of Amazon to propose a new patent type for software; others have suggested that biotechnology be excluded in various ways from the patent regime. … We believe, instead, that the problems with the patent system are systemic and fundamental, the result of two congressional changes to the patent system." Jaffe and Lerner concludes, "The protection for true innovators created by a workable patent system is vital to technological change and economic growth. The problems in the existing patent system are structural, and the fundamental solutions need to be structural as well. As much as the USPTO needs to do a better job, it can only do so if the system is modified so that all parties have incentives to help with the job, and the courts provide a reliable backstop when mistakes are made."

ENVIRONMENT:

Kerr-McGee Suit Disputes Federal Oil Royalties. The Wall Street Journal (3/21, Levine) reports, "Kerr-McGee Corp., at a time of rising political scrutiny of oil-company profits, is suing the federal government to avoid about $108 million in royalties on its deep-water production in the Gulf of Mexico." The Journal continues, "The issue of royalty payments on Gulf-of-Mexico oil properties owned by the federal government has attracted much criticism in Congress because of high gasoline prices and record oil-company financial results. Some lawmakers have called for a windfall-profits tax on the industry, though such a levy still appears to be a long shot." The Journal adds, "In all, the Interior Department estimates that royalty exemptions in the Gulf of Mexico could cost the U.S. treasury some $7 billion over time, depending on the price of oil and the level of production. … Kerr-McGee, which produces oil and natural gas from 17 deep-water fields in the Gulf, filed suit Friday in federal court in Lake Charles, La. The Oklahoma City company is seeking to overturn a January order by the department's Minerals Management Service division that Kerr-McGee and other oil companies pay more in royalties for the fields. Most oil companies complied with the order, but Kerr-McGee was among three that didn't pay. … The case involves fallout from a 1995 congressional act that, at a time of relatively low oil prices and shrinking U.S. production, attempted to increase oil and natural-gas production from the

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deep-water sections of the Gulf of Mexico. Water depths there often exceed 2,500 feet, and exploration is expensive and riskier than elsewhere. The congressional act exempted oil companies from royalty payments for millions of barrels of deep-water production for leases obtained from 1996 to 2000 as long as world prices didn't exceed a certain level."

US Expects Bird Flu This Year. Leaders of three federal agencies Monday warned that the bird flu could reach the USA this year on the wings of migratory birds. However, USA Today (3/21, Manning, 2.31M) reports Agriculture Secretary Mike Johanns said the appearance of the virus "will not constitute a reason for panic," stressing that "a detection of this virus in birds does not signal the start of a pandemic in people." For his part, Health and Human Services Secretary Mike Leavitt said local communities need to make their own pandemic plans, and "any community that fails to prepare with the expectation that the federal government will, at the last moment, be able to come to the rescue will be tragically wrong."

US To Increase Testing Of Wild Birds For Avian Flu. Meanwhile, Interior Secretary Gale Norton said a program to test up to 100,000 wild birds for signs of infection this year will focus on breeding grounds in Alaska and islands in the Pacific where migrating birds from Asia are now heading. The Washington Post (3/21, A5, Stein, 744K) says the program signals a "sharp increase" in the number of testing, and "is part of the Bush administration's $29 million plan to protect the country against the virus." The AP (3/21, Quaid) quotes Norton as saying that the wild bird testing "could reveal 20 to 100 suspected cases of bird flu," although follow-up testing is likely to reveal "dozens" are false alarms. The Los Angeles Times (3/21, 958K) also briefly noted Norton's comments.

US Businesses Prepare For Avian Flu Arrival. The New York Times (3/21, Warner, 1.19M) reports that many US poultry firms, such as Tyson, Pilgrim's Pride, and KFC, "all say they have formed internal avian flu task forces that meet regularly" with government health officials to discuss "what information should go on the companies' Web sites and when, and devising sales loss projections."

FDA To Ban Poultry Use Of Flu Vaccines. The Wall Street Journal (3/21, A4, Zhang, 2.11M) reports "amid concern of a possible avian-flu pandemic," the Food and Drug Administration "moved to ban the poultry industry from using two groups of human antiviral drugs to treat their flocks, for fear that may reduce their effectiveness in humans." The agency is "proposing to ban veterinarians from prescribing" Roche's Tamiflu and GlaxoSmithKline's Relenza for animal use.

Scientists Oppose Removing ESA Protections For Yellowstone Grizzly. A group of 269 scientists have asked the Fish and Wildlife Service on Monday not to lift Endangered Species Act protections for the Yellowstone grizzly bear. The New York Times (3/21, 1.19M) reports that the scientists say removing the protections could jeopardize the bear's survival. The scientists' letter "says the Yellowstone grizzly is cut off from other bears, and therefore new sources of DNA. Because of that, the population needs to be 2,000 to 3,000, the scientists say, to survive a catastrophic event, like disease or the loss of a critical food source."

Conservationists Move To Buy Timber Company Holdings. A front page story in the Washington Post (3/21, A1, Eilperin, 744K) reports that timber companies have been shedding holdings in recent years, which has "spurred a land rush that has conservation groups scrambling to raise money to buy environmentally sensitive tracts in competition with private investors seeking to snap up the land for development. … The consulting firm U.S. Forest Capital estimates that half of all U.S. timberland has changed hands in the past decade. The Bush administration also wants to sell off forest land, by auctioning more than 300,000 acres of national forest to fund a rural school program." However, "if the selling spree continues, environmentalists fear, these areas could be cut up into much smaller parcels in which condominiums and trailer parks would replace soaring trees."

NYTimes Calls Administration Record On Mine Safety "Embarrassing." An editorial in the New York Times (3/21, 1.19M) says the Bush Administration's "accommodation of the mining industry…has produced a marked decline in major fines for negligent companies. A recent data analysis by The Times documented a risky, business-friendly downturn in penalties since 2001. At the same time, nearly half of the announced fines still go uncollected." In the wake of recent mine deaths, Congress is considering tougher fines for violations, but, "what good are fines if they are not being forcefully used by the federal agencies supposedly responsible for workers' safety?" The Times adds that the Bush Administration begin "an urgent reversal of its embarrassing record on penalizing flagrantly negligent companies."

FBI/DEA/ATF/USMS:

Two Sentinel Subcontractors Criticized In GAO Trilogy Audit. In a widely-distributed story, the AP (3/21, Sherman) reports, "Two companies that will share in a new FBI computer contract were singled out in a government audit Monday that questioned $17 million in the agency's computer

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overhaul." In its review of the Trilogy program, the GAO said that "the FBI and its contractors share the blame for $10 million in questionable costs and for 1,205 pieces of missing computer equipment valued at $7.6 million," citing CACI and Computer Sciences Corp. specifically. But FBI spokeswoman Cathy Milhoan said, "The lessons learned from the Trilogy program are guiding us, and the FBI continues to strengthen our internal controls." She added that "the CSC unit that worked on Trilogy will not be part of the Sentinel project," and "CACI will provide training for new system, as it did for Trilogy."

ATF Team To Target Violence In Atlanta, Other Cities. The Washington Times (3/21, Seper) reports, "Attorney General Alberto R. Gonzales yesterday said Atlanta would become the 23rd U.S. city assigned a federal Violent Crime Impact Team in an aggressive effort to make that city safer. … 'The citizens of the city of Atlanta deserve to live free from violent crime,' Mr. Gonzales said in announcing the law-enforcement initiative during a press conference at the U.S. attorney's office in Atlanta. 'VCIT will help make Atlanta safer through a coordinated campaign to investigate and prosecute those individuals who threaten our communities with guns and violence.' … Washington, Baltimore and Richmond are among the other cities participating in the VCIT program." The Times adds, "The VCIT teams, led by the Bureau of Alcohol, Tobacco, Firearms and Explosives, consist of ATF agents, U.S. marshals, Drug Enforcement Administration agents and federal prosecutors who partner with state and local law-enforcement officers and prosecutors to proactively and aggressively identify, arrest and prosecute those responsible for firearms-related offenses and other violent crimes. … 'Make no mistake about it; Violent Crime Impact Teams have saved lives by getting armed criminals off the streets,' said ATF Director Carl J. Truscott. … Mr. Truscott said the teams use technology and human intelligence to identify geographic areas within cities with violent firearms crime; identify the 'worst' violent offenders, the criminal organizations that support them and armed career criminals; and use criminal investigations and investigative tools and resources to disrupt and dismantle criminal activity being perpetrated by the targeted persons and organizations."

Gonzales Targets Georgia Meth Production. The AP (3/21, Gross) reports, "Anti-methamphetamine laws like the ones passed in Georgia are tamping down the domestic production of the deadly drug, U.S. Attorney General Alberto Gonzales said Monday. … But Gonzales said an increase in the amount of meth being smuggled into the country from Mexico threatens to offset those advances." The AP continues, "Gonzales joined Gov. Sonny Perdue (in Waleska, GA) at a town-hall meeting of law enforcement officials, community activists and others on what they called the methamphetamine crisis in the state. … 'Meth threatens to turn the American dream into the American nightmare - not just for the users, but for their families ... and their communities,' Gonzales said." The AP adds, "The event was held at Reinhardt College in north Georgia's Cherokee County, where there were 490 meth-related arrests and more than $300,000 worth of the drug confiscated by authorities last year, according to Perdue. … The governor highlighted anti-meth measures taken by Georgia's Legislature over the past few years, such as requiring the drug's key ingredients to be moved behind the counter of stores that sell them and making it a felony to cook meth in the presence of a child. … Earlier Monday, Gonzales was in Atlanta to announce the launch of a federal initiative to target violent crime in the worst parts of the city."

The Atlanta Journal-Constitution (3/21, Williams) reports, "Much of Georgia's methamphetamine problem starts in Mexico, Gov. Sonny Perdue said Monday, making a good working relationship with federal and foreign authorities increasingly important. … To stress the need for help in combating the highly addictive drug, the governor appeared with U.S. Attorney General Alberto Gonzales at a meeting at Reinhardt College in Cherokee County." The AJC continues, "About 200 people made up the invitation-only group of law enforcement officials, prosecutors, drug rehabilitation professionals and elected officials. … Metro Atlanta has become a hub for eastern U.S. distribution of the drug being manufactured at large clandestine labs in Mexico and in the Western United States, according to the U.S. Drug Enforcement Administration. … Stemming the flow of the drug, known as 'ice,' will take international cooperation, Gonzales said Monday afternoon, noting that he is to meet with the Mexican attorney general in Dallas in May. The United States is training Mexican officials on how to deal with the cleanup of toxic meth labs and other issues, Gonzales said."

Former Baton Rouge Police Officer Charged With Cocaine Possession. The Baton Rouge (LA) Advocate (3/21) reports, "A former Baton Rouge police officer who once went to jail for selling items from the evidence room now faces more prison time after federal agents allegedly found 6 kilograms of cocaine in a trash can in his garage. Daryl W. Davis…was charged Monday. … In an affidavit, DEA Special Agent Mark Lusco writes that investigators believed Davis was 'obtaining multikilograms of cocaine from Houston, Texas, and distributing them in the Baton Rouge area.'"

Accused "Chief" Cocaine Trafficker Appears In Colorado Court. The Aspen (CO) Daily News (3/21)

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reports a Little Annie's Eating House employee "was bound over for trial Monday after the prosecution portrayed him as a chief trafficker of a local cocaine network." Fernando Leal-Ruiz "listened as law-enforcement officers at his preliminary hearing testified that during a Dec. 2 drug raid they saw him reaching in the direction of a plastic bag that was later determined to contain 44 bindles of cocaine. … Monday's hearing was the latest courtroom development concerning the December drug raids of two downtown restaurants in an operation coordinated by local, state and federal authorities."

The Aspen (CO) Times (3/21) reports, "A judge ruled Monday there is enough evidence to try a man on cocaine distribution and conspiracy charges. Fernando Leal-Ruiz of Carbondale was arrested, along with nine others, in the Dec. 2 drug raids on Little Annie's Eating House and Cooper Street Pier. … Monday's preliminary hearing saw testimony by the Aspen police detective who led the raid on Little Annie's, a DEA agent and an immigration officer."

NBA Player's Dismissal Upheld For Violating Drug Policy. The New York Times (3/21, Robbins) reports an arbitrator "ruled in favor of the N.B,A. yesterday and upheld the league's dismissal of Hornets forward Chris Andersen for violating the league's drug policy. … Andersen, dismissed Jan. 27, cannot apply for reinstatement for two years."

The AP (3/20) writes, "According to the league's collective bargaining agreement, a player can be disqualified only for a fourth positive test for performance-enhancing drugs, or a first positive test for 'drugs of abuse.'"

Bolivia Takes Coca Debate To UN. The UK's Independent (3/21) writes, "Bolivia stepped up a long-running battle with Washington this week by taking its campaign to legalize coca plants to the United Nations in a bid to persuade the international community that the leaf should no longer be banned because of its links to the illegal drugs trade." Bolivia "is determined to prove that coca can be the source of legitimate products for export and not just the raw material for cocaine."

The UK's Telegraph (3/20) reports, "Under the slogan 'coca is not cocaine,' politicians, consumers and growers across the Andes are promoting the leaf's qualities and calling for coca-based tea, yoghurt, bread, toothpaste, shampoo and soap to be mass produced and exported."

Government Accused Of Being Willfully Blind To Canada's Marijuana Problem. The BBC (3/21) reports on its Web site, "Nearly half of Canadians admit to smoking marijuana at least once. … Tens of thousands of illegal 'grow-ops' remain in Canada. Estimates suggest marijuana may generate up to C$7bn (£3.5bn; US$6.1bn) a year in BC, the sunny province thought to be at the heart of the industry." The BBC adds that critics "accuse the government of being willfully blind to the historic failures of law enforcement, and ignoring public opinion and the findings of expert committees in favor of a policy of demonizing marijuana."

Former German Track Coach Convicted Of Doping Athletes. The AP (3/20) reports, "Former German track coach Thomas Springstein was convicted of doping charges Monday and given a 16-month suspended prison sentence. The court found the 47-year-old Springstein guilty on charges including the alleged doping of young athletes in 2003. … Springstein was accused of supplying testosterone to his athletes, including a 16-year-old girl."

IMMIGRATION:

Melloan Says Illegal Aliens Should Be Given Green Cards. George Melloan writes in the Wall Street Journal (3/21, Melloan, 2.11M) that "US immigration policy is a mess. … The equation is simple: The US needs labor; immigrants supply labor. So the solution is to find ways to bring the two together in some legal, orderly way." Melloan adds, "Offering to give illegals green cards and wipe the slate clean is the only practical solution. If they come forward, they can stay on their jobs and travel back and forth to their homes legally. Some who have been trapped in the U.S. by their inability to travel freely will choose to go home permanently. There will be less incentive to sneak in family members, since it will be possible to visit relatives or send remittances."

TAX:

Tax Refund Advances Under Attack. The Wall Street Journal (3/21, Opdyke) reports, "A variety of companies are trying to get their hands on your tax refund before you do, and state law-enforcement officials are cracking down on some of the practices." The Journal continues, "As the April tax-filing deadline approaches, businesses from tax-preparation firms to auto dealerships are offering consumers the opportunity to put their expected refund checks to work weeks before the IRS sends them out -- often by loaning them the expected amount for a high fee. Dozens of retailers, including Olive Garden restaurants and AMC move theaters, have begun offering gift cards in exchange for tax refunds to people who file using TurboTax, the popular tax-preparation software. H&R Block Inc. recently launched savings accounts for customers to channel their tax refunds. And hundreds of car dealerships will prepare your taxes if your refund is applied toward a down payment on a car." The Journal adds, "But now, state officials are clamping

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down on some of these programs, claiming they saddle low and moderate-income families, recent college graduates and others with high fees. Last year about three of every four tax filers received a refund, according to the Internal Revenue Service. Those refunds totaled nearly $218 billion, or about $2,171 per household."

Training Of Pastors On GOTV Activities May Lead To IRS "Crackdown." The New York Times (3/21, Kirkpatrick, 1.19M) reports, "Weeks after the Internal Revenue Service announced a crackdown on political activities by churches and other tax-exempt organizations, a coalition of nonprofit conservative groups is holding training sessions to enlist Pennsylvania pastors in turning out voters for the November elections." The Times adds, "Experts in tax law said the sessions, organized by four groups as the Pennsylvania Pastors Network, could test the promises by the tax agency to step up enforcement of the law that prohibits such activity by exempt organizations. Such a test could define the boundaries for churches and other groups." Although "the tax agency has often overlooked political activity by churches, it has repeatedly warned the clergy and religious groups that it intends to enforce its rules with new vigor this yea."

Justices Reject Former Arkansas Governor's Whitewater Appeal. The AP (3/21, Zeman) reports, "The seven-year, $70 million Whitewater investigation that toppled an Arkansas governor and dogged Bill Clinton for most of his presidency officially drew to a close Monday when the US Supreme Court declined to hear the last remaining appeal." Former Gov. Jim Guy Tucker "had asked the high court to let him withdraw a guilty plea in a tax-conspiracy case that he said was based on an outdated law." Tucker "was accused of crookedly scheming to reduce his tax liability on the sale of cable television system." The Washington Times (3/21, Seper, 90K) also reports the story, saying the Whitewater probe "netted 14 guilty verdicts or pleas."

Overpayment Of Taxes Is Growing Trend. USA Today (3/21, Cauchon, 2.31M) reports, "Taxpayers overpaid their federal income taxes by a record 29% in both 2003 and 2004, according to a USA TODAY analysis of Internal Revenue Service data. That has pushed refunds above $200 billion a year. Final figures aren't in for the 2005 tax year, but the average refund so far is $2,423, up 4% from last year. The fatter refunds are the result of taxpayers withholding nearly twice the traditional safety margin from their paychecks to avoid a year-end tax bill." USA adds, "Overwithholding has grown fastest among families earning $50,000 or less a year because they benefit most from tax credits. Many low-income families obtain refund anticipation loans, which typically cost $100 or more, to get their money about 10 days earlier than from Internal Revenue Service."

Taxpayer Advocate Is Public's Designated Voice At IRS. The Wall Street Journal (3/21, Matthews, 2.11M) profiles National Taxpayer Advocate Nina Olson. As advocate, "one of her tasks is to tell [IRS Commissioner Mark] Everson what he's doing wrong -- and to take action if, in her view, injustices against taxpayers aren't resolved fairly and quickly." Olson "is the designated 'voice' of the taxpayer within the IRS. Congress created the position in 1998, when the IRS was under criticism for being unyielding and heavy-handed with taxpayers. Ms. Olson was appointed in 2001.'

CONGRESS-ADMINISTRATION:

Bush Signs Debt Limit Increase Into Law. The A2 (3/21) reports, "With no fanfare, President Bush signed a bill Monday pushing the ceiling on the national debt to nearly $9 trillion." The debt limit increase "was the fourth of Bush's presidency, totaling $3 trillion. With the budget deficit near record levels, an additional increase in the debt limit almost certainly will be required next year."

Bush Signs Bill Increasing Energy Aid To Poor. The AP (3/21) reports, "Federal aid to help the poor cope with energy costs will increase by $1 billion to more than $3 billion this year under legislation President Bush signed on Monday." The $1 billion, "on top of $2.1 billion already allotted for the current budget year, was obtained by transferring money originally intended for the budget year that begins Oct. 1."

Study Finds Fewer Choices In Medicare Drug Plans. The Los Angeles Times (3/21, Alonso-Zaldivar, 958K) reports that an independent study of the Medicare prescription benefit "has concluded that many low-income California seniors now have access to a narrower range of drugs than when the state covered their medications." The program "contains pitfalls for middle-class beneficiaries as well, the report said, because of wide differences in the number of drugs the private Medicare prescription plans cover." Medicare administrator Mark McClellan "took issue with the report's conclusions Monday, saying that many of the medications that plans do not cover have generic equivalents that cost much less and are paid for by the plans."

Education Department Official To Leave Post. The New York Times (3/21, Schemo, 1.19M) reports, "The federal Education Department's top official overseeing colleges and universities has resigned and will become deputy staff director of the House committee on education, the panel announced on Monday." The official, Sally L.

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Stroup, the assistant secretary for postsecondary education, "said in an interview on Monday that she submitted her resignation last Wednesday and would leave the department in mid-April. 'I've been here four years,' Ms. Stroup said. '"That was long enough.'" The Times adds, "In moving to Capitol Hill, Ms. Stroup will return to her onetime employer, officially known as the Committee on Education and the Workforce, for which she had worked for seven years."

Republicans Make Play For Firefighters' Union. The New York Times (3/21, Greenhouse, 1.19M) reports, "With the election season heating up, the Bush administration and the Republican Party used a good deal of energy and charm on Monday to woo a group that has long been part of the Democrats' base: organized labor." Homeland Security Secretary Michael Chertoff; Senator Chuck Hagel, Republican of Nebraska; and the Republican National Committee chairman, Ken Mehlman, "spoke to the annual legislative conference of the main firefighters' union, saying they were eager to work with the union on issues of common ground." The White House chief of staff, Andrew H. Card Jr., "had been scheduled to speak, but canceled, citing illness." Harold A. Schaitberger, the president of the International Association of Fire Fighters "and the first prominent labor leader to back Senator John Kerry, Democrat of Massachusetts, for president in 2004, voiced the views of an increasing number of union leaders in saying it was important to work with Republicans."

Allen's "Paycheck Penalty" Legislation Unpopular In Congress. The Washington Times (3/21, Bellantoni, 90K) reports, "Sen. George Allen, testing the 2008 presidential waters while facing his own re-election in the fall, says members of Congress should not get paid if they miss the deadline for passing a federal budget." Allen's "so-called 'paycheck penalty' proposal has piqued the interest of fiscal conservatives, but is unpopular among his colleagues." His "critics call the proposal disingenuous, noting that last week the senator voted to increase the federal debt limit to $9 trillion."

Jackson Takes Mentoring Next Generation Seriously. The Washington Post (3/21, Blumenfeld, 744K) reports on Housing and Urban Development Secretary Alphonso Jackson's mentoring of Jerell Blakeley, a Howard University Student. Jackson, who grew up in Texas as the youngest of 12 children believes his "happy ending is meaningless….unless it is retold through the lives of other young blacks. It is why he reached out to Blakeley and why, on weekends, he is tape-recording his memoirs for his first grandchild. Jackson is a grandfather now and has a story to tell, one that he hopes will cast a spell."

West Texas Eliminated As Possible Site For Bush Library. The Washington Post (3/21, A15, 744K) reports that West Texas has been dropped from consideration as a site for President Bush's Presidential Library. The West Texas Coalition "had proposed a contemporary-style or Spanish Renaissance library on 100 acres west of Texas Tech's Health Science Center and, at Midland College, a Laura Welch Bush Center for Early Literacy." The Post adds, "Still in the running as library sites are Southern Methodist University in Dallas (Laura Bush's alma mater), the University of Dallas and Baylor University in Waco. Although SMU has little land available for new building, it is perceived to be the favorite because Laura Bush is a member of the board of trustees."

Intelligence Community To Move Toward Common Pay System This Year. The Washington Post (3/21, D4, Barr, 744K) reports in its "Federal Diary" column, "The intelligence community…plans to take the first steps this year toward pulling its tens of thousands of employees into a common pay system." The "departments of Homeland Security and Defense have firmed up plans to roll out performance-based pay systems this year. Pay changes also may come to parts of the FBI, such as its new national security branch."

Teacher's Union Official Opposes Bush Adjunct Faculty Proposal. Tom Mooney, president of the Ohio Federation of Teachers, writes in USA Today (3/21, 2.31M), "The Bush administration's proposal to import the concept of adjunct faculty from higher education and apply it to America's high schools is just another quick-fix attempt to avoid tackling the real problems that limit and drain the teaching talent pool. Low pay, poor working conditions and the lack of opportunity for advancement cause too many talented people to take a pass or just pass through. … The president's proposal is unlikely to be helpful, and it could erode the quality of teaching in America's high schools. The last thing secondary education needs is to replicate the extensive use of exploited adjunct faculty that is turning our public colleges and universities into academic sweatshops."

USA Today Makes Case For Proposal. An accompanying editorial in USA Today (3/21, 2.31M), "Teachers' union leaders are resisting a plan by President Bush to build an 'adjunct teacher corps' of 30,000 experienced scientists and mathematicians…to assist in the nation's schools. The union leaders say raising teacher pay and improving working conditions, not bring in outside experts, is the way to enhance math and science teaching." USA adds that "Bush's $25 million adjunct teacher plan, being considered by Congress, could prove invaluable. Some of these volunteer experts might advise teachers and mentor

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students. … Other scientists might become certified to try teaching as a full-time second career." Teachers "should see them as educational partners, not as a threat to their livelihoods."

Professor Criticizes Feingold Censure Plan. H. W. Brands, a history professor at the University of Texas at Austin, writes in the New York Times (3/21, 1.19M) that history shows that Sen. Russ Feingold should "move carefully" in his effort to censure President Bush for authorizing wiretaps of Americans without court orders. If Feingold "hopes to discredit Mr. Bush, as he doubtless does, I'd suggest he find means other than censure."

Marcus Criticizes Administration "Manliness." Ruth Marcus writes in the Washington Post (3/21, A17, 744K), "I have a new theory about what's behind everything that's wrong with the Bush administration: manliness." In his book "Manliness," Harvard professor Harvey C. Mansfield argues that manliness "seeks and welcomes drama and prefers times of war, conflict, and risk." The manliness of the Bush White House "has a darker side that has proved more curse than advantage. The prime example is the war in Iraq: the administration's assertion of the right to engage in preemptive and unilateral war; the resolute avoidance of debate about the "slam-dunk" intelligence on weapons of mass destruction; the determined lack of introspection or self-doubt about the course of the war; and the swaggering dismissal of dissenting views as the carping of those not on the team." Marcus adds, "What this country could use is a little less manliness -- and a little more of what you would describe as womanly qualities: restraint, introspection, a desire for consensus, maybe even a touch of self-doubt."

OTHER NEWS:

Bernanke Says Low Rates Not Indicative Of Looming Slowdown. USA Today (3/21, Kirchhoff, 2.31M) reports, "Federal Reserve Chairman Ben Bernanke said Monday the fact that long-term interest rates have stayed low, even though the central bank has been raising short-term rates since mid-2004, does not indicate a major, looming economic slowdown." But "in a speech to the Economic Club of New York, Bernanke said the reasons for the tame long-term rates, unusual during a period of Fed tightening, are unclear, as are the implications for future policy." USA Today adds, "If low long-term rates signal investor expectations of a slower economy, a Fed response might be to ease short-term rates. If other factors, such as a decline in long-term inflation fears or higher demand, are in play, that would be more stimulative, and the Fed might need a higher short-term rate, he said."

The New York Times (3/21, Porter, 1.19M) reports the Fed chairman said he is "skeptical about the argument that the economy will slow in the near future, a view that many investors may take as a sign that the Fed is not quite near the end of its string of interest rate increases," and the Financial Times (3/21, Balls) runs a similar report under the headline "Bernanke Dismisses Fears Of US Slowdown." The Washington Post (3/21, D3, Henderson, 744K) also reports the story.

Meanwhile, the Wall Street Journal (3/21, Ip, 2.11M) says that "for the first time since Mr. Bernanke became chairman, the Fed's policy-making committee meets Monday and Tuesday. It is expected to raise the funds rate by one-quarter percentage point to 4.75%." It also "is likely to signal a bias to raise rates further, though possibly with less certainty than it has to date."

Leading Indicators Down 0.2% In February. The Wall Street Journal (3/21, McAuley, 2.11M) reports, "A gauge of future economic activity slipped 0.2% in February to 139, according to preliminary estimates by the Conference Board." The group said "its composite index of leading indicators edged down in February after a revised 0.5% increase in January, when the index was originally reported to have increased 1.1%. The February reading for the leading index came in slightly less weak than the -0.3% median estimate of 21 economists surveyed by Dow Jones Newswires." The index "was equal to 100 in 1996."

US Gasoline Prices Up 14 Cents In One Week; Oil Prices Down. NBC Nightly News (3/20, story 8, 0:20, Brown, 9.87M) reported, "If you are trying to outrun the spring storms and head somewhere warm, it will cost you. Gas prices jumped nearly 14 cents a gallon since last week to just above $2.50 a gallon nationwide. That is the third-biggest weekly jump ever and the highest price ever for the month of March." Meanwhile, the Wall Street Journal (3/21, Civils, 2.11M) reports oil prices "plunged Monday," with "benchmark light, sweet crude futures for April, set to expire Tuesday," falling "$2.35, or nearly 4%, to settle at a one-week low of $60.42 a barrel on the New York Mercantile Exchange."

Stock Markets Have Mixed Finish. NBC Nightly News (3/20, story 9, 0:10, Brown, 9.87M) reported, "On Wall Street today, stocks finished narrowly mixed. The Dow was down just over 5 points on the day [to close at 11,274.53]. The NASDAQ gained nearly 8 points [to close at 2,314.11]." The Wall Street Journal (3/21, Browning, 2.11M) reports the Standard & Poor's 500-stock index "fell 0.17%, or 2.17 points, to 1305.08, up 4.6% this year."

"Da Vinci Code" Trial Wraps Up In London. The Washington Post (3/21, C1, Sullivan) reports, "The 'Da Vinci Code' copyright infringement trial, which ended in a London courtroom Monday, combined lively peeks into a celebrity author's lifestyle and hours of legal arcana so numbing that

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they put a white-wigged attorney to sleep within feet of the judge." The Post continues, "Fans of media-shy author Dan Brown learned that his inspiration to write fiction came on a Tahitian vacation when he read Sidney Sheldon's alien-invasion thriller 'The Doomsday Conspiracy.' The next day lawyers were arguing about obscure points of religious history, such as whether and why Pepin the Fat murdered Dagobert II, and what Godefroi de Bouillon was really up to during the First Crusade." The Post adds, "In 12 days of testimony over three weeks, authors Michael Baigent and Richard Leigh tried to prove that Brown stole the idea for his mega-selling novel from a nonfiction book they published in 1982, 'The Holy Blood and the Holy Grail.' Judge Peter Smith, a man so soft-spoken that his words often seemed to have trouble escaping his thick black mustache, said he hoped to issue a ruling by April 8. … At stake is a multimillion-dollar slice of Brown's pie, which includes sales of nearly 40 million books and an upcoming Hollywood film starring Tom Hanks that, if 'Da Vinci's' luck holds, is expected to sell movie tickets and Raisinets from here to the Sea of Tranquillity. (And next week the paperback, a massive 5 million copies, will finally hit U.S. shelves.)"

Penn Says Swing Voters, Not Base, Key To Election Victories. Mark J. Penn, head of a polling firm that conducted surveys for President Bill Clinton in 1996, writes in the Washington Post (3/21, A17, 744K), "We hear it every day: America is divided into two camps -- red and blue -- and the key to elections is just energizing the base. But in fact, while the base is critical, it's not the whole picture. Behind all the rhetoric, the reality is that swing is still king. The two or three or 10 voters who are the quietest in focus groups, who never demonstrate and who belong to no political party, will be the ones who determine the political course of America. … Recent polls show that rather than a static electorate, we have a dynamically changing one. Based on the polls six months ago, journalists were declaring Republican hegemony. Today, Democrats have the widest margin in two decades on the generic congressional vote."

Gore Says He Has No Plan To Run For President In 2008. The Washington Times (3/21, Pierce, 90K) reports in its "Inside Politics" column, "Former Vice President Al Gore said yesterday he has no plans to run for president in 2008, but hasn't ruled out a future in politics." However, the Atlanta Journal-Constitution (3/21, Shepard, 430K) reports that "even those who were part of his inner circle in 2000," when Al Gore "lost the White House to George W. Bush in one of the closest and most controversial presidential elections in American history, still don't have a clear idea what the former vice president is thinking in terms of a 2008 campaign. … Speculation about Gore's intentions has intensified in recent weeks due to three events: his Martin Luther King Jr. holiday speech in January lambasting the president for 'breaking the law' with his warrantless domestic surveillance program; his message to Democratic donors in February soliciting funds for the Democratic Senatorial Campaign Committee; and his party fund-raising appearances this month in Florida, the scene of the contentious vote recount that ended with a Supreme Court ruling that made Bush president in the 2000 election." Gore's activities "prompted pollster Lee Miringoff to include Gore in a recent poll on possible Democratic 2008 contenders. It found Gore was second only to Sen. Hillary Rodham Clinton of New York. Clinton was the favorite of 33 percent, Gore was the choice of 17 percent."

Rice Not Applying For NFL Commissioner. State Department spokesman Sean McCormack said Monday that Secretary of State Condoleezza Rice is not applying for the NFL commissioner's job which has recently become open. The AP (3/21) reports, "Rice, who is avid particularly in support of the Cleveland Browns, is enjoying being secretary of state 'at the moment,' spokesman Sean McCormack said. The wiggle-room in his response after NFL commissioner Paul Tagliabue announced he would retire resonated off frequent only half-joking statements by Rice that as a lifelong football fan she aspires to run the league one day."

Dell To Double Its Workforce In India. Dell plans to double its employee strength in India to 20,000. The New York Times (3/21, Rai, 1.19M) reports, "Dell, which is based in Round Rock, Tex., has four call centers in India, where the bulk of its 10,000 employees work, as well as software development and product testing centers." The Times adds, "Salaries in India are rising rapidly, but still are about a fifth of what they are in the West for comparable jobs. … In a market where the penetration of computers is very low, companies such as Dell are eager to set up a manufacturing base to help expand sales. Dell accounts for about four percent of the 4 million computers purchased in India."

Dionne Says Republican Moderates Are Gone. E.J. Dionne writes in the Washington Post (3/21, 744K), "Boehlert chose to retire in the year when National Journal, the political world's answer to Sports Illustrated, featured him as the ultimate 'Down the Middle' guy. In its Feb. 25 issue, the magazine published its annual ratings, which showed that Boehlert's votes were more liberal than those of 52.2 percent of House members and more conservative than 47.8 percent." Dionne adds, "I'll miss Boehlert and his optimistic moderation. Our politics worked better when a sufficiently large band of Republican moderates and liberals could take the edge off polarization and orient government toward problem-solving."

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WPost Objects To Ginsburg Insinuations In Making Foreign Law Argument. An editorial in the Washington Post (3/21, 744K) says, "In a speech last month at the Constitutional Court of South Africa, Justice Ruth Bader Ginsburg made some unfair insinuations about critics of the use of foreign law in American courts. Justice Ginsburg was defending what is, in our view, a perfectly defensible proposition: that American courts should 'learn from legal systems with values and a commitment to democracy similar to our own.' Yet in doing so, she managed to link those who take an opposing view to the legacies of slavery and apartheid and to paint them as 'fuel[ing] the irrational fringe' in its threats against judges." The Post adds, "We agree with Justice Ginsburg and the court majority that American courts need not pretend that foreign courts do not exist. … Justice Ginsburg has a strong case to make without stooping to such insinuations."

US Officials Believe Iran Aiding Al Qaeda. The Los Angeles Times (3/21, Meyer, 958K) reports, "US intelligence officials, already focused on Iran's potential for building nuclear weapons, are struggling to solve a more immediate mystery: the murky relationship between the new Tehran leadership and the contingent of Al Qaeda leaders residing in the country. Some officials, citing evidence from highly classified satellite feeds and electronic eavesdropping, believe the Iranian regime is playing host to much of Al Qaeda's remaining brain trust and allowing the senior operatives freedom to communicate and help plan the terrorist network's operations." They also "suggest that new President Mahmoud Ahmadinejad may be forging an alliance with Al Qaeda operatives as a way to expand Iran's influence or, at a minimum, that he is looking the other way as Al Qaeda leaders in his country collaborate with their counterparts elsewhere."

Bush Warns Iran He Would Use Military Force To Defend Israel. AFP (3/20) reports, "US President George W. Bush said he hoped to resolve the nuclear dispute with Iran with diplomacy, but warned Tehran he would 'use military might' if necessary to defend Israel." Said Bush, "The threat from Iran is, of course, their stated objective to destroy our strong ally Israel. That's a threat, a serious threat. It's a threat to world peace. … I made it clear, and I'll make it clear again, that we will use military might to protect our ally Israel."

Key Security Council Members Cannot Agree On Tehran Strategy. The Washington Post (3/21, A12, Lynch, 744K) reports Germany and the five permanent members of the UNSC "failed to reach agreement at a meeting Monday on how to respond to the Iranian nuclear crisis but said they would forge ahead in the coming days to break the impasse." While the British representative denied that London has offered a new diplomatic solution, Under Secretary Burns "said the United States is not going to participate in direct negotiations with Iran on the nuclear issue." The Post says the meeting's six-way joint statement resulting "echoed an agreement Secretary of State Condoleezza Rice had reached with those five governments in January." The AP (3/21, Lederer, Jahn) reports Britain "is calling for new talks with Iran about its suspect nuclear program but will push for militarily enforceable U.N. Security Council sanctions if those talks do not make progress, according to a letter obtained by The Associated Press." The proposal is angled toward Russia and China, allies of Tehran who staunchly oppose firm Security Council action."

Ahmadinejad Says West Should Apologize. The AP (3/21, Karimi) reports Ahmadinejad yesterday "said the West should apologize to Iran for accusing it of trying to develop a nuclear weapons program and said his country would continue to resist international pressure to halt its nuclear energy program."

Iranian Jews Fear Fallout. The Washington Times (3/21, Bradley, 90K) reports, "Members of Iran's Jewish community fear they are being set up to take the blame if President Mahmoud Ahmadinejad's drive to establish a nuclear program ends badly for the country." Members of the "30,000-strong community" say "they already are being viewed as a potential fifth column after a series of speeches in which the firebrand president has spoken of a 'Holocaust myth' and heaped scorn on Europe for its defense of the 'Zionist entity.'"

More Commentary. Jessica T. Matthews, president of the Carnegie Endowment for International Peace, writes in the New York Times (3/21, 1.19M), "The idea that 'it's too late' to stop Iran's progress toward building nuclear weapons is technologically wrong. 'There's nothing we can do about it' ignores a range of options between economic sanctions, going to war and more of doing nothing. And the argument that "we can learn to live with it" misses the nature of the challenge." A nuclear Iran "is dangerous enough, but this crisis is only proximately about Iran. More important, it is about the likely consequence of an Iranian bomb, namely, that Saudi Arabia, Turkey and Egypt would produce their own bombs, and, thanks to the concomitant international failure to deal with North Korea, the nonproliferation regime would collapse. What is at stake is not a choice between 9 and 10 nuclear weapons states, but a choice between 9 and 30 or more."

Israel Briefly Reopens Gaza Crossing. The New York Times (3/21, Myre, 1.19M) reports, "Israel reopened the main freight crossing to the Gaza Strip on Monday to allow delivery of flour and sugar to the Palestinians. But it abruptly closed the crossing after just a half-hour, citing security threats." The Israeli military "said there were security alerts, but did not provide additional details."

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After Rice Meeting, Bahrain Leader Calls On Hamas To Engage Israel. The AP (3/21, Schweid) reports, "An Arab leader said Monday a Hamas-led Palestinian government has no alternative but to deal with Israel. 'They will be obliged to do that because the Palestinians, as a government, deal with Israel,' Crown Prince Salman bin Hamad bin Isa Al-Khalifa of Bahrain told reporters after meeting with Secretary...Rice. 'How can they deal with Israel if they don't recognize Israel?'" The crown prince went on to say, "This is an international Palestinian issue. ... We encourage our Palestinian brothers to be committed to all the agreements they were committed to over all the long years."

Nunn Voices "Serious Concerns" About India Nuclear Deal. The Washington Post (3/21, A9, Kessler, 744K) reports Nuclear Threat Initiative co-chair and former Senate Armed Services Chair Sam Nunn "said yesterday that he has serious concerns the [India nuclear] deal would harm the 'United States' vital interest' in preventing nuclear proliferation and urged Congress to set conditions for its support." The Post calls Nunn's remarks "a setback for the administration's efforts to win approval of" the nuclear pact. Nunn "said he is concerned it would lead to the spread of weapons-grade nuclear material, unleash a regional arms race with China and Pakistan, and make it more difficult for the United States to win support for sanctions against nuclear renegades such as Iran and North Korea." The Post repeats Under Secretary Burns' remarks last week "that congressionally mandated conditions could cause the agreement to unravel. He and other administration officials say the agreement is a groundbreaking achievement that will bring India, which has not signed the nuclear Non-Proliferation Treaty, into the nonproliferation mainstream, while bolstering U.S.-India ties and adding jobs to the U.S. economy."

NATO Secretary-General Pledges Alliance Force For Darfur. The AP (3/20, Schweid) reports NATO Secretary-General Jaap De Hoop Scheffer told President Bush Monday that "NATO is prepared to support a U.N. force in the Darfur region of Sudan." The AP notes that "Bush has called for greater NATO involvement in Darfur" but "said the African Union must request that its mission in Darfur be converted to a U.N. mission. When that happens, NATO can move in with U.S. help 'to make it clear to the Sudanese government that we're intent upon providing security for the people there and intent upon helping work toward a lasting peace agreement.'" The AP reports Secretary Rice made similar statements after her meeting with De Hoop Scheffer. Assistant Secretary McCormack "issued a statement, meanwhile, criticizing the Sudanese government's closing of several U.S.-supported social development, health and food distribution offices. [He] urged the government in Khartoum to remove immediately all obstacles to delivery of humanitarian assistance and to provide protection for civilians and aid workers."

US Calls For New Belarus Vote. The New York Times (3/21, Chivers, Myers, 1.19M) reports, "The United States declared the results of the president election in Belarus invalid on Monday and called for a new race, even as President Aleksandr G. Lukashenko defiantly swept aside criticism and declared himself the winner of a third term." White House spokesman Scott McClellan is quoted saying, "The United States does not accept the results of the election. ... We support the call for a new election." Appearing on state television after official results gave him 83 percent of the vote, "Mr. Lukashenko exuded confidence and said the outcome had 'convincingly demonstrated who the Belarussians are and who is the master of our house.'"

The Washington Post (3/21, A1, Finn, 744K) adds, "The United States will work with the European Union to possibly freeze the foreign assets of Belarussians responsible for electoral fraud or human rights violations." McClellan is quoted saying the campaign "was conducted in a climate of fear. It included arrests and beatings and fraud. We applaud democrats in Belarus for their courage and peaceful stand." Bloomberg (3/21, Neuger) adds, "The Vienna-based Organization for Security and Cooperation in Europe said about 400 observers found 'substantial empirical evidence' of fraud. The elections were not 'free and fair,' the group said." The Financial Times (3/21, Buckley, Wagstyl, Dombey), Washington Times (3/21, Mainville, 90K), AP (3/21, Danilova) and Christian Science Monitor (3/21, Weir, 61K), among other sources, also report the story.

WPost Says Russia Prefers Dictatorships In Europe. An editorial in the Washington Post (3/21, A16, 744K) says, "After years of tolerating a dictatorship on their borders, European countries finally are taking measures against Belarus. … All of this might have a decisive impact if not for the countervailing influence of Russia, which still prefers dictatorships in Europe. The Post notes that the G8 Chairman, Russian President Vladimir Putin, "publicly congratulated Mr. Lukashenko yesterday." Putin's policy "is to preserve Russia's domination of its neighbor by backing a dictator who falsifies elections, has murdered leading opponents and enriches himself through arms sales to such countries as Iran and Sudan. That presumably won't stop President Bush and the six other leaders of Western democracies from toasting their G-8 chairman in St. Petersburg this summer. Too bad the national security strategy seems not to extend that far; Mr. Putin's emerging autocracy also deserves some adversaries."

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Courted By China, Buffeted By Western Neighbors, Putin Faces New Ascendancy. The AP (3/21, Meyer) reports, "The Kremlin may be reclaiming a dominant role in its former Soviet backyard. In Belarus, Moscow-allied strongman Alexander Lukashenko just won re-election by a landslide — at least by the official count. And President Vladimir Putin's allies could return to government in Sunday's Ukrainian parliamentary election, just over a year after the Orange Revolution. Such developments set back Western hopes of a democratic tidal wave in the former Soviet sphere and could further tarnish Putin's democratic credentials as he tries to cast himself as a statesman capable of brokering deals with Iran and Hamas."

Meanwhile, as Putin arrives in China for "his fifth meeting in under a year with the Chinese president," a separate AP (3/21, Eckel) says, "With China's wealth and might on the ascendancy, Putin's meetings with Chinese President Hu Jintao and other officials are expected to be spectacles of symbolism and overtures to Russia's gigantic neighbor." Hoping to ink a major pipeline deal, "officials in both Moscow and Beijing are looking to spur new investment between the former Cold War adversaries and double last year's $29 billion in trade by 2010." The two Eurasian behemoths "have also moved to deepen political ties following years of Cold War suspicion. Both have pledged commitment to a 'multipolar world' and last year warned other nations against attempts to dominate global affairs and interfere in sovereign nations' domestic matters." The Financial Times (3/21, McGregor, Yeh) reports Putin "arrives in China on Tuesday for a visit that Beijing hopes will secure it a decisive advantage over Japan in their lengthy battle to secure the route of an oil pipeline from east Siberia."

Mexican Government Takes Out Full-Page Ads In US Newspapers. The Dallas Morning News (3/21, Mittelstadt) reports, "Worried by the sometimes harsh tone of the immigration debate unfolding in the US, the Mexican government on Monday took its message directly to the American public: As your neighbor, we want to work with you to fashion a solution. In full-page ads in The New York Times, Washington Post and other newspapers, the Mexican government acknowledged a shared responsibility to address illegal immigration and to stem its citizens' northward exodus by creating more jobs at home." Designed by Dallas-based Allyn & Co., the ad says "the US should allow Mexico to participate in the 'design, management, supervision and evaluation' of a guest worker program that should cover 'the largest possible number of workers and their families' currently in the US illegally."

Proposed Tariffs On Chinese Imports Called "Close To Economic Suicide" For US. The Wall Street Journal (3/21, Dean, 2.11M) reports, "Morgan Stanley Chief Economist Stephen S. Roach said Tuesday that a successful move by the US Congress to pass sweeping tariffs on imports from China would be 'close to economic suicide' for the U.S." US Sens. Charles Schumer and Lindsey Graham "have proposed a bill that would impose 27.5% tariffs on all Chinese imports unless Beijing sharply revalues its currency." Roach, "in Beijing for meetings with Chinese officials, told reporters Tuesday that he believes that bill would easily pass in the Senate, and could well pass in the House of Representatives as well." He added the tariffs "would be a 'horrible mistake' that could prompt Beijing to cut back on purchases of US treasuries, leading to a weaker dollar and higher interest rates."

French Protesters Call For Strikes Next Week. The New York Times (3/21, Smith, 1.19M) reports, "French students and unions stepped up pressure on the government today, calling for more demonstrations culminating in strikes next week to fight a hotly contested new labor law that makes it easier for companies to fire young employees." The protesters "set March 28 as the fourth 'day of action' since street rallies over the new job rules began Feb. 7."

In an editorial titled "The Decline Of France," the Wall Street Journal (3/21, 2.11M) says, "The right to assemble is a pillar of free society. But in France it's the only pillar its citizens seem to take seriously. So much so that any public debate of import gets conducted in the streets rather than through the ballot box or institutions of a purportedly mature democracy. In less enlightened societies, as opposed to the birthplace of the Enlightenment, that's usually called mob rule." But "the violent street demonstrations roiling France's cities today, and the unhappy career prospects of Prime Minister Dominique de Villepin, are the latest symptoms of an ailing democracy."

Danish Emphasis On Retraining Said To Have Cut Jobless Rate In Half. The Wall Street Journal (3/21, Walker, 2.11M) reports, "Most of Western Europe is fighting to hold on to its traditionally strong job protections while in some cases cutting jobless benefits, as the region struggles to compete in a globalized economy. Denmark has gone the other way." The government "allows liberal hiring and firing as in the US. And it has imposed limits on the duration of its high unemployment benefits." But "it also invests more than any other country, as a percentage of its gross domestic product, in retraining the jobless -- a combination it calls 'flexicurity.' Its unusual mix of the free market and big government has helped Denmark cut its unemployment rate in half, from about 10% in the early 1990s to U.S.-style levels of under 5% now."

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Blair Government Proposes Ban On Secret Loans To Political Parties. The Washington Post (3/21, A9, Jordan, 744K) reports, "The government of Prime Minister Tony Blair on Monday proposed banning secret loans to political parties to try to end a financing scandal blamed for sending Blair's popularity ratings to record lows." Charles Falconer, the cabinet minister in charge of the judiciary, "said he would immediately seek to amend campaign finance laws to force political parties to disclose who lends them money." Blair's Labor Party "said Friday that it had accepted loans worth more than $24 million from unidentified donors. Under British law, political parties must disclose the source of donations, but they do not have to declare the source of loans." Blair "has been badly hurt by recent disclosures that several wealthy businessmen who privately lent money to his campaign were then recommended for seats in the House of Lords, the upper house of Parliament."

Protesters Continue To Demand Thai PM's Resignation. The Washington Post (3/21, A9, Sipress, 744K) reports, "For several weeks, Thai Prime Minister Thaksin Shinawatra has faced nightly demonstrations demanding his ouster. Tens of thousands of protesters have crowded into the capital, joining ranks with brown-robed monks, Chinese opera performers and tribal children in colorful costumes." The "spectacle" so far "has remained peaceful, though the potential for violence is growing as Thaksin refuses to budge."

Ethiopian Regime Cracks Down On Critics. The Washington Times (3/21, Pisik, 90K) reports, "A climate bordering on fear has taken hold of the Ethiopian capital as journalists, lawyers and politicians carefully measure their public remarks and contacts in the face of widespread arrests and prosecutions." The Times adds "tens of thousands…have been arrested on a variety of charges, according to Amnesty International, most of these stemming from violent political demonstrations in November. Advocates say it is impossible to know how many are still being held." Human Rights Watch "offers anecdotal reports of farmers denied fertilizer and seed because of their political affiliations, nighttime sweeps by federal police and beatings at checkpoints. Most independent newspapers have been shut down."

NYTimes Backs Liberian Request For Taylor's Extradition From Nigeria. The New York Times (3/21, 1.19M) editorializes, "Last week, Liberia's new president, Ellen Johnson Sirleaf, called for Nigeria to extradite the former president and warlord Charles Taylor to face war crimes charges. Mr. Taylor, who has been living in a Nigerian government guesthouse since 2003, is wanted on a range of charges relating to his decade-long West African rampage, which unleashed campaigns of torture, rape and dismemberment in Ivory Coast and Sierra Leone and on his home turf, Liberia." The Times adds, "In a just world, Mr. Taylor would have already been tried, condemned and sent up the river. … For West Africans, who have endured more than a decade of war, there's no justice without peace."

THE BIG PICTURE:

Headlines From Today's Front Pages.

Los Angeles Times:
"Agent Faults FBI On 9/11."
"Attack Of The Pandas."
"Choices Shrink In Drug Plan, Study Says."
"Welcome To Maywood, Where Roads Open Up For Immigrants."
"Some U.S. Officials Fear Iran Is Helping Al Qaeda."
"As Japanese Bring Work Home, Virus Hitches A Ride."
"Downsizing And In Debt, Idealab Chief Still Pitching."

USA Today:
"US Tax Refunds Break Records."
"Fear Of Flying Can Cripple Workers."
"States Allow Deadly Self-Defense."

New York Times:
"Banker Granted Retrial In A Case From 90's Boom."
"2 Years After Soldier's Death, Family's Battle Is With Army."
"New Business Blooms In Iraq: Terror Insurance."
"NYU And Columbia To Receive $200 Million Gifts For Research."
"Visitors Seek A Taste Of Revolution In Venezuela."
"Airline Workers Are Left At Gate, Mourning A Perk."

Washington Post:
"FBI Was Warned About Moussaoui."
"Conviction Of Ex-Star Banker Tossed Out."
"An Iraq Success Story's Sad New Chapter."
"Overnight Success, Instant Changes At George Mason."
"Conservationists Vie To Buy Forest Habitat."
"Belarus Leader Defiant After Reelection As US, EU Threaten Sanctions."

Washington Times:
"George Mason Basketball Has Finally Arrived."
"Bush Pledges Not To Give In To Insurgents."
"Jews Wary Of Becoming Fall Guy For Iran's Woes."
"US Eyes Privatizing Cargo Security Work."
"DC Schools Salaries Skyrocket."
"Ethiopia Gripped By Harsh Regime."
"Freezing Nuns A Result Of Patriot Act Move."

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Detroit Free Press:
"Little Caesars Thinks Huge."
"Hospital To Give Detroit A Shot In Arm."
"As Best Pals, Belbin And Agosto Dance For History."
"Zoo Aid Likely, But On Legislature's Timeline."

Atlanta Journal-Constitution:
"DeKalb Tax Freeze Closer."
"Divorce Wait Bill Likely Dead This Session After House Balks."
"Bush Defends Agenda, Motives."
"Termite Panic Is Much Ado About Nothing."
"NFL Chief Goes Out On Top."

Houston Chronicle:
"Perry Orders Up Evacuation Plan."
"Suspected Killer 'B-Stupid' Arrested."
"FBI Agent Says He Warned His Bosses About Moussaoui."
"DeLay Case May Once Again Face Bias Issue."
"'They Make Him Into Something He Wasn't.'"

Story Lineup From Last Night's Network News:
ABC: Bush-Iraq Speech; Iraqi Security Forces; Iraqi Insurgents; Iraqi Divisions; Khalilzad Interview; Military Families; Iraq Retrospective.
CBS: Bush-Iraq Speech; Iraq-US Military Investigations; Iraqi Insurgents; FBI-Moussaoui; Hurricanes-Global Warming; US-Extreme Weather; Smoking Laws-Premium Cigarettes; Tagliabue-Retirement Announcement; Attention Deficit Disorder-Athletes.
NBC: Bush-Iraq Speech; Marines-Shooting Investigation; Iraq-Citizens; Saddam's Cabinet-CIA Contact; FEMA-Relief Payments; Australia-Cyclone; US-Extreme Weather; Gas Prices; Stock Markets; National Anthem-Correct Lyrics Promotion.

Story Lineup From This Morning's Radio News Broadcasts:
ABC: Nagin-New Orleans Rebuilding Plan; 2006 Hurricane Season; TX-Roof Collapse; Iraq-Iraqi Police Officers Killed; Bush-Iraq;
CBS: Iraq-Police Officers Killed; Bush-Iraq; Moussaoui Sentencing; World Baseball Classic; Midwest Snowstorm; Wall Street.
NPR: Iraq-Police Officers Killed; Bush-Iraq; Moussaoui Sentencing; Red Cross-Katrina Relief Fraud; Midwest Snowstorm; UN Human Rights Commission-Session Canceled; World Baseball Classic; NFL-Tagliabue Retirement.

WASHINGTON'S SCHEDULE:

Today's Events In Washington.
White House:

PRESIDENT BUSH — Meet with President Ellen Johnson Sirleaf of the Republic of Liberia; President and Mrs. Bush meet with Iraq and Afghanistan Non-Governmental Organizations. Roosevelt Room.

VICE PRESIDENT CHENEY — Arrives Scott Airforce Base, Illinois, open press; participates in a command briefing by General Schwarz, Commander of TRANSCOM, Building 1900, Scott Air Force Base; delivers remarks on Iraq and the global war on terror at a rally for the troops at Scott Air Force Base. Hangar 1, Scott Air Force Base, IL. Open press.

US Senate: No Scheduled Events.

US House: No Scheduled Events.

Other: SECURITY ISSUES _ American University's Washington College of Law hosts EMININT 2006 (Emerging Issues in National and International Security) to discuss emerging issues in national and international security. Highlights: Location: Room 603, American University's Washington College of Law, 4801 Massachusetts Ave. NW.

CHEMICAL SECURITY-CHERTOFF _ 9 a.m. - 10:30 a.m. Homeland Security Secretary Michael Chertoff delivers remarks on chemical facility security issues at the The National Chemical Security Forum. With Chris Beck, critical infrastructure specialist, House Committee on Homeland Security; Tim Scott, chief security officer, Dow Chemical; and others. Location: Capital Hilton, 16th and K Sts. NW.

CENSUS-HISPANICS _ 10 a.m. The Census Bureau holds a news conference to release new details on Hispanic-owned businesses. Location: Room 4830, main Commerce.

FEMINISTS-PENNA. SENATE _ 10 a.m. Kim Gandy of NOW PAC and Eleanor Smeal of Feminist Majority PAC will announce what they say is a major move in to mobilize both political resources and grassroots activists in order to make a difference in the Pennsylvania Senate race. Location: National Press Club, First Amendment Room.

DEFICIT REDUCTION LAWSUIT _ 10:30 a.m. Public Citizen holds a teleconference to discuss a lawsuit being filed Tuesday that challenges the validity of the Deficit Reduction Act of 2005 on constitutional grounds.The suit, being brought by Public Citizen, says the act is invalid because the bill that President Bush signed was passed by the U.S. Senate but not the U.S. House of Representatives. Bills must be approved by both chambers to become law. Notes: Call-in is 1-800-377-8846, passcode 36707396.. All material is embargoed until 10:30 a.m.

NATIONAL SECURITY-BUSH _ 10:30 a.m. - 12 p.m. The Brookings Institution hosts a discussion on the Bush national security strategy and meeting global challenges. With Carlos Pascual, Vice President and Director, Foreign Policy Studies; Ivo H. Daalder, Senior Fellow, Foreign Policy Studies; Richard A. Falkenrath, Senior Fellow, Foreign Policy Studies; Martin S. Indyk, Senior Fellow and Director, Saban Center for Middle East Policy; and Michael E. O'Hanlon

DOJ_NMG_0019620

Senior Fellow, Foreign Policy Studies. Location: The Saul/Zilkha Room, 1775 Massachusetts Ave. NW.

COX _ 12 p.m. The Committee for Economic Development holds a luncheon to release a new report on corporate governance in the wake of Sarbanes-Oxley, with featured speaker SEC Chairman Christopher Cox. Location: Atrium Ballroom, Washington Court Hotel, 525 New Jersey Ave. NW.

LOBBYING REFORM _ 12 p.m. The Cato Institute hosts a briefing, ``Lobby Reform or Retrogression.'' Briefers are Bradley A. Smith, former chairman of the Federal Election Commission and senior adviser to the Center for Competitive Politics; Nan Aron, president, Alliance for Justice; and John Samples, director, Center for Representative Government, Cato Institute. Location: Room B-354, Rayburn House Office Building.

COLLINS-PORTS _ 12:30 p.m. Senator Susan Collins accepts an award from the American Association of Port Authorities in honor of her selection as their ``Port Person of the Year'' for 2006. Location: Willard Inter-Continental Hotel, 1401 Pennsylvania Ave. NW.

SCIENCE-HEALTH LEADERSHIP FORUM _ 12:45 p.m. - 3:30 p.m. ResearchAmerica holds its 2006 national forum on leadership in science and health in the 21st century. With David Gergen, editor-at-large, U.S. News & World Report; Ralph Cicerone, president, National Academy of Sciences; Arden Bement, Jr., president, National Science Foundation; Carolyn Clancy, MD, director, Agency for Healthcare Research and Quality; Helen Darling, president, National Business Group on Health; Declan Doogan, MD, senior vice president, Pfizer Global Research and Development; Julie L. Gerberding, director, Centers for Disease Control and Prevention; John M. Leonard, MD, vice president, Global Pharmaceutical Development, Abbott; Myrl Weinberg, CAE, president, National Health Council; and Elias Zerhouni, MD, director, National Institutes of Health. Location: National Press Club, 14th and F Sts. NW.

BIRD FLU-ECONOMY _ 6 p.m. The Congressional Budget Office hosts a seminar, ``A Potential Bird Flu Pandemic: Possible Macroeconomic Effects.'' Participants are Robert W. Arnold, Congressional Budget Office; and Joseph A. Barbera, M.D., co-director of the George Washington University Institute for Crisis, Disaster, and Risk Management. Location: Conference room 483, Congressional Budget Office, 2nd & D Streets SW, 4th Floor.

SIRLEAF-LIBERIA _ 6:30 p.m. - 7:30 p.m. The Council on Foreign Relations hosts a speech by the new president of Liberia, Ellen Johnson Sirleaf. With Princeton Lyman, director of African Studies, Council on Foreign Relations. Location: Council on Foreign Relations, 1779 Massachusetts Ave., NW.

AMNESTY INTERNATIONAL-TORTURE _ 7 p.m. - 9:30 p.m. Amnesty International holds a public information forum, ``Torture and the War on Terror: What You Should Know and What You Can Do.'' Speakers include Congressman Moran; Barbara Olshansky, Deputy Legal Director of the Center for Constitutional Rights; and Major Tom Fleener, attorney for Ali Hamza Al Bahlul, a detainee at Guantanamo Bay. Rep. Jim Moran, D-Va., will address what specific actions Congress has taken with regard to U.S. torture policy and what needs to be done legislatively to prevent torture from occurring. Location: Room 329, George Mason University, Arlington Campus, 3401 N. Fairfax Drive, Arlington, Va.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

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TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

FBI Agent Slams Bosses At Moussaoui Trial (AP-Y2)

By Michael J. Sniffen

AP2, March 20, 2006

The FBI agent who arrested Zacarias Moussaoui in August 2001 testified Monday he spent almost four weeks trying to warn U.S. officials about the radical Islamic student pilot but "criminal negligence" by superiors in Washington thwarted a chance to stop the 9/11 attacks.

FBI agent Harry Samit of Minneapolis originally testified as a government witness, on March 9, but his daylong cross examination by defense attorney Edward MacMahon was the strongest moment so far for the court-appointed lawyers defending Moussaoui. The 37-year-old Frenchman of Moroccan descent is the only person charged in this country in connection with al-Qaida's Sept. 11, 2001, attacks on the World Trade Center and the Pentagon.

MacMahon displayed a communication addressed to Samit and FBI headquarters agent Mike Maltbie from a bureau agent in Paris relaying word from French intelligence that Moussaoui was "very dangerous," had been indoctrinated in radical Islamic Fundamentalism at London's Finnsbury Park mosque, was "completely devoted" to a variety of radical fundamentalism that Osama bin Laden espoused, and had been to Afghanistan.

Based on what he already knew, Samit suspected that meant Moussaoui had been to training camps there, although the communication did not say that.

The communication arrived Aug. 30, 2001. The Sept. 11 Commission reported that British intelligence told U.S. officials on Sept 13, 2001, that Moussaoui had attended an al-Qaida training camp in Afghanistan. "Had this information been available in late August 2001, the Moussaoui case would almost certainly have received intense, high-level attention," the commission concluded.

But Samit told MacMahon he couldn't persuade FBI headquarters or the Justice Department to take his fears seriously. No one from Washington called Samit to say this intelligence altered the picture the agent had been painting since Aug. 18 in a running battle with Maltbie and Maltbie's boss, David Frasca, chief of the radical fundamentalist unit at headquarters.

They fought over Samit's desire for a warrant to search Moussaoui's computer and belongings. Maltbie and Frasca said Samit had not established a link between Moussaoui and terrorists.

Samit testified that on Aug. 22 he had learned from the French that Moussaoui had recruited someone to go to Chechnya in 2000 to fight with Islamic radicals under Emir Ibn al-Khattab. He said a CIA official told him on Aug. 22 or 23 that al-Khattab had fought alongside bin Laden in the past. This, too, failed to sway Maltbie or Frasca.

Under questioning from MacMahon, Samit acknowledged that he had told the Justice Department inspector general that "obstructionism, criminal negligence and careerism" on the part of FBI headquarters officials had prevented him from getting a warrant that would have revealed more about Moussaoui's associates. He said that opposition blocked "a serious opportunity to stop the 9/11 attacks."

The FBI's actions between Moussaoui's arrest, in Minnesota on immigration violations on Aug. 16, 2001, and Sept. 11, 2001, are crucial to his trial because prosecutors allege that Moussaoui's lies prevented the FBI from discovering the identities of 9/11 hijackers and the Federal Aviation Administration from taking airport security steps.

But MacMahon made clear the Moussaoui's lies never fooled Samit. The agent sent a memo to FBI headquarters on Aug. 18 accusing Moussaoui of plotting international terrorism and air piracy over the United States, two of the six crimes he pleaded guilty to in 2005.

To obtain a death penalty, prosecutors must prove that Moussaoui's actions led directly to the death of at least one person on 9/11.

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Moussaoui pleaded guilty last April to conspiring with al-Qaida to fly planes into U.S. buildings. But he says he had nothing to do with 9/11 and was training to fly a 747 jetliner into the White House as part of a possible later attack.

Samit's complaints echoed those raised in 2002 by Coleen Rowley, the bureau's agent-lawyer in the Minneapolis office, who tried to help get a warrant. Rowley went public with her frustrations, was named a Time magazine person of the year for whistleblowing and is now running for Congress.

Samit revealed far more than Rowley of the details of the investigation.

MacMahon walked Samit through e-mails and letters the agent sent seeking help from the FBI's London, Paris and Oklahoma City offices, FBI headquarters files, the CIA's counterterrorism center, the Secret Service, the Immigration and Naturalization Service, the Federal Aviation Administration, an intelligence agency not identified publicly by name in court (possibly the National Security Agency), and the FBI's Iran, Osama bin Laden, radical fundamentalist, and national security law units at headquarters.

Samit described useful information from French intelligence and the CIA before 9/11 but said he was not told that CIA Director George Tenet was briefed on the Moussaoui threat on Aug. 23 and never saw until after 9/11 a memo from an FBI agent in Phoenix about radical Islamists taking flight training there.

For each nugget of information, MacMahon asked Samit if Washington officials called to assess the implications. Time after time, Samit said no.

MacMahon introduced an Aug. 31 letter Samit drafted "to advise the FAA of a potential threat to security of commercial aircraft" from whomever Moussaoui was conspiring with.

But Maltbie barred him from sending it to FAA headquarters, saying he would handle that, Samit testified. The agent added that he did tell FAA officials in Minneapolis of his suspicions.

Agent Faults FBI On 9/11 (LAT)

By Richard A. Serrano, Times Staff Writer

The Los Angeles Times, March 21, 2006

The man who caught Zacarias Moussaoui testifies that higher-ups blocked his efforts to determine whether there was a larger plot.

ALEXANDRIA, Va. — The FBI agent who arrested Zacarias Moussaoui weeks before Sept. 11 told a federal jury Monday that his own superiors were guilty of "criminal negligence and obstruction" for blocking his attempts to learn whether the terrorist was part of a larger cell about to hijack planes in the United States.

During intense cross-examination, Special Agent Harry Samit — a witness for the prosecution — accused his bosses of acting only to protect their positions within the FBI.

His testimony appeared to undermine the prosecution's case for the death penalty. Prosecutors argue that had Moussaoui cooperated by identifying some of the 19 hijackers, the FBI could have alerted airport security and kept them off the planes.

Moussaoui is the only person to have been convicted in the United States on charges stemming from Sept. 11. His sentencing trial began several weeks ago, but the prosecution's case was nearly gutted when it was learned that a lawyer for the Transportation Security Administration had improperly coached key aviation security witnesses. U.S. District Judge Leonie M. Brinkema decided to allow the government to present a limited amount of aviation testimony and evidence.

Samit's recollections Monday were the first ground-level account of how FBI agents in Minneapolis — where Moussaoui was arrested on a visa violation 3½ weeks before the attacks — were appalled that their Washington supervisors denied their requests for search warrants in the effort to find out why the Frenchman was taking flying lessons and what role he might have in a wider plan to attack America.

"They obstructed it," a still-frustrated Samit told the jury, calling his superiors' actions a calculated management decision "that cost us the opportunity to stop the attacks."

The government considers Samit's testimony essential to its case. On March 9, the agent told the court about his arrest of Moussaoui, now 37, and his desperate efforts to win the suspect's cooperation.

Yet much of his testimony Monday might have backfired on the government. The jury easily could have been left with the impression of an FBI so at odds with itself that it not only missed critical clues of an impending terrorist attack, but did not even know how best to coordinate efforts to stop it.

Samit was not alone in his contempt for his superiors.

His suspicions were backed up by Coleen Rowley, then an FBI lawyer in Minneapolis, who in a May 2002 memo to FBI Director Robert S. Mueller III complained that Washington had blocked efforts to determine what Moussaoui was really doing. Rowley is not scheduled to testify during the sentencing phase.

Moussaoui pleaded guilty last year to being a part of the Sept. 11 conspiracy. His lawyers maintain that the government had plenty of leads in the summer of 2001 that a major terrorist action was afoot, even without Moussaoui's cooperation. They point to a memo by an FBI agent in Phoenix warning of Middle Eastern men taking flying lessons, and the fact that then-CIA Director George J. Tenet was apprised of Moussaoui's arrest.

Samit testified Monday that he never knew of the Phoenix memo or of Tenet's interest in the case. He also said he was kept in the dark about the Aug. 6, 2001, presidential daily briefing given to Bush during his vacation in Texas. That briefing, titled "Bin Laden Determined to Strike in U.S.," noted "patterns of suspicious activity in this country consistent with preparations for hijackings or other types of attacks."

"I didn't see it," Samit testified. "I did not see anything like that."

Defense lawyer Edward B. MacMahon Jr. also used his cross-examination of Samit to suggest that law enforcement officials never took such threats seriously then anyway.

Under MacMahon's daylong questioning, Samit said that officials at the FBI headquarters in Washington rejected a series of attempts to obtain a warrant to search Moussaoui's personal belongings.

Had the belongings been opened before Sept. 11, agents would have found numerous small knives, jumbo-jet pilot manuals, rosters of flight schools and other clues that might have helped them understand the Sept. 11 plot.

Samit wanted to seek a criminal search warrant, and later one from a special intelligence court. But officials at the FBI headquarters refused to let him, because they did not believe he had enough evidence to prove Moussaoui was anything but a wealthy man who had come to this country to follow his dream of becoming a pilot.

He said that as Washington kept telling him there was "no urgency and no threat," his FBI superiors sent him on "wild goose chases."

For a while, Samit said, they did not even believe Moussaoui was the same person whom French intelligence sources had identified as a Muslim extremist. Samit said that FBI headquarters wanted him and his fellow agents to spend days poring through Paris phone books to make sure they had the right Moussaoui.

Samit said that when he asked permission to place an Arabic-speaking federal officer as a plant inside Moussaoui's cell to find out what Moussaoui was up to, Washington said no.

And he said that when he prepared a lengthy memo about Moussaoui for Federal Aviation Administration officials, Washington deleted key sections, including a part connecting Moussaoui with Al Qaeda leader Osama bin Laden.

Samit said he was so frustrated and so convinced that attacks were imminent that he bypassed FBI officials in Washington and met with an FAA officer he knew in Minneapolis. But he said FAA agents never got back to him, and never asked to see a pair of small knives, similar to box cutters, that Samit had found in Moussaoui's pocket and in his car.

Samit further described how he took it upon himself to cable the Secret Service that the president's safety might be in jeopardy. He recounted in the cable how Moussaoui had told him he hoped to be able to one day fly a Boeing 747 from London's Heathrow Airport to New York, and how he also hoped to visit the White House one day.

Samit said he warned the Secret Service that those desires could spell disaster. "If he seizes an airplane from Heathrow to New York City," Samit alerted the Secret Service, "it will have the fuel on board to reach D.C."

Samit said he never heard back from the Secret Service either.

And yet, the agent said, he never officially complained to the FBI hierarchy.

"Street agents don't call headquarters and request that supervisors be removed from cases," he said. "I didn't agree with them, but they are in charge."

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But Samit said his immediate boss in Minneapolis, FBI Special Agent Greg Jones, did urge Washington to be more receptive.

Samit said he once overheard Jones on the phone with headquarters, telling FBI superiors that Minneapolis was trying to keep Zacarias Moussaoui "from flying an airplane into the World Trade Center."

After the Sept. 11 attacks, Samit said he asked Jones about that conversation, and Jones said he had just made up the scenario as a hypothetical to try to get Washington moving. "He pulled it out of the air," Samit said. "It was a lucky guess."

F.B.I. Discounted Suspicions About Moussaoui, Agent Says (NYT)

By Neil A. Lewis

The New York Times, March 21, 2006

ALEXANDRIA, Va., March 20 — The F.B.I. agent who arrested and interrogated Zacarias Moussaoui just weeks before the attacks of Sept. 11, 2001, told a jury today that his efforts to confirm his strong suspicions that Mr. Moussaoui was involved in a terrorist airline hijacking plot were thwarted by senior bureau officials in Washington who acted out of negligence and a need to protect their careers.

Harry Samit, under intense cross-examination by Mr. Moussaoui's chief court-appointed lawyer, detailed his frustration over the days before the hijacking as he made numerous requests to look into what Mr. Moussaoui had been up to at the time of his arrest. Mr. Moussaoui was arrested on immigration violations in Minnesota, where he was learning to fly a jetliner.

"I accused the people in F.B.I. headquarters of criminal negligence" in an interview after Sept. 11, Mr. Samit acknowledged under questioning by Edward B. MacMahon Jr. He said that the senior agents in Washington "took a calculated risk not to advance the investigation" by refusing to seek search warrants for Mr. Moussaoui's belongings and computer. "The wager was a national tragedy," Mr. Samit testified.

Mr. Samit said that two senior agents declined to provide help in getting a search warrant, either through a special panel of judges that considers applications for foreign intelligence cases or through a normal application to any federal court for a criminal investigation.

As a field agent in Minnesota, he said he required help and approval from headquarters to continue his investigation. He acknowledged that he had written that Michael Maltbie, an agent in the F.B.I.'s radical fundamentalist unit, told him that applications for the special intelligence court warrants had proved troublesome for the bureau and seeking one "was just the kind of thing that would get F.B.I. agents in trouble." He wrote that Mr. Maltbie had told him that "he was not about to let that happen to him." During that period, the Foreign Intelligence Surveillance Act court, had complained about improper applications from the bureau.

Mr. Samit also acknowledged that he had written that David Frasca, a supervisor of the radical fundamentalist unit, had similarly blocked him from seeking a search warrant under the more common route in a criminal investigation. Some of the special court's complaints dealt with the idea that law-enforcement officials were sometimes using the lower standard required for warrants in intelligence investigations and then using the information they obtained in criminal cases.

Mr. Frasca, Mr. Samit explained, believed that once the Moussaoui investigation was opened as an intelligence investigation, it would arouse suspicion that agents had been trying to exploit the intelligence law to get information for an investigation they now believed was a criminal one.

(An F.B.I. spokesman, Bill Carter, said the agency did not comment on pending trials or litigation.)

The distinction between the two standards for obtaining warrants has since been eliminated following the Sept. 11 attacks.

The government is trying to prove to a jury that Mr. Moussaoui should be executed because he bears some responsibility for the deaths from Sept. 11. Prosecutors have argued that if Mr. Moussaoui had told Mr. Samit and other investigators what he knew about Al Qaeda plots to fly planes into buildings, the attacks might have been foiled.

Although Mr. Samit was a government witness who sought to bolster the government's case that he could have uncovered the plot had Mr. Moussaoui spoken to him truthfully, his responses to Mr. MacMahon today appeared to provide a lift for the defense. Mr. MacMahon sought to show that the problem was not with Mr. Moussaoui but with senior F.B.I. officials in Washington who would not budge no matter how hard Mr. Samit pressed them.

The F.B.I.'s handling of clues to the impending Sept. 11 attacks was sharply criticized in a report by the Justice Department's inspector general's office in 2004. Citing a memo from a Phoenix agent who had become suspicious of several students taking flying lessons in Arizona, the report said the agent's memo did not get the timely attention it deserved, not so much because of individual lapses within the F.B.I. but because of "critical systemic failings" that kept information from being effectively evaluated and shared.

The slow and incomplete attention given the memo from Phoenix was illustrative of a system "in which important information could easily 'fall through the cracks' and not be brought to the attention of the people who needed it, the inspector general's office concluded.

FBI Was Warned About Moussaoui (WP)

By Jerry Markon And Timothy Dwyer

The Washington Post, March 21, 2006

An FBI agent who interrogated Zacarias Moussaoui before Sept. 11, 2001, warned his supervisors more than 70 times that Moussaoui was a terrorist and spelled out his suspicions that the al-Qaeda operative was plotting to hijack an airplane, according to federal court testimony yesterday.

Agent Harry Samit told jurors at Moussaoui's death penalty trial that his efforts to secure a warrant to search Moussaoui's belongings were frustrated at every turn by FBI officials he accused of "criminal negligence." Samit said he had sought help from a colleague, writing that he was "so desperate to get into Moussaoui's computer I'll take anything."

That was on Sept. 10, 2001.

Samit's testimony added striking detail to the voluminous public record on the FBI's bungling of the Moussaoui case. It also could help Moussaoui's defense. Samit is a prosecution witness who had earlier backed the government's central theory of the case: that the FBI would have raised "alarm bells" and could have stopped the Sept. 11 attacks if Moussaoui had not lied to agents. But under cross-examination by the defense yesterday, Samit said that he did raise those alarms -- repeatedly -- but that his bosses impeded his efforts.

The testimony came as the sentencing hearing resumed for the only person convicted in the United States of charges stemming from the terrorist attacks on the World Trade Center and the Pentagon. Jurors in Alexandria will determine whether Moussaoui should live or die. The proceeding was derailed last week by the misconduct of government attorney Carla J. Martin, who improperly shared testimony with upcoming witnesses and coached them.

An angry U.S. District Judge Leonie M. Brinkema halted the hearing for a week. She barred the testimony of the witnesses Martin had contacted and all aviation evidence, gutting the government's case. But after prosecutors offered a compromise, Brinkema issued a revised order Friday saying they could use new aviation witnesses not tainted by Martin's conduct.

Brinkema began the day yesterday by welcoming jurors back to court and quizzing them about whether they had seen or read any of the extensive media coverage, which she had barred them from doing. When they shook their heads no in unison, the judge said, "You've been wonderful."

Nowhere to be seen was Martin, the Transportation Security Administration lawyer whom Brinkema has blamed for the disruption. She could face contempt of court or other criminal charges, and Moussaoui's attorneys had urged her to explain her actions at a special hearing yesterday. That hearing was never convened, and Brinkema did not mention it. Martin's attorney has said she would not testify.

Paul Bresson, an FBI spokesman, declined to comment on the testimony from Samit, who remains an agent in the FBI's Minneapolis office. The primary supervisor Samit accused of impeding his investigation, Michael Maltbie, said in a phone interview yesterday that the issues raised in court "have been looked at extensively by Congress, the Justice Department, my own people."

"The [FBI] director has given me a chance to respond to some of these issues that have come up," said Maltbie, a former counterterrorism supervisor at headquarters in Washington and now a supervisory special agent in Cleveland.

Moussaoui, 37, pleaded guilty in April to conspiring with al-Qaeda in the Sept. 11 attacks. He was sitting in jail on that day of terror because of his arrest a month earlier after his activities raised suspicion at a Minnesota flight school.

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The FBI's missteps have been examined in depth by congressional investigators and the independent commission that investigated the Sept. 11 attacks.

Yesterday, as jurors watched images of FBI documents flashing on TV screens, defense attorney Edward B. MacMahon Jr. walked Samit through a recital of government mistakes, framing nearly every question with the words: "You wanted people in Washington to know that . . . right?"

MacMahon zeroed in on increasingly urgent warnings Samit issued to his FBI supervisors after he interviewed Moussaoui at a Minnesota jail in mid-August 2001. Moussaoui had raised Samit's suspicions because he was training on a 747 simulator with limited flying experience and could not explain his foreign sources of income.

By Aug. 18, 2001, Samit was telling FBI headquarters that he believed Moussaoui intended to hijack a plane "for the purpose of seizing control of the aircraft." A few days later, he learned from FBI agents in France that Moussaoui had been a recruiter for a Muslim group in Chechnya linked to Osama bin Laden.

But when Samit tried to use the French intelligence in his draft application for a Foreign Intelligence Surveillance Act warrant to search Moussaoui's belongings, he said, Maltbie edited out the connection with bin Laden because it did not show that a foreign government was involved.

"How are you supposed to establish a connection with a foreign power if it's deleted from the document?" MacMahon asked.

"Well, sir, you can't," Samit replied.

Samit said he also sent an e-mail to the FBI's bin Laden unit but did not receive a response before Sept. 11, 2001. By late August, the agent had concluded that Maltbie and other FBI officials were no longer interested in investigating Moussaoui. Samit acknowledged that he told the Justice Department's inspector general's office that his supervisors engaged in "criminal negligence" and were trying to "run out the clock" because they wanted to deport Moussaoui rather than prosecute him.

Most portions of the inspector general's report dealing with Moussaoui have never been made public.

"You thought a terrorist attack was coming, and you were being obstructed, right?" MacMahon asked.

"Yes, sir," Samit answered.

Samit said he kept trying to persuade his bosses to authorize the surveillance warrant or a criminal search warrant right up until the day before the planes hit the World Trade Center and the Pentagon.

"You never stopped trying, did you?" MacMahon said.

"No, sir," Samit replied.

Agent Warned FBI About Moussaoui, Hijack Plan (USAT)

By Kevin Johnson

USA Today, March 21, 2006

ALEXANDRIA, Va.—The FBI agent who arrested confessed al-Qaeda conspirator Zacarias Moussaoui testified Monday that three weeks before the Sept. 11, 2001, attacks, the agent warned his supervisors that Moussaoui likely was part of a plot to take over a commercial jet using small knives to subdue the crew.

The testimony by Special Agent Harry Samit in Moussaoui's sentencing trial shed new light on how the U.S. government failed to seize upon a range of clues that suggested the 9/11 plot was unfolding.

Samit said Monday that he wrote at least 70 pages of memos during the three weeks before the attacks expressing concern that Moussaoui was involved in a hijacking plot, but the Minnesota-based agent said his superiors never acted on the repeated warnings.

Samit's warnings included an Aug. 18, 2001, memo in which he unsuccessfully sought permission from FBI headquarters to search the belongings of Moussaoui, a French citizen who had been arrested on immigration charges.

The agent's warnings proved to be a forecast of the Sept. 11 attacks, in which 19 suicide hijackers used box cutters and utility knives to take over four jets in attacks that killed nearly 3,000 people in New York City and Shanksville, Pa., and at the Pentagon.

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Samit's testimony is key in Moussaoui's trial, which is being held to determine whether the al-Qaeda operative — who has pleaded guilty to terrorism conspiracy — should be executed or receive a life sentence. The U.S. government says that the Sept. 11 attacks could have been prevented if Moussaoui had warned agents about the plot, and that he should be executed because he didn't.

Moussaoui claims he was part of another plot and didn't know about the one for 9/11. Samit's testimony appeared to support the defense's contention that authorities had many clues about a possible hijacking plot and failed to act on them.

Samit testified that before the attacks, FBI officials in Washington refused to support his search requests despite Samit's increasingly "desperate" attempts to learn more about Moussaoui, who had raised suspicions among his instructors while training as a flight student.

"God help us all if the next terrorist incident involves this kind of plan," an investigative associate identified in court only as "Cathy" wrote a frustrated Samit on the day before the attacks.

Samit's FBI superiors at the time did not believe he had enough evidence to support a warrant for either a criminal or intelligence investigation. Since then, the USA Patriot Act has made it easier for federal authorities to obtain such warrants in terrorism investigations.

Samit's testimony marked the resumption of Moussaoui's trial, which U.S. District Judge Leonie Brinkema had suspended for nearly a week after learning that a government lawyer had violated court rules by leaking court transcripts to help coach upcoming government witnesses.

Brinkema responded by ruling that prosecutors could not present evidence that aviation authorities could have helped avert the 9/11 attacks if Moussaoui had told agents about the plot. The judge later amended her ruling to allow aviation witnesses who were not tainted by the actions of government lawyer Carla Martin.

FBI Agent Testifies He Warned About Moussaoui For Weeks (AP)

AP, March 21, 2006

'Criminal negligence' by superiors foiled chance to thwart 9/11, he says

ALEXANDRIA, Va. – The FBI agent who arrested Zacarias Moussaoui in August 2001 testified Monday that he spent almost four weeks trying to warn U.S. officials about the radical Islamic student pilot but that "criminal negligence" by superiors in Washington thwarted a chance to stop the 9/11 attacks.

FBI Agent Harry Samit of Minneapolis originally testified as a government witness on March 9, but his daylong cross examination by defense attorney Edward MacMahon was the strongest moment yet for the court-appointed lawyers defending Mr. Moussaoui. The Frenchman of Moroccan descent is the only person charged in this country in connection with al-Qaeda's Sept. 11, 2001, attacks on the World Trade Center and the Pentagon.

Mr. MacMahon displayed a communication addressed to Agent Samit and FBI headquarters Agent Mike Maltbie from a bureau agent in Paris relaying word from French intelligence that Mr. Moussaoui, 37, was "very dangerous," had been indoctrinated in radical Islamic fundamentalism at London's Finsbury Park mosque, was "completely devoted" to a variety of radical fundamentalism that Osama bin Laden espoused, and had been to Afghanistan.

The communication arrived Aug. 30, 2001. The Sept. 11 commission reported that British intelligence told U.S. officials on Sept. 13, 2001, that Mr. Moussaoui had attended an al-Qaeda camp in Afghanistan. "Had this information been available in late August 2001, the Moussaoui case would almost certainly have received intense, high-level attention," the commission concluded.

But Agent Samit told Mr. MacMahon he couldn't persuade FBI headquarters or the Justice Department to take his fears seriously. No one from Washington called Agent Samit to say this intelligence altered the picture the agent had been painting since Aug. 18 in a running battle with Agent Maltbie and Agent Maltbie's boss, David Frasca, chief of the radical fundamentalist unit at headquarters.

They fought over Agent Samit's desire for a warrant to search Mr. Moussaoui's computer and belongings.

Agent Maltbie and Agent Frasca said Agent Samit had not established a link between Mr. Moussaoui and terrorists.

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Agent Samit testified that on Aug. 22 he had learned from the French that Mr. Moussaoui had recruited someone to go to Chechnya in 2000 to fight with Islamic radicals under Emir Ibn al-Khattab. He said a CIA official told him on Aug. 22 or 23 that Mr. al-Khattab had fought alongside Mr. bin Laden. This, too, failed to sway Agent Maltbie or Agent Frasca.

Under questioning from Mr. MacMahon, Agent Samit acknowledged that he had told the Justice Department inspector general that "obstructionism, criminal negligence and careerism" on the part of FBI officials had prevented him from getting a warrant that would have revealed more about Mr. Moussaoui's associates.

He said that opposition blocked "a serious opportunity to stop the 9/11 attacks."

To obtain a death penalty, prosecutors must prove that Mr. Moussaoui's actions led directly to the death of at least one person on 9/11. He pleaded guilty last April to conspiring with al-Qaeda to fly planes into U.S. buildings. But he says he had nothing to do with 9/11 and was training to fly a 747 jetliner into the White House as part of a possible later attack.

Agent: Suspicions Of Plot Ignored (NSDY)

By John Riley, Newsday Staff Correspondent

Long Island Newsday, March 21, 2006

FBI investigator who arrested Moussaoui says he wrote some 70 memos about possible threat

ALEXANDRIA, Va. -- The FBI agent who arrested Zacarias Moussaoui testified yesterday that Moussaoui's pose as a flight student never fooled him, but said he was blocked from pursuing his suspicions of a terrorist hijacking plot by supervisors he characterized as "criminally negligent" careerists.

As Moussaoui's death-penalty sentencing trial resumed here after a week's delay to investigate witness tampering by government lawyer Carla Martin, Minnesota Special Agent Harry Samit said on cross-examination that he wrote FBI headquarters about 70 memos about Moussaoui's likely terrorist plans between his arrest on Aug. 16 and Sept. 11, all to no avail.

Prosecutors are trying to show that Moussaoui should get the death penalty because his lies prevented agents from thwarting the Sept. 11 attacks, while Moussaoui says he knew no details of the plot. Defense lawyer Edward MacMahon spent his five-hour cross-examination trying to show that the FBI's failure to act on Samit's instincts was to blame.

"Your investigation here was to uncover the facts that Moussaoui was in fact a terrorist ... and you uncovered those facts didn't you?" MacMahon asked. "I uncovered enough facts to generate suspicion in my mind that he was a terrorist," Samit said, "But that's a far distance from being able to prove it."

Moussaoui, 37, a French-Moroccan, was arrested after his behavior at a Minnesota flight school aroused suspicion. He pleaded guilty a year ago to being part of a broad al-Qaida hijacking conspiracy, but not the Sept. 11 plot. Samit's testimony yesterday was the most detailed public recounting of how Washington supervisors thwarted the field office's efforts to find out more about him in 2001.

Samit said that Moussaoui's evasiveness, flight training, and fundamentalist beliefs made him look like a terrorist suspect. But supervisors felt they couldn't get an intelligence warrant to search his belongings, and thought it would be legally risky to seek a traditional criminal warrant after starting an intelligence investigation.

Michael Maltbie, the supervisor handling the case at the FBI's Radical Fundamentalist Unit, told Samit that getting an intelligence warrant could be bad for an agent's career if it was fouled up, Samit testified. He said Maltbie told him he wanted to "preserve the existence of his advancement potential" in the FBI.

By the end of August, there was more evidence. French intelligence had learned that Moussaoui had been to Afghanistan and had recruited jihadists. But Maltbie wasn't sure it was the same Moussaoui, and demanded that FBI agents overseas search the French white pages for other Zacarias Moussaouis.

Samit acknowledged that he had accused Maltbie and other supervisors of taking a "calculated risk" with 3,000 lives to protect their careers in testimony to the Justice Department. Maltbie now heads the Joint Terrorism Task Force in the Cleveland FBI office.

Witness Flap Casts Doubt On Call For Death In Moussaoui Case (LAW)

By Sarah Kelley And Jason Mclure, Legal Times

Legal Times, March 21, 2006

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Almost from the beginning, the goal was clear: Zacarias Moussaoui must die.

This was the government's first, and likely only, chance to prosecute a suspect in the Sept. 11 plot in a U.S. court. And from the start, doing so would present a monumental challenge to federal prosecutors. With the world watching, the pressure would be enormous.

Pursuing a death sentence meant raising the stakes in what already was considered the highest-profile criminal case ever in the United States. For the team of three federal prosecutors it meant facing an unprecedented task: convincing a jury that Moussaoui should be executed even though -- by their own admission -- he wasn't directly involved in the attacks on the World Trade Center and the Pentagon.

"I think they have had a difficult hand dealt," says Larry Mackey, a former prosecutor who played a lead role in the trials of Oklahoma City bombers Timothy McVeigh and Terry Nichols.

The government's decision to seek death was scrutinized from the outset and continued to be so even after Moussaoui pleaded guilty, in April 2005, to participating in a conspiracy to commit acts of terrorism in the United States. But last week it became clear just how precarious the argument for death was. The government's case was in jeopardy of crumbling midway through the penalty phase of the trial after Transportation Security Administration lawyer Carla Martin allegedly tampered with government witnesses.

Martin, a veteran government lawyer who served as the prosecution team's liaison to a number of key witnesses from the Federal Aviation Administration, is accused of coaching witnesses on their testimony and giving them transcripts of the trial -- a direct violation of an order by U.S. District Judge Leonie Brinkema.

If the blunder results in Moussaoui being sentenced to life in prison rather than death, a large dose of the blame will fall on Martin but also -- fairly or unfairly -- on federal prosecutors Robert Spencer, David Novak and David Raskin.

For the question remains, if the witnesses Martin dealt with were so critical to the case, why did prosecutors allow her to operate with little oversight? And if the government's case for death was so convincing, how could her conduct completely blow it apart?

The three Assistant U.S. Attorneys have spent thousands of hours managing the case, and though they took pains to distance themselves from Martin last week, the prosecution clearly worked closely with her. Her name appears on at least one government filing in the case.

"At the end of the day all responsibility rests at their doorstep," says Mackey of the trial lawyers. "Having said that, they must be tearing their hair out that another government lawyer could do this."

DECISION FOR DEATH

The fact that Martin's missteps could unhinge a case that was years in the making is telling. Many believe the case was weak from the start. It's possible the prosecutors didn't agree with the decision to seek death in the first place.

"These are political decisions," says John Zwerling, a criminal defense attorney in Alexandria, Va. "The shots are being called at the very highest level of our government -- the president, the vice president, and the attorney general. The prosecutors have to march to their orders, and whether or not they believe in it is irrelevant."

In March 2002, three months after Moussaoui's indictment on terrorism charges and just six months after the attacks, then-Attorney General John Ashcroft signed off on the decision to seek the death penalty, reaffirming a commitment to "carrying out justice."

At the time, Moussaoui's possible connection to the attacks was still unclear, though he was repeatedly referred to in news articles and government statements as the alleged 20th hijacker. Having been arrested on immigration charges in August 2001, Moussaoui was sitting in a jail cell when terrorists carried out the deadliest terror attack ever in the United States.

Moussaoui, who has repeatedly proclaimed his allegiance to Osama bin Laden, denies any involvement in Sept. 11. Instead, Moussaoui claims he was to take part in a second wave of terror attacks by crashing a plane into the White House.

As the case progressed, the government's argument for death emerged: Had Moussaoui divulged his knowledge of the attacks, the government could have thwarted the plot, saving thousands of innocent victims.

Despite the obvious legal hurdles, many Americans supported the decision, believing Moussaoui should die for his close ties to the Sept. 11 conspiracy. But some objected, claiming the move was politically motivated -- a way for the Bush

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administration to hold someone accountable for the attacks. Others said it was an effort to avenge the victims on behalf of their families, and, indeed, the Moussaoui penalty phase has often been referred to as the families' "day in court."

Now, more than four years later, the debate continues over whether the government overstated its case against Moussaoui to justify seeking death. Once he pleaded guilty, if the government had simply signed off on sending him to prison for life, the current trial in Virginia would not have been necessary. And in the minds of some, life in prison would avoid making him a martyr.

Neal Sonnett, a former Criminal Division chief for the U.S. Attorney's Office in the Southern District of Florida, believes the case for a death sentence is weak.

"Had everything gone perfectly, the burden that the prosecution has to meet to get the death penalty is a very strong burden, and it was unlikely that they were going to meet it here," says Sonnett, now a white-collar criminal defense attorney based in Miami.

ASSEMBLING A TEAM

Before the Sept. 11 attacks, the U.S. Attorney's Office for the Southern District of New York in Manhattan had handled nearly every major terrorism trial of the modern era -- from the 1993 World Trade Center bombing to the American embassy bombings in East Africa. But after the attacks, the Justice Department decided to make the U.S. Attorney's Office for the Eastern District of Virginia the hub of terrorism prosecutions.

There were several reasons for the choice. Virginia juries had a reputation for being sympathetic to prosecutors, the federal court in Alexandria was known for quickly moving cases through its "rocket docket," and Alexandria lay just across the Potomac from Washington -- where prosecutors would have easy access to their colleagues at Main Justice and the myriad federal agencies that would become involved in any trial. There also was a sentiment that the federal courthouse in Manhattan, which sits just blocks from the World Trade Center site, would not be an easy venue in which to hold a fair trial.

"There was the usual competition for cases, and somebody has to win and somebody has to lose," says Andrew McCarthy, a former terrorism prosecutor in the Southern District of New York. "The thing you have to remember ... at the time those decisions had to be made, there were other things going on that were a lot more important than the usual turf fighting that we had in the 1990s."

Moussaoui's December 2001 indictment was signed by three officials representing each DOJ arm involved. There was Paul McNulty, the Eastern District of Virginia's new and politically connected Republican U.S. Attorney (who has since been nominated to the DOJ's No. 2 spot); Mary Jo White, the outgoing Clinton-era U.S. Attorney in New York whose office had overseen the first World Trade Center bombing and East African embassy bombings; and Michael Chertoff, the head of the Criminal Division at Main Justice in Washington and a former U.S. Attorney in New Jersey.

McNulty has appeared in the courtroom at key stages of the case and from the start saw the trial as an opportunity to prove that the federal court system could effectively handle terrorism cases. He was alongside the prosecution when Moussaoui pleaded guilty, and again last week when the judge chastised the government for making egregious errors in the case. But observers say that McNulty has served more as a liaison to Main Justice in the matter, rather than as a day-to-day manager. A spokesman for the U.S. Attorney's Office declined to comment.

The line prosecutors ultimately chosen for the trial team reflected the division of labor between the two U.S. Attorney's offices. Two of the federal prosecutors on the team would come from Virginia, and one from New York.

Leading the prosecution is Robert Spencer, chief of the Eastern District's Criminal Division. Spencer joined the federal prosecutor's office in Alexandria in 1995 as an Assistant U.S. Attorney, handling high-profile murder and violent gang cases. Spencer presented the government's opening argument on day one of Moussaoui's trial.

One former colleague says that Spencer is "among the most ethical and persuasive assistant U.S. attorneys in the nation."

Spencer has prosecuted a number of other terrorism cases, including that of Ahmed Omar Abu Ali, an American college student convicted last year of conspiring with al Qaeda and plotting to kill President George W. Bush. He also played a role in prosecuting the "Virginia Jihad Network," which resulted in numerous convictions and guilty pleas from Islamic extremists living throughout the Washington metropolitan region who underwent training to join the Taliban.

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The second prosecutor from Virginia is David Novak, considered a specialist at the Justice Department in death penalty cases. Throughout much of the case, Novak personally has interviewed many of the victims' family members. Last week it was a visibly shaken Novak who stood for the prosecution in court to explain how Martin had violated the judge's order on witnesses.

Novak himself is no stranger to ethics issues. In 1993, while he was working as a federal prosecutor in Texas, a defense attorney for Rogelio Rodriguez, an alleged Mexican money launderer, filed a formal complaint with Justice's Office of Professional Responsibility charging Novak with a number of ethical breaches during trial. The defense attorney, Kent Schaffer, a Houston solo practitioner, accused Novak of misrepresenting Rodriguez's statements to an undercover agent about a planned trip. He also charged that Novak lied to the judge about Rodriguez's desire to cooperate with the government, in an effort to meet with the defendant without his lawyer present.

Novak was exonerated in the investigation, according to Schaffer, who last week called the OPR's decision in the matter a whitewash. Rodriguez was later acquitted of the charges. Novak declined to comment for this article.

OPR investigations are generally kept confidential, but this one entered the public domain when Novak filed a libel suit against Schaffer in 1995, calling Schaffer's letter "defamatory." Novak would also file a second libel suit that year, against a defense witness in another Texas money-laundering case who had written to then-Attorney General Janet Reno to accuse Novak of "misplaced vindictiveness" in his prosecution of defendant Antonio Giraldi. Both suits were dismissed within months of each other, in the spring of 1995.

The New York U.S. Attorney's Office was initially represented on the trial team by Kenneth Karas, a Southern District terrorism veteran who had taken a lead role in the prosecution of the embassy bombings case. But in 2003, Karas was nominated to a seat on the federal bench in New York. He was replaced on the team by David Raskin, an up-and-coming prosecutor who had joined the Southern District in 1999 and quickly earned a spot in its elite organized crime and counterterror unit.

An avid amateur baseball player and former catcher on his college team at Ithaca, N.Y., Raskin was known for pulling long hours and had been part of the prosecution team that took down 70 members of the Genovese crime family in New York. Those who worked with Raskin praise him for his judgment and dedication to his job. "Often in the Southern District you'll get some fairly cerebral types," says David Burns, a former Southern District prosecutor who worked with Raskin. "Dave is one of those former-athlete types."

Throughout the Moussaoui case, Raskin has written a number of the briefs filed and presented key arguments along the way.

WHO TO BLAME?

Seeking the death penalty for Moussaoui has been an uphill battle from the start. Early on in the case, Brinkema took capital punishment off the table, but the prosecution fought the decision, and the 4th U.S. Circuit Court of Appeals agreed to restore execution as an option.

With the help of hundreds of government lawyers from various federal agencies, the prosecution team interviewed thousands of witnesses and sorted through more than 1 million documents to build the case against Moussaoui.

Then, last week, the prosecution was dealt a blow that threatened to derail the entire case.

Citing the misconduct of the TSA's Martin, Brinkema sanctioned the government by excluding from trial key witnesses and all aviation evidence, which the prosecution acknowledged is the bulk of their case. In a March 14 conference call with the judge, Spencer said without that evidence, "we don't know whether it's worth proceeding at all."

Prosecutors filed a motion asking the judge to reconsider, and on Friday, Brinkema agreed to a compromise. The judge upheld the decision to bar all witnesses and aviation-related evidence with which Martin was involved. But she agreed to allow the government to call aviation witnesses "not tainted by Ms. Martin." The trial is scheduled to resume March 20, and the defense has requested a hearing to further investigate Martin's conduct.

As the prosecution scrambled to salvage its case, the finger-pointing and posturing had already begun.

Last week, the TSA was referring media calls about Martin's violation to Main Justice. Justice, in turn, was referring calls to the Eastern District of Virginia.

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For now, the prosecution team is pinning the blame squarely on Martin, whose misconduct shut out the government's key witnesses and crucial evidence.

"In this sea of government attorneys and agents who have assiduously played by the rules, Ms. Martin stands as the lone miscreant," the prosecution wrote in court papers filed last week. Last week, Brinkema informed Martin she could face civil or criminal contempt charges. She also has been placed on administrative leave at the TSA.

But portraying Martin as a clueless, rogue lawyer from another agency won't be a slam-dunk. She was a regular in court, signed her name to at least one of the briefs in the case, and gained prosecution experience during a six-month detail to the U.S. Attorney's Office in the District of Columbia in 1993.

And Martin appears ready to push back. "Ms. Martin has now been viciously vilified by assertions from the prosecution," Roscoe Howard Jr., Martin's attorney and a former U.S. Attorney in the District of Columbia, wrote in a statement on her behalf. "When her opportunity comes, her response will show a very different, full picture of her intentions."

9th Circuit Slams DOJ Over Detention (LAW)

By Justin Scheck, The Recorder

California Recorder, March 21, 2006

Ahilan Nadarajah was detained as a terrorism suspect for nearly five years before he got to argue his case before the 9th U.S. Circuit Court of Appeals. It only took a three-judge panel 10 days to order his release.

In a unanimous decision Friday, Judge Sidney Thomas wrote that federal immigration officials can't detain an asylum seeker indefinitely after an immigration court orders his release. Thomas wrote that the government's interpretation that a Supreme Court opinion allowed indefinite detention was "patently absurd."

"The general immigration detention statutes do not authorize the Attorney General to incarcerate detainees for an indefinite period," Thomas wrote. He was joined by Judge Richard Tallman and Senior U.S. District Judge James Fitzgerald of the District of Alaska, who sat by designation.

"By any analysis," Thomas wrote, "a five-year period of confinement of an alien who has not been charged with any crime, and who has won relief at every administrative level, is unreasonable under the standards set forth by the Supreme Court. Nor are we persuaded by the government's argument that because the Attorney General will someday review Nadarajah's case, his detention will at some point end, and so he is not being held indefinitely. No one can satisfactorily assure us as to when that day will arrive. Meanwhile, petitioner remains in detention."

Nadarajah's lawyer, Ahilan Arulanantham of the ACLU Foundation of Southern California, argued the case to the panel on March 7, and asked the judges to rule quickly, given the long detention at issue.

"We're very pleased with it," Arulanantham said Friday. "The court was concerned, like the immigration courts and all the courts who heard it in the United States, that the government was wrong.

"Because these are immigration courts," Arulanantham said, "the government basically said, 'we can resist their findings.'" A Justice Department spokeswoman would only say the case may continue to the Supreme Court.

Immigration and appeals courts found that Nadarajah had been beaten, burned and hung upside down, his head submersed in gasoline, by Sri Lankan authorities.

But the Justice Department insisted that Nadarajah was a member of the rebel Tamil Tigers, which it classifies as a terrorist group. And after missing two hearings, a Department of Homeland Security agent appeared in an immigration court to provide evidence of Nadarajah's terrorist links.

That evidence was based on information gathered from the Canadian Mounties and an anonymous letter writer who said it was unlikely that Nadarajah could have left the area of Sri Lanka where he had lived without the permission of the Tamil Tigers. An informant had also said that Nadarajah made a call from jail ordering a murder.

An immigration judge, unconvinced, ruled in Nadarajah's favor. But immigration officials refused to release him, even after he posted $20,000 bail.

Thomas noted that Congress has set up special avenues for the Justice Department to seek prolonged detention of terrorists, which were not taken in Nadarajah's case.

"Indeed, the government does not claim that the detention provisions for terrorists under the Patriot Act justify Nadarajah's detention," Thomas wrote.

"Given that Congress has placed specific limits on the Attorney General's authority to detain suspected terrorists, those statutory provisions must govern such detentions, instead of the general detention provisions that apply to all aliens coming into the United States," he continued.

The case, Nadarajah v. Gonzales, is 06 C.D.O.S. 2290.

Judge Orders Release Of Edited FBI Video In Lodi Terror Trial (AP)

By Don Thompson

AP, March 21, 2006

SACRAMENTO - The judge overseeing the federal trial of two Lodi men charged in a terrorism-related case approved releasing an edited version of their videotaped FBI interviews on Monday.

U.S. District Court Judge Garland Burrell Jr. rejected objections from the attorneys for Hamid Hayat, 23, and his father, Umer Hayat, 48.

Instead, he ordered portions of the tapes deleted. Edited out of the videotapes to be released will be mentions of two Islamic religious leaders who were deported to Pakistan last year and segments in which Umer Hayat speculates that four Lodi men could be preparing to commit terrorist acts.

None of the men they mention was charged with a crime.

Both Hayats have pleaded not guilty. Their attorneys say they made false confessions after hours of leading questioning by FBI agents. The interviews and confessions were recorded on videotape.

Oakland television station KTVU sought release of the tapes. NBC and ABC affiliates in Los Angeles, San Diego and Sacramento later joined the request.

The station will edit the videotapes and turn those versions back to Burrell for review. The approved versions will then be released publicly.

"Most of the information that's being redacted is already in the public record, but we understand the judge's concerns," KTVU attorney Grace Won said after the ruling. "We think they could be ready for broadcast within the next week or two."

Hamid Hayat faces three counts of lying to the FBI and separate charges of providing material support to terrorists by attending the camp. He faces up to 39 years in prison if convicted on all counts.

His father is charged with two counts of making false statements to the FBI and faces up to 16 years in prison if convicted.

Judge In Hayat Case Releases Tapes To Media (KXTV-TV)

KXTV-TV, March 21, 2006

The judge in the Hayat terrorism trial has agreed to release portions of the interrogation tapes to the media over the objections of the defendants' attorneys.

Judge Garland Burrell approved the release of an edited version of the videotapes that were shown to jurors during the trial of Umer and Hamid Hayat. Burrell is ordering the deletion of parts of the interrogations. For example, he will not release portions in which the Hayats mention two Islamic religious leaders who were deported to Pakistan last year. Segments in which Umer Hayat speculates that four young Lodi men could be preparing to commit terrorist acts will also be excluded.

News10 was party to the lawsuit that petitioned Burrell to release the tapes. When they are available, News10 will show them on News10 and News10.net.

Onetime Clerk Is At Center Of Lodi Trial (LAT)

By Rone Tempest, Times Staff Writer

The Los Angeles Times, March 21, 2006

Naseem Khan has gone from a quiet job at an Oregon convenience store to the witness stand as FBI informer.

BEND, Ore. — At the convenience store where he worked in this central Oregon resort town before he became an undercover operative for the FBI in California, Naseem Khan was known to his co-workers as "Mike."

The picture of Khan that emerges from interviews with friends, co-workers and landlords in Bend, a picturesque former logging town of 70,000 in the shadow of snow-capped Mt. Bachelor, is of a quiet, hard-working, mostly solitary young man with an interest in law enforcement.

Khan is now the key witness in the terrorism trial of a Lodi, Calif., ice cream truck driver and his son. Last week, he shocked the Sacramento courtroom when he said he saw Al Qaeda's No. 2 figure in 1999 at a mosque in the San Joaquin Valley farming community. He is expected to take the stand today for the first time since he made that claim, which terrorism experts discount as highly improbable.

Khan was first approached by FBI agents in October 2001 in Bend after someone reported him as a possible terrorism suspect, according to friends and court testimony. "He was originally a target," recalled Anne Kimler, who describes herself as a close friend. "They even confiscated his computer."

Quickly cleared of those suspicions, the $7-an-hour manager of the K Market convenience store was hired by the FBI to infiltrate the large Muslim community in Lodi, where he once lived, and was paid more than $200,000 in salary and expenses for his three-year undercover assignment.

The clean-cut, square-jawed Pakistani immigrant took readily to the job of secret agent. "He knew the culture and sometimes he objected to what they asked him to do," said a former girlfriend. "But he really liked the work. It fit his dream of someday going into law enforcement." The girlfriend, who lived with Khan until a recent breakup, asked not to be named because of concerns for her safety.

Jesse Johal, Khan's employer at K Market, which caters to skiers en route to Cascade Range slopes, said he was not surprised by Khan's turn to undercover work. He said Khan took criminology courses at the local community college and sometimes went with police officer friends to the local pistol range. "He was a nice quiet guy," said Johal. "We were a good team."

For a few months after the FBI hired him in December 2001, Khan continued to work at the convenience store. Johal said agents would sometimes visit the informant, code-named "Wildcat," in the store.

Ted and Edie Henderson, managers of the 88-unit apartment complex on Powers Road where Khan lived alone from September 2000 to June 2002, described him as a model tenant who always paid his $420 monthly rent on time.

"He just kept to himself," said Ted Henderson. "I never saw anyone come in or out of his place." Edie Henderson said, "When he left I've never seen such a clean apartment in my life."

In his first round of testimony in Sacramento earlier this month, Khan said he was born in Peshawar, Pakistan, in 1973, to a Pashtun tribal family. After his father died when Khan was still a child, he was raised by his mother and grandmother.

At 16, speaking very little English, he immigrated to the United States with his mother and two cousins, living briefly in Kentucky, New York and Texas, where he attended high school and took the first in a series of low-paying jobs in fast-food franchises and convenience stores.

Records show he moved to California in 1992, living mostly in the Sacramento Valley cities of Marysville and Yuba City. In 1993, when he was 19, court records show he was convicted in Sutter County on a bad-check charge for which he spent two days in jail and was fined $211.

In July 1999, he moved to Lodi, home to several generations of Pakistani Americans, many of whom share his Pashtun ethnicity — including Umer Hayat, 48, and Hamid Hayat, 23, who are on trial. The younger Hayat is charged with attending a terrorist training camp in Pakistan in 2003; both are charged with lying to federal agents.

Khan lived alone in an apartment that overlooked the Lodi mosque. He worked at a pizza delivery business and a convenience store.

Separated from other family members living in Texas, Khan lacked the extensive family base enjoyed by many in the town's Muslim community.

So late one night in 1999 when he was working in the Lodi convenience store, he was open to the suggestion of a garrulous traveler that he come up to Oregon to "check it out."

The traveler, Kimler, a 50-year-old U.S. Forest Service employee from Prineville, Ore., said she took an instant liking to Khan and invited him to stay with her and her family if he came to Oregon.

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"We just liked each other and became friends," Kimler recalled.

Khan took her up on the offer and stayed with the family in Prineville for several months before he landed a job as assistant manager at a Taco Bell and went out on his own.

On Sundays, Kimler recalled, Khan would cook up Indian curries and sweet Pakistani deserts such as carrot halwa.

"He always said they were something different," Kimler said of the curries, "but they all tasted the same. Good, but very hot. The kids couldn't eat them."

When Khan found his own apartment, Kimler went with him to help him pick out furniture. She became his confidant and advisor in a conservative Oregon community with no mosque and only a handful of practicing Muslims.

"There's another Muslim in Bend? That's news to me. I thought I was the only one," said Mohammed Elwefati, a Libyan American who manages food and beverages at a popular local steakhouse. Elwefati said he never met Kahn.

Kimler thinks it was this cultural isolation in the wake of the Sept. 11 attacks that caused a wave of xenophobia in central Oregon that eventually reached Khan.

K Market owner Johal recalled a man buying cigarettes in the store who asked Khan menacingly if he was planning to "make a bomb."

Kimler suspects one of her own friends, hysterical with fear about terrorism, alerted the FBI about Khan. "I told her, 'Naseem a terrorist?' " she recalled. " 'You have to be kidding.' "

Whatever the cause, court records show that on Oct. 17, 2001, an FBI agent showed up at Khan's Powers Road apartment asking about his knowledge of Osama bin Laden and several Muslim fundraising organizations.

Since his testimony in the trial, Khan has been unavailable for comment.

Apparently convinced that he had no terrorism connections and impressed with his cooperation, agents from Oregon and California visited him again on Oct. 26, asking him to review photographs of suspected terrorists and asking him questions about the Lodi community where he once lived.

Khan told agents he remembered seeing Al Qaeda's No. 2, Ayman Zawahiri, and two other men, Ahmed Mohammed Hamed, a suspect in the 1998 embassy bombings in Kenya and Tanzania, and Abdelkarim Hussein Mohamed Al-Nasser, a suspect in the 1996 Khobar Towers bombing. He said he saw the three men at the Lodi mosque in 1998 and 1999.

Terrorism experts, even government officials, doubt the accuracy of the Zawahiri sighting, saying that the Al Qaeda figure, Bin Laden's personal physician, almost certainly did not travel to the United States after 1995.

Nothing has surfaced in the Lodi trial that indicates the agents seriously pursued these leads.

Nonetheless, Khan won the confidence of the FBI's Sacramento office and was immediately put to work as an undercover operative and sent out to secretly tape-record conversations with members of the Muslim community. Months into the investigation, Khan was trusted enough to transcribe and translate his own secret recordings, which are the foundation of the Lodi case.

Even after he began working for the FBI, Khan continued working part time at the Bend convenience store and living in the one-bedroom apartment. Sometime in the spring of 2002, he met a woman through a computer dating service who became his steady girlfriend.

The couple later moved into a Deschutes County home that the girlfriend bought. Khan, who told his Lodi contacts that he was a computer consultant who traveled frequently, sometimes stayed away from Bend for weeks at a time.

When he came home, the girlfriend said, he worked on landscaping the property. "He would cook Indian food, and we would listen to Indian music," she said. Other than the fact that he was working undercover for the government, she said, she knew little else about his activities.

She said the couple lived together until about five months ago when she found a goodbye note from Khan wishing her good luck in her future life. She said she contacted the FBI to get in touch with Khan but never heard back from him.

"I loved him. I loved him very much," she said, talking to a reporter in the slush-covered driveway of her home. "I guess this is what happens when you are in government work."

Young Lawyer Gets First Big Test During Federal Terrorism Trial (AP)

By Don Thompson

AP, March 21, 2006

SACRAMENTO - It was a Sunday last June when leaders from Lodi's Pakistani community paid a frantic visit to Basim Elkarra, executive director of the Sacramento area's Council on American-Islamic Relations.

FBI agents had been interrogating a father and son from the Central Valley agricultural town who they suspected were lying about the younger man's attendance at an al-Qaida training camp in Pakistan. They needed a criminal lawyer for the men, and Elkarra wasn't sure who he could reach on such short notice.

What he did have was the cell phone number of a young Muslim lawyer of Afghan descent. He knew he could reach her, even on a weekend.

Within hours, Wazhma Mojaddidi found herself representing the 23-year-old son, Hamid Hayat, who is now on trial in U.S. District. He could spend most of the next four decades in prison if he is convicted of charges that he attended the camp in 2003 and lied about it to investigators.

It's the kind of high-profile case that rarely gets handed to a lawyer 18 months removed from law school.

"Getting a case of this magnitude for somebody who just recently graduated from law school is pretty unusual," said Eric McElwain, director of international programs at the University of Pacific McGeorge School of Law in Sacramento. "I assume it's just a case of being in the right place - I hope it's the right place - at the right time."

Mojaddidi is working as a team with veteran defense attorney Johnny Griffin III, a former prosecutor who is representing Hamid Hayat's father. Umer Hayat, 48, is charged with lying about his son's attendance at the camp and faces up to 16 years in prison.

The Hayats are being tried together but before separate juries.

Mojaddidi and Griffin, who are scheduled to begin the defense portion of the trial next week, have made an unlikely but complementary team.

Griffin, 46, spent 13 years as a state and federal prosecutor before beginning a private practice in 1998. He dwarfs the 31-year-old Mojaddidi, who says she stands 5-foot-2 1/2.

While she does not wear the traditional Muslim headdress, Mojaddidi favors stylish, colorful clothes that contrast with the dark suits and judicial robes of the courtroom.

U.S. District Judge Garland Burrell Jr. often is impatient with her for her evident inexperience in cross-examinations and rules of evidence, frequently schooling her on how she should phrase questions to a government witness.

Despite her inexperience, Mojaddidi has stood her ground. She sparred with the prosecution's expert on Islamic religion and law, debating the interpretation of a Muslim prayer, the opinions of 13th century Muslim scholars and obscure rhetorical histories dating to the Prophet Muhammad himself.

She challenged an FBI linguist about the significance of news articles praising al-Qaida leader Osama bin Laden and Afghanistan's fundamentalist Taliban government. Her client clipped the stories from newspapers and magazines that are widely circulated in Pakistan.

Mojaddidi, a naturalized U.S. citizen who is fluent in several languages, also could interpret the original Urdu in hundreds of hours of secretly recorded conversations between the Hayats and the FBI's informant. She consults with the Hayats, also U.S. citizens, in their native language.

"This has really been a good blend," Griffin said. "She brings the whole cultural knowledge of the whole community. I know there have been some rough moments, but she has, in my view, stepped up to the plate."

Griffin was brought into the case quickly, but the lawyers arrived too late to prevent both Hayats from giving confessions - captured on videotape - to FBI agents during lengthy interrogation sessions last June. They were called in for questioning shortly after Hamid Hayat returned from Pakistan.

Persuading jurors to discount the confessions is among the defense team's biggest challenges. Mojaddidi and Griffin say the Hayats gave the statements after they were worn down by hours of questioning and were telling agents only what they thought they wanted to hear, unaware of the legal consequences.

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At the same time, the lawyers are trying to exploit weaknesses with the government's case. Prosecutors so far have not presented firm evidence that Hamid Hayat actually attended the terror training camp, and questions have been raised about the credibility of the informant.

The case represents a leap for Mojaddidi, who previously was using her command of Urdu, Farsi and Pashto to help immigrants with family law cases.

"There aren't many Muslim attorneys," Elkarra said. "She speaks the language and she knows the culture. People feel comfortable with a Muslim attorney."

Mojaddidi was operating her own law practice in Sacramento when Elkarra called her for the Hayat case.

"It was a little bit of an intimidating situation," Mojaddidi said. "Essentially, I walked into a small conference room with about 10 Muslim religious leaders, all men, whom I had not met before."

In an interview with The Associated Press, she described her family's flight from Afghanistan when was 5, what she described as a middle-of-the-night escape into Pakistan in 1979 after the Russian invasion.

The family immigrated to Virginia and later moved to Concord, a suburb in the eastern San Francisco Bay area.

She met her husband, a Pakistani, while attending the University of California, Davis, and soon picked up his native Pashto language. Both are American citizens but speak their native languages to their three U.S.-born children, although Mojaddidi said her son prefers English.

She has never returned to Afghanistan but has visited Pakistan twice with her husband, an aeronautical and mechanical engineer.

"I must say, my first time was a culture shock to me," she said. "Most of the poor are Afghan refugees. To think that could have been me."

McElwain, the McGeorge professor, remembers Mojaddidi as a student and said he expected her to excel.

During a competition in Austria in 2002, he recalled, her team received good reviews but finished 21st among the 108 international universities, too low to qualify as a finalist. At the time, Mojaddidi said she was convinced her team's effort was sabotaged by a judge and wanted to appeal.

"That's just typical of Wazhma," McElwain said. "She's a very strong personality, the kind of person who takes things into her own hands if she doesn't like the way things are going. You just know she's going to go out and make waves wherever she goes."

A Possible Clue On NSA Spying (WP)

By Dan Eggen

The Washington Post, March 21, 2006

Did President Bush mention the government's secret warrantless surveillance program to the president of Pakistan more than four years ago? A brief passage of a 2002 book seems to raise that possibility.

In "Bush at War," Bob Woodward recounts a meeting between Bush and Pakistani President Pervez Musharraf at the Waldorf Towers in New York in early November 2001.

Bush started by talking about plans for a quick victory in Afghanistan but then turned to another topic, according to the passage on Page 303:

"He had become fascinated with the ability of the National Security Agency to intercept phone calls and other communications worldwide," Woodward wrote, referring to Bush. "If they got the key phone calls, future terrorism might be stopped, certainly curtailed. Bush summarized his strategy: 'Listen to every phone call and close them down and protect the innocents.' "

By this time, Bush had already issued his order allowing the NSA to intercept communications between the United States and overseas locations without warrants. The program was never divulged publicly, however, until press reports last December.

Of course, Bush could have been referring merely to the NSA's traditional surveillance programs, which have long involved intercepting large amounts of communications overseas.

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Woodward, an assistant managing editor at The Washington Post, said this month that he does not know what Bush may have had in mind during his conversation with Musharraf. Woodward noted that he has not referred to the NSA's warrantless spying program in his books or reporting.

Suspect In Al-Qaeda Bombings Disrupts Trial In Turkey (WP)

By Karl Vick

The Washington Post, March 21, 2006

ISTANBUL, March 20 -- The al-Qaeda operative accused of organizing the 2003 Istanbul bombings and a botched attempt to sink an Israeli cruise ship appeared in a Turkish courtroom on Monday -- and did his best to take it over.

Louai al-Sakka, 32, who by his own account worked beside insurgent leader Abu Musab al-Zarqawi in Iraq, first told the court he was someone else, then was hustled out of the morning session after refusing to stand to address the judge.

"I performed jihad and killed Americans! Why should I stand up in front of you?" Sakka shouted as guards tugged him toward the door. "Should I stand in front of these liars?"

Sakka, a Syrian described by Turkish officials as a senior figure in al-Qaeda, is accused of providing other operatives with about $170,000 from the group to carry out four truck bombings that killed 57 people over two days in November 2003.

Monday was the opening day of trial for Sakka, who is being prosecuted along with 72 Turks. With the Turks' trial winding down after more than two years, defense attorneys argued unsuccessfully Monday that adding Sakka to the case would cause even further delay.

"I'm not holding a bomb. I just want to talk," Sakka told Judge Zafer Baskurt in the afternoon session, after being summoned from a back row where he had been mugging and joking with other defendants. He again refused to stand, indicating he acknowledged only Islamic law.

The judge responded by recessing the proceedings for two months.

Further complicating the trial, Sakka's attorney was ordered off the case Monday because he faces charges himself. Turkish prosecutors accuse Osman Karahan, a proponent of militant Islam in good standing with the Turkish bar, of aiding and abetting a terrorist organization. Karahan, who also represented 14 other defendants in the Istanbul case, said the indictment falsely links him to last year's bombings of the London transit system.

"All these efforts are to prevent Sakka from talking, because if he talks, a few states would collapse," Karahan said. Sakka already faces prison in Jordan, where he and Zarqawi were convicted in absentia for plotting to blow up hotels and tourist landmarks in the so-called millennium plot. Turkish police arrested him in August while he was allegedly completing plans to steer an explosives-laden yacht into an Israeli cruise ship off the Turkish coast. The plan was discovered when fire broke out in the apartment where he and an accomplice were constructing the bomb, authorities said.

Karahan has quoted Sakka as saying he planned to die attacking the cruise ship. He supposedly believed he would be captured otherwise; his identity was known despite efforts to alter his face through plastic surgery.

On Monday, however, his identity was at issue. More than 20 journalists failed to recognize Sakka as he entered the court building. Cleanshaven and skinny at the time of his arrest, the defendant had put on substantial weight in prison and grown a full beard. He insisted to the judge that his name was Ekrem Ozel, the name on the identity card he was using when arrested, and demanded he be fingerprinted to prove it.

Karahan said he was not sure of his client's identity, either. He said that Sakka, who specialized in moving Islamic militants through Turkey with false papers, had moved in and out of Turkey 55 times on 18 different passports.

"This is going to be a case of worldwide importance, so we need to determine scientifically exactly who he is," Karahan said.

PATRIOT ACT:

Freezing Nuns A Result Of Patriot Act Move (WT)

By Jen Haberkorn

DOJ_NMG_0019644

The Washington Times, March 21, 2006

When checks began bouncing at Holy Name Monastery of the Benedictine Sisters last year, Sister Jean Abbott knew something was fishy.

Her calls to the bank revealed that the St. Leo, Fla., account was frozen for five days because one of the account's signatories -- an 80-year-old nun -- didn't have an identification card on file.

The bank blamed the USA Patriot Act for the account freeze.

"The local bank said it was the Patriot Act," said Sister Abbott, who declined to identify the bank. "Someone at the main office of the bank had done, according to the local bank, a spot check on the account, which they do periodically."

The Patriot Act strengthened the Bank Secrecy Act, which requires financial institutions, including banks, creditors and even casinos, to inform the U.S. Treasury Department of transactions they find to be out of the ordinary. But even the Patriot Act cannot close an account -- only a bank can do that.

The number of suspicious transactions that financial institutions are reporting to the government has nearly tripled since the Patriot Act was passed in 2001.

A suspicious act could be a business that doesn't normally use cash but suddenly starts making large cash deposits, or a person who normally deposits just a paycheck and suddenly makes a few deposits of tens of thousands of dollars.

Both could be legitimate transactions, but they also could be a sign of money laundering or other illegal activity.

So both cases will draw a red flag from a bank, prompting it to file a Suspicious Activity Report (SAR), which is sent to the Treasury Department to determine whether the transaction is fraudulent and to start a paper trail that investigators can use later if necessary.

Most consumers will never have their accounts frozen and likely will never know if a report is filed on them, according to the Treasury Department and the American Bankers Association (ABA). It's illegal for a bank to tell consumers that a SAR has been filed on them.

The average consumer "should not be concerned as long as the transactions they're doing are legit," said Anne Marie Kelly, a spokeswoman for the Financial Crimes Enforcement Network, the Treasury Department bureau responsible for administering the Bank Secrecy Act.

Privacy groups say the law is invasive without being effective.

"This law is causing so many problems without any demonstrable successes," said J. Bradley Jansen, director of the Center for Financial Privacy and Human Rights, part of the Liberty and Privacy Network in the District. "The Banking Secrecy Act has been on the books since the 1970s. It did not prevent 9/11. It's not designed to prevent anything."

Ten years ago, banks filed 62,473 SARs annually. By 2000, that figure reached 163,184, and two years later, after the Patriot Act revisions, the number of SARs nearly doubled. It reached a peak of 689,414 in 2004 and dropped to 435,167 last year.

More financial institutions are required to file now, boosting the number of SARs. But regulators also have cracked down on banks over noncompliance -- Riggs Bank N.A. faced a $16 million fine last year for failing to file timely and accurate SARs.

"The banks take it very seriously," said John Hall, a spokesman for ABA. "Since those fines were enacted, some regulators feel that the banks are filling them out a little too often."

In Texas, where bankers deal with many immigrants sending money back to their countries, bankers think they have to file SARs on transactions even if they don't look too suspicious.

"Bankers know that even though the Washington regulators say they're not going to second-guess the bankers, the bankers are getting second-guessed," said Karen Neeley, general counsel of the Independent Bankers Association of Texas. "If you want to be safe, you have to file."

After the SAR is filed, it's up to the bank to determine whether to let the transaction proceed, freeze the funds or even close the account, Ms. Kelly said.

"We don't do anything about whether an account is closed or open. That's a business decision by the financial institution," she said.

The Treasury Department refers suspicious transactions to the appropriate law-enforcement agency.

The ABA says banks don't give out account information unless ordered to by law.

"Banks do guard the privacy of their customers. Customer trust is paramount to our industry," Mr. Hall said.

Librarian Is Still John Doe, Despite Patriot Act Revision (NYT)

By Alison Leigh Cowan

The New York Times, March 21, 2006

The hotel ballroom was packed as a sensibly dressed, well-read crowd from around the country gathered in San Antonio on Jan. 21 to celebrate one of their own.

Yet, as many expected, the guest of honor was a no-show, despite the $500 intellectual freedom prize that awaited.

Attendees at an American Library Association gathering blamed Washington for the empty chair. Lawmakers may be giving themselves credit for having improved safeguards on civil liberties when they reauthorized the nation's antiterrorism law, otherwise known as the USA Patriot Act, earlier this month.

But many librarians and civil liberties lawyers say the revisions did nothing to enable the guest of honor to take the stage and discuss the Patriot Act without risk of prosecution.

Known as John Doe in court filings, the guest of honor was the Connecticut librarian who was visited by the Federal Bureau of Investigation last year and presented with what is known as a national security letter demanding patron records.

The subpoena, issued as part of a counterterrorism investigation, not only barred him from disclosing the target of the inquiry, but also forbade him and others at his place of work to ever discuss the letter or even to acknowledge its receipt.

Though some 30,000 national security letters are issued a year without arousing public protest, the librarian was reluctant to comply because of professional ethics aimed at keeping library records confidential.

On the advice of the American Civil Liberties Union, his employer went to court to challenge the constitutionality of the subpoena, the provisions of the Patriot Act that broadened the use of national security letters after Sept. 11, 2001, and the order permanently forbidding discussion of the F.B.I.'s demand.

As the Bush administration pushed for the act to be reauthorized, a handful of Democratic and Republican lawmakers argued that it went too far in encroaching on civil liberties. In the end, they persuaded the White House to accept a compromise that placed library records beyond the reach of a national security letter if they were gathered by libraries operating in what many people understand to be their traditional roles.

The final bill also gave recipients of national security letters the explicit right to consult lawyers.

While those concessions have allowed lawmakers to say that new safeguards on civil liberties have been put in place, another powerful provision in the Patriot Act, known as Section 215, remains on the books. It gives law enforcement another confidential way to demand information but has seldom been used because it requires judicial approval. National security letters, in contrast, require merely the signature of an F.B.I. official.

Between Section 215 and the new language governing national security letters, some opponents of the new version of the Patriot Act are skeptical that the revisions will provide much protection against unwanted invasions of privacy or infringements on free speech.

"The revised law provides almost no protection whatsoever for libraries," said Ann Beeson, the civil liberties union lawyer representing the organization that brought the suit in Connecticut. "It's virtually meaningless."

The section of the new law that addresses "privacy protection for library patrons" states that library records are beyond the reach of national security letters so long as the library is not operating as an "electronic communication service." Elsewhere, that term is defined as "any service which provides to users thereof the ability to send or receive wire or electronic communications."

But much of what a modern library does courses through its computers. Patrons can research topics on the Web. They can even reserve books from home. "A national security letter can be used to get any library record that is maintained via an electronic communication service," Ms. Beeson said. "That definitely includes Internet access and e-mail records and can also include patron borrowing records."

The new law does establish the recipient's right to challenge the nondisclosure orders that typically accompany national security letters and Section 215 requests. But the recipient would have to wait a year before raising the question anew if the government continued to assert the need for secrecy.

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"If you're a business that has resources to challenge it every year, you can," Ms. Beeson said. But she said a judge would be hard pressed to rule against a government request to keep the information secret for reasons of national security. In the Connecticut John Doe's case, she said, "nothing in the new law permits John Doe to disclose his identity."

Though government lawyers demanded that John Doe's identity be shielded in court filings, the government failed to completely conceal the name in those filings, which revealed the plaintiff to be the Library Connection of Windsor, Conn., a nonprofit organization that provides back-office services to some two dozen libraries in the Hartford area.

Eager to testify publicly about the Patriot Act, the group's officers won the right last summer to identify their organization as the recipient of a national security letter after Judge Janet C. Hall of Federal District Court in Bridgeport found that the government had unjustly imposed a prior restraint on free speech. But her decision was stayed while the government appealed, and the United States Court of Appeals for the Second Circuit, in Manhattan, has yet to rule.

"I am rather appalled that our country's laws silence John Doe and require him to remain anonymous for standing by his professional ethics, for standing up for the principle that it is nobody's business what you read, or listen to, or look at in the library but yours," Judith F. Krug, the executive director of the Freedom to Read Foundation, told the crowd in San Antonio, as she accepted the University of Illinois's annual Robert B. Downs Intellectual Freedom Award in John Doe's absence.

Alice S. Knapp, a Stamford librarian who is this year's president of the Connecticut Library Association, said she was there "taking pictures left and right." But the Library Connection's executive director, George Christian, and the vice president of its board, Peter Chase, did not attend. Mr. Chase's absence was especially odd since he was to be the Connecticut Library Association's advocate on intellectual freedom this year.

Without commenting on John Doe's likely identity, Ms. Knapp confirmed that she had assumed many of Mr. Chase's speaking duties this year. For moral support, she has been nominating John Doe for other awards.

"We nominate them for everything we can," Ms. Knapp said. "Never mind the pressure they're under. Just the sheer act of bravery to decide not to comply and to decide to make an issue of it was incredibly huge, and within the library community, there is a lot of respect for them."

HOMELAND RESPONSE:

Homeland Security Targeting Some Plants (AP)

By Lara Jakes Jordan

The AP, March 21, 2006

Chemical plants with lax protections from attacks and accidental leaks are being targeted by the Homeland Security Department — before they can be targeted by terrorists.

Homeland Security Secretary Michael Chertoff said Monday his department will crack down on chemical manufacturers and storage facilities that he described as "free riders" — those that haven't beefed up their security measures.

"They're counting on the fact that the industry in general has a good level of investment, and they figure they'll hide among the leaves and essentially freeload on this security work done by others," Chertoff said.

"That's not acceptable," he said. "Progress on this has stalled for too long."

Counterterror experts put the chemical industry at the top of the list of likely terror targets. Congressional investigators have revealed spotty results in how well the chemical industry is prepared to respond in the event of an attack.

At issue is federal regulation of security plans at the nation's 15,000 privately operated chemical plants — one-fifth of which are close to cities and other heavily populated areas.

The chemical industry generally has resisted federal regulation, and large manufacturers have voluntarily taken steps to improve security that they deem adequate. Small chemical firms and plants have largely ignored beefing up safeguards to avoid having to pay for them.

Homeland Security "wants and deserves authority to set federal standards for chemical security, and then enforce those standards," said Chris VandenHeuvel, a spokesman for the American Chemistry Council, which represents large chemical manufacturers. "Four and a half years after 9/11, they still don't have that."

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Legislation is pending in the Senate to authorize Homeland Security to shut down facilities that do not comply with minimum safety standards. But the bill by Sens. Susan Collins, R-Maine, and Joseph Lieberman, D-Conn., would largely let the chemical industry draw up its own security plans for the federal government to approve or reject.

Chertoff has not endorsed the plan, but he is expected on Tuesday to outline elements that he said would need to be in acceptable legislation. Congressional staffers said it likely would not encourage facilities to substitute safe substances for hazardous chemicals, as environmentalists have demanded.

Without that provision, "there isn't any security that would be good enough," said Rick Hind of Greenpeace. "A small plane or a high-powered weapon would bypass any gate or fence."

Chemical Plants May Be Called To Boost Security (WSJ)

By ROBERT BLOCK

The Wall Street Journal, March 21, 2006

WASHINGTON -- Reversing course, the Bush administration says it will now work with Congress to require the chemicals industry to better protect its facilities from terror strikes, requiring companies to draft detailed antiterrorism plans and penalizing those that don't comply.

Homeland Security Secretary Michael Chertoff, in remarks today to the American Chemical Council, an industry trade group, is expected to detail the minimum requirements he would like to see Congress include in legislation to bolster security at U.S. chemical plants.

"The fact of the matter is: chemical plants and, in fact, transportation of chemicals, remains a vulnerability," Mr. Chertoff said in a speech yesterday at the Heritage Foundation, previewing his remarks today. "Progress on this has stalled for too long. We do need legislation and congressional action and leadership on this point."

A chemical plant security bill is pending in the Senate, drafted by Sens. Susan Collins (R., Me.) and Joseph Lieberman (D., Conn.). Mr. Chertoff said the administration will work with them to refine and advance the bill into law. The goal "is to have flexibility, appropriate risk management, smart use of technology and not heavy-handed strangulation or overregulation."

Following the Sept. 11, 2001, terror attacks, lawmakers and some top Bush administration officials pointed to the vulnerability of U.S. chemical plants to similar strikes.

Former Environmental Protection Agency administrator Christine Whitman wanted to use existing EPA authority to compel the chemicals industry to adopt stricter protective measures that would make it more difficult for terrorists to attack plants and tank cars. Fearing overregulation, industry officials convinced the White House to shift plant security to the newly created Department of Homeland Security, but without any power beyond making recommendations.

The Department of Homeland Security wouldn't provide advance details of Mr. Chertoff's remarks. But Chris VandenHeuvel, a spokesman for the American Chemistry Council, said he expects Mr. Chertoff will say legislation must give his department authority to work with the industry to set minimum security standards. He also wants real enforcement power.

"DHS does not have authority it needs to compel the industry to stake steps necessary to protect against terrorists and terrorism, and Mr. Chertoff wants that to change," Mr. VandenHeuvel said.

A 'Unified Command Structure' In Search Of A Leader (WP)

By Dana Milbank

The Washington Post, March 21, 2006

As Homeland Security Secretary Michael Chertoff sat down for lunch yesterday on the seventh floor of the Heritage Foundation, a vivid scene from the post-9/11 world was unfolding outside the conference-room window.

Two blocks away at Union Station, a small grease fire had erupted on the grill at McDonald's. The blaze was quickly extinguished, but not before jittery security personnel ordered the terminal evacuated. Hundreds of shoppers, diners and rail passengers, heeding shouted warnings to flee the premises, flowed into the plaza outside, where emergency response vehicles joined the usual duck boats and tourist trolleys.

Chertoff aides watched the mayhem from the Heritage windows, but Chertoff himself missed the hullabaloo; one of his lunch partners explained that his security guards had ordered the blinds drawn.

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It was just as well -- the secretary has enough crises to worry about these days.

A year after he took over from Tom Ridge at Homeland Security, Chertoff is getting much of the blame for the woeful Hurricane Katrina response, insufficient supervision of the Dubai port deal and domestic defenses that remain, by most accounts, unacceptably weak.

Earlier this month, the conservative magazine Human Events quoted administration officials as saying that Chertoff had "only a few days left" in the Cabinet. The White House denied it, but the rumors -- and calls for his head -- continue.

Yesterday, an hour before Chertoff addressed the International Association of Fire Fighters at the Hyatt on Capitol Hill, Sen. Joseph R. Biden Jr. (D-Del.) won vigorous applause from the firefighters for demanding Chertoff's ouster for his role in a "dangerously incompetent" administration.

All of this must have Chertoff, a former star prosecutor and top Justice Department official, wondering why he gave up his seat as a federal appellate judge for a position that earns him -- deservedly or not -- unending criticism.

"You gave up a lifetime appointment for this?" Sen. Mark Pryor (D-Ark.) marveled to Chertoff at a Senate hearing last month at which the secretary was getting abuse over Katrina.

"My wife reminds me of that periodically," Chertoff replied, ruefully.

Chertoff's problem is not, as Biden suggests, that he's incompetent. The secretary is highly accomplished. His problem, if anything, is he's a model technocrat in a position that sometimes demands a commanding leader.

A strikingly thin man with a high-pitched voice, pointy ears and droopy eyelids, Chertoff speaks of "the critical points of triangulation" and calls for a "properly risk-managed approach to critical infrastructure." He talks about the need for "total assets visibility" and favors "an integrated, sensible, systems-based approach." He desires "better information about the constituents of the supply chain." And instead of telling people that he's protecting them, he says that his department has "done a lot to elevate the general baseline of security in this country."

Relax, America: Your general security baseline is elevated because of a systems-based approach to critical triangulation points.

These kinds of statements -- all voiced at Heritage yesterday -- make the wiry Chertoff a big target for those building a case that the administration is lax about homeland security. The firefighters' president, Harold Schaitberger, began yesterday's conference with a speech complaining that "the administration and OMB have recommended drastic cuts" in first-responder programs.

Biden asked the crowd, almost all men, whether the administration was protecting Americans. "Well folks, the winds of Katrina and the shoddiness of the Dubai port deal . . . have answered the question," he said.

Chertoff, suffering from a cold, cleared his throat 10 times as he spoke to the firefighters and 20 more when talking at Heritage. He offered a series of explanations for the Katrina problems: "catastrophe of the century . . . a disaster is always an ugly thing . . . Mother Nature can be awfully tough to deal with."

He blended that with his technocratic explanations of DHS ("internal integration into a unified command structure") and attempts at high rhetoric that fell short. Pointing to photos of the Sept. 11, 2001, wreckage, Chertoff said: "You are really part of the war on terror, as well as the war against all hazards."

War Against All Hazards: WAAH?

Chertoff, pursued by reporters, was whisked from the building and into a waiting Chevy Suburban by a knot of aides and bodyguards -- and away to the relative safety of Heritage. There, after lunch, former attorney general Ed Meese introduced him by praising his "dynamic leadership."

Chertoff displayed that dynamism by giving the audience an earful about the need to "integrate all of your organs of power" to achieve "the totality of effort." A few of his listeners allowed their eyes to close.

Chertoff made a beeline for the exit after 30 minutes. "Because of the secretary's schedule, he's not able to take questions," Meese tried to explain. In the war against all hazards, a Q&A session probably would not elevate the general baseline of Chertoff's job security.

U.S. Eyes Privatizing Cargo Security Work (WT)

By Audrey Hudson

The Washington Times, March 21, 2006

Homeland Security officials are looking to have private companies validate the security procedures under which cargo travels from foreign ports into U.S. terminals.

The program, which would give speedier entry to U.S. ports to ships and suppliers that meet the security standards, is now in the hands of 80 Homeland Security inspectors who have to plow through more than 10,000 applicants.

Although Homeland Security plans to hire an additional 40 inspectors in the coming months, the department also is looking to outsource to private companies some of its duties, in particular the validation process, which has dragged for years and involves on-site inspections of ships and cargo abroad.

More than 5,800 companies currently get some shortcuts by being "certified." But only 1,545 have been "validated" to receive the full benefits of the program after first-hand inspections, such as fewer on-site checks at U.S. ports, said Jayson P. Ahern, assistant commissioner of field operations for Customs and Border Protection.

Mr. Ahern says the manpower shortage has the department exploring other options, including contracting the work to the private sector.

"I am not happy where our progress has been," Mr. Ahern told a House panel last week.

The Customs-Trade Partnership Against Terrorism (C-TPAT) was initiated after the September 11 attacks to secure the cargo chain from port to port. Companies that open their doors to full security inspections get fewer checks at ports of arrival and faster processing.

Although critical of the program's sluggish pace, Rep. Loretta Sanchez, California Democrat, endorsed the idea of outsourcing.

"We are relying on companies that we haven't even gone out to check to see if in fact they have the security things in place that you said they had," says Miss Sanchez, ranking member of the House Homeland Security subcommittee on economic security, infrastructure protection and cybersecurity.

"I mean, you have 80 people that can't possibly check these 10,000 companies. What about having somebody else check them?" said Miss Sanchez, who formally asked the agency to consider privatizing the work.

"We have, to this point, resisted the notion of third-party validators. We think it is a responsibility that we should be doing in the government, and not necessarily contracting it out. However, given the current situation ... we want to have more parties involved with a trusted program. We want to have the largest corporations in the industry, the importers reaching back to their suppliers, vendors, manufacturers, putting levels of security in place throughout the supply chain," Mr. Ahern said.

"So perhaps we are coming to a point in time where, in certain environments with certain countries that may not be of a significant risk, maybe [using] the third-party validator has a [place] for us. So we are going to be evaluating that with new eyes, but to this point we have been opposed to it," Mr. Ahern said.

Suzanne Trevino, a spokeswoman for CBP, said yesterday that her agency is looking at the prospect of hiring third parties to validate security.

"At this point, the only thing we will say is that we will look at it, but we have not started a formal process. We don't have the resources to complete the validation necessary or that Congress wants," Mrs. Trevino said.

Last March, the Government Accountability Office criticized the program and cited weaknesses in the validation process, which it said "is not rigorous enough to achieve its stated purpose, which is to ensure that the security procedures outlined in members' security profiles are reliable, accurate and effective."

As of Nov. 2, 2004, more than 7,300 applications had been filed. Of them, 4,153 had been certified and slightly more than 400 validated. Almost 3,000 applications have since been filed.

Peter Tirschwell, publisher of the Journal of Commerce, called the Homeland Security idea an "outsourcing of security."

"They exist in a commercial environment to facilitate commercial transactions. Something as important as our national security, asking them to perform what is a government role -- it's hard to see how that could be successful," he said.

The move comes on the heels of furor over a plan for a Dubai company to operate terminals in six U.S. ports. Asked whether the current mood against foreign companies operating in matters of national security might affect this proposal, Mr. Tirschwell said, "I think it would not be looked at favorably."

Seth Stodder, former director of policy and planning for Customs and Border Protection, said private validation firms can serve as a "force multiplier" but the final responsibility has to lie with the government.

"The devil's always in the details, but in the abstract, I think it's a good idea to help CBP get more validators out there, and that's critical," said Mr. Stodder, who works with the lobbying firm Akin Gump Strauss Hauer & Feld LLP.

"There is a need to step up validation and make it faster, but there are hurdles to think about when using third parties -- training and management, vetting employees," Mr. Stodder said.

Dubai Will Delay Another Acquisition Involving U.S. Plants (NYT/BLOOM)

By Bloomberg News

The New York Times, March 21, 2006

The Dubai government delayed its $1.2 billion purchase of a military equipment maker yesterday, the second time in a month that a takeover by the Middle East emirate has been jeopardized by American security concerns.

Dubai International Capital, owned by the government of the Persian Gulf emirate, said that it would delay its acquisition of the Doncasters Group, a British company that has nine plants in the United States, by as much as two months from March 31 while government agencies review the purchase.

"After what happened with Dubai Ports, the government is looking at this deal more closely," Sameer al-Ansari, Dubai International's chief executive, said in an interview.

Dubai International is buying Doncasters from the Royal Bank of Scotland Group, its owner since 2001. Shaun Gamble, a spokesman for the Royal Bank of Scotland in London, declined to comment yesterday.

Dubai's purchase of Doncasters, which was agreed to on Dec. 14, may ignite a political debate in the United States similar to that caused last month by the $6.8 billion purchase of the Peninsular & Oriental Steam Navigation Company by DP World, a Dubai-owned company. Succumbing to political pressure over that deal, DP World had to agree to sell its interests in United States terminals. Revenue from Doncasters's American plants, which make parts for tanks and military aircraft, account for about 40 percent of total sales.

"If this deal isn't approved by the U.S., it wouldn't proceed," said Angus Blair, chief executive of Mena Financial, a company in London that advises foreign companies about doing business in the Middle East. "Forty percent is too big to ignore," Mr. Blair said.

The Committee on Foreign Investment in the United States, a federal body that considers the sale of American assets to foreign companies, started a detailed 45-day investigation into the Doncasters agreement at the end of February, Mr. Ansari said.

Currency Flow And Trade (WT)

By Michael R. Czinkota

The Washington Times, March 21, 2006

The policy eclat over the acquisition of selected U.S. port operations by Dubai appears to be over. There were threats byCongress to pass legislation prohibiting such ownership, countered by statements that President Bush would veto any such legislation. Now, the Dubai owners have decided to spin off the U.S. operations from the global conglomerate which they have purchased. Yet, there may be significant long-term consequences for currency values and trade practices.

Most of the public discussion of this sordid affair has reflected the growing sensitivity in the United States to ownership and control of assets by non-domestic entities. The debate has focused heavily on possible discrimination against Muslim investors, protection against terrorism in U.S. ports and retaliation against U.S. investors abroad.

What appears to be not yet widely understood are the potential effects that these and similar policy decisions (such as the Unocal walk-away by China) can have on the value of global currencies and on trade flows. Congress' law of unintended consequences may strike again: The short-term direct effects of this action are likely to be far outweighed by the long-run indirect effects.

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The United States has experienced more than 20 years of current-account deficits. It imports more than it exports. In past years, every month has brought more news about growing trade deficits, now up to $68.5 billion per month. It is hard to remember that President Nixon decided to abandon the fixed-exchange rate system for the Western world because of an annual imbalance of $5 billion. But we do see in more recent times that, typically, nations with a current-account deficit above 5 percent of gross domestic product (GDP) have experienced grave domestic and international consequences.

Even though the current imbalance is approaching 6 percent of GDP, these harsh consequences have not occurred in the United States. There the conditions are special: They are influenced by a high willingness of other countries to hold U.S. dollars, a substantial ability of foreign individuals and institutions to lend those dollars to the United States and a high U.S. capability to embed the dollar as a global currency. As a result, there is a surface picture of tranquility which has abounded in global trade and currency markets.

However, we know that this trend will have to change. Eventually, the United States will have to export more and import less. The key questions are how to achieve such change, how long to wait for such change and whether it should occur through market forces or through government intervention. It does appear that in addition to growing international competitiveness of U.S. firms, changes in the value of the U.S. dollar are needed to reverse the astounding trade imbalances.

The Dubai withdrawal may well be the watershed that triggers shifts in exchange rates now. The congressional debate, the national posture and the global repercussions may well form the basis of new Plaza Agreement-type conditions, which will gradually drive down the value of the dollar for the long term.

The pronouncements by Congress, the growing public debate and the withdrawal plans of the foreign investors directly play to the emotions of investors. The message is clear: Investments and ownership by foreign capital holders will be scrutinized with new rules, and may well be attacked, rejected or publicly scorned. This will be done regardless of plans made by the administration or commitments made to global agreements.

In other words, confidence in the U.S. dollar has been challenged by the U.S. itself. We know that money is just a piece of paper. What matters most in setting its value is the psychology behind it -- the trust, outlook and confidence in the government that has issued the money. Investors may be shaken by the public response to the port-acquisition plans, but Mr. Bush's steadfast embrace of foreign funds is an important counterpoint which reduces the urgency of the concerns, lets any shift come slowly and results in a soft landing.

The uncertainty and therefore the risk for anyone holding dollars or dollar-based assets has now increased. Such a change influences the perceptions of investors and their actions. Fewer investments from abroad into the United States and a decrease in dollar holdings will depreciate the price of the dollar, making imports more expensive and exports cheaper. In addition, continued discussions may affect U.S. public opinion and eventually change the views, brand preferences and country-of-origin sensitivity of American buyers.

This almost kabuki-like political interaction on port ownership may well presage a long-delayed and necessary shift in trade outcomes. What appears to be an unfulfilled policy debate on foreign investment may yet stimulateimportant changes in trade patterns which are based on market forces rather than government intervention.

Michael R. Czinkota teaches international business and marketing at Georgetown University. He held several trade-policy positions in the Reagan administration.

House Panel To Review Katrina Contracts (AP)

The AP, March 20, 2006

A House committee said Monday it would review several post-Katrina hurricane contracts for waste and abuse, citing recent concerns about limited oversight and the haste in which they were awarded.

The Government Reform Committee will hold at least one hearing in April, said Robert White, a spokesman for chairman Tom Davis, R-Va. Witnesses and the specific contracts that will be scrutinized have yet to be determined, he said.

Last week, the Government Accountability Office reported in its first preliminary overview of Katrina contracts that the government wasted millions of dollars, including at least $3 million for 4,000 beds that were never used. The report blamed in part mismanagement and poor planning by agencies.

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Rep. Henry Waxman (news, bio, voting record), the senior Democrat on the panel, suggested earlier Monday that Davis to hold hearings on Katrina contracting. Waxman has proposed creating an independent, anti-fraud commission and has criticized congressional oversight of the hurricane recovery effort.

A House select committee also chaired by Davis issued a report last month saying waste in government contracts was due largely to poor planning. In one case, Mississippi officials requested from the Federal Emergency Management Agency 450 trucks of water and ice. After FEMA could not immediately deliver it, state officials were forced to buy from the commercial market at an untold cost, the report said.

"We spent five months investigating Katrina, including the contract issues," White said. "We understand there needs to be further review — GAO report or no."

New Orleans Mayor Backs Building Plan (WP/AP)

By Associated Press

The Washington Post, March 21, 2006

NEW ORLEANS, March 20 -- Mayor C. Ray Nagin (D) finished work Monday on a plan to rebuild New Orleans, endorsing a proposal that would allow all residents to rebuild their homes in neighborhoods shattered by Hurricane Katrina.

The mayor's advisory commission, formed after Katrina struck Aug. 29, recommended in January that some flooded neighborhoods be replaced with parks and that the city take a go-slow attitude in rebuilding low-lying areas. But that suggestion was greeted with jeers and outrage at public meetings.

Nagin, who is running for reelection on April 22, distanced himself from that plan.

On Monday, he offered to let residents rebuild anywhere but warned that homeowners in flood-prone areas would do so at their own risk. "I'm confident that the citizens can decide intelligently for themselves," Nagin said.

The report also recommended revamping schools, and a wish list of projects included new light-rail systems, new riverfront development and better flood protection.

"It has been controversial in some respects, but I am pleased by the results," Nagin told hundreds of residents who gathered to hear about the plan.

The release of the report came hours after civil rights groups took aim at the state's plan for rebuilding. Critics said that plan gives short shrift to poor and low-income victims, focusing too much on bailing out homeowners and encouraging high-end development at the expense of low-income renters.

If a White House proposal is approved by Congress, the bulk of Louisiana's reconstruction would be funded with $9.2 billion in federal grants using a plan by Gov. Kathleen Babineaux Blanco (D).

Blanco's plan still needs approval by the state legislature, the Department of Housing and Urban Development, and the Louisiana Recovery Authority.

More Katrina Fatalities Could Be Found (LAT)

By Ann M. Simmons

The Los Angeles Times, March 21, 2006

NEW ORLEANS — The discovery of two bodies in the wreckage of a neighborhood devastated by Hurricane Katrina seven months ago has served as an unsettling omen to families still searching for missing relatives.

Eight bodies have been found since March 1, and with about 1,400 people still unaccounted for, Louisiana state officials said they could not rule out the possibility of finding others.

Until recently, recovery teams were unable to retrieve bodies from the neighborhoods that were rendered uninhabitable and designated off-limits to residents.

The two bodies found Sunday in the rubble of a collapsed home in the city's Lower 9th Ward have not been identified.

Investigators with the Orleans Parish coroner's office, which recently took over the process of identifying and releasing the remains of Katrina victims, would not say precisely where they found the bodies or comment on their condition.

"All I can say is we picked up two bodies," said John Gagliano, the coroner's chief investigator. "I don't have any more information as to the identification. We haven't done anything with them yet."

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The hurricane left 1,287 people dead in Louisiana.

Until early March, the federal government's Disaster Mortuary Operational Response Team was in charge of alerting families when a deceased relative had been identified, and then releasing the remains to the appropriate funeral home. That task now falls to the parish coroner.

The New Orleans Fire Department has been using dogs to sniff out human remains in targeted areas.

The state-contracted Find Family National Call Center has received 11,601 phone calls since September to report people missing after the storm. As of Monday, 1,445 had not been accounted for, according to Kristin Meyer, public information officer with the Louisiana Department of Health and Hospitals.

However, officials said that most of the unaccounted-for were probably alive.

"We expect 300 to 400 will be really, truly missing," said Melissa Walker, another state health department spokeswoman. "Some might have died and been washed out to sea, and we'll never ever know." Others might be intentionally missing, she said.

"They've moved on with their lives and don't want to be found," Walker added.

Walker said that between 30 to 50 people, initially thought to be missing, were being located every day.

Meyer said that in many cases, people moving from evacuation shelter to trailer to other temporary housing haven't been able to contact family. When they finally do connect, relatives who filed a missing-persons report don't always inform authorities that their loved one has been found.

Walker said the Baton Rouge-based Find Family National Call Center receives about 150 calls a day from families looking for relatives. Between 10 and 15 of them are new callers.

Relatives are required to fill out an eight-page report with detailed information, including unique physical identifiers such as birthmarks and tattoos.

A file is opened on each person reported missing. The name is run through several missing-persons databases, including that of the state police and groups such as the National Center for Missing & Exploited Children.

Still, residents and community activists said it was crucial to monitor the demolition of homes — which recently started in some neighborhoods — to ensure that proper searches were being made and that remains of victims could receive a decent burial.

"We have people who go out to where they're planning to bulldoze a home and make sure they've checked with cadaver dogs first," said Lisa Fithian, a spokeswoman for Common Ground, an all-volunteer grass-roots relief organization. "We try to make sure that whatever bulldozing is done, is done correctly."

Sunday's discovery sent chills down Valerie Schexnayder's spine. Until January, most of her immediate family had been scattered across several states, and there were moments of worry that some might be lost.

"I feel very grateful to the Lord that my family is reunited together," said Schexnayder, 60, whose house in the Lower 9th Ward was damaged beyond repair. "But I have some cousins, and we can't find them all. I hope they're all alive and well."

New Orleans Lacks Emergency Shelter As Storm Season Nears (USAT)

By Anne Rochell Konigsmark And Mimi Hall

USA Today, March 21, 2006

NEW ORLEANS — As hurricane season approaches, the city doesn't have an emergency shelter, and local officials are asking for federal help to get people out of harm's way if another disaster strikes.

Residents who can't leave town on their own ahead of an oncoming storm during hurricane season, which begins June 1 and runs through November, will be asked to board buses at the city's downtown convention center. They'll then be shuttled to shelters in outlying areas.

“The emphasis will be on survivability, and that means getting out of the impact area,” said Terry Ebbert, the city's director of homeland security.

Ebbert said he fears that without federal help, citizens could be stranded in the city with nowhere to go. Neither New Orleans nor Louisiana has the resources to evacuate and shelter large numbers of residents, and the federal government has not yet committed needed aid, Ebbert said.

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Ebbert sent written requests for help recently to Homeland Security Secretary Michael Chertoff and R. David Paulison, the acting director of the Federal Emergency Management Agency, both of whom he criticized for not reacting quickly enough. "The silence has been deafening," Ebbert said.

The federal Homeland Security Department is working on hurricane preparation in Louisiana, said the department's preparedness chief, George Foresman. "As they identify their gaps and shortfalls … that's where we're going to make sure there's a contingency plan in place," he said.

Foresman and FEMA will be in the region this week to get a "clear, blunt assessment" of what's needed, Chertoff said Monday.

The city has dropped the idea of using the Superdome or any other city structure as a shelter. During Hurricane Katrina, which hit New Orleans on Aug. 29, the Superdome became a nightmare for 20,000 residents who rode out the storm there. The roof peeled off and it rained inside; the building lost power and it became dark and hot; toilets stopped working; and food and water became scarce.

"I am never going to do a shelter of last resort again," New Orleans Mayor Ray Nagin said.

If there is a massive evacuation of southeast Louisiana, as there was ahead of Katrina, "there won't be enough buses," said Jeff Smith, acting director of the Governor's Office of Homeland Security and Emergency Preparedness. "The federal government needs to step in. But they have been very slow to respond."

Chertoff said his department has finished early assessments of state preparedness and evacuation plans and will work closely with the Gulf Coast states to make sure they have whatever they need to handle the next storm season. Homeland Security also has to "get our own house in order," Chertoff said.

To that end, the department is working on plans to better track supplies sent in to victims, handle hundreds of thousands of phone calls in the aftermath of a bad storm and better manage debris removal. Chertoff also urged citizens to do more to prepare on their own: "You cannot count on help coming in the first 24 to 48 hours (after) a catastrophe."

WAR NEWS:

President Offers Iraqi City As Proof Of Success In War (ABJ)

By Carl Chancellor And Lisa A. Abraham

Akron Beacon Journal, March 21, 2006

CLEVELAND - Iraq is the central front in the war on terror and the United States will not abandon that front until democracy is established, President Bush said Monday.

Bush came to the City Club of Cleveland to lay out his vision for peace and democracy in the Middle East in an effort to bolster support for the war in Iraq, now entering its fourth year.

``In the face of continued reports about killings and reprisals, I understand how some Americans have had their confidence shaken," he said. ``Others look at the violence each night on their television screens and wonder how I can remain so optimistic about the prospects for success in Iraq. They wonder what I see that they don't."

Bush said he sees the successes, and spoke in detail about the liberation of Tal Afar -- an Iraqi city that he said was roughly the size of Akron -- some 35 miles from the Syrian border.

Bush said the city had become a stronghold for terrorists, who brutalized residents and intimidated them through violence.

The town, liberated in September 2004, quickly fell into the hands of al-Qaeda again when local police weren't able to maintain order.

Terrorists planned to use the city as a strategic base where al-Qaeda could plan new attacks on the United States, he said.

But Bush said the United States was able to change its tactics to reclaim the city again -- this time for good -- by using the new strategy of ``clear, hold and build."

Bush admitted that, in the past, coalition troops would go into a town like Tal Afar and drive out insurgents. And when coalition troops eventually left, the insurgents would return.

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When troops returned to Tal Afar in 2005, he said, they drove out the terrorists, but this time Iraqi troops remained in place -- a move that has ensured the continued stability of the city.

``The people of Tal Afar have shown that Iraqis do want peace and freedom," Bush said.

The president said the United States must continue to fight the war on terror on whatever front necessary, including Iraq and Afghanistan.

``If we were not fighting this enemy in Iraq, they would not be idle," he said. ``They would be plotting and trying to kill Americans across the world and within our own borders."

Bush said more days of sacrifice and fighting are ahead, but he predicted that freedom would prevail, in the same way that Germany and Japan were turned into democracies after World War II. He said a democratic Iraq would one day serve as an inspiration for freedom throughout the Middle East.

``The United States will not abandon Iraq," Bush said. ``We will not leave that country to the terrorists who attacked America and want to attack us again. We will leave Iraq, but when we do, it will be from a position of strength, not weakness.

``Americans have never retreated in the face of thugs and assassins and we will not begin now."

Bush Asks U.S. To Look Past Iraq Bloodshed (AP)

By Tom Raum

AP, March 20, 2006

Beginning the fourth year of an unpopular war, President Bush defended his Iraq record on Monday against skeptical questioning. He said he could "understand people being disheartened" but appealed to Americans to look beyond the bloodshed and see signs of progress.

Bush fielded questions for nearly an hour at the City Club, a forum known for its tough interrogations of world leaders. Not only was he grilled on Iraq, but he also was asked to justify his warrantless wiretapping program, U.S. relations with Pakistan and his domestic priorities.

The president was asked why he deemed Iraq — which turned out not to have weapons of mass destruction — as enough of a threat three years ago to launch an invasion, in contrast to nuclear-ambitious Iran today.

"One difference was that, in Iraq, there was a series of unanimous (U.N. Security Council) resolutions that basically held the Iraqi government to account, which Saddam Hussein ignored," Bush said. Still, he said Iran was a concern, on the question of nuclear weapons and on its role in Iraq.

The White House has accused Iran of meddling in Iraqi politics and of supporting armed militias in Iraq by sending men and weapons, including components for increasingly lethal roadside bombs. Iran and the United States have agreed to talk about Iraq, but Bush said, "It's very important, however, for the Iranians to understand that the discussion is limited to Iraq. We feel like they need to know our position."

As the president delivered the latest installment in an upbeat defense of his Iraq policy, opponents used the day after the third anniversary of the invasion to step up their criticism.

Three potential 2008 presidential candidates — Democratic Sen. Joe Biden of Delaware, New Mexico Gov. Bill Richardson and Republican Sen. Chuck Hagel (news, bio, voting record) of Nebraska — offered critical assessments at the International Association of Firefighters' legislative conference in Washington.

Biden said it was time for Defense Secretary Donald H. Rumsfeld to "be told to go home" and for Homeland Security Secretary Michael Chertoff "be given his walking papers." Richardson said U.S. involvement in Iraq had been "badly mismanaged by the administration."

Hagel, in an interview at the conference, said many of the predictions and promises made by the administration have fallen short, such as that oil revenues would pay for the war and the conflict would be short. He also pointed to Vice President Dick Cheney's assertion last May that the insurgency was in its "last throes."

"There's been a credibility erosion for three years," Hagel said.

On Capitol Hill, some Democrats said there had been progress in Iraq, as Bush asserted, but they said it was clouded by problems across the country. They said Bush had gone to war without enough troops.

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"Some positive signs do not mitigate this administration's gross miscalculations and stunning incompetence in Iraq," said Rep. Steny Hoyer (news, bio, voting record) of Maryland, the No. 2 Democrat in the House.

Senate Democratic Leader Harry Reid, D-Nev., said the "policies of the Bush administration and the civilian leadership of our military have made America less safe and left Iraq on the precipice of all-out civil war."

Bush pointed to success in stabilizing an insurgent stronghold in Tal Afar, a northern Iraqi city of 200,000 near the Syrian border.

"The strategy that worked so well in Tal Afar did not emerge overnight," Bush said. "It took time to understand and adjust to the brutality of the enemy in Iraq."

"The example of Tal Afar gives me confidence in our strategy," the president said.

One woman asked Bush whether he saw terrorism as a sign of the biblical Apocalypse, and a man followed up with how he could restore confidence in U.S. leadership after several reasons for going to war with Iraq later proved false.

"Like you, I mean, I asked that very same question: Where'd we go wrong on intelligence?" Bush said. He said he was working to improve intelligence gathering because "the credibility of our country is essential."

As for the Apocalypse, Bush said, "I haven't really thought of it that way. ... I guess I'm more of a practical fellow."

Bush bantered with the audience at times. And despite the probing questions, he received several rounds of enthusiastic applause.

"Anybody work here in this town?" Bush joked to laughter as he responded to question after question.

The White House made no attempt to screen either the audience or the questions, said spokesman Scott McClellan.

However, much of downtown near the hotel where Bush spoke was barricaded off. About 100 anti-war protesters chanted for the Republican president to leave the heavily Democratic city, held signs with peace messages and banged on drums.

Inside, not all the questions challenged Bush's war rationale.

One member of the audience invited him back for the Cleveland Hungarian Revolution 50th Anniversary next October. Others complimented him on his vision for a nuclear treaty with India and for his "very enlightening" comments about Iraq.

Cheney, attending a political fundraiser in Hanoverton, in northeast Ohio, also defended U.S. involvement in Iraq and said decisions on troop levels would be made without political consideration.

"Our coalition is also helping to build an Iraqi security force that is well trained and well equipped," Cheney said.

Old Forecasts Come Back To Haunt Bush (WP)

By Jim Vandehei

The Washington Post, March 21, 2006

Three years of upbeat White House assessments about Iraq that turned out to be premature, incomplete or plain wrong are complicating President Bush's efforts to restore public faith in the military operation and his presidency, according to pollsters and Republican lawmakers and strategists.

The last two weeks have provided a snapshot of White House optimism that skeptics contend is at odds with the facts on the ground in Iraq.

Vice President Cheney said Sunday that his 10-month-old claim that the insurgency was in its "last throes" was "basically accurate" and reflects reality. Since Cheney's original comment, on at least 70 days there have been violent attacks that in each instance killed more than 10 people. Two weeks ago, Gen. Peter Pace, chairman of the Joint Chiefs of Staff, said the United States is making "very, very good progress" -- less than 48 hours before the U.S ambassador warned of a possible civil war breaking out. And Bush yesterday said his optimism flows in part from success in Tall Afar, a city in northern Iraq, though local residents there said sectarian violence is spreading.

Pollsters and some congressional Republicans said the administration's sunny-side-up appraisals, instead of lifting the public mood, may now complicate the task of sustaining support for a long-term military commitment in Iraq. The loss of trust, they said, is affecting Bush's presidency more broadly, as polls show his public support at a nadir.

Rep. Heather A. Wilson (R-N.M.) said in an interview that Cheney was wrong about the insurgency being in its last throes and that she sent word to the White House recently to level with the American people about the challenges. "We need to assume

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that things are going to be very hard because when you do, you plan accordingly," said Wilson. "I am always cautious about always seeing things in the best light because war is not like that" and the public knows it.

Michael Dimock, associate director of the nonpartisan Pew Research Center for the People and the Press, said a recent survey by his group showed the public skeptical toward Bush, about both his administrative competency and his personal credibility. Only 40 percent of respondents said Bush was trustworthy, a 22-point drop from September of 2003, six months after the invasion of Iraq.

Dimock said the cumulative effect of the past three years has made Bush's public-relations challenge imposing, and perhaps impossible. "When you give a speech and try to persuade people that they are only hearing the bad and things are going better than the media is saying, if a majority of people say they do not find you trustworthy, it is hard to be persuasive," he said.

Frank Newport of the nonpartisan Gallup polling organization said White House efforts to turn around public opinion are complicated now because Bush is waging the wrong argument. His polling shows a majority of Americans agree with Bush that troops should not be pulled out immediately and that Iraq is better off now and will be in the future as a result of the invasion, two points the president made yesterday. Yet 6 out of 10 said the war was not worth it because, Newport said, the public does not see an upside for the United States. "The focus for Americans is Americans," he said.

Newport, whose survey found a 26-point drop in the number of people who find Bush trustworthy since the 2003 invasion, said Bush can restore his standing on Iraq, on his credibility and on other issues by improving his overall popularity -- a feat past slumping second-term presidents have found difficult to pull off. The erosion in the public's support for Bush at a personal level is a striking reversal for a president who for most of his first term was described by the public as a strong and trustworthy leader, especially on national security measures.

This erosion in trust is not a new phenomenon for a wartime president. Lyndon B. Johnson's upbeat appraisals of progress in the Vietnam War proved wrong so often that by 1967 commentators spoke of his "credibility gap" with the public, a liability that soon helped push him out of office.

In recent months, Bush has moved to talk more candidly about the problems in Iraq and yesterday said repeatedly that he understood the public's concerns. But it has not stopped his slide in the polls.

There also has been a steady drumbeat of criticism -- from Democrats in particular -- that the administration should have been more forthright about the war and its cost from the outset. There were the famous claims by Cheney and others that U.S. troops would be greeted as liberators after the invasion. Rep. Duncan Hunter (R-Calif.), a strong supporter of the war, said that was true -- to a point. "The same people who cheer when you get rid of someone they hate might not be so happy" when you occupy their country for three-plus years, he said.

Other statements were proved wrong. The weapons of mass destruction the administration said Saddam Hussein possessed before the war have never been found -- and many experts believe never existed. White House officials hammered then-chief economic adviser Lawrence B. Lindsey for claiming the war could cost as little as $100 billion, saying the estimate was too high. The actual tally is fast approaching four times that amount, according to the Congressional Research Service, which estimates a $360 billion price tag to date.

Perhaps the most famous rosy statement came nearly three years ago when Bush proclaimed: "We have seen the turning of the tide" under a banner that read "Mission Accomplished." Since then, more than 2,300 Americans have died in Iraq.

Bush Defends Iraq Policy Before Tough Questioning (KRT)

By Ron Hutcheson

Knight Ridder, March 20, 2006

CLEVELAND - Hoping to shore up support for the Iraq war, President Bush opened himself to questions at a rare public forum Monday and got an earful from skeptics who questioned his motives and his credibility.

Speaking to the City Club of Cleveland, Bush acknowledged that many Americans don't share his confidence that Iraq can become a stable democracy. The freewheeling question-and-answer session that followed his prepared remarks gave skeptics a chance to confront the president directly.

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Bush seemed taken aback when the first questioner asked him whether he views the conflict in biblical terms, as an apocalyptic struggle for the Middle East. Some of the president's critics have speculated that his Christianity and a wish to protect the Holy Land are behind his desire to transform the Middle East.

"The answer is, I haven't really thought of it that way," he replied. "First I've heard of that, by the way. I guess I'm more of a practical fella."

Bush said his primary concern was protecting Americans from another terrorist attack.

Another questioner suggested that the president had damaged his credibility in the run-up to war by linking Iraq to terrorism and weapons of mass destruction.

"That's a great question," Bush said before taking issue with the assertion that he had tied Iraqi leader Saddam Hussein to the terrorist attacks on Sept. 11, 2001.

"I was careful never to say that Saddam Hussein ordered the attack on America," he said.

While that's true, the president did link Iraq to 9-11 in other ways.

For example, in a letter to Congress at the start of the war, Bush said the use of force against Iraq "is consistent with the United States and other countries continuing to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001."

As for weapons of mass destruction, the president said the incorrect assumptions about Iraq's arsenal were an international intelligence failure.

"I asked that very same question: Where'd we go wrong on intelligence?" he said. "The credibility of our country is very important. I agree with you."

Another questioner asked why Bush had ordered an invasion of Iraq but is relying on diplomacy in the dispute over Iran's nuclear programs. The president said he felt he had exhausted diplomatic options with Iraq.

"The Iran issue is just beginning to play out," he added.

But Bush stressed that he's willing to go to war with Iran to protect Israel.

"I've made it clear, and I'll make it clear again, that we will use military might to protect our ally, Israel," he said.

A college student expressed concerns about the cost of the war, suggesting that the money spent in Iraq could be better used to help pay college tuitions at home.

"We can do more than one thing at one time," the president said.

The tough questions - all delivered in polite and respectful terms - were striking because Bush typically appears before audiences dominated by screened Republican supporters.

The City Club, a 94-year-old civic organization, bills itself as a "citadel for free speech" and insists that guest speakers take questions. Despite the obvious skepticism of some audience members, the president appeared to win over the crowd with his friendly banter and willingness to engage critics.

"He's got to get out and do more of this," retired radiologist Ted Castele said after the 90-minute session. "There are a lot of concerns, serious concerns."

Polls show that most Americans think the war was a mistake and don't expect a good outcome.

"I understand how some Americans have had their confidence shaken," Bush said. "They wonder what I see that they don't."

The president devoted most of his speech to declaring progress in Iraq, and cited the long campaign to rid the northern city of Tal Afar of terrorists as an example. Yet he also conceded:

"I wish I could tell you that the progress made in Tal Afar is the same in every part of Iraq. It is not." But "the example of Tal Afar gives me confidence in our strategy," he said.

Audience Peppers Bush With Questions About Iraq (USAT)

By David Jackson

USA Today, March 21, 2006

DOJ_NMG_0019659

President Bush has often appeared before invitation-only audiences that tend to lob him softballs during question-and-answer sessions. But not Monday, when he took some tough questions from residents in Cleveland.

Most of the queries dealt with the Iraq war as it entered its fourth year — the financial costs, disputed rationales, and even whether the conflict is a sign of a coming apocalypse.

"Anybody work here in this town?" Bush joked during the 91-minute session that began with a speech about his Iraq strategy, but switched to Q&A.

Bush has opened himself up to audience questions more frequently in recent months, starting with a December speech on Iraq before the Philadelphia World Affairs Council. Last week, he took critical questions on his prescription-drug program at a senior citizens center in Maryland.

Bush clearly enjoys the repartee. Adam Levine, a former Bush assistant press secretary, says the president is "at his best" in a give-and-take. More important, this lets him bypass the media.

"When the noise level gets to a certain point, it's important for the president to communicate directly with people," Levine says.

About time, some political analysts say. "Going public, that's the strategy that seems wisest," given Bush's low approval ratings, says Shirley Anne Warshaw, professor of political science at Gettysburg College in Pennsylvania. "Americans are very forgiving of their leaders." Bush's approval rating was at 36% in a USA TODAY/CNN/Gallup Poll taken March 10-12.

Audience members, invited by the City Club of Cleveland, pressed him on the war. A woman cited a book whose author says the Bush administration has reached out to "radical" Christians who see the war and terrorism as signs of a coming apocalypse. "Do you believe this?" she asked.

Bush won audience sympathy with his halting answer: "The answer is," he said and paused. "I haven't really thought of it that way," he said finally, to audience laughter. "First I've heard of that, by the way." Bush then repeated his oft-stated contention that victory in Iraq is a key to success in the overall war on terrorism.

A man asked about what he said were the administration's prewar claims that Iraq had weapons of mass destruction, sponsored the9/11 terrorists, and had purchased nuclear-bomb materials. "All three of those turned out to be false," the questioner said. Bush disputed him: "I don't think we ever said — at least I know I didn't say — that there was a direct connection between September the 11th and Saddam Hussein. We did say he was a state sponsor of terror."

A questioner who said he was a high school student asked: "Mr. President, with the war in Iraq costing $19,600 per U.S. household, how do you expect a generation of young people such as ourselves to afford college?"

Bush questioned the student's premise: "Hold on, we can do more than one thing at one time," he said, insisting the economy was robust enough for national defense and student loans.

Before the Q&A, Bush devoted his speech to the "clear, hold and build" strategy in Iraq. He focused on the city of Tal Afar, where he said U.S.-led forces have cleared out terrorists and helped build democratic institutions. He called that an "example of progress in Iraq that most Americans do not see every day in their newspapers or on their television screens."

In an aside about Iran's nuclear ambitions and threats against Israel, Bush promised to use "military might to protect our ally Israel, (though) our objective is to solve this issue diplomatically."

There were some friends there. A man who said he represented the Cleveland Hungarian Revolution 50th Anniversary Committee noted that his group has a major event coming up in October.

"I'm not sure what I'm doing in October," Bush said to more laughter. "Put me down as a 'maybe.' "

Bush Urges U.S. To Take Long-Term View Toward Iraq (LAT)

By James Gerstenzang

The Los Angeles Times, March 21, 2006

CLEVELAND — Three years after the United States launched the invasion that toppled Saddam Hussein, President Bush said today that the overhauled U.S. strategy of clearing insurgents from the cities and then using Iraqi and U.S. forces to rebuild was succeeding.

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The president cited the rebound by the city of Tal Afar, which U.S. forces abandoned in the autumn of 2004 after successfully battling insurgents, only to see the fighters return in two months. Bush said that with concerted military efforts followed by rebuilding the civic structures and holding elections, "the terrorists are becoming marginalized."

"The strategy is working," the president said.

Today's speech was the second in a series of at least three that the president is delivering to mark the anniversary of the start of the Iraq war. Each is intended to draw attention to one aspect of the conflict that, according to the administration, demonstrates that the United States is meeting its goals there — the daily reports of chaos and death notwithstanding.

Facing polls that increasingly indicate that the American people are turning away from their earlier support for the invasion and war, Bush acknowledged that the images of bombings, beheadings and other attacks on Iraqi civilians were horrific.

"Nobody likes beheadings," the president said.

And he said it was "not easy to capture in a short clip on the evening news" the signs of progress. They are not as visually dramatic, he said, as a bombing in a marketplace.

Last Monday, Bush acknowledged that the violence continued to tear the country apart. He said U.S.-trained Iraqi forces were increasingly taking a leading role in securing the nation and would be responsible for more than half the country by the end of the year.

Rep. John Murtha (D-Pa.), a critic of Bush's Iraq policy, pointed out Sunday that this includes vast stretches of uninhabited desert.

"The fighting has been tough," Bush told the Cleveland audience. "The enemy that we face has proved to be brutal and relentless There will be more days of sacrifice and tough fighting before the victory is achieved."

But, the president said, with the new control exercised over Tal Afar and other towns and cities, "most of the country has remained relatively peaceful."

The president's audience, gathered at midday at a downtown hotel, was the City Club of Cleveland, a nonpartisan organization founded in 1912 that says it is the oldest "continuous free speech forum" in the United States. It responded with only occasional displays of enthusiasm, interrupting Bush's speech with applause for the first time nearly 28 minutes after he began speaking, when he said, "The decision to remove Saddam Hussein was the right decision."

The president spoke for an hour and a half, with nearly an hour of it spent answering questions from the audience. For a president whose public appearances are usually carefully choreographed, the questions were penetrating and critical.

The first was about "prophetic Christians" who see the war in Iraq as an early sign of the apocalypse.

Bush laughed the question off: "First I'd heard of that."

To a question about the false premises for going to war — that Iraq was developing weapons of mass destruction, that it was buying materials for nuclear weapons from Niger and that it was becoming a haven for terrorists — Bush said, "I asked the very same question: Where did we go wrong on intelligence?"

A high school student, asserting that the war was costing $19,600 per household, wondered whether that money could be put to better use as college tuition aid.

"We can do more than one thing at a time," Bush replied.

Bush's speeches reflect a two-fold campaign: To lower expectations and at the same time hold out prospects for a successful outcome. Unless pressed by a questioner, the president makes no mention any more of one of the original reasons for the invasion: the suspicion that Hussein was developing unconventional weapons. No evidence of such a program has been found.

Rather, Bush focuses on the effort to establish democracy in a part of the world where it is rare, and on placing Iraq at the center of his effort to secure the United States from terrorist attacks.

He has also avoided the optimistic language that Vice President Dick Cheney has used. Ten months ago the vice president said that the insurgency was in its "last throes" and three years ago, as the invasion began, he predicted that U.S. troops would be greeted as liberators.

White House aides have concluded that Bush would lose credibility with such a rosy scenario.

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The speech today was intended, said White House Press Secretary Scott McClellan, to demonstrate "how we have adapted to circumstances on the ground — we've seen problems and we've changed our approach to meet the realities on the ground."

In Tal Afar, which Bush said here in Ohio was roughly equivalent in population to Akron's 200,000 or so, the United States took a new approach. Rather than fighting terrorists, expelling them and leaving, Bush said, it executed a policy of "clear, hold and build." Military units expelled insurgents from the city and surrounding towns, and U.S.-trained Iraqi troops stayed behind to hold the city and work with local leaders to rebuild the economy.

"Spreading democracy and liberty is at the heart of our strategy of defeating the terrorists," Bush said.

By citing such examples, Bush is seeking to refute the sense that the United States is slipping deeper into a sinkhole from which it has no exit strategy.

That view has been reinforced by the increasing displays of sectarian violence dividing Sunni and Shiite Muslims. Today, McClellan disputed the assessment of the former Iraqi prime minister, Ayad Allawi, once a strong U.S. ally, that the fighting had turned into a civil war.

In a CNN/USA Today/Gallup national survey released last week, 55% of Americans said that chaos and civil war were the most likely outcomes in Iraq; 40% said they expected that a stable government would be formed. Only 37% of those polled said they believed the war in Iraq had been worth the cost — a sharp decline from 46% in January. Fully 60% of those surveyed said the war had not been worth the cost, equaling the highest percentage Gallup has ever recorded on that question.

And a poll released last week by the Pew Research Center found that public support for keeping U.S. troops in Iraq had reached its lowest point since the 2003 invasion. Half of the respondents said they wanted to bring U.S. troops home as soon as possible, compared with 44% who said the troops should stay "until the situation is stabilized."

Elsewhere today, the war's critics also took note of the anniversary.

Sen. Joe Biden of Delaware, the senior Democrat on the Senate Foreign Relations Committee, noted that the invasion "got rid of a brutal dictator. And that's good. But we may be on the verge of trading him for chaos and a new terror haven in the Middle East.

"That's a bad bargain for America's security," the senator said.

He said such an outcome was looking increasingly likely "because of the dangerous incompetence of this administration."

The president's recent visits to Ohio have generated political controversy.

Sen. Mike DeWine, a Republican running for reelection, did not join Bush today, prompting Phil Singer, the spokesman for the Democratic Senate Campaign Committee, to say, "George Bush has become an albatross around the neck of the Republican Party."

Bush Concedes Iraq Grim But Sees Signs Of Progress (CHIT)

By Mark Silva

Chicago Tribune, March 21, 2006

WASHINGTON -- President Bush entered the fourth year of war in Iraq on Monday with a dramatically detailed and graphic accounting of violence there and allowed that many Americans have trouble accepting the successes he claims in a conflict that promises more "sacrifice and tough fighting."

With some analysts in Baghdad and Washington alike maintaining that sectarian violence in Iraq is devolving into civil war, the president is taking a new tack of balancing a sober and chilling recognition of persistent bloodshed with an unrelenting optimism for eventual victory.

Bush fielded a long series of often-critical questions from an audience in Cleveland, unusual for the often-shielded president. But he seized on progress that has been made against insurgents in one Iraqi city, Tal Afar, as an example of what he views as a turning tide in Iraq.

In his recounting of the successful battle for control of Tal Afar and the continuing struggle in Iraq, Bush maintained that insurgents' attacks were tailor-made for televised shock value because the insurgents cannot defeat the U.S. military.

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"I understand how some Americans have had their confidence shaken," Bush said during his speech in the political battleground of Ohio, where he also had traveled to make his case for war before the U.S.-led invasion. People "look at the violence they see each night on their television screens, and they wonder how I can remain so optimistic. … They wonder what I see that they don't."

The president sees places such as Tal Afar, a northern Iraqi city of 250,000 where about 1,500 insurgents had taken control in 2004 and subjected Iraqis to a barrage of bloodshed. Now it is in the control of Iraqi military and police forces.

What much of the public sees is the overthrow of former Iraqi leader Saddam Hussein gone awry, with a majority of Americans—57 percent in the latest Gallup Poll—telling pollsters they now consider the March 2003 invasion a mistake.

Bush: Despair understandable

"I understand people being disheartened when they turn on TV screens and see the loss of innocent life," Bush said. He recited some of the bloodshed that had beset Tal Afar—such as mortar shells lobbed into soccer fields where children were at play—before security was established in the city last year. "Nobody likes beheadings [or] … when innocent children get car-bombed."

As he has before, Bush presented the violence as a strategic campaign by terrorists to shake the resolve of U.S. forces that the president vows will not retreat from intimidation. But for a president hoping to frame an optimistic picture of Iraq, he delved into difficult details.

"In one grim incident, the terrorists kidnapped a young boy from the hospital and killed him, and then they booby-trapped his body and placed him along the road where his family would see him," Bush said. "When the boy's father came to retrieve his son's body, he was blown up. These weren't random acts of violence."

Bush took questions for nearly an hour from an audience at the City Club of Cleveland that had not been screened by the White House. In doing so, the president confronted critical questions not only about the conduct of the war, and the impact its cost is having on domestic programs such as education, but also about his program of domestic surveillance of suspected terrorists.

One man asked why the public should have confidence in a government that misjudged the threat Hussein posed before the invasion.

"I asked that very question—'Where did we go wrong on intelligence?'" Bush replied. "The part that's really important is how do we regain credibility when it comes to intelligence."

The administration has lost its credibility, Democratic critics maintain.

Sen. Joseph Biden (D-Del.), accusing the Bush administration of being "tone deaf" to suggestions for improvement, called on Bush to wage a Camp David-style diplomatic initiative to establish a stable government in Iraq.

'Pull out all the stops'

"We need to plan now for the real possibility that we may not be able to salvage the situation in Iraq," Biden, the ranking Democrat on the Senate Foreign Relations Committee, said at a news conference Monday. "We must pull out all the stops … and run the risk of doing everything in [Bush's] power to get a coalition government" running in Iraq.

"This president has to take a political risk," said Biden, who is weighing a presidential campaign in 2008. "This war is Bush's war, by his own definition. His presidency will be defined and judged by its outcome. If his war fails, then America is hurt—America fails."

Anthony Cordesman, a senior fellow at the Center for Strategic and International Studies in Washington, made his own assessment of the situation in Iraq. Despite gains in creating a stable government, Cordesman said: "We face a scale of problems that we still tend to deny. There is a real risk that Iraq will degenerate into full-scale civil war or a level of divisiveness that will paralyze or limit Iraq's progress for years to come."

Bush Bluntly Defends Iraq Strategy, But Admits Missteps (NYT)

By John O'Neil

The New York Times, March 21, 2006

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President Bush gave a blunt defense of the American strategy in Iraq today, while acknowledging that ordinary Iraqis had been left exposed to terrorism during the war's earlier stages.

As the debate continued over where the war is headed at its third anniversary, a leading Democrat, Senator Joseph R. Biden Jr., called on Mr. Bush to throw himself into an all-out effort to forge a government of national unity in Iraq and to begin planning for the civil war that was likely to follow if the effort failed.

Mr. Bush delivered an account from the Iraq war today that was both characteristically optimistic and unusually candid about shortcomings in the war's earlier phases and the suffering it caused for ordinary Iraqis.

Speaking to the City Club in Cleveland, the president told how Tal Afar, a city in western Iraq, had been freed from the control of Al Qaeda in Iraq, which it took over after the 2003 invasion and then re-established its hold on the city after a too-brief military operation by American forces in 2004.

The problem, he said, was that American forces concentrated initially on rooting out insurgents from a given area and then pursuing them elsewhere, an approach that left Iraqi citizens vulnerable, he said.

"Just put yourself in the shoes of the citizens of Tall Afar as all this was happening," Mr. Bush said.

"On the one side, you hear the coalition and Iraqi forces saying they're coming to protect you," he said. "But they'd already come in once, and they had not stopped the terrorists from coming back. On the other side, you see the terrorists and the insurgents. You know they mean business."

Mr. Bush described how Al Qaeda members in Iraq fired mortars at playgrounds, beheaded people assisting American forces and even booby trapped the body of a boy they had kidnapped and killed.

"You and your family feel besieged, and you see no way out," he said.

In early 2005, Mr. Bush said, "We recognized the problem and changed our strategy."

He described how the city was retaken in 2005 in a painstaking effort that combined military operations with the steady rebuilding of both the local security forces and the city's economic and political life.

"Now, you see your children going to school and playing safely in the streets," he said. "You see a city that is coming back to life.

Mr. Bush held out the story of Tal Afar as "a concrete example of progress in Iraq that most Americans do not see every day in their newspapers or on their television screens."

Senior administration officials had taken to the airwaves en masse on Sunday, the third anniversary of the war's beginning, to argue that the news media's focus on bombings and sectarian violence had given a skewed view of the progress being made in Iraq.

Mr. Bush began by acknowledging the recent outbreaks of violence that followed the bombing of a Shiite shrine a month ago. "The situation on the ground remains tense," he said. "I understand how some Americans have had their confidence shaken."

Mr. Bush also took note of a statement by Senator Biden of Delaware, the senior Democrat on the Foreign Relations Committee, who said this morning that "we can't want democracy and peace more than the Iraqis."

"I agree," Mr. Bush said, and went to argue that the best way to build democracy there was by declaring "that the United States will never abandon Iraq."

Mr. Biden called for President Bush to make an all-out effort to forge a government of national unity there or get ready for full-scale civil war.

Speaking to reporters in Washington, Mr. Biden said that he agreed with the assessment made on Sunday by Ayad Allawi, the former Iraqi prime minister once favored by the White House, who declared that a low-level civil war had already started.

Mr. Biden said the United States had only a brief opportunity to head off a civil war that could destabilize the Middle East.

While praising the American ambassador in Baghdad, Zalmay Khalilzad, Mr. Biden said that the only chance of Iraq's divided parties coming together was if Mr. Bush threw himself into the talks directly. Mr. Biden called for the president to convene a meeting of Iraq's top leaders and precede it by working to persuade countries around the globe to pressure Iraqis to settle their differences.

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If a unity government is not formed by the summer, he said, the situation will be beyond repair. In that case, Mr. Biden said, America should withdraw all but 30,000 troops, who would be used to "keep the chaos confined to Iraq."

Mr. Bush's speech followed a carefully calibrated mix of optimism about eventual victory and caution about how long American troops would be involved that was displayed on Sunday by Mr. Bush, Vice President Dick Cheney and Secretary of Defense Donald H. Rumsfeld, who sounded much as they had on the first anniversary of the invasion. At that time, the rebuilding effort had just begun, the insurgency was far less fierce, and the American occupation had suppressed, temporarily, the sectarian violence scarring Iraq today.

The picture painted by the administration clashed with that of Mr. Allawi, once hailed by Mr. Bush as the kind of fair-minded leader Iraq needed. He declared in an interview with the BBC on Sunday that the country was nearing a "point of no return."

"It is unfortunate that we are in civil war," said Mr. Allawi, who served as prime minister after the American invasion and now leads a 25-seat secular alliance of representatives in Iraq's 275-seat National Assembly. "We are losing each day, as an average, 50 to 60 people through the country, if not more."

"If this is not civil war," he said, "then God knows what civil war is."

Mr. Allawi's assessment was contradicted by Gen. George W. Casey Jr., the senior American commander in Iraq, who said on the CNN program "Late Edition" on Sunday that "We're a long way from civil war."

On the CBS News program "Face the Nation" Mr. Cheney sought on Sunday to place the war in a broader context. "It's not just about Iraq, it's not about just today's situation in Iraq," he said. "It's about where we're going to be 10 years from now in the Middle East and whether or not there's going to be hope and the development of the governments that are responsive to the will of the people, that are not a threat to anyone, that are not safe havens for terror or manufacturers of weapons of mass destruction."

The war has taken more than 2,300 American lives, and those of 33,000 to 37,000 Iraqis, according to the estimates of the Iraq Body Count Project, an independent group that monitors the news media.

Bush Says He Remains Confident In Iraq Strategy (Update2) (BLOOM)

By Richard Keil

Bloomberg, March 21, 2006

March 20 (Bloomberg) -- President George W. Bush, speaking as the conflict in Iraq enters its fourth year, said the terrorists who destroyed a Shiite shrine last month won't succeed in sparking a civil war or thwarting democracy there.

Bush said today that he remains optimistic about the outcome of the war that defines his presidency, even though people in the U.S. are seeing ``horrific images coming out of that country'' from the recent sectarian violence.

``I understand how Americans have had their confidence shaken,'' Bush told the City Club in Cleveland, a day after Iraq's former prime minister said his country is in the midst of a civil war and edging toward a ``point of no return.''

The U.S. has been battling an insurgency in Iraq since Saddam Hussein's regime fell, and sectarian violence flared anew after a terrorist bomb destroyed a shrine in Samarra Feb. 22. With U.S. military deaths in Iraq surpassing 2,300, public support for the war dropping and the cost of the conflicts in Iraq and Afghanistan rising to $9.8 billion a month, Bush was giving the second in a series of speeches aimed at rallying Americans behind his policies.

``There comes a time on certain terribly important issues where everybody has made up their minds and it's very hard to change that,'' said Stephen Hess, a presidential scholar at the Brookings Institution in Washington. ``We've been at this for three years, and Americans have a better sense now of what the costs are.''

`Right Decision'

The president acknowledged that some in the U.S. are questioning whether the U.S. should have invaded three years ago. ``The decision to remove Saddam Hussein was the right decision,'' he said. The president said he will press ahead.

``We will settle for nothing less than victory,'' he said. ``The United States will not abandon Iraq.''

Bush cited the success U.S. and Iraqi forces have had in the city of Tal Afar, driving out insurgents then moving in to stabilize the city ``block by block.''

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Tal Afar, in northern Iraq, had been a staging area for insurgents and a battleground since the U.S.-led invasion on March 19, 2003. After several attempts to drive the insurgents from the city, the U.S. launched an offensive last September.

Back to `Normal'

Bush said after the military campaign, the U.S. and Iraqi government forces moved in to help rebuild housing, schools and other facilities. The tactics were the result of ``much trial and error," he said.

Since the city was stabilized, Bush said, residents voted in the December parliamentary elections and are ``resuming their normal lives."

``The example of Tal Afar helps give me confidence" that the U.S. strategy is working and will help Iraqis take over responsibility for their own security, Bush said.

While Bush continues to insist he won't set a timetable for a U.S. withdrawal, he has set a goal of having Iraqi forces take responsibility for most of the country's territory by the end of the year, allowing U.S. troops to pull back to providing logistics support and training rather than combat patrols.

The administration is trying to blunt criticism from members of Congress, including some of Bush's fellow Republicans, and suggestions that Iraq is descending into civil war. Former Prime Minister Ayad Allawi, who heads the secular Iraqi National List party that took 25 seats in the December elections for the 275-seat parliament, said yesterday that the sectarian violence is threatening to spin out of control.

Civil War

``We are losing each day as an average 50 to 60 people throughout the country, if not more," Allawi said on the BBC's ``Sunday AM" program. ``If this isn't civil war, then God knows what civil war is."

Republican Senator Chuck Hagel of Nebraska said on ABC's ``This Week" program yesterday that he agreed with Allawi and that Iraq has been in the midst of ``a low-grade civil war" for at least six months. ``Our own generals have told me that."

Hagel and some other lawmakers also have criticized the administration for painting a too optimistic picture of U.S. progress in Iraq in the past.

Three months into the battle against the insurgency, Defense Secretary Donald Rumsfeld dismissed the resistance American troops were facing as ``pockets of dead-enders" that the U.S. military was isolating and eliminating. Last May, Vice President Dick Cheney said the insurgency was in its ``last throes."

Bush's job-approval ratings have been falling as a growing proportion of Americans say they believe the war was not worth fighting in the first place.

In the last Wall Street Journal/NBC News poll, 37 percent of those surveyed approved of his job performance -- a low point of his presidency in that survey. Other national polls have shown similar results.

The Journal/NBC poll survey indicates that Iraq is a crucial cause of dissatisfaction, with 61 percent of adults saying they disapprove of Bush's handling of the conflict. Fifty-one percent said the overthrow of Hussein hasn't been worth the cost in human and financial terms, and 50 percent said the war has weakened the U.S.'s standing in the world.

In response to a question from an audience member, Bush said Iran pursuit of nuclear technology is a threat to peace because the current leadership in Iran has pledged to destroy Israel.

The U.S. stance is to use diplomacy to resolved the confrontation with Iran, Bush said, adding that the U.S. will use ``military might to protect our ally, Israel."

On another subject, Bush defended his decision to authorize the National Security Agency to monitor telephone and e-mail traffic from within the U.S. to suspected terrorists overseas.

``I believe what we're doing is constitutional," Bush said in answer to a question. ``We're going to keep doing it."

Bush Acknowledges 'horrific Images' In Iraq (FT)

By Caroline Daniel

Financial Times, March 21, 2006

President George W. Bush on Monday acknowledged the "horrific images" coming out of Iraq as the third anniversary of US invasion passed, but vowed that the US would "not abandon Iraq".

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"We will not leave that country to the terrorists who attacked America and want to attack us again," he told an audience in Cleveland, Ohio. "We will leave Iraq, but when we do, it will be from a position of strength, not weakness."

Although Mr Bush and Vice-President Dick Cheney have denied that Iraq is on the verge of civil war, the Iraqi prime minister Iyad Allawi said at the weekend that it was already in a civil war, citing the 50-60 deaths per day.

Mr Bush tried to address that pessimism by offering Tal Afar, a town on the Syrian border that had been a strategic location for al-Qaeda, as a "concrete example of progress". First, he talked about how insurgents had turned it into a besieged, armed enclave using beheadings and roadside bombs.

"These were deliberate and highly organised attempts to maintain control through intimidation. After about two weeks of intense activity, coalition and Iraqi forces had killed about 150 terrorists and captured 850 more," he said.

After this counter-offensive, the number of people voting in the elections rose from 32,000 in January to 175,000 in November.

Mr Bush, however, conceded that progress was not "the same in every single part of Iraq", highlighting sectarian tensions in Baghdad. But he reiterated his hope that Iraq would become a democratic "inspiration throughout the Middle East".

Anthony Cordesman, Arleigh Burke chair of strategy at the Center for Strategic and International Studies warned that it could be 2007 or 2008 before stability is restored.

At the weekend General George Casey, commander of US forces in Iraq, said he did not believe that substantial troop reductions were imminent: "Maybe not over the course of the next few months, but certainly over the course of 2006 and into 2007."

Last week a poll showed that only one third of Americans thought Mr Bush had a clear plan for Iraq. However, only 24 per cent thought the Democrats in Congress had a clear plan.

Bush Pledges Not To Give Into Insurgents (WT)

By Stephen Dinan

The Washington Times, March 21, 2006

CLEVELAND -- President Bush yesterday said U.S. strategy in Iraq has been developed through "trial and error" but said troops won't leave until they exit from "a position of strength, not weakness" and resolved not to surrender to insurgents.

"We will leave Iraq, but when we do, it will be from a position of strength, not weakness," Mr. Bush told the City Club of Cleveland yesterday in the second of a series of speeches on the war on terror. "Americans have never retreated in the face of thugs and assassins, and we will not begin now."

As in his first terror speech last week, Mr. Bush pirouetted from Iraq to Iran, calling that nation "a serious threat" to Israel in particular and saying the United States will use military force to protect Israel.

"I've made it clear, and I'll make it clear again, that we will use military might to protect our ally, Israel," Mr. Bush said in response to an audience question, although he said several times that there is still a chance for negotiations to work with Iran.

He also said the situation in Iran is not like the situation three years ago, as the United States was on the brink of war in Iraq.

"One difference was that in Iraq, there was a series of unanimous resolutions that basically held the Iraqi government to account, which Saddam Hussein ignored," he said.

The president also answered about a dozen questions from the audience, ranging from a defense of his wiretapping authority to his vision for reducing the wealth gap between white and black Americans and his immigration guest-worker plan.

Speaking a day after the third anniversary of the U.S. invasion of Iraq, Mr. Bush said news on the ground is mixed and admitted that the U.S. strategy has emerged "only after much trial and error."

He was also unusually frank in talking about the difficulties, including "horrific images" of executions, car bombs and reprisal murders and said he knows that Americans "wonder what I see that they don't."

But he said there are signs for hope -- most of them dependent on the ability of Iraqi security forces to step up their operations.

Mr. Bush said the situation in Tal Afar, a city 35 miles from the Syrian border that used to be a key location for al Qaeda, shows how coalition forces are learning from their mistakes.

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Coalition troops first ousted militants from Tal Afar in September 2004, but within two months, the terrorists had returned and taken over the city again. Mr. Bush said Iraqi security forces weren't ready at the time to maintain peace.

Last summer, three battalions of coalition forces made a second attempt at cleaning the city, this time led by 10 Iraqi battalions. The difference, Mr. Bush said, was this time the Iraqis were ready for peacekeeping.

"It took time to understand and adjust to the brutality of the enemy in Iraq. Yet the strategy is working," Mr. Bush said.

Democrats said Mr. Bush's initial strategy failed because of poor decisions such as not committing enough U.S. troops. House Minority Whip Steny H. Hoyer, Maryland Democrat and a war supporter, said the troop issue was the "one colossal blunder, above all others" that will stand out for historians.

And Sen. Edward M. Kennedy, Massachusetts Democrat and a war opponent, said Mr. Bush still doesn't see the situation in Iraq clearly because he "fails to see the very real possibility that Iraq will continue the downward spiral into full-scale civil war."

During the 90 minutes, the president was animated, at times leaning forward on the podium to answer questions from the audience, freely joking with the audience of hundreds in the hotel ballroom and bantering in Spanish with one questioner.

At one point an audience member, apparently an Indian who wanted to ask a question about U.S.-Pakistani relations, joked, "Every chief needs Indian oversight."

Mr. Bush joked back, "How long were you working on that?"

In another exchange, Mr. Bush was asked whether he agreed with some evangelical Christians who see the war in Iraq as a sign of the apocalypse. The president said he hadn't "thought about it that way," adding, "First I've heard of it, by the way."

An Iraq Success Story's Sad New Chapter (WP)

By Peter Baker

The Washington Post, March 21, 2006

CLEVELAND, March 20 -- As President Bush tells the tale, the battle for Tall Afar offers a case study in how U.S. and Iraqi forces working together can root out insurgents and restore stability. "The example of Tall Afar," he told an audience here Monday, "gives me confidence in our strategy."

Reports from the streets of Tall Afar, half a world away, offer a more complex story. U.S. forces last fall did drive out radicals who had brutalized the mid-size city near the Syrian border. But lately, residents say, the city has taken another dark turn. "The armed men are fewer," Nassir Sebti, 42, an air-conditioning mechanic, told a Washington Post interviewer Monday, "but the assassinations between Sunni and Shiites have increased."

The twists of Tall Afar underline the difficulties Bush has had in reassuring a doubtful American public that progress is being made in Iraq. The president and his aides say that the positive developments in Iraq get overwhelmed by the grim pictures of mayhem and massacre that dominate the evening news. If Americans knew about the success stories, the White House maintains, they would understand Bush's confidence of victory.

Yet even the success stories seem to come with asterisks. The administration hailed the election of a new democratic parliament last year, but the new body has so far proved incapable of forming a government for more than three months. U.S. forces have trained more Iraqi security troops, but the only unit judged capable of acting fully independently of U.S. assistance no longer can.

The cycle has taken a new spin with the latest evolution of Iraq from violent insurgency against foreign occupiers to sectarian strife bordering on civil war. Since the bombing of a Shiite shrine in Samarra last month, hundreds of Iraqis have been killed in reprisals in a bloody spate of violence that has eclipsed most periods during the three years since the U.S.-led invasion.

All this has taken its toll on Bush's credibility, Republican strategists say, making it hard for him to make people see what he sees in Iraq. Continuing his latest drive to rebuild public support for the war, Bush flew to this Midwestern city on Monday to empathize with the pessimism many Americans feel as the war heads into its fourth year, while trying to explain the basis for his own optimism.

"In the face of continued reports about killings and reprisals, I understand how some Americans have had their confidence shaken," he told the City Club of Cleveland. "Others look at the violence they see each night on their television screens and they wonder how I can remain so optimistic about the prospects of success in Iraq. They wonder what I see that they don't."

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To illustrate, he devoted his talk to Tall Afar, hoping to use the progress there as a symbol of hope for the rest of the country. The city of 290,000 in northern Iraq was at one point awash in violence, a haven for insurgents and foreign extremists. An initial U.S. military offensive in the fall of 2004 dislodged them only temporarily. When the 3rd Armored Cavalry Regiment returned last year, it set about trying a new, more patient strategy that focused more on winning over the local population, building cooperation with Iraqis, surrounding the city with a wall and ultimately flooding Tall Afar with patrols.

As Bush noted, the military heralded the offensive as a model for counterinsurgency. "The strategy that worked so well in Tall Afar did not emerge overnight -- it came only after much trial and error," the president said. "It took time to understand and adjust to the brutality of the enemy in Iraq. Yet the strategy is working."

Bush acknowledged that this offensive stood out. "I wish I could tell you that the progress made in Tall Afar is the same in every single part of Iraq. It's not," he said. But, he added, "the progress made in bringing more Iraqi security forces online is helping to bring peace and stability to Iraqi cities."

The Tall Afar strategy may not apply easily to other areas, particularly Baghdad -- a far larger and more populous city where it would take enormous numbers of U.S. troops to replicate the strategy, military analysts say.

The 3rd Armored Cavalry Regiment "did a wonderful thing" in retaking Tall Afar, said Ahmed Hashim, a professor of strategy at the U.S. Naval War College who advised the regiment on counterinsurgency and cultural tactics. But Hashim, who wrote a book on the Iraqi insurgency that is being published next week, said he doubts that the example is readily transferable to the rest of Iraq, in part because of the weakness of the central government in Baghdad.

Hashim said he has also seen indications lately that the insurgents have begun "seeping back in" to Tall Afar now that the 3rd Armored Cavalry Regiment has rotated home and been replaced by another Army unit. And given the deep ethnic and sectarian divides in Tall Afar, he said, it is quite possible that the city could succumb to civil war, along with the rest of the country.

A Washington Post employee interviewing residents of Tall Afar found continuing anxiety in the streets. "Al-Qaeda has started to come back again," said Jaafar al-Khawat, 33, a tailor. "They have started to kill Shiites and Sunnis who cooperate with the Americans. Last Wednesday, they killed a truck driver because he worked with the Americans."

Yasir al-Efri, 23, a law student at Mosul University, said al-Qaeda pamphlets began appearing on the biggest mosque in Tall Afar in the past two months claiming credit for attacks. "The Tall Afar mission failed," he said. "The city will turn back to how it was before the battle within two months. The Americans are busy putting cement barriers and barbed wire around their bases and no one is taking care of the infrastructure."

Sebti, the mechanic, was more fearful of sectarian conflict. "People now are afraid to send their kids to school," he said. "I have to take my son to and from the school every day. There are two gangs in Tall Afar now that specialize in kidnapping children. Police can do nothing against that."

In his Cleveland speech, Bush received supportive applause for removing Saddam Hussein but also faced polite skepticism from some who addressed him during a subsequent question period. No major Ohio politician other than the mayor appeared with Bush, whose approval ratings have sunk below 40 percent, and war protesters demonstrated outside the downtown hotel where he appeared.

One man in the audience asked about Bush's credibility given that some of the reasons he originally gave for the war proved false. The president quarreled with the contention in one instance, denying that he ever made a "direct connection" between Hussein and the attacks of Sept. 11, 2001, even though he often linked Baghdad with al-Qaeda generally. "I was very careful never to say that Saddam Hussein ordered the attacks on America," he said.

Bush acknowledged that the credibility issue -- the failure to find weapons of mass destruction that the administration said were in Iraq -- affected his ability now to confront Iran, which he has accused of secretly building nuclear weapons. But he offered tough language for Tehran, characterizing it as bent on destroying Israel. "It's a threat to world peace, it's a threat, in essence, to a strong alliance," Bush said. "I made it clear, I'll make it clear again, that we will use military might to protect our ally Israel."

Iraqi Turmoil Puts Mideast On Edge (CSM)

By Nicholas Blanford

The Christian Science Monitor, March 21, 2006

BEIRUT, LEBANON - The toppling of Saddam Hussein's regime was supposed to usher in a new era for the Middle East, according to the architects of the invasion, one in which Islamic extremism would be rooted out and budding democracies would replace stifling dictatorships.

Yet the region three years on is experiencing heightened sectarian tensions between Sunni and Shiite Muslims, expanding Islamic militancy, high levels of anti-Western hostility, and authoritarian regimes still clinging to power, analysts say.

"The balance sheet on Iraq since the US invasion has some positive aspects, but in most respects it is negative," says David Mack, vice president of the Washington-based Middle East Institute. While the invasion ousted Mr. Hussein's brutal regime, the subsequent turmoil "has probably strengthened the ability of autocratic regimes to resist evolutionary political change," Mr. Mack says.

The Iraq invasion jolted complacent regimes, especially as it coincided with nascent attempts by Arab democracy campaigners to push for reform. But, says Jordanian political commentator Rami Khouri, "the way the American adventure in Iraq has gone has emboldened many Arab [regimes] to defy the US because they feel that it has gone badly in Iraq and the Americans are not likely to do this again."

Take Syria, which has been in the gun sights of Bush administration hard-liners for years. The regime of President Bashar al-Assad has antagonized Washington since 2003 by its sluggish response to US demands such as curbing support for militant anti-Israel groups and, until recently at least, securing the border with Iraq. The ace up President Assad's sleeve, which has persuaded most Syrians to continue supporting the government and is making Western advocates of regime change hesitate, is concern over Iraq-style violence coming to Syria.

"The ethnic and religious composition of Syria is roughly similar to the divisions found in Iraq and Lebanon and no less explosive," says Theodore Kattouf, president of Amideast, an educational organization in Washington, and a former US ambassador to Damascus. "It seems that the bloodshed, chaos, and uncertainty of Iraq have led most Syrians to the default position that even a bad regime is preferable to the risks of instability."

The turmoil in Iraq is not solely to blame for the ills in the region, but it represents a powerful dynamic that has rippled across the Middle East feeding into other conflicts. "The situation in the broader Middle East is more complex, fragile, and dangerous today than it has been for a long time. Several of the multiple conflicts in the region are reaching a boiling point," UN special envoy Terje Roed-Larsen said last week.

Some analysts argue, however, that the political, economic, and social situation in the Arab world is so poor as to warrant shock therapy reform.

"Societies that have failed to tackle their serious developmental needs for so many decades ... eventually have to deal with one form of chaotic transition or another," says Ammar Abdulhamid, a Syrian social analyst and dissident. But he predicts a messy transition in which "deep-seated and long-simmering ... sectarian, ethnic, tribal, and other atavistic modes of belonging continue to rear their ugly heads."

The disorder in Iraq has strengthened the hand of Iran, an influential player in the maelstrom of Iraqi Shiite politics. And the ability of Iran to project itself into the Arab world through Shiite allies, with Moqtada al-Sadr in Iraq and Hizbullah in Lebanon, is a source of deep unease among Sunnis in the region. Strengthening ties between Iran and Syria with Hizbullah and Iraqi and Palestinian groups has further aggravated Sunnis over the emergence of a "Shiite crescent" stretching from Iran through Iraq, Syria, and into Lebanon.

"Yes, there is an alliance linking Syria, Iran, and Hizbullah, but it is a political alliance, not religious," says Sheikh Naim Qassem, Hizbullah's deputy secretary-general. "Whoever tries to draw a big Shiite picture will get muddled by all the contradictions."

Misconception or not, Sunni concerns of a Shiite crescent are likely to harden if Iraq continues what appears to be an inexorable slide into a Sunni-Shiite civil war, analysts say.

"The increasing violence and mistrust between Iraq's Sunni and Shiite communities carries the potential to exacerbate already existing tensions in an arc extending from Lebanon down to the eastern province of Saudi Arabia, where the minority of Saudi Shiites also inhabit a territory that is home to some of the richest oil fields in the world," says Mr. Kattouf.

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Perhaps most worrying for regional stability is that Iraq has become a crucible for extremist Sunni militancy, a magnet for volunteers to join the insurgency against US and British forces. There are growing indications that the battle-hardened veterans of Iraq are returning to their home countries and planning attacks against their governments or Western targets.

"The Iraq which was only a potential safe haven for terrorists is now the chief breeding ground for a new wave of terrorism that may threaten the entire region and the United States," says Mack of the Middle East Institute.

Although Saudi Arabia has had some success in the past two years at clamping down on extremist militants following a wave of bloody attacks against foreign targets in 2003, Syria, Jordan, and Lebanon have all experienced outbreaks of Al Qaeda-style violence.

Still, whether the violence in Iraq will take root in neighboring countries or is a passing phenomenon remains to be seen. "Violent radicals be they Islamists or criminal elements are a tiny minority who disrupt and create fear, but have nothing to offer politically or economically," says Judith Kipper, director of the Middle East Forum at the Washington-based Council on Foreign Relations.

The Stone Face Of Zarqawi (WSJ)

By Christopher Hitchens

The Wall Street Journal, March 21, 2006

In February 2004, our Kurdish comrades in northern Iraq intercepted a courier who was bearing a long message from Abu Musab al-Zarqawi to his religious guru Osama bin Laden. The letter contained a deranged analysis of the motives of the coalition intervention ("to create the State of Greater Israel from the Nile to the Euphrates" and "accelerate the emergence of the Messiah"), but also a lethally ingenious scheme to combat it. After a lengthy and hate-filled diatribe against what he considers the vile heresy of Shiism, Zarqawi wrote of Iraq's largest confessional group that: "These in our opinion are the key to change. I mean that targeting and hitting them in their religious, political and military depth will provoke them to show the Sunnis their rabies . . . and bare the teeth of the hidden rancor working in their breasts. If we succeed in dragging them into the arena of sectarian war, it will become possible to awaken the inattentive Sunnis as they feel imminent danger."

Some of us wrote about this at the time, to warn of the sheer evil that was about to be unleashed. Knowing that their own position was a tenuous one (a fact fully admitted by Zarqawi in his report) the cadres of "al Qaeda in Mesopotamia" understood that their main chance was the deliberate stoking of a civil war. And, now that this threat has become more imminent and menacing, it is somehow blamed on the Bush administration. "Civil war" has replaced "the insurgency" as the proof that the war is "unwinnable." But in plain truth, the "civil war" is and always was the chief tactic of the "insurgency." * * *

Since February 2004, there have been numberless attacks on Shiite religious processions and precincts. Somewhat more insulting to Islam (one might think) than a caricature in Copenhagen, these desecrations did not immediately produce the desired effect. Grand Ayatollah Sistani even stated that, if he himself fell victim, he forgave his murderers in advance and forbade retaliation in his name. This extraordinary forbearance meant that many Shiites -- and Sunnis, too -- refused to play Zarqawi's game. But the grim fact is, as we know from Cyprus and Bosnia and Lebanon and India, that a handful of determined psychopaths can erode in a year the sort of intercommunal fraternity that has taken centuries to evolve. If you keep pressing on the nerve of tribalism and sectarianism, you will eventually get a response. And then came the near-incredible barbarism in Samarra, and the laying waste of the golden dome.

It is not merely civil strife that is partly innate in the very make-up of Iraq. There could be an even worse war, of the sort that Thomas Hobbes pictured: a "war of all against all" in which localized gangs and mafias would become rulers of their own stretch of turf. This is what happened in Lebanon after the American withdrawal: The distinctions between Maronite and Druze and Palestinian and Shiite became blurred by a descent into minor warlordism. In Iraq, things are even more fissile. Even the "insurgents" are fighting among themselves, with local elements taking aim at imported riffraff and vice-versa. Saddam's vicious tactic, of emptying the jails on the eve of the intervention and freeing his natural constituency of thugs and bandits and rapists, was exactly designed to exacerbate an already unstable situation and make the implicit case for one-man "law and order." There is strong disagreement among and between the Shiites and the Sunnis, and between them and the Kurds, only the latter having taken steps to resolve their own internal party and regional quarrels.

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America's mistake in Lebanon was first to intervene in a way that placed us on one minority side -- that of the Maronites and their Israeli patrons -- and then to scuttle and give Hobbes his mandate for the next 10 years. At least it can be said for the present mission in Iraq that it proposes the only alternative to civil war, dictatorship, partition or some toxic combination of all three. Absent federal democracy and power-sharing, there will not just be anarchy and fragmentation and thus a moral victory for jihadism, but opportunist interventions from Iran, Saudi Arabia and Turkey. (That vortex, by the way, is what was waiting to engulf Iraq if the coalition had not intervened, and would have necessitated an intervention later but under even worse conditions.) There are signs that many Iraqi factions do appreciate the danger of this, even if some of them have come to the realization somewhat late. The willingness of the Kurdish leadership in particular, to sacrifice for a country that was gassing its people until quite recently, is beyond praise.

Everybody now has their own scenario for the war that should have been fought three years ago. The important revelations in "Cobra II," by Michael Gordon and Bernard Trainor, about the underestimated reserve strength of the Fedayeen Saddam, give us an excellent picture of what the successor regime to the Baath Party was shaping up to be: an Islamized para-state militia ruling by means of vicious divide-and-rule as between the country's peoples. No responsible American government could possibly have allowed such a contingency to become more likely. We would then have had to intervene in a ruined rogue jihadist-hosting state that was already in a Beirut-like nightmare.

I could not help noticing, when the secret prisons of the Shiite-run "Interior Ministry" were exposed a few weeks ago, that all those wishing to complain ran straight to the nearest American base, from which help was available. For the moment, the coalition forces act as the militia for the majority of Iraqis -- the inked-fingered Iraqis -- who have no militia of their own. Honorable as this role may be, it is not enough in the long run. In Iraq we have made some good friends and some very, very bad enemies. (How can anyone, looking down the gun-barrel into the stone face of Zarqawi, say that fighting him is a "distraction" from fighting al Qaeda?) Over the medium term, if our apparent domestic demoralization continues, the options could come down to two. First, we might use our latent power and threaten to withdraw, implicitly asking Iraqis and their neighbors if that is really what they want, and concentrating their minds. This still runs the risk of allowing the diseased spokesmen of al Qaeda to claim victory.

Second, we can demand to know, of the wider international community, if it could afford to view an imploded Iraq as a spectator. Three years ago, the smug answer to that, from most U.N. members, was "yes." This is not an irresponsibility that we can afford, either morally or practically, and even if our intervention was much too little and way too late, it has kindled in many Arab and Kurdish minds an idea of a different future. There is a war within the war, as there always is when a serious struggle is under way, but justice and necessity still combine to say that the task cannot be given up.

Mr. Hitchens, a columnist for Vanity Fair, is the author of "A Long Short War: The Postponed Liberation of Iraq" (Penguin, 2003).

Passing The Dinar (NYT)

By John Tierney

The New York Times, March 21, 2006

Two months before the Iraq war began, David Kay reported to the Pentagon for a job in the agency being formed to run postwar Iraq. Kay, a former Defense Department scientist and weapons inspector in Iraq, was supposed to oversee the police.

He assumed this meant preparing for the looting and crime to be expected when any regime collapsed. But those problems didn't seem to be on anyone else's mind, he told me, recalling his first day on the job.

"I said our first priority should be to establish order quickly, but that was considered a peripheral issue," he said. "The attitude was that it's not a problem, and if something happens the military will deal with it. I had one of the worst feelings ever in my gut, that this was going over a cliff."

On his second day on the job, he resigned — an excellent career move in retrospect, although Kay doesn't believe it took any special clairvoyance. There were tough questions before the war, like figuring out whether Saddam had W.M.D. or forecasting the strength of the insurgency. But the looting and disorder were easily predictable, and Kay wasn't the only one making the predictions, as Michael R. Gordon and Bernard E. Trainor document in their new book on the war, "Cobra II."

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Before the war, Dick Mayer, a former policeman working for the Justice Department, came up with a plan to send in thousands of international police officers to maintain order after the invasion. But Pentagon officials bristled at the expense, and the White House rejected the plan.

A similar plan was proposed in a prewar briefing at the Pentagon by Robert Perito, a veteran of peacekeeping operations in other countries. He told the Defense Policy Board, the advisory group led by Richard Perle, that neither Iraqi authorities nor American soldiers could be counted on to maintain order, and that the U.S. should send in a constabulary force as soon as it occupied Iraq.

"The group at the Pentagon liked the concept and said it was a worthwhile thing to do," Perito told me. "But as one member put it, 'Not this war.' Their feeling was that the conflict in Iraq would be over so soon and things would be back to normal so quickly that it wasn't worth the effort."

Some Pentagon officials did warn of civil disorder and crime, but they didn't do anything about it. They passed the buck to Gen. Tommy Franks, even though he didn't have enough troops or money for the job and showed little interest in postwar planning. He simply assured President Bush that there would be a "lord mayor" in each city and large town to deal with civilian problems.

Looting, crime, mayhem — that was always someone else's department. The buck-passing reached its most absurd level at a briefing in the Situation Room just before the invasion, when Bush heard about the postwar plan to rely on Iraqis for law enforcement. According to Gordon and Trainor, the president was told of an intelligence report concluding that the Iraqi police "appeared to have extensive professional training."

That was like concluding that Inspector Clouseau appeared to be a master detective. During Saddam's era, when his security forces were the prime enforcers of order, the Iraqi police were notorious for corruption and lethargy. Officers waited for citizens to report crimes and expected bribes for investigating them. To the police, preventing crime, or even doing street patrols, was not their job.

When the regime fell, they didn't even protect their own police stations against the mobs of looters, a lack of professionalism that came as no surprise to the Iraqis I encountered shortly after the invasion. Nor were they surprised by the initial outbreak of violence against the buildings built by an oppressive regime.

But they were shocked at how little the Americans did in response. The looting went on so long that it became a regular job. Thieves methodically dismantled office towers, removing wires, pipes, walls, floors, escalators. In the summer of 2003, they took the "broken windows" theory of social disorder to a new level — to broken buildings — and Iraq has been paying the price ever since.

That summer, as Iraqis watched looters and criminals taking control, they kept asking why nobody put a stop to the crime. The answer from officials in Washington, it turns out, is the same one that would have been given by the old Iraqi police: not my job.

Gunmen Ambush Iraqi Police Station, Kill 16 (AP)

The Associated Press, March 21, 2006

Gunmen ambushed a police station in the city of Muqdadiyah north of Baghdad Tuesday, killing at least 15 police officers and a guard at a nearby courthouse, police said.

The suspected insurgents struck at dawn, burning the police station and detonating a string of roadside bombs as they raced from the scene, a police spokesman in the region said.

At least seven others, including police officers and civilians, were injured in the attack in Muqdadiyah, which is about 90 kilometers (60 miles) north of the capital.

The attack came a day after at least 39 people were killed by insurgents and shadowy sectarian gangs in Iraq. Reports Monday showed that much of the violence targeted police officials.

Ongoing Wave Of Violence In Iraq Kills 39 (AP-Y2)

By Steven R. Hurst

AP2, March 20, 2006

DOJ_NMG_0019673

At least 39 people were killed by insurgents and shadowy sectarian gangs, police reported Monday — continuing the wave of violence that has left nearly 1,000 Iraqis dead since the bombing last month of a Shiite Muslim shrine.

As the Iraq war entered its fourth year, police found the bodies of at least 15 more people — including that of a 13-year-old girl — dumped in and near Baghdad. The discoveries marked the latest in a string of execution-style killings that have become an almost daily event as Sunni and Shiite extremists settle scores.

Sectarian killings have swept across Iraq since the Feb. 22 bombing of a Shiite Muslim shrine in Samarra. An Associated Press tally, including the deaths reported Monday, put the toll at 993 since the golden dome atop the Askariya shrine was left in rubble by two bombers, who are believed to remain at large.

Among those killed in scattered violence Monday were 10 policemen, who are prime targets for insurgents, most of them Sunni militants, trying to break the will of the mainly Shiite police force.

As night fell on Monday, a bomb struck a coffee shop in northern Baghdad, killing at least three civilians and injuring 23 others. The bomb was left in a plastic bag inside the shop in a market area of the Azamiyah neighborhood, police Maj. Falah al-Mohammadewi said.

At about the same time, gunmen killed two oil engineers leaving work at the Beiji refinery north of Baghdad. An electrical engineer and technician were gunned down at the nearby power station, Beiji police Lt. Khalaf Ayed Al-Janabi said.

Separately, the owner of a small grocery in downtown Baghdad was shot and killed.

In southeast Baghdad, also toward evening, a roadside bomb blew apart a minibus, killing four pilgrims returning from the holy city of Karbala, where millions of Shiite faithful gathered to mark the 40th and final day of the annual mourning period for Imam Hussein, grandson of the Prophet Muhammad. Five pilgrims on their way to Karbala were wounded in a drive-by shooting earlier in the day, police said.

Otherwise, the commemoration passed largely without incident and absent the violent bomb attacks that have hit pilgrims there over the past two years.

Authorities in Baghdad closed the international airport until Tuesday, citing the need to protect the Karbala commemoration, apparently from any attackers who might try to fly into the country.

And Jordanian authorities closed their border with Iraq until further notice to "prevent those without valid travel documents from entering the country," said Maj. Bashir al-Da'ajah, spokesman of Jordan's Public Security Department. The New York Times reported the border was closed because a large number of Palestinians living in Iraq were trying to cross into Jordan without proper documents.

Much of the violence targeted police officials:

• Roadside bombs — one just a few hundred yards from an Interior Ministry lockup in central Baghdad and one in a farming area near the so-called Triangle of Death south of Baghdad — killed at least seven police officials. A prisoner was also killed in the Interior Ministry bombing.

• A policeman in a joint American-Iraqi patrol was killed in Baghdad during fighting with insurgents, police said.

• A car bomb targeting a police checkpoint exploded in Baqouba, 35 miles northeast of Baghdad, killing one policeman, authorities said.

• In the northern city of Mosul, gunmen killed a policeman and an oil ministry official, police said.

Iraqis Sound Angry On Invasion Anniversary (AP)

By Sinan Salaheddin

AP, March 20, 2006

Some Baghdad residents voiced anger and dismay when asked about their lives as the U.S.-led war in Iraq entered its fourth year Monday, when insurgents and sectarian gangs killed at least 38 more people.

Salah Hashim, a 49-year-old businessman, said he yearned for the return of Saddam Hussein, the country's ousted dictator, given the violence that now envelops the country.

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"Despite all he did that was bad, we did not suffer as we are now," Hashim said. "Now we have lost everything, even a sense of living. The Americans promised us, especially (President) George Bush, prosperity. And we thank them all because we got it — but we got a prosperity of car bombs, kidnappings and killings."

At least 992 people have been killed in a surge of sectarian killings since the Feb. 22 bombing of a Shiite Muslim shrine in Samarra, according to an Associated Press count.

"Now I have to spend time worrying about my safety while walking in the streets," said Hashim. "I have to worry about my children when they leave home for school. Instead of being comfortable and enjoying time with my family, I worry that I can't ensure their good life."

Ahmen Najeeb, a 33-year-old supermarket owner, said he originally "waved his hands" at American forces as they entered the country in March 2003, but that his outlook has since changed.

"Day after day the Americans proved that they are here to steal our oil and protect their homes by keeping the their war against terror in another country," he said.

One English teacher, though, said that Iraqis had tolerated Saddam's tyranny for so long that it was worth fighting through the violence to rebuild the country.

"What we are now living in is not an American failure nor that of the Iraqi government," said Assmaa Ali, 38. "The problem is in the Iraqi people ... we started fighting each other using statements and words. Now we are fighting each other with guns.

Ali said the only ones to blame were the insurgents and sectarian fighters who cause the problems. "They are the main reason behind the loss of life and destruction. We should help both the government and coalition forces in fighting these troublemaker instead of blaming them."

One man who said three of his daughters were killed by a bombing last year sounded despondent.

"I got nothing from this so-called liberation, just this cell phone and my satellite receiver. But I lost my three daughters," said Nawar Maarof, a 34-year-old taxi driver who said he had dreamed of becoming an accountant. "I have a feeling that my destiny is the same. Anyway, we're all dead."

Salam Nassir, a 25-year-old college student, also longed for Saddam.

"We deserve all this because we didn't fight the Americans," he said. "We had to know from the start they would not help us and were lying about liberating Iraq."

Freedom, Yes, Iraqis Say, But At Great, Grave Cost (WP)

By John Ward Anderson And Omar Fekeiki

The Washington Post, March 21, 2006

BAGHDAD, March 20 -- By almost any standard, Bashar Muhammed, the owner of a thriving Internet cafe, is a Baghdad success story. Three years after the United States invaded Iraq and overthrew Saddam Hussein, the Internet business here is booming, and Muhammed has what most Iraqis could only dream of under Hussein -- freedom, a cutting-edge job, lots of customers.

But when conversation turns to his life and prospects, he sighs and voices frustration that Americans just don't get it.

"It is true that we got freedom after the war, but uncontrolled freedom -- chaos and violence," he said in a cool, deliberate tone. Five of his relatives have been killed in car bombings and assassinations, Muhammed said, noting that most recently an uncle was killed for being a Sunni Arab.

"The new generation is growing on violence and sectarian ethics, and this will affect Iraq for many years to come," he said. "We are living a more devastating war every day."

As Iraqis on Monday marked the third anniversary of the U.S.-led invasion, there was a stark difference between their pessimistic outlook and some U.S. officials' upbeat assessment of the situation. With insurgent violence grinding on, essential services sagging below pre-invasion levels and the prospect of civil war looming, many Iraqis question whether Hussein's ouster was worth the cost.

Many thousands of their countrymen have been killed. In December, President Bush estimated the Iraqi toll at 30,000.

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Laith Muhammad, 32, a student in Fallujah, 35 miles west of Baghdad, listed the risks Iraqis face these days. "We either die by the Americans, the insurgents in the name of jihad, the security companies, which kill you and leave you laying in the street, the Iraqi police or . . . the death squads," he said. Such squads are widely believed to be operating from within the country's Interior Ministry. Muhammad cited private militias as yet another threat.

"Three years after the American invasion of Iraq, I have only one wish," he said. "I do not want democracy, food, electricity and water. I just do not want to die."

Other Iraqis, however, are less quick to blame the United States.

Sardar Muhsin Maheed, 25, a student at Mosul University, said too many people blamed the occupation for all of Iraq's ills. He traced most problems to Hussein, suggesting that issues such as the poor economy are legacies of the ousted president.

"The U.S. has liberated us from Saddam and his oppression," he said. "We are not ready to form a democratic state, and that is because of the burden left by Saddam's regime."

Another of Hussein's legacies, he said, was sectarian tension in the country. An Iraqi government has been democratically elected, but the politicians and their parties are creating a new Iraq based on religious and ethnic interests.

Luay Mohammed, a 57-year-old Sunni Arab who spent 35 years working for the Education Ministry, said he was forced to retire because the government and the ministry are now run by Shiite Muslims. His son could not get a job "because he is not a Shiite and he did not suffer" under Hussein, Mohammed said, his voice laced with bitterness and sarcasm.

"We've been waiting for years for true democracy to come, a democracy that makes everybody live and work together with respect and love. But here it is: a democracy with maximum chaos," he said. Now, all of his sons have cellular telephones -- not because it is hip or because of a communications boom, but because the security situation demands it. "This is what democracy has brought us."

The U.N. sanctions that had been imposed on Hussein's government have been lifted, and a vibrant free press has emerged. But unemployment is stuck between 27 and 40 percent, while oil production -- which the government counts on to generate 90 percent of its revenue -- remains below prewar levels.

"The toppling of Saddam Hussein's regime was worth everything," said Fakhri Fikry Kareem, owner and publisher of the daily Meda newspaper, one of more than 100 newspapers that have begun publishing in Iraq since Hussein's fall. Despite a rocket attack on his office, a bomb attack on his car and the killing of three of his reporters, Kareem said: "I have never felt as free to speak any day in my life as today. If George Bush did anything good, it was toppling Saddam Hussein."

Kareem, 63, said he opposed the war. While drinking Turkish coffee and fingering a long string of worry beads in his Baghdad living room, he talked of what might have been, suggesting that perhaps the United States could have removed Hussein without starting a broader conflict.

"I am not pessimistic," he said. "But I'm upset, because the war and the occupation, which could have led to a new situation in Iraq, were squandered by the stupid mistakes committed by the American administration and military and the U.S. representatives in Iraq."

Subhi Nadhem Tawfik, a professor at Baghdad University's Center for Strategic Studies, said people no longer believed that helping Iraq was foremost on the U.S. agenda during the invasion. "The U.S. has won a tremendous strategic victory," which has come increasingly at the expense of Iraq, he said.

"With the occupation of Iraq, the strategic significance of all the states in the region was diminished," Tawfik said.

The war and its aftermath have so far cost the United States about $250 billion. Congress allocated $21 billion to repair essential infrastructure and revitalize the economy, and to establish programs for good governance and democratic institutions. As much as $3.5 billion has been diverted to pay for better security, but Iraq remains the largest U.S. government reconstruction effort since the Marshall Plan following World War II.

Meanwhile, many Iraqis -- especially in Baghdad, home to almost a quarter of the population -- said they don't see much evidence of the aid.

"We hear about tens of billions of dollars spent on reconstruction," said Bashar Muhammed, the Internet cafe owner. "The only reconstruction in the country I see now are the cement barriers. There are lots of them."

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New Business Blooms In Iraq: Terror Insurance (NYT)

By Robert F. Worth

The New York Times, March 21, 2006

BAGHDAD, Iraq — Twice in the past year, Muhammad Said has survived assassination attempts that left his car riddled with bullets. He works part time as a bodyguard for his father, a Baghdad city councilman, and helps a friend who has contracts with the American military. Both are very dangerous jobs.

So last month, Mr. Said, a slim, baby-faced 23-year-old, did what a small but growing number of Iraqis are doing: He walked into the offices of the Iraq Insurance Company and bought a terrorism insurance policy. It looked like an ordinary life insurance policy, but with a one-page rider adding coverage for "the following dangers: 1) explosions caused by weapons of war and car bombs; 2) assassinations; 3) terrorist attacks."

It cost him 125,000 dinars, about $90. Mr. Said paid more than most people because of his risky occupation. The payout, if he dies, is five million dinars, around $3,500, or about what an Iraqi policeman earns in a year.

That guarantee appears to be the first off-the-shelf terrorism policy in the world, insurance experts say. In most countries, of course, there is no need for it: death by terrorism is rare enough that it is usually covered by ordinary accident insurance. In Iraq it is not, partly because the state used to compensate the families of war victims directly. So the Iraq Insurance Company began stepping into the gap about a year ago.

"Am I worth only five million dinars?" Mr. Said asked wearily, after signing his policy. "It is not a solution. But Iraqis can be attacked by anyone, just walking on the street: Americans, insurgents, the Iraqi Army." The payout is not a lot of money, even by Iraqi standards. But in a country where terrorism kills hundreds of people a month and no one can rely on the government or employers to provide for their relatives afterward, it seems to be an idea with a future.

The Iraq Insurance Company, a state-owned group, has sold about 200 individual terrorism policies in the last year, and is now negotiating with several government ministries and private companies for group policies that would cover thousands of employees.

The idea of insuring ordinary people in what may be the most violent place on earth came from Abbas Shaheed al-Taiee, an executive at the Iraq Insurance Company.

"It is a kind of gift to the Iraqi people," said Mr. Shaheed, 53, a big, heavyset man with terribly serious eyes and a reputation as a master salesman. "We have expanded the principles of life insurance to cover everything that happens in Iraq."

Amazingly, the company has yet to pay out on a single claim.

"We have sold policies in Dawra, Ramadi, Falluja," Mr. Shaheed said, naming some of the most dangerous places in Iraq. "The contract is a good luck charm."

Mr. Shaheed (whose name means martyr in Arabic) emanates a gravitas that must be an asset in his line of work. He manages a sales staff of about 50 across Iraq, but also sells the policies himself, traveling from one workplace to another, like a kind of bureaucratic Grim Reaper.

He says the terrorism policy makes no distinctions between who fires the shots or detonates the bombs. He would be perfectly willing to insure an insurgent, though he has not done so to his knowledge, he said.

"It is a market here; there are no differences," he said, in his grim baritone. "We evaluate people's pockets."

In the United States and Europe, insurance companies offer customized policies to organizations sending employees to dangerous places, including Iraq (some news organizations, for example, insure their reporters this way). But those policies are highly tailored to each company's activities and risks, and they are generally expensive.

The idea of a standardized, terrorism life insurance policy appears to be unprecedented, said Robert Hartwig, the chief economist of the Insurance Information Institute in New York.

Some other insurance experts agreed that the policy was a novel one, but said they would hardly call it a good deal. "In an American context, it's very overpriced," said Robert Hunter, the director of insurance for the Consumer Federation of America, an association of consumer rights groups. "In America, you could probably get $100,000 worth of life insurance coverage for maybe $125 to $150," especially a healthy 23-year-old, he said. "And that would cover you no matter how you died."

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Selling insurance in Iraq has never been easy. The first insurance companies here were established in the 1950's, when they competed with Western companies. But the idea never gained wide acceptance, in part because some Islamic authorities disapprove of insurance, considering it akin to gambling.

Also, many Iraqis preferred to rely on their tribes or families in case of accidents or deaths. The state also played a powerful paternal role: during the Iran-Iraq war, for instance, the government generously compensated the families of soldiers who died, sometimes with a car or property as well as money.

After the Persian Gulf war in 1991 the market shrank further, because foreign reinsurance companies pulled out, forcing Iraqi companies to depend only on their own assets, said Aziz Hassan, a former deputy finance minister.

Strangely, Iraqi insurance companies have done relatively well since the fall of Saddam Hussein, despite a stagnant economy and the uncertainty over Iraq's future. Six private insurance companies were founded in 2004, and now compete with the two state-owned companies.

The Iraq Insurance Company has renovated its offices — they were looted and burned after the fall of Baghdad in April 2003 — and the company now employs between 250 and 300 people. They have sold at least 2,700 life insurance policies since the fall of the Hussein government.

In 2005, the company's net income was about $2.5 million at current exchange rates. "We broke records," said Bassim Mahdi Saleh al-Sheikhli, the company's managing director. "Business has never before been so good."

The company attributes much of its success to salesmen like Mr. Shaheed, who now operate more freely — albeit more dangerously — than they did in the past.

"From my point of view, sales is an art," said Mr. Shaheed, who has worked at the Iraq Insurance Company for 18 years. "For instance, talking to a father with children is different from talking to a man still single. You have to bring out his passion to protect his family."

Because the salesmen carry money and travel, their own jobs are unusually dangerous. They do not carry guns. Many have bought terrorism insurance themselves, including Mr. Shaheed.

One rule applies to all prospective clients. "When we talk about death and risks, we refer to ourselves: 'I might die tomorrow,' " Mr. Shaheed said. "When we talk about the payment, we say, 'The company pays you.' "

Once a client has agreed to buy a policy, a price is negotiated. It ranges from 60,000 dinars for the safer professions — teachers, businessmen and the like — to 125,000 for policemen and translators for Western companies. The payout is the same regardless.

On a recent afternoon, Mr. Shaheed sat at a desk in his second-floor office, chatting quietly with a potential client. Nearby on the couch sat Basmel Nafaa, a 48-year-old businessman with a bald head and an impish grin. Mr. Nafaa had already bought an ordinary life insurance policy, and was considering buying terrorism coverage too.

"He's the best we have here in Iraq," Mr. Nafaa said of Mr. Shaheed. "He's a good hunter."

Mr. Nafaa recounted how Mr. Shaheed had approached him at the wholesale market where he often works, as if by chance. The salesman chatted amiably about mutual friends, and then began telling a story about a man who had died without leaving anything for his wife and children. Before long, Mr. Nafaa was sold.

"He hardly even needs to remind you of the dangers you face," Mr. Nafaa said. "We see it everywhere."

Mr. Nafaa began offering examples. A few months earlier, his 12-year-old son Joseph was standing outside the family home waiting for a school bus that never came. The boy persuaded his mother to give him money for a taxi. Minutes later, he said, a suicide bomber in a car exploded right next to the bus stop, which is across from the home of a high-level government official. Six people were killed.

Mr. Nafaa showed photographs of his house, which was badly damaged. "I had no insurance at that time," he said.

Then Mr. Nafaa gestured across the room at his cousin, Baseem Makadsi — the other prospective client — who still has a crease on the back of his skull from where a bullet crashed through the window of his car and grazed him while he was driving to the market with his son.

"If he had not leaned over to speak to his son, he would be dead," Mr. Nafaa said. "He lost a lot of blood."

Mr. Makadsi was not yet sold on terrorism insurance. He was thinking of taking his family out of Iraq.

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But Mr. Nafaa persuaded himself. "I will buy it," he said. "There is a big probability to be killed by insurgents here. Higher than anywhere else in the world."

Congress Eyes Own Window On Iraq War (CSM)

By Gail Russell Chaddock

The Christian Science Monitor, March 21, 2006

WASHINGTON - Marking the third anniversary of the Iraq war, President Bush said US strategy will "lead to victory."

Before recessing last week, the House easily approved $67.6 billion for military operations in Iraq and Afghanistan - exactly the amount the White House had requested - and the Senate punted on a bid to censure Mr. Bush on his conduct of the war on terror.

But behind the headlines, Capitol Hill lawmakers are signaling that 2006 must be a decisive year in the Iraq war - and many of the war's vigorous defenders are looking for guidance outside the Bush administration on how to move ahead.

Exhibit A is the quiet launch of an independent, bipartisan panel to bring "fresh eyes" to the Iraq conflict. Last week, the House included $1.3 million in a defense funding bill for the panel, which will work out of the congressionally chartered US Institute for Peace here.

"The purpose of the [Iraq] study group is to come up with a compromise between an administration policy that no one believes in and just walking away," says Edward Luttwak, a senior adviser at the Center for Strategic and International Studies, 1 of 4 think tanks supporting the effort. "The study-group process will be mysterious, but the outcome is predictable: They're going to come to the conclusion that the US should disengage, but not abandon Iraq."

The move to develop alternatives to Bush administrative briefings signals a growing distrust on Capitol Hill for the "closed circuit between people sitting inside the Green Zone and the 'good news' being sent back to Washington," says Mr. Luttwak. "Congress is discovering that the Bush administration is repeating its own propaganda - and believes what they are saying."

Last week, lawmakers on both sides of the aisle grilled Pentagon officials on whether Iraq is slipping into civil war - and what role remains for US troops if it does. The House passed by voice vote a Democratic amendment to block funding for a permanent US base in Iraq.

"Despite three years of the best efforts and heroic sacrifices by our military personnel, Iraq is teetering on the edge of the abyss," said Sen. Carl Levin of Michigan, ranking Democrat on the Senate Armed Services Committee. Bush sent Iraqi leaders "the wrong message" last week when he said the process "will require patience by America," the senator said.

Like the 9/11 commission before it, the new Iraq Study Group is being asked to face forward. "We will not be visiting past debates about Iraq. We will leave that to the historians," said cochair and former Rep. Lee Hamilton, who also cochaired the National Commission on Terrorist Attacks Upon the United States.

"We know that the country needs help now in working through this, and we will add whatever we can by way of a constructive contribution," Mr. Hamilton said Wednesday at the launch of the Iraq Study Group in the Senate Armed Services Committee hearing room.

Other members are cochair James Baker III, former secretary of Treasury and State; former CIA director Robert Gates; former New York Mayor Rudolph Giuliani; and former Sen. Alan Simpson (R) of Wyoming. Democrats on the panel are Leon Panetta, former chief of staff to President Clinton; Clinton adviser Vernon Jordan; former Defense Secretary William Perry; and former Sen. Charles Robb of Virginia. One more Republican will be named to the 10-member panel.

"One of the first things we are going to have to do - and will do - is satisfy ourselves with respect to exactly what are the facts and circumstances with respect to Iraq today," said Mr. Baker, who says the administration will cooperate as panelists travel to Iraq and seek access to people and documents.

Republicans began lobbying the White House for an independent assessment of the war months ago. In September, Rep. Frank Wolf (R) of Virginia wrote in an op-ed that the American public, to stay the course, must "be able to trust that those directing the war have made an honest assessment of what has gone right and what has gone wrong."

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One reason Congress is turning to an outside group is that, unlike in previous wars, public opinion on the Iraq war is polarized along party lines. While 77 percent of Republicans say the US is making progress toward establishing a democracy in Iraq, only 34 percent of Democrats are as optimistic, according to a poll last week by the Pew Research Center.

While Democrats did not rally to a motion by Sen. Russell Feingold (D) of Wisconsin to censure the president over domestic surveillance without a warrant, some senators in both parties still question the policy - and the precedent it sets for separation of powers.

"Too often, Democrats cower in the face of illegality," says Senator Feingold. "As soon as the administration raises the specter of being soft on terrorism, Democrats just hide."

"It's a political stunt that's getting in the way of a good, honest debate on checks and balances in a time of war," Sen. Lindsey Graham (R) of South Carolina said last week of the Feingold resolution.

But he adds: "It's an area where the law is very unsettled. I hope we'll vote on it."

Father No Longer Out For Revenge In Iraq (AP-Y2)

By Charles J. Hanley

AP2, March 20, 2006

In the desert chill, on the lonely nighttime roads of Iraq, Joe Johnson looks out over his machine gun and thinks of Justin. It was on Easter morning 2004 that a chaplain and a colonel appeared on Joe and Jan Johnson's Georgia doorstep with the news. Justin, the boy Joe had fished and hunted with, the soldier son who'd gone off to Iraq a month earlier, was suddenly dead at 22, killed by a roadside bomb planted in a Baghdad slum.

Today it's Joe who mans the M-240 atop a Humvee, warily watching the sides of the road, an unlikely Army corporal at 48, a father who came here for revenge, a Christian missionary on a crusade against Islam, and a man who, after six months at war, is ready to go home.

"I shouldn't even have come," he now says. And if he leaves bloody Iraq with no blood on his hands, he says, that's fine, too.

The Johnson family story is unique, even strange. But in a war where soldiers have heard an ever-changing medley of reasons for fighting, Joe Johnson's may be as simple and direct as any — and to many, as troubling.

He wasn't there that day the tragic news arrived in Rome, Ga. Instead, the self-employed house-builder was in Fort Lewis, Wash., trying to qualify for a place in a Washington National Guard unit ticketed for Iraq.

With six years of long-ago Army and Navy service, Johnson had joined the National Guard in 2003, wanting to serve his country again, this time in combat, and to go to Iraq while his son was there. A year with both husband and son at war would be easier on Jan than two years separately, he reasoned.

The death of Justin, a 1st Cavalry Division machine gunner, stunned his parents with a shock that lingers still.

"What were the odds, of thousands of people here, that somebody in my family would get killed?" the grieving father asked.

At that point, Johnson said, "I decided it was too soon to leave home." Jan was too distraught.

But last April 11, a year and a day after his son was killed, Johnson told his Iraq-bound Georgia National Guard unit, the 48th Infantry Brigade, he was ready to join them. They ended up at this dustblown base in Iraq's far west, pulling escort duty for fuel convoys on the bomb-pocked desert highways from Jordan.

Why did he do it? The wiry lean Georgian, an easy-talking man with a boyish, sunburned face, tried to answer the question that won't go away.

"It's a lot of things combined," he said. "One, a sense of duty. I was pissed off at the terrorists for 9/11 and other atrocities. Second, I'd only trained. I wanted combat." And then, he said, "there's some revenge involved. I'd be lying if I said there wasn't."

But there was more on the mind of this man who has done Church of God missionary work as far afield as Peru and the Arctic.

"I don't really have love for Muslim people," Johnson said. "I'm sure there are good Muslims. I try not to be racist." Although he hasn't read the Quran, or spoken with Muslims, he has "heard" the Islamic holy book "teaches to kill Jews and infidels. And it's hard to love people who hate you."

He could love Iraqi children, though, and said he'd hoped "to see them grow up to know right and wrong."

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Somewhere along the way, however, the righteous passion cooled, as the over-aged corporal, like tens of thousands of other American soldiers here, faced the reality of Iraq.

Was it last Christmas morning, when roadside bombs rocked his convoy one after another, and Johnson thought he was next? Or was it when speeding civilian cars passed the Americans' Humvees and Johnson failed to level his gun and open fire, which "I think anyone else," fearing car bombs, "would have done."

"I really don't want to kill innocent people," he now says. "I don't want to live with that the rest of my life."

Most of all, it might have been the telephone calls home to Jan, who was dealing not only with depression and other health problems, but also with the prospect that their elder soldier son, Josh, 26, might be sent to Iraq or Afghanistan.

"I don't like that Joe's there," Jan Johnson said when called by satellite telephone from al-Asad. "But it's something he felt he had to do. People heal in different ways. This is how he heals after Justin's death."

"She's ready for me to come home," Joe Johnson concludes.

He will. His battalion exits Iraq in early May, when Johnson's own enlistment term, coincidentally, expires. "That's it," he said, no re-enlistment for him.

But what about revenge?

"If I go home and didn't kill a terrorist, it's not going to ruin my life," he said. "Maybe I'd just as soon not. I don't know what it would do to my head."

Once back home among the northwest Georgia pines, he has one last ceremonial act in mind, removing the silver-toned bracelet he's worn on his right wrist throughout his deployment, bearing Justin's name and date of death. Joe Johnson's mission will have been accomplished.

Whatever it was, he said, "I got it out of my system."

US Keeping Close Eye On Trial Of Afghan Christian (AFP-Y2)

AFP, March 20, 2006

The United States said it was watching closely the trial of an Afghan man who could face death for converting to Christianity in a test of religious freedom for the key US ally.

State Department spokesman Sean McCormack urged the Afghan authorities to deal with the proceedings against Abdul Rahman transparently and according to the rule of law.

"It's a case that we're following very closely," McCormack said of Rahman's week-old trial on charges of violating Islamic Sharia law.

"Our view certainly ... is that tolerance, freedom of worship, is an important element of any democracy," he said. "These are issues, as Afghan democracy matures, that they are going to have to deal with increasingly."

Rahman was detained two weeks ago after his relatives reported his conversion to Christianity to the police. A Supreme Court judge said he could be executed if he refused to return to Islam.

If sentenced, the defendant will be the first Afghan punished for conversion since US-backed forces ousted the hardline Taliban regime at the end of 2001 in reprisal for the September 11 terror attacks on the United States.

McCormack said Afghanistan, which has become a major ally in Washington's war on the Al-Qaeda terrorist network, was debating varying constitutional interpretations of religious freedom.

"These issues rightfully should get resolved through the court system," he said. "But they need to be resolved in a transparent (manner) and according to the rule of law."

Off Course In Afghanistan (WP)

By Chris Van Hollen

The Washington Post, March 21, 2006

When President Bush touched down briefly in Afghanistan on his way to India, he was probably the closest he will ever get to the man who masterminded the Sept. 11 attacks on the United States: Osama bin Laden, who is believed to be hiding in Pakistan along the rugged Afghan-Pakistani border. It was a stark reminder that we have not accomplished our mission of

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destroying bin Laden and al-Qaeda. Fulfilling that mission and preventing a resurgence of the Taliban will depend on the actions we take in Afghanistan. This is no time to reduce our commitment there.

While the president was in Afghanistan, the director of the U.S. Defense Intelligence Agency, Gen. Michael Maples, was testifying before Congress that the Taliban insurgency is growing and will increase this spring, presenting a greater threat to the Afghan central government's expansion of authority than at any point since late 2001. Under these circumstances, the current plan to replace the 2,500 U.S. troops in southern Afghanistan this spring with contingents of Canadian, Dutch, British, Romanian and Australian troops is a mistake. Given the intensifying Taliban insurgency, these allied forces should augment, not displace, U.S. forces. We should also reassess the administration's proposal to turn over the command of most U.S. troops in Afghanistan to NATO by early next year.

While Gen. James Jones, NATO's supreme allied commander, has tried to play down Maples's grim assessment, it is hard to ignore the fact that the Taliban has stepped up its operations. Last year, attacks by the Taliban and other anti-government groups jumped by 20 percent. Suicide bombings increased almost fourfold, and strikes with improvised explosive devices, a tactic imported from Iraq, doubled. The main battlegrounds in this insurgency are the provinces of Kandahar, Uruzgan, Helmand and Zabul, the Pashtun areas that formed the Taliban stronghold.

As recently as Jan. 10, Mullah Mohammad Omar, the Taliban leader who was born in southern Afghanistan and forged a close bond with bin Laden -- rejected a call to reconcile with the government of President Hamid Karzai and publicly exhorted his followers to fight on. It appears that his followers are listening. James Kunder, assistant administrator of the U.S. Agency for International Development, told Congress that in January: a school headmaster was shot in Helmand; 200 schools in Kandahar and 165 schools in Helmand closed for security reasons; and in Zabul, where a campaign of intimidation had already closed all but five of 170 schools, a high school teacher was beheaded. February was also deadly: In a 14-day period, 24 violent incidents and 37 deaths were reported in the media.

Stopping this violence requires forceful action. Until now, NATO forces have been stationed in relatively quiet areas and their role has been limited primarily to peacekeeping, rather than combat, operations. There are real questions about whether NATO will be able to engage the Taliban as aggressively as U.S. forces.

The withdrawal of U.S. forces from southern Afghanistan will also weaken our ability to demand that Pakistan move more forcefully to prevent the Taliban from using Pakistan as a base of operations. Pakistan's Inter-Services Intelligence Agency has had a cozy relationship with the Taliban, and many in the Afghan government doubt Pakistan's commitment to denying sanctuary to Taliban fighters. If U.S. troops won't pursue them, why should Pakistan's?

Afghanistan's stability depends on strengthening the central government, developing the economy and limiting the booming opium trade. Progress on these fronts requires that the Taliban be neutralized and that security be improved. The anticipated withdrawal of U.S. forces has reportedly already caused some local leaders to hedge their bets with respect to the Taliban. Economic development has been slowed because, as Kunder testified, "our contractors are being targeted, and a number of them have been killed, making it more difficult for USAID to recruit appropriately qualified staff." And the lack of security in southern Afghanistan makes it more difficult to eradicate the drug trade in places such as Helmand, which produced more opium last year than any other province, representing about 20 percent of the world's supply of heroin.

We should never forget that the Taliban came to power in the chaos that followed the Soviet withdrawal from Afghanistan and the subsequent U.S. disengagement from the region. With the Bush administration and political Washington focused on Iraq, many Afghan leaders worry that the reduction of U.S. forces is a sign that we will again lose sight of Afghanistan. We do so at our peril. Let us not forget that the Sept. 11 plot was launched from Afghanistan, and not from Iraq.

The writer is a Democratic member of Congress from Maryland.

2 Years After Soldier's Death, Family's Battle Is With Army (NYT)

By Monica Davey And Eric Schmitt

The New York Times, March 21, 2006

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SAN JOSE, Calif. — Patrick K. Tillman stood outside his law office here, staring intently at a yellow house across the street, just over 70 yards away. That, he recalled, is how far away his eldest son, Pat, who gave up a successful N.F.L. career to become an Army Ranger, was standing from his fellow Rangers when they shot him dead in Afghanistan almost two years ago.

"I could hit that house with a rock," Mr. Tillman said. "You can see every last detail on that place, everything, and you're telling me they couldn't see Pat?"

Mr. Tillman, 51, is a grieving father who has refused to give up on his son. While fiercely shunning the public spotlight that has followed Cpl. Pat Tillman's death, Mr. Tillman has spent untold hours considering the Army's measurements, like the 70 yards.

He has drafted long, sometimes raw, letters to military leaders, demanding answers about the shooting. And he has studied — and challenged — Army PowerPoint presentations meant to explain how his son, who had called out his own name and waved his arms, wound up dead anyway, shot three times in the head by his own unit, which said it had mistaken him for the enemy.

"All I asked for is what happened to my son, and it has been lie after lie after lie," said Mr. Tillman, explaining that he believed the matter should remain "between me and the military" but that he had grown too troubled to keep silent.

As the second anniversary of the death of Corporal Tillman, once a popular safety for the Arizona Cardinals, approaches, Mr. Tillman, his former wife, Mary, and other family members remain frustrated by the Army's handling of the killing but for the first time may be close to getting some of the answers they so desperately seek.

After repeated complaints from the Tillmans and members of Congress contacted by them, the Army is immersed in a highly unusual criminal investigation of the killing, and the Defense Department's inspector general, which called for the criminal investigation this month, is looking separately into the Army's conduct in its aftermath.

Senior military officials said Defense Secretary Donald H. Rumsfeld had expressed outrage to top aides that the Army was having to conduct yet another inquiry into the shooting, prolonging the family's anguish and underscoring the failure of the Army's investigative processes to bring resolution.

Gary Comerford, a spokesman for the inspector general, said the Army Criminal Investigation Command was "dealing with events leading up to the death, and we're looking at anything after that." Though Mr. Comerford did not say so, that could include the possibility of a cover-up, the Tillmans said they had been told by the inspector general's office.

No one wants answers more than the Tillmans. But by now, they said, they have lost patience and faith that any Army entity, even the Criminal Investigation Command, can be trusted to find the truth.

"I am sitting here on my own, going over and over and over this for two years," Ms. Tillman, 50, said in a telephone interview. "The whole thing is such a debacle. I am beyond tears. It's killing me."

Like her former husband, she has spent days reading the files, researching the episode, calling members of Congress, even trying to contact some of the soldiers involved. She criticized the military, as well as the news media, for failing to get to the bottom of what occurred, leaving her family, in essence, to figure it out themselves.

All of it, her former husband said, has even left him suspicious of the military's central finding in their son's case so far: that the killing was a terrible but unintentional accident.

"There is so much nonstandard conduct, both before and after Pat was killed, that you have to start to wonder," Mr. Tillman said. "How much effort would you put into hiding an accident? Why do you need to hide an accident?"

An examination by The New York Times of more than 2,000 pages of documents from three previous Army administrative reviews reveals shifting testimony, the destruction of obvious evidence in the case and a series of contradictions about the distances, the lighting conditions and other details surrounding the shooting.

Seven Rangers have received administrative disciplines — a pay cut, a loss of rank or a return to the rank-and-file Army — but the criminal inquiry is for the first time examining whether the soldiers broke military law when they failed to identify their targets before firing on Corporal Tillman's position. The earlier reviews found that a chain of circumstances and errors had led to the deaths of Corporal Tillman and an Afghan soldier fighting alongside the Americans.

A senior Pentagon official briefed on the criminal investigation, who was granted anonymity because he was not permitted to speak publicly while the new investigation was under way, said it would delve into highly sensitive areas.

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"The balance that investigators now have to wrestle with is how much of a crime-scene approach they can take — nearly two years after the fact — into the fog of war, where soldiers were making decisions in milliseconds," the Pentagon official said.

Mr. Tillman spoke bluntly and angrily one afternoon here as he waded once more through the Army reports, the charts, even the details in his son's autopsy. He knows the smallest of details by heart — where his son was supposed to be standing, which way the sun was setting, what the Ranger ducking beside his son heard him call out last — and ticked them off unemotionally as he flipped through the worn reports.

Mr. Tillman's small office, though, belies his hardened shell. His trash can, pasted with orange and green paper, was a grade school project of Pat Tillman. So was the wooden pencil holder nearby, shakily carved with the letters N.F.L. A blurry photograph in a frame showed Pat Tillman at age 2, marching off toward a lake with his signature confident stride.

"At this point I don't believe that the facts of this case are going to come out without the serious threat of jail time hanging over some folks," Mr. Tillman said.

The Tillman family's first glimmers of distrust began in the month after Corporal Tillman was killed, at the age of 27, on April 22, 2004.

Within hours, military officers came to the family home here, the same house where Corporal Tillman had grown up. No one mentioned, though, that the shooting had been at the hands of his colleagues. Even Corporal Tillman's younger brother Kevin, who served in the same Ranger unit and was in a vehicle far behind the shooting and did not see what had happened, did not learn the truth for more than a month.

Instead, eight days after Corporal Tillman's death, Army officials awarded a Silver Star and issued a news release that seemed to suggest that he had been killed by enemy fire during an ambush.

At the end of May, as the rest of Corporal Tillman's unit was returning to the United States, the Army notified the family of what it believed really happened. In the months that followed, in private briefings for the family, the Army assured the Tillmans that a thorough investigation would be made and that those responsible would be disciplined.

"They said they'd take care of it, and I believed them," Mr. Tillman said.

Corporal Tillman's platoon of the Second Battalion, 75th Ranger Regiment, began the day that he died dealing with a minor annoyance in the southeastern part of Afghanistan where the soldiers were conducting sweeps, the Army records show: one vehicle would not start.

The platoon split into two parts so that half the team, including Corporal Tillman, could go on to the next town for sweeps while the second half could tow the disabled vehicle to a drop-off spot.

But both groups ended up in the same twisting canyon, along the same road, without radio communication. And after the sounds of an enemy ambush, three Rangers in the second group wound up firing at members of the first group — at an Afghan soldier who was fighting alongside Corporal Tillman, and then at Corporal Tillman.

The Army's administrative reviews that followed, parts of which have been described previously in other newspapers, including The Washington Post and The San Francisco Chronicle, have left the Tillman family with more questions than answers, they say. Some of those involved in the shooting have provided shifting accounts of what happened, the records show.

The decision to split the unit into two convoys, for example, was a crucial, and perhaps fatal, one. Brig. Gen. Gary M. Jones, who led the most recent of the three Army reviews, concluded that the decision was a result of "miscommunication" among several officers.

But at least one Army officer, the records show, changed his sworn statements about which supervisor had actually ordered the split and what conversations had occurred before the order was given.

Even the soldier who conducted the military's first review of Corporal Tillman's death — in the hours and days immediately afterward — expressed concern about the changes in the accounts.

That soldier, whose name, like many others, was redacted from the Army files provided to The Times by Mr. Tillman, said he believed Rangers had changed their versions of what happened and were not receiving the "due just punishment" for what he concluded was "gross negligence."

The stories, he said in a sworn statement as part of General Jones's subsequent review, "have changed to, I think, help some individuals."

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"The other difficult thing, though, was watching some of these guys getting off with what I thought was a lesser of a punishment than what they should've received," the soldier who conducted the first inquiry said.

Among a number of conflicts in the descriptions of what happened, some Rangers said that in the dusk they could see nothing more than "shapes" and "muzzle flashes" even as Corporal Tillman tried to tell his colleagues who he was, waving his arms, setting off a smoke grenade signal and calling out. Others said they had seen and aimed for the Afghan fighter, his "dark face" and his AK-47.

After the shooting, the Rangers destroyed evidence that would be considered critical in any criminal case, the records show. They burned Corporal Tillman's uniform and his body armor.

Months later, the Rangers involved said they did not intend to destroy evidence. "It was a hygiene issue," one soldier wrote. "They were starting to stink."

Another soldier involved offered a slightly different take, saying "the uniform and equipment had blood on them and it would stir emotion" that needed to be suppressed until the Rangers finished their work overseas.

"How could they do that?" Mr. Tillman said. "That makes no sense."

The family still wants to know, he said, what became of Corporal Tillman's diary. It was never returned to the family, he said.

Ms. Tillman said her family could not rest until they knew what really happened. All of it, Ms. Tillman said, has left her wondering what other families who have lost service members in Iraq and Afghanistan may really know about the circumstances. In addition to Corporal Tillman, at least 16 service members have died in Afghanistan and Iraq as a result of shootings or bombings by fellow Americans, and none of the deaths, so far, have led to criminal convictions.

"This is how they treat a family of a high-profile individual," she said. "How are they treating others?"

Col. Joseph Curtin, an Army spokesman, said the Tillmans deserved answers.

"We deeply regret their loss," Colonel Curtin said, "and will continue to answer their questions in a truthful and forthright manner."

DOJ:

The Reliable Source (WP)

By Amy Argetsinger and Roxanne Roberts

The Washington Post, March 21, 2006

Lucky Strikes Again!

Every time Selwa "Lucky " Roosevelt chairs a huge benefit, she swears she's never doing it again. The Reagan White House protocol chief said the Folger's 60th-anniversary party in 1992 was her last. Then there was the party 10 years ago welcoming Placido Domingo to Washington. Then the Domingo Millennium in 2000. And now Sunday's Washington National Opera 50th Anniversary "Golden Gala" -- really, really her last bash.

"This is it!" Roosevelt declared yesterday. "I won't have a friend left. They know every time I phone it's going to cost a lot of money."

Roosevelt coaxed more than $4 million from pals in the "Fifty for Fifty Club" ($50,000 each) who supped at embassies Saturday night and brunched at the White House yesterday with Laura Bush. But Lucky's centerpiece was the Sunday post-concert dinner at the Kennedy Center, full of neck-craning ("Isn't that a Rothschild ?" -- don't know, too busy gawking at rarely-seen-here Patricia Kluge, Mercedes Bass and Jacqueline Mars); jewels (newlywed Betty Scripps Harvey sporting massive diamonds); live wires (a beaming Donald Rumsfeld and Ross Perot, glued to his cellphone); fashion police (thumbs up for golden gowns on Hilda Brillembourg and Mary Ourisman); and endless millionaires, ambassadors and tenors.

Bookies are already setting odds on Roosevelt's next last party. "Absolutely zero!" she said. "I want to write a book." We've got $5 on 2010.Dana Buchman's Special-Ed Twin Set

Fashion designer Dana Buchman is making the rounds with her spring collection, but the star of yesterday's show at Saks Fifth Avenue was Buchman's 19-year-old daughter, Charlotte. The mother-daughter team wrote "A Special Education: One Family's Journey Through the Maze of Learning Disabilities" -- about their struggle with dyslexia, attention deficit disorder and a

number of other developmental problems. "For so long I thought, 'Okay, Charlotte has LD. How can I fix it?' " said the self-confessed Type A mom. She couldn't, of course, and changed her life instead. The two shared their story at a ladies' lunch/book signing that was also an opportunity for some guilt-free shopping: 10 percent of Buchman sales went to the Lab School of Washington, one of the country's top schools for learning-disabled kids.

HEY, ISN'T THAT . . . ?

· Attorney General Alberto Gonzales picking up lunch Sunday at the Leesburg Pike Taco Bell in Falls Church, wearing a dark suit and accompanied by a Secret Service detail. A Justice source says the trip was "at the request of his 10- and 13-year-olds."

· Wizards Caron Butler and Antonio Daniels celebrating their birthdays (26 and 31, respectively) by. . . bowling? Presumably it's cool again, if young millionaires are doing it. The players had a few lanes at D.C.'s Lucky Strike curtained off for a private party Saturday.LOVE, ETC.

· Eloped : Actor Richard Dreyfuss , 58, and his Russian-born girlfriend, Svetlana Erokhin , 46, at the Rockingham County Courthouse in Harrisonburg, Va., Thursday, while the Oscar winner was in town to speak at JMU. Third marriage for him, second for her. The couple called ahead earlier that day to set up their afternoon nuptials, said Clerk of the Court Bonnie Simmons : "Very sweet, very personal, very quiet."

· Born: A son to Donald Trump and his model-turned-wife, Melania Knauss . The not-so-little guy, Barron William Trump, came into the world yesterday morning at 8 1/2 pounds, and just in time for the proud father to announce the news in calls to both the Don Imus radio show and "Live With Regis and Kelly." The Donald has four other children by his two previous wives.THIS JUST IN . . .

· Kevin Spacey has been announced as this year's recipient of the Shakespeare Theatre Company's Will Award, to be presented at a fundraising gala in May. The award is given annually to a person who has championed classical theater. The Oscar winner, who in 1981 made his New York debut in "Henry IV, Part 1," is artistic director of London's historic Old Vic theater.THIS JUST IN . . .

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CORPORATE SCANDALS:

Conviction Of Ex-Star Banker Tossed Out (WP)

By Brooke A. Masters

The Washington Post, March 21, 2006

NEW YORK, March 20 -- A federal appeals court tossed out the obstruction-of-justice conviction of once high-flying investment banker Frank P. Quattrone, in a blow to the government's effort to prosecute and deter white-collar crime.

The U.S. Court of Appeals for the 2nd Circuit held unanimously that the trial judge's instructions to the jury included such a "glaring deficiency" that Quattrone did not get a fair trial on charges that he encouraged subordinates to destroy documents sought by a federal grand jury.

The court also took the unusual step of reassigning the case to a new trial judge, writing that "certain comments" made by U.S. District Judge Richard Owen "could be viewed as rising beyond mere impatience and annoyance."

"It's the first time in this case that justice has been done," said Quattrone's trial attorney, John W. Keker. "I'm just glad that Judge Owen didn't win."

But the decision was not a total vindication for Quattrone. The 61-page opinion by Judge Richard C. Wesley dwelt at length on the strength of the evidence against the former Credit Suisse First Boston LLC banker and held that it was more than sufficient for conviction on charges of obstruction and attempted witness-tampering.

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The ruling raises the possibility that Quattrone, still the best-known investment banker in Silicon Valley, will face a third trial more than five years after he first sent an e-mail encouraging hundreds of CSFB subordinates to "clean up those files." His first trial ended in a hung jury, and his 2004 conviction has now been overturned.

The reversal in the Quattrone case comes as the overall record for the Justice Department's attack on high-profile, white-collar crime is mixed. The Supreme Court overturned the obstruction verdict against accounting firm Arthur Andersen LLP, and HealthSouth Corp. founder Richard M. Scrushy was acquitted. The 2nd Circuit upheld domestic entrepreneur Martha Stewart's conviction and is still considering former WorldCom chief executive Bernard J. Ebbers's appeal of his conviction and 25-year-sentence. Former Enron Corp. leaders Kenneth L. Lay and Jeffrey K. Skilling are on trial in Houston

"It's really too bad. Even if the prosecution wins the next go-around, people are going to think, all I need is a good lawyer, and I'll have a good shot at not going to jail," University of Texas law professor Henry T. C. Hu said of the Quattrone reversal. "This kind of thing will undermine the deterrence idea of white-collar crime prosecution."

Once famous for helping bring hundreds of technology firms public during the dot-com boom, Quattrone, 50, had faced an 18-month prison sentence but remained free pending his appeal. "For over three years during this difficult ordeal, I have held my head high, knowing I was innocent and never intended to obstruct justice," he said in a statement that also thanked his supporters and legal team.

The Quattrone case marks the second time in less than a year that a major white-collar obstruction case has been overturned based on faulty jury instructions. Last May, the Supreme Court tossed out the guilty verdict against Arthur Andersen, holding that the jury should have been required to find that Andersen acted with criminal intent.

The Quattrone decision was based on a separate but somewhat similar problem. The three-judge panel found that Owen botched jury instructions on the need to find a "nexus" between Quattrone's "clean up" e-mail and a grand jury probe into the way CSFB doled out shares in hot new stocks, known as initial public offerings.

The appeals court found that Owen's instructions improperly failed to make clear that the jury needed to find that Quattrone knew that grand jury and Securities and Exchange Commission subpoenas specifically called for the documents that would be destroyed.

New York University law professor Jennifer Arlen said the Quattrone and Andersen decisions make clear that "obstruction may not be such an easy way to establish criminality . . . given that businesses often destroy documents all the time for many reasons."

The government may think twice about retrying Quattrone again, some outside lawyers said. While Quattrone, who made $120 million in his most profitable year at CSFB, still has ample resources to fight back, the two government lawyers who handled the case have left for private practice.

"A lot of resources were wasted because of a legal mistake," said Samuel Buell, who was the lead prosecutor in the Andersen cases and now teaches law in Texas. "At some point, do you just cut your losses?" The Justice Department declined to retry Andersen in part because the once-mighty accounting firm had all but disappeared by the time of the Supreme Court decision.

Quattrone's appeal attorney, Mark F. Pomerantz, predicted that his client would fare much better in a third round. "Having a different judge and a different jury and trying this case in a different climate will really give this trial a different character," he said.

A spokeswoman for U.S. Attorney Michael Garcia said, "We are reviewing the opinion and considering our options."

Appeals Court Overturns Conviction Of Ex-Banking Star (NYT)

By Andrew Ross Sorkin

The New York Times, March 21, 2006

A federals appeals court in New York this afternoon overturned the conviction of Frank P. Quattrone, the former star banker who had been found guilty of obstruction of justice, and granted him a new trial.

The ruling, a rare reversal of a jury verdict, is a big defeat for the government, which had sought to portray Mr. Quattrone as a symbol of Wall Street's excesses and the dot-com bust.

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Mr. Quattrone, who led the initial public offerings of companies like Amazon.com and Cisco Systems as a banker at Credit Suisse First Boston in the 1990's, had been convicted of obstruction of justice as a result of endorsing a colleague's e-mail message in December 2000 that urged his staff to "clean up those files." At the time, the government was investigating whether the bank was soliciting kickbacks from preferred investors for hot initial public offerings, but it never led to any criminal charges.

Mr. Quattrone, 50, had faced 18 months in prison, though he has remained free pending the outcome of the appeal.

The reversal by a three-judge panel of the United States Court of Appeals for the Second Circuit comes almost a year after the Supreme Court also struck down the conviction of Arthur Anderson, the accounting firm involved in the Enron scandal that had also been found of guilty of obstruction of justice.

The appeals panel found that the judge in the case, Richard Owen, a Nixon appointee known for being pro-prosecution, gave erroneous jury instructions on what was required for the jury to find Mr. Quattrone guilty. The panel also said that "in the interest of justice," the case should be reassigned to another judge on the United States District Court for the Southern District of New York.

The prosecutors in the case, Steven R. Peiken and David Anders — both of whom have since left the United States attorney's office for private practice — were also singled out by the appellate panel for unfairly trying to prejudice the jury during their questioning of Mr. Quattrone.

Still, the appeals court found that there was sufficient evidence to retry Mr. Quattrone. And despite finding that Judge Owen had given flawed jury instructions, the panel said it agreed with many of his rulings, including his decision to restrict the introduction of mountains of evidence that defense lawyers contended would have led to a not guilty verdict.

Legal experts said the ruling was not about sending a message to lower courts about how to try future cases, but about the specific failure of the judge in this case to provide the necessary instructions for the jury to have found that Mr. Quattrone intended to obstruct justice.

"In a prosecution in which, by all accounts, the alleged criminal act occurred in a matter of seconds, this was always a case almost entirely about intent — did Quattrone try to destroy documents that he knew the government had already subpoenaed?" said Robert A. Mintz, a former prosecutor and now a partner at McCarter & English. "What this ruling really means is that the jury instructions never asked the right question. By failing to put a finer point on the issue of intent, the facts that could have formed the basis for a conviction were never determined by the jury."

It remained unclear late this afternoon whether the government would pursue a third trial against Mr. Quattrone. He has already been tried twice; his first trial ended in a mistrial after a jury deadlock. The case has long been viewed by the legal community as perhaps the government's weakest white-collar case in the raft of corporate criminal cases that were brought in 2002 and 2003 against people like Bernard Ebbers of WorldCom and Martha Stewart, both of whom were found guilty.

In writing for the court, Judge Richard C. Wesley said Judge Owen's instructions to jurors were wrong because jurors were not required to determine that Mr. Quattrone knew the documents he was asking associates to destroy were the same ones being sought by investigators.

The instructions "removed the defendant's specific knowledge of the investigatory proceedings and the subpoenas/document requests from the obstruction equation," Judge Wesley wrote. "It left a bare-bones strict liability case."

Establishing liability is not sufficient to convict defendants of obstructing of justice or tampering charges, legal experts say. Juries must determine that defendants had intended to change the course of an investigation or legal proceeding to find them guilty of those crimes.

"It's very clear for a retrial," said Jonathan Halpern, a former federal prosecutor who is now a litigation partner at Winston & Strawn in New York. "The Second Circuit said it would be sufficient to show that the defendant knew his conduct was likely to affect the proceedings."

Court Decides For Quattrone, Reversing Verdict (WSJ)

By Randall Smith

The Wall Street Journal, March 21, 2006

DOJ_NMG_0019688

A federal appeals court reversed the May 2004 criminal obstruction-of-justice conviction of former star investment banker Frank Quattrone, citing faulty jury instructions and other errors by the trial judge.

The decision returns the case to federal prosecutors who must now decide whether to try the banker a third time. The first attempt ended in a hung jury in October 2003. (Court's decision1 and Highlights2)

While prosecutors issued a short statement saying only "we are reviewing the opinion and considering our options," the Quattrone defense team hailed the ruling as "a significant victory."

Mr. Quattrone himself said in a statement, "For over three years during this difficult ordeal, I have held my head high knowing I was innocent and never intended to obstruct justice."

The appeals court also ordered the case reassigned to another judge, saying some antidefense comments by Judge Richard Owen "could be viewed as rising beyond mere impatience or annoyance."

Mr. Quattrone, 50 years old, was convicted of two counts of obstruction and one count of witness tampering based on his forwarding of an email in December 2000 urging employees to "clean up" their files just after being told about an investigation of allocations of initial public offerings at his firm.

Despite only circumstantial evidence of Mr. Quattrone's intent, James Comey, then the U.S. attorney in Manhattan, said in April 2003 that the charges were needed to send a message against any interference with government subpoenas.

The decision was the latest to come in the wake of a tough regulatory environment that prevailed after the stock-market bubble burst in 2001 and 2002. Last May, an obstruction verdict against former accounting giant Arthur Andersen LLP was voided by the Supreme Court. And two weeks ago Wall Street executive Ken Langone defeated regulatory charges that his firm improperly collected oversize commissions in return for hot initial-public-stock offerings.

"This could be further evidence of a pendulum swing," said Timothy J. Coleman, a white-collar defense attorney at Dewey Ballantine LLP who worked in the Manhattan federal prosecutors' office until 2003 but wasn't involved in the case. The intensity of "the public outcry about corruption on Wall Street" has abated, he said.

At the peak of the stock-market bubble Mr. Quattrone was one of the most powerful bankers on Wall Street, earning more than $120 million in one year at what was then called Credit Suisse First Boston, which led the most Internet stock IPOs in 1999 and 2000. Before joining CSFB, he had led landmark IPOs of Netscape Communications Corp. and Amazon.com Inc. (The former CSFB is now named Credit Suisse and remains a unit of Credit Suisse Group.)

But in 2003 he was personally charged with "spinning," or steering hot IPOs to clients to win investment-banking business, by the National Association of Securities Dealers. Mr. Quattrone denied those charges, which remain pending. But after he left CSFB, his firm settled civil charges, without admitting or denying wrongdoing, of spinning and biased research based partly on actions by Mr. Quattrone's group.

Even with the reversal yesterday, Mr. Quattrone remains subject to a lifetime ban from the securities business by the NASD for failure to testify in the spinning case. Mr. Quattrone declined to testify, citing a desire to avoid possible self-incrimination that could affect his criminal case, and yesterday he said the reversal bolsters his pending appeal of the lifetime ban.

The Quattrone appeal was based partly on the Supreme Court decision voiding the Arthur Andersen conviction for shredding documents during an investigation of client Enron Corp. The high court said the Andersen jurors were told erroneously they could convict on witness tampering even if Andersen employees believed their conduct was lawful.

The three-judge appeals-court panel cited the Andersen decision, noting that jury instructions by Judge Owen similarly failed to require a connection -- that Mr. Quattrone intended to obstruct the probe when he sent the email urging the file cleanup. The banker's appeal argued that the instructions misled the jury into concluding they could convict even if he was unaware that his action would affect the IPO probes.

Although the Andersen ruling applied most clearly to the judge's instructions for the third count of witness tampering, the appeals panel ruled that jury instructions for the two counts of obstruction were also deficient.

When Judge Owen summarized the requirements for counts one and two, he said jurors could vote guilty if Mr. Quattrone merely "directed the destruction of documents that were called for" by the subpoenas from the grand jury and the Securities and Exchange Commission. Such a summary "eviscerated" the requirement to find Mr. Quattrone connected the email with the investigation, the panel said.

The panel also ruled that Judge Owen erred in other areas. He restricted Mr. Quattrone's answers to "yes" and "no" during cross-examination, denying him room for explanation. The judge also improperly allowed prosecutors to suggest that Mr. Quattrone violated securities rules in attempting to collect a fee from Research In Motion Ltd. Prosecutors focused on that email because it was written just after the file-cleanup email.

In addition, the judge also denied Mr. Quattrone the ability to elaborate on why he told CSFB's general counsel in January 2003 that he was unaware of the original IPO probe when he forwarded the email -- namely that he was never charged or questioned in the case.

Judge Owen had sentenced Mr. Quattrone to 18 months in jail in September 2004 but allowed him to remain free pending the appeal. However, the appeals panel ruled, "the evidence is sufficient to support Quattrone's conviction on each count." And the panel ruled that "a rational juror" could have concluded that Mr. Quattrone "was aware that the grand jury sought documents" in the possession of his group members.

And the panel endorsed some of Judge Owen's rulings, such as allowing Mr. Quattrone's pay into evidence or excluding defense evidence of a debate among CSFB lawyers about the firm's document-retention policy.

Mark Zauderer, a New York commercial-trial lawyer uninvolved with the trial, said the decision was "by no means a rejection of the strength and quality of the evidence presented by the government." He said reversals based on faulty jury instructions are "among the most common technical grounds."

Other defense lawyers contended that the case shouldn't have been brought, and reflected the vindictive spirit of the era. Gerald B. Lefcourt, a New York defense attorney unconnected to the trial, said the case "was more about who he was and Wall Street at the time."

Quattrone Conviction Thrown Out (FT)

By Ben White

Financial Times, March 21, 2006

A US federal appeals court on Monday threw out the 2004 obstruction of justice conviction of former star technology investment banker Frank Quattrone, saying the judge in the case had given erroneous instructions to the jury. The appeals court sent the case back for retrial and demanded it be heard by a different judge.

The ruling dealt a blow to the federal government's efforts to crack down on alleged white-collar crime. It followed a similar ruling by the Supreme Court last year voiding the criminal conviction of now defunct accounting firm Arthur Andersen.

A retrial would mark the third time Mr Quattrone, who emerged as the top technology banker of the 1990s, has faced a federal jury. The first trial ended with no decision after a jury was unable to reach a verdict.

In the second trial, a jury convicted Mr Quattrone of two counts of obstructing justice and one count of witness tampering. He was sentenced to 18 months in prison, but remained free pending his appeal.

The Department of Justice on Monday said prosecutors were reviewing the appeals court ruling and assessing their options.

The government's case hinged on a December 2000 e-mail in which Mr Quattrone encouraged subordinates to clean out their e-mail files.

Mr Quattrone sent the e-mail after learning of federal inquiries into the awarding of shares in hot initial public offerings being handled by his former firm, then known as Credit Suisse First Boston. Federal prosecutors said the e-mail constituted a knowing effort to thwart the investigations.

In the previous trial Mr Quattrone responded that he did not know the extent of government requests for documents when he sent the e-mail.

In its ruling on Monday, the appeals panel ruled that US district judge Richard Owen, the federal judge who presided over Mr Quattrone's second trial, erred when he told jurors they could convict if they found that Mr Quattrone called for the destruction of documents requested by the government even if he did not know exactly which documents were covered by the request.

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"Clearly, that instruction is not a correct formulation of the law," the appeals court wrote. "Under the charge, as given, any defendant who urges the destruction of documents might run afoul of [the law] without any proof that the defendant knew the documents were subject to a subpoena."

The appeals panel based its ruling in part on the 2005 Supreme Court decision invalidating the Andersen conviction.

In that ruling, the court said that the instructions in the case wrongly allowed the jury to convict without finding that Andersen employees acted with criminal intent when they tampered with documents relating to Enron, the energy trader. The exact wording of jury instructions is expected to be a major issue in the criminal trials of former Enron chief executives Jeffrey Skilling and Ken Lay.

New trial: Frank Quattrone

Quattrone's Obstruction Conviction Thrown Out (USAT)

By Greg Farrell

USA Today, March 21, 2006

NEW YORK — A federal appeals court here threw out the conviction of former investment banking star Frank Quattrone, opening the door for yet another retrial in the government's obstruction case unless prosecutors decide to drop the matter once and for all.

In a unanimous decision, the appellate panel ruled that the jury instructions given in the case two years ago by U.S. District Judge Richard Owen were flawed. The panel also acknowledged that Owen's comments during the trial, which rose "beyond mere impatience or annoyance" with the defense, justified Quattrone's request that the matter be reassigned to a new judge.

"We were of course delighted" with the decision, "although I wasn't really surprised with the result," said Mark Pomerantz, the attorney who handled Quattrone's appeal.

The charges against the former Credit Suisse First Boston banker and onetime Silicon Valley rainmaker grew out of a federal investigation into the allocation of red-hot technology IPOs during the dot-com bubble. In December 2000, after being informed that a grand jury was investigating the matter, Quattrone endorsed and circulated a colleague's e-mail reminding subordinates to clean up their files, including paperwork from the IPOs in question.

Prosecutors said Quattrone's sending of the e-mail amounted to obstruction. In his first trial in the fall of 2003 the jury deadlocked, partly because some jurors didn't find Quattrone credible on the stand. His spring 2004 retrial resulted in a conviction.

In their appeal, Quattrone's lawyers argued that Owen's instruction allowed the jury to convict the banker without first determining whether Quattrone knew he was obstructing a federal investigation. Citing the Supreme Court's decision to overturn a guilty verdict against Arthur Andersen last year, the appellate court agreed, writing, "Under the charge, the jury was allowed to convict Quattrone of obstruction regardless of whether he intended such."

John Keker, the Quattrone attorney who clashed frequently with Owen during the two trials, said, "Justice has finally been done."

Asked whether there would be a third trial, a spokeswoman for Michael Garcia, the U.S. Attorney in Manhattan, said, "We are reviewing the opinion and considering our options."

Legal experts note that the government still has a strong case. "The circuit court didn't find the evidence unpersuasive," said New York attorney Mark Zauderer. "Instructions can be cured, whereas presentation of evidence can't be cured."

Appeals Court Overturns Quattrone's Conviction (LAT)

By Jesus Sanchez

The Los Angeles Times, March 21, 2006

A New York federal appeals court today threw out the conviction of former Silicon Valley investment banker Frank Quattrone on obstruction of justice charges, setting the stage for the financier's third trial.

The U.S. 2nd Circuit Court of Appeals sided with Quattrone and ordered a new trial before a different judge after finding that the instructions the jurors received in his second trial were "erroneous."

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Quattrone helped bring an array of high-profile technology companies public, including Amazon.com and Cisco Systems. He was convicted in May 2004 of obstructing federal investigations into alleged kickbacks from initial public offerings by urging staff members through e-mails to purge documents from their files.

An initial trial in late 2003 ended in a hung jury.

Quattrone's case revolved around an e-mail he wrote to his staff at Credit Suisse First Boston's technology group in Palo Alto in December 2000. The brief message encouraged his subordinates to comply with an e-mail sent by another banker telling them to "clean up" their files.

Prosecutors said the intent of Quattrone's e-mail was to destroy documents sought in federal probes into whether the investment bank forced customers to pay kickbacks for shares of hugely profitable IPOs in the late-1990s bull market.

Quattrone had argued that he thought the investigations centered on other units of his company. He also was unaware that a grand jury subpoena called for documents from his technology banking group, his attorneys claimed.

In appealing his conviction, Quattrone's attorneys had argued that jurors should have been told that they could convict his client only if it was proved that Quattrone knew that the grand jury subpoena sought documents from his banking group and that he intentionally sought to thwart the probe by sending his e-mail.

Since jurors were not so instructed, the lawyers said, they could not have found criminal intent.

Federal prosecutors countered by saying that Quattrone was well aware of the government investigations and found out about the grand jury subpoena only two days before he encouraged his staff to "clean up" their files.

The three-member appeals panel found that Quattrone's defense about the government inquiry into his unit "was eliminated from the jury's consideration" and final instructions.

Quattrone, Ex-Credit Suisse Banker, Wins New Trial (Update2) (BLOOM)

Bloomberg, March 21, 2006

March 20 (Bloomberg) -- Frank Quattrone, who made $120 million in 2000 as Credit Suisse's top technology banker, won a new trial today, after a federal appeals court in New York threw out his conviction for obstructing justice.

Quattrone, 50, faces a third trial before a new judge on charges he urged fellow bankers to destroy records. The U.S. 2nd Circuit Court of Appeals in New York today tossed out Quattrone's conviction for obstructing justice and witness tampering and ordered a new trial, ``because the jury instructions were erroneous," the justices said.

``The presumption is that there is a new trial unless the government decides not to retry the case," said Jacob Frenkel, a former federal prosecutor and now a lawyer in Rockville, Maryland, who's not involved in the case. ``The government could walk away altogether."

It's now up to federal prosecutors to decide whether to re- try the former investment banker. Today's reversal may also lead the government and Quattrone to open plea negotiations. Quattrone was convicted in May 2004 after his first trial ended in a hung jury in October 2003.

Quattrone's lawyers had argued that U.S. District Judge Richard Owen, who presided over the first two trials, was biased against him. While the appeals court rejected that claim, the justices decided it was best to have a different judge hear the case.

``Ultimately we believe that the interest and appearance of justice are better served by reassignment" to a new judge, the appeals court said. The justices called Owen ``a dedicated jurist" and said remarks the defense had objected to arose from ``mere impatience or annoyance."

`Clean Up' Files

Owen sentenced Quattrone, who's been free pending the outcome of the appeal, to 18 months in prison.

Quattrone's spokesman, Robert Chlopak, and his lawyer, Mark Pomerantz, didn't immediately return calls seeking comment. Bridget Kelly, a spokeswoman for U.S. Attorney Michael Garcia, didn't have an immediate comment.

Quattrone was convicted of hindering probes into how Credit Suisse allocated shares in initial public stock offerings. The conviction ended the career of a banker who took dozens of companies public, including Amazon.com Inc. in 1997.

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The case hinged on a December 2000 e-mail written by a colleague urging Credit Suisse employees to ``clean up'' their files and discard documents. Quattrone forwarded the message after learning that a grand jury was investigating how Credit Suisse distributed IPO shares.

`Rife With Error'

Quattrone endorsed the e-mail before passing it on, noting that he'd been a witness in a securities-fraud lawsuit. He said the experience led him to ``strongly advise'' Credit Suisse employees to follow the bank's document retention policy, which called for routine purging of some records.

Pomerantz told the appeals court in July that the trial ``was rife with error.'' He said that while Quattrone knew prosecutors had subpoenaed Credit Suisse, Owen never told jurors that they had to find that the government wanted documents from Quattrone's Palo Alto, California-based division, in order to convict him.

The appeals court agreed, citing ``a glaring deficiency'' in Owen's instruction to the jury. Under the law, the panel had to find that Quattrone knew that the government wanted the documents he ordered destroyed, the court said. Owen failed to deliver such an instruction, the court said.

At the trial, Quattrone never disputed that he knew the Justice Department and the Securities and Exchange Commission were investigating Credit Suisse. He said he thought the investigations related to other areas of the bank.

Credit Suisse spokeswoman Victoria Harmon declined to comment on the appeals court ruling today.

The case is U.S. v. Quattrone, U.S. Court of Appeals for the Second Circuit, New York.

To contact the reporter on this story: David Glovin in U.S. District Court in New York at dglovin@bloomberg.net. Last Updated: March 20, 2006 15:19 EST

Quattrone Conviction Reversed By 2nd Circuit (LAW)

By Mark Hamblett, New York Law Journal

New York Law Journal, March 21, 2006

The conviction of former Credit Suisse First Boston star investment banker Frank Quattrone was reversed Monday by the 2nd U.S. Circuit Court of Appeals.

Citing flawed jury instructions, the 2nd Circuit vacated guilty verdicts against Quattrone for obstruction of justice, obstructing an agency proceeding and witness tampering.

The 2nd Circuit also took the rare step of taking the case away from Southern District Judge Richard Owen -- which made Monday's 61-page ruling a sweeping victory for Quattrone and his legal team. Lawyers for Quattrone argued that several remarks and rulings by Judge Owen gave the appearance that the judge was biased against their client. The 2nd Circuit said it could find no evidence of such bias, but it nonetheless found that the "interest and appearance of justice are better served by reassignment."

The appeal in U.S. v. Quattrone, 04-5007-cr, was decided by 2nd Circuit Judges Richard Wesley and Peter Hall, and Northern District Chief Judge Frederick Scullin, sitting by designation. Judge Wesley wrote for the court.

U.S. Attorney Michael Garcia now must decide whether to retry Quattrone. If Garcia decides to go ahead, it would be the third trial for the former head of Credit Suisse's Global Technology Group, which was accused of obstructing two investigations into the allocation of shares in red-hot initial public offerings during the height of the high-tech boom.

While Quattrone's first trial ended with a deadlocked jury, he was convicted on the government's second attempt in 2004.

The heart of the trial concerned Quattrone's communications with members of the technology group while information on the IPO allocation process was being sought in parallel investigations by the National Association of Securities Dealers and the Securities and Exchange Commission. A federal grand jury was empaneled in fall 2000 and, on Nov. 21, 2000, it issued subpoenas to Credit Suisse and eight of its officers.

Quattrone learned that the grand jury had joined the IPO investigation on Dec. 3, 2000. That same day he had several exchanges with David Brodsky, then general counsel for the Americas at Credit Suisse, including one e-mail in which Brodsky said there had been "recent developments that are of extreme concern."

Brodsky noted in another e-mail that no one, as yet, had been accused of any criminal activity, but he warned Quattrone "do not, under any circumstances discuss these facts with anyone" and closed by saying he needed to speak with Quattrone personally.

On Dec. 4, 2000, Richard Char, a banker with the technology group, sent Quattrone a draft e-mail warning employees that the "securities litigation bar is mounting an all-out assault on broken tech IPOs," and urged the employees to abide by the firm's "document retention policy." Under the policy, employees of completed IPOs are supposed to destroy any nonessential documents.

Char told employees to "catch up on file cleanup," and closed by saying, "Today, it's administrative housekeeping. In January, it could be improper destruction of evidence." Quattrone first warned Char that he "shouldn't make jokes like that on email!"

But that same day, he began to draft what was called by prosecutors the "endorsement email." The following day, within hours of learning from Brodsky that he should retain a lawyer and it was likely he would be called as a witness, Quattrone completed and transmitted the following e-mail to employees: "having been a key witness in a securities litigation case in south texas (sic) I strongly advise you to follow these procedures."

Some employees began to clean up, or continued cleaning up their files until the company's legal compliance division sent out notice to stop the editing process.

Quattrone testified in his own defense at both trials, insisting that he lacked the intent to obstruct justice and that he did not know about the SEC subpoena and knew very little about the grand jury subpoena on documents -- a subpoena that covered documents for hundreds of transactions.

DEFICIENT JURY INSTRUCTIONS

On the appeal, Judge Wesley said the evidence was sufficient to support Quattrone's conviction on each count. The court agreed with the government that a jury could reasonably conclude that he acted with intent to obstruct and that the jury was "free to reject Quattrone's explanation that he thought the investigation focused on a separate business area of the bank." And the evidence on witness tampering, Wesley said, was "clearly sufficient."

But Judge Owen erred by giving "deficient" jury instructions on charges one and two, the obstruction counts, Wesley said.

"Under the charge, the jury was allowed to convict Quattrone of obstruction regardless of whether he intended such," he said. "Quattrone's defense of lack of knowledge of the specific focus of the investigation of Tech Group IPO activities was eliminated from the jury's consideration." On the witness tampering charge, he said "there was a failure to charge an essential element of the crime," the appellate judge concluded.

"The court informed the jury that a prerequisite to criminal liability -- some nexus between the effort to tamper with or withhold documents pertaining to the relevant proceeding and awareness that such conduct was likely to affect the proceeding -- was inapplicable," Wesley said. "Given this error, the disputed evidence of Quattrone's awareness as to whether the investigations called for documents to be culled as a result of his endorsement email, and the inadequacy of the nexus charges on counts one and two," the court could not be confident that a "properly instructed," jury would have convicted Quattrone on witness tampering.

LIMITS ON TESTIMONY

Quattrone challenged limits placed on his testimony by Judge Owen and other rulings by the judge. He complained that the judge was sharp and dismissive of Quattrone and his attorneys and gave the impression to the jury that he did not believe Quattrone.

Among several claims made by Quattrone was that Owen, sua sponte, ordered him to answer "yes," or "no" to certain questions -- and the government was able to contend in summation that he was evasive in answering the questions.

His arguments resonated with the circuit. "In this circuit, a defendant's right to a fair trial is infringed when a judge's questions and comments convey to the jury that the judge disbelieves the defendant's testimony," Judge Wesley said. But, at the same time, he noted, judges have trial-management authority that includes the discretion "to place reasonable limits on the presentation of evidence." "The exercise of that discretion, however, must remain tethered in some way to the facts and

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circumstances of the case presented," Wesley said. "Accordingly, when confronted with an evasive witness, trial judges must be careful to safeguard the witness's ability to answer questions, particularly in the case of a criminal defendant-witness."

In such cases, Wesley said, "a trial judge should allow for complete answers by the defendant ... "

A 'DEDICATED JURIST'

The circuit went on to reject several challenges Quattrone made to other rulings by Judge Owen before it turned to a delicate explanation of its reason for reassigning the case to another judge.

While Quattrone claimed that Owen was no longer impartial in the case, the government said the standard for remanding to another judge had not been met. It argued Quattrone's complaints were based on a media campaign by his handlers to discredit the judge.

Calling Owen a "dedicated jurist," the circuit said "in our view, the contentions of the parties in this difficult and complex matter have taken a toll on all involved."

"While we have considered the government's arguments and do not find evidence that the trial judge made any inappropriate statements leading us to seriously doubt his impartiality, portions of the transcript raise the concern that certain comments could be viewed as rising beyond mere impatience or annoyance," Wesley said. "Ultimately, we believe that the interest and appearance of justice are better served by reassignment."

The government said it was reviewing the decision and weighing its options.

Quattrone was represented by John Keker of Keker & Van Nest in San Francisco at trial. His lead attorney on appeal was Mark Pomerantz of Paul, Weiss, Rifkind, Wharton & Garrison. He was also represented by attorneys with Mayer, Brown, Rowe & Maw.

In a statement, Pomerantz described his client as "an innocent man who was wrongly convicted in a trial that denied him his most fundamental right to fairness." The statement pointed out that the circuit's decision will affect Quattrone's appeal of an NASD order barring him for life from the securities industry.

Assistant U.S. Attorneys David Anders, who tried the case, and Jessica Mordas and Harry Sandick represented the government. Then-U.S. Attorney David Kelley was on the brief.

Quattrone's Fate Turns On Mundane Detail (WSJ)

By Paul Davies And Kara Scannell

The Wall Street Journal, March 21, 2006

At the end of any jury trial, the judge's instructions to the jurors can be the most boring part of the proceedings.

They can also be the most important. Just ask Frank Quattrone.

A federal appeals court Monday overturned the 2004 conviction of Mr. Quattrone, a former investment banker, due to "erroneous" jury instructions. (Court's decision1)

"In the lawyer movies they don't have the climatic scene on jury instructions," says John Carroll, a former federal prosecutor. "It is something that seems kind of technical and is outside of the consciousness of the reader-public, but it is important."

A jury convicted Mr. Quattrone of two obstruction-of-justice counts and one witness-tampering count for his actions during an investigation of alleged kickbacks involving initial public offerings of stock, including emailing colleagues at then-named Credit Suisse First Boston, a unit of Credit Suisse Group, that it was "time to clean up those files."

The court ruled that U.S. District Judge Richard Owen's instructions to jurors wrongly allowed them to convict him of obstruction for urging the destruction of documents without determining "that the defendant knew the documents were subject to a subpoena [or document request]." The panel said that "the jury was allowed to convict Quattrone of obstruction of justice regardless of whether he intended such."

The witness-tampering conviction was overturned because, after Mr. Quattrone's conviction, the Supreme Court -- in a similar case against the accounting firm of Arthur Andersen -- ruled that jurors should have been told that a conviction requires a link between the defendant urging the destruction of documents and "a particular proceeding." The judge in the Quattrone case didn't include such an instruction.

Appeals in white-collar cases almost routinely include one of the judge's jury instructions. Unlike in a case involving a murder, it isn't always clear to a jury what violates the technical requirements in finding somebody guilty of violating securities or obstruction-of-justice laws.

While judges start from a standard set of instructions, they tailor them to fit each case, and both sides often hotly contest exactly what the jury should be told, because jurors usually pay close attention. "If you don't get reasonable instructions you could be put out of the case," attorney Gerald B. Lefcourt said.

Lawyers for former WorldCom Inc. Chief Executive Bernard Ebbers based the pending appeal of his fraud conviction in part on the instructions U.S. District Judge Barbara Jones gave to the jury.

In that case, the question centered on whether the judge should have instructed that it could find Mr. Ebbers guilty if he consciously avoided knowing about the fraud. Judge Jones initially agreed with the defense that argued against including such an instruction, but she later added it after Mr. Ebbers testified that he didn't know about the crime. In her instructions, Judge Jones said jurors could find Mr. Ebbers guilty if they thought he strongly suspected a fraud -- but intentionally avoided finding out about it. Mr. Ebbers's attorney, Reid Weingarten, said he worried some jurors may have concluded that Mr. Ebbers should be convicted if they found simply that he should have known about the fraud.

The appeals court in the Quattrone case said that, given the way the judge framed other instructions, he improperly included a "conscious avoidance" instruction, but it said one might be appropriate in a retrial.

Such an instruction could become an issue in the continuing federal criminal trial of former Enron Chairman Kenneth Lay and former CEO Jeffrey Skilling. Even if the prosecutors don't seek to include that instruction, how the judge instructs the jury will likely be debated.

Conscious-avoidance instructions are "always fertile ground for appellate issues because the line between conscious avoidance on the one side and recklessness and negligence on the other is difficult to enunciate," said Paul Shechtman, a defense lawyer with Stillman & Friedman. "I could spend the rest of my life trying to understand the law of conscious avoidance in a conspiracy case and still not get it."

Mr. Lefcourt said jury instructions are a key part of any appeal. "Judges do get it wrong," he said. "Reversals are often caused by improper jury instructions."

There is a movement by some state bar associations to have jury instructions written in plain English. In 2003, the California state bar association adopted new plain English jury instructions for civil cases eliminating phrases like "preponderance of evidence" with words jurors could understand better. Other movements are afoot in making the language less legal boilerplate in favor of words and concepts that nonlawyers could understand.

Judges often are loath to stray from the standard instructions because they risk being overturned. "The irony is as you stray from the script and try to make it clearer, you run a risk of making an error," Mr. Shechtman said.

Order To Assign New Judge Is Unusual (WSJ)

By Robin Sidel And Peter Lattman

The Wall Street Journal, March 21, 2006

Judge Richard Owen presided over two of Frank Quattrone's obstruction-of-justice trials. He won't be around for the third.

In reversing the conviction of the former star technology-industry investment banker, a federal appeals court yesterday assigned a new judge to the case, saying that "the interests of all involved would best be served by another judge." The appeals court didn't name the judge who would take the case.

"We are confident that the new judge will exercise the appropriate discretion in balancing the competing interests of an orderly presentation of evidence and defendant's right to raise a defense," according to the 61-page ruling issued by the Second U.S. Circuit Court of Appeals in Manhattan. In remanding the case, the appeals panel determined that jury instructions were "erroneous."

Judge Owen, 83 years old, couldn't immediately be reached for comment.

Lawyers who aren't involved in the case said it is rare for an appeals court to assign a new judge when sending a case back to the lower court for a new trial.

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"It is highly unusual for the court of appeals to reverse a case with instructions that it be assigned to a new trial judge because it implies that the appellate court believes that the original judge may have been partial to one side or the other," said former prosecutor Marc Mukasey, now of Bracewell & Giuliani in New York. "In this case, however, the court of appeals stressed that it didn't question Judge Owen's impartiality."

Judge Owen's conduct was one of several issues raised in Mr. Quattrone's appeal after he was convicted of obstructing a federal investigation into initial public offerings of stock. The conviction came in a retrial following a 2003 mistrial. The former banker at Credit Suisse Group's then-named Credit Suisse First Boston had been sentenced to 18 months in prison, but remained free during the appeals process.

Over the course of the retrial, Mr. Quattrone's lawyer, John Keker, complained several times about Judge Owen's rulings and body language. In one instance, the judge wouldn't let Mr. Keker introduce evidence. Judge Owen, for his part, threatened to find Mr. Keker in contempt of court.

The appeal challenged several of Judge Owen's rulings, including limitations that were placed on Mr. Quattrone's testimony. The appeal filed by Mr. Quattrone, 50, contended the court's interference with his testimony "crossed the line beyond legitimate trial management" and deprived him of a fair trial. The government defended Judge Owen's actions.

In yesterday's ruling, the appeals court didn't determine that Judge Owen infringed on Mr. Quattrone's rights to a fair trial, but noted that "a trial judge should allow for complete answers by a defendant."

Daniel Richman, a law professor at Fordham University, said "It's clear that the panel took pains not to suggest that they were buying the arguments Quattrone's lawyers were making about Judge Owen's bias...but clearly they were aware of the complicated dynamics between the defense lawyers and the judge in the case."

Despite the decision yesterday, it isn't clear if a new judge will get to hear Mr. Quattrone's case. "We are reviewing the opinion and considering our options," said a spokeswoman for the U.S. attorney's office, which prosecuted the case.

Enron Former Auditors Testify On Charges, Reserve Accounts (WSJ)

By Gary McWilliams And John R. Emshwiller

The Wall Street Journal, March 21, 2006

HOUSTON -- Two former partners of Enron Corp.'s outside auditor, Arthur Andersen LLP, took the witness stand to help prosecutors link former top company executives Kenneth Lay1 and Jeffrey Skilling2 to the alleged manipulation of the energy firm's reported financial results.

The auditors' testimony at the beginning of the eighth week of the conspiracy and fraud trial touched on two main areas: the alleged downward manipulation of charges for goodwill expenses and the alleged misuse of reserve accounts to bump up reported earnings.

In the case of goodwill, prosecutors contend that Mr. Lay, Enron's former chairman, misled Andersen and the public in October 2001 about the company's plans for its big water-distribution unit in order to avoid a hefty charge to earnings. On the reserve issue, the government contends Enron improperly tapped a reserve account to meet the desire by Mr. Skilling, the former company president, to beat analysts' earnings estimates.

The goodwill issue arose because of a new accounting rule in 2001 that required the write-down of an asset if it didn't meet certain criteria, which in the case of the Enron water unit included whether the company had an expensive growth plan, testified John R. Sult, one of the former Andersen partners. Without such a growth strategy, said Mr. Sult, Enron likely would have been forced to recognize an "impairment," or write-down, which prosecutors have said could have totaled hundreds of millions of dollars.

Enron officials at the time claimed that they were planning to spend well over $1 billion to expand the water business, said Mr. Sult. He said he was surprised to hear that because the company had previously indicated that the water operation was a noncore business likely to be sold.

The other government witness, former Andersen partner Thomas Bauer, testified to attending a meeting on Oct. 12, 2001, in which Mr. Lay told Andersen that "water was the commodity of the 21st century." Mr. Lay "talked of building the water business"

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and "expanding it from its current state," said Mr. Bauer. Prosecutors contend that such assurances were false and aimed at avoiding a costly write-down, and have presented emails from other Enron officials to support that argument.

Mr. Sult, the first witness, also said that later in October, Mr. Lay misled analysts during a conference call about the status of Andersen's review of the water issue. Mr. Lay said that Andersen had concluded that an impairment on the water business wasn't necessary. At the time, Andersen's review of the issue was still "preliminary and incomplete," Mr. Sult said.

After a month of review, Mr. Sult added, "I was unable to find any evidence" that Enron did have a growth strategy for the water business. By that point in mid-November 2001, Enron was deep into a financial crisis that would push it into bankruptcy proceedings a few weeks later.

On reserve accounts, Mr. Bauer said they shouldn't be used to meet an earnings target. He said he was "quite surprised" when federal investigators showed him company emails indicating reserve accounts had been used for that purpose. He added that he was unaware that one particular account in 2000 had been drained of about $14 million. However, in cross-examination, a Skilling attorney showed emails indicating other Andersen officials had been apprised of that reduction.

Mr. Bauer also said that during his years auditing Enron he had never seen a handwritten list, known as the "Global Galactic" memo, written by former Chief Financial Officer Andrew Fastow3. Prosecutors claim the memo lays out various secret Enron deals to illegally manipulate financial results. The defense contends that there were no such secret side deals.

Mr. Bauer is scheduled to be cross-examined today by Mr. Lay's defense team.

Judge Finds Ex-Gemstar-TV Guide CEO Liable For Securities Fraud (AP)

By Jeremiah Marquez

AP, March 21, 2006

LOS ANGELES - A federal judge found former Gemstar-TV Guide CEO Henry C. Yuen liable for securities fraud, according to a ruling unsealed Monday in a federal regulatory lawsuit that claimed Yuen inflated the company's revenue by $248 million to boost its stock.

U.S. District Judge Mariana R. Pfaelzer also found Yuen liable for misrepresenting facts to Gemstar's auditors and falsifying its books.

The Securities and Exchange Commission will now submit a proposed penalty.

Yuen's attorney, Stanley Arkin, said an appeal was being considered.

"I don't see eye to eye with her decision, but she's a judge," Arkin said. "The game isn't over."

Gemstar, meanwhile, said in a statement that it was pleased by the decision to hold Yuen "accountable for his wrongful and inappropriate actions."

Pfaelzer's findings came almost three years after the SEC filed the lawsuit against Yuen and Elsie Leung, Gemstar's ex-finance chief, in an alleged scheme to inflate company revenue to meet certain financial targets.

Regulators contend that Yuen's actions contributed to a windfall between 2000 and 2002 - at least $18.8 million in salary and bonuses, $14.6 million in exercised stock options, and more than $63.6 million in Gemstar stock sales.

"After nearly three years of litigation, the court categorically rejected Henry Yuen's finger pointing and attempts to blame others for the massive fraud at Gemstar," said Randall Lee, the SEC's regional director.

Since November 2002, Gemstar has restated or reversed certain license and ad revenues by $357 million, with more than $230 million stemming from transactions in the case, according to the ruling.

Yuen knew but didn't disclose that a good portion of licensing revenue for 2000 and 2001 came from expired and disputed licensing agreements, the judge said. What's more, he misled investors when Gemstar recorded non-monetary payments as ad revenue, and booked revenue from so-called round trip transactions in which Gemstar paid money to a third party only to receive it back again, she said.

The goal, regulators said, was to make the company look healthier than it otherwise might have been in hopes of buoying its stock price.

In an August 2000 e-mail, Yuen appeared to scold another executive over certain internal revenue forecasts.

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"This is completely unacceptable," Yuen wrote, according to court transcripts unsealed Monday that focused on the e-mail exchange. "The street ... expects some sort of explosive growth.

"We are shooting for the Moon, and I am confident we can do it."

Besides the civil lawsuit, Yuen remains under criminal investigation by the Justice Department following a federal judge's rejection of a plea deal in the case. Under the now-defunct agreement, Yuen was to plead guilty to one felony charge of obstruction of justice for deleting computer files subpoenaed in the SEC's investigation.

Testifying during the civil trial in December, Yuen conceded "there's no doubt" the deleted information was sought by regulators, according to court transcripts.

After leaving his post as chief executive, Yuen worked in another position with Gemstar. He was fired in April 2003 but continues to receive a yearly salary of $2 million plus benefits from the company, said Eileen M. Murphy, a Gemstar spokeswoman. Yuen is challenging his termination and will have to repay the money should he lose.

Leung settled with the SEC last month, agreeing to return $600,000 and pay $750,000 in civil penalties, regulators said.

Gemstar shares closed down 2 cents, 0.67 percent, at $2.96 in trading Monday on the Nasdaq.

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On the Net:

http://www.gemstartvguide.com/

Movie Musical 'Chicago' Prompts A Suit Over Profits (NYT)

By Anemona Hartocollis

The New York Times, March 21, 2006

The producer of "Chicago," the Oscar-winning 2002 movie, is charging that Miramax has cheated him out of millions of dollars of profit from it by using deceptive accounting to understate revenue.

The producer, Martin Richards, sold Miramax an option to the movie rights to the musical in 1994. In papers filed in State Supreme Court in Manhattan yesterday, he said that he has been cheated by a Hollywood system of contingency payments to participants in moviemaking like producers, actors and writers that gives studios an incentive to underreport revenues.

Under that system, the court papers say, "the worse a movie performs financially, the better off the studio is."

Emily Bear, a spokeswoman for Miramax, declined to comment yesterday, saying company officials had not yet seen the court papers. Mr. Richards's lawsuit says that he does not know precisely how much he is owed, but it seeks at least $10 million, which he estimates is his share of the movie's profits.

"This picture has been touched by some sort of God," Mr. Richards said in an interview after the suit was filed. "Everything that's happened to it has been great. But it would be nice to be paid for your work."

Mr. Richards declined to say how much he had been paid for the movie upfront, although the court papers said that his contract called for him to be paid several fees, including $500,000 after the movie reached its initial break-even point.

Mr. Richards claimed that most of that money was reimbursement for his expenses. The profits he is seeking would have come after those payments, and, he said, "I have never seen a nickel of the profits."

Mr. Richards, who is 74, produced the musical "Chicago" on Broadway in 1975, and then began a 27-year quest to make a movie out of it, he said in the suit.

The film, which opened in December 2002, starred Richard Gere, Catherine Zeta-Jones and Renée Zellweger, and won six Academy Awards, including one for best picture. The court papers said that the film was budgeted at $47 million and went over budget by about $10 million, though, they contend, Miramax never consulted the producer to approve cost overruns.

The lawsuit is sprinkled with celebrity names —Louise Ciccone, better known as Madonna, appears as a witness to the signatures on Mr. Richards's deal with Miramax described in the suit. It claims that "Chicago" was the highest-grossing film ever released by the studio. The lawsuit said the movie generated gross receipts of about $300 million, including $170 million during its initial domestic release, and many millions more from DVD, video and foreign distribution.

Mr. Richards, as the head of the Producer Circle Company, was the producer of the movie, and Bob and Harvey Weinstein, the founders of Miramax, were the co-executive producers. The Weinsteins are not named as defendants.

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"There are two issues," Thomas P. Puccio, Mr. Richards's lawyer, said. "One is how much money is in the pot that Marty shares in, and the second is what are the expenses, and those are two areas that they in this case certainly shortchanged him on."

The suit offers something of an exegesis on accounting practices in the film industry, including the observation that there are at least two forms of accounting used by major studios, financial accounting and contingent compensation. Financial accounting, the papers say, somewhat archly, "tends to be rather run of the mill, reflecting the mundane efforts of Hollywood's C.P.A.'s to match movie revenue with movie costs."

Contingency accounting, the lawsuit says, is "reined in only by the avarice of the studios and the leverage they hold over the talent they hire, is opaque, confusing and leads to patently absurd results."

Studios support creative accounting, the lawsuit says, because so many people involved in the production of a movie are under contracts that award contingent compensation, often including actors, the director, the producer and the writer. The most powerful independent contractors — like major stars — can negotiate contracts known as "gross deals," in which their compensation is based on gross receipts for the movie, with minimal deductions for expenses, the lawsuit says. The less powerful, the papers say, receive "net profit deals," in which, the lawsuit says, "studios typically decrease revenue and increase costs and expenses attributable to the movie."

The suit quotes the actor Eddie Murphy as referring to net deals as "monkey points," meaning, according to the court papers, that "only a monkey would expect them to actually result in any payment to the talent."

Mr. Richards, his lawsuit says, had negotiated what is called a "gross after break-even deal," a contract that is somewhere in between a gross deal and a net deal.

But the lawsuit charges that without Mr. Richards's permission, Miramax turned this into a net deal, and even then, understated its revenues.

Over the past two decades, Miramax has been involved in the production of movies including "The Crying Game," "The Piano, "Pulp Fiction," "The English Patient," "Shakespeare in Love," and "The Cider House Rules."

The Producer Circle Company, which Mr. Richards has headed since its founding in 1975, has been involved in several successful Broadway plays besides Chicago, including "On the Twentieth Century," which opened in 1978 and "La Cage aux Folles," in 1983. Mr. Richards has also been involved with movies like "The Boys from Brazil," in 1978, "The Shining" in 1980 and "Fort Apache the Bronx" in 1981.

CRIMINAL LAW:

Witness In Detectives' Trial Tells Of Pressure To Cooperate (NYT)

By Alan Feuer

The New York Times, March 21, 2006

The federal trial of Louis J. Eppolito and Stephen Caracappa veered today from Brooklyn murder and Las Vegas lunacy to the high-stakes poker game played by government agents and gangland turncoats as the trial's star witness told the jury of the immense "pressure" placed on him to "crack" and cooperate against the two retired detectives in the case.

It was a brief, but fascinating, window into the tactics used by federal agents once a criminal falls into their hands. Under cross-examination by defense lawyers, the witness, Burton Kaplan, testified that, after he was arrested in 1996 on marijuana and tax-evasion charges, "the government was willing to go to any length" to have him "crack" and come "on board to provide information" against Mr. Eppolito, 57, and Mr. Caracappa, 64.

The two men are accused of working under Mr. Kaplan's aegis to commit at least eight gangland murders — seven for Anthony Casso, the second-in-command of the Luchese crime family.

In his fourth day on the stand, Mr. Kaplan, 72, described how, on the night of his arrest, he languished at the Manhattan office of the Drug Enforcement Administration as a parade of 20 to 25 investigators lined up to court his cooperation. Two police inspectors told him, he said, that he could "go home tonight" if he coughed up what he knew about "two dirty cops."

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This scene, described in Mr. Kaplan's patented placid manner, was only the start of an almost eight-year-long attempt to get him — a career criminal whose schemes included peddling drugs and selling stolen watches — to testify against the two retired detectives, who, at that point, had already left New York and settled in Las Vegas.

There, Mr. Kaplan testified last week, Mr. Eppolito was playing "bit parts" in movies while writing scripts in his garage and Mr. Caracappa was having a house built while trying his hand at business deals like peddling a George Foreman punching-bag machine to the QVC home-shopping channel.

'Mafia Cops' Witness: Never Shown Photos (NSDY)

By Anthony M. Destefano, Newsday Staff Writer

Long Island Newsday, March 21, 2006

On his last day on the witness stand yesterday, a key government witness testified that he wasn't aware of any surveillance photos that show him meeting over the years with the alleged "Mafia Cops."

Burton Kaplan, a former garment executive and drug dealer, admitted under cross examination that he has never been shown any surveillance of him with ex-NYPD detectives Louis Eppolito and Stephen Caracappa during clandestine meetings he allegedly had with them in a Staten Island cemetery.

Kaplan, 72, had testified earlier that for a period of about six years he met with both men face-to-face as part of a corrupt arrangement in which the detectives passed him confidential law enforcement information and took part in gangland murders in exchange for cash. Eppolito, 57, and Caracappa, 64, are on trial in Brooklyn federal court on racketeering charges, which accuse them of being hit men for the Luchese crime family in the late 1980s and into the early 1990s.

Questioned by Eppolito's lawyer, Bruce Cutler, Kaplan, who is serving a 27-year sentence for marijuana trafficking, said he began meeting with the defendants after a mobster who had been serving as an intermediary was killed in September 1987. That mobster was Frank Santoro Jr., a cousin of Eppolito.

During two full days of cross examination, Kaplan didn't appear to waver or change his story about his dealings with the detectives, whom he has implicated in a dozen mob homicides, including eight charged in the indictment that led to the current trial. Kaplan was a key associate of former acting Luchese boss Anthony "Gaspipe" Casso and told the jury yesterday under Cutler's questioning that he had been the subject of video surveillance at his clothing business on Staten Island in the 1990s but insisted he wasn't observed committing any crimes.

The defense is likely to use Kaplan's admission that he wasn't shown surveillance photos to undermine his claim that he met Eppolito and Caracappa during the six-year period.

To deter the possibility of surveillance by law enforcement, Kaplan said he used the code name "Marko" when he called the two detectives and insisted that any telephone calls be made from pay phones. Meetings were held in a Staten Island cemetery, Kaplan explained, to make sure no one was spying on them.

Gangland Gambit On Witness Stand (NYDN)

By JOHN MARZULLI, DAILY NEWS STAFF WRITER

New York Daily News, March 21, 2006

As in Gotti's trial, lawyer's word key in 'mob cop' case

The star witness in the so-called Mafia cops trial will soon have his own corroborating witness - his former lawyer.

Federal prosecutors plan to call Judd Burstein, the ex-mouthpiece of Burton Kaplan, to the witness stand today, the Daily News has learned.

Burstein is expected to testify that Kaplan told him back in 1994 about his role as a middleman between former NYPD Detectives Louis Eppolito and Stephen Caracappa and gangster Anthony (Gaspipe) Casso.

Contacted last night, Burstein acknowledged to The News that he had volunteered to share what he knew with prosecutors.

To be used as a witness, Kaplan had to waive his attorney-client privilege - which he did.

"I thought it was my obligation as a citizen to come forward," Burstein said. "This is the right thing to do."

The surprise witness echoes a successful gambit this month in the racketeering trial of John A. (Junior) Gotti, whose defense team had lawyer Ron Kuby testify that Gotti told him in 1998 that he had left the mob because he was sick of that life.

Gotti's trial ended in a hung jury, the second mistrial for him in six months.

But in this case, it's the feds who are calling the lawyer to the stand.

Kaplan was asked on cross-examination yesterday about an affidavit he filed alleging the feds turned a blind eye to fabricated evidence - just to win the case and pressure Kaplan to cooperate against the reputed Mafia cops after Casso became unusable as a witness.

"Is that what you're doing now?" Eppolito lawyer Bruce Cutler asked Kaplan, who is serving a 27-year sentence.

"No," Kaplan answered, and stuck to his story that he decided to cooperate mainly because he thought Eppolito and Caracappa were going to turn against him first.

Kaplan acknowledged he's hoping for a sentence reduction.

"Mr. Cutler, I've been before judges before and I've never been very lucky," he said.

Kaplan, 72, a crafty career criminal who made millions in the garment business while also participating in criminal schemes - including murder - for the Luchese crime family, deftly handled cross-examination by Cutler and lawyer Edward Hayes, who represents Caracappa.

Brooklyn Federal Judge Jack Weinstein ended Cutler's cross-examination for the second time during the trial after Cutler asked a question in violation of a pretrial order about a lie-detector test administered to Kaplan.

Outside court, Cutler seemed unconcerned.

"Judge Weinstein knows better than I do when I'm finished," he said.

Hollywood Private Eye Wants To Act As Own Lawyer In Wiretap Case (AP)

By Greg Risling, ASSOCIATED PRESS

AP, March 21, 2006

LOS ANGELES – Imprisoned private investigator Anthony Pellicano said Monday he wants to act as his own lawyer in a case charging that he orchestrated an illegal wiretapping scheme targeting Hollywood celebrities and executives.

During a court hearing, Pellicano spoke at length for the first time since he was indicted last month. He said he wanted to know the results of the government's 3½-year investigation into his activities.

“I have a lot of questions to see what they have been doing all this time,” Pellicano told U.S. District Judge Dale S. Fischer. “I'm best suited to represent myself.”

Pellicano was shackled and wore a prison-issued green windbreaker and blue pants. He previously pleaded not guilty.

Prosecutors contend that Pellicano illegally wiretapped the phones of Hollywood stars such as Sylvester Stallone and bribed police officers to run the names of more than 60 people, including comedians Garry Shandling and Kevin Nealon, through government databases.

Pellicano allegedly sought damaging information on his clients' rivals. He then used the details for threats, blackmail and in some cases to secure an advantage in court for his clients, according to a 112-count indictment.

A total of 13 people have been charged in the case. Four have pleaded guilty to a variety of charges, including wire fraud and conspiracy.

Pellicano said he doesn't have any problems with his attorney, Steven Gruel. Outside court, Gruel said his client simply “wants to go to trial as soon as possible.”

Gruel will continue to be Pellicano's attorney until the judge decides whether the shamus is competent to represent himself.

Meanwhile, federal prosecutors provided the judge with snippets of their case scheduled to go to trial next month. The proceedings could be delayed.

Assistant U.S. Attorney Daniel Saunders said another indictment would be handed down in early April. He didn't say whether the indictment would name more defendants or only add allegations.

Saunders also said he had given some defense attorneys more than 2,000 pages of evidence as well as dozens of digital audio files as part of the discovery process.

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He also revealed the government has evidence of some 15,000 computer “runs” by former Los Angeles police Sgt. Mark Arneson, who has pleaded not guilty to charges related to using confidential police databases to search for information for Pellicano.

“They contain some kind of personal information,” Saunders said of the computer inquiries.

Prosecutors are seeking a protective order to prevent key evidence from becoming public before trial. Fischer didn't sign an order Monday but said there would be a protective order of some kind.

Saunders said three search warrant affidavits connected to raids on Pellicano's offices in 2002 would be unsealed later this week. FBI agents found illegal explosives and seized documents and computers during the searches, authorities said.

Pellicano served a 2½-year sentence on explosive-related charges and is awaiting trial in a separate case for allegedly hiring a man to threaten a former Los Angeles Times reporter working on a story about actor Steven Seagal and possible links to the Mafia.

Gruel filed a motion Monday revisiting the legality of the search warrants. Pellicano has maintained that his Fourth Amendment rights were violated because the search was allegedly a ruse to get into his office to look for other suspected wrongdoing. The 9th U.S. Circuit Court of Appeals ruled 2-1 in June that the search was legitimate and FBI agents acted in good faith.

“The Pellicano defense seeks discovery that will show that the FBI knew and expected to find a lot more than what they represented to or sought from the magistrate judge,” according to the motion.

Pellicano's Attorney Fights Basis Of Search (LAT)

By Greg Krikorian And Henry Weinstein, Times Staff Writers

The Los Angeles Times, March 21, 2006

Anthony Pellicano's attorney on Monday challenged the federal government's search of the indicted private eye's office, claiming that authorities misled the courts about their reasons for going after the investigator's records.

In obtaining a warrant to search Pellicano's Sunset Strip offices four years ago — a search which yielded tape recordings and thousands of pages of computerized records — FBI agents stated that they were investigating Pellicano's alleged links to a threat against Los Angeles Times reporter Anita Busch.

But Steven Gruel, Pellicano's attorney, said in a nine-page motion filed after a status conference in the widening probe that the government's story was a "subterfuge and ruse to get into Mr. Pellicano's office in order to search the premises for other suspected wrongdoing."

Gruel said the government's interest in Pellicano predated the threat against the reporter and may have originated in 2001 with the FBI investigating whether one of its agents had been overheard by Pellicano using an illegal wiretap placed on behalf of clients in an unrelated matter.

In the motion, Gruel also questioned whether the U.S. attorney's office and the FBI may have violated Pellicano's rights at a time when he was acting as his own attorney by seeking information from a former girlfriend after her visits to Pellicano in prison.

The accusations by Gruel, a former federal prosecutor from San Francisco, represent the most dramatic attack to date on the government's case, which so far has resulted in a dozen people being charged with hiring — or helping — Pellicano uncover embarrassing information on others.

Four people have pleaded guilty in the case. The others, including Pellicano, have denied wrongdoing.

"If we can suppress the initial search for evidence, then the whole apple cart gets turned over," Gruel said in an interview after filing his motion. "It could have a domino effect on the entire case."

Describing Gruel's motion as "the initial shot across the bow," Loyola Law professor Laurie Levenson said it suggests the attorney "will play hard ball, that he will show the court and the world that this was a dirty prosecution."

However, Levenson said the search of Pellicano's offices had already been upheld on a 2-1 vote of the U.S. 9th Circuit Court of Appeal after a challenge on different legal grounds by Pellicano's previous attorneys.

In his motion, Gruel said FBI Agent Stan Ornellas stated in a search warrant affidavit that authorities wanted to seize Pellicano's office computers, suggesting a far broader investigation than the threat against Busch.

Gruel noted that long before the search of Pellicano's offices, the FBI had become aware of allegations that one of its own agents had illegally wiretapped while investigating a dispute over control of a $40-million Internet business. Two brothers involved in that dispute have now been charged with benefiting from Pellicano's use of illegal wiretaps.

In questioning the role Pellicano's former girlfriend played in the case, Gruel said it may have been improper for a "cooperating" government witness to be visiting Pellicano in prison at a time when he was representing himself.

Sandra Wil Carradine, the former girlfriend, pleaded guilty last year to hiring Pellicano during a dispute with her ex-husband and has agreed to cooperate with the government's investigation.

Her attorney, Peter Knecht, disputed that Carradine had ever been asked by the government to visit Pellicano in prison for the purpose of obtaining information.

"The government is not stupid," he said. "They were always aware there could be misconduct allegations … so they made it very clear to her that if she wished to visit [Pellicano] in prison, it was on her own terms and they were not interested in anything that pertained to his case and how it would be defended."

Federal prosecutors declined to comment Monday on Gruel's claims, saying instead that they would present their responses in writing to the court.

Gruel filed his motion after a hearing in which Pellicano told U.S. District Judge Dale S. Fischer that he wanted to represent himself in the case to rapidly move it to trial.

"I don't want to disrupt the court … but it has been almost four years now," Pellicano said, referring to the time he spent imprisoned, first on an explosives conviction and now on wiretap and racketeering charges. "What have [authorities] been doing all this time?"

But Pellicano backed away from his request after the judge made it clear the trial was not going to start anytime soon because prosecutors and defense attorneys need additional time to review the evidence amassed to date. Fischer also said she would not accept a proposal allowing Gruel to sign legal papers on behalf of Pellicano if Pellicano serves as his own attorney.

Federal prosecutors Dan Saunders and Kevin Lally told the packed courtroom that they already have turned over 2,000 pages of documents and 25 hours of audio files to defense attorneys in the case. At the same time, they said they have plenty of confidential information to pore over before it could be shared with defense attorneys or their clients, most of whom are accused of illegally accessing police records or conspiring to wiretap others.

With eight defendants awaiting trial, Saunders has said he expected to file another indictment before the middle of next month.

During the hearing, government prosecutors and defense attorneys spent considerable time discussing a proposed protective order that would cover the dissemination of confidential information, including phone numbers, addresses and Social Security numbers.

Fischer put off a decision on the order as both sides hammer out its wording.

Witness Describes Deal With Officers (BSUN)

By Matthew Dolan, Sun Reporter

The Baltimore Sun, March 21, 2006

Addict-turned-informant testifies he resold drugs confiscated by police

Almost daily on cell phones and regularly in person at Pete's Place Bar & Lounge on North Franklintown Road, an odd couple commiserated. The police officer sometimes joked about his love life; the informant lamented about his heroin addiction and a daughter who was running into trouble with the law in New York.

But in hours of secretly recorded conversations by federal agents, prosecutors say, one topic of conversation dominated the relationship between Detective William A. King and his informant, Antonio Mosby: selling illegal drugs for mutual profit.

A federal jury heard more than a dozen recorded phone calls Monday that prosecutors say show how King and his partner, Detective Antonio L. Murray, shook down drug dealers pointed out by Mosby at open-air drug markets across Baltimore.

Monday's testimony from Mosby, who struck a deal with prosecutors in hopes of a lighter prison sentence, marked the fourth day in the police corruption trial. The proceeding is the culmination of the FBI's seven-month wiretap probe into misconduct in the Baltimore Police Department that ended with the May 2005 arrests of King and Murray.

In a 33-count indictment in U.S. District Court, they are accused of conspiring to rob and extort cocaine, heroin and marijuana -- as well as drug-related proceeds -- from suspects they pursued.

Now imprisoned, Mosby, 40, spent most of Monday morning on the witness stand explaining how he bought and sold heroin in West Baltimore for some 25 years before his arrest last year by federal agents.

He told jurors he first met King and Murray in the spring of 2003 when Mosby was arrested with five gel capsules of heroin.

"They were pretty much asking me what could I help them with," Mosby said.

Mosby was not charged and instead registered as a confidential informant, making him eligible for payments from the Police Department. Hanging over his head, Mosby said, was the possibility that King and Murray would charge him with drug possession if he didn't cooperate.

"They had the pills," he explained Monday. "So I felt obligated" to call the officers with tips about drug activity.

At first, Mosby said, he thought he would just be providing lawful information to King and Murray. Soon, he said, "I became aware."

His awareness was of the illegal drug business set up by King and Murray, according to prosecutors. Mosby provided information about which "hitters" were carrying drugs; King and Murray would "catch and release" the dealers, stripping them of their money and drugs. Then, according to prosecutors and trial testimony, the officers would illegally sell the drugs to Mosby at a discount. He in turn, he said, resold the drugs back out on the streets.

They called it "grinding," Mosby told the jury.

Among the targets, Mosby said, were "old heads," or older drug dealers and users. King told Mosby that the officers didn't want information about juveniles, who would require a lengthy arrest booking process, or young people who would be apt to run from the detectives and require a chase.

Attorneys for King and Murray centered their questioning Monday on whether the officers had attempted to use Mosby and other informants to crack large-scale drug dealers.

Under cross-examination, Mosby told King's attorney Edward Smith Jr. that he was a longtime heroin addict who needed five hits of the drug a day to keep from being "sick." He sold the drug to family and friends, delivering heroin to their workplaces at lunchtime.

"You didn't see anything wrong with that? You felt you were doing them a service?" Smith asked Mosby.

"In a sense, yes," Mosby said.

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Eight More Charged With Bilking Red Cross Hurricane Funds (SFC)

San Francisco Chronicle, March 21, 2006

(03-20) 10:43 PST Fresno, Calif. (AP) --

The number of Bakersfield-area people indicted in a scheme that bilked thousands of dollars from an American Red Cross fund designated for Hurricane Katrina victims has risen to 61, federal authorities said.

Eight people were indicted last week in federal court in Fresno on charges of wire fraud and filing fake claims to the Federal Emergency Management Agency.

During the aftermath of Katrina, the Red Cross rushed to set up call centers across the country that provided qualifying victims with a personal identification number they then presented to receive aid funds from Western Union, prosecutor Stanley A. Boone said.

The Bakersfield center was the largest center and handled calls from across the country. The Red Cross contacted the FBI after it performed an audit and discovered an unusually high number of claims were being paid out at Western Union outlets in the Bakersfield area, even though not many evacuees had moved there.

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Those recently charged were Ronika Danyell Spears, 21; Cherri Lynn Brown, 29; Ulysses Jack Perkins, 23; Kathy Ann Hollis, 38; Richard Eugene Raymond, 35; Phillip Anthony Wyatt, 31; Atiffa Guadalupe Dunbar, 26; and Cheryl L. Tateveasay, 53.

Since the Justice Department began its investigations, 25 people charged from the Bakersfield center have pleaded guilty to felony charges.

Across the country, others have returned money, according to a Justice Department report released last month. FEMA and the Red Cross reported receiving more than $8 million in returned funds, along with confession letters and requests for payment plans to pay back the money, the report said.

The fraud charges carry a maximum 20 years in prison and a $250,000 fine. The false claims to FEMA carry a maximum sentence of five years and $250,000 fine.

61 People Indicted In Hurricane Scheme (LAT)

The Los Angeles Times, March 21, 2006

The number of Bakersfield-area people indicted in a scheme that bilked thousands of dollars from an American Red Cross fund designated for Hurricane Katrina victims has risen to 61, federal authorities said.

After Hurricane Katrina, the Red Cross rushed to set up call centers to provide victims with an identification number to receive aid funds.

The Bakersfield center was the largest.

The Red Cross contacted the FBI after it discovered an unusually high number of claims were being paid out at Western Union outlets in the Bakersfield area.

City Hall Hiring On FBI's Radar In '97 (CHIT)

By Michael Higgins And Todd Lighty, Tribune Staff Reporters

Chicago Tribune, March 21, 2006

Court hearing reveals interest in hirings

As far back as 1997, federal authorities were investigating the hiring practices in Mayor Richard Daley's administration—obtaining backup tapes from the city's mainframe computer system and questioning a top Daley aide about how some people got their city jobs.

The disclosures of the government's earlier interest in City Hall hiring came Monday during a routine court hearing for Daley's former patronage chief Robert Sorich, who is under indictment along with three others.

Sorich and his co-defendants were charged in September with rigging city hiring in order to reward the mayor's political allies with government jobs.

Sorich's lawyer, Thomas Anthony Durkin, said FBI agents had interviewed his client in August 1997 as part of the earlier City Hall corruption investigation known as Operation Silver Shovel. Durkin said in court that at the time agents specifically asked Sorich about hiring practices.

Silver Shovel, a 1990s federal investigation that focused on payoffs for illegal dumping, ultimately led to the convictions of six aldermen and 12 others, but Sorich was never accused of any wrongdoing in that probe.

Federal authorities also have computer tapes they obtained as part of the Silver Shovel investigation, Durkin said. He believes the old computer records may contain the same information that the government seized from Sorich's portable laptop computer only last year—a 1997 list of people that Daley's office had recommended for city jobs.

"We consider that ... to be extremely exculpatory," Durkin said. "Something they considered to be a smoking gun in 2005 was in their possession in 1997."

Prosecutors acknowledged Monday that they have 15 backup computer tapes from the city's mainframe computer, but they did not say whether anyone from the government had ever been able to access the information or even looked at it.

"It seems to me either it can be opened or can't be opened," Durkin said. "The question is can you open it and if so, what's on it?"

Assistant U.S. Attorneys Patrick Collins and Barry Miller did not concede that information in the 1997 records would be helpful to the defense. They said they were trying to obtain software needed to read the records.

Miller suggested that as far as prosecutors know, the 1997 records are not the same as those being used in the case against Sorich. He also said the government does not believe information contained on Sorich's personal laptop would be on the mainframe computer tapes.

Jodi Kawada, speaking for the city's Law Department, said reading the tapes requires a program that is no longer in use.

"In 1997, in response to a federal grand jury subpoena, we turned over a computer to the U.S. attorney's office," Kawada said. "We understand that this computer is now relevant to an ongoing criminal investigation by the U.S. attorney's office. For that reason, it would not be appropriate for us to comment on the content of the computer."

The Sorich case currently is scheduled for trial in early May before U.S. District Judge David Coar. But both defense lawyers and prosecutors said that the trial could be postponed, in part, depending on how soon authorities are able to read the tapes.

The hiring scandal broke with a midnight raid on April 30 when federal agents searched the mayor's Office of Intergovernmental Affairs on the fourth floor of City Hall. Authorities say IGA was at the center of a "massive fraud" that spanned 12 years and involved hiring in some of the biggest City Hall departments, including Water Management, Streets and Sanitation and Transportation.

Along with Sorich, a grand jury indicted Timothy McCarthy, who worked in IGA under Sorich, and former Streets and Sanitation officials John Sullivan and Patrick Slattery.

All four were accused of mail fraud. Sullivan also was charged with lying to federal agents investigating the allegations.

A fifth defendant, former Streets and Sanitation official Daniel Katalinic, pleaded guilty and is cooperating with the ongoing investigation. He secretly recorded conversations with Sorich and has admitted leading a pro-Daley political group whose members were rewarded with city jobs and promotions.

Sorich, McCarthy and Slattery are from Daley's native Bridgeport neighborhood and have ties to the Daley family's 11th Ward Democratic Organization.

The indictment also described the involvement of a "co-schemer" in the hiring fraud, identified as former top Daley aide Victor Reyes. Reyes, who has not been charged and denies wrongdoing, directed IGA for five years and is the leader of the Hispanic Democratic Organization, the largest pro-Daley patronage army.

Tribune staff reporter Dan Mihalopoulos contributed to this report.

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I Must Rebut Campbell Lawyers An Army Of Feds Spent Millions On Probe? Not True (AJC)

The Atlanta Journal-Constitution, March 21, 2006

Last week The Atlanta Journal-Constitution published an opinion piece by Michael Coleman, Bill Campbell's attorney and a defense witness in the trial that ended with Campbell's conviction for three felony tax crimes ("End effort to tar, feather Campbell," @issue, March 16).

Like his client, Coleman claims that the government's investigation targeted Campbell, lasted for eight years and cost "millions of dollars in resources and manpower." That is not true.

Following Justice Department policy and court rules, we said little publicly until the Campbell trial was over. But now we may speak more freely and set the record straight.

In truth, the investigation began almost six years after Campbell took office, in late 1999, when we first received multiple, specific allegations of corruption throughout City Hall. Less than five years later, in August 2004, Campbell was indicted. During those five years, we charged and convicted 11 other city officials and contractors, including the chief operating officer, deputy COO and chief administrative officer. Campbell's trial was repeatedly delayed by his motions and other requests.

While Campbell was mayor, we encountered remarkable resistance from the city attorney's office on requests for city documents and interviews with city employees. At one point, the City Council had to pass a resolution directing the city attorney to stop interceding in interviews. The city was the victim of any corruption, and this interference by its lawyers was unprecedented in our long experience in public corruption cases throughout Georgia. It stopped as soon as Mayor Shirley Franklin took office.

Even considering the delays caused by this resistance, our investigation did not involve millions of dollars or a government "army," [the term used by Campbell's lead defense attorney Billy Martin during closing arguments]. In fact, the financial and tax investigation that was key to convicting Campbell and other officials and contractors was conducted almost entirely by one IRS agent, who also worked on unrelated cases.

The "army" from the FBI and U.S. attorney's office consisted of one or two agents and two prosecutors who focused on the overall City Hall investigation. It increased to three prosecutors shortly before Campbell's indictment and to five agents only in the months just before and during his trial. Those prosecutors were also handling other major cases, including the Eric Rudolph bombing case and the Fulton County and Linda Schrenko corruption cases.

This was no "army" wasting taxpayer money. It was a small but talented group of public servants dedicated to finding the truth and bringing lawbreakers to justice. But in essence the mayor's lawyer's argument is that, if someone concocts a criminal scheme that is complicated and difficult to uncover, and obstructs and delays efforts to do so, we should ignore the crimes rather than invest the time and resources needed to bring them to court.

Our goal in this case, and all our cases, is to follow the evidence wherever it leads, and if we uncover substantial evidence of crimes (as we did with Campbell), to present it in court to a jury representing the community. We respect the jury's verdict in the Campbell case, which we expect will soon lead to Campbell's being sent to prison.

I agree with Coleman on two points: Some good things did happen in Atlanta during Campbell's administration, and it is now time to move forward. I can only hope that the exposure of corruption and crime by Campbell and his cronies, and the penalties that they pay, will deter future public officials from undermining the trust of Atlanta residents and the reputation of this great city.

So Hard To Say, 'It's Time To Resign' (PHI)

By Michael Currie Schaffer And John Shiffman

The Philadelphia Inquirer, March 21, 2006

Many members of City Council hope Rick Mariano will resign following his federal corruption conviction last week. It's just that they don't want to call on him to step down.

The legislators' semantic two-step came as city solicitor Romulo L. Diaz Jr. issued an opinion confirming that the state ban on felons in elected office won't kick in until Mariano's sentencing, which Judge Lawrence F. Stengel yesterday set for July 6.

Convicted on Friday of 18 counts of fraud, bribery, and money-laundering, Mariano remained in detention yesterday. Stengel cited the suicide scare that followed Mariano's trip to the top of City Hall tower last fall when he ordered the councilman's bail revoked pending a psychiatric exam.

That exam has been scheduled for tomorrow, said Mariano's attorney, Nino V. Tinari.

Tinari said he visited his client at the Federal Detention Center yesterday. He said Mariano had been placed in a cell by himself but was not in a psychiatric ward. Mariano has not yet been allowed to see his wife or sons.

"Rick is doing extremely well," Tinari said after the two-hour visit. "He had the usual concerns: How's the family? How's the office?"

A spokeswoman for the federal Bureau of Prisons, Carla Wilson, said she could not comment on an individual case. But speaking generally, she said new inmates are unlikely to be permitted visitors other than lawyers until they complete the intake process, which can last several days.

Even with Mariano incommunicado, there has been considerable debate over his short-term future.

Minutes after the verdict Friday, Mayor Street issued a statement calling on Mariano to quit.

"We politely but firmly disagree," replied Mariano's chief of staff, Jay McCalla. He said the councilman would continue to attend meetings, propose legislation - and draw his $102,000 annual salary - as long as permitted by law.

Also citing the law, Council President Anna C. Verna said she would not push Mariano one way or the other although, she said, she doubted he would appear in Council even if he was let out on bail.

"It's his decision," she said. "That's the law."

In interviews yesterday, most of her colleagues seemed to agree.

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"I think he should step down, but he's got the right under law to stay on under sentencing," said Councilman Juan Ramos.

"I'm not calling on him. I'm not doing what Mayor Street did," said Councilman James F. Kenney. "If he asked my opinion, I think the best thing for him and everybody is to leave."

"He can stay on and there's nothing we can do," said Councilman Jack Kelly. "But for his own interest, for his family and this Council, it would be better for him to step down. I'm not calling on him to do it. It's just my advice."

Of 14 members interviewed, only one - Councilman Michael Nutter - said he would definitely vote for a resolution asking Mariano to quit. Such a resolution, which would not be binding, has not been introduced.

"Out of respect for City Council as an institution, Councilman Mariano should resign from City Council, given all that has happened," Nutter said. "The citizens of Philadelphia deserve that action from him."

Asked about a resolution, Nutter said: "I would hope that we would not have to go to that point, but if there were a resolution offered, then, yes, I would vote for it."

Several members said they specifically would not ask Mariano to quit, either formally or informally.

"I'll call on him to follow the law," said Donna Reed Miller. Asked if she would feel uncomfortable making laws alongside a felon until Mariano's legally mandated July 6 departure, Miller said: "I work with ex-offenders all the time."

When Mariano does depart Council, it will be put to Verna to decide whether to call a special election or allow the seat to remain vacant until the next general election in 2007.

Citing due-process issues and his desire not to see Council's membership fall to 15, Councilman W. Wilson Goode Jr. said he would "have no problem if Councilman Mariano continues to serve until his sentence."

"I have known Rick Mariano as a colleague for over six years," Goode said. "My opinion of him hasn't changed because of the verdict."

And just what is that opinion?

"No comment," Goode said.

Council Poll: Rick Can Work (PHI)

By Chris Brennan & Mark Mcdonald

The Philadelphia Inquirer, March 21, 2006

CITY COUNCILMAN Rick Mariano, convicted Friday on corruption charges, is going to lose his job.

But should he step down before he is forced from office?

A wide majority of his colleagues said "no" yesterday when asked about Mariano's plan to keep attending Council hearings and sessions right up to the end.

Only four Council members - Donna Reed Miller, Michael Nutter, Juan Ramos and Jack Kelly - echoed Mayor Street's call from last week for Mariano to resign immediately.

The rest are content to let state law take its course.

Mariano's post will automatically become vacant and his pay will end when he is sentenced in federal court. That has not been set and could be months away.

For now, the question of Mariano's showing up in City Hall is theoretical, since he is locked up in the Federal Detention Center.

U.S. District Judge Lawrence Stengel revoked Mariano's bail, citing a concern that he might be a danger to himself or others after he was convicted on 18 counts of conspiracy, honest-services fraud, money laundering, bribery and filing a false tax return.

A psychiatric evaluation has been scheduled for tomorrow, and Stengel will hold a hearing to consider its results and Mariano's bail sometime after that.

A poll of Council members by the Daily News found no support for a resolution to call on Mariano to step down now. A resolution would not have the power to force that action if approved.

Council President Anna Verna isn't worried about Mariano's showing up in Council.

"I doubt that he'd come," she said. "I really do. He may go up to his office, but I doubt that he'd come to Council."

But Mariano's chief of staff, Jay McCalla, said that is exactly what the councilman plans to do.

"It is his intention to stay until sentencing, and it is his intention to attend Council sessions," said McCalla, who was glad to hear there was no support for an official call for Mariano to step down. "Coming into a room that's not against him will be helpful."

Councilman Brian O'Neill, the minority leader, said he would offer an opinion if Mariano asked if he should step down. O'Neill doesn't expect that to happen and says any attempt at a resolution would be "grandstanding."

"He's made it pretty clear that he wants to stay on Council's payroll until the end," O'Neill said.

Councilman Frank DiCicco said Council should set a policy to stop paying members when they have been convicted of crimes.

Having a convicted felon in Council is "basically a slap in the face to the citizens of Philadelphia," DiCicco said.

Councilman Jim Kenney said Mariano should step down from committee assignments but he doesn't mind if Mariano continues to collect a city paycheck for now.

"His office should function, and it's a couple of months and he'll be gone," Kenney said. "He's lost everything. He's lost his income and pension and his political infrastructure and his former friends. I can't see where piling on can be helpful to anyone."

The Council members who called on Mariano to step down did so in soft, caring tones.

"I think Rick will make the right decision," Miller said. "I think he's a big man, and he knows... to do the right thing."

Nutter and Ramos also spoke of Mariano doing the right thing.

"This is about the institution," Nutter said. "It's not about any one person. It's an unfortunate situation for him and his family, but Council is bigger than all of us."

Ramos worries that Mariano will face "more and more controversy" by keeping his job.

"For the good of the city and the good of the district, he should make a decision very soon, and that is do the right thing and step down and save his family aggravation," Ramos said. "I am very saddened by it, but nevertheless we need to move on."

Kelly agreed that "it's in the best interests" of Mariano and his family, Council and his district for him to step down now. "However, that's going to be his decision and his decision alone."

Councilwoman Blondell Reynolds Brown and other members cited an opinion from the city solicitor that Mariano can hold his office until sentenced.

"Rick should let his conscience be his guide," Brown added.

Only Councilman Frank Rizzo said he had not decided if Mariano should step down.

Council members Jannie Blackwell, Marian Tasco, Darrell Clarke and W. Wilson Goode Jr. said they had no problem with Mariano keeping his job and coming to work until he is sentenced.

"We know he's a man of no means and I think we can wait that long, 30 to 90 days, and let the process take its course," Blackwell said. "If the law allows him to come and participate, then who are we?"

Why Mariano Pal Changed His Plea (PHI)

By Michael Hinkelman

The Philadelphia Inquirer, March 21, 2006

A new federal-court filing yesterday offered a broad clue as to why a key figure in the Rick Mariano bribery-and-corruption case abruptly agreed to change his plea to guilty in late February.

On Feb. 28 - the day after businessman Reinaldo Pastrana had his surprising change of heart - FBI and IRS agents raided the office of Pastrana's accountant and seized copies of false tax returns filed on behalf of Pastrana; his mother, Ada, and sister Debbie.

Pastrana is one of five businessmen indicted last October in connection with bribing Mariano, who was convicted by a jury Friday of federal corruption charges. Pastrana initially pleaded not guilty.

Now in state prison for violating parole in connection with a state tax conviction, Pastrana has agreed to enter a guilty plea on Thursday to three counts of bribery.

As part of the plea deal, he also has agreed to sell property he owns on North American Street and to fork over at least $250,000 of the proceeds to the IRS before sentencing, the court filing yesterday by federal prosecutors said.

The feds say the payment will resolve outstanding tax issues related to false tax returns filed for the Pastranas in tax years 2001 through 2004.

Pastrana likely faces a sentence of 30 to 37 months under sentencing guidelines. He also must pay whatever fine is meted out by U.S. District Judge Lawrence F. Stengel when he is sentenced.

Pastrana, 46, is the third businessman to plead guilty in the Mariano corruption case. Two others - Philip and Louis Chartock - have pleaded not guilty and are scheduled to stand trial April 24.

Federal prosecutors alleged that Pastrana, a developer and friend of Mariano's, paid $5,400 for three years of Mariano's membership dues at the swanky Sporting Club at the Bellevue in exchange for Mariano's help with acquiring some city property in 2002.

Pastrana sought Mariano's help to buy the property on North American Street near West Somerset, which he wanted to develop as a shopping center.

The property had been appraised at $400,000, and Pastrana wanted Mariano's help to convince the city to sell the land to his company for $100,000.

Mariano subsequently sponsored - and voted for - a bill to facilitate the transaction.

Mayor Street signed the bill into law Dec. 3, 2002. Just 16 days later, the feds said, Pastrana paid Mariano's annual Sporting Club membership fee of $1,812.60.

Pastrana paid two more years of Mariano's Sporting Club dues in January 2004 and December 2004.

The sale of the property to Pastrana's company was finalized last March 30.

Eight Former Southwest Employees Charged In Ticket Scheme (SAEN)

By Guillermo Contreras, Express-News Staff Writer

San Antonio Express-News, March 21, 2006

Eight former Southwest Airlines employees have been charged with wire fraud over allegations they stole more than $1 million from the Dallas-based carrier by using used tickets to issue new ones and pocketing some of the proceeds.

Seven of the suspects were in federal custody on Monday. The eighth remained at large.

The scheme lasted from March 2000 through January 2003, and involved "hundreds to thousands" of tickets, according to a 25-count federal indictment and the FBI.

Southwest spokeswoman Brandy King said Southwest has since tightened its controls on the tickets utilized in the scheme. She said no customers were stranded as a result of it.

"This was an instance that took place three years ago," King said. "The employees have not been employees here for a while..... We began that investigation in the fall of 2002, and since that time we've completely revamped our procedures and controls on exchanges."

Special agent Andrea Simmons, a spokeswoman for the FBI in El Paso, said the probe took a while to come to fruition because the case involved "hundreds to thousands of tickets" that needed to be compared.

The fraud scheme involved intercepting used tickets as they flowed through the airline's internal processing, then using the tickets to issue new ones to customers who wished to purchase paper tickets at the counter, the indictment said.

The suspects pocketed a cut from the sales - generally the value of the used, intercepted ticket -- up to almost $230 per transaction, the indictment said.

"They were documenting them as exchanges instead of purchases," King said of the former employees.

Charged with wire-fraud conspiracy are Richard De La Paz Jr., Michelle Christine Torres, Oscar Enrique Ortiz, Melissa Renee Lampton, Denise Nuñez and Barbara Ann Wilson. They were also charged with wire fraud, as were Salena De La Torre and Guillermo Enriquez, the indictment shows. The FBI was still looking for Lampton on Monday.

King pointed out that the case is not related to an investigation in San Antonio of another former employee, Althea Jackson, who is a target of an investigation alleging thousands of "goodwill" tickets were taken from the airline.

"They're different kinds of tickets," King said.

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In that case, Jackson is married to former court bailiff James Jackson, who resigned from the Bexar County Sheriff's Office amid the probe. The Jacksons' lawyer has confirmed they are under investigation.

An identitfy-theft task force led by the Secret Service is looking at more than 4,000 tickets, many of which were sold or given to judges, prosecutors, lawyers, current and former bailiffs and other public officials at the Bexar County courthouse. No one has been charged. gcontreras@express-news.net

Ex-Southwest Employees Charged In Scam (AP)

THE ASSOCIATED PRESS

AP, March 21, 2006

EL PASO, Texas -- Eight former employees of Southwest Airlines Co. have been charged with wire fraud after allegedly stealing more than $1 million from the company in a scheme involving used tickets.

The workers would issue already-used tickets to customers who paid cash, giving the traveler a ticket that should have been voided in Southwest's systems, according to a federal grand jury indictment, returned last week.

Investigators said the Southwest workers, employed at El Paso International Airport, collected cash on transactions from March 2000 through January 2003.

Brandy King, a spokeswoman for Dallas-based Southwest, said no passengers were stuck with worthless tickets from the scheme. She said the agents recorded cash ticket purchases as exchanges and pocketed the money. Southwest had since changed its controls to prevent similar abuse.

The workers were dismissed in March 2003, King said.

The Associated Press was unable to reach the former workers, and court records did not list attorneys for them.

Six of the defendants also face conspiracy charges. If convicted, all face at least five years in federal prison and a fine of up to $250,000 for each count.

The case took years to reach a grand jury because "hundreds to thousands of tickets" had to be compared to detect the fraud, an FBI spokeswoman in El Paso, Andrea Simmons, told the San Antonio Express-News for a story Monday.

Prison Term For Developer Who Defrauded Investors (SFC)

By Henry K. Lee, Chronicle Staff Writer

San Francisco Chronicle, March 18, 2006

S.F. man ordered to pay $17.4 million in restitution as well

A San Francisco real estate developer will spend eight years in prison and pay more than $17 million in restitution and fines for defrauding more than 700 investors, a judge has ruled.

U.S. District Judge William Alsup sentenced John A. Hickey, 49, on Thursday to 97 months in prison and ordered him to pay a $15,000 fine and $17.4 million in restitution. The judge told Hickey to begin serving his sentence July 7.

Hickey was convicted by a federal jury in November on two counts of securities fraud and eight counts of mail fraud after a three-week trial in U.S. District Court in San Francisco.

Hickey declined to discuss the case Friday. His attorney, David Cohen of San Francisco, said the conviction was "unwarranted" and that his client will "vigorously pursue his appeal."

Federal prosecutors said Hickey raised about $20 million from 724 investors through his company, Continental Capital Financial Group, by offering shares in two limited partnerships. The partnerships were created to develop real estate in Napa and Sonoma, among other locations.

Hickey lied about his net worth, the properties that would be developed by the partnerships and the use of the funds raised from the investors. In September 1994, a court-appointed receiver took over Continental Capital and the limited partnerships.

The investors lost most of their money. "As a result, many of the investors have suffered significant non-monetary harms, such as anger, anxiety, fear, guilt, grief, nightmares, depression, sleeplessness and mistrust of others," Assistant U.S. Attorney Christopher Steskal wrote in court papers. Steskal had urged the judge to sentence Hickey to more than 12 years in prison because of "multiple lies."

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"The defendant lied to everyone involved in the investments, including the accountant, the lawyers, the appraiser, the sale representatives, the broker/dealers and (finally) the investors," Steskal wrote, adding that Hickey had many chances to tell the truth, "but at every turn, he chose to lie. And he lied for the most crass of reasons: greed."

"Over 700 investors, a number of them retirees, were defrauded by this scheme," Kevin Ryan, U.S. attorney in San Francisco, said in a statement. "Significant sentences send a strong message to those who would consider committing securities fraud."

A federal grand jury in San Francisco indicted Hickey and his business partner, Mamie Tang, in 1997. Tang is serving a five-year sentence imposed in March 2003 after she pleaded guilty to mail fraud in the same scheme.

Tang failed to tell potential investors that some of the properties she claimed to own had already been lost in foreclosure, authorities said.

The Securities and Exchange Commission filed a civil suit against both Hickey and Tang in 1994 for violations of federal security laws. The SEC ordered him to pay $1.3 million, but he failed to make payments, court records show. He ultimately paid the money in full.

St. Mary's Co. Man Sentenced In Child Porn Case (BSUN)

By A Sun Reporter

The Baltimore Sun, March 21, 2006

33-year-old gets 6-year prison term, must register as sex offender

A 33-year-old St. Mary's County man was sentenced today in federal court to six years in prison for transmitting child pornography files over the Internet, the U.S. attorney's office said.

Joshua M. Marsh of Great Mills was also ordered to register as a sex offender and forfeit the computer equipment that authorities seized at his home. He will also be forbidden from accessing the Internet during his three years of supervised release after his prison sentence.

Marsh pleaded guilty to the charges Oct. 31. According to a statement of facts at the plea, Marsh admitted to allowing users to download child pornography from his personal computer, as well as to facilitating the transmission of pornographic files between users.

When the FBI conducted a search warrant in 2004, they found more than 1,000 files of child pornography on Marsh's computer.

DOD Official Had Child Porn On Computer (UPI)

United Press International, March 21, 2006

WASHINGTON, March 20 (UPI) -- A senior Defense Department employee managing the Pentagon's transition to a new Internet system was arrested for child pornography, DOD announced last week.

Charles Lamont Lynch, 44, of Clifton, Virginia, was operating a peer-to-peer file sharing program on his comuter at the Defense Information Systems Agency, according to the United States Attorney for the Eastern District of Virginia.

FBI Agents on March 8 seized a computer and more than 1,000 CD-Rom disks during a search of Lynch's office. Child pornography was found in computer file folders titled "Young," according to the Justice Department.

Lynch is now on leave without pay while his case is pending in court. If convicted, he could spend up to 10 years in jail.

Lynch was the chief of the Internet Protocol Version 6 (Ipv6) Transition Office. He was managing the Defense Department's transition to the new Internet address system, which will dramatically expand the number of IP addresses available globally.

The current 32-bit Ipv4 address system allows for only 4.3 billion discreet Internet addresses worldwide. As the population grows and as populous Asian countries move more into the online world, more addresses are needed. Expanding that address line to 128 bits dramatically increases the number of available Internet addresses to 3.4 X 10 to the 38th power. China, India and Japan are investing heavily in Ipv6 technology.

IP addresses are the digits that correspond to e-mail address or web site names, which are simply a human-friendly mnemonic device for the multi-digit numerical addresses.

The relatively limited number of IP addresses under the current Ipv4 means many large organizations -- particularly governments -- use single network addresses for all their traffic, and then routes them to sub-addresses within the organization, a process that can slow the delivery of e-mail messages or the speed of connection.

During the multi-year transition, DISA and other organizations will have to ensure that computers running with Ipv6 addresses can communicate with computers running Ipv4 addresses.

Ex-East St. Louis Police Chief Sentenced (AP)

By JIM SUHR, Associated Press Writer

AP, March 21, 2006

EAST ST. LOUIS, Ill. (AP) - The city's former police chief was sentenced Monday to more than two years in federal prison for attempting to shield a politically connected businessman from a criminal probe.

Ronald Matthews, 56, had faced up to five years behind bars for conspiracy to obstruct justice, attempted obstruction of justice and perjury before a grand jury. He was convicted Dec. 21.

Matthews professed his innocence and said he would appeal. But he also told the judge he preferred to begin his prison term immediately.

``I'd rather just go ahead and be done with it," he said. Federal marshals obliged and led him away.

The case stems from a traffic stop during which Ayoub ``Dave" Qattoum, an auxiliary policeman and businessman, was found with a .38-caliber handgun. Under federal law, Qattoum was not entitled to have a gun as a convicted felon.

Prosecutors described Qattoum as well-connected, quick to give loans or kickbacks to local elected officials to curry favor as the owner of a convenience store.

Authorities accused Matthews of commandeering the local investigation of Qattoum's arrest after the Jordanian national expressed fear that U.S. immigration officials had learned of his legal troubles and might deport him.

Prosecutors also alleged Matthews refused to submit the case to local prosecutors for review, and hid from grand jurors and immigration officials the gun seized from Qattoum, falsely claiming the weapon was lost or stolen. Matthews resigned after being indicted in 2005.

Qattoum, 41, was sentenced in August to more than a year in prison. He faces deportation after serving his sentence.

Former Police Chief Sentenced For Obstruction (BVND)

By George Pawlaczyk

The Belleville News Democrat, March 21, 2006

Former East St. Louis Police Chief Ron Matthews was sentenced Monday to 33 months in prison by a federal judge, who said his "exemplary" record deserved leniency.

U.S. District Judge G. Patrick Murphy said he would "bet my children's trust fund" that Matthews would never again commit another crime.

Matthews was sentenced on his three convictions for obstruction of justice regarding a scheme to dispose of an illegal pistol once possessed by an auxiliary police officer who was a convicted felon. Matthews denied his guilt and blamed others for getting him ensnared in the scheme.

Although Murphy offered him the opportunity to remain free until being ordered to report to prison, Matthews opted to be taken immediately into custody.

Two federal marshals asked him to remove any personal items, including a driver's license and a comb, which he gave to family members, and then he was escorted into a backroom.

Illegal Alien Pleads Guilty To Hit Man Plot (WT)

By Gary Emerling

The Washington Times, March 21, 2006

An illegal alien from Guatemala pleaded guilty in federal court yesterday to charges that he tried to arrange the killing of a D.C. jail inmate last year.

DOJ_NMG_0019714

Victor Moscoso Espana, 20, of Hyattsville, admitted in D.C. District Court that he attempted to have inmate Alvaro Garcia-Hernandez -- a fellow Guatemalan in jail on drug charges -- killed for $15,000, which would have been paid in monthly installments.

According to court documents, Moscoso tried to arrange the hit because he "did not like" Garcia-Hernandez and wanted to "take over" his drug sources and "make money."

Agents with the federal Immigration and Customs Enforcement (ICE) began investigating Moscoso in September after receiving information about a conspiracy to import cocaine and heroin from Guatemala through various U.S. entry points, including Washington Dulles International Airport.

Court documents show that the hit man plot began when Moscoso arranged to meet another person -- who was cooperating with investigating agents -- at a Hess gasoline station in the 1900 block of New Jersey Avenue Northwest in October.

The two discussed having Garcia-Hernandez killed, and Moscoso gave the witness visiting days for Garcia-Hernandez, as well as his jail identification number.

When the two met in Hyattsville Oct. 18, Moscoso agreed to pay the $15,000 in installments.

When the two met again three days later, agents recorded their discussion and Moscoso gave the witness a down payment of $100 for the killing. Moscoso was arrested the next day.

Moscoso faces up to 10 years in prison and a $250,000 fine when he is scheduled to be sentenced June 16.

After serving his time, Moscoso will be turned over to ICE and placed in removal proceedings.

"He may very well go from the jail to his country, because he's not here legally," ICE spokeswoman Ernestine Fobbs said. "I see no reason why he shouldn't be [deported]."

Court documents show that Garcia-Hernandez was sentenced Oct. 11 to 37 months in prison for possession of cocaine with intent to distribute.

The documents also show that Garcia-Hernandez came to the U.S. in 1994 from Guatemala, received a work permit from Immigration and Naturalization Service and worked as a roofer and a mechanic.

Garcia-Hernandez was ordered to comply with deportation proceedings upon his release, the documents show.

High Court Refuses To Hear Convicted Spy's Appeal (AP)

AP, March 21, 2006

The Supreme Court refused Monday to give Jonathan Pollard, now serving a life sentence for spying for Israel, access to records that could bolster his case for a presidential clemency.

Pollard's lawyers wanted the justices to reopen his case, so that they could pursue secret documents the government submitted to the judge who sentenced Pollard in 1987.

Pollard sold military secrets to Israel while he worked at the Defense Department's Pentagon headquarters. He was arrested in 1985 and pleaded guilty. The Supreme Court had already refused to let the former Navy intelligence analyst withdraw the guilty plea.

The latest Supreme Court case was not about spying, but about government authority to keep records used in court sealed from the public.

A federal appeals court said last summer that it had no authority to review requests for the documents which Pollard contends will help his bid for presidential clemency.

One of his attorneys, Eliot Lauer, told justices in a filing that the Justice Department, which opposes clemency, has been "given the unfettered power to decide who may or may not have access to those docket materials."

"The DOJ is not neutral and is not an arm of the judiciary," Lauer wrote in the appeal.

Pollard's case has been a sticking point in U.S.-Israeli relations. The Israeli government granted Pollard citizenship and repeatedly has pressed for his release.

The case is Pollard v. United States of America, 05-1013.

Justices Weigh In On Use Of Tapes And Transcripts (NYT)

By Linda Greenhouse

The New York Times, March 21, 2006

WASHINGTON, March 20 — A crime victim's emergency call to 911, when introduced in court, can provide powerful evidence of the attacker's identity and the circumstances of the crime.

Perhaps too powerful — or so most Supreme Court justices seemed to conclude during an argument Monday on whether the prosecution could use such evidence without violating defendants' constitutional rights to face their accusers in the courtroom.

The constitutional problem arises when the victim fails to appear in court and is therefore not available for cross-examination.

In domestic violence cases, the scenario is common; in one study cited to the Supreme Court, as many as 90 percent of victims of domestic violence fail to cooperate with the prosecution because of fear of or misplaced loyalty to their abusive partners.

Rather than abandon such cases, a growing number of states have begun to relax their evidentiary rules and permit juries to hear 911 tapes or read transcripts of police interviews with victims.

Two years ago, however, the Supreme Court issued an unmistakable warning that these efforts were likely to collide with the Sixth Amendment's Confrontation Clause, which guarantees to a criminal defendant the right "to be confronted with the witnesses against him."

In Crawford v. Washington, the court laid down a new rule: a "testimonial" statement made out of court cannot be used at trial unless the person who made the statement is available for cross-examination.

Now the question is whether the justices meant what they said, even in situations with strong policy arguments for bending the rules. Based on their responses in the courtroom on Monday, they did.

The Crawford case barred the admission of a woman's tape-recorded eyewitness account of a fight in which her husband stabbed another man. But the court stopped short of defining the various types of "testimonial" statements to which the newly empowered Confrontation Clause would now apply. Defense lawyers around the country soon began to argue that the decision should bar the admission of 911 calls and of statements given to police officers who respond to a crime scene.

Two cases were argued to the court on Monday, one of each type. Both have drawn wide attention from organizations concerned with domestic violence. In Davis v. Washington, No. 05-5224, the Washington Supreme Court rejected a defense argument that a 911 call from a woman who said her former boyfriend had violated a no-contact order and was beating her constituted a testimonial.

The incident took place, and the man, Adrian M. Davis, was convicted, before the Crawford decision. The victim, Michelle McCottry, was subpoenaed but failed to appear in court.

After the Crawford decision, Mr. Davis's lawyers argued on appeal that the admission of the 911 tape violated his right to confrontation, but the Washington Supreme Court said the call was not testimonial. It was, the court said, a request for "help to be rescued from peril."

In the second case, Hammon v. Indiana, No. 05-5705, the Indiana Supreme Court likewise upheld a conviction for domestic battery, ruling that a wife's statement to the police officer who arrived to investigate a report of a disturbance could be used as evidence against her husband, Herschel Hammon. The wife, Amy Hammon, failed to appear in court. Her statement to the investigating officer was not testimonial, the Indiana court ruled, because her "motivation was to convey basic facts" rather than provide evidence for later use at trial.

In the Supreme Court on Monday, Jeffrey L. Fisher, representing the defendant in the 911 case, said that during the call, Ms. McCottry "knowingly told a government agent associated with law enforcement that someone had committed a crime." That made the call clearly testimonial, as was "any accusatory statement to a law enforcement agent," he said.

Mr. Fisher, a Seattle lawyer who successfully argued the Crawford case, said the purpose of the Confrontation Clause was "to bring the accuser and accused face to face and require the accuser to deliver the accusation in court."

But the 911 call was "not just a call," Justice Ruth Bader Ginsburg objected. It was also "a cry for help." Was it not a "practical reality," she asked Mr. Fisher, "that many women in this situation are scared to death?" She added, "Your neat legal categories don't conform to real lives."

Mr. Fisher responded carefully. "I don't mean to be insensitive," he said. He offered a solution: under a rule known as the "forfeiture doctrine," he observed, a defendant who intimidated a witness lost the right to object to the use of that witness's out-of-court statements.

Justice Antonin Scalia interjected: "Maybe we should just suspend the Confrontation Clause in spousal abuse cases."

The other justices undoubtedly took his point, a reminder that he was the author of the Crawford decision, and that he had persuaded six of his colleagues in that case, including Justice Ginsburg, that the Confrontation Clause should be interpreted literally.

As Justice Scalia made clear on Monday when the prosecution's turn came to argue, he was not about to advocate its suspension under these or any other circumstances.

When James M. Whisman, Seattle's senior deputy prosecuting attorney, described 911 calls as "powerful evidence" that should be regarded as constitutionally permissible, Justice Scalia responded, "You know, 'powerful' is part of the problem." He said that "the voice on the phone makes it an even more damaging violation if it is impermissible."

Mr. Whisman was joined on the state's side of the argument by Michael R. Dreeben, a deputy solicitor general, who said that a "panic-stricken call for help" had "unique probative value" and did not present the risk of government abuse that the framers had in mind when they added the Confrontation Clause to the Constitution. The risk was that the government could manipulate a witness behind closed doors, Mr. Whisman said.

Justice Anthony M. Kennedy asked whether a 911 call reporting that "he beat me two minutes ago and now he's running down the block" would qualify as a nontestimonial emergency report under Mr. Dreeben's analysis.

Yes, Mr. Dreeben replied, because the attacker might return and the caller still faced an "imminent threat."

Suppose, Justice Kennedy asked, that the call was "he's taken my diamond necklace and is running down the block."

"That would not be an emergency threat under our rule," Mr. Dreeben said.

The second argument, in the Indiana case, replicated the first in many respects, including an exchange between Justice Ginsburg and Richard D. Friedman, representing the defendant.

Mr. Friedman, a professor at the University of Michigan Law School who is an acknowledged expert on the Confrontation Clause, declared that "there is no domestic-violence exception for confrontation rights."

If the court made it clear that prosecutors could not use out-of-court statements, he said, states would have an incentive to protect victims of domestic violence and make them feel safe enough to testify.

"I don't know why that necessarily follows," Justice Ginsburg said. "It wasn't so long ago that police didn't bother with these cases."

Mr. Friedman responded, "I think we now recognize how serious a crime domestic violence is."

Tobacco Award Is Upheld

WASHINGTON, March 20 (AP) — The Supreme Court refused Monday to consider tossing out a $50 million damage award to the family of a two-pack-a-day smoker who died of cancer.

Philip Morris USA, which controls about half the American cigarette market, had asked the justices to declare the award unconstitutionally excessive and to rule that the company should have been shielded from some of the smoker's claims. The court declined without comment.

The smoker, Richard Boeken, was 57 when he died in 2002, a year after a California jury found Philip Morris guilty of negligence, misrepresentation, fraud and selling a defective product.

The court also refused to consider an appeal from a former Arkansas governor who wanted to withdraw his 1998 guilty plea to tax conspiracy. It was the last remaining appeal in the Whitewater case.

The tax case involving the ex-governor, Jim Guy Tucker, arose during the investigation of Bill Clinton and Hillary Rodham Clinton. An independent counsel spent more than six years investigating the business dealings of the Clintons. In all, 14 people were convicted. Mr. Tucker resigned in 1996 after pleading guilty.

In bringing an appeal to the Supreme Court, Mr. Tucker's lawyer, Jeffrey M. Rosenzweig, said that an appeals court had wrongly denied his client a new hearing on whether his plea was voluntary.

The justices did not comment in refusing to hear the appeal.

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Court Debates Use Of Victims' Statements As Evidence (LAT)

By David G. Savage

The Los Angeles Times, March 21, 2006

WASHINGTON — Eight of the nine Supreme Court justices — all but Ruth Bader Ginsburg — sounded today as though they would vote to bar prosecutors from using in court the words of crime victims who spoke to authorities but refused to testify.

Such a ruling would greatly strengthen the constitutional rights of defendants to "be confronted with the witnesses against" them. It would be a major setback for prosecutions in domestic violence and sexual assault cases because frightened victims often refuse to testify against their abusers.

Two years ago, the high court ruled that crime witnesses' sworn statements at a police station could not be used at trial against defendants if the witnesses did not appear in court to be cross-examined.

The court debated today whether to extend that ruling to cover emergency calls to a 911 operator and a victim's statements at a crime scene. The justices heard the appeals of two men who were convicted not on the court testimony of their accusers but on their own words as recorded by a 911 operator and a police officer at the scene.

"The practical reality is many women are scared to death" to testify against a spouse or partner who abuses them, said Ginsburg, the only woman on the court. In other instances, "they are so desperate financially" that they decide against testifying, she said.

She questioned whether the Constitution should be interpreted as barring prosecutors from using their calls to a 911 line. "This is not just a call. It is a cry for help," Ginsburg said.

Justice Antonin Scalia countered that the use of such statements in place of a witness' testimony in court violated the principle set forth in the 6th Amendment.

"I think the founders believed in a system where the accused had a right to confront his accusers in court," Scalia said. "I can't see why it makes any sense" to allow a taped 911 call to replace a witness' testimony, he said, because defendants then lose the right to contest the statements of their accusers.

In their questions and comments, most of the justices sounded as though they leaned toward Scalia's view. Several said they did not see how they could make a special exception for emergency calls where domestic violence was at issue.

In the first case, Adrian Davis was convicted of violating a restraining order based on an ex-girlfriend's call to a 911 operator near Seattle. She failed to appear at the trial, but the prosecutor played the 911 tape to the jury.

In the second, Hershel Hammon was convicted of domestic battery of his wife Amy based on her initial statement to a police officer who came to their house. She did not testify.

Their lawyers argued that "accusatory statements" to authorities should be barred from trial unless the witness testified. Prosecutors said "emergency" statements to authorities should be allowed, even if the witness did not testify.

Regardless of what the court decides, police officers will remain free to testify about what they see at a crime scene. For example, if police officers observe an apparent crime victim who has been bruised or bloodied, they can testify as a witness to what they have seen.

The justices will vote privately this week on the cases of Davis vs. Washington and Hammon vs. Indiana and issue a ruling by the end of June.

Justices Weigh If Accusers Must Testify In Court (WP)

By Charles Lane

The Washington Post, March 21, 2006

Michelle McCottry and Amy Hammon were both alleged victims of domestic violence. McCottry called 911 to report a beating that her boyfriend had just administered; Hammon gave an account of a fresh attack by her husband to police who came to her home.

McCottry and Hammon did not testify at the men's trials; the state won convictions anyway, based in part on the women's previous statements.

But did those convictions violate the Constitution, which guarantees a defendant the right to confront his accuser in court?

DOJ_NMG_0019718

That was the question before the Supreme Court yesterday, as the justices heard oral arguments in two of the most significant criminal cases of this term.

At stake are the rules of evidence that will govern not only many domestic violence prosecutions but also any criminal case in which prosecutors seek to introduce past accusations by people who, whether out of fear or any other reason, cannot or will not repeat their charges in open court.

On one side are McCottry's boyfriend, Adrian Davis of Washington state, and Hammon's husband, Hershel Hammon of Indiana, who say that the Sixth Amendment requires the state to bring its witnesses to court, put them under oath and allow them to be cross-examined. They are supported by briefs from the American Civil Liberties Union, the National Association of Criminal Defense Lawyers and the D.C. Public Defender Service.

On the other side are the states of Indiana and Washington, supported by the Bush administration, 27 other states including Maryland, the National Network to End Domestic Violence and the National District Attorneys Association. Though their arguments vary in emphasis, these parties agree that statements made in the moments surrounding a criminal attack are not testimony and therefore are not covered by the Sixth Amendment.

The cases arise largely because the Supreme Court changed its rules in a 2004 decision. In an opinion written by Justice Antonin Scalia, it barred a statement to police by a wife who would not testify against her husband regarding an alleged assault on a third person. The Sixth Amendment was intended to keep out any previous testimony from a witness unavailable to testify, the court ruled, unless that witness had previously been subject to cross-examination.

Before that, the court had said that an unavailable witness's out-of-court statement could be admissible if a judge found that it fell into one of the exceptions to the rule against hearsay or was otherwise clearly trustworthy.

Yet federal and state courts have struggled to apply Scalia's ruling in practice, and the court agreed to hear the Washington and Indiana cases to clarify its scope.

The 2004 ruling enjoyed the support of the entire court except Chief Justice William H. Rehnquist and Justice Sandra Day O'Connor, who are no longer sitting.

Still, during the course of an intense two-hour discussion of the two cases, Davis v. Washington , No. 05-5224, and Hammon v. Indiana , No. 05-5705, at least some of the justices seemed concerned about how far to extend the new rule.

Justice Ruth Bader Ginsburg, in particular, seemed worried about the implications for other cases in which women tell police about abuse but then are reluctant to risk a court appearance.

"The practical reality is that many women are scared to death of what will happen to them," she told Davis's attorney, Jeffrey L. Fisher. "So neat legal categories don't really fit the realities of this situation."

Ginsburg repeatedly suggested that the court consider a rule proposed by the Bush administration: that statements made to authorities during "emergencies" be admissible.

But Fisher replied that although he did not want to appear "insensitive," the "Sixth Amendment applies across the board."

The court's newest member, Justice Samuel A. Alito Jr., a former prosecutor, also seemed to lean in favor of the states. He asked lawyers for the defendants questions that implied they were asking for too broad a rule.

"If someone calls and says 'I just saw a blue Toyota with Ohio plates do a hit-and-run,' is that testimony?" he asked at one point.

"Yes," replied Hammon's lawyer, Richard D. Friedman.

But Scalia noted that "it seems to me that there are better ways to solve the problem than to design our whole confrontation-clause jurisprudence based on what happens in spousal abuse cases." The confrontation clause is the part of the Sixth Amendment that guarantees the defendant's right "to be confronted with the witnesses against him."

Decisions in the two cases are expected by July.

Supreme Court Justices Debate Admissibility Of Statements To 911 Operators (AP)

By Toni Locy, The Associated Press

AP, March 21, 2006

DOJ_NMG_0019719

The Supreme Court considered Monday whether statements made by victims to 911 operators and police officers at crime scenes should be barred as evidence because they were not made under oath or subjected to cross-examination by a defendant.

In cases from Washington and Indiana, the justices focused on whether the rights of Adrian Davis and Hershel Hammon were violated because their accusers did not testify at their trials.

The issue is significant because the high court's ruling could affect the ability of prosecutors to bring criminal charges -- particularly in domestic violence cases -- when victims or key witnesses are not willing or not available to testify.

Justice Ruth Bader Ginsburg pointed out that "many women in these situations are scared to death" and don't want to testify.

Ginsburg also recalled that "it wasn't so long ago" that police wouldn't bother trying to gather evidence to prosecute cases of domestic abuse.

She worried aloud that if the justices issue a ruling that police consider more trouble than their efforts are worth, officers might wonder why they should bother pursuing domestic violence cases.

Lawyers on all sides of the cases -- as well as the Bush administration -- want the justices to clarify a 2004 decision that barred prosecutors' use of statements from victims or witnesses if a defendant did not have a chance to question them in court.

Justice Antonin Scalia, the author of the 2004 majority ruling, grilled lawyers for Washington and Indiana about a defendant's right to confront his or her accuser.

Scalia worried about what would happen to defendants who were charged with crimes based on "false" statements from witnesses who never testified. And he wondered whether 911 operators, by asking so many questions of victims, aren't being used by police as "a prosecutorial device."

James M. Whisman, senior prosecuting attorney in Seattle, conceded the 911 tape was "powerful" evidence of the abuse victim Michelle McCottry said she endured at Davis' hands.

"Powerful is part of the problem," Scalia said. "To hear her voice on the phone ... it makes it an even more damaging violation" of the defendant's right to confront his accuser.

At Davis' trial, a judge allowed the tape of McCottry's February 2001 emergency call to be admitted into evidence but barred police testimony about what McCottry had said to officers. She disappeared before trial and did not testify despite a subpoena.

In the other case out of Peru, Ind., Amy Hammon also did not testify. But a judge allowed a police officer to testify that she had told him that her husband, Hershel, had thrown her into the glass panel of a gas heater.

Chief Justice John Roberts appeared to give prosecutors and police the benefit of the doubt in both cases.

Roberts was skeptical when Davis' lawyer suggested that prosecutors, armed with powerful 911 tapes, might keep "bad" witnesses off the stand to win their cases.

And the chief justice said police officers have mixed motives in trying to protect victims and build criminal cases.

Jeffrey L. Fisher, who represents Davis, told the justices it's not always easy to determine when police officers stop protecting victims and when they begin gathering evidence to support criminal charges.

The cases are Davis v. Washington, 05-5224, and Hammon v. Indiana, 05-5705.

Ex-Philippine Leader Say U.S. Bugged Phone (NSDY/AP)

By Jim Gomez, Associated Press Writer

Long Island Newsday, March 21, 2006

MANILA, Philippines -- Former President Joseph Estrada said Tuesday he has been notified by an American court that U.S. authorities bugged his telephone conversations with an FBI analyst accused of revealing U.S. government secrets.

The New Jersey court indicated it had authorized the wiretapping as part of an investigation into Leandro Aragoncillo last year, Estrada said, adding that there was no suggestion he was under investigation.

Estrada, who was toppled by a popular revolt in 2001, previously acknowledged receiving American government assessments of Philippine political events from Aragoncillo, a 21-year Marine veteran who became an FBI intelligence analyst in 2004.

"The notice said that my telephone calls with Aragoncillo were wiretapped," Estrada told The Associated Press in a telephone interview. "The wiretapping was authorized by the court."

Aragoncillo was arrested in the United States last year. He has been charged with conspiring to reveal government secrets, acting as a foreign agent and improperly using FBI computers. Those charges carry a maximum sentence of 25 years.

He has not been charged with espionage, which carries a maximum penalty of capital punishment.

Michael Drewniak, spokesman for the U.S. Attorney's Office in Newark, N.J., has refused to comment on the alleged wiretapping, which was first reported by the Philippine Daily Inquirer, citing government sources.

"Even if that were so, I would not comment on it," Drewniak said last week.

Estrada is under house arrest while on trial for corruption charges.

He has acknowledged speaking by phone with Aragoncillo and receiving U.S. government documents on the political situation in the Philippines. But he has played down their value, saying the assessments were similar to those being reported by Philippine newspapers.

Asked about the wiretapping, Estrada said: "My reaction is nothing, because even before this, I have admitted that I've talked with him ... (and) that those details were nothing more than newspaper accounts of what's happening in the country."

Estrada has insisted that Aragoncillo passed on information to the Philippines not in exchange for money but out of his concern for his impoverished homeland.

Aragoncillo became a naturalized U.S. citizen in 1991. He worked at the White House on the security detail for vice presidents Al Gore and Dick Cheney in 1999-2002 before joining the FBI as a civilian intelligence analyst at Fort Monmouth, N.J.

Estrada said he met Aragoncillo when he visited the United States while he was still president and was introduced to him and other White House staffers of Filipino descent. Their friendship blossomed, with Aragoncillo visiting him at the Malacanang presidential palace and in a hospital where Estrada was once confined.

Washington has invoked its Mutual Legal Assistance Treaty with Manila to get files on a number of Filipinos who might have received information from him, a Philippine investigator has said.

Civil Trial In Sex Assault Likely To Be Ugly (LAT)

By Christopher Goffard, Times Staff Writer

The Los Angeles Times, March 21, 2006

The suit over the O.C. attack targets the three guilty men, the father of one, two investigators and a lawyer who vows victim will 'rue the day.'

Now that a judge has imposed a prison term on the attackers, the sordid, painful four-year-long case involving Gregory Haidl and two co-defendants — and the woman who says they destroyed her — shifts to the civil courtroom, which may prove the ugliest show yet.

The victim, now 20 and known publicly as Jane Doe, has sued the three young men convicted of sexually assaulting her while a video camera rolled and she lay unconscious on a pool table one July night in 2002. And she is suing Haidl's father, a rich former Orange County assistant sheriff, alleging that he should have known of the drug- and alcohol-fueled parties raging in his Corona del Mar home, where the attack occurred.

But, as part of her $26-million lawsuit, Jane Doe is also targeting others who, she says, subjected her to years of "harassment, intimidation and torture" after the attack itself.

In a rare legal move, her suit names Haidl defense attorney Joseph G. Cavallo and two defense investigators, John Warren and Shawn Smigel. She says the defense staked out her Rancho Cucamonga house, went through her trash, stalked her, improperly obtained her medical records, broadcast her identity and once cornered her in a parking lot while snapping pictures.

"We're taking these people to task about what they did," said Jane Doe's attorney, Sheldon Lodmer. "They crossed the line in terms of appropriate legal defense."

Cavallo said he did nothing improper in trying to defend a client who could have faced life in prison, and characterized the lawsuit as "revenge" for his zealous representation.

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"If they think what I did in the criminal case was aggressive, they're attacking me personally now," Cavallo said. "By the time I get done with Jane Doe, the case won't be worth $10. I know more about Jane Doe than her lawyer and her family."

During the criminal trial, Cavallo and other defense attorneys cast her as a would-be porn star who merely faked unconsciousness on the tape, cross-examining her relentlessly and underscoring her earlier sexual behavior. Cavallo, planning to represent himself in the civil trial, said he would question her even more thoroughly, unencumbered by the rape shield law that limits inquiry into her past during a criminal trial.

"Only 10 to 20% of what we had on Jane Doe and her family came out during the criminal case," Cavallo said. "They're going to rue the day they brought me into this case."

Doe's attorney, Lodmer, said he anticipated that Cavallo would attack his client.

"I'm sure he will use this opportunity, and she's ready to stand up to it," Lodmer said. "He can try and do what he wants. He made life miserable for everyone else in this case."

Jane Doe was 16 at the time of the attack, and the three defendants — Haidl, Kyle Nachreiner and Keith Spann — all 17. The videotape, with Haidl running the camera, depicts the boys violating her limp body with a host of objects, including a pool cue, a lighted cigarette and a Snapple bottle. The first trial ended in a deadlock, with jurors leaning toward acquittal. A second jury convicted them of sexual assault, but not rape, and on March 10 a Superior Court Judge sentenced them all to six-year prison terms.

During the sentencing hearing, Jane Doe spoke in detail about how the attack, and its aftermath, caused her life to unravel.

"Before July 5, 2002, I was a normal 16-year-old teenager," she said. "I was outgoing, cheerful, loving, compassionate and trusting." She said she was a straight-A student who was on her high school's volleyball, track and cross-country teams and added she had "an extremely close relationship with my parents."

She said she found out about the attack, which she did not remember, after Newport Beach police informed her father. After Haidl and his co-defendants were arrested, fliers materialized in Jane Doe's neighborhood identifying her as the accuser. She said she fled to another high school, seeking anonymity but said defense investigators tracked her there, stood in the parking lot and screamed out her name.

Now, she said, she possessed "very little self-esteem and I trust no one." Ultimately, according to her lawyer, the trauma of the case drove her to methamphetamine abuse.

The defense has sharply disputed her depiction of the attack's effect on her life, saying she had serious emotional problems long before that summer night in 2002 and a strained relationship with her parents, who viewed her as an "out of control" teenager who left the house without saying where she was going and stayed out all night.

Jane Doe "has been unaffected to a substantial degree as a result of that evening," Cavallo said.

Cavallo said defense investigators did not scream out Jane Doe's name at her new school, as alleged. "Everyone knew who Jane Doe was anyway," Cavallo said. He said investigators were forced to stake out her parents to serve them with court subpoenas.

William Kopeny, an attorney working for Cavallo, said his client's behavior was protected under the doctrine of "litigation privilege," which holds that a lawyer's actions in connection with a court case cannot form the basis of a lawsuit.

"It's a very wide-ranging privilege," Kopeny said.

The criminal convictions of Haidl, Nachreiner and Spann provide a built-in advantage for Jane Doe in the civil arena, at least in the case against them. In civil court, plaintiffs must prove their case by a "preponderance of the evidence," a much lighter burden than the "beyond a reasonable doubt" standard already met in the criminal case.

"The case against the three defendants who were convicted should not be too difficult," said Lodmer, adding that he expected depositions in the case to begin in the next two months. He acknowledged that the case against Cavallo involved far less trodden legal terrain.

"We're not suing [Cavallo] for anything he did or said inside that courtroom," Lodmer said. "We're suing him for what he authorized outside that courtroom."

States Allow Deadly Self-defense (USAT)

DOJ_NMG_0019722

By Richard Willing

USA Today, March 21, 2006

A year after Florida became the first state to allow citizens to use deadly force against muggers, carjackers and other attackers, the idea is spreading. South Dakota has enacted a similar law, Indiana Gov. Mitch Daniels plans to sign such a measure today, and 15 other states are considering such proposals.

Dubbed "Stand Your Ground" bills by supporters such as the National Rifle Association, the measures generally grant immunity from prosecution and lawsuits to those who use deadly force to combat any unlawful entry or attack. Several states allow people to use deadly force in their homes against intruders; the new measures represent an expansion of self-defense rights to crimes committed in public.

The NRA and other supporters say the bills are needed in many states that require people under attack in public places to withdraw from the situation, rather than retaliate, unless they can show their lives are in danger. "For someone attacked by criminals to be victimized a second time by a second-guessing legal system is wrong," the NRA's Wayne LaPierre says.

Critics, including the Brady Campaign To Prevent Gun Violence, say the bills encourage vigilantism and would make it more likely that confrontations would turn deadly. Zach Ragbourn of the Brady group says the proposals "are more accurately called 'Shoot First' laws. They allow a person who just feels something bad is going to happen to open fire in public."

The idea that people should use deadly force only to defend their lives is rooted in English common law, author Richard Maxwell Brown says in No Duty To Retreat: Violence and Values in American History and Society. Another common law principle, the "duty to retreat," requires people to avoid potentially deadly confrontations. The principles apply in most states. The duty to retreat generally doesn't apply in a person's home.

LaPierre says the NRA is targeting 29 duty-to-retreat states where people can be prosecuted, sued or both if they don't retreat from criminal attacks.

Ragbourn says the proposals aim to "fix a system that isn't broken. People aren't being thrown into jail for legitimate self-defense. There's no crisis here."

Florida's law could be facing its first test. Donald Montanez, owner of a Tampa towing company, is charged with murder in the shooting of a man whose car was impounded. Prosecutors say Montanez fired as the man drove off without paying a fee. Montanez's attorney, Roger Rigau, says the new law should protect Montanez, who feared being hit by the driver.

CIVIL LAW:

Google's Half Victory (WSJ)

The Wall Street Journal, March 21, 2006

Google won a partial victory against the Justice Department late Friday night when a federal judge ruled that the company would not be compelled to hand over a sample of users' search queries.

As Judge James Ware noted in his 21-page opinion, search strings like "Jessica Simpson" or "nudity" would not, by themselves, impinge on users' privacy. But a random sampling of searches could well pull up less generic queries. To borrow the judge's example, "[user name] third trimester abortion san jose" might well raise privacy concerns -- not to mention the embarrassment from the publication of the "vanity searches" that Google users have been known to perform, every half hour or so, on themselves.

Judge Ware did grant Justice's request for a random sampling of 50,000 of the sites Google indexes for its searches, so both sides ended up with something. But as the judge also noted, the government remains decidedly vague on how it intends to use the data it was seeking from the major search engines in the underlying case, which concerns the 1998 Child Online Protection Act. Justice says the goal is to "assess the amount of harmful material available to minors" on the Internet. But it doesn't take a genius -- or a subpoena -- to figure out that there's lots of that if you look for it.

The real question is whether criminalizing whole categories of speech on the basis of vaguely worded "community standards" is the least restrictive way of protecting children. Friday's ruling doesn't address that, as the underlying case is being adjudicated in a different court. But it did establish some limits on what the government can demand from private corporations in

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seeking to defend this law against a First Amendment challenge. Justice's initial request was for every indexed Web address and two months' worth of search queries. By comparison, what the government will now get looks reasonable indeed.

CIVIL RIGHTS:

Judge Gives Maximum 10-year Sentences To 2 Cuban Smugglers (MH)

By Jay Weaver

The Miami Herald, March 21, 2006

Two Cuban immigrants who captained a smuggling mission that ended with the drowning of a young boy received the maximum prison sentence on Monday -- 10 years.

U.S. District Judge K. Michael Moore hammered the two men after concluding a six-year term proposed under federal sentencing guidelines was not enough punishment for the child's death in the Oct. 13 illegal crossing of the Florida Straits.

A lawyer for both Alexander Gil Rodriguez, 25, and Luis Manuel Taboada-Cabrera, 28, whose relatives sobbed outside the courtroom, said they will appeal the judge's sentences for their alien-smuggling convictions. Attorney Steven Amster said the two Miami men, who were not charged or convicted of causing the death of 6-year-old Julian Villasuso, still faced up to the maximum prison term because his drowning was a factor in the judge's sentencing under advisory guidelines.

"They understand their actions led to this death," Amster said, acknowledging the two men sped off in their go-fast boat when the U.S. Coast Guard tried to stop them. ``But their actions were not so egregious to go above what the sentencing guidelines say."

The two men had reached plea deals in November, expecting to receive lighter sentences. They pleaded guilty to a conspiracy to smuggle 29 Cubans in a 33-foot speedboat that overturned and claimed the life of the boy, who got trapped beneath the capsized vessel.

But Assistant U.S. Attorney Dana Washington said he didn't have enough evidence to charge them with the death of Julian Villasuso.

The boy's death was factored into the sentencing guidelines, doubling the initially proposed prison term from three to six years. But Moore, who as a federal judge has the authority to go higher than those advisory guidelines, didn't believe that penalty was sufficient.

"The question is whether the guidelines adequately take into account the death they caused," Moore said at a hearing in January.

Moore has greater leeway to go above the federal sentencing guidelines. Those guidelines had been mandatory until last year, when the U.S. Supreme Court made them advisory to maintain their constitutionality.

Still, Moore's stiffer sentences for the two Miami men men would undergo intense scrutiny on appeal.

The reason: In 2001, Jorge "Bombino" Aleman was arrested on charges that he organized five smuggling runs between late 1999 and 2001 that ferried more than 100 Cubans to Florida. A January 2001 voyage resulted in the death of Cira Rodriguez, a Cuban who is believed to have died on a small Bahamian cay after smugglers dumped her and the other passengers on the island without food and water.

The following year, U.S. District Judge James Lawrence King sentenced the defendant to life in prison plus five years, overriding the federal sentencing guidelines that called for fewer than 13 years.

Then in 2004, the 11th U.S. Circuit Court of Appeals in Atlanta threw out what was the longest prison term in an alien-smuggling case, ordering that Aleman be sentenced within the federal guidelines.

That ruling came down, however, when the guidelines were still mandatory.

At Monday's sentencing hearing, Taboada-Cabrera apologized to the judge, community and others. "I wish to say I'm really repentant about what happened," he told the judge.

Rodriguez did not say anything in court.

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Their attorney said the tragic smuggling trip was not for profit but was rather to bring over their families. Amster said Rodriguez had three family members, including his wife, aboard the speedboat, and that Taboada-Cabrera was supposed to bring his wife and a daughter on the voyage.

Amster also said the U.S. Coast Guard may have played a role in the capsizing of their speedboat that led to the boy's death. Coast Guard officials strongly disagreed.

The alien-smuggling attempt occurred during the early morning of Oct. 13, when Coast Guard officials tracked down a Florida-registered speedboat, carrying the 29 Cubans, about 52 miles south of Key West.

A chase ensued, as the Coast Guard crew deployed an "entangling device" -- or net -- in front of the speedboat, according to court papers. Finally, the vessel came to a stop. Then, numerous people stood up on board and someone threw an object into the ocean.

"Water immediately began to flow into the stern of the vessel, due to the shift in weight and the excess amount of individuals on board," according to an Immigration and Customs Enforcement affidavit, causing the boat to capsize and the passengers to fall overboard.

Authorities discovered the boy beneath the boat after rescuers pulled to safety the other passengers, including the boy's parents and the smugglers.

Julian's parents and a third passenger with health problems were allowed into the United States. The rest were repatriated to Cuba.

Smugglers Get 10 Years For Child's Death (AP)

By CURT ANDERSON, Associated Press Writer

AP, March 21, 2006

MIAMI — Two men were sentenced Monday to 10 years in prison _ well above federal sentencing guidelines _ for organizing a Cuban immigrant smuggling trip that ended when their speedboat capsized and a 6-year-old boy drowned.

U.S. District Judge K. Michael Moore said he was imposing the long sentence because of a marked increase in dangerous pursuits between U.S. authorities and smugglers on the open ocean. Moore also said the two men should pay an extra penalty for playing a role in the boy's death.

Sentences imposed under federal guidelines are "not providing an adequate deterrent for this kind of criminal conduct," Moore said.

Alexander Gil Rodriguez, 25, and Luis Manuel Taboada Cabrera, 28, had faced a maximum of just under six years in prison under the advisory guidelines, which included an enhancement of 2 1/2 years for the death of 6-year-old Julian Villasuso on Oct. 12, about 45 miles south of Key West.

Their boat carried 29 migrants, including Julian and his parents, and the two smugglers who pleaded guilty in November to migrant smuggling conspiracy charges.

Their attorney, Steven Amster, argued that the lower penalty was sufficient punishment, in part because the smuggling trip was not organized for profit.

Taboada apologized to the judge and accepted responsibility for his actions.

"I want to say that I'm really repentant about what happened," Taboada said in Spanish through an interpreter. Gil did not address the court.

Amster said he would appeal the sentence.

The boy was buried in Florida and his parents were permitted to enter the United States, while the other migrants were returned to Cuba. Under U.S. immigration policy, most Cubans who reach U.S. soil are allowed to remain while those intercepted at sea are normally returned to their homeland.

2 Smugglers Get 10 Years Each In Drowning Death Of 6-year-old Cuban (FLSUNSEN)

By Vanessa Blum, Sun-sentinel.com

South Florida Sun-Sentinel, March 21, 2006

DOJ_NMG_0019725

MIAMI -- A federal judge on Monday imposed the harshest possible sentence on two men whose effort to smuggle Cubans into the United States last year ended in the drowning of a young boy.

U.S. District Judge K. Michael Moore sentenced Alexander Gil-Rodriguez and Luis Manuel Taboada Cabrera to 10 years each in prison, the longest terms possible under federal law.

Moore said he was departing from advisory sentencing guidelines, which called for more modest prison terms of 57 to 71 months, because he felt the guidelines did not reflect the severity of the offense and would not deter similar crimes.

Gil Rodriguez, 25, and Taboada Cabrera, 28, pleaded guilty in November 2005 to illegally attempting to bring migrants into the United States.

Their speedboat was detected by the U.S. Coast Guard and capsized in the Florida Straits on Oct. 13, 2005, as the men allegedly tried to evade capture. Julian Villasuso Jr., 6, who was on the boat with his parents, was trapped under the overturned boat and drowned. There were 31 people aboard the 33-foot-long go-fast boat.

Defense attorney Steven Amster argued that the lower penalty was sufficient punishment, in part because the smuggling trip was not organized for profit. In remarks to the judge, Taboada apologized and took responsibility for his actions.

``I want to say that I'm really repentant about what happened," Taboada said in Spanish through an interpreter. Gil did not address the court.

Amster also suggested that the Coast Guard played a role in the boy's death by casting a net over their boat's engines, causing water to rush over the stern and precipitating the boat's capsizing. There also was a delay in the attempt to rescue Julian after it was realized he was still under the boat.

``The boat had come to a stop. They had given up," Amster said.

But Moore said the smugglers should not expect leniency by attempting to shift blame to the Coast Guard and noted that other migrants on the boat had pleaded with the two smugglers to stop once the chase began.

``It's all too easy while we sit in a courtroom, in a very antiseptic environment, to ignore the dangers and risks these Coast Guard officers take every day," Moore said.

U.S. Attorney R. Alexander Acosta said the strict sentence ``is a reflection of the seriousness of the crime and our resolve to help end this tragic human saga."

The commander of the 7th Coast Guard District, Rear Adm. D. Brian Peterman, said Moore's decision ``sends a clear signal that we will not tolerate smuggling of illegal migrants into the United States."

Amster said he would appeal the sentence, calling it far too harsh for the facts of the case.

The boy was buried in Florida and his parents permitted to enter the United States, while the other migrants were returned to Cuba. Under U.S. immigration policy, most Cubans who reach U.S. soil are allowed to remain while those intercepted at sea are normally returned to their homeland.

The Associated Press contributed to this report.

Attorney Accuses Bay County Of Cover-up In Boot Camp Death (AP)

By BRENT KALLESTAD, Associated Press Writer

AP, March 21, 2006

TALLAHASSEE, Fla. - Bay County authorities are covering up their role in the death of a boy who was punched and kicked by guards at a boot camp, and his relatives want any trial in the case moved to another area to ensure a fair proceeding, the family's attorney said Monday.

Bay County sheriff's spokeswoman Ruth Sasser declined to comment on the cover-up allegations, but said seven drill instructors involved in the altercation and a nurse who witnessed it will be among about 20 people who lose their jobs when the camp closes next month. The closure plans had already been announced.

Ben Crump, the attorney for Martin Lee Anderson's parents, said they were "outraged" because medical examiner Dr. Charles Siebert last week defended his findings that the 14-year-old died from complications of sickle cell trait, a usually harmless blood disorder.

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"How could he deny that the beating of Martin did not play some role in his death," Crump told reporters. "How can you say it didn't play a role? It's almost less than intelligent. It's an insult to the family."

Investigators re-examining the death with a second autopsy said last week that Anderson didn't die of natural causes.

Anderson died Jan. 6 after the confrontation at the boot camp in Panama City run by Bay County sheriff's officials. He had been struck, kicked and dragged to the ground by several guards during a half-hour ordeal that was recorded on videotape.

No one has been charged with a crime, but the family has threatened to sue.

"Martin's parents have said it was a cover-up from day one," Crump said. "The law enforcement officials are doing everything they can to make sure nobody is held accountable for the death of their son."

County spokeswoman Catherine Zehner said the sheriff's department has third-party liability insurance, so she doesn't "think the county commission will get embroiled in a lawsuit."

Gov. Jeb Bush has appointed Hillsborough County State Attorney Mark Ober to investigate and he observed the second autopsy done in Tampa. The U.S. Attorney's office in Tallahassee and the Justice Department's Civil Rights Division also have opened an investigation into Anderson's death.

"No peace until justice," said Anderson's mother, Gina Jones.

California Prisons Uneasily Prepare To Desegregate Cells (WSJ)

By Miriam Jordan

The Wall Street Journal, March 21, 2006

CHINO, Calif. -- It's exercise time at the California Institution for Men, and dozens of inmates walk around the track in pairs or small groups -- blacks with blacks, whites with whites, Hispanics with Hispanics.

Prison culture dictates that inmates stick with their own kind, associating almost exclusively with other inmates from their race or ethnic group, defending them to the death if necessary. And that is why prison officials, inmates and scholars are uneasy as California's prison system prepares to introduce a formal policy desegregating its double cells, after the U.S. Supreme Court ruled last year that prisoners may not be routinely segregated in cells by race. The ruling has ramifications for state correctional systems nationwide.

In 2004, an African-American inmate challenged the California Department of Corrections' unwritten policy of assigning new prisoners and transfers to double cells only with a cellmate of the same race or ethnic group. The corrections department claimed segregated prison cells were necessary to avoid racial violence. Unswayed, the high court last year refused to strike down the inmate's challenge. California's new policy, which officials expect to implement over the next 2½ years, is the result of a settlement of that case.

California's prison population is combustible, divided roughly evenly among three groups: 38% of inmates are Hispanic, 29% are black and 27% white. Recent race-related prison violence in Southern California has focused concerns about thrusting inmates together in biracial cells. For more than a month now, clashes of black and Latino prisoners have gripped Los Angeles county jails, resulting in two deaths and more than 100 injuries. In October, a Hispanic inmate at Chino died from head injuries inflicted in a riot last summer.

Critics of the new policy say the purpose of segregated cells is to keep prisons peaceful and safe, not to discriminate. "You must give broad latitude to the prison administrator," says Joseph McNamara, former police chief of San Jose, Calif., and a research fellow at Stanford University's Hoover Institution. "If not, you let slaughtering happen."

California's prison system, at present still operating largely under the old policy, uses ethnicity as the main criteria when assigning higher-threat inmates to double cells. Racial segregation doesn't apply at mealtimes, in classes or in dormitories where low-risk felons are housed. Prisoners, however, say they live along self-imposed racial divides all day. "It's an unwritten rule," says Reginald Scott, a black inmate in Chino since 1998, who was at his job typing up inmate infractions in a small administrative room. "You don't have coffee with a white or Hispanic guy. You don't trade food, property or anything with someone of a different race."

Criminal-justice scholars say it is impossible to get a clear picture of prison-cell integration across the U.S. because practices vary widely from facility to facility. One national survey of prison wardens in 2000, led by Martha Henderson, now an

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assistant professor at Southern Illinois University, Carbondale, found only 30% of multiple-occupant cells were integrated. Federal prisons are forbidden under regulations to segregate based on race; California is one of the few state systems to acknowledge the practice.

Under the new California policy, new prisoners will be assigned to "the next available and appropriate cell," without regard for ethnicity. "We are not preparing [offenders] for their return to society if we continue to allow them to be segregated in our housing," said John Dovey, the corrections department's director of adult institutions who is overseeing the new policy.

Academic researchers say racial tension is usually engineered by a small group of inmates. Prisoners say when tensions explode it is almost impossible to stay neutral. "If you run away, your own people deal with you later," says Joe Rodriguez, a Hispanic inmate at the Chino prison. "Once you're in jail, everything becomes racial."

Gangs defined by race -- the Mexican Mafia, the Black Guerilla Family, the Nazi Low Riders and others -- permeate inmate life in California prisons. At Chino, a low- and medium-security facility, inmates working as gardeners and handymen sport gang acronyms tattooed to the backs of their heads.

Lt. Tim Shirlock, an official at the Chino facility who has worked in the state correctional system for 27 years, says the prison staff is "apprehensive" about the desegregation policy. Noting recent instances of racial violence on streets, schools and workplaces in Los Angeles, he says, "If they can't get along in society, you have to wonder whether they will get along here."

Prison systems in Texas and Oklahoma introduced policies to integrate cells in the 1990s. A 2002 study by two Dallas researchers found that Texas' new policy, rather than fueling violence, actually had the opposite effect. Violence in Texas prisons with integrated cells was slightly less likely than in facilities with segregated cells, researchers Chad Trulson, of the University of North Texas, and James Marquart, of the University of Texas, found.

Supporters of desegregation say it is the correctional system's responsibility to foster better relations among inmates. "You want to de-emphasize race, not give power to the instinct to use race," says Margo Schlanger, a professor of law at Washington University in St. Louis, who specializes in incarceration litigation.

Justice Sandra Day O'Connor, writing for the majority in the California ruling, invoked the landmark 1954 Brown v. Board of Education decision that rejected the idea of "separate but equal." "Indeed," she added, "by insisting that inmates be housed only with other inmates of the same race, it is possible that prison officials will breed further hostility among prisoners and reinforce racial and ethnic divisions."

Today, some two-thirds of Texas' prison cells house inmates of different races. "Many of us had real concern about what would happen" when cells were integrated, says Doug Dretke, Texas' director of correctional institutions. The concerns proved unfounded, he says, adding that less than 1% of Texas inmates today are "racially restricted."

California, though, faces especially high obstacles. Financial cutbacks and a fast-growing inmate population now approaching 170,000 have made it a struggle for the system to house felons and retain staff. The California Institute for Men in Chino houses 6,500 felons -- more than double its capacity. On a recent Wednesday morning, eight correctional officers were guarding about 500 inmates on the yard, a ratio that isn't unusual, says Terry Thornton, a communications official for the California corrections department.

California is creating a desegregation program using Texas as a model. It involves educating prison officers and prisoners and a screening process to weed out inmates whose criminal record or prison history would make them a bad risk for a multiracial cell. One California facility is testing a behavior-modification program that would deny privileges to inmates who undermine the program.

At least some prisoners are prepared to give co-existing a try. "California has let inmates dictate how they should live" for too long, says Franklin Porter, a 45-year-old black inmate. "If they're integrating in other states, it can work here."

Geico's Risk Criteria Challenged (WP)

By Albert B. Crenshaw And Caroline E. Mayer

The Washington Post, March 21, 2006

According to an internal Geico document, the auto insurer uses drivers' levels of education and occupations in setting insurance rates.

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As a result, Consumer Federation of America argued, blue-collar workers with relatively low levels of education sometimes are charged almost twice as much as better-educated professionals, based on those criteria.

Geico said in a statement that it uses many factors in setting rates and that allegations that education and occupation are being used as the sole criterion are "absolutely untrue."

The document cited by the consumer group and a Geico competitor raises long-standing questions about which criteria insurance companies may use as proper gauges of risk and which improperly discriminate against poor people and minorities.

Insurers, consumer advocates, regulators and politicians have been struggling for years over such issues, including the use of credit scores in assessing risk. The use of credit scores is permissible in about 30 states but continues to be debated.

Yesterday, CFA called on insurance regulators to bar insurers from basing decisions on whether to sell insurance to someone and what rates to charge solely on the applicant's education and income, calling the practice "an underwriting sleight of hand" to avoid existing prohibitions on using race and other criteria.

"No single criterion is ever used to determine a customer's rate," Geico said in a statement late yesterday. "Persons of all educational levels and occupations are offered insurance at our best rate based on a variety of criteria. Income or race based criteria never has a role in underwriting or pricing. These allegations are patently false and intentionally divisive."

The consumer group was joined by New Jersey Citizens United Reciprocal Exchange, a nonprofit insurer and Geico competitor in that state. They based their call for regulatory action on an internal Geico document filed with regulators in New Jersey, which makes more documents public than other states. The document included a guide used by Geico's underwriters to decide which of the company's four subsidiary companies will insure an applicant and to determine what price an applicant will be offered.

The guide, in addition to listing factors such as driving history, age, mileage and vehicle type, includes a section dividing drivers into eight groups based on their education and occupation. Considered "more favorable" are professionals with college degrees and graduate students. "Least favorable" are "minimally skilled clerks, assistants, stock clerks and postal clerks," as well as long-haul drivers and "unskilled and semiskilled blue and gray collar workers."

"Educational attainment and occupation are directly linked to income, which cannot be used in determining insurance eligibility or rates because of its serious adverse impact on lower-income and minority consumers," said J. Robert Hunter, CFA's director of insurance and a former Texas insurance commissioner. According to the U.S. Census Bureau, 89.4 percent of non-Hispanic whites 25 and older held a high school diploma in 2003. By comparison, 80 percent of blacks and 57 percent of Hispanics were high school graduates.

CFA said it sought rate quotations from Geico's Web site for motorists in locations in all 50 states and the District, entering data for drivers who were identical except for education and occupation. The experiment produced higher rates for the blue-collar driver in all but six locations (one of which was Fairfax County).

The differences ranged from 11.12 percent in Chicago to 124.72 percent in New Orleans.

Geico, which has been vigorously advertising low prices, said, "Every criterion, including occupation and education, used by Geico reflects its actual loss experience nationwide over many decades. Geico has justified its use of these criteria with insurance regulators throughout the country for many years."

Geico, the nation's fourth-largest car insurance company, is a subsidiary of Berkshire Hathaway Inc.

Former D.C. insurance commissioner Lawrence H. Mirel, now at Wiley Rein & Fielding here, said carriers constantly seek to find ways to assess risk accurately.

"The heart of insurance is underwriting. You want to make the best prediction you can about who is going to have a claim, and if you're good about that you make money, if not you lose money," he said.

Some other carriers said they use education or occupation along with other criteria, while others said they do not.

Industry officials said that auto insurance is both tightly regulated and highly competitive, so that practices that have a pernicious impact are likely to be stopped, and in any case, with hundreds of carriers in the market, motorists have plenty of places to shop.

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"Automobile insurance is a highly competitive market where consumers who don't want to deal with a company for whatever reason have lots of other companies to choose from," said David Snyder, vice president and assistant general counsel at the American Insurance Association, a trade group in the District.

State Farm, the nation's largest auto insurer, does not use occupation and education to determine rates. "We are always looking at variables so we can price our product as accurately as we can, but at the moment those two are not among the ones we are using," said company spokesman Dick Luedke. "To the extent that companies are using different variables, that's good news to the consumers."

Allstate doesn't ask prospective customers about their education, but it does consider occupational discounts in several states. Actuaries, architects, editors, legislators, mail carriers and speech therapists, for example, receive a 10 percent discount while carpenters, clergy, insurance adjusters, plumbers, police officers, teachers, and locksmiths get a 5 percent reduction in their rates.

"Our data shows that these professions incur fewer losses" and the discounts are an innovative way to provide consumers with competitively priced insurance coverage, said spokesman Mike Siemienas.

For Liberty Mutual Group, occupation is a factor in setting rates in some states, said spokesman Glenn Greenberg. "We use no single criterion to determine the price," and any data used are based on "the likelihood of risk," Greenberg said.

ANTITRUST:

AT&T's Merger With BellSouth Not Viewed As Positive For Small Businesses, Poll Shows (SABIZ)

San Antonio Business Journal, March 21, 2006

AT&T Inc.'s plan to merge with BellSouth Corp. is seen as a development that will not work in favor of San Antonio's small-business community, according to the majority of individuals who participated in an online Business Pulse poll.

Slightly more than half of the San Antonio Business Journal readers who responded to the survey say San Antonio-based AT&T's (NYSE: T) planned $67 billion stock merger with BellSouth (NYSE: BLS) in Atlanta will lead to less competition in the marketplace, rising prices, less technological innovation and poor customer service.

(The online poll is not scientific and the results represent only a snap shot of some readers' opinions.)

AT&T officials, however, disagree with the negative assessments of the merger and have long maintained that there is sufficient competition in the marketplace as evidenced by the full slate of services offered by cable, wireless carriers and competing local phone companies.

In 1984, the courts broke up AT&T Corp. into a long-distance company and seven regional Bell operating companies: Southwestern Bell, Pacific Telesis, Ameritech, BellSouth, U.S. West, NYNEX and Bell Atlantic.

Since then, Southwestern Bell -- which changed its name to SBC Communications Inc. -- undertook an acquisition strategy to acquire fellow Bells Pacific Telesis and Ameritech and former parent company AT&T Corp. SBC officially changed its name to AT&T on Nov. 18, 2005, and is aggressively re-branding itself as the new AT&T.

By merging with BellSouth, a number of online participants of the Business Pulse survey said AT&T's plan is tantamount to the re-monopolization of the former Ma Bell.

Several survey participants attributed the overall growth in technological innovation the telecommunications industry is enjoying today to the break up of the old monopoly and the resulting competition. If AT&T is allowed to proceed with the merger, it could stifle healthy competition, one survey participant said.

The merger still needs shareholder and regulatory approval in five states and with the Justice Department and Federal Communications Commission.

About 41 percent of those who participated in the survey said the merger would be a positive development for the small-business community. Many said that AT&T's move is simply a response to the overall consolidation in the telecommunications industry.

About 8 percent of those responding to the poll were undecided.

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UPDATE: Proxy Adviser Backs Boston Sci, Guidant Deal (DOW)

By Jon Kamp, Of DOW JONES NEWSWIRES

Dow Jones, March 21, 2006

Shareholders of Boston Scientific Corp. (BSX) (BSX) and Guidant Corp. (GDT) (GDT) should approve the consolidation of the two companies in votes scheduled for March 31, according to Institutional Shareholder Services, an influential proxy advisory firm.

In reports recently directed to shareholders of each company, ISS said "the acquisition of GDT will allow BSX to diversify its product offerings, adding defibrillators and pacemakers, and should ameliorate some of the concerns regarding future growth."

On Jan. 25, Boston Scientific (BSX) and Guidant (GDT) announced a merger agreement, under which Boston Scientific (BSX) will buy Guidant (GDT) for a combination of cash and stock worth about $27 billion. The deal is valued at $80 a share to Guidant (GDT)shareholders as long as Boston Scientific (BSX) shares close within a $22.62-$28.86 collar over a certain period prior to the deal's closing.

So far, Boston Scientific's (BSX) closing price has largely remained within that range. Boston Scientific (BSX) recently traded at $23.28, up 66 cents, or 2.9%.

Guidant's (GDT) shares recently traded at $78.69, up 81 cents from Friday's close, and hit a 52-week high of $78.74 earlier in the session. The stock hit its previous 52-week high of $77.95 during Friday's session.

ISS published its reports Thursday, and the two medical-device makers noted the positive reviews in a joint press release Monday.

Jim Tobin, Boston Scientific's (BSX) chief executive, repeated that the acquisition is expected to close in the first week of April. In a recent filing with the U.S. Securities and Exchange Commission, Boston Scientific (BSX) said it anticipates antitrust approval for the deal that week.

Guidant (GDT) and Boston Scientific (BSX) are each holding separate shareholder meetings for a vote on the deal at 10:00 a.m. EST on March 31. Guidant (GDT) will hold its meeting at its corporate headquarters in Indianapolis, and Natick, Mass-based Boston Scientific (BSX) will hold its meeting in Boston.

ISS noted that it will take a majority vote from holders of each company to clear the deal. Boston Scientific (BSX) has a head start as major shareholders Pete Nicholas and John Abele, who founded and own roughly 30% of the company, have already entered into voting agreement with Guidant (GDT) through which they have agreed to back the deal.

Boston Scientific's (BSX) major product is its Taxus drug-coated stent, a tiny device used to prop open arteries. Though Taxus is the top-seller in the more than $5 billion market, growth in the overall segment is leveling off. Guidant (GDT)had notable troubles last year with its heart-rhythm devices, including several recalls and problems linked to multiple deaths, but the heart-rhythm segment is still expected to expand rapidly.

Larry Best, Boston Scientific's (BSX) chief financial officer, recently said the company expects to rebuild Guidant's (GDT) position in the business.

-By Jon Kamp, Dow Jones Newswires; 312-750-4129; jon.kamp@dowjones.com

(Jennifer Tershak in New York contributed to this report.)

Lucent Gets Antitrust Clearance To Buy Riverstone Operations (DOW)

Dow Jones, March 21, 2006

WASHINGTON -(Dow Jones)- Lucent Technologies Inc. (LU) (LU) received antitrust clearance from the Federal Trade Commission to buy the business operations of Riverstone Networks Inc. (RSTNE) (RSTNE) for $170 million in cash.

The FTC said Monday that on Friday it granted Lucent early termination of the waiting period required under the Hart-Scott-Rodino Antitrust Improvements Act.

Lucent has said the acquisition would complement its broadband, data and optical-networking products. The transaction is subject to bankruptcy court approval and other conditions.

Riverstone Networks (RSTNE) said in a press release Friday it received a $178-million offer from the U.S. unit of Swedish telecommunications giant LM Ericsson (ERICY) to purchase substantially all of Riverstone's assets.

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Riverstone said it was reviewing Ericsson's bid.

An auction for the sale of Riverstone's assets is scheduled for Monday. The deadline for bids was Thursday.

Riverstone, Santa Clara, Calif., makes ethernet routers for the telecommunications industry. The company filed for Chapter 11 bankruptcy protection Feb. 7, listing assets of $98.3 million and debt of $130 million.

At that time, Riverstone agreed to sell its assets to Lucent, a telecommunications equipment manufacturer based in Murray Hill, N.J., for $170 million, subject to higher offers.

Lucent's shares recently fell 3.8% to $2.79, after a Barron's report criticized the company's dwindling business prospects.

-By Ingrid Pedrick Lehrfeld, Dow Jones Newswires; 202-862-1361

Counter-bid Likely For Prudential (FT)

By Andrea Felsted

Financial Times, March 21, 2006

Investors were braced for a counter-bid for Prudential, Britain's second biggest life assurer, after its shares rose 5 per cent above the offer price proposed by Aviva.

Shares in Prudential rose 11 per cent to 743½p, ahead of the 706p proposed by Aviva in its all-share offer which, valuing Prudential at £16.8bn

"The share price is telling you that the market is expecting a counter-bid," said Roman Cizdyn, an analyst at Oriel Securities. "As we sit where we are now, Aviva is not likely to succeed. The price is telling you that."

However, Richard Harvey, chief executive of Aviva, said a counterbid was "unlikely" and that consequently, Aviva was not expected to make a hostile offer.

"I think it's unlikely that someone else would come in and that is why we are expecting to proceed on a recommended basis," Mr Harvey said.

France's Axa is seen as the most likely counter-bidder for Prudential, but some analysts said that it had been reluctant to become involved in contested bid situations in the past.

Mr Cizdyn said that Aviva, by showing its hand and admitting that it needed more growth opportunities, had also put itself into play.

Expectations of a counterbid come as Prudential shareholders are set to put pressure on Mark Tucker, chief executive, and Sir David Clementi, chairman, to explain why it would not enter discussions with Aviva.

"We need a robust defence case, which is quantified, as to why they are turning down a 700p-plus offer," said one Prudential shareholder.

One top-30 shareholder said he would be asking Prudential to justify why it would not enter into dialogue with Aviva, but the outcome would depend on the bigger shareholders.

Mr Harvey played down the prospects of Aviva raising its offer, or adding a cash component. "I don't think there is a lot [of sense in] moving cash out of the group that you are expecting to grow very strongly," he said.

The comments came as Prudential reaffirmed its rejection of Aviva's proposed offer.

It followed a statement from Aviva detailing its proposal. The group said that, under the terms of the proposal, Prudential shareholders would receive 82 new Aviva shares for every 100 Prudential shares held. It also expected to generate annual cost savings of £320m before tax by 2009, at a one-off cost to shareholders of £480m.

Aviva also said it would be able to boost Prudential's dividend by the combined group adopting Aviva's dividend policy.

It added that Mr Harvey would be chief executive of the combined group with the rest of the board drawn from both organisations.

However, Mr Harvey refused to comment specifically on whether there would be a role for Mr Tucker.

Aviva CEO Plans To Woo Prudential PLC Investors To Back Takeover Offer (WSJ)

By Charles Fleming

The Wall Street Journal, March 21, 2006

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Insisting his takeover intentions remain friendly, Richard Harvey, chief executive of the United Kingdom's largest insurer, Aviva PLC, said he would take his case for a merger with fellow U.K. insurer Prudential PLC directly to shareholders, overriding Prudential managers' rejection of his unsolicited £17.1 billion (€24.63 billion or $30.04 billion) takeover offer.

"My door is open to shareholders," Mr. Harvey said in an interview. He said the two companies have many shareholders in common and that Aviva's investor-relations team is currently working the telephones to explain Aviva's position to investors. "I expect them to arrange a number of rendezvous for me [with shareholders] in the coming weeks,' Mr. Harvey said.

Prudential, which isn't related to the U.S. insurance company of the same name, repeated Monday its opposition to Aviva's proposal. Prudential Chairman David Clementi said in a statement that Prudential's potential as a stand-alone company was "tremendous and distinctive" and that a combination with Aviva would dilute the benefits of its growth. Prudential Chief Executive Mark Tucker was unavailable for comment, a Prudential spokesman said.

Aviva sent its offer to Prudential management last Thursday, suggesting a merger of the two companies in an all-share transaction valuing Prudential at 708 pence a share. Mr. Harvey said Monday that he had gone public with the terms of the offer, not as a hostile gesture but so that shareholders could assess the proposal on an informed basis. He also said the U.K. Takeover Panel would have required the information to be made public following Prudential's public statements over the weekend.

Mr. Harvey said Aviva wasn't considering raising its offer, but Prudential shares soared Monday on expectations that a higher offer would follow, either from Aviva or another as-yet undeclared bidder. Prudential shares were trading more than 12% higher at 747.50 pence in London Monday afternoon.

Mr. Harvey acknowledged as modest Aviva's estimates of £320 million in annual cost savings if the two groups merged. But he said there were stronger arguments for the transaction. He specified the need to match the global reach of Aviva's two main European rivals, AXA SA of France and Allianz AG of Germany, both of which have built up a strong U.S. presence as well as broad European operations.

"You don't just do this to save money. Look at the way the market values AXA and Allianz and their global footprint," he said, saying he was seeking to build "a must-hold world-wide company." Aviva's insurance business is focused on the U.K. and Europe, while Prudential has operations in the U.K., the U.S. and across Asia.

Aviva, shares of which were down slightly at 848.63 pence in London Monday afternoon, currently trades at 11.42 times its estimated 2006 earnings, slightly under AXA's current price-to-earnings ratio of 12.85 but above Allianz's 11.25. Prudential's current price-to-earnings ratio is 14.61 times its 2006 estimated earnings.

Belgium To Seek Concessions On GDF-Suez (AP)

AP, March 21, 2006

PARIS - Belgian Prime Minister Guy Verhofstadt said Monday he plans to hold talks to seek concessions on the French government-backed plan for Gaz de France SA to acquire French utility company Suez SA.

Speaking after a meeting with President Jacques Chirac in Paris, Verhofstadt said he had told the French leader that a GDF-Suez deal should not prevent Belgium from opening its gas and electricity markets to more competition.

Verhofstadt also said the two Paris-based companies would likely have to sell assets in order to meet that requirement.

The GDF-Suez deal was announced by the French government last month just days after Italian power company Enel SPA said it might launch a takeover bid for Suez.

Suez owns Electrabel, the Belgium's largest power company, and GDF holds a sizable stake in its nearest domestic rival, SPE.

Verhofstadt said last week that it would be unacceptable for one company to control 90 percent of his country's electricity market. The Belgian energy regulator is also concerned about the country's nuclear plants coming under French control, according to press reports.

A final deal might have to include "a sell-off of assets in the nuclear domain," Verhofstadt said Monday, adding that his government was seeking to "open the electricity and gas markets in Belgium and to have several operators, as is already the case in telecommunications."

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The CEOs of GDF and Suez, Jean-Francois Cirelli and Gerard Mestrallet, met EU Competition Commissioner Neelie Kroes on Monday to discuss antitrust concerns over the planned deal.

Mestrallet said afterward that he and Cirelli had presented the plan at a "very constructive" first meeting, refusing to be drawn on likely concessions.

But Suez spokesman Guy Dellicour said the company does not expect the selloffs required to go beyond an existing agreement to sell three sites, effectively opening 25 percent of the Belgian power market to competition.

Verhofstadt, who will meet the GDF and Suez bosses on Tuesday and Wednesday, has already said more electricity businesses will have to be sold for the deal to go through.

Enel CEO Fulvio Conti is also set to meet Tuesday with the EU's Kroes, who cautioned earlier this month that energy deals will receive close antitrust scrutiny. The EU executive has for years been pressing stragglers in energy liberalization, including Belgium and France, to open their electricity and gas markets.

FCC Deregulates Verizon's Big-Business Market (WSJ)

By Amy Schatz

The Wall Street Journal, March 21, 2006

WASHINGTON -- Verizon Communications Inc. got a boost in the big-business market as federal regulators agreed to deregulate its high-volume data lines for its largest corporate customers.

The decision by the Federal Communications Commission essentially lifts price controls and possibly reverses some conditions imposed on the New York telecommunications company last year during its acquisition of MCI Inc. It also gives Verizon pricing flexibility for lucrative high-volume services sold to major corporations, although regulations may continue to stay in effect for smaller business customers.

The action signaled the FCC's willingness to expand phone companies' control over high-speed Internet lines to cover the large corporate market as well as residential customers.

But by granting Verizon's request without guidance, the FCC prompted confusion in the industry Monday. The action could lead to legal challenges by smaller competitors, particularly companies that resell high-volume services, such as Internet access, to small businesses. Also, other phone companies are likely to file requests for similar relief with the FCC.

"It's the most lucrative market today, and this ensures Verizon remains dominant in its territory," said Jessica Zufolo, a telecom analyst for Medley Global Advisors.

Verizon Monday said in a statement it appreciated the FCC's actions. In December 2004, the company asked the FCC to ease rules on data pipes used by its enterprise customers, freeing it from common-carrier obligations, notably rules guaranteeing access at "just and reasonable" rates. The FCC lifted similar rules last year on residential high-speed Internet lines. The change frees Verizon from a variety of rules, including requirements to interconnect with other providers or contribute to the Universal Service Fund, which subsidizes phone services for low-income residents and rural communities.

FCC Chairman Kevin Martin has supported giving the Bells more control over data lines, saying it will encourage investment and the spread of high-speed Internet access. He asked the commission's other members to approve Verizon's request last month, but the effort failed after the FCC's two Democrats voted against the measure, saying it would restrict competition in the enterprise market.

"Like everyone else, it puts us at the mercy of Verizon. If we pay them enough money, I guess we'll get service," said Earl Comstock, chief executive of Comptel, an association of smaller phone companies that compete with the Bells.

The Verizon proposal went into effect Sunday night because an FCC rule grants petitions automatically if the commission doesn't respond. Commissioner Michael Copps, one of the panel's two Democrats, said the decision "erases decades of communications policy in a single stroke. In effect, we provide industry the pen and give it the go-ahead to rewrite the law."

The decision to grant Verizon's request without FCC guidance could prove problematic since the original request was somewhat broad. It is also unclear if the decision only applies to Verizon or all carriers who provide such services. AT&T Inc. said in a statement it was evaluating the decision, but believes it "should apply to all market players."

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And it is unclear which obligations Verizon still has on its high-volume lines. For example, rules requiring telecom companies to cooperate with law enforcement on wiretapping and other electronic surveillance may no longer apply. Mr. Martin is already planning to circulate an order to reimpose Universal Service Fund obligations, FCC officials said Monday. The action may also effectively undo some conditions imposed on Verizon last year in its acquisition of MCI, such as requiring it to lease access to high-volume lines to competitors along with a limited price freeze on rates.

Kerzner Agrees To Buyout Offer Topping $3 Billion (WSJ)

By Peter Sanders

The Wall Street Journal, March 21, 2006

Casino operator Kerzner International Ltd. agreed to be acquired by a consortium of private-equity concerns for $3 billion in cash plus the assumption of $599 million in debt.

The consortium, including Kerzner Chairman Sol Kerzner and his son, Butch Kerzner, the company's chief executive, agreed to pay $76 a share for the Bahamas-based casino company, an 8% premium to the stock's Friday closing price. The company operates its flagship Atlantis properties in the Bahamas and soon in Dubai, as well as the ultraluxury "One&Only" hotels in exotic destinations around the world. Kerzner International also receives income from the Mohegan Sun tribal casino in Connecticut, which it developed, and has a large casino at its Atlantis property in the Bahamas.

If successful in their buyout attempt, the Kerzners would see their ownership stake rise to about 25% from about 10%, Butch Kerzner said in an interview. Kerzner officials insist they "will actively solicit superior proposals during the next 45 days," but the proposed deal represents a multiple of about 19 times last year's earnings, according to a person familiar with the situation. "On a multiple basis, this is a rich price," that person says.

Butch Kerzner, 42 years old, said that, to be completely forthright with investors, the company will entertain other offers at a higher price by conducting a "full auction" during the next 45 days. He added that "in certain circumstances, we would vote our shares in favor if there is a higher offer." But he expects the buyout to go through and "looking at the horizon, we want it not just to be an investment, but my father and I want to have a strategic stake in what we want to do."

Another person familiar with the situation said two of the four members of a special committee formed to examine the proposed deal are shareholders with a combined 14% of the stock. That person said both members have agreed to sell their positions at the proposed price.

If completed, the deal is expected to close sometime later this year. Investors reacted positively to the news, driving the stock up 13%, or $9.07, to $79.43, above the $76 offer price, in 4 p.m. composite trading yesterday on the New York Stock Exchange.

Private-equity partners in the deal include major shareholder Istithmar, a closely held entity controlled by the government of Dubai that already owns about 12.3% of the company; Colony Capital LLC; Whitehall Street Global Real Estate Ltd.; Providence Equity Partners Inc. and The Related Companies L.P.

The proposed deal is another in a frenzy of activity focused on the hotel and casino industry. Last week, casino operator Aztar Corp. agreed to be acquired by rival operator Pinnacle Entertainment Inc. for about $1.45 billion. Last month, Hilton Hotels Corp. completed its roughly $5.7 billion acquisition of its international counterpart.

And in January, Fairmont Hotels & Resorts Inc. agreed to be acquired by a Canadian company and Colony Capital for about $3.3 billion. But the proposed deal would be the first in recent memory that would see a hotel company taken private.

Mr. Kerzner insists it will be "business as usual" for his company, which competes at the high end in both the casino and hotel world with major players such as Harrah's Entertainment Inc. MGM Mirage, Starwood Hotels & Resorts Worldwide Inc., Marriott International Inc. and others.

"We're not looking at this as a typical leveraged buyout," Mr. Kerzner said. "We've grown this company over time, and we will be investing more money in the business, not stripping out cash."

In 2004, 81% of Kerzner's revenue came from its megaresort in the Bahamas. Last year, the company pushed forward with a major expansion of its Atlantis property in the Bahamas, which will compete with a newly announced project by Harrah's and

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Starwood slated for a site nearby. The company is in the continuing race to secure one of two new casino licenses in Singapore, which would see the winner build a multibillion-dollar resort destination there in the coming years.

France Drafts Copyright Law To Open Up ITunes (FT)

By Tom Braithwaite

Financial Times, March 21, 2006

Apple Computer could on Tuesday be forced to open up its digital music business to competitors after a vote in the French parliament.

The owner of iTunes, the online music store, and the iPod digital music player, will have to choose between making downloaded music compatible with rival platforms or pulling out of France if, as expected, the parliament in Paris approves a draft copyright law.

Software in digital downloads from iTunes prevents music being played by any rival to the popular iPod, but the French bill seeks to impose "interoperability" on online music stores and break Apple's closed system.

"It is unacceptable that . . . the key should be controlled by a monopoly. France is against monopolies," said Martin Rogard, an adviser at the French Culture Ministry. "The consumer must be able to listen to the music they have bought on no matter what platform."

Mr Rogard said it was "desirable" that France led in this respect, but hoped that it was the start of a Europe-wide move to open up digital music.

Competitors such as Sony and Microsoft would also have to comply with the legislation, but some rivals see it as a chance to break Apple's grip on the online music market. Steve Jobs, Apple's chief executive, has said that 3m songs a day are sold on iTunes. The website has more than 70 per cent of paid digital downloads in some markets.

"The French seem to be leading the way in being a little bit more anarchic and taking a stand," said Rudy Tambala, head of Virgin Digital, a UK-based online music store. "[Apple made] a smart move. They've created the market and they've dominated it."

However, others in the IT industry said forcing Apple to admit competitors to a new market it was instrumental in creating sent the wrong signal to technology companies. CompTIA, a trade association, said the law was the latest in a series of measures in the European Union that were "punishing inventors and stifling innovation".

The draft copyright law, which implements an EU directive on intellectual property, has already been the source of controversy. Record companies and artists were enraged last year when an ad hoc coalition of MPs succeeded in pushing through a parliamentary amendment that legalised peer-to-peer file-sharing.

The government overturned the amendment but has bowed to pressure from consumers groups to open up the market for digital music. The government has also reduced the fines for illegally downloading music to a mere €38 ($46, £26).

Apple said it was waiting for the law to be passed before making any comment.

Justices Reach Out To Consider Patent Case (NYT)

By Andrew Pollack

The New York Times, March 20, 2006

For the first time in a quarter-century, the Supreme Court will hear on Tuesday a case involving the basic question of what type of discoveries and inventions can be patented.

Both sides say the case, which involves a blood test for a vitamin deficiency, could have a wide-ranging impact on the development of diagnostics, perhaps threatening many of the underlying patents for genetic and other medical tests.

But the array of companies filing supporting briefs — including American Express, Bear Stearns and I.B.M. — indicates that intellectual property in other fields might also be affected.

Some patent specialists say they think the Supreme Court agreed to hear the case, against the advice of the United States solicitor general, to rein in patenting.

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"The Supreme Court reached out and grabbed this case," said Edward R. Reines, a patent attorney at Weil, Gotshal & Manges who is not involved in the case. "These circumstances suggest that some members of the court believe there are too many patents in areas where there should be none."

At issue is whether relationships between a substance in the human body and a disease — for example, the familiar association between high cholesterol and a higher risk of heart attacks — can be the basis of a patent, or whether such relationships are unpatentable natural phenomena.

This case, LabCorp v. Metabolite Laboratories, stems from a 1990 patent awarded to scientists at the University of Colorado and Columbia University. They found that a high level in the blood of homocysteine, an amino acid, indicated a deficiency of either vitamin B12 or another B vitamin called folic acid.

Much of the patent describes a specific way to measure homocysteine, and those claims are not at issue. But the 13th claim of the patent is more general: it covers a way of determining vitamin deficiency by first testing blood or urine for homocysteine by any means and then correlating elevated levels with a vitamin deficiency.

The patent is owned by Competitive Technologies, a publicly traded patent management firm in Fairfield, Conn., and licensed to Metabolite Laboratories, a tiny company based at the University of Colorado. LabCorp, one of the biggest clinical testing companies in the nation, with 2005 revenues of $3.3 billion, sublicensed the test from Metabolite.

At first, LabCorp, whose full name is Laboratory Corporation of America Holdings, tested for homocysteine using the specific method described in the patent and paid royalties to Metabolite and Competitive Technologies. But in 1998 it switched to a newer and faster test developed by Abbott Laboratories.

Metabolite and Competitive sued, charging LabCorp with violating Claim 13 of the patent. In 2001 a federal jury in Denver ruled against LabCorp, and the company was eventually ordered to pay $7.8 million in damages and attorneys' fees. The appeals court that handles patent cases affirmed the lower court decision in 2004.

In asking the Supreme Court to overturn the lower court decisions, LabCorp is arguing that Claim 13, because it does not specify how testing is to be done, patents nothing more than the natural relationship between homocysteine and vitamin B deficiencies, blocking other inventors from developing better tests.

"The present-day implications of such a holding are limitless — and dangerous," LabCorp wrote in its brief. "Anyone who discovers a new medical correlation could stifle medical treatment through a 'test plus correlate' claim."

But Metabolite and its allies argue that such correlations are the basis of diagnostics and that not allowing patents would stifle development of new tests. There are tests, for instance, that look at mutations in particular genes to predict a high risk of breast cancer or to predict which AIDS drugs will not work.

"Hundreds, if not thousands, of patents would at once be called into question" if the ruling goes against Metabolite, said a brief jointly submitted by Perlegen Sciences, a company developing genetic tests, and Mohr Davidow Ventures, a venture capital firm that backs diagnostics companies.

Another question in the case is whether doctors could infringe the patent merely by looking at a test result for homocysteine and then thinking about vitamin deficiency. Indeed, the lower courts said LabCorp had not directly infringed but rather had induced doctors to infringe by performing the correlation.

Partly with that in mind, the American Medical Association, the American Heart Association and AARP have submitted briefs in support of LabCorp, arguing, in the words of the heart association, that the patent could have "devastating effects on patient health care."

Millions of homocysteine tests are done each year because high levels of the amino acid are associated with an increased risk of heart attack, stroke, birth defects and other diseases; people often take B vitamins to lower homocysteine and reduce the risk. (Clinical trial results announced last week, however, suggested that taking B vitamins did not prevent heart attacks.)

Court precedents have held that laws of nature, natural phenomena and abstract ideas cannot be patented. "Einstein could not patent his celebrated law that E = mc2; nor could Newton have patented the law of gravity," the Supreme Court wrote in a 1980 decision. '

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But in a 1981 decision in Diamond v. Diehr — the last time the Supreme Court considered the issue — the court upheld a patent on a method of curing rubber that made use of a well-known equation governing chemical reactions. The court said that the equation was only part of a broader invention.

Glenn K. Beaton, an attorney for Metabolite, said that as in that 1981 case, "it's not the correlation itself that is patented here," but rather "the use of that correlation to determine B12 and folate deficiencies."

In recent years, controversial patents have been granted on software and on business methods, such as ways of managing investment portfolios or of allowing people to order merchandise on Amazon.com with one click of a mouse.

Bear Stearns, Lehman Brothers and the Computer and Communications Industry Association filed briefs urging the court to use the LabCorp case to restrict such business method patents, or at least not expand them. Other companies, including American Express and I.B.M., say the LabCorp case is not relevant to business method patents.

The solicitor general, in urging the court not to hear the case, said there was not enough of a record from the lower courts on the question of patenting natural phenomena. That is because LabCorp did not raise that argument in the lower courts, instead trying to get the claim invalidated on other grounds. If LabCorp wins the case in a way that weakens patents on diagnostic tests, it could be one of the bigger losers. The company, based in Burlington, N.C., is counting on high-priced, patented genetic tests to fuel its growth.

Bradford T. Smith, executive vice president for corporate affairs at LabCorp, disputed that. "We think this case can be decided very narrowly," without undermining other patents, many of which rely on more than just correlations, he said.

Innovation And Its Discontents (WSJ)

By Adam Jaffe And Josh Lerner

The Wall Street Journal, March 21, 2006

The problems of the U.S. patent system are under discussion today with an urgency not seen in decades. The Supreme Court will soon hear oral arguments in eBay v. MercExchange LLC, which promises to be its most far-reaching examination of patent law in many years. Today the court will also consider LabCorp v. Metabolite Laboratories -- the contested matter is whether a patent can be issued for the correlation between a disease and a naturally occurring substance in the human body. That is: Can you actually patent the laws of nature? And shockingly, Research in Motion has been forced to pay $612 million to prevent all of our BlackBerry handhelds from going dark, even though the U.S. Patent and Trademark Office (USPTO) has indicated that it is likely to find all of the patents behind this ransom demand invalid. Congressional subcommittees, with good reason, have recently held hearings asking fundamental questions about developments like these in the patent system.

The importance of this long-overdue focus on patents cannot be overemphasized. The past decade has seen periodic uproars over particular patents, such as Amazon's "one click" patent for online shopping. The troubling patents have been well publicized, but the wrong lessons have typically been drawn. Commentators have tended to focus on the incompetence of the USPTO in allowing "bad patents." Others have concluded that the patent system is not working with respect to a particular area of technology. Concerns about software awards led, for instance, Jeff Bezos of Amazon to propose a new patent type for software; others have suggested that biotechnology be excluded in various ways from the patent regime.

We believe, instead, that the problems with the patent system are systemic and fundamental, the result of two congressional changes to the patent system. At the time they were described as administrative and procedural rather than substantive; but taken together they have resulted in the most profound changes in U.S. patent policy and practice since 1836. One set of changes has made it easier to enforce patents, easier to get large financial awards from such enforcement, and harder for those accused of infringing patents to challenge the patents' validity; another set of changes has made patents much easier to get. The combination has created a perfect storm: a complex and intensifying combination of factors that increasingly makes the patent system a hindrance rather than a spur to innovation. * * *

Congress set us on this road in 1982 when it created a centralized appellate court for patent cases, the Court of Appeals for the Federal Circuit. Its decisions -- which advocates argued would simply ensure judicial consistency -- are largely responsible for the significant strengthening of the legal potency of patents. Then, a decade later, Congress turned the USPTO into a "profit center." The office has been pushed to return "excess" revenue to the U.S. Treasury. This shift led to pressures to grant more

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patents, difficulties in attracting and retaining skilled examiners, and a torrent of low-quality patent grants. These include such absurdities as patents on wristwatches (paw-watches?) for dogs, a method of swinging on a swing ("invented" by a five-year-old), and peanut butter and jelly sandwiches. But they also include the patents on broad ideas related to mobile email -- virtually devoid of any details of implementation -- that have imposed a $612 million tax on the maker and users of BlackBerries.

The combination of making patents easier to get and simultaneously more potent when enforced has led to an explosion in patent litigation. Holders of dubious patents -- be they established firms or "trolls" whose only business is patent enforcement -- routinely threaten firms that sell valuable products with shutdown based on alleged patent infringement. Even if the target firm believes that it does not infringe, or that the patents at the basis of the claim are invalid, the cost and risk of proving this in court may be too high. Innovators may choose simply to drop the allegedly offending product, or to settle and pay ransom rather than fight. This is not a problem confined to any single industry. Even in industries where patents have been traditionally rare, such as financial services, patent filings and litigation are exploding. Financial patents are being litigated at more than 10 times the rate of awards more generally.

It might be tempting to view patent law as just another area where litigation has spun out of control. But there is more at work here than a general increase in litigation; and its effects are particularly worrisome, because a faulty patent system can have profound impact on the overall process of innovation. The hugely successful BlackBerry may be able to bear an enormous "innovation tax" and still succeed, but other valuable but not-quite-blockbuster innovations may be driven from the market entirely.

The continued advancement of commercial technology is the basis for the long-term ability of our society to continuously improve our lives -- to promote health and longevity, protect and clean up the environment, and secure our safety against terrorism and other external threats. For all its deficiencies and periodic stumbles, our free-enterprise system has demonstrated a unique ability to generate new technology: Industrialized economies have increased their economic productivity more in the last two centuries than in all the millennia of previous human history. The basis for this advance is the pursuit of profit, which forces firms to innovate. But the profit-based incentive to innovate depends fundamentally on the institutions governing ownership of the fruits of innovation. Specifically, taking new ideas from the notebook to the market often requires huge investments in research and development. This is an inherently risky process, and risk is the enemy of investment.

The legal protection patents provide is supposed to mitigate the risks of these investments, but the flood of dubious patents that nonetheless have amplified legal force is increasing rather than mitigating the risks associated with investments in innovation. While we have not yet killed the geese that lay the golden eggs, we are increasingly hindering and distracting the people and firms that must breed, feed and care for the geese. If we continue on this course, it is inevitable that their output will decline. * * *

We believe that the incentives of the existing system induce all participants -- inventors, competitors and potential litigators -- to invest in abusing the system rather than innovating. Reform of the system must change these incentives by (1) changing the USPTO review process so that the determination of whether a patent application is really new is made with as much information as practical about what related technology is already out there; and (2) leveling the playing field between litigants so frivolous patent holders cannot intimidate true innovators into paying protection money.

Our proposed reforms start with the recognition that much of the information needed to decide if a given application should be approved is in the hands of competitors of the applicant, rather than the USPTO. A review process with multiple levels efficiently balances the need to bring in outside information with the reality that most patents are unimportant. Multilevel review -- with barriers to invoking review increasing at higher levels, along with the review's thoroughness -- would naturally focus attention on the most potentially important applications. Most patents would never receive anything other than the most basic examinations. But for those applications that really mattered, parties would have an incentive and opportunities to bring information in their possession before the USPTO, and the USPTO would have more resources to help it make the right decision. (Changes in this direction are at the heart of the patent reform bill currently under consideration in the House Subcommittee on Courts, the Internet and Intellectual Property.)

If bad patents with important consequences were weeded out by the USPTO, the incentive to file frivolous applications in the first place would be reduced. This would break the current self-stoking cycle in which inventors are induced to make

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marginal applications by their likelihood of success, and the resulting flood of applications overwhelms the patent office and makes it harder to separate the wheat from the chaff.

Breaking the vicious cycle of bad examination and bad applications is the key to reform of the patent review process. But there are always going to be mistakes, and so it is important that the court system operate efficiently to rectify those mistakes, while protecting holders of valid patents. Today, the legal playing field is significantly tilted in favor of patentees.

The reliance on jury trials is a critical problem. The evidence in a patent case can be highly technical, and the average juror has little competence to evaluate it. Having decisions made by people who can't really understand the evidence increases the uncertainty surrounding the outcome. The combination of this uncertainty with the legal presumption of validity -- the rule that patents must be presumed legitimate unless proven otherwise -- is a big reason why accused infringers often settle rather than fight even when they think they are right.

The right to a jury of one's peers is a venerated concept in Anglo-American law. But there is ample scope for judges to use pretrial rulings and reports of special "masters" commissioned by the court to resolve more of the most technical issues that determine the outcome of patent litigation. While litigation will always be uncertain, it has to be structured so that complex technical issues are addressed in a way designed to elucidate rather than obscure.

The protection for true innovators created by a workable patent system is vital to technological change and economic growth. The problems in the existing patent system are structural, and the fundamental solutions need to be structural as well. As much as the USPTO needs to do a better job, it can only do so if the system is modified so that all parties have incentives to help with the job, and the courts provide a reliable backstop when mistakes are made.

Mr. Jaffe is professor of economics and dean of arts and sciences at Brandeis University. Mr. Lerner is Jacob Schiff Professor of Investment Banking at Harvard Business School. They are the authors of "Innovation and Its Discontents: How Our Broken Patent System Is Endangering Innovation and Progress, and What to Do About It" (Princeton, 2004).

ENVIRONMENT:

Kerr-McGee Sues To Dispute Federal Royalties (WSJ)

By Steve Levine

The Wall Street Journal, March 21, 2006

Kerr-McGee Corp., at a time of rising political scrutiny of oil-company profits, is suing the federal government to avoid about $108 million in royalties on its deep-water production in the Gulf of Mexico.

The issue of royalty payments on Gulf-of-Mexico oil properties owned by the federal government has attracted much criticism in Congress because of high gasoline prices and record oil-company financial results. Some lawmakers have called for a windfall-profits tax on the industry, though such a levy still appears to be a long shot.

In all, the Interior Department estimates that royalty exemptions in the Gulf of Mexico could cost the U.S. treasury some $7 billion over time, depending on the price of oil and the level of production.

Kerr-McGee, which produces oil and natural gas from 17 deep-water fields in the Gulf, filed suit Friday in federal court in Lake Charles, La. The Oklahoma City company is seeking to overturn a January order by the department's Minerals Management Service division that Kerr-McGee and other oil companies pay more in royalties for the fields. Most oil companies complied with the order, but Kerr-McGee was among three that didn't pay.

The case involves fallout from a 1995 congressional act that, at a time of relatively low oil prices and shrinking U.S. production, attempted to increase oil and natural-gas production from the deep-water sections of the Gulf of Mexico. Water depths there often exceed 2,500 feet, and exploration is expensive and riskier than elsewhere. The congressional act exempted oil companies from royalty payments for millions of barrels of deep-water production for leases obtained from 1996 to 2000 as long as world prices didn't exceed a certain level.

The threshold for those leases last year was $34.71 per barrel for oil and $4.34 per million British thermal units for natural gas. Yesterday in New York, oil futures fell $2.35, or 3.7%, to settle at $60.42 a barrel. Natural-gas futures fell 21.8 cents per million British thermal units, or 3.1%, to $6.835.

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But, in addition to a price threshold, Kerr-McGee argues the act allowed the companies royalty-free production of tens of millions of barrels regardless of the price of oil. For example, for fields deeper than about 2,600 feet, the companies could produce 87.5 million barrels of oil without paying a royalty. Kerr-McGee says its fields haven't reached that maximum yet. Meanwhile, the company said it has placed $108 million in disputed royalties into a reserve account until the issue is resolved.

Amerada Hess Corp. said in its annual filing last week with the Securities and Exchange Commission that it is withholding $34 million in royalty payments to the government in a similar dispute.

Walter Cruickshank, deputy director for the Minerals Management Service, said that the Interior Department believes that the companies are obligated to pay royalties once the price threshold is breached, regardless of how much oil they have produced. He said the department will argue the point in Kerr-McGee's court case.

In congressional testimony this month, Mr. Cruickshank said that, as of January, 28 companies weren't disputing the government's royalties demands, that seven others had either paid in full or part while they disputed the request, and that three others hadn't made any payments.

Another issue that has provoked criticism is a disclosure by Interior Department officials that, for reasons they can't explain, the price threshold was lifted for some 1,100 leases made in 1998 and 1999. That meant that, regardless of prices, oil could be drilled royalty-free in those fields.

Critics in Congress say the absence of the threshold for those years could cost the federal government billions of dollars in lost royalties over time. Critics in a House hearing this month said that there should be no royalty relief when oil prices have risen above $60 a barrel, and the oil companies have faced a storm of objections from editorial writers around the country. For 2005, Kerr-McGee reported net income of $3.2 billion on $5.9 billion in revenue.

U.S. Expects Bird Flu This Year (USAT)

By Anita Manning

USA Today, March 21, 2006

Leaders of three federal agencies on Monday said bird flu could reach the USA this year on the wings of migratory birds, but the appearance of the flu strain "will not constitute a reason for panic," Department of Agriculture Secretary Mike Johanns said.

"We are closely monitoring the rapid spread of the (bird flu) overseas, and we now believe it is likely we will detect it within our borders in the U.S.," he said. "It is important to understand a detection of this virus in birds does not signal the start of a pandemic in people."

The highly pathogenic H5N1 has spread across Asia, Europe and parts of Africa. It is contagious and deadly to poultry and many species of wild birds, and it has infected at least 177 people, killing 98. The virus can't spread easily in humans, but scientists warn it could mutate into a form that is contagious among people, causing a pandemic. (Graphic:

Interior Secretary Gale Norton said a program to test up to 100,000 wild birds for signs of infection this year will focus on breeding grounds in Alaska and islands in the Pacific where migrating birds from Asia are now heading.

All samples taken from birds that test positive for the H5N1 virus will undergo further testing to determine if the strain is highly pathogenic or a more benign form, known as low pathogenic North American H5N1, which previously has been found in the USA and Canada.

She said officials expect up to 100 probable H5N1 test results may be found this year, and tests to determine whether they're the highly pathogenic form may take up to 10 days.

"During that time, the public will need to understand this is a disease of birds," Norton said.

Health and Human Services Secretary Mike Leavitt said it's important to prepare but to keep matters in perspective. "At this point, if you're a bird, it's a pandemic. If you're a human being, it is not," he said.

HHS is funding development of vaccines for possible pandemic flu strains and is stockpiling drugs and other medical supplies. The United States expects to have 26 million courses of the anti-viral drug Tamiflu on hand by the end of this year, he said.

But local communities need to make their own pandemic plans, Leavitt said.

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"Any community that fails to prepare with the expectation that the federal government will, at the last moment, be able to come to the rescue will be tragically wrong. Not because the federal government lacks will, not because we lack wallet, but because there is no way in which 5,000 different communities can be responded to simultaneously, which is a unique characteristic of a human pandemic."

Meanwhile, the Food and Drug Administration said it will ban the use of Tamiflu and other human anti-flu drugs in poultry. The drugs are not labeled for use in poultry, but veterinarians can legally use them off-label to prevent flu in animals.

World health experts fear overuse of the drugs in animals could encourage the emergence of flu strains that are resistant to the anti-virals, according to the FDA.

U.S. To Increase Testing Of Wild Birds For Avian Flu (WP)

By Rob Stein

The Washington Post, March 21, 2006

Federal officials announced plans yesterday to sharply increase testing of wild birds to try to detect the arrival of the deadly avian flu in the United States as early as possible and stanch any outbreaks of disease.

With the virus spreading worldwide, officials predicted it could show up in this country as early as later this year, most likely in wild birds during their annual migration from Asia through Alaska.

"It is increasingly likely that we will detect a highly pathogenic H5N1 strain of avian flu in birds within U.S. borders, possibly as early as this year," Interior Secretary Gale A. Norton said in announcing the plan with Agriculture Secretary Mike Johanns and Health and Human Services Secretary Mike Leavitt. "We are working together to expand our early-warning system."

The dangerous bird flu virus, known as H5N1, has spread from Asia into parts of Europe and Africa, killing or forcing the destruction of millions of chickens and other birds. So far the virus has mainly affected birds, but it has killed 98 people -- about half of those who have been infected. All the victims had close contact with poultry. Officials fear the virus could mutate in a way that makes it spread easily from person to person, sparking a devastating worldwide pandemic.

U.S. wildlife experts have been monitoring wild migratory birds since the virus emerged in Asia in 1997. They have tested 12,000 in Alaska since 1998 and 4,000 traveling across the Atlantic since 2000. Officials have been focusing on Alaska because it is a crossroad for bird migration. No birds have tested positive.

Under the new plan, officials expect to collect 75,000 to 100,000 samples from live and dead wild birds this year, along with 50,000 samples of water or feces from waterfowl habitats across the United States. Officials also plan to investigate any disease outbreaks in wild birds and do spot checks of birds killed by hunters, as well as those being sold in live bird markets and being raised by farmers. The effort is part of the Bush administration's $29 million plan to protect the country against the virus.

"None of us can build a cage around the United States. We have to be prepared to deal with the virus here," Johanns said.

If an infected bird is detected, officials plan to immediately quarantine the area and kill any infected birds to stem the spread of the virus. In addition to human health concerns, officials worry that the virus could devastate the $29 billion poultry industry.

Officials stressed that they expect perhaps dozens of false alarms because of increased testing, and that even if a genuine case is found it does not necessarily mean an outbreak will occur.

"The detection of highly pathogenic H5N1 virus in the United States would not constitute a reason for panic," the agriculture secretary said.

Bird Flu May Arrive In U.S. This Year (AP-Y2)

By Libby Quaid

AP2, March 21, 2006

Bird flu is likely to arrive this year in the United States, with the increased testing of tens of thousands of wild birds expected to reveal dozens of suspected cases, the Bush administration said Monday.

Officials will test 75,000 to 100,000 wild birds this year, or nearly six times the number screened since 1998, according to a government plan finalized Monday. The government also plans to quarantine and destroy any poultry flocks where the virus appears.

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The wild bird testing could reveal 20 to 100 suspected cases of bird flu, although follow-up testing is likely to reveal "dozens" are false alarms, Interior Secretary Gale Norton said. The emphasis will be on Alaska and other spots along the Pacific flyway, a common route that migratory birds follow into the U.S., possibly carrying the virus as they do. Tests will also be run on 50,000 water and bird dropping samples from waterfowl habitats, the government said.

Health and Human Services Secretary Mike Leavitt stressed that people are not yet at risk from the virus, which has ravaged wild and domestic birds alike in Asia, Africa and Europe.

"At this point, if you're a bird, it's a pandemic. If you're a human, it's not a pandemic," Leavitt said.

Norton cautioned that while officials plan to announce any positive tests for bird flu, it will take another five to 10 days for the Agriculture Department's laboratory in Ames, Iowa, to confirm the results.

"This is a disease of birds and not humans, at this point. Finding a bird with the disease does not signal a pandemic," Norton said.

Human cases of bird flu have been rare, but scientists fear the virus could mutate into a form easily spread among people, sparking a worldwide epidemic. For now, wild birds are getting much of the government's attention.

Officials also worry the virus might spread from wild birds to the nearly 10 billion chickens raised each year in the U.S. Authorities say cooking kills the virus and it is safe to eat properly handled and cooked poultry.

Commercial poultry companies already test every flock for bird flu. If the deadly virus shows up in a commercial bird, the entire flock would be quarantined and killed, and the area would be disinfected. Agriculture Secretary Mike Johanns said the government would compensate farmers for their destroyed flocks.

Unlike in many of the countries affected by bird flu, the U.S. has a highly consolidated, $29 billion poultry industry that raises the majority of its birds in controlled, indoor facilities. That minimizes contact between wild and domestic birds.

"Our producers are as eager as we are to protect the safety of our poultry," Johanns said.

While the deadly strain of the virus has not yet been found in the U.S., other strains have. Birds, like humans, have a flu season. Less virulent "low-pathogenic" flu viruses are common. But three times — in 1924, 1983 and 2004 — a lethal, "highly pathogenic" strain has emerged in the U.S.

Also Monday, the government banned veterinarians from using human antiviral drugs, such as Tamiflu, to treat animals. The goal is to ensure the drugs remain effective in people. A spokesman for the National Chicken Council said the industry does not use the drugs.

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On the Net:

http://www.usda.gov/birdflu

http://www.pandemicflu.gov

Interior Secretary Says Bird Flu Due This Year (LAT)

By From Times Wire Reports

The Los Angeles Times, March 21, 2006

Bird flu is likely to arrive this year in the United States, with the increased testing of tens of thousands of wild birds expected to reveal dozens of suspected cases, Interior Secretary Gale A. Norton said.

Officials will test 75,000 to 100,000 wild birds this year, according to a government plan. The government also plans to quarantine and destroy any poultry flocks where the virus appears.

Business Prepares For The Possibility Of Avian Flu In The United States (NYT)

By Melanie Warner

The New York Times, March 21, 2006

The deadly strain of avian flu has not been found anywhere in the Western Hemisphere, but Mark Holden, a chicken grower for Tyson Foods in Ellijay, Ga., is not taking any chances.

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Every seven weeks a group of his chickens is tested before the birds are sent to be slaughtered. All people who enter or leave the chicken houses must walk through disinfecting baths. And visitors and workers must wear plastic booties over their shoes.

"Even though we don't have any outbreak now, we want to take all the precautions we can to protect our product," said Mr. Holden, who has been in the chicken business for 10 years and lives across the street from one of his chicken houses.

Poultry producers and restaurants doubt that their chickens will be infected by avian flu or that people would catch the virus even if there were contamination. But they are concerned that if the virus gets to the United States, people will eat less chicken, simply out of fear. And they are revving up big plans to be prepared.

In Senate testimony earlier this month, Michael Leavitt, secretary of the Department of Health and Human Services, declared that it was "just a matter of time" before birds infected with the virus found their way to the United States.

The stakes are enormous. United States poultry producers like Tyson, Pilgrim's Pride and Gold Kist sell 26 billion pounds of chicken each year. Restaurant chains — chief among them McDonald's, KFC and Wendy's — sell 45 percent of that.

Sales of chicken are growing. Over the last 10 years, consumption of chicken has increased by 22 percent, while beef consumption has remained flat, according to the Department of Agriculture.

If Europe and Asia are any indication, chicken sales could take quite a hit. In February, after avian flu was discovered in wild swans, poultry consumption declined 70 percent in Italy. In France, sales are down 30 percent since avian flu hit a turkey farm last month. In some areas of India, sales are down 40 percent since last month's discovery of avian flu in chickens.

These declines came even though none of the 175 human cases of avian flu confirmed by the World Health Organization since 2003 resulted from eating poultry.

Dick Thompson, a spokesman for the World Health Organization, said most of the cases of humans contracting avian flu have been from people coming into direct contact with infected poultry, though one case in Vietnam appears to have been a result of someone drinking infected duck blood.

Public health officials consider it unlikely that people will catch the virus from eating chicken. Chicken producers say that any sick birds would immediately be destroyed and would not enter the market. While the deadly strain of avian flu, called H5N1, now hitting Europe and Asia can reside in poultry meat, the virus is killed by the temperatures normally used to cook poultry.

Nonetheless, a Harvard School of Public Health nationwide telephone survey of 1,043 adults in January found that 46 percent of respondents who eat chicken said they would stop eating it if avian flu hit the United States poultry industry.

In October, Yum Brands, which owns KFC, told investors that, based on its experiences with avian flu in China, it estimated that in the worst situation, chicken sales would drop 10 percent to 20 percent if there were widespread concerns about avian flu.

Chicken processors and restaurant chains are already working feverishly to minimize any sales declines. Companies are working on communications strategies that can be set into motion at a moment's notice. These plans deal with avian flu in birds and not the feared hypothetical mutation of the virus into a human-to-human form. Future mutations could make avian flu contagious among humans, and possibly generate a pandemic.

Tyson, Pilgrim's Pride, KFC, Chick-fil-A and Popeyes Chicken and Biscuits all say they have formed internal avian flu task forces that meet regularly and include top executives and leaders from different departments. These executives have been meeting with government health officials, discussing what information should go on the companies' Web sites and when, and devising sales loss projections.

Popeyes Chicken and Biscuits, the country's No. 3 chicken chain behind KFC and Chick-fil-A, said its task force met weekly, often in conjunction with the Ledlie Group, an Atlanta-based crisis management agency. KFC said that it had created TV and print ads aimed at convincing people that eating fully cooked chicken was safe. The ad campaign, which was produced by Creative Alliance, an agency in Louisville, Ky., where Yum Brands is based, is ready to go if a crisis strikes.

"It's on the shelf collecting dust," said Jonathan Blum, a Yum spokesman.

Tyson, the country's largest chicken producer, is working on an ad campaign that will run if chicken sales decline, or if consumers start to get nervous.

McDonald's, the country's largest restaurant buyer of chicken, said it had been working on avian flu contingency plans, but declined to discuss details.

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At many chain restaurants, including McDonald's, chicken has helped bolster sales more than any other menu item. In presentations to analysts and investors, McDonald's has credited its new line of higher-priced premium chicken sandwiches and its chicken-topped premium salads with increasing sales at outlets in the United States that have been open for more than a year.

Arby's, which is known for its roast beef sandwiches but gets 15 percent of its sales from chicken products, said it was spending more money than it had for any other new product to promote its new line of so-called chicken naturals. Chicken naturals are all chicken, with no added water or chemicals.

Some analysts think avian flu in birds, like mad cow disease in beef, may turn out to be a nonissue for consumers. Since mad cow was first discovered in the United States in late 2003, beef consumption has remained constant, according to the National Cattlemen's Beef Association.

"In the U.S. I think we generally have a greater trust in the government to ensure food safety than they do in Europe and Asia," said John Glass, an analyst at CIBC World Markets. "I'd be surprised if U.S. consumers really react to this."

But some in the chicken industry worry that avian flu will be much more frightening to consumers than mad cow. "I get asked about it all the time," said Steve Gold, vice president for marketing at Murray's Chicken, a producer of humanely raised chicken. "I think people have this idea that it's going to be like Alfred Hitchcock with all these birds flying into their community and everyone getting sick."

Mr. Gold notes that unlike mad cow, avian flu is highly contagious among birds and has the potential to travel long distances in unpredictable patterns.

He and others in the chicken industry are busy honing a message that the nation's chicken populations are well protected from wild, migratory birds that may be the initial carriers of the disease.

A Web site set up by the National Chicken Council, the National Turkey Federation and the Egg Safety Center (www.avianinfluenzainfo.com) promotes the industry's modern system of enclosed, confined chicken growing as an effective line of defense against the spread of avian flu.

The 20,000 to 24,000 birds that reside in a single growing house on the average industrial chicken farm lack access to the outdoors, or even to sunlight — something that has long drawn criticism from animal welfare activists and has helped fuel the growth in free-range and humanely produced chicken. The virtue of isolating chickens, said Richard Lobb, a spokesman for the National Chicken Council, is that no chicken is likely to come into contact with wild birds that may be infected.

"Things here are not like they are in Asia where chickens are running around outdoors in people's backyards," Mr. Lobb said. "It's much more controlled."

He added that while thousands of free-roaming and backyard chickens were infected in Thailand in 2004, none of the country's large-scale, commercial chicken flocks in enclosed facilities were hit.

Mr. Lobb said chickens sold as free-range or organic, meaning they are allowed access to the outdoors, may be more susceptible to avian flu transmission, but this group represents less than 1 percent of the chicken production.

The Egg Safety Center said that consumers should not worry about eggs being infected with the avian flu virus because sick hens either stop laying eggs or lay poor-quality eggs that would not be acceptable for sale.

Some government officials said that if avian flu arrived on United States shores, it would probably be from migratory birds.

Susan Haseltine, assistant director for biology at the United States Geological Survey and an expert on bird migration, said government scientists had their eyes on the bird pathways from Asia to Alaska. "One species with high potential is the pintail," Ms. Haseltine said. "It migrates from Alaska to the southern U.S., to the Gulf Coast and Southern California. They have the ability to fly long distances."

The Department of Agriculture said that since 2000, 12,000 tests had been done on birds in western Alaska and none had been found with the deadly version of avian flu. Ms. Haseltine said there was little bird passage across the Atlantic from Europe.

Other experts say that avian flu is more likely to reach the United States through the illicit trade of poultry from infected countries. Importing birds or poultry meat from countries that have had outbreaks of avian flu is banned, but Rob Fergus, science coordinator for the National Audubon Society, said there were probably instances of smuggled products. "There are a lot of holes in biosecurity in our ports. I'm much more concerned about poultry shipments than wild birds," he said.

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There is, of course, still the small chance that North America may be somehow spared from avian flu. But companies like Chick-fil-A are not counting on that. "The question is not if, but when," said Don Perry, a spokesman for Chick-fil-A. "You can't put big nets in the sky to prevent birds from flying here."

FDA To Ban Poultry Use Of 2 Drug Types On Flu Fears (WSJ)

By Jane Zhang

The Wall Street Journal, March 21, 2006

WASHINGTON – Federal regulators, amid concern of a possible avian-flu pandemic, moved to ban the poultry industry from using two groups of human antiviral drugs to treat their flocks, for fear that may reduce their effectiveness in humans.

The Food and Drug Administration said beginning this summer, it is proposing to ban veterinarians from prescribing off-label, nonhuman uses of Roche Holding AG's Tamiflu and GlaxoSmithKline PLC's Relenza; amantadine (used in generics such as Symmetrel by Endo Pharmaceuticals Holdings Inc.) and rimantadine (used in Flumadine, by Forest Laboratories Inc.). The U.S. has been stockpiling drugs for a possible avian-flu outbreak in humans.

Not one of those drugs is approved for animal treatment, but under a 1994 law, the FDA allows such use. The FDA has the right to ban them if they cause public-health concerns. This is the first time that the FDA has banned human antiviral drugs for animal use.

The FDA and the U.S. poultry industry say these drugs haven't been used in poultry here yet. They are often more expensive than the cost of the birds they would treat. China used one of the drugs last year to treat flocks; this caused resistance to the drug by an avian-influenza strain, said Stephen Sundlof, director of the FDA's Center for Veterinary Medicine. International agencies, such as the World Health Organization and the Food and Agriculture Organization, have called for the ban to prevent the development of resistant strains.

Dr. Sundlof called the move a precautionary measure. He expects the proposal, which is open to public comment until May 22, will become a final rule June 30.

PREVENTING A PANDEMIC

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The announcement follows the agency's decision last year to ban an antibiotic used in chickens and turkeys, citing evidence that the antibiotic's use might lead to pathogens that could withstand drugs used to fight human illness. The agency's reasoning for yesterday's move on antiviral drugs sprang from similar concerns about resistant strains. Because influenza viruses mutate, resistance to antiviral drugs can leave fewer treatment choices.

The FDA ban is part of a White House campaign to convince the public that it is preparing for the deadly Asian strain of H5N1, which several officials have said could arrive in Asian birds migrating to Alaska. Finding the Asian strain of H5N1 in wild U.S. birds is "increasingly likely," said Interior Secretary Gale A. Norton.

The U.S. has an "early warning system" to test as many as 100,000 wild birds this year in Alaska and the Pacific Coast flyway, believed to be where the avian flu might show up in the U.S. first, given migratory patterns.

The Agriculture Department allows the poultry industry to use vaccine to treat some viral-respiratory diseases, but the industry doesn't use human antiviral drugs to treat influenza in poultry, said Richard Lobb, spokesman for the National Chicken Council, a Washington trade group. The chicken industry has vowed to test all flocks for avian flu before sending them to the market, and destroy those infected with some strains, Mr. Lobb said.

Terence Hurley, a Roche spokesman, says the Swiss drug maker has heard of isolated cases of Tamiflu being used in cats and dogs, but not in poultry. "Tamiflu is approved for use in people, not animals."

Michael Fleming, a GlaxoSmithKline spokesman, says the United Kingdom company hasn't studied the impact of Relenza, an inhaled product, on animals. Both companies say they support the FDA decision.

Forest Laboratories and Endo Pharmaceuticals Holdings declined to comment.

Scientists Oppose Move On Grizzlies (NYT)

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By The New York Times

The New York Times, March 21, 2006

HELENA, Mont., March 20 — A group of 269 biologists and other scientists from around the country asked the Fish and Wildlife Service on Monday not to lift the protections given to the Yellowstone grizzly bear by the Endangered Species Act.

Doing that, they said, could jeopardize its survival.

A letter from the scientists came on the last day of the comment period on the agency's plan to remove protection for the bear. The service has said that the bear population, estimated at 500 to 600, is fully recovered and growing at 4 percent a year. There are safeguards to restore protection, federal biologists say, if the numbers decline.

Some environmental groups, including the National Wildlife Federation, support the move to remove the bear from the endangered list.

The letter from opponents of the move says the Yellowstone grizzly is cut off from other bears, and therefore new sources of DNA. Because of that, the population needs to be 2,000 to 3,000, the scientists say, to survive a catastrophic event, like disease or the loss of a critical food source.

Conservationists Vie To Buy Forest Habitat (WP)

By Juliet Eilperin

The Washington Post, March 21, 2006

FORT BRAGG, Calif. -- The Big River tract in California's Mendocino County is a sprawling expanse of towering redwoods and Douglas firs, woods that for years have provided an ideal habitat for rare spotted owls and endangered coho salmon and steelhead trout. Now, it's all up for sale.

Big River, neighboring Salmon Creek and dozens of other forests across the nation have come on the market in recent years as timber companies shed holdings that are worth more as real estate than as a source of lumber. The trend has spurred a land rush that has conservation groups scrambling to raise money to buy environmentally sensitive tracts in competition with private investors seeking to snap up the land for development.

A recent U.S. Forest Service study predicted that more than 44 million acres of private forest land, an area twice the size of Maine, will be sold over the next 25 years. The consulting firm U.S. Forest Capital estimates that half of all U.S. timberland has changed hands in the past decade. The Bush administration also wants to sell off forest land, by auctioning more than 300,000 acres of national forest to fund a rural school program.

"The nation has never seen anything like this," said Conservation Fund President Lawrence A. Selzer, whose 20-year-old group is hoping to raise $48 million in the coming months to buy the 16,000 acres that make up Big River and Salmon Creek. "It has the potential to permanently and profoundly change the landscape of America."

The United States still has large swaths of forest -- much of it private -- that provide critical habitat for large animals such as bears and cougars as well as recreational opportunities for the public. But if the selling spree continues, environmentalists fear, these areas could be cut up into much smaller parcels in which condominiums and trailer parks would replace soaring trees.

The sales have attracted limited national attention because they are mostly private transactions and involve local planning decisions, but the stakes are enormous. In the Pacific Northwest, New England, Southeast and parts of the upper Midwest, traditional timber companies or newly emerging timber investment management organizations, known as TIMOs, own vast stretches of forest that rival the national forest system.

Today, a third of the U.S. land mass is forest -- the same proportion as in 1907 but just 71 percent of what existed before settlement by Europeans -- and 57 percent of it is privately owned. But competition from cheap imported lumber, soaring land prices and pressure from Wall Street are now prompting timber companies to sell.

Stephen Levesque, the Campbell Timberland Management area manager who oversees the company's forest holdings in Mendocino, said new state regulations have made lumber operations increasingly expensive and developers have come by with tempting offers. The company recently sold off 160 acres that are likely to become lots for residential homes. "There's tremendous pressure for development," Levesque said.

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International Paper Co. spokeswoman Amy J. Sawyer said her company is "contemplating selling some or all" of its 6.8 million acres of forest land scattered across the country and focusing on producing more profitable products such as uncoated papers and packages.

"We're exploring whether there's more value in holding and operating the land or in selling it," Sawyer said. "That's what we're weighing."

And the St. Joe Co., a onetime timber and paper outfit, is pushing to build on tens of thousands of its acres on Florida's Emerald Coast. Advocacy groups such as the Natural Resources Defense Council are fighting to preserve the land, whose longleaf pine forests, cypress swamps and wetlands sustain red cockaded woodpeckers and dozens of other endangered and threatened species.

Environmental groups such as the Conservation Fund, the Nature Conservancy and the New England Forest Foundation have tried to limit the environmental impact of the sell-off by purchasing habitats that hold the greatest ecological value, but they cannot afford to buy all the vast expanses and halt this trend outright.

Chris Larson, executive director of Northern California's Mattole Restoration Council, an environmental group, said groups such as his are analyzing the Securities and Exchange Commission filings of timber companies to gauge whether they might sell their holdings to ease their debt. "People are just learning how to do this," he said.

In several instances, they have been able to close a deal. In 2004, the Conservation Fund bought 24,000 acres of working forest along the Garcia River in Mendocino County from Hawthorne Timber Co. for $18 million. It plans to begin logging some trees there this summer to make enough money to pay property taxes and restore key ecological areas.

Now the fund is hoping to buy the Big River and Salmon Creek tracts from Hawthorne and to create a business model other environmental groups can follow.

"We need to move away from this black-or-white idea that either it's preserved or destroyed, it's a national park or not enough," said Chris Kelly, who heads the fund's California office. "If you're trying to protect a landscape, if you're trying to protect 300,000 acres, it's impractical" to preserve the entire area as pristine wilderness, Kelly said.

In November, the Conservation Fund bought nearly 7,700 acres of the most sensitive lands along the headwaters of Maine's Machias River. A month later, it bought 1,600 acres of land in Georgia, just a fraction of the roughly 300,000 acres timber giant Weyerhaeuser recently sold in the state. Fund officials resold the tract to state officials, who plan to turn the area into a nature preserve.

Rex R. Boner, a vice president at the fund, said his and other environmental groups would like to buy more land but "we just don't have the collective ability to do that."

The forest sales have sparked a sense of urgency among conservationists because the holdings constitute much of the remaining intact ecosystems outside of public lands, he said: "It's sort of like Humpty Dumpty. If they're sold, we'll never get them back together again."

Like Georgia, Maine reveals both the promise and the pitfalls of the forest land rush. Maine has the largest contiguous block of undeveloped forest east of the Mississippi -- at least 10 million acres, or more than half of the state's entire land mass. Most of it was once owned by paper companies, but this is shifting quickly. According to the Massachusetts-based Manomet Center for Conservation Sciences, 20 million acres changed hands in Maine's North Woods, north of Bangor, between 1980 and 2000.

In several cases, conservationists, working with local communities and business owners, have been able to stem development's tide. Jeff McEvoy owns Weatherby's lodge in Grand Lake Stream, a town on the edge of Maine's North Woods. When Typhoon LLC, a timber investment company, wanted to sell off 339,000 acres in the region, the New England Forestry Foundation raised $30 million along with locals, enough to buy the development rights and create a 27,000-acre working forest that is logged but supports wildlife.

"People come here for the pristine wilderness experience," said McEvoy, who runs hunting and fishing trips out of a lodge that has thrived for 130 years.

In the nearby town of Greenville, however, a real estate investment trust called Plum Creek Timber Co. has been buying and converting forests into residential and vacation homes. Last year, it proposed turning a stretch of forest into two resorts and

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nearly 1,000 private lots. Maine's Land Use Regulatory Commission initially rejected the application, and in the coming weeks the company is expected to submit a more environmentally friendly proposal.

In Big River, however, timber companies and conservationists have been able to make common cause. Levesque and his bosses at Campbell Timberland Management would prefer to sell some of their forest to the Conservation Fund so the community can keep its logging jobs and wildlife can continue to thrive. A fisheries biologist with a master's degree in forest hydrology and engineering, Levesque is as enamored of Big Creek as the environmentalists hoping to buy it.

"These are special places," he said, looking up at the redwoods standing by the river's edge. "It's kind of an ecologist's dream."

Slapping King Coal's Wrist (NYT)

The New York Times, March 21, 2006

The Bush administration's accommodation of the mining industry — notably by packing the mine safety agencies with pro-management appointees — has produced a marked decline in major fines for negligent companies. A recent data analysis by The Times documented a risky, business-friendly downturn in penalties since 2001. At the same time, nearly half of the announced fines still go uncollected.

With a rash of 24 mine deaths so far this year, Congress is considering tougher fines of up to $500,000 for culpable companies. But what good are fines if they are not being forcefully used by the federal agencies supposedly responsible for workers' safety? This question must be asked in deadly earnest in the case of the Sago Mine in West Virginia, where a dozen miners perished in January. The company was later found to have been cited for 273 violations in two years' time, not one of them costing more than $460.

Under present practices, fines are rarely levied at the maximum level, and even then companies can negotiate the penalties downward through an industry-friendly appeals process. Fines as low as $60, if collected, amount to jaywalking tickets.

Beyond the slump in fines, the administration's record has been distinguished by budget and job cuts in critical mine safety agencies. Lately, there's been a flurry of reform proposals in response to the deaths in the headlines. But an administration that prefers to fill key regulatory positions with mining lobbyists and executives has a long way to go toward miner safety. It should begin with an urgent reversal of its embarrassing record on penalizing flagrantly negligent companies.

FBI/DEA/ATF/USMS:

2 Cos. In FBI Computer Team Cited In Audit (WP/AP)

By MARK SHERMAN, The Associated Press

The Washington Post, March 21, 2006

WASHINGTON -- Two companies that will share in a new FBI computer contract were singled out in a government audit Monday that questioned $17 million in the agency's computer overhaul.

The FBI and its contractors share the blame for $10 million in questionable costs and for 1,205 pieces of missing computer equipment valued at $7.6 million, the Government Accountability Office said in its review of the FBI's Trilogy program.

Two of those companies, CACI and Computer Sciences Corp., are part of the Lockheed Martin Corp. team that last week won a six-year, $305 million contract to build and run the FBI's Sentinel computerized case management system. The total value of the Sentinel project is $425 million.

FBI officials said they were applying the lessons learned in the Trilogy computer upgrade, including keeping tighter reins on their contractors. Sentinel is the replacement for the failed project that was to have been the final piece of Trilogy.

The questionable costs included first-class air travel for government contractors, excessive overtime and $5.5 million in charges that lacked substantiation, the report by Congress' investigative and audit agency said.

The FBI was "highly vulnerable to payments of unallowable costs" because of lax oversight, auditors said.

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El Segundo, Calif.-based Computer Sciences, or CSC, was the principal contractor in the effort to put in place a high-speed, secure computer network and 30,000 new desktop computers for the FBI. CACI of Arlington, Va., essentially reported to CSC.

Auditors identified a $456,211 invoice from CACI for which CSC never received sufficient evidence, but paid anyway. "It's not what we asked for but at this point it doesn't really matter. Approve it," one CSC employee wrote another in an e-mail exchange that was included in the GAO report.

In another bill from CSC to the FBI, all but $44,000 of a $1.95 million invoice was listed as "other direct costs" with no additional explanation provided.

Auditors also identified as excessive the $52,000 CACI spent on 60,000 pens that were custom-made for FBI computer training sessions.

CSC spokesman Chuck Taylor said his company complied with its contract, using first-class travel only to accommodate last-minute schedule changes when lower fares were not available. CSC's billings were within approved limits, Taylor said. CACI did not immediately comment Monday.

A separate report last week from Justice Department inspector general Glenn A. Fine warned that costs could again get out of hand unless the FBI puts strong controls in place. Bureau officials have said they are doing just that.

"The lessons learned from the Trilogy program are guiding us, and the FBI continues to strengthen our internal controls," said FBI spokeswoman Cathy Milhoan.

The CSC unit that worked on Trilogy will not be part of the Sentinel project, Milhoan said. CACI will provide training for new system, as it did for Trilogy, she said.

The FBI has since accounted for more than 1,000 of the missing desktop and laptop computers, printers and servers, she said. The bureau also will seek repayment of inappropriate charges identified by a final audit of Trilogy that has yet to be finished, Milhoan said.

ATF Team To Target Atlanta's Violence (WT)

By Jerry Seper, The Washington Times

The Washington Times, March 21, 2006

Attorney General Alberto R. Gonzales yesterday said Atlanta would become the 23rd U.S. city assigned a federal Violent Crime Impact Team in an aggressive effort to make that city safer.

"The citizens of the city of Atlanta deserve to live free from violent crime," Mr. Gonzales said in announcing the law-enforcement initiative during a press conference at the U.S. attorney's office in Atlanta. "VCIT will help make Atlanta safer through a coordinated campaign to investigate and prosecute those individuals who threaten our communities with guns and violence."

Washington, Baltimore and Richmond are among the other cities participating in the VCIT program.

The VCIT teams, led by the Bureau of Alcohol, Tobacco, Firearms and Explosives, consist of ATF agents, U.S. marshals, Drug Enforcement Administration agents and federal prosecutors who partner with state and local law-enforcement officers and prosecutors to proactively and aggressively identify, arrest and prosecute those responsible for firearms-related offenses and other violent crimes.

"Make no mistake about it; Violent Crime Impact Teams have saved lives by getting armed criminals off the streets," said ATF Director Carl J. Truscott.

Mr. Truscott said the teams use technology and human intelligence to identify geographic areas within cities with violent firearms crime; identify the "worst" violent offenders, the criminal organizations that support them and armed career criminals; and use criminal investigations and investigative tools and resources to disrupt and dismantle criminal activity being perpetrated by the targeted persons and organizations.

He said they also arrest and prosecute those persons and their associates in the federal or state jurisdiction that lends itself to the maximum penalty; work with community leaders to cultivate solid and sustained commitment between the community's residents and law enforcement; and evaluate results on a regular monthly basis to assess VCIT progress toward achieving the initiative's goals.

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Since its inception in June 2004, Mr. Truscott said, the teams have made 8,892 arrests and recovered 8,485 firearms in the areas where VCIT is deployed -- working in conjunction with Project Safe Neighborhoods (PSN), a strategy geared toward combating gun crime in communities across the country.

VCIT builds on the success of PSN, he said, by adding additional resources to lower the number of homicides and other violent firearms-related crimes in targeted areas.

Other VCIT teams are in Albuquerque, N.M.; Baton Rouge, La.; Camden, N.J.; Columbus, Ohio; Fresno, Calif.; Greensboro, N.C.; Hartford, Conn.; Houston and Laredo, Texas; Las Vegas; Los Angeles; Miami; Minneapolis; New Orleans; Philadelphia; Pittsburgh; Tampa, Fla.; Tucson, Ariz.; and Tulsa, Okla.

U.S. Attorney General Targets Violent Crime, Meth In Georgia (AP)

By Doug Gross

AP, March 21, 2006

WALESKA, Ga. - Anti-methamphetamine laws like the ones passed in Georgia are tamping down the domestic production of the deadly drug, U.S. Attorney General Alberto Gonzales said Monday.

But Gonzales said an increase in the amount of meth being smuggled into the country from Mexico threatens to offset those advances.

Gonzales joined Gov. Sonny Perdue at a town-hall meeting of law enforcement officials, community activists and others on what they called the methamphetamine crisis in the state.

"Meth threatens to turn the American dream into the American nightmare - not just for the users, but for their families ... and their communities," Gonzales said.

The event was held at Reinhardt College in north Georgia's Cherokee County, where there were 490 meth-related arrests and more than $300,000 worth of the drug confiscated by authorities last year, according to Perdue.

The governor highlighted anti-meth measures taken by Georgia's Legislature over the past few years, such as requiring the drug's key ingredients to be moved behind the counter of stores that sell them and making it a felony to cook meth in the presence of a child.

Perdue has requested $1 million in this year's state budget for a new Georgia Bureau of Investigation meth task force and another million for treatment of people addicted to meth.

"We're seeing the spread of meth labs slow down," Perdue said. "We haven't solved this meth crisis by any means, but we are seeing some positive trends."

Gonzales said some of Georgia's laws were mirrored in the federal Combat Meth Act passed recently by Congress.

But he said federal authorities also have tracked an increase in meth production and distribution by organizations based in Mexico. Gonzales said he has planned a May summit with Mexican officials in Dallas to discuss the trend.

Earlier Monday, Gonzales was in Atlanta to announce the launch of a federal initiative to target violent crime in the worst parts of the city.

The Violent Crime Impact Teams initiative is operating in a total of 23 cities across the country, including Philadelphia, Baltimore, Tampa, New Orleans and Los Angeles.

Several federal agencies, including the Bureau of Alcohol, Tobacco and Firearms and the local U.S. Attorney's Office, will work with local law enforcement agencies on the initiative, which will operate around the city "on any given day, at any given time and in different capacities," said Vanessa McLemore, special agent in charge of the Atlanta Field Division of ATF.

They will use firearms dealer inspection data, gang intelligence information, police call response data and other information to identify crime "hot spots," and the peak times for enforcement actions.

Federal officials declined to identify the "hot spots" they will target in Atlanta.

Mexico Called Key To Stopping Meth Imports Perdue Says State Needs To Network To Be Effective (AJC)

By Clint Williams, The Atlanta Journal-constitution

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The Atlanta Journal-Constitution, March 21, 2006

Much of Georgia's methamphetamine problem starts in Mexico, Gov. Sonny Perdue said Monday, making a good working relationship with federal and foreign authorities increasingly important.

To stress the need for help in combating the highly addictive drug, the governor appeared with U.S. Attorney General Alberto Gonzales at a meeting at Reinhardt College in Cherokee County.

About 200 people made up the invitation-only group of law enforcement officials, prosecutors, drug rehabilitation professionals and elected officials.

While the number of meth labs in Georgia has declined, Perdue said, "importation of high-grade crystal meth is increasing."

Metro Atlanta has become a hub for eastern U.S. distribution of the drug being manufactured at large clandestine labs in Mexico and in the Western United States, according to the U.S. Drug Enforcement Administration.

Stemming the flow of the drug, known as "ice," will take international cooperation, Gonzales said Monday afternoon, noting that he is to meet with the Mexican attorney general in Dallas in May. The United States is training Mexican officials on how to deal with the cleanup of toxic meth labs and other issues, Gonzales said.

Perdue said it's critical that people become more aware of how destructive meth — a cheap, powerful stimulant — can be. "Meth is deadly to make and deadly to take," the gorvernor declared. "Meth is bad stuff."

Education is a key component in the battle against meth use, Perdue said, adding, "We are probably behind the curve on the education and awareness we need to provide."

Perdue has asked the Legislature to approve a little more than $1 million to fund a 15-member task force in the Georgia Bureau of Investigation. His budget also recommends $1 million more to expand meth treatment programs.

Ex-officer Charged With Drug Possession (BRA)

By PENNY BROWN ROBERTS, Advocate staff writer

Baton Rouge Advocate, March 21, 2006

A former Baton Rouge police officer who once went to jail for selling items from the evidence room now faces more prison time after federal agents allegedly found 6 kilograms of cocaine in a trash can in his garage.

Daryl W. Davis, 38, 18030 Manning Drive, Prairieville, was charged Monday in a criminal complaint with one count of cocaine possession and one count of possession of a firearm by a convicted felon.

He is being held in the West Baton Rouge Parish Prison.

The U.S. Drug Enforcement Administration has been investigating Davis — who spent 13 years on the Baton Rouge police force — for nearly a year, Assistant Special Agent in Charge Kevin Harrison said Monday.

In an affidavit, DEA Special Agent Mark Lusco writes that investigators believed Davis was “obtaining multikilograms of cocaine from Houston, Texas, and distributing them in the Baton Rouge area.”

On Friday, two confidential informants told agents that Davis was about to get “multikilogram” quantities of cocaine, Lusco writes in the affidavit.

Agents began watching Davis that day and stopped him after he made a U-turn “to avoid numerous marked police vehicles with their emergency lights activated,” the affidavit says. He reportedly gave them permission to search his vehicle and his Prairieville home.

There, according to Lusco, agents seized the 6 kilograms of cocaine from the garbage can. On Davis’ property, they also found a loaded .38-caliber revolver, ammunition, an electric money counter and money packaging materials, Lusco’s affidavit says.

Before Davis was arrested, Lusco claims in the affidavit, the former officer admitted to cocaine trafficking but said the gun belonged to his live-in girlfriend.

Davis — who joined the Baton Rouge Police force in 1986 — previously was arrested in July of 1999. He was accused of stealing a cell phone cloning device from the evidence room and selling it for $1,000 to the man from whom police seized it.

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He also allegedly helped an evidence room student worker and her boyfriend steal a gun that was evidence in a related case.

The Police Department fired Davis two weeks later when he refused to answer questions posed by Internal Affairs investigators.

Davis was convicted in a bench trial of one count of obstruction of justice and one count of public bribery and sentenced to five years in prison in February 2001. His parole ended last month.

At the time he was sentenced, state District Judge Bonnie Jackson said testimony during the trial suggested Davis was involved in drug activity.

Davis made an initial appearance Monday before U.S. Magistrate Docia Dalby, who appointed a public defender to represent him.

A detention hearing is scheduled for March 27.

Police Testify In Hearing For Drug Suspect (ASPNEWS)

By Troy Hooper, Aspen Daily News Staff Writer

Aspen (CO) News, March 21, 2006

A Little Annie's Eating House employee was bound over for trial Monday after the prosecution portrayed him as a chief trafficker of a local cocaine network.

Seated between defense attorney Arnold Mordkin and an English-to-Spanish interpreter, Fernando Leal-Ruiz quietly listened as law-enforcement officers at his preliminary hearing testified that during a Dec. 2 drug raid they saw him reaching in the direction of a plastic bag that was later determined to contain 44 bindles of cocaine.

An undercover agent from the Drug Enforcement Administration also testified that Leal-Ruiz might have been the supplier of two eightballs of cocaine he purchased in the alley behind Cooper Street Pier and the agent described seeing the defendant repeatedly engage in suspicious activities.

Monday's hearing was the latest courtroom development concerning the December drug raids of two downtown restaurants in an operation coordinated by local, state and federal authorities. The raids drew both criticism and praise, and resulted in a town meeting that focused on the city's drug enforcement policy, which ultimately was left unchanged.

Meanwhile, Mordkin poked holes in police testimony -- a key portion of which was hearsay, which is admissible in preliminary hearings but not in criminal trials -- and pointed out that the evidence presented was entirely circumstantial.

"I realize you don't have to have enough evidence to convict (in a preliminary hearing) but I don't believe there is any evidence at all," said Mordkin, arguing that deputy prosecutor Gail Nichols' position was speculative.

Judge James Boyd ruled that in viewing the evidence in a light most favorable to the prosecution, which is required in a preliminary hearing, there was enough "circumstantial evidence that not only he knew (the bag of cocaine) was there but also that he was in control of it."

During the hearing, DEA agent Dave Storm described how he met a man later identified as Jaime Gamez Acuma at Cooper Street Pier last fall. The agent said he asked Acuma for one-eighth of an ounce of cocaine -- a quantity known on the street as an "eightball" -- on at least two occasions and both times he observed Acuma go into the alley behind Cooper Street Pier, enter the back kitchen door of Little Annie's and return with white powder that a DEA laboratory in San Francisco later determined was cocaine. Storm said he paid $160 for each eightball.

"There was a lot of activity in the alleyway; specifically, a lot of people coming out the backdoor (without food). For an established business to have so many patrons walking in and out of the backdoor became suspicious to us," he said.

Storm testified he purchased the drugs through Acuma, a suspected middleman in the operation, but he never saw Leal-Ruiz directly involved in the transaction. The agent said he did see Leal-Ruiz shake hands with a number of persons and lean into the windows of several vehicles that pulled up in the alley that Cooper Street and Little Annie's shared. In his ruling, Judge Boyd noted Storm's back-alley observations are both consistent with drug dealing and "innocent activity."

Detective Chris Womack, who led the charge into Little Annie's, said when he entered the kitchen on the afternoon of the raids he ordered the only two men in the kitchen, Leal-Ruiz and the head chef, Tom Woodson, to lay stomach-down on the

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ground. Womack said he and his team discovered 44 blue-colored bindles, which are folded pieces of paper used to carry cocaine, behind some shoes on a shelf that held a box of yams in a storage room where Leal-Ruiz was lying prone. Another 20 yellow-colored bindles were found on the other side of the kitchen near an opening where servers pick up plates of food to deliver to restaurant patrons.

Womack also testified that he spoke with Aspen police officer James Crowley who told him that Martha Byrum, a woman with a history of drug problems, informed him that she bought cocaine at Little Annie's.

Womack said that Crowley told him that Byrum would call up the restaurant and ask for a kitchen worker named "Fernando" and if he was working, she would go to Little Annie's and buy drugs. She identified Leal-Ruiz in a photograph the DEA took as someone who sold her cocaine, according to Womack, although she said sometimes she only dealt with other persons in the kitchen who sold her cocaine - testimony Nichols admitted was flimsy but nonetheless supportive of the conspiracy charge against Leal-Ruiz.

In a brief appearance on the witness stand, an Immigration and Customs Enforcement officer said he saw Leal-Ruiz reaching in the direction of the drugs when he, Womack and either three or four other officers stormed into the kitchen. The ICE officer said he could not see what was in the bag that Leal-Ruiz was reaching for because it was opaque. Mordkin argued that photographs depicting the plastic bag that held the 44 bindles was not opaque but actually transparent.

The next court hearing for Leal-Ruiz is scheduled for April 17.

So far, four of the 10 cases connected to the Dec. 2 raids have been resolved. One of the cases was dismissed and three other men pleaded guilty to felony possession of cocaine. They received sentences of two years' probation.

In other court news:

* Judge Boyd issued an arrest warrant for Basalt resident Karen Kinkaid, who failed to show up to court Monday. Her attorney, Lawson Wills, couldn't provide an explanation on why she didn't show up. The judge said that her previous bond would be forfeited and he set a new bond of $20,000 for a 2005 case involving accusations of illegal-drug possession and he set a $13,500 bond for a new case this year in which Kinkaid is accused of aggravated motor vehicle theft and forgery.

* Andre Jesus Lozano -- who was convicted of stealing credit card numbers from Aspen Valley Hospital, where he worked, to purchase cookie dough, balloons and other items - was sentenced to three years in state prison. He has six previous theft-related convictions, according to Nichols. Brad Osborn, director of the Right Door, said he has been working with Lozano because his stealing problems are a compulsive addiction similar to those experienced by drug addicts. Osborn spoke optimistically about Lozano and recommended the judge allow him to continue counseling. Lozano cried as he admitted acting "greedy" and "selfish" and said he has been feeling emotionally stronger since taking prescribed medication and working with Osborn and another local doctor. "Even in the Department of Corrections there is some help available to you," said Boyd, noting that Lozano expressed remorse and is suffering with a health crisis.

* Aspen resident Sean Gooding, who police last fall accused of threatening two people with a gun at his apartment in the wee hours of the morning, pled guilty to misdemeanor menacing. A related charge against him was deferred for one year.

New Details Emerge In Drug Bust (ATI)

By Chad Abraham

Aspen (CO) Times, March 21, 2006

Relying in part on statements by a woman caught with a crack pipe in the home of Aspen's police chief, a judge ruled Monday there is enough evidence to try a man on cocaine distribution and conspiracy charges.

Fernando Leal-Ruiz of Carbondale was arrested, along with nine others, in the Dec. 2 drug raids on Little Annie's Eating House and Cooper Street Pier.

Leal-Ruiz, a chef at Little Annie's, allegedly had 44 bindles of cocaine, totaling just less than 26 grams, ready to sell from the restaurant's kitchen. Monday's preliminary hearing saw testimony by the Aspen police detective who led the raid on Little Annie's, a DEA agent and an immigration officer.

After her arrest in October, Martha Byrum explained to police how she would buy cocaine from Little Annie's, Detective Chris Womack said on the stand.

She said she would call the restaurant, ask for Fernando and, if he was working, go to the eatery's back door and knock, Womack testified. Whoever answered would sell her cocaine.

Byrum pleaded guilty in January to cocaine possession, second-degree trespassing and a probation violation. She was arrested after walking into Police Chief Loren Ryerson's Aspen home while trying to elude officers.

Byrum is serving four years in a community corrections facility in El Paso County. Womack told Judge James Boyd that Byrum identified Leal-Ruiz from a surveillance photo taken by the DEA.

Dave Storm, a 15-year DEA agent, said he provided that photo to the Aspen Police Department. He testified that he bought drugs from Jaime Gamez-Acuna, who was also arrested, while investigating employees and patrons of the two restaurants. The operation involved video as well as photographs.

Storm's testimony revealed the origins of the controversial busts. The arrests, 11 in all, forced the police department to re-evaluate its drug-fighting policy after some Aspenites criticized authorities for the handling of the operation. The Pitkin County Sheriff's Office was not told about the raid, and many felt that storming the landmark restaurants during après-ski was not in line with Aspen's mellow ethos. Others supported the action.

Storm said he got to know Gamez-Acuna while playing pool at Cooper Street Pier. He later saw him smoking a joint in the alley between that restaurant and Little Annie's, he testified.

When Storm walked up to Gamez-Acuna, whom he called Jimmy, the suspect said, "You don't do weed."

"No, but the other," Storm responded, referring to cocaine.

Gamez-Acuna said he had a friend who sold "eight balls," slang for an eighth of an ounce of cocaine, for $160. He pointed to the back door of Little Annie's, Storm testified.

The agent gave him the cash, and Gamez-Acuna disappeared into Little Annie's, returned with the drug and then went back into Cooper Street, Storm said. The back doors of the restaurants are across an alley from each other.

Storm said he engaged in another drug deal on Oct. 21. While playing pool with Gamez-Acuna at Cooper Street, they agreed to another buy and walked down the back stairs and into the alley, where Storm again produced $160.

Gamez-Acuna went back into Little Annie's and returned with five bindles of cocaine worth $30 apiece, the agent told Boyd.

"It's better than what they're selling up there," Gamez-Acuna allegedly said, referring to Cooper Street.

Storm acknowledged that he did not know who Gamez-Acuna was allegedly getting the drugs from inside Little Annie's. But he said there was "a lot of activity in the alley." During surveillance, he noticed many people quickly going in and out of Little Annie's rear entrance without food. Vehicles also pulled up and people leaned into the windows briefly, he said. Leal-Ruiz was among those Storm said he saw meet vehicles and people in the alley.

During the Dec. 2 operation, Womack led four other law enforcement officials into the back of Little Annie's. The two employees they initially encountered, one of whom was Leal-Ruiz, were ordered to lie face-down.

Dan Fitzgibbon of the U.S. Immigration and Customs Enforcement agency accompanied Womack during the operation. He testified that Leal-Ruiz, lying prone in a storage area, reached out of his line out of sight. He shouted at Leal-Ruiz at gunpoint to show his hands because he was concerned the suspect may have been trying to get a weapon.

Fitzgibbon then checked the area and saw a Ziploc bag stuffed behind a pile of shoes. He called Womack back, who said the bag contained the 44 bindles. He said there were 20 other bindles in the front of the kitchen, near where the wait staff picks up food for customers.

Prosecutor Gail Nichols told Boyd that Leal-Ruiz had no reason to reach near the shoes other than to try to hide the drugs.

But Leal-Ruiz's attorney, Arnie Mordkin, argued that it had not been proven the bindles were his client's. He grilled Storm on how he handled the bindles and whether they were fingerprinted. Storm said fingerprinting of bindles is rarely done because the paper yields inconclusive prints.

Mordkin also questioned Womack at length about the dimensions of the storage area and whether he moved the shoes to get to the bindles. The defense attorney appeared to be trying to cast doubt on how Leal-Ruiz could have shoved the Ziploc behind the shoes if he was prone on the ground.

Nichols said it was "pretty obvious" that Leal-Ruiz was trying to hide the bag. She also cited Byrum's statements to police - that others were involved in the backdoor sales - as enough justification for the conspiracy charge.

Cocaine was being dealt out the front and back of the tiny restaurant and it would have been impossible for Leal-Ruiz to not know it was going on, she said.

Mordkin countered that there wasn't "any evidence at all" to try his client on the possession or conspiracy charges. The cocaine was on the floor of the storage area and not in Leal-Ruiz's possession, he said. As for reaching in the area where the bag was found, Mordkin said Leal-Ruiz could have been adjusting his shoes - "could have been doing a gazillion things."

"How can he conspire if we never have possession?" he asked.

Mordkin added that there's no evidence Byrum ever bought cocaine from Leal-Ruiz.

"There's no connection. There has to be a connection," he said. Mordkin then sat down heavily.

Boyd disagreed. He said Byrum's statements to police, while hearsay, were admissible in a hearing to determine whether there is enough evidence to try him on the charges. He also cited that Byrum identified him in the picture and mentioned his name in describing how she obtained the cocaine.

Boyd said Leal-Ruiz was not complying with orders to show his hands and reached into an area where the cocaine was found. Both the conspiracy and distribution charges are warranted, he ruled.

Five of the 10 men arrested in the raids are still in the court system. Charges against an 11th man, who was arrested a week after the operation, were dismissed and he was deported. Of the five men whose cases already have been considered, at least three have pleaded to guilty to possession of cocaine and received probation.

Edubiel Hernandez-Cruz, who faces similar charges as Leal-Ruiz, also was in court. His hearing was continued, as was the arraignment of Gamez-Acuna. His lawyer said he and Nichols are close to reaching a plea deal.

Leal-Ruiz's next court date is April 17.

Andersen's Dismissal Is Upheld (NYT)

By Liz Robbins

The New York Times, March 21, 2006

An arbitrator ruled in favor of the N.B.A. yesterday and upheld the league's dismissal of Hornets forward Chris Andersen for violating the league's drug policy.

The arbitrator, Calvin Sharpe, ruled on a grievance filed by Andersen and the players union. Andersen, dismissed Jan. 27, cannot apply for reinstatement for two years.

"Obviously the league has made up their mind what they want to do, and we're all going to have to live with that," Hornets Coach Byron Scott said after practice yesterday in New Orleans.

Neither the league nor the players association would reveal Andersen's offense. The N.B.A.'s collective bargaining agreement specifies that a player can be disqualified only for a fourth positive test for performance-enhancing drugs, or a first positive test for "drugs of abuse," which include amphetamines, cocaine, LSD, heroin, codeine and morphine. Andersen had not previously been suspended under the drug policy.

Anderson's four-year, $14 million contract with the Hornets, which he signed last summer, became void.

Arbitrator Upholds Andersen Dismissal (AP)

AP, March 20, 2006

NEW YORK (AP) -- Former New Orleans Hornets forward Chris Andersen's dismissal from the NBA for violating the league's drug policy was upheld by an arbitrator Monday.

Andersen was dismissed and disqualified from the league in late January. He is not eligible to apply for reinstatement for two years.

Andersen and the players' union had filed a grievance, but arbitrator Calvin Sharpe rejected it.

According to the league's collective bargaining agreement, a player can be disqualified only for a fourth positive test for performance-enhancing drugs, or a first positive test for "drugs of abuse." The drugs on that list include amphetamines, cocaine, LSD, heroin, codeine and morphine.

Andersen has not previously been suspended for testing positive for performance-enhancing drugs.

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Bolivian President Takes 'coca Is Not Cocaine' Plea To UN (IND)

By Daniel Howden

Independent, March 21, 2006

Bolivia stepped up a long-running battle with Washington this week by taking its campaign to legalise coca plants to the United Nations in a bid to persuade the international community that the leaf should no longer be banned because of its links to the illegal drugs trade.

The tiny Andean nation, headed by newly elected populist President Evo Morales, is determined to prove that coca can be the source of legitimate products for export and not just the raw material for cocaine.

In Bolivia and across fellow coca-producing nations Colombia and Peru, the leaf has been grown for 3,500 years, and is used in everything from herbal tea to clothing. Its advocates say it can be used, among other things, as an aid to digestion and can provide vital nutrients and vitamins. Its function as an appetite suppressant, they point out, could also come in handy in the struggle against obesity.

Under the slogan "coca is not cocaine", they are calling for coca-based products, ranging from staples such as tea and bread to cosmetic goods such as shampoo, to be mass-produced and exported from all over South America.

But the plant, because of its close link to cocaine, is listed by the UN as a poisonous species, something which Bolivia hopes to change this week as it takes the case for legalising coca to the UN narcotics and crime agency in Vienna.

President Morales, himself a former grower and indigenous Aymara Indian who came to prominence as a spokesman for the coca farmers of the Chapare region of Bolivia, where 90 per cent of the country's coca yield is produced, has condemned his country's cocaine production. He is insistent, however, on its right to harvest more coca.

If he succeeds in changing the plant's status by 2008, Washington will not be happy. The US, which spends $1bn a year on its so-called "war on drugs" across South America, says it would be impossible to legalise coca growing in Bolivia without sending cocaine production soaring.

US officials express serious concerns that the new wave of leftist Latin American leaders - from Bolivia's President Morales to the Venezuelan President, Hugo Chavez - are acting in the interests of cocaine barons.

In most of the Andean states there are already small quotas of legalised coca cultivation supplying traditional products. Washington has argued that any expansion of those quotas would be cocaine production by another name.

Bolivia Urges UN To Defy Washington And Legalise Coca (TEL)

By Sophie Arie in La Paz

Telegraph, March 20, 2006

Bolivia is leading a Latin American campaign to legalise coca plants despite them being vilified by the United States as the source of the world's cocaine industry.

Coca leaves: fans claim it aids digestion and contains more vitamins and nutrients than most vegetables

Under the slogan "coca is not cocaine", politicians, consumers and growers across the Andes are promoting the leaf's qualities and calling for coca-based tea, yoghurt, bread, toothpaste, shampoo and soap to be mass produced and exported.

Its fans claim it helps digestion, provides more vital vitamins, nutrients and fibre than most vegetables and can even combat obesity.

But the plant has been listed by the United Nations as a poisonous species since 1961 because it also contains the alkaloid needed to make cocaine.

Bolivia has this week been arguing the case for legalising coca to the UN narcotics and crime agency in Vienna and hopes to change its status by 2008.

Indigenous communities have chewed its leaf here since 2,500 BC and brewed it as tea to boost their strength and stave off hunger and tiredness.

Even today, Bolivia's tin miners, who work in appalling work conditions, chew coca around the clock to stay awake and dull pain.

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Prsident Evo Morales, a former grower who has campaigned for peasants' rights to tend the crop, has vowed to crack down on cocaine production in Bolivia, the world's third largest producer after Colombia and Peru.

But he insists the country should be allowed to grow more coca for natural, legal consumption.

And in neighbouring Peru a frontrunner in next month's election, Ollanta Humala, has suggested baking 27 million loaves of bread from coca leaves for school breakfasts daily.

Small companies in Bolivia, Peru and Colombia, have launched coca-based energy drinks, biscuits, breads and yoghurts, all faintly green in colour and supposedly providing invaluable nutritional benefits.

And although not officially for export, leaf-shaped coca biscuits are a popular buy at airport souvenir shops.

Some also claim that the leaf's ability to stunt appetite could provide a natural cure to the world's obesity epidemic.

Maria Eugenia Tenorio, Bolivia's best known coca cook, even claims to have lost more than two stone in eight months by eating large numbers of coca biscuits.

"If Bolivians just started cooking with coca, they could solve most of the problems of malnutrition here," she said in her La Paz kitchen, kneading green coca flour into mashed potatoes to make a local version of gnocchi.

The US spends up to $1 billion a year tackling drugs in the Andes.

The idea that more coca can be grown in Bolivia without boosting more cocaine production is "pie in the sky", US officials say.

Canada's Growing Marijuana Problem (BBC)

By Becky Branford

BBC, March 20, 2006

Nearly half of Canadians admit to smoking marijuana at least once Frank proudly surveys the large log cabin he constructed himself, on a two-acre plot of aromatic evergreen forest he now owns.

"All this," he says, "was built on marijuana."

Over four years, Frank - not his real name - tended a patch of marijuana plants in a forest clearing about 45 minutes' walk from where his cabin now stands.

He regularly pooled his harvests with those of several other growers in the small British Columbia (BC) town in which he lives, to sell wholesale to young men from just across the border in the US state of Idaho.

Frank says he made hundreds of thousands of Canadian dollars before hurriedly leaving the business when his American buyers were arrested.

But tens of thousands of illegal "grow-ops" remain in Canada. Estimates suggest marijuana may generate up to C$7bn (£3.5bn; US$6.1bn) a year in BC, the sunny province thought to be at the heart of the industry.

Canada's new Conservative government says people like Frank are a menace to society, putting drugs on the streets and fuelling organised crime - and it has vowed to get tough on them.

But critics accuse the government of being wilfully blind to the historic failures of law enforcement, and ignoring public opinion and the findings of expert committees in favour of a policy of demonising marijuana - a policy they liken to the short-lived Prohibition of alcohol in 1920s and 30s America.

Vietnam roots

Growing marijuana in BC's thinly populated and rugged interior, Frank was continuing a tradition - of sorts - said to have arrived with some 50,000 young American men seeking to avoid being drafted to fight in the Vietnam war.

It's politics that's stopping a change in drug laws and not logic

Lawyer and policy expert Eugene Oscapella But over the intervening decades, the industry has changed. Most of today's grow-ops are indoors, using artificial light to produce stronger strains of cannabis.

The industry has also grown. The Canadian statistics agency reports that in 2004 there were more than 8,000 cultivation offences recorded - up from 3,400 in 1994.

Experts deduce that the true number of grow-ops is much greater, as even large seizures seem to have little effect on the price of marijuana.

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The federal police reported in 2002 that the cultivation industry had reached levels "that could be deemed epidemic in the provinces of BC, Ontario, and Quebec" - and they also warn that almost every large-scale operation these days is linked in varying degrees to organised crime.

"Cannabis is the biggest issue facing law enforcement now," says Inspector Paul Nadeau of the Royal Canadian Mounted Police (RCMP).

He says smugglers have access to "transport vehicles, planes, helicopters. The sky's the limit".

He calls for greater deterrents, pointing out that in BC only about 10% of those convicted of growing marijuana face jail terms (the figure is higher in other provinces), with most offenders getting a fine or suspended sentence.

The Canadian police: 'We are drowning in the numbers' He says judges facing a backlog of cases in the courts "have to be given the means to deal with the problem... We are drowning in the numbers."

In contrast to the previous Liberal administration, which sought unsuccessfully to reduce penalties for possession, the new Conservative government pledged in its election manifesto to steer Canada "off the road to drug legalisation".

It said it would ensure mandatory minimum prison sentences and large fines for serious drug offenders, including growers.

Consumption rises

But critics of tougher law enforcement insist it is doomed to failure - and has failed.

"I don't advocate smoking anything - I think it's bad for you!" says Stephen Easton, professor of economics and a senior scholar at the conservative Fraser Institute think tank, who has studied the industry in detail.

He and other pro-reform experts accept that there is growing evidence of a link between heavy cannabis use and mental health problems in some people.

Parents and police officers agree the last thing we need is more drugs on the streets

Patrick Charette

Justice ministry "But has criminalisation been successful in deterring consumption? The answer is surely no," he says.

In 2004, the Canadian Addiction Survey found 44.5% of Canadians reported using cannabis at least once - up from 23.3% in 1989.

The proportion of respondents who admitted to using cannabis in the previous year was 14.1% - compared with 9.7% of Britons and 10.6% of Americans in equivalent surveys.

Instead of spending half a billion Canadian dollars each year tackling illicit drug use, Professor Easton argues, federal authorities have an alternative: "Tax and trade it like any other normal commodity."

In fact, several government committees tasked with evaluating Canada's drug laws have recommended legalisation of marijuana - from the 1972 Le Dain Commission to the Senate Special Committee on Illegal Drugs which reported in September 2002.

A recent survey suggested 51% of Canadians supported decriminalisation of marijuana.

Prohibition 'empires'

"There have been studies galore in Canada and elsewhere looking at this issue - it's politics that's stopping [a change in drug laws] and not logic," says lawyer Eugene Oscapella, a founding member of the independent Canadian Foundation for Drug Policy.

"It's hypocrisy, it's cowardice," he says - a charge the justice ministry declined to comment on.

Most marijuana cultivation now takes place indoors, under lights (image: RCMP) Mr Oscapella suggests Canada is fearful of crossing the US government, which he says has threatened to slow bilateral trade worth about US$1bn per day.

Some 85% of marijuana grown in BC is estimated to be exported into the US, though total border seizures of marijuana only amount to about 3% of that discovered entering the US from Mexico.

Mr Oscapella also argues that some sectors have an interest in maintaining what he calls the "Prohibition" on marijuana in Canada.

"You have to look at Prohibition as an industry: the crime-control industry. There are empires built around it - not only organised crime, but government bureaucracies, police departments, privatised prison industries in the US, pharmaceutical and drug-testing companies. These empires thrive on Prohibition."

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He says he fears tougher enforcement will lead to a burgeoning prison population, but have little impact on the illicit industry.

Meanwhile, critics charge, the proceeds of the industry continue to feed what a recent editorial in the Vancouver Sun newspaper called the "monster" of organised crime.

As early as 2000, RCMP Commissioner Giuliano Zaccardelli warned this "monster" was threatening to destabilise Canada's parliamentary system.

'Pay the price'

But police insist tougher sentences, not legalisation of cannabis, is what is needed.

This argument is echoed by the new Ottawa government, though it says it will take advice before formulating a detailed drugs policy. It argues any resultant increase in spending on tougher law enforcement will be offset by lower spending on the social problems caused by drug abuse.

"Parents and police officers agree the last thing we need is more drugs on the streets," says the Ministry of Justice's acting communications director Patrick Charette.

"There has been a huge inconsistency in the application of the law - whether you're caught with a joint in a small rural community or downtown Vancouver, you'll get [a different] reaction from the police...

"Rather than simplifying and having a more relaxed approach, we think you need to enforce the law and make sure those caught with drugs and producing drugs pay the price."

Former Track Coach Convicted Of Doping (AP)

AP, March 20, 2006

MAGDEBURG, Germany (AP) -- Former German track coach Thomas Springstein was convicted of doping charges Monday and given 16-month suspended prison sentence.

The court found the 47-year-old Springstein guilty on charges including the alleged doping of young athletes in 2003.

Prosecutors had sought a longer suspended sentence, while the defense pleaded for an acquittal.

Springstein was accused of supplying testosterone to his athletes, including a 16-year-old girl.

The trial took an unexpected twist when the court was read e-mails found when police raided Springstein's home in search of evidence.

In one e-mail, Springstein complained that the "new Repoxygen is hard to get. Please give me new instructions soon so that I can order the product before Christmas."

Repoxygen is designed for gene therapy on patients with anemia. It can boost an athlete's performance by inducing the release of erythropoietin, or EPO, a substance that stimulates the production of red blood cells to carry more oxygen to the muscles.

The International Olympic Committee and World Anti-Doping Agency already test for synthetic EPO. But there is no known test for Repoxygen, which gives the body the gene to stimulate EPO production on its own.

Springstein has worked with athletes including former East German track stars Grit Breuer and Katrin Krabbe. The two were banned from competition for using the steroid clenbuterol in 1992.

IMMIGRATION:

Exam Week For The GOP Congress (WSJ)

By George Melloan

The Wall Street Journal, March 21, 2006

Immigration reform is on the Senate agenda this week. The issue has been festering for years and probably will still be when Congress takes its Easter break, once again demonstrating the weakness of Republican congressional leadership.

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It hardly needs saying the U.S. immigration policy is a mess. An estimated 11 million undocumented immigrants are among the 300 million souls who inhabit the nation. Most fill jobs U.S. citizens disdain. It would be hard to run U.S. hotels and restaurants without the maids and busboys who have made their way from places like Quito and San Salvador.

Yet their presence annoys what Weekly Standard editor Fred Barnes aptly calls "paleocons," conservatives of the Pat Buchanan stripe who go hysterical over these brown-skinned, Spanish-speaking toilers. Vigilantism has broken out on the Mexican border, with macho guys packing six-guns searching for wetbacks. More seriously, the hysteria has infected Congress, resulting in House passage in December of a bill that would, along with other drastic measures, authorize the construction of a 700-mile Berlin Wall on the Mexican border.

One guy who really loves that wall is a Yankee-baiting Mexican leftist named Andres Manuel Lopez Obrador. The highly visible testimony to gringo abhorrence of Mexicans is feeding his campaign for the July 2 Mexican presidential election. If he makes it, the U.S. will have only a few friends left in Latin American capitals. The aging, tottering Fidel Castro will have finally achieved his life's ambition of turning the Spanish-speaking world against America.

Illegal immigrants are indeed a problem, although also the principal victims of their illegal status. Because they don't have documents they can be easily exploited in ways offensive to the American sense of justice and fair play. The industry that has developed for sneaking them into the country is used for other purposes, such as smuggling drugs. A few, partly because of attachments to the smugglers, turn to crime in places like Los Angeles and Albuquerque.

The inability of the U.S. to devise a sensible set of immigration policies has broader repercussions beyond Latin America. Microsoft's Bill Gates complains that the U.S. is shutting out foreigners with needed skills. Colleges and universities say that Immigration and Naturalization Service bureaucracy complicates the admission of students, limiting the ability of the U.S. to earn foreign currency and international goodwill by offering the world's youth first-class educational opportunities. Employers protest at criminal penalties if they fail to detect document forgeries and thus don't fulfill their "duties" as surrogate law enforcers.

If Congress had been living up to its responsibilities, these problems would have been addressed long ago. The first requirement is for members to accept the fact that unfilled jobs in a booming economy are going to attract individuals seeking better lives. That's a normal and powerful drive in homo sapiens. Spending taxpayer billions on a hideous wall and more cops might reduce the flow, but it won't stop it or deal with the issue of what to do about those already in the country.

Lawmakers of course have a natural predilection toward exercising police power. Large construction projects appeal as well, especially in a Congress that seems mainly focused on finding ways to pass out federal dollars to key constituencies. But it should be evident by now that those kinds of approaches are limited in coping with honest human instincts.

The equation is simple: The U.S. needs labor; immigrants supply labor. So the solution is to find ways to bring the two together in some legal, orderly way. President Bush understands this, which is why he has proposed the restoration of a guest-worker program. But for some reason -- perhaps because the president's staff is not sufficiently skillful or vigorous enough in pressing his case -- the Republican leaders in Congress seem deaf to the wishes of their own president.

The second part of the equation, what to do about existing illegals, is a bit more difficult, politically at least. The first bit of advice worth taking: Stop treating it as a police problem. Nearly all of the illegals sneaked into the U.S. for nothing more heinous than to offer their honest labor. They violated U.S. immigration laws but they aren't criminals in the sense of posing a threat to persons or property. If approached seriously and with sufficient goodwill, it should not be beyond the mind of man to find ways to make them legal.

In other words, they need to be given amnesty. The paleocons immediately object that doing so would reward them for breaking the law. How about changing the phrasing a little bit? Let's say they are to get amnesty in recognition of the fact that they already have suffered sufficient hardship in getting into the U.S. and living secret lives. Various other schemes that have been mentioned, such as sending them home to wait in a queue, have one fatal defect: They won't convince illegals that it is safe to come out of hiding.

Offering to give illegals green cards and wipe the slate clean is the only practical solution. If they come forward, they can stay on their jobs and travel back and forth to their homes legally. Some who have been trapped in the U.S. by their inability to travel freely will choose to go home permanently. There will be less incentive to sneak in family members, since it will be

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possible to visit relatives or send remittances. Restoring something like the old bracero program for temporary farm workers would further regularize the flow of labor.

Let's admit that Beltway politics has gone crazy. Aside from the paleocons, there are the labor unions and their "liberal" friends. Most unions long ago gave up representing working people in favor of representing themselves, which is no doubt why they are losing membership. It is hard to think of a class of workers more in need of union support than poor Latinos with no legal rights. But politics are what Congress is paid to manage. It's too bad this Congress is making such a hash of it.

TAX:

Companies Target Your Tax Refund (WSJ)

By Jeff D. Opdyke

The Wall Street Journal, March 21, 2006

A variety of companies are trying to get their hands on your tax refund before you do, and state law-enforcement officials are cracking down on some of the practices.

As the April tax-filing deadline approaches, businesses from tax-preparation firms to auto dealerships are offering consumers the opportunity to put their expected refund checks to work weeks before the IRS sends them out -- often by loaning them the expected amount for a high fee. Dozens of retailers, including Olive Garden restaurants and AMC move theaters, have begun offering gift cards in exchange for tax refunds to people who file using TurboTax, the popular tax-preparation software. H&R Block Inc. recently launched savings accounts for customers to channel their tax refunds. And hundreds of car dealerships will prepare your taxes if your refund is applied toward a down payment on a car.

But now, state officials are clamping down on some of these programs, claiming they saddle low and moderate-income families, recent college graduates and others with high fees. Last year about three of every four tax filers received a refund, according to the Internal Revenue Service. Those refunds totaled nearly $218 billion, or about $2,171 per household.

Last week, H&R Block, the nation's biggest tax preparation firm, was sued by New York's attorney general for selling so-called Express IRAs that allegedly earned less money than what customers paid in fees. That action followed a lawsuit last month against Block by California's attorney general, who accused the firm of charging fees that equate to annualized interest rates that can exceed 500% on so-called refund-anticipation loans, the popular instant refunds, which are loans that clients repay when their refunds arrive. Oklahoma's attorney general last week warned consumers away from instant refunds, which are also offered by other big tax-preparation firms, including Jackson Hewitt Tax Service Inc. and Liberty Tax Service, saying the best strategy "is to file your taxes, and wait for your refund check."

Block said at the time that the California suit has "no legal or factual merit," and said it clearly discloses the terms of its loans to consumers. The company also has denied the charges in the New York lawsuit, saying its IRA program offers its customers "a powerful first step toward ensuring a secure financial future."

Block has been aggressively expanding beyond tax-preparation; last week the company said it had been granted a federal savings bank charter that allows it to provide checking, savings and other services through a banking subsidiary. The company this year launched a money-market savings account, which clients can fund with tax refunds. It costs $15 to start, though that is waived if customers deposit a minimum of $1,000 or agree to regular deposits. The firm is also piloting a debit card onto which customers can load their refund. The debit card is free, though the average customer accumulates about $17 in ATM fees before the refund is exhausted, Block says.

Bernie Wilson, Block's vice president for outreach and business development, says the company's goal is to help the low- to moderate-income Americans who do not have traditional banking relationships. "We're helping people save," he says. "We've been very careful to focus on things that will improve the financial situation of clients' lives."

Other firms also are targeting tax refunds. Jackson Hewitt, which has about 5,400 stores nationally, offers taxpayers its "ipower CashCard." It allows taxpayers to have their refund loaded onto what is essentially a prepaid MasterCard, then to access their cash through debit transactions or through ATM withdrawals. Taxpayers must first pay a $30 charge to load their refund onto the card.

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Both Jackson Hewitt and H&R Block have teamed up with chains that place check-cashing machines inside some local tax-preparation stores. Taxpayers who opt for an instant refund can turn around and stick that check into the machine and receive cash immediately -- minus another fee that averages 2.7%, according to ACE Cash Express Inc., which provides machines to many Block stores.

Meanwhile, Intuit Inc. began this year offering users of its popular TurboTax tax-preparation software the opportunity to apply some or all of their refunds to gift cards from about 50 retailers, including Starbucks, Sharper Image, Lowe's and Red Lobster. Retailers are offering greater value in the gift card than the amount of money customers put in -- loading the card with $1,200 for a refund amount of $1,000, for instance. However, customers pay a one-time fee of $14.95 to TurboTax for shipping and handling. The offer is available to taxpayers who file their returns electronically.

TaxMax, a unit of CarBiz Inc. of Sarasota, Fla., offers taxpayers to chance to turn their federal tax refund into a down payment on a car -- though at a potentially high cost. The company says it has partnered with about 800 mainly used-car dealerships around the country and charges consumers an average of about $200 to complete a federal 1040A form, a relatively simple form.

TaxMax says customers can show up at the dealership with a driver's license, Social Security card and a W-2 form. A salesman helps fill in two to four pages of paperwork seeking information such as number of dependents and whether the taxpayer wants TaxMax to complete a state tax return for an additional $25 fee. The dealer faxes the paperwork to TaxMax, where the data are entered into a tax program and the return is looked over by a supervisor trained in tax preparation, before it is returned to the dealer and taxpayer. The process takes about 30 minutes. The size of the average return: about $2,300, according to Stan Heintz, chief operating officer for CarBiz, who expects the company to complete about 3,500 returns this tax season.

The J.D. Byrider used-car dealership in Milwaukee expects TaxMax to do about 75 tax returns for its customers this tax season, says franchisee Steve Muller. The TaxMax option "is a very popular program" and the volume of customers relying on tax refunds as down payments on cars has tripled in the past year, he says. Mr. Muller says the tax-selling season begins as early as late November, when buyers come in with their paystub and TaxMax estimates what their refund will likely be for the year.

Liberty Tax Service, with about 1,700 stores nationwide, says about 17% of its customers apply for a refund-anticipation loan, paying $75 or so for loans that average about $2,500. John Hewitt, Liberty's chief executive, says the Virginia Beach, Va., firm tries to discourage most customers from applying for the loans. "We think cross-selling to customers is fraught with difficulties, including pushing these types of products on people that they're bad for," Mr. Hewitt says. Still, he adds, "if you don't have [instant refunds], you're not competitive."

Pastors' Get-Out-the-Vote Training Could Test Tax Rules (NYT)

By David D. Kirkpatrick

The New York Times, March 21, 2006

WASHINGTON, March 20 — Weeks after the Internal Revenue Service announced a crackdown on political activities by churches and other tax-exempt organizations, a coalition of nonprofit conservative groups is holding training sessions to enlist Pennsylvania pastors in turning out voters for the November elections.

Experts in tax law said the sessions, organized by four groups as the Pennsylvania Pastors Network, could test the promises by the tax agency to step up enforcement of the law that prohibits such activity by exempt organizations.

Such a test could define the boundaries for churches and other groups.

Although the tax agency has often overlooked political activity by churches, it has repeatedly warned the clergy and religious groups that it intends to enforce its rules with new vigor this year, in part to correct what it considers to have been too much political intervention by churches and charities in 2004.

The first training session, on March 6 in Valley Forge, included a videotaped message from a single candidate, Senator Rick Santorum, the Pennsylvania Republican who faces a difficult re-election fight.

"I encourage you to let your voices be heard from the pulpit" on vital issues, Mr. Santorum said, urging the pastors to champion a proposed constitutional ban on same-sex marriage, according to a recording made by a person at the session.

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Americans United for Separation of Church and State, a liberal group critical of the effort, provided the recording to The New York Times.

After the tape, organizers offered participating pastors copies of the senator's book "It Takes a Family."

Colin A. Hanna, founder of the conservative advocacy group Let Freedom Ring and master of ceremonies, called the book "thoroughly and soundly grounded in Christian doctrine and Scripture as the revealed word of God," according to the recording.

Mr. Hanna described Mr. Santorum's book as a rebuttal to another book, "It Takes a Village," by Senator Hillary Rodham Clinton, Democrat of New York, and pointedly said he would not name its author. The session on March 6 attracted 125 members of the clergy, and on Monday, Let Freedom Ring posted a notice on its Web site that the Pennsylvania Pastors Network was hiring 10 full-time organizers to help churches get out the vote, suggesting a sizable and well-financed effort.

"Evangelical or Catholic background is helpful," the site suggests.

Gary Marx, who helped direct the Bush re-election campaign's work with Christian groups in 2004, oversees the get-out-the-vote effort.

A politician speaking to a religious group is hardly new, and the tax code allows churches and other tax-exempt charities to register voters and to express views on public issues.

But the rules forbid supporting a political party or candidate. Inviting just one candidate to speak, singling out one candidate for special praise and highlighting a combination of issues tailored to one candidate's campaign are all factors that the I.R.S. considers problematic.

That is especially the case if the discussion is in the context of a get-out-the-vote effort, said Marcus S. Owens, a lawyer here who is the former director of the exempt-organizations division of the tax agency.

The training session was two weeks after the internal revenue commissioner, Mark W. Everson, spoke at the City Club of Cleveland saying, "We can't afford to have our charitable and religious institutions undermined by politics."

The tax agency found "a disturbing amount" of political activity during the 2004 election, including churches' inviting just one candidate to speak or distributing voters' guides that in effect favored one candidate over another, Mr. Everson said in a statement.

Pennsylvania appears to be the sole state where advocacy groups are pouring so much into working with churches so early. The outcome of the effort, and the way the tax agency responds, could have an influence far beyond the state.

Republicans, encouraged by their success mobilizing religion-minded voters in 2004, are stepping up their efforts to collect church directories around the country to help turn out voters for the midterm races. Democrats are watching the Pennsylvania senator's race closely in part because Mr. Santorum's opponent, Bob Casey Jr., shares Mr. Santorum's opposition to abortion rights, defusing the issue that has galvanized Christian conservatives.

In an interview on Friday, Mr. Hanna said the meetings were unrelated to Mr. Santorum's campaign. He noted that the training sessions explicitly encouraged the members of the clergy to speak about policies and to avoid endorsing candidates, guidelines within the limits of tax laws.

He also noted that one of the speakers was Raymond L. Flynn, a former Democratic mayor of Boston and ambassador to the Vatican who has become a supporter of President Bush and social conservative causes.

Mr. Santorum spoke on the tape for about seven minutes. A spokesman for the senator, Robert Traynham, said his statement was "generic video greetings about a public policy initiative that will be pending before the United States Senate," referring to the debate over the proposed ban on same-sex marriage.

"You are the leaders of the flock," Mr. Santorum told the pastors. "You have a responsibility to be informed and to inform" and "to help guide those who seek your counsel," especially about the importance of banning same-sex marriage.

The Rev. Frank Pavone, national director of Priests for Life, invoked the prophet Ezekiel, whose voice brought a field of bones to life.

"You and I are standing before a field of dry bones, aren't we?" Father Pavone told the training session. "Dead consciences. Destroyed life."

Without mentioning Mr. Santorum or Mr. Casey, Father Pavone emphasized how important control of the Senate would be if another Supreme Court vacancy opened soon, potentially tipping the court against abortion rights.

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"This particular president needs the kind of support that he has today but might not necessarily have after 2006," Father Pavone said.

With the abortion issue off the table in the Pennsylvania race, other speakers concentrated on same-sex marriage. Mr. Casey has said he opposes same-sex marriage but he also opposes amending the Constitution to ban it. "It is a point of differentiation," Mr. Hanna said.

Among the other speakers were two conservative Christian organizers from Ohio, where they worked with Let Freedom Ring on a state marriage referendum that helped increase conservative turnout in the 2004. "As we listen to how they did it in Ohio," Mr. Hanna told the pastors, "think about how it relates to us in Pennsylvania."

On March 6, Mr. Hanna, a former Republican commissioner of Chester County who successfully fought a legal battle to preserve a display of the Ten Commandments, said the new network would provide sermon notes, teaching aides, voters' guides, and legal referrals.

The Rev. Barry W. Lynn, executive director of Americans United for Separation of Church and State, said the network reflected "a growing backdoor, under-the-radar effort to lure churches into political campaigns" that could risk their tax exemptions.

Michael Geer, the president of the Pennsylvania Family Institute and a speaker on March 6, said such critics were trying to "squelch the free speech" of conservative pastors. No one complained, Mr. Geer said, when opponents of the state marriage amendment had an organizing meeting last week at St. Michael's Lutheran Church in Harrisburg, Pa.

Court Rejects Last Whitewater Appeal (AP-Y2)

By Jill Zeman

AP2, March 20, 2006

The seven-year, $70 million Whitewater investigation that toppled an Arkansas governor and dogged Bill Clinton for most of his presidency officially drew to a close Monday when the U.S. Supreme Court declined to hear the last remaining appeal.

Former Gov. Jim Guy Tucker had asked the high court to let him withdraw a guilty plea in a tax-conspiracy case that he said was based on an outdated law. Tucker was accused of crookedly scheming to reduce his tax liability on the sale of cable television system.

"It has been drawn out a long time," said W. Hickman Ewing, who was a chief deputy to Whitewater special prosecutor Kenneth W. Starr. "It just shows you people can keep things going."

Tucker became Arkansas governor in 1992 after Clinton was elected president. He resigned in 1996 after being convicted in a separate case, also brought by Whitewater prosecutors, involving a small business loan. Because of poor health, Tucker never went to prison but served 18 months of home detention.

In the cable case, Tucker's previous arguments led a federal judge to cut the amount of restitution owed from $1 million to $63,000. Tucker argued further that the government used the wrong section of the law when it pursued him.

"It's disappointing that there will never be a report in a court of law as to how this independent counsel, with all its resources and purported brilliance, managed to indict a citizen by use of a repealed statute," Tucker said Monday.

The appeal was the lone remnant of the Clinton-era Whitewater probe, and the cable television case had nothing to do with the Arkansas land development that gave the investigation its name. Starr won permission from then-Attorney General Janet Reno to broaden the investigation when Tucker's name came up in the business loan case.

Tucker has long argued that he would never have been pursued by prosecutors if not for Clinton. Ewing said Monday: "It's probably true."

In a 1996 trial involving the business loan, a federal jury convicted Tucker with former Clinton Whitewater business partners James and Susan McDougal. Tucker quit and was replaced by Mike Huckabee, who still holds the job.

Clinton was never charged.

High Court Rejects Appeal, Ends Whitewater Case (WT)

By Jerry Seper

The Washington Times, March 21, 2006

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The Supreme Court yesterday refused to hear an appeal from former Arkansas Gov. Jim Guy Tucker, who asked the justices to allow him to withdraw his guilty plea to tax charges in the Whitewater investigation, closing the door on the 12-year, $60 million probe.

Tucker, who in 1996 was found guilty by a federal jury of conspiracy and mail fraud and later pleaded guilty to conspiracy to defraud the Internal Revenue Service, said through his Little Rock attorney, Jeffrey Rosenzweig, that an appeals court wrongly denied him a new hearing on whether the plea was voluntary.

The justices did not comment in refusing to hear the appeal. In 2004, they declined to consider whether Tucker, who resigned his office after his conviction, was wrongly barred from raising new arguments in challenging his tax conspiracy conviction.

Called the "Whitewater investigation" because of its ties to a questionable real estate development on the banks of the White River in the Arkansas Ozarks, the probe netted 14 convictions or guilty pleas, including those of Bill and Hillary Clinton's Whitewater Development Corp. business partners, James and Susan McDougal, and one-time Associate Attorney General Webster L. Hubbell, a law partner of Mrs. Clinton's at Little Rock's Rose Law Firm.

The investigation formally ended in September 2000, less legal appeals, when independent counsel Robert W. Ray declared there was "insufficient evidence" to bring charges against the Clintons. In an announcement seven weeks before the Nov. 7, 2000, presidential election, Mr. Ray said the lengthy probe, which focused on accusations that the Clintons obstructed justice and gave false testimony, was "now closed."

At the time, the White House, which had vilified Mr. Ray's predecessor, Kenneth W. Starr, portrayed the Ray report as vindication.

The Whitewater investigation, begun in 1994 by special prosecutor Robert B. Fiske, focused on accusations that the Clintons knowingly participated in criminal conduct related to Madison Guaranty Savings and Loan Association, the Little Rock thrift owned by the McDougals. The thrift failed in 1994 at a cost to taxpayers of $73 million.

The McDougals and Tucker were convicted in a $3.13 million scheme involving bogus loans through Madison Guaranty, which the McDougals owned.

The probe netted 14 guilty verdicts or pleas, including Hubbell, who pleaded guilty to tax evasion, mail fraud and concealment by scheme; Tucker, who was found guilty of conspiracy and mail fraud and pleaded guilty to conspiracy to defraud the Internal Revenue Service; McDougal, convicted by a jury of 18 felonies in Madison's collapse; and Mrs. McDougal, convicted of four felonies.

Other Clinton associates, bankers and real estate officials pleaded guilty to six felonies and eight misdemeanor charges in the case.

Mrs. McDougal was sentenced to two years, but served only 105 days before a judge released her because of a back problem. But she served 18 months on a contempt citation sought by Mr. Starr for refusing to testify before a grand jury about Mr. Clinton's role in the Whitewater affair.

With less than two hours remaining in his presidency, Mr. Clinton pardoned Mrs. McDougal. It was among 140 pardons and 36 commutations signed by the president as he prepared to leave office.

Refunds Grow Fat On Tax Changes (USAT)

By Dennis Cauchon

USA Today, March 21, 2006

Americans are enjoying their biggest tax refunds ever — and it's costing them billions of dollars.

Taxpayers overpaid their federal income taxes by a record 29% in both 2003 and 2004, according to a USA TODAY analysis of Internal Revenue Service data.

That has pushed refunds above $200 billion a year. Final figures aren't in for the 2005 tax year, but the average refund so far is $2,423, up 4% from last year.

The fatter refunds are the result of taxpayers withholding nearly twice the traditional safety margin from their paychecks to avoid a year-end tax bill.

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The extra withholding gives the government an interest-free loan worth more than $10 billion a year, equal to about $100 per tax return.

"The deficit is a little smaller because of this voluntary tax," says Leonard Burman, co-director of the Tax Policy Center in Washington.

The increasing use of tax credits and deductions caused the jump in overwithholding.

Changes in tax rates automatically revise withholding levels, but changes in tax credits and deductions do not. Workers getting expanded credits or deductions must fill out new W-4 forms to change the amount of money deducted from their paychecks.

The child tax credit, which rose from $500 to $1,000 per child in 2001, is the biggest reason for a jump in excessive withholding. More than 25 million tax returns claim this credit, worth $55 billion in 2005.

Tax credits are available for a dozen purposes, including college education, adoption assistance and child care expenses. The portion of returns claiming at least one credit rose from 13% in 1995 to 31% in 2003. Credits reduce the tax owed dollar for dollar.

Expanded deductions for health costs, college expenses and retirement accounts also played a role. Deductions reduce income that is subject to tax, rather than the tax itself.

Overwithholding has grown fastest among families earning $50,000 or less a year because they benefit most from tax credits. Many low-income families obtain refund anticipation loans, which typically cost $100 or more, to get their money about 10 days earlier than from Internal Revenue Service.

"It's crazy to lend your money to the government interest-free and then pay triple-digit interest for a refund anticipation loan," says Chi Chi Wu, a lawyer with the National Consumer Law Center.

But many people love the forced savings and its reward — the fat refund — no matter how much it costs. "Taxes are so complicated people are just happy to come out ahead on April 15 rather than behind," says Ellen Katz, editor of the Tax Savings Report newsletter.

In-House Critic Holds IRS Feet To The Fire (WSJ)

By Robert Guy Matthews

The Wall Street Journal, March 21, 2006

For nearly three years, Nina Olson tried to get her bosses at the Internal Revenue Service to change an antifraud program that withheld thousands of tax refunds without notifying the suspected scofflaws.

Tired of being rebuffed, Ms. Olson, the National Taxpayer Advocate, launched an attack. In January, she released internal IRS documents showing that, in more than 65% of the cases she investigated, the agency ultimately determined the suspicions were unfounded and coughed up the refunds. Faced with the wrath of lawmakers and IRS critics, IRS Commissioner Mark Everson ordered a review of the program and promised to let taxpayers know when their refunds were frozen.

"Before going public, I had a lot of sleepless nights," Ms. Olson says now. "I didn't like embarrassing the IRS, but I didn't really have a choice. I had a moment of, 'What's going to happen to me after this comes out?' "

By any standard, Ms. Olson, who is 52 years old, has a tough job. As the taxpayer advocate, one of her tasks is to tell Mr. Everson what he's doing wrong -- and to take action if, in her view, injustices against taxpayers aren't resolved fairly and quickly.

It makes for a delicate and sometimes rocky relationship. Generally, the two meet once a month and discuss problems. "It is really just a nutty position," she says. "You get to say to the boss, 'This is good, but...' " Mr. Everson says there's "undoubtedly a certain amount of tension in the relationship." But he adds, "I don't think that there is an undue amount of tension."

The IRS has many people looking over its shoulder: the Treasury Department's Inspector General, an oversight board, Congress, and the Government Accountability Office. But only Ms. Olson is the designated "voice" of the taxpayer within the IRS. Congress created the position in 1998, when the IRS was under criticism for being unyielding and heavy-handed with taxpayers. Ms. Olson was appointed in 2001.

The give and take between the two can affect how the agency collects $2 trillion in annual taxes from America's 130 million individual taxpayers and 25 million businesses. Technically, Mr. Everson can't fire Ms. Olson: The taxpayer advocate is

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appointed by the Treasury secretary. But he writes her job evaluations, which can affect whether she keeps the confidence of Treasury Secretary John Snow.

Mr. Everson, a former deputy director of the White House Office of Management and Budget and a vice president of a private food-services company, has been IRS commissioner for three years. In that time, he has increased the number of audits, cracked down on illegal tax shelters, and earned the confidence of Congress to continue with his mission to remake the IRS.

Ms. Olson, who says she never had a boss before coming to the IRS, founded and was executive director of the Community Tax Law Project, of Richmond, Va., the first independent low-income taxpayer clinic in the U.S.

With something of a tough-guy reputation, Mr. Everson, 51, isn't inclined to strike deals with businesses or individual taxpayers to reduce the taxes or penalties they owe. Ms. Olson, while intolerant of fraud, is at the same time trying to moderate and nuance Mr. Everson's aggressive tone.

Though the difference in emphasis can produce clashes, the two often work in tandem behind the scenes to make navigating and understanding the IRS easier and fairer for taxpayers.

Yet there are the times when Mr. Everson and Ms. Olson view IRS problems from vastly different perspectives. In the case of the frozen refunds, Mr. Everson says the IRS wanted to fully investigate suspicious activity without tipping off possible tax cheats. Ms. Olson, who was peppered with complaints from taxpayers saying they had done nothing wrong and needed the money, argued that the program was punishing innocent people as well as guilty ones. Many of the refunds involved the Earned Income Tax Credit, which is designed to help low-income workers.

Another point of contention: Walk-in taxpayer-help centers. To save money, Mr. Everson proposed closing 68 of the agency's 400 walk-in service centers. His argument: Taxpayers should call the IRS or go online for help. Ninety percent of called-in questions are answered accurately, the highest percentage ever, he says. But the closings haven't gone forward because of objections from lawmakers and Ms. Olson, who say that face-to-face service is valuable.

Each year, Ms. Olson submits a report to Congress, detailing problems at the IRS and proposing remedies. She is working on the 2006 report. In past ones, she has criticized the IRS for rushing delinquent tax cases through the system -- a move that's meant to resolve cases quickly but sometimes results in unfair treatment of taxpayers, she says. Ms. Olson also says that IRS letters and notices need to be much clearer. "Many people can't understand the IRS rules," she says.

She also has faulted the agency for pushing some people into the appeals process for delinquent bills too quickly and has urged the IRS to steer clear of private debt collectors. She worries that sensitive taxpayer information will end up in the hands of private collection agencies.

Nevertheless, the IRS recently began a pilot program that would contract out some collections to three private firms. If successful, the program will expand to 10 firms by next year.

Mr. Everson, in response to Ms. Olson's complaints, says that reducing the time it takes for revenue officers to collect overdue taxes is an important initiative that benefits taxpayers with prompter, clearer service. Since assuming office, he has reduced the time it takes to close those tax-collection cases to an average of 38 weeks from more than 47 weeks.

Moreover, he says, while Ms. Olson has the luxury of focusing solely on taxpayers' concerns, he must also worry about ensuring that taxes are paid promptly. The tax gap -- the amount owed by taxpayers but not paid -- is estimated at $290 billion.

CONGRESS-ADMINISTRATION:

Bush Signs Bill To Raise Debt Ceiling (AP-Y2)

AP2, March 20, 2006

With no fanfare, President Bush signed a bill Monday pushing the ceiling on the national debt to nearly $9 trillion.

The measure allows the government to borrow an additional $781 billion and prevent a first-ever default on Treasury notes. It also lets the government pay for the war in Iraq without raising taxes or cutting popular domestic programs.

The debt limit increase was the fourth of Bush's presidency, totaling $3 trillion. With the budget deficit near record levels, an additional increase in the debt limit almost certainly will be required next year.

The measure allows the debt limit to rise from $8.184 trillion to $8.965 trillion.

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Bush Signs Bill Boosting Energy Aid To Poor (AP-Y2)

AP2, March 21, 2006

Federal aid to help the poor cope with energy costs will increase by $1 billion to more than $3 billion this year under legislation President Bush signed on Monday.

It took months to get the additional money for the Low Income Home Energy Assistance Program through Congress, in part because of resistance from fiscal conservatives opposed to new spending and from lawmakers from warm weather states who contend that the program favors cold weather regions.

Proponents said the program's budget has failed to meet the needs of the poor as heating and cooling costs soar.

The $1 billion, on top of $2.1 billion already allotted for the current budget year, was obtained by transferring money originally intended for the budget year that begins Oct. 1.

Under a compromise worked out in the Senate, half of the new money would be distributed according to an existing formula that would favor warm weather states while the other half would be spent at the discretion of the president.

Choices Shrink In Drug Plan, Study Says (LAT)

By Ricardo Alonso-zaldivar

The Los Angeles Times, March 21, 2006

WASHINGTON — One of the first independent studies of the Medicare prescription benefit has concluded that many low-income California seniors now have access to a narrower range of drugs than when the state covered their medications, according to a report being released today.

The new federal program contains pitfalls for middle-class beneficiaries as well, the report said, because of wide differences in the number of drugs the private Medicare prescription plans cover. For example, among 10 plans the study analyzed, only two covered all of the top 100 medications taken by Medicare patients. Another two covered 99 of the drugs; one plan covered 71.

And higher monthly premiums did not necessarily mean access to a greater number or variety of prescription drugs.

Medicare administrator Mark McClellan took issue with the report's conclusions Monday, saying that many of the medications that plans do not cover have generic equivalents that cost much less and are paid for by the plans.

"The concern I would have is implying that because not every cholesterol drug is covered, that the plans aren't providing access to needed drugs," he said. "If that is the conclusion people draw, that is a misleading conclusion."

The report, among the first assessments based on government data rather than anecdotal evidence, comes as California is experiencing significant problems with the transition of low-income seniors and disabled people from the state Medi-Cal program to the Medicare drug plan. An emergency program instituted by the state as a backstop continues to pay for about 10,000 prescriptions each weekday.

Although focused on the California experience, the report's findings could have national implications, as federal and state lawmakers grapple with ways to work out problems with the new benefit.

"This is true across the country — this is not a California phenomenon," said Jonathan Blum, a vice president of Avalere Health, a Washington, D.C., consulting firm that conducted the study for the California HealthCare Foundation. Its findings will be presented today at a joint hearing of the California Assembly's health and aging committees.

On Jan. 1, when the Medicare benefit took effect, nearly 1 million elderly low-income Californians were automatically transferred into it from Medi-Cal, the state's version of Medicaid. The former Medi-Cal beneficiaries were assigned at random to one of several private plans, with no consideration of the drugs they were taking.

There were big differences in coverage among the plans, which have wide latitude in choosing the drugs they will pay for. Of those plans accepting Medi-Cal beneficiaries, the most inclusive covered 3,360 medications, while the most restrictive covered 626, the report found.

The Food and Drug Administration has approved about 8,000 medications, virtually all covered by Medi-Cal. The Medicare plans are required to offer at least two choices in every major class of drugs.

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Focusing the analysis on four classes of medications — drugs used to treat psychosis, AIDS, high blood pressure and high cholesterol — the study found disparities.

"Many … beneficiaries, even if they are properly enrolled in a drug plan, have coverage that is inferior to their coverage under Medi-Cal for the four classes analyzed," the report said.

It also found that co-payments, although modest, are higher than what low-income seniors paid under Medi-Cal.

Among the drugs used to treat schizophrenia and other serious mental illness, Medi-Cal covered 20 medications, according to the study. Of the Medicare plans, one covered 15 of the drugs, while the most inclusive covered 21. The median was 18 medications.

Among AIDS drugs, the plans covered the same median number, 23, as Medi-Cal had.

There was a wider difference in coverage for drugs used to treat high blood pressure and high cholesterol. Medi-Cal covered 12 blood pressure drugs; the number covered by the plans ranged from five to 12, with a median of eight.

Similarly, Medi-Cal covered 14 cholesterol-lowering drugs, while the number covered by the Medicare plans ranged from seven to 20, with a median of 10.

Medications for severe mental illness and AIDS are in a specially protected category, under which Medicare requires the private plans to cover most or all available medications. Those special protections appear to be working, the report found.

But it questioned the policy of randomly assigning low-income beneficiaries to plans in which some of their drugs might not be covered.

"Especially to the extent that [beneficiaries] lose access to drugs that reduce other, higher-cost medical services, the state of California would face higher costs when Medi-Cal pays for the more expensive care," the report said.

Some California pharmacists say that all of the participants in the new drug plans are likely to face more coverage problems next month, after a 90-day transition period expires. Special medical authorization then will be needed to get drugs not on a plan's approved list.

"When April 1 rolls around, there are going to be more frequent incidents of patients having to confront these types of things," said John Cronin, owner of Community Pharmacy of Escondido. "Right now when we transmit [such] a claim, we get a message saying they'll cover it this time, but they're not filling it after April 1. We are basically sending that information to the physicians."

Before signing up for a drug plan, the report recommended, seniors should check not only whether the medications they currently take are covered, but also how many of the top 100 Medicare drugs are included. That way, they can have greater assurance of comprehensive coverage if they require new medicines.

Major Education Official Is Quitting For House Post (NYT)

By Diana Jean Schemo

The New York Times, March 21, 2006

WASHINGTON, March 20 — The federal Education Department's top official overseeing colleges and universities has resigned and will become deputy staff director of the House committee on education, the panel announced on Monday.

The official, Sally L. Stroup, the assistant secretary for postsecondary education, said in an interview on Monday that she submitted her resignation last Wednesday and would leave the department in mid-April.

"I've been here four years," Ms. Stroup said. "That was long enough."

In moving to Capitol Hill, Ms. Stroup will return to her onetime employer, officially known as the Committee on Education and the Workforce, for which she had worked for seven years.

Though her new job carries a less exalted title than the one she is leaving, Ms. Stroup said she would have a broader portfolio, overseeing legislation on disabled students, elementary and secondary schools, labor and other issues.

Her departure was first reported by The Chronicle of Higher Education on Friday.

Before joining the Education Department in 2002, Ms. Stroup was briefly a lobbyist for the University of Phoenix, the largest for-profit university in the country.

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The committee's new chairman, Representative Howard P. McKeon, Republican of California, has been considered an ally of the for-profit education industry, like his predecessor, Representative John A. Boehner, Republican of Ohio, the new House majority leader.

In recent months, the committee for the first time permitted institutions that teach more than half their courses online to receive federal student aid, a boon to for-profit institutions like the University of Phoenix.

The committee is expected to complete an updating of the Higher Education Act, the main federal law governing colleges and universities, in the coming months. Ms. Stroup has said that as assistant secretary she withdrew from any policy or regulatory matters directly involving the University of Phoenix.

She said on Monday that she did not expect to have to step aside in the same way in her new job, because legislation would address higher education or for-profit universities generally, not a single institution.

"I would never recuse myself from those kinds of things that have a broad reach across an entire industry," she said.

G.O.P. Makes Its Pitch To Firefighters' Union (NYT)

By Steven Greenhouse

The New York Times, March 21, 2006

WASHINGTON, March 20 — With the election season heating up, the Bush administration and the Republican Party used a good deal of energy and charm on Monday to woo a group that has long been part of the Democrats' base: organized labor.

Homeland Security Secretary Michael Chertoff; Senator Chuck Hagel, Republican of Nebraska; and the Republican National Committee chairman, Ken Mehlman, spoke to the annual legislative conference of the main firefighters' union, saying they were eager to work with the union on issues of common ground.

The White House chief of staff, Andrew H. Card Jr., had been scheduled to speak, but canceled, citing illness. Mr. Mehlman praised the union for an increasing focus on bipartisanship and said if the firefighters and other unions worked with Republicans they could achieve more of what they were seeking, including greater preparedness for emergencies.

"We've sometimes disagreed, but we've always kept the dialogue open," he said. "There are areas where we can work together over the coming year."

Mr. Mehlman said the Republicans hoped to attract more union voters this year than in 2004, when 38 percent of union members backed President Bush, according to surveys of voters leaving the polls.

"I do think we can make greater inroads," he said.

Harold A. Schaitberger, the president of the International Association of Fire Fighters and the first prominent labor leader to back Senator John Kerry, Democrat of Massachusetts, for president in 2004, voiced the views of an increasing number of union leaders in saying it was important to work with Republicans.

"I realize that historically the Democrats have been friendlier toward workers," said Mr. Schaitberger, whose union has remained in the A.F.L.-C.I.O. as five unions have left the federation. "The bottom line is that at almost every level of government the government is split, and most legislatures are split. And you have to work both sides of the aisle to move an agenda."

The Teamsters, the service employees and other unions have begun cooperating with Republicans. But rarely have the Republicans made such strong overtures toward a union as they did on Monday toward the firefighters.

The firefighters have cachet because they are viewed as pillars in many communities and because 343 New York firefighters were killed on Sept. 11, 2001.

Sarah Chamberlain Resnick, executive director of the Main Street Republican Partnership, a group of Republican lawmakers that works closely with unions, said it was no coincidence that Republican leaders were courting union members.

"When the president is at 34, 36 percent in the polls, you have to begin to reach out," Ms. Resnick said. "The unions are not the president's base. So the White House is starting to reach out."

Her group has told unions that it is smart to reach out to Republicans.

"Republicans are in control, so it's good to have some friends who are in the majority," she said.

Mr. Chertoff promised that the administration would do a better job dispatching vital supplies to firefighters and other emergency workers when they respond to disasters.

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Mr. Hagel urged the firefighters to help build a bipartisan consensus to deal with overarching problems like terrorism, poverty and health care.

Underlining the Republicans' difficulties in wooing union members, Howard Dean, the Democratic chairman, received far more applause than any Republican speaker. "We want American jobs that will stay in America," Mr. Dean said to thunderous applause.

He also called for "retirement security," saying Democrats, unlike many Republicans, would not seek to reduce public-employee pensions.

Some union leaders have voiced fears that labor's flirtation with bipartisanship could undercut efforts to return control of Congress to the Democrats, who have been friendlier to labor on issues like workplace regulation and raising the minimum wage.

As part of the bipartisan approach, Mr. Schaitberger said his union would back candidates, Republicans and Democrats, who have stood with the firefighters on issues like increased spending to hire first responders.

He said his union would back the re-elections of Republicans like Gov. Rick Perry of Texas and Senator Mike DeWine of Ohio but would seek to defeat Gov. Arnold Schwarzenegger in California and Senator Rick Santorum in Pennsylvania, two other Republicans.

"For those politicians who support our agenda, we will support them," Mr. Schaitberger said. "And for those who are looking to roll back the rights and improvements we've earned, we'll oppose them at every turn."

He criticized Mr. Bush for proposing to eliminate federal financing to hire additional first responders.

Mr. Schaitberger has revamped his union's political contribution so that 35 percent went to Republicans in 2004, up from 9 percent in 2000.

"We have one party that doesn't really care for us as labor and another that takes us for granted," he said. "I'm not sure which is worse."

Allen's 'Paycheck Penalty' Not Popular Among Peers (WT)

By Christina Bellantoni

The Washington Times, March 21, 2006

Sen. George Allen, testing the 2008 presidential waters while facing his own re-election in the fall, says members of Congress should not get paid if they miss the deadline for passing a federal budget.

The Virginia Republican's so-called "paycheck penalty" proposal has piqued the interest of fiscal conservatives, but is unpopular among his colleagues.

Mr. Allen's critics call the proposal disingenuous, noting that last week the senator voted to increase the federal debt limit to $9 trillion.

"There's a great need for fiscal responsibility in Washington," Mr. Allen said yesterday. "It's absurd that a full-time legislature at the Capitol can't get their job done by October 1st. There is no excuse why this can't get done on time."

Mr. Allen said that voting to raise the debt limit was difficult, but he defended it as "responsible" to avoid higher interest rates on government bonds.

The deadline for passage is the end of the fiscal year, Sept. 30, but Congress rarely meets that date.

Lawmakers, who earn $165,200 annually, are not penalized for being late and often agree on multiple continuing resolutions before resolving the budget just before Christmastime.

Mr. Allen said the system makes it difficult for lawmakers to scrutinize all the spending because they are eager to get home for the holidays.

Harris N. Miller, a Northern Virginia businessman seeking the Democratic nomination to challenge Mr. Allen in November, balked at the proposal.

"Being a senator is very serious business, which includes using the taxpayers' dollars wisely and learning words like 'no,' " Mr. Miller said. "It's clear that he's failed at his job."

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Mr. Miller also called on Mr. Allen to return $229,308 to taxpayers -- the amount that Mr. Miller calculated the senator has received after the budget deadline since he took office in 2001.

Mr. Allen said yesterday that the proposal works only if paychecks for all of the lawmakers are withheld, "to apply real pressure."

Former Secretary of the Navy and author James H. Webb, who faces Mr. Miller in a June 13 Democratic primary, did not respond to calls or an e-mail to his campaign staff yesterday.

So far, no lawmakers have co-sponsored Mr. Allen's bill, which is pending review in the Senate Homeland Security and Governmental Affairs Committee.

Mr. Allen said that Virginia, where he served as governor in the 1990s, knows how to keep a fiscal house in order. Chief executives there are allowed a line-item veto, a tool that he used several times when signing budgets. Lawmakers there, as in most states, also are required to pass balanced budgets.

Mr. Allen first introduced the idea during a speech to the Conservative Political Action Conference in February. In courting fiscal conservatives there as he explores a bid for the White House, he also proposed a presidential line-item veto and a balanced-budget constitutional amendment.

During the conference, the political insiders attending ranked Mr. Allen as most likely to be the Republican presidential nominee in 2008.

Alphonso Jackson: The Pinup And The Papa (WP)

By Laura Blumenfeld

The Washington Post, March 21, 2006

The girls had wet lips, chasmic cleavage and hair that a man could get lost in. Their pictures hung on the wall above Brandon Rawlins's bed, at the Howard University freshman dorm.

"These girls are potential mentors," Rawlins said, smiling at his classmate, Jerell Blakeley.

The young men walked out of Rawlins's room and into Blakeley's.

"Who's that?" Rawlins asked, furrowing his brow at the blown-up photographs above Blakeley's bed.

"The secretary of housing and urban development," Blakeley said. "He's my mentor."

"Where's he live?"

"In D.C.," Blakeley said. "He's a Cabinet secretary."

Rawlins blinked. "What made him be your mentor?"

When Blakeley was a high school sophomore, he saw Alphonso Jackson give a speech. "I asked him a question, and he was really angry. I thought we should get an apology for slavery, and he disagreed. I said, 'Being a black Republican is an oxymoron.' "

Housing and Urban Development Secretary Jackson had heard it before, but when Blakeley confronted him, Jackson said, he saw something rare. Blakeley seemed angry, like many young black men, but also "extra intelligent." Six months later, Jackson sent Blakeley a note. Three years and many conversations later, Jackson wrote him a reference to Howard University. By the end of Blakeley's first semester, Jackson had brought him to the White House.

"Hey, give him my number," said Blakeley's friend Nick Owen. "Spread him around."

Jackson, 60, grew up in Texas the youngest of 12 children, the son of a foundry worker, the product of St. Peter's Academy for Coloreds, and the bearer of his own load of anger. To Jackson, becoming a Republican as a young man meant trading self-pity for self-reliance. He attended law school and then served as public housing director in St. Louis, in Washington, and in Dallas, where he befriended George W. Bush. Now he runs a $34 billion agency and relaxes by playing golf at his vacation home in Hilton Head, S.C.

But Jackson's happy ending is meaningless, he said, unless it is retold through the lives of other young blacks. It is why he reached out to Blakeley and why, on weekends, he is tape-recording his memoirs for his first grandchild. Jackson is a grandfather now and has a story to tell, one that he hopes will cast a spell.

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"You think about your legacy when you get to be 60," Jackson said to Blakeley over a breakfast of eggs, bacon and sausage at the Hyatt on Capitol Hill one recent morning. The two men meet every few months. Jackson was escorted by security guards. Blakeley wore a $5 blazer and a $2 tie from a secondhand store. Blakeley is one of four children his single mother had with four men; for a while, he said, he lived in a homeless shelter.

"I expect to see you 15 years from now a deputy secretary or secretary, if not a millionaire," Jackson told him. "I've seen the denigration of black males. It's not what white people have done. It's that we haven't expected enough from our kids."

Jackson is a compact man, with a round, endearing face and spectacles that deflect his acknowledged temper. He is intense, a double-brewed man, like the two tea bags he dunks at once into his hot water, one herbal and the other caffeinated.

"I'm going to find you a great girlfriend. A great girlfriend makes your life easier," said Jackson, who remarried in 1988 after a divorce. "Women provide stability."

"What about fraternities?" Blakeley asked.

"You'll make friends for life," Jackson said. "The first lady's sorority sisters are around all the time."

Blakeley talked about his classes. "I was doing a report on Justice Thomas. Why can't I find anything positive?"

Jackson frowned. He meets Thomas, an old friend and fellow conservative, for breakfast here every six weeks. "Just give me one opinion that Thomas has written adverse to black people."

Blakeley nodded as if they were two men facing the same problem: "When I went to the White House, guys in my class said, 'You're a house Negro.' You should've heard them."

"They want to portray us as being callous and cold," said Jackson, stabbing a sausage with his fork. "And I don't mind." He chomped the sausage. But after Blakeley ran off to his 9 a.m. class, Jackson approached a table of NAACP leaders. He put his arm around one and said, "What are we going to do? You going to keep beating me up?"

It is a phrase -- "beat me up" -- that comes up often, sometimes figuratively, but also literally. One Sunday morning at Jackson's Alexandria townhouse, as he sat in the living room recording his life story for his granddaughter, he lifted his pant leg to his knee, revealing a jagged scar. In 1965, while working on voter registration in Alabama, he was beaten and was attacked by dogs.

Jackson's wife, Marcia, 50, sat listening, with luminous eyes. As the gears on his tape recorder turned, Jackson spoke of being arrested for using a whites-only bathroom, of witnessing a white policeman shoot and kill a neighbor, of learning that his father's land had been seized when he was wrongfully accused of raping a white woman.

Beside Jackson lay a photo album filled with 8-by-10s of his 20-month-old granddaughter, Lauren. She calls Marcia "Mimi" and Jackson "Papa."

"Lauren needs to know that's part of her heritage. Not to be bitter about but to project her to do well," Jackson said. "I was angry, very angry. I pushed myself through anger to be my best."

Jackson's initials are "ARJ," monogrammed on his orange turtleneck. The R is for Roy, his alter ego. "When I come in mad, Marcia says, 'Okay, Roy's here.' "

If there's a moral to Jackson's bedtime story, it is the triumph of action over anger. Jackson recalled the moment he realized he had succeeded: "At the first State of the Union, when they presented the Cabinet," Jackson's voice caught. He stared at Marcia, as his eyes turned red.

"You thought about your mom and dad," Marcia offered.

Jackson took off his glasses and wiped his eyes, silent.

Marcia continued: "How much you appreciate all their sacrifices."

But what had caught in Jackson's throat, took hold inside of hers. The tape recorder whirred. The room was quiet. And when Lauren grows up and listens, she'll know this is the happiest part of the story, because her Mimi and her Papa are crying.

Off Camera is a monthly column featuring Washington's top decision makers in their off-hours -- outside the office and inside their lives.

Bushes' Home Turf Loses Out In Bid To Host Presidential Library (WP)

By Sylvia Moreno

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The Washington Post, March 21, 2006

West Texas, where George W. and Laura Bush grew up and met, was dropped from consideration as a site for the George W. Bush Presidential Library.

Former commerce secretary Donald L. Evans, a West Texan himself and chairman of the presidential site-selection committee, delivered the bad news in a letter late last week.

"This was a difficult decision for the committee," Evans wrote to David A. Miller, chairman of the West Texas Coalition, which represented Texas Tech University in Lubbock and Midland College in Midland. "Your team has brought to light many important ideas, and it is our hope that the final selection and site will make you and the institutions you represent proud."

The West Texas Coalition had proposed a contemporary-style or Spanish Renaissance library on 100 acres west of Texas Tech's Health Science Center and, at Midland College, a Laura Welch Bush Center for Early Literacy.

Still in the running as library sites are Southern Methodist University in Dallas (Laura Bush's alma mater), the University of Dallas and Baylor University in Waco. Although SMU has little land available for new building, it is perceived to be the favorite because Laura Bush is a member of the board of trustees.

Longtime Bush adviser Karen Hughes and White House counsel Harriet Miers -- who also is advising the library selection committee -- also possess SMU degrees.

A Dallas lawyer recently sued SMU, alleging that the school used fraud and intimidation to oust residents of a condominium complex east of the campus to make room for the proposed Bush library.

SMU officials have denied the allegations, saying the school started buying the condo units long before a library was in the works. The condo purchases began in 1998, when President Bush was still Gov. Bush. SMU subsequently gained control of the condo board, designated the condos beyond repair and declared it will tear down the 347-unit complex.

One school not mentioned is Texas A&M University, which is home to the George H.W. Bush presidential library.

Intelligence Community Works At Common Pay System (WP)

By Stephen Barr

The Washington Post, March 21, 2006

The intelligence community -- comprising 16 government agencies -- plans to take the first steps this year toward pulling its tens of thousands of employees into a common pay system.

The IC, as it's known in the government's jargon, operates with a patchwork of pay rules that makes it difficult for intelligence agencies to share, reassign and recruit employees, according to officials. A White House commission last year called on John D. Negroponte , director of national intelligence, to create a more uniform pay and personnel system to help integrate operations and shape a more agile workforce.

Since that report, the departments of Homeland Security and Defense have firmed up plans to roll out performance-based pay systems this year. Pay changes also may come to parts of the FBI, such as its new national security branch.

"There can be no doubt that pay modernization is coming to the IC, and generally, I believe that is a good thing," Gen. Michael V. Hayden , principal deputy director of national intelligence, recently wrote intelligence employees.

Designing a common pay system for spies, code breakers, scientists, analysts and others around the world will be one of the most ambitious personnel-management projects undertaken by the government in decades.

There is no chain of command for unified management of intelligence personnel. Intelligence agencies use a range of pay models, from the traditional grade and step system to broad salary scales. Some offer special pay rates for hard-to-fill jobs, and some are steeped in traditions tied to agency mission.

There are also communities within the intelligence community, such as the national clandestine service and an evolving analytic group.

"It's the most complicated transformation that I've been involved in," said Ronald P. Sanders , who is helping steer the effort.

Sanders, chief human capital officer for the intelligence community, came to the post last year after a stint at the Office of Personnel Management, where he helped oversee plans to overhaul the pay and workplace rules at the departments of Defense

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and Homeland Security. He also has played key roles in personnel management at the Defense Department and the Internal Revenue Service, where he helped implement a restructuring ordered by Congress.

In an interview, Sanders pointed to the memo sent by Hayden to employees and his promise that officials "will reach out to you to share our thoughts and proposals, understand and address your concerns, and incorporate your ideas."

Sanders said there is no deadline for overhauling pay in the intelligence community, and, he added, there are no prescriptions, solutions or recommendations on the table.

He said officials will try to introduce the new system in phases.

The first phase will focus on research and listening to employees in the intelligence community, Sanders said. Out of that phase, IC officials will develop a series of options for consideration by IC leaders later this year, and their decisions will form the basis for drawing up a tentative plan. The last phase calls for taking the proposal back to the IC workforce to explain "what it looks like and why," Sanders said.

The IC has a mixed record on pay systems. A few agencies have adopted modern compensation practices, but CIA employees balked in 2001 when the agency explored possible changes in the way employees would be evaluated and paid. Employees were concerned about how pay changes might affect their pension credits and how performance ratings would affect pay raises. In the end, the CIA project was put on hold.

But Sanders said the IC cannot afford to allow pay disparities, created by the current patchwork of systems, impede the sharing of people. In addition, he said, many agencies need more flexible pay practices so they can better compete when recruiting candidates for entry-level jobs, particularly those who speak foreign languages and have other specialized skills and knowledge.

"There is this shared sense of mission amongst all parts of the community," Sanders said. "So that's a kind of binding force that offsets the structural impediments to building community, and it's something that we want to leverage."

Invest In Teachers (USAT)

By Tom Mooney

USA Today, March 21, 2006

Public schools and the teaching profession should welcome classroom help from experts in fields such as science and math, as well as history, literature and the arts. But recruiting such experts — whether from academia, business or other professions — on a part-time or temporary basis will do little to alleviate teacher shortages in crucial subjects or reduce staggering overall attrition rates from teaching.

The Bush administration's proposal to import the concept of adjunct faculty from higher education and apply it to America's high schools is just another quick-fix attempt to avoid tackling the real problems that limit and drain the teaching talent pool. Low pay, poor working conditions and the lack of opportunity for advancement cause too many talented people to take a pass or just pass through.

Subject matter expertise is critical to effective teaching, but training in research-based methods of instruction is equally important. A brilliant chemist, engineer or historian might be unable to manage, much less motivate, engage and successfully instruct adolescents. Their expertise ought to be tapped as guest lecturers or tutors supporting the classroom teacher. They also can be invaluable in continuing education programs, and helping teachers advance their own expertise and keep up with developments in their fields.

The president's proposal is unlikely to be helpful, and it could erode the quality of teaching in America's high schools. The last thing secondary education needs is to replicate the extensive use of exploited adjunct faculty that is turning our public colleges and universities into academic sweatshops.

Tom Mooney is president of the Ohio Federation of Teachers.

Teachers Spurn Talented Rivals (USAT)

USA Today, March 21, 2006

DOJ_NMG_0019776

Earlier this month, two top Army scientists from the Aberdeen Proving Ground in Maryland sat down with teachers from the nearby public high school to advise them on setting up a robotics course. Aberdeen scientists will also co-teach classes, mentor students and appear at school career days.

This sort of collaboration might sound non-controversial, but it's not. Teachers' union leaders are resisting a plan by President Bush to build an "adjunct teacher corps" of 30,000 experienced scientists and mathematicians, like those at Aberdeen, to assist in the nation's schools. The union leaders say raising teacher pay and improving working conditions, not bring in outside experts, is the way to enhance math and science teaching.

Those objections miss the larger point. The USA faces a challenge to its technology leadership that can't be ignored. Although this country was built on innovation, it now risks passing that mantle to international competitors, according to several recent credible reports.

Business and government leaders say retaining a creative edge requires doubling the number of math and technology majors by the year 2015. Meeting that goal requires reaching students early with instruction that is both competent and inspirational.

As it is now, fewer than a third of U.S. fourth- and eighth-grade students score at the proficient level in math. And U.S. students score below the international average on tests of math and science knowledge.

Inadequate instruction is at least part of the reason for those scores. An estimated 38% of math teachers in grades 7-12 lack either a major or minor in math.

A child who receives mediocre math and science instruction in elementary school is unlikely to complete algebra by eighth-grade. Completing algebra by that grade is a key predictor for who will pursue a college degree in science or math.

Here's where Bush's $25 million adjunct teacher plan, being considered by Congress, could prove invaluable. Some of these volunteer experts might advise teachers and mentor students, as the Aberdeen scientists are doing. Other scientists might become certified to try teaching as a full-time second career.

The private sector can support this. IBM already offers $15,000 in tuition and stipends to company scientists in New York and North Carolina who are interested in post-retirement teaching careers. The American Electric Power utility runs teacher workshops to improve math and science education.

Real-world experts know how to make their subjects interesting to students. Former Lockheed Martin chairman Norman Augustine, who chaired a National Academy of Sciences report on science education, recalls a recent visit he made to his grandson's preschool. After Augustine used the floor to lay out paper models of the planets, the students asked about Pluto. Because of rotational patterns, Pluto isn't always the outermost planet, he told them. And there's evidence of planets beyond Pluto, he said.

The students were fascinated.

Augustine and other private scientists bring detailed knowledge that can capture students' imaginations. Teachers should see them as educational partners, not as a threat to their livelihoods.

Be Sure Before You Censure (NYT)

By H. W. Brands

The New York Times, March 21, 2006

RUSSELL FEINGOLD, the outspoken Democratic senator from Wisconsin, wants to censure President Bush for authorizing wiretaps of Americans without court orders. His fellow Democrats haven't exactly leaped to his side, but a recent poll indicated that 46 percent of the public considers censure warranted. If that figure increases, Mr. Feingold may have company.

Still, history shows that he ought to move carefully. While many have compared the censure proposal to the impeachment of President Bill Clinton, there is a more relevant precedent: In 1834, America's most famous political orator, Henry Clay of Kentucky, arranged the Senate's only successful censure of a president, Andrew Jackson — and he never stopped paying for his accomplishment.

The bad blood between Clay and Jackson dated to the election of 1824, in which Jackson received the greatest number of popular and electoral votes, but not a majority of either. Clay finished third in the popular count and fourth in electors. The contest

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went to the House, and Clay threw his support to John Quincy Adams, who won the presidency and thereupon named Clay secretary of state — and next in line, in the practice of the day, for the White House. Jackson defeated Adams in an 1828 rematch, spoiling Clay's plans for the succession. But Clay maneuvered Jackson into vetoing a measure to renew the charter of the Bank of the United States, a privately controlled precursor to the Federal Reserve system. Clay forced the issue because he anticipated that the bank veto would undermine business confidence, which it did. Clay was wrong, however, in thinking this would fatally weaken Jackson in the 1832 election, in which Clay ran as the candidate of the new anti-Jackson coalition, soon to be called the Whigs.

Jackson was re-elected handily, and afterward withdrew the federal government's deposits from the Bank of the United States as punishment for its collusion in Clay's machinations. "The bank, Mr. Van Buren, is trying to kill me," Jackson told Vice President Martin Van Buren. "But I will kill it!"

Amid this so-called Bank War, Clay proposed to censure the president for removing those deposits without Congressional approval. The proposal enraged Jackson, who castigated Clay for being as "reckless and as full of fury as a drunken man in a brothel." It provoked an uproar in the Senate and the press, with Jackson's supporters rallying behind him as the defender of democracy against the moneyed interests, and his critics alleging that his interpretation of executive authority was revolutionary and unconstitutional. (Beyond the shouting, there were plausible arguments on both sides — as in the case of the Bush wiretaps.) On March 28, 1834, the Senate critics carried the day, approving the censure resolution by a vote of 26 to 20.

Clay thought he had won a great triumph. But the 1834 midterm elections returned control of the Senate to the Democrats, as the Jacksonians were called by then. And the Democrats refused to let the censure issue rest. Senator Thomas Hart Benton of Missouri, who had once shot Jackson in a street brawl (the president still carried bullet fragments in his shoulder) but eventually became the president's most devoted partisan, campaigned incessantly against the censure and all who had voted for it. His efforts helped make the retiring Jackson the focus of the 1836 presidential election, bringing voters out in force for Van Buren, Jackson's uncharismatic protégé.

The Democrats celebrated Van Buren's victory by voting to expunge the censure resolution from the records of the Senate. As Jackson, old and ill, prepared to leave Washington for the Hermitage, his plantation near Nashville, Benton choreographed an elaborate ceremony in which the original handwritten journal of the Senate from 1834 was carried into the chamber and the Senate's secretary, after drawing bold black lines around the censure resolution, wrote across it, "Expunged by order of the Senate."

Benton retrieved the secretary's pen and sent it to Jackson as spoils of victory, while Henry Clay was left to mutter against the "foul deed which, like the blood-stained hands of the guilty Macbeth, all ocean's waters will never wash out." Clay continued to pay for his temerity: in 1844, even as Jackson declined toward death, Clay lost his third (and final) race for the presidency to another Jackson protégé, James K. Polk.

Russ Feingold is no Henry Clay, at least not yet. And if he hopes to discredit Mr. Bush, as he doubtless does, I'd suggest he find means other than censure. The last thing today's Democrats want to do is to make George W. Bush look like Old Hickory.

H. W. Brands, a history professor at the University of Texas at Austin, is the author, most recently, of "Andrew Jackson: His Life and Times."

Man Overboard (WP)

By Ruth Marcus

The Washington Post, March 21, 2006

I have a new theory about what's behind everything that's wrong with the Bush administration: manliness.

"Manliness" is the unapologetic title of a new book by Harvey C. Mansfield, a conservative professor of government at Harvard University, which makes him a species as rare as a dissenting voice in the Bush White House. Mansfield's thesis is that manliness, which he sums up as "confidence in the face of risk," is a misunderstood and unappreciated attribute.

Manliness, he writes, "seeks and welcomes drama and prefers times of war, conflict, and risk." It entails assertiveness, even stubbornness, and craves power and action. It explains why men, naturally inclined to assert that "our policy, our party, our regime is superior," dominate in the political sphere.

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Though manliness is "the quality mostly of one sex," Mansfield allows that women can be manly, too, though the sole example he can seem to come up with, and deploys time and again, is Margaret Thatcher. "Is it possible to teach women manliness and thus to become more assertive?" he wonders, but not really. "Or is that like teaching a cat to bark?" Me-ow!

"The problem of manliness is not that it does not exist," Mansfield concludes. "It does exist, but it is unemployed." Well, um, excuse me, but I think -- it's just my opinion, now, maybe you disagree, and I'm sure we could work it out -- Mansfield has it exactly backward. Manliness does exist. The problem is that it's overemployed -- nowhere more than in this administration.

Think about it this way: Is a trait exemplified by reluctance to ask directions -- "for it is out of manliness that men do not like to ask for directions when lost," Mansfield writes -- really what you want in a government deciding whether to take a country to war?

The undisputed manliness of the Bush White House stands in contrast to its predecessors and wannabes. If Republicans are the Daddy Party and Democrats the Mommy Party, the Clinton White House often operated like Mansfield's vision of an estrogen-fueled kaffeeklatsch: indecisive and undisciplined. (Okay, there were some unfortunate, testosterone-filled moments, too.) Bill Clinton's would-be successor, Al Gore, was mocked for enlisting Naomi Wolf to help him emerge as an alpha male; after that, French-speaking John Kerry had to give up windsurfing and don hunting gear to prove he was a real man. And Bush's father, of course, had to battle the Wimp Factor. Mansfield recalls Thatcher's manly admonition to 41 on the eve of the Persian Gulf War: "Don't go wobbly on me, George."

No wimpiness worries now. This is an administration headed by a cowboy boot-wearing brush-clearer, backstopped by a quail-shooting fly fisherman comfortable with long stretches of manly silence -- very "Brokeback Mountain," except this crowd considers itself too manly for such PC Hollywood fare. "I would be glad to talk about ranchin', but I haven't seen the movie," Bush told a questioner.

There are, no doubt, comforting aspects to the manly presidency; think Bush with a bullhorn on top of the smoldering ruins of the twin towers. After a terrorist attack, no one's looking for a sensitive New Age president. Even now, being a strong leader polls at the top of qualities that voters most admire in Bush.

But the manliness of the Bush White House has a darker side that has proved more curse than advantage. The prime example is the war in Iraq: the administration's assertion of the right to engage in preemptive and unilateral war; the resolute avoidance of debate about the "slam-dunk" intelligence on weapons of mass destruction; the determined lack of introspection or self-doubt about the course of the war; and the swaggering dismissal of dissenting views as the carping of those not on the team.

The administration's manliness doesn't stop at the water's edge. Pushing another round of tax cuts in 2003, Vice President Cheney sounded like a warrior claiming tribute after victory in battle: "We won the midterms. This is our due," Cheney reportedly said. After the 2004 election, Bush exuded the blustering self-assurance of a president who had political capital to spend -- or thought he did -- and wasn't going to think twice before plunking down the whole pile on Social Security.

Mansfieldian manliness is present as well in Bush's confident -- overconfident -- response to Hurricane Katrina (insert obligatory "Brownie" quote here). And the administration's claim of almost unfettered executive power is the ultimate in manliness: how manly to conclude that Congress gave the go-ahead to ignore a law without it ever saying so; how even manlier to argue that your inherent authority as commander in chief would permit you to brush aside those bothersome congressional gnats if they tried to stop eavesdropping without a warrant.

Mansfield writes that he wants to "convince skeptical readers -- above all, educated women" -- that "irrational manliness deserves to be endorsed by reason." Sorry, professor: You lose. What this country could use is a little less manliness -- and a little more of what you would describe as womanly qualities: restraint, introspection, a desire for consensus, maybe even a touch of self-doubt.

But that's just my view.

OTHER NEWS:

Fed Chief: Rates Not Sign Of Slowdown (USAT)

By Sue Kirchhoff

DOJ_NMG_0019779

USA Today, March 21, 2006

WASHINGTON — Federal Reserve Chairman Ben Bernanke said Monday the fact that long-term interest rates have stayed low, even though the central bank has been raising short-term rates since mid-2004, does not indicate a major, looming economic slowdown.

But in a speech to the Economic Club of New York, Bernanke said the reasons for the tame long-term rates, unusual during a period of Fed tightening, are unclear, as are the implications for future policy.

If low long-term rates signal investor expectations of a slower economy, a Fed response might be to ease short-term rates. If other factors, such as a decline in long-term inflation fears or higher demand, are in play, that would be more stimulative, and the Fed might need a higher short-term rate, he said.

"I will do a better job of raising questions than of answering them," Bernanke said in his prepared remarks. Bernanke said the Fed should monitor bond yields carefully, "but only in tandem with the signals from other important financial variables."

Long-term interest rates are usually higher than short-term rates because investors demand a premium to guard against uncertainty over the longer time horizon. But since mid-2004, when the Fed began raising short-term rates to guard against inflation, long-term rates have remained unusually low.

The Fed has pushed its target for short-term rates up 3.5 percentage points to 4.5%. The 10-year nominal Treasury note yield, at less than 4.75%, is not much above the Fed's short-term rate and is about even with yields on bonds maturing in one to three years.

Fed funds futures, a market in which investors make bets on future Fed decisions, indicate traders expect the central bank to raise short-term rates by another quarter-point when it meets March 27-28, with a 50% chance of an additional quarter-point increase in May, according to Moody's Economy.com.

Sometimes in the past, a small gap between long- and short-term rates has been followed by an economic slowdown, but Bernanke said he "would not interpret the currently very flat yield curve as indicating a significant economic slowdown to come." In a previous episode, when an inverted yield curve was followed by recession, interest rates were quite high, Bernanke said. Also, if the flatter yield curve reflects lower inflation expectations, it is a positive for the economy.

In a question-and-answer period following his speech, Bernanke said although there are risks, the outlook for consumer spending is still strong. He noted that although home price appreciation is likely slowing, wages were increasing, household wealth is growing and many consumers have locked in mortgages at low rates in recent years.

"Consumer finances are consistent with continued reasonable growth in consumption, enough to keep the economy growing at or close to its potential," Bernanke said. Economists keep a close eye on consumer spending because it accounts for two-thirds of all U.S. economic activity.

Global View Is Backed By Fed Chief (NYT)

By Eduardo Porter

The New York Times, March 21, 2006

Ben S. Bernanke, the newly installed Federal Reserve chairman, suggested yesterday that the central bank would need to pay more attention to global financial conditions in setting interest rates, moving beyond its traditional focus on domestic economic forces.

In a speech to the Economic Club of New York at the Grand Hyatt Hotel in Manhattan, Mr. Bernanke said that to understand the reasons behind movements in American bond yields "an explanation less centered on the United States might be required."

In only his third speech since being sworn in as Fed chairman last month, Mr. Bernanke was also skeptical about the argument that the economy will slow in the near future, a view that many investors may take as a sign that the Fed is not quite near the end of its string of interest rate increases.

Mr. Bernanke built the prepared text of his speech around one of the most pressing puzzles in financial markets today: Why do long-term bond yields remain so low despite steadily rising short-term interest rates?

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Traditionally long-term rates have fallen when investors have anticipated a slowdown in the economy or a decline in inflationary pressures. But Mr. Bernanke argued that other factors —including a worldwide imbalance between abundant savings and less robust investment — may be a more powerful explanation for the current phenomenon.

Over time, however, the challenge will come in determining whether global forces are likely to push rates lower than otherwise might be the case — or higher. The answer, Mr. Bernanke said, will be increasingly crucial to the conduct of monetary policy. If long-term yields are low primarily because investors are buying more long-term bonds — be they Chinese central bankers trying to manage the yuan's exchange rate or global investors more comfortable with long-term securities because of a decline of economic volatility — they would be adding an extra lift to consumer spending and business investment. That would tend to push the Fed to raise its key interest rate a little more than it might otherwise have considered appropriate.

"If spending depends on long-term interest rates, special factors that lower the spread between short-term and long-term rates will stimulate aggregate demand," Mr. Bernanke said. Other things being equal, he added, this "argues for greater monetary policy restraint" and higher short-term interest rates.

On the other hand, if the low bond yields are indicating that investors expect an economic slowdown around the corner, it might require the Fed to take a different tack.

The behavior of long-term bond yields has perplexed financial investors for many months. Starting in June 2004, the Fed has raised short-term rates from 1 percent to 4.5 percent in quarter-point increments. Yet the 10-year Treasury bond yield has inched ahead only slightly, and is now less than a quarter of a percentage point higher, creating a pattern known as a flat yield curve.

Financial investors awaited Mr. Bernanke's speech in hopes of combing it for signs of when the Fed might end its series of interest rate increases. The Fed is widely expected to raise its key rate another quarter of a point at its meeting next week, but analysts are divided over whether it will echo that increase in May.

Yet beyond discarding the notion of an economic slowdown, Mr. Bernanke refrained from providing any precise indication of what to expect from the Fed. "The implications for monetary policy of the recent behavior of long-term yields are not at all clear-cut," he said.

There was virtually no reaction in the bond market to Mr. Bernanke's speech, with yields on 2-year notes and 10-year bonds remaining nearly identical.

"This speech is not going to change anybody's mind that the Fed will raise interest rates next week," said Ashraf Laidi, chief currency analyst at MG Financial Group in New York. "But it leaves up in the air what the Fed will do at its next meeting in May."

Mr. Bernanke agreed that domestic factors were still highly important in determining long-term rates, pointing out that the drag on consumer spending from higher-priced energy and expectations that the housing market will cool might be keeping long-term interest rates low even as short-term rates rise.

But he threw a new element into the mix: the possibility that what he has referred to as a "global savings glut" — an excess in global savings over global investment — might also be weighing on long-term rates, with ambiguous implications for American monetary policy.

Considering all these elements left Mr. Bernanke perched on the fence. To the extent that lower long-term yields merely reflect investors increased appetite for long-term debt, he said, "the policy rate associated with a given degree of financial stimulus will be higher than usual."

But "to the extent that long-term rates have been influenced by macroeconomic conditions, including such factors as trends in global savings and investment, the required policy rate will be lower."

Bernanke Dismisses Fears Of US Slowdown (FT)

By Andrew Balls

Financial Times, March 21, 2006

Ben Bernanke, chairman of the Federal Reserve, dismissed the idea on Monday that the low level of long-term interest rates meant investors were pricing in the likelihood of a sharp and imminent slowdown in the economy.

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"Although macroeconomic forecasting is fraught with hazards, I would not interpret the currently very flat yield curve as indicating a significant slowdown to come," Mr Bernanke said, in a speech prepared for delivery in New York on Monday night.

The Fed chairman said that – unlike in past episodes where a flat yield curve had preceded a recession – both short and long-term interest rates remained low. Also, other financial indicators, including narrow corporate bond spreads, suggested that market participants did not harbour "significant reservations" about the economic outlook.

But he said the low level of long-term rates had "ambiguous" implications for the central bank's policy decisions, as low rates reflected forces boosting US economic performance as well as the drag from the trade deficit.

Mr Bernanke said low long-term rates were in part the result of a decline in the "term premium" investors demand for holding longer-dated securities. This was stimulating economic activity and requiring tighter monetary policy to offset the effect of overall looser financial conditions in the economy.

The lower term premium in part reflects well-anchored inflation expectations, and expectations that the steadier macroeconomic performance of recent years would continue, he said.

But, drawing on his past speeches on the "global savings glut", Mr Bernanke said low long-term rates also reflected low levels of intended investment in the global economy relative to savings. Sluggish domestic demand growth outside the US, and in turn weak demand for US exports, was holding down global interest rates, resulting in a lower federal funds rate than would otherwise be needed, he said.

The new Fed chairman was careful to avoid drawing conclusions for policy and gave no hint about the point at which the US central bank would stop raising rates. Interest rate futures show that investors are pricing in a rise in the federal funds rate of another quarter point to 4.75 per cent at the Fed's March meeting, and about a 70 per cent chance of a rise to 5 per cent in May

Mr Bernanke concluded: "The implications for monetary policy of the recent behaviour of long-term yields are not at all clear-cut. Given this reality, policymakers are well advised to follow two principles familiar to navigators throughout the ages. First, determine your position frequently. Second, use as many guides or landmarks as available."

The Fed chairman played down the idea that purchases of US bonds by Asian central banks were an overwhelming influence on long-term rates, pointing out that interest rates were also low on other securities less favoured by official investors.

Further Rate Hikes By Fed Uncertain, Bernanke Says (WP)

By Nell Henderson

The Washington Post, March 21, 2006

Federal Reserve Chairman Ben S. Bernanke said yesterday that it's unclear whether the central bank, seeking to keep the lid on inflation, should raise short-term interest rates much more because unusually low long-term interest rates are stimulating the economy.

Bernanke, in a speech delivered in New York, challenged recent suggestions by many analysts and some Fed officials that the central bank might have to increase its benchmark short-term rate higher than it otherwise would because low long-term borrowing costs continue to spur consumer and business spending.

"The bottom line for [Fed] policy appears ambiguous," Bernanke said, addressing a key concern among investors eager to divine how much higher central bank policymakers will raise their key short-term interest rate.

Bernanke, speaking just one week before his first central bank policymaking meeting as chairman, also repeated that unusually low long-term interest rates do not now presage an economic slowdown, as they have some times in the past.

Futures markets show that investors expect the Fed to raise the rate to 4.75 percent from 4.5 percent next week, and they believe the committee probably will increase the rate again in May to 5 percent.

The Fed has raised the rate at 14 consecutive meetings since June 2004, when it was at 1 percent. The federal funds rate, the rate charged on overnight loans between banks, directly influences other important short-term rates throughout the economy, such as banks' prime rate on business loans and the rates on many consumer loans linked to the prime. Those rates have risen steadily over the last 20 months.

But investors and economists remain puzzled about why long-term rates have not risen as well, and how the Fed should respond.

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In the past, a rising federal funds rate also caused increases in long-term rates, such as the yield on the 10-year Treasury bond, which is a benchmark for mortgage rates. But, instead, those rates fell for many months after the Fed began raising the federal funds rate, a surprising development that former Fed chairman Alan Greenspan called a "conundrum."

Long term rates have been rising this year, but remain low. The average rate on a 30-year mortgage, for example, was 6.34 percent last week, or just slightly higher than it averaged in June 2004, according to Freddie Mac.

The yield on the 10-year Treasury bond, at 4.66 percent when the U.S. markets closed yesterday, was "not much" higher than the federal funds rate, Bernanke noted. Indeed, the 10-year yield was slightly lower yesterday than it was the day before the Fed started lifting the federal funds rate.

The appropriate Fed response to this situation is unclear, because it depends on why long-term interest rates remain so low, Bernanke said.

On one hand, investors globally appear to be demanding less compensation for the risk of lending money over time because they expect low inflation and healthy economic growth to continue for many years, he said.

In this case, the Fed would have to raise the federal funds rate to keep inflation in check, Bernanke said, because "the effect is financially stimulative and argues for greater monetary policy restraint."

On the other hand, low long-term rates appear also appear to reflect a surge in the demand for long-term securities by foreign central banks, oil producers, pension funds and other savers worldwide, Bernanke said. He attributed much of this to a "global saving glut," or an excess of saving relative to investment.

In this case, the weak demand for capital means global interest rates, and the Fed's benchmark short-term rate, "will be lower than they otherwise would be," he said.

Bernanke Delves Into Market Puzzle (WSJ)

By Greg Ip

The Wall Street Journal, March 21, 2006

Unusually low long-term interest rates could require the Fed to keep the short-term rates it controls higher -- or lower -- than normal, Federal Reserve Chairman Ben Bernanke said. It all depends on what is keeping long-term rates down.

Tackling one of the biggest current puzzles in financial markets, Mr. Bernanke turned to a theory he popularized a year ago to suggest that the Fed ought to keep rates lower than it normally would. He said a glut of world saving -- a result of high saving and weak investment demand across many countries -- might be keeping long-term rates unusually low.

If that is so, then the "neutral" short-term interest rate -- one that neither stimulates nor restrains spending -- will also be lower than normal, Mr. Bernanke said in a speech to the Economic Club of New York last night. Mr. Bernanke has discussed before what he has dubbed a "global saving glut," but his remarks yesterday were the most explicit in explaining what the phenomenon means for Fed policy.

However, Mr. Bernanke said other explanations for low long-term interest rates, such as a shortage of long-term bonds or strong demand from pension funds, would require the Fed to set its key short-term rate target higher than normal. Thus, "the implications for monetary policy of the recent behavior of long-term yields are not at all clear-cut," he concluded.

The Fed, he said, must watch bond yields closely but "only in tandem" with other financial-market prices, data on growth and inflation, and "a goodly helping of qualitative information."

Since June 2004, the Fed has raised its target for the Federal-funds rate charged on overnight loans between banks from 1% to 4.5%, but long-term Treasury yields have remained between 3.75% and 4.75%. Long-term rates are now barely above short-term rates, creating a flat "yield curve," which in the past has often presaged a slowdown or recession.

For the first time since Mr. Bernanke became chairman, the Fed's policy-making committee meets Monday and Tuesday. It is expected to raise the funds rate by one-quarter percentage point to 4.75%. It also is likely to signal a bias to raise rates further, though possibly with less certainty than it has to date.

Although Mr. Bernanke steered away from any clear signal on the direction of interest rates, his speech was notable in that he gave more weight to factors favoring a lower "neutral" funds rate than have some other current and previous Fed officials. Most officials who have studied the issue agree a variety of factors are at work; what differs is their emphasis.

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Former Fed Chairman Alan Greenspan had previously suggested low long-term rates mainly reflected increased -- and perhaps, unwarranted -- confidence by investors that future economic growth, market conditions and inflation will be predictable and stable. New York Federal Reserve Bank president Timothy Geithner in a recent speech argued an important factor holding long-term rates down was foreign central banks' purchases of U.S. bonds. Mr. Bernanke, though, gave little weight to the impact of foreign central bank buying. That should have only a "short-term" impact, he said, noting that "long-term yields continued to fall over recent quarters" even as foreign central bank buying of Treasurys slowed.

Mr. Bernanke, like other officials, argued the yield curve did not seem to be foreshadowing a slowdown.

He also sounded an upbeat note on the economic outlook in response to questions after his remarks. While U.S. consumers may boost their saving in coming years as housing prices moderate, that "would not necessarily be a problem for the sustained expansion" and their spending continues to be lifted from past increases in home prices. He added that only about 10% of residential mortgages will be repriced this year, so the impact of higher interest rates will be gradual. He also said it was encouraging that "we are beginning to see cyclical recovery in Europe and Japan."

He also reviewed several structural factors that could be holding down long-term rates. He noted the economy was also less volatile in the 1950s and 1960s and the structure of interest rates was similar. He said pension funds may demand more long-term bonds to fund the benefits of future retirees, while at the same time issuance of very-long-term U.S. dollar bonds has diminished. If these factors explain why long-term rates are so low, "the effect is financially stimulative and argues for" a higher Fed-funds rate, "all else being equal."

Early Data Hint At Weaker Growth For Year Ahead (WSJ)

By John McAuley

The Wall Street Journal, March 21, 2006

A gauge of future economic activity slipped 0.2% in February to 139, according to preliminary estimates by the Conference Board.

The private research group said its composite index of leading indicators edged down in February after a revised 0.5% increase in January, when the index was originally reported to have increased 1.1%.

The February reading for the leading index came in slightly less weak than the -0.3% median estimate of 21 economists surveyed by Dow Jones Newswires.

The index was equal to 100 in 1996.

Though the index of leading indicators has been volatile since Hurricane Katrina struck last year, the reading has been generally flat over the past five months. "This suggests that economic growth in the year ahead should be weaker than in the past year," said Steven Wood, an economist at Insight Economics, in a note to clients. "However, it does not suggest that growth will be extremely sluggish or will turn negative."

The Conference Board noted that five of the 10 indicators that constitute the leading index showed improvement in February. The largest positive contributions came from manufacturers' new orders for nondefense capital goods, followed in order by real money supply, average weekly manufacturing hours, new orders for consumer goods and materials, and the interest-rate spread.

The negative contributors were: vendor performance, the index of consumer expectations, average weekly jobless claims, building permits and stock prices.

The Conference Board's composite index of coincident indicators increased 0.3% in February to 122.1, after no change in January. The index of lagging indicators was up 0.1% in February at 122.6, after a revised 0.5% rise the month before. The Conference Board is a nonprofit research and business membership group that computes the composite indexes formerly compiled by the U.S. Department of Commerce.

Investors Sit On Their Hands (WSJ)

By Worth Civils

The Wall Street Journal, March 21, 2006

DOJ_NMG_0019784

Oil prices plunged Monday, a development that normally would send stocks soaring. But Wall Street seemed paralyzed by news of an afterhours speech by Federal Reserve Chairman Ben Bernanke, and stocks remained little changed.

Benchmark light, sweet crude futures for April, set to expire Tuesday, fell $2.35, or nearly 4%, to settle at a one-week low of $60.42 a barrel on the New York Mercantile Exchange. While the decline didn't spur stocks higher ahead of Mr. Bernanke's speech and a report Tuesday on producer price data, oil is on the radar, and further declines could lend support to stocks.

Jay Suskind, director of trading at Ryan Beck in Florham Park, N.J., said that if oil prices fell significantly below $60, traders will take note. "If it breaks one way or the other, it will have an impact," he said. "It gives more credence to inflation being under control, because certainly energy has a lot to do with it."

Falling oil prices helped at least one group of stocks Monday: airlines. The Dow Jones Transportation Average was up 0.5%, with Continental Airlines and AMR the average's best performers, up 5.4% and 3.3%, respectively. Transport stocks have been hitting all-time highs and the average is up nearly 10% year-to-date.

Overall, the Dow Jones Industrial Average was down 5.12 points to 11274.53, with McDonalds losing 1%. An earlier advance put the average about 30 points shy of its highest level since January 2000, the same month the Dow industrials hit their all-time closing high of 11722.98. Wal-Mart Stores was the best-performing component, up 2.3%, after the retailer said it plans to add 150,000 new jobs in China over the next five years.

Other indexes were little changed but still near multiyear highs. The Nasdaq Composite Index, heavy with technology stocks, rose 7.63 to 2314.11. Microsoft gained 1.4% on reports that it is working on a secret hardware project with chip maker Transmeta; Dell was ahead by 2.3% on news it plans to double the number of its mostly call-center employees in India to 20,000. The Standard & Poor's 500-stock index slid 2.17 to 1305.08.

Treasury bond prices were higher, sending yields lower. The benchmark 10-year Treasury note was up 5/32, or $1.56 for each $1,000 invested, at 98 25/32 to yield 4.66%. The 30-year bond was up 11/32 at 96 30/32, yielding 4.70%.

With little economic data on tap today, stock and bond traders are mostly waiting on Mr. Bernanke's speech tonight at the Economic Club of New York, and tomorrow's report on the producer prices. Little is expected from the speech, but that isn't stopping the market from following the new Fed chief's every utterance just a week before he presides over his first Federal Open Market Committee monetary-policy meeting.

"Bernanke is going to define what is going to happen to interest rates," said Paul J. Nolte, director of investments at Hinsdale Associates in Chicago, adding that the Fed chief isn't likely to say anything new or too eventful ahead of next week's meeting. "Everyone is lining up for one and done at this point. Wall Street is going to parse his words very closely to get to expectations."

While policy makers are widely expected to raise rates another quarter-percentage point to 4.75%, the outlook after that has become less clear amid signs that economic growth is slowing. Last week, stocks rallied after the consumer price index excluding food and energy rose just 0.1%, raising hopes that the Fed won't raise rates more than once or twice more. This week will bring more fodder with the PPI, due tomorrow morning. The measure of wholesale prices rose at a 0.3% rate in January, and the "core" rate, which excludes food and energy, jumped 0.4%, sending stocks lower.

In today's sole economic release, the Conference Board said that leading indicators fell 0.2% last month, a more moderate decline6 than the 0.3% decline expected by economists. While the figure shows that economic growth is slowing and supports the case for the Fed halting its rate increases, market reaction to was limited.

The housing market may offer more evidence of a slowdown amid rising interest rates. Boston Fed President Cathy Minehan said in a speech to the New England Realtors Conference that while the short-term economic outlook remains positive, there are other risks to the longer-term outlook, she said, and the housing sector is "one of the greatest areas of uncertainty." Also speaking today is San Francisco Fed President Janet Yellen at the 2006 national Community Reinvestment Conference.

After the market closed, Oracle said its fiscal third-quarter net profit jumped 42% as revenue climbed 18% on stronger demand for its database and business applications software. A new crop of value investors will be carefully watching7 Oracle's financial results, The Wall Street Journal reported, digging for clues about whether the software giant's stock has become cheap enough to buy. Shares were up 1% in regular trading, but pulled back in after-hours trade.

In major market action:

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Stocks were mixed8. On the New York Stock Exchange, where 1.42 billion shares traded, 1,464 stocks rose and 1,869 fell. On the Nasdaq Stock Market, where 1.97 billion shares traded, 1,527 rose and 1,505 declined.

Bonds gained9. The benchmark 10-year Treasury rose 5/32 point, or $1.56 for every $1,000 invested, to yield 4.66%. The 30-year bond added 11/32 to yield 4.70%. Yields move inversely to prices.

The dollar advanced.10 It traded at 116.28 yen, up from 115.82 yen late Friday, while the euro fell to $1.2165 from $1.2195.

Blue Chips Pull Back In Cautious Trading (WSJ)

By E.s. Browning

The Wall Street Journal, March 21, 2006

Following its biggest weekly gain in two months, the Dow Jones Industrial Average edged backward, as investors awaited an evening speech on interest rates by the Federal Reserve's new chairman, Ben Bernanke.

As analysts speculated about whether Mr. Bernanke would use his speech to the Economic Club of New York to hint at when rate increases might end, the Dow Jones Industrial Average inched down 5.12 points, or 0.05%, to 11274.53, little changed from Friday's 4½-year high. It is up 5.2% this year. Trading volume was below average.

The Standard & Poor's 500-stock index also pulled back from last week's 4½-year highs, though the Nasdaq Composite Index managed a small gain.

"People were just kind of waiting to hear" Mr. Bernanke's interest-rate comments, said Mike McDonald, a trader at Boston-based brokerage firm Canaccord Adams. An end to rate hikes soon would help stocks by holding down costs for businesses and consumers.

The index of leading indicators declined in February, the Conference Board announced, suggesting that economic growth may be slowing. Slower growth makes it easier for the Fed to stop raising rates.

Treasury-bond prices rose slightly, pushing yields lower, on hopes for some kind of signal from Mr. Bernanke.

Investors also were expecting that today's report on February wholesale prices would show a decline, to go with the very small rise in February consumer prices announced last week. Tame inflation reduces fears of an overheating economy, which makes it easier for the Fed to stop raising rates.

Oracle announced strong quarterly profits, but, in a sign of investors' rising expectations, it wasn't enough to keep the stock from falling 3.1% in after-hours trading.

The Nasdaq composite rose 0.33%, or 7.63 points, to 2314.11, up 4.9% this year. The S&P 500 fell 0.17%, or 2.17 points, to 1305.08, up 4.6% this year.

Crude-oil futures sagged $2.35 to $60.42 a barrel on signs that supplies remain strong. Gold, however, continued its rebound, up $1.10 to $555.20 a troy ounce.

Outside the U.S., stocks advanced in dollar terms. The Dow Jones World Stock Index, excluding U.S. stocks, rose 0.39%, or 0.84 point, to another record, 214.85.

In major U.S. market action:

Stocks were mixed1; bonds gained2. The 10-year Treasury note rose 4/32, or $1.25 for each $1,000 invested, pushing the yield down to 4.658%. The 30-year bond was up 10/32 to yield 4.699%.

The dollar strengthened.3 Late in New York, it traded at 116.21 yen, up from 115.82, while the euro fell against the dollar to $1.2170 from $1.2195.

The Daily Grail: 'Da Vinci Code' Trial Wraps Up (WP)

By Kevin Sullivan

The Washington Post, March 21, 2006

LONDON, March 20 -- The "Da Vinci Code" copyright infringement trial, which ended in a London courtroom Monday, combined lively peeks into a celebrity author's lifestyle and hours of legal arcana so numbing that they put a white-wigged attorney to sleep within feet of the judge.

Fans of media-shy author Dan Brown learned that his inspiration to write fiction came on a Tahitian vacation when he read Sidney Sheldon's alien-invasion thriller "The Doomsday Conspiracy." The next day lawyers were arguing about obscure points of

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religious history, such as whether and why Pepin the Fat murdered Dagobert II, and what Godefroi de Bouillon was really up to during the First Crusade.

In 12 days of testimony over three weeks, authors Michael Baigent and Richard Leigh tried to prove that Brown stole the idea for his mega-selling novel from a nonfiction book they published in 1982, "The Holy Blood and the Holy Grail." Judge Peter Smith, a man so soft-spoken that his words often seemed to have trouble escaping his thick black mustache, said he hoped to issue a ruling by April 8.

At stake is a multimillion-dollar slice of Brown's pie, which includes sales of nearly 40 million books and an upcoming Hollywood film starring Tom Hanks that, if "Da Vinci's" luck holds, is expected to sell movie tickets and Raisinets from here to the Sea of Tranquillity. (And next week the paperback, a massive 5 million copies, will finally hit U.S. shelves.)

John Baldwin, attorney for Random House U.K., the British publisher of both "Da Vinci" and "Holy Blood" and defendant in the lawsuit, said in his closing statement that the case of Baigent and Leigh is "in tatters." Baldwin said Baigent's testimony was so unreliable that he is either "deluded," "extremely dishonest" or a "complete fool."

Jonathan Rayner James, attorney for Baigent and Leigh, was equally unimpressed with Brown, a clean-cut former prep-school English teacher who traveled from the seclusion of his New Hampshire home to spend nearly three days on the witness stand.

"His evidence should be approached with deep suspicion," James argued in his closing statement, calling Brown uncooperative. He said Brown was evasive about key facts, such as when he purchased a copy of "The Holy Blood," which Baigent and Leigh wrote with a third author, Henry Lincoln, who is not a party to the lawsuit.

In the courtroom, Brown appeared to take great pains to remain polite and patient during lengthy questioning by James, one of Britain's leading copyright specialists.

Brown, who explained his wife, Blythe Brown, does a lot of his research, acknowledged reading "The Holy Blood and the Holy Grail." He mentions it prominently in "The Da Vinci Code" and on the stand he admitted that he had "reworked" passages from it for use in his book. He said he never copied directly and using the reworked passages is "how you incorporate research into a novel."

Brown said the book was one of dozens he used to research his novel, and he didn't consult it until well after he had formulated the main plot. But James argued that he had a copy of the book much earlier and that it was much more important to the research than Brown admitted.

Smith, the judge, aggressively challenged James's arguments throughout the day Monday and repeatedly questioned the basis for the suit. He asked James how he could argue that Brown was hiding the fact that he read "The Holy Blood and the Holy Grail" when his characters in "The Da Vinci Code" discuss it admiringly in one scene.

"What's his point in shouting it from the treetops in the text?" Smith asked.

The trial attracted reporters from around the world, and all manner of hangers-on. Bored-looking British teenagers on a school trip came one day, while a steady stream of cheery American tourists -- most of them obvious Brown fans -- made their way through the metal detectors and up to the 10th-floor tribunal in London's ornate Royal Courts of Justice.

On Monday two young men in their early twenties wandered in, one wearing a Las Vegas sweat shirt and the other clutching Frommer's guide to London. With Brown long since departed, they crept back out after 15 minutes of dry-as-dust legal arguing between James and Smith.

Lynn Picknett and Clive Prince attended every day of the trial. Brown used a book they wrote, "The Templar Revelation," in his research and mentioned it in his novel. Rather than suing, Picknett and Prince said they sent Brown a thank-you note.

"It was something of an honor, we thought," Picknett said.

Much of the case, and almost all of Monday's final arguments, centered on what can be protected under copyright law, and how extensively an author can use the product of another's research and writing.

James argued that Brown had lifted the central themes of Baigent and Leigh's book. But Baldwin countered that those themes were not protected by copyright law because they were so general, and most of them had been published in other books before Baigent and Leigh's.

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Both books involve the idea that Jesus married Mary Magdalene, that they had a child and that the bloodline continues to the present. There are also significant differences, including that Baigent and Leigh posit that Jesus did not die on the cross. Brown sticks to the traditional story of Jesus's death.

Brown attended the trial until he finished testifying, but his place at the front table was empty Monday. Leigh and Baigent were still in their familiar seats, Leigh in his regular brown leather jacket and aviator sunglasses, with stringy hair, mutton chops and mustache, looking like he just rode his Harley in from Daytona Beach.

Baigent, whose book "The Jesus Papers" comes out next month, sat next to Leigh wearing a crisp gray suit and tie. In the hall as the last day of the trial started, he said he was ready for it to be over.

"I'm shattered," he said, referring to his exhaustion. "It's just been really tiring."

Swing Is Still King At The Polls (WP)

By Mark J. Penn

The Washington Post, March 21, 2006

We hear it every day: America is divided into two camps -- red and blue -- and the key to elections is just energizing the base.

But in fact, while the base is critical, it's not the whole picture. Behind all the rhetoric, the reality is that swing is still king. The two or three or 10 voters who are the quietest in focus groups, who never demonstrate and who belong to no political party, will be the ones who determine the political course of America.

This is less true in Washington, where everyone has to choose sides to survive, but outside the Beltway, trends show that voters are increasingly open and flexible, not rigid. They are looking at candidates' records and visions, not their party affiliation.

In the past 50 years independents have grown from one-quarter to one-third of the electorate, according to Gallup polls. In California, the number of independent voters more than doubled between 1991 and 2005. The fastest-growing political party in the United States is no party.

According to the American National Election Studies at the University of Michigan, the number of split-ticket voters in the electorate -- meaning people who vote for a Democrat for president and a Republican for Congress, or vice versa -- has gone up 42 percent since 1952. That shows a radical new willingness on the part of Americans to look at individual candidates, not party slates. It is a sign of a thinking electorate, not a partisan one.

When asked, Americans have a characteristic swagger and express that they definitely will or will not vote for candidates and parties. In 1995, 65 percent of voters said they would never vote for Bill Clinton. One year later they reelected him in a landslide.

Recent polls show that rather than a static electorate, we have a dynamically changing one. Based on the polls six months ago, journalists were declaring Republican hegemony. Today, Democrats have the widest margin in two decades on the generic congressional vote.

Was there a sudden surge in the number of hard-core Democrats answering surveys, or was it just a matter of America's swing voters deciding that President Bush is failing on the economy, the war and, recently, national security, by compromising the ports? Clearly, there is a massive swing electorate out there that is receiving more information from more sources than ever before -- and acting on it.

According to CNN exit polls, in the presidential elections of 1996, 2000 and 2004, one-fifth to one-third of voters made up their minds in the last month before the vote. Indeed, in the summer of 2004, voters swung from an eight-point lead for John Kerry to a 13-point lead for Bush, and in the end gave Bush a victory by only three points.

We can expect the same variability in the 2006 and 2008 elections. In a Gallup poll from last August, 83 percent of Americans said either that they hadn't seriously considered who they'll support or that they weren't really paying much attention. Asked in January whether they would vote for a Republican or Democrat for president in 2008, 34 percent of registered voters said "neither" or that they could go either way.

And an analysis of the last presidential election shows that while turnout was indeed higher, it was higher on both sides, canceling out the impact of the appeals to the two bases. Middle-aged women and Hispanic voters were the key voting blocs that

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made the difference, swinging the vote from Kerry to Bush. In fact, in 2004 women made up 54 percent of the U.S. electorate, the highest percentage in history. Their interest in and impact on politics has been increasing.

Choosing between appealing to the base and the swing vote is, as President Bill Clinton would say, a "false choice." His signature policies -- family and medical leave, 100,000 cops, middle-class tax cuts, a strong national defense, and a balanced budget -- drew support from both Democratic die-hards and voters in the vitalcenter.

In 1996 we identified soccer moms as the critical swing voters. Today they remain at the center of the swing vote, but they're a decade older and their kids are going off to college. Now they get their information from the Internet as well as TV, radio and print media, making them the most informed swing voters in history. And while they had little time when their kids were 6 and 8, many of those boomers are now getting some extra time to think about what's going on in America and the world.

These voters are untethered to either political party. While it's become conventional wisdom to say that voters' minds are firmly made up, and that certain candidates can or cannot win, it's just not true. The growing bloc of swing voters takes a hard look at candidates much later in the process, and they adjust and shift as they gather information. They may seem like wallflowers in the political process right now, but they are the ones a successful campaign eventually needs to cross the finish line.

The writer heads a polling firm that conducted surveys for President Bill Clinton in 1996. He is also chief executive of the public relations firm Burson-Marsteller.

Inside Politics (WT)

By Greg Pierce

The Washington Times, March 21, 2006

Sabo to retire

Rep. Martin Olav Sabo is retiring after 46 years in state and national politics, saying Congress has become more polarized and less hardworking during his years there.

The 68-year-old Minnesota Democrat, known for his understated style, said he sensed it was time to quit.

"I've always believed the fundamental problem with politics today are people who overpromise and overstate. I've tried to do the opposite," Mr. Sabo said Saturday. "I've also tried to treat my colleagues with respect. I don't recall ever making a public statement critical of my colleague, whether it's Democrat or Republican."

Mr. Sabo was first elected to the state House the same year John F. Kennedy won the presidency, then spent almost 28 years in Congress. He serves on the House Appropriations Committee and has helped steer millions of dollars to the Minneapolis-St. Paul area.

His retirement at the end of the term is expected to set off a stampede among Democrats eager to succeed him in his liberal Minneapolis district, where John Kerry won 71 percent of the vote in the 2004 presidential election, the Associated Press reports. State Rep. Keith Ellison and Gary Schiff, a member of the Minneapolis City Council, both said they will run in the Sept. 12 state primary.

Nominee blocked

Sen. John Ensign, a former veterinarian, didn't like the way pet evacuations were handled after Hurricane Katrina, but Senate insiders say that is not why the Nevada Republican has a hold on the nomination of Vice Adm. Thad W. Allen to be the Coast Guard commandant.

Adm. Allen, who took over post-Katrina operations after Mike Brown was fired from the Federal Emergency Management Agency, was nominated by President Bush in January to take over the 200-year-old Coast Guard.

Jack Flynn, Mr. Ensign's spokesman, says his boss has a "series of questions we want answered from the nominee before the senator is comfortable moving forward," but declined to say what issues the questions address.

The hold has baffled some former Coast Guard officials, including Stephen Flynn, a retired Coast Guard commander and senior fellow for the Council on Foreign Relations.

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"Surely, he can find a better way to advance his pet issue of pet evacuation other than tripping up the appointment of the most highly respected Coast Guard leader of the one agency that earned universal acclaim in the Katrina disaster," Mr. Flynn said.

Mr. Ensign met with Adm. Allen last fall to discuss rescue efforts and the plight of abandoned animals, but a Capitol Hill source familiar with the hold procedures says it is not related to animal rescues.

Ultrasound images

Michigan Gov. Jennifer M. Granholm will sign a bill requiring abortion providers to give pregnant women the option to see ultrasound images of their fetuses, a spokeswoman says.

Mrs. Granholm, a Democrat, generally has opposed legislation that regulates or limits abortion, but the bill was amended so it no longer requires pregnant women to see the ultrasound images, spokeswoman Liz Boyd said Sunday.

Until now, Michigan law has required that women seeking abortions be allowed to review diagrams and descriptions showing a developing fetus, but not their own.

Pro-life advocates hailed the new law. Right to Life of Michigan said it ensures that pregnant women have fuller access to accurate information before having abortions. Critics called it a further erosion of women's rights, the Associated Press reports.

No Al in '08

Former Vice President Al Gore said yesterday he has no plans to run for president in 2008, but hasn't ruled out a future in politics.

"I'm enjoying what I'm doing," Mr. Gore told an audience at Middle Tennessee State University, where he gave a lecture on global warming, according to the Associated Press.

"I'm not planning to be a candidate again. I haven't reached a stage in my life where I'm willing to say I will never consider something like this," he said. "But I'm not saying that to be coy. I'm just saying that to be honest -- that I haven't reached that point."

Mr. Gore, a Democrat, lost the 2000 presidential election to George W. Bush after a bitterly contested recount war in Florida.

Vacation days

The House of Representatives is on track this year to be in session for fewer days than the Congress Harry S. Truman labeled as "do-nothing" during his 1948 re-election campaign, USA Today reports.

Members of Congress are taking an entire week off for St. Patrick's Day. It's the latest scheduling innovation to give members more time to meet with constituents. Through Friday, the House was in session for 19 days this year, compared with 33 for the Senate, USA Today reporter Kathy Kiely writes.

If they stick to their current schedule -- including two weeks off in April, a week in May and July, plus all of August -- House members will spend 97 days in Washington this year. The House was in session 108 days in 1948, according to the chamber's archives, compared with 141 days last year.

Failure to vote

Republican U.S. Senate hopeful Kathleen Troia McFarland, who repeatedly skipped New York elections, failed to vote for President Reagan even while working for him in Washington, the New York Post reports, citing newly acquired records.

Mrs. McFarland, a Park Avenue matron who says she drafted Mr. Reagan's "Star Wars" defense proposal while serving as a high-level Pentagon official from 1982 to 1985, didn't vote in 1984, when the president was seeking re-election, records obtained by the Post show.

An official voter profile from the Washington, D.C., Board of Elections & Ethics shows Mrs. McFarland, who hopes to challenge Sen. Hillary Rodham Clinton, registered to vote from a Washington address in June 1983, when she served as deputy assistant secretary of defense for public affairs, a position she describes as equivalent to a three-star general.

Schumer's 'skinheads'

"Don't look now, but we think Charles Schumer just compared Arab businessmen to skinheads," the Weekly Standard's Scrapbook column says.

"According to a piece in the New York Observer last week, Schumer's beating the drums to kill the Dubai ports deal came under fire from many quarters, with some critics suggesting that opposition to the deal was driven by xenophobia or anti-Arab

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racism. Mr. Schumer heatedly disputes that view. 'Let's say skinheads had bought a company to take over our port,' he said. 'I think the outcry would have been the same.'

"So why exactly do businessmen who happen to be Arabs deserve to be compared with skinheads, Mr. Schumer?"

A Gore Comeback? New Run At President Has Historic Precedents (AJC)

By Scott Shepard

The Atlanta Journal-Constitution, March 21, 2006

WASHINGTON — Is history calling Al Gore back into the political fray?

History says candidates who won the popular vote but lost in the electoral college have all gotten their revenge with victories in subsequent elections. And now, after years of calling himself a "recovering politician," Gore is flirting again with politics.

Or is he?

Even those who were part of his inner circle in 2000, when Gore lost the White House to George W. Bush in one of the closest and most controversial presidential elections in American history, still don't have a clear idea what the former vice president is thinking in terms of a 2008 campaign.

"I do not know for sure if he's looking or flirting," Donna Brazile, his 2000 campaign manager, said in an interview Monday. "But, I have an opinion — Gore remains a headliner and can raise money and rally the base."

Speculation about Gore's intentions has intensified in recent weeks due to three events: his Martin Luther King Jr. holiday speech in January lambasting the president for "breaking the law" with his warrantless domestic surveillance program; his message to Democratic donors in February soliciting funds for the Democratic Senatorial Campaign Committee; and his party fund-raising appearances this month in Florida, the scene of the contentious vote recount that ended with a Supreme Court ruling that made Bush president in the 2000 election.

Gore's activities prompted pollster Lee Miringoff to include Gore in a recent poll on possible Democratic 2008 contenders. It found Gore was second only to Sen. Hillary Rodham Clinton of New York. Clinton was the favorite of 33 percent, Gore was the choice of 17 percent.

"The numbers suggest that a case could be made for Mr. Gore in 2008 ... though it's a little unclear what he may have in mind," Miringoff said in an interview. "Clearly, he is someone to be watched, especially as an alternative to Hillary Clinton."

Chris Lehane, who was Gore's chief spokesman in the vice presidential office and later in the presidential campaign, noted in an interview that "Gore has been pretty public that he does not intend to run in 2008" and, he added, "I do think that this is indeed where his head is right now."

But political analysts, in considering the prospect of a Gore comeback, cite the historic precedents of candidates who won the popular vote but lost the electoral college vote, only to win later: Andrew Jackson, losing in 1824 and winning in 1828, and Grover Cleveland, denied in 1888 but triumphant in 1892.

Gore "may be a man whose time has come in his party," Dick Morris, a political adviser to Bill Clinton for 20 years, wrote recently in his column for The Hill newspaper. "Like a completely refurbished 'pre-owned vehicle,' Al Gore seems to be positioning himself to Hillary Clinton's left and greener than John Kerry ... His slogan might well read 're-elect Al Gore.' "

Longtime Republican operative Roger Stone Jr. made similar points in a column for the New York Observer, citing "uncanny parallels" in the careers of Gore and Richard Nixon, who narrowly lost the White House in 1960 but rebounded to win it in 1968.

But Brazile acknowledged that there are "some voters [who] want a complete break from the past and may not look favorably on [his] return to the political fight."

Gore's office in Nashville did not respond to telephone inquiries Monday, but the former vice president has previously told The Associated Press he has "no plans to seek the presidency in 2008."

There is no evidence he is assembling any kind of campaign organization. In a recent survey of Gore's friends and organizers in New Hampshire, James Pindell, managing editor of PoliticsNH.com, found none had been contacted about 2008.

"They seem to be convinced he is not running" and will not visit the state, which traditionally hosts the first presidential primary, Pindell said Monday.

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Occasionally, Gore even seems like an anti-candidate. For example, he is scheduled to be in Seattle on Thursday to talk about global warming, but he has insisted on no press coverage, sparking some angry newspaper editorials.

However, "in the Internet age, there is the potential for someone with his profile to mount a non-conventional campaign," said Lehane, "someone with a high name identification, someone who could raise money online, someone with prime time experience and someone who could potentially attract support from the angry left."

Rice Not Interested In Football Job For Now (AP-Y2)

AP2, March 20, 2006

Condoleezza Rice, a bona fide football fan, is not applying for the newly opened post of NFL commissioner — not now, anyhow, her spokesman said carefully on Monday.

Rice, who is avid particularly in support of the Cleveland Browns, is enjoying being secretary of state "at the moment," spokesman Sean McCormack said.

The wiggle-room in his response after NFL commissioner Paul Tagliabue announced he would retire resonated off frequent only half-joking statements by Rice that as a lifelong football fan she aspires to run the league one day.

She may also aspire to be president or vice president, at least there has been speculation that she might wind up on the Republican ticket in 2008.

The owner of the New England Patriots, Bob Kraft, for one, seems to be in Rice's corner for the football post.

Kraft told CNBC that he had dinner with Rice a few months ago and found her to be "tremendously capable and highly competent."

"I am flattered that she is interested in joining us," Kraft said. "But, of course, I am only one of 32."

Dell To Double Workforce In India (NYT)

By Saritha Rai

The New York Times, March 21, 2006

BANGALORE, India, Mar. 20 — Dell, the world's largest maker of personal computers, plans to double its employee strength in India to 20,000, and is scouting for a site to set up a manufacturing unit in the country, its chairman, Michael Dell, said today.

"There is a fantastic opportunity to attract talent," Mr. Dell said, referring to the country's technically qualified, English-speaking pool of workers. "We will ensure a major recruitment push in engineering talents," he said in a press meeting during a visit to Bangalore, India's outsourcing capital.

Dell, which is based in Round Rock, Tex., has four call centers in India, where the bulk of its 10,000 employees work, as well as software development and product testing centers.

Dell plans to double its hardware engineering staff to 600 in one year, Mr. Dell said.

Dell's statement today followed similar pronouncements by Microsoft Corp and Cisco Systems which plan to double and treble, respectively, their Indian headcounts.

Many Western multinationals, particularly technology companies, have recently been moving many key functions such as design and research and development to India. Many of these were earlier in the forefront of shifting software development and back office work like call centers to this country.

Salaries in India are rising rapidly, but still are about a fifth of what they are in the West for comparable jobs.

Mr. Dell said his firm was talking with several state governments about a site for manufacturing plant..

In a market where the penetration of computers is very low, companies such as Dell are eager to set up a manufacturing base to help expand sales. Dell accounts for about four percent of the 4 million computers purchased in India.

Sales of computers in India are expected to grow to 20 million a year in the next few years.

The GOP's Shrinking Middle (WP)

By E. J. Dionne Jr.

The Washington Post, March 21, 2006

DOJ_NMG_0019792

Members of Congress retire all the time, but some retirements are leading indicators of the direction of our politics. Rep. Sherwood Boehlert's announcement last week to call it quits matters, and in a depressing way.

The affable 69-year-old New York Republican is one of the last of a breed: a liberal Republican, though he calls himself a "moderate" and has the record to prove it. Boehlert's departure does not leave the House bereft of liberal Republicans -- Rep. Jim Leach of Iowa is more liberal than Boehlert. But Leach, alas, is an outlier. The spotted owl is in good shape compared with liberal Republicans.

Boehlert chose to retire in the year when National Journal, the political world's answer to Sports Illustrated, featured him as the ultimate "Down the Middle" guy. In its Feb. 25 issue, the magazine published its annual ratings, which showed that Boehlert's votes were more liberal than those of 52.2 percent of House members and more conservative than 47.8 percent. Boehlert's district includes the Baseball Hall of Fame in Cooperstown, and it's hard to move the ball more to the middle of the plate than he does.

It's been downhill for his brand of Republicanism from the moment he set foot in Washington as a congressional staffer in 1964. That's the year Barry Goldwater won the Republican presidential nomination and the great flight of the Republican liberals began.

After Goldwater's landslide defeat, two Republican progressives who later became conservatives, George Gilder and Bruce Chapman, wrote a brilliant book called "The Party That Lost Its Head," detailing how and why the party's liberal wing responded so anemically to the conservative challenge. But it was too late. The party of Abraham Lincoln and Theodore Roosevelt was destined to become an annex of the conservative movement.

Boehlert has always been unabashed in embracing his liberal roots. Over breakfast on a sunny summer morning in Cooperstown five years ago, Boehlert embraced two of the most progressive politicians of his lifetime. "People say to me: 'Why are you the kind of Republican you are?' Because in my formative political years, when I was coming up in New York, my governor was Nelson A. Rockefeller and my senator was Jacob K. Javits."

Why does the decline and fall of liberal Republicanism matter? After all, rationalizing the political system into a more conservative GOP and a more-or-less liberal Democratic Party makes the alternatives clearer to voters, who are offered, in Goldwater's famous phrase, "a choice, not an echo."

But it turns out that a Republican Party dominated by conservatives is no more coherent than the party that left room for progressives. The huge budget deficit is conservatism's Waterloo, testimony to its political failure. The conservatives love to cut taxes but can't square their lust for tax reduction with plausible spending cuts. Oh, yes, a group of House conservatives has a paper plan involving deep program cuts, but other conservatives know that these cuts will not pass, and shouldn't.

Paradoxically, because the liberal Republicans didn't pretend to hate government, they were better at fiscal responsibility. They were willing to match their desired spending levels with the taxes to pay for them. It didn't make for exciting, to-the-barricades politics. It merely produced good government.

Boehlert, being an optimist by nature, was always ready to declare that the "moderates' moment" had finally arrived. Last November, after I had written a column taking some moderate Republicans to task for backing the outrageous budget bill that passed under the cover of darkness at 1:30 a.m., there was Boehlert on the phone insisting that he and fellow moderate Mike Castle (R-Del.) had wrung some important concessions out of the House leadership. Maybe so, I replied, but I had a higher opinion of moderate Republicans and expected more of them than that lousy budget bill.

The problem may be that Boehlert and Castle did get as much as they could, given the numerical weakness of their variety of Republicanism, but that's not good enough. I suspect Boehlert knows this. Absent a robust progressive wing, congressional Republicans will continue to produce fiscally incoherent government. Democrats now have the task of representing their own brand of politics, and that of progressive Republicans, too.

I'll miss Boehlert and his optimistic moderation. Our politics worked better when a sufficiently large band of Republican moderates and liberals could take the edge off polarization and orient government toward problem-solving. But the liberal Republicans are gone. We have to deal with the GOP we have, not the GOP we wish still existed.

Citing Foreign Law (WP)

DOJ_NMG_0019793

The Washington Post, March 21, 2006

IN A SPEECH last month at the Constitutional Court of South Africa, Justice Ruth Bader Ginsburg made some unfair insinuations about critics of the use of foreign law in American courts. Justice Ginsburg was defending what is, in our view, a perfectly defensible proposition: that American courts should "learn from legal systems with values and a commitment to democracy similar to our own." Yet in doing so, she managed to link those who take an opposing view to the legacies of slavery and apartheid and to paint them as "fuel[ing] the irrational fringe" in its threats against judges.

To hear Justice Ginsburg describe the matter, you'd think the use of foreign law presents an easy question, legally and morally. In her speech, she quoted language from Chief Justice Roger Taney's infamous Dred Scott decision that rejected the notion that European opinions ought to guide American understanding of the Constitution. She went on to note that South Africa under apartheid also rejected the influence of foreign law, while its 1996 constitution explicitly invites its consideration. And she attacked members of Congress for introducing bills to eliminate the use of foreign precedents in American judicial decisions. Such legislation, she suggested, was responsible for an incident in which someone posted a call on the Internet for her and then-Justice Sandra Day O'Connor to be assassinated.

We don't support such legislation, but its advocates present one side of a valid debate, and there is no cause to blame them for the incitements of others. In the debate over foreign law, neither side has a monopoly on wisdom.

We agree with Justice Ginsburg and the court majority that American courts need not pretend that foreign courts do not exist. Law review articles, after all, constitute a legitimate, even routine, source of guidance for American adjudication; why not the considered judgment of a competent foreign tribunal? At the same time, Justice Antonin Scalia offers some reasonable criticisms of how the court has used foreign precedents -- that is, selectively, when foreign law supports results that the court cannot justify based on American authorities alone. As Justice Scalia points out, justices cite foreign precedents in capital cases, where European law is far more liberal than American law, but not in abortion cases, where it is more restrictive.

One doesn't have to agree, in other words, that foreign law has no place in American courts to worry that courts are using foreign law too politically. And one doesn't need to be Chief Justice Taney -- or a South African racist or an aspiring domestic terrorist -- to believe that it would be better if courts did not interpret America's founding documents in light of foreign authorities that postdate them. Justice Ginsburg has a strong case to make without stooping to such insinuations.

Some U.S. Officials Fear Iran Is Helping Al Qaeda (LAT)

By Josh Meyer

The Los Angeles Times, March 21, 2006

WASHINGTON — U.S. intelligence officials, already focused on Iran's potential for building nuclear weapons, are struggling to solve a more immediate mystery: the murky relationship between the new Tehran leadership and the contingent of Al Qaeda leaders residing in the country.

Some officials, citing evidence from highly classified satellite feeds and electronic eavesdropping, believe the Iranian regime is playing host to much of Al Qaeda's remaining brain trust and allowing the senior operatives freedom to communicate and help plan the terrorist network's operations.

And they suggest that new President Mahmoud Ahmadinejad may be forging an alliance with Al Qaeda operatives as a way to expand Iran's influence or, at a minimum, that he is looking the other way as Al Qaeda leaders in his country collaborate with their counterparts elsewhere.

"Iran is becoming more and more radicalized and more willing to turn a blind eye to the Al Qaeda presence there," a U.S. counter-terrorism official said.

The accusations from U.S. officials about Iranian nuclear ambitions and ties to Al Qaeda echo charges that Bush administration figures made about Iraq in the run-up to the U.S.-led invasion three years ago.

Those charges about Iraq have been discredited. And in the case of Iran, some intelligence officials and analysts are unconvinced. If anything, they suggest, the escalating tensions between Shiite and Sunni Muslims in Iraq would logically cause Iran's Shiite government to crack down on Al Qaeda, whose Sunni leadership has denounced Shiites as infidels.

A U.S. intelligence official said he did not see any relaxation in Iran's restrictions on Al Qaeda members.

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"I'm not getting the sense that these people are free to roam, free to plot," the official said.

Still, the official acknowledged that the relationship between Tehran and Al Qaeda officials within Iran was largely unknown to U.S. and allied intelligence, especially since Ahmadinejad's election last summer.

To some U.S. intelligence officials, what worries them most is what they don't know.

"I don't need to exaggerate the difficulty in determining what these people are up to at any given moment," the intelligence official said.

The U.S. counter-terrorism official was more blunt. "We don't have any intelligence going on in Iran. No people on the ground," he said. "It blows me away the lack of intelligence that's out there."

U.S., European and Arab intelligence officials spoke on condition of anonymity because they were not authorized to discuss the issues publicly.

Ties between Iran and Al Qaeda were highlighted by the Sept. 11 commission, which disclosed a wealth of details about such connections in its final report. The commission said Iran and Al Qaeda had worked together sporadically throughout the 1990s, trading secrets, including some related to making explosives.

Iranian representatives to the United Nations did not return repeated phone calls seeking comment.

In November, the State Department's third-ranking official, Undersecretary R. Nicholas Burns, said the United States believed "that some Al Qaeda members and those from like-minded extremist groups continue to use Iran as a safe haven and as a hub to facilitate their operations."

A year ago, Iranian delegates to a global counter-terrorism conference circulated a document describing Iran as "a major victim of terrorism." The document blamed links between drug trafficking and terrorism for "thousands of security problems," especially along Iran's eastern border with Afghanistan and Pakistan.

Al Qaeda operatives and family members have lived in Iran for years, many since late 2001, when they fled the U.S. bombing of Afghanistan. Many other Al Qaeda figures fled to Pakistan — a U.S. ally — and are believed to be there still.

Three months ago, Iran declared that no Al Qaeda members remained in the country, but U.S. officials rejected the claim. At other times, Iranian officials said that Al Qaeda members there were kept under house arrest and their activities monitored.

In Tehran, analysts said American officials were misreading Iran's intentions. The fact that the government has not turned over Al Qaeda suspects to the United States should come as no surprise given the state of relations between the two countries, said Nasser Hadian, a political analyst at Tehran University.

"They won't. Why should they" without receiving something in return? he said. "Unfortunately, now everything is becoming commercialized, if I may use that term. Everything is being assessed on its value in negotiations, and that is on both sides."

Some of the suspects have been indicted in the United States in connection with terrorist attacks, including the 1998 bombings of two U.S. embassies in East Africa, but Iran has refused to extradite them.

Among them is Saif Adel, believed to be one of the highest-ranking members of Al Qaeda, behind Osama bin Laden and Ayman Zawahiri. Whatever restrictions might be placed on the network's activities within Iran, Adel — who has a $5-million U.S. bounty on his head — was able last year to post a lengthy dispatch about Al Qaeda activities in Iran and Iraq that was widely circulated on the Internet. U.S. intelligence officials consider the posting authentic.

In the dispatch, Adel said he had used hide-outs in Iran to plot with Abu Musab Zarqawi to make Iraq the new battleground in the group's war against the United States. Iran had detained many of Zarqawi's men, Adel wrote, but they ultimately slipped into Iraq and began attacking U.S. forces.

For several years, the U.S. counter-terrorism official said, satellite feeds have helped officials monitor some of the day-to-day activities and movements of Adel and other senior Al Qaeda operatives in Iran. The intelligence suggests that the Al Qaeda leaders have been monitored by Iranian authorities but could move and communicate somewhat, the official said.

U.S. officials also said that other senior Al Qaeda figures — including Zarqawi, now the group's point man in Iraq — had moved in and out of Iran with the possible knowledge or complicity of Iranian officials.

The Al Qaeda members in Iran include three of Bin Laden's sons, including Saad and Hamza, who are thought to be his heirs apparent. Some of Bin Laden's wives and other family members are suspected of being there as well, as is Al Qaeda spokesman Sulaiman abu Ghaith, U.S. officials say.

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Of special concern, they said, is the number of Al Qaeda operatives in Iran who are of Egyptian descent and loyal to Zawahiri, the Cairo-born physician who merged his Egyptian Islamic Jihad with Al Qaeda in the years before the Sept. 11 attacks.

Adel is a former Egyptian police official. In addition, U.S. officials confirmed intelligence showing that three other Al Qaeda operatives with Egyptian roots — Abdallah Mohammed Rajab Masri, also known as Abu Khayer; Abdel Aziz Masri; and Abu Mohamed Masri — are in Iran. Authorities believe them to be, respectively, the head of Al Qaeda's shura, or leadership council; a biological weapons expert who heads the terrorist network's effort to develop weapons of mass destruction; and its top explosives expert and training camp chief.

The U.S. counter-terrorism official said the Egyptians' presence was troubling because Tehran for more than a decade has actively supported Egypt's two largest militant groups — Egyptian Islamic Jihad and Gamaa al Islamiya — in their terrorist campaign to topple the Cairo government.

Though the bitter Sunni-Shiite divide has prompted Tehran in the past to say it had "no affinity" with Al Qaeda, U.S. officials believe there is a history of cooperation between Iran and some Sunni militant groups, including Al Qaeda. Iran nurtures such relationships, they believe, to enhance its regional influence and punish Arab political enemies through intimidation and violence.

Adel traveled to Iran in the early 1990s as part of a delegation sent by Bin Laden to learn bomb making, U.S. officials say. They fear he and other Egyptians may have maintained ties with Iranian military and intelligence services.

The Sept. 11 commission concluded that Iran had harbored Al Qaeda operatives wanted in the U.S. embassy bombings in East Africa and other terrorist attacks. It quoted one top Al Qaeda official as saying Iran had made a "concerted effort to strengthen relations with Al Qaeda" after the 2000 attack on the U.S. warship Cole in Yemen.

Imprisoned top Al Qaeda operatives also have told U.S. officials that Iran let Islamic militants traveling to and from Afghanistan and Pakistan pass freely across its borders without passport stamps — including at least eight of the 19 future Sept. 11 hijackers, the now-disbanded commission reported.

The commission strongly urged the Bush administration and Congress to investigate the ties between Iran and Al Qaeda. Last week, commission member Timothy Roemer said in an interview that Washington still had not adequately addressed those ties.

U.S. and allied intelligence agencies say that, more recently, they have picked up indications of closer cooperation. The intelligence includes European wiretaps of militants discussing how Iranian officials would help them or look the other way.

U.S. officials fear Ahmadinejad may be strengthening ties with Al Qaeda with the help of Iranian intelligence and military agencies, particularly the Revolutionary Guard.

The intelligence official and others noted that Ahmadinejad himself rose through the ranks of the guard, an elite military unit. U.S. government officials have accused the guard of financing and orchestrating terrorist acts in the region by groups including Hezbollah, which is suspected of blowing up U.S. military facilities and embassies in the 1980s and killing hundreds of Americans.

Rep. Brad Sherman of Sherman Oaks, the ranking Democrat on the House International Relations subcommittee on terrorism and nuclear proliferation, who receives classified briefings on Iran, said U.S. intelligence indicated that Tehran was engaged in some kind of collaboration with Al Qaeda leaders.

"The cooperation is substantial," Sherman said. "Key operatives of the most successful terrorist organization in history are spending their time in the No. 1 state sponsor of terrorism.... That is of massive concern."

U.S. officials fear that an Iranian hard-line faction or even a rogue official could conspire with Al Qaeda or provide access to the country's military arsenal.

Despite the mutual antipathy between Sunnis and Shiites, some U.S. officials argue that the Iranian regime and Al Qaeda share a common enemy — the United States — and that both oppose the establishment of a pro-Western democracy in Iraq.

John D. Negroponte, the director of national intelligence, told Congress on Feb. 2 that Iran was engaged in a broad campaign "to disrupt the operations and reinforcement of United States forces based in the region, potentially intimidating regional allies into withholding support for United States policy toward Iran and raising the costs of our regional presence" for the U.S. and its allies.

DOJ_NMG_0019796

Bush Warns Iran On Israel (AFP)

AFP, March 20, 2006

US President George W. Bush said he hoped to resolve the nuclear dispute with Iran with diplomacy, but warned Tehran he would "use military might" if necessary to defend Israel.

"The threat from Iran is, of course, their stated objective to destroy our strong ally Israel. That's a threat, a serious threat. It's a threat to world peace," the US president said after a speech defending the war in Iraq.

"I made it clear, and I'll make it clear again, that we will use military might to protect our ally Israel," said Bush, who was apparently referring to Iranian President Mahmoud Ahmadinejad's call for the destruction of Israel.

On the atomic dispute, Bush said he hoped "to solve this issue diplomatically" with a "united message" to Tehran from Washington, London, Paris, Berlin as well as Russia "hopefully" and China.

The message would be that "your desire to having a nuclear weapon is unacceptable," he said.

Bush also touched on Iran's agreement to discuss Iraq with the United States, saying that "it's very important, however, for the Iranians to understand that the discussion is limited to Iraq.

"We're using this as an opportunity to make it clear about our concerns of interference within a democratic process that is evolving," he said, saying that the talks will not decide Iran's relations with a sovereign Iraq.

"Ultimately, Iraq-Iranian relations will be negotiated between the Iraqi government and the Iranian government," he said.

Security Council Fails To Reach Accord On Iran (WP)

By Colum Lynch

The Washington Post, March 21, 2006

UNITED NATIONS, March 20 -- The Security Council's five permanent members and Germany failed to reach agreement at a meeting Monday on how to respond to the Iranian nuclear crisis but said they would forge ahead in the coming days to break the impasse.

The deadlock comes as U.S. and European officials confirmed that Britain had presented the United States with a paper outlining a possible diplomatic strategy to resolve the crisis, including new talks and concessions. But the British representative at Monday's talks, John Sawers, said Britain had not made such a proposal at the meeting.

Undersecretary of State R. Nicholas Burns said the United States is not going to participate in direct negotiations with Iran on the nuclear issue.

Top foreign policy coordinators for the United States, Russia, China, France, Britain and Germany issued a joint statement that echoed an agreement Secretary of State Condoleezza Rice had reached with those five governments in January. The statement expressed "deep concern" that Iran has "failed to respond positively" to requests by the United Nations' Vienna-based International Atomic Energy Agency to suspend its uranium enrichment activities and allow for more intrusive U.N. inspections of its nuclear energy program.

The impasse follows weeks of negotiations over how to respond to Iran's behavior. The United States, France and Britain believe the threat of Security Council sanctions is required to pressure Iran to meet international calls to suspend its nuclear enrichment activities, which Iran insists are for peaceful purposes.

Russia and China oppose sanctions, and they want the Iranian crisis to be handled by the International Atomic Energy Agency, which is considered more likely to pursue a negotiated settlement.

The paper circulated by British officials detailed an approach that could include new multinational talks with Iran. The talks would be aimed at satisfying demands by China and Russia that the United Nations' major powers had exhausted all diplomatic options to resolve the standoff with Iran, a senior administration official said Monday.

On Sunday, after the Associated Press reported that the British were discussing such an approach, another senior administration official denied that Britain had made such a proposal.

The United States has sought to avoid being drawn into new negotiations with Iran, saying Tehran has used talks to buy time to develop its nuclear know-how.

DOJ_NMG_0019797

Britain Calls For New Talks With Iran (AP-Y2)

By Edith M. Lederer And George Jahn

AP2, March 20, 2006

Britain is calling for new talks with Iran about its suspect nuclear program but will push for militarily enforceable U.N. Security Council sanctions if those talks do not make progress, according to a letter obtained by The Associated Press.

The proposal is angled toward Russia and China, allies of Tehran who staunchly oppose firm Security Council action.

Senior diplomats from six key nations that have been struggling to find a way to deal with Iran's suspect nuclear program met Monday at U.N. headquarters.

Representatives from the five veto-wielding council nations — the United States, Russia, China, Britain and France — and Germany will try to overcome differences on a statement demanding a quick report on Iran's nuclear program.

U.S. Ambassador John Bolton said earlier that Monday's meeting "will basically consider the longer-range issues, although obviously in the capitals in Moscow and Beijing, certainly, they will now have a look" at the latest text of the Security Council statement, and hopefully the senior diplomats will have instructions "that will allow us to make progress."

Bolton said he would like to see agreement on the statement when the Security Council meets again on Tuesday afternoon.

Britain's U.N. Ambassador Emyr Jones Parry also said he hoped the high-level diplomats meeting Monday would "look at the wider strategy of how we develop our relations with Iran." He added: "But let's be clear that negotiation of the (statement) will be done in the council."

The British hoped the Russians and Chinese would agree to tougher council action on Iran should that be needed in exchange for Western willingness to engage in new negotiations.

Moscow has offered to enrich Iran's uranium but is insisting that Iran must freeze its own uranium enrichment program — a possible pathway to nuclear arms.

Moscow and Beijing also want the U.N. nuclear watchdog agency, the International Atomic Energy Agency, to assume the main role in cajoling Iran on enrichment and its refusal to fully cooperate with an IAEA probe.

The March 16 letter, which is marked "confidential" and displays the seal of the British Foreign Office, is from John Sawers, a top British negotiator.

"We are not going to bring the Russians and Chinese to accept significant sanctions over the coming months, certainly not without further efforts to bring the Iranians around," the letter said.

"The Iranians ... will need to know that more serious measures are likely. This means putting the Iran dossier onto a Chapter VII basis" — shorthand for binding Security Council resolutions, including sanctions, that can be enforced by military means.

The letter was addressed to U.S. Undersecretary of State Nicholas Burns, German Foreign Office Political Director Michael Schaefer and French Foreign Ministry Political Director Stanislas de Laboulaye.

It suggests making suspension of all uranium enrichment by Iran "a mandatory requirement of the Security Council, in a resolution we would aim to adopt, I say, early May."

"In return for the Russians and Chinese agreeing to this, we would then want to put together a package that could be presented to the Iranians as a new proposal," the letter said. "Ideally this would have the explicit backing of Russia, China and the United States as well as the EU-3" — France, Britain and Germany.

Neither diplomat had details on what the new incentives would look like.

But any talks with U.S. involvement likely would need to focus on economic and security guarantees meant to reassure Tehran that Washington has no plans to force a regime change. Critics of U.S. policy have maintained for years that Tehran was unlikely to compromise on its nuclear program without such a direct guarantee.

In Washington, German lawmaker Ruprecht Polenz said "we would really love it" if the United States participated in the process.

The six countries agree that Iran should not develop nuclear weapons, but they differ on the best way to get Tehran to halt uranium enrichment, which can be used either in a civilian nuclear program to generate electricity or to produce nuclear arms.

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Russia and China have said tough council action could spark an Iranian withdrawal from the Nuclear Nonproliferation Treaty and eventually lead to tougher measures, such as sanctions.

The United States, Britain and France want a statement listing demands already made by the IAEA — including the suspension of uranium enrichment and steps toward greater transparency and more cooperation. They also want IAEA chief Mohamed ElBaradei to report to the council on Iran's progress in meeting those demands in two weeks, which Russia and China say is much too soon.

Negotiations between Iran and France, Germany and Britain, acting on behalf of the European Union, collapsed in August after Tehran rejected an incentives package offered in return for a permanent end to uranium enrichment. Its subsequent moves to develop full-blown enrichment capabilities led the IAEA's 35-nation board to ask for Security Council involvement earlier this year.

Iranian President Wants West To Apologize (AP)

By Nasser Karimi

AP, March 21, 2006

President Mahmoud Ahmadinejad on Monday said the West should apologize to Iran for accusing it of trying to develop a nuclear weapons program and said his country would continue to resist international pressure to halt its nuclear energy program.

"Today they tell our nation that nuclear energy is a bad thing and it is not necessary for our people to have it. But the nation of Iran has stood (for its right)," he said in a televised speech to mark the Iranian New Year, which begins Tuesday. "Those who head war and crimes accused the Iranian nation of war seeking. They insulted our nation. I do advise them to apologize."

Iran insists its nuclear program is for peaceful energy purposes but Western countries who believe otherwise have pushed for United Nations action — including possible sanctions — against the country.

Ahmadinejad stressed that Iran would not give up its nuclear rights.

"Today we announce with pride that the peaceful knowledge and technology are at our disposal in order to be used for different purposes, including electricity generation, and we have not borrowed it from anybody that can take it away from us," he said.

Ahmadinejad reiterated that Iran should be compensated for a two and a half year suspension of its nuclear activities. Under heavy pressure from the West, Iran suspended its enrichment of uranium and related activities in 2003 and began negotiating with Germany, Britain and France to reach an agreed framework for its nuclear development. It resumed nuclear research earlier this year when talks failed.

The United States and its European allies want Iran to permanently abandon uranium enrichment and all related activities, a technology that can be used to produce nuclear fuel for reactors or materials for a nuclear bomb.

Jews Wary Of Becoming Fall Guy For Iran's Woes (WT)

By John R. Bradley

The Washington Times, March 21, 2006

TEHRAN -- Members of Iran's Jewish community fear they are being set up to take the blame if President Mahmoud Ahmadinejad's drive to establish a nuclear program ends badly for the country.

Members of the 30,000-strong community say they already are being viewed as a potential fifth column after a series of speeches in which the firebrand president has spoken of a "Holocaust myth" and heaped scorn on Europe for its defense of the "Zionist entity."

"Ahmadinejad has decided to pick on the easiest victim, Israel," said Meir Javedanfar, a specialist on Iran and director of the Middle East Economic and Political Analysis Co. "Every time Ahmadinejad has internal problems, he will attack Israel again, using it as a tool."

Iranian Jews, many of whom have family ties with Israel, are hitting back with forceful public rebuttals. But privately, they acknowledge fears of orchestrated political attacks if the United States or Israel conducts air strikes against Iran's nuclear facilities.

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There are still painful memories of events six years ago in the southern city of Shiraz, where 13 Iranian Jews and eight Muslims were accused of spying for Israel.

It was widely thought that they were being used as pawns in a struggle within the Islamic regime, with hard-liners seeking to embarrass President Mohammed Khatami and his comparatively moderate administration.

Now there are signs that Mr. Khatami and other reformers are using the Jews to try to undermine Mr. Ahmadenijad's political agenda.

Mr. Khatami publicly contradicted the president this month, describing the Holocaust as a "historical reality."

"We should speak out if even a single Jew is killed. Don't forget that one of the crimes of Hitler, Nazism and German national socialism was the massacre of innocent people, among them many Jews," the cleric said in widely published remarks.

The prominent centrist newspaper Sharq also has taken on Mr. Ahmadinejad, saying, "The Jewish question was never a problem for Iran or Islam."

The debate has forced supreme leader Ayatollah Ali Khamenei to speak out in support of the president in spite of widespread reports that he is unhappy with Mr. Ahmadinejad, who recently called for Israel "to be wiped off the map."

After the 1979 Islamic revolution, thousands of Jews left for Israel, Western Europe or the United States, fearing persecution. But Ayatollah Ruhollah Khomeini, Iran's first post-revolutionary supreme leader, issued a "fatwa" to protect Jews and other religious minorities, reducing the outflow to a trickle.

Tehran has a Jewish nursing home and a Jewish library with a reading room used by both Muslim and Jewish university students. The capital also has a Jewish hospital and 11 functioning synagogues.

Haroun Yashayaei, the leader of the Jewish community, wrote publicly to Mr. Ahmadinejad last month, asking how he could "ignore all of the undeniable evidence existing for the exile and massacre of the Jews in Europe during the Second World War."

The president's questioning of the Holocaust, he wrote, "has created astonishment among the people of the world, and spread fear and anxiety among the small Jewish community of Iran."

"At the moment, there is no direct political pressure on the Jewish community," Mr. Yashayaei said in an interview.

Explaining why he wrote the letter, he said, "It is more a question of emotional stress. I was angry at what the president said, and it is my right to tell him what I think."

Jews have scored several legal victories in recent months, said Morris Motamed, a Jewish member of the Majlis, or parliament.

One of those ended a practice under which a Jewish family received far less money in compensation than a Muslim family when a relative was killed in an accident.

Another bill, expected to be passed in the coming months, will remove discriminatory aspects of the inheritance laws.

Iran's Jews, however fear that such progress could be reversed by a coming conference called by Mr. Ahmadinejad to "investigate evidence for the Holocaust."

In such a climate, Mr. Motamed said, "a backlash in the wake of [U.S. or Israeli] air strikes becomes a real possibility."

Speaking To Tehran, With One Voice (NYT)

By Jessica T. Mathews

The New York Times, March 21, 2006

Washington

WITH the Iranian nuclear crisis about to land in the Security Council, the events that led up to the war in Iraq point clearly to what needs to be done.

In the decade preceding the Iraq war, Mr. Hussein was able to defy the major powers when they were divided. Exploiting his advantage as a single actor and Washington's indecision over whether it most wanted nonproliferation or regime change, Mr. Hussein consistently outmaneuvered his diplomatic opponents.

But he also knew that he could not buck the five permanent members of the United Nations Security Council when they were serious and united (as, for example, during the toughened United Nations inspections in the months just before the war), and he did not even try.

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The situation with Iran today is the same. Washington cannot decide whether the top priority of its Iran policy should be regime change or nonproliferation; as a result, others of the major powers do not trust and will not fully support its antinuclear efforts. Tehran has easily exploited this lack of unity among the major powers to frustrate every attempt to rein in its nuclear program. It has recruited international support through energetic diplomacy to the group of developing countries known as the G-77. Just as Mr. Hussein did, the leaders in Tehran have made diplomatic mincemeat of the big powers.

Iran has been so successful in this that some experts in the West have turned defeatist. Their view is mistaken. The idea that "it's too late" to stop Iran's progress toward building nuclear weapons is technologically wrong. "There's nothing we can do about it" ignores a range of options between economic sanctions, going to war and more of doing nothing. And the argument that "we can learn to live with it" misses the nature of the challenge.

A nuclear Iran is dangerous enough, but this crisis is only proximately about Iran. More important, it is about the likely consequence of an Iranian bomb, namely, that Saudi Arabia, Turkey and Egypt would produce their own bombs, and, thanks to the concomitant international failure to deal with North Korea, the nonproliferation regime would collapse. What is at stake is not a choice between 9 and 10 nuclear weapons states, but a choice between 9 and 30 or more.

The major powers may yet be able to unite to stop Iran at this late hour, but not without a decisive change in American policy. Washington's choice is simple: does it want to stop Iran's acquisition of nuclear weapons badly enough to deal with Iran's present government?

Like the Clinton administration with Iraq, the Bush administration has been unable to make up its mind, locking its policy into a cycle of self-defeating half-steps. The combination of "axis of evil" threats, partial support of European negotiations and publicly announced financial backing for the opposition in Iran ensures only that we will fail either to negotiate an end to the nuclear program or to overthrow the present regime.

The administration must, finally, hold its nose and recognize that the nuclear challenge is the indisputable priority. It must get off the sidelines and into negotiations with Tehran. It must solidify agreement among its fellow permanent council members by working closely with Russia, not least by concluding a long overdue pact on civil nuclear cooperation. Russian participation would make it possible to provide Iran with a credible international guarantee of uranium enrichment and reprocessing services.

With China and the others, the United States needs to make clear that the Security Council can resort to other steps besides economic sanctions to significantly raise the cost to Tehran of its continued defiance, beginning with making International Atomic Energy Agency inspections mandatory rather than voluntary.

Secretary of State Condoleezza Rice (and her fellow foreign ministers from the council's permanent members) should be flying to Brazil, Indonesia, South Africa and other leading countries of the G-77 to explain why Iran is wrong to claim that the Nuclear Nonproliferation Treaty gives it the "right" to enrich uranium, and why Iran's abuse of the treaty devalues each of their commitments to give up nuclear weapons.

Given the American record with Iraq and Iran, others will be skeptical that Washington has made a clear choice for nonproliferation and away from regime change. The message will have to be steady and unequivocal. If President Bush and Secretary Rice continue to say one thing and Vice President Dick Cheney and our ambassador to the United Nations, John R. Bolton, say another, the effort will quickly fail.

Members of Congress have a direct responsibility as well. Only they — especially the Democrats — can make such a policy change possible. They will have to forgo the indulgence of slamming the administration from the right and currying favor with pro-Israel voters by vying to see who can be the most anti-Iranian.

All of this, and more, is what serious anti-nuclear diplomacy would look like. It has not yet been tried. Anyone who promotes the use of military force from the present position of American indecision and before the obvious political steps have been taken is repeating the error that led us into Iraq.

The international community's record on Iran's nuclear program (as on North Korea's) has been feckless. Only the United States can change that. If we fail to pursue this effort with unwavering, clear-minded diplomacy, a nuclear-armed world will be the Bush administration's chief legacy, no matter how the war in Iraq and the war on terrorism turn out.

Jessica T. Mathews is the president of the Carnegie Endowment for International Peace.

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Arab Leader: Hamas Must Deal With Israel (AP-Y2)

By Barry Schweid

AP2, March 21, 2006

An Arab leader said Monday a Hamas-led Palestinian government has no alternative but to deal with Israel.

"They will be obliged to do that because the Palestinians, as a government, deal with Israel," Crown Prince Salman bin Hamad bin Isa Al-Khalifa of Bahrain told reporters after meeting with Secretary of State Condoleezza Rice.

"How can they deal with Israel if they don't recognize Israel?" he asked in an exchange in Arabic.

The United States and the European Union have vowed not to deal with Hamas until it abandons terror and accepts Israel and the agreements that Israel has reached with the Palestinian Authority over the years.

Meanwhile, the Bush administration is reviewing U.S. assistance to the Palestinians. Rice has indicated humanitarian programs will get U.S. support, but not through a Hamas-led government.

"This is an international Palestinian issue," the crown prince said. "But we encourage our Palestinian brothers to be committed to all the agreements they were committed to over all the long years."

Referring apparently to the unresolved conflict between Israel and the Palestinians, he advised Hamas to "hurry up, and we will hurry up with them, to end this great humanitarian catastrophe."

Bahrain is not considering a cutoff in aid to a Hamas-led government nor is it about to establish relations with Israel, he said.

Nunn Urges Congress To Set Conditions On U.S.-India Nuclear Pact (WP)

By Glenn Kessler

The Washington Post, March 21, 2006

In a setback for the administration's efforts to win approval of a landmark nuclear pact with India, former senator Sam Nunn said yesterday that he has serious concerns the deal would harm the "United States' vital interest" in preventing nuclear proliferation and urged Congress to set conditions for its support.

"Congress has a duty to look at the broader framework," Nunn, a moderate and highly respected Georgia Democrat who still has broad influence in both parties on proliferation and military matters, said in an interview. "If I were still in Congress, I would be skeptical and looking at conditions that could be attached."

Undersecretary of State R. Nicholas Burns warned lawmakers last week that congressionally mandated conditions could cause the agreement to unravel. He and other administration officials say the agreement is a groundbreaking achievement that will bring India, which has not signed the nuclear Non-Proliferation Treaty, into the nonproliferation mainstream, while bolstering U.S.-India ties and adding jobs to the U.S. economy.

But Nunn, who was briefed on the deal by State Department officials last week, said he is concerned it would lead to the spread of weapons-grade nuclear material, unleash a regional arms race with China and Pakistan, and make it more difficult for the United States to win support for sanctions against nuclear renegades such as Iran and North Korea. Nunn is a board member of General Electric Co. -- which built nuclear power reactors in India before New Delhi conducted its first nuclear test in 1974 -- but he said he thinks the economic benefits are overstated.

The administration last week proposed legislation that would exempt India from sections of the Atomic Energy Act that restrict trade with countries that are not party to nuclear treaties. The proposal already faces an uphill battle in Congress, where key lawmakers such as Sen. Richard G. Lugar (R-Ind.), chairman of the Senate Foreign Relations Committee, and Rep. Henry J. Hyde (R-Ill.), chairman of the House International Relations Committee, have remained neutral. The administration has actively sought, without much success, the support of moderate opinion leaders such as Nunn.

Under the pact, India is to separate its civilian and military nuclear programs over the next eight years to gain U.S. expertise and nuclear fuel to meet its rapidly rising energy needs. India's civilian facilities would be subject for the first time to permanent international inspections, but the agreement does not require oversight of India's prototype fast-breeder reactors, which can produce significant amounts of weapons-grade plutonium when fully operational.

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The Bush administration originally sought a plan that would have allowed India to continue producing material for six to 10 weapons each year, but the new plan would allow India enough fissile material for as many as 50 weapons a year. Experts said this would far exceed what is believed to be its current capacity.

Nunn said that among the conditions he would attach to the legislation is the requirement it could not take effect until the president certifies that India pledges not to produce nuclear materials, such as plutonium or highly enriched uranium, for weapons. The current agreement "certainly does not curb in any way the proliferation of weapons-grade nuclear material," Nunn said.

"India was a lot better negotiator than we were," Nunn asserted. While the administration has said it has no intention of aiding India's nuclear weapons program, "the reality could be the opposite," he said. "The administration has a high burden to explain this."

Nunn added that suggestions by some former and current administration officials that it might be in the United States' interest to allow India to build up its strategic capabilities is "totally counterproductive and dangerous reasoning."

Nunn, who served in the Senate for 24 years, is co-chairman and chief executive of the Nuclear Threat Initiative, a nonprofit organization that seeks to reduce the global threats from nuclear, biological and chemical weapons. Lugar is also a board member of NTI, and the two men wrote the Nunn-Lugar Act, which has helped destroy thousands of nuclear warheads in the former Soviet Union.

In an interview published yesterday in the Indianapolis Star, Lugar said he might favor the legislation if he were convinced that the new relationship was in the United States' best interests, that there were "considerable if not complete" safeguards on the spread of nuclear fuel and that it would lead to a reduction of oil consumption.

The U.S. Chamber of Commerce has vowed an all-out push to win approval of the agreement, saying it would be a boon for U.S. business. But it has also sparked a backlash from nonproliferation experts who believe it will lead to the unraveling of the Non-Proliferation Treaty, which sought to limit the number of nuclear weapons states.

"Nunn's voice carries weight," said Henry D. Sokolski, executive director of the Nonproliferation Policy Education Center and a Pentagon official in the George H.W. Bush administration, who opposes the agreement. "We have waited for a moderate, respected voice to speak clear sense on these matters. Now that he's spoken, it would be very strange if Congress doesn't listen."

NATO Ready To Help U.N. In Darfur (AP-Y2)

By Barry Schweid

AP2, March 20, 2006

NATO is prepared to support a U.N. force in the Darfur region of Sudan, the alliance's secretary-general told President Bush in a White House visit on Monday.

"I'm quite sure, as I told the president, that when the U.N. comes, the NATO allies will be ready to do more in enabling a United Nations force in Darfur," Jaap De Hoop Scheffer told reporters after his meeting with Bush.

Bush has called for greater NATO involvement in Darfur, which the United Nations has described as the world's gravest humanitarian crisis. The conflict there has left more than 180,000 people dead and 2 million displaced.

But Bush said the African Union must request that its mission in Darfur be converted to a U.N. mission. When that happens, NATO can move in with U.S. help "to make it clear to the Sudanese government that we're intent upon providing security for the people there and intent upon helping work toward a lasting peace agreement," Bush said.

Secretary of State Condoleezza Rice, meeting with the NATO secretary-general, said Monday "NATO can play a very important role in enhancing the capabilities of African Union forces."

De Hoop Scheffer, repeating what he said at the White House while having his picture taken with Rice, said he was "quite sure that when that question comes that the NATO allies will stand ready to support that mission in Darfur."

"I'm not talking about NATO forces on the ground," he said later as he left the State Department. "But could you enable the mission by giving logistical support, by going on in the transport of the forces, by giving training, then I think the NATO allies would take a very positive stand on that."

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After talks with Defense Secretary Donald H. Rumsfeld and Undersecretary of State Nicholas Burns, the NATO secretary-general held a news conference in which he underscored the point that NATO could not act until after the African mission is converted to a U.N. mission.

Declining to predict when all the pieces would fall into place, De Hoop Scheffer said, "I fully share everybody's frustration and indignation about what is happening in Darfur."

State Department spokesman Sean McCormack issued a statement, meanwhile, criticizing the Sudanese government's closing of several U.S.-supported social development, health and food distribution offices.

McCormack urged the government in Khartoum to remove immediately all obstacles to delivery of humanitarian assistance and to provide protection for civilians and aids workers.

Earlier this month Sudan and the African Union agreed to extend the mandate of AU peacekeeping forces in Darfur to September, at which time they would be allowed to be merged into a larger U.N. force. But later Sudan said it will reject the proposed deployment of U.N. forces to Darfur.

Bush praised NATO's role in Afghanistan and its work training Iraqi security forces.

De Hoop Scheffer said all 26 NATO members have been assisting in the Iraqi training mission.

"I want to see NATO-trained Iraqi officers taking their responsibility in fighting the terrorists in their own country," he said.

U.S. Calls Belarus Vote For Leader Invalid (NYT)

By C. J. Chivers And Steven Lee Myers

The New York Times, March 21, 2006

MINSK, Belarus, March 20 — The United States declared the results of the president election in Belarus invalid on Monday and called for a new race, even as President Aleksandr G. Lukashenko defiantly swept aside criticism and declared himself the winner of a third term.

In an impassioned appearance hours after state television announced that he had won nearly 83 percent of the vote, Mr. Lukashenko exuded confidence and said the outcome had "convincingly demonstrated who the Belarussians are and who is the master of our house."

He said he was unafraid of further economic and political isolation after an election that Washington and international observers described as illegitimate, rigged and held under widespread repression.

"The United States does not accept the results of the election," said Scott McClellan, the White House spokesman. "We support the call for a new election."

The principal opposition candidate, Aleksandr Milinkevich, who received 6 percent of the vote, according to the government's initial count, also declared Mr. Lukashenko's presidency illegitimate.

"We are simply not going to recognize the election," he said, calling for a new vote to be conducted with new election commissioners and a campaign free of arrests and harassment.

Several thousand opposition demonstrators once again ignored warnings that they could be arrested or beaten, and returned in the evening to a central square in Minsk to continue peaceful protests against the results.

But the crowd that appeared Monday was smaller than that on Sunday, and Mr. Milinkevich's campaign manager, Sergei Kalyakin, acknowledged the difficulties of challenging the deeply entrenched power of Mr. Lukashenko, often referred to as Europe's last dictator. "The number who came to the square was not enough," he said. "We need 10 times more."

By late Monday the number of protesters dwindled to several hundred, but those who remained appeared determined to stay, pitching tents and locking arms around them. For a second night the police refrained from dispersing them, but blocked others from bringing food, clothing or blankets.

Many in the crowd, and even Mr. Milinkevich himself, said they were disappointed that they had not been able to rally more people. He said they would stay through the night if allowed, but hinted at a concession. "I think that the dictatorship will fall, not on the day of elections," he said on the edge of the crowd. "I can't say when, but I feel its days are coming to an end."

Unsure that it can muster and maintain large crowds in the face of official threats, the opposition here has rested much of its diminishing hope on international disapproval.

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Reaction has broken along familiar lines, with Western organizations and officials issuing condemnations and in some cases vowing to seek punitive measures against Belarus, and Russia and other former Soviet states celebrating Mr. Lukashenko's victory.

Echoing the Bush administration, the Organization for Security and Cooperation in Europe, which brought 400 observers here, sharply criticized the election, noting harassment and arrests of opposition candidates, propagandistic coverage on state media and extensive irregularities in the counting of ballots.

"The arbitrary abuse of state power, obviously designed to protect the incumbent president, went far beyond acceptable practice," the report said.

Senior Bush administration officials said the United States would work with Europe to coordinate sanctions, like travel bans against those in the Belarus government believed to be responsible for the voting process. But American officials noted that they had numerous sanctions of this type in place.

Even as the European group issued its report, Mr. Lukashenko was several blocks away in a government auditorium, gruffly and at times crudely sweeping aside any questions about his victory or his leadership style.

The appearance was part news conference and part testimonial to Mr. Lukashenko's power, as the audience was stacked with his supporters and hand-picked visitors who described themselves as election observers. One pair of these self-described observers presented Mr. Lukashenko with a bouquet of roses.

Between statements of praise and bursts of applause, Mr. Lukashenko belittled the opposition's supporters as "children" paid by foreign governments, and described their demonstration on Sunday night as a display of weakness. "They were 14- and 15-year-old children who were paid 20,000 Belarussian rubles," he said, referring to a sum worth a little more than $9. "So they worked for their 20,000 rubles."

He also took questions from journalists, sometimes appearing to enjoy testy exchanges and other times interrupting speakers or arguing about their questions.

When asked whether he could assure the safety of demonstrators, whom he threatened last week with having their necks wrung, he chided the journalist for posing the question. "I see your neck is in place," he said. "Why are you so concerned?"

As his appearance dragged on, reaching nearly two and a half hours, more denunciations appeared from the West.

Jaap de Hoop Scheffer, secretary general of NATO, said in a statement that Belarussians had been cheated of a choice. "The people of Belarus have the right to choose their leadership through a true democratic process," he said. "That right was again denied to them."

Foreign Minister Ursula Plassnik of Austria, which holds the rotating presidency of the European Union, criticized the "climate of intimidation" that hindered the opposition campaign.

Benita Ferrero-Waldner, the union's commissioner of external relations, said the group would continue with democracy-building programs and relief aid and would not impose economic sanctions because that could hurt the Belarussian people. But she said European Union members were likely to widen a visa ban on top Belarussian officials.

In Moscow, underscoring the widening gap between the West and Russia over the conduct of elections and the state of reform in former Soviet republics, the Kremlin rushed to applaud the result. The Foreign Ministry said, "The elections were testament to a high civic awareness and an interest amongst the Belarussian people for stability."

The statement made no mention of the mass arrests, wide-scale intimidation and the fawning official media coverage of Mr. Lukashenko and his policies.

Belarus Leader Defiant After Reelection As U.S., E.U. Threaten Sanctions (WP)

By Peter Finn

The Washington Post, March 21, 2006

MINSK, Belarus, March 20 -- President Alexander Lukashenko, citing official figures giving him 82.6 percent of the vote in this weekend's election, declared Monday that a pro-Western "revolution" had been defeated in his former Soviet republic and scoffed at threats of new sanctions.

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The United States will work with the European Union to possibly freeze the foreign assets of Belarusans responsible for electoral fraud or human rights violations, White House spokesman Scott McClellan said Monday. Expansion of existing restrictions on travel by senior Belarusan leaders is also under discussion.

McClellan told reporters aboard Air Force One that the United States "does not accept the results of the election. The election campaign was conducted in a climate of fear. It included arrests and beatings and fraud. We applaud democrats in Belarus for their courage and peaceful stand to reclaim their freedom."

On the streets of the capital, Minsk, opposition leaders struggled for a second night to mount large-scale protests. By midnight, the numbers gathered at a central square had dwindled to about 2,000, but a dozen tents had been set up in freezing temperatures to attempt a long-term protest.

Riot police deployed nearby have not intervened, despite a threat last week from Lukashenko that he would "wring the necks" of demonstrators. Asked by a French reporter Monday what had become of that threat, the former collective farm manager said, "I see your neck is in place."

"You have seen our opposition," the president declared during a 2 1/2 -hour news conference. "And if you are reasonable people, you have been convinced that it's worthless." He said opposition leaders were in the pay of Western ambassadors.

Located between Poland and Russia, the country of 10 million has continued as a holdout of Soviet-style politics since gaining independence in 1991. The secret police, still called the KGB, routinely beat up opposition figures. Independent newspapers are shut down or lose entire press runs to police confiscations.

But large numbers of people here call Lukashenko a hero who saved their country from the upheavals of moving to capitalism. Even opposition figures say he could win a fair vote.

His landslide victory drew condemnation Monday from a variety of Western governments and organizations. Much of the criticism focused on how the campaign was conducted.

"Arbitrary use of state power and widespread detentions showed a disregard for the basic rights of freedom of assembly, association and expression," said U.S. Rep. Alcee L. Hastings (D-Fla.), who leads the parliamentary assembly of the Organization for Security and Cooperation in Europe, a 55-nation group that monitors elections.

In the past, the United States has taken action against a Belarus firm involved in arms sales, limited senior Belarusan officials' travel to the United States and barred high-level meetings. It has also tried to structure aid programs to skirt the government and favor nongovernmental organizations.

New steps would not be broad-based sanctions such as those against Iran or Cuba, according to an administration official. "What we're talking about are targeted steps that don't go after the people as a whole," the official said. Lukashenko and his associates are not believed to have many assets in the United States, so the European Union would be key to any attempt to go after him financially.

The E.U., which has three member states that border Belarus, also has steps in place. European officials were discussing options Monday for turning up the pressure. "Some action is now very likely," the E.U. external relations commissioner, Benita Ferrero-Waldner, said Monday.

Official figures showed that Lukashenko's nearest rival, Alexander Milinkevich, a former physics professor, got 6 percent of the vote. Milinkevich called the president's tally "monstrously inflated."

At the Minsk square where protesters had gathered, the crowd was shrinking by midnight Monday. Demonstrators chanted "Long live Belarus" as plainclothes police officers recorded video footage of them from the crowd's edge.

Opposition leaders conceded that the turnouts, 10,000 on Sunday night and somewhat fewer Monday night, were not large enough to threaten the government.

Sergei Kalyakin, who led Milinkevich's campaign, said 100,000 people would be needed for authorities to "hear the voice of the people." With an active opposition that is composed mostly of students, many analysts see significant public backlash as unlikely.

Opposition leaders say they hope the election and its aftermath will seed a movement that will grow to present a real challenge to Lukashenko's autocratic rule.

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In what has become a pattern when elections in republics of the former Soviet Union are won by pro-Moscow candidates, observers from Russia said Monday that the vote was free and fair. "There is full ground to believe that the elections complied with universally recognized standards," the Russian Foreign Ministry said in a statement. "There are no doubts about their legitimacy."

Russian President Vladimir Putin sent Lukashenko a telegram congratulating him on his victory.

At his news conference Monday, Lukashenko dismissed the Western threats of sanctions and hinted that Belarus might retaliate by refusing to cooperate with its neighbors on issues such as illegal migration from the east.

"The revolution that so many people talked about and some were preparing has failed, and it could not be otherwise," said Lukashenko, referring to the possibility that a fraudulent vote could trigger the kind of street protests that toppled governments in Ukraine and Georgia.

Mocking the new pro-Western leadership in Ukraine and Georgia, Lukashenko also attacked the United States as a hypocritical, warmongering power. He said it targets governments that refuse to bow to its interests while embracing nations that are clearly not democratic.

"I'm not afraid of isolation," Lukashenko said. "It's very difficult to suffocate us economically or politically."

Belarus Leader's Victory Rejected By U.S. As OSCE Finds Fraud (BLOOM)

By Richard Keil James Neuger

Bloomberg, March 21, 2006

March 20 (Bloomberg) -- The U.S. joined European observers in rejecting election results in Belarus that gave President Alexander Lukashenko a third term, after concluding that the declared win was engineered through fraud and intimidation.

``This campaign was conducted in a climate of fear that included arrests and beatings," White House spokesman Scott McClellan said today. ``We call for a new election."

Lukashenko won 82.6 percent of the vote, trouncing his main rival, the opposition leader Alexander Milinkevich, who garnered 6 percent, according to the Belarus Central Electoral Commission. The Vienna-based Organization for Security and Cooperation in Europe said about 400 observers found ``substantial empirical evidence" of fraud. The elections were not ``free and fair," the group said.

Lukashenko, in power since 1994, has been assailed by the European Union, U.S. and United Nations for jailing opposition politicians, clamping down on the media, and changing the constitution to scrap a two-term limit for the presidency.

About 10,000 people answered Milinkevich's call to assemble late today in the central October Square of Minsk, demanding that the elections be annulled. State security forces watched the throng from the roof of the Palace of the Republic, which houses the electoral commission.

``I will stay at the helm as long as the people let me," Lukashenko said earlier today in Minsk, according to Russia's Interfax news agency.

Visa Ban

U.S. officials are consulting with their EU counterparts about how best to respond to the election, McClellan said today in Washington. EU governments are likely to widen a visa ban on top Belarus officials and impose ``rigorous sanctions" on them, French Foreign Minister Philippe Douste-Blazy told a news conference in Brussels.

State Department spokesman Sean McCormack said the U.S. would take ``serious, appropriate measures" against officials who had perpetrated ``election fraud and other human rights abuses."

German Foreign Minister Frank-Walter Steinmeier said the 25-nation EU doesn't want to provoke Belarus, and possibly Russia, by taking drastic steps such as denying diplomatic recognition to Lukashenko's government.

EU diplomats ruled that out because ``such a decision could have very far-reaching consequences," Steinmeier said.

The Russian Foreign Ministry defended Lukashenko's victory, issuing a statement that said ``there is no reason to doubt the results."

Since 2004 the U.S. and the EU have imposed travel restrictions on Belarusian officials the two allies suspect are connected to politically motivated disappearances and rigged elections.

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Ties Strained

The U.S. has had strained relations with Belarus since Lukashenko came to power. Ties soured further a year later, in 1995, when the Belarus air force shot down a hot air balloon that had strayed into Belarusian air space, and killed two American citizens, according to the U.S. State Department.

Six top Belarus officials are barred now from traveling to the 25-nation EU. External Relations Commissioner Benita Ferrero-Waldner said the EU would seek ``targeted" measures to punish the leadership, possibly adding Lukashenko to the blacklist.

``Some action is now very likely," Ferrero-Waldner told a news conference. ``It will be on the visa bans for a list of people. And we have to see if any other measure will be taken." She ruled out economic sanctions because they would hit the broader population.

In Washington, U.S. House Speaker Dennis J. Hastert, an Illinois Republican, denounced the elections for what he called their ``widespread disregard for basic rights of freedom and abuse of state power."

``Our goal must be that the people of Belarus can free themselves of their Soviet past and participate in free and fair elections without fear of intimidation," he said.

EU government leaders will discuss the election at their March 23-24 summit in Brussels, and foreign ministers will consider the next steps at their April 10 meeting.

Lukashenko Scorns International Criticism (FT)

By Neil Buckley, Stefan Wagstyl, And Daniel Dombey

Financial Times, March 21, 2006

Alexander Lukashenko, Belarus' authoritarian president, declared on Monday that foreign-backed attempts to overthrow him had failed, claiming a crushing victory in elections that international observers condemned as seriously flawed.

More than 3,000 demonstrators gathered in the capital, Minsk, for a second night-time protest, as Alexander Milinkevich, the main opposition leader, continued calls for a rerun of Sunday's poll.

But the numbers were fewer than the 5,000 people who defied official threats of violence and arrest to rally on Sunday night – the biggest demonstrations in Minsk for a decade.

On Monday night about eight tents were erected in the central square for protesters planning to spend the night. Mr Milinkevich urged those who could to stay as long as possible but the protests seemed unlikely to escalate to the levels that brought about revolutions in Ukraine and Georgia.

Mr Milinkevich said opposition exit polls suggested the Belarus president won less than the 50 per cent required to secure victory in a single round of voting, though official figures yesterday gave him 82.6 per cent. The opposition said their data showed Mr Milinkevich scored 30 per cent, five times his official total.

Mr Lukashenko's victory is likely to increase the international isolation of a regime the US has labelled "Europe's last dictatorship". European Union foreign ministers denounced the elections as "neither free nor fair". Though EU ministers failed to agree on an immediate response, targeted sanctions, including broadening of existing visa bans on top Belarusan officials, as well as possible asset freezes, are likely to be agreed next month.

The US on Monday supported the opposition's call for a new election. Washington also said it would co-ordinate "serious appropriate measures" with the EU to be taken against officials responsible for election fraud and human rights abuses. A State Department spokesman said specific actions would be taken against individuals as well as the regime, but he did not say what those sanctions might be.

The Belarus poll also suggested the pro-democracy revolutions that swept Ukraine, Georgia and Kyrgyzstan had lost momentum. In recent elections in Azerbaijan, Kazakhstan and now Belarus the opposition has failed to overturn regimes accused of authoritarianism.

Diplomats and civil society groups have warned that Mr Lukashenko, in power for 12 years, is likely to use a new five-year term to crush remaining opposition and independent media. "What is important is the trend away from democracy and towards

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dictatorship and a totalitarian regime," said one senior Western diplomat in Minsk. "The significance of the election lies in the psychological impact it will have on Mr Lukashenko."

The Belarus president on Monday exuded confidence, telling a Soviet-style victory press conference the elections were "honest and free".

"The revolutionary project that was talked about and was prepared in Belarus has not happened," he said. He dismissed demonstrators in Minsk as "freaks" and said the idea of international sanctions against Belarus was "absurd".

"You can't isolate a country at the heart of Europe," Mr Lukashenko added.

But EU ministers endorsed the damning findings of the Organisation for Security and Co-operation in Europe's 476-strong observer mission. The mission's report found Mr Lukashenko had "permitted state authority to be used in a manner which did not allow citizens to freely and fairly express their will".

It said statements by the Belarusan KGB associating the opposition with terrorism and accusing it of planning a coup had led to a "climate of intimidation".

Thousands Protest Lukashenko's Victory (WT)

By Michael Mainville

The Washington Times, March 21, 2006

MINSK, Belarus -- Thousands of opposition supporters gathered for a second night of protests in central Minsk yesterday, heartened by Western condemnation of a weekend election in which authoritarian President Alexander Lukashenko was declared a runaway winner.

About 6,000 protesters -- less than the 10,000 who rallied after the polls closed on Sunday -- called for fresh elections and the end of Mr. Lukashenko's 12-year rule.

"We free people of Belarus will never recognize this election," opposition leader Alexander Milinkevich told the crowd gathered in October Square. "This was not an election. It was an anti-constitutional coup d'etat."

The opposition hopes to re-create the weeks of protests that led to peaceful revolutions in two other former Soviet republics, Ukraine and Georgia.

With overnight temperatures at 28 degrees, protesters set up a dozen small tents and vowed to turn the demonstration into a round-the-clock presence, repeating a tactic used in Ukraine. Most of the tents were draped with historic national flags favored by critics of Mr. Lukashenko, who has scrapped them for a Soviet-style version.

Protesters locked arms in a human chain guarding the tiny encampment. Others tried to bring in blankets, food and hot drinks, but often were detained by police.

Mr. Milinkevich returned to the square at about midnight to visit the campers, who were surrounded by about 1,000 supporters.

He vowed to remain with the campers, saying, "I don't have a tent, so I am going to stay on my feet," and predicted that more demonstrators would be arriving to join them.

"There has never been anything like this in Belarus," he added. "The whole world is watching us."

The protest was peaceful in spite of repeated threats from the authorities to violently suppress demonstrations. Hundreds of police and officers of Mr. Lukashenko's feared secret police -- still known by the Soviet-era acronym KGB -- watched from the sidelines or roamed through the crowd.

Mr. Lukashenko -- who since coming to power in 1994 has reintroduced Soviet-style economic and political controls on this country of about 10 million -- officially was declared to have won 82.6 percent in the vote, compared with 6 percent for Mr. Milinkevich. The president was allowed to seek a third, five-year term after a widely condemned 2004 referendum that removed presidential term limits.

Mr. Lukashenko defended his re-election as "honest and democratic," saying during a press conference yesterday that voters had shown "who's the boss" in Belarus. He also said his opponents had failed in their efforts to topple him in a foreign-backed revolution.

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"The revolution that was talked about so much has failed," he said. "You have seen our opposition, and if you are reasonable people you have been convinced that it's worthless."

The United States and the European Union, which have labeled Mr. Lukashenko "the last dictator in Europe," yesterday rejected the election results and threatened further sanctions against the government.

"The United States does not accept the results of the election," White House spokesman Scott McClellan told reporters aboard Air Force One. "The election campaign was conducted in a climate of fear. It included arrests and beatings and fraud."

Mr. McClellan warned Belarusian authorities against "threatening or detaining those exercising their political rights in the coming days and beyond."

The run-up to the election was marked by the arrests of hundreds of opposition activists, official harassment of the opposition and pro-Lukashenko propaganda in the country's state-controlled media.

Among the possible sanctions are a wider ban on foreign travel by Mr. Lukashenko and other Belarusian officials, the seizure of officials' assets abroad and the cutting of foreign aid.

The biggest Western-based monitoring group to observe the election, the Organization for Security and Cooperation in Europe (OSCE), was categorical in its condemnation of the vote yesterday.

"The March 19 presidential election does not meet the required international standards for free and fair elections," said U.S. Rep. Alcee L. Hastings, Florida Democrat, who coordinated the more than 400 OSCE observers during the vote.

Opposition Protests Belarus Vote Results (AP)

By Maria Danilova

AP, March 20, 2006

Thousands of opposition supporters gathered in the center of the Belarus' capital Monday for a second night, hoping their protest would help overturn a presidential election that the U.S. said was flawed by a "climate of fear."

The United States and the European Union called for new elections and threatened sanctions on Belarus, where the numbers of demonstrators was smaller than on election night and prospects for a Ukraine-style "Orange Revolution" seemed remote.

With overnight temperatures at 28 degrees, protesters set up a dozen small tents and vowed to turn the demonstration into a round-the-clock presence. Most of the tents were draped with historic national flags favored by critics of authoritarian President Alexander Lukashenko, who has scrapped them for a Soviet-style version.

"This is our last chance," said Vladimir Fivsky, a 20-year-old student who had wrapped one of the red-striped white flags around his shoulders and wore a pin in the same colors saying: "For Freedom!" He said came to the square to protest because he "had enough" after 12 years of Lukashenko's repressive rule.

The small but assertive move could rally others to the cause. But it could also prove unacceptable to authorities. Officials put on a show of force, with busloads of riot police fanning out into nearby streets and courtyards and preventing people from approaching the main square.

Police had only a small and unobtrusive presence at the protest the previous night, when an estimated 10,000 people braved the freezing cold and snow to register their outrage after Lukashenko was declared the overwhelming winner of Sunday's elections.

Lukashenko asserted Monday that his foes had failed to topple him in a foreign-backed "revolution."

International observers said the vote fell short of democratic standards. Europe's main human rights organization said it was a "farce," and the United States called for a new election. Lukashenko's main opponent refused to accept the outcome, calling the longtime leader an "illegal, illegitimate president."

However, the leverage of the international community seemed limited, and even many of the protesters appeared to have little appetite for a prolonged vigil and a possibly violent confrontation.

The election result, if it stands, would entrench the status of Belarus as one of the least independent of the former Soviet republics.

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Some 5,000 gathered in Oktyabrskaya Square in the capital, about half the number that came out Sunday night for a protest whose size was extraordinary in a tightly controlled country where police have cracked down swiftly on unsanctioned opposition gatherings.

The diminished crowd suggested to many that the opposition was losing momentum.

"There aren't enough people" a young man hollered into a cell phone amid the din of the rally.

But Alexander Milinkevich, the main opposition presidential candidate and symbolic heart of the protests, called on the demonstrators to gird for a lengthy campaign. He is demanding an election rerun.

"Our protest will be long and strong," he vowed. "We will never recognize this election. It's not an election but an anti-constitutional seizure of power."

The crowd thinned as hours passed, but many shared a determination to go to the bitter end.

"We plan to stay here overnight and to stay until the moment when the vote is pronounced falsified, when the authorities admit this and a new election is announced," said a 21-year-old student who gave his name only as Alexander, one of a dozen people sitting among the tents.

A few tents "may not change much, but if people lose their fear they will join us," he said.

Milinkevich visited the growing makeshift tent camp, taking sips of tea from a cup he was offered and saying: "We're together."

As the rally was about to begin, busloads of riot police streamed into Karl Marx Street near the square. Security forces in helmets and camouflage uniforms disembarked from the buses, jogged into neighborhood courtyards and prevented pedestrians from walking toward the square.

On the square, a 45-year-old woman who gave her name only as Irina said she was scared about the prospect of bloody police action, but "if Lukashenko stays in power, it will be even worse."

White House press secretary Scott McClellan said the election was flawed by a "climate of fear," and hinted that penalties such as travel restrictions "are things we will look at."

"We support the call for a new election," McClellan said. "The United States will continue to stand with the people of Belarus."

A cheer went up from the crowd in the square when a speaker reported the U.S. statement.

By contrast, Russian President Vladimir Putin on Monday congratulated Lukashenko in a telegram and said the results would help strengthen the alliance of the two former Soviet nations.

The chief electoral official said Monday that Lukashenko, who has ruled with an iron fist since 1994, won a "convincing victory" with 82.6 percent of the votes — a number Milinkevich called "monstrously inflated."

Lukashenko scorned the opposition, saying voters had shown "who's the boss" in Belarus. "The revolution that was talked about so much ... has failed," he told a nationally televised news conference.

He asserted that Sunday's protest leaders were in the pay of Western ambassadors and claimed there was no crackdown because the opposition is weak.

"Who was there to fight with? Nobody, understand? That's why we gave them the opportunity to show themselves, even though it was illegal."

But the observer mission from the Organization for Security and Cooperation in Europe said Monday that the election did not meet standards for a free and fair vote.

"Arbitrary use of state power and widespread detentions showed a disregard for the basic rights of freedom of assembly, association and expression," it said.

The EU threatened diplomatic and financial sanctions against Belarus' leaders, notably a wider travel ban.

Lukashenko said Monday he was "not afraid of further isolation." He added: "If the EU wants problems here, it will have them."

Status Quo Wins In Belarus (CSM)

By Fred Weir

DOJ_NMG_0019811

The Christian Science Monitor, March 21, 2006

MINSK, BELARUS - A triumphant Alexander Lukashenko hailed his 82.6 percent victory in widely criticized presidential elections as "the dignified choice of the Belarussian people" Monday and dismissed allegations of fraud as "provocations" by a few Western-linked political forces.

"The revolution that has been talked about for so long, and which some people have been actively preparing, has failed in Belarus," Mr. Lukashenko told a press conference in Minsk's ornate Soviet-era Palace of the Republic. During the 2-1/2 hour meeting Lukashenko tussled - in a sometimes scornful tone - with critical questioners, and repeatedly blamed hostile outsiders and "anti-Russian forces" for Belarus's image in the West as "Europe's last dictatorship."

"These elections took place under conditions of unprecedented international pressure on Belarus, and aggressive antipopular behavior from the so-called opposition such as Belarus has never seen.... But our people have shown that they are master in their own home," he said.

Life appeared to be returning to normal in Belarus, a Russian-allied industrial republic of 10 million, after a bitter election campaign that saw the arrest of over 300 opposition activists, the closure of 16 independent newspapers, and shuttering of several foreign-funded nongovernmental organizations.

Many ordinary Belarussians pronounced themselves happy with the idea of a third term for Lukashenko, who is credited with reviving the country's shattered post-Soviet economy, raising wages, and paying pensions on time. "We're doing very well here, better than most other places," says Nikolai Komash, a pensioner who said he voted "proudly" for Lukashenko. "People should appreciate what they've got, and not go out on the public square to shout and complain."

But activists for opposition candidate Alexander Milinkevich pledge to continue the protest movement they opened with a huge election-night rally in central Minsk and accuse Lukashenko of falsifying the vote to give himself a celestial majority while making the opposition appear nonexistent. Official results gave Mr. Milinkevich just 6 percent of the votes.

Speaking to reporters Monday, Milinkevich said Lukashenko's victory was "monstrously inflated." He described the election as an "unconstitutional coup" and Lukashenko as an "illegal and illegitimate" leader.

"I think it fully likely that Lukashenko got over 50 percent, but 82 percent is just unreal," says Oleg Manaev, an independent sociologist who conducts the only nonofficial opinion surveys in Belarus. "It is of some political urgency to clarify the actual vote the opposition received, which is possibly in the region of 25 percent."

Russia's 500-strong contingent of election observers praised the election as a model of democratic conduct. "There were a few technical imperfections during the elections, but no violations that could have changed the results of the vote," said Sergei Baburin, a Russian Duma deputy.

But 450 observers from the mainly Western Organization for Security and Cooperation in Europe issued a statement saying the polls "failed to meet OSCE commitments for democratic elections."

The OSCE slammed Belarus's security service, the KGB, for creating "a climate of intimidation" and "an atmosphere of insecurity" through public accusations that the opposition was planning to launch a "terrorist" coup under the cover of protest rallies on election day. The report cited arrests and harassment of campaign workers, physical assaults on opposition leaders, and coercion of state employees to vote.

Milinkevich and another opposition candidate, Alexander Kazulin, are urging supporters to continue protesting on Minsk's central square. But hopes for a repeat of Ukraine's Orange Revolution, which forced fresh elections after 12 days of mass rallies in Kiev following allegedly fraudulent presidential polls in 2004, appear to be fading fast.

"Now the harsh times are about to start," says Yaroslav Romanchuk, vice chair of the United Civil Party, one of 10 opposition parties that backed Milinkevich. "Many people fear there will be mass arrests once all the foreign observers and journalists leave Belarus. Lukashenko has crossed a line with this election, and we expect him to crack down hard on independent forces now."

Experts say Lukashenko has proven much more adept at controlling the media and hobbling the opposition than his pro-Moscow Ukrainian counterparts in 2004.

In the week before election day, Belarussian police were able to seize all copies of the country's only nonstate daily newspaper, Narodnaya Volya, and to prevent any movement of opposition supporters into the capital to take part in election-day rallies.

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"The only source of information for most people is the state media, in which Lukashenko's opponents' names are never mentioned at all - they are referred to only as 'opposition' or 'so-called democrats,'" says Andrei Bastunets, deputy chair of the independent Belarussian Association of Journalists. "People simply have no sources of alternative information."

The editor of Narodnaya Volya, Svetlana Kolinkina, says she isn't sure whether the paper will ever be allowed to reopen. "This is a police state, with tough repression against any act of protest," she says. "The longer Lukashenko stays in power, the more this country will become a reactionary black hole."

The Struggle For Belarus (WP)

The Washington Post, March 21, 2006

PRESIDENT BUSH'S new national security strategy makes the point that "though tyranny has few advocates, it needs more adversaries." The good news about Belarus's farcical presidential election Sunday is that dictator Alexander Lukashenko has acquired a few. To the long-standing enmity of the Bush administration can be added that of the Organization for Security and Cooperation in Europe, whose monitoring mission quickly judged the election as unfair and condemned the "arbitrary use of state power"; the Council of Europe, which called the ballot "a farce"; and the European Union, which said that new sanctions against Mr. Lukashenko and his regime were "very likely."

Most encouraging of all was the appearance in downtown Minsk on Sunday and again last night of thousands of opposition protesters, in spite of snow and a hail of threats by Mr. Lukashenko to break up demonstrations by force. The largest opposition gatherings in his 12 years of rule showed that there is a foundation for a Belarusan freedom movement, like those that eventually triumphed in neighboring Poland and Ukraine.

After years of tolerating a dictatorship on their borders, European countries finally are taking measures against Belarus. Visa sanctions have been applied against some officials of the regime; those now need to be extended to Mr. Lukashenko himself, and complemented with a freeze on bank accounts and other assets. The European Union has begun broadcasting objective news into the country, which could help to counter pervasive censorship. Neighbors such as Lithuania and Slovakia have been working with the opposition, which needs funding for communications and organizing.

All of this might have a decisive impact if not for the countervailing influence of Russia, which still prefers dictatorships in Europe. The new chairman of the Group of Eight -- that would be Russian President Vladimir Putin -- publicly congratulated Mr. Lukashenko yesterday, saying the election "highlighted voters' trust in your course." What of the massive manipulation witnessed by the international election observers? The Kremlin approves of it.

In fact, the G-8 chairman, who has been promoting "energy security" as a topic for discussion during the summit he will proudly host in St. Petersburg, is so pleased with Mr. Lukashenko's government that he is supplying it with gas at one-fifth the price he recently proposed to charge democratic Ukraine. That subsidy, and Russian purchases of the substandard goods of Belarusan state factories, prop up an economy barely changed from the Soviet model. The unambiguous policy of the G-8 chairman is to preserve Russia's domination of its neighbor by backing a dictator who falsifies elections, has murdered leading opponents and enriches himself through arms sales to such countries as Iran and Sudan.

That presumably won't stop President Bush and the six other leaders of Western democracies from toasting their G-8 chairman in St. Petersburg this summer. Too bad the national security strategy seems not to extend that far; Mr. Putin's emerging autocracy also deserves some adversaries.

Recent Shifts Good News For Putin, Russia (AP)

By Henry Meyer, Associated Press Writer

AP, March 21, 2006

The Kremlin may be reclaiming a dominant role in its former Soviet backyard. In Belarus, Moscow-allied strongman Alexander Lukashenko just won re-election by a landslide — at least by the official count. And President Vladimir Putin's allies could return to government in Sunday's Ukrainian parliamentary election, just over a year after the Orange Revolution.

Such developments set back Western hopes of a democratic tidal wave in the former Soviet sphere and could further tarnish Putin's democratic credentials as he tries to cast himself as a statesman capable of brokering deals with Iran and Hamas.

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For Putin, however, asserting dominance over Belarus and Ukraine appears to be part of his strategy to re-establish Moscow as a global player during his year of the G-8 presidency.

"Russia wants to restore its superpower status, and that includes putting these countries back into its orbit," said Yevgeny Volk, Moscow director of the conservative U.S think tank Heritage Foundation.

"It is seeking to reclaim its influence over the former Soviet Union, and remove that of the United States and European Union," he added.

Russia was furious at what it saw as Western encroachment on its home turf after Ukraine's November 2004 Orange Revolution — the mass protests over election fraud that brought reformist opposition leader Viktor Yushchenko to power over the Kremlin's favored candidate, Viktor Yanukovych.

Months later, the impoverished Central Asian nation of Kyrgyzstan had its Tulip Revolution, becoming the third former Soviet state within 18 months to see opposition forces topple a Soviet-era leader. Georgia's Rose Revolution started the process in 2003.

Today, however, Russia is once again on the rise as nervous authoritarian regimes from Kazakhstan to Uzbekistan — where rights groups say government troops killed hundreds of civilians in a crackdown on protesters last year — build closer ties to Moscow, partly as a way to cow opposition forces.

Even in Ukraine, disillusionment at political infighting and the economic collapse that followed the Orange Revolution have brought about a political comeback for Yanukovych, whose rigged victory in the 2004 presidential election was annulled by the Supreme Court.

Enjoying strong support in the Russian-speaking east, his party is poised to win the most seats in the new parliament and earn the right to form the government, even if it will probably need to govern in an uneasy coalition with the party of the pro-Western Yushchenko.

"The West's influence that triumphed in the color revolutions has clearly become a dead end for these nations," said Sergei Markov, a Kremlin-connected political analyst. "In Georgia, Ukraine and Kyrgyzstan, people live worse, not better than before."

By contrast, in Belarus, whose authoritarian president is shunned by Western nations as Europe's last dictator, cheap supplies of Russian gas provide a vital lifeline to the inefficient, state-dominated economy.

Analyst Alexei Malashenko of the Carnegie Moscow Center think tank said on Ekho Moskvy radio that while the Kremlin sometimes had tense relations with Belarus, its greatest interest lay in preserving the status quo in Minsk.

He also said that despite loud Western criticism of the Belarus election, there was no serious attempt to help pro-democratic forces, as happened in Ukraine.

"There was a strong fight for Ukraine, but no one fought for Belarus," Malashenko said.

Analysts agree that Russia's trump card in the region is its immense energy resources. They ensure that despite pro-Western inclinations, both Georgia and Ukraine remain dangerously dependent on their larger neighbor.

A pipeline explosion that cut off Russian supplies to Georgia this winter left millions shivering in their homes — provoking accusations from the tiny U.S.-allied Caucasus Mountain state that Russia was deliberately trying to force it to its knees.

Ukraine meanwhile had to swallow a twofold increase in gas prices after a bitter New Year's dispute that saw Moscow turn off the gas taps.

"Russia is using strong economic levers. With the growth of oil and gas exports it has become much richer than it was in the 1990s and it is translating this economic might into political influence and power," said Volk.

At the center of the Russian policy in the region is a determination to resist the West's efforts to boost its influence at Russia's expense, in what Moscow says is falsely portrayed as a bid to promote democracy.

Russia on Monday accused the United States of trying to enforce its vision of democracy on others, angrily rejecting President Bush's criticism that the Kremlin has rolled back freedoms.

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EDITOR'S NOTE — Associated Press Writer Henry Meyer has covered the former Soviet republics since 1999.

Putin To Discuss Oil Pipeline With Chinese (AP)

DOJ_NMG_0019814

By Mike Eckel, Associated Press Writer

AP, March 21, 2006

Russian President Vladimir Putin arrived Tuesday for a visit to China that is to include talks on building a pipeline to deliver Siberian oil to fuel China's booming economy — and his fifth meeting in under a year with the Chinese president.

With China's wealth and might on the ascendancy, Putin's meetings with Chinese President Hu Jintao and other officials are expected to be spectacles of symbolism and overtures to Russia's gigantic neighbor.

Officials in both Moscow and Beijing are looking to spur new investment between the former Cold War adversaries and double last year's $29 billion in trade by 2010.

Both Tokyo and Beijing — a leading buyer of Russian oil and gas — have maneuvered hard for the best routing of the 2,550-mile East Siberian-Pacific pipeline. For now, China imports all Russian oil by rail.

China is also Russia's top customer for military weaponry and equipment.

The two countries have also moved to deepen political ties following years of Cold War suspicion. Both have pledged commitment to a "multipolar world" and last year warned other nations against attempts to dominate global affairs and interfere in sovereign nations' domestic matters.

In an interview with China's official Xinhua News Agency, Putin gave a veiled warning over U.S. policies to encourage democracy in the former Soviet republics, saying that attempts to "forcibly export democracy and impose cultural standards and values" result in conflicts.

"We do not impose our viewpoints by force, we never 'flex our muscles', but instead we consistently advocate political and diplomatic approaches to the settlement of conflicts," Putin was quoted as saying.

Last week, the Bush administration released a foreign policy review that expressed dismay at rollbacks in democratic reform in Russia and warned China against denying personal and political freedoms.

In August, the two countries held unprecedented military exercises, underscoring how far the two former adversaries had come since the 1960s, when they fought border skirmishes.

Chinese Assistant Foreign Minister Li Hui said last week that the two sides will also develop five military projects to highlight "friendly cooperation." He gave no details.

Putin and Hu are also expected to discuss disputes over the Iranian and North Korean nuclear programs.

Russia and China, both veto-wielding members of the U.N. Security Council and longtime supporters of Tehran, want a more cautious approach to reining in Iran's nuclear ambitions. Russia has offered to process uranium for Iran in an attempt to break a stalemate in negotiations.

Russia and China are also participants of six-nation disarmament talks on North Korea's nuclear programs, along with the United States, Japan and South Korea. Negotiations have stalled due mainly to a dispute over U.S. sanctions against North Korea's alleged currency counterfeiting and money laundering.

Russia's Putin To Tackle Energy During China Visit (FT)

By Richard McGregor And Andrew Yeh

Financial Times, March 21, 2006

Vladimir Putin, Russia's president, arrives in China on Tuesday for a visit that Beijing hopes will secure it a decisive advantage over Japan in their lengthy battle to secure the route of an oil pipeline from east Siberia.

Despite booming bilateral trade which reached $29.1bn in 2005, up 37 per cent year-on-year, an energy-hungry China has been increasingly frustrated by Russia's prevarication over various oil and gas deals.

Beijing was angered when Moscow abrogated a 2003 agreement to build a pipeline to Daqing, China's oil capital in the north-east, after Tokyo offered a more attractive financial package to re-route it to a Russian port.

Although the Daqing route is shorter and cheaper, the Japanese proposal gave Russia more options to market the oil throughout north Asia and ensure it did not become totally dependent on China.

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However, the pendulum may be swinging back Beijing's way, with China National Petroleum Corp, the country's largest energy company, expected to sign an investment agreement during Mr Putin's two-day trip with Transeft, Russia's oil pipeline monopoly.

"We are full of confidence that the branch pipeline will be built," said Chen Gang, the CNPC chairman, in an interview with the Russian media before the visit.

One possible compromise that has been discussed would see the pipeline go through Daqing to the Chinese port of Dalian, from where the oil could be shipped to South Korea or Japan.

The absence of any pipeline between the two countries means that Russia oil imports, which account for about 5 per cent of China's total foreign purchases, have to come in on an overloaded rail system.

Sergei Razov, Russia's ambassador to Beijing, said in comments before the visit that "energy cooperation was progressing smoothly" and that the pipeline project was being negotiated.

"It's a large-scale project of great vision that requires a high level of investment," he said in a pointed reference to Russia's demand that China pay for most of the project's construction cost.

Mr Razov said Mr Putin's visit takes place when Sino-Russian relations were at "their best time in history."

However, many Chinese officials and commentators are critical about how the warmth in ties between Mr Putin and Hu Jintao, China's president, and other top leaders, have not translated into concrete co-operation.

The Chinese media has characterised the relationship as "hot on the top but cold on the bottom."

"The impetus that improves bilateral relations appears weak due to a lack of communication and understanding and even a misunderstanding between people of the two countries," said the Oriental Morning Post newspaper in Shanghai.

The two sides may also discuss possible gas sales by Russia, but such talks are not expected to progress very far as long as energy regulations in China keep the domestic price lower than the international price, making any such imports uneconomic.

Mexico Weighs In On Migration (DMN)

By Michelle Mittelstadt

The Dallas Morning News, March 21, 2006

WASHINGTON – Worried by the sometimes harsh tone of the immigration debate unfolding in the U.S., the Mexican government on Monday took its message directly to the American public: As your neighbor, we want to work with you to fashion a solution.

In full-page ads in The New York Times, Washington Post and other newspapers, the Mexican government acknowledged a shared responsibility to address illegal immigration and to stem its citizens' northward exodus by creating more jobs at home.

While continuing to press for a guest worker program that would confer legal work status on millions of Mexicans living illegally in the U.S. – a long-held goal for Mexican President Vicente Fox – Mexico is now outlining its responsibilities. Among them: enforcing its own migration laws; combating human smuggling and criminal networks; securing its southern border; and promoting the return of Mexican émigrés.

For its part, the ad says, the U.S. should allow Mexico to participate in the "design, management, supervision and evaluation" of a guest worker program that should cover "the largest possible number of workers and their families" currently in the U.S. illegally.

The ad campaign, designed by Dallas-based Allyn & Co., reflects a migration resolution approved in February by the Mexican Congress.

"We thought it was about time to have the American people looking firsthand at what's our position on these issues that are so sensitive and important for both countries," Mexican Ambassador Carlos de Icaza said Monday.

"Our message to the American people is that we are your neighbors, we are your friends, this is a common challenge, and we are part of the solution, not only part of the problem," Mr. de Icaza said.

The public relations effort comes as Congress is grappling with the question of how to treat the 11 million to 12 million illegal immigrants living in the U.S. – more than half of them Mexican.

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While some lawmakers favor giving illegal immigrants work permits and placing them on a path to eventual citizenship, others are pressing for heightened immigration enforcement that would pressure many unauthorized workers to leave the country.

The Senate Judiciary Committee appears poised next week to approve a guest worker program – setting senators on a collision course with the House, which in December approved a tough enforcement-only approach that was silent on President Bush's call for a temporary worker program. With a wide philosophical chasm between the chambers and within the Republican Party, the chances of an immigration accord this year are slim, many experts say.

The Senate immigration subcommittee chairman, Texas Republican John Cornyn, pressed Monday for a comprehensive immigration accord including increased enforcement and a guest worker program.

Failure to do so would increase the dangers posed by drug- and human-smuggling networks and leave the country vulnerable to terrorism, Mr. Cornyn said in a speech to the World Affairs Council of Dallas/Fort Worth.

"I am not against immigration, I am against illegal immigration," Mr. Cornyn said.

The Mexican ambassador voiced concern with the tone of the immigration debate, which has proved to be a hot topic on talk radio, cable TV news shows and in public forums.

"It's a very emotional debate. And sometimes the debate is encouraging, but on other times, it's discouraging," Mr. de Icaza said. "So we thought it was about time to directly make known which is our position in black and white, written on paper."

In a speech Monday in Cleveland, Mr. Bush renewed his case for a guest worker program matched with tougher border enforcement and sanctions on employers who hire illegal workers.

Asked about immigration during a question-and-answer session, Mr. Bush said the debate "can get harsh."

"My call for people is to be rational about the debate and thoughtful about what words can mean during this debate," he said.

Mr. Bush, Mr. Fox and Canada's new prime minister, Stephen Harper, meet at the end of the month in Cancún, Mexico, to discuss security and economic issues.

Morgan's Chief Economist Warns Against Tariffs On Chinese Imports (WSJ)

By Jason Dean

The Wall Street Journal, March 21, 2006

BEIJING -- Morgan Stanley Chief Economist Stephen S. Roach said Tuesday that a successful move by the U.S. Congress to pass sweeping tariffs on imports from China would be "close to economic suicide" for the U.S.

U.S. Senators Charles Schumer (D., N.Y.) and Lindsey Graham (R., S.C.) have proposed a bill that would impose 27.5% tariffs on all Chinese imports unless Beijing sharply revalues its currency. The senators, who are in China this week, have argued that Beijing keeps the yuan's value artificially low, making its exports unfairly cheap and exacerbating a huge U.S. trade deficit with China. A vote on the bill could come next week.

Mr. Roach, in Beijing for meetings with Chinese officials, told reporters Tuesday that he believes that bill would easily pass in the Senate, and could well pass in the House of Representatives as well. He also said he believes the U.S. Treasury Department appears increasingly likely to label China a currency manipulator during an upcoming review.

He said the tariffs proposed by Sens. Schumer and Graham would be a "horrible mistake" that could prompt Beijing to cut back on purchases of U.S. treasuries, leading to a weaker dollar and higher interest rates.

"I do think that the political climate with respect to U.S.-China trade tensions is as bad as I have ever seen it," said Mr. Roach, who said he's been observing the bilateral relationship for two decades. "At a time when the U.S. is more dependent on foreign capital than ever before, to impose tariffs not just on a major provider of goods, but a major lender of capital, I think would be close to economic suicide."

French Protesters Set Strike Date (NYT)

By Craig R. Smith

The New York Times, March 21, 2006

DOJ_NMG_0019817

PARIS, March 20 — French students and unions stepped up pressure on the government today, calling for more demonstrations culminating in strikes next week to fight a hotly contested new labor law that makes it easier for companies to fire young employees.

The protesters set March 28 as the fourth "day of action" since street rallies over the new job rules began Feb. 7.

"There was a consensus from the beginning," said Coralie Caron, head of a federation of high school students. "The 28th is going to be like a very large protest everywhere in France."

President Jacques Chirac repeated calls for dialogue between the government and opponents of the law, saying the new edict could be "improved."

Prime Minister Dominique de Villepin, meanwhile, met with business leaders, unemployed youths and students in an effort to find a way out of the impasse that threatens to cripple his political career. The business leaders warned against any roll back in the legislation, saying that could slow the revamping of the nation's labor markets for months, if not years.

But the government hinted at some room for negotiation.

"He is ready to go further than this," a spokesman for Mr. de Villepin said today. "If there are proposals from the unions, he is ready to study them."

The battle over an incremental change in the country's social contract is emblematic of the overwhelming challenge facing much of Western Europe as it tries to loosen rigid labor laws and trim costly entitlements that have built up in the decades since their hybrid capitalist-socialist economic systems emerged after World War II.

Governments recognize the need for fundamental change, particularly as their societies age and the burden of pensions and health care balloon. But few have the political will to force those changes on their societies.

So far, Mr. de Villepin has rebuffed calls to revoke the law. Yet he hasn't demonstrated the iron hand of Margaret Thatcher, who broke the control of British unions and pushed for a more flexible labor market in order to create a competitive Britain.

The French unions have refused to cooperate with Mr. de Villepin.

"For now, the unions reject the government's conditions for a dialogue," said a representative of the C.F.T.C., one of the country's union syndicates, adding that both the unions and the students are demanding that the new contract rules be suspended before talks with the government begin.

"Without this condition, we won't do anything," the union representative said.

Though French unions account for less than 10 percent of the country's work force, their concentration in the public sector, particularly in transportation, gives them the ability to wreak havoc on daily life, putting enormous pressure on the government.

Mr. de Villepin has made three proposals "within the framework of the law," according to his spokesman, who said that rescinding the law, as demanded by student and union leaders, is not really possible.

Those proposals, meant to soften the impact of the new contract rules, include designating a mentor for young employees hired under the new law, a six-month review to give those employees a sense of how they are doing, and free training if they are fired.

"We have to give the C.P.E, a chance," Mr. de Villepin said in an interview with the monthly student magazine, Citato, published today. He was referring to France's "first employment contract," known as C.P.E.

"Everybody knows it's impossible to continue with this model, but nobody in France has found a solution to respond to the problem," said Jean-Daniel Levy, a director at Paris-based polling company CSA. "What they've been able to do is define what they don't want, but they have trouble saying what it is they want."

The new law, passed by Parliament earlier this month, would allow companies to hire people under 26 for a two-year trial period, during which the young workers could easily be fired. It is intended to open up full-time jobs for people entering the work force.

Because of France's heavily regulated labor market, many companies now prefer to hire temporary workers rather than risk putting on the payroll inexperienced people they would not easily be able to lay off. As a result, unemployment among the youth is more than double the national average of about 10 percent. Joblessness is even higher among the second-generation immigrant youth who were behind widespread rioting last fall.

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The standoff threatens to weaken Mr. de Villepin, a diplomat and poet, at a time when he wants to be consolidating power for next year's presidential elections, which he hopes to win. Already, his approval rating has plunged to the lowest level since he took over the job last May.

A survey last week by CSA found that two out of three French people are against the labor law.

The Decline Of France (WSJ)

The Wall Street Journal, March 21, 2006

The right to assemble is a pillar of free society. But in France it's the only pillar its citizens seem to take seriously. So much so that any public debate of import gets conducted in the streets rather than through the ballot box or institutions of a purportedly mature democracy.

In less enlightened societies, as opposed to the birthplace of the Enlightenment, that's usually called mob rule. But the violent street demonstrations roiling France's cities today, and the unhappy career prospects of Prime Minister Dominique de Villepin, are the latest symptoms of an ailing democracy.

The troubles began with student unhappiness about a new "First Job Contract" law, adopted by the National Assembly two weeks ago. They grew into a protest movement once the unions joined in. A nationwide strike has been called for next Tuesday. The merit of the new law isn't the issue here. One can hate the new law as well as the tactics employed by the mobs to kill it. The bill is designed to reduce the youth jobless rate of 23%. But if France wants to reverse a 30-year pattern of low growth and high unemployment, it needs to tear down labor law barriers across the board, not just for people under the age of 26.

Reasonable people could have had a spirited debate about this policy. So why didn't they before the jobs contract became the law of the land? Parliaments and elections exist so complicated issues can be digested and decisions calmly taken. France went from little discussion to protests in central Paris, blockades at the Sorbonne and a rampage through a McDonald's restaurant. That's "civic discourse"?

The masses on the streets reply that this is the only way to fight a sclerotic political system, and the claim isn't without merit. MPs and the president face voters only every five years. The National Assembly is notoriously unresponsive to voter concerns, though the chicken-and-egg problem is that citizens don't bother even to try to sway their representatives. The jobs bill was pushed through using a special procedure that allowed for little debate or amendment. It is the brainchild of Mr. de Villepin, an official chosen by party rule and heir apparent to deeply unpopular Jacques Chirac.

The roots of the problem go back further. The French have never shied away from guillotining aloof rulers, from Louis XVI to, more figuratively, Charles de Gaulle. Lesser men have fallen to nationwide protests, and Mr. de Villepin may be next. All these small revolutions were inspired by the French Revolution, but France never managed to establish a political system both durable and flexible.

How instructive it would be to send Alexis de Tocqueville through France today. He'd find dependence on the state and the absence of individualism, symbolized by the low levels of private charity and civic engagement. He would not find the bounty of groups and lobbies of healthier democracies. "In every case, at the head of any new undertaking, where in France you would find the government," Tocqueville's "Democracy in America" asserts, "in the United States you are sure to find an association."

Yes, the banners of student groups add color to the street demonstrations. But look closer. The force with real bite is the public-sector employee unions. Blue-collar workers long ago abandoned the union movement, leaving civil servants who, like Charles de Gaulle once said of France's cosseted farmers, are desperate to hold on to their "mediocre but secure" posts.

The government workforce -- one-quarter of the population -- can terrorize the majority by stopping the trains or turning off the electricity. In other words, the state funds its own opposition, which torpedoes even modest efforts to modernize France. By marching with the public-sector unions to defend this status quo, the boys and girls of the Sorbonne are saying they want to be "mediocre but secure," too. What a dream for a 20-year-old. And a useful warning to Americans about the danger of giving public-sector unions too much power as well.

In its post-Revolutionary history, France has been characterized simultaneously by instability and immobility. In the 217 years that America has lived under a single Constitutional order, France has been ruled by 10 different regimes. Yet the France of

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de Gaulle's "Fifth Republic" has had fewer leaders -- five -- than the Soviet Union did by the time of its dissolution in 1991. Stability and dynamism are surely a better formula for a successful state. And the only proven way to get there is a stronger democracy.

Nicolas Sarkozy, a presidential candidate, wants to make the president more directly accountable by removing the rule against his speaking before the Assembly. Others are calling for a new constitution to replace the current one, which was designed in the troubled days of 1958. A real parliament would help. France's growing protests make the case for a constitutional rethink. When the thousands on the street assert the right to make laws for the millions, a country loses its right to call itself a "democratic republic."

Soft Landing For The Danish, A Job Loss Can Be Learning Experience (WSJ)

By Marcus Walker

The Wall Street Journal, March 21, 2006

HJORRING, Denmark -- After graduating from high school, Susanne Olsen spent 10 years at the local slaughterhouse hacking ham off dead pigs. It was arduous, unskilled work that left her ill-equipped for most other jobs.

Then the slaughterhouse closed down last year, leaving 500 people without jobs in a small town that had recently lost its biscuit factory and its mobile-phone factory. All three employers were striving to cut their labor costs amid rising competition from low-wage Eastern Europe and Asia.

But unlike millions of laid-off workers in similar circumstances elsewhere in Europe, Ms. Olsen was sure she was going to find a new job. Now she's an apprentice golf landscaper, with her salary subsidized by the state while she takes four years of training paid for by the government and her new employer. "I miss my old colleagues, but I don't miss the pigs at all," Ms. Olsen says.

Most of Western Europe is fighting to hold on to its traditionally strong job protections while in some cases cutting jobless benefits, as the region struggles to compete in a globalized economy. Denmark has gone the other way.

The government allows liberal hiring and firing as in the U.S. And it has imposed limits on the duration of its high unemployment benefits. But it also invests more than any other country, as a percentage of its gross domestic product, in retraining the jobless -- a combination it calls "flexicurity." Its unusual mix of the free market and big government has helped Denmark cut its unemployment rate in half, from about 10% in the early 1990s to U.S.-style levels of under 5% now. The economy has been relatively robust, growing 3.4% last year. Meanwhile, France and Germany are at or above the Danish jobless rate of a decade ago.

Even though Danes are among the most easily laid-off workers in Europe, polls show the country's workers are the most secure about their future. The European Commission now holds up Denmark as a model for other countries to try to follow. Politicians from other EU countries have made numerous study trips to Copenhagen. France has cited Denmark as a model for its own more modest labor-law reforms, which in recent days have touched off mass public protests.

Meanwhile, Danes change jobs more frequently than any workers in the developed world except Americans and Australians, says the Organization for Economic Cooperation and Development. But fewer than 10% say they're concerned about job security, compared with nearly 40% in Germany and more than 60% in Spain. Most Danes believe they can always find work in their fluid labor market. In the interim, they get security from a dole that replaces up to nine-tenths of their last wage, the highest level in Europe.

Critics say the experiment might not be easy to replicate. For one thing, Denmark is small, with just 5.4 million people. And close-knit Scandinavian countries historically have had a higher tolerance for taxes. The system isn't cheap: Denmark spends about 4.4% of its GDP every year on supporting and retraining the jobless, the most expensive labor-market policy in the world. That and Denmark's other welfare generosity keep income taxes sky-high. Tax revenues take up half of gross domestic product, second only to Sweden.

Not everyone benefits equally. Annabeth Garvold, a university graduate who was jobless for much of 2003, says the state computer-training course she took was too basic to be useful, though the program did place her in three months of subsidized work at a tech company, through which she found a job. Workers retrained for new industries also aren't guaranteed to find

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salaries as good as their old ones. Ms. Olsen's golf-course wage, which started at $20 an hour, won't rise as high as the nearly $30 an hour she made butchering pigs, she says.

Meanwhile, immigrants, including many Muslims, have significantly higher unemployment rates and are unemployed for longer than the native-born, just as in other European countries. Such tensions boiled over when a Danish newspaper published provocative cartoons of the prophet Muhammad, a controversy that has become global.

Denmark has long been accustomed to flexible hiring and firing, agreed between unions and employers back in 1898 in exchange for unions' rights to organize and strike. Rising prosperity in the post-World War II era allowed the state to pay generous benefits to the jobless, the sick, early retirees, parents, and anyone who wanted to take a break from work.

But by the early 1990s, Denmark, like many European welfare states, found itself supporting a rising number of working-age people who lived comfortably on welfare and had little incentive to find jobs. Social problems grew: The children of the unemployed grew up to be unemployed. "Welfare dependency developed into a social state of mind," says Helle Seerup, a labor-market expert at the Danish trade union confederation.

In 1994, the center-left government of Prime Minister Poul Nyrup Rasmussen scrapped indefinite benefits for the unemployed, who suddenly faced state pressure to actively seek work. The prime minister's close ties to trade unions helped him to win acceptance for the change.

The present center-right government, under Prime Minister Anders Fogh Rasmussen, has tightened the system further. If a person hasn't found work after a year, their consultant "activates" them, proposing specific training or work experience -- and reducing benefits if they don't comply.

Denmark's different regions run the policy with variations, constantly experimenting and tweaking the system as officials learn what works. The nationwide success rate: About two-thirds of Danes who are laid off have a new job within a year, say labor-market specialists.

The state is so determined to get Danes off the dole that it sometimes designs and funds entire new college courses just to fill a small number of jobs. In the cramped corridors of the Public Employment Service for the Copenhagen area, labor consultant Kim Jorgensen has arranged for a business school to run three courses in the past three years in how to program the business software system Microsoft Axapta, at a cost of $160,000 to the taxpayer. In total, 16 unemployed people were trained this way to fill specific vacancies.

Mudassar Qureshi, 28 years old, couldn't find a job when he graduated from university two years ago. He says his computer-science diploma was too general for employers, who wanted specialists. The Axapta course led to a job at a local software company, HOB Business Solutions, which taught part of the course. For the first half-year at HOB, almost 40% of Mr. Qureshi's starting salary of $3,700 a month was paid by the state. The subsidy led HOB to hire two subsidized trainees instead of one expensive veteran. "It helped to bridge the mental jump of taking on two guys who are inexperienced," said the company's chief executive, Hasse Bergman.

In the same cramped Copenhagen building as the consultants, Kirsten Thomsen prepares the "bottleneck analysis" that makes Denmark's peculiar hybrid possible, in which a big, active government helps the free labor market to flow better. Every three months, Ms. Thomsen has the U.S.-based polling firm Gallup survey employers in the Copenhagen area on what jobs they will need in coming years, and uses the feedback to identify the next labor shortages. Right now they're short of lots of skilled workers, from hospital X-ray technicians to "smorrebrods maids" -- women who prepare Denmark's traditional version of the smorgasbord.

The consultants who deal directly with unemployed people use her reports in picking training courses for individuals. "In our system, we can make supply and demand match," Ms. Thomsen says.

The true test is how the system deals with low-skilled, manual laborers in declining industries. The staff at Ms. Olsen's slaughterhouse in Hjørring, in Denmark's thinly populated far-north, tried hard to persuade the plant's owner, Danish Crown, to keep it open. They even released a protest song called "You Can't Slaughter Us," which made it onto national TV, and features 200 burly meatpackers in blue overalls singing en masse with a rock-band backing.

But Denmark's easy layoff rules meant the plant was doomed. Local workers cost the company more than $32 an hour. Rival German slaughterhouse labor costs only $16 an hour, while Polish workers cost only $6 an hour, according to Danish

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Crown. Even German slaughterhouses increasingly use migrant Polish meatpackers to keep their costs down. In recent years Danish Crown has opened two slaughterhouses in northern Germany, at which it employs teams of Poles.

Finding new work for the 500 laid off at Hjørring in the May 2005 shutdown was a double challenge. Most of the workers didn't want to leave their home town. Danes are very rooted people, says Jan Winther, Danish Crown's director of human resources: "If a new job is more than an hour away, Danes say it's too far." In addition, the meatpackers weren't qualified for new employment, says Jim Jensen, a negotiator for the Danish foodworkers' union NNF. "Slaughterhouse workers are not skilled, except that they can get up early and work hard," he says.

Danish Crown went beyond state requirements and paid shop steward Jorn Katballe to stay at Hjørring for a year and help his laid-off colleagues find new jobs. To Mr. Katballe, the task seemed huge at first. "People who've given 20 or 30 years and they've not learned anything else, it's difficult to get them out into the real world," he says.

Standing before the desolate single-story redbrick slaughterhouse, Mr. Katballe looks mournfully at the boarded-up gap in the wall where the pigs used to be brought in. "Normally, by this time in the morning, there were hundreds of people around," he says. He's still up at 5 a.m. each day himself by habit of his old job. "It's like a light in my head that goes 'ding,' " he says.

Despite Hjorring's spate of large-scale factory closures, new vacancies keep appearing in Denmark's flexible labor market. Working with the public-labor consultants, Mr. Katballe has been sending his ex-colleagues in ones and twos to new employers.

Where qualifications are lacking, the state pays for courses at vocational colleges, often sharing the cost with a new employer, and in a few cases even with help from the old employer, Danish Crown. The company invested $9,800 to pay for a one-year diploma in hairdressing for a female former employee. Hairdressing was not on public officials' list of job bottlenecks, but there was a vacancy in town.

In most cases the Public Employment Service was willing to pay for new qualifications because of the scale of the town's layoffs. Two of the former meatpackers, including Ms. Olsen, have ended up working at golf courses. Another became a carpenter. Several have gone to work in Denmark's large wind-energy industry. Two were trained as oil workers on North Sea platforms. Others have become gardeners, security guards, and even computer technicians

Finn Larsen, 46, is training to be a school teacher in math, physics, chemistry and sports. His former job was to slit pigs' throats with knives. "It was tough work on the slaughter line, but we had a good team spirit," Mr. Larsen says.

Even though he will be 49 when he qualifies as a teacher, the state agreed to pay for his books and other costs at Hjorring's teacher training college. The state is paying Mr. Larsen benefits of $2,400 a month for four years to help support his family while he retrains. Although there are no vacancies in Hjorring now, other teachers' retirement will create a shortage by 2009, according to labor officials' bottleneck analysis for the area.

Since becoming a meatpacker 12 years ago, Mr. Larsen has had little use for math, other than helping his two daughters with their homework. "Of course I am a bit rusty," he says. But Mr. Larsen is already being deployed in schools as a trainee teacher, recently teaching algebra to 14-year-olds for several weeks' work experience.

Ten months after the slaughterhouse closed, some 300 ex-workers have found new professions in addition to the 80 who got other jobs as meatpackers. Others from Hjørring are in full-time education, or chose retirement where close to the age of 60. Today, only 60 of the 500 laid-off workers from Hjørring are still on unemployment benefits.

Britain Moves Toward A Ban On Secret Loans (WP)

By Mary Jordan

The Washington Post, March 21, 2006

LONDON, March 20 -- The government of Prime Minister Tony Blair on Monday proposed banning secret loans to political parties to try to end a financing scandal blamed for sending Blair's popularity ratings to record lows.

Charles Falconer, the cabinet minister in charge of the judiciary, said he would immediately seek to amend campaign finance laws to force political parties to disclose who lends them money. "The system has not been cleaned up enough and we need to change it," he said.

Blair's Labor Party said Friday that it had accepted loans worth more than $24 million from unidentified donors. Under British law, political parties must disclose the source of donations, but they do not have to declare the source of loans.

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Blair has been badly hurt by recent disclosures that several wealthy businessmen who privately lent money to his campaign were then recommended for seats in the House of Lords, the upper house of Parliament.

The appearance that seats in the House of Lords were up for sale -- an allegation Blair has denied -- has caused critics to call his government as sleazy as the Conservative government of former prime minister John Major, which Blair ousted in 1997.

Back then, Blair promised to run a government "purer than pure," a statement that increasing numbers of critics are throwing back at him.

Noticeably quiet in the debate has been the opposition Conservative Party, which also appears to have benefited from secret loans from wealthy supporters. Some analysts here said Blair sanctioned the lending simply to keep pace with money the Conservatives were receiving.

Challenged by Labor officials, Conservatives have not yet announced how much money in undisclosed loans the party received last year, nor have they listed the donors.

Thomas Strathclyde, the Conservative leader in the House of Lords, said Monday that the government's move to change the funding rules now was like a burglar "caught in a back garden with a bag of swag, saying he only wanted to polish the silver."

"I have no sympathy at all for the prime minister and his coterie of cronies who are at the heart of this affair," Strathclyde said. "They have dragged politics, their party and sadly this house into disrepute."

Other conservatives joined Labor in seeking new transparent campaign financing rules.

The Labor Party on Monday decided to make public a list of wealthy donors who lent money to its campaign. The list included a $4 million loan from property developer David Garrard, and $3.5 million loans from retail magnate Richard Caring and from Trade and Industry Minister David Sainsbury. Sainsbury is a member of one of the country's wealthiest families, which owns a supermarket chain.

The loans were ostensibly to be paid back, but critics contended that they would quietly be turned into donations.

Two polls published Sunday offered more bad news for Blair.

A YouGov poll for the Sunday Times put Blair's personal approval rating at 36 percent -- its lowest point in his tenure. A separate poll commissioned by the Sunday Telegraph indicated that 73 percent of voters believe Blair's government is "as sleazy or sleazier" than Major's.

The scandal has added fuel to the public debate about when Blair, now in his ninth year in office, should step down.

The prime minister has declared that he will not seek a fourth term and indicated that he wants Gordon Brown, his chancellor of the exchequer, or finance minister, to succeed him. In recent months, there has been growing speculation that Blair will resign to turn the office over to Brown well before 2010, the latest year in which the next election could be held.

A poll for the BBC, released Monday, showed that 50 percent of British voters want Blair to quit either right away or within the next 12 months.

An editorial in the Guardian newspaper, a longtime supporter of Blair's party, said Monday that the prime minister "should go this year."

"Undercover loans from uncertain sources degrade him both personally and politically," adding to his other missteps, including the Iraq war, which is extremely unpopular among the British public, the editorial said.

Rodney Barker, a political scientist at the London School of Economics, said Blair's current problems "make it more likely he will go sooner than later."

Drawing a comparison to lame-duck presidents in the United States, Barker said he saw Blair as a "molting prime minister who is losing a few more feathers every day."

Barker said the loan scandal has hurt Blair, but the Iraq war hurt him more.

"I wouldn't be surprised if he went this summer," Barker said. But he added that history has shown that leaders worldwide tend to want to "hang on and on and on."

Thai Leader Digs In As Protest Swells (WP)

By Alan Sipress

The Washington Post, March 21, 2006

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BANGKOK -- For several weeks, Thai Prime Minister Thaksin Shinawatra has faced nightly demonstrations demanding his ouster. Tens of thousands of protesters have crowded into the capital, joining ranks with brown-robed monks, Chinese opera performers and tribal children in colorful costumes.

Set initially against the towers of the Grand Palace and more recently outside Government House -- the princely villa the prime minister uses for his offices -- the spectacle so far has remained peaceful, though the potential for violence is growing as Thaksin refuses to budge.

No matter what the outcome, the persistent protests have marked a stunning reversal of fortune for Thaksin, a cellular telephone and marketing tycoon who attained such popularity during his first term that he was reelected in a landslide just last year.

"We're in uncharted territory," said Abhisit Vejjajiva, the leader of the opposition Democrat Party. "This is the first time we've seen mass protests concerning the legitimacy of a person who's been elected."

Simmering discontent, particularly among Bangkok's middle class and intellectuals, turned to outrage two months ago after Thaksin's family sold its controlling interest in the Shin Corp. telecommunications empire to a Singapore investment company for $1.9 billion. Critics said Thaksin, already the country's wealthiest man, had improperly used his influence to enrich himself.

To calm the uproar, Thaksin has called snap elections for April. Meanwhile, even though the kingdom's electoral system remains healthy compared with most in Southeast Asia, its cultural and political divisions have plunged Thailand into crisis.

In the largely impoverished countryside, Thaksin's populist policies have brought him tremendous loyalty. But in Bangkok, the modern capital, many people expect more from democracy than elections. Thaksin's foes accuse him of progressively undermining the parliament, mass media and other checks on his power.

Opposition parties, deeming elections a losing proposition, have announced a boycott of the vote. At the same time, the anti-Thaksin protests have gained momentum since the prime minister's onetime mentor, Chamlong Srimuang, moved to the forefront.

"In this country, we expect ethics from our prime minister," the ascetic former general said during a recent rally. Chamlong introduced Thaksin to politics after leading a 1992 popular uprising against military rule. Now he heads the Dharma Army, associated with a Buddhist splinter group, and dresses in simple blue garments.

"Because of me, he can be prime minister right now," Chamlong continued. "I have to take responsibility to solve this problem for my nation."

Thaksin insists that Thailand's constitution lays out a clear solution in the form of a popular vote. His aides, while clearly taken aback by the extent of the uprising, blame it on old-time politicians and public employees embittered by government reforms.

"The opposition should come back and play the game and join the election. You have to accept the rules," said Suranand Vejjajiva, a minister in Thaksin's cabinet.A Falling-Out

For years, Thaksin has been accustomed to scripting his own dramas. In the fall of 2003, Thailand hosted the presidents of the United States, Russia and China at the Asia-Pacific Economic Cooperation summit in Bangkok, and Thaksin welcomed them in grand style.

As dignitaries from 21 countries watched, a nighttime procession of 50 royal barges floated down the Chao Phraya River, rowed by 2,000 oarsmen. Across the river rose the illuminated facade of the Grand Palace and its glittering temples. Monks chanted, and hundreds of lanterns drifted skyward.

"All the world's leaders were captivated by Thai history and by the Thai leader," said Thitinan Pongsudhirak, a political analyst at Chulalongkorn University. "Thaksin was sky-high. He was untouchable at home and seen as bold and credible abroad."

Thailand's economy was among the fastest-growing in Asia, and Thaksin declared that the country would be a benefactor to its poorer neighbors in Indochina. By the end of 2003, President Bush had officially recognized Thailand as a major non-NATO ally. But within months, cracks appeared. A Muslim insurrection in southern Thailand erupted, and the government seemed at a loss how to respond.

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Thaksin's deftness after the December 2004 tsunami led to his decisive reelection, but grievances continued to mount. Detractors criticized the military's brutal response to the insurgency and official efforts to muzzle the news media.

Still, it took a falling-out between Thaksin and a former business associate, the media mogul Sondhi Limthongkul, to bring people into the street.

"The irony is I used to support him," recalled the tall, bespectacled Sondhi. "I naively trusted him when he told me, 'I'm rich and wealthy and want to do something for the country.' But he does everything for himself, his family and his cronies."

Sondhi hosted a talk show on state-owned television and had used it as a platform to defend Thaksin. But last fall, he criticized Thaksin's business dealings during a broadcast. The show was canceled, so Sondhi took his critique to the streets, staging rallies that drew hundreds, then thousands, of people.

The sale of Shin Corp. to Temasek Holdings of Singapore fueled the nascent movement. Critics alleged that Thaksin had pushed through a change in foreign ownership laws, that his family had avoided paying taxes on the transaction and that the sale betrayed his credentials as an economic nationalist.

"It went against everything Thaksin stood for," said Thitinan, the political analyst.

The prime minister said the sale was legal and motivated by his desire to eliminate any conflict of interest in retaining the business.

"When the prime minister sold his shares, people didn't understand it was a private matter," said Suranand, the cabinet minister. "We were quite off-message at first."Rural Loyalty

In the Thai heartland, Thaksin's performance is seen through an entirely different prism. In late January, eager to display his popularity, the prime minister spent five days in the poor northeastern province of Roi Et, instructing television cameramen to follow as he counseled villagers, drove a tractor and camped in an army tent.

In advance of his arrival in Nonsomboon village, authorities cleared away debris and repaired the dirt road. Local women were paid to cook a repast of prawns, fish and straw-baked chicken. Though the scene was partly contrived, the villagers' affection for Thaksin seemed genuine.

Thaksin had long targeted rural voters with his policies. Among them are a health program that provides medical care for 75 cents and a revolving fund offering small loans.

"I like his good heart," said Orn Pancharee, 67, as she and her sister sat outside their stilted wooden house, their faces deeply etched from years of rice farming.

"Because of him, if I go to the doctor, I don't have to pay much," said Orn's sister, Thongsai Yothanan, 73. "Since Thaksin became prime minister, we get compensated for damages when our rice paddies flood. Before him, never."

The sisters said they had heard little about the Shin Corp. sale and understood even less.

"For us, it's not important," Thongsai said as chickens pecked in the dirt nearby. "I watched the television news, and I feel pity for him."

Orn nodded in agreement.

"Previous prime ministers never visited the countryside," she said. "He's the best because he cares about the poor."

Ethiopia Gripped By Fear Of Regime (WT)

By Betsy Pisik

The Washington Times, March 21, 2006

ADDIS ABABA, Ethiopia -- A climate bordering on fear has taken hold of the Ethiopian capital as journalists, lawyers and politicians carefully measure their public remarks and contacts in the face of widespread arrests and prosecutions.

"Oh, no, that would not be wise," said a law professor when asked if a reporter could observe a class where students were to discuss the ongoing trial of 131 opposition leaders, publishers, journalists and human rights activists. Despite boasting about the openness of debate in his class, the professor declined to give his name.

The defendants face charges of attempted genocide, treason and "crimes committed against the constitution" -- which is punishable by death -- stemming largely from protests against elections last year.

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Tens of thousands more have been arrested on a variety of charges, according to Amnesty International, most of these stemming from violent political demonstrations in November. Advocates say it is impossible to know how many are still being held.

Human Rights Watch offers anecdotal reports of farmers denied fertilizer and seed because of their political affiliations, nighttime sweeps by federal police and beatings at checkpoints.

Most independent newspapers have been shut down. The few remaining news outlets carefully tailor their coverage to not run afoul of stringent government censorship. The longtime Associated Press correspondent was expelled last month. And visas are rarely issued to human rights advocates or investigators.

In its annual human rights survey this month, the State Department reported a sharp increase in civil rights violations by the Ethiopian government during 2005.

"We can say we've regressed since the May elections; there is no independent voice in Ethiopia right now," said Yoseph Badwaza, chief of the monitoring division of the Ethiopian Human Rights Council, which lost three senior investigators when warrants were issued for their arrest.

He said critics of the government are subject to intimidation, and many are arrested without charges, denied access to lawyers or contact with their families, and tried by judges who are "not independent."

"This is a dictatorship in the guise of democracy," Mr. Badwaza said. "The recent crackdown is not the first of its kind, but we've never witnessed such widespread punishment and retribution."

The turning point was the November general strike, called by frustrated members of the Coalition for Unity and Democracy (CUD), an opposition umbrella group.

The CUD and other opposition parties had captured an unprecedented 220 seats in the 547-member Parliament, up from 12 seats previously, but felt cheated out of an absolute majority despite the finding of international observer groups that the election was generally fair.

Politicians advocated peaceful resistance, but protest demonstrations in June led to 36 deaths and another 46 were killed in the three days of protests in November, including seven policemen and soldiers. More than 100 were injured.

In an interview with The Washington Times last month, Prime Minister Meles Zenawi defended the use of force, but said a government inquiry would release its findings, possibly in April.

The Bush administration has carefully modulated its criticism of Addis Ababa, reluctant to alienate a strategically located country of more than 60 million people that is an avowed ally in the war on terrorism. That has frustrated some European diplomats and many Ethiopians, who had hoped for a more outspoken response.

"The last year or so has been one of promise and disappointment," said a U.S. diplomat in Addis Ababa, acknowledging that the government "has been operating more or less as a one-party state."

Mr. Meles came to power with the military defeat of Mengistu Haile Mariam's communist administration in 1991. His backing comes mainly from the Tigreans, an ethnic group in northern Ethiopia that allied itself with the Eritreans' decades-long struggle that ended with independence for Eritrea.

The opposition is centered on the nation's Amhara ethnic group, who have traditionally ruled Ethiopia; they are supported in the south by the Oromos, long oppressed by successive Ethiopian regimes.

Mr. Meles took office with promises to rebuild a shattered economy and transform the country into a model of democracy.

His government has made strides, especially by the yardstick of eastern Africa: International observers gave the May elections high marks for the quality of open debate between the parties, and the apparent lack of coercion at the polls.

But while the opposition parties have become a much larger bloc in the parliament, they say the rules of procedure have changed to make it harder for them to air their issues.

Beyene Petros, chairman of the United Ethiopian Democratic Forces party, says the ruling party has silenced them with a rule change that requires 51 percent agreement to introduce any issue. "And when we do have a question period, they cut it off after maybe 15 minutes," he said in an interview.

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Politicians aligned with the CUD also say they cannot work effectively, with their offices shuttered and party leaders under arrest. Jailed CUD candidates include the mayor-elect of Addis Ababa, a former prosecutor in the U.N. tribunal for Rwanda and a former high court judge.

Extraditing Charles Taylor (NYT)

The New York Times, March 21, 2006

Last week, Liberia's new president, Ellen Johnson Sirleaf, called for Nigeria to extradite the former president and warlord Charles Taylor to face war crimes charges. Mr. Taylor, who has been living in a Nigerian government guesthouse since 2003, is wanted on a range of charges relating to his decade-long West African rampage, which unleashed campaigns of torture, rape and dismemberment in Ivory Coast and Sierra Leone and on his home turf, Liberia.

In a just world, Mr. Taylor would have already been tried, condemned and sent up the river.

But the world has never been just, and this case is complicated. When Mr. Taylor was under siege by rebel forces in 2003, the United States, Britain and Nigeria arranged for him to get asylum in Nigeria, under the correct assumption that his quick exile would reduce the bloodshed. Nigeria gave Mr. Taylor a safe harbor on the condition that he stop sending his minions out to rape, pillage and plunder.

A report last year gave some weight to the argument that Mr. Taylor hadn't stopped his bad ways. The Coalition for International Justice charges that Mr. Taylor tried to destabilize Liberia, influence last year's elections and build a regional army. Specifics are vague, but it is true that Mr. Taylor's ex-wife, Jewel, was elected to the Liberian legislature in the same elections that swept Ms. Johnson Sirleaf to power.

There's no law against Jewel Taylor's running for office. And it's tempting to think that it may be better just to let this sleeping dog lie. After all, Mr. Taylor still has many loyalists in Liberia with no qualms about taking to the streets again.

But Ms. Johnson Sirleaf is taking a courageous, very risky step. It is incumbent upon America and Europe, which say they support justice in West Africa, to make sure that she and the new Liberian government get the necessary security aid, including United Nations troops if necessary, to handle any pro-Taylor backlash.

For West Africans, who have endured more than a decade of war, there's no justice without peace.

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DEPARTMENT OF JUSTICE *NEWS CLIPS*

PREPARED FOR THE OFFICE OF PUBLIC AFFAIRS, US DEPARTMENT OF JUSTICE

TO: THE ATTORNEY GENERAL AND SENIOR STAFF

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TERRORISM NEWS:

FBI Agent Slams Bosses At Moussaoui Trial (AP-Y2)

By Michael J. Sniffen

AP2, March 20, 2006

The FBI agent who arrested Zacarias Moussaoui in August 2001 testified Monday he spent almost four weeks trying to warn U.S. officials about the radical Islamic student pilot but "criminal negligence" by superiors in Washington thwarted a chance to stop the 9/11 attacks.

FBI agent Harry Samit of Minneapolis originally testified as a government witness, on March 9, but his daylong cross examination by defense attorney Edward MacMahon was the strongest moment so far for the court-appointed lawyers defending Moussaoui. The 37-year-old Frenchman of Moroccan descent is the only person charged in this country in connection with al-Qaida's Sept. 11, 2001, attacks on the World Trade Center and the Pentagon.

MacMahon displayed a communication addressed to Samit and FBI headquarters agent Mike Maltbie from a bureau agent in Paris relaying word from French intelligence that Moussaoui was "very dangerous," had been indoctrinated in radical Islamic Fundamentalism at London's Finnsbury Park mosque, was "completely devoted" to a variety of radical fundamentalism that Osama bin Laden espoused, and had been to Afghanistan.

Based on what he already knew, Samit suspected that meant Moussaoui had been to training camps there, although the communication did not say that.

The communication arrived Aug. 30, 2001. The Sept. 11 Commission reported that British intelligence told U.S. officials on Sept 13, 2001, that Moussaoui had attended an al-Qaida training camp in Afghanistan. "Had this information been available in late August 2001, the Moussaoui case would almost certainly have received intense, high-level attention," the commission concluded.

But Samit told MacMahon he couldn't persuade FBI headquarters or the Justice Department to take his fears seriously. No one from Washington called Samit to say this intelligence altered the picture the agent had been painting since Aug. 18 in a running battle with Maltbie and Maltbie's boss, David Frasca, chief of the radical fundamentalist unit at headquarters.

They fought over Samit's desire for a warrant to search Moussaoui's computer and belongings. Maltbie and Frasca said Samit had not established a link between Moussaoui and terrorists.

Samit testified that on Aug. 22 he had learned from the French that Moussaoui had recruited someone to go to Chechnya in 2000 to fight with Islamic radicals under Emir Ibn al-Khattab. He said a CIA official told him on Aug. 22 or 23 that al-Khattab had fought alongside bin Laden in the past. This, too, failed to sway Maltbie or Frasca.

Under questioning from MacMahon, Samit acknowledged that he had told the Justice Department inspector general that "obstructionism, criminal negligence and careerism" on the part of FBI headquarters officials had prevented him from getting a warrant that would have revealed more about Moussaoui's associates. He said that opposition blocked "a serious opportunity to stop the 9/11 attacks."

The FBI's actions between Moussaoui's arrest, in Minnesota on immigration violations on Aug. 16, 2001, and Sept. 11, 2001, are crucial to his trial because prosecutors allege that Moussaoui's lies prevented the FBI from discovering the identities of 9/11 hijackers and the Federal Aviation Administration from taking airport security steps.

But MacMahon made clear the Moussaoui's lies never fooled Samit. The agent sent a memo to FBI headquarters on Aug. 18 accusing Moussaoui of plotting international terrorism and air piracy over the United States, two of the six crimes he pleaded guilty to in 2005.

To obtain a death penalty, prosecutors must prove that Moussaoui's actions led directly to the death of at least one person on 9/11.

Moussaoui pleaded guilty last April to conspiring with al-Qaida to fly planes into U.S. buildings. But he says he had nothing to do with 9/11 and was training to fly a 747 jetliner into the White House as part of a possible later attack.

Samit's complaints echoed those raised in 2002 by Coleen Rowley, the bureau's agent-lawyer in the Minneapolis office, who tried to help get a warrant. Rowley went public with her frustrations, was named a Time magazine person of the year for whistleblowing and is now running for Congress.

Samit revealed far more than Rowley of the details of the investigation.

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MacMahon walked Samit through e-mails and letters the agent sent seeking help from the FBI's London, Paris and Oklahoma City offices, FBI headquarters files, the CIA's counterterrorism center, the Secret Service, the Immigration and Naturalization Service, the Federal Aviation Administration, an intelligence agency not identified publicly by name in court (possibly the National Security Agency), and the FBI's Iran, Osama bin Laden, radical fundamentalist, and national security law units at headquarters.

Samit described useful information from French intelligence and the CIA before 9/11 but said he was not told that CIA Director George Tenet was briefed on the Moussaoui threat on Aug. 23 and never saw until after 9/11 a memo from an FBI agent in Phoenix about radical Islamists taking flight training there.

For each nugget of information, MacMahon asked Samit if Washington officials called to assess the implications. Time after time, Samit said no.

MacMahon introduced an Aug. 31 letter Samit drafted "to advise the FAA of a potential threat to security of commercial aircraft" from whomever Moussaoui was conspiring with.

But Maltbie barred him from sending it to FAA headquarters, saying he would handle that, Samit testified. The agent added that he did tell FAA officials in Minneapolis of his suspicions.

Agent Faults FBI On 9/11 (LAT)

By Richard A. Serrano, Times Staff Writer

The Los Angeles Times, March 21, 2006

The man who caught Zacarias Moussaoui testifies that higher-ups blocked his efforts to determine whether there was a larger plot.

ALEXANDRIA, Va. — The FBI agent who arrested Zacarias Moussaoui weeks before Sept. 11 told a federal jury Monday that his own superiors were guilty of "criminal negligence and obstruction" for blocking his attempts to learn whether the terrorist was part of a larger cell about to hijack planes in the United States.

During intense cross-examination, Special Agent Harry Samit — a witness for the prosecution — accused his bosses of acting only to protect their positions within the FBI.

His testimony appeared to undermine the prosecution's case for the death penalty. Prosecutors argue that had Moussaoui cooperated by identifying some of the 19 hijackers, the FBI could have alerted airport security and kept them off the planes.

Moussaoui is the only person to have been convicted in the United States on charges stemming from Sept. 11. His sentencing trial began several weeks ago, but the prosecution's case was nearly gutted when it was learned that a lawyer for the Transportation Security Administration had improperly coached key aviation security witnesses. U.S. District Judge Leonie M. Brinkema decided to allow the government to present a limited amount of aviation testimony and evidence.

Samit's recollections Monday were the first ground-level account of how FBI agents in Minneapolis — where Moussaoui was arrested on a visa violation 3½ weeks before the attacks — were appalled that their Washington supervisors denied their requests for search warrants in the effort to find out why the Frenchman was taking flying lessons and what role he might have in a wider plan to attack America.

"They obstructed it," a still-frustrated Samit told the jury, calling his superiors' actions a calculated management decision "that cost us the opportunity to stop the attacks."

The government considers Samit's testimony essential to its case. On March 9, the agent told the court about his arrest of Moussaoui, now 37, and his desperate efforts to win the suspect's cooperation.

Yet much of his testimony Monday might have backfired on the government. The jury easily could have been left with the impression of an FBI so at odds with itself that it not only missed critical clues of an impending terrorist attack, but did not even know how best to coordinate efforts to stop it.

Samit was not alone in his contempt for his superiors.

His suspicions were backed up by Coleen Rowley, then an FBI lawyer in Minneapolis, who in a May 2002 memo to FBI Director Robert S. Mueller III complained that Washington had blocked efforts to determine what Moussaoui was really doing. Rowley is not scheduled to testify during the sentencing phase.

Moussaoui pleaded guilty last year to being a part of the Sept. 11 conspiracy. His lawyers maintain that the government had plenty of leads in the summer of 2001 that a major terrorist action was afoot, even without Moussaoui's cooperation. They point to a memo by an FBI agent in Phoenix warning of Middle Eastern men taking flying lessons, and the fact that then-CIA Director George J. Tenet was apprised of Moussaoui's arrest.

Samit testified Monday that he never knew of the Phoenix memo or of Tenet's interest in the case. He also said he was kept in the dark about the Aug. 6, 2001, presidential daily briefing given to Bush during his vacation in Texas. That briefing, titled

"Bin Laden Determined to Strike in U.S.," noted "patterns of suspicious activity in this country consistent with preparations for hijackings or other types of attacks."

"I didn't see it," Samit testified. "I did not see anything like that."

Defense lawyer Edward B. MacMahon Jr. also used his cross-examination of Samit to suggest that law enforcement officials never took such threats seriously then anyway.

Under MacMahon's daylong questioning, Samit said that officials at the FBI headquarters in Washington rejected a series of attempts to obtain a warrant to search Moussaoui's personal belongings.

Had the belongings been opened before Sept. 11, agents would have found numerous small knives, jumbo-jet pilot manuals, rosters of flight schools and other clues that might have helped them understand the Sept. 11 plot.

Samit wanted to seek a criminal search warrant, and later one from a special intelligence court. But officials at the FBI headquarters refused to let him, because they did not believe he had enough evidence to prove Moussaoui was anything but a wealthy man who had come to this country to follow his dream of becoming a pilot.

He said that as Washington kept telling him there was "no urgency and no threat," his FBI superiors sent him on "wild goose chases."

For a while, Samit said, they did not even believe Moussaoui was the same person whom French intelligence sources had identified as a Muslim extremist. Samit said that FBI headquarters wanted him and his fellow agents to spend days poring through Paris phone books to make sure they had the right Moussaoui.

Samit said that when he asked permission to place an Arabic-speaking federal officer as a plant inside Moussaoui's cell to find out what Moussaoui was up to, Washington said no.

And he said that when he prepared a lengthy memo about Moussaoui for Federal Aviation Administration officials, Washington deleted key sections, including a part connecting Moussaoui with Al Qaeda leader Osama bin Laden.

Samit said he was so frustrated and so convinced that attacks were imminent that he bypassed FBI officials in Washington and met with an FAA officer he knew in Minneapolis. But he said FAA agents never got back to him, and never asked to see a pair of small knives, similar to box cutters, that Samit had found in Moussaoui's pocket and in his car.

Samit further described how he took it upon himself to cable the Secret Service that the president's safety might be in jeopardy. He recounted in the cable how Moussaoui had told him he hoped to be able to one day fly a Boeing 747 from London's Heathrow Airport to New York, and how he also hoped to visit the White House one day.

Samit said he warned the Secret Service that those desires could spell disaster. "If he seizes an airplane from Heathrow to New York City," Samit alerted the Secret Service, "it will have the fuel on board to reach D.C."

Samit said he never heard back from the Secret Service either.

And yet, the agent said, he never officially complained to the FBI hierarchy.

"Street agents don't call headquarters and request that supervisors be removed from cases," he said. "I didn't agree with them, but they are in charge."

But Samit said his immediate boss in Minneapolis, FBI Special Agent Greg Jones, did urge Washington to be more receptive.

Samit said he once overheard Jones on the phone with headquarters, telling FBI superiors that Minneapolis was trying to keep Zacarias Moussaoui "from flying an airplane into the World Trade Center."

After the Sept. 11 attacks, Samit said he asked Jones about that conversation, and Jones said he had just made up the scenario as a hypothetical to try to get Washington moving. "He pulled it out of the air," Samit said. "It was a lucky guess."

F.B.I. Discounted Suspicions About Moussaoui, Agent Says (NYT)

By Neil A. Lewis

The New York Times, March 21, 2006

ALEXANDRIA, Va., March 20 — The F.B.I. agent who arrested and interrogated Zacarias Moussaoui just weeks before the attacks of Sept. 11, 2001, told a jury today that his efforts to confirm his strong suspicions that Mr. Moussaoui was involved in a terrorist airline hijacking plot were thwarted by senior bureau officials in Washington who acted out of negligence and a need to protect their careers.

Harry Samit, under intense cross-examination by Mr. Moussaoui's chief court-appointed lawyer, detailed his frustration over the days before the hijacking as he made numerous requests to look into what Mr. Moussaoui had been up to at the time of his arrest. Mr. Moussaoui was arrested on immigration violations in Minnesota, where he was learning to fly a jetliner.

"I accused the people in F.B.I. headquarters of criminal negligence" in an interview after Sept. 11, Mr. Samit acknowledged under questioning by Edward B. MacMahon Jr. He said that the senior agents in Washington "took a calculated risk not to

advance the investigation" by refusing to seek search warrants for Mr. Moussaoui's belongings and computer. "The wager was a national tragedy," Mr. Samit testified.

Mr. Samit said that two senior agents declined to provide help in getting a search warrant, either through a special panel of judges that considers applications for foreign intelligence cases or through a normal application to any federal court for a criminal investigation.

As a field agent in Minnesota, he said he required help and approval from headquarters to continue his investigation. He acknowledged that he had written that Michael Maltbie, an agent in the F.B.I.'s radical fundamentalist unit, told him that applications for the special intelligence court warrants had proved troublesome for the bureau and seeking one "was just the kind of thing that would get F.B.I. agents in trouble." He wrote that Mr. Maltbie had told him that "he was not about to let that happen to him." During that period, the Foreign Intelligence Surveillance Act court, had complained about improper applications from the bureau.

Mr. Samit also acknowledged that he had written that David Frasca, a supervisor of the radical fundamentalist unit, had similarly blocked him from seeking a search warrant under the more common route in a criminal investigation. Some of the special court's complaints dealt with the idea that law-enforcement officials were sometimes using the lower standard required for warrants in intelligence investigations and then using the information they obtained in criminal cases.

Mr. Frasca, Mr. Samit explained, believed that once the Moussaoui investigation was opened as an intelligence investigation, it would arouse suspicion that agents had been trying to exploit the intelligence law to get information for an investigation they now believed was a criminal one.

(An F.B.I. spokesman, Bill Carter, said the agency did not comment on pending trials or litigation.)

The distinction between the two standards for obtaining warrants has since been eliminated following the Sept. 11 attacks.

The government is trying to prove to a jury that Mr. Moussaoui should be executed because he bears some responsibility for the deaths from Sept. 11. Prosecutors have argued that if Mr. Moussaoui had told Mr. Samit and other investigators what he knew about Al Qaeda plots to fly planes into buildings, the attacks might have been foiled.

Although Mr. Samit was a government witness who sought to bolster the government's case that he could have uncovered the plot had Mr. Moussaoui spoken to him truthfully, his responses to Mr. MacMahon today appeared to provide a lift for the defense. Mr. MacMahon sought to show that the problem was not with Mr. Moussaoui but with senior F.B.I. officials in Washington who would not budge no matter how hard Mr. Samit pressed them.

The F.B.I.'s handling of clues to the impending Sept. 11 attacks was sharply criticized in a report by the Justice Department's inspector general's office in 2004. Citing a memo from a Phoenix agent who had become suspicious of several students taking flying lessons in Arizona, the report said the agent's memo did not get the timely attention it deserved, not so much because of individual lapses within the F.B.I. but because of "critical systemic failings" that kept information from being effectively evaluated and shared.

The slow and incomplete attention given the memo from Phoenix was illustrative of a system "in which important information could easily 'fall through the cracks' and not be brought to the attention of the people who needed it, the inspector general's office concluded.

FBI Was Warned About Moussaoui (WP)

By Jerry Markon And Timothy Dwyer

The Washington Post, March 21, 2006

An FBI agent who interrogated Zacarias Moussaoui before Sept. 11, 2001, warned his supervisors more than 70 times that Moussaoui was a terrorist and spelled out his suspicions that the al-Qaeda operative was plotting to hijack an airplane, according to federal court testimony yesterday.

Agent Harry Samit told jurors at Moussaoui's death penalty trial that his efforts to secure a warrant to search Moussaoui's belongings were frustrated at every turn by FBI officials he accused of "criminal negligence." Samit said he had sought help from a colleague, writing that he was "so desperate to get into Moussaoui's computer I'll take anything."

That was on Sept. 10, 2001.

Samit's testimony added striking detail to the voluminous public record on the FBI's bungling of the Moussaoui case. It also could help Moussaoui's defense. Samit is a prosecution witness who had earlier backed the government's central theory of the case: that the FBI would have raised "alarm bells" and could have stopped the Sept. 11 attacks if Moussaoui had not lied to agents. But under cross-examination by the defense yesterday, Samit said that he did raise those alarms -- repeatedly -- but that his bosses impeded his efforts.

The testimony came as the sentencing hearing resumed for the only person convicted in the United States of charges stemming from the terrorist attacks on the World Trade Center and the Pentagon. Jurors in Alexandria will determine whether

Moussaoui should live or die. The proceeding was derailed last week by the misconduct of government attorney Carla J. Martin, who improperly shared testimony with upcoming witnesses and coached them.

An angry U.S. District Judge Leonie M. Brinkema halted the hearing for a week. She barred the testimony of the witnesses Martin had contacted and all aviation evidence, gutting the government's case. But after prosecutors offered a compromise, Brinkema issued a revised order Friday saying they could use new aviation witnesses not tainted by Martin's conduct.

Brinkema began the day yesterday by welcoming jurors back to court and quizzing them about whether they had seen or read any of the extensive media coverage, which she had barred them from doing. When they shook their heads no in unison, the judge said, "You've been wonderful."

Nowhere to be seen was Martin, the Transportation Security Administration lawyer whom Brinkema has blamed for the disruption. She could face contempt of court or other criminal charges, and Moussaoui's attorneys had urged her to explain her actions at a special hearing yesterday. That hearing was never convened, and Brinkema did not mention it. Martin's attorney has said she would not testify.

Paul Bresson, an FBI spokesman, declined to comment on the testimony from Samit, who remains an agent in the FBI's Minneapolis office. The primary supervisor Samit accused of impeding his investigation, Michael Maltbie, said in a phone interview yesterday that the issues raised in court "have been looked at extensively by Congress, the Justice Department, my own people."

"The [FBI] director has given me a chance to respond to some of these issues that have come up," said Maltbie, a former counterterrorism supervisor at headquarters in Washington and now a supervisory special agent in Cleveland.

Moussaoui, 37, pleaded guilty in April to conspiring with al-Qaeda in the Sept. 11 attacks. He was sitting in jail on that day of terror because of his arrest a month earlier after his activities raised suspicion at a Minnesota flight school.

The FBI's missteps have been examined in depth by congressional investigators and the independent commission that investigated the Sept. 11 attacks.

Yesterday, as jurors watched images of FBI documents flashing on TV screens, defense attorney Edward B. MacMahon Jr. walked Samit through a recital of government mistakes, framing nearly every question with the words: "You wanted people in Washington to know that . . . right?"

MacMahon zeroed in on increasingly urgent warnings Samit issued to his FBI supervisors after he interviewed Moussaoui at a Minnesota jail in mid-August 2001. Moussaoui had raised Samit's suspicions because he was training on a 747 simulator with limited flying experience and could not explain his foreign sources of income.

By Aug. 18, 2001, Samit was telling FBI headquarters that he believed Moussaoui intended to hijack a plane "for the purpose of seizing control of the aircraft." A few days later, he learned from FBI agents in France that Moussaoui had been a recruiter for a Muslim group in Chechnya linked to Osama bin Laden.

But when Samit tried to use the French intelligence in his draft application for a Foreign Intelligence Surveillance Act warrant to search Moussaoui's belongings, he said, Maltbie edited out the connection with bin Laden because it did not show that a foreign government was involved.

"How are you supposed to establish a connection with a foreign power if it's deleted from the document?" MacMahon asked.

"Well, sir, you can't," Samit replied.

Samit said he also sent an e-mail to the FBI's bin Laden unit but did not receive a response before Sept. 11, 2001. By late August, the agent had concluded that Maltbie and other FBI officials were no longer interested in investigating Moussaoui. Samit acknowledged that he told the Justice Department's inspector general's office that his supervisors engaged in "criminal negligence" and were trying to "run out the clock" because they wanted to deport Moussaoui rather than prosecute him.

Most portions of the inspector general's report dealing with Moussaoui have never been made public.

"You thought a terrorist attack was coming, and you were being obstructed, right?" MacMahon asked.

"Yes, sir," Samit answered.

Samit said he kept trying to persuade his bosses to authorize the surveillance warrant or a criminal search warrant right up until the day before the planes hit the World Trade Center and the Pentagon.

"You never stopped trying, did you?" MacMahon said.

"No, sir," Samit replied.

Agent Warned FBI About Moussaoui, Hijack Plan (USAT)

By Kevin Johnson

USA Today, March 21, 2006

ALEXANDRIA, Va.—The FBI agent who arrested confessed al-Qaeda conspirator Zacarias Moussaoui testified Monday that three weeks before the Sept. 11, 2001, attacks, the agent warned his supervisors that Moussaoui likely was part of a plot to take over a commercial jet using small knives to subdue the crew.

The testimony by Special Agent Harry Samit in Moussaoui's sentencing trial shed new light on how the U.S. government failed to seize upon a range of clues that suggested the 9/11 plot was unfolding.

Samit said Monday that he wrote at least 70 pages of memos during the three weeks before the attacks expressing concern that Moussaoui was involved in a hijacking plot, but the Minnesota-based agent said his superiors never acted on the repeated warnings.

Samit's warnings included an Aug. 18, 2001, memo in which he unsuccessfully sought permission from FBI headquarters to search the belongings of Moussaoui, a French citizen who had been arrested on immigration charges.

The agent's warnings proved to be a forecast of the Sept. 11 attacks, in which 19 suicide hijackers used box cutters and utility knives to take over four jets in attacks that killed nearly 3,000 people in New York City and Shanksville, Pa., and at the Pentagon.

Samit's testimony is key in Moussaoui's trial, which is being held to determine whether the al-Qaeda operative — who has pleaded guilty to terrorism conspiracy — should be executed or receive a life sentence. The U.S. government says that the Sept. 11 attacks could have been prevented if Moussaoui had warned agents about the plot, and that he should be executed because he didn't.

Moussaoui claims he was part of another plot and didn't know about the one for 9/11. Samit's testimony appeared to support the defense's contention that authorities had many clues about a possible hijacking plot and failed to act on them.

Samit testified that before the attacks, FBI officials in Washington refused to support his search requests despite Samit's increasingly “desperate” attempts to learn more about Moussaoui, who had raised suspicions among his instructors while training as a flight student.

“God help us all if the next terrorist incident involves this kind of plan,” an investigative associate identified in court only as “Cathy” wrote a frustrated Samit on the day before the attacks.

Samit's FBI superiors at the time did not believe he had enough evidence to support a warrant for either a criminal or intelligence investigation. Since then, the USA Patriot Act has made it easier for federal authorities to obtain such warrants in terrorism investigations.

Samit's testimony marked the resumption of Moussaoui's trial, which U.S. District Judge Leonie Brinkema had suspended for nearly a week after learning that a government lawyer had violated court rules by leaking court transcripts to help coach upcoming government witnesses.

Brinkema responded by ruling that prosecutors could not present evidence that aviation authorities could have helped avert the 9/11 attacks if Moussaoui had told agents about the plot. The judge later amended her ruling to allow aviation witnesses who were not tainted by the actions of government lawyer Carla Martin.

FBI Agent Testifies He Warned About Moussaoui For Weeks (AP)

AP, March 21, 2006

'Criminal negligence' by superiors foiled chance to thwart 9/11, he says

ALEXANDRIA, Va. – The FBI agent who arrested Zacarias Moussaoui in August 2001 testified Monday that he spent almost four weeks trying to warn U.S. officials about the radical Islamic student pilot but that "criminal negligence" by superiors in Washington thwarted a chance to stop the 9/11 attacks.

FBI Agent Harry Samit of Minneapolis originally testified as a government witness on March 9, but his daylong cross examination by defense attorney Edward MacMahon was the strongest moment yet for the court-appointed lawyers defending Mr. Moussaoui. The Frenchman of Moroccan descent is the only person charged in this country in connection with al-Qaeda's Sept. 11, 2001, attacks on the World Trade Center and the Pentagon.

Mr. MacMahon displayed a communication addressed to Agent Samit and FBI headquarters Agent Mike Maltbie from a bureau agent in Paris relaying word from French intelligence that Mr. Moussaoui, 37, was "very dangerous," had been indoctrinated in radical Islamic fundamentalism at London's Finsbury Park mosque, was "completely devoted" to a variety of radical fundamentalism that Osama bin Laden espoused, and had been to Afghanistan.

The communication arrived Aug. 30, 2001. The Sept. 11 commission reported that British intelligence told U.S. officials on Sept. 13, 2001, that Mr. Moussaoui had attended an al-Qaeda camp in Afghanistan. "Had this information been available in late August 2001, the Moussaoui case would almost certainly have received intense, high-level attention," the commission concluded.

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But Agent Samit told Mr. MacMahon he couldn't persuade FBI headquarters or the Justice Department to take his fears seriously. No one from Washington called Agent Samit to say this intelligence altered the picture the agent had been painting since Aug. 18 in a running battle with Agent Maltbie and Agent Maltbie's boss, David Frasca, chief of the radical fundamentalist unit at headquarters.

They fought over Agent Samit's desire for a warrant to search Mr. Moussaoui's computer and belongings.

Agent Maltbie and Agent Frasca said Agent Samit had not established a link between Mr. Moussaoui and terrorists.

Agent Samit testified that on Aug. 22 he had learned from the French that Mr. Moussaoui had recruited someone to go to Chechnya in 2000 to fight with Islamic radicals under Emir Ibn al-Khattab. He said a CIA official told him on Aug. 22 or 23 that Mr. al-Khattab had fought alongside Mr. bin Laden. This, too, failed to sway Agent Maltbie or Agent Frasca.

Under questioning from Mr. MacMahon, Agent Samit acknowledged that he had told the Justice Department inspector general that "obstructionism, criminal negligence and careerism" on the part of FBI officials had prevented him from getting a warrant that would have revealed more about Mr. Moussaoui's associates.

He said that opposition blocked "a serious opportunity to stop the 9/11 attacks."

To obtain a death penalty, prosecutors must prove that Mr. Moussaoui's actions led directly to the death of at least one person on 9/11. He pleaded guilty last April to conspiring with al-Qaeda to fly planes into U.S. buildings. But he says he had nothing to do with 9/11 and was training to fly a 747 jetliner into the White House as part of a possible later attack.

Agent: Suspicions Of Plot Ignored (NSDY)

By John Riley, Newsday Staff Correspondent

Long Island Newsday, March 21, 2006

FBI investigator who arrested Moussaoui says he wrote some 70 memos about possible threat

ALEXANDRIA, Va. -- The FBI agent who arrested Zacarias Moussaoui testified yesterday that Moussaoui's pose as a flight student never fooled him, but said he was blocked from pursuing his suspicions of a terrorist hijacking plot by supervisors he characterized as "criminally negligent" careerists.

As Moussaoui's death-penalty sentencing trial resumed here after a week's delay to investigate witness tampering by government lawyer Carla Martin, Minnesota Special Agent Harry Samit said on cross-examination that he wrote FBI headquarters about 70 memos about Moussaoui's likely terrorist plans between his arrest on Aug. 16 and Sept. 11, all to no avail.

Prosecutors are trying to show that Moussaoui should get the death penalty because his lies prevented agents from thwarting the Sept. 11 attacks, while Moussaoui says he knew no details of the plot. Defense lawyer Edward MacMahon spent his five-hour cross-examination trying to show that the FBI's failure to act on Samit's instincts was to blame.

"Your investigation here was to uncover the facts that Moussaoui was in fact a terrorist ... and you uncovered those facts didn't you?" MacMahon asked. "I uncovered enough facts to generate suspicion in my mind that he was a terrorist," Samit said, "But that's a far distance from being able to prove it."

Moussaoui, 37, a French-Moroccan, was arrested after his behavior at a Minnesota flight school aroused suspicion. He pleaded guilty a year ago to being part of a broad al-Qaida hijacking conspiracy, but not the Sept. 11 plot. Samit's testimony yesterday was the most detailed public recounting of how Washington supervisors thwarted the field office's efforts to find out more about him in 2001.

Samit said that Moussaoui's evasiveness, flight training, and fundamentalist beliefs made him look like a terrorist suspect. But supervisors felt they couldn't get an intelligence warrant to search his belongings, and thought it would be legally risky to seek a traditional criminal warrant after starting an intelligence investigation.

Michael Maltbie, the supervisor handling the case at the FBI's Radical Fundamentalist Unit, told Samit that getting an intelligence warrant could be bad for an agent's career if it was fouled up, Samit testified. He said Maltbie told him he wanted to "preserve the existence of his advancement potential" in the FBI.

By the end of August, there was more evidence. French intelligence had learned that Moussaoui had been to Afghanistan and had recruited jihadists. But Maltbie wasn't sure it was the same Moussaoui, and demanded that FBI agents overseas search the French white pages for other Zacarias Moussaouis.

Samit acknowledged that he had accused Maltbie and other supervisors of taking a "calculated risk" with 3,000 lives to protect their careers in testimony to the Justice Department. Maltbie now heads the Joint Terrorism Task Force in the Cleveland FBI office.

Witness Flap Casts Doubt On Call For Death In Moussaoui Case (LAW)

By Sarah Kelley And Jason Mclure, Legal Times

DOJ_NMG_0019837

Legal Times, March 21, 2006

Almost from the beginning, the goal was clear: Zacarias Moussaoui must die.

This was the government's first, and likely only, chance to prosecute a suspect in the Sept. 11 plot in a U.S. court. And from the start, doing so would present a monumental challenge to federal prosecutors. With the world watching, the pressure would be enormous.

Pursuing a death sentence meant raising the stakes in what already was considered the highest-profile criminal case ever in the United States. For the team of three federal prosecutors it meant facing an unprecedented task: convincing a jury that Moussaoui should be executed even though -- by their own admission -- he wasn't directly involved in the attacks on the World Trade Center and the Pentagon.

"I think they have had a difficult hand dealt," says Larry Mackey, a former prosecutor who played a lead role in the trials of Oklahoma City bombers Timothy McVeigh and Terry Nichols.

The government's decision to seek death was scrutinized from the outset and continued to be so even after Moussaoui pleaded guilty, in April 2005, to participating in a conspiracy to commit acts of terrorism in the United States. But last week it became clear just how precarious the argument for death was. The government's case was in jeopardy of crumbling midway through the penalty phase of the trial after Transportation Security Administration lawyer Carla Martin allegedly tampered with government witnesses.

Martin, a veteran government lawyer who served as the prosecution team's liaison to a number of key witnesses from the Federal Aviation Administration, is accused of coaching witnesses on their testimony and giving them transcripts of the trial -- a direct violation of an order by U.S. District Judge Leonie Brinkema.

If the blunder results in Moussaoui being sentenced to life in prison rather than death, a large dose of the blame will fall on Martin but also -- fairly or unfairly -- on federal prosecutors Robert Spencer, David Novak and David Raskin.

For the question remains, if the witnesses Martin dealt with were so critical to the case, why did prosecutors allow her to operate with little oversight? And if the government's case for death was so convincing, how could her conduct completely blow it apart?

The three Assistant U.S. Attorneys have spent thousands of hours managing the case, and though they took pains to distance themselves from Martin last week, the prosecution clearly worked closely with her. Her name appears on at least one government filing in the case.

"At the end of the day all responsibility rests at their doorstep," says Mackey of the trial lawyers. "Having said that, they must be tearing their hair out that another government lawyer could do this."

DECISION FOR DEATH

The fact that Martin's missteps could unhinge a case that was years in the making is telling. Many believe the case was weak from the start. It's possible the prosecutors didn't agree with the decision to seek death in the first place.

"These are political decisions," says John Zwerling, a criminal defense attorney in Alexandria, Va. "The shots are being called at the very highest level of our government -- the president, the vice president, and the attorney general. The prosecutors have to march to their orders, and whether or not they believe in it is irrelevant."

In March 2002, three months after Moussaoui's indictment on terrorism charges and just six months after the attacks, then-Attorney General John Ashcroft signed off on the decision to seek the death penalty, reaffirming a commitment to "carrying out justice."

At the time, Moussaoui's possible connection to the attacks was still unclear, though he was repeatedly referred to in news articles and government statements as the alleged 20th hijacker. Having been arrested on immigration charges in August 2001, Moussaoui was sitting in a jail cell when terrorists carried out the deadliest terror attack ever in the United States.

Moussaoui, who has repeatedly proclaimed his allegiance to Osama bin Laden, denies any involvement in Sept. 11. Instead, Moussaoui claims he was to take part in a second wave of terror attacks by crashing a plane into the White House.

As the case progressed, the government's argument for death emerged: Had Moussaoui divulged his knowledge of the attacks, the government could have thwarted the plot, saving thousands of innocent victims.

Despite the obvious legal hurdles, many Americans supported the decision, believing Moussaoui should die for his close ties to the Sept. 11 conspiracy. But some objected, claiming the move was politically motivated -- a way for the Bush administration to hold someone accountable for the attacks. Others said it was an effort to avenge the victims on behalf of their families, and, indeed, the Moussaoui penalty phase has often been referred to as the families' "day in court."

Now, more than four years later, the debate continues over whether the government overstated its case against Moussaoui to justify seeking death. Once he pleaded guilty, if the government had simply signed off on sending him to prison for life, the current trial in Virginia would not have been necessary. And in the minds of some, life in prison would avoid making him a martyr.

Neal Sonnett, a former Criminal Division chief for the U.S. Attorney's Office in the Southern District of Florida, believes the case for a death sentence is weak.

"Had everything gone perfectly, the burden that the prosecution has to meet to get the death penalty is a very strong burden, and it was unlikely that they were going to meet it here," says Sonnett, now a white-collar criminal defense attorney based in Miami.

ASSEMBLING A TEAM

Before the Sept. 11 attacks, the U.S. Attorney's Office for the Southern District of New York in Manhattan had handled nearly every major terrorism trial of the modern era -- from the 1993 World Trade Center bombing to the American embassy bombings in East Africa. But after the attacks, the Justice Department decided to make the U.S. Attorney's Office for the Eastern District of Virginia the hub of terrorism prosecutions.

There were several reasons for the choice. Virginia juries had a reputation for being sympathetic to prosecutors, the federal court in Alexandria was known for quickly moving cases through its "rocket docket," and Alexandria lay just across the Potomac from Washington -- where prosecutors would have easy access to their colleagues at Main Justice and the myriad federal agencies that would become involved in any trial. There also was a sentiment that the federal courthouse in Manhattan, which sits just blocks from the World Trade Center site, would not be an easy venue in which to hold a fair trial.

"There was the usual competition for cases, and somebody has to win and somebody has to lose," says Andrew McCarthy, a former terrorism prosecutor in the Southern District of New York. "The thing you have to remember ... at the time those decisions had to be made, there were other things going on that were a lot more important than the usual turf fighting that we had in the 1990s."

Moussaoui's December 2001 indictment was signed by three officials representing each DOJ arm involved. There was Paul McNulty, the Eastern District of Virginia's new and politically connected Republican U.S. Attorney (who has since been nominated to the DOJ's No. 2 spot); Mary Jo White, the outgoing Clinton-era U.S. Attorney in New York whose office had overseen the first World Trade Center bombing and East African embassy bombings; and Michael Chertoff, the head of the Criminal Division at Main Justice in Washington and a former U.S. Attorney in New Jersey.

McNulty has appeared in the courtroom at key stages of the case and from the start saw the trial as an opportunity to prove that the federal court system could effectively handle terrorism cases. He was alongside the prosecution when Moussaoui pleaded guilty, and again last week when the judge chastised the government for making egregious errors in the case. But observers say that McNulty has served more as a liaison to Main Justice in the matter, rather than as a day-to-day manager. A spokesman for the U.S. Attorney's Office declined to comment.

The line prosecutors ultimately chosen for the trial team reflected the division of labor between the two U.S. Attorney's offices. Two of the federal prosecutors on the team would come from Virginia, and one from New York.

Leading the prosecution is Robert Spencer, chief of the Eastern District's Criminal Division. Spencer joined the federal prosecutor's office in Alexandria in 1995 as an Assistant U.S. Attorney, handling high-profile murder and violent gang cases. Spencer presented the government's opening argument on day one of Moussaoui's trial.

One former colleague says that Spencer is "among the most ethical and persuasive assistant U.S. attorneys in the nation."

Spencer has prosecuted a number of other terrorism cases, including that of Ahmed Omar Abu Ali, an American college student convicted last year of conspiring with al Qaeda and plotting to kill President George W. Bush. He also played a role in prosecuting the "Virginia Jihad Network," which resulted in numerous convictions and guilty pleas from Islamic extremists living throughout the Washington metropolitan region who underwent training to join the Taliban.

The second prosecutor from Virginia is David Novak, considered a specialist at the Justice Department in death penalty cases. Throughout much of the case, Novak personally has interviewed many of the victims' family members. Last week it was a visibly shaken Novak who stood for the prosecution in court to explain how Martin had violated the judge's order on witnesses.

Novak himself is no stranger to ethics issues. In 1993, while he was working as a federal prosecutor in Texas, a defense attorney for Rogelio Rodriguez, an alleged Mexican money launderer, filed a formal complaint with Justice's Office of Professional Responsibility charging Novak with a number of ethical breaches during trial. The defense attorney, Kent Schaffer, a Houston solo practitioner, accused Novak of misrepresenting Rodriguez's statements to an undercover agent about a planned trip. He also charged that Novak lied to the judge about Rodriguez's desire to cooperate with the government, in an effort to meet with the defendant without his lawyer present.

Novak was exonerated in the investigation, according to Schaffer, who last week called the OPR's decision in the matter a whitewash. Rodriguez was later acquitted of the charges. Novak declined to comment for this article.

OPR investigations are generally kept confidential, but this one entered the public domain when Novak filed a libel suit against Schaffer in 1995, calling Schaffer's letter "defamatory." Novak would also file a second libel suit that year, against a defense witness in another Texas money-laundering case who had written to then-Attorney General Janet Reno to accuse

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Novak of "misplaced vindictiveness" in his prosecution of defendant Antonio Giraldi. Both suits were dismissed within months of each other, in the spring of 1995.

The New York U.S. Attorney's Office was initially represented on the trial team by Kenneth Karas, a Southern District terrorism veteran who had taken a lead role in the prosecution of the embassy bombings case. But in 2003, Karas was nominated to a seat on the federal bench in New York. He was replaced on the team by David Raskin, an up-and-coming prosecutor who had joined the Southern District in 1999 and quickly earned a spot in its elite organized crime and counterterror unit.

An avid amateur baseball player and former catcher on his college team at Ithaca, N.Y., Raskin was known for pulling long hours and had been part of the prosecution team that took down 70 members of the Genovese crime family in New York. Those who worked with Raskin praise him for his judgment and dedication to his job. "Often in the Southern District you'll get some fairly cerebral types," says David Burns, a former Southern District prosecutor who worked with Raskin. "Dave is one of those former-athlete types."

Throughout the Moussaoui case, Raskin has written a number of the briefs filed and presented key arguments along the way.

WHO TO BLAME?

Seeking the death penalty for Moussaoui has been an uphill battle from the start. Early on in the case, Brinkema took capital punishment off the table, but the prosecution fought the decision, and the 4th U.S. Circuit Court of Appeals agreed to restore execution as an option.

With the help of hundreds of government lawyers from various federal agencies, the prosecution team interviewed thousands of witnesses and sorted through more than 1 million documents to build the case against Moussaoui.

Then, last week, the prosecution was dealt a blow that threatened to derail the entire case.

Citing the misconduct of the TSA's Martin, Brinkema sanctioned the government by excluding from trial key witnesses and all aviation evidence, which the prosecution acknowledged is the bulk of their case. In a March 14 conference call with the judge, Spencer said without that evidence, "we don't know whether it's worth proceeding at all."

Prosecutors filed a motion asking the judge to reconsider, and on Friday, Brinkema agreed to a compromise. The judge upheld the decision to bar all witnesses and aviation-related evidence with which Martin was involved. But she agreed to allow the government to call aviation witnesses "not tainted by Ms. Martin." The trial is scheduled to resume March 20, and the defense has requested a hearing to further investigate Martin's conduct.

As the prosecution scrambled to salvage its case, the finger-pointing and posturing had already begun.

Last week, the TSA was referring media calls about Martin's violation to Main Justice. Justice, in turn, was referring calls to the Eastern District of Virginia.

For now, the prosecution team is pinning the blame squarely on Martin, whose misconduct shut out the government's key witnesses and crucial evidence.

"In this sea of government attorneys and agents who have assiduously played by the rules, Ms. Martin stands as the lone miscreant," the prosecution wrote in court papers filed last week. Last week, Brinkema informed Martin she could face civil or criminal contempt charges. She also has been placed on administrative leave at the TSA.

But portraying Martin as a clueless, rogue lawyer from another agency won't be a slam-dunk. She was a regular in court, signed her name to at least one of the briefs in the case, and gained prosecution experience during a six-month detail to the U.S. Attorney's Office in the District of Columbia in 1993.

And Martin appears ready to push back. "Ms. Martin has now been viciously vilified by assertions from the prosecution," Roscoe Howard Jr., Martin's attorney and a former U.S. Attorney in the District of Columbia, wrote in a statement on her behalf. "When her opportunity comes, her response will show a very different, full picture of her intentions."

9th Circuit Slams DOJ Over Detention (LAW)

By Justin Scheck, The Recorder

California Recorder, March 21, 2006

Ahilan Nadarajah was detained as a terrorism suspect for nearly five years before he got to argue his case before the 9th U.S. Circuit Court of Appeals. It only took a three-judge panel 10 days to order his release.

In a unanimous decision Friday, Judge Sidney Thomas wrote that federal immigration officials can't detain an asylum seeker indefinitely after an immigration court orders his release. Thomas wrote that the government's interpretation that a Supreme Court opinion allowed indefinite detention was "patently absurd."

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"The general immigration detention statutes do not authorize the Attorney General to incarcerate detainees for an indefinite period," Thomas wrote. He was joined by Judge Richard Tallman and Senior U.S. District Judge James Fitzgerald of the District of Alaska, who sat by designation.

"By any analysis," Thomas wrote, "a five-year period of confinement of an alien who has not been charged with any crime, and who has won relief at every administrative level, is unreasonable under the standards set forth by the Supreme Court. Nor are we persuaded by the government's argument that because the Attorney General will someday review Nadarajah's case, his detention will at some point end, and so he is not being held indefinitely. No one can satisfactorily assure us as to when that day will arrive. Meanwhile, petitioner remains in detention."

Nadarajah's lawyer, Ahilan Arulanantham of the ACLU Foundation of Southern California, argued the case to the panel on March 7, and asked the judges to rule quickly, given the long detention at issue.

"We're very pleased with it," Arulanantham said Friday. "The court was concerned, like the immigration courts and all the courts who heard it in the United States, that the government was wrong.

"Because these are immigration courts," Arulanantham said, "the government basically said, 'we can resist their findings.'" A Justice Department spokeswoman would only say the case may continue to the Supreme Court.

Immigration and appeals courts found that Nadarajah had been beaten, burned and hung upside down, his head submersed in gasoline, by Sri Lankan authorities.

But the Justice Department insisted that Nadarajah was a member of the rebel Tamil Tigers, which it classifies as a terrorist group. And after missing two hearings, a Department of Homeland Security agent appeared in an immigration court to provide evidence of Nadarajah's terrorist links.

That evidence was based on information gathered from the Canadian Mounties and an anonymous letter writer who said it was unlikely that Nadarajah could have left the area of Sri Lanka where he had lived without the permission of the Tamil Tigers. An informant had also said that Nadarajah made a call from jail ordering a murder.

An immigration judge, unconvinced, ruled in Nadarajah's favor. But immigration officials refused to release him, even after he posted $20,000 bail.

Thomas noted that Congress has set up special avenues for the Justice Department to seek prolonged detention of terrorists, which were not taken in Nadarajah's case.

"Indeed, the government does not claim that the detention provisions for terrorists under the Patriot Act justify Nadarajah's detention," Thomas wrote.

"Given that Congress has placed specific limits on the Attorney General's authority to detain suspected terrorists, those statutory provisions must govern such detentions, instead of the general detention provisions that apply to all aliens coming into the United States," he continued.

The case, Nadarajah v. Gonzales, is 06 C.D.O.S. 2290.

Judge Orders Release Of Edited FBI Video In Lodi Terror Trial (AP)

By Don Thompson

AP, March 21, 2006

SACRAMENTO - The judge overseeing the federal trial of two Lodi men charged in a terrorism-related case approved releasing an edited version of their videotaped FBI interviews on Monday.

U.S. District Court Judge Garland Burrell Jr. rejected objections from the attorneys for Hamid Hayat, 23, and his father, Umer Hayat, 48.

Instead, he ordered portions of the tapes deleted. Edited out of the videotapes to be released will be mentions of two Islamic religious leaders who were deported to Pakistan last year and segments in which Umer Hayat speculates that four Lodi men could be preparing to commit terrorist acts.

None of the men they mention was charged with a crime.

Both Hayats have pleaded not guilty. Their attorneys say they made false confessions after hours of leading questioning by FBI agents. The interviews and confessions were recorded on videotape.

Oakland television station KTVU sought release of the tapes. NBC and ABC affiliates in Los Angeles, San Diego and Sacramento later joined the request.

The station will edit the videotapes and turn those versions back to Burrell for review. The approved versions will then be released publicly.

"Most of the information that's being redacted is already in the public record, but we understand the judge's concerns," KTVU attorney Grace Won said after the ruling. "We think they could be ready for broadcast within the next week or two."

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Hamid Hayat faces three counts of lying to the FBI and separate charges of providing material support to terrorists by attending the camp. He faces up to 39 years in prison if convicted on all counts.

His father is charged with two counts of making false statements to the FBI and faces up to 16 years in prison if convicted.

Judge In Hayat Case Releases Tapes To Media (KXTV-TV)

KXTV-TV, March 21, 2006

The judge in the Hayat terrorism trial has agreed to release portions of the interrogation tapes to the media over the objections of the defendants' attorneys.

Judge Garland Burrell approved the release of an edited version of the videotapes that were shown to jurors during the trial of Umer and Hamid Hayat. Burrell is ordering the deletion of parts of the interrogations. For example, he will not release portions in which the Hayats mention two Islamic religious leaders who were deported to Pakistan last year. Segments in which Umer Hayat speculates that four young Lodi men could be preparing to commit terrorist acts will also be excluded.

News10 was party to the lawsuit that petitioned Burrell to release the tapes. When they are available, News10 will show them on News10 and News10.net.

Onetime Clerk Is At Center Of Lodi Trial (LAT)

By Rone Tempest, Times Staff Writer

The Los Angeles Times, March 21, 2006

Naseem Khan has gone from a quiet job at an Oregon convenience store to the witness stand as FBI informer.

BEND, Ore. — At the convenience store where he worked in this central Oregon resort town before he became an undercover operative for the FBI in California, Naseem Khan was known to his co-workers as "Mike."

The picture of Khan that emerges from interviews with friends, co-workers and landlords in Bend, a picturesque former logging town of 70,000 in the shadow of snow-capped Mt. Bachelor, is of a quiet, hard-working, mostly solitary young man with an interest in law enforcement.

Khan is now the key witness in the terrorism trial of a Lodi, Calif., ice cream truck driver and his son. Last week, he shocked the Sacramento courtroom when he said he saw Al Qaeda's No. 2 figure in 1999 at a mosque in the San Joaquin Valley farming community. He is expected to take the stand today for the first time since he made that claim, which terrorism experts discount as highly improbable.

Khan was first approached by FBI agents in October 2001 in Bend after someone reported him as a possible terrorism suspect, according to friends and court testimony. "He was originally a target," recalled Anne Kimler, who describes herself as a close friend. "They even confiscated his computer."

Quickly cleared of those suspicions, the $7-an-hour manager of the K Market convenience store was hired by the FBI to infiltrate the large Muslim community in Lodi, where he once lived, and was paid more than $200,000 in salary and expenses for his three-year undercover assignment.

The clean-cut, square-jawed Pakistani immigrant took readily to the job of secret agent. "He knew the culture and sometimes he objected to what they asked him to do," said a former girlfriend. "But he really liked the work. It fit his dream of someday going into law enforcement." The girlfriend, who lived with Khan until a recent breakup, asked not to be named because of concerns for her safety.

Jesse Johal, Khan's employer at K Market, which caters to skiers en route to Cascade Range slopes, said he was not surprised by Khan's turn to undercover work. He said Khan took criminology courses at the local community college and sometimes went with police officer friends to the local pistol range. "He was a nice quiet guy," said Johal. "We were a good team."

For a few months after the FBI hired him in December 2001, Khan continued to work at the convenience store. Johal said agents would sometimes visit the informant, code-named "Wildcat," in the store.

Ted and Edie Henderson, managers of the 88-unit apartment complex on Powers Road where Khan lived alone from September 2000 to June 2002, described him as a model tenant who always paid his $420 monthly rent on time.

"He just kept to himself," said Ted Henderson. "I never saw anyone come in or out of his place." Edie Henderson said, "When he left I've never seen such a clean apartment in my life."

In his first round of testimony in Sacramento earlier this month, Khan said he was born in Peshawar, Pakistan, in 1973, to a Pashtun tribal family. After his father died when Khan was still a child, he was raised by his mother and grandmother.

At 16, speaking very little English, he immigrated to the United States with his mother and two cousins, living briefly in Kentucky, New York and Texas, where he attended high school and took the first in a series of low-paying jobs in fast-food franchises and convenience stores.

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Records show he moved to California in 1992, living mostly in the Sacramento Valley cities of Marysville and Yuba City. In 1993, when he was 19, court records show he was convicted in Sutter County on a bad-check charge for which he spent two days in jail and was fined $211.

In July 1999, he moved to Lodi, home to several generations of Pakistani Americans, many of whom share his Pashtun ethnicity — including Umer Hayat, 48, and Hamid Hayat, 23, who are on trial. The younger Hayat is charged with attending a terrorist training camp in Pakistan in 2003; both are charged with lying to federal agents.

Khan lived alone in an apartment that overlooked the Lodi mosque. He worked at a pizza delivery business and a convenience store.

Separated from other family members living in Texas, Khan lacked the extensive family base enjoyed by many in the town's Muslim community.

So late one night in 1999 when he was working in the Lodi convenience store, he was open to the suggestion of a garrulous traveler that he come up to Oregon to "check it out."

The traveler, Kimler, a 50-year-old U.S. Forest Service employee from Prineville, Ore., said she took an instant liking to Khan and invited him to stay with her and her family if he came to Oregon.

"We just liked each other and became friends," Kimler recalled.

Khan took her up on the offer and stayed with the family in Prineville for several months before he landed a job as assistant manager at a Taco Bell and went out on his own.

On Sundays, Kimler recalled, Khan would cook up Indian curries and sweet Pakistani deserts such as carrot halwa.

"He always said they were something different," Kimler said of the curries, "but they all tasted the same. Good, but very hot. The kids couldn't eat them."

When Khan found his own apartment, Kimler went with him to help him pick out furniture. She became his confidant and advisor in a conservative Oregon community with no mosque and only a handful of practicing Muslims.

"There's another Muslim in Bend? That's news to me. I thought I was the only one," said Mohammed Elwefati, a Libyan American who manages food and beverages at a popular local steakhouse. Elwefati said he never met Kahn.

Kimler thinks it was this cultural isolation in the wake of the Sept. 11 attacks that caused a wave of xenophobia in central Oregon that eventually reached Khan.

K Market owner Johal recalled a man buying cigarettes in the store who asked Khan menacingly if he was planning to "make a bomb."

Kimler suspects one of her own friends, hysterical with fear about terrorism, alerted the FBI about Khan. "I told her, 'Naseem a terrorist?' " she recalled. " 'You have to be kidding.' "

Whatever the cause, court records show that on Oct. 17, 2001, an FBI agent showed up at Khan's Powers Road apartment asking about his knowledge of Osama bin Laden and several Muslim fundraising organizations.

Since his testimony in the trial, Khan has been unavailable for comment.

Apparently convinced that he had no terrorism connections and impressed with his cooperation, agents from Oregon and California visited him again on Oct. 26, asking him to review photographs of suspected terrorists and asking him questions about the Lodi community where he once lived.

Khan told agents he remembered seeing Al Qaeda's No. 2, Ayman Zawahiri, and two other men, Ahmed Mohammed Hamed, a suspect in the 1998 embassy bombings in Kenya and Tanzania, and Abdelkarim Hussein Mohamed Al-Nasser, a suspect in the 1996 Khobar Towers bombing. He said he saw the three men at the Lodi mosque in 1998 and 1999.

Terrorism experts, even government officials, doubt the accuracy of the Zawahiri sighting, saying that the Al Qaeda figure, Bin Laden's personal physician, almost certainly did not travel to the United States after 1995.

Nothing has surfaced in the Lodi trial that indicates the agents seriously pursued these leads.

Nonetheless, Khan won the confidence of the FBI's Sacramento office and was immediately put to work as an undercover operative and sent out to secretly tape-record conversations with members of the Muslim community. Months into the investigation, Khan was trusted enough to transcribe and translate his own secret recordings, which are the foundation of the Lodi case.

Even after he began working for the FBI, Khan continued working part time at the Bend convenience store and living in the one-bedroom apartment. Sometime in the spring of 2002, he met a woman through a computer dating service who became his steady girlfriend.

The couple later moved into a Deschutes County home that the girlfriend bought. Khan, who told his Lodi contacts that he was a computer consultant who traveled frequently, sometimes stayed away from Bend for weeks at a time.

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When he came home, the girlfriend said, he worked on landscaping the property. "He would cook Indian food, and we would listen to Indian music," she said. Other than the fact that he was working undercover for the government, she said, she knew little else about his activities.

She said the couple lived together until about five months ago when she found a goodbye note from Khan wishing her good luck in her future life. She said she contacted the FBI to get in touch with Khan but never heard back from him.

"I loved him. I loved him very much," she said, talking to a reporter in the slush-covered driveway of her home. "I guess this is what happens when you are in government work."

Young Lawyer Gets First Big Test During Federal Terrorism Trial (AP)

By Don Thompson

AP, March 21, 2006

SACRAMENTO - It was a Sunday last June when leaders from Lodi's Pakistani community paid a frantic visit to Basim Elkarra, executive director of the Sacramento area's Council on American-Islamic Relations.

FBI agents had been interrogating a father and son from the Central Valley agricultural town who they suspected were lying about the younger man's attendance at an al-Qaida training camp in Pakistan. They needed a criminal lawyer for the men, and Elkarra wasn't sure who he could reach on such short notice.

What he did have was the cell phone number of a young Muslim lawyer of Afghan descent. He knew he could reach her, even on a weekend.

Within hours, Wazhma Mojaddidi found herself representing the 23-year-old son, Hamid Hayat, who is now on trial in U.S. District. He could spend most of the next four decades in prison if he is convicted of charges that he attended the camp in 2003 and lied about it to investigators.

It's the kind of high-profile case that rarely gets handed to a lawyer 18 months removed from law school.

"Getting a case of this magnitude for somebody who just recently graduated from law school is pretty unusual," said Eric McElwain, director of international programs at the University of Pacific McGeorge School of Law in Sacramento. "I assume it's just a case of being in the right place - I hope it's the right place - at the right time."

Mojaddidi is working as a team with veteran defense attorney Johnny Griffin III, a former prosecutor who is representing Hamid Hayat's father. Umer Hayat, 48, is charged with lying about his son's attendance at the camp and faces up to 16 years in prison.

The Hayats are being tried together but before separate juries.

Mojaddidi and Griffin, who are scheduled to begin the defense portion of the trial next week, have made an unlikely but complementary team.

Griffin, 46, spent 13 years as a state and federal prosecutor before beginning a private practice in 1998. He dwarfs the 31-year-old Mojaddidi, who says she stands 5-foot-2 1/2.

While she does not wear the traditional Muslim headdress, Mojaddidi favors stylish, colorful clothes that contrast with the dark suits and judicial robes of the courtroom.

U.S. District Judge Garland Burrell Jr. often is impatient with her for her evident inexperience in cross-examinations and rules of evidence, frequently schooling her on how she should phrase questions to a government witness.

Despite her inexperience, Mojaddidi has stood her ground. She sparred with the prosecution's expert on Islamic religion and law, debating the interpretation of a Muslim prayer, the opinions of 13th century Muslim scholars and obscure rhetorical histories dating to the Prophet Muhammad himself.

She challenged an FBI linguist about the significance of news articles praising al-Qaida leader Osama bin Laden and Afghanistan's fundamentalist Taliban government. Her client clipped the stories from newspapers and magazines that are widely circulated in Pakistan.

Mojaddidi, a naturalized U.S. citizen who is fluent in several languages, also could interpret the original Urdu in hundreds of hours of secretly recorded conversations between the Hayats and the FBI's informant. She consults with the Hayats, also U.S. citizens, in their native language.

"This has really been a good blend," Griffin said. "She brings the whole cultural knowledge of the whole community. I know there have been some rough moments, but she has, in my view, stepped up to the plate."

Griffin was brought into the case quickly, but the lawyers arrived too late to prevent both Hayats from giving confessions - captured on videotape - to FBI agents during lengthy interrogation sessions last June. They were called in for questioning shortly after Hamid Hayat returned from Pakistan.

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Persuading jurors to discount the confessions is among the defense team's biggest challenges. Mojaddidi and Griffin say the Hayats gave the statements after they were worn down by hours of questioning and were telling agents only what they thought they wanted to hear, unaware of the legal consequences.

At the same time, the lawyers are trying to exploit weaknesses with the government's case. Prosecutors so far have not presented firm evidence that Hamid Hayat actually attended the terror training camp, and questions have been raised about the credibility of the informant.

The case represents a leap for Mojaddidi, who previously was using her command of Urdu, Farsi and Pashto to help immigrants with family law cases.

"There aren't many Muslim attorneys," Elkarra said. "She speaks the language and she knows the culture. People feel comfortable with a Muslim attorney."

Mojaddidi was operating her own law practice in Sacramento when Elkarra called her for the Hayat case.

"It was a little bit of an intimidating situation," Mojaddidi said. "Essentially, I walked into a small conference room with about 10 Muslim religious leaders, all men, whom I had not met before."

In an interview with The Associated Press, she described her family's flight from Afghanistan when was 5, what she described as a middle-of-the-night escape into Pakistan in 1979 after the Russian invasion.

The family immigrated to Virginia and later moved to Concord, a suburb in the eastern San Francisco Bay area.

She met her husband, a Pakistani, while attending the University of California, Davis, and soon picked up his native Pashto language. Both are American citizens but speak their native languages to their three U.S.-born children, although Mojaddidi said her son prefers English.

She has never returned to Afghanistan but has visited Pakistan twice with her husband, an aeronautical and mechanical engineer.

"I must say, my first time was a culture shock to me," she said. "Most of the poor are Afghan refugees. To think that could have been me."

McElwain, the McGeorge professor, remembers Mojaddidi as a student and said he expected her to excel.

During a competition in Austria in 2002, he recalled, her team received good reviews but finished 21st among the 108 international universities, too low to qualify as a finalist. At the time, Mojaddidi said she was convinced her team's effort was sabotaged by a judge and wanted to appeal.

"That's just typical of Wazhma," McElwain said. "She's a very strong personality, the kind of person who takes things into her own hands if she doesn't like the way things are going. You just know she's going to go out and make waves wherever she goes."

A Possible Clue On NSA Spying (WP)

By Dan Eggen

The Washington Post, March 21, 2006

Did President Bush mention the government's secret warrantless surveillance program to the president of Pakistan more than four years ago? A brief passage of a 2002 book seems to raise that possibility.

In "Bush at War," Bob Woodward recounts a meeting between Bush and Pakistani President Pervez Musharraf at the Waldorf Towers in New York in early November 2001.

Bush started by talking about plans for a quick victory in Afghanistan but then turned to another topic, according to the passage on Page 303:

"He had become fascinated with the ability of the National Security Agency to intercept phone calls and other communications worldwide," Woodward wrote, referring to Bush. "If they got the key phone calls, future terrorism might be stopped, certainly curtailed. Bush summarized his strategy: 'Listen to every phone call and close them down and protect the innocents.' "

By this time, Bush had already issued his order allowing the NSA to intercept communications between the United States and overseas locations without warrants. The program was never divulged publicly, however, until press reports last December.

Of course, Bush could have been referring merely to the NSA's traditional surveillance programs, which have long involved intercepting large amounts of communications overseas.

Woodward, an assistant managing editor at The Washington Post, said this month that he does not know what Bush may have had in mind during his conversation with Musharraf. Woodward noted that he has not referred to the NSA's warrantless spying program in his books or reporting.

Suspect In Al-Qaeda Bombings Disrupts Trial In Turkey (WP)

DOJ_NMG_0019845

By Karl Vick

The Washington Post, March 21, 2006

ISTANBUL, March 20 -- The al-Qaeda operative accused of organizing the 2003 Istanbul bombings and a botched attempt to sink an Israeli cruise ship appeared in a Turkish courtroom on Monday -- and did his best to take it over.

Louai al-Sakka, 32, who by his own account worked beside insurgent leader Abu Musab al-Zarqawi in Iraq, first told the court he was someone else, then was hustled out of the morning session after refusing to stand to address the judge.

"I performed jihad and killed Americans! Why should I stand up in front of you?" Sakka shouted as guards tugged him toward the door. "Should I stand in front of these liars?"

Sakka, a Syrian described by Turkish officials as a senior figure in al-Qaeda, is accused of providing other operatives with about $170,000 from the group to carry out four truck bombings that killed 57 people over two days in November 2003.

Monday was the opening day of trial for Sakka, who is being prosecuted along with 72 Turks. With the Turks' trial winding down after more than two years, defense attorneys argued unsuccessfully Monday that adding Sakka to the case would cause even further delay.

"I'm not holding a bomb. I just want to talk," Sakka told Judge Zafer Baskurt in the afternoon session, after being summoned from a back row where he had been mugging and joking with other defendants. He again refused to stand, indicating he acknowledged only Islamic law.

The judge responded by recessing the proceedings for two months.

Further complicating the trial, Sakka's attorney was ordered off the case Monday because he faces charges himself. Turkish prosecutors accuse Osman Karahan, a proponent of militant Islam in good standing with the Turkish bar, of aiding and abetting a terrorist organization. Karahan, who also represented 14 other defendants in the Istanbul case, said the indictment falsely links him to last year's bombings of the London transit system.

"All these efforts are to prevent Sakka from talking, because if he talks, a few states would collapse," Karahan said. Sakka already faces prison in Jordan, where he and Zarqawi were convicted in absentia for plotting to blow up hotels and tourist landmarks in the so-called millennium plot. Turkish police arrested him in August while he was allegedly completing plans to steer an explosives-laden yacht into an Israeli cruise ship off the Turkish coast. The plan was discovered when fire broke out in the apartment where he and an accomplice were constructing the bomb, authorities said.

Karahan has quoted Sakka as saying he planned to die attacking the cruise ship. He supposedly believed he would be captured otherwise; his identity was known despite efforts to alter his face through plastic surgery.

On Monday, however, his identity was at issue. More than 20 journalists failed to recognize Sakka as he entered the court building. Cleanshaven and skinny at the time of his arrest, the defendant had put on substantial weight in prison and grown a full beard. He insisted to the judge that his name was Ekrem Ozel, the name on the identity card he was using when arrested, and demanded he be fingerprinted to prove it.

Karahan said he was not sure of his client's identity, either. He said that Sakka, who specialized in moving Islamic militants through Turkey with false papers, had moved in and out of Turkey 55 times on 18 different passports.

"This is going to be a case of worldwide importance, so we need to determine scientifically exactly who he is," Karahan said.

PATRIOT ACT:

Freezing Nuns A Result Of Patriot Act Move (WT)

By Jen Haberkorn

The Washington Times, March 21, 2006

When checks began bouncing at Holy Name Monastery of the Benedictine Sisters last year, Sister Jean Abbott knew something was fishy.

Her calls to the bank revealed that the St. Leo, Fla., account was frozen for five days because one of the account's signatories -- an 80-year-old nun -- didn't have an identification card on file.

The bank blamed the USA Patriot Act for the account freeze.

"The local bank said it was the Patriot Act," said Sister Abbott, who declined to identify the bank. "Someone at the main office of the bank had done, according to the local bank, a spot check on the account, which they do periodically."

The Patriot Act strengthened the Bank Secrecy Act, which requires financial institutions, including banks, creditors and even casinos, to inform the U.S. Treasury Department of transactions they find to be out of the ordinary. But even the Patriot Act cannot close an account -- only a bank can do that.

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The number of suspicious transactions that financial institutions are reporting to the government has nearly tripled since the Patriot Act was passed in 2001.

A suspicious act could be a business that doesn't normally use cash but suddenly starts making large cash deposits, or a person who normally deposits just a paycheck and suddenly makes a few deposits of tens of thousands of dollars.

Both could be legitimate transactions, but they also could be a sign of money laundering or other illegal activity.

So both cases will draw a red flag from a bank, prompting it to file a Suspicious Activity Report (SAR), which is sent to the Treasury Department to determine whether the transaction is fraudulent and to start a paper trail that investigators can use later if necessary.

Most consumers will never have their accounts frozen and likely will never know if a report is filed on them, according to the Treasury Department and the American Bankers Association (ABA). It's illegal for a bank to tell consumers that a SAR has been filed on them.

The average consumer "should not be concerned as long as the transactions they're doing are legit," said Anne Marie Kelly, a spokeswoman for the Financial Crimes Enforcement Network, the Treasury Department bureau responsible for administering the Bank Secrecy Act.

Privacy groups say the law is invasive without being effective.

"This law is causing so many problems without any demonstrable successes," said J. Bradley Jansen, director of the Center for Financial Privacy and Human Rights, part of the Liberty and Privacy Network in the District. "The Banking Secrecy Act has been on the books since the 1970s. It did not prevent 9/11. It's not designed to prevent anything."

Ten years ago, banks filed 62,473 SARs annually. By 2000, that figure reached 163,184, and two years later, after the Patriot Act revisions, the number of SARs nearly doubled. It reached a peak of 689,414 in 2004 and dropped to 435,167 last year.

More financial institutions are required to file now, boosting the number of SARs. But regulators also have cracked down on banks over noncompliance -- Riggs Bank N.A. faced a $16 million fine last year for failing to file timely and accurate SARs.

"The banks take it very seriously," said John Hall, a spokesman for ABA. "Since those fines were enacted, some regulators feel that the banks are filling them out a little too often."

In Texas, where bankers deal with many immigrants sending money back to their countries, bankers think they have to file SARs on transactions even if they don't look too suspicious.

"Bankers know that even though the Washington regulators say they're not going to second-guess the bankers, the bankers are getting second-guessed," said Karen Neeley, general counsel of the Independent Bankers Association of Texas. "If you want to be safe, you have to file."

After the SAR is filed, it's up to the bank to determine whether to let the transaction proceed, freeze the funds or even close the account, Ms. Kelly said.

"We don't do anything about whether an account is closed or open. That's a business decision by the financial institution," she said.

The Treasury Department refers suspicious transactions to the appropriate law-enforcement agency.

The ABA says banks don't give out account information unless ordered to by law.

"Banks do guard the privacy of their customers. Customer trust is paramount to our industry," Mr. Hall said.

Librarian Is Still John Doe, Despite Patriot Act Revision (NYT)

By Alison Leigh Cowan

The New York Times, March 21, 2006

The hotel ballroom was packed as a sensibly dressed, well-read crowd from around the country gathered in San Antonio on Jan. 21 to celebrate one of their own.

Yet, as many expected, the guest of honor was a no-show, despite the $500 intellectual freedom prize that awaited.

Attendees at an American Library Association gathering blamed Washington for the empty chair. Lawmakers may be giving themselves credit for having improved safeguards on civil liberties when they reauthorized the nation's antiterrorism law, otherwise known as the USA Patriot Act, earlier this month.

But many librarians and civil liberties lawyers say the revisions did nothing to enable the guest of honor to take the stage and discuss the Patriot Act without risk of prosecution.

Known as John Doe in court filings, the guest of honor was the Connecticut librarian who was visited by the Federal Bureau of Investigation last year and presented with what is known as a national security letter demanding patron records.

The subpoena, issued as part of a counterterrorism investigation, not only barred him from disclosing the target of the inquiry, but also forbade him and others at his place of work to ever discuss the letter or even to acknowledge its receipt.

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Though some 30,000 national security letters are issued a year without arousing public protest, the librarian was reluctant to comply because of professional ethics aimed at keeping library records confidential.

On the advice of the American Civil Liberties Union, his employer went to court to challenge the constitutionality of the subpoena, the provisions of the Patriot Act that broadened the use of national security letters after Sept. 11, 2001, and the order permanently forbidding discussion of the F.B.I.'s demand.

As the Bush administration pushed for the act to be reauthorized, a handful of Democratic and Republican lawmakers argued that it went too far in encroaching on civil liberties. In the end, they persuaded the White House to accept a compromise that placed library records beyond the reach of a national security letter if they were gathered by libraries operating in what many people understand to be their traditional roles.

The final bill also gave recipients of national security letters the explicit right to consult lawyers.

While those concessions have allowed lawmakers to say that new safeguards on civil liberties have been put in place, another powerful provision in the Patriot Act, known as Section 215, remains on the books. It gives law enforcement another confidential way to demand information but has seldom been used because it requires judicial approval. National security letters, in contrast, require merely the signature of an F.B.I. official.

Between Section 215 and the new language governing national security letters, some opponents of the new version of the Patriot Act are skeptical that the revisions will provide much protection against unwanted invasions of privacy or infringements on free speech.

"The revised law provides almost no protection whatsoever for libraries," said Ann Beeson, the civil liberties union lawyer representing the organization that brought the suit in Connecticut. "It's virtually meaningless."

The section of the new law that addresses "privacy protection for library patrons" states that library records are beyond the reach of national security letters so long as the library is not operating as an "electronic communication service." Elsewhere, that term is defined as "any service which provides to users thereof the ability to send or receive wire or electronic communications."

But much of what a modern library does courses through its computers. Patrons can research topics on the Web. They can even reserve books from home. "A national security letter can be used to get any library record that is maintained via an electronic communication service," Ms. Beeson said. "That definitely includes Internet access and e-mail records and can also include patron borrowing records."

The new law does establish the recipient's right to challenge the nondisclosure orders that typically accompany national security letters and Section 215 requests. But the recipient would have to wait a year before raising the question anew if the government continued to assert the need for secrecy.

"If you're a business that has resources to challenge it every year, you can," Ms. Beeson said. But she said a judge would be hard pressed to rule against a government request to keep the information secret for reasons of national security. In the Connecticut John Doe's case, she said, "nothing in the new law permits John Doe to disclose his identity."

Though government lawyers demanded that John Doe's identity be shielded in court filings, the government failed to completely conceal the name in those filings, which revealed the plaintiff to be the Library Connection of Windsor, Conn., a nonprofit organization that provides back-office services to some two dozen libraries in the Hartford area.

Eager to testify publicly about the Patriot Act, the group's officers won the right last summer to identify their organization as the recipient of a national security letter after Judge Janet C. Hall of Federal District Court in Bridgeport found that the government had unjustly imposed a prior restraint on free speech. But her decision was stayed while the government appealed, and the United States Court of Appeals for the Second Circuit, in Manhattan, has yet to rule.

"I am rather appalled that our country's laws silence John Doe and require him to remain anonymous for standing by his professional ethics, for standing up for the principle that it is nobody's business what you read, or listen to, or look at in the library but yours," Judith F. Krug, the executive director of the Freedom to Read Foundation, told the crowd in San Antonio, as she accepted the University of Illinois's annual Robert B. Downs Intellectual Freedom Award in John Doe's absence.

Alice S. Knapp, a Stamford librarian who is this year's president of the Connecticut Library Association, said she was there "taking pictures left and right." But the Library Connection's executive director, George Christian, and the vice president of its board, Peter Chase, did not attend. Mr. Chase's absence was especially odd since he was to be the Connecticut Library Association's advocate on intellectual freedom this year.

Without commenting on John Doe's likely identity, Ms. Knapp confirmed that she had assumed many of Mr. Chase's speaking duties this year. For moral support, she has been nominating John Doe for other awards.

"We nominate them for everything we can," Ms. Knapp said. "Never mind the pressure they're under. Just the sheer act of bravery to decide not to comply and to decide to make an issue of it was incredibly huge, and within the library community, there is a lot of respect for them."

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HOMELAND RESPONSE:

Homeland Security Targeting Some Plants (AP)

By Lara Jakes Jordan

The AP, March 21, 2006

Chemical plants with lax protections from attacks and accidental leaks are being targeted by the Homeland Security Department — before they can be targeted by terrorists.

Homeland Security Secretary Michael Chertoff said Monday his department will crack down on chemical manufacturers and storage facilities that he described as "free riders" — those that haven't beefed up their security measures.

"They're counting on the fact that the industry in general has a good level of investment, and they figure they'll hide among the leaves and essentially freeload on this security work done by others," Chertoff said.

"That's not acceptable," he said. "Progress on this has stalled for too long."

Counterterror experts put the chemical industry at the top of the list of likely terror targets. Congressional investigators have revealed spotty results in how well the chemical industry is prepared to respond in the event of an attack.

At issue is federal regulation of security plans at the nation's 15,000 privately operated chemical plants — one-fifth of which are close to cities and other heavily populated areas.

The chemical industry generally has resisted federal regulation, and large manufacturers have voluntarily taken steps to improve security that they deem adequate. Small chemical firms and plants have largely ignored beefing up safeguards to avoid having to pay for them.

Homeland Security "wants and deserves authority to set federal standards for chemical security, and then enforce those standards," said Chris VandenHeuvel, a spokesman for the American Chemistry Council, which represents large chemical manufacturers. "Four and a half years after 9/11, they still don't have that."

Legislation is pending in the Senate to authorize Homeland Security to shut down facilities that do not comply with minimum safety standards. But the bill by Sens. Susan Collins, R-Maine, and Joseph Lieberman, D-Conn., would largely let the chemical industry draw up its own security plans for the federal government to approve or reject.

Chertoff has not endorsed the plan, but he is expected on Tuesday to outline elements that he said would need to be in acceptable legislation. Congressional staffers said it likely would not encourage facilities to substitute safe substances for hazardous chemicals, as environmentalists have demanded.

Without that provision, "there isn't any security that would be good enough," said Rick Hind of Greenpeace. "A small plane or a high-powered weapon would bypass any gate or fence."

Chemical Plants May Be Called To Boost Security (WSJ)

By ROBERT BLOCK

The Wall Street Journal, March 21, 2006

WASHINGTON -- Reversing course, the Bush administration says it will now work with Congress to require the chemicals industry to better protect its facilities from terror strikes, requiring companies to draft detailed antiterrorism plans and penalizing those that don't comply.

Homeland Security Secretary Michael Chertoff, in remarks today to the American Chemical Council, an industry trade group, is expected to detail the minimum requirements he would like to see Congress include in legislation to bolster security at U.S. chemical plants.

"The fact of the matter is: chemical plants and, in fact, transportation of chemicals, remains a vulnerability," Mr. Chertoff said in a speech yesterday at the Heritage Foundation, previewing his remarks today. "Progress on this has stalled for too long. We do need legislation and congressional action and leadership on this point."

A chemical plant security bill is pending in the Senate, drafted by Sens. Susan Collins (R., Me.) and Joseph Lieberman (D., Conn.). Mr. Chertoff said the administration will work with them to refine and advance the bill into law. The goal "is to have flexibility, appropriate risk management, smart use of technology and not heavy-handed strangulation or overregulation."

Following the Sept. 11, 2001, terror attacks, lawmakers and some top Bush administration officials pointed to the vulnerability of U.S. chemical plants to similar strikes.

Former Environmental Protection Agency administrator Christine Whitman wanted to use existing EPA authority to compel the chemicals industry to adopt stricter protective measures that would make it more difficult for terrorists to attack plants and tank cars. Fearing overregulation, industry officials convinced the White House to shift plant security to the newly created Department of Homeland Security, but without any power beyond making recommendations.

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The Department of Homeland Security wouldn't provide advance details of Mr. Chertoff's remarks. But Chris VandenHeuvel, a spokesman for the American Chemistry Council, said he expects Mr. Chertoff will say legislation must give his department authority to work with the industry to set minimum security standards. He also wants real enforcement power.

"DHS does not have authority it needs to compel the industry to stake steps necessary to protect against terrorists and terrorism, and Mr. Chertoff wants that to change," Mr. VandenHeuvel said.

A 'Unified Command Structure' In Search Of A Leader (WP)

By Dana Milbank

The Washington Post, March 21, 2006

As Homeland Security Secretary Michael Chertoff sat down for lunch yesterday on the seventh floor of the Heritage Foundation, a vivid scene from the post-9/11 world was unfolding outside the conference-room window.

Two blocks away at Union Station, a small grease fire had erupted on the grill at McDonald's. The blaze was quickly extinguished, but not before jittery security personnel ordered the terminal evacuated. Hundreds of shoppers, diners and rail passengers, heeding shouted warnings to flee the premises, flowed into the plaza outside, where emergency response vehicles joined the usual duck boats and tourist trolleys.

Chertoff aides watched the mayhem from the Heritage windows, but Chertoff himself missed the hullabaloo; one of his lunch partners explained that his security guards had ordered the blinds drawn.

It was just as well -- the secretary has enough crises to worry about these days.

A year after he took over from Tom Ridge at Homeland Security, Chertoff is getting much of the blame for the woeful Hurricane Katrina response, insufficient supervision of the Dubai port deal and domestic defenses that remain, by most accounts, unacceptably weak.

Earlier this month, the conservative magazine Human Events quoted administration officials as saying that Chertoff had "only a few days left" in the Cabinet. The White House denied it, but the rumors -- and calls for his head -- continue.

Yesterday, an hour before Chertoff addressed the International Association of Fire Fighters at the Hyatt on Capitol Hill, Sen. Joseph R. Biden Jr. (D-Del.) won vigorous applause from the firefighters for demanding Chertoff's ouster for his role in a "dangerously incompetent" administration.

All of this must have Chertoff, a former star prosecutor and top Justice Department official, wondering why he gave up his seat as a federal appellate judge for a position that earns him -- deservedly or not -- unending criticism.

"You gave up a lifetime appointment for this?" Sen. Mark Pryor (D-Ark.) marveled to Chertoff at a Senate hearing last month at which the secretary was getting abuse over Katrina.

"My wife reminds me of that periodically," Chertoff replied, ruefully.

Chertoff's problem is not, as Biden suggests, that he's incompetent. The secretary is highly accomplished. His problem, if anything, is he's a model technocrat in a position that sometimes demands a commanding leader.

A strikingly thin man with a high-pitched voice, pointy ears and droopy eyelids, Chertoff speaks of "the critical points of triangulation" and calls for a "properly risk-managed approach to critical infrastructure." He talks about the need for "total assets visibility" and favors "an integrated, sensible, systems-based approach." He desires "better information about the constituents of the supply chain." And instead of telling people that he's protecting them, he says that his department has "done a lot to elevate the general baseline of security in this country."

Relax, America: Your general security baseline is elevated because of a systems-based approach to critical triangulation points.

These kinds of statements -- all voiced at Heritage yesterday -- make the wiry Chertoff a big target for those building a case that the administration is lax about homeland security. The firefighters' president, Harold Schaitberger, began yesterday's conference with a speech complaining that "the administration and OMB have recommended drastic cuts" in first-responder programs.

Biden asked the crowd, almost all men, whether the administration was protecting Americans. "Well folks, the winds of Katrina and the shoddiness of the Dubai port deal . . . have answered the question," he said.

Chertoff, suffering from a cold, cleared his throat 10 times as he spoke to the firefighters and 20 more when talking at Heritage. He offered a series of explanations for the Katrina problems: "catastrophe of the century . . . a disaster is always an ugly thing . . . Mother Nature can be awfully tough to deal with."

He blended that with his technocratic explanations of DHS ("internal integration into a unified command structure") and attempts at high rhetoric that fell short. Pointing to photos of the Sept. 11, 2001, wreckage, Chertoff said: "You are really part of the war on terror, as well as the war against all hazards."

War Against All Hazards: WAAH?

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Chertoff, pursued by reporters, was whisked from the building and into a waiting Chevy Suburban by a knot of aides and bodyguards -- and away to the relative safety of Heritage. There, after lunch, former attorney general Ed Meese introduced him by praising his "dynamic leadership."

Chertoff displayed that dynamism by giving the audience an earful about the need to "integrate all of your organs of power" to achieve "the totality of effort." A few of his listeners allowed their eyes to close.

Chertoff made a beeline for the exit after 30 minutes. "Because of the secretary's schedule, he's not able to take questions," Meese tried to explain. In the war against all hazards, a Q&A session probably would not elevate the general baseline of Chertoff's job security.

U.S. Eyes Privatizing Cargo Security Work (WT)

By Audrey Hudson

The Washington Times, March 21, 2006

Homeland Security officials are looking to have private companies validate the security procedures under which cargo travels from foreign ports into U.S. terminals.

The program, which would give speedier entry to U.S. ports to ships and suppliers that meet the security standards, is now in the hands of 80 Homeland Security inspectors who have to plow through more than 10,000 applicants.

Although Homeland Security plans to hire an additional 40 inspectors in the coming months, the department also is looking to outsource to private companies some of its duties, in particular the validation process, which has dragged for years and involves on-site inspections of ships and cargo abroad.

More than 5,800 companies currently get some shortcuts by being "certified." But only 1,545 have been "validated" to receive the full benefits of the program after first-hand inspections, such as fewer on-site checks at U.S. ports, said Jayson P. Ahern, assistant commissioner of field operations for Customs and Border Protection.

Mr. Ahern says the manpower shortage has the department exploring other options, including contracting the work to the private sector.

"I am not happy where our progress has been," Mr. Ahern told a House panel last week.

The Customs-Trade Partnership Against Terrorism (C-TPAT) was initiated after the September 11 attacks to secure the cargo chain from port to port. Companies that open their doors to full security inspections get fewer checks at ports of arrival and faster processing.

Although critical of the program's sluggish pace, Rep. Loretta Sanchez, California Democrat, endorsed the idea of outsourcing.

"We are relying on companies that we haven't even gone out to check to see if in fact they have the security things in place that you said they had," says Miss Sanchez, ranking member of the House Homeland Security subcommittee on economic security, infrastructure protection and cybersecurity.

"I mean, you have 80 people that can't possibly check these 10,000 companies. What about having somebody else check them?" said Miss Sanchez, who formally asked the agency to consider privatizing the work.

"We have, to this point, resisted the notion of third-party validators. We think it is a responsibility that we should be doing in the government, and not necessarily contracting it out. However, given the current situation ... we want to have more parties involved with a trusted program. We want to have the largest corporations in the industry, the importers reaching back to their suppliers, vendors, manufacturers, putting levels of security in place throughout the supply chain," Mr. Ahern said.

"So perhaps we are coming to a point in time where, in certain environments with certain countries that may not be of a significant risk, maybe [using] the third-party validator has a [place] for us. So we are going to be evaluating that with new eyes, but to this point we have been opposed to it," Mr. Ahern said.

Suzanne Trevino, a spokeswoman for CBP, said yesterday that her agency is looking at the prospect of hiring third parties to validate security.

"At this point, the only thing we will say is that we will look at it, but we have not started a formal process. We don't have the resources to complete the validation necessary or that Congress wants," Mrs. Trevino said.

Last March, the Government Accountability Office criticized the program and cited weaknesses in the validation process, which it said "is not rigorous enough to achieve its stated purpose, which is to ensure that the security procedures outlined in members' security profiles are reliable, accurate and effective."

As of Nov. 2, 2004, more than 7,300 applications had been filed. Of them, 4,153 had been certified and slightly more than 400 validated. Almost 3,000 applications have since been filed.

Peter Tirschwell, publisher of the Journal of Commerce, called the Homeland Security idea an "outsourcing of security."

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"They exist in a commercial environment to facilitate commercial transactions. Something as important as our national security, asking them to perform what is a government role -- it's hard to see how that could be successful," he said.

The move comes on the heels of furor over a plan for a Dubai company to operate terminals in six U.S. ports. Asked whether the current mood against foreign companies operating in matters of national security might affect this proposal, Mr. Tirschwell said, "I think it would not be looked at favorably."

Seth Stodder, former director of policy and planning for Customs and Border Protection, said private validation firms can serve as a "force multiplier" but the final responsibility has to lie with the government.

"The devil's always in the details, but in the abstract, I think it's a good idea to help CBP get more validators out there, and that's critical," said Mr. Stodder, who works with the lobbying firm Akin Gump Strauss Hauer & Feld LLP.

"There is a need to step up validation and make it faster, but there are hurdles to think about when using third parties -- training and management, vetting employees," Mr. Stodder said.

Dubai Will Delay Another Acquisition Involving U.S. Plants (NYT/BLOOM)

By Bloomberg News

The New York Times, March 21, 2006

The Dubai government delayed its $1.2 billion purchase of a military equipment maker yesterday, the second time in a month that a takeover by the Middle East emirate has been jeopardized by American security concerns.

Dubai International Capital, owned by the government of the Persian Gulf emirate, said that it would delay its acquisition of the Doncasters Group, a British company that has nine plants in the United States, by as much as two months from March 31 while government agencies review the purchase.

"After what happened with Dubai Ports, the government is looking at this deal more closely," Sameer al-Ansari, Dubai International's chief executive, said in an interview.

Dubai International is buying Doncasters from the Royal Bank of Scotland Group, its owner since 2001. Shaun Gamble, a spokesman for the Royal Bank of Scotland in London, declined to comment yesterday.

Dubai's purchase of Doncasters, which was agreed to on Dec. 14, may ignite a political debate in the United States similar to that caused last month by the $6.8 billion purchase of the Peninsular & Oriental Steam Navigation Company by DP World, a Dubai-owned company. Succumbing to political pressure over that deal, DP World had to agree to sell its interests in United States terminals. Revenue from Doncasters's American plants, which make parts for tanks and military aircraft, account for about 40 percent of total sales.

"If this deal isn't approved by the U.S., it wouldn't proceed," said Angus Blair, chief executive of Mena Financial, a company in London that advises foreign companies about doing business in the Middle East. "Forty percent is too big to ignore," Mr. Blair said.

The Committee on Foreign Investment in the United States, a federal body that considers the sale of American assets to foreign companies, started a detailed 45-day investigation into the Doncasters agreement at the end of February, Mr. Ansari said.

Currency Flow And Trade (WT)

By Michael R. Czinkota

The Washington Times, March 21, 2006

The policy eclat over the acquisition of selected U.S. port operations by Dubai appears to be over. There were threats byCongress to pass legislation prohibiting such ownership, countered by statements that President Bush would veto any such legislation. Now, the Dubai owners have decided to spin off the U.S. operations from the global conglomerate which they have purchased. Yet, there may be significant long-term consequences for currency values and trade practices.

Most of the public discussion of this sordid affair has reflected the growing sensitivity in the United States to ownership and control of assets by non-domestic entities. The debate has focused heavily on possible discrimination against Muslim investors, protection against terrorism in U.S. ports and retaliation against U.S. investors abroad.

What appears to be not yet widely understood are the potential effects that these and similar policy decisions (such as the Unocal walk-away by China) can have on the value of global currencies and on trade flows. Congress' law of unintended consequences may strike again: The short-term direct effects of this action are likely to be far outweighed by the long-run indirect effects.

The United States has experienced more than 20 years of current-account deficits. It imports more than it exports. In past years, every month has brought more news about growing trade deficits, now up to $68.5 billion per month. It is hard to remember that President Nixon decided to abandon the fixed-exchange rate system for the Western world because of an annual

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imbalance of $5 billion. But we do see in more recent times that, typically, nations with a current-account deficit above 5 percent of gross domestic product (GDP) have experienced grave domestic and international consequences.

Even though the current imbalance is approaching 6 percent of GDP, these harsh consequences have not occurred in the United States. There the conditions are special: They are influenced by a high willingness of other countries to hold U.S. dollars, a substantial ability of foreign individuals and institutions to lend those dollars to the United States and a high U.S. capability to embed the dollar as a global currency. As a result, there is a surface picture of tranquility which has abounded in global trade and currency markets.

However, we know that this trend will have to change. Eventually, the United States will have to export more and import less. The key questions are how to achieve such change, how long to wait for such change and whether it should occur through market forces or through government intervention. It does appear that in addition to growing international competitiveness of U.S. firms, changes in the value of the U.S. dollar are needed to reverse the astounding trade imbalances.

The Dubai withdrawal may well be the watershed that triggers shifts in exchange rates now. The congressional debate, the national posture and the global repercussions may well form the basis of new Plaza Agreement-type conditions, which will gradually drive down the value of the dollar for the long term.

The pronouncements by Congress, the growing public debate and the withdrawal plans of the foreign investors directly play to the emotions of investors. The message is clear: Investments and ownership by foreign capital holders will be scrutinized with new rules, and may well be attacked, rejected or publicly scorned. This will be done regardless of plans made by the administration or commitments made to global agreements.

In other words, confidence in the U.S. dollar has been challenged by the U.S. itself. We know that money is just a piece of paper. What matters most in setting its value is the psychology behind it -- the trust, outlook and confidence in the government that has issued the money. Investors may be shaken by the public response to the port-acquisition plans, but Mr. Bush's steadfast embrace of foreign funds is an important counterpoint which reduces the urgency of the concerns, lets any shift come slowly and results in a soft landing.

The uncertainty and therefore the risk for anyone holding dollars or dollar-based assets has now increased. Such a change influences the perceptions of investors and their actions. Fewer investments from abroad into the United States and a decrease in dollar holdings will depreciate the price of the dollar, making imports more expensive and exports cheaper. In addition, continued discussions may affect U.S. public opinion and eventually change the views, brand preferences and country-of-origin sensitivity of American buyers.

This almost kabuki-like political interaction on port ownership may well presage a long-delayed and necessary shift in trade outcomes. What appears to be an unfulfilled policy debate on foreign investment may yet stimulateimportant changes in trade patterns which are based on market forces rather than government intervention.

Michael R. Czinkota teaches international business and marketing at Georgetown University. He held several trade-policy positions in the Reagan administration.

House Panel To Review Katrina Contracts (AP)

The AP, March 20, 2006

A House committee said Monday it would review several post-Katrina hurricane contracts for waste and abuse, citing recent concerns about limited oversight and the haste in which they were awarded.

The Government Reform Committee will hold at least one hearing in April, said Robert White, a spokesman for chairman Tom Davis, R-Va. Witnesses and the specific contracts that will be scrutinized have yet to be determined, he said.

Last week, the Government Accountability Office reported in its first preliminary overview of Katrina contracts that the government wasted millions of dollars, including at least $3 million for 4,000 beds that were never used. The report blamed in part mismanagement and poor planning by agencies.

Rep. Henry Waxman (news, bio, voting record), the senior Democrat on the panel, suggested earlier Monday that Davis to hold hearings on Katrina contracting. Waxman has proposed creating an independent, anti-fraud commission and has criticized congressional oversight of the hurricane recovery effort.

A House select committee also chaired by Davis issued a report last month saying waste in government contracts was due largely to poor planning. In one case, Mississippi officials requested from the Federal Emergency Management Agency 450 trucks of water and ice. After FEMA could not immediately deliver it, state officials were forced to buy from the commercial market at an untold cost, the report said.

"We spent five months investigating Katrina, including the contract issues," White said. "We understand there needs to be further review — GAO report or no."

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New Orleans Mayor Backs Building Plan (WP/AP)

By Associated Press

The Washington Post, March 21, 2006

NEW ORLEANS, March 20 -- Mayor C. Ray Nagin (D) finished work Monday on a plan to rebuild New Orleans, endorsing a proposal that would allow all residents to rebuild their homes in neighborhoods shattered by Hurricane Katrina.

The mayor's advisory commission, formed after Katrina struck Aug. 29, recommended in January that some flooded neighborhoods be replaced with parks and that the city take a go-slow attitude in rebuilding low-lying areas. But that suggestion was greeted with jeers and outrage at public meetings.

Nagin, who is running for reelection on April 22, distanced himself from that plan.

On Monday, he offered to let residents rebuild anywhere but warned that homeowners in flood-prone areas would do so at their own risk. "I'm confident that the citizens can decide intelligently for themselves," Nagin said.

The report also recommended revamping schools, and a wish list of projects included new light-rail systems, new riverfront development and better flood protection.

"It has been controversial in some respects, but I am pleased by the results," Nagin told hundreds of residents who gathered to hear about the plan.

The release of the report came hours after civil rights groups took aim at the state's plan for rebuilding. Critics said that plan gives short shrift to poor and low-income victims, focusing too much on bailing out homeowners and encouraging high-end development at the expense of low-income renters.

If a White House proposal is approved by Congress, the bulk of Louisiana's reconstruction would be funded with $9.2 billion in federal grants using a plan by Gov. Kathleen Babineaux Blanco (D).

Blanco's plan still needs approval by the state legislature, the Department of Housing and Urban Development, and the Louisiana Recovery Authority.

More Katrina Fatalities Could Be Found (LAT)

By Ann M. Simmons

The Los Angeles Times, March 21, 2006

NEW ORLEANS — The discovery of two bodies in the wreckage of a neighborhood devastated by Hurricane Katrina seven months ago has served as an unsettling omen to families still searching for missing relatives.

Eight bodies have been found since March 1, and with about 1,400 people still unaccounted for, Louisiana state officials said they could not rule out the possibility of finding others.

Until recently, recovery teams were unable to retrieve bodies from the neighborhoods that were rendered uninhabitable and designated off-limits to residents.

The two bodies found Sunday in the rubble of a collapsed home in the city's Lower 9th Ward have not been identified.

Investigators with the Orleans Parish coroner's office, which recently took over the process of identifying and releasing the remains of Katrina victims, would not say precisely where they found the bodies or comment on their condition.

"All I can say is we picked up two bodies," said John Gagliano, the coroner's chief investigator. "I don't have any more information as to the identification. We haven't done anything with them yet."

The hurricane left 1,287 people dead in Louisiana.

Until early March, the federal government's Disaster Mortuary Operational Response Team was in charge of alerting families when a deceased relative had been identified, and then releasing the remains to the appropriate funeral home. That task now falls to the parish coroner.

The New Orleans Fire Department has been using dogs to sniff out human remains in targeted areas.

The state-contracted Find Family National Call Center has received 11,601 phone calls since September to report people missing after the storm. As of Monday, 1,445 had not been accounted for, according to Kristin Meyer, public information officer with the Louisiana Department of Health and Hospitals.

However, officials said that most of the unaccounted-for were probably alive.

"We expect 300 to 400 will be really, truly missing," said Melissa Walker, another state health department spokeswoman. "Some might have died and been washed out to sea, and we'll never ever know." Others might be intentionally missing, she said.

"They've moved on with their lives and don't want to be found," Walker added.

Walker said that between 30 to 50 people, initially thought to be missing, were being located every day.

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Meyer said that in many cases, people moving from evacuation shelter to trailer to other temporary housing haven't been able to contact family. When they finally do connect, relatives who filed a missing-persons report don't always inform authorities that their loved one has been found.

Walker said the Baton Rouge-based Find Family National Call Center receives about 150 calls a day from families looking for relatives. Between 10 and 15 of them are new callers.

Relatives are required to fill out an eight-page report with detailed information, including unique physical identifiers such as birthmarks and tattoos.

A file is opened on each person reported missing. The name is run through several missing-persons databases, including that of the state police and groups such as the National Center for Missing & Exploited Children.

Still, residents and community activists said it was crucial to monitor the demolition of homes — which recently started in some neighborhoods — to ensure that proper searches were being made and that remains of victims could receive a decent burial.

"We have people who go out to where they're planning to bulldoze a home and make sure they've checked with cadaver dogs first," said Lisa Fithian, a spokeswoman for Common Ground, an all-volunteer grass-roots relief organization. "We try to make sure that whatever bulldozing is done, is done correctly."

Sunday's discovery sent chills down Valerie Schexnayder's spine. Until January, most of her immediate family had been scattered across several states, and there were moments of worry that some might be lost.

"I feel very grateful to the Lord that my family is reunited together," said Schexnayder, 60, whose house in the Lower 9th Ward was damaged beyond repair. "But I have some cousins, and we can't find them all. I hope they're all alive and well."

New Orleans Lacks Emergency Shelter As Storm Season Nears (USAT)

By Anne Rochell Konigsmark And Mimi Hall

USA Today, March 21, 2006

NEW ORLEANS — As hurricane season approaches, the city doesn't have an emergency shelter, and local officials are asking for federal help to get people out of harm's way if another disaster strikes.

Residents who can't leave town on their own ahead of an oncoming storm during hurricane season, which begins June 1 and runs through November, will be asked to board buses at the city's downtown convention center. They'll then be shuttled to shelters in outlying areas.

“The emphasis will be on survivability, and that means getting out of the impact area,” said Terry Ebbert, the city's director of homeland security.

Ebbert said he fears that without federal help, citizens could be stranded in the city with nowhere to go. Neither New Orleans nor Louisiana has the resources to evacuate and shelter large numbers of residents, and the federal government has not yet committed needed aid, Ebbert said.

Ebbert sent written requests for help recently to Homeland Security Secretary Michael Chertoff and R. David Paulison, the acting director of the Federal Emergency Management Agency, both of whom he criticized for not reacting quickly enough. “The silence has been deafening,” Ebbert said.

The federal Homeland Security Department is working on hurricane preparation in Louisiana, said the department's preparedness chief, George Foresman. “As they identify their gaps and shortfalls … that's where we're going to make sure there's a contingency plan in place,” he said.

Foresman and FEMA will be in the region this week to get a “clear, blunt assessment” of what's needed, Chertoff said Monday.

The city has dropped the idea of using the Superdome or any other city structure as a shelter. During Hurricane Katrina, which hit New Orleans on Aug. 29, the Superdome became a nightmare for 20,000 residents who rode out the storm there. The roof peeled off and it rained inside; the building lost power and it became dark and hot; toilets stopped working; and food and water became scarce.

“I am never going to do a shelter of last resort again,” New Orleans Mayor Ray Nagin said.

If there is a massive evacuation of southeast Louisiana, as there was ahead of Katrina, “there won't be enough buses,” said Jeff Smith, acting director of the Governor's Office of Homeland Security and Emergency Preparedness. “The federal government needs to step in. But they have been very slow to respond.”

Chertoff said his department has finished early assessments of state preparedness and evacuation plans and will work closely with the Gulf Coast states to make sure they have whatever they need to handle the next storm season. Homeland Security also has to “get our own house in order,” Chertoff said.

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To that end, the department is working on plans to better track supplies sent in to victims, handle hundreds of thousands of phone calls in the aftermath of a bad storm and better manage debris removal. Chertoff also urged citizens to do more to prepare on their own: "You cannot count on help coming in the first 24 to 48 hours (after) a catastrophe."

WAR NEWS:

President Offers Iraqi City As Proof Of Success In War (ABJ)

By Carl Chancellor And Lisa A. Abraham

Akron Beacon Journal, March 21, 2006

CLEVELAND - Iraq is the central front in the war on terror and the United States will not abandon that front until democracy is established, President Bush said Monday.

Bush came to the City Club of Cleveland to lay out his vision for peace and democracy in the Middle East in an effort to bolster support for the war in Iraq, now entering its fourth year.

``In the face of continued reports about killings and reprisals, I understand how some Americans have had their confidence shaken," he said. ``Others look at the violence each night on their television screens and wonder how I can remain so optimistic about the prospects for success in Iraq. They wonder what I see that they don't."

Bush said he sees the successes, and spoke in detail about the liberation of Tal Afar -- an Iraqi city that he said was roughly the size of Akron -- some 35 miles from the Syrian border.

Bush said the city had become a stronghold for terrorists, who brutalized residents and intimidated them through violence.

The town, liberated in September 2004, quickly fell into the hands of al-Qaeda again when local police weren't able to maintain order.

Terrorists planned to use the city as a strategic base where al-Qaeda could plan new attacks on the United States, he said.

But Bush said the United States was able to change its tactics to reclaim the city again -- this time for good -- by using the new strategy of ``clear, hold and build."

Bush admitted that, in the past, coalition troops would go into a town like Tal Afar and drive out insurgents. And when coalition troops eventually left, the insurgents would return.

When troops returned to Tal Afar in 2005, he said, they drove out the terrorists, but this time Iraqi troops remained in place -- a move that has ensured the continued stability of the city.

``The people of Tal Afar have shown that Iraqis do want peace and freedom," Bush said.

The president said the United States must continue to fight the war on terror on whatever front necessary, including Iraq and Afghanistan.

``If we were not fighting this enemy in Iraq, they would not be idle," he said. ``They would be plotting and trying to kill Americans across the world and within our own borders."

Bush said more days of sacrifice and fighting are ahead, but he predicted that freedom would prevail, in the same way that Germany and Japan were turned into democracies after World War II. He said a democratic Iraq would one day serve as an inspiration for freedom throughout the Middle East.

``The United States will not abandon Iraq," Bush said. ``We will not leave that country to the terrorists who attacked America and want to attack us again. We will leave Iraq, but when we do, it will be from a position of strength, not weakness.

``Americans have never retreated in the face of thugs and assassins and we will not begin now."

Bush Asks U.S. To Look Past Iraq Bloodshed (AP)

By Tom Raum

AP, March 20, 2006

Beginning the fourth year of an unpopular war, President Bush defended his Iraq record on Monday against skeptical questioning. He said he could "understand people being disheartened" but appealed to Americans to look beyond the bloodshed and see signs of progress.

Bush fielded questions for nearly an hour at the City Club, a forum known for its tough interrogations of world leaders. Not only was he grilled on Iraq, but he also was asked to justify his warrantless wiretapping program, U.S. relations with Pakistan and his domestic priorities.

The president was asked why he deemed Iraq — which turned out not to have weapons of mass destruction — as enough of a threat three years ago to launch an invasion, in contrast to nuclear-ambitious Iran today.

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"One difference was that, in Iraq, there was a series of unanimous (U.N. Security Council) resolutions that basically held the Iraqi government to account, which Saddam Hussein ignored," Bush said. Still, he said Iran was a concern, on the question of nuclear weapons and on its role in Iraq.

The White House has accused Iran of meddling in Iraqi politics and of supporting armed militias in Iraq by sending men and weapons, including components for increasingly lethal roadside bombs. Iran and the United States have agreed to talk about Iraq, but Bush said, "It's very important, however, for the Iranians to understand that the discussion is limited to Iraq. We feel like they need to know our position."

As the president delivered the latest installment in an upbeat defense of his Iraq policy, opponents used the day after the third anniversary of the invasion to step up their criticism.

Three potential 2008 presidential candidates — Democratic Sen. Joe Biden of Delaware, New Mexico Gov. Bill Richardson and Republican Sen. Chuck Hagel (news, bio, voting record) of Nebraska — offered critical assessments at the International Association of Firefighters' legislative conference in Washington.

Biden said it was time for Defense Secretary Donald H. Rumsfeld to "be told to go home" and for Homeland Security Secretary Michael Chertoff "be given his walking papers." Richardson said U.S. involvement in Iraq had been "badly mismanaged by the administration."

Hagel, in an interview at the conference, said many of the predictions and promises made by the administration have fallen short, such as that oil revenues would pay for the war and the conflict would be short. He also pointed to Vice President Dick Cheney's assertion last May that the insurgency was in its "last throes."

"There's been a credibility erosion for three years," Hagel said.

On Capitol Hill, some Democrats said there had been progress in Iraq, as Bush asserted, but they said it was clouded by problems across the country. They said Bush had gone to war without enough troops.

"Some positive signs do not mitigate this administration's gross miscalculations and stunning incompetence in Iraq," said Rep. Steny Hoyer (news, bio, voting record) of Maryland, the No. 2 Democrat in the House.

Senate Democratic Leader Harry Reid, D-Nev., said the "policies of the Bush administration and the civilian leadership of our military have made America less safe and left Iraq on the precipice of all-out civil war."

Bush pointed to success in stabilizing an insurgent stronghold in Tal Afar, a northern Iraqi city of 200,000 near the Syrian border.

"The strategy that worked so well in Tal Afar did not emerge overnight," Bush said. "It took time to understand and adjust to the brutality of the enemy in Iraq."

"The example of Tal Afar gives me confidence in our strategy," the president said.

One woman asked Bush whether he saw terrorism as a sign of the biblical Apocalypse, and a man followed up with how he could restore confidence in U.S. leadership after several reasons for going to war with Iraq later proved false.

"Like you, I mean, I asked that very same question: Where'd we go wrong on intelligence?" Bush said. He said he was working to improve intelligence gathering because "the credibility of our country is essential."

As for the Apocalypse, Bush said, "I haven't really thought of it that way. ... I guess I'm more of a practical fellow."

Bush bantered with the audience at times. And despite the probing questions, he received several rounds of enthusiastic applause.

"Anybody work here in this town?" Bush joked to laughter as he responded to question after question.

The White House made no attempt to screen either the audience or the questions, said spokesman Scott McClellan.

However, much of downtown near the hotel where Bush spoke was barricaded off. About 100 anti-war protesters chanted for the Republican president to leave the heavily Democratic city, held signs with peace messages and banged on drums.

Inside, not all the questions challenged Bush's war rationale.

One member of the audience invited him back for the Cleveland Hungarian Revolution 50th Anniversary next October. Others complimented him on his vision for a nuclear treaty with India and for his "very enlightening" comments about Iraq.

Cheney, attending a political fundraiser in Hanoverton, in northeast Ohio, also defended U.S. involvement in Iraq and said decisions on troop levels would be made without political consideration.

"Our coalition is also helping to build an Iraqi security force that is well trained and well equipped," Cheney said.

Old Forecasts Come Back To Haunt Bush (WP)

By Jim Vandehei

The Washington Post, March 21, 2006

DOJ_NMG_0019857

Three years of upbeat White House assessments about Iraq that turned out to be premature, incomplete or plain wrong are complicating President Bush's efforts to restore public faith in the military operation and his presidency, according to pollsters and Republican lawmakers and strategists.

The last two weeks have provided a snapshot of White House optimism that skeptics contend is at odds with the facts on the ground in Iraq.

Vice President Cheney said Sunday that his 10-month-old claim that the insurgency was in its "last throes" was "basically accurate" and reflects reality. Since Cheney's original comment, on at least 70 days there have been violent attacks that in each instance killed more than 10 people. Two weeks ago, Gen. Peter Pace, chairman of the Joint Chiefs of Staff, said the United States is making "very, very good progress" -- less than 48 hours before the U.S ambassador warned of a possible civil war breaking out. And Bush yesterday said his optimism flows in part from success in Tall Afar, a city in northern Iraq, though local residents there said sectarian violence is spreading.

Pollsters and some congressional Republicans said the administration's sunny-side-up appraisals, instead of lifting the public mood, may now complicate the task of sustaining support for a long-term military commitment in Iraq. The loss of trust, they said, is affecting Bush's presidency more broadly, as polls show his public support at a nadir.

Rep. Heather A. Wilson (R-N.M.) said in an interview that Cheney was wrong about the insurgency being in its last throes and that she sent word to the White House recently to level with the American people about the challenges. "We need to assume that things are going to be very hard because when you do, you plan accordingly," said Wilson. "I am always cautious about always seeing things in the best light because war is not like that" and the public knows it.

Michael Dimock, associate director of the nonpartisan Pew Research Center for the People and the Press, said a recent survey by his group showed the public skeptical toward Bush, about both his administrative competency and his personal credibility. Only 40 percent of respondents said Bush was trustworthy, a 22-point drop from September of 2003, six months after the invasion of Iraq.

Dimock said the cumulative effect of the past three years has made Bush's public-relations challenge imposing, and perhaps impossible. "When you give a speech and try to persuade people that they are only hearing the bad and things are going better than the media is saying, if a majority of people say they do not find you trustworthy, it is hard to be persuasive," he said.

Frank Newport of the nonpartisan Gallup polling organization said White House efforts to turn around public opinion are complicated now because Bush is waging the wrong argument. His polling shows a majority of Americans agree with Bush that troops should not be pulled out immediately and that Iraq is better off now and will be in the future as a result of the invasion, two points the president made yesterday. Yet 6 out of 10 said the war was not worth it because, Newport said, the public does not see an upside for the United States. "The focus for Americans is Americans," he said.

Newport, whose survey found a 26-point drop in the number of people who find Bush trustworthy since the 2003 invasion, said Bush can restore his standing on Iraq, on his credibility and on other issues by improving his overall popularity -- a feat past slumping second-term presidents have found difficult to pull off. The erosion in the public's support for Bush at a personal level is a striking reversal for a president who for most of his first term was described by the public as a strong and trustworthy leader, especially on national security measures.

This erosion in trust is not a new phenomenon for a wartime president. Lyndon B. Johnson's upbeat appraisals of progress in the Vietnam War proved wrong so often that by 1967 commentators spoke of his "credibility gap" with the public, a liability that soon helped push him out of office.

In recent months, Bush has moved to talk more candidly about the problems in Iraq and yesterday said repeatedly that he understood the public's concerns. But it has not stopped his slide in the polls.

There also has been a steady drumbeat of criticism -- from Democrats in particular -- that the administration should have been more forthright about the war and its cost from the outset. There were the famous claims by Cheney and others that U.S. troops would be greeted as liberators after the invasion. Rep. Duncan Hunter (R-Calif.), a strong supporter of the war, said that was true -- to a point. "The same people who cheer when you get rid of someone they hate might not be so happy" when you occupy their country for three-plus years, he said.

Other statements were proved wrong. The weapons of mass destruction the administration said Saddam Hussein possessed before the war have never been found -- and many experts believe never existed. White House officials hammered then-chief economic adviser Lawrence B. Lindsey for claiming the war could cost as little as $100 billion, saying the estimate was too high. The actual tally is fast approaching four times that amount, according to the Congressional Research Service, which estimates a $360 billion price tag to date.

Perhaps the most famous rosy statement came nearly three years ago when Bush proclaimed: "We have seen the turning of the tide" under a banner that read "Mission Accomplished." Since then, more than 2,300 Americans have died in Iraq.

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Bush Defends Iraq Policy Before Tough Questioning (KRT)

By Ron Hutcheson

Knight Ridder, March 20, 2006

CLEVELAND - Hoping to shore up support for the Iraq war, President Bush opened himself to questions at a rare public forum Monday and got an earful from skeptics who questioned his motives and his credibility.

Speaking to the City Club of Cleveland, Bush acknowledged that many Americans don't share his confidence that Iraq can become a stable democracy. The freewheeling question-and-answer session that followed his prepared remarks gave skeptics a chance to confront the president directly.

Bush seemed taken aback when the first questioner asked him whether he views the conflict in biblical terms, as an apocalyptic struggle for the Middle East. Some of the president's critics have speculated that his Christianity and a wish to protect the Holy Land are behind his desire to transform the Middle East.

"The answer is, I haven't really thought of it that way," he replied. "First I've heard of that, by the way. I guess I'm more of a practical fella."

Bush said his primary concern was protecting Americans from another terrorist attack.

Another questioner suggested that the president had damaged his credibility in the run-up to war by linking Iraq to terrorism and weapons of mass destruction.

"That's a great question," Bush said before taking issue with the assertion that he had tied Iraqi leader Saddam Hussein to the terrorist attacks on Sept. 11, 2001.

"I was careful never to say that Saddam Hussein ordered the attack on America," he said.

While that's true, the president did link Iraq to 9-11 in other ways.

For example, in a letter to Congress at the start of the war, Bush said the use of force against Iraq "is consistent with the United States and other countries continuing to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001."

As for weapons of mass destruction, the president said the incorrect assumptions about Iraq's arsenal were an international intelligence failure.

"I asked that very same question: Where'd we go wrong on intelligence?" he said. "The credibility of our country is very important. I agree with you."

Another questioner asked why Bush had ordered an invasion of Iraq but is relying on diplomacy in the dispute over Iran's nuclear programs. The president said he felt he had exhausted diplomatic options with Iraq.

"The Iran issue is just beginning to play out," he added.

But Bush stressed that he's willing to go to war with Iran to protect Israel.

"I've made it clear, and I'll make it clear again, that we will use military might to protect our ally, Israel," he said.

A college student expressed concerns about the cost of the war, suggesting that the money spent in Iraq could be better used to help pay college tuitions at home.

"We can do more than one thing at one time," the president said.

The tough questions - all delivered in polite and respectful terms - were striking because Bush typically appears before audiences dominated by screened Republican supporters.

The City Club, a 94-year-old civic organization, bills itself as a "citadel for free speech" and insists that guest speakers take questions. Despite the obvious skepticism of some audience members, the president appeared to win over the crowd with his friendly banter and willingness to engage critics.

"He's got to get out and do more of this," retired radiologist Ted Castele said after the 90-minute session. "There are a lot of concerns, serious concerns."

Polls show that most Americans think the war was a mistake and don't expect a good outcome.

"I understand how some Americans have had their confidence shaken," Bush said. "They wonder what I see that they don't."

The president devoted most of his speech to declaring progress in Iraq, and cited the long campaign to rid the northern city of Tal Afar of terrorists as an example. Yet he also conceded:

"I wish I could tell you that the progress made in Tal Afar is the same in every part of Iraq. It is not." But "the example of Tal Afar gives me confidence in our strategy," he said.

Audience Peppers Bush With Questions About Iraq (USAT)

DOJ_NMG_0019859

By David Jackson
USA Today, March 21, 2006

President Bush has often appeared before invitation-only audiences that tend to lob him softballs during question-and-answer sessions. But not Monday, when he took some tough questions from residents in Cleveland.

Most of the queries dealt with the Iraq war as it entered its fourth year — the financial costs, disputed rationales, and even whether the conflict is a sign of a coming apocalypse.

"Anybody work here in this town?" Bush joked during the 91-minute session that began with a speech about his Iraq strategy, but switched to Q&A.

Bush has opened himself up to audience questions more frequently in recent months, starting with a December speech on Iraq before the Philadelphia World Affairs Council. Last week, he took critical questions on his prescription-drug program at a senior citizens center in Maryland.

Bush clearly enjoys the repartee. Adam Levine, a former Bush assistant press secretary, says the president is "at his best" in a give-and-take. More important, this lets him bypass the media.

"When the noise level gets to a certain point, it's important for the president to communicate directly with people," Levine says.

About time, some political analysts say. "Going public, that's the strategy that seems wisest," given Bush's low approval ratings, says Shirley Anne Warshaw, professor of political science at Gettysburg College in Pennsylvania. "Americans are very forgiving of their leaders." Bush's approval rating was at 36% in a USA TODAY/CNN/Gallup Poll taken March 10-12.

Audience members, invited by the City Club of Cleveland, pressed him on the war. A woman cited a book whose author says the Bush administration has reached out to "radical" Christians who see the war and terrorism as signs of a coming apocalypse. "Do you believe this?" she asked.

Bush won audience sympathy with his halting answer: "The answer is," he said and paused. "I haven't really thought of it that way," he said finally, to audience laughter. "First I've heard of that, by the way." Bush then repeated his oft-stated contention that victory in Iraq is a key to success in the overall war on terrorism.

A man asked about what he said were the administration's prewar claims that Iraq had weapons of mass destruction, sponsored the9/11 terrorists, and had purchased nuclear-bomb materials. "All three of those turned out to be false," the questioner said. Bush disputed him: "I don't think we ever said — at least I know I didn't say — that there was a direct connection between September the 11th and Saddam Hussein. We did say he was a state sponsor of terror."

A questioner who said he was a high school student asked: "Mr. President, with the war in Iraq costing $19,600 per U.S. household, how do you expect a generation of young people such as ourselves to afford college?"

Bush questioned the student's premise: "Hold on, we can do more than one thing at one time," he said, insisting the economy was robust enough for national defense and student loans.

Before the Q&A, Bush devoted his speech to the "clear, hold and build" strategy in Iraq. He focused on the city of Tal Afar, where he said U.S.-led forces have cleared out terrorists and helped build democratic institutions. He called that an "example of progress in Iraq that most Americans do not see every day in their newspapers or on their television screens."

In an aside about Iran's nuclear ambitions and threats against Israel, Bush promised to use "military might to protect our ally Israel, (though) our objective is to solve this issue diplomatically."

There were some friends there. A man who said he represented the Cleveland Hungarian Revolution 50th Anniversary Committee noted that his group has a major event coming up in October.

"I'm not sure what I'm doing in October," Bush said to more laughter. "Put me down as a 'maybe.' "

Bush Urges U.S. To Take Long-Term View Toward Iraq (LAT)

By James Gerstenzang
The Los Angeles Times, March 21, 2006

CLEVELAND — Three years after the United States launched the invasion that toppled Saddam Hussein, President Bush said today that the overhauled U.S. strategy of clearing insurgents from the cities and then using Iraqi and U.S. forces to rebuild was succeeding.

The president cited the rebound by the city of Tal Afar, which U.S. forces abandoned in the autumn of 2004 after successfully battling insurgents, only to see the fighters return in two months. Bush said that with concerted military efforts followed by rebuilding the civic structures and holding elections, "the terrorists are becoming marginalized."

"The strategy is working," the president said.

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Today's speech was the second in a series of at least three that the president is delivering to mark the anniversary of the start of the Iraq war. Each is intended to draw attention to one aspect of the conflict that, according to the administration, demonstrates that the United States is meeting its goals there — the daily reports of chaos and death notwithstanding.

Facing polls that increasingly indicate that the American people are turning away from their earlier support for the invasion and war, Bush acknowledged that the images of bombings, beheadings and other attacks on Iraqi civilians were horrific.

"Nobody likes beheadings," the president said.

And he said it was "not easy to capture in a short clip on the evening news" the signs of progress. They are not as visually dramatic, he said, as a bombing in a marketplace.

Last Monday, Bush acknowledged that the violence continued to tear the country apart. He said U.S.-trained Iraqi forces were increasingly taking a leading role in securing the nation and would be responsible for more than half the country by the end of the year.

Rep. John Murtha (D-Pa.), a critic of Bush's Iraq policy, pointed out Sunday that this includes vast stretches of uninhabited desert.

"The fighting has been tough," Bush told the Cleveland audience. "The enemy that we face has proved to be brutal and relentless There will be more days of sacrifice and tough fighting before the victory is achieved."

But, the president said, with the new control exercised over Tal Afar and other towns and cities, "most of the country has remained relatively peaceful."

The president's audience, gathered at midday at a downtown hotel, was the City Club of Cleveland, a nonpartisan organization founded in 1912 that says it is the oldest "continuous free speech forum" in the United States. It responded with only occasional displays of enthusiasm, interrupting Bush's speech with applause for the first time nearly 28 minutes after he began speaking, when he said, "The decision to remove Saddam Hussein was the right decision."

The president spoke for an hour and a half, with nearly an hour of it spent answering questions from the audience. For a president whose public appearances are usually carefully choreographed, the questions were penetrating and critical.

The first was about "prophetic Christians" who see the war in Iraq as an early sign of the apocalypse.

Bush laughed the question off: "First I'd heard of that."

To a question about the false premises for going to war — that Iraq was developing weapons of mass destruction, that it was buying materials for nuclear weapons from Niger and that it was becoming a haven for terrorists — Bush said, "I asked the very same question: Where did we go wrong on intelligence?"

A high school student, asserting that the war was costing $19,600 per household, wondered whether that money could be put to better use as college tuition aid.

"We can do more than one thing at a time," Bush replied.

Bush's speeches reflect a two-fold campaign: To lower expectations and at the same time hold out prospects for a successful outcome. Unless pressed by a questioner, the president makes no mention any more of one of the original reasons for the invasion: the suspicion that Hussein was developing unconventional weapons. No evidence of such a program has been found.

Rather, Bush focuses on the effort to establish democracy in a part of the world where it is rare, and on placing Iraq at the center of his effort to secure the United States from terrorist attacks.

He has also avoided the optimistic language that Vice President Dick Cheney has used. Ten months ago the vice president said that the insurgency was in its "last throes" and three years ago, as the invasion began, he predicted that U.S. troops would be greeted as liberators.

White House aides have concluded that Bush would lose credibility with such a rosy scenario.

The speech today was intended, said White House Press Secretary Scott McClellan, to demonstrate "how we have adapted to circumstances on the ground — we've seen problems and we've changed our approach to meet the realities on the ground."

In Tal Afar, which Bush said here in Ohio was roughly equivalent in population to Akron's 200,000 or so, the United States took a new approach. Rather than fighting terrorists, expelling them and leaving, Bush said, it executed a policy of "clear, hold and build." Military units expelled insurgents from the city and surrounding towns, and U.S.-trained Iraqi troops stayed behind to hold the city and work with local leaders to rebuild the economy.

"Spreading democracy and liberty is at the heart of our strategy of defeating the terrorists," Bush said.

By citing such examples, Bush is seeking to refute the sense that the United States is slipping deeper into a sinkhole from which it has no exit strategy.

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That view has been reinforced by the increasing displays of sectarian violence dividing Sunni and Shiite Muslims. Today, McClellan disputed the assessment of the former Iraqi prime minister, Ayad Allawi, once a strong U.S. ally, that the fighting had turned into a civil war.

In a CNN/USA Today/Gallup national survey released last week, 55% of Americans said that chaos and civil war were the most likely outcomes in Iraq; 40% said they expected that a stable government would be formed. Only 37% of those polled said they believed the war in Iraq had been worth the cost — a sharp decline from 46% in January. Fully 60% of those surveyed said the war had not been worth the cost, equaling the highest percentage Gallup has ever recorded on that question.

And a poll released last week by the Pew Research Center found that public support for keeping U.S. troops in Iraq had reached its lowest point since the 2003 invasion. Half of the respondents said they wanted to bring U.S. troops home as soon as possible, compared with 44% who said the troops should stay "until the situation is stabilized."

Elsewhere today, the war's critics also took note of the anniversary.

Sen. Joe Biden of Delaware, the senior Democrat on the Senate Foreign Relations Committee, noted that the invasion "got rid of a brutal dictator. And that's good. But we may be on the verge of trading him for chaos and a new terror haven in the Middle East.

"That's a bad bargain for America's security," the senator said.

He said such an outcome was looking increasingly likely "because of the dangerous incompetence of this administration."

The president's recent visits to Ohio have generated political controversy.

Sen. Mike DeWine, a Republican running for reelection, did not join Bush today, prompting Phil Singer, the spokesman for the Democratic Senate Campaign Committee, to say, "George Bush has become an albatross around the neck of the Republican Party."

Bush Concedes Iraq Grim But Sees Signs Of Progress (CHIT)

By Mark Silva

Chicago Tribune, March 21, 2006

WASHINGTON -- President Bush entered the fourth year of war in Iraq on Monday with a dramatically detailed and graphic accounting of violence there and allowed that many Americans have trouble accepting the successes he claims in a conflict that promises more "sacrifice and tough fighting."

With some analysts in Baghdad and Washington alike maintaining that sectarian violence in Iraq is devolving into civil war, the president is taking a new tack of balancing a sober and chilling recognition of persistent bloodshed with an unrelenting optimism for eventual victory.

Bush fielded a long series of often-critical questions from an audience in Cleveland, unusual for the often-shielded president. But he seized on progress that has been made against insurgents in one Iraqi city, Tal Afar, as an example of what he views as a turning tide in Iraq.

In his recounting of the successful battle for control of Tal Afar and the continuing struggle in Iraq, Bush maintained that insurgents' attacks were tailor-made for televised shock value because the insurgents cannot defeat the U.S. military.

"I understand how some Americans have had their confidence shaken," Bush said during his speech in the political battleground of Ohio, where he also had traveled to make his case for war before the U.S.-led invasion. People "look at the violence they see each night on their television screens, and they wonder how I can remain so optimistic. … They wonder what I see that they don't."

The president sees places such as Tal Afar, a northern Iraqi city of 250,000 where about 1,500 insurgents had taken control in 2004 and subjected Iraqis to a barrage of bloodshed. Now it is in the control of Iraqi military and police forces.

What much of the public sees is the overthrow of former Iraqi leader Saddam Hussein gone awry, with a majority of Americans—57 percent in the latest Gallup Poll—telling pollsters they now consider the March 2003 invasion a mistake.

Bush: Despair understandable

"I understand people being disheartened when they turn on TV screens and see the loss of innocent life," Bush said. He recited some of the bloodshed that had beset Tal Afar—such as mortar shells lobbed into soccer fields where children were at play—before security was established in the city last year. "Nobody likes beheadings [or] … when innocent children get car-bombed."

As he has before, Bush presented the violence as a strategic campaign by terrorists to shake the resolve of U.S. forces that the president vows will not retreat from intimidation. But for a president hoping to frame an optimistic picture of Iraq, he delved into difficult details.

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"In one grim incident, the terrorists kidnapped a young boy from the hospital and killed him, and then they booby-trapped his body and placed him along the road where his family would see him," Bush said. "When the boy's father came to retrieve his son's body, he was blown up. These weren't random acts of violence."

Bush took questions for nearly an hour from an audience at the City Club of Cleveland that had not been screened by the White House. In doing so, the president confronted critical questions not only about the conduct of the war, and the impact its cost is having on domestic programs such as education, but also about his program of domestic surveillance of suspected terrorists.

One man asked why the public should have confidence in a government that misjudged the threat Hussein posed before the invasion.

"I asked that very question—'Where did we go wrong on intelligence?'" Bush replied. "The part that's really important is how do we regain credibility when it comes to intelligence."

The administration has lost its credibility, Democratic critics maintain.

Sen. Joseph Biden (D-Del.), accusing the Bush administration of being "tone deaf" to suggestions for improvement, called on Bush to wage a Camp David-style diplomatic initiative to establish a stable government in Iraq.

'Pull out all the stops'

"We need to plan now for the real possibility that we may not be able to salvage the situation in Iraq," Biden, the ranking Democrat on the Senate Foreign Relations Committee, said at a news conference Monday. "We must pull out all the stops … and run the risk of doing everything in [Bush's] power to get a coalition government" running in Iraq.

"This president has to take a political risk," said Biden, who is weighing a presidential campaign in 2008. "This war is Bush's war, by his own definition. His presidency will be defined and judged by its outcome. If his war fails, then America is hurt—America fails."

Anthony Cordesman, a senior fellow at the Center for Strategic and International Studies in Washington, made his own assessment of the situation in Iraq. Despite gains in creating a stable government, Cordesman said: "We face a scale of problems that we still tend to deny. There is a real risk that Iraq will degenerate into full-scale civil war or a level of divisiveness that will paralyze or limit Iraq's progress for years to come."

Bush Bluntly Defends Iraq Strategy, But Admits Missteps (NYT)

By John O'Neil

The New York Times, March 21, 2006

President Bush gave a blunt defense of the American strategy in Iraq today, while acknowledging that ordinary Iraqis had been left exposed to terrorism during the war's earlier stages.

As the debate continued over where the war is headed at its third anniversary, a leading Democrat, Senator Joseph R. Biden Jr., called on Mr. Bush to throw himself into an all-out effort to forge a government of national unity in Iraq and to begin planning for the civil war that was likely to follow if the effort failed.

Mr. Bush delivered an account from the Iraq war today that was both characteristically optimistic and unusually candid about shortcomings in the war's earlier phases and the suffering it caused for ordinary Iraqis.

Speaking to the City Club in Cleveland, the president told how Tal Afar, a city in western Iraq, had been freed from the control of Al Qaeda in Iraq, which it took over after the 2003 invasion and then re-established its hold on the city after a too-brief military operation by American forces in 2004.

The problem, he said, was that American forces concentrated initially on rooting out insurgents from a given area and then pursuing them elsewhere, an approach that left Iraqi citizens vulnerable, he said.

"Just put yourself in the shoes of the citizens of Tall Afar as all this was happening," Mr. Bush said.

"On the one side, you hear the coalition and Iraqi forces saying they're coming to protect you," he said. "But they'd already come in once, and they had not stopped the terrorists from coming back. On the other side, you see the terrorists and the insurgents. You know they mean business."

Mr. Bush described how Al Qaeda members in Iraq fired mortars at playgrounds, beheaded people assisting American forces and even booby trapped the body of a boy they had kidnapped and killed.

"You and your family feel besieged, and you see no way out," he said.

In early 2005, Mr. Bush said, "We recognized the problem and changed our strategy."

He described how the city was retaken in 2005 in a painstaking effort that combined military operations with the steady rebuilding of both the local security forces and the city's economic and political life.

"Now, you see your children going to school and playing safely in the streets," he said. "You see a city that is coming back to life.

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Mr. Bush held out the story of Tal Afar as "a concrete example of progress in Iraq that most Americans do not see every day in their newspapers or on their television screens."

Senior administration officials had taken to the airwaves en masse on Sunday, the third anniversary of the war's beginning, to argue that the news media's focus on bombings and sectarian violence had given a skewed view of the progress being made in Iraq.

Mr. Bush began by acknowledging the recent outbreaks of violence that followed the bombing of a Shiite shrine a month ago. "The situation on the ground remains tense," he said. "I understand how some Americans have had their confidence shaken."

Mr. Bush also took note of a statement by Senator Biden of Delaware, the senior Democrat on the Foreign Relations Committee, who said this morning that "we can't want democracy and peace more than the Iraqis."

"I agree," Mr. Bush said, and went to argue that the best way to build democracy there was by declaring "that the United States will never abandon Iraq."

Mr. Biden called for President Bush to make an all-out effort to forge a government of national unity there or get ready for full-scale civil war.

Speaking to reporters in Washington, Mr. Biden said that he agreed with the assessment made on Sunday by Ayad Allawi, the former Iraqi prime minister once favored by the White House, who declared that a low-level civil war had already started.

Mr. Biden said the United States had only a brief opportunity to head off a civil war that could destabilize the Middle East.

While praising the American ambassador in Baghdad, Zalmay Khalilzad, Mr. Biden said that the only chance of Iraq's divided parties coming together was if Mr. Bush threw himself into the talks directly. Mr. Biden called for the president to convene a meeting of Iraq's top leaders and precede it by working to persuade countries around the globe to pressure Iraqis to settle their differences.

If a unity government is not formed by the summer, he said, the situation will be beyond repair. In that case, Mr. Biden said, America should withdraw all but 30,000 troops, who would be used to "keep the chaos confined to Iraq."

Mr. Bush's speech followed a carefully calibrated mix of optimism about eventual victory and caution about how long American troops would be involved that was displayed on Sunday by Mr. Bush, Vice President Dick Cheney and Secretary of Defense Donald H. Rumsfeld, who sounded much as they had on the first anniversary of the invasion. At that time, the rebuilding effort had just begun, the insurgency was far less fierce, and the American occupation had suppressed, temporarily, the sectarian violence scarring Iraq today.

The picture painted by the administration clashed with that of Mr. Allawi, once hailed by Mr. Bush as the kind of fair-minded leader Iraq needed. He declared in an interview with the BBC on Sunday that the country was nearing a "point of no return."

"It is unfortunate that we are in civil war," said Mr. Allawi, who served as prime minister after the American invasion and now leads a 25-seat secular alliance of representatives in Iraq's 275-seat National Assembly. "We are losing each day, as an average, 50 to 60 people through the country, if not more."

"If this is not civil war," he said, "then God knows what civil war is."

Mr. Allawi's assessment was contradicted by Gen. George W. Casey Jr., the senior American commander in Iraq, who said on the CNN program "Late Edition" on Sunday that "We're a long way from civil war."

On the CBS News program "Face the Nation" Mr. Cheney sought on Sunday to place the war in a broader context. "It's not just about Iraq, it's not about just today's situation in Iraq," he said. "It's about where we're going to be 10 years from now in the Middle East and whether or not there's going to be hope and the development of the governments that are responsive to the will of the people, that are not a threat to anyone, that are not safe havens for terror or manufacturers of weapons of mass destruction."

The war has taken more than 2,300 American lives, and those of 33,000 to 37,000 Iraqis, according to the estimates of the Iraq Body Count Project, an independent group that monitors the news media.

Bush Says He Remains Confident In Iraq Strategy (Update2) (BLOOM)

By Richard Keil

Bloomberg, March 21, 2006

March 20 (Bloomberg) -- President George W. Bush, speaking as the conflict in Iraq enters its fourth year, said the terrorists who destroyed a Shiite shrine last month won't succeed in sparking a civil war or thwarting democracy there.

Bush said today that he remains optimistic about the outcome of the war that defines his presidency, even though people in the U.S. are seeing ``horrific images coming out of that country'' from the recent sectarian violence.

``I understand how Americans have had their confidence shaken,'' Bush told the City Club in Cleveland, a day after Iraq's former prime minister said his country is in the midst of a civil war and edging toward a ``point of no return.''

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The U.S. has been battling an insurgency in Iraq since Saddam Hussein's regime fell, and sectarian violence flared anew after a terrorist bomb destroyed a shrine in Samarra Feb. 22. With U.S. military deaths in Iraq surpassing 2,300, public support for the war dropping and the cost of the conflicts in Iraq and Afghanistan rising to $9.8 billion a month, Bush was giving the second in a series of speeches aimed at rallying Americans behind his policies.

``There comes a time on certain terribly important issues where everybody has made up their minds and it's very hard to change that," said Stephen Hess, a presidential scholar at the Brookings Institution in Washington. ``We've been at this for three years, and Americans have a better sense now of what the costs are."

`Right Decision'

The president acknowledged that some in the U.S. are questioning whether the U.S. should have invaded three years ago. ``The decision to remove Saddam Hussein was the right decision," he said. The president said he will press ahead.

``We will settle for nothing less than victory," he said. ``The United States will not abandon Iraq."

Bush cited the success U.S. and Iraqi forces have had in the city of Tal Afar, driving out insurgents then moving in to stabilize the city ``block by block."

Tal Afar, in northern Iraq, had been a staging area for insurgents and a battleground since the U.S.-led invasion on March 19, 2003. After several attempts to drive the insurgents from the city, the U.S. launched an offensive last September.

Back to `Normal'

Bush said after the military campaign, the U.S. and Iraqi government forces moved in to help rebuild housing, schools and other facilities. The tactics were the result of ``much trial and error," he said.

Since the city was stabilized, Bush said, residents voted in the December parliamentary elections and are ``resuming their normal lives."

``The example of Tal Afar helps give me confidence" that the U.S. strategy is working and will help Iraqis take over responsibility for their own security, Bush said.

While Bush continues to insist he won't set a timetable for a U.S. withdrawal, he has set a goal of having Iraqi forces take responsibility for most of the country's territory by the end of the year, allowing U.S. troops to pull back to providing logistics support and training rather than combat patrols.

The administration is trying to blunt criticism from members of Congress, including some of Bush's fellow Republicans, and suggestions that Iraq is descending into civil war. Former Prime Minister Ayad Allawi, who heads the secular Iraqi National List party that took 25 seats in the December elections for the 275-seat parliament, said yesterday that the sectarian violence is threatening to spin out of control.

Civil War

``We are losing each day as an average 50 to 60 people throughout the country, if not more," Allawi said on the BBC's ``Sunday AM" program. ``If this isn't civil war, then God knows what civil war is."

Republican Senator Chuck Hagel of Nebraska said on ABC's ``This Week" program yesterday that he agreed with Allawi and that Iraq has been in the midst of ``a low-grade civil war" for at least six months. ``Our own generals have told me that."

Hagel and some other lawmakers also have criticized the administration for painting a too optimistic picture of U.S. progress in Iraq in the past.

Three months into the battle against the insurgency, Defense Secretary Donald Rumsfeld dismissed the resistance American troops were facing as ``pockets of dead-enders" that the U.S. military was isolating and eliminating. Last May, Vice President Dick Cheney said the insurgency was in its ``last throes."

Bush's job-approval ratings have been falling as a growing proportion of Americans say they believe the war was not worth fighting in the first place.

In the last Wall Street Journal/NBC News poll, 37 percent of those surveyed approved of his job performance -- a low point of his presidency in that survey. Other national polls have shown similar results.

The Journal/NBC poll survey indicates that Iraq is a crucial cause of dissatisfaction, with 61 percent of adults saying they disapprove of Bush's handling of the conflict. Fifty-one percent said the overthrow of Hussein hasn't been worth the cost in human and financial terms, and 50 percent said the war has weakened the U.S.'s standing in the world.

In response to a question from an audience member, Bush said Iran pursuit of nuclear technology is a threat to peace because the current leadership in Iran has pledged to destroy Israel.

The U.S. stance is to use diplomacy to resolved the confrontation with Iran, Bush said, adding that the U.S. will use ``military might to protect our ally, Israel."

On another subject, Bush defended his decision to authorize the National Security Agency to monitor telephone and e-mail traffic from within the U.S. to suspected terrorists overseas.

``I believe what we're doing is constitutional," Bush said in answer to a question. ``We're going to keep doing it."

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Bush Acknowledges 'horrific Images' In Iraq (FT)

By Caroline Daniel

Financial Times, March 21, 2006

President George W. Bush on Monday acknowledged the "horrific images" coming out of Iraq as the third anniversary of US invasion passed, but vowed that the US would "not abandon Iraq".

"We will not leave that country to the terrorists who attacked America and want to attack us again," he told an audience in Cleveland, Ohio. "We will leave Iraq, but when we do, it will be from a position of strength, not weakness."

Although Mr Bush and Vice-President Dick Cheney have denied that Iraq is on the verge of civil war, the Iraqi prime minister Iyad Allawi said at the weekend that it was already in a civil war, citing the 50-60 deaths per day.

Mr Bush tried to address that pessimism by offering Tal Afar, a town on the Syrian border that had been a strategic location for al-Qaeda, as a "concrete example of progress". First, he talked about how insurgents had turned it into a besieged, armed enclave using beheadings and roadside bombs.

"These were deliberate and highly organised attempts to maintain control through intimidation. After about two weeks of intense activity, coalition and Iraqi forces had killed about 150 terrorists and captured 850 more," he said.

After this counter-offensive, the number of people voting in the elections rose from 32,000 in January to 175,000 in November.

Mr Bush, however, conceded that progress was not "the same in every single part of Iraq", highlighting sectarian tensions in Baghdad. But he reiterated his hope that Iraq would become a democratic "inspiration throughout the Middle East".

Anthony Cordesman, Arleigh Burke chair of strategy at the Center for Strategic and International Studies warned that it could be 2007 or 2008 before stability is restored.

At the weekend General George Casey, commander of US forces in Iraq, said he did not believe that substantial troop reductions were imminent: "Maybe not over the course of the next few months, but certainly over the course of 2006 and into 2007."

Last week a poll showed that only one third of Americans thought Mr Bush had a clear plan for Iraq. However, only 24 per cent thought the Democrats in Congress had a clear plan.

Bush Pledges Not To Give Into Insurgents (WT)

By Stephen Dinan

The Washington Times, March 21, 2006

CLEVELAND -- President Bush yesterday said U.S. strategy in Iraq has been developed through "trial and error" but said troops won't leave until they exit from "a position of strength, not weakness" and resolved not to surrender to insurgents.

"We will leave Iraq, but when we do, it will be from a position of strength, not weakness," Mr. Bush told the City Club of Cleveland yesterday in the second of a series of speeches on the war on terror. "Americans have never retreated in the face of thugs and assassins, and we will not begin now."

As in his first terror speech last week, Mr. Bush pirouetted from Iraq to Iran, calling that nation "a serious threat" to Israel in particular and saying the United States will use military force to protect Israel.

"I've made it clear, and I'll make it clear again, that we will use military might to protect our ally, Israel," Mr. Bush said in response to an audience question, although he said several times that there is still a chance for negotiations to work with Iran.

He also said the situation in Iran is not like the situation three years ago, as the United States was on the brink of war in Iraq.

"One difference was that in Iraq, there was a series of unanimous resolutions that basically held the Iraqi government to account, which Saddam Hussein ignored," he said.

The president also answered about a dozen questions from the audience, ranging from a defense of his wiretapping authority to his vision for reducing the wealth gap between white and black Americans and his immigration guest-worker plan.

Speaking a day after the third anniversary of the U.S. invasion of Iraq, Mr. Bush said news on the ground is mixed and admitted that the U.S. strategy has emerged "only after much trial and error."

He was also unusually frank in talking about the difficulties, including "horrific images" of executions, car bombs and reprisal murders and said he knows that Americans "wonder what I see that they don't."

But he said there are signs for hope -- most of them dependent on the ability of Iraqi security forces to step up their operations.

Mr. Bush said the situation in Tal Afar, a city 35 miles from the Syrian border that used to be a key location for al Qaeda, shows how coalition forces are learning from their mistakes.

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Coalition troops first ousted militants from Tal Afar in September 2004, but within two months, the terrorists had returned and taken over the city again. Mr. Bush said Iraqi security forces weren't ready at the time to maintain peace.

Last summer, three battalions of coalition forces made a second attempt at cleaning the city, this time led by 10 Iraqi battalions. The difference, Mr. Bush said, was this time the Iraqis were ready for peacekeeping.

"It took time to understand and adjust to the brutality of the enemy in Iraq. Yet the strategy is working," Mr. Bush said.

Democrats said Mr. Bush's initial strategy failed because of poor decisions such as not committing enough U.S. troops. House Minority Whip Steny H. Hoyer, Maryland Democrat and a war supporter, said the troop issue was the "one colossal blunder, above all others" that will stand out for historians.

And Sen. Edward M. Kennedy, Massachusetts Democrat and a war opponent, said Mr. Bush still doesn't see the situation in Iraq clearly because he "fails to see the very real possibility that Iraq will continue the downward spiral into full-scale civil war."

During the 90 minutes, the president was animated, at times leaning forward on the podium to answer questions from the audience, freely joking with the audience of hundreds in the hotel ballroom and bantering in Spanish with one questioner.

At one point an audience member, apparently an Indian who wanted to ask a question about U.S.-Pakistani relations, joked, "Every chief needs Indian oversight."

Mr. Bush joked back, "How long were you working on that?"

In another exchange, Mr. Bush was asked whether he agreed with some evangelical Christians who see the war in Iraq as a sign of the apocalypse. The president said he hadn't "thought about it that way," adding, "First I've heard of it, by the way."

An Iraq Success Story's Sad New Chapter (WP)

By Peter Baker

The Washington Post, March 21, 2006

CLEVELAND, March 20 -- As President Bush tells the tale, the battle for Tall Afar offers a case study in how U.S. and Iraqi forces working together can root out insurgents and restore stability. "The example of Tall Afar," he told an audience here Monday, "gives me confidence in our strategy."

Reports from the streets of Tall Afar, half a world away, offer a more complex story. U.S. forces last fall did drive out radicals who had brutalized the mid-size city near the Syrian border. But lately, residents say, the city has taken another dark turn. "The armed men are fewer," Nassir Sebti, 42, an air-conditioning mechanic, told a Washington Post interviewer Monday, "but the assassinations between Sunni and Shiites have increased."

The twists of Tall Afar underline the difficulties Bush has had in reassuring a doubtful American public that progress is being made in Iraq. The president and his aides say that the positive developments in Iraq get overwhelmed by the grim pictures of mayhem and massacre that dominate the evening news. If Americans knew about the success stories, the White House maintains, they would understand Bush's confidence of victory.

Yet even the success stories seem to come with asterisks. The administration hailed the election of a new democratic parliament last year, but the new body has so far proved incapable of forming a government for more than three months. U.S. forces have trained more Iraqi security troops, but the only unit judged capable of acting fully independently of U.S. assistance no longer can.

The cycle has taken a new spin with the latest evolution of Iraq from violent insurgency against foreign occupiers to sectarian strife bordering on civil war. Since the bombing of a Shiite shrine in Samarra last month, hundreds of Iraqis have been killed in reprisals in a bloody spate of violence that has eclipsed most periods during the three years since the U.S.-led invasion.

All this has taken its toll on Bush's credibility, Republican strategists say, making it hard for him to make people see what he sees in Iraq. Continuing his latest drive to rebuild public support for the war, Bush flew to this Midwestern city on Monday to empathize with the pessimism many Americans feel as the war heads into its fourth year, while trying to explain the basis for his own optimism.

"In the face of continued reports about killings and reprisals, I understand how some Americans have had their confidence shaken," he told the City Club of Cleveland. "Others look at the violence they see each night on their television screens and they wonder how I can remain so optimistic about the prospects of success in Iraq. They wonder what I see that they don't."

To illustrate, he devoted his talk to Tall Afar, hoping to use the progress there as a symbol of hope for the rest of the country. The city of 290,000 in northern Iraq was at one point awash in violence, a haven for insurgents and foreign extremists. An initial U.S. military offensive in the fall of 2004 dislodged them only temporarily. When the 3rd Armored Cavalry Regiment returned last year, it set about trying a new, more patient strategy that focused more on winning over the local population, building cooperation with Iraqis, surrounding the city with a wall and ultimately flooding Tall Afar with patrols.

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As Bush noted, the military heralded the offensive as a model for counterinsurgency. "The strategy that worked so well in Tall Afar did not emerge overnight -- it came only after much trial and error," the president said. "It took time to understand and adjust to the brutality of the enemy in Iraq. Yet the strategy is working."

Bush acknowledged that this offensive stood out. "I wish I could tell you that the progress made in Tall Afar is the same in every single part of Iraq. It's not," he said. But, he added, "the progress made in bringing more Iraqi security forces online is helping to bring peace and stability to Iraqi cities."

The Tall Afar strategy may not apply easily to other areas, particularly Baghdad -- a far larger and more populous city where it would take enormous numbers of U.S. troops to replicate the strategy, military analysts say.

The 3rd Armored Cavalry Regiment "did a wonderful thing" in retaking Tall Afar, said Ahmed Hashim, a professor of strategy at the U.S. Naval War College who advised the regiment on counterinsurgency and cultural tactics. But Hashim, who wrote a book on the Iraqi insurgency that is being published next week, said he doubts that the example is readily transferable to the rest of Iraq, in part because of the weakness of the central government in Baghdad.

Hashim said he has also seen indications lately that the insurgents have begun "seeping back in" to Tall Afar now that the 3rd Armored Cavalry Regiment has rotated home and been replaced by another Army unit. And given the deep ethnic and sectarian divides in Tall Afar, he said, it is quite possible that the city could succumb to civil war, along with the rest of the country.

A Washington Post employee interviewing residents of Tall Afar found continuing anxiety in the streets. "Al-Qaeda has started to come back again," said Jaafar al-Khawat, 33, a tailor. "They have started to kill Shiites and Sunnis who cooperate with the Americans. Last Wednesday, they killed a truck driver because he worked with the Americans."

Yasir al-Efri, 23, a law student at Mosul University, said al-Qaeda pamphlets began appearing on the biggest mosque in Tall Afar in the past two months claiming credit for attacks. "The Tall Afar mission failed," he said. "The city will turn back to how it was before the battle within two months. The Americans are busy putting cement barriers and barbed wire around their bases and no one is taking care of the infrastructure."

Sebti, the mechanic, was more fearful of sectarian conflict. "People now are afraid to send their kids to school," he said. "I have to take my son to and from the school every day. There are two gangs in Tall Afar now that specialize in kidnapping children. Police can do nothing against that."

In his Cleveland speech, Bush received supportive applause for removing Saddam Hussein but also faced polite skepticism from some who addressed him during a subsequent question period. No major Ohio politician other than the mayor appeared with Bush, whose approval ratings have sunk below 40 percent, and war protesters demonstrated outside the downtown hotel where he appeared.

One man in the audience asked about Bush's credibility given that some of the reasons he originally gave for the war proved false. The president quarreled with the contention in one instance, denying that he ever made a "direct connection" between Hussein and the attacks of Sept. 11, 2001, even though he often linked Baghdad with al-Qaeda generally. "I was very careful never to say that Saddam Hussein ordered the attacks on America," he said.

Bush acknowledged that the credibility issue -- the failure to find weapons of mass destruction that the administration said were in Iraq -- affected his ability now to confront Iran, which he has accused of secretly building nuclear weapons. But he offered tough language for Tehran, characterizing it as bent on destroying Israel. "It's a threat to world peace, it's a threat, in essence, to a strong alliance," Bush said. "I made it clear, I'll make it clear again, that we will use military might to protect our ally Israel."

Iraqi Turmoil Puts Mideast On Edge (CSM)

By Nicholas Blanford

The Christian Science Monitor, March 21, 2006

BEIRUT, LEBANON - The toppling of Saddam Hussein's regime was supposed to usher in a new era for the Middle East, according to the architects of the invasion, one in which Islamic extremism would be rooted out and budding democracies would replace stifling dictatorships.

Yet the region three years on is experiencing heightened sectarian tensions between Sunni and Shiite Muslims, expanding Islamic militancy, high levels of anti-Western hostility, and authoritarian regimes still clinging to power, analysts say.

"The balance sheet on Iraq since the US invasion has some positive aspects, but in most respects it is negative," says David Mack, vice president of the Washington-based Middle East Institute. While the invasion ousted Mr. Hussein's brutal regime, the subsequent turmoil "has probably strengthened the ability of autocratic regimes to resist evolutionary political change," Mr. Mack says.

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The Iraq invasion jolted complacent regimes, especially as it coincided with nascent attempts by Arab democracy campaigners to push for reform. But, says Jordanian political commentator Rami Khouri, "the way the American adventure in Iraq has gone has emboldened many Arab [regimes] to defy the US because they feel that it has gone badly in Iraq and the Americans are not likely to do this again."

Take Syria, which has been in the gun sights of Bush administration hard-liners for years. The regime of President Bashar al-Assad has antagonized Washington since 2003 by its sluggish response to US demands such as curbing support for militant anti-Israel groups and, until recently at least, securing the border with Iraq. The ace up President Assad's sleeve, which has persuaded most Syrians to continue supporting the government and is making Western advocates of regime change hesitate, is concern over Iraq-style violence coming to Syria.

"The ethnic and religious composition of Syria is roughly similar to the divisions found in Iraq and Lebanon and no less explosive," says Theodore Kattouf, president of Amideast, an educational organization in Washington, and a former US ambassador to Damascus. "It seems that the bloodshed, chaos, and uncertainty of Iraq have led most Syrians to the default position that even a bad regime is preferable to the risks of instability."

The turmoil in Iraq is not solely to blame for the ills in the region, but it represents a powerful dynamic that has rippled across the Middle East feeding into other conflicts. "The situation in the broader Middle East is more complex, fragile, and dangerous today than it has been for a long time. Several of the multiple conflicts in the region are reaching a boiling point," UN special envoy Terje Roed-Larsen said last week.

Some analysts argue, however, that the political, economic, and social situation in the Arab world is so poor as to warrant shock therapy reform.

"Societies that have failed to tackle their serious developmental needs for so many decades ... eventually have to deal with one form of chaotic transition or another," says Ammar Abdulhamid, a Syrian social analyst and dissident. But he predicts a messy transition in which "deep-seated and long-simmering ... sectarian, ethnic, tribal, and other atavistic modes of belonging continue to rear their ugly heads."

The disorder in Iraq has strengthened the hand of Iran, an influential player in the maelstrom of Iraqi Shiite politics. And the ability of Iran to project itself into the Arab world through Shiite allies, with Moqtada al-Sadr in Iraq and Hizbullah in Lebanon, is a source of deep unease among Sunnis in the region. Strengthening ties between Iran and Syria with Hizbullah and Iraqi and Palestinian groups has further aggravated Sunnis over the emergence of a "Shiite crescent" stretching from Iran through Iraq, Syria, and into Lebanon.

"Yes, there is an alliance linking Syria, Iran, and Hizbullah, but it is a political alliance, not religious," says Sheikh Naim Qassem, Hizbullah's deputy secretary-general. "Whoever tries to draw a big Shiite picture will get muddled by all the contradictions."

Misconception or not, Sunni concerns of a Shiite crescent are likely to harden if Iraq continues what appears to be an inexorable slide into a Sunni-Shiite civil war, analysts say.

"The increasing violence and mistrust between Iraq's Sunni and Shiite communities carries the potential to exacerbate already existing tensions in an arc extending from Lebanon down to the eastern province of Saudi Arabia, where the minority of Saudi Shiites also inhabit a territory that is home to some of the richest oil fields in the world," says Mr. Kattouf.

Perhaps most worrying for regional stability is that Iraq has become a crucible for extremist Sunni militancy, a magnet for volunteers to join the insurgency against US and British forces. There are growing indications that the battle-hardened veterans of Iraq are returning to their home countries and planning attacks against their governments or Western targets.

"The Iraq which was only a potential safe haven for terrorists is now the chief breeding ground for a new wave of terrorism that may threaten the entire region and the United States," says Mack of the Middle East Institute.

Although Saudi Arabia has had some success in the past two years at clamping down on extremist militants following a wave of bloody attacks against foreign targets in 2003, Syria, Jordan, and Lebanon have all experienced outbreaks of Al Qaeda-style violence.

Still, whether the violence in Iraq will take root in neighboring countries or is a passing phenomenon remains to be seen. "Violent radicals be they Islamists or criminal elements are a tiny minority who disrupt and create fear, but have nothing to offer politically or economically," says Judith Kipper, director of the Middle East Forum at the Washington-based Council on Foreign Relations.

The Stone Face Of Zarqawi (WSJ)

By Christopher Hitchens
The Wall Street Journal, March 21, 2006

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In February 2004, our Kurdish comrades in northern Iraq intercepted a courier who was bearing a long message from Abu Musab al-Zarqawi to his religious guru Osama bin Laden. The letter contained a deranged analysis of the motives of the coalition intervention ("to create the State of Greater Israel from the Nile to the Euphrates" and "accelerate the emergence of the Messiah"), but also a lethally ingenious scheme to combat it. After a lengthy and hate-filled diatribe against what he considers the vile heresy of Shiism, Zarqawi wrote of Iraq's largest confessional group that: "These in our opinion are the key to change. I mean that targeting and hitting them in their religious, political and military depth will provoke them to show the Sunnis their rabies . . . and bare the teeth of the hidden rancor working in their breasts. If we succeed in dragging them into the arena of sectarian war, it will become possible to awaken the inattentive Sunnis as they feel imminent danger."

Some of us wrote about this at the time, to warn of the sheer evil that was about to be unleashed. Knowing that their own position was a tenuous one (a fact fully admitted by Zarqawi in his report) the cadres of "al Qaeda in Mesopotamia" understood that their main chance was the deliberate stoking of a civil war. And, now that this threat has become more imminent and menacing, it is somehow blamed on the Bush administration. "Civil war" has replaced "the insurgency" as the proof that the war is "unwinnable." But in plain truth, the "civil war" is and always was the chief tactic of the "insurgency." * * *

Since February 2004, there have been numberless attacks on Shiite religious processions and precincts. Somewhat more insulting to Islam (one might think) than a caricature in Copenhagen, these desecrations did not immediately produce the desired effect. Grand Ayatollah Sistani even stated that, if he himself fell victim, he forgave his murderers in advance and forbade retaliation in his name. This extraordinary forbearance meant that many Shiites -- and Sunnis, too -- refused to play Zarqawi's game. But the grim fact is, as we know from Cyprus and Bosnia and Lebanon and India, that a handful of determined psychopaths can erode in a year the sort of intercommunal fraternity that has taken centuries to evolve. If you keep pressing on the nerve of tribalism and sectarianism, you will eventually get a response. And then came the near-incredible barbarism in Samarra, and the laying waste of the golden dome.

It is not merely civil strife that is partly innate in the very make-up of Iraq. There could be an even worse war, of the sort that Thomas Hobbes pictured: a "war of all against all" in which localized gangs and mafias would become rulers of their own stretch of turf. This is what happened in Lebanon after the American withdrawal: The distinctions between Maronite and Druze and Palestinian and Shiite became blurred by a descent into minor warlordism. In Iraq, things are even more fissile. Even the "insurgents" are fighting among themselves, with local elements taking aim at imported riffraff and vice-versa. Saddam's vicious tactic, of emptying the jails on the eve of the intervention and freeing his natural constituency of thugs and bandits and rapists, was exactly designed to exacerbate an already unstable situation and make the implicit case for one-man "law and order." There is strong disagreement among and between the Shiites and the Sunnis, and between them and the Kurds, only the latter having taken steps to resolve their own internal party and regional quarrels.

America's mistake in Lebanon was first to intervene in a way that placed us on one minority side -- that of the Maronites and their Israeli patrons -- and then to scuttle and give Hobbes his mandate for the next 10 years. At least it can be said for the present mission in Iraq that it proposes the only alternative to civil war, dictatorship, partition or some toxic combination of all three. Absent federal democracy and power-sharing, there will not just be anarchy and fragmentation and thus a moral victory for jihadism, but opportunist interventions from Iran, Saudi Arabia and Turkey. (That vortex, by the way, is what was waiting to engulf Iraq if the coalition had not intervened, and would have necessitated an intervention later but under even worse conditions.) There are signs that many Iraqi factions do appreciate the danger of this, even if some of them have come to the realization somewhat late. The willingness of the Kurdish leadership in particular, to sacrifice for a country that was gassing its people until quite recently, is beyond praise.

Everybody now has their own scenario for the war that should have been fought three years ago. The important revelations in "Cobra II," by Michael Gordon and Bernard Trainor, about the underestimated reserve strength of the Fedayeen Saddam, give us an excellent picture of what the successor regime to the Baath Party was shaping up to be: an Islamized para-state militia ruling by means of vicious divide-and-rule as between the country's peoples. No responsible American government could possibly have allowed such a contingency to become more likely. We would then have had to intervene in a ruined rogue jihadist-hosting state that was already in a Beirut-like nightmare.

I could not help noticing, when the secret prisons of the Shiite-run "Interior Ministry" were exposed a few weeks ago, that all those wishing to complain ran straight to the nearest American base, from which help was available. For the moment, the coalition forces act as the militia for the majority of Iraqis -- the inked-fingered Iraqis -- who have no militia of their own. Honorable as this role may be, it is not enough in the long run. In Iraq we have made some good friends and some very, very bad enemies. (How can anyone, looking down the gun-barrel into the stone face of Zarqawi, say that fighting him is a "distraction" from fighting al Qaeda?) Over the medium term, if our apparent domestic demoralization continues, the options could come down to two. First, we might use our latent power and threaten to withdraw, implicitly asking Iraqis and their neighbors if that is really what they want, and concentrating their minds. This still runs the risk of allowing the diseased spokesmen of al Qaeda to claim victory.

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Second, we can demand to know, of the wider international community, if it could afford to view an imploded Iraq as a spectator. Three years ago, the smug answer to that, from most U.N. members, was "yes." This is not an irresponsibility that we can afford, either morally or practically, and even if our intervention was much too little and way too late, it has kindled in many Arab and Kurdish minds an idea of a different future. There is a war within the war, as there always is when a serious struggle is under way, but justice and necessity still combine to say that the task cannot be given up.

Mr. Hitchens, a columnist for Vanity Fair, is the author of "A Long Short War: The Postponed Liberation of Iraq" (Penguin, 2003).

Passing The Dinar (NYT)

By John Tierney

The New York Times, March 21, 2006

Two months before the Iraq war began, David Kay reported to the Pentagon for a job in the agency being formed to run postwar Iraq. Kay, a former Defense Department scientist and weapons inspector in Iraq, was supposed to oversee the police.

He assumed this meant preparing for the looting and crime to be expected when any regime collapsed. But those problems didn't seem to be on anyone else's mind, he told me, recalling his first day on the job.

"I said our first priority should be to establish order quickly, but that was considered a peripheral issue," he said. "The attitude was that it's not a problem, and if something happens the military will deal with it. I had one of the worst feelings ever in my gut, that this was going over a cliff."

On his second day on the job, he resigned — an excellent career move in retrospect, although Kay doesn't believe it took any special clairvoyance. There were tough questions before the war, like figuring out whether Saddam had W.M.D. or forecasting the strength of the insurgency. But the looting and disorder were easily predictable, and Kay wasn't the only one making the predictions, as Michael R. Gordon and Bernard E. Trainor document in their new book on the war, "Cobra II."

Before the war, Dick Mayer, a former policeman working for the Justice Department, came up with a plan to send in thousands of international police officers to maintain order after the invasion. But Pentagon officials bristled at the expense, and the White House rejected the plan.

A similar plan was proposed in a prewar briefing at the Pentagon by Robert Perito, a veteran of peacekeeping operations in other countries. He told the Defense Policy Board, the advisory group led by Richard Perle, that neither Iraqi authorities nor American soldiers could be counted on to maintain order, and that the U.S. should send in a constabulary force as soon as it occupied Iraq.

"The group at the Pentagon liked the concept and said it was a worthwhile thing to do," Perito told me. "But as one member put it, 'Not this war.' Their feeling was that the conflict in Iraq would be over so soon and things would be back to normal so quickly that it wasn't worth the effort."

Some Pentagon officials did warn of civil disorder and crime, but they didn't do anything about it. They passed the buck to Gen. Tommy Franks, even though he didn't have enough troops or money for the job and showed little interest in postwar planning. He simply assured President Bush that there would be a "lord mayor" in each city and large town to deal with civilian problems.

Looting, crime, mayhem — that was always someone else's department. The buck-passing reached its most absurd level at a briefing in the Situation Room just before the invasion, when Bush heard about the postwar plan to rely on Iraqis for law enforcement. According to Gordon and Trainor, the president was told of an intelligence report concluding that the Iraqi police "appeared to have extensive professional training."

That was like concluding that Inspector Clouseau appeared to be a master detective. During Saddam's era, when his security forces were the prime enforcers of order, the Iraqi police were notorious for corruption and lethargy. Officers waited for citizens to report crimes and expected bribes for investigating them. To the police, preventing crime, or even doing street patrols, was not their job.

When the regime fell, they didn't even protect their own police stations against the mobs of looters, a lack of professionalism that came as no surprise to the Iraqis I encountered shortly after the invasion. Nor were they surprised by the initial outbreak of violence against the buildings built by an oppressive regime.

But they were shocked at how little the Americans did in response. The looting went on so long that it became a regular job. Thieves methodically dismantled office towers, removing wires, pipes, walls, floors, escalators. In the summer of 2003, they took the "broken windows" theory of social disorder to a new level — to broken buildings — and Iraq has been paying the price ever since.

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That summer, as Iraqis watched looters and criminals taking control, they kept asking why nobody put a stop to the crime. The answer from officials in Washington, it turns out, is the same one that would have been given by the old Iraqi police: not my job.

Gunmen Ambush Iraqi Police Station, Kill 16 (AP)

The Associated Press, March 21, 2006

Gunmen ambushed a police station in the city of Muqdadiyah north of Baghdad Tuesday, killing at least 15 police officers and a guard at a nearby courthouse, police said.

The suspected insurgents struck at dawn, burning the police station and detonating a string of roadside bombs as they raced from the scene, a police spokesman in the region said.

At least seven others, including police officers and civilians, were injured in the attack in Muqdadiyah, which is about 90 kilometers (60 miles) north of the capital.

The attack came a day after at least 39 people were killed by insurgents and shadowy sectarian gangs in Iraq. Reports Monday showed that much of the violence targeted police officials.

Ongoing Wave Of Violence In Iraq Kills 39 (AP-Y2)

By Steven R. Hurst

AP2, March 20, 2006

At least 39 people were killed by insurgents and shadowy sectarian gangs, police reported Monday — continuing the wave of violence that has left nearly 1,000 Iraqis dead since the bombing last month of a Shiite Muslim shrine.

As the Iraq war entered its fourth year, police found the bodies of at least 15 more people — including that of a 13-year-old girl — dumped in and near Baghdad. The discoveries marked the latest in a string of execution-style killings that have become an almost daily event as Sunni and Shiite extremists settle scores.

Sectarian killings have swept across Iraq since the Feb. 22 bombing of a Shiite Muslim shrine in Samarra. An Associated Press tally, including the deaths reported Monday, put the toll at 993 since the golden dome atop the Askariya shrine was left in rubble by two bombers, who are believed to remain at large.

Among those killed in scattered violence Monday were 10 policemen, who are prime targets for insurgents, most of them Sunni militants, trying to break the will of the mainly Shiite police force.

As night fell on Monday, a bomb struck a coffee shop in northern Baghdad, killing at least three civilians and injuring 23 others. The bomb was left in a plastic bag inside the shop in a market area of the Azamiyah neighborhood, police Maj. Falah al-Mohammadewi said.

At about the same time, gunmen killed two oil engineers leaving work at the Beiji refinery north of Baghdad. An electrical engineer and technician were gunned down at the nearby power station, Beiji police Lt. Khalaf Ayed Al-Janabi said.

Separately, the owner of a small grocery in downtown Baghdad was shot and killed.

In southeast Baghdad, also toward evening, a roadside bomb blew apart a minibus, killing four pilgrims returning from the holy city of Karbala, where millions of Shiite faithful gathered to mark the 40th and final day of the annual mourning period for Imam Hussein, grandson of the Prophet Muhammad. Five pilgrims on their way to Karbala were wounded in a drive-by shooting earlier in the day, police said.

Otherwise, the commemoration passed largely without incident and absent the violent bomb attacks that have hit pilgrims there over the past two years.

Authorities in Baghdad closed the international airport until Tuesday, citing the need to protect the Karbala commemoration, apparently from any attackers who might try to fly into the country.

And Jordanian authorities closed their border with Iraq until further notice to "prevent those without valid travel documents from entering the country," said Maj. Bashir al-Da'ajah, spokesman of Jordan's Public Security Department. The New York Times reported the border was closed because a large number of Palestinians living in Iraq were trying to cross into Jordan without proper documents.

Much of the violence targeted police officials:

· Roadside bombs — one just a few hundred yards from an Interior Ministry lockup in central Baghdad and one in a farming area near the so-called Triangle of Death south of Baghdad — killed at least seven police officials. A prisoner was also killed in the Interior Ministry bombing.

· A policeman in a joint American-Iraqi patrol was killed in Baghdad during fighting with insurgents, police said.

· A car bomb targeting a police checkpoint exploded in Baqouba, 35 miles northeast of Baghdad, killing one policeman, authorities said.

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· In the northern city of Mosul, gunmen killed a policeman and an oil ministry official, police said.

Iraqis Sound Angry On Invasion Anniversary (AP)

By Sinan Salaheddin

AP, March 20, 2006

Some Baghdad residents voiced anger and dismay when asked about their lives as the U.S.-led war in Iraq entered its fourth year Monday, when insurgents and sectarian gangs killed at least 38 more people.

Salah Hashim, a 49-year-old businessman, said he yearned for the return of Saddam Hussein, the country's ousted dictator, given the violence that now envelops the country.

"Despite all he did that was bad, we did not suffer as we are now," Hashim said. "Now we have lost everything, even a sense of living. The Americans promised us, especially (President) George Bush, prosperity. And we thank them all because we got it — but we got a prosperity of car bombs, kidnappings and killings."

At least 992 people have been killed in a surge of sectarian killings since the Feb. 22 bombing of a Shiite Muslim shrine in Samarra, according to an Associated Press count.

"Now I have to spend time worrying about my safety while walking in the streets," said Hashim. "I have to worry about my children when they leave home for school. Instead of being comfortable and enjoying time with my family, I worry that I can't ensure their good life."

Ahmen Najeeb, a 33-year-old supermarket owner, said he originally "waved his hands" at American forces as they entered the country in March 2003, but that his outlook has since changed.

"Day after day the Americans proved that they are here to steal our oil and protect their homes by keeping the their war against terror in another country," he said.

One English teacher, though, said that Iraqis had tolerated Saddam's tyranny for so long that it was worth fighting through the violence to rebuild the country.

"What we are now living in is not an American failure nor that of the Iraqi government," said Assmaa Ali, 38. "The problem is in the Iraqi people ... we started fighting each other using statements and words. Now we are fighting each other with guns.

Ali said the only ones to blame were the insurgents and sectarian fighters who cause the problems. "They are the main reason behind the loss of life and destruction. We should help both the government and coalition forces in fighting these troublemaker instead of blaming them."

One man who said three of his daughters were killed by a bombing last year sounded despondent.

"I got nothing from this so-called liberation, just this cell phone and my satellite receiver. But I lost my three daughters," said Nawar Maarof, a 34-year-old taxi driver who said he had dreamed of becoming an accountant. "I have a feeling that my destiny is the same. Anyway, we're all dead."

Salam Nassir, a 25-year-old college student, also longed for Saddam.

"We deserve all this because we didn't fight the Americans," he said. "We had to know from the start they would not help us and were lying about liberating Iraq."

Freedom, Yes, Iraqis Say, But At Great, Grave Cost (WP)

By John Ward Anderson And Omar Fekeiki

The Washington Post, March 21, 2006

BAGHDAD, March 20 -- By almost any standard, Bashar Muhammed, the owner of a thriving Internet cafe, is a Baghdad success story. Three years after the United States invaded Iraq and overthrew Saddam Hussein, the Internet business here is booming, and Muhammed has what most Iraqis could only dream of under Hussein -- freedom, a cutting-edge job, lots of customers.

But when conversation turns to his life and prospects, he sighs and voices frustration that Americans just don't get it.

"It is true that we got freedom after the war, but uncontrolled freedom -- chaos and violence," he said in a cool, deliberate tone. Five of his relatives have been killed in car bombings and assassinations, Muhammed said, noting that most recently an uncle was killed for being a Sunni Arab.

"The new generation is growing on violence and sectarian ethics, and this will affect Iraq for many years to come," he said. "We are living a more devastating war every day."

As Iraqis on Monday marked the third anniversary of the U.S.-led invasion, there was a stark difference between their pessimistic outlook and some U.S. officials' upbeat assessment of the situation. With insurgent violence grinding on, essential services sagging below pre-invasion levels and the prospect of civil war looming, many Iraqis question whether Hussein's ouster was worth the cost.

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Many thousands of their countrymen have been killed. In December, President Bush estimated the Iraqi toll at 30,000.

Laith Muhammad, 32, a student in Fallujah, 35 miles west of Baghdad, listed the risks Iraqis face these days. "We either die by the Americans, the insurgents in the name of jihad, the security companies, which kill you and leave you laying in the street, the Iraqi police or . . . the death squads," he said. Such squads are widely believed to be operating from within the country's Interior Ministry. Muhammad cited private militias as yet another threat.

"Three years after the American invasion of Iraq, I have only one wish," he said. "I do not want democracy, food, electricity and water. I just do not want to die."

Other Iraqis, however, are less quick to blame the United States.

Sardar Muhsin Maheed, 25, a student at Mosul University, said too many people blamed the occupation for all of Iraq's ills. He traced most problems to Hussein, suggesting that issues such as the poor economy are legacies of the ousted president.

"The U.S. has liberated us from Saddam and his oppression," he said. "We are not ready to form a democratic state, and that is because of the burden left by Saddam's regime."

Another of Hussein's legacies, he said, was sectarian tension in the country. An Iraqi government has been democratically elected, but the politicians and their parties are creating a new Iraq based on religious and ethnic interests.

Luay Mohammed, a 57-year-old Sunni Arab who spent 35 years working for the Education Ministry, said he was forced to retire because the government and the ministry are now run by Shiite Muslims. His son could not get a job "because he is not a Shiite and he did not suffer" under Hussein, Mohammed said, his voice laced with bitterness and sarcasm.

"We've been waiting for years for true democracy to come, a democracy that makes everybody live and work together with respect and love. But here it is: a democracy with maximum chaos," he said. Now, all of his sons have cellular telephones -- not because it is hip or because of a communications boom, but because the security situation demands it. "This is what democracy has brought us."

The U.N. sanctions that had been imposed on Hussein's government have been lifted, and a vibrant free press has emerged. But unemployment is stuck between 27 and 40 percent, while oil production -- which the government counts on to generate 90 percent of its revenue -- remains below prewar levels.

"The toppling of Saddam Hussein's regime was worth everything," said Fakhri Fikry Kareem, owner and publisher of the daily Meda newspaper, one of more than 100 newspapers that have begun publishing in Iraq since Hussein's fall. Despite a rocket attack on his office, a bomb attack on his car and the killing of three of his reporters, Kareem said: "I have never felt as free to speak any day in my life as today. If George Bush did anything good, it was toppling Saddam Hussein."

Kareem, 63, said he opposed the war. While drinking Turkish coffee and fingering a long string of worry beads in his Baghdad living room, he talked of what might have been, suggesting that perhaps the United States could have removed Hussein without starting a broader conflict.

"I am not pessimistic," he said. "But I'm upset, because the war and the occupation, which could have led to a new situation in Iraq, were squandered by the stupid mistakes committed by the American administration and military and the U.S. representatives in Iraq."

Subhi Nadhem Tawfik, a professor at Baghdad University's Center for Strategic Studies, said people no longer believed that helping Iraq was foremost on the U.S. agenda during the invasion. "The U.S. has won a tremendous strategic victory," which has come increasingly at the expense of Iraq, he said.

"With the occupation of Iraq, the strategic significance of all the states in the region was diminished," Tawfik said.

The war and its aftermath have so far cost the United States about $250 billion. Congress allocated $21 billion to repair essential infrastructure and revitalize the economy, and to establish programs for good governance and democratic institutions. As much as $3.5 billion has been diverted to pay for better security, but Iraq remains the largest U.S. government reconstruction effort since the Marshall Plan following World War II.

Meanwhile, many Iraqis -- especially in Baghdad, home to almost a quarter of the population -- said they don't see much evidence of the aid.

"We hear about tens of billions of dollars spent on reconstruction," said Bashar Muhammed, the Internet cafe owner. "The only reconstruction in the country I see now are the cement barriers. There are lots of them."

New Business Blooms In Iraq: Terror Insurance (NYT)

By Robert F. Worth

The New York Times, March 21, 2006

BAGHDAD, Iraq — Twice in the past year, Muhammad Said has survived assassination attempts that left his car riddled with bullets. He works part time as a bodyguard for his father, a Baghdad city councilman, and helps a friend who has contracts with the American military. Both are very dangerous jobs.

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So last month, Mr. Said, a slim, baby-faced 23-year-old, did what a small but growing number of Iraqis are doing: He walked into the offices of the Iraq Insurance Company and bought a terrorism insurance policy. It looked like an ordinary life insurance policy, but with a one-page rider adding coverage for "the following dangers: 1) explosions caused by weapons of war and car bombs; 2) assassinations; 3) terrorist attacks."

It cost him 125,000 dinars, about $90. Mr. Said paid more than most people because of his risky occupation. The payout, if he dies, is five million dinars, around $3,500, or about what an Iraqi policeman earns in a year.

That guarantee appears to be the first off-the-shelf terrorism policy in the world, insurance experts say. In most countries, of course, there is no need for it: death by terrorism is rare enough that it is usually covered by ordinary accident insurance. In Iraq it is not, partly because the state used to compensate the families of war victims directly. So the Iraq Insurance Company began stepping into the gap about a year ago.

"Am I worth only five million dinars?" Mr. Said asked wearily, after signing his policy. "It is not a solution. But Iraqis can be attacked by anyone, just walking on the street: Americans, insurgents, the Iraqi Army." The payout is not a lot of money, even by Iraqi standards. But in a country where terrorism kills hundreds of people a month and no one can rely on the government or employers to provide for their relatives afterward, it seems to be an idea with a future.

The Iraq Insurance Company, a state-owned group, has sold about 200 individual terrorism policies in the last year, and is now negotiating with several government ministries and private companies for group policies that would cover thousands of employees.

The idea of insuring ordinary people in what may be the most violent place on earth came from Abbas Shaheed al-Taiee, an executive at the Iraq Insurance Company.

"It is a kind of gift to the Iraqi people," said Mr. Shaheed, 53, a big, heavyset man with terribly serious eyes and a reputation as a master salesman. "We have expanded the principles of life insurance to cover everything that happens in Iraq."

Amazingly, the company has yet to pay out on a single claim.

"We have sold policies in Dawra, Ramadi, Falluja," Mr. Shaheed said, naming some of the most dangerous places in Iraq. "The contract is a good luck charm."

Mr. Shaheed (whose name means martyr in Arabic) emanates a gravitas that must be an asset in his line of work. He manages a sales staff of about 50 across Iraq, but also sells the policies himself, traveling from one workplace to another, like a kind of bureaucratic Grim Reaper.

He says the terrorism policy makes no distinctions between who fires the shots or detonates the bombs. He would be perfectly willing to insure an insurgent, though he has not done so to his knowledge, he said.

"It is a market here; there are no differences," he said, in his grim baritone. "We evaluate people's pockets."

In the United States and Europe, insurance companies offer customized policies to organizations sending employees to dangerous places, including Iraq (some news organizations, for example, insure their reporters this way). But those policies are highly tailored to each company's activities and risks, and they are generally expensive.

The idea of a standardized, terrorism life insurance policy appears to be unprecedented, said Robert Hartwig, the chief economist of the Insurance Information Institute in New York.

Some other insurance experts agreed that the policy was a novel one, but said they would hardly call it a good deal. "In an American context, it's very overpriced," said Robert Hunter, the director of insurance for the Consumer Federation of America, an association of consumer rights groups. "In America, you could probably get $100,000 worth of life insurance coverage for maybe $125 to $150," especially a healthy 23-year-old, he said. "And that would cover you no matter how you died."

Selling insurance in Iraq has never been easy. The first insurance companies here were established in the 1950's, when they competed with Western companies. But the idea never gained wide acceptance, in part because some Islamic authorities disapprove of insurance, considering it akin to gambling.

Also, many Iraqis preferred to rely on their tribes or families in case of accidents or deaths. The state also played a powerful paternal role: during the Iran-Iraq war, for instance, the government generously compensated the families of soldiers who died, sometimes with a car or property as well as money.

After the Persian Gulf war in 1991 the market shrank further, because foreign reinsurance companies pulled out, forcing Iraqi companies to depend only on their own assets, said Aziz Hassan, a former deputy finance minister.

Strangely, Iraqi insurance companies have done relatively well since the fall of Saddam Hussein, despite a stagnant economy and the uncertainty over Iraq's future. Six private insurance companies were founded in 2004, and now compete with the two state-owned companies.

The Iraq Insurance Company has renovated its offices — they were looted and burned after the fall of Baghdad in April 2003 — and the company now employs between 250 and 300 people. They have sold at least 2,700 life insurance policies since the fall of the Hussein government.

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In 2005, the company's net income was about $2.5 million at current exchange rates. "We broke records," said Bassim Mahdi Saleh al-Sheikhli, the company's managing director. "Business has never before been so good."

The company attributes much of its success to salesmen like Mr. Shaheed, who now operate more freely — albeit more dangerously — than they did in the past.

"From my point of view, sales is an art," said Mr. Shaheed, who has worked at the Iraq Insurance Company for 18 years. "For instance, talking to a father with children is different from talking to a man still single. You have to bring out his passion to protect his family."

Because the salesmen carry money and travel, their own jobs are unusually dangerous. They do not carry guns. Many have bought terrorism insurance themselves, including Mr. Shaheed.

One rule applies to all prospective clients. "When we talk about death and risks, we refer to ourselves: 'I might die tomorrow,' " Mr. Shaheed said. "When we talk about the payment, we say, 'The company pays you.' "

Once a client has agreed to buy a policy, a price is negotiated. It ranges from 60,000 dinars for the safer professions — teachers, businessmen and the like — to 125,000 for policemen and translators for Western companies. The payout is the same regardless.

On a recent afternoon, Mr. Shaheed sat at a desk in his second-floor office, chatting quietly with a potential client. Nearby on the couch sat Basmel Nafaa, a 48-year-old businessman with a bald head and an impish grin. Mr. Nafaa had already bought an ordinary life insurance policy, and was considering buying terrorism coverage too.

"He's the best we have here in Iraq," Mr. Nafaa said of Mr. Shaheed. "He's a good hunter."

Mr. Nafaa recounted how Mr. Shaheed had approached him at the wholesale market where he often works, as if by chance. The salesman chatted amiably about mutual friends, and then began telling a story about a man who had died without leaving anything for his wife and children. Before long, Mr. Nafaa was sold.

"He hardly even needs to remind you of the dangers you face," Mr. Nafaa said. "We see it everywhere."

Mr. Nafaa began offering examples. A few months earlier, his 12-year-old son Joseph was standing outside the family home waiting for a school bus that never came. The boy persuaded his mother to give him money for a taxi. Minutes later, he said, a suicide bomber in a car exploded right next to the bus stop, which is across from the home of a high-level government official. Six people were killed.

Mr. Nafaa showed photographs of his house, which was badly damaged. "I had no insurance at that time," he said.

Then Mr. Nafaa gestured across the room at his cousin, Baseem Makadsi — the other prospective client — who still has a crease on the back of his skull from where a bullet crashed through the window of his car and grazed him while he was driving to the market with his son.

"If he had not leaned over to speak to his son, he would be dead," Mr. Nafaa said. "He lost a lot of blood."

Mr. Makadsi was not yet sold on terrorism insurance. He was thinking of taking his family out of Iraq.

But Mr. Nafaa persuaded himself. "I will buy it," he said. "There is a big probability to be killed by insurgents here. Higher than anywhere else in the world."

Congress Eyes Own Window On Iraq War (CSM)

By Gail Russell Chaddock

The Christian Science Monitor, March 21, 2006

WASHINGTON - Marking the third anniversary of the Iraq war, President Bush said US strategy will "lead to victory."

Before recessing last week, the House easily approved $67.6 billion for military operations in Iraq and Afghanistan - exactly the amount the White House had requested - and the Senate punted on a bid to censure Mr. Bush on his conduct of the war on terror.

But behind the headlines, Capitol Hill lawmakers are signaling that 2006 must be a decisive year in the Iraq war - and many of the war's vigorous defenders are looking for guidance outside the Bush administration on how to move ahead.

Exhibit A is the quiet launch of an independent, bipartisan panel to bring "fresh eyes" to the Iraq conflict. Last week, the House included $1.3 million in a defense funding bill for the panel, which will work out of the congressionally chartered US Institute for Peace here.

"The purpose of the [Iraq] study group is to come up with a compromise between an administration policy that no one believes in and just walking away," says Edward Luttwak, a senior adviser at the Center for Strategic and International Studies, 1 of 4 think tanks supporting the effort. "The study-group process will be mysterious, but the outcome is predictable: They're going to come to the conclusion that the US should disengage, but not abandon Iraq."

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The move to develop alternatives to Bush administrative briefings signals a growing distrust on Capitol Hill for the "closed circuit between people sitting inside the Green Zone and the 'good news' being sent back to Washington," says Mr. Luttwak. "Congress is discovering that the Bush administration is repeating its own propaganda - and believes what they are saying."

Last week, lawmakers on both sides of the aisle grilled Pentagon officials on whether Iraq is slipping into civil war - and what role remains for US troops if it does. The House passed by voice vote a Democratic amendment to block funding for a permanent US base in Iraq.

"Despite three years of the best efforts and heroic sacrifices by our military personnel, Iraq is teetering on the edge of the abyss," said Sen. Carl Levin of Michigan, ranking Democrat on the Senate Armed Services Committee. Bush sent Iraqi leaders "the wrong message" last week when he said the process "will require patience by America," the senator said.

Like the 9/11 commission before it, the new Iraq Study Group is being asked to face forward. "We will not be visiting past debates about Iraq. We will leave that to the historians," said cochair and former Rep. Lee Hamilton, who also cochaired the National Commission on Terrorist Attacks Upon the United States.

"We know that the country needs help now in working through this, and we will add whatever we can by way of a constructive contribution," Mr. Hamilton said Wednesday at the launch of the Iraq Study Group in the Senate Armed Services Committee hearing room.

Other members are cochair James Baker III, former secretary of Treasury and State; former CIA director Robert Gates; former New York Mayor Rudolph Giuliani; and former Sen. Alan Simpson (R) of Wyoming. Democrats on the panel are Leon Panetta, former chief of staff to President Clinton; Clinton adviser Vernon Jordan; former Defense Secretary William Perry; and former Sen. Charles Robb of Virginia. One more Republican will be named to the 10-member panel.

"One of the first things we are going to have to do - and will do - is satisfy ourselves with respect to exactly what are the facts and circumstances with respect to Iraq today," said Mr. Baker, who says the administration will cooperate as panelists travel to Iraq and seek access to people and documents.

Republicans began lobbying the White House for an independent assessment of the war months ago. In September, Rep. Frank Wolf (R) of Virginia wrote in an op-ed that the American public, to stay the course, must "be able to trust that those directing the war have made an honest assessment of what has gone right and what has gone wrong."

One reason Congress is turning to an outside group is that, unlike in previous wars, public opinion on the Iraq war is polarized along party lines. While 77 percent of Republicans say the US is making progress toward establishing a democracy in Iraq, only 34 percent of Democrats are as optimistic, according to a poll last week by the Pew Research Center.

While Democrats did not rally to a motion by Sen. Russell Feingold (D) of Wisconsin to censure the president over domestic surveillance without a warrant, some senators in both parties still question the policy - and the precedent it sets for separation of powers.

"Too often, Democrats cower in the face of illegality," says Senator Feingold. "As soon as the administration raises the specter of being soft on terrorism, Democrats just hide."

"It's a political stunt that's getting in the way of a good, honest debate on checks and balances in a time of war," Sen. Lindsey Graham (R) of South Carolina said last week of the Feingold resolution.

But he adds: "It's an area where the law is very unsettled. I hope we'll vote on it."

Father No Longer Out For Revenge In Iraq (AP-Y2)

By Charles J. Hanley

AP2, March 20, 2006

In the desert chill, on the lonely nighttime roads of Iraq, Joe Johnson looks out over his machine gun and thinks of Justin. It was on Easter morning 2004 that a chaplain and a colonel appeared on Joe and Jan Johnson's Georgia doorstep with the news. Justin, the boy Joe had fished and hunted with, the soldier son who'd gone off to Iraq a month earlier, was suddenly dead at 22, killed by a roadside bomb planted in a Baghdad slum.

Today it's Joe who mans the M-240 atop a Humvee, warily watching the sides of the road, an unlikely Army corporal at 48, a father who came here for revenge, a Christian missionary on a crusade against Islam, and a man who, after six months at war, is ready to go home.

"I shouldn't even have come," he now says. And if he leaves bloody Iraq with no blood on his hands, he says, that's fine, too.

The Johnson family story is unique, even strange. But in a war where soldiers have heard an ever-changing medley of reasons for fighting, Joe Johnson's may be as simple and direct as any — and to many, as troubling.

He wasn't there that day the tragic news arrived in Rome, Ga. Instead, the self-employed house-builder was in Fort Lewis, Wash., trying to qualify for a place in a Washington National Guard unit ticketed for Iraq.

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With six years of long-ago Army and Navy service, Johnson had joined the National Guard in 2003, wanting to serve his country again, this time in combat, and to go to Iraq while his son was there. A year with both husband and son at war would be easier on Jan than two years separately, he reasoned.

The death of Justin, a 1st Cavalry Division machine gunner, stunned his parents with a shock that lingers still.

"What were the odds, of thousands of people here, that somebody in my family would get killed?" the grieving father asked.

At that point, Johnson said, "I decided it was too soon to leave home." Jan was too distraught.

But last April 11, a year and a day after his son was killed, Johnson told his Iraq-bound Georgia National Guard unit, the 48th Infantry Brigade, he was ready to join them. They ended up at this dustblown base in Iraq's far west, pulling escort duty for fuel convoys on the bomb-pocked desert highways from Jordan.

Why did he do it? The wiry lean Georgian, an easy-talking man with a boyish, sunburned face, tried to answer the question that won't go away.

"It's a lot of things combined," he said. "One, a sense of duty. I was pissed off at the terrorists for 9/11 and other atrocities. Second, I'd only trained. I wanted combat." And then, he said, "there's some revenge involved. I'd be lying if I said there wasn't."

But there was more on the mind of this man who has done Church of God missionary work as far afield as Peru and the Arctic.

"I don't really have love for Muslim people," Johnson said. "I'm sure there are good Muslims. I try not to be racist." Although he hasn't read the Quran, or spoken with Muslims, he has "heard" the Islamic holy book "teaches to kill Jews and infidels. And it's hard to love people who hate you."

He could love Iraqi children, though, and said he'd hoped "to see them grow up to know right and wrong."

Somewhere along the way, however, the righteous passion cooled, as the over-aged corporal, like tens of thousands of other American soldiers here, faced the reality of Iraq.

Was it last Christmas morning, when roadside bombs rocked his convoy one after another, and Johnson thought he was next? Or was it when speeding civilian cars passed the Americans' Humvees and Johnson failed to level his gun and open fire, which "I think anyone else," fearing car bombs, "would have done."

"I really don't want to kill innocent people," he now says. "I don't want to live with that the rest of my life."

Most of all, it might have been the telephone calls home to Jan, who was dealing not only with depression and other health problems, but also with the prospect that their elder soldier son, Josh, 26, might be sent to Iraq or Afghanistan.

"I don't like that Joe's there," Jan Johnson said when called by satellite telephone from al-Asad. "But it's something he felt he had to do. People heal in different ways. This is how he heals after Justin's death."

"She's ready for me to come home," Joe Johnson concludes.

He will. His battalion exits Iraq in early May, when Johnson's own enlistment term, coincidentally, expires. "That's it," he said, no re-enlistment for him.

But what about revenge?

"If I go home and didn't kill a terrorist, it's not going to ruin my life," he said. "Maybe I'd just as soon not. I don't know what it would do to my head."

Once back home among the northwest Georgia pines, he has one last ceremonial act in mind, removing the silver-toned bracelet he's worn on his right wrist throughout his deployment, bearing Justin's name and date of death. Joe Johnson's mission will have been accomplished.

Whatever it was, he said, "I got it out of my system."

US Keeping Close Eye On Trial Of Afghan Christian (AFP-Y2)

AFP, March 20, 2006

The United States said it was watching closely the trial of an Afghan man who could face death for converting to Christianity in a test of religious freedom for the key US ally.

State Department spokesman Sean McCormack urged the Afghan authorities to deal with the proceedings against Abdul Rahman transparently and according to the rule of law.

"It's a case that we're following very closely," McCormack said of Rahman's week-old trial on charges of violating Islamic Sharia law.

"Our view certainly ... is that tolerance, freedom of worship, is an important element of any democracy," he said. "These are issues, as Afghan democracy matures, that they are going to have to deal with increasingly."

Rahman was detained two weeks ago after his relatives reported his conversion to Christianity to the police. A Supreme Court judge said he could be executed if he refused to return to Islam.

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If sentenced, the defendant will be the first Afghan punished for conversion since US-backed forces ousted the hardline Taliban regime at the end of 2001 in reprisal for the September 11 terror attacks on the United States.

McCormack said Afghanistan, which has become a major ally in Washington's war on the Al-Qaeda terrorist network, was debating varying constitutional interpretations of religious freedom.

"These issues rightfully should get resolved through the court system," he said. "But they need to be resolved in a transparent (manner) and according to the rule of law."

Off Course In Afghanistan (WP)

By Chris Van Hollen

The Washington Post, March 21, 2006

When President Bush touched down briefly in Afghanistan on his way to India, he was probably the closest he will ever get to the man who masterminded the Sept. 11 attacks on the United States: Osama bin Laden, who is believed to be hiding in Pakistan along the rugged Afghan-Pakistani border. It was a stark reminder that we have not accomplished our mission of destroying bin Laden and al-Qaeda. Fulfilling that mission and preventing a resurgence of the Taliban will depend on the actions we take in Afghanistan. This is no time to reduce our commitment there.

While the president was in Afghanistan, the director of the U.S. Defense Intelligence Agency, Gen. Michael Maples, was testifying before Congress that the Taliban insurgency is growing and will increase this spring, presenting a greater threat to the Afghan central government's expansion of authority than at any point since late 2001. Under these circumstances, the current plan to replace the 2,500 U.S. troops in southern Afghanistan this spring with contingents of Canadian, Dutch, British, Romanian and Australian troops is a mistake. Given the intensifying Taliban insurgency, these allied forces should augment, not displace, U.S. forces. We should also reassess the administration's proposal to turn over the command of most U.S. troops in Afghanistan to NATO by early next year.

While Gen. James Jones, NATO's supreme allied commander, has tried to play down Maples's grim assessment, it is hard to ignore the fact that the Taliban has stepped up its operations. Last year, attacks by the Taliban and other anti-government groups jumped by 20 percent. Suicide bombings increased almost fourfold, and strikes with improvised explosive devices, a tactic imported from Iraq, doubled. The main battlegrounds in this insurgency are the provinces of Kandahar, Uruzgan, Helmand and Zabul, the Pashtun areas that formed the Taliban stronghold.

As recently as Jan. 10, Mullah Mohammad Omar, the Taliban leader who was born in southern Afghanistan and forged a close bond with bin Laden -- rejected a call to reconcile with the government of President Hamid Karzai and publicly exhorted his followers to fight on. It appears that his followers are listening. James Kunder, assistant administrator of the U.S. Agency for International Development, told Congress that in January: a school headmaster was shot in Helmand; 200 schools in Kandahar and 165 schools in Helmand closed for security reasons; and in Zabul, where a campaign of intimidation had already closed all but five of 170 schools, a high school teacher was beheaded. February was also deadly: In a 14-day period, 24 violent incidents and 37 deaths were reported in the media.

Stopping this violence requires forceful action. Until now, NATO forces have been stationed in relatively quiet areas and their role has been limited primarily to peacekeeping, rather than combat, operations. There are real questions about whether NATO will be able to engage the Taliban as aggressively as U.S. forces.

The withdrawal of U.S. forces from southern Afghanistan will also weaken our ability to demand that Pakistan move more forcefully to prevent the Taliban from using Pakistan as a base of operations. Pakistan's Inter-Services Intelligence Agency has had a cozy relationship with the Taliban, and many in the Afghan government doubt Pakistan's commitment to denying sanctuary to Taliban fighters. If U.S. troops won't pursue them, why should Pakistan's?

Afghanistan's stability depends on strengthening the central government, developing the economy and limiting the booming opium trade. Progress on these fronts requires that the Taliban be neutralized and that security be improved. The anticipated withdrawal of U.S. forces has reportedly already caused some local leaders to hedge their bets with respect to the Taliban. Economic development has been slowed because, as Kunder testified, "our contractors are being targeted, and a number of them have been killed, making it more difficult for USAID to recruit appropriately qualified staff." And the lack of security in southern Afghanistan makes it more difficult to eradicate the drug trade in places such as Helmand, which produced more opium last year than any other province, representing about 20 percent of the world's supply of heroin.

We should never forget that the Taliban came to power in the chaos that followed the Soviet withdrawal from Afghanistan and the subsequent U.S. disengagement from the region. With the Bush administration and political Washington focused on Iraq, many Afghan leaders worry that the reduction of U.S. forces is a sign that we will again lose sight of Afghanistan. We do so at our peril. Let us not forget that the Sept. 11 plot was launched from Afghanistan, and not from Iraq.

The writer is a Democratic member of Congress from Maryland.

DOJ_NMG_0019879

2 Years After Soldier's Death, Family's Battle Is With Army (NYT)

By Monica Davey And Eric Schmitt

The New York Times, March 21, 2006

SAN JOSE, Calif. — Patrick K. Tillman stood outside his law office here, staring intently at a yellow house across the street, just over 70 yards away. That, he recalled, is how far away his eldest son, Pat, who gave up a successful N.F.L. career to become an Army Ranger, was standing from his fellow Rangers when they shot him dead in Afghanistan almost two years ago.

"I could hit that house with a rock," Mr. Tillman said. "You can see every last detail on that place, everything, and you're telling me they couldn't see Pat?"

Mr. Tillman, 51, is a grieving father who has refused to give up on his son. While fiercely shunning the public spotlight that has followed Cpl. Pat Tillman's death, Mr. Tillman has spent untold hours considering the Army's measurements, like the 70 yards.

He has drafted long, sometimes raw, letters to military leaders, demanding answers about the shooting. And he has studied — and challenged — Army PowerPoint presentations meant to explain how his son, who had called out his own name and waved his arms, wound up dead anyway, shot three times in the head by his own unit, which said it had mistaken him for the enemy.

"All I asked for is what happened to my son, and it has been lie after lie after lie," said Mr. Tillman, explaining that he believed the matter should remain "between me and the military" but that he had grown too troubled to keep silent.

As the second anniversary of the death of Corporal Tillman, once a popular safety for the Arizona Cardinals, approaches, Mr. Tillman, his former wife, Mary, and other family members remain frustrated by the Army's handling of the killing but for the first time may be close to getting some of the answers they so desperately seek.

After repeated complaints from the Tillmans and members of Congress contacted by them, the Army is immersed in a highly unusual criminal investigation of the killing, and the Defense Department's inspector general, which called for the criminal investigation this month, is looking separately into the Army's conduct in its aftermath.

Senior military officials said Defense Secretary Donald H. Rumsfeld had expressed outrage to top aides that the Army was having to conduct yet another inquiry into the shooting, prolonging the family's anguish and underscoring the failure of the Army's investigative processes to bring resolution.

Gary Comerford, a spokesman for the inspector general, said the Army Criminal Investigation Command was "dealing with events leading up to the death, and we're looking at anything after that." Though Mr. Comerford did not say so, that could include the possibility of a cover-up, the Tillmans said they had been told by the inspector general's office.

No one wants answers more than the Tillmans. But by now, they said, they have lost patience and faith that any Army entity, even the Criminal Investigation Command, can be trusted to find the truth.

"I am sitting here on my own, going over and over and over this for two years," Ms. Tillman, 50, said in a telephone interview. "The whole thing is such a debacle. I am beyond tears. It's killing me."

Like her former husband, she has spent days reading the files, researching the episode, calling members of Congress, even trying to contact some of the soldiers involved. She criticized the military, as well as the news media, for failing to get to the bottom of what occurred, leaving her family, in essence, to figure it out themselves.

All of it, her former husband said, has even left him suspicious of the military's central finding in their son's case so far: that the killing was a terrible but unintentional accident.

"There is so much nonstandard conduct, both before and after Pat was killed, that you have to start to wonder," Mr. Tillman said. "How much effort would you put into hiding an accident? Why do you need to hide an accident?"

An examination by The New York Times of more than 2,000 pages of documents from three previous Army administrative reviews reveals shifting testimony, the destruction of obvious evidence in the case and a series of contradictions about the distances, the lighting conditions and other details surrounding the shooting.

Seven Rangers have received administrative disciplines — a pay cut, a loss of rank or a return to the rank-and-file Army — but the criminal inquiry is for the first time examining whether the soldiers broke military law when they failed to identify their targets before firing on Corporal Tillman's position. The earlier reviews found that a chain of circumstances and errors had led to the deaths of Corporal Tillman and an Afghan soldier fighting alongside the Americans.

A senior Pentagon official briefed on the criminal investigation, who was granted anonymity because he was not permitted to speak publicly while the new investigation was under way, said it would delve into highly sensitive areas.

"The balance that investigators now have to wrestle with is how much of a crime-scene approach they can take — nearly two years after the fact — into the fog of war, where soldiers were making decisions in milliseconds," the Pentagon official said.

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Mr. Tillman spoke bluntly and angrily one afternoon here as he waded once more through the Army reports, the charts, even the details in his son's autopsy. He knows the smallest of details by heart — where his son was supposed to be standing, which way the sun was setting, what the Ranger ducking beside his son heard him call out last — and ticked them off unemotionally as he flipped through the worn reports.

Mr. Tillman's small office, though, belies his hardened shell. His trash can, pasted with orange and green paper, was a grade school project of Pat Tillman. So was the wooden pencil holder nearby, shakily carved with the letters N.F.L. A blurry photograph in a frame showed Pat Tillman at age 2, marching off toward a lake with his signature confident stride.

"At this point I don't believe that the facts of this case are going to come out without the serious threat of jail time hanging over some folks," Mr. Tillman said.

The Tillman family's first glimmers of distrust began in the month after Corporal Tillman was killed, at the age of 27, on April 22, 2004.

Within hours, military officers came to the family home here, the same house where Corporal Tillman had grown up. No one mentioned, though, that the shooting had been at the hands of his colleagues. Even Corporal Tillman's younger brother Kevin, who served in the same Ranger unit and was in a vehicle far behind the shooting and did not see what had happened, did not learn the truth for more than a month.

Instead, eight days after Corporal Tillman's death, Army officials awarded a Silver Star and issued a news release that seemed to suggest that he had been killed by enemy fire during an ambush.

At the end of May, as the rest of Corporal Tillman's unit was returning to the United States, the Army notified the family of what it believed really happened. In the months that followed, in private briefings for the family, the Army assured the Tillmans that a thorough investigation would be made and that those responsible would be disciplined.

"They said they'd take care of it, and I believed them," Mr. Tillman said.

Corporal Tillman's platoon of the Second Battalion, 75th Ranger Regiment, began the day that he died dealing with a minor annoyance in the southeastern part of Afghanistan where the soldiers were conducting sweeps, the Army records show: one vehicle would not start.

The platoon split into two parts so that half the team, including Corporal Tillman, could go on to the next town for sweeps while the second half could tow the disabled vehicle to a drop-off spot.

But both groups ended up in the same twisting canyon, along the same road, without radio communication. And after the sounds of an enemy ambush, three Rangers in the second group wound up firing at members of the first group — at an Afghan soldier who was fighting alongside Corporal Tillman, and then at Corporal Tillman.

The Army's administrative reviews that followed, parts of which have been described previously in other newspapers, including The Washington Post and The San Francisco Chronicle, have left the Tillman family with more questions than answers, they say. Some of those involved in the shooting have provided shifting accounts of what happened, the records show.

The decision to split the unit into two convoys, for example, was a crucial, and perhaps fatal, one. Brig. Gen. Gary M. Jones, who led the most recent of the three Army reviews, concluded that the decision was a result of "miscommunication" among several officers.

But at least one Army officer, the records show, changed his sworn statements about which supervisor had actually ordered the split and what conversations had occurred before the order was given.

Even the soldier who conducted the military's first review of Corporal Tillman's death — in the hours and days immediately afterward — expressed concern about the changes in the accounts.

That soldier, whose name, like many others, was redacted from the Army files provided to The Times by Mr. Tillman, said he believed Rangers had changed their versions of what happened and were not receiving the "due just punishment" for what he concluded was "gross negligence."

The stories, he said in a sworn statement as part of General Jones's subsequent review, "have changed to, I think, help some individuals."

"The other difficult thing, though, was watching some of these guys getting off with what I thought was a lesser of a punishment than what they should've received," the soldier who conducted the first inquiry said.

Among a number of conflicts in the descriptions of what happened, some Rangers said that in the dusk they could see nothing more than "shapes" and "muzzle flashes" even as Corporal Tillman tried to tell his colleagues who he was, waving his arms, setting off a smoke grenade signal and calling out. Others said they had seen and aimed for the Afghan fighter, his "dark face" and his AK-47.

After the shooting, the Rangers destroyed evidence that would be considered critical in any criminal case, the records show. They burned Corporal Tillman's uniform and his body armor.

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Months later, the Rangers involved said they did not intend to destroy evidence. "It was a hygiene issue," one soldier wrote. "They were starting to stink."

Another soldier involved offered a slightly different take, saying "the uniform and equipment had blood on them and it would stir emotion" that needed to be suppressed until the Rangers finished their work overseas.

"How could they do that?" Mr. Tillman said. "That makes no sense."

The family still wants to know, he said, what became of Corporal Tillman's diary. It was never returned to the family, he said.

Ms. Tillman said her family could not rest until they knew what really happened. All of it, Ms. Tillman said, has left her wondering what other families who have lost service members in Iraq and Afghanistan may really know about the circumstances. In addition to Corporal Tillman, at least 16 service members have died in Afghanistan and Iraq as a result of shootings or bombings by fellow Americans, and none of the deaths, so far, have led to criminal convictions.

"This is how they treat a family of a high-profile individual," she said. "How are they treating others?"

Col. Joseph Curtin, an Army spokesman, said the Tillmans deserved answers.

"We deeply regret their loss," Colonel Curtin said, "and will continue to answer their questions in a truthful and forthright manner."

DOJ:

The Reliable Source (WP)

By Amy Argetsinger and Roxanne Roberts

The Washington Post, March 21, 2006

Lucky Strikes Again!

Every time Selwa "Lucky " Roosevelt chairs a huge benefit, she swears she's never doing it again. The Reagan White House protocol chief said the Folger's 60th-anniversary party in 1992 was her last. Then there was the party 10 years ago welcoming Placido Domingo to Washington. Then the Domingo Millennium in 2000. And now Sunday's Washington National Opera 50th Anniversary "Golden Gala" -- really, really her last bash.

"This is it!" Roosevelt declared yesterday. "I won't have a friend left. They know every time I phone it's going to cost a lot of money."

Roosevelt coaxed more than $4 million from pals in the "Fifty for Fifty Club" ($50,000 each) who supped at embassies Saturday night and brunched at the White House yesterday with Laura Bush. But Lucky's centerpiece was the Sunday post-concert dinner at the Kennedy Center, full of neck-craning ("Isn't that a Rothschild ?" -- don't know, too busy gawking at rarely-seen-here Patricia Kluge, Mercedes Bass and Jacqueline Mars); jewels (newlywed Betty Scripps Harvey sporting massive diamonds); live wires (a beaming Donald Rumsfeld and Ross Perot, glued to his cellphone); fashion police (thumbs up for golden gowns on Hilda Brillembourg and Mary Ourisman); and endless millionaires, ambassadors and tenors.

Bookies are already setting odds on Roosevelt's next last party. "Absolutely zero!" she said. "I want to write a book." We've got $5 on 2010.Dana Buchman's Special-Ed Twin Set

Fashion designer Dana Buchman is making the rounds with her spring collection, but the star of yesterday's show at Saks Fifth Avenue was Buchman's 19-year-old daughter, Charlotte. The mother-daughter team wrote "A Special Education: One Family's Journey Through the Maze of Learning Disabilities" -- about their struggle with dyslexia, attention deficit disorder and a number of other developmental problems. "For so long I thought, 'Okay, Charlotte has LD. How can I fix it?' " said the self-confessed Type A mom. She couldn't, of course, and changed her life instead. The two shared their story at a ladies' lunch/book signing that was also an opportunity for some guilt-free shopping: 10 percent of Buchman sales went to the Lab School of Washington, one of the country's top schools for learning-disabled kids.

HEY, ISN'T THAT . . . ?

· Attorney General Alberto Gonzales picking up lunch Sunday at the Leesburg Pike Taco Bell in Falls Church, wearing a dark suit and accompanied by a Secret Service detail. A Justice source says the trip was "at the request of his 10- and 13-year-olds."

· Wizards Caron Butler and Antonio Daniels celebrating their birthdays (26 and 31, respectively) by. . . bowling? Presumably it's cool again, if young millionaires are doing it. The players had a few lanes at D.C.'s Lucky Strike curtained off for a private party Saturday.LOVE, ETC.

· Eloped : Actor Richard Dreyfuss , 58, and his Russian-born girlfriend, Svetlana Erokhin , 46, at the Rockingham County Courthouse in Harrisonburg, Va., Thursday, while the Oscar winner was in town to speak at JMU. Third marriage for him, second

for her. The couple called ahead earlier that day to set up their afternoon nuptials, said Clerk of the Court Bonnie Simmons : "Very sweet, very personal, very quiet."

· Born: A son to Donald Tr ump and his model-turned-wife, Melania Knauss . The not-so-little guy, Barron William Trump, came into the world yesterday morning at 8 1/2 pounds, and just in time for the proud father to announce the news in calls to both the Don Imus radio show and "Live With Regis and Kelly." The Donald has four other children by his two previous wives.THIS JUST IN . . .

· Kevin Spacey has been announced as this year's recipient of the Shakespeare Theatre Company's Will Award, to be presented at a fundraising gala in May. The award is given annually to a person who has championed classical theater. The Oscar winner, who in 1981 made his New York debut in "Henry IV, Part 1," is artistic director of London's historic Old Vic theater.THIS JUST IN . . .

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CORPORATE SCANDALS:

Conviction Of Ex-Star Banker Tossed Out (WP)

By Brooke A. Masters

The Washington Post, March 21, 2006

NEW YORK, March 20 -- A federal appeals court tossed out the obstruction-of-justice conviction of once high-flying investment banker Frank P. Quattrone, in a blow to the government's effort to prosecute and deter white-collar crime.

The U.S. Court of Appeals for the 2nd Circuit held unanimously that the trial judge's instructions to the jury included such a "glaring deficiency" that Quattrone did not get a fair trial on charges that he encouraged subordinates to destroy documents sought by a federal grand jury.

The court also took the unusual step of reassigning the case to a new trial judge, writing that "certain comments" made by U.S. District Judge Richard Owen "could be viewed as rising beyond mere impatience and annoyance."

"It's the first time in this case that justice has been done," said Quattrone's trial attorney, John W. Keker. "I'm just glad that Judge Owen didn't win."

But the decision was not a total vindication for Quattrone. The 61-page opinion by Judge Richard C. Wesley dwelt at length on the strength of the evidence against the former Credit Suisse First Boston LLC banker and held that it was more than sufficient for conviction on charges of obstruction and attempted witness-tampering.

The ruling raises the possibility that Quattrone, still the best-known investment banker in Silicon Valley, will face a third trial more than five years after he first sent an e-mail encouraging hundreds of CSFB subordinates to "clean up those files." His first trial ended in a hung jury, and his 2004 conviction has now been overturned.

The reversal in the Quattrone case comes as the overall record for the Justice Department's attack on high-profile, white-collar crime is mixed. The Supreme Court overturned the obstruction verdict against accounting firm Arthur Andersen LLP, and HealthSouth Corp. founder Richard M. Scrushy was acquitted. The 2nd Circuit upheld domestic entrepreneur Martha Stewart's conviction and is still considering former WorldCom chief executive Bernard J. Ebbers's appeal of his conviction and 25-year-sentence. Former Enron Corp. leaders Kenneth L. Lay and Jeffrey K. Skilling are on trial in Houston

"It's really too bad. Even if the prosecution wins the next go-around, people are going to think, all I need is a good lawyer, and I'll have a good shot at not going to jail," University of Texas law professor Henry T. C. Hu said of the Quattrone reversal. "This kind of thing will undermine the deterrence idea of white-collar crime prosecution."

Once famous for helping bring hundreds of technology firms public during the dot-com boom, Quattrone, 50, had faced an 18-month prison sentence but remained free pending his appeal. "For over three years during this difficult ordeal, I have held my head high, knowing I was innocent and never intended to obstruct justice," he said in a statement that also thanked his supporters and legal team.

The Quattrone case marks the second time in less than a year that a major white-collar obstruction case has been overturned based on faulty jury instructions. Last May, the Supreme Court tossed out the guilty verdict against Arthur Andersen, holding that the jury should have been required to find that Andersen acted with criminal intent.

The Quattrone decision was based on a separate but somewhat similar problem. The three-judge panel found that Owen botched jury instructions on the need to find a "nexus" between Quattrone's "clean up" e-mail and a grand jury probe into the way CSFB doled out shares in hot new stocks, known as initial public offerings.

The appeals court found that Owen's instructions improperly failed to make clear that the jury needed to find that Quattrone knew that grand jury and Securities and Exchange Commission subpoenas specifically called for the documents that would be destroyed.

New York University law professor Jennifer Arlen said the Quattrone and Andersen decisions make clear that "obstruction may not be such an easy way to establish criminality . . . given that businesses often destroy documents all the time for many reasons."

The government may think twice about retrying Quattrone again, some outside lawyers said. While Quattrone, who made $120 million in his most profitable year at CSFB, still has ample resources to fight back, the two government lawyers who handled the case have left for private practice.

"A lot of resources were wasted because of a legal mistake," said Samuel Buell, who was the lead prosecutor in the Andersen cases and now teaches law in Texas. "At some point, do you just cut your losses?" The Justice Department declined to retry Andersen in part because the once-mighty accounting firm had all but disappeared by the time of the Supreme Court decision.

Quattrone's appeal attorney, Mark F. Pomerantz, predicted that his client would fare much better in a third round. "Having a different judge and a different jury and trying this case in a different climate will really give this trial a different character," he said.

A spokeswoman for U.S. Attorney Michael Garcia said, "We are reviewing the opinion and considering our options."

Appeals Court Overturns Conviction Of Ex-Banking Star (NYT)

By Andrew Ross Sorkin

The New York Times, March 21, 2006

A federals appeals court in New York this afternoon overturned the conviction of Frank P. Quattrone, the former star banker who had been found guilty of obstruction of justice, and granted him a new trial.

The ruling, a rare reversal of a jury verdict, is a big defeat for the government, which had sought to portray Mr. Quattrone as a symbol of Wall Street's excesses and the dot-com bust.

Mr. Quattrone, who led the initial public offerings of companies like Amazon.com and Cisco Systems as a banker at Credit Suisse First Boston in the 1990's, had been convicted of obstruction of justice as a result of endorsing a colleague's e-mail message in December 2000 that urged his staff to "clean up those files." At the time, the government was investigating whether the bank was soliciting kickbacks from preferred investors for hot initial public offerings, but it never led to any criminal charges.

Mr. Quattrone, 50, had faced 18 months in prison, though he has remained free pending the outcome of the appeal.

The reversal by a three-judge panel of the United States Court of Appeals for the Second Circuit comes almost a year after the Supreme Court also struck down the conviction of Arthur Anderson, the accounting firm involved in the Enron scandal that had also been found of guilty of obstruction of justice.

The appeals panel found that the judge in the case, Richard Owen, a Nixon appointee known for being pro-prosecution, gave erroneous jury instructions on what was required for the jury to find Mr. Quattrone guilty. The panel also said that "in the interest of justice," the case should be reassigned to another judge on the United States District Court for the Southern District of New York.

The prosecutors in the case, Steven R. Peiken and David Anders — both of whom have since left the United States attorney's office for private practice — were also singled out by the appellate panel for unfairly trying to prejudice the jury during their questioning of Mr. Quattrone.

Still, the appeals court found that there was sufficient evidence to retry Mr. Quattrone. And despite finding that Judge Owen had given flawed jury instructions, the panel said it agreed with many of his rulings, including his decision to restrict the introduction of mountains of evidence that defense lawyers contended would have led to a not guilty verdict.

Legal experts said the ruling was not about sending a message to lower courts about how to try future cases, but about the specific failure of the judge in this case to provide the necessary instructions for the jury to have found that Mr. Quattrone intended to obstruct justice.

"In a prosecution in which, by all accounts, the alleged criminal act occurred in a matter of seconds, this was always a case almost entirely about intent — did Quattrone try to destroy documents that he knew the government had already subpoenaed?" said Robert A. Mintz, a former prosecutor and now a partner at McCarter & English. "What this ruling really means is that the jury instructions never asked the right question. By failing to put a finer point on the issue of intent, the facts that could have formed the basis for a conviction were never determined by the jury."

It remained unclear late this afternoon whether the government would pursue a third trial against Mr. Quattrone. He has already been tried twice; his first trial ended in a mistrial after a jury deadlock. The case has long been viewed by the legal

community as perhaps the government's weakest white-collar case in the raft of corporate criminal cases that were brought in 2002 and 2003 against people like Bernard Ebbers of WorldCom and Martha Stewart, both of whom were found guilty.

In writing for the court, Judge Richard C. Wesley said Judge Owen's instructions to jurors were wrong because jurors were not required to determine that Mr. Quattrone knew the documents he was asking associates to destroy were the same ones being sought by investigators.

The instructions "removed the defendant's specific knowledge of the investigatory proceedings and the subpoenas/document requests from the obstruction equation," Judge Wesley wrote. "It left a bare-bones strict liability case."

Establishing liability is not sufficient to convict defendants of obstructing of justice or tampering charges, legal experts say. Juries must determine that defendants had intended to change the course of an investigation or legal proceeding to find them guilty of those crimes.

"It's very clear for a retrial," said Jonathan Halpern, a former federal prosecutor who is now a litigation partner at Winston & Strawn in New York. "The Second Circuit said it would be sufficient to show that the defendant knew his conduct was likely to affect the proceedings."

Court Decides For Quattrone, Reversing Verdict (WSJ)

By Randall Smith

The Wall Street Journal, March 21, 2006

A federal appeals court reversed the May 2004 criminal obstruction-of-justice conviction of former star investment banker Frank Quattrone, citing faulty jury instructions and other errors by the trial judge.

The decision returns the case to federal prosecutors who must now decide whether to try the banker a third time. The first attempt ended in a hung jury in October 2003. (Court's decision1 and Highlights2)

While prosecutors issued a short statement saying only "we are reviewing the opinion and considering our options," the Quattrone defense team hailed the ruling as "a significant victory."

Mr. Quattrone himself said in a statement, "For over three years during this difficult ordeal, I have held my head high knowing I was innocent and never intended to obstruct justice."

The appeals court also ordered the case reassigned to another judge, saying some antidefense comments by Judge Richard Owen "could be viewed as rising beyond mere impatience or annoyance."

Mr. Quattrone, 50 years old, was convicted of two counts of obstruction and one count of witness tampering based on his forwarding of an email in December 2000 urging employees to "clean up" their files just after being told about an investigation of allocations of initial public offerings at his firm.

Despite only circumstantial evidence of Mr. Quattrone's intent, James Comey, then the U.S. attorney in Manhattan, said in April 2003 that the charges were needed to send a message against any interference with government subpoenas.

The decision was the latest to come in the wake of a tough regulatory environment that prevailed after the stock-market bubble burst in 2001 and 2002. Last May, an obstruction verdict against former accounting giant Arthur Andersen LLP was voided by the Supreme Court. And two weeks ago Wall Street executive Ken Langone defeated regulatory charges that his firm improperly collected oversize commissions in return for hot initial-public-stock offerings.

"This could be further evidence of a pendulum swing," said Timothy J. Coleman, a white-collar defense attorney at Dewey Ballantine LLP who worked in the Manhattan federal prosecutors' office until 2003 but wasn't involved in the case. The intensity of "the public outcry about corruption on Wall Street" has abated, he said.

At the peak of the stock-market bubble Mr. Quattrone was one of the most powerful bankers on Wall Street, earning more than $120 million in one year at what was then called Credit Suisse First Boston, which led the most Internet stock IPOs in 1999 and 2000. Before joining CSFB, he had led landmark IPOs of Netscape Communications Corp. and Amazon.com Inc. (The former CSFB is now named Credit Suisse and remains a unit of Credit Suisse Group.)

But in 2003 he was personally charged with "spinning," or steering hot IPOs to clients to win investment-banking business, by the National Association of Securities Dealers. Mr. Quattrone denied those charges, which remain pending. But after he left CSFB, his firm settled civil charges, without admitting or denying wrongdoing, of spinning and biased research based partly on actions by Mr. Quattrone's group.

Even with the reversal yesterday, Mr. Quattrone remains subject to a lifetime ban from the securities business by the NASD for failure to testify in the spinning case. Mr. Quattrone declined to testify, citing a desire to avoid possible self-incrimination that could affect his criminal case, and yesterday he said the reversal bolsters his pending appeal of the lifetime ban.

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The Quattrone appeal was based partly on the Supreme Court decision voiding the Arthur Andersen conviction for shredding documents during an investigation of client Enron Corp. The high court said the Andersen jurors were told erroneously they could convict on witness tampering even if Andersen employees believed their conduct was lawful.

The three-judge appeals-court panel cited the Andersen decision, noting that jury instructions by Judge Owen similarly failed to require a connection -- that Mr. Quattrone intended to obstruct the probe when he sent the email urging the file cleanup. The banker's appeal argued that the instructions misled the jury into concluding they could convict even if he was unaware that his action would affect the IPO probes.

Although the Andersen ruling applied most clearly to the judge's instructions for the third count of witness tampering, the appeals panel ruled that jury instructions for the two counts of obstruction were also deficient.

When Judge Owen summarized the requirements for counts one and two, he said jurors could vote guilty if Mr. Quattrone merely "directed the destruction of documents that were called for" by the subpoenas from the grand jury and the Securities and Exchange Commission. Such a summary "eviscerated" the requirement to find Mr. Quattrone connected the email with the investigation, the panel said.

The panel also ruled that Judge Owen erred in other areas. He restricted Mr. Quattrone's answers to "yes" and "no" during cross-examination, denying him room for explanation. The judge also improperly allowed prosecutors to suggest that Mr. Quattrone violated securities rules in attempting to collect a fee from Research In Motion Ltd. Prosecutors focused on that email because it was written just after the file-cleanup email.

In addition, the judge also denied Mr. Quattrone the ability to elaborate on why he told CSFB's general counsel in January 2003 that he was unaware of the original IPO probe when he forwarded the email -- namely that he was never charged or questioned in the case.

Judge Owen had sentenced Mr. Quattrone to 18 months in jail in September 2004 but allowed him to remain free pending the appeal. However, the appeals panel ruled, "the evidence is sufficient to support Quattrone's conviction on each count." And the panel ruled that "a rational juror" could have concluded that Mr. Quattrone "was aware that the grand jury sought documents" in the possession of his group members.

And the panel endorsed some of Judge Owen's rulings, such as allowing Mr. Quattrone's pay into evidence or excluding defense evidence of a debate among CSFB lawyers about the firm's document-retention policy.

Mark Zauderer, a New York commercial-trial lawyer uninvolved with the trial, said the decision was "by no means a rejection of the strength and quality of the evidence presented by the government." He said reversals based on faulty jury instructions are "among the most common technical grounds."

Other defense lawyers contended that the case shouldn't have been brought, and reflected the vindictive spirit of the era. Gerald B. Lefcourt, a New York defense attorney unconnected to the trial, said the case "was more about who he was and Wall Street at the time."

Quattrone Conviction Thrown Out (FT)

By Ben White

Financial Times, March 21, 2006

A US federal appeals court on Monday threw out the 2004 obstruction of justice conviction of former star technology investment banker Frank Quattrone, saying the judge in the case had given erroneous instructions to the jury. The appeals court sent the case back for retrial and demanded it be heard by a different judge.

The ruling dealt a blow to the federal government's efforts to crack down on alleged white-collar crime. It followed a similar ruling by the Supreme Court last year voiding the criminal conviction of now defunct accounting firm Arthur Andersen.

A retrial would mark the third time Mr Quattrone, who emerged as the top technology banker of the 1990s, has faced a federal jury. The first trial ended with no decision after a jury was unable to reach a verdict.

In the second trial, a jury convicted Mr Quattrone of two counts of obstructing justice and one count of witness tampering. He was sentenced to 18 months in prison, but remained free pending his appeal.

The Department of Justice on Monday said prosecutors were reviewing the appeals court ruling and assessing their options.

The government's case hinged on a December 2000 e-mail in which Mr Quattrone encouraged subordinates to clean out their e-mail files.

Mr Quattrone sent the e-mail after learning of federal inquiries into the awarding of shares in hot initial public offerings being handled by his former firm, then known as Credit Suisse First Boston. Federal prosecutors said the e-mail constituted a knowing effort to thwart the investigations.

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In the previous trial Mr Quattrone responded that he did not know the extent of government requests for documents when he sent the e-mail.

In its ruling on Monday, the appeals panel ruled that US district judge Richard Owen, the federal judge who presided over Mr Quattrone's second trial, erred when he told jurors they could convict if they found that Mr Quattrone called for the destruction of documents requested by the government even if he did not know exactly which documents were covered by the request.

"Clearly, that instruction is not a correct formulation of the law," the appeals court wrote. "Under the charge, as given, any defendant who urges the destruction of documents might run afoul of [the law] without any proof that the defendant knew the documents were subject to a subpoena."

The appeals panel based its ruling in part on the 2005 Supreme Court decision invalidating the Andersen conviction.

In that ruling, the court said that the instructions in the case wrongly allowed the jury to convict without finding that Andersen employees acted with criminal intent when they tampered with documents relating to Enron, the energy trader. The exact wording of jury instructions is expected to be a major issue in the criminal trials of former Enron chief executives Jeffrey Skilling and Ken Lay.

New trial: Frank Quattrone

Quattrone's Obstruction Conviction Thrown Out (USAT)

By Greg Farrell

USA Today, March 21, 2006

NEW YORK — A federal appeals court here threw out the conviction of former investment banking star Frank Quattrone, opening the door for yet another retrial in the government's obstruction case unless prosecutors decide to drop the matter once and for all.

In a unanimous decision, the appellate panel ruled that the jury instructions given in the case two years ago by U.S. District Judge Richard Owen were flawed. The panel also acknowledged that Owen's comments during the trial, which rose "beyond mere impatience or annoyance" with the defense, justified Quattrone's request that the matter be reassigned to a new judge.

"We were of course delighted" with the decision, "although I wasn't really surprised with the result," said Mark Pomerantz, the attorney who handled Quattrone's appeal.

The charges against the former Credit Suisse First Boston banker and onetime Silicon Valley rainmaker grew out of a federal investigation into the allocation of red-hot technology IPOs during the dot-com bubble. In December 2000, after being informed that a grand jury was investigating the matter, Quattrone endorsed and circulated a colleague's e-mail reminding subordinates to clean up their files, including paperwork from the IPOs in question.

Prosecutors said Quattrone's sending of the e-mail amounted to obstruction. In his first trial in the fall of 2003 the jury deadlocked, partly because some jurors didn't find Quattrone credible on the stand. His spring 2004 retrial resulted in a conviction.

In their appeal, Quattrone's lawyers argued that Owen's instruction allowed the jury to convict the banker without first determining whether Quattrone knew he was obstructing a federal investigation. Citing the Supreme Court's decision to overturn a guilty verdict against Arthur Andersen last year, the appellate court agreed, writing, "Under the charge, the jury was allowed to convict Quattrone of obstruction regardless of whether he intended such."

John Keker, the Quattrone attorney who clashed frequently with Owen during the two trials, said, "Justice has finally been done."

Asked whether there would be a third trial, a spokeswoman for Michael Garcia, the U.S. Attorney in Manhattan, said, "We are reviewing the opinion and considering our options."

Legal experts note that the government still has a strong case. "The circuit court didn't find the evidence unpersuasive," said New York attorney Mark Zauderer. "Instructions can be cured, whereas presentation of evidence can't be cured."

Appeals Court Overturns Quattrone's Conviction (LAT)

By Jesus Sanchez

The Los Angeles Times, March 21, 2006

A New York federal appeals court today threw out the conviction of former Silicon Valley investment banker Frank Quattrone on obstruction of justice charges, setting the stage for the financier's third trial.

The U.S. 2nd Circuit Court of Appeals sided with Quattrone and ordered a new trial before a different judge after finding that the instructions the jurors received in his second trial were "erroneous."

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Quattrone helped bring an array of high-profile technology companies public, including Amazon.com and Cisco Systems. He was convicted in May 2004 of obstructing federal investigations into alleged kickbacks from initial public offerings by urging staff members through e-mails to purge documents from their files.

An initial trial in late 2003 ended in a hung jury.

Quattrone's case revolved around an e-mail he wrote to his staff at Credit Suisse First Boston's technology group in Palo Alto in December 2000. The brief message encouraged his subordinates to comply with an e-mail sent by another banker telling them to "clean up" their files.

Prosecutors said the intent of Quattrone's e-mail was to destroy documents sought in federal probes into whether the investment bank forced customers to pay kickbacks for shares of hugely profitable IPOs in the late-1990s bull market.

Quattrone had argued that he thought the investigations centered on other units of his company. He also was unaware that a grand jury subpoena called for documents from his technology banking group, his attorneys claimed.

In appealing his conviction, Quattrone's attorneys had argued that jurors should have been told that they could convict his client only if it was proved that Quattrone knew that the grand jury subpoena sought documents from his banking group and that he intentionally sought to thwart the probe by sending his e-mail.

Since jurors were not so instructed, the lawyers said, they could not have found criminal intent.

Federal prosecutors countered by saying that Quattrone was well aware of the government investigations and found out about the grand jury subpoena only two days before he encouraged his staff to "clean up" their files.

The three-member appeals panel found that Quattrone's defense about the government inquiry into his unit "was eliminated from the jury's consideration" and final instructions.

Quattrone, Ex-Credit Suisse Banker, Wins New Trial (Update2) (BLOOM)

Bloomberg, March 21, 2006

March 20 (Bloomberg) -- Frank Quattrone, who made $120 million in 2000 as Credit Suisse's top technology banker, won a new trial today, after a federal appeals court in New York threw out his conviction for obstructing justice.

Quattrone, 50, faces a third trial before a new judge on charges he urged fellow bankers to destroy records. The U.S. 2nd Circuit Court of Appeals in New York today tossed out Quattrone's conviction for obstructing justice and witness tampering and ordered a new trial, ``because the jury instructions were erroneous," the justices said.

``The presumption is that there is a new trial unless the government decides not to retry the case," said Jacob Frenkel, a former federal prosecutor and now a lawyer in Rockville, Maryland, who's not involved in the case. ``The government could walk away altogether."

It's now up to federal prosecutors to decide whether to re- try the former investment banker. Today's reversal may also lead the government and Quattrone to open plea negotiations. Quattrone was convicted in May 2004 after his first trial ended in a hung jury in October 2003.

Quattrone's lawyers had argued that U.S. District Judge Richard Owen, who presided over the first two trials, was biased against him. While the appeals court rejected that claim, the justices decided it was best to have a different judge hear the case.

``Ultimately we believe that the interest and appearance of justice are better served by reassignment" to a new judge, the appeals court said. The justices called Owen ``a dedicated jurist" and said remarks the defense had objected to arose from ``mere impatience or annoyance."

`Clean Up' Files

Owen sentenced Quattrone, who's been free pending the outcome of the appeal, to 18 months in prison.

Quattrone's spokesman, Robert Chlopak, and his lawyer, Mark Pomerantz, didn't immediately return calls seeking comment. Bridget Kelly, a spokeswoman for U.S. Attorney Michael Garcia, didn't have an immediate comment.

Quattrone was convicted of hindering probes into how Credit Suisse allocated shares in initial public stock offerings. The conviction ended the career of a banker who took dozens of companies public, including Amazon.com Inc. in 1997.

The case hinged on a December 2000 e-mail written by a colleague urging Credit Suisse employees to ``clean up" their files and discard documents. Quattrone forwarded the message after learning that a grand jury was investigating how Credit Suisse distributed IPO shares.

`Rife With Error'

Quattrone endorsed the e-mail before passing it on, noting that he'd been a witness in a securities-fraud lawsuit. He said the experience led him to ``strongly advise" Credit Suisse employees to follow the bank's document retention policy, which called for routine purging of some records.

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Pomerantz told the appeals court in July that the trial ``was rife with error." He said that while Quattrone knew prosecutors had subpoenaed Credit Suisse, Owen never told jurors that they had to find that the government wanted documents from Quattrone's Palo Alto, California-based division, in order to convict him.

The appeals court agreed, citing ``a glaring deficiency" in Owen's instruction to the jury. Under the law, the panel had to find that Quattrone knew that the government wanted the documents he ordered destroyed, the court said. Owen failed to deliver such an instruction, the court said.

At the trial, Quattrone never disputed that he knew the Justice Department and the Securities and Exchange Commission were investigating Credit Suisse. He said he thought the investigations related to other areas of the bank.

Credit Suisse spokeswoman Victoria Harmon declined to comment on the appeals court ruling today.

The case is U.S. v. Quattrone, U.S. Court of Appeals for the Second Circuit, New York.

To contact the reporter on this story: David Glovin in U.S. District Court in New York at dglovin@bloomberg.net. Last Updated: March 20, 2006 15:19 EST

Quattrone Conviction Reversed By 2nd Circuit (LAW)

By Mark Hamblett, New York Law Journal

New York Law Journal, March 21, 2006

The conviction of former Credit Suisse First Boston star investment banker Frank Quattrone was reversed Monday by the 2nd U.S. Circuit Court of Appeals.

Citing flawed jury instructions, the 2nd Circuit vacated guilty verdicts against Quattrone for obstruction of justice, obstructing an agency proceeding and witness tampering.

The 2nd Circuit also took the rare step of taking the case away from Southern District Judge Richard Owen -- which made Monday's 61-page ruling a sweeping victory for Quattrone and his legal team. Lawyers for Quattrone argued that several remarks and rulings by Judge Owen gave the appearance that the judge was biased against their client. The 2nd Circuit said it could find no evidence of such bias, but it nonetheless found that the "interest and appearance of justice are better served by reassignment."

The appeal in U.S. v. Quattrone, 04-5007-cr, was decided by 2nd Circuit Judges Richard Wesley and Peter Hall, and Northern District Chief Judge Frederick Scullin, sitting by designation. Judge Wesley wrote for the court.

U.S. Attorney Michael Garcia now must decide whether to retry Quattrone. If Garcia decides to go ahead, it would be the third trial for the former head of Credit Suisse's Global Technology Group, which was accused of obstructing two investigations into the allocation of shares in red-hot initial public offerings during the height of the high-tech boom.

While Quattrone's first trial ended with a deadlocked jury, he was convicted on the government's second attempt in 2004.

The heart of the trial concerned Quattrone's communications with members of the technology group while information on the IPO allocation process was being sought in parallel investigations by the National Association of Securities Dealers and the Securities and Exchange Commission. A federal grand jury was empaneled in fall 2000 and, on Nov. 21, 2000, it issued subpoenas to Credit Suisse and eight of its officers.

Quattrone learned that the grand jury had joined the IPO investigation on Dec. 3, 2000. That same day he had several exchanges with David Brodsky, then general counsel for the Americas at Credit Suisse, including one e-mail in which Brodsky said there had been "recent developments that are of extreme concern."

Brodsky noted in another e-mail that no one, as yet, had been accused of any criminal activity, but he warned Quattrone "do not, under any circumstances discuss these facts with anyone" and closed by saying he needed to speak with Quattrone personally.

On Dec. 4, 2000, Richard Char, a banker with the technology group, sent Quattrone a draft e-mail warning employees that the "securities litigation bar is mounting an all-out assault on broken tech IPOs," and urged the employees to abide by the firm's "document retention policy." Under the policy, employees of completed IPOs are supposed to destroy any nonessential documents.

Char told employees to "catch up on file cleanup," and closed by saying, "Today, it's administrative housekeeping. In January, it could be improper destruction of evidence." Quattrone first warned Char that he "shouldn't make jokes like that on email!"

But that same day, he began to draft what was called by prosecutors the "endorsement email." The following day, within hours of learning from Brodsky that he should retain a lawyer and it was likely he would be called as a witness, Quattrone completed and transmitted the following e-mail to employees: "having been a key witness in a securities litigation case in south texas (sic) I strongly advise you to follow these procedures."

Some employees began to clean up, or continued cleaning up their files until the company's legal compliance division sent out notice to stop the editing process.

Quattrone testified in his own defense at both trials, insisting that he lacked the intent to obstruct justice and that he did not know about the SEC subpoena and knew very little about the grand jury subpoena on documents -- a subpoena that covered documents for hundreds of transactions.

DEFICIENT JURY INSTRUCTIONS

On the appeal, Judge Wesley said the evidence was sufficient to support Quattrone's conviction on each count. The court agreed with the government that a jury could reasonably conclude that he acted with intent to obstruct and that the jury was "free to reject Quattrone's explanation that he thought the investigation focused on a separate business area of the bank." And the evidence on witness tampering, Wesley said, was "clearly sufficient."

But Judge Owen erred by giving "deficient" jury instructions on charges one and two, the obstruction counts, Wesley said.

"Under the charge, the jury was allowed to convict Quattrone of obstruction regardless of whether he intended such," he said. "Quattrone's defense of lack of knowledge of the specific focus of the investigation of Tech Group IPO activities was eliminated from the jury's consideration." On the witness tampering charge, he said "there was a failure to charge an essential element of the crime," the appellate judge concluded.

"The court informed the jury that a prerequisite to criminal liability -- some nexus between the effort to tamper with or withhold documents pertaining to the relevant proceeding and awareness that such conduct was likely to affect the proceeding -- was inapplicable," Wesley said. "Given this error, the disputed evidence of Quattrone's awareness as to whether the investigations called for documents to be culled as a result of his endorsement email, and the inadequacy of the nexus charges on counts one and two," the court could not be confident that a "properly instructed," jury would have convicted Quattrone on witness tampering.

LIMITS ON TESTIMONY

Quattrone challenged limits placed on his testimony by Judge Owen and other rulings by the judge. He complained that the judge was sharp and dismissive of Quattrone and his attorneys and gave the impression to the jury that he did not believe Quattrone.

Among several claims made by Quattrone was that Owen, sua sponte, ordered him to answer "yes," or "no" to certain questions -- and the government was able to contend in summation that he was evasive in answering the questions.

His arguments resonated with the circuit. "In this circuit, a defendant's right to a fair trial is infringed when a judge's questions and comments convey to the jury that the judge disbelieves the defendant's testimony," Judge Wesley said. But, at the same time, he noted, judges have trial-management authority that includes the discretion "to place reasonable limits on the presentation of evidence." "The exercise of that discretion, however, must remain tethered in some way to the facts and circumstances of the case presented," Wesley said. "Accordingly, when confronted with an evasive witness, trial judges must be careful to safeguard the witness's ability to answer questions, particularly in the case of a criminal defendant-witness."

In such cases, Wesley said, "a trial judge should allow for complete answers by the defendant ... "

A 'DEDICATED JURIST'

The circuit went on to reject several challenges Quattrone made to other rulings by Judge Owen before it turned to a delicate explanation of its reason for reassigning the case to another judge.

While Quattrone claimed that Owen was no longer impartial in the case, the government said the standard for remanding to another judge had not been met. It argued Quattrone's complaints were based on a media campaign by his handlers to discredit the judge.

Calling Owen a "dedicated jurist," the circuit said "in our view, the contentions of the parties in this difficult and complex matter have taken a toll on all involved."

"While we have considered the government's arguments and do not find evidence that the trial judge made any inappropriate statements leading us to seriously doubt his impartiality, portions of the transcript raise the concern that certain comments could be viewed as rising beyond mere impatience or annoyance," Wesley said. "Ultimately, we believe that the interest and appearance of justice are better served by reassignment."

The government said it was reviewing the decision and weighing its options.

Quattrone was represented by John Keker of Keker & Van Nest in San Francisco at trial. His lead attorney on appeal was Mark Pomerantz of Paul, Weiss, Rifkind, Wharton & Garrison. He was also represented by attorneys with Mayer, Brown, Rowe & Maw.

In a statement, Pomerantz described his client as "an innocent man who was wrongly convicted in a trial that denied him his most fundamental right to fairness." The statement pointed out that the circuit's decision will affect Quattrone's appeal of an NASD order barring him for life from the securities industry.

Assistant U.S. Attorneys David Anders, who tried the case, and Jessica Mordas and Harry Sandick represented the government. Then-U.S. Attorney David Kelley was on the brief.

Quattrone's Fate Turns On Mundane Detail (WSJ)

By Paul Davies And Kara Scannell

The Wall Street Journal, March 21, 2006

At the end of any jury trial, the judge's instructions to the jurors can be the most boring part of the proceedings.

They can also be the most important. Just ask Frank Quattrone.

A federal appeals court Monday overturned the 2004 conviction of Mr. Quattrone, a former investment banker, due to "erroneous" jury instructions. (Court's decision1)

"In the lawyer movies they don't have the climatic scene on jury instructions," says John Carroll, a former federal prosecutor. "It is something that seems kind of technical and is outside of the consciousness of the reader-public, but it is important."

A jury convicted Mr. Quattrone of two obstruction-of-justice counts and one witness-tampering count for his actions during an investigation of alleged kickbacks involving initial public offerings of stock, including emailing colleagues at then-named Credit Suisse First Boston, a unit of Credit Suisse Group, that it was "time to clean up those files."

The court ruled that U.S. District Judge Richard Owen's instructions to jurors wrongly allowed them to convict him of obstruction for urging the destruction of documents without determining "that the defendant knew the documents were subject to a subpoena [or document request]." The panel said that "the jury was allowed to convict Quattrone of obstruction of justice regardless of whether he intended such."

The witness-tampering conviction was overturned because, after Mr. Quattrone's conviction, the Supreme Court -- in a similar case against the accounting firm of Arthur Andersen -- ruled that jurors should have been told that a conviction requires a link between the defendant urging the destruction of documents and "a particular proceeding." The judge in the Quattrone case didn't include such an instruction.

Appeals in white-collar cases almost routinely include one of the judge's jury instructions. Unlike in a case involving a murder, it isn't always clear to a jury what violates the technical requirements in finding somebody guilty of violating securities or obstruction-of-justice laws.

While judges start from a standard set of instructions, they tailor them to fit each case, and both sides often hotly contest exactly what the jury should be told, because jurors usually pay close attention. "If you don't get reasonable instructions you could be put out of the case," attorney Gerald B. Lefcourt said.

Lawyers for former WorldCom Inc. Chief Executive Bernard Ebbers based the pending appeal of his fraud conviction in part on the instructions U.S. District Judge Barbara Jones gave to the jury.

In that case, the question centered on whether the judge should have instructed that it could find Mr. Ebbers guilty if he consciously avoided knowing about the fraud. Judge Jones initially agreed with the defense that argued against including such an instruction, but she later added it after Mr. Ebbers testified that he didn't know about the crime. In her instructions, Judge Jones said jurors could find Mr. Ebbers guilty if they thought he strongly suspected a fraud -- but intentionally avoided finding out about it. Mr. Ebbers's attorney, Reid Weingarten, said he worried some jurors may have concluded that Mr. Ebbers should be convicted if they found simply that he should have known about the fraud.

The appeals court in the Quattrone case said that, given the way the judge framed other instructions, he improperly included a "conscious avoidance" instruction, but it said one might be appropriate in a retrial.

Such an instruction could become an issue in the continuing federal criminal trial of former Enron Chairman Kenneth Lay and former CEO Jeffrey Skilling. Even if the prosecutors don't seek to include that instruction, how the judge instructs the jury will likely be debated.

Conscious-avoidance instructions are "always fertile ground for appellate issues because the line between conscious avoidance on the one side and recklessness and negligence on the other is difficult to enunciate," said Paul Shechtman, a defense lawyer with Stillman & Friedman. "I could spend the rest of my life trying to understand the law of conscious avoidance in a conspiracy case and still not get it."

Mr. Lefcourt said jury instructions are a key part of any appeal. "Judges do get it wrong," he said. "Reversals are often caused by improper jury instructions."

There is a movement by some state bar associations to have jury instructions written in plain English. In 2003, the California state bar association adopted new plain English jury instructions for civil cases eliminating phrases like "preponderance of evidence" with words jurors could understand better. Other movements are afoot in making the language less legal boilerplate in favor of words and concepts that nonlawyers could understand.

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Judges often are loath to stray from the standard instructions because they risk being overturned. "The irony is as you stray from the script and try to make it clearer, you run a risk of making an error," Mr. Shechtman said.

Order To Assign New Judge Is Unusual (WSJ)

By Robin Sidel And Peter Lattman

The Wall Street Journal, March 21, 2006

Judge Richard Owen presided over two of Frank Quattrone's obstruction-of-justice trials. He won't be around for the third.

In reversing the conviction of the former star technology-industry investment banker, a federal appeals court yesterday assigned a new judge to the case, saying that "the interests of all involved would best be served by another judge." The appeals court didn't name the judge who would take the case.

"We are confident that the new judge will exercise the appropriate discretion in balancing the competing interests of an orderly presentation of evidence and defendant's right to raise a defense," according to the 61-page ruling issued by the Second U.S. Circuit Court of Appeals in Manhattan. In remanding the case, the appeals panel determined that jury instructions were "erroneous."

Judge Owen, 83 years old, couldn't immediately be reached for comment.

Lawyers who aren't involved in the case said it is rare for an appeals court to assign a new judge when sending a case back to the lower court for a new trial.

"It is highly unusual for the court of appeals to reverse a case with instructions that it be assigned to a new trial judge because it implies that the appellate court believes that the original judge may have been partial to one side or the other," said former prosecutor Marc Mukasey, now of Bracewell & Giuliani in New York. "In this case, however, the court of appeals stressed that it didn't question Judge Owen's impartiality."

Judge Owen's conduct was one of several issues raised in Mr. Quattrone's appeal after he was convicted of obstructing a federal investigation into initial public offerings of stock. The conviction came in a retrial following a 2003 mistrial. The former banker at Credit Suisse Group's then-named Credit Suisse First Boston had been sentenced to 18 months in prison, but remained free during the appeals process.

Over the course of the retrial, Mr. Quattrone's lawyer, John Keker, complained several times about Judge Owen's rulings and body language. In one instance, the judge wouldn't let Mr. Keker introduce evidence. Judge Owen, for his part, threatened to find Mr. Keker in contempt of court.

The appeal challenged several of Judge Owen's rulings, including limitations that were placed on Mr. Quattrone's testimony. The appeal filed by Mr. Quattrone, 50, contended the court's interference with his testimony "crossed the line beyond legitimate trial management" and deprived him of a fair trial. The government defended Judge Owen's actions.

In yesterday's ruling, the appeals court didn't determine that Judge Owen infringed on Mr. Quattrone's rights to a fair trial, but noted that "a trial judge should allow for complete answers by a defendant."

Daniel Richman, a law professor at Fordham University, said "It's clear that the panel took pains not to suggest that they were buying the arguments Quattrone's lawyers were making about Judge Owen's bias...but clearly they were aware of the complicated dynamics between the defense lawyers and the judge in the case."

Despite the decision yesterday, it isn't clear if a new judge will get to hear Mr. Quattrone's case. "We are reviewing the opinion and considering our options," said a spokeswoman for the U.S. attorney's office, which prosecuted the case.

Enron Former Auditors Testify On Charges, Reserve Accounts (WSJ)

By Gary McWilliams And John R. Emshwiller

The Wall Street Journal, March 21, 2006

HOUSTON -- Two former partners of Enron Corp.'s outside auditor, Arthur Andersen LLP, took the witness stand to help prosecutors link former top company executives Kenneth Lay1 and Jeffrey Skilling2 to the alleged manipulation of the energy firm's reported financial results.

The auditors' testimony at the beginning of the eighth week of the conspiracy and fraud trial touched on two main areas: the alleged downward manipulation of charges for goodwill expenses and the alleged misuse of reserve accounts to bump up reported earnings.

In the case of goodwill, prosecutors contend that Mr. Lay, Enron's former chairman, misled Andersen and the public in October 2001 about the company's plans for its big water-distribution unit in order to avoid a hefty charge to earnings. On the reserve issue, the government contends Enron improperly tapped a reserve account to meet the desire by Mr. Skilling, the former company president, to beat analysts' earnings estimates.

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The goodwill issue arose because of a new accounting rule in 2001 that required the write-down of an asset if it didn't meet certain criteria, which in the case of the Enron water unit included whether the company had an expensive growth plan, testified John R. Sult, one of the former Andersen partners. Without such a growth strategy, said Mr. Sult, Enron likely would have been forced to recognize an "impairment," or write-down, which prosecutors have said could have totaled hundreds of millions of dollars.

Enron officials at the time claimed that they were planning to spend well over $1 billion to expand the water business, said Mr. Sult. He said he was surprised to hear that because the company had previously indicated that the water operation was a noncore business likely to be sold.

The other government witness, former Andersen partner Thomas Bauer, testified to attending a meeting on Oct. 12, 2001, in which Mr. Lay told Andersen that "water was the commodity of the 21st century." Mr. Lay "talked of building the water business" and "expanding it from its current state," said Mr. Bauer. Prosecutors contend that such assurances were false and aimed at avoiding a costly write-down, and have presented emails from other Enron officials to support that argument.

Mr. Sult, the first witness, also said that later in October, Mr. Lay misled analysts during a conference call about the status of Andersen's review of the water issue. Mr. Lay said that Andersen had concluded that an impairment on the water business wasn't necessary. At the time, Andersen's review of the issue was still "preliminary and incomplete," Mr. Sult said.

After a month of review, Mr. Sult added, "I was unable to find any evidence" that Enron did have a growth strategy for the water business. By that point in mid-November 2001, Enron was deep into a financial crisis that would push it into bankruptcy proceedings a few weeks later.

On reserve accounts, Mr. Bauer said they shouldn't be used to meet an earnings target. He said he was "quite surprised" when federal investigators showed him company emails indicating reserve accounts had been used for that purpose. He added that he was unaware that one particular account in 2000 had been drained of about $14 million. However, in cross-examination, a Skilling attorney showed emails indicating other Andersen officials had been apprised of that reduction.

Mr. Bauer also said that during his years auditing Enron he had never seen a handwritten list, known as the "Global Galactic" memo, written by former Chief Financial Officer Andrew Fastow3. Prosecutors claim the memo lays out various secret Enron deals to illegally manipulate financial results. The defense contends that there were no such secret side deals.

Mr. Bauer is scheduled to be cross-examined today by Mr. Lay's defense team.

Judge Finds Ex-Gemstar-TV Guide CEO Liable For Securities Fraud (AP)

By Jeremiah Marquez

AP, March 21, 2006

LOS ANGELES - A federal judge found former Gemstar-TV Guide CEO Henry C. Yuen liable for securities fraud, according to a ruling unsealed Monday in a federal regulatory lawsuit that claimed Yuen inflated the company's revenue by $248 million to boost its stock.

U.S. District Judge Mariana R. Pfaelzer also found Yuen liable for misrepresenting facts to Gemstar's auditors and falsifying its books.

The Securities and Exchange Commission will now submit a proposed penalty.

Yuen's attorney, Stanley Arkin, said an appeal was being considered.

"I don't see eye to eye with her decision, but she's a judge," Arkin said. "The game isn't over."

Gemstar, meanwhile, said in a statement that it was pleased by the decision to hold Yuen "accountable for his wrongful and inappropriate actions."

Pfaelzer's findings came almost three years after the SEC filed the lawsuit against Yuen and Elsie Leung, Gemstar's ex-finance chief, in an alleged scheme to inflate company revenue to meet certain financial targets.

Regulators contend that Yuen's actions contributed to a windfall between 2000 and 2002 - at least $18.8 million in salary and bonuses, $14.6 million in exercised stock options, and more than $63.6 million in Gemstar stock sales.

"After nearly three years of litigation, the court categorically rejected Henry Yuen's finger pointing and attempts to blame others for the massive fraud at Gemstar," said Randall Lee, the SEC's regional director.

Since November 2002, Gemstar has restated or reversed certain license and ad revenues by $357 million, with more than $230 million stemming from transactions in the case, according to the ruling.

Yuen knew but didn't disclose that a good portion of licensing revenue for 2000 and 2001 came from expired and disputed licensing agreements, the judge said. What's more, he misled investors when Gemstar recorded non-monetary payments as ad revenue, and booked revenue from so-called round trip transactions in which Gemstar paid money to a third party only to receive it back again, she said.

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The goal, regulators said, was to make the company look healthier than it otherwise might have been in hopes of buoying its stock price.

In an August 2000 e-mail, Yuen appeared to scold another executive over certain internal revenue forecasts.

"This is completely unacceptable," Yuen wrote, according to court transcripts unsealed Monday that focused on the e-mail exchange. "The street ... expects some sort of explosive growth.

"We are shooting for the Moon, and I am confident we can do it."

Besides the civil lawsuit, Yuen remains under criminal investigation by the Justice Department following a federal judge's rejection of a plea deal in the case. Under the now-defunct agreement, Yuen was to plead guilty to one felony charge of obstruction of justice for deleting computer files subpoenaed in the SEC's investigation.

Testifying during the civil trial in December, Yuen conceded "there's no doubt" the deleted information was sought by regulators, according to court transcripts.

After leaving his post as chief executive, Yuen worked in another position with Gemstar. He was fired in April 2003 but continues to receive a yearly salary of $2 million plus benefits from the company, said Eileen M. Murphy, a Gemstar spokeswoman. Yuen is challenging his termination and will have to repay the money should he lose.

Leung settled with the SEC last month, agreeing to return $600,000 and pay $750,000 in civil penalties, regulators said.

Gemstar shares closed down 2 cents, 0.67 percent, at $2.96 in trading Monday on the Nasdaq.

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On the Net:

http://www.gemstartvguide.com/

Movie Musical 'Chicago' Prompts A Suit Over Profits (NYT)

By Anemona Hartocollis

The New York Times, March 21, 2006

The producer of "Chicago," the Oscar-winning 2002 movie, is charging that Miramax has cheated him out of millions of dollars of profit from it by using deceptive accounting to understate revenue.

The producer, Martin Richards, sold Miramax an option to the movie rights to the musical in 1994. In papers filed in State Supreme Court in Manhattan yesterday, he said that he has been cheated by a Hollywood system of contingency payments to participants in moviemaking like producers, actors and writers that gives studios an incentive to underreport revenues.

Under that system, the court papers say, "the worse a movie performs financially, the better off the studio is."

Emily Bear, a spokeswoman for Miramax, declined to comment yesterday, saying company officials had not yet seen the court papers. Mr. Richards's lawsuit says that he does not know precisely how much he is owed, but it seeks at least $10 million, which he estimates is his share of the movie's profits.

"This picture has been touched by some sort of God," Mr. Richards said in an interview after the suit was filed. "Everything that's happened to it has been great. But it would be nice to be paid for your work."

Mr. Richards declined to say how much he had been paid for the movie upfront, although the court papers said that his contract called for him to be paid several fees, including $500,000 after the movie reached its initial break-even point.

Mr. Richards claimed that most of that money was reimbursement for his expenses. The profits he is seeking would have come after those payments, and, he said, "I have never seen a nickel of the profits."

Mr. Richards, who is 74, produced the musical "Chicago" on Broadway in 1975, and then began a 27-year quest to make a movie out of it, he said in the suit.

The film, which opened in December 2002, starred Richard Gere, Catherine Zeta-Jones and Renée Zellweger, and won six Academy Awards, including one for best picture. The court papers said that the film was budgeted at $47 million and went over budget by about $10 million, though, they contend, Miramax never consulted the producer to approve cost overruns.

The lawsuit is sprinkled with celebrity names —Louise Ciccone, better known as Madonna, appears as a witness to the signatures on Mr. Richards's deal with Miramax described in the suit. It claims that "Chicago" was the highest-grossing film ever released by the studio. The lawsuit said the movie generated gross receipts of about $300 million, including $170 million during its initial domestic release, and many millions more from DVD, video and foreign distribution.

Mr. Richards, as the head of the Producer Circle Company, was the producer of the movie, and Bob and Harvey Weinstein, the founders of Miramax, were the co-executive producers. The Weinsteins are not named as defendants.

"There are two issues," Thomas P. Puccio, Mr. Richards's lawyer, said. "One is how much money is in the pot that Marty shares in, and the second is what are the expenses, and those are two areas that they in this case certainly shortchanged him on."

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The suit offers something of an exegesis on accounting practices in the film industry, including the observation that there are at least two forms of accounting used by major studios, financial accounting and contingent compensation. Financial accounting, the papers say, somewhat archly, "tends to be rather run of the mill, reflecting the mundane efforts of Hollywood's C.P.A.'s to match movie revenue with movie costs."

Contingency accounting, the lawsuit says, is "reined in only by the avarice of the studios and the leverage they hold over the talent they hire, is opaque, confusing and leads to patently absurd results."

Studios support creative accounting, the lawsuit says, because so many people involved in the production of a movie are under contracts that award contingent compensation, often including actors, the director, the producer and the writer. The most powerful independent contractors — like major stars — can negotiate contracts known as "gross deals," in which their compensation is based on gross receipts for the movie, with minimal deductions for expenses, the lawsuit says. The less powerful, the papers say, receive "net profit deals," in which, the lawsuit says, "studios typically decrease revenue and increase costs and expenses attributable to the movie."

The suit quotes the actor Eddie Murphy as referring to net deals as "monkey points," meaning, according to the court papers, that "only a monkey would expect them to actually result in any payment to the talent."

Mr. Richards, his lawsuit says, had negotiated what is called a "gross after break-even deal," a contract that is somewhere in between a gross deal and a net deal.

But the lawsuit charges that without Mr. Richards's permission, Miramax turned this into a net deal, and even then, understated its revenues.

Over the past two decades, Miramax has been involved in the production of movies including "The Crying Game," "The Piano, "Pulp Fiction," "The English Patient," "Shakespeare in Love," and "The Cider House Rules."

The Producer Circle Company, which Mr. Richards has headed since its founding in 1975, has been involved in several successful Broadway plays besides Chicago, including "On the Twentieth Century," which opened in 1978 and "La Cage aux Folles," in 1983. Mr. Richards has also been involved with movies like "The Boys from Brazil," in 1978, "The Shining" in 1980 and "Fort Apache the Bronx" in 1981.

CRIMINAL LAW:

Witness In Detectives' Trial Tells Of Pressure To Cooperate (NYT)

By Alan Feuer

The New York Times, March 21, 2006

The federal trial of Louis J. Eppolito and Stephen Caracappa veered today from Brooklyn murder and Las Vegas lunacy to the high-stakes poker game played by government agents and gangland turncoats as the trial's star witness told the jury of the immense "pressure" placed on him to "crack" and cooperate against the two retired detectives in the case.

It was a brief, but fascinating, window into the tactics used by federal agents once a criminal falls into their hands. Under cross-examination by defense lawyers, the witness, Burton Kaplan, testified that, after he was arrested in 1996 on marijuana and tax-evasion charges, "the government was willing to go to any length" to have him "crack" and come "on board to provide information" against Mr. Eppolito, 57, and Mr. Caracappa, 64.

The two men are accused of working under Mr. Kaplan's aegis to commit at least eight gangland murders — seven for Anthony Casso, the second-in-command of the Luchese crime family.

In his fourth day on the stand, Mr. Kaplan, 72, described how, on the night of his arrest, he languished at the Manhattan office of the Drug Enforcement Administration as a parade of 20 to 25 investigators lined up to court his cooperation. Two police inspectors told him, he said, that he could "go home tonight" if he coughed up what he knew about "two dirty cops."

This scene, described in Mr. Kaplan's patented placid manner, was only the start of an almost eight-year-long attempt to get him — a career criminal whose schemes included peddling drugs and selling stolen watches — to testify against the two retired detectives, who, at that point, had already left New York and settled in Las Vegas.

There, Mr. Kaplan testified last week, Mr. Eppolito was playing "bit parts" in movies while writing scripts in his garage and Mr. Caracappa was having a house built while trying his hand at business deals like peddling a George Foreman punching-bag machine to the QVC home-shopping channel.

'Mafia Cops' Witness: Never Shown Photos (NSDY)

By Anthony M. Destefano, Newsday Staff Writer

Long Island Newsday, March 21, 2006

DOJ_NMG_0019895

On his last day on the witness stand yesterday, a key government witness testified that he wasn't aware of any surveillance photos that show him meeting over the years with the alleged "Mafia Cops."

Burton Kaplan, a former garment executive and drug dealer, admitted under cross examination that he has never been shown any surveillance of him with ex-NYPD detectives Louis Eppolito and Stephen Caracappa during clandestine meetings he allegedly had with them in a Staten Island cemetery.

Kaplan, 72, had testified earlier that for a period of about six years he met with both men face-to-face as part of a corrupt arrangement in which the detectives passed him confidential law enforcement information and took part in gangland murders in exchange for cash. Eppolito, 57, and Caracappa, 64, are on trial in Brooklyn federal court on racketeering charges, which accuse them of being hit men for the Luchese crime family in the late 1980s and into the early 1990s.

Questioned by Eppolito's lawyer, Bruce Cutler, Kaplan, who is serving a 27-year sentence for marijuana trafficking, said he began meeting with the defendants after a mobster who had been serving as an intermediary was killed in September 1987. That mobster was Frank Santoro Jr., a cousin of Eppolito.

During two full days of cross examination, Kaplan didn't appear to waver or change his story about his dealings with the detectives, whom he has implicated in a dozen mob homicides, including eight charged in the indictment that led to the current trial. Kaplan was a key associate of former acting Luchese boss Anthony "Gaspipe" Casso and told the jury yesterday under Cutler's questioning that he had been the subject of video surveillance at his clothing business on Staten Island in the 1990s but insisted he wasn't observed committing any crimes.

The defense is likely to use Kaplan's admission that he wasn't shown surveillance photos to undermine his claim that he met Eppolito and Caracappa during the six-year period.

To deter the possibility of surveillance by law enforcement, Kaplan said he used the code name "Marko" when he called the two detectives and insisted that any telephone calls be made from pay phones. Meetings were held in a Staten Island cemetery, Kaplan explained, to make sure no one was spying on them.

Gangland Gambit On Witness Stand (NYDN)

By JOHN MARZULLI, DAILY NEWS STAFF WRITER

New York Daily News, March 21, 2006

As in Gotti's trial, lawyer's word key in 'mob cop' case

The star witness in the so-called Mafia cops trial will soon have his own corroborating witness - his former lawyer.

Federal prosecutors plan to call Judd Burstein, the ex-mouthpiece of Burton Kaplan, to the witness stand today, the Daily News has learned.

Burstein is expected to testify that Kaplan told him back in 1994 about his role as a middleman between former NYPD Detectives Louis Eppolito and Stephen Caracappa and gangster Anthony (Gaspipe) Casso.

Contacted last night, Burstein acknowledged to The News that he had volunteered to share what he knew with prosecutors.

To be used as a witness, Kaplan had to waive his attorney-client privilege - which he did.

"I thought it was my obligation as a citizen to come forward," Burstein said. "This is the right thing to do."

The surprise witness echoes a successful gambit this month in the racketeering trial of John A. (Junior) Gotti, whose defense team had lawyer Ron Kuby testify that Gotti told him in 1998 that he had left the mob because he was sick of that life.

Gotti's trial ended in a hung jury, the second mistrial for him in six months.

But in this case, it's the feds who are calling the lawyer to the stand.

Kaplan was asked on cross-examination yesterday about an affidavit he filed alleging the feds turned a blind eye to fabricated evidence - just to win the case and pressure Kaplan to cooperate against the reputed Mafia cops after Casso became unusable as a witness.

"Is that what you're doing now?" Eppolito lawyer Bruce Cutler asked Kaplan, who is serving a 27-year sentence.

"No," Kaplan answered, and stuck to his story that he decided to cooperate mainly because he thought Eppolito and Caracappa were going to turn against him first.

Kaplan acknowledged he's hoping for a sentence reduction.

"Mr. Cutler, I've been before judges before and I've never been very lucky," he said.

Kaplan, 72, a crafty career criminal who made millions in the garment business while also participating in criminal schemes - including murder - for the Luchese crime family, deftly handled cross-examination by Cutler and lawyer Edward Hayes, who represents Caracappa.

Brooklyn Federal Judge Jack Weinstein ended Cutler's cross-examination for the second time during the trial after Cutler asked a question in violation of a pretrial order about a lie-detector test administered to Kaplan.

Outside court, Cutler seemed unconcerned.

"Judge Weinstein knows better than I do when I'm finished," he said.

Hollywood Private Eye Wants To Act As Own Lawyer In Wiretap Case (AP)

By Greg Risling, ASSOCIATED PRESS

AP, March 21, 2006

LOS ANGELES – Imprisoned private investigator Anthony Pellicano said Monday he wants to act as his own lawyer in a case charging that he orchestrated an illegal wiretapping scheme targeting Hollywood celebrities and executives.

During a court hearing, Pellicano spoke at length for the first time since he was indicted last month. He said he wanted to know the results of the government's 3½-year investigation into his activities.

“I have a lot of questions to see what they have been doing all this time,” Pellicano told U.S. District Judge Dale S. Fischer. “I'm best suited to represent myself.”

Pellicano was shackled and wore a prison-issued green windbreaker and blue pants. He previously pleaded not guilty.

Prosecutors contend that Pellicano illegally wiretapped the phones of Hollywood stars such as Sylvester Stallone and bribed police officers to run the names of more than 60 people, including comedians Garry Shandling and Kevin Nealon, through government databases.

Pellicano allegedly sought damaging information on his clients' rivals. He then used the details for threats, blackmail and in some cases to secure an advantage in court for his clients, according to a 112-count indictment.

A total of 13 people have been charged in the case. Four have pleaded guilty to a variety of charges, including wire fraud and conspiracy.

Pellicano said he doesn't have any problems with his attorney, Steven Gruel. Outside court, Gruel said his client simply “wants to go to trial as soon as possible.”

Gruel will continue to be Pellicano's attorney until the judge decides whether the shamus is competent to represent himself.

Meanwhile, federal prosecutors provided the judge with snippets of their case scheduled to go to trial next month. The proceedings could be delayed.

Assistant U.S. Attorney Daniel Saunders said another indictment would be handed down in early April. He didn't say whether the indictment would name more defendants or only add allegations.

Saunders also said he had given some defense attorneys more than 2,000 pages of evidence as well as dozens of digital audio files as part of the discovery process.

He also revealed the government has evidence of some 15,000 computer “runs” by former Los Angeles police Sgt. Mark Arneson, who has pleaded not guilty to charges related to using confidential police databases to search for information for Pellicano.

“They contain some kind of personal information,” Saunders said of the computer inquiries.

Prosecutors are seeking a protective order to prevent key evidence from becoming public before trial. Fischer didn't sign an order Monday but said there would be a protective order of some kind.

Saunders said three search warrant affidavits connected to raids on Pellicano's offices in 2002 would be unsealed later this week. FBI agents found illegal explosives and seized documents and computers during the searches, authorities said.

Pellicano served a 2½-year sentence on explosive-related charges and is awaiting trial in a separate case for allegedly hiring a man to threaten a former Los Angeles Times reporter working on a story about actor Steven Seagal and possible links to the Mafia.

Gruel filed a motion Monday revisiting the legality of the search warrants. Pellicano has maintained that his Fourth Amendment rights were violated because the search was allegedly a ruse to get into his office to look for other suspected wrongdoing. The 9th U.S. Circuit Court of Appeals ruled 2-1 in June that the search was legitimate and FBI agents acted in good faith.

“The Pellicano defense seeks discovery that will show that the FBI knew and expected to find a lot more than what they represented to or sought from the magistrate judge,” according to the motion.

Pellicano's Attorney Fights Basis Of Search (LAT)

By Greg Krikorian And Henry Weinstein, Times Staff Writers

The Los Angeles Times, March 21, 2006

Anthony Pellicano's attorney on Monday challenged the federal government's search of the indicted private eye's office, claiming that authorities misled the courts about their reasons for going after the investigator's records.

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In obtaining a warrant to search Pellicano's Sunset Strip offices four years ago — a search which yielded tape recordings and thousands of pages of computerized records — FBI agents stated that they were investigating Pellicano's alleged links to a threat against Los Angeles Times reporter Anita Busch.

But Steven Gruel, Pellicano's attorney, said in a nine-page motion filed after a status conference in the widening probe that the government's story was a "subterfuge and ruse to get into Mr. Pellicano's office in order to search the premises for other suspected wrongdoing."

Gruel said the government's interest in Pellicano predated the threat against the reporter and may have originated in 2001 with the FBI investigating whether one of its agents had been overheard by Pellicano using an illegal wiretap placed on behalf of clients in an unrelated matter.

In the motion, Gruel also questioned whether the U.S. attorney's office and the FBI may have violated Pellicano's rights at a time when he was acting as his own attorney by seeking information from a former girlfriend after her visits to Pellicano in prison.

The accusations by Gruel, a former federal prosecutor from San Francisco, represent the most dramatic attack to date on the government's case, which so far has resulted in a dozen people being charged with hiring — or helping — Pellicano uncover embarrassing information on others.

Four people have pleaded guilty in the case. The others, including Pellicano, have denied wrongdoing.

"If we can suppress the initial search for evidence, then the whole apple cart gets turned over," Gruel said in an interview after filing his motion. "It could have a domino effect on the entire case."

Describing Gruel's motion as "the initial shot across the bow," Loyola Law professor Laurie Levenson said it suggests the attorney "will play hard ball, that he will show the court and the world that this was a dirty prosecution."

However, Levenson said the search of Pellicano's offices had already been upheld on a 2-1 vote of the U.S. 9th Circuit Court of Appeal after a challenge on different legal grounds by Pellicano's previous attorneys.

In his motion, Gruel said FBI Agent Stan Ornellas stated in a search warrant affidavit that authorities wanted to seize Pellicano's office computers, suggesting a far broader investigation than the threat against Busch.

Gruel noted that long before the search of Pellicano's offices, the FBI had become aware of allegations that one of its own agents had illegally wiretapped while investigating a dispute over control of a $40-million Internet business. Two brothers involved in that dispute have now been charged with benefiting from Pellicano's use of illegal wiretaps.

In questioning the role Pellicano's former girlfriend played in the case, Gruel said it may have been improper for a "cooperating" government witness to be visiting Pellicano in prison at a time when he was representing himself.

Sandra Wil Carradine, the former girlfriend, pleaded guilty last year to hiring Pellicano during a dispute with her ex-husband and has agreed to cooperate with the government's investigation.

Her attorney, Peter Knecht, disputed that Carradine had ever been asked by the government to visit Pellicano in prison for the purpose of obtaining information.

"The government is not stupid," he said. "They were always aware there could be misconduct allegations … so they made it very clear to her that if she wished to visit [Pellicano] in prison, it was on her own terms and they were not interested in anything that pertained to his case and how it would be defended."

Federal prosecutors declined to comment Monday on Gruel's claims, saying instead that they would present their responses in writing to the court.

Gruel filed his motion after a hearing in which Pellicano told U.S. District Judge Dale S. Fischer that he wanted to represent himself in the case to rapidly move it to trial.

"I don't want to disrupt the court … but it has been almost four years now," Pellicano said, referring to the time he spent imprisoned, first on an explosives conviction and now on wiretap and racketeering charges. "What have [authorities] been doing all this time?"

But Pellicano backed away from his request after the judge made it clear the trial was not going to start anytime soon because prosecutors and defense attorneys need additional time to review the evidence amassed to date. Fischer also said she would not accept a proposal allowing Gruel to sign legal papers on behalf of Pellicano if Pellicano serves as his own attorney.

Federal prosecutors Dan Saunders and Kevin Lally told the packed courtroom that they already have turned over 2,000 pages of documents and 25 hours of audio files to defense attorneys in the case. At the same time, they said they have plenty of confidential information to pore over before it could be shared with defense attorneys or their clients, most of whom are accused of illegally accessing police records or conspiring to wiretap others.

With eight defendants awaiting trial, Saunders has said he expected to file another indictment before the middle of next month.

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During the hearing, government prosecutors and defense attorneys spent considerable time discussing a proposed protective order that would cover the dissemination of confidential information, including phone numbers, addresses and Social Security numbers.

Fischer put off a decision on the order as both sides hammer out its wording.

Witness Describes Deal With Officers (BSUN)

By Matthew Dolan, Sun Reporter

The Baltimore Sun, March 21, 2006

Addict-turned-informant testifies he resold drugs confiscated by police

Almost daily on cell phones and regularly in person at Pete's Place Bar & Lounge on North Franklintown Road, an odd couple commiserated. The police officer sometimes joked about his love life; the informant lamented about his heroin addiction and a daughter who was running into trouble with the law in New York.

But in hours of secretly recorded conversations by federal agents, prosecutors say, one topic of conversation dominated the relationship between Detective William A. King and his informant, Antonio Mosby: selling illegal drugs for mutual profit.

A federal jury heard more than a dozen recorded phone calls Monday that prosecutors say show how King and his partner, Detective Antonio L. Murray, shook down drug dealers pointed out by Mosby at open-air drug markets across Baltimore.

Monday's testimony from Mosby, who struck a deal with prosecutors in hopes of a lighter prison sentence, marked the fourth day in the police corruption trial. The proceeding is the culmination of the FBI's seven-month wiretap probe into misconduct in the Baltimore Police Department that ended with the May 2005 arrests of King and Murray.

In a 33-count indictment in U.S. District Court, they are accused of conspiring to rob and extort cocaine, heroin and marijuana -- as well as drug-related proceeds -- from suspects they pursued.

Now imprisoned, Mosby, 40, spent most of Monday morning on the witness stand explaining how he bought and sold heroin in West Baltimore for some 25 years before his arrest last year by federal agents.

He told jurors he first met King and Murray in the spring of 2003 when Mosby was arrested with five gel capsules of heroin.

"They were pretty much asking me what could I help them with," Mosby said.

Mosby was not charged and instead registered as a confidential informant, making him eligible for payments from the Police Department. Hanging over his head, Mosby said, was the possibility that King and Murray would charge him with drug possession if he didn't cooperate.

"They had the pills," he explained Monday. "So I felt obligated" to call the officers with tips about drug activity.

At first, Mosby said, he thought he would just be providing lawful information to King and Murray. Soon, he said, "I became aware."

His awareness was of the illegal drug business set up by King and Murray, according to prosecutors. Mosby provided information about which "hitters" were carrying drugs; King and Murray would "catch and release" the dealers, stripping them of their money and drugs. Then, according to prosecutors and trial testimony, the officers would illegally sell the drugs to Mosby at a discount. He in turn, he said, resold the drugs back out on the streets.

They called it "grinding," Mosby told the jury.

Among the targets, Mosby said, were "old heads," or older drug dealers and users. King told Mosby that the officers didn't want information about juveniles, who would require a lengthy arrest booking process, or young people who would be apt to run from the detectives and require a chase.

Attorneys for King and Murray centered their questioning Monday on whether the officers had attempted to use Mosby and other informants to crack large-scale drug dealers.

Under cross-examination, Mosby told King's attorney Edward Smith Jr. that he was a longtime heroin addict who needed five hits of the drug a day to keep from being "sick." He sold the drug to family and friends, delivering heroin to their workplaces at lunchtime.

"You didn't see anything wrong with that? You felt you were doing them a service?" Smith asked Mosby.

"In a sense, yes," Mosby said.

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Eight More Charged With Bilking Red Cross Hurricane Funds (SFC)

San Francisco Chronicle, March 21, 2006

(03-20) 10:43 PST Fresno, Calif. (AP) --

The number of Bakersfield-area people indicted in a scheme that bilked thousands of dollars from an American Red Cross fund designated for Hurricane Katrina victims has risen to 61, federal authorities said.

Eight people were indicted last week in federal court in Fresno on charges of wire fraud and filing fake claims to the Federal Emergency Management Agency.

During the aftermath of Katrina, the Red Cross rushed to set up call centers across the country that provided qualifying victims with a personal identification number they then presented to receive aid funds from Western Union, prosecutor Stanley A. Boone said.

The Bakersfield center was the largest center and handled calls from across the country. The Red Cross contacted the FBI after it performed an audit and discovered an unusually high number of claims were being paid out at Western Union outlets in the Bakersfield area, even though not many evacuees had moved there.

Those recently charged were Ronika Danyell Spears, 21; Cherri Lynn Brown, 29; Ulysses Jack Perkins, 23; Kathy Ann Hollis, 38; Richard Eugene Raymond, 35; Phillip Anthony Wyatt, 31; Atiffa Guadalupe Dunbar, 26; and Cheryl L. Tateveasay, 53.

Since the Justice Department began its investigations, 25 people charged from the Bakersfield center have pleaded guilty to felony charges.

Across the country, others have returned money, according to a Justice Department report released last month. FEMA and the Red Cross reported receiving more than $8 million in returned funds, along with confession letters and requests for payment plans to pay back the money, the report said.

The fraud charges carry a maximum 20 years in prison and a $250,000 fine. The false claims to FEMA carry a maximum sentence of five years and $250,000 fine.

61 People Indicted In Hurricane Scheme (LAT)

The Los Angeles Times, March 21, 2006

The number of Bakersfield-area people indicted in a scheme that bilked thousands of dollars from an American Red Cross fund designated for Hurricane Katrina victims has risen to 61, federal authorities said.

After Hurricane Katrina, the Red Cross rushed to set up call centers to provide victims with an identification number to receive aid funds.

The Bakersfield center was the largest.

The Red Cross contacted the FBI after it discovered an unusually high number of claims were being paid out at Western Union outlets in the Bakersfield area.

City Hall Hiring On FBI's Radar In '97 (CHIT)

By Michael Higgins And Todd Lighty, Tribune Staff Reporters

Chicago Tribune, March 21, 2006

Court hearing reveals interest in hirings

As far back as 1997, federal authorities were investigating the hiring practices in Mayor Richard Daley's administration—obtaining backup tapes from the city's mainframe computer system and questioning a top Daley aide about how some people got their city jobs.

The disclosures of the government's earlier interest in City Hall hiring came Monday during a routine court hearing for Daley's former patronage chief Robert Sorich, who is under indictment along with three others.

Sorich and his co-defendants were charged in September with rigging city hiring in order to reward the mayor's political allies with government jobs.

Sorich's lawyer, Thomas Anthony Durkin, said FBI agents had interviewed his client in August 1997 as part of the earlier City Hall corruption investigation known as Operation Silver Shovel. Durkin said in court that at the time agents specifically asked Sorich about hiring practices.

Silver Shovel, a 1990s federal investigation that focused on payoffs for illegal dumping, ultimately led to the convictions of six aldermen and 12 others, but Sorich was never accused of any wrongdoing in that probe.

Federal authorities also have computer tapes they obtained as part of the Silver Shovel investigation, Durkin said. He believes the old computer records may contain the same information that the government seized from Sorich's portable laptop computer only last year—a 1997 list of people that Daley's office had recommended for city jobs.

"We consider that ... to be extremely exculpatory," Durkin said. "Something they considered to be a smoking gun in 2005 was in their possession in 1997."

Prosecutors acknowledged Monday that they have 15 backup computer tapes from the city's mainframe computer, but they did not say whether anyone from the government had ever been able to access the information or even looked at it.

"It seems to me either it can be opened or can't be opened," Durkin said. "The question is can you open it and if so, what's on it?"

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Assistant U.S. Attorneys Patrick Collins and Barry Miller did not concede that information in the 1997 records would be helpful to the defense. They said they were trying to obtain software needed to read the records.

Miller suggested that as far as prosecutors know, the 1997 records are not the same as those being used in the case against Sorich. He also said the government does not believe information contained on Sorich's personal laptop would be on the mainframe computer tapes.

Jodi Kawada, speaking for the city's Law Department, said reading the tapes requires a program that is no longer in use.

"In 1997, in response to a federal grand jury subpoena, we turned over a computer to the U.S. attorney's office," Kawada said. "We understand that this computer is now relevant to an ongoing criminal investigation by the U.S. attorney's office. For that reason, it would not be appropriate for us to comment on the content of the computer."

The Sorich case currently is scheduled for trial in early May before U.S. District Judge David Coar. But both defense lawyers and prosecutors said that the trial could be postponed, in part, depending on how soon authorities are able to read the tapes.

The hiring scandal broke with a midnight raid on April 30 when federal agents searched the mayor's Office of Intergovernmental Affairs on the fourth floor of City Hall. Authorities say IGA was at the center of a "massive fraud" that spanned 12 years and involved hiring in some of the biggest City Hall departments, including Water Management, Streets and Sanitation and Transportation.

Along with Sorich, a grand jury indicted Timothy McCarthy, who worked in IGA under Sorich, and former Streets and Sanitation officials John Sullivan and Patrick Slattery.

All four were accused of mail fraud. Sullivan also was charged with lying to federal agents investigating the allegations.

A fifth defendant, former Streets and Sanitation official Daniel Katalinic, pleaded guilty and is cooperating with the ongoing investigation. He secretly recorded conversations with Sorich and has admitted leading a pro-Daley political group whose members were rewarded with city jobs and promotions.

Sorich, McCarthy and Slattery are from Daley's native Bridgeport neighborhood and have ties to the Daley family's 11th Ward Democratic Organization.

The indictment also described the involvement of a "co-schemer" in the hiring fraud, identified as former top Daley aide Victor Reyes. Reyes, who has not been charged and denies wrongdoing, directed IGA for five years and is the leader of the Hispanic Democratic Organization, the largest pro-Daley patronage army.

Tribune staff reporter Dan Mihalopoulos contributed to this report.

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I Must Rebut Campbell Lawyers An Army Of Feds Spent Millions On Probe? Not True (AJC)

The Atlanta Journal-Constitution, March 21, 2006

Last week The Atlanta Journal-Constitution published an opinion piece by Michael Coleman, Bill Campbell's attorney and a defense witness in the trial that ended with Campbell's conviction for three felony tax crimes ("End effort to tar, feather Campbell," @issue, March 16).

Like his client, Coleman claims that the government's investigation targeted Campbell, lasted for eight years and cost "millions of dollars in resources and manpower." That is not true.

Following Justice Department policy and court rules, we said little publicly until the Campbell trial was over. But now we may speak more freely and set the record straight.

In truth, the investigation began almost six years after Campbell took office, in late 1999, when we first received multiple, specific allegations of corruption throughout City Hall. Less than five years later, in August 2004, Campbell was indicted. During those five years, we charged and convicted 11 other city officials and contractors, including the chief operating officer, deputy COO and chief administrative officer. Campbell's trial was repeatedly delayed by his motions and other requests.

While Campbell was mayor, we encountered remarkable resistance from the city attorney's office on requests for city documents and interviews with city employees. At one point, the City Council had to pass a resolution directing the city attorney to stop interceding in interviews. The city was the victim of any corruption, and this interference by its lawyers was unprecedented in our long experience in public corruption cases throughout Georgia. It stopped as soon as Mayor Shirley Franklin took office.

Even considering the delays caused by this resistance, our investigation did not involve millions of dollars or a government "army," [the term used by Campbell's lead defense attorney Billy Martin during closing arguments]. In fact, the financial and tax investigation that was key to convicting Campbell and other officials and contractors was conducted almost entirely by one IRS agent, who also worked on unrelated cases.

The "army" from the FBI and U.S. attorney's office consisted of one or two agents and two prosecutors who focused on the overall City Hall investigation. It increased to three prosecutors shortly before Campbell's indictment and to five agents only in the months just before and during his trial. Those prosecutors were also handling other major cases, including the Eric Rudolph bombing case and the Fulton County and Linda Schrenko corruption cases.

This was no "army" wasting taxpayer money. It was a small but talented group of public servants dedicated to finding the truth and bringing lawbreakers to justice. But in essence the mayor's lawyer's argument is that, if someone concocts a criminal scheme that is complicated and difficult to uncover, and obstructs and delays efforts to do so, we should ignore the crimes rather than invest the time and resources needed to bring them to court.

Our goal in this case, and all our cases, is to follow the evidence wherever it leads, and if we uncover substantial evidence of crimes (as we did with Campbell), to present it in court to a jury representing the community. We respect the jury's verdict in the Campbell case, which we expect will soon lead to Campbell's being sent to prison.

I agree with Coleman on two points: Some good things did happen in Atlanta during Campbell's administration, and it is now time to move forward. I can only hope that the exposure of corruption and crime by Campbell and his cronies, and the penalties that they pay, will deter future public officials from undermining the trust of Atlanta residents and the reputation of this great city.

So Hard To Say, 'It's Time To Resign' (PHI)

By Michael Currie Schaffer And John Shiffman

The Philadelphia Inquirer, March 21, 2006

Many members of City Council hope Rick Mariano will resign following his federal corruption conviction last week. It's just that they don't want to call on him to step down.

The legislators' semantic two-step came as city solicitor Romulo L. Diaz Jr. issued an opinion confirming that the state ban on felons in elected office won't kick in until Mariano's sentencing, which Judge Lawrence F. Stengel yesterday set for July 6.

Convicted on Friday of 18 counts of fraud, bribery, and money-laundering, Mariano remained in detention yesterday. Stengel cited the suicide scare that followed Mariano's trip to the top of City Hall tower last fall when he ordered the councilman's bail revoked pending a psychiatric exam.

That exam has been scheduled for tomorrow, said Mariano's attorney, Nino V. Tinari.

Tinari said he visited his client at the Federal Detention Center yesterday. He said Mariano had been placed in a cell by himself but was not in a psychiatric ward. Mariano has not yet been allowed to see his wife or sons.

"Rick is doing extremely well," Tinari said after the two-hour visit. "He had the usual concerns: How's the family? How's the office?"

A spokeswoman for the federal Bureau of Prisons, Carla Wilson, said she could not comment on an individual case. But speaking generally, she said new inmates are unlikely to be permitted visitors other than lawyers until they complete the intake process, which can last several days.

Even with Mariano incommunicado, there has been considerable debate over his short-term future.

Minutes after the verdict Friday, Mayor Street issued a statement calling on Mariano to quit.

"We politely but firmly disagree," replied Mariano's chief of staff, Jay McCalla. He said the councilman would continue to attend meetings, propose legislation - and draw his $102,000 annual salary - as long as permitted by law.

Also citing the law, Council President Anna C. Verna said she would not push Mariano one way or the other although, she said, she doubted he would appear in Council even if he was let out on bail.

"It's his decision," she said. "That's the law."

In interviews yesterday, most of her colleagues seemed to agree.

"I think he should step down, but he's got the right under law to stay on under sentencing," said Councilman Juan Ramos.

"I'm not calling on him. I'm not doing what Mayor Street did," said Councilman James F. Kenney. "If he asked my opinion, I think the best thing for him and everybody is to leave."

"He can stay on and there's nothing we can do," said Councilman Jack Kelly. "But for his own interest, for his family and this Council, it would be better for him to step down. I'm not calling on him to do it. It's just my advice."

Of 14 members interviewed, only one - Councilman Michael Nutter - said he would definitely vote for a resolution asking Mariano to quit. Such a resolution, which would not be binding, has not been introduced.

"Out of respect for City Council as an institution, Councilman Mariano should resign from City Council, given all that has happened," Nutter said. "The citizens of Philadelphia deserve that action from him."

Asked about a resolution, Nutter said: "I would hope that we would not have to go to that point, but if there were a resolution offered, then, yes, I would vote for it."

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Several members said they specifically would not ask Mariano to quit, either formally or informally.

"I'll call on him to follow the law," said Donna Reed Miller. Asked if she would feel uncomfortable making laws alongside a felon until Mariano's legally mandated July 6 departure, Miller said: "I work with ex-offenders all the time."

When Mariano does depart Council, it will be put to Verna to decide whether to call a special election or allow the seat to remain vacant until the next general election in 2007.

Citing due-process issues and his desire not to see Council's membership fall to 15, Councilman W. Wilson Goode Jr. said he would "have no problem if Councilman Mariano continues to serve until his sentence."

"I have known Rick Mariano as a colleague for over six years," Goode said. "My opinion of him hasn't changed because of the verdict."

And just what is that opinion?

"No comment," Goode said.

Council Poll: Rick Can Work (PHI)

By Chris Brennan & Mark Mcdonald

The Philadelphia Inquirer, March 21, 2006

CITY COUNCILMAN Rick Mariano, convicted Friday on corruption charges, is going to lose his job.

But should he step down before he is forced from office?

A wide majority of his colleagues said "no" yesterday when asked about Mariano's plan to keep attending Council hearings and sessions right up to the end.

Only four Council members - Donna Reed Miller, Michael Nutter, Juan Ramos and Jack Kelly - echoed Mayor Street's call from last week for Mariano to resign immediately.

The rest are content to let state law take its course.

Mariano's post will automatically become vacant and his pay will end when he is sentenced in federal court. That has not been set and could be months away.

For now, the question of Mariano's showing up in City Hall is theoretical, since he is locked up in the Federal Detention Center.

U.S. District Judge Lawrence Stengel revoked Mariano's bail, citing a concern that he might be a danger to himself or others after he was convicted on 18 counts of conspiracy, honest-services fraud, money laundering, bribery and filing a false tax return.

A psychiatric evaluation has been scheduled for tomorrow, and Stengel will hold a hearing to consider its results and Mariano's bail sometime after that.

A poll of Council members by the Daily News found no support for a resolution to call on Mariano to step down now. A resolution would not have the power to force that action if approved.

Council President Anna Verna isn't worried about Mariano's showing up in Council.

"I doubt that he'd come," she said. "I really do. He may go up to his office, but I doubt that he'd come to Council."

But Mariano's chief of staff, Jay McCalla, said that is exactly what the councilman plans to do.

"It is his intention to stay until sentencing, and it is his intention to attend Council sessions," said McCalla, who was glad to hear there was no support for an official call for Mariano to step down. "Coming into a room that's not against him will be helpful."

Councilman Brian O'Neill, the minority leader, said he would offer an opinion if Mariano asked if he should step down. O'Neill doesn't expect that to happen and says any attempt at a resolution would be "grandstanding."

"He's made it pretty clear that he wants to stay on Council's payroll until the end," O'Neill said.

Councilman Frank DiCicco said Council should set a policy to stop paying members when they have been convicted of crimes.

Having a convicted felon in Council is "basically a slap in the face to the citizens of Philadelphia," DiCicco said.

Councilman Jim Kenney said Mariano should step down from committee assignments but he doesn't mind if Mariano continues to collect a city paycheck for now.

"His office should function, and it's a couple of months and he'll be gone," Kenney said. "He's lost everything. He's lost his income and pension and his political infrastructure and his former friends. I can't see where piling on can be helpful to anyone."

The Council members who called on Mariano to step down did so in soft, caring tones.

"I think Rick will make the right decision," Miller said. "I think he's a big man, and he knows... to do the right thing."

Nutter and Ramos also spoke of Mariano doing the right thing.

"This is about the institution," Nutter said. "It's not about any one person. It's an unfortunate situation for him and his family, but Council is bigger than all of us."

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Ramos worries that Mariano will face "more and more controversy" by keeping his job.

"For the good of the city and the good of the district, he should make a decision very soon, and that is do the right thing and step down and save his family aggravation," Ramos said. "I am very saddened by it, but nevertheless we need to move on."

Kelly agreed that "it's in the best interests" of Mariano and his family, Council and his district for him to step down now. "However, that's going to be his decision and his decision alone."

Councilwoman Blondell Reynolds Brown and other members cited an opinion from the city solicitor that Mariano can hold his office until sentenced.

"Rick should let his conscience be his guide," Brown added.

Only Councilman Frank Rizzo said he had not decided if Mariano should step down.

Council members Jannie Blackwell, Marian Tasco, Darrell Clarke and W. Wilson Goode Jr. said they had no problem with Mariano keeping his job and coming to work until he is sentenced.

"We know he's a man of no means and I think we can wait that long, 30 to 90 days, and let the process take its course," Blackwell said. "If the law allows him to come and participate, then who are we?"

Why Mariano Pal Changed His Plea (PHI)

By Michael Hinkelman

The Philadelphia Inquirer, March 21, 2006

A new federal-court filing yesterday offered a broad clue as to why a key figure in the Rick Mariano bribery-and-corruption case abruptly agreed to change his plea to guilty in late February.

On Feb. 28 - the day after businessman Reinaldo Pastrana had his surprising change of heart - FBI and IRS agents raided the office of Pastrana's accountant and seized copies of false tax returns filed on behalf of Pastrana; his mother, Ada, and sister Debbie.

Pastrana is one of five businessmen indicted last October in connection with bribing Mariano, who was convicted by a jury Friday of federal corruption charges. Pastrana initially pleaded not guilty.

Now in state prison for violating parole in connection with a state tax conviction, Pastrana has agreed to enter a guilty plea on Thursday to three counts of bribery.

As part of the plea deal, he also has agreed to sell property he owns on North American Street and to fork over at least $250,000 of the proceeds to the IRS before sentencing, the court filing yesterday by federal prosecutors said.

The feds say the payment will resolve outstanding tax issues related to false tax returns filed for the Pastranas in tax years 2001 through 2004.

Pastrana likely faces a sentence of 30 to 37 months under sentencing guidelines. He also must pay whatever fine is meted out by U.S. District Judge Lawrence F. Stengel when he is sentenced.

Pastrana, 46, is the third businessman to plead guilty in the Mariano corruption case. Two others - Philip and Louis Chartock - have pleaded not guilty and are scheduled to stand trial April 24.

Federal prosecutors alleged that Pastrana, a developer and friend of Mariano's, paid $5,400 for three years of Mariano's membership dues at the swanky Sporting Club at the Bellevue in exchange for Mariano's help with acquiring some city property in 2002.

Pastrana sought Mariano's help to buy the property on North American Street near West Somerset, which he wanted to develop as a shopping center.

The property had been appraised at $400,000, and Pastrana wanted Mariano's help to convince the city to sell the land to his company for $100,000.

Mariano subsequently sponsored - and voted for - a bill to facilitate the transaction.

Mayor Street signed the bill into law Dec. 3, 2002. Just 16 days later, the feds said, Pastrana paid Mariano's annual Sporting Club membership fee of $1,812.60.

Pastrana paid two more years of Mariano's Sporting Club dues in January 2004 and December 2004.

The sale of the property to Pastrana's company was finalized last March 30.

Eight Former Southwest Employees Charged In Ticket Scheme (SAEN)

By Guillermo Contreras, Express-News Staff Writer

San Antonio Express-News, March 21, 2006

Eight former Southwest Airlines employees have been charged with wire fraud over allegations they stole more than $1 million from the Dallas-based carrier by using used tickets to issue new ones and pocketing some of the proceeds.

Seven of the suspects were in federal custody on Monday. The eighth remained at large.

The scheme lasted from March 2000 through January 2003, and involved "hundreds to thousands" of tickets, according to a 25-count federal indictment and the FBI.

Southwest spokeswoman Brandy King said Southwest has since tightened its controls on the tickets utilized in the scheme. She said no customers were stranded as a result of it.

"This was an instance that took place three years ago," King said. "The employees have not been employees here for a while..... We began that investigation in the fall of 2002, and since that time we've completely revamped our procedures and controls on exchanges."

Special agent Andrea Simmons, a spokeswoman for the FBI in El Paso, said the probe took a while to come to fruition because the case involved "hundreds to thousands of tickets" that needed to be compared.

The fraud scheme involved intercepting used tickets as they flowed through the airline's internal processing, then using the tickets to issue new ones to customers who wished to purchase paper tickets at the counter, the indictment said.

The suspects pocketed a cut from the sales - generally the value of the used, intercepted ticket -- up to almost $230 per transaction, the indictment said.

"They were documenting them as exchanges instead of purchases," King said of the former employees.

Charged with wire-fraud conspiracy are Richard De La Paz Jr., Michelle Christine Torres, Oscar Enrique Ortiz, Melissa Renee Lampton, Denise Nuñez and Barbara Ann Wilson. They were also charged with wire fraud, as were Salena De La Torre and Guillermo Enriquez, the indictment shows. The FBI was still looking for Lampton on Monday.

King pointed out that the case is not related to an investigation in San Antonio of another former employee, Althea Jackson, who is a target of an investigation alleging thousands of "goodwill" tickets were taken from the airline.

"They're different kinds of tickets," King said.

In that case, Jackson is married to former court bailiff James Jackson, who resigned from the Bexar County Sheriff's Office amid the probe. The Jacksons' lawyer has confirmed they are under investigation.

An identitfy-theft task force led by the Secret Service is looking at more than 4,000 tickets, many of which were sold or given to judges, prosecutors, lawyers, current and former bailiffs and other public officials at the Bexar County courthouse. No one has been charged. gcontreras@express-news.net

Ex-Southwest Employees Charged In Scam (AP)

THE ASSOCIATED PRESS

AP, March 21, 2006

EL PASO, Texas -- Eight former employees of Southwest Airlines Co. have been charged with wire fraud after allegedly stealing more than $1 million from the company in a scheme involving used tickets.

The workers would issue already-used tickets to customers who paid cash, giving the traveler a ticket that should have been voided in Southwest's systems, according to a federal grand jury indictment, returned last week.

Investigators said the Southwest workers, employed at El Paso International Airport, collected cash on transactions from March 2000 through January 2003.

Brandy King, a spokeswoman for Dallas-based Southwest, said no passengers were stuck with worthless tickets from the scheme. She said the agents recorded cash ticket purchases as exchanges and pocketed the money. Southwest had since changed its controls to prevent similar abuse.

The workers were dismissed in March 2003, King said.

The Associated Press was unable to reach the former workers, and court records did not list attorneys for them.

Six of the defendants also face conspiracy charges. If convicted, all face at least five years in federal prison and a fine of up to $250,000 for each count.

The case took years to reach a grand jury because "hundreds to thousands of tickets" had to be compared to detect the fraud, an FBI spokeswoman in El Paso, Andrea Simmons, told the San Antonio Express-News for a story Monday.

Prison Term For Developer Who Defrauded Investors (SFC)

By Henry K. Lee, Chronicle Staff Writer

San Francisco Chronicle, March 18, 2006

S.F. man ordered to pay $17.4 million in restitution as well

A San Francisco real estate developer will spend eight years in prison and pay more than $17 million in restitution and fines for defrauding more than 700 investors, a judge has ruled.

U.S. District Judge William Alsup sentenced John A. Hickey, 49, on Thursday to 97 months in prison and ordered him to pay a $15,000 fine and $17.4 million in restitution. The judge told Hickey to begin serving his sentence July 7.

Hickey was convicted by a federal jury in November on two counts of securities fraud and eight counts of mail fraud after a three-week trial in U.S. District Court in San Francisco.

Hickey declined to discuss the case Friday. His attorney, David Cohen of San Francisco, said the conviction was "unwarranted" and that his client will "vigorously pursue his appeal."

Federal prosecutors said Hickey raised about $20 million from 724 investors through his company, Continental Capital Financial Group, by offering shares in two limited partnerships. The partnerships were created to develop real estate in Napa and Sonoma, among other locations.

Hickey lied about his net worth, the properties that would be developed by the partnerships and the use of the funds raised from the investors. In September 1994, a court-appointed receiver took over Continental Capital and the limited partnerships.

The investors lost most of their money. "As a result, many of the investors have suffered significant non-monetary harms, such as anger, anxiety, fear, guilt, grief, nightmares, depression, sleeplessness and mistrust of others," Assistant U.S. Attorney Christopher Steskal wrote in court papers. Steskal had urged the judge to sentence Hickey to more than 12 years in prison because of "multiple lies."

"The defendant lied to everyone involved in the investments, including the accountant, the lawyers, the appraiser, the sale representatives, the broker/dealers and (finally) the investors," Steskal wrote, adding that Hickey had many chances to tell the truth, "but at every turn, he chose to lie. And he lied for the most crass of reasons: greed."

"Over 700 investors, a number of them retirees, were defrauded by this scheme," Kevin Ryan, U.S. attorney in San Francisco, said in a statement. "Significant sentences send a strong message to those who would consider committing securities fraud."

A federal grand jury in San Francisco indicted Hickey and his business partner, Mamie Tang, in 1997. Tang is serving a five-year sentence imposed in March 2003 after she pleaded guilty to mail fraud in the same scheme.

Tang failed to tell potential investors that some of the properties she claimed to own had already been lost in foreclosure, authorities said.

The Securities and Exchange Commission filed a civil suit against both Hickey and Tang in 1994 for violations of federal security laws. The SEC ordered him to pay $1.3 million, but he failed to make payments, court records show. He ultimately paid the money in full.

St. Mary's Co. Man Sentenced In Child Porn Case (BSUN)

By A Sun Reporter

The Baltimore Sun, March 21, 2006

33-year-old gets 6-year prison term, must register as sex offender

A 33-year-old St. Mary's County man was sentenced today in federal court to six years in prison for transmitting child pornography files over the Internet, the U.S. attorney's office said.

Joshua M. Marsh of Great Mills was also ordered to register as a sex offender and forfeit the computer equipment that authorities seized at his home. He will also be forbidden from accessing the Internet during his three years of supervised release after his prison sentence.

Marsh pleaded guilty to the charges Oct. 31. According to a statement of facts at the plea, Marsh admitted to allowing users to download child pornography from his personal computer, as well as to facilitating the transmission of pornographic files between users.

When the FBI conducted a search warrant in 2004, they found more than 1,000 files of child pornography on Marsh's computer.

DOD Official Had Child Porn On Computer (UPI)

United Press International, March 21, 2006

WASHINGTON, March 20 (UPI) -- A senior Defense Department employee managing the Pentagon's transition to a new Internet system was arrested for child pornography, DOD announced last week.

Charles Lamont Lynch, 44, of Clifton, Virginia, was operating a peer-to-peer file sharing program on his comuter at the Defense Information Systems Agency, according to the United States Attorney for the Eastern District of Virginia.

FBI Agents on March 8 seized a computer and more than 1,000 CD-Rom disks during a search of Lynch's office. Child pornography was found in computer file folders titled "Young," according to the Justice Department.

Lynch is now on leave without pay while his case is pending in court. If convicted, he could spend up to 10 years in jail.

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Lynch was the chief of the Internet Protocol Version 6 (Ipv6) Transition Office. He was managing the Defense Department's transition to the new Internet address system, which will dramatically expand the number of IP addresses available globally.

The current 32-bit Ipv4 address system allows for only 4.3 billion discreet Internet addresses worldwide. As the population grows and as populous Asian countries move more into the online world, more addresses are needed. Expanding that address line to 128 bits dramatically increases the number of available Internet addresses to 3.4 X 10 to the 38th power. China, India and Japan are investing heavily in Ipv6 technology.

IP addresses are the digits that correspond to e-mail address or web site names, which are simply a human-friendly mnemonic device for the multi-digit numerical addresses.

The relatively limited number of IP addresses under the current Ipv4 means many large organizations -- particularly governments -- use single network addresses for all their traffic, and then routes them to sub-addresses within the organization, a process that can slow the delivery of e-mail messages or the speed of connection.

During the multi-year transition, DISA and other organizations will have to ensure that computers running with Ipv6 addresses can communicate with computers running Ipv4 addresses.

Ex-East St. Louis Police Chief Sentenced (AP)

By JIM SUHR, Associated Press Writer

AP, March 21, 2006

EAST ST. LOUIS, Ill. (AP) - The city's former police chief was sentenced Monday to more than two years in federal prison for attempting to shield a politically connected businessman from a criminal probe.

Ronald Matthews, 56, had faced up to five years behind bars for conspiracy to obstruct justice, attempted obstruction of justice and perjury before a grand jury. He was convicted Dec. 21.

Matthews professed his innocence and said he would appeal. But he also told the judge he preferred to begin his prison term immediately.

``I'd rather just go ahead and be done with it," he said. Federal marshals obliged and led him away.

The case stems from a traffic stop during which Ayoub ``Dave" Qattoum, an auxiliary policeman and businessman, was found with a .38-caliber handgun. Under federal law, Qattoum was not entitled to have a gun as a convicted felon.

Prosecutors described Qattoum as well-connected, quick to give loans or kickbacks to local elected officials to curry favor as the owner of a convenience store.

Authorities accused Matthews of commandeering the local investigation of Qattoum's arrest after the Jordanian national expressed fear that U.S. immigration officials had learned of his legal troubles and might deport him.

Prosecutors also alleged Matthews refused to submit the case to local prosecutors for review, and hid from grand jurors and immigration officials the gun seized from Qattoum, falsely claiming the weapon was lost or stolen. Matthews resigned after being indicted in 2005.

Qattoum, 41, was sentenced in August to more than a year in prison. He faces deportation after serving his sentence.

Former Police Chief Sentenced For Obstruction (BVND)

By George Pawlaczyk

The Belleville News Democrat, March 21, 2006

Former East St. Louis Police Chief Ron Matthews was sentenced Monday to 33 months in prison by a federal judge, who said his "exemplary" record deserved leniency.

U.S. District Judge G. Patrick Murphy said he would "bet my children's trust fund" that Matthews would never again commit another crime.

Matthews was sentenced on his three convictions for obstruction of justice regarding a scheme to dispose of an illegal pistol once possessed by an auxiliary police officer who was a convicted felon. Matthews denied his guilt and blamed others for getting him ensnared in the scheme.

Although Murphy offered him the opportunity to remain free until being ordered to report to prison, Matthews opted to be taken immediately into custody.

Two federal marshals asked him to remove any personal items, including a driver's license and a comb, which he gave to family members, and then he was escorted into a backroom.

Illegal Alien Pleads Guilty To Hit Man Plot (WT)

By Gary Emerling

DOJ_NMG_0019907

The Washington Times, March 21, 2006

An illegal alien from Guatemala pleaded guilty in federal court yesterday to charges that he tried to arrange the killing of a D.C. jail inmate last year.

Victor Moscoso Espana, 20, of Hyattsville, admitted in D.C. District Court that he attempted to have inmate Alvaro Garcia-Hernandez -- a fellow Guatemalan in jail on drug charges -- killed for $15,000, which would have been paid in monthly installments.

According to court documents, Moscoso tried to arrange the hit because he "did not like" Garcia-Hernandez and wanted to "take over" his drug sources and "make money."

Agents with the federal Immigration and Customs Enforcement (ICE) began investigating Moscoso in September after receiving information about a conspiracy to import cocaine and heroin from Guatemala through various U.S. entry points, including Washington Dulles International Airport.

Court documents show that the hit man plot began when Moscoso arranged to meet another person -- who was cooperating with investigating agents -- at a Hess gasoline station in the 1900 block of New Jersey Avenue Northwest in October.

The two discussed having Garcia-Hernandez killed, and Moscoso gave the witness visiting days for Garcia-Hernandez, as well as his jail identification number.

When the two met in Hyattsville Oct. 18, Moscoso agreed to pay the $15,000 in installments.

When the two met again three days later, agents recorded their discussion and Moscoso gave the witness a down payment of $100 for the killing. Moscoso was arrested the next day.

Moscoso faces up to 10 years in prison and a $250,000 fine when he is scheduled to be sentenced June 16.

After serving his time, Moscoso will be turned over to ICE and placed in removal proceedings.

"He may very well go from the jail to his country, because he's not here legally," ICE spokeswoman Ernestine Fobbs said. "I see no reason why he shouldn't be [deported]."

Court documents show that Garcia-Hernandez was sentenced Oct. 11 to 37 months in prison for possession of cocaine with intent to distribute.

The documents also show that Garcia-Hernandez came to the U.S. in 1994 from Guatemala, received a work permit from Immigration and Naturalization Service and worked as a roofer and a mechanic.

Garcia-Hernandez was ordered to comply with deportation proceedings upon his release, the documents show.

High Court Refuses To Hear Convicted Spy's Appeal (AP)

AP, March 21, 2006

The Supreme Court refused Monday to give Jonathan Pollard, now serving a life sentence for spying for Israel, access to records that could bolster his case for a presidential clemency.

Pollard's lawyers wanted the justices to reopen his case, so that they could pursue secret documents the government submitted to the judge who sentenced Pollard in 1987.

Pollard sold military secrets to Israel while he worked at the Defense Department's Pentagon headquarters. He was arrested in 1985 and pleaded guilty. The Supreme Court had already refused to let the former Navy intelligence analyst withdraw the guilty plea.

The latest Supreme Court case was not about spying, but about government authority to keep records used in court sealed from the public.

A federal appeals court said last summer that it had no authority to review requests for the documents which Pollard contends will help his bid for presidential clemency.

One of his attorneys, Eliot Lauer, told justices in a filing that the Justice Department, which opposes clemency, has been "given the unfettered power to decide who may or may not have access to those docket materials."

"The DOJ is not neutral and is not an arm of the judiciary," Lauer wrote in the appeal.

Pollard's case has been a sticking point in U.S.-Israeli relations. The Israeli government granted Pollard citizenship and repeatedly has pressed for his release.

The case is Pollard v. United States of America, 05-1013.

Justices Weigh In On Use Of Tapes And Transcripts (NYT)

By Linda Greenhouse

The New York Times, March 21, 2006

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WASHINGTON, March 20 — A crime victim's emergency call to 911, when introduced in court, can provide powerful evidence of the attacker's identity and the circumstances of the crime.

Perhaps too powerful — or so most Supreme Court justices seemed to conclude during an argument Monday on whether the prosecution could use such evidence without violating defendants' constitutional rights to face their accusers in the courtroom.

The constitutional problem arises when the victim fails to appear in court and is therefore not available for cross-examination.

In domestic violence cases, the scenario is common; in one study cited to the Supreme Court, as many as 90 percent of victims of domestic violence fail to cooperate with the prosecution because of fear of or misplaced loyalty to their abusive partners.

Rather than abandon such cases, a growing number of states have begun to relax their evidentiary rules and permit juries to hear 911 tapes or read transcripts of police interviews with victims.

Two years ago, however, the Supreme Court issued an unmistakable warning that these efforts were likely to collide with the Sixth Amendment's Confrontation Clause, which guarantees to a criminal defendant the right "to be confronted with the witnesses against him."

In Crawford v. Washington, the court laid down a new rule: a "testimonial" statement made out of court cannot be used at trial unless the person who made the statement is available for cross-examination.

Now the question is whether the justices meant what they said, even in situations with strong policy arguments for bending the rules. Based on their responses in the courtroom on Monday, they did.

The Crawford case barred the admission of a woman's tape-recorded eyewitness account of a fight in which her husband stabbed another man. But the court stopped short of defining the various types of "testimonial" statements to which the newly empowered Confrontation Clause would now apply. Defense lawyers around the country soon began to argue that the decision should bar the admission of 911 calls and of statements given to police officers who respond to a crime scene.

Two cases were argued to the court on Monday, one of each type. Both have drawn wide attention from organizations concerned with domestic violence. In Davis v. Washington, No. 05-5224, the Washington Supreme Court rejected a defense argument that a 911 call from a woman who said her former boyfriend had violated a no-contact order and was beating her constituted a testimonial.

The incident took place, and the man, Adrian M. Davis, was convicted, before the Crawford decision. The victim, Michelle McCottry, was subpoenaed but failed to appear in court.

After the Crawford decision, Mr. Davis's lawyers argued on appeal that the admission of the 911 tape violated his right to confrontation, but the Washington Supreme Court said the call was not testimonial. It was, the court said, a request for "help to be rescued from peril."

In the second case, Hammon v. Indiana, No. 05-5705, the Indiana Supreme Court likewise upheld a conviction for domestic battery, ruling that a wife's statement to the police officer who arrived to investigate a report of a disturbance could be used as evidence against her husband, Herschel Hammon. The wife, Amy Hammon, failed to appear in court. Her statement to the investigating officer was not testimonial, the Indiana court ruled, because her "motivation was to convey basic facts" rather than provide evidence for later use at trial.

In the Supreme Court on Monday, Jeffrey L. Fisher, representing the defendant in the 911 case, said that during the call, Ms. McCottry "knowingly told a government agent associated with law enforcement that someone had committed a crime." That made the call clearly testimonial, as was "any accusatory statement to a law enforcement agent," he said.

Mr. Fisher, a Seattle lawyer who successfully argued the Crawford case, said the purpose of the Confrontation Clause was "to bring the accuser and accused face to face and require the accuser to deliver the accusation in court."

But the 911 call was "not just a call," Justice Ruth Bader Ginsburg objected. It was also "a cry for help." Was it not a "practical reality," she asked Mr. Fisher, "that many women in this situation are scared to death?" She added, "Your neat legal categories don't conform to real lives."

Mr. Fisher responded carefully. "I don't mean to be insensitive," he said. He offered a solution: under a rule known as the "forfeiture doctrine," he observed, a defendant who intimidated a witness lost the right to object to the use of that witness's out-of-court statements.

Justice Antonin Scalia interjected: "Maybe we should just suspend the Confrontation Clause in spousal abuse cases."

The other justices undoubtedly took his point, a reminder that he was the author of the Crawford decision, and that he had persuaded six of his colleagues in that case, including Justice Ginsburg, that the Confrontation Clause should be interpreted literally.

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As Justice Scalia made clear on Monday when the prosecution's turn came to argue, he was not about to advocate its suspension under these or any other circumstances.

When James M. Whisman, Seattle's senior deputy prosecuting attorney, described 911 calls as "powerful evidence" that should be regarded as constitutionally permissible, Justice Scalia responded, "You know, 'powerful' is part of the problem." He said that "the voice on the phone makes it an even more damaging violation if it is impermissible."

Mr. Whisman was joined on the state's side of the argument by Michael R. Dreeben, a deputy solicitor general, who said that a "panic-stricken call for help" had "unique probative value" and did not present the risk of government abuse that the framers had in mind when they added the Confrontation Clause to the Constitution. The risk was that the government could manipulate a witness behind closed doors, Mr. Whisman said.

Justice Anthony M. Kennedy asked whether a 911 call reporting that "he beat me two minutes ago and now he's running down the block" would qualify as a nontestimonial emergency report under Mr. Dreeben's analysis.

Yes, Mr. Dreeben replied, because the attacker might return and the caller still faced an "imminent threat."

Suppose, Justice Kennedy asked, that the call was "he's taken my diamond necklace and is running down the block."

"That would not be an emergency threat under our rule," Mr. Dreeben said.

The second argument, in the Indiana case, replicated the first in many respects, including an exchange between Justice Ginsburg and Richard D. Friedman, representing the defendant.

Mr. Friedman, a professor at the University of Michigan Law School who is an acknowledged expert on the Confrontation Clause, declared that "there is no domestic-violence exception for confrontation rights."

If the court made it clear that prosecutors could not use out-of-court statements, he said, states would have an incentive to protect victims of domestic violence and make them feel safe enough to testify.

"I don't know why that necessarily follows," Justice Ginsburg said. "It wasn't so long ago that police didn't bother with these cases."

Mr. Friedman responded, "I think we now recognize how serious a crime domestic violence is."

Tobacco Award Is Upheld

WASHINGTON, March 20 (AP) — The Supreme Court refused Monday to consider tossing out a $50 million damage award to the family of a two-pack-a-day smoker who died of cancer.

Philip Morris USA, which controls about half the American cigarette market, had asked the justices to declare the award unconstitutionally excessive and to rule that the company should have been shielded from some of the smoker's claims. The court declined without comment.

The smoker, Richard Boeken, was 57 when he died in 2002, a year after a California jury found Philip Morris guilty of negligence, misrepresentation, fraud and selling a defective product.

The court also refused to consider an appeal from a former Arkansas governor who wanted to withdraw his 1998 guilty plea to tax conspiracy. It was the last remaining appeal in the Whitewater case.

The tax case involving the ex-governor, Jim Guy Tucker, arose during the investigation of Bill Clinton and Hillary Rodham Clinton. An independent counsel spent more than six years investigating the business dealings of the Clintons. In all, 14 people were convicted. Mr. Tucker resigned in 1996 after pleading guilty.

In bringing an appeal to the Supreme Court, Mr. Tucker's lawyer, Jeffrey M. Rosenzweig, said that an appeals court had wrongly denied his client a new hearing on whether his plea was voluntary.

The justices did not comment in refusing to hear the appeal.

Court Debates Use Of Victims' Statements As Evidence (LAT)

By David G. Savage

The Los Angeles Times, March 21, 2006

WASHINGTON — Eight of the nine Supreme Court justices — all but Ruth Bader Ginsburg — sounded today as though they would vote to bar prosecutors from using in court the words of crime victims who spoke to authorities but refused to testify.

Such a ruling would greatly strengthen the constitutional rights of defendants to "be confronted with the witnesses against" them. It would be a major setback for prosecutions in domestic violence and sexual assault cases because frightened victims often refuse to testify against their abusers.

Two years ago, the high court ruled that crime witnesses' sworn statements at a police station could not be used at trial against defendants if the witnesses did not appear in court to be cross-examined.

The court debated today whether to extend that ruling to cover emergency calls to a 911 operator and a victim's statements at a crime scene. The justices heard the appeals of two men who were convicted not on the court testimony of their accusers but on their own words as recorded by a 911 operator and a police officer at the scene.

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"The practical reality is many women are scared to death" to testify against a spouse or partner who abuses them, said Ginsburg, the only woman on the court. In other instances, "they are so desperate financially" that they decide against testifying, she said.

She questioned whether the Constitution should be interpreted as barring prosecutors from using their calls to a 911 line. "This is not just a call. It is a cry for help," Ginsburg said.

Justice Antonin Scalia countered that the use of such statements in place of a witness' testimony in court violated the principle set forth in the 6th Amendment.

"I think the founders believed in a system where the accused had a right to confront his accusers in court," Scalia said. "I can't see why it makes any sense" to allow a taped 911 call to replace a witness' testimony, he said, because defendants then lose the right to contest the statements of their accusers.

In their questions and comments, most of the justices sounded as though they leaned toward Scalia's view. Several said they did not see how they could make a special exception for emergency calls where domestic violence was at issue.

In the first case, Adrian Davis was convicted of violating a restraining order based on an ex-girlfriend's call to a 911 operator near Seattle. She failed to appear at the trial, but the prosecutor played the 911 tape to the jury.

In the second, Hershel Hammon was convicted of domestic battery of his wife Amy based on her initial statement to a police officer who came to their house. She did not testify.

Their lawyers argued that "accusatory statements" to authorities should be barred from trial unless the witness testified. Prosecutors said "emergency" statements to authorities should be allowed, even if the witness did not testify.

Regardless of what the court decides, police officers will remain free to testify about what they see at a crime scene. For example, if police officers observe an apparent crime victim who has been bruised or bloodied, they can testify as a witness to what they have seen.

The justices will vote privately this week on the cases of Davis vs. Washington and Hammon vs. Indiana and issue a ruling by the end of June.

Justices Weigh If Accusers Must Testify In Court (WP)

By Charles Lane

The Washington Post, March 21, 2006

Michelle McCottry and Amy Hammon were both alleged victims of domestic violence. McCottry called 911 to report a beating that her boyfriend had just administered; Hammon gave an account of a fresh attack by her husband to police who came to her home.

McCottry and Hammon did not testify at the men's trials; the state won convictions anyway, based in part on the women's previous statements.

But did those convictions violate the Constitution, which guarantees a defendant the right to confront his accuser in court?

That was the question before the Supreme Court yesterday, as the justices heard oral arguments in two of the most significant criminal cases of this term.

At stake are the rules of evidence that will govern not only many domestic violence prosecutions but also any criminal case in which prosecutors seek to introduce past accusations by people who, whether out of fear or any other reason, cannot or will not repeat their charges in open court.

On one side are McCottry's boyfriend, Adrian Davis of Washington state, and Hammon's husband, Hershel Hammon of Indiana, who say that the Sixth Amendment requires the state to bring its witnesses to court, put them under oath and allow them to be cross-examined. They are supported by briefs from the American Civil Liberties Union, the National Association of Criminal Defense Lawyers and the D.C. Public Defender Service.

On the other side are the states of Indiana and Washington, supported by the Bush administration, 27 other states including Maryland, the National Network to End Domestic Violence and the National District Attorneys Association. Though their arguments vary in emphasis, these parties agree that statements made in the moments surrounding a criminal attack are not testimony and therefore are not covered by the Sixth Amendment.

The cases arise largely because the Supreme Court changed its rules in a 2004 decision. In an opinion written by Justice Antonin Scalia, it barred a statement to police by a wife who would not testify against her husband regarding an alleged assault on a third person. The Sixth Amendment was intended to keep out any previous testimony from a witness unavailable to testify, the court ruled, unless that witness had previously been subject to cross-examination.

Before that, the court had said that an unavailable witness's out-of-court statement could be admissible if a judge found that it fell into one of the exceptions to the rule against hearsay or was otherwise clearly trustworthy.

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Yet federal and state courts have struggled to apply Scalia's ruling in practice, and the court agreed to hear the Washington and Indiana cases to clarify its scope.

The 2004 ruling enjoyed the support of the entire court except Chief Justice William H. Rehnquist and Justice Sandra Day O'Connor, who are no longer sitting.

Still, during the course of an intense two-hour discussion of the two cases, Davis v. Washington , No. 05-5224, and Hammon v. Indiana , No. 05-5705, at least some of the justices seemed concerned about how far to extend the new rule.

Justice Ruth Bader Ginsburg, in particular, seemed worried about the implications for other cases in which women tell police about abuse but then are reluctant to risk a court appearance.

"The practical reality is that many women are scared to death of what will happen to them," she told Davis's attorney, Jeffrey L. Fisher. "So neat legal categories don't really fit the realities of this situation."

Ginsburg repeatedly suggested that the court consider a rule proposed by the Bush administration: that statements made to authorities during "emergencies" be admissible.

But Fisher replied that although he did not want to appear "insensitive," the "Sixth Amendment applies across the board."

The court's newest member, Justice Samuel A. Alito Jr., a former prosecutor, also seemed to lean in favor of the states. He asked lawyers for the defendants questions that implied they were asking for too broad a rule.

"If someone calls and says 'I just saw a blue Toyota with Ohio plates do a hit-and-run,' is that testimony?" he asked at one point.

"Yes," replied Hammon's lawyer, Richard D. Friedman.

But Scalia noted that "it seems to me that there are better ways to solve the problem than to design our whole confrontation-clause jurisprudence based on what happens in spousal abuse cases." The confrontation clause is the part of the Sixth Amendment that guarantees the defendant's right "to be confronted with the witnesses against him."

Decisions in the two cases are expected by July.

Supreme Court Justices Debate Admissibility Of Statements To 911 Operators (AP)

By Toni Locy, The Associated Press

AP, March 21, 2006

The Supreme Court considered Monday whether statements made by victims to 911 operators and police officers at crime scenes should be barred as evidence because they were not made under oath or subjected to cross-examination by a defendant.

In cases from Washington and Indiana, the justices focused on whether the rights of Adrian Davis and Hershel Hammon were violated because their accusers did not testify at their trials.

The issue is significant because the high court's ruling could affect the ability of prosecutors to bring criminal charges -- particularly in domestic violence cases -- when victims or key witnesses are not willing or not available to testify.

Justice Ruth Bader Ginsburg pointed out that "many women in these situations are scared to death" and don't want to testify.

Ginsburg also recalled that "it wasn't so long ago" that police wouldn't bother trying to gather evidence to prosecute cases of domestic abuse.

She worried aloud that if the justices issue a ruling that police consider more trouble than their efforts are worth, officers might wonder why they should bother pursuing domestic violence cases.

Lawyers on all sides of the cases -- as well as the Bush administration -- want the justices to clarify a 2004 decision that barred prosecutors' use of statements from victims or witnesses if a defendant did not have a chance to question them in court.

Justice Antonin Scalia, the author of the 2004 majority ruling, grilled lawyers for Washington and Indiana about a defendant's right to confront his or her accuser.

Scalia worried about what would happen to defendants who were charged with crimes based on "false" statements from witnesses who never testified. And he wondered whether 911 operators, by asking so many questions of victims, aren't being used by police as "a prosecutorial device."

James M. Whisman, senior prosecuting attorney in Seattle, conceded the 911 tape was "powerful" evidence of the abuse victim Michelle McCottry said she endured at Davis' hands.

"Powerful is part of the problem," Scalia said. "To hear her voice on the phone ... it makes it an even more damaging violation" of the defendant's right to confront his accuser.

At Davis' trial, a judge allowed the tape of McCottry's February 2001 emergency call to be admitted into evidence but barred police testimony about what McCottry had said to officers. She disappeared before trial and did not testify despite a subpoena.

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In the other case out of Peru, Ind., Amy Hammon also did not testify. But a judge allowed a police officer to testify that she had told him that her husband, Hershel, had thrown her into the glass panel of a gas heater.

Chief Justice John Roberts appeared to give prosecutors and police the benefit of the doubt in both cases.

Roberts was skeptical when Davis' lawyer suggested that prosecutors, armed with powerful 911 tapes, might keep "bad" witnesses off the stand to win their cases.

And the chief justice said police officers have mixed motives in trying to protect victims and build criminal cases.

Jeffrey L. Fisher, who represents Davis, told the justices it's not always easy to determine when police officers stop protecting victims and when they begin gathering evidence to support criminal charges.

The cases are Davis v. Washington, 05-5224, and Hammon v. Indiana, 05-5705.

Ex-Philippine Leader Say U.S. Bugged Phone (NSDY/AP)

By Jim Gomez, Associated Press Writer

Long Island Newsday, March 21, 2006

MANILA, Philippines -- Former President Joseph Estrada said Tuesday he has been notified by an American court that U.S. authorities bugged his telephone conversations with an FBI analyst accused of revealing U.S. government secrets.

The New Jersey court indicated it had authorized the wiretapping as part of an investigation into Leandro Aragoncillo last year, Estrada said, adding that there was no suggestion he was under investigation.

Estrada, who was toppled by a popular revolt in 2001, previously acknowledged receiving American government assessments of Philippine political events from Aragoncillo, a 21-year Marine veteran who became an FBI intelligence analyst in 2004.

"The notice said that my telephone calls with Aragoncillo were wiretapped," Estrada told The Associated Press in a telephone interview. "The wiretapping was authorized by the court."

Aragoncillo was arrested in the United States last year. He has been charged with conspiring to reveal government secrets, acting as a foreign agent and improperly using FBI computers. Those charges carry a maximum sentence of 25 years.

He has not been charged with espionage, which carries a maximum penalty of capital punishment.

Michael Drewniak, spokesman for the U.S. Attorney's Office in Newark, N.J., has refused to comment on the alleged wiretapping, which was first reported by the Philippine Daily Inquirer, citing government sources.

"Even if that were so, I would not comment on it," Drewniak said last week.

Estrada is under house arrest while on trial for corruption charges.

He has acknowledged speaking by phone with Aragoncillo and receiving U.S. government documents on the political situation in the Philippines. But he has played down their value, saying the assessments were similar to those being reported by Philippine newspapers.

Asked about the wiretapping, Estrada said: "My reaction is nothing, because even before this, I have admitted that I've talked with him ... (and) that those details were nothing more than newspaper accounts of what's happening in the country."

Estrada has insisted that Aragoncillo passed on information to the Philippines not in exchange for money but out of his concern for his impoverished homeland.

Aragoncillo became a naturalized U.S. citizen in 1991. He worked at the White House on the security detail for vice presidents Al Gore and Dick Cheney in 1999-2002 before joining the FBI as a civilian intelligence analyst at Fort Monmouth, N.J.

Estrada said he met Aragoncillo when he visited the United States while he was still president and was introduced to him and other White House staffers of Filipino descent. Their friendship blossomed, with Aragoncillo visiting him at the Malacanang presidential palace and in a hospital where Estrada was once confined.

Washington has invoked its Mutual Legal Assistance Treaty with Manila to get files on a number of Filipinos who might have received information from him, a Philippine investigator has said.

Civil Trial In Sex Assault Likely To Be Ugly (LAT)

By Christopher Goffard, Times Staff Writer

The Los Angeles Times, March 21, 2006

The suit over the O.C. attack targets the three guilty men, the father of one, two investigators and a lawyer who vows victim will 'rue the day.'

Now that a judge has imposed a prison term on the attackers, the sordid, painful four-year-long case involving Gregory Haidl and two co-defendants — and the woman who says they destroyed her — shifts to the civil courtroom, which may prove the ugliest show yet.

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The victim, now 20 and known publicly as Jane Doe, has sued the three young men convicted of sexually assaulting her while a video camera rolled and she lay unconscious on a pool table one July night in 2002. And she is suing Haidl's father, a rich former Orange County assistant sheriff, alleging that he should have known of the drug- and alcohol-fueled parties raging in his Corona del Mar home, where the attack occurred.

But, as part of her $26-million lawsuit, Jane Doe is also targeting others who, she says, subjected her to years of "harassment, intimidation and torture" after the attack itself.

In a rare legal move, her suit names Haidl defense attorney Joseph G. Cavallo and two defense investigators, John Warren and Shawn Smigel. She says the defense staked out her Rancho Cucamonga house, went through her trash, stalked her, improperly obtained her medical records, broadcast her identity and once cornered her in a parking lot while snapping pictures.

"We're taking these people to task about what they did," said Jane Doe's attorney, Sheldon Lodmer. "They crossed the line in terms of appropriate legal defense."

Cavallo said he did nothing improper in trying to defend a client who could have faced life in prison, and characterized the lawsuit as "revenge" for his zealous representation.

"If they think what I did in the criminal case was aggressive, they're attacking me personally now," Cavallo said. "By the time I get done with Jane Doe, the case won't be worth $10. I know more about Jane Doe than her lawyer and her family."

During the criminal trial, Cavallo and other defense attorneys cast her as a would-be porn star who merely faked unconsciousness on the tape, cross-examining her relentlessly and underscoring her earlier sexual behavior. Cavallo, planning to represent himself in the civil trial, said he would question her even more thoroughly, unencumbered by the rape shield law that limits inquiry into her past during a criminal trial.

"Only 10 to 20% of what we had on Jane Doe and her family came out during the criminal case," Cavallo said. "They're going to rue the day they brought me into this case."

Doe's attorney, Lodmer, said he anticipated that Cavallo would attack his client.

"I'm sure he will use this opportunity, and she's ready to stand up to it," Lodmer said. "He can try and do what he wants. He made life miserable for everyone else in this case."

Jane Doe was 16 at the time of the attack, and the three defendants — Haidl, Kyle Nachreiner and Keith Spann — all 17. The videotape, with Haidl running the camera, depicts the boys violating her limp body with a host of objects, including a pool cue, a lighted cigarette and a Snapple bottle. The first trial ended in a deadlock, with jurors leaning toward acquittal. A second jury convicted them of sexual assault, but not rape, and on March 10 a Superior Court Judge sentenced them all to six-year prison terms.

During the sentencing hearing, Jane Doe spoke in detail about how the attack, and its aftermath, caused her life to unravel.

"Before July 5, 2002, I was a normal 16-year-old teenager," she said. "I was outgoing, cheerful, loving, compassionate and trusting." She said she was a straight-A student who was on her high school's volleyball, track and cross-country teams and added she had "an extremely close relationship with my parents."

She said she found out about the attack, which she did not remember, after Newport Beach police informed her father. After Haidl and his co-defendants were arrested, fliers materialized in Jane Doe's neighborhood identifying her as the accuser. She said she fled to another high school, seeking anonymity but said defense investigators tracked her there, stood in the parking lot and screamed out her name.

Now, she said, she possessed "very little self-esteem and I trust no one." Ultimately, according to her lawyer, the trauma of the case drove her to methamphetamine abuse.

The defense has sharply disputed her depiction of the attack's effect on her life, saying she had serious emotional problems long before that summer night in 2002 and a strained relationship with her parents, who viewed her as an "out of control" teenager who left the house without saying where she was going and stayed out all night.

Jane Doe "has been unaffected to a substantial degree as a result of that evening," Cavallo said.

Cavallo said defense investigators did not scream out Jane Doe's name at her new school, as alleged. "Everyone knew who Jane Doe was anyway," Cavallo said. He said investigators were forced to stake out her parents to serve them with court subpoenas.

William Kopeny, an attorney working for Cavallo, said his client's behavior was protected under the doctrine of "litigation privilege," which holds that a lawyer's actions in connection with a court case cannot form the basis of a lawsuit.

"It's a very wide-ranging privilege," Kopeny said.

The criminal convictions of Haidl, Nachreiner and Spann provide a built-in advantage for Jane Doe in the civil arena, at least in the case against them. In civil court, plaintiffs must prove their case by a "preponderance of the evidence," a much lighter burden than the "beyond a reasonable doubt" standard already met in the criminal case.

"The case against the three defendants who were convicted should not be too difficult," said Lodmer, adding that he expected depositions in the case to begin in the next two months. He acknowledged that the case against Cavallo involved far less trodden legal terrain.

"We're not suing [Cavallo] for anything he did or said inside that courtroom," Lodmer said. "We're suing him for what he authorized outside that courtroom."

States Allow Deadly Self-defense (USAT)

By Richard Willing

USA Today, March 21, 2006

A year after Florida became the first state to allow citizens to use deadly force against muggers, carjackers and other attackers, the idea is spreading. South Dakota has enacted a similar law, Indiana Gov. Mitch Daniels plans to sign such a measure today, and 15 other states are considering such proposals.

Dubbed "Stand Your Ground" bills by supporters such as the National Rifle Association, the measures generally grant immunity from prosecution and lawsuits to those who use deadly force to combat any unlawful entry or attack. Several states allow people to use deadly force in their homes against intruders; the new measures represent an expansion of self-defense rights to crimes committed in public.

The NRA and other supporters say the bills are needed in many states that require people under attack in public places to withdraw from the situation, rather than retaliate, unless they can show their lives are in danger. "For someone attacked by criminals to be victimized a second time by a second-guessing legal system is wrong," the NRA's Wayne LaPierre says.

Critics, including the Brady Campaign To Prevent Gun Violence, say the bills encourage vigilantism and would make it more likely that confrontations would turn deadly. Zach Ragbourn of the Brady group says the proposals "are more accurately called 'Shoot First' laws. They allow a person who just feels something bad is going to happen to open fire in public."

The idea that people should use deadly force only to defend their lives is rooted in English common law, author Richard Maxwell Brown says in No Duty To Retreat: Violence and Values in American History and Society. Another common law principle, the "duty to retreat," requires people to avoid potentially deadly confrontations. The principles apply in most states. The duty to retreat generally doesn't apply in a person's home.

LaPierre says the NRA is targeting 29 duty-to-retreat states where people can be prosecuted, sued or both if they don't retreat from criminal attacks.

Ragbourn says the proposals aim to "fix a system that isn't broken. People aren't being thrown into jail for legitimate self-defense. There's no crisis here."

Florida's law could be facing its first test. Donald Montanez, owner of a Tampa towing company, is charged with murder in the shooting of a man whose car was impounded. Prosecutors say Montanez fired as the man drove off without paying a fee. Montanez's attorney, Roger Rigau, says the new law should protect Montanez, who feared being hit by the driver.

CIVIL LAW:

Google's Half Victory (WSJ)

The Wall Street Journal, March 21, 2006

Google won a partial victory against the Justice Department late Friday night when a federal judge ruled that the company would not be compelled to hand over a sample of users' search queries.

As Judge James Ware noted in his 21-page opinion, search strings like "Jessica Simpson" or "nudity" would not, by themselves, impinge on users' privacy. But a random sampling of searches could well pull up less generic queries. To borrow the judge's example, "[user name] third trimester abortion san jose" might well raise privacy concerns -- not to mention the embarrassment from the publication of the "vanity searches" that Google users have been known to perform, every half hour or so, on themselves.

Judge Ware did grant Justice's request for a random sampling of 50,000 of the sites Google indexes for its searches, so both sides ended up with something. But as the judge also noted, the government remains decidedly vague on how it intends to use the data it was seeking from the major search engines in the underlying case, which concerns the 1998 Child Online Protection Act. Justice says the goal is to "assess the amount of harmful material available to minors" on the Internet. But it doesn't take a genius -- or a subpoena -- to figure out that there's lots of that if you look for it.

The real question is whether criminalizing whole categories of speech on the basis of vaguely worded "community standards" is the least restrictive way of protecting children. Friday's ruling doesn't address that, as the underlying case is being

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adjudicated in a different court. But it did establish some limits on what the government can demand from private corporations in seeking to defend this law against a First Amendment challenge. Justice's initial request was for every indexed Web address and two months' worth of search queries. By comparison, what the government will now get looks reasonable indeed.

CIVIL RIGHTS:

Judge Gives Maximum 10-year Sentences To 2 Cuban Smugglers (MH)

By Jay Weaver

The Miami Herald, March 21, 2006

Two Cuban immigrants who captained a smuggling mission that ended with the drowning of a young boy received the maximum prison sentence on Monday -- 10 years.

U.S. District Judge K. Michael Moore hammered the two men after concluding a six-year term proposed under federal sentencing guidelines was not enough punishment for the child's death in the Oct. 13 illegal crossing of the Florida Straits.

A lawyer for both Alexander Gil Rodriguez, 25, and Luis Manuel Taboada-Cabrera, 28, whose relatives sobbed outside the courtroom, said they will appeal the judge's sentences for their alien-smuggling convictions. Attorney Steven Amster said the two Miami men, who were not charged or convicted of causing the death of 6-year-old Julian Villasuso, still faced up to the maximum prison term because his drowning was a factor in the judge's sentencing under advisory guidelines.

"They understand their actions led to this death," Amster said, acknowledging the two men sped off in their go-fast boat when the U.S. Coast Guard tried to stop them. ``But their actions were not so egregious to go above what the sentencing guidelines say."

The two men had reached plea deals in November, expecting to receive lighter sentences. They pleaded guilty to a conspiracy to smuggle 29 Cubans in a 33-foot speedboat that overturned and claimed the life of the boy, who got trapped beneath the capsized vessel.

But Assistant U.S. Attorney Dana Washington said he didn't have enough evidence to charge them with the death of Julian Villasuso.

The boy's death was factored into the sentencing guidelines, doubling the initially proposed prison term from three to six years. But Moore, who as a federal judge has the authority to go higher than those advisory guidelines, didn't believe that penalty was sufficient.

"The question is whether the guidelines adequately take into account the death they caused," Moore said at a hearing in January.

Moore has greater leeway to go above the federal sentencing guidelines. Those guidelines had been mandatory until last year, when the U.S. Supreme Court made them advisory to maintain their constitutionality.

Still, Moore's stiffer sentences for the two Miami men men would undergo intense scrutiny on appeal.

The reason: In 2001, Jorge "Bombino" Aleman was arrested on charges that he organized five smuggling runs between late 1999 and 2001 that ferried more than 100 Cubans to Florida. A January 2001 voyage resulted in the death of Cira Rodriguez, a Cuban who is believed to have died on a small Bahamian cay after smugglers dumped her and the other passengers on the island without food and water.

The following year, U.S. District Judge James Lawrence King sentenced the defendant to life in prison plus five years, overriding the federal sentencing guidelines that called for fewer than 13 years.

Then in 2004, the 11th U.S. Circuit Court of Appeals in Atlanta threw out what was the longest prison term in an alien-smuggling case, ordering that Aleman be sentenced within the federal guidelines.

That ruling came down, however, when the guidelines were still mandatory.

At Monday's sentencing hearing, Taboada-Cabrera apologized to the judge, community and others. "I wish to say I'm really repentant about what happened," he told the judge.

Rodriguez did not say anything in court.

Their attorney said the tragic smuggling trip was not for profit but was rather to bring over their families. Amster said Rodriguez had three family members, including his wife, aboard the speedboat, and that Taboada-Cabrera was supposed to bring his wife and a daughter on the voyage.

Amster also said the U.S. Coast Guard may have played a role in the capsizing of their speedboat that led to the boy's death. Coast Guard officials strongly disagreed.

The alien-smuggling attempt occurred during the early morning of Oct. 13, when Coast Guard officials tracked down a Florida-registered speedboat, carrying the 29 Cubans, about 52 miles south of Key West.

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A chase ensued, as the Coast Guard crew deployed an "entangling device" -- or net -- in front of the speedboat, according to court papers. Finally, the vessel came to a stop. Then, numerous people stood up on board and someone threw an object into the ocean.

"Water immediately began to flow into the stern of the vessel, due to the shift in weight and the excess amount of individuals on board," according to an Immigration and Customs Enforcement affidavit, causing the boat to capsize and the passengers to fall overboard.

Authorities discovered the boy beneath the boat after rescuers pulled to safety the other passengers, including the boy's parents and the smugglers.

Julian's parents and a third passenger with health problems were allowed into the United States. The rest were repatriated to Cuba.

Smugglers Get 10 Years For Child's Death (AP)

By CURT ANDERSON, Associated Press Writer

AP, March 21, 2006

MIAMI — Two men were sentenced Monday to 10 years in prison _ well above federal sentencing guidelines _ for organizing a Cuban immigrant smuggling trip that ended when their speedboat capsized and a 6-year-old boy drowned.

U.S. District Judge K. Michael Moore said he was imposing the long sentence because of a marked increase in dangerous pursuits between U.S. authorities and smugglers on the open ocean. Moore also said the two men should pay an extra penalty for playing a role in the boy's death.

Sentences imposed under federal guidelines are "not providing an adequate deterrent for this kind of criminal conduct," Moore said.

Alexander Gil Rodriguez, 25, and Luis Manuel Taboada Cabrera, 28, had faced a maximum of just under six years in prison under the advisory guidelines, which included an enhancement of 2 1/2 years for the death of 6-year-old Julian Villasuso on Oct. 12, about 45 miles south of Key West.

Their boat carried 29 migrants, including Julian and his parents, and the two smugglers who pleaded guilty in November to migrant smuggling conspiracy charges.

Their attorney, Steven Amster, argued that the lower penalty was sufficient punishment, in part because the smuggling trip was not organized for profit.

Taboada apologized to the judge and accepted responsibility for his actions.

"I want to say that I'm really repentant about what happened," Taboada said in Spanish through an interpreter. Gil did not address the court.

Amster said he would appeal the sentence.

The boy was buried in Florida and his parents were permitted to enter the United States, while the other migrants were returned to Cuba. Under U.S. immigration policy, most Cubans who reach U.S. soil are allowed to remain while those intercepted at sea are normally returned to their homeland.

2 Smugglers Get 10 Years Each In Drowning Death Of 6-year-old Cuban (FLSUNSEN)

By Vanessa Blum, Sun-sentinel.com

South Florida Sun-Sentinel, March 21, 2006

MIAMI -- A federal judge on Monday imposed the harshest possible sentence on two men whose effort to smuggle Cubans into the United States last year ended in the drowning of a young boy.

U.S. District Judge K. Michael Moore sentenced Alexander Gil-Rodriguez and Luis Manuel Taboada Cabrera to 10 years each in prison, the longest terms possible under federal law.

Moore said he was departing from advisory sentencing guidelines, which called for more modest prison terms of 57 to 71 months, because he felt the guidelines did not reflect the severity of the offense and would not deter similar crimes.

Gil Rodriguez, 25, and Taboada Cabrera, 28, pleaded guilty in November 2005 to illegally attempting to bring migrants into the United States.

Their speedboat was detected by the U.S. Coast Guard and capsized in the Florida Straits on Oct. 13, 2005, as the men allegedly tried to evade capture. Julian Villasuso Jr., 6, who was on the boat with his parents, was trapped under the overturned boat and drowned. There were 31 people aboard the 33-foot-long go-fast boat.

Defense attorney Steven Amster argued that the lower penalty was sufficient punishment, in part because the smuggling trip was not organized for profit. In remarks to the judge, Taboada apologized and took responsibility for his actions.

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``I want to say that I'm really repentant about what happened," Taboada said in Spanish through an interpreter. Gil did not address the court.

Amster also suggested that the Coast Guard played a role in the boy's death by casting a net over their boat's engines, causing water to rush over the stern and precipitating the boat's capsizing. There also was a delay in the attempt to rescue Julian after it was realized he was still under the boat.

``The boat had come to a stop. They had given up," Amster said.

But Moore said the smugglers should not expect leniency by attempting to shift blame to the Coast Guard and noted that other migrants on the boat had pleaded with the two smugglers to stop once the chase began.

``It's all too easy while we sit in a courtroom, in a very antiseptic environment, to ignore the dangers and risks these Coast Guard officers take every day," Moore said.

U.S. Attorney R. Alexander Acosta said the strict sentence ``is a reflection of the seriousness of the crime and our resolve to help end this tragic human saga."

The commander of the 7th Coast Guard District, Rear Adm. D. Brian Peterman, said Moore's decision ``sends a clear signal that we will not tolerate smuggling of illegal migrants into the United States."

Amster said he would appeal the sentence, calling it far too harsh for the facts of the case.

The boy was buried in Florida and his parents permitted to enter the United States, while the other migrants were returned to Cuba. Under U.S. immigration policy, most Cubans who reach U.S. soil are allowed to remain while those intercepted at sea are normally returned to their homeland.

The Associated Press contributed to this report.

Attorney Accuses Bay County Of Cover-up In Boot Camp Death (AP)

By BRENT KALLESTAD, Associated Press Writer

AP, March 21, 2006

TALLAHASSEE, Fla. - Bay County authorities are covering up their role in the death of a boy who was punched and kicked by guards at a boot camp, and his relatives want any trial in the case moved to another area to ensure a fair proceeding, the family's attorney said Monday.

Bay County sheriff's spokeswoman Ruth Sasser declined to comment on the cover-up allegations, but said seven drill instructors involved in the altercation and a nurse who witnessed it will be among about 20 people who lose their jobs when the camp closes next month. The closure plans had already been announced.

Ben Crump, the attorney for Martin Lee Anderson's parents, said they were "outraged" because medical examiner Dr. Charles Siebert last week defended his findings that the 14-year-old died from complications of sickle cell trait, a usually harmless blood disorder.

"How could he deny that the beating of Martin did not play some role in his death," Crump told reporters. "How can you say it didn't play a role? It's almost less than intelligent. It's an insult to the family."

Investigators re-examining the death with a second autopsy said last week that Anderson didn't die of natural causes.

Anderson died Jan. 6 after the confrontation at the boot camp in Panama City run by Bay County sheriff's officials. He had been struck, kicked and dragged to the ground by several guards during a half-hour ordeal that was recorded on videotape.

No one has been charged with a crime, but the family has threatened to sue.

"Martin's parents have said it was a cover-up from day one," Crump said. "The law enforcement officials are doing everything they can to make sure nobody is held accountable for the death of their son."

County spokeswoman Catherine Zehner said the sheriff's department has third-party liability insurance, so she doesn't "think the county commission will get embroiled in a lawsuit."

Gov. Jeb Bush has appointed Hillsborough County State Attorney Mark Ober to investigate and he observed the second autopsy done in Tampa. The U.S. Attorney's office in Tallahassee and the Justice Department's Civil Rights Division also have opened an investigation into Anderson's death.

"No peace until justice," said Anderson's mother, Gina Jones.

California Prisons Uneasily Prepare To Desegregate Cells (WSJ)

By Miriam Jordan

The Wall Street Journal, March 21, 2006

CHINO, Calif. -- It's exercise time at the California Institution for Men, and dozens of inmates walk around the track in pairs or small groups -- blacks with blacks, whites with whites, Hispanics with Hispanics.

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Prison culture dictates that inmates stick with their own kind, associating almost exclusively with other inmates from their race or ethnic group, defending them to the death if necessary. And that is why prison officials, inmates and scholars are uneasy as California's prison system prepares to introduce a formal policy desegregating its double cells, after the U.S. Supreme Court ruled last year that prisoners may not be routinely segregated in cells by race. The ruling has ramifications for state correctional systems nationwide.

In 2004, an African-American inmate challenged the California Department of Corrections' unwritten policy of assigning new prisoners and transfers to double cells only with a cellmate of the same race or ethnic group. The corrections department claimed segregated prison cells were necessary to avoid racial violence. Unswayed, the high court last year refused to strike down the inmate's challenge. California's new policy, which officials expect to implement over the next 2½ years, is the result of a settlement of that case.

California's prison population is combustible, divided roughly evenly among three groups: 38% of inmates are Hispanic, 29% are black and 27% white. Recent race-related prison violence in Southern California has focused concerns about thrusting inmates together in biracial cells. For more than a month now, clashes of black and Latino prisoners have gripped Los Angeles county jails, resulting in two deaths and more than 100 injuries. In October, a Hispanic inmate at Chino died from head injuries inflicted in a riot last summer.

Critics of the new policy say the purpose of segregated cells is to keep prisons peaceful and safe, not to discriminate. "You must give broad latitude to the prison administrator," says Joseph McNamara, former police chief of San Jose, Calif., and a research fellow at Stanford University's Hoover Institution. "If not, you let slaughtering happen."

California's prison system, at present still operating largely under the old policy, uses ethnicity as the main criteria when assigning higher-threat inmates to double cells. Racial segregation doesn't apply at mealtimes, in classes or in dormitories where low-risk felons are housed. Prisoners, however, say they live along self-imposed racial divides all day. "It's an unwritten rule," says Reginald Scott, a black inmate in Chino since 1998, who was at his job typing up inmate infractions in a small administrative room. "You don't have coffee with a white or Hispanic guy. You don't trade food, property or anything with someone of a different race."

Criminal-justice scholars say it is impossible to get a clear picture of prison-cell integration across the U.S. because practices vary widely from facility to facility. One national survey of prison wardens in 2000, led by Martha Henderson, now an assistant professor at Southern Illinois University, Carbondale, found only 30% of multiple-occupant cells were integrated. Federal prisons are forbidden under regulations to segregate based on race; California is one of the few state systems to acknowledge the practice.

Under the new California policy, new prisoners will be assigned to "the next available and appropriate cell," without regard for ethnicity. "We are not preparing [offenders] for their return to society if we continue to allow them to be segregated in our housing," said John Dovey, the corrections department's director of adult institutions who is overseeing the new policy.

Academic researchers say racial tension is usually engineered by a small group of inmates. Prisoners say when tensions explode it is almost impossible to stay neutral. "If you run away, your own people deal with you later," says Joe Rodriguez, a Hispanic inmate at the Chino prison. "Once you're in jail, everything becomes racial."

Gangs defined by race -- the Mexican Mafia, the Black Guerilla Family, the Nazi Low Riders and others -- permeate inmate life in California prisons. At Chino, a low- and medium-security facility, inmates working as gardeners and handymen sport gang acronyms tattooed to the backs of their heads.

Lt. Tim Shirlock, an official at the Chino facility who has worked in the state correctional system for 27 years, says the prison staff is "apprehensive" about the desegregation policy. Noting recent instances of racial violence on streets, schools and workplaces in Los Angeles, he says, "If they can't get along in society, you have to wonder whether they will get along here."

Prison systems in Texas and Oklahoma introduced policies to integrate cells in the 1990s. A 2002 study by two Dallas researchers found that Texas' new policy, rather than fueling violence, actually had the opposite effect. Violence in Texas prisons with integrated cells was slightly less likely than in facilities with segregated cells, researchers Chad Trulson, of the University of North Texas, and James Marquart, of the University of Texas, found.

Supporters of desegregation say it is the correctional system's responsibility to foster better relations among inmates. "You want to de-emphasize race, not give power to the instinct to use race," says Margo Schlanger, a professor of law at Washington University in St. Louis, who specializes in incarceration litigation.

Justice Sandra Day O'Connor, writing for the majority in the California ruling, invoked the landmark 1954 Brown v. Board of Education decision that rejected the idea of "separate but equal." "Indeed," she added, "by insisting that inmates be housed only with other inmates of the same race, it is possible that prison officials will breed further hostility among prisoners and reinforce racial and ethnic divisions."

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Today, some two-thirds of Texas' prison cells house inmates of different races. "Many of us had real concern about what would happen" when cells were integrated, says Doug Dretke, Texas' director of correctional institutions. The concerns proved unfounded, he says, adding that less than 1% of Texas inmates today are "racially restricted."

California, though, faces especially high obstacles. Financial cutbacks and a fast-growing inmate population now approaching 170,000 have made it a struggle for the system to house felons and retain staff. The California Institute for Men in Chino houses 6,500 felons -- more than double its capacity. On a recent Wednesday morning, eight correctional officers were guarding about 500 inmates on the yard, a ratio that isn't unusual, says Terry Thornton, a communications official for the California corrections department.

California is creating a desegregation program using Texas as a model. It involves educating prison officers and prisoners and a screening process to weed out inmates whose criminal record or prison history would make them a bad risk for a multiracial cell. One California facility is testing a behavior-modification program that would deny privileges to inmates who undermine the program.

At least some prisoners are prepared to give co-existing a try. "California has let inmates dictate how they should live" for too long, says Franklin Porter, a 45-year-old black inmate. "If they're integrating in other states, it can work here."

Geico's Risk Criteria Challenged (WP)

By Albert B. Crenshaw And Caroline E. Mayer

The Washington Post, March 21, 2006

According to an internal Geico document, the auto insurer uses drivers' levels of education and occupations in setting insurance rates.

As a result, Consumer Federation of America argued, blue-collar workers with relatively low levels of education sometimes are charged almost twice as much as better-educated professionals, based on those criteria.

Geico said in a statement that it uses many factors in setting rates and that allegations that education and occupation are being used as the sole criterion are "absolutely untrue."

The document cited by the consumer group and a Geico competitor raises long-standing questions about which criteria insurance companies may use as proper gauges of risk and which improperly discriminate against poor people and minorities.

Insurers, consumer advocates, regulators and politicians have been struggling for years over such issues, including the use of credit scores in assessing risk. The use of credit scores is permissible in about 30 states but continues to be debated.

Yesterday, CFA called on insurance regulators to bar insurers from basing decisions on whether to sell insurance to someone and what rates to charge solely on the applicant's education and income, calling the practice "an underwriting sleight of hand" to avoid existing prohibitions on using race and other criteria.

"No single criterion is ever used to determine a customer's rate," Geico said in a statement late yesterday. "Persons of all educational levels and occupations are offered insurance at our best rate based on a variety of criteria. Income or race based criteria never has a role in underwriting or pricing. These allegations are patently false and intentionally divisive."

The consumer group was joined by New Jersey Citizens United Reciprocal Exchange, a nonprofit insurer and Geico competitor in that state. They based their call for regulatory action on an internal Geico document filed with regulators in New Jersey, which makes more documents public than other states. The document included a guide used by Geico's underwriters to decide which of the company's four subsidiary companies will insure an applicant and to determine what price an applicant will be offered.

The guide, in addition to listing factors such as driving history, age, mileage and vehicle type, includes a section dividing drivers into eight groups based on their education and occupation. Considered "more favorable" are professionals with college degrees and graduate students. "Least favorable" are "minimally skilled clerks, assistants, stock clerks and postal clerks," as well as long-haul drivers and "unskilled and semiskilled blue and gray collar workers."

"Educational attainment and occupation are directly linked to income, which cannot be used in determining insurance eligibility or rates because of its serious adverse impact on lower-income and minority consumers," said J. Robert Hunter, CFA's director of insurance and a former Texas insurance commissioner. According to the U.S. Census Bureau, 89.4 percent of non-Hispanic whites 25 and older held a high school diploma in 2003. By comparison, 80 percent of blacks and 57 percent of Hispanics were high school graduates.

CFA said it sought rate quotations from Geico's Web site for motorists in locations in all 50 states and the District, entering data for drivers who were identical except for education and occupation. The experiment produced higher rates for the blue-collar driver in all but six locations (one of which was Fairfax County).

The differences ranged from 11.12 percent in Chicago to 124.72 percent in New Orleans.

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Geico, which has been vigorously advertising low prices, said, "Every criterion, including occupation and education, used by Geico reflects its actual loss experience nationwide over many decades. Geico has justified its use of these criteria with insurance regulators throughout the country for many years."

Geico, the nation's fourth-largest car insurance company, is a subsidiary of Berkshire Hathaway Inc.

Former D.C. insurance commissioner Lawrence H. Mirel, now at Wiley Rein & Fielding here, said carriers constantly seek to find ways to assess risk accurately.

"The heart of insurance is underwriting. You want to make the best prediction you can about who is going to have a claim, and if you're good about that you make money, if not you lose money," he said.

Some other carriers said they use education or occupation along with other criteria, while others said they do not.

Industry officials said that auto insurance is both tightly regulated and highly competitive, so that practices that have a pernicious impact are likely to be stopped, and in any case, with hundreds of carriers in the market, motorists have plenty of places to shop.

"Automobile insurance is a highly competitive market where consumers who don't want to deal with a company for whatever reason have lots of other companies to choose from," said David Snyder, vice president and assistant general counsel at the American Insurance Association, a trade group in the District.

State Farm, the nation's largest auto insurer, does not use occupation and education to determine rates. "We are always looking at variables so we can price our product as accurately as we can, but at the moment those two are not among the ones we are using," said company spokesman Dick Luedke. "To the extent that companies are using different variables, that's good news to the consumers."

Allstate doesn't ask prospective customers about their education, but it does consider occupational discounts in several states. Actuaries, architects, editors, legislators, mail carriers and speech therapists, for example, receive a 10 percent discount while carpenters, clergy, insurance adjusters, plumbers, police officers, teachers, and locksmiths get a 5 percent reduction in their rates.

"Our data shows that these professions incur fewer losses" and the discounts are an innovative way to provide consumers with competitively priced insurance coverage, said spokesman Mike Siemienas.

For Liberty Mutual Group, occupation is a factor in setting rates in some states, said spokesman Glenn Greenberg. "We use no single criterion to determine the price," and any data used are based on "the likelihood of risk," Greenberg said.

ANTITRUST:

AT&T's Merger With BellSouth Not Viewed As Positive For Small Businesses, Poll Shows (SABIZ)

San Antonio Business Journal, March 21, 2006

AT&T Inc.'s plan to merge with BellSouth Corp. is seen as a development that will not work in favor of San Antonio's small-business community, according to the majority of individuals who participated in an online Business Pulse poll.

Slightly more than half of the San Antonio Business Journal readers who responded to the survey say San Antonio-based AT&T's (NYSE: T) planned $67 billion stock merger with BellSouth (NYSE: BLS) in Atlanta will lead to less competition in the marketplace, rising prices, less technological innovation and poor customer service.

(The online poll is not scientific and the results represent only a snap shot of some readers' opinions.)

AT&T officials, however, disagree with the negative assessments of the merger and have long maintained that there is sufficient competition in the marketplace as evidenced by the full slate of services offered by cable, wireless carriers and competing local phone companies.

In 1984, the courts broke up AT&T Corp. into a long-distance company and seven regional Bell operating companies: Southwestern Bell, Pacific Telesis, Ameritech, BellSouth, U.S. West, NYNEX and Bell Atlantic.

Since then, Southwestern Bell -- which changed its name to SBC Communications Inc. -- undertook an acquisition strategy to acquire fellow Bells Pacific Telesis and Ameritech and former parent company AT&T Corp. SBC officially changed its name to AT&T on Nov. 18, 2005, and is aggressively re-branding itself as the new AT&T.

By merging with BellSouth, a number of online participants of the Business Pulse survey said AT&T's plan is tantamount to the re-monopolization of the former Ma Bell.

Several survey participants attributed the overall growth in technological innovation the telecommunications industry is enjoying today to the break up of the old monopoly and the resulting competition. If AT&T is allowed to proceed with the merger, it could stifle healthy competition, one survey participant said.

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The merger still needs shareholder and regulatory approval in five states and with the Justice Department and Federal Communications Commission.

About 41 percent of those who participated in the survey said the merger would be a positive development for the small-business community. Many said that AT&T's move is simply a response to the overall consolidation in the telecommunications industry.

About 8 percent of those responding to the poll were undecided.

UPDATE: Proxy Adviser Backs Boston Sci, Guidant Deal (DOW)

By Jon Kamp, Of DOW JONES NEWSWIRES

Dow Jones, March 21, 2006

Shareholders of Boston Scientific Corp. (BSX) (BSX) and Guidant Corp. (GDT) (GDT) should approve the consolidation of the two companies in votes scheduled for March 31, according to Institutional Shareholder Services, an influential proxy advisory firm.

In reports recently directed to shareholders of each company, ISS said "the acquisition of GDT will allow BSX to diversify its product offerings, adding defibrillators and pacemakers, and should ameliorate some of the concerns regarding future growth."

On Jan. 25, Boston Scientific (BSX) and Guidant (GDT) announced a merger agreement, under which Boston Scientific (BSX) will buy Guidant (GDT) for a combination of cash and stock worth about $27 billion. The deal is valued at $80 a share to Guidant (GDT)shareholders as long as Boston Scientific (BSX) shares close within a $22.62-$28.86 collar over a certain period prior to the deal's closing.

So far, Boston Scientific's (BSX) closing price has largely remained within that range. Boston Scientific (BSX) recently traded at $23.28, up 66 cents, or 2.9%.

Guidant's (GDT) shares recently traded at $78.69, up 81 cents from Friday's close, and hit a 52-week high of $78.74 earlier in the session. The stock hit its previous 52-week high of $77.95 during Friday's session.

ISS published its reports Thursday, and the two medical-device makers noted the positive reviews in a joint press release Monday.

Jim Tobin, Boston Scientific's (BSX) chief executive, repeated that the acquisition is expected to close in the first week of April. In a recent filing with the U.S. Securities and Exchange Commission, Boston Scientific (BSX) said it anticipates antitrust approval for the deal that week.

Guidant (GDT) and Boston Scientific (BSX) are each holding separate shareholder meetings for a vote on the deal at 10:00 a.m. EST on March 31. Guidant (GDT) will hold its meeting at its corporate headquarters in Indianapolis, and Natick, Mass-based Boston Scientific (BSX) will hold its meeting in Boston.

ISS noted that it will take a majority vote from holders of each company to clear the deal. Boston Scientific (BSX) has a head start as major shareholders Pete Nicholas and John Abele, who founded and own roughly 30% of the company, have already entered into voting agreement with Guidant (GDT) through which they have agreed to back the deal.

Boston Scientific's (BSX) major product is its Taxus drug-coated stent, a tiny device used to prop open arteries. Though Taxus is the top-seller in the more than $5 billion market, growth in the overall segment is leveling off. Guidant (GDT)had notable troubles last year with its heart-rhythm devices, including several recalls and problems linked to multiple deaths, but the heart-rhythm segment is still expected to expand rapidly.

Larry Best, Boston Scientific's (BSX) chief financial officer, recently said the company expects to rebuild Guidant's (GDT) position in the business.

-By Jon Kamp, Dow Jones Newswires; 312-750-4129; jon.kamp@dowjones.com

(Jennifer Tershak in New York contributed to this report.)

Lucent Gets Antitrust Clearance To Buy Riverstone Operations (DOW)

Dow Jones, March 21, 2006

WASHINGTON -(Dow Jones)- Lucent Technologies Inc. (LU) (LU) received antitrust clearance from the Federal Trade Commission to buy the business operations of Riverstone Networks Inc. (RSTNE) (RSTNE) for $170 million in cash.

The FTC said Monday that on Friday it granted Lucent early termination of the waiting period required under the Hart-Scott-Rodino Antitrust Improvements Act.

Lucent has said the acquisition would complement its broadband, data and optical-networking products. The transaction is subject to bankruptcy court approval and other conditions.

Riverstone Networks (RSTNE) said in a press release Friday it received a $178-million offer from the U.S. unit of Swedish telecommunications giant LM Ericsson (ERICY) to purchase substantially all of Riverstone's assets.

Riverstone said it was reviewing Ericsson's bid.

An auction for the sale of Riverstone's assets is scheduled for Monday. The deadline for bids was Thursday.

Riverstone, Santa Clara, Calif., makes ethernet routers for the telecommunications industry. The company filed for Chapter 11 bankruptcy protection Feb. 7, listing assets of $98.3 million and debt of $130 million.

At that time, Riverstone agreed to sell its assets to Lucent, a telecommunications equipment manufacturer based in Murray Hill, N.J., for $170 million, subject to higher offers.

Lucent's shares recently fell 3.8% to $2.79, after a Barron's report criticized the company's dwindling business prospects.

-By Ingrid Pedrick Lehrfeld, Dow Jones Newswires; 202-862-1361

Counter-bid Likely For Prudential (FT)

By Andrea Felsted

Financial Times, March 21, 2006

Investors were braced for a counter-bid for Prudential, Britain's second biggest life assurer, after its shares rose 5 per cent above the offer price proposed by Aviva.

Shares in Prudential rose 11 per cent to 743½p, ahead of the 706p proposed by Aviva in its all-share offer which, valuing Prudential at £16.8bn

"The share price is telling you that the market is expecting a counter-bid," said Roman Cizdyn, an analyst at Oriel Securities. "As we sit where we are now, Aviva is not likely to succeed. The price is telling you that."

However, Richard Harvey, chief executive of Aviva, said a counterbid was "unlikely" and that consequently, Aviva was not expected to make a hostile offer.

"I think it's unlikely that someone else would come in and that is why we are expecting to proceed on a recommended basis," Mr Harvey said.

France's Axa is seen as the most likely counter-bidder for Prudential, but some analysts said that it had been reluctant to become involved in contested bid situations in the past.

Mr Cizdyn said that Aviva, by showing its hand and admitting that it needed more growth opportunities, had also put itself into play.

Expectations of a counterbid come as Prudential shareholders are set to put pressure on Mark Tucker, chief executive, and Sir David Clementi, chairman, to explain why it would not enter discussions with Aviva.

"We need a robust defence case, which is quantified, as to why they are turning down a 700p-plus offer," said one Prudential shareholder.

One top-30 shareholder said he would be asking Prudential to justify why it would not enter into dialogue with Aviva, but the outcome would depend on the bigger shareholders.

Mr Harvey played down the prospects of Aviva raising its offer, or adding a cash component. "I don't think there is a lot [of sense in] moving cash out of the group that you are expecting to grow very strongly," he said.

The comments came as Prudential reaffirmed its rejection of Aviva's proposed offer.

It followed a statement from Aviva detailing its proposal. The group said that, under the terms of the proposal, Prudential shareholders would receive 82 new Aviva shares for every 100 Prudential shares held. It also expected to generate annual cost savings of £320m before tax by 2009, at a one-off cost to shareholders of £480m.

Aviva also said it would be able to boost Prudential's dividend by the combined group adopting Aviva's dividend policy.

It added that Mr Harvey would be chief executive of the combined group with the rest of the board drawn from both organisations.

However, Mr Harvey refused to comment specifically on whether there would be a role for Mr Tucker.

Aviva CEO Plans To Woo Prudential PLC Investors To Back Takeover Offer (WSJ)

By Charles Fleming

The Wall Street Journal, March 21, 2006

Insisting his takeover intentions remain friendly, Richard Harvey, chief executive of the United Kingdom's largest insurer, Aviva PLC, said he would take his case for a merger with fellow U.K. insurer Prudential PLC directly to shareholders, overriding Prudential managers' rejection of his unsolicited £17.1 billion (€24.63 billion or $30.04 billion) takeover offer.

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"My door is open to shareholders," Mr. Harvey said in an interview. He said the two companies have many shareholders in common and that Aviva's investor-relations team is currently working the telephones to explain Aviva's position to investors. "I expect them to arrange a number of rendezvous for me [with shareholders] in the coming weeks,' Mr. Harvey said.

Prudential, which isn't related to the U.S. insurance company of the same name, repeated Monday its opposition to Aviva's proposal. Prudential Chairman David Clementi said in a statement that Prudential's potential as a stand-alone company was "tremendous and distinctive" and that a combination with Aviva would dilute the benefits of its growth. Prudential Chief Executive Mark Tucker was unavailable for comment, a Prudential spokesman said.

Aviva sent its offer to Prudential management last Thursday, suggesting a merger of the two companies in an all-share transaction valuing Prudential at 708 pence a share. Mr. Harvey said Monday that he had gone public with the terms of the offer, not as a hostile gesture but so that shareholders could assess the proposal on an informed basis. He also said the U.K. Takeover Panel would have required the information to be made public following Prudential's public statements over the weekend.

Mr. Harvey said Aviva wasn't considering raising its offer, but Prudential shares soared Monday on expectations that a higher offer would follow, either from Aviva or another as-yet undeclared bidder. Prudential shares were trading more than 12% higher at 747.50 pence in London Monday afternoon.

Mr. Harvey acknowledged as modest Aviva's estimates of £320 million in annual cost savings if the two groups merged. But he said there were stronger arguments for the transaction. He specified the need to match the global reach of Aviva's two main European rivals, AXA SA of France and Allianz AG of Germany, both of which have built up a strong U.S. presence as well as broad European operations.

"You don't just do this to save money. Look at the way the market values AXA and Allianz and their global footprint," he said, saying he was seeking to build "a must-hold world-wide company." Aviva's insurance business is focused on the U.K. and Europe, while Prudential has operations in the U.K., the U.S. and across Asia.

Aviva, shares of which were down slightly at 848.63 pence in London Monday afternoon, currently trades at 11.42 times its estimated 2006 earnings, slightly under AXA's current price-to-earnings ratio of 12.85 but above Allianz's 11.25. Prudential's current price-to-earnings ratio is 14.61 times its 2006 estimated earnings.

Belgium To Seek Concessions On GDF-Suez (AP)

AP, March 21, 2006

PARIS - Belgian Prime Minister Guy Verhofstadt said Monday he plans to hold talks to seek concessions on the French government-backed plan for Gaz de France SA to acquire French utility company Suez SA.

Speaking after a meeting with President Jacques Chirac in Paris, Verhofstadt said he had told the French leader that a GDF-Suez deal should not prevent Belgium from opening its gas and electricity markets to more competition.

Verhofstadt also said the two Paris-based companies would likely have to sell assets in order to meet that requirement.

The GDF-Suez deal was announced by the French government last month just days after Italian power company Enel SPA said it might launch a takeover bid for Suez.

Suez owns Electrabel, the Belgium's largest power company, and GDF holds a sizable stake in its nearest domestic rival, SPE.

Verhofstadt said last week that it would be unacceptable for one company to control 90 percent of his country's electricity market. The Belgian energy regulator is also concerned about the country's nuclear plants coming under French control, according to press reports.

A final deal might have to include "a sell-off of assets in the nuclear domain," Verhofstadt said Monday, adding that his government was seeking to "open the electricity and gas markets in Belgium and to have several operators, as is already the case in telecommunications."

The CEOs of GDF and Suez, Jean-Francois Cirelli and Gerard Mestrallet, met EU Competition Commissioner Neelie Kroes on Monday to discuss antitrust concerns over the planned deal.

Mestrallet said afterward that he and Cirelli had presented the plan at a "very constructive" first meeting, refusing to be drawn on likely concessions.

But Suez spokesman Guy Dellicour said the company does not expect the selloffs required to go beyond an existing agreement to sell three sites, effectively opening 25 percent of the Belgian power market to competition.

Verhofstadt, who will meet the GDF and Suez bosses on Tuesday and Wednesday, has already said more electricity businesses will have to be sold for the deal to go through.

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Enel CEO Fulvio Conti is also set to meet Tuesday with the EU's Kroes, who cautioned earlier this month that energy deals will receive close antitrust scrutiny. The EU executive has for years been pressing stragglers in energy liberalization, including Belgium and France, to open their electricity and gas markets.

FCC Deregulates Verizon's Big-Business Market (WSJ)

By Amy Schatz

The Wall Street Journal, March 21, 2006

WASHINGTON -- Verizon Communications Inc. got a boost in the big-business market as federal regulators agreed to deregulate its high-volume data lines for its largest corporate customers.

The decision by the Federal Communications Commission essentially lifts price controls and possibly reverses some conditions imposed on the New York telecommunications company last year during its acquisition of MCI Inc. It also gives Verizon pricing flexibility for lucrative high-volume services sold to major corporations, although regulations may continue to stay in effect for smaller business customers.

The action signaled the FCC's willingness to expand phone companies' control over high-speed Internet lines to cover the large corporate market as well as residential customers.

But by granting Verizon's request without guidance, the FCC prompted confusion in the industry Monday. The action could lead to legal challenges by smaller competitors, particularly companies that resell high-volume services, such as Internet access, to small businesses. Also, other phone companies are likely to file requests for similar relief with the FCC.

"It's the most lucrative market today, and this ensures Verizon remains dominant in its territory," said Jessica Zufolo, a telecom analyst for Medley Global Advisors.

Verizon Monday said in a statement it appreciated the FCC's actions. In December 2004, the company asked the FCC to ease rules on data pipes used by its enterprise customers, freeing it from common-carrier obligations, notably rules guaranteeing access at "just and reasonable" rates. The FCC lifted similar rules last year on residential high-speed Internet lines. The change frees Verizon from a variety of rules, including requirements to interconnect with other providers or contribute to the Universal Service Fund, which subsidizes phone services for low-income residents and rural communities.

FCC Chairman Kevin Martin has supported giving the Bells more control over data lines, saying it will encourage investment and the spread of high-speed Internet access. He asked the commission's other members to approve Verizon's request last month, but the effort failed after the FCC's two Democrats voted against the measure, saying it would restrict competition in the enterprise market.

"Like everyone else, it puts us at the mercy of Verizon. If we pay them enough money, I guess we'll get service," said Earl Comstock, chief executive of Comptel, an association of smaller phone companies that compete with the Bells.

The Verizon proposal went into effect Sunday night because an FCC rule grants petitions automatically if the commission doesn't respond. Commissioner Michael Copps, one of the panel's two Democrats, said the decision "erases decades of communications policy in a single stroke. In effect, we provide industry the pen and give it the go-ahead to rewrite the law."

The decision to grant Verizon's request without FCC guidance could prove problematic since the original request was somewhat broad. It is also unclear if the decision only applies to Verizon or all carriers who provide such services. AT&T Inc. said in a statement it was evaluating the decision, but believes it "should apply to all market players."

And it is unclear which obligations Verizon still has on its high-volume lines. For example, rules requiring telecom companies to cooperate with law enforcement on wiretapping and other electronic surveillance may no longer apply. Mr. Martin is already planning to circulate an order to reimpose Universal Service Fund obligations, FCC officials said Monday. The action may also effectively undo some conditions imposed on Verizon last year in its acquisition of MCI, such as requiring it to lease access to high-volume lines to competitors along with a limited price freeze on rates.

Kerzner Agrees To Buyout Offer Topping $3 Billion (WSJ)

By Peter Sanders

The Wall Street Journal, March 21, 2006

Casino operator Kerzner International Ltd. agreed to be acquired by a consortium of private-equity concerns for $3 billion in cash plus the assumption of $599 million in debt.

The consortium, including Kerzner Chairman Sol Kerzner and his son, Butch Kerzner, the company's chief executive, agreed to pay $76 a share for the Bahamas-based casino company, an 8% premium to the stock's Friday closing price. The company operates its flagship Atlantis properties in the Bahamas and soon in Dubai, as well as the ultraluxury "One&Only" hotels in exotic destinations around the world. Kerzner International also receives income from the Mohegan Sun tribal casino in Connecticut, which it developed, and has a large casino at its Atlantis property in the Bahamas.

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If successful in their buyout attempt, the Kerzners would see their ownership stake rise to about 25% from about 10%, Butch Kerzner said in an interview. Kerzner officials insist they "will actively solicit superior proposals during the next 45 days," but the proposed deal represents a multiple of about 19 times last year's earnings, according to a person familiar with the situation. "On a multiple basis, this is a rich price," that person says.

Butch Kerzner, 42 years old, said that, to be completely forthright with investors, the company will entertain other offers at a higher price by conducting a "full auction" during the next 45 days. He added that "in certain circumstances, we would vote our shares in favor if there is a higher offer." But he expects the buyout to go through and "looking at the horizon, we want it not just to be an investment, but my father and I want to have a strategic stake in what we want to do."

Another person familiar with the situation said two of the four members of a special committee formed to examine the proposed deal are shareholders with a combined 14% of the stock. That person said both members have agreed to sell their positions at the proposed price.

If completed, the deal is expected to close sometime later this year. Investors reacted positively to the news, driving the stock up 13%, or $9.07, to $79.43, above the $76 offer price, in 4 p.m. composite trading yesterday on the New York Stock Exchange.

Private-equity partners in the deal include major shareholder Istithmar, a closely held entity controlled by the government of Dubai that already owns about 12.3% of the company; Colony Capital LLC; Whitehall Street Global Real Estate Ltd.; Providence Equity Partners Inc. and The Related Companies L.P.

The proposed deal is another in a frenzy of activity focused on the hotel and casino industry. Last week, casino operator Aztar Corp. agreed to be acquired by rival operator Pinnacle Entertainment Inc. for about $1.45 billion. Last month, Hilton Hotels Corp. completed its roughly $5.7 billion acquisition of its international counterpart.

And in January, Fairmont Hotels & Resorts Inc. agreed to be acquired by a Canadian company and Colony Capital for about $3.3 billion. But the proposed deal would be the first in recent memory that would see a hotel company taken private.

Mr. Kerzner insists it will be "business as usual" for his company, which competes at the high end in both the casino and hotel world with major players such as Harrah's Entertainment Inc. MGM Mirage, Starwood Hotels & Resorts Worldwide Inc., Marriott International Inc. and others.

"We're not looking at this as a typical leveraged buyout," Mr. Kerzner said. "We've grown this company over time, and we will be investing more money in the business, not stripping out cash."

In 2004, 81% of Kerzner's revenue came from its megaresort in the Bahamas. Last year, the company pushed forward with a major expansion of its Atlantis property in the Bahamas, which will compete with a newly announced project by Harrah's and Starwood slated for a site nearby. The company is in the continuing race to secure one of two new casino licenses in Singapore, which would see the winner build a multibillion-dollar resort destination there in the coming years.

France Drafts Copyright Law To Open Up ITunes (FT)

By Tom Braithwaite

Financial Times, March 21, 2006

Apple Computer could on Tuesday be forced to open up its digital music business to competitors after a vote in the French parliament.

The owner of iTunes, the online music store, and the iPod digital music player, will have to choose between making downloaded music compatible with rival platforms or pulling out of France if, as expected, the parliament in Paris approves a draft copyright law.

Software in digital downloads from iTunes prevents music being played by any rival to the popular iPod, but the French bill seeks to impose “interoperability” on online music stores and break Apple’s closed system.

“It is unacceptable that . . . the key should be controlled by a monopoly. France is against monopolies,” said Martin Rogard, an adviser at the French Culture Ministry. “The consumer must be able to listen to the music they have bought on no matter what platform.”

Mr Rogard said it was “desirable” that France led in this respect, but hoped that it was the start of a Europe-wide move to open up digital music.

Competitors such as Sony and Microsoft would also have to comply with the legislation, but some rivals see it as a chance to break Apple’s grip on the online music market. Steve Jobs, Apple’s chief executive, has said that 3m songs a day are sold on iTunes. The website has more than 70 per cent of paid digital downloads in some markets.

“The French seem to be leading the way in being a little bit more anarchic and taking a stand,” said Rudy Tambala, head of Virgin Digital, a UK-based online music store. “[Apple made] a smart move. They’ve created the market and they’ve dominated it.”

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However, others in the IT industry said forcing Apple to admit competitors to a new market it was instrumental in creating sent the wrong signal to technology companies. CompTIA, a trade association, said the law was the latest in a series of measures in the European Union that were “punishing inventors and stifling innovation”.

The draft copyright law, which implements an EU directive on intellectual property, has already been the source of controversy. Record companies and artists were enraged last year when an ad hoc coalition of MPs succeeded in pushing through a parliamentary amendment that legalised peer-to-peer file-sharing.

The government overturned the amendment but has bowed to pressure from consumers groups to open up the market for digital music. The government has also reduced the fines for illegally downloading music to a mere €38 ($46, £26).

Apple said it was waiting for the law to be passed before making any comment.

Justices Reach Out To Consider Patent Case (NYT)

By Andrew Pollack

The New York Times, March 20, 2006

For the first time in a quarter-century, the Supreme Court will hear on Tuesday a case involving the basic question of what type of discoveries and inventions can be patented.

Both sides say the case, which involves a blood test for a vitamin deficiency, could have a wide-ranging impact on the development of diagnostics, perhaps threatening many of the underlying patents for genetic and other medical tests.

But the array of companies filing supporting briefs — including American Express, Bear Stearns and I.B.M. — indicates that intellectual property in other fields might also be affected.

Some patent specialists say they think the Supreme Court agreed to hear the case, against the advice of the United States solicitor general, to rein in patenting.

"The Supreme Court reached out and grabbed this case," said Edward R. Reines, a patent attorney at Weil, Gotshal & Manges who is not involved in the case. "These circumstances suggest that some members of the court believe there are too many patents in areas where there should be none."

At issue is whether relationships between a substance in the human body and a disease — for example, the familiar association between high cholesterol and a higher risk of heart attacks — can be the basis of a patent, or whether such relationships are unpatentable natural phenomena.

This case, LabCorp v. Metabolite Laboratories, stems from a 1990 patent awarded to scientists at the University of Colorado and Columbia University. They found that a high level in the blood of homocysteine, an amino acid, indicated a deficiency of either vitamin B12 or another B vitamin called folic acid.

Much of the patent describes a specific way to measure homocysteine, and those claims are not at issue. But the 13th claim of the patent is more general: it covers a way of determining vitamin deficiency by first testing blood or urine for homocysteine by any means and then correlating elevated levels with a vitamin deficiency.

The patent is owned by Competitive Technologies, a publicly traded patent management firm in Fairfield, Conn., and licensed to Metabolite Laboratories, a tiny company based at the University of Colorado. LabCorp, one of the biggest clinical testing companies in the nation, with 2005 revenues of $3.3 billion, sublicensed the test from Metabolite.

At first, LabCorp, whose full name is Laboratory Corporation of America Holdings, tested for homocysteine using the specific method described in the patent and paid royalties to Metabolite and Competitive Technologies. But in 1998 it switched to a newer and faster test developed by Abbott Laboratories.

Metabolite and Competitive sued, charging LabCorp with violating Claim 13 of the patent. In 2001 a federal jury in Denver ruled against LabCorp, and the company was eventually ordered to pay $7.8 million in damages and attorneys' fees. The appeals court that handles patent cases affirmed the lower court decision in 2004.

In asking the Supreme Court to overturn the lower court decisions, LabCorp is arguing that Claim 13, because it does not specify how testing is to be done, patents nothing more than the natural relationship between homocysteine and vitamin B deficiencies, blocking other inventors from developing better tests.

"The present-day implications of such a holding are limitless — and dangerous," LabCorp wrote in its brief. "Anyone who discovers a new medical correlation could stifle medical treatment through a 'test plus correlate' claim."

But Metabolite and its allies argue that such correlations are the basis of diagnostics and that not allowing patents would stifle development of new tests. There are tests, for instance, that look at mutations in particular genes to predict a high risk of breast cancer or to predict which AIDS drugs will not work.

"Hundreds, if not thousands, of patents would at once be called into question" if the ruling goes against Metabolite, said a brief jointly submitted by Perlegen Sciences, a company developing genetic tests, and Mohr Davidow Ventures, a venture capital firm that backs diagnostics companies.

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Another question in the case is whether doctors could infringe the patent merely by looking at a test result for homocysteine and then thinking about vitamin deficiency. Indeed, the lower courts said LabCorp had not directly infringed but rather had induced doctors to infringe by performing the correlation.

Partly with that in mind, the American Medical Association, the American Heart Association and AARP have submitted briefs in support of LabCorp, arguing, in the words of the heart association, that the patent could have "devastating effects on patient health care."

Millions of homocysteine tests are done each year because high levels of the amino acid are associated with an increased risk of heart attack, stroke, birth defects and other diseases; people often take B vitamins to lower homocysteine and reduce the risk. (Clinical trial results announced last week, however, suggested that taking B vitamins did not prevent heart attacks.)

Court precedents have held that laws of nature, natural phenomena and abstract ideas cannot be patented. "Einstein could not patent his celebrated law that E = mc2; nor could Newton have patented the law of gravity," the Supreme Court wrote in a 1980 decision. '

But in a 1981 decision in Diamond v. Diehr — the last time the Supreme Court considered the issue — the court upheld a patent on a method of curing rubber that made use of a well-known equation governing chemical reactions. The court said that the equation was only part of a broader invention.

Glenn K. Beaton, an attorney for Metabolite, said that as in that 1981 case, "it's not the correlation itself that is patented here," but rather "the use of that correlation to determine B12 and folate deficiencies."

In recent years, controversial patents have been granted on software and on business methods, such as ways of managing investment portfolios or of allowing people to order merchandise on Amazon.com with one click of a mouse.

Bear Stearns, Lehman Brothers and the Computer and Communications Industry Association filed briefs urging the court to use the LabCorp case to restrict such business method patents, or at least not expand them. Other companies, including American Express and I.B.M., say the LabCorp case is not relevant to business method patents.

The solicitor general, in urging the court not to hear the case, said there was not enough of a record from the lower courts on the question of patenting natural phenomena. That is because LabCorp did not raise that argument in the lower courts, instead trying to get the claim invalidated on other grounds. If LabCorp wins the case in a way that weakens patents on diagnostic tests, it could be one of the bigger losers. The company, based in Burlington, N.C., is counting on high-priced, patented genetic tests to fuel its growth.

Bradford T. Smith, executive vice president for corporate affairs at LabCorp, disputed that. "We think this case can be decided very narrowly," without undermining other patents, many of which rely on more than just correlations, he said.

Innovation And Its Discontents (WSJ)

By Adam Jaffe And Josh Lerner

The Wall Street Journal, March 21, 2006

The problems of the U.S. patent system are under discussion today with an urgency not seen in decades. The Supreme Court will soon hear oral arguments in eBay v. MercExchange LLC, which promises to be its most far-reaching examination of patent law in many years. Today the court will also consider LabCorp v. Metabolite Laboratories -- the contested matter is whether a patent can be issued for the correlation between a disease and a naturally occurring substance in the human body. That is: Can you actually patent the laws of nature? And shockingly, Research in Motion has been forced to pay $612 million to prevent all of our BlackBerry handhelds from going dark, even though the U.S. Patent and Trademark Office (USPTO) has indicated that it is likely to find all of the patents behind this ransom demand invalid. Congressional subcommittees, with good reason, have recently held hearings asking fundamental questions about developments like these in the patent system.

The importance of this long-overdue focus on patents cannot be overemphasized. The past decade has seen periodic uproars over particular patents, such as Amazon's "one click" patent for online shopping. The troubling patents have been well publicized, but the wrong lessons have typically been drawn. Commentators have tended to focus on the incompetence of the USPTO in allowing "bad patents." Others have concluded that the patent system is not working with respect to a particular area of technology. Concerns about software awards led, for instance, Jeff Bezos of Amazon to propose a new patent type for software; others have suggested that biotechnology be excluded in various ways from the patent regime.

We believe, instead, that the problems with the patent system are systemic and fundamental, the result of two congressional changes to the patent system. At the time they were described as administrative and procedural rather than substantive; but taken together they have resulted in the most profound changes in U.S. patent policy and practice since 1836. One set of changes has made it easier to enforce patents, easier to get large financial awards from such enforcement, and harder for those accused of infringing patents to challenge the patents' validity; another set of changes has made patents much

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easier to get. The combination has created a perfect storm: a complex and intensifying combination of factors that increasingly makes the patent system a hindrance rather than a spur to innovation. * * *

Congress set us on this road in 1982 when it created a centralized appellate court for patent cases, the Court of Appeals for the Federal Circuit. Its decisions -- which advocates argued would simply ensure judicial consistency -- are largely responsible for the significant strengthening of the legal potency of patents. Then, a decade later, Congress turned the USPTO into a "profit center." The office has been pushed to return "excess" revenue to the U.S. Treasury. This shift led to pressures to grant more patents, difficulties in attracting and retaining skilled examiners, and a torrent of low-quality patent grants. These include such absurdities as patents on wristwatches (paw-watches?) for dogs, a method of swinging on a swing ("invented" by a five-year-old), and peanut butter and jelly sandwiches. But they also include the patents on broad ideas related to mobile email -- virtually devoid of any details of implementation -- that have imposed a $612 million tax on the maker and users of BlackBerries.

The combination of making patents easier to get and simultaneously more potent when enforced has led to an explosion in patent litigation. Holders of dubious patents -- be they established firms or "trolls" whose only business is patent enforcement -- routinely threaten firms that sell valuable products with shutdown based on alleged patent infringement. Even if the target firm believes that it does not infringe, or that the patents at the basis of the claim are invalid, the cost and risk of proving this in court may be too high. Innovators may choose simply to drop the allegedly offending product, or to settle and pay ransom rather than fight. This is not a problem confined to any single industry. Even in industries where patents have been traditionally rare, such as financial services, patent filings and litigation are exploding. Financial patents are being litigated at more than 10 times the rate of awards more generally.

It might be tempting to view patent law as just another area where litigation has spun out of control. But there is more at work here than a general increase in litigation; and its effects are particularly worrisome, because a faulty patent system can have profound impact on the overall process of innovation. The hugely successful BlackBerry may be able to bear an enormous "innovation tax" and still succeed, but other valuable but not-quite-blockbuster innovations may be driven from the market entirely.

The continued advancement of commercial technology is the basis for the long-term ability of our society to continuously improve our lives -- to promote health and longevity, protect and clean up the environment, and secure our safety against terrorism and other external threats. For all its deficiencies and periodic stumbles, our free-enterprise system has demonstrated a unique ability to generate new technology: Industrialized economies have increased their economic productivity more in the last two centuries than in all the millennia of previous human history. The basis for this advance is the pursuit of profit, which forces firms to innovate. But the profit-based incentive to innovate depends fundamentally on the institutions governing ownership of the fruits of innovation. Specifically, taking new ideas from the notebook to the market often requires huge investments in research and development. This is an inherently risky process, and risk is the enemy of investment.

The legal protection patents provide is supposed to mitigate the risks of these investments, but the flood of dubious patents that nonetheless have amplified legal force is increasing rather than mitigating the risks associated with investments in innovation. While we have not yet killed the geese that lay the golden eggs, we are increasingly hindering and distracting the people and firms that must breed, feed and care for the geese. If we continue on this course, it is inevitable that their output will decline. * * *

We believe that the incentives of the existing system induce all participants -- inventors, competitors and potential litigators -- to invest in abusing the system rather than innovating. Reform of the system must change these incentives by (1) changing the USPTO review process so that the determination of whether a patent application is really new is made with as much information as practical about what related technology is already out there; and (2) leveling the playing field between litigants so frivolous patent holders cannot intimidate true innovators into paying protection money.

Our proposed reforms start with the recognition that much of the information needed to decide if a given application should be approved is in the hands of competitors of the applicant, rather than the USPTO. A review process with multiple levels efficiently balances the need to bring in outside information with the reality that most patents are unimportant. Multilevel review -- with barriers to invoking review increasing at higher levels, along with the review's thoroughness -- would naturally focus attention on the most potentially important applications. Most patents would never receive anything other than the most basic examinations. But for those applications that really mattered, parties would have an incentive and opportunities to bring information in their possession before the USPTO, and the USPTO would have more resources to help it make the right decision. (Changes in this direction are at the heart of the patent reform bill currently under consideration in the House Subcommittee on Courts, the Internet and Intellectual Property.)

If bad patents with important consequences were weeded out by the USPTO, the incentive to file frivolous applications in the first place would be reduced. This would break the current self-stoking cycle in which inventors are induced to make marginal

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applications by their likelihood of success, and the resulting flood of applications overwhelms the patent office and makes it harder to separate the wheat from the chaff.

Breaking the vicious cycle of bad examination and bad applications is the key to reform of the patent review process. But there are always going to be mistakes, and so it is important that the court system operate efficiently to rectify those mistakes, while protecting holders of valid patents. Today, the legal playing field is significantly tilted in favor of patentees.

The reliance on jury trials is a critical problem. The evidence in a patent case can be highly technical, and the average juror has little competence to evaluate it. Having decisions made by people who can't really understand the evidence increases the uncertainty surrounding the outcome. The combination of this uncertainty with the legal presumption of validity -- the rule that patents must be presumed legitimate unless proven otherwise -- is a big reason why accused infringers often settle rather than fight even when they think they are right.

The right to a jury of one's peers is a venerated concept in Anglo-American law. But there is ample scope for judges to use pretrial rulings and reports of special "masters" commissioned by the court to resolve more of the most technical issues that determine the outcome of patent litigation. While litigation will always be uncertain, it has to be structured so that complex technical issues are addressed in a way designed to elucidate rather than obscure.

The protection for true innovators created by a workable patent system is vital to technological change and economic growth. The problems in the existing patent system are structural, and the fundamental solutions need to be structural as well. As much as the USPTO needs to do a better job, it can only do so if the system is modified so that all parties have incentives to help with the job, and the courts provide a reliable backstop when mistakes are made.

Mr. Jaffe is professor of economics and dean of arts and sciences at Brandeis University. Mr. Lerner is Jacob Schiff Professor of Investment Banking at Harvard Business School. They are the authors of "Innovation and Its Discontents: How Our Broken Patent System Is Endangering Innovation and Progress, and What to Do About It" (Princeton, 2004).

ENVIRONMENT:

Kerr-McGee Sues To Dispute Federal Royalties (WSJ)

By Steve Levine

The Wall Street Journal, March 21, 2006

Kerr-McGee Corp., at a time of rising political scrutiny of oil-company profits, is suing the federal government to avoid about $108 million in royalties on its deep-water production in the Gulf of Mexico.

The issue of royalty payments on Gulf-of-Mexico oil properties owned by the federal government has attracted much criticism in Congress because of high gasoline prices and record oil-company financial results. Some lawmakers have called for a windfall-profits tax on the industry, though such a levy still appears to be a long shot.

In all, the Interior Department estimates that royalty exemptions in the Gulf of Mexico could cost the U.S. treasury some $7 billion over time, depending on the price of oil and the level of production.

Kerr-McGee, which produces oil and natural gas from 17 deep-water fields in the Gulf, filed suit Friday in federal court in Lake Charles, La. The Oklahoma City company is seeking to overturn a January order by the department's Minerals Management Service division that Kerr-McGee and other oil companies pay more in royalties for the fields. Most oil companies complied with the order, but Kerr-McGee was among three that didn't pay.

The case involves fallout from a 1995 congressional act that, at a time of relatively low oil prices and shrinking U.S. production, attempted to increase oil and natural-gas production from the deep-water sections of the Gulf of Mexico. Water depths there often exceed 2,500 feet, and exploration is expensive and riskier than elsewhere. The congressional act exempted oil companies from royalty payments for millions of barrels of deep-water production for leases obtained from 1996 to 2000 as long as world prices didn't exceed a certain level.

The threshold for those leases last year was $34.71 per barrel for oil and $4.34 per million British thermal units for natural gas. Yesterday in New York, oil futures fell $2.35, or 3.7%, to settle at $60.42 a barrel. Natural-gas futures fell 21.8 cents per million British thermal units, or 3.1%, to $6.835.

But, in addition to a price threshold, Kerr-McGee argues the act allowed the companies royalty-free production of tens of millions of barrels regardless of the price of oil. For example, for fields deeper than about 2,600 feet, the companies could produce 87.5 million barrels of oil without paying a royalty. Kerr-McGee says its fields haven't reached that maximum yet. Meanwhile, the company said it has placed $108 million in disputed royalties into a reserve account until the issue is resolved.

Amerada Hess Corp. said in its annual filing last week with the Securities and Exchange Commission that it is withholding $34 million in royalty payments to the government in a similar dispute.

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Walter Cruickshank, deputy director for the Minerals Management Service, said that the Interior Department believes that the companies are obligated to pay royalties once the price threshold is breached, regardless of how much oil they have produced. He said the department will argue the point in Kerr-McGee's court case.

In congressional testimony this month, Mr. Cruickshank said that, as of January, 28 companies weren't disputing the government's royalties demands, that seven others had either paid in full or part while they disputed the request, and that three others hadn't made any payments.

Another issue that has provoked criticism is a disclosure by Interior Department officials that, for reasons they can't explain, the price threshold was lifted for some 1,100 leases made in 1998 and 1999. That meant that, regardless of prices, oil could be drilled royalty-free in those fields.

Critics in Congress say the absence of the threshold for those years could cost the federal government billions of dollars in lost royalties over time. Critics in a House hearing this month said that there should be no royalty relief when oil prices have risen above $60 a barrel, and the oil companies have faced a storm of objections from editorial writers around the country. For 2005, Kerr-McGee reported net income of $3.2 billion on $5.9 billion in revenue.

U.S. Expects Bird Flu This Year (USAT)

By Anita Manning

USA Today, March 21, 2006

Leaders of three federal agencies on Monday said bird flu could reach the USA this year on the wings of migratory birds, but the appearance of the flu strain "will not constitute a reason for panic," Department of Agriculture Secretary Mike Johanns said.

"We are closely monitoring the rapid spread of the (bird flu) overseas, and we now believe it is likely we will detect it within our borders in the U.S.," he said. "It is important to understand a detection of this virus in birds does not signal the start of a pandemic in people."

The highly pathogenic H5N1 has spread across Asia, Europe and parts of Africa. It is contagious and deadly to poultry and many species of wild birds, and it has infected at least 177 people, killing 98. The virus can't spread easily in humans, but scientists warn it could mutate into a form that is contagious among people, causing a pandemic. (Graphic:

Interior Secretary Gale Norton said a program to test up to 100,000 wild birds for signs of infection this year will focus on breeding grounds in Alaska and islands in the Pacific where migrating birds from Asia are now heading.

All samples taken from birds that test positive for the H5N1 virus will undergo further testing to determine if the strain is highly pathogenic or a more benign form, known as low pathogenic North American H5N1, which previously has been found in the USA and Canada.

She said officials expect up to 100 probable H5N1 test results may be found this year, and tests to determine whether they're the highly pathogenic form may take up to 10 days.

"During that time, the public will need to understand this is a disease of birds," Norton said.

Health and Human Services Secretary Mike Leavitt said it's important to prepare but to keep matters in perspective. "At this point, if you're a bird, it's a pandemic. If you're a human being, it is not," he said.

HHS is funding development of vaccines for possible pandemic flu strains and is stockpiling drugs and other medical supplies. The United States expects to have 26 million courses of the anti-viral drug Tamiflu on hand by the end of this year, he said.

But local communities need to make their own pandemic plans, Leavitt said.

"Any community that fails to prepare with the expectation that the federal government will, at the last moment, be able to come to the rescue will be tragically wrong. Not because the federal government lacks will, not because we lack wallet, but because there is no way in which 5,000 different communities can be responded to simultaneously, which is a unique characteristic of a human pandemic."

Meanwhile, the Food and Drug Administration said it will ban the use of Tamiflu and other human anti-flu drugs in poultry. The drugs are not labeled for use in poultry, but veterinarians can legally use them off-label to prevent flu in animals.

World health experts fear overuse of the drugs in animals could encourage the emergence of flu strains that are resistant to the anti-virals, according to the FDA.

U.S. To Increase Testing Of Wild Birds For Avian Flu (WP)

By Rob Stein

The Washington Post, March 21, 2006

DOJ_NMG_0019931

Federal officials announced plans yesterday to sharply increase testing of wild birds to try to detect the arrival of the deadly avian flu in the United States as early as possible and stanch any outbreaks of disease.

With the virus spreading worldwide, officials predicted it could show up in this country as early as later this year, most likely in wild birds during their annual migration from Asia through Alaska.

"It is increasingly likely that we will detect a highly pathogenic H5N1 strain of avian flu in birds within U.S. borders, possibly as early as this year," Interior Secretary Gale A. Norton said in announcing the plan with Agriculture Secretary Mike Johanns and Health and Human Services Secretary Mike Leavitt. "We are working together to expand our early-warning system."

The dangerous bird flu virus, known as H5N1, has spread from Asia into parts of Europe and Africa, killing or forcing the destruction of millions of chickens and other birds. So far the virus has mainly affected birds, but it has killed 98 people -- about half of those who have been infected. All the victims had close contact with poultry. Officials fear the virus could mutate in a way that makes it spread easily from person to person, sparking a devastating worldwide pandemic.

U.S. wildlife experts have been monitoring wild migratory birds since the virus emerged in Asia in 1997. They have tested 12,000 in Alaska since 1998 and 4,000 traveling across the Atlantic since 2000. Officials have been focusing on Alaska because it is a crossroad for bird migration. No birds have tested positive.

Under the new plan, officials expect to collect 75,000 to 100,000 samples from live and dead wild birds this year, along with 50,000 samples of water or feces from waterfowl habitats across the United States. Officials also plan to investigate any disease outbreaks in wild birds and do spot checks of birds killed by hunters, as well as those being sold in live bird markets and being raised by farmers. The effort is part of the Bush administration's $29 million plan to protect the country against the virus.

"None of us can build a cage around the United States. We have to be prepared to deal with the virus here," Johanns said.

If an infected bird is detected, officials plan to immediately quarantine the area and kill any infected birds to stem the spread of the virus. In addition to human health concerns, officials worry that the virus could devastate the $29 billion poultry industry.

Officials stressed that they expect perhaps dozens of false alarms because of increased testing, and that even if a genuine case is found it does not necessarily mean an outbreak will occur.

"The detection of highly pathogenic H5N1 virus in the United States would not constitute a reason for panic," the agriculture secretary said.

Bird Flu May Arrive In U.S. This Year (AP-Y2)

By Libby Quaid

AP2, March 21, 2006

Bird flu is likely to arrive this year in the United States, with the increased testing of tens of thousands of wild birds expected to reveal dozens of suspected cases, the Bush administration said Monday.

Officials will test 75,000 to 100,000 wild birds this year, or nearly six times the number screened since 1998, according to a government plan finalized Monday. The government also plans to quarantine and destroy any poultry flocks where the virus appears.

The wild bird testing could reveal 20 to 100 suspected cases of bird flu, although follow-up testing is likely to reveal "dozens" are false alarms, Interior Secretary Gale Norton said. The emphasis will be on Alaska and other spots along the Pacific flyway, a common route that migratory birds follow into the U.S., possibly carrying the virus as they do. Tests will also be run on 50,000 water and bird dropping samples from waterfowl habitats, the government said.

Health and Human Services Secretary Mike Leavitt stressed that people are not yet at risk from the virus, which has ravaged wild and domestic birds alike in Asia, Africa and Europe.

"At this point, if you're a bird, it's a pandemic. If you're a human, it's not a pandemic," Leavitt said.

Norton cautioned that while officials plan to announce any positive tests for bird flu, it will take another five to 10 days for the Agriculture Department's laboratory in Ames, Iowa, to confirm the results.

"This is a disease of birds and not humans, at this point. Finding a bird with the disease does not signal a pandemic," Norton said.

Human cases of bird flu have been rare, but scientists fear the virus could mutate into a form easily spread among people, sparking a worldwide epidemic. For now, wild birds are getting much of the government's attention.

Officials also worry the virus might spread from wild birds to the nearly 10 billion chickens raised each year in the U.S. Authorities say cooking kills the virus and it is safe to eat properly handled and cooked poultry.

Commercial poultry companies already test every flock for bird flu. If the deadly virus shows up in a commercial bird, the entire flock would be quarantined and killed, and the area would be disinfected. Agriculture Secretary Mike Johanns said the government would compensate farmers for their destroyed flocks.

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Unlike in many of the countries affected by bird flu, the U.S. has a highly consolidated, $29 billion poultry industry that raises the majority of its birds in controlled, indoor facilities. That minimizes contact between wild and domestic birds.

"Our producers are as eager as we are to protect the safety of our poultry," Johanns said.

While the deadly strain of the virus has not yet been found in the U.S., other strains have. Birds, like humans, have a flu season. Less virulent "low-pathogenic" flu viruses are common. But three times — in 1924, 1983 and 2004 — a lethal, "highly pathogenic" strain has emerged in the U.S.

Also Monday, the government banned veterinarians from using human antiviral drugs, such as Tamiflu, to treat animals. The goal is to ensure the drugs remain effective in people. A spokesman for the National Chicken Council said the industry does not use the drugs.

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On the Net:
http://www.usda.gov/birdflu
http://www.pandemicflu.gov

Interior Secretary Says Bird Flu Due This Year (LAT)

By From Times Wire Reports
The Los Angeles Times, March 21, 2006

Bird flu is likely to arrive this year in the United States, with the increased testing of tens of thousands of wild birds expected to reveal dozens of suspected cases, Interior Secretary Gale A. Norton said.

Officials will test 75,000 to 100,000 wild birds this year, according to a government plan. The government also plans to quarantine and destroy any poultry flocks where the virus appears.

Business Prepares For The Possibility Of Avian Flu In The United States (NYT)

By Melanie Warner
The New York Times, March 21, 2006

The deadly strain of avian flu has not been found anywhere in the Western Hemisphere, but Mark Holden, a chicken grower for Tyson Foods in Ellijay, Ga., is not taking any chances.

Every seven weeks a group of his chickens is tested before the birds are sent to be slaughtered. All people who enter or leave the chicken houses must walk through disinfecting baths. And visitors and workers must wear plastic booties over their shoes.

"Even though we don't have any outbreak now, we want to take all the precautions we can to protect our product," said Mr. Holden, who has been in the chicken business for 10 years and lives across the street from one of his chicken houses.

Poultry producers and restaurants doubt that their chickens will be infected by avian flu or that people would catch the virus even if there were contamination. But they are concerned that if the virus gets to the United States, people will eat less chicken, simply out of fear. And they are revving up big plans to be prepared.

In Senate testimony earlier this month, Michael Leavitt, secretary of the Department of Health and Human Services, declared that it was "just a matter of time" before birds infected with the virus found their way to the United States.

The stakes are enormous. United States poultry producers like Tyson, Pilgrim's Pride and Gold Kist sell 26 billion pounds of chicken each year. Restaurant chains — chief among them McDonald's, KFC and Wendy's — sell 45 percent of that.

Sales of chicken are growing. Over the last 10 years, consumption of chicken has increased by 22 percent, while beef consumption has remained flat, according to the Department of Agriculture.

If Europe and Asia are any indication, chicken sales could take quite a hit. In February, after avian flu was discovered in wild swans, poultry consumption declined 70 percent in Italy. In France, sales are down 30 percent since avian flu hit a turkey farm last month. In some areas of India, sales are down 40 percent since last month's discovery of avian flu in chickens.

These declines came even though none of the 175 human cases of avian flu confirmed by the World Health Organization since 2003 resulted from eating poultry.

Dick Thompson, a spokesman for the World Health Organization, said most of the cases of humans contracting avian flu have been from people coming into direct contact with infected poultry, though one case in Vietnam appears to have been a result of someone drinking infected duck blood.

Public health officials consider it unlikely that people will catch the virus from eating chicken. Chicken producers say that any sick birds would immediately be destroyed and would not enter the market. While the deadly strain of avian flu, called H5N1, now hitting Europe and Asia can reside in poultry meat, the virus is killed by the temperatures normally used to cook poultry.

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Nonetheless, a Harvard School of Public Health nationwide telephone survey of 1,043 adults in January found that 46 percent of respondents who eat chicken said they would stop eating it if avian flu hit the United States poultry industry.

In October, Yum Brands, which owns KFC, told investors that, based on its experiences with avian flu in China, it estimated that in the worst situation, chicken sales would drop 10 percent to 20 percent if there were widespread concerns about avian flu.

Chicken processors and restaurant chains are already working feverishly to minimize any sales declines. Companies are working on communications strategies that can be set into motion at a moment's notice. These plans deal with avian flu in birds and not the feared hypothetical mutation of the virus into a human-to-human form. Future mutations could make avian flu contagious among humans, and possibly generate a pandemic.

Tyson, Pilgrim's Pride, KFC, Chick-fil-A and Popeyes Chicken and Biscuits all say they have formed internal avian flu task forces that meet regularly and include top executives and leaders from different departments. These executives have been meeting with government health officials, discussing what information should go on the companies' Web sites and when, and devising sales loss projections.

Popeyes Chicken and Biscuits, the country's No. 3 chicken chain behind KFC and Chick-fil-A, said its task force met weekly, often in conjunction with the Ledlie Group, an Atlanta-based crisis management agency. KFC said that it had created TV and print ads aimed at convincing people that eating fully cooked chicken was safe. The ad campaign, which was produced by Creative Alliance, an agency in Louisville, Ky., where Yum Brands is based, is ready to go if a crisis strikes.

"It's on the shelf collecting dust," said Jonathan Blum, a Yum spokesman.

Tyson, the country's largest chicken producer, is working on an ad campaign that will run if chicken sales decline, or if consumers start to get nervous.

McDonald's, the country's largest restaurant buyer of chicken, said it had been working on avian flu contingency plans, but declined to discuss details.

At many chain restaurants, including McDonald's, chicken has helped bolster sales more than any other menu item. In presentations to analysts and investors, McDonald's has credited its new line of higher-priced premium chicken sandwiches and its chicken-topped premium salads with increasing sales at outlets in the United States that have been open for more than a year.

Arby's, which is known for its roast beef sandwiches but gets 15 percent of its sales from chicken products, said it was spending more money than it had for any other new product to promote its new line of so-called chicken naturals. Chicken naturals are all chicken, with no added water or chemicals.

Some analysts think avian flu in birds, like mad cow disease in beef, may turn out to be a nonissue for consumers. Since mad cow was first discovered in the United States in late 2003, beef consumption has remained constant, according to the National Cattlemen's Beef Association.

"In the U.S. I think we generally have a greater trust in the government to ensure food safety than they do in Europe and Asia," said John Glass, an analyst at CIBC World Markets. "I'd be surprised if U.S. consumers really react to this."

But some in the chicken industry worry that avian flu will be much more frightening to consumers than mad cow. "I get asked about it all the time," said Steve Gold, vice president for marketing at Murray's Chicken, a producer of humanely raised chicken. "I think people have this idea that it's going to be like Alfred Hitchcock with all these birds flying into their community and everyone getting sick."

Mr. Gold notes that unlike mad cow, avian flu is highly contagious among birds and has the potential to travel long distances in unpredictable patterns.

He and others in the chicken industry are busy honing a message that the nation's chicken populations are well protected from wild, migratory birds that may be the initial carriers of the disease.

A Web site set up by the National Chicken Council, the National Turkey Federation and the Egg Safety Center (www.avianinfluenzainfo.com) promotes the industry's modern system of enclosed, confined chicken growing as an effective line of defense against the spread of avian flu.

The 20,000 to 24,000 birds that reside in a single growing house on the average industrial chicken farm lack access to the outdoors, or even to sunlight — something that has long drawn criticism from animal welfare activists and has helped fuel the growth in free-range and humanely produced chicken. The virtue of isolating chickens, said Richard Lobb, a spokesman for the National Chicken Council, is that no chicken is likely to come into contact with wild birds that may be infected.

"Things here are not like they are in Asia where chickens are running around outdoors in people's backyards," Mr. Lobb said. "It's much more controlled."

He added that while thousands of free-roaming and backyard chickens were infected in Thailand in 2004, none of the country's large-scale, commercial chicken flocks in enclosed facilities were hit.

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Mr. Lobb said chickens sold as free-range or organic, meaning they are allowed access to the outdoors, may be more susceptible to avian flu transmission, but this group represents less than 1 percent of the chicken production.

The Egg Safety Center said that consumers should not worry about eggs being infected with the avian flu virus because sick hens either stop laying eggs or lay poor-quality eggs that would not be acceptable for sale.

Some government officials said that if avian flu arrived on United States shores, it would probably be from migratory birds.

Susan Haseltine, assistant director for biology at the United States Geological Survey and an expert on bird migration, said government scientists had their eyes on the bird pathways from Asia to Alaska. "One species with high potential is the pintail," Ms. Haseltine said. "It migrates from Alaska to the southern U.S., to the Gulf Coast and Southern California. They have the ability to fly long distances."

The Department of Agriculture said that since 2000, 12,000 tests had been done on birds in western Alaska and none had been found with the deadly version of avian flu. Ms. Haseltine said there was little bird passage across the Atlantic from Europe.

Other experts say that avian flu is more likely to reach the United States through the illicit trade of poultry from infected countries. Importing birds or poultry meat from countries that have had outbreaks of avian flu is banned, but Rob Fergus, science coordinator for the National Audubon Society, said there were probably instances of smuggled products. "There are a lot of holes in biosecurity in our ports. I'm much more concerned about poultry shipments than wild birds," he said.

There is, of course, still the small chance that North America may be somehow spared from avian flu. But companies like Chick-fil-A are not counting on that. "The question is not if, but when," said Don Perry, a spokesman for Chick-fil-A. "You can't put big nets in the sky to prevent birds from flying here."

FDA To Ban Poultry Use Of 2 Drug Types On Flu Fears (WSJ)

By Jane Zhang

The Wall Street Journal, March 21, 2006

WASHINGTON – Federal regulators, amid concern of a possible avian-flu pandemic, moved to ban the poultry industry from using two groups of human antiviral drugs to treat their flocks, for fear that may reduce their effectiveness in humans.

The Food and Drug Administration said beginning this summer, it is proposing to ban veterinarians from prescribing off-label, nonhuman uses of Roche Holding AG's Tamiflu and GlaxoSmithKline PLC's Relenza; amantadine (used in generics such as Symmetrel by Endo Pharmaceuticals Holdings Inc.) and rimantadine (used in Flumadine, by Forest Laboratories Inc.). The U.S. has been stockpiling drugs for a possible avian-flu outbreak in humans.

Not one of those drugs is approved for animal treatment, but under a 1994 law, the FDA allows such use. The FDA has the right to ban them if they cause public-health concerns. This is the first time that the FDA has banned human antiviral drugs for animal use.

The FDA and the U.S. poultry industry say these drugs haven't been used in poultry here yet. They are often more expensive than the cost of the birds they would treat. China used one of the drugs last year to treat flocks; this caused resistance to the drug by an avian-influenza strain, said Stephen Sundlof, director of the FDA's Center for Veterinary Medicine. International agencies, such as the World Health Organization and the Food and Agriculture Organization, have called for the ban to prevent the development of resistant strains.

Dr. Sundlof called the move a precautionary measure. He expects the proposal, which is open to public comment until May 22, will become a final rule June 30.

PREVENTING A PANDEMIC

1 · See an FAQ on avian flu2, an interactive global map3 and track the latest developments in the Avian Flu News Tracker4.

· Plus, see complete coverage5.

The announcement follows the agency's decision last year to ban an antibiotic used in chickens and turkeys, citing evidence that the antibiotic's use might lead to pathogens that could withstand drugs used to fight human illness. The agency's reasoning for yesterday's move on antiviral drugs sprang from similar concerns about resistant strains. Because influenza viruses mutate, resistance to antiviral drugs can leave fewer treatment choices.

The FDA ban is part of a White House campaign to convince the public that it is preparing for the deadly Asian strain of H5N1, which several officials have said could arrive in Asian birds migrating to Alaska. Finding the Asian strain of H5N1 in wild U.S. birds is "increasingly likely," said Interior Secretary Gale A. Norton.

The U.S. has an "early warning system" to test as many as 100,000 wild birds this year in Alaska and the Pacific Coast flyway, believed to be where the avian flu might show up in the U.S. first, given migratory patterns.

The Agriculture Department allows the poultry industry to use vaccine to treat some viral-respiratory diseases, but the industry doesn't use human antiviral drugs to treat influenza in poultry, said Richard Lobb, spokesman for the National Chicken

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Council, a Washington trade group. The chicken industry has vowed to test all flocks for avian flu before sending them to the market, and destroy those infected with some strains, Mr. Lobb said.

Terence Hurley, a Roche spokesman, says the Swiss drug maker has heard of isolated cases of Tamiflu being used in cats and dogs, but not in poultry. "Tamiflu is approved for use in people, not animals."

Michael Fleming, a GlaxoSmithKline spokesman, says the United Kingdom company hasn't studied the impact of Relenza, an inhaled product, on animals. Both companies say they support the FDA decision.

Forest Laboratories and Endo Pharmaceuticals Holdings declined to comment.

Scientists Oppose Move On Grizzlies (NYT)

By The New York Times

The New York Times, March 21, 2006

HELENA, Mont., March 20 — A group of 269 biologists and other scientists from around the country asked the Fish and Wildlife Service on Monday not to lift the protections given to the Yellowstone grizzly bear by the Endangered Species Act.

Doing that, they said, could jeopardize its survival.

A letter from the scientists came on the last day of the comment period on the agency's plan to remove protection for the bear. The service has said that the bear population, estimated at 500 to 600, is fully recovered and growing at 4 percent a year. There are safeguards to restore protection, federal biologists say, if the numbers decline.

Some environmental groups, including the National Wildlife Federation, support the move to remove the bear from the endangered list.

The letter from opponents of the move says the Yellowstone grizzly is cut off from other bears, and therefore new sources of DNA. Because of that, the population needs to be 2,000 to 3,000, the scientists say, to survive a catastrophic event, like disease or the loss of a critical food source.

Conservationists Vie To Buy Forest Habitat (WP)

By Juliet Eilperin

The Washington Post, March 21, 2006

FORT BRAGG, Calif. -- The Big River tract in California's Mendocino County is a sprawling expanse of towering redwoods and Douglas firs, woods that for years have provided an ideal habitat for rare spotted owls and endangered coho salmon and steelhead trout. Now, it's all up for sale.

Big River, neighboring Salmon Creek and dozens of other forests across the nation have come on the market in recent years as timber companies shed holdings that are worth more as real estate than as a source of lumber. The trend has spurred a land rush that has conservation groups scrambling to raise money to buy environmentally sensitive tracts in competition with private investors seeking to snap up the land for development.

A recent U.S. Forest Service study predicted that more than 44 million acres of private forest land, an area twice the size of Maine, will be sold over the next 25 years. The consulting firm U.S. Forest Capital estimates that half of all U.S. timberland has changed hands in the past decade. The Bush administration also wants to sell off forest land, by auctioning more than 300,000 acres of national forest to fund a rural school program.

"The nation has never seen anything like this," said Conservation Fund President Lawrence A. Selzer, whose 20-year-old group is hoping to raise $48 million in the coming months to buy the 16,000 acres that make up Big River and Salmon Creek. "It has the potential to permanently and profoundly change the landscape of America."

The United States still has large swaths of forest -- much of it private -- that provide critical habitat for large animals such as bears and cougars as well as recreational opportunities for the public. But if the selling spree continues, environmentalists fear, these areas could be cut up into much smaller parcels in which condominiums and trailer parks would replace soaring trees.

The sales have attracted limited national attention because they are mostly private transactions and involve local planning decisions, but the stakes are enormous. In the Pacific Northwest, New England, Southeast and parts of the upper Midwest, traditional timber companies or newly emerging timber investment management organizations, known as TIMOs, own vast stretches of forest that rival the national forest system.

Today, a third of the U.S. land mass is forest -- the same proportion as in 1907 but just 71 percent of what existed before settlement by Europeans -- and 57 percent of it is privately owned. But competition from cheap imported lumber, soaring land prices and pressure from Wall Street are now prompting timber companies to sell.

Stephen Levesque, the Campbell Timberland Management area manager who oversees the company's forest holdings in Mendocino, said new state regulations have made lumber operations increasingly expensive and developers have come by with

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tempting offers. The company recently sold off 160 acres that are likely to become lots for residential homes. "There's tremendous pressure for development," Levesque said.

International Paper Co. spokeswoman Amy J. Sawyer said her company is "contemplating selling some or all" of its 6.8 million acres of forest land scattered across the country and focusing on producing more profitable products such as uncoated papers and packages.

"We're exploring whether there's more value in holding and operating the land or in selling it," Sawyer said. "That's what we're weighing."

And the St. Joe Co., a onetime timber and paper outfit, is pushing to build on tens of thousands of its acres on Florida's Emerald Coast. Advocacy groups such as the Natural Resources Defense Council are fighting to preserve the land, whose longleaf pine forests, cypress swamps and wetlands sustain red cockaded woodpeckers and dozens of other endangered and threatened species.

Environmental groups such as the Conservation Fund, the Nature Conservancy and the New England Forest Foundation have tried to limit the environmental impact of the sell-off by purchasing habitats that hold the greatest ecological value, but they cannot afford to buy all the vast expanses and halt this trend outright.

Chris Larson, executive director of Northern California's Mattole Restoration Council, an environmental group, said groups such as his are analyzing the Securities and Exchange Commission filings of timber companies to gauge whether they might sell their holdings to ease their debt. "People are just learning how to do this," he said.

In several instances, they have been able to close a deal. In 2004, the Conservation Fund bought 24,000 acres of working forest along the Garcia River in Mendocino County from Hawthorne Timber Co. for $18 million. It plans to begin logging some trees there this summer to make enough money to pay property taxes and restore key ecological areas.

Now the fund is hoping to buy the Big River and Salmon Creek tracts from Hawthorne and to create a business model other environmental groups can follow.

"We need to move away from this black-or-white idea that either it's preserved or destroyed, it's a national park or not enough," said Chris Kelly, who heads the fund's California office. "If you're trying to protect a landscape, if you're trying to protect 300,000 acres, it's impractical" to preserve the entire area as pristine wilderness, Kelly said.

In November, the Conservation Fund bought nearly 7,700 acres of the most sensitive lands along the headwaters of Maine's Machias River. A month later, it bought 1,600 acres of land in Georgia, just a fraction of the roughly 300,000 acres timber giant Weyerhaeuser recently sold in the state. Fund officials resold the tract to state officials, who plan to turn the area into a nature preserve.

Rex R. Boner, a vice president at the fund, said his and other environmental groups would like to buy more land but "we just don't have the collective ability to do that."

The forest sales have sparked a sense of urgency among conservationists because the holdings constitute much of the remaining intact ecosystems outside of public lands, he said: "It's sort of like Humpty Dumpty. If they're sold, we'll never get them back together again."

Like Georgia, Maine reveals both the promise and the pitfalls of the forest land rush. Maine has the largest contiguous block of undeveloped forest east of the Mississippi -- at least 10 million acres, or more than half of the state's entire land mass. Most of it was once owned by paper companies, but this is shifting quickly. According to the Massachusetts-based Manomet Center for Conservation Sciences, 20 million acres changed hands in Maine's North Woods, north of Bangor, between 1980 and 2000.

In several cases, conservationists, working with local communities and business owners, have been able to stem development's tide. Jeff McEvoy owns Weatherby's lodge in Grand Lake Stream, a town on the edge of Maine's North Woods. When Typhoon LLC, a timber investment company, wanted to sell off 339,000 acres in the region, the New England Forestry Foundation raised $30 million along with locals, enough to buy the development rights and create a 27,000-acre working forest that is logged but supports wildlife.

"People come here for the pristine wilderness experience," said McEvoy, who runs hunting and fishing trips out of a lodge that has thrived for 130 years.

In the nearby town of Greenville, however, a real estate investment trust called Plum Creek Timber Co. has been buying and converting forests into residential and vacation homes. Last year, it proposed turning a stretch of forest into two resorts and nearly 1,000 private lots. Maine's Land Use Regulatory Commission initially rejected the application, and in the coming weeks the company is expected to submit a more environmentally friendly proposal.

In Big River, however, timber companies and conservationists have been able to make common cause. Levesque and his bosses at Campbell Timberland Management would prefer to sell some of their forest to the Conservation Fund so the

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community can keep its logging jobs and wildlife can continue to thrive. A fisheries biologist with a master's degree in forest hydrology and engineering, Levesque is as enamored of Big Creek as the environmentalists hoping to buy it.

"These are special places," he said, looking up at the redwoods standing by the river's edge. "It's kind of an ecologist's dream."

Slapping King Coal's Wrist (NYT)

The New York Times, March 21, 2006

The Bush administration's accommodation of the mining industry — notably by packing the mine safety agencies with pro-management appointees — has produced a marked decline in major fines for negligent companies. A recent data analysis by The Times documented a risky, business-friendly downturn in penalties since 2001. At the same time, nearly half of the announced fines still go uncollected.

With a rash of 24 mine deaths so far this year, Congress is considering tougher fines of up to $500,000 for culpable companies. But what good are fines if they are not being forcefully used by the federal agencies supposedly responsible for workers' safety? This question must be asked in deadly earnest in the case of the Sago Mine in West Virginia, where a dozen miners perished in January. The company was later found to have been cited for 273 violations in two years' time, not one of them costing more than $460.

Under present practices, fines are rarely levied at the maximum level, and even then companies can negotiate the penalties downward through an industry-friendly appeals process. Fines as low as $60, if collected, amount to jaywalking tickets.

Beyond the slump in fines, the administration's record has been distinguished by budget and job cuts in critical mine safety agencies. Lately, there's been a flurry of reform proposals in response to the deaths in the headlines. But an administration that prefers to fill key regulatory positions with mining lobbyists and executives has a long way to go toward miner safety. It should begin with an urgent reversal of its embarrassing record on penalizing flagrantly negligent companies.

FBI/DEA/ATF/USMS:

2 Cos. In FBI Computer Team Cited In Audit (WP/AP)

By MARK SHERMAN, The Associated Press

The Washington Post, March 21, 2006

WASHINGTON -- Two companies that will share in a new FBI computer contract were singled out in a government audit Monday that questioned $17 million in the agency's computer overhaul.

The FBI and its contractors share the blame for $10 million in questionable costs and for 1,205 pieces of missing computer equipment valued at $7.6 million, the Government Accountability Office said in its review of the FBI's Trilogy program.

Two of those companies, CACI and Computer Sciences Corp., are part of the Lockheed Martin Corp. team that last week won a six-year, $305 million contract to build and run the FBI's Sentinel computerized case management system. The total value of the Sentinel project is $425 million.

FBI officials said they were applying the lessons learned in the Trilogy computer upgrade, including keeping tighter reins on their contractors. Sentinel is the replacement for the failed project that was to have been the final piece of Trilogy.

The questionable costs included first-class air travel for government contractors, excessive overtime and $5.5 million in charges that lacked substantiation, the report by Congress' investigative and audit agency said.

The FBI was "highly vulnerable to payments of unallowable costs" because of lax oversight, auditors said.

El Segundo, Calif.-based Computer Sciences, or CSC, was the principal contractor in the effort to put in place a high-speed, secure computer network and 30,000 new desktop computers for the FBI. CACI of Arlington, Va., essentially reported to CSC.

Auditors identified a $456,211 invoice from CACI for which CSC never received sufficient evidence, but paid anyway. "It's not what we asked for but at this point it doesn't really matter. Approve it," one CSC employee wrote another in an e-mail exchange that was included in the GAO report.

In another bill from CSC to the FBI, all but $44,000 of a $1.95 million invoice was listed as "other direct costs" with no additional explanation provided.

Auditors also identified as excessive the $52,000 CACI spent on 60,000 pens that were custom-made for FBI computer training sessions.

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CSC spokesman Chuck Taylor said his company complied with its contract, using first-class travel only to accommodate last-minute schedule changes when lower fares were not available. CSC's billings were within approved limits, Taylor said. CACI did not immediately comment Monday.

A separate report last week from Justice Department inspector general Glenn A. Fine warned that costs could again get out of hand unless the FBI puts strong controls in place. Bureau officials have said they are doing just that.

"The lessons learned from the Trilogy program are guiding us, and the FBI continues to strengthen our internal controls," said FBI spokeswoman Cathy Milhoan.

The CSC unit that worked on Trilogy will not be part of the Sentinel project, Milhoan said. CACI will provide training for new system, as it did for Trilogy, she said.

The FBI has since accounted for more than 1,000 of the missing desktop and laptop computers, printers and servers, she said. The bureau also will seek repayment of inappropriate charges identified by a final audit of Trilogy that has yet to be finished, Milhoan said.

ATF Team To Target Atlanta's Violence (WT)

By Jerry Seper, The Washington Times

The Washington Times, March 21, 2006

Attorney General Alberto R. Gonzales yesterday said Atlanta would become the 23rd U.S. city assigned a federal Violent Crime Impact Team in an aggressive effort to make that city safer.

"The citizens of the city of Atlanta deserve to live free from violent crime," Mr. Gonzales said in announcing the law-enforcement initiative during a press conference at the U.S. attorney's office in Atlanta. "VCIT will help make Atlanta safer through a coordinated campaign to investigate and prosecute those individuals who threaten our communities with guns and violence."

Washington, Baltimore and Richmond are among the other cities participating in the VCIT program.

The VCIT teams, led by the Bureau of Alcohol, Tobacco, Firearms and Explosives, consist of ATF agents, U.S. marshals, Drug Enforcement Administration agents and federal prosecutors who partner with state and local law-enforcement officers and prosecutors to proactively and aggressively identify, arrest and prosecute those responsible for firearms-related offenses and other violent crimes.

"Make no mistake about it; Violent Crime Impact Teams have saved lives by getting armed criminals off the streets," said ATF Director Carl J. Truscott.

Mr. Truscott said the teams use technology and human intelligence to identify geographic areas within cities with violent firearms crime; identify the "worst" violent offenders, the criminal organizations that support them and armed career criminals; and use criminal investigations and investigative tools and resources to disrupt and dismantle criminal activity being perpetrated by the targeted persons and organizations.

He said they also arrest and prosecute those persons and their associates in the federal or state jurisdiction that lends itself to the maximum penalty; work with community leaders to cultivate solid and sustained commitment between the community's residents and law enforcement; and evaluate results on a regular monthly basis to assess VCIT progress toward achieving the initiative's goals.

Since its inception in June 2004, Mr. Truscott said, the teams have made 8,892 arrests and recovered 8,485 firearms in the areas where VCIT is deployed -- working in conjunction with Project Safe Neighborhoods (PSN), a strategy geared toward combating gun crime in communities across the country.

VCIT builds on the success of PSN, he said, by adding additional resources to lower the number of homicides and other violent firearms-related crimes in targeted areas.

Other VCIT teams are in Albuquerque, N.M.; Baton Rouge, La.; Camden, N.J.; Columbus, Ohio; Fresno, Calif.; Greensboro, N.C.; Hartford, Conn.; Houston and Laredo, Texas; Las Vegas; Los Angeles; Miami; Minneapolis; New Orleans; Philadelphia; Pittsburgh; Tampa, Fla.; Tucson, Ariz.; and Tulsa, Okla.

U.S. Attorney General Targets Violent Crime, Meth In Georgia (AP)

By Doug Gross

AP, March 21, 2006

WALESKA, Ga. - Anti-methamphetamine laws like the ones passed in Georgia are tamping down the domestic production of the deadly drug, U.S. Attorney General Alberto Gonzales said Monday.

But Gonzales said an increase in the amount of meth being smuggled into the country from Mexico threatens to offset those advances.

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Gonzales joined Gov. Sonny Perdue at a town-hall meeting of law enforcement officials, community activists and others on what they called the methamphetamine crisis in the state.

"Meth threatens to turn the American dream into the American nightmare - not just for the users, but for their families ... and their communities," Gonzales said.

The event was held at Reinhardt College in north Georgia's Cherokee County, where there were 490 meth-related arrests and more than $300,000 worth of the drug confiscated by authorities last year, according to Perdue.

The governor highlighted anti-meth measures taken by Georgia's Legislature over the past few years, such as requiring the drug's key ingredients to be moved behind the counter of stores that sell them and making it a felony to cook meth in the presence of a child.

Perdue has requested $1 million in this year's state budget for a new Georgia Bureau of Investigation meth task force and another million for treatment of people addicted to meth.

"We're seeing the spread of meth labs slow down," Perdue said. "We haven't solved this meth crisis by any means, but we are seeing some positive trends."

Gonzales said some of Georgia's laws were mirrored in the federal Combat Meth Act passed recently by Congress.

But he said federal authorities also have tracked an increase in meth production and distribution by organizations based in Mexico. Gonzales said he has planned a May summit with Mexican officials in Dallas to discuss the trend.

Earlier Monday, Gonzales was in Atlanta to announce the launch of a federal initiative to target violent crime in the worst parts of the city.

The Violent Crime Impact Teams initiative is operating in a total of 23 cities across the country, including Philadelphia, Baltimore, Tampa, New Orleans and Los Angeles.

Several federal agencies, including the Bureau of Alcohol, Tobacco and Firearms and the local U.S. Attorney's Office, will work with local law enforcement agencies on the initiative, which will operate around the city "on any given day, at any given time and in different capacities," said Vanessa McLemore, special agent in charge of the Atlanta Field Division of ATF.

They will use firearms dealer inspection data, gang intelligence information, police call response data and other information to identify crime "hot spots," and the peak times for enforcement actions.

Federal officials declined to identify the "hot spots" they will target in Atlanta.

Mexico Called Key To Stopping Meth Imports Perdue Says State Needs To Network To Be Effective (AJC)

By Clint Williams, The Atlanta Journal-constitution

The Atlanta Journal-Constitution, March 21, 2006

Much of Georgia's methamphetamine problem starts in Mexico, Gov. Sonny Perdue said Monday, making a good working relationship with federal and foreign authorities increasingly important.

To stress the need for help in combating the highly addictive drug, the governor appeared with U.S. Attorney General Alberto Gonzales at a meeting at Reinhardt College in Cherokee County.

About 200 people made up the invitation-only group of law enforcement officials, prosecutors, drug rehabilitation professionals and elected officials.

While the number of meth labs in Georgia has declined, Perdue said, "importation of high-grade crystal meth is increasing."

Metro Atlanta has become a hub for eastern U.S. distribution of the drug being manufactured at large clandestine labs in Mexico and in the Western United States, according to the U.S. Drug Enforcement Administration.

Stemming the flow of the drug, known as "ice," will take international cooperation, Gonzales said Monday afternoon, noting that he is to meet with the Mexican attorney general in Dallas in May. The United States is training Mexican officials on how to deal with the cleanup of toxic meth labs and other issues, Gonzales said.

Perdue said it's critical that people become more aware of how destructive meth — a cheap, powerful stimulant — can be. "Meth is deadly to make and deadly to take," the gorvernor declared. "Meth is bad stuff."

Education is a key component in the battle against meth use, Perdue said, adding, "We are probably behind the curve on the education and awareness we need to provide."

Perdue has asked the Legislature to approve a little more than $1 million to fund a 15-member task force in the Georgia Bureau of Investigation. His budget also recommends $1 million more to expand meth treatment programs.

Ex-officer Charged With Drug Possession (BRA)

By PENNY BROWN ROBERTS, Advocate staff writer

Baton Rouge Advocate, March 21, 2006

A former Baton Rouge police officer who once went to jail for selling items from the evidence room now faces more prison time after federal agents allegedly found 6 kilograms of cocaine in a trash can in his garage.

Daryl W. Davis, 38, 18030 Manning Drive, Prairieville, was charged Monday in a criminal complaint with one count of cocaine possession and one count of possession of a firearm by a convicted felon.

He is being held in the West Baton Rouge Parish Prison.

The U.S. Drug Enforcement Administration has been investigating Davis — who spent 13 years on the Baton Rouge police force — for nearly a year, Assistant Special Agent in Charge Kevin Harrison said Monday.

In an affidavit, DEA Special Agent Mark Lusco writes that investigators believed Davis was "obtaining multikilograms of cocaine from Houston, Texas, and distributing them in the Baton Rouge area."

On Friday, two confidential informants told agents that Davis was about to get "multikilogram" quantities of cocaine, Lusco writes in the affidavit.

Agents began watching Davis that day and stopped him after he made a U-turn "to avoid numerous marked police vehicles with their emergency lights activated," the affidavit says. He reportedly gave them permission to search his vehicle and his Prairieville home.

There, according to Lusco, agents seized the 6 kilograms of cocaine from the garbage can. On Davis' property, they also found a loaded .38-caliber revolver, ammunition, an electric money counter and money packaging materials, Lusco's affidavit says.

Before Davis was arrested, Lusco claims in the affidavit, the former officer admitted to cocaine trafficking but said the gun belonged to his live-in girlfriend.

Davis — who joined the Baton Rouge Police force in 1986 — previously was arrested in July of 1999. He was accused of stealing a cell phone cloning device from the evidence room and selling it for $1,000 to the man from whom police seized it.

He also allegedly helped an evidence room student worker and her boyfriend steal a gun that was evidence in a related case.

The Police Department fired Davis two weeks later when he refused to answer questions posed by Internal Affairs investigators.

Davis was convicted in a bench trial of one count of obstruction of justice and one count of public bribery and sentenced to five years in prison in February 2001. His parole ended last month.

At the time he was sentenced, state District Judge Bonnie Jackson said testimony during the trial suggested Davis was involved in drug activity.

Davis made an initial appearance Monday before U.S. Magistrate Docia Dalby, who appointed a public defender to represent him.

A detention hearing is scheduled for March 27.

Police Testify In Hearing For Drug Suspect (ASPNEWS)

By Troy Hooper, Aspen Daily News Staff Writer

Aspen (CO) News, March 21, 2006

A Little Annie's Eating House employee was bound over for trial Monday after the prosecution portrayed him as a chief trafficker of a local cocaine network.

Seated between defense attorney Arnold Mordkin and an English-to-Spanish interpreter, Fernando Leal-Ruiz quietly listened as law-enforcement officers at his preliminary hearing testified that during a Dec. 2 drug raid they saw him reaching in the direction of a plastic bag that was later determined to contain 44 bindles of cocaine.

An undercover agent from the Drug Enforcement Administration also testified that Leal-Ruiz might have been the supplier of two eightballs of cocaine he purchased in the alley behind Cooper Street Pier and the agent described seeing the defendant repeatedly engage in suspicious activities.

Monday's hearing was the latest courtroom development concerning the December drug raids of two downtown restaurants in an operation coordinated by local, state and federal authorities. The raids drew both criticism and praise, and resulted in a town meeting that focused on the city's drug enforcement policy, which ultimately was left unchanged.

Meanwhile, Mordkin poked holes in police testimony -- a key portion of which was hearsay, which is admissible in preliminary hearings but not in criminal trials -- and pointed out that the evidence presented was entirely circumstantial.

"I realize you don't have to have enough evidence to convict (in a preliminary hearing) but I don't believe there is any evidence at all," said Mordkin, arguing that deputy prosecutor Gail Nichols' position was speculative.

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Judge James Boyd ruled that in viewing the evidence in a light most favorable to the prosecution, which is required in a preliminary hearing, there was enough "circumstantial evidence that not only he knew (the bag of cocaine) was there but also that he was in control of it."

During the hearing, DEA agent Dave Storm described how he met a man later identified as Jaime Gamez Acuma at Cooper Street Pier last fall. The agent said he asked Acuma for one-eighth of an ounce of cocaine -- a quantity known on the street as an "eightball" -- on at least two occasions and both times he observed Acuma go into the alley behind Cooper Street Pier, enter the back kitchen door of Little Annie's and return with white powder that a DEA laboratory in San Francisco later determined was cocaine. Storm said he paid $160 for each eightball.

"There was a lot of activity in the alleyway; specifically, a lot of people coming out the backdoor (without food). For an established business to have so many patrons walking in and out of the backdoor became suspicious to us," he said.

Storm testified he purchased the drugs through Acuma, a suspected middleman in the operation, but he never saw Leal-Ruiz directly involved in the transaction. The agent said he did see Leal-Ruiz shake hands with a number of persons and lean into the windows of several vehicles that pulled up in the alley that Cooper Street and Little Annie's shared. In his ruling, Judge Boyd noted Storm's back-alley observations are both consistent with drug dealing and "innocent activity."

Detective Chris Womack, who led the charge into Little Annie's, said when he entered the kitchen on the afternoon of the raids he ordered the only two men in the kitchen, Leal-Ruiz and the head chef, Tom Woodson, to lay stomach-down on the ground. Womack said he and his team discovered 44 blue-colored bindles, which are folded pieces of paper used to carry cocaine, behind some shoes on a shelf that held a box of yams in a storage room where Leal-Ruiz was lying prone. Another 20 yellow-colored bindles were found on the other side of the kitchen near an opening where servers pick up plates of food to deliver to restaurant patrons.

Womack also testified that he spoke with Aspen police officer James Crowley who told him that Martha Byrum, a woman with a history of drug problems, informed him that she bought cocaine at Little Annie's.

Womack said that Crowley told him that Byrum would call up the restaurant and ask for a kitchen worker named "Fernando" and if he was working, she would go to Little Annie's and buy drugs. She identified Leal-Ruiz in a photograph the DEA took as someone who sold her cocaine, according to Womack, although she said sometimes she only dealt with other persons in the kitchen who sold her cocaine - testimony Nichols admitted was flimsy but nonetheless supportive of the conspiracy charge against Leal-Ruiz.

In a brief appearance on the witness stand, an Immigration and Customs Enforcement officer said he saw Leal-Ruiz reaching in the direction of the drugs when he, Womack and either three or four other officers stormed into the kitchen. The ICE officer said he could not see what was in the bag that Leal-Ruiz was reaching for because it was opaque. Mordkin argued that photographs depicting the plastic bag that held the 44 bindles was not opaque but actually transparent.

The next court hearing for Leal-Ruiz is scheduled for April 17.

So far, four of the 10 cases connected to the Dec. 2 raids have been resolved. One of the cases was dismissed and three other men pleaded guilty to felony possession of cocaine. They received sentences of two years' probation.

In other court news:

* Judge Boyd issued an arrest warrant for Basalt resident Karen Kinkaid, who failed to show up to court Monday. Her attorney, Lawson Wills, couldn't provide an explanation on why she didn't show up. The judge said that her previous bond would be forfeited and he set a new bond of $20,000 for a 2005 case involving accusations of illegal-drug possession and he set a $13,500 bond for a new case this year in which Kinkaid is accused of aggravated motor vehicle theft and forgery.

* Andre Jesus Lozano -- who was convicted of stealing credit card numbers from Aspen Valley Hospital, where he worked, to purchase cookie dough, balloons and other items - was sentenced to three years in state prison. He has six previous theft-related convictions, according to Nichols. Brad Osborn, director of the Right Door, said he has been working with Lozano because his stealing problems are a compulsive addiction similar to those experienced by drug addicts. Osborn spoke optimistically about Lozano and recommended the judge allow him to continue counseling. Lozano cried as he admitted acting "greedy" and "selfish" and said he has been feeling emotionally stronger since taking prescribed medication and working with Osborn and another local doctor. "Even in the Department of Corrections there is some help available to you," said Boyd, noting that Lozano expressed remorse and is suffering with a health crisis.

* Aspen resident Sean Gooding, who police last fall accused of threatening two people with a gun at his apartment in the wee hours of the morning, pled guilty to misdemeanor menacing. A related charge against him was deferred for one year.

New Details Emerge In Drug Bust (ATI)

By Chad Abraham

Aspen (CO) Times, March 21, 2006

Relying in part on statements by a woman caught with a crack pipe in the home of Aspen's police chief, a judge ruled Monday there is enough evidence to try a man on cocaine distribution and conspiracy charges.

Fernando Leal-Ruiz of Carbondale was arrested, along with nine others, in the Dec. 2 drug raids on Little Annie's Eating House and Cooper Street Pier.

Leal-Ruiz, a chef at Little Annie's, allegedly had 44 bindles of cocaine, totaling just less than 26 grams, ready to sell from the restaurant's kitchen. Monday's preliminary hearing saw testimony by the Aspen police detective who led the raid on Little Annie's, a DEA agent and an immigration officer.

After her arrest in October, Martha Byrum explained to police how she would buy cocaine from Little Annie's, Detective Chris Womack said on the stand.

She said she would call the restaurant, ask for Fernando and, if he was working, go to the eatery's back door and knock, Womack testified. Whoever answered would sell her cocaine.

Byrum pleaded guilty in January to cocaine possession, second-degree trespassing and a probation violation. She was arrested after walking into Police Chief Loren Ryerson's Aspen home while trying to elude officers.

Byrum is serving four years in a community corrections facility in El Paso County. Womack told Judge James Boyd that Byrum identified Leal-Ruiz from a surveillance photo taken by the DEA.

Dave Storm, a 15-year DEA agent, said he provided that photo to the Aspen Police Department. He testified that he bought drugs from Jaime Gamez-Acuna, who was also arrested, while investigating employees and patrons of the two restaurants. The operation involved video as well as photographs.

Storm's testimony revealed the origins of the controversial busts. The arrests, 11 in all, forced the police department to re-evaluate its drug-fighting policy after some Aspenites criticized authorities for the handling of the operation. The Pitkin County Sheriff's Office was not told about the raid, and many felt that storming the landmark restaurants during après-ski was not in line with Aspen's mellow ethos. Others supported the action.

Storm said he got to know Gamez-Acuna while playing pool at Cooper Street Pier. He later saw him smoking a joint in the alley between that restaurant and Little Annie's, he testified.

When Storm walked up to Gamez-Acuna, whom he called Jimmy, the suspect said, "You don't do weed."

"No, but the other," Storm responded, referring to cocaine.

Gamez-Acuna said he had a friend who sold "eight balls," slang for an eighth of an ounce of cocaine, for $160. He pointed to the back door of Little Annie's, Storm testified.

The agent gave him the cash, and Gamez-Acuna disappeared into Little Annie's, returned with the drug and then went back into Cooper Street, Storm said. The back doors of the restaurants are across an alley from each other.

Storm said he engaged in another drug deal on Oct. 21. While playing pool with Gamez-Acuna at Cooper Street, they agreed to another buy and walked down the back stairs and into the alley, where Storm again produced $160.

Gamez-Acuna went back into Little Annie's and returned with five bindles of cocaine worth $30 apiece, the agent told Boyd.

"It's better than what they're selling up there," Gamez-Acuna allegedly said, referring to Cooper Street.

Storm acknowledged that he did not know who Gamez-Acuna was allegedly getting the drugs from inside Little Annie's. But he said there was "a lot of activity in the alley." During surveillance, he noticed many people quickly going in and out of Little Annie's rear entrance without food. Vehicles also pulled up and people leaned into the windows briefly, he said. Leal-Ruiz was among those Storm said he saw meet vehicles and people in the alley.

During the Dec. 2 operation, Womack led four other law enforcement officials into the back of Little Annie's. The two employees they initially encountered, one of whom was Leal-Ruiz, were ordered to lie face-down.

Dan Fitzgibbon of the U.S. Immigration and Customs Enforcement agency accompanied Womack during the operation. He testified that Leal-Ruiz, lying prone in a storage area, reached out of his line out of sight. He shouted at Leal-Ruiz at gunpoint to show his hands because he was concerned the suspect may have been trying to get a weapon.

Fitzgibbon then checked the area and saw a Ziploc bag stuffed behind a pile of shoes. He called Womack back, who said the bag contained the 44 bindles. He said there were 20 other bindles in the front of the kitchen, near where the wait staff picks up food for customers.

Prosecutor Gail Nichols told Boyd that Leal-Ruiz had no reason to reach near the shoes other than to try to hide the drugs.

But Leal-Ruiz's attorney, Arnie Mordkin, argued that it had not been proven the bindles were his client's. He grilled Storm on how he handled the bindles and whether they were fingerprinted. Storm said fingerprinting of bindles is rarely done because the paper yields inconclusive prints.

Mordkin also questioned Womack at length about the dimensions of the storage area and whether he moved the shoes to get to the bindles. The defense attorney appeared to be trying to cast doubt on how Leal-Ruiz could have shoved the Ziploc behind the shoes if he was prone on the ground.

Nichols said it was "pretty obvious" that Leal-Ruiz was trying to hide the bag. She also cited Byrum's statements to police - that others were involved in the backdoor sales - as enough justification for the conspiracy charge.

Cocaine was being dealt out the front and back of the tiny restaurant and it would have been impossible for Leal-Ruiz to not know it was going on, she said.

Mordkin countered that there wasn't "any evidence at all" to try his client on the possession or conspiracy charges. The cocaine was on the floor of the storage area and not in Leal-Ruiz's possession, he said. As for reaching in the area where the bag was found, Mordkin said Leal-Ruiz could have been adjusting his shoes - "could have been doing a gazillion things."

"How can he conspire if we never have possession?" he asked.

Mordkin added that there's no evidence Byrum ever bought cocaine from Leal-Ruiz.

"There's no connection. There has to be a connection," he said. Mordkin then sat down heavily.

Boyd disagreed. He said Byrum's statements to police, while hearsay, were admissible in a hearing to determine whether there is enough evidence to try him on the charges. He also cited that Byrum identified him in the picture and mentioned his name in describing how she obtained the cocaine.

Boyd said Leal-Ruiz was not complying with orders to show his hands and reached into an area where the cocaine was found. Both the conspiracy and distribution charges are warranted, he ruled.

Five of the 10 men arrested in the raids are still in the court system. Charges against an 11th man, who was arrested a week after the operation, were dismissed and he was deported. Of the five men whose cases already have been considered, at least three have pleaded to guilty to possession of cocaine and received probation.

Edubiel Hernandez-Cruz, who faces similar charges as Leal-Ruiz, also was in court. His hearing was continued, as was the arraignment of Gamez-Acuna. His lawyer said he and Nichols are close to reaching a plea deal.

Leal-Ruiz's next court date is April 17.

Andersen's Dismissal Is Upheld (NYT)

By Liz Robbins

The New York Times, March 21, 2006

An arbitrator ruled in favor of the N.B.A. yesterday and upheld the league's dismissal of Hornets forward Chris Andersen for violating the league's drug policy.

The arbitrator, Calvin Sharpe, ruled on a grievance filed by Andersen and the players union. Andersen, dismissed Jan. 27, cannot apply for reinstatement for two years.

"Obviously the league has made up their mind what they want to do, and we're all going to have to live with that," Hornets Coach Byron Scott said after practice yesterday in New Orleans.

Neither the league nor the players association would reveal Andersen's offense. The N.B.A.'s collective bargaining agreement specifies that a player can be disqualified only for a fourth positive test for performance-enhancing drugs, or a first positive test for "drugs of abuse," which include amphetamines, cocaine, LSD, heroin, codeine and morphine. Andersen had not previously been suspended under the drug policy.

Anderson's four-year, $14 million contract with the Hornets, which he signed last summer, became void.

Arbitrator Upholds Andersen Dismissal (AP)

AP, March 20, 2006

NEW YORK (AP) -- Former New Orleans Hornets forward Chris Andersen's dismissal from the NBA for violating the league's drug policy was upheld by an arbitrator Monday.

Andersen was dismissed and disqualified from the league in late January. He is not eligible to apply for reinstatement for two years.

Andersen and the players' union had filed a grievance, but arbitrator Calvin Sharpe rejected it.

According to the league's collective bargaining agreement, a player can be disqualified only for a fourth positive test for performance-enhancing drugs, or a first positive test for "drugs of abuse." The drugs on that list include amphetamines, cocaine, LSD, heroin, codeine and morphine.

Andersen has not previously been suspended for testing positive for performance-enhancing drugs.

Bolivian President Takes 'coca Is Not Cocaine' Plea To UN (IND)

By Daniel Howden

Independent, March 21, 2006

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Bolivia stepped up a long-running battle with Washington this week by taking its campaign to legalise coca plants to the United Nations in a bid to persuade the international community that the leaf should no longer be banned because of its links to the illegal drugs trade.

The tiny Andean nation, headed by newly elected populist President Evo Morales, is determined to prove that coca can be the source of legitimate products for export and not just the raw material for cocaine.

In Bolivia and across fellow coca-producing nations Colombia and Peru, the leaf has been grown for 3,500 years, and is used in everything from herbal tea to clothing. Its advocates say it can be used, among other things, as an aid to digestion and can provide vital nutrients and vitamins. Its function as an appetite suppressant, they point out, could also come in handy in the struggle against obesity.

Under the slogan "coca is not cocaine", they are calling for coca-based products, ranging from staples such as tea and bread to cosmetic goods such as shampoo, to be mass-produced and exported from all over South America.

But the plant, because of its close link to cocaine, is listed by the UN as a poisonous species, something which Bolivia hopes to change this week as it takes the case for legalising coca to the UN narcotics and crime agency in Vienna.

President Morales, himself a former grower and indigenous Aymara Indian who came to prominence as a spokesman for the coca farmers of the Chapare region of Bolivia, where 90 per cent of the country's coca yield is produced, has condemned his country's cocaine production. He is insistent, however, on its right to harvest more coca.

If he succeeds in changing the plant's status by 2008, Washington will not be happy. The US, which spends $1bn a year on its so-called "war on drugs" across South America, says it would be impossible to legalise coca growing in Bolivia without sending cocaine production soaring.

US officials express serious concerns that the new wave of leftist Latin American leaders - from Bolivia's President Morales to the Venezuelan President, Hugo Chavez - are acting in the interests of cocaine barons.

In most of the Andean states there are already small quotas of legalised coca cultivation supplying traditional products. Washington has argued that any expansion of those quotas would be cocaine production by another name.

Bolivia Urges UN To Defy Washington And Legalise Coca (TEL)

By Sophie Arie in La Paz

Telegraph, March 20, 2006

Bolivia is leading a Latin American campaign to legalise coca plants despite them being vilified by the United States as the source of the world's cocaine industry.

Coca leaves: fans claim it aids digestion and contains more vitamins and nutrients than most vegetables

Under the slogan "coca is not cocaine", politicians, consumers and growers across the Andes are promoting the leaf's qualities and calling for coca-based tea, yoghurt, bread, toothpaste, shampoo and soap to be mass produced and exported.

Its fans claim it helps digestion, provides more vital vitamins, nutrients and fibre than most vegetables and can even combat obesity.

But the plant has been listed by the United Nations as a poisonous species since 1961 because it also contains the alkaloid needed to make cocaine.

Bolivia has this week been arguing the case for legalising coca to the UN narcotics and crime agency in Vienna and hopes to change its status by 2008.

Indigenous communities have chewed its leaf here since 2,500 BC and brewed it as tea to boost their strength and stave off hunger and tiredness.

Even today, Bolivia's tin miners, who work in appalling work conditions, chew coca around the clock to stay awake and dull pain.

Prsident Evo Morales, a former grower who has campaigned for peasants' rights to tend the crop, has vowed to crack down on cocaine production in Bolivia, the world's third largest producer after Colombia and Peru.

But he insists the country should be allowed to grow more coca for natural, legal consumption.

And in neighbouring Peru a frontrunner in next month's election, Ollanta Humala, has suggested baking 27 million loaves of bread from coca leaves for school breakfasts daily.

Small companies in Bolivia, Peru and Colombia, have launched coca-based energy drinks, biscuits, breads and yoghurts, all faintly green in colour and supposedly providing invaluable nutritional benefits.

And although not officially for export, leaf-shaped coca biscuits are a popular buy at airport souvenir shops.

Some also claim that the leaf's ability to stunt appetite could provide a natural cure to the world's obesity epidemic.

Maria Eugenia Tenorio, Bolivia's best known coca cook, even claims to have lost more than two stone in eight months by eating large numbers of coca biscuits.

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"If Bolivians just started cooking with coca, they could solve most of the problems of malnutrition here," she said in her La Paz kitchen, kneading green coca flour into mashed potatoes to make a local version of gnocchi.

The US spends up to $1 billion a year tackling drugs in the Andes.

The idea that more coca can be grown in Bolivia without boosting more cocaine production is "pie in the sky", US officials say.

Canada's Growing Marijuana Problem (BBC)

By Becky Branford

BBC, March 20, 2006

Nearly half of Canadians admit to smoking marijuana at least once Frank proudly surveys the large log cabin he constructed himself, on a two-acre plot of aromatic evergreen forest he now owns.

"All this," he says, "was built on marijuana."

Over four years, Frank - not his real name - tended a patch of marijuana plants in a forest clearing about 45 minutes' walk from where his cabin now stands.

He regularly pooled his harvests with those of several other growers in the small British Columbia (BC) town in which he lives, to sell wholesale to young men from just across the border in the US state of Idaho.

Frank says he made hundreds of thousands of Canadian dollars before hurriedly leaving the business when his American buyers were arrested.

But tens of thousands of illegal "grow-ops" remain in Canada. Estimates suggest marijuana may generate up to C$7bn (£3.5bn; US$6.1bn) a year in BC, the sunny province thought to be at the heart of the industry.

Canada's new Conservative government says people like Frank are a menace to society, putting drugs on the streets and fuelling organised crime - and it has vowed to get tough on them.

But critics accuse the government of being wilfully blind to the historic failures of law enforcement, and ignoring public opinion and the findings of expert committees in favour of a policy of demonising marijuana - a policy they liken to the short-lived Prohibition of alcohol in 1920s and 30s America.

Vietnam roots

Growing marijuana in BC's thinly populated and rugged interior, Frank was continuing a tradition - of sorts - said to have arrived with some 50,000 young American men seeking to avoid being drafted to fight in the Vietnam war.

It's politics that's stopping a change in drug laws and not logic

Lawyer and policy expert Eugene Oscapella But over the intervening decades, the industry has changed. Most of today's grow-ops are indoors, using artificial light to produce stronger strains of cannabis.

The industry has also grown. The Canadian statistics agency reports that in 2004 there were more than 8,000 cultivation offences recorded - up from 3,400 in 1994.

Experts deduce that the true number of grow-ops is much greater, as even large seizures seem to have little effect on the price of marijuana.

The federal police reported in 2002 that the cultivation industry had reached levels "that could be deemed epidemic in the provinces of BC, Ontario, and Quebec" - and they also warn that almost every large-scale operation these days is linked in varying degrees to organised crime.

"Cannabis is the biggest issue facing law enforcement now," says Inspector Paul Nadeau of the Royal Canadian Mounted Police (RCMP).

He says smugglers have access to "transport vehicles, planes, helicopters. The sky's the limit".

He calls for greater deterrents, pointing out that in BC only about 10% of those convicted of growing marijuana face jail terms (the figure is higher in other provinces), with most offenders getting a fine or suspended sentence.

The Canadian police: 'We are drowning in the numbers' He says judges facing a backlog of cases in the courts "have to be given the means to deal with the problem... We are drowning in the numbers."

In contrast to the previous Liberal administration, which sought unsuccessfully to reduce penalties for possession, the new Conservative government pledged in its election manifesto to steer Canada "off the road to drug legalisation".

It said it would ensure mandatory minimum prison sentences and large fines for serious drug offenders, including growers.

Consumption rises

But critics of tougher law enforcement insist it is doomed to failure - and has failed.

"I don't advocate smoking anything - I think it's bad for you!" says Stephen Easton, professor of economics and a senior scholar at the conservative Fraser Institute think tank, who has studied the industry in detail.

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He and other pro-reform experts accept that there is growing evidence of a link between heavy cannabis use and mental health problems in some people.

Parents and police officers agree the last thing we need is more drugs on the streets

Patrick Charette

Justice ministry "But has criminalisation been successful in deterring consumption? The answer is surely no," he says.

In 2004, the Canadian Addiction Survey found 44.5% of Canadians reported using cannabis at least once - up from 23.3% in 1989.

The proportion of respondents who admitted to using cannabis in the previous year was 14.1% - compared with 9.7% of Britons and 10.6% of Americans in equivalent surveys.

Instead of spending half a billion Canadian dollars each year tackling illicit drug use, Professor Easton argues, federal authorities have an alternative: "Tax and trade it like any other normal commodity."

In fact, several government committees tasked with evaluating Canada's drug laws have recommended legalisation of marijuana - from the 1972 Le Dain Commission to the Senate Special Committee on Illegal Drugs which reported in September 2002.

A recent survey suggested 51% of Canadians supported decriminalisation of marijuana.

Prohibition 'empires'

"There have been studies galore in Canada and elsewhere looking at this issue - it's politics that's stopping [a change in drug laws] and not logic," says lawyer Eugene Oscapella, a founding member of the independent Canadian Foundation for Drug Policy.

"It's hypocrisy, it's cowardice," he says - a charge the justice ministry declined to comment on.

Most marijuana cultivation now takes place indoors, under lights (image: RCMP) Mr Oscapella suggests Canada is fearful of crossing the US government, which he says has threatened to slow bilateral trade worth about US$1bn per day.

Some 85% of marijuana grown in BC is estimated to be exported into the US, though total border seizures of marijuana only amount to about 3% of that discovered entering the US from Mexico.

Mr Oscapella also argues that some sectors have an interest in maintaining what he calls the "Prohibition" on marijuana in Canada.

"You have to look at Prohibition as an industry: the crime-control industry. There are empires built around it - not only organised crime, but government bureaucracies, police departments, privatised prison industries in the US, pharmaceutical and drug-testing companies. These empires thrive on Prohibition."

He says he fears tougher enforcement will lead to a burgeoning prison population, but have little impact on the illicit industry.

Meanwhile, critics charge, the proceeds of the industry continue to feed what a recent editorial in the Vancouver Sun newspaper called the "monster" of organised crime.

As early as 2000, RCMP Commissioner Giuliano Zaccardelli warned this "monster" was threatening to destabilise Canada's parliamentary system.

'Pay the price'

But police insist tougher sentences, not legalisation of cannabis, is what is needed.

This argument is echoed by the new Ottawa government, though it says it will take advice before formulating a detailed drugs policy. It argues any resultant increase in spending on tougher law enforcement will be offset by lower spending on the social problems caused by drug abuse.

"Parents and police officers agree the last thing we need is more drugs on the streets," says the Ministry of Justice's acting communications director Patrick Charette.

"There has been a huge inconsistency in the application of the law - whether you're caught with a joint in a small rural community or downtown Vancouver, you'll get [a different] reaction from the police...

"Rather than simplifying and having a more relaxed approach, we think you need to enforce the law and make sure those caught with drugs and producing drugs pay the price."

Former Track Coach Convicted Of Doping (AP)

AP, March 20, 2006

MAGDEBURG, Germany (AP) -- Former German track coach Thomas Springstein was convicted of doping charges Monday and given 16-month suspended prison sentence.

The court found the 47-year-old Springstein guilty on charges including the alleged doping of young athletes in 2003.

Prosecutors had sought a longer suspended sentence, while the defense pleaded for an acquittal.

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Springstein was accused of supplying testosterone to his athletes, including a 16-year-old girl.

The trial took an unexpected twist when the court was read e-mails found when police raided Springstein's home in search of evidence.

In one e-mail, Springstein complained that the "new Repoxygen is hard to get. Please give me new instructions soon so that I can order the product before Christmas."

Repoxygen is designed for gene therapy on patients with anemia. It can boost an athlete's performance by inducing the release of erythropoietin, or EPO, a substance that stimulates the production of red blood cells to carry more oxygen to the muscles.

The International Olympic Committee and World Anti-Doping Agency already test for synthetic EPO. But there is no known test for Repoxygen, which gives the body the gene to stimulate EPO production on its own.

Springstein has worked with athletes including former East German track stars Grit Breuer and Katrin Krabbe. The two were banned from competition for using the steroid clenbuterol in 1992.

IMMIGRATION:

Exam Week For The GOP Congress (WSJ)

By George Melloan

The Wall Street Journal, March 21, 2006

Immigration reform is on the Senate agenda this week. The issue has been festering for years and probably will still be when Congress takes its Easter break, once again demonstrating the weakness of Republican congressional leadership.

It hardly needs saying the U.S. immigration policy is a mess. An estimated 11 million undocumented immigrants are among the 300 million souls who inhabit the nation. Most fill jobs U.S. citizens disdain. It would be hard to run U.S. hotels and restaurants without the maids and busboys who have made their way from places like Quito and San Salvador.

Yet their presence annoys what Weekly Standard editor Fred Barnes aptly calls "paleocons," conservatives of the Pat Buchanan stripe who go hysterical over these brown-skinned, Spanish-speaking toilers. Vigilantism has broken out on the Mexican border, with macho guys packing six-guns searching for wetbacks. More seriously, the hysteria has infected Congress, resulting in House passage in December of a bill that would, along with other drastic measures, authorize the construction of a 700-mile Berlin Wall on the Mexican border.

One guy who really loves that wall is a Yankee-baiting Mexican leftist named Andres Manuel Lopez Obrador. The highly visible testimony to gringo abhorrence of Mexicans is feeding his campaign for the July 2 Mexican presidential election. If he makes it, the U.S. will have only a few friends left in Latin American capitals. The aging, tottering Fidel Castro will have finally achieved his life's ambition of turning the Spanish-speaking world against America.

Illegal immigrants are indeed a problem, although also the principal victims of their illegal status. Because they don't have documents they can be easily exploited in ways offensive to the American sense of justice and fair play. The industry that has developed for sneaking them into the country is used for other purposes, such as smuggling drugs. A few, partly because of attachments to the smugglers, turn to crime in places like Los Angeles and Albuquerque.

The inability of the U.S. to devise a sensible set of immigration policies has broader repercussions beyond Latin America. Microsoft's Bill Gates complains that the U.S. is shutting out foreigners with needed skills. Colleges and universities say that Immigration and Naturalization Service bureaucracy complicates the admission of students, limiting the ability of the U.S. to earn foreign currency and international goodwill by offering the world's youth first-class educational opportunities. Employers protest at criminal penalties if they fail to detect document forgeries and thus don't fulfill their "duties" as surrogate law enforcers.

If Congress had been living up to its responsibilities, these problems would have been addressed long ago. The first requirement is for members to accept the fact that unfilled jobs in a booming economy are going to attract individuals seeking better lives. That's a normal and powerful drive in homo sapiens. Spending taxpayer billions on a hideous wall and more cops might reduce the flow, but it won't stop it or deal with the issue of what to do about those already in the country.

Lawmakers of course have a natural predilection toward exercising police power. Large construction projects appeal as well, especially in a Congress that seems mainly focused on finding ways to pass out federal dollars to key constituencies. But it should be evident by now that those kinds of approaches are limited in coping with honest human instincts.

The equation is simple: The U.S. needs labor; immigrants supply labor. So the solution is to find ways to bring the two together in some legal, orderly way. President Bush understands this, which is why he has proposed the restoration of a guest-worker program. But for some reason -- perhaps because the president's staff is not sufficiently skillful or vigorous enough in pressing his case -- the Republican leaders in Congress seem deaf to the wishes of their own president.

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The second part of the equation, what to do about existing illegals, is a bit more difficult, politically at least. The first bit of advice worth taking: Stop treating it as a police problem. Nearly all of the illegals sneaked into the U.S. for nothing more heinous than to offer their honest labor. They violated U.S. immigration laws but they aren't criminals in the sense of posing a threat to persons or property. If approached seriously and with sufficient goodwill, it should not be beyond the mind of man to find ways to make them legal.

In other words, they need to be given amnesty. The paleocons immediately object that doing so would reward them for breaking the law. How about changing the phrasing a little bit? Let's say they are to get amnesty in recognition of the fact that they already have suffered sufficient hardship in getting into the U.S. and living secret lives. Various other schemes that have been mentioned, such as sending them home to wait in a queue, have one fatal defect: They won't convince illegals that it is safe to come out of hiding.

Offering to give illegals green cards and wipe the slate clean is the only practical solution. If they come forward, they can stay on their jobs and travel back and forth to their homes legally. Some who have been trapped in the U.S. by their inability to travel freely will choose to go home permanently. There will be less incentive to sneak in family members, since it will be possible to visit relatives or send remittances. Restoring something like the old bracero program for temporary farm workers would further regularize the flow of labor.

Let's admit that Beltway politics has gone crazy. Aside from the paleocons, there are the labor unions and their "liberal" friends. Most unions long ago gave up representing working people in favor of representing themselves, which is no doubt why they are losing membership. It is hard to think of a class of workers more in need of union support than poor Latinos with no legal rights. But politics are what Congress is paid to manage. It's too bad this Congress is making such a hash of it.

TAX:

Companies Target Your Tax Refund (WSJ)

By Jeff D. Opdyke

The Wall Street Journal, March 21, 2006

A variety of companies are trying to get their hands on your tax refund before you do, and state law-enforcement officials are cracking down on some of the practices.

As the April tax-filing deadline approaches, businesses from tax-preparation firms to auto dealerships are offering consumers the opportunity to put their expected refund checks to work weeks before the IRS sends them out -- often by loaning them the expected amount for a high fee. Dozens of retailers, including Olive Garden restaurants and AMC move theaters, have begun offering gift cards in exchange for tax refunds to people who file using TurboTax, the popular tax-preparation software. H&R Block Inc. recently launched savings accounts for customers to channel their tax refunds. And hundreds of car dealerships will prepare your taxes if your refund is applied toward a down payment on a car.

But now, state officials are clamping down on some of these programs, claiming they saddle low and moderate-income families, recent college graduates and others with high fees. Last year about three of every four tax filers received a refund, according to the Internal Revenue Service. Those refunds totaled nearly $218 billion, or about $2,171 per household.

Last week, H&R Block, the nation's biggest tax preparation firm, was sued by New York's attorney general for selling so-called Express IRAs that allegedly earned less money than what customers paid in fees. That action followed a lawsuit last month against Block by California's attorney general, who accused the firm of charging fees that equate to annualized interest rates that can exceed 500% on so-called refund-anticipation loans, the popular instant refunds, which are loans that clients repay when their refunds arrive. Oklahoma's attorney general last week warned consumers away from instant refunds, which are also offered by other big tax-preparation firms, including Jackson Hewitt Tax Service Inc. and Liberty Tax Service, saying the best strategy "is to file your taxes, and wait for your refund check."

Block said at the time that the California suit has "no legal or factual merit," and said it clearly discloses the terms of its loans to consumers. The company also has denied the charges in the New York lawsuit, saying its IRA program offers its customers "a powerful first step toward ensuring a secure financial future."

Block has been aggressively expanding beyond tax-preparation; last week the company said it had been granted a federal savings bank charter that allows it to provide checking, savings and other services through a banking subsidiary. The company this year launched a money-market savings account, which clients can fund with tax refunds. It costs $15 to start, though that is waived if customers deposit a minimum of $1,000 or agree to regular deposits. The firm is also piloting a debit card onto which customers can load their refund. The debit card is free, though the average customer accumulates about $17 in ATM fees before the refund is exhausted, Block says.

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Bernie Wilson, Block's vice president for outreach and business development, says the company's goal is to help the low- to moderate-income Americans who do not have traditional banking relationships. "We're helping people save," he says. "We've been very careful to focus on things that will improve the financial situation of clients' lives."

Other firms also are targeting tax refunds. Jackson Hewitt, which has about 5,400 stores nationally, offers taxpayers its "ipower CashCard." It allows taxpayers to have their refund loaded onto what is essentially a prepaid MasterCard, then to access their cash through debit transactions or through ATM withdrawals. Taxpayers must first pay a $30 charge to load their refund onto the card.

Both Jackson Hewitt and H&R Block have teamed up with chains that place check-cashing machines inside some local tax-preparation stores. Taxpayers who opt for an instant refund can turn around and stick that check into the machine and receive cash immediately -- minus another fee that averages 2.7%, according to ACE Cash Express Inc., which provides machines to many Block stores.

Meanwhile, Intuit Inc. began this year offering users of its popular TurboTax tax-preparation software the opportunity to apply some or all of their refunds to gift cards from about 50 retailers, including Starbucks, Sharper Image, Lowe's and Red Lobster. Retailers are offering greater value in the gift card than the amount of money customers put in -- loading the card with $1,200 for a refund amount of $1,000, for instance. However, customers pay a one-time fee of $14.95 to TurboTax for shipping and handling. The offer is available to taxpayers who file their returns electronically.

TaxMax, a unit of CarBiz Inc. of Sarasota, Fla., offers taxpayers to chance to turn their federal tax refund into a down payment on a car -- though at a potentially high cost. The company says it has partnered with about 800 mainly used-car dealerships around the country and charges consumers an average of about $200 to complete a federal 1040A form, a relatively simple form.

TaxMax says customers can show up at the dealership with a driver's license, Social Security card and a W-2 form. A salesman helps fill in two to four pages of paperwork seeking information such as number of dependents and whether the taxpayer wants TaxMax to complete a state tax return for an additional $25 fee. The dealer faxes the paperwork to TaxMax, where the data are entered into a tax program and the return is looked over by a supervisor trained in tax preparation, before it is returned to the dealer and taxpayer. The process takes about 30 minutes. The size of the average return: about $2,300, according to Stan Heintz, chief operating officer for CarBiz, who expects the company to complete about 3,500 returns this tax season.

The J.D. Byrider used-car dealership in Milwaukee expects TaxMax to do about 75 tax returns for its customers this tax season, says franchisee Steve Muller. The TaxMax option "is a very popular program" and the volume of customers relying on tax refunds as down payments on cars has tripled in the past year, he says. Mr. Muller says the tax-selling season begins as early as late November, when buyers come in with their paystub and TaxMax estimates what their refund will likely be for the year.

Liberty Tax Service, with about 1,700 stores nationwide, says about 17% of its customers apply for a refund-anticipation loan, paying $75 or so for loans that average about $2,500. John Hewitt, Liberty's chief executive, says the Virginia Beach, Va., firm tries to discourage most customers from applying for the loans. "We think cross-selling to customers is fraught with difficulties, including pushing these types of products on people that they're bad for," Mr. Hewitt says. Still, he adds, "if you don't have [instant refunds], you're not competitive."

Pastors' Get-Out-the-Vote Training Could Test Tax Rules (NYT)

By David D. Kirkpatrick

The New York Times, March 21, 2006

WASHINGTON, March 20 — Weeks after the Internal Revenue Service announced a crackdown on political activities by churches and other tax-exempt organizations, a coalition of nonprofit conservative groups is holding training sessions to enlist Pennsylvania pastors in turning out voters for the November elections.

Experts in tax law said the sessions, organized by four groups as the Pennsylvania Pastors Network, could test the promises by the tax agency to step up enforcement of the law that prohibits such activity by exempt organizations.

Such a test could define the boundaries for churches and other groups.

Although the tax agency has often overlooked political activity by churches, it has repeatedly warned the clergy and religious groups that it intends to enforce its rules with new vigor this year, in part to correct what it considers to have been too much political intervention by churches and charities in 2004.

The first training session, on March 6 in Valley Forge, included a videotaped message from a single candidate, Senator Rick Santorum, the Pennsylvania Republican who faces a difficult re-election fight.

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"I encourage you to let your voices be heard from the pulpit" on vital issues, Mr. Santorum said, urging the pastors to champion a proposed constitutional ban on same-sex marriage, according to a recording made by a person at the session. Americans United for Separation of Church and State, a liberal group critical of the effort, provided the recording to The New York Times.

After the tape, organizers offered participating pastors copies of the senator's book "It Takes a Family."

Colin A. Hanna, founder of the conservative advocacy group Let Freedom Ring and master of ceremonies, called the book "thoroughly and soundly grounded in Christian doctrine and Scripture as the revealed word of God," according to the recording.

Mr. Hanna described Mr. Santorum's book as a rebuttal to another book, "It Takes a Village," by Senator Hillary Rodham Clinton, Democrat of New York, and pointedly said he would not name its author. The session on March 6 attracted 125 members of the clergy, and on Monday, Let Freedom Ring posted a notice on its Web site that the Pennsylvania Pastors Network was hiring 10 full-time organizers to help churches get out the vote, suggesting a sizable and well-financed effort.

"Evangelical or Catholic background is helpful," the site suggests.

Gary Marx, who helped direct the Bush re-election campaign's work with Christian groups in 2004, oversees the get-out-the-vote effort.

A politician speaking to a religious group is hardly new, and the tax code allows churches and other tax-exempt charities to register voters and to express views on public issues.

But the rules forbid supporting a political party or candidate. Inviting just one candidate to speak, singling out one candidate for special praise and highlighting a combination of issues tailored to one candidate's campaign are all factors that the I.R.S. considers problematic.

That is especially the case if the discussion is in the context of a get-out-the-vote effort, said Marcus S. Owens, a lawyer here who is the former director of the exempt-organizations division of the tax agency.

The training session was two weeks after the internal revenue commissioner, Mark W. Everson, spoke at the City Club of Cleveland saying, "We can't afford to have our charitable and religious institutions undermined by politics."

The tax agency found "a disturbing amount" of political activity during the 2004 election, including churches' inviting just one candidate to speak or distributing voters' guides that in effect favored one candidate over another, Mr. Everson said in a statement.

Pennsylvania appears to be the sole state where advocacy groups are pouring so much into working with churches so early. The outcome of the effort, and the way the tax agency responds, could have an influence far beyond the state.

Republicans, encouraged by their success mobilizing religion-minded voters in 2004, are stepping up their efforts to collect church directories around the country to help turn out voters for the midterm races. Democrats are watching the Pennsylvania senator's race closely in part because Mr. Santorum's opponent, Bob Casey Jr., shares Mr. Santorum's opposition to abortion rights, defusing the issue that has galvanized Christian conservatives.

In an interview on Friday, Mr. Hanna said the meetings were unrelated to Mr. Santorum's campaign. He noted that the training sessions explicitly encouraged the members of the clergy to speak about policies and to avoid endorsing candidates, guidelines within the limits of tax laws.

He also noted that one of the speakers was Raymond L. Flynn, a former Democratic mayor of Boston and ambassador to the Vatican who has become a supporter of President Bush and social conservative causes.

Mr. Santorum spoke on the tape for about seven minutes. A spokesman for the senator, Robert Traynham, said his statement was "generic video greetings about a public policy initiative that will be pending before the United States Senate," referring to the debate over the proposed ban on same-sex marriage.

"You are the leaders of the flock," Mr. Santorum told the pastors. "You have a responsibility to be informed and to inform" and "to help guide those who seek your counsel," especially about the importance of banning same-sex marriage.

The Rev. Frank Pavone, national director of Priests for Life, invoked the prophet Ezekiel, whose voice brought a field of bones to life.

"You and I are standing before a field of dry bones, aren't we?" Father Pavone told the training session. "Dead consciences. Destroyed life."

Without mentioning Mr. Santorum or Mr. Casey, Father Pavone emphasized how important control of the Senate would be if another Supreme Court vacancy opened soon, potentially tipping the court against abortion rights.

"This particular president needs the kind of support that he has today but might not necessarily have after 2006," Father Pavone said.

With the abortion issue off the table in the Pennsylvania race, other speakers concentrated on same-sex marriage. Mr. Casey has said he opposes same-sex marriage but he also opposes amending the Constitution to ban it. "It is a point of differentiation," Mr. Hanna said.

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Among the other speakers were two conservative Christian organizers from Ohio, where they worked with Let Freedom Ring on a state marriage referendum that helped increase conservative turnout in the 2004. "As we listen to how they did it in Ohio," Mr. Hanna told the pastors, "think about how it relates to us in Pennsylvania."

On March 6, Mr. Hanna, a former Republican commissioner of Chester County who successfully fought a legal battle to preserve a display of the Ten Commandments, said the new network would provide sermon notes, teaching aides, voters' guides, and legal referrals.

The Rev. Barry W. Lynn, executive director of Americans United for Separation of Church and State, said the network reflected "a growing backdoor, under-the-radar effort to lure churches into political campaigns" that could risk their tax exemptions.

Michael Geer, the president of the Pennsylvania Family Institute and a speaker on March 6, said such critics were trying to "squelch the free speech" of conservative pastors. No one complained, Mr. Geer said, when opponents of the state marriage amendment had an organizing meeting last week at St. Michael's Lutheran Church in Harrisburg, Pa.

Court Rejects Last Whitewater Appeal (AP-Y2)

By Jill Zeman

AP2, March 20, 2006

The seven-year, $70 million Whitewater investigation that toppled an Arkansas governor and dogged Bill Clinton for most of his presidency officially drew to a close Monday when the U.S. Supreme Court declined to hear the last remaining appeal.

Former Gov. Jim Guy Tucker had asked the high court to let him withdraw a guilty plea in a tax-conspiracy case that he said was based on an outdated law. Tucker was accused of crookedly scheming to reduce his tax liability on the sale of cable television system.

"It has been drawn out a long time," said W. Hickman Ewing, who was a chief deputy to Whitewater special prosecutor Kenneth W. Starr. "It just shows you people can keep things going."

Tucker became Arkansas governor in 1992 after Clinton was elected president. He resigned in 1996 after being convicted in a separate case, also brought by Whitewater prosecutors, involving a small business loan. Because of poor health, Tucker never went to prison but served 18 months of home detention.

In the cable case, Tucker's previous arguments led a federal judge to cut the amount of restitution owed from $1 million to $63,000. Tucker argued further that the government used the wrong section of the law when it pursued him.

"It's disappointing that there will never be a report in a court of law as to how this independent counsel, with all its resources and purported brilliance, managed to indict a citizen by use of a repealed statute," Tucker said Monday.

The appeal was the lone remnant of the Clinton-era Whitewater probe, and the cable television case had nothing to do with the Arkansas land development that gave the investigation its name. Starr won permission from then-Attorney General Janet Reno to broaden the investigation when Tucker's name came up in the business loan case.

Tucker has long argued that he would never have been pursued by prosecutors if not for Clinton. Ewing said Monday: "It's probably true."

In a 1996 trial involving the business loan, a federal jury convicted Tucker with former Clinton Whitewater business partners James and Susan McDougal. Tucker quit and was replaced by Mike Huckabee, who still holds the job.

Clinton was never charged.

High Court Rejects Appeal, Ends Whitewater Case (WT)

By Jerry Seper

The Washington Times, March 21, 2006

The Supreme Court yesterday refused to hear an appeal from former Arkansas Gov. Jim Guy Tucker, who asked the justices to allow him to withdraw his guilty plea to tax charges in the Whitewater investigation, closing the door on the 12-year, $60 million probe.

Tucker, who in 1996 was found guilty by a federal jury of conspiracy and mail fraud and later pleaded guilty to conspiracy to defraud the Internal Revenue Service, said through his Little Rock attorney, Jeffrey Rosenzweig, that an appeals court wrongly denied him a new hearing on whether the plea was voluntary.

The justices did not comment in refusing to hear the appeal. In 2004, they declined to consider whether Tucker, who resigned his office after his conviction, was wrongly barred from raising new arguments in challenging his tax conspiracy conviction.

Called the "Whitewater investigation" because of its ties to a questionable real estate development on the banks of the White River in the Arkansas Ozarks, the probe netted 14 convictions or guilty pleas, including those of Bill and Hillary Clinton's

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Whitewater Development Corp. business partners, James and Susan McDougal, and one-time Associate Attorney General Webster L. Hubbell, a law partner of Mrs. Clinton's at Little Rock's Rose Law Firm.

The investigation formally ended in September 2000, less legal appeals, when independent counsel Robert W. Ray declared there was "insufficient evidence" to bring charges against the Clintons. In an announcement seven weeks before the Nov. 7, 2000, presidential election, Mr. Ray said the lengthy probe, which focused on accusations that the Clintons obstructed justice and gave false testimony, was "now closed."

At the time, the White House, which had vilified Mr. Ray's predecessor, Kenneth W. Starr, portrayed the Ray report as vindication.

The Whitewater investigation, begun in 1994 by special prosecutor Robert B. Fiske, focused on accusations that the Clintons knowingly participated in criminal conduct related to Madison Guaranty Savings and Loan Association, the Little Rock thrift owned by the McDougals. The thrift failed in 1994 at a cost to taxpayers of $73 million.

The McDougals and Tucker were convicted in a $3.13 million scheme involving bogus loans through Madison Guaranty, which the McDougals owned.

The probe netted 14 guilty verdicts or pleas, including Hubbell, who pleaded guilty to tax evasion, mail fraud and concealment by scheme; Tucker, who was found guilty of conspiracy and mail fraud and pleaded guilty to conspiracy to defraud the Internal Revenue Service; McDougal, convicted by a jury of 18 felonies in Madison's collapse; and Mrs. McDougal, convicted of four felonies.

Other Clinton associates, bankers and real estate officials pleaded guilty to six felonies and eight misdemeanor charges in the case.

Mrs. McDougal was sentenced to two years, but served only 105 days before a judge released her because of a back problem. But she served 18 months on a contempt citation sought by Mr. Starr for refusing to testify before a grand jury about Mr. Clinton's role in the Whitewater affair.

With less than two hours remaining in his presidency, Mr. Clinton pardoned Mrs. McDougal. It was among 140 pardons and 36 commutations signed by the president as he prepared to leave office.

Refunds Grow Fat On Tax Changes (USAT)

By Dennis Cauchon

USA Today, March 21, 2006

Americans are enjoying their biggest tax refunds ever — and it's costing them billions of dollars.

Taxpayers overpaid their federal income taxes by a record 29% in both 2003 and 2004, according to a USA TODAY analysis of Internal Revenue Service data.

That has pushed refunds above $200 billion a year. Final figures aren't in for the 2005 tax year, but the average refund so far is $2,423, up 4% from last year.

The fatter refunds are the result of taxpayers withholding nearly twice the traditional safety margin from their paychecks to avoid a year-end tax bill.

The extra withholding gives the government an interest-free loan worth more than $10 billion a year, equal to about $100 per tax return.

“The deficit is a little smaller because of this voluntary tax,” says Leonard Burman, co-director of the Tax Policy Center in Washington.

The increasing use of tax credits and deductions caused the jump in overwithholding.

Changes in tax rates automatically revise withholding levels, but changes in tax credits and deductions do not. Workers getting expanded credits or deductions must fill out new W-4 forms to change the amount of money deducted from their paychecks.

The child tax credit, which rose from $500 to $1,000 per child in 2001, is the biggest reason for a jump in excessive withholding. More than 25 million tax returns claim this credit, worth $55 billion in 2005.

Tax credits are available for a dozen purposes, including college education, adoption assistance and child care expenses. The portion of returns claiming at least one credit rose from 13% in 1995 to 31% in 2003. Credits reduce the tax owed dollar for dollar.

Expanded deductions for health costs, college expenses and retirement accounts also played a role. Deductions reduce income that is subject to tax, rather than the tax itself.

Overwithholding has grown fastest among families earning $50,000 or less a year because they benefit most from tax credits. Many low-income families obtain refund anticipation loans, which typically cost $100 or more, to get their money about 10 days earlier than from Internal Revenue Service.

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"It's crazy to lend your money to the government interest-free and then pay triple-digit interest for a refund anticipation loan," says Chi Chi Wu, a lawyer with the National Consumer Law Center.

But many people love the forced savings and its reward — the fat refund — no matter how much it costs. "Taxes are so complicated people are just happy to come out ahead on April 15 rather than behind," says Ellen Katz, editor of the Tax Savings Report newsletter.

In-House Critic Holds IRS Feet To The Fire (WSJ)

By Robert Guy Matthews

The Wall Street Journal, March 21, 2006

For nearly three years, Nina Olson tried to get her bosses at the Internal Revenue Service to change an antifraud program that withheld thousands of tax refunds without notifying the suspected scofflaws.

Tired of being rebuffed, Ms. Olson, the National Taxpayer Advocate, launched an attack. In January, she released internal IRS documents showing that, in more than 65% of the cases she investigated, the agency ultimately determined the suspicions were unfounded and coughed up the refunds. Faced with the wrath of lawmakers and IRS critics, IRS Commissioner Mark Everson ordered a review of the program and promised to let taxpayers know when their refunds were frozen.

"Before going public, I had a lot of sleepless nights," Ms. Olson says now. "I didn't like embarrassing the IRS, but I didn't really have a choice. I had a moment of, 'What's going to happen to me after this comes out?' "

By any standard, Ms. Olson, who is 52 years old, has a tough job. As the taxpayer advocate, one of her tasks is to tell Mr. Everson what he's doing wrong -- and to take action if, in her view, injustices against taxpayers aren't resolved fairly and quickly.

It makes for a delicate and sometimes rocky relationship. Generally, the two meet once a month and discuss problems. "It is really just a nutty position," she says. "You get to say to the boss, 'This is good, but...' " Mr. Everson says there's "undoubtedly a certain amount of tension in the relationship." But he adds, "I don't think that there is an undue amount of tension."

The IRS has many people looking over its shoulder: the Treasury Department's Inspector General, an oversight board, Congress, and the Government Accountability Office. But only Ms. Olson is the designated "voice" of the taxpayer within the IRS. Congress created the position in 1998, when the IRS was under criticism for being unyielding and heavy-handed with taxpayers. Ms. Olson was appointed in 2001.

The give and take between the two can affect how the agency collects $2 trillion in annual taxes from America's 130 million individual taxpayers and 25 million businesses. Technically, Mr. Everson can't fire Ms. Olson: The taxpayer advocate is appointed by the Treasury secretary. But he writes her job evaluations, which can affect whether she keeps the confidence of Treasury Secretary John Snow.

Mr. Everson, a former deputy director of the White House Office of Management and Budget and a vice president of a private food-services company, has been IRS commissioner for three years. In that time, he has increased the number of audits, cracked down on illegal tax shelters, and earned the confidence of Congress to continue with his mission to remake the IRS.

Ms. Olson, who says she never had a boss before coming to the IRS, founded and was executive director of the Community Tax Law Project, of Richmond, Va., the first independent low-income taxpayer clinic in the U.S.

With something of a tough-guy reputation, Mr. Everson, 51, isn't inclined to strike deals with businesses or individual taxpayers to reduce the taxes or penalties they owe. Ms. Olson, while intolerant of fraud, is at the same time trying to moderate and nuance Mr. Everson's aggressive tone.

Though the difference in emphasis can produce clashes, the two often work in tandem behind the scenes to make navigating and understanding the IRS easier and fairer for taxpayers.

Yet there are the times when Mr. Everson and Ms. Olson view IRS problems from vastly different perspectives. In the case of the frozen refunds, Mr. Everson says the IRS wanted to fully investigate suspicious activity without tipping off possible tax cheats. Ms. Olson, who was peppered with complaints from taxpayers saying they had done nothing wrong and needed the money, argued that the program was punishing innocent people as well as guilty ones. Many of the refunds involved the Earned Income Tax Credit, which is designed to help low-income workers.

Another point of contention: Walk-in taxpayer-help centers. To save money, Mr. Everson proposed closing 68 of the agency's 400 walk-in service centers. His argument: Taxpayers should call the IRS or go online for help. Ninety percent of called-in questions are answered accurately, the highest percentage ever, he says. But the closings haven't gone forward because of objections from lawmakers and Ms. Olson, who say that face-to-face service is valuable.

Each year, Ms. Olson submits a report to Congress, detailing problems at the IRS and proposing remedies. She is working on the 2006 report. In past ones, she has criticized the IRS for rushing delinquent tax cases through the system -- a move that's meant to resolve cases quickly but sometimes results in unfair treatment of taxpayers, she says. Ms. Olson also says that IRS letters and notices need to be much clearer. "Many people can't understand the IRS rules," she says.

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She also has faulted the agency for pushing some people into the appeals process for delinquent bills too quickly and has urged the IRS to steer clear of private debt collectors. She worries that sensitive taxpayer information will end up in the hands of private collection agencies.

Nevertheless, the IRS recently began a pilot program that would contract out some collections to three private firms. If successful, the program will expand to 10 firms by next year.

Mr. Everson, in response to Ms. Olson's complaints, says that reducing the time it takes for revenue officers to collect overdue taxes is an important initiative that benefits taxpayers with prompter, clearer service. Since assuming office, he has reduced the time it takes to close those tax-collection cases to an average of 38 weeks from more than 47 weeks.

Moreover, he says, while Ms. Olson has the luxury of focusing solely on taxpayers' concerns, he must also worry about ensuring that taxes are paid promptly. The tax gap -- the amount owed by taxpayers but not paid -- is estimated at $290 billion.

CONGRESS-ADMINISTRATION:

Bush Signs Bill To Raise Debt Ceiling (AP-Y2)

AP2, March 20, 2006

With no fanfare, President Bush signed a bill Monday pushing the ceiling on the national debt to nearly $9 trillion.

The measure allows the government to borrow an additional $781 billion and prevent a first-ever default on Treasury notes. It also lets the government pay for the war in Iraq without raising taxes or cutting popular domestic programs.

The debt limit increase was the fourth of Bush's presidency, totaling $3 trillion. With the budget deficit near record levels, an additional increase in the debt limit almost certainly will be required next year.

The measure allows the debt limit to rise from $8.184 trillion to $8.965 trillion.

Bush Signs Bill Boosting Energy Aid To Poor (AP-Y2)

AP2, March 21, 2006

Federal aid to help the poor cope with energy costs will increase by $1 billion to more than $3 billion this year under legislation President Bush signed on Monday.

It took months to get the additional money for the Low Income Home Energy Assistance Program through Congress, in part because of resistance from fiscal conservatives opposed to new spending and from lawmakers from warm weather states who contend that the program favors cold weather regions.

Proponents said the program's budget has failed to meet the needs of the poor as heating and cooling costs soar.

The $1 billion, on top of $2.1 billion already allotted for the current budget year, was obtained by transferring money originally intended for the budget year that begins Oct. 1.

Under a compromise worked out in the Senate, half of the new money would be distributed according to an existing formula that would favor warm weather states while the other half would be spent at the discretion of the president.

Choices Shrink In Drug Plan, Study Says (LAT)

By Ricardo Alonso-zaldivar

The Los Angeles Times, March 21, 2006

WASHINGTON — One of the first independent studies of the Medicare prescription benefit has concluded that many low-income California seniors now have access to a narrower range of drugs than when the state covered their medications, according to a report being released today.

The new federal program contains pitfalls for middle-class beneficiaries as well, the report said, because of wide differences in the number of drugs the private Medicare prescription plans cover. For example, among 10 plans the study analyzed, only two covered all of the top 100 medications taken by Medicare patients. Another two covered 99 of the drugs; one plan covered 71.

And higher monthly premiums did not necessarily mean access to a greater number or variety of prescription drugs.

Medicare administrator Mark McClellan took issue with the report's conclusions Monday, saying that many of the medications that plans do not cover have generic equivalents that cost much less and are paid for by the plans.

"The concern I would have is implying that because not every cholesterol drug is covered, that the plans aren't providing access to needed drugs," he said. "If that is the conclusion people draw, that is a misleading conclusion."

The report, among the first assessments based on government data rather than anecdotal evidence, comes as California is experiencing significant problems with the transition of low-income seniors and disabled people from the state Medi-Cal program

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to the Medicare drug plan. An emergency program instituted by the state as a backstop continues to pay for about 10,000 prescriptions each weekday.

Although focused on the California experience, the report's findings could have national implications, as federal and state lawmakers grapple with ways to work out problems with the new benefit.

"This is true across the country — this is not a California phenomenon," said Jonathan Blum, a vice president of Avalere Health, a Washington, D.C., consulting firm that conducted the study for the California HealthCare Foundation. Its findings will be presented today at a joint hearing of the California Assembly's health and aging committees.

On Jan. 1, when the Medicare benefit took effect, nearly 1 million elderly low-income Californians were automatically transferred into it from Medi-Cal, the state's version of Medicaid. The former Medi-Cal beneficiaries were assigned at random to one of several private plans, with no consideration of the drugs they were taking.

There were big differences in coverage among the plans, which have wide latitude in choosing the drugs they will pay for. Of those plans accepting Medi-Cal beneficiaries, the most inclusive covered 3,360 medications, while the most restrictive covered 626, the report found.

The Food and Drug Administration has approved about 8,000 medications, virtually all covered by Medi-Cal. The Medicare plans are required to offer at least two choices in every major class of drugs.

Focusing the analysis on four classes of medications — drugs used to treat psychosis, AIDS, high blood pressure and high cholesterol — the study found disparities.

"Many … beneficiaries, even if they are properly enrolled in a drug plan, have coverage that is inferior to their coverage under Medi-Cal for the four classes analyzed," the report said.

It also found that co-payments, although modest, are higher than what low-income seniors paid under Medi-Cal.

Among the drugs used to treat schizophrenia and other serious mental illness, Medi-Cal covered 20 medications, according to the study. Of the Medicare plans, one covered 15 of the drugs, while the most inclusive covered 21. The median was 18 medications.

Among AIDS drugs, the plans covered the same median number, 23, as Medi-Cal had.

There was a wider difference in coverage for drugs used to treat high blood pressure and high cholesterol. Medi-Cal covered 12 blood pressure drugs; the number covered by the plans ranged from five to 12, with a median of eight.

Similarly, Medi-Cal covered 14 cholesterol-lowering drugs, while the number covered by the Medicare plans ranged from seven to 20, with a median of 10.

Medications for severe mental illness and AIDS are in a specially protected category, under which Medicare requires the private plans to cover most or all available medications. Those special protections appear to be working, the report found.

But it questioned the policy of randomly assigning low-income beneficiaries to plans in which some of their drugs might not be covered.

"Especially to the extent that [beneficiaries] lose access to drugs that reduce other, higher-cost medical services, the state of California would face higher costs when Medi-Cal pays for the more expensive care," the report said.

Some California pharmacists say that all of the participants in the new drug plans are likely to face more coverage problems next month, after a 90-day transition period expires. Special medical authorization then will be needed to get drugs not on a plan's approved list.

"When April 1 rolls around, there are going to be more frequent incidents of patients having to confront these types of things," said John Cronin, owner of Community Pharmacy of Escondido. "Right now when we transmit [such] a claim, we get a message saying they'll cover it this time, but they're not filling it after April 1. We are basically sending that information to the physicians."

Before signing up for a drug plan, the report recommended, seniors should check not only whether the medications they currently take are covered, but also how many of the top 100 Medicare drugs are included. That way, they can have greater assurance of comprehensive coverage if they require new medicines.

Major Education Official Is Quitting For House Post (NYT)

By Diana Jean Schemo

The New York Times, March 21, 2006

WASHINGTON, March 20 — The federal Education Department's top official overseeing colleges and universities has resigned and will become deputy staff director of the House committee on education, the panel announced on Monday.

The official, Sally L. Stroup, the assistant secretary for postsecondary education, said in an interview on Monday that she submitted her resignation last Wednesday and would leave the department in mid-April.

"I've been here four years," Ms. Stroup said. "That was long enough."

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In moving to Capitol Hill, Ms. Stroup will return to her onetime employer, officially known as the Committee on Education and the Workforce, for which she had worked for seven years.

Though her new job carries a less exalted title than the one she is leaving, Ms. Stroup said she would have a broader portfolio, overseeing legislation on disabled students, elementary and secondary schools, labor and other issues.

Her departure was first reported by The Chronicle of Higher Education on Friday.

Before joining the Education Department in 2002, Ms. Stroup was briefly a lobbyist for the University of Phoenix, the largest for-profit university in the country.

The committee's new chairman, Representative Howard P. McKeon, Republican of California, has been considered an ally of the for-profit education industry, like his predecessor, Representative John A. Boehner, Republican of Ohio, the new House majority leader.

In recent months, the committee for the first time permitted institutions that teach more than half their courses online to receive federal student aid, a boon to for-profit institutions like the University of Phoenix.

The committee is expected to complete an updating of the Higher Education Act, the main federal law governing colleges and universities, in the coming months. Ms. Stroup has said that as assistant secretary she withdrew from any policy or regulatory matters directly involving the University of Phoenix.

She said on Monday that she did not expect to have to step aside in the same way in her new job, because legislation would address higher education or for-profit universities generally, not a single institution.

"I would never recuse myself from those kinds of things that have a broad reach across an entire industry," she said.

G.O.P. Makes Its Pitch To Firefighters' Union (NYT)

By Steven Greenhouse

The New York Times, March 21, 2006

WASHINGTON, March 20 — With the election season heating up, the Bush administration and the Republican Party used a good deal of energy and charm on Monday to woo a group that has long been part of the Democrats' base: organized labor.

Homeland Security Secretary Michael Chertoff; Senator Chuck Hagel, Republican of Nebraska; and the Republican National Committee chairman, Ken Mehlman, spoke to the annual legislative conference of the main firefighters' union, saying they were eager to work with the union on issues of common ground.

The White House chief of staff, Andrew H. Card Jr., had been scheduled to speak, but canceled, citing illness. Mr. Mehlman praised the union for an increasing focus on bipartisanship and said if the firefighters and other unions worked with Republicans they could achieve more of what they were seeking, including greater preparedness for emergencies.

"We've sometimes disagreed, but we've always kept the dialogue open," he said. "There are areas where we can work together over the coming year."

Mr. Mehlman said the Republicans hoped to attract more union voters this year than in 2004, when 38 percent of union members backed President Bush, according to surveys of voters leaving the polls.

"I do think we can make greater inroads," he said.

Harold A. Schaitberger, the president of the International Association of Fire Fighters and the first prominent labor leader to back Senator John Kerry, Democrat of Massachusetts, for president in 2004, voiced the views of an increasing number of union leaders in saying it was important to work with Republicans.

"I realize that historically the Democrats have been friendlier toward workers," said Mr. Schaitberger, whose union has remained in the A.F.L.-C.I.O. as five unions have left the federation. "The bottom line is that at almost every level of government the government is split, and most legislatures are split. And you have to work both sides of the aisle to move an agenda."

The Teamsters, the service employees and other unions have begun cooperating with Republicans. But rarely have the Republicans made such strong overtures toward a union as they did on Monday toward the firefighters.

The firefighters have cachet because they are viewed as pillars in many communities and because 343 New York firefighters were killed on Sept. 11, 2001.

Sarah Chamberlain Resnick, executive director of the Main Street Republican Partnership, a group of Republican lawmakers that works closely with unions, said it was no coincidence that Republican leaders were courting union members.

"When the president is at 34, 36 percent in the polls, you have to begin to reach out," Ms. Resnick said. "The unions are not the president's base. So the White House is starting to reach out."

Her group has told unions that it is smart to reach out to Republicans.

"Republicans are in control, so it's good to have some friends who are in the majority," she said.

Mr. Chertoff promised that the administration would do a better job dispatching vital supplies to firefighters and other emergency workers when they respond to disasters.

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Mr. Hagel urged the firefighters to help build a bipartisan consensus to deal with overarching problems like terrorism, poverty and health care.

Underlining the Republicans' difficulties in wooing union members, Howard Dean, the Democratic chairman, received far more applause than any Republican speaker. "We want American jobs that will stay in America," Mr. Dean said to thunderous applause.

He also called for "retirement security," saying Democrats, unlike many Republicans, would not seek to reduce public-employee pensions.

Some union leaders have voiced fears that labor's flirtation with bipartisanship could undercut efforts to return control of Congress to the Democrats, who have been friendlier to labor on issues like workplace regulation and raising the minimum wage.

As part of the bipartisan approach, Mr. Schaitberger said his union would back candidates, Republicans and Democrats, who have stood with the firefighters on issues like increased spending to hire first responders.

He said his union would back the re-elections of Republicans like Gov. Rick Perry of Texas and Senator Mike DeWine of Ohio but would seek to defeat Gov. Arnold Schwarzenegger in California and Senator Rick Santorum in Pennsylvania, two other Republicans.

"For those politicians who support our agenda, we will support them," Mr. Schaitberger said. "And for those who are looking to roll back the rights and improvements we've earned, we'll oppose them at every turn."

He criticized Mr. Bush for proposing to eliminate federal financing to hire additional first responders.

Mr. Schaitberger has revamped his union's political contribution so that 35 percent went to Republicans in 2004, up from 9 percent in 2000.

"We have one party that doesn't really care for us as labor and another that takes us for granted," he said. "I'm not sure which is worse."

Allen's 'Paycheck Penalty' Not Popular Among Peers (WT)

By Christina Bellantoni

The Washington Times, March 21, 2006

Sen. George Allen, testing the 2008 presidential waters while facing his own re-election in the fall, says members of Congress should not get paid if they miss the deadline for passing a federal budget.

The Virginia Republican's so-called "paycheck penalty" proposal has piqued the interest of fiscal conservatives, but is unpopular among his colleagues.

Mr. Allen's critics call the proposal disingenuous, noting that last week the senator voted to increase the federal debt limit to $9 trillion.

"There's a great need for fiscal responsibility in Washington," Mr. Allen said yesterday. "It's absurd that a full-time legislature at the Capitol can't get their job done by October 1st. There is no excuse why this can't get done on time."

Mr. Allen said that voting to raise the debt limit was difficult, but he defended it as "responsible" to avoid higher interest rates on government bonds.

The deadline for passage is the end of the fiscal year, Sept. 30, but Congress rarely meets that date.

Lawmakers, who earn $165,200 annually, are not penalized for being late and often agree on multiple continuing resolutions before resolving the budget just before Christmastime.

Mr. Allen said the system makes it difficult for lawmakers to scrutinize all the spending because they are eager to get home for the holidays.

Harris N. Miller, a Northern Virginia businessman seeking the Democratic nomination to challenge Mr. Allen in November, balked at the proposal.

"Being a senator is very serious business, which includes using the taxpayers' dollars wisely and learning words like 'no,' " Mr. Miller said. "It's clear that he's failed at his job."

Mr. Miller also called on Mr. Allen to return $229,308 to taxpayers -- the amount that Mr. Miller calculated the senator has received after the budget deadline since he took office in 2001.

Mr. Allen said yesterday that the proposal works only if paychecks for all of the lawmakers are withheld, "to apply real pressure."

Former Secretary of the Navy and author James H. Webb, who faces Mr. Miller in a June 13 Democratic primary, did not respond to calls or an e-mail to his campaign staff yesterday.

So far, no lawmakers have co-sponsored Mr. Allen's bill, which is pending review in the Senate Homeland Security and Governmental Affairs Committee.

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Mr. Allen said that Virginia, where he served as governor in the 1990s, knows how to keep a fiscal house in order. Chief executives there are allowed a line-item veto, a tool that he used several times when signing budgets. Lawmakers there, as in most states, also are required to pass balanced budgets.

Mr. Allen first introduced the idea during a speech to the Conservative Political Action Conference in February. In courting fiscal conservatives there as he explores a bid for the White House, he also proposed a presidential line-item veto and a balanced-budget constitutional amendment.

During the conference, the political insiders attending ranked Mr. Allen as most likely to be the Republican presidential nominee in 2008.

Alphonso Jackson: The Pinup And The Papa (WP)

By Laura Blumenfeld

The Washington Post, March 21, 2006

The girls had wet lips, chasmic cleavage and hair that a man could get lost in. Their pictures hung on the wall above Brandon Rawlins's bed, at the Howard University freshman dorm.

"These girls are potential mentors," Rawlins said, smiling at his classmate, Jerell Blakeley.

The young men walked out of Rawlins's room and into Blakeley's.

"Who's that?" Rawlins asked, furrowing his brow at the blown-up photographs above Blakeley's bed.

"The secretary of housing and urban development," Blakeley said. "He's my mentor."

"Where's he live?"

"In D.C.," Blakeley said. "He's a Cabinet secretary."

Rawlins blinked. "What made him be your mentor?"

When Blakeley was a high school sophomore, he saw Alphonso Jackson give a speech. "I asked him a question, and he was really angry. I thought we should get an apology for slavery, and he disagreed. I said, 'Being a black Republican is an oxymoron.' "

Housing and Urban Development Secretary Jackson had heard it before, but when Blakeley confronted him, Jackson said, he saw something rare. Blakeley seemed angry, like many young black men, but also "extra intelligent." Six months later, Jackson sent Blakeley a note. Three years and many conversations later, Jackson wrote him a reference to Howard University. By the end of Blakeley's first semester, Jackson had brought him to the White House.

"Hey, give him my number," said Blakeley's friend Nick Owen. "Spread him around."

Jackson, 60, grew up in Texas the youngest of 12 children, the son of a foundry worker, the product of St. Peter's Academy for Coloreds, and the bearer of his own load of anger. To Jackson, becoming a Republican as a young man meant trading self-pity for self-reliance. He attended law school and then served as public housing director in St. Louis, in Washington, and in Dallas, where he befriended George W. Bush. Now he runs a $34 billion agency and relaxes by playing golf at his vacation home in Hilton Head, S.C.

But Jackson's happy ending is meaningless, he said, unless it is retold through the lives of other young blacks. It is why he reached out to Blakeley and why, on weekends, he is tape-recording his memoirs for his first grandchild. Jackson is a grandfather now and has a story to tell, one that he hopes will cast a spell.

"You think about your legacy when you get to be 60," Jackson said to Blakeley over a breakfast of eggs, bacon and sausage at the Hyatt on Capitol Hill one recent morning. The two men meet every few months. Jackson was escorted by security guards. Blakeley wore a $5 blazer and a $2 tie from a secondhand store. Blakeley is one of four children his single mother had with four men; for a while, he said, he lived in a homeless shelter.

"I expect to see you 15 years from now a deputy secretary or secretary, if not a millionaire," Jackson told him. "I've seen the denigration of black males. It's not what white people have done. It's that we haven't expected enough from our kids."

Jackson is a compact man, with a round, endearing face and spectacles that deflect his acknowledged temper. He is intense, a double-brewed man, like the two tea bags he dunks at once into his hot water, one herbal and the other caffeinated.

"I'm going to find you a great girlfriend. A great girlfriend makes your life easier," said Jackson, who remarried in 1988 after a divorce. "Women provide stability."

"What about fraternities?" Blakeley asked.

"You'll make friends for life," Jackson said. "The first lady's sorority sisters are around all the time."

Blakeley talked about his classes. "I was doing a report on Justice Thomas. Why can't I find anything positive?"

Jackson frowned. He meets Thomas, an old friend and fellow conservative, for breakfast here every six weeks. "Just give me one opinion that Thomas has written adverse to black people."

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Blakeley nodded as if they were two men facing the same problem: "When I went to the White House, guys in my class said, 'You're a house Negro.' You should've heard them."

"They want to portray us as being callous and cold," said Jackson, stabbing a sausage with his fork. "And I don't mind." He chomped the sausage. But after Blakeley ran off to his 9 a.m. class, Jackson approached a table of NAACP leaders. He put his arm around one and said, "What are we going to do? You going to keep beating me up?"

It is a phrase -- "beat me up" -- that comes up often, sometimes figuratively, but also literally. One Sunday morning at Jackson's Alexandria townhouse, as he sat in the living room recording his life story for his granddaughter, he lifted his pant leg to his knee, revealing a jagged scar. In 1965, while working on voter registration in Alabama, he was beaten and was attacked by dogs.

Jackson's wife, Marcia, 50, sat listening, with luminous eyes. As the gears on his tape recorder turned, Jackson spoke of being arrested for using a whites-only bathroom, of witnessing a white policeman shoot and kill a neighbor, of learning that his father's land had been seized when he was wrongfully accused of raping a white woman.

Beside Jackson lay a photo album filled with 8-by-10s of his 20-month-old granddaughter, Lauren. She calls Marcia "Mimi" and Jackson "Papa."

"Lauren needs to know that's part of her heritage. Not to be bitter about but to project her to do well," Jackson said. "I was angry, very angry. I pushed myself through anger to be my best."

Jackson's initials are "ARJ," monogrammed on his orange turtleneck. The R is for Roy, his alter ego. "When I come in mad, Marcia says, 'Okay, Roy's here.' "

If there's a moral to Jackson's bedtime story, it is the triumph of action over anger. Jackson recalled the moment he realized he had succeeded: "At the first State of the Union, when they presented the Cabinet," Jackson's voice caught. He stared at Marcia, as his eyes turned red.

"You thought about your mom and dad," Marcia offered.

Jackson took off his glasses and wiped his eyes, silent.

Marcia continued: "How much you appreciate all their sacrifices."

But what had caught in Jackson's throat, took hold inside of hers. The tape recorder whirred. The room was quiet. And when Lauren grows up and listens, she'll know this is the happiest part of the story, because her Mimi and her Papa are crying.

Off Camera is a monthly column featuring Washington's top decision makers in their off-hours -- outside the office and inside their lives.

Bushes' Home Turf Loses Out In Bid To Host Presidential Library (WP)

By Sylvia Moreno

The Washington Post, March 21, 2006

West Texas, where George W. and Laura Bush grew up and met, was dropped from consideration as a site for the George W. Bush Presidential Library.

Former commerce secretary Donald L. Evans, a West Texan himself and chairman of the presidential site-selection committee, delivered the bad news in a letter late last week.

"This was a difficult decision for the committee," Evans wrote to David A. Miller, chairman of the West Texas Coalition, which represented Texas Tech University in Lubbock and Midland College in Midland. "Your team has brought to light many important ideas, and it is our hope that the final selection and site will make you and the institutions you represent proud."

The West Texas Coalition had proposed a contemporary-style or Spanish Renaissance library on 100 acres west of Texas Tech's Health Science Center and, at Midland College, a Laura Welch Bush Center for Early Literacy.

Still in the running as library sites are Southern Methodist University in Dallas (Laura Bush's alma mater), the University of Dallas and Baylor University in Waco. Although SMU has little land available for new building, it is perceived to be the favorite because Laura Bush is a member of the board of trustees.

Longtime Bush adviser Karen Hughes and White House counsel Harriet Miers -- who also is advising the library selection committee -- also possess SMU degrees.

A Dallas lawyer recently sued SMU, alleging that the school used fraud and intimidation to oust residents of a condominium complex east of the campus to make room for the proposed Bush library.

SMU officials have denied the allegations, saying the school started buying the condo units long before a library was in the works. The condo purchases began in 1998, when President Bush was still Gov. Bush. SMU subsequently gained control of the condo board, designated the condos beyond repair and declared it will tear down the 347-unit complex.

One school not mentioned is Texas A&M University, which is home to the George H.W. Bush presidential library.

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Intelligence Community Works At Common Pay System (WP)

By Stephen Barr

The Washington Post, March 21, 2006

The intelligence community -- comprising 16 government agencies -- plans to take the first steps this year toward pulling its tens of thousands of employees into a common pay system.

The IC, as it's known in the government's jargon, operates with a patchwork of pay rules that makes it difficult for intelligence agencies to share, reassign and recruit employees, according to officials. A White House commission last year called on John D. Negroponte , director of national intelligence, to create a more uniform pay and personnel system to help integrate operations and shape a more agile workforce.

Since that report, the departments of Homeland Security and Defense have firmed up plans to roll out performance-based pay systems this year. Pay changes also may come to parts of the FBI, such as its new national security branch.

"There can be no doubt that pay modernization is coming to the IC, and generally, I believe that is a good thing," Gen. Michael V. Hayden , principal deputy director of national intelligence, recently wrote intelligence employees.

Designing a common pay system for spies, code breakers, scientists, analysts and others around the world will be one of the most ambitious personnel-management projects undertaken by the government in decades.

There is no chain of command for unified management of intelligence personnel. Intelligence agencies use a range of pay models, from the traditional grade and step system to broad salary scales. Some offer special pay rates for hard-to-fill jobs, and some are steeped in traditions tied to agency mission.

There are also communities within the intelligence community, such as the national clandestine service and an evolving analytic group.

"It's the most complicated transformation that I've been involved in," said Ronald P. Sanders , who is helping steer the effort.

Sanders, chief human capital officer for the intelligence community, came to the post last year after a stint at the Office of Personnel Management, where he helped oversee plans to overhaul the pay and workplace rules at the departments of Defense and Homeland Security. He also has played key roles in personnel management at the Defense Department and the Internal Revenue Service, where he helped implement a restructuring ordered by Congress.

In an interview, Sanders pointed to the memo sent by Hayden to employees and his promise that officials "will reach out to you to share our thoughts and proposals, understand and address your concerns, and incorporate your ideas."

Sanders said there is no deadline for overhauling pay in the intelligence community, and, he added, there are no prescriptions, solutions or recommendations on the table.

He said officials will try to introduce the new system in phases.

The first phase will focus on research and listening to employees in the intelligence community, Sanders said. Out of that phase, IC officials will develop a series of options for consideration by IC leaders later this year, and their decisions will form the basis for drawing up a tentative plan. The last phase calls for taking the proposal back to the IC workforce to explain "what it looks like and why," Sanders said.

The IC has a mixed record on pay systems. A few agencies have adopted modern compensation practices, but CIA employees balked in 2001 when the agency explored possible changes in the way employees would be evaluated and paid. Employees were concerned about how pay changes might affect their pension credits and how performance ratings would affect pay raises. In the end, the CIA project was put on hold.

But Sanders said the IC cannot afford to allow pay disparities, created by the current patchwork of systems, impede the sharing of people. In addition, he said, many agencies need more flexible pay practices so they can better compete when recruiting candidates for entry-level jobs, particularly those who speak foreign languages and have other specialized skills and knowledge.

"There is this shared sense of mission amongst all parts of the community," Sanders said. "So that's a kind of binding force that offsets the structural impediments to building community, and it's something that we want to leverage."

Invest In Teachers (USAT)

By Tom Mooney

USA Today, March 21, 2006

Public schools and the teaching profession should welcome classroom help from experts in fields such as science and math, as well as history, literature and the arts. But recruiting such experts — whether from academia, business or other

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professions — on a part-time or temporary basis will do little to alleviate teacher shortages in crucial subjects or reduce staggering overall attrition rates from teaching.

The Bush administration's proposal to import the concept of adjunct faculty from higher education and apply it to America's high schools is just another quick-fix attempt to avoid tackling the real problems that limit and drain the teaching talent pool. Low pay, poor working conditions and the lack of opportunity for advancement cause too many talented people to take a pass or just pass through.

Subject matter expertise is critical to effective teaching, but training in research-based methods of instruction is equally important. A brilliant chemist, engineer or historian might be unable to manage, much less motivate, engage and successfully instruct adolescents. Their expertise ought to be tapped as guest lecturers or tutors supporting the classroom teacher. They also can be invaluable in continuing education programs, and helping teachers advance their own expertise and keep up with developments in their fields.

The president's proposal is unlikely to be helpful, and it could erode the quality of teaching in America's high schools. The last thing secondary education needs is to replicate the extensive use of exploited adjunct faculty that is turning our public colleges and universities into academic sweatshops.

Tom Mooney is president of the Ohio Federation of Teachers.

Teachers Spurn Talented Rivals (USAT)

USA Today, March 21, 2006

Earlier this month, two top Army scientists from the Aberdeen Proving Ground in Maryland sat down with teachers from the nearby public high school to advise them on setting up a robotics course. Aberdeen scientists will also co-teach classes, mentor students and appear at school career days.

This sort of collaboration might sound non-controversial, but it's not. Teachers' union leaders are resisting a plan by President Bush to build an "adjunct teacher corps" of 30,000 experienced scientists and mathematicians, like those at Aberdeen, to assist in the nation's schools. The union leaders say raising teacher pay and improving working conditions, not bring in outside experts, is the way to enhance math and science teaching.

Those objections miss the larger point. The USA faces a challenge to its technology leadership that can't be ignored. Although this country was built on innovation, it now risks passing that mantle to international competitors, according to several recent credible reports.

Business and government leaders say retaining a creative edge requires doubling the number of math and technology majors by the year 2015. Meeting that goal requires reaching students early with instruction that is both competent and inspirational.

As it is now, fewer than a third of U.S. fourth- and eighth-grade students score at the proficient level in math. And U.S. students score below the international average on tests of math and science knowledge.

Inadequate instruction is at least part of the reason for those scores. An estimated 38% of math teachers in grades 7-12 lack either a major or minor in math.

A child who receives mediocre math and science instruction in elementary school is unlikely to complete algebra by eighth-grade. Completing algebra by that grade is a key predictor for who will pursue a college degree in science or math.

Here's where Bush's $25 million adjunct teacher plan, being considered by Congress, could prove invaluable. Some of these volunteer experts might advise teachers and mentor students, as the Aberdeen scientists are doing. Other scientists might become certified to try teaching as a full-time second career.

The private sector can support this. IBM already offers $15,000 in tuition and stipends to company scientists in New York and North Carolina who are interested in post-retirement teaching careers. The American Electric Power utility runs teacher workshops to improve math and science education.

Real-world experts know how to make their subjects interesting to students. Former Lockheed Martin chairman Norman Augustine, who chaired a National Academy of Sciences report on science education, recalls a recent visit he made to his grandson's preschool. After Augustine used the floor to lay out paper models of the planets, the students asked about Pluto. Because of rotational patterns, Pluto isn't always the outermost planet, he told them. And there's evidence of planets beyond Pluto, he said.

The students were fascinated.

Augustine and other private scientists bring detailed knowledge that can capture students' imaginations. Teachers should see them as educational partners, not as a threat to their livelihoods.

Be Sure Before You Censure (NYT)

DOJ_NMG_0019962

By H. W. Brands

The New York Times, March 21, 2006

RUSSELL FEINGOLD, the outspoken Democratic senator from Wisconsin, wants to censure President Bush for authorizing wiretaps of Americans without court orders. His fellow Democrats haven't exactly leaped to his side, but a recent poll indicated that 46 percent of the public considers censure warranted. If that figure increases, Mr. Feingold may have company.

Still, history shows that he ought to move carefully. While many have compared the censure proposal to the impeachment of President Bill Clinton, there is a more relevant precedent: In 1834, America's most famous political orator, Henry Clay of Kentucky, arranged the Senate's only successful censure of a president, Andrew Jackson — and he never stopped paying for his accomplishment.

The bad blood between Clay and Jackson dated to the election of 1824, in which Jackson received the greatest number of popular and electoral votes, but not a majority of either. Clay finished third in the popular count and fourth in electors. The contest went to the House, and Clay threw his support to John Quincy Adams, who won the presidency and thereupon named Clay secretary of state — and next in line, in the practice of the day, for the White House. Jackson defeated Adams in an 1828 rematch, spoiling Clay's plans for the succession. But Clay maneuvered Jackson into vetoing a measure to renew the charter of the Bank of the United States, a privately controlled precursor to the Federal Reserve system. Clay forced the issue because he anticipated that the bank veto would undermine business confidence, which it did. Clay was wrong, however, in thinking this would fatally weaken Jackson in the 1832 election, in which Clay ran as the candidate of the new anti-Jackson coalition, soon to be called the Whigs.

Jackson was re-elected handily, and afterward withdrew the federal government's deposits from the Bank of the United States as punishment for its collusion in Clay's machinations. "The bank, Mr. Van Buren, is trying to kill me," Jackson told Vice President Martin Van Buren. "But I will kill it!"

Amid this so-called Bank War, Clay proposed to censure the president for removing those deposits without Congressional approval. The proposal enraged Jackson, who castigated Clay for being as "reckless and as full of fury as a drunken man in a brothel." It provoked an uproar in the Senate and the press, with Jackson's supporters rallying behind him as the defender of democracy against the moneyed interests, and his critics alleging that his interpretation of executive authority was revolutionary and unconstitutional. (Beyond the shouting, there were plausible arguments on both sides — as in the case of the Bush wiretaps.) On March 28, 1834, the Senate critics carried the day, approving the censure resolution by a vote of 26 to 20.

Clay thought he had won a great triumph. But the 1834 midterm elections returned control of the Senate to the Democrats, as the Jacksonians were called by then. And the Democrats refused to let the censure issue rest. Senator Thomas Hart Benton of Missouri, who had once shot Jackson in a street brawl (the president still carried bullet fragments in his shoulder) but eventually became the president's most devoted partisan, campaigned incessantly against the censure and all who had voted for it. His efforts helped make the retiring Jackson the focus of the 1836 presidential election, bringing voters out in force for Van Buren, Jackson's uncharismatic protégé.

The Democrats celebrated Van Buren's victory by voting to expunge the censure resolution from the records of the Senate. As Jackson, old and ill, prepared to leave Washington for the Hermitage, his plantation near Nashville, Benton choreographed an elaborate ceremony in which the original handwritten journal of the Senate from 1834 was carried into the chamber and the Senate's secretary, after drawing bold black lines around the censure resolution, wrote across it, "Expunged by order of the Senate."

Benton retrieved the secretary's pen and sent it to Jackson as spoils of victory, while Henry Clay was left to mutter against the "foul deed which, like the blood-stained hands of the guilty Macbeth, all ocean's waters will never wash out." Clay continued to pay for his temerity: in 1844, even as Jackson declined toward death, Clay lost his third (and final) race for the presidency to another Jackson protégé, James K. Polk.

Russ Feingold is no Henry Clay, at least not yet. And if he hopes to discredit Mr. Bush, as he doubtless does, I'd suggest he find means other than censure. The last thing today's Democrats want to do is to make George W. Bush look like Old Hickory.

H. W. Brands, a history professor at the University of Texas at Austin, is the author, most recently, of "Andrew Jackson: His Life and Times."

Man Overboard (WP)

By Ruth Marcus

The Washington Post, March 21, 2006

I have a new theory about what's behind everything that's wrong with the Bush administration: manliness.

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"Manliness" is the unapologetic title of a new book by Harvey C. Mansfield, a conservative professor of government at Harvard University, which makes him a species as rare as a dissenting voice in the Bush White House. Mansfield's thesis is that manliness, which he sums up as "confidence in the face of risk," is a misunderstood and unappreciated attribute.

Manliness, he writes, "seeks and welcomes drama and prefers times of war, conflict, and risk." It entails assertiveness, even stubbornness, and craves power and action. It explains why men, naturally inclined to assert that "our policy, our party, our regime is superior," dominate in the political sphere.

Though manliness is "the quality mostly of one sex," Mansfield allows that women can be manly, too, though the sole example he can seem to come up with, and deploys time and again, is Margaret Thatcher. "Is it possible to teach women manliness and thus to become more assertive?" he wonders, but not really. "Or is that like teaching a cat to bark?" Me-ow!

"The problem of manliness is not that it does not exist," Mansfield concludes. "It does exist, but it is unemployed." Well, um, excuse me, but I think -- it's just my opinion, now, maybe you disagree, and I'm sure we could work it out -- Mansfield has it exactly backward. Manliness does exist. The problem is that it's overemployed -- nowhere more than in this administration.

Think about it this way: Is a trait exemplified by reluctance to ask directions -- "for it is out of manliness that men do not like to ask for directions when lost," Mansfield writes -- really what you want in a government deciding whether to take a country to war?

The undisputed manliness of the Bush White House stands in contrast to its predecessors and wannabes. If Republicans are the Daddy Party and Democrats the Mommy Party, the Clinton White House often operated like Mansfield's vision of an estrogen-fueled kaffeeklatsch: indecisive and undisciplined. (Okay, there were some unfortunate, testosterone-filled moments, too.) Bill Clinton's would-be successor, Al Gore, was mocked for enlisting Naomi Wolf to help him emerge as an alpha male; after that, French-speaking John Kerry had to give up windsurfing and don hunting gear to prove he was a real man. And Bush's father, of course, had to battle the Wimp Factor. Mansfield recalls Thatcher's manly admonition to 41 on the eve of the Persian Gulf War: "Don't go wobbly on me, George."

No wimpiness worries now. This is an administration headed by a cowboy boot-wearing brush-clearer, backstopped by a quail-shooting fly fisherman comfortable with long stretches of manly silence -- very "Brokeback Mountain," except this crowd considers itself too manly for such PC Hollywood fare. "I would be glad to talk about ranchin', but I haven't seen the movie," Bush told a questioner.

There are, no doubt, comforting aspects to the manly presidency; think Bush with a bullhorn on top of the smoldering ruins of the twin towers. After a terrorist attack, no one's looking for a sensitive New Age president. Even now, being a strong leader polls at the top of qualities that voters most admire in Bush.

But the manliness of the Bush White House has a darker side that has proved more curse than advantage. The prime example is the war in Iraq: the administration's assertion of the right to engage in preemptive and unilateral war; the resolute avoidance of debate about the "slam-dunk" intelligence on weapons of mass destruction; the determined lack of introspection or self-doubt about the course of the war; and the swaggering dismissal of dissenting views as the carping of those not on the team.

The administration's manliness doesn't stop at the water's edge. Pushing another round of tax cuts in 2003, Vice President Cheney sounded like a warrior claiming tribute after victory in battle: "We won the midterms. This is our due," Cheney reportedly said. After the 2004 election, Bush exuded the blustering self-assurance of a president who had political capital to spend -- or thought he did -- and wasn't going to think twice before plunking down the whole pile on Social Security.

Mansfieldian manliness is present as well in Bush's confident -- overconfident -- response to Hurricane Katrina (insert obligatory "Brownie" quote here). And the administration's claim of almost unfettered executive power is the ultimate in manliness: how manly to conclude that Congress gave the go-ahead to ignore a law without it ever saying so; how even manlier to argue that your inherent authority as commander in chief would permit you to brush aside those bothersome congressional gnats if they tried to stop eavesdropping without a warrant.

Mansfield writes that he wants to "convince skeptical readers -- above all, educated women" -- that "irrational manliness deserves to be endorsed by reason." Sorry, professor: You lose. What this country could use is a little less manliness -- and a little more of what you would describe as womanly qualities: restraint, introspection, a desire for consensus, maybe even a touch of self-doubt.

But that's just my view.

OTHER NEWS:

Fed Chief: Rates Not Sign Of Slowdown (USAT)

By Sue Kirchhoff

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USA Today, March 21, 2006

WASHINGTON — Federal Reserve Chairman Ben Bernanke said Monday the fact that long-term interest rates have stayed low, even though the central bank has been raising short-term rates since mid-2004, does not indicate a major, looming economic slowdown.

But in a speech to the Economic Club of New York, Bernanke said the reasons for the tame long-term rates, unusual during a period of Fed tightening, are unclear, as are the implications for future policy.

If low long-term rates signal investor expectations of a slower economy, a Fed response might be to ease short-term rates. If other factors, such as a decline in long-term inflation fears or higher demand, are in play, that would be more stimulative, and the Fed might need a higher short-term rate, he said.

"I will do a better job of raising questions than of answering them," Bernanke said in his prepared remarks. Bernanke said the Fed should monitor bond yields carefully, "but only in tandem with the signals from other important financial variables."

Long-term interest rates are usually higher than short-term rates because investors demand a premium to guard against uncertainty over the longer time horizon. But since mid-2004, when the Fed began raising short-term rates to guard against inflation, long-term rates have remained unusually low.

The Fed has pushed its target for short-term rates up 3.5 percentage points to 4.5%. The 10-year nominal Treasury note yield, at less than 4.75%, is not much above the Fed's short-term rate and is about even with yields on bonds maturing in one to three years.

Fed funds futures, a market in which investors make bets on future Fed decisions, indicate traders expect the central bank to raise short-term rates by another quarter-point when it meets March 27-28, with a 50% chance of an additional quarter-point increase in May, according to Moody's Economy.com.

Sometimes in the past, a small gap between long- and short-term rates has been followed by an economic slowdown, but Bernanke said he "would not interpret the currently very flat yield curve as indicating a significant economic slowdown to come." In a previous episode, when an inverted yield curve was followed by recession, interest rates were quite high, Bernanke said. Also, if the flatter yield curve reflects lower inflation expectations, it is a positive for the economy.

In a question-and-answer period following his speech, Bernanke said although there are risks, the outlook for consumer spending is still strong. He noted that although home price appreciation is likely slowing, wages were increasing, household wealth is growing and many consumers have locked in mortgages at low rates in recent years.

"Consumer finances are consistent with continued reasonable growth in consumption, enough to keep the economy growing at or close to its potential," Bernanke said. Economists keep a close eye on consumer spending because it accounts for two-thirds of all U.S. economic activity.

Global View Is Backed By Fed Chief (NYT)

By Eduardo Porter

The New York Times, March 21, 2006

Ben S. Bernanke, the newly installed Federal Reserve chairman, suggested yesterday that the central bank would need to pay more attention to global financial conditions in setting interest rates, moving beyond its traditional focus on domestic economic forces.

In a speech to the Economic Club of New York at the Grand Hyatt Hotel in Manhattan, Mr. Bernanke said that to understand the reasons behind movements in American bond yields "an explanation less centered on the United States might be required."

In only his third speech since being sworn in as Fed chairman last month, Mr. Bernanke was also skeptical about the argument that the economy will slow in the near future, a view that many investors may take as a sign that the Fed is not quite near the end of its string of interest rate increases.

Mr. Bernanke built the prepared text of his speech around one of the most pressing puzzles in financial markets today: Why do long-term bond yields remain so low despite steadily rising short-term interest rates?

Traditionally long-term rates have fallen when investors have anticipated a slowdown in the economy or a decline in inflationary pressures. But Mr. Bernanke argued that other factors —including a worldwide imbalance between abundant savings and less robust investment — may be a more powerful explanation for the current phenomenon.

Over time, however, the challenge will come in determining whether global forces are likely to push rates lower than otherwise might be the case — or higher. The answer, Mr. Bernanke said, will be increasingly crucial to the conduct of monetary policy. If long-term yields are low primarily because investors are buying more long-term bonds — be they Chinese central bankers trying to manage the yuan's exchange rate or global investors more comfortable with long-term securities because of a

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decline of economic volatility — they would be adding an extra lift to consumer spending and business investment. That would tend to push the Fed to raise its key interest rate a little more than it might otherwise have considered appropriate.

"If spending depends on long-term interest rates, special factors that lower the spread between short-term and long-term rates will stimulate aggregate demand," Mr. Bernanke said. Other things being equal, he added, this "argues for greater monetary policy restraint" and higher short-term interest rates.

On the other hand, if the low bond yields are indicating that investors expect an economic slowdown around the corner, it might require the Fed to take a different tack.

The behavior of long-term bond yields has perplexed financial investors for many months. Starting in June 2004, the Fed has raised short-term rates from 1 percent to 4.5 percent in quarter-point increments. Yet the 10-year Treasury bond yield has inched ahead only slightly, and is now less than a quarter of a percentage point higher, creating a pattern known as a flat yield curve.

Financial investors awaited Mr. Bernanke's speech in hopes of combing it for signs of when the Fed might end its series of interest rate increases. The Fed is widely expected to raise its key rate another quarter of a point at its meeting next week, but analysts are divided over whether it will echo that increase in May.

Yet beyond discarding the notion of an economic slowdown, Mr. Bernanke refrained from providing any precise indication of what to expect from the Fed. "The implications for monetary policy of the recent behavior of long-term yields are not at all clear-cut," he said.

There was virtually no reaction in the bond market to Mr. Bernanke's speech, with yields on 2-year notes and 10-year bonds remaining nearly identical.

"This speech is not going to change anybody's mind that the Fed will raise interest rates next week," said Ashraf Laidi, chief currency analyst at MG Financial Group in New York. "But it leaves up in the air what the Fed will do at its next meeting in May."

Mr. Bernanke agreed that domestic factors were still highly important in determining long-term rates, pointing out that the drag on consumer spending from higher-priced energy and expectations that the housing market will cool might be keeping long-term interest rates low even as short-term rates rise.

But he threw a new element into the mix: the possibility that what he has referred to as a "global savings glut" — an excess in global savings over global investment — might also be weighing on long-term rates, with ambiguous implications for American monetary policy.

Considering all these elements left Mr. Bernanke perched on the fence. To the extent that lower long-term yields merely reflect investors increased appetite for long-term debt, he said, "the policy rate associated with a given degree of financial stimulus will be higher than usual."

But "to the extent that long-term rates have been influenced by macroeconomic conditions, including such factors as trends in global savings and investment, the required policy rate will be lower."

Bernanke Dismisses Fears Of US Slowdown (FT)

By Andrew Balls

Financial Times, March 21, 2006

Ben Bernanke, chairman of the Federal Reserve, dismissed the idea on Monday that the low level of long-term interest rates meant investors were pricing in the likelihood of a sharp and imminent slowdown in the economy.

“Although macroeconomic forecasting is fraught with hazards, I would not interpret the currently very flat yield curve as indicating a significant slowdown to come,” Mr Bernanke said, in a speech prepared for delivery in New York on Monday night.

The Fed chairman said that – unlike in past episodes where a flat yield curve had preceded a recession – both short and long-term interest rates remained low. Also, other financial indicators, including narrow corporate bond spreads, suggested that market participants did not harbour “significant reservations” about the economic outlook.

But he said the low level of long-term rates had “ambiguous” implications for the central bank’s policy decisions, as low rates reflected forces boosting US economic performance as well as the drag from the trade deficit.

Mr Bernanke said low long-term rates were in part the result of a decline in the “term premium” investors demand for holding longer-dated securities. This was stimulating economic activity and requiring tighter monetary policy to offset the effect of overall looser financial conditions in the economy.

The lower term premium in part reflects well-anchored inflation expectations, and expectations that the steadier macroeconomic performance of recent years would continue, he said.

But, drawing on his past speeches on the “global savings glut”, Mr Bernanke said low long-term rates also reflected low levels of intended investment in the global economy relative to savings. Sluggish domestic demand growth outside the US, and

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in turn weak demand for US exports, was holding down global interest rates, resulting in a lower federal funds rate than would otherwise be needed, he said.

The new Fed chairman was careful to avoid drawing conclusions for policy and gave no hint about the point at which the US central bank would stop raising rates. Interest rate futures show that investors are pricing in a rise in the federal funds rate of another quarter point to 4.75 per cent at the Fed's March meeting, and about a 70 per cent chance of a rise to 5 per cent in May

Mr Bernanke concluded: "The implications for monetary policy of the recent behaviour of long-term yields are not at all clear-cut. Given this reality, policymakers are well advised to follow two principles familiar to navigators throughout the ages. First, determine your position frequently. Second, use as many guides or landmarks as available."

The Fed chairman played down the idea that purchases of US bonds by Asian central banks were an overwhelming influence on long-term rates, pointing out that interest rates were also low on other securities less favoured by official investors.

Further Rate Hikes By Fed Uncertain, Bernanke Says (WP)

By Nell Henderson

The Washington Post, March 21, 2006

Federal Reserve Chairman Ben S. Bernanke said yesterday that it's unclear whether the central bank, seeking to keep the lid on inflation, should raise short-term interest rates much more because unusually low long-term interest rates are stimulating the economy.

Bernanke, in a speech delivered in New York, challenged recent suggestions by many analysts and some Fed officials that the central bank might have to increase its benchmark short-term rate higher than it otherwise would because low long-term borrowing costs continue to spur consumer and business spending.

"The bottom line for [Fed] policy appears ambiguous," Bernanke said, addressing a key concern among investors eager to divine how much higher central bank policymakers will raise their key short-term interest rate.

Bernanke, speaking just one week before his first central bank policymaking meeting as chairman, also repeated that unusually low long-term interest rates do not now presage an economic slowdown, as they have some times in the past.

Futures markets show that investors expect the Fed to raise the rate to 4.75 percent from 4.5 percent next week, and they believe the committee probably will increase the rate again in May to 5 percent.

The Fed has raised the rate at 14 consecutive meetings since June 2004, when it was at 1 percent. The federal funds rate, the rate charged on overnight loans between banks, directly influences other important short-term rates throughout the economy, such as banks' prime rate on business loans and the rates on many consumer loans linked to the prime. Those rates have risen steadily over the last 20 months.

But investors and economists remain puzzled about why long-term rates have not risen as well, and how the Fed should respond.

In the past, a rising federal funds rate also caused increases in long-term rates, such as the yield on the 10-year Treasury bond, which is a benchmark for mortgage rates. But, instead, those rates fell for many months after the Fed began raising the federal funds rate, a surprising development that former Fed chairman Alan Greenspan called a "conundrum."

Long term rates have been rising this year, but remain low. The average rate on a 30-year mortgage, for example, was 6.34 percent last week, or just slightly higher than it averaged in June 2004, according to Freddie Mac.

The yield on the 10-year Treasury bond, at 4.66 percent when the U.S. markets closed yesterday, was "not much" higher than the federal funds rate, Bernanke noted. Indeed, the 10-year yield was slightly lower yesterday than it was the day before the Fed started lifting the federal funds rate.

The appropriate Fed response to this situation is unclear, because it depends on why long-term interest rates remain so low, Bernanke said.

On one hand, investors globally appear to be demanding less compensation for the risk of lending money over time because they expect low inflation and healthy economic growth to continue for many years, he said.

In this case, the Fed would have to raise the federal funds rate to keep inflation in check, Bernanke said, because "the effect is financially stimulative and argues for greater monetary policy restraint."

On the other hand, low long-term rates appear also appear to reflect a surge in the demand for long-term securities by foreign central banks, oil producers, pension funds and other savers worldwide, Bernanke said. He attributed much of this to a "global saving glut," or an excess of saving relative to investment.

In this case, the weak demand for capital means global interest rates, and the Fed's benchmark short-term rate, "will be lower than they otherwise would be," he said.

Bernanke Delves Into Market Puzzle (WSJ)

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By Greg Ip

The Wall Street Journal, March 21, 2006

Unusually low long-term interest rates could require the Fed to keep the short-term rates it controls higher -- or lower -- than normal, Federal Reserve Chairman Ben Bernanke said. It all depends on what is keeping long-term rates down.

Tackling one of the biggest current puzzles in financial markets, Mr. Bernanke turned to a theory he popularized a year ago to suggest that the Fed ought to keep rates lower than it normally would. He said a glut of world saving -- a result of high saving and weak investment demand across many countries -- might be keeping long-term rates unusually low.

If that is so, then the "neutral" short-term interest rate -- one that neither stimulates nor restrains spending -- will also be lower than normal, Mr. Bernanke said in a speech to the Economic Club of New York last night. Mr. Bernanke has discussed before what he has dubbed a "global saving glut," but his remarks yesterday were the most explicit in explaining what the phenomenon means for Fed policy.

However, Mr. Bernanke said other explanations for low long-term interest rates, such as a shortage of long-term bonds or strong demand from pension funds, would require the Fed to set its key short-term rate target higher than normal. Thus, "the implications for monetary policy of the recent behavior of long-term yields are not at all clear-cut," he concluded.

The Fed, he said, must watch bond yields closely but "only in tandem" with other financial-market prices, data on growth and inflation, and "a goodly helping of qualitative information."

Since June 2004, the Fed has raised its target for the Federal-funds rate charged on overnight loans between banks from 1% to 4.5%, but long-term Treasury yields have remained between 3.75% and 4.75%. Long-term rates are now barely above short-term rates, creating a flat "yield curve," which in the past has often presaged a slowdown or recession.

For the first time since Mr. Bernanke became chairman, the Fed's policy-making committee meets Monday and Tuesday. It is expected to raise the funds rate by one-quarter percentage point to 4.75%. It also is likely to signal a bias to raise rates further, though possibly with less certainty than it has to date.

Although Mr. Bernanke steered away from any clear signal on the direction of interest rates, his speech was notable in that he gave more weight to factors favoring a lower "neutral" funds rate than have some other current and previous Fed officials. Most officials who have studied the issue agree a variety of factors are at work; what differs is their emphasis.

Former Fed Chairman Alan Greenspan had previously suggested low long-term rates mainly reflected increased -- and perhaps, unwarranted -- confidence by investors that future economic growth, market conditions and inflation will be predictable and stable. New York Federal Reserve Bank president Timothy Geithner in a recent speech argued an important factor holding long-term rates down was foreign central banks' purchases of U.S. bonds. Mr. Bernanke, though, gave little weight to the impact of foreign central bank buying. That should have only a "short-term" impact, he said, noting that "long-term yields continued to fall over recent quarters" even as foreign central bank buying of Treasurys slowed.

Mr. Bernanke, like other officials, argued the yield curve did not seem to be foreshadowing a slowdown.

He also sounded an upbeat note on the economic outlook in response to questions after his remarks. While U.S. consumers may boost their saving in coming years as housing prices moderate, that "would not necessarily be a problem for the sustained expansion" and their spending continues to be lifted from past increases in home prices. He added that only about 10% of residential mortgages will be repriced this year, so the impact of higher interest rates will be gradual. He also said it was encouraging that "we are beginning to see cyclical recovery in Europe and Japan."

He also reviewed several structural factors that could be holding down long-term rates. He noted the economy was also less volatile in the 1950s and 1960s and the structure of interest rates was similar. He said pension funds may demand more long-term bonds to fund the benefits of future retirees, while at the same time issuance of very-long-term U.S. dollar bonds has diminished. If these factors explain why long-term rates are so low, "the effect is financially stimulative and argues for" a higher Fed-funds rate, "all else being equal."

Early Data Hint At Weaker Growth For Year Ahead (WSJ)

By John McAuley

The Wall Street Journal, March 21, 2006

A gauge of future economic activity slipped 0.2% in February to 139, according to preliminary estimates by the Conference Board.

The private research group said its composite index of leading indicators edged down in February after a revised 0.5% increase in January, when the index was originally reported to have increased 1.1%.

The February reading for the leading index came in slightly less weak than the -0.3% median estimate of 21 economists surveyed by Dow Jones Newswires.

The index was equal to 100 in 1996.

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Though the index of leading indicators has been volatile since Hurricane Katrina struck last year, the reading has been generally flat over the past five months. "This suggests that economic growth in the year ahead should be weaker than in the past year," said Steven Wood, an economist at Insight Economics, in a note to clients. "However, it does not suggest that growth will be extremely sluggish or will turn negative."

The Conference Board noted that five of the 10 indicators that constitute the leading index showed improvement in February. The largest positive contributions came from manufacturers' new orders for nondefense capital goods, followed in order by real money supply, average weekly manufacturing hours, new orders for consumer goods and materials, and the interest-rate spread.

The negative contributors were: vendor performance, the index of consumer expectations, average weekly jobless claims, building permits and stock prices.

The Conference Board's composite index of coincident indicators increased 0.3% in February to 122.1, after no change in January. The index of lagging indicators was up 0.1% in February at 122.6, after a revised 0.5% rise the month before. The Conference Board is a nonprofit research and business membership group that computes the composite indexes formerly compiled by the U.S. Department of Commerce.

Investors Sit On Their Hands (WSJ)

By Worth Civils

The Wall Street Journal, March 21, 2006

Oil prices plunged Monday, a development that normally would send stocks soaring. But Wall Street seemed paralyzed by news of an afterhours speech by Federal Reserve Chairman Ben Bernanke, and stocks remained little changed.

Benchmark light, sweet crude futures for April, set to expire Tuesday, fell $2.35, or nearly 4%, to settle at a one-week low of $60.42 a barrel on the New York Mercantile Exchange. While the decline didn't spur stocks higher ahead of Mr. Bernanke's speech and a report Tuesday on producer price data, oil is on the radar, and further declines could lend support to stocks.

Jay Suskind, director of trading at Ryan Beck in Florham Park, N.J., said that if oil prices fell significantly below $60, traders will take note. "If it breaks one way or the other, it will have an impact," he said. "It gives more credence to inflation being under control, because certainly energy has a lot to do with it."

Falling oil prices helped at least one group of stocks Monday: airlines. The Dow Jones Transportation Average was up 0.5%, with Continental Airlines and AMR the average's best performers, up 5.4% and 3.3%, respectively. Transport stocks have been hitting all-time highs and the average is up nearly 10% year-to-date.

Overall, the Dow Jones Industrial Average was down 5.12 points to 11274.53, with McDonalds losing 1%. An earlier advance put the average about 30 points shy of its highest level since January 2000, the same month the Dow industrials hit their all-time closing high of 11722.98. Wal-Mart Stores was the best-performing component, up 2.3%, after the retailer said it plans to add 150,000 new jobs in China over the next five years.

Other indexes were little changed but still near multiyear highs. The Nasdaq Composite Index, heavy with technology stocks, rose 7.63 to 2314.11. Microsoft gained 1.4% on reports that it is working on a secret hardware project with chip maker Transmeta; Dell was ahead by 2.3% on news it plans to double the number of its mostly call-center employees in India to 20,000. The Standard & Poor's 500-stock index slid 2.17 to 1305.08.

Treasury bond prices were higher, sending yields lower. The benchmark 10-year Treasury note was up 5/32, or $1.56 for each $1,000 invested, at 98 25/32 to yield 4.66%. The 30-year bond was up 11/32 at 96 30/32, yielding 4.70%.

With little economic data on tap today, stock and bond traders are mostly waiting on Mr. Bernanke's speech tonight at the Economic Club of New York, and tomorrow's report on the producer prices. Little is expected from the speech, but that isn't stopping the market from following the new Fed chief's every utterance just a week before he presides over his first Federal Open Market Committee monetary-policy meeting.

"Bernanke is going to define what is going to happen to interest rates," said Paul J. Nolte, director of investments at Hinsdale Associates in Chicago, adding that the Fed chief isn't likely to say anything new or too eventful ahead of next week's meeting. "Everyone is lining up for one and done at this point. Wall Street is going to parse his words very closely to get to expectations."

While policy makers are widely expected to raise rates another quarter-percentage point to 4.75%, the outlook after that has become less clear amid signs that economic growth is slowing. Last week, stocks rallied after the consumer price index excluding food and energy rose just 0.1%, raising hopes that the Fed won't raise rates more than once or twice more. This week will bring more fodder with the PPI, due tomorrow morning. The measure of wholesale prices rose at a 0.3% rate in January, and the "core" rate, which excludes food and energy, jumped 0.4%, sending stocks lower.

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In today's sole economic release, the Conference Board said that leading indicators fell 0.2% last month, a more moderate decline6 than the 0.3% decline expected by economists. While the figure shows that economic growth is slowing and supports the case for the Fed halting its rate increases, market reaction to was limited.

The housing market may offer more evidence of a slowdown amid rising interest rates. Boston Fed President Cathy Minehan said in a speech to the New England Realtors Conference that while the short-term economic outlook remains positive, there are other risks to the longer-term outlook, she said, and the housing sector is "one of the greatest areas of uncertainty." Also speaking today is San Francisco Fed President Janet Yellen at the 2006 national Community Reinvestment Conference.

After the market closed, Oracle said its fiscal third-quarter net profit jumped 42% as revenue climbed 18% on stronger demand for its database and business applications software. A new crop of value investors will be carefully watching7 Oracle's financial results, The Wall Street Journal reported, digging for clues about whether the software giant's stock has become cheap enough to buy. Shares were up 1% in regular trading, but pulled back in after-hours trade.

In major market action:

Stocks were mixed8. On the New York Stock Exchange, where 1.42 billion shares traded, 1,464 stocks rose and 1,869 fell. On the Nasdaq Stock Market, where 1.97 billion shares traded, 1,527 rose and 1,505 declined.

Bonds gained9. The benchmark 10-year Treasury rose 5/32 point, or $1.56 for every $1,000 invested, to yield 4.66%. The 30-year bond added 11/32 to yield 4.70%. Yields move inversely to prices.

The dollar advanced.10 It traded at 116.28 yen, up from 115.82 yen late Friday, while the euro fell to $1.2165 from $1.2195.

Blue Chips Pull Back In Cautious Trading (WSJ)

By E.s. Browning

The Wall Street Journal, March 21, 2006

Following its biggest weekly gain in two months, the Dow Jones Industrial Average edged backward, as investors awaited an evening speech on interest rates by the Federal Reserve's new chairman, Ben Bernanke.

As analysts speculated about whether Mr. Bernanke would use his speech to the Economic Club of New York to hint at when rate increases might end, the Dow Jones Industrial Average inched down 5.12 points, or 0.05%, to 11274.53, little changed from Friday's 4½-year high. It is up 5.2% this year. Trading volume was below average.

The Standard & Poor's 500-stock index also pulled back from last week's 4½-year highs, though the Nasdaq Composite Index managed a small gain.

"People were just kind of waiting to hear" Mr. Bernanke's interest-rate comments, said Mike McDonald, a trader at Boston-based brokerage firm Canaccord Adams. An end to rate hikes soon would help stocks by holding down costs for businesses and consumers.

The index of leading indicators declined in February, the Conference Board announced, suggesting that economic growth may be slowing. Slower growth makes it easier for the Fed to stop raising rates.

Treasury-bond prices rose slightly, pushing yields lower, on hopes for some kind of signal from Mr. Bernanke.

Investors also were expecting that today's report on February wholesale prices would show a decline, to go with the very small rise in February consumer prices announced last week. Tame inflation reduces fears of an overheating economy, which makes it easier for the Fed to stop raising rates.

Oracle announced strong quarterly profits, but, in a sign of investors' rising expectations, it wasn't enough to keep the stock from falling 3.1% in after-hours trading.

The Nasdaq composite rose 0.33%, or 7.63 points, to 2314.11, up 4.9% this year. The S&P 500 fell 0.17%, or 2.17 points, to 1305.08, up 4.6% this year.

Crude-oil futures sagged $2.35 to $60.42 a barrel on signs that supplies remain strong. Gold, however, continued its rebound, up $1.10 to $555.20 a troy ounce.

Outside the U.S., stocks advanced in dollar terms. The Dow Jones World Stock Index, excluding U.S. stocks, rose 0.39%, or 0.84 point, to another record, 214.85.

In major U.S. market action:

Stocks were mixed1; bonds gained2. The 10-year Treasury note rose 4/32, or $1.25 for each $1,000 invested, pushing the yield down to 4.658%. The 30-year bond was up 10/32 to yield 4.699%.

The dollar strengthened.3 Late in New York, it traded at 116.21 yen, up from 115.82, while the euro fell against the dollar to $1.2170 from $1.2195.

The Daily Grail: 'Da Vinci Code' Trial Wraps Up (WP)

DOJ_NMG_0019970

By Kevin Sullivan

The Washington Post, March 21, 2006

LONDON, March 20 -- The "Da Vinci Code" copyright infringement trial, which ended in a London courtroom Monday, combined lively peeks into a celebrity author's lifestyle and hours of legal arcana so numbing that they put a white-wigged attorney to sleep within feet of the judge.

Fans of media-shy author Dan Brown learned that his inspiration to write fiction came on a Tahitian vacation when he read Sidney Sheldon's alien-invasion thriller "The Doomsday Conspiracy." The next day lawyers were arguing about obscure points of religious history, such as whether and why Pepin the Fat murdered Dagobert II, and what Godefroi de Bouillon was really up to during the First Crusade.

In 12 days of testimony over three weeks, authors Michael Baigent and Richard Leigh tried to prove that Brown stole the idea for his mega-selling novel from a nonfiction book they published in 1982, "The Holy Blood and the Holy Grail." Judge Peter Smith, a man so soft-spoken that his words often seemed to have trouble escaping his thick black mustache, said he hoped to issue a ruling by April 8.

At stake is a multimillion-dollar slice of Brown's pie, which includes sales of nearly 40 million books and an upcoming Hollywood film starring Tom Hanks that, if "Da Vinci's" luck holds, is expected to sell movie tickets and Raisinets from here to the Sea of Tranquillity. (And next week the paperback, a massive 5 million copies, will finally hit U.S. shelves.)

John Baldwin, attorney for Random House U.K., the British publisher of both "Da Vinci" and "Holy Blood" and defendant in the lawsuit, said in his closing statement that the case of Baigent and Leigh is "in tatters." Baldwin said Baigent's testimony was so unreliable that he is either "deluded," "extremely dishonest" or a "complete fool."

Jonathan Rayner James, attorney for Baigent and Leigh, was equally unimpressed with Brown, a clean-cut former prep-school English teacher who traveled from the seclusion of his New Hampshire home to spend nearly three days on the witness stand.

"His evidence should be approached with deep suspicion," James argued in his closing statement, calling Brown uncooperative. He said Brown was evasive about key facts, such as when he purchased a copy of "The Holy Blood," which Baigent and Leigh wrote with a third author, Henry Lincoln, who is not a party to the lawsuit.

In the courtroom, Brown appeared to take great pains to remain polite and patient during lengthy questioning by James, one of Britain's leading copyright specialists.

Brown, who explained his wife, Blythe Brown, does a lot of his research, acknowledged reading "The Holy Blood and the Holy Grail." He mentions it prominently in "The Da Vinci Code" and on the stand he admitted that he had "reworked" passages from it for use in his book. He said he never copied directly and using the reworked passages is "how you incorporate research into a novel."

Brown said the book was one of dozens he used to research his novel, and he didn't consult it until well after he had formulated the main plot. But James argued that he had a copy of the book much earlier and that it was much more important to the research than Brown admitted.

Smith, the judge, aggressively challenged James's arguments throughout the day Monday and repeatedly questioned the basis for the suit. He asked James how he could argue that Brown was hiding the fact that he read "The Holy Blood and the Holy Grail" when his characters in "The Da Vinci Code" discuss it admiringly in one scene.

"What's his point in shouting it from the treetops in the text?" Smith asked.

The trial attracted reporters from around the world, and all manner of hangers-on. Bored-looking British teenagers on a school trip came one day, while a steady stream of cheery American tourists -- most of them obvious Brown fans -- made their way through the metal detectors and up to the 10th-floor tribunal in London's ornate Royal Courts of Justice.

On Monday two young men in their early twenties wandered in, one wearing a Las Vegas sweat shirt and the other clutching Frommer's guide to London. With Brown long since departed, they crept back out after 15 minutes of dry-as-dust legal arguing between James and Smith.

Lynn Picknett and Clive Prince attended every day of the trial. Brown used a book they wrote, "The Templar Revelation," in his research and mentioned it in his novel. Rather than suing, Picknett and Prince said they sent Brown a thank-you note.

"It was something of an honor, we thought," Picknett said.

Much of the case, and almost all of Monday's final arguments, centered on what can be protected under copyright law, and how extensively an author can use the product of another's research and writing.

James argued that Brown had lifted the central themes of Baigent and Leigh's book. But Baldwin countered that those themes were not protected by copyright law because they were so general, and most of them had been published in other books before Baigent and Leigh's.

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Both books involve the idea that Jesus married Mary Magdalene, that they had a child and that the bloodline continues to the present. There are also significant differences, including that Baigent and Leigh posit that Jesus did not die on the cross. Brown sticks to the traditional story of Jesus's death.

Brown attended the trial until he finished testifying, but his place at the front table was empty Monday. Leigh and Baigent were still in their familiar seats, Leigh in his regular brown leather jacket and aviator sunglasses, with stringy hair, mutton chops and mustache, looking like he just rode his Harley in from Daytona Beach.

Baigent, whose book "The Jesus Papers" comes out next month, sat next to Leigh wearing a crisp gray suit and tie. In the hall as the last day of the trial started, he said he was ready for it to be over.

"I'm shattered," he said, referring to his exhaustion. "It's just been really tiring."

Swing Is Still King At The Polls (WP)

By Mark J. Penn

The Washington Post, March 21, 2006

We hear it every day: America is divided into two camps -- red and blue -- and the key to elections is just energizing the base.

But in fact, while the base is critical, it's not the whole picture. Behind all the rhetoric, the reality is that swing is still king. The two or three or 10 voters who are the quietest in focus groups, who never demonstrate and who belong to no political party, will be the ones who determine the political course of America.

This is less true in Washington, where everyone has to choose sides to survive, but outside the Beltway, trends show that voters are increasingly open and flexible, not rigid. They are looking at candidates' records and visions, not their party affiliation.

In the past 50 years independents have grown from one-quarter to one-third of the electorate, according to Gallup polls. In California, the number of independent voters more than doubled between 1991 and 2005. The fastest-growing political party in the United States is no party.

According to the American National Election Studies at the University of Michigan, the number of split-ticket voters in the electorate -- meaning people who vote for a Democrat for president and a Republican for Congress, or vice versa -- has gone up 42 percent since 1952. That shows a radical new willingness on the part of Americans to look at individual candidates, not party slates. It is a sign of a thinking electorate, not a partisan one.

When asked, Americans have a characteristic swagger and express that they definitely will or will not vote for candidates and parties. In 1995, 65 percent of voters said they would never vote for Bill Clinton. One year later they reelected him in a landslide.

Recent polls show that rather than a static electorate, we have a dynamically changing one. Based on the polls six months ago, journalists were declaring Republican hegemony. Today, Democrats have the widest margin in two decades on the generic congressional vote.

Was there a sudden surge in the number of hard-core Democrats answering surveys, or was it just a matter of America's swing voters deciding that President Bush is failing on the economy, the war and, recently, national security, by compromising the ports? Clearly, there is a massive swing electorate out there that is receiving more information from more sources than ever before -- and acting on it.

According to CNN exit polls, in the presidential elections of 1996, 2000 and 2004, one-fifth to one-third of voters made up their minds in the last month before the vote. Indeed, in the summer of 2004, voters swung from an eight-point lead for John Kerry to a 13-point lead for Bush, and in the end gave Bush a victory by only three points.

We can expect the same variability in the 2006 and 2008 elections. In a Gallup poll from last August, 83 percent of Americans said either that they hadn't seriously considered who they'll support or that they weren't really paying much attention. Asked in January whether they would vote for a Republican or Democrat for president in 2008, 34 percent of registered voters said "neither" or that they could go either way.

And an analysis of the last presidential election shows that while turnout was indeed higher, it was higher on both sides, canceling out the impact of the appeals to the two bases. Middle-aged women and Hispanic voters were the key voting blocs that made the difference, swinging the vote from Kerry to Bush. In fact, in 2004 women made up 54 percent of the U.S. electorate, the highest percentage in history. Their interest in and impact on politics has been increasing.

Choosing between appealing to the base and the swing vote is, as President Bill Clinton would say, a "false choice." His signature policies -- family and medical leave, 100,000 cops, middle-class tax cuts, a strong national defense, and a balanced budget -- drew support from both Democratic die-hards and voters in the vitalcenter.

In 1996 we identified soccer moms as the critical swing voters. Today they remain at the center of the swing vote, but they're a decade older and their kids are going off to college. Now they get their information from the Internet as well as TV, radio

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and print media, making them the most informed swing voters in history. And while they had little time when their kids were 6 and 8, many of those boomers are now getting some extra time to think about what's going on in America and the world.

These voters are untethered to either political party. While it's become conventional wisdom to say that voters' minds are firmly made up, and that certain candidates can or cannot win, it's just not true. The growing bloc of swing voters takes a hard look at candidates much later in the process, and they adjust and shift as they gather information. They may seem like wallflowers in the political process right now, but they are the ones a successful campaign eventually needs to cross the finish line.

The writer heads a polling firm that conducted surveys for President Bill Clinton in 1996. He is also chief executive of the public relations firm Burson-Marsteller.

Inside Politics (WT)

By Greg Pierce

The Washington Times, March 21, 2006

Sabo to retire

Rep. Martin Olav Sabo is retiring after 46 years in state and national politics, saying Congress has become more polarized and less hardworking during his years there.

The 68-year-old Minnesota Democrat, known for his understated style, said he sensed it was time to quit.

"I've always believed the fundamental problem with politics today are people who overpromise and overstate. I've tried to do the opposite," Mr. Sabo said Saturday. "I've also tried to treat my colleagues with respect. I don't recall ever making a public statement critical of my colleague, whether it's Democrat or Republican."

Mr. Sabo was first elected to the state House the same year John F. Kennedy won the presidency, then spent almost 28 years in Congress. He serves on the House Appropriations Committee and has helped steer millions of dollars to the Minneapolis-St. Paul area.

His retirement at the end of the term is expected to set off a stampede among Democrats eager to succeed him in his liberal Minneapolis district, where John Kerry won 71 percent of the vote in the 2004 presidential election, the Associated Press reports. State Rep. Keith Ellison and Gary Schiff, a member of the Minneapolis City Council, both said they will run in the Sept. 12 state primary.

Nominee blocked

Sen. John Ensign, a former veterinarian, didn't like the way pet evacuations were handled after Hurricane Katrina, but Senate insiders say that is not why the Nevada Republican has a hold on the nomination of Vice Adm. Thad W. Allen to be the Coast Guard commandant.

Adm. Allen, who took over post-Katrina operations after Mike Brown was fired from the Federal Emergency Management Agency, was nominated by President Bush in January to take over the 200-year-old Coast Guard.

Jack Flynn, Mr. Ensign's spokesman, says his boss has a "series of questions we want answered from the nominee before the senator is comfortable moving forward," but declined to say what issues the questions address.

The hold has baffled some former Coast Guard officials, including Stephen Flynn, a retired Coast Guard commander and senior fellow for the Council on Foreign Relations.

"Surely, he can find a better way to advance his pet issue of pet evacuation other than tripping up the appointment of the most highly respected Coast Guard leader of the one agency that earned universal acclaim in the Katrina disaster," Mr. Flynn said.

Mr. Ensign met with Adm. Allen last fall to discuss rescue efforts and the plight of abandoned animals, but a Capitol Hill source familiar with the hold procedures says it is not related to animal rescues.

Ultrasound images

Michigan Gov. Jennifer M. Granholm will sign a bill requiring abortion providers to give pregnant women the option to see ultrasound images of their fetuses, a spokeswoman says.

Mrs. Granholm, a Democrat, generally has opposed legislation that regulates or limits abortion, but the bill was amended so it no longer requires pregnant women to see the ultrasound images, spokeswoman Liz Boyd said Sunday.

Until now, Michigan law has required that women seeking abortions be allowed to review diagrams and descriptions showing a developing fetus, but not their own.

Pro-life advocates hailed the new law. Right to Life of Michigan said it ensures that pregnant women have fuller access to accurate information before having abortions. Critics called it a further erosion of women's rights, the Associated Press reports.

No Al in '08

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Former Vice President Al Gore said yesterday he has no plans to run for president in 2008, but hasn't ruled out a future in politics.

"I'm enjoying what I'm doing," Mr. Gore told an audience at Middle Tennessee State University, where he gave a lecture on global warming, according to the Associated Press.

"I'm not planning to be a candidate again. I haven't reached a stage in my life where I'm willing to say I will never consider something like this," he said. "But I'm not saying that to be coy. I'm just saying that to be honest -- that I haven't reached that point."

Mr. Gore, a Democrat, lost the 2000 presidential election to George W. Bush after a bitterly contested recount war in Florida.

Vacation days

The House of Representatives is on track this year to be in session for fewer days than the Congress Harry S. Truman labeled as "do-nothing" during his 1948 re-election campaign, USA Today reports.

Members of Congress are taking an entire week off for St. Patrick's Day. It's the latest scheduling innovation to give members more time to meet with constituents. Through Friday, the House was in session for 19 days this year, compared with 33 for the Senate, USA Today reporter Kathy Kiely writes.

If they stick to their current schedule -- including two weeks off in April, a week in May and July, plus all of August -- House members will spend 97 days in Washington this year. The House was in session 108 days in 1948, according to the chamber's archives, compared with 141 days last year.

Failure to vote

Republican U.S. Senate hopeful Kathleen Troia McFarland, who repeatedly skipped New York elections, failed to vote for President Reagan even while working for him in Washington, the New York Post reports, citing newly acquired records.

Mrs. McFarland, a Park Avenue matron who says she drafted Mr. Reagan's "Star Wars" defense proposal while serving as a high-level Pentagon official from 1982 to 1985, didn't vote in 1984, when the president was seeking re-election, records obtained by the Post show.

An official voter profile from the Washington, D.C., Board of Elections & Ethics shows Mrs. McFarland, who hopes to challenge Sen. Hillary Rodham Clinton, registered to vote from a Washington address in June 1983, when she served as deputy assistant secretary of defense for public affairs, a position she describes as equivalent to a three-star general.

Schumer's 'skinheads'

"Don't look now, but we think Charles Schumer just compared Arab businessmen to skinheads," the Weekly Standard's Scrapbook column says.

"According to a piece in the New York Observer last week, Schumer's beating the drums to kill the Dubai ports deal came under fire from many quarters, with some critics suggesting that opposition to the deal was driven by xenophobia or anti-Arab racism. Mr. Schumer heatedly disputes that view. 'Let's say skinheads had bought a company to take over our port,' he said. 'I think the outcry would have been the same.'

"So why exactly do businessmen who happen to be Arabs deserve to be compared with skinheads, Mr. Schumer?"

A Gore Comeback? New Run At President Has Historic Precedents (AJC)

By Scott Shepard

The Atlanta Journal-Constitution, March 21, 2006

WASHINGTON — Is history calling Al Gore back into the political fray?

History says candidates who won the popular vote but lost in the electoral college have all gotten their revenge with victories in subsequent elections. And now, after years of calling himself a "recovering politician," Gore is flirting again with politics.

Or is he?

Even those who were part of his inner circle in 2000, when Gore lost the White House to George W. Bush in one of the closest and most controversial presidential elections in American history, still don't have a clear idea what the former vice president is thinking in terms of a 2008 campaign.

"I do not know for sure if he's looking or flirting," Donna Brazile, his 2000 campaign manager, said in an interview Monday. "But, I have an opinion — Gore remains a headliner and can raise money and rally the base."

Speculation about Gore's intentions has intensified in recent weeks due to three events: his Martin Luther King Jr. holiday speech in January lambasting the president for "breaking the law" with his warrantless domestic surveillance program; his message to Democratic donors in February soliciting funds for the Democratic Senatorial Campaign Committee; and his party

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fund-raising appearances this month in Florida, the scene of the contentious vote recount that ended with a Supreme Court ruling that made Bush president in the 2000 election.

Gore's activities prompted pollster Lee Miringoff to include Gore in a recent poll on possible Democratic 2008 contenders. It found Gore was second only to Sen. Hillary Rodham Clinton of New York. Clinton was the favorite of 33 percent, Gore was the choice of 17 percent.

"The numbers suggest that a case could be made for Mr. Gore in 2008 ... though it's a little unclear what he may have in mind," Miringoff said in an interview. "Clearly, he is someone to be watched, especially as an alternative to Hillary Clinton."

Chris Lehane, who was Gore's chief spokesman in the vice presidential office and later in the presidential campaign, noted in an interview that "Gore has been pretty public that he does not intend to run in 2008" and, he added, "I do think that this is indeed where his head is right now."

But political analysts, in considering the prospect of a Gore comeback, cite the historic precedents of candidates who won the popular vote but lost the electoral college vote, only to win later: Andrew Jackson, losing in 1824 and winning in 1828, and Grover Cleveland, denied in 1888 but triumphant in 1892.

Gore "may be a man whose time has come in his party," Dick Morris, a political adviser to Bill Clinton for 20 years, wrote recently in his column for The Hill newspaper. "Like a completely refurbished 'pre-owned vehicle,' Al Gore seems to be positioning himself to Hillary Clinton's left and greener than John Kerry ... His slogan might well read 're-elect Al Gore.' "

Longtime Republican operative Roger Stone Jr. made similar points in a column for the New York Observer, citing "uncanny parallels" in the careers of Gore and Richard Nixon, who narrowly lost the White House in 1960 but rebounded to win it in 1968.

But Brazile acknowledged that there are "some voters [who] want a complete break from the past and may not look favorably on [his] return to the political fight."

Gore's office in Nashville did not respond to telephone inquiries Monday, but the former vice president has previously told The Associated Press he has "no plans to seek the presidency in 2008."

There is no evidence he is assembling any kind of campaign organization. In a recent survey of Gore's friends and organizers in New Hampshire, James Pindell, managing editor of PoliticsNH.com, found none had been contacted about 2008.

"They seem to be convinced he is not running" and will not visit the state, which traditionally hosts the first presidential primary, Pindell said Monday.

Occasionally, Gore even seems like an anti-candidate. For example, he is scheduled to be in Seattle on Thursday to talk about global warming, but he has insisted on no press coverage, sparking some angry newspaper editorials.

However, "in the Internet age, there is the potential for someone with his profile to mount a non-conventional campaign," said Lehane, "someone with a high name identification, someone who could raise money online, someone with prime time experience and someone who could potentially attract support from the angry left."

Rice Not Interested In Football Job For Now (AP-Y2)

AP2, March 20, 2006

Condoleezza Rice, a bona fide football fan, is not applying for the newly opened post of NFL commissioner — not now, anyhow, her spokesman said carefully on Monday.

Rice, who is avid particularly in support of the Cleveland Browns, is enjoying being secretary of state "at the moment," spokesman Sean McCormack said.

The wiggle-room in his response after NFL commissioner Paul Tagliabue announced he would retire resonated off frequent only half-joking statements by Rice that as a lifelong football fan she aspires to run the league one day.

She may also aspire to be president or vice president, at least there has been speculation that she might wind up on the Republican ticket in 2008.

The owner of the New England Patriots, Bob Kraft, for one, seems to be in Rice's corner for the football post.

Kraft told CNBC that he had dinner with Rice a few months ago and found her to be "tremendously capable and highly competent."

"I am flattered that she is interested in joining us," Kraft said. "But, of course, I am only one of 32."

Dell To Double Workforce In India (NYT)

By Saritha Rai

The New York Times, March 21, 2006

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BANGALORE, India, Mar. 20 — Dell, the world's largest maker of personal computers, plans to double its employee strength in India to 20,000, and is scouting for a site to set up a manufacturing unit in the country, its chairman, Michael Dell, said today.

"There is a fantastic opportunity to attract talent," Mr. Dell said, referring to the country's technically qualified, English-speaking pool of workers. "We will ensure a major recruitment push in engineering talents," he said in a press meeting during a visit to Bangalore, India's outsourcing capital.

Dell, which is based in Round Rock, Tex., has four call centers in India, where the bulk of its 10,000 employees work, as well as software development and product testing centers.

Dell plans to double its hardware engineering staff to 600 in one year, Mr. Dell said.

Dell's statement today followed similar pronouncements by Microsoft Corp and Cisco Systems which plan to double and treble, respectively, their Indian headcounts.

Many Western multinationals, particularly technology companies, have recently been moving many key functions such as design and research and development to India. Many of these were earlier in the forefront of shifting software development and back office work like call centers to this country.

Salaries in India are rising rapidly, but still are about a fifth of what they are in the West for comparable jobs.

Mr. Dell said his firm was talking with several state governments about a site for manufacturing plant..

In a market where the penetration of computers is very low, companies such as Dell are eager to set up a manufacturing base to help expand sales. Dell accounts for about four percent of the 4 million computers purchased in India.

Sales of computers in India are expected to grow to 20 million a year in the next few years.

The GOP's Shrinking Middle (WP)

By E. J. Dionne Jr.

The Washington Post, March 21, 2006

Members of Congress retire all the time, but some retirements are leading indicators of the direction of our politics. Rep. Sherwood Boehlert's announcement last week to call it quits matters, and in a depressing way.

The affable 69-year-old New York Republican is one of the last of a breed: a liberal Republican, though he calls himself a "moderate" and has the record to prove it. Boehlert's departure does not leave the House bereft of liberal Republicans -- Rep. Jim Leach of Iowa is more liberal than Boehlert. But Leach, alas, is an outlier. The spotted owl is in good shape compared with liberal Republicans.

Boehlert chose to retire in the year when National Journal, the political world's answer to Sports Illustrated, featured him as the ultimate "Down the Middle" guy. In its Feb. 25 issue, the magazine published its annual ratings, which showed that Boehlert's votes were more liberal than those of 52.2 percent of House members and more conservative than 47.8 percent. Boehlert's district includes the Baseball Hall of Fame in Cooperstown, and it's hard to move the ball more to the middle of the plate than he does.

It's been downhill for his brand of Republicanism from the moment he set foot in Washington as a congressional staffer in 1964. That's the year Barry Goldwater won the Republican presidential nomination and the great flight of the Republican liberals began.

After Goldwater's landslide defeat, two Republican progressives who later became conservatives, George Gilder and Bruce Chapman, wrote a brilliant book called "The Party That Lost Its Head," detailing how and why the party's liberal wing responded so anemically to the conservative challenge. But it was too late. The party of Abraham Lincoln and Theodore Roosevelt was destined to become an annex of the conservative movement.

Boehlert has always been unabashed in embracing his liberal roots. Over breakfast on a sunny summer morning in Cooperstown five years ago, Boehlert embraced two of the most progressive politicians of his lifetime. "People say to me: 'Why are you the kind of Republican you are?' Because in my formative political years, when I was coming up in New York, my governor was Nelson A. Rockefeller and my senator was Jacob K. Javits."

Why does the decline and fall of liberal Republicanism matter? After all, rationalizing the political system into a more conservative GOP and a more-or-less liberal Democratic Party makes the alternatives clearer to voters, who are offered, in Goldwater's famous phrase, "a choice, not an echo."

But it turns out that a Republican Party dominated by conservatives is no more coherent than the party that left room for progressives. The huge budget deficit is conservatism's Waterloo, testimony to its political failure. The conservatives love to cut taxes but can't square their lust for tax reduction with plausible spending cuts. Oh, yes, a group of House conservatives has a paper plan involving deep program cuts, but other conservatives know that these cuts will not pass, and shouldn't.

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Paradoxically, because the liberal Republicans didn't pretend to hate government, they were better at fiscal responsibility. They were willing to match their desired spending levels with the taxes to pay for them. It didn't make for exciting, to-the-barricades politics. It merely produced good government.

Boehlert, being an optimist by nature, was always ready to declare that the "moderates' moment" had finally arrived. Last November, after I had written a column taking some moderate Republicans to task for backing the outrageous budget bill that passed under the cover of darkness at 1:30 a.m., there was Boehlert on the phone insisting that he and fellow moderate Mike Castle (R-Del.) had wrung some important concessions out of the House leadership. Maybe so, I replied, but I had a higher opinion of moderate Republicans and expected more of them than that lousy budget bill.

The problem may be that Boehlert and Castle did get as much as they could, given the numerical weakness of their variety of Republicanism, but that's not good enough. I suspect Boehlert knows this. Absent a robust progressive wing, congressional Republicans will continue to produce fiscally incoherent government. Democrats now have the task of representing their own brand of politics, and that of progressive Republicans, too.

I'll miss Boehlert and his optimistic moderation. Our politics worked better when a sufficiently large band of Republican moderates and liberals could take the edge off polarization and orient government toward problem-solving. But the liberal Republicans are gone. We have to deal with the GOP we have, not the GOP we wish still existed.

Citing Foreign Law (WP)

The Washington Post, March 21, 2006

IN A SPEECH last month at the Constitutional Court of South Africa, Justice Ruth Bader Ginsburg made some unfair insinuations about critics of the use of foreign law in American courts. Justice Ginsburg was defending what is, in our view, a perfectly defensible proposition: that American courts should "learn from legal systems with values and a commitment to democracy similar to our own." Yet in doing so, she managed to link those who take an opposing view to the legacies of slavery and apartheid and to paint them as "fuel[ing] the irrational fringe" in its threats against judges.

To hear Justice Ginsburg describe the matter, you'd think the use of foreign law presents an easy question, legally and morally. In her speech, she quoted language from Chief Justice Roger Taney's infamous Dred Scott decision that rejected the notion that European opinions ought to guide American understanding of the Constitution. She went on to note that South Africa under apartheid also rejected the influence of foreign law, while its 1996 constitution explicitly invites its consideration. And she attacked members of Congress for introducing bills to eliminate the use of foreign precedents in American judicial decisions. Such legislation, she suggested, was responsible for an incident in which someone posted a call on the Internet for her and then-Justice Sandra Day O'Connor to be assassinated.

We don't support such legislation, but its advocates present one side of a valid debate, and there is no cause to blame them for the incitements of others. In the debate over foreign law, neither side has a monopoly on wisdom.

We agree with Justice Ginsburg and the court majority that American courts need not pretend that foreign courts do not exist. Law review articles, after all, constitute a legitimate, even routine, source of guidance for American adjudication; why not the considered judgment of a competent foreign tribunal? At the same time, Justice Antonin Scalia offers some reasonable criticisms of how the court has used foreign precedents -- that is, selectively, when foreign law supports results that the court cannot justify based on American authorities alone. As Justice Scalia points out, justices cite foreign precedents in capital cases, where European law is far more liberal than American law, but not in abortion cases, where it is more restrictive.

One doesn't have to agree, in other words, that foreign law has no place in American courts to worry that courts are using foreign law too politically. And one doesn't need to be Chief Justice Taney -- or a South African racist or an aspiring domestic terrorist -- to believe that it would be better if courts did not interpret America's founding documents in light of foreign authorities that postdate them. Justice Ginsburg has a strong case to make without stooping to such insinuations.

Some U.S. Officials Fear Iran Is Helping Al Qaeda (LAT)

By Josh Meyer

The Los Angeles Times, March 21, 2006

WASHINGTON — U.S. intelligence officials, already focused on Iran's potential for building nuclear weapons, are struggling to solve a more immediate mystery: the murky relationship between the new Tehran leadership and the contingent of Al Qaeda leaders residing in the country.

Some officials, citing evidence from highly classified satellite feeds and electronic eavesdropping, believe the Iranian regime is playing host to much of Al Qaeda's remaining brain trust and allowing the senior operatives freedom to communicate and help plan the terrorist network's operations.

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And they suggest that new President Mahmoud Ahmadinejad may be forging an alliance with Al Qaeda operatives as a way to expand Iran's influence or, at a minimum, that he is looking the other way as Al Qaeda leaders in his country collaborate with their counterparts elsewhere.

"Iran is becoming more and more radicalized and more willing to turn a blind eye to the Al Qaeda presence there," a U.S. counter-terrorism official said.

The accusations from U.S. officials about Iranian nuclear ambitions and ties to Al Qaeda echo charges that Bush administration figures made about Iraq in the run-up to the U.S.-led invasion three years ago.

Those charges about Iraq have been discredited. And in the case of Iran, some intelligence officials and analysts are unconvinced. If anything, they suggest, the escalating tensions between Shiite and Sunni Muslims in Iraq would logically cause Iran's Shiite government to crack down on Al Qaeda, whose Sunni leadership has denounced Shiites as infidels.

A U.S. intelligence official said he did not see any relaxation in Iran's restrictions on Al Qaeda members.

"I'm not getting the sense that these people are free to roam, free to plot," the official said.

Still, the official acknowledged that the relationship between Tehran and Al Qaeda officials within Iran was largely unknown to U.S. and allied intelligence, especially since Ahmadinejad's election last summer.

To some U.S. intelligence officials, what worries them most is what they don't know.

"I don't need to exaggerate the difficulty in determining what these people are up to at any given moment," the intelligence official said.

The U.S. counter-terrorism official was more blunt. "We don't have any intelligence going on in Iran. No people on the ground," he said. "It blows me away the lack of intelligence that's out there."

U.S., European and Arab intelligence officials spoke on condition of anonymity because they were not authorized to discuss the issues publicly.

Ties between Iran and Al Qaeda were highlighted by the Sept. 11 commission, which disclosed a wealth of details about such connections in its final report. The commission said Iran and Al Qaeda had worked together sporadically throughout the 1990s, trading secrets, including some related to making explosives.

Iranian representatives to the United Nations did not return repeated phone calls seeking comment.

In November, the State Department's third-ranking official, Undersecretary R. Nicholas Burns, said the United States believed "that some Al Qaeda members and those from like-minded extremist groups continue to use Iran as a safe haven and as a hub to facilitate their operations."

A year ago, Iranian delegates to a global counter-terrorism conference circulated a document describing Iran as "a major victim of terrorism." The document blamed links between drug trafficking and terrorism for "thousands of security problems," especially along Iran's eastern border with Afghanistan and Pakistan.

Al Qaeda operatives and family members have lived in Iran for years, many since late 2001, when they fled the U.S. bombing of Afghanistan. Many other Al Qaeda figures fled to Pakistan — a U.S. ally — and are believed to be there still.

Three months ago, Iran declared that no Al Qaeda members remained in the country, but U.S. officials rejected the claim. At other times, Iranian officials said that Al Qaeda members there were kept under house arrest and their activities monitored.

In Tehran, analysts said American officials were misreading Iran's intentions. The fact that the government has not turned over Al Qaeda suspects to the United States should come as no surprise given the state of relations between the two countries, said Nasser Hadian, a political analyst at Tehran University.

"They won't. Why should they" without receiving something in return? he said. "Unfortunately, now everything is becoming commercialized, if I may use that term. Everything is being assessed on its value in negotiations, and that is on both sides."

Some of the suspects have been indicted in the United States in connection with terrorist attacks, including the 1998 bombings of two U.S. embassies in East Africa, but Iran has refused to extradite them.

Among them is Saif Adel, believed to be one of the highest-ranking members of Al Qaeda, behind Osama bin Laden and Ayman Zawahiri. Whatever restrictions might be placed on the network's activities within Iran, Adel — who has a $5-million U.S. bounty on his head — was able last year to post a lengthy dispatch about Al Qaeda activities in Iran and Iraq that was widely circulated on the Internet. U.S. intelligence officials consider the posting authentic.

In the dispatch, Adel said he had used hide-outs in Iran to plot with Abu Musab Zarqawi to make Iraq the new battleground in the group's war against the United States. Iran had detained many of Zarqawi's men, Adel wrote, but they ultimately slipped into Iraq and began attacking U.S. forces.

For several years, the U.S. counter-terrorism official said, satellite feeds have helped officials monitor some of the day-to-day activities and movements of Adel and other senior Al Qaeda operatives in Iran. The intelligence suggests that the Al Qaeda leaders have been monitored by Iranian authorities but could move and communicate somewhat, the official said.

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U.S. officials also said that other senior Al Qaeda figures — including Zarqawi, now the group's point man in Iraq — had moved in and out of Iran with the possible knowledge or complicity of Iranian officials.

The Al Qaeda members in Iran include three of Bin Laden's sons, including Saad and Hamza, who are thought to be his heirs apparent. Some of Bin Laden's wives and other family members are suspected of being there as well, as is Al Qaeda spokesman Sulaiman abu Ghaith, U.S. officials say.

Of special concern, they said, is the number of Al Qaeda operatives in Iran who are of Egyptian descent and loyal to Zawahiri, the Cairo-born physician who merged his Egyptian Islamic Jihad with Al Qaeda in the years before the Sept. 11 attacks.

Adel is a former Egyptian police official. In addition, U.S. officials confirmed intelligence showing that three other Al Qaeda operatives with Egyptian roots — Abdallah Mohammed Rajab Masri, also known as Abu Khayer; Abdel Aziz Masri; and Abu Mohamed Masri — are in Iran. Authorities believe them to be, respectively, the head of Al Qaeda's shura, or leadership council; a biological weapons expert who heads the terrorist network's effort to develop weapons of mass destruction; and its top explosives expert and training camp chief.

The U.S. counter-terrorism official said the Egyptians' presence was troubling because Tehran for more than a decade has actively supported Egypt's two largest militant groups — Egyptian Islamic Jihad and Gamaa al Islamiya — in their terrorist campaign to topple the Cairo government.

Though the bitter Sunni-Shiite divide has prompted Tehran in the past to say it had "no affinity" with Al Qaeda, U.S. officials believe there is a history of cooperation between Iran and some Sunni militant groups, including Al Qaeda. Iran nurtures such relationships, they believe, to enhance its regional influence and punish Arab political enemies through intimidation and violence.

Adel traveled to Iran in the early 1990s as part of a delegation sent by Bin Laden to learn bomb making, U.S. officials say. They fear he and other Egyptians may have maintained ties with Iranian military and intelligence services.

The Sept. 11 commission concluded that Iran had harbored Al Qaeda operatives wanted in the U.S. embassy bombings in East Africa and other terrorist attacks. It quoted one top Al Qaeda official as saying Iran had made a "concerted effort to strengthen relations with Al Qaeda" after the 2000 attack on the U.S. warship Cole in Yemen.

Imprisoned top Al Qaeda operatives also have told U.S. officials that Iran let Islamic militants traveling to and from Afghanistan and Pakistan pass freely across its borders without passport stamps — including at least eight of the 19 future Sept. 11 hijackers, the now-disbanded commission reported.

The commission strongly urged the Bush administration and Congress to investigate the ties between Iran and Al Qaeda. Last week, commission member Timothy Roemer said in an interview that Washington still had not adequately addressed those ties.

U.S. and allied intelligence agencies say that, more recently, they have picked up indications of closer cooperation. The intelligence includes European wiretaps of militants discussing how Iranian officials would help them or look the other way.

U.S. officials fear Ahmadinejad may be strengthening ties with Al Qaeda with the help of Iranian intelligence and military agencies, particularly the Revolutionary Guard.

The intelligence official and others noted that Ahmadinejad himself rose through the ranks of the guard, an elite military unit. U.S. government officials have accused the guard of financing and orchestrating terrorist acts in the region by groups including Hezbollah, which is suspected of blowing up U.S. military facilities and embassies in the 1980s and killing hundreds of Americans.

Rep. Brad Sherman of Sherman Oaks, the ranking Democrat on the House International Relations subcommittee on terrorism and nuclear proliferation, who receives classified briefings on Iran, said U.S. intelligence indicated that Tehran was engaged in some kind of collaboration with Al Qaeda leaders.

"The cooperation is substantial," Sherman said. "Key operatives of the most successful terrorist organization in history are spending their time in the No. 1 state sponsor of terrorism.... That is of massive concern."

U.S. officials fear that an Iranian hard-line faction or even a rogue official could conspire with Al Qaeda or provide access to the country's military arsenal.

Despite the mutual antipathy between Sunnis and Shiites, some U.S. officials argue that the Iranian regime and Al Qaeda share a common enemy — the United States — and that both oppose the establishment of a pro-Western democracy in Iraq.

John D. Negroponte, the director of national intelligence, told Congress on Feb. 2 that Iran was engaged in a broad campaign "to disrupt the operations and reinforcement of United States forces based in the region, potentially intimidating regional allies into withholding support for United States policy toward Iran and raising the costs of our regional presence" for the U.S. and its allies.

Bush Warns Iran On Israel (AFP)

AFP, March 20, 2006

US President George W. Bush said he hoped to resolve the nuclear dispute with Iran with diplomacy, but warned Tehran he would "use military might" if necessary to defend Israel.

"The threat from Iran is, of course, their stated objective to destroy our strong ally Israel. That's a threat, a serious threat. It's a threat to world peace," the US president said after a speech defending the war in Iraq.

"I made it clear, and I'll make it clear again, that we will use military might to protect our ally Israel," said Bush, who was apparently referring to Iranian President Mahmoud Ahmadinejad's call for the destruction of Israel.

On the atomic dispute, Bush said he hoped "to solve this issue diplomatically" with a "united message" to Tehran from Washington, London, Paris, Berlin as well as Russia "hopefully" and China.

The message would be that "your desire to having a nuclear weapon is unacceptable," he said.

Bush also touched on Iran's agreement to discuss Iraq with the United States, saying that "it's very important, however, for the Iranians to understand that the discussion is limited to Iraq.

"We're using this as an opportunity to make it clear about our concerns of interference within a democratic process that is evolving," he said, saying that the talks will not decide Iran's relations with a sovereign Iraq.

"Ultimately, Iraq-Iranian relations will be negotiated between the Iraqi government and the Iranian government," he said.

Security Council Fails To Reach Accord On Iran (WP)

By Colum Lynch

The Washington Post, March 21, 2006

UNITED NATIONS, March 20 -- The Security Council's five permanent members and Germany failed to reach agreement at a meeting Monday on how to respond to the Iranian nuclear crisis but said they would forge ahead in the coming days to break the impasse.

The deadlock comes as U.S. and European officials confirmed that Britain had presented the United States with a paper outlining a possible diplomatic strategy to resolve the crisis, including new talks and concessions. But the British representative at Monday's talks, John Sawers, said Britain had not made such a proposal at the meeting.

Undersecretary of State R. Nicholas Burns said the United States is not going to participate in direct negotiations with Iran on the nuclear issue.

Top foreign policy coordinators for the United States, Russia, China, France, Britain and Germany issued a joint statement that echoed an agreement Secretary of State Condoleezza Rice had reached with those five governments in January. The statement expressed "deep concern" that Iran has "failed to respond positively" to requests by the United Nations' Vienna-based International Atomic Energy Agency to suspend its uranium enrichment activities and allow for more intrusive U.N. inspections of its nuclear energy program.

The impasse follows weeks of negotiations over how to respond to Iran's behavior. The United States, France and Britain believe the threat of Security Council sanctions is required to pressure Iran to meet international calls to suspend its nuclear enrichment activities, which Iran insists are for peaceful purposes.

Russia and China oppose sanctions, and they want the Iranian crisis to be handled by the International Atomic Energy Agency, which is considered more likely to pursue a negotiated settlement.

The paper circulated by British officials detailed an approach that could include new multinational talks with Iran. The talks would be aimed at satisfying demands by China and Russia that the United Nations' major powers had exhausted all diplomatic options to resolve the standoff with Iran, a senior administration official said Monday.

On Sunday, after the Associated Press reported that the British were discussing such an approach, another senior administration official denied that Britain had made such a proposal.

The United States has sought to avoid being drawn into new negotiations with Iran, saying Tehran has used talks to buy time to develop its nuclear know-how.

Britain Calls For New Talks With Iran (AP-Y2)

By Edith M. Lederer And George Jahn

AP2, March 20, 2006

Britain is calling for new talks with Iran about its suspect nuclear program but will push for militarily enforceable U.N. Security Council sanctions if those talks do not make progress, according to a letter obtained by The Associated Press.

The proposal is angled toward Russia and China, allies of Tehran who staunchly oppose firm Security Council action.

Senior diplomats from six key nations that have been struggling to find a way to deal with Iran's suspect nuclear program met Monday at U.N. headquarters.

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Representatives from the five veto-wielding council nations — the United States, Russia, China, Britain and France — and Germany will try to overcome differences on a statement demanding a quick report on Iran's nuclear program.

U.S. Ambassador John Bolton said earlier that Monday's meeting "will basically consider the longer-range issues, although obviously in the capitals in Moscow and Beijing, certainly, they will now have a look" at the latest text of the Security Council statement, and hopefully the senior diplomats will have instructions "that will allow us to make progress."

Bolton said he would like to see agreement on the statement when the Security Council meets again on Tuesday afternoon.

Britain's U.N. Ambassador Emyr Jones Parry also said he hoped the high-level diplomats meeting Monday would "look at the wider strategy of how we develop our relations with Iran." He added: "But let's be clear that negotiation of the (statement) will be done in the council."

The British hoped the Russians and Chinese would agree to tougher council action on Iran should that be needed in exchange for Western willingness to engage in new negotiations.

Moscow has offered to enrich Iran's uranium but is insisting that Iran must freeze its own uranium enrichment program — a possible pathway to nuclear arms.

Moscow and Beijing also want the U.N. nuclear watchdog agency, the International Atomic Energy Agency, to assume the main role in cajoling Iran on enrichment and its refusal to fully cooperate with an IAEA probe.

The March 16 letter, which is marked "confidential" and displays the seal of the British Foreign Office, is from John Sawers, a top British negotiator.

"We are not going to bring the Russians and Chinese to accept significant sanctions over the coming months, certainly not without further efforts to bring the Iranians around," the letter said.

"The Iranians ... will need to know that more serious measures are likely. This means putting the Iran dossier onto a Chapter VII basis" — shorthand for binding Security Council resolutions, including sanctions, that can be enforced by military means.

The letter was addressed to U.S. Undersecretary of State Nicholas Burns, German Foreign Office Political Director Michael Schaefer and French Foreign Ministry Political Director Stanislas de Laboulaye.

It suggests making suspension of all uranium enrichment by Iran "a mandatory requirement of the Security Council, in a resolution we would aim to adopt, I say, early May."

"In return for the Russians and Chinese agreeing to this, we would then want to put together a package that could be presented to the Iranians as a new proposal," the letter said. "Ideally this would have the explicit backing of Russia, China and the United States as well as the EU-3" — France, Britain and Germany.

Neither diplomat had details on what the new incentives would look like.

But any talks with U.S. involvement likely would need to focus on economic and security guarantees meant to reassure Tehran that Washington has no plans to force a regime change. Critics of U.S. policy have maintained for years that Tehran was unlikely to compromise on its nuclear program without such a direct guarantee.

In Washington, German lawmaker Ruprecht Polenz said "we would really love it" if the United States participated in the process.

The six countries agree that Iran should not develop nuclear weapons, but they differ on the best way to get Tehran to halt uranium enrichment, which can be used either in a civilian nuclear program to generate electricity or to produce nuclear arms.

Russia and China have said tough council action could spark an Iranian withdrawal from the Nuclear Nonproliferation Treaty and eventually lead to tougher measures, such as sanctions.

The United States, Britain and France want a statement listing demands already made by the IAEA — including the suspension of uranium enrichment and steps toward greater transparency and more cooperation. They also want IAEA chief Mohamed ElBaradei to report to the council on Iran's progress in meeting those demands in two weeks, which Russia and China say is much too soon.

Negotiations between Iran and France, Germany and Britain, acting on behalf of the European Union, collapsed in August after Tehran rejected an incentives package offered in return for a permanent end to uranium enrichment. Its subsequent moves to develop full-blown enrichment capabilities led the IAEA's 35-nation board to ask for Security Council involvement earlier this year.

Iranian President Wants West To Apologize (AP)

By Nasser Karimi

AP, March 21, 2006

DOJ_NMG_0019981

President Mahmoud Ahmadinejad on Monday said the West should apologize to Iran for accusing it of trying to develop a nuclear weapons program and said his country would continue to resist international pressure to halt its nuclear energy program.

"Today they tell our nation that nuclear energy is a bad thing and it is not necessary for our people to have it. But the nation of Iran has stood (for its right)," he said in a televised speech to mark the Iranian New Year, which begins Tuesday. "Those who head war and crimes accused the Iranian nation of war seeking. They insulted our nation. I do advise them to apologize."

Iran insists its nuclear program is for peaceful energy purposes but Western countries who believe otherwise have pushed for United Nations action — including possible sanctions — against the country.

Ahmadinejad stressed that Iran would not give up its nuclear rights.

"Today we announce with pride that the peaceful knowledge and technology are at our disposal in order to be used for different purposes, including electricity generation, and we have not borrowed it from anybody that can take it away from us," he said.

Ahmadinejad reiterated that Iran should be compensated for a two and a half year suspension of its nuclear activities. Under heavy pressure from the West, Iran suspended its enrichment of uranium and related activities in 2003 and began negotiating with Germany, Britain and France to reach an agreed framework for its nuclear development. It resumed nuclear research earlier this year when talks failed.

The United States and its European allies want Iran to permanently abandon uranium enrichment and all related activities, a technology that can be used to produce nuclear fuel for reactors or materials for a nuclear bomb.

Jews Wary Of Becoming Fall Guy For Iran's Woes (WT)

By John R. Bradley

The Washington Times, March 21, 2006

TEHRAN -- Members of Iran's Jewish community fear they are being set up to take the blame if President Mahmoud Ahmadinejad's drive to establish a nuclear program ends badly for the country.

Members of the 30,000-strong community say they already are being viewed as a potential fifth column after a series of speeches in which the firebrand president has spoken of a "Holocaust myth" and heaped scorn on Europe for its defense of the "Zionist entity."

"Ahmadinejad has decided to pick on the easiest victim, Israel," said Meir Javedanfar, a specialist on Iran and director of the Middle East Economic and Political Analysis Co. "Every time Ahmadinejad has internal problems, he will attack Israel again, using it as a tool."

Iranian Jews, many of whom have family ties with Israel, are hitting back with forceful public rebuttals. But privately, they acknowledge fears of orchestrated political attacks if the United States or Israel conducts air strikes against Iran's nuclear facilities.

There are still painful memories of events six years ago in the southern city of Shiraz, where 13 Iranian Jews and eight Muslims were accused of spying for Israel.

It was widely thought that they were being used as pawns in a struggle within the Islamic regime, with hard-liners seeking to embarrass President Mohammed Khatami and his comparatively moderate administration.

Now there are signs that Mr. Khatami and other reformers are using the Jews to try to undermine Mr. Ahmadenijad's political agenda.

Mr. Khatami publicly contradicted the president this month, describing the Holocaust as a "historical reality."

"We should speak out if even a single Jew is killed. Don't forget that one of the crimes of Hitler, Nazism and German national socialism was the massacre of innocent people, among them many Jews," the cleric said in widely published remarks.

The prominent centrist newspaper Sharq also has taken on Mr. Ahmadinejad, saying, "The Jewish question was never a problem for Iran or Islam."

The debate has forced supreme leader Ayatollah Ali Khamenei to speak out in support of the president in spite of widespread reports that he is unhappy with Mr. Ahmadinejad, who recently called for Israel "to be wiped off the map."

After the 1979 Islamic revolution, thousands of Jews left for Israel, Western Europe or the United States, fearing persecution. But Ayatollah Ruhollah Khomeini, Iran's first post-revolutionary supreme leader, issued a "fatwa" to protect Jews and other religious minorities, reducing the outflow to a trickle.

Tehran has a Jewish nursing home and a Jewish library with a reading room used by both Muslim and Jewish university students. The capital also has a Jewish hospital and 11 functioning synagogues.

Haroun Yashayaei, the leader of the Jewish community, wrote publicly to Mr. Ahmadinejad last month, asking how he could "ignore all of the undeniable evidence existing for the exile and massacre of the Jews in Europe during the Second World War."

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The president's questioning of the Holocaust, he wrote, "has created astonishment among the people of the world, and spread fear and anxiety among the small Jewish community of Iran."

"At the moment, there is no direct political pressure on the Jewish community," Mr. Yashayaei said in an interview.

Explaining why he wrote the letter, he said, "It is more a question of emotional stress. I was angry at what the president said, and it is my right to tell him what I think."

Jews have scored several legal victories in recent months, said Morris Motamed, a Jewish member of the Majlis, or parliament.

One of those ended a practice under which a Jewish family received far less money in compensation than a Muslim family when a relative was killed in an accident.

Another bill, expected to be passed in the coming months, will remove discriminatory aspects of the inheritance laws.

Iran's Jews, however fear that such progress could be reversed by a coming conference called by Mr. Ahmadinejad to "investigate evidence for the Holocaust."

In such a climate, Mr. Motamed said, "a backlash in the wake of [U.S. or Israeli] air strikes becomes a real possibility."

Speaking To Tehran, With One Voice (NYT)

By Jessica T. Mathews

The New York Times, March 21, 2006

Washington

WITH the Iranian nuclear crisis about to land in the Security Council, the events that led up to the war in Iraq point clearly to what needs to be done.

In the decade preceding the Iraq war, Mr. Hussein was able to defy the major powers when they were divided. Exploiting his advantage as a single actor and Washington's indecision over whether it most wanted nonproliferation or regime change, Mr. Hussein consistently outmaneuvered his diplomatic opponents.

But he also knew that he could not buck the five permanent members of the United Nations Security Council when they were serious and united (as, for example, during the toughened United Nations inspections in the months just before the war), and he did not even try.

The situation with Iran today is the same. Washington cannot decide whether the top priority of its Iran policy should be regime change or nonproliferation; as a result, others of the major powers do not trust and will not fully support its antinuclear efforts. Tehran has easily exploited this lack of unity among the major powers to frustrate every attempt to rein in its nuclear program. It has recruited international support through energetic diplomacy to the group of developing countries known as the G-77. Just as Mr. Hussein did, the leaders in Tehran have made diplomatic mincemeat of the big powers.

Iran has been so successful in this that some experts in the West have turned defeatist. Their view is mistaken. The idea that "it's too late" to stop Iran's progress toward building nuclear weapons is technologically wrong. "There's nothing we can do about it" ignores a range of options between economic sanctions, going to war and more of doing nothing. And the argument that "we can learn to live with it" misses the nature of the challenge.

A nuclear Iran is dangerous enough, but this crisis is only proximately about Iran. More important, it is about the likely consequence of an Iranian bomb, namely, that Saudi Arabia, Turkey and Egypt would produce their own bombs, and, thanks to the concomitant international failure to deal with North Korea, the nonproliferation regime would collapse. What is at stake is not a choice between 9 and 10 nuclear weapons states, but a choice between 9 and 30 or more.

The major powers may yet be able to unite to stop Iran at this late hour, but not without a decisive change in American policy. Washington's choice is simple: does it want to stop Iran's acquisition of nuclear weapons badly enough to deal with Iran's present government?

Like the Clinton administration with Iraq, the Bush administration has been unable to make up its mind, locking its policy into a cycle of self-defeating half-steps. The combination of "axis of evil" threats, partial support of European negotiations and publicly announced financial backing for the opposition in Iran ensures only that we will fail either to negotiate an end to the nuclear program or to overthrow the present regime.

The administration must, finally, hold its nose and recognize that the nuclear challenge is the indisputable priority. It must get off the sidelines and into negotiations with Tehran. It must solidify agreement among its fellow permanent council members by working closely with Russia, not least by concluding a long overdue pact on civil nuclear cooperation. Russian participation would make it possible to provide Iran with a credible international guarantee of uranium enrichment and reprocessing services.

With China and the others, the United States needs to make clear that the Security Council can resort to other steps besides economic sanctions to significantly raise the cost to Tehran of its continued defiance, beginning with making International Atomic Energy Agency inspections mandatory rather than voluntary.

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Secretary of State Condoleezza Rice (and her fellow foreign ministers from the council's permanent members) should be flying to Brazil, Indonesia, South Africa and other leading countries of the G-77 to explain why Iran is wrong to claim that the Nuclear Nonproliferation Treaty gives it the "right" to enrich uranium, and why Iran's abuse of the treaty devalues each of their commitments to give up nuclear weapons.

Given the American record with Iraq and Iran, others will be skeptical that Washington has made a clear choice for nonproliferation and away from regime change. The message will have to be steady and unequivocal. If President Bush and Secretary Rice continue to say one thing and Vice President Dick Cheney and our ambassador to the United Nations, John R. Bolton, say another, the effort will quickly fail.

Members of Congress have a direct responsibility as well. Only they — especially the Democrats — can make such a policy change possible. They will have to forgo the indulgence of slamming the administration from the right and currying favor with pro-Israel voters by vying to see who can be the most anti-Iranian.

All of this, and more, is what serious anti-nuclear diplomacy would look like. It has not yet been tried. Anyone who promotes the use of military force from the present position of American indecision and before the obvious political steps have been taken is repeating the error that led us into Iraq.

The international community's record on Iran's nuclear program (as on North Korea's) has been feckless. Only the United States can change that. If we fail to pursue this effort with unwavering, clear-minded diplomacy, a nuclear-armed world will be the Bush administration's chief legacy, no matter how the war in Iraq and the war on terrorism turn out.

Jessica T. Mathews is the president of the Carnegie Endowment for International Peace.

Arab Leader: Hamas Must Deal With Israel (AP-Y2)

By Barry Schweid

AP2, March 21, 2006

An Arab leader said Monday a Hamas-led Palestinian government has no alternative but to deal with Israel.

"They will be obliged to do that because the Palestinians, as a government, deal with Israel," Crown Prince Salman bin Hamad bin Isa Al-Khalifa of Bahrain told reporters after meeting with Secretary of State Condoleezza Rice.

"How can they deal with Israel if they don't recognize Israel?" he asked in an exchange in Arabic.

The United States and the European Union have vowed not to deal with Hamas until it abandons terror and accepts Israel and the agreements that Israel has reached with the Palestinian Authority over the years.

Meanwhile, the Bush administration is reviewing U.S. assistance to the Palestinians. Rice has indicated humanitarian programs will get U.S. support, but not through a Hamas-led government.

"This is an international Palestinian issue," the crown prince said. "But we encourage our Palestinian brothers to be committed to all the agreements they were committed to over all the long years."

Referring apparently to the unresolved conflict between Israel and the Palestinians, he advised Hamas to "hurry up, and we will hurry up with them, to end this great humanitarian catastrophe."

Bahrain is not considering a cutoff in aid to a Hamas-led government nor is it about to establish relations with Israel, he said.

Nunn Urges Congress To Set Conditions On U.S.-India Nuclear Pact (WP)

By Glenn Kessler

The Washington Post, March 21, 2006

In a setback for the administration's efforts to win approval of a landmark nuclear pact with India, former senator Sam Nunn said yesterday that he has serious concerns the deal would harm the "United States' vital interest" in preventing nuclear proliferation and urged Congress to set conditions for its support.

"Congress has a duty to look at the broader framework," Nunn, a moderate and highly respected Georgia Democrat who still has broad influence in both parties on proliferation and military matters, said in an interview. "If I were still in Congress, I would be skeptical and looking at conditions that could be attached."

Undersecretary of State R. Nicholas Burns warned lawmakers last week that congressionally mandated conditions could cause the agreement to unravel. He and other administration officials say the agreement is a groundbreaking achievement that will bring India, which has not signed the nuclear Non-Proliferation Treaty, into the nonproliferation mainstream, while bolstering U.S.-India ties and adding jobs to the U.S. economy.

But Nunn, who was briefed on the deal by State Department officials last week, said he is concerned it would lead to the spread of weapons-grade nuclear material, unleash a regional arms race with China and Pakistan, and make it more difficult for the United States to win support for sanctions against nuclear renegades such as Iran and North Korea. Nunn is a board

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member of General Electric Co. -- which built nuclear power reactors in India before New Delhi conducted its first nuclear test in 1974 -- but he said he thinks the economic benefits are overstated.

The administration last week proposed legislation that would exempt India from sections of the Atomic Energy Act that restrict trade with countries that are not party to nuclear treaties. The proposal already faces an uphill battle in Congress, where key lawmakers such as Sen. Richard G. Lugar (R-Ind.), chairman of the Senate Foreign Relations Committee, and Rep. Henry J. Hyde (R-Ill.), chairman of the House International Relations Committee, have remained neutral. The administration has actively sought, without much success, the support of moderate opinion leaders such as Nunn.

Under the pact, India is to separate its civilian and military nuclear programs over the next eight years to gain U.S. expertise and nuclear fuel to meet its rapidly rising energy needs. India's civilian facilities would be subject for the first time to permanent international inspections, but the agreement does not require oversight of India's prototype fast-breeder reactors, which can produce significant amounts of weapons-grade plutonium when fully operational.

The Bush administration originally sought a plan that would have allowed India to continue producing material for six to 10 weapons each year, but the new plan would allow India enough fissile material for as many as 50 weapons a year. Experts said this would far exceed what is believed to be its current capacity.

Nunn said that among the conditions he would attach to the legislation is the requirement it could not take effect until the president certifies that India pledges not to produce nuclear materials, such as plutonium or highly enriched uranium, for weapons. The current agreement "certainly does not curb in any way the proliferation of weapons-grade nuclear material," Nunn said.

"India was a lot better negotiator than we were," Nunn asserted. While the administration has said it has no intention of aiding India's nuclear weapons program, "the reality could be the opposite," he said. "The administration has a high burden to explain this."

Nunn added that suggestions by some former and current administration officials that it might be in the United States' interest to allow India to build up its strategic capabilities is "totally counterproductive and dangerous reasoning."

Nunn, who served in the Senate for 24 years, is co-chairman and chief executive of the Nuclear Threat Initiative, a nonprofit organization that seeks to reduce the global threats from nuclear, biological and chemical weapons. Lugar is also a board member of NTI, and the two men wrote the Nunn-Lugar Act, which has helped destroy thousands of nuclear warheads in the former Soviet Union.

In an interview published yesterday in the Indianapolis Star, Lugar said he might favor the legislation if he were convinced that the new relationship was in the United States' best interests, that there were "considerable if not complete" safeguards on the spread of nuclear fuel and that it would lead to a reduction of oil consumption.

The U.S. Chamber of Commerce has vowed an all-out push to win approval of the agreement, saying it would be a boon for U.S. business. But it has also sparked a backlash from nonproliferation experts who believe it will lead to the unraveling of the Non-Proliferation Treaty, which sought to limit the number of nuclear weapons states.

"Nunn's voice carries weight," said Henry D. Sokolski, executive director of the Nonproliferation Policy Education Center and a Pentagon official in the George H.W. Bush administration, who opposes the agreement. "We have waited for a moderate, respected voice to speak clear sense on these matters. Now that he's spoken, it would be very strange if Congress doesn't listen."

NATO Ready To Help U.N. In Darfur (AP-Y2)

By Barry Schweid

AP2, March 20, 2006

NATO is prepared to support a U.N. force in the Darfur region of Sudan, the alliance's secretary-general told President Bush in a White House visit on Monday.

"I'm quite sure, as I told the president, that when the U.N. comes, the NATO allies will be ready to do more in enabling a United Nations force in Darfur," Jaap De Hoop Scheffer told reporters after his meeting with Bush.

Bush has called for greater NATO involvement in Darfur, which the United Nations has described as the world's gravest humanitarian crisis. The conflict there has left more than 180,000 people dead and 2 million displaced.

But Bush said the African Union must request that its mission in Darfur be converted to a U.N. mission. When that happens, NATO can move in with U.S. help "to make it clear to the Sudanese government that we're intent upon providing security for the people there and intent upon helping work toward a lasting peace agreement," Bush said.

Secretary of State Condoleezza Rice, meeting with the NATO secretary-general, said Monday "NATO can play a very important role in enhancing the capabilities of African Union forces."

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De Hoop Scheffer, repeating what he said at the White House while having his picture taken with Rice, said he was "quite sure that when that question comes that the NATO allies will stand ready to support that mission in Darfur."

"I'm not talking about NATO forces on the ground," he said later as he left the State Department. "But could you enable the mission by giving logistical support, by going on in the transport of the forces, by giving training, then I think the NATO allies would take a very positive stand on that."

After talks with Defense Secretary Donald H. Rumsfeld and Undersecretary of State Nicholas Burns, the NATO secretary-general held a news conference in which he underscored the point that NATO could not act until after the African mission is converted to a U.N. mission.

Declining to predict when all the pieces would fall into place, De Hoop Scheffer said, "I fully share everybody's frustration and indignation about what is happening in Darfur."

State Department spokesman Sean McCormack issued a statement, meanwhile, criticizing the Sudanese government's closing of several U.S.-supported social development, health and food distribution offices.

McCormack urged the government in Khartoum to remove immediately all obstacles to delivery of humanitarian assistance and to provide protection for civilians and aids workers.

Earlier this month Sudan and the African Union agreed to extend the mandate of AU peacekeeping forces in Darfur to September, at which time they would be allowed to be merged into a larger U.N. force. But later Sudan said it will reject the proposed deployment of U.N. forces to Darfur.

Bush praised NATO's role in Afghanistan and its work training Iraqi security forces.

De Hoop Scheffer said all 26 NATO members have been assisting in the Iraqi training mission.

"I want to see NATO-trained Iraqi officers taking their responsibility in fighting the terrorists in their own country," he said.

U.S. Calls Belarus Vote For Leader Invalid (NYT)

By C. J. Chivers And Steven Lee Myers

The New York Times, March 21, 2006

MINSK, Belarus, March 20 — The United States declared the results of the president election in Belarus invalid on Monday and called for a new race, even as President Aleksandr G. Lukashenko defiantly swept aside criticism and declared himself the winner of a third term.

In an impassioned appearance hours after state television announced that he had won nearly 83 percent of the vote, Mr. Lukashenko exuded confidence and said the outcome had "convincingly demonstrated who the Belarussians are and who is the master of our house."

He said he was unafraid of further economic and political isolation after an election that Washington and international observers described as illegitimate, rigged and held under widespread repression.

"The United States does not accept the results of the election," said Scott McClellan, the White House spokesman. "We support the call for a new election."

The principal opposition candidate, Aleksandr Milinkevich, who received 6 percent of the vote, according to the government's initial count, also declared Mr. Lukashenko's presidency illegitimate.

"We are simply not going to recognize the election," he said, calling for a new vote to be conducted with new election commissioners and a campaign free of arrests and harassment.

Several thousand opposition demonstrators once again ignored warnings that they could be arrested or beaten, and returned in the evening to a central square in Minsk to continue peaceful protests against the results.

But the crowd that appeared Monday was smaller than that on Sunday, and Mr. Milinkevich's campaign manager, Sergei Kalyakin, acknowledged the difficulties of challenging the deeply entrenched power of Mr. Lukashenko, often referred to as Europe's last dictator. "The number who came to the square was not enough," he said. "We need 10 times more."

By late Monday the number of protesters dwindled to several hundred, but those who remained appeared determined to stay, pitching tents and locking arms around them. For a second night the police refrained from dispersing them, but blocked others from bringing food, clothing or blankets.

Many in the crowd, and even Mr. Milinkevich himself, said they were disappointed that they had not been able to rally more people. He said they would stay through the night if allowed, but hinted at a concession. "I think that the dictatorship will fall, not on the day of elections," he said on the edge of the crowd. "I can't say when, but I feel its days are coming to an end."

Unsure that it can muster and maintain large crowds in the face of official threats, the opposition here has rested much of its diminishing hope on international disapproval.

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Reaction has broken along familiar lines, with Western organizations and officials issuing condemnations and in some cases vowing to seek punitive measures against Belarus, and Russia and other former Soviet states celebrating Mr. Lukashenko's victory.

Echoing the Bush administration, the Organization for Security and Cooperation in Europe, which brought 400 observers here, sharply criticized the election, noting harassment and arrests of opposition candidates, propagandistic coverage on state media and extensive irregularities in the counting of ballots.

"The arbitrary abuse of state power, obviously designed to protect the incumbent president, went far beyond acceptable practice," the report said.

Senior Bush administration officials said the United States would work with Europe to coordinate sanctions, like travel bans against those in the Belarus government believed to be responsible for the voting process. But American officials noted that they had numerous sanctions of this type in place.

Even as the European group issued its report, Mr. Lukashenko was several blocks away in a government auditorium, gruffly and at times crudely sweeping aside any questions about his victory or his leadership style.

The appearance was part news conference and part testimonial to Mr. Lukashenko's power, as the audience was stacked with his supporters and hand-picked visitors who described themselves as election observers. One pair of these self-described observers presented Mr. Lukashenko with a bouquet of roses.

Between statements of praise and bursts of applause, Mr. Lukashenko belittled the opposition's supporters as "children" paid by foreign governments, and described their demonstration on Sunday night as a display of weakness. "They were 14- and 15-year-old children who were paid 20,000 Belarussian rubles," he said, referring to a sum worth a little more than $9. "So they worked for their 20,000 rubles."

He also took questions from journalists, sometimes appearing to enjoy testy exchanges and other times interrupting speakers or arguing about their questions.

When asked whether he could assure the safety of demonstrators, whom he threatened last week with having their necks wrung, he chided the journalist for posing the question. "I see your neck is in place," he said. "Why are you so concerned?"

As his appearance dragged on, reaching nearly two and a half hours, more denunciations appeared from the West.

Jaap de Hoop Scheffer, secretary general of NATO, said in a statement that Belarussians had been cheated of a choice. "The people of Belarus have the right to choose their leadership through a true democratic process," he said. "That right was again denied to them."

Foreign Minister Ursula Plassnik of Austria, which holds the rotating presidency of the European Union, criticized the "climate of intimidation" that hindered the opposition campaign.

Benita Ferrero-Waldner, the union's commissioner of external relations, said the group would continue with democracy-building programs and relief aid and would not impose economic sanctions because that could hurt the Belarussian people. But she said European Union members were likely to widen a visa ban on top Belarussian officials.

In Moscow, underscoring the widening gap between the West and Russia over the conduct of elections and the state of reform in former Soviet republics, the Kremlin rushed to applaud the result. The Foreign Ministry said, "The elections were testament to a high civic awareness and an interest amongst the Belarussian people for stability."

The statement made no mention of the mass arrests, wide-scale intimidation and the fawning official media coverage of Mr. Lukashenko and his policies.

Belarus Leader Defiant After Reelection As U.S., E.U. Threaten Sanctions (WP)

By Peter Finn

The Washington Post, March 21, 2006

MINSK, Belarus, March 20 -- President Alexander Lukashenko, citing official figures giving him 82.6 percent of the vote in this weekend's election, declared Monday that a pro-Western "revolution" had been defeated in his former Soviet republic and scoffed at threats of new sanctions.

The United States will work with the European Union to possibly freeze the foreign assets of Belarusans responsible for electoral fraud or human rights violations, White House spokesman Scott McClellan said Monday. Expansion of existing restrictions on travel by senior Belarusan leaders is also under discussion.

McClellan told reporters aboard Air Force One that the United States "does not accept the results of the election. The election campaign was conducted in a climate of fear. It included arrests and beatings and fraud. We applaud democrats in Belarus for their courage and peaceful stand to reclaim their freedom."

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On the streets of the capital, Minsk, opposition leaders struggled for a second night to mount large-scale protests. By midnight, the numbers gathered at a central square had dwindled to about 2,000, but a dozen tents had been set up in freezing temperatures to attempt a long-term protest.

Riot police deployed nearby have not intervened, despite a threat last week from Lukashenko that he would "wring the necks" of demonstrators. Asked by a French reporter Monday what had become of that threat, the former collective farm manager said, "I see your neck is in place."

"You have seen our opposition," the president declared during a 2 1/2 -hour news conference. "And if you are reasonable people, you have been convinced that it's worthless." He said opposition leaders were in the pay of Western ambassadors.

Located between Poland and Russia, the country of 10 million has continued as a holdout of Soviet-style politics since gaining independence in 1991. The secret police, still called the KGB, routinely beat up opposition figures. Independent newspapers are shut down or lose entire press runs to police confiscations.

But large numbers of people here call Lukashenko a hero who saved their country from the upheavals of moving to capitalism. Even opposition figures say he could win a fair vote.

His landslide victory drew condemnation Monday from a variety of Western governments and organizations. Much of the criticism focused on how the campaign was conducted.

"Arbitrary use of state power and widespread detentions showed a disregard for the basic rights of freedom of assembly, association and expression," said U.S. Rep. Alcee L. Hastings (D-Fla.), who leads the parliamentary assembly of the Organization for Security and Cooperation in Europe, a 55-nation group that monitors elections.

In the past, the United States has taken action against a Belarus firm involved in arms sales, limited senior Belarusan officials' travel to the United States and barred high-level meetings. It has also tried to structure aid programs to skirt the government and favor nongovernmental organizations.

New steps would not be broad-based sanctions such as those against Iran or Cuba, according to an administration official. "What we're talking about are targeted steps that don't go after the people as a whole," the official said. Lukashenko and his associates are not believed to have many assets in the United States, so the European Union would be key to any attempt to go after him financially.

The E.U., which has three member states that border Belarus, also has steps in place. European officials were discussing options Monday for turning up the pressure. "Some action is now very likely," the E.U. external relations commissioner, Benita Ferrero-Waldner, said Monday.

Official figures showed that Lukashenko's nearest rival, Alexander Milinkevich, a former physics professor, got 6 percent of the vote. Milinkevich called the president's tally "monstrously inflated."

At the Minsk square where protesters had gathered, the crowd was shrinking by midnight Monday. Demonstrators chanted "Long live Belarus" as plainclothes police officers recorded video footage of them from the crowd's edge.

Opposition leaders conceded that the turnouts, 10,000 on Sunday night and somewhat fewer Monday night, were not large enough to threaten the government.

Sergei Kalyakin, who led Milinkevich's campaign, said 100,000 people would be needed for authorities to "hear the voice of the people." With an active opposition that is composed mostly of students, many analysts see significant public backlash as unlikely.

Opposition leaders say they hope the election and its aftermath will seed a movement that will grow to present a real challenge to Lukashenko's autocratic rule.

In what has become a pattern when elections in republics of the former Soviet Union are won by pro-Moscow candidates, observers from Russia said Monday that the vote was free and fair. "There is full ground to believe that the elections complied with universally recognized standards," the Russian Foreign Ministry said in a statement. "There are no doubts about their legitimacy."

Russian President Vladimir Putin sent Lukashenko a telegram congratulating him on his victory.

At his news conference Monday, Lukashenko dismissed the Western threats of sanctions and hinted that Belarus might retaliate by refusing to cooperate with its neighbors on issues such as illegal migration from the east.

"The revolution that so many people talked about and some were preparing has failed, and it could not be otherwise," said Lukashenko, referring to the possibility that a fraudulent vote could trigger the kind of street protests that toppled governments in Ukraine and Georgia.

Mocking the new pro-Western leadership in Ukraine and Georgia, Lukashenko also attacked the United States as a hypocritical, warmongering power. He said it targets governments that refuse to bow to its interests while embracing nations that are clearly not democratic.

"I'm not afraid of isolation," Lukashenko said. "It's very difficult to suffocate us economically or politically."

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Belarus Leader's Victory Rejected By U.S. As OSCE Finds Fraud (BLOOM)

By Richard Keil James Neuger

Bloomberg, March 21, 2006

March 20 (Bloomberg) -- The U.S. joined European observers in rejecting election results in Belarus that gave President Alexander Lukashenko a third term, after concluding that the declared win was engineered through fraud and intimidation.

``This campaign was conducted in a climate of fear that included arrests and beatings,'' White House spokesman Scott McClellan said today. ``We call for a new election.''

Lukashenko won 82.6 percent of the vote, trouncing his main rival, the opposition leader Alexander Milinkevich, who garnered 6 percent, according to the Belarus Central Electoral Commission. The Vienna-based Organization for Security and Cooperation in Europe said about 400 observers found ``substantial empirical evidence'' of fraud. The elections were not ``free and fair,'' the group said.

Lukashenko, in power since 1994, has been assailed by the European Union, U.S. and United Nations for jailing opposition politicians, clamping down on the media, and changing the constitution to scrap a two-term limit for the presidency.

About 10,000 people answered Milinkevich's call to assemble late today in the central October Square of Minsk, demanding that the elections be annulled. State security forces watched the throng from the roof of the Palace of the Republic, which houses the electoral commission.

``I will stay at the helm as long as the people let me,'' Lukashenko said earlier today in Minsk, according to Russia's Interfax news agency.

Visa Ban

U.S. officials are consulting with their EU counterparts about how best to respond to the election, McClellan said today in Washington. EU governments are likely to widen a visa ban on top Belarus officials and impose ``rigorous sanctions'' on them, French Foreign Minister Philippe Douste-Blazy told a news conference in Brussels.

State Department spokesman Sean McCormack said the U.S. would take ``serious, appropriate measures'' against officials who had perpetrated ``election fraud and other human rights abuses.''

German Foreign Minister Frank-Walter Steinmeier said the 25-nation EU doesn't want to provoke Belarus, and possibly Russia, by taking drastic steps such as denying diplomatic recognition to Lukashenko's government.

EU diplomats ruled that out because ``such a decision could have very far-reaching consequences,'' Steinmeier said.

The Russian Foreign Ministry defended Lukashenko's victory, issuing a statement that said ``there is no reason to doubt the results.''

Since 2004 the U.S. and the EU have imposed travel restrictions on Belarusian officials the two allies suspect are connected to politically motivated disappearances and rigged elections.

Ties Strained

The U.S. has had strained relations with Belarus since Lukashenko came to power. Ties soured further a year later, in 1995, when the Belarus air force shot down a hot air balloon that had strayed into Belarusian air space, and killed two American citizens, according to the U.S. State Department.

Six top Belarus officials are barred now from traveling to the 25-nation EU. External Relations Commissioner Benita Ferrero-Waldner said the EU would seek ``targeted'' measures to punish the leadership, possibly adding Lukashenko to the blacklist.

``Some action is now very likely,'' Ferrero-Waldner told a news conference. ``It will be on the visa bans for a list of people. And we have to see if any other measure will be taken.'' She ruled out economic sanctions because they would hit the broader population.

In Washington, U.S. House Speaker Dennis J. Hastert, an Illinois Republican, denounced the elections for what he called their ``widespread disregard for basic rights of freedom and abuse of state power.''

``Our goal must be that the people of Belarus can free themselves of their Soviet past and participate in free and fair elections without fear of intimidation,'' he said.

EU government leaders will discuss the election at their March 23-24 summit in Brussels, and foreign ministers will consider the next steps at their April 10 meeting.

Lukashenko Scorns International Criticism (FT)

By Neil Buckley, Stefan Wagstyl, And Daniel Dombey

Financial Times, March 21, 2006

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Alexander Lukashenko, Belarus' authoritarian president, declared on Monday that foreign-backed attempts to overthrow him had failed, claiming a crushing victory in elections that international observers condemned as seriously flawed.

More than 3,000 demonstrators gathered in the capital, Minsk, for a second night-time protest, as Alexander Milinkevich, the main opposition leader, continued calls for a rerun of Sunday's poll.

But the numbers were fewer than the 5,000 people who defied official threats of violence and arrest to rally on Sunday night – the biggest demonstrations in Minsk for a decade.

On Monday night about eight tents were erected in the central square for protesters planning to spend the night. Mr Milinkevich urged those who could to stay as long as possible but the protests seemed unlikely to escalate to the levels that brought about revolutions in Ukraine and Georgia.

Mr Milinkevich said opposition exit polls suggested the Belarus president won less than the 50 per cent required to secure victory in a single round of voting, though official figures yesterday gave him 82.6 per cent. The opposition said their data showed Mr Milinkevich scored 30 per cent, five times his official total.

Mr Lukashenko's victory is likely to increase the international isolation of a regime the US has labelled "Europe's last dictatorship". European Union foreign ministers denounced the elections as "neither free nor fair". Though EU ministers failed to agree on an immediate response, targeted sanctions, including broadening of existing visa bans on top Belarusan officials, as well as possible asset freezes, are likely to be agreed next month.

The US on Monday supported the opposition's call for a new election. Washington also said it would co-ordinate "serious appropriate measures" with the EU to be taken against officials responsible for election fraud and human rights abuses. A State Department spokesman said specific actions would be taken against individuals as well as the regime, but he did not say what those sanctions might be.

The Belarus poll also suggested the pro-democracy revolutions that swept Ukraine, Georgia and Kyrgyzstan had lost momentum. In recent elections in Azerbaijan, Kazakhstan and now Belarus the opposition has failed to overturn regimes accused of authoritarianism.

Diplomats and civil society groups have warned that Mr Lukashenko, in power for 12 years, is likely to use a new five-year term to crush remaining opposition and independent media. "What is important is the trend away from democracy and towards dictatorship and a totalitarian regime," said one senior Western diplomat in Minsk. "The significance of the election lies in the psychological impact it will have on Mr Lukashenko."

The Belarus president on Monday exuded confidence, telling a Soviet-style victory press conference the elections were "honest and free".

"The revolutionary project that was talked about and was prepared in Belarus has not happened," he said. He dismissed demonstrators in Minsk as "freaks" and said the idea of international sanctions against Belarus was "absurd".

"You can't isolate a country at the heart of Europe," Mr Lukashenko added.

But EU ministers endorsed the damning findings of the Organisation for Security and Co-operation in Europe's 476-strong observer mission. The mission's report found Mr Lukashenko had "permitted state authority to be used in a manner which did not allow citizens to freely and fairly express their will".

It said statements by the Belarusan KGB associating the opposition with terrorism and accusing it of planning a coup had led to a "climate of intimidation".

Thousands Protest Lukashenko's Victory (WT)

By Michael Mainville

The Washington Times, March 21, 2006

MINSK, Belarus -- Thousands of opposition supporters gathered for a second night of protests in central Minsk yesterday, heartened by Western condemnation of a weekend election in which authoritarian President Alexander Lukashenko was declared a runaway winner.

About 6,000 protesters -- less than the 10,000 who rallied after the polls closed on Sunday -- called for fresh elections and the end of Mr. Lukashenko's 12-year rule.

"We free people of Belarus will never recognize this election," opposition leader Alexander Milinkevich told the crowd gathered in October Square. "This was not an election. It was an anti-constitutional coup d'etat."

The opposition hopes to re-create the weeks of protests that led to peaceful revolutions in two other former Soviet republics, Ukraine and Georgia.

With overnight temperatures at 28 degrees, protesters set up a dozen small tents and vowed to turn the demonstration into a round-the-clock presence, repeating a tactic used in Ukraine. Most of the tents were draped with historic national flags favored by critics of Mr. Lukashenko, who has scrapped them for a Soviet-style version.

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Protesters locked arms in a human chain guarding the tiny encampment. Others tried to bring in blankets, food and hot drinks, but often were detained by police.

Mr. Milinkevich returned to the square at about midnight to visit the campers, who were surrounded by about 1,000 supporters.

He vowed to remain with the campers, saying, "I don't have a tent, so I am going to stay on my feet," and predicted that more demonstrators would be arriving to join them.

"There has never been anything like this in Belarus," he added. "The whole world is watching us."

The protest was peaceful in spite of repeated threats from the authorities to violently suppress demonstrations. Hundreds of police and officers of Mr. Lukashenko's feared secret police -- still known by the Soviet-era acronym KGB -- watched from the sidelines or roamed through the crowd.

Mr. Lukashenko -- who since coming to power in 1994 has reintroduced Soviet-style economic and political controls on this country of about 10 million -- officially was declared to have won 82.6 percent in the vote, compared with 6 percent for Mr. Milinkevich. The president was allowed to seek a third, five-year term after a widely condemned 2004 referendum that removed presidential term limits.

Mr. Lukashenko defended his re-election as "honest and democratic," saying during a press conference yesterday that voters had shown "who's the boss" in Belarus. He also said his opponents had failed in their efforts to topple him in a foreign-backed revolution.

"The revolution that was talked about so much has failed," he said. "You have seen our opposition, and if you are reasonable people you have been convinced that it's worthless."

The United States and the European Union, which have labeled Mr. Lukashenko "the last dictator in Europe," yesterday rejected the election results and threatened further sanctions against the government.

"The United States does not accept the results of the election," White House spokesman Scott McClellan told reporters aboard Air Force One. "The election campaign was conducted in a climate of fear. It included arrests and beatings and fraud."

Mr. McClellan warned Belarusian authorities against "threatening or detaining those exercising their political rights in the coming days and beyond."

The run-up to the election was marked by the arrests of hundreds of opposition activists, official harassment of the opposition and pro-Lukashenko propaganda in the country's state-controlled media.

Among the possible sanctions are a wider ban on foreign travel by Mr. Lukashenko and other Belarusian officials, the seizure of officials' assets abroad and the cutting of foreign aid.

The biggest Western-based monitoring group to observe the election, the Organization for Security and Cooperation in Europe (OSCE), was categorical in its condemnation of the vote yesterday.

"The March 19 presidential election does not meet the required international standards for free and fair elections," said U.S. Rep. Alcee L. Hastings, Florida Democrat, who coordinated the more than 400 OSCE observers during the vote.

Opposition Protests Belarus Vote Results (AP)

By Maria Danilova

AP, March 20, 2006

Thousands of opposition supporters gathered in the center of the Belarus' capital Monday for a second night, hoping their protest would help overturn a presidential election that the U.S. said was flawed by a "climate of fear."

The United States and the European Union called for new elections and threatened sanctions on Belarus, where the numbers of demonstrators was smaller than on election night and prospects for a Ukraine-style "Orange Revolution" seemed remote.

With overnight temperatures at 28 degrees, protesters set up a dozen small tents and vowed to turn the demonstration into a round-the-clock presence. Most of the tents were draped with historic national flags favored by critics of authoritarian President Alexander Lukashenko, who has scrapped them for a Soviet-style version.

"This is our last chance," said Vladimir Fivsky, a 20-year-old student who had wrapped one of the red-striped white flags around his shoulders and wore a pin in the same colors saying: "For Freedom!" He said came to the square to protest because he "had enough" after 12 years of Lukashenko's repressive rule.

The small but assertive move could rally others to the cause. But it could also prove unacceptable to authorities. Officials put on a show of force, with busloads of riot police fanning out into nearby streets and courtyards and preventing people from approaching the main square.

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Police had only a small and unobtrusive presence at the protest the previous night, when an estimated 10,000 people braved the freezing cold and snow to register their outrage after Lukashenko was declared the overwhelming winner of Sunday's elections.

Lukashenko asserted Monday that his foes had failed to topple him in a foreign-backed "revolution."

International observers said the vote fell short of democratic standards. Europe's main human rights organization said it was a "farce," and the United States called for a new election. Lukashenko's main opponent refused to accept the outcome, calling the longtime leader an "illegal, illegitimate president."

However, the leverage of the international community seemed limited, and even many of the protesters appeared to have little appetite for a prolonged vigil and a possibly violent confrontation.

The election result, if it stands, would entrench the status of Belarus as one of the least independent of the former Soviet republics.

Some 5,000 gathered in Oktyabrskaya Square in the capital, about half the number that came out Sunday night for a protest whose size was extraordinary in a tightly controlled country where police have cracked down swiftly on unsanctioned opposition gatherings.

The diminished crowd suggested to many that the opposition was losing momentum.

"There aren't enough people" a young man hollered into a cell phone amid the din of the rally.

But Alexander Milinkevich, the main opposition presidential candidate and symbolic heart of the protests, called on the demonstrators to gird for a lengthy campaign. He is demanding an election rerun.

"Our protest will be long and strong," he vowed. "We will never recognize this election. It's not an election but an anti-constitutional seizure of power."

The crowd thinned as hours passed, but many shared a determination to go to the bitter end.

"We plan to stay here overnight and to stay until the moment when the vote is pronounced falsified, when the authorities admit this and a new election is announced," said a 21-year-old student who gave his name only as Alexander, one of a dozen people sitting among the tents.

A few tents "may not change much, but if people lose their fear they will join us," he said.

Milinkevich visited the growing makeshift tent camp, taking sips of tea from a cup he was offered and saying: "We're together."

As the rally was about to begin, busloads of riot police streamed into Karl Marx Street near the square. Security forces in helmets and camouflage uniforms disembarked from the buses, jogged into neighborhood courtyards and prevented pedestrians from walking toward the square.

On the square, a 45-year-old woman who gave her name only as Irina said she was scared about the prospect of bloody police action, but "if Lukashenko stays in power, it will be even worse."

White House press secretary Scott McClellan said the election was flawed by a "climate of fear," and hinted that penalties such as travel restrictions "are things we will look at."

"We support the call for a new election," McClellan said. "The United States will continue to stand with the people of Belarus."

A cheer went up from the crowd in the square when a speaker reported the U.S. statement.

By contrast, Russian President Vladimir Putin on Monday congratulated Lukashenko in a telegram and said the results would help strengthen the alliance of the two former Soviet nations.

The chief electoral official said Monday that Lukashenko, who has ruled with an iron fist since 1994, won a "convincing victory" with 82.6 percent of the votes — a number Milinkevich called "monstrously inflated."

Lukashenko scorned the opposition, saying voters had shown "who's the boss" in Belarus. "The revolution that was talked about so much ... has failed," he told a nationally televised news conference.

He asserted that Sunday's protest leaders were in the pay of Western ambassadors and claimed there was no crackdown because the opposition is weak.

"Who was there to fight with? Nobody, understand? That's why we gave them the opportunity to show themselves, even though it was illegal."

But the observer mission from the Organization for Security and Cooperation in Europe said Monday that the election did not meet standards for a free and fair vote.

"Arbitrary use of state power and widespread detentions showed a disregard for the basic rights of freedom of assembly, association and expression," it said.

The EU threatened diplomatic and financial sanctions against Belarus' leaders, notably a wider travel ban.

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Lukashenko said Monday he was "not afraid of further isolation." He added: "If the EU wants problems here, it will have them."

Status Quo Wins In Belarus (CSM)

By Fred Weir

The Christian Science Monitor, March 21, 2006

MINSK, BELARUS - A triumphant Alexander Lukashenko hailed his 82.6 percent victory in widely criticized presidential elections as "the dignified choice of the Belarussian people" Monday and dismissed allegations of fraud as "provocations" by a few Western-linked political forces.

"The revolution that has been talked about for so long, and which some people have been actively preparing, has failed in Belarus," Mr. Lukashenko told a press conference in Minsk's ornate Soviet-era Palace of the Republic. During the 2-1/2 hour meeting Lukashenko tussled - in a sometimes scornful tone - with critical questioners, and repeatedly blamed hostile outsiders and "anti-Russian forces" for Belarus's image in the West as "Europe's last dictatorship."

"These elections took place under conditions of unprecedented international pressure on Belarus, and aggressive antipopular behavior from the so-called opposition such as Belarus has never seen.... But our people have shown that they are master in their own home," he said.

Life appeared to be returning to normal in Belarus, a Russian-allied industrial republic of 10 million, after a bitter election campaign that saw the arrest of over 300 opposition activists, the closure of 16 independent newspapers, and shuttering of several foreign-funded nongovernmental organizations.

Many ordinary Belarussians pronounced themselves happy with the idea of a third term for Lukashenko, who is credited with reviving the country's shattered post-Soviet economy, raising wages, and paying pensions on time. "We're doing very well here, better than most other places," says Nikolai Komash, a pensioner who said he voted "proudly" for Lukashenko. "People should appreciate what they've got, and not go out on the public square to shout and complain."

But activists for opposition candidate Alexander Milinkevich pledge to continue the protest movement they opened with a huge election-night rally in central Minsk and accuse Lukashenko of falsifying the vote to give himself a celestial majority while making the opposition appear nonexistent. Official results gave Mr. Milinkevich just 6 percent of the votes.

Speaking to reporters Monday, Milinkevich said Lukashenko's victory was "monstrously inflated." He described the election as an "unconstitutional coup" and Lukashenko as an "illegal and illegitimate" leader.

"I think it fully likely that Lukashenko got over 50 percent, but 82 percent is just unreal," says Oleg Manaev, an independent sociologist who conducts the only nonofficial opinion surveys in Belarus. "It is of some political urgency to clarify the actual vote the opposition received, which is possibly in the region of 25 percent."

Russia's 500-strong contingent of election observers praised the election as a model of democratic conduct. "There were a few technical imperfections during the elections, but no violations that could have changed the results of the vote," said Sergei Baburin, a Russian Duma deputy.

But 450 observers from the mainly Western Organization for Security and Cooperation in Europe issued a statement saying the polls "failed to meet OSCE commitments for democratic elections."

The OSCE slammed Belarus's security service, the KGB, for creating "a climate of intimidation" and "an atmosphere of insecurity" through public accusations that the opposition was planning to launch a "terrorist" coup under the cover of protest rallies on election day. The report cited arrests and harassment of campaign workers, physical assaults on opposition leaders, and coercion of state employees to vote.

Milinkevich and another opposition candidate, Alexander Kazulin, are urging supporters to continue protesting on Minsk's central square. But hopes for a repeat of Ukraine's Orange Revolution, which forced fresh elections after 12 days of mass rallies in Kiev following allegedly fraudulent presidential polls in 2004, appear to be fading fast.

"Now the harsh times are about to start," says Yaroslav Romanchuk, vice chair of the United Civil Party, one of 10 opposition parties that backed Milinkevich. "Many people fear there will be mass arrests once all the foreign observers and journalists leave Belarus. Lukashenko has crossed a line with this election, and we expect him to crack down hard on independent forces now."

Experts say Lukashenko has proven much more adept at controlling the media and hobbling the opposition than his pro-Moscow Ukrainian counterparts in 2004.

In the week before election day, Belarussian police were able to seize all copies of the country's only nonstate daily newspaper, Narodnaya Volya, and to prevent any movement of opposition supporters into the capital to take part in election-day rallies.

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"The only source of information for most people is the state media, in which Lukashenko's opponents' names are never mentioned at all - they are referred to only as 'opposition' or 'so-called democrats,'" says Andrei Bastunets, deputy chair of the independent Belarussian Association of Journalists. "People simply have no sources of alternative information."

The editor of Narodnaya Volya, Svetlana Kolinkina, says she isn't sure whether the paper will ever be allowed to reopen. "This is a police state, with tough repression against any act of protest," she says. "The longer Lukashenko stays in power, the more this country will become a reactionary black hole."

The Struggle For Belarus (WP)

The Washington Post, March 21, 2006

PRESIDENT BUSH'S new national security strategy makes the point that "though tyranny has few advocates, it needs more adversaries." The good news about Belarus's farcical presidential election Sunday is that dictator Alexander Lukashenko has acquired a few. To the long-standing enmity of the Bush administration can be added that of the Organization for Security and Cooperation in Europe, whose monitoring mission quickly judged the election as unfair and condemned the "arbitrary use of state power"; the Council of Europe, which called the ballot "a farce"; and the European Union, which said that new sanctions against Mr. Lukashenko and his regime were "very likely."

Most encouraging of all was the appearance in downtown Minsk on Sunday and again last night of thousands of opposition protesters, in spite of snow and a hail of threats by Mr. Lukashenko to break up demonstrations by force. The largest opposition gatherings in his 12 years of rule showed that there is a foundation for a Belarusan freedom movement, like those that eventually triumphed in neighboring Poland and Ukraine.

After years of tolerating a dictatorship on their borders, European countries finally are taking measures against Belarus. Visa sanctions have been applied against some officials of the regime; those now need to be extended to Mr. Lukashenko himself, and complemented with a freeze on bank accounts and other assets. The European Union has begun broadcasting objective news into the country, which could help to counter pervasive censorship. Neighbors such as Lithuania and Slovakia have been working with the opposition, which needs funding for communications and organizing.

All of this might have a decisive impact if not for the countervailing influence of Russia, which still prefers dictatorships in Europe. The new chairman of the Group of Eight -- that would be Russian President Vladimir Putin -- publicly congratulated Mr. Lukashenko yesterday, saying the election "highlighted voters' trust in your course." What of the massive manipulation witnessed by the international election observers? The Kremlin approves of it.

In fact, the G-8 chairman, who has been promoting "energy security" as a topic for discussion during the summit he will proudly host in St. Petersburg, is so pleased with Mr. Lukashenko's government that he is supplying it with gas at one-fifth the price he recently proposed to charge democratic Ukraine. That subsidy, and Russian purchases of the substandard goods of Belarusan state factories, prop up an economy barely changed from the Soviet model. The unambiguous policy of the G-8 chairman is to preserve Russia's domination of its neighbor by backing a dictator who falsifies elections, has murdered leading opponents and enriches himself through arms sales to such countries as Iran and Sudan.

That presumably won't stop President Bush and the six other leaders of Western democracies from toasting their G-8 chairman in St. Petersburg this summer. Too bad the national security strategy seems not to extend that far; Mr. Putin's emerging autocracy also deserves some adversaries.

Recent Shifts Good News For Putin, Russia (AP)

By Henry Meyer, Associated Press Writer

AP, March 21, 2006

The Kremlin may be reclaiming a dominant role in its former Soviet backyard. In Belarus, Moscow-allied strongman Alexander Lukashenko just won re-election by a landslide — at least by the official count. And President Vladimir Putin's allies could return to government in Sunday's Ukrainian parliamentary election, just over a year after the Orange Revolution.

Such developments set back Western hopes of a democratic tidal wave in the former Soviet sphere and could further tarnish Putin's democratic credentials as he tries to cast himself as a statesman capable of brokering deals with Iran and Hamas.

For Putin, however, asserting dominance over Belarus and Ukraine appears to be part of his strategy to re-establish Moscow as a global player during his year of the G-8 presidency.

"Russia wants to restore its superpower status, and that includes putting these countries back into its orbit," said Yevgeny Volk, Moscow director of the conservative U.S think tank Heritage Foundation.

"It is seeking to reclaim its influence over the former Soviet Union, and remove that of the United States and European Union," he added.

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Russia was furious at what it saw as Western encroachment on its home turf after Ukraine's November 2004 Orange Revolution — the mass protests over election fraud that brought reformist opposition leader Viktor Yushchenko to power over the Kremlin's favored candidate, Viktor Yanukovych.

Months later, the impoverished Central Asian nation of Kyrgyzstan had its Tulip Revolution, becoming the third former Soviet state within 18 months to see opposition forces topple a Soviet-era leader. Georgia's Rose Revolution started the process in 2003.

Today, however, Russia is once again on the rise as nervous authoritarian regimes from Kazakhstan to Uzbekistan — where rights groups say government troops killed hundreds of civilians in a crackdown on protesters last year — build closer ties to Moscow, partly as a way to cow opposition forces.

Even in Ukraine, disillusionment at political infighting and the economic collapse that followed the Orange Revolution have brought about a political comeback for Yanukovych, whose rigged victory in the 2004 presidential election was annulled by the Supreme Court.

Enjoying strong support in the Russian-speaking east, his party is poised to win the most seats in the new parliament and earn the right to form the government, even if it will probably need to govern in an uneasy coalition with the party of the pro-Western Yushchenko.

"The West's influence that triumphed in the color revolutions has clearly become a dead end for these nations," said Sergei Markov, a Kremlin-connected political analyst. "In Georgia, Ukraine and Kyrgyzstan, people live worse, not better than before."

By contrast, in Belarus, whose authoritarian president is shunned by Western nations as Europe's last dictator, cheap supplies of Russian gas provide a vital lifeline to the inefficient, state-dominated economy.

Analyst Alexei Malashenko of the Carnegie Moscow Center think tank said on Ekho Moskvy radio that while the Kremlin sometimes had tense relations with Belarus, its greatest interest lay in preserving the status quo in Minsk.

He also said that despite loud Western criticism of the Belarus election, there was no serious attempt to help pro-democratic forces, as happened in Ukraine.

"There was a strong fight for Ukraine, but no one fought for Belarus," Malashenko said.

Analysts agree that Russia's trump card in the region is its immense energy resources. They ensure that despite pro-Western inclinations, both Georgia and Ukraine remain dangerously dependent on their larger neighbor.

A pipeline explosion that cut off Russian supplies to Georgia this winter left millions shivering in their homes — provoking accusations from the tiny U.S.-allied Caucasus Mountain state that Russia was deliberately trying to force it to its knees.

Ukraine meanwhile had to swallow a twofold increase in gas prices after a bitter New Year's dispute that saw Moscow turn off the gas taps.

"Russia is using strong economic levers. With the growth of oil and gas exports it has become much richer than it was in the 1990s and it is translating this economic might into political influence and power," said Volk.

At the center of the Russian policy in the region is a determination to resist the West's efforts to boost its influence at Russia's expense, in what Moscow says is falsely portrayed as a bid to promote democracy.

Russia on Monday accused the United States of trying to enforce its vision of democracy on others, angrily rejecting President Bush's criticism that the Kremlin has rolled back freedoms.

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EDITOR'S NOTE — Associated Press Writer Henry Meyer has covered the former Soviet republics since 1999.

Putin To Discuss Oil Pipeline With Chinese (AP)

By Mike Eckel, Associated Press Writer

AP, March 21, 2006

Russian President Vladimir Putin arrived Tuesday for a visit to China that is to include talks on building a pipeline to deliver Siberian oil to fuel China's booming economy — and his fifth meeting in under a year with the Chinese president.

With China's wealth and might on the ascendancy, Putin's meetings with Chinese President Hu Jintao and other officials are expected to be spectacles of symbolism and overtures to Russia's gigantic neighbor.

Officials in both Moscow and Beijing are looking to spur new investment between the former Cold War adversaries and double last year's $29 billion in trade by 2010.

Both Tokyo and Beijing — a leading buyer of Russian oil and gas — have maneuvered hard for the best routing of the 2,550-mile East Siberian-Pacific pipeline. For now, China imports all Russian oil by rail.

China is also Russia's top customer for military weaponry and equipment.

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The two countries have also moved to deepen political ties following years of Cold War suspicion. Both have pledged commitment to a "multipolar world" and last year warned other nations against attempts to dominate global affairs and interfere in sovereign nations' domestic matters.

In an interview with China's official Xinhua News Agency, Putin gave a veiled warning over U.S. policies to encourage democracy in the former Soviet republics, saying that attempts to "forcibly export democracy and impose cultural standards and values" result in conflicts.

"We do not impose our viewpoints by force, we never 'flex our muscles', but instead we consistently advocate political and diplomatic approaches to the settlement of conflicts," Putin was quoted as saying.

Last week, the Bush administration released a foreign policy review that expressed dismay at rollbacks in democratic reform in Russia and warned China against denying personal and political freedoms.

In August, the two countries held unprecedented military exercises, underscoring how far the two former adversaries had come since the 1960s, when they fought border skirmishes.

Chinese Assistant Foreign Minister Li Hui said last week that the two sides will also develop five military projects to highlight "friendly cooperation." He gave no details.

Putin and Hu are also expected to discuss disputes over the Iranian and North Korean nuclear programs.

Russia and China, both veto-wielding members of the U.N. Security Council and longtime supporters of Tehran, want a more cautious approach to reining in Iran's nuclear ambitions. Russia has offered to process uranium for Iran in an attempt to break a stalemate in negotiations.

Russia and China are also participants of six-nation disarmament talks on North Korea's nuclear programs, along with the United States, Japan and South Korea. Negotiations have stalled due mainly to a dispute over U.S. sanctions against North Korea's alleged currency counterfeiting and money laundering.

Russia's Putin To Tackle Energy During China Visit (FT)

By Richard McGregor And Andrew Yeh

Financial Times, March 21, 2006

Vladimir Putin, Russia's president, arrives in China on Tuesday for a visit that Beijing hopes will secure it a decisive advantage over Japan in their lengthy battle to secure the route of an oil pipeline from east Siberia.

Despite booming bilateral trade which reached $29.1bn in 2005, up 37 per cent year-on-year, an energy-hungry China has been increasingly frustrated by Russia's prevarication over various oil and gas deals.

Beijing was angered when Moscow abrogated a 2003 agreement to build a pipeline to Daqing, China's oil capital in the north-east, after Tokyo offered a more attractive financial package to re-route it to a Russian port.

Although the Daqing route is shorter and cheaper, the Japanese proposal gave Russia more options to market the oil throughout north Asia and ensure it did not become totally dependent on China.

However, the pendulum may be swinging back Beijing's way, with China National Petroleum Corp, the country's largest energy company, expected to sign an investment agreement during Mr Putin's two-day trip with Transeft, Russia's oil pipeline monopoly.

"We are full of confidence that the branch pipeline will be built," said Chen Gang, the CNPC chairman, in an interview with the Russian media before the visit.

One possible compromise that has been discussed would see the pipeline go through Daqing to the Chinese port of Dalian, from where the oil could be shipped to South Korea or Japan.

The absence of any pipeline between the two countries means that Russia oil imports, which account for about 5 per cent of China's total foreign purchases, have to come in on an overloaded rail system.

Sergei Razov, Russia's ambassador to Beijing, said in comments before the visit that "energy cooperation was progressing smoothly" and that the pipeline project was being negotiated.

"It's a large-scale project of great vision that requires a high level of investment," he said in a pointed reference to Russia's demand that China pay for most of the project's construction cost.

Mr Razov said Mr Putin's visit takes place when Sino-Russian relations were at "their best time in history."

However, many Chinese officials and commentators are critical about how the warmth in ties between Mr Putin and Hu Jintao, China's president, and other top leaders, have not translated into concrete co-operation.

The Chinese media has characterised the relationship as "hot on the top but cold on the bottom."

"The impetus that improves bilateral relations appears weak due to a lack of communication and understanding and even a misunderstanding between people of the two countries," said the Oriental Morning Post newspaper in Shanghai.

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The two sides may also discuss possible gas sales by Russia, but such talks are not expected to progress very far as long as energy regulations in China keep the domestic price lower than the international price, making any such imports uneconomic.

Mexico Weighs In On Migration (DMN)

By Michelle Mittelstadt

The Dallas Morning News, March 21, 2006

WASHINGTON – Worried by the sometimes harsh tone of the immigration debate unfolding in the U.S., the Mexican government on Monday took its message directly to the American public: As your neighbor, we want to work with you to fashion a solution.

In full-page ads in The New York Times, Washington Post and other newspapers, the Mexican government acknowledged a shared responsibility to address illegal immigration and to stem its citizens' northward exodus by creating more jobs at home.

While continuing to press for a guest worker program that would confer legal work status on millions of Mexicans living illegally in the U.S. – a long-held goal for Mexican President Vicente Fox – Mexico is now outlining its responsibilities. Among them: enforcing its own migration laws; combating human smuggling and criminal networks; securing its southern border; and promoting the return of Mexican émigrés.

For its part, the ad says, the U.S. should allow Mexico to participate in the "design, management, supervision and evaluation" of a guest worker program that should cover "the largest possible number of workers and their families" currently in the U.S. illegally.

The ad campaign, designed by Dallas-based Allyn & Co., reflects a migration resolution approved in February by the Mexican Congress.

"We thought it was about time to have the American people looking firsthand at what's our position on these issues that are so sensitive and important for both countries," Mexican Ambassador Carlos de Icaza said Monday.

"Our message to the American people is that we are your neighbors, we are your friends, this is a common challenge, and we are part of the solution, not only part of the problem," Mr. de Icaza said.

The public relations effort comes as Congress is grappling with the question of how to treat the 11 million to 12 million illegal immigrants living in the U.S. – more than half of them Mexican.

While some lawmakers favor giving illegal immigrants work permits and placing them on a path to eventual citizenship, others are pressing for heightened immigration enforcement that would pressure many unauthorized workers to leave the country.

The Senate Judiciary Committee appears poised next week to approve a guest worker program – setting senators on a collision course with the House, which in December approved a tough enforcement-only approach that was silent on President Bush's call for a temporary worker program. With a wide philosophical chasm between the chambers and within the Republican Party, the chances of an immigration accord this year are slim, many experts say.

The Senate immigration subcommittee chairman, Texas Republican John Cornyn, pressed Monday for a comprehensive immigration accord including increased enforcement and a guest worker program.

Failure to do so would increase the dangers posed by drug- and human-smuggling networks and leave the country vulnerable to terrorism, Mr. Cornyn said in a speech to the World Affairs Council of Dallas/Fort Worth.

"I am not against immigration, I am against illegal immigration," Mr. Cornyn said.

The Mexican ambassador voiced concern with the tone of the immigration debate, which has proved to be a hot topic on talk radio, cable TV news shows and in public forums.

"It's a very emotional debate. And sometimes the debate is encouraging, but on other times, it's discouraging," Mr. de Icaza said. "So we thought it was about time to directly make known which is our position in black and white, written on paper."

In a speech Monday in Cleveland, Mr. Bush renewed his case for a guest worker program matched with tougher border enforcement and sanctions on employers who hire illegal workers.

Asked about immigration during a question-and-answer session, Mr. Bush said the debate "can get harsh."

"My call for people is to be rational about the debate and thoughtful about what words can mean during this debate," he said.

Mr. Bush, Mr. Fox and Canada's new prime minister, Stephen Harper, meet at the end of the month in Cancún, Mexico, to discuss security and economic issues.

Morgan's Chief Economist Warns Against Tariffs On Chinese Imports (WSJ)

By Jason Dean

The Wall Street Journal, March 21, 2006

DOJ_NMG_0019997

BEIJING -- Morgan Stanley Chief Economist Stephen S. Roach said Tuesday that a successful move by the U.S. Congress to pass sweeping tariffs on imports from China would be "close to economic suicide" for the U.S.

U.S. Senators Charles Schumer (D., N.Y.) and Lindsey Graham (R., S.C.) have proposed a bill that would impose 27.5% tariffs on all Chinese imports unless Beijing sharply revalues its currency. The senators, who are in China this week, have argued that Beijing keeps the yuan's value artificially low, making its exports unfairly cheap and exacerbating a huge U.S. trade deficit with China. A vote on the bill could come next week.

Mr. Roach, in Beijing for meetings with Chinese officials, told reporters Tuesday that he believes that bill would easily pass in the Senate, and could well pass in the House of Representatives as well. He also said he believes the U.S. Treasury Department appears increasingly likely to label China a currency manipulator during an upcoming review.

He said the tariffs proposed by Sens. Schumer and Graham would be a "horrible mistake" that could prompt Beijing to cut back on purchases of U.S. treasuries, leading to a weaker dollar and higher interest rates.

"I do think that the political climate with respect to U.S.-China trade tensions is as bad as I have ever seen it," said Mr. Roach, who said he's been observing the bilateral relationship for two decades. "At a time when the U.S. is more dependent on foreign capital than ever before, to impose tariffs not just on a major provider of goods, but a major lender of capital, I think would be close to economic suicide."

French Protesters Set Strike Date (NYT)

By Craig R. Smith

The New York Times, March 21, 2006

PARIS, March 20 — French students and unions stepped up pressure on the government today, calling for more demonstrations culminating in strikes next week to fight a hotly contested new labor law that makes it easier for companies to fire young employees.

The protesters set March 28 as the fourth "day of action" since street rallies over the new job rules began Feb. 7.

"There was a consensus from the beginning," said Coralie Caron, head of a federation of high school students. "The 28th is going to be like a very large protest everywhere in France."

President Jacques Chirac repeated calls for dialogue between the government and opponents of the law, saying the new edict could be "improved."

Prime Minister Dominique de Villepin, meanwhile, met with business leaders, unemployed youths and students in an effort to find a way out of the impasse that threatens to cripple his political career. The business leaders warned against any rollback in the legislation, saying that could slow the revamping of the nation's labor markets for months, if not years.

But the government hinted at some room for negotiation.

"He is ready to go further than this," a spokesman for Mr. de Villepin said today. "If there are proposals from the unions, he is ready to study them."

The battle over an incremental change in the country's social contract is emblematic of the overwhelming challenge facing much of Western Europe as it tries to loosen rigid labor laws and trim costly entitlements that have built up in the decades since their hybrid capitalist-socialist economic systems emerged after World War II.

Governments recognize the need for fundamental change, particularly as their societies age and the burden of pensions and health care balloon. But few have the political will to force those changes on their societies.

So far, Mr. de Villepin has rebuffed calls to revoke the law. Yet he hasn't demonstrated the iron hand of Margaret Thatcher, who broke the control of British unions and pushed for a more flexible labor market in order to create a competitive Britain.

The French unions have refused to cooperate with Mr. de Villepin.

"For now, the unions reject the government's conditions for a dialogue," said a representative of the C.F.T.C., one of the country's union syndicates, adding that both the unions and the students are demanding that the new contract rules be suspended before talks with the government begin.

"Without this condition, we won't do anything," the union representative said.

Though French unions account for less than 10 percent of the country's work force, their concentration in the public sector, particularly in transportation, gives them the ability to wreak havoc on daily life, putting enormous pressure on the government.

Mr. de Villepin has made three proposals "within the framework of the law," according to his spokesman, who said that rescinding the law, as demanded by student and union leaders, is not really possible.

Those proposals, meant to soften the impact of the new contract rules, include designating a mentor for young employees hired under the new law, a six-month review to give those employees a sense of how they are doing, and free training if they are fired.

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"We have to give the C.P.E, a chance," Mr. de Villepin said in an interview with the monthly student magazine, Citato, published today. He was referring to France's "first employment contract," known as C.P.E.

"Everybody knows it's impossible to continue with this model, but nobody in France has found a solution to respond to the problem," said Jean-Daniel Levy, a director at Paris-based polling company CSA. "What they've been able to do is define what they don't want, but they have trouble saying what it is they want."

The new law, passed by Parliament earlier this month, would allow companies to hire people under 26 for a two-year trial period, during which the young workers could easily be fired. It is intended to open up full-time jobs for people entering the work force.

Because of France's heavily regulated labor market, many companies now prefer to hire temporary workers rather than risk putting on the payroll inexperienced people they would not easily be able to lay off. As a result, unemployment among the youth is more than double the national average of about 10 percent. Joblessness is even higher among the second-generation immigrant youth who were behind widespread rioting last fall.

The standoff threatens to weaken Mr. de Villepin, a diplomat and poet, at a time when he wants to be consolidating power for next year's presidential elections, which he hopes to win. Already, his approval rating has plunged to the lowest level since he took over the job last May.

A survey last week by CSA found that two out of three French people are against the labor law.

The Decline Of France (WSJ)

The Wall Street Journal, March 21, 2006

The right to assemble is a pillar of free society. But in France it's the only pillar its citizens seem to take seriously. So much so that any public debate of import gets conducted in the streets rather than through the ballot box or institutions of a purportedly mature democracy.

In less enlightened societies, as opposed to the birthplace of the Enlightenment, that's usually called mob rule. But the violent street demonstrations roiling France's cities today, and the unhappy career prospects of Prime Minister Dominique de Villepin, are the latest symptoms of an ailing democracy.

The troubles began with student unhappiness about a new "First Job Contract" law, adopted by the National Assembly two weeks ago. They grew into a protest movement once the unions joined in. A nationwide strike has been called for next Tuesday. The merit of the new law isn't the issue here. One can hate the new law as well as the tactics employed by the mobs to kill it. The bill is designed to reduce the youth jobless rate of 23%. But if France wants to reverse a 30-year pattern of low growth and high unemployment, it needs to tear down labor law barriers across the board, not just for people under the age of 26.

Reasonable people could have had a spirited debate about this policy. So why didn't they before the jobs contract became the law of the land? Parliaments and elections exist so complicated issues can be digested and decisions calmly taken. France went from little discussion to protests in central Paris, blockades at the Sorbonne and a rampage through a McDonald's restaurant. That's "civic discourse"?

The masses on the streets reply that this is the only way to fight a sclerotic political system, and the claim isn't without merit. MPs and the president face voters only every five years. The National Assembly is notoriously unresponsive to voter concerns, though the chicken-and-egg problem is that citizens don't bother even to try to sway their representatives. The jobs bill was pushed through using a special procedure that allowed for little debate or amendment. It is the brainchild of Mr. de Villepin, an official chosen by party rule and heir apparent to deeply unpopular Jacques Chirac.

The roots of the problem go back further. The French have never shied away from guillotining aloof rulers, from Louis XVI to, more figuratively, Charles de Gaulle. Lesser men have fallen to nationwide protests, and Mr. de Villepin may be next. All these small revolutions were inspired by the French Revolution, but France never managed to establish a political system both durable and flexible.

How instructive it would be to send Alexis de Tocqueville through France today. He'd find dependence on the state and the absence of individualism, symbolized by the low levels of private charity and civic engagement. He would not find the bounty of groups and lobbies of healthier democracies. "In every case, at the head of any new undertaking, where in France you would find the government," Tocqueville's "Democracy in America" asserts, "in the United States you are sure to find an association."

Yes, the banners of student groups add color to the street demonstrations. But look closer. The force with real bite is the public-sector employee unions. Blue-collar workers long ago abandoned the union movement, leaving civil servants who, like Charles de Gaulle once said of France's cosseted farmers, are desperate to hold on to their "mediocre but secure" posts.

The government workforce -- one-quarter of the population -- can terrorize the majority by stopping the trains or turning off the electricity. In other words, the state funds its own opposition, which torpedoes even modest efforts to modernize France. By marching with the public-sector unions to defend this status quo, the boys and girls of the Sorbonne are saying they want to be

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"mediocre but secure," too. What a dream for a 20-year-old. And a useful warning to Americans about the danger of giving public-sector unions too much power as well.

In its post-Revolutionary history, France has been characterized simultaneously by instability and immobility. In the 217 years that America has lived under a single Constitutional order, France has been ruled by 10 different regimes. Yet the France of de Gaulle's "Fifth Republic" has had fewer leaders -- five -- than the Soviet Union did by the time of its dissolution in 1991. Stability and dynamism are surely a better formula for a successful state. And the only proven way to get there is a stronger democracy.

Nicolas Sarkozy, a presidential candidate, wants to make the president more directly accountable by removing the rule against his speaking before the Assembly. Others are calling for a new constitution to replace the current one, which was designed in the troubled days of 1958. A real parliament would help. France's growing protests make the case for a constitutional rethink. When the thousands on the street assert the right to make laws for the millions, a country loses its right to call itself a "democratic republic."

Soft Landing For The Danish, A Job Loss Can Be Learning Experience (WSJ)

By Marcus Walker

The Wall Street Journal, March 21, 2006

HJORRING, Denmark -- After graduating from high school, Susanne Olsen spent 10 years at the local slaughterhouse hacking ham off dead pigs. It was arduous, unskilled work that left her ill-equipped for most other jobs.

Then the slaughterhouse closed down last year, leaving 500 people without jobs in a small town that had recently lost its biscuit factory and its mobile-phone factory. All three employers were striving to cut their labor costs amid rising competition from low-wage Eastern Europe and Asia.

But unlike millions of laid-off workers in similar circumstances elsewhere in Europe, Ms. Olsen was sure she was going to find a new job. Now she's an apprentice golf landscaper, with her salary subsidized by the state while she takes four years of training paid for by the government and her new employer. "I miss my old colleagues, but I don't miss the pigs at all," Ms. Olsen says.

Most of Western Europe is fighting to hold on to its traditionally strong job protections while in some cases cutting jobless benefits, as the region struggles to compete in a globalized economy. Denmark has gone the other way.

The government allows liberal hiring and firing as in the U.S. And it has imposed limits on the duration of its high unemployment benefits. But it also invests more than any other country, as a percentage of its gross domestic product, in retraining the jobless -- a combination it calls "flexicurity." Its unusual mix of the free market and big government has helped Denmark cut its unemployment rate in half, from about 10% in the early 1990s to U.S.-style levels of under 5% now. The economy has been relatively robust, growing 3.4% last year. Meanwhile, France and Germany are at or above the Danish jobless rate of a decade ago.

Even though Danes are among the most easily laid-off workers in Europe, polls show the country's workers are the most secure about their future. The European Commission now holds up Denmark as a model for other countries to try to follow. Politicians from other EU countries have made numerous study trips to Copenhagen. France has cited Denmark as a model for its own more modest labor-law reforms, which in recent days have touched off mass public protests.

Meanwhile, Danes change jobs more frequently than any workers in the developed world except Americans and Australians, says the Organization for Economic Cooperation and Development. But fewer than 10% say they're concerned about job security, compared with nearly 40% in Germany and more than 60% in Spain. Most Danes believe they can always find work in their fluid labor market. In the interim, they get security from a dole that replaces up to nine-tenths of their last wage, the highest level in Europe.

Critics say the experiment might not be easy to replicate. For one thing, Denmark is small, with just 5.4 million people. And close-knit Scandinavian countries historically have had a higher tolerance for taxes. The system isn't cheap: Denmark spends about 4.4% of its GDP every year on supporting and retraining the jobless, the most expensive labor-market policy in the world. That and Denmark's other welfare generosity keep income taxes sky-high. Tax revenues take up half of gross domestic product, second only to Sweden.

Not everyone benefits equally. Annabeth Garvold, a university graduate who was jobless for much of 2003, says the state computer-training course she took was too basic to be useful, though the program did place her in three months of subsidized work at a tech company, through which she found a job. Workers retrained for new industries also aren't guaranteed to find salaries as good as their old ones. Ms. Olsen's golf-course wage, which started at $20 an hour, won't rise as high as the nearly $30 an hour she made butchering pigs, she says.

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Meanwhile, immigrants, including many Muslims, have significantly higher unemployment rates and are unemployed for longer than the native-born, just as in other European countries. Such tensions boiled over when a Danish newspaper published provocative cartoons of the prophet Muhammad, a controversy that has become global.

Denmark has long been accustomed to flexible hiring and firing, agreed between unions and employers back in 1898 in exchange for unions' rights to organize and strike. Rising prosperity in the post-World War II era allowed the state to pay generous benefits to the jobless, the sick, early retirees, parents, and anyone who wanted to take a break from work.

But by the early 1990s, Denmark, like many European welfare states, found itself supporting a rising number of working-age people who lived comfortably on welfare and had little incentive to find jobs. Social problems grew: The children of the unemployed grew up to be unemployed. "Welfare dependency developed into a social state of mind," says Helle Seerup, a labor-market expert at the Danish trade union confederation.

In 1994, the center-left government of Prime Minister Poul Nyrup Rasmussen scrapped indefinite benefits for the unemployed, who suddenly faced state pressure to actively seek work. The prime minister's close ties to trade unions helped him to win acceptance for the change.

The present center-right government, under Prime Minister Anders Fogh Rasmussen, has tightened the system further. If a person hasn't found work after a year, their consultant "activates" them, proposing specific training or work experience -- and reducing benefits if they don't comply.

Denmark's different regions run the policy with variations, constantly experimenting and tweaking the system as officials learn what works. The nationwide success rate: About two-thirds of Danes who are laid off have a new job within a year, say labor-market specialists.

The state is so determined to get Danes off the dole that it sometimes designs and funds entire new college courses just to fill a small number of jobs. In the cramped corridors of the Public Employment Service for the Copenhagen area, labor consultant Kim Jorgensen has arranged for a business school to run three courses in the past three years in how to program the business software system Microsoft Axapta, at a cost of $160,000 to the taxpayer. In total, 16 unemployed people were trained this way to fill specific vacancies.

Mudassar Qureshi, 28 years old, couldn't find a job when he graduated from university two years ago. He says his computer-science diploma was too general for employers, who wanted specialists. The Axapta course led to a job at a local software company, HOB Business Solutions, which taught part of the course. For the first half-year at HOB, almost 40% of Mr. Qureshi's starting salary of $3,700 a month was paid by the state. The subsidy led HOB to hire two subsidized trainees instead of one expensive veteran. "It helped to bridge the mental jump of taking on two guys who are inexperienced," said the company's chief executive, Hasse Bergman.

In the same cramped Copenhagen building as the consultants, Kirsten Thomsen prepares the "bottleneck analysis" that makes Denmark's peculiar hybrid possible, in which a big, active government helps the free labor market to flow better. Every three months, Ms. Thomsen has the U.S.-based polling firm Gallup survey employers in the Copenhagen area on what jobs they will need in coming years, and uses the feedback to identify the next labor shortages. Right now they're short of lots of skilled workers, from hospital X-ray technicians to "smorrebrods maids" -- women who prepare Denmark's traditional version of the smorgasbord.

The consultants who deal directly with unemployed people use her reports in picking training courses for individuals. "In our system, we can make supply and demand match," Ms. Thomsen says.

The true test is how the system deals with low-skilled, manual laborers in declining industries. The staff at Ms. Olsen's slaughterhouse in Hjørring, in Denmark's thinly populated far-north, tried hard to persuade the plant's owner, Danish Crown, to keep it open. They even released a protest song called "You Can't Slaughter Us," which made it onto national TV, and features 200 burly meatpackers in blue overalls singing en masse with a rock-band backing.

But Denmark's easy layoff rules meant the plant was doomed. Local workers cost the company more than $32 an hour. Rival German slaughterhouse labor costs only $16 an hour, while Polish workers cost only $6 an hour, according to Danish Crown. Even German slaughterhouses increasingly use migrant Polish meatpackers to keep their costs down. In recent years Danish Crown has opened two slaughterhouses in northern Germany, at which it employs teams of Poles.

Finding new work for the 500 laid off at Hjørring in the May 2005 shutdown was a double challenge. Most of the workers didn't want to leave their home town. Danes are very rooted people, says Jan Winther, Danish Crown's director of human resources: "If a new job is more than an hour away, Danes say it's too far." In addition, the meatpackers weren't qualified for new employment, says Jim Jensen, a negotiator for the Danish foodworkers' union NNF. "Slaughterhouse workers are not skilled, except that they can get up early and work hard," he says.

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Danish Crown went beyond state requirements and paid shop steward Jorn Katballe to stay at Hjørring for a year and help his laid-off colleagues find new jobs. To Mr. Katballe, the task seemed huge at first. "People who've given 20 or 30 years and they've not learned anything else, it's difficult to get them out into the real world," he says.

Standing before the desolate single-story redbrick slaughterhouse, Mr. Katballe looks mournfully at the boarded-up gap in the wall where the pigs used to be brought in. "Normally, by this time in the morning, there were hundreds of people around," he says. He's still up at 5 a.m. each day himself by habit of his old job. "It's like a light in my head that goes 'ding,' " he says.

Despite Hjorring's spate of large-scale factory closures, new vacancies keep appearing in Denmark's flexible labor market. Working with the public-labor consultants, Mr. Katballe has been sending his ex-colleagues in ones and twos to new employers.

Where qualifications are lacking, the state pays for courses at vocational colleges, often sharing the cost with a new employer, and in a few cases even with help from the old employer, Danish Crown. The company invested $9,800 to pay for a one-year diploma in hairdressing for a female former employee. Hairdressing was not on public officials' list of job bottlenecks, but there was a vacancy in town.

In most cases the Public Employment Service was willing to pay for new qualifications because of the scale of the town's layoffs. Two of the former meatpackers, including Ms. Olsen, have ended up working at golf courses. Another became a carpenter. Several have gone to work in Denmark's large wind-energy industry. Two were trained as oil workers on North Sea platforms. Others have become gardeners, security guards, and even computer technicians

Finn Larsen, 46, is training to be a school teacher in math, physics, chemistry and sports. His former job was to slit pigs' throats with knives. "It was tough work on the slaughter line, but we had a good team spirit," Mr. Larsen says.

Even though he will be 49 when he qualifies as a teacher, the state agreed to pay for his books and other costs at Hjorring's teacher training college. The state is paying Mr. Larsen benefits of $2,400 a month for four years to help support his family while he retrains. Although there are no vacancies in Hjorring now, other teachers' retirement will create a shortage by 2009, according to labor officials' bottleneck analysis for the area.

Since becoming a meatpacker 12 years ago, Mr. Larsen has had little use for math, other than helping his two daughters with their homework. "Of course I am a bit rusty," he says. But Mr. Larsen is already being deployed in schools as a trainee teacher, recently teaching algebra to 14-year-olds for several weeks' work experience.

Ten months after the slaughterhouse closed, some 300 ex-workers have found new professions in addition to the 80 who got other jobs as meatpackers. Others from Hjørring are in full-time education, or chose retirement where close to the age of 60. Today, only 60 of the 500 laid-off workers from Hjørring are still on unemployment benefits.

Britain Moves Toward A Ban On Secret Loans (WP)

By Mary Jordan

The Washington Post, March 21, 2006

LONDON, March 20 -- The government of Prime Minister Tony Blair on Monday proposed banning secret loans to political parties to try to end a financing scandal blamed for sending Blair's popularity ratings to record lows.

Charles Falconer, the cabinet minister in charge of the judiciary, said he would immediately seek to amend campaign finance laws to force political parties to disclose who lends them money. "The system has not been cleaned up enough and we need to change it," he said.

Blair's Labor Party said Friday that it had accepted loans worth more than $24 million from unidentified donors. Under British law, political parties must disclose the source of donations, but they do not have to declare the source of loans.

Blair has been badly hurt by recent disclosures that several wealthy businessmen who privately lent money to his campaign were then recommended for seats in the House of Lords, the upper house of Parliament.

The appearance that seats in the House of Lords were up for sale -- an allegation Blair has denied -- has caused critics to call his government as sleazy as the Conservative government of former prime minister John Major, which Blair ousted in 1997.

Back then, Blair promised to run a government "purer than pure," a statement that increasing numbers of critics are throwing back at him.

Noticeably quiet in the debate has been the opposition Conservative Party, which also appears to have benefited from secret loans from wealthy supporters. Some analysts here said Blair sanctioned the lending simply to keep pace with money the Conservatives were receiving.

Challenged by Labor officials, Conservatives have not yet announced how much money in undisclosed loans the party received last year, nor have they listed the donors.

Thomas Strathclyde, the Conservative leader in the House of Lords, said Monday that the government's move to change the funding rules now was like a burglar "caught in a back garden with a bag of swag, saying he only wanted to polish the silver."

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"I have no sympathy at all for the prime minister and his coterie of cronies who are at the heart of this affair," Strathclyde said. "They have dragged politics, their party and sadly this house into disrepute."

Other conservatives joined Labor in seeking new transparent campaign financing rules.

The Labor Party on Monday decided to make public a list of wealthy donors who lent money to its campaign. The list included a $4 million loan from property developer David Garrard, and $3.5 million loans from retail magnate Richard Caring and from Trade and Industry Minister David Sainsbury. Sainsbury is a member of one of the country's wealthiest families, which owns a supermarket chain.

The loans were ostensibly to be paid back, but critics contended that they would quietly be turned into donations.

Two polls published Sunday offered more bad news for Blair.

A YouGov poll for the Sunday Times put Blair's personal approval rating at 36 percent -- its lowest point in his tenure. A separate poll commissioned by the Sunday Telegraph indicated that 73 percent of voters believe Blair's government is "as sleazy or sleazier" than Major's.

The scandal has added fuel to the public debate about when Blair, now in his ninth year in office, should step down.

The prime minister has declared that he will not seek a fourth term and indicated that he wants Gordon Brown, his chancellor of the exchequer, or finance minister, to succeed him. In recent months, there has been growing speculation that Blair will resign to turn the office over to Brown well before 2010, the latest year in which the next election could be held.

A poll for the BBC, released Monday, showed that 50 percent of British voters want Blair to quit either right away or within the next 12 months.

An editorial in the Guardian newspaper, a longtime supporter of Blair's party, said Monday that the prime minister "should go this year."

"Undercover loans from uncertain sources degrade him both personally and politically," adding to his other missteps, including the Iraq war, which is extremely unpopular among the British public, the editorial said.

Rodney Barker, a political scientist at the London School of Economics, said Blair's current problems "make it more likely he will go sooner than later."

Drawing a comparison to lame-duck presidents in the United States, Barker said he saw Blair as a "molting prime minister who is losing a few more feathers every day."

Barker said the loan scandal has hurt Blair, but the Iraq war hurt him more.

"I wouldn't be surprised if he went this summer," Barker said. But he added that history has shown that leaders worldwide tend to want to "hang on and on and on."

Thai Leader Digs In As Protest Swells (WP)

By Alan Sipress

The Washington Post, March 21, 2006

BANGKOK -- For several weeks, Thai Prime Minister Thaksin Shinawatra has faced nightly demonstrations demanding his ouster. Tens of thousands of protesters have crowded into the capital, joining ranks with brown-robed monks, Chinese opera performers and tribal children in colorful costumes.

Set initially against the towers of the Grand Palace and more recently outside Government House -- the princely villa the prime minister uses for his offices -- the spectacle so far has remained peaceful, though the potential for violence is growing as Thaksin refuses to budge.

No matter what the outcome, the persistent protests have marked a stunning reversal of fortune for Thaksin, a cellular telephone and marketing tycoon who attained such popularity during his first term that he was reelected in a landslide just last year.

"We're in uncharted territory," said Abhisit Vejjajiva, the leader of the opposition Democrat Party. "This is the first time we've seen mass protests concerning the legitimacy of a person who's been elected."

Simmering discontent, particularly among Bangkok's middle class and intellectuals, turned to outrage two months ago after Thaksin's family sold its controlling interest in the Shin Corp. telecommunications empire to a Singapore investment company for $1.9 billion. Critics said Thaksin, already the country's wealthiest man, had improperly used his influence to enrich himself.

To calm the uproar, Thaksin has called snap elections for April. Meanwhile, even though the kingdom's electoral system remains healthy compared with most in Southeast Asia, its cultural and political divisions have plunged Thailand into crisis.

In the largely impoverished countryside, Thaksin's populist policies have brought him tremendous loyalty. But in Bangkok, the modern capital, many people expect more from democracy than elections. Thaksin's foes accuse him of progressively undermining the parliament, mass media and other checks on his power.

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Opposition parties, deeming elections a losing proposition, have announced a boycott of the vote. At the same time, the anti-Thaksin protests have gained momentum since the prime minister's onetime mentor, Chamlong Srimuang, moved to the forefront.

"In this country, we expect ethics from our prime minister," the ascetic former general said during a recent rally. Chamlong introduced Thaksin to politics after leading a 1992 popular uprising against military rule. Now he heads the Dharma Army, associated with a Buddhist splinter group, and dresses in simple blue garments.

"Because of me, he can be prime minister right now," Chamlong continued. "I have to take responsibility to solve this problem for my nation."

Thaksin insists that Thailand's constitution lays out a clear solution in the form of a popular vote. His aides, while clearly taken aback by the extent of the uprising, blame it on old-time politicians and public employees embittered by government reforms.

"The opposition should come back and play the game and join the election. You have to accept the rules," said Suranand Vejjajiva, a minister in Thaksin's cabinet.A Falling-Out

For years, Thaksin has been accustomed to scripting his own dramas. In the fall of 2003, Thailand hosted the presidents of the United States, Russia and China at the Asia-Pacific Economic Cooperation summit in Bangkok, and Thaksin welcomed them in grand style.

As dignitaries from 21 countries watched, a nighttime procession of 50 royal barges floated down the Chao Phraya River, rowed by 2,000 oarsmen. Across the river rose the illuminated facade of the Grand Palace and its glittering temples. Monks chanted, and hundreds of lanterns drifted skyward.

"All the world's leaders were captivated by Thai history and by the Thai leader," said Thitinan Pongsudhirak, a political analyst at Chulalongkorn University. "Thaksin was sky-high. He was untouchable at home and seen as bold and credible abroad."

Thailand's economy was among the fastest-growing in Asia, and Thaksin declared that the country would be a benefactor to its poorer neighbors in Indochina. By the end of 2003, President Bush had officially recognized Thailand as a major non-NATO ally. But within months, cracks appeared. A Muslim insurrection in southern Thailand erupted, and the government seemed at a loss how to respond.

Thaksin's deftness after the December 2004 tsunami led to his decisive reelection, but grievances continued to mount. Detractors criticized the military's brutal response to the insurgency and official efforts to muzzle the news media.

Still, it took a falling-out between Thaksin and a former business associate, the media mogul Sondhi Limthongkul, to bring people into the street.

"The irony is I used to support him," recalled the tall, bespectacled Sondhi. "I naively trusted him when he told me, 'I'm rich and wealthy and want to do something for the country.' But he does everything for himself, his family and his cronies."

Sondhi hosted a talk show on state-owned television and had used it as a platform to defend Thaksin. But last fall, he criticized Thaksin's business dealings during a broadcast. The show was canceled, so Sondhi took his critique to the streets, staging rallies that drew hundreds, then thousands, of people.

The sale of Shin Corp. to Temasek Holdings of Singapore fueled the nascent movement. Critics alleged that Thaksin had pushed through a change in foreign ownership laws, that his family had avoided paying taxes on the transaction and that the sale betrayed his credentials as an economic nationalist.

"It went against everything Thaksin stood for," said Thitinan, the political analyst.

The prime minister said the sale was legal and motivated by his desire to eliminate any conflict of interest in retaining the business.

"When the prime minister sold his shares, people didn't understand it was a private matter," said Suranand, the cabinet minister. "We were quite off-message at first."Rural Loyalty

In the Thai heartland, Thaksin's performance is seen through an entirely different prism. In late January, eager to display his popularity, the prime minister spent five days in the poor northeastern province of Roi Et, instructing television cameramen to follow as he counseled villagers, drove a tractor and camped in an army tent.

In advance of his arrival in Nonsomboon village, authorities cleared away debris and repaired the dirt road. Local women were paid to cook a repast of prawns, fish and straw-baked chicken. Though the scene was partly contrived, the villagers' affection for Thaksin seemed genuine.

Thaksin had long targeted rural voters with his policies. Among them are a health program that provides medical care for 75 cents and a revolving fund offering small loans.

"I like his good heart," said Orn Pancharee, 67, as she and her sister sat outside their stilted wooden house, their faces deeply etched from years of rice farming.

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"Because of him, if I go to the doctor, I don't have to pay much," said Orn's sister, Thongsai Yothanan, 73. "Since Thaksin became prime minister, we get compensated for damages when our rice paddies flood. Before him, never."

The sisters said they had heard little about the Shin Corp. sale and understood even less.

"For us, it's not important," Thongsai said as chickens pecked in the dirt nearby. "I watched the television news, and I feel pity for him."

Orn nodded in agreement.

"Previous prime ministers never visited the countryside," she said. "He's the best because he cares about the poor."

Ethiopia Gripped By Fear Of Regime (WT)

By Betsy Pisik

The Washington Times, March 21, 2006

ADDIS ABABA, Ethiopia -- A climate bordering on fear has taken hold of the Ethiopian capital as journalists, lawyers and politicians carefully measure their public remarks and contacts in the face of widespread arrests and prosecutions.

"Oh, no, that would not be wise," said a law professor when asked if a reporter could observe a class where students were to discuss the ongoing trial of 131 opposition leaders, publishers, journalists and human rights activists. Despite boasting about the openness of debate in his class, the professor declined to give his name.

The defendants face charges of attempted genocide, treason and "crimes committed against the constitution" -- which is punishable by death -- stemming largely from protests against elections last year.

Tens of thousands more have been arrested on a variety of charges, according to Amnesty International, most of these stemming from violent political demonstrations in November. Advocates say it is impossible to know how many are still being held.

Human Rights Watch offers anecdotal reports of farmers denied fertilizer and seed because of their political affiliations, nighttime sweeps by federal police and beatings at checkpoints.

Most independent newspapers have been shut down. The few remaining news outlets carefully tailor their coverage to not run afoul of stringent government censorship. The longtime Associated Press correspondent was expelled last month. And visas are rarely issued to human rights advocates or investigators.

In its annual human rights survey this month, the State Department reported a sharp increase in civil rights violations by the Ethiopian government during 2005.

"We can say we've regressed since the May elections; there is no independent voice in Ethiopia right now," said Yoseph Badwaza, chief of the monitoring division of the Ethiopian Human Rights Council, which lost three senior investigators when warrants were issued for their arrest.

He said critics of the government are subject to intimidation, and many are arrested without charges, denied access to lawyers or contact with their families, and tried by judges who are "not independent."

"This is a dictatorship in the guise of democracy," Mr. Badwaza said. "The recent crackdown is not the first of its kind, but we've never witnessed such widespread punishment and retribution."

The turning point was the November general strike, called by frustrated members of the Coalition for Unity and Democracy (CUD), an opposition umbrella group.

The CUD and other opposition parties had captured an unprecedented 220 seats in the 547-member Parliament, up from 12 seats previously, but felt cheated out of an absolute majority despite the finding of international observer groups that the election was generally fair.

Politicians advocated peaceful resistance, but protest demonstrations in June led to 36 deaths and another 46 were killed in the three days of protests in November, including seven policemen and soldiers. More than 100 were injured.

In an interview with The Washington Times last month, Prime Minister Meles Zenawi defended the use of force, but said a government inquiry would release its findings, possibly in April.

The Bush administration has carefully modulated its criticism of Addis Ababa, reluctant to alienate a strategically located country of more than 60 million people that is an avowed ally in the war on terrorism. That has frustrated some European diplomats and many Ethiopians, who had hoped for a more outspoken response.

"The last year or so has been one of promise and disappointment," said a U.S. diplomat in Addis Ababa, acknowledging that the government "has been operating more or less as a one-party state."

Mr. Meles came to power with the military defeat of Mengistu Haile Mariam's communist administration in 1991. His backing comes mainly from the Tigreans, an ethnic group in northern Ethiopia that allied itself with the Eritreans' decades-long struggle that ended with independence for Eritrea.

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The opposition is centered on the nation's Amhara ethnic group, who have traditionally ruled Ethiopia; they are supported in the south by the Oromos, long oppressed by successive Ethiopian regimes.

Mr. Meles took office with promises to rebuild a shattered economy and transform the country into a model of democracy.

His government has made strides, especially by the yardstick of eastern Africa: International observers gave the May elections high marks for the quality of open debate between the parties, and the apparent lack of coercion at the polls.

But while the opposition parties have become a much larger bloc in the parliament, they say the rules of procedure have changed to make it harder for them to air their issues.

Beyene Petros, chairman of the United Ethiopian Democratic Forces party, says the ruling party has silenced them with a rule change that requires 51 percent agreement to introduce any issue. "And when we do have a question period, they cut it off after maybe 15 minutes," he said in an interview.

Politicians aligned with the CUD also say they cannot work effectively, with their offices shuttered and party leaders under arrest. Jailed CUD candidates include the mayor-elect of Addis Ababa, a former prosecutor in the U.N. tribunal for Rwanda and a former high court judge.

Extraditing Charles Taylor (NYT)

The New York Times, March 21, 2006

Last week, Liberia's new president, Ellen Johnson Sirleaf, called for Nigeria to extradite the former president and warlord Charles Taylor to face war crimes charges. Mr. Taylor, who has been living in a Nigerian government guesthouse since 2003, is wanted on a range of charges relating to his decade-long West African rampage, which unleashed campaigns of torture, rape and dismemberment in Ivory Coast and Sierra Leone and on his home turf, Liberia.

In a just world, Mr. Taylor would have already been tried, condemned and sent up the river.

But the world has never been just, and this case is complicated. When Mr. Taylor was under siege by rebel forces in 2003, the United States, Britain and Nigeria arranged for him to get asylum in Nigeria, under the correct assumption that his quick exile would reduce the bloodshed. Nigeria gave Mr. Taylor a safe harbor on the condition that he stop sending his minions out to rape, pillage and plunder.

A report last year gave some weight to the argument that Mr. Taylor hadn't stopped his bad ways. The Coalition for International Justice charges that Mr. Taylor tried to destabilize Liberia, influence last year's elections and build a regional army. Specifics are vague, but it is true that Mr. Taylor's ex-wife, Jewel, was elected to the Liberian legislature in the same elections that swept Ms. Johnson Sirleaf to power.

There's no law against Jewel Taylor's running for office. And it's tempting to think that it may be better just to let this sleeping dog lie. After all, Mr. Taylor still has many loyalists in Liberia with no qualms about taking to the streets again.

But Ms. Johnson Sirleaf is taking a courageous, very risky step. It is incumbent upon America and Europe, which say they support justice in West Africa, to make sure that she and the new Liberian government get the necessary security aid, including United Nations troops if necessary, to handle any pro-Taylor backlash.

For West Africans, who have endured more than a decade of war, there's no justice without peace.

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